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PROCEEDINGS AND DEBATES

OF THE

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PROCEEDINGS AND DEBATES OF THE SIXTY-SEVENTH CONGRESS FIRST SESSION.

SENATE.

MONDAY, *August 22, 1921.*

The Senate met at 11 o'clock a. m.

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

Our Father, we recognize the blessings of life vouchsafed unto us, and that Thou art good and gracious in Thy dealings. We humbly beseech Thee this morning to receive our thanks for all the good we have had from Thy hand of love. Help us to fulfill the duties required of us, that the grace of God may be magnified in our lives and through the deliberations of this day. We ask in Christ our Lord's name. Amen.

NAMING A PRESIDING OFFICER.

The Secretary, George A. Sanderson, read the following communication:

UNITED STATES SENATE,
PRESIDENT PRO TEMPORE,
Washington, D. C., August 22, 1921.

To the SENATE:

Being temporarily absent from the Senate I appoint Hon. CHARLES CURTIS, a Senator from the State of Kansas, to perform the duties of the Chair this legislative day.

ALBERT B. CUMMINS,
President Pro Tempore.

Mr. CURTIS thereupon took the chair as Presiding Officer.

The reading clerk proceeded to read the Journal of the proceedings of the legislative day of Friday, August 19, 1921, when on request of Mr. BRANDEGEE and by unanimous consent the further reading was dispensed with and the Journal was approved.

CALL OF THE ROLL.

Mr. BRANDEGEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Harreld	McKellar	Reed
Brandegee	Harrison	McNary	Sheppard
Broussard	Heflin	Moses	Shortridge
Capper	Hitchcock	Myers	Spencer
Colt	Jones, N. Mex.	Nelson	Sterling
Curtis	Jones, Wash.	New	Sutherland
Edge	Kellogg	Newberry	Swanson
Ernst	Kenyon	Nicholson	Trammell
Fernald	Knox	Norbeck	Wadsworth
Frelinghuysen	Ladd	Oddie	Watson, Ga.
Gooding	La Follette	Phipps	Willis
Hale	Lodge	Poindexter	

The PRESIDING OFFICER (Mr. CURTIS). The Chair announces the absence of the Senator from New Hampshire [Mr. KEYES] on account of a death in his family. This announcement will stand for the day.

Mr. JONES of New Mexico. I wish to announce the absence of the Senator from North Carolina [Mr. SIMMONS] and the Senator from Massachusetts [Mr. WALSH] on business of the Senate.

The PRESIDING OFFICER. Forty-seven Senators have answered to their names. There is not a quorum present. The Secretary will call the roll of absentees.

The reading clerk called the names of the absent Senators, and Mr. WARREN answered to his name when called.

Mr. FLETCHER, Mr. POMERENE, Mr. WILLIAMS, Mr. SMOOT, Mr. BORAH, Mr. CARAWAY, Mr. KING, Mr. SIMMONS, Mr. TOWNSEND, and Mr. SMITH entered the Chamber and answered to their names.

The PRESIDING OFFICER. Fifty-eight Senators having answered to their names, a quorum is present.

MEMORIALS.

Mr. MYERS presented a resolution in the nature of a memorial of the Montana Federation of Women's Clubs, remonstrating against inclusion in the pending tariff bill of a duty on herrings and mackerel in brine, etc., which was referred to the Committee on Finance.

Mr. COLT presented a resolution of the Society of the Cincinnati of the State of Rhode Island and Providence Plantations, of Providence, R. I., protesting against disloyal propaganda and activities on the part of aliens and native-born citizens of foreign extraction, etc., which was referred to the Committee on the Judiciary.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. STERLING:

A bill (S. 2435) to carry out the findings of the United States Court of Claims in the case of Fenelon B. Mathews; to the Committee on Claims.

By Mr. EDGE:

A bill (S. 2436) to amend section 25 (a) of the act approved December 23, 1913, known as the Federal reserve act; to the Committee on Banking and Currency.

By Mr. SMOOT:

A bill (S. 2437) for the relief of J. W. Neil; to the Committee on Claims.

By Mr. McLEAN:

A bill (S. 2438) to amend section 11 (m) of the act approved December 23, 1913, known as the Federal reserve act, as amended by the acts approved September 7, 1916, March 3, 1919, and February 27, 1921; to the Committee on Banking and Currency.

By Mr. POINDEXTER:

A bill (S. 2439) for the relief of the West Okanogan irrigation district, in the State of Washington; to the Committee on Indian Affairs.

A bill (S. 2440) extending the period for homestead entries on the south half of the diminished Colville Indian Reservation; to the Committee on Public Lands and Surveys.

By Mr. COLT:

A bill (S. 2441) granting a pension to Sarah E. Harriman; to the Committee on Pensions.

By Mr. SMOOT:

A joint resolution (S. J. Res. 111) authorizing the payment of a reasonable fee for attorney's services in connection with the claim for war-risk insurance on the life of Arthur Patrick Donlin; to the Committee on Finance.

AMENDMENT OF TARIFF BILL.

Mr. PHIPPS submitted an amendment intended to be proposed by him to House bill 7456, the tariff bill, which was referred to the Committee on Finance and ordered to be printed.

ORAL OSBON.

Mr. STERLING submitted the following resolution (S. Res. 136), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay from the miscellaneous items of the contingent fund of the Senate to Oral Osbon, widow of Oscar M. Osbon, late a messenger in the employ of the Senate, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

CHAPLAIN FRANZ J. FEINLER, UNITED STATES ARMY.

Mr. STERLING submitted the following resolution (S. Res. 137), which was referred to the Committee on Military Affairs:

Resolved, That the Committee on Military Affairs is authorized and directed to investigate the facts leading to the court-martial as well as the court-martial proceedings and all the findings in the case of former Chaplain Franz J. Feinler, United States Army, and report to Congress.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, announced that the House had passed the bill (S. 1915) to amend the War Finance Corporation act, ap-

proved April 5, 1918, as amended, to provide relief for producers of and dealers in agricultural products, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed a bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Presiding Officer (Mr. CURTIS) as Acting President pro tempore:

H. R. 1942. An act for the relief of the owners of the dredge *Maryland;* and

H. R. 6407. An act for the relief of Maj. Francis M. Maddox, United States Army.

MISSOURI STATE CELEBRATION.

Mr. ASHURST. Mr. President, I ask unanimous consent to have printed in the RECORD an eloquent speech delivered by the able senior Senator from Montana [Mr. MYERS] at Sedalia, Mo., August 9, at a State-wide and official celebration of the one-hundredth anniversary of the admission of Missouri into the Union. The celebration was accompanied by a great homecoming of native Missourians from all parts of the Union. The governor of Missouri delivered an address of welcome to the returned Missourians present and on their behalf the senior Senator from Montana responded to the address of welcome.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

Senator MYERS said:

"Gov. Hyde and esteemed fellow Missourians, your most generous and gracious welcome, extended in the brilliant address to which we have, with pleasure, just listened, is typical of Missouri hospitality. It truly represents the great heart of Missouri, for which Missouri's able governor so eloquently speaks. We profoundly thank you for it. It is a great pleasure to me to return to this community, where I once lived and formed many lasting and very dear friendships, and to have the privilege of appearing upon this occasion. I sincerely appreciate it.

"I am proud to have the honor of responding to this cordial welcome for and on behalf of returned Missourians—the sons and daughters of this beloved State who have come from far and wide to attest their attachment to their native State. I say returned Missourians—not former Missourians—because once a Missourian, always a Missourian. It is said that even a dead Missourian is a Missourian still—still in death, of course.

"We love Missouri. She gave us birth and started us in life. Here many of us have deep friendships and loving ties. Here many of us have near and dear kindred. We are proud of Mother Missouri; her broad prairies, graceful hills, majestic mountains, stately forests, fertile fields, noble streams, azured skies, prosperous cities and towns, happy homes, excellent schools and colleges, numerous church edifices; her glorious achievements, splendid traditions, great accomplishments, thrilling history; but more than of all these are we proud of her noble, true-hearted men and women.

Missouri, in different ways, occupies an unique position—unique in geography, population, history. In the North she is called South. In the South she is called North. In the East she is called West. In the West she is called East. She is midway between all of these. She combines the good of all of them. She is almost in the center of the United States, and may be considered the center of the world and of the universe. Her populace commingles southern hospitality, Yankee shrewdness, German thrift, Irish generosity, French enthusiasm, western enterprise. She combines Virginia's gracious culture with the intense patriotism of Massachusetts. Sturdy manhood from North and South and sturdy comers from nearly every European country meet here and make the Missouri product. The warm, chivalric blood of the South commingles with the rigid virtues of New England Puritanism. Here it is that a man is a man, and he is what he makes himself, no matter what his ancestry. Missouri draws to her population from all sections and all quarters, and I have lived long enough to learn that all of the good people are not in or from any one section and are not in any one political party. There are good people in all, and Missouri has drawn from all. One advantage of a mixed population is that it teaches tolerance, a highly commendable virtue.

In the great Civil War Missouri furnished freely of her best blood to both Federal and Confederate Armies. Her people divided as conscience and conviction directed. She had patriots on each side of that sanguinary conflict, all equally loyal to their convictions of right. A number of fierce battles were fought on her soil. During that time Missouri had the unique distinction of being represented in each branch of both the Federal and the Confederate Congresses. In the United States Senate during the war she was, the greater part of the time, ably represented by John B. Henderson and B. Gratz Brown; in the Confederate States Senate the greater part of the time, with equal ability, by Waldo P. Johnson and George G. Vest. Each of the two last named had the distinction of serving at different times in the Senates of two Republics, those of the United States and the Confederate States, each time representing the State of Missouri. To her credit, Missouri maintains as State institutions at public expense a home for ex-Federal soldiers and another for ex-Confederates. That typifies the Missouri spirit.

Missouri's material resources are marvelous. She produces corn equal to that of Iowa, wheat equal to that of Kansas, blue grass equal to that of Kentucky, tobacco equal to that of Virginia, fruits as luscious as those of Arkansas, and in her southern section she produces the fleecy cotton of the South. Her soil is fertile and yields bounteous and varied crops. Her lead, iron, zinc, and coal mines have produced fabulous wealth and still yield it. Her cities are magical. Her manufactures and industries are prodigious; her commerce extensive. The world-famed Missouri mule is an article with a real kick to it, and things with a real kick are very popular nowadays, and scarcer than formerly. Missouri is abundantly blessed with water and waterways. The greatest river of North America, the noble Missouri, flows through her territory, and another great river, the queenly Mississippi, washes her eastern border.

Missouri has been great in war and in peace. In the art of war and upon historic battle fields shines with resplendent luster the fame of her Doniphan, Price, Marmaduke, Shelby, Cockrell, Green, Shields, Schurz, Siegel, and the greatest of all commanders of the Union armies in the Civil War, Ulysses S. Grant, one time a resident of Missouri. He married here and was residing here when he entered the Army to fight for the Union. It is a thrilling source of glowing pride to all Missourians that the commander in chief of the Army that stemmed the tide of German barbarity, turned the scale, won the great World War and in the greatest conflict of the world's history, sustained the honor of America and saved from destruction the civilization of the world, is a native of Missouri, John J. Pershing; a man who is entitled to rank in history with Julius Cæsar, Napoleon Bonaparte, and the Duke of Wellington. Gen. Enoch H. Crowder, provost marshal general of the United States Army, who, during the World War, put into execution our draft law and raised, in quick time, the best army that ever took the field, the army that won that war, is a Missourian. In the great World War Missouri did a noble part—did it loyally and well. She contributed freely of her men, women, and money, and all of her sons and daughters are proud of it. While not a warrior, except against lurking savages, as a daring pioneer, who, gun in hand, blazed the way for others, the name of Daniel Boone will ever stand forth as that of one of the boldest and bravest men who ever trod Missouri soil. He typifies the Missouri spirit.

In the realm of statesmanship Missouri has had her illustrious Benton, Barton, Geyer, Linn, Atchison, James S. Green, Trusten Polk, Waldo P. Johnson, Frank P. Blair, Bates, Henderson, Schurz, Gratz, Brown, Vest, Cockrell, Crittenden, Phelps, Philips, Warner, Bland, Stone, Champ Clark, and many other brilliant satellites in her constellation of statesmen, too numerous to mention, who have passed away and left behind names of great renown, besides having some living statesmen of high repute and great ability, including your great Senator REED, who is present to-day. All of those passed statesmen whom I have mentioned took high place in the country's councils. The fiery eloquence of Benton, Green, and Vest is equal to any recorded in American oratory. J. Proctor Knott, famed in humor and oratory, was once attorney general of Missouri.

As jurists, some great names adorn the pages of Missouri's judicial history. Among the names of those who wrought right and fame in her temple of justice and, passing away, left enduring renown, are the well-known names of Napton, Ryland, Burch, Leonard, Scott, Ewing, Bay, Dryden, Wagner, Krekell, Adams, Sherwood, Norton, Williams, Phillips, and others equally as illustrious, and there are living some whose handiwork at administering justice and shaping jurisprudence has added honor to Missouri's glorious record. At the bar, too, Missouri has had her giants, too numerous to attempt to individualize. Yet, should any charge discrimination if, in passing, I merely mention the earlier names of Philip I. Cole, James H. Burch, Thomas L. Anderson, Edward Bates, John R. Shepley, Samuel T. Glover, James O. Broadhead, and the later name of William M. Williams? In medicine, also, she has had her great and learned men, in large numbers.

In education Missouri has kept pace with the march of civilization. She has a great university and many other creditable institutions of learning. In this field the names of Samuel Spar Laws and Frederick T. Kemper, of those who have passed away, are among many that shine with splendor.

In theology Missouri has had her bright stars, and I recall within the time of my memory the names of Bishop Marvin, Bishop Talbot, Bishop Tuttle, Archbishop Kenrick, Archbishop Ryan, McAnally, Farris, Grasty, Brank, Rice, Wilkes, Rush, Brooks, McPheeters, Montgomery, Lacey, Madeira, Yeaman, as a few of her great theologians and pulpit orators of the past.

In art, her George C. Bingham, her Vinnie Hoxie Ream, and others have left imperishable work and fame.

In literature, her Mark Twain, greatest of American humorists; her Eugene Field, John N. Edwards, Caroline Stanley, Winston Churchill, and a host of others, by their writings have added to her luster and left volumes that will live and long continue to thrill. In journalism, she has had her great McCullagh, Hyde, Pulitzer, Munford, Van Horn, Edwards, and other great figures of the past, not to mention any living.

In science, invention, and discovery, she has had her master minds. Thomas Jefferson Jackson See, the greatest American astronomer, is a native of Missouri. James B. Eads, great civil engineer, is another name that adds luster to Missouri's fame.

Missouri has had her captains of industry, her builders of railroads, her founders of great financial fortunes, her merchant princes, her masters in trade, her great bankers, her wielders of commerce. The names I have mentioned in various spheres of greatness are only a few of many that shine with resplendent brilliancy in her firmament of fame.

Missouri has done a noble part in the settlement and development of all States west of the Missouri River, from North Dakota to Texas, Kansas to California. Wherever one may go in all that vast domain he will find large numbers of Missourians. They have helped to build new Commonwealths. There they till the soil, engage in industry, commerce, trade, crafts, railroad building, live-stock raising, banking, the professions, and politics. They are not at all backward in pressing their claims for political preferment. In some of the new Commonwealths they hold a goodly share of the public offices. In every part of the West her sons and daughters may be found at the front. Missouri has done yeoman service as an empire builder. In that way she has done her country a great service.

Well may we returned sons and daughters be proud of our Mother Missouri. Within her borders we first saw the light of day. As boys and girls, the first soil we trod was hers. Our first playgrounds were here. Our childish dreams of the future, our first ambitions, aspirations, hopes, and plans, when life seemed brightest, were formulated under Missouri skies, stimulated by Missouri atmosphere. Missouri cradled us. She educated the most of us and started us in the world to wield our share of the world's doings and do our part in God's plans. We have an abiding affection for our mother State. She has done much for us. She has done more for me than has any other State, other than my beloved Montana.

What is our duty to her? It is, as true Americans and Missourians, to render uncompromising loyalty to our flag and country; to uphold stable, constitutional government; to set our faces as flint against the

wave of paternalism, radicalism, and socialism that is sweeping over our beloved country and threatens to engulf it; to stand as a bulwark of granite against the poisonous virus of anarchy and bolshevism that is boring from within to destroy America. Let us strive to make the Stars and Stripes stand for liberty and constitutional government in an indissoluble Union of indestructible States, where the rights of all are upheld; with equal rights to all, special privileges to none. We should strive to cause our country to lead the world in Christian civilization, civic virtue, righteous government, respect of rights of others, and to make of Missouri and of each and every other State of this Union a foundation rock upon which may safely rest the ark of the Constitution and good government. We should lead the world in the movement for disarmament, and all that makes for peace and tends to abolish war and its untold horrors. I commend the attitude of President Harding in that respect. We should all support him in it. Let us talk more of our duties and less of our rights. Everybody nowadays demands his rights. Let us see that we discharge our duties. There is now a disposition for everyone to clamor loudly for his so-called rights; to get as much as possible and to give as little as possible in return. There is abroad in the land a spirit of graft and greed. We need a return to political, commercial, industrial, economic, and moral honesty. There should be observed and practiced the wholesome principle of an honest day's work for a fair wage. We should return to old-fashioned honesty in all of the relations of life; sound economic principles.

It is our pleasure and duty to be here to do honor to our beloved mother State. So long as stars may shine, so long as heart throbs may pulse feelings of gratitude and affection, so long as filial reverence may be a virtue, so long as sunbeams may cheer, so long as love may be the noblest of human impulses, so long as sweet flowers may smile when kissed by heaven's dewdrops, so long will there be grateful sons and daughters of Missouri who will love, honor, and revere her.

We wish for our beloved Missouri in future all glory and honor. May she continue to be prosperous and righteous. For her we wish material greatness and every civic virtue. For her we wish happy homes, bright firesides, and loving households; honest, virtuous citizens.

We wish her progress, growth, development. May her men and women ever be God-fearing, liberty loving, law-abiding people and intensely patriotic Americans, loyal to the core, always ready to defend our flag and, if necessary, to die for our country. May they ever be charitable, tolerant, generous. May Missourian and loyal American ever mean the same, as applied to Missourians. May her men and women always be her greatest asset, her chief glory. It is they that make a State.

"What constitutes a State?
Not high-raised battlement or labored mound,
Thick wall or moated gate;
Not cities proud, with spires and turrets crowned;
Not bays and broad-armed ports,
Where, laughing at the storm, rich navies ride;
Not starred and spangled courts,
Where low-browed baseness wafts perfume to pride.
No. Men, high-minded men,
With powers as far above dull brutes endued,
In forest, brake, or den,
As beasts excel cold rocks and brambles rude—
Men who their duties know,
But know their rights and, knowing, dare maintain;
Prevent the long-aimed blow,
And crush the tyrant while they rend the chain;
These constitute a State."

May God bless Missouri!
May God bless our country!

HOUSE BILL REFERRED.

The bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes, was read twice by its title and referred to the Committee on Finance.

EXPORTATION OF FARM PRODUCTS.

Mr. KENYON. Mr. President, I ask the Chair to lay before the Senate the amendments of the House to Senate bill 1915, the War Finance Corporation act.

The PRESIDING OFFICER laid before the Senate amendments of the House of Representatives to the bill (S. 1915) to amend the war finance corporation act, approved April 5, 1918, as amended, to provide relief for producers of and dealers in agricultural products, and for other purposes, which were:

On page 1, line 6, after the figure "1," to insert "of Title I."

On page 2, line 2, to strike out "amendatory."

On page 2, line 5, to strike out all after "after" down to and including "States" in line 7, and to insert "July 1, 1922."

On page 2, line 10, after the figures "21," to insert "of Title I."

On page 2, line 16, to strike out "and" and insert "or lack of a market for the sale of same, or."

On page 4, line 11, after the figures "21," to insert "and section 22."

On page 4, line 12, strike out "five" and insert "three."

On page 4, line 13, to strike out all after "made" down to and including "made" in line 16.

On page 4, line 18, to strike out "the."

On page 4, line 25, after "time," to insert: "All notes or other instruments evidencing advances to persons outside the United States shall be in terms payable in the United States, in currency of the United States, and shall be secured by adequate guaranties or indorsements of banks, bankers, or trust companies in the United States, or by chattel mortgages, warehouse receipts, or other instruments in writing conveying or securing marketable title to agricultural products in the United States,"

On page 5, line 6, after "States," to insert ", or to any cooperative association of producers in the United States."

On page 5, line 8, after "stock," to insert ", or may have discounted or rediscounted notes, drafts, bills of exchange, or other negotiable instruments issued for such purposes."

On page 5, line 9, to strike out "the."

On page 5, line 11, to strike out "or."

On page 5, line 11, after "company," insert ", or cooperative association."

On page 5, line 20, to strike out "two" and insert "three."

On page 5, line 22, to strike out "or."

On page 5, line 23, after "company," to insert ", or cooperative association."

On page 5, line 24, to strike out "or."

On page 5, line 25, after "company," to insert "or cooperative association."

On page 6, line 13, to strike out "two" and insert "three."

On page 6, lines 17 and 18, to strike out "debentures, promissory notes, or other obligations" and insert "acceptances."

On page 6, lines 20 and 21, to strike out "debentures, promissory notes, or other obligations" and insert "acceptances."

On page 6, lines 22 and 23, to strike out "nor any loan or advance be made to said banking corporations."

On page 7, lines 1 and 2, to strike out "promissory notes, debentures, or other obligations" and insert "acceptances."

On page 7, line 3, to strike out "five" and insert "three."

On page 7, to strike out lines 7 to 20, inclusive.

On page 7, to strike out lines 21 to 25, inclusive, and lines 1 to 3, inclusive, on page 8.

On page 8, line 4, to strike out the figures "26" and insert "25."

On page 8, to strike out lines 9 to 13, inclusive.

On page 8, line 14, to strike out the figures "28" and insert "26."

On page 8, line 16, after "institution," to insert "incorporated under the laws of any State or of the United States."

On page 8, line 18, to strike out the figures "29" and insert "27."

On page 9, to strike out lines 6 to 10, inclusive.

On page 9, after line 10, to insert:

SEC. 28. No bank, banker, or trust company, or other firm, corporation, or association receiving an advance under the provisions of this act shall loan such money at a rate of interest greater than 2 per cent per annum in excess of the rate of interest charged or received by the corporation upon such advance. The limitation contained in this section shall not apply where the loan is made by the bank, banker, or trust company, or other firm, corporation, or association without recourse against any domestic borrower.

On page 9, line 11, after the figures "21," to insert "of Title I."

On page 9, line 15, to strike out "the first paragraph of section 12" and insert "section 12 of Title I."

On page 9, line 20, to strike out "four" and insert "three."

On page 10, line 10, after "prices," to insert "at not less than par."

On page 10, line 14, to strike out the figures "1927" and insert "1925."

On page 10, line 15, to strike out the figures "1927" and insert "1925."

On page 10, line 16, after the figures "13," insert "of Title I."

On page 11, line 2, to strike out "or" and insert "of."

On page 11, after line 3, to insert:

SEC. 7. That section 15 of Title I of the War Finance Corporation act be amended and reenacted, to read as follows:

"SEC. 15. That all moneys of the corporation not otherwise employed may be kept on deposit, subject to check, with the Treasurer of the United States, or in any of the Federal reserve banks, or may, upon the direction of the board of directors of the corporation, with the approval of the Secretary of the Treasury, be invested in bonds or other obligations of the United States issued or converted after September 24, 1917, or upon like direction and approval may be used from time to time in the purchase or redemption of any bonds issued by the corporation.

"The Federal reserve banks are hereby authorized to act as depositories for and as fiscal agents of the corporation in the general performance of the powers conferred by this title.

"Beginning July 1, 1922, the directors of the corporation shall proceed to liquidate its assets and wind up its affairs, except as specifically provided in this title; but the directors of the corporation, in their discretion, may, from time to time prior to such liquidation, sell and dispose of any securities or other property acquired by the corporation.

"After July 1, 1922, the corporation may, with the approval of the Secretary of the Treasury, deposit with the Treasurer of the United States, as a special deposit, out of money belonging to the corporation, or from time to time received by it in the course of liquidation or otherwise, an amount equal to the aggregate amount of all outstanding bonds or notes of the corporation, including principal and interest to maturity. Moneys so deposited shall constitute a special fund for the payment of principal and interest of such bonds or notes, or for the purchase or redemption of such bonds or notes at not more than par and accrued interest, and may be drawn upon or paid out for no other purpose.

"Whenever there shall have been deposited in such special fund an amount equal to the aggregate amount of all bonds or notes of the corporation then outstanding, including principal and interest to maturity, the corporation may, with the approval of the Secretary of

the Treasury, pay into the Treasury of the United States, as miscellaneous receipts, any moneys belonging to the corporation, or received from time to time in the course of liquidation or otherwise, in excess of a reasonable reserve to meet all liabilities and expenses during liquidation. Whenever any such payment is made, an amount of capital stock of the corporation equal in par value to the amount so paid in shall be canceled and retired.

"All net earnings of the corporation not required for its operations shall be accumulated as a reserve fund until such time as the corporation liquidates under the terms of this title.

"Any balance remaining after the payment of all the corporation's debts, and after the retirement of all its capital stock as herein provided, shall be paid into the Treasury of the United States as miscellaneous receipts, and thereupon the corporation shall be dissolved."

Mr. KENYON. I move that the Senate disagree to the amendments of the House and ask for a conference with the House and that the conferees on the part of the Senate be appointed by the Chair.

The motion was agreed to; and the Presiding Officer appointed Mr. KENYON, Mr. MCNARY, and Mr. SMITH conferees on the part of the Senate.

THE CALENDAR.

The PRESIDING OFFICER. Morning business is closed, and the Calendar under Rule VIII will be proceeded with.

The bill (S. 656) to create a Bureau of Aeronautics in the Department of the Navy was announced as next in order.

Mr. WARREN. Let that bill go over.

The PRESIDING OFFICER. The bill will go over.

Mr. POINDEXTER. Mr. President, I ask unanimous consent that the bill, the title of which has just been stated, be indefinitely postponed, for the reason that similar legislation has been enacted as a part of the naval appropriation bill. That bill has become a law and has been put in effect, and the bureau provided for has been created. Senate bill 656, which is now on the calendar, should therefore be stricken therefrom and indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXCHANGE OF LANDS IN HAWAII.

The bill (S. 1021) to provide for the exchange of Government lands for privately owned lands in the Territory of Hawaii was announced as next in order.

The reading clerk proceeded to read the bill.

The PRESIDING OFFICER. This bill has been previously read, considered by the Senate as in Committee of the Whole, and amended.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill.

The PRESIDING OFFICER. If there be no further amendments, the bill will be reported to the Senate as amended.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS PASSED OVER.

The bill (S. 384) to require judges appointed under authority of the United States to devote their entire time to the duties of a judge, was announced as next in order.

Mr. KENYON. Let that bill go over.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 214) to amend section 24 of the act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, was announced as next in order.

Mr. SMOOT. Let that bill go over.

The PRESIDING OFFICER. The bill will go over.

HENRY J. DAVIS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 724) for the relief of Henry J. Davis. It provides that in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers, Henry J. Davis, who served under the name of Henry Davis, and who was a private of Company K, Seventh Regiment Maine Volunteer Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as a member of that company and regiment on the 29th day of November, 1861.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ORION MATHEWS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 725) for the relief of Orion Mathews. It provides that in the administration of the pension laws and laws conferring rights and privileges upon honorably discharged soldiers, Orion Mathews, late of Battery D, Second Regiment United States Artillery, shall be held and considered to have been honorably discharged as a private from that battery and regiment on the 22d day of March, 1865; but that no pension shall accrue prior to the passage of the act.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS PASSED OVER.

The bill (S. 581) to repeal the act prohibiting increased pay under lump-sum appropriations to employees transferred within one year, was announced as next in order.

Mr. WARREN. Let that go over.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 582) to repeal section 5 of the act approved June 22, 1906, entitled "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1907, and for other purposes," was announced as next in order.

Mr. WARREN. Let that bill go over.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 1439) to amend an act entitled "An act to provide for vocational rehabilitation and return to civil employment of disabled persons discharged from the military or naval forces of the United States, and for other purposes," approved June 27, 1918, as amended by the act of July 11, 1919, was announced as next in order.

The PRESIDING OFFICER. This bill has been previously read.

Mr. WARREN. I think it ought to go over, as there will be some debate on it.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 1467) to carry into effect the findings of the Court of Claims in favor of Elizabeth White, administratrix of the estate of Samuel N. White, deceased, was announced as next in order.

Mr. SMOOT. Let that bill go over.

The PRESIDING OFFICER. The bill will go over.

STABILIZATION OF THE COAL INDUSTRY.

The bill (S. 1807) to aid in stabilizing the coal industry was announced as next in order.

Mr. FRELINGHUYSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FRELINGHUYSEN. May a motion now be made that notwithstanding an objection a bill may be taken up?

The PRESIDING OFFICER. Under Rule VIII such a motion may properly be made.

Mr. FRELINGHUYSEN. Is the bill, the title of which has been stated by the desk, now under consideration?

Mr. WARREN. Is that the bill which has been so much discussed heretofore?

Mr. FRELINGHUYSEN. Yes.

Mr. WARREN. I desire to ask the Senator from New Jersey whether he does not presume that that bill will lead to a good deal of discussion should it be taken up this morning, and if it should come up at this particular time, when we have an important appropriation bill and other matters to be considered?

Mr. FRELINGHUYSEN. Mr. President, I know of nothing more important at the present time than the question which is involved in this bill. I have previously endeavored to obtain consideration of the bill. I think it is of great importance to the country. The coal question in some way ought to be taken care of by a department of the Government, for which this bill provides. I am desirous that the Senate shall vote as to whether or not they intend to take up this important measure at this time.

Mr. WARREN. Mr. President, I agree with the Senator from New Jersey as to the importance of the measure, but to-day is calendar day, when the Senate is supposed to consider only matters which are unobjected to. I think if we now take up this bill, we shall consume much time without, perhaps, attaining the object which the Senator from New Jersey desires.

Mr. FRELINGHUYSEN. If that be so, the Senate may vote against taking the bill up.

Mr. KENYON. I should like to ask the Senator from New Jersey what this bill proposes to do?

The PRESIDING OFFICER. The bill is not yet before the Senate.

Mr. KENYON. I agree with the Senator from New Jersey that some action should be taken on the coal situation. What does this bill propose to do? Will it help to relieve the situation?

Mr. FRELINGHUYSEN. I feel that it will. The bill provides that the Secretary of Commerce shall compile facts regarding the coal industry, and make an effort at cooperation

with the coal operators in securing such facts, in order to relieve the present situation in regard to the coal industry.

Mr. REED. Mr. President, may I inquire of the Senator from New Jersey if this is the bill which we discussed here for so many days?

Mr. FRELINGHUYSEN. Every Senator in the body knows what the bill proposes to do. It is the bill which the Senator from Missouri opposed, although I believe at the time he was speaking on another bill.

Mr. LA FOLLETTE. This bill has not previously been before the Senate?

Mr. FRELINGHUYSEN. This bill has not previously been before the Senate. I introduced two so-called coal bills. One of them provided for seasonal coal freight rates. That bill was taken up for consideration and recommitted to the committee. Most Senators spoke on this bill while the other bill was under consideration. Now, I want the Senate to vote whether or not they are going to take up the coal question. The country is suffering under the present situation.

Mr. WARREN. Mr. President, of course, debate is not now in order. Let the bill be either taken up or go over.

The PRESIDING OFFICER. The Chair was about to announce that the debate was proceeding by unanimous consent. Of course, debate is not in order.

Mr. JONES of Washington. Regular order!

Mr. SMOOT. A parliamentary inquiry.

Mr. REED. I merely wish some information regarding the bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. SMOOT. If this bill is taken up by vote, does it then follow that there can be only 5-minute speeches made upon the bill, or may it be discussed at any length until the hour of 1 o'clock?

The PRESIDING OFFICER. The Chair would have to hold that the bill may be discussed without limit if it is taken up by vote. Otherwise, debate on the bill would be limited to five minutes.

Mr. REED. I am not trying to debate the bill, but I am trying to get the question clear in my mind as to what bill is before the Senate. There were two coal bills introduced. One of them proposed to require information. I am addressing myself particularly to the Senator from New Jersey.

Mr. FRELINGHUYSEN. This is that bill.

Mr. REED. That bill was recommitted to the committee.

Mr. FRELINGHUYSEN. No; it was not. The bill which was recommitted—if I am permitted by the Chair to answer the inquiry of the Senator from Missouri—was the bill which provided for seasonal freight rates.

Mr. REED. This is the bill calling for information and having in view some other objects?

Mr. FRELINGHUYSEN. This is the bill which provides that the Secretary of Commerce shall secure information regarding the coal industry.

Mr. BORAH. May I ask the Senator from New Jersey a question?

The PRESIDING OFFICER. Does the Senator from New Jersey yield to the Senator from Idaho?

Mr. FRELINGHUYSEN. I yield.

Mr. BORAH. Does the Senator from New Jersey really suppose that he can have the Senate pass upon this bill before the recess, in view of the other matters which we have before us?

Mr. FRELINGHUYSEN. This bill was thoroughly debated when the seasonal rate bill was under discussion.

Mr. BORAH. It was thoroughly debated, but we have three or four other measures before us which Senators who have been here waiting for them desire to have disposed of. It would be impossible to take this bill up at this time and dispose of it and also dispose of the other matters before the recess, and it is a mere waste of time to take it up at this time.

Mr. JONES of Washington. I ask for the regular order.

Mr. LA FOLLETTE. Mr. President——

The PRESIDING OFFICER. The regular order is demanded. Debate is out of order. The question is on taking up the measure.

Mr. SUTHERLAND. I object to the consideration of the bill.

The PRESIDING OFFICER. The question is on taking up the bill.

Mr. FRELINGHUYSEN. I move that notwithstanding the objection the bill be considered.

Mr. LA FOLLETTE. I ask unanimous consent that the bill be read, in order that the Senate may vote intelligently upon it. It never has been read in the Senate or been before the Senate for consideration.

The PRESIDING OFFICER. The Senator has the right to have the bill read without unanimous consent, although that can not be done until after the question of taking it up is acted upon. If the Senator desires it read before that action, it will require unanimous consent.

Mr. LA FOLLETTE. That was my reason for making the request.

The PRESIDING OFFICER. Is there objection?

Mr. KNOX. I object, Mr. President; let us have a vote.

The PRESIDING OFFICER. The question is on the motion of the Senator from New Jersey that the Senate proceed to consider Senate bill 1807 notwithstanding the objection. [Putting the question.] By the sound the "noes" seem to have it.

Mr. FRELINGHUYSEN. I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. FRELINGHUYSEN. I ask for a division.

On a division the motion was rejected.

BILLS, ETC., PASSED OVER.

The bill (S. 425) fixing the salaries of certain United States attorneys and United States marshals was announced as next in order.

Mr. KING. I ask that that bill go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 205) relating to the fiscal system of the District of Columbia, and for other purposes, was announced as next in order.

Mr. KING. I ask that that bill go over.

The PRESIDING OFFICER. The bill will be passed over.

Mr. JONES of Washington. Mr. President, with reference to Senate bill 205 I stated when it was last reached on the calendar that I would move to take it up notwithstanding objection; but I know it will require considerable discussion and I hardly think it would be the right thing to take the time this morning. It will lose nothing by going over, and after the recess we can take it up and send it over to the House. That is the reason, under the existing situation, that I do not move this morning to take the bill up.

The bill (S. 1016) to amend an act entitled "An act to repeal section 3480 of the Revised Statutes of the United States" was announced as next in order.

Mr. SMOOT. I ask that that bill go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 1375) to prohibit and punish certain seditious acts against the Government of the United States and to prohibit the use of the mails for the purpose of promoting such acts was announced as next in order.

Mr. BORAH. Mr. President, if that bill is taken up, will it have to be discussed under the 5-minute rule?

The PRESIDING OFFICER. The 5-minute rule will apply if the bill is taken up.

Mr. BORAH. I object to its consideration.

The PRESIDING OFFICER. The bill will go over.

The joint resolution (S. J. Res. 12) authorizing the President to require the United States Sugar Equalization Board (Inc.) to take over and dispose of 13,902 tons of sugar imported from the Argentine Republic was announced as next in order.

Mr. WILLIS. I ask that the bill go over.

Mr. KING. That measure ought to go over.

The PRESIDING OFFICER. The bill will be passed over.

Mr. WADSWORTH. Despite the objection of the Senator from Ohio, I move that the Senate proceed to the consideration of the bill.

The PRESIDING OFFICER. The question is on the motion of the Senator from New York that the Senate proceed to the consideration of the bill notwithstanding the objection.

The motion was rejected.

The resolution (S. Res. 67) authorizing the Committee on Expenditures in the Executive Departments to hold hearings here or elsewhere and to employ a stenographer to report the same was announced as next in order.

Mr. KENYON and Mr. KING asked that that resolution be passed over.

The PRESIDING OFFICER. The resolution will be passed over.

The bill (S. 1855) to save daylight in the District of Columbia was announced as next in order.

Mr. KING. I ask that that bill go over. I am told that it will lead to some debate.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 63) for the relief of Lester A. Rockwell was announced as next in order.

Mr. KING. I ask that that bill go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 491) to provide, without expenditure of Federal funds, the opportunities of the people to acquire rural homes, and for other purposes, was announced as next in order.

Mr. KING. I ask that that bill go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 136) for the relief of Dr. O. H. Tittmann, former Superintendent of the United States Coast and Geodetic Survey, was announced as next in order.

Mr. KING. I ask that that bill go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 665) to provide for free tolls for American ships through the Panama Canal was announced as next in order.

The PRESIDING OFFICER. Being the unfinished business, the bill will be passed over.

The bill (S. 2051) to amend section 3142 of the Revised Statutes, to permit an increase in the number of collection districts for the collection of internal revenue and in the number of collectors of internal revenue from 64 to 74, was announced as next in order.

Mr. KING. I ask that the bill go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 1010) to amend sections 5549 and 5550 of the Revised Statutes of the United States was announced as next in order.

The PRESIDING OFFICER. This bill has been heretofore considered and certain amendments agreed to. The bill is before the Senate as in Committee of the Whole and open to amendment.

Mr. KING. What is the calendar number?

The PRESIDING OFFICER. The calendar number is 134. There is an amendment pending, which the Secretary will state.

Mr. WATSON of Georgia. Mr. President, will objection carry the bill over?

The PRESIDING OFFICER. It will.

Mr. WATSON of Georgia. I object.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 62) for the relief of Charles K. Bond, alias Kimball W. Rollins, was announced as next in order.

Mr. WARREN. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

The resolution (S. Res. 73) amending Rules XXXVII and XXXVIII of the Standing Rules of the Senate so as to provide for the consideration of nominations and treaties in open executive session unless otherwise ordered was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 1355) to provide for the establishment, construction, and maintenance of a post roads and interstate highway system, to create a Federal highway commission, and for other purposes, was announced as next in order.

Mr. KING and Mr. TOWNSEND. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 1829) for the relief of Walter Runke was announced as next in order.

Mr. KING. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 2022) promoting civilization and self-support among the Indians of the Mescalero Reservation, in New Mexico, was announced as next in order.

Mr. KING. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

IRRIGATION WORKS IN GREEN RIVER, WYO.

The bill (S. 1251) providing for investigations for irrigation works in Greene River, Wyo., was considered as in Committee of the Whole.

The PRESIDING OFFICER (Mr. MCNARY in the chair). This bill has been read and is before the Senate as in Committee of the Whole and open to amendment.

Mr. KING. May I inquire whether, on line 9, an amendment was made striking out "$20,000" and inserting "$10,600"?

The PRESIDING OFFICER. It was not.

Mr. KING. I offer that amendment.

The PRESIDING OFFICER. The amendment will be stated.

The READING CLERK. On line 9 it is proposed to strike out "$20,000" and insert "$10,000," so as to make the bill read:

Be it enacted, etc., That with a view to securing information in regard to the economic development and use of the waters of Colorado River Basin for irrigation purposes the Secretary of the Interior is hereby authorized and directed to make examinations and surveys for irrigation works in Green River Basin, in the State of Wyoming, for which purpose the sum of $10,000 is hereby appropriated out of any funds in the Treasury not otherwise appropriated. The Secretary of the Interior is further authorized and directed to report to Congress as soon as practicable, not later than December 1, 1922, the results of the work herein authorized.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILL PASSED OVER.

The bill (S. 7) to amend the act entitled "An act to regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia," approved February 4, 1913, was announced as next in order.

Mr. POMERENE. I object to the consideration of that bill.

The PRESIDING OFFICER. Objection is made. The bill will be passed over.

GEORGE A. ROBERTSON.

The bill (S. 496) for the relief of George A. Robertson was announced as next in order and was read.

Mr. KING. Mr. President, I should like to inquire if this person was an employee of the Government? What is the necessity of a special act if he was an employee of the Government? It seems to me he would come within the provisions of the law.

Mr. MYERS. Mr. President, as the author of the bill, I will say that the intended beneficiary of the bill was an employee of the Government, but does not come within the purview of the compensation act for payment of damages to Government employees.

Mr. SMOOT. I should like to ask the Senator why he should come under that act. There is a law now which says that if he was a Government employee he can get, under the special acts, one year's salary. That has been the rule of the committee all the time. Why now should we pick out a case of this kind and put it under the employees' compensation act?

Mr. MYERS. The Committee on Claims recommended that amendment. I am not a member of that committee and can not state its reason for so recommending. The Senator from Indiana [Mr. NEW] is the Senator who reported the bill. He is not in the Chamber just now, but the committee report was unanimous after full investigation.

Mr. SMOOT. I object to its consideration, Mr. President.

The PRESIDING OFFICER. Objection is made. The bill will be passed over.

BILLS, ETC., PASSED OVER.

The bill (S. 985) to amend the provisions of an act relating to certain railway corporations owning or operating street railways in the District of Columbia, approved June 5, 1920, was announced as next in order.

Mr. KING. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 1771) to authorize the United States, through the United States Shipping Board, to acquire a site on Hazzell Island, St. Thomas, Virgin Islands, for a fuel and fuel-oil station and fresh-water reservoir for Shipping Board and other merchant vessels, as well as United States naval vessels, and for other purposes, was announced as next in order.

Mr. JONES of Washington. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 1063) for the relief of the owners of the schooner *Charlotte W. Miller* was announced as next in order.

Mr. REED. Mr. President, it seems to me this bill requires some explanation before it is passed. I think it had better go over until we have some explanation.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 1856) to reimburse Horace A. Choumard, chaplain Twenty-third Infantry, for loss of certain personal property was announced as next in order.

Mr. WATSON of Georgia. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 1535) for the relief of the estate of Catherine Locke, deceased, was announced as next in order.

Mr. KING. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

The joint resolution (S. J. Res. 48) authorizing retirement as warrant officers of certain Army field clerks and field clerks Quartermaster Corps was announced as next in order.

Mr. KING. Let that go over.

The PRESIDING OFFICER. The joint resolution will be passed over.

HAROLD KERNAN.

The bill (S. 405) for the relief of Harold Kernan was announced as next in order and was read.

Mr. SMOOT. Mr. President, when this bill was up before I objected to its consideration. The Senator from Louisiana has

asked that it be allowed to pass to-day; but in reading the report it seems to me that if we are opening the door to the payment of losses in such cases as this, we might just as well tell every officer in the United States that any money that is stolen from him, or any money that he allows to be stolen from him, will be given back to him.

This is what the Secretary of War, Mr. Baker, says in relation to this bill:

The Adjutant General has been directed to furnish copies of the desired papers, from which you will see that the loss of the funds was due to the robbery of an enlisted messenger who had been intrusted with their transfer from the sales branch, depot quartermaster's office, to the finance office in the city of Brest, France. The board which investigated this matter at the time of the loss held Capt. Kernan responsible, due to his not having provided a sufficient guard. It appears, however, that since the transfer took place in the middle of the afternoon and the route followed was along frequented streets, the failure to provide more adequate protection was due to an error in judgment which might have been committed by anyone similarly placed.

I think that is a mighty weak excuse for asking that the Government of the United States pay back money to an individual who was responsible for its loss.

Mr. BROUSSARD. Mr. President, if the Senator will withhold his objection a minute, I will state to the Senator from Utah that I hope he will not insist upon the objection. Capt. Kernan was in the Quartermaster Department, and he was required to transmit the cash from that department to the financial agency at Brest. It appears from the papers—I reported the claim from the committee—that Capt. Kernan followed the custom which prevailed there before he was assigned to this duty; that this money was transmitted in broad daylight along one of the main streets of Brest; that when the messenger failed to make this deposit search was made, and he was found unconscious on the street, in the daytime, in the city of Brest, and the money was gone. The officer has been charged with this amount; and while the Secretary of War, after looking through the reports of the court which investigated the matter, said that the messenger did not have sufficient escort, at the same time he found that the officer was following the precedents established there by officers who preceded him, and recommended that this amount be charged off.

The PRESIDING OFFICER. Does the Chair understand that the Senator from Utah makes objection?

Mr. SMOOT. The Senator from Louisiana asked that he be allowed to make an explanation of this bill, and I took it for granted that the Senate granted that right.

I do not want to object if there is any real reason why the amount should be paid; but really, on the report, there is no reason, and the effect of paying it would be simply a notice to everyone in the Army that he could do just as he pleased, and if he lost money the Government of the United States would stand the loss. If this officer had complied with the rules, it would have been different; but he did not do it.

Mr. BROUSSARD. If the Senator will permit me, this officer was newly assigned there, and was simply carrying out the precedent established there by sending money by an enlisted man in the daytime through one of the principal streets in the city of Brest. The Secretary of War did not think that the officer should be subjected to such a loss, owing to the fact that he had not established that precedent, but was merely following the methods previously adopted and carried out there.

The money was not sent at night; it was sent in the daytime, and the man was sandbagged and the money was taken away. Of course, it is an extreme hardship for a man who was drawing a captain's salary and who was simply following out the precedent established there to be required to pay this amount.

Mr. SMOOT. He was not following out the orders that he knew had been issued by the department. Suppose a man did the same thing in the city of New York, and it is done all over the country, wherever there is an Army post, and it is allowed to be done. Of course, if this claim is paid every other one will be paid.

Mr. BROUSSARD. Will the Senator permit me to read a part of the report of the Secretary of War on the subject:

It appears, however, that since the transfer took place in the middle of the afternoon and the route followed was along frequented streets, the failure to provide more adequate protection was due to an error in judgment which might have been committed by anyone similarly placed.

Mr. SMOOT. I read that.

Mr. WILLIS. Mr. President——

Mr. BROUSSARD. Let me finish this, please.

Mr. WILLIS. Certainly.

Mr. BROUSSARD. The report continues:

This view is also justified by the fact that Capt. Kernan's predecessor had, so far as the papers disclose, followed the same procedure in the daily transfer of these funds. I feel, therefore, that the ends of justice will be served by granting the relief contemplated.

That is signed by the Secretary of War; and the Claims Committee reported this bill unanimously in view of the recommendations and the facts disclosed by the record.

Mr. WILLIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from Ohio?

Mr. BROUSSARD. Yes.

Mr. WILLIS. Will the Senator permit me to read at that point what the court investigating this matter said, at page 13 of the report? It reads as follows:

This conclusion is based on the fact that it is well known that the city of Brest is infested with lawless characters and that an individual traveling alone, especially an American soldier, is very apt to become involved in difficulties which would be likely to result in the loss of any considerable sum of money which he might have in his possession.

Yet, notwithstanding that fact, it was found by the trial court, it appears, that this man was sent with something over $3,000 in his possession, without any escort whatever, at a time when the city was infested with lawless characters.

Mr. SMOOT. Mr. President, I merely wish to call the Senator's attention to the decision of the board which investigated this case:

The board therefore is of the opinion that the loss of funds above mentioned was due to neglect on the part of Capt. Kernan to properly safeguard these funds while in transit to the finance office, and therefore recommends that Capt. Kernan be required, under the Eighty-third Article of War, to make good the loss of $3,426, the property of the United States.

Mr. President, I shall have to object.

The PRESIDING OFFICER. The bill will be passed over.

ELIZABETH B. EDDY.

The bill (S. 1022) to carry into effect the finding of the Court of Claims in the claim of Elizabeth B. Eddy was considered as in Committee of the Whole and was read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Elizabeth B. Eddy, widow of Charles G. Eddy, of New York, N. Y., the sum of $602.92, and the said sum is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purposes of this act.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CAPT. EDWARD T. HARTMANN AND OTHERS.

The bill (S. 1281) for the relief of Capt. Edward T. Hartmann, United States Army, and others was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

GEORGE A. ROBERTSON.

Mr. MYERS. Mr. President, I ask that the Senate recur to order of business 163, Senate bill 496, for the relief of George A. Robertson, in order that I may make a brief explanation of the bill. I did not have the explanation at hand when an objection to the consideration of the bill was made a while ago. I can make it in a few minutes, and, if there be no objection, I would like to make it.

The PRESIDING OFFICER. Is there any objection to the Senate recurring to the bill referred to by the Senator from Montana? The Chair hears none.

Mr. MYERS. I will read briefly from the committee report, which states all the facts.

Mr. SMOOT. I have read the report, I will say to the Senator.

Mr. MYERS. It shows why this case does not come within the purview of the compensation act of the Government.

Mr. SMOOT. We know why it is not in the purview of the compensation act.

The PRESIDING OFFICER. Does the Senator from Utah renew his objection?

Mr. SMOOT. Certainly, I object.

Mr. MYERS. Mr. President, I move that the Senate proceed to the consideration of the bill notwithstanding the objection, and on that motion I would like to be heard.

The report in this case by the Committee on Claims is unanimous——

Mr. KING. Mr. President, I ask for the regular order.

Mr. MYERS. This is the regular order. I have moved that the Senate proceed to the consideration of the bill. On such a motion is not an explanation the regular order? Have I not a right to be heard in support of my motion?

Mr. WADSWORTH. Mr. President, is the motion debatable?

The PRESIDING OFFICER. No; it is not debatable. The question is on the motion made by the Senator from Montana that the Senate proceed to the consideration of the bill (S. 496) for the relief of George A. Robertson, notwithstanding the objection.

Mr. MYERS. Then I shall have to submit the motion without any argument or explanation.

Mr. JONES of New Mexico. I would like to have the bill read.

The PRESIDING OFFICER. It was read a few minutes ago.

On a division the motion was rejected.

RELIEF OF CERTAIN OFFICERS OF THE ARMY.

The bill (S. 825) for the relief of certain officers in the United States Army was announced as next in order.

Mr. KING. Let that go over.

Mr. HEFLIN. Mr. President, I ask the Senator to withhold his objection to the consideration of this bill. It was reached last Monday, and the senior Senator from Utah [Mr. SMOOT] asked that it go over, and I asked him to look into it and see if he would not withdraw his objection. This is a meritorious measure. It is recommended by the committee unanimously, and the report of the Secretary of War justified the committee in recommending that this bill be passed.

One of the officers is a son of the lamented Senator Bankhead, and there were three other colonels. They are poor men, and a portion of their salaries has been held up since 1917. But the one who stole the money plead guilty to stealing it, and the Secretary of War said it was very difficult to catch up with the person who was guilty of stealing the money, and after looking into it the committee recommended unanimously that these held-up salaries be paid to the officers named and I submit it ought not to be held up. I repeat, these are poor men, and they need this money. They were never charged with neglect of duty, and I ask the Senator if he will not withdraw his objection?

Mr. KING. I withdraw the objection so that the Senator can make a full explanation.

The PRESIDING OFFICER. The objection is withdrawn.

Mr. KING. I would like to have a further explanation, because I am not satisfied that I can vote for the bill without further information about it.

Mr. HEFLIN. Did the Senator read the memorandum by the Secretary of War?

Mr. KING. I am reading it now.

Mr. HEFLIN. The committee says in its report:

At a garrison inspection at Fort McPherson, Ga., January 14-28, 1914, the inspector found that there was a shortage in subsistence funds amounting to $4,671.77, caused by the theft of funds by Regimental Commissary Sergt. William H. LeDuc, 17th Infantry, who later at general court-martial pleaded guilty to larceny, was found guilty, and sentenced. The four officers mentioned in the bill were charged with the responsibility for the fund and stoppages were entered against their pay for the amount lost.

The Secretary of War reported:

The delinquents were each charged with a large amount of duties, to perform which would take practically all the time that could possibly be devoted to them. The method of peculation was intricate, difficult of detection, and would have required very careful examination of the accounts and the running out of each item to its ultimate destination.

The committee also said in their report:

The officers were never tried for failure or neglect of duty, and the stoppages were made on the report of the acting inspector general, and they were given no opportunity to make a reply.

After carefully considering the facts in the case your committee is of the opinion that the bill is meritorious and recommend its passage.

Mr. KING. Mr. President, I would like to ask the Senator what steps are taken to protect the Government against these recurring and frequently recurring claims for theft and defalcations upon the part of soldiers and officers in the Army? Are not officers who are charged with the possession of funds required to give bonds?

Mr. HEFLIN. I agree with the Senator that very great care should be exercised and that officers must be held responsible. But if you have a man in the service who steals money little by little, piecemeal, so that the ordinary officer would not detect it, when he is found and pleads guilty to the theft and is sentenced to serve a term for his crime, these officers in the Army should not be held responsible, especially when the Secretary of War, the head of the war service of the country, recommends that they be relieved.

Mr. KING. Does he recommend it?

Mr. HEFLIN. He practically recommends it. He said it was a very difficult matter to detect the stealing that was going on in such a piecemeal way.

Mr. KING. I think that is rather a condemnation by faint praise than a recommendation of exoneration from pecuniary liability.

Mr. HEFLIN. The Senator will recall that we had a great many men in the service, millions of them, and it was difficult to keep up with the situation. Men were just thrown into camp very suddenly, and the officers had not had much experience in this line. The officer who stole the money was overtaken and plead guilty to the charge. I submit that the bill ought to be passed, and I hope the Senator will not object.

Mr. KING. I shall not object; but I do think that we are straining the limits of prudence and propriety in making this payment.

May I say just one word within my five minutes, Mr. President? The Government has millions of dollars in the hands of officers. They know that many of the employees under them, whether civilian or within the service, are not under bonds, and they know that the Government has made them, in many instances, officers because it exacts of them a high standard of officiency and watchfulness over those under them. If the Government is willing to relieve them whenever any of their subordinates commit peculations, obviously in time there will be a relaxation of that vigilance which should be exercised by these men who have positions in the Army in order that they may exercise vigilance and care. I think this is a bad precedent, very bad; and it will involve in the future claims by officers in the Army for thousands and tens of thousands of dollars. It will let down the bars of that care and that vigilance which ought to be observed by officers in the Army.

Mr. HEFLIN. If the Senator will permit me, I do not think a thing like this would occur in ordinary times.

Mr. WATSON of Georgia. Mr. President, I would like to ask the Senator from Utah if vigilance in these matters deserves such high praise whether he does not think that each case ought to depend upon its own merits?

Mr. KING. I agree with the Senator.

Mr. WATSON of Georgia. This case presents peculiar features of hardship, so far as those who were victimized by the dishonesty are concerned, and the highest authorities have declared that they should not be at a loss which they could not prevent; so should not this be made a case exceptional to any general rule?

Mr. KING. Mr. President, I appreciate the generosity of my friend and his kind heart. It really is to his credit. Yet he assumes that the Secretary of War has approved the payment by the Government of this claim and has assumed that it has been recommended that they be relieved. Both of those assumptions, I beg the Senator to permit me to state, are not well founded.

Mr. WATSON of Georgia. I know that the Committee on Claims is most careful in the consideration of each case submitted to it. I have had those cases submitted to me as a member of that committee, and I know that I do not give more care than the other members give to similar things; and yet each batch of papers sent to me is as carefully scrutinized as would be any case sent to me in my office as a lawyer, where I would collect a fee for rendering a righteous decision.

Mr. KING. I think the War Department ought to have made an investigation through the appropriate channels, and made a recommendation. They have done neither. But I will not object.

The PRESIDING OFFICER. The time of the Senator from Utah has expired under the five-minute rule. Is there objection to the consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Claims with an amendment, on page 1, line 8, to strike out "$1,116.31" and to insert in lieu thereof "$1,166.31," so as to make the bill read:

Be it enacted, etc., That the accounting officers of the Treasury be, and they are hereby, authorized and directed to credit the accounts of the following officers in the United States Army with the following sums for certain defalcations made by Sergt. William Le Duc at Fort McPherson, Ga., in 1914, to wit: Col. Horace P. Hobbs, $1,166.31; Col. Charles B. Stone, $1,028.17; Col. Henry M. Bankhead, $103.65; Col. Louis F. Garrard, jr., $2,373.64.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

MOSES M. BANE.

The bill (S. 464) for the relief of the estate of Moses M. Bane was considered as in Committee of the Whole, and was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, directed to pay to the estate of Moses M. Bane, deceased, who was receiver of public moneys for the Territory of Utah, and paid office rent at Salt Lake City for the years 1877 and 1878 and for the first quarter of the year 1879, the sum of $1,080, out of any money in the Treasury not otherwise appropriated, the said sum for office rent having been advanced by the officer out of his private means.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JAMES L. VAI.

The resolution (S. Res. 99) referring the claim of James L. Vai to the Court of Claims was read and agreed to, as follows:

Resolved, That the bill (S. 84) entitled "A bill for the relief of James L. Vai," now pending in the Senate, together with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims, in pursuance of the provisions of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911; and the said court shall proceed with the same in accordance with the provisions of such act and report to the Senate in accordance therewith.

BILLS PASSED OVER.

The bill (S. 1541) for the relief of J. P. D. Shiebler was announced as next in order.

Mr. KING. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 777) for the relief of John M. Green was announced as next in order.

Mr. KING. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 1880) providing for the appointment of Warrant Officer Herbert Warren Hardman as captain in the Quartermaster Corps, United States Army, to take rank under the provisions of section 24a of the act of Congress approved June 4, 1920, was announced as next in order.

Mr. KING. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

ADDIE MAY AULD AND ARCHIE WILLIAM AULD.

The bill (S. 518) to carry out the provisions of an act approved July 1, 1902, known as the act entitled "An act to accept, ratify, and confirm a proposed agreement submitted by the Kansas or Kaw Indians of Oklahoma, and for other purposes," and to provide for a settlement to Addie May Auld and Archie William Auld, who were enrolled as members of the said tribe after the lands and money of said tribe had been divided, was considered as in Committee of the Whole.

The bill had been reported from the Committee on Indian Affairs with an amendment to strike out all after the enacting clause and to insert:

That section 7 of the agreement with the Kansas or Kaw Indians, approved July 1, 1902 (32 Stat. L., 638), setting aside and reserving from allotment 160 acres, including the school and agency buildings, be, and the same is hereby, amended so as to authorize the Secretary of the Interior in his discretion to allot to Addie May Auld and Archie William Auld 150 acres of said reserve, excepting from allotment all school and agency buildings and not exceeding 10 acres of land, the conveyance to the said persons named to be of the same form as to other Kaw allottees: *Provided*, That the allotments of the said land shall be in full settlement of all back annuities and any other claims or rights of said persons as enrolled members of the Kaw Tribe of Indians.

Mr. CURTIS. Mr. President, on last Monday the Senator from Wisconsin [Mr. LENROOT] objected to the consideration of this bill because he wanted a statement made in regard to it. With the consent of the Senate, I would like to make a short statement. I do not think there will be any objection to the bill.

In 1902 this tribe of Indians entered into an agreement with the Government to divide all their lands and money between the members of the tribe. The agreement provided for the enrollment. All of the members were enrolled except the children of one woman, a member of the tribe, who had married outside the tribe, but was living on the reservation. Afterwards the property and the moneys were divided, and after the division was made the department held that these two children were entitled to enrollment, and they were enrolled. The only property left which can be allotted to them is this school property, which was retained by the terms of the agreement, to be disposed of under the direction of Congress.

The boarding school has been discontinued, and the Indian Department is using the property for a day school, and only need about 10 acres. That is set aside in the bill. The property being very valuable, gives to these two members about what they would have been given had they received their allotments under the original bill. Under the original bill each member was allotted about 400 acres of land and received about $1,200 in money.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time and passed.

PUBLIC SCHOOLS IN THE DISTRICT OF COLUMBIA.

The bill (S. 2040) to provide for compulsory school attendance of children, to provide for the taking of a school census, to create the department of school attendance and work permits for the administration of this act and the act to regulate the employment of child labor in the District of Columbia, and for other purposes, within the District of Columbia, was announced as next in order.

Mr. KING. There are several amendments to be offered to the bill, which will take some time for consideration. Let it go over.

The PRESIDING OFFICER. The bill will be passed over.

RELIEF OF FRANK CARPENTER.

The bill (S. 1247) for the relief of Frank Carpenter was announced as next in order.

Mr. KING. Let the bill go over.

Mr. HARRELD. Mr. President, will the Senator withhold his objection for a moment?

Mr. KING. I withhold the objection for a moment.

Mr. HARRELD. If there is a claim on the calendar that ought to be allowed, this is the one. This man performed services on the Chandler rifle range, in Oklahoma, for the Government during the war under contracts amounting to about $3,600. The Secretary of War has recommended that it be paid, and the trouble has been that there have not been any funds available to pay it, that is, belonging to the National Guard fund for that State. At the present time there are funds for the National Guard of that State out of which it could be paid, and for that reason it is recommended that it be paid out of that fund. If there is any claim here that ought to be paid, this is the one that should be paid now. I hope the Senator will withdraw his objection.

Mr. KING. I withdraw the objection, but I should like to have the Senator explain to me what the bill is and what the services are that were rendered.

Mr. HARRELD. These improvements were made under contract with the National Guard of Oklahoma under an act authorizing that kind of a contract to be made during the war. The contract was approved by the Government, and the Secretary of War has said that the money ought to be paid, but that it could not be paid out of any other fund except the fund set apart and allotted to the States to take care of National Guard work and improvements of this sort. Until recently there was no money in that fund, but there is now money in the fund, and the Secretary of War has recommended that it be paid out of that fund now available.

Mr. KING. As I understand the Senator, the improvements were made under the direction of the National Guard?

Mr. HARRELD. They were.

Mr. KING. And I presume upon ground which is controlled by the National Guard. Why should not the State pay for it?

Mr. HARRELD. The rifle range was owned at that time by the Government and is owned to-day by the Government. As I understand it, during the war a certain fund was set apart for the National Guard of each State, and it was assumed that this man would be paid out of that fund, and it was so stated. The Secretary of War recommended payment, and the adjutant general of the State has recommended payment. The work was actually performed by this man, and there is no question but that he should be paid.

Mr. KING. I should like to ask the Senator, or the chairman of the Committee on Military Affairs [Mr. WADSWORTH], why the War Department did not include this in its definite recommendations and have an appropriation made and charged to the War Department? I should like the War Department to get over the obloquy that attends these expenditures.

Mr. WADSWORTH. The Senator always does his best to see that it does.

Mr. KING. I do not want it to get more than its share, but I wish to see that it is not neglected.

Mr. WADSWORTH. This bill did not come from the Committee on Military Affairs. It came from the Committee on Claims. I happen to recollect this claim, because it was pending at one time when I was a member of the Committee on Claims.

This money was expended in accordance with the law, and it is a valid contract. It was not, however, to be paid out of the fund for the support of the Regular Army; it was to be paid out of funds allotted to the State for the support of the National Guard. A legal tangle arose in the matter in some way or other, I forget how, by which it could not be paid out of this fund except by the passage of a bill through Congress. The man has done this work. He erected the targets. They have been in use on the property of the United States Government for the use of the National Guard of Oklahoma ever since, and he has never been paid a penny.

Mr. KING. I think he ought to be paid.

There being no objection, the Senate, as in Committee of the Whole, considered the bill, which had been reported from the

Committee on Claims with an amendment, to strike out, in lines 10 and 11, the words "with interest at the rate of 6 per cent per annum from May 6, 1911," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Frank Carpenter out of the unexpended balance in the Treasury of $14,813.33 now to the credit of the State of Oklahoma under the appropriation "Arming and equipping the militia," under section 1661, Revised Statutes, which is no longer available for expenditures incurred since July 1, 1918, the sum of $3,700 in full payment for work done in the construction of a rifle range at Chandler, Okla., in accordance with the provisions of a contract entered into by the said Carpenter with the State of Oklahoma December 31, 1910.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS PASSED OVER.

The bill (S. 2170) to encourage the development of the agricultural resources of the United States through Federal and State cooperation, giving preference in the matter of employment and the establishment of rural homes to those who have served with the military and naval forces of the United States, was announced as next in order.

Mr. KING. Let the bill go over. It will take some time to consider it.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 150) to provide longevity pay for reserve officers and National Guard officers serving under orders of the War Department was announced as next in order.

Mr. SMOOT. Let the bill go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 943) for the relief of John Lyons was announced as next in order.

Mr. KING. Let that bill go over.

The PRESIDING OFFICER. The bill will be passed over.

RUSSIAN RAILWAY SERVICE CORPS.

The bill (S. 28) providing for the men and officers in the Russian Railway Service Corps the status of enlisted men and officers of the United States Army when discharged was announced as next in order.

The PRESIDING OFFICER. This bill has been passed and a motion has been entered by the junior Senator from Utah [Mr. KING] for its reconsideration.

Mr. KING. I wish to withdraw the motion to reconsider.

The PRESIDING OFFICER. Is there objection to the withdrawal of the motion to reconsider? The Chair hears none, and it is so ordered. The bill has been passed.

SALE OF CAMP EUSTIS, VA.

The joint resolution (H. J. Res. 138) to repeal so much of the act of Congress approved February 28, 1920, as provides for the sale of Camp Eustis, Va., was announced as next in order.

Mr. REED. Mr. President, I should like to have some Senator explain the joint resolution.

Mr. WADSWORTH. Mr. President, it can be explained very briefly, I think. In February, 1920, in the midst of the demobilization of the material acquired by the War Department and various pieces of property, the War Department decided to give up certain camps. That was just the beginning of the abandonment of camps. The matter came before the Military Committees of the two Houses and those committees recommended the passage of a measure in the form of a joint resolution instructing the War Department to give up certain additional camps, camps additional to those on the list which they had already agreed to give up. There was some doubt as to the wisdom of giving up two or three of them, but finally the Congress in passing the joint resolution permitted the War Department to keep possession of Camp Eustis, Va., for another year to test out the wisdom of keeping it or of selling it, as the case might be.

The members of the House Committee on Military Affairs visited Camp Eustis last winter and made a very thorough inspection of it. They came back unanimously of the opinion that it should be retained. I personally have been there twice, once while it was being constructed during the war and once last spring. While originally I was in doubt as to the wisdom of keeping it, I returned fully convinced that it would be a grave error to abandon it.

It is one of the smaller of the cantonments. It was built to house but two brigades of troops and was used for the training of heavy artillery forces. There is stationed there to-day all the railroad artillery which the United States owns. It is a tremendous amount of material.

There are 23 miles of ballasted railroad track upon the property. There are huge storehouses of a permanent character in which ammunition is stored. The troops which are there are trained in the use of this heavy railway artillery. In fact that is the only place in the country where a range of sufficient length can be obtained for a sum within the willingness of the Congress to appropriate or the ability of the Treasury to pay, for the reason that the range is almost entirely over water. They can fire the guns at Camp Eustis at a range of 25 miles in perfect safety and with the most excellent results from the training standpoint.

Camp Bragg was another heavy artillery cantonment and training ground. That was given up just the other day and it leaves Camp Eustis, a much smaller camp and with a much higher percentage of permanent buildings than any other I have ever seen, the only heavy artillery training camp in the United States.

If we abandon it we shall have to move all that material. There are several dozens of these huge guns and each gun has a train of cars to go with it and to carry the ammunition and crews. We will have to take up all these railroad tracks, which are ballasted, and there is a big railroad yard there. We will have to move all this ammunition out of permanent storehouses. There is a permament cold-storage plant, a permanent pumping plant, and a permanent sewage-disposal plant. It will cost millions to get out of there, and where we will go with all this material no one presumes to say. Both Committees on Military Affairs have been unanimous in finally reaching the conclusion that the place should be retained.

There being no objection, the joint resolution was considered as in Committee of the Whole, and it was read, as follows:

Resolved, etc., That so much of the act of Congress approved February 28, 1920 (41 Stat., p. 454), as provides: "The Secretary of War is hereby directed to sell the real estate and buildings of said camp to the best advantage of the Government, the proceeds of such sale to be covered into the Treasury to the credit of miscellaneous receipts," be, and the same is hereby, repealed.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS PASSED OVER.

The bill (H. R. 2232) in reference to a national military park on the plains of Chalmette, below the city of New Orleans, was announced as next in order.

Mr. SMOOT. Let the bill go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (H. R. 7158) to amend the Army appropriation act approved July 11, 1919, so as to release appropriations for the completion of the acquisition of real estate in certain cases and making additional appropriations therefor was announced as next in order.

Mr. WADSWORTH. I ask that that may go over.

The PRESIDING OFFICER. It will be passed over.

The bill (S. 1565) making eligible for retirement under the same conditions as now provided for officers of the Regular Army all officers of the United States Army during the World War who have incurred physical disability in line of duty was announced as next in order.

Mr. SMOOT. Let the bill go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 1976) to amend the first paragraph of section 2 of an act entitled "An act to regulate the salaries of teachers, school officers, and other employees of the board of education of the District of Columbia," approved June 20, 1906, was announced as next in order.

Mr. KING. Let that go over.

The PRESIDING OFFICER. Objection being made, the bill will be passed over.

The bill (S. 1790) to place national guardsmen who entered the World War otherwise than through the draft on equal basis as to longevity and continuous-service pay with national guardsmen who were drafted was announced as next in order.

Mr. SMOOT. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 1075) giving permanent rank to district superintendents of the Coast Guard on the retired list was announced as next in order.

Mr. SMOOT and Mr. KING. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 2265) to regulate marine insurance in the District of Columbia, and for other purposes, was announced as next in order.

Mr. KING. Let the bill go over.

Mr. JONES of Washington. It will go over. The Senator from Wisconsin [Mr. LENROOT] asked the other day that it might go over until he could have an opportunity to look it up.

It is rather a long bill, so I shall not ask for its consideration this morning.

The PRESIDING OFFICER. The bill will be passed over.

The resolution (S. Res. 115) directing an investigation of the administration of the Federal reserve system and the office of the Comptroller of the Currency was announced as next in order.

Mr. REED. Let that go over.

The PRESIDING OFFICER. The resolution will be passed over.

AMENDMENT OF FEDERAL RESERVE ACT.

The bill (S. 2263) to amend the Federal reserve act, approved December 23, 1913, was announced as next in order.

Mr. REED. Let the bill go over.

Mr. SMITH. Mr. President, this bill, I assume, is of such importance and there are amendments pending of such a very radical nature that I shall ask that it go over for the reason that if a recess is taken immediately upon the reassembling of the Congress I for one shall insist that certain amendments now pending to the Federal reserve act, not only along the lines proposed in this bill but other radical amendments to amend the act as to the personnel of the board and the provisions for its administration, shall be considered. I wish to serve this notice, because I think it is a matter of more vital importance to the country at large than any other legislation to which we could address ourselves.

Mr. KENYON. That is the bill to amend the Federal reserve act so as to provide for recognition of agriculture?

Mr. SMITH. Yes; it proposes to provide that agricultural interests of the country shall be recognized in the administration of the Federal Reserve Board.

Mr. REED. Mr. President, I made objection to the present consideration of the bill. I did it without being familiar with the particular bill. I thought it was a bill which would require debate, and that was my reason. I do not intend to insist on the objection, and I withdraw it.

Mr. SMOOT. I object to its present consideration.

Mr. SMITH. I am glad that objection is made, for the reason that I am not prepared at this time to go on with certain amendments that I shall insist on being considered.

The PRESIDING OFFICER. The Senator from Utah objects, and the bill will be passed over.

REIMPORTATION OF ARMY SUPPLIES.

Mr. WATSON of Indiana. I ask unanimous consent, out of order, to present a report from the Committee on Finance. I am directed by that committee, to which was referred the joint resolution (H. J. Res. 183) imposing a duty of 90 per cent on all goods exported from the United States for the use of the American Expeditionary Forces and its allied forces, and which have been sold to any foreign Government or person, when reimported into the United States, to report it with amendments, and I submit a report (No. 267) thereon.

The PRESIDING OFFICER. The joint resolution will be placed on the calendar.

Mr. WATSON of Indiana. No; Mr. President, before the joint resolution is ordered to the calendar I wish to ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Indiana?

Mr. POMERENE. Mr. President——

Mr. WATSON of Indiana. I yield to the Senator from Ohio.

Mr. POMERENE. I was engaged in a conference on this side of the Chamber; and I desire to ask what is the purport of the joint resolution?

Mr. WATSON of Indiana. I shall be very glad to state that to the Senator from Ohio and to the Senate.

Mr. POMERENE. I do not care to waive the right to object to the present consideration of the joint resolution.

Mr. WATSON of Indiana. The Senator may reserve the right to object to its consideration.

Mr. POMERENE. Very well.

Mr. WATSON of Indiana. Mr. President, as we all recall, large quantities of stores were sold by the Government of the United States to the Government of France during the World War, aggregating well nigh $2,000,000,000 worth. Of those stores the Government of France utilized a large quantity. It sold some to other countries and other peoples; it gave away much of them; and of the remaining stores certain portions were sold to American citizens. The joint resolution for which I now ask consideration was introduced in the other House by Representative GRAHAM of Illinois for the purpose of preventing the reimportation of these goods which were thus acquired by France and thus sold to certain citizens of the United States.

Mr. HITCHCOCK. Mr. President——

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from Nebraska?

Mr. WATSON of Indiana. Certainly.

Mr. HITCHCOCK. I should like to inquire of the Senator to what tariff those goods would be subjected under our present schedules?

Mr. WATSON of Indiana. They are mostly on the free list.

Mr. SMOOT. They are all on the free list, Mr. President.

Mr. WATSON of Indiana. My present recollection is that the witnesses who appeared before the Finance Committee with reference to the matter said that these goods were all on the free list.

Mr. SMOOT. They are not technically on the free list, but under a provision of law all American goods which are exported abroad may come back into this country free of duty.

Mr. WATSON of Indiana. So that virtually they are on the free list.

Mr. HITCHCOCK. In a general way, of what do those goods consist?

Mr. WATSON of Indiana. They consist of a very great variety of articles, I will say to the Senator from Nebraska, amongst others being cans of tomatoes, khaki uniforms, and blankets.

Mr. SMOOT. And shoes.

Mr. WATSON of Indiana. And shoes, and similar articles, and material which were sold by us to France for war purposes.

Mr. KNOX. Mr. President——

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from Pennsylvania?

Mr. WATSON of Indiana. Certainly.

Mr. KNOX. I should like to inquire whether we received payment for those goods which we sold to France; and if we did, in what form?

Mr. WATSON of Indiana. That involves another phase of the question into which I do not care to go at this time, because I do not think it is involved in the matter before the Senate.

Mr. KNOX. Perhaps the question I am about to ask will be material. Assuming that we took I O U's, or something else equally insubstantial, what relation did the price at which we sold the goods bear to their value?

Mr. WATSON of Indiana. My understanding is that the goods we sold to France were worth about $2,000,000,000, and we sold them for $400,000,000. I think that is correct, but I do not know.

Mr. SMOOT. The value was just a few dollars less than $2,000,000,000, but is virtually what the Senator has stated it—it was $2,000,000,000, in round numbers, and the goods were sold for $400,000,000.

Mr. WATSON of Indiana. In order that the Senate may fully understand the measure for which I am asking immediate consideration, I desire to say further that the Senate Finance Committee authorized me to report an amendment to the joint resolution.

Certain citizens of the United States purchased in the aggregate about $6,000,000 worth of these goods, some of which are on the high seas in transit to the United States, some of which are at port awaiting shipment, and some of which are on cars waiting to be transported to ports for shipment. The Committee on Finance believe, inasmuch as these goods had been purchased by American citizens in good faith, inasmuch as banks had loaned them money with which to make the purchase, and inasmuch as credit had been established in France on the borrowings thus made, that we ought not to exclude those goods from coming into the United States. Therefore the committee have authorized me to report an amendment; and if there be no objection to the immediate consideration of the joint resolution, I should like to have the amendment read. I simply wish to say further that unless this joint resolution is now passed in this way it can not pass at this session, and all of those goods may be sent back into the United States regardless of the question of bona fides or of good faith in connection with the purchases which have been made.

Mr. POMERENE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from Ohio?

Mr. WATSON of Indiana. I yield.

Mr. POMERENE. The statement of the Senator from Indiana thus far has been rather indefinite in this: The Senator has told us that a large portion of these goods have been sold and are about to be imported into the United States. Has the committee any definite information as to the amount of such goods?

Mr. WATSON of Indiana. The Senator from Indiana did not make that statement or he did not intend to make it. So

far as I know $6,000,000 worth of goods have been purchased, and so far as we know that amount is now on its way to the United States in some place or other.

Mr. POMERENE. Are these goods on the same ship on which is that great stock of German dyes that is going to flood the market here?

Mr. WATSON of Indiana. Now, my friend from Ohio wants to bring up another very interesting question with which I am not at present engaged.

Mr. FLETCHER. May I interrupt the Senator from Indiana to inquire whether the amendment he is authorized to report is to take care of a situation that has recently come to my attention? I was informed two weeks ago that a ship had arrived in New Orleans with enough horseshoes and horseshoe nails on it to supply that section for the next year and also with some thousand of bales of blankets. Those are already here. Does this amendment propose to take care of that situation?

Mr. WATSON of Indiana. I should very much like to have the amendment read for the benefit of the Senator from Florida. It is a very short amendment.

The PRESIDING OFFICER. Without objection, the Secretary will read as requested.

The ASSISTANT SECRETARY. The Committee on Finance propose to add at the end of the joint resolution the following proviso:

Provided, That the provisions of this resolution shall not apply to any goods, wares, merchandise, or military or naval supplies purchased prior to August 15, 1921, by any citizen of the United States, or by any partnership, corporation, or association created or organized in the United States, and exported to the United States prior to November 1, 1921, if (1) such purchases are certified to by the United States consul, and (2) such citizen, partnership, corporation, or association files within 45 days after the approval of this resolution with the Secretary of the Treasury and the United States consul a certified copy of the instrument of purchase of such goods, wares, merchandise, or military or naval supplies. The term "United States consul" means the United States consul in the country from which such goods, wares, merchandise, or military or naval supplies are exported to the United States who certifies to the consular invoices.

Mr. POMERENE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from Ohio?

Mr. WATSON of Indiana. Certainly.

Mr. POMERENE. As I recall, a moment ago it was stated that a large portion of these goods that are about to flood this country are on the free list. If they are in fact on the free list and it is not the purpose of the Finance Committee to change the general policy, I am at a little loss to understand why we should change the general policy here because some men would be able to make a little money out of the transaction. It may be that the public generally will get some benefit out of it. This is a new problem to me; it comes up here in a moment, and it is asked that the Congress of the United States shall pass this measure immediately without further consideration. It seems to me that that is hardly the way to enact legislation of this character.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from Utah?

Mr. WATSON of Indiana. I yield to the Senator from Utah.

Mr. SMOOT. I will say to the Senator from Ohio that the request for the consideration of the joint resolution would not be asked in this manner if it were not necessary. If we are going to keep those goods out it will be necessary to pass the measure at a very early day. If there should be a recess the bill ought to be passed to-day or to-morrow at the latest.

The Senator, I imagine, misunderstood the statement that the goods were on the free list. I corrected that statement, but perhaps the Senator did not hear the correction.

Mr. POMERENE. Possibly I did not hear distinctly the correction, but I understood the Senator to say that a large portion, if not all, of the goods were on the free list.

Mr. SMOOT. Under existing law all American goods shipped to any foreign country can be reshipped into America without any duty whatever. These are American goods. The items themselves, if they were made in a foreign country, would not come into this country free of duty. I wish to say further to the Senator that this measure involves goods valued at about $6,000,000, as we are told by the purchasers of the goods. There have been a great many millions of dollars of similar goods shipped into this country before the question came up—trucks, automobiles, clothing of different kinds, shoes, and other articles that have come in here during the last year or so. There are a good many secondhand people in New York who have gone over to Europe and made investigation there as to the goods that are left. They find there, for instance, cases of tomatoes—the French people do not need them; cases of corn, the people in Europe do not eat corn—and there are a great many canned meats of various kind and goods of similar character that are coming in the particular shipments that are involved in this joint resolution.

Mr. POMERENE. Mr. President, I think the American people need meat and eat tomatoes and articles of that kind, and, when I recall the prices we have been paying for them, I do not know that I object seriously to such goods coming in free of duty.

Mr. SMOOT. I will say to the Senator that I am quite sure that when these goods get into this country they do not affect the market at all, and the only ones to derive benefit are the secondhand men who buy the goods in Europe, where we sold them for 20 cents on the dollar, and bring them into this country now and sell them at the regular price.

Mr. POMERENE. Mr. President, I have a very distinct recollection that when most of these goods—I am speaking generally now—were manufactured and sold to the Government the manufacturers obtained a reasonable profit out of them; the fact is the profit was so large that if the goods should come in here by some chance and be sold a little bit lower than the manufacturers are selling them I do not know that I would be very much disturbed about that. In any event, Mr. President, until I can have a further opportunity to look into this measure, I shall object to-day to its consideration.

The PRESIDING OFFICER. Objection is made to the immediate consideration of the joint resolution reported by the Senator from Indiana.

Mr. WATSON of Indiana. Very well.

The PRESIDING OFFICER. The joint resolution will be placed on the calendar.

ASSOCIATIONS OF AGRICULTURAL PRODUCERS.

The bill (H. R. 2373) to authorize associations of the producers of agricultural products was announced as next in order.

Mr. KING. That bill will take some time, and I ask that it go over.

The PRESIDING OFFICER. Under objection, it will be passed over.

ARGENTINE SUGAR.

The joint resolution (S. J. Res. 79) authorizing the President to require the United States Sugar Equalization Board (Inc.) to take over and dispose of 5,000 tons of sugar imported from the Argentine Republic was announced as next in order.

Mr. KING. I ask that the joint resolution may go over.

Mr. FRELINGHUYSEN. I move that, notwithstanding the objection, the Senate proceed to the consideration of the joint resolution.

The PRESIDING OFFICER. The question is on the motion of the Senator from New Jersey that, notwithstanding the objection, the Senate proceed to the consideration of Senate joint resolution 79. [Putting the question.] By the sound, the "noes" seem to have it.

Mr. FRELINGHUYSEN. I ask for a division.

On a division, the motion was rejected.

AMENDMENT OF NATIONAL DEFENSE ACT.

The bill (S. 2333) to amend an act entitled "An act to amend an act entitled 'An act for making further and more effectual provision for the national defense, and for other purposes,' approved June 3, 1916, and to establish military justice," approved June 4, 1920, was announced as next in order.

Mr. KING. May I ask the Senator from New York whether this bill is regarded as of importance, and whether he desires it to be considered at this time?

Mr. WADSWORTH. It is a very, very brief bill. As printed it looks very long.

Mr. KING. I recall the bill.

Mr. WADSWORTH. It merely adds one phrase to the existing law relative to the appointment of bureau chiefs in the War Department.

Mr. KING. I think the Senator had better explain it.

Mr. REED. I should like to know what the bill is.

Mr. WADSWORTH. In brief, this is it:

Senators will recollect, in all probability, that the law provides, as it has provided for some time, that appointment to the position of bureau chief in the War Department is for a term of four years—Quartermaster General, Chief of Ordnance, Adjutant General, Chief of Engineers, Chief of the Chemical Warfare Service, and all the others, a large number of them. Last year, when the Army reorganization act was under discussion, the Senate reenacted this same provision for a four-year term for all these officers who are assigned as bureau chiefs by the President, but following the phrase stating that the term should be four years put in an additional phrase, "unless sooner relieved by the President."

The Senate passed the Army reorganization act in that form. That phrase, however, was dropped out in conference between the two Houses. It leaves this situation, which to my mind is abhorrent, that when once an officer is appointed chief of a bureau in the War Department not even the Commander in Chief of all the armies of the United States can relieve him from that duty during the four years. In other words, the Congress by this law entrenches an officer of the Army in a place from which he can not be removed, even by the President, no matter how inefficient he may be.

This bill restores that phrase, "unless sooner relieved by the President." It is not directed against any officer. Last year the Senate passed it in that shape, and in that shape it would have given President Wilson the power to relieve a bureau chief. We are not playing any politics with it at all. We were in favor of this proposal when a Democratic President was in the White House and we are in favor of it to-day, when a Republican President is in the White House.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That section 4c of the act entitled "An act to amend an act entitled 'An act for making further and more effectual provision for the national defense, and for other purposes,' approved June 3, 1916, and to establish military justice," approved June 4, 1920, be amended to read as follows:

"SEC. 4c. Assignments: Officers and enlisted men shall be assigned to the several branches of the Army as hereafter directed, a suitable proportion of each grade in each branch, but the President may increase or diminish the number of officers or enlisted men assigned to any branch by not more than a total of 15 per cent: *Provided*, That the total number authorized in any grade by this act is not exceeded: *Provided further*, That the number of enlisted men herein authorized for any branch shall include such number of Philippine Scouts as may be organized in that branch: *Provided further*, That no officer shall be transferred from one branch of the service to another under the provisions of this section without his own consent. Except as otherwise herein prescribed, chiefs and assistants to the chiefs of the several branches shall hereafter be appointed by the President, by and with the advice and consent of the Senate, for a period of four years, unless sooner relieved by the President, and such appointments shall not create vacancies. Appointment as chief of any branch shall be made from among officers commissioned in grades not below that of colonel, and as assistant from among officers of not less than 15 years' commissioned service, who have demonstrated by actual and extended service in such branch or on similar duty that they are qualified for such appointment: *Provided*, That the chiefs of the several branches shall make recommendations to the Secretary of War for the appointment of their assistants: *Provided further*, That in making the first appointment to any such office created by this act the chief of a branch may be selected from among officers of not less than 22 years' commissioned service. Any officer who shall have served four years as chief of a branch and who may subsequently be retired shall be retired with the rank, pay, and allowances authorized by law for the grade held by him as such chief. In time of peace no officer of the line shall be or remain detailed as a member of the General Staff Corps unless he has served for two of the next preceding six years in actual command of troops of one or more of the combatant arms; and in time of peace every officer serving in a grade below that of brigadier general shall perform duty with troops of one or more of the combatant arms for at least one year in every period of five consecutive years, except that officers of less than one year's commissioned service in the Regular Army may be detailed as students at service schools: *Provided*, That an officer commissioned in a staff corps shall not be or remain detailed as a member of the General Staff Corps unless he has served for one of the next preceding five years with troops of one or more of the combatant arms. In the administration of this provision all duty performed between April 6, 1917, and July 1, 1920, inclusive, or as a student at service schools, other than those of the noncombatant branches, at any time, shall be regarded as satisfying the requirements of service with combatant arms. Existing laws, in so far as they restrict the detail or assignment of officers, are hereby repealed. The Secretary of War shall annually report to Congress the numbers, grades, and assignments of the officers and enlisted men of the Army and the number, kinds, and strength of organizations pertaining to each branch of the service.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

NATIONAL GRAIN DEALERS' ASSOCIATION, ETC.

The resolution (S. Res. 110) to investigate activities of the National Grain Dealers' Association and other organizations engaged in combating legislation for the relief of agriculture was announced as next in order and was read, as follows:

Whereas it is reported in reputable newspapers that on June 27, 1921, at Cincinnati, Ohio, a convention was held under the auspices of the National Grain Dealers' Association, at which a national organization was projected with the announced purpose of combating legislation for the relief of the farmers of the country, said national organization as reported consisting, or to consist, of the United States Chamber of Commerce and other chambers of commerce, the Wholesale Coal Dealers' Association, Wholesale Lumbermen's Association, Wholesale Implement Vehicle Association, the Millers' National Federation, the Flour Association, the National Feed Dealers' Association, the National Hay Association, the National Cotton Growers' Association, Growers of Potatoes and Produce, Wholesale Grocers' Association, country grain elevators, all grain exchanges, National Seedsmen's Association, and also banks and exporters of grain; and

Whereas it is reported that at this meeting it was determined to institute an active campaign against the United States Grain Growers (Inc.), a newly organized national cooperative marketing company for marketing the grain of the farmers of the country, and also to institute a campaign for defeating legislation desired by the organized farmers of the country; and

Whereas it is reported that at this meeting a minimum fund of $250,000 was authorized to be expended in opposition to the United States Grain Growers (Inc.), and for the purpose of defeating legislation: Therefore be it

Resolved, That the Committee on Agriculture and Forestry is directed to inquire into this matter fully; to ascertain the various subscribers to the alleged fund, the officers and executive agents appointed to carry out the program authorized by this convention and all facts and circumstances relating thereto, and to the efforts of business, commercial, or other organizations to defeat the cooperative marketing movement which the farmers of the country have instituted; also to inquire and ascertain whether the United States Grain Growers (Inc.) and the farmers' program for cooperative marketing are, or are not, in the public interest.

Mr. KENYON. Mr. President, I anticipate from the look in the eye of the Senator from Utah [Mr. KING] that he may object to the consideration of this resolution. I hope he will not object. No expense will be attached to this investigation, and the Committee on Agriculture and Forestry have had some witnesses before them now to see whether there was a prima facie case for an investigation. Under those circumstances I hope the resolution may be considered and agreed to.

Mr. KING. The Senator from Iowa is not looking through the correct glasses. I was looking at him with great interest, desiring to know his wishes.

Mr. KENYON. I have been hoping the Senator from Utah might be called out of the Chamber.

Mr. KING. Now, knowing the Senator's wishes, I shall not object.

Mr. REED. Mr. President, is it provided in this bill that both sides of this question shall be investigated?

Mr. KENYON. It is.

Mr. REED. Or simply the men who happen to be selling grain?

Mr. KENYON. No. The farmers' program for cooperative marketing will be investigated, as well as the attempt of the grain dealers and other great organizations that met with them in a convention at Cincinnati, to combat the farmers' cooperative idea. Both sides are to be investigated.

I will say to the Senator that this resolution is based on newspaper statements in regard to a convention held at Cincinnati, where were represented the United States Chamber of Commerce and other chambers of commerce, the Wholesale Coal Dealers' Association, the Wholesale Lumbermen's Association, the Wholesale Implement Vehicle Association, the Millers' National Federation, the Flour Association, the National Feed Dealers' Association, and so forth, to raise a fund, with a minimum of $250,000, to combat the farmers' cooperative movement.

We have had enough evidence to satisfy us that there is a prima facie case for an investigation. It is not a question of whether a few grain dealers and speculators are fighting this movement. They have a right to fight it. No one is objecting to that. It is a question as to whether the great business interests of the country, as represented in these organizations, are engaged in a concerted movement against the cooperative marketing movement.

Mr. REED. The only question I am asking has perhaps been answered, but I want to know about it. It may be that these organizations have been doing what is suspected, but it may be that there have been equally powerful movements back of the attempt to pass this particular legislation—not this bill, but the matter which we propose to investigate. Money and influence may have been expended on both sides. What I want to know is that the investigation is broad enough so that we can get the whole case presented; and if that is the case, I have no objection. I shall welcome it.

Mr. KENYON. I will say to the Senator that, in my judgment, it is the case, and that whole investigation will be made and the value of the whole cooperative movement will be investigated.

Mr. KING. Mr. President, I should like to ask the Senator one question. Is this resolution broad enough to investigate the Raisin Trust? There is such a trust. It has been proceeded against, and it has had a lobby here for the purpose of suppressing legislation and suppressing the prosecution of the suit.

Mr. KENYON. I will say to the Senator very frankly that I do not think it is. The Senator and I do not disagree at all about a lobby investigation. I hope there will be one. This is a matter that occurred away from Washington.

Mr. KING. Is this resolution broad enough to investigate the charge which has been made—whether true or not I have no advices—that there is a large lobby here in support of a

measure to permit the agricultural interests to combine for the purpose of stifling competition and maintaining high prices?

Mr. KENYON. The Senator will notice the concluding paragraph of this resolution:

And the farmers' program for cooperative marketing.

So that that whole matter is a subject of investigation under this resolution.

Mr. KING. I will say to the Senator that if there is any combination permitted in the United States, it ought to be a combination of agriculturists; but if there is an illegal combination anticipated or projected, that ought to be investigated, too. Is this resolution broad enough to permit such an investigation?

Mr. KENYON. I can only give my judgment. I think so, though it is not intended to investigate all the lobbying that is going on around the Capitol. It is intended to find out whether there is a regular organized movement, backed by great interests in this country, to destroy the cooperative marketing movement that the farmers have inaugurated. That is the purpose of it.

Mr. KING. I should like to inquire whether the joint committee of which Representative ANDERSON is chairman is not making an investigation of this matter?

Mr. KENYON. No; I think not, and I see no reason why that joint committee should take away the proper business of the Agricultural Committees of the Senate or of the House.

Mr. KING. I agree with the Senator; but if that committee was investigating this subject, or had power to do so, it being a joint committee, it seems to me that it might make this investigation.

Mr. KENYON. I do not understand that it is investigating this phase of the matter at all.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered by the Senate and agreed to.

The preamble was agreed to.

BILL PASSED OVER.

The bill (S. 2356) for the relief of Clarence L. Reames was announced as next in order.

Mr. KING. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

HANS WEIDEMAN.

The bill (S. 165) for the relief of Hans Weideman was considered as in Committee of the Whole.

Mr. KING. Mr. President, reserving the right to object, when this bill was up before I objected to its consideration, for the reason that there was no information accompanying the report as to whether the costs which had been incurred in apprehending the fugitive and returning him to court, where he pleaded guilty, had been paid by the bondsman or had been paid by the Government. If paid by the Government, then that amount ought to be subtracted from the amount of the bond.

Mr. SPENCER. Mr. President, my information is that the bondsman himself secured the return of this man; but it is true that when the United States district court made an order to return this $1,500 they made the order to return it less $100. The Department of Justice recommended the return of the full $1,500. In other words, the fact of the matter was that this man Weideman was a bondsman, and when the man for whom he was bondsman disappeared he paid the $1,500 into court. He at once took steps to secure the presence of the criminal; he found him; he brought him back; the man was convicted; he is now in the penitentiary, and the court ordered the return of this $1,500 less $100; but it transpired that in the meantime the money had gotten out of the jurisdiction of the court and gotten into the Treasury of the United States. Therefore, of course, the money ought to be returned to him, but legislation is needed to return it.

Mr. KING. I am not quite clear as to this matter. Does the Senator state that the Government is out nothing?

Mr. SPENCER. My understanding is that the Government is out nothing.

Mr. KING. The bondsman paid all the expenses of apprehending the fugitive?

Mr. SPENCER. That is my information.

Mr. KING. Under that understanding, I have no objection; but if the Government went to the expense of apprehending the fugitive, then, in good conscience, that amount ought to be deducted from the bond, which was declared to be forfeited.

Mr. SPENCER. To cover the suggestion of the Senator from Utah, I think there should be an amendment to the amount, deducting the $100, making it $1,400 instead of $1,500, because when the United States district court entered its order to return the money, it ordered the $1,500 returned less $100.

With that amendment, which I propose, I presume the Senator will have no objection?

Mr. KING. None at all.

The PRESIDING OFFICER. The amendment offered by the Senator from Missouri will be stated.

The ASSISTANT SECRETARY. On line 5, in two places, it is proposed to strike out "$1,500" and in each instance to insert "$1,400," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Hans Weideman the sum of $1,400, and said sum of $1,400 is hereby appropriated out of any money in the Treasury not otherwise appropriated, being the amount paid to the clerk of the United States District Court for the Eastern District of Missouri in connection with the forfeiture of an appearance bond in the case of John Beverland, which sum was deposited in the Treasury of the United States, and the defendant was subsequently apprehended and is now in the penitentiary under sentence upon a plea of guilty.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

TRADE WITH CHINA.

The bill (H. R. 4810) to authorize the incorporation of companies to promote trade in China was announced as next in order.

Mr. KING. Let that go over.

Mr. REED. I hope the Senator will not object.

Mr. BRANDEGEE. Mr. President, that is an important measure. It has been on the calendar for some time, and every time the calendar has been called the Senator from Utah has requested that the bill go over, and it has been passed over three or four times. There is great pressure in the country for the passage of legislation upon this subject, and I hope the Senator will not insist upon his objection. I think there will be very little debate upon the bill, and that it will occupy only a short time.

The effect of passing the bill as reported will be to send it to conference. The Senate Committee on the Judiciary has stricken out the House bill and inserted in lieu thereof a bill of its own. That will take the matter to conference.

I think the Senator probably has read the bill, or he can understand it very readily as it is read. It contains only the ordinary provisions for the creation of a corporation which can conduct foreign commerce, commerce with China. There is a crying necessity for it. The House report on the bill I have here, and intend to put into the RECORD, though there are portions of the House report which are not applicable to the Senate committee bill; but the difference can be explained readily, and I have made no written report.

I will state the two features which are changed between the bill as it passed the House and the Senate committee bill. The Senate committee bill incorporates companies to do business between the people of the United States and the people of China. The bill as it passed the House attempted to incorporate companies to do business wholly within China.

The Senate committee thought that Congress has no authority under the commerce clause of the Constitution to incorporate a company to do business exclusively in a foreign country. We did not think that would be a regulation of foreign commerce, but we did think that if we incorporated companies to engage in commerce with the people of a foreign country, that was an instrumentality of foreign commerce, and the constitutional power resides in Congress to pass such legislation. I think that is generally admitted by the legal profession now. This matter was sumbitted to the State Department and they are anxious that the bill shall be passed in the interest of our foreign trade.

I am perfectly willing to answer any questions the Senator from Utah desires to propound, and I hope that he will not object to the consideration of the bill. I want to make it a short debate, if any. If I should move to proceed to the consideration of the measure, and carry it over the objection of the Senator, then there would be no limit to the debate, and I do not like to do that. I think we can debate it under the five-minute rule.

Mr. KING. The Senator knows, we having served on the Judiciary Committee together, that I have taken the position from the beginning that the Federal Government should not create special private incorporations, unless they were to serve a public purpose, unless they were fiscal agents of the Government.

I concede that in the past there have been a large number of corporations organized by Congress for the purpose of carrying

on private business, all sorts of organizations. We incorporated the National German-American Alliance, we incorporated the Boy Scouts, we incorporated the Near East Philanthropic Organization, and other private corporations. I have taken the position that it was not within the power of the Federal Government to incorporate corporations for those private purposes. The States have statutes broad and liberal, and the District of Columbia has a statute, under which private corporations may be organized for all sorts of business.

It seems to me that it is improper to have the Federal Government granting private charters, or indeed passing a general incorporation act, under which all sorts of private business may be conducted. It seems to me that it is a prostitution of the powers of the Federal Government, and, indeed, is a perversion of the authority which is granted to it.

It seems to me that the decision of Judge Marshall in the great case of McCulloch against State of Maryland is an authority for the organization of private corporations to engage in private business, either in the United States or elsewhere.

It is claimed that this comes under the commerce clause of the Constitution. It does not seem to me that we ought to invoke the commerce clause. It seems to me that it is a prostitution of the purposes of the commerce clause, and if you are going to permit individuals to engage in all sorts of business under charters from the Federal Government you might just as well abolish the power of the States to organize corporations. Individuals will come to the Federal Government and want to be clothed with a Federal charter. It will give them prestige; they will claim, at least, that it will give them prestige they do not enjoy under charters which emanate from the States.

It seems to me it is a bad precedent, and that it is violative of the spirit and the letter of the Constitution of the United States. Of course it may be taken up.

Mr. BRANDEGEE. I know the Senator is perfectly sincere in his view, and I sympathize with him to the extent of saying and feeling that I do not think we ought to grant Federal authority for ordinary, miscellaneous business in this country, because I think that can be well enough transacted under the charters granted by the several States. But I have no doubt of the constitutional power of Congress to regulate foreign commerce. That certainly is specifically granted in the Constitution.

The only question that could be raised as to this act would then be whether the incorporation of a company to transact foreign business, or business with a foreign nation, would be a regulation of foreign commerce. I am perfectly clear that the creation of an instrumentality through which foreign commerce may be conducted is a regulation of that foreign commerce.

Mr. NELSON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from Minnesota?

Mr. BRANDEGEE. I yield.

Mr. NELSON. My understanding of the situation is this, that the bill which was passed by the House simply provided for the creation of a corporation to do business wholly in China. The Senate committee has amended it by providing for a corporation to engage in commerce between this country and China.

While the Constitution contains nowhere in express terms a grant of power to create corporations, yet our Supreme Court has held in several instances that where it is necessary to carry out a Federal power or function a corporation can be created by Congress. We have an illustration of that in the matter of the building of the Pacific railroads. Corporations were created there to carry out a Federal purpose of the Government, namely, the construction of those railroads. We have another instance, familiar to all of us, in the case of the national banks. We have incorporated those banks to carry on the functions of the Government.

So I take it, as the Senator from Connecticut has well said, that under the commerce clause, in order to build up and carry on our trade with foreign countries, we have a right to create corporations. In other words, we have as much right to create a corporation to engage in commerce with foreign countries and build up that trade as we had to create national banks, or a corporation to build Pacific railroads and other matters of the same kind.

So I think there can be no constitutional objection to this bill as the committee has reported it. It is simply a question of policy, to my mind, whether it is judicious to create corporations to engage in foreign commerce, and on that question each Senator must judge for himself.

Mr. KING. Mr. President, I regret I have to take this position, because I presume I shall stand alone in my opposition to this bill; but I have such convictions in regard to these matters that I feel it is my duty to register my opposition. I shall oppose the consideration of this bill now. I am willing, when we get through with the calendar, if the Senator can get the floor, to have the matter taken up and have it considered fully and debated and discussed and take the judgment of the Senate. I am unwilling to have the Federal Government launch the policy of getting behind all sorts of corporations to engage in all sorts of undertakings in foreign lands, so that they can claim the prestige of the American flag and the prestige of the American Government. Let them incorporate under the States.

I object to the present consideration of the bill.

Mr. BRANDEGEE. Mr. President, I appreciate the sincerity of the Senator, as I said before, and I do not blame him at all for insisting upon his objection. But I want to take the judgment of the Senate, as the Senator does, and therefore I move that the Senate proceed to the consideration of the bill, the objection to the contrary notwithstanding.

Mr. HARRISON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Ashurst	Heflin	McNary	Smith
Borah	Hitchcock	Myers	Smoot
Brandegee	Jones, N. Mex.	Nelson	Spencer
Broussard	Jones, Wash.	New	Sterling
Capper	Kellogg	Newberry	Sutherland
Caraway	Kenyon	Nicholson	Townsend
Curtis	King	Norbeck	Trammell
Edge	Knox	Oddie	Wadsworth
Ernst	Ladd	Phipps	Walsh, Mass.
Fernald	La Follette	Poindexter	Warren
Fletcher	Lodge	Pomerene	Watson, Ind.
Glass	McCormick	Reed	Weller
Hale	McCumber	Sheppard	Willis
Harreld	McKellar	Shortridge	
Harrison	McLean	Simmons	

The PRESIDING OFFICER. Fifty-eight Senators having answered to their names, there is a quorum present. The morning hour having expired the Chair lays before the Senate the unfinished business which will be stated.

The READING CLERK. A bill (S. 665) to provide for free tolls for American ships through the Panama Canal.

Mr. BORAH. I ask unanimous consent that the unfinished business may be temporarily laid aside.

The PRESIDING OFFICER. Without objection it is so ordered.

DEFICIENCY APPROPRIATIONS.

Mr. WARREN. Mr. President, I move that the Senate proceed to the consideration of House bill 8117, the deficiency appropriation bill.

The motion was agreed to, and the Senate as in Committee of the Whole resumed the consideration of the bill (H. R. 8117) making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1922, and for other purposes.

The PRESIDING OFFICER. The pending question is upon the amendment proposed by the Senator from Mississippi [Mr. HARRISON] to the amendment of the committee which will be stated.

The READING CLERK. On page 2, lines 21 to 25, in lieu of the additional proviso proposed to be stricken out by the Committee on Appropriations, insert:

Provided further, That no officer or employee of the Shipping Board or the United States Shipping Board Emergency Fleet Corporation shall be paid a salary or compensation at a rate in excess of $12,000 per annum.

Mr. McCORMICK. Mr. President, if the Senate will bear with me for a little while, I wish to submit some figures which are interesting as bearing upon the pending amendment. I wish to speak of the circumstances under which the present Shipping Board must liquidate not only its physical assets but the policy bequeathed it by its predecessor. It is not necessary to despair, because we acknowledge the fearful cost of creating the fleet, the tremendous loss which must be incurred in disposing of the fleet, or because we face candidly present economic circumstances under which the Shipping Board, like every other industrial enterprise, must conduct its business.

I think it no exaggeration to say that 30 per cent of the world's merchant shipping is idle to-day. Under these conditions it is not astonishing to find that ships under the unhappy

MO–4 charters are operated at a great loss to the Shipping Board without any corresponding benefits to American commerce.

In order that it may be available for future reference, I submit to the Senate in summary now, and ask to have printed in detail, a statement of the sums expended or appropriated to the Shipping Board and the Emergency Fleet Corporation.

Mr. McKELLAR. During what period?

Mr. McCORMICK. From the beginning, under the act of September 7, 1916, until the present time.

Mr. POINDEXTER. What is the gross amount?

Mr. McCORMICK. The total amount appropriated for and otherwise provided for is $3,396,000,000. This, of course, does not include interest upon bonds sold to secure funds.

Mr. KING. Mr. President, will the Senator pardon an interruption?

Mr. McCORMICK. Certainly.

Mr. KING. Will the Senator kindly state that amount again?

Mr. McCORMICK. The table which was prepared for me and from which I read gives as the total amount appropriated for and otherwise provided for——

Mr. KING. By the Government?

Mr. McCORMICK. Certainly. Three billion three hundred and ninety-six million two hundred and eight thousand one hundred and seventy-nine dollars and thirty-one cents. I ask permission to have the statement printed in the RECORD without reading.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Statement of appropriations to date for United States Shipping Board and Emergency Fleet Corporation.

Moneys appropriated for United States Shipping Board:		
Permanent fund (act of Sept. 7, 1916) to purchase capital stock of Emergency Fleet Corporation		$50,000,000.00
Salaries and expenses, 1917 (act of Sept. 7, 1916)		100,000.00
Salaries and expenses, 1918 (act of June 12, 1917)		342,500.00
Investigation of foreign discrimination against vessels and shippers of the United States (act of June 12, 1917)		175,000.00
Increase of compensation (act of June 12, 1917)		4,633.71
Salaries and expenses, 1919 (act of July 1, 1918)		842,500.00
Salaries and expenses, 1920 (act of July 19, 1919)		772,986.00
Salaries and expenses, 1921 (act of June 5, 1920)		442,500.00
Salaries and expenses, 1921 (act of June 16, 1921)		3,633.33
Salaries and expenses, 1922 (act of Mar. 4, 1921)		439,000.00
Investigation of foreign discrimination against vessels and shippers of the United States (act of Mar. 4, 1921)		20,000.00
Total moneys appropriated for United States Shipping Board		53,142,753.04
United States Shipping Board Emergency Fleet Corporation, emergency shipping fund (see note for specific authorization):		
Act of June 15, 1917		405,000,000.00
Act of Oct. 6, 1917		635,000,000.00
Act of July 1, 1918		1,806,701,000.00
Act of July 11, 1919		500,000.00
Act of July 19, 1919		356,000,000.00
Act of June 16, 1921		61,852,000.00
Urgent deficiency act, 1922 (proposed)		48,500,000.00
Total moneys appropriated for United States Shipping Board Emergency Fleet Corporation		3,313,553,000.00
Total moneys appropriated for		3,366,695,753.04
Moneys otherwise provided for (allotments by President of the United States to United States Shipping Board:		
National security and defense fund, 1918 (act of Apr. 17, 1917)	$27,011,682.84	
National security and defense fund, 1919 (act of July 1, 1918)	2,500,743.43	
Total moneys otherwise provided for		29,512,426.27
Total moneys appropriated for and otherwise provided for		3,396,208,179.31

Mr. McKELLAR. Mr. President, will the Senator give us the amount that was appropriated for directly and the amount that was spent from earnings of the corporation?

Mr. KING. These are not earnings.

Mr. McKELLAR. I did not know but what some of the earnings at one time were allowed to be used under certain laws that were passed by Congress.

Mr. McCORMICK. I believe that may be true, but the table which I have does not show that. If the Senator will turn to it, after it appears in the RECORD, he will find that the total includes not only the sums appropriated under the head of the Emergency Fleet Corporation or the Shipping Board, but allotted by the President of the United States from other sums under the powers conferred upon him for the prosecution of the war.

Mr. KING. If the Senator will pardon me, the amount he now states constituted direct appropriations from the Treasury. The amount earned and which was regarded as a revolving fund and not consumed is not included.

Mr. McCORMICK. The Senator from Utah is right.

Mr. KING. Millions of dollars and hundreds of millions could be added to it if we took the entire amount expended.

Mr. McCORMICK. The total then, in round numbers, appropriated from the Public Treasury was $3,400,000,000. The total cost of the steel ships was $2,600,000,000. Their present estimated value is $800,000,000, or less than one-third of their total cost. The wooden ships cost a quarter of a billion dollars and are valued to-day at $600,000.

In short, the salvage of less than a billion dollars only amounts to some 20 per cent of the sums appropriated for construction, overhead, and operation.

We may note, parenthetically, that not a Shipping-Board-built ship was constructed in season to carry troops to take part in action in France. It was one of the incidents of the building program that 26 large passenger steamers, known as five-thirty-fives, were ordered constructed first as troopships; that the designs for them were first changed so that they might be transports, changed again that they might be constructed as cargo ships, and finally, under the last alteration, that they were constructed as passenger and cargo ships. The excess cost of alteration alone amounted to $3,000,000 for each ship.

Mr. FLETCHER. Mr. President, the Senator does not mean necessarily that none of the Shipping Board ships carried troops? I presume he means none of the ships built by the Shipping Board carried troops?

Mr. McCORMICK. I not only meant that but I said that. If I were audible on the other side of the Chamber, the Senator would have noted that I made that distinction.

Mr. FLETCHER. I wish to say that the requisitioned ships coming to the Shipping Board and operated by the Shipping Board did carry troops.

Mr. McCORMICK. I am not speaking of requisitioned ships. I said Shipping-Board-built ships.

Mr. FLETCHER. There is no necessity for being unnecessarily violent about it——

Mr. McCORMICK. Mr. President, I decline to yield further at this time.

Not only was building carried on under conditions and under management which made for waste and cost, but operation likewise. I doubt if the country has understood, I doubt, indeed, if many Senators until recently have understood the character of the MO–4 contracts under which last year the operations of the Shipping Board involved a loss of $130,000,000, and which the present board purposes to terminate as soon as possible in order to substitute therefor the "bare-boat" contract.

Under the MO–4 agreement the operator to whom the ships were allocated received 5 per cent of the gross receipts of the trip. The Government paid all the expenses and assumed all the losses. The operator of each ship purchased his supplies and provisions and charged them to the Shipping Board, and the Shipping Board advanced the money for that purpose.

When the new board came in 6,000 out of 9,000 trip audits had not been made, although there were between three and four thousand persons employed in the auditor's office. The operators were not selected with a view to their experience or their responsibility. Apparently ships were chartered under this arrangement on the principle of the Athenian democracy, which chose its magistrates by lot.

Mr. KING. Will the Senator permit an interruption there?

The PRESIDING OFFICER. Does the Senator from Illinois yield to the Senator from Utah?

Mr. KING. I do not want to interfere with the continuity of the Senator's argument, if he objects.

Mr. McCORMICK. I yield.

Mr. KING. I think the comparison in which the Senator has just indulged is rather too favorable to the Shipping Board. I think that they selected many of the persons to whom they gave these MO–4 charter contracts, not by lot but because of a purpose to favor certain interests. I think that about 25 companies received charter contracts, not by reason of any ability but by reason of favoritism. The board in order to allocate ships, under such contracts to favorites, frequently refused to sell them when it might have done so.

While I have the floor, if I may be further pardoned by the Senator from Illinois, I desire to say that one of the most vicious features of the MO-4 contract has not been alluded to by the Senator. I may be anticipating—if so, I beg the Senator's pardon—but I refer to the fact that the MO-4 contract not only permitted the persons who got the 5 per cent to which the Senator has alluded to obtain that amount but it permitted them to organize subsidiary corporations. Those subsidiary corporations would furnish the ships, repair the ships, and do many other things in relation to the voyage and the ship, out of which enormous profits were made. When the court held that the penal statute did not apply to those subsidiary contracts, instead of changing them the Shipping Board still persisted in them. That is my criticism of Mr. Lasker and the present Shipping Board. Knowing that the court held that under the penal statute those men could not be punished for organizing subsidiary corporations and exploiting and robbing the Government, they still write such contracts. Mr. Lasker ought to cancel those contracts instanter, even if he has to tie up every boat, because they are vicious and corrupt.

Mr. McCORMICK. Mr. President, I thank the Senator from Utah, because, inasmuch as the responsibility of the past rests with the preceding administration, I prefer to understate the case. It is, I think, however, notorious that certain operators, pursuing the policy which the Senator has outlined, organizing subsidiaries, caused oil-burning ships—when they had reached ports on the other side of the Pacific—to be converted into coal burners for the purpose of earning commissions on the alterations in the machinery.

Not only that but I have been told, and believe that it will be proven ultimately, that certain operators, devoid alike of capital and of principle, were able to secure ships under the MO-4 agreement, to receive payment for freight, to start the vessels on their voyage across seas, and then to wash their hands of them, leaving the Shipping Board to meet the cost of the voyage, to pay the crews, and to recover the ships. One operator caused a ship under his charter to set sail from the Philippines and after it had proceeded 1,600 miles to sea summoned it by wireless to return to Manila and to receive a cargo of 800 tons of coal, upon which he made a profit of $200, at a cost to the Shipping Board of $12,000 for the return of the ship in order to receive the cargo.

Mr. KING. Would it interrupt the Senator if I should make another suggestion?

The PRESIDING OFFICER. Does the Senator from Illinois yield to the Senator from Utah?

Mr. McCORMICK. I yield.

Mr. KING. The same corrupt men, who ought to be in the penitentiary, charged 37 per cent of the total cost of operation of ships for repairs, whereas Great Britain repairs all of her ships at a cost of only 7 per cent of the total operating cost. The persons who are operating these ships also charged an average of $1.35 to $1.45 a day to feed the sailors, while the Senator from Illinois knows—for he is a member of the Naval Affairs Committee—that our Navy, feeding its men better than any men in the world upon the seas are fed, have been doing it, even during war times, at one-half of that sum. So on down the list, everything which these people did they charged from one hundred to several hundred per cent more than was just or fair or honest.

Mr. BORAH. Mr. President——

Mr. McCORMICK. I yield to the Senator from Idaho.

Mr. BORAH. Is it the purpose of the Senator from Illinois to put into the RECORD the names of the persons who are guilty of these crimes?

Mr. McCORMICK. I have not the names of the firms which operated ships under MO-4 charters, but I shall ask for them.

Mr. BORAH. The Senator spoke of one transaction just now which is exceedingly interesting with reference to the Manila affair. I presume most of these people will escape punishment under the law, but they ought not to escape public condemnation; they ought to be put in a place where they will be pilloried for all time to come.

Mr. McCORMICK. They ought. Contracts for the sale of ships were made under which the purchaser paid down as little as 2½ per cent of the purchase price. In one instance, at least, the purchaser dispatched a ship to South America, collected for freights on that southward voyage and later for freights carried in the coastwise service in South America, collected sums, so I am told, largely in excess of the purchase price, and then abandoned the vessel, leaving the Shipping Board to bring her home, the purchase unaccomplished and the cost of the return voyage devolving upon the Shipping Board.

As the Senator from Utah [Mr. KING] has suggested, operators organized their own lighterage companies, their own provision companies, their own stevedoring companies, and sold to the boats they were operating provisions at exorbitant prices, for which the Shipping Board paid. The operators lived well; the captains on their ships lived as well. A story is current which throws some light upon the comparative costs of feeding men in the Navy and on these ships. It is said that at one time, thanks to elaborate refrigeration, the captain of one of these ships fed strawberries in midocean and in January to all hands from cabin boy to the officers' mess room.

The Shipping Board allocated ships to an operator to run from Hamburg to the Plate River. They never touched American ports; they lost $40,000 on each round trip.

Two ships which were allocated to a coast-to-coast service through the Panama Canal are costing the Shipping Board nearly three-quarters of a million dollars annually.

Boats of the value of $6,000,000 were sold to the son of Charles W. Morse, who originally paid into the company about $60,000. Charles W. Morse himself has four or five claims against the Shipping Board on which his company are suing the board for sums in the neighborhood of $15,000,000. He was intrusted with millions of dollars for building ships.

The Senator from Idaho [Mr. BORAH] will be interested to learn that these claims and other similar claims are being carefully investigated, with a view of instituting criminal suits against those who have robbed the Government.

Another company bought five Hog Island type A ships for a little over $7,000,000. They paid no cash down, but agreed to expend approximately $1,300,000 in converting the boats to tankers. They contracted to have the boats converted according to this plan. They actually paid $600,000 of the amount, but the Shipping Board must pay the balance in order that the boats may be released from the builders' claim.

The Victor S. Fox Co., of which Victor S. Fox was the head, is an interesting instance of expert employment for the operation of steamships. Fox was in the theatrical costuming business before he decided to offer his services as a ship operator to the United States Government. These theatrical costuming experts, as shipping operators, paid 2½ per cent down as an initial payment on ships intended to be bought from the Shipping Board. They later paid 8 per cent more, for the most part consisting of money secured from advanced freight rates. The American Merchant Marine Co. paid in only some $153,000 against a total purchase price of $2,150,000.

In another field of the Shipping Board activities the utter disregard of cost is exemplified in the construction of a large map for $9,500, which was displayed to the admiring few in a half-dozen cities for a period of 25 days. The total cost of construction, freight, rental, and so forth, was $100,000.

It was startling enough that the board should have made the contracts which it did make with Mr. Charles W. Morse, whose moribund condition, whose prospective early tragic death in the Atlanta Penitentiary, led the tender-hearted President of that day, the present Chief Justice, to grant him a pardon.

Mr. LODGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Illinois yield to the Senator from Massachusetts?

Mr. McCORMICK. I do.

Mr. LODGE. How much is he suing the Government for?

Mr. McCORMICK. Fifteen million dollars, in round numbers. But if among the contractors of the Shipping Board Mr. Morse has in the past been the principal celebrity, the most accomplished contemporary financier, I am disposed to believe that Judge Mayer and his colleagues who organized the United States Mail Steamship Co. rival not only Mr. Morse but Ponzi himself.

The statement which the board gave out when its differences with the United States Mail led to a collision in the courts, which has culminated in a receivership, contains the following passage:

> The studious examination made of and the careful examination which the new board gave to the history and actual financial condition of the United States Mail from the inception of its relations with former boards established that a point had been reached where inaction would be fatal to the maintenance of an American transatlantic passenger fleet. * * * The facts * * * proved that the United States Mail had never been able to finance even remotely the contract it had undertaken; that because of this inability it had sought constantly to shift to the board the financial and other obligations it had voluntarily assumed; that it was entangled in a morass of debt; that the patience of its private creditors had become exhausted; that it was resorting to every expedient it could devise to evade payments overdue to the Government; and that, in short, it could not command the financial resources which were essential, first, to pay its debts; second, to run the limited number of vessels it had placed in service; and, third, to increase that number by putting in condition the additional vessels which it had agreed to operate.

Neither the old board nor the new board was ever able to find any trace of the large amount of money about which Mr. Mayer, the organizer of the company, talked so glibly at the time when he made the contract. It was a mythical sum.

As a matter of fact no actual cash was ever paid by the United States Mail into its treasury. The old board was shown a statement listing certain assets of another Mayer Steamship Co., which were valued in the statement at $14,000,000, but the corporation never verified it nor was the board permitted to do so. There were a number of companies organized by the Mayers, which interlocked to the point of bewilderment, and with all of those with which the Shipping Board had relations it suffered large losses. The interlocking which existed permitted a species of juggling with some $475,000 of Shipping Board fiduciary funds. * * *

The United States Mail was incorporated ostensibly with a capital of $1,000,000. The stock, however, was and is nothing but water. Not a share was issued. Mere pencil notations were initialed on the stubs of the stock book. The required Federal stamp tax of $10,000 was not even paid. No actual money was put into the treasury. The alleged $1,000,000 was neither cash nor property, but consisted of three items:

(a) Checks, $120,000 face value, * * * never cashed.

(b) A mere bookkeeping entry of $500,000 described as "cost of guaranty," for the supposed service of another insolvent Mayer corporation in acting as guarantor of the contract between the United States Mail and Shipping Board.

(c) Seven thousand eight hundred shares of still another Mayer corporation, which has no value, but which for the United States Mail's purpose was fictitiously listed at $380,000.

Mr. President, in brief, a company without assets entered into a contract with the Shipping Board and secured the guaranty of its contract by another and sister company equally without assets. It is related further in the statement that not only has the United States Mail defaulted on its contract because of its failure to recondition ships as required by the contract, but that, insolvent though it be, it has sold steerage passage to would-be immigrants across seas for months in advance and used the sums received therefrom to carry on the insolvent business with a full knowledge that if it were brought to a halt the company could not carry the would-be immigrants to whom it had sold passage.

Mr. KING. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Illinois yield to the Senator from Utah?

Mr. McCORMICK. I do.

Mr. KING. The subject which the Senator is now discussing, of course, as he knows, is the subject of controversy and the subject of litigation. I express no opinion one way or the other. It has been charged that the taking over of these ships and the cancellation of that contract was in the interest of the Harriman Co., which is pro-English.

Mr. McCORMICK. Pro-German, I suppose the Senator means.

Mr. KING. Well, proboth, perhaps. Has the Senator any information that would controvert the averments that are so frequently made that this was in the interest of a specially favored corporation of pro-German or pro-English proclivities?

Mr. McCORMICK. Mr. President, the Senator, I am sure, has seen the statement of the Shipping Board, which covers the facts as I know them.

Mr. KING. Yes; and I have seen Mr. Colby's statement, too.

Mr. McCORMICK. Yes; of that, more anon. In the matter of the employment of counsel it should be remembered that Wilson & Colby represent the United States Mail, against whom some Senators would have us employ, for the most modest sums, such counsel as may be obtained for small fees, to face Dr. Woodrow Wilson and Mr. Bainbridge Colby in court.

Let me answer the Senator's question. It was announced by the Shipping Board that it intended temporarily, and temporarily only, to transfer the ships operated by the United States Mail to the so-called Harriman line, in order that the operation of the one all-American passenger fleet might not be interrupted during the passenger season. I have heard that if the receivers can find the resources to operate the ships through the summer there will be several bidders for them at the end of the present season.

Mr. KING. Mr. President, the Senator is discussing a very interesting phase of this subject in a very interesting manner. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LADD in the chair.) The absence of a quorum is suggested. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Ashurst	Harrison	McNary	Smoot
Borah	Heflin	Moses	Spencer
Broussard	Hitchcock	Myers	Sterling
Capper	Jones, N. Mex.	Nelson	Townsend
Caraway	Jones, Wash.	New	Trammell
Colt	Kellogg	Newberry	Wadsworth
Culberson	Kenyon	Nicholson	Walsh, Mass.
Curtis	King	Oddie	Warren
Ernst	Knox	Phipps	Watson, Ga.
Fernald	Ladd	Poindexter	Watson, Ind.
Frelinghuysen	La Follette	Pomerene	Weller
Glass	Lodge	Reed	Willis
Gooding	McCormick	Sheppard	
Hale	McCumber	Shortridge	
Harreld	McKellar	Simmons	

The PRESIDING OFFICER. Fifty-seven Senators having answered to their names, a quorum is present. The Senator from Illinois will proceed.

Mr. McCORMICK. Mr. President, I ask leave to submit the statement in full which I have read in part.

The PRESIDING OFFICER. Without objection, leave is granted.

The matter referred to is as follows:

The Shipping Board's answer and counterclaim against the United States Mail Steamship Co. (Inc.) will be filed to-morrow (Monday) morning in the Federal court. The Shipping Board's reasons for taking possession of the ships on July 22 are set forth in that answer and are summarized as follows:

The impelling reason was knowledge that the company was insolvent.

Such insolvency not only endangered the existence of the sole American passenger fleet upon the North Atlantic Ocean capable of competing with established European lines but threatened to pile up against the ships further large charges besides those already contracted, which the new Shipping Board apprehended the Government in the end would be forced to pay.

In addition, the company had pursued and was pursuing a practice that could not be tolerated—that is, of an insolvent company selling tickets in advance for passengers and accepting money for future freight transportation and diverting the money to other purposes without making any provision for the expenses of the voyages for which it was collected.

In other words, the company, having no funds of its own, and in order to keep afloat, was placing a mortgage upon the future operation of the ships, which was constantly mounting in size. By this means it was postponing the hour when the bubble would break; and when this inevitable time should arrive (the company's books disclose that it has always been insolvent) the Shipping Board would be morally bound to honor the tickets which had been and were being sold.

Moreover, various creditors were demanding that the Shipping Board guarantee the bills they were holding against the United States Mail, and coupled the demands with indications that they proposed to institute bankruptcy proceedings and to libel ships if the bills were not so guaranteed. The Shipping Board could not, of course, comply with such demands. The consequence was the libeling of the *Pocahontas* in Italy and the blow thus dealt the credit of American shipping abroad; the filing of a libel on account of the *Potomac* in New York; and the threat of like action against the *George Washington* upon return from her first voyage under the Mail flag. The United States Mail is operating six chartered ships, so that libels have been actually filed on account of one-third of its chartered seagoing passenger fleet; and the menace existed that this proportion would increase to one-half just as soon as the *George Washington* reached New York.

The imperative duty of the board required, and requires it, to keep the flag flying in the passenger service across the Atlantic Ocean. It could not permit the colors to be hauled down nor could it permit interruptions and embarrassment through creditors' proceedings, which inevitably would have produced intermittency in, and ultimately complete stoppage of, sailings.

The studious examination made of and the careful consideration which the new board gave to the history and actual financial condition of the United States Mail from the inception of its relations with former boards, established that a point had been reached where inaction would be fatal to the maintenance of an American transatlantic passenger fleet.

The new board could be guided only by the facts as it knew them, and those facts proved that the United States Mail had never been able to finance, even remotely, the contract it had undertaken; that because of this inability it had sought constantly to shift to the board the financial and other obligations it had voluntarily assumed; that it was entangled in a morass of debt; that the patience of its private creditors had become exhausted; that it was resorting to every expedient it could devise to evade payments overdue to the Government; and that, in short, it could not command the financial resources which were essential, first, to pay its debts; second, to run the limited number of vessels it had placed in service; and third, to increase that number by putting in condition the additional vessels which it had agreed to operate.

The history of the relations of former boards with the United States Mail and its guarantor of the contract, another Mayer-controlled corporation, is illuminating in this connection. Numerous and fruitless attempts were made by those boards to obtain information as to the capitalization and financial responsibility of both the company and the guarantor. The company and the guarantor refused to disclose their real resources. When the original contract was under negotiation in the spring of 1920, Mr. Charles ("Judge") Mayer, who acted as representative of the company, gave an oral assurance that it was ready to invest $10,000,000 in reconditioning the vessels. That contract was signed on May 28, 1920. On July 13, 1920, Mr. Mayer told the board:

"I won't say we won't get any money out of them (bankers), but you can't get money now."

On August 2, 1920, Mr. Mayer repeated his original assurance in these words:

"I am perfectly willing, as I said in the beginning; I am perfectly willing, and I have got the money, and I have my consolidated balance sheet here; I am perfectly willing to lose $10,000,000 in this business; perfectly willing to do that to keep this flag on the seas, but I need help."

Neither the old board nor the new board was ever able to find any trace of the large amount of money about which Mr. Mayer talked so glibly; it was a mythical sum so far as the records of any expenditures actually made by the company show. As a matter of fact no actual cash was ever paid by the United States Mail into its treasury. The old board was shown a statement listing certain assets of another Mayer Steamship Co., which were valued in the statement at $14,000,000, but the corporation never verified it nor was the board permitted to do so. There were a number of companies organized by the Mayers which interlocked to the point of bewilderment, and, with all of those with which the Shipping Board had relations, it suffered large losses. The interlocking which existed permitted a species of juggling with some $475,000 of Shipping Board fiduciary funds; and it is the purpose of the board to establish the facts regarding this procedure and take such action as seems justifiable.

The United States Mail was incorporated ostensibly with a capital of $1,000,000. The stock, however, was, and is, nothing but water.

Not a share was issued. Mere pencil notations were initialed on the stubs of the stock book. The required Federal stamp tax of $10,000 was not even paid. No actual money was put into the treasury. The alleged $1,000,000 was neither cash nor property, but consisted of three items:

(a) Checks, $120,000 face value, which were held by the company's secretary and never cashed, not even to-day;

(b) A mere bookkeeping entry of $500,000 described as "cost of guaranty," for the supposed service of another insolvent Mayer corporation in acting as guarantor of the contract between the United States Mail and the Shipping Board; and

(c) Seven thousand eight hundred shares of still another Mayer corporation, which has no value but which for the United States Mail's purpose, was fictitiously listed at $380,000.

This transaction discloses a hitherto unrevealed method of finance. It is only necessary to summarize it to demonstrate its character—uncashed checks, a worthless guaranty of an interlocking corporation, and the use of valueless stock of still another interlocking corporation.

The Shipping Board constantly sought to obtain from the company information as to its financial ability to execute the obligations accepted by it, and also to examine its books in order to ascertain the financial results of the operation of the board's vessels rented to it. But the information was withheld, and the audit was never permitted.

In addition to the chartered (rented) vessels, three ships were allocated to the United States Mail, and by the terms of the allocation the Shipping Board agreed to pay the entire cost of operation and to give to the company a commission for its services. The company gave every facility for the audit of the accounts of these ships in order that it might promptly obtain its commission; and it did receive a total commission of over $50,000. But, as stated above, the willingness for audit did not extend to the chartered ships, and the board was purposely kept in ignorance by the company as to the condition of the books with respect to such ships.

The contract between the United States Mail and the former Shipping Board was the result of numerous conferences and negotiations between the board and Mr. Charles Mayer, during which the latter dwelt largely upon his purpose "to put the flag upon the North Atlantic," and his willingness to spend $10,000,000, which he claimed he had at hand for the purpose.

The contract called for the delivery by the board to the company of 15 former German passenger vessels which the United States had seized during the war. These vessels were: *America*, *George Washington*, *Mount Vernon*, *Agamemnon*, *President Grant*, *Susquehanna*, *Princess Matoika*, *Pocahontas*, *Potomac* (formerly *Antigone*), *Amphion*, *Freedom*, *Callao*, *Aeolus*, *Huron*, and *Madawaska*.

As the vessels had been gutted during the war, in order to be used as transports, the Shipping Board and the company knew that a great deal of money would have to be expended to put them in condition for passenger service. This work is technically called reconditioning. The company agreed not only to pay all expense of manning, equipping, and operating the vessels, but also to pay all the costs of such reconditioning, and to charter (rent) the vessels for five years, at the end of which time the Shipping Board agreed to take back the vessels and pay the company 62½ per cent of the amount the company had spent on reconditioning or to sell the ships to the company and deduct from the sale price a large part of the reconditioning expense.

Immediately after the contract was signed the company's financial inability developed, and it began a persistent campaign to evade its explicit obligation to recondition, and to induce the former board to pay all the expenses of such work.

The company supported its plea by claiming that the vessels were not seaworthy, and that they had been represented as oil burners instead of coal burners, though the contract required them to accept the ships "as is." When the company finally confessed its utter inability to recondition, it argued, persisted, and at last persuaded those in authority to expend upward of $5,000,000 in reconditioning the ships though the contract specifically provided that the company should pay such expenses. The payments made by the Shipping Board for the work done on each ship were as follows:

Freedom	$38,109.59
America	814,244.97
George Washington	708,863.40
Mount Vernon	819,089.88
Agamemnon	1,953,079.77
President Grant	2,121.59
Susquehanna	66,579.12
Princess Matoika	21,949.90
Pocahontas	16,012.85
Antigone	98,167.36
Amphion	75,227.56
Total	4,573,445.99

These sums by no means represent the total obligations of the board with respect to the ships named. Additional bills for the *America* and *George Washington* amounting to about $1,500,000 may have to be paid, making a total cash outlay of more than $6,000,000. Under its contract, the company should have paid every dollar of this amount.

With respect to the *George Washington* and the *America*, the reconditioning of which cost more than $3,000,000, the records show the company spent only about $20,000.

The *Aeolus*, *Huron*, and *Madawaska* never became deliverable under the contract. The company refused to accept delivery of the *Callao*, which was in violation of the contract.

As to these 11 ships upon which work was done, the company defaulted completely with respect to the *Amphion*, *Freedom*, *Mount Vernon*, *Agamemnon*, and *President Grant*, and even refused to sign charter parties for the 3 last-named vessels, although in possession thereof; and those vessels, among the finest in the fleet, have never turned a wheel.

The United States Mail default did not lie alone in failure to sign charter parties or to recondition. The company was under obligation to bear all expenses after delivery, yet the Shipping Board was forced to pay more than $58,000 for crew wages, food supplies, and repairs in order to prevent the *Susquehanna*, *Pocahontas*, *President Grant*, and *Amphion* from being libeled. No part of this sum has ever been repaid. Moreover, when the Shipping Board delivered the ships to the company there were fuel and consumable stores aboard valued at more than $265,000, for which the company agreed to pay, but the company used the fuel and stores and has not paid one cent for them. The company also received from the Shipping Board more than $100,000 worth of material which the board had in its various warehouses and supply depots. This material, intended for use in reconditioning, likewise has not been paid for.

There are certain reconditioning bills contracted by the United States Mail, amounting to more than $500,000, which it has not paid, and could not pay, and for which claims will be made against the Shipping Board.

The company could not even pay for voyage repairs on ships it has been operating, which have amounted to more than $100,000 and for which the ships have been or will be seized, and the Shipping Board will in all probability have to pay a further sum of more than $100,000 to prevent its ships being sold to satisfy the contractors.

The company could not, or at least did not, pay its bills for supplies, including coal, meat, butter, and eggs, amounting to hundreds of thousands of dollars.

The Shipping Board is also informed that the company has, in one way or another, incurred enormous debts of various kinds in Europe and that its European creditors have instigated proceedings, and, in one instance, have already seized one of the ships—*Pocahontas*—in satisfaction of those foreign debts.

The company can not pay such debts nor even give bond by which release could be secured, and the Shipping Board may have to pay the debts in order to keep the ships from being sold to satisfy the company's foreign creditors.

With respect to charter hire, the contract provided that the company should pay the board monthly, in advance, for the use of the vessels at the rate of $3.50 per net registered ton per month. The company not only failed to pay the full amount of charter hire due prior to March 31 last on certain vessels but has refused to pay charter hire since that date on any vessel. The total amount of charter hire due by the company was $731,443.36, of which the company had paid only $242,012.68, leaving due the Government $489,430.68 at the time the new board acted, viz:

Balance due on vessels.

America	$95,459.00
Antigone	91,209.74
Pocahontas	102,495.97
Princess Matoika	97,423.36
Susquehanna	102,842.61
Total	489,430.68

In addition there is now due charter hire on the *George Washington*, which sailed from New York on August 3.

To sum up, there is hardly a single clause in the original contract or supplementary agreements which the company has not, at one time or another, evaded or violated.

When the board acted on July 22 last it deliberately selected the United American Lines to operate temporarily the Mail Co.'s boats when possession of them was obtained, for a dual reason—first, because it would not countenance direct Government operation, and second, because the United American Lines had the necessary immediate terminal facilities and agencies at home and abroad. The United American Lines have purchased—not chartered—other ships from the board, and the board holds mortgages upon them, which can be promptly foreclosed in case of default. The board's arrangement with the United American Lines was purely temporary and did not obligate the board as to the future disposition of the ships.

After the injunction was granted the board notified the United States Mail and its counsel that it would not under any circumstances deal with the Mayers but would deal with any new, strong, financial interests which might acquire the entire ownership of the company.

The counsel for the United States Mail made repeated representations to the board that new interests were about to or had gained control of the company. The board delayed action to give such alleged interests an opportunity to appear. Every representation, however, turned out to be untrue.

There has never been any agreement, express or implied, direct or indirect, between the board or its counsel and Messrs. Chace & Smith looking toward those gentlemen, or either of them, or anybody represented by them, putting any money into or financial support back of the United States Mail.

The paramount desire of the board, the mainspring of its action, has been and will be to keep the ships running. It wants no hiatus in ship movement; no neglect to provide fast, comfortable service; no failure in the attempt to accomplish the first purpose of the board—the continuance of the American flag on the lanes of transatlantic service. In this, as in all other matters, the board is working toward permanency for the American flag upon the seas.

Mr. McCORMICK. Then, with one more instance of contracts for operation, I will turn to another phase of the discussion.

De Lancey Nicoll, jr., now counsel for the United States Mail, also some of those interested in the United States Mail, though whom I have not been able to tell precisely from day to day—De Lancey Nicoll, jr., and Judge Carson, who is a brother-in-law of Conrad, chief admiralty counsel of the old Shipping Board in New York, were employees of the legal department of the Shipping Board of the New York office. They left the employ of the Shipping Board and within a few days—so the statement before me reads—38 companies owning or operating 52 vessels were put in the hands of receivers at the instigation of the old Shipping Board.

De Lancey Nicoll, jr., and Judge Carson were appointed attorneys for the receivers. They received as compensation as attorneys for the receivers $67,500 for about eight months' work. I submit that as compared with De Lancey Nicoll jr., the brilliant youngster from Elihu Root's office, who graduated in 1913, is a tyro. His ineptitude at extracting income is gross by comparison with the receivers whom I have just named.

Mark you, sir, the operating losses under these receiverships during the period of eight months was around $3,000,000, all of which was paid by the Shipping Board. The old Shipping Board also paid for liens on these boats an aggregate of about a million and a half. The old Shipping Board, in short, has advanced $5,000,000 on account of receiverships in which Mr. Nicoll and Judge Carson were counsel.

It has been estimated that the aggregate of the claims against the Shipping Board is between $200,000,000 and $300,000,000. Skinner & Eddy have a claim of over $17,000,000; Pusey & Jones a claim of over $14,000,000; Charles W. Morse, the Groton Iron Works, claims aggregating from $13,000,000 to $15,000,000; and Alfred J. Brooks a claim of $2,500,000.

Mr. KING. Mr. President——

The PRESIDING OFFICER. Does the Senator from Illinois yield to the Senator from Utah?

Mr. McCORMICK. I yield.

Mr. KING. The charges have been made repeatedly, not only on the floor of the Senate but in the press, that a certain firm of lawyers in New York, Mr. Nicoll, jr., being a member of the firm, have been appointed as counsel for receivers in some 10 or more cases, and have been paid large fees, more than $40,000 already, in cash, and contingent fees which will resolve themselves into certitudes aggregating $70,000; and another charge has been made, which it seems to me is much more serious, namely, that an effort has been made, apparently, to drive from the seas a number of persons who purchased ships, but who were in default of their payments, because those payments of $200 per dead-weight ton, of course, were entirely too much, in the present market, in order that those ships, when turned over to the receivers, might be allocated to some of these favored ones. Has the Senator discovered anything to corroborate those statements?

Mr. McCORMICK. Mr. President, I have heard the charges, and I can neither corroborate them nor deny them. I have sought this morning to present a picture of the situation which confronts the present board by reason of the cost of construction, by reason of the terms of contracts for operation, and by reason of the claims pending against it, arising out of construction or operation. I do not wish to read interminably the list of claims. It is enough to say that there are a score or more which I have before me, all of which exceed $1,000,000.

Under the old board, the cases and the opinions needing to be written accumulated by the score and even by the hundreds. It is only within the last few weeks that the legal business of the board has been dispatched and is current. I ask unanimous consent to insert in the RECORD the list of the claims which I have in my hand.

There being no objection, the list referred to was ordered to be printed in the RECORD, as follows:

Skinner & Eddy	$17,493,488.07
Russian Volunteer Fleet	1,412,532.35
John V. Connelly Steamship Co	3,315,569.00
New York & Porto Rico S. B. Co	1,812,500.00
Pusey & Jones Co	14,328,839.31
Huron Navigation Co	713,219.25
Consorzio Veneziana Di Armamento E. Navigazione	1,665,642.75
Atlantic Transport Co	535,805.05
Brooks Scanlon Corporation	1,404,118.00
Standard Transportation Co	2,797,712.82
Hudson Navigation Co	511,134.00
Gulf Refining Co	8,242,444.32
John W. Thompson	800,000.00
Luckenback Steamship Co	4,154,500.00
Groton Iron Works (Charles W. Morse)	13,000,000.00
Downey Shipbuilding Co	4,000,000.00
Huron Steamship Co. and affiliated companies	2,000,000.00
Shell Co. of California	1,784,000.00
Steamship *Rock Island Bridge* (Anglo American Oil Co., E. D. La.), collision	1,600,000.00
Western Wave (Valparaiso), collision	1,200,000.00
Steamship *West Hartland* (western district Washington), collision	2,500,000.00
Steamship *West Hartland* (eastern district Washington), collision	2,225,000.00
Steamship *Seguranca* (cargo loss)	3,200,000.00
Elwell tug and barges	1,778,000.00
Steamship *Imperato* and 7 other German vessels (detention damages by British Government)	1,000,000.00
Steamship *Rock Island Bridge v.* Anglo American Oil Co	1,200,000.00
Alfred J. Brooks *v.* Emergency Fleet Corporation (N. Y.)	2,590,000.00
Minneapolis S. S. Co. *v.* Emergency Fleet Corporation (N. Y.)	621,461.00
St. Paul S. S. Co. *v.* Emergency Fleet Corporation (N. Y.)	573,000.00
American Metals Co. *v.* Emergency Fleet Corporation (Pa.)	905,000.00
Sloan Shipyard Co. *v.* Emergency Fleet Corporation (Wash.)	2,220,000.00
J. F. Duthie & Co	1,615,851.49
Merchants' Shipbuilding Corporation	1,280,000.00
Bethlehem Shipbuilding Corporation	4,046,505.35
Pressed Steel Car Co	2,352,103.07
Ralston Steel Car Co	1,150,926.68
Babcock & Wilcox	1,124,321.02
Mobile Shipbuilding Co	2,822,999.01
American Shipbuilding Co. of Georgia	1,010,534.90
Southwestern Shipbuilding Co	1,105,427.86

Mr. McCORMICK. The Shipping Board is a business enterprise in liquidation. It is not a permanent establishment of the Government. It must seek its executives and its counsel very much as any other business enterprise must seek them; as the Railroad Administration sought them. Last Friday, and again Saturday, criticism was offered that salaries paid the executives, and proposed to be paid to counsel, were too high. Let me submit for the consideration of the Senate some of the salaries paid by the Railroad Administration. There were three executives who drew $50,000 a year each. There were two at $40,000 a year each.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. McCORMICK. Yes.

Mr. McKELLAR. Does the Senator recall the names of those three whom the Railroad Administration paid $50,000 a year each?

Mr. McCORMICK. No; but I think the Senator can find the names if he will turn to the published reports.

Mr. McKELLAR. I have a memorandum here, and I want to call the Senator's attention to the fact that those three men who were employed by the Railroad Administration at $50,000 a year were men who were drawing from $75,000 to $100,000 as presidents of certain roads, and they were made regional directors, their salaries being cut from 25 to 50 per cent.

Mr. McCORMICK. Let me say to the Senator what I think he must know already, that the operating men who have been called to Washington by the Shipping Board are coming at a like sacrifice, and that counsel are coming at a like sacrifice.

Mr. McKELLAR. Quite the contrary.

Mr. McCORMICK. I have personal knowledge of two instances in which men have accepted salaries here amounting to about one-third of what they were earning at home.

Mr. McKELLAR. Mr. President, the facts do not accord entirely with the Senator's statement, I say with deference.

Mr. McCORMICK. Let me ask the Senator to reconsider that remark. I said that I had personal knowledge of attorneys who have come here at a sacrifice of two-thirds of their income.

Mr. McKELLAR. Of course, I am not disputing the Senator's statement, but I would like to have him give the names of those gentlemen, because we have had hearings in the matter in which statements have been made about it. I know nothing of it myself. I would like to have the Senator give us the benefit of his personal knowledge.

Mr. McCORMICK. Let me say to the Senator that I have not the permission of these gentlemen at this time to disclose their private incomes. In the cases of those railroad executives, I do not know whether their salaries as presidents of the railroads or their total private incomes were published; but the analogy is almost exact. I do not doubt that those railroad executives made sacrifices. So also have the men, executives and lawyers, employed by the Shipping Board.

Twenty thousand dollars, thirty thousand dollars, and thirty-five thousand dollars a year, if I remember rightly, are the sums to be paid to the three executives employed by the Shipping Board. There were three of the railroad executives who received $50,000 a year each, 2 who received $40,000 a year each, 2 who received $35,000 a year each, 10 who received $25,000 a year each, and 3 who received from ten to fifteen thousand dollars a year each. There was an aggregate of half a million dollars a year paid to a score of men by the Railroad Administration under circumstances, I submit, which made it easier, under the stress and pressure of war, to secure men than it is to-day to induce men to abandon the direction of hard-pressed private enterprise to come to the succor of the business of the Shipping Board.

A few moments ago I adverted to the fact that the distinguished firm of Wilson & Colby are of counsel for the maritime Ponzis. Surely, facing such talent as that firm presents, the Government must employ the best counsel obtainable to defend its interest in a suit in which Dr. Wilson and Mr. Colby appear on the other side. We have in prospect a formidable array of legal talent at the service of those who have claims against the Government of the United States. The Attorney General's office and the State Department are well represented. We have Wilson & Colby, Lansing & Wolsey, Gregory & Todd, Palmer & Davis, congregated from the plains of Texas, the banks of the Delaware, and the cliffs of the Hudson, here gathered by the Potomac offering not only their talent as lawyers but their experience as public servants in pressing claims against the Government of the United States.

There are three considerable salaries proposed to be paid to executives of the Shipping Board. There were 20 such salaries paid by the Railroad Administration. It is purposed to pay for salaries in the legal department, let us say, between $300,000 and $400,000 a year to counsel representing the Shipping Board in litigation involving $200,000,000; that is to say, it is purposed to pay as salaries during the current year two-tenths of 1 per cent of the pending claims.

Mr. WARREN. Mr. President, will the Senator yield to me?

Mr. McCORMICK. Certainly.

Mr. WARREN. Speaking of the attorneys for the Railroad Administration when the railroads were under Government control, that did not lessen at all the expense of the different corporations. The officers of those corporations and the attorneys were all continued at their usual salaries, so that the Government merely added large expenses to what was already all that was necessary to properly conduct the business of the railroads.

Mr. McCORMICK. That is true; but may I add that whereas the railroad executives were employed with the assurance that they would return to their old places at a time to be fixed, the executives and the counsel employed by the Shipping Board are called to Washington for one year, two years, three years—however long it may be necessary to liquidate the assets and wind up the business of the Shipping Board. They are employed to organize the affairs of the Shipping Board, to transfer its assets to private hands in the face of the sharpest competition in the world, that of the British merchant marine and of the International Mercantile Marine Co., which is international in its scope.

Mr. WARREN. And in the meantime their practice, valuable now, is left ragged and unprotected for them to go back to after the short employment that will necessarily be afforded by the Shipping Board.

Mr. McCORMICK. That is true of counsel. Of the executives it should be said that they are compelled to neglect their business at this juncture and no less to neglect later the opportunities which will be presented to shipping men when commerce on the high seas is resumed.

Mr. WARREN. Precisely. My only object in alluding to the employees of the railroad service was that they were entirely surplusage. There were that many put on to the expense, if necessarily, certainly in addition to what in private hands it cost to conduct the business of the railroads.

Mr. McCORMICK. Mr. President, since allusion has been made to the management of the Shipping Board under the present chairman and under the present administration it is not unprofitable to recall not only the management of the affairs of the Shipping Board under the last administration but the management of the business of the Government under the last administration.

We spent three or four billion dollars for the operations of the Shipping Board in the construction of ships now worth $800,000,000 and, furthermore, without receiving a single ship to carry a man to fight on the front in France. We spent a still greater sum, five or six billion dollars, in the manufacture of aircraft, artillery, and ammunition for which less than 200 airplanes and less than 200 cannon ever reached the line of battle, for which of the total ammunition expended by American artillery on the front 1 per cent was American made.

I do not doubt that there will be impatience with the present administration and the present Congress because it is not able to cure in a day that which was brought upon us by the war and industrial mismanagement by the Government during and after the war through a period of years.

It is our practice on either side of the aisle to prophesy the loss that will befall our colleagues of the opposition if they do not meet our views. I have listened to the jocund Jeremiahs and the parliamentary prophets yonder from the day when I first came into the Senate and heard of the dire punishment which would be meted out to us if at that time we did not meet the views of the Democracy upon the League of Nations. I am able to bear with some equanimity, then, the predictions which were made Friday and Saturday of our dark future and certain defeat if we do not accept an amendment, the result of which would be to handicap the administration of the Shipping Board, to delay the winding up of its business, to hamper it in meeting private competition from merchantmen under other flags.

Mr. President, the American people are a businesslike people. They know that the Shipping Board is a business enterprise, that its life under current policy will be short, that it must find, as other business enterprises must find, trained executives and counsel and pay salaries comparable with those paid by other enterprises if it is to compete with foreign and American shipping enterprise, if it is successful to defend the Public Treasury against the quarter of a billion of claims pending against the Shipping Board.

Mr. McKELLAR. Mr. President, I am a friend of the American merchant marine. I have believed for many years in building up one. I am still of the same opinion. I desire to do everything in my power to create and maintain the very best merchant marine in the world. I want the merchant marine of America to be the largest and best on the seas.

I regret as much as any one that there has been wrongdoing in the Shipping Board in the past, if there has been such wrongdoing. I regret that mistakes have been made, and I know they have been made. I regret that the extravagances have been indulged in. I regret that criminal acts have been committed, as we are informed by Senators.

I wish to say, so far as those criminal acts are concerned, if they have been committed, that the courts are open and the criminals ought to be prosecuted. The party of the Senators on the other side of the aisle is in control of the Government and the Department of Justice is in its hands. Indict, prosecute, and convict men who have been engaged in criminal transactions in the Shipping Board. These criminals will have no defense at my hands. I regret that they have done these criminal acts. I regret that Government money has been wasted by some in the shipping department. I regret that the prices of ships have gone down and that the outlook for shipping is not so good, but, Mr. President, that does not interfere with our duty to build up if we can a great merchant marine for the United States.

I am not going into a discussion of the general features of the merchant marine. It is not my purpose to defend the old board nor is it my purpose to criticize the new board. The truth of the matter is that the new board has only been in charge about 60 days and has hardly got started, and I do not know that any criticism is due the members of that board up to this day. I think they have made some mistakes and are about to make more which I shall point out in a few minutes; but I wish to point out those mistakes, if I may, in a perfectly good-natured and proper way, in a spirit of helpfulness rather than in a spirit of criticism.

I want the Shipping Board to succeed in building up the Nation's merchant marine. I will undertake to help them in every possible way. I have nothing whatsoever against the board or any member of it. I wish to approach this matter in that spirit and not in a spirit of criticism of these gentlemen. They have just started in; many of them are new to the business; they are unfamiliar with the shipping business; they are unfamiliar with the salaries which have been paid by other departments of the Government; they are not familiar with these matters. It seems to me that we, as Senators, should help them by suggestions; should help them by conferring with them and pointing out to them what, perhaps, some of us know more about than do the members of the board; help them by putting limitations in this bill.

It may be that we are mistaken; it may be that I am mistaken; it may be that these gentlemen are right; but it certainly will serve a good purpose, as it seems to me, to discuss, in a reasonable way, the matter which is now before us, and that is the question of the salaries which it is proposed to pay the appointees of the Shipping Board. I am going to take that subject up at this time.

SALARIES OF HEADS OF DEPARTMENTS.

The first item of appropriation for salaries which is principally complained of is the salary of $35,000 a year which is to be paid to the vice president in charge of one of the departments; $35,000 a year, which is to be paid to another of those vice presidents in charge of another department; and the third salary of $25,000 a year, which is to be paid to another. I want to ask why these very large salaries should be paid these men? In this connection I wish to compare the salaries of other officers of the Government. In the first place the members of the Shipping Board themselves receive only $12,000 each, and we have, according to statements on the floor, the very best kind of talent on that board—I hope we have and believe we have. I do not know all of the gentlemen who compose the board, but some of them I do know. Those of them whom I know are able and splendid men; and yet they are working for salaries of $12,000 a year each. Why should they pay $35,000 a year to men who are acting under them?

In the first place, the result of that policy is going to be to destroy their organization; they will have a top-heavy organization, with employees drawing infinitely larger salaries than their employers. I wish to show by precedent, if I may so call it, to what that will lead. I recall down in the State of Tennessee that we have a judiciary system a part of which is called the chancery divisions of the State. For many years the chancellors received about $3,600 a year each. I think they get $4,800 now. Those chancellors appointed clerks and masters under them who received fees aggregating in amount from $15,000 to $25,000 a year each; in other words, the officials of the clerk's office, who were appointees of the chancellor, were infinitely more important than the chancellor, and were paid

from eight to ten times as much salary as the chancellors themselves received.

What was the result? The result was that we had all kinds of trouble; we had defalcations; we had scandals in connection with the matter; and the system had to be abolished. So it will be in this case. Here are commissioners who receive $12,000 a year, and they are now employing men—I am now talking about the three vice presidents to whom I have referred—at salaries of $35,000 and $25,000 each per annum.

Mr. President, it is said that is done because the best men can not be otherwise obtained, and they desire the best men. We have secured splendid men as members of the Shipping Board, men who are just as well known in their respective business vocations as are these men whose salaries are in question. At least as to one of these men whom it is now proposed to appoint at this enormous salary, he was employed by the Shipping Board less than five years ago at a salary of $6,500 per annum, so I am informed. How is it that a man who was willing to work only five or six years ago for a salary of $6,500 can not to-day be obtained unless he is paid $35,000? Senators, it will not bear scrutiny. Think of it! The shipping business is at a lower ebb to-day and more men who are engaged in the shipping business in this country are out of employment than have been in the last five or six years or since we started our merchant marine, and yet we are told that the Shipping Board must give this man four or five times—yes, nearly six times—the salary that he formerly received when he was previously here working for the Government during the war, when prices were high, and when the shipping business especially was flourishing. Such a condition will not bear the scrutiny of reasonable men.

I do not wish to say anything in criticism of the board. I believe the board is trying to do the best it can; I believe its members are honest and sincere, and I think they have a notion that by paying enormous salaries they will get the best work; I think they are absolutely sincere about it. I do not criticize them for that, but, Senators, you and I have to pass upon these matters. The duty is upon us to see whether this proposition is right.

SALARIES OF THE SUPREME COURT.

Let us go a step further. Is it possible that the greatest Government on the face of the earth pays to the Chief Justice of the greatest court that ever was instituted among men $15,000 a year, and yet we can not get a vice president of a corporation organized under the Shipping Board in charge of operations or traffic for less than $35,000 a year? Here is a Chief Justice of the greatest court in the world serving for $15,000 annually.

Mr. WARREN. Mr. President——

Mr. McKELLAR. I will yield in just a moment. There are eight associate justices of that court which has the burden of the whole country upon it, men learned in their profession, and the Chief Justice is an ex-President of this Republic. The eight associate justices receive $14,500 a year and the Chief Justice $15,000 a year, and yet it is represented in this body that it is impossible to secure a chief of operations for the Shipping Board unless he is paid $35,000, when during the war it was possible to get him to accept the place for $6,500. Now I yield to the Senator from Wyoming.

Mr. WARREN. Mr. President, what the Senator says with reference to the salaries of the justices of the Supreme Court is correct, but at the same time there are many men who would not, perhaps, take even the position of Chief Justice—I have some of them in mind now—because of the meager salary. The Chief Justice is appointed for life; after he reaches the age of 70 years, if he has served 10 years, he continues to receive the same salary for life, although he may retire and perform no duties. The attorneys who come before the Supreme Court sometimes earn in one case and by their efforts in one day before that court more than twice as much as the salary of the Chief Justice or any associate justice.

The same argument which the Senator makes might be applied to Senators themselves. We provide for an Interstate Commerce Commission, and they have a list of salaries of $10,000 and $12,000 a year, and yet a Senator receives only $7,500, and the positions under the Interstate Commerce Commission are of a permanent nature.

Now we confront a case where there are several hundred million dollars to be collected and where there are several millions of dollars in claims against the Shipping Board, which imposes upon it the duty of protecting the interests of the Government and Treasury of the United States. There are lawyers representing the claimants in those cases whose annual income is several times the salary to which the Senator has referred, and not only that, but in some of those cases the attorney for the private litigants first receives a big fee and then a contingent fee of a proportion of whatever is collected.

The largest of these claims amounts to nearly a score of million dollars, and a great many of the others run from $1,000,000 up. In the aggregate there are thirty-five hundred claims against the Government and the Shipping Board which have to be protected immediately. They have been neglected because, as the Senator knows, we have had no board for some months; it was only recently that a board was appointed. Those prosecuting the litigation against the Government have, naturally, in the courts and otherwise, taken every advantage of the situation.

Now, shall we pay large salaries for a short time and secure great winnings, gain millions of dollars that might be lost out of the semiliquid assets, as they were described on Saturday last by the Senator from Florida [Mr. FLETCHER], of the Shipping Board, or shall we properly defend the suits against the Government and, instead of allowing great judgments to be secured, either be able to defeat the claims altogether or very largely to cut them down? That is the question that comes before this board, and that is the question here.

I honor the Senator for his desire to employ men at reasonable salaries. We are all working along that same line; I, particularly, because of my duties here, have continually to be shaving away salaries and payments; but this is a matter of emergency and of the greatest financial moment. It seems to me we had better start out by employing the best talent we can secure, reduce the salaries later, and not discharge the high-salaried employees until they have shown whether they can perform the duties which they are called upon to perform in an emergency.

Mr. McKELLAR. Mr. President, I have the greatest admiration and esteem for my distinguished friend from Wyoming; we all have. I know how sincere he is; I know what an honest man he is; I know what an economical man he is, too, because I have been before his committee sometimes, and I know that is one of his characteristics, and it is necessarily so by reason of his position; but, Mr. President, I want to appeal to the Senator—and I will ask him if he will listen to this statement as I make it—I do not see how the Senator from Wyoming can stand for the enormous salaries paid by the Shipping Board. The Senator says that these places are more important than is that of the Chief Justice of the United States——

Mr. WARREN. The Senator should hardly say they are more important.

Mr. McKELLAR. I do not say so, but others seem to think so. I do not want to differ with the Senator any more than I have to. He says that men would refuse the Chief Justiceship of the United States because they are making a great deal more money than the salary of a Chief Justice. That shows that my friend is not a lawyer or has not practiced law many years, for there is not a lawyer in this country, of high or low degree, who would not be the Chief Justice of the United States if he could secure the appointment. Here is an ex-President of the United States, earning probably a dozen times, certainly five or six times, as much as his salary of $15,000 as Chief Justice, who was only too glad to accept the position, as he should have been. We were all glad that he did accept it, because I believe that he will make a great Chief Justice.

Mr. WARREN. Does the Senator believe that that is the only matter—the matter of salary?

Mr. McKELLAR. Oh, no; I am going to come to that.

Mr. WARREN. It is a matter of great honor; but where you take a broken-down establishment, and take it into court, and take the chance of winning out, which will bring no possible favorable comment or reputation to a man, they are simply in it for the money they get.

Mr. McKELLAR. Oh, Mr. President, the Senator is right, but he is arguing against his own case. Here he says that it is a broken-down institution, and yet with this broken-down institution losing money, as he says, by the millions every day, he proposes to pay the officials and attorneys of that institution from three to six times as great salaries as are paid in other departments of the Government. The Senator is familiar with the salaries paid. I will go on with them for a moment.

Let us assume that there are two billions of dollars of assets of this corporation, all told, and that is a liberal assumption. Here we have the great railroad system of the country, with about eighteen or twenty billions of assets. We have 11 Interstate Commerce Commissioners in control of that business. They get $12,000 apiece. The responsibilities in their hands are infinitely greater than the responsibilities in the hands of these

three men, and yet the Government pays them only $12,000 a year, and every Senator knows that there are innumerable applications for every vacancy on that commission; and if the Senator were to fix, as I believe he should fix, in this bill a salary of $10,000 for each of these three vice presidents, if they did not want the places you gentlemen on the other side of the aisle would have hundreds of applications within the next three days, and, in fact, the next three hours, from the very best kind of men to fill their places, and you could find men to fill them just as good as the men who now fill them.

Mr. WARREN. Oh, yes; as to the matter of salary, we will always have men to take positions, whatever salary you offer; but it is the matter of competency that we are after.

Mr. McKELLAR. Ah, Mr. President, I want to say to the Senator that these very men who hold the office now will accept $10,000 salary. If they will not, they are not the kind of men that ought to be in those positions. If they are just with the Shipping Board for the purpose of receiving salaries alone, they ought not to be there. I say to the Senator if you put a limitation of $10,000, as I believe you should do, upon these salaries, all three of the vice presidents, being high-minded, patriotic men, will stay there and work just as faithfully and just as effectively for the $10,000 as they will for this enormous salary out of all proportion with every other salary paid by the Government.

Mr. WARREN rose.

Mr. McKELLAR. I hope the Senator will let me develop this matter. I am going to yield to him now, but I hope he will allow me to proceed with my case.

Mr. WARREN. I will not interrupt the Senator.

Mr. McKELLAR. But there are many precedents. It is not just one precedent; it is a matter of a cumulation of precedents. I want to explain the relations of the Shipping Board to the Government in so far as salaries are concerned and to show that the salaries authorized in this bill are absolutely out of line and out of proportion with every other salary paid by the Government.

I yield to the Senator.

Mr. WARREN. The Senator has very nicely slidden over from one side to the other. A moment ago he made the comparison of one of these men who went with the Government during the stress of war at a lower salary.

Mr. McKELLAR. They paid lower salaries during those days.

Mr. WARREN. And I have stated before that there were plenty of patriots that were willing to work during the war in all these capacities for almost nothing.

Mr. McKELLAR. My belief is that these gentlemen will work for the salaries I propose.

Mr. WARREN. That is nothing against the matter of the salary of to-day. The fact that a man during the war was willing to work for just enough to pay his board and lodging is no reason, if his services are worth more, why he should not get it after the war is over.

Mr. McKELLAR. Mr. President, I just want to say that $10,000 a year is a little more than enough to pay a man's board and lodging, even in Washington. I do not care what kind of a man he is.

Mr. WARREN. The Senator would pay them all that?

Mr. McKELLAR. There are a great many millions—nay, there are many scores of millions—of men in this country who do not get $10,000 a year. It is only the exceptional ones who get that much.

Mr. KING. Mr. President——

Mr. McKELLAR. I yield to the Senator. I hope the Senator will be brief, because I am not going to take very long myself, and I want to get through.

Mr. KING. The Senator, as the basis of his argument, was very just and, in fact, very generous to the other side in assuming assets of the value of $2,000,000,000; but in order that the idea may not be disseminated from such a competent authority as my friend that there were assets of anywhere near that sum, I wish he would state what I think the facts are—that the assets are scarcely worth $1,000,000,000. There are alleged to be $500,000,000 of liquid assets. There are not that many; and the ships themselves, at a proper computation of valuation, in my opinion, would not sell for more than $600,000,000.

Mr. McKELLAR. The value of the Shipping Board assets is a matter of speculation. A year or two ago, when every ship on the water was carrying enormous cargoes and they could not get enough ships to transport our goods and bring back the goods that wanted to come here, ships were at a very high price, several times as much as they are now. We do not know whether we are going to have a return of that blessed condition of affairs or not. I hope we may, because I want to see this great merchant marine built up; but what I am trying to show to the Senate before we vote on this matter is the one practical thing that when we indorse this salary list we are doing a thing that is entirely out of line with every other department of the Government. No officer of the Government except the President of the United States receives any such salary as this, and if the Shipping Board is insolvent, as they say it is—I do not believe it is—but if it is, as argued, surely we ought not to pay out the greater part of the remaining assets as salaries to highly paid officers and officials and lawyers.

Now, let us take another step. Not only is there the Interstate Commerce Commission but here are the Cabinet officers, each presiding over about one-twelfth of the entire business of the country. Why, take a man like Mr. Secretary Hughes, former Associate Justice of the United States Supreme Court, and now Secretary of State, doing perhaps one of the most important works that is done by any official in the world to-day. I hope he will have success in it; and yet if this bill passes as reported out his salary will be about one-third of that of the superintendent of operations of the Emergency Fleet Corporation, and he probably made more than ten times that much before he became Secretary of State. How out of proportion it is! In proposing this legislation we have lost our sense of proportion.

I do not mean to criticize the Shipping Board about making these suggestions. They have the idea and they are very honest in it, I am sure; I do not want to be misunderstood about it; I am sure they are very honest in it—that if we pay enormous salaries we will get the best sort of employees, and we will work this thing out more successfully. That is not the experience of this Government. You could not get better men in many of the places held by officials of the Government than those who occupy them, and yet they do the work at reasonable salaries. If we adopt this scale of salaries we shall be doing three times as much in the salary line for the subordinates of the Shipping Board as we are doing for any other department of the Government and other less paid officials will certainly complain. We legislate for all the people. We do not legislate merely for one department of the Government, and I say for that reason we ought to put a limitation of $10,000 upon these salaries.

Not only are there the members of the Supreme Court, not only are there the members of the Interstate Commerce Commission with all their vast business, not only are there the members of the Cabinet, but here are Senators and Representatives who serve for $7,500 a year; here are district attorneys throughout the country; and yet we are going to vote salaries of $35,000 to these gentlemen on the ground that we get better men. Well, we are getting the same men that worked for us before, largely, at all events. They worked for us at smaller salaries when salaries were high. Why give them larger salaries when salaries are low and the Shipping Board is away down in the depths?

Why, it is not good business sense. I want to say to the Senate that if it is allowed it will be our act in allowing it. It is not a question of the Shipping Board; it is not a subject of criticism upon the part of the Shipping Board; but it is a subject of criticism upon the part of the Senate and the House which allow these salaries, away out of line. Ours will be the sole responsibility. It is a responsibility that I shall not assume.

Mr. President, surely we will not permit these enormous salaries. I can not believe that reasonable men will permit one department of the Government which has had great losses and which is in great financial distress to create this remarkable increase in salaries.

RAILROAD ADMINISTRATION SALARIES.

The Senator from Illinois [Mr. McCORMICK] said we ought to do it because Mr. McAdoo allowed large salaries. I am not defending Mr. McAdoo's administration. It needs no defense at my hands. But I want to call the attention of the Senate to one or two facts in that regard—and, by the way, you on that side of the aisle all complained of those salaries being too large at the time. I remember that the then colleague of the Senator from Illinois, Senator Sherman, delivered a very witty speech here in criticism of that practice; but let us show what was done.

When the railroads were taken over by the Government in 1918 I recall that Mr. A. H. Smith, president of the New York Central, was made the regional director for that region. He was getting from the New York Central $75,000 a year. Mr. McAdoo, the director general, at once reduced his salary to $50,000 a year. Mr. Hale Holden, another regional director for the central western region, was president of the Chicago, Bur-

lington & Quincy at $60,000 or $75,000 a year. He was retained with all the roads under his control in that region, not just one of them, at a salary of $50,000 a year. Mr. Richard H. Aishton, regional director of the northwestern region, was president of the Chicago & North Western Railroad at a salary of $60,000. He was reduced to $50,000; and so Mr. C. H. Martin was reduced from $75,000 to $50,000, and every other regional director.

I could multiply those instances. All the high salaried officials had their salaries reduced while he was director of the railroads.

Take the director general's own staff at Washington. McAdoo served without any salary whatsoever, only his salary as Secretary of the Treasury of $12,000 a year. He appointed Walker D. Hines, of New York, assistant director general. He was chairman of the board of directors of the Santa Fe Railroad and general counsel, getting a salary of $75,000 a year. He required him to resign to accept a salary of $25,000 a year. Judge Robert S. Lovett, president of the Union Pacific Railroad, drawing a salary of $100,000 a year, was required to resign and accept the position of director of the division of capital expenditures at a salary of $25,000 a year.

This is typical of what was done throughout. Mr. McAdoo continued the railroad corporations in the operation of the property taken over by the Government from January 1, 1918, to May 21, 1918, almost five months, and during that time the salaries of the officials were not reduced. On May 21 he had to get rid of all the railroad corporations and appoint Federal managers, all of whom served the Government instead of the corporations, at the same salaries they received from the corporations in most instances, but the big corporate salaries like those of Samuel Ray, Daniel Willard, who each were drawing $75,000 a year, and others were discontinued and the expense of the corporate offices that they took was not borne by the Government, the regional directors of the Federal regions, and the director general's staff at Washington being substituted for the corporate management throughout the country at a very large net saving to the railroad administration.

See a report that McAdoo made to President, September 3, 1918, in which these matters are outlined.

Mr. WARREN. No; some of the regional directors had their salaries raised.

Mr. McKELLAR. I should like to have the Senator say which ones they were.

Mr. WARREN. I have not them at hand, although I can get them. As to the salaries, how does the Senator make that statement conform with his statement that $10,000 is enough?

Mr. McKELLAR. You may be sure I am going to make it conform in just a few moments. Mr. McAdoo reduced them all, but even then they were too large, and only because of the war were they permitted. We are not in war now.

Mr. WARREN. The Shipping Board is the biggest corporation in the world, into which we have put, in cash, over $3,300,000,000.

Mr. McKELLAR. It was, but it is not. Some claim it is hardly a billion dollar corporation.

Mr. WARREN. Here are these railroads; but when you cut them up as they did into these regions, you have an office that compares with even those railroad sections.

Mr. McKELLAR. Not at all, Mr. President. Another thing must be remembered, and that is that those were war times. These gentlemen's salaries were reduced very heavily. They were given largely increased jurisdiction. I am merely showing you what you said at that time about these salaries and what you say now about them. Now, you will remember that the Director General of Railroads with $18,000,000,000 of assets under his control, served absolutely without compensation at all while he was Director General of the Railroads.

Mr. WARREN. Just as the very able Senator from Tennessee here is serving for only $7,500 a year.

Mr. McKELLAR. No; not just that. He served without any compensation. I call the Senator's attention again to this fact: It may be all wrong, but the Government has adopted an established salary system, and it is all along on a parity except the Shipping Board. The Shipping Board alone stands out as paying these high salaries of three or four or five or even six times as much as other salaries for similar work done for the Government.

That is what I say is wrong. We can not defend it, Senators. We can not defend it before the country. The administration can not defend it. The Shipping Board can not defend it, and I am pleading not only for our own Government, but I am pleading for the Shipping Board itself. We ought to give it the advantage of our advice, because many of the members of that board have just come in. They are necessarily new in the business. They are making recommendations on the spur of the moment. We have had experience with these things for years, and we will make a mistake if we permit these salaries to be paid.

Just a word further about this matter. I am merely referring to it at this time because the Senator from Illinois [Mr. McCORMICK] referred to it. Every salary was reduced by Mr. McAdoo when he took hold of the railroads, or virtually all of them. On the other hand, when you gentlemen take charge of the Shipping Board you are increasing salaries several fold. That is what I believe is wrong.

EMPLOYMENT OF LAWYERS.

Mr. President, now I come to the next proposition, the employment of lawyers.

Mr. WARREN. Before the Senator leaves that subject, permit me to say that I am interested in what the Senator says, as I always am, and he has stated that $10,000 is a sufficient salary for the attorneys to collect these sums and to defend the claims. Would the Senator be good enough to name some of the men he has in mind who would accept that salary, and who would be as efficient as those who are employed now?

Mr. McKELLAR. All three of these gentlemen would accept it. If they would not, they are not the patriotic men I think they are, and I speak as their friend. I do not know them personally, but I am interested in their business, and I am interested in building it up, and I feel friendly toward them. I have just as much interest in the successful building up of the American merchant marine and the successful maintenance of it as they are, and perhaps even more. They can not have more than I have, because I have supported it for years.

I want to support the Senator's bill. I am very anxious to help. I do not want you by insisting on these high salaries to keep me from voting for the bill. I am on his side of the question. However, as his friend in this proposition, and as a friend of the board, I am asking that we shall not do this very foolish and very unfair and very unjust thing; that is, give these enormous salaries.

Mr. WARREN. The Senator has been a friend and supporter of the Shipping Board, and they have paid larger salaries than any that is mentioned in the bill before us, but they have paid them in a crooked manner rather than in a straight manner.

Mr. McKELLAR. If they have done it in a crooked manner, they ought to be indicted and prosecuted and sent to the penitentiary, and I will help the Senator to do that. If he will give me the name of any man who has acted in a crooked manner, I will send it to the Attorney General for action.

Mr. WARREN. On Saturday some one mentioned the case of a man who drew a salary of $32,000. The Senator has not proceeded against that man.

Mr. McKELLAR. If the Senator will give me the name of anyone who has acted crookedly in regard to the Shipping Board, I will send it to Mr. Daugherty, and I believe Mr. Daugherty will do his duty. The mere drawing of a salary, however high, is not in itself a criminal act if the employer had the right to fix the salary.

Mr. WARREN. I believe Mr. Daugherty will do his duty, as the Senator says; but it will take some time to reach all of these matters.

Mr. McKELLAR. We can not do that now. I am for the Senator's bill, except as to the salaries, and I hope to vote for it if it is amended; but I do not believe in crookedness; I do not believe in criminality. I believe criminals ought to be punished; and if any of these gentlemen have committed crimes, I say that it is our duty to give the information to the Attorney General.

Mr. REED. Mr. President——

The PRESIDING OFFICER (Mr. PHIPPS in the chair). Does the Senator from Tennessee yield to the Senator from Missouri?

Mr. McKELLAR. I yield.

Mr. REED. I do not care to get into this debate——

Mr. McKELLAR. I hope the Senator will be brief, because I am nearly through and if not interrupted will soon close.

Mr. REED. I would like to ask this question, however: What defense is it to a charge that too high salaries are being paid by somebody at the present time to plead that somebody at some other time paid somebody else an outrageous salary?

Mr. McKELLAR. Of course, Mr. President, it is no excuse whatsoever. The Senator is exactly right. I am merely showing my good faith in the matter and my friendship for the Shipping Board and for the American merchant marine when I say that if the chairman of the committee will give me the

names of men whom he even believes to be crooked, believes to have done a criminal act, I will lay that before the Attorney General of his own party and let him put it before the proper grand jury.

METHODS OF SELECTING LAWYERS WRONG.

Now, Mr. President, I come to the next proposition, the employment of attorneys; and I want to discuss that from two angles, in the same spirit of helpfulness toward this board.

I believe this board and the Senate are about to make a mistake. I believe we are proceeding in the employment of attorneys upon two wrong theories and that we ought to correct them both while it is within our power. One is the matter of the enormous salaries we are paying and the other one is the method of the selection of those lawyers. I will take up the method of their selection first, because that is even more important than the salaries to be paid.

Mr. Schlesinger and Mr. Lasker, neither one of whom I know personally, but whom I believe to be most excellent men, say in substance in their testimony that they went to New York, held a convocation of prominent lawyers, the most prominent law firms they could find, and got those prominent firms to recommend high-class men who could be employed by the Shipping Board, and the proof discloses that many of those firms had enormous claims, some of them as much as fifteen, or sixteen, or seventeen million dollars, against the Shipping Board, and that some of them recommended lawyers out of their own firms to accept places under the Shipping Board. Mr. President, I need not tell lawyers in this body that that is an unconscionable thing that ought not to have the sanction of the Senate.

Think of it a moment! Here are firms of lawyers in New York, with enormous claims against the Shipping Board, and they are asked to recommend who their antagonists shall be in the future representing the Shipping Board. I want to say to these gentlemen who have accepted places under those circumstances, in all good faith and in all kindness, that they are making a mistake. Lawyers do not do that kind of thing except thoughtlessly. I understand that one attorney, after being selected and urged to come, absolutely refused, and I honor him and respect him for it. No lawyer can serve on both sides of a case. It may be that a lawyer is a clerk in the office of Smith & Jones, of New York City. He may not have an actual interest in the fees collected by the firm, except by way of salary, but he is interested in a salary capacity in that firm, and that firm has $15,000,000 of claims against the Shipping Board, and he has been there a number of years and knows about those claims, and may possibly have handled some of them. Then he is taken out of that firm and put on the other side of the case here to defend the Shipping Board against those very claims, or to compromise them, as it is suggested in this testimony they want to compromise those claims.

O Senators, that is unconscionable! It does the lawyers themselves the greatest injustice, and I hope if there are any of those lawyers who have been recommended out of law firms which have claims against the Shipping Board, when they read my remarks in the morning, knowing I have not the slightest feeling against them, they will calmly think it out in their own minds and consciences and send their resignations in to the Shipping Board. The Lord Jesus Christ said 2,000 years ago that no man can serve two masters, and it is upon that principle that such of these gentlemen as have been connected with firms on one side of these claims for a while should not come over on the other side to compromise or to litigate against their former position. It is an unethical thing. It is an immoral thing.

I know Mr. Lasker and Mr. Schlesinger did not look at it from that standpoint, perhaps. They were in great haste to accomplish something great in their new offices, and for that they are to be commended. But it certainly is our duty to look into the matter; it is our duty to advise; it is our duty to fix limitations upon the salaries and keep them where they ought to be; and that is what I am pleading with the Senate to do this afternoon. I want the Senate to put a limitation on them, and I repeat, in all kindness, I hope those gentlemen, if any there be, who have accepted employment at the hands of the Shipping Board out of offices which hold claims against the Shipping Board will send their resignations in to the Shipping Board.

HIGH SALARIES.

Mr. President, I desire now to speak of another phase of this question. I think it is provided by Mr. Lasker and Mr. Schlesinger that $25,000 a year is to be paid to one man as a litigation attorney to look after cases in court. Just to show how inadvertently wrong Mr. Schlesinger and Mr. Lasker are about it, these attorneys would have nothing to do with the litigation except by courtesy. They do not control the actual litigation in courts. They have no right to have counsel to litigate these cases. They have no right to appear except by courtesy of the Attorney General of the United States. The Attorney General of the United States controls all the litigation in Federal courts, it has been decided time and again. If the Shipping Board sends this $25,000 man to the $12,000 Attorney General, he has to get the Attorney General's permission before he can appear in court.

Think of it. Here is a Cabinet officer, the Attorney General of the United States, getting only $12,000 a year and a young man from a law office in New York has to go to him and ask him, "Mr. Attorney General, will you not let me appear in this case of the Shipping Board?" And the young man who goes and asks him gets fifteen or twenty or twenty-five thousand dollars a year and the Attorney General only $12,000 a year. It is a top-heavy proposition. It is a wrong proposition, and we ought not to agree to it. Think of it—subordinates getting a very much larger sum than the heads of departments. It is absolutely monstrous to think of, and if the Senate goes on record—and I want to say it will go on record if I am able to get it on record—I will not believe a Senator in this body will vote for this proposition of a cat in a bag and these enormous salaries to be paid out under the circumstances brought out in this evidence until I see that record on a yea-and-nay vote.

Vote these enormous salaries for lawyers collected in this haphazard way? If the Shipping Board is in a bad fix, we ought to help it; we ought to endeavor to save it; we ought to put the very best lawyers we can get on the cases, and we ought to select them most carefully, but we should not select the most high-priced lawyers in the world.

They say it takes enormous sums now to get these lawyers. I want to know how many Senators here—and most of the Senators are lawyers—have ever heard of the great national reputation of any of these lawyers, and I do not say this in an unkindly spirit; I do not say it in criticism of them, but the chairman of the committee has said we must pay $35,000 and $25,000 and $15,000 because of the marvelous talent we are employing.

I will read the names, and I want Senators to stop me when we find a lawyer of unusual ability and marvelous reputation: Mr. E. Cateby Jones, Mr. Norman Beecher, Mr. Chauncey Parker, Mr. Freund; I prefix "Mr." to his name. His initials are not even given in the evidence. I doubt if they were even known.

Senator Sutherland, one of the finest men in the world, who served in this body, one of the greatest lawyers here, one of the greatest lawyers in the country; but he is given only $5,000. Everybody knows of Senator Sutherland's ability. But when you get to a man of great ability you give him only $5,000.

Marshall Bullitt, I think he is a very excellent young lawyer, of Louisville, Ky.; I have heard so down in my neighborhood. I know he is a nice man. He had a case in which my firm was on the other side once, and was solicitor general for a few months, and perhaps has more general reputation than any of them. I have never heard of his having a national reputation as a lawyer at all. He is a very pleasant, enterprising young man, but I do not think he deserves a salary more than twice that of ex-Justice Hughes and nearly twice that of Chief Justice Taft.

Fletcher Dobbins; Smythe; it does not even give his initials; maybe they did not know them. Maybe he had been recommended from some office and taken "sight unseen." I hope he is of the very best quality, and it may be he is. I am sure he must be or his name would not appear here. I am giving the names of the men to whom these enormous salaries are paid out of the assets of an alleged defunct corporation, as it is claimed, when we ought to be saving money. By the way, many of those gentlemen worked for the Shipping Board before at very much smaller salaries. Greaf; Mr. Greaf's initials are not given. Mr. V. J. Laws; Hallett; Mr. Hallett's initials are not given. Mr. J. Goldsmith, opinion and contract section. Allison; Mr. Allison's initials are not given. Aron; Mr. Aron's initials are not given. Not only that, Mr. Aron is not only given without initials but he has not even got a reassignment or a job; he has not any business; he does not know what to do yet even after he is appointed. The only thing he can do under the evidence is to draw his salary.

Senators, we ought to look at this question in a reasonable way. We ought not profligately to throw away the money of the Government and of the American people. Some Senators who are opposed to the Shipping Board talk about the scandals that have occurred. I deprecate the scandals just as much as

any man in the world, and I do not want any more. We do not want them to recur. We do not want to perpetuate them. We must be helpful to these gentlemen, not hurtful, in avoiding them.

Mr. Jones's name is given, with no initials; Mr. Colvin's name is given with no initials; Mr. Lloyd, Mr. Fetzer, Mr. Fairbanks, Mr. Gaines, and another, Aron, and no assignment is given and no initials. We do not know what they are going to do. Some of them have not been with the Shipping Board before.

They say they want to have the best array of legal counsel—what for? To litigate? Oh, no; they can not litigate. The Attorney General is charged with litigating. He is fully equipped with lawyers to do the litigating for the Government; he is fully equipped with lawyers to do the litigating for the Shipping Board as a part of the Government. These gentlemen can not even get a chance to litigate except through his courtesy.

Mr. JONES of Washington. Mr. President——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Washington?

Mr. McKELLAR. Certainly.

Mr. JONES of Washington. I simply desire to call the Senator's attention to one clause in the merchant marine act, as follows:

> The board may employ within the limits of appropriations made therefor by Congress such attorneys as it finds necessary for proper legal services to the board in the conduct of its work, or for proper representation of the public interest in the investigations made by it or proceedings pending before it, whether at the board's own instance or upon complaint, or to appear for or represent the board in any case in court or other tribunal.

Mr. McKELLAR. Under the law as construed by the Attorney General of the United States, which construction is still in full force and effect, under the construction of the law by the chief law officer of the Government, who serves for the sum of $12,000 a year, if you measure it in that way, although I do not, it has been held that that does not apply to litigated cases of the Shipping Board; but that when litigation is started, when litigation occurs in any of the district or circuit courts or the Supreme Court of the United States for the Shipping Board, that it is the Attorney General's duty to look after it, and he has a corps of lawyers to look after it. They can not take steps about it. Many of those matters are in the hands of the district attorneys in the various districts of the United States.

Those are the facts about that. That law has been construed, and I say that surely we ought not to give a man, who has to go to the Attorney General of the United States and ask, as a matter of courtesy, that he may appear for the Shipping Board, three times as much salary as the Attorney General himself receives. I do not think it ought to be done.

I am talking for the merchant marine. I am talking for the Shipping Board. I wish to do everything that will help them both, and I do not want these salaries fixed so that the board may be criticized in the future for the payment of such enormous salaries.

Now, I come to another thing. I have talked about the method by which they are employed. There is not a lawyer in the world who will agree to that method. More than that, there is not a man or woman in the country who will agree to the proposition, that lawyers may be selected to serve the Shipping Board out of offices which have claims pending against the Shipping Board in large or small amounts. Of course, the larger the amount the more important it becomes. I am not making any charges about the matter. I am only giving my information.

One of their duties, according to Mr. Schlesinger, is to compromise and adjust. Take Smith & Jones, of Philadelphia. I do not think there is any such firm, and therefore I can use them as an illustration. Let us assume that Smith & Jones have claims of $15,000,000 against the Shipping Board, and Smith & Jones have employed Mr. Johnson at a salary of $5,000 a year to work for them in their office, and that Mr. Johnson has been working on these claims, or whether he has been working on them or not he has their view of these claims. Then the Shipping Board selects him to arbitrate and settle and compromise these claims with Smith & Jones, his former employers, out of whose office he has just come.

It will not do. We can not select our lawyers for the Shipping Board in that way.

We want lawyers, whether of national reputation or not, in that Shipping Board who have no other view on earth than to put forward the claims of the Shipping Board. It matters not what their reputation may be. I may be all wrong about the national reputation of these gentlemen. It may be that I do not know as much as I should about the lawyers of the country, though I think I do; but it is wrong for the Shipping Board to employ men who have been either directly or indirectly on the other side of the question. I reiterate I make no charges. I am informed these gentlemen are all men of rectitude. They have, no doubt, simply acted without deliberation.

Now, let me say a word about salaries. Some of these lawyers worked during the war at very much smaller salaries, one-third of what they work for now. They ought not to be paid increased salaries when salaries are coming down all over the world. Labor of every kind is coming down. Salaries of every kind are coming down. Why should we increase salarise in this exorbitant way for this board when it is in a quasi bankrupt condition, if we are to believe Senators on the other side of the aisle? I do not believe we ought to do it.

Mr. SHORTRIDGE. Mr. President, may I ask the learned Senator a question?

Mr. McKELLAR. I shall be delighted if I can answer it.

Mr. SHORTRIDGE. Does the Senator think there are at present enough district attorneys to represent the Shipping Board in various matters now in litigation?

Mr. McKELLAR. If there are not, let us give them enough. I am not niggardly in such matters, and never have been. I want every claim of the Shipping Board thoroughly ferreted out. They say they want to compromise and save, but I have some doubts about it. I want the Government to pay every dollar due. If a claim is honest it ought not to be compromised.

Mr. SHORTRIDGE. May I ask the Senator another question?

Mr. McKELLAR. Certainly.

Mr. SHORTRIDGE. I merely wish to get his views. If there are not enough district attorneys now in the different districts to properly represent the Government in actions pending, then I take it the Senator would favor increasing the number?

Mr. McKELLAR. Oh, of course. I do not think we have enough judges in the country. Bills have been introduced providing for more judges and, of course, that will mean more district attorneys and more marshals. The business of the Federal Government has increased so much in the last few years that it is absolutely necessary to do something of this kind, but I do not believe we ought to divide legal authority. I do not believe we ought to turn over to this department the right to pay these prices for legal talent, or for any other talent.

Mr. SHORTRIDGE. Is the Senator disposed to indicate what salaries should be paid to those called into the service, perhaps immediately, to defend the Government against these claims aimed immediately against the Shipping Board?

Mr. McKELLAR. I shall be delighted to do it, but before I touch that question I wish to mention another matter.

AGAINST ALL LUMP-SUM APPROPRIATIONS.

Senators, the policy that we are adopting in the pending bill is the wrong policy—that is, the policy of the lump-sum appropriations. Just think about it a moment. We would not for a moment think of giving the President the right to fix the salaries of all the members of his Cabinet and appropriate a lump sum therefor. We would not for a moment think of giving the chairman of the Interstate Commerce Commission the right to fix the salaries of the members of that commission. We would not think for a moment of giving to the heads of departments, for instance, the right to fix salaries at will in those departments.

Every day of the world during the sessions of Congress when we have appropriation bills before us we legislate as to salaries down to the lowest paid by the Government. The appropriation bill fixes so many offices and fixes salaries that go with those offices. We ought to adopt this policy with the Shipping Board. We ought to fix the salaries ourselves, I will say to the Senator from California, and precisely the same principle should apply with the Shipping Board as now applies with the Department of Commerce or the Department of Justice or any other department of the Government.

We do not say to the Attorney General of the United States, "You may just employ such lawyers as you wish and fix their salaries at such an amount as you see fit." We never have done that. Why should we give that power to the Shipping Board and why should we undo everything that we have done to put a limitation upon salaries in every department of the Government and throw the floodgates open so far as the Shipping Board is concerned, that we all admit is now losing money? Why institute a different policy with the Shipping Board, that needs our help, needs our advice, needs our limitation, and if we do it with them why not open it up in the same way to the other departments?

Why, if any Senator were to introduce a bill that because of the greatly increased business of the Attorney General's office he should be given a lump sum of $50,000,000 for the employment of such subordinates as he saw fit, such Assistant Attorneys General as he might see fit to employ, it would not receive a vote. I do not believe it would receive a single vote. I am sure the Senator from California would not vote for it. He would not vote for a bill to give the Attorney General of the United States, a man of national reputation, the head of the greatest legal department in the world, carte blanche to fix the salaries of those under him.

Mr. SHORTRIDGE. I understand he has that power in certain instances.

Mr. McKELLAR. Oh, no. Every office under him and the salary is fixed by law, and has to be fulfilled. He has a small sum, just a few thousand dollars, perhaps.

Mr. SHORTRIDGE. Just about $200,000.

Mr. McKELLAR. Oh, not that much. If it is that much, it has been greatly increased because of the prohibition law. Perhaps there is created a fund which he can dole out in fees to the lawyer in San Francisco to aid the district attorney at a small fee or to the lawyer in Memphis to aid the district attorney at a small fee, but those fees have to be fixed under limitations prescribed by law. The Atttorney General has not the power over that matter in that way, and that is true of every single department of the Government, except, alone, the Shipping Board. We are undertaking to say by the provisions of the bill, "Mr. Lasker, go ahead and employ attorneys, whomsoever you please, and pay them any salaries you please." It is common report that Mr. Schlesinger is being paid $50,000 a year.

Mr. Schlesinger may be worth it, but we would not vote directly to pay Mr. Schlesinger, as chief counsel of the Shipping Board, $50,000 a year if any Senator should introduce a bill here for that purpose. There is not a Senator on this floor who will rise in his seat and say that he would vote for a bill to pay Mr. Schlesinger $50,000 a year for his services. I pause. No one rises.

Mr. SHORTRIDGE. Will the Senator yield to me merely for a question, not to express my own views but rather to invite his?

Mr. McKELLAR. I yield to the Senator from California.

Mr. SHORTRIDGE. I understand that Mr. Schlesinger is set down at $10,000 a year.

Mr. HARRISON. He is set down at $15,000 a year.

Mr. SHORTRIDGE. I think he is set down at $10,000 a year.

Mr. McKELLAR. I think I saw it stated in the newspaper that the Government was going to pay him $10,000 or $15,000 a year and that Mr. Lasker was going to pay him the remainder of the $50,000 out of his pocket. Of course, I do not think that kind of action on the part of Mr. Lasker should be allowed, however generous he might be.

Mr. HARRISON. Perhaps Mr. Schlesinger, who is the head of all these attorneys, does not think he is worth as much as the attorneys who are paid $25,000.

Mr. McKELLAR. I do not know about that. I understand Mr. Schlesinger is a very excellent lawyer and a very excellent man. I am not criticizing him; I am not criticizing any of these men; but I am criticizing the policy and the practice. I say we ought not to be willing to do indirectly what we would not do directly. There is no Senator here who would vote for a bill providing on its face for these enormous salaries. It is said these appointments are to be only temporary, but who is willing to state that they are only temporary? The proof is to the contrary. The board is just organizing permanently, and the proof shows that they are organized permanently at these salaries. I say to Senators that if Mr. Schlesinger were to send down to the Judiciary Committee—which ought to have the power to pass on this matter; it ought not to be brought up in this way by the Appropriations Committee—a request that a bill be passed providing salaries of $25,000 or $30,000 or $50,000, or salaries beginning at $25,000 and going down to $7,500, such a bill, if reported, would not get a favorable vote in this body; yet while we will not do that directly, as it seems there is quite a willingness on the part of some Senators to vote to permit Mr. Schlesinger or Mr. Lasker to fix these enormous salaries out of a lump-sum appropriation.

Mr. BRANDEGEE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Connecticut?

Mr. McKELLAR. I yield to the Senator.

Mr. BRANDEGEE. I can not believe, Mr. President, that these attorneys, of whom the Senator from Tennessee speaks, are to be employed permanently.

Mr. McKELLAR. The Shipping Board is going on and is likely to go on for many years.

Mr. BRANDEGEE. When the Senator from Tennessee says that the Shipping Board is permanently organized, I suppose he means that it is the intention to retain the present number of lawyers. My understanding of the matter is that there is an enormous amount of litigation which has accumulated by reason of the emergencies which were created during the World War and by the great number of claims in which the Shipping Board is interested, claims involving the construction of ships, and so forth. As soon as the suits relative to those claims shall have been tried, it is not supposed that litigation will accumulate in the future at any such rate as it has been doing in the past.

Mr. McKELLAR. I think the Senator from Connecticut must have been absent when I stated that the Shipping Board has nothing to do with the trial of cases. The Attorney General's department has control of the trial of the cases. The Attorney General has a full force; he has not asked for any additional force. If legal business has accumulated for the Shipping Board, it also has accumulated for the other departments of the Government, and yet the Attorney General has asked for a very small amount, and he has asked for no deficiencies to pay for additional lawyers. This Shipping Board salary proposition is absolutely indefensible.

Mr. BRANDEGEE. What does the Senator from Tennessee understand that these attorneys are doing? Are they simply acting in an advisory capacity concerning contracts?

Mr. McKELLAR. I will give the Senator from Connecticut the evidence on that subject in the words of one of the witnesses.

Mr. WARREN. The Senator from Tennessee knows that the original law establishing the Shipping Board provided that they should have legal advisers, who were to appear for them in court.

Mr. McKELLAR. I first refer the Senator from Connecticut to the Attorney General of the United States, who has already given as his opinion that the Department of Justice handles all the litigation of the Shipping Board and of every other department of the Government. We know that is true, unless it is specially taken away from him by law, and it has not been taken away from him. The Shipping Board lawyers, when they appear in court, appear by courtesy of the Attorney General, just as I would appear as amicus curiæ if I went down on my own motion in some case and butted in.

Mr. BRANDEGEE. But they appear in court to try cases. That is what I desire to have understood.

Mr. McKELLAR. I do not know that they do. I understand that some of them have done so over in New York City, but I do not know to what extent. However, when it is done they act under the department of the Attorney General. The Attorney General has not asked for this legislation. He has not asked for an appropriation to meet a deficiency, though he has charge of the matter; he is not complaining; and I say the appropriation should not be granted.

Mr. BRANDEGEE. I assume, of course, that if these lawyers were not furnished by the Shipping Board the Attorney General would ask for a larger appropriation in order that he might himself employ them.

Mr. McKELLAR. I should think not, for the Attorney General has sent to Congress no communication to that effect. However, the Senator from Connecticut desires to know what those lawyers do. Mr. Jones is chief of the admiralty section. I imagine that the admiralty section is called upon to do considerable work, not in court but in the matter of advice. The very best kind of a lawyer in these days could be secured for $10,000 a year. I call this to the attention of the Senator from California [Mr. SHORTRIDGE], who wanted to know what my views were about this matter. I say to Senators on the other side of the Chamber, who are in control of the patronage of the Government, that if there were a vacancy in the department at $10,000 a year and it was known to their constituents, they would have some of the very best lawyers in the United States asking them to help get the place for them.

Mr. BRANDEGEE. There might be some of the very best lawyers who would take those positions because they thought they were honorary positions and that they would thereby increase their prestige; but when the Senator from Tennessee says the very best lawyers in the country may be employed for $10,000 a year I think he seriously errs. There are many such lawyers who could not be employed for $100,000 a year.

Mr. McKELLAR. I know some very good lawyers in Washington who are serving for $12,000 a year, and I know some very excellent lawyers in the Senate serving for $7,500 a year.

Mr. BRANDEGEE. They are not serving for the $7,500 a year.

Mr. McKELLAR. They are giving up all of their practice and all of their time and business for the governmental salary that is paid the attorneys of the Shipping Board, and if the salary be fixed at $10,000 we shall get as good lawyers to fill the place as though we fixed it at $35,000.

Mr. BRANDEGEE. I differ from the Senator.

Mr. HARRISON. Mr. President——

Mr. McKELLAR. I yield to the Senator from Mississippi.

Mr. HARRISON. In that connection Col. Guy D. Goff, who was once general counsel for the United States Shipping Board, and a splendid lawyer——

Mr. McKELLAR. And a very fine man.

Mr. HARRISON. Is now an Assistant Attorney General of the United States, with a salary of $10,000 a year.

Mr. McKELLAR. Yes.

Mr. HARRISON. I notice in an afternoon paper a statement concerning that very distinguished lawyer, who perhaps was not good enough to continue as general counsel of the United States Shipping Board and to receive the quite remunerative salary that office pays, but who is good enough to be Assistant Attorney General of the United States. In the afternoon paper I notice the following statement:

COL. GUY D. GOFF WILL SEEK PROFITEERS IN PROBE OF WAR DEALS.

Acting under direction of President Harding, the Attorney General of the United States has just directed that a searching analysis of every huge contract let by the former administration be made with a view to ferreting out war-time profiteers.

* * * * * * *

In June, 1919, Col. Goff returned to the United States and was asked to become general counsel of the United States Shipping Board. After reorganizing the legal department, he continued in that position until December 1, 1920, when he became Shipping Board commissioner to represent the Great Lakes.

Col. Goff now receives about one-third of what these big lawyers under the Shipping Board are getting, and yet he is directed by the Attorney General to make this searching investigation.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Idaho?

Mr. McKELLAR. I am very much obliged to the Senator from Mississippi, and I yield to the Senator from Idaho.

Mr. BORAH. The work which has been assigned to Col. Goff is perhaps as difficult as can be assigned to any attorney in any department of the Government; it is quite as difficult a work and requires quite as much legal ability as any work which will be assigned to any attorney for the Shipping Board. Col. Goff is receiving a salary not in excess of $10,000, and I happen to know—and I am glad to state it—that Col. Goff was asked if he felt that it was right that he should receive an increased salary, and he replied that he was perfectly willing to devote his time to his Government for that sum. I venture to say that unless we find attorneys who, under the present condition of affairs, are willing to carry with them the same spirit, we shall not get the best service.

Mr. McKELLAR. I quite agree with the statement made by the Senator from Idaho, both in regard to Col. Goff and otherwise. Here is Col. Goff getting a salary of $10,000 a year and performing one of the most immensely important works that a lawyer can do. He is a man of national reputation; his father before him was a man of national reputation, his father having been for a long time a judge of the circuit court of the United States and subsequently a Member of this body. Col. Goff is a man of very great ability, and he is serving the Government for $10,000 a year, and yet the members of the Shipping Board can not get lawyers to look after contracts for less than $20,000 or $25,000 a year.

Let me digress long enough to remark that it is said that the Shipping Board has $2,000,000,000 of assets—the Senator from Utah says that they are not worth over a billion dollars—and that, of course, we have got to have the very best lawyers in order to look after those assets. It is further said that there are claims amounting to as much as $300,000,000 to be cared for. Senators, have we forgotten so soon what has been done in the War Department? The War Department has settled something between two billion and three billion dollars of claims, and, so far as my memory goes, it has not employed a single $10,000 lawyer to do it. We have not appropriated immense sums, but under the present legal machinery of the Government these enormous claims have been settled growing out of the war, eight or ten times as great as the claims in which the Shipping Board is interested and which may be still unsettled.

Yet we are told that we must employ a vast array of legal talent at enormous salaries, three or four or five or six times as large as the salary paid to any other legal officer of the Government. Such a proposal can not be defended; it is not right. We are not maintaining our sense of proportion; we are not doing our Government justice; and when we come to think that a number of these lawyers were selected from firms who represent claims against the Government it is absolutely and beyond question indefensible.

Mr. SHORTRIDGE. Mr. President——

Mr. McKELLAR. I yield to the Senator from California.

Mr. SHORTRIDGE. I desire to ask a question merely to obtain the Senator's view. Does he think that the Attorney General or subordinate attorneys in his department can now take charge of and properly and efficiently represent the Government in respect to the business in hand?

Mr. McKELLAR. Of course I do; they can do it a thousand times better and more economically than this great new organization of lawyers brought here for the purpose. If the Department of Justice could handle the matter I think it would save the Government millions of dollars. Some of the attorneys employed by the Shipping Board are new appointees, and those who are not new are old employees who formerly served at about one-third of the salaries they are now receiving.

A Senator has asked what they do. I think we ought to have the information as to what they do. The first one is Mr. Jones, who is chief of the admiralty section, at $25,000 a year. The second one is Mr. Norman Beecher, admiralty advisor to the chief of the section, at $10,000 a year. We employ a man as chief of the section and then employ another man to advise him at $10,000 a year. Then there is Mr. Parker, employed as chief of litigation—litigation that he has not a thing to do with under the law except in an advisory capacity. We employ a lawyer to litigate when he has not any right to litigate.

Now, listen:

Mr. Freund—

And I am interlining the word "Mister"—

will be paid $25,000 per annum as head of opinion and contracts section.

Opinion and contracts! Is there any Senator that would vote for that? If those salaries, so out of line with other Government salaries, were put in this bill would any Senator vote for them? Yet we are going to do indirectly just what is proposed here.

I shall not refer to ex-Senator Sutherland. I have already referred to him. He would not accept $5,000 or any other sum from this Government unless he gave value received. I have the utmost confidence in him.

Marshall Bullitt, assistant to general counsel, $25,000 per annum.

And here is Fletcher Dobbins, another trial lawyer. The Attorney General has to try all the suits, and they employ one chief trial lawyer at $25,000 and another one at $15,000, and neither one of them can try anything except by the courtesy of the Attorney General, and the Attorney General has a full legal force to try all the cases in this Republic.

Now, listen here:

Smythe, executive assistant to general counsel, $15,000 per annum.

You have a general counsel and you have an assistant general counsel, and an executive assistant to the general counsel! Why, the greatest difficulty these gentlemen will find will be in finding some way to while away their time if they are employed at these enormous salaries.

Mr. Graef, opinion and contracts section.

Here is another one. That is two for opinions and contracts—$10,000 per year.

Mr. B. J. Laws has not got an assignment, and yet they are going to give him $10,000 a year.

Here is another opinion and contracts section man at $7,500 a year, and here is a fourth opinion and contracts section man at $7,500 a year, and here is a Mr. Allison, with special assignments. I suppose he will go to the opinion and contracts section.

Mr. Jones is the third man in the litigation section, when they have no legal authority over litigation.

Mr. Aron, no assignment. There is nothing for Mr. Aron to do. They can not even give him the position of assistant to somebody, yet they pay Mr. Aron $10,000 a year. There are two Mr. Arons, it seems.

Mr. KING. He may be a mouthpiece for Moses.

Mr. McKELLAR. If he is a mouthpiece for Moses I hope his rod will bud and good results may flow therefrom. But, Mr. President, speaking seriously, these salaries ought not to be allowed.

There is the letter of President Harding. We all know that President Harding is one of the best of men. I have no criticism whatever to make of his opinion, but I think the President has been badly advised about this matter, and I believe if he

had been advised at the same time that he was overturning every precedent this Government had made, that he was interfering with the uniformity of every salary paid by the Government, he would not have indorsed this salary grab.

Naturally, these gentlemen brought the matter before the President, and unfortunately, probably without giving it the care and attention that he might have given, he has given his opinion to the Senate.

It is our duty to help the President. It is our duty to help this board. We can help them by preventing them from getting into this trouble; and I hope that an amendment will be agreed to putting a limitation on it. The Senator from Mississippi [Mr. HARRISON] has introduced an amendment limiting the salaries of these subordinates to $12,000. That ought to be cut down to $10,000. Twelve thousand dollars spoils the uniformity of the salary situation. We ought not to permit any officer under this board to receive over $10,000 a year, and we ought to know exactly what they are going to do, what positions they are going to fill, before we authorize it to be done. I am going to ask the Senator from Mississippi to accept an amendment to his amendment imposing a limitation of $10,000 a year, and you will not have any dearth of the very best lawyers to fill those positions.

Mr. President, what I have said has been said without any reference to politics. I do not think this is a political question. All of us are interested in building up an American merchant marine independently of politics. I do not care whether we are Democrats or whether we are Republicans; we want to build up a great merchant marine for this country. I do not care what has been done in the past. It may have been grievously wrong, and something may have been done that ought not to have been done. No wrongdoing should have been permitted by anybody connected with the Shipping Board; but what we have done has been done. Let us correct it. Let us not fall into like errors. Let us not spoil the future for our Shipping Board by permitting these lump-sum appropriations. That is a bad, bad policy in itself. We ought not to make these lump-sum appropriations. We ought to know where our money is being spent when we spend it.

I know that the Senator from Wyoming—careful, prudent, able man that he is—does not give his approval to lump-sum appropriations. No thoughtful man in this body or in the other body believes in lump-sum appropriations, and yet we are giving this enormous appropriation to the Shipping Board for the purpose of paying these enormous salaries that ought not to be paid and I sincerely hope will not be paid. Let us adopt a reasonable scale of salaries and then pass the bill.

Mr. BORAH obtained the floor.

Mr. WARREN. Mr. President, will the Senator yield to me for a moment?

Mr. BORAH. I yield to the Senator from Wyoming.

Mr. WARREN. Mr. President, the Senate voted a few days ago for a recess on Wednesday. This bill, after it passes here, if it shall pass, must go to conference, where nearly all the items in it will be in disagreement. Unless the bill passes to-night, it is very doubtful whether it can be completed in time to take the recess that the Senate has committed iself to take. So I am bound to say, Mr. President, that I expect that the Senate will remain to-night until we shall finish this bill, or until we have tried it out thoroughly to see whether we can or not; and I say this now so that Senators may be prepared to be present. I hope we may have a quorum on any occasion when it is called for.

Mr. BORAH. Mr. President, in view particularly of the statement of the Senator from Wyoming [Mr. WARREN], I shall be as brief as possible in stating the reasons why I shall support the amendment offered by the Senator from Mississippi [Mr. HARRISON], and why, furthermore, I shall not, if I have an opportunity to vote upon the single item, vote to appropriate anything further with regard to the Shipping Board until the program and the policy are changed.

I was talking this morning with a gentleman well known to us all. He said that he had been in Washington for four months trying to get a settlement of a matter with the Government, and in that time he had been compelled to consult and take counsel of and advise with twenty-one different individuals who represented the Government in some different capacity which had to do with the settlement of this one claim. Eleven members of the Army, seven lawyers, and four laymen had thus far been in some way or other consulted, and necessarily consulted, and the end was not yet.

Mr. President, that is an illustration of the situation in which we find ourselves, and it has a certain bearing upon the question which is now before the Senate. We have built up in Washington, and are still building up in Washington, a bureaucracy which is so stupendous and so crowded and so complex that it can not function. There are so many people to be consulted, so many employees to deal with matters, so many different members of boards, that it is practically impossible to get action upon matters such as the gentleman who was speaking to me this morning may have before the Government. One of the faults of the shipping business so far as it is concerned in the present discussion, in my judgment, is the fact that we have a Shipping Board instead of a single individual upon whom absolute responsibility could be fixed and where we could have unity of action.

Of course in saying that it must not be understood that I am referring to any particular gentleman who may be a member of the board, because I have no doubt that these gentlemen who are now members of the board in places where the Government had anything for them to do which they could do properly would render real service to the public and to the Government. We have a Shipping Board of seven members, and we are paying each of them $12,000 a year—that is, $84,000—not for efficiency, not for quick action, not for responsibility, not for unity of action, but to complicate the situation, to delay, to divide responsibility, and to leave the matter in a much worse condition than it would be if we had a single individual at $12,000 a year.

We are supposed to be liquidating this concern, although it seems to refuse to liquidate, but we are informed that that is the effort which is to be made. What possible reason is there for maintaining a board of seven members at $12,000 a year to liquidate a concern? What we ought to have, and to have at once, not only as a matter of economy—because in that respect it is the smallest part of it—but in order to get proper action in dealing with this matter, is a change of the law and fixing upon one director of shipping the responsibility which now rests upon seven. We would thereby save some $72,000, which would be the very smallest part of the advantage to be gained by the change. But not only have we the seven members, but these seven members immediately after being sworn in, in order to discharge their duties intelligently and effectively, are compelled to turn around and hire three experts at the combined salary of $95,000 whose business it is really to run the concern. The Shipping Board in a large measure becomes obsolete, as it were, after the experts are employed, because necessarily they are employed for the purpose of advising concerning the expert matters. So far as policy is concerned, the policy, we are informed, is that of liquidation.

Mr. McKELLAR. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Tennessee?

Mr. BORAH. I yield.

Mr. McKELLAR. In this connection, each one of these three experts has his individual, separate organization, and the greatest lack of harmony and cooperation prevails under the system as outlined by the Senator from Idaho.

Mr. BORAH. I have been so informed. I presume the Senator is correct. I have not been able to ascertain, Mr. President, and I doubt if it can be ascertained, the size of the official salary pay roll of this organization at the present time. While that does not excuse all that has happened in the board in the past, it has largely to do with the fearful breakdown which we all recognize as having taken place in the operation of this concern.

I have put some time upon this matter, have gone through some of the records, have read the reports and the evidence, and I have had some little experience in trying causes, and some little experience particularly in trying criminal causes, and I have been wholly unable to fix on any one individual the responsibility for these things that have happened. I do not believe it would be possible. You approach it in one respect and you are immediately directed to another phase of it, where a different party had control and a different party was advising, and you pass from one to another, and from subdepartment to subdepartment, and you can not find any place whence the source of authority flowed.

Mr. JONES of Washington. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Washington?

Mr. BORAH. I yield to the Senator from Washington.

Mr. JONES of Washington. The Senator referred to a claimant in the opening of his remarks, and while I do not want to ask him who the claimant is, I do ask him in what department the claim was found?

Mr. BORAH. It seems about three had some connection with it.

Mr. JONES of Washington. It is a claim under what department?

Mr. BORAH. It was not a claim. It was the adjustment of a matter; but it was not the Shipping Board.

Mr. JONES of Washington. That is what I thought, and that is what I was trying to get at. There is a central head in charge of each of the departments, the Secretary, whoever he may be. In other words, there is the very organization there which the Senator thinks we ought to have in the Shipping Board, and yet, with a head to it, he has not gotten it settled yet; and he has been to 21 different people. So that it does not seem to bring, even in that case, very definite results.

Mr. BORAH. No; I am very frank to admit that, because under these heads have been built up just exactly what your seven directors will be—different departments under the central head. Apparently these directors are now really the heads of departments under Mr. Lasker. We do not ascertain from the public print or from the testimony or from the President's letter that there is any member of the board except Mr. Lasker. So I take it that, as a matter of fact, they have in a measure reached something in the nature of a head to the concern, and that the other members of the board are more or less assigned, either directly or indirectly, expressly or impliedly, to certain work. Thereby they constitute what we have in all these departments, vast departments, each one of which must have something to say about almost everything that comes up before it can be settled.

In other words, Mr. President, we are creating offices continually, and we are dividing responsibilities, and we are frustrating action by doing so, and if I could make a suggestion here which would have the attention of the able Senator from Washington, whose heart is in this matter, I suggest that he bring in before us, just as soon as he can, a measure which will so modify this law that we may have one director whose business it shall be to be responsible and direct this affair, so that we may liquidate this thing sometime within reason.

Mr. JONES of Washington. Mr. President, I do not propose to argue the proposition, but I want to say to the Senator that I am satisfied we should have the board. Under it can be done exactly what the Senator proposes, and that is what ought to be done; and I think it is the intention of the present board to put these things which are purely liquidation matters in charge of certain persons who shall have full authority to decide and settle up. Then the board will go on and do what it was primarily intended to do and what I think it ought to do and there is abundance of work to occupy its time in doing, in the formulation of general policies, in looking into the world situation, and advising Congress as to what we ought to do. I fully agree with the Senator that bureaucracy is, we might say, the bane of the Government. We tried to take care of that in the merchant marine act, and it ought to be done; and it can be done without any further legislation, as far as that is concerned.

I disagree entirely with the Senator as to the proposition of doing away with the Shipping Board. I am utterly opposed to that, and I think I have good reasons for my position. I am not going into that now, however. That is not the question here. But with what the Senator wants done, and with the proper administration of the merchant marine act, I am in hearty accord; and that very thing can be done without further ligislation.

Mr. BORAH. Mr. President, the Senator says the board should be there for the purpose of determining policies, looking into world affairs, and advising Congress. I take it from that that the Senator has in contemplation the continuation of this business by the Government. Certainly there are no policies to be determined of any considerable moment if we are really and conscientiously engaged in liquidating this affair and getting out of it.

Mr. JONES of Washington. Mr. President, we want to get out of the actual shipping business, of course, out of the owning of ships, the running of ships, and the building of ships. But we do not want to get out of it by giving the ships away or throwing them away, or throwing them at somebody simply to get rid of them. There may be some who want to do that, and many of those who have been talking about liquidating apparently want to do that. I am not one of those. Much as I regret the condition that confronts us, I believe that the present condition in the shipping world is a temporary one—such a condition as comes to all businesses—and that the time is coming, if we will just carry things along properly, when these ships will be worth something to the Government and can be disposed of, and we want them to be disposed of. I do not think it is necessary, just in the interest of liquidation, to get rid of these ships in any way we might find possible. I think it means millions to this Government to handle these ships as a business man would handle his property.

Mr. BORAH. No business man in the world would employ seven men to run that kind of an affair.

Mr. JONES of Washington. Oh, Mr. President, that is not what these seven men are employed for. But, as I said, I am not going into that. If I made a mere general statement, it would take some little time to present the reasons for the continuance of this board. I am prepared to present those reasons when the time comes, but I am not going to take the time of the Senate to argue that proposition at this time. I believe it would be nothing short of a calamity, as far as the merchant marine is concerned, to do away with the Shipping Board as a board.

Mr. BORAH. It has certainly been a calamity to have that board thus far.

Mr. JONES of Washington. No, it has not; that has not been the cause of the trouble.

Mr. McKELLAR. In addition to what the Senator from Washington has said, it seems to me we have to have some authority, even after we sell all the ships; there must be some one in authority to look after the merchant marine from a governmental standpoint, as we have a board now to look after the railroads of the country. I agree with the Senator from Washington about the necessity of some such authority. I agree entirely with the Senator from Idaho about the one-man idea. I think a one-man board is better than half a dozen or more men.

Mr. BORAH. As I have said before, Mr. President, it is almost impossible for the Congress of the United States to decline to create offices, and to abolish an office is practically impossible. I realize that. This is not the only commission we have—we have a number. And I want to suggest from the floor to Gen. Dawes, who is now engaged in a great economy compaign that if he will run through the commissions we have and trim out these commissions and cut them down to where they ought to be, where they are performing executive duties, where they have not any judicial or quasi-judicial functions to perform, he will not only render a service to the Government in the matter of economy but he will render a service to the Government in the matter of getting real service from the men who run it. While I have the profoundest respect for the view of the Senator from Washington upon this matter, because I know he is a student of it, and I know he is perfectly sincere about it, nevertheless I am so thoroughly convinced that a board in an operation of this kind of affair is a mistake that I shall hope to have an opportunity to vote upon it. I have drawn an amendment to this bill, but under the rules which prevail with reference to offering amendments to appropriation bills I thought it would be practically impossible to have this considered.

Mr. McKELLAR. Mr. President, at this point in the remarks of the Senator from Idaho I wish to ask unanimous consent, if the Senator will permit me, to have inserted in the RECORD a recital that appeared in a recent issue of the Washington Herald with reference to the 40-odd commissions that are now saddled on the Government. It is in line with his argument that we have entirely too many and with that argument I fully and heartily agree. As the Senator from Wyoming [Mr. WARREN] suggests to me, the list grows greater and greater almost every day. I think it is bad legislation and ought to be stopped. If the Senator has no objection I shall be glad to have this matter inserted in the RECORD at this point.

Mr. BORAH. I have no objection. I think it will add to it.

There being no objection the matter was ordered to be printed in the RECORD, as follows:

A BIG JOB.

[From the Washington Herald.]

There are over two score of these so-called "miscellaneous activities." As examples of how they have been differentiated: The Smithsonian Institution has seven bureaus under it, while detached is found the National Academy of Science, United States Geographic Board, Commission of Fine Arts, and National Monument Association. There is a National Home for Disabled Soldiers Board, distinct from the United States Soldiers Home Commission, neither being related to the Bureau of War Risk. The Columbia Institute for the Deaf and the Federal Board for Vocational Education have nothing to do with the Bureau of Education. There is the International Joint Commission, International Boundary Commission, United States and Canada; International Boundary Commission, United States and Mexico, the Pan American Union, and the United States Section of the Inter-American High Commission, none of which have enough to do to keep them busy two months of the year. And so on, and so forth.

Then there are the more highly important commissions and boards: The Federal Reserve, Interstate Commerce, Federal Trade, United States Shipping, United States Shipping and Emergency Fleet, Civil Service, Railroad Labor, Alien Property Custodian, Tariff, Employees' Compensation, Mediation and Conciliation, etc. Why several of these were not placed under some already established organization is beyond business ken. Why most of them were not put regularly under some department is, too, a mystery. Why is the Panama Canal Commission unattached? Why, too, the Commission for Navy Yards and Naval Stations and the National Advisory Board for Aeronautics?

Mr. BORAH. Mr. President, to give the Senate an idea of how we create offices—and I am glad my friend the Senator from New York [Mr. WADSWORTH] is present—I am going to read a letter concerning a department with which he is familiar, written by an Army officer.

It has been assumed in some places that my particular criticism in these matters has been directed against the Army; but it is in no sense directed against the Army. It appertains to every department of our Government. We have more men than we can possibly use, and it is simply a question of how intelligently we are going to get rid of them or whether at all. This Army officer writes me, after referring to a personal matter:

> There are now two many officers in the service. Take a trip to any of the posts—this is one, for example, although I have seen the same conditions in several others within the last few weeks. We are loafing 90 per cent of the time; that is, officers assigned to units or other organizations. We drill a handful of soldiers an hour or so in the morning, report to officers call at 11.45 a. m. and then loaf the rest of the day. If an ambitious officer undertakes to give his men miscellaneous instruction during the idle hours he is "called" for overworking the men. We have 50 officers here and for the work to be done we need only five. The situation is disgusting and nothing more or less than a wanton waste of money, and it should be remedied. I am a junior officer, willing to work, and believe me it is very discouraging to see a lot of officers loafing around so much and especially a great number of high ranking officers who can always be found in bed until time to report to officer's call at 11.45 a. m. And then in the afternoon again around their quarters or around Broadway. We consider ourselves retired on full pay, and what will it be if they put on more junior officers? It is bad enough now.

And so forth.

Mr. BRANDEGEE. That will make him popular with his fellow officers.

Mr. BORAH. That will make him popular with his fellow officers, indeed; and I know what would happen to him if his name were known. Nevertheless, the man is there, and he can be interviewed.

So, Mr. President, we are in this situation, that all along the line, in every single department of the Government, we are overcrowded with officers, and nowhere more, in my judgment, than in the Shipping Board; and, as I said a moment ago, in my opinion that is one thing that has rendered the Shipping Board so ineffective in the past.

One other item, Mr. President. We are informed that we have never been able to secure a thorough auditing report of the Shipping Board. We are now informed that Mr. Lasker has been sufficiently lucky to secure the assistance of Mr. Powell. I do not know Mr. Powell, and I certainly would be careful upon the floor of the Senate to say anything against a man which would impeach his personal integrity. Mr. Powell is the vice president of the Bethlehem Shipbuilding Corporation, and that corporation has an account with the Shipping Board of $600,000. Away back on March 1, 1920, the chairman of the Shipping Board wrote a letter to Mr. Powell advising him that Perley Morse & Co. had been employed by the Shipping Board to make a complete audit of the books of the Bethlehem Shipbuilding Corporation.

This I state only upon hearsay, that when this letter was presented to Mr. Powell there came a certain time when he refused to permit any further of the books to be seen. At any rate, a gentleman who is the vice president of a company which owes the Shipping Board $600,000 has been called in to take charge of the affairs of the board. I think it is a very serious mistake, I do not care how honest Mr. Powell is. I think it would lead to a wrong conclusion, whatever the result might be. It would have to be verified in the mind of every Senator by some one else before we would want to vote upon the result of it; at least it would be so with me, because men are not only controlled by their conscious views and their conscious purposes but they are equally controlled and sometimes more effectively controlled by their unconscious purposes and their unconscious biases and prejudices.

Mr. FLETCHER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Florida?

Mr. BORAH. I yield.

Mr. FLETCHER. I have an impression that the Senator is somewhat in error. I gathered from the testimony submitted to the House committee that Mr. Montgomery had been employed to audit the accounts and make an inventory for the Shipping Board. He had some 40 men under him engaged in that work. Mr. Powell was called in to advise a proper system of accounting and to inaugurate and install a new system; but the actual auditing is being done under Mr. Montgomery's direction. That is my impression.

It is a fact, I think, that the books of the Bethlehem Shipbuilding Co. are being examined by the Shipping Board, and when it was shown that they had spent $603,000, that was their interest in that investigation, and there it stopped. It never has been completed. I think it is also a fact that the Shipping Board itself is under the notion that the Bethlehem Shipbuilding Co. owes the Shipping Board a very considerable sum of money. On the other hand, the Bethlehem people may claim that the Shipping Board owes them something. I think Mr. Powell is advising the system under which they shall open up new books.

Mr. BORAH. I have stated the facts as presented to me. I have the record here, composed of a copy of a letter written to Mr. Powell by the chairman of the board on March 1, 1920, and the testimony of Mr. Lasker, and then I have the statements which have been made to me by a gentleman who professes to know. Out of that I have drawn my conclusions. I may be in error in regard to it. If I am in error, then the record itself is very misleading, because upon that I am speaking.

I am not attempting either to criticize Mr. Lasker or to defend Mr. Lasker. He is a very shrewd, acute business man. However, I wish to say to him from the floor of the Senate that these matters will be up again and again and again, and he will make progress by his employment of men whose association with firms with which the Shipping Board has to deal is such that they stand in that position where they can not be criticized because of those claims. Those matters will finally have to come before Congress and will have to be voted upon before they get the money in the way of settlement. I seriously object to being called upon to affirm an audit or to affirm a settlement which is made by one who may be either consciously or unconsciously controlled by his association with another company.

Mr. FLETCHER. I quite agree with the Senator. I am not finding any fault with his position.

Mr. BORAH. We do not do business that way in everyday life. We do not do business that way with reference to our private concerns. The thing which is demoralizing the Government and depleting the Treasury is that we have a private conscience and we have a public conscience, and they are wholly distinct propositions. The one we use in dealing with our private affairs, the other we employ when appropriating money from the Public Treasury.

Mr. KING. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Utah?

Mr. BORAH. I yield.

Mr. KING. I think the Senator stated the matter a little too favorably to the Shipping Board. The facts are, as I understand, that the Bethlehem Co. had claims against the Shipping Board aggregating $280,000,000. Settlements have been made subject to review and reappraisement, and undoubtedly it will be found, if there is a proper auditation of the account, that there is a great deal of money due from the Bethlehem Co. to the Shipping Board.

Mr. Powell, as I understand, has been appointed to handle the claims. He has been connected with the Bethlehem Co. so that he will be in the attitude, if my information is correct, of passing upon his own claims. Mr. Montgomery and his company have been appointed as new auditors and they have an unlimited field of operation. I shall offer an amendment to limit the appropriation for them to $50,000.

Mr. WARREN. Mr. President——

Mr. BORAH. I yield to the Senator from Wyoming.

Mr. WARREN. Montgomery and his assistants have their work more than half done already, as I understand, and the cost has not yet approached $50,000. It is not expected to go higher perhaps than $75,000 or $100,000. It is contemplated that they shall make an inventory of all the assets which has not been had, and commence the new books of the board and state the basis of the different items and their cost, with also an appraisement of apparent value to-day of the different ships. It is more a matter of inventory, because faulty as the auditing has been heretofore, yet they can bring the data together with the experts whom they have. The main feature of their labor is the inventory which has to be taken in different parts of the world.

Mr. BORAH. Mr. President, I now come to a discussion of another matter and that is the employment of attorneys and the amounts paid and the number of attorneys who have been and apparently are to be employed.

There has been a great deal of criticism of the board in the past and all of it, I think, has been justified. I am, of course, concerned in the past history of the board in the sense that I hope that something can be done yet to remedy some of the evils; that is to say, to gather up something in the way of sal-

vage from the wreckage which they left behind. But after all the thing with which I am primarily concerned is the future. If the men of the past can be made civilly liable or criminally liable, of course it is the duty of those who have charge of that department of the Government connected with these acts to see that that is done, and it ought to be done. But after all is said and done, I am more concerned about the future.

The present board has been in existence less than 60 days. In that time they have employed 21 or 22 attorneys, and the salaries of those attorneys range from $5,000 to $25,000 a year. In the first place, what does that mean? In my judgment it means just the beginning. As the litigation develops, if we are to be controlled by views which have been expressed as controlling the board in expenditures up to this time, we must anticipate that a large number will be employed in the future, in addition to what we already have. We must take into consideration another thing, and that is, I venture to say, that this litigation in some form will be pending for the next 10 years. We know that Government litigation is not settled as litigation between private individuals. It is not the mere employment of these men for a year at the salaries fixed. Whether these particular individuals are the ones who gather them or not, some lawyer at no less salary will be going on and on for the next 3 or 4 or 5 or possibly 10 years in this litigation, and we will have in lawyers' salaries alone, within the next 6 months, the expenses connected with the legal department of this institution in all probability reaching four or five hundred thousand dollars. I have no criticism at all to pass upon the lawyers who are employed. Some of them I happen to know, and those whom I do know I know to be very able lawyers, men of undoubted standing and character in their profession, and men who, no doubt, feel that their services are worth the money which they ask.

But I venture to say that the Government of the United States can not enter into the field which it has entered in this particular instance for the purpose of fixing the salaries of these employees. It is not necessary to do it. Since this employment has become known, and the salaries to be paid are known, I have been approached by two employees of the Government, attorneys in other departments, who pointed out to me the absolute injustice of the proposition, and the work which they had to do and the work which these particular men would have to do.

Furthermore, one of them said, "I do not know of any reason why, if this is to be paid, I should not have the salary, and I should like to be transferred to the Shipping Board."

It has effected, first, the inviting of lawyers to gravitate in that direction; secondly, it naturally raises the salary of every other employee of the Government, if we are going to follow out the rule and be consistent. I know there are a great many lawsuits which are filed against the Shipping Board. As nearly as I can find out, outside of perhaps half a dozen, there is nothing intricate, there is nothing complex, there are no profound questions of law involved in those lawsuits at all. It is largely a matter of honest investigation, lawsuits growing almost entirely out of the question of damages flowing from the violation of contracts, or the repudiation of contracts and taking possession of property, the simplest questions with which a lawyer has to deal, and not requiring any other than reasonable ability, with application and with honesty, to perform the duties devolving upon them.

I would not criticize the Shipping Board had it employed an attorney of pronounced reputation, put him at the head of the legal department, and then permitted him to go forward with the litigation with such assistants as he might have seen fit to choose, but we have here employed—let me read the list of employees to the Senate; it will take only a moment. One attorney at a salary of $25,000; another at a salary of $10,000; a third at a salary of $20,000; a fourth at a salary of $25,000; a fifth at a salary of $5,000; and, as has been said of the last-named gentleman, he is one of the ablest attorneys in the country; he could have very well been placed at the head of this legal department, and under his advice as counsel matters would have been in very much better condition than it seems to me they will be under the present program. Another attorney is employed at a salary of $25,000; another at a salary of $15,000; another at a salary of $15,000; another at a salary of $10,000; another at a salary of $10,000; another at a salary of $7,500; another at a salary of $7,500; another at a salary of $15,000; another at a salary of $10,000; another at a salary of $7,500; another at a salary of $7,500; another at a salary of $7,500; another at a salary of $7,500; another at a salary of $15,000; and another at a salary of $9,500.

Mr. FLETCHER. In addition to that, on the next page the Senator will find that Mr. Schlesinger says he will probably need from 4 to 40 more in connection with the claims division.

Mr. BORAH. Yes; Mr. President.

The Senator from Tennessee [Mr. MCKELLAR] has referred also in a comparative way to the salaries which we pay to other officials. Here is the Chief Justice of the United States, and here also is the Secretary of State. The income of the latter when he was in the practice was probably—I would not know how to estimate it, but it was undoubtedly very large.

Mr. MCKELLAR. Probably ten or twenty times as much as he is now receiving.

Mr. BORAH. Oh, yes; I suppose it must have been, in all probability. I know of one fee from which he got about ten times as much as he is now getting. Men, Mr. President, must take those things into consideration both when they employ for and when they serve the Government.

The Attorney General of the United States, who has supervision of all of the district attorneys in the United States, who has supervision of all the litigation which arises in the United States and in which the Government is concerned, who must appear against the greatest lawyers in the country, receives only $12,000 a year. The district attorneys who are compelled to meet the ablest attorneys at the bar in their respective districts receive, I think, a salary of but four to five or six thousand a year.

Mr. MCKELLAR. Oh, no; they receive very much less than that.

Mr. BORAH. I know that some of them receive less.

Mr. MCKELLAR. A great many of them serve for $4,000 a year and a great many for $4,500, and before they get through many of them become the very best lawyers in the locality.

Mr. BORAH. I was speaking of the highest grade of salaries paid such attorneys. I know some of them get only three or four thousand dollars a year.

Mr. FLETCHER. I think there are very few of them who get any such salary as the Senator from Idaho has indicated.

Mr. MCKELLAR. Very few of them get any such salary.

Mr. BORAH. That may be true. What possible reason can we give either to our constituents, to our conscience, or to the other members of the law profession who are working for the Government in other departments for allowing salaries to these men of $25,000 a year? I have observed since I have been in the Senate that all we have to do in order to create a demand for a general increase of salaries is to increase the salary of some particular officer of some particular department. Pretty soon there will appear some one who will say, "It is unfair to pay this man this salary." Therefore the demand is made not that we should cut his salary down but that we should raise other salaries in proportion; and there is no answer to that proposition, because the Government must certainly deal fairly with all its employees. So I have no doubt at all that if these salaries are fixed at $10,000 or $12,000 a year we shall find men who are perfectly capable and perfectly willing to take charge of this matter and to deal with it successfully for the interests of the Government. I am therefore, Mr. President, entirely in favor of the amendment offered by the Senator from Mississippi [Mr. HARRISON].

There is just one other matter which has already been referred to, and therefore I will only refer to it briefly. We are permitting the Shipping Board to enter into the wholesale employment of attorneys and to fix the salaries themselves. It is a precedent which we ought not to establish. We ought to fix these salaries by act of Congress. We are responsible to the taxpayers; we are responsible to the Government. The taxpayer has no one else to look to, so far as the appropriation of money from the Treasury is concerned, except the Congress of the United States. We should not shift the responsibility to those who are not directly responsible to the people.

Mr. POMERENE. Mr. President——

Mr. BORAH. I yield.

Mr. POMERENE. I have been listening with a good deal of interest to what the Senator from Idaho has had to say with regard to the employment of this very large number of lawyers; but the Senator's remarks have been limited to the legal staff. Is the Senator able to say whether the other branches of the service are or are not weighted down in the same way by men with large salaries—such as the accounting department?

Mr. BORAH. I said a while ago that I had not been able to secure a statement of the salaries which are now being paid for the running of this institution. I do not believe that it is accessible. Of course, naturally it would not be, because we are appropriating lump sums and are delegating to the Shipping Board authority to employ and to pay as in their discretion they may see fit. Therefore from day to day no man knoweth what is going to happen.

Mr. POMERENE. I think the committee did an admirable thing in getting this list of lawyers, and so forth, but it

seems to me it would have been more admirable if it had obtained a complete list of the staff with their salaries. I refer to this especially because of some little experience our committee had in the railroad problem. We were told of the wonderful savings by cutting off certain large salaries, but when we got the full information we found that the other salaries had been very largely increased, so that there was not very much of a saving after all.

Mr. BORAH. What I wish to impress upon my colleagues if I can is that the responsibility is here. We can not shift the responsibility for these high salaries on the Shipping Board; the responsibility is on us, and we will not be able to escape the responsibility either here or hereafter.

Neither is it any defense, Mr. President, that high salaries were paid by the Railroad Administration; neither is it any defense that, through juggling, as has been stated, high salaries were paid previously by the Shipping Board. I have the record here before me of the resolution which was required to be passed in order to enable a man to draw three salaries under the Shipping Board in the past. By drawing three salaries he could get much more than is proposed perhaps to pay any one individual now; but that is absolutely no defense at this time. We can not cite one wrong in the past to justify a wrong in the present. The responsibility is here now to stop it. We know; we are informed; the facts are here; Mr. Schlesinger has been candid enough to tell us what he is doing, and he has put a responsibility upon us which we can not evade.

My attention has been called by the Senator from California [Mr. SHORTRIDGE] to a statement in the testimony before the House. Mr. BUCHANAN asked:

> Do you think this list is halfway through?

This quotation immediately follows the recitation as to the employees in the legal department:

> Mr. SCHLESINGER. I do not; it depends somewhat upon future conditions.

He says he does not think it is halfway through.

Mr. President, it has been said here that there is no politics in this matter; but there will be a vast amount of politics in it six months from now, and the party in power will be the party which will have to respond. We will have to defend this, because, whether there is any politics in it in the Senate Chamber or not, there will be all kinds of politics in it when we get into the open field and are asking for the reelection of a Republican Congress. It is well that it is so. I do not know what would become of the Treasury of the United States if there were not a majority and a minority party always on hand. This proposal can not be defended before any audience before which we will be compelled to go. Generalizations with reference to economy—material which is being put out from day to day along that line—will not have a particle of effect with the man who reads of the employment of $25,000-a-year attorneys, there being 20 of them now with salaries ranging up to that figure, and, perhaps, by the time the campaign is on the number will be 50. Here is a simple, concrete proposition, which any lay mind may understand.

If I thought that this were absolutely necessary, I might be able to stand here and conjure up some reason; but I know that if we fix the salary at $10,000, in 30 days from now the Government will have just as able lawyers filling these positions as they have to-day; and that is no reflection upon the very able men who fill those places now.

The Senator from Indiana [Mr. NEW] asked how can we expect these men to confront such men as Mr. Wickersham and other gentlemen who have an income of $100,000 or $200,000 or $300,000 a year from their profession. Mr. President, Mr. Wickersham devoted his talents for four years to the Government for $12,000 a year; he did not expect the Government to pay him what he could get from the commercial corporations of New York. Such a thing is not expected, and it is a rule that we could never adopt. Does not the Attorney General of the United States have to try lawsuits against Mr. Wickersham? Does not the district attorney of the State of New York almost every day try cases against Mr. Wickersham and against other attorneys of distinguished ability? If legal employees of the Shipping Board must be paid $25,000 a year for meeting Mr. Wickersham, what must we in justice pay the district attorneys who must try cases against Mr. Wickersham? Mr. Wickersham did not expect $25,000 a year when he came here, and served the Government; and he did not get it.

Mr. McCORMICK. Mr. President, may I interrupt the Senator?

Mr. BORAH. Yes.

Mr. McCORMICK. Mr. Wickersham secured a place in the Cabinet.

Mr. BORAH. Yes; he secured a place in the Cabinet; he was Attorney General of the United States. I presume the Senator from Illinois thinks that the honor was a part of the compensation of the office?

Mr. McCORMICK. Yes.

Mr. BORAH. I think every man who serves the Government of the United States must conclude that he must take part of his pay in honor. I know of men here in the Senate whose income in the legal profession ranged all the way from $20,000 to $300,000 a year, who have entered the Senate and who are contributing their time and services to the Government for $7,500 a year.

Mr. HITCHCOCK and Mr. REED addressed the Chair.

The PRESIDING OFFICER (Mr. CURTIS in the chair). Does the Senator from Idaho yield, and to whom?

Mr. BORAH. I yield first to the Senator from Nebraska. Then I will yield to the Senator from Missouri.

Mr. HITCHCOCK. I call the Senator's attention to the fact that there have been a number of conspicuous instances in which men holding very much more humble positions than those referred to have rendered very effective service to the Government. I think one of the most striking illustrations of a valuable service rendered was in the settlement of something like $2,000,000,000 of claims against the War Department by a number of men sitting upon boards who effected compromises, so that the amount finally paid on those claims was a very small fraction of the $2,000,000,000 claimed. Those men did not get great salaries. They took pride in doing the work that they were set to do, and I think the settlement of those claims was a very good illustration of what might be attempted by this board in the settlement of the $300,000,000 of shipping claims against the Government.

Mr. BORAH. I now yield to the Senator from Missouri.

Mr. REED. Mr. President, I just wanted to ask the Senator if he had aggregated the amounts of these salaries? Can he give me the aggregate?

Mr. BORAH. No; I have not aggregated them. I have the figures here before me, but I have not added them. I started in to do it.

Mr. REED. I can get an adding machine and find out, but I thought, perhaps, the Senator had already done it.

Mr. BORAH. I started to do so, but I did not get through.

Speaking of the matter of honor in connection with this service, I can not conceive of any greater honor attaching to a profession than for a lawyer to take charge of this matter and ferret out the wrongdoing of the past and prevent the wrongdoing of the future and settle those claims, if he can do so, in a successful and efficient way. So far as honor is concerned, he would have quite as much honor as would a man sitting in the Cabinet.

Mr. REED. Mr. President, I asked the question as to the aggregate of salaries paid to these attorneys seriously because I wanted to follow it by this question: How does the aggregate of these salaries compare with the salaries which are paid by large shipping companies for their legal services, if the Senator has that information.

Mr. BORAH. I have not made the comparison, neither have I aggregated the figures, but I can give to the Senator from Missouri the figures.

Mr. REED. I shall be glad to add them. I heard them.

Mr. KING. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Utah?

Mr. REED. I do.

Mr. KING. A few moments ago I interrupted the Senator from Idaho, and I think I inadvertently did an injustice to Mr. Powell. That is to say, I assigned to him a position in the new administration, which Mr. Lasker is building up, which he will not occupy. I stated that Mr. Powell would be the head of the claims department, and therefore would be in a position to pass upon claims of the Bethlehem Co., with which he was connected or had been identified. Upon reading the record I discover that I was in error. Mr. Powell will hold the position of the head of the Finance and Accounting Division of the Shipping Board. He will have to do with the preparation of the defense of the Government against the claims which are presented and will have to do with presenting claims which the Government may have against those with whom it has dealt, either as counterclaims or as original claims.

The fact is that Judge Means, of Ohio, is the head of the Claims Board, with a salary of $17,500. Mr. Homer Ferguson is also a member of the Claims Board. He is president of the Newport News Shipbuilding & Drydock Co. and has had claims of large sums against the Shipping Board. He was also interested in a housing proposition which cost $4,000,000.

Mr. Fred W. Wood, also a shipbuilder, who has had claims against the Government, receives $15,000 as a member of the Claims Board.

Mr. Teal, an accountant, receives $15,000.

Let me say, Mr. President, that more than $200,000,000 have been overpaid, as I am advised. The settlements which were made were all made subject to final accounting, and the claim is made by some of the officials of the Shipping Board that there will be recovered back from those to whom payments have been made approximately $200,000,000. So Mr. Ferguson and Mr. Wood and Mr. Powell will have to do with the settlement of the claims against their own companies or companies with which they have been identified.

Mr. REED. Mr. President, I merely wish to make a remark.

I have heard it urged during the course of this debate that this situation is not so bad because there was a very bad situation at some other time. That argument, in effect, is made here in the Senate almost every time attention is called to some wrong.

I am not here to defend any wrongs of the past; but the existence of a prior wrong, instead of affording a precedent for its repetition, ought to afford a warning against its repetition. It is no defense to waste of money at the present to say that money was wasted in the past. That is all the more reason why we should begin to stop the wastes of the present.

As to the wastes of the past, some of them may not be excused but may be palliated by the circumstance that we were engaged in a great war, when everything had to be done in extreme haste, when it was impossible always to select the best agencies, when in the hurly-burly of the strife and excitement of the hour things were done which would not be done under ordinary circumstances. I do not say that, I repeat, to excuse, but it is a circumstance to be taken into consideration in palliation. Now, however, we have reached a time when we are settling for the tremendous cost of the war, when business rules and business sense must be applied, when the taxpayers are being burdened so that they are crying out on every hand; and it is now our duty to cut, I will not say to the bone, but at least to the line of absolute justice and economy in all matters concerning the Government.

I will add this, though I have talked longer than I intended: The list of salaries read here to-day is simply appalling.

Every man familiar with the conduct of large affairs knows that it is a rare thing for an attorney who is in charge of all the litigation that may ensue to be paid a salary of $25,000 a year, and in cases where such salaries are paid it may be stated, almost without exception, that they are paid simply to one man who is the head of a legal department. He passes upon great fundamental propositions, and then a corps of lawyers working for moderate stipends do the actual grubbing that is necessary. It is so with our great railroads. I think it is so with our great steamship lines. It is so with the greatest institutions there are in the land. If we are to have this kind of management, then we might just as well understand that everything the Government attempts to do in a business way is foredoomed to failure.

I do not want to say a harsh thing, but it seems to me that this salary list is in itself conclusive evidence of the incapacity of the men charged with this work. The doctrine res ipse loquitur applies. The thing speaks for itself. There ought to be now a complete house cleaning, and every man responsible for that salary list ought to be retired to private life.

Mr. McKELLAR. Mr. President, some question was made a few moments ago about the salaries of the various district attorneys of the United States who have the actual management of litigation in court. I have the law—section 1419 of the United States Compiled Statutes of 1918—which gives the salary of every district attorney in the United States, and I ask unanimous consent to insert it in the RECORD as a part of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McKELLAR. This section shows that the average salary paid to the district attorneys in the United States is less than the sum of $4,000, and those district attorneys come in contact with and have to fight the very best lawyers in the United States, regardless of who they are or where they come from.

The matter referred to is as follows:

SEC. 1419. District attorneys; salaries: The United States district attorney for each of the following judicial districts of the United States shall be paid in lieu of the salaries, fees, per cents, and other compensations now allowed by law an annual salary as follows: For the northern and middle districts of the State of Alabama, each $4,000; for the southern district of the State of Alabama, $3,000; for the Territory of Arizona, $4,000; for the eastern district of Arkansas, $4,000; for the western district of Arkansas, $5,000; for the northern district of California, $4,500; for the southern district of California, $3,500; for the district of Colorado, $4,000; for the district of Connecticut, $2,500; for the district of Delaware, $2,000; for the northern district of Florida, $3,500; for the southern district of Florida, $3,500; for the northern district of Georgia, $5,000; for the southern district of Georgia, $3,500; for the district of Idaho, $3,000; for the northern district of Illinois, $5,000; for the southern district of Illinois, $5,000; for the district of Indiana, $5,000; for the northern and southern districts of Iowa, each $4,500; for the district of Kansas, $4,500; for the district of Kentucky, $5,000; for the eastern district of Louisiana, $3,500; for the western district of Louisiana, $2,500; for the district of Maine, $3,000; for the district of Maryland, $4,000; for the district of Massachusetts, $5,000; for the eastern district of Michigan, $4,000; for the western district of Michigan, $3,500; for the district of Minnesota, $4,000; for the northern and southern districts of Mississippi, each $3,500; for the eastern district of Missouri, $4,500; for the western district of Missouri, $4,500; for the district of Montana, $4,000; for the district of Nebraska, $4,000; for the district of Nevada, $3,000; for the district of New Hampshire, $2,000; for the district of New Jersey, $3,000; for the district of New Mexico, $4,000; for the northern district of New York, $4,500; for the eastern district of New York, $4,500; for the eastern district of North Carolina, $4,000; for the western district of North Carolina, $4,500; for the district of North Dakota, $4,000; for the northern and southern districts of Ohio, each $4,500; for the district of Oklahoma, $5,000; for the district of Oregon, $4,500; for the eastern district of Pennsylvania, $4,500; for the western district of Pennsylvania, $4,500; for the district of Rhode Island, $2,500; for the eastern and western districts of South Carolina, $4,500, $2,500 of which shall be for the performance of the duties of district attorney for the western district; for the district of South Dakota, $4,000; for the eastern, middle, and western districts of Tennessee, each $4,500; for the northern district of Texas, $3,500; for the eastern district of Texas, $5,000; for the western district of Texas, $4,000; for the district of Utah, $4,000; for the district of Vermont, $3,000; for the eastern district of Virginia, $4,000; for the western district of Virginia, $4,500; for the district of Washington, $4,500; for the district of West Virginia, $4,500; for the eastern district of Wisconsin, $4,000; for the western district of Wisconsin, $4,000; for the district of Wyoming, $4,000. (May 28, 1896, c. 252, sec. 7, 29 Stat., 180.)

Mr. HARRISON. Does the Senator propose to have the Senate vote on this amendment and the bill to-night?

Mr. WARREN. Mr. President, I want to close the consideration of the bill to-night, if possible, and of course the pending question is on the amendment which has been discussed now for three days, the Senator's amendment. Of course, we have delays, and we will have to go into conference. If the Senator's amendment should be agreed to, we will be in some confusion about the conference. If the Senator, instead of making his motion as he did, had asked the Senate to agree to the House proviso, by disagreeing to the amendment of the committee proposing to strike it out, and if thereupon the Senate had voted that way, there would be no conference on that portion of the bill, so that we might not interfere with the recess.

Mr. HARRISON. Mr. President, I desire to make a statement so that no Senator will be in doubt as to how he is voting. When this bill passed the House the House by a very large majority adopted an amendment to the provision appropriating $48,500,000 for the Shipping Board. That amendment was in the form of a proviso that not more than three officers or employees in the United States Shipping Board should be paid an annual salary or compensation in excess of $12,500. So a large majority of the House felt that these salaries were exorbitant and excessive, and they placed the proviso in the bill.

I was premature yesterday in my congratulation of the chairman of the Committee on Appropriations of the Senate. I am sorry the senior Senator from Utah [Mr. SMOOT], who always stands on guard, trying to protect the Treasury of the United States, is not in the Chamber; but I would call the attention of Senators to the fact that he has been conspicuously absent during the entire consideration of this bill. I understand he is on a committee working somewhere, but if he wanted to render a real service now he should come to the assistance of those of us who are trying to economize in cutting down some of these high salaries. Perhaps he is away trying to fire some of these girls and men who are getting $1,000 and $1,200 a year, so that he can have enough left to pay these $35,000 a year salaries.

Mr. WARREN. Mr. President, in the absence of the Senator from Utah I wish to say, first, that he is a member of the Finance Committee, which is, I might say, in pretty close confinement in their work, as the Senator from Mississippi knows.

Mr. HARRISON. Yes.

Mr. WARREN. I will say, furthermore, that the chairman of the Committee on Appropriations, when this particular bill was before us, departed, perhaps, from the custom and invited all the members of the committee to be present in the hearings and in the consideration of the measure; and I may say that the Senator from Utah was there and the action of the committee was unanimous. I think I ought to say that, as he is not present.

Mr. HARRISON. I have already offered excuses for the senior Senator from Utah, because I knew he was engaged elsewhere. I was just suggesting that I regretted that he was not here to help us out in this fight for economy.

I said I had prematurely congratulated the chairman of the Committee on Appropriations. I was congratulating him because he had assisted in cutting down this appropriation from $100,000, as requested by Mr. Lasker, to $48,500.

Mr. WARREN. The Senator means millions.

Mr. HARRISON. Yes; thousands have no place in a discussion when it comes to appropriation bills. But why the Committee on Appropriations of the Senate should have eliminated the proviso that was adopted by the House I can not understand for the life of me, unless they are of the same opinion that Mr. Lasker is. It may be that President Harding communicated to the Appropriations Committee before he communicated to the Senate on Saturday to stand by Mr. Lasker.

Mr. WARREN. While the Senator is dealing with that, I desire to say I have had no communication whatever with the President. I do not know about the other members of the committee, but I doubt if any of them have had any communication with him, except the letter which has been made public and printed in the RECORD.

Mr. HARRISON. I am glad the President has not communicated with you and asked you not to put in that proviso; but he has communicated with you now. He has communicated with the Senate, and he has indorsed what Lasker has done. He has suggested to the Senate that we ought to cooperate with Lasker and make the appropriations which Lasker has suggested to the committee. Indeed, he has gone further than I thought perhaps he had done to the Appropriations Committee, because I had thought that maybe he called attention merely to this proviso, which allowed the appointment of three men drawing salaries in excess of $12,500, but what he has requested now in his letter to the Senate is for the appointment, not of 3 but perhaps 50 men at $35,000, or $25,000, or $15,000. There is no limit to the proposition. He has asked you in his letter to do what Lasker has asked you to do, and they have gone up and employed some law firms, without fixing fees, and they say that they think Congress will be pretty well satisfied when they hear about it.

But I doubt whether you will ever pay the amounts which they suggest to you to pay when the time comes. So I say the President has indorsed the payment of $35,000 to three men in the Shipping Board, has indorsed $25,000 to Jones and $9,500 to this man Gaines, who perhaps has not tried a lawsuit in 10 years, and who left Congress some 12 years ago. All he did as attorney for the board was to come to Congress and appear before the Committee on the Merchant Marine and Fisheries of the House and the Commerce Committee of the Senate and draw up a bill or two, perhaps, for the Shipping Board. So the President has indorsed all those things, and, in addition to that, the employment of firms of lawyers to defend suits, without fixing a fee on the part of the Government or the Shipping Board. There is part of the letter of the President. I am certain he wrote it, and writing such letters seems to be the order of the day. We can not get a little bill before Congress, no matter how small it is, without your getting word from the White House what to do. Talk about Executive interference. I do not hear my distinguished friend from Illinois [Mr. MCCORMICK] talking about Executive interference any more. They once upon a time waxed eloquent in criticizing one President about coming here and asking the Congress to do something.

Mr. McCORMICK. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Illinois?

Mr. HARRISON. I gladly yield to my friend.

Mr. McCORMICK. I recall to the Senator from Mississippi that at that time his ears were deaf to my appeals to stand fast against the Executive's attempt to surrender the liberties of the Republic.

Mr. MOSES. Mr. President——

Mr. HARRISON. And now the Senator's ears are deaf to my appeals. But I will say this to the Senator: The President I have in mind never came to Congress and asked us to indorse a proposition when conditions were such as they are in this country to-day—with 6,000,000 men out of employment and farmers not able to sell their products, men working at low wages and being reduced everywhere, asking us to pay salaries of $35,000 and $25,000 a year.

Mr. McCORMICK. Mr. President, under the last administration, as the Senator will recall, salaries of $50,000, $40,000, $35,000, and 10 of them of $25,000 were paid in one department without ever consulting Congress directly or indirectly—salaries fixed before any news of them had come to the Capitol.

Mr. HARRISON. I heard the Senator state that this morning. I heard the Senator refer to the Railroad Administration, and the Senator knows, and every Senator present knows, that when the Government took over the railroads and Mr. McAdoo became the director of the railroads every railroad in the country retained their own officers at their own salaries, and Mr. McAdoo time after time eliminated certain high offices in the railroads and cut down some of the salaries. The railroads were paying them themselves, and that is one of the things the Senator voted for when he voted for the railroad law, and he stands ready now to vote $500,000,000 more to the railroads.

Mr. McCORMICK and Mr. MCKELLAR addressed the Chair.

The PRESIDING OFFICER. Does the Senator yield; and if so, to whom?

Mr. HARRISON. I yield first to the Senator from Illinois.

Mr. McCORMICK. Mr. President, the railroads themselves did not pay the salaries of the regional directors or the other officers to whom I have referred. Their salaries were fixed not by the railroads but by the administration, and paid by appropriations from Congress.

Mr. HARRISON. Does the Senator state that when the Government took over these railroads the same high officers in the railroads were not retained in some instances, and that they had been receiving those salaries before that from the railroads?

Mr. McCORMICK. Mr. President, it was stated by one of the Senator's colleagues on the other side this morning that, great as those salaries were fixed by the head of the Railroad Administration, they were less than the salaries which those men earned as servants of the railroad companies before the Railroad Administration came into being.

Mr. HARRISON. So they were reduced?

Mr. McCORMICK. They were reduced.

Mr. HARRISON. What are you kicking about? They did pretty well. They reduced the salaries, then.

Mr. McCORMICK. They were reduced. I am not complaining, Mr. President. It is the Senator from Mississippi who is complaining.

Mr. HARRISON. If they had had Lasker as director they would have been increased instead of decreased.

Mr. McCORMICK. Mr. President, I say that the salaries proposed to be paid under the Shipping Board have been decreased in the same or greater proportion than were the salaries of the Railroad Administration, and I say, furthermore, whether in size or in number, they are not as great as those paid under the Railroad Administration.

Mr. MOSES. Mr. President——

Mr. HARRISON. I will yield in a moment. The Senator has borne out exactly what I had in mind, that under Mr. McAdoo, the Director of Railroads, the salaries were decreased, and many of the high officers were eliminated. So I thank the Senator for his contribution. Now I yield to the Senator from New Hampshire.

Mr. MOSES. Mr. President, I am sorry that in the last few minutes the debate has drifted away from the method to the question of money. I wish to call the attention of the Senator from Mississippi to the fact that the present President, against whom he inveighs, when he has anything to say to Congress, comes up here and says it with his own lips, or sends it here in a letter over his own signature, while the former President, whom the Senator from Mississippi is defending, used to communicate with Congress over the telephone, and the voice was the voice of Mr. Tumulty.

Mr. McKELLAR. Mr. President, I want to call the attention of the Senator from Mississippi and of the Senate to the fact that when Mr. McAdoo was Director General of Railroads, whenever he employed a railroad man for the Government he never paid him as much salary as he received from the railroad. He reduced the salary every time.

Mr. McCORMICK. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Illinois?

Mr. HARRISON. I yield.

Mr. McCORMICK. The Senator from Tennessee does not mean to imply that the head of the Shipping Board has increased the salaries of his executives over what they were earning before?

Mr. McKELLAR. I most assuredly do. He employed one of the gentlemen, I believe it was Mr. Frey. During the war, when the salaries were high, as I recollect, Mr. Frey received $6,500 a year, and I think he is now paying Mr. Frey $35,000. I think that is a very considerable increase.

Mr. McCORMICK. The Senator was comparing the salaries with what the executives earned in private life.

Mr. McKELLAR. If the Senator will yield once more——

Mr. HARRISON. I yield.

Mr. McKELLAR. One of these gentlemen—I do not remember which one of them, but one of the three—went into business with a Los Angeles shipping company and made a complete fail-

ure of it, and he is now getting a salary several times as large as the one he got when he was a member of the Shipping Board before.

Mr. HARRISON. Why, Mr. Frey is now to receive $25,0000 a year, although he received only $6,500 from the Emergency Fleet Corporation. Mr. Smull, who is to receive $35,000 a year at the suggestion of Mr. Lasker, worked for the Emergency Fleet Corporation for $6,500 a year. Mr. Freund, who is to receive $15,000 a year, worked for the Railroad Administration and received only $9,000 a year. Mr. Laws, a young man who graduated in 1913, and received $2,500 a year under the Department of Justice, is to receive $10,000 a year. Down the list they go. I shall not take up the time of the Senate, because I can not believe that Senators will under the present circumstances vote these outrageous and exorbitant and excessive salaries.

Mr. WATSON of Georgia. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Georgia?

Mr. HARRISON. Certainly.

Mr. WATSON of Georgia. It seems to me that this debate is about to make the Senate a sort of employment bureau. As the remarks of Senators are partly reminiscent and partly denunciatory and partly in mitigation of sentences which are to be imposed upon them in the future, the situation seems to be that the pot is doing its very best to prove the kettle black, and the kettle is doing its very best to make the pot black. It is very interesting to a tyro, a newcomer to the Senate, to listen to this debate, Is the Democratic pot blacker than the Republican kettle?

Mr. HARRISON. The pot I am talking about right now is pretty black.

Some of the Senators were not here Saturday when this letter came in. Of course, the Senator from New Hampshire [Mr. MOSES] said the President comes down to confer with Congress, but he did not do so in this instance.

Do you Senators remember that it was just a few weeks ago you had promised to give to the soldiers of the World War adjusted compensation for those who worked for $30 a month, nearly 4,000,000 of them? The President then came and said that was too high, that they were not entitled to it at this time, and you took him at his word and defeated that bill. How do you think it is going to sit with those boys who were turned down, who received only $30 a month for fighting for their country and defending it in war, when they see the President coming here and saying to you, "Men, vote $35,000 a year to Smull, vote $35,000 a year to Love. It makes no difference that they received only $6,500 each at one time; I want you to help Mr. Lasker out of his troubles, because he is inheriting a lot of them. He is doing his best. He is a capable man." I do not know whether he ever saw a ship until he was appointed chairman of the Shipping Board. I understand he was a good advertising man and made a lot of money out of it.

What is the purpose of the Shipping Board, the members of which are to receive $10,000 a year? They are distinguished men. For what are they appointed? What are their duties? Did we not think they could run this proposition efficiently; that they were capable business men? Why is it necessary to go out in order to make a success and employ men at $35,000 a year and $25,000 a year?

Go to it, Republicans; vote for it. You have got to go on record about it. Go back to the boys and tell them how you turned them down and voted this $35,000 salary to these men, for these fellows who are to be taken care of in the Shipping Board, an ex-United States Senator getting $5,000 merely for advising the general counsel, and his former law partner getting $15,000. That is the kind of appointments they have made.

Mr. President, if my amendment is voted down, which reads that no officer or employee shall receive compensation in excess of the rate of $12,000 a year, I shall offer another amendment. The House amendment has a loophole in it. They can go out and employ special counsel and pay them $50,000 during a year because it will not be annual salary. If my amendment is agreed to, it will prevent them from employing anyone on a salary at a rate in excess of $12,000 a year. If my amendment is defeated, then I am going to offer another amendment providing that they can not employ more than one man up there at a salary in excess of $12,000 a year. Then if that is defeated, I shall offer an amendment providing for not more than two men at such a salary; and if that is voted down, I shall keep on, and we will stay here quite a while trying to get something out of this proposition.

Mr. REED. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Missouri will state it.

Mr. REED. Is an amendment to the amendment in order?

The PRESIDING OFFICER. It is not in order at this time.

Mr. REED. I have been absent from the Chamber, and was unacquainted with the situation. I desired to offer an amendment to the amendment.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Mississippi [Mr. HARRISON] to the amendment of the committee.

Mr. HARRISON. On that I demand the yeas and nays.

The yeas and nays were ordered, and the Assistant Secretary proceeded to call the roll.

Mr. CARAWAY (when his name was called). I have a general pair with the junior Senator from Illinois [Mr. MCKINLEY]. I transfer that pair to the senior Senator from Texas [Mr. CULBERSON] and vote "yea."

Mr. EDGE (when his name was called). I have a general pair with the senior Senator from Oklahoma [Mr. OWEN]. I transfer that pair to the junior Senator from Arizona [Mr. CAMERON] and vote "nay."

Mr. FLETCHER (when his name was called). I have a general pair with the senior Senator from Delaware [Mr. BALL]. He is absent, and I therefore withhold my vote.

Mr. FRELINGHUYSEN (when his name was called). I transfer my pair with the junior Senator from Montana [Mr. WALSH] to the junior Senator from Maryland [Mr. WELLER] and vote "nay."

Mr. HARRISON (when his name was called). I have a general pair with the junior Senator from West Virginia [Mr. ELKINS]. I transfer that pair to the senior Senator from Nevada [Mr. PITTMAN] and vote "yea."

Mr. LODGE (when his name was called). I have a general pair with the senior Senator from Alabama [Mr. UNDERWOOD]. I transfer my pair to the junior Senator from Vermont [Mr. PAGE] and vote "nay."

Mr. MCCORMICK (when his name was called). I have a standing pair with the junior Senator from Wyoming [Mr. KENDRICK], which I transfer to the junior Senator from Oregon [Mr. STANFIELD] and vote "nay."

Mr. MCNARY (when his name was called). On this matter I have a pair with the junior Senator from South Carolina [Mr. DIAL]. Not knowing how he would vote I withhold my vote.

Mr. WARREN (when his name was called). I have a pair with the Senator from North Carolina [Mr. OVERMAN]. I transfer that pair to the Senator from California [Mr. JOHNSON] and vote "nay."

The roll call was concluded.

Mr. HALE. I transfer my pair with the senior Senator from Tennessee [Mr. SHIELDS] to the junior Senator from New Hampshire [Mr. KEYES] and vote "nay."

Mr. KELLOGG. I have a general pair with the senior Senator from North Carolina [Mr. SIMMONS]. In his absence I withhold my vote. If permitted to vote, I would vote "nay."

Mr. STERLING. I have a general pair with the Senator from South Carolina [Mr. SMITH]. I transfer that pair to the senior Senator from Iowa [Mr. CUMMINS] and vote "nay."

Mr. SUTHERLAND. I have a general pair with the senior Senator from Arkansas [Mr. ROBINSON]. He is absent, and I am unable to obtain a pair. I therefore withhold my vote.

Mr. GLASS (after having voted in the affirmative). May I inquire if the senior Senator from Vermont [Mr. DILLINGHAM] has voted?

The PRESIDING OFFICER. That Senator has not voted.

Mr. GLASS. I have a general pair with the senior Senator from Vermont. In his absence I shall have to withdraw my vote.

Mr. KELLOGG. I transfer my pair, just announced, to the junior Senator from Delaware [Mr. DU PONT] and vote "nay."

The result was announced—yeas 24, nays 32, as follows:

YEAS—24.

Ashurst	Heflin	La Follette	Sheppard
Borah	Hitchcock	McCumber	Stanley
Broussard	Jones, N. Mex.	McKellar	Swanson
Caraway	Kenyon	Myers	Trammell
Gooding	King	Pomerene	Walsh, Mass.
Harrison	Ladd	Reed	Watson, Ga.

NAYS—32.

Brandegee	Harreld	New	Spencer
Capper	Jones, Wash.	Newberry	Sterling
Curtis	Kellogg	Nicholson	Townsend
Edge	Lodge	Norbeck	Wadsworth
Ernst	McCormick	Oddie	Warren
Fernald	McLean	Phipps	Watson, Ind.
Frelinghuysen	Moses	Poindexter	Weller
Hale	Nelson	Smoot	Willis

NOT VOTING—40.

Ball	Elkins	Lenroot	Robinson
Bursum	Fletcher	McKinley	Shields
Calder	France	McNary	Shortridge
Cameron	Gerry	Norris	Simmons
Colt	Glass	Overman	Smith
Culberson	Harris	Owen	Stanfield
Cummins	Johnson	Page	Sutherland
Dial	Kendrick	Penrose	Underwood
Dillingham	Keyes	Pittman	Walsh, Mont.
du Pont	Knox	Ransdell	Williams

So Mr. HARRISON's amendment to the amendment of the committee was rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the committee.

Mr. HARRISON. Mr. President, I offer the following amendment in lieu of the committee amendment, beginning in line 21, on page 2:

That not more than one officer or employee of the United States Shipping Board or the United States Shipping Board Emergency Fleet Corporation shall be paid an annual salary or compensation at a rate in excess of $12,000 a year.

The PRESIDING OFFICER. The Secretary will state the amendment.

Mr. WARREN. Mr. President, the Chair stated that the question was on the amendment of the committee.

The PRESIDING OFFICER. It is now on the amendment of the Senator from Mississippi to the amendment of the committee.

Mr. WARREN. I know, but the amendment offered by the committee is to strike out the language to which the Senator from Mississippi proposes an amendment.

Mr. HARRISON. I have offered my amendment to the proviso which is proposed to be stricken out by the Senate Committee on Appropriations.

Mr. WARREN. Will the Senator state his amendment?

The PRESIDING OFFICER. The Secretary will state the amendment in a moment.

Mr. HARRISON. The amendment merely provides that a salary in excess of $12,000 a year shall not be paid to more than one officer or employee of the United States Shipping Board or the United States Shipping Board Emergency Fleet Corporation.

The PRESIDING OFFICER. Will the Senator again state his amendment to the amendment?

Mr. HARRISON. The amendment which I propose reads:

Provided, That not more than one officer or employee of the United States Shipping Board or the United States Shipping Board Emergency Fleet Corporation shall be paid an annual salary or compensation at a rate in excess of $12,000 a year.

Mr. WARREN. The Senate committee amendment was to leave out that entire matter. The proposition of the Senator from Mississippi is to amend the Senate committee amendment.

Mr. HARRISON. I am proposing to amend the House proviso, which is reported to be stricken out by the Senate committee itself. The amendment which I now offer is exactly in the same form as my other amendment, except I merely change a word. I should like now to have the amendment to the amendment stated.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The ASSISTANT SECRETARY. In lieu of the words proposed to be stricken out by the committee it is proposed to insert the following:

Provided further, That not more than one officer or employee of the United States Shipping Board or the United States Shipping Board Emergency Fleet Corporation shall be paid an annual salary or compensation at a rate in excess of $12,000.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Mississippi to the amendment of the committee.

Mr. HARRISON. Mr. President, so many Senators on the other side of the aisle seemed first to vote "yea" and then changed their vote from "yea" to "nay" that it gives me encouragement to believe that they might vote "yea" on this amendment.

I have offered the amendment because Mr. Lasker in his testimony said that for 12 days and 12 nights, I believe it was, he was in conference with Mr. Smull—one of the gentlemen who are receiving $35,000 a year, but who at one time received only $6,500 a year from the Emergency Fleet Corporation—in order to induce him to take the position. Mr. Lasker said it was absolutely necessary to have Mr. Smull, and told him that the entire success of the merchant marine depended on his taking the job. So this amendment of mine, if adopted, will allow Mr. Lasker to have Mr. Smull and the merchant marine of our country may be maintained. I, therefore, hope that the amendment may be adopted. I ask for the yeas and nays on the amendment to the amendment.

Mr. WARREN. I hope the amendment to the amendment will not be adopted.

The yeas and nays were ordered.

Mr. LA FOLLETTE. Mr. President, I wish to turn aside for a moment from the beaten track of the discussion upon this particular amendment, and that which preceded it, to discuss what I regard as a very vital question relative to the legislative prerogatives of the Senate and the House of Representatives. The Senator from Mississippi [Mr. HARRISON], in his argument, just before the vote was taken upon the amendment, referred to the obtrusion of the President into the Senate when the soldiers' bonus bill was pending. The President's action upon that occasion I regard as a direct and unconstitutional interference with the legislative duties of Congress. The reading of a letter from the President upon this bill addressed to a Member of the Senate, which could have no other purpose than to influence Members of this branch of Congress in their deliberations upon this pending legislation, makes what I have to say at this time especially pertinent. It is, evidently, becoming a habit with President Harding to take part in the debates upon pending measures.

On July 12 the United States Senate in regular session was proceeding with the discussion of the bill to provide adjusted compensation for the veterans of the World War.

Without previous official announcement that the President was to come before the Senate and participate in its deliberations, the senior Senator from Massachusetts [Mr. LODGE] moved the appointment of a committee of two to escort the President of the United States into the Senate Chamber. The motion carried. The committee was appointed. Immediately it retired from the Senate Chamber, and in a moment returned with the President of the United States. The President then proceeded to deliver a speech in opposition to the passage of the bill then pending. It was manifest that the whole affair had been arranged between the President and a few Senators, that he should be brought into the debate upon the bill to prevent its passage in the Senate. This proceeding, Mr. President, was without authority under the Constitution and is supported by no precedent in the history of our Government.

In the wisdom of the founders of this Republic it was deemed vital to the preservation of our liberties that the executive power of the Government should be lodged with the President and that the legislative power of the Government should be vested in Congress. They provided that the President should have the right to give to Congress information on the state of the Union and recommend—mark you, recommend—legislation to its consideration; but they were careful to withhold from him any express or implied authority to oppose legislation in the making or to participate in the deliberations and debate of either House on a pending measure. They specifically provided that his opposition to the enactment of any law should be announced by veto and not otherwise, and they made his veto power effective to defeat a bill, unless it should thereafter be passed over his veto by a two-thirds vote of the two Houses.

Mr. WATSON of Georgia. Mr. President——

Mr. LA FOLLETTE. I yield.

Mr. WATSON of Georgia. The Senator from Wisconsin will remember that I took exactly the same position he is now taking; that the President had no constitutional authority to interpose in the debate and object to the passage of a bill, and that his objections to a bill could only be voiced under the Constitution by a veto.

Mr. LA FOLLETTE. I do recall it very clearly, Mr. President, and also that the Senator from Kentucky [Mr. STANLEY] made a like protest against the invasion of the legislative deliberations of the Senate by the President in person or by any communication addressed to this body alone, to influence legislation then pending and about to be disposed of.

Mr. WATSON of Georgia. Mr. President, if the Senator will permit me, my immediate purpose in rising was to refresh his memory as to what took place between the Senator in charge of the bill, Mr. MCCUMBER, and the Senator from Utah, Mr. KING, when the Senator from North Dakota rose in his place one afternoon and denied the authenticity of a pretended interview which had appeared in one of the newspapers, in which interview the President had been represented as saying he was opposed to the bonus bill. The Senator from North Dakota stated that the interview had no authenticity at all, whereupon the Senator from Utah asked the Senator from North Dakota whether he meant to be understood as saying that the President approved the adjusted compensation bill, and the Senator

from North Dakota replied that the President would express his opinion upon that subject when the bill came before him in his executive capacity.

Mr. STANLEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Kentucky?

Mr. LA FOLLETTE. I yield.

Mr. STANLEY. In the light of recent performances by the executive and the legislative branches, too, remembering most vividly, as all must, the cavalier contempt that is shown for the Constitution of the United States, not at the other end of the Avenue alone but here whenever it interferes with the plans or purposes of ambitious Executives or ardent statesmen, does not the Senator think it would be a good idea, to save our faces, to quit swearing to maintain and support that seemingly obsolete instrument?

Mr. LA FOLLETTE. No, Mr. President. I believe it to be vital not only to the legislative independence of the Congress of the United States but to the liberties of the people of this Republic that the Senate and the House should assert their prerogatives under the Constitution to control their own deliberations and to voice their own independent judgment upon all legislation.

Mr. STANLEY. Mr. President, speaking seriously, I concur with the Senator from Wisconsin; and I regard as the most happy portent of these distressful times that there appears to be without the walls of this Capitol, if not within them, a spontaneous demand on the part of honest and patriotic men everywhere that we shall return to the Constitution, that we shall remember our oaths, and that a man has no right to disregard or to violate the Constitution to effect any purpose whatsoever with which the Constitution may interfere.

Mr. WATSON of Georgia. Mr. President, if the Senator will be so good as to yield to me for one moment more I will not trespass further upon his time.

Mr. LA FOLLETTE. I yield to the Senator.

Mr. WATSON of Georgia. I beg to remind the Senator from Wisconsin as well as the Senator from Kentucky that it was a Democratic Senator, who was born in the State of Georgia but who was then representing the State of Illinois, who dared to say, after having sworn to the Constitution, that it was obsolete, and that it was the President who now occupies the White House who gave out the slogan during the campaign, "Back to the Constitution." So far as I am concerned, I shall do all in my power to hold up his hands shall he honestly and fearlessly endeavor to carry out that policy.

Mr. LA FOLLETTE. Mr. President, I am prompted to discuss this question at this time, because in another legislative branch of this Government, no later than Saturday, August 20, a resolution was offered as a question of personal privilege by a Member of that legislative body, known not only throughout our land but internationally, who offered the resolution which I now read, and sought to secure consideration for it as a question of the highest privilege:

Mr. COCKRAN. I am claiming the right to have the resolution reported.

The SPEAKER. The gentleman claims that it is a question of the privileges of the House and the Chair thinks it should be laid before the House. The Clerk will report it.

The Clerk read as follows:

"Whereas on the 12th day of July, in the present year of our Lord 1921, the Hon. Warren G. Harding, President of the United States, appeared before the Senate, having then before it for consideration as unfinished business Senate bill 506, 'to provide adequate compensation for veterans of the World War,' and 'standing at the Vice President's desk,' then and there addressed to it verbally, without notice to this House and in its absence, a communication, which appears in the CONGRESSIONAL RECORD of that day as part of the regular proceedings of the Senate; and

"Whereas the Constitution of the United States, which empowers the President to address recommendations respecting legislation to Congress, does not authorize him to address such communications to either House of Congress to the exclusion of the other: Now, therefore, be it

"*Resolved*, That such exclusion of this House from the right conferred upon it by the Constitution to share in all communications which the President may address to Congress respecting legislation is an unconstitutional violation of its rights, an illegal invasion of its privileges, and an unwarrantable injury to its dignity."

I regret to say that the House declined to consider the resolution which sought to protect its legislative prerogative, and—I regret especially that—by a partisan vote it laid the resolution upon the table.

I now invite the attention of the Senate to a brief consideration—and it shall be brief—of the constitutional question involved.

Mr. President, I deem the appearance of President Harding here and his participation in the deliberations and in the debate of this body upon a pending bill so clearly in violation of the Constitution, and so dangerous and far-reaching in its menace to our form of government, that I invite the attention of Senators to the constitutional provisions involved.

Section 1, Article I, of the Constitution of the United States provides—and, sir, witness how early in the construction of that immortal document its framers wrote into it this vital and fundamental principle:

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 1, Article II, provides:

The executive power shall be vested in a President of the United States of America.

Section 1, Article III, provides:

The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the Congress may from time to time ordain and establish.

Section 3, Article II, provides that the President—

Shall from time to time give to the Congress information of the state of the Union, and recommend——

Mark you, "recommend"—

to their consideration such measures as he shall judge necessary and expedient.

This is all there is to be found in the Constitution touching the subject. The plain provisions of the Constitution require no authority to interpret their meaning or support my contention, but the President's act in thus intruding himself into the Senate to secure the defeat of the bill that was then pending and the Senate's pliant submission to this violation of the Constitution warrant a brief reference to authorities.

Story on the Constitution, fifth edition, page 389, section 519, says:

In the convention which framed the Constitution of the United States, the first resolution adopted by that body was that—

"A national government ought to be established consisting of a supreme legislative, judiciary, and executive."

And from that fundamental proposition sprung the subsequent organization of the Government of the United States.

It is therefore our duty to examine and consider the grounds on which the proposition rests, since it lies at the bottom of all our institutions, State as well as National.

Section 522 of Story quotes Blackstone as follows:

In all tyrannical governments, the same magistracy or the right both of making and enforcing the laws is vested in the same man, or one and the same body of men, and whenever these two powers are united together there is no public liberty.

Again, at page 391, Story quotes one of the English writers with approval, as follows:

The first maxim of a free state is that the laws be made by one set of men and administered by another.

Story also quotes from Montesquieu as follows:

When the legislative and executive powers are united in the same person or in the same body of magistrates, there can be no liberty.

The same author quotes from Hamilton, Adams, and the other founders of the Government, to the same effect.

It would seem then that the President in engaging in the debate on a measure pending before the Senate not only acted without any constitutional warrant but in plain violation of section 1, Article I, which vests all legislative power in the Congress. Debating a measure is as much exercising a legislative function as voting upon it.

There is not the slightest warrant for the President's action in section 3, Article I, which requires him to recommend to Congress, because in the first place he was not recommending any measure; in the second place he was not addressing the Congress at all, but was simply taking part in a discussion by the Senate—one branch of the Congress—before which a legislative measure of vital importance to millions of the people of this country was pending.

For the preservation of representative government and the standing of the Senate of the United States as a part of the independent legislative power of this Republic it were well if the black page in the Senate history of Friday, July 12, could be destroyed and forever be forgotten. At least let it be hoped for the credit of future Presidents and the integrity of the legislative proceedings of the Senate of the United States that it will be remembered only to be repudiated as a precedent.

But, sir, though the President of the United States has not on this pending bill come in person before the Senate he has injected into the consideration of the bill a personal letter which is only slightly less offensive than the act which he committed in person here on the 12th day of July.

Now, Mr. President, let us consider from another point of view this action of President Harding in making the speech in the Senate against the passage of the bill to provide adjusted compensation for the veterans of the World War, and in writing his letter to be used in the debate in favor of this bill ap-

propriating $48,000,000 to the Shipping Board. Let us suppose that the Constitution provided that the President be authorized to attend upon the sessions of either House of Congress and participate in the debate in opposition to any pending bill. I am constrained to ask, sir, what prompted his sudden alarm regarding the finances of the Government at the time he appeared here on the 12th day of July? What was back of it? How much did it express his real concern for the condition of the Public Treasury?

Let us see. Is it not most remarkable that this alarm should have seized upon the presidential mind just at this particular time, when the soldiers' bonus bill was pending, and upon that particular measure? When he was inaugurated he knew, as now, that our great war debt amounted to some $24,000,000,000. He knew that the interest on that war debt amounts, in round numbers, to a billion dollars, which must be paid each year. He knew that the running expenses of our Government are in the neighborhood of $4,000,000,000 or $5,000,000,000 a year. He knew that the war debt, the interest upon that debt, and the running expenses of the Government must be met by taxation. In the face of this situation, within a month after he became President, he convened Congress in extra session, and he recommended—what? I quote from his message:

> The repeal of the excess-profits tax and the abolition of the inequities and unjustifiable exasperations of the present tax system.

Sir, in view of the financial obligations of the Government why should he recommend the repeal of the taxes on the excess profits of big business, which have made $38,000,000,000 out of war profits, and through its control of markets was in May, 1921, still exacting prices that made the cost of maintaining a family 80.4 per cent higher than the year preceding the war?

If the condition of the Treasury is so alarming, why should he urge the repeal of this tax on the excess profits of big business, entailing a loss in revenue to the Treasury amounting to $450,000,000 annually? "The abolition of the inequities and the unjustifiable exasperations in the present tax system," while a bit vague, taken in connection with the administration program already under discussion in committee and embodied in a bill which has passed the other House, means, for one thing, the abolition of the taxes upon large incomes, through which the Government will lose $90,000,000.

It will be observed that in the President's view it does not "imperil the financial stability of our country" to relieve wealth from taxation to an extent much in excess of the annual payment that would be made to readjust the soldiers' compensation under the bill which the President assailed.

Very early in this session President Harding urged upon the Senate the ratification of a treaty with Colombia, including a provision for a payment to that country of $25,000,000. He did not claim that we owed Colombia $25,000,000, but he wanted the treaty ratified. It developed in the debate that some enterprising American oil companies had certain concessions pending confirmation by the Colombian Government, and we were complacently informed by Senators who spoke for the President that the ratification of the treaty, with that nice little tip of $25,000,000 on the side, would make Colombia feel so friendly toward us that she would surely confirm the concessions of our American oil companies.

The President and Senators upon both sides who feel such concern about Government finances must have regarded $25,000,000 as of no importance to the Treasury where the interest of our beneficent American oil companies are involved.

The Shipping Board, which has swallowed between three hundred and four hundred million dollars of the people's money, came to the Senate for an enormous additional appropriation from the Treasury. With charges of indefensible extravagance, waste, and even graft, hurled at it from all sides in the debate, neither the President nor the Senators opposed to the bill to provide adjusted compensation for the soldiers were then heard to protest that the condition of Government finances would not permit of the huge additional appropriations for the Shipping Board.

What was the attitude of President Harding when the time came to consider appropriations for the Army? Was his voice heard warning Congress that "disaster to this Nation's finances" would overtake us if Congress did not cut the appropriations for all war purposes to the bone? On the contrary, sir, Congress had to fight the administration at every step in reducing the enormous sum which the President, through the Secretary of War, demanded. The administration urged a total of $516,961,330 for the War Department, and it was only after a prolonged contest that the amount was finally reduced to approximately $328,000,000, in round numbers.

The contest with the administration over the monster naval appropriations ended only a little while ago. Through his Secretary of the Navy the President stood for a total appropriation for naval purposes amounting to $679,515,741. The struggle to reduce that amount to $410,673,289 was protracted over a period of many weeks. The fight was lost. The amount at which the bill finally passed represents but a small part of the vast sum to which the Government is committed, for the reason that the bill authorizes the execution of a building program for the Navy that will run far and away above a billion and a half, with all that the program carries with it.

Moreover, upon the authority of the greatest naval experts in the world, a great portion of the appropriation is absolute waste, because the plans to be executed were demonstrated by the recent war to be obsolete and out of date. The Navy will be junked before the construction is completed.

Is it not strange that the President should not have viewed the squandering of these hundreds of millions with alarm and that he should not have appeared at the doors of the Senate Chamber to rescue the Nation's finances from utter destruction when those bills were pending for the immense appropriations for war and naval purposes?

Mr. WADSWORTH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from New York?

Mr. LA FOLLETTE. I yield.

Mr. WADSWORTH. I think I heard the Senator state in his address that this administration asked $516,000,000 for the Army. Is that correct?

Mr. LA FOLLETTE. That is correct.

Mr. WADSWORTH. Is the Senator sure that any such estimate ever came from Secretary Weeks?

Mr. LA FOLLETTE. Those are the exact figures furnished to me by the clerk of the Military Affairs Committee of the House of Representatives.

Mr. WADSWORTH. Mr. President, will the Senator suffer a very brief interruption?

Mr. LA FOLLETTE. I surely will. I do not want to misquote or incorrectly state any figure.

Mr. WADSWORTH. I think the Senator will find that that estimate came from the previous administration. When President Harding took office and when Secretary Weeks took office there had been no Army appropriation bill passed for the next fiscal year; President Wilson had declined to let the bill become a law.

Mr. LA FOLLETTE. Yes; the appropriation bill failed. I am quite aware of that.

Mr. WADSWORTH. The bill as passed by the Congress while Mr. Wilson was President carried a total of $346,000,000.

Mr. LA FOLLETTE. Yes; but Congress cut it down.

Mr. WADSWORTH. It cut down the estimate of Mr. Wilson.

Mr. LA FOLLETTE. Yes. What was the estimate of President Harding's Secretary? If the Senator has the figures in mind, I will be very glad to note them.

Mr. WADSWORTH. Secretary Weeks came before a joint meeting of members of the two military committees and specifically asked us to appropriate in the second bill the same amount of money that was decided upon by the Congress prior to March 4—$346,000,000. He asked us to rearrange some of the items, but he specifically urged that the amount of $346,000,000 be not exceeded.

Mr. LA FOLLETTE. Then to that extent I stand corrected.

Mr. WADSWORTH. And the Congress passed the bill finally carrying $328,000,000 instead of $346,000,000.

Mr. LA FOLLETTE. I stated $328,000,000. That was the figure I gave.

Mr. WADSWORTH. But it should be clearly understood——

Mr. LA FOLLETTE. And the figures I have quoted here are the estimates of the department as furnished me by the Committee on Military Affairs of the House of Representatives, where the bill originated.

Mr. WADSWORTH. But they did not come from this administration.

Mr. CARAWAY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Arkansas?

Mr. LA FOLLETTE. I yield.

Mr. CARAWAY. As I recollect, the President, in transmitting his message after signing the bill, said he would not ask the Secretary of War to abate. Is that true?

Mr. LA FOLLETTE. I think I distinctly recall that there was quite a contest between the Congress and the present Secretary of War, who was insistent upon going further with appropriations, much further than Congress was willing to go.

Mr. WADSWORTH. May I state the figures which represented the difference between the ideas of the Secretary of War and the ideas carried out by Congress?

Mr. LA FOLLETTE. Certainly.

Mr. WADSWORTH. Three million five hundred thousand dollars.

Mr. LA FOLLETTE. That may be the figure——

Mr. KING. Mr. President, will the Senator permit me?

Mr. LA FOLLETTE. But it may be that the figure the Senator quotes does not tell the whole story. We may have provided for a military establishment, the maintenance of which during the fiscal year would have greatly augmented that figure beyond what appears from the statement of the Senator from New York.

Mr. KING. The Senator has now stated what I rose to state.

Mr. LA FOLLETTE. I fancy I put my finger on the real thing. Now, I wish to proceed with my statement.

Is it not strange that the President should not have viewed this squandering of these hundreds of millions of dollars with alarm, and that he should not have appeared at the doors of the Senate Chamber to rescue the Nation's finances from utter destruction? If I recall correctly, the influence of the executive department of this Government was against any reduction such as we were struggling here for weeks to secure, both in connection with the Army and the Navy appropriation bills, and not one word of suggestion came from the executive department which gave encouragement to the little body of men who were seeking to protect the Treasury against the raid that was organized by the Bethlehem Steel Co. and the other manufacturers of munitions of war.

The big steel concerns demanded the big construction plan for a big Navy, but is this administration only concerned in saving money when it comes to giving the veterans of the World War a square deal? The railroads have taken out of the National Treasury since the transportation act known as the Esch-Cummins Act was passed the tidy sum of $1,376,403,024, and that is but a fraction of the amount they are after with their powerful organization; and not a suggestion from President Harding or his Secretary, Mr. Mellon, that the railroads should be denied anything they demand or that every consideration should not be extended to the foreign Governments which owe us more than $11,000,000,000, principal and interest.

The country is rich, sir, the national finances are sound and can stand the strain of repealing the tax on excess profits and the income tax of multimillionaires; it can supply the railroads with all they want, appropriate unlimited amounts to the Shipping Board, but the soldiers of the war can wait. They can wait for a reduction of taxes. They can wait for the refunding of the war debt. They can wait for the indefinite extension of time to the foreign Governments who owe us, as I said, more than $11,000,000,000, principal and unpaid interest.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Missouri?

Mr. LA FOLLETTE. I yield.

Mr. REED. The Senator states that the soldiers can wait. Does not the Senator remember, when the soldiers' compensation bill was about to be sent back to the committee, that the chairman of the committee rose and in unctious and pious manner informed us that the bill would receive immediate and very careful consideration, and that other Senators assured us that the delay would only be a few days? Has the Senator despaired of an immediate return of the bill?

Mr. LA FOLLETTE. As a member of the Committee on Finance, attending with all possible diligence upon that committee considering my other committee engagements, I have not since that 12th day of July heard the soldiers' bonus bill referred to in that committee. I am beginning to be forced to the conviction that those who look forward to its early return to the Senate for consideration will be fed on hope long deferred.

Mr. REED. I happen to be a member of that committee, and I had thought that possibly we would at least go through the ceremony of a coroner's inquest or post-mortem examination within 30 or 60 or 90 days from the time the bill was referred back to the committee. But I do not think they have even issued a summons for a coroner's jury yet.

Mr. LA FOLLETTE. I have not heard the bill referred to in committee since it was returned to the committee for further consideration.

Mr. President, I hold in my hand a chart which represents the sums appropriated by Congress for this Government in the year 1920. Ninety-two and eighty-three one-hundredths per cent of all the appropriations made by the Congress that presided over the destinies of this Government in 1920 were for taking care of wars of the past or providing for wars that are to come. Seven and seventeen one-hundredths per cent, or 7.17 cents, out of every dollar appropriated by the Congress of the United States for expenditures to this Government were for civil purposes. Ninety-two and eighty-three one-hundredths per cent out of every dollar was appropriated for war purposes.

We hear a great deal these days of what Gen. Dawes is to do by saving the country, reducing the expenditures, and of lifting the burden of taxation from the shoulders of the people; but, Mr. President, Mr. Dawes can only operate in the little field covered by about 7 cents out of every dollar of Government expenditure, the civil field. What opportunity has he to save the people of the country from the extravagances of taxation? If we are to make any reductions at all, we must make them in the big field covered by the black space on the diagram which I hold in my hand, and which will appear in the CONGRESSIONAL RECORD in connection with my remarks.

Mr. WARREN. Mr. President——

Mr. LA FOLLETTE. I yield to the Senator from Wyoming.

Mr. WARREN. Of course, the Senator knows that included in what he terms to be war purposes are all of the pensions——

Mr. LA FOLLETTE. Oh, yes; of course.

Mr. WARREN. And all the care of all the disabled——

Mr. LA FOLLETTE. I have stated that, and all that is included in appropriations for past wars and all that is appropriated in contemplation of possible future wars. When you have said that you have covered it.

Mr. WARREN. It includes a million dollars a day for the care of the disabled of the recent World War.

Mr. LA FOLLETTE. The Senator is only stating it in detail.

Mr. WARREN. But it will not injure the RECORD to have that go in, and it will not injure the Senator's speech, either.

Mr. LA FOLLETTE. I have that stated in detail and the figures show it, and it will be given in the diagram when it is printed in connection with my remarks.

If the constitutional rights of the Congress were to be invaded by admitting to our debates the Executive upon various measures as they are taken up here for consideration, I think it is to be regretted beyond all measure that he did not come down and help the little groups that were struggling here to reduce the expenses upon naval appropriations and Army appropriations, and that he only bethought himself of the serious condition of the Treasury when we reached the time for taking care of the boys who were drafted and forced to leave their country and go abroad to fight in the recent war.

Now, Mr. President, that is all that I have to say on that topic just at this time.

Mr. KING. Mr. President——

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Utah?

Mr. LA FOLLETTE. I yield.

Mr. KING. The statement of the Senator from New York [Mr. WADSWORTH] interested me, and as I have before me the estimates for 1922, as reported by Mr. ANTHONY from the Committee on Appropriations of the House, I should like to present those figures so that we may determine just exactly what are the facts.

I find here in the report submitted by Mr. ANTHONY the estimate for 1922, regular, annual, and supplemental, $699,255,502.93. It is possible, though I have not examined——

Mr. WADSWORTH. Those are the estimates of Mr. Baker.

Mr. LA FOLLETTE. They were adopted, were they not?

Mr. WADSWORTH. They were not adopted by this administration. They were repudiated by this administration.

Mr. KING. This report was filed April 26, 1921.

Mr. WADSWORTH. It was.

Mr. KING. Mr. ANTHONY is speaking for the dominant party in the submission of the report. Whether he adopted the recommendations made by Mr. Baker——

Mr. WADSWORTH. He did not adopt them.

Mr. KING. If the Senator will permit me, whether he adopted the recommendations made by Mr. Baker or by Mr. Weeks, the report is silent and I am unable to state.

Mr. WADSWORTH. I have stated the facts.

Mr. KING. I desire to put on record, Mr. President—and the Senator from New York may do as he pleases in regard to it—the fact that in the report of Mr. ANTHONY from the Committee on Appropriations, submitted April 26, 1921, are stated the figures which I have just submitted.

Mr. WADSWORTH. Mr. President, the Senator from Utah says that I can do what I like about it. What I like to do is to have this matter stated accurately. The present administration never asked $690,000,000 for the Army. Mr. Wilson and Mr. Baker asked for it, and Congress, being Republican in both

DISTRIBUTION OF GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 1920

RESEARCH PUBLIC HEALTH EDUCATION	$57,093,661	1.01%
PUBLIC WORKS *Rivers and Harbors* *Panama Canal* *Public Buildings*	$168,203,557	2.97%
LEGISLATIVE EXECUTIVE JUDICIAL	$181,087,225	3.19%
WAR		
Past	$3,855,482,586	92.83%
Future	$1,424,138,677	
TOTAL	$5,686,005,706	100.00%

branches, refused to give it, but finally agreed upon an appropriation of $346,000,000 while Mr. Wilson was still President. Mr. Wilson refused to sign the bill, because, he said, that amount was too small. Thereupon the Congress, after Mr. Harding became President and Mr. Weeks became Secretary of War, had to go to work and draft and pass another Army appropriation bill. Upon that occasion the Secretary of War specifically asked us not to exceed the amount of $346,000,000. Those are the facts, and no twistings and squirmings can alter them.

The estimate for $690,000,000 came from the Democratic administration, not from the Republican administration.

The Senator from Wisconsin [Mr. LA FOLLETTE] has made a few observations about the cost of the Army. He has also made a few observations concerning the opportunity which Mr. Dawes may have in reducing Federal appropriations, and has indicated that the efforts of Mr. Dawes must be confined entirely to reducing the appropriations for nonmilitary purposes—the 7 cents out of each dollar. It so happens that the Secretary of War sent to me just a few days ago a personal statement as to what he was endeavoring to accomplish in reducing the expenditures of the Army. Of course, I shall not read it all for it is too lengthy, but there are parts of it which will bring encouragement to the Senator from Wisconsin and the Senator from Utah and will go far, I believe, in warranting an assertion which I made when the Army bill was under consideration, that we had a new era at last in the War Department. I read one sentence from the statement of Secretary Weeks, which is the finest thing which has come to my attention in connection with the expenditure of Government money in many a moon. Among other things, Mr. Weeks says:

It—

Referring to the War Department—

has consistently adhered to the principle that the availability of funds appropriated by Congress for a specific purpose is not an adequate reason for their expenditure—

That brings hope to me—

and that such funds are to be withheld from expenditure unless an unavoidable necessity for their disbursement exists.

And Secretary Weeks has already withheld $40,000,000 from March 4 to date.

Mr. REED. Was that done because we reduced the size of the Army? Was that what made it possible?

Mr. WADSWORTH. It was not. The Secretary of War could have expended every penny of that appropriation in accordance with the appropriation bill, for the appropriation bill was based upon the requirements of a reduced Army.

Mr. REED. I asked the question, Whether that was not made possible by the reduction? However, the latter part of the Senator's statement, perhaps, answers me.

Mr. HARRISON. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Mississippi?

Mr. WADSWORTH. I yield.

Mr. HARRISON. If Congress had accepted the suggestion of Secretary of War Weeks, would the $40,000,000 have been saved?

Mr. WADSWORTH. It would have been.

Mr. HARRISON. How much would the appropriation then have been?

Mr. WADSWORTH. The last suggestion of the Secretary of War would have involved a total amount of appropriation of about $332,000,000.

Mr. HARRISON. Was that the estimate of the War Department?

Mr. WADSWORTH. The original request of the Secretary of War was for an appropriation of $346,000,000. That was revised—informally, I may say—to $332,000,000, with the earnest wish that the items be so arranged that the Army need not be reduced to the figure of 150,000 men within three months.

Mr. HARRISON. Mr. President——

Mr. WADSWORTH. May I continue for just a moment? The last item of disagreement between the two Houses was on the pay of enlisted men, and as to that the two Houses were only $3,500,000 apart, the Senate committee having consistently supported the Secretary of War. The other House had its way in that matter, however, and we saved $3,500,000 in the pay of enlisted men. It has cost, however, $6,000,000 to discharge them. Secretary Weeks was right as to the matter of money it would cost to get rid of 80,000 men in three months. I said to the Senate at the time that there was no economy in discharging 70,000 or 80,000 men in three months; that the cost of transportation and the payment of enlistment bonuses and other expenses incidental to the discharge of 70,000 or 80,000 men would more than eat up a saving on the face of the bill, and it has done so.

Secretary Weeks has already, in addition, saved from the appropriations for the Army $40,000,000 and has thereby obviated the appropriation of a deficiency of $15,000,000, which was inherited from his predecessor, Mr. Baker, which it now develops has been turned back into the Treasury by Secretary Weeks, who has handed over to the custody of Mr. Dawes, who the Senator from Wisconsin says will have no chance to do anything in the matter of saving money in the Military Establishment, $27,000,000, to be expended only if Mr. Dawes says that it may be expended.

I mention these matters because I want the Senate to know what Secretary Weeks is doing. At last we have a business man at the head of the War Department who has some concern for the value of a dollar.

Mr. HARRISON. Mr. Weeks is a very able man and, I think, will make a great Secretary of War, but I want to ask the Senator if the recommendation of Secretary Weeks had gone through for an Army of 175,000 men—I think that was his recommendation—would not that have eaten up the $40,000,000 which now appears to have been a saving?

Mr. WADSWORTH. It would not.

Mr. HARRISON. But it would have cost that much more, would it not? How much would it have cost for 25,000 additional men?

Mr. WADSWORTH. I stated the figure just a while ago.

Mr. HARRISON. That is merely for the pay of the men?

Mr. WADSWORTH. That was the whole question in dispute. Secretary Weeks has saved this sum out of other items; he has not saved anything out of the pay. He could not do so, because the discharge of enlisted men has cost more than it was claimed would be saved in pay, as I said it would at the time we passed it; but, I repeat, he saved $40,000,000 out of other items. For instance, he has given up just recently seven great cantonments; he has scrapped them.

Mr. HARRISON. They should have been given up.

Mr. WADSWORTH. Of course, they should have been, but his predecessor would not do it. His predecessor came before Congress and asked for a Regular Army of 576,000 officers and men at an annual confessed cost of $800,000,000, and Congress rejected that proposition.

Mr. REED. But, if the Senator will pardon me, he ought to say, in connection with that, that the reason for that great Army was that we were going to have a League of Nations and no more wars; and that is a very different proposition.

Mr. WADSWORTH. Yes; I recollect that the previous administration was for a League of Nations which was to make necessary the support of a regular professional Army in this country of 576,000 men.

Now, if there is going to be any politics injected into the matter of military appropriations, I invite comparison between the last administration of the War Department and the present one.

Mr. HARRISON. Now you have Republicans under Republicans, while then we had Republicans under Democrats, and they did not get along.

Mr. WADSWORTH. I did not realize that Mr. Baker was a Republican under a Democrat.

Mr. HARRISON. I said Republicans under Democrats. The Senator can not have forgotten Mr. Crowell and other gentlemen.

Mr. LODGE. Mr. President, I do not desire at this late hour to delay——

Mr. REED. Mr. President, will the Senator pardon me for asking a question of the Senator in charge of the pending bill?

Mr. LODGE. I yield.

Mr. REED. I should like to ask the Senator whether he intends to go on with the bill to-night?

Mr. WARREN. That is what we shall have to do. The bill must be passed to-night if we expect to have a recess commencing on next Wednesday. I do not see any other way but to complete it to-night so that it may go to conference early to-morrow or we shall be detained longer than we have provided for.

Mr. LODGE. I entirely sympathize with the views of the Senator from Wyoming. I will change my somewhat commonplace phrase about the lateness of the hour, and say that I do not want to lose time when we are likely to sit here during the evening.

Mr. WARREN. My comment was in answer to the question of the Senator from Missouri.

Mr. LODGE. I understand that.

Mr. President, I do not wish statements made by the Senator from Wisconsin [Mr. LA FOLLETTE] in regard to the constitutional aspects of the action of the President in coming to the Senate and addressing the body to go into the RECORD without

at least saying that there are some of us who do not agree with the view of the Constitution set forth by the Senator from Wisconsin. I do not expect to argue the matter to-night, for constitutional questions occupy too much time, but I merely wish to have the fact appear of record that I, for one, do not agree with the Senator.

The grant of legislative powers is found in the first section of the first article of the Constitution, reading as follows:

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Of course that is well understood by everyone. If the President going to one branch violates that clause, going to both branches violates it. That clause has nothing to do, in my judgment, with the constitutionality of the President's action in addressing either branch of Congress.

Now, on the other question, Article II, section 3, of the Constitution reads:

He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient—

There is nothing in that clause that prevents the President giving information to either House; there is nothing exclusive about it. The Constitution, then, recognizes the difference between the Houses in this simple statement:

He may on extraordinary occasions convene both Houses, or either of them—

If he convenes either the House or the Senate separately, as he may, he must address the particular House separately, no matter what the subject may be. I think, if the President sees fit, he has a perfect right, under the Constitution, to address either House, either by message sent in in writing, as has been the custom during most of our history, or by personal appearance and delivery of the message, as was the case under Washington and Adams and revived under President Wilson.

Mr. LA FOLLETTE. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. SUTHERLAND in the chair). Does the Senator from Massachusetts yield to the Senator from Wisconsin?

Mr. LODGE. I yield.

Mr. LA FOLLETTE. Is the Senator able to cite any precedent where any President ever addressed one branch of the Congress except in the case of some matter which that branch of the Congress alone, under the Constitution, had within its power, for instance, upon treaties?

Mr. LODGE. Yes; and nominations.

Mr. LA FOLLETTE. President Washington, as we all know, and other Presidents, have from time to time addressed the Senate, as President Wilson did in January, 1916, when he appeared before the Senate and addressed the Senate upon a matter which concerned, in an indirect way, the powers of the Senate.

Mr. LODGE. To which of the addresses of President Wilson is the Senator referring?

Mr. LA FOLLETTE. I refer to the address that the President made to the Senate in 1916, in his address which was known as the "Peace Without Victory" address.

Mr. LODGE. The "League of Peace"? That was in January.

Mr. LA FOLLETTE. That was in January, 1916, as I remember.

Mr. LODGE. Nineteen hundred and seventeen. That is the one I had in mind.

Mr. LA FOLLETTE. Perhaps it was in 1917.

Mr. KELLOGG. Mr. President——

Mr. LA FOLLETTE. When he addressed the Congress upon the woman-suffrage amendment he recommended—and it is not my duty to defend President Wilson——

Mr. LODGE. He did not address the Congress on the woman-suffrage amendment. He addressed the Senate alone.

Mr. LA FOLLETTE. My recollection was that his address was directed to the Congress.

Mr. LODGE. No; it had passed the House.

Mr. LA FOLLETTE. If it was not, I think it was an infraction of the constitutional prerogative that belongs to the President.

Mr. BRANDEGEE. Mr. President——

Mr. LA FOLLETTE. I do not believe there can be found, unless it should be possibly in the exceptional record of President Wilson, any precedent for the action of President Harding in appearing here and participating in a debate upon a pending measure.

Mr. KNOX, Mr. BRANDEGEE, and Mr. KELLOGG addressed the Chair.

Mr. LODGE. I think I have the floor.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor. To whom does the Senator yield?

Mr. LODGE. I yield to the Senator from Pennsylvania.

Mr. KNOX. I would like to inquire whether it will not be a sad day for a republic that has three coordinate branches when it is determined, whether there is a precedent or whether there is not a precedent, that any one of those branches can not confer with the others upon matters of public interest?

Mr. LODGE. I agree with the Senator very fully.

Mr. BRANDEGEE. Of course another precedent—I do not know whether the Senator has cited it or not—was when former President Wilson appeared here and addressed the Senate in advocacy of the woman suffrage constitutional amendment.

Mr. LODGE. Yes; that has been referred to.

Mr. President, to continue what I was saying—and I shall be only a moment—it is recognized there, by the power to convene either or both branches of the Congress, that the President can deal with them separately. That is clearly recognized in section 3 of Article II. Of course the President addresses the Senate constantly on that portion of the public business which is imposed upon the President and the Senate jointly. That, I am quite aware, is not a parallel to this particular case, but I am unable to see any reason in the Constitution why the President of the United States should not confer with Congress, or either branch of it, on any matter which he regards as necessary and expedient, to use the language of the Constitution.

I have not had time in the few moments since this question was raised to run through the Messages and Papers of the Presidents to see whether there are any cases of the President addressing either branch separately, as President Harding did in the case which has been criticized; but it is certain that President Wilson addressed the Senate urging them to ratify the woman suffrage amendment to the Constitution, and a constitutional amendment is something which concerns the two Houses alone. He also addressed us in a speech entitled, I think, "The League for Peace," in January, 1917. There was nothing in that which made it purely executive business. It was simply an outline of a policy in regard to the nature of the peace to be made with Germany. At the time when he addressed us on the woman suffrage amendment I remember looking into this matter a little, because I believed it to be unprecedented, and I thought if there was to be any criticism made the case of a constitutional amendment was peculiarly open to that criticism. I could not at that time find anything which justified me in taking the position that the President had acted unconstitutionally in coming before the Senate separately.

Those are the only two precedents that I know of; but taking it on the broad language of the Constitution and on the ground pointed out by the Senator from Pennsylvania, it seems to me impossible to hold that the President of the United States, either in writing or in person, should be debarred from consulting and conferring and advising with either branch of Congress if he so desires. It is not compulsory on him, of course, but if he so desires I can see no reason why he should not present his views.

Mr. KNOX. Or, Mr. President, why either branch of Congress should be debarred, as they were for eight years, from consulting with him.

Mr. LODGE. Or why either branch of Congress should be debarred from consultation with him. I think that amendment is well made.

That is all, really, that I desired to say. It is well to remember that the President of the United States is not only the Executive; he is part of the legislative power, and he takes part in the making of practically all laws, and they all have to be submitted to him. Congress has the power, by a two-thirds vote, to pass a bill over his veto, but he has a share in all the legislation; and if he sees fit, either in writing or in a personal message, to express his views about a pending law which he considers of great importance, surely he should have the right, and I believe he certainly possesses the right, to do so.

Mr. KELLOGG. Mr. President, I shall take but a moment of the time of the Senate to discuss this question, but I can not listen to a denunciation of the President for unconstitutional acts without at least expressing my opinion.

I have not the slightest doubt that the President not only has the right under the Constitution to address either House of Congress but if the occasion arises where he thinks it important to bring anything to the attention of either House, it is his duty to do it. I heard no violent denunciations of President Wilson when he appeared before the Senate twice, and I hold in my hand his messages upon equal suffrage and upon the League of Peace. I think he was clearly within his rights. But, Mr.

President, the reason of the Constitution and the wording of the Constitution bear out the position of President Harding.

Section 3 provides:

He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient.

Why, if the President has within his knowledge as the Executive of the Nation information which would lead him to believe that a law was necessary for the protection of the United States or that the defeat of a law by the Congress was in the interest of the public, it is just as much his duty to come here and state his reasons against the law as the reasons for it, and the language of the Constitution is that he *shall* do it.

"The state of the Union" means the good of the whole public, the Nation; and "recommending measures" does not mean merely affirmatively recommending that a law shall pass. He may at the same time recommend that another law should not be passed.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Idaho?

Mr. KELLOGG. I yield.

Mr. BORAH. I have no doubt but that President Harding had a precedent in at least two instances of the previous administration, and therefore this matter may be discussed, I presume, without any partisan view; but does the Senator think that the Constitution contemplates that after a bill has been framed and reported the President shall participate in the debate?

Mr. KELLOGG. Not that he shall participate as a Member of the Senate or the House; of course not.

Mr. BORAH. That he shall participate at all?

Mr. KELLOGG. If a message to the Senate may be called participation in debate, I say "yes"; the Constitution so contemplates, in my opinion.

Mr. BORAH. Does the Senator know of any instance in the history of the country, prior to the preceding administration, in which, after a bill was reported and after the debate was opened, a President participated in it by sending in a message either for or against it?

Mr. KELLOGG. I have not had an opportunity to look up the authorities on that question, but the reason is this: If it is the duty of the President under the Constitution to recommend to the Congress a specific law and give his reasons for its enactment before the law is introduced, he may do it after the law is introduced. If it is his privilege to recommend a law in the interest of the country, it is his privilege to recommend that that law is unwise. He does not participate in debate by sending a message to the Senate or to the House of Representatives.

Mr. BORAH. The Senator knows that he does participate in debate when he does that. The speech which President Harding delivered here was precisely the speech which Senator Harding would have delivered had he been a Member of the Senate.

Mr. KELLOGG. I do not know whether it is or not.

Mr. BORAH. But look at the difference in the effect.

A Republican Congress had reported out the bonus bill. They had voted, practically unanimously, to take it up. We were assured that it would be passed within a very short time. The President comes here, participates in the debate, and the Republican Congress votes to send it back to the committee. Now, I ask the Senator, who legislated?

Mr. KELLOGG. The Congress legislated.

Mr. President, a President's message delivered before a law is introduced, recommending a law, might contain just what he would say to the Congress if he were a Member of the Congress; but it is not participating in a debate. It is communicating to the Congress, or to either branch of the Congress, his views upon the subject.

Mr. KNOX. Mr. President, may I not inquire if the Constitution does not provide that the opinion of the President on legislation is worth two-thirds of that of the Congress?

Mr. LA FOLLETTE. Yes; but it shall be expressed in a veto, under the Constitution, and not in the debates of the Senate.

Mr. BORAH. Mr. President, the President demonstrated in his speech on the bonus bill that his opinion was equal at least to 49 votes of the Senate. I suspect that it would not have been so effective had he spoken as a Senator, and not as a President. In other words, there was something in his position, and a power and an influence which he wielded, aside from the mere question of argument or facts.

Mr. KELLOGG. Mr. President, I am not going to discuss the particular measures which President Harding has advocated to the Congress, or their merits or demerits. I am perfectly willing to submit to the American people the record of Mr. Harding as President, and history will justify him. I may not always agree with him, but he is a high-minded statesman, and his record so far will stand with that of any President within my knowledge. It certainly will with that of the gentlemen who are so freightened to-day for the loss of our liberties because a President has deemed it wise to address the Senate.

I feel that it is not only his privilege, but his duty, to inform the Congress, or either branch of Congress, at any time, on any matter which pertains to the state of the Union, either for or against legislation.

Mr. BORAH. Mr. President, I want to say just a word in regard to this matter, and in doing so it is not necessary either to criticize or to eulogize Mr. Harding. It is simply a discussion of a constitutional proposition, in which the Senate must be just as deeply interested as the President of the United States. Individuals or partisanship are beside the question.

I have been unable to find any instance in the history of the United States in which any such thing has taken place as took place under the preceding administration, and under this administration prior to the preceding administration. I know that those who framed the Constitution never contemplated, as you will gather from the debates, that anything which even partook of the nature of a discussion of a particular measure which was pending before either body should occur. It is in effect to take part in the debate of a pending bill, something never contemplated.

The evil of it is easily demonstrated. It places the legislative power of the Government in one man practically, and it can not be any better illustrated than the illustration which we have before us now. I was opposed to the bonus bill when it came out, and so stated the day it was reported. Therefore the President's position, so far as that is concerned, was in harmony with my views, and I find no fault with him because he expressed views upon the subject, because they happened to be in harmony with the views which I entertained, or mine in harmony with his. The practice, however, is not to be judged by whether the President happens to agree with you.

Mr. President, I think, with all due respect to the great body of which I am but an humble Member, that no more pitiable spectacle was ever presented to a free country than the pitiable and intolerable and indefensible spectacle which the Senate of the United States presented on the bonus bill. It was simply deplorable.

Mr. KNOX. May I inquire what was the particularly deplorable fact of it? Was it because the President came here, or was it because we acquiesced in his suggestion?

Mr. BORAH. It was because he came here, and we surrendered our judgment to his dictation.

Mr. KNOX. That is our fault.

Mr. BORAH. That is our fault, and it will always be our fault when a President of the United States, commanding the power that he does with reference to patronage and everything else, is permitted to come here and participate in debate. It will always be our fault. It will destroy the Senate. Indeed, why a Senate if it slavishly adopts the views of a President?

Mr. KNOX. The Senator from Idaho does not mean to suggest that any votes are controlled by patronage?

Mr. LA FOLLETTE. Of course, he does.

Mr. BORAH. The Senator perhaps does not understand my language.

Mr. KNOX. I do not think I do.

Mr. BORAH. I will try to make it plain.

Mr. KNOX. I am inquiring for more information.

Mr. BORAH. The Senator does not need more information, because he knows precisely what I mean, and I have no doubt but what the Senator from Pennsylvania entertains precisely the same opinion that the Senator from Idaho does.

Mr. President, I have said that, and I am going to say just a word in demonstration of it. Here is the Republican Party, which was in power, in sole control of the Government; it had made a solemn pledge in different ways to enact bonus legislation. It had all the facts before it prior to the President coming here that it had after he came. There was not a single item in his message that was not entirely familiar to the Congress of the United States. There was not a single fact that was not entirely familiar to the committee which reported it. But, with all those facts before the committee, a great committee of the Senate, the Finance Committee reported out the bill. When there was a move to take it up there were four votes against it, and they were not, except one, on this side of the Chamber.

We then and there committed ourselves to the program of making it the unfinished business, and we were assured, and assured by the gentleman who had charge of the bill, that it would be pushed to a conclusion and passed; and it would

have been passed so overwhelmingly had it come to a vote for passage.

The President appears, and while I think he was absolutely right in the position he took—I think his position, so far as the bonus bill was concerned, was absolutely correct except that it did not go far enough—and in so far as he went he was right. The moment that he left the Senate Chamber the bonus bill was as dead as Julius Cæsar. Debate practically ceased. The chairman of the committee which had reported arose and solemnly moved to recommit it. When the time came to vote those who voted it out of committee and those who voted to take it up now voted to abandon. What a spectacle!

Who legislated? What became of the greatest legislative body in the world? It had become an amanuensis to record the vote of one man.

Mr. KNOX. I assume from what the Senator has said that the right prevailed. That, I understand, is the position of the Senator from Idaho, that the President was right.

Mr. BORAH. The right prevailed according to the view of the Senator from Idaho but not according to the view of the Senator from Pennsylvania, perhaps because, as I understand, the Senator from Pennsylvania was in favor of the bill.

Mr. KNOX. I always defer to the Senator from Idaho; when I know what his judgment is, it is very apt to lead me.

Mr. BORAH. I do not recall now that I ever have led the Senator, but I feel flattered if I even am approaching that power.

Mr. President, we can joke about this matter if we want to, but we know that the Senate of the United States surrendered its judgment. To what did it surrender? It did not surrender to the facts, because we had all the facts before us. There was no change in the figures. We knew the condition of the Treasury; we knew the condition of the public debt; we knew all the details that we knew afterwards. But to what did we surrender?

Let us go further. Suppose the debate on the bonus bill had run along for a week and the President, growing impatient, had appeared and again summed up the argument against it and in effect answered all arguments for it. Then suppose he had said, "I will remain through the debate." Where would his acts become unconstitutional? In other words, may the President appear on this floor and oppose and support measures at his will?

Mr. President, that is what I conceive to be the great evil of this practice.

Mr. KNOX. Mr. President, if the Senator will permit me just a word, I will not say that I do not regard it as quite fair, because the Senator from Idaho always wants to be fair; but when you speak of surrendering judgment, after having listened to an exhaustive argument and explanation of a situation, I do not think that involves any impropriety upon the part of the Senate.

I am just as serious as I ever was in my life when I say that I have surrendered my judgment to the arguments of the Senator from Idaho. I have surrendered what I conceived to have been my judgment on many questions to the arguments of many Senators in this body. It only means that I have recognized that men have been speaking upon a subject they know more about than I know myself, and I take it as a credit to myself when I am willing to surrender to a man whose superior judgment is made apparent in his argument and in his speech.

Mr. BORAH. Mr. President, the difficulty with that argument of the Senator is, if I may say so, that the President did not give us a single fact we did not have in our possession before he came here.

The argument upon which the President based his address was an argument based upon things which were entirely familiar to us all the time. If there had been a development of a new situation or a new condition of affairs, or a new state of facts, of course I can understand perfectly that a Senator might surrender his views.

But I think it would be most extraordinary that some 47 or 49 or 50 Senators would be all so thoroughly convinced after having taken a position contrary only a few days before. It is a remarkable tribute to the genius of the President of the United States—something that no orator in the history of the world ever before has achieved. Gladstone, Disraeli, Webster, Calhoun, Clay, and Patrick Henry pale into insignificance before the tremendous effect of that speech, delivered in a few minutes before us, all of it familiar to us before. The power of oratory knows no other triumph like that. It will be pointed to in coming years by students of public speech, and fathers will tell their sons how a trembling Senate, though previously informed and previously committed, felt the touch of his magic wand and impatiently waited until he was through to obey the command.

Mr. NEW. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Indiana?

Mr. BORAH. I yield.

Mr. NEW. The Senator said that the Senate surrendered its judgment after listening to that speech. Is it not possible and more probable that the Senate, as a result of it, gained the courage to assert its judgment?

Mr. BORAH. Mr. President, suppose it should be that before that speech was delivered it was disclosed to the President that there were 49 Senators who were willing to vote that way?

Mr. NEW. That is another proposition.

Mr. HARRISON. Does the Senator from Idaho state that before the President agreed to come here he had the promise from certain representatives of this body that they had 49 votes for the position he might maintain.

Mr. BORAH. I would not say as to the exact number, but it was enough. Mr. President, I do not like to indulge in this debate at this time, because I realize that the construction which is put upon a man's attitude may be entirely different from that which he feels, but I am only concerned in one thing, and that is in a fair and reasonable obedience to what I consider to be the plain provisions of the Constitution of the United States, and I know that when President Wilson appeared here and delivered his speech upon the woman suffrage amendment, I felt precisely the same as I do now, and I expressed myself precisely the same, many times, and other Senators did also. I can not conceive that it is any part of my duty as a Senator to denounce a Democratic President for what I conceive an infringement of the Constitution and praise a Republican President for a like act. Neither partisanship nor patriotism requires that of any Senator.

Mr. LA FOLLETTE. Mr. President, will the Senator yield for an interruption?

Mr. BORAH. Yes.

Mr. LA FOLLETTE. I want to remind the Senator from Idaho that when President Wilson appeared here upon that question, that question was not before the Senate at all; it was not the pending question. I want to remind him that the stage was set for the appearance of President Harding here on the day on which he came, and that he was not brought into the Senate until the Senator from Pennsylvania [Mr. PENROSE] rose and called for the unfinished business to be laid before the Senate, and the moment it was laid before the Senate the President came in here and made his address.

The constitutional amendment had been pending for months before President Wilson came here. It was not a fresh question; it was not immediately before the Senate. It was not the question that was pending when President Harding came. The situations are entirely different.

Mr. BORAH. Mr. President, I hold a little different view from that entertained by the Senator from Wisconsin. It is true the suffrage amendment may not have been actually pending in the Senate, but the object of the speech of President Wilson was precisely the same as that of the speech of President Harding.

Mr. WADSWORTH. It was being debated. May I remind the Senator that after President Wilson left the Chamber, Mr. UNDERWOOD continued to debate on the measure in opposition.

Mr. LA FOLLETTE. It was taken up for debate.

Mr. BORAH. The objects were precisely the same. There was a measure which had been reported. It was pending before this body. The object was the same—to get enough votes to pass it.

Mr. JONES of New Mexico. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from New Mexico?

Mr. BORAH. I yield.

Mr. JONES of New Mexico. Mr. President, I simply want to call attention to the fact that the President in coming before the Senate to discuss the woman-suffrage amendment to the Constitution stated, in substance, in his address that he did it because of the pendency of the war, and that he thought that the adoption of that amendment would be of benefit to the country in that hour of stress, and while it might be a question as to whether or not it would affect the war, the President himself stated in his address that that was one of the reasons, at least, why he came before the Senate at that time.

Mr. BORAH. Mr. President, I am aware that President Wilson assigned that as one reason for the passage of the resolution. But I have too much respect for President Wilson and too high a regard for his intellect to suppose that he supposed that that would have any effect upon any man who would do any thinking for himself.

Mr. JONES of New Mexico. I am not undertaking to discuss the efficacy of that position; but the Senator certainly gives the President of the United States credit for honesty of purpose and honesty in expression, and inasmuch as that statement was made, I certainly would hesitate to impugn the motives of a President of the United States.

Mr. BORAH. Mr. President, I am not going to impugn the motives of Mr. Wilson. It is not necessary to do that. But Mr. Wilson was a very shrewd judge of human nature. I do not think that he thought for a moment that that argument would reach any man who would do any thinking for himself. But it did reach those who were willing to follow absolutely a political leader; and that is the same argument which was presented here upon the bonus bill, to men who would follow a political leader regardless of facts.

Mr. HITCHCOCK. Was there not an entirely different spectacle in the Senate as the result of those two meetings? The Senate at least did not disgrace itself by repudiating its former position and turning a somersault.

Mr. BORAH. It did not do it in the open.

Mr. HITCHCOCK. It did not do it at all.

Mr. BORAH. I do not know about that.

Mr. STANLEY. Mr. President——

Mr. BORAH. I yield to the Senator from Kentucky.

Mr. STANLEY. They pay probably an unwitting tribute to the ex-President of the United States in making him the standard by which to measure the justice and the wisdom and the conduct of all other Presidents. Here we have had 145 years of history, and they who yesterday could say not too many nor too much ill about him, to-day make Woodrow Wilson a standard by which to determine the propriety of the conduct of the present occupant of the White House.

Mr. BORAH. Not I.

Mr. STANLEY. I felicitate the Senators upon the other side that upon second thought they find so worthy, so perfect, and so faultless a standard by which to measure the conduct of the present President, and I do hope that the present occupant of the White House will heed the unconscious and necessary admonition and follow in the future in the steps of that precedent. If he should, and if he does, which I do not think he will, he will escape many a pitfall and many a snare.

For one, I do not agree with my Republican colleague that Wilson is infallible, that he ought to be made the supreme standard by which all other Presidents' conduct shall be measured. I am rather inclined to the opinion that his record would be none the less worthy or admirable had he not appeared on that occasion.

Be that as it may, there is this essential difference: The House had acted; it had cast a two-thirds vote and more. It would have been a waste of time, an act of folly, to argue to the House about doing a thing which it had already done. The result of the adoption of the amendment depended, as I recall, though I was not a Member of the Senate then, upon the action of the Senate, and for that reason it was the common-sense thing to address his remarks to the Senate, which was to act, and not to the House, which had acted. Am I not correct in that?

Mr. BORAH. The Senator is submitting a question now.

Mr. STANLEY. That is my recollection. I was not in the Senate at that time.

Mr. BORAH. I think if President Harding wants a precedent, he has precedents, but that does not help the situation, in my judgment, a particle. We see what results come from it. The mere fact of a precedent ought not to be thought of.

Mr. KNOX. Mr. President——

Mr. BORAH. I yield to the Senator from Pennsylvania.

Mr. KNOX. Formidable as the precedent may be that has been set up by the Senator from Kentucky and desirable as it might be for us to follow it, we could hardly afford to do it because there is not money enough in the country to pay the bill.

Mr. BORAH. And another thing, we would like to land in the next election where others landed.

Mr. REED. Mr. President——

Mr. BORAH. I yield to the Senator from Missouri.

Mr. REED. In the interest of accuracy I wish to call attention to the CONGRESSIONAL RECORD of September 30, 1918, under the subhead "Woman suffrage," as follows:

The PRESIDING OFFICER. The morning business is closed, and the calendar is in order under Rule VIII, this being Calendar Monday.

Mr. JONES of New Mexico. I ask unanimous consent that the Senate proceed to the consideration of the unfinished business, House joint resolution 200.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. J. Res. 200) proposing an amendment to the Constitution of the United States extending the right of suffrage to women.

Mr. JONES of Washington. Mr. President, I closed my speech in behalf of the selective draft act, as follows:

The Senator from Washington [Mr. JONES] proceeded then to make a speech on woman suffrage. He was followed by the Senator from Montana [Mr. WALSH], who also made a speech on woman suffrage, and at the conclusion of his speech I find this:

The VICE PRESIDENT. It being nearly the hour of 1 o'clock and the President of the United States being in the Capitol of the United States, the committee heretofore appointed will escort the President to the Senate Chamber.

At 1 o'clock p. m. the President of the United States was escorted by the committee to a seat on the right of the Vice President and the members of his Cabinet occupied the seats on the floor assigned to them.

The VICE PRESIDENT. Senators, the President of the United States. [Prolonged applause.]

The President addressed the Senate as follows:

Then follows his address. So that the matter then pending before the Senate was a constitutional amendment, and the President spoke upon the question. Now, immediately preceding his remarks had been the speech of the Senator from Montana [Mr. WALSH] on that question. Immediately following his remarks the Senator from Alabama [Mr. UNDERWOOD] made a speech in which he opposed the amendment, a number of other Senators interrupting from time to time, and the debate continued at some length.

So that the RECORD shows the President delivered his message in the midst of debate on the woman-suffrage question when that was the pending measure before the Senate. I simply make that statement in the interest of accuracy. I have no other interest in it.

Mr. LODGE. Mr. President——

Mr. BORAH. I yield to the Senator from Massachusetts.

Mr. LODGE. As an effort has been made to explain the speech on woman suffrage as a war measure, I wish to know whether the speech delivered by President Wilson on the league of peace in January, 1917, was also a war measure?

Mr. JONES of New Mexico. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from New Mexico?

Mr. BORAH. I yield for a question. I wish to get through.

Mr. JONES of New Mexico. I would like to suggest, if my recollection serves me right, that prior to the appearance of President Wilson on the occasion referred to by the Senator from Massachusetts the question of his appearance had been presented to the Senate, and that a committee had previously been appointed to escort the President to the rostrum.

I should like to suggest, in connection with what the Senator from Massachusetts has said, that the address of the President in regard to the league of peace was relating to a matter which concerned this body alone.

Mr. BORAH. Mr. President, all this discussion, of course, discloses the fact that it is almost impossible to discuss any question here without discussing it from a purely partisan standpoint. I have no doubt at all that President Wilson furnished ample precedent for the present President. There were some possible distinguishing features with reference to the particular drama which was enacted at that particular hour. The stage setting might have been a little different.

We learn by experience. We perhaps pulled off this one better than they did theirs, because they were inexperienced in establishing the precedent. We should not take advantage of that, nor should they feel badly because we may have improved upon it. Fundamentally they were precisely, in my judgment, the same. The object and purpose in coming here were the same, and I feel toward both the precedents precisely the same.

I am perfectly willing, if I can, to conform myself at all times to the exigency of party situation where it involves a mere question of procedure or some question of party regularity, but where the Constitution of the United States is involved, and where we are establishing a precedent which may have a far-reaching effect upon all generations, and where we are establishing a precedent which may change the entire trend of our Government, party has absolutely nothing to do with it. It is wholly immaterial to me whether it is President Wilson or President Harding. The precedent is precisely the same, and I view it from precisely the same angle or the same viewpoint. I discuss the matter without any personal feeling or any personal prejudice against either one of them. I am solely concerned in the precedent and its relationship to the great Government under which we live.

Mr. HARRISON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is suggested. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Hale	McCormick	Sheppard
Borah	Harreld	McKellar	Shortridge
Brandegee	Harrison	McNary	Smoot
Broussard	Hitchcock	Moses	Spencer
Capper	Jones, N. Mex.	Myers	Stanley
Caraway	Jones, Wash.	New	Sterling
Curtis	Kellogg	Newberry	Sutherland
Ernst	Kenyon	Nicholson	Townsend
Fernald	King	Norbeck	Wadsworth
Fletcher	Knox	Oddie	Warren
Frelinghuysen	Ladd	Phipps	Watson, Ga.
Glass	La Follette	Poindexter	Willis
Gooding	Lodge	Reed	

The PRESIDING OFFICER. Fifty-one Senators having answered to their names, a quorum is present.

The question is on the amendment of the Senator from Mississippi to the amendment of the committee. The Secretary will call the roll.

The reading clerk proceeded to call the roll.

Mr. CARAWAY (when his name was called). I have a general pair with the junior Senator from Illinois [Mr. McKINLEY]. I transfer that pair to the senior Senator from Texas [Mr. CULBERSON] and vote "yea."

Mr. SHEPPARD (when Mr. CULBERSON's name was called). The senior Senator from Texas [Mr. CULBERSON] is unavoidably absent. If present, he would vote "yea." He would also have voted "yea" on the previous amendment which was offered by the Senator from Mississippi [Mr. HARRISON].

Mr. FLETCHER (when his name was called). I have a general pair with the Senator from Delaware [Mr. BALL]. In his absence, I transfer that pair to the Senator from Ohio [Mr. POMERENE] and vote "yea."

Mr. HALE (when his name was called). Making the same announcement concerning my pair and its transfer as on the previous vote, I vote "nay."

Mr. KELLOGG (when his name was called). Making the same announcement as to the transfer of my pair as I previously did, I vote "nay."

Mr. LODGE (when his name was called). I transfer my pair with the Senator from Alabama [Mr. UNDERWOOD] to the Senator from Vermont [Mr. PAGE] and vote "nay."

Mr. McCORMICK (when his name was called). Making the same announcement as before as to my pair and its transfer, I vote "nay."

Mr. McNARY (when his name was called). Making the same announcement concerning my pair as before, I withhold my vote.

Mr. MYERS (when his name was called). I observe that the Senator from Connecticut [Mr. McLEAN] has not voted. I have a pair with the Senator from Connecticut. I am not able to secure a transfer, and therefore I withhold my vote. If permitted to vote, I should vote "yea."

Mr. STERLING (when his name was called). Making the same announcement as to my pair and its transfer as on the previous vote, I vote "nay."

The PRESIDING OFFICER (when Mr. SUTHERLAND's name was called). Making the same announcement as before, the Chair withholds his vote.

The roll call was concluded.

Mr. FRELINGHUYSEN. Making the same announcement in regard to the transfer of my pair as I previously made, I vote "nay."

Mr. WARREN (after having voted in the negative). Inadvertently I voted without announcing that I am paired with the Senator from North Carolina [Mr. OVERMAN]. I transfer that pair to the Senator from California [Mr. JOHNSON] and allow my vote to stand.

Mr. JONES of Washington (after having voted in the negative). The senior Senator from Virginia [Mr. SWANSON] is necessarily absent, and I promised to take care of him by a pair during that absence. I find I can transfer my pair with the Senator from Virginia to the Senator from Minnesota [Mr. NELSON]. I do so and allow my vote to stand.

Mr. KING (after having voted in the affirmative). I have a general pair with the senior Senator from North Dakota [Mr. McCUMBER]. In view of his former vote and from information which I have obtained I believe if he were present he would vote as I have voted. Therefore I permit my vote to stand.

Mr. HARRISON. I have a general pair with the junior Senator from West Virginia [Mr. ELKINS]. I transfer that pair to the Senator from Nevada [Mr. PITTMAN] and vote "yea."

Mr. CURTIS. I am requested to announce the following pairs:

The Senator from New Mexico [Mr. BURSUM] with the Senator from Louisiana [Mr. RANSDELL];

The Senator from New York [Mr. CALDER] with the Senator from Georgia [Mr. HARRIS];

The Senator from Vermont [Mr. DILLINGHAM] with the Senator from Virginia [Mr. GLASS];

The Senator from Pennsylvania [Mr. PENROSE] with the Senator from Mississippi [Mr. WILLIAMS];

The Senator from Indiana [Mr. WATSON] with the Senator from Massachusetts [Mr. WALSH];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN]; and

The Senator from Rhode Island [Mr. COLT] with the Senator from Florida [Mr. TRAMMELL].

I also desire to state that the Senator from Pennsylvania [Mr. PENROSE] is detained from the Senate in the Committee on Finance.

The vote resulted—yeas 18, nays 29, as follows:

YEAS—18.

Ashurst	Gooding	King	Sheppard
Borah	Harrison	Ladd	Stanley
Broussard	Hitchcock	La Follette	Watson, Ga.
Caraway	Jones, N. Mex.	McKellar	
Fletcher	Kenyon	Reed	

NAYS—29.

Brandegee	Jones, Wash.	Nicholson	Sterling
Capper	Kellogg	Norbeck	Townsend
Curtis	Knox	Oddie	Wadsworth
Ernst	Lodge	Phipps	Warren
Fernald	McCormick	Poindexter	Willis
Frelinghuysen	Moses	Shortridge	
Hale	New	Smoot	
Harreld	Newberry	Spencer	

NOT VOTING—49.

Ball	Gerry	Nelson	Stanfield
Bursum	Glass	Norris	Sutherland
Calder	Harris	Overman	Swanson
Cameron	Heflin	Owen	Trammell
Colt	Johnson	Page	Underwood
Culberson	Kendrick	Penrose	Walsh, Mass.
Cummins	Keyes	Pittman	Walsh, Mont.
Dial	Lenroot	Pomerene	Watson, Ind.
Dillingham	McCumber	Ransdell	Weller
du Pont	McKinley	Robinson	Williams
Edge	McLean	Shields	
Elkins	McNary	Simmons	
France	Myers	Smith	

The PRESIDING OFFICER. Upon this question the yeas are 18 and the nays are 29, and the Senator from Oregon [Mr. McNARY], the Senator from Montana [Mr. MYERS], and the Senator from West Virginia [Mr. SUTHERLAND], who is the present occupant of the chair, are present without voting. A quorum, therefore, is present, and the amendment of the Senator from Mississippi to the committee amendment is rejected.

Mr. HARRISON. Mr. President, I had thought that I should offer an amendment so that not more than two employees of the Shipping Board could receive salaries in excess of a certain amount, but the provision of the House text has been proposed to be stricken out by the Committee on Appropriations. That language inserts a limitation that not more than three of these officers or employees shall be employed at salaries in excess of $12,500. The amendment which was adopted in the House reads "shall be paid an annual salary or compensation at a rate in excess of $12,500."

I desire to offer an amendment, after the word "compensation," in line 25, page 2, before the words "in excess," to insert the words "at a rate," which will make it read:

compensation at a rate in excess of $12,500 a year.

The PRESIDING OFFICER. The amendment proposed by the Senator from Mississippi to the committee amendment will be stated.

The READING CLERK. On page 2, line 25, after the word "compensation," it is proposed to insert the words "at a rate."

Mr. HARRISON. If the amendment be adopted in that form, it will prevent the Shipping Board from employing some person for less than a year at a salary of $15,000.

Mr. KING. A parliamentary inquiry. As I understand, the amendment of the Senator from Mississippi will reinstate the House provision?

Mr. HARRISON. Yes; with the words added "at a rate."

Mr. KING. The Secretary did not read that as part of the Senator's amendment.

Mr. SMOOT. I should like to say to the Senator from Mississippi that there is no need of adding those words, because wherever there is a salary fixed at $12,000, it is to be paid $1,000 a month, and the auditor would never pass a claim for

any more than that; even if it were certified and sworn to, he never would pay it.

Mr. HARRISON. Notwithstanding what the Senator says, and it may be that former auditors have held in that way, there is a new auditor there, and I do not know what he might hold, and if we put in the words "at a rate" we will then take no chances. It would certainly simplify the act and make it clear. Mr. President, I hope there will be no objection to the amendment.

Mr. WARREN. Mr. President, I do not wish to say the Senator is offering the amendment to consume time, but it is entirely unnecessary, and I shall ask for a vote upon it and, of course, ask that it be voted down.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Mississippi to the amendment.

The amendment to the amendment was rejected.

Mr. HARRISON. I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. HARRISON. Mr. President, I do not know how the Chair counted, but I saw a number of hands up. I should like to ask for the yeas and nays again.

The PRESIDING OFFICER. The Chair will say to the Senator that there are at present required 10 hands to second a demand for the yeas and nays. That number of hands were not shown.

Mr. HARRISON. I ask for the yeas and nays on the adoption of the Senate committee amendment eliminating the provision that was placed in the bill by the House providing that not more than three officers or employees shall receive in excess of $12,500 a year.

Mr. KING. May I say to the Senator that I desire to offer two amendments to perfect the text of the bill reported to the Senate, and I think perhaps they should be offered before we take a vote on the Senate committee amendment. If the Senator does not object, I shall offer my amendments now.

Mr. HARRISON. Very well.

Mr. KING. I move an amendment, to come in at the end of line 25, page 2. Let me say before reading it that if the Senate committee amendment should prevail, then the amendment which I offer, if it shall prevail, would be moved up to line 21. The proposed amendment is as follows:

Provided further, That no more than $50,000 shall be paid to Robert H. Montgomery or Lybrand, Ross Bros. & Montgomery, or any of their agents or employees, for any or all services rendered or to be rendered said Shipping Board or said Emergency Fleet Corporation.

Let me say, Mr. President, that the reason I offer that amendment is this: I have some information that Mr. Montgomery, charging, as he does, from $60 to $100 a day, and a large number of his employees charging from $30 a day to $60 a day, or perhaps more——

Mr. WARREN. The Senator is mistaken about that.

Mr. KING. I have read the record.

Mr. WARREN. The record shows nothing of that kind. The record shows that as to Montgomery himself, but there is only one other man under him who receives as much as $50 a day.

Mr. KING. The record shows that a large number of those men are receiving $30 a day plus and over that sum.

Mr. JONES of Washington. Mr. President——

Mr. SMOOT. Mr. President, perhaps my colleague has read the record showing a contract, as reported in the House hearings.

Mr. KING. Yes.

Mr. SMOOT. I read that, and I took exactly the same position that my colleague does, but in the hearings of the Senate committee it was stated, and no doubt is true, that that contract never was entered into; that Mr. Lasker did not execute the contract, nor did Mr. Montgomery execute it.

Mr. KING. I want to say to my colleague and to the Senators that I think it is in the interest of the public to make it impossible to enter into any such contract with Mr. Montgomery. My attention has just been called to his testimony, and the statement of Mr. Lasker that the work of Mr. Montgomery and his assistants or agents would not exceed $50,000. I am willing to take the limit which they have placed there. It seems to me that if they are willing to state that it will not exceed $50,000, we ought to take them at their word.

Mr. WARREN. We stated that.

Mr. SMOOT. I will say to my colleague that I suppose he has made another mistake in reading the testimony by not reading the whole of it. The $50,000 limit testified to by Mr. Lasker was for collecting information in the different sections of the country upon one question. If my colleague will read the testimony he will find that $30,000 was spent under President Wilson, and that to complete that inventory of all the holdings of the Shipping Board, wherever they are in all the world, will not exceed $50,000; but that is only one branch of the investigation. The question of all of the other work, and the close analysis and examination of all of the accounts, is entirely separate from that $50,000.

Mr. JONES of Washington. Mr. President, I want to say to the Senator that his amendment is not really an amendment to the text of the House bill as stricken out, but it is entirely an independent proposition, and that it would be well for him to have the committee amendment voted upon, and then, whichever way it goes, offer his amendment as a new amendment to the bill. It is not intended as a part of that which is to be stricken out, because, if it is, then if the motion of the committee prevails it will strike it all out.

Mr. KING. It is not a part of that, but it is an amendment to the section.

Mr. JONES of Washington. Yes; I know; but it will come in after the committee amendment is disposed of.

Mr. KING. I have no objection to that, but I do not want to be cut off from the opportunity of offering it at the appropriate place.

Mr. JONES of Washington. No; the Senator will not be; but if it should go in as the Senator has offered it, then, if the committee amendment is adopted, it will all be stricken out. I say that in the interest of the Senator's amendment.

Mr. KING. It occurred to me that if I offered it, and the committee amendment was not adhered to, then my amendment, if adopted, would follow on line 21.

Mr. JONES of Washington. The Senator can offer that after the committee amendments are disposed of.

Mr. KING. I have no objection to taking that course.

Mr. WARREN. Mr. President, I call the attention of the Senator to the fact that this matter of Mr. Montgomery which he is handling now is in connection with this inventory; and the Senator knows that to break off an inventory half done would result in losing largely the effect of what has been done. I think we ought not to restrict it to $50,000, because we probably will lose more than that. I imagine that $75,000 to $100,000 would be all that would go to Mr. Montgomery and others, but I think the $50,000 limitation ought not to go in.

Mr. KING. As I understand his testimony, and as I understand the statement just made by my colleague, the $50,000 would be the maximum amount required for the work in which he was engaged.

Mr. SMOOT. That was only as to the inventory.

Mr. KING. He says, in the Senate hearings:

I can answer you, I think, Senator. The inventory work, separating that—I mean the outside figure, now—would be within $50,000. Is that right, Mr. Montgomery?

Mr. MONTGOMERY. Certainly; well within that.

I will say frankly that I am opposed to paying Mr. Montgomery or any of his employees or any of the firm with which he is identified more than would be required to make the inventory. If it takes $50,000, we will pay that; but my information is that Mr. Montgomery expects to be employed there and to have his firm employed there for an indefinite period, and that it will cost the Shipping Board from $500,000 to $1,000,000.

Mr. SMOOT. Mr. President, if the Senator has read the hearings he doubtless will have noticed that I brought up that question in the committee. I felt that the Bureau of Efficiency could do this work, and that it would not cost nearly what it would cost if it is undertaken and carried out by Mr. Montgomery. We have had some experience with Mr. Montgomery in the past; but the hearings developed—and I am quite sure if the Senator had been in there he would be convinced of this, because my idea was exactly the same as his now in relation to the expense—it was demonstrated beyond a question of doubt that the work had gone so far that it would be impossible now to change horses in the middle of the stream.

Mr. KING. May I inquire of my colleague, when he speaks of the work having gone so far, whether he is alluding to the inventory, or whether he is alluding to this audit which Mr. Montgomery and his employees expect to make?

Mr. SMOOT. The audit is on now, and it has been on for I do not know how many days. I think it had been going on for 26 days at the time the testimony was taken, but they were in it. To throw that all over and make a change now, Mr. Lasker thought, and I think the committee was unanimous in thinking, would be a very unwise thing. I will assure the Senator that there will not be $500,000, nor will there be half of $500,000 spent; and the work up to the present time, if the testimony is to be believed in any way, will cost less than $200,000, including the inventory work. It was impressed upon Mr. Lasker, and it was impressed upon Mr. Montgomery, who ap-

peared before the committee there, that we wanted that to be a fact, and that the work should not cost to exceed $200,000 complete, the inventory work and all.

I wish, Mr. President, that Mr. Lasker had known that we had men in the Government service who could have done that work just as well as Mr. Montgomery or any of his men that he may send here from all over the United States, knowing nothing especially about the work of the departments of our Government, but it was not known at the time. I will say that I have asked that the Bureau of Efficiency be used in this work to cut down the expense just as much as possible, and I was told over the telephone just the other day that that is what they are going to do.

Mr. JONES of Washington. Mr. Lasker testified before our committee that just as soon as he could possibly get it into shape he would use the Bureau of Efficiency to do the work.

Mr. SMOOT. There is not any doubt about it, and that is why I gave the outside figure of what this would cost.

Mr. SHORTRIDGE. Mr. President, may I ask the Senator from Utah a question? There is no contract for a specific sum?

Mr. SMOOT. It is simply an understanding; and to-night the chairman of the Shipping Board can dismiss Mr. Montgomery and all of his assistants.

Mr. WARREN. Mr. Montgomery so states here.

Mr. SMOOT. Yes.

Mr. WARREN. He states that his services can be discontinued at any time.

Mr. SHORTRIDGE. So that if he continues to do this work he will be paid on the doctrine of a quantum meruit—what the services are really worth? Is that the situation?

Mr. SMOOT. Absolutely. There is an understanding that these experts from Mr. Montgomery's firm shall be paid according to the work that they are doing, and that runs, as I understand, from $10 to $30 a day, according to the man's ability and the special work that he is undertaking. I will say to my colleague that perhaps he has in mind the work that was done by this same firm for which the Government of the United States a year or so ago was compelled to pay him $600,000, and the $100 a day was paid, as suggested by my colleague, for services that brought the total up to that stupendous sum.

Mr. JONES of Washington. No, Mr. President; I do not understand that it was his firm that did that. It was Perley Morse & Co. that made that $600,000 audit which was never completed.

Mr. SMOOT. Was it Perley Morse & Co.?

Mr. WARREN. It was Perley Morse & Co.

Mr. SMOOT. Then I will change my statement. I thought it was this same company.

Mr. KING. Mr. President, I notice here that Mr. Montgomery states:

> The last part of last week we had about 40 men in the United States; 20 men finishing the inventory which was started on the 29th of June. Inventory was taken at six or eight different places in the United States—not in Washington. Those 20 men were costing $30 a day. That work is more than 90 per cent completed.

Mr. SMOOT. Those are the inventory men?

Mr. KING. Yes.

Mr. SMOOT. They pay all of their expenses out of that?

Mr. KING. I do not know, so far as the record discloses, what is being paid to the auditors, but I am sure that the auditors are being paid more than the $30 a day.

Mr. SMOOT. We are assured that $30 a day is the highest price that is being paid to any of the men; and I should think that the men engaged in the inventory work, who have to pay their own expenses, are receiving the highest salaries that are paid; and there are 20 men who are engaged in the audit work now.

Mr. JONES of Washington. Mr. President, will the Senator permit me to read one statement of Mr. Lasker?

Mr. KING. Yes.

Mr. JONES of Washington. He says, referring to a suggestion of the Senator from Utah [Mr. SMOOT], that we should not have any more $600,000 propositions:

> You are perfectly right, and I would say that no man who had the interest of the Government at heart could feel any other way about it; but we are in so far that to shift now from what Mr. Montgomery is doing to the Bureau of Efficiency would cost more than we could save. We are about 45 days on our way. I will state to you that as soon as this is finished any further work we have will need no action by Congress. We will use the Bureau of Efficiency wherever we can profitably do so.

Mr. KING. What work does the Senator think was being alluded to?

Mr. JONES of Washington. It is the work that they are doing now.

Mr. KING. The work that they are doing now, I understand, is auditing as well as taking an inventory; so apparently, from that testimony, he anticipates going on and completing the full audit.

Mr. SMOOT. The audit work now is 45 days on the way, just the same as the inventory work, and in my opinion it would be unwise to start now with a new audit system or a new set of men to bring the audit up to date. I will say to my colleague, however, that the other morning Mr. Lasker telephoned to me and asked me if I would send Mr. Brown over to the Shipping Board for the purpose of consulting with him as to just how much help he could give him in bringing about this audit. Mr. Brown reported to me in the afternoon that he had seen Mr. Lasker and that they had discussed this question, and the Bureau of Efficiency no doubt have men in there to-day assisting in the auditing. I can not say how much it is going to cost.

Mr. KING. Mr. President, I am not at all satisfied with the explanations which the Senators have made. I am sure that they have been perfectly frank and honest in their explanations and have given us all the information they possess.

Mr. KNOX. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Pennsylvania?

Mr. KING. I do.

Mr. KNOX. I only want to make one observation about this matter. It seems to me there are one or two outstanding facts that ought to be very seriously regarded by the Senate in determining the course and policy that it is going to take toward the Shipping Board under its present management.

We have what we might call a great national nuisance on our hands and lying in our back yards which has to be removed. We have a case of double compound pneumonia in a patient, and we have to have a first-class doctor, and I think we have him. I am saying this without having any personal acquaintance with Mr. Lasker except such as I have acquired within a very few days. I do not think we ought to handicap and hamstring him by providing that he shall be assisted only by lawyers who have had only a couple of years' practice, and have never made more than $1,500 or $2,000 a year, or by auditors who scarcely know the multiplication table. I think he ought to be given the largest latitude. He ought to receive the most generous treatment. In dealing with the situation that has cost this Government $3,000,000,000, and which is an undertaker's job, which is a receivership, he ought to be expected to render a good account of himself, and the Congress of the United States ought to supply him liberally with the instrumentalities to make it a success.

Mr. KING. Mr. President, I thought the Senator when he asked me to yield arose to discuss the matter that I was presenting to the Senate, and while his views are very illuminating they are not pertinent to the matter I was suggesting.

Mr. President, I am not satisfied with the information we have respecting the employment of Mr. Montgomery and his auditing firm, and I make the prediction now, from information which has been brought to my attention, that the cost will be very much greater than what my esteemed colleague has just indicated. I believe that the cost of Mr. Montgomery and those under him will not only be $500,000 but will exceed that, and I regret that the chairman of the committee is not willing to accept the amendment which I have offered. However, I offer it, and ask for a vote.

Mr. SMOOT. Mr. President, just one word. There seems to be a deep-seated prejudice against the amount of money being paid to some of the attorneys in the Shipping Board. Very severe criticism has been offered.

I want to call the Senate's attention to the fact that there are filed to-day against the Shipping Board nearly $1,000,000,000 worth of claims, and if the Government of the United States has not the best talent to defend it, what is going to be the result, for those claimants have the very best attorneys there are in the United States? I believe that if we had had to pay $25,000 to get an attorney who stood as high in the profession as did the attorneys who represent the concerns claiming these amounts against the Government, we would save it to the Government of the United States many times over.

Mr. HARRISON. Does the Senator approve paying Mr. Smull $35,000 a year?

Mr. SMOOT. Mr. President, I do not know enough about Mr. Smull to express an opinion. There may be cases in which there is an injustice done, and upon the face of the record I would say to the Senator from Mississippi I think injustice has been done, but I am speaking now of the whole proposition.

Mr. HARRISON. The Senator's views are quite weighty, because of the fight he has made for economy, and I just want to know whether or not we are to turn into another road, and how we are going to proceed.

Mr. SMOOT. No; we are not going to turn into another road. I am going to be for economy as long as I am in the Senate of the United States. But in this particular case, Mr. President, I think the best economy will be observed if we get somebody who can take the part of the Government of the United States against the high-priced attorneys who are employed by these concerns who have filed a billion dollars' worth of claims against the Government.

Mr. HARRISON. Does the Senator approve of the policy of the head of the legal branch going to those big law firms and having them recommend some one to work for the Shipping Board and defend suits those firms might prosecute against the Shipping Board? Does the Senator approve of that?

Mr. SMOOT. That question involves two things. I could not say that I would approve of the attorney of the Shipping Board going to firms which have claims against the Government and asking them to recommend a man as an attorney of the Shipping Board. I could not approve of that at all.

Mr. HARRISON. The Senator disapproves that?

Mr. SMOOT. Yes.

Mr. HARRISON. That is what has been done.

Mr. SMOOT. I can not say as to that, Mr. President.

Mr. HARRISON. I can read from the hearings, if the Senator is not familiar with it.

Mr. SMOOT. Yes; I am familiar with it. I heard every word of it.

Mr. HARRISON. The Senator remembers Mr. Jones, who was offered $25,000 a year, and who was pleaded with to come to the Shipping Board, and who said the reason why he did not was because he had about 200 cases against the Shipping Board himself. The Senator recalls that?

Mr. SMOOT. I do not recall it.

Mr. HARRISON. I can read it to the Senator.

Mr. SMOOT. I do not want to take the time of the Senate.

Mr. HARRISON. It is very important.

Mr. SMOOT. But it is not important in connection with what I am saying; and I will say to the Senator that has been thrashed out here for two days.

Mr. HARRISON. Let me ask the Senator another question: Does he approve of the employment of Mr. Gaines, an ex-Congressman, who was paid $9,500 merely to appear before the Committee on Merchant Marine and Fisheries of the House and the Commerce Committee of the Senate, and to draft bills which the Shipping Board might want Congress to pass?

Mr. SMOOT. Mr. President, if that is stating the case in all its details and all its parts, I would say there was no necessity of that, because we have a drafting committee here which could draft any bills which may be wanted.

Mr. HARRISON. Will the Senator permit me to read just a line or two? Here is the testimony of Mr. Schlesinger. He said:

> Then I have Joseph H. Gaines, whom I am paying $9,500 a year. You probably do not realize it, but we have meetings of the Merchant Marine Committees of the House and Senate probably two or three or four times a week. New legislation is coming up every day, and we are called upon to be present at those meetings and to express what we think the legislation ought to be, to draft new bills, to modify bills, and I have gotten Mr. Gaines in charge of that work.

Mr. SMOOT. That does not say he has not put him in charge of a great many other things.

Mr. HARRISON. He was asked what were his duties, and the head of the bureau, the legal authority of the Shipping Board, stated what his duties were.

Mr. SMOOT. Mr. President, he does not state that those were his only duties. He said he had him there at that time while he is appearing before committees of the House upon that particular work. But that is not all the work he does in the Shipping Board, and I do not think the Senator from Mississippi will claim that it is.

Mr. HARRISON. That is all they say he is doing.

Mr. SMOOT. At this time, Mr. President, when they are appearing before the committees of the House every day.

Mr. HARRISON. If the Senator will allow me one more interruption, I shall not ask him another question. Does not the Senator think, in view of the revelations and the statements made before the committees of the House and the Senate, that there ought to be some limitation placed upon the Shipping Board in the matter of the employment of attorneys?

Mr. SMOOT. The Senator wants me to state just exactly my position, and I will state it to him. I want to say to the Senate and to the Senator that I think there should be nothing left undone to find out whether it is possible that the Shipping Board can be reorganized from head to foot, so that it will be a successful institution, and the quicker it can be done the better it will be for the Government of the United States. Instead of losing a million dollars a day and dragging this thing out for three more months or a year, let us have it settled in just as quick a time as possible, and if it takes a $25,000-a-year man to do it, give it to him, because we will make more than that every day that we save.

Another thing, I will say to the Senator, is that just as soon as it is developed that Mr. Lasker can not make a success of this reorganization, the quicker we let it go into the hands of a receiver and wind up its affairs the better it will be for the American people.

Mr. HARRISON. The Government will go into the hands of the receiver if we pay the enormous salaries that are proposed to be paid by this bill.

Mr. SMOOT. As far as that is concerned, I wish the Senator would just follow the committee on the question of salaries all the time, and if he will he will not go very far wrong. How often has the Senator voted against the committee?

Mr. HARRISON. I think the committee is wrong so often, I can not count the times.

Mr. SMOOT. Quite often when the committee cuts salaries, the Senator from Mississippi does not think then of the Treasury of the United States.

Mr. HARRISON. Here is the difference between the Senator and myself: He wants to fire enough of these $1,000 a year employees so that they can pay $35,000 a year to some employee of the Shipping Board who received theretofore $6,500 from the Emergency Fleet Corporation.

Mr. SMOOT. Mr. President, if there was a thousand dollar employee who could do the work, he is exactly the person I would want to employ. But the Senator knows such a clerk can not be had, and if Mr. Lasker is correct in his statement, and from his actions heretofore I think he is, there will be fewer employees in the Shipping Board before very long than there have been in the past.

The PRESIDING OFFICER (Mr. STERLING in the chair). The question is on the committee amendment.

Mr. HARRISON. A parliamentary inquiry, Mr. President. An affirmative vote is a vote for the Senate committee amendment, taking off all limitations and restrictions, and a negative vote is a vote for the House proviso, which limits it to three employees.

The PRESIDING OFFICER. That is the effect of the vote.

On a division, the amendment was agreed to.

The PRESIDING OFFICER. The Secretary will state the next amendment.

The READING CLERK. The next amendment is on page 3, under the "Department of State."

Mr. KING. Mr. President——

The PRESIDING OFFICER. The Chair will state to the Senator from Utah that there is one committee amendment which has not been acted upon.

Mr. HARRISON. Mr. President, I was in hopes the chairman of the committee would agree to put this off until to-morrow, and fix an hour for voting. We have been in session since 11 o'clock this morning. Discussion of the amendment under the State Department item will take up a good deal of time. I hope that we can finish all the balance of the bill and let this matter go over and be voted on at not later than a certain hour to-morrow.

Mr. WARREN. Mr. President, I think the Senator will acquit me of having used very much time in the last few days, and I think the Senator will have to admit that he has been rather generous in his use of time. We are met with a situation which will make it necessary, unless we pass this bill to-night, to interfere with arrangements already made for the recess. I am willing to go on without losing any particular time and pass the bill, and I hope the Senator from Mississippi [Mr. HARRISON] will cooperate with us and let us finish it to-night.

Mr. HARRISON. There will be several speeches on this proposition.

Mr. WARREN. Then certainly it ought to be finished to-night.

Mr. HARRISON. I want to see Congress take a recess, or adjourn; I was one of the few on this side who voted for it, and I am sure this bill is not going to hold up any recess or adjournment. I am not going to vote for the bill, but it can be voted on to-morrow sometime, and there will be ample time to go to conference and have it reported back and the report finally adopted.

Mr. WARREN. Mr. President, I am disposed to defer to my friend's judgment in all things when I can, but in the matter of conferences I beg the Senator will allow me to say I

think he is mistaken about that, and I think I will have to use my own judgment about it. I do not think it is possible, and I say it with all respect to everybody, for us to get the report in before the recess if we have to wait over until to-morrow afternoon to pass the bill.

Mr. HARRISON. If we can not finish we can hold over until Thursday, or recess on some later date. The Senator will not agree to that, then, I take it.

The PRESIDING OFFICER. The Secretary will state the next amendment of the committee.

Mr. HARRISON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Harreld	McKellar	Spencer
Borah	Harrison	McNary	Stanley
Brandegee	Hitchcock	Moses	Sterling
Broussard	Jones, N. Mex.	New	Sutherland
Capper	Jones, Wash.	Newberry	Townsend
Caraway	Kellogg	Nicholson	Trammell
Curtis	Kenyon	Norbeck	Wadsworth
Dillingham	King	Oddie	Walsh, Mass.
Ernst	Knox	Phipps	Warren
Fernald	Ladd	Poindexter	Watson, Ga.
Fletcher	La Follette	Reed	Watson, Ind.
Frelinghuysen	Lodge	Sheppard	Willis
Gooding	McCormick	Shortridge	
Hale	McCumber	Smoot	

The PRESIDING OFFICER. Fifty-four Senators having answered to their names, there is a quorum present.

Mr. KING. Mr. President, I offered an amendment a moment ago which was not in order at that time. I offer the amendment now.

The PRESIDING OFFICER. The Chair will state to the Senator from Utah that there is a committee amendment pending, and the unanimous-consent agreement is that committee amendments shall first be disposed of. The Secretary will state the pending amendment.

The READING CLERK. On page 3 the committee proposes to insert the following:

DEPARTMENT OF STATE.

Conference on the subject of the limitation of armament: To enable the United States Government suitably to participate in the conference on the subject of the limitation of armament to be held in the city of Washington and for the compensation of delegates or other representatives, clerks, and employees, including personal services in the District of Columbia, notwithstanding the provisions of any other act, expenses of transportation, subsistence, printing in English and other languages (including publication of the proceedings), stationery and supplies, entertainment of delegates, and such other objects as the President may deem necessary, to be disbursed under the direction of the Secretary of State, $200,000, or as much thereof as may be necessary: *Provided*, That a report shall be made to Congress not later than June 30, 1922, of the expenditures hereunder.

Mr. HARRISON. Mr. President, may I ask the Senator from Wyoming whether everything else is finished except this one amendment?

Mr. LA FOLLETTE. I have an amendment to offer.

Mr. KING. And I have one or two amendments.

Mr. HARRISON. Can not the committee amendment be temporarily laid aside until after other amendments are considered?

Mr. WARREN. Mr. President, so far as that is concerned, if there are other amendments to be offered we can lay it aside until we complete the other amendments if the Senator wishes to do so. The fact is that there are some amendments to be offered by the committee that I will offer immediately if I am permitted to do so.

The PRESIDING OFFICER. The question is on the committee amendment.

Mr. KING. I understand that it is to be temporarily laid aside.

Mr. WARREN. It is to be laid aside temporarily until we dispose of some other amendments. On the part of the committee I send to the desk an amendment which I offer.

The PRESIDING OFFICER. The amendment will be stated.

The READING CLERK. On page 3, after line 16, insert the subhead "Treasury Department" and the following:

Customs Service: For all necessary expenses as may be authorized by the Secretary of the Treasury in connection with the administration and enforcement of the customs laws, regulations, and the consideration of pending legislation, including the employment of any necessary officers and other employees in the District of Columbia and the several collection districts, $100,000.

Mr. KING. I should like to have some explanation of that amendment.

Mr. WARREN. The Secretary of the Treasury has asked for this amount because we made no appropriation for the consideration of the tariff bill which has already passed or in preparing for the one which we are to pass. This is to cover the necessary expenses until we can come to the regular annual appropriation bill.

Mr. SMOOT. Mr. President, I may add that if the American valuation plan is agreed to by the committee it is absolutely necessary to begin this work just as quickly as possible; in fact, I think already they have begun the work of collecting the values of goods on which the American valuation plan is to be based. That is another reason, I will say, over and above what the Senator from Wyoming has stated, for this amendment. It is absolutely necessary that it shall be done, because if we are going to pass a tariff bill we must have that information before it passes or else the whole offices in New York and Boston, at which the goods arrive and must be appraised and the duties collected, will be in chaos. This is to enable them to do that work ahead.

Mr. LA FOLLETTE. Mr. President, I should like to say, in further explanation, in answer to the Senator's inquiry, that the tariff bill under consideration by the Finance Committee of the Senate contemplates discarding in large measure the foreign valuation upon which goods have been heretofore admitted to our ports of entry and upon which tariff rates have been based. It is proposed in the new tariff bill to substitute instead an American valuation of the goods as the basis for fixing the rate on foreign imports into this country.

The tariff experts of the Treasury Department, the appraisers from New York, appeared before our committee and testified that it would be impossible to apply the American valuation to foreign imports unless the number of employees was very considerably increased. I think they estimated that 25 would be sufficient. I do not know whether the proposed appropriation is only for 25, but in order to raise the tariff wall sufficiently high under the American valuation to shut out these foreign imports pretty effectively it is necessary to have the employees who are provided for in the amendment at work considerably in advance of the passage of the bill. I think I have suggested the reason for the legislation.

Mr. KING. The explanation of the Senator from Wisconsin is very clear, and it indicates, of course, what at least some of the members of the Finance Committee intend to do, to shut out foreign importations. It seems to me that so effectively will this be done that we will not need any employees. It seems to me we might restrict the number that are now employed by the Government.

Our Republicans friends, and I do not say this in a partisan way, promised during the campaign that they were going to reduce the number of employees in the Government service more than 40,000. There were approximately 35,000 to 37,000 here in Washington prior to the war. There are now more than double that number. The promised reduction in the number of employees here and elsewhere does not materialize. This is asking for an appropriation for more employees.

Mr. McCORMICK. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Illinois?

Mr. KING. I yield.

Mr. McCORMICK. The total reduction in the District aggregates some 10,000, does it not?

Mr. KING. There have been some reductions. There were approximately, perhaps more than, 100,000 employees during the peak of the war.

Mr. McCORMICK. I regret that the reduction has not been more drastic, but I think it fair to note that there has been a reduction within the District of Columbia of some 10,000.

Mr. KING. Oh, I think more than that number.

Mr. McCORMICK. The Secretary of War, for example, has given orders that by December 1 next the number of employees in the War Department shall be reduced by 22 per cent.

Mr. SMOOT. I will say to the Senator from Illinois that there has been a reduction in the District of over 20,000.

Mr. McCORMICK. Since when?

Mr. SMOOT. Since March. From July 1 to 31, inclusive, just last month, there was a reduction of 5,537 employees in the District, and I will say to the Senator that I expect there will be as many as that before the month of August is closed, if not more.

Mr. KING. I know there have been reductions. Our Republican friends stated that when July 1 came and the end of the last fiscal year terminated, there would be sweeping reductions, and that we would get back to the prewar basis. There have not been sweeping reductions, and there are not sweeping reductions now taking place in the departments here in Washington. I wish to say of the War Department that perhaps that department has done more in the way of effectuating reforms and retrenchment than any other department.

Mr. McKELLAR. With the aid of Congress.

Mr. KING. Yes; and Secretary Weeks is entitled to credit for the business discipline and the business methods which he is applying in the administration of the affairs of his office.

Mr. SMOOT. I should like my colleague to give the Secretary of the Treasury credit, because the Secretary of the Treasury has separated more employees from that department than have been separated from any other department of the Government. There were separated from the Treasury Department within the last month 2,820 employees.

Mr. KING. The Senator now is referring, of course, to the War Risk Insurance Bureau?

Mr. SMOOT. No; that is only a part of the Treasury Department. I will say to the Senator that the Treasury Department has—and I have the report here now for a full year back——

Mr. McKELLAR. If the senior Senator from Utah will permit me, will he not put into the RECORD the figures which he has in reference to those separations? I should be glad if he would do so.

Mr. SMOOT. I shall be very willing to do that.

Mr. McKELLAR. I hope the Senator will.

Mr. SMOOT. I repeat, I shall be very glad to do that, and I ask that the statement may be inserted at this point.

The PRESIDING OFFICER. In the absence of objection, permission to do so will be granted.

The statement referred to is as follows:

Additions to and separations from the civilian personnel of the executive branch of the Federal Government in the District of Columbia for the period from July 1 to July 31, inclusive, 1921.

	Additions.	Separations.	Net figures.
Department of State	3	13	−10
Department of the Treasury	298	3,118	−2,820
Department of War	425	2,613	−2,188
Department of Justice	5	14	−9
Post Office Department	68	50	18
Department of the Navy	43	553	−510
Department of the Interior	176	127	49
Department of Agriculture	113	115	−2
Department of Commerce	93	225	−132
Department of Labor	10	30	−20
Government Printing Office	87	39	48
Smithsonian Institution	24	16	8
Interstate Commerce Commission	22	18	4
Civil Service Commission	29	6	23
Bureau of Efficiency	2	2	.....
Federal Trade Commission	8	5	3
Shipping Board	57	93	−36
Railroad Administration	37	24	13
Alien Property Custodian	4	2	2
Tariff Commission	5	2	3
Employees' Compensation Commission	.....	2	2
Federal Board Vocational Education	61	19	42
Panama Canal	3	2	1
Interdepartmental Social Hygiene Board	1	1	.....
Office Superintendent, State, War, and Navy Buildings	8	30	22
Total	1,582	7,119	5,537

Mr. KING. As I was saying, this appropriation provides for further employees. It seems to me, in view of the fact that the income tax and the taxes to be collected by the Government for this year will be materially less than those collected the last fiscal year, there ought to be a great reduction in the number of employees of the Treasury Department. It has been said that the taxes to be collected will be probably $800,000,000 or more less than those collected last year. That alone would call for a very large reduction in the force of employees. I do not see why some of those who are now in the employ of the Government might not discharge the duties which are to be performed by the increased number of employees which are proposed to be provided for by this appropriation. I am not satisfied that the explanation which has been offered justifies the amendment, Mr. President.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Wyoming [Mr. WARREN].

SEVERAL SENATORS. Vote!

Mr. REED. Mr. President, I know it is an imposition to keep the Senate here, if we are going to try to drive this bill through, and I also know that nothing that I can say will change the vote; but I think I ought to say this: The House of Representatives has passed the tariff bill which contemplates that tariffs shall be fixed upon the foreign valuation of goods. That has always been the rule in the past. The Senate Finance Committee by, I think, a party vote, concluded that they would in presenting the bill deal with the tariff upon an American valuation.

Mr. TOWNSEND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Michigan?

Mr. REED. I yield.

Mr. TOWNSEND. Is not the Senator from Missouri mistaken? Does not the House bill provide for the American valuation?

Mr. REED. That changes the situation to some extent. I will say by way of explanation that we have been having hearings in the committee instead of examining the bill; we have not gotten to the bill as yet. Of course, if the pending appropriation is made, it contemplates that Congress will pass the bill based on the American valuation, and this work should be done in anticipation of the passage of that bill. Of course, we do not know that the bill ever will pass with the American valuation provision in it.

We are assuming in advance that something is to become a law which is not yet a law. That is the situation. I do not want to take the time to discuss it. I simply want to say that if we do adopt the American valuation and do not entirely change the rates, then the tariff will be advanced from 100 per cent to 1,000 per cent, dependent upon the article involved; and I agree with what the Senator from Utah [Mr. KING] said a moment ago, that we shall have a tariff that will be so high that we shall not need anybody at all to administer it.

I have been listening to the hearings with a great deal of interest. The gentleman who wants protection does not walk in to make a showing of necessity, but, for the most part, he comes in with a demand for his share. Those gentlemen say, "We want a certain thing." Some of them have refused to tell what their earnings are, what their capital is, what their profits have been; but they coolly, and with an assurance and an effrontery that is almost admirable, state that they demand a certain part. That may all go through the Senate; we may pass the bill in that form; it may then be necessary to have these employees; but we are acting, I think, in a somewhat premature manner when we proceed to employ people who are to enforce a law that has not yet been passed.

Mr. SMOOT. The Senator from Missouri does not think for a moment that the Finance Committee is going to grant all of the requests which have been made, or even the greater portion of them, does he?

Mr. REED. I do not think the Finance Committee will grant all the requests that have been made, because the jurisdiction of the Finance Committee is limited to the United States of America; there is not enough to divide up, to go around, and fill the demand. In fact, I think if the Finance Committee had control of the universe and the fact was to get out, that these cormorants who have profiteered on the American people and who charged profiteering prices throughout the entire World War would ask everything from the fixed stars to the planets. I have not the slightest doubt of it.

I do not intend to discuss the question, but I am going to state it in a word. We are presented with this situation: The farmers are compelled to sell their surplus products upon the depressed market of Europe, and they are compelled to buy everything they use in the inflated market of America, a market which is still inflated far beyond where it ought to be, a market that is controlled by the gentlemen who profiteered during the war with a conscienceless ness that can never be described in human language. It is now proposed to build a tariff wall sky-high in order to protect those profiteers, while the farmer is compelled to sell upon the broken market of Europe.

It is proposed to protect the gentleman who to-day is charging $12 for shoes that used to be sold for $4.50, and make the farmer buy them who is selling his cowskin for $1.25. I welcome that issue, and when it comes I think the farmers of the country and some other people will have something to say. I do not think that these employees will be needed a little later on.

SEVERAL SENATORS. "Vote."

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Wyoming.

Mr. JONES of New Mexico. Mr. President, I desire to call attention to the wording of this amendment. The Senator from Missouri [Mr. REED] and the Senator from Wisconsin [Mr. LA FOLLETTE] have both stated in a degree the purpose of the amendment, but I desire to call particular attention to the language of the amendment. It is offered in connection with appropriations for the Treasury Department, and in part reads:

> For all necessary expenses that may be authorized by the Secretary of the Treasury in connection with the administration and the enforcement of the customs laws and regulations—

That is one portion of this amendment. I do not understand that the Treasury needs an additional appropriation for the enforcement of the customs laws and regulations of the

country. I have not yet heard of any suggestion that the Secretary of the Treasury needs any additional funds for carrying on his present functions and administering the present law.

This amendment, however, would give him $100,000 to use as he might see fit in that general activity without any indication of the purpose for which he might use it. It gives him $100,000 for use in the enforcement of the customs laws of the country without any suggestion here as to whether or not he needs it for the purpose for which he may possibly expend it.

Mr. KING. Mr. President, will the Senator yield?

Mr. JONES of New Mexico. I yield.

Mr. KING. And in the appropriation bill for the fiscal year 1922 very liberal appropriations were carried for customs employees and for the Treasury Department.

Mr. JONES of New Mexico. And undoubtedly all that the Secretary of the Treasury or the Appropriations Committee thought might be necessary.

So, ample provision has been made for that; and it seems to me that that part of the amendment at least should be stricken out. It gives unlimited authority concerning the expenditure of that $100,000. He may employ all the force which he may desire, and spend the whole $100,000 in adding additional employees to his office here in the District of Columbia if he sees fit.

Mr. KING. Mr. President, will the Senator yield further?

Mr. JONES of New Mexico. I yield.

Mr. KING. If an appropriation is sought for the purpose of collecting evidence in respect to the American valuation or for the purpose of formulating plans which are to be adopted after the American valuation plan shall have been crystalized into law, if that shall ever happen, then, why, if we are going to pursue an honest course, should not the appropriation state that it is for that purpose and be limited alone to that purpose?

Mr. JONES of New Mexico. I was going to read the next provision of the amendment, under which it will doubtless be contended that the purpose just referred to by the Senator from Utah would fall.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from New Mexico yield to the Senator from Utah?

Mr. JONES of New Mexico. I yield.

Mr. SMOOT. Mr. President, the wording of this authorization follows the exact wording of the original appropriation for this purpose—that is, for the purpose of enforcing the administration of the customs laws. The Senator knows that that is generally the way that all deficiency appropriations are written. The money appropriated under the provision will go immediately to the account indicated, and the account in the Treasury Department is under the heading furnished by the Treasury Department in submitting the estimate for the $100,000 appropriation. I do not think there will be one single employee under this appropriation stationed in the District of Columbia; but the account is held in the Treasury Deparment, as I have said, in accordance with the manner in which the Secretary has submitted the estimate, and therefore it ought to follow the exact wording of the heading of the account that is now in a department. That has always been the case in every deficiency appropriation that has been asked for in the past.

Mr. JONES of New Mexico. Yes, Mr. President; if this were a request for a deficiency to meet objects already authorized by law, then I take it the Senator is correct; but I did not so understand.

Mr. SMOOT. I will say to the Senator that the bigger part of it is for that purpose. I presume the Senator was not in the Chamber when I made the statement. Only a part of this money will be used in the Customs Service for the purposes named. The greater part of it is to be used as a deficiency in the appropriation that was made for this very purpose.

Mr. JONES of New Mexico. Mr. President, I think I am able to interpret the English language, at least to my own satisfaction. The senior Senator from Utah may feel that this expresses just what he has outlined as the purpose of it, but I do not understand that the Secretary of the Treasury has come before the committee asking for an additional amount to enforce the present law. If he has made any such estimate or suggestion as that, it is the first I have heard of it.

Mr. SMOOT. If the Senator will read the letter of the President that he holds in his hand, I think, wherein the estimate was made, he will see that it says:

> This appropriation becomes necessary by reason of a law enacted after the passage of the regular appropriation bill and the new tariff bill now pending, H. R. 7456.

Mr. JONES of New Mexico. It does seem to me, Mr. President, that we ought to know how much of this money is desired for the administration of the law which has been passed since the last appropriation bill. He does not even mention what the law is; and, so far as I have been able to learn, the Senate has not been advised as to that law which has been passed since the last appropriation bill.

Mr. WARREN. Mr. President, the Senator knows very well that the emergency tariff bill passed after the regular appropriation bills were passed,

Mr. JONES of New Mexico. Is that the one that is referred to—the emergency tariff bill?

Mr. WARREN. I leave the Senator to decide that in his own mind; but the regular bill passed at the last session of Congress, long before the emergency tariff bill passed.

Mr. JONES of New Mexico. Has the Senator, the chairman of the committee, any suggestion as to the amount of this $100,000 that will be needed for that purpose?

Mr. WARREN. As I understand, it is for that purpose and for the purpose which the Senator from Utah has explained, to prepare some information for the tariff bill now being considered. Perhaps the Senator and I would not agree on having any tariff bill; but I think the Senator will have to admit that this Congress expects, and this Senate expects, to pass a tariff bill; and it seems to me that having acknowledged that, as we must, we ought to furnish the facilities to hurry it along, in order that we may conclude our work here some time before the end of the year.

Mr. SMOOT. Mr. President, I will say to the Senator that there will be 25 employees gathering the valuations of American goods upon which the tariff is to be based, or is expected to be based, and it must be done within 90 days. Now, granting that every one of the 25 employees drew during the 90 days $800, the amount required for that purpose would be $20,000, and the balance, of course, is for the other purpose, for the enforcement of the emergency tariff bill that we passed here; and that has brought, of course, the extra work upon the Treasury Department.

Mr. JONES of New Mexico. Mr. President, I have some recollection of the discussion which took place in the Finance Committee as to the possible expense of getting ready to administer the new tariff law on the American valuation plan, and there was one employee, I believe, from the New York customs office who thought that this work might be done in the 90 days with 50 employees, perhaps less than 50. If there has been any other testimony on that subject I do not recall it. It was taken when I did not happen to be present.

Mr. SMOOT. If the Senator will look up the testimony of Mr. Davis, of the Customs Service of New York, he will find that he testified that he would want 25 employees; and the Senator from Pennsylvania [Mr. PENROSE] spoke up and said: "Why, if that is all that is absolutely necessary, take 50 employees, if you want them"; but Mr. Davis has repeated time and time again, and just the other day when the question was up as to whether we would include it in the emergency tariff bill Mr. Davis again repeated, that all the employees he could use and all that he wanted were 25.

Mr. JONES of New Mexico. Mr. President, that amounts to his—that upon the mere statement of a witness before the Finance Committee who is connected with the office of the collector of customs in the city of New York——

Mr. SMOOT. He is the head of it.

Mr. JONES of New Mexico. Upon his bare suggestion as to the expenditure which will be necessary to put into operation this law which has not yet been passed, this appropriation is asked for. The Senator from Utah suggests that that will not exceed $20,000. I hope he is right about it. I hope that not more than $20,000 will be expended; but if his information is correct——

Mr. SMOOT. All I said was that granting that each one of them would draw $800 for that period of three months, then it is true that the 25 would amount to only $20,000.

Mr. JONES of New Mexico. There is no doubt that 800 times 25 would make $20,000, as the Senator has suggested; but we have no statement from the Secretary of the Treasury as to what this thing will cost. We have nothing here except a mere guess by a member of the customs office in the city of New York.

Mr. SMOOT. Mr. President, I want to say that Mr. Davis is at the head of the customs office in New York, and if there is anybody in the United States who knows what it is going to cost it is Mr. Davis. He has been in the service for over 30 years; he stands at the head of the service now; and the Secretary of the Treasury, if he gave any information to Congress, would have gotten it from Mr. Davis. He could not have gotten it from any other source, because he knows nothing about it.

Mr. JONES of New Mexico. Oh, I do not understand that the Secretary has said that it will take only 25 men three months at a compensation of $800 each. What the Secretary

says is that he wants $100,000. I quite agree that the guess of one intelligent man as to the probable cost of this investigation is about as good as that of another man; but the Secretary of the Treasury does not say that. He says that this money is to be used—

For the dual purpose of enforcing a law which has passed the Congress since the previous appropriation bill—

How much for that? I think this Congress ought to know.

Now, then, the other question: It strikes me that the language of the bill, even if intended to carry out the object which has been stated by the senior Senator from Utah and the chairman of the committee, ought to be modified in some respects, because the next clause reads as follows:

And the consideration of pending legislation.

Does the Secretary of the Treasury want $100,000 to enable him to consider pending legislation? If he is getting information for the purpose of shaping pending legislation, I think perhaps he would be doing a wholesome service to the country, because it does seem to me, with the knowledge I have as to the testimony bearing upon this question of American valuation, that somebody does need information.

Now, Mr. President, as I take it, that language can not mean anything else:

And the consideration of pending legislation.

That is the language. He wants $100,000 to enable him to consider pending legislation. That does not mean that he shall build up a system of American valuations here for the various commodities embodied in that tariff bill, but for the consideration of pending legislation.

But, Mr. President, assuming that it does mean that which is claimed for it, is the Senate ready to create a precedent here? The question as to whether or not this tariff bill shall be based upon an American valuation is one of the most vital questions involved in the subject. It is a question, moreover, which was considered by one branch only of the Finance Committee. In the deliberations upon this question the minority was specifically requested not to participate.

Mr. SHORTRIDGE. Mr. President, may I ask the Senator a question?

The PRESIDING OFFICER. Does the Senator from New Mexico yield to the Senator from California?

Mr. JONES of New Mexico. I yield to the Senator.

Mr. SHORTRIDGE. Assume that this appropriation is made. Assume that the information is gathered. Will not that information be available to the Senate and to the House and to be used in the discussion of the tariff question? Would it not be wise, therefore, to gather this information to the end that the learned Senator whom I address may make all proper use of it?

Mr. JONES of New Mexico. Mr. President, if this amendment were so modified as to require that the suggestion of the Senator from California should be carried out, I should be in favor of the amendment, because I submit that under the testimony as it stands to-day before the Finance Committee of the Senate any honest mind ought to be in doubt as to how this law will operate.

Mr. SHORTRIDGE. May I add just a word, somewhat in the nature of a statement? I am now assuming that this information, if authorized, will be gathered and will be made available to every Member of this body, and will be gathered in time to be used in the course of the discussion which doubtless will take place here later, and before this proposed legislation passes.

Thus assuming, and for the very reason which my learned brother Senator suggests, ought we not here to furnish means with which to gather and formulate and produce here this information? It may well be that the learned and thoughtful Senator may then, upon this information and for other reasons, oppose the American valuation plan. Other Senators, for reasons which may seem good to them, may adopt or approve that plan; but we will have before us the facts upon which to base our arguments to sustain or overthrow two different theories of legislation in respect to this tariff question.

It seems to me that we ought to make a sufficient appropriation for the purpose which the Secretary has in mind.

Mr. JONES of New Mexico. I am inclined to believe that if the distinguished Senator from California had sat upon the Finance Committee when these questions were under consideration, he would not have come to the conclusion that the purpose of this appropriation is to gain information for the use of the Senate before the bill is acted upon by the Senate.

Mr. SHORTRIDGE. But whatever may have been the motives of those who seek this information, will we not have it at hand? As to the subject of the tariff, I hold myself to be a thorough protective tariff man. I believe in that doctrine. It is very appropriately named the American doctrine of a protective tariff. The question of the basis of valuation, whether it shall be the European valuation or the American valuation, is a question upon which men might differ. I want the information in regard to American valuations, and I assume that the learned Senator wants it, and, moreover, not to prolong the matter, I furthermore assume, and have all along, that this information would be available to us, that we could have recourse to it in argument for or against the plan.

Mr. JONES of New Mexico. Mr. President, I am sorry to say that in my humble opinion the very distinguished and learned Senator from California will be grievously disappointed if he is waiting for that information on which to base an opinion as to the merits of the tariff bill which will be presented to the Senate. Moreover, it seems to me that he could hardly expect it. We have a Finance Committee, whose duty it is to obtain this information, and present the information to the Senate in a report, and this is the first time I have heard it suggested that upon such a question as this we are going to call upon the Treasury Department to go out and get information upon which the Senate may act when the Finance Committee makes its report.

The Finance Committee has authority already to get all the information which it wants, and the suggestion that this is for the purpose of getting information for the use of the Senate to my mind can hardly be supported by the history of the case and the previous method of procedure in the Senate.

Mr. SHORTRIDGE. May I ask the Senator if the Finance Committee is gathering that information?

Mr. JONES of New Mexico. The Finance Committee has had some information upon that subject.

Mr. SHORTRIDGE. If it does not gather it, why not? If it is not going to gather that information, let the Secretary of the Treasury gather it. Let us have the information.

Mr. JONES of New Mexico. I may say to the Senator that the Finance Committee has already gathered all the information that a majority of that committee want. The majority of that committee decided that it had all the information that it wanted and that the majority would decide the question as to whether it would adopt this valuation plan or not. The information which I get is wholly from the press of the country, but I understand the senior Senator from Utah is on a subcommittee to make modifications of the American valuation plan. What those modifications will be perhaps rests only in the brain of the senior Senator from Utah.

Mr. SMOOT. Mr. President, the Senator from Utah is not on the subcommittee to take into consideration the American valuation plan. The Senator from Utah is chairman of a subcommittee to take into consideration the question of the embargo on dyes. I want to say to the Senator that I think he stated inadvertently that the majority members of the committee were satisfied with the information they already have received and do not intend to seek for any more.

Mr. JONES of New Mexico. Will not the Senator from Utah agree to this, that the majority members of the committee said to the minority that in the deliberations upon the American valuation plan and upon the dye embargo plan they did not want the assistance of the minority?

Mr. SMOOT. No, Mr. President, we did not say that; and I will say to the Senator that we gave at least six days to hearings on the American valuation plan, and I frankly state, as I think everybody in the United States knows, that I am against the embargo; I never would vote for it if it was the last vote I ever cast in my life. I have not any doubt but that the minority members of the committee will be advised of that.

But what I wanted to say was this: That the chairman of the committee, before hearings were ever started, asked the Tariff Commission to make such an investigation as they could as to the difference between the American valuation and the foreign valuation on all of the items within a reasonable time. The Tariff Commission has reported to the committee the results of their investigation.

I will say to the Senator also that as this work progresses, and the valuations of these items are ascertained through the employment of the 25 men provided in this amendment, that information will be given not only to the Finance Committee but it will be in shape so that every Member of the Senate can consider it.

Mr. JONES of New Mexico. May I inquire of the Senator from Utah whether or not the Finance Committee expects to wait for that information before acting upon the subject?

Mr. SMOOT. Upon the question as to the American valuation?

Mr. JONES of New Mexico. Yes.

Mr. SMOOT. No, Mr. President; I think the majority of the members of the committee have decided that they will support the American plan, but not as the House reported it. But that is the only action that has been taken by that committee.

Mr. McCUMBER. Mr. President, both Senators seem to have left out of their calculations entirely the principal reason for securing this evidence. If we are to have an American valuation, we must decide that, and if it is decided at all it will probably be decided upon its merits on the theory that it gives us a more stable and a fairer basis for levying duties. But the principal reason for now securing this data is to provide a basis for determining what the levy should be, and we could not make the levy upon the American valuation a fixed one which would be fair and just until we ascertained the valuation of the several articles on which we will have ad valorem duties.

The Senator, of course, knows that by far the greater amount in bulk will be specific duties. But in order to determine what the rate shall be, wherever we are compelled to use the ad valorem duty, if we are going to base it upon American valuation, we must have the American valuation before we can fix the duty.

Mr. JONES of New Mexico. May I inquire of the Senator from North Dakota if it is the understanding of the Senator, and does the Senator believe, that the purpose of this appropriation is to secure information for the benefit of the Senate, but more especially for the Finance Committee, before the Finance Committee comes to a conclusion upon the subject of the American valuation?

Mr. McCUMBER. Mr. President, it might be for both purposes. There is a sort of a tentative plan, at least, if not an agreement among the Republican Senators, that the American valuation is the better basis for a tariff under present conditions; but that is not definitely decided. It is not a question as to which we may not change our minds. But we still must go a step further and ascertain what the values are before we can levy a single ad valorem duty. That is the main purpose of the request for the additional clerks or employees necessary to secure this added information.

Mr. JONES of New Mexico. I will state, Mr. President, very regretfully, that this is the first time I have heard that this appropriation was wanted for the purpose of having the Treasury Department secure information for the use of the Finance Committee in its deliberations upon the tariff bill. If that has been the purpose, the understood purpose, of course I have nothing more to say; but it is such an unusual procedure that I assumed it had not been done.

Mr. McCUMBER. I ask the Senator if he knows any other way by which we can secure that information and apply that information to each one of the articles on which duties are levied, and if the Senator will read over, as he has before, perhaps many times, the fine descriptions and the rather complex phraseology, and the descriptions of hundreds of thousands of articles, he will see that only experts can give the testimony necessary.

We must, for instance, determine what is the equivalent American article, no matter what phraseology we use, and an expert must determine what is the equivalent article produced in the United States, because none of them are exactly the same, and that information must be obtained through the Treasury experts who have had years of training in passing upon those particular questions.

Mr. JONES of New Mexico. Mr. President, everything the Senator from North Dakota says as to the technicalities involved is true, and it is for that very reason that the Congress of the United States some years ago created a body for the specific purpose of obtaining that kind of information. We have a Tariff Commission, whose duty it is to obtain information of just this sort, and now you simply say that you do not want the services of this Tariff Commission any longer; that you are going to call upon another branch of the Government to get information which has been in the course of selection for months and for several years by a body created by Congress for this specific purpose.

Mr. SMOOT. Mr. President, I know the Senator wants to be perfectly fair, and I say to him that the Finance Committee called upon the Tariff Commission to do this work I think a month before the bill passed the House, and the chairman of the Tariff Commission was before the committee and stated that all he could do under the appropriation he had was to give them three men for that work, and three men from the Tariff Commission collected what information we have.

If the Tariff Commission does it, we shall have to make the appropriation just the same, and the Tariff Commission has not the trained men, such as are in the customs service.

You can not pick a man up here in the street to do this work. The Tariff Commission said they had only three men that they even could trust with it. It takes a lifetime for a man to become proficient in this work, and that is why they had to place it in the Treasury Department.

Mr. JONES of New Mexico. Mr. President, I submit they have not anybody in the Treasury Department who is better qualified to do this work than a great many other people. The customs officials hitherto have been performing their duties upon an entirely different basis, and now for them to go out is just like sending any other intelligent person to get the information. If you are going to hire additional men—and that is what this means—are you going to pay those Treasury officials additional salaries or are you going to get other men to perform this work, and if you are why should they not be employed by the Tariff Commission, the body which Congress has designated to get information of just this sort?

When the members of the Tariff Commission came before the Finance Committee to give evidence upon this subject of the American valuation—though I do not like to talk about things which occurred in the committee—every member of the committee who was present understood that there would not be time to gather that information before the committee would act. So it seems to me that the purpose of this amendment is, as stated first by the senior Senator from Utah, to get information now for the purpose of putting into effect a law which has not yet passed Congress. It is unprecedented, and the law, in my humble judgment, will be one of those laws which will bring disaster to this country if it is ever put into effect.

I do not intend to discuss that legislation now, but never with my vote will a dollar be appropriated in contemplation of putting into effect such a vicious law as is proposed and as came from the House of Representatives.

Mr. REED. Mr. President, I am a little surprised at the course the discussion is taking. There has been no secret about what has been transpiring in the Finance Committee. I think I am at full liberty to talk about it. It has not been possible for me to be there as much as I would have liked to have been, but I heard the question asked of customs officials whether they were in possession of the information which would enable them to compare the foreign values with the American values and to inform the committee exactly how the American valuation would work. I heard them asked how many men it would take to ascertain those differences so that the law, if American valuations were adopted, could be put into effect. I think the Senator from New Mexico heard the same line of questions.

This is the first intimation that I have had that the committee wants information for its benefit in drafting the bill. I concede that the committee needs the information and needs it about as badly as information was ever needed by any body of men; and the reason for it is that they are about to abandon an old and tried system of levying revenues for a new system. Under the old system, as I said a moment ago, we levied our tariffs upon the foreign values, and the entire machinery has been created by which we could ascertain what those foreign values were. It is now proposed to change from the foreign valuation to the American valuation. That involves a different basis for the ascertainment of values than has heretofore been employed. The result is that no one knows how the American valuations will work out. We are asked now, according to the new doctrine, to employ a lot of men to figure out how they will work out.

The excuse for this is that there is a wide range of values at present existing in different European countries, and it is said that those values have their great variations because of the difference in the purchasing power of the money of those European countries and the enormously high rates of exchange incident thereto. I wish to spend just a moment on that feature.

It is true that the German mark has gone down from a normal prewar value of about 24 cents to a value of, according to the last quotation I saw, 1¼ cents; possibly it has gone to 1½ cents. A similar depreciation, although not so great, has occurred in Italy and in France and in England—in England, of course, the depreciation being much less. A still greater depreciation has occurred in Russia and I believe in Poland. We had a good deal of talk about the difference in the rate of exchange. What is the cold fact, applying the fact of these changing values in money? It is that a piece of paper run through a printing press can not be floated on a parity with gold dug out of the ground, particularly when you run the printing press night and day in disregard of union rules and of common sense.

The difference in the rate of exchange between Great Britain and the United States is almost wholly due to the fact that

England depreciated her money during the war by the issuance of five or six times as much paper as she had gold. A corresponding difference exists between French money and English money, the French being lower than the English for the same reason, namely, that France issued much more paper money in proportion to her metallic reserve than did England. When we go over into Germany the disparity is still greater, and when we get to Russia they have no gold and their money is practically without any value whatever.

The rate of exchange differs between those countries just about in proportion to the ratio of their paper money to their metallic reserve. It is not a rate of exchange existing merely in favor of the United States. The same disparity exists between those different countries, and the rate of exchange represents almost in toto the difference, I repeat, in the actual value of their money. Of course, the rate of exchange is always dependent on the cost of transporting money from one country to another, but that rate of exchange never can be greater than the cost of hauling the money, plus the insurance, if the money originally was upon a parity.

So that all this talk about the failure to do business with those countries on account of the rate of exchange is a false talk. The reason we can not do business with those countries is the same reason that we could not do business with the South during the Civil War, particularly at the end of the war. The currency of the South had depreciated until it was worth nothing or practically nothing. The stability of the Government and its ability to pay in the future was doubted and its present ability was known to not exist—that is, it had no present stability.

So that, stated all in a word, the difference in the rates of exchange as a bar to trade amounts to nothing. The trouble that we are having is that we are dealing with countries that have a money that is of very little value. The question is, How are we going to measure values in those countries? And the answer is as simple as anything in the world can be. Measure their values not in their paper marks or their paper lire or their paper francs, but measure those values in gold in each of those countries and we would have a value as stable as any value can be. All we have to do, then, to ascertain the value is to go and get their market price in francs or in marks and transmute that into gold, and then we know what the foreign value is. We have all the machinery at present existent for that.

That is the excuse that is offered for changing to the American valuation, but the reason for changing to the American valuation is quite a different thing. There are two reasons for changing to the American valuation. One is that by changing to the American valuation we will be levying our tariff rates upon a value from 25 per cent to 500 per cent higher than the foreign value. Thus there can be an actual raising of the tariff protection wall without apparently having raised it at all, for while the rates may be the same, yet the amount to be collected, because it is collected upon a different basis of value, may be many times greater.

So, I think that it was in the minds of some of our friends that if they could adopt an American valuation, a very seductive phrase, indeed, then they could reduce the tariff from 40 to 30 per cent, as figured upon the valuation, collect about twice as much as was formerly collected, and they could go to the country and say, "See how we have reduced your tariff, and what a glorious thing we did when we adopted an American valuation."

That is one reason, but there is a better and bigger reason than that, and that is that when you adopt the American valuation you put it in the power of the American business man to raise the tariff every time he wants to raise it. All he has to do is to increase the price of his own goods and thereupon the tariff is correspondingly increased on everything that comes in, because it is measured by the American valuation.

To illustrate that, if a man is engaged in the business of making dishes and the American valuation on a dozen plates is $12 and the foreign valuation is $6, then a 100 per cent tariff upon the foreign valuation equal to $6 would place those two articles upon the same basis; but if a 100 per cent tariff in that instance was levied upon the American valuation, the price for the article would have to come up to $18.

It therefore is apparent that by taking the American valuation and levying the tariff rate upon the American valuation we not only levy it upon the higher valuation to begin with, but every time that higher valuation goes up the tariff goes with it. Coming back to my illustration about the 12 plates, if the price is $12, the tariff that is levied at 100 per cent is $12. If the American sees fit to double the price of his plate and makes it $24, he doubles the tariff at the same time. A 100 per cent tariff will exactly double itself and go up exactly as the prices go up and will go down as the prices go down. No foreign goods could possibly come in under those circumstances. The tariff is made prohibitive.

Mr. WALSH of Massachusetts. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Massachusetts?

Mr. REED. I will yield in a second, when I conclude the statement. Of course, if the tariff is more than 100 per cent, the tariff law will go up faster even than do the American prices; if it is less than 100 per cent, it will not go up quite so fast as the American prices, but if it is 50 or 60 per cent—and most of the tariff rates run along about there—then the American, by advancing his price, can constantly increase the tariff, if not quite as rapidly as his prices, yet carrying it along with them, and increasing in proportion, he can carry it up to a point where there never can be any real foreign competition.

I do not want to take much time, but I desire to finish this thought. I have listened in the committee room to the testimony of these gentlemen coming in and demanding a tariff. With the exception of manufacturers, who want cheap raw materials with which to manufacture, the universal demand of these gentlemen is a tariff that will keep the foreign article out, I say "universal." There may be exceptions, but when you press them and drive them into a corner they will say, "Oh, yes, I believe it should be on a competitive basis"; but no man can read their testimony without understanding that the deliberate purpose and intent of these gentlemen is to have a tariff which will close the doors of America to foreign competition. They boastfully recite how they want to protect American industry. I can not refrain from calling attention to one of the arguments advanced by one of those gentlemen. He said, "If we do not have a tariff we shall have no American industry. To show you what they will do, during the war they advanced a certain article from $4.50 to $13; that is what they will do to us." "Well," he was asked, "to what price did you advance your article?" He replied, "We got all we could get—about $14." That illustrates the whole scheme. The proposition is to adopt an American valuation, putting into the hands of the American business man the power to increase the tariff every time he increases his prices. In my judgment it is utterly indefensible.

I ought to have yielded sooner to the Senator from Massachusetts, and I gladly do so now.

Mr. WALSH of Massachusetts. I desire to suggest to the Senator from Missouri, who has very clearly and ably stated two of the reasons for the adoption of the American plan of valuation, that he omitted one other reason, which was to my mind a very controlling one on the part of the majority, and that is that the American plan, if adopted, will prevent any American consumer from honestly knowing the tax which he has to pay on the goods which he consumes.

Mr. REED. I thank the Senator.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Wyoming [Mr. WARREN]. [Putting the question.]

Mr. REED. I think we ought to have a few more Senators in the Senate when we vote on this proposition.

The PRESIDING OFFICER. All in favor of the amendment will signify it by saying "aye." Those opposed "no." The ayes seem to have it.

Mr. HARRISON. I call for a division, Mr. President.

Mr. SMOOT. I ask for the yeas and nays.

The yeas and nays were not ordered.

The question being put, on a division, the amendment was agreed to.

Mr. WARREN. Mr. President, I send to the desk another amendment, which should go under the heading of the amendment just agreed to, but over the subject matter.

The PRESIDING OFFICER. The amendment proposed by the Senator from Wyoming will be stated.

The READING CLERK. Under the heading, "Treasury Department," and after the amendment just adopted it is proposed to insert:

Division of Customs: For expenses of the dye and chemical section, Division of Customs, $7,000.

Mr. KING. Mr. President, may I inquire whether this is a deficiency?

Mr. WARREN. The item is sent down in the regular way from the department by the President of the United States.

Mr. KING. May I inquire of the Senator if there was not a liberal appropriation made for this organization, which ought not to have been perpetuated, but which has been perpetuated pursuant to the demands of certain interests in the United States?

Mr. WARREN. The fund on hand at present is insufficient.

Mr. KING. Is it a deficiency for 1921 or for 1922?

Mr. WARREN. I will say to the Senator that, in my judgment, whether all of that amount can be used will depend on whether we extend the duration of the emergency tariff and the dye measure.

Mr. KING. Let me see if I understand the Senator. It means that if we perpetuate the dye embargo——

Mr. WARREN. For a matter of two or three months.

Mr. KING. Until the 1st of January, then it is to pay the employees of the Government who are now administering the embargo features of the act now in force?

Mr. WARREN. Some portions of it will be used for that purpose; yes.

Mr. KING. Was there not sufficient appropriation carried in the other bill to take care of this organization until the 1st of January, and even until the 1st of next July?

Mr. WARREN. No.

Mr. KING. If I may ask the Senator a further question, then, this amendment of course is anticipatory. When will the appropriation that has heretofore been made expire; when will it be exhausted?

Mr. WARREN. As I understand, it will be exhausted on the 27th of the present month.

Mr. KING. I think that no better service could be rendered to the American people than that this organization should die, as it ought to have died heretofore—d-i-e, not d-y-e. I think the Senator ought not to urge the appropriation provided by the amendment.

Mr. SMOOT. Mr. President, my colleague knows that I am opposed to the dye embargo as much as any living man; but I do not want the interested parties to say that we strangled them here. I am going to vote for the extension of the dye embargo for three months, and I shall do so for the reason that I want them to have no excuse whatever that a fair trial was not given; but, if we extend the emergency tariff bill and the embargo bill for three months from the 27th of the present month, then we ought to take up in the meantime and pass the tariff bill and eliminate every kind of an embargo.

Mr. KING. Mr. President, I am very glad to hear my colleague announce the position which he has just taken. I think it does credit to his intellectual honesty as well as to his statesmanship. I think that no more inquitous measure has come before the Senate than the dye embargo bill. Mr. du Pont testified that he went to the chairman of the Finance Committee, and the chairman of the Finance Committee asked, "What do you want?" He replied, "We want an embargo," but not satisfied with an embargo, then they wanted—and he testified to that with a brazenness that is really remarkable—in addition to the embargo the provisions of the Sherman antitrust law repealed, so that they could keep out all imported articles, and then they could combine and exploit the American people, as they are exploiting them now. It is a hypocritical, wicked conspiracy on the part of the Chemical Foundation and the dye industry to rob and plunder the American people.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Wyoming.

The amendment was agreed to.

Mr. WARREN. I offer another amendment, which I send to the desk and ask to have read.

The PRESIDING OFFICER. The amendment will be stated.

The READING CLERK. On page 3, after line 16, it is proposed to insert, after the amendment heretofore agreed to at that point, the following:

WAR DEPARTMENT.

Unexpended balances: That all of the unexpended balances of the appropriations chargeable with the settlement of claims resulting from the suspension or termination of contracts or other procurement obligations of the War Department consequent upon the suspension of hostilities, and with the adjustment of claims under the act entitled "An act to provide relief in cases of contractors connected with the prosecution of the war, and for other purposes," approved March 2, 1919, as provided in the "second deficiency act, fiscal year 1921," are hereby made available until June 30, 1922, for the payment of any award made by the Secretary under the act entitled "An act to provide relief in cases of contractors connected with the prosecution of the war, and for other purposes," approved March 2, 1919, without reference to the purpose of the original appropriations from which the said unexpended balances are taken.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Wyoming.

The amendment was agreed to.

Mr. WARREN. I have one more amendment to offer on behalf of the committee, which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. At the top of page 7 it is proposed to insert the following:

DEPARTMENT OF AGRICULTURE.

Enforcement of packers and stockyard act: To enable the Secretary of Agriculture to carry into effect the provisions of the packers and stockyard act, approved August 15, 1921, $240,450.

Mr. KING. I move to strike out the "$240,450" and insert "$100,000."

The PRESIDING OFFICER. The question is on the amendment of the Senator from Utah to the amendment offered by the Senator from Wyoming.

Mr. PHIPPS. I should like to have the amendment to the amendment again stated.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The READING CLERK. In lieu of the amount proposed, "$240,450," it is proposed to insert "$100,000."

Mr. KENYON. I should like to ask the chairman of the committee if there is not a message from the President of the United States on this subject?

Mr. WARREN. There is.

Mr. KENYON. And an estimate from the Secretary of Agriculture, which has been recommended by the President of the United States?

Mr. WARREN. I have before me the statement of the estimate and recommendation.

Mr. KING. I should be glad to hear the basis for the estimates, or, rather, the estimates themselves.

Mr. KENYON. The so-called packers' law has been passed after great exertion, and I suppose this is one of the methods of killing off its operation.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Wyoming.

Mr. KING. Mr. President, if estimates have been furnished by the appropriate department, I have not seen, and, therefore, am not familiar with them. I should be glad to be advised as to their nature. May I ask the chairman of the committee to allow the estimates to be read by the Secretary? I should be glad to have them read so that we may know what the items are. It may be that they are legitimate and proper.

Mr. WARREN. What we have to act on is this:

This appropriation becomes necessary on account of a law enacted since the passage of the regular appropriation bills.

The estimate has had careful consideration with the fact in view that it involves the creation and building up of a new and independent organization within the Department of Agriculture. The amount requested seems to me may reasonably be required for the proper enforcement of the act.

Respectfully, WARREN G. HARDING.

Mr. KING. Mr. President, may I inquire of the Senator if that is all the information with which we are to be furnished? Did Gen. Dawes pass upon the estimates?

Mr. KENYON. Here are the estimates. I will hand the Senator a copy of them.

Mr. KING. Mr. President, in order that we may have a little more information that the Senator did not read, I will read what these estimates are:

Salaries—

Of course, we might know that that is the very first thing. There are so many hungry Republicans and others that we must start out first with salaries, and create new offices—

In Washington:
Administrator in charge, $6,500.
Assistants to administrator in charge, $3,600.
General auditor, $5,000.

Let me say in passing, Mr. President, that that is absurd. We do not need a general auditor for this work. Here is merely a small bureau within a department, and there are auditors in the department. Why create an auditor to look after these accounts at $5,000?

Assistant auditors, $2,500.
Examiners, $3,600.
Stenographic reporters, $2,400—$1,800.

I do not know what that means.

Head clerk, $2,500.
Clerks—

Thirteen clerks are required, Mr. President, at from $1,800 to $1,500 each.

Attorneys—

Three attorneys, with salaries ranging from $5,000 to $3,600.

Division and district supervisors, 36, with salaries from $3,000 to $2,400.

Assistant supervisors: Ten, at $2,000.

Thirty-six clerks—again—at $1,200 each.

Total, $241,600.

GENERAL OBJECTS OF EXPENDITURE.

Stationery and printing	$5,000
Traveling expenses, including attendance of witnesses	25,000
Equipment and material	9,000
Telephone and telegraph service	10,000

Miscellaneous items, including rent in field	$20,000
Contingent fund	10,000
Total estimated expenses for 12 months	320,600
Deduct from total estimated for 12 months the amount not likely to be expended on account of the appropriation not being available for the entire fiscal year and on account of delays likely to be encountered in securing suitable persons and establishing the necessary organization	80,150
Total estimated required for fiscal year	240,450

So, Mr. President, this administration that promised economies, that promised to reduce expenses, that promised to cut down the number of employees in the Government service, proposes to build up a new organization here. This is merely the nucleus, the bare skeleton, of it, and, of course, the flesh and the tissues will be filled in sooner or later. That requires more than 100 new officials.

This, of course, is a redemption of pledges made. Starting out now with this small amount, only two hundred and some odd thousand dollars, next year it will be undoubtedly double that amount, and the end, of course, is not in sight.

It seems to me that these estimates are too nebulous to be the basis of any intelligent, rational judgment upon the part of the Senate. I renew my motion.

Mr. WARREN. Mr. President, will the Senator yield a moment?

Mr. KING. Yes.

Mr. WARREN. The Senator knows, because we have been together here for some time, that the packer bill was one that I voted against; but the Congress of the United States has determined to have the so-called packer bill put into operation. Now, does not the Senator understand that what may be called the packer business, taking it all together, is the greatest industry that there is in our country? Think of the millions and hundreds of millions of dollars that are represented by the product; and the conduct of the business has to be under the supervision of the Agricultural Department, as I said before, by the act of this Congress. What is our duty in the matter? It seems to me that if they are going to put anything of that kind into operation it should be put into operation so that there may be justice done not only to the people who buy meat but to all of those who handle it all the way down, from the time it goes from the grass or the grain-fed yards to the packer, and from there to the consumer.

Mr. KING. Mr. President, I agree with the Senator that the law having been passed, the obligation rests upon Congress to enforce the law and to provide suitable machinery for enforcing the terms of the act; but I repeat that this is entirely too nebulous. There is not sufficient information here to enable Senators to determine just what is required in order to enforce this act.

Let me say to the Senator that very liberal appropriations were made to the Agricultural Department; and there are hundreds of employees, as I am advised, in the Agricultural Department who are supervising the meat-packing business in a way. They are visiting the packers' establishments. They are supervising the transportation of meats, inspecting them, and so on; so that very much of the work which devolves upon the Government under the packers' act could with propriety be performed now by employees of the Government without interfering in any way with the work in which they are now engaged.

Mr. KENYON. Mr. President, does the Senator really think that the present Secretary of Agriculture is going to spend any more than is absolutely necessary to fairly carry out the act?

Mr. KING. Mr. President, I do not like to be asked such a question that calls for a categorical reply——

Mr. KENYON. Categorical or otherwise.

Mr. KING. But I will say that the Secretary of Agriculture, in my opinion, has not evinced the devotion to economy that has been exhibited by the Secretary of War.

Mr. KENYON. I think he has.

Mr. KING. And I am not satisfied with these estimates which he has submitted.

Mr. KENYON. Congress has put this burden upon him. Some of us felt that there should be a separate commission; but Congress has put this burden upon him in order to save money, and probably the work will be carried on for less expense than it would have been carried on by a commission. I am satisfied that the Secretary will not spend any more than is absolutely essential. I think, perhaps, that item of the general auditor is high.

Mr. KING. Will the Senator consent to amending it so as to strike out the $40,000? There ought not to be a disagreement on a matter of that kind.

Mr. WARREN. The chairman of the committee will accept that amendment.

Mr. KING. Then I move, to save the Government a few dollars, to strike out the $41,600——

Mr. WARREN. So that it will be an even $200,000.

Mr. KING. Yes; so that it will be an even $200,000.

Mr. KENYON. That is better than having the Senator make a long speech.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The READING CLERK. It is proposed to strike out "$240,450" and insert "$200,000."

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Utah to the amendment of the Senator from Wyoming.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. LA FOLLETTE. Mr. President, I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The READING CLERK. On page 2, after line 25, it is proposed to insert:

Provided further, That this appropriation shall not be available for the payment of certified public accountants, their agents or employees, except those now employed in taking an inventory of stock, and that hereafter all auditing of every nature requiring the services of outside auditors shall be furnished by the Director of the Budget, through the Bureau of Efficiency.

Mr. LA FOLLETTE. I understand that the chairman of the Committee on Appropriations will accept that amendment.

Mr. WARREN. I think, with the testimony that we had given to us, the chairman of the committee is willing to let the amendment be adopted and go to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Wisconsin.

The amendment was agreed to.

Mr. LA FOLLETTE. Mr. President, I have here some matter which has been put into my hands that I consider very important in its bearing upon the testimony upon which Senators must rely if they are to vote for the appropriation provided in this bill for the Shipping Board. I have read very carefully the testimony taken by the House Committee on Appropriations. I have also read the testimony taken by the Senate Committee on Appropriations.

Mr. President, I present, to be inserted in the RECORD—I am not going to take the time to read it into the RECORD myself or to ask at this late hour to have the Secretary of the Senate read it into the RECORD—an analysis and a critical comment on the statement of the Shipping Board officials in their hearing before the subcommittee of the House Committee on Appropriations in charge of the urgent deficiency appropriation bill for 1922, prepared by Col. Abadie, who was formerly general comptroller of the United States Shipping Board Emergency Fleet Corporation.

I wish to precede this analysis of the testimony of the Shipping Board officials, and particularly the testimony of the accountant of the Shipping Board, by a statement of the civil record of Col. Abadie, and of his military record. His analysis of this testimony contradicts flatly, and cites supporting evidence from the records of the Shipping Board, the important statements which must be relied upon to support a vote for the appropriation which this bill carries.

Mr. President, I am going to ask to have this printed in the RECORD without taking the time of the Senate at this late hour to read it or to have it read into the RECORD, and I am going to appeal to Senators, before they cast their votes to-morrow, to read it. It is worthy the critical study of every Senator who expects to vote upon this appropriation.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

EXHIBIT A.

CIVIL RECORD OF COL. EUGENE HILARIAN ABADIE.

1891 to 1892 in shop and engineer department, assembling and testing electrical apparatus, and 1893 to 1900, secretary, manager of sales, and member of executive board, Wagner Electric Co.; 1901 to 1903, manager of sales organization, Bullock Electric Manufacturing Co., of Cincinnati, and Wagner Electric Manufacturing Co., of St. Louis, directing and supervising acquisition of engineering contracts; 1903 to 1908, member of firm, E. H. Abadie & Co., engineering and contracting; designed and constructed State of Missouri district heating plant and power house for State buildings at Jefferson City; 1904, designed and built central heating plant for Pana (Ill.) Gas & Electric Co., developed the project and furnished report for underwriters; 1906, designed and built all underground conduits in Louisville, Ky., for the various public utilities; associated with Arsene Perrillist in location of New Orleans & Baton Rouge Electric Railroad, supervised engineering and wrote engineering report; 1907, rehabilitated Moberly (Mo.) Gas & Electric Co.; designed and built municipal power plant at Little Rock, Ark.; 1908, designed plant for stripping earth with steam shovels from a coal bed of Lilly Jellico Coal Co., at Lilly, Ky., and in a similar manner mined the coal; as consulting engineer, designed electric power generating plant for Consumers Light & Power Co., at Fort Worth, Tex.; as consulting engineer, built for the United States Army sewer and water works at

Jefferson Barracks, Mo.; also designed and installed a number of isolated and industrial steam and electric power plants in St. Louis and Central and Southern States; as general or sub contractor, contracted to supply mechanical equipment, comprising heating, ventilating, and lighting systems and steam and electric-power plants in shops, department stores, and other large buildings; 1908 to 1917, consulting engineer; associated with Dr. George S. Hossenbruch, of St. Louis; secretary and treasurer of Industrial Engineers' Corporation, of St. Louis; 1910, consulting engineer, acted in advisory capacity to public service commission in matters connected with valuing of public utilities of St. Louis.

On August 28, 1919, the chairman of the United States Shipping Board appointed him comptroller of the division of operations of the United States Shipping Board.

On September 19, 1919, Col. Abadie was elected general comptroller of the United States Shipping Board and the United States Shipping Board Emergency Fleet Corporation, the by-laws of the said organization having been modified on October 29, 1920, to make the general comptroller an officer of the said corporation.

From April 1, 1920, acting in an advisory capacity on industrial engineering undertakings, specializing on administrative engineering.

EXHIBIT B.

MILITARY RECORD OF COL. EUGENE HILARIAN ABADIE.

Lieutenant colonel, Quartermaster Corps, United States Army; age 46 years; commissioned major, Engineer Reserve Corps, June 11, 1917; entered service July 19, 1917.

From July to September, 1917, supervising constructing quartermaster of cantonments at Camp Dodge, Iowa; Camp Funston, Kans.; and Camp Lee, Va.

September, 1917, to February, 1918, in charge of construction of cantonment at Camp Lee, Va., as constructing quartermaster.

From February, 1918, to date, supervising constructing quartermaster of the following projects: Augusta Arsenal depot, Augusta, Ga.; mechanical repair shop No. 304, Camp Normoyle, Tex.; mechanical repair shop No. 305, Camp Jessup, Ga.; mechanical repair shop No. 306, Camp Holabird, Md.; general hospital No. 12, Biltmore, N. C.; general hospital No. 19, Azalea, N. C.; general hospital No. 21, Denver, Colo.; general hospital No. 18, Waynesville, N. C.; general hospital No. 23, Hot Springs, N. C.; war prison barracks, Atlanta, Ga.; Fort McPherson, Atlanta, Ga.; and quartermaster depot, Atlanta, Ga.

May, 1918, designated as representing the construction division as officer in charge of construction in connection with camps, shops, etc., for the Motor Transport Corps.

Honorably discharged from active service August 27, 1919.

Commissioned lieutenant colonel in the Engineer section, Reserve Corps, November 12, 1919; commissioned colonel in the Quartermaster section, construction division, Officers' Reserve Corps of the Army of the United States, June 30, 1920.

Born, St. Louis, Mo.; grandson of Col. (Dr.) E. H. Abadie, Medical Corps, United States Army.

Member of the Society of Colonial Wars; member of the Military Order of Foreign Wars, Connecticut commander; member of the American Officers of the Great War; and Member of the American Legion.

Member of American Society of Civil Engineers; member of American Institute of Electrical Engineers; member of the Society of American Military Engineers; member of the Engineers' Club of St. Louis, Mo.; and the Western Society of Engineers.

COMMENT ON THE STATEMENT OF THE SHIPPING BOARD OFFICIALS IN THEIR HEARING BEFORE SUBCOMMITTEE OF HOUSE COMMITTEE ON APPROPRIATIONS IN CHARGE OF THE URGENT DEFICIENCY APPROPRIATION BILL FOR 1922.

On page 170 of the hearings held July 27 and 28, 1921, the Hon. MARTIN D. MADDEN, chairman of the committee, asked the following question:

"The CHAIRMAN. Mr. Tweedale, the testimony you gave on May 9, 1921, on the second deficiency bill reads as follows:

"From the beginning of the operation of this fleet, May 1, 1919, we paid all the expenses of the fleet, the operations of the fleet, and, in addition to that, cleared a profit of $48,325,000, and also laid up $33,000,000 for depreciation, making a total of $81,325,000. From that point, May 1, 1919, down to March 1, 1921, the fleet was operated at a profit of $17,000,000, but it did not provide in any way for depreciation. It took care of the carrying charges. * * *"

Mr. Teedale, the general comptroller of the Shipping Board, who was treasurer from September 1, 1919, to April 1, 1920, and general comptroller from April 1, 1920, and who still occupies that office, and who is probably more familiar with the accounting structure of the Shipping Board in all its departments than any other official or employee of the Shipping Board at the present time, answered the chairman's question as follows:

"Mr. TWEEDALE. But the comparison there is not correct, Mr. Chairman, because the $200,000,000 of loss during this last fiscal year is based not only on the physical operation but on the operation of the corporation as a whole." (Page 170 of hearings.)

As a matter of fact, it is very generally known that from the very beginning there has been maintained separate books of account and separate records of constructing ships and all the activities which became a part of, or which were considered instrumentalities thereof, and these accounts and records have always been called construction accounts, while the operation of ships and all activities in connection therewith which are essentially a part of ship operation have been called the accounts and records of operations.

It is perfectly evident that Mr. Tweedale, when he referred to the profit of $17,000,000 as the results from operation obtained that information from what he considered a good and reliable record. It was the result solely of operation, and no one would consider for a moment that the operation of ships would be so successful as to earn enough money to pay the construction program for the fiscal year 1921.

Mr. Lasker has, therefore, conveyed to the people through his published reports of conditions of the Fleet Corporation and Shipping Board an erroneous impression, and, though probably unintentionally, he has misrepresented the facts.

"Mr. LASKER. I will tell you, Mr. Chairman, where they have always made a mistake in their reports and confused everyone. They have constantly referred to the physical or fleet operations as operations.

"Mr. TWEEDALE. Yes.

"Mr. LASKER. And then they have referred to their entire operations as operations, and nobody could know which they meant before, because they have never segregated them. That has only been done since we have been there. We are segregating that into physical operations and general operations." (Page 170 of hearings.)

In his testimony of May 9, 1921, Mr. Tweedale did have a record which reflected the results of operations, from which he quoted the profit from operations of the fleet from the beginning—i. e., May 1, 1919, to March 1, 1921—as $17,000,000, and that record is from the Shipping Board books kept in the office of the managing operators, to whom are allocated Shipping Board vessels for operation as required by both the MO–3 and MO–4 contracts.

Page 217, clause 10, of the MO–4 contract reads as follows:

"10. Accounting and auditing: The agent shall keep separate books of account in such manner and form as may be prescribed or approved by the corporation, devoted exclusively to the agency business with the corporation, which books, together with all vouchers, accounts, papers, or other documents, shall at all times be subject to the inspection and audit of the corporation; and the corporation may at any time temporarily take possession of the same to make a complete audit; and, in case the agency is terminated, may retain possession of such books and papers as it may deem advisable. The agent shall furnish the statements and reports when called for by the corporation, and in the form prescribed by the corporation, and shall generally conform its accounting to the directions of the corporation."

These books of account in accordance with the MO–3 and MO–4 contracts were prepared in March, 1920, and are, therefore, a most accurate and perfect record of the fiscal operations of the fleet. The actual condition, the profit and loss under operations of any operator can, therefore, be determined readily. Why did not the officials of the Fleet Corporation present to the chairman and the members of the committee a consolidated statement of the trial balances of all these managing operators, which procedure was installed as early as January, 1920? Did they purposely desire to withhold valuable and important information that would give the committee some basic knowledge from which to properly recommend an appropriation? Have they intentionally put aside this valuable record that the true facts as to operations should not be disclosed? These books and accounts carried in the offices of the managing operators are recognized as the Shipping Board records of account and are well understood to be the basic record from which is reflected the profit and loss from operations.

Page 125 of hearings:

"The CHAIRMAN. How many voyages are unaccounted for?

"Mr. LASKER. Out of 9,000, 6,100 or 6,200 are unaccounted for.

"Mr. MONTGOMERY. I think it should be stated that most of these voyages are kept in what are known as the Shipping Board books in the offices of the operators, so that the receipts and expenditures of all of those voyages are in our own books. They are not unaccounted for in the usual meaning of that term."

While the books of account will give the exact condition from the monthly statements taken therefrom, they are not kept to reflect the results from each voyage of each vessel in the hands of an operator. To provide for this information, there was adopted in March, 1920, a voyage report which was to show the revenues comprising the revenues taken from the manifests comprising both freight prepaid and freight sent collect, this information always being accurately obtainable on the return of the vessel to her home port. Against this gross revenue on the form of report provided was shown the voyage expenses which are also accurately known when the vessel returns to her home port. It is true the voyage expenses have not been finally audited and may contain some disallowances which the Shipping Board would not authorize to be paid by the operator for Shipping Board account. When this plan was first instituted this voyage report was termed, "Estimate of earnings and expenses," but later this heading was changed so that each voyage report now submitted is known as "Preliminary statement of results from operations," and is known as Form 5914 (Revised), 11–20, meaning November, 1920, which was the form used during the balance of the fiscal year 1921. This preliminary voyage report was required to be mailed to the Washington office, and a copy to the district office of the Shipping Board within five days after the arrival of the vessel at her home port.

From these voyage reports there was compiled weekly a summary of all voyage reports for vessels whose voyages had been completed the week previous, and this continued from March 1, 1920, until January, 1921. After that date this statement was regularly compiled monthly or semimonthly. The bureau established for this purpose and to compile these statements is known as the "Bureau of Vessel Earnings and Expenses," and the statement which they prepared from these voyages results is known as, "Recapitulation of estimated vessel earnings and expenses for ———."

This statement shows the results of operation by voyages of vessels. It shows the operators' results from all the vessels allocated to him. It shows the results by lanes or routes which may be served by two or more operators, and it shows a summary of all completed voyages for the entire period from March 1, 1920, to the date of the report. That record has been used by the Shipping Board as the only record from which to report any results from operations. It has been used by the director of operations as a guide in changing freight rates and to determine the sufficiency of a managing operator to continue as a Shipping Board agent for operation of its vessels.

Why was not this report submitted to the chairman and the members of the Appropriations Committee showing the results for the fiscal year 1921? No better record can be obtained as the results of the physical operations of the fleet.

This is the record from which Mr. Tweedale quoted the profits from operation when he used the following language on May 9, 1921, in the hearings of the second deficiency bill, and which will be found on page 70 of the hearings of the deficiency bill for 1922:

"From that point, May 1, 1919, down to March 1, 1921, the fleet was operated at a profit of $17,000,000, but it did not provide in any way for depreciation."

The statement known as Recapitulation of Estimated Vessels, Earnings, and Expenses shows the gross revenue, which is the amount deposited in the trust account of the operator at a bank satisfactory to the Shipping Board. It also shows the voyage expenses which represent the disbursements from the trust account (bank account of the operators). It also shows the net difference between these two columns, or what is known as the profit or loss from operations before deducting fixed charges. The footing of this column should closely approximate the actual net revenue from operations on completed voyages as of the date they are reflected. This statement also sets up a series of reserves known as—

"(a) Reserve for insurance, which is estimated to be 3½ per cent on a valuation of $200 a dead-weight ton;

"(b) Reserve for maintenance, which is estimated to be 50 cents per dead-weight ton per month; $6 per dead-weight ton per year.

"(c) Reserve for overhead, meaning overhead from operations in the Washington and District offices of the Shipping Board, is estimated to be one-half cent a dead-weight ton per day."

There is another reserve, and a very ridiculous one, which is set up solely as an indication of possible results when reflected from an industrial viewpoint.

"(d) This reserve, which is known as (d) the reserve for depreciation, is set up as an estimate at 10 per cent on a valuation of $200 a dead-weight ton."

The statement referred to—"Recapitulation of Estimated Vessel Earnings and Expenses"—shows these reserves as above stated, and shows the net profit or loss after these reserves are deducted from the net revenue or net profit and loss before deducting fixed charges as the column heading is called. If we refer again to Mr. Tweedale's statement on May 9, 1921, you will observe that the $17,000,000 is stated to be more than the net revenue. It is stated to be the net profit after deducting the "Reserves"—(a), (b), and (c)—but disregards "Reserves for Depreciation." The "nigger in the woodpile" is exposed to view when attention is called to the fact that the reproduction value of the Shipping Board vessels to-day is not over $50 per dead-weight ton, though the reserves have been set upon a value of $200 a dead-weight ton. In other words, the "Insurance Reserve" of 3½ per cent on the value, and the "Reserve for Depreciation," 10 per cent on the value, have been set up at $200, respectively, as the value, and not around $50, the value to-day. Attention can be called to the fact that notice has recently emanated from the Shipping Board authorizing the figure of $80 per dead-weight ton for insurance and depreciation purposes. This most valuable record should be demanded and the results used to determine the amount of funds required for the operation of the fleet. The fleet did not lose $100,000,000 during the fiscal year 1921. This record is used by every department. The director of operations, in answering a question of the chairman, quoted from this very record.

Pages 159 and 160 of hearings:

The CHAIRMAN. Is there any way that we can get a statement?

Mr. LASKER. Yes, sir.

Mr. KEENE. I can get you a statement and have it for the record to-morrow.

JULY 30, 1921.

Subject: Operating costs.

Complying with your request, would advise that the average yearly vessel expense, including wages, subsistence, fuel, miscellaneous expense, and fixed charges (maintenance 50 cents per dead-weight tonnage month; overhead, one-half cent per dead-weight tonnage day; insurance, 3½ per cent per annum on valuation of $100), omitting port and cargo charges and expenses, as reflected by preliminary reports on voyage results submitted by managing agents, is $348,804.95.

Based on 603 voyages of vessels of various tonnages, distributed costs per dead-weight tonnage year are as follows:

Wages	$8.4029
Subsistence	2.7681
Fuel	13.8104
Miscellaneous expense	4.0908
Fixed charges	11.3242
Total vessel expense, average	40.3964

C. P. STONE, *Staff Assistant.*

Mr. Tweedale also quotes from this record, at page 215 of hearings:

"The CHAIRMAN. Have you any estimate of the probable monthly losses on operations under existing conditions?

"Mr. TWEEDALE. Taking the revenues and the expenditures of the operations department—that is, the physical operation of the ships exclusively—and separating them from all other matters in the fleet corporation, we have found that during the past 12 months, for the last fiscal year at least, that the excess of cash outgo over and above the cash income has been running a certain amount, which I will give you. During the first six months it averaged $9,127,489.03.

"Mr. BUCHANAN. You mean you lost that much?

"Mr. TWEEDALE. Yes, sir; it averaged that each month. Suppose I give it to you monthly. In July, 1920, it was $5,789,404.88; in August it was $6,423,675.29; in September it was $12,403,445; in October it was $11,379,700.84; in November it was $7,380,801.30; and in December, $11,387,906.90, making a total for the first six months of $54,764,934.21, or an average monthly total of $9,127,489.03. In January, 1921, it was $13,170,755.87; in February it was $15,823,574.86; in March it was $16,124,580.26; in April it was $14,989,978.87; in May it was $6,523,675.04; and in June it was $10,013,910.22, or for the second half of the year a total of $76,646,475.12, an average monthly total for the last six months of $12,757,745.

"The CHAIRMAN. Those two items make over $131,000,000?

"Mr. TWEEDALE. Yes, sir; $131,411,409.33, or an average for the year of $10,950,950.77."

However, the statement which is shown on page 145 of these hearings, which is the analysis of expenditures for the fiscal year ended June 30, 1921, not only is set up to show the profit and loss from operations as taken from the statement referred to after the reserves have been deducted, but also is set up and includes as a disbursement the actual expenditures against the reserves.

Including the reserves:

(a) For insurance.

(b) For maintenance.

(c) For overhead.

(d) For depreciation as disbursements on account of physical operations is at least a serious accounting error. But to also include as separate disbursements the actual cash paid out during the fiscal year 1921:

(a) For insurance losses.

(b) For repairs (which is called "maintenance").

(c) For salaries and administrative costs to run the part of the Washington office and district offices devoted to operations (which is called overhead) is unheard of, is inexcusable, and would appear to have been done with intent. Can it be said that the statement of expenditures (see p. 145 of hearings) was not intentionally increased by millions of dollars for the purpose of obtaining a much larger appropriation from Congress than would be warranted by a true statement from the accounting recorder?

Accounts receivable, with operators representing freight money due on delivery at a foreign port, are, according to testimony, omitted and not included in or as a part of the revenue (see p. 163 of hearings).

"The CHAIRMAN. You said that there were 6,000 voyages unaccounted for?

"Mr. TWEEDALE. Yes, sir.

"The CHAIRMAN. How far back do they run?

"Mr. TWEEDALE. My recollection is—that has been put into the record. (See p. 124.) It was back to May 1, 1919, though the larger per cent apply to the period May 1, 1920, to July, 1921.

"The CHAIRMAN. Has anybody got any idea whether we have any money coming to us from that source?

"Mr. TWEEDALE. We do not believe there is much, if any, money. The money due is money which has been disallowed, as stated."

Also, see page 171 of hearings—"Money Due from Voyages."

"Mr. KELLEY. Mr. Tweedale, you have submitted here a statement of the receipts and disbursements for the fiscal year ending June 30, 1921. How far behind would you be on your receipts from freights, ordinarily?

"The CHAIRMAN. I think you answered that and said that all the freights were turned into a trust fund and deposited in the bank, and that you drew against it and collected it almost daily or monthly, so that it would not be behind at all.

"Mr. KELLEY. Do you mean that in this statement for June 30 you got all the freights for the month of June?

"Mr. TWEEDALE. If the freights are prepaid freights, we have.

"Mr. KELLEY. But there are some of them that are not prepaid freights.

"Mr. TWEEDALE. Of course, we do not have those.

"Mr. KELLEY. How much would that amount to?

"Mr. TWEEDALE. I can not tell you, because I do not know.

"Mr. KELLEY. How would that run on an average? We have got to approximate these things a little.

"Mr. TWEEDALE. Mr. Keene, can you tell us what amount of freight goes prepaid?

"Mr. KEENE. At the present time the largest part of it goes collect; there is very little prepaid freight to-day on berth business; there is, occasionally, a full cargo, which we get prepaid, or a portion prepaid.

"Mr. KELLEY. You say there is very little prepaid freight?

"Mr. KEENE. To-day; yes, sir.

"Mr. KELLEY. What do you mean by that?

"Mr. KEENE. Freight paid in advance of the voyage on the signing of the bills of lading on this side.

"Mr. KELLEY. When is it paid?

"Mr. KEENE. It is paid on delivery.

"Mr. KELLEY. Over on the other side?

"Mr. KEENE. Yes, sir.

"Mr. KELLEY. You have got ships, then, that have been on the high seas for three or four weeks reaching their destination in great numbers undoubtedly; for instance, a ship would leave New York for some foreign port and it would take three or four weeks to get there, and you would not collect any freight until after it had been unloaded and the freight paid at the point of destination.

"Mr. KEENE. On the berth business at the present time; yes, sir.

"Mr. KELLEY. Are there not large sums of money like that that would not be in a statement of June 30?

"Mr. KEENE. I could not tell you that.

"Mr. TWEEDALE. I should say that there was quite an amount of money that was collectible, but it would be offset by the losses on the voyages, most likely.

"Mr. KELLEY. I am trying to get at the receipts for the year, and I want to find out about how far back your statements will fairly reflect the situation. From what Mr. Keene says, it must be that the bulk of the business is freight paid at the end of the destination.

"Mr. TWEEDALE. I would like to ask Mr. Keene one question. Has that not been happening for some time?

"Mr. KEENE. Oh, yes; for some time past.

"Mr. BUCHANAN. Have you not advanced money to each one of those ships to pay some of the expense of going across?

"Mr. TWEEDALE. No, sir.

"Mr. BUCHANAN. You advanced no money at all?

"Mr. TWEEDALE. We have advanced some moneys, but our moneys are all deposited in a trust-fund account, and out of the trust-fund account the expenses of the voyages are paid; that is, each operator has a trust-fund account.

"Mr. BUCHANAN. Are those trust-fund accounts included in your statement here?

"Mr. TWEEDALE. Yes, sir.

"Mr. BUCHANAN. The total amount of these trust-fund accounts is included in your statement as assets?

"Mr. TWEEDALE. Yes, sir. We also do this whenever that trust-fund account reaches a certain amount, the excess is transferred to the corporation.

"Mr. BUCHANAN. I understand that. I am just trying to get at the accounting. Then these voyages stand absolutely on their own bottom? There has been nothing advanced on them, so far as your accounting system is concerned, and nothing collected on them?

"The CHAIRMAN. Oh, yes; they collected.

"Mr. BUCHANAN. No.

"Mr. TWEEDALE. It is hard to say. Both collections and payments have been made.

"Mr. BUCHANAN. You have not heard from them yet? I am talking about the voyages that are out.

"Mr. TWEEDALE. But you take a voyage that is out now, when an operator starts a ship out he will take out enough money to pay for his bunkers and his crew and all that sort of thing.

"Mr. BUCHANAN. But it does not amount to anything because there has been nothing advanced on them so far as your accounting is concerned and nothing collected on them. If there is a loss, we will lose money, and if there is a profit we will get some money in.

"Mr. TWEEDALE. Yes.

"Mr. BUCHANAN. And there may be a little excess in the trust fund?

"Mr. TWEEDALE. There is.

"Mr. LASKER. And there may be a little deficit. By and large, they claim that one hand ought to wash the other. Who can tell?"

Either Mr. Tweedale or Mr. Lasker are wholly ignorant of the first principles of steamship practice or they would know that the major portion of the voyage expense is incurred at the vessel's home port before she sails. This being true, these home-port voyage expenses plus the money advanced to the captain for the payment of salaries and other voyage expenses will stand as a disbursement from the operators' trust account at bank at least sixty (60) days (60 days being the period of the average voyage) before they collect freight, if paid to the captain, can be deposited as revenue to the operators' trust account at bank, while it may be even a much longer period than sixty (60) days before the revenue in cash is placed to the credit of the operator in his trust (bank) account. Unless, therefore, the operators' accounts re-

ceivable are shown or included, any operators' results may show erroneously a loss, but which under a properly prepared statement would show a profit from operations. It makes no difference whether only one voyage or a series are presented for comparison with the cash, because the net credit balance in the operators' trust account can never give the proper reflection of the operators' success or failure. On the other hand, the Washington office might temporarily advance the operator funds necessary to cover his voyage obligations before the ship leaves her home port to start on her voyage. This would still further complicate and add to the difficulty of making a statement reflect the cash if the balances in the trust account are alone used to reflect the net revenue or to show the profit or loss from operations.

The expense of the return leg of the voyage or the voyage inward, as it is known, will be but a small proportion of the revenue represented by collected freights, if Mr. Keene's statement on page 171 be true. When speaking of the prepaid freights compared with the collect freights, he said: "The largest part of it goes collect." If Mr. Keene's statement as here quoted is true, then the following statement (p. 171) made by Mr. Tweedale in the hearing in question is not correctly stated, even though we allow the full meaning to the last two words of his answer—the two words referred to are "most likely"—

"Mr. TWEEDALE. I should say that there was quite an amount of money that was collectible, but it would be offset by the losses on the voyage, most likely."

Under a fair analysis of the testimony given before the committee it is perfectly evident that the statement on page 145 of the hearing is so manifestly wrong as to suggest the thought that its inaccurate preparation was premeditated.

THE BUDGET SYSTEM.

Why did not the officials of the Shipping Board, as required by sections 203 and 206 of the budget law, present to Mr. Dawes, the Director of the Budget, the results of carrying on the budget established by the former general comptroller for the information of the Appropriation Committees of Congress?

On February 5, 1920, the budget plan and procedure was accepted by all department heads, after many conferences on the subject, and was accepted by the trustees of the Fleet Corporation and approved by Judge Payne as chairman of the Shipping Board.

Centralization of the pay rolls in each department was issued by an order of March 23, 1920, at which time a chief pay-roll examiner was appointed and all pay rolls covering all home-office employees placed under his supervision, and likewise he was to have district representatives.

This budget was proposed to cover the following information for the benefit of the trustees of the Fleet Corporation and the Shipping Board:

(a) The gross revenues estimated for a period of three months.

(b) Commitments (current) estimated for a period of three months; against (a) gross revenues and (b) commitments will be reflected in a semimonthly set-up the following:

(c) Actual gross revenue; and

(d) Actual disbursements, including accrued current liabilities.

Progress was well along in obtaining the estimated returns and estimated expenses from the heads of each department of the Shipping Board and the various divisions of the corporation, and it was expected that not later than April 15 there would be made available the first estimate of the income and expense to conduct the corporation and the Shipping Board for the three months next ensuing, viz, April, May, and June, 1920, would be available. Therefore the actual disbursements, including the accrued current liabilities, would be reflected against the estimate and a report submitted semimonthly for the benefit of the division heads. If this budget system has been kept up, why has not such a statement been presented? This budget system having operated for a period of 18 months, it should have established the coefficient of error and by the process of averages establish the amount of funds required from Congress within a few thousand dollars. On the other hand, there must be considerable question in the mind of anyone who will view the situation as presented by the officials of the Shipping Board as to whether any funds are needed by it from Congress for the first half of the fiscal year 1922.

OPERATORS' STATEMENT OF INCOME AND EXPENDITURES AND PROFIT AND LOSS RESULTS.

On February 28, 1920, a statement of income and expenditures and profit and loss and balance sheet for at least 88 operators reporting by trial balances from Shipping Board books in their offices, out of a total of 176 operators who were to install books in accordance with their contract with the Shipping Board, was compiled and is of record from these books. Monthly trial balances were to be sent to Washington, from which would be compiled the statements monthly that would give a true reflection of the condition of the operators' business, though the actual auditing of any disbursements might not have been made. However, any disallowances made by Shipping Board auditors would only improve the situation from the Shipping Board standpoint.

It is but natural to ask why was not one of these statements submitted to Mr. Madden and his committee? Can it be possible that all of the operators have not completed the installation of the books of account, as required by the various operating agreements Nos. 2, 3, and 4, or has this most valuable record been abandoned during the past eighteen (18) months.

CONSOLIDATED BALANCE SHEET—UNITED STATES SHIPPING BOARD AND EMERGENCY FLEET CORPORATION.

Mr. Lasker made the statement that there was no balance sheet of the corporation in existence. (See p. 60 of hearings, as follows):

"The CHAIRMAN. Is there a balance sheet ever gotten out in the Shipping Board?

"Mr. LASKER. No; that is what we have got outside auditors for now, to try to get such a thing as a balance sheet."

The former general comptroller was able to consolidate the activities of the board and the Fleet Corporation and reflect a consolidated balance sheet with a tentative statement of the operating revenue and expenditures from the beginning of operations to June 30, 1919, which, undoubtedly, is available as a record of the corporation and the Shipping Board in the general comptroller's department and was prepared for Judge Payne to present to Congress at the time he made his address before the committee of Congress, which was in February, 1920 (copy of which can be produced on request). Why was this balance sheet not submitted to Mr. Madden's committee and the ones made up subsequently, if they have been made up?

STATEMENTS FROM TREASURER OR DISBURSING OFFICER'S ACCOUNTS.

The officials of the Shipping Board seem to have neglected to submit any cash statements from the Treasurer's office that will show the cash receipts and disbursements in detail by supporting schedules for the Shipping Board and Fleet Corporation and brought down to cover such transactions in the various departments. The cash statement as shown on page 140 of the hearings in question only gives the cash balance in the various accounts, and by departments, and is wholly inadequate to give a proper picture of the distinctive cash transactions of the Shipping Board and the Fleet Corporation for the fiscal year 1921.

It appears also that the treasurer of the Fleet Corporation and the disbursing officer of the Shipping Board did not appear before, and have not been interrogated by the committee; much light would be thrown on the subject of the funds required for the fiscal year 1922 if cash statements as suggested are submitted.

There is, likewise, no statement submitted that shows the commitments or liabilities in detail. The total of these figures seem only to have been touched upon in a meager way and not detailed for the benefit of the committee. From the details the committee could determine the extent to which similar obligations would be incurred for the fiscal year 1922; such details will disclose the fact that many of the commitments and liabilities already incurred and recognized as current will in many instances not occur in the fiscal year 1922 while many other items from such detail will be sure to occur in the fiscal year 1922 and will comparatively represent a much smaller sum than of record for the fiscal year 1921.

SUMMARY STATEMENT OF CASH RECEIPTS FROM OPERATIONS OF VESSELS, BY MONTHS, FROM JULY 1, 1920, TO JUNE 30, 1921, INCLUSIVE.

It is but natural to ask the question: Why the summary statement of cash receipts from operation of vessels, etc., as indicated by the above title, was not accompanied with a statement showing the cash disbursements from the operation of vessels by months, etc.? If it was of interest and considered pertinent to the hearings to make the summary statement of cash receipts from operations a part of the record of the hearings, it was obviously just as important to include in the record a summary statement of cash disbursements from operations. If a summary of the cash disbursements from operation of vessels by months from July 1, 1920, to June 30, 1921, inclusive, is submitted for comparison, built up under similar headings, and could be placed on page 220 of the hearings, as is shown to illustrate the cash receipts from the same source, a complete record will be available of the cash transactions from operations. The general comptroller or the treasurer can readily supply this as it is a record already in statement form.

The difference between the revenues and disbursements for voyage expenses, whether it be a debit or a credit item, gives the net cash gain or net cash loss in revenue. If this net gain or net loss in revenue is corrected, by adding or subtracting, as the case may require, the accounts receivable (represented by freights which have gone collect on delivery), you will show the correct net revenue; if Mr. Keene's statement in the record be correct, the collect revenue will represent at least the collect freights for a 60-day period (see p. 171 of the hearings; also see pp. 10 and 11 of this analysis), then if more freight as reflected by the manifest of the voyage of the vessels went "collect on delivery" of the merchandise at the foreign port during three or four months of the last quarter of the fiscal year 1921, certainly there would be accounts receivable represented by collect freights of not less than one-sixth (2 months freight collect) of at least one-half of the total revenue from operations which in the statement in question on page 220 is $354,000,000, one-half of which is $174,000,000, which would give approximately as accounts receivable that should appear in the fiscal year revenue, but which are not shown, a sum of at least $30,000,000. This would not be deposited in the trust accounts (bank accounts) of the operators until July and August, 1921, or for a month or two months after the termination of the fiscal year 1921.

Notwithstanding Mr. Tweedale's statement to the contrary, the collect freights, plus the revenue on cargo inward, would be far in excess of the foreign disbursements, because it must be remembered that money has been drawn to pay part of the expenses before the sailing of the vessel from her home port and to the further fact that the greater portion of the operating expenses are incurred at her home port before sailing. Mr. Tweedale's statement to the contrary notwithstanding. (See p. 10 of this analysis; also p. 171 of the hearing:)

"Mr. TWEEDALE. I should say that there was quite an amount of money that was collectible, but it would be offset by the losses on the voyages, most likely."

The expenses to offset the $30,000,000, if reflected against the sum in question, would certainly not be more than $5,000,000; but even if we assume that the expenses of the voyages still uncompleted at the termination of the fiscal year 1921 represents a total of $10,000,000, there would still be no less than $20,000,000 as freight accounts receivable to be taken into consideration to reflect the net revenues from operations for the fiscal year 1921.

ESTIMATED QUICK ASSETS.

The CHAIRMAN. And now, go on and tell us how we could liquidate some of those assets to get some money without dissipating its value any, if you can.

Mr. MONTGOMERY. That is a day-to-day proposition. An attempt is being made to collect the accounts that are overdue.

The CHAIRMAN. How much do they amount to?

Mr. MONTGOMERY. I could not give you to-day an analysis of that.

The CHAIRMAN. The committee would like to know to what extent any part of the $500,000,000 of liquid assets, stated as being in the possession of the board, may be realized on without dissipating any part of their value, and how soon and how much of these assets may be put into the Treasury in the form of cash?

Mr. MONTGOMERY. The amount to be collected depends largely on two steps: The first is to ascertain the account, notes, mortgages, and other obligations which are due or overdue, and to study the measures which should be taken to collect them; the second is to determine a policy of expediting collection. The latter point involves the right to compromise with debtors who are unable to pay in full. Under the circumstances any trustworthy estimate at this time is impossible.

Statement of estimated quick assets as at June 30, 1921.

Cash on hand (as per schedule)		$36,145,852
Notes and accounts:		
Foreign Governments	$31,400,000	
United States Government departments	15,300,000	
Relief organizations	900,000	
Vessel purchasers	142,700,000	
Individuals, firms, and corporations	96,000,000	
		287,300,000
Investments and loans		87,000,000
Materials, supplies, ship stores, etc		90,000,000
Total		500,445,852

If we disregard any cash collections that may be obtained from ship sales (called vessel purchasers)	$143,700,000	
Also, if we disregard materials, supplies, ship stores, etc., and assume that no money will be realized from the sale of surplus material during the fiscal year 1922, which Mr. Montgomery estimates at a value of	90,000,000	
Which would make a total of		$233,700,000
We would have, under a most conservative estimate, as Mr. Montgomery reflected it, quick assets which could be immediately realized on of		266,745,852

If only one-third of these quick assets are realized on, the cash obtained would be $90,000,000, and it would only require 60 per cent of this amount to supply the funds that Congress authorized the corporation to retain out of the proceeds in the sum of $55,000,000. (See note, page 215 of hearings, as follows:)

"NOTE.—The sundry civil bill approved March 4, 1921, allows the corporation to retain moneys to the extent of $55,000,000 derived from the sale of ships and surplus material when, as and if realized. Such moneys so retained may be applied during the fiscal year ending June 30, 1922, to any operating and construction expenses. No deduction of this amount is made in the above total estimated cash requirements because of the announced intention of the board to ask for repeal of this authority and provision for all necessary funds by direct congressional appropriation."

In other words, if only 21 per cent of the moneys and accounts due from the foreign Governments from the United States Government departments, from the relief organizations, and from housing corporations, street railway corporations, mortgages on shipbuilding plants, etc., are converted into cash, there would be ample funds available without any additional appropriation. In fact, it would appear that there would be more money than could possibly be needed that is sure to be realized from the quick assets under comment.

If any appropriation is made whatever for the fiscal year 1922 as a result of the passage of House resolution 8117, then said House resolution 8117 should be amended in the Senate requiring the Fleet Corporation and the Shipping Board to cover into the Treasury of the United States as miscellaneous receipts all net proceeds derived from any and all sources by the Fleet Corporation and/or the Shipping Board.

REPAIR COSTS COMPARED WITH THE RESERVE FOR MAINTENANCE (REPAIRS).

On page 77 of the hearings appears the following testimony:

"Mr. KELLEY. What has it been costing per ton for repairs during the last year—the year commencing July 1, last?

"Commander GATEWOOD. For the year commencing July 1, last, for the ships now in service it has been costing materially more.

"Mr. KELLEY. How much more?

"Commander GATEWOOD. It has been costing fully double $4, the figure I gave you.

"Mr. KELLEY. That is $8 a ton?

"Commander GATEWOOD. Fully that, and that is a reduction of nearly 50 per cent of the cost in the year before that.

"Mr. KELLEY. How much tonnage have you in use?

"Commander GATEWOOD. Right now?

"Mr. KELLEY. Yes, sir.

"Commander GATEWOOD. Somewhere in the neighborhood of 7,000,000 tons—6,500,000 to 7,000,000 tons.

"Mr. KELLEY. At the old price it will require about $56,000,000 for repairs?

"Commander GATEWOOD. Yes, sir; in the last year.

"Mr. KELLEY. When Mr. Madden asked you the question you said $36,000,000 for the next six months. Mr. Madden asked how much out of the $100,000,000 should be allowed for repairs, and somebody said $36,000,000.

"Commander GATEWOOD. I know what I think the repair bill will be the next year.

"Mr LASKER. That is not a fair question. We hope to hold the net deficit down to $100,000,000.

"Mr. BUCHANAN. You hope to operate and lose only $100,000,000?

"Mr. LASKER. We might take in $200,000,000, and our expenses will be $300,000,000. In the $300,000,000 item is $50,000,000 for repairs.

"Mr. KELLEY. What was your answer when Mr. Madden asked how much of this $100,000,000 was to be used for repairs?

"Mr. LASKER. That is unanswerable.

"Mr. KELLEY. This $100,000,000 must be apportioned in some way. A part of it is for deficit in repairs, a part for food, and a part for oil, all down the line, and I suppose you apportioned the $100,000,000 among the various items which went to make it up?

"Mr. LASKER. Part of it is lost in operation, and the cost of repairs will be the part of the loss in operation. I understand that you put it right; this is a revolving fund.

"The CHAIRMAN. If you have 7,000,000 tons in commission and it cost $8 a ton per annum for repairs, that would be $56,000,000?

"Commander GATEWOOD. It is not costing that; that is what it has cost.

"The CHAIRMAN. What is it costing now?

"Commander GATEWOOD. Very much less than that. I should like to insert in the record the repair cost by months from October, 1919—that is, the disbursements for repairs from October, 1919, up to the present time."

Following the above testimony in the hearings is printed the dead-weight tonnage of vessels in service from August, 1919, to and including April, 1921, and there likewise appears in the hearings on the same page and follows on page 79 a list of disbursements—bills paid by months for repairs. There is a note at the foot of the column reading:

"NOTE.—Figures above are based on repair bills passed for payment, not contracts awarded. For this reason it has been assumed that two months elapse between time repairs are ordered and the payment of the bills."

In order, therefore, to determine the actual cost per dead-weight ton for the period of 12 months to the fiscal year 1921 it would be necessary to take the dead-weight tonnage in service May 1, 1920, and ending April 30, 1921, for the reason that the dead-weight tonnage in service is not shown for a later month than April, 1921. The disbursements, on the other hand, are shown to July 1, 1921; but as they represent bills paid for repairs and the bills are not approved and ready for payment under 60 days on the average, the June disbursements will represent cost of the April repairs; hence the dead-weight tonnage for the fiscal year as represented by the bills paid, cash disbursed in payment of repairs, against the maintenance reserve will be taken for the fiscal year July, 1920, to July, 1921, but the dead-weight tonnage represented by these disbursements must be shown for the dead-weight tonnage in service from May, 1920, to May, 1921, throwing the disbursements against the tonnage in service the cost of dead-weight ton averages, $0.523 per dead-weight ton per month, which is $6.28 per dead-weight ton per annum, which is the cost of the repairs of the Fleet Corporation in service for a period of 12 months.

It is of particular note in this connection that the repairs for the months of April and June, 1921, which would cover the tonnage in service for the months of February, March, and April, 1921, respectively, averages during these three months only $0.487 per dead-weight ton, so that the repairs are becoming less per dead-weight ton and will certainly not average to exceed $0.487 in service or $5.85 per dead-weight ton per annum.

From this analysis it is not understood from what record Commander Gatewood obtained his figure of $8 a dead-weight ton as the cost on the average for the fiscal year 1921 of the tonnage in service during that period.

It must not be forgotten that the reserve for repairs estimated and set up by the former general comptroller as a reserve for maintenance was estimated at 51 cents per dead-weight ton per month; it was to be applied not only against dead-weight tonnage in service but also against the dead-weight tonnage laid up in order that whatever repairs or reconditioning might be necessary to be laid up the vessel before she was again placed in service might be covered by the reserve for maintenance. It is, therefore, obvious that the reserve of 51 cents per dead-weight ton per month on the fleet was considerably over 50 per cent in excess of the actual disbursements for repairs, because the disbursements for repairs of the entire fleet (not simply the tonnage of the fleet in service) only caused an outlay of 52.3 cents per dead-weight ton per month or $6.27 per dead-weight ton per year.

It is obvious, therefore, that if we proceed without any improvement and maintain the average cost of repairs over the entire fleet, shown by the payments of the last three months of the fiscal year 1921, that the repairs of the whole fleet should not exceed $25,000,000. It must be remembered when adjusting the reserve for maintenance to determine the excess reserve over actual disbursements that most of these repair bills are paid by the operator after approval by the construction repair department of the Fleet Corporation. If a plan can be adopted where the responsibility for the upkeep of the vessels is thrown upon the operator, as would be the case in a bare-boat form of charter, these repairs per dead-weight ton will drop materially even though a rigid inspection is maintained by the Fleet Corporation to preserve the vessel in her class and the repairs should in that event not run in excess of $3.50 to $4 per dead-weight ton per year, which would again materially reduce the funds required for repairs for the fiscal year of 1922.

Provided all tonnage were allocated on the bare-boat basis, it would be found that the sum of the outlay for repairs or maintenance, as we term it, the reserve would not exceed the sum of $20,000,000 per annum on the basis of the present tonnage, 5,500,000 dead-weight tons, estimated in service. The repair costs per dead-weight ton for the calendar year ending December 31, 1919, were compiled and are of record. The average tonnage in operation during that year was 5,429,788 dead-weight tons; the invoices paid and treated in the same manner, as above given, show a cost of 56.6 cents per dead-weight ton per month.

Attention is called to the fact that in the report of preliminary estimate of vessel earnings and expenses, known as "recapitulation of estimated vessels' earnings and expenses," did, as late as October, 1920, set up full reserves against all vessels chartered or laid up for no matter what cause the same as the reserves were set up against vessels in service with managers and operators. Hence, as the operators paid most of these repair bills out of their trust account funds, if the full disbursements from the trust account are taken and the full reserves are likewise deducted from operating revenues, it is observed that the statement on page 145, where it shows the operating and general expense revenue, is in error and in excess of the proper amount by from 20 to 25 per cent. In other words, this statement on page 145 of the hearings appears to contain errors approaching $75,000,000. The exact amount, however, can be determined by calling on the officials of the Shipping Board to produce the statement of the recapitulation of estimated vessel earnings and expenses for the sailings completed during the fiscal year 1921, as suggested at the top of page 5 of this analysis.

Certainly this record can be produced of all vessels where voyages ended prior to March 1, 1921, because from it Mr. Tweedale quoted his now famous declaration that down to the time the Republicans came into control of the Shipping Board, or to March 1, 1921, "the fleet was operating at a profit of $17,000,000." (See p. 1 of this analysis.) It is a fact that these statements have been prepared at least monthly, if not semimonthly, within the last six months, and that such statements will be available, if called for, unless they have been destroyed.

E. H. ABADIE,
Formerly General Comptroller, United States Shipping Board Emergency Fleet Corporation.

Mr. TRAMMELL. Mr. President, I send to the desk a proposed amendment to the pending bill.

The PRESIDING OFFICER. The Secretary will state the amendment.

The READING CLERK. On page 2, line 21, after the words "United States," insert the following additional proviso:

Provided further, That no part of this sum shall be used to pay the compensation of any attorney, regular or special, who has at any time for the past two years been employed by or associated in business with any lawyer or firm having an unsettled claim or claims against the Shipping Board or the United States Shipping Board Emergency Fleet Corporation.

Mr. TRAMMELL. Mr. President, had it not been for the facts as disclosed during the discussion in regard to the employment of counsel on the part of the Shipping Board, that the board had displayed such poor and inexcusable judgment in the matter of selecting the counsel to represent the board, an amendment of the nature I have proposed would not be necessary.

I was astounded, as doubtless many Senators were, to find from the discussion upon this subject that the Shipping Board had gone to firms which had a large number of claims against the board for the purpose of employing counsel to represent the board. I do not state that that was true in every instance, but at least in a number of instances they displayed that lack of judgment, and if the board has no higher conception of its duty in the matter of employing counsel than to go to firms and employ counsel to represent the board, some of whom already have claims, or those with whom they are associated have claims, then, Mr. President, there exists on the part of the board a lack of judgment making it necessary that we enact a law to require them to exercise proper judgment and a proper scrutiny and proper consideration for the public interests in the employment of their counsel.

I do not know that I ever heard of an instance of the officials, and particularly on the part of officials who wanted to be honest to the Government, who wanted to conserve and protect the interests of the Government, going to law firms and employing lawyers out of firms which have claims against the Government.

Nearly all the States have inhibitions against members of boards trading with firms in which they have any pecuniary interest whatever. Many of the States have laws providing that attorneys can not be employed who have been employed by those having conflicting interests against the Government for a given period of time. In fact, there is a Federal law providing an inhibition against Representatives and Senators in that regard, and the Attorney General has very recently suggested that we should have legislation prohibiting those who have been in the employ of the Government or those who have been in Congress from having business before the departments or handling Government business for a given length of time after the expiration of their terms of office.

Yet we find the Shipping Board, representing the Government in transactions involving millions and millions of dollars, with the hundreds and thousands and probably millions of lawyers in the country, finding it necessary to go to firms of lawyers and get attorneys where those firms have claims against the Government.

I say, Mr. President, that the members of the Shipping Board, or those representing the board, who display so little judgment in the matter of selecting counsel to represent the Government in these large and stupendous matters, either are lacking in proper care and consideration for the interest of the American people or they have a very poor sense of propriety in the selection of representatives to handle the legal business of the Government.

During the war I found that a good many people were getting into the different war activities, many of whom were prompted by patriotic motives, others prompted by ulterior motives, and I introduced a bill to prohibit any of them from serving upon boards where contracts were to be made with their firms, either for the purchase of supplies or the carrying on of construction work, and very much to my amazement, a majority of the Senate defeated a measure of that kind, and enacted a substitute, or a subterfuge, an amendment which permitted them to go ahead with their nefarious practices in connection with the Shipping Board and other Government activities, and the result is graft here and graft there as the outcome of the war.

Mr. WARREN. Mr. President, I propose to make a point of order against this amendment.

Mr. TRAMMELL. I do not yield the floor.

Mr. WARREN. The Senator can not prevent a point of order going to the desk. It is legislation, it has not come from any committee, and I may say, furthermore, that all these attorneys have to get the approval of the Attorney General. The amendment is entirely unnecessary, and therefore I make the point of order against it.

Mr. TRAMMELL. I refuse to yield the floor. The Senator did not have the floor. I had the floor, and I refused to yield the floor.

The PRESIDING OFFICER. A point of order, the Chair thinks, can be made at any time, and the Chair sustains the point of order.

Mr. TRAMMELL. I appeal from the decision of the Chair.

Mr. KING. I would like to make a statement, if the Senator will yield for a moment, because I think, with all due respect to the Chair, that if the Chair proposes to sustain the point of order the Chair is in error, for this is a limitation upon an appropriation, and that clearly is permissible. That is not in violation of the rule. When an appropriation is made you may limit the use to which it is to be put, and this is a limitation upon the appropriation.

Mr. WARREN. There is no such rule as that. A limitation as to the amount of money to be appropriated is one thing, but a limitation of the kind offered here is pure legislation. We are not working under the House rules.

Mr. KING. I thank the Senator for that information.

Mr. TRAMMELL. It is a question of the appropriation. You may prescribe the qualifications of attorneys for whom the appropriation is made and the salary is appropriated, just the same as you can prescribe the limit of salary. Of course, I realize that by a majority vote a proposition to limit these salaries to $12,000 per annum has been defeated. Of course, that was very much in the interest of economy, and in the interest of conserving the welfare of the taxpayers of the country, when it was desired to continue the policy of the bill to allow salaries up to as high as $35,000. I do not think the American people will relish that very much as a breakfast diet to-morrow morning, when they see that a majority of the Senate feel determined to permit some of the attorneys representing this board to draw as high as $35,000 per annum.

It is true that some attorneys made $35,000, and even a greater amount than $35,000, per annum, but the amount of the earnings of the attorney does not always represent his ability. Sometimes there is the question of a little political advantage that he may have. Sometimes there is a question of a little advantage he may have with the courts, and different things enter into the question—the element of the success or the desirability of employing this, that, or the other attorney. I say that if we give the board the authority to employ attorneys at as much as $35,000 per annum, as I see it, we are not conserving the interests of the taxpayers of this country, and it should have been held down to the amount proposed by the amendment.

What I propose, Mr. President, in this amendment is a qualification for the attorneys representing the board. It is relevant, it is directly pertaining to the subject under consideration, because the question of employment of attorneys is one that is covered by the provisions of the bill, and certainly we can limit the qualifications of the attorneys, just the same as you can of any other officer who may be connected with the Shipping Board. I can not, for my life, see why anyone objects to a provision in this bill providing that attorneys who have been associated with firms that have claims against the board shall be disqualified from serving the board.

Certainly we do not want people who are attempting to serve two masters connected with the board. Certainly we do not desire to authorize and encourage the Shipping Board to employ people who have been representing parties who have an interest against the board and against the Government.

If it were not apparent that they were going to disregard the idea that they should not employ attorneys who have had claims against the board or have been in firms that have had claims against the board there would be no necessity for legislation of this character. But it has developed here from the testimony before the committee that certain of these attorneys are members of firms which have claims, and a great many claims in some instances, against the Shipping Board.

How can anyone oppose the idea of placing an inhibition in this bill against these attorneys attempting to serve two masters, for that is what it means. Are we going to take it for granted that the order of things has been changed in the passing of the years and the ages, and that now two masters can be served by the same person and both of them be properly served? That is what it means. Are we going to say it is proper for this board to go out and employ attorneys who have claims against the board, which perhaps in some instances have reached the stage of being in suit, but anyway they have claims against the board?

I submit that there is not a wise or sagacious business man in the country who, when he came to select his attorneys, would go and employ an attorney who had claims against his company. Why should the Government do it? Why should the Government, if it has a board that is disposed to ignore these well-established principles of business and well-established principles of policy and go ahead and employ an attorney from the other side—why should the Government, if it has a board that has so little conception of the proprieties of the situation, that has so little conception of the proper representation of the Government interests as they should be represented, permit them to go ahead and give them carte blanche authority and liberty to employ attorneys who have been representing conflicting interests?

There is nothing truer than that we can not serve two masters. If some of these attorneys have been serving opposing interests, then the Government interest is going to be sacrificed if the Government attempts to employ them to represent it.

Why the necessity of doing this? Why the reason for doing this? Is there a dearth of attorneys throughout the country? I do not admire or approve of the idea, in the first instance, of those who have upon them the duty of employing attorneys going into the camp of those who have claims against the Government to employ counsel. I do not know what members of the Shipping Board are responsible for that, but, regardless of who is responsible for it, it indicates to my mind somewhat of a disregard for the public interest, and I feel that the acts of an official who will employ attorneys with a conflicting interest to that of the Government should be carefully scrutinized. It is certainly displaying a very reckless disregard for the public interest.

I believe that if the board has no better judgment, no higher conception of public duty, than to employ attorneys connected with firms that have claims against the Government, probably those individuals who have handled some of the claims, that then we should write into the bill an inhibition against such employment, and for that reason I have proposed the amendment, which I hope will be agreed to.

Mr. WARREN. Mr. President, I make the point of order that this is legislation upon an appropriation bill. The Senator himself in his remarks stated that it was to qualify those who should be employed, and that it is a qualification. We might as well say that they shall only employ attorneys who are 5 feet high or who are 37 years old or anything like that, as to place such a limitation as the Senator would provide. It is making law, and there is no law by which that could be accepted as a limitation to that law.

Mr. KING. Mr. President——

The PRESIDING OFFICER. The Chair will state to the Senator from Utah that he will submit the question to the Senate.

Mr. KING. Just one observation. The bill as it was reported originally had a limitation that—

> Not more than three officers or employees of the United States Shipping Board or the United States Shipping Board Emergency Fleet Corporation shall be paid an annual salary or compensation in excess of $12,500.

Let me make this suggestion. Suppose that had not been in the original bill, but the Senate had added it as a limitation upon the House appropriation; undoubtedly such an amendment would have been in order.

If that would have been in order, then it is in order to say that any man employed as an attorney shall be more than 37 years old, to use the expression of the Senator from Wyoming, or may not be the employee of any corporation that has a claim against the Government. That is a legitimate and proper limitation upon the appropriation. It seems to me that it is not within the rule which my learned friend from Wyoming is invoking.

The PRESIDING OFFICER. The point of order having been made against the amendment offered by the Senator from Florida, the question is submitted to the Senate, Is the amendment in order?

Mr. JONES of New Mexico. Mr. President, in the first place——

Mr. WARREN. Mr. President, that has to be decided, I believe, without debate.

Mr. HEFLIN. On that question I demand the yeas and nays.

Mr. JONES of New Mexico. I do not understand that is the situation. It seems to me that a question of this sort is debatable where the bill is debatable. I do not know of any rule that makes the question not debatable.

I should like to have any Senator suggest any rule which makes the question of order not debatable. I can not call to mind any rule which bears upon the subject at all. On the other hand, the general rule is that all these questions and points of order are debatable unless there is a specific rule to the contrary. I do not believe that any rule can be pointed out to the effect that this is not debatable. It is a very important question whether the amendment is properly before the Senate or not.

The PRESIDING OFFICER. The Chair will state that when the question is submitted to the Senate it is, under the rule, open to debate.

Mr. JONES of New Mexico. I certainly was of the opinion that it was open to debate. I should like to inquire upon what rule the point of order made by the chairman of the committee can be sustained. I suppose he is referring to Rule XVI and the third division of that rule on the theory that this is general legislation upon a general appropriation bill. I do not understand this to be a general appropriation bill in the first place.

Mr. WARREN. It is a general appropriation bill and has so been considered always. Every year we have them and they are regular appropriation bills. They are not regular supply bills, but they take in deficiencies of all of the supply bills and are submitted annually. They are just as much regular appropriation bills as any of the whole lot. I believe the Senator knows that.

Mr. JONES of New Mexico. That may be the opinion of the Senator from Wyoming.

Mr. WARREN. It will be the opinion, in my judgment, of the Senator from New Mexico when he really thinks of it.

Mr. JONES of New Mexico. I did not so understand. If I have understood the bill, it is a bill brought in for a few specific things to provide for deficiencies in a few specific items. It is a special appropriation bill and it seems to me it should be properly termed. It provides for a few things for which no appropriations have hitherto been made.

Mr. WARREN. There are fifty times as many items in the bill calling for appropriations as have been made by regular treatment in a deficiency bill.

Mr. JONES of New Mexico. The Senator certainly does not want to have it understood that this is a regular deficiency bill of the Congress?

Mr. WARREN. It is the regular urgent deficiency bill of this Congress. We have never had a Congress meet that I know of that we did not have an urgent deficiency bill.

Mr. JONES of New Mexico. This is a special session of Congress, and the general appropriation bill does not come up at the special session.

Mr. WARREN. Oh, the Senator is begging the question. This is the first session of this Congress. On the 30th of June there were certain moneys that had been appropriated that went back into the Treasury. After that oftentimes some account comes in from the Philippine Islands, from the Canal Zone, or some such point as that, that is perfectly proper under the law and would have been paid if it had been here in time; but the money has been passed back to the Treasury, so they audit that claim, and they have this list of audited claims every year that come up and go into the first deficiency bill after the 30th of June. We not only have those, but we have Court of Claims judgments and judgments of other courts which come in, and other items of an emergency nature. The budget bill provided for these estimates, and it also provides that from time to time we may receive estimates on account of expediencies or matters of record and make provision in an appropriation bill for appropriation.

Mr. JONES of New Mexico. I am inclined to believe that the Senator will agree that such a bill as this is liable to come in here at any time. It is a bill to cover a few special things. It does not review the various departments. A general deficiency bill, if I understand it, comes in regularly, and there are generally hearings upon it, and the various departments are heard. That bill might be called a general appropriation bill, but I doubt even that. This is a mere urgent deficiency bill, and it is not even a deficiency bill in the true sense. It is a bill making appropriations for new specific purposes.

There is no deficiency to be considered. There is no deficiency when we make an appropriation here to create a new activity of the Government, as the bill does. It is true the particular item referred to, and which is sought to be amended by the Senator from Florida [Mr. TRAMMELL], may be termed a deficiency measure, because we want to increase the amount of money to be used for special purposes. In that sense it may be considered as a deficiency measure. But, taking the bill as a whole, I must confess my inability to understand that it is a general appropriation bill. We all know what is understood by the term general appropriation bill. There are regular specific bills which come in here at stated intervals at each session of the Congress. They are general appropriation bills.

I do not think this should be denominated a general appropriation bill within the meaning of Rule XVI, but even if it is, then is the amendment proposed by the Senator from Florida general legislation? I can not see any hypothesis upon which it can be denominated general legislation when it is said that an appropriation can not be paid to certain specified individuals. Suppose this should say that the money should not be used to employ an alien in the law forces of the country, would not that be in order? There are many other things. If you use your imagination a moment, you can picture many contingencies under which we could modify the appropriation and limit its operation. To call all that general legislation is in error, and it seems to me folly to designate it by any such term.

Mr. KING. Mr. President, will the Senator permit an interruption?

Mr. JONES of New Mexico. I am glad to yield to the Senator.

Mr. KING. Let me submit an illustration. Suppose the Shipping Board were a department or had existed for many years, and there had been created by the Shipping Board, by law, by general statute, an attorney or a corps of attorneys. Then I admit that a limitation upon the statutory amount to be paid them or the qualifications, if attempted here, would be subject to a point of order. But there is no term provided for by law, there is no general statute creating a legal staff, so when we make appropriation for this specific purpose obviously Congress ought to have the power to limit the appropriation, and an amendment to that effect is, it seems to me, clearly permissible.

Mr. JONES of New Mexico. I have just been glancing through the precedents and decisions on the rules of the Senate. Of course I have not had an opportunity to digest those decisions as yet. But just a mere casual glance at that seemed to indicate that this could not possibly be general legislation upon this bill. I should like to have the Senator who suggested the point of order refer to some precedent where such an amendment as this has been held to be general legislation. I can not see upon what hypothesis such a contention could be made.

Mr. President, I am not raising this objection to the point of order for any merely dilatory purpose. I think the amendment of the Senator from Florida [Mr. TRAMMELL] should be adopted. It is my judgment that the testimony which has been presented to the Senate justifies the amendment proposed by that Senator, and I am surprised that the committee does not accept the amendment. Is there a Senator here who is willing to vote to appropriate the money of the Government for the purpose of employing counsel who is interested against the Government? Would Senators do that in their private business? When the evidence appears, as it does here, that this thing is being done, I ask if there can be any excuse for not adopting the amendment? Ordinarily I do not believe in putting restrictions around officials, but when it appears, as it does in this case, that attorneys connected with firms having business against the Government have been employed in this very service against which the claims were made, how can the committee justify itself in not accepting the amendment?

I submit, Mr. President and Senators, in the first place, that this is not a general appropriation bill; and, second, that the amendment is not general legislation upon such a bill.

Mr. REED. Mr. President, I hope this question will be decided on its merits and not with reference to the bill or anyone's opinion upon the bill. The question is a very simple one. The bill provides:

For expenses of the United States Shipping Board Emergency Fleet Corporation for losses due to the maintenance and operation of ships and for administrative purposes, $48,500,000: *Provided*, That no part of this sum shall be used for the payment of claims other than those resulting from the current maintenance and operation of vessels: *Provided further*, That no part of this sum shall be used to pay the compensation of any attorney, regular or special, for the United States Shipping Board or the United States Shipping Board Emergency Fleet Corporation unless the contract of employment has been approved by the Attorney General of the United States.

So that we are asked to appropriate money, a part of which is to be devoted to the payment of attorneys. The bill itself puts a certain limitation upon the character of the attorneys to be employed, namely, that they shall be approved by the Attorney General of the United States. Is there any Senator here who is prepared to say that when we are asked to appropriate money to pay attorneys we can not fix the qualifications of the attorney, especially when we have already named one qualification, to wit, the approval of the Attorney General of the United States; that we can not fix other qualifications in the bill itself as a condition to the employment or use of the money?

To say that that is general legislation is manifestly incorrect. We are not legislating generally; we are legislating with reference to the disposition of this particular sum of money, and providing how it shall be paid. We could just as well say that it shall not be paid to any man who has not been admitted to practice before the Supreme Court of the United States or that it should not be paid to any man who had not been engaged in the practice of the law for a certain number of years; that those are the conditions upon which we make this particular appropriation. This limitation has nothing to do with the general laws of the country; it merely affects this particular appropriation.

I hope the amendment will be voted on not as a partisan measure and that we may not establish the ugly precedent of saying that we can appropriate money and then that Congress, in the very act of appropriation, can not put a limitation upon the use of that money.

The PRESIDING OFFICER. The question submitted to the Senate is, Is the amendment of the Senator from Florida in order?

Mr. FLETCHER. Mr. President, I wish to say merely a word. It seems to me that this amendment does not fall strictly within the rule of being general legislation on a general appropriation bill. Suppose, for instance, an amendment should be offered that instead of having the Attorney General pass on the attorneys the President should do so; suppose we should undertake to modify the amendment in that way, or provide that the President should pass upon the salaries; that would not be called general legislation on a general appropriation bill. We should have the right to so modify the amendment, and it would not be subject to the point of order, it seems to me. The amendment now proposed is, in effect, the same.

Mr. ASHURST. Let the amendment be stated.

The PRESIDING OFFICER. The Secretary will state the amendment.

The READING CLERK. Following the amendment heretofore agreed to, offered by the senior Senator from Wisconsin [Mr. LA FOLLETTE], it is proposed to insert the following:

Provided further, That no part of this sum shall be used to pay the compensation of any attorney, regular or special, who has at any time for the past two years been employed by or associated in business with any lawyer or firm having an unsettled claim or claims against the Shipping Board or the United States Shipping Board Emergency Fleet Corporation.

Mr. ASHURST. Mr. President, the latest expression of opinion by a presiding officer on a point of order directly in line with this one was on the 27th day of February, 1914, when the Post Office appropriation bill was under consideration. The Secretary then stated an amendment, which was as follows:

And provided further, That no portion of the sum so above appropriated shall be spent by the Postmaster General for carrying fourth-class mail matter of greater weight than 50 pounds in any one package without authority therefor first obtained from the Congress of the United States.

A point of order was raised.

The VICE PRESIDENT (Mr. Marshall). The Chair overrules the point of order.

Upon that no appeal was taken. It was merely a limitation upon the appropriation.

The PRESIDING OFFICER. The question is, Is the amendment of the Senator from Florida [Mr. TRAMMELL] in order?

Mr. TRAMMELL and Mr. HEFLIN called for the yeas and nays.

The yeas and nays were ordered.

Mr. KENYON. I rise to a parliamentary inquiry. I inquire how the vote will come?

The PRESIDING OFFICER. Those who are of the opinion that the amendment is in order will signify it by saying "aye." That will be the form in which the vote will be cast. The Secretary will call the roll.

The reading clerk proceeded to call the roll.

Mr. CARAWAY (when his name was called). I have a general pair with the junior Senator from Illinois [Mr. MCKINLEY]. I transfer that pair to the senior Senator from Texas [Mr. CULBERSON], and vote "yea."

Mr. FLETCHER (when his name was called). I have a general pair with the Senator from Delaware [Mr. BALL]. I transfer that pair to the Senator from Ohio [Mr. POMERENE], and vote "yea."

Mr. FRELINGHUYSEN (when his name was called). Making the same announcement as before with regard to my pair and its transfer, I vote "nay."

Mr. HALE (when his name was called). Repeating the announcement which I previously made concerning my pair and its transfer, I vote "nay."

Mr. HARRISON (when his name was called). I have a general pair with the junior Senator from West Virginia [Mr. ELKINS]. I transfer that pair to the senior Senator from Nevada [Mr. PITTMAN] and vote "yea."

Mr. JONES of Washington. I repeat the announcement heretofore made with reference to my arrangement with the senior Senator from Virginia [Mr. SWANSON]. I transfer my pair with him to the senior Senator from Minnesota [Mr. NELSON] and vote "nay."

Mr. KELLOGG (when his name was called). Making the same announcement as to the transfer of my pair as heretofore made, I vote "nay."

Mr. KING (when his name was called). I have a general pair with the senior Senator from North Dakota [Mr. MCCUMBER]. I transfer that pair to the Senator from South Carolina [Mr. DIAL] and vote "yea."

Mr. LODGE (when his name was called). Transferring my pair with the Senator from Alabama [Mr. UNDERWOOD] to the Senator from Vermont [Mr. PAGE], I vote "nay."

Mr. MCCORMICK (when his name was called). Making the same announcement in regard to my pair and its transfer as heretofore made, I vote "nay."

The PRESIDING OFFICER (when Mr. STERLING's name was called). Making the same announcement as to my pair and its transfer as on the previous vote, the present occupant of the chair votes "nay."

Mr. SUTHERLAND (when his name was called). I have a pair with the senior Senator from Arkansas [Mr. ROBINSON]. I transfer that pair to the junior Senator from Pennsylvania [Mr. KNOX] and vote "nay."

Mr. TRAMMELL (when his name was called). I transfer my general pair with the senior Senator from Rhode Island [Mr. COLT] to the Senator from Nebraska [Mr. HITCHCOCK] and vote "yea."

Mr. WARREN (when his name was called). I transfer my pair with the Senator from North Carolina [Mr. OVERMAN] to the Senator from Arizona [Mr. CAMERON] and vote "nay."

The roll call was concluded.

Mr. CURTIS. I desire to announce the following pairs:

The Senator from New Mexico [Mr. BURSUM] with the Senator from Louisiana [Mr. RANSDELL];

The Senator from New York [Mr. CALDER] with the Senator from Georgia [Mr. HARRIS];

The Senator from Pennsylvania [Mr. PENROSE] with the Senator from Mississippi [Mr. WILLIAMS];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN]; and

The Senator from Connecticut [Mr. MCLEAN] with the Senator from Montana [Mr. MYERS].

The result was announced—yeas 18, nays 34, not voting 44, as follows:

YEAS—18.

Ashurst	Harrison	La Follette	Trammell
Broussard	Heflin	McKellar	Walsh, Mass.
Caraway	Jones, N. Mex.	Reed	Watson, Ga.
Fletcher	Kenyon	Sheppard	
Glass	King	Stanley	

NAYS—34.

Brandegee	Harreld	Newberry	Sutherland
Capper	Jones, Wash.	Nicholson	Townsend
Curtis	Kellogg	Norbeck	Wadsworth
Dillingham	Ladd	Oddie	Warren
Ernst	Lodge	Phipps	Watson, Ind.
Fernald	McCormick	Poindexter	Weller
Frelinghuysen	McNary	Shortridge	Willis
Gooding	Moses	Smoot	
Hale	New	Sterling	

NOT VOTING—44.

Ball	Elkins	McKinley	Ransdell
Borah	France	McLean	Robinson
Bursum	Gerry	Myers	Shields
Calder	Harris	Nelson	Simmons
Cameron	Hitchcock	Norris	Smith
Colt	Johnson	Overman	Spencer
Culberson	Kendrick	Owen	Stanfield
Cummins	Keyes	Page	Swanson
Dial	Knox	Penrose	Underwood
du Pont	Lenroot	Pittman	Walsh, Mont.
Edge	McCumber	Pomerene	William.

So the Senate decided Mr. TRAMMELL's amendment not to be in order.

Mr. REED. Mr. President, I want to congratulate the Republicans of the Senate. There is not a man on the other side of this Chamber who does not know that in making a specific appropriation conditions can be attached to the payment of the money. I should make no complaint if upon the merits this amendment had been voted down; but when a body will repudiate its own plain rules it disgraces itself in its own estimation and in the estimation of every thoughtful man who knows what it has been doing.

If the construction just adopted is correct, then whenever an appropriation bill is reported here and any Senator seeks to offer an amendment to limit the use to which the money is to be put—the individuals or the class of individuals to whom it may be paid—it is subject to a point of order. It can not be done.

There is no use in lecturing the Senate; but I do not intend to let this thing go by without putting on record my astonishment and indignation. Are we to understand that because there is a majority upon the other side of the Chamber the rules of the Senate will be abrogated by them whenever they desire? If so, let us be candid about it, repeal the rules of the Senate, and establish the proposition that the majority can proceed at will, without regard to rules. That would be manly, that would be decent, and it would have the merit of boldness.

I have sat on this side of the Chamber when we had a majority. It was not long ago. It probably will not be long, in the mutations of politics, until the majority will have changed again. Are we to understand that this body, which has been regarded as one of the most dignified bodies in the world, has sunk to so contemptible a place that, posing as lawmakers, it disregards its own laws; that, making rules for others to obey, it tramples upon the rules it has made for its own government? That is the only construction I can place upon this vote.

The pitiable thing of it all is that it was so unnecessary. You could have sustained the rules of this body, and then you could have voted down this amendment, and justified it by whatsoever arguments you could produce; but you would not have torn out the pages of the rules of the Senate, trampled upon them, and spat upon them, simply because you had a majority that was powerful enough to be brutal, and foolish enough to do a thing of this kind.

Mr. KING. Mr. President, I offer the amendment which I send to the desk, to come in at the end of the section to which the former amendment was offered.

The PRESIDING OFFICER. The amendment will be stated.

The READING CLERK. At the end of the amendment heretofore agreed to, it is proposed to insert the following:

Provided, That no part of this sum shall be used for any of the purposes herein specified until the Shipping Board shall adopt a resolution providing that all sums and amounts collected by it or which shall come into its hands from the sale of ships or any property, real or personal, belonging to said board or to the Emergency Fleet Corporation, shall be covered into the Treasury of the United States: *Provided further*, That nothing in this proviso shall be construed to prevent the use by said Shipping Board of any or all sums derived from the operation of ships.

Mr. KING. Mr. President, I have no doubt that if the chairman of the committee raises the point of order which he suggested a moment ago to the other amendment, the majority membership of the Senate will support the action so taken.

I join in all that the distinguished Senator from Missouri [Mr. REED] has said, and so well said, as to the brutal methods adopted and as to the disregard of the rules of the Senate. We have simply said that the Senate of the United States is absolutely impotent to prescribe the purposes for which an appropriation shall be made; that when a general appropriation of $100,000 or $100,000,000 is made to a department or to a bureau or to an executive agency we may not determine the uses to which it shall be put. We might just as well shackle our hands and go home if such limitations as that are imposed upon the Senate of the United States or any lawmaking body.

Mr. WARREN. Mr. President, the Senator from Utah [Mr. KING] has made no concealment of the fact that he is opposed to this bill entirely; and, as he will of course concede, these amendments he offers are not to carry out the purposes of the bill, but are to defeat them. If the Senator believes that the Members of the Senate are of the opinion that they have been outraged, let them vote on his amendment. I will not make the point of order, although it is subject to one.

Mr. KING. Mr. President, if I may be pardoned a moment, the Senator from Wyoming certainly has misinterpreted my position. I shall vote for this bill if you will indicate a rational program which will be carried out. I shall not vote for it with a lack of information.

Mr. WARREN. That is the first encouragement I have had from my friend. I hope he is getting to be better.

Mr. KING. I wish I could get any encouragement from the chairman of the committee.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Utah [Mr. KING].

The amendment was rejected.

Mr. KENYON. Mr. President, I offer the amendment which I send to the desk, to be inserted after the words "United States," on line 21 of page 2.

I have talked with the chairman of the committee about the amendment, and I think he has no objection to it. It is merely to conform the situation to the statutes as they now exist, which have been evaded by the Emergency Fleet Corporation.

The PRESIDING OFFICER. The amendment will be stated.

The READING CLERK. Following the amendment heretofore agreed to, it is proposed to insert the following proviso:

Provided further, That no part of this appropriation shall be used to pay any employee of the Shipping Board or the Emergency Fleet Corporation a higher per diem than $4 a day in lieu of subsistence.

Mr. WARREN. Mr. President, I should have no objection to that, except that I believe that is the law now.

Mr. KENYON. Mr. President, it is true as to other departments that the statutes of the United States so provide; but the Shipping Board has evaded these statutes by taking the position, as I understand, as to employees of the Emergency Fleet Corporation, that they are not subject to the same regulations, and they have in some instances been drawing from six to eight dollars a day in traveling around the country.

Mr. WARREN. That is on the same order that they have been paying those extra high salaries. There is no law whatever for it.

Mr. KENYON. There is no law for it, but we had better stop it and have the same rule apply to them that applies to others.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Iowa.

The amendment was agreed to.

Mr. KING. I desire to reserve a vote in the Senate upon the amendment which was offered by the Senator from Florida [Mr. TRAMMELL].

Mr. WARREN. It is not in the bill.

Mr. TRAMMELL. Mr. President, I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The READING CLERK. It is proposed to insert, following the amendment heretofore agreed to, the following:

Provided further, That no part of this sum shall be used to pay the compensation of any attorney, regular or special, who has at any time for the past one year been employed by or associated in business with any lawyer or firm having an unsettled claim or claims against the Shipping Board or the United States Shipping Board Emergency Fleet Corporation.

Mr. TRAMMELL. Mr. President, this amendment now is in the same form that I had it before, except that I have cut down the limitation to one year instead of two. Of course I think it ought to be two years instead of one, but I am willing to compromise to the extent of reducing the limitation to one year. I can not see how a point of order can be sustained against this amendment.

Mr. ASHURST. No point of order is made.

Mr. TRAMMELL. This is merely prescribing a limitation upon the appropriation. It is following the example of the committee on that point.

Mr. WARREN. Let us vote on it.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Florida.

Mr. TRAMMELL. I ask for the yeas and nays, Mr. President.

The yeas and nays were ordered, and the reading clerk proceeded to call the roll.

Mr. CARAWAY (when his name was called). I have a general pair with the junior Senator from Illinois [Mr. MCKINLEY], and I transfer that to the senior Senator from Texas [Mr. CULBERSON] and vote "yea."

Mr. FLETCHER (when his name was called). Making the same announcement as to my pair and transfer as before, I vote "yea."

Mr. FRELINGHUYSEN (when his name was called). Making the same announcement as before, I vote "nay."

Mr. HALE (when his name was called). Making the same announcement as before, I vote "nay."

Mr. HARRISON (when his name was called). Making the same announcement as before, I vote "yea."

Mr. JONES of Washington (when his name was called). Making the same announcement as before, I vote "nay."

Mr. KELLOGG (when his name was called). Making the same announcement as before as to the transfer of my pair, I vote "nay."

Mr. KING (when his name was called). I have a general pair with the senior Senator from North Dakota [Mr. MCCUMBER]. I transfer that pair to the junior Senator from South Carolina [Mr. DIAL] and vote "yea."

Mr. LODGE (when his name was called). Making the same announcement as before as to my pair and transfer, I vote "nay."

Mr. MCCORMICK (when his name was called). Making the same announcement as before with regard to my pair, I vote "nay."

The PRESIDING OFFICER (when Mr. STERLING's name was called). Making the same announcement as before, I vote "nay."

Mr. TRAMMELL (when his name was called). I transfer my pair from the senior Senator from Rhode Island [Mr. COLT] to the senior Senator from Nebraska [Mr. HITCHCOCK] and vote "yea."

Mr. WARREN (when his name was called). I transfer my pair with the Senator from North Carolina [Mr. OVERMAN] to the junior Senator from Arizona [Mr. CAMERON] and vote "nay."

The roll call was concluded.

Mr. SUTHERLAND. Making the same announcement with reference to my pair and transfer as before, I vote "nay."

Mr. CURTIS. Mr. President, I desire to announce the following pairs:

The Senator from New Mexico [Mr. BURSUM] with the Senator from Louisiana [Mr. RANSDELL];

The Senator from New York [Mr. CALDER] with the Senator from Georgia [Mr. HARRIS];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN];

The Senator from Connecticut [Mr. MCLEAN] with the Senator from Montana [Mr. MYERS]; and

The Senator from Pennsylvania [Mr. PENROSE] with the Senator from Mississippi [Mr. WILLIAMS].

The result was announced—yeas 19, nays 34, as follows:

YEAS—19.

Ashurst	Harrison	Ladd	Stanley
Broussard	Heflin	La Follette	Trammell
Caraway	Jones, N. Mex.	McKellar	Walsh, Mass.
Fletcher	Kenyon	Reed	Watson, Ga.
Glass	King	Sheppard	

NAYS—34.

Brandegee	Harreld	Nicholson	Sutherland
Capper	Jones, Wash.	Norbeck	Townsend
Curtis	Kellogg	Oddie	Wadsworth
Dillingham	Lodge	Phipps	Warren
Ernst	McCormick	Poindexter	Watson, Ind.
Fernald	McNary	Shortridge	Weller
Frelinghuysen	Moses	Smoot	Willis
Gooding	New	Spencer	
Hale	Newberry	Sterling	

NOT VOTING—43.

Ball	Elkins	McKinley	Ransdell
Borah	France	McLean	Robinson
Bursum	Gerry	Myers	Shields
Calder	Harris	Nelson	Simmons
Cameron	Hitchcock	Norris	Smith
Colt	Johnson	Overman	Stanfield
Culberson	Kendrick	Owen	Swanson
Cummins	Keyes	Page	Underwood
Dial	Knox	Penrose	Walsh, Mont.
du Pont	Lenroot	Pittman	Williams
Edge	McCumber	Pomerene	

So Mr. TRAMMELL's amendment was rejected.

Mr. TRAMMELL. Mr. President, at the same place in the bill I propose this amendment, "That none of the funds hereby appropriated shall be used for the purpose of employing an attorney who has a claim, or is a member of a firm having a claim, against the board upon the date of the passage of this act."

The PRESIDING OFFICER. The Secretary will state the amendment.

The READING CLERK. The Senator from Florida proposes the following amendment, to be inserted in the proper place:

That none of the funds hereby appropriated shall be used for the purpose of employing an attorney who has a claim, or is a member of a firm having a claim, against the board upon the date of the passage of this act.

Mr. REED. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the reading clerk proceeded to call the roll.

Mr. FLETCHER (when his name was called). Making the same announcement of my pair and its transfer as before, I vote "yea."

Mr. FRELINGHUYSEN (when his name was called). Making the same announcement as before, I vote "nay."

Mr. HALE (when his name was called). Making the same announcement as before, I vote "nay."

Mr. JONES of Washington (when his name was called). Making the same announcement as before as to my pair and its transfer, I vote "nay."

Mr. KELLOGG (when his name was called). Making the same announcement as before, I vote "nay."

Mr. KING (when his name was called). Making the same announcement as before as to the transfer of my pair, I vote "yea."

Mr. LODGE (when his name was called). Making the same announcement as before, I vote "nay."

Mr. MCCORMICK (when his name was called). Making the same announcement as before, I vote "nay."

The PRESIDING OFFICER (when Mr. STERLING's name was called). Making the same announcement as before, I vote "nay."

Mr. SUTHERLAND (when his name was called). Making the same announcement as before with reference to my pair and its transfer, I vote "nay."

Mr. TRAMMELL (when his name was called). Making the same announcement that I made upon the last vote with regard to my pair and its transfer, I vote "yea."

Mr. WARREN (when his name was called). Making the same announcement as on the last vote as to my pair and its transfer, I vote "nay."

The roll call was concluded.

Mr. HARRISON. Repeating my previous announcement as to my pair and its transfer, I vote "yea."

Mr. CURTIS. I desire to announce the following pairs:

The Senator from Illinois [Mr. MCKINLEY] with the Senator from Arkansas [Mr. CARAWAY];

The Senator from New York [Mr. CALDER] with the Senator from Georgia [Mr. HARRIS];

The Senator from New Mexico [Mr. BURSUM] with the Senator from Louisiana [Mr. RANSDELL];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN];

The Senator from Pennsylvania [Mr. PENROSE] with the Senator from Mississippi [Mr. WILLIAMS]; and

The Senator from Connecticut [Mr. MCLEAN] with the Senator from Montana [Mr. MYERS].

The result was announced—yeas 17, nays 35, as follows:

YEAS—17.

Ashurst	Heflin	McKellar	Walsh, Mass.
Broussard	Jones, N. Mex.	Reed	Watson, Ga.
Fletcher	Kenyon	Sheppard	
Glass	King	Stanley	
Harrison	La Follette	Trammell	

NAYS—35.

Brandegee	Harreld	Newberry	Sterling
Capper	Jones, Wash.	Nicholson	Sutherland
Curtis	Kellogg	Norbeck	Townsend
Dillingham	Ladd	Oddie	Wadsworth
Ernst	Lodge	Phipps	Warren
Fernald	McCormick	Poindexter	Watson, Ind.
Frelinghuysen	McNary	Shortridge	Weller
Gooding	Moses	Smoot	Willis
Hale	New	Spencer	

NOT VOTING—44.

Ball	Edge	McCumber	Pomerene
Borah	Elkins	McKinley	Ransdell
Bursum	France	McLean	Robinson
Calder	Gerry	Myers	Shields
Cameron	Harris	Nelson	Simmons
Caraway	Hitchcock	Norris	Smith
Colt	Johnson	Overman	Stanfield
Culberson	Kendrick	Owen	Swanson
Cummins	Keyes	Page	Underwood
Dial	Knox	Penrose	Walsh, Mont.
du Pont	Lenroot	Pittman	Williams

So Mr. TRAMMELL's amendment was rejected.

Mr. McKELLAR. Mr. President, I move that the Senate do now adjourn, and on that motion I demand the yeas and nays.

Mr. HARRISON. Mr. President, will the Senator withhold that motion for a moment?

Mr. McKELLAR. Very well; I will withhold the motion for a moment.

Mr. HARRISON. I was in hopes the Senator would not do that. I understand that we were to take a recess until 12 o'clock to-morrow.

Mr. McKELLAR. I have understood that since about 8 o'clock this evening, and I think it is about time we were doing something.

Mr. HARRISON. I ask the chairman of the committee if he will not agree to recess until 10 o'clock to-morrow, and take a vote not later than half past 12 on the disarmament proposition. I wish to say that I know of one or two Senators who left here this evening under the impression that that would be done. The Senator from Idaho [Mr. BORAH] wanted to speak on the amendment which is now pending, and left the Senate with the impression that we would recess until 10 o'clock.

Mr. WARREN. What is the Senator's request?

Mr. HARRISON. I hope that we can recess until some time to-morrow, and vote at a definite hour.

Mr. WARREN. I do not know that that can not be done. I distinctly stated what I would do, but that was not accepted, and hence many Senators have stayed here expecting to vote on the bill to-night.

Mr. HARRISON. I was in hopes we would vote not later than half past 12, but several of the Senators understood we would do that, and I think they left under that impression. I know the Senator from Idaho left with that idea in his mind.

Mr. KING. That we vote at 12 o'clock to-morrow?

Mr. McKELLAR. Mr. President, I withdrew my motion temporarily for the Senator from Mississippi, but I have not yielded the floor.

Mr. WARREN. I stated early in the evening to the Senator that, so far as I was concerned, if we could complete everything but the one amendment and have an agreement to meet in the morning at 10 o'clock and to vote not later than 12 o'clock noon——

Mr. KING. Twelve-thirty it was.

Mr. WARREN. No; 12 o'clock was the statement I made. I said I would consent to that. Now, I understand that from some point the hour of 12.30 has come up. Is that the proposition of the Senator from Mississippi?

Mr. HARRISON. Twelve o'clock was perfectly satisfactory to me, but there were several Senators who wanted to speak on the amendment, and 12.30 was named as a more appropriate time.

Mr. WARREN. Of course, it will be a matter of common consent.

Mr. HARRISON. It may be we will vote before 12.30. It may be we will vote at 11 o'clock, but let us make it not later than 12.30 that we shall vote upon the pending amendment.

SEVERAL SENATORS. Finish it now.

Mr. KING. I do not think we will make anything by that sort of effort.

Mr. HARRISON. It will not be finished to-night.

Mr. McKELLAR. The bill is not going to pass to-night, I will say to Senators.

Mr. WARREN. I do not think it is wise for Senators to say that we can not do this or the other, because we can all stay, of course, if necessary. So far as the chairman of the committee is concerned, if that meets the view of the Senate and if we can complete the bill and send it to the conferees by 12.30, I shall entertain such a proposition.

Mr. HARRISON. I understand we will vote not later than 12.30.

Mr. LODGE. That we vote not later than 12.30 on the remaining amendments and upon the bill.

Mr. HARRISON. I imagine there will be a roll call probably on the passage of the bill to follow immediately after the vote on the amendment.

Mr. LODGE. Not later than that hour on the last amendment and on the bill.

Mr. WARREN. So far as I am concerned, I wish to get the bill out of the Senate and on its way to the House by 12.30, excepting the time that will be taken to call the roll and get the vote.

Mr. McKELLAR. Is the Senator from Wyoming making a request that we recess until 10 o'clock in the morning and discuss the bill until 12.30 and then vote on it?

Mr. WARREN. I am accepting such a request if it is made to me.

Mr. HARRISON. I ask unanimous consent that when the Senate recess to-night it be to meet at 10 o'clock in the morning, and that we vote not later than 12.30 to-morrow on the pending amendment.

Mr. WARREN. And on the bill.

Mr. HARRISON. And on the bill.

Mr. LODGE. Yes; and on the bill.

Mr. REED. I suggest to the Senator from Mississippi that he include in his request that the bill shall be brought on for consideration at 10 o'clock in the morning, and shall remain before the Senate to the exclusion of all other business.

Mr. LODGE. That is done by taking a recess.

Mr. HARRISON. Yes. Of course we can not vote on the amendment and on the bill, too, at 12 o'clock.

Mr. McKELLAR. They can be voted on, one after the other.

Mr. LODGE. The proposition is to vote on the remaining amendment and on the bill.

Mr. HARRISON. The debate ceases at 12.30 and the vote is to be taken on the pending amendment and the bill.

Mr. WARREN. That will bring it to a final disposition at that time.

Mr. JONES of New Mexico. Mr. President——

Mr. McKELLAR. I believe I have the floor. I yielded to the Senator from Mississippi to make the unanimous-consent request. Do I understand that it has been granted?

Mr. LODGE. We have to have a quorum before it is disposed of.

Mr. JONES of New Mexico. Mr. President——

Mr. HARRISON. That is why I did not want to say anything about voting on the bill. We could fix a time to vote on the amendment without a call for a quorum.

Mr. LODGE. We will have to get a quorum. We have no quorum here, but we can get a quorum.

The PRESIDING OFFICER. The Secretary will call the roll to ascertain if a quorum is present.

The reading clerk proceeded to call the roll.

Mr. JONES of New Mexico. Mr. President, no Senator has answered to his name, and I addressed the Chair before the roll call was started.

Mr. LODGE. This is a call for a quorum.

The PRESIDING OFFICER. The Secretary will proceed with the call of the roll.

Mr. LODGE. The Senator from New Mexico can not address the Senate when a quorum is being called. Nothing else is then in order.

Mr. JONES of New Mexico. If the Senator thinks he can advance the business of the Senate by any such procedure as that, we will see.

Mr. LODGE. The Senator knows when the roll is being called we can not have any discussion.

Mr. JONES of New Mexico. But I have the floor.

Mr. LODGE. The Senator did not have the floor when the Clerk began calling the roll for a quorum.

The PRESIDING OFFICER. The Secretary will proceed with the call of the roll.

The reading clerk resumed and concluded the call of the roll, and the following Senators answered to their names:

Ashurst	Harreld	McNary	Stanley
Brandegee	Harrison	Moses	Sterling
Broussard	Heflin	New	Sutherland
Capper	Jones, N. Mex.	Newberry	Townsend
Caraway	Jones, Wash.	Nicholson	Trammell
Curtis	Kellogg	Norbeck	Wadsworth
Dillingham	Kenyon	Oddie	Walsh, Mass.
Ernst	King	Phipps	Warren
Fernald	Ladd	Poindexter	Watson, Ga.
Fletcher	La Follette	Sheppard	Watson, Ind.
Frelinghuysen	Lodge	Shortridge	Weller
Gooding	McCormick	Smoot	Willis
Hale	McKellar	Spencer	

The PRESIDING OFFICER. Fifty-one Senators having answered to their names, there is a quorum present. The Secretary will state the proposed unanimous-consent agreement.

The READING CLERK. It is agreed by unanimous consent that at not later than 12.30 o'clock on the calendar day of August 23, 1921, the Senate will proceed to vote upon the amendment that is pending, the amendment on page 2, lines 1 to 16, both inclusive, of the bill (H. R. 8117) making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1922, and for other purposes, through the regular parliamentary stages to its final disposition.

Mr. CURTIS. It was also understood that the Senate would take a recess until 10 o'clock.

Mr. JONES of New Mexico. Mr. President, I wish to suggest an amendment to the agreement. I have seen difficulties arise regarding a unanimous-consent agreement in several cases. In recent sessions of the Senate the Senate has recognized the justice of the request which I am going to make. I have no amendment to propose to the bill and I do not know that any other Senator has any other additional amendment to propose to it. But an amendment may be proposed, and under the proposed unanimous-consent agreement after the voting begins there will be no opportunity to even explain an amendment. It seems to me there should be a time of some duration when proposed amendments may be explained. Therefore I wish to suggest that we recess until 10 o'clock, and after the hour of 11 o'clock no speeches shall be made upon the bill or any amendment thereto in excess of five minutes.

Mr. KING. Make it 10 minutes.

Mr. JONES of New Mexico. Very well; 10 minutes.

Mr. LODGE. I think that is a very good suggestion.

Mr. JONES of New Mexico. And not fix the time for voting. That will give the Senator from Idaho an hour to-morrow morning in which he may address the Senate, if he wishes. Then, after 11 o'clock, let the speeches be limited to 5 minutes, or 10 minutes, as suggested by the Senator from Utah, and no Senator shall be permitted to speak more than once upon the bill or any amendment thereto.

Mr. HARRISON. May I ask the Senator to make it half past 11? There may be some difficulty in getting a quorum in the morning at 10 o'clock.

Mr. JONES of New Mexico. I am glad to make it any hour that suits the convenience of the Senate. The only purpose I have is, that if amendments are offered, there may be an opportunity to explain the amendments.

Mr. SMOOT. Does the Senator request that the vote be not taken at 12.30 o'clock, if the amendments run past that hour?

SEVERAL SENATORS. No, no.

Mr. SMOOT. Let the Senator from New Mexico answer.

Mr. JONES of New Mexico. If we have not finished with the amendments.

Mr. SMOOT. Ah; I thought so.

Mr. HARRISON. I understood the Senator to suggest that after half past 11 no Senator shall speak longer than 10 minutes, and that we shall vote at half past 12.

Mr. JONES of New Mexico. I do not believe it is necessary to fix the hour for voting. It never has been so in the past. Whenever we have limited the time the vote has always come without any debate.

Mr. KING. May I appeal to my friend from New Mexico, whose judgment I esteem so highly, in view of the difficulties and the vast amount of work to be done to-morrow and the difficulty we have had in trying to synchronize and get together, that we agree that we may begin voting at 12.30, as originally proposed?

Mr. JONES of New Mexico. I will agree to that—that after the hour of 11.30 o'clock no Senator shall speak more than once or longer than five minutes on the bill, and that at 12.30 the speeches shall cease.

The PRESIDING OFFICER. The proposed unanimous-consent agreement will be stated.

The reading clerk read as follows:

UNANIMOUS-CONSENT AGREEMENT.

It is agreed by unanimous consent that the Senate at the conclusion of its business to-day take a recess until 10 o'clock a. m. to-morrow, and at not later than 12.30 o'clock p. m. on the calendar day of August 23, 1921, the Senate will proceed to vote, without further debate, upon the pending committee amendment, viz, insert on page 3, lines 1 to 16, both inclusive, and upon the bill (H. R. 8117) making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1922, and for other purposes, through the regular parliamentary stages to its final disposition, and that after the hour of 11.30 o'clock a. m. on said calendar day no Senator shall speak more than once or longer than five minutes upon the bill or more than once or longer than five minutes upon the pending amendment thereto.

The PRESIDING OFFICER. Is there objection to the unanimous-consent agreement?

Mr. SMOOT. Does that agree to a final vote at 12.30?

Mr. HARRISON. Oh, yes.

Mr. WARREN. I wish it distinctly understood, whatever the language may be, that we shall vote at 12.30 to-morrow on the amendment and then on the bill itself to its final disposition.

Mr. LA FOLLETTE. Yes.

Mr. LODGE. That is the way it is provided.

Mr. KING. I so understood it.

Mr. HARRISON. We are to vote not later than 12.30.

The PRESIDING OFFICER. The Chair hears no objection and the unanimous-consent agreement is entered into.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, announced that the House insisted upon its amendments to the bill (S. 1915) to amend the War Finance Corporation act, approved April 5, 1918, as amended, to provide relief for producers of and dealers in agricultural products, and for other purposes; that it agreed to the conference requested by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MCFADDEN, Mr. DALE, and Mr. WINGO were appointed managers of the conference on the part of the House.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. 7255) authorizing bestowal upon the unknown unidentified American to be buried in the Memorial Amphitheater of the National Cemetery at Arlington, Va., the congressional medal of honor and the distinguished service cross, and it was thereupon signed by the Presiding Officer [Mr. CURTIS] as Acting President pro tempore.

SPECIAL COMMITTEE ON READJUSTMENT OF SERVICE PAY.

Mr. WADSWORTH submitted the following concurrent resolution (S. Con. Res. 11), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved by the Senate (the House of Representatives concurring), That the special committee appointed in accordance with the provisions of section 13 of the act entitled "An act to increase the efficiency of the commissioned and enlisted personnel of the Army, Navy, Coast Guard, Coast and Geodetic Survey, and Public Health Service," approved May 18, 1920, or any subcommittee thereof is authorized to sit at any time in the District of Columbia or elsewhere, to send for persons, books, and papers, to administer oaths, to summon and compel the attendance of witnesses, to employ a stenographer at a cost per printed page as fixed by law, to report such hearings as may be had in connection with any subject which may come before said committee, to print such hearings and other matter as may be necessary, and to employ such clerical services as may be necessary to carry out the purposes of the act. All expenses in pursuance hereof shall be paid from the contingent funds of the Senate and House of Representatives, in equal proportions, upon vouchers authorized by the committee and signed by the chairman thereof.

RECESS.

Mr. WARREN. Mr. President, I move that the Senate take a recess until 10 o'clock to-morrow morning.

The motion was agreed to; and (at 11 o'clock and 15 minutes p. m.) the Senate took a recess until to-morrow, Tuesday, August 23, 1921, at 10 o'clock a. m.

HOUSE OF REPRESENTATIVES.

MONDAY, *August 22, 1921.*

The House met at 11 o'clock a. m.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

O Lord of heaven and earth, to Thee all praise and glory be. Own as our grateful offering the little prayer that we now make. Come, Infinite Spirit of Wisdom, and breathe Thy life and shed Thy light and we shall have the greatest treasure that man can wish or God can send. May Thy lamp be a light unto our faith and Thy manna bread to our souls. So shall we be enabled to choose and to cherish all good things. Let Thy spirit fill our hearts and bless our homes, and they shall be as the gates of heaven. Through Christ. Amen.

The Journal of the proceedings of Saturday, August 20, 1921, was read and approved.

EXTENSION OF REMARKS.

Mr. NEWTON of Missouri. Mr. Speaker, I ask unanimous consent to extend my remarks on the bill (H. R. 7686) to amend section 9 of an act entitled "An act to define, regulate, and punish trading with the enemy, and for other purposes," approved October 6, 1917, as amended.

The SPEAKER. The gentleman from Missouri asks unanimous consent to extend his remarks in the RECORD in the manner stated. Is there objection?

There was no objection.

WAR FINANCE CORPORATION ACT.

The SPEAKER. When the House adjourned on Saturday there was pending a motion made by the gentleman from Arkansas [Mr. WINGO] to recommit the bill (S. 1915) to amend the War Finance Corporation act, to provide relief for producers of and dealers in agricultural products, and for other purposes. The question is on the motion to recommit. Without objection, the Clerk will again report the motion to recommit.

There was no objection, and the Clerk read as follows:

Mr. WINGO moves to recommit S. 1915 to the Committee on Banking and Currency with instruction to report the bill back immediately with the following amendments:

Amend the bill by striking out, on page 3, line 9, the words "exported or," and insert in line 10, page 3, after the word "export" the following words: "or in domestic trade."

Amend the bill by adding to section 11 of Title I of the War Finance Corporation act an additional paragraph to read as follows:

"The corporation shall be empowered to purchase from the Federal land banks farm-loan bonds in an amount not exceeding $100,000,000 during the calendar year 1921, and an amount not exceeding $100,000,000 during the calendar year 1922."

The SPEAKER. The question is on the motion of the gentleman from Arkansas to recommit the bill.

The question was taken; and on a division (demanded by Mr. WINGO) there were—ayes 26, noes 54.

Mr. WINGO. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. Evidently there is no quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll. The question is on the motion to recommit.

The question was taken; and there were—yeas 137, nays 198, answered "present" 2, not voting 93, as follows:

YEAS—137.

Almon	Doughton	Lampert	Rouse
Anderson	Dowell	Lanham	Sanders, Tex.
Andrews	Drewry	Lankford	Sandlin
Arentz	Driver	Larsen, Ga.	Scott, Tenn.
Aswell	Evans	Lazaro	Sears
Barbour	Favrot	Lea, Calif.	Sinclair
Beck	Fields	Linthicum	Sisson
Bell	Fisher	Logan	Smithwick
Black	Flood	London	Stengall
Bland, Va.	Fulmer	Lowrey	Steenerson
Blanton	Garner	McClintic	Stevenson
Bowling	Garrett, Tenn.	McCormick	Stoll
Box	Garrett, Tex.	McDuffie	Sumners, Tex.
Brand	Gensman	McLaughlin, Nebr.	Swank
Briggs	Gilbert	McSwain	Sweet
Brinson	Green, Iowa	Mead	Tague
Browne, Wis.	Griffin	Moore, Va.	Ten Eyck
Buchanan	Hammer	Nelson, J. M.	Thomas
Bulwinkle	Hardy, Colo.	Nolan	Tillman
Burtness	Hardy, Tex.	Oldfield	Tincher
Byrnes, S. C.	Hayden	Oliver	Tyson
Byrns, Tenn.	Hoch	Overstreet	Vinson
Cantrill	Huddleston	Padgett	Volstead
Carew	Hull	Park, Ga.	Ward, N. C.
Carter	Humphreys	Parks, Ark.	Weaver
Cole, Iowa	Jacoway	Parrish	Wilson
Collier	Jefferis, Nebr.	Pou	Wingo
Collins	Jeffers, Ala.	Quin	Wise
Connally, Tex.	Johnson, Miss.	Rainey, Ill.	Woodruff
Crisp	Jones, Tex.	Raker	Woods, Va.
Cullen	Keller	Ramseyer	Wright
Davis, Minn.	Kincheloe	Rankin	Young
Davis, Tenn.	Kindred	Rayburn	
Deal	Kinkaid	Reavis	
Dominick	Knutson	Riordan	

NAYS—198.

Ackerman	Burton	Curry	Fitzgerald
Ansorge	Butler	Dale	Focht
Anthony	Cable	Dallinger	Fordney
Appleby	Campbell, Kans.	Darrow	Foster
Atkeson	Cannon	Dempsey	Frear
Begg	Chalmers	Denison	Free
Bird	Chandler, N. Y.	Dunn	French
Bixler	Chandler, Okla.	Dyer	Frothingham
Blakeney	Chindblom	Echols	Funk
Bland, Ind.	Christopherson	Elliott	Gernerd
Boies	Clague	Ellis	Glynn
Bond	Clarke, N. Y.	Fairchild	Goodykoontz
Bowers	Clouse	Fairfield	Gould
Brennan	Colton	Faust	Graham, Ill.
Brown, Tenn.	Connell	Fenn	Graham, Pa.
Burdick	Cooper, Wis.	Fess	Greene, Mass.
Burroughs	Coughlin	Fish	Greene, Vt.
Griest	Luce	Peters	Snell
Hadley	Luhring	Petersen	Snyder
Herrick	McArthur	Porter	Speaks
Hickey	McFadden	Pringey	Sproul
Hicks	McKenzie	Purnell	Stafford
Hill	McLaughlin, Mich.	Radcliffe	Stephens
Himes	McPherson	Reber	Strong, Pa.
Hogan	MacGregor	Reece	Summers, Wash.
Houghton	Madden	Reed, N. Y.	Swing
Hukriede	Magee	Reed, W. Va.	Taylor, N. J.
Husted	Mann	Rhodes	Temple
Ireland	Mapes	Ricketts	Thompson
Johnson, Wash.	Merritt	Riddick	Tilson
Jones, Pa.	Michener	Roach	Timberlake
Kelly, Pa.	Miller	Robertson	Towner
Kendall	Millspaugh	Robsion	Underhill
Ketcham	Mondell	Rogers	Vestal
Kiess	Moore, Ill.	Rose	Voigt
King	Moore, Ohio	Rosenbloom	Walsh
Kirkpatrick	Moores, Ind.	Rossdale	Wason
Kissel	Morgan	Ryan	Webster
Kleczka	Mott	Sanders, Ind.	Wheeler
Kline, N. Y.	Murphy	Sanders, N. Y.	White, Kans.
Kline, Pa.	Nelson, A. P.	Schall	White, Me.
Kraus	Newton, Minn.	Scott, Mich.	Williams
Larson, Minn.	Newton, Mo.	Shaw	Winslow
Lawrence	Norton	Shelton	Woodyard
Layton	Olpp	Shreve	Wurzbach
Leatherwood	Osborne	Siegel	Wyant
Lehlbach	Paige	Sinnott	Yates
Lineberger	Parker, N. J.	Slemp	Zihlman
Little	Parker, N. Y.	Smith, Idaho	
Longworth	Patterson, Mo.	Smith, Mich.	

ANSWERED "PRESENT"—2.

Clark, Fla.	Rucker

NOT VOTING—93.

Bacharach	Elston	Kopp	Ransley
Bankhead	Freeman	Kreider	Rodenberg
Barkley	Fuller	Kunz	Sabath
Beedy	Gahn	Langley	Stedman
Benham	Gallivan	Lee, Ga.	Stiness
Britten	Goldsborough	Lee, N. Y.	Strong, Kans.
Brooks, Ill.	Gorman	Lyon	Sullivan
Brooks, Pa.	Harrison	McLaughlin, Pa.	Taylor, Ark.
Burke	Haugen	Maloney	Taylor, Colo.
Campbell, Pa.	Hawes	Mansfield	Taylor, Tenn.
Classon	Hawley	Martin	Tinkham
Cockran	Hays	Michaelson	Treadway
Codd	Hersey	Mills	Upshaw
Cole, Ohio	Hudspeth	Montague	Valle
Connolly, Pa.	Hutchinson	Montoya	Vare
Cooper, Ohio	James	Morin	Volk
Copley	Johnson, Ky.	Mudd	Walters
Cramton	Johnson, S. Dak.	O'Brien	Ward, N. Y.
Crowther	Kahn	O'Connor	Watson
Dickinson	Kearns	Ogden	Williamson
Drane	Kelley, Mich.	Patterson, N. J.	Wood, Ind.
Dunbar	Kennedy	Perkins	
Dupré	Kitchin	Perlman	
Edmonds	Knight	Rainey, Ala.	

So the motion to recommit was rejected.

The Clerk announced the following pairs:

On the vote:

Mr. MARTIN (for) with Mr. VARE (against).

Mr. KITCHIN (for) with Mr. JOHNSON of South Dakota (against).

Mr. DUPRÉ (for) with Mr. WOOD of Indiana (against).

Mr. RUCKER (for) with Mr. RODENBERG (against).

Mr. CLARK of Florida (for) with Mr. LANGLEY (against).

Mr. MANSFIELD (for) with Mr. WALTERS (against).

Mr. SULLIVAN (for) with Mr. CRAMTON (against).

Mr. O'BRIEN (for) with Mr. JAMES (against).

Mr. COCKRAN (for) with Mr. KAHN (against).

Mr. MONTAGUE (for) with Mr. BROOKS of Illinois (against).

Mr. KUNZ (for) with Mr. FULLER (against).

Mr. GALLIVAN (for) with Mr. VOLK (against).

Mr. LEE of Georgia (for) with Mr. EDMONDS (against).

Mr. RAINEY of Alabama (for) with Mr. MORIN (against).

Mr. STEDMAN (for) with Mr. WATSON (against).

Mr. DRANE (for) with Mr. BROOKS of Pennsylvania (against).

Mr. BANKHEAD (for) with Mr. FREEMAN (against).

Mr. BARKLEY (for) with Mr. HAYS (against).

Mr. LYON (for) with Mr. PERLMAN (against).

Mr. UPSHAW (for) with Mr. KENNEDY (against).

Mr. O'CONNOR (for) with Mr. KEARNS (against).

Mr. HARRISON (for) with Mr. HERSEY (against).

Mr. TAYLOR of Arkansas (for) with Mr. RANSLEY (against).

General pairs:

Mr. PATTERSON of New Jersey with Mr. CAMPBELL of Pennsylvania.

Mr. KREIDER with Mr. HUDSPETH.

Mr. PERKINS with Mr. GOLDSBOROUGH.

Mr. HUTCHINSON with Mr. HAWES.

Mr. BACHARACH with Mr. TAYLOR of Colorado.

Mr. ELSTON with Mr. SABATH.

Mr. STINESS with Mr. JOHNSON of Kentucky.

Mr. CLARK of Florida. Mr. Speaker, did the gentleman from Kentucky [Mr. LANGLEY] vote?

The SPEAKER. He did not.

Mr. CLARK of Florida. Then, Mr. Speaker, I desire to withdraw my vote of "aye" and answer "present."

The name of Mr. CLARK of Florida was called, and he answered "present."

Mr. RUCKER. Mr. Speaker, did the gentleman from Illinois [Mr. RODENBERG] vote?

The SPEAKER. He did not.

Mr. RUCKER. Mr. Speaker, I have a pair with the gentleman and I desire to withdraw my vote of "aye" and answer "present."

The name of Mr. RUCKER was called, and he answered "present."

The result of the vote was announced as above recorded.

The SPEAKER. A quorum is present; the Doorkeeper will open the doors. The question is on the passage of the bill.

Mr. WINGO. Mr. Speaker, on that I demand the yeas and nays.

Mr. DALE. Mr. Speaker, I request the yeas and nays.

The SPEAKER. Obviously a sufficient number, and the yeas and nays are ordered.

The question was taken; and there were—yeas 317, nays 21, answered "present" 3, not voting 89, as follows:

YEAS—317.

Almon	Evans	Larson, Minn.	Robertson
Anderson	Fairchild	Lawrence	Robsion
Andrews	Fairfield	Lazaro	Rogers
Ansorge	Faust	Lea, Calif.	Rose
Anthony	Favrot	Leatherwood	Rosenbloom
Appleby	Fenn	Lee, Ga.	Rouse
Arentz	Fess	Lehlbach	Sanders, Ind.
Aswell	Fields	Lineberger	Sanders, N. Y.
Atkeson	Fish	Linthicum	Sanders, Tex.
Barbour	Fisher	Little	Sandlin
Beck	Fitzgerald	Logan	Schall
Begg	Flood	London	Scott, Mich.
Bell	Focht	Longworth	Scott, Tenn.
Bird	Fordney	Lowrey	Sears
Bixler	Foster	Luhring	Shaw
Black	Frear	McArthur	Shelton
Blakeney	French	McClintic	Shreve
Bland, Ind.	Frothingham	McCormick	Sinclair
Bland, Va.	Fulmer	McDuffie	Sinnott
Blanton	Funk	McFadden	Sisson
Boies	Garrett, Tenn.	McKenzie	Slemp
Bond	Garrett, Tex.	McLaughlin, Mich.	Smith, Idaho
Bowers	Gensman	McLaughlin, Nebr.	Smith, Mich.
Bowling	Gernerd	McPherson	Smithwick
Box	Gilbert	Madden	Snell
Brand	Glynn	Magee	Snyder
Brennan	Goodykoontz	Mann	Speaks
Briggs	Gorman	Mapes	Sproul
Brinson	Gould	Mead	Stafford
Brown, Tenn.	Graham, Ill.	Merritt	Steagall
Browne, Wis.	Graham, Pa.	Michener	Steenerson
Buchanan	Green, Iowa	Miller	Stephens
Bulwinkle	Greene, Mass.	Millspaugh	Stevenson
Burroughs	Hadley	Mondell	Stoll
Burtness	Hammer	Moore, Ill.	Strong, Kans.
Burton	Hardy, Colo.	Moore, Ohio	Strong, Pa.
Butler	Hardy, Tex.	Moore, Va.	Summers, Wash.
Brynes, S. C.	Harrison	Morgan	Sumners, Tex.
Byrns, Tenn.	Haugen	Mott	Swank
Cable	Hawes	Mudd	Sweet
Campbell, Kans.	Hayden	Murphy	Swing
Cannon	Hays	Nelson, A. P.	Taylor, N. J.
Cantrill	Hickey	Nelson, J. M.	Temple
Carew	Hicks	Newton, Minn.	Ten Eyck
Carter	Hill	Newton, Mo.	Thomas
Chalmers	Himes	Nolan	Thompson
Chandler, N. Y.	Hoch	O'Brien	Tillman
Chandler, Okla.	Hogan	O'Connor	Tilson
Chindblom	Houghton	Oldfield	Timberlake
Christopherson	Huddleston	Oliver	Tincher
Clague	Hukriede	Olpp	Towner
Clarke, N. Y.	Hull	Osborne	Tyson
Clouse	Humphreys	Overstreet	Vestal
Cole, Iowa	Husted	Padgett	Vinson
Collier	Jacoway	Paige	Voigt
Collins	Jefferis, Nebr.	Park, Ga.	Volstead
Colton	Jeffers, Ala.	Parker, N. Y.	Ward, N. C.
Connally, Tex.	Johnson, Miss.	Parks, Ark.	Wason
Connell	Johnson, Wash.	Parrish	Weaver
Cooper, Wis.	Jones, Pa.	Patterson, Mo.	Webster
Coughlin	Jones, Tex.	Perkins	Wheeler
Crisp	Keller	Petersen	White, Kans
Cullen	Kelley, Mich.	Porter	White, Me.
Curry	Kelly, Pa.	Pou	Williams
Darrow	Kendall	Pringey	Wilson
Davis, Minn.	Ketcham	Purnell	Wingo
Davis, Tenn.	Kiess	Quin	Winslow
Deal	Kincheloe	Rainey, Ill.	Wise
Dempsey	King	Raker	Woodruff.
Denison	Kinkaid	Ramseyer	Woods, Va.
Dominick	Kirkpatrick	Rankin	Woodyard
Doughton	Kleczka	Rayburn	Wright
Dowell	Kline, N. Y.	Reavis	Wurzbach
Drewry	Kline, Pa.	Reece	Wyant
Driver	Knutson	Reed, N. Y.	Yates
Dunn	Kopp	Reed, W. Va.	Young
Dyer	Lampert	Rhodes	Zihlman
Echols	Lanham	Ricketts	
Elliott	Lankford	Riddick	
Ellis	Larsen, Ga.	Roach	

NAYS—21.

Ackerman	Kissel	Norton	Tinkham
Burdick	Kraus	Parker, N. J.	Underhill
Dale	Layton	Peters	Walsh
Dallinger	Luce	Rossdale	
Greene, Vt.	MacGregor	Ryan	
Griffin	Moores, Ind.	Siegel	

ANSWERED "PRESENT"—3.

Clark, Fla.	Rucker	Tague

NOT VOTING—89.

Bacharach	Edmonds	Kitchin	Reber
Bankhead	Elston	Knight	Riordan
Barkley	Free	Kreider	Rodenberg
Beedy	Freeman	Kunz	Sabath
Benham	Fuller	Langley	Stedman
Britten	Gahn	Lee, N. Y.	Stiness
Brooks, Ill.	Gallivan	Lyon	Sullivan
Books, Pa.	Garner	McLaughlin, Pa.	Taylor, Ark.
Burke	Goldsborough	McSwain	Taylor, Colo.
Campbell, Pa.	Griest	Maloney	Taylor, Tenn.
Classon	Hawley	Mansfield	Treadway
Cockran	Herrick	Martin	Upshaw
Codd	Hersey	Michaelson	Vaile
Cole, Ohio	Hudspeth	Mills	Vare
Connolly, Pa.	Hutchinson	Montague	Volk
Cooper, Ohio	Ireland	Montoya	Walters
Copley	James	Morin	Ward, N. Y.
Cramton	Johnson, Ky.	Ogden	Watson
Crowther	Johnson, S. Dak.	Patterson, N. J.	Williamson
Dickinson	Kahn	Perlman	Wood, Ind.
Drane	Kearns	Radcliffe	
Dunbar	Kennedy	Rainey, Ala.	
Dupré	Kindred	Ransley	

So the bill was passed.

The Clerk announced the following additional pairs:

On this vote:

Mr. TREADWAY (for) with Mr. TAGUE (against).

Mr. FREE (for) with Mr. HUTCHINSON (against).

Until further notice:

Mr. JOHNSON of South Dakota with Mr. KITCHIN.

Mr. WOOD of Indiana with Mr. DUPRÉ.

Mr. REBER with Mr. RIORDAN.

Mr. RODENBERG with Mr. RUCKER.

Mr. GRIEST with Mr. MARTIN.

Mr. LANGLEY with Mr. CLARK of Florida.

Mr. FREEMAN with Mr. BANKHEAD.

Mr. BROOKS of Illinois with Mr. MONTAGUE.

Mr. KENNEDY with Mr. UPSHAW.

Mr. VOLK with Mr. GALLIVAN.

Mr. WALTERS with Mr. MANSFIELD.

Mr. MORIN with Mr. RAINEY of Alabama.

Mr. PERLMAN with Mr. LYON.

Mr. FULLER with Mr. KUNZ.

Mr. RANSLEY with Mr. TAYLOR of Arkansas.

Mr. BROOKS of Pennsylvania with Mr. DRANE.

Mr. KEARNS with Mr. GARNER.

Mr. HERSEY with Mr. MCSWAIN.

Mr. CRAMTON with Mr. SULLIVAN.

Mr. WATSON with Mr. STEDMAN.

Mr. KAHN with Mr. COCKRAN.

Mr. PATTERSON of New Jersey with Mr. CAMPBELL of Pennsylvania.

Mr. KREIDER with Mr. HUDSPETH.

Mr. BACHARACH with Mr. TAYLOR of Colorado.

Mr. STINESS with Mr. JOHNSON of Kentucky.

Mr. ELSTON with Mr. SABATH.

Mr. JAMES with Mr. BARKLEY.

Mr. IRELAND with Mr. GOLDSBOROUGH.

Mr. EDMONDS with Mr. KINDRED.

Mr. RADCLIFFE with Mr. KINCHELOE.

Mr. LAZARO. Mr, Speaker, my colleagues, Mr. DUPRÉ and Mr. MARTIN, are unavoidably absent. If they were here, they would vote for this bill.

The result of the vote was announced as above recorded.

On motion of Mr. WINGO, a motion to reconsider the vote by which the bill was passed was laid on the table.

PAY OF OFFICERS AND EMPLOYEES FOR AUGUST.

Mr. MADDEN. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution which I send to the Clerk's desk.

The SPEAKER. The gentleman from Illinois presents a resolution which the Clerk will report.

The Clerk read as follows:

House joint resolution authorizing the payment of salaries of officers and employees of Congress for August, 1921.

Mr. BLANTON. Mr. Speaker, I think we ought to wait for a little while. This is District of Columbia day.

The SPEAKER. Does the gentleman from Texas object?

Mr. BLANTON. I do not want to object. I reserve the right to object. I raise the point——

The SPEAKER. Does the gentleman object?

Mr. BLANTON. I object for the present. I raise the point that this is District of Columbia day with an important bill on the calendar—the rent bill.

AMENDMENT TO TRANSPORTATION ACT, 1920.

Mr. CAMPBELL of Kansas. Mr. Speaker, I submit a privileged report from the Committee on Rules.

The SPEAKER. The gentleman from Kansas submits a privileged report from the Committee on Rules, which the Clerk will report.

Mr. BLANTON. Mr. Speaker, I make the point of order.

The SPEAKER. The gentleman will state it.

Mr. BLANTON. I make the point of order that under Rule VIII of the House it sets aside to-day for District of Columbia day. An important bill, the rent bill, is on the calendar, and I make the point of order it is improper for the House to take up any business other than District business.

The SPEAKER. The Chair overrules the point of order. The Clerk will report the resolution presented by the gentleman from Kansas.

The Clerk read as follows:

House resolution 178.

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 8331, "To amend the transportation act, 1920, and for other purposes."

That general debate shall be concluded after four hours, one-half to be controlled by the gentleman from Massachusetts [Mr. WINSLOW] and one-half by the gentleman from Texas [Mr. RAYBURN], the debate to be confined to the subject matter of the bill.

Thereafter the bill shall be considered for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendments it shall be reported back to the House with such amendments as may have been agreed to, if any, whereupon the previous question shall be considered as ordered on the bill and all amendments to final passage without intervening motion except one motion to recommit.

Mr. CAMPBELL of Kansas. Mr. Speaker, this resolution makes it in order to consider the bill reported by the Committee on Interstate and Foreign Commerce providing for funding securities offered by the railroads for indebtedness that they are under to the Government. The rule provides for four hours of general debate and then for consideration of the bill under the 5-minute rule. At the conclusion of the consideration of the bill for amendment the bill is to be reported back to the House for the usual parliamentary procedure. The effect of the bill is that certain indebtedness owed by the railroads to the Government and now due is to be extended for a period of 10 years; that the securities given by the railroads to the Government are to be offered to the investing public through the War Finance Corporation; that the funds so secured on the notes of the railroads are to be used by the Government in paying the railroads certain accounts that the Government owes to them and that are now due. That is the general effect, broadly stated, of this bill.

I yield three minutes to the gentleman from Tennessee [Mr. GARRETT].

Mr. GARRETT of Tennessee. Mr. Speaker, the form of this rule is not objectionable. It provides for four hours of general debate, which was the amount agreed upon by the members of the Committee on Interstate and Foreign Commerce, as I understand, and it then provides for general consideration under the 5-minute rule. Therefore, so far as the form is concerned, I have no objection. In saying what I am about to say I speak only for myself and express only, so far as I know, my individual views. In my opinion, there is no necessity of bringing this bill before the House at this time. We, of course, have no offical information as to the attitude of the coordinate legislative body, but if all that we have heard is correct there is not the remotest probability of this bill being considered until after the tariff and the revenue bills have been disposed of in that body, or at least there is no probability of it being considered until after the contemplated recess. Therefore it seems to me that it is wholly unnecessary to take up this bill at the present time. But the rule itself, not being objectionable, if the majority party chooses to take the responsibility of bringing the bill in at this time, I shall undertake to do nothing more than express my individual views.

Mr. HUDDLESTON. Mr. Speaker, will the gentleman yield?

Mr. CAMPBELL of Kansas. Mr. Speaker, I move the previous question on the resolution.

Mr. GARRETT of Tennessee. If I have any time left I will yield to the gentleman from Alabama. Mr. Speaker, have I used three minutes?

The SPEAKER. The gentleman has one minute remaining.

Mr. GARRETT of Tennessee. I yield to the gentleman.

Mr. HUDDLESTON. Has the gentleman in mind the fact that railroad bonds and stocks are falling on the stock market and that it is necessary that the House take some action to bolster them up on the market?

Mr. GARRETT of Tennessee. With the full knowledge that the Senate is not going to act on this bill for weeks, and possibly months, I can not see why there should be haste in passing it through the House.

Mr. HUDDLESTON. The passage of this bill in the House will greatly encourage stock gambling, will it not?

The SPEAKER. The gentleman from Kansas moves the previous question.

The previous question was ordered.

Mr. CAMPBELL of Kansas. I call for a vote on the resolution, Mr. Speaker.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

Mr. WINSLOW. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 8331.

The SPEAKER. The gentleman from Massachusetts moves that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 8331. The question is on agreeing to that motion.

The motion was agreed to.

The SPEAKER. The gentleman from Connecticut [Mr. TILSON] will please take the chair. Until he comes in, the gentleman from Massachusetts [Mr. WALSH] will please take the chair temporarily.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 8331, with Mr. WALSH in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 8331, which the Clerk will report by title.

The Clerk read as follows:

A bill (H. R. 8331) to amend the transportation act, 1920, and for other purposes.

Mr. WINSLOW. Mr. Chairman, I ask for the reading of the bill.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That section 207 of the transportation act, 1920, is amended by adding at the end thereof two new subdivisions to read as follows:

"(h) Any bond, note, or other security acquired under the authority of this section after this subdivision takes effect, may, at the option of the President, (1) bear interest at a rate of 6 per cent per annum, and in such event shall be received at par less such discount as may, in the opinion of the President, represent the customary and reasonable expense of marketing such bond, note, or other security; or (2) bear interest at a rate less than 6 per cent per annum, and in such event shall be received at a price to yield an annual average return, including interest and appreciation, if held to and paid at maturity, of 6 per cent of such price, such price to be subject to such further discount as may, in the opinion of the President, represent the customary and reasonable expense of marketing such bond, note, or other security.

"(i) The President may readjust any final settlement made with a carrier before this subdivision takes effect, for the purpose and to the extent only of funding, in accordance with the provisions of this section, any indebtedness of such carrier to the United States existing before such settlement was made, arising out of additions and betterments made during Federal control and properly chargeable to capital account."

SEC. 2. That section 202 of the transportation act, 1920, is amended by inserting "(a)" after the section number and by adding at the end of the section a new subdivision to read as follows:

"(b) Every claim of a carrier against the United States arising out of or incident to Federal control shall, if not filed within one year after this subdivision takes effect, be thereafter barred, and the carrier shall be considered as having waived the claim."

SEC. 3. That the War Finance Corporation act, as amended, is further amended by adding at the end of Title I thereof a new section to read as follows:

"SEC. 19(a). The corporation may purchase from the President and the President may sell to the corporation any bonds, notes, or other securities acquired by the President either before or after this section takes effect, under authority of the Federal control act, the transportation act, 1920, or the act entitled 'An act to provide for the reimbursement of the United States for motive power, cars, and other equipment ordered for railroads and systems of transportation, and for other purposes,' approved November 19, 1919. The aggregate purchases thus made shall not exceed $500,000,000. Any such securities so purchased shall be purchased at the prices, and subject to the discounts, if any, at which acquired by the President and shall be sold by the President without recourse.

"(b) Whenever, in the opinion of the board of directors of the corporation, market conditions justify, any such bonds, notes, or other securties, acquired by the corporation under this section, may from time to time, be sold, marketed, or disposed of by the corporation at a price to produce net not less than the original cost thereof to the corporation.

"(c) Any such bonds, notes, or other securities not purchased by the corporation may, at the request of the President, be sold, marketed, or disposed of by the corporation, as selling agent, at not less than the price at which originally acquired by the President.

"(d) The proceeds of all bonds, notes, or other securities sold by the President to the corporation or by the corporation as selling agent shall

be a fund to be used by the President for the purposes described in section 202 of the transportation act, 1920. Any balance not so required shall be paid into the Treasury of the United States as miscellaneous receipts.

"In using any fund or moneys available under this or any other act, for the purposes described in this subdivision, no payments or allowances shall be made to any carrier on account of the so-called inefficiency of labor during the period of Federal control. Such funds and moneys shall not be used in making any settlement between the United States and any carrier which does not forever bar such carrier from setting up any further claim, rights, or demands of any kind or character against the United States growing out of or connected with the possession, use, or operation of such carrier's property by the United States during the period of Federal control.

"(e) Wherever used in this section the term 'President' includes any agent or agency designated by him under the authority of any of the acts specified in subdivision (a).

"(f) The power conferred on the corporation and the President by subdivision (a) may be exercised at any time prior to July 1, 1922, notwithstanding the limitation contained in the proviso to section 1 of this act. The powers conferred on the corporation in subdivision (b), (c), and (d) may be exercised at any time during the life of the corporation.

"(g) No purchase shall be made by the corporation under this section at any time when such purchase interferes with the corporation in granting the fullest aid for financing the handling and exporting of agricultural products by the corporation under this act as now or hereafter amended. It is the intention that this section shall be construed and administered as to give the preference to such financing and exporting of agricultural products."

Mr. WINSLOW. Mr. Chairman, I would like to ask unanimous consent that Members be allowed 10 legislative days in which to extend their remarks on this bill in the RECORD.

The CHAIRMAN. Does the gentleman think the committee could grant that leave?

Mr. WINSLOW. I am not sure about it.

Mr. MANN. You can not have that right in committee.

The CHAIRMAN. Does the gentleman believe that the Committee of the Whole can grant this leave?

Mr. WINSLOW. From the ruling of the Chair, I suppose that would control.

Mr. MANN. That has not been allowed.

The CHAIRMAN. It has not been the custom, anyway.

Mr. WINSLOW. Very well. It is my purpose, Mr. Chairman, to renew that request in the House. I now yield 40 minutes to the gentleman from Indiana [Mr. SANDERS], a member of the committee.

The CHAIRMAN. The gentleman from Indiana is recognized for 40 minutes.

Mr. SANDERS of Indiana. Mr. Chairman and gentlemen, I have 40 minutes in which to discuss a rather intricate subject. I shall consider it a favor if the members of the committee will not interrupt me until I have made a connected statement in regard to the bill. I shall then be glad to yield for questions.

We hope, Mr. Chairman, by the passage of this legislation to be able to wind up the affairs of the Federal control of railroads. This measure is not for the purpose of permitting any funding that is not already authorized by existing law. It is not for the purpose of making a loan to the carriers. It is not for the purpose of changing the general plan of settlement. But it is merely for the purpose of marketing the obligations which shall come from the carriers to the Government in winding up the affairs of Federal control and using the funds derived from such marketing in paying the obligations of the Government to the carriers. The Government is heavily indebted to the carriers for compensation and other matters.

You will recall that the Government took over the railroads and it was agreed in the contract in many cases—and in other cases the Federal control act was allowed to operate—that the Government should pay compensation to the carriers. The Government took all of the revenues during the 26 months of Federal control. There is owing from the Government to the carriers balances due, for instance, by reason of the fact that the Government took all the cash the carriers had on hand, amounting to some $300,000,000, and that has not been accounted for except in the sum of something like $40,000,000 to $60,000,000. There are amounts due in various ways from the Government to the carriers.

The Government took over and operated the railroads for 26 months, and during that time we were compelled to expend vast sums for additions and betterments. This legislation is largely for the purpose of funding of part of those additions and betterments, and I hope you will bear with me while I explain as best I can what is meant by additions and betterments, because unless that is thoroughly understood the purpose of this bill is not clear.

Prior to Federal control the railroads expended annually approximately $600,000,000 for additions and betterments. For instance, if the Pennsyvania Railroad desired to build a station in New York City that would not be paid out of current income, that would come under the head of additions and betterments. If the New York Central determined to double-track its road, if the Central Pacific intended to reach out and tap a new coal field and build new tracks to it, that would come under the term of additions and betterments.

It is not supposed that the railroads would use current earnings for additions and betterments. If that were the case the stockholders of the railroads would not realize an income from their holdings, and it would be impossible to finance a railroad. This $600,000,000 annually needed for these additions and betterments is raised by the carriers and charged to capital account by an issue of new bonds, and that was done year after year prior to Federal control. It is a part of railroad financing that you must obtain the new funds for additions and betterments by going to the investing public and obtaining additional funds.

Now, when the Government took over the railroads and operated them for 26 months the Government was presented with precisely the same question with reference to additions and betterments that the railroads themselves were presented with, except that during the 26 months of Government control the additions and betterments were very much more extensive than during the period prior to the Federal control.

Of course when it came to fixing the terms of the contract between the carriers on the one hand and the Government on the other, when we concluded to pass the Federal control act, it was pretty easy to fix the question of compensation; but when we enacted the Federal control act we were confronted with the proposition that the Government, in order to meet the transportation needs of the country, would necessarily be compelled to expend vast sums for betterments and improvements, and the Government did not feel that that ought to be done and given to the railroads. Therefore, in passing the Federal control act we provided that whenever we added double tracks or new stations or things of that kind in the way of additions and betterments, the Government would pay for them, but that the carrier must eventually repay the Government. We made that provision in the Federal control act.

The 26 months went by. Those 26 months were not used either by the carriers or by the Government on behalf of the carriers in reaching out and obtaining new money from the investment market. During that entire 26 months these expenditures were paid out of the funds of the Government, and it paid out an enormous sum for additions and betterments. That sum amounted to more than $1,000,000,000. When we passed the transportation act we then took up this whole question of the adjustment of accounts between the railroads on the one hand and the Government on the other, and I want to make this plain and clear, because a great many people think this provides for the funding. We provided in the transportation act of 1920 that in adjusting these accounts the President in his wisdom should determine what part of the expenditure for additions and betterments should be set off against the Government's debt to the railroads and what part should be funded. I want to make clear just what I mean by funded. Funding is accomplished in this way: The railroad executes a note. If it wants to have funded, say $1,000,000 for additions and betterments, the railroad executes a note for $1,000,000, payable in 10 years after the termination of Federal control. That note is secured by such security as the President shall prescribe. If you will examine the securities you will find that the director general has been very exacting in the securities that he has taken for these notes. Now, that is what we mean by funding, the execution of a note by the carrier, payable 10 years after the termination of Federal control, drawing 6 per cent interest. These notes also provide that at any time the carrier may demand additional security. For instance, if bonds of the Southern Pacific, or bonds of the Union Pacific, in the amount of $1,250,000 or $1,500,000 are taken, and these bonds go down in the market, these notes authorize the Director General to demand additional security. If I have spoken of this as refunding I wish to say that it is not, because they have never been funded before. This funding is done by means of absolutely secured notes executed by the carriers and payable to the Government.

I think I had better state that under the terms of the transportation act it is provided that the amount under 207 (a), clause 3, which refers to the indebtedness of the United States to the carrier, may be set off against either or both the amounts under clauses 1 and 2, which is the indebtedness of the carrier to the United States, so far as deemed wise by the President, except that in certain cases he was compelled to fund and was not permitted to set off. I shall not read that provision. Then in (b) you find this provision, that any remaining indebtedness of the carrier to the United States in respect to such additions and betterments shall at the request of the carrier be funded.

In the transportation act we gave to the President of the United States the power to determine under what circumstances he should set off, and where he should fund. The President is

supposed to make that determination with reference to each carrier. Of course, when we fund that increases our indebtedness to the carrier because the President fails to set off to that extent. The President of the United States, in the message he delivered to the Congress, made that determination not with reference to a single carrier but he made the determination of a policy of funding with reference to an amount which he estimates to be $500,000,000 for all the carriers. I shall get into the account later. The President had that power. Of course, it is not for me to discuss whether he used it wisely. I think he did, but that is not involved in this case. The Congress of the United States during the last Congress conferred upon the President the power to set off or to fund and the duty to choose. He did not ask that power, but it was conferred by the Congress, and it was just as much, of course, the obligation and the duty of the President of the United States to fund if he thought it was economically wise to do so as it was to set off if he thought it was economically wise to set off. The President has made the determination, under existing law, to fund in the amount of $500,000,000.

Now, what is the purpose of this act? If the President should go ahead and take the funding notes in the amount of $500,000,000, which he would have the right to do, and make these settlements, then he would have to come to Congress for appropriations to take care of our debts to the carriers, and we already hold the obligations of the carriers, taken largely by a former administration, in the amount set out in the report, of over $400,000,000. If we appropriated the money and took the obligations of the carriers, that would mean that in the present year, in the next year, or whenever the appropriation should come, the tax bill of this year and next year should cover that amount, and the Government would hold these notes of $500,000,000, these funding notes and the additional securities drawing 6 per cent interest, collect the principal when it became due, and collect the installments of interest when they should become due. In order to avoid that we have proposed by this legislation to provide a means by which, when these funding notes are given, the War Finance Corporation, acting as the banker for the Government, may sell to the investing public a sufficient amount to cover this necessary $500,000,000 of funding, and give funds to the Director General of Railroads to carry that out, and in addition to secure sufficient funds to wind up the Federal control of railroads. That is the purpose of this act. Now, what are the items of our indebtedness to the railroads? It is impossible to state accurately, but the compensation item is more than $450,000,000. When the Government took over the railroads we took over all available material they had on hand, amounting to $600,000,000, and wherever we failed to return in quantity there is an indebtedness to the carriers for that.

The President announced that the roads would be returned in as good order as when received. That is contrary to the ordinary terms of rental. We usually say "ordinary wear and tear excepted." That was not said in this case. Director General McAdoo entered into contracts with the majority of the railroads in which there was an agreement to return the roads at the end of Federal control in as good order and with the same equipment as they had before. In carrying out the terms of the contracts claims arose, and balances are to be paid to the carriers.

Now, we are confronted in this legislation not with the wisdom of the President in funding but with the wisdom of marketing these securities so that the investing public may carry the obligation and finance the railroads rather than for the Government to do so. Of course, if the Government furnished the appropriation, at the end of 10 years under Federal control we would collect $500,000,000, and it would go into the Treasury. But it is doubtful whether it is right to make the taxpayers of the present pay the obligations and 10 years after Federal control make a gift to the then taxpayers, reducing their taxes to that amount.

I should like to take up in detail the plan proposed by this measure, but first I want to say one word in reference to the wisdom of the President in funding the $500,000,000. I find that some people are under the impression that the President should have set off all this and that no part should have been funded. Let me state what that proposition would mean. I have indicated what it means to take care of capital expenditures year after year. The railroads when they do that have the current year each time in which to go to the investing public and market the securities. During the 26 months of Federal control of railroads the railroads were not in the hands of the owners, and there was that period of 26 months in which there was no chance to provide for any part of the additions and betterments by marketing securities to the public. The Government had the railroads and was using the investing public to negotiate its own securities. Now, if it is proposed by the opponents to take the compensation, cash due, the balances due on other items and offset it, it means that at the present you shall pay the vast capital expenditures for 26 months out of the returns and compel the owners of the securities to stand the burden by paying it out in cash.

But why should not the railroads go ahead and market their own bonds? Look at what that would mean. That would mean that the railroads would be confronted with the proposition that they are always confronted with, with reference to capital accounts, and they would be compelled then to go into the investment market to take care of the vast expenditures for additions and betterments for the current year, which they always have to do, and you would accumulate and pile onto the railroads at this time all of these accumulated obligations and compel them to raise this capital in addition. I can say to you that any student of economic financial affairs knows that that would not only be disastrous to the carriers but would be disastrous to the financial structure of this country. So the President of the United States, in my opinion, has very wisely decided for funding the $500,000,000.

It is not a very pleasant job, this idea of winding up the affairs of Federal control. The Federal control of railroads has not been a very pleasant experience. There is some difference of opinion as to whether this taking over the railroads during the time of war was needed or wise. I am not going to discuss that question, but after we took them over we ran them at a loss. When we took them over we paid out more than we took in. Now, we are confronted with the proposition of winding up the affairs and paying our obligations and straightening out the whole matter. Of course, it is never a pleasant task, but we are going to do it, and the question is whether we will meet the question fairly and squarely or meet it in a way that will cause disaster to the country.

So far as this measure is concerned, we should not be discussing the wisdom of funding, because we left it to the President and he has decided it. The only question is whether we are going to market the securities which we have under this funding plan or carry them ourselves.

This bill provides that the War Finance Corporation shall have the power to do two things—one is to buy these $500,000,000 of funded notes and other obligations enumerated in the act and turn the funds over to the Director General of Railroads, and the other is to act as agent for him and sell the securities directly to the investing public.

It is provided that the President may sell securities that are taken under the Federal control act, the transportation act, and the equipment trust act. Those are the securities which we already hold, and the amount is set out in the report. Under the Federal control act there is $60,618,250; under the transportation act, $55,053,000, and it is under that act that the authority is found for funding these other notes. There is $43,026,500 under another provision of the transportation act, under section 207e. Under the equipment trust act there is $311,862,300, and those are the securities which are already held and which the President is seeking authority now to sell to or through the War Finance Corporation.

There is a further provision permitting the issuance of these notes drawing a less rate of interest than 6 per cent. That is an amendment to the transportation act; but do not be confused about that, because there is a specific provision that where the amount of interest is less than 6 per cent the amount of notes increases so that the net result will be that the yield will be 6 per cent; and, in addition, there is a provision made for allowance to the Government of the cost of marketing, which I think is a very wise provision in view of the fact that we propose to market these securities. They will not only execute the note in the amount they owe the Government at 6 per cent but they will cover enough to pay the expense of marketing, which everyone knows is considerable when there is a large amount of notes to be marketed. There have been some settlements made with a few of the roads, and there is a further provision that they have the right to open up those settlements for the purpose of giving those roads the same liberal funding proposed to be given to the ones who have not settled. Of course, the obvious effect of that is to give equitable treatment to the carriers who have already come in and settled with the Director General of Railroads.

The President had the same power to fund then with these carriers that he has now, but we all know that the President then had not gone over the whole situation and decided on the policy of funding which he expects to carry out here.

I want now to read what the Director General says with reference to that proposition. It is to be found on page 103 of

the hearings, and in the answer given by Mr. Davis to the question put by the gentleman from Illinois [Mr. DENISON], which I shall read. In this you will find the purpose of this bill:

Mr. DENISON. I have gotten the impression from your testimony, or at least from the first part of your testimony, that this question of discretion was controlled entirely by the amount of money in the hands of the Railroad Administration; that you have refused the set-off because you did not have the cash to pay. Am I wrong about that?

Mr. DAVIS. The discretion of the President is not in anywise limited by the amount of funds, but the President, I think, has been reluctant to exercise that discretion to the full extent unless there were funds available to carry out his discretion. I think the President in his message to Congress has definitely exercised his discretion in the way of a reasonable amount of funding.

The President in his message indicated that he would permit funding in the amount of $500,000,000. As a matter of fact, the additions and betterments now owing from the carriers to the Government amount to $700,000,000, and the President has elected to fund in the amount of $500,000,000 and to set off in the amount of $200,000,000, and I say that the obligation was on the President to make the determination whether he would set off all or fund all or would set off a part and fund a part, and he has made the election to set off $200,000,000 and to fund $500,000,000, and this act is for the purpose of permitting him to carry out that policy.

Mr. SNELL. Mr. Chairman, will the gentleman yield?

Mr. SANDERS of Indiana. Yes.

Mr. SNELL. As I understand the situation, if you balance the accounts or transfer the accounts the Government would still owe the railroads $349,000,000. Is that practically correct?

Mr. SANDERS of Indiana. That is true, except that, of course, the Government now holds obligations to the amount of $400,000,000.

Mr. SNELL. Without regard to the outstanding obligations?

Mr. SANDERS of Indiana. Without regard to the outstanding obligations that would be the result if we balanced accounts and made the carriers pay all of their additions and betterments. Then it would be $349,000,000.

Mr. SNELL. As I understand your proposition, it is to sell $500,000,000 of the securities the Government now holds of the railroads?

Mr. SANDERS of Indiana. The Government does not hold that much.

Mr. SNELL. There are some new securities to be issued by the railroads to the Government?

Mr. SANDERS of Indiana. In this funding proposed there will be $500,000,000. If we fund $500,000,000, there will be $500,000,000 of new notes. We already have more than $400,000,000.

Mr. SNELL. How much money will the railroads eventually get out of this in new money to be used in their business or for liquid capital for the railroads?

Mr. SANDERS of Indiana. If this is carried out and the whole amount of $500,000,000 is funded, the railroads will have paid to them approximately $850,000,000.

Mr. SNELL. Then, as a matter of fact, the Government is loaning the railroads or helping them to market securities so that they will get new money?

Mr. SANDERS of Indiana. No. The Government has already advanced money to pay these additions and betterments.

Mr. SNELL. Certainly.

Mr. SANDERS of Indiana. The Government will simply take the notes of the railroads for that with security. The Government waits 10 years after Federal control——

Mr. SNELL. How do the railroads get that money unless the Government turns it back to them?

Mr. SANDERS of Indiana. The Railroad Administration will not turn that money back to them, but the Railroad Administration will pay what we already now owe the railroads.

Mr. SNELL. That is $349,000,000.

Mr. SANDERS of Indiana. It is a great deal more than that—$849,000,000.

Mr. SNELL. Then why have you not got to sell more than $500,000,000 worth of securities?

Mr. SANDERS of Indiana. You have.

Mr. SNELL. Your bill provides only for marketing $500,000,000 of securities.

Mr. SANDERS of Indiana. No; this bill provides for the purchase by the War Finance Corporation to the amount of $500,000,000. It makes the War Finance Corporation the selling agent of the Railroad Administration. In addition to that there will be $200,000,000.

Mr. SNELL. Where are you going to get the $349,000,000 additional to pay the railroads?

Mr. SANDERS of Indiana. You got $149,000,000——

Mr. SNELL. Yes; but——

Mr. SANDERS of Indiana. And you are going to set off $200,000,000——

Mr. SNELL. I know, but that will give the railroads only five hundred millions of money.

Mr. SANDERS of Indiana. No. The amount comes from the $500,000,000 of marketing made by the War Finance Corporation. Then there is $200,000,000 in addition which will be sold by the War Finance Corporation for the Government——

Mr. JONES of Pennsylvania. They will have it by settling $327,000,000 of claims.

Mr. SNELL. What I am trying to get clear in my mind is how much money the railroads are going to get all told?

Mr. SANDERS of Indiana. Eight hundred and forty-nine million dollars when Federal control is ended. When it is ended that will clean up and leave some two hundred and odd millions of their obligations for the Government to carry.

Mr. SNELL. The gentleman made a statement earlier in his explanation that the Government is not going to lend any new money to the railroads; if they are not I do not understand how they are going to get it.

Mr. SANDERS of Indiana. It is not lending new money to the railroads. We have already expended that for additions and betterments, and taking their notes is not lending money. Let me make it clear to the gentleman from New York. We owe the railroads vast sums of money for compensation and——

Mr. SNELL. Evidently——

Mr. SANDERS of Indiana. The President could have offset that, if he wanted to, instead of funding. That would only leave a small amount in cash, $347,000,000.

Mr. SNELL. That is perfectly clear.

Mr. SANDERS of Indiana. Now, the President could have offset that if he desired. If he does not, he has to fund and pay the addition from the proceeds derived out of the securities.

Mr. SNELL. I see; you have to raise the money somewhere else if you only have $500,000,000 to pay $800,000,000.

Mr. SANDERS of Indiana. I think I can make it clear. You might think this bill only provided that the War Finance Corporation in any event will furnish $500,000,000 to the Director General.

Mr. SNELL. Well, that is what I do understand.

Mr. SANDERS of Indiana. Now, let me read you the provisions of the bill. Page 4 at the top:

Any such bonds, notes, or other securities not purchased by the corporation may, at the request of the President, be sold, marketed, or disposed of by the corporation, or selling agent, at not less than the price at which originally acquired by the President.

Mr. SNELL. Then it is the intention to sell additional bonds and securities besides the $500,000,000 in order to get enough money to pay $800,000,000 to the railroads?

Mr. SANDERS of Indiana. Yes, sir. The Director General already has some $150,000,000 now.

Mr. SEARS. Will the gentleman yield?

Mr. SANDERS of Indiana. I will.

Mr. SEARS. How much do we owe the railroads now—about $800,000,000, is it not?

Mr. SANDERS of Indiana. About $849,000,000.

Mr. SEARS. How much do we claim the railroads owe us?

Mr. SANDERS of Indiana. The amount the railroads owe is $700,000,000 for additions and betterments. Of course, you understand when we give you this amount it is an estimate because the amount of compensation is not liquidated. I am giving it simply as a matter of estimate of the Director General.

Mr. SEARS. They owe us $700,000,000. What is the indebtedness under the betterment clause?

Mr. SANDERS of Indiana. That is entirely a matter that is——

Mr. SEARS. Well, is it a million or two million dollars?

Mr. SANDERS of Indiana. I do not think that has ever been estimated in that form.

Mr. SEARS. In other words, the railroads owe us more than we owe them?

Mr. SANDERS of Indiana. Well, the railroads owe us less than we owe them if you disregard the securities which the President now holds.

Mr. SEARS. Now, will the gentleman yield right there?

Mr. SANDERS of Indiana. The railroads owe us less than we owe them if you leave out of consideration the notes and obligations covering the equipment trust act.

Mr. SEARS. That is all included; if they owe us these notes they owe us that. The idea is this: The gentleman stated that he would take the railroads' note, and what I wanted to get clear in my mind is why accept notes from the railroads if the railroads do not owe us anything? Why not pay off $500,000,000 and wipe it off the ledger?

Mr. SANDERS of Indiana. Well, of course, that is leaving out the proposition—that is setting off one debt against the other.

Mr. SEARS. If you owed me $100 and paid it you certainly would not want me to give a note for $100 to secure it?

Mr. SANDERS of Indiana. But there is no such proposition——

Mr. SEARS. I presume the railroads do owe us more, but does not the gentleman believe it would be better for us to wait until final settlement? As a lawyer, and the gentleman is an able man, would the gentleman advise his client to pay $500,000,000 on a contested case, or contested claim——

Mr. SANDERS of Indiana. In other words you would wait until the final settlements are agreed upon and then——

Mr. SEARS. If I was representing a client, I would not let the other party fix up the agreement before I paid him what my client owed.

Mr. SANDERS of Indiana. Of course, that is a very nice idea just at a glance, but we are dealing with some $18,000,000,000 worth of property; many carriers have not filed their claims. The purpose of this is to enable the Director to make settlements, to enable him, when they come in, to say, "I am ready to close the settlement if you come to terms and to pay in cash what I think I owe you." Much better settlements can be made that way.

Mr. SEARS. Do we clear it up if we take their note?

Mr. SANDERS of Indiana. Yes.

Mr. SEARS. The only thing is that Congress can pay out the people's money in doing it, but when it comes to a final settlement, to get what the people are entitled to, we will have to go to law or take some other procedure.

Mr. SANDERS of Indiana. Not at all. We are proposing to fund and take these obligations. I have undertaken to state the wisdom of that.

Mr. DENISON. The gentleman from Florida has a mistaken idea which ought to be corrected now. The railroads do not owe the Government more than the Government owes the railroads. The railroads owe the Government, as a balance on the total account of betterments and improvements, something like over $700,000,000. The Government owes the railroads a balance on compensation, the single item of compensation of standard return, something over $833,000,000, and in addition to that the Government owes the railroads a large amount of other accounts. So that when it is totaled you will find that the Government is indebted to the railroads many hundred millions of dollars more than the railroads are indebted to the Government.

Mr. SANDERS of Indiana. The gentleman is absolutely correct if we do not consider the obligations now held. If we offset everything we would owe them $349,000,000, but, of course, we have got the notes for over $400,000,000.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. WINSLOW. Mr. Chairman, I yield to the gentleman 10 minutes more.

Mr. STEVENSON. Will the gentleman yield?

Mr. SANDERS of Indiana. I will.

Mr. STEVENSON. I want to get this matter clear in my own head. The railroads owe us trust equipment certificates growing out of the sales to them of equipment of about $300,000,000, do they not?

Mr. SANDERS of Indiana. I think it is $310,000,000. It is set out in the report.

Mr. STEVENSON. Then they fund $700,000,000, in round numbers, of balance on betterments and extensions?

Mr. SANDERS of Indiana. Yes.

Mr. STEVENSON. That is over a billion dollars?

Mr. SANDERS of Indiana. Yes.

Mr. STEVENSON. You say the Government owes them $849,000,000. Is that correct?

Mr. SANDERS of Indiana. Well, the Government owes them $349,000,000——

Mr. STEVENSON. If you take $500,000,000 from it?

Mr. SANDERS of Indiana. If it is taken out.

Mr. STEVENSON. What I want to get at is this: How much of that $849,000,000 is the balance on the guaranty that we made for the first six months after the railroads went back into the hands of their owners?

Mr. SANDERS of Indiana. Not a penny.

Mr. STEVENSON. Now, do we still owe them any of that $640,000,000 that we incurred there?

Mr. SANDERS of Indiana. I do not know what we owe them. I understand some part of it has been paid. That is not involved in this bill at all.

Mr. STEVENSON. If we are making a complete settlement with them, why is it not involved? You say you want to make a clean settlement. Are we going to leave that hang over after this bill?

Mr. SANDERS of Indiana. That matter of the guaranty is absolutely a closed incident. Appropriations have been made for it, and that will be closed without any additional appropriation. The arrangement has been made through the Interstate Commerce Commission to take care of the matter.

Mr. STEVENSON. Another question and I will be through with my interrogatories: I want to find out how much of the $400,000,000 that the War Finance has to its credit will have to be used in this deal we have in this bill?

Mr. SANDERS of Indiana. That all depends on circumstances. The War Finance Corporation has power to issue its obligations and obtain funds that way. It will keep sufficient funds on hand to carry out this transaction.

Mr. STEVENSON. If that is not in the Treasury they will use some of this $400,000,000?

Mr. SANDERS of Indiana. No. Every bit of the stock of the United States has been paid on that.

Mr. STEVENSON. But they are in the United States Treasury.

Mr. KING. Will the gentleman yield?

Mr. SANDERS of Indiana. I will.

Mr. KING. The gentleman has stated that the War Finance Corporation purchased $500,000,000 worth of securities of the railroads?

Mr. SANDERS of Indiana. That they are authorized to do.

Mr. KING. And the War Finance Corporation was acting as agent of the railroads in disposing of these securities. I want to ask the gentleman in what form these securities will be sold to the public and whether or not the War Finance Corporation will guarantee them?

Mr. SANDERS of Indiana. They will not. It is provided in this bill that they will be sold without recourse. We put that in as a matter of precaution.

Mr. CHALMERS. I want to ask the gentleman to give us some idea of the kind of collateral notes that the Government holds against the railroads. Are they bonds in the main, or not?

Mr. SANDERS of Indiana. Yes. They are very good securities.

Mr. CHALMERS. And there is a list of them?

Mr. SANDERS of Indiana. Yes. I would not want to make any guaranty, and I do not think any guaranty on my part would be of any benefit, but I have no doubt that every penny represented by these funding notes will be paid with interest. There may be some funding notes which they will not be able to market, and a provision here is to leave $270,000,000, but every penny of them will be paid. There is a difference between obligations being good between parties and being marketable, but a large part of them are marketable.

Mr. SWEET. Mr. Chairman, will the gentleman yield? This bill does not in any way increase the obligations of the Government to the carrier?

Mr. SANDERS of Indiana. It does not.

Mr. SWEET. And this bill simply facilitates the settlement between the Government and the carriers of the obligations incurred during the period of Government control?

Mr. SANDERS of Indiana. It does.

Mr. SWEET. And in carrying out this settlement, as provided in this bill, the Government does not in any way make an additional guaranty?

Mr. SANDERS of Indiana. None whatever.

Mr. SWEET. And if we do not pass this bill the Railroad Administration will be required to sell railroad securities now held by the Government to the public, or, failing in that, it will be necessary for the Railroad Administration to come to Congress for an additional appropriation?

Mr. SANDERS of Indiana. That is exactly true.

Mr. VESTAL. Mr. Chairman, will the gentleman yield?

Mr. COOPER of Wisconsin. Mr. Chairman, will the gentleman yield right there?

Mr. SANDERS of Indiana. I yield to my colleague [Mr. VESTAL] first.

Mr. VESTAL. While the carriers are owing the Government $500,000,000, we have notes for that. I want to know what the Government owes the carriers. I have heard a lot of statements made and questions asked here in regard to it, but I do not clearly understand. How much does the Government owe the carriers?

Mr. SANDERS of Indiana. Of course, the exact amounts that the Government owes the carriers and that the carriers owe the Government we can not tell. The Government estimates that if the $500,000,000 is provided and authority for the $200,000,000 is provided, then $149,000,000, which the Railroad Administration has, will clean up the whole thing, which will make $849,000,000.

Mr. SWEET. In answer to the question of the gentleman from Indiana [Mr. VESTAL], I wish to say that claims of the carriers amounting to $237,000,000 have been settled. That $237,000,000 has been settled for $74,000,000.

Mr. SANDERS of Indiana. Yes.

Mr. SWEET. Now, that being a fact, it demonstrates the difficulty of stating how much the obligations of the carriers are.

Mr. SANDERS of Indiana. Yes.

Mr. VESTAL. Then this settles the whole business so that we can get through?

Mr. SWEET. It does.

Mr. COOPER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. SANDERS of Indiana. Yes.

Mr. COOPER of Wisconsin. The statement of the gentleman from Iowa [Mr. SWEET] anticipates in part the question I was going to ask the gentleman. How much is the amount that the Government owes the carriers evidently?

Mr. SANDERS of Indiana. It is an open account, unliquidated to a great extent.

Mr. COOPER of Wisconsin. It is unliquidated, and therefore it is thoroughly impossible to give the exact amount?

Mr. SANDERS of Indiana. Yes.

Mr. COOPER of Wisconsin. But we do know exactly the obligations of the carriers to the Government?

Mr. SANDERS of Indiana. With reasonable exactness.

Mr. COOPER of Wisconsin. Yes; it approximates very closely to the entire amount. But we do not have anything to evidence what the Government owes the carriers?

Mr. SANDERS of Indiana. No.

Mr. COOPER of Wisconsin. Therefore what is the use of talking about offsetting two amounts when one is accurately stated, or very closely stated, and the other is the broadest sort of an approximation or generalization with nothing like accuracy about it?

Mr. SANDERS of Indiana. The gentleman says it is nothing like accuracy. I do not agree with that. Settlements have been made with the carriers for certain amounts. Estimating the same settlement for the entire mileage on the basis of the cost of settlement of that mileage, the Director General of Railroads determines what it will cost to settle. Of course, that is not accurate, but it is as reasonably accurate as can be.

Mr. LONGWORTH. Mr. Chairman, will the gentleman yield there?

Mr. SANDERS of Indiana. Yes.

Mr. LONGWORTH. In preparing the revenue bill the Treasury Department asked for $545,000,000 to pay the railroads the current fiscal year. A part of that was made up of the accounts that came through the Interstate Commerce Commission, and another part came through the Director General of Railroads himself, and that part under the jurisdiction of the Interstate Commerce Commission was an estimate based upon the settlements heretofore had with the railroads.

Mr. SANDERS of Indiana. Yes, sir.

Mr. LONGWORTH. And the Treasury Department further stated that that $545,000,000 would come very nearly in the next year and a half to paying our total cash indebtedness to the railroads?

Mr. SANDERS of Indiana. Yes. [Applause.]

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. RAYBURN. Mr. Chairman, I ask to be notified when I have used 20 minutes.

The CHAIRMAN. Very well. The gentleman from Texas is recognized.

Mr. RAYBURN. Mr. Chairman, this is a measure in which there is a great deal of interest all over the country. It is a measure in which there should be great interest. I am certain that every Member of this House has been well circularized with telegrams within the last 48 hours with reference to this measure. We were told in telegrams from Texas when this measure was coming up for consideration before the members of the committee knew when it was coming up. I have received a great many of them. Some of the people who wired me did not know me very well, but the chamber of commerce in one town in my district does, and it sent me this telegram, and of course the reason for this telegram is the basis for the telegrams that have come from all chambers of commerce in the United States. I read:

> Urged by railroads to wire asking that you support railroad refunding bill. Not fully informed, but know you are, and will give measure due consideration.

[Applause.]

The other telegrams that I received simply repeated what the railroads asked them to repeat to me, and that was that in the interest of the country this $500,000,000 of additional money should be handed out to the railroads in these flourishing times, when the Treasury is bursting with money and all sorts of securities from one end of the land to the other are easy to sell. [Laughter.]

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. RAYBURN. No; I regret I can not do that, because I have only 20 minutes.

Mr. YATES. Will the gentleman please repeat that statement, because it is a very important statement?

Mr. RAYBURN. Yes. I will repeat it in a moment. No one here can say that I would oppose this bill because it was voting money to the railroads if I thought this bill was justified.

I voted in the Esch-Cummins bill for the guaranty period of six months, because I believed that when we had scattered the equipment of the railroads from one end of this land to the other they should be given time to gather that equipment together. Therefore I voted to extend the guaranty period for six months. That guaranty cost the Government of the United States $600,000,000; in other words, it cost $600,000,000 more to run the railroads for the guaranty period than the Government got out of all sources of revenue coming to them. That appeared to me to be liberal. It appeared to me that we ought to give the railroads time in which to set their houses in order. I stated on this floor six months ago that I had voted for this because I want an efficient transportation system in this country; but when I voted for these measures I stated then, and I state now, that I went the limit in any sort of a subsidy or loan or advance to the railroads. There are two things, in my opinion, that the railroads of this land and their managers must understand at an early date. One is that we are not going to bond this Government for $19,000,000,000 or $20,000,000,000 to buy the railroads and take them over and operate them, or, in other words, to have government ownership of railroads. [Applause.] The other and more important thing is that the railroads of this land, by economies, by efficiencies, and by the application of a little downright honesty in their management, must get ready to carry the freight and passengers at a reasonable rate. [Applause.] When we come to understand those things, then we will know where we are. I thought that the railroads ought to be put on their feet after Federal control, and I believed that the provisions of the Esch-Cummins bill in giving them the six months' guaranty that cost the Government of the United States $600,000,000, with a provision in that measure to lend the railroads $300,000,000 additional, ought to have enabled them, if they had tried, to get on their feet. But just as long as we continue to make advances to the railroads, as is sought to be done here, they are always going to be in a position where they will say that they not only need the money but that they must have it.

Now, let us see. I stated during the consideration of the Federal control act that I opposed the provision extending the Government operations to five years after the war closed. I said then that if the Government controlled the railroads for five years after the war was over we would be so enmeshed with the railroads—they would owe us so much and we would owe them so much—that never would we be able to get out of Government control, and it would mean permanent Government ownership. Yet the gentlemen who bring in this measure to put the railroads into the debt of the Government $500,000,000 more are the very men who are talking the loudest against Government ownership. Let us see what Government control of railroads cost this Government.

We have appropriated out of the Treasury of the United States the following amounts to support the Railroad Administration. When we passed the Federal control act we appropriated $500,000,000; on June 30, 1919, we appropriated $750,000,000; on February 8, 1920, we appropriated $200,000,000; on May 8, 1920, we appropriated the sum of $300,000,000, making a total of $1,750,000,000 that this bitter lesson in Government control of railroads cost us. Now, they claim that it will take $200,000,000 more of a direct appropriation out of the Treasury of the United States in order to clear up this matter. Let us see where we are. They say that the railroads need this money and must have it at once. We have paid to the railroads $420,000,000 of the guaranty under the six months after Federal control. We owe them $180,000,000 more. It is my opinion they will get that money within the next few months. The Director General says he can clear up all the accounts we owe to the railroads for $349,000,000. The railroad companies will file against the Government of the United States for all purposes claims amounting to $1,108,000,000, in the opinion of the Director General.

The Director General of Railroads has settled $237,000,000 of these claims for 31 cents on the dollar or for $74,000,000,

leaving $871,000,000 yet in dispute that he claims he can settle for $349,000,000, of which he has on hand $149,000,000, and he will require an appropriation for $200,000,000 more, making a total appropriated if we add that of $1,950,000,000. Now therefore if the director general is correct, and the railroads get the $180,000,000 that they will get on their guaranty for the six months that we have not paid them, and get the $349,000,000 that the director general is going to pay them or thinks he can settle with them for, that will make $529,000,000 that the railroads will get, even though they do not get this $500,000,000 that we are talking about here. Now, let us see where we stand. They claim that when this thing is wound up the President will have to fund for the railroads $500,000,000. That will be a debt of the railroads to the Government of the United States. We hold now of these trust certificates $310,000,000. That will make $810,000,000 that the railroads will owe the Government. Under the transportation act of 1920 we appropriated $300,000,000 to be loaned to the railroads. Of that amount $225,000,000 have been loaned and $40,000,000 set aside to cover different claims. That added, $225,000,000 and $40,000,000, makes $265,000,000 which, added to the $810,000,000, makes $1,075,000,000 which the railroads will owe the Government of the United States if we do not pass this bill. Is not that enough? God knows that there are a great many people in the country who owe money who would like to have the Government come in as it is asked to under this bill and take their notes and advance them the money. It seems to me we have been liberal with the railroads. During Federal control and six months thereafter we paid to the railroads two and one-half billion dollars, as standard return and guaranty. It does seem to me that they should not be in such terrible shape. Since we operated the railroads and for six months after they were supposed to be turned back we guaranteed them that they would be paid by the Government of the United States the greatest sum that they had made on an average for three years at any time in their history.

Mr. LONGWORTH. Will the gentleman yield?

Mr. RAYBURN. Yes.

Mr. LONGWORTH. Is the gentleman quite correct in saying that under this bill such sums of money as go to the railroads will come to the Government? Is it not a fact that such sums as will go to the railroads will come to the investing public?

Mr. RAYBURN. Let us see. The War Finance Corporation is the agent of the Government located in the United States Treasury. I do not understand how you are going to get money out of one department of the Government that is not chargeable to the whole Government. What we are going to do by the bill is this: We are going to advance to the railroads $500,000,000 and take over doubtful securities for it. We are going out to sell the securities of the railroads to cover this $500,000,000; we may and we may not. Mr. Meyer appeared before our committee, and it is a most remarkable thing that in all of these hearings we had the pitiful number of two men before the committee. One of them was the Director General of Railroads, and the other the man who took pride in saying that this scheme was born in his office and in his mind. We, of course, have not got much information about this matter. The committee itself gathers little on many questions, and when they get on the floor have to guess at a lot of matters on these propositions. Mr. Meyer came before the committee and advocated the bill, and we got two things out of him, and that is about all; one was that the railroads need the money, and the other was that he thought the security market was getting better, and therefore the Government agency might be able to sell the securities. When Mr. Meyer was asked some other questions he would say, "Well, gentlemen, I must refer that to the Director General of the Railroads." When the Director General of the Railroads, the last witness who came on the stand, was asked a line of questions—and he is an able and honest and capable man—when we got to a certain point he would say, "That is out of my province; you will have to ask the Interstate Commerce Commission." It was requested that members of the Interstate Commerce Commission be called. The committee refused to call them. It was suggested that the Secretary of the Treasury be called, and the committee refused to call him. It was requested that the Treasurer of the United States be called, and the committee refused to call him. It seems to me that the most of the committees of this Congress have determined to keep information from the members of the committees and from Congress rather than to give the information to them.

Mr. LONGWORTH. Will the gentleman yield?

Mr. RAYBURN. Yes.

Mr. LONGWORTH. The gentleman speaks of the securities as being of doubtful value. I understand the corporation is going to be the agent for selling to the general public such securities as the railroads may not be able to sell now, and are we to assume that any amount that the Government pays out will be actually taken from the Treasury but will not come back eventually?

Mr. RAYBURN. Does the gentleman think that they are going to wait until they sell the securities before they give any money to the railroads?

Mr. LONGWORTH. Here is the point: It was stated by the director general and by Mr. Meyer that such money as the War Finance Corporation might have to take originally from the Treasury would be very shortly reimbursed by the sale of the securities.

Mr. RAYBURN. Oh, Mr. Meyer would have us believe that the market is getting so easy that he can go out and immediately sell the securities. If he can do that so easily without any guaranty on the part of the Government, it does seem to me that the railroads ought to be able to sell a few of them themselves. [Applause on the Democratic side.]

Mr. STEVENSON. Will the gentleman yield?

Mr. RAYBURN. Yes.

Mr. STEVENSON. The gentleman from Indiana told me a while ago that they would not use all of the $400,000,000, because the War Finance Corporation could sell the bonds and raise some $800,000,000. If they are going to sell these bonds, what is the necessity of selling the War Finance Corporation bonds, which are Government assets?

Mr. RAYBURN. I can see no reason. I want to say this to the membership of this House, that we all got sick of the lesson of the Government operation of railroads. When the time came to return the railroads to the owners the country was almost unanimous in wanting them returned to the owners, and we by such acts as this further get the Government into the railroad business. You are going to be eventually where you will have to take the railroads if they continue to be the pampered pet of this Government. What incentive is there for them to go out and take hold of business and try to do something for themselves, if every time they get into deep water they can come to the Government of the United States and get the money that nobody else can get?

Mr. LAYTON. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. RAYBURN. Mr. Chairman, I shall take three additional minutes. I yield.

Mr. LAYTON. Does the gentleman think it is hardly fair to make a statement of that kind when the Government of the United States through the exigencies of war took over eighteen to twenty-one billions of the people's money and prevented them from making any money?

Mr. RAYBURN. Oh, the gentleman knows nothing about this whole situation. The Government of the United States paid the railroads the average returns for the three best years in their history. Is that robbing them?

Mr. LAYTON. And charged up $1,144,000,000 at high cost of war prices, a large part of which the railroads did not want in peace times.

Mr. RAYBURN. That is true. The railroads have not done a lot of things they ought to have done. I am not an enemy of the railroads. God knows I want them to function. I think the earlier we stand them alone and say, "You have got to do business for yourselves," the better it will be for the country, because I think they will operate better, but what have they done? You can not satisfy them. You can not take their figures and understand them. The average man in the country can not tell anything about the railroad figures and about what they mean. There are claims against this Government for every character of thing that can be imagined. They filed a claim against the Government of the United States for inefficiency of labor during Federal control. Does anyone have any idea that the railroad companies would have filed an idiotic claim like that, an indefinite and intangible thing, if they had not thought that organized labor in the country at that time—the railroad employees especially—were at the lowest ebb they ever were in popular opinion? Not at all. Instead of their having sense enough to capitalize the unpopularity of the labor unions they go to work and unpopularize themselves by showing how hoggish they can be when they think they have the chance. [Applause on the Democratic side.]

The CHAIRMAN. The time of the gentleman from Texas has again expired.

Mr. WINSLOW. Mr. Chairman, I yield to the gentleman from Delaware [Mr. LAYTON].

Mr. LAYTON. Mr. Chairman, this bill should be passed promptly. In fact, it should have been passed months ago. If it had been, a great part of the delay in internal adjustment from war conditions would have been avoided and a more speedy restoration of prosperity obtained.

Railroads as a proposition for calm and unprejudiced consideration seem to be outside the pale, notwithstanding the fact that they are more necessary to the public welfare than possibly any other national function. This fact seems to be ignored by the public and disregarded by Congress. If one were to make a proper diagnosis of the psychology of the Members of the House it would inevitably be that everyone, to a greater or less degree, was still laboring under the prepossessions of the past; that evils and iniquities of railroad presidents and boards of directors of the preceding generation were still dominating the thought and the purpose of this generation to such an extent that the word "railroad" is everywhere anathema throughout the country and when mentioned is still made the occasion for scorn and the justification for neglect and even for actual, premeditated injustice. This is hard to understand in the light of reason and of present law, for notwithstanding the sins of railroad administrations in the past the indisputable fact remains that there is no function of our national life of greater importance. The suspension of railroad traffic would work a greater disaster, both to life and property, than that of any other function of our Government. This should need no argument, no array of figures. Let us look at the railroad problem for a moment in a broad and comprehensive way, leaving out all minor questions with which the problem is clouded.

As a national problem, what significance does the railroad problem possess? What are the outstanding features of this problem? It must be admitted that the question of railroad transportation is, in the first place, a national problem. Again, is the problem to be regarded as one of primary or secondary importance—is it paramount or subsidiary to other national functions? As far as the necessity involved is concerned, or the general welfare of the public, the Army, for instance, is evidently of far less importance except in time of actual war, and even then the railroads play a most prominent and indispensable part in the coordination of power demanded under such circumstances. What is true of the Army is just as true of the Navy or of the Interior Department, including the Post Office Department, for in the latter case it is evident that this department itself could not function without the railroads.

A little reflection will show that there is no function of our National Government of greater importance to the convenience, the welfare, the prosperity, and the happiness of our people. It is a function which has been very aptly likened to the arterial system of the individual body, for through this function the very lifeblood of national activities of every form must flow. Let the railroads fail to function for even a few days and national disaster follows, a disaster immediate and amounting practically to national paralysis. Millions in our large cities and towns would soon be on the verge of starvation. Untold thousands of little children would be crying and dying for the lack of milk from the farms. The farmer would see his perishable crops rotting in the field. The manufacturer would be compelled to stop his machinery for lack of coal, and close his establishment for lack of raw material. This, of course, means that millions of men and women would be out of work, and a nation-wide stagnation would ensue. This is the picture of the effect upon the Nation if the railroads ceased to function.

I maintain that it is foolish, even worse than foolish, for Congress to be actuated in their treatment of the railroads by the iniquities of our Harrimans and other railroad pirates, or by the criminal acts of financiers in Wall Street, or even by the indefensible conduct of presidents and directors of railroads generally in days gone by, which everyone knows made a stench which nauseated the people all over the land.

What we have to consider in this bill, indeed are compelled to consider if we would truly represent the people's interest, which is equivalent to saying the interests of the Nation, is the irrefutable outstanding fact that the railroads must function. If they can not function under an unrestricted private ownership, nevertheless they must function. If they can not function under the Esch-Cummins law, whereby the Government has assumed seven-eighths of the governing power, giving to the stockholders and real owners only one-eighth, nevertheless the trains must run. What I desire to impress upon the minds of this body is the inescapable fact that in any event the railroads must function, even if it becomes necessary for the Government to take over all control and make the railroads simply another Government agency, just as the Post Office Department is a Government agency.

Suppose, as an illustration, the railroad executives of the country should suddenly declare, "We are unable longer to conduct the railroad service by reason of Government interference and control. Under the provisions of the Esch-Cummins law we are unavoidably running in debt every month. We have no initiative. We have no authority. We have no power to borrow money; no independent power to spend it when borrowed. The price of all we have to sell—freight rates and passenger rates—are fixed by Government authority. The wage of our employees is determined by other power than our own. We therefore resign our positions to others." Does anyone doubt that the result would be that the Government would be compelled by reason of national safety—compelled in order to preserve the welfare and even the lives of the people—to take over the railroads and operate them as it does other national functions?

The only real question before this body for the consideration of each individual Member is whether the railroads are in urgent need of money provided by this bill. Let any Member of the House answer this question in the affirmative and his duty becomes plainly imperative to vote for this bill. He may not want to. He may be still inclined to feast on the unsavoriness of ignorance and prejudice which former railroad iniquities have prepared. Or he may deem it wise or prudent to pander to the prejudice and ignorance of his constituents in order to secure a reelection. But he should beware. Let disaster come to the transportation service of the country and these same people will turn and rend him because he is a demagogue instead of an intelligent and courageous representative caring for and protecting their interests.

All evidence points to the fact that this indispensable national service is in dire need of immediate assistance. Almost ruined by the war; taken over by the Government and used by it not only for war but for political purposes; prevented from sharing in any of the opportunities which all other big capital enjoyed; having charged against them as capital account $1,144,000,000 for so-called additions and betterments, all of which was expended for war purposes, while a large part was useless in times of peace, and, moreover, all of which was at war cost and therefore grossly excessive; the pay rolls of the companies padded with more than 150,000 employees, all of them at greatly increased wages, the railroads were returned to private ownership and control—so it was said—but as a matter of fact, under the Esch-Cummins Act were thrown off of the hands of the Government not only loaded down with millions and millions of capital charges but with every basic form of business power taken away and placed in the hands of the Interstate Commerce Commission with power over their bookkeeping, power over the borrowing and spending of money, power to fix rates whether freight or passenger, and power over even the employment of labor, at least so far as the wage element is concerned.

It needs nothing in the way of further argument to show that it was a gross stultification of a promise to the public to return the roads to private ownership. As it stands under the law there is neither private control nor private ownership, but Government control even to a resultant confiscation of private property.

I have no hesitation in making the prediction and am willing to abide the verdict in the future that the railroad problem as attempted to be solved by the Esch-Cummins law will fail. It is as true of this problem as it was of slavery when Lincoln said the country could not remain half slave and half free. Neither can the railroads be seven-eighths Government controlled and one-eighth private controlled without disaster. Already it is clearly demonstrated that the Esch-Cummins law is not the panacea it was claimed to be when it was being advocated in Congress.

Permit me at this point to quote to the House some excerpts taken from the statement of the present director general attached to the President's message to Congress. One of the complaints of the railroad was that during the war, and while the Government had the roads in possession, there was a gross undermaintenance "of way and construction and equipment." The statement of the director general is to the effect that "the undermaintenance claims represent more than 50 per cent of the total amount of claims filed." The railroads also claim that they had charged to their capital account great sums of money due to inefficiency of labor. Neither of these claims have been allowed by the Railroad Administration, the claim being that they were "of a too highly indefinite, speculative, and contingent character to warrant consideration." It is evident, however, to any intelligent mind that the roads suffered a terrible loss in this way. Again let me quote from

this statement of the director general under the head of "Funding." He says:

By the terms of section 6 of the Federal control act the President was authorized to incur, on the side of the carriers, indebtedness for additions and betterments. To create an indebtedness to be paid by others without limiting the amount is, it must be admitted, a most unusual power and was justified only by the exigencies of war.

Again:

As the result of the exercise of this power a large amount of indebtedness was created by the director general and imposed upon carriers for additions and betterments, some of it assented to by them and some of it not concurred in. This class of indebtedness, although on capital account, was made by the Government.

Again:

If the carriers had been dealing with their own affairs in respect to additions and betterments, it is reasonable to suppose that they would not have undertaken to provide for these large capital requirements out of their current income, but would have followed their usual course, which would have been not to incur indebtedness as to a large part of this amount until they had succeeded in financing the capital required on long-term obligations. They could not do this under the conditions of Federal control and of the war for the two reasons: First, because the matter was not legally within their control, and, second, because the entire investment market was necessarily absorbed by the Government in securing war loans.

By these statements from the director general and from other sources we see clearly that railroads of the country have been made the victims of the Government and that they are in a more precarious condition now than ever before, and that they must be aided and sustained because of the needs of the public. To establish this fact I will quote again from the same statement of the director general the following:

It is evident if the products of our farms, of our forests, of our mines, and of our other industries are to find a way to market the railroads must be adequately equipped to move them. Manifestly, from the foregoing statistics, they are not so equipped. If there is to be a return, as we devoutly hope there soon will be, of normal business activity and prosperity, it must not be halted and obstructed by insufficient transportation, which is the fundamental condition of all commerce.

There is another matter that should be considered by the Congress. I refer to the condition of railroad credit. This is being impaired more and more until loans are almost impossible from private sources, except when a railroad can place a bond issue which will take precedence over its regular stock. If this is continued, it means that the common stock of the railroads will soon become actually worthless.

The responsibility of Congress in this matter can not be avoided by reason of past railroad delinquencies, nor can it justly shut its eyes to a situation which the past delinquencies of Congress itself and Government control during the war created. The truth is that stock watering, rebating, free passes, and a thousand other evils perpetrated by former railroad managements was permitted to continue—I might say encouraged while in progress—by Congress itself. At least, no real effort was made by Congress for years to abate these evils, though the whole country knew of their existence. As the result of this the people grew into a greater and increasingly greater state of antagonism and indignation, until even at this hour, when such things are made unlawful and impossible, they still retain their old prejudices. This feeling is capitalized even now for political purposes. It is not necessary to say that this is wrong, when it is evidently dangerous to the public welfare.

If the roads need help, and instant help—which is admitted on every hand—they should have it, no matter what the credit and debit account between them and the Government may show as a result of governmental control during the war. And for this very plain reason that the railroads must function; that not to function is inconceivable; that unless they function there is immediate and universal national disaster; that they must function even if the Government assumes entire financial liability. It should be recalled that all sorts of aid is asked of the Government for other purposes. The farmers are asking aid now financially in order that their crops may be moved. What good is it to finance them for such a purpose, no matter to what extent, if the railroads themselves can not function?

In conclusion, let me reiterate that the time has come to stop ignorant and prejudiced action toward the railroads. The fact remains, no matter how they may be kicked here and there in the field of contention, that if necessity compelled it, the unstinted resources of the Government would be inevitably and compulsorily employed to keep the cars moving—the roads functioning—in order to escape a national disaster, which would include the whole of our national desires and enterprises from the farm to the factory, from the mine to the forge, from the traveler for pleasure or profit to the millions who wait upon transportation for the very food that sustains them, and without which they starve.

One of the most illuminating articles on the railroad situation is that printed in an address by Samuel O. Dunn, editor of the Railway Age, delivered before the Chamber of Commerce at Des Moines, Iowa, June 3, 1921. To my mind this address is so valuable in its clarity, both as to language and facts, that I am quoting the entire address for the benefit of the readers of the CONGRESSIONAL RECORD everywhere all over the country:

AN ADDRESS DELIVERED BEFORE THE CHAMBER OF COMMERCE AT DES MOINES, IOWA, JUNE 3, 1921—THE RAILWAY SITUATION AND NATIONAL PROSPERITY, BY SAMUEL O. DUNN, EDITOR OF THE RAILWAY AGE.

The railroad situation in this country is at present, in some important respects, the worst it ever has been.

Passenger and freight rates are higher than for many years. There is complaint from many travelers and shippers that they are too high. In spite of these relatively high rates the railways as a whole never in any month since the rates were fixed have earned the net return it was expected they would. Recently most of them have not been earning enough to pay their operating expenses and taxes, and have seemed headed for bankruptcy.

There is at present a very large surplus of freight cars. About one-third of the country's transportation capacity has not been used in recent months because of the small amount of traffic offered for movement. It is well known, however, that the present capacity of the railroads has proved unequal, when production and commerce have been active, to all the traffic offered. And yet, while the need for a large expansion of the railroads is evident, practically nothing is being done to increase their capacity, and their existing facilities are seriously deteriorating because of the necessity of drastically curtailing expenditures for maintenance.

It is only 15 months since the railways were returned from Government to private operation under legislation which many believed had provided for the solution of the transportation problem. Naturally, the apparent failure thus far of this legislation to serve its purpose has caused elation and hope among those who favor Government ownership and management or the Plumb plan of management by the employees. It has also caused disappointment and concern to those who favored this legislation and believe the welfare of the country will be best promoted by continuance of private ownership and management.

The situation requires explanation; the problem it presents demands solution. The railroads must be saved from general bankruptcy or the business depression will be protracted and rendered more severe, with disastrous results to every industry and class of people. The rehabilitation and expansion of the railroads must be renewed or, when production and commerce attempt to revive on a large scale, it will be found the increase in productive and commercial activity that can take place is restricted by the inadequacy of means of transportation.

The causes of the present railway situation go far back, and go deep. Therefore it will take a long time, and will be far from a simple matter to remove them. The solution of the problem will require the best thought, the energy, the unselfish cooperation of farmers, business men, railway officers, and statesmen. If these classes had in the past given to the problem the thought, effort, and unselfish cooperation needed, the present situation would not exist.

Under any and all conditions in the railroad field, whether the railroads are supposed to be making too much money or are making none at all, whether they are trying to advance their rates or trying to reduce expenses so that the rates may be lowered, there always come forward those who would solve the problem by the simple expedient of adopting Government ownership and management. There is, however, nothing in the experience of this or any other country to indicate that Government ownership would solve the problem. In every country which participated actively in the recent war, and in most which did not so participate, the railways are in financial difficulties, and their difficulties are the greatest where Government management prevails. In Germany, where for many years most of the railways have been owned and operated by the Government, the railways, in spite of large advances in rates, are incurring enormous deficits. In Great Britain, where the railways are still under Government control, the rates have been rapidly advanced, and yet there is still being incurred a huge deficit. In our neighbor, Canada, where practically the same increases in wages and other expenses and advances in rates have occurred as here, the only railway which last year earned its operating expenses was the privately owned and managed Canadian Pacific, and it cost it 85 cents out of every dollar it earned to pay its expenses and taxes. The Canadian Government system, which parallels the Canadian Pacific from coast to coast, incurred a deficit, including interest on the investment, estimated at $140,000,000. This is about $15.50 for every man, woman, and child in Canada, which, for our large population, would be $1,630,000,000. Furthermore, this deficit was incurred by only half the railways of Canada. The only people who think Government management would solve our railroad problem are those who ignore its results in other countries or who little appreciate to how large an extent the acuteness of our present problem is due to the experiment we made in Government management during the war.

While, however, our present problem is a heritage from Government control, some of its causes antedate Government control. Prior to 15 years ago our railways were not subjected to much effective Government regulation, and were developed and operated by their owners and managers in the same way as other business concerns. There were abuses, as there were in other businesses. There was watering of stock, rebating, and very harmful political activities. But that was a period, at least, of railroad progress. The expansion of the railways and the reduction of their rates were among the most potent forces promoting the development of the country's resources and increasing its industrial and commercial activity and the prosperity of its people.

The abuses in the business, however, finally aroused a public sentiment which, beginning about 1906, caused the railways to be subjected to a regulation by the State and National Governments which rapidly became more comprehensive, effective, and drastic. At just about that time new economic forces began to affect them as well as other business concerns. Wages, the prices of materials, and the rates of interest that had to be paid began to increase. The railways, to offset these influences, began to try to make advances in rates. They tried to make a 10 per cent advance at one time; they tried to make a 5 per cent advance at another time.

The embattled business men of the country secured legislation prohibiting advances in rates without the previous approval of State commissions and the Interstate Commerce Commission, and practically all the advances sought were denied. The net return of the railways, which previously had been increasing, began to decline. In 1910 it was almost 6 per cent. Within a few years it was only 4 per cent.

This decline in net return was accompanied, as was inevitable, by a decline in the amount of new investment made in railroads. In 1910 and 1911 this averaged about $800,000,000 a year. In the last eight years it has averaged less than one-half this much, and allowing for decline in the value of the dollar to less than one-third this much.

Now, in the railroad, as in other businesses, new capital is needed for two purposes. One of these is to increase the amount of business that can be done. The other is to reduce the cost of doing the business. When new investment is wisely made in a railroad or any other enterprise, such as a manufacturing concern, having a large plant, it increases the interest and dividends that must be paid. But by saving labor and in other ways it reduces the operating expenses that must be incurred more than it increases the capital charges, and in consequence tends to enable the concern to make larger profits, to reduce the prices it must charge, or both. The main reason why for years most of the railways of this country were able, despite steadily advancing wages and other costs, to increase their own profits while making lower and lower rates was that they were constantly investing large amounts of new capital in improvements for the express purpose of reducing or holding down operating expenses. The reduction of the net return of the railways by Government regulation reduced the amount of new capital they could raise. This, in turn, reduced the improvements that could be made and greatly impaired the ability of the managements to effect operating economies.

The country entered the war in 1917. The capacity of the railways was found unequal to the demands of the war business, and owing to this and other causes Government control was adopted. There were many who predicted that unified Government operation would result in enormous economies. But the increase in expenses which already was going on was greatly accelerated.

On March 1, 1920, the railways were returned to private operation. The operating expenses had continued to increase rapidly right down to the last day of Government control. Even between August, 1919, and February, 1920, the last six months of Government control, long after the war was over, they increased $2,720,000 a day, or at the rate of about $993,000,000 a year. In the very last month of Government control the railways failed at the rate of $270,000 a day to earn enough to pay their operating expenses and taxes, leaving nothing with which to pay the Government guaranties. This was in the late winter, and the managements were confronted with the necessity of immediately making further great increases in expenses. Cars and locomotives had been returned in the worst condition ever known up to that time, and a large increase in repairs to equipment had to be made to put it in condition to handle the largest traffic ever known. Within a few months the Railroad Labor Board, a Government body, granted the largest advance in wages ever made to a single class of workingmen at one time in the history of the world. The prices of fuel and materials were advancing, and within a few months attained higher levels than during the war.

The Interstate Commerce Commission was charged by the transportation act with the duty of making an advance in rates which would offset the large deficit being incurred under Government control and the increases in wages and other costs to which the railways were being subjected, and which in addition would enable the railways to earn a net return of 5½ to 6 per cent on what it should find to be their valuation. The commission granted an advance in rates late in August. The rates failed from the start to yield the net return expected.

In the last four months of 1920, when the railways handled the largest traffic ever known in those months, it cost them 88 cents out of each dollar they earned to pay their expenses and taxes, and the net return earned was at the annual rate of only 3½ per cent. To state the matter in another way, even in these months of heavy business they were failing at the rate of $500,000,000 a year to earn the 6 per cent annual return expected.

While the railways were in the precarious position financially these figures indicate, there began a large slump in traffic. It was physically impossible to reduce expenses enough to offset the consequent decline in total earnings. Not only were net earnings wiped out in January and February but operating expenses and taxes, in spite of great retrenchments, exceeded the total earnings.

Everybody agrees that the present plight of the railroads is due, first, to the small amount of traffic that is moving; secondly, to the fact that their operating costs are excessive. Wide differences of opinion are expressed, however, as to the proper remedies. Many contend that the decline in traffic has been due mainly to the advance in rates, and that the only way to revive the traffic is to reduce the rates. But after the panic in 1907 there was a decline of 35 per cent in traffic, and after the signing of the armistice in 1918 another one almost equally large. Neither of these great slumps of traffic could be attributed to advances in rates, because on the rates in effect when they occurred there actually moved both before and after the slumps the largest volume of traffic ever handled up to that time. The recent decline in traffic was about 40 per cent, and in view of past experience and of our knowledge of world-wide conditions and of conditions in our own country at the time it occurred it must be logically attributed mainly to general business conditions and not to the advance in rates.

Further evidence on this phase of the matter is afforded by the fact that since the traffic moving reached the lowest point last spring it has increased almost 15 per cent and is still increasing. The traffic is increasing as rapidly as it did after the slump following the armistice or after the slump following the panic in 1907. This indicates that the rates are not preventing a revival of business.

I would not be misunderstood as advocating an indefinite continuance of the present rates. I know that owing to bad adjustments due to the horizontal advances which have been made there are many rates which are unfairly discriminatory and not a few which are interfering with the movement of traffic, and these should be readjusted as rapidly as possible, and, indeed, readjustments in rates are being made every day. Furthermore, I believe that the general tendency of rates should in future be downward. Many persons believe that there should be, and will be, substantial reductions in the near future. The hope and expectation of early and substantial reductions have been increased by the recent decisions of the Railroad Labor Board ordering the national agreements abrogated and the wages of railway employees reduced on July 1.

It is certainly true that the one thing which is essential to making reductions in rates practicable is the reduction of railway operating expenses. Between 1917 and 1920 the operating expenses of the railways, including the last advance in wages, increased almost 120 per cent, while the average advance in their passenger rates was only 45 per cent and the average increase in their freight rates only 70 per cent. Of this increase in expenses two-thirds was due to increases in the pay roll. The orders of the Labor Board I have mentioned will reduce the pay roll, but unfortunately nobody knows just how much. The reduction in wages ordered will, according to the estimate of the board, curtail the pay roll about $400,000,000 a year. In its decision in the national agreements case the Labor Board ordered continuance of the 8-hour day. This will prevent at least one-half of the saving the railways estimated could be made by abrogation of the national agreements. Furthermore, the national agreements controversy is not settled, for the representatives of the labor unions on the individual railways, under orders from their national officers, are insisting upon the retention by the individual railways of practically every rule in the national agreements. This would amount virtually to continuance of the national agreements themselves. The total reduction in the pay roll, on the basis of the total business handled by the railways in 1920, probably will finally amount, owing both to reductions in wages and abrogation of the national agreements, to somewhat more than $500,000,000. There will be further curtailments of expenses due to reductions in the prices of materials and supplies. However, on the bases of the heavy business handled during the last four months of 1920 and of the operating expenses actually in sight will amount at the outside to $800,000,000 a year. Undoubtedly they ought to be larger. The railroads tried earnestly to get the Railroad Labor Board to make a reduction of wages which would have entirely wiped out the advance in wages granted by it last July. They believed it would be justified in doing so, and expected that it would do so. The reduction granted is fully $300,000,000 a year less than the advance granted by the Labor Board last July and that much less than the railways asked for. But we must face the facts as they are. Will the reductions in expenses that are in sight make practicable and desirable a substantial reduction of rates?

The statistics of the railways for the last four months of 1920, when they were paying the present wages and receiving the present freight and passenger rates, and when they were handling the largest business they ever handled in those months, show, as I have said, that they were then earning at the rate of only 3.3 per cent, or failing at the rate of about $500,000,000 a year to earn an annual net return of 6 per cent on their valuation. This was due to the fact that present rates failed to produce as large earnings as had been anticipated and that the operating expenses were larger than was expected. As you know, since the heavy decline in traffic the net return earned by the railways has been much less than this. During the first seven months the present rates were in effect their net operating income averaged only 2.4 per cent.

Since while handling a large business last fall the railways were failing at the rate of about $500,000,000 a year to earn an average return of 6 per cent, and since on the basis of a large business the total reductions in operating expenses actually in sight amount to not more than $800,000,000, it follows that if the railways were in future to be allowed, while handling a large business, to earn an average return of 6 per cent, it would be practicable, with the reductions of expenses now in sight, to make reductions in rates amounting to no more than $300,000,000 a year. But at present a large traffic is not moving, and in consequence the net operating income being earned by the railways is so small that even if they were allowed with the present traffic to retain the benefit of all the reductions in operating expenses which are in sight they would not be able to earn a net return anywhere near 6 per cent.

It may be answered that if a substantial reduction in rates were made the traffic would revive and this would enable the railways to make more money. Let us assume that an average reduction of 20 per cent in freight rates would be considered sufficiently substantial to cause a revival of freight business, which would make it as large as it was in 1920. A reduction of 20 per cent in freight rates, on the basis of the freight business of 1920, would amount to $1,000,000,000 a year. This would exceed by $200,000,000 a year all the reductions in expenses which can now reasonably be estimated to be in sight. Since, when the railways on the present rates were handling a heavy business last fall, they were failing by $500,000,000 a year to earn a 6 per cent return, it follows that after an $800,000,000 reduction in expenses and a $1,000,000,000 reduction in freight rates we would have a situation in which the railways would be failing by a total of $700,000,000 a year to earn a 6 per cent return. In other words, we would have a situation in which the railways would be earning an average return of only 2 per cent, and which would soon result in almost every railroad company in the country being thrown into bankruptcy. If you can conceive of general business activity and prosperity being revived in this country by a reduction in railway rates which would bankrupt most of the railways, stop all railway development, and be ruinous to the savings banks, life-insurance companies, and individuals who own large amounts of railway securities, then you can conceive of a large early reduction in rates, which would restore general prosperity. My imagination is unequal to the task of forming any such conception.

I have repeatedly referred to a 6 per cent annual return for the railways. The transportation act requires the Interstate Commerce Commission to so make the rates as to enable the railways to earn an average return of not less than 5½ nor more than 6 per cent. The Interstate Commerce Commission tried to so fix the rates as to enable the railways to earn a 6 per cent return upon the valuation made by it. I have not, however, referred to a 6 per cent return because of these provisions of law or because of the decision of the commission. These provisions can be repealed, and, in fact, a bill to repeal them has been introduced in Congress by the Representative of one of the districts of your State. I have referred to a 6 per cent return to the railways because that is the least annual return which, under present conditions, if earned by them will be sufficient to enable them to refund their outstanding obligations as they come due and to raise new capital with which to make the additions to and improvements in their properties which must be made if they are in the future to handle the traffic which will be offered to them. We have, then, presented to us, as we have had continuously for many years, the question of what net return the business men, the farmers, and the public shall, in their own interest, allow the railways to earn. I wish to emphasize the vitally important point that the settlement of this question will not determine merely what rates the public will pay to the railways, but will also determine whether, on the rates fixed, the commodities produced by our farms, our mines, and our factories can and will be shipped to market. The movement of traffic, as we all know from past experience, may be hindered far more by the physical inability of the railways to move it than by rates that are too high. While at present the railways are not handling anywhere near as much business as they could, we know that almost continuously for the five years from the fall of 1915 to the fall of 1920 there were chronic congestions and

car shortages, and that shippers all over the country lost large amounts of money because the railways could not handle all the traffic offered to them. In some respects the physical condition of the railways is worse now than ever before. Let me give a striking example.

Owing to the fact that under Government control not enough equipment was bought to replace that which had to be retired, the railways in 1920 actually had 126,000 less freight cars than they had when they were taken over by the Government at the end of 1917. Furthermore, while when they were taken over by the Government there were only 141,300 freight cars in bad order, there are to-day over 325,000 freight cars in bad order. In consequence there are to-day in the country 310,000 less freight cars which are actually in condition to carry freight than there were three years ago when the Government took the railways over. In addition, while up to 10 years ago the number of miles of new railway being built in this country was about 5,000 miles a year, in every year out of the last five more miles of railway have been torn up or abandoned than have been built.

In other words, as a result of a policy of Government regulation, which for years before the war constantly kept down the rates of the railways, and as a result more recently of Government control, the railways have not only ceased to grow, but actually have been going backward. The production and commerce of the country can not continue to increase while its transportation capacity is not increasing or is actually decreasing.

It is as absolutely certain, however, that there will be no substantial expansion of the facilities of the railways if they are not allowed to earn as large average returns as are provided for by the transportation act as anything in the future can be. We have now had 15 years' experience of effective regulation of rates by the State and National Governments. We know the past policy has been that of so regulating the rates as to keep down the net return of the railways as much as practicable, and we know the result has been practically to stop increases in the capacity of the railroads. We know, or ought to know, that the same policy will have the same effects in future. Will you, then, have in future a policy of regulation like that followed in the past, which so regulates the rates you pay as to prevent you from getting the facilities with which to ship your freight, or will you have a policy which makes rates that will not be too high for the traffic to bear but which at the same time will result in providing you with adequate means of transportation?

There is another point of very great importance to be considered in this connection. Earlier in these remarks I referred to the fact that until within recent years the railways were constantly investing large amounts of new capital in permanent improvements for the purpose of reducing the cost of operation, and that it was the reduction in the cost of operation due to these improvements that made it practicable for them, year after year, to lower their rates in spite of the fact that the wages, the prices, and the rates of interest they had to pay were increasing. There is need now for investment of billions of dollars of new capital in permanent improvements, which would enable the railways not only to handle more business, but to use less fuel and materials and employ less men in handling it, and in consequence to handle it more economically. Why have these improvements not been made? Why are they not being made now? Mainly because our policy of regulation for years has been such as to prevent the railways from earning enough net return to enable them to raise the new capital needed.

The result has been recently that every increase in the price of fuel and materials, every advance in the wages of labor, has caused an increase in operating expenses greater than it would have caused if the economy producing improvements needed had continued to be made as they were being made up to 10 years ago. I have no doubt that Government regulation, by preventing improvements in the railways which would have effected economies, has added within recent years many hundreds of millions of dollars to the annual cost of transportation which farmers and business men are now having to pay, and which they would not now be obliged to pay if the effort so long made to keep down the net earnings of the railroads to the line of confiscation had not almost stopped investment in them. Even if the railways to-day were earning a net operating income of 6 per cent, their net operating income would be only between one-fifth and one-sixth as much as their operating expenses and only about one-seventh of their total earnings, but upon whether you will let their net operating income be made and kept adequate will depend whether they will be able to raise the new capital which will enable them steadily to reduce their operating expenses, and thereby in the long run make practicable really substantial reductions in rates.

I realize that what I have said will sound to many of you very pro-railroad, and even Bourbon, but I can not help that. I say to you only what I honestly believe after 16 years' constant study of this subject when I say that unless the farmers and business men of this country recognize the fact that the railways must be allowed to earn reasonable profits the farmers and business men themselves will suffer quite as severely from the conditions that will result as will the owners of railroad securities. Unless the railroads are allowed for some years to come to earn at least as large a return as that provided for in the transportation act they will be unable to handle a great part of the commodities produced by our farms, mines, and factories, and the producers of these things in consequence will find themselves seriously injured, if not ruined, because of the inability to get their products to market. Unless the railways are allowed to earn reasonable profits they will be unable to make the improvements necessary to effect large economies in operation, and in consequence, while temporary reductions in rates may be secured, we will have a continuance for years to come of a cost of transportation which will be excessive compared with what it was before the war and compared with what it might be made if the railroads were given the opportunity to raise needed capital and make needed improvements.

The people of the country recently decided that they preferred private to Government management of railroads, and the passage of the transportation act was the result. I have no doubt that our railroad problem can be solved with more advantage to all concerned under private ownership and management than under Government ownership and management or the Plumb plan, but I have equally little doubt that the problem will not be solved under private ownership and management and that the country will be driven to adopt Government ownership and management or the Plumb plan unless under private ownership and management the railways are given as much opportunity to prosper as other kinds of industry and business.

Doubtless you have heard the old story about the man who adopted the ingenious plan of saving money by feeding sawdust to his horse. The horse seemed to thrive on the sawdust, but, as the owner complained, just as he got used to it he died. The railroads of the country are to-day in much the same condition as that man's horse was after he had been fed for some time on sawdust. Their future is in the hands of the farmers and business men; and in determining whether or not they shall be allowed to prosper, the farmers and business men should remember that they will be determining whether they themselves will or will not prosper.

If we should judge by our 15 years' experience with Government regulation and Government operation of railroads we should be obliged to reach the discouraging conclusion that so long as the Government regulates or manages the railroads our transportation situation will constantly grow worse, because from the time that effective Government regulation was adopted down to the present moment our transportation situation actually had grown worse. Almost the only piece of railway legislation ever enacted in this country which is constructive in the sense that it is intended and adapted not only to compel the railways to give good service at reasonable rates but also to enable the railways to earn the net return essential if they are to give good service at reasonable rates, is the transportation act. And now, although never in a single month since that measure was enacted have the railways earned the net return which it provides they shall be allowed to earn, a movement is being started to repeal its rate-making provisions. To repeal these provisions under present conditions or to fail long to carry them out would be to announce to every man in the country with money to invest in railway securities that if he does invest in them he will do so at his own peril and after clear warning from the Congress and people of the United States that the railways will not be allowed to earn a net return sufficient to pay him adequate interest and dividends. It would be to announce that the people of the United States intend to carry out in future, as in the past, a policy of regulation that will make impossible the expansion and improvement of the facilities of the railroads. Such an announcement would complete the destruction of the confidence of investors in the future of the railways under private ownership and bring us much nearer to Government ownership than we were when Government control was adopted.

Let us hope that we shall not add to our past great mistakes in dealing with the railroad problem a mistake so serious and fraught with possible consequences of such magnitude. The present railway situation is the most serious that ever existed. Regardless of what relief measures may be adopted, it is probable that some companies will be bankrupted before any relief arrives. Let us hope that the public, while suffering from a business depression which would have come and probably would have been equally painful if railway rates had not been advanced, will not make the railways, which are suffering as much as any other industry, a scapegoat, and thereby not only aggravate and prolong the present business situation but indefinitely postpone the solution of the railroad problem, and thereby indefinitely postpone the time when the public can be given adequate transportation service at a reasonable cost.

Mr. RAYBURN. Mr. Chairman, I yield 20 minutes to the gentleman from Mississippi [Mr. JOHNSON].

Mr. JOHNSON of Mississippi. Mr. Chairman, I am not in favor of Government ownership of railroads; neither am I in favor of the railroads owning the Government. When the Congress of the United States passed a resolution declaring a state of war to exist between the Imperial German Government and this Government, it became necessary for the Government to marshal all its resources, and in doing so it was necessary to take over the railroads. When the Government took the railroads over it entered into a standard contract with them whereby it agreed to pay to the railroads each year of Federal control an amount equal to the amount earned by the railroad companies for the three years immediately preceding June 13, 1917.

Mr. CHINDBLOM. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Mississippi. I yield for a question.

Mr. CHINDBLOM. Does the gentleman think it is fair to say without qualification that it became necessary for the Government to take over the railroads?

Mr. JOHNSON of Mississippi. I do.

Mr. CHINDBLOM. Is it not fair to say that that was the policy of the last administration?

Mr. JOHNSON of Mississippi. Did the gentleman vote for it?

Mr. CHINDBLOM. I was not here.

Mr. JOHNSON of Mississippi. The gentleman will not be here next time if he votes for this. [Laughter.]

Mr. CHINDBLOM rose.

Mr. JOHNSON of Mississippi. Mr. Chairman, I decline to yield further to the distinguished gentleman from Illinois. Under the standard contract the Government was authorized to make such improvements as in the judgment of the Director General of the Railroads were necessary. The Government expended $1,144,000,000 in additions and betterments. No one will question the authority of the Director General in doing that. He purchased locomotives, cars, made extensions, equipped depots, and did such things as were necessary to enable the railroads to function. It must be remembered that at the time the railroads were taken over many of them were in the hands of receivers, operating by orders of the courts. The railroads were not taken over against the will of the railroad companies. The companies were anxious to have the Government take the railroads over, because many of them were almost bankrupt and were unable to transport the tonnage during the war.

Under the standard contract the Government incurred many obligations. In operating the railroads the Government incurred many liabilities and claims. Most of those claims, such

as personal injury claims and many other kinds that could be ascertained readily and quickly, have been adjusted. The Government has settled $237,000,000 worth of claims propounded by the railroads for 31 per cent—that is, about $74,000,000. There remains, according to the testimony of Director General Davis, about $800,000,000 worth of claims, which he says he hopes to settle upon the same basis. Some of my colleagues who have spoken here this afternoon have been in error about their figures. Of course, no one knows the exact amount due the railroads by the Government, nor the exact amount the railroads owe the Government, according to Director General Davis's testimony before the Interstate and Foreign Commerce Committee.

The gentleman who preceded me said in his speech that the Director General stated that he could settle the claims for $349,000,000 more. If you gentlemen will read the testimony given before our committee you will find that the Director General did not say that he could settle all the claims for $349,000,000 more, but he said that he had $149,000,000 on hand now and that it would take $200,000,000 more to be appropriated by Congress in order to settle the claims; that there would be some revenue coming into the Railroad Administration from the railroads for interest on the $310,000,000 worth of trust certificates held by the administration, and some other revenue which he was unable to itemize, all of which he expected to use with the $349,000,000 in adjusting the claims of the railroads.

Upon a careful reading of the testimony given before the committee by Director General Davis you can readily see that he did not claim that he could settle these claims entirely with the $349,000,000; in fact, he admitted that he did not know just how much we owed the railroads, neither did he know how much the railroads owed us, because there had been no complete accounting. In response to my question he said that he did not know, neither did anyone else know, whether the $349,000,000 would settle the claims of the railroads but that he hoped it would.

Gentlemen of the House, when I asked in committee that the Treasurer of the United States and the Secretary of the Treasury and members of the Interstate Commerce Commission be summoned to appear before the committee and give testimony in order that we might learn the truth about this bill, and elicit from those gentlemen such information as would enable us to intelligently vote upon the bill, the chairman of the committee [Mr. WINSLOW] refused the request. In fact, the people of the country were not represented.

Director General Davis, who was supposed to represent the Government, in my opinion was the most valuable man the railroads could have selected to go before our committee. He not only argued the case for the railroads, but when asked by me regarding freight rates he said that in his opinion the rates were not too high. To all fair-minded people this last statement of Mr. Davis's ought to cause his other testimony to be discounted, because we all know that freight rates are outrageously high and the people can not tolerate it much longer.

Mr. BLAND of Indiana. Will the gentleman yield?

Mr. JOHNSON of Mississippi. I will.

Mr. BLAND of Indiana. I would like to ask the gentleman his opinion as to what condition it would put the Government in if the Government, by reason of a panic, or if hard times came, should fail to sell the securities they have undertaken to sell; would it have the effect further to obligate them to support the railroads in the future?

Mr. JOHNSON of Mississippi. I will pass to that at this time. We had before our committee Mr. Eugene Meyer, who is the author of the bill before the House, and in response to my question Mr. Meyer said that he did not know that these securities were marketable at this time; that he hoped they would be able to sell the securities, but he did not know; that some of these securities had a market value and others might not have.

So we are to take securities from the railroad companies, and, in fact, have already taken securities from the railroad companies without any evidence offered before our committee as to the value of the securities. Those are the kind of securities this bill will allow the President and the Director General of Railroads to take, if passed, and it is proposed on the flimsy information given to the committee reporting this bill, to allow the railroads to reach down into the Treasury of the United States and take out a half billion dollars more of the people's money.

Mr. BLAND of Indiana. Was it thought by the committee that the Government by selling the securities without recourse could sell them more readily than the railroads themselves?

Mr. JOHNSON of Mississippi. I can hardly tell you what the committee thought. I know what the Democratic Members thought. I can only tell you what happened, and you can judge what the committee thought. Really I think there was very little thinking on the Republican side of the committee, because President Harding told the chairman of the committee [Mr. WINSLOW] to put the bill through, and, believe me, he jammed it through. [Laughter and applause on the Democratic side.] The chairman heard his master's voice, and he knew how to obey.

Mr. HARDY of Texas. Will the gentleman yield on that point?

Mr. JOHNSON of Mississippi. I will.

Mr. HARDY of Texas. Was it not practically the knowledge of the committee that when the Government undertook this business, if they would fail to sell to the public, the Government through the Finance Corporation would buy them?

Mr. JOHNSON of Mississippi. Indeed.

Mr. KINCHELOE. Will the gentleman yield?

Mr. JOHNSON of Mississippi. Certainly.

Mr. KINCHELOE. The gentleman from Indiana having brought up the question of the railroads paying back their obligations to the Government and expressed no doubt of their paying promptly, I will ask the gentleman if it did not develop in the committee during the hearings, and I think the gentleman from Mississippi developed it, that in 1864 and in 1878 the Union Pacific Railroad borrowed a million dollars from this Government and never has the interest or principal of that debt been paid?

Mr. JOHNSON of Mississippi. Yes, sir; according to a statement filed with the Interstate and Foreign Commerce Committee, and to-day, according to that statement, the total amount, interest and principal, is $3,553,891. That is the way the railroads pay back the money to the Government.

Mr. ANDREWS. Will the gentleman yield?

Mr. JOHNSON of Mississippi. Certainly.

Mr. ANDREWS. Is the gentleman quoting the debt of the Union Pacific Railroad, the payment or nonpayment of that debt?

Mr. JOHNSON of Mississippi. Yes; I am quoting from a statement filed by Mr. Eugene Meyer, director of the War Finance Corporation, which appears on page 38 of the hearings before the Committee on Interstate and Foreign Commerce. The statement reads as follows:

> Amount due the United States from the central branch of the Union Pacific Railroad on account of bonds issued, Pacific Railroad aid bond, acts approved July 1, 1862, July 2, 1864, and May 7, 1878. Principal, $1,600,000; interest, $1,953,891.09. Making a total of $3,553,891.09.

Mr. ANDREWS. Was not that debt paid, principal and interest, in a foreclosure proceeding in the latter part of the nineties, or the early part of 1900?

Mr. JOHNSON of Mississippi. No, sir; it was not, if the statement made and filed with our committee is true.

Mr. ANDREWS. Ask the Secretary of the Treasury for a statement from the books, and the gentleman will find out.

Mr. JOHNSON of Mississippi. Well, if it is as hard to get to the Secretary of the Treasury on that matter as it was to get the Secretary of the Treasury to come before our committee and give us the truth about this matter that would throw some light on this question, we will never be able to get it. [Laughter.]

Now, gentlemen, we have settled with 93 carriers. There are 555 carriers, according to Director General Davis. The Director General says he has settled with those who control 70 per cent of the mileage of railroads, but that does not include the New York Central, the Pennsylvania system, the Southern, and many other large systems. The Director General says he has no idea what the claims of these last-named railroads will be. He does not know what any of the other claims will be. He says he hopes to settle them upon the same basis as he did the others, but our experience in dealing with railroads teaches us that hopes do not amount to anything when we are dealing with railroads, and this House ought to demand facts upon which to act and refuse to take the hopes and expectations of the Director General.

Many of the little railroads have settled, like some of the little short-line roads in the South, and have adjusted their claims upon a 31 per cent basis, but there is nothing in the record to indicate the big roads will settle on the same basis.

Mr. TAYLOR of Tennessee. Will the gentleman yield?

Mr. JOHNSON of Mississippi. I will.

Mr. TAYLOR of Tennessee. I understand they settled on a 31 per cent basis. If their claims were legitimate and bona fide, how would they accept a reduction?

Mr. JOHNSON of Mississippi. That is a very pertinent question, and I am very glad the gentleman asked it. If we owed the railroads the $237,000,000 that was claimed when we settled with them for $74,000,000, we ought to have paid the amount that was due, and no honest man can come into this House and

oppose paying to any other man or corporation that which justly belongs to him or it, and the Director General would not be justified in forcing the railroad companies to accept 31 cents on the dollar if we owed them a whole dollar.

Mr. TAYLOR of Tennessee. What reason was given by the Director General?

Mr. JOHNSON of Mississippi. None. I now call attention to the hearings in which the Director General said he would not give us the facts, because he said it was against the policy of the administration; but if we, the members of the committee, would go to his office—think of it; if we, the Members of Congress, would go to his office—he would condescend to show us the figures. If there was not something rotten about it, why does he not let the public know, so that the people can see how their money is being spent and for what purpose? No one knows, outside of the director, so far as the committee was able to learn, what has become of this money. We have not been able to see his books nor records in these settlements. We have been required to accept his statements, many of which consisted of hopes and expectations.

Mr. SANDERS of Indiana. As a matter of fact, what he said was that he did not want to disclose the details of all the settlements of the carriers he had made, because if he did each of the other carriers would claim every item he favored other carriers with, and it would jeopardize the claims of each of the other carriers.

Mr. JOHNSON of Mississippi. That is substantially so, but I will say to the gentleman in response to that, if the Director General dealt justly with the first railroads and with the people whose representative he is supposed to be and who are paying him a tremendous salary to represent them, what harm could there be in disclosing how he dealt with the railroads? If he dealt unjustly with them, he should not ask Congress to confirm his action in that matter. If we owe the railroads all the money that they claim, it should be paid. We should not take from any man or corporation that which belongs to him or it, but no one man should be given the authority to settle claims that amount to billions of dollars without the Congress knowing the details of the settlement. But that is in keeping with the present administration. This is a one-man administration. When the President wants a piece of legislation put through, he just nods at you all on the Republican side and you put it through, and he has been very active when it came to tariff, tax, and railroad legislation, demanding that you all put through these "big business" schemes before you recess.

Gentlemen of the House, if I owed you $25 and you should ask me for the $25 and I would say, "Here is my note for $50; you let me have $25 in cash back and we will square this account," you would have a case that is absolutely in point with the bill we are now considering.

Mr. ALMON. Will the gentleman yield?

Mr. JOHNSON of Mississippi. I will.

Mr. ALMON. If the railroad companies felt that they were entitled to more than 31 per cent, is it not reasonable to suppose that they would have gone into the courts and asserted their rights rather than to have agreed to 31 per cent?

Mr. JOHNSON of Mississippi. Most assuredly; that is correct. The reason they propounded these big claims, most of which were fictitious, was in order to be able to compromise them. Now, the railroad companies say they owe the Government $783,000,000. They say in the claims that are supposed to be filed up to this time, according to the Director General, that the Government owes them a little over $800,000,000. Think of it. They learn what the Government claims to owe the railroads, and then they propound their claims and make them just a little more than the Government claims. If the Government's claim had been half as much as it was, or twice as much as it was, the railroad companies would have offset it by making their claims just a little larger.

Gentlemen, what right has the President of the United States or the Director General of the Railroads, who hold the securities of the railroads, to sell these securities to the War Finance Corporation, which means that a half billion dollars of the people's money is to be taken out of the Treasury? This "get-rich-quick Wallingford" scheme ought not to be tolerated. The War Finance Corporation is owned exclusively by the United States Government, and, in fact, is nothing but a bureau in the Treasury Department. To authorize the War Finance Corporation to purchase railroad securities or securities now held by the President, is but taking money out of the left-hand pocket and putting it into the right. It means that the Government will carry these securities of the railroads for 10 years, and judging the future by the past, we will never collect the money, and the taxpayers of the country will be called upon to "hold the bag." Mr. Meyer admitted, on examination before the committee, that if he could not sell these railroad securities he would have to sell the War Finance Corporation's bond to the United States Government.

Mr. KING. Will the gentleman yield?

Mr. JOHNSON of Mississippi. Certainly.

Mr. KING. Does not the War Finance Corporation intend to issue debentures against these securities, and will they not be tax exempt?

Mr. JOHNSON of Mississippi. They will. That is one of the schemes whereby the railroads can avoid paying taxes on these securities because while the Government owns the securities, Government property is not taxable.

Mr. ALMON. Will the gentleman yield further?

Mr. JOHNSON of Mississippi. I will.

Mr. ALMON. What securities will these railroad companies, which were in the hands of a receiver before the war, before they were taken over by the Government, give to secure these obligations?

Mr. JOHNSON of Mississippi. By this bill the President of the United States is given full discretion and authority to take such security as he sees fit. If he wanted to take the security of a bankrupt road he is authorized to do so. I daresay the President would do what he deems is right, but he will never see these securities, because it is a matter he delegates to the Director General, and the Director General could not tell us when he was before the committee the other day, the value of any securities that have been placed with him, and we were denied the privilege of examining the Treasurer, the Secretary of the Treasury, and members of the Interstate Commerce Commission, who would have been able to have given us the information. This whole scheme has been carried on by the "dark-lantern" method. The Wall Street bankers came to Washington and demanded that the President put this bill through. The President demanded that Congress put it through, and it is going through just as the bankers demanded that the Congress put the tax bill through, the most iniquitous and oppressive piece of peace-time legislation that was ever written. It reduces the tax on the rich and places it upon the poor. But let us remember it was the money barons who furnished the barrel of gold for the last Republican campaign fund and now they are getting their returns on their investment.

Mr. Chairman, this Government has paid the railroad companies since they were returned to their owners after Federal control $600,000,000 for losses the railroad companies claimed to have sustained during the six months' guaranty period. We have paid the railroads more than $2,000,000,000 under Federal control. Up to this time, and including this demand, if this bill passes we will in all have paid the railroads between $3,000,000,000 and $4,000,000,000, and paid hundreds of millions of dollars that no human being can justify before an investigating committee. I would not hesitate to vote for any just claims by railroads or anybody else; but, gentlemen, we ought not to be called upon to vote to appropriate a half billion dollars without knowing the facts and circumstances upon which the claims are based, and no Congressman can vote intelligently without this information. [Applause.]

Now, Mr. Chairman, we have loaned these same railroads $300,000,000 as a revolving fund, no part of which has been repaid. When the so-called Winslow bill was before our committee last January and before this House during the same month the railroads promised, according to testimony offered by presidents of railroad companies and by many others interested in the railroad business, that if Congress would vote them the $600,000,000 they claimed the Government owed them under the guaranty clause of the Esch-Cummins Act, without an accounting, they would rehabilitate their roads; that factories would resume operations; that the railroads could purchase supplies, repair their cars, and employ many thousands of idle men; and that it would solve the question of idleness in the country at that time. The Congress was fooled and deceived, misled and defrauded by these companies. They have not accounted to the Government to this day, but have spent the money they were paid by the Government; and what do we find? At the time that bill was passed it is estimated that there were 3,000,000 idle men in the United States. To-day factories are closing all the time; prices of lumber, hay, farm products of every kind, cattle, and other things have been reduced.

Five million eight hundred and thirty-five thousand men are out of employment, according to the Labor Department. Many of them are being fed by charitable organizations. To-day, after the railroads have spent the $600,000,000, for which they paid not one penny, they are around this Capitol with their lobbyists, and have been for weeks, spending thousands of dollars and sending telegrams to our constituents asking our constituents to telegraph us to vote for this iniquitous bill.

That is the way millions of dollars of the Government's money are squandered. They are here now trying to put their felonious fingers into the Treasury of the United States and filch therefrom a half billion dollars more of the people's money. When Director Meyer, of the War Finance Corporation, was before our committee I asked him if he did not make a statement which the newspapers carried that the passage of this bill would put a million men back to work. He admitted that he did, but upon further examination stated that that was his opinion, and that it was not worth any more than any other person's opinion. In other words, gentlemen, the statement was worth nothing. Gentlemen, if you will delve into this matter, read the hearings before the committee, and acquaint yourselves with this bill, you will not vote this money to the railroad people to be squandered.

Now, gentlemen, the Director General of the Railroads, when asked by me his opinion as to the freight rates, said they were not too high, according to his judgment. Last week hundreds of farmers, cattlemen, and lumbermen were here trying to get the freight rates reduced. Some of them appeared before the Interstate Commerce Commission pleading for a reduction in freight rates. Many of them say their bins are filled with corn, wheat, oats, hay, and other things; their pens are full of cattle; lumber yards are covered with lumber; but on account of the freight rates they can not sell their products, yet this man Davis, who is here asking you to give to the railroads the half billion dollars, is opposed to reduction of freight rates. Gentlemen, do you know that after the railroads were returned to their owners by the Esch-Cummins bill more than a year ago—in fact, a year and a half ago—the Interstate Commerce Commission allowed them to raise their rates sufficient to earn a billion dollars per year over and above the old rate?

In my State I am told by a member of the highway commission that 65 per cent of the cost of building good roads in some of the counties goes for railroads transporting the building materials. This is a shameful outrage and ought not to be tolerated longer. The railroads—I mean the larger railroad systems—are making money and declaring dividends. The Louisville & Nashville Railroad Co. last week filed a petition with the Interstate Commerce Commission asking to be allowed to distribute $54,000,000 in stock dividends. And these dividends were in addition to other dividends declared by the railroad companies, and yet, with all this prosperity, after the Government has been milked almost dry by the railroads, they are here demanding another pound of flesh. There are 5,835,000 idle men in the country, as I said a while ago. Many of them are World War soldiers who were in France fighting, bleeding, and suffering for this country while these infernal profiteers and money barons were in America oppressing the people, making millions, and shouting patriotism. I wonder what these men will think when they pick up the paper to-morrow and read that this Congress has taken another half billion dollars of the taxpayers' money and given it to these bankers, who really own the railroads?

Instead of giving the railroads more money there ought to be a prosecution started against them for the frauds they have perpetrated upon the Government and the money obtained from the Government under the false, fraudulent, and fictitious claims.

Will you Republicans allow the party lash to be cracked over your heads and force you to vote for this bill when your conscience tells you it is wrong? Will you have the courage to stand up and vote your convictions regardless of consequences? Gentlemen, you are about to be put upon trial. By this vote you are going to say whether you stand with the money barons of the country or with the masses who voted to send you here.

Mr. Chairman and gentlemen, I am not in favor of Government ownership of railroads, as I said in the beginning of my speech, but let me tell you one thing: The officials of the railroads under private control before the war, who were appointed to manage the railroads under Federal control, are largely responsible for the waste and extravagance, and the reason there was such waste, prodigality, and extravagance in the railroad operations was because the officials of the railroads encouraged it in order to make Federal control unpopular. [Applause.]

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. HADLEY having taken the chair as Speaker pro tempore, a message from the Senate by Mr. Craven, one of its clerks, announced that the Senate had disagreed to the amendment of the House of Representatives to the bill (S. 1915) to amend the War Finance Corporation act approved April 5, 1918, as amended to provide relief for producers of and dealers in agricultural products and for other purposes, had asked a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. KENYON, Mr. MCNARY, and Mr. SMITH as the conferees on the part of the Senate.

AMENDMENT TO THE TRANSPORTATION ACT, 1920.

The committee resumed its session.

Mr. RAYBURN. Mr. Chairman, I yield 20 minutes to the gentleman from Missouri [Mr. HAWES].

Mr. HAWES. Mr. Chairman and gentlemen of the committee, on July 22 of this year President Harding made the following statement:

> With this end in view you are asked to extend the authority of the War Finance Corporation so that it may purchase these railway-funding securities accepted by the Director General of Railroads. No added expense, no added investment is required on the part of the Government; there is no added liability, no added tax burden. It is merely the grant of authority necessary to enable a most useful and efficient Government agency to use its available funds to purchase securities for which Congress already has authorized the issue and turn them into the channels of finance ready to float them.

This is clear and understandable. It is advice given for the benefit of the Nation in a period of stress and uncertainty, when the whole Nation struggles in its efforts to return to that prosperous normal condition which obtained before the war.

This is not a partisan question. Each Member will follow the dictates of his understanding without the influence of party caucus.

It is a legacy of the war, begun under the administration of President Wilson, whose promises are pledged of fulfillment by President Harding.

The bill provides the machinery by which each claim will have careful review by a proper Government agency, and when objection is made to a finding, an appeal is provided to the Court of Claims.

Mr. Chairman, it may be said that this measure was prepared exclusively by Government agents and that the committee in its finding was influenced by four considerations:

First. The public necessity for increased, improved, and less expensive transportation;

Second. The carrying to a conclusion of a moral and legal obligation entered into by our Government through the necessities of war;

Third. To prevent a national disaster threatening all classes of bank, industrial, and utilities stock, and promising employment for hundreds of thousands of men and the release of millions of dollars which can be deflected into the ordinary courses of trade; and

Fourth. The fact that there is an absence of any other solution than that proposed in this enactment.

It is quite possible that the solution offered might be improved upon, but the significant fact remains that no better solution has been suggested. It is easy to object. It is easy to criticize. It is hard to construct. When criticism is directed to this measure it certainly should be accompanied by suggestions for a remedy.

There are features in the bill which, very frankly, do not meet my approval; but, considering the subject as a whole, the gravity of the situation, and the absence of a remedy, it receives my support.

The readjustment affects 555 separate properties of an approximate value of $20,000,000,000, which includes 250,000 miles of main line and all the necessary shops, yards, roundhouses, bridges, and many accessories required, to which must be added 2,500,000 freight cars, 66,000 locomotives, 55,000 passenger cars, and the still more important human element of nearly 2,000,000 employees.

During the 26 months of Federal administration maintenance and repair were neglected, or, to be conservative, maintained only at the lowest possible minimum cost.

Under Government control, from less than $500,000,000 in 1917, the expenditures of the railroads for materials required for maintenance and operation of the properties increased until they exceeded $1,000,000,000 in 1920.

The fuel bills of the railroads have increased from approximately $209,000,000 in 1915 to $673,000,000 in 1920. Eliminating entirely the disputed question of the increased cost of labor, these two items alone show the difficulty of refinancing without Government assistance.

It has been estimated by the Interstate Commerce Commission that over 600,000 employees have been laid off between August 20 and March 21 of this year. Banks, trust companies, and financial institutions throughout the country, reaching down even to the smaller towns, are carrying what might be called "the butcher, the baker, and the candlestick maker,"

whose bills have been unpaid waiting for this Government adjustment.

Prior to our entrance into the war various foreign relief expeditions were given the right of way by the railroad management, followed by the shipping of vast stores of war materials to our future allies, thus disarranging even at that time the normal progress of business.

Upon our entrance into the war in April, 1917, the country mobilized, the Nation was strained in its effort to move supplies both of food, camp equipment, arms, munitions, and the hundreds of essential things necessary to assemble, equip, and transport an army of 4,000,000 men, and all this work was to be accomplished by a peaceful Republic, unfamiliar with the arts of war.

Cars which were the property of one road would be concentrated and diverted to another section of the country to haul wheat, and at other periods they would be again concentrated in another portion to haul coal.

The entire management and organization, as regards both efficiency, personnel, and detail, was unsettled, and the vital energy of this enormous property was diverted to the main purpose of serving our necessities in war.

All the great nations of Europe commandeered and took control of all railroad and transportation properties and, very naturally and properly, the same thing was done in our country.

Congress authorized the President to take over the control and management of our railroads. The bills providing for this control were supported by Democrats and Republicans alike. It was a nonpartisan support wisely and patriotically given.

President Wilson said:

> Immediately upon the reassembling of Congress I shall recommend that these definite guaranties be given: First, of course, that the railroad properties will be maintained during the period of Federal control in as good repair as when taken over by the Government; and, second, that the roads shall receive a net operating income equal in each case to the average net income of the three years preceding June 30, 1917.

In his subsequent message to Congress he recommended that the carriers should receive an unqualified guaranty—

> That their properties will be maintained throughout the period of Federal control in as good repair and as complete equipment as at present, and that the several roads will receive under Federal management such compensation as is equitable and just alike to their owners and to the general public.

Following this recommendation, Congress passed the Federal control act and the railroads were given over to the control of the President under a director general appointed by him.

Partial settlements have been made with a number of railroads, who were especially pressed for funds for immediate operating expenses. The question now to be settled relates to the balance of claims not adjusted.

The President was named by Congress to make these settlements, and he delegated the matter to the Director General of Railroads, who has associated with him traffic, mechanical, and other experts, and before any railroad claim can be settled or adjusted it must be first approved by the President, acting through the Director General, with the advice of these experts.

It is not for me to attempt to state what claims are good or what claims are bad, when the President has selected his own competent force to make the adjustment.

The pledge for the American people made by President Wilson was for the necessary additions, betterments, and improvements which has heretofore been credited to the capital account of the railroads. Now an adjustment is being sought by which the railroads are to pay to the Government certain sums of money which the Government paid out for this purpose while under its control.

The railroads in their present condition can not immediately make this payment of their capital indebtedness, nor can our financial institutions supply them with this large sum of money, so it is proposed under this bill to advance them sums of money sufficient to make this settlement on a 10-year loan basis, the Government accepting from them proper securities, which the bill provides may be sold by the Government, acting through the War Finance Corporation, at its discretion, when the market is propitious.

It is believed by the Director General of Railroads and the chairman of the War Finance Corporation that it is impossible for the railroads to enlarge their equipment and secure a complete rehabilitation with their own moneys and at the same time pay their indebtedness to the Government, and this extension is arranged by the Government to procure an increase in efficient railroad service for all the people.

During Government control and due to the uncertain financial condition created by the war the Government did not have time to float bonds or make financial arrangements, but was compelled to pay cash to keep the railroads going and to perform the necessary functions of transportation during the critical period of the war.

Ordinarily railroads requiring the expenditure of large sums of money would have secured this sum of money by the issuance of bonds, which would have been accepted by the financial institutions of the country. Now, the Government wants its money and the railroads are willing to pay, but can not at the same time pay both the debt and restore the railroads to the efficiency demanded by the public service.

This is not giving the railroads one dollar.

It means the Government guarantees a loan for a period of 10 years, supplemented by securities furnished to the railroad director and the War Finance Corporation by the railroads.

Mr. WINSLOW. Mr. Chairman, I would like to ask the gentleman if he feels that that statement in reference to the guaranty of the Government is quite right? I understood the gentleman to make a statement to the effect that the Government is going on these railroad notes. Is that accurate?

Mr. HAWES. No. Not in legal form, Mr. Chairman, but having met the approval of the War Finance Corporation and the Director General, and having been accepted by these two agencies of the Government, it naturally puts a credit value upon those securities.

Mr. WINSLOW. A moral guaranty?

Mr. HAWES. Yes; the moral guaranty is there.

Mr. WINSLOW. But not as a banking element?

Mr. HAWES. No; not as a banking indorsement.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. YATES. Mr. Chairman, I ask unanimous consent that the gentleman may have five minutes more. We want to hear the gentleman conclude his speech.

Mr. WINSLOW. Mr. Chairman, I ask unanimous consent that the gentleman's time be extended for 10 minutes.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent that the gentleman from Missouri may have 10 additional minutes. Is there objection?

There was no objection.

The CHAIRMAN. The gentleman is recognized for 10 minutes more.

Mr. HAWES. It is a situation similar to a mercantile or industrial business which faces a crisis due to some unusual and extraordinary cause, where the bank temporarily extends the notes of the industrial corporation and lends it the necessary money to tide it over the immediate difficulty.

It is not intended to give the railroads anything. We are simply assisting them in the refunding of their debt to the Government and extending it over a period of years, and to enable the railroads to continue the improvement of their property and give that service to the public which it requires.

Mr. YATES. Mr. Chairman, will the gentleman yield there?

Mr. HAWES. Yes.

Mr. YATES. The gentleman from Texas [Mr. RAYBURN], as I understood him, talked about "handing over" $500,000,000 to the railroads, and the gentleman from Mississippi [Mr. JOHNSON], who spoke just before you, spoke of "filching" this money from the Government. Now, those are very grave statements, or they are very reckless statements. I simply wanted to call attention with emphasis to the statement that the gentleman had just made.

Mr. HAWES. The plan, Governor, is for a refund for 10 years at 6 per cent to the Railroad Administration for additions and betterments made while the railroads were under the control of the Government.

Mr. YATES. Then it is not "handing over" or "filching"?

Mr. HAWES. Certainly not. The War Finance Corporation is authorized to purchase from the Railroad Administration securities now held by it or to be acquired by it to an aggregate purchase price not exceeding $500,000,000.

Provision is also made that the securities acquired by this corporation from the Railroad Administration may be sold at not less than the original cost to the corporation, and it is also authorized to sell, at the request of the President, railroad securities not purchased by the corporation.

It will be observed that there are two distinct elements in the final adjustment: The first is the general settlement between the Government and the railroads, and the second is the funding proposed under this bill. Mr. Davis said:

> It seems to me that this is an exigency that is the result of war, and what the Government is asked to do in this case is to refrain from collecting certain amounts that the roads owe, and do the same for the transportation system of the United States that the Government is doing for France, England, Italy, and Germany in extending the obligations growing out of the war.

Some of the expenditures for betterments upon the railroads made by the Government during the war period were made at the request of the railroads in carrying out a general plan of improvement which was interrupted by the war, but in other cases they were made against the protests of the carriers and without their consent.

There were many additions and betterments purely for war purposes that were useless, and all of these expenditures were made at a time when both labor and material were at its highest peak and greatest cost.

Some of the roads were in good condition when the Government took them over; some were not.

These are questions to be determined by our Government agencies in final settlement. The properties were taken over quickly. There was no attempt to make proper inventories and go into that exact accounting which would take place under normal conditions. This adds to the delay of final settlement.

The 26 months of Federal control necessarily disorganized the individual organization of each railroad, and it has required time for the railroad agencies to prepare for adjustment of their estimates and claims.

The personnel of the proponents of a bill is always interesting, as illustrative of the ultimate object sought to be attained.

This bill was the joint product of the chairman of our Committee on Interstate and Foreign Commerce; James Davis, Director General of Railroads; and Eugene Meyer, managing director of the War Finance Corporation, assisted by the attorney of that corporation, and the final phraseology and form was supplied by Mr. Beaman, official bill maker of this House.

These are all men in the employ of the United States Government and supposedly, and certainly in my opinion, working for the single and sole purpose of promoting the best interests of our Government.

Mr. Meyer, managing director of the War Finance Corporation, was originally appointed by President Wilson and recently reappointed by President Harding, so that it may be said he has represented both a Democratic and a Republican administration. He is a man of fine intelligence and devoted to the public interest.

Mr. James Davis, Director General of Railroads, is a man of exceptional ability, who resigned a lucrative law practice during the early period of the war to assist in the railroad administration in a legal capacity under Mr. McAdoo.

Upon the resignation of Mr. W. D. Hines, President Harding selected Mr. Davis as Director General.

Mr. Davis is a man of great experience. He impressed me—and I think he did our entire committee—with his straightforward manner of answering questions, with his entire candor, with his honesty, and those who read his testimony will be impressed with the idea that he is what is called "a regular fellow," of fine attainment, who will secure for the Government every dollar to which it is entitled.

It will not be upon his individual judgment alone that matters will be adjusted, because back of him is the Interstate Commerce Commission with its corps of experts, and another list of well-posted men in the immediate employ of the Director General.

He, like Mr. Meyer, may be called a nonpartisan appointee, because he represented both a Democratic and a Republican administration and was selected solely upon the ground of efficiency and ability.

The chairman of our committee is a man of broad business experience, not interested in the railroads in any way, but desirous, above all things, to pass to his posterity a record of public achievement well and faithfully done in the public interest.

A bill prepared by such men naturally secures at first our very respectful consideration, and when we find that no better plan is offered, there is but one obvious course and that is support, when back of it all we find the approval and indorsement of the President. [Applause.]

No witnesses were called before our committee excepting Government witnesses. The railroads presented no specious claim for extraordinary allowances, nor was the socialistic propagandist heard, and if there was any objection to the bill it did not make its appearance.

Let me introduce some statements made by Mr. Meyer in response to questions propounded by me relating to the general effect upon industrial conditions of the country, if this or similar legislation is not undertaken by Congress. Mr. Meyer answered:

> The effect, I should say, would be a continuation of the stagnation in industry and unemployment to the extent that it would be directly or indirectly affected by railroad purchases; the employment by railroads for maintenance and repair work, and by other companies, which in turn furnish supplies to railroads by all the mines affected and their labor, in iron and steel, and in the quantity of lumber affected and in the quantity of other raw materials affected, and the industries remotely affected as well as directly affected.
>
> I do not know any single thing that could be done to restore the industry of the country at this time, before the winter comes on, when the amount of unemployed labor will be increased by the return of the men who have gone into the harvest fields during the fall than this particular measure.
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> * * * * * * *
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> This, in my mind, is a measure essentially to do something about unemployment through reducing our financial relations between the Government and the railroads to some kind of a proper solution. This does not affect the settlements between the railroads and the Government. It affects the financial settlements between them, or the financial adjustments. It does not affect the compensation or the damages or any other claims. I believe it is a distinct economic asset to this country, of the greatest importance, to restore a full degree of employment to labor.
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> * * * * * * *
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> The farmer is the big factor in our population. We can not be prosperous without the farmer being prosperous, but industrial labor and the industry of the country is also a vital factor, and you can not help the country unless you help it in all its important departments, because one part of this machine, being broken down badly, breaks down the whole machine.

It is no exaggeration to say that the entire business community, whether it is a corporation with capital running into millions or a small retail firm, we find a unanimous demand for a practical adjustment of the railroad situation, a return to the normal, a reduction of freight rates, and adequate service, safe equipment, and the avoidance of car shortage which is always followed by a coal famine.

This great compelling public interest is what concerns me.

We loaned to France, England, and Italy, our allies, enormous sums of money during the war; and, because of the war, these nations can not pay the loan now, so arrangements must be made for an extension of time.

We assumed control of our railroads for war purposes and they can not settle now, but can do so if given time. To demand cash and immediate payment from our allies would paralyze the industries of those nations and put Europe into bankruptcy. To demand cash and immediate payment from the railroads would throw them into bankruptcy or force Government operation and control, resulting in tremendous outlays of national revenues and enormous increase in our tax rate.

The two cases are almost parallel, and it is certain the effect will be the same.

In my opinion it would be bad business to force immediate settlement in either case. The underlying purpose of this legislation is not so much to help the railroads as to secure a return of normal conditions.

Some of the claims of the railroads may be extravagant, but it does not by any means follow that simply because they have a claim it will be paid. In no case will they receive compensation, or the funding power of extended credit, unless it has first been approved by the President.

We must not permit the prejudice of accumulated hostility to cloud our judgment in the consideration of this matter.

There have been periods in our history when public anger was properly directed to railroad management.

This bill does not solve, nor is it intended to solve, the larger questions which arise from the operation of a public utility whose proper function is vital to national prosperity.

The broader questions are postponed until the exigencies of this emergency have passed.

There are those who would seize upon this emergency created by war to force the railroads into bankruptcy and secure Government ownership. This would be, under the circumstances, unfair and dishonest.

Railroads passed through a period in our history which may be roughly divided into five parts:

First. The old railroad kings—resourceful, rough, and dominating—were pathfinders for an expanding colonization, and demanded in return for their adventures a large profit because of the gamble and uncertainty which attended the promotion of each enterprise.

Second. There followed an era of stock speculation, watered stock, combining of enterprises, and some disregard for public welfare.

The third period may be described as the period of resentment. This resulted in the formation of State commissions, usually composed of political favorites without railroad experience or knowledge, the enactment of 2-cent passenger rates, various irritating regulations, and created forms of State machinery which were not entirely helpful, and by their continuous change required the railroad president to keep one eye on the legislature of each State and the other upon the management of his property. There followed a confusion of rulings and regulations in the various States which did not always better the public service, but, on the contrary, in some cases caused an impairment of its efficiency.

The fourth period marked the disappearance of the old railroad king and the distribution of railroad stock into the hands of many thousands of the investing public, and in a large

number of cases the estates of widows and orphans, and the public to an extent became possessed of the holdings of the railroad king.

At this period a radical change took place in the character of the men who directed the railroad properties. Men of long practical experience in railroad building and management gradually came to the top. They brought with them a practical experience and a sound judgment which was not affected by stock speculation or the desire to make quick money by the manipulation of stocks and the overvaluation of property. Each railroad, as it passed into the hands of a receiver, had its management directed to a large extent by our Federal judges, and were to a degree fortunate in the selections which have been made by the Federal courts.

The fifth period, immediately preceding the war, found most of the railroads in the hands of competent and experienced men but suffering from a lack of money for reequipment, extension, or improvement of service.

The Interstate Commerce Commission had developed into a unique tribunal with extraordinary power. It has removed many abuses, educated the public in regard to railroad management, and furnished a forum before which the shipping public may secure a hearing.

The work of this commission has been in the main helpful, and the amount of statistics collected by it and placed in readable, condensed form is now making it almost impossible for men of the type of the old railroad king to operate without the public and the Government becoming cognizant of their plans.

The railroad management to-day is suffering for the sins of the old railroad kings, and some general reorganization, consolidation of systems, improvement of service, and reduction of rates is essential.

But these questions have no part in the matter immediately under consideration.

This measure promises employment to hundreds of thousands of men and women, may prevent a coal famine, and will, in the opinion of the President's agents, restore confidence, increase stability of railroad management, and be one more move toward that national condition of certainty and prosperity which existed before the war. [Applause.]

Mr. FESS. Mr. Chairman, will the gentleman yield there?

Mr. HAWES. Yes.

Mr. FESS. Many of these improvements that the gentleman has referred to were made also without the solicitation of the railroads, were they not?

Mr. HAWES. Yes; they were in some instances made over their protest.

Mr. FESS. So I understood.

Mr. RAYBURN. Mr. Chairman, will the gentleman yield?

Mr. HAWES. Yes.

Mr. RAYBURN. Were not some roads in such a condition that it was not safe to operate them under Government control and therefore it was necessary to make these improvements over the protests of the railroads?

Mr. HAWES. That may be true, Mr. Rayburn, but when the Government sent cars to one part of the country and then sent them to another part of the country it thereby made the railroad system what it ought to have been, an instrumentality for war purposes almost exclusively.

Mr. Chairman, I will not accept the responsibility of opposing a bill that may aid in a coal famine. I will not accept the responsibility of opposing a bill that may put millions of men at work. I will not accept the responsibility of opposing a bill that the President of the United States recommends to this Congress, and whose administration is left in the hands of men originally appointed by President Wilson. [Applause.]

Mr. WINSLOW. Mr. Chairman, I yield 10 minutes to the gentleman from Pennsylvania [Mr. JONES].

The CHAIRMAN. The gentleman from Pennsylvania [Mr. JONES] is recognized for 10 minutes. [Applause.]

Mr. JONES of Pennsylvania. Mr. Chairman, I am heartily in favor of the general purpose of this bill. I am so much in favor of it that I fear on a reconsideration of the bill the committee has weakened it, and it is to that phase of the bill that I shall address my remarks. I have only 10 minutes, so I will consider it a favor if you will permit me to proceed without interruption. My opposition is to the last paragraph of subsection (d) of section 3, on page 4, commencing at line 3 and going to the end of the page. This paragraph is either harmless and meaningless or it is a repudiation of the contract made by the Government in good faith. If it is the former, it is bad legislation, and if it is the latter it is vicious. The paragraph is as follows:

> In using any fund or moneys available under this or any other act for the purposes described in this subdivision, no payments or allowances shall be made to any carrier on account of the so-called inefficiency of labor during the period of Federal control. Such funds and moneys shall not be used in making any settlement between the United States and any carrier which does not forever bar such carrier from setting up any further claim, rights, or demands of any kind or character against the United States growing out of or connected with the possession, use, or operation of such carrier's property by the United States during the period of Federal control.

This fund is to be used for the purpose set forth in section 202 of the transportation act, which says that as soon as practicable after Federal control the President shall adjust, settle, liquidate, and wind up all matters, including compensation, and all matters of whatsoever character and nature arising out of or incident to Federal control.

The Government took these railroads under proclamation December 26, 1917. The Federal control act was approved March 21, 1917. This act authorizes the President or his duly constituted representative, the Director General of Railroads, to enter into contracts with individual carriers. Standard forms of contracts were drawn up by the Government and divided into nine sections. The first section dealt with privity of relationship and definitions. The first subdivision reads as follows:

> This agreement shall be binding upon the United States, the director general, and his successors and upon the company, its successors and assigns.

Section 2 dealt with property taken over; section 3, acceptance; section 4, operation; section 5, upkeep and accounting after expiration of term; section 6, taxes; section 7, compensation; section 8, claims for loss on additions; section 9, return of property.

Now, the railroads went back March 1, 1920, after 26 months of operation by the Government, and went back under the terms of the transportation act approved February 28, 1920.

At the end of Federal control there were mutual credits and debits growing out of the contract. The railroads were entitled to their rental fixed in the contract, the cost of the materials and supplies on hand when the Government took it, and all provable damages arising out of and under section 5. The Government, on the other hand, was entitled to reimbursement for additions and betterments properly chargeable to capital account.

The total amount of claims filed by the different carriers approximated $785,000,000. Up to the present time the Director General of Railroads has settled about $237,000,000 worth of claims and has settled them for about $75,000,000—about 30 cents on the dollar. The claims filed represent approximately 171,000 miles of road, or about 231,000 miles, or about 71 per cent.

Now, this is the method and the policy of the Director General in reaching this settlement with the carriers:

(a) Pay the compensation that is fixed in the contract.

(b) Pay for the materials and supplies; this is defined and determinable.

(c) Agree, if possible, on upkeep, section 5, for maintenance, repair, renewals, and depreciation. Approximately $365,000,000, or about 50 per cent of the amount claimed, is for this one item; that is, about one-half of the amount of the claim is claimed under a right growing out of section 5 of the contract, and it is the claims under this section of the contract that are variously termed "undermaintenance," "overmaintenance," and has in it the element which the author of the paragraph to which I object has been pleased to term "inefficiency of labor."

Section 5, in its subdivision (a), provides that the Government expend and charge to operating expenses sums for maintenance, repair, renewals, and depreciation to an amount equal to the annual expenditure and charge that the railroads paid for the same purpose during the test period. In other words, to return the railroads in as good condition as it received them, with due allowance made for increased cost of labor and materials.

Subdivision (d) of the section provides for accounting at the end of the term, and subdivision (h) is as follows:

> If any question shall arise, either during or at the end of Federal control, as to whether the covenants or provisions in this section contained are being or have been observed, the matter in dispute shall, on the application of either party, be referred and right may require, which shall be final as to the question submitted and shall be binding on and observed by parties hereto, except that either party may take any question of law to the courts if he or it so desires.

Now, this paragraph, at the end of subdivision (d), section 3, of this bill, if given any meaning at all, wipes paragraph 7 of section 5 out of the contract in so far as it allows an appeal to the courts if the so-called inefficiency of labor is an element going into the question of maintenance, repair, renewals, or depreciation, because you forbid—if you can, I doubt if you can—any moneys under this act or any other act being paid to any carrier where an allowance has been made on account of inefficiency of labor.

Mr. MADDEN. Will the gentleman yield for a question?

Mr. JONES of Pennsylvania. Just one question.

Mr. MADDEN. If the railroad companies themselves are willing to waive the right to go to court, what is the objection to accepting it?

Mr. JONES of Pennsylvania. I will answer the question in a moment. They forced them to accept the settlement of 30 cents on the dollar. That is the reason they waived it. You forbid that any of this fund or fund of any other act shall be used in making a settlement—I suppose partial or final—which does not bar the carrier from setting up any further claims and demands of every kind whatsoever. And if this is the effect of it, and I submit it can have that interpretation, then it is repudiating a contract made in good faith, which it says in specific terms shall be binding on both parties, and therefore vicious.

Now, whether the so-called inefficiency of labor is an element going into the question of maintenance, repair, and depreciation is immaterial, so far as the present administration is concerned. It has a defined policy and is committed to the theory upon which the settlement will be made, and the Director General says frankly he will not change that theory unless he is instructed to do so by the Supreme Court of the United States. The majority of the Interstate Commerce Commission have agreed with him, but two of the commissioners by dissenting opinions disagreed.

Now, what is inefficiency of labor, I ask you? The Federal control act does not use the term. The transportation act does not use it. The act of 1919 does not use it. It has no particular meaning; it has no legal meaning. The proponents of the paragraph do not know what it means. They say "the so-called inefficiency of labor," a humble confession that they do not know what it means. There is not a lawyer in the House who would use it in a contract, because it is too indefinite. What is inefficiency of labor? I do not know and you do not know.

Mr. TINCHER. Was there any proposition by the railroads to use any language of that kind in their contract with the Government?

Mr. JONES of Pennsylvania. No.

Mr. TINCHER. You are quite sure of that, are you?

Mr. JONES of Pennsylvania. Not to my knowledge.

Mr. TINCHER. I just wanted to know what the gentleman knows about it, that is all.

Mr. JONES of Pennsylvania. I venture to say that to some Members of the House there is not any such thing. They would say with the mountaineer who saw a douple-humped dromedary for the first time, looking at it in blank amazement and spitting out a mouthful of tobacco juice, "Hell! There ain't no such animal." There are other Members of this House who believe that the two laws that have raised the devil with industrial conditions of this country are the Adamson law and the son-in-law, and are led to believe that working and laboring conditions put into force by the son-in-law during Federal control was a mighty big element in the demoralization of the transportation system of the country. They are ready to assert that if the roadbed and the rolling stock of some particular carrier was in A-No. 1 condition when the Government took it, and that it cost that carrier a fixed price per mile on the average to keep it in that condition, they believe that if it cost 100 per cent more per mile to do it during Federal control because of increased cost of labor and materials, that it is a proper charge by the Government in operating expenses. But if after paying twice as much per mile the work was not done, and the roads were returned in a poorer condition than when they were received, and the railroad company was compelled to spend a sum of money to put the roadbed and the rolling stock in the same condition as it was when the Government took it, then it is a proper claim for damages against the Government, the opinion of the Director General of the Railroads to the contrary notwithstanding.

What is so-called inefficiency of labor? Who is going to determine it? It is not determinable anywhere now. It is not defined in the act. It can only be determined by the courts, and for that reason I say it is meaningless. When it goes into the courts they will disregard the words "inefficiency of labor," because these words mean nothing, and determine the rights of the parties under the contract.

You ask why I object to it, then. I object to it because, first, it is bad legislation, and, second, you force them into the courts; you tie the hands of the Director General so that he can not use any of the funds to pay any part of the claim in which this element is included, even though there is no objection to other parts of the claim, unless the railroad will waive the undetermined part. You defeat the very purpose of the bill, which is to give immediate relief to the railroads.

I ask you why you are not willing to allow the Government to pay the sums due and payable, definite and determined, and let the carriers take it into the courts for the balance?

Now, I do not know why this paragraph was put into the bill. This bill was like a shuttle in a loom—first it is in, then it is out, then it is in again. If it is "homeless," as some of the members of the committee think, then it is bad legislation and offered only as a sop to please some element.

I can only say to that that I do not take kindly to legislation that can not be passed on its merits but must be whitewashed or sugar-coated to go down easily. I am willing to stand up and fight for and vote for a bill because it is meritorious without any salve to swallow it.

The paragraph ought to go out. [Applause.]

Mr. RAYBURN. I yield 10 minutes to the gentleman from California [Mr. LEA].

Mr. LEA of California. Mr. Chairman, it is a common thing in commercial life to capitalize a credit, but as I understand this bill it is an attempt to capitalize a debt. This is capitalizing a debt because we take securities in our possession, now unsalable, and which evidence a debt due the Government, accept them as cash and advance that much more to the carriers. Until those securities do become salable in the investment market we are out $2, where before the passage of this bill it was only one.

I am opposed to this bill because it is not necessary to enable us to sell these securities for the purpose of paying the debts of the United States to the carriers. The power to do that already exists. I am opposed to it so far as it creates a new obligation of the United States in favor of the railroads on the ground that such a thing is not now justified.

The original Federal control act gave the President power to settle with the railroads on account of their Federal control, and also to set-off claims of the United States against the carriers toward the payment of sums the United States owed them. The President can exercise that power at his discretion.

If a complete settlement were made between the Government and the railroads to-day, the Government would owe the carriers nothing and the railroads would owe the United States not less than $700,000,000, and probably much more. Set-offs should be made, so far as that can be done at this time, with fidelity to our agreement.

When the United States took over the railroads we assumed two definite financial obligations. The first was that we were to pay the railroads a standard return equivalent in amount proportionately as to time to the earnings of the roads during the three years ending June 30, 1917. The second obligation was that the United States would return the roads in substantially the same condition as when taken over by the Government. Those terms, as in substance stated by the gentleman from Indiana [Mr. SANDERS] were favorable to the railroads. In fact it is admitted by everyone that the Government made liberal provisions to compensate the carriers. The usual term of rental contracts is that the property shall be returned in the same condition, reasonable wear and tear excepted, while this contract agreed to compensate the roads for their use, including the usual wear they would suffer.

At the conclusion of the Federal control the roads passed back into the hands of their owners with very large liabilities from each side, but in amounts indefinite to a large degree.

The standard return, however, was an absolutely definite proposition, conclusively fixed by certificates to be issued by the Interstate Commerce Commission. The only question of doubt as to what the United States owed was on account of the uncertainty of what was necessary to place these railroads in substantially the same condition as they were when taken over.

In my judgment, two things in reference to this matter are certain. Just settlement should be made with the railroad companies, and whatever sums are definitely due them, whether a part or the whole of any amounts finally due them, should be promptly paid.

In the next place, it is apparent that the railroad companies can not immediately settle with the Government for all balances due, particularly for part of the additions and betterments furnished them during the war by the Government and which are not ordinarily supplied by railroad companies out of current income and which some companies have been otherwise unable to finance up to this time because of abnormal conditions.

The sale of War Finance Corporation bonds is not a legitimate method by which to liquidate the obligations of the Government. The Treasury of the United States is the agency of the Government established for that purpose by law and which

has performed that function the whole of our national life. The War Finance Corporation bonds have been properly sold to finance the legitimate business of that corporation. But it is not the proper agency through which to liquidate the definite obligations of the United States Treasury.

To-day the proposition presented to the House is this: The United States advanced $1,144,000,000 on account of the betterments and chargeable to their capital account. The railroads as evidence of their responsibility therefor have given certain securities to the United States. These securities are simply promises to pay, in some instances accompanied by collateral. The law originally provided that on settlement an offset should be made of sums the railroads owed the Government on account of additions and betterments.

Mr. SANDERS of Indiana. Will the gentleman yield?

Mr. LEA of California. I can not just now. They propose to secure more money on account of their debts now owed the United States. It is proposed that the President sell these securities to the War Finance Corporation which is an agency of the Government and which is part of the Government. The liability which the War Finance Corporation creates is in substance, if not technical form, a charge against the Treasury of the United States.

When the United States takes these securities as proposed they become the property of the United States. We cease to be holders of them for security and become owners of them. It is proposed that we sell these to the War Finance Corporation. Then there will be three ways we can get the money for which these securities were given the Government. The first is to resort to the Treasury of the United States. There is not sufficient credit in favor of the War Finance Corporation in the Treasury of the United States, so that can not be done. The next way, the one which will actually be followed, is that the bonds of the War Finance Corporation will be issued and sold and from funds so secured money will be taken by the Government and turned back to the railroads to make these adjustments, and give these railroads cash for some items which many of us believe should be set off.

If the Government does not sell the War Finance Corporation bonds, the only remaining method by which the money could be secured would be to sell securities of the railroads themselves. That can not be done. There is no market for such securities. There would be no use for this bill as far as paying our debts to the railroads are concerned, if that could be done. The primary purpose of this bill is to sell War Finance Corporation bonds on the credit of the United States and not railroad securities. We will sell the War Finance Corporation bonds instead of the railroad securities which can not be sold. Therefore every dollar you raise by this method is based on the credit of the United States and not upon the railroad securities. After the money is raised we will still hold the railroad securities.

The President has the power under existing law and always has had the power to sell the securities of the railroad companies held by him. You can not stand before Congress to-day and say it is necessary to have this law to sell the railroad securities for funds with which to pay the debts of the United States. We already have that power.

If the bonds were salable and we could sell them and with that money pay our debts, there would be no use for this machinery. Our debts can be paid as far as they are payable without this law, and the real object of the law is to create a new debt against the United States.

Consider what we have already done for the railroads. In the first place, we paid the standard return, which was a liberal rental. We are responsible for putting their properties in the same condition as when we took them over. What else did we do? We advanced them $1,144,000,000 for additions and betterments. The railroads are to-day using the locomotives and freight cars for which the United States advanced the money.

After the war the control period ended and without any legal obligation whatever upon the Congress to do so last year a guaranty was voted, on which the railroads have received $433,700,967, and upon which balances are due that will aggregate about $600,000,000. It is useless to talk about whether we did a foolish or a wise thing, but no man can now say that we did not treat them very liberally when we gave them in effect a subsidy out of the Treasury of the United States of $600,000,000. In addition to that, we loaned them $300,000,000 as a revolving fund, to be administered through the Interstate Commerce Commission, in addition to what we had given them through the Railroad Administration. [Applause.]

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. PARKER of New York. Mr. Chairman, I yield 10 minutes to the gentleman from Kansas [Mr. HOCH].

Mr. HOCH. Mr. Chairman and gentlemen of the House, I realize that it is utterly impossible to go into a complicated matter of this sort in any detail in 10 minutes. I want in opening to say a word in reference to the statement made by the gentleman from Pennsylvania with reference to certain provisions in the bill, particularly with reference to the claims based on inefficiency of labor. I do not intend to discuss them now, but I can not let the occasion pass without saying that in my judgment if you remove the provision to which he referred you remove a provision which immeasurably impairs the justice and the strength of the measure. He refers to the indefiniteness of the term "inefficiency of labor." That is true—it is vague and indefinite, and yet with reference to that the railroads are attempting to secure from the Government many hundreds of millions of dollars. It is that very indefiniteness which largely causes the objection to it. It is an expression that the railroads themselves used, because they attempted to insert it in the standard contract before the contract was made, and upon the opposition of the Director General it was stricken out of the contract, and they signed the contract without those terms in it, and now to-day they come before the country and seek to recover hundreds of millions of dollars on this indefinite, vague, speculative matter of inefficiency of labor. I shall have more to say, if occasion requires, under the five-minute rule on that proposition.

Just a word or two with reference to the bill. I have not made a partisan talk since I have been a Member of this House, and I shall not indulge in one now, but we all realize how easy it is, from a political standpoint, to make an attack on a measure of this sort. I come from a country, as most of you do, where the situation growing out of the high rates is most deplorable. I know the feeling, and I share in that feeling, with reference to the situation that exists in the country, but I want to say to you, after hearing the testimony on this bill, that in my judgment the man who refuses this only practical method which is now offered for financing these obligations already existing does something which will definitely postpone the day of rate adjustment and the general lowering of rate levels. [Applause.] Where do these obligations arise? My Democratic friends, every obligation sought to be met by this bill is an obligation growing out of the Federal control act, which was passed under your administration. I am not here now to discuss the merits or the demerits of that.

Not a dollar made available by any fund under this bill will be used to satisfy any demands with reference to the six months' guaranty period. Let that be kept clearly in mind. The guaranty period is not involved in any way in this proposition. We are only seeking to finance here the obligations which the Federal control act placed on this country, and we say, being in a place of responsibility, that we propose that the Federal Government shall stay true to its obligations, however much without merit some of those obligations may be. [Applause.] I say that gentlemen on the Democratic side come with poor grace when they come here refusing to assist in a plan made necessary solely by the obligations which their legislation put upon the country. That is the meat of this proposition.

What is the settlement involved here? What do we owe the railroads? I mean out of what does the indebtedness arise? It arises mainly out of the guaranty of standard return which was provided for in the Federal control act passed by a Democratic Congress. And I say to my friend, Mr. RAYBURN, from Texas, that he and I do not agree on that. He says he voted for the guaranty. I voted against it when the same proposition was presented in the transportation act. But that guaranty is here, and it is a matter of obligation which was put upon the country. In the second place, the Democratic Congress agreed in the Federal control act to turn the roads back to their owners in as good condition as we got them. That is now a solemn obligation which no man who believes in maintaining the honor of his country could repudiate. What do the railroads owe us? During the period of Federal control we spent over $1,000,000,000 on additions and betterments; or, in other words, permanent improvements. What is the proposition; what is the heart of this? To what extent shall the indebtedness of the railroads for additions and betterments be offset against the indebtedness of the Government to the railroads? If gentlemen here would follow out that proposition and refuse to fund any of that indebtedness of the roads to the Government, what would it mean? It would mean that they would compel the roads, out of 26 months of operation, out of their earnings for 26 months, to pay cash for over a billion dollars'

worth of additions and betterments, a thing which has never been done in the history of railroad financing and would vastly increase freight and passenger rates if it were done.

Mr. MADDEN. Which they would have been able to fund themselves if the Government had not taken control.

Mr. HOCH. Certainly. No fair man could compel them out of their earnings of 26 months to pay for over a billion dollars' worth of additions and betterments, and that is all there is to it. We propose the only practical means offered for funding part of that indebtedness of the railroads to the Government. Some one asked, "What about the securities of the railroads that we hold; can we ever realize on them?" My friends, the Government spent the money—over a billion dollars. That money is gone; it is spent. We hold the obligations of these roads. We hold all of the assets of the railroads. If their securities are not salable, then the security of the obligation that they owe us is diminished to that extent, whether we sell them now or do not sell them. We can not escape the fact that the Government, under the last administration, spent over a billion dollars on additions and betterments for the railroads, and they owe us that money. You seek to compel them, if you refuse the funding proposition proposed to-day, to do a thing which is utterly impossible for them to do.

Mr. FESS. Mr. Chairman, will the gentleman yield?

Mr. HOCH. Yes; I yield.

Mr. FESS. Much of the obligations that the railroads have, that they can not meet, is due very largely to Government operation.

Mr. HOCH. Absolutely.

Mr. FESS. And if we would prevent their bankruptcy, is not the alternative either to appropriate money out of the Treasury or to do this?

Mr. HOCH. There is no escape from it. Unless this country proposes to do violence to the contract which it has made with the railroads, a contract which was made as a result of the Federal control act, which was passed in the last administration, there is no escape from it. That is all there is to this proposition in a nutshell. We are not giving any additional power to fund to the President. The President already has that power. He has funded as, of course, he had to fund. It was impossible, of course, for the railroads to raise all at once $1,000,000,000 for additions and betterments. This bill does not add $1 of obligation to what the Government now owes. It does not recognize $1 of any new obligations. Its whole purpose is to help in a practical way, considering the financial condition of the country, to finance obligations that already exist.

I want to call attention to one or two provisions of the bill, but I have not the time to go into it. I call attention particularly to a provision limiting the time in which claims may be filed. It provides that all claims must be in within a year. That is right. Let us have this unfortunate experience of Government operation of the railroads closed up and be done with it.

The committee has also put in a provision that when this settlement is made it shall be a final settlement. By this bill when the settlement is made the railroad is forever barred from setting up any further claim of any sort whatever against the United States growing out of or incident to the Government's operation of the railroads.

Taking advantage of this situation, but acting in fairness, and forever ruling out hundreds of millions of speculative and, in my judgment, wholly indefensible claims; in fixing a time limit for filing claims and providing for a final settlement and closing up of the whole business, Congress here provides legislation that safeguards the Treasury in every possible way. The Congress is simply trying to meet in the most practicable way and with the least possible demand upon the Treasury and without making additional appropriation or levying additional tax the obligations which already exist and which must somehow be paid. Under present estimates the total net loss to the Government out of its experiment of running the railroads for 26 months will be around $2,000,000,000, or about $3,000,000 a day. The Democratic Party was in power; it was doing the dancing; but now Democratic Members here are trying to embarrass the Republican Party, which is trying to get the fiddler paid as cheaply as possible. It may be good politics, but it is mighty poor sportsmanship. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. RAYBURN. Mr. Chairman, I yield 10 minutes to the gentleman from Washington [Mr. WEBSTER].

Mr. WEBSTER. Mr. Chairman and gentlemen of the committee, I find myself in a very peculiar predicament. I am one of the Republican members of the House Committee on Interstate and Foreign Commerce and from the inception of this legislation I have been one of its strongest supporters. I voted in favor of the measure in committee every time the opportunity to do so presented itself. During the closing hours of our deliberations, however, a provision was incorporated into the bill which is highly obnoxious to me, and I undertook to state my views to the committee at that time. I reserved the right at the proper time to move to strike out the objectionable language even to the point of reserving the right to vote against the bill in the event this language was retained. What I am endeavoring to do is to get the bill modified so that I can support it. Notwithstanding this, Mr. Chairman, the Republican chairman of the committee has denied me any time to present my views. Refusing to be gagged because I choose to differ with him, I appealed to my good friend from Texas [Mr. RAYBURN] and he has been generous enough to allow me 10 minutes in which to present my views before the Committee of the Whole. [Applause.] I wish now to acknowledge my indebtedness to the gentleman for his very great kindness and generosity. The only provision in this bill to which I object is one which to my mind involves repudiation of a national obligation and whether my views be sound or not, surely they are so serious as to warrant my being given a fair opportunity to present them. The language I have in mind is this:

> In using any fund or moneys available under this or any other act, for the purposes described in this subdivision, no payment or allowances shall be made to any carrier on account of the so-called inefficiency of labor during the period of Federal control.

Gentlemen of the committee, permit me to remind you that we provided in the transportation act of 1920, the so-called Esch-Cummins bill, that if any railroad company is unable to agree upon a settlement with the Director General of Railroads that company has the right to go into court for an adjudication of its claims. You say by this language that if any railroad company elects to exercise the privilege that this Congress has conferred upon it that neither the fund provided by this or any other act shall be used in satisfaction of any judgment that it might obtain. My friends, has it come to a point where the American Government will execute a solemn contract and then on an ex parte proceeding, denying the other party to that contract an opportunity to be heard, undertake to put its construction upon the contract and to deny an effective appeal to the court? Yes, worse to say in advance that you will not satisfy a judgment of the Supreme Court of the United States even though it is in a case where the court has competent jurisdiction and in a case where the litigant has an express right to sue.

So far as I know, Mr. Chairman, this Government has never yet started upon the uncertain path of repudiation. Be it said to the credit of the Congress of the United States we have always maintained the integrity of the obligations of this Government. It is my belief that this bill marks a departure from that course. It is my sincere conviction that this provision amounts to plain, bald, hideous repudiation of a solemn contract obligation arising out of a contract executed by the President of the United States in behalf of the American people pursuant to an act of Congress.

Mr. GRAHAM of Illinois. Will the gentleman permit a question?

Mr. WEBSTER. A brief question.

Mr. GRAHAM of Illinois. I desire simply to ask whether or not the gentleman's objection is not equally applicable to the remainder of the paragraph?

Mr. WEBSTER. I think it is, but what I am endeavoring to do is to make it perfectly plain to this committee that by voting for the language to which I have referred you are voting for a measure the palpable effect of which may be a repudiation of a contract obligation.

Mr. WALSH. Will the gentleman yield?

Mr. WEBSTER. I can not yield; the time I have is so short and it was so difficult to obtain what little I have that I can not yield. [Applause.] What I started to say was this, whether or not this so-called inefficiency of labor constitutes a valid claim depends upon the construction of the standard contract in all cases where the railroads had a contract with the Government. In cases where there was no contract, then it depends upon the construction of applicable principles of law, but not a member of the Committee on Interstate and Foreign Commerce will say that he has examined the standard contract in respect to this item. Not one of them will claim that the party whose rights are being injuriously affected was accorded a hearing before our committee.

Mr. HOCH. Will the gentleman yield?

Mr. WEBSTER. I decline to yield. And not one of them will say that he has examined the law in the light of any concrete state of facts giving rise to so-called inefficiency of labor

before he made up his mind to vote for this amendment to the bill which may involve repudiation of a solemn debt.

Mr. Chairman, it is not permissible under the plainest principles of honesty and fair dealing for one party to a contract to undertake in legislative form to make effective its interpretation of the provisions of that contract and to serve notice in advance that if the Supreme Court of the United States entertains a different view it will not satisfy the judgment. Oh, it has been suggested in informal discussions that it is not permissible for one Congress to trench upon the power of another, and that even though this bill by its terms undertakes to do so any other Congress can change. Of course, that is true, but it demonstrates the unwisdom of incorporating any such provision in a law. Of course, Congress can repeal it, and that demonstrates my position. If the Supreme Court should render a judgment in favor of any railroad company, growing out of this so-called inefficiency of labor, before that judgment could be paid you would have to repeal this law, which proves that you have repudiated the obligation in advance or it would not be necessary to repeal the law in order to pay it. But, Mr. Chairman, this "so-called inefficiency of labor" incorporated here is a high-sounding term for propaganda purposes. The railroad companies are presenting to the Railroad Administration no specific or definite claim for any sum of money arising out of inefficiency of labor. The question comes back to the problem of whether the position adopted by the Railroad Administration amounts to a compliance with the Government's undertaking to turn the railroads back to their owners at the termination of Federal control in as good condition as they were at the time they were taken over.

Mr. Chairman, this language, to my mind, can not be defended, and I say this with the utmost respect for its author. I do not believe he intended that it should have the effect which it obviously will have. But God forbid that I should be one of those first to go on record in this body as repudiating an obligation arising out of a solemn contract based upon an act of Congress. And if this language remains in this bill I shall be constrained to vote against it. I can not do otherwise. [Applause.]

The CHAIRMAN. The time of the gentleman from Washington has expired.

Mr. WINSLOW. Mr. Chairman, I yield five minutes to the gentleman from Kansas [Mr. TINCHER].

Mr. TINCHER. Mr. Chairman and gentlemen of the committee, when the contract was entered into between the Government and the railroads the railroads tried to get the Government to submit a form of contract by which they tried to get the Government to agree to pay many other items to them after they surrendered the roads back in damage caused by the decrease in the efficiency of labor. That matter was pending for weeks, and the concession was finally made, and it is one of the only concessions the Government got in that contract. The gentleman who preceded me has held position as a judicial officer, although his temperament to-day does not appear to be very judicial.

Mr. HOCH. Will the gentleman yield?

Mr. TINCHER. I will.

Mr. HOCH. The gentleman neglected to state that that was stricken out of the contract.

Mr. TINCHER. That was pending for weeks and went out of the contract that this Government made with the railroads. And it is not in the contract now, though they begged to have it in. When the railroads went back to the owners under the Esch-Cummins bill, concerning which many of us did not have as much information as we should have had when we voted on it—when they went back, the railroads filed claims aggregating $900,000,000, or nearly so, under this item, and they tried to get it into the contract. But it is not in it. Now, we are going to settle with them.

And as to this bill I have several reasons for being for it. I want to settle up with the railroads and get rid of the director and his 2,000 employees. I want to settle with them while I can do so without appropriating money out of the Federal Treasury. I supported the rehabilitation of the War Finance Corporation when the manufacturers and agriculturists had to be rehabilitated, so it could function for them, and I am glad of the fact that I supported the rehabilitation, and that it is here to-day as a Government agency to function in rehabilitating these industries, so that the taxpayers will not be called upon to put up a dollar for the railroads. [Applause.] I voted in the conference the other day to pass this law before we went home, because it is a good law. And I think we ought to be showing the American people where we stand. But, unlike the gentleman from Washington [Mr. WEBSTER], I am not afraid to tell the people where I stand on the $900,000,000 trade, made by the most inefficient railroads in the United States.

The railroads that have the biggest claims for inefficiency during the war were the railroads that were tottering on the verge of bankruptcy when the Government took them over. I have the nerve to say to the American people that the railroads tried to get that into their contract, and as one Member of the American Congress I will not vote to give any Government assistance to the railroads, except for a bill that expresses itself clearly against that $900,000,000 graft that the other railroads are trying to perpetrate on this country. It is time the common people and the taxpayers of this country had a fair expression on the part of their Congress. It is not complicated. There is nothing complicated about this proposition of the $900,000,000.

Mr. CONNELL. If the railroads have already waived that right, then what harm would there be in having this language on page 4, line 13, in the bill?

Mr. TINCHER. There would be none. The Director General has decided it. The President of the United States has instructed him not to settle the fictitious claims, and this bill is in sympathy with that administration of law. If the Director General should die to-night, and if under the law that my friend from the far West supported so earnestly his successor should wish to do otherwise, he can begin a process of settlement for inefficient labor and take the money out of the Federal Treasury to make those settlements with. [Applause.]

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. COLLINS. Mr. Chairman, every person of ordinary intelligence who has read this bill knows that it is not a bill to reduce and equalize taxes generally, but rather a bill to reduce and equalize the taxes of a handful of profiteering millionaires and Wall Street corporations. Its title, therefore, is a gross misrepresentation, and was given solely for purpose of fraud and deception. The bill is a Wall Street product pure and simple. The Republican members of the Ways and Means Committee did not write it nor do they even claim to have done so. The invisible few who are responsible for it know full well its provisions, and this is the reason that prompted them to cause the adoption of a rule which forbids a Member of Congress to offer any amendment to it. It suits this handful of campaign contributing millionaires, and they do not want it harmed, so it will be jammed through this House without material change or alteration. It suits the United States Steel Co., the packers, the Lumber Trust, the coal combine, and other great privileged interests and their kept press, and since their wishes have been carefully considered, and their interests cautiously guarded, amendments will not, therefore, be tolerated. This has been settled.

TALKING POINTS.

Of course, the bill had to have its talking points. A few good provisions of little consequence had to be inserted so as to give some color of excuse to those who were made to vote for its passage. No class knows better the necessity for this than those who have in the past and are now wringing their millions out of the people of this country. Chief among these beneficial provisions is the repeal of the 3 per cent tax on freight rates, the tax on passenger travel, also the additional exemption of $500 on individual incomes, and the added exemptions on account of dependent children, also the so-called luxury tax on clothing. These were taxes that the public had to pay day after day; they were direct taxes, taxes that were so to the front that the public was constantly aware of the burden of them and a complaining people forced their repeal.

It has been stated on this floor that the tax on soft drinks has been repealed and much has been said for this provision of the bill. This statement is not true, however. The direct tax on soft drinks has been taken off, but an indirect tax has been placed on these same drinks in its stead. The child who buys a soft drink will still pay a tax but will not know it. This bill provides that the sirups from which the drink is concocted shall be taxed, that the carbonic acid gas is taxed, that the fruit juice is taxed, that mineral and table waters are taxed. Besides these there is a license tax on soft-drink dealers. Of course, these will be passed on to the consumers and the child will pay the tax as heretofore. One is reminded of Adam Smith's definition of indirect taxation, "A method of extracting the most feathers from the goose with the least squawking."

This is not the only instance where the burden is shifted, but serves as an illustration of the purposes actuating the framers of this bill. They propose to give no relief whatever

to the public generally. Their concern is for the rich, their motto being, "If you take a dollar from the rich man, he will kick; if you take a penny from the poor man he will not complain; therefore permit the rich to retain their dollars and separate from the poor the necessary number of pennies." It may not be wise but it brings in campaign shekels.

TAXES BURDENSOME.

It is never a pleasant duty to levy taxes or to pay them, and human beings alike object to them. But they must be levied and paid if the Government is to function. I believe that they should be paid according to ability to pay. In other words, the burdens of the Government should rest upon those best able to bear them. The rich receive a larger share of the benefits of Government and hence should pay a larger share of its cost. This theory of taxation is accepted as correct and just, and even the sponsors of this bill will not publicly controvert it. But this bill is far from carrying out this theory of taxation; it would increase the tax to be paid by the farmer, the wage earner, and the salaried man from 24.6 per cent to 50 per cent.

If the expenses of the war had been paid, there might be some excuse for some of the provisions of this bill. The indebtedness from the war is about $25,000,000,000. Of course, about $10,000,000,000 of this is owed us by our former allies. Everyone admits that a large part of this debt will not be paid. It is probable that none of it will be paid. Not a penny of the interest on any part of it has been paid to date. It is therefore safe for this body to assume that the American people will ultimately pay the entire indebtedness of $25,000,000,000, although I am in favor of making them pay it in full. The interest on this amounts to about $1,000,000,000 annually, and this must be paid; otherwise the debt increases. This one item amounts to more than was necessary to pay the entire cost of the Government before the war. It is imperative also that a part of the principal be paid, too; otherwise the cost of the Government will not decrease to any extent. In order to bring this about this House should refuse to yield to the demands of the profiteer to have lifted from his shoulders his fair share of the expenses of the Government. We must bear in mind that our country has this tremendous debt, and this debt must be paid. We can put off the day of payment, but we can not keep doing this indefinitely. And this Congress should not be shortsighted enough to undertake to do this.

THE FIRST FAVOR.

The first favor that I would direct your attention to is to the United States judges and to the President. Their salaries are exempted from the income tax. Just why they were picked out I am not in a position to say. I know that big business has always relied on Federal judges to take care of them and to shield them. I know that they and their hired press are continually berating the legislative branch of the Government and at the same time extolling the alleged virtues of the judiciary, but never did I suspect that they would be bold enough to undertake what is undertaken here. Perhaps the reason for this exemption can be traced to the numerous decisions of courts which are flagrantly partisan to big business, a notable recent example being the decision exempting big business from taxes on stock dividends. It may be argued that turn about is fair play. I imagine, however, that this exemption is not going to appeal to the American people, for their sense of fairness rebels at special privilege for any one class.

EXPRESS COMPANIES FAVORED.

One of the most beneficial pieces of legislation that has ever been enacted by an American Congress was that providing for a Parcel Post System. It not only helped the farmer, by giving him an agency through which to ship his produce, and so forth, but it also saved him and the entire public millions of dollars both in cheap rates and the forcing down of express rates. This tax bill instead of helping the Parcel Post System is calculated to materially injure it, by taking the tax off of express companies to the extent of about $17,000,000 per year. But what of the tax on the parcel post? Why, bless your souls, it is left there. In other words, this bill is in the interest of the express companies and against the interest of a governmentally owned and operated Parcel Post System. The passage of this bill may be the beginning of the end of this splendid institution.

FAVORS TO ANOTHER CLASS.

Another provision of this bill which can not be defended is that one which exempts from taxation those corporations and persons 80 per cent of whose incomes are derived from business done in foreign countries. Of course, this will help the Standard Oil Co., the United States Steel Corporation, the packers, the Du Ponts and similar corporations equally large, for they will immediately organize, if they have not already done so, corporations to take over their foreign business so that this law will exempt such subsidiary companies from the burden of taxation, and they will not pay a cent of tax on the billions they will make as profit. The Government will continue to spend hundreds of millions of dollars in appropriations to the Army and Navy to protect the property of these corporations and individuals in their foreign investments, but they will pay nothing whatever in support of these agencies of the Government. This is not right and not fair, and will not be countenanced by the American people when they wake up to the realization of this phase of the bill.

RICH INDIVIDUALS RELIEVED OF SURTAXES.

The repeal of the higher surtax on individual incomes is also provided for in this bill. It is stated that this should be repealed for the reason that the men who have great wealth have put their money into tax-exempt securities and are not now investing it in the industries of the country. It is stated that if we will take off these surtaxes these men will then give labor a chance to work and that the country generally will be improved by relieving them of the burden of taxation. And just who are those whom this bill relieves? Let us open our eyes that we may see. We find first that no relief is given to those making less than $66,000; but if one makes over this amount he is relieved in proportion to the amount he makes. If he makes $70,000 his taxes are $20 less than now or one thirty-fifth of one one-hundredth part of his total income. But if his income is $2,000,000 his tax is reduced by one-third of his total income. In other words, $66,000 per year income is taken as the basis or standard, and if one makes below this amount no change is made in the surtax. He pays as he pays now. He has to be real rich in order to get a reduction. He has to make over $66,000 per year. On this amount the tax is 32 per cent. There are 4,499 people paying above the 32 per cent, and of these 627 had incomes in 1918 of $300,000 and over and 67 had incomes of $1,000,000 and over. These are the people that this bill takes care of and whose interests give this Congress so much concern. There are over 110,000,000 citizens in the United States, but the American Congress is not worried about them. There are over 6,000,000 people out of employment, but this Congress is not anxious about them. None of them owns big newspapers. They are not able to put out propaganda. They are not able to furnish campaign contributions and Congress is not asked to keep faith with them, but rather *is* asked to keep faith with 4,499 of the big rich who made their millions out of the suffering and misery of human beings. The following table, prepared by Mr. Beck, which I am incorporating in the RECORD as a part of my remarks, shows exactly how the big rich are taken care of:

Tax on individual income.

Income.	Normal tax; no change.	Surtax.		Total tax.		Reduction by proposed law.
		Present law.	Proposed law.	Present law.	Proposed law.	
$70,000	$5,280	$11,210	$11,190	$16,490	$16,470	$20
$72,000	5,440	11,800	11,830	17,330	17,270	60
$74,000	5,600	12,500	12,470	18,190	19,070	120
$76,000	5,760	13,310	13,110	19,070	18,870	200
$78,000	5,920	14,050	13,750	19,970	19,670	300
$80,000	6,080	14,810	14,390	20,890	20,470	420
$82,000	6,240	15,590	15,030	21,830	21,270	560
$84,000	6,400	16,390	15,670	22,790	22,070	720
$86,000	6,560	17,210	16,310	23,770	22,870	900
$88,000	6,720	18,050	16,950	24,770	23,670	1,100
$90,000	6,880	18,910	17,590	25,790	24,470	1,320
$92,000	7,040	19,790	18,230	26,830	25,270	1,560
$94,000	7,200	20,690	18,870	27,890	26,070	1,820
$96,000	7,360	21,610	19,510	28,970	26,870	2,100
$98,000	7,520	22,550	20,150	30,070	27,670	2,400
$100,000	7,680	23,510	20,790	31,190	28,470	2,720
$150,000	11,680	49,510	36,790	61,190	48,470	12,720
$200,000	15,680	77,510	52,790	93,190	68,470	24,720
$300,000	23,680	137,510	84,790	161,190	108,470	52,720
$500,000	39,680	263,510	148,790	303,190	188,470	114,720
$1,000,000	79,680	583,510	308,790	663,190	388,470	274,720
$1,500,000	119,680	908,510	468,790	1,028,190	588,470	439,720
$2,000,000	159,680	1,233,510	628,790	1,393,190	788,470	604,720

The above comparison is upon the basis that the surtax upon all income above $66,000 shall be 32 per cent. No change is made in the rates of surtax on incomes of $66,000 or less, nor is there any change made in the normal tax rate. Exemption is taken in the above comparison at $2,000.

PROFITEERING CORPORATIONS RELIEVED OF TAX ON EXCESS PROFITS.

Another scheme proposed is the repeal of the excess-profits tax and a substitution therefor of a flat 12½ per cent tax in its stead. The result of this will be that about 2,000 corporations which have been profiteering to an unlawful extent will be relieved of about $500,000,000 of their taxes. The result will be, naturally, that their burdens will be lightened and the burdens of those least able to bear them will be made heavier. This is at variance with every idea of right and justice. Those corporations made over $38,000,000,000 during the war. This amounts to about 15 per cent of the total wealth of the Nation, and if this rate was kept up it would not be over 10 years before the whole country would be owned by these concerns. Now they propose, and this Congress is heeding their commands, to relieve them of any tax whatever on excess profits. In other words, this provision of the bill means that profiteering will be encouraged rather than curbed; that a premium will be put upon profiteering, as I will later demonstrate. Let me show you exactly what is done under this provision of the bill. Under the law as it stands now the profits of corporations are exempt from taxation to the extent of 8 per cent, and in addition to this there is a $3,000 exemption to all corporations. The excess-profits tax does not begin to run until both the 8 per cent exemption and the $3,000 exemption have been deducted and then it is only a 20 per cent tax on the earned profits of the corporation if the corporation makes 20 per cent or less, but if it makes less than 8 per cent and the $3,000 exemption no tax whatever is paid. When the profits have exceeded the 8 per cent exemption and the 20 per cent just mentioned, then 40 per cent is taken, or $2 out of every $5, but only of such profits as exceed the 8 per cent and the 20 per cent just mentioned. This tax, in my judgment, is not exorbitant but just, and if the corporation objects to paying it, it can easily remedy this by making less profit.

Corporations that made reports to the Treasury Department in 1918 numbered 317,579. Of these 115,518 made no net income. Of those remaining 68,973 were below $2,000 net income, leaving 133,088 that reported a total war-profits and excess-profits tax of $2,505,565,939 for 1908, and of these 1,026 contributed over $1,400,000,000, or about 55 per cent of the total. These 1,026 big profiteering corporations are the ones that this bill takes care of, for at a glance at the table that I am putting in the RECORD, prepared by Mr. Beck, one will easily see that the proposed scheme is intended to relieve simply the few wealthy concerns of the country. The repeal of the excess profits is a nice gift to them, but it will increase the burdens of the more than 300,000 of the other smaller and weaker corporations. It is claimed that this is necessary, because large incomes are being diverted into tax-exempt securities to the serious detriment of industry. The profiteers who jobbed the Government and robbed the public during the war and who are still at it must be placated, otherwise the wheels of industry will not turn. It is all right to argue this, but no one believes it. If this Congress is seriously anxious to stop profiteering it could easily accomplish this. But, although this is pretended, it is not desired. I do not know of anyone of sound intelligence who believes that a corporation making 40 per cent profit over and above all expenses and taxes would be fool enough to invest its capital in securities yielding 6 per cent or less.

It is also claimed that these excess profits are not paid by the corporations, but are shifted on to the consumer, and that in the end the latter pays the bill. This, according to my judgment, is sheer nonsense, and I can not better answer this than to insert in the RECORD a letter from Prof. David Friday, of the University of Michigan, to the members of the Ways and Means Committee. The letter was written in the early part of this year, and I am sure it will be interesting to all of you, for Dr. Friday is a very eminent authority on the subject of political economy:

EFFECT OF EXCESS-PROFITS TAX ON THE RISING PRICE LEVEL.

To one acquainted with the course of prices, profits, and taxes there are disturbing facts which do not harmonize easily, to say the least, with this glib theory which finds in the excess-profits tax the chief cause of the rising price level. The price level did not wait for the advent of the excess-profits tax in America. It started its ascent in July, 1915, and continued it blithely until in March, 1917, the month previous to our entrance into the war, it stood at 160 per cent of the 1913 level. It continued its rise until July, 1917; at that time it stood at 185. No excess profits tax law had yet been passed. The first law was passed in October, 1917, but no material rise in price occurred for some months thereafter.

Under the first excess-profits tax law the combined corporations of the United States paid 15.27 per cent of their reported net income in excess-profits tax. After doing so they had remaining net income equal to 210 per cent of the highest amount which they had earned in any prewar year.

For the year 1918 excess-profits rates were increased to the point where they absorbed approximately 25 per cent of the profits of that year. In 1919 the rates were materially reduced. As against $2,400,000,000 of taxes in 1918, they yielded only one-half that amount in 1919. Prices in 1918 averaged 197 as against 175 in 1917 and 160 the month previous to our entering the war. Despite the reduction of the tax in 1919 prices stood at 238 in December of that year.

What we have then is a rise of 60 per cent in the price level before any excess-profits tax was either levied or discussed, and a further rise of 27 points before the tax was passed. Then a comparatively slight rise in prices during the period of our highest excess-profits taxes, and a renewed and rapid rise when the amount of the tax was cut in half.

If one were satirically inclined, he might affect to look with apprehension upon a further reduction in the excess-profits tax. This brief review of the course of prices and of taxes certainly casts serious doubt upon the assertion that "the effect of excess-profits taxes on business enterprises, and on the high cost of living, is so evident as to require little explanation."

Nor does a study of the course of profits lend any support to the statement that "for every $6 or $7 taken from the consumer, ostensibly for excess-profits tax, only $1 ever reaches the United States Treasury." It would follow from this that profits had increased not merely by the amount of the tax but that they had far outrun the amount collected by the Government. But this is not what the statistics of profits disclose. They show profits as follows before deducting taxes:

1913	$4,339,551,000
1914	3,940,000,000
1915	5,310,000,000
1916	8,766,000,000
1917	10,730,000,000
1918	9,500,000,000
1919	8,500,000,000

The figures for the years 1918 and 1919 are based upon estimates so carefully made that the final published figures will be but slightly different. After paying excess-profits taxes the amount of net income remaining from 1917 to 1919 was as follows:

1917	$9,100,000,000
1918	7,100,000,000
1919	7,300,000,000

It is not true, therefore, that profits have increased since the imposition of the excess-profits tax. Nineteen hundred and seventeen was the high-water mark of profits, and the tax was not imposed until the year had almost closed. After paying taxes the profits of 1918 and 1919 are far less than they were in 1916.

From this it will be seen that the excess-profits tax is not shifted to the consumer, and this doubtless is the reason that the kept press has been so loud in its denunciation of the excess-profits tax. It has simply heard its master's voice and is carrying out the wishes of this master. Big business, of course, objects to the excess-profits tax, and of course the big rich object to surtaxes on individual incomes. They opposed the passage of these provisions of our present revenue bill, and if Congress had been as attentive listeners then as now, these provisions of our present revenue bill would never have been passed and $9,396,645,809.04—the amount received from the excess-profits tax since its first passage—would have been lost to the United States Treasury. Does anyone actually believe that the profiteers making huge amounts would have been any less greedy if an excess-profits tax had not been levied? Will anyone assume that the amount wrung from the people of America would have been any less if these taxes had not been on the statute book? In order that you may know exactly the effect of the repeal of the excess-profits tax, I am inserting another table by Mr. Beck.

Examine this table and you will find that this bill takes care of the wealthy corporation. It takes off the shoulders of this class a very large share of the burdens of taxation and imposes these burdens upon the backs of the less fortunate corporation that does not make extensive profits.

For instance, this table shows that a corporation with a $5,000 invested capital making 50 per cent will pay $12.50 more than it pays now, while a $10,000,000 corporation making 50 per cent will pay $1,150,000 less than it is paying now; the same amount of profit relatively, but the small corporation pays more taxes in proportion than the large one.

Take another illustration from the same table, and we find that a $150,000 capital corporation making 10 per cent profit will pay $325 more, and a $400,000 corporation that makes a profit of 10 per cent will pay only $50 more, and if it is a $10,000,000 corporation it will pay $10,510 less, showing that the richer the corporation, the bigger the business, the more it is taken care of under the provisions of this bill.

Take still another illustration. If it is a $10,000 corporation and it makes 33⅓ per cent, it pays $33.34 more, but if it is a $10,000,000 corporation and makes 33⅓ per cent it pays $612,000 less.

Effect of the repeal of the excess-profits tax.

The new revenue bill reported by the Ways and Means Committee of the House of Representatives contains a provision for the repeal of the present excess-profits tax on corporations and an increase in the normal tax from 10 to 12½ per cent.

The effect of this proposed law on those corporations whose invested capital is from $5,000 to $10,000,000, and who are earning from 5 per cent to 50 per cent thereon, is shown in the following exhibit.

The figures between the heavy black lines is the amount by which their taxes will be increased; the figures to the right and below the second black line is the amount by which their taxes will be reduced.

Invested capital.	Income of 5 per cent on capital.	Income of 6 per cent on capital.	Income of 8 per cent on capital.	Income of 10 per cent on capital.	Income of 15 per cent on capital.	Income of 20 per cent on capital.	Income of 25 per cent on capital.	Income of 33⅓ per cent on capital.	Income of 50 per cent on capital.
$5,000									$12.50
$10,000							$12.50	$33.34	283.00
$15,000					$6.25	$25.00	43.75	213.00	672.50
$20,000					25.00	50.00	69.00	543.34	1,060.00
$25,000				$12.50	43.75	75.00	343.75	801.66	1,447.50
$35,000		$2.50	$20.00	37.50	81.25	91.00	677.25	1,318.34	2,222.50
$50,000	$12.50	25.00	50.00	75.00	47.50	340.00	1,177.50	2,093.34	4,285.00
$75,000	43.75	62.50	100.00	137.50	173.75	755.00	2,011.25	4,105.00	8,292.50
$100,000	75.00	100.00	150.00	200.00	395.00	1,170.00	2,845.00	5,636.66	11,220.00
$150,000	137.50	175.00	250.00	325.00	837.50	2,000.00	4,512.50	8,700.00	17,075.00
$200,000	200.00	250.00	350.00	270.00	1,280.00	2,830.00	6,180.00	11,763.34	22,930.00
$250,000	262.50	325.00	450.00	215.00	1,722.50	3,660.00	7,847.50	14,826.66	28,785.00
$300,000	325.00	400.00	550.00	160.00	2,165.00	4,490.00	9,515.00	17,890.00	34,640.00
$350,000	387.50	475.00	650.00	105.00	2,607.50	5,320.00	11,182.50	20,953.34	40,495.00
$400,000	450.00	550.00	750.00	50.00	3,050.00	6,150.00	12,850.00	24,016.66	46,350.00
$500,000	575.00	700.00	950.00	60.00	3,935.00	7,810.00	16,185.00	30,143.34	58,060.00
$750,000	887.50	1,075.00	1,450.00	335.00	6,147.50	11,960.00	24,522.50	45,460.00	87,335.00
$1,000,000	1,200.00	1,450.00	1,950.00	610.00	8,360.00	16,110.00	32,860.00	60,776.66	116,610.00
$1,500,000	1,825.00	2,200.00	2,950.00	1,160.00	12,785.00	24,410.00	49,535.00	91,410.00	175,160.00
$2,000,000	2,450.00	2,950.00	3,950.00	1,710.00	17,210.00	32,710.00	66,210.00	122,043.34	233,710.00
$5,000,000	6,200.00	7,450.00	9,950.00	5,010.00	43,760.00	82,510.00	166,260.00	305,843.34	585,010.00
$10,000,000	12,450.00	14,950.00	19,950.00	10,510.00	88,010.00	165,510.00	333,010.00	612,176.66	1,170,510.00

Now, those are facts that are not denied. Everybody admits them. In other words, it is an admitted fact that this bill undertakes to take care of the rich and the powerful individuals and corporations. [Applause on the Democratic side.]

Mr. BLANTON. Mr. Chairman, will the gentleman yield?

Mr. COLLINS. Yes.

Mr. BLANTON. What would the gentleman expect? The Republican Party has always been known as the party for the classes. Our party has been known as the party for the masses.

Mr. COLLINS. Well, I do not expect much more of the Republican members of the Committee on Ways and Means.

Now, then, it will be seen that this bill undertakes to take care of the rich. It not only does that, gentlemen of the House, but this bill encourages profiteering. It puts a premium upon the profiteer. It encourages a man to extract just as much as possible from the people of this country. Just think of a bill framed for the purpose of encouraging profiteering!

To illustrate, take, for instance, a $400,000 corporation. If that corporation makes 8 per cent, it pays $750 more taxes than it pays now, but if it gouges a little bit more and extracts from the people profits still larger and makes as much as 10 per cent, then it pays only $50 more. If it extracts still more and adds still further to the prices of the things it has to sell and makes 15 per cent, then it pays $3,050 less than it pays now. In other words, a corporation is encouraged to charge just as much as it can in order to make just as much profit as it can, because the more profit it makes the less taxes it pays.

Mr. GREEN of Iowa. Mr. Chairman, will the gentleman yield?

Mr. COLLINS. Yes.

Mr. GREEN of Iowa. How much did the gentleman say it would pay less if it were making 15 per cent?

Mr. COLLINS. It pays $3,050 less than it pays now.

Mr. GREEN of Iowa. I think the gentleman had better revise his figures.

Mr. COLLINS. These figures have not been denied, and they have been submitted to the Treasury Department.

Mr. COLLIER. They have been submitted to the officials of the Treasury Department, and they substantiate the $400,000 corporation illustration.

Mr. COLLINS. Take, for instance, a corporation of $10,000,000 invested capital. If that corporation makes 8 per cent, it pays $19,950 more, but if it makes 2 per cent more, then it pays $10,510 less than it pays now. And so on. In other words, we are called upon to pass a bill that puts a premium upon profiteering. [Applause on the Democratic side.]

As a consequence of the repeal of the excess-profits tax and the surtax on individual incomes the Government will lose in the amount of taxes about $600,000,000, and there has been absolutely no provision made for this shrinkage in taxes. The cost of running the Government will be from $500,000,000 to $750,000,000 more than the total amount of moneys received from all forms of revenue and from all sources. We will have to deal with a deficit that must be raised in some manner. And as certain as night follows day, this amount of money will be brought in by either a tax on every article that is sold or by a bond issue. That a bond issue is contemplated is shown clearly by the letter from the Secretary of the Treasury of August 10, 1921, dealing with the question of raising at least $500,000,000 of the deficiency in this way. The situation then is that these big profiteers are not only to be relieved of taxes to the amount of about $600,000,000, but will be given the opportunity of acquiring bonds free from taxation that will bear 6 per cent interest in the place of the taxes they now pay. This will so thoroughly suit them that they should become more liberal than ever in the future with their campaign contributions. I believe, however, that it would behoove this Congress to most seriously consider the consequences that will ensue upon the issuance of another big bond issue in this country. We would be forced to issue bonds bearing an interest of 6 per cent to insure their sale and for the same reason they must be tax free. This will inevitably mean that these bonds of such attractive marketable value would cause the depreciation of every other bond heretofore sold. Such a decrease in the value of bonds already in the hands of millions of the people of the country will unquestionably work disaster, and I beg this House to hesitate in adopting the short sighted course that they are taking in the passage of the bill before us. The millionaires that you are attempting to relieve now must eventually be made to bear their just share of this Government's expense, for the public is not going to allow itself to be fooled forever. And when they do take action it may be more severe than you anticipate. There must come to a head at some time the constantly growing demand that those who grew rich and fat as a result of the war be made to bear the expense of this same war, at least in some measure. And it is this very wise doctrine that is being ignored in the provisions of the bill under consideration.

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

Mr. RAYBURN. Mr. Chairman, I yield five minutes to the gentleman from South Carolina [Mr. STEVENSON].

Mr. STEVENSON. Mr. Chairman, I have been somewhat puzzled at the statement that has been frequently made that this does not increase in any way the liability of the United States Government if this bill is carried out. If the United States Government is the owner of the corporation known as the War Finance Corporation, then it is the owner of all of its assets. And anything that increases the liability charged to those assets increases the liability of the United States. Now, the proposition is here that the War Finance Corporation shall buy $700,000,000, at least, of railroad obligations from the President of the United States.

Mr. SANDERS of Indiana. Will the gentleman yield?

Mr. STEVENSON. I can not yield now. I have not the time. If the War Finance Corporation takes over the obligations

that the United States Government has, and that it will acquire under this bill or subsequent to this bill, and pays the money that the War Finance Corporation has for it now, it will take them over, because they can not be sold for that much in the market.

Is not that true? If the railroads can sell them in the market, do you not know that they would go and sell them there, or the President would do it? Therefore you are putting the good money of the War Finance Corporation into the poor, unsecured paper of the railroads, or the paper secured by second or third liens.

Mr. SCHALL. That is the testimony.

Mr. STEVENSON. Yes; and logically you reach the conclusion that that is what is being done.

Now, I asked the gentleman from Indiana [Mr. SANDERS] if the War Finance Corporation was not going to spend the $400,000,000 to its credit on the books in the Treasury to buy these securities, and he said they might, but that they had the right to issue bonds and get the money in that way. Now, if all this talk that this is only a passing through the War Finance Corporation to the investing public has got anything to do with it, they do not need to sell them or to use that money. All they need to do is to sell the bonds. They admit that they are going to sell the bonds of the War Finance Corporation.

Now, you sell the bonds of the War Finance Corporation, good money, backed by the United States Government, because it has something like $100,000,000 of stock behind it. You sell them and invest the money in uncertain securities of the railroads that can not be sold on the market to-day, and which never will be worth 100 cents on the dollar. Have you not created an obligation on the taxpayers of the United States? You can not escape it.

It is an absolute subterfuge to get up and say that this is not increasing the obligations of the United States Government.

I may guarantee some gentleman's note down here at the bank, and though I may not sign a note myself and may not make myself legally liable to be sued I might take the United States bonds that I happen to own and put them up as collateral for his note, and if he did not pay the note it would be charged against my collateral. That is what you propose to do here, to take $500,000,000 belonging to the United States that is in the treasury of the War Finance Corporation, or which will be put there by selling the obligations of the War Finance Corporation, and put them in the nonsalable and practically valueless paper of the railroads of this country and then say to the people of the United States at the end of 10 years that you can charge off the loss, and then say it is not an obligation of the United States.

Mr. Chairman, I have a letter from a colored constituent of mine about this, and I want to take the balance of my time by reading a little bit of it. He says:

AUGUST 19, 1921.

MR. CONGRISMEN.
Washington D. C.

DEAR SIR. I take my pen in han to rite you a fu lins since I thout as how I wood like to rite you a leter about sum things I hern tell was agoin on.

I hern my boss what run a grocry stor, talking to a segar salsmen what cums ter on store bout every munth en froum what he ses our gnoment must hev a lot of muny. He ses to my boss, ses he, The guvment hes got sow much muny that dont no what ter do with it. Thayes a going to giv ingland a houndred billyum dolrs ter inpruv relashuns with our cuntry. He ses as how the guvment has got a plase namd well stret cr sum sich name so full wid muny that it wunt hould no more en that nerly all the muny in the werl was thar ef tha git eny more he ses thays goin to thro it in the oshun cos that aint got no place ter put it. Howsumwever sum ov the rich peepul rased a holler bout throin it away cost thay wanted sum ov it, I reck on, en presidint Harden he ses, ses he lets give a couple hundred thousen milun ter the men what owns the rail roads cos thets a gud way ter git shed ov it. But cvin with al thet he ses the guvment is geting al het up cos the muny keeps pilin in, en thay caint get shed ov it fast ernouff. Mr. congrisman Im a por man en I recken as how I needs sum of that muny wosen the rail road fellers en if I kin help my country en et the saim tim myself to, I think es how I orter do it. So if you will put in a bill ter the presidient fer me Mr. congrisman for bout twenty 5 thousen dolers Ill shau be much obleged ter you en I recken he will be to.

[Laughter.]

That is, the President.

Mr. CABLE. Mr. Chairman, will the gentleman yield for a question?

Mr. STEVENSON. I have not the time just now. I read further:

I allwas wanted ter start en bisnes fer my self but cood not sav cnuf muny.

My boss ses if i hed one thet i wood luse it. But I dont Blleve it. But if I did it wood be helpen the guvment git shed ov sum more muny buy starting me off agin.

Well Mr. congrismen I dont no as I hed orter rit this leter cos I am jest a por man an fers I no it mought be agin the law fer a por man to rite to a congrisman, howsomesevery, I bin astin Joe Simmons what works on the ice wagin if it was alright he said he thought twas al right Joe ses as how Im ded rite. an ef I gits eny muny he wants me ter rite a leter fer him.

Youres Trooly.

[Laughter.]

The CHAIRMAN. The time of the gentleman from South Carolina has expired.

Mr. WINSLOW. Mr. Chairman, I yield seven minutes to the gentleman from Minnesota [Mr. NEWTON].

The CHAIRMAN. The gentleman from Minnesota is recognized for seven minutes.

Mr. NEWTON of Minnesota. Mr. Chairman and gentlemen, I am sure that the Members of the House are pleased to learn that a colored gentleman from the district of the gentleman from South Carolina [Mr. STEVENSON] has so much influence with him that he has persuaded him to vote in a certain way on the measure in question. [Laughter.]

Mr. Chairman, this bill is to enable the Government to pay the balance due the carriers growing out of Federal control. Furthermore, it enables the President to exercise the discretion conferred upon him by section 207 of the transportation act in refunding the obligations due the Government by the carriers for additions and betterments made by the Government during Federal control. It is in no sense the authorization of a new loan. It creates no new obligations and involves no appropriation. It merely provides the necessary machinery whereby the President can exercise the discretion that was conferred upon him by the terms of the transportation act. It involves no appropriation whatever out of the Treasury of the United States, but as a matter of fact its enactment into law will enable a settlement with the carriers and thereby avoid any necessity for an additional appropriation.

In the midst of the World War in 1916, while we were having trouble on the Mexican border, Congress passed legislation authorizing the President under certain circumstances and conditions and for military purposes to take over the railroads of the country and control them during the period of the emergency. In the following spring war was declared between this country and Germany. In December of 1917 war was declared with Austria. That same month the Government assumed control over the railroads in the country, which was followed on March 21, 1918, with the passage of the Federal control act. Then came what is known as the standard contract, which was entered into between the Government and the carriers. This was the form of contract that was in use as to the majority of the roads. There were some of the roads that signed no contract whatever. In that contract the Government agreed to pay the railroads a stipulated compensation at quarterly intervals. In addition, it agreed to return the roads in the same condition that they were in when they were taken over.

This obligation to return the roads in such condition made necessary the maintenance of the roads, the roadbeds, equipment, and so forth, during the period of Federal control. Furthermore, at the end of that period the railroads agreed to pay for the additions and betterments placed upon the roads while under Federal control.

On March 1, 1920, the Government relinquished control of the roads and turned them back to their owners. In section 207 of the transportation act, the President was charged with the duty of ascertaining the indebtedness of each carrier to the Government as that indebtedness existed at the termination of Federal control. He was required to ascertain the nature of that indebtedness; that is, the indebtedness for additions and betterments made and properly chargeable to capital account and the amount of indebtedness otherwise incurred. He was then charged with the duty of ascertaining the indebtedness of the Government to such carriers arising out of Federal control. The act provided that the indebtedness of the Government to the carriers might be set off against either or both of the amounts due the Government by the carriers so far as deemed wise by the President. The question then of a set-off is placed clearly within the discretion of the President. He can set off this indebtedness against the additions and betterments properly chargeable to capital account or he can fund this debt for additions and betterments by accepting proper security for the same.

On March 1, 1920, when the railroads were surrendered to their owners the Federal Government was owing the railroad companies certain moneys for compensation, materials, and so forth, on hand when the roads were taken over, certain moneys on hand in the railroad treasuries, and so forth.

The hearings developed the fact that the Government upon taking over the railroads seized and appropriated several hundred million dollars in cash which were in the various treasuries of the roads taken over. Further, it was shown at the hearings that in numerous instances the cash thus seized has not yet been returned to the railroad companies. All of these constitute obligations on the part of the Government to the railroads. Certainly there should be no question but what the Government should fulfill its express obligations in accordance with its agreement. So much, then, for that side of the ledger.

On the other side we have the obligations of the railroads to the Government. In a considerable measure they grow out of the additions and betterments and other improvements made by the Government as an incident to its control over the property. I am sure you will be interested in the following table, in which I give merely the approximate figures:

Total claims filed by the railroad companies against the Government as the balance now owing to them—

Embracing 70 per cent of the mileage	$785,000,000
Remaining 30 per cent to be filed	323,000,000
Total filed and to be filed	1,108,000,000

This table represents the total of claims either filed or to be filed against the Government by the railroad companies.

The Director General has made settlements with some of the railroads filing claims and by those settlements has wiped out $237,000,000 in claims. This leaves a balance of claims filed or to be filed that must be settled for amounting to $870,000,000. It is to be remembered that these claims represent what the railroads claim is the balance due them by the Government. The Director General settled this $237,000,000 worth of claims by the payment of about $70,000,000.

He is of the opinion that he can settle the balance of claims, which total $870,000,000, with approximately $349,000,000. However, he is not in a position to settle at the present time, for he does not have in his possession or in any way available the sum of $349,000,000. He has cash on hand in the treasury of the Railroad Administration $149,000,000.

In order to settle, therefore, at the present time he must have, through a direct appropriation by Congress or through a sale of securities of some kind or other, the sum of $200,000,000, thereby making a total of $349,000,000. This is the approximate amount of money now owing the railroads by the Government. It is due them by virtue of the Federal control act, the standard form of contract entered into, and the terms and provisions of the transportation act. Certainly it is the business of Congress to give to the Railroad Administration authority whereby they can meet this obligation. That is, therefore, one of the propositions involved in the measure that is now before us.

However, to make that settlement with the railroads on the basis of a present payment of $349,000,000, we would have to disregard all questions of funding their obligation for additions and betterments and compel payment therefor. In other words, if the Government settles with the railroads at the present time and exercises its right to set off its claims for additions and betterments against the claim of the carriers for compensation, and so forth, it could settle by the payment of $349,000,000. It is apparent, therefore, that legislation will be needed if this Government is to pay the obligation in this manner.

Section 207 of the transportation act places in the President the right to fund or offset these claims for additions and betterments. Why not offset these claims? Why fund them by accepting the notes of the railroad companies secured by suitable mortgage, and so forth? It has been one of the fundamental principles of railroad financing not to pay for additions and betterments out of earnings and current revenue. Additions and betterments are permanent improvements. It is a well-established principle among the carriers to finance additions and betterments by the issuance of securities maturing after a term of years. This spreads out the cost of these permanent improvements and makes possible a more equitable distribution and fixing of rates.

Therefore, if the President should deem it wise to set off all Government claims for additions and betterments against the claims of the carriers for compensation, and so forth, he would violate a well-established principle of railroad financing. Such a procedure would seriously injure the roads in normal times. What would it do in times like the present?

It would seem, therefore, to be perfectly reasonable and fair and in keeping with ordinary good and well-established business practice for the Government to fund this debt for additions and betterments, provided, of course, the railroads place proper security therefor. In this connection I want to submit the figures on the additions and betterments account of the Government against the railroads:

Claims of Government against the carriers for additions and betterments and chargeable to capital account		$1,144,000,000
Of this amount there has already been funded a sum which is covered by equipment, trust certificates, etc., and involves replacement of equipment like locomotives, box cars, etc	$381,000,000	
Funded under President's discretion	60,000,000	
Total now funded		441,000,000
Balance to be funded on additions and betterments on account		703,000,000

In July of this year the President, in reference to this particular item for additions and betterments, advised Congress as follows:

> There has been at no time any question about the justice of refunding such indebtedness to the Government.

But he is without the necessary funds with which to exercise his discretion. He has therefore brought it to the attention of Congress and asked for legislation.

The CHAIRMAN. The time of the gentleman has expired.

Mr. NEWTON of Minnesota. May I have a couple of minutes more?

Mr. WINSLOW. I yield to the gentleman three minutes more.

Mr. NEWTON of Minnesota. Now, then, this bill seeks to accomplish what the President desires. Again, I say that this act grants no additional authority for the making of loans.

The President in his settlement with the carriers has accepted from them certain security. I have referred already to the equipment trust certificates; I have also referred to certain funding that he has already done to a very limited extent. The securities now held by the President total $470,000,000. The President under existing law is at liberty to sell and negotiate only a portion of these securities. On the remaining portion he has the authority to collect the interest and to collect the principal when the obligation matures. He has no authority to sell or negotiate or to borrow money upon them.

Section 3 of the bill now before us authorizes the President to sell these securities and any others that he may acquire by virtue of the Federal control act or the transportation act. Furthermore, the War Finance Corporation, which is a governmental agency, is authorized to purchase these securities from the President.

A limitation is made that these purchases in the aggregate shall not exceed $500,000,000. It is further provided that they shall be sold by the President without recourse. In the selling of the securities by the War Finance Corporation it is provided that they shall be sold at a price which will produce net not less than the original cost to the corporation.

Furthermore, the President is authorized to designate the War Finance Corporation as his selling agent to sell any such securities that he may have, but not at a price less than the price at which those securities were originally acquired by the President.

It will be observed that the additions and betterments account balance totals $703,000,000, whereas the bill before us provides means for the funding of not more than $500,000,000. Why the difference? The Director General is of the opinion that there is a portion of that total of $703,000,000 that he will not be called upon to fund. Furthermore, he is of the opinion that some of the roads will not be able to tender to him sufficient security to warrant him in funding the debt rather than offsetting it.

It is then, gentlemen, a simple proposition. The purpose of the bill before us is merely to confer ways and means to enable the President to exercise his discretion to fund, a power that has already been vested in him under the provisions of existing law. The War Finance Corporation is fitted to carry out this work.

In enacting this legislation the committee thought it wise to provide in the act that any money or moneys available under this or any other act shall not be used by way of payment or allowances to any carrier on account of the so-called inefficiency of labor during the period of Federal control. Some of the carriers have been asserting such claim. The Director General thinks that such claims are untenable under the terms of the Federal control act, the standard contract entered into between the railroad and the Government. The Interstate Commerce Commission has been asked to pass upon the question in so far as it pertains to the six-months guaranty period following the ending of Federal control.

They also have held that the claim is untenable. We felt in the committee that this claim was so untenable that the benefit of this particular bill should not inure to those roads continuing to assert this inefficiency of labor claim. Furthermore, we have amended the terms of the transportation act in other

particulars, for we have provided that every claim of the carrier arising out of or incident to Federal control shall be filed within one year after the taking effect of this act. The Director General is of the opinion that these claims should be gotten in within six months' time, but to make it safe we fixed the period at one year.

I now yield to the gentleman from Mississippi [Mr. JOHNSON].

Mr. JOHNSON of Mississippi. I call the gentleman's attention to the fact that Director General Davis testified that if this bill should pass as reported by the committee, he proposed to loan to the Great Northern Railroad Co. $16,000,000, a railroad with which he has already settled, and by which he has been given a release in full. It is his intention to loan them $16,000,000 for 10 years.

Mr. SANDERS of Indiana. That is not an accurate statement.

Mr. NEWTON of Minnesota. I have not sufficient time to go into this particular proposition. I merely want to say this, that the provision under which the Director General is permitted to act in certain cases with reference to settlements already made is contained in one distinct paragraph of this bill. If you do not like that paragraph, after it has been thoroughly discussed and considered, it, of course, can then be stricken out. It will in no sense affect the rest of the bill. In my limited time I propose now to talk simply upon the general and main purposes of this measure,

Mr. Chairman, there should be no partisanship in the consideration of this question. With the thought that in taking over the roads it would aid in the winning of the war, Democrats and Republicans alike voted for the Federal control act and the other measures preceding it.

Federal control of the railroads cost the Nation a lot of money. To those who thought that it would be a good experiment, all I have to say is that it was a very expensive one. Those who appeared for the President in behalf of this measure and who are connected with the Railroad Administration and the War Finance Corporation were originally appointees of the last Democratic administration. They have appeared before the committee in support of this legislation and have advocated it. Certainly, then, my good Democratic friends, it is difficult to understand how you can consistently oppose this measure under these circumstances. Is it possible that with our help in that emergency you are now going to withhold from us your help in the present situation?

The CHAIRMAN. The time of the gentleman has expired.

Mr. WINSLOW. Mr. Chairman, may I inquire as to the time remaining?

The CHAIRMAN. The gentleman has 24½ minutes.

Mr. WINSLOW. And the other side?

The CHAIRMAN. Twenty-nine and one-half minutes.

Mr. WINSLOW. I yield five minutes to the gentleman from Connecticut [Mr. MERRITT].

The CHAIRMAN. The gentleman from Connecticut [Mr. MERRITT] is recognized for five minutes. [Applause.]

Mr. MERRITT. Mr. Chairman, during the discussion of this bill it is of the first importance not to lose sight of the underlying necessity for and the purpose of the bill. These objects are well stated in the first sentence of the message of the President of the United States to the Congress on July 22, 1921, which is as follows:

> It is necessary to call the attention of Congress to the obligations of the Government to the railroads, and ask your cooperation in order to enable the Government to discharge these obligations.

This makes it clear that this legislation is not intended to make any gift to the railroads or other carriers, but is intended simply to enable the Government to carry out its obligations under existing legislation and under existing contracts. And, furthermore, while the enactment of this legislation will be for the benefit of the carriers, it will in a still larger measure be for the benefit of the United States, and particularly for the workingmen of the United States.

The testimony before the committee given by the railroads shows clearly that the percentage of bad-order locomotives and cars is from two to three times the ordinary amount of bad-order rolling stock. This means in figures that there are at present 240,000 bad-order cars above the normal number and that the general expenditures of the railroads for repairs and maintenance have been cut to a dangerous limit. The reason for this has been that the railroads have not had sufficient net income and have not been able to get the money from any other source to keep their plants and their operating machinery in proper and efficient repair. This means two things: First, that the operation of the railways is now being done at a disadvantage, because every manufacturer and every operator of any large enterprise knows that unless the machinery used in the business is kept up to the highest grade of repair and efficiency the resulting work is not only poor but costly, and the work of the men employed is thereby rendered less efficient and therefore more costly.

Second. That when, as we all hope will soon be the case, the business of the country and the railroads increases, their operating machinery will not be in position to handle this increased business because their engines and cars will either be in such condition that they can not be used at all, or, if their use is attempted, will break down in transit, causing expense and delays and congestion.

We had a clear demonstration during war time of the expense of congestion on the railroads, and I think it was shown to the entire satisfaction of all shippers, whether farmers or manufacturers, that almost any freight rate was cheaper than congestion and delays and embargoes which prevented any movement of freight at all.

We all have it in our minds, in a general way, that the railroad systems of the United States are much the greatest in the world, but it is hard to realize, even with the figures, what an immense industrial plant they form, comprising 250,000 miles of main line, with all the adjuncts which go with it, such as shops, yards, machine shops, storehouses, bridges, and so forth; with about two millions and a half of freight cars, nearly 70,000 locomotives, and 60,000 passenger cars, approximately 2,000,000 employees, and with property valued anywhere from fifteen to twenty billions of dollars.

It is perfectly evident that an industrial plant of this size, reaching every corner of the United States, has a vital effect on every industry and every citizen.

There is a great demand from many quarters at the present time for a diminution of freight rates, and it is frankly conceded by those who are responsible for the operation of the railroads that some rates may be too high, and they are anxious for a scientific readjustment as soon as possible. It is still true, however, that the existing rates in the United States are not only lower than existing rates on foreign railways, but in most cases are lower than foreign freight rates were before the war.

One psychological difficulty in the existing freight situation is that even before the war the Interstate Commerce Commission refused advances to the railroads when these advances were requested and should have been granted to equal the then advancing costs of labor and materials. Even when the Overman bill, of evil memory, was passed, forcing by law an increase in wages, with a promise that the freight rates of the railroads should be advanced, that promise was not fulfilled. And during war time, with war control of railroads, when the costs of railway labor went up by leaps and bounds, the advance of freight rates did not begin to keep pace with the advancing costs of operation, as may readily be appreciated from the letter of May 1, 1921, from the Director of Railroads, who states that the operating loss to the Government during the period of Federal control was approximately $1,200,000,000.

It is a business proposition that can not be denied that no business, whether conducted by the Government or any individual, should be conducted without an income equal to its expenses, both of operation and maintenance; and by keeping the freight rates as they were and making up deficits from the Public Treasury, the Director of Railroads, during the war, not only put an added burden on all the taxpayers of the United States but gave a continual false impression to shippers as to the expense of transportation. When the war was over there began a wild orgy of speculation which put prices of commodities up more than ever, and, among them, the price of labor, which affected the railroads in a manner which I shall point out in a moment.

Last year, however, the speculative bubble burst and the price of commodities tumbled. Meanwhile the expense put upon the railroads by labor agreements and labor awards and national agreements, national shop agreements, and so forth, increased rather than diminished. To carry out the provisions of the Esch-Cummins Act and the laudable intention to enable the railroads to pay their own way, the Interstate Commerce Commission granted a considerable increase in freight rates. We thus have had the trying, and what should have been the unnecessary, condition of freight rates going up while commodity prices came down.

I said a moment ago that I would show by figures how the various wage increases and awards affected the railroads.

The total pay rolls of the railroads rose from approximately $1,468,000,000 annually in 1916 to $2,613,000,000 in 1918 and to $3,700,000,000 in 1920. This made the increase of 1920 over 1916 more than 150 per cent; that is, the pay rolls were two and

a half times as great in 1920 as they were in 1916. And mark this, the pay rolls alone in 1920 were greater than the entire operating revenues in 1916.

To show that the rates and revenues did not keep pace with this advance, the ratio of railroad operating expenses to revenues for 12-month periods is as follows:

In June, 1914, the ratio was 72 per cent; that is, for every dollar received in revenue the railroads were able in 1914 to save 28 cents. By 1916, which was a prosperous year, the ratio had gone down to 65 per cent, so that out of every dollar they could save 35 cents. In 1917 it rose to 70 per cent, so that the saving was 30 cents out of every dollar. In 1919, 73 per cent, the saving being 27 cents. In 1920 the ratio had gone to 85 per cent, the saving being 15 cents, while in February of this year the ratio was 94 per cent, so that the saving was 6 cents.

These figures show many things, but primarily and principally they show the inefficiency and profligacy of Government ownership, to which I shall allude later. But they show also that it is not to the interest of the Government or the people or the shippers to starve the railroads into a condition of paralysis. They show that those who dance must pay the piper, and the staggering deficits brought about by the war inefficiency and extravagance not only must be met by the taxpayers but they will prove a burden to the roads for many years to come.

But, facing the condition as we find it, it is clear that the only way permanently to produce greater efficiency and by that means lower operating costs and lower freight rates is to foster the railroads in all legitimate ways and not to increase their present difficulties, which they inherit from the war administration and for most of which they are not responsible. [Applause.]

This bill proposes to assist the railroads and the people, not by any direct appropriation, not by a further draft on the United States Treasury, but simply through the War Finance Corporation, a Government-owned corporation already created and which will not need any more overhead expense, to permit the use and sale of obligations already in the hands of the Government, which can be converted into cash and placed in the hands of the Director of Railroads, so that, when he makes settlements with the roads he can settle the Government's obligations in cash. The railways can then pay off their obligations to the material men from whom they have already bought, they can employ thousands of men in their repair shops who have had to be laid off, can purchase new material so that many companies can start up their works, and in other words can start the wheels of industry and commerce throughout the country in the most effective way.

It has become almost a maxim that, when the railroads are prosperous the country is prosperous, and there is no question that the iron and steel industry, which is one of the great basic industries, must depend for its prosperity upon the railroads of the United States, which are much its largest customers.

Mr. Chairman, I do not believe and I do not suppose that the railroads or the committee believe that the passage of this legislation will immediately solve the economic troubles either of the railroads or of the United States. These troubles are too varied and widespread and too much affected by world troubles to be solved by any legislation or in a short time. They must be solved by patience and industry and thrift.

I have no doubt that they will be solved and that the ability of the railroad managers and the good sense of the railroad employees in all branches will restore the great railroad system in this country to its former efficiency, and, I hope, to even greater efficiency and economy than before.

This will be a difficult and a great task, and, as I have said, the roads will be loaded down for many years by burdens and obligations imposed on them without their consent by the war administration. But I believe these experiences will be worth the burden if, as I think, they will emphasize and confirm the determination of the American people that the railroads of the United States shall be run by private ownership under regulation by the Government.

I think that the American people will agree that President Hadley, in his book on railroads written 30 years ago but still standard, was entirely correct when he stated that when railroads are run by the Government the railroads corrupt politics and politics corrupt the railroads.

When one reads the details of the Government operation of railroads even during war time, when waste and extravagance can not be avoided, one is aghast at the almost unbelievable recklessness of railroad expense and railroad agreements. From the time of the Overman law, the profligate treatment of railroad property and, when the railroads were taken over by the Government, the prodigal expenditure of Government money is almost unbelievable.

It can, I think, have only one basic explanation, and that is that those who were responsible for the law and responsible for the expenditure were using or trying to use the railroads of the United States to corrupt politics.

If the whole story were known, in addition to the parable of the prodigal son, we should in this country have a parable of the prodigal son-in-law. [Applause.]

Mr. WINSLOW. Mr. Chairman, I yield five minutes to the gentleman from New York [Mr. HUSTED].

Mr. HUSTED. Mr. Chairman, the railroads were taken over by the Government for the purposes of the war without their consent, and during the operation of the railroads by the Government vast amounts of money were expended for betterments and additions and for cars. Some of this money was expended in such a way that it would benefit the railroad companies after the railroads were returned to their owners in normal times. Some of that money was spent for war purposes only, for purposes that would not materially benefit the railroads in peace times. And yet when the period of settlement came the railroads were told that they must pay for all of this equipment, that they must pay for all of these betterments and additions, and that they must pay for them at the price the Government fixed.

Under the legislation heretofore enacted provision was made for the funding of this indebtedness, and as a result of the funding operations the Government holds to-day over $400,000,000 of obligations of the railroads. Some of these obligations the Government is authorized to sell; other obligations the Government can not sell and must continue to hold them until they are paid by the railroad companies unless remedial legislation is enacted.

There are gentlemen here who have said that when the balance is struck between the railroads and the Government the railroads should pay the difference in cash. But the railroads can not pay the difference in cash. As has been stated, it is not customary for the railroads to pay in cash for betterments and additions. They have never done so. They have always issued bonds for that purpose. They can not do so now any more than they could do it in the past. It can not be done unless the railroad rates are increased to give them an increased income.

This bill simply authorizes the President of the United States to sell all the securities of the railroad companies which the Government holds, and also to utilize the War Finance Corporation to assist, either by purchasing the securities held or by the sale of the securities in the general market. This is legislation which should be enacted. The railroad companies to-day are out of cash. According to the statement of Mr. Meyer, director of the War Finance Corporation, the railroads of the United States owe $300,000,000 upon audited accounts which they have not got the cash to pay for. They must have relief. I think everybody realizes that there is not anything we can do that will help the country more than to put the railroads on their feet and enable them to pay their current bills and go out into the markets and buy railroad supplies. It will not only help the people to whom they owe money but it will start in motion the wheels of industry in the different manufacturing lines that serve railroad companies. This is a matter of vast importance. The Director General has estimated that if we pass this legislation and give the railroads the money which the Government owes them, it will mean the putting at work of 1,000,000 men who are now idle. [Applause.]

The CHAIRMAN. The time of the gentleman from New York as expired.

Mr. RAYBURN. Mr. Chairman, I yield the remainder of my time to the gentleman from Alabama [Mr. HUDDLESTON].

Mr. HUDDLESTON. Mr. Chairman, out of the fear of Government ownership of railroads has come railroad ownership of Government. This is the result of the most thorough and successful propaganda ever carried on. All during the period of Federal control of railroads every fault of transportation, every excessive charge, every inconvenience suffered by the people, every delay, every discourtesy of an employee was played up and deliberately magnified for the purpose of discrediting Federal operation of railroads. It was a deliberate propaganda in which every reactionary, privileged, and exploiting interest in the land took part. They rallied as one man with an unbroken front of deception.

They feared that Federal operation of railroads might be made permanent and might be the entering wedge for the entrance of the Government into other fields of activity. And so the monopolists, the profiteers, the extortionists, the plunderers of the people were united in a common cause. Their parasites of the press were active and solid beyond all precedent. The conservatives—those who fear change of any kind, those who

instinctively feel that old things are always and necessarily the best—of course were used by the powerful and selfish figures behind the scenes. The fears of the people were played upon constantly.

Such a state of public opinion was produced that by the autumn of 1919 the sentiment of the country was overwhelmingly in favor of the return of the railroads to private control. Much of the sentiment did not stickle over the terms. It was anything to get rid of the railroads. "Turn the railroads back," was the slogan. In this polluted atmosphere the bills which ripened into the transportation act of 1920 were brought forward.

WHOLESALE LOOTING.

So far as I know, it is not claimed by anyone that the transportation act originated in Congress. Its real origin was in a band of railroad lawyers and other lobbyists. It was shaped by their cunning hands, and what they attempted to take from the public was limited only by the ingenuity and craft of men who had sold the most cunning brains in America to selfish interests. Of the iniquities of this law, commonly known as the Esch-Cummins Act, not even yet has half been told. New features of it are yet constantly coming to light—hidden jokers, selfish purposes artfully concealed, disguised opportunities to plunder the public are yet being disclosed almost daily.

By the transportation act the Treasury was opened to the railroads. Under section 202, $200,000,000 was appropriated to pay their claims. Under section 209, the guaranty section, $631,000,000 of Government gifts to the railroads are already in sight, and the amount will probably reach $800,000,000. Under section 210 public funds to the amount of $300,000,000 were placed at the disposition of the railroads as loans. The pending bill, which will cost the Government from $500,000,000 to $700,000,000, is being passed to meet a promise which it is pretended the Government made in section 207.

These vast sums come out of the public funds, out of the taxpayers' money. To them must be added the provision of the act upon which rates were increased so as to yield 6 per cent upon railroad stocks, water, fraudulent capitalization, and all, aggregating $18,900,000,000, whereas it was recently computed that the market value of all the stocks, bonds, and other railroad securities, including complete ownership, aggregated only about $8,000,000,000. Under the increase in rates made in the fall of 1920 it was estimated that over $1,500,000,000 annually would be taken directly from the pockets of consumers and that this amount would in the end increase the cost of living and doing business $6,000,000,000 annually. The human imagination fails to grasp these stupendous sums. They leave us stolid and gaping for lack of comprehension. They are appalling.

OFFSPRING OF UNHOLY CONNECTION.

The pending bill is the offspring of the unholy connection between big business and servile government. It is of full blood with the transportation act. It is merely a lesser outrage upon the public interest. It is brought forward behind the same smoke screen. It wears the same false face of concern for the public interest. It is pushed by the same propagandists and the same parasites of the press. It makes the same false pretense of desiring to stimulate business, to promote better times, and to give employment to labor.

Every railway supply concern in the country, every producer of materials sold to railroads has written his Congressman demanding that he support this bill. They are of the same class which raise the cry of "Get the Government out of business." They want to get the Government out of the business of interfering with their profits, but to keep the Government in the business of lending them money and stimulating their enterprises. By this measure, instead of getting the Government out of business they are putting the Government into the business of peddling doubtful railroad securities around over the country. They seek to borrow the moral strength and support of the Government for the market for railroad securities.

THE NEW NOBILITY.

In the early days of civil liberty the foes of the people's rights were princes and hereditary beneficiaries of privilege. Civil liberty was being born then, and it was willing to fight. But times have changed. Hereditary nobles are no longer the chief adversaries of liberty. It is the new nobility, the lords of commerce, industry, and finance, who now threaten liberty. Alas, it seems that we live in a degenerate age. Civil liberty is old. It fights no longer, it merely talks. There is no hope for a new Runnymede—no longer does a National Assembly or a Commons challenge the tyranny of kings. Their place is taken by a servile Congress, which hastens to do the bidding of railroads.

The new lords scorn to use humble instrumentalities. They send no base messengers. They send national rulers with their messages to the people's representatives. The lords of the railroads sent the President of the United States to tell Congress that it should pass the pending bill. The President did not hesitate to come, and he spoke manfully for his masters. The Republican steering committee of the House was galvanized into action; there was hurrying and scurrying by the faithful; and one of the great committees of the House was told in plain terms that there would be no recess of the House until it had passed this bill. How the mighty are fallen. Oh, what reply would the founders of the Republic not have given to such insolence.

REPUBLICANS MUST BEAR THE BLAME.

I do not often make partisan references upon this floor. I do so now only to remind our Republican brethren of their responsibility.

This is a Republican administration. You have the President, the Senate, and the House by a two-thirds majority. Even the Supreme Court is largely composed of members of your party. The blame for what is done must fall upon you. The responsibility is yours.

I call to the attention of Republican Members the fact that the transportation act was a Republican measure. You were then in control of both branches of Congress. The Esch-Cummins Act bore the name of two eminent Republicans, one of whom, Mr. Esch—being defeated for reelection because of his connection with that law—your President rewarded by appointing him upon the Interstate Commerce Commission.

That law was passed by a Republican Congress. In the House 175 Republicans and only 30 Democrats voted for it, with 136 Democrats against it upon its original passage. Upon the conference report on the law in its final form 211 Republicans and only 39 Democrats voted "aye," while only 23 Republicans voted "no." Of the 39 Democrats who voted for the conference report it is fair to say that 16 were defeated for reelection. In the Senate the vote was 35 Republicans for and 4 against the conference report.

Again, I call your attention to the fact that the Republican national platform of 1920 claimed the transportation act in these words:

We indorse the transportation act of 1920, enacted by the Republican Congress, as a most constructive legislative achievement.

Again, I call your attention to the passage of the Winslow bill, under which payment of the claims of the railroads under the guaranty clause of the transportation act were anticipated at a cost to the Government which will probably reach $800,000,000. That was the action of a Republican Congress, urged on by the leaders of your party.

THE JOKER IN SECTION 207.

Ordinarily, when two parties owe each other and have a final settlement the claim of each is set off against the other and the balance, if any, paid by the party having the lesser claim. That is what should have been done at the end of Federal control of the railroads.

The Federal control act and also the standard contract subsequently made between the Government and the railroads required that the railroads be turned back at the end of Federal control in the same condition in which they were received. The Government was liable for undermaintenance and the railroads in turn were liable for any enhancement in their condition created during Federal control.

During the 26 months preceding Federal control the railroads spent only $2,086,743,613 on upkeep chargeable to operating expenses. The owners had been milking the railroads so that during that period the largest dividends in railroad history were paid to stockholders. This was due largely to undermaintenance, lack of repairs, lack of upkeep. As a result, the railroads had broken down. Their equipment was worn out; their tracks were out of repair. They could not be used efficiently without vast expenditures to restore and repair them. So that during the 26 months of Federal control it became necessary for the Government to spend $4,074,653,460 on upkeep and repairs. Of course, a part of the Government's expenditure was occasioned by increased cost of labor and materials, but such increases could not average for the 26 months more than 30 per cent above the preceding test period. Therefore upon an accounting the railroads owe the Government in the neighborhood of $1,300,000,000 paid for maintenance beyond what was necessary to return the railroads in as good condition as when they were taken over.

In addition to this debt, the railroads owe the Government a large sum, perhaps $300,000,000, for supplies on hand, advances, overpayments, and other items. In addition, the rail-

roads owe the Government $1,144,000,000 for expenditures for bridges, new track, cars, engines, and other items chargeable to capital account.

As a set-off against these vast sums due the Government, the railroads, with all their ingenuity, have been able to bring forward claims, the true amount of which is stated by the Director General to be only $417,141,227. The account between the railroads and the Government might be stated as follows:

For repairs and upkeep beyond condition in which roads were taken over (estimated)	$1,300,000,000
For supplies, advances, and miscellaneous items (estimated)	300,000,000
For permanent improvements, new engines, and cars	1,444,000,000
Total	3,044,000,000
DUE RAILROADS.	
For claims of every kind	427,141,227
Leaving balance due Government	2,617,858,773

The plain average citizen upon the stating of this account would expect the Government to demand from the railroads the balance due, and ease the taxpayers' burden that much. But this was not done. A joker was slipped into section 207 authorizing the President if he "deemed wise" not to set off the accounts, but to pay the railroads in cash their claims against the Government, but on the other hand to credit them for as much as 10 years for what they owe the Government.

Many Members of Congress did not realize the meaning of section 207. They could not be made to believe that such a crime against the public interest was contemplated. They voted for the law thinking that labor questions merely were involved. I denounced section 207 upon the floor of the House at the time. I pointed out the joker. Members could not be made to believe. They were obsessed by the desire of their constituents to get the railroads back into private control and were therefore ready to vote for anything to that end. And so the bill was passed.

ANOTHER LOAN OF $500,000,000 TO THE RAILROADS.

And now the railroads are demanding of the President that he exercise the discretion given him and pay them their debt in cash and extend the time on what they owe. This is what is called "refunding." That is the deceitful expression used to mask this outrage upon the public. Stripped of its disguise, what the pending bill really does is to authorize the President to lend some $500,000,000 of the people's money to the railroads. That is its substantial effect. Already the President is authorized to carry on the "refunding" under section 207, but he dares not to do it. He dares not face the people with an open decision to take from the depleted Treasury this vast sum as an additional loan to the railroads. It would require an appropriation by Congress. He does not dare to ask for it. The politicians have told him that the people are tired of pouring out the public funds for the benefit of railroad owners; that the people know of the vast sums which the railroads have drawn from the Treasury and that they are tired of it. The politicians know that the people are becoming wise to the looting that has been going on.

Think of it! Since the Government took control of the railroads $1,750,000,000 has been appropriated directly, $631,000,000 has been paid out or incurred under the guaranty section, $300,000,000 has been loaned direct, $200,000,000 additional will be required to settle outstanding claims, and by this bill about $500,000,000 more is provided, making a stupendous total of $3,381,000,000 of the people's money of which the railroads have received the benefit during the past four years. This is $33 for each man, woman, and child in the United States. For this vast outlay we will have to show only about $850,000,000 of railroad stocks, bonds, and other securities, much of which must be of little, if any, value.

In the world's history of governmental financing there never has been such a looting of public funds, never such a shocking example of governmental favoritism, waste, and improvidence.

And for this men toiled and sweated, bought Liberty bonds, stinted themselves, and paid taxes. How long is this to go on? How long are the railroads, like the daughters of the horse leech, to cry "Give, give."

RAILROADS WILL NEVER REPAY A CENT.

The responsibility is upon Congress. Remember the vast sums of the people's money that have already been spent on the railroads. When this refunding is done they will get $500,000,000 additional, and we will be left with $850,000,000 of railroad paper to hold. Will it ever be paid, and when? Who is bold enough to attempt to answer. I have no thought that the railroads ever intend to pay a cent of it. When they have spent the new windfall they will come back for more money. Already their organs are hinting that we must subsidize the railroads. Their argument is that transportation is necessary to the public welfare, and that the public interest requires that the railroads be efficient as carriers. Upon that they base the argument that it is the duty of the Government to make the railroads efficient. They say that the railroads can not pay their own way, and therefore must, from time to time, receive gifts out of the Treasury.

Will the railroads in future be in better financial condition than they are now? If with rates as at present they can not earn living expenses, will they be able to do so in future? Mark you, the people are impatient. They will not endure the present extortionate rates much longer. There is complaint from all over the country. In a little while a movement will gain such force as to drive railroad rates down to a reasonable basis. Will the railroads be better able to pay then? Will not that be used as an excuse for not paying the Government what they owe? Will they not make the cancellation of their debts to the Government a condition for the reduction of rates?

I predict that within a short time the railroad lobbyists which infest Washington will be trying to get Congress to cancel the hundreds of millions that the railroads owe.

RAILROADS ASKING A FAVOR.

The railroad interests are asking Congress for a favor. They come with a bluster demanding it as a matter of right, but when pinned down they whine and crawl and admit that they are begging for a loan. Congress has the right to fix the terms upon which the favor is to be granted and to inquire into the merits of the applicants.

I charge that the railroads do not come with clean hands to Congress; that they have not dealt honestly and in good faith with the public. I refer to the clause of the transportation act which requires the railroads to be honestly and economically managed. The railroads have not complied with it.

Six months ago I charged upon this floor that the railroads had been guilty of reckless and fraudulent waste, extravagance, and dishonesty in subletting repairs. I cited instance after instance aggregating many millions wasted during the guaranty period and since that time in farming out to the Baldwin Locomotive Works, American Locomotive Co., and other repair and supply concerns repair work which could have been done at the companies' shops for from one-half to one-tenth what it cost in these contract shops. The railroad managers denied the charge, but a hubbub was raised and the Interstate Commerce Commission decided to investigate. The investigation has been made. My charge is proven to be true. Hundreds of millions have been wasted and the railroad officials admit it.

At the hearings on this bill I asked the committee to call as a witness the attorney for the Interstate Commerce Commission who had investigated the charges of dishonesty and waste. I offered to prove by the attorney the facts that his investigation had disclosed, which went far beyond my charges. The committee refused to call him. The railroads did not want the facts presented.

I ask Members of the House, "Will you vote this additional vast sum to the railroads when they have been convicted of dishonesty and extravagance which has cost the public many millions?"

RAILROADS HAVE FLOUTED AND VIOLATED LABOR SECTIONS.

The railroads are claiming this favor as having been promised under the transportation act. They have not lived up to the transportation act themselves—what right have they to expect others to do so? They have not lived up to the clause of the act which requires them to operate honestly and economically, and they have flouted, violated, and evaded its labor sections. Those sections were placed in the act at the instance of the railroads. The employees unanimously opposed them. The railroad lobbyists, by their influence upon Congress, forced the labor sections down the employees' throats. Now, the railroads themselves refuse to obey those sections.

Time after time the railroads have openly violated the orders of the Railroad Labor Board. Time after time has the Railroad Labor Board been forced to call a halt on their lawlessness. Take the Pennsylvania Railroad. It was ordered to have a conference with its employees. It refused to recognize the employees' organizations and tried to create a bastard organization of its own. The Railroad Labor Board denounced its action and again ordered it to confer with its employees. The railroad has not yet complied, although the time for compliance has expired, and as a result a labor disturbance which may rock the Nation is threatened upon that railroad system.

Take the case of the Erie with its shops at Hornell farmed out to a fictitious corporation officered by railroad officials for the purpose of evading the transportation act and the orders of

the Railroad Labor Board. The case of the Erie shops at Marion, Ohio, is a shocking illustration of railroad dishonesty and deception. The Erie has leased its Marion shops to a dummy corporation, capitalized at $1,000, with not enough capital to meet the payroll for a single day. The Erie's master mechanic, under the guise of an officer of the new corporation, continues in charge. Rules were posted requiring employees to submit to a physical examination by the company doctor, paying the fee from their own pockets. All of this for the purpose of evading the orders of the Railroad Labor Board.

How can railroads holding themselves above the law expect to have law-abiding employees. More than this, how can they expect to hold the sympathy and confidence of Congress? How can they expect Congress to lend them the people's money to relieve their needs?

STRANGLED BY EXTORTIONATE RAILROAD RATES.

The business and consuming public alike are being strangled by extortionate railroad rates. The instant need is for reductions. Instead of voting a subsidy to the railroads Congress should take some drastic steps to reduce transportation charges. We can have no real prosperity until this is done.

The railroads should be told in plain language to get their affairs on an honest business basis and to prepare to stand alone without being held up by Government money. They should be told that they must obey the law even if their lobbyists did write it. They must be forced to put their rates down to at least where they were during the war so as to give other folks a chance to live.

Present railroad charges are higher than the traffic will bear. The railroads are cutting their own throats by making charges so high that they can not get business. People have quit traveling and quit shipping where it is not absolutely necessary. The farmer's produce rots in the field because he can not pay the high rates required to ship it to the desperate masses in our cities. The latter find that the farmer is getting little for his vegetables, fruit, and other produce, while, when the consumer goes to buy, prices are higher than 1918—and always the excuse is freight rates.

Prices of farm produce and great basic commodities like iron and lumber have gone down to before-the-war figures, but freight rates have gone up so that an amazing change has been worked in the proportion between transportation charges and the prices for the commodities. I have obtained figures on some of these items:

In 1918 the freight on a bale of cotton from Memphis to New Orleans was $2.35. It is now $2.95. A bale of cotton was then worth $200. Its present price is $60. In 1918 the freight on a bale of cotton was 1¼ per cent of its value. Now the freight is increased to 5 per cent of its value.

In 1918 a bushel of wheat was worth $2.25. Freight from Kansas City to New York 16¾ cents, or 7 per cent of its value. Now the bushel of wheat is worth $1.20; the freight to New York is 30½ cents, or 25½ per cent of the value of the wheat.

In 1919 a ton of pig iron was worth $43. Its freight from Birmingham to Chicago was $5, or 11½ per cent of its value. At present the ton of iron is worth $19 and the freight is $6.27, or 33 per cent of its value.

A VAST BUSINESS PLUNDERBUND.

Business is being strangled by high freight rates. How is it possible that business men suffering as they are should remain quiet or even back up the railroads in their attempts in another raid on the Treasury?

This situation shows the unbridled power of the great interests back of the railroads. They hold America in the hollow of their hand. They mold public opinion through their parasite press and other propaganda. Business men are their jumping jacks. They dictate to courts, legislatures, and executives. They and their affiliations of finance, industry, and big business constitute a vast business plunderbund, standing solid as a Macedonian phalanx. Each interest supports the other. They present a living wall against the unorganized masses. Each asks of the other only that he shall be permitted to continue with his hand in the public pocket.

This powerful brotherhood of evil threatens America, its liberties, its social and economic systems, and its institutions. I say with all deliberation that the greatest threat to the future of our country is from the encroachments, rapacity, and oppression of organized wealth.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

Mr. HUDDLESTON. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Alabama asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Mr. JOHNSON of Mississippi, Mr. WEBSTER, and Mr. COLLINS were granted unanimous consent to extend their remarks in the RECORD.

Mr. WINSLOW. Mr. Chairman, I yield to the gentleman from Wyoming [Mr. MONDELL] eight minutes. [Applause.]

Mr. MONDELL. Mr. Chairman, it would take much more than eight minutes to correct the curious assortment of misstatements made by the gentleman who just took his seat, so I will not endeavor to do it, but to say that at the beginning of the war there was in America by far the largest, the best equipped, and, taken by and large, far and away the best managed transportation system in the world. For many years the service on most of the lines of that great system, taking it by and large, had been constantly improved and the cost of transportation had been steadily reduced, until it was lower by far than the cost of transportation in any land outside of ours on which the sun shines. With the coming of the war the administration believed, or assumed to believe, that it was for the best interest of the country for the Government to take this great system over. The managers, the owners, naturally disinclined to having the control of their property taken from their hands, nevertheless rose to the occasion, as did practically all American citizens everywhere, and with a good deal of misgiving, but with patriotic hope for the best, turned their properties over to the Government.

It is not necessary for the purposes of this discussion to refer to the scandalously extravagant manner in which many, in fact, most of these roads were handled so far as their handling was directed by Federal control, the enormously increased costs, the splendid haven which the administration gave in the increased personnel of the roads for those not railroad men, but men from other walks of life, largely who preferred a safe service rather than don the uniform of their country overseas. The cost piled up enormously.

The roads in many cases were returned to their owners in a sadly depleted and unsatisfactory state. The law under which they were taken over provided that the President might determine the extent to which the sums which the railroads owed the Government for betterments and for equipment should be funded, the amount which might be offset against what the Government owed them. Some gentlemen say the President has not determined, and others insist that he has determined, the amount that should be funded.

If he has not determined that the sum which has been referred to shall be funded, he should, for I can think it would be most unfortunate for the country if at this time, when we are hoping for an early reduction of the cost of transportation, to have the railroads of the country compelled out of current earnings to pay enormous sums on capital account.

It is said that this measure, which authorizes the War Finance Corporation to handle the securities of the railroads now and to be in the hands of the Government, will be helpful to the railroads. I believe it will. But if that is all there was to it, we need not be particularly interested or overanxious about the passage of it. But the fact is that whatever help the railroads may receive through this measure, the aid and help to the American people will be infinitely greater. [Applause.]

The railroads, under the law passed under the late Democratic administration, may be allowed to fund, as the President may determine, a portion of their obligations to the Government. They have already done that in the sum of over $470,000,000. What more senseless policy could be imagined than one under which we would retain in the Treasury of the United States these obligations and securities of the railroads and, on the other hand, pay out of the Treasury the sums the United States owes the railroads? What better policy could be devised than one under which these railroad securities and obligations shall be placed in the hands of the investing public and from the sums thus realized the Government meet its obligations to the railroads?

Some day in the no distant future I hope we may be in a position to begin to discuss a reduction in railroad rates and charges all over the Nation. But anyone familiar with the situation must know that that day can not be hoped for until we have removed from the railways the necessity of paying out of current revenues large sums on capital account. Whatever value this may be to the railroads, it is absolutely essential to the best interests of the shipping public—and the shipping public is the entire Nation. [Applause.]

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. MONDELL. May I have just one more minute?

Mr. WINSLOW. Mr. Chairman, I yield to the gentleman one minute.

Mr. MONDELL. Mr. Chairman, in my opinion this bill will do more to hasten and make certain the day when transportation charges will be reduced all over the Nation than anything else that we can possibly do. The Government does not assume any additional obligation under this bill. It will not necessarily require the payment of a penny from the Federal Treasury. But it does aim to put into the hands of the investing public securities now held and to be held by the Government, receive cash therefor, and with that cash pay out the sums necessary to meet the Government's obligations, thus relieving at once the roads and the Treasury and bringing nearer the day when the roads may be able to stand a reduction of freight and passenger rates. [Applause.]

The CHAIRMAN. The time of the gentleman from Wyoming has again expired.

Mr. WINSLOW. Mr. Chairman, I yield to the gentleman from New York [Mr. HOGAN].

The CHAIRMAN. The gentleman from New York is recognized.

Mr. HOGAN. Mr. Chairman, on the other side of the Atlantic, in the cities of Dublin and London, are evolving great events which may have a more potent effect upon the peace of the world than the international conference on disarmament called by President Harding for early in November. Following the assurances of the late President Wilson of the principle of the right of small nations to self-determination, which he himself abandoned, negotiations are under way to decide whether Ireland will accept a compromise of that principle which will keep her within the British Empire.

It ought not to be necessary for me to urge upon the Congress of the United States that this problem is of American interest. If governments do derive their just powers from the consent of the governed, if the complete independence of a people under a republic be essential to them in order to establish justice, insure domestic tranquillity, provide for their common defense, promote their general welfare, and secure the blessings of liberty to themselves and their posterity, as we have rightfully contended and pledged our lives and fortunes to uphold for a century and a half, then the longing on the part of the Irish people for liberty should have the sympathy of this body. It is but simple truth to say here that every people has an inherent right to be free. It would be idle to deny the application of this principle in any given case. But for us we should have a peculiar concern in the Irish cause, born of a recollection of the fact that Irish blood and Irish character are deeply woven into the warp and woof of our national fabric.

Of the 13,500,000 foreign born in our country, 1,350,000 came from Ireland, 4,500,000 have that as their land of nativity or have at least one parent born there, and the number of those in America of Irish descent near or remote is much larger, as evidenced by the fact that in the period of 1860 Ireland contributed 38 per cent to our foreign-born population. And the Irish have loved and fought for America with a devotion that has been undaunted by any national peril. They contributed to the Revolution, gave 150,000 of their sons to the side of the Union in the Civil War, and in the World War supported the Starry Banner with an unstinted patriotism and a heroic courage which assisted in the success of the campaign which laid low the Hohenzollerns and Hapsburgs forever. Let us not in the mean and narrow bigotry of an Admiral Sims belittle those of Irish descent who lie beneath the poppies of the immortal fields of France. Why, half our Presidents have had Irish blood in their veins. Roosevelt, McKinley, and Andrew Jackson were proud to say so.

Ireland has played a conspicuous part in the development of that English-speaking civilization which has accomplished so much for liberty and right. Wellington and Kitchener, the soldiers who did most to save England in her two periods of greatest stress, were born in the Emerald Isle. Edmund Burke, Oliver Goldsmith, Richard Brinsley Sheridan, and George Bernhard Shaw have long helped to inspire the intelligence of the entire British Empire, and they, too, first saw the light on that spot. For England to say, with a prejudice which is unworthy of our age, that she is Protestant and Ireland Catholic and that if Ireland gains her freedom she will menace Protestantism is beside the mark. Nearly every one of the most revered martyrs and leaders of Irish liberty during the past century was a Protestant. Neither Wolf Tone, Robert Emmet, John Philpot Curran, Henry Grattan, Edward Fitzgerald, or Charles Stuart Parnell were within the Catholic faith.

Ireland is prepared to go on with her work for the betterment of mankind, but her people feel that in order to do so she must have that same priceless heritage of liberty which her sons and daughters have enjoyed in America. No people can ever feel the same incentive to accomplishment while under foreign domination. Lloyd-George promises Ireland a full measure of self-government under His Majesty, the King. This is a promise he can not fulfill. Full self-government is impossible under any King. Liberty recognizes the majesty of no person. Irishmen, like Americans, are willing to concede majesty only to the government of a free people, their God, and their conscience. And Ireland deserves liberty. How much she contributed to the sustenance of the British flag on the western front only the English Government can tell. That she did her full part in helping the Empire to preserve itself from utter destruction no fair-minded man will deny. Every true American who cherishes the ideals of the government of his fathers ought to admit no less than that Ireland should have the full right to independence as a reward for her sacrifice in both the British and American Armies.

The concessions by Lloyd-George to De Valera and the Irish patriots who surround him do not emanate from any newly acquired altruism on the part of the proud empire which increased its domain from a fourth to a third of the globe as the result of the war. They arise from a realization that the tendency of our time is toward augmented freedom, that the movement toward self-government in Ireland and India is a part of mighty forces which can not be stayed, and that public opinion in the United States has been growing more and more impatient with injustices and atrocities which have been continued by the British Government in Ireland without cessation for many centuries. She knows that while it is true that Ireland is a part of her domain by force of arms alone and that she can continue to mistreat her people to the limit of the resources of the mightiest empire of the modern world, she can not afford to appear a hypocrite in contending against the right of might with all her strength on the one hand and then exerting the same might to subject a plucky little people whose sole resource is the spirit of liberty. She fears that Ireland will be to her what the Spanish ulcer was to Napoleon. In his ruthless trampling of the liberties of the Spanish people the great emperor found the grave of his empire.

I am proud to acknowledge that my father and mother both were born in old Tipperary. But I am prouder still to say that they came to America in order to escape British tyranny, that I was born in New York City, and that I am a Representative in the Congress of the greatest people and Nation of all the ages. Sure that those of Irish birth and descent in this country love America not only because it is America but because of the liberty it assures under its republican form of government and that they will be content with nothing less than the same blessings of liberty for the land from which they came, I can not believe they will favor any compromise of that liberty. If the American colonists in 1775 demanded liberty or death, is it un-American in principle for the Irish to demand it now? Are we in 1921 less American because we sympathize with their demand? If the leaders of the Irish cause in Ireland accept anything less it can not but be a step in the direction of ultimate republicanism. If England chooses to at last mete out justice to the people she has so long trod in the dust, the peace of her domain will be more assured. If she yields her prejudices and gives further momentum to the mighty movement of our century toward liberty, she can not but gain more respect from the United States and from all other nations, and therefore further remove international contention and more thoroughly reassure the peace of the world.

Empires can not endure. The rights of man are better protected by republics. America, most of Europe, much of Asia, and some of Africa have become republican. If England grants full democratic expression to Ireland she will put that much of her Empire abreast of a movement which will in time make the whole world republican. And after so many sorrows borne in the long struggle for freedom what a throb will there be in the breast of every lover of liberty the world over when the good news is heralded that at last Ireland is free.

The CHAIRMAN. The gentleman from Massachusetts has five minutes remaining.

Mr. WINSLOW. Mr. Chairman, you have been told the history of this bill by one who apparently knows nothing about it. I want to tell you its real history. The President of the United States carried on negotiations not alone through his representative, the Railway Administrator, but by himself directly with railroad representatives, and he came to the conclusion that there was something which should be done which he could help do. Why should he not? What is he there for? [Applause.]

He sent word to the chairman of the Committee on Interstate and Foreign Commerce that he wanted to talk over with him a matter which he regarded as of importance, and which would come under the jurisdiction of that committee. The outcome of the interview was the coming of a delegation of two men representing the President, one the Director of the War Finance

Corporation and the other the Director of the Railroad Administration. They set forth in behalf of the President what they wanted to accomplish in an orderly, proper, decent way through Congress. They approached by the regularly appointed legislative channels step by step, and finally it came to a point where the chairman of the committee, with the ideas on paper which these two departments said were necessary to be embodied in legislation, undertook to make a bill. This he did with the help of the legislative bill drafting organization which this House has created. The whole proceedings have been orderly. The President has jammed nothing down anybody's throat, but he, being a President, who has respect for law and legislative order, sent the bill up here in the way I have described to you, and now we have it here.

The proposition before us is a simple one when you come to understand it. It is rather complex if it becomes necessary to hear the fragmentary contributions of a lot of persons who do not appear to know anything about it. [Laughter.] It is far from me as a matter of propriety and dignity to attack in any way any member of the committee of which I am chairman. But I must congratulate the last speaker on the Democratic side of the House, my good friend—and I admit it gladly—on the fact that, being the most consistent speaker on the Democratic side, with the possible exception of the accuracy of the fairy tale which he related, he was always wrong on this bill—never once right. [Laughter.] And if anybody had drawn a conclusion from what he said, all that it is necessary to do is to reverse that conclusion and he will land in the right boat. [Laughter.]

Now, here is the conclusion. I must rush over it, and I am sorry for that. The railroads will be helped by this legislation, passed through the instrumentality of the skilled and experienced service of the Railway Administrator and the Director of the War Finance Corporation.

The last administration established the corporation. It did a fine job and rendered a fine profit for the benefit of the Treasury. They helped not only railroads, but cotton and agriculture and street railways and manufacturing concerns in the country. They helped them to export, and they were of great good all around, and nobody denies it. Now, they are asked to come in again. They have been reestablished for the purpose of doing something or other of this kind, and under their functions, in consequence of legislation which has been passed within a few days and will be passed within a few hours, they can reach out and help send cotton to the Liverpool market. They can help to hold it there, so that the British public, which has not the means to import subject to call, can pick it up in little lots at a time, thereby making a market for the cotton we have on hand and a market for what is to come, and they can do the same for agriculture, and they propose to do it. They can do the same for manufacturing industries all over this country. They are not out to help lame ducks, but they are out to help untie good strong industrial animals that happened to be fettered in some way or other and that need help for a little time. That is what they are for, and that is what we expect to accomplish through this legislation. It is beyond my understanding how anybody can have the nerve to stand here, if he knows better, and say that this is a loan to the railroads. If he does not know better, which I think is generally the rule, we must be sorry for him, but we must not vote on such sympathies. We propose to take the money which belongs to the War Finance Corporation. It is their money on deposit, whether it is to their credit in the Treasury of the United States or in any bank in this land, and it is subject to their draft under their own regulations, just as much as the money of any of these millionaires whom I see before me and is subject to draft on any bank in which it may be deposited.

The CHAIRMAN. The time of the gentleman has expired. All time has expired. The Clerk will report the bill for amendment.

The Clerk read as follows:

Be it enacted, etc., That section 207 of the transportation act, 1920, is amended by adding at the end thereof two new subdivisions, to read as follows:

"(h) Any bond, note, or other security acquired under the authority of this section after this subdivision takes effect, may, at the option of the President, (1) bear interest at a rate of 6 per cent per annum, and in such event shall be received at par less such discount as may, in the opinion of the President, represent the customary and reasonable expense of marketing such bond, note, or other security; or (2) bear interest at a rate less than 6 per cent per annum, and in such event shall be received at a price to yield an annual average return, including interest and appreciation, if held to and paid at maturity, of 6 per cent of such price, such price to be subject to such further discount as may, in the opinion of the President, represent the customary and reasonable expense of marketing such bond, note, or other security.

"(i) The President may readjust any final settlement made with a carrier before this subdivision takes effect, for the purpose and to the extent only of funding, in accordance with the provisions of this section, any indebtedness of such carrier to the United States existing before such settlement was made, arising out of additions and betterments made during Federal control and properly chargeable to capital account."

Mr. MOORE of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Virginia offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. MOORE of Virginia: Page 2, line 9, after the period, insert a new sentence, as follows: "No such bond, note, or security shall be taken without the opinion of the War Finance Corporation being obtained as to whether the Government will be adequately protected thereby, and as to whether it will probably be marketable when the indebtedness becomes due."

Mr. MOORE of Virginia. Mr. Chairman, whether the opinion of individual Members is for or against the bill, every Member should desire to have the Government protected so far as possible when the funding transactions that are contemplated take place. The present law does not seem to me to provide such protection. The present law in section 207 says:

Any carrier obtaining the funding of such indebtedness as aforesaid shall give in the discretion of the President such security in such form and upon such terms as he may prescribe.

The President is not even required to exact security, and there is nothing specified as to the character of the security which he may receive. As the gentleman from Indiana [Mr. SANDERS] said this morning, if this legislation goes through, the War Finance Corporation becomes in a sense the banker of the Government. If the legislation goes through, the securities in part at least are to be purchased by the War Finance Corporation, which will seek to market them. It seems to me, therefore, altogether desirable that the opinion of the War Finance Corporation should be taken before the funding transaction is closed in any particular case, and I think that an amendment of the character that I have introduced ought to be approved in the interest of the Government, so that we shall be assured that if $350,000,000 is funded—in the event that subsection (i) is adopted and there is also a funding of a very large amount in addition—proper security shall be exacted from the carriers; and that is the sole purpose of the amendment which I have proposed.

From the information which is afforded by the hearings it is not clear that satisfactory security has always been taken in settlements made with the carriers. I find that under the Federal control act of March 21, 1918, obligations amounting to about $65,000,000 were taken, and that, for instance, obligations were received from the Boston & Maine amounting to over $26,000,000, and obligations were taken from the New York, New Haven & Hartford amounting to $3,000,000. I do not know what is their status and to what extent the Government is insured against loss. I find further that under the transportation act of 1920 the total securities taken amount to upward of $89,000,000, and of that total more than $60,000,000 represents a transaction with the New Haven company. I do not know how far these investments by the Government, or loans by the Government, or whatever they may be termed, are protected. Now, that being the condition, it seems to me that gentlemen ought not to hesitate, looking at the matter from a practical point of view, to accept this amendment which will give the War Finance Corporation a look-in as to any funding transaction that is contemplated before that transaction is actually consummated. That will be in the interest of the Government and, consequently, of course, in the interest of all of the taxpayers. [Applause.]

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. DENISON. Mr. Chairman, much as I dislike to differ with any proposition which the gentleman from Virginia [Mr. MOORE] offers on an important bill of this kind, I do not approve of his proposed amendment. In the first place, under the Federal control act the President was authorized to make such advancements as he might deem necessary to meet maturing obligations of the railroads during Federal control, and shortly after we took possession of the railroads $68,000,000 of securities of the New York, New Haven & Hartford and the Boston & Maine came due. The Railroad Administration had to meet those maturities under the law. Otherwise those roads would have gone into the hands of receivers, and there would have been a general bad situation. The Railroad Administration did assume those obligations, and Mr. McAdoo took the very best security, and all the security that he could get from those railroads, and the administration still has $68,000,000 of those securities. Now, during the process of administration of the railroads or during the 26 months of Federal control, the Railroad Administration took over securities when it met ma-

turing obligations of the railroads, and took the very best that the roads could give.

And in all the securities that have been taken thus far the Railroad Administration has taken the best security it could get. Now, it has on hand all told the sum of $490,000,000 in railroad securities. They are in the Treasury, in the possession of the President of the United States, and it is largely these securities which it is desired by this legislation to market through the instrumentality of the War Finance Corporation.

Mr. MOORE of Virginia. Will the gentleman yield?

Mr. DENISON. I will.

Mr. MOORE of Virginia. If the funding is universal, in the event that this legislation is passed there will be transactions totaling about $350,000,000 in addition to those that have been had. Then if section "I" becomes effective there will be $90,000,000 additional. I am talking about the prospective funding. I am not criticizing what has been done heretofore, but only used that as an illustration.

Mr. DENISON. That raises the fundamental question of whether or not we are going to transfer any of the duties and functions of the President under the Federal control and transportation acts to another subordinate agency of the Government. I do not think it would be wise to do so. The President has been intrusted by law with the duty of funding, and it may be that none of the securities hereafter taken will be disposed of through the War Finance Corporation, and therefore the amendment would be useless. I do not think it would accomplish any useful purpose. I do not think it would be wise.

The War Finance Corporation is not familiar with the railroad proposition except in so far as the marketing of the securities is concerned. That is its business. It is composed of men who are familiar with market conditions. That is the reason we want to use this instrumentality for marketing the securities we have on hand. That is why we do not give that power to the Railroad Administration. The Railroad Administration has not the men or the facilities to market the railroad securities even if they had the authority to do so. On the other hand, the War Finance Corporation has the men and the facilities for marketing these securities, but it is not prepared to go into this question of railroad settlement. Therefore I do not think this power ought to be given to the War Finance Corporation.

Mr. JONES of Texas. Will the gentleman yield?

Mr. DENISON. Yes.

Mr. JONES of Texas. If the War Finance Corporation is familiar with securities, why is it not competent to pass on the loan?

Mr. DENISON. They are familiar with the proposition of marketing securities, but why should we transfer from the President, whose duty it is under the law to make the settlements, this authority to an entirely different organization? I know it is unnecessary, and I think it would be unwise.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. WINGO. As I understand the amendment offered by the gentleman from Virginia [Mr. MOORE], it is that the President or the War Finance Corporation, it matters not which one makes the advances, shall take adequate security. I want to say to the friends of this bill that you had better pause before you vote down this proposition. The gentleman from Massachusetts [Mr. WINSLOW] has suggested that you propose to do for the railroads what you have done for the agricultural interests. Under the war finance bill for advances to cover export of farm products which has passed the House and is going to be sent to conference, provision was made for adequate security, and without such a provision the committee would not have reported it. Adequate security was required in addition to indorsement by the financial agency through which the advances are to be made. When the committee found by an oversight that there was an omission in reference to one class of operations, the chairman of the committee on the floor of the House Saturday night offered an amendment that would require adequate security.

The War Finance Corporation in its operations so far as export trade is concerned has certain well-defined fixed limits as to the security and percentages, and as a matter of operation in handling agricultural products, in handling the export of cotton they have not in one single instance brought to my notice advanced more than 50 per cent of the value of the commodity even when the paper was indorsed by a solvent financial institution or association.

Are you willing to say that you will take railroad securities at 100 per cent without adequate security? Your bill says so. Pass the law as you have it written now and it means a certain loss to the Government.

If you do, gentlemen, let me give some of you warning, you will bankrupt the War Finance Corporation to the extent of taking all the available capital and exhausting the market for bonds when it is found that you are issuing bonds and not having back of them the security that you should take. You do not want to do that. You were not willing this morning by your vote to make farm loan bonds legal investments for the War Finance Corporation. You refused to give an investment character to the farm loan bonds for the surplus funds of the War Finance Corporation, and now are you willing to vote down an amendment that will require adequate security from the railroads? Is that the position you want to be put in? If you do, vote down this amendment.

Mr. NEWTON of Minnesota. Will the gentleman yield?

Mr. WINGO. Yes.

Mr. NEWTON of Minnesota. The gentleman seems to be under the impression that the War Finance Corporation must purchase any security offered to it by the Railroad Administration. The act does not say so.

Mr. WINGO. I have not said anything that would indicate that I was under that impression. But what does the act say?

Mr. NEWTON of Minnesota. It says the corporation may purchase.

Mr. WINGO. Does the gentleman think it is worth anything to give authority which you do not expect to be utilized?

Mr. NEWTON of Minnesota. I think it is wise to put in that the corporation may exercise discretion as to what securities they will purchase.

Mr. WINGO. Oh, yes; but are you willing to say that they may exercise that discretion and make advances without adequate security?

Mr. NEWTON of Minnesota. I am willing to leave it to the discretion of the War Finance Corporation and trust their judgment.

Mr. WINGO. I am willing to leave it to the discretion of the War Finance Corporation or the President as to whether or not the security is adequate, but I want to put upon him the burden of taking adequate security, and then I shall take his judgment. By your opposition to the proposed amendment you confess you favor and expect the President to make advances without adequate security. That means that your bill under a pretense of funding the debt the railroads owe the Treasury is intended to cancel the debts and pay them millions in addition as a gratuity. Against such a scheme I protest. [Applause.]

Mr. MADDEN. Mr. Chairman, the law under which these adjustments are made places the responsibility on the President as to what security he shall take. Do you want to place power in the hands of the War Finance Corporation to visé what the President of the United States is to do? I do not think we do. Are you willing to trust the President of the United States? That is the question. Are you willing to take his judgment as to what the proper security is, or do you wish to say that some inferior body or corporation created by law to transact financial business must pass on what the President does? It is an insult to the President, to begin with. You question his integrity when you say that he can not do a thing until the War Finance Corporation says he may do it.

Mr. COOPER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. MADDEN. Yes.

Mr. COOPER of Wisconsin. On the top of page 5 of the bill I find this language:

> Whenever used in this section the term "President" includes any agent or agency designated by him under the authority of any of the acts specified in subdivision (a).

So that the President may know nothing about it. He may appoint some one to do these things.

Mr. MADDEN. I realize all that, but the President under the law is the responsible head. He is charged with the responsibility, and no matter whom he may select to decide for him he is responsible for the action taken. I do not want to insult the President of the United States by instructing him to the effect that the War Finance Corporation must decide the question for him. Leave it to the President. He will perform his duty. He will perform it correctly. He speaks for the American people. He ought not to be restricted in his right to speak for them by any such amendment as that offered by the gentleman from Virginia [Mr. MOORE].

Mr. ANDREWS. Mr. Chairman, a short time ago the question was raised in regard to the payment of the former debt of the Union Pacific Railroad. I hold in my hand a letter

from the Treasury Department answering that question. A friend of mine wrote me for information. That letter is as follows:

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, August 20, 1919.

Hon. W. E. ANDREWS,
Auditor for Treasury Department.

SIR: In reply to your communication of the 19th instant, indorsing a letter from Mr. J. M. Bower, of Grand Island, Nebr., requesting information concerning payment of the Union Pacific Railroad debt to the Government, I have to state that the indebtedness of the Union Pacific Railroad Co. on November 1, 1897, was as follows:

Principal of bonds issued by the Government in aid of construction		$27,236,512.00
Interest paid thereon by the United States		47,736,064.98
		74,972,576.98
Credits:		
Transportation services performed for the Government	$16,085,943.65	
Cash payment on account of net earnings	438,409.58	
		16,524,353.23
Balance due the United States		58,448,223.75
This indebtedness was paid in full as follows:		
November 27, 1897		18,194,618.26
December 1, 1897		6,100,000.00
December 8, 1897		8,538,401.38
December 18, 1897		8,538,401.38
December 29, 1897		8,538,401.38
January 7, 1898		8,538,401.35
		58,448,223.75

The letter of Mr. Bower is returned herewith.

Very respectfully,

C. H. KEEP,
Assistant Secretary.

Mr. GARRETT of Tennessee. Mr. Chairman, I believe it is agreed that all this amendment tries to do is to insure that adequate security be taken. The gentleman from Illinois [Mr. MADDEN] opposes that amendment and gives as his sole reason, in so far as I could catch his argument, that it would be an insult to the President of the United States for the Congress of the United States to put into law a provision that adequate security should be taken in refunding a debt. [Applause on the Democratic side.]

Mr. MADDEN. Oh, Mr. Chairman, the gentleman does not state that correctly.

Mr. GARRETT of Tennessee. I think that is a fair interpretation of what he said.

Mr. MADDEN. What I said was that the President of the United States would necessarily be insulted by the restriction of his right to act—unless it was viséed by the War Finance Corporation.

Mr. GARRETT of Tennessee. Mr. Chairman, the first thought that came to my mind was one of wonder. Since when has the gentleman from Illinois become squeamish about insulting a President of the United States?

Mr. MADDEN. If the gentleman from Tennessee can point to anything that I have ever said against any President of the United States, I shall be very glad to have him do so.

Mr. GARRETT of Tennessee. The gentleman is unduly sensitive about this matter. The former President of the United States had no severer critic than the gentleman from Illinois, and the gentleman is unduly sensitive.

Mr. MADDEN. And he had no more loyal supporter during all the war period.

Mr. GARRETT of Tennessee. Of course, when the gentleman had to. Mr. Chairman, no sort of reflection or insult has been intended to the President of the United States by this amendment, and, with all due respect to the gentleman from Illinois, I submit that that argument is preposterous. Only yesterday I saw in the press, and assume that it is correct, that the chairman of the Reorganization Committee, not a Member of the Senate, not a Member of the House, a man appointed by the President, Mr. Brown, had prepared a plan that would be submitted to Congress whereby there would be created, I do not remember whether it was an assistant to the President or an assistant president of the United States, giving as a reason therefor the fact that so many matters of business had been thrust upon the President of the United States that it was impossible for him to give all of those his personal attention. That is the fact.

Of course, I do not mean by that to say that I would favor creating an assistant president of the United States right off the reel [laughter], because I would like to think about that for a little while, but we know that it is a fact that it is a physical and intellectual impossibility for any President to give to the details of administration that attention which all of the vast amount of business thrust upon him requires; and this amendment asks for nothing except a safeguard, if this bill be passed, in refunding this debt. It is, to my mind, exceedingly ridiculous and far-fetched—a thing I doubt whether any other gentleman in the House would have thought of, except my acutely intellectual friend from Illinois—to say that any insult is intended to the President of the United States. [Applause on the Democratic side.]

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. GRAHAM of Illinois. Mr. Chairman and gentlemen of the committee, I have not taken any of your time heretofore on this bill. It seems to me that this amendment, although it may be aimed at a proper mark, ought not to be adopted for obvious reasons. The gentleman from Illinois [Mr. DENISON] mentioned the principal one of those reasons. If any of you have the transportation act before you, and will look at it, section 207, you will ascertain in a minute that it is impracticable to set some other agency to do the things that are to be done as provided in that act, unless you repeal and undo what you did by section 207 of the transportation act. That reads as follows:

SEC. 207. (a) As soon as practicable after the termination of Federal control the President shall ascertain (1) the amount of the indebtedness of each carrier to the United States, which may exist at the termination of Federal control, incurred for additions and betterments made during Federal control, and properly chargeable to capital account; (2) the amount of indebtedness of such carrier to the United States otherwise incurred; and (3) the amount of the indebtedness of the United States to such carrier arising out of Federal control. The amount under clause (3) may be set off against either or both of the amounts under clauses (1) and (2), so far as deemed wise by the President, but only to the extent permitted under any contract now or hereafter made between such carrier and the United States in respect to the matters of Federal control, or, where no such contract exists, to the extent permitted under paragraph (b) of section 7 of the standard contract between the United States and the carriers relative to deductions from compensation.

This gives to the President, gentlemen, the right to set it off if he thinks it desirable to do so; or if he does not think it desirable to do so, he may make some other arrangement of a funding nature. This proposed amendment says:

No such bonds, note, or security shall be taken without the opinion of the War Finance Corporation being obtained as to whether the Government will be adequately protected thereby and as to whether it will probably be marketable when the indebtedness becomes due.

Now, this provides that the War Finance Corporation, an entirely different and distinct bureau of the Government, has stepped into this duty that the Congress has imposed upon the President and says whether the President ought to take a certain security, when and how, what may be the rate of interest, and all about it. That will not work, gentlemen, if you are going to adopt it, and I will show you why. It must not be understood that the War Finance Corporation is to buy every security that the President has taken under the transportation act or under the Federal control act. The War Finance Corporation has the right to exercise its function as to whether it should take them over. I call attention to section 19 (a) of the proposed bill, which states:

The corporation may purchase from the President and the President may sell to the corporation any bonds, notes, or other securities acquired by the President either before or after this section takes effect.

And the testimony before our committee was to the effect—and it was given by a man who impressed me as a man of considerable vigor and ability along financial lines—the testimony was that they did not propose to purchase or would not purchase securities from the Railroad Administration or taken by the President unless they thought that those securities that were given were ample enough and such that they thought that the Government could get rid of.

Now, if you are to give to the War Finance Corporation the option and the choice of buying or not buying from the President, does it not look to you to be foolish to say the War Finance Corporation should first pass upon the securities and afterwards again when they come to purchase them should pass upon the same thing?

Mr. MOORE of Virginia. Will the gentleman yield?

Mr. GRAHAM of Illinois. I will.

Mr. MOORE of Virginia. Of course I recognize that the War Finance Corporation does not propose to buy all the securities. There is another provision in the bill which says any securities which the War Finance Corporation does not take may be disposed of by the Executive. The thought of this amendment is that inasmuch as the War Finance Corporation is going to be largely in the situation, and inasmuch as it will be in touch with the market, the War Finance Corporation will be in a position to advise as to the strength of any securities that may be offered the Government.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GRAHAM of Illinois. Mr. Chairman, I ask unanimous consent to proceed for five minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois? [After a pause.] The Chair hears none.

Mr. GRAHAM of Illinois. The gentleman does not go quite far enough. The gentleman wants to put the War Finance Corporation in a position where it may pass upon these securities. The whole matter ought to be left to the reasonable discretion of the director of railroads or the President so far as this funding operation is concerned. To do otherwise we take away from him the power we have given him, and I believe there ought to be a considerable leeway left in the settlement so that we can trade back and forth, so to speak, so that terms can be made. We must trust our Chief Executive and the Director General of Railroads to take securities that will be fairly marketable and be such as they ought to be. To put the War Finance Corporation in there with this discretionary power would be to take away from him one of the principal powers he has under the transportation act. I believe that with these two functions, the function of the President in exercising his discretion and the second function that the War Finance Corporation exercises in reference to these securities, the interests of the public will be amply secured, and I believe this section ought to stand as it is written. [Applause.]

Mr. MANN. Mr. Chairman, I think I understand this bill, and if I do it seems like a very plain and simple proposition. The Government through the Railroad Administration owes to the railroads large sums of money for current account. The railroads owe to the Government large sums of money, mostly for permanent improvement. It is not customary and in the main not proper for a railroad company to pay for its permanent improvement out of the current receipts because that would mean simply to increase railway rates. Such money for permanent improvements is usually borrowed from the investing public. Congress has already recognized this condition of fact by providing in the act passed a year ago that this indebtedness due from the railroads to the Government for permanent improvements might be paid in securities to the Government, payable within 10 years' time. That power has already been conferred. Now, what is the proposition before us? That the President may make a settlement with the railroads of the indebtedness due from the railroads to the Government, mainly for these permanent improvements; take these securities from the railroad companies, let the War Finance Corporation sell the securities to the investing public, and then use the money to pay to the railroads the indebtedness due from the Government to the railroads on current account. [Applause.]

If that is not a common-sense and practical proposition, I never heard of one. Without this bill the President may take the funded or bonded securities from the railroads and keep them in the hands of the Government, and then we will have to appropriate money out of the Treasury to pay what we owe to the railroads. Which is the wiser thing to do? Is it not to take the securities which they can give to us, which we all acknowledge ought to be paid in the way of securities, sell them and use the money and pay what we owe to them? That is all there is to it.

Now, as to the pending amendment, let me suggest to the Republican side of the House that in the railroad act we authorized the Democratic President to accept these securities from the railroads, payable within 10 years, in his discretion. Do we propose to say on our side of the House that we would trust a Democratic President but would not trust a Republican President? [Applause on the Republican side.]

Just one word more. The Republicans of the House voted for a bill to turn the railroads over to the Government because the President of the United States said that it was a necessary measure as a war proposition. We are inheriting the aftermath of that. Now, when we are in the position where we have to meet the conditions which grew out of this, given to the President at his demand, we meet no help from the Democratic side of the House. They are trying to do everything they can to interfere with proper settlement. But we acted patriotically at the time, and I hope we will act patriotically now. We do not need their help. [Loud applause on the Republican side.]

The CHAIRMAN. The question is on agreeing to the amendment of the gentleman from Virginia [Mr. MOORE].

The question was taken, and the Chair announced that the noes seemed to have it.

Mr. RAYBURN. Division, Mr. Chairman.

The committee divided; and there were—ayes 51, noes 104.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

Mr. JONES of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. JONES of Texas: Page 2, line 9, after the word "security," insert the following:

"*Provided*, That the agent or agency designated by the President shall accept only such bond, note, or other security as will in their judgment fully protect the rights and interests of the Government."

[Cries of "Vote! Vote!"]

The CHAIRMAN. The gentleman from Texas is recognized in support of his amendment.

Mr. JONES of Texas. Mr. Chairman, this is seemingly the cause of some merriment, but the gentlemen seem to want to leave it in the hands of the President, and I want to call attention that it is strictly in line with the act that was cited by the gentleman from Illinois taking over the railroads. The Federal control act provides for the arrangement by the President of certain securities and says that they shall be payable on such terms as may be determined by the President, to the end that the United States may be fully reimbursed for any sum so advanced. This is practically carrying forward in different language the same provisions of the original act taking over the railways, and by virtue of which this indebtedness was incurred. Under the original act, under the terms of which the indebtedness was incurred and by virtue of which this act was brought in, there was a provision that the President should see to it that in these fundings or in the incurring of indebtedness the United States should be fully protected in its rights and in its interests. Now, I bring this in——

Mr. MANN. Will the gentleman yield?

Mr. JONES of Texas. For a question.

Mr. MANN. Is not that still the law?

Mr. JONES of Texas. That is still the law so far as the matters covered by it are concerned, but if you pass a subsequent act which does not contain that stipulation with reference to new securities that are to be taken, it will not govern as to new securities, nor as to securities to which the stipulation in the original law did not apply.

Mr. MANN. The whole bill is predicated upon—

Any bond, note, or other security acquired under the authority of this section.

This section is No. 207 of the transportation act.

Mr. JONES of Texas. That is true, but it was with an amendment which says that the President may accept any bond, note, or security acquired under that other section, and it does not say in case of any new note, bond, or security he shall see that the Government is protected.

Mr. MANN. It means the whole business.

Mr. JONES of Texas. It says:

Any bond, note, or other security acquired under the authority of this section.

Mr. MANN. That is not the section I refer to.

Mr. JONES of Texas. Listen. But after this subdivision takes effect it is not the section.

Mr. MANN. It is section 207 of the transportation act.

Mr. JONES of Texas. If this bill takes effect, it is amended.

Mr. MANN. This is an addition to section 207.

Mr. JONES of Texas. And if it were a part and is required under the new law, why so much ado because I offered an amendment requiring that to be done.

Mr. MOORE of Virginia. Conceding what the gentleman from Illinois says about the condition of the legislation, the fact remains that section 207 does not require the President to take security that will protect the Government. He is given a discretion as to whether he will take any security or not.

Mr. MANN. I just followed the argument of the gentleman from Texas, who said that it was required.

Mr. JONES of Texas. I accepted the statement of the gentleman from Illinois, who said it did. I was citing this act on another provision, which the taking of——

The CHAIRMAN. The time of the gentleman has expired.

Mr. JONES of Texas. Mr. Chairman, I ask unanimous consent for three minutes more.

The CHAIRMAN. The gentleman from Texas asks unanimous consent for three minutes more. Is there objection?

Mr. GRAHAM of Pennsylvania. I object.

Mr. JONES of Texas. This is section 6 of the original law that I was reading from, while the gentleman from Illinois was referring to section 207.

Mr. WINSLOW. Mr. Chairman, I move that all debate on this section and amendments thereto be now closed.

Mr. JOHNSON of Mississippi. Would the gentleman be willing that I should take two minutes on it?

The CHAIRMAN. The question is on the motion of the gentleman from Massachusetts [Mr. WINSLOW].

The motion was agreed to.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Texas [Mr. JONES].

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 2. That section 202 of the transportation act, 1920, is amended by inserting "(a)" after the section number and by adding at the end of the section a new subdivision to read as follows:

"(b) Every claim of a carrier against the United States arising out of or incident to Federal control shall, if not filed within one year after this subdivision takes effect, be thereafter barred, and the carrier shall be considered as having waived the claim."

Mr. JOHNSON of Mississippi. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Mississippi moves to strike out the last word.

Mr. JOHNSON of Mississippi. Mr. Chairman and gentlemen, in my speech a while ago I referred to the Union Pacific bonds, and read from the hearings a statement compiled by the Assistant Director of the War Finance Corporation, connected with the Treasury, in which he stated, on page 38:

The amount due to the United States from the central branch of the Union Pacific Railroad on account of bonds issued in 1864 and 1878, is $3,553,891.

Now, this was prepared and filed by the Treasury Department. Mr. ANDREWS read a letter that was written August 20, 1904, nearly 20 years ago, in which he says the Treasury Department says these bonds were paid some time ago. The Treasury Department says now they are not paid, and they are still due the Government; and they give an itemized list of them here. So that if there is a falsehood or a mistake, I did not make it. I only read what the Treasury Department said.

It only goes to show the inefficiency that there is down there during the Republican administration and the danger of taking worthless securities. If what Mr. ANDREWS said is true, the United States Government now has on hand over $3,000,000 worth of worthless securities. That is why I was so anxious and urged the calling of the Secretary of the Treasury before the committee in order that we might get the truth about this matter.

Now, gentlemen, the figures speak for themselves. The Treasury Department to-day says the money is due. The letter to Mr. ANDREWS, written nearly 20 years ago, says they have been paid, or a portion have been paid. It remains for you, gentlemen, to read the hearings and determine for yourselves.

That is all I have to say. Mr. Chairman, I withdraw my pro forma amendment.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn.

There was no objection.

Mr. BLANTON. Mr. Chairman, I have a perfecting amendment.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

Mr. BLANTON. Mr. Chairman, on page 2, line 23, I move to strike out the words "incident to Federal control."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. BLANTON: Page 2, line 23, after the word "or," strike out the words "incident to Federal control."

Mr. BLANTON. Mr. Chairman, this proposed loan by the Government of $500,000,000 of the people's money out of the Treasury to the railroads of the country is just one of the very many other burdensome incidents of recent Federal control.

There was just one reason for taking the railroads over, and all of you know it. The four great brotherhoods, with their 400,000 active members, aided and abetted by the American Federation of Labor with its 4,000,000 members, had threatened that unless they were granted certain raises in salaries immediately they would tie up every railroad in the United States from the Atlantic to the Pacific so tight that not one could run, and every sensible man knew that such action meant the starving to death in every big city of several million helpless women and little children, and it also meant dire disaster to our soldiers who were fighting in the trenches of France for $33 per month, and it further meant a victory for German arms. It was proposed in the Senate, and I proposed it in the House, for us to pass a law prohibiting any set of men to conspire and combine to interfere with interstate traffic and interstate mails during the war, or to thus interfere with shipping on the seas or the mining of coal needed for such purposes. This was a little bill not over two pages in length, and if we had had courage enough to pass it we could have avoided the taking over of the railroads. But my colleagues were afraid of what the brotherhoods and Mr. Gompers would do to them in the next election and could not face the music.

Organized labor would not let Congress pass the antistrike bill. If this little bill had been passed, all the railroads could have functioned and could have produced the required service, and all of this expense of taking them over could have been avoided. But the railroads made a showing to Congress and demonstrated that they could not meet the demands of President Jewel and his brotherhoods, as such demands would bankrupt them; and that the Government must do one of two things, either it must protect the railroads against strikes and its employees tying up all traffic or the Government must take over the roads and meet the demands of such employees out of its own Treasury. All of us knew that this was the truth. All of us knew that Congress must do one of these two things. All of us knew that the time had come when Congress had to decide whether the Government could run the unions in war time or whether it was going to let the unions run the Government. We all knew that the brotherhoods were demanding $754,000,000 extra, and that a refusal without the antistrike law meant the loss of the war. But Congress was afraid of the unions. Congress was afraid of the brotherhoods. The passage of the antistrike measure was out of the question when it might mean political defeat later. So Congress took the easy alternative. It would rather have the Government pay any amount of cost than displease the unions. It took the easy road. It decided to make its bed with the unions. And when it decided this, everyone knew there was no alternative left other than to take over the railroads and let the Government furnish the funds. And Congress therefore took over the railroads.

And just as soon as this was done the brotherhoods renewed their demand upon Director General McAdoo that he pay over to them in cash out of the Treasury $754,000,000 and date it back on their salaries six months, with the alternative that otherwise they would tie up every railroad so tight that it could not run. And some of these conductors on the big systems were then getting $300 per month for riding eight hours per day in comfortable trains, spending most of their time in Pullmans and eating their meals in luxurious diners at half the price that you and I have to pay, and in some instances have auditors to take the tickets up for them; and when their trains were late, as was usually the case, they received overtime pay under the ridiculous Adamson law they had forced through Congress. And when Hines succeeded McAdoo as Director General, through such a deadly threat to the life of this Nation and the life of our allies, these same brotherhoods again forced Director Hines to turn over to them, out of the Treasury, $67,000,000, and various later sums, and finally received as a parting gift from the Railroad Labor Board $600,000,000 additional.

Thus, since the unions forced Congress to take over the railroads the Government has given the railroad employees over $1,000,000,000 in annual increase in wages. And not a newspaper in Washington can open its mouth about the matter, because they are union controlled. And only a limited number of the daily newspapers in the United States can say anything about this question editorially, much less give the news to the people. And this is why the people had begun to believe that the taking over of the railroads was necessary. But the day is coming when the newspapers over this land are going to free themselves of union domination and are going to give the people the facts, both as news and editorially, and then they are going to wake the people of this Nation up to such a degree that no man who wears a class yoke around his neck can remain in Congress. The people are not going to stand for class yokes, either the yoke of big business or the yoke of labor unions. They are going to demand that every vote shall be for the people as a whole. And I pray God that the day will soon come when our press shall be free again.

Why, Mr. Chairman, two and one-half years ago the Los Angeles Times and the Buffalo Commercial were the only two large daily newspapers in the United States that were "open shop" papers, and therefore editorially free. A monument should be erected to commemorate the splendid work of Mr. E. J. McCone, of the Buffalo Commercial, who conducted a campaign for the American open shop in journalism. At the end of one year he had two additions—the Gazette, of Phoenix, Ariz., and the Daily News, of Hamilton, Ohio. Last April, which marked the end of the second year of his campaign, there were 34 newspapers in the United States which had publicly thrown off the union yoke and had determined to give their readers unbiased news and unbiased editorials. And, Mr. Chairman, to-day, after two and one-half years, there are

109 newspapers in the United States which have determined to be free, they being the following:

OPEN-SHOP PUBLISHERS.

(City, State, and publication.)

Aberdeen, S. Dak., Daily American, Sunday American, Daily News, Weekly News.
Alliance, Ohio, Daily Review.
Austin, Tex., Daily American, Sunday American.
Buffalo, N. Y., Daily Buffalo Commercial, Weekly Truth.
Binghamton, N. Y., Daily Sun, Daily Press and Leader.
Butler, Pa., Daily Citizen, Daily Eagle.
Chambersburg, Pa., Daily Public Opinion, Daily Franklin Repository, Weekly Franklin Repository, Daily Valley Spirit, Weekly Valley Spirit.
Conneaut, Ohio, Daily News-Herald.
Clay City, Ind., Weekly News.
Cleveland, Ohio, Weekly Trade Report.
Detroit, Mich., Weekly Saturday Night.
Dothan, Ala., Daily Eagle, Weekly Eagle.
Easton, Pa., Daily Express, Daily Free Press, Semi-Weekly Free Press, Semi-Weekly Argus, Northampton Democrat.
Eldorado, Kans., Daily Times.
Evanston, Ill., Daily News-Index.
Fort Smith, Ark., Daily Southwest American, Sunday Southwest American, Daily Times-Record, Sunday Times-Record.
Flagstaff, Ariz., Weekly Sun.
Fort Collins, Colo., Daily Express-Courier.
Greensburg, Pa., Daily Tribune, Weekly Press.
Grand Rapids, Mich., Weekly Michigan Tradesman.
Hamilton, Ohio, Daily Republican-News.
Hornell, N. Y., Daily Times-Tribune.
Hartford, Conn., Daily Courant, Sunday Courant.
Hibbing, Minn., Daily News, Sunday News.
Jackson, Miss., Daily News, Sunday News.
Jacksonville, Fla., Daily Times-Union, Sunday Times-Union.
Los Angeles, Calif., Daily Los Angeles Times, Sunday Los Angeles Times.
Lockport, N. Y., Daily Union Sun and Journal.
Lancaster, Pa., Daily Examiner and New Era, Semiweekly Examiner and New Era, Daily News-Journal, Daily Intelligencer, Semiweekly Intelligencer.
Lawrence, Kans., Daily Journal-World.
Lyons, N. Y., Weekly Lyons Republican.
Miami, Fla., Daily Metropolis, Daily Herald, Sunday Herald.
Morristown, N. J., Daily Record, Daily The Jerseyman.
Meyersdale, Pa., Weekly Republican.
Mitchell, S. Dak., Daily Republican, Sunday Republican.
Michigan City, Ind., Daily News, Weekly News.
Mesa, Ariz., Daily Tribune.
New Orleans, La., Daily Item, Sunday Item, Daily States, Sunday States, Daily Times-Picayune, Weekly Times-Picayune, Sunday Times-Picayune.
Norwalk, Conn., Daily Hour.
Olympia, Wash., Daily Olympian, Daily Recorder, Weekly Recorder.
Oregon City, Oreg., Daily Enterprise, Weekly Enterprise.
Philadelphia, Pa., Sunday Transcript, Daily Bulletin, Daily Inquirer, Sunday Inquirer, Daily Record, Sunday Record.
Phoenix, Ariz., Daily Gazette.
Pottsville, Pa., Daily Republican, Weekly Schuylkill-Republican.
Peru, Ind., Daily Journal, Daily Chronicle.
Port Chester, N. Y., Daily Item.
Rhinelander, Wis., Daily News.
Rocky Mount, N. C., Daily Telegram.
Salt Lake City, Utah, Daily Deseret News, Semiweekly Deseret News, Saturday Deseret News.
Scranton, Pa., Monthly Board of Trade Journal.
Seattle, Wash., Weekly Business Chronicle.
Wilmington, Del., Daily Every Evening.
Wausau, Wis., Daily Record-Herald.
White Plains, N. Y., Daily Reporter.
York, Pa., Daily Dispatch.
Yuma, Ariz., Daily Sun, Sunday Sun, Weekly Sun.

These newspapers, Mr. Chairman, are gradually letting the people know something about domination of government by unions, and when all the daily newspapers in the United States throw off the yoke of slavery and become editorially free, then you had better watch out. They will let the people know that it was utter foolishness to take over the railroads. If we would pass a bill now giving the railroad companies the right to manage their own business, giving the railroad companies the right to run their business on a business basis, free from the continual threat of a nation-wide strike, they would not need this $500,000,000 loan. The freedom to manage their own business would be worth more to them than this $500,000,000.

But we shirk our duty. We do the other thing that is easier for us politically. We would rather turn over to them $1,000,000,000 to cover the increase in the annual pay roll that we put on them; we would rather do that than stand up here and say to the railroads, as to everybody else, "You have got a right to run your own business." [Applause.]

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. WINSLOW. Mr. Chairman, I move that all debate on this section and all amendments thereto be now closed.

The CHAIRMAN. The gentleman from Massachusetts moves that all debate on this section and all amendments thereto be now closed. The question is on agreeing to that motion.

The motion was agreed to.

Mr. CHINDBLOM. Mr. Chairman, may we have the amendment read, to show how it will read when it is adopted?

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the amendment be again read. Is there objection?

Mr. RAYBURN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The question is on agreeing to the amendment of the gentleman from Texas [Mr. BLANTON].

Mr. BLANTON. Mr. Chairman, I ask permission to withdraw it.

The CHAIRMAN. The gentleman from Texas asks permission to withdraw his amendment. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will read.

Mr. SEARS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Florida offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. SEARS: Page 2, line 24, after the word "within," strike out "one year" and insert in lieu thereof "six months."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 3. That the War Finance Corporation act, as amended, is further amended by adding at the end of Title I thereof a new section to read as follows:

"SEC. 19 (a). The corporation may purchase from the President and the President may sell to the corporation any bonds, notes, or other securities acquired by the President either before or after this section takes effect, under authority of the Federal control act, the transportation act, 1920, or the act entitled 'An act to provide for the reimbursement of the United States for motive power, cars, and other equipment ordered, for railroads and systems of transportation, and for other purposes, approved November 19, 1919. The aggregate purchases thus made shall not exceed $500,000,000. Any such securities so purchased shall be purchased at the prices and subject to the discounts, if any, at which acquired by the President and shall be sold by the President without recourse.

"(b) Whenever, in the opinion of the board of directors of the corporation, market conditions justify, any such bonds, notes, or other securities, acquired by the corporation under this section, may from time to time be sold, marketed, or disposed of by the corporation at a price to produce not less than the original cost thereof to the corporation.

"(c) Any such bonds, notes, or other securities not purchased by the corporation may, at the request of the President, be sold, marketed, or disposed of by the corporation, as selling agent, at not less than the price at which originally acquired by the President.

"(d) The proceeds of all bonds, notes, or other securities sold by the President to the corporation or by the corporation as selling agent, shall be a fund to be used by the President for the purposes described in section 202 of the transportation act, 1920. Any balance not so required shall be paid into the Treasury of the United States as miscellaneous receipts.

"In using any fund or moneys available under this or any other act, for the purposes described in this subdivision, no payments or allowances shall be made to any carrier on account of the so-called inefficiency of labor during the period of Federal control. Such funds and moneys shall not be used in making any settlement between the United States and any carrier which does not forever bar such carrier from setting up any further claim, rights, or demands of any kind or character against the United States growing out of or connected with the possession, use, or operation of such carrier's property by the United States during the period of Federal control.

"(e) Whenever used in this section the term 'President' includes any agent or agency designated by him under the authority of any of the acts specified in subdivision (a).

"(f) The power conferred on the corporation and the President by subdivision (a) may be exercised at any time prior to July 1, 1922, notwithstanding the limitation contained in the proviso to section 1 of this act. The powers conferred on the corporation in subdivision (b), (c), and (d) may be exercised at any time during the life of the corporation.

"(g) No purchase shall be made by the corporation under this section at any time when such purchase interferes with the corporation in granting the fullest aid for financing the handling and exporting of agricultural products by the corporation under this act as now or hereafter amended. It is the intention that this section shall be construed and administered as to give the preference to such financing and exporting of agricultural products."

Mr. BLANTON. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Texas asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

The CHAIRMAN. The Chair calls the attention of the gentleman from Massachusetts [Mr. WINSLOW] to the fact that on line 13, page 5, there is a letter omitted from the spelling of the word "interferes."

Mr. WINSLOW. I was about to make a motion to correct that.

The CHAIRMAN. If there be no objection the Clerk will be authorized to correct the spelling of the word "interferes" in line 13.

Mr. SEARS. Reserving the right to object, is the gentleman from Massachusetts going to move to close debate at once?

Mr. WINSLOW. No.

Mr. SEARS. I want five minutes.

The CHAIRMAN. The Chair hears no objection, and the Clerk will correct the spelling.

Mr. WEBSTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Washington offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. WEBSTER: Page 4, line 13, strike out all the language beginning with the word "in" in said line and ending with the word "control," in line 17 of page 4, the words to be stricken out being as follows:

"In using any fund or moneys available under this or any other act, for the purposes described in this subdivision, no payments or allowances shall be made to any carrier on account of the so-called inefficiency of labor during the period of Federal control."

Mr. WEBSTER. Mr. Chairman, amplifying a little further the views which I undertook to express during the general debate, I desire to say in answer to the argument advanced by the gentleman from Kansas [Mr. TINCHER] that the railroad companies during the time they were negotiating with the Director General over the form of the contract to be executed undertook to have an express provision inserted recognizing this claim for so-called inefficiency of labor; that no such provision was inserted, and from that fact the gentleman from Kansas concludes that there are no rights under these contracts arising out of inefficiency of labor. If that is so, what office does the language covered by my amendment perform? If there is no liability arising out of so-called inefficiency of labor because of the form of the contract as it now stands, why do you write your own interpretation of that contract, denying any such liability? Moreover, Mr. Chairman, a number of the railroads, a notable instance being the Southern Railway, never had any contract with the Federal Government at any time during Federal control. Even though the question of inefficiency of labor is covered in those cases where a contract has been made, as asserted by the gentleman from Kansas, what becomes of the class of cases where there was no contract at all, and the rights of the parties will have to be measured in accordance with settled principles of jurisprudence? The language sought to be stricken amounts to a limitation upon their rights, for the reason that they have no contracts.

Moreover, Mr. Chairman, if the language of this bill does not in any way limit, restrict, or deny the rights of the carriers under their contracts or under the law, then it has no office at all and ought to come out of the bill. On the other hand, if it does restrict, if it does limit, if it does deny, liabilities arising under that contract or under the law, either in whole or in part, then, shrink from it if you will, it is plainly a monstrous repudiation of a solemn obligation. One gentleman suggested to me a moment ago, "Why, if this should be passed, it would be unconstitutional anyway." Well, Mr. Chairman, the unfortunate thing about it is that if it is passed it will not be unconstitutional. I would remind the gentlemen of this committee that the limitation in the Federal Constitution against impairing the obligation of a contract applies solely to the States. The language of the Constitution is that no State shall pass any act impairing the obligation of a contract, but there is no limitation upon the power of the Federal Congress to do that unthinkable and unspeakable thing. Not only is that true, but if this language is unconstitutional, then surely it ought to be stricken out, and no Member entertaining that view concerning it can vote for it without violating his oath. Mr. Chairman, it seems to me that we should proceed with caution in such a situation as this. This measure may come back to damn us, and God forbid that it shall come back to curse me.

Mr. HOCH. Mr. Chairman, I rise in opposition to the amendment. The gentleman from Washington [Mr. WEBSTER] wants to know what the value of the provision is, if there is nothing in the contract about "inefficiency of labor," a very great value, in my judgment. In spite of the fact that the contract does not call for any payment growing out of inefficiency of labor, the railroads are threatening long litigation over the matter. The Director General has turned them down, the Interstate Commerce Commission has turned them down, and the President has turned them down. But still they insist upon their claims. Now is the time to make clear that Congress does not sanction any such claims. It is not a violation of a contract. It is a congressional insistence upon the observance of the contract. That is the office of the words which the gentleman now seeks to strike out.

Now, what is all this about—this claim of the railroads based on inefficiency of labor? It will be recalled that in the Federal control act taking over the railroads it was provided that the roads were to be turned back to their owners in substantially as good condition as they were in when the Government took them over. The practical problem then presented itself as to how that was to be determined. There had been no physical inspection of the properties, and there would be none that was comprehensive when they were turned back. So there would be no comparison upon which to base a showing as to whether they were in as good condition when turned back as when taken over. Therefore some fair but arbitrary method had to be adopted. The method adopted was an accounting method, a mathematical method, if you please, to take the place of an inspection or engineering method. The railroads and the Railroad Administration agreed upon the method and wrote it into the contract. The Railroad Administration said:

We will find out how much the railroads spent on maintenance during the three-year test period before we took the roads over. Then we will see how much the Government spends on maintenance while it is running the roads. Then we will make adjustments to cover the difference in the cost of labor and material, and after we have made these adjustments, if the Government has done as well in maintenance as the roads themselves did, then it must be assumed that the roads are turned back in as good condition as when they were taken over. For it is to be assumed that the railroads maintained their properties.

As I have said, the railroads agreed to this accounting method. It was for the very purpose of providing a simple and fair method, as free as possible from speculation and uncertainty, that this plan was adopted. At first the railroads insisted upon including in the contract the words "efficiency of labor." The first draft of the proposed contract submitted by the railroads, in the paragraph dealing with the adjustments to be made in computing maintenance, contained the language "increases in the cost of material, increase in the cost of labor, decrease in the efficiency of labor." The words "decrease in the efficiency of labor" were stricken out upon the insistence of the Director General. And the carriers signed the contract with those words eliminated. There can be no question as to the intention of the parties to the contract. There was an intention to include in the equation merely the differences in the cost of labor and material, and not the highly speculative matter of the quality or effectiveness of labor. Some gentleman made the statement that no member of the committee had read the standard contract. The gentleman is mistaken. Various members have read it. I have not only read it carefully, but have discussed it with the Director General and others, and I have yet to find anyone familiar with the negotiations who does not agree with the Director General in his position.

Now, after the words were eliminated the standard contract was drawn up and signed. In my judgment no unprejudiced man can read that contract and find any basis for the claims of the railroads in this matter. Section 5 of the contract, which I have in my hand, is the section dealing with this matter of maintenance, out of which the controversy arises. It clearly provides what adjustment shall be made in determining whether the Government properly maintained the roads while it was running them. The adjustments provided are to include "any difference that may exist between the cost of labor and materials" as compared with the test period before the roads were taken over. And then the contract specifically provides that after these allowances are made that "shall be taken as a full compliance with the foregoing covenant." The "foregoing covenant" is the maintenance covenant. There can be no question about it. But now, having made this contract, they come and hold the club of a long litigation over the Government and would compel the Government to go into a maze of speculative inquiry as to the quality and effectiveness of labor. Why, gentlemen, whatever might be said of the efficiency or inefficiency of labor during the war period, is there any reason why the railroads should not be in the same boat as every other industry was. If there was inefficiency of labor, would there not also have been inefficiency of labor if they had continued to run the roads themselves?

Now is the time to settle this matter. That paragraph should remain in the bill. [Applause.]

Mr. BURKE. Mr. Chairman and gentlemen of the committee, the gentleman from Washington [Mr. WEBSTER] wishes to amend this bill to allow claims for inefficiency of labor. I claim, and I know that there was no inefficiency among the railroad men. During the entire period of the war they stood loyally and faithfully at their posts, actuated by but one motive, and that was the successful winning of the war. The railroad men need no defense. The faithful and patriotic service they rendered their country and the efficiency of that service is one of the brightest pages in labor's history of the World War. While the wages of other crafts of labor advanced all around them, the railroad men stood at their post of duty, because, like the soldier on the firing line, they were in the service of their country and no inexperienced and inefficient men could take their place. Their sole thought was their country's welfare; their heart's desire to help the boys in the trenches.

The railroad men unstintingly and unsparingly made every sacrifice, and many of them participated in the supreme sacrifice, the blood of their sons having been shed on the field of Flanders.

The same gentleman from Washington [Mr. WEBSTER], when the Cummins-Esch bill was before the House, offered an amendment providing that if two men left the service of any railroad corporation at the same time they would be fined $10,000 or 10 years in jail, or both, and the gentleman from Texas [Mr. BLANTON] voted for that amendment.

And I want to say here that just as sure as the word "labor" is mentioned, the gentleman from Texas has a brain storm, and if there is any danger of doing anything to benefit labor, the gentleman from Texas gets a brain storm. Mr. BLANTON talks about conductors getting $300 a month. He knows that conductors do not get a salary of $300 a month; and he would also have you believe that every train on a railroad carries a dining car. Why, how many trains on a road have a dining car that runs on a division in every 24 hours? I will answer you. Thousands of trains run over the roads that do not carry dining cars, and the gentleman from Texas [Mr. BLANTON] knows it, too. However, the gentleman from Texas [Mr. BLANTON] brings to mind a little incident that happened to a friend of mine a few years ago while he was visiting Pittsburgh. This gentleman was from California, and while in Pittsburgh expressed a desire to visit our municipal and State institutions. Among the institutions he visited was the State insane asylum, Dixemont. At this institution he was furnished a guide, who took him all through the buildings and over the grounds and who, my friend said, was well posted about everything appertaining to the institution and its inmates. My friend told me this guide discussed intelligently the topics of the day, and he put in a very pleasant half day with him. On leaving the place he shook hands with the guide and told him if he was ever out West to be sure and visit his home. "Why," replied the guide, "I can't do that. I am an inmate here." "You an inmate here," exclaimed my friend in surprise. "Have you a father and mother?" He said he had. "And they don't do anything to take you out of here?" He said, "No." "Have you brothers or a sister?" "Yes." "Aren't they interested in taking you out of here?" And he said, "No." My friend then asked him if he had a wife, and immediately the insanity cropped out. He shrieked, "Wife, wife, wife!" And so with the gentleman from Texas [Mr. BLANTON], the moment you mention "labor" the insanity crops out.

Mr. RAYBURN. Mr. Chairman, I had hoped that there would be no serious attempt made to take from this bill the only lines that are in any way in favor of the folks.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. RAYBURN. Yes.

Mr. MANN. If the gentleman will give us a chance, we will keep that language in the bill very speedily.

Mr. RAYBURN. But I want to make a little speech on it. [Laughter.]

Mr. MANN. I do not know what we will do after the gentleman finishes his speech, however. [Laughter.]

Mr. RAYBURN. And I want also to say a word or two about the gentleman from Illinois before I close. This question of the inefficiency of labor is such a vague, indefinite thing that it should not be recognized in any contract or in any legislation. It is said that this takes away from the railroads some right that they may in the future have. It is not the right of the railroads to come to the Government and say, "You have got to fund our obligations." It is a privilege which the Government extends to the railroads when the Government tells them that they may fund their indebtedness. The Government, under the contract which we have with the railroads, has the right to say, "You shall set off every dollar that you owe the Government."

The gentleman from Illinois [Mr. MANN] said that in the passage of great measures like this the Republicans do not need the support of the Democrats, and he called attention to the fact that the Republican Party during the war supported the Government of the United States. I do not know that even a Republican ought to be patting himself on the back every day of the 365 in the year just because he happened to support this Government when it was at war. However, I do say to the gentleman from Illinois [Mr. MANN] and to the gentleman from Wyoming [Mr. MONDELL], who so eloquently pleaded for the downtrodden railroads in the eight minutes accorded him a while ago, that as long as those in power in the House now bring into this body tariff bills which will further grind under the heel of taxation with a relentless tread the already overburdened people, as long as they bring in revenue bills which take the taxes off the immensely rich and leave them on the ordinary man, as long as they bring in bills to make hundreds of millions of dollars of further advances to the railroads and other great corporations of the country, they need not expect the support of the Democrats. [Applause on Democratic side.]

Mr. DENISON. Mr. Chairman, I realize that it is late and the committee is getting impatient, but I had no opportunity to speak on the bill during general debate. I want to say something about the bill before the debate closes, as I have given the subject some thought even outside the time spent as a member of the committee during the committee hearings.

With reference to the particular amendment now before the committee, I want to say briefly that I entirely agree with the gentleman from Pennsylvania [Mr. BURKE] that there is not a thing in the world to these indefinite claims for "inefficiency of labor." At the same time, as a lawyer who has made some little study of the law, I want to say that on the legal question involved the gentleman from Washington [Mr. WEBSTER] is absolutely correct, and the paragraph he seeks to strike out has no proper place in this bill. Therefore, I shall vote to strike it out—not on the merits of the claims for the so-called inefficiency of labor, but on the ground that that is a judicial question to be determined by the courts upon such evidence as may be offered, if the matter goes into court, and upon the application of the well-established principles of law to those facts; it is not a legislative question. If we are going to settle the rights of parties upon transactions that are hereafter to occur, Congress may well act in the manner proposed in this provision; but this provision in the bill does not apply to transactions that may hereafter occur, it applies to contracts or rights under contracts which have already been made and to transactions already completed. Therefore, the validity of claims made under those contracts is not a legislative question, but is a judicial question, and as a lawyer I can not conscientiously vote for that provision, if I can avoid it.

If we pass the bill with that provision in it, let me show you briefly what sort of a ridiculous position we are going to be placed in. The railroads, if they insist upon this claim, can go to the Court of Claims and present their evidence and have the matter adjudicated. When the court finally determines the question it will determine whether this is a proper, legitimate claim under the evidence and under the principles of law applicable to the facts or to the contracts. If the court should hold that it is a proper claim, then we would be in the position of having the Supreme Court hold that the Government owes a certain amount to the railroads, and of having Congress pass an act which says that we shall never pay it.

Mr. EVANS. Mr. Chairman, will the gentleman yield?

Mr. DENISON. I am sorry I do not have the time. And we will either have to repeal the law, if such an adjudication should take place, or repudiate our solemn obligation. I do not think we ought to do either.

Mr. BLANTON. Mr. Chairman, will the gentleman yield?

Mr. DENISON. I have not the time to yield to anyone. That is my view on this proposition. I am going to vote for the bill. I am in favor of it. I think it is a very important measure I was sorry when this particular provision was inserted in the bill, because I do not think it has any proper place in the bill, for the reasons stated. I desire now to make some general observations about the bill.

On the last day of December, 1917, President Wilson by proclamation, under authority of the act of Congress approved August 29, 1916, took over all of the railroads of the country and thereafter for a period of 26 months operated them for and on behalf of the Government.

By the act of March 21, 1918, known as the Federal control act, Congress provided by law for the operation of the railroads and for the compensation to be paid to the owners for the use of the railroads during the period of Federal control, such compensation being known as "standard return." The compensation or standard return which the President was authorized by law to pay to the railroads was substantially an amount equal per year to their average annual operating net income for the three years ending June 30, 1917, and was payable from time to time in reasonable installments. Under regulations approved by the President this compensation was made payable to the roads quarterly and was to bear interest at the rate of 6 per cent per annum after the same was due.

As finally determined the compensation or the standard return due to all the railroads under Federal control amounted substantially to $946,000,000 per year, or during the 26 months of Federal control amounted in round numbers to $2,050,706,077. For reasons which it deemed wise the Railroad Administration paid only such part of this compensation to the railroads as was necessary to meet their current corporate necessities during the

period of Federal control and withheld from them the balance due them, to be adjusted when the accounts were settled between the Government and the railroads upon their return to their owners. There was thus held back by the Government from the amount due the railroads during the 26 months of Federal control an aggregate amount of approximately $833,132,688. This amount the Government owed the railroads as compensation withheld from them when they were returned to their owners at the end of the period of Federal control, March 1, 1920.

Section 6 of the Federal control act contained the following, among other provisions:

The President may also make or order any carrier to make any additions, betterments, or road extensions and to provide terminals, motive power, cars, and other equipment necessary or desirable for war purposes or in the public interest on or in connection with the property of any carrier. He may from said revolving fund advance to such carrier all or any part of the expense of such additions, betterments, or road extensions, and to provide terminals, motive power, cars, and other necessary equipment so ordered and constructed by such carrier or by the President, such advances to be charged against such carrier and to bear interest at such rate and be payable on such terms as may be determined by the President, to the end that the United States may be fully reimbursed for any sums so advanced.

Under this authority the President, during the period of Federal control, expended for additions, betterments, road extensions, terminals, motive power, cars, and other necessary equipment an amount aggregating $1,144,681,582.39. In railroad financing and accounting money expended for betterments and improvements and new equipment is, generally speaking, never paid for from the current revenues of the roads. Expenditures for these purposes are known as capital expenditures and are paid for by the issuance and sale of securities. Being in the nature of permanent additions to the assets of the railroads they are considered as increases of its capital investment and are carried in its capital account, and railroad rates are usually not so adjusted as to pay for such capital expenditures out of the current revenues. There are, of course, some exceptions to this rule, but that is the general custom among railroads. All such expenditures are ordinarily paid for by the sale of securities. At the end of Federal control the railroads, therefore, owed to the Government the sum of $1,144,681,582.39 to reimburse the Government for these capital expenditures for betterments and improvements which the Government had made for the different railroads during the period of Federal control either with or without the consent of the owners.

The Federal control act provided that during Federal control the President should provide for proper maintenance, repair, renewal, and depreciation of the property of the railroads and for the creation of any reserves or reserve funds necessary in connection therewith, and that at the end of the Federal control the railroads should be returned to their owners in substantially as good repair and with substantially as complete equipment as at the beginning of Federal control.

And section 7 of the Federal control act authorized the President to provide for maturing obligations of the railroads and accepting such bonds, notes, stock, or other forms of securities as the President might approve, and authorized the President to make other advances to the various roads to meet necessary expenditures in connection with their operation, their maturing obligations, their reorganization, and so forth.

The Transportation act provided for the termination of Federal control, the return of the railroads to their owners, and the settlement of all accounts between the railroads and the Government. That act was approved February 28, 1920, and Federal control terminated on the night of February 29, 1920.

Section 202 of the Transportation act provided that the President should, as soon as practical after the termination of Federal control, adjust, settle, liquidate, and wind up all matters, including compensation, and all questions and disputes of whatsoever nature arising out of or incident to Federal control. In pursuance of this provision of the Transportation act many of the railroads have filed their claims for final settlement with the Director General. There were 555 separate railroad properties taken over by the Government, consisting of 250,000 miles of main line, 2,500,000 freight cars, 66,000 locomotives, 55,000 passenger cars, $600,000,000 worth of material and supplies scattered all over the United States, with over 2,000,000 employees having a gross earning per year of over $4,000,000,000 and a net earning per year of about $1,000,000,000 and estimated to be worth in all $18,000,000,000 or $20,000,000,000. In addition, there were 855 short-line railroads, which were or claimed to be under Federal control.

In the course of making settlement with the railroads innumerable claims have been filed by the railroads against the Government for depreciation in equipment, undermaintenance of way and equipment, for compensation disputed by the Government, and on various other grounds. On the other hand, the Government has claims against the railroads for the amounts above stated for additions and betterments, for advancements made during the period of Federal control to meet maturing obligations and other liabilities of the railroads, and for overmaintenance of way and equipment. These settlements are now proceeding between the Director General of Railroads, Mr. James C. Davis, and the various railroad companies, and on behalf of Mr. Davis, who appeared before our committee and frankly gave the committee full information upon all matters connected with his administration, I wish to say that I believe the interests of the Government have been placed in competent hands and that the rights of the Government will be fully protected in the adjustment and settlement of these most perplexing and intricate and momentous questions.

Section 207 of the Transportation act provided as follows:

(a) As soon as practicable after the termination of Federal control the President shall ascertain (1) the amount of the indebtedness of each carrier to the United States which may exist at the termination of Federal control incurred for additions and betterments made during Federal control and properly chargeable to capital account; (2) the amount of indebtedness of such carrier to the United States otherwise incurred; and (3) the amount of the indebtedness of the United States to such carrier arising out of Federal control. The amount under clause (3) may be set off against either or both of the amounts under clauses (1) and (2), so far as deemed wise by the President, but only to the extent permitted under any contract now or hereafter made between such carrier and the United States in respect to the matters of Federal control, or, where no such contract exists, to the extent permitted under paragraph (b) of section 7 of the standard contract between the United States and the carriers relative to deductions from compensation: *Provided*, That such right of set-off shall not be so exercised as to prevent such carrier from having the sums required for interest, taxes, and other corporate charges and expenses referred to in paragraph (b) of section 7 of such standard contract accruing during Federal control and also the sums required for dividends declared and paid during Federal control, including also in addition a sum equal to that proportion of such last dividend which the period between its payment and the termination of Federal control bears to the last regular dividend period: *And provided further*, That such right of set-off shall not be exercised unless there shall have first been paid such sums in addition as may be necessary to provide the carrier with working capital in amount not less than one twenty-fourth of its operating expenses for the calendar year 1919.

(b) Any remaining indebtedness of the carrier to the United States in respect to such additions and betterments shall, at the request of the carrier, be funded for a period of 10 years from the termination of Federal control or a shorter period, at the option of the carrier, with interest at the rate of 6 per cent per annum, payable semiannually, subject to the right of such carrier to pay, on any interest-payment day, the whole or any part of such indebtedness. Any carrier obtaining the funding of such indebtedness as aforesaid shall give, in the discretion of the President, such security, in such form and upon such terms, as he may prescribe.

It will doubtless be remembered by those who were here when the Transportation act was passed that when the bill passed the House it provided that in settling with the railroads the President should set off the amount of indebtedness due from the Government to the railroads for compensation or otherwise, under certain restrictions and with certain exemptions, against any amount due from the railroads to the Government for capital expenditures on betterments and improvements. As the bill passed the Senate it provided that such indebtedness due from the Government to the railroads should not be set off against the indebtedness of the railroads to the Government for such expenditures on betterments and improvements. In conference the two Houses finally agreed upon section 207 as a compromise, and section 207 clearly provides that the amount of the indebtedness due from the United States to the carriers arising out of Federal control may be set off against either the indebtedness from the railroads to the Government for such betterments and improvements or for any other purpose "so far as deemed wise by the President," thus leaving to the discretion of the President, as he might deem wise, the extent to which the indebtedness from the Government to the railroads might be set off as against the indebtedness of the railroads to the Government for betterments and improvements or for other purposes.

In so far as section 207 of the Transportation act authorized the President to set off the amount due from the Government to the railroads for compensation against the amount due from the railroads to the Government for betterments and improvements made during the period of Government control, the Transportation act violated one of the fundamental and generally recognized principles of railroad financing; for to the extent that this set-off was required, to that extent the current revenues of the railroads were used in payment of capital expenditures, whereas all capital expenditures for betterments and improvements are ordinarily paid for by the issuance of securities. Nevertheless, Congress, for reasons which it is unnecessary to discuss at this time but which at the time of the passage of the Transportation act were deemed by a majority of the Members, including myself, to be wise and to be justified, did provide, as I have shown, that the President could in his discretion require that this set-off be allowed, so far as he might deem wise, in making settlements with the railroads.

Acting in pursuance of this provision of section 207 of the transportation act, the Director General has made final settlement with about 30 per cent of the railroads of the country. He is now engaged in settling with them as fast as their claims are filed and settlements can be reached. In making these settlements the Director General has testified to the committee that under the direction of the President he has set off amounts due from the Government to the railroads for compensation against the amounts due from the railroads to the Government to a greater extent than has seemed advisable, because of the fact that the Railroad Administration has not had the money on hand to pay the railroads the amount due them in cash. He has, therefore, given credit for most of what the Government owes the railroads upon what the railroads owe the Government for betterments and improvements, thereby reducing the amount which, under the Transportation act, the President is authorized to fund for a period of not to exceed 10 years.

The Director General has stated that in his judgment the claims of all the remaining railroads would be filed within the next six months. This bill provides that such claims must be filed within one year or be barred. It is the desire of the Railroad Administration and of the railroads that these accounts between the Government and the railroads should be adjusted as early as practicable, so that the railroads might receive whatever shall be finally determined to be due them from the Government in money, and to the end that whatever may be finally agreed upon as due from the railroads to the Government for betterments and improvements may be funded. But the trouble now is that the Railroad Administration does not have on hand sufficient funds to make settlements with the railroads and pay them in cash the amount to which, under the contract between the railroads and the Government and under the provisions of section 207 of the Transportation act, they are justly entitled; and therefore it is necessary that funds be provided by Congress for the Railroad Administration to continue its work of adjustment and pay to the railroads the amount which the Government owes them. These necessary funds must either be furnished by a direct appropriation by Congress or by some other method. This bill is intended to meet that situation and provide the necessary funds for the Railroad Administration to proceed with its settlements with the railroads without the necessity of an additional appropriation of funds for that purpose. Now, how is this to be accomplished by the pending bill?

The President has on hand certain railroad securities which were received by him in the administration of the Federal control act during the period of Federal control, or which have been received by him since the termination of Federal control in funding the indebtedness due from those railroads to the Government with which final settlements have been made. These securities are now in the hands of the President, and have been referred to as frozen securities because it has been thought that the President is not authorized to sell nor negotiate them. They are as follows:

First, securities received by Director General McAdoo early in the period of Federal control under section 7 of the Federal control act for money advanced by the Director General to meet maturing obligations of the New York, New Haven & Hartford and other railroads, $60,618,250.

Second, securities received under paragraph (b) of section 207 of the transportation act, being securities received in funding the remaining indebtedness due by the carriers that have made settlements with the Government for additions and betterments, $43,026,500.

Third, equipment trust certificates received under paragraph (c) of section 207 of the transportation act, $311,862,300.

Total securities now held by the President under the various provisions of the Federal control act and Transportation act, $470,560,050.

It is estimated by Director General Davis that in making settlement with all of the remaining railroads with whom settlement has not yet been made it will be necessary for the Government to fund, in the aggregate, $500,000,000 of the amount still due from the railroads to the Government for capital expenditures on betterments and improvements.

This will make a total, as near as can now be estimated, of $970,560,050 in railroad securities which are now or will be in the hands of the President when all of the railroads have been finally settled with. This will represent the amount which the Government will have funded under the provisions of the Transportation and Federal control acts, and part of this at least will be what is known as frozen securities, because they can not be negotiated or sold by the President unless authority of law is given by Congress.

It has been stated to the committee by Mr. Meyer, managing director of the War Finance Corporation, that with the funds which the corporation now has on deposit in the United States Treasury, amounting to something over $400,000,000, and with such other funds as it may be able to raise through the sale of its bonds, if necessary, the War Finance Corporation will be able to absorb these securities now held by the President or most of them, and dispose of them in the markets of the country at such a price as will realize to the President the face value of the securities and to the corporation their face value plus the cost of selling them. It was further stated to the committee by the managing director of the corporation that this could be done without material interference with the obligations and duties of the War Finance Corporation under the different acts of Congress providing for the aid of the corporation in agricultural and export activities.

I believe these frozen securities now in the possesion of the President under these various provisions of the Federal control and Transportation acts, as well as such other securities as the President may receive in the process of funding the indebtedness of the railroads, ought to be disposed of by the President as soon as possible. And I further believe that there is no agency of the Government so well equipped and so capable of disposing of them as the War Finance Corporation. The War Finance Corporation has made a remarkable record; it did splendid work along the line for which it was created during the war and since the war; it has been of great assistance to the country in affording financial relief where financial relief was so badly needed. The corporation is managed by men who are financiers and who are familiar with the financial conditions which govern the securities market of the country. The corporation has the facilities for financial transactions of this kind, and Congress ought to welcome the opportunity it has to utilize this efficient financial organization for the purpose of relieving the President of these frozen railroad securities and securing their absorption in the regular securities market of the country.

So this bill will accomplish three important things.

First. It will enable the President to dispose of at least part of the railroad securities which he has received or will receive from the railroads and which would otherwise be left in his possession as a result of the Federal control of the railroads.

Second. It will provide the Railroad Administration with immediate funds necessary to complete the settlements between the Government and the railroads and pay the railroads the amount which the Government owes them without additional appropriations by Congress.

Third. By furnishing the funds for the Railroad Administration to make settlements with the railroads and pay them the amount due them under their contracts and under the law, it will place into the hands of the railroads money which they are now sorely in need of and which will enable them to meet their current obligations, reopen their shops, and repair their equipment which is to a large extent in bad order, and afford employment for many thousands of laborers which the railroads have been compelled to let off because of lack of funds and general depreciation in business.

Seventeen per cent of the freight cars of the country are reported to be in bad order. Normally there should not be over 3 per cent in bad order. The railroads have suspended even necessary expenditures in the maintenance of their ways and their equipment. They have laid off thousands and thousands of their men because of lack of funds. I believe the Government has contributed to some extent at least in this condition because of its failure to complete its settlements with the railroads and pay them the amount that it justly owes them under their contracts with the Government and under the provisions of the Transportation act. The managing director of the War Finance Corporation, Mr. Meyer, and the Director General of the Railroads, Mr. Davis, both testified before the committee that if this bill was passed and funds were thereby provided for the Railroad Administration which would enable the Government to settle with the railroads and pay them the money due them for compensation, which is now being withheld from them and which will have to be credited on the fundable indebtedness of the railroads to the Government instead of being paid in cash, as it should be under the law, the railroads could meet their overdue obligations for materials and supplies, and could immediately reduce the number of out-of-repair cars, their undermaintenance of equipment and way, and afford employment for many thousands of men that are now unemployed, and thereby bring about a better industrial condition all over the country. If this is true, and I

think it is, then this legislation will be of material assistance to the railroads themselves at a time when they need assistance and will be of material assistance to the industries of the country, whose prosperity is so closely related to the prosperity of the railroads.

I wish to say that this bill does not give to the railroads anything to which they are not now by law entitled. It does not change any of the provisions of the contracts between the railroads and the Government or any of the provisions of the Transportation act with reference to the amounts to which the railroads shall be entitled in making settlement with the Government.

It obviates the necessity, in my judgment, of an early appropriation of funds from the Federal Treasury to enable the Railroad Administration to continue its settlements with the railroads, and it enables the President to carry out the provisions of section 207 of the Transportation act under which he is authorized to use his discretion in allowing a set-off of the amount which the Government owes the railroads against the amount which the railroads owe the Government for betterments and improvements, in so far as he should think wise.

I think, Mr. Chairman, that this is a very important bill; that it will accomplish a great deal of good for the reasons stated, and that it ought to be enacted into law as early as possible.

In this connection I desire to make a few general observations with reference to Government control and operation of the railroads and what it has cost the taxpayers of the country. The following amounts have been appropriated by Congress to carry out the provisions of the Federal control and Transportation acts:

In the Federal control act of March 21, 1918, there was—

Appropriated	$500,000,000
In the act of June 30, 1919	750,000,000
In the Transportation act of February 28, 1920	200,000,000
In the act of May 8, 1920	300,000,000
Total amount appropriated thus far for the Railroad Administration	1,750,000,000

There has also been appropriated for a revolving fund to be used by the Interstate Commerce Commission in making loans to the railroads under section 210 of the Transportation act and for the payment of judgments, and so forth, $300,000,000.

There has also been made in the Transportation act of February 28, 1920, a general appropriation of such amount as may be necessary to enable the Government to meet its obligations and carry out its guaranty of the standard return for the guaranty period of six months after the termination of Federal control as provided in section 209 of the Transportation act.

It is not known definitely what this guaranty will cost the Government, but it is now estimated by the Interstate Commerce Commission that the guaranty for the six months' period following the termination of Federal control will amount to $600,000,000. The Interstate Commerce Commission has already paid to the railroads $430,000,000 in liquidation of the Government's obligations under the guaranty provision of the act, leaving a balance yet to be paid to the railroads under the guaranty clause of the act of approximately $170,000,000.

Assuming that the estimated amount that will be required to meet the Government's obligations under the guaranty provision of the Transportation act, $600,000,000, is approximately correct, the total appropriations for all railroad purposes thus far will stand as follows:

For the Railroad Administration	$1,750,000,000
For the Interstate Commerce Commission revolving fund	300,000,000
For the Interstate Commerce Commission guaranty fund	600,000,000
Total	2,650,000,000

Now, what has become or what will have become of this immense amount of money which Congress has found it necessary to appropriate out of the Public Treasury in order to meet its obligations growing out of the taking over of the railroads and their operation during the 26 months of Federal control? As nearly as can be ascertained at this time the following is an approximate statement of the account:

During the 26 months of Federal control the Government sustained an actual loss in operating the first-class railroads, being the excess of operating expenses and rentals over operating revenues, of	$677,513,151.56
During the same period the Government sustained an actual loss in operating the smaller railroads, sleeping and refrigerator car lines, and steamship lines, being the excess of operating expenses and rentals over operating revenues	43,111,129.36
During the same period the Government sustained an actual loss of operating the inland waterways of	2,449,738.69
Total actual loss in operation	722,974,019.61
Expenses of administration of central and regional organization	13,954,979.69
Deficit in the operating expenses of the American Railway Express Co	$38,111,741.69
Loss in the adjustment of materials and supplies in settlement with railroad companies on account of increased prices	85,204,618.26
Amount due the railroads as net interest accruals on deferred compensation on open accounts, and on additions and betterments under the provisions of the transportation act	37,558,162.01
Total losses sustained by the Government during the period of Federal control	912,815,611.91
Deducting from this loss the amount earned by the Railroad Administration from certain sources not connected with the operation of the roads, being... leaves a total net loss sustained by the Government in the operation of the railroads during the period of Federal control, being the excess of operating expenses and rentals over operating revenues, of	12,336,855.35
	900,478,756.56

This was the estimate of the actual operating loss of the railroads made by Director General Hines to the House Committee on Appropriations in April, 1920. To this estimate there must be added certain losses which were omitted by Director General Hines in his estimate and which Director General Davis is at this time able to estimate with some degree of accuracy. There are certain claims of the short-line railroads and claims growing out of the Minnesota forest fire losses and for lap-over losses and damages, personal injury cases, ordinary fire losses, inland waterway claims, all of which constitute general expenses of the Railroad Administration and represent losses that will finally result to the Government because of Federal control. These aggregate an estimated amount of $100,000,000.

To this there must be added a loss resulting from compensation due noncontract roads in excess of the standard return, under maintenance of way, structure and equipment, fire losses of carriers' property, additions and betterments made solely for war purposes, the aggregate amount of which is estimated to be an additional $100,000,000.

These estimated losses added to those already definitely known and just stated show a total operating loss to the Government amounting at least to $1,100,000,000.

Now the railroads are filing claims against the Government for materials and supplies which they had on hand when the Government took them over and which were not returned by the Government with the properties; also for undermaintenance and for renewal, retirement, repairs, depreciation, and so forth. All of these claims are based on provisions of the contract where contracts were made, or on general obligations imposed by law where no contracts were made; and the total amount of these claims filed to August 1, this year, aggregate $785,966,673.27. That amount represents the aggregate claims of about 71 per cent of the total mileage of all the roads under Federal control, excluding short lines.

Under the provisions of this bill all claims must be filed within one year from the date of its passage. Assuming that the remaining roads will file claims on substantially the same basis as those that have already been filed, it is estimated that before the limitation for filing claims has expired there will be additional claims filed amounting to $322,338,877, making an aggregate of claims filed and an estimate of claims to be filed of $1,108,306,550.

The President has settled these claims to the amount of $237,922,608 by the payment to the roads of $74,233,334. If the remaining amount of the claims as estimated, $870,373,942, can be settled on substantially the same percentage basis, it will require, according to the estimate of the director general to the committee, an aggregate of $349,000,000 to complete the settlements of these claims with all of the remaining railroads. The total loss, therefore, sustained by the Government in the settlement of claims that have been and are expected to be filed by the railroads will be the sum of those two amounts, $74,233,334 and $349,000,000, or $423,233,334.

I have stated that the Interstate Commerce Commission has estimated that the loss which the Government will sustain under the guaranty provision of the Transportation act for the six months succeeding the termination of Federal control will be $600,000,000, $430,000,000 of which has already been paid. If this estimate should prove to be substantially correct, then the loss account of the Government in connection with the operation of the railroads will stand as follows:

Total operating losses for the 26 months	$1,100,000,000
Total losses in settlement of claims against the Government for materials, undermaintenance, etc., for the 26 months	423,233,334
Losses under the guaranty of standard return as provided in the guaranty provision of the Transportation act for the six months' period following the termination of Federal control	600,000,000
Total losses from all causes	2,123,233,334

I have stated that the total appropriations which have been made by Congress for all purposes in connection with the operation of the railroads amount to $2,650,000,000, including the $300,000,000 appropriated for a revolving fund to be used by the Interstate Commerce Commission for paying judgments and making loans to the railroads for a period of two years after the termination of Federal control. The Interstate Commerce Commission has set aside $40,000,000 of this amount for the use of the President to pay judgments under section 210 of the Transportation act. Deducting this $40,000,000 from the $300,000,000 leaves a balance of $260,000,000, which constitutes the real revolving fund from which the Interstate Commerce Commission may make loans to the railroads. I am informed that the Interstate Commerce Commission has already loaned the railroads $215,000,000 of this amount, and that the balance in their hands, $45,000,000, has already been committed, so that there will soon have been loaned to the railroads under section 210 of the transportation act the full available revolving fund of $260,000,000. These loans are made for a term not longer than five years and bear 6 per cent interest. If all the loans are well secured and are paid at maturity this $260,000,000 will eventually be covered back into the Treasury.

Assuming, therefore, that they will be repaid and the money covered back into the Treasury, the total appropriations for all purposes would be represented by $2,650,000,000 less $260,000,000, or $2,390,000,000.

Deducting the total actual losses as I have a moment ago enumerated them, $2,123,233,334 from the total net appropriations, $2,390,000,000, leaves a balance of $266,766,666, or in round numbers $267,000,000, which will represent the difference between the total losses of the Government and the total appropriations, and this amount will be in the form of railroad securities which the President will have on hand after all accounts with the railroads have been settled.

But, Mr. Chairman, the process of making these final settlements with the railroads is obstructed by very difficult problems. It is almost an herculean task. When we consider the immense interests involved, we begin to appreciate the great responsibility of those intrusted with the task. One of the difficulties is financing. While Congress has already appropriated sufficient money, a part of the money has been and will have to be invested in railroad securities. These securities have been obtained by the President, as I have heretofore shown, by the payment of railroad obligations maturing during the period of Federal control and by the funding of the amounts which the railroads owe the Government for additions and betterments.

I have already stated that the President now has on hand securities to the amount of $470,560,050. The total amount which the railroads owed the Government for additions and betterments at the end of Federal control was $1,144,681,582.39. This amount has already been reduced by funding and by payment of cash to $702,106,635. If the President carries out the policy he has indicated in the message he recently sent to the Senate he will fund $500,000,000 of that amount. For the amount thus funded he will have the notes of the railroads secured by the very best security he can obtain. If the President does fund $500,000,000 of the $702,106,635, he will then have invested in railroad securities for all purposes that $500,000,000 plus the amount already invested in securities, namely, $470,560,050, or a total of $970,560,050.

Now, I have just a moment ago stated that according to the best estimate that could be obtained it will require approximately $349,000,000 to complete settlements of all claims of all of the remaining railroads against the Government. The President now has on hand in cash from appropriations heretofore made the sum of $149,000,000. He will, therefore, need an additional $200,000,000 in cash to complete these settlements.

And if the President in the exercise of his privilege under the Transportation act carries out his purpose of funding what the railroads owe to the Government for betterments and improvements to the extent of $500,000,000 more, then clearly the President will have to have cash from some source with which to pay the railroads for that purpose. In other words, if the President funds $500,000,000 more out of the $702,106,635 which the railroads still owe the Government, instead of requiring the railroads to pay that amount by a set-off against what the Government owes them, then clearly the President will have to have the $500,000,000 in cash.

This means, therefore, that the President will have to have, in order to complete settlements with the railroads and funding of their obligations to the Government, the total sum of $500,000,000 plus the $200,000,000, or $700,000,000.

Now, the question that confronts us is how we will provide this $700,000,000. We can do so by making a direct appropriation from the Treasury. If we should do that, then the President will have on hand when he closes the accounts the sum of $970,560,050 in frozen railroad securities, as I have a moment ago shown. Clearly no good purpose could be served by our appropriating this $700,000,000 out of the Treasury and leaving the $970,560,050 in railroad securities in the hands of the President.

The purpose of this bill, therefore, is to authorize the President to sell these securities as soon as possible to the investing public, convert them into cash, and use the proceeds for making his final settlements. If the President can sell $700,000,000 worth of these railroad securities he will thereby have the funds to settle all claims growing out of Federal control without further appropriations from the Public Treasury. To carry out this plan the pending bill provides that the President may sell and the War Finance Corporation may buy these securities to the extent of $500,000,000. And the bill further authorizes the War Finance Corporation, acting as an agent for the President, to sell such additional amount of these securities as may be considered neeessary, it being hoped thereby that the War Finance Corporation may sell to the investing public an additional $200,000,000 of the securities. If this can be done, then $700,000,00 worth of these railroad securities will have been converted into cash and the cash used to settle the accounts with the railroads, and the necessity of further appropriations from the Public Treasury will have been avoided.

I do not know whether this can be accomplished or not. It is the judgment of the President and of the Director General of Railroads and of the Managing Director of the War Finance Corporation that it can be done without interference with the operations of the War Finance Corporation authorized by law in the aid of agriculture. There is every reason, therefore, why Congress should enact this legislation as soon as possible. If industrial conditions continue as they are, or improve, it is believed that the War Finance Corporation will be able to secure the absorption of these securities by the investing public, so that the funds of the corporation will not be withdrawn from the Treasury for a considerable length of time. And it is hoped that by financing the Railroad Administration in this manner, and thereby permitting an early settlement with the railroads, the general industrial condition of the country will be materially improved and that this improvement will be reflected in improved market and labor conditions.

So, Mr. Chairman, there is no alternative to this proposed legislation except an early appropriation from the Public Treasury of $700,000,000. In view of the condition of the Treasury I think we should avoid appropriating every dollar we can. Therefore, we should pass this bill in the hope that it will relieve the situation and avoid further appropriations in order to close our accounts with the railroads. So, Mr. Chairman, from what has been already done and from the best estimates that can be obtained as to what will be done in closing the accounts of the railroads, it appears that the total losses sustained by the Government in connection with its taking over and operating the railroads during the 26 months of Federal control will be as follows:

Losses in operation	$1,100,000,000
Losses in the adjustment of claims of the railroads	423,233,334
Losses from the guaranty of standard return for the six months' guaranty period	600,000,000
Total losses	2,123,233,334

We will have on hand, as I have shown, railroad securities to the amount of approximately $267,000,000 and approximately $260,000,000 loaned to the railroads from the revolving fund for a period of five years, or a total of $527,000,000 of railroad securities.

The amount of our losses, $2,123,233,334 will be increased by such amount, if any, as we may ultimately be unable to collect from this $527,000,000 of railroad securities. My own judgment is that we will sustain some substantial losses from these securities which will be left on our hands, and that ultimately the Government will have lost at least $2,250,000,000 from the operation of the railroads.

This is a staggering amount. It must be paid by the people by taxation. Some will say that it is one of the fruits of war. Others will say that it is the price of a stupendous blunder. Still others will say it is largely the result of bad judgment, bad management, extravagance, and disregard of the public interests for political or other reasons. All of us ought to agree, it seems to me, that this miserable experience or experiment in Government operation of the railroads is convincing and conclusive proof that a government like ours can not wisely and economically operate a great business like the railroad business. If these fatal results of this 26 months' trial shall serve to deter the American people from ever again venturing upon the policy

of government ownership and operation of the railroads, maybe, after all, the money we have lost will have been well spent.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. DENISON. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

Mr. PARKS of Arkansas. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. WINSLOW. Mr. Chairman, I ask unanimous consent that debate upon this section and all amendments thereto be now closed.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent that all debate upon this section and all amendments thereto be now closed. Is there objection?

There was no objection.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Washington.

The question was taken; and on a division (demanded by Mr. WEBSTER) there were—ayes 17, noes 141.

So the amendment was rejected.

Mr. STEVENSON. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment by Mr. STEVENSON: At the end of the 25th line, on page 3, add "and all such securities shall be sold without recourse."

Mr. WINSLOW. Mr. Chairman, I offer no objection.

The question was taken, and the amendment was agreed to.

Mr. HOCH. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. HOCH. I desire to offer a perfecting amendment. Page 5, line 12, strike out the letters "tion."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment by Mr. HOCH: Page 5, line 12, strike out the letters "tion" at the beginning of the line.

The question was taken, and the amendment was agreed to.

Mr. HOCH. Also page 5, line 16, after "be," insert the word "so."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 5, line 16, after the word "be" and before the word "construed," insert the word "so."

The question was taken, and the amendment was agreed to.

Mr. WINSLOW. Mr. Chairman, I move that the committee do now rise and report the bill back to the House with amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to; accordingly the committee rose, and the Speaker having resumed the chair, Mr. TILSON, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee having had under consideration the bill (H. R. 8331) to amend the transportation act, 1920, and for other purposes, had directed him to report the same back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The SPEAKER. By the rule the previous question is ordered on the bill and amendments to final passage. Is a separate vote demanded on any amendment; if not the Chair will put them in gross.

The question was taken, and the amendments were agreed to.

The bill was ordered to be engrossed and read the third time, was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. RAYBURN. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 215, nays 119, answered "present" 6, not voting 90, as follows:

YEAS—215.

Ackerman	Brooks, Pa.	Cole, Ohio	Echols
Anderson	Buchanan	Colton	Edmonds
Ansorge	Burdick	Connell	Elliott
Anthony	Burroughs	Connolly, Pa.	Ellis
Appleby	Burtness	Coughlin	Evans
Arentz	Burton	Crowther	Fairchild
Atkeson	Butler	Cullen	Fairfield
Bacharach	Cable	Curry	Faust
Beedy	Campbell, Pa.	Dale	Favrot
Begg	Cannon	Dallinger	Fenn
Bird	Carew	Darrow	Fess
Bixler	Chalmers	Davis, Minn.	Fish
Bland, Ind.	Chandler, Okla.	Dempsey	Focht
Boies	Chindblom	Denison	Foster
Bond	Clarke, N. Y.	Dunbar	French
Bowers	Clouse	Dunn	Frothingham
Brennan	Cole, Iowa	Dyer	Funk
Gernerd	Kline, Pa.	Mott	Siegel
Glynn	Knutson	Mudd	Sinnott,
Goodykoontz	Kreider	Newton, Minn.	Smith, Idaho
Gorman	Larson, Minn.	Newton, Mo.	Smith, Mich.
Gould	Lawrence	Norton	Snell
Graham, Ill.	Layton	Olpp	Snyder
Graham, Pa.	Leatherwood	Osborne	Speaks
Green, Iowa	Lehlbach	Paige	Sproul
Greene, Mass.	Lineberger	Parker, N. J.	Stafford
Greene, Vt.	Little	Parker, N. Y.	Stephens
Griest	Longworth	Patterson, Mo.	Strong, Kans.
Hadley	Luce	Perkins	Strong, Pa.
Hardy, Colo.	Luhring	Peters	Sweet
Hawes	McArthur	Petersen	Swing
Hays	McCormick	Porter	Taylor, N. J.
Hickey	McFadden	Pringey	Taylor, Tenn.
Hicks	McKenzie	Purnell	Temple
Hill	McLaughlin, Mich.	Radcliffe	Thompson
Himes	McLaughlin, Nebr.	Ramseyer	Tilson
Hoch	McLaughlin, Pa.	Reavis	Tincher
Hogan	McPherson	Reed, N. Y.	Tinkham
Houghton	MacGregor	Reed, W. Va.	Towner
Hukriede	Madden	Rhodes	Underhill
Hull	Magee	Ricketts	Vare
Husted	Mann	Riddick	Vestal
Hutchinson	Mapes	Roach	Walsh
Jefferis, Nebr.	Merritt	Robsion	Ward, N. Y.
Johnson, Wash.	Michener	Rogers	Wason
Jones, Pa.	Miller	Rose	Wheeler
Kelley, Mich.	Mills	Rosenbloom	White, Kans.
Kelly, Pa.	Millspaugh	Rossdale	White, Me.
Kendall	Mondell	Sanders, Ind.	Williams
Ketcham	Moore, Ill.	Sanders, N. Y.	Winslow
Kiess	Moore, Ohio	Sandlin	Woodyard
Kirkpatrick	Moores, Ind.	Shaw	Wurzbach
Kissel	Morgan	Shelton	Wyant
Kline, N. Y.	Morin	Shreve	

NAYS—119.

Almon	Drewry	Lampert	Reece
Andrews	Driver	Lanham	Rouse
Aswell	Fields	Lankford	Ryan
Barbour	Fisher	Larsen, Ga.	Sanders, Tex.
Beck	Flood	Lazaro	Schall
Bell	Fulmer	Lea, Calif.	Scott, Tenn.
Black	Garner	Lee, Ga.	Sears
Bland, Va.	Garrett, Tenn	Linthicum	Smithwick
Blanton	Garrett, Tex.	Logan	Steagall
Bowling	Gensman	London	Stevenson
Box	Gilbert	Lowrey	Stol
Brand	Griffin	McDuffie	Summers, Wash.
Briggs	Hammer	McSwain	Sumners, Tex.
Brinson	Hardy, Tex.	Mead	Swank
Browne, Wis.	Harrison	Michaelson	Thomas
Bulwinkle	Hayden	Moore, Va.	Tillman
Byrnes, S. C.	Herrick	Nelson, A. P.	Tyson
Cantrill	Huddleston	Nelson, J. M.	Vinson
Carter	Humphreys	O'Brien	Voigt
Christopherson	Jacoway	O'Connor	Volstead
Clague	Jeffers, Ala.	Oldfield	Ward, N. C.
Collier	Johnson, Miss.	Overstreet	Weaver
Collins	Jones, Tex.	Padgett	Webster
Connally, Tex.	Keller	Parks, Ark.	Wilson
Cooper, Wis.	Kincheloe	Parrish	Wingo
Crisp	Kindred	Quin	Wise
Davis, Tenn.	King	Rainey, Ill.	Woods, Va.
Deal	Kleczka	Raker	Wright
Doughton	Kopp	Rankin	Young
Dowell	Kraus	Rayburn	

ANSWERED "PRESENT"—6.

Byrns, Tenn.	Murphy	Sisson
Kunz	Oliver	Tague

NOT VOTING—90.

Bankhead	Fordney	Lee, N. Y.	Sinclair
Barkley	Frear	Lyon	Slemp
Benham	Free	McClintic	Stedman
Blakeney	Freeman	Maloney	Steenerson
Britten	Fuller	Mansfield	Stiness
Brooks, Ill.	Gahn	Martin	Sullivan
Brown, Tenn.	Gallivan	Montague	Taylor, Ark.
Burke	Goldsborough	Montoya	Taylor, Colo.
Campbell, Kans.	Haugen	Nolan	Ten Eyck
Chandler, N. Y.	Hawley	Ogden	Timberlake
Clark, Fla.	Hersey	Park, Ga.	Treadway
Classon	Hudspeth	Patterson, N. J.	Upshaw
Cockran	Ireland	Perlman	Vaile
Codd	James	Pou	Volk
Cooper, Ohio	Johnson, Ky.	Rainey, Ala.	Walters
Copley	Johnson, S. Dak.	Ransley	Watson
Cramton	Kahn	Reber	Williamson
Dickinson	Kearns	Riordan	Wood, Ind
Dominick	Kennedy	Robertson	Woodruff
Drane	Kinkaid	Rodenberg	Yates
Dupré	Kitchin	Rucker	Zihlman
Elston	Knight	Sabath	
Fitzgerald	Langley	Scott, Mich.	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. WOOD of Indiana (for) with Mr. SISSON (against).

Mr. SLEMP (for) with Mr. BYRNS of Tennessee (against).

Mr. WATSON (for) with Mr. OLIVER (against).

Mr. FREE (for) with Mr. TAYLOR of Arkansas (against).

Mr. REBER (for) with Mr. GALLIVAN (against).

Mr. DUPRÉ (for) and Mr. JAMES (against).

Mr. RANSLEY (for) with Mr. MARTIN (against).

Mr. TREADWAY (for) with Mr. TAGUE (against).

Mr. VOLK (for) with Mr. GOLDSBOROUGH (against).

Mr. HERSEY (for) with Mr. NOLAN (against).
Mr. FREEMAN (for) with Mr. MCCLINTIC (against).
Until further notice:
Mr. KAHN with Mr. JOHNSON of Kentucky.
Mr. JOHNSON of South Dakota with Mr. KITCHIN.
Mr. FULLER with Mr. KUNZ.
Mr. LANGLEY with Mr. CLARK of Florida.
Mr. BLAKENEY with Mr. TEN EYCK.
Mr. KEARNS with Mr. HUDSPETH.
Mr. BROOKS of Illinois with Mr. MONTAGUE.
Mr. PERLMAN with Mr. RAINEY of Alabama.
Mr. TIMBERLAKE with Mr. PARK of Georgia.
Mr. IRELAND with Mr. UPSHAW.
Mr. RODENBERG with Mr. RUCKER.
Mr. CRAMTON with Mr. SULLIVAN.
Mr. PATTERSON of New Jersey with Mr. BANKHEAD.
Mr. ELSTON with Mr. RIORDAN.
Mr. WALTERS with Mr. POU.
Mr. KENNEDY with Mr. DRANE.
Mr. CAMPBELL of Kansas with Mr. STEDMAN.
Mr. COOPER of Ohio with Mr. MANSFIELD.
Mr. DICKINSON with Mr. COCKRAN.
Mr. FORDNEY with Mr. BARKLEY.
Mr. STINESS with Mr. DOMINICK.
Mr. MONTOYA with Mr. LYON.
Mr. YATES with Mr. SABATH.
Mr. VAIL with Mr. TAYLOR of Colorado.

Mr. TAGUE. Mr. Speaker, I am paired with my colleague from Massachusetts [Mr. TREADWAY]. Had he been present he would have voted "yea." I voted "nay." I wish to withdraw my vote and answer "present."

The result of the vote was announced as above recorded.

Mr. WINSLOW. Mr. Speaker, I ask unanimous consent that all Members be allowed 10 legislative days in which to print their remarks in the RECORD on the bill just passed.

The SPEAKER. Is there objection?

Mr. SEARS. Mr. Speaker, reserving the right to object, I simply would like to state that I offered an amendment a few minutes ago limiting the time in which the railroads could file their claims to six months, but the gentleman from Massachusetts, the chairman of the committee, having moved to close all debate on the paragraph, I was not permitted to explain same. The House was not permitted to debate many amendments and practically all debate was shut off. Of course, the printing of these remarks, if the request is granted, will cost the taxpayers considerable, and the House having already voted on the bill, they will be of no benefit or assistance to the Members of the House. However, I shall follow my usual custom, and while the gentleman, the chairman of the committee, would not let me have five minutes, I shall not object. I trust the Members during the contemplated recess will get much pleasure out of writing their speeches.

Mr. BLANTON. Reserving the right to object, I wanted to call the gentleman's attention to the fact that under the revenue bill the Members had until the 31st to extend their remarks. This ought not to go beyond that date, because it might cause the printing of another RECORD.

Mr. WINSLOW. I still hold to the 10 legislative days.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

On motion of Mr. WINSLOW, a motion to reconsider the vote by which the bill was passed was laid on the table.

WAR FINANCE CORPORATION ACT, APRIL 5, 1918.

Mr. McFADDEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill S. 1915, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent that the House insist on its disagreement and agree to the conference asked by the Senate on the bill which the Clerk will report.

The Clerk read as follows:

A bill (S. 1915) to amend the War Finance Corporation act, approved April 5, 1918, as amended, to provide relief for producers of and dealers in agricultural products, and for other purposes.

Mr. GARRETT of Tennessee. Reserving the right to object, will the gentleman from Pennsylvania yield to me?

Mr. McFADDEN. I will.

Mr. GARRETT of Tennessee. I understand that the ranking minority Member has been consulted and that this is entirely agreeable to him?

Mr. McFADDEN. I will say to the gentleman that that is the fact.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The Speaker appointed the following conferees: Mr. McFADDEN, Mr. DALE, and Mr. WINGO.

PAYMENT OF EMPLOYEES AND OFFICERS OF HOUSE AND SENATE FOR AUGUST.

Mr. MADDEN. Mr. Speaker, I ask unanimous consent for the present consideration of the resolution which I send to the Clerk's desk.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House joint resolution 195.

Resolved, etc., That the Secretary of the Senate and the Clerk of the House of Representatives are authorized and instructed to pay the officers and employees of the Senate and House of Representatives, including the Capitol police, their respective salaries for the month of August, 1921, on the 24th day of said month.

Mr. MADDEN. This is the usual resolution in anticipation of a recess.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The question is on the engrossment and third reading of the resolution.

The resolution was ordered to be engrossed and read the third time, was read the third time, and passed.

EXTENSION OF REMARKS.

Mr. EVANS of Nebraska. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by including therein resolutions passed by the Nebraska Grand Army of the Republic at its last encampment.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The following are the resolutions referred to:

DECLARATION AND RENEWAL OF FAITH, NEBRASKA GRAND ARMY OF THE REPUBLIC, 1921.

Comrade R. B. Windham, chairman of the committee on resolutions, made the report of his committee, which was unanimously adopted.

"We have just had the Tercentenary Celebration of the Landing of the Pilgrims and are at the end of nearly a century and a half of our existence as a Nation. It is a period fit for considerate survey. Our progress has been marked, as it must always be, by effort to develop our economic life and strive to maintain our national life. The way we have traveled is plainly marked to all the world. Politically, it began with our first Declaration of Independence at Philadelphia, and was emphasized by our last declaration in 1920, when, by overwhelming nonpartisan voice, our people again declared that American questions can not be decided by foreigners or upon the basis of foreign feuds. From Bunker Hill to Yorktown, through 1812 to 1846, from Sumter to Appomattox, from Manila Bay to Santiago Harbor, from the *Lusitania* to Belleau Wood, the great price of our being has been paid ungrudgingly, and without shadow of turning from our destined course. Our material accomplishments are apparent to all. Substantial progress has been made on the road to economic justice. Many wholesome economic ideas have been realized and others will be attained. We rejoice at all this, and yet candor and our sense of patriotic duty compel us to record our apprehension of recent disquieting departures from our fundamental principles.

"These departures are variously manifested.

"Though the Constitution wisely guarantees to every State in the Union a republican form of government, which assumes that the people shall act upon matters of legislation not directly, but through their representatives who have time and opportunity to investigate and to deliberate, yet by subtle pleas we have been reduced to the initiative and referendum, which enacts legislation in ignorance of conditions and upon sudden impulse. Thus legislation is the product of emotion instead of reason. Nor is that all.

"Though it is a fundamental principle of the Government that the church and State shall remain forever separate, we find many religious organizations disregarding this principle and demanding multitudes of laws for the regulation of private morals. By thus substituting legal force for moral suasion, they attempt to impose upon others a moral standard peculiarly satisfactory to themselves, but alien and obnoxious to a free people.

"Demagogues, having no concern save to introduce and perpetuate themselves in popular favor, blatantly feign to discover defects in our economic system and, if favored with office, prostitute their positions by shackling industry with absurd restrictions to gratify the whims of their loudest constituents and with resulting discouragement of private enterprise to the injury of all.

"This confusion of civic affairs with moral regulations, coupled with the rewards secured by servile deference to the popular emotion of the moment, has produced results in many instances of substantial injury, in others of irritating petty annoyances and in still others of ludicrous absurdity. They tend to arrest our development, alienate the affections of our people from their country and confirm the widespread notion that a government by the people can not long survive. Some of the more glaring legislative results of this confusion and official servility to popular passion and prejudice, all of which we disapprove, are as follows:

"1. The initiative and referendum, which forces upon the people for decision multitudes of questions upon which they are wholly uninformed, for which there is not time for general consideration, and toward which there is such general indifference that law may be enacted by an aggressive and fanatical minority of the people.

"2. Recall of public officers, the threat of which causes them to substitute a servile heed to the temporary fluctuations of popular clamor for their sworn duty to the State.

"3. Laws unduly facilitating the submission to popular vote of proposed amendments to the Federal Constitution and to the constitutions of the several States to be voted upon by the people.

"4. Primary elections for the selection of candidates for office so that the voter has no means of knowing the fitness of the several candidates save by their own advertisements. This not only requires

double the time of both candidate and voters for election purposes but adds tremendously to the already excessive cost of elections without corresponding benefit, and in most cases gives us a minority candidate.

"5. The creation of almost innumerable boards, commissions, inspectors and Government spies, most of which are useless, others of doubtful wisdom, and all furnishing places for political appointees often unfitted for their vague official duties and usually exercising arbitrary power at great public expense and domestic discord.

"6. The growing disposition toward municipal, State, and Government ownership and operation of public utilities and the ever-widening scope of business which are brought within that definition by mere legislative pronouncement in reckless disregard of the known fact that such ownership and operation largely increases the cost of operation and lessens its efficiency, and is an economic fallacy.

"7. Such studied tolerance of the demands of organized labor for the transparent purpose of securing its political support as to cause it to officially indorse the mutiny of the Boston police which exposed the inhabitants of that city to the criminal elements and constituted treason to society. Added to this is the servile acceptance of the un-American closed-shop rule—the denial to the American boy of the right to learn a trade and the disposition to grant, without question, the demands of union labor for greater privileges than are guaranteed to anyone by any law or in plain justice.

"8. Absurd legislation enacted to gratify the fantastic whims of a small but insistent coterie with the certain knowledge that it never will be observed, thereby bringing public law into contempt and gradually sapping the foundations of the Government.

"We, the Grand Army of the Republic of the Department of Nebraska, solemnly call a halt and about face on this course of civic madness which will, if continued, lead to graver injury and tend toward possible disaster. And we earnestly invite all patriotic Americans and especially the American Legion, which is taking up this great patriotic work, to join us in a mighty effort to effect a return to the representative government guaranteed by the Constitution and to the fundamental principles upon which this Nation grew great and under which its people were free. We, on our part, pledge ourselves anew to the Constitution of the United States, the principles upon which it stands, and the ideas which it symbolizes."

R. B. WINDHAM.
L. D. RICHARDS.
W. V. ALLEN.
G. J. THOMAS.
T. J. MAJORS.
J. A. EHRHARDT.

This is to certify that I have compared this copy with the original resolution adopted by the encampment at Hastings May 25, 1921, and find it correct.

HARMON BROSS,
Assistant Adjutant General.

LEAVE OF ABSENCE.

Mr. HAWLEY, by unanimous consent (at the request of Mr. MCARTHUR), was granted leave of absence for the day, on account of illness.

ORDER OF BUSINESS.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that it may be in order to take up to-morrow, under the rules applicable thereto, the so-called Ball rent bill.

The SPEAKER. The gentleman from Wyoming asks unanimous consent to take up the Ball rent bill to-morrow. Is there objection?

Mr. SPROUL. Mr. Speaker, I object.

Mr. GARRETT of Tennessee. Mr. Speaker, may I ask the gentleman from Wyoming what probably will be the order of business to-morrow?

Mr. MONDELL. The conference report on the grain futures bill, the conference report on the antibeer bill, and any other conference reports that reach us.

Mr. Speaker, I shall renew the request to take up the rent bill, and it may be possible during the day to reach for consideration, by unanimous consent, the Unanimous Consent Calendar.

Mr. BLANTON. Mr. Speaker, will the gentleman from Wyoming yield?

Mr. MONDELL. I will.

Mr. BLANTON. The gentleman, of course, realizes that the rent bill is a most important bill?

Mr. MONDELL. I do. I would not have made the request I have made if I did not think so.

Mr. BLANTON. This is District day. The day is not over. The gentleman realizes the importance of that bill. Why not let us take that bill up now?

Mr. MONDELL. No one would be justified in asking the House to remain here after 7 o'clock.

Mr. BLANTON. I think the membership would be willing, in order to keep that Ball Act from going out of existence in a few weeks, to stay here and work, and it does not require unanimous consent. This is still District day. If the Speaker and the gentleman from Wyoming will permit us, we can take it up as a matter of right, as District business.

Mr. McCLINTIC. Mr. Speaker, will the gentleman from Wyoming yield?

The SPEAKER. This is all by unanimous consent.

Mr. MONDELL. Mr. Speaker, I shall have to move that the House do now adjourn.

Mr. McCLINTIC. I want to ask the gentleman a question before he makes that motion.

Mr. MONDELL. Let it be very brief.

Mr. McCLINTIC. I will be very brief. Has anything happened that causes Members of the House to believe that we would not recess on Wednesday?

Mr. MONDELL. I do not understand the gentleman.

Mr. McCLINTIC. In other words, a great many Members want to make reservations to leave here in case of a recess. I wondered whether the gentleman from Wyoming had any information on that subject, as to whether or not we would?

Mr. MONDELL. I still hope that we may recess on Wednesday, but that hope will only be realized if gentlemen stay; and if gentlemen leave on the theory that "George will stay here and do it," they may have to come back.

ENROLLED BILLS SIGNED.

Mr. RICKETTS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 6407. An act for the relief of Maj. Francis M. Maddox, United States Army.

H. R. 1942. An act for the relief of the owners of the dredge *Maryland*.

H. R. 7255. An act authorizing bestowal upon the unknown unidentified American to be buried in the Memorial Amphitheater of the National Cemetery at Arlington, Va., the congressional medal of honor and the distinguished service cross.

ADJOURNMENT.

Mr. MONDELL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 50 minutes p. m.) the House adjourned until to-morrow, Tuesday, August 23, 1921, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. MOTT, from the Committee on Ways and Means, to which was referred the bill (S. 1718) authorizing the distribution of abandoned or forfeited tobacco, snuff, cigars, or cigarettes to hospitals maintained by the United States for the use of the present or former members of the military or naval forces of the United States, reported the same without amendment, accompanied by a report (No. 364), which said bill and report were referred to the House Calendar.

Mr. VOLSTEAD, from the Committee on the Judiciary, to which was referred the bill (H. R. 8298) to amend section 1044 of the Revised Statutes of the United States relating to limitations in criminal cases, reported the same with an amendment, accompanied by a report (No. 365), which said bill and report were referred to the House Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. DEAL: A bill (H. R. 8361) to amend sections 4 and 5 of the act approved June 4, 1920, entitled "An act making appropriations for the naval service for the fiscal year ending June 30, 1921, and for other purposes"; to the Committee on Naval Affairs.

By Mr. KISSEL: A bill (H. R. 8362) amending chapter 28, United States Statutes at Large, entitled "An act establishing the temporary and permanent seat of government of the United States," approved July 16, 1790; to the Committee on the Judiciary.

By Mr. OSBORNE: A bill (H. R. 8363) authorizing the Secretary of the Navy to accept from the city of Los Angeles, Calif., a certain tract of land for use as a site for a naval submarine base, and for other purposes; to the Committee on Naval Affairs.

By Mr. ACKERMAN: A bill (H. R. 8364) authorizing the reinstatement in the Naval Academy of midshipmen whose resignations were accepted at the end of the first term of the academic year 1920–21; to the Committee on Naval Affairs.

By Mr. LONGWORTH: A bill (H. R. 8365) to permit the use in the post office at Cincinnati, Ohio, of special canceling stamps bearing the words "Public Health Exposition, Cincinnati, Ohio, October 15 to 22, 1921"; to the Committee on the Post Office and Post Roads.

By Mr. MACGREGOR: A bill (H. R. 8366) to provide for the construction of a public bridge across the Niagara River; to the Committee on Interstate and Foreign Commerce.

By Mr. LANGLEY (by request): A bill (H. R. 8367) to amend certain sections of the Judicial Code relating to the Court of Claims; to the Committee on the Judiciary.

By Mr. MILLS: Joint resolution (H. J. Res. 193) authorizing the erection on public grounds in the city of Washington, D. C., of a memorial to Jeanne d'Arc; to the Committee on the Library.

By Mr. LONDON: Joint resolution (H. J. Res. 194) authorizing the appropriation of $500,000,000 to relieve distress caused by involuntary unemployment; to the Committee on Labor.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CAMPBELL of Pennsylvania: A bill (H. R. 8368) granting a pension to Elizabeth Scott Wilhelm; to the Committee on Invalid Pensions.

By Mr. LINTHICUM: A bill (H. R. 8369) granting an increase of pension to Elizabeth Willis; to the Committee on Pensions.

By Mr. LONGWORTH: A bill (H. R. 8370) for the relief of Maria Pfeiffer; to the Committee on Pensions.

Also, a bill (H. R. 8371) granting an increase of pension to Harry Weinheimer; to the Committee on Pensions.

Also, a bill (H. R. 8372) authorizing the Secretary of War to donate to the Clifton Heights Welfare Association, of Cincinnati, Ohio, two captured cannon; to the Committee on Military Affairs.

By Mr. MOORE of Virginia: A bill (H. R. 8373) to extend the benefits of the employers' liability act of September 7, 1916, to Daniel S. Glover; to the Committee on Education.

By Mr. POU: A bill (H. R. 8374) for the relief of the estate of Frank W. Knight; to the Committee on Claims.

By Mr. ROSSDALE: A bill (H. R. 8375) granting an extension of patent to Walter D. Johnston; to the Committee on Patents.

By Mr. SANDERS of Texas: A bill (H. R. 8376) granting a pension to Ida V. Trinkle; to the Committee on Invalid Pensions. sions.

By Mr. SEARS: A bill (H. R. 8377) granting a pension to Thomas Kerr; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

2540. By the SPEAKER (by request): Telegram from the Louisiana State Directorate, American Association for the Recognition of the Irish Republic, Gen. A. B. Booth, president; James Hussey, secretary, urging this Government to favor the Irish republic in its war and diplomatic contest now going on; to the Committee on Foreign Affairs.

2541. By Mr. BOND: Petition of Business Men's and Taxpayers' Organization of Greater New York, State of New York, and adjoining States, for additional appropriation to keep men employed in the New York Navy Yard; to the Committee on Appropriations.

2542. By Mr. DRIVER: Petition of Helena Chamber of Commerce, Helena, Ark., in support of Senate bill 838 and House bill 2894, to reduce passenger rates on railroads; to the Committee on Interstate and Foreign Commerce.

2543. By Mr. FAUST: Petition of 276 citizens of St. Joseph, Mo., opposing House bill 4388; to the Committee on the District of Columbia.

2544. By Mr. FRENCH: Petition of residents of Latah County, Idaho, opposing the passage of House bill 4388, the Sunday-observance bill; to the Committee on the District of Columbia.

2545. By Mr. KING: Petition of Private Soldiers and Sailors' Legion of the United States of America, requesting an investigation by Congress of present conditions of unemployment; to the Committee on Labor.

2546. By Mr. KISSEL: Petition of G. A. Lang, national secretary of the Religious Liberty League, New York City, relative to taxation; to the Committee on Ways and Means.

2547. By Mr. KOPP: Petition of Henry County Farmers' Union, Henry County, Iowa, in favor of the independence of the Irish republic; to the Committee on Foreign Affairs.

2548. Also, petition of Henry County Farmers' Union, Henry County, Iowa, demanding the payment in full of all debts due this Government from foreign Governments; to the Committee on Ways and Means.

2549. Also, petition of residents of Fairfield, Brighton, and other points in Iowa, protesting against Senate bill 1948; to the Committee on the District of Columbia.

2550. Also, petition of residents of Mount Pleasant and other points in Iowa, protesting against House bill 4388; to the Committee on the District of Columbia.

2551. Also, petition of citizens of Burlington, Iowa, demanding recognition of the Irish republic; to the Committee on Foreign Affairs.

2552. By Mr. LINTHICUM: Petition of Dannenberg, Son & Blumberg, of Baltimore, Md., favoring immediate revision of tax laws; also, petition of Jewelry and Kindred Industries Board, of Baltimore, Md., for repeal of discriminatory jewelry tax; also, petition of Standard Medical Society, of Baltimore, Md., opposing 5 per cent tax on manufactures of proprietary medicines; also, petition of Federal Mutual Fire Insurance Co. and Baltimore Mutual Fire Insurance Co., of Baltimore, Md., for the repeal of section 503 of new revenue bill; also, petition of the August Maag Co. and Baltimore & Sun Life Insurance Co., of Baltimore, Md., opposing increase on letter mail; to the Committee on Ways and Means.

2553. By Mr. RAKER: Telegram from Elmer E. Paxton, general manager of the Indian Valley Railroad Co., San Francisco, Calif., urging support of the Winslow railroad refunding bill; to the Committee on Interstate and Foreign Commerce.

2554. Also, petition of Tillman & Bendel (Inc.), of San Francisco, Calif., protesting against any increase in first-class postage rates; also petition of the California State Agricultural Society, of Sacramento, Calif, relative to the revenue act as it affects agricultural fairs; to the Committee on Ways and Means.

2555. By Mr. SMITH of Michigan: Petition of 16 citizens of Battle Creek, Mich., protesting against passage of House bill 4388, providing for the regulation of Sunday observance by civil force under penalty for the District of Columbia; to the Committee on the District of Columia.

2556. By Mr. TOWNER: Petition of K. M. Le Compte and 13 other citizens of Corydon, Iowa, protesting against the passage of House bill 4388, compulsory Sunday observance bill; to the Committee on the District of Columbia.

SENATE.

TUESDAY, *August 23, 1921.*

(Legislative day of Monday, August 22, 1921.)

The Senate reassembled at 10 o'clock a. m. on the expiration of the recess.

Mr. HARRISON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CURTIS in the chair). The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Brandegee	Hitchcock	Myers	Smoot
Cameron	Jones, N. Mex.	Nelson	Sterling
Curtis	Jones, Wash.	New	Townsend
Dillingham	Kenyon	Newberry	Trammell
Ernst	Ladd	Nicholson	Wadsworth
Fernald	La Follette	Poindexter	Warren
Frelinghuysen	Lodge	Sheppard	Watson, Ga.
Hale	McKellar	Shortridge	Watson, Ind.
Harrison	McNary	Simmons	Williams
Heflin	Moses	Smith	Willis

The PRESIDING OFFICER (Mr. CURTIS). The Chair announces the absence of the Senator from New Hampshire [Mr. KEYES] on account of a death in his family. This announcement will stand for the day.

Mr. SMOOT. I wish to announce that the Senator from Pennsylvania [Mr. PENROSE] is detained by a meeting of the Committee on Finance.

The PRESIDING OFFICER. Forty Senators having answered to their names, a quorum is not present. The Secretary will call the roll of absentees.

The reading clerk called the names of the absent Senators, and Mr. CAPPER, Mr. FLETCHER, Mr. NORBECK, Mr. REED, Mr. SUTHERLAND, Mr. SWANSON, and Mr. WALSH of Massachusetts answered to their names when called.

Mr. ODDIE, Mr. CALDER, Mr. HARRELD, Mr. MCCUMBER, Mr. MCLEAN, Mr. BORAH, Mr. KING, Mr. CULBERSON, Mr. POMERENE, Mr. KELLOGG, Mr. SPENCER, and Mr. WELLER entered the Chamber and answered to their names.

The PRESIDING OFFICER. Fifty-eight Senators having answered to their names, a quorum is present.

UNREASONABLE SEARCHES AND SEIZURES.

Mr. BRANDEGEE. Mr. President, I ask unanimous consent to have printed in the RECORD the case of Weeks v. United States (232 U. S. Reports, pp. 383-399).

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BRANDEGEE. I ask that it be printed in the ordinary type of the RECORD. I understand that under an order of the Public Printer all extracts are now to be printed in the small type unless otherwise ordered by the Senate. There was a decision on the question of the right of search, which was printed at the request of the Senator from Arizona [Mr. ASHURST] on August 18 in the RECORD on page 5601. I tried to read the decision, but it is in such fine type that it is almost impossible to read it.

The PRESIDING OFFICER. Without objection, it will be so printed.

The decision is as follows:

(Weeks v. United States, 232 U. S. Reports, pp. 383-399.)

Error to the District Court of the United States for the Western District of Missouri. No. 461. Argued December 2, 3, 1913—Decided February 24, 1914.

"Under the fourth amendment Federal courts and officers are under such limitations and restraints in the exercise of their power and authority as to forever secure the people, their persons, houses, papers, and effects against all unreasonable searches and seizures under the guise of law.

"The protection of the fourth amendment reaches all alike, whether accused of crime or not, and the duty of giving it force and effect is obligatory on all intrusted with the enforcement of Federal laws.

"The tendency of those executing Federal criminal laws to obtain convictions by means of unlawful seizures and enforced confessions in violation of Federal rights is not to be sanctioned by the courts which are charged with the support of constitutional rights.

"The Federal courts can not, as against a reasonable application for their return, in a criminal prosecution, retain for the purposes of evidence against the accused his letters and correspondence seized in his house during his absence and without his authority by a United States marshal holding no warrant for his arrest or for the search of his premises.

"While the efforts of courts and their officials to bring the guilty to punishment are praiseworthy, they are not to be aided by sacrificing the great fundamental rights secured by the Constitution.

"While an incidental seizure of incriminating papers made in the execution of a legal warrant, and their use as evidence, may be justified, and a collateral issue will not be raised to ascertain the source of competent evidence (Adams v. New York, 192 U. S., 585), that rule does not justify the retention of letters seized in violation of the protection given by the fourth amendment where an application in the cause for their return has been made by the accused before trial.

"The court has power to deal with papers and documents in the possession of the district attorney and other officers of the court and to direct their return to the accused if wrongfully seized.

"Where letters and papers of the accused were taken from his premises by an official of the United States acting under color of office, but without any search warrant, and in violation of the constitutional rights of accused under the fourth amendment, and a seasonable application for return of the letters and papers has been refused and they are used in evidence over his objections, prejudicial error is committed and the judgment should be reversed.

"The fourth amendment is not directed to individual misconduct of State officers. Its limitations reach the Federal Government and its agencies. (Boyd v. United States, 116 U. S., 616.)

"The facts, which involve the validity under the fourth amendment of a verdict and sentence and the extent to which the private papers of the accused taken without search warrant can be used as evidence against him, are stated in the opinion.

"Mr. Martin J. O'Donnell for plaintiff in error.

"The decision of the district court denying defendant's petition to return his property and private papers after it had taken jurisdiction of the subject matter set forth in said petition and found that said private papers had come into the possession of the Government as a result of its own unlawful acts in violation of its own Constitution is reversible error. (Adams v. New York, 192 U. S., 585; Boyd v. United States, 116 U. S., 616; Hale v. Henkel, 201 U. S., 43; United States v. McHie, 196 Fed. Rep., 586; United States v. Wilson, 163 Fed. Rep., 338; United States v. McHie, 194 Fed. Rep., 894; United States v. Mills, 185 Fed. Rep., 318; Wise v. Mills, 220 U. S., 549; Wise v. Henkel, 220 U. S., 549.)

"The reception in evidence of the property and papers seized by officers of the Government after the court had inquired into and found that same had been so seized was reversible error. (47 Am. St. Rep., 175; Blackstone's Com., bk. 3, p. 256; Blackstone, bk. 4; Boyd v. United States, 116 U. S., 616; Broom's Leg. Max. (7th ed.), 227; Counselman v. Hitchcock, 142 U. S., 547; Ex parte Jackson, 96 U. S., 727; Gindrat v. People, 138 Illinois, 103; 1 Greenleaf on Evidence, sec. 245a; Marshall v. Riley, 7 Georgia, 367; Note 1, Blackstone's Com., bk. 3, p. 256; Rusher v. State, 94 Georgia, 366; Shields v. State, 104 Alabama, 35; State v. Flynn, 36 N. H., 64; State v. Underwood, 78 S. E., 1103; Thornton v. State, 117 Wisconsin, 338; Underwood v. State, 78 S. E. Rep., 1103; United States v. Wong Quong, 94 Fed. Rep., 832; 4 Wigmore on Evidence, secs. 2251-2270.)

"The common law rules of evidence embodied in the Constitution have, by being so embodied, been clothed with the dignity of a fundamental law and the application of same under the Constitution is not limited by the rules of the common law. (Boyd v. United States, 116 U. S., 616; Black's Int. of Laws; Bram v. United States, 168 U. S., 532, 542; Brown v. Walker, 161 U. S., 596-597; Counselman v. Hitchcock, 142 U. S., 547; Emery's Case, 107 Massachusetts, 172; Enbeck v. Carrington, 19 How. St. Tr., 1029; People v. Kelly, 24 N. Y., 74; Sohm in Inst. of Roman Law, 2d ed., p. 30; Thayer on Evidence, 263, 276.)

"The Solicitor General and Mr. Assistant Attorney General Denison for the United States submitted:

"'The defendant having been found guilty—on a single count only—comes here on writ of error, making 15 assignments of which the only one requiring notice is in substance that the retention of this property and its admission in evidence against him violated his right to be secure from unreasonable searches and seizures and to refrain from being a witness against himself, as guaranteed by the fourth and fifth amendments.'

"The question is no longer open. (Adams v. New York, 192 U. S., 585; Hale v. Henkel, 201 U. S., 43; Am. Tobacco Co. v. Werckmeister, 207 U. S., 284, 302; Holt v. United States, 218 U. S., 245, 252; United States v. Wilson, 163 Fed. Rep., 338; Hardesty v. United States, 164 Fed. Rep., 420.)

"The Adams case is sought to be distinguished on the ground that it involved a State action, whereas this involves a Federal action. The distinction does exist on the facts, but it is immaterial because the court passed that phase of the Adams case and based the decision on the point that even if the amendments were applicable to State action (Twining v. New Jersey, 211 U. S., 78, 92) they had not been violated.

"Mr. Justice Day delivered the opinion of the court.

"An indictment was returned against the plaintiff in error, defendant below, and herein so designated, in the District Court of the United States for the Western District of Missouri, containing nine counts. The seventh count, upon which a conviction was had, charged the use of the mails for the purpose of transporting certain coupons or tickets representing chances or shares in a lottery or gift enterprise, in violation of section 213 of the Criminal Code. Sentence of fine and imprisonment was imposed. This writ of error is to review that judgment.

"The defendant was arrested by a police officer, so far as the record shows, without warrant, at the Union Station in Kansas City, Mo., where he was employed by an express company. Other police officers had gone to the house of the defendant and being told by a neighbor where the key was kept found it and entered the house. They searched the defendant's room and took possession of various papers and articles found there, which were afterwards turned over to the United States marshal. Later in the same day police officers returned with the marshal, who thought he might find additional evidence, and being admitted by some one in the house, probably a boarder, in response to a rap, the marshal searched the defendant's room and carried away certain letters and envelopes found in the drawer of a chiffonier. Neither the marshal nor the police officers had a search warrant.

"The defendant filed in the cause before the time for trial the following petition:

"'PETITION TO RETURN PRIVATE PAPERS, BOOKS, AND OTHER PROPERTY.

"'Now comes the defendant and states that he is a citizen and resident of Kansas City, Mo., and that he resides, owns, and occupies a home at 1834 Penn Street in said city:

"'That on the 21st day of December, 1911, while plaintiff was absent at his daily vocation certain officers of the Government, whose names are to plaintiff unknown, unlawfully and

without warrant or authority so to do, broke open the door to plaintiff's said home and seized all of his books, letters, money, papers, notes, evidences of indebtedness, stock certificates, insurance policies, deeds, abstracts, and other muniments of title, bonds, candles, clothes, and other property in said home, and this in violation of sections 11 and 23 of the constitution of Missouri and of the fourth and fifth amendments to the Constitution of the United States:

"'That the district attorney, marshal, and clerk of the United States Court for the Western District of Missouri took the above-described property so seized into their possession and have failed and refused to return to defendant portion of same, to wit:

"'One leather grip, value about $7; one tin box valued at $3; one Pettis County (Mo.) bond, value $500; three mining stock certificates, which defendant is unable to more particularly describe, valued at $12,000; and certain stock certificates in addition thereto issued by the San Domingo Mining Loan & Investment Co.; about $75 in currency; one newspaper published about 1790, an heirloom; and certain other property which plaintiff is now unable to describe.

"'That said property is being unlawfully and improperly held by said district attorney, marshal, and clerk in violation of defendant's rights under the Constitution of the United States and the State of Missouri.

"'That said district attorney purposes to use said books, letters, papers, certificates of stock, and so forth, at the trial of the above-entitled cause, and that by reason thereof and of the facts above set forth defendant's rights under the amendments aforesaid to the constitutions of Missouri and the United States have been and will be violated unless the court order the return prayed for.

"'Wherefore defendant prays that said district attorney, marshal, and clerk be notified, and that the court direct and order said district attorney, marshal, and clerk to return said property to said defendant.'

"Upon consideration of the petition the court entered in the cause an order directing the return of such property as was not pertinent to the charge against the defendant, but denied the petition as to pertinent matter, reserving the right to pass upon the pertinency at a later time. In obedience to the order the district attorney returned part of the property taken and retained the remainder, concluding a list of the latter with the statement that, 'All of which last above-described property is to be used in evidence in the trial of the above-entitled cause, and pertains to the alleged sale of lottery tickets of the company above named.'

"After the jury had been sworn and before any evidence had been given, the defendant again urged his petition for the return of his property, which was denied by the court. Upon the introduction of such papers during the trial the defendant objected on the ground that the papers had been obtained without a search warrant and by breaking open his home, in violation of the fourth and fifth amendments to the Constitution of the United States, which objection was overruled by the court. Among the papers retained and put in evidence were a number of lottery tickets and statements with reference to the lottery, taken at the first visit of the police to the defendant's room, and a number of letters written to the defendant in respect to the lottery, taken by the marshal upon his search of defendant's room.

"The defendant assigns error, among other things, in the court's refusal to grant his petition for the return of his property and in permitting the papers to be used at the trial.

"It is thus apparent that the question presented involves the determination of the duty of the court with reference to the motion made by the defendant for the return of certain letters, as well as other papers, taken from his room by the United States marshal, who without authority of process, if any such could have been legally issued, visited the room of the defendant for the declared purpose of obtaining additional testimony to support the charge against the accused, and having gained admission to the house took from the drawer of a chiffonier there found certain letters written to the defendant tending to show his guilt. These letters were placed in the control of the district attorney and were subsequently produced by him and offered in evidence against the accused at the trial. The defendant contends that such appropriation of his private correspondence was in violation of rights secured to him by the fourth and fifth amendments to the Constitution of the United States. We shall deal with the fourth amendment, which provides:

"'The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation and particularly describing the place to be searched, and the persons or things to be seized.'

"The history of this amendment is given with particularity in the opinion of Mr. Justice Bradley, speaking for the court in Boyd *v.* United States (116 U. S., 616). As was there shown, it took its origin in the determination of the framers of the amendments to the Federal Constitution to provide for that instrument a bill of rights securing to the American people, among other things, those safeguards which had grown up in England to protect the people from unreasonable searches and seizures, such as were permitted under the general warrants issued under authority of the Government by which there had been invasions of the home and privacy of the citizens and the seizure of their private papers in support of charges, real or imaginary, made against them. Such practices had also received sanction under warrants and seizures under the so-called writs of assistance, issued in the American Colonies. (See 2 Watson on the Constitution, 1414 et seq.) Resistance to these practices had established the principle which was enacted into the fundamental law in the fourth amendment, that a man's house was his castle and not to be invaded by any general authority to search and seize his goods and papers. Judge Cooley, in his Constitutional Limitations, pages 425, 426, in treating of this feature of our Constitution, said: 'The maxim that "every man's house is his castle" is made a part of our constitutional law in the clauses prohibiting unreasonable searches and seizures, and has always been looked upon as of high value to the citizen.' 'Accordingly,' says Lieber in his work on Civil Liberty and Self-Government, page 62, in speaking of the English law in this respect, 'no man's house can be forcibly opened, or he or his goods be carried away after it has thus been forced, except in cases of felony, and then the sheriff must be furnished with a warrant and take great care lest he commit a trespass. This principle is jealously insisted upon.'

"In ex parte Jackson (96 U. S., 727, 733) this court recognized the principle of protection as applicable to letters and sealed packages in the mail, and held that consistently with this guaranty of the right of the people to be secure in their papers against unreasonable searches and seizures such matter could only be opened and examined upon warrants issued on oath or affirmation particularly describing the thing to be seized, 'as is required when papers are subjected to search in one's own household.'

"In the Boyd case, supra, after citing Lord Camden's judgment in Entick *v.* Carrington (19 Howell's State Trials, 1029), Mr. Justice Bradley said (630):

"'The principles laid down in this opinion affect the very essence of constitutional liberty and security. They reach further than the concrete form of the case then before the court, with its adventitious circumstances; they apply to all invasions on the part of the Government and its employees of the sanctity of a man's home and the privacies of life. It is not the breaking of his doors and the rummaging of his drawers that constitutes the essence of the offense, but it is the invasion of his indefeasible right of personal security, personal liberty, and private property, where that right has never been forfeited by his conviction of some public offense—it is the invasion of this sacred right which underlies and constitutes the essence of Lord Camden's judgment.'

"In Bram *v.* United States (168 U. S., 532) this court in speaking by the present Chief Justice of Boyd's case, dealing with the fourth and fifth amendments, said (544):

"'It was in that case demonstrated that both of these amendments contemplated perpetuating, in their full efficacy, by means of a constitutional provision, principles of humanity and civil liberty, which had been secured in the mother country only after years of struggle, so as to implant them in our institutions in the fullness of their integrity, free from the possibilities of future legislative change.'

"The effect of the fourth amendment is to put the courts of the United States and Federal officials in the exercise of their power and authority, under limitations and restraints as to the exercise of such power and authority, and to forever secure the people, their persons, houses, papers, and effects against all unreasonable searches and seizures under the guise of law. This protection reaches all alike, whether accused of crime or not, and the duty of giving to it force and effect is obligatory upon all intrusted under our Federal system with the enforcement of the laws. The tendency of those who execute the criminal laws of the country to obtain conviction by means of unlawful seizures and enforced confessions, the latter often obtained after subjecting accused persons to unwarranted practices destructive of rights secured by the Federal Constitution, should find no sanction in the judgments of the courts which

are charged at all times with the support of the Constitution and to which people of all conditions have a right to appeal for the maintenance of such fundamental rights.

"What, then, is the present case? Before answering that inquiry specifically it may be well by a process of exclusion to state what it is not. It is not an assertion of the right on the part of the Government, always recognized under English and American law, to search the person of the accused when legally arrested to discover and seize the fruits or evidences of crime. This right has been uniformly maintained in many cases. (1 Bishop on Criminal Procedure, sec. 211; Wharton, Criminal Pleadings and Practice, 8th ed., sec. 60; Dillon *v.* O'Brien & Davis, 16 Cox, C. C. 245.) Nor is it the case of testimony offered at a trial where the court is asked to stop and consider the illegal means by which proofs, otherwise competent, were obtained, of which we shall have occasion to treat later in this opinion. Nor is it the case of burglar's tools or other proofs of guilt found upon his arrest within the control of the accused.

"The case in the aspect in which we are dealing with it involves the right of the court in a criminal prosecution to retain for the purposes of evidence the letters and correspondence of the accused seized in his house in his absence and without his authority by a United States marshal holding no warrant for his arrest and none for the search of his premises. The accused, without awaiting his trial, made timely application to the court for an order for the return of these letters as well as other property. This application was denied, the letters retained and put in evidence after a further application at the beginning of the trial, both applications asserting the rights of the accused under the fourth and fifth amendments to the Constitution. If letters and private documents can thus be seized and held and used in evidence against a citizen accused of an offense, the protection of the fourth amendment declaring his right to be secure against such searches and seizures is of no value and, so far as those thus placed are concerned, might as well be stricken from the Constitution. The efforts of the courts and their officials to bring the guilty to punishment, praiseworthy as they are, are not to be aided by the sacrifice of those great principles established by years of endeavor and suffering which have resulted in their embodiment in the fundamental law of the land. The United States marshal could only have invaded the house of the accused when armed with a warrant issued as required by the Constitution upon sworn information and describing with reasonable particularity the thing for which the search was to be made. Instead he acted without sanction of law, doubtless prompted by the desire to bring further proof to the aid of the Government, and under color of his office undertook to make a seizure of private papers in direct violation of the constitutional prohibition against such action. Under such circumstances, without sworn information and particular description, not even an order of court would have justified such procedure, much less was it within the authority of the United States marshal to thus invade the house and privacy of the accused. In Adams *v.* New York (192 U. S., 585) this court said that the fourth amendment was intended to secure the citizen in person and property against unlawful invasion of the sanctity of his home by officers of the law acting under legislative or judicial sanction. This protection is equally extended to the action of the Government and officers of the law acting under it. (Boyd case, supra.) To sanction such proceedings would be to affirm by judicial decision a manifest neglect if not an open defiance of the prohibitions of the Constitution intended for the protection of the people against such unauthorized action.

"The court before which the application was made in this case recognized the illegal character of the seizure and ordered the return of property not in its judgment competent to be offered at the trial, but refused the application of the accused to turn over the letters, which were afterwards put in evidence on behalf of the Government. While there is no opinion in the case, the court in this proceeding doubtless relied upon what is now contended by the Government to be the correct rule of law under such circumstances, that the letters having come into the control of the court it would not inquire into the manner in which they were obtained, but if competent would keep them and permit their use in evidence. Such proposition, the Government asserts, is conclusively established by certain decisions of this court, the first of which is Adams against New York, supra. In that case the plaintiff in error had been convicted in the Supreme Court of the State of New York for having in his possession certain gambling paraphernalia used in the game known as policy, in violation of the Penal Code of New York. At the trial certain papers, which had been seized by police officers executing a search warrant for the discovery and seizure of policy slips and which had been found in addition to the policy slips, were offered in evidence over his objection. The conviction was affirmed by the Court of Appeals of New York (176 N. Y., 351), and the case was brought here for alleged violation of the fourth and fifth amendments to the Constitution of the United States. Pretermitting the question whether these amendments applied to the action of the States, this court proceeded to examine the alleged violations of the fourth and fifth amendments, and put its decision upon the ground that the papers found in the execution of the search warrant, which warrant had a legal purpose in the attempt to find gambling paraphernalia, were competent evidence against the accused, and their offer in testimony did not violate his constitutional privilege against unlawful search or seizure, for it was held that such incriminatory documents thus discovered were not the subject of an unreasonable search and seizure, and in effect that the same were incidentally seized in the lawful execution of a warrant and not in the wrongful invasion of the home of the citizen and the unwarranted seizure of his papers and property. It was further held, approving in that respect the doctrine laid down in 1 Greenleaf, section 254a, that it was no valid objection to the use of the papers that they had been thus seized, and that the courts in the course of a trial would not make an issue to determine that question, and many State cases were cited supporting that doctrine.

"The same point had been ruled in People *v.* Adams (176 N. Y., 351), from which decision the case was brought to this court, where it was held that if the papers seized in addition to the policy slips were competent evidence in the case, as the court held they were, they were admissible in evidence at the trial, the court saying (p. 358): 'The underlying principle obviously is that the court, when engaged in trying a criminal cause will not take notice of the manner in which witnesses have possessed themselves of papers or other articles of personal property which are material and properly offered in evidence.' This doctrine thus laid down by the New York Court of Appeals and approved by this court, that a court will not in trying a criminal cause permit a collateral issue to be raised as to the source of competent testimony, has the sanction of so many State cases that it would be impracticable to cite or refer to them in detail. Many of them are collected in the note to State *v.* Turner (136 Am. St. Rep., 129, 135, et seq.). After citing numerous cases the editor says: 'The underlying principle of all these decisions obviously is that the court, when engaged in the trial of a criminal action, will not take notice of the manner in which a witness has possessed himself of papers or other chattels, subjects of evidence, which are material and properly offered in evidence. People *v.* Adams (176 N. Y., 351; 98 Am. St. Rep., 675; 68 N. E., 636; 63 L. R. A., 406). Such an investigation is not involved necessarily in the litigation in chief, and to pursue it would be to halt in the orderly progress of a cause and consider incidentally a question which has happened to cross the path of such litigation and which is wholly independent thereof.'

"It is therefore evident that the Adams case affords no authority for the action of the court in this case when applied to in due season for the return of papers seized in violation of the constitutional amendment. The decision in that case rests upon incidental seizure made in the execution of a legal warrant and in the application of the doctrine that a collateral issue will not be raised to ascertain the source from which testimony, competent in a criminal case, comes.

"The Government also relies upon Hale *v.* Henkel (201 U. S., 43), in which the previous cases of Boyd *v.* United States, supra, Adams *v.* New York, supra, Interstate Commerce Commission *v.* Brimson (154 U. S., 447), and Interstate Commerce Commission *v.* Baird (194 U. S., 25), are reviewed, and wherein it was held that a subpœna duces tecum requiring a corporation to produce all its contracts and correspondence with no less than six other companies, as well as all letters received by the corporation from 13 other companies located in different parts of the United States, was an unreasonable search and seizure within the fourth amendment, and it was there stated that (201 U. S., p. 76) 'an order for the production of books and papers may constitute an unreasonable search and seizure within the fourth amendment. While a search ordinarily implies a quest by an officer of the law and a seizure contemplates a forcible dispossession of the owner, still, as was held in the Boyd case, the substance of the offense is the compulsory production of private papers, whether under a search warrant or a subpœna duces tecum, against which the person, be he individual or corporation, is entitled to protection.' If such a seizure under the authority of a warrant supposed to be legal constitutes a violation of the constitutional protection, a fortiori does the attempt of an officer of the United States, the

United States marshal, acting under color of his office, without even the sanction of a warrant, constitute an invasion of the rights within the protection afforded by the fourth amendment.

"Another case relied upon is American Tobacco Co. *v.* Werckmeister (207 U. S., 284), in which it was held that the seizure by the United States marshal in a copyright case of certain pictures under a writ of replevin did not constitute an unreasonable search and seizure. The other case from this court relied upon is Holt *v.* United States (218 U. S., 245), in which it was held that testimony tending to show that a certain blouse, which was in evidence as incriminating him, had been put upon the prisoner and fitted him, did not violate his constitutional right. We are at a loss to see the application of these cases to the one in hand.

"The right of the court to deal with papers and documents in the possession of the district attorney and other officers of the court and subject to its authority was recognized in Wise *v.* Henkel (220 U. S., 556). That papers wrongfully seized should be turned over to the accused has been frequently recognized in the early as well as later decisions of the courts. (1 Bishop on Criminal Procedure, sec. 210; Rex *v.* Barnett, 3 C. & P., 600; Rex *v.* Kinsey, C. C. & P., 447; United States *v.* Mills, 185 Fed. Rep., 318; United States *v.* McHie, 194 Fed. Rep., 894, 898.)

"We therefore reach the conclusion that the letters in question were taken from the house of the accused by an official of the United States acting under color of his office in direct violation of the constitutional rights of the defendant; that having made a reasonable application for their return, which was heard and passed upon by the court, there was involved in the order refusing the application a denial of the constitutional rights of the accused, and that the court should have restored these letters to the accused. In holding them and permitting their use upon the trial, we think prejudicial error was committed. As to the papers and property seized by the policemen, it does not appear that they acted under any claim of Federal authority, such as would make the amendment applicable to such unauthorized seizures. The record shows that what they did by way of arrest and search and seizure was done before the finding of the indictment in the Federal court, under what supposed right or authority does not appear. What remedies the defendant may have against them we need not inquire, as the fourth amendment is not directed to individual misconduct of such officials. Its limitations reach the Federal Government and its agencies. (Boyd Case, 116 U. S., supra, and see Twining *v.* New Jersey, 211 U. S., 78.)

"It results that the judgment of the court below must be reversed and the case remanded for further proceedings in accordance with this opinion.

"Reversed."

Mr. WILLIS subsequently said: Mr. President, a few moments ago the Senator from Connecticut [Mr. BRANDEGEE] very properly had placed in the RECORD a certain decision of the Supreme Court of the United States relative to the issue of search warrants. I ask unanimous consent to have placed likewise in the RECORD a letter to me from the Assistant to the Attorney General of the United States bearing upon the same subject, and also a letter to me from the attorney general of Kansas.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
OFFICE OF THE ASSISTANT TO THE ATTORNEY GENERAL,
Washington, August 22, 1921.

Hon. FRANK B. WILLIS,
United States Senate.

MY DEAR SENATOR WILLIS: I received from you this morning an informal request to furnish you a list of Federal statutes which might be affected by the passage of the so-called Stanley amendment, which, as I understand it, reads as follows:

"Any officer, agent, or employee of the United States engaged in the enforcement of this act, or the national prohibition act, or any other law of the United States, who shall search or attempt to search property or premises of any person without previously securing a search warrant as provided by law shall be guilty of a misdemeanor."

I am not authorized, as you of course understand, to express any official opinion upon this matter to any extent or in any form whatsoever, nor have I had the time since receiving your request to make any more than a hasty examination of the Federal statutes. Therefore, what is given below represents merely my personal opinion, based to some extent upon my familiarity with and previous experience in this class of matter.

Sections 3059, 3061, and 3067, Revised Statutes, authorize the search of vessels and other vehicles for dutiable articles without a warrant. Sections 3064 and 3065, Revised Statutes, authorize a like search of baggage and persons for concealed dutiable articles.

Section 3177, Revised Statutes, authorizes search and sections 3450 and 3453, Revised Statutes, authorize seizure in the case of taxable articles concealed in fraud of the revenue (see United States *v.* Mann, 95 U. S., 580; United States *v.* Barnes, 222 U. S., 513). Sections 3989 and 4026, Revised Statutes, authorize search for articles or matter carried in the mail in violation of law. Section 2140, Revised Statutes, authorizes search of vehicles transporting intoxicating liquor into the Indian country.

In addition, there are numerous statutes authorizing the seizure of goods being manufactured, used, or transported in violation of some Federal statute, and it is doubtful whether the authorization of a seizure without a warrant does not necessarily imply the authorization of a search without a warrant.

Examples of such authorized seizures may be found in the food and drugs act, the revenue acts, the migratory bird act, etc.

In addition, there are a number of acts authorizing inspection by Government inspectors, such as the inspection of steam vessels and their boilers, the inspection of locomotives and their boilers, etc. It might be said that such inspections were a search within the meaning of the act, since their purpose, of course, is to see whether a violation of Federal law had been or is about to be committed.

In addition, there is the common-law rule which permits of a search of property and persons at the time an arrest is made. The matter will be found fully discussed in the opinion in State *v.* Mausert (88 N. J. Law, 286). It might be claimed that the Stanley amendment would prohibit such searches as these in the future.

Yours, very truly, GUY D. GOFF.

THE RALEIGH,
Washington, D. C., August 22, 1921.

Senator F. B. WILLIS,
Washington, D. C.

DEAR SENATOR WILLIS: As you doubtless know, Kansas has had much experience with the liquor traffic and the various kinds of laws to control this lawless trade.

I happened to be in the city on other business and have read with interest the reports of the controversy concerning the enforcement bill, and especially what the press designates as the Stanley amendment and the conference committee report.

My experience as attorney general of Kansas in the prosecution of violators of the liquor laws prompts me to make the following suggestions to you in the hope that they may be of some benefit in the consideration of the subject now under discussion, the proper solution of which is of such vital importance to law enforcement. I do not hesitate to say that a law that prevents Federal officers from apprehending rum-running autos and moonshine stills without first securing a search warrant would practically destroy the power of officers to cope with these lawless agencies.

If I have a correct copy of the Stanley amendment, it prohibits all search, or even an attempt to search, for liquor or anything else without a search warrant. What this may mean is hard to conjecture. Officers enforcing the prohibition laws deal with the most wily, unscrupulous, and vicious class of criminals that defy law. These officers must secure clues of evidence and follow clues given them and be subject to schemes laid to mislead them. This often amounts to an attempt to search for outlawed liquor. If it is made a crime, and the officer penalized more heavily for attempting to enforce the law than the criminal he is trying to arrest, there will be little incentive left for officers to do their duty.

It would, of course, be impossible to deal with rum-running autos or other mobile agencies used to distribute liquor. Those who operate these machines are desperate outlaws. The affidavit for the search warrant must describe the machine, the thing to be searched for, etc. You can not secure this information and the warrant in advance. To require it means the liquor traffic restored on wheels. It is hard enough now, in States where prohibition has been established for years, for officers to catch these lawbreakers, but it will be still more difficult in other States which have less public sentiment to back up these officers. The States having enforceable prohibition laws now provide for the stopping and seizure of automobiles and the liquor in them without a warrant or a search warrant. The Federal Government would be in an inconsistent position to prevent its officers from doing what State officers are now authorized in doing. It will lead to conflict, as illicit liquor dealers will resist State officers from acting within their authority and plead in their defense that they thought the officer was a Federal agent.

The enforcement officer's work now is hazardous enough. I hope Congress will not make it more so.

Some of the Federal laws that will be repealed or practically destroyed if the amendment above referred to should be adopted are sections authorizing search without a warrant under the postal, game, food, and drug laws, and many others, which have been on the statute books for years and been sustained by the courts.

This proposed amendment applies to searches under all laws, and it would be hard to prophesy how far it would cripple the Government in the enforcement of other laws.

As between this amendment and the provisions of the conference committee report, there should be but one choice by friends of law enforcement; that is, accept the conference committee report.

There is no question of constitutionality connected with this substitute proposed by the committee, as the section merely provides a penalty and confers no new authority. The State and Federal courts have repeatedly sustained laws much more stringent than anything found in the national prohibition act.

When the home is protected from search without a warrant and officers are penalized who search without a warrant if they act maliciously and without reasonable cause, it is sufficient.

The policy of the Government has always been to give officers of the law, sworn to enforce the law, and under bond to do their duty, certain discretion in doing their duty and not to penalize them for exercising it, even if they do sometimes make a mistake. Unless he shows some criminal intent or malice, he should not be branded as a criminal. If all public officers should be penalized because they made a mistake in judgment and some other officer should pass judgment on them, we should have chaos instead of law and order.

I trust you will be able to prevent the adoption of an amendment that will tend to embarrass officers in the enforcement of the law and that by all means the conference committee report be adopted in preference to the Stanley amendment.

Yours, very truly,

RICHARD J. HOPKINS,
Attorney General, Kansas.

REDISCOUNT INTEREST RATE.

Mr. SHEPPARD. Mr. President, a few days ago I addressed letters to the Secretary of the Treasury, the Comptroller of the Currency, the governor of the Federal reserve bank at Dallas, Tex., and the governor of the Federal Reserve Board, urging a reduction in the rediscount interest rate. I have received so far replies from the Secretary of the Treasury and the Comptroller of the Currency, which, I think, will be of great interest. I ask that my letter and their replies may be printed in the RECORD in the ordinary RECORD type.

The PRESIDING OFFICER. Without objection, it is so ordered.

The letters referred to are as follows:

AUGUST 13, 1921.

Hon. A. W. MELLON,
Secretary of the Treasury, Washington, D. C.

MY DEAR MR. MELLON: In view of the fact that the reports of the Comptroller of the Currency and the Federal Reserve Board covering the business of the regional reserve banks of the Nation for the last 12 months show a decrease in the per capita circulation of nearly $400,000,000, a restriction in credits of $1,029,826,000, a shrinkage in deposits of $2,303,562,000, whereas the gold reserve has increased within the same period $502,472,000—now standing at $2,620,638,000—which, according to the report of the Comptroller of the Currency could be made the basis of additional reserve notes or additional deposit credits, and in view of the further fact that the present rediscount interest rate is much higher in this period of adversity than during the period of greatest prosperity, I beg to urge you most earnestly to consider the advisability of lowering the rediscount interest rate on Liberty bonds to 3½ per cent and on agricultural and commercial paper to 4½ per cent.

Yours, very truly,

MORRIS SHEPPARD.

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AUGUST 16, 1921.

MY DEAR SENATOR: I have received your letter of August 13 suggesting that the discount rates of the Federal reserve banks should be reduced to 3½ per cent on Liberty bonds and to 4½ per cent on agricultural and commercial paper.

Due to the gradual improvement in credit conditions during the past few weeks, many Federal reserve banks, as you know, have taken action to reduce their rates, and in Boston, New York, Philadelphia, Cleveland, and San Francisco a 5½ per cent rate now prevails. The 6 per cent rate prevails in other districts, where in many cases the member banks continue to borrow heavily and the Federal reserve banks find it necessary to rediscount with other Federal reserve banks in order to maintain their minimum reserves. I am inclosing for your information a copy of a statement issued from the White House under date of July 29, 1921, which summarizes the financial accomplishments of the past four months and shows the rate reductions of each Federal reserve bank up to that date. The promptness with which the Federal Reserve Board and the Federal reserve banks have taken action in the past to meet changing conditions leads me to believe that they are quite alive to the necessities of the existing situation and that the country may be assured that as and when conditions justify lower discount rates the board and the Federal reserve banks will take the necessary action.

Any immediate reduction of rates to the levels you suggest, however, is entirely out of the question. Market conditions do not warrant it, and such action would make the situation worse instead of better. The impression seems to exist in many quarters that conditions in the money market are due entirely to the discount rates of the Federal reserve banks and that these rates can be fixed arbitrarily at a high or a low level, thus determining market conditions at will. On the contrary, discount rates of the reserve banks reflect conditions in the money market rather than cause them. You probably know that during the entire period from our entry into the war in 1917 to the present time market rates of interest in this country have been higher than the discount rates of the Federal reserve banks. While the spread is not now so wide as formerly, the time has not yet been reached when discount rates are above prevailing market rates for money, and until the money situation becomes much easier it would only subsidize borrowing by member banks if Federal reserve banks were to make their discount rates as low as you suggest.

High money rates prevail universally, and the causes are not local but arise from economic conditions which exist throughout the world. The demand for capital everywhere following the destruction of the war is so great that the high rates must be paid by those who wish to secure the limited supply. The scarcity of capital is something beyond the power of banks to make good. It is a persistent fallacy that the banks can create capital or make it cheap. They can manufacture credit, but in only a limited sense can credit take the place of capital. Capital can be created only by increased productivity and increased savings.

It is true that the Federal reserve banks, by means of the discount rate, can exercise a certain control over money rates, but such control is not unlimited and must be exercised in view of basic conditions relative to the demand for and the supply of money in this country and throughout the world. You will recall that the credit expansion and price inflation of 1919 and early part of 1920 came at a time when discount rates of the Federal reserve banks were considerably lower than market rates. Abnormally low rates now would no doubt result in another period of inflation, with all the consequent ills.

Very truly, yours,

A. W. MELLON, *Secretary.*

Hon. MORRIS SHEPPARD,
United States Senate, Washington, D. C.

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AUGUST 19, 1921.

DEAR SENATOR: Referring to your letter of August 13th, the increase in the gold holdings of the Federal reserve banks which has taken place since last October has been due almost entirely to shipments of gold to this country from foreign countries. As the law provides that all legal reserves of member banks must be carried with the Federal reserve banks, the natural course is that any gold received by large banks, members of the system, is transferred by them to the Federal reserve banks in exchange for book credits. The large importations of gold which have taken place since last October represent the payment by foreigners of indebtedness to bankers, investors, and exporters in this country. One of the purposes of the Federal reserve act was to provide an elastic currency. As you know, United States notes or legal tenders have been required by law since March 31, 1878, to remain at a fixed amount, $346,681,016. National bank notes are secured by Government bonds and these notes have not the qualities of elastic currency. Their issue does not depend upon the actual need for currency so much as upon the price of Government bonds which have the circulation privilege, and there has been only a moderate change in the volume of national bank notes outstanding for several years past. Federal reserve notes, however, are distinctly elastic. They may be issued by Federal reserve banks upon the security of notes and bills discounted or acquired by them in amounts equal to the amount of Federal reserve notes applied for, and the law provides that each Federal re-

serve bank shall maintain a reserve of 40 per cent in gold against those Federal reserve notes in actual circulation.

The amount of Federal reserve notes in circulation depends entirely upon the activity of business or upon the kind of activity which calls for currency rather than book credits. In order to show the elastic quality of Federal reserve notes, I would call your attention to the fact that on April 1, 1917, the amount of Federal reserve notes outstanding was $357,239,000. On August 1, 1919, the total amount outstanding had increased to $2,504,753,000. The maximum amount of Federal reserve notes in circulation was reached on December 24, 1920, when the amount outstanding was, in round numbers, $3,400,000,000. Prices had already begun to decline several months before the maximum amount of Federal reserve notes outstanding had been reached, and a general recession in business had already been noticeable for some months prior to that time. Since the first of the year the loans of the Federal reserve banks have declined more than $1,100,000,000, and as notes discounted with the Federal reserve banks have been paid off Federal reserve notes currency has come back to the banks and in the absence of a demand for it has not been reissued. The amount of Federal reserve notes outstanding on August 10, 1920, was $2,520,744,000.

Upon payment of commercial paper which has been deposited to secure Federal reserve notes there necessarily results either an immediate return of an equal amount of notes to the bank or an automatic increase in the percentage of gold available for their redemption. Federal reserve notes are not legal tender, nor do they count as reserve money for member banks. They are issued only as a need for them develops, and as they become redundant in any locality they are returned to the Treasury at Washington or to a Federal reserve bank for redemption. Thus there can not at any time be more Federal reserve notes in circulation than the needs of the country at the prevailing level of prices require, and as the need abates the volume of notes outstanding will be correspondingly reduced through redemption. The increased volume of Federal reserve notes in circulation from 1917 to the middle of the year 1920 was, in so far as it was not the result of direct exchanges for gold and gold certificates, the effect of advancing wages and prices, and not notes outstanding which has taken place since last Christmas, the result of lower prices and smaller volume of business rather than their cause. Under the Federal reserve system as business expands, as labor is more fully employed, and as production increases and distribution becomes more active, there follows a demand for more discount accommodations, which leads to increased use of currency, and the increased volume of discounts furnishes the means of providing the increased volume of currency required. If your correspondent has need for credit accommodation in bank and can discount his note, say, for $10,000 with a member bank, he can, if he wishes, withdraw that amount in cash, and if the member bank by virtue of frequent transactions of this kind has occasion to provide itself with additional currency, it can rediscount this note with a Federal reserve bank, which in turn can deposit it with the Federal reserve agent and replenish its supply of Federal reserve notes for further distribution.

The way to get money into circulation through the Federal reserve banks is to have member banks submit available commercial paper for rediscount.

There is no way for the Federal reserve banks to put out these notes unless it gets something in return for these notes and security.

The matter of reducing the discount rate is with the Federal reserve banks. If the Federal reserve banks would make application to have the rate reduced, it no doubt would be approved by the board. I would suggest that you have it taken up with the directors of the Federal reserve bank and see what they have to say looking toward a reduction of the rate, as it is the practice with the Federal reserve banks to make a recommendation for the reduction of a discount rate, whereupon the Federal Reserve Board acts, either approving or disapproving the action of the Federal reserve bank.

There is some controversy as to the right of the Federal Reserve Board to take original action fixing a discount rate, but certainly the directors of the Federal reserve bank ought to understand the situation in the district and should make some recommendation.

Very truly, yours,

D. R. CRISSINGER,
Comptroller of the Currency.

PETITIONS AND MEMORIALS.

Mr. McLEAN presented the petition of James Flaherty and sundry other citizens of Hartford, Conn., praying for the recognition of the Irish republic by the Government of the United States, which was referred to the Committee on Foreign Relations.

He also presented a resolution adopted at a meeting of the State directors, American Association for the Recognition of the Irish Republic, held at New Haven, Conn., protesting against action being taken by Congress on any settlement of the British debt to the United States or the postponement of interest payments thereon until England recognizes the Irish republic, etc., which was referred to the Committee on Foreign Relations.

He also presented resolutions adopted at a meeting of Eamonn Ceant Branch, Friends of Irish Freedom, of New Haven, Conn., favoring the immediate liquidation of debts owed to the United States by foreign Governments, the granting of no further extensions of time or credit to debtor nations, and action by the proposed disarmament conference that will end the autocratic government of alien peoples by imperialistic governments; also, protesting against delay of Congress in enacting legislation necessary to better existing economic conditions, etc., which were referred to the Committee on Foreign Relations.

Mr. LADD presented a petition of the National Executive Committee of the Private Soldiers and Sailors' Legion of the United States of America, praying for aid to the unemployed and determination of the causes for the widespread unemployment, etc., which was referred to the Committee on Education and Labor.

AMERICAN ASSOCIATION OF PORT AUTHORITIES.

Mr. LODGE, from the Committee on Foreign Relations, to which was referred the joint resolution (S. J. Res. 45) to authorize the President to extend invitations to certain foreign nations to send delegates or representatives to the tenth annual convention of the American Association of Port Authorities, reported it without amendment.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SPENCER:

A bill (S. 2442) granting a pension to Mary Puett (with accompanying papers); to the Committee on Pensions.

By Mr. McKELLAR:

A bill (S. 2443) authorizing the reinstatement in the Naval Academy of midshipmen whose resignations were accepted at the end of the first term of the academic year 1920–21; to the Committee on Naval Affairs.

By Mr. SHEPPARD:

A bill (S. 2444) to amend an act entitled "An act to promote the safety of employees and travelers on railroads," etc., approved March 2, 1893, and amended April 1, 1896; to the Committee on Interstate Commerce.

By Mr. LADD:

A joint resolution (S. J. Res. 112) instructing the Committees on Labor of the Senate and House to investigate the cause and remedy for the existing unemployment in the United States; to the Committee on Education and Labor.

AMENDMENT OF TARIFF BILL.

Mr. McNARY submitted an amendment intended to be proposed by him to House bill 7456, the tariff bill, which was referred to the Committee on Finance and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, announced that the House had passed a bill and a joint resolution of the following titles, in which it requested the concurrence of the Senate:

H. R. 8331. A bill to amend the transportation act, 1920, and for other purposes; and

H. J. Res. 195. A joint resolution authorizing the payment of salaries of officers and employees of Congress for August, 1921.

SPECIAL COMMITTEE ON READJUSTMENT OF SERVICE PAY.

The message also announced that pursuant to the provisions of section 13 of the act of Congress approved May 18, 1920, entitled "An act to increase the efficiency of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service," the Speaker of the House had appointed Mr. KRAUS, Mr. McKENZIE, Mr. TILSON, Mr. BYRNES of South Carolina, and Mr. OLIVER as members on the part of the House of the special committee to investigate and report to Congress relative to the readjustment of the pay and allowances of the commissioned and enlisted personnel of the several services mentioned in the said act.

URGENCY DEFICIENCY APPROPRIATIONS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 8117) making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1922, and for other purposes.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Mississippi [Mr. HARRISON] to the amendment of the committee. The amendment and the amendment to the amendment will be stated.

The READING CLERK. The committee report to insert lines 1 to 16, inclusive, on page 3, as follows:

DEPARTMENT OF STATE.

Conference on the subject of the limitation of armament: To enable the United States Government suitably to participate in the conference on the subject of the limitation of armament to be held in the city of Washington and for the compensation of delegates or other representatives, clerks, and employees, including personal services in the District of Columbia, notwithstanding the provisions of any other act, expenses of transportation, subsistence, printing in English and other languages (including publication of the proceedings), stationery and supplies, entertainment of delegates, and such other objects as the President may deem necessary, to be disbursed under the direction of the Secretary of State, $200,000, or as much thereof as may be necessary: *Provided*, That a report shall be made to Congress not later than June 30, 1922, of the expenditures hereunder.

The amendment to the amendment proposes to add, after line 16, the following additional proviso:

And provided further, That the delegates representing the Government of the United States use every effort and exert their influence for open sessions of the conference.

Mr. HARRISON. Mr. President, I shall not occupy the floor very long. The amendment which I have proposed is with reference to the appropriation of $200,000 carried in the bill to defray the expenses of the disarmament conference to be held here in November. The amendment in no way limits or interferes with the appropriation. The argument can not be used that it is an insult to the representatives who may come here from other countries. It merely provides that the delegates representing the Government of the United States shall exert their influence for open sessions of the conference.

It does not deal with the question as it affects other representatives, nor does it try to bring the influence of the Congress to bear upon them except through our representatives. Whether they would accept it or not would not limit or interfere with the appropriation carried in the bill.

So I hope that in the discussion the suggestion will not be advanced that this is a limitation upon an appropriation that is carried where we are extending an invitation to representatives from other countries to enter into a conference and at the same time attaching a string to it, because that is not true. That interpretation and construction can not properly be placed upon the amendment which I have proposed.

Mr. President, the conference at Versailles was the most important that has been held in this generation or perhaps will ever be held. It carried with it the consideration of a great many important problems. Boundary disputes were considered and settled. By its provisions the armament of the Central Powers were greatly reduced.

The German Navy was practically wrecked, and the German Army was reduced, I think, to 100,000 men, and proportionately the armies and navies of the other Central Powers were either destroyed or reduced. Many large questions were there considered and adjudicated, but the disappointment which came from the conference at Versailles was due to the secrecy which was imposed by that conference upon the consideration of certain questions. Personally I have no doubt that many more questions would have been settled and settled satisfactorily if it had not been for the veil of secrecy which enshrouded the conference.

The Shantung settlement is a very clear illustration of how secrecy veiled the deliberations of the conference. It afterwards transpired that something was "put over" upon the representatives of the United States touching that very important question; but to-day the world is in darkness, so to speak, as to just what was done in that conference regarding Shantung. Japan has advanced certain statements of alleged facts relative thereto, as have also the representatives of this country.

Another illustration of the danger of secrecy is found in the provisions according six votes to Great Britain in the assembly of the league, about which we heard so much discussion in the consideration of the treaty of Versailles. I do not suppose there was any criticism advanced against the proposition of a League of Nations that carried with it more prejudice or which aroused more opposition than did the argument that Great Britain had six votes against our one in the assembly. The people of this country were led to believe by that criticism that Great Britain had "put something over" on the United States and on other countries, whereas, as a matter of fact—and I get this from very high authority—Great Britain did not look with favor at first upon the proposal to give her colonies separate votes in the League of Nations, but she opposed it for a good while, thinking, perhaps, that it might afford an entering wedge to the colonies against the mother country, that in time it might lead to an alienation, a separation. A very different impression, however, was created throughout the country. That question would to-day be clearly understood by the world if the conference of Versailles had been held in the open and all the facts at the time could have been given to the public. There will always remain, however, a certain degree of suspicion relative to the questions involved because of the secrecy that attached to their consideration.

I have no doubt that the American representatives at the Versailles conference did everything they could to have open sessions of the conference; I could read numberless excerpts here dealing with that proposition; but the opposition to open sessions was too great; it could not be overcome by the American representatives. Consequently the treaty of Versailles was written in secrecy, was considered in secrecy, and adopted in secrecy.

Mr. President, the conference which will be held in Washington in November next will be of great moment to the peoples of the world. It will settle the question of the armaments of five or six large countries, and that settlement will have its effect upon the other countries in the building of large navies or in maintaining large standing armies.

That conference will deal also with the questions affecting the Far East. Whatever argument might have been advanced for the holding of the Versailles conference in secrecy can not be employed as an argument for the holding of the Washington conference in secrecy. The same perplexing and delicate questions will not be there discussed as were discussed at Versailles. Only the question of a reduction of armaments and the questions which affect the Far East will be there considered.

What are the questions affecting the Far East in which we are interested? They are the Shantung settlement, the status of Yap, the open-door policy in China, and the alien land question. Every one of those subjects have been discussed in the Senate for years; every argument has been employed to sustain our position touching Shantung, Yap, the open-door policy in China, and the alien land question in controversy with Japan. So there can not be any discussion in the Washington conference concerning the far eastern questions which should be enshrouded in secrecy any more than the questions which have already been discussed in the Senate in the open relative to those matters.

So I submit that the argument can not be advanced that the far eastern questions are of such a delicate nature that they should be discussed behind closed doors for fear that by open consideration of them we might offend Japan or China or some other country. If discussion of those questions were a cause for the estrangement of relations between the United States and Japan, we would already be at war with Japan, for in most undiplomatic language, intemperate phrases, but with unsurpassed eloquence have Senators condemned Japan in connection with the Shantung affair, as well as the Yap controversy and as regards the open-door policy in China and the alien land question.

So I submit that so far as the far eastern question is concerned no secrecy is needed in the Washington conference. Indeed, I might say, because of the magnitude of the question and because of its past discussion, it would be well if the deliberations of the Washington conference could take place in the open in order that our views on these questions might be made clear and that an understanding might be entered into and the world be advised. If we have been at fault in any respect in connection with the far eastern question in the position we have taken as affecting Japan, then all peoples everywhere are entitled to know it—the people of Japan are entitled to know it and the people of America should know it. We have contended for certain things; we have stood our ground steadfastly. If we were right or if we were wrong, an open discussion of the Washington conference will tell and have good effect.

Now as to the other questions that are going to be discussed there—the question of reducing our Navy, of England reducing her navy, of France, Italy, and Japan reducing their armaments, should certainly be discussed in the open. What argument can be advanced for secrecy in the Washington conference touching the reduction of our Navy or of Japan's navy or of Great Britain's navy that has not already been employed here in the open sessions of the Senate? Criticisms have been hurled at Japan and Great Britain because of their mad race for supremacy in building navies, and that matter has been the subject of discussion here in the Senate for years. It has been carried in the press of the other countries. They have been informed of our position and thoroughly posted about our discussions. If we were going to give them offense because of

what has been said in presenting our position in opposition to the action of those countries in building such large navies, certainly the harm is done. Why should the question of reducing the standing army of France or of China not be discussed in the open? What is there about it that makes it desirable that secrecy should attach?

Senators may imagine that no other countries are interested except the few countries that have been invited to the conference. The countries participating in the conference, I believe—and if I am mistaken I shall ask the Senator from Massachusetts to correct me—are China, Japan, Italy, Great Britain, France, and the United States. Those are the only countries that will be represented in the conference. Am I to be told that the South American countries are not interested in what that conference shall do? Do they not want to know what steps are being taken for the reduction of navies and decreasing the number of men in the standing armies of the nations represented at the conference? They are vitally interested in what each of the countries represented is doing.

Certainly it can not be argued that Greece is not interested in what Italy is going to do concerning her standing army and the arguments presented by her delegates in support of their positions. There is Belgium, which fought with us in the World War, rendered heroic service, and did a great deal toward bringing about the victory. The people of Belgium are entitled to know what the conference is doing; but if secrecy is to veil the consideration of questions there, if the doors are to be locked against the representatives of the press of the world, if no one is to be taken into confidence while questions of great moment to the world are being discussed, if information is not to get out and the people of Greece, Belgium, and the other nations of the world are not to be informed as to what the congress is doing daily, then suspicion will arise and distrust will be everywhere. The best way to obtain results in this great movement, in my opinion, is to have an open conference.

I know that it is impossible for all the conversations and discussions between representatives to be in the open. I know that in that conference the American representatives will go off at times into a room where they will discuss amongst themselves some procedure or the policies they are going to advocate. The representatives of other countries will do the same thing. There will be many conferences, perhaps, between representatives of various countries that will not be in the open——

Mr. POINDEXTER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Washington?

Mr. HARRISON. I will yield in a moment—just as is the case here in the Senate. Every day, when questions of moment arise, we see a coterie of Senators discussing them among themselves. That discussion does not go into the RECORD. We see it on this side also. Sometimes Members from the other side and Members from this side get together and discuss questions. That discussion does not go into the RECORD; but when their views are presented and their votes are cast, they do go into the RECORD, and the country is informed as to what they are doing. So, in the Washington conference I imagine the same policy would be pursued; but when the representatives come upon the floor of the conference to present the views of their respective countries it should be done in the open. Newspaper representatives should be there, so that the news can be carried throughout the world and the people everywhere can be informed as to just what the conference is doing or intends to do. Then if anyone "throws a monkey wrench in the machinery," if anyone impedes progress or thwarts the plans of the conference, the world will know it, and the condemnation of the people can then fall upon the heads of those representatives who destroy the success of the conference.

I now yield to the Senator from Washington.

Mr. POINDEXTER. Mr. President, as I understand, the Senator from Mississippi advocates that the American delegates, in their conferences among themselves, shall hold their meetings in secret; but that when the delegates of the different countries get together that shall be open. Is that the attitude of the Senator?

Mr. HARRISON. Oh, I did not say that at all. I said that the disarmament conference should be in the open, but I said I knew that before the conference met the American representatives would get together and exchange views. The representatives of other countries will do that, just as it is done in the Senate. The Senator has his private conferences with Senators who agree with him on certain propositions.

Mr. POINDEXTER. It facilitates business to discuss matters in that way. There is scarcely a bill framed in a committee that is not framed in executive session. I just wanted to get the views of the Senator.

Mr. HARRISON. Have I made myself clear?

Mr. POINDEXTER. No; I am in some doubt as to whether the Senator favors or does not favor preliminary conferences among the representatives of this country to determine what attitude our delegates shall take on American interests; whether that shall be public, or whether he is to pass a law to require it to be public, or whether he would advocate that it should be in secret.

Mr. HARRISON. No; I do not advocate that at all, because I know that the American representatives will have to define their policy, and they are going to have their meetings, and the amendment that I propose does not say that those meetings or those private conferences shall be in the open. It only requests, and it does it in the most respectful way—it does not instruct them to do it—it merely requests these delegates to use their efforts for open sessions at the disarmament conference.

Mr. POINDEXTER. I would suggest to the Senator that the point of greatest interest to the United States in this entire proceeding is the attitude which our own delegates will take, so that if there is a principle to be subserved by publicity it would seem to me that in order to be consistent the Senator should include the conferences between our own delegates and require that the public be admitted to them.

Mr. HARRISON. No; I do not think so at all, because if the disarmament conference is in the open the views of the representatives of the American Government will be known. They will have to present their views upon the floor of the conference; votes will be taken; and those records should be made in the open, and should be kept, and no representative of the American Government can then hide behind the cloak of secrecy. The American people will then know just how each representative of the American Government stands and votes on each question presented. Of course, I know that many of them will change their views. They might be of one view in the private conference, before they get into the open sessions of the conference, and change their view later. That is quite the rule nowadays among some statesmen. They can change quickly on propositions.

Mr. POINDEXTER. The Senator a moment ago was referring to the proceedings at Versailles. How does the Senator account for the fact that, as it subsequently developed, Mr. Clemenceau, representing France, insisted upon the French acquiring permanently the left bank of the Rhine, but finally, as a substitute for that, and by reason of that substitute alone, they relinquished their claim to the left bank of the Rhine, and a treaty was entered into between France and the United States, represented by former President Wilson, that in case France should be attacked the United States would come to her assistance? In other words, as a means of defense of France against the fear of Germany, which was always present with them, they relinquished the Rhine frontier for a treaty with the United States by which the United States agreed to come to their defense in case they were attacked.

Now, we knew nothing at all about that. The Senator says we were represented there by advocates of open negotiations—"open covenants, openly arrived at"—but we knew nothing about that treaty at that time. Subsequently it developed that the treaty itself required that it should be submitted to the Senate of the United States at the same time that the treaty of Versailles was submitted to the Senate of the United States. The purpose of Mr. Clemenceau in insisting upon that was perfectly obvious. He wanted it considered at the same time, practically as a part of the transaction, although in a separate treaty, because it was a substitute for the claim that France was making to a defensive frontier.

How does the Senator, who sets up the American representatives at that conference as the great authorities upon the manner in which conferences should be conducted with regard to open sessions or secret sessions, account for the fact that that treaty was kept secret, and that it was never disclosed until it was forced to be presented to the Senate by a resolution which was introduced here on the floor of the Senate?

Mr. HARRISON. I hope the Senator did not understand me to defend any secret negotiations and secret treaties. I condemn them; but I did say that I thought the American representatives at Versailles had made known their views and employed their best efforts to have open conferences, and that if the desire of Mr. Wilson had prevailed there would not have been those secret proceedings to which the Senator has called attention.

Mr. WILLIAMS. Mr. President——

The PRESIDING OFFICER (Mr. STERLING in the chair). Does the Senator from Mississippi yield to his colleague?

Mr. HARRISON. I yield to my colleague.

Mr. WILLIAMS. I wish to say in this connection that my recollection does not keep track with the recollection of the Senator from Washington. The day after Lloyd-George and President Wilson and Clemenceau had agreed to recommend to their respective countries this defensive alliance, as you might call it, between the three countries, with its validity conditioned upon acceptance by each of the countries, that fact was known to the entire United States people who read the newspapers. It was known to me, and I do not think anybody was kept in ignorance of it. It is true that the President did not send it to the Senate at the same time that he sent the Versailles treaty. The agreement was that the Senate might consider both at the same time, or that they should both be sent to the Senate. The President later on concluded that perhaps he would have a line of least resistance in getting the Versailles treaty through first, and then, perhaps, appealing to the American people to help France, and he attempted to pursue that policy; but some people in this body, desirous to keep him from pursuing any policy with any sense in it on any subject, and desirous of crucifying him, no matter whether he was right or wrong, made a sort of a point of having that up at the same time, because they thought it would influence a lot of people against the Versailles treaty; and they had their way.

Mr. POINDEXTER. They were just in favor of the President keeping his word with Clemenceau—that is, the word that we understand was given.

Mr. WILLIAMS. Oh, Mr. President, Clemenceau never complained. Clemenceau understood the situation, and Clemenceau acquiesced in what was done. It is the Senator from Washington who is complaining. Clemenceau has never yet complained. Clemenceau understood as well as Wilson did that that treaty would have a better chance of ratification if the Versailles treaty was first accepted, and that if the Versailles treaty was not accepted it stood no chance at all.

Mr. HARRISON. Mr. President, here is what Lord Northcliffe said about that matter. I quote from him:

> Nothing can be worse for the prospects of the coming conference than an atmosphere of secrecy and half truths. Yet up to the present there has been no official statement that the momentous meetings about to take place will be held in accordance with President Wilson's expressed views on the question of open diplomacy.
>
> The days of secret conclaves are dead and gone. Clandestine assemblies are the harbingers of intrigue, suspicion, and possible deception. It would be intolerable that the fate of whole nations, great and small, should be decided in secret. Shall the destinies of millions of peoples in all quarters of the globe be left to the tender mercies of a comparative handful of delegates against whose enactments there is no public appeal? Such would be mockery of that principle of self-determination of free nations which has been fought for and won in this war.
>
> * * * * * * *
>
> A great part of the President's popularity is due to the knowledge that he is the father of open diplomacy, which it was understood would be the course adopted at the forthcoming sessions.

And so, as Lord Northcliffe states there, the President did what he could, but he failed; and he is not to be held to blame for the outcome of some of those questions in the treaty of Versailles. If the propositions for the right and justice of many peoples and small nations, as advocated by Mr. Wilson, had been considered in the open, as he desired, certain powerful men and elements would not have been able to accomplish some things as much as they did in secrecy.

The Senator from Washington talks about troops along the banks of the Rhine. I have before me an article that appeared in yesterday's paper, I think:

> Legioners parade in Alsace-Lorraine.
>
> The continued presence of allied troops is essential to the peace of the world—
>
> Declared Senator Gen. Taufflieb, in urging the American Legioners to support France's effort to keep the American troops on the Rhine—
>
> because of the spirit of revenge among the Germans, who do not feel they have been conquered.

I do not know why they are kept there, especially since your separate resolution of peace. I see in one of the papers that the Germans are about to break off negotiations with us, and that they are balking at admitting guilt in the new treaty you are trying to frame. I suppose the Senator from Massachusetts knows nothing about what they are doing over there in negotiating this Germany treaty, because only a few days ago he told us that he knew nothing about it, and the Senator from California [Mr. JOHNSON] at that time said that he knew nothing about it, although at that time and now the news dispatches from Berlin are giving to the people each step in the diplomatic negotiations of framing the treaty. I hope that at some time the American Senate will be taken into the confidence of those who are now negotiating that treaty, but up until this good hour it has not been done. There is quite a different policy now—everyone realizes it—upon the part of some of the Senators here in holding their tongues and their criticisms against the State Department for not taking them into its confidence, when only a very short while ago they were criticizing another State Department because they were not taken into its confidence.

Oh, consistency, thou art a jewel.

You are not even fair. You owe to the country a humble apology for your past action. I hope that we will get the German treaty sometime, whether it will have a clause in it admitting Germany's guilt or not. From present newspaper reports indications are that in that respect it will be different from the treaty of Versailles.

Mr. President, if I thought it would affect unfavorably the delegates in presenting America's policy of disarmament, I would not offer this amendment. There is no party question involved here; there is no advantage to be derived by anyone or any party in the discussion of this great question. I know that there are Republicans in the country, as well as Democrats, who believe that this conference should be held behind closed doors; that the peoples of the world should not be taken into their confidence; that they should be kept in the darkness, so to speak, as to each step in reducing armaments; but I want to say to the Senator from Massachusetts [Mr. LODGE] that all he need do to convince him of the importance of his task is to look at the chart that is in the CONGRESSIONAL RECORD this morning, placed there by the senior Senator from Wisconsin [Mr. LA FOLLETTE], showing that 93 per cent of all of our expenditures in the year 1920 went for war consequences and war preparations. The people of America are interested in that, and the best way to reduce taxes is to lop off some of these expenditures, to cut down some of this big Navy against which a propaganda has been going on, reduce our Army still further, and compel the other nations, if possible, to come to the same way of thinking. Then, when they do, we will lift these enormous burdens from the people who are now being forced to carry them in the way of large expenditures to maintain armies and navies.

I know the past views of the Senator from Massachusetts on the question of the Navy. I read from a speech he made December 21, 1918, on the question of armament. Here is what the Senator said at that time in discussing the 14 points:

> The fourth is the point about armaments; in other words, the reduction of armaments, which, as I have already said, finds a queer expression in the administration's new naval policy. At this time reduction of armaments is a question which ought to be postponed, because we have neither the facts nor the knowledge necessary for intelligent action. It may be imperative to determine what sort of an armament Germany shall have by sea or land, because Germany has tried to conquer the world, and the world having conquered Germany, has the right to put restrictions on her which would prevent her attempting the conquest a second time. But there is no reason for bringing up at this moment a general question of this sort, which can not now be intelligently determined with the world in the broken and torn condition it now is in.

In another place in this speech the distinguished Senator said:

> I can not, however, leave this question without pausing a moment to call attention to the strange development which has taken place in connection with the naval appropriation bill now being considered by the House committee. It appears that the department is urging the adoption of a new program so large that it will in 1925 give us a Navy equal to that of England at that time, allowing for the British increase. I have been always an extremist in regard to the Navy. I have always desired to go further than almost anyone else, I think, in building ships. I strongly favored the program of two years ago because I believed that we had suffered from not working on a program and had an ill-balanced Navy owing to our helter-skelter method of unsystematic authorizations.
>
> I do not believe in reducing our Navy—
>
> Said the Senator from Massachusetts, one of the few American delegates to this disarmament conference.
>
> I should be glad to see the number of enlisted men on the active list increased—
>
> Said Senator LODGE.

Mr. President, the American people have a right to know how the American delegates are going to vote on these questions in the Washington conference.

President Harding has started a great movement. If it is successful, it will mean much in the way of relieving the burdens not only of the American people but of the world. Few plans have been advanced that are of greater moment to the people than are those included in this disarmament conference.

So, the delegates who represent the American Government there should not throw President Harding down in carrying out this program. They should carry out his policies. They should vote in that conference not only to decrease the American Navy but to request the other Governments who are build-

ing large navies to decrease theirs. They should not only decrease the standing Army of America but they should bring to bear their influence in the conference upon other countries to decrease their standing armies.

But that can not be accomplished if the delegates representing America do not carry out the views of President Harding. We will never know it unless it is done in the open. If you have a secret conference here and it should break up with nothing having been accomplished, America not agreeing to decrease her Navy and her Army, other countries not having agreed to diminish their navies and their armies, the blame will be attached to President Harding, when, as a matter of fact, it may be that the circumstances would be such that it should be placed upon the men representing the American Government there. President Harding may give out a statement saying, "The delegates representing the United States went back on me. I tried to get them to carry out my views, and if they had we would have accomplished something; but they went back on me."

Then the American delegates might come forth with a statement to the press to this effect, "Oh, well, President Harding agreed with us in the policy we advocated, and everything we did behind those closed doors met the approval of President Harding," and the whole country would remain in darkness as to where the blame should attach and we would continue to go along with these heavy burdens of taxation imposed upon us.

What is there in this disarmament conference which would influence the Senator from Massachusetts to be in favor of locking the doors, running every newspaper man out, taking nobody into their confidence, negotiating with these few countries in secrecy? Distrust would immediately attach and suspicion would be in the minds of the people throughout the world.

Ah, Mr. President, these delegates have a hard job on their hands. God knows, I hope for them every success. I think it is one of the biggest questions of to-day. I hope there will be harmony and cooperation there, not only among the delegates representing the American Government but among the delegates from all the countries which may be represented at this Washington conference. But, Mr. President, there will be lobbyists at work there. They will invade and infest this city as never before. They will come from far and near. There will be naval officers who do not desire to see the Navy diminished. There will be Army officers who want to see the Army maintained at its present size. There will be the heads of big munition companies in America, and they will be close up to some of the delegates at this conference. They can get in their arguments and get better results behind closed doors and in secrecy than they can when the sunlight of publicity shines in on the conference.

So, Mr. President, if we are to derive benefit from this disarmament conference let us have an open conference, let us permit the world to know just who rendered great service as representatives in that conference, and where the blame should attach if they fail to accomplish anything. Let us know the reason why; let us follow the trend of the present day, when public officials are expected to deal with their constituencies and nations in the open and not in secrecy.

I sincerely hope, Mr. President, that the distinguished Senator from Massachusetts, the leader in this Chamber of a great party, who has now been honored, and greatly so, by this new compliment which has been paid him in being appointed as one of the delegates to the Washington conference, will not take the position that in this conference the doors must be closed; that newspaper representatives must be thrown out; that the public is to be kept in the darkness as to its deliberations. Let us start out right on this proposition, and if we do we will get real results.

Mr. WATSON of Georgia. Mr. President, in the very nature of things there are some deliberations which must be conducted in private. Your grand juries meet in private and deliberate in secrecy, if you choose that as a better word. Your petit juries, passing upon life, liberty, and property, deliberate privately. As a rule, no grand juror is to be heard to reveal what happened, except under circumstances strictly limited by law. A petit juror is not to be heard to impeach the verdict of the panel on which he served. There are privileged communications, well known to the law, held to be sacred, because they were private and were supposed never to be revealed.

As I listened to the ardent address of the brilliant Senator from Mississippi [Mr. HARRISON] I wondered whether or not he raised his eloquent voice in this Chamber against the passage of one of the most infamous laws that ever was put upon the statute books; I mean the espionage act. Did he declaim here against the secrecy that prevailed at Versailles? Was any demand made by him that we know from day to day what was going on at Paris?

Is it not well known that the first copy of the treaty of Versailles which came to this country came to the great banker in New York who is responsible for the contraction of our currency and who has gone to Europe to have the same method of contraction adopted there?

We are supposed to be a Christian people. We are supposed to revere the Bible. Millions of people do revere it and find comfort in it from youth to old age. Missionaries risk their lives, and lose their lives, circulating it. How was that Bible adopted? How were the various books brought into canonical form? Was it in a public meeting? Not at all. It was done in a private meeting of the fathers of the church, and it took three separate conventions of those fathers of the early church to agree upon the canon as we now have it. Could there be a more striking example of the necessity of private conference on questions which do not admit of public debate in the presence of a public which may or not be swayed by partisan passions?

We are living under our third Constitution. Each one of those Constitutions was adopted behind closed doors. To go back further, the Declaration of Independence itself was adopted behind closed doors; and the selection of the greatest of men to be the chief commander of the Army was made behind closed doors, and was so made at the instance of John Adams, of Massachusetts.

We are living under the third Constitution, and the very first resolution which our forefathers adopted was that they would close the doors, shut out the public, as the only way to have freedom of deliberation. At the time such men as George Washington, James Madison, George Mason, and Alexander Hamilton decided to make the Constitution behind locked doors, there were no such States as Mississippi or Alabama.

I do not think we have ever had better men or wiser men than those who made the Constitution of the United States. To them have been paid by civilized statesmen throughout the world the highest compliments that words could convey, yet I find that one of the rules they adopted was:

> That no copy be taken of any entry on the Journal * * *.
> That Members only shall be permitted to inspect the Journal.

Senators will remember that the seal of secrecy was not to be removed until after, as I remember the term, 30 years.

I take the liberty of reading to the Senate a letter, very brief, of James Madison, written July 7, 1830, more than 30 years after the Constitution was adopted. He was writing to Mr. Elliott, who compiled the debates:

> DEAR SIR: Being obliged, at my age, to economize my intellectual employments of every sort, I have only been able to glance over the selections illustrative of the Federal Constitution you have appended to the last volume. They appear to be of a class which must add to the value of the work, such as that of which they make a part.
> With well wishes and respect,
> JAMES MADISON.

Now, Mr. President, if any conference looking to a reduction of the cost of armies and navies were to be conclusive and not to be submitted to the Congress, I would take an attitude as emphatically against it as any Member on the floor, but the very fact that secrecy improperly employed defeats its own ends was proved by the treaty of Versailles, because as soon as the country knew what it was the country rebelled against it; and the country is more against it now than when they cast their vote last year. Those Senators who are constantly harking back to the treaty of Versailles would be well advised if they would remember that the verdict last fall was given under adverse circumstances and that the enmity of the people to what was done in Paris is greater now than it was last November.

Let these conferees meet in secret. Does not the President's Cabinet meet in secret? Does not the cabinet of the Methodist Church meet in secret? Has not every church its secret body? Has not every great paper its editorial sanctum in which its policies are freely and privately debated? But that which to-day is spoken in the closet is to-morrow cried from the housetops. You can not maintain secrecy, and in the end every question comes to the bar of public opinion. In the end it is the public which has to approve if there is approval.

I am perfectly willing to have the conference meet unhampered. Let it meet and consult in private. What it agrees upon in privacy will have to be made public, and we will be the final judges of it, those of us in this Chamber and those of us in the House; and back of us are the millions of people who condemned what was done in secrecy across the water and who may or may not condemn what is done in the Washington conference.

Mr. HARRISON subsequently said:

I ask unanimous consent to have inserted in the RECORD as a part of my remarks an editorial which appeared in the New York World of to-day about the sale of certain Shipping Board vessels by Mr. Lasker.

The PRESIDING OFFICER. Without objection, it is so ordered.

The editorial is as follows:

A SALE THAT NEEDS PUBLICITY.

If Congress is still eager to investigate the waste of public money it may possibly find a profitable field for its activities in the sale by the Shipping Board of 205 wooden ships for $2,100 each.

These ships cost the taxpayers from $300,000 to $800,000 apiece, and the Shipping Board is selling them for less than they would be worth as kindling wood. This may be good business or it may be bad business, but a great deal more ought to be known about the transaction than has yet come to light.

About three weeks ago Chairman Lasker told the House Appropriations Committee that these wooden ships ought to be given away or sunk in order to save the cost of their upkeep. A few days later it was reported that the board was "carefully scrutinizing" a bid from the Construction & Trading Corporation of New York, which had offered $2,100 each for these vessels. The dispatches added that "Chairman Lasker said the present plan is to reserve 50 wooden ships to be used in the construction of a proposed pontoon bridge across the Hudson River, provided the parties building the bridge are willing to pay the same price" as that offered by the Construction & Trading Corporation.

The Construction & Trading Corporation built some wooden ships for the Government during the war, and has since been in a comatose condition. Nothing is publicly known about its actual ownership or its financial responsibility. As for the pontoon bridge across the Hudson, a bill to permit its construction has been introduced by Senator FRELINGHUYSEN. Just why the Shipping Board should be so concerned in this exploit to obstruct navigation that it is saving wooden ships for the benefit of the company is more or less of a mystery.

It is said in Washington that half of the wooden ships which are to be sold to the Construction & Trading Corporation are to be used in the Caribbean trade. How does it come about that wooden vessels which are worthless to the Shipping Board can be employed by a private and obscure corporation in the Caribbean trade? Is the corporation competent to do what the Government can not do, or is the Government unwilling to do what the corporation is eager to do?

Mr. Lasker and his associates are selling for $430,500 property that cost the American people approximately $200,000,000. These ships are worth more for kindling wood than the Government is receiving for them as ocean carriers. It is said by way of explanation that there is no market for wooden ships. There is no market for steel ships, either. Hundreds of them are tied up, but even Mr. Lasker is not selling them for $2,100 apiece.

There may be nothing in this wooden ship transaction that deserves censure, but there is a great deal that requires explanation, and the least that Congress can do is to lay all the facts before the country.

Mr. BORAH. Mr. President, the amendment which has been offered by the Senator from Mississippi reads as follows:

And provided further, That the delegates representing the Government of the United States use every effort and exert their influence for open sessions of the conference.

Of course the amendment, if agreed to, will be nothing more than an expression of the opinion of this body with reference to the subject matter of an open conference. It is not in a technical sense or a legal sense binding upon the delegation, but it affords an opportunity for an expression of opinion upon the part of the Senate with reference to this very important matter. Furthermore, it does not undertake to fix a standard of publicity, but urges such publicity as seems practicable.

I have been actively an advocate of open conferences and the open consideration of treaties ever since I became a Member of this body. I am not willing to go on record, either by voice or vote, however ineffective the voice or vote may be, against securing the utmost publicity possible for these proceedings, and hence I am going to support the amendment offered by the Senator from Mississippi. If the United States does not lead in the question of securing publicity, we may not hope to have very much publicity.

I do not advocate the amendment because I distrust in the least either the ability or the integrity of purpose of those who are to represent the United States at that conference. I am not seeking in any sense to check up upon the men who shall be there to represent this Government or any other Government. But I believe that publicity to as great an extent as can be had in the practical working out of these things is absolutely essential to a sane and sound conclusion, just the same as it is in this body.

The Senator from Georgia [Mr. WATSON] has referred to the fact that the Constitution of the United States was made behind closed doors. True enough. So were the first sessions of the Senate for some considerable length of time held behind closed doors. No one would argue that that should be true now with reference to the matters of ordinary legislation. And yet we do no business here so vitally and immediately touching the interest of the people as will the business of that conference.

We have advanced very greatly from the old system of secrecy with reference to diplomatic and international affairs. Whatever may be said with reference to the necessity of taking certain initiatory steps in regard to these matters or in the treating of international affairs, practically the entire world has come to recognize the soundness of injecting more democracy and more publicity into these international conferences and negotiations.

If we fail to record our views since the matter has come up, it must necessarily be construed as the view of the Senate that we are opposed to an open conference. This conference is not an ordinary conference dealing with the ordinary matters of treaty obligation or treaty negotiation. It is a disarmament conference. I trust it will continue to be a disarmament conference from the opening to the close.

Disarmament would never have had a hearing had it not been for the insistent demand of the public. It is the people's fight. Upon the question the people are more sane, more determined, more reliable than leaders or diplomats. They can not meet in mass to deal with it. They must act through representatives, but it will be a great hazard to the cause if these representatives shut themselves out from those whom they represent.

The two fundamental contributing causes to the World War were secret diplomacy or closed and secret international conferences and competition in armaments. These things had saturated Europe with suspicion, distrust, jealousy, fear, and hate; fallowed the ground for war. In seeking the causes of the war too much consideration is given to the idea that it was deliberately planned and staged for a certain time, and too little consideration to the fact that it was simply the legitimate result of a wretched system and sinister policies of which all the nations were the victims. There is nowhere to be found a page of history so void of candor, so divorced of open and fair dealing, so discredited by intrigue, and so shameless in duplicity as the story of European diplomacy from the congress at Berlin to the opening of the fearful tragedy for which during all these years leaders and diplomats wittingly or unwittingly had been preparing. The assassination at Sarajevo was but the match of incident set to the vast magazine of suspicion and hate which the years had built up. In that fatal hour when confidence in leadership was demanded there was not a diplomat in Europe who was not distrusted and no nation whose motives were not questioned. The brutal system had planted distrust in every breast of Europe, and leaders and people alike were under its ban. Secrecy and battleships, intrigue and general staffs, had done their work. The seeds of suspicion and distrust were merely and naturally ripening into the harvest of war. There were those who in the fatal days of August would have stayed the conflict, but like the inmates of Dante's hell, they were driven hither and thither by the storm which the system they had fostered had brought into being.

It is now nearly three years since the war closed, and we are back to the old system. The allied and associated powers, the victors, are now invoking it against one another. The people are being taxed in all these countries for vast armies and huge navies. Secret conferences and closed doors are again justified. Already borne down with burdens too great for the human mind to measure, still greater burdens in the way of taxes for armaments are laid upon the people. The same system of secret negotiations is relied upon to solve the problems which confront us. And already the system is bearing fruit. France and England have traveled far apart in the last three years; how far one hardly dares to estimate, even dares to contemplate. Public officials in the Congress of the United States and the Diet of Japan announce to their people that great navies are necessary because of the treachery of the other nation. You know and I know, and every man who can and dares to think knows, that under this program we are headed for bankruptcy or war, or possibly both. You know and we all know it means economic ruin. It means moral breakdown. It means industrial peonage for the masses, and it may mean in the future, as it has always meant in the past, wounds and mangled bodies and shattered minds and millions dead even before another decade has come and gone.

Mr. WILLIAMS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Mississippi?

Mr. BORAH. I yield.

Mr. WILLIAMS. Does not the Senator from Idaho believe that the provision in the League of Nations covenant requiring all treaties between members of the league to be registered at the headquarters of the league at Geneva obviates the difficulties about which the Senator is now speaking, except, of course, as to us and Russia and Turkey, who have never joined the league? One of the provisions of the League of Nations is that all treaties made between any members of the league or by any member with anybody outside shall be registered at

Geneva and spread upon the books for the view and study of the entire world. Does not the Senator think that that accomplishes what he desires to accomplish much better than any attempt to handicap those who are going to attend the approaching conference by trying to make them talk out loud? When men are conferring with one another to arrive at a result by agreement they can not afford to publish out loud every thought and every attempt to get the other fellow to come to their thought. There could not be much accomplished in that way. If the Senator and I wanted to consult about a bill which was before this body, we would not invite the newspaper representatives in to hear the discussion when we were each trying to convince the other that he was wrong or partially wrong; and, by the way, the other person might convince us.

Mr. BORAH. Mr. President, if the Senator from Mississippi has submitted his question, I will answer it.

Mr. WILLIAMS. One word more.

Mr. BORAH. I should first like to answer the Senator's question.

Mr. WILLIAMS. I know, but just one word more. I have myself in committee on many occasions changed my opinion three different times upon a pending proposition after hearing different viewpoints.

Mr. BORAH. How many times has the Senator changed his opinion in public?

Mr. WILLIAMS. But I would not like to have had my opinion quoted each time.

Mr. BORAH. Mr. President, speaking of the provisions of the League of Nations covenant, there is a provision that treaties made between nations shall be registered with the secretariat of the league, but no nation has observed that provision with reference to any treaties except treaties about which no one was greatly concerned. France we are advised made a treaty with Belgium, but published to the world that she would not record it with the secretariat, and, as I understand, she never has done so. She negotiated a treaty with Poland, but the Senator from Mississippi can not tell me what that treaty is. France also has treaties with other nations of Europe; she has at least five treaties of military alliance so reported with different powers of Europe; but she has not recorded them, and she does not propose to record them.

Mr. WILLIAMS. In other words, the Senator from Idaho is arguing that the provision of the League of Nations relative to the recording of treaties is not observed; but if the League of Nations had been strengthened by our presence and that of other nations of the world, it would have been observed. However, I do not believe the Senator from Idaho is accurate in his statement. He is merely quoting various statements that he has seen published in newspapers here and there.

Mr. BORAH. Well, Mr. President, there is no doubt about the military alliance between Belgium and France.

Mr. WILLIAMS. And there is also no doubt as to the fact that it is within the open knowledge of the entire world.

Mr. BORAH. Mr. President, the Senator from Mississippi can not state to me a single provision of the treaty between Belgium and France.

Mr. WILLIAMS. Of course, I can not recite its provisions, but I do know, and the Senator from Idaho knows——

Mr. BORAH. Neither can the Senator obtain a single provision of the treaty from the secretariat of the league.

Mr. WILLIAMS. I have not tried to do so——

Mr. BORAH. I venture to say that the Senator is too shrewd to try. It is preferable in this instance to live in ignorance rather than test out the practical workings of the provision of the league.

Mr. WILLIAMS. But I do know and the Senator knows that France and Belgium have entered into an agreement to make the Belgian frontier the French frontier for self-defense, and that Belgium and France are going to defend it against Germany or any other nation. There is the essence of it, and everybody knows it.

Mr. BORAH. No; everybody does not know it, and the Senator from Mississippi does not know it. He is simply guessing. It has not been published. If there were nothing in it except that it would have been published. The very fact that they refused to publish it is sufficient evidence to a reasoning mind that there is something contained in the treaty that they do not propose the people of the world shall know. It is so with reference to the other treaties. The member nations have never observed that provision of the league, except with reference to the most formal or immaterial treaties.

Mr. President, I wish to call attention to the statement made by Viscount Bryce a few days ago, which seems to me to have considerable bearing on this discussion. There is no closer student of governmental affairs in all Europe than is Viscount Bryce. I suppose he has also been a student of such affairs quite as long as anyone else who now professes to speak, for he is advanced in years. He has heretofore in former years, in his discussions, been an advocate of the old system of diplomacy. In his lecture a few days ago at Williamstown, Mass., he seems to have modified very greatly his views. I quote from him, as follows:

> The frightful catastrophe of the war was deemed by a large section of British opinion to have been due to the fact that in all the countries concerned foreign relations had been secretly conducted, with little consultation of the popular will, and it was believed that, had the people been consulted in foreign as they are in domestic affairs, the catastrophe might have been avoided.
>
> This belief has not been lessened by what happened at the end of the war. The peace treaties have created general dissatisfaction. Hence, the demand for direct popular control has continued. If that control has worked well in domestic affairs, this section of public opinion has asked, "Why not in foreign affairs?" Take the management of foreign relations out of the hands of a few and intrust it to the many.
>
> These arguments seem to make a prima facie case for a change. If the old system brought Europe to the condition in which it was when the war broke out; if that system leaves it in the deplorable condition in which it is after the peace treaties have been made, is it not well to make a complete new departure by trying direct popular control?
>
> There is a strong case for changing a system which has yielded bad results in the past, and a democracy is not consistently democratic if it leaves its fortunes in the hands of a few persons who pledge it before they have consulted it.
>
> Secret agreements frequently turned out ill for those who made them. Publicity would have disclosed the dangers lurking in them. The secret agreement made between England and the Turks in 1878, the secret treaties made in the recent war between the belligerents, are now generally regretted.

Mr. WATSON of Georgia. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Georgia?

Mr. BORAH. I yield.

Mr. WATSON of Georgia. Would the Senator support a resolution requiring the President to have his Cabinet meet in public?

Mr. BORAH. Mr. President, I would not. In the first place, I would doubt its legality. I think that they are to a very large extent public now; but they are not wholly so; and neither would I expect any conference such as that which is going to be held in Washington to be absolutely so. I undertake to say, however, that with reference to the fundamental matters there should be the utmost publicity. It may not come with the approaching disarmament conference, but it is bound to come; the old system has broken down; it has utterly failed; it has brought the world to universal deluge; it has practically destroyed the moral supremacy of Europe; and we must depart from it. To what extent we must depart from it is a matter about which men will differ.

Mr. WATSON of Georgia. Would the Senator support a measure requiring the Republican Party to hold its caucuses in public?

Mr. BORAH. Yes, indeed, I would.

Mr. WATSON of Georgia. Are those which the Senator attends in public or in private?

Mr. BORAH. Most of them are held in private, I think, but the Senator asked me if I would support a resolution to have them open; I would do so undoubtedly. I have refused at different times to attend such conferences because they were not public. But I have no trouble in distinguishing a party caucus from a conference in which the whole of mankind is vitally interested.

Mr. SIMMONS. Mr. President, I should like to ask the Senator a question. He has been reading from Viscount Bryce with reference to the ill effects of certain European treaties. I should like to inquire of the Senator if most of those treaties were not binding without receiving the approval or confirmation of the legislative bodies of the nations which were represented in the making of those treaties?

Mr. BORAH. Mr. President, I will answer that question, and then, as I only have 10 minutes more, I prefer not to be interrupted.

The PRESIDING OFFICER. The hour of 11.30 o'clock having arrived, the Chair calls the attention of the Senate to the unanimous-consent agreement, which provides that no Senator shall speak more than once or longer than five minutes upon the bill, or more than once or longer than five minutes upon any pending amendment.

Mr. BORAH. Very well.

Mr. President, it is true that most of these secret treaties, I presume, were not dealt with by legislative bodies; but I want to call the Senator's attention to the fact that it has only been by persistent effort that the legislative bodies of the world and even in his country have been considering these things in the open. The fight which was made against the consideration of treaties in the open is precisely the same fight which is now being made against open conferences. It was supposed that the

discussion of these matters in the open would lead to friction and to feeling between the different nations, and so forth, and that it was unwise; but we have progressed far enough so that we consider some of the most important treaties in the open. Thus far we have progressed; and we shall make further progress, in my judgment, if we continue along the same lines, and continue to answer the arguments which were advanced against it in the same way that we answered them before.

Mr. President, when Mr. Wilson went to Europe he carried with him a new code, a new set of principles—a code of principles upon which he believed the permanent peace of the world could be built, under which he believed that reconstruction and rebuilding could go forward. He verily believed, I have no doubt, that he could Americanize Europe, that he could induce the diplomats and statesmen of Europe to accept his policies and his principles; but the task was too great.

One by one they either discarded them or disregarded them or emasculated them to the point of ludicrousness. One by one they set them aside—the freedom of the seas, the basic principle upon which he would build open diplomacy, anti-imperialism, rejection of secret treaties, and the right of peoples to choose their own life and build their own form of government—and instead of giving us an American treaty, based upon American principles, they gave us a European treaty, based upon European principles; a treaty grounded in imperialism, depending for its execution upon militarism, and fed by the capacity of its signers to exploit friendly and subject peoples; a treaty which Mr. Clemenceau, its chief architect, says is practically an embodiment of the teachings of Bernhardi; a treaty which he says, in his preface to the book of Tardieu, is but a continuation of the war. How did they accomplish it? The first successful move was in closing the doors of the peace conference at Versailles. When they closed the doors they sheared Mr. Wilson of his power. His power and the success of his principles rested with the people. One of the menaces to the world's security and stability and to civilization to-day, according to no less an authority than Viscount Bryce, is the treaty of Versailles, which was made behind closed doors in France.

Does anyone believe that the deal of Shantung could have been achieved had the doors been open? And what is the remedy for it? The able Senator from Georgia [Mr. WATSON] says that these matters will come back for consideration and that they will go into the open. True enough to a certain extent; but what has publicity been able to accomplish toward lifting the contract by which those behind closed doors at Versailles dismembered a friendly nation? What has any power been able to do—Mesopotamia, Persia, Syria, or any other of the subject peoples who were disposed of at Versailles? What have they been able to accomplish toward unriveting the chains which were placed upon them behind closed doors?

Mr. President, it is well, in my judgment, that in the making of the obligation public opinion be permitted to have its effect in mollifying or modifying or shaping or directing the terms and conditions of the treaty or the obligation of the understanding.

It is argued that it is sufficient that the people, after the treaty or the obligation shall have been made, shall be informed as to the decision; but what comfort or consolation is it for the people to be informed after they have been committed by their representatives? It places upon them almost a superhuman burden to undo that which their representatives have pledged them to do.

Mr. WATSON of Georgia. Mr. President——

Mr. BORAH. Just a moment.

It is also said that while the treaty of Versailles was made behind closed doors, after it came into public consideration the public opinion of this country rejected it. True; but suppose that we had been bound by the arguments which are now made against open conferences and which were once made against the consideration of treaties in the open. I want to say to the Senator from Georgia that, in my opinion, if that had been done the treaty of Versailles would not have been rejected. It is true—and this is the soundest, sanest, and most conclusive argument in favor of publicity—that when the public opinion of the world beat in upon the terms of the Versailles treaty the public opinion of the world rejected that which those sitting behind closed doors had put upon them.

Mr. WATSON of Georgia. Mr. President, will the Senator permit me to interrupt him?

Mr. BORAH. I yield.

Mr. WATSON of Georgia. In my part of the country I did fully as much in building up public opinion against the treaty of Versailles as the Senator from Idaho did in his, and I did it along the same lines; but he has asked me direct questions, and I think it is only fair that I should answer.

Everything that England has done since the treaty of Versailles has been ratified in open Parliament by the duly elected representatives of the people. Everything that the French Government has done has been ratified by the Chambers. Everything that the Italian Government has done has been ratified by the Italian Parliament. Therefore, if those countries have gone far toward imperialism, too far—as I agree with the Senator that they have—their own peoples have ratified that course, and they have a right to do it; and I will remind the Senator, who is such a noble, fearless friend of Ireland, that the Parliament of Ireland to-day is sitting behind closed doors considering the proposition which Great Britain behind closed doors agreed upon and submitted to the Irish Parliament.

Mr. BORAH. Mr. President, if I were in Ireland, and interested in the freedom of Ireland, and undertaking to hold a conference in the midst of those that were spying upon me—a superior and dominant nation, engaged in every conceivable way in undertaking to break down, disintegrate, and spread dissension among the Irish people—I think in all probability I would modify my principle to the extent of holding my conference in secret. But I would not regard it as a precedent except under just such conditions.

Mr. President, the Senator says that the Parliament of England ratified the treaty of Versailles.

Mr. WATSON of Georgia. Not quite that. I said that Lloyd-George, in all his policies since the treaty of Versailles, had been upheld by the House of Commons, the popular branch of the English Parliament.

Mr. BORAH. Yes; precisely. That is what I understood; that the Parliament in the first place did ratify it. If the Senator did not say it, it is a fact.

Mr. WATSON of Georgia. The people of England are back of it.

The PRESIDING OFFICER. The time of the Senator from Idaho has expired.

Mr. LODGE. Mr. President, no one in this country, at least, can question for a moment the soundness of the argument in regard to secret treaties. Secret treaties, I suppose, are as old as organized nations, and were made at first place probably for the purpose of better overthrowing some common enemy to the two powers making the treaty. Subsequently, undoubtedly, secret treaties were used, as they have been used in recent times, for the purpose of misleading or deceiving the constituent bodies, nations, or peoples whom the secret treaty makers feared or were unwilling to face.

When the authors of the Constitution framed it, they made secret treaties once and for all impossible in the United States. They did it by requiring the assent of the Senate to all treaties, and thus they made it out of the question for the United States ever to have a secret treaty, for whether we throw open our doors here so that the public can hear the treaty debated, or whether we keep them closed, the secret that is in the possession of 26 men, as it was at the beginning, or 96 men, as it is to-day, is everybody's secret, and every fundamental question is perfectly well known.

We have all been brought up to reverence the Constitution. One of the beliefs embodied in the Constitution is hostility to secret treaties, and we all share it. We never have gone into one, and we never shall, and never can. But when it comes to the proceedings by which treaties are negotiated, you enter on a different and more difficult ground, because it is extremely hard to draw the line between what ought to be made public and that which everybody admits never practically can be made public.

President Wilson, who had a great capacity in making striking phrases, used the phrase "Open covenants, openly arrived at," and it gave an impression that everything in Paris was to be done on the sidewalk. When he came to Paris of course he had to deal with some 30 other powers, each having 1 vote. They referred certain questions to committees. I do not think the Senator from Idaho [Mr. BORAH] stated the matter quite accurately when he said "secret conferences." The conference of all the powers was always open, so far as I remember, and I do not think they had more than two or three meetings with all the powers at any time. I think I am correct about that.

Mr. BORAH. There was nothing done in the conference when they were all together.

Mr. LODGE. Quite true. All results emanated from committees, and the most powerful committee was that which first consisted of 10 persons, then was known in the language of the press as the "Big Five," then the "Big Four," and I think it even got down at one time to the "Big Three." The meetings of that committee were secret. It was impossible that there should not be a certain numbers of conversations which were

secret, if you choose to call them that, and which were not carried on in public. The President was justly criticized, not because he met with others in committee to consider the terms of the treaty, but because the press was censored and the news from this country was not allowed to go into Paris, so far as it could be stopped, and the news from Paris was not allowed to come here. He was criticized, and justly criticized, because even after the treaty was made and was before the Senate, and the Senate had to act, we were not allowed to know what had happened; we were refused all information until the question of Yap arose, a year or so afterwards, and then the President sent in to the Committee on Foreign Relations of the Senate the notes and records of certain of the meetings of the committee, if you choose to call it so, which made the treaty.

Mr. BORAH. Allow me to say that when the question of Yap arose every member of the secret conference seemed to have a wholly different view from every other member of the secret conference as to what happened.

Mr. LODGE. I am speaking of the stenographic notes which were furnished to the committee, and those stenographic notes were harmless enough for the most part. They were also illuminating.

Mr. JONES of New Mexico. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from New Mexico?

Mr. LODGE. I have no time. I have only five minutes left, and I hope the Senator will excuse me, for I can not yield.

The practice of every committee in this body and in every parliamentary body in the world, when they are framing a bill, is to frame it behind closed doors. They would not get any business done if it were not done in that way. What the senior Senator from Mississippi spoke of as "thinking aloud" can not be done in public. We should never get anywhere with such a system. The point is to have what the Senator from Idaho called the fundamental principles all brought to the public attention; but to suppose that any body of men, conference, or Senate, or House, or legislature, can frame in public all the bills it considers is to expect something impracticable and impossible.

I do not think anyone will go to that conference representing the President of the United States who will not be in favor of the largest measure of publicity that is compatible with getting the business done; but to say that they shall never meet in committee, that they shall never hold conversations; that one man or one delegation shall not talk with another man or another delegation; to say that some agreement can not be reached without being printed verbatim in the newspapers, is of course to propose a system which every man knows is impracticable. Therefore, it is impossible to draw the line.

The objection I desire to make, however, to this particular proposition here to-day is a very simple one. How that conference shall be conducted is a matter of procedure. We have asked five great nations to come to this conference. Each one of those five nations has one vote, just as we have. They are coming here in good faith, as our guests, to discuss two of the most important questions which can possibly be discussed by any international meeting in the world, and it is proposed in this amendment to meet them on their arrival with a Senate direction to the American delegates, anticipating the action they shall take in regulating the procedure.

It seems to me wholly out of place. It seems to me futile, bad manners, and leads to nothing.

Mr. HARRISON. Mr. President——

The PRESIDING OFFICER. Does the Senator yield to the Senator from Mississippi?

Mr. LODGE. I do not know how much time I have left.

The PRESIDING OFFICER. The Senator has one minute.

Mr. LODGE. I can not yield. Mr. President, I object to this resolution for the simple reason that I think to undertake to settle here, by an amendment to an appropriation bill, the procedure of a conference in which six great nations meet, each with a vote, is entirely wrong.

Why, therefore, be guilty of this useless incivility to the nations we have invited to meet us here in Washington?

Mr. KELLOGG. Mr. President, I can not support this amendment. I think no one in the Senate doubts that I am in favor of the utmost publicity in the making and consideration of treaties and in all our international relations.

When I first came to the Senate I supported a resolution of the Senator from Idaho, which proposed to change the rules of the Senate and to make the consideration of treaties in open session the standing rule, with a proviso that the Senate might, on a majority vote, consider any treaty in secret. I was told by old and experienced Senators that that was the view every new Senator took, but that he changed his mind after he had been here a while. I have not changed my mind in the least. The conviction has been growing with me that there are very few occasions when it is necessary for the Senate to consider a treaty in secret. I admit there are some occasions. There are very few occasions when it is necessary for international conferences on treaties to keep their proceedings secret. I admit that the negotiations between powers must necessarily, to some extent, be in confidence.

I hope the conference, which is to meet in Washington, will, as far as practicable, be open and its proceedings made public, and that the public will know from day to day and from time to time the principal considerations governing the nations engaged in the conference.

However, Mr. President, we are but one of the six powers to be engaged in this conference. What does this amendment say? It reads:

That the delegates representing the Government of the United States use every effort and exert their influence for open sessions of the conference.

Mr. President, nobody doubts that the American delegates can force an open conference, or have none at all. If they use every effort, of course they can have everything open; there is not any doubt about it. This amendment is not a mere expression of opinion and a sentiment of the American Congress in favor of open sessions; it is a direction to our delegates.

Mr. BORAH. Do I understand the Senator to say there is no doubt that the American delegates could have an open conference if they wanted it?

Mr. KELLOGG. Can force it, or have no conference at all.

Mr. BORAH. That is good news.

Mr. NELSON. Mr. President, will the Senator allow me to ask him a question?

Mr. KELLOGG. Yes.

Mr. NELSON. Does the Senator for a moment believe that the framers of the Constitution could ever have succeeded in getting such an instrument if they had held open sessions?

Mr. KELLOGG. I doubt it very much. But, Mr. President, I am not willing to place upon our delegates the responsibility of demanding that all sessions of this conference shall be open to the public. There is not any doubt, from what I know of at least one of the delegates, that he will be in favor of the utmost publicity that is practicable under the circumstances from day to day, and I want the public informed.

I am opposed to placing amendments providing, for all sorts of things on appropriation bills. If the Congress wishes to pass a resolution expressing its sentiment as to open conferences, that is another thing; but every time an appropriation bill comes up which must pass, somebody wants to force a resolution on it not bearing upon the subject. It is true this appropriation bill contains an appropriation to pay the expenses of this conference, but that is all. It does not direct how the conference is to be held nor have any other bearing on it than to enable us to bear the necessary expenses.

Mr. President, believing, as I do, in the utmost publicity, let us use some practical sense about it, and not embarrass our delegates with an instruction of this kind.

Mr. WALSH of Massachusetts. Mr. President, I am heartily in favor of the amendment proposed by the Senator from Mississippi. The amendment gives the Senate an opportunity to express sincere hope in the success of the conference, and to urge that the sessions be open to the public, in order that its deliberations may be surrounded with the utmost publicity.

There is no mistaking the fact that there is a tremendous public interest in this conference. I do not think any event has taken place in the world since the armistice of November 11, 1918, that has focused the attention of the peoples of the world so much as this conference. Why is it thus? It is because the people were disappointed at the outcome of the recent war, or more, perhaps, with the negotiations following the successful accomplishments of the Allies in that war. The world is staggering under the weight of a tremendous burden of debt. Every nation in the world is seeking to find some way to lessen its burdens and its obligations as a result of its participation in wars and the apparent necessity of spending large sums of money to prepare for possible future wars.

The world has been disappointed further in this regard. It has apparently been vainly led to believe and hope that this war was to be the end of all wars. The great prestige and the great honor which were bestowed upon the President of the United States when he placed his feet upon the soil of Europe were, in my opinion, due to the fact that the peoples of Europe believed that he represented a new cause, that he brought new hope, that he preached new doctrines, the end of secret diplomacy, the end of war and of strife between the nations of the world, and the beginning of a world diplomacy leading to per-

manent and perpetual world peace, all seemed to be presaged in the war aims and peace principles which he set forth at the outset and constantly reiterated up to his very entrance to the councils of Versailles.

I say that though the world has been disappointed in the outcome, yet a ray of hope has come back to its peoples and that they now look confidently forward to the result of the conference bringing about a limitation of armament and a program for world peace.

I sincerely trust the people of America will exert in every possible way their most powerful influence to make the conference successful. To my mind the 11th day of November next is to be one of the momentous days in the history of our generation, bringing together for conference the representatives of Governments that can restore world peace, that can lessen the burdens of taxation, that can do away with the tremendous burdens and obligations of world armament.

I want that conference to be a success. How can we help to make it a success? We know one baneful fact, that every conference that has sowed the seeds of discontent, that has brought about animosities between nations, that has brought about intrigue and jealousies and war, has been held in secret. We know that every war that the world has suffered and staggered under has come out of secret conferences among the representatives of the various Governments of the world.

This has ceased to be a controversial question. The peoples of the world are united. If there is any controversy over the question, it is among the public officials of the different Governments of the world.

This conference is for what purpose? It is to lessen armaments, to reduce the burdens of taxation to the people, to bring about peace. In God's name, if a world conference for peace and the restoration of happiness and contentment among the peoples of the world can not be held in the open, what kind of conference can he held in the open? It is a movement to restore happiness, a movement to end bloodshed and war, a movement for world peace.

What representative of the United States has one single word to say in that conference that he is not willing for the whole world to hear? Everybody knows where America stands on the question of disarmament. Everybody knows what the American position is. Every honest nation, every honest, candid representative of any people who believe in justice, who want peace, who are against secret intrigue and Old World diplomacy, who oppose keeping in darkness the rivalries and animosities of the past—every such representative who is opposed to these things can not but be willing to have the light of day shed into the conference proceedings from the very first hour to the very end.

This amendment does not mean that the public will be permitted to jam into the halls where the conferences are had. It means, as I understand it, that a record will be kept and that a record will be open to the public. We have seen the result of not keeping public records. If the deliberations are secret while the conference is going on newspapers will be charging, as they are to-day, that Japan is opposed to disarmament, that Great Britain is not in favor of disarmament, or that France is resisting the movement for disarmament for some reason or other, and we will not be able to get the real story of the proceedings of the conference.

Mr. SIMMONS. Mr. President, I am afraid the Senator does not fully understand the amendment. Probably he has not carefully read it. The amendment is "to use every effort and exert every influence to bring about open sessions of the conference."

Mr. WALSH of Massachusetts. I have read the amendment, but I do not construe that if adopted it would prevent the representatives of the American Government from permitting an executive session to be held when details of a measure or proposition which they are about to draft may be under consideration. I take it the amendment means that in determining the position or attitude of the different nations of the world sessions shall be open.

Let me say that there is a general impression in the country that there is not very much going to come out of the conference; that it is not going to succeed in settling world order, but there is this impression abroad likewise that at least one great benefit will come from the conference, namely, that the peoples of the world will know the Governments and the representatives of the Governments who pretend to be for disarmament but who in reality are not for disarmament. How are we going to know that without publicity?

Mr. McCORMICK. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Illinois?

Mr. WALSH of Massachusetts. I have only a moment, but I yield to the Senator.

Mr. McCORMICK. I wish the Senator might give the Senate the reason for the lack of faith in the conference of which he speaks. Why do they believe that so little will come of it?

Mr. WALSH of Massachusetts. I said there was an impression abroad.

Mr. McCORMICK. Yes; I think so, too.

Mr. WALSH of Massachusetts. I knew the Senator would agree with me.

Mr. McCORMICK. It would be interesting if the Senator would give the grounds for it.

Mr. WALSH of Massachusetts. Time does not permit an extended reply. Briefly, it is because they believe, as I understand it, that the officials of the peoples of the world are not in sympathy with the people on this question. It is also because there is an impression abroad that certain officials of some of the Governments have or are making secret agreements on this question of disarmament. I believe that there is a unanimity of sentiment in Great Britain, in France, in Italy, in Belgium, and in the United States, everywhere, for disarmament, and I think that the difficulties in the way of bringing it about are due to the fact that certain public officials of certain Governments are not really at heart in sympathy with the disarmament program. They still cling to the old methods of secret understandings and agreements.

Tell me what reason the representatives of Japan, France, or Great Britain can possibly have for not saying frankly where they stand? Great Britain may very properly claim that she can not enter into a program of disarmament because of her great shipping interests. Why should not the public know it? There is no occasion for hiding from the world honest difficulties and dangers to any country through disarmament. Can anyone conceive of the representative of any Government who is sincere and honest, who really wants world peace, who really wants disarmament, not declaring plainly and frankly and openly to the world the position of his Government?

Mr. President, I repeat, it is my opinion that the first single feature of the modus operandi of this conference, which should be at once determined, is the question of open sessions. I do not mean by this that the doors of the conference should be thrown open to the general public, because that obviously involves practical difficulties in negotiating which would gravely interfere with and impede progress and expedition. If at times during deliberations it is impractical to have outsiders present, executive sessions can be resorted to, but even then the results of the same should be available for the use of the press.

Reasons for open procedure reach out almost infinitely. The knowledge by the world public of what transpires in the conference will keep the attitudes and actions of all the delegates fresh and idealized, even if their motives are practical. Movements to promote peace and justice thrive and expand in the light of publicity. The success of Machiavellian diplomacy depends mostly on secrecy on the part of the negotiators and ignorance on the part of the peoples they represent. Intrigue and conspiracy can stand the strong searchlight of public scrutiny much less in these days of democratic supremacy than in former days when peoples were merely pawns for monarchs and scheming imperialists. Making public the progress and development of the conference will make for franker and more wholesome disposition of arising questions. And it will also inject a positive moral force into the negotiations.

Mr. President, wars are too much a reflection upon the rationality of mankind, and, since old diplomacy and armaments produce wars, let us supersede them with reasonable argument and straightforward, honest, open dealings. Responsibility for enlightening individuals of the Government about all their affairs and for giving them a proper part in the determining of their problems is a task more especially belonging to a great democracy like ours. Let us lead in the movement for open negotiations for peace and better international understandings.

I am, therefore, in favor of the amendment urging the desirability of open sessions in this conference. I feel it to be the sense and wish of the American people and the people of the world that they should be so.

Mr. HEFLIN obtained the floor.

Mr. REED. Mr. President, will the Senator allow me to offer an amendment at this time to be read?

Mr. HEFLIN. I yield for that purpose.

Mr. REED. I wish to offer the amendment which I send to the desk, and ask that it may be read. It is in the nature of a modification.

The PRESIDING OFFICER. There is an amendment pending.

Mr. REED. I offer this as an amendment to the amendment.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The ASSISTANT SECRETARY. The Senator from Missouri proposes to amend the amendment so that it will read:

Provided further, That the delegates representing the Government of the United States exert their influence for full publicity from day to day of the proceedings of the conference.

Mr. HEFLIN. Mr. President, the answer to the question of the Senator from Illinois [Mr. MCCORMICK] as to why some people think that not much will come of this disarmament conference is found in this language in the Bible:

The love of money is the root of all evil.

The same forces in the United States that opposed the League of Nations because it had a disarmament provision in it will oppose this conference doing anything of a serious nature looking toward disarmament.

Surely there is nothing about the disarmament conference that will require secrecy. The world has come to condemn war, brutal, barbarous, murderous war. The war weapons of the ancient day were nothing compared to the destructive war implements of our time. The cost of war in the old times was nothing compared to the tremendous cost of war in our day. The war that has just ended murdered more than 10,000,000 men and it made lame and halt and blind 30,000,000 more. It cost more than half of the wealth of the world. Surely ours, the greatest Government on earth, and now leading in this peace movement, is entitled to insist that those who come here shall be invited to join us in having open sessions of the conference.

Mr. President, the senior Senator from Massachusetts [Mr. LODGE] suggested that we would prevent delegates from America from talking with delegates from another country. There is nothing in the resolution that would prevent that. When the conference adjourns each day there is nothing to hinder the American delegates from talking with some other delegates about some of the business before the conference. What we are seeking to do is to have what transpires upon the floor of the conference transpire before the eyes of the public. We are asking that the doors in the galleries be open, that the newspapers of the country may be present by their representatives, so that when the gun and munition makers of the United States gather here, as they will, so that when those who furnish armor plate for battleships will be here, as they will, so that when those who want a big standing Army come here, as they will, we may make known their presence, so that the people of the United States may know just what is going on.

I regret exceedingly that the Senator from Massachusetts said here the other day that we have already reduced the Navy to a lower point than it should be reduced. He is a delegate to this conference. He has served notice on the world now that we have already gone below the danger point, and yet America is the Nation that is to lead in this peace movement.

In 1916, under the leadership of Woodrow Wilson, we put it into the law that the nations should meet or be invited to meet to discuss disarmament, to bring about a movement to cut down the size of the armament of the various nations of the earth. Now, under a Republican administration the Senator from Idaho, the brave and brilliant BORAH, has led in the movement to bring about disarmament, and we are inviting the nations to come here and discuss with us plans for disarmament.

But the Senator from Massachusetts has said that we are going to meet them at the gateway of the Nation with a resolution that we want open sessions. Does that offend the foreign nations, whose countries have been deluged with blood, who now have a great army of lame and halt hobbling over their lands? Does it offend them for America to say we are in earnest about this matter and we want our deliberations held in the open, so that those who profit by big armies and big armament may not do their devilish work in secret?

I should say that the welfare of the citizens of America, the peace and happiness of American homes, the good and the peace of the world is more to be considered than the feelings of delegates about some propriety being violated. An expressed desire for open sessions violates no propriety in this matter. It is right and proper that we should suggest to them that we want all the cards laid upon the table; that we have nothing to hide; that we are so much in earnest as we deal with the issues of life and death that we want all that is said to be said in the open.

The peace conference is going to result in real reduction in armaments or it is going to result in failure. I had rather be where I could hear and see what was going on and form my own conclusion as to what influences are operating in that body rather than have somebody come out from behind closed doors and say, "We would recommend reduction in American armaments but the other countries would not agree to do likewise." For that reason and for the reason that this is the greatest question that now affects the human race, I insist that the disarmament conference be open, so that the public may see and hear just what transpires at that very important conference.

The PRESIDING OFFICER (Mr. CURTIS in the chair). The time of the Senator from Alabama has expired.

Mr. MCCORMICK. Heaven bless us, Mr. President, we have here a dozen Sauls singing among the prophets. Senators on the other side are too ready to have us forget that the conferences in Paris were held behind closed doors, largely upon the initiative of the leader of the Democratic Party at that time; that during the course of those Paris conferences the administration of that day exerted its every influence in favor of a naval program far greater than any which has been supported on this side of the Senate.

After the conclusion of the peace conference President Wilson and his Secretary of War called upon Congress for land armament on a scale greater by far than Republicans have supported during the present Congress.

There is no one here who does not confidently believe that the disarmament conference to be held in Washington will be open to the world in a measure never before equaled by any other international conference. Doubtless there will be private meetings of conferees. There is no complex negotiation, parliamentary or international, which is not attended by difficulties which are attempted to be resolved by private conference. It was only the other day that a private conference in Paris was held for the resolution of the Silesian difficulty. Even now in London and Dublin there are private conferences at intervals between the public sessions of the responsible representative bodies in England and Ireland.

It is mere supererogation to introduce such an amendment as that which is now before the Senate. It is merely the expression of a common aspiration, binding on nobody. The resolution of the Senator from Mississippi, the acting Democratic leader, is furthermore a solemn repudiation of the acts of the Democratic President of the United States regarding public diplomacy and armaments at sea or on land.

Mr. JONES and Mr. HARRISON rose.

Mr. HARRISON. I will not detain the Senate long, if the Senator from Washington will allow me to proceed.

Mr. JONES of Washington. Very well.

Mr. HARRISON. Mr. President, this debate has taken a peculiar turn. I am very heartily in favor of the amendment which I have offered. As I have already stated, I am sure that there is a very strong sentiment in the Senate for the idea which is incorporated in the amendment; but I would not do anything to embarrass the approaching disarmament conference. I do not want my action to be construed as having such a thought in view.

The distinguished Senator from Massachusetts [Mr. LODGE], the leader of the majority in this body, has spoken very strongly in opposition to open sessions of the conference. I take it that he knows what the view of the President of the United States is concerning that proposition.

I imagine he has conferred with the Secretary of State, who has also been named as one of the delegates to the conference, and that the views he has expressed are the views of the President. In these circumstances, no matter what the Senate might do with reference to the proviso which I have offered as an amendment, and which merely requests our delegates to that conference to exert their influence for open sessions of the conference, I take it that it would have little effect upon the Senator from Massachusetts or the other members of our delegation. They would merely ignore it.

The opposition of the Senator from Massachusetts to the amendment is based in part upon the ground that it is proposed to be tacked onto the pending appropriation bill, and that foreign delegates who attend the conference might say that they were accepting our invitation, but that it had a string tied to it. How anyone can construe the language of the amendment in any such manner is incomprehensible to me. I am, however, so anxious to see open sessions of the disarmament conference held, as I believe that open sessions will bring better results, that I am going to offer a separate resolution having that object in view. That resolution will come up as a separate measure, and I hope that then, perhaps, the distinguished delegate to that conference, who has been named by the President to that position from the Senate and who is the leader on the other side of the Chamber, will change his views and allow it to pass.

However, Mr. President, with the opposition to the amendment of the distinguished Senator from Massachusetts, and that of the President, in deference to the Senator and the President I now ask to withdraw my amendment. The responsibility for a closed and secret conference must be from now on borne by the President and the party in power. I hope that our fears will not come true and the great good of which we have spoken and for which we have prayed will yet come to pass.

The PRESIDING OFFICER. Is there objection? The Chair hears none and the amendment is withdrawn.

Mr. TRAMMELL. Mr. President, I desire to propose an amendment to the pending bill.

The PRESIDING OFFICER. The amendment proposed by the Senator from Florida will be stated.

The READING CLERK. On page 2, line 21, after the words "United States," it is proposed to insert the following proviso:

Provided further, That on June 30 and December 31 each year a report shall be made to the President in which shall be set forth, to wit, the name of each officer and employee, the salary of each, and the character of work performed by each; and the said report shall be transmitted to Congress by the President.

Mr. WARREN. Mr. President——

The PRESIDING OFFICER. The Senator from Florida has the floor.

Mr. TRAMMELL. I have offered this amendment with a view of having publicity given——

The PRESIDING OFFICER. The Chair begs the pardon of the Senator from Florida. The Chair had for the moment overlooked the fact that there is a committee amendment now pending, which must first be considered.

Mr. TRAMMELL. Then I will speak to the committee amendment, Mr. President.

It has developed in the course of the debate upon this bill that the Shipping Board proposes to pay to a number of the employees of the board what many of us think are extravagant and exorbitant salaries. The bill in its present shape does not restrict the salaries, for by a majority vote the Senate refused to place any limitation upon the salaries to be paid. I believe, Mr. President, that when we give publicity to public business, as a rule, we get better results from those who are managing the affairs of the Government. I know of nothing that will go further toward forcing reasonable economy and that will accomplish more in the way of having public officials to be careful in the expenditure of public money than for those officials to know that their acts shall become public.

The amendment I have offered is a simple amendment providing that the Shipping Board shall report to the President the name of each employee, the salary paid to each, and the character of the work performed by each employee, and that the President in turn shall transmit that information to the Congress. I for one seeing the disposition on the part of the Shipping Board to start out most extravagantly in the policy pursued by it, especially in the development of attorneys, think that the board should be required to make a report to the President and that the report should be submitted to the Congress in order that in the future Congress may determine whether or not it deems it proper to restrict the salaries which shall be paid to such employees. I have offered the amendment in the hope that it will ultimately result in economy.

We heard all over the United States during the last campaign about the extravagance of the Democratic administration, and we heard it pledged time and time again on the part of Republican candidates that if they were intrusted with the direction of the affairs of the Government they would bring about a substantial reform. We have seen many illustrations demonstrating the fact that those pledges and promises on the part of the Republican aspirants were made to be broken, and one of the most glaring illustrations of that are the developments in connection with the pending bill. It has developed here that a substantial majority of the Members of the Senate, representing the party in control, favor permitting the board to employ attorneys and others at salaries at least as high as $35,000 per annum.

We have also heard considerable in regard to the question of propriety in the matter of those who represent the Government having connection with private agencies. It has developed here that the Republican majority favor permitting the Shipping Board, if it so desires, to go into firms that have claims against the board and which are seeking to prosecute claims against the Government, and employ out of those firms lawyers to sit upon the other hand in representing the Government in passing upon such claims. It is true now as always that a man can not serve two masters.

Mr. President, I think that we should have limited the salaries paid to attorneys and other employees working for the Shipping Board; I think that we should have unquestionably said to the Shipping Board, by affirmative action on the part of the Senate, that we do not commend the policy which the board has set out upon of employing attorneys who have interests conflicting with those of the Government.

I hope my amendment will be adopted, and that, by January 1, at least, we may have information as to the employees of the Shipping Board and the salaries that are being paid to those employees.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee.

Mr. WARREN. Mr. President, I may say that all the information desired by the Senator from Florida is readily available, but I hope we will have first a vote on the pending amendment and that it will be adopted.

The PRESIDING OFFICER. The question is on the amendment of the committee.

Mr. KING. Let the amendment be stated.

The PRESIDING OFFICER. The amendment will be stated.

The READING CLERK. At the top of page 3 it is proposed to insert the following:

DEPARTMENT OF STATE.

Conference on the subject of the limitation of armament: To enable the United States Government suitably to participate in the conference on the subject of the limitation of armament to be held in the city of Washington and for the compensation of delegates or other representatives, clerks, and employees, including personal services in the District of Columbia, notwithstanding the provisions of any other act, expenses of transportation, subsistence, printing in English and other languages (including publication of the proceedings), stationery and supplies, entertainment of delegates, and such other objects as the President may deem necessary, to be disbursed under the direction of the Secretary of State, $200,000, or as much thereof as may be necessary: *Provided*, That a report shall be made to Congress not later than June 30, 1922, of the expenditures hereunder.

The PRESIDING OFFICER. The hour of 12.30 o'clock having arrived, the question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. The question is on concurring in the amendments made as in Committee of the Whole.

The amendments were concurred in.

Mr. TRAMMELL. Mr. President, I now propose the amendment that I sent to the desk just a moment ago.

The PRESIDING OFFICER. The amendment will be stated.

The READING CLERK. On page 2, line 21, after the words "United States," it is proposed to insert the following proviso:

Provided further, That on June 30 and December 31 of each year a report shall be made to the President in which shall be set forth, to wit, the name of each officer and employee, the salary of each, and the character of work performed by each, and the said reports shall be transmitted to Congress by the President.

Mr. JONES of Washington. Mr. President——

The PRESIDING OFFICER. No debate is in order.

Mr. JONES of Washington. A point of order: Under the unanimous-consent agreement, no amendments can be proposed. The unanimous-consent agreement provided for a vote on the pending amendment and on the bill.

The PRESIDING OFFICER. That is the agreement, and the Chair sustains the point of order.

Mr. KING. Mr. President, a parliamentary inquiry. The amendment which was offered by the Senator from Florida [Mr. TRAMMELL] was offered before 12.30 and read, and is clearly within the provisions of the unanimous-consent agreement, and ought to be submitted to the Senate.

The PRESIDING OFFICER. The amendment was out of order when it was proposed, because there was an amendment pending. The Chair will read the agreement, and the Chair desires to call the attention of the Senate——

Mr. KING. Before the Chair reads it, if I may crave the indulgence of the Chair for a moment, if that construction of the Chair were correct then the agreement made yesterday would preclude the offering of any subsequent amendment; and I am sure our learned friend from Wyoming [Mr. WARREN], the leader of the Republican side, would not contend that it was intended to block any amendment. The intention was that at 12.30 we should proceed to vote upon all pending amendments.

Mr. WARREN. The Senator who offers the amendment occupied the floor in talking until after the hour had arrived at which we were to proceed under the unanimous-consent agreement, and we proceeded accordingly.

The PRESIDING OFFICER. Let the Chair read the RECORD, and let the RECORD speak for itself.

The closing paragraph of the agreement is this:

That after the hour of 11.30 o'clock a. m. on said calendar day no Senator shall speak more than once or longer than five minutes upon the bill or more than once or longer than five minutes upon the pending amendment thereto.

Then the Senator from Wyoming [Mr. WARREN] made the following observation:

I wish it distinctly understood, whatever the language may be, that we shall vote at 12.30 to-morrow on the amendment and then on the bill itself to its final disposition.

Mr. LA FOLLETTE. Yes.

Mr. LODGE. That is the way it was provided.

Mr. KING. I so understood it.

Mr. KING. If I may have the attention of the Chair for one moment——

The PRESIDING OFFICER. Debate is out of order. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The question is on the passage of the bill.

Mr. HARRISON and Mr. REED called for the yeas and nays.

Mr. JONES of New Mexico. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JONES of New Mexico. I should like to get the understanding of the Chair as to the last provision. It relates only to debate, as I understand—that the debate shall be limited to five minutes—and, for one, I wish it thoroughly understood that I did not intend to enter into any agreement which could prohibit amendments being offered and voted upon. We were all willing that the debate might be limited.

The PRESIDING OFFICER. In view of the statement by the chairman of the committee and the colloquy upon the floor, the Chair will have to hold that the amendment is out of order, and that the only question now is upon the passage of the bill, upon which the yeas and nays are requested.

Mr. JONES of New Mexico. In order that some of us may record our dissent, I appeal from the decision of the Chair.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. JONES of New Mexico. Upon that I ask for the yeas and nays.

Mr. WARREN. I move to lay the appeal on the table.

Mr. FLETCHER. Mr. President——

The PRESIDING OFFICER. The matter is not debatable.

Mr. FLETCHER. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FLETCHER. It is whether the Chair is controlled by a colloquy taking place on the floor here or by the terms of the unanimous-consent agreement itself. The unanimous-consent agreement itself provides that the vote shall be taken upon all amendments—the amendment then pending, and any others—without further debate.

Mr. LODGE. No; it says "upon the pending amendment"; that is, the committee amendment.

Mr. FLETCHER. "Any amendment that may be pending, and any amendment that may be offered." The amendment was offered——

The PRESIDING OFFICER. The Chair has ruled, and there has been an appeal, and the motion is to lay the appeal on the table. The question is on that motion.

Mr. JONES of New Mexico and Mr. McKELLAR called for the yeas and nays, and they were ordered.

The PRESIDING OFFICER. The Secretary will call the roll.

The reading clerk proceeded to call the roll.

Mr. FLETCHER (when his name was called). I have a general pair with the Senator from Delaware [Mr. BALL], who is absent. I am unable to obtain a transfer, and therefore withhold my vote.

Mr. HALE (when his name was called). I transfer my pair with the senior Senator from Tennessee [Mr. SHIELDS] to the junior Senator from New Hampshire [Mr. KEYES], and will vote. I vote "yea."

Mr. HARRISON (when his name was called). I transfer my general pair with the junior Senator from West Virginia [Mr. ELKINS] to the junior Senator from South Carolina [Mr. DIAL], and will vote. I vote "nay."

Mr. LODGE (when his name was called). I transfer my general pair with the Senator from Alabama [Mr. UNDERWOOD] to the Senator from Vermont [Mr. PAGE], and will vote. I vote "yea."

Mr. SUTHERLAND (when his name was called). I have a general pair with the senior Senator from Arkansas [Mr. ROBINSON]. I transfer that pair to the senior Senator from Iowa [Mr. CUMMINS], and will vote. I vote "yea."

Mr. WARREN (when his name was called). I transfer my pair with the junior Senator from North Carolina [Mr. OVERMAN] to the junior Senator from Delaware [Mr. DU PONT], and will vote. I vote "yea."

The roll call was concluded.

Mr. CALDER. I am paired with the senior Senator from Georgia [Mr. HARRIS]. I transfer that pair to the senior Senator from Pennsylvania [Mr. KNOX], and will vote. I vote "yea."

Mr. McCORMICK. Making the same announcement as yesterday regarding my pair, I will vote. I vote "yea."

Mr. FRELINGHUYSEN. I transfer my general pair with the junior Senator from Montana [Mr. WALSH] to the senior Senator from Maryland [Mr. FRANCE], and will vote. I vote "yea." I will allow this announcement to stand for the day.

Mr. REED. I desire to change my vote from "nay" to "yea."

Mr. FLETCHER. I find that I can make the same transfer as heretofore. I transfer my pair to the Senator from Rhode Island [Mr. GERRY], and will vote. I vote "nay."

Mr. CARAWAY. I have a general pair with the Senator from Illinois [Mr. McKINLEY]. I transfer that pair to the Senator from Nevada [Mr. PITTMAN], and will vote. I vote "nay."

Mr. SMOOT. I have been requested to announce the following pairs:

The Senator from New Mexico [Mr. BURSUM] with the Senator from Louisiana [Mr. RANSDELL];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN]; and

The Senator from Pennsylvania [Mr. PENROSE] with the Senator from Mississippi [Mr. WILLIAMS].

The result was announced—yeas 42, nays 22—as follows:

YEAS—42.

Borah	Harreld	Nelson	Spencer
Brandegee	Jones, Wash.	New	Sterling
Calder	Kellogg	Newberry	Sutherland
Cameron	Ladd	Nicholson	Townsend
Capper	Lenroot	Norbeck	Wadsworth
Dillingham	Lodge	Oddie	Warren
Ernst	McCormick	Phipps	Watson, Ind.
Fernald	McCumber	Poindexter	Weller
Frelinghuysen	McLean	Reed	Willis
Gooding	McNary	Shortridge	
Hale	Moses	Smoot	

NAYS—22.

Ashurst	Harrison	McKellar	Stanley
Broussard	Heflin	Myers	Swanson
Caraway	Hitchcock	Pomerene	Trammell
Culberson	Jones, N. Mex.	Sheppard	Watson, Ga.
Fletcher	King	Simmons	
Glass	La Follette	Smith	

NOT VOTING—32.

Ball	Elkins	Knox	Ransdell
Bursum	France	McKinley	Robinson
Colt	Gerry	Norris	Shields
Cummins	Harris	Overman	Stanfield
Curtis	Johnson	Owen	Underwood
Dial	Kendrick	Page	Walsh, Mass.
du Pont	Kenyon	Penrose	Walsh, Mont.
Edge	Keyes	Pittman	Williams

So the appeal from the ruling of the Chair was laid on the table.

The PRESIDING OFFICER. The question is on the passage of the bill.

Mr. LA FOLLETTE. I ask for the yeas and nays.

The yeas and nays were ordered, and the reading clerk proceeded to call the roll.

Mr. CALDER (when his name was called). Making the same transfer as on the last vote, I vote "yea."

Mr. CARAWAY (when his name was called). I have a general pair with the junior Senator from Illinois [Mr. McKINLEY], which I transfer to the Senator from Nevada [Mr. PITTMAN], and vote "nay."

Mr. FLETCHER (when his name was called). I have a general pair with the senior Senator from Delaware [Mr. BALL]. I understand he would vote as I shall on the bill, and I therefore vote. I vote "yea."

Mr. HALE (when his name was called). Making the same announcement as before of my pair and its transfer, I vote "yea."

Mr. HARRISON (when his name was called). Making the same announcement as on the previous vote, I vote "nay."

Mr. LODGE (when his name was called). Transferring my pair with the senior Senator from Alabama [Mr. UNDERWOOD] to the junior Senator from Vermont [Mr. PAGE], I vote "yea."

Mr. McCORMICK (when his name was called). Making the same announcement as before, I vote "yea."

Mr. TRAMMELL (when his name was called). I transfer my pair with the senior Senator from Rhode Island [Mr. COLT] to the junior Senator from Rhode Island [Mr. GERRY] and vote "nay."

Mr. WARREN (when his name was called). Making the same transfer of my pair as on the last vote, I vote "yea."

The roll call was concluded.

Mr. FRELINGHUYSEN. Making the same announcement as before, I vote "yea."

Mr. SIMMONS. I desire to announce that my colleague [Mr. OVERMAN] is unavoidably absent from the Senate and is paired with the senior Senator from Wyoming [Mr. WARREN]. I ask that this announcement may stand for the day.

Mr. SUTHERLAND. Making the same announcement as before, I vote "yea."

Mr. SMOOT. I desire to announce the following pairs:

The Senator from New Mexico [Mr. BURSUM] with the Senator from Louisiana [Mr. RANSDELL];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN]; and

The Senator from Pennsylvania [Mr. PENROSE] with the Senator from Mississippi [Mr. WILLIAMS].

The result was announced—yeas 50, nays 16, as follows:

YEAS—50.

Brandegee	Harreld	Nelson	Spencer
Broussard	Jones, Wash.	New	Sterling
Calder	Kellogg	Newberry	Sutherland
Cameron	Kenyon	Nicholson	Townsend
Capper	Ladd	Norbeck	Trammell
Curtis	Lenroot	Oddie	Wadsworth
Dillingham	Lodge	Phipps	Walsh, Mass.
Ernst	McCormick	Poindexter	Warren
Fernald	McCumber	Pomerene	Watson, Ind.
Fletcher	McLean	Shortridge	Weller
Frelinghuysen	McNary	Simmons	Willis
Gooding	Moses	Smith	
Hale	Myers	Smoot	

NAYS—16.

Ashurst	Glass	King	Sheppard
Borah	Harrison	La Follette	Stanley
Caraway	Heflin	McKellar	Swanson
Culberson	Hitchcock	Reed	Watson, Ga.

NOT VOTING—30.

Ball	France	McKinley	Robinson
Bursum	Gerry	Norris	Shields
Colt	Harris	Overman	Stanfield
Cummins	Johnson	Owen	Underwood
Dial	Jones, N. Mex.	Page	Walsh, Mont.
du Pont	Kendrick	Penrose	Williams
Edge	Keyes	Pittman	
Elkins	Knox	Ransdell	

So the bill was passed.

Mr. WARREN. I move that the Senate insist upon its amendments, that we ask the House for a conference, and that the Presiding Officer appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. WARREN, Mr. JONES of Washington, and Mr. GLASS conferees on the part of the Senate.

EXTENSION OF EMERGENCY TARIFF AND DYE CONTROL ACTS.

Mr. McCUMBER. Mr. President, I move that the Senate proceed to the consideration of the bill (H. R. 8107) to control importations of dyes and chemicals.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Finance with amendments.

The PRESIDING OFFICER. The Secretary will read the bill.

The Assistant Secretary proceeded to read the bill.

The first amendment of the Committee on Finance was, on page 1, immediately after the enacting clause, to insert the following:

That sections 1, 2, and 3 of the emergency tariff act, approved May 27, 1921, are amended by striking out the words "six months" in each of such sections and inserting in lieu thereof the words "seven months and four days."

The PRESIDING OFFICER. The question is on the amendment of the committee.

Mr. KING. May I inquire of the Senator from North Dakota, who has charge of the bill, the reason for modifying the bill as it came from the House?

Mr. McCUMBER. The purpose was to provide that the emergency tariff act and the dyestuffs embargo act should be continued in effect until the 1st day of January, 1922, and it would require fewer amendments to accomplish that in this way, having the two combined in one, than if we took the House provision as it stood.

Mr. KING. May I inquire of the Senator for information, if there were two bills passed by the House, one dealing with the dye question and the other dealing with the emergency tariff?

Mr. McCUMBER. No; the bill providing for the continuance of the emergency tariff act has not passed the House. It is added as an amendment by the committee to the pending dye control bill.

Mr. KING. Then the amendment which is now to be acted on deals exclusively with the emergency tariff act?

Mr. McCUMBER. The first amendment deals entirely with the emergency tariff act, but the second section deals with the dye question.

Mr. KING. May I inquire of the Senator if he is not willing to perform a surgical operation upon the floor of the Senate, and deal with each of these questions separately, because there are some who would vote for the continuance of the emergency tariff act who will be constrained to vote against this measure because of the iniquitous dye features. It seems to me that the Senator is yoking together two measures, one horribly iniquitous and the other, according to the views of many, not quite so bad, and according to the views of many, very meritorious.

Mr. McCUMBER. There is a class of Senators who would be very willing to vote for the extension of the emergency tariff who would be in favor of separating them on the ground that they did not want to vote for the "iniquitous" dye provisions. But the Committee on Finance has proposed the extension of the emergency tariff act and an amendment to the bill relating to the extension of the dye act, and that is the position in which the bill appears before the Senate. If the Senate, by a majority vote, desires to separate them that can be done. I would not desire, on my part, to forestall any action of the Senate in reference to dividing them if it sees fit to do so. I think the two should go together.

Mr. SMOOT. Mr. President, the emergency act provided, when it passed the Senate, for an embargo for a term of six months. The emergency tariff act provided for the duties on agricultural products for the same time, six months, so that they would both expire on the 27th day of November. But in conference on the dye bill, Mr. President, the six months' embargo on dyestuffs was reduced, by compromise, to three months. As the Senator has stated, the pending bill, as reported to the Senate, extends the time to January 1 in regard to both the dyestuffs embargo and in regard to the rates provided for agricultural products in the emergency tariff act.

If there had not been a compromise on the length of the embargo in the dyestuffs act in the conference on the emergency tariff bill from six months to three months they both would have expired, as I stated, on November 27. But the embargo on dyestuffs must be extended before the 27th of this month or the embargo will be off. As I said yesterday, Mr. President, there is no person who can be more opposed to an embargo than I am.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from North Carolina?

Mr. SMOOT. Yes; I yield to the Senator.

Mr. SIMMONS. I want to ask the Senator if I am not correct in my understanding that, by reason of the change made in conference as to the life of the embargo provision, as contradistinguished from the life of the emergency tariff features, the embargo on dyestuffs will expire about the 27th of this month?

Mr. SMOOT. Yes; the Senator is correct.

Mr. SIMMONS. Whereas the emergency tariff act will not become inoperative until about the 28th of November?

Mr. SMOOT. The 27th of November.

Mr. SIMMONS. That is the difference between the two acts?

Mr. SMOOT. That is the original emergency tariff bill.

Mr. SIMMONS. Yes; I understood that. If there is no further legislation, the embargo expires on the 27th of this month, but the emergency tariff will live until the 27th of November. I wish to ask the Senator this question: There are Senators here who are opposed to the embargo provision and not opposed to the emergency tariff. On the other hand, there are Senators here probably who are opposed to the emergency tariff and not to the dye embargo. If speedy action is desired, why can we not limit the present consideration and action to the embargo proposition; and as the balance of the emergency tariff act will be in effect for three months longer, there will be ample time in which to consider that.

There is an emergency here. The emergency is twofold: First, we desire to take a recess; and if we get into a long debate over the extension of the emergency tariff act we probably will not be able to take that recess, certainly not at the time named in the Senate resolution. If we confine our action to the embargo proposition I think very likely we will be able to get rid of it within a reasonable length of time, so as at least not to interfere with the wishes of the Senate with reference to the recess.

Mr. SMOOT. In answer to the Senator, to repeat what the Senator from North Dakota [Mr. McCUMBER] has stated, there are a great many Senators who desire an extension of the duties provided in the emergency tariff bill on agricultural products and are opposed to the dye embargo provisions. There are others, just as the Senator said, who have no objection at all to the extension of the embargo on dyestuffs. It will be for the Senate to decide that question. But the way the committee reports the bill, I will say to the Senator, is that it extends both until the 1st day of January, 1922; that is, the emergency tariff bill is extended from November 27 to January 1, 1922, and the dyestuffs embargo from the 27th day of August until the 1st day of January, 1922.

Mr. President, I wish to say to the Senator and also to the Senate that if the tariff bill passes Congress before the 1st day of January, or before the 27th day of November, it will repeal the provisions of the emergency tariff bill.

Mr. SIMMONS. That is undoubtedly true.

Mr. SMOOT. The Senator, I think, will agree to that. So the only question involved is whether we want a hiatus between the time of the imposition of the duties in the emergency tariff bill or the embargo in the dye bill and the time that the regular tariff bill passes, if it is beyond November 27.

Mr. POMERENE. Mr. President, I should like to ask the Senator a question, if I may do so.

The PRESIDING OFFICER (Mr. POINDEXTER in the chair). Does the Senator from Utah yield to the Senator from Ohio?

Mr. SMOOT. I yield.

Mr. POMERENE. The Senator just stated that the pending bill extends the emergency tariff measure so far as it relates to agricultural products. Can the Senator explain to us to what extent agriculture has been benefited by the emergency tariff act?

Mr. SMOOT. There is no question that agriculture has been benefited, I will say to the Senator. If the bill had not been passed wheat would be lower than it is to-day. I do not desire to go into that question, because if we do it will take all day.

Mr. POMERENE. I imagine we would have to have a very powerful microscope to discover the benefits.

Mr. SMOOT. I will call the Senator's attention to a letter I received, in which I was asked by a farmer of my own State to take up with the Department of Justice a question for him. He thought he had been robbed by a purchaser of wheat through the passage of the emergency tariff bill. He said that he did not know that the emergency tariff bill was going to pass and that he sold his wheat one day before the passage of the bill and got 92 cents a bushel for it, and that it was not two weeks after that until a farmer neighbor sold his wheat and got just 25 cents a bushel more for it. He wanted the Department of Justice to institute some action against the purchaser of his wheat at 92 cents to compel him to pay the difference of 25 cents.

Mr. President, I wish to conclude in a very few words. I am opposed to an embargo on dyestuffs or any other article of common use, and I shall vote against it whenever it comes up as a separate question; but I am going to vote for the extension of the embargo upon dyestuffs for the simple reason that I wish to be perfectly fair with the dye manufacturers of the country. I want no manufacturer of dyestuffs in this country to say that because of the fact that the embargo ceased upon the 27th day of August, that during the time transpiring between the 27th day of August and the day of the passage of the regular tariff bill there were shipments from Germany in such quantities as virtually to furnish the market for a year or a year and a half. I believe we can give ample protection to the dye industry of the country in the regular rate that may be inserted in the tariff bill.

Mr. POMERENE. Mr. President——

Mr. SMOOT. I am going to ask the Senate to-day to vote for the extension of the embargo upon dyestuffs as they come into this country, and for that reason and that only. I think it is right and I think it is just on the part of Congress and on the part of the dye manufacturers.

I yield to the Senator from Ohio.

Mr. POMERENE. May I ask the Senator to what extent in his judgment the present duty on dyestuffs should be increased, looking at it from his standpoint?

Mr. SMOOT. I will say to the Senator that I am investigating conditions of every dye that is manufactured; I am taking the manufacturer's number of that dye, and I am trying to find out the cost abroad, at least what it is sold for when imported into this country and into foreign countries, before the war and to-day; also the American value of the same dyes where they are made in this country. I can not say to the Senator to-day what rate of duty will be necessary. I do know, however, that in my investigation so far there must be two classes of dyes, if not three, and in those classes, three if it be three, or two if it be two, there will be a great difference in the rates.

Mr. POMERENE. If I may ask another question, I understand during the calendar year 1920 we imported dyes into the country aggregating about $5,000,000 in value. During that same calendar year we exported dyes aggregating in value about $29,000,000. Under those circumstances it has seemed to me that we were able to obtain reasonable markets abroad for our surplus.

Mr. SMOOT. That is not because we could not have imported the goods but on account of the embargo——

Mr. POMERENE. I hope the Senator does not think I am in favor of the embargo.

Mr. SMOOT. No; I am in favor of the extension now until the passage of the regular tariff bill, because, if the Senator will read the act imposing duties on dyestuffs, and if he will go into the question at all, he, as will every Senator who does it, must come to the conclusion that they are not sufficient. But when it was made, as far as the dye industry was concerned in this country, both in 1919 and in 1913, conditions were not known as they are to-day. I will say to the Senator that the reason for the small importations of dyestuffs was because of the embargo.

Mr. POMERENE. Oh, Mr. President, I understand, of course, that the embargo prevented importations. I realize that fully, but I was referring more particularly to the large amount of exports, comparatively speaking. Certainly those dyes that we exported must have come in competition somewhat with the other dyes.

Mr. SMOOT. Ninety per cent of the exports consisted of few articles, particularly synthetic indigo and sulphur black. Sulphur black has been made in this country for 30 years. It is the commonest kind of dye. The raw materials are all here in our country and we can make sulphur black as against nearly every country in the world to-day. But we can not make synthetic indigo in competition, and the only reason that we exported synthetic indigo was because of the fact that up to that time Germany had not got back into the manufacture of synthetic indigo and so we shipped it even to Europe.

Our great market to-day is China; that is, our export market. But just as soon as Germany gets back to manufacturing synthetic indigo by the millions of millions of pounds, she is going to take all the markets outside of the United States. Synthetic indigo during the war sold as high as $1.10 a pound. I saw a letter from an American manufacturer only this morning offering it for 32 cents a pound.

Mr. POMERENE. But that was due peculiarly to war conditions at that time.

Mr. SMOOT. Partially so, I will say to the Senator, but there is another reason. It cost more to make synthetic indigo in America when it was first started than it does now; in fact double the amount.

Mr. REED. What did it sell for before the war in the open market?

Mr. SMOOT. It was selling in the open market before the war at between 40 and 50 cents a pound. It is an article that was changing in price according to the demand, and America did not make a pound of it at that time.

Mr. McCUMBER. Mr. President, I simply wish Senators to understand the reasons for reporting both the bills. When the dye bill was passed and became a law, it was understood that between the date on which it became a law and the date on which that law would expire we would have passed subsequent legislation that would deal with the importation of dyes either by an embargo or by such tariff protection as the industry needed in this country. We have failed to do so.

Now, we are asking for a recess of about four weeks. I am not certain whether we will secure that recess or not, but certainly if we do it will be an impossibility to pass any bill that will take the place of the emergency tariff law, and that, like the dye bill, was given a limited existence with the understanding that the new tariff law would go into effect before the expiration of the time in which that law would remain effective.

The spirit of our intent at that time was that both of these laws should be repealed by subsequent statutes before their expiration by limitation. While one law will not expire until November 27 next, in all probability it will be impossible for the new tariff law to go into effect by that date. It would be absolutely certain that it could not do so if we have our proposed recess. Therefore, conforming to what we intended at the time we passed both those laws, we are now asking for a further extension until the permanent provision may be made in a new law.

Mr. POMERENE. Will the Senator from North Dakota yield for a question?

Mr. McCUMBER. Certainly.

Mr. POMERENE. Has the Committee on Finance progressed far enough with its hearings and its determinations with respect to the tariff bill for the Senator from North Dakota to state whether or not the permanent legislation will contain substantially the same duties that are placed upon the various articles included in the emergency tariff law?

Mr. McCUMBER. The committee has not considered the agricultural schedule of the bill at all nor the dye proposition. Therefore, I can express no opinion whatever as to what the committee will in all probability do. Undoubtedly there will be considerable change in the dye law, and some change, at least, in the other measure, but what the changes will be I can not say. All that we are now asking is that the two laws may be extended until Congress may permanently pass upon the questions involved.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from North Dakota yield to the Senator from North Carolina?

Mr. McCUMBER. I yield.

Mr. SIMMONS. I understood the Senator from North Dakota to say in his first statement that the Senate could, if it desired, separate these two parts of the bill; that is, separate the embargo section of it from the emergency tariff section. Will the Senator indicate how that might be done? Of course, I understand that we could vote down the Finance Committee amendment adding the emergency tariff bill; but that, as the Senator understands, would make it necessary for us to discuss the emergency tariff at such length as the Senators may feel disposed to discuss it.

Mr. McCUMBER. Certainly.

Mr. SIMMONS. If we could have a vote by which we could, without passing upon the amendment of the committee, vote to separate these two propositions, I should be very glad to make that motion, but I can not conceive of how that may be done. It seems to me the only way to meet the situation is first to take up the question of whether we will amend the House bill by adding the emergency tariff bill to the dye-embargo provision.

Mr. McCUMBER. Of course, the matter could be settled by a single motion to disagree to the committee amendment, but I hope that that will not be done. I also hope there will be no prolonged debate upon the emergency tariff proposal. Remember, there are only a month and four days' difference between the life of the emergency tariff law as it now stands and as it would stand in case the extension is granted. That law expires on the 27th day of November next. We have asked that the time be extended until the 1st day of the following January. That, I believe, would be 34 days, and even under arguments which have been made on the other side of the Chamber I do not think any irreparable damage can possibly befall the country from the proposed action. If, as is claimed, no benefit whatever has been derived from the emergency tariff law, then certainly no one has suffered from that law, and the argument which may be made against the continuance of the emergency tariff, on the ground that no benefits have accrued to anybody, is equally effective as a declaration that no injury has been occasioned to anyone.

Mr. HITCHCOCK. Mr. President, we on this side of the Chamber can not assent to the proposition that no injury has been done by that law. It has caused retaliatory action by other countries whose products we have discriminated against. It is one of the causes of the enormous decline in our exports.

Mr. McCUMBER. I hardly think so, Mr. President.

Mr. SIMMONS. If the Senator will pardon me, I did not intend by my question at this time to provoke a discussion of the emergency tariff law. I was merely trying to see if the Senator from North Dakota had in his mind any way by which we could get rid of the committee amendment without having to vote upon it, for if we vote upon it undoubtedly there is going to be a right smart debate.

Mr. McCUMBER. I know of no other way than that which I have suggested, and I think we shall have to take our chances on having "a right smart debate" upon the matter.

Mr. JONES of New Mexico. Mr. President, may I suggest that these two items in the bill are entirely separate and will be voted upon separately when we come to consider the bill and act upon it. The very first vote that will be taken, as I understand, will be upon the committee amendment inserting a new section practically continuing the life of the emergency tariff law.

Mr. McCUMBER. I am ready to take that vote now and settle that proposition.

Mr. JONES of New Mexico. I do not see that there is any reason why there could not be and why there shall not necessarily be a separate vote upon each of these items.

Mr. SIMMONS. Undoubtedly there is going to be a separate vote, but that separate vote will determine the question of whether the emergency tariff law is to be extended or not, and as that separate vote will determine that question, we will necessarily want to debate the question before the vote is taken. If we could separate these questions by a vote, taking a vote which would not either adopt or reject the emergency tariff proposal, but would settle the question of dividing the two, it would simplify the matter; but I do not think that is possible.

Mr. McCUMBER. Let me suggest to the Senator that we take an immediate vote upon the first committee amendment, and if that vote is successful then we eliminate all debate on the emergency tariff. If it is not successful, no advantage will be lost. So we will save a great deal of time and argument, possibly, by having an immediate vote upon the question whether that amendment shall be included in this bill.

Mr. SIMMONS. That proposition amounts to nothing except that we act upon the amendment without debate, and of course I could not consent to that.

Mr. McCUMBER. The Senator may avoid the debate that he desires to avoid.

HOUSE BILL AND JOINT RESOLUTION REFERRED.

The following bill and joint resolution were each read twice by title and referred as indicated below:

H. R. 8331. An act to amend the transportation act, 1920, and for other purposes; to the Committee on Interstate Commerce.

H. J. Res. 195. Joint resolution authorizing the payment of salaries of officers and employees of Congress for August, 1921; to the Committee on Appropriations.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED.

Mr. SUTHERLAND, from the Committee on Enrolled Bills, reported that on August 19, 1921, they had presented the following enrolled bills and joint resolution to the President of the United States:

S. 1794. An act to authorize the Secretary of War to release the Kansas City & Memphis Railroad & Bridge Co. from reconstructing its highway and approaches across its bridge at Memphis, Tenn.;

S. 2301. An act granting the consent of Congress to Old Trail's Bridge Co. to construct a bridge across the Missouri River; and

S. J. Res. 88. Joint resolution granting consent of Congress to an agreement or compact entered into between the State of New York and the State of New Jersey for the creation of the port of New York district and the establishment of the port of New York authority for the comprehensive development of the port of New York.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, one of his secretaries, announced that the President had approved and signed bills of the following titles:

On August 18, 1921:

S. 1934. An act granting the consent of Congress to the Huntington & Ohio Bridge Co. to construct, maintain, and operate a highway and street railway bridge across the Ohio River between the city of Huntington, W. Va., and a point opposite in the State of Ohio.

On August 22, 1921:

S. 1794. An act to authorize the Secretary of War to release the Kansas City & Memphis Railroad & Bridge Co. from reconstructing its highway and approaches across its bridge at Memphis, Tenn.; and

S. 2301. An act granting the consent of Congress to Old Trail's Bridge Co. to construct a bridge across the Missouri River.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5676) taxing contracts for the sale of grain for future delivery, and options for such contracts, and providing for the regulation of boards of trade, and for other purposes.

FUTURE GRAIN DELIVERY—CONFERENCE REPORT.

Mr. CAPPER. I present the report of the committee of conference on the disagreeing votes of the two Houses upon the amendments of the Senate to the bill (H. R. 5676) taxing contracts for the sale of grain for future delivery, and options for such contracts, and providing for the regulation of boards of trade, and for other purposes, and I ask for its present consideration.

The PRESIDING OFFICER. The report will be read.

The Assistant Secretary read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5676) taxing contracts for the sale of grain for future delivery, and options for such contracts, and providing for the regulation of boards of trade, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate, and agree to the same with an amendment as follows: In lieu of the matter proposed by the Senate amendment insert:

"That this act shall be known by the short title of 'The Future Trading Act.'

"SEC. 2. That for the purposes of this act 'contract of sale' shall be held to include sales, agreements of sale, and agreements to sell. That the word 'person' shall be construed to import the plural or singular and shall include individuals, associations, partnerships, corporations, and trusts. That the word 'grain' shall be construed to mean wheat, corn, oats, barley, rye, flax, and sorghum. The term 'future delivery,' as used herein, shall not include any sale of cash grain for deferred shipment or delivery. The words 'board of trade' shall be held to include and mean any exchange or association, whether incorporated or unincorporated, of persons who shall be engaged in the business of buying or selling grain or receiving the same for sale on consignment. The act, omission, or failure of any official, agent, or other person acting for any individual, association, partnership, corporation, or trust within the scope of his employment or office shall be deemed the act, omission, or failure of such individual, association, partnership, corporation, or trust, as well as of such official, agent, or other person.

"SEC. 3. That in addition to the taxes now imposed by law there is hereby levied a tax amounting to 20 cents per bushel on each bushel involved therein, whether the actual commodity is intended to be delivered or only nominally referred to, upon each and every privilege or option for a contract either of purchase or sale of grain, intending hereby to tax only the transactions known to the trade as 'privileges,' 'bids,' 'offers,' 'puts and calls,' 'indemnities,' or 'ups and downs.'

"SEC. 4. That in addition to the taxes now imposed by law there is hereby levied a tax of 20 cents a bushel on every bushel involved therein, upon each contract of sale of grain for future delivery except—

"(a) Where the seller is at the time of the making of such contract the owner of the actual physical property covered thereby, or is grower thereof, or in case either party to the contract is the owner or renter of land on which the same is to be grown, or is an association of such owners, or growers of grain, or of such owners or renters of land; or

"(b) Where such contracts are made by or through a member of a board of trade which has been designated by the Secretary of Agriculture as a 'contract market,' as hereinafter provided, and if such contract is evidenced by a memorandum in writing which shows the date, the parties to such contract and their addresses, the property covered and its price, and the terms of delivery, and provided that each board member shall keep such memorandum for a period of three years from the date thereof, or for a longer period if the Secretary of Agriculture shall so direct, which record shall at all times be open to the inspection of any representative of the United States Department of Agriculture or the United States Department of Justice.

"SEC. 5. That the Secretary of Agriculture is hereby authorized and directed to designate boards of trade as 'contract markets' when, and only when, such boards of trade comply with the following conditions and requirements:

"(a) When located at a terminal market upon which cash grain is sold in sufficient volume and under such conditions as fairly to reflect the general value of the grain and the difference in value between the various grades of grain, and having recognized official weighing and inspection service.

"(b) When the governing board thereof provides for the making and filing, by the board or any member thereof, as the Secretary of Agriculture may direct, of reports in accordance with the rules and regulations, and in such manner and form and at such times as may be prescribed by the Secretary of Agriculture, showing the details and terms of all transactions entered into by the board, or the members thereof, either in cash transactions consumed at, on, or in a board of trade, or transactions for future delivery, and when such governing board provides, in accordance with such rules and regulations, for the keeping of a record by the board or the members of the board of trade, as the Secretary of Agriculture may direct, showing the details and terms of all cash and future transactions entered into by them, consummated at, on, or in a board of trade, such record to be in permanent form, showing the parties to all such transactions, any assignments or transfers thereof, with the parties thereto, and the manner in which said transactions are fulfilled, discharged, or terminated. Such record shall be required to be kept for a period of three years from the date thereof, or for a longer period if the Secretary of Agriculture shall so direct, and shall at all times be open to the inspection of any representative of the United States Department of Agriculture or United States Department of Justice.

"(c) When the governing board thereof prevents the dissemination, by the board or any member thereof, of false, misleading, or inaccurate report concerning crop or market information or conditions that affect or tend to affect the price of commodities.

"(d) When the governing board thereof provides for the prevention of manipulation of prices, or the cornering of any grain, by the dealers or operators upon such board.

"(e) When the governing board thereof admits to membership thereof and all privileges thereon on such boards of trade any duly authorized representative of any lawfully formed and conducted cooperative associations of producers having adequate financial responsibility: *Provided*, That no rule of a contract market against rebating commissions shall apply to the distribution of earnings among the bona fide members of any such cooperative association.

"(f) When the governing board shall provide for making effective the final orders or decisions entered pursuant to the provisions of paragraph (b), section 6, of this act.

"SEC. 6. That any board of trade desiring to be designated a 'contract market' shall make application to the Secretary of Agriculture for such designation and accompany the same with a showing that it complies with the above conditions, and with a sufficient assurance that it will continue to comply with the above requirements.

"(a) A commission composed of the Secretary of Agriculture, the Secretary of Commerce, and the Attorney General is authorized to suspend for a period not to exceed six months or to revoke the designation of any board of trade as a 'contract market' upon a showing that such board of trade has failed or is failing to comply with the above requirements or is not enforcing its rules of government made a condition of its designation as set forth in section 5. Such suspension or revocation shall only be after a notice to the officers of the board of trade affected and upon a hearing: *Provided*, That such suspension or revocation shall be final and conclusive unless within 15 days after such suspension or revocation by the said commission such board of trade appeals to the circuit court of appeals for the circuit in which it has its principal place of business by filing with the clerk of such court a written petition praying that the order of the said commission be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such board of trade will pay the costs of the proceedings if the court so directs. The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to the Secretary of Agriculture, chairman of said commission, or any member thereof, and the said commission shall forthwith prepare, certify, and file in the court a full and accurate transcript of the record in such proceedings, including the notice to the board of trade, a copy of the charges, the evidence, and the report and order. The testimony and evidence taken or submitted before the said commission duly certified and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the circuit court of appeals shall be made a preferred cause and shall be expedited in every way. Such a court may affirm or set aside the order of the said commission or may direct it to modify its order. No such order of the said commission shall be modified or set aside by the circuit court of appeals unless it is shown by the board of trade that the order is unsupported by the weight of the evidence or was issued without due notice and a reasonable opportunity having been afforded to such board of trade for a hearing, or infringes the Constitution of the United States, or is beyond the jurisdiction of said commission: *Provided further*, That if the Secretary of Agriculture shall refuse to designate as a contract market any board of trade that has made application therefor, then such board of trade may appeal from such refusal to the commission described therein, consisting of the Secretary of Agriculture, the Secretary of Commerce, and the Attorney General of the United States, with the right to appeal as provided for in other cases in this section, the decision on such appeal to be final and binding on all parties interested.

"(b) That if the Secretary of Agriculture has reason to believe that any person is violating any of the provisions of this act, or is attempting to manipulate the market price of any grain in violation of the provisions of section 5 hereof, or of any of the rules or regulations made pursuant to its requirements, he may serve upon such person a complaint stating his charge in that respect, to which complaint shall be attached or contained therein a notice of hearing, specifying a day and place not less than three days after the service thereof, requiring such person to show cause why an order should not be made directing that all contract markets until further notice of the said commission refuse all trading privileges thereon to such person. Said hearing may be held in Washington, District of Columbia, or elsewhere, before the said commission, or before a referee designated by the Secretary of Agriculture, who shall cause all evidence to be reduced to writing and forthwith transmit the same to the Secretary of Agriculture as chairman of the said commission. That for the purpose of securing effective enforcement of the provisions of this act the provisions, including penalties, of section 12 of the interstate commerce act, as amended, relating to the attendance and testimony of witnesses, the production of documentary evidence, and the immunity of witnesses, are made applicable to the power, jurisdiction, and authority of the Secretary of Agriculture, the said commission, or said referee in proceedings under this act, and to persons subject to its provisions. Upon evidence received the said commission may require all contract markets to refuse such person all trading privileges thereon for such period as may be specified in said order. Notice of such order shall be sent forthwith by registered mail or delivered to the offending person and to the governing boards of said contract markets. After the issuance of the order by the commission, as aforesaid, the person against whom it is issued may obtain a review of such order or such other equitable relief as to the court may seem just by filing in the United States circuit court of appeals of the circuit in which the petitioner is doing business a written petition praying that the order of the commission be set aside. A copy of such petition shall be forthwith served upon the commission by delivering such copy to its chairman, or to any member thereof, and thereupon the commission shall forthwith certify and file in the court a transcript of the record theretofore made, including evidence received. Upon the filing of the transcript the court shall have jurisdiction to affirm, to set aside, or modify the order of the commission, and the findings of the commission as to the facts, if supported by the weight of evidence, shall in like manner be conclusive. In proceedings under paragraphs (a) and (b) the judgment and decree of the court shall be final except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 240 of the Judicial Code.

"SEC. 7. That the tax provided for herein shall be paid by the seller, and such tax shall be collected either by the affixing of stamps or by such other method as may have been prescribed by the Secretary of the Treasury by regulations, and such regulations shall be published at such times and in such manner as shall be determined by the Secretary of the Treasury.

"SEC. 8. That any board of trade that has been designated a contract market, in the manner herein provided, may have such designation vacated and set aside by giving notice in writing to the Secretary of Agriculture requesting that its designation as a contract market be vacated, which notice shall be served at least 90 days prior to the date named therein, as the date when the vacation of designation shall take effect. Upon receipt of such notice the Secretary of Agriculture shall forthwith order the vacation of the designation of such board of trade as a contract market, effective upon the day named in the notice, and shall forthwith send a copy of the notice and his order to all other contract markets. From and after the date upon which the vacation became effective, the said board of trade can thereafter be designated again a contract market by making application to the Secretary of Agriculture in the manner herein provided for an original application.

"SEC. 9. That the Secretary of Agriculture may make such investigations as he may deem necessary to ascertain the facts regarding the operations of boards of trade and may publish from time to time, in his discretion, the result of such investigation, and such statistical information gathered therefrom, as he may deem of interest to the public, except data and information which would separately disclose the business transactions of any person, and trade secrets or names of customers: *Provided*, That nothing in this section shall be construed to prohibit the Secretary of Agriculture from making or issuing such reports as he may deem necessary, relative to the conduct of any board of trade, or of the transactions of any person found guilty of violating the provisions of this act under the proceedings prescribed in section 6 of this act: *Provided further*, That the Secretary of Agriculture in any report may include the facts as to any actual transaction. The Secretary of Agriculture, upon his own initiative or in cooperation with existing governmental agencies, shall investigate marketing conditions of grain and grain products, and by-products, including supply and demand for these commodities, cost to the consumer, and handling and transportation charges. He shall likewise compile and furnish to producers, consumers, and distributors, by means of regular or special reports, or by such methods as he may deem most effective, information respecting the grain markets, together with information on supply, demand, prices, and other conditions, in this and other countries that affect the markets.

"SEC. 10. That any person who shall fail to evidence any such contract by a memorandum in writing; or to keep the record, or make a report, or who shall fail to pay the tax, as provided in sections 4 and 5 hereof, or who shall fail to pay the tax required in section 3 hereof, shall pay in addition to the tax a penalty equal to 50 per cent of the tax levied against him under this act and shall be guilty of a misdemeanor, and upon conviction thereof be fined not more than $10,000 or imprisoned for not more than one year, or both, together with the costs of prosecution.

"SEC. 11. That if any provision of this act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the act and of the application of such provision to other persons and circumstances shall not be affected thereby.

"SEC. 12. That no tax shall be imposed by this act within four months after its passage, and no fine, imprisonment, or other penalty shall be enforced for any violation of this act occurring within four months after its passage.

"SEC. 13. The Secretary of Agriculture may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees, not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, telegrams, telephones, law books, books of reference, periodicals, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this act in the District of Columbia and elsewhere, and there is hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for such purposes."

And the Senate agree to the same.

ARTHUR CAPPER,
CHAS. L. MCNARY,
E. D. SMITH,
Managers on the part of the Senate.

G. N. HAUGEN,
J. C. MCLAUGHLIN,
J. N. TINCHER,
J. W. RAINEY,
J. B. ASWELL,
Managers on the part of the House.

The PRESIDING OFFICER. The Senator from Kansas [Mr. CAPPER] requests the present consideration of the conference report which has just been read.

Mr. MCCUMBER. Under the rule that does not displace the unfinished business.

The PRESIDING OFFICER. It is a privileged question and does not displace the unfinished business. Is there objection to the request of the Senator from Kansas? The Chair hears none. The question is on agreeing to the conference report.

The report was agreed to.

EXTENSION OF EMERGENCY TARIFF AND DYE CONTROL ACTS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 8107) to control importations of dyes and chemicals.

The PRESIDING OFFICER. The question is on agreeing to the first amendment reported by the Committee on Finance.

Mr. HITCHCOCK. Mr. President, I am rather surprised that an attempt should be made to continue the emergency tariff law in force. When the emergency tariff itself, so far as agricultural and other products are concerned, does not expire until the 28th day of November, why is an attempt made now, on the eve of a possible adjournment, to yoke up the emergency tariff law affecting agricultural products with the infamous embargo on dyestuffs?

It is for the evident purpose of compelling some who believe in the emergency tariff to carry along with it the prohibition against the importation of dyes and dyestuffs.

Mr. President, the dyestuff prohibition does expire on the 27th of the present month, and, unless this bill is passed now, dyes and dyestuffs will be admitted under the existing high protective tariff schedules. It is, therefore, necessary, in the view of those who support the dye embargo, to act upon it now. There is, however, no excuse for acting upon a bill to extend the emergency tariff from November 28 until January 1. The only reason it is brought in here is to help out the dyestuff monopoly.

Mr. SMOOT. The Senator is in error as to that.

Mr. HITCHCOCK. Let us consider the emergency tariff on agricultural and other products. When that bill was proposed great promises were made as to the benefits to be conferred, particularly upon the agricultural classes. That law has been in effect for three months, and is it not about time that those who advocated offering that gold brick to the agricultural classes of the United States should stand here in the Senate and show, if they can, the benefit that it has brought to the agriculturists whom they have deceived?

Mr. McCUMBER. Mr. President, does the Senator wish to yield for that purpose?

Mr. HITCHCOCK. I hope the Senator will take the floor in his own time and not interfere with my speech; but I trust he will not omit to discuss the benefits which have followed the enactment of the law.

Mr. McCUMBER. I did not know but that the Senator wanted an answer right now, and, if he did, I was ready to give it.

Mr. HITCHCOCK. I prefer to give the Senator something to talk about, and I have some figures here to which I invite his particular attention.

It is not necessary for those who opposed this emergency tariff to show its utter failure. It ought to be the duty of those who supported the tariff to demonstrate at this time the wonderful benefits which have come to the agricultural classes as the result of a three months' trial. They do not do it, and they can not do it, because the statistics do not justify any such position.

Mr. SMOOT. Mr. President, will the Senator yield? The Senator made a positive statement there which I think, if he had stopped to consider the matter, he would not have made. It is true that the statistics show that the prices of those articles are lower to-day than they were in many, many cases before; but if it had not been for the emergency tariff, where would they have gone?

Mr. HITCHCOCK. Oh, that will do very well. I am talking about facts. The Senator can make his predictions, but the time for predictions has passed. You could stand in your place and make predictions when you advocated extending that gold brick to the agriculturists of the United States; but now the time has come for you to make good and to tell the benefits that have been derived from it.

Mr. SMOOT. And the Senator can not find an agriculturist in the United States or a farmer anywhere but that is in favor of the rates in the emergency tariff bill, and knows that if they were repealed his products would be lower than they are.

Mr. REED. You can not find three farmers in Missouri that do not regard it as a fraud.

Mr. SMOOT. That is perfect nonsense.

Mr. HITCHCOCK. I represent an agricultural State, a State which is possibly greater in agriculture than the State which the Senator from Utah represents; and I will say to the Senator that the farmers of my State regard this bill simply as a gold brick. I said that they would regard it as such, and I say that they do regard it as such now.

The Senator's frank admission that the statistics are against him is very interesting.

Mr. SMOOT. No more than they are on every other commodity.

Mr. HITCHCOCK. I am rather surprised that the admission is given so promptly. I wonder what the Senator from North Dakota will say when he comes to discuss the figures.

Mr. McCUMBER. Shall I tell the Senator?

Mr. HITCHCOCK. No; Mr. President——

Mr. McCUMBER. I will say that on May and July wheat we got all the way from 20 to 43 cents a bushel more than we would have gotten had we not passed the emergency tariff bill.

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from North Dakota?

Mr. HITCHCOCK. No; I do not.

Mr. McCUMBER. I did not ask the Senator to yield.

Mr. HITCHCOCK. I do not yield for the interjection of one of the Senator's predictions. I have said that the time for prediction is past. The time for proof has arrived. At the time this bill was passed, which promised to give better prices to the farmers for their wheat, No. 2 red winter wheat was selling in Chicago at $1.48 a bushel. Now, has that price been increased? Has the farmer who raises and sells wheat been benefited? Let us see what wheat is selling for now in Chicago.

Mr. SMOOT. Does the Senator want an answer to that question now?

Mr. HITCHCOCK. I am going to give the answer myself, and I am giving it from official figures. The same wheat which at the time the bill passed, three months ago, was selling for $1.48 a bushel in Chicago is now selling for $1.25½ per bushel.

Mr. SMOOT. Will the Senator right there say what that same wheat was selling for in Canada on that date and what it is selling for now?

Mr. HITCHCOCK. No; I shall give my figures and allow the Senator to give his own.

Mr. SMOOT. We can do it.

Mr. HITCHCOCK. There is no method by which these prophetic statesmen, who assured the farmers that the life of this bill would be of great benefit to them, can now go to the farmers of the West and convince them that the decline in the price of wheat from $1.48 to $1.25½ during the life of this bill has been of any benefit to them; and no amount of prediction for the future, no amount of explanation can overcome the fact that during the life of this bill wheat in Chicago has declined from $1.48 to $1.25 a bushel. That fact stands out as an unanswerable condemnation of the attempt to bolster up the price of wheat by legislation.

The farmers of the West know that when they raise wheat they raise it for the world's markets. They know that when they raise wheat they raise a product which is regulated by the world's market and not by the legislation of the Congress of the United States. They knew when this bill was passed that it was a delusion and a snare; it was a gold brick offered to them; it was an attempt to get them to accept the idea of a protective tariff.

Now, we will take flour—wheat flour. At the time this bill was passed it was selling in Chicago at $8.25.

I have not the August quotation, but the July quotation on that flour is $7.

Take corn. My State is a great producer of corn. This year it is raising an enormous crop of corn. No doubt the Senators who supported this emergency tariff on agricultural products conceived that they would find favor for their party with the hundreds of thousands of men interested in the corn product of their States and of the West generally. What has been the course of the price of corn since that wonderful bill was passed which was supposed to aid the farmers of the West? Corn at the time this bill was passed was selling in the Chicago markets at 61 cents. Now it is selling at 57½ cents; and the price of corn in the West is so low and the freight rates, incidentally, are so high that the farmers are threatening to use it for fuel. I should like to see some statesman on the other side who has advocated the idea of a tariff on agricultural products go out before an audience of western corn raisers and attempt to demonstrate to them that the price of corn has been favorably affected by this legislation.

Take potatoes. They were subjected to a tariff in this emergency tariff bill. Potatoes at that time were selling for $4.14 a bushel. The August quotation on potatoes is $2.92 a bushel. Do you think the potato raisers are going to conclude that they have been benefited by this tariff Yet that tariff was devised for the very purpose of winning the support of the potato raisers to those who advocated high protective tariffs as a matter of national policy.

Mr. REED. They were all told that farm produce would go up.

Mr. HITCHCOCK. Yes; as the Senator from Missouri says, they were all told that as a result of this wonderful, this magical legislation, this emergency legislation that was needed immediately, that could not wait for the regular tariff bill to be enacted—it had to be done at once, so as to give them instant relief—they were told that the price of potatoes would advance if only a tariff were put upon potatoes to prevent a few bushels from coming into this country from Canada; but, instead of having advanced, the price of potatoes has fallen from $4.14 to $2.92.

Mr. SIMMONS. Mr. President, I should like to inquire of the Senator if he has investigated the question of what effect this bill has had upon the prices of live stock?

Mr. HITCHCOCK. I have somewhat. Take cattle. In Chicago at the time this bill was passed cattle were selling for $8.50. The last quotation on cattle which was given me by the United States Bureau of Markets and Crop Estimates places

the present price of cattle at $7.88. In other words, this wonderful protection, this great tariff extended by the Republican majority as a hurry-up measure, as an emergency matter to bring instant relief, if it has had any effect at all, has brought the price of cattle down from $8.50 to $7.88.

I am not saying that legislation has any effect. What I am saying is that when the responsible majority of this Congress hurriedly passed that emergency tariff bill for the purpose of bringing instant relief they extended a gold brick, as I stated at the time, to the agricultural interests of this country, and the experience of three months proves it. Cattle have fallen in price during that time from $8.50 a hundred to $7.88 a hundred.

Mr. McLEAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Connecticut?

Mr. HITCHCOCK. I yield to the Senator from Connecticut.

Mr. McLEAN. I think the Senator will have to tell us what the price of wheat and meat would be without the tariff before he can draw any very accurate deduction as to the effect of the tariff.

Mr. HITCHCOCK. I think possibly the Senator came into the Chamber since I met that issue. I say this is not a question of prediction. You could predict and you could prophesy and you could speculate when you asked for the passage of this emergency tariff, but the time has come now for you to make proof, and I say the proof is against you. The figures show that your bill has been utterly useless as far as the agricultural interests of the country are concerned, and that instead of advancing prices, as you predicted would be the case under the emergency tariff, the prices have gone down.

Mr. McLEAN. It is pretty hard to tell what the price of wheat would be to-day if it had not been for the tariff.

Mr. HITCHCOCK. I would not try it, then, under those circumstances. That is a mere speculation.

Mr. McLEAN. It might have been a dollar instead of a dollar and a quarter; so that the Senator's argument, of course, is altogether speculative.

Mr. HITCHCOCK. I hardly think so. It is based on facts.

Mr. REED. Mr. President, if the Senator will permit me——

Mr. HITCHCOCK. I yield to the Senator from Missouri.

Mr. REED. The difficulty with that argument is that the Senators on the other side of the Chamber solemnly informed us that this bill would put the prices up; not that it would prevent them from going down as fast as they would otherwise go, but that it would advance the prices; and I can quote the RECORD on them on that point.

Mr. HITCHCOCK. That is absolutely true.

Mr. REED. More than that, the answer to the claim now that wheat might have gone still lower is found in the fact that wheat and corn have steadily followed the world market, and it will hardly be claimed that this tariff bill controls the world market.

Mr. HITCHCOCK. Mr. President, the Senator from North Carolina [Mr. SIMMONS] suggested live stock. I have referred to cattle. Coming to lambs, we find that they were quoted at $11 per hundred at the time this bill was passed, which was designed to increase their price for the benefit of the lamb raisers. Now what are they quoted at? They are selling in the market for $9.50 a hundred. They have fallen $1.50 a hundred, instead of advancing, as was predicted to be the result under this wonderful bill.

Mr. McLEAN. Mr. President, does the Senator from Nebraska claim that the effect of this law has been to reduce prices below what they would have been?

Mr. HITCHCOCK. Not at all. What I have claimed is that Congress has no power and no ability by legislation to change the prices of articles which we raise in this country to an extent greater than we can consume. We raise all those articles and export them, and the price of our export surplus is controlled by the world supply and demand and can not be controlled by Congress. When Congress puts a tariff on articles which we export Congress is indulging in a confidence game upon those who raise these articles, and the men who raise these articles know it.

Mr. GOODING. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Idaho?

Mr. HITCHCOCK. I do.

Mr. GOODING. I should like to ask the Senator if the Democratic position on the tariff has not been all the time that a tariff increases the cost of living? Is not that the position that the Democratic Party has always taken?

Mr. HITCHCOCK. Yes; it does when it is placed upon articles which we import, but when it is placed upon articles that we export it has no more effect than the writing that the Senator might do with his finger in the sand on the seashore.

Mr. FLETCHER. Mr. President, I know the Senator is disposed to give all the credit that is due to the emergency tariff legislation that he can possibly give it, and in this connection, if the Senator has looked into the effect of the tariff of 2 cents a pound on lemons, let me ask if it has had the effect of benefiting the Lemon Trust to any extent, and is not that perhaps the only benefit that the bill has had—to benefit the Lemon Trust by the imposition of that duty?

Mr. HITCHCOCK. Mr. President, I will say to the Senator that I have not pursued my inquiries beyond those articles raised in my own section of the country, and I will be very glad to have the Senator contribute anything he has on the subject of lemons. Nebraska sometimes gets a lemon, but it has never raised a lemon. We feel that we got something of a lemon when our producers were offered this miserable pretense at protection in the shape of a tariff on articles which we export.

Mr. GOODING. I call the Senator's attention to the imports of wheat during the months of March and April, those 60 days, and then again the imports on wheat during June and July. I call the Senator's attention to the fact that in March and April there were imported into this country 7,122,000 bushels of wheat when it was on the free list. Under the emergency tariff bill, when there was a protection of 35 cents a bushel, there were imported 1,186,000 bushels, and the Government collected a revenue of $251,520. If it did not increase the price of wheat and there were no burdens laid on the people, it strikes me the Government is finding some easy money—$251,000 of revenue. So if it has not done any harm, why not have a tariff on wheat? The Government needs the revenue.

Mr. HITCHCOCK. Mr. President, the importation of 7,000,000 bushels of wheat into the United States, when the American wheat raiser must either meet that wheat in the United States or in Liverpool, has absolutely no effect at all upon the prices. Seven million bushels of wheat compared to the 800,000,000 bushels which the country raises is a mere drop in the bucket. It is negligible, and even if it were larger it would not amount to anything, because the price of wheat is regulated by the world market, and if we do not meet that 7,000,000 bushels of wheat in the United States we will meet it when we send our surplus to the market, and the price of our surplus is what controls the market price.

Mr. GOODING. I want the Senator to tell the Senate what harm it has done, if it has not increased the burdens of the people.

Mr. HITCHCOCK. I will tell the Senator what harm it has done.

Mr. GOODING. As long as the American Government is collecting $251,000 in revenue, it seems to me we had better commence putting a tariff on everything.

Mr. HITCHCOCK. The measure was not brought in as a revenue measure, in the first place. There was no claim made that it would be a revenue measure. But it has done this harm: The United States is interested, above all, in exporting its surplus. We have more surplus to export than any nation in the world. Our depression at the present time is due to the fact that we have difficulty in exporting our surplus. Our copper mines are closed because we can not export the surplus. Our cotton is loaded up here, half of the supply of last year, because it can not be exported. A thousand million dollars of manufactured goods can not be exported. A great deal of our agricultural products can not be exported, and they can not be exported because the other nations of the world are unable to pay for them, and one of the reasons why they are unable to pay for them is that they must pay for them in goods, and this bill erects a barrier against selling to us. This bill adds another obstacle to their sending to us goods which must pay for our own exports, and the result of the passage of this bill has been retaliation on the part of a number of nations.

The result of the passage of this bill has been to reduce what we otherwise would have exported to the Argentine Republic, to Canada, and to other countries. In other words, the country is suffering from the evil of depressed exports, and this bill has made the matter worse. It has made it more difficult for us to sell to other nations, because we were attempting to discriminate against other nations and bar out their products.

Mr. GOODING. Mr. President, I would like to ask the Senator if it has been the policy of other nations to discriminate against us because we had a high protective duty on manufactured articles?

Mr. HITCHCOCK. Yes; they have always discriminated against us whenever they could.

Mr. GOODING. I would like to have the Senator mention some discriminations we have had in the past.

Mr. FLETCHER. On that question of retaliation, this country could hardly expect that we could impose a duty of 25 cents a bushel on Canadian wheat and Canada not respond in some way to protect herself. It is perfectly natural that Canada should lay duties on goods exported from this country to Canada ordinarily. You can call it retaliation, if you like, but it is rather in self-defense, to use a little milder term. For instance, one of the consequences of this duty imposed against Canada has been about as follows: Two of the chief products of my own State, Florida, are oranges and grapefruit, which have always found their greatest foreign market in Canada. Canada has now, since the emergency tariff act was passed, imposed a duty of 1 cent a pound on oranges and grapefruit, which will almost close that field entirely as a foreign market for those products.

Mr. HITCHCOCK. I have no doubt of it, and where nations do not by legislation retaliate for our discrimination against doing business with them their business men are compelled to do it, because of the added difficulty of doing business with us. The result of such a refusal to buy from them is a fall in their exchange and an increased difficulty in their paying us for what they buy. The consequence is, under those circumstances, that they buy in another country where the exchange is not so high, and where the discrimination is not so great. One of the results of the passage of the emergency tariff bill three months ago, Mr. President, is that our foreign commerce now is practically in collapse.

Mr. President, I have merely taken the floor to resent the claim that this emergency tariff has been of any value and to resent the assertion that it has done no harm. Both charges are true, that it has been of no value and that it has done harm; and at this time, two months in advance of its expiration, to bring in an amendment to extend it to January 1 strikes me as very unreasonable. If Senators are so sure that there is any merit in that act, let it run until the 28th of November, and 60 days more of experience will develop the merit in it.

What is an emergency? The emergency tariff bill was brought in and hurriedly rushed through Congress as an emergency measure some three months ago. How long does a Republican emergency tariff continue? How long will it be before the Republican organization gets ready to enact a permanent tariff bill? You took complete possession of this Government on the 4th of March, and you brought this bill in, to last for a few months, during the so-called emergency, and now you wish to extend the act until the 1st of January. Why? Can you not reach the conclusion of what you propose to recommend as a permanent piece of legislation?

Mr. President, in conclusion, I want to read from an article which appeared in the New York Times on Sunday, which throws some light upon the market conditions which are causing such hardships in the West at the present time:

WHEAT MAY DROP TO BELOW A DOLLAR—WITH CORN, IT SUFFERS A NEW DECLINE IN CHICAGO IN SPITE OF GREAT EXPORT DEMAND.

[Special to the New York Times.]

CHICAGO, *August 20.*

Liquidation, which has been in evidence in coarse grains and provisions and live stock, spread to wheat, with December selling at a new low for the season to-day and the September within three-fourths cent of the inside figure. Local traders bought early and advanced prices over the previous day's finish, but as soon as the buying ceased, the market started downward and declined 3⅜ to 4 cents, with September at $1.14¼ and December at $1.14⅜ at the inside, the finish being within one-fourth to three-fourths cent of the bottom, with net losses of 2 to 2¼ cents, December leading.

All this is occurring under this great emergency tariff, which Senators now want to extend for a whole month, and they want to make that extension two months before it expires.

This statement also appears in this article:

The bulk of the support on the decline came from holders of bids and from shorts who were evening up for the week, the undertone being comparatively easy, with a majority of traders looking for still lower prices.

There is now a fair sprinkling of traders who look for wheat to decline under $1 per bushel before there is much profit to be made on the buying side, despite the extremely strong statistical position and the let-up in the winter wheat run.

Just think of it, under this emergency tariff, which was to raise the price of American wheat to the wheat producers of the country, it is now predicted that it is going under a dollar, and at the time the bill was passed it was selling in the market for $1.48.

I have another headline which I will read, equally ominous, all under the operation of this great American emergency tariff, which was intended not only to advance the price of wheat but to advance the price of beef:

Wholesale beef prices near the 1913 mark in the East, having fallen heavily of late.

Mr. President, I have cited these figures from newspapers, and my previous figures from the report of the Bureau of Markets and Crop Estimates, as stern facts, and I invite the advocates of this emergency tariff to grapple with those facts. They predicted, when they brought the emergency tariff bill in here three months ago, that that legislation would advance the prices of our agricultural products.

They held out a great sympathy for the western farmer who was suffering because the prices were so disastrously low, and they said, "We will raise your prices. We will put a tariff on." That is the cure-all from the Republican standpoint. "We will put a tariff on the corn. We will put a tariff on the wheat. We will put a tariff on the cattle. We will put a tariff on the lamb that you raise, and this tariff will raise your prices and once more Republican prosperity will smile upon you." They have had three months of it, and you now have to stop predicting and come down to the cold facts when you talk to these western farmers. I am anxious to know what Senators will say as to those facts.

Mr. GOODING. Mr. President, I should like to say to the Senator from Nebraska that the farmers will not have any difficulty in understanding that there is a wide range between the price of corn-fed lambs in March and grass-fed lambs in August or July, which accounts for the difference in the price the Senator has named.

Mr. McCUMBER. Mr. President, the Senator from Nebraska has passed a sufficient number of gold bricks in the Senate during the debate to make himself many times a millionaire. I have heard that word often, and it seems to be used by the Senator whenever there is any bill under consideration that is not in harmony with his particular views.

I think in all of the debates I have ever indulged in upon the tariff question or the wheat question I have never been extravagant in my claims. I have never claimed that if we should place a tariff upon wheat it was going to affect the yield per acre in the United States. I have never claimed that it would prevent a surplus being raised thereafter. I have never claimed in any way that giving a protective tariff to any kind of grain would have the effect of keeping the country in a prosperous condition and avoiding the natural depression resulting from the Great War.

If the Senator from Nebraska can point out anything produced in the United States that has not fallen in price during the last six months I should be very glad to have the name of that article presented. We have had a period of great depression. The world outside has been unable to purchase our crops. The cost of production in the United States has been so great that the American people have reached the end of their purse and are unable now to purchase at the high prices which result from a high cost of production. Our mills are closing. Every character of stock has gone down. Everybody is feeling the influence of depression. It was never claimed in the world by any sensible man that even an emergency tariff would relieve us of general world conditions.

Now, what did we claim in the debate on the emergency tariff bill? We looked across the Canadian border and saw forty or fifty million bushels of wheat before the opening of navigation ready to cross the Lakes as soon as Lake navigation was open. The wheat trade knew the result of increasing our surplus, and especially of increasing our surplus in the spring wheat section of the country, where they grind only for the spring wheat flour. They discounted that in the May and July purchase. They said, "Here are forty to fifty million bushels of Canadian wheat that will come over to the United States just as soon as navigation opens. Navigation will open in May. We are now paying $1.48 a bushel. We can get that wheat cheaper in May because the Canadian wheat is coming over in May, and this increase in our surplus will make for lower prices. If we increase the surplus we will drive the prices down still lower than at present; therefore we will bid considerably less for May and July delivery."

Anyone that can not understand that does not understand the simple mathematics of trade, that a deficit increases prices and a surplus will decrease prices.

Now, if we can prevent the importations of this Canadian grain, prevent the creation of a greater surplus, we may recover our prices to a certain extent. That is just exactly what we did. That is what no man on earth could make the Senator from Nebraska understand, although we gave him the figures as plainly as 2 and 2 make 4, because he is obsessed with the idea that prices are fixed eternally in Liverpool, although the consumption in the United States is enormously beyond the consumption in Liverpool. The Senator in all the time he has discussed the grain question can see no difference between the spring wheat or hard wheat, in which we generally

have very little or no surplus and in which an enormous trade has been built up of the higher grades of flour, holding a price entirely independent of other grain.

Now, I wish to convince even the obdurate Senator from Nebraska that the dealers in grain know as much about the business as he does, that the grain purchasers and grain sellers in the city of Minneapolis who have been engaged in the business for 40 years know as much what influences the prices of grain in the United States as does the Senator from Nebraska. If they disagree wholly and totally with the Senator from Nebraska, I am bound to follow their suggestion and their reasons, which correspond with my own, rather than to take the dictum of the Senator from Nebraska as to whether or not a protection against Canadian wheat is a benefit to the American wheat raiser.

Bear in mind that the Canadian will always sell his wheat where he can get the best price. He does not care whether it goes to Europe or whether it goes to the United States. If he can get just as good a price in Liverpool as he can get in the United States, he is not going to try any retaliatory measures because we place a tariff upon his wheat.

I wish the Senator himself to get right back to the conditions in February, March, and April in the United States before the opening of navigation between the United States and Canada. Then I want him to look at two markets for wheat. One is the Seattle market and the other is the Minneapolis market. Let me show him that in Seattle there are no importations from Canada, no danger of importations, and therefore during winter months April and July futures sold exactly for the same price as cash. Does the Senator know why? Has he stopped to consider why? The trade knows why, even though the Senator may not be informed. The why in Seattle was because there was no danger of any importations into the Seattle field of sales.

Let me give the Senator the actual market reports in the city of Seattle for the western grain. I wish he would listen. I do not know that it would do any good if he did listen, but I should like to have him listen. Here is the table which I am going to put into the RECORD:

Seattle market, printed on April 14, 1921:

Hard cash wheat, $1.15; April, $1.15; May, $1.15.

Soft white, cash, $1.13; April, $1.13; May, $1.13.

White club, cash, $1.12; April, $1.11; May, $1.11; 1 cent difference.

Hard winter, cash, $1.09; April, $1.09; May, $1.09.

Red winter, cash, $1.09; April, $1.09; May, $1.09.

Northern spring, cash, $1.09; April, $1.09; May, $1.09.

Red Walla, cash, $1.09; April, $1.09; May, $1.09.

Why was it that all the spot cash and April and May deliveries did not vary a single penny?

Mr. HITCHCOCK. Does not the Senator's table extend down to the present time?

Mr. McCUMBER. I am only giving the quotations on April and May. This is at Seattle. I will cover the other grains.

Mr. HITCHCOCK. Would it not be wise to show what it is at present?

Mr. McCUMBER. It will show exactly the same thing. While wheat will go down, the point I wish to make is that there is no difference between cash wheat and wheat for future delivery in a market where there is no danger of any immediate change.

Mr. HITCHCOCK. The Senator said the wheat will go down. During what period does he think it will go down—the last three months?

Mr. McCUMBER. I have stated that grain, like stocks, like everything on earth that we buy, like shoes, like clothing, will respond to a depression and nothing on earth, tariff or anything else, is going to take grain out of the general rule affecting the market of any commodity.

Mr. HITCHCOCK. So that if the Senator continues his table will his table show that wheat is cheaper now in Seattle than it was when the bill was passed?

Mr. McCUMBER. My table will continue on July, and the only purpose of the table——

Mr. HITCHCOCK. Will the Senator answer my question?

Mr. McCUMBER. I will give the Senator the table.

Mr. HITCHCOCK. Will the Senator answer my question? Will it show cheaper now?

Mr. McCUMBER. I said grain has gone down. Nobody has denied that.

Mr. HITCHCOCK. That is all I want.

Mr. McCUMBER. Why, certainly; so have your shoes gone down and your clothing, and so has everything on earth that you buy; so has every kind of stock. The depression has struck the whole country; and grain, like everything else, will be affected by it. Of course, it will be affected by the general world surplus and the general surplus in the United States. No man will claim anything different from that.

But I wish to impress one thing here—that where there is no danger of a great surplus being put into the market, and where that market is limited to the section west of the Rocky Mountains and north of California, the market remains steady. Let me take the next market. Let me compare Minneapolis, for instance——

Mr. HITCHCOCK. Will the Senator permit me to interrupt him?

Mr. McCUMBER. Yes.

Mr. HITCHCOCK. Can the Senator find any market in the United States where wheat now sells for as high a price as that for which it sold before the bill was passed which put a tariff on wheat?

Mr. McCUMBER. No; and we can not find any market where wheat sells at as high a price as that for which it sold during the World War. The Senator from Nebraska does not seem to understand that anyone can admit in an argument the proposition that wheat is subject to general depression the same as is any other commodity. No claim has been made to the contrary.

Mr. HITCHCOCK. Mr. President——

The PRESIDING OFFICER. Does the Senator from North Dakota yield further to the Senator from Nebraska?

Mr. McCUMBER. Certainly; I yield for any question.

Mr. HITCHCOCK. I should like to have the Senator now discuss corn, which has gone down from 61 cents a bushel to 57½ cents a bushel, right under the protecting care of this great tariff measure.

Mr. McCUMBER. Yes; oats, barley, wheat, clothing, boots and shoes, leather, all kinds of commodities have gone down. What is the use of my discussing the decrease in price of any of them further than to say we know the reasons why they have gone down. The Senator from Nebraska understands those reasons. The question now, however, is not whether the tariff can change those conditions. Of course it can not; nobody ever claimed that it could. Our claim was simply that if we add to the surplus we drive the price more rapidly downward, and that if we prevent a surplus, other conditions being equal, we hold our market up to its standard.

If there is a deficit, the price will go up, will it not? Can anybody deny those simple propositions in the barter and sale of any product?

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from North Dakota yield to the Senator from North Carolina?

Mr. McCUMBER. I will not yield just at this moment, but I shall yield in a minute. I want to follow up this idea. I had hoped the Senator from Nebraska would stay in the Chamber long enough to get some proof into his mind upon this subject. A little sunlight of fact would be beneficial.

I desire to refer now to the Minneapolis market, where I find that No. 1 northern wheat on the same day—that was April 14—ranged from $1.31 a bushel up to $1.39½, while May No. 1 northern was only $1.14⅜. On April 14 the miller in Minneapolis paid for cash No. 1 northern wheat $1.39½ a bushel, while on the same day the miller in Minneapolis bought the same kind of wheat for May delivery for $1.14 a bushel while for July delivery he bought it for $1.08 a bushel.

Why was he able to do that? That has got to be answered, and it can not be answered by any such nonsensical statement as that wheat simply did not go up. It is necessary to take the condition as it exists and to give the reason why the miller paid $1.39 for immediate delivery on April 14 and paid only $1.08 for July delivery and $1.14 for May delivery.

What is the answer? I will tell Senators what the answer is, Mr. President. There were 50,000,000 bushels of Canadian wheat, the same kind of wheat which is raised in eastern Montana, in North Dakota, and in Minnesota, ready for immediate delivery. The average quantity of the hard variety of spring wheat raised is about 230,000,000 bushels. If 50,000,000 or 60,000,000 bushels of wheat are put on the market in addition to the usual consumption of 230,000,000 bushels of course it is going to depress the price.

Mr. SMOOT. Will the Senator yield to me just for a moment?

Mr. McCUMBER. I yield, Mr. President.

Mr. SMOOT. I am compelled to leave the Chamber to attend the meeting which is now being held by the Finance Committee, but I want to ask the Senator from Nebraska a question before leaving the Chamber, for I really wish to know how he arrives at the position he has assumed that the emergency tariff law has benefited the farmer in no way whatever. Does the Senator from Nebraska mean to say that because sugar has dropped 200 or 300 per cent the tariff bill does not do the sugar pro-

ducer in this country any good? I will ask the Senator from Nebraska that question.

Mr. McCUMBER. I will yield, Mr. President, to the Senator from Utah for that purpose if it does not lead to any long debate upon the question and if the Senator from Nebraska will answer it offhand.

Mr. SMOOT. I do not think it will lead to debate.

Mr. HITCHCOCK. I do not believe I understand the question.

Mr. SMOOT. The Senator from Nebraska claims that the emergency tariff law has not been of any advantage to any of the industries which it seeks to protect?

Mr. HITCHCOCK. I did not say that. It has been of tremendous advantage to——

Mr. SMOOT. The Senator made the statement, as did the Senator from Missouri, that no farmer had been benefited in any way by the passage of that bill. Was not that the statement?

Mr. HITCHCOCK. What I said was that the farmers in my section of the country regarded it as a gold brick for Congress to put a protective tariff on the articles which they export to other countries.

Mr. SMOOT. I think if the Senator from Nebraska will read his remarks he will find that the last qualification was not made in those remarks, for we were asked to point to one case where the emergency tariff law had been of any advantage to the producer in America.

Mr. HITCHCOCK. The Senator is mistaken there. I have cited the articles which were the leading factors in putting through the emergency tariff bill. The majority party got their support for the passage of the bill not because it protected certain manufactured products but because it was an appeal to the agricultural West and South. They asserted that if we put a tariff on wheat it would increase the price of wheat; that if we put a tariff on corn it would increase the price of corn; so likewise if a tariff were put on potatoes it would increase the price of potatoes; and if a tariff were put on cattle it would increase the price of cattle; yet I have shown that during the three months' life of the act the trend of prices of all of those commodities and of all other agricultural products that I cited has been steadily downward.

Mr. SMOOT. The Senator is mistaken when he says that anybody claimed the tariff would increase the prices of products at that date. Every man who knows anything about the claim of the Republican Party or of any protectionist at all knows that a protective tariff does not increase the price of a product that may prevail one day as compared with the price that may prevail two months subsequently. Protectionists do claim that a tariff protects as against all other countries as to the commodities produced in America.

I will remind the Senator that in the emergency tariff law the question of sugar was involved. The rate on sugar was increased, and there was just as much complaint on the Democratic side because of the fact that the rate of duty on sugar was increased as there was because the rate of duty on wheat was increased. The Senator knows now that if it was not for that tariff upon sugar the producers of sugar in this country, the farmer who raises the beets, would get nothing for his beets this year.

Mr. McCUMBER. I should like to deal with one subject at a time. I had rather not yield now to go into other questions.

The PRESIDING OFFICER. The Senator from North Dakota declines to yield.

Mr. SMOOT. I should not have interrupted the Senator had it not been for the fact that I am compelled to leave the Chamber. I thank the Senator.

Mr. McCUMBER. The Senator has asked his question, and I think it was a fair one.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from North Dakota yield to the Senator from North Carolina?

Mr. McCUMBER. I yield for a question.

Mr. SIMMONS. I do not desire to ask the Senator a question, but I was going to ask him if he will permit me, just in a few words, to respond to some of the statements just made by the Senator from Utah? If, however, the Senator does not desire to be interrupted, I will not insist upon it.

Mr. McCUMBER. I wish the Senator would do me the kindness to defer his interruption for the present. I know it will keep, and the Senator's memory is excellent.

Mr. SIMMONS. Very well.

Mr. McCUMBER. Mr. President, I have just given the difference in price between cash wheat on the 14th day of April in Minneapolis and of futures for May and July. The Senator from Nebraska, of course, does not concede that the Canadian importations have the slightest thing on earth to do with the cash wheat increasing in price in the months of May and July from 20 to 30 cents a bushel more than it was being bought for in April.

I want again to address myself to the Senator from Nebraska and to his "gold-brick" theory. I want him to listen and I want everyone to get these facts, especially those who are iterating and reiterating that the Canadian importations had no effect upon the price of American wheat. I will read the grain report, published in the Modern Miller of April 16, 1921. I will ask Senators to remember that when this article was published water transportation had not been opened and the Canadian grain was being piled up at Port Arthur and Fort William for importation into the United States as soon as lake transportation opened. This is what the report says:

> Canadian pressure is limited and the demand for wheat good, but millers are loath to pay the premiums asked. Last week the Canadian quality sold as high as 45 cents over May, and since then dropped to 39 cents over, but to-day was quoted at 42 to 43 cents over for most any that graded No. 1 northern. More Canadian No. 2 and No. 3 northern arrived and this class of stuff sold close up to the No. 1 northern premiums. Millers were encouraged by reports of large shipments of Canadian wheat about to be made to hold off in the hopes of a break in premiums for the stuff already here or in transit, but holders were stubborn and would not sell at much of a decline. Right now the trade is all at sea, because of the possibility of a tariff being placed most any time.

If the Canadian import did not affect the price, then, in heaven's name, why was it all at sea, dependent upon the emergency tariff?

Again, on the same date we have this report from Winnipeg. They seemed to think that the emergency tariff was having an effect also. In other words, all of the dealers in Minneapolis and Duluth and Chicago and Winnipeg disagree with the Senator from Nebraska that the tariff has no effect upon the American price and the price of their product. This is what the Winnipeg Chamber of Commerce says:

> The majority of the cash buying is to cover short sales at the seaboard and the trade with the United States mills, who are stocking up with Canadian wheat prior to the expected change in the tariff regulations.

Can any man who wants to be at all fair say that the Canadian importations have no influence upon American prices?

I have prepared a table giving the prices in Minneapolis of No. 1 northern, cash, May and July futures, and May and July actual sales made in those same months, covering a period from April 1 to July 29. That was the last report that I had at that time. This table shows what? That during the months of April, May, and July sales were from 20 to 30 cents less than cash. Then when we get to May and July cash comes up 20 to 30 cents a bushel. When we actually buy in those months the Canadian wheat had been shut off. Of course, a good deal of it got in before we passed the bill on the 27th day of May, because navigation opened in the first week in May, and we undoubtedly would have had better results if we had had less imported. Here is the table, and I ask permission to insert this table as a part of my remarks.

The PRESIDING OFFICER. Without objection, that order will be made.

The table referred to is as follows:

Minneapolis range of prices.

No. 1 northern, cash.		Futures.		Actually sold.			
				May.		July.	
Date.	Price.	May.	July.	Date.	Price.	Date.	Price.
Apr. 1	$1.47	$1.28	$1.25	May 2	$1.47	May 1	$1.39
4	1.51	1.30	1.25½	4	1.42	5	1.30
8	1.52	1.29	1.22½	7	1.46	8	1.44
11	1.45	1.24½	1.18	11	1.48	11	1.41
15	1.37	1.17	1.10½	14	1.45	15	1.64
19	1.30	1.15	1.08	19	1.51	19	1.53
22	1.43	1.23	1.15	23	1.58	22	1.48
26	1.35	1.19	1.11	26	1.50	26	1.43
29	1.36	1.20½	1.14½	28	1.45	29	1.46
May 2	1.47	1.23½	1.15½				
4	1.42	1.26	1.15½				
7	1.46	1.30½	1.20				
11	1.48	1.34½	1.22½				
14	1.45	1.37½	1.22				
19	1.51	1.43½	1.25½				
23	1.58	1.46½	1.32½				
26	1.56	1.42	1.30				
28	1.45	1.30	1.25½				

Minneapolis range of prices—Continued.

No. 1 northern, cash.		Futures.		Actually sold.			
				July.		September.	
Date.	Price.	July.	September.	Date.	Price.	Date.	Price.
June 2	$1.63	$1.38½	.....	July 1	$1.39	.....	.....
4	1.57	1.32½	.....	5	1.30	.....	.....
8	1.56½	1.31½	.....	8	1.44	.....	.....
11	1.60	1.33½	.....	11	1.41	.....	.....
15	1.55	1.36½	.....	15	1.64	.....	.....
18	1.53	1.36½	.....	19	1.53	.....	.....
22	1.48	1.33½	.....	23	1.48	.....	.....
25	1.48	1.33½	$1.31½	26	1.43	.....	.....
29	1.38	1.23¾	1.27¼	29	1.46	.....	.....

Mr. McCUMBER. The table shows No. 1 cash at Minneapolis, futures for May and July, and the actual sales made on the corresponding days in May and July.

I always regret to find the Senator, with his gold brick, getting out of the Chamber just at a time when I want to present those things that meet his declaration so concisely and clearly that no man can gainsay them.

Mr. KING. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. WILLIS in the chair). Does the Senator from North Dakota yield to the Senator from Utah?

Mr. McCUMBER. I do.

Mr. KING. If the Senator will present this side with anything but a gold brick, there are some of us who will be delighted to listen to him.

Mr. McCUMBER. All right. I will present it right now, if the Senator will listen.

Mr. KING. I shall listen.

Mr. McCUMBER. The Senator was not here when I quoted the table—at least, I think he was not here—showing that during the month of April the cash wheat ranged about 30 to 43 cents above May and July wheat. The matters that I have just read show the reasons that are given by the wheat exchange in Minneapolis and in Winnepeg for the difference in cash wheat and May and July wheat. I have already given tables to the Senator from Nebraska showing that in Washington, in Seattle, the cash and the May and July wheat never varied a penny during all of those months, while at the same time where there were importations to affect the price, and threatened importations, it drove the May and July wheat from 20 to 40 cents and in one instance as far as 45 cents below the cash price.

Now, I will take one date from this table. I want the Senator's attention now, and I do not want him to challenge me to give him figures to satisfy his mind and then give his attention elsewhere.

I will take April 1. No. 1 northern sold in Minneapolis for $1.47 cash. Does the Senator from Utah remember what it sold for?

Mr. KING. I beg the Senator's pardon; I was engaged.

Mr. McCUMBER. The Senator was diverted—yes; I understand. Now let me repeat it. On April 1, 1921, the Minneapolis market was $1.47 cash for No. 1 northern wheat. On the same day that the miller paid $1.47 cash for No. 1 northern he contracted for No. 1 northern at $1.28, or 19 cents less for the month of May. He contracted on that same day for July delivery for $1.25, or 24 cents less. I have given the reasons why he did that, and my reasons correspond to those given by the grain exchange in Minneapolis and in Winnipeg.

Now, let us go over to May. Remember, now, that this miller contracted for May wheat at $1.28. On the 2d day of May, when he bought for cash, he paid $1.47, just exactly what he paid for cash on the 1st day of April.

Now, go over to July, when he was buying for cash at $1.47 a bushel. He bought his July wheat for $1.25. On the 2d day of July he had to pay $1.39 a bushel.

Take two days later. On April 4 he paid $1.51 cash, and he bought May wheat for $1.30, 21 cents a bushel less. He bought July wheat for $1.25, or 26 cents less per bushel; but when the 4th day of May arrived he paid $1.42 cash, and in July he paid $1.30 cash.

So I can run down here all the way to the 29th of June, showing, if you will look over the table, that in every instance he got from 17 cents to nearly 30 cents a bushed more in May and June and July than those months were being contracted for in April.

Again, the Senator will claim that has nothing to do with it, but I will turn to the Minneapolis report on the grain exchange of date April 21 and see what the wheat buyers say about it. those who look ahead, who compute the bushels that are raised in the world, the bushels that are raised in the United States, the world consumption, who take into consideration world conditions and then purchase their grain accordingly, and I will find that there is a wide divergence between their views and the views of the Senator from Nebraska.

Again, I will ask, why did May and July futures during the month of April show such an enormous decline from April cash? And why, when May and July actually arrive, did they pay prices practically the same as the April prices? I will tell you why, Senators. We checked the flow of Canadian wheat. We did not check it all. A great amount of that 20,000,000 or 30,000,000 bushels that was in Port Arthur on the 1st of April got into the United States before the 27th day of May; but we checked a great quantity, and said to the United States miller, "No more can come in after this bill becomes a law," and that law had its effect.

This is what the exchange says on April 21:

> Bids to-day in the local market were 40 cents over May. A few cars of choice wheat were taken out of town shipments at 43 cents over May.
>
> Shipments of Canadian wheat are being hustled along because of the imminence of a tariff law, and receipts here are liberal, though not as heavy as they have been. Interior mills have no supply of this choice Canadian to fall back on and are hurrying a bit to lay away a few cars against future needs. The present state of flour trade does not call for any extensive buying.

These mills are "hurrying a bit to lay away a few cars against future needs." Did that hurrying tend to press those prices upward? The millers say it did. The stock exchange says it did. Everybody who knows anything about wheat trading in the Northwest says it did, but the Senator from Nebraska says it did not.

Again, that is not the end of the report. Quoting again:

> Domestic wheat is in rather poor demand. Mills having plenty of Canadian in store are inclined to back away from North Dakota offerings, most of which show a tinge of yellow color or softer quality than the flinty wheat from across the border.

Yes; they are backing away from it because they can get the Canadian wheat. Suppose they could not get this Canadian crop. They would have to get the American grain, would they not? And if they got the American grain, they would have to pay the higher price to get it. Now, there is no use spending time in declaring that it does not affect the price. The millers know that it does.

Mr. President, I do not think anything I could say could be clearer, more explicit, and more to the point than these reports of the actual sale of grain for cash and future delivery, and the influence of the emergency tariff on those sales, and the hurrying of the Canadian purchasers to get their wheat across before the bill became a law.

If Senators will just stop this talk about somebody's claiming that if we put a tariff on any article we could get any price on earth we want, measured by only the tariff, and will meet us on a fair and square basis of real conditions, we will not be far away from the facts in the case.

Mr. POMERENE. Mr. President, is the Senator able to give us the benefit of the market prices on or before the same dates in the different important Canadian markets and the different wheat markets of the United States and Liverpool and London for purposes of comparison?

Mr. McCUMBER. I have not them now, I will say to the Senator. I probably could get them, but I simply have contented myself with answering the general proposition, that an emergency tariff kept down our surplus to a lower point, and by keeping it down necessarily prevented a greater decline that would have resulted except for it.

Mr. HARRELD obtained the floor.

Mr. POMERENE. Will the Senator excuse me just a moment?

Mr. HARRELD. Certainly.

Mr. McCUMBER rose.

The PRESIDING OFFICER. The Chair was of the opinion that the Senator from North Dakota had yielded the floor.

Mr. McCUMBER. I had yielded the floor, but I understood the Senator from Ohio desired to ask me a question, and I resumed the floor to answer his question, if I could.

Mr. POMERENE. I simply wanted to make an observation, and indulge the hope that the Senator will furnish us with the various price lists of these other grain centers. I speak of that because, as we all know, it very often happens that there may be peculiar local conditions in a certain State which vary the market prices. For instance, I know in my own State, in markets such as Toledo, Dayton, Akron, and Columbus, there may be a variation on the same day of 5 or 6 cents a bushel, and there may be some local conditions which would affect those

prices, and necessarily the Senator must agree with me in that behalf.

I have in mind very distinctly two able speeches that were made here in 1911, when the Senator from North Dakota [Mr. McCUMBER] demonstrated to his entire satisfaction that the prices of wheat in the United States were higher than they were in Canada, and a few days after that my very good friend the distinguished Senator from Michigan [Mr. TOWNSEND] made another very able speech, in which he demonstrated that the market prices in Canada were higher than they were in this country. That was at a time when we had before us the Canadian reciprocity legislation, and we were not divided then along party lines, and two very distinguished protectionists, such as the Senator from South Dakota and the Senator from Michigan, had very decided differences upon the subject.

Mr. McCUMBER. The Senator from Ohio always intends to be fair, and I can always debate all these questions with him with a degree of satisfaction because of my knowledge that he desires to get only at the truth of any particular case.

Now, I am going to answer the Senator. Local conditions, such as cornering the market, selling short, and so forth, of course will affect the market for a day or two, until the weak ones are sold out or there is some other reason for a change in the local market at that immediate time. But I want the Senator to remember one thing, that we have a local condition in the spring wheat States differing entirely from the wheat conditions in the other States in the Union. If you will take Montana east of the Rockies, all of South Dakota or nearly all of it, all of North Dakota, and practically all of Minnesota, you will have that section which produces practically all the spring wheat that is raised in the United States. I think, although I will stand corrected if I make a mistake, that the average production is from about 225,000,000 to 230,000,000 bushels of wheat for that section.

Unlike the other wheat in the United States, that spring wheat is not exported at all. It is ground into flour in the United States. The flour is exported, but not the wheat itself. The milling demand will equal an average crop. If the crop is a little less than the average, the milling demand will be greater than the crop, there will be a deficit, and the price of that spring wheat will go up. In 1909 or 1910 Liverpool and Minneapolis quoted practically the same price, and we had a tariff at that time of 25 cents a bushel.

The Canadian crop was a full crop; our crop was very short. We could not get the Canadian without paying a premium. Therefore the Canadian had to sell at the Liverpool price. We, having a deficit, got the full benefit of the tariff at that time.

Where we have a certain character of grain and we are exporting that grain in large quantities, a direct tariff upon that ordinarily will not help us, although, if it helps upon something that is used as a substitute, by reflection it tends to give a buoyancy in this country to the other kinds of grain. All of the statistics will evidence that and at all times.

That is all we claim with reference to the tariff. I have known its effect for 30 years, and I can take year after year, compare the Winnipeg prices at Port Arthur with the American prices in Minneapolis and Duluth, and show on an average of from 8 to 10 cents a bushel, averaging throughout the years, in favor of the American wheat. We did not get the full benefit of the tariff at that time, but the conditions were such that they helped us some.

This tariff has helped us some. It has not changed world conditions. It will not keep up the price when we have a surplus. It will not maintain a high standard of price for one article when depression lays like a mighty cloud over the whole country and all prices are tumbling to the earth. No one claims anything of that character. But it will steady the prices. It will help us at the time we want to be helped, and that is when we have a short crop, and it will help us at all times to some extent.

SPECIAL COMMITTEE ON READJUSTMENT OF SERVICE PAY.

Mr. CALDER. Mr. President, I report back from the Committee to Audit and Control the Contingent Expenses of the Senate favorably, without amendment, Senate concurrent resolution No. 11, permitting the subcommittee appointed by the President of the Senate and the Speaker of the House to inquire into the pay of the Army and Navy and Marine Corps to hold meetings, employ a stenographer, and so forth, and I ask for its present consideration.

The concurrent resolution was read, as follows:

Resolved by the Senate (the House of Representatives concurring), That the special committee appointed in accordance with the provisions of section 13 of the act entitled "An act to increase the efficiency of the commissioned and enlisted personnel of the Army, Navy, Coast Guard, Coast and Geodetic Survey, and Public Health Service," approved May 18, 1920, or any subcommittee thereof, is authorized to sit at any time in the District of Columbia or elsewhere, to send for persons, books, and papers, to administer oaths, to summon and compel the attendance of witnesses, to employ a stenographer at a cost per printed page as fixed by law to report such hearings as may be had in connection with any subject which may come before said committee, to print such hearings and other matter as may be necessary, and to employ such clerical services as may be necessary to carry out the purposes of the act. All expenses in pursuance hereof shall be paid from the contingent funds of the Senate and House of Representatives, in equal proportions, upon vouchers authorized by the committee and signed by the chairman thereof.

Mr. KING. Mr. President, I would like to ask the Senator from New York, the chairman of the committee reporting this resolution, what action has been taken by his committee with reference to the dye monopoly resolution?

Mr. CALDER. No action has been taken in the matter. The resolution is still before the committee. I had no request that it be reported until the Senator himself spoke to me about it this morning. I shall try to get in touch with the members of the committee this afternoon.

Mr. KING. I hope the Senator will report it, as the Judiciary Committee unanimously reported the resolution.

The PRESIDING OFFICER. The Senator from New York asks unanimous consent for the immediate consideration of the concurrent resolution.

Mr. JONES of Washington. Mr. President, I do not understand what the scope of the resolution is and what it affects. It is rather broad, and possibly involves very large expense. I think it had better go to the calendar.

Mr. CALDER. The resolution comes from my colleague [Mr. WADSWORTH], and provides that meetings may be held and a stenographer employed to carry out the provisions of an act approved May 18, 1920, which was an act to increase the efficiency of the commissioned and enlisted personnel of the Army and Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service. In that law there is a provision that a special committee, to be composed of five Members of the Senate appointed by the Vice President and five Members of the House of Representatives appointed by the Speaker of the House of Representatives, shall make an investigation and report their recommendations to their respective Houses not later than the first Monday of June, 1922, relative to a readjustment of pay and allowances for the commissioned and enlisted personnel which I have mentioned.

The President of the Senate appointed five Senators and the Speaker of the House of Representatives appointed five Representatives, and they had a meeting yesterday, when they found no provision anywhere to permit them to employ a stenographer. The resolution simply permits them to hold meetings and employ a stenographer.

Mr. JONES of Washington. My recollection of the reading of the resolution is that it permits the committee to hold meetings here or elsewhere in the United States, possibly in Alaska or the Philippines or Porto Rico. It seems to me that any appropriation of moneys necessary to enable the committee to perform its duties should be provided by the Appropriations Committee rather than out of the contingent funds of the House and Senate. I think that it should go to the calendar and let us have an opportunity to look into it.

Before that is done, however, I wish to ask the chairman of the committee reporting the resolution what estimate he would give us as to the expense which the committee will incur or expects to incur?

Mr. CALDER. As I understand it from my colleague, the total expenses of the committee will not exceed $2,500. However, I am perfectly agreeable to have it go over until my colleague is here.

Mr. JONES of Washington. I think that is the better course.

Mr. WARREN. Mr. President, I may say that at the time we provided increased pay for a certain period for the Army and a part of the Navy, it was determined in the law that after a certain number of months it should be taken up by the committee of which the Senator from New York [Mr. WADSWORTH] is chairman and with whom the Senator from Illinois [Mr. McKINLEY] and the Senator from Florida [Mr. FLETCHER] are associated. It is something that must be provided for, and I dare say it will not amount to a large sum.

The PRESIDING OFFICER. Objection is made and the resolution will go to the calendar.

Mr. CALDER subsequently said: Mr. President, I ask unanimous consent to call up Senate concurrent resolution 111.

The PRESIDING OFFICER (Mr. JONES of Washington in the chair). That is the resolution which the Chair objected to this afternoon, but with the amendment which the Chair understands has been agreed upon, the Chair will have no objection to its consideration. Is there any other Senator who objects?

There being no objection, the Senate, by unanimous consent, proceeded to consider the concurrent resolution.

Mr. CALDER. In line 5, after the word "Navy," I move to insert the words "Marine Corps,".

The amendment was agreed to.

Mr. CALDER. In line 8, I move to strike out the words "or elsewhere."

The amendment was agreed to.

The concurrent resolution as amended was agreed to.

ORAL OSBON.

Mr. CALDER, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 136, submitted by Mr. Sterling on the 22d instant, reported it favorably without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay from the miscellaneous items of the contingent fund of the Senate to Oral Osbon, widow of Oscar M. Osbon, late a messenger in the employ of the Senate, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, transmitted to the Senate a copy of House resolution 180, relative to certain remarks of the Senator from Missouri [Mr. REED] in reference to Representative ANDREW J. VOLSTEAD, of Minnesota, appearing in the CONGRESSIONAL RECORD of Thursday, August 18, 1921.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. 5676) taxing contracts for the sale of grain for future delivery, and options for such contracts, and providing for the regulation of boards of trade, and for other purposes, and it was thereupon signed by the Presiding Officer [Mr. CURTIS] as Acting President pro tempore.

AMENITIES BETWEEN THE HOUSES.

Mr. KING. I ask that the resolution which has just been received from the House of Representatives may lie on the table.

The PRESIDING OFFICER (Mr. POINDEXTER in the chair). It will lie on the table for the present.

Mr. LODGE subsequently said: I ask that the resolution from the House be laid before the Senate and referred to the Committee on Rules.

The PRESIDING OFFICER. The Chair lays before the Senate a resolution of the House of Representatives, which will be read.

The resolution of the House (No. 180) was read, as follows:

IN THE HOUSE OF REPRESENTATIVES,
August 23, 1921.

Resolved, That the language published in the CONGRESSIONAL RECORD on Thursday, August 18, 1921, pages 5605 and 5606, in the report of an address to the Senate by the Senator from Missouri, Mr. REED, is improper, unparliamentary, and a reflection on the character of a Member of the House, the gentleman from Minnesota, Mr. VOLSTEAD, and constitutes a breach of privilege and is calculated to create unfriendly relations and conditions between the House of Representatives and the Senate.

Resolved further, That a copy of this resolution be transmitted to the Senate and that the Senate be requested to take appropriate action concerning the subject.

Mr. KING. I withdraw my request that the resolution may lie on the table and join in the request of the Senator from Massachusetts [Mr. LODGE].

The PRESIDING OFFICER. Without objection, the resolution will be referred to the Committee on Rules.

PAY OF EMPLOYEES.

Mr. WARREN. From the Committee on Appropriations I report back favorably without amendment the joint resolution (H. J. Res. 195) authorizing the payment of salaries of officers and employees of Congress for August, 1921, and I ask for its present consideration.

There being no objection, the joint resolution was considered as in Committee of the Whole, and it was read as follows:

Resolved, etc., That the Secretary of the Senate and the Clerk of the House of Representatives are authorized and instructed to pay the officers and employees of the Senate and House of Representatives, including the Capitol police, their respective salaries for the month of August, 1921, on the 24th day of said month.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THE OIL INDUSTRY.

Mr. HARRELD. Mr. President, it is not my purpose to discuss the emergency tariff bill at this time, but rather to address myself for a brief time to a consideration of the amendment proposed by the senior Senator from Kansas [Mr. CURTIS] regarding a tariff upon crude petroleum, and, as a preliminary, I ask unanimous consent to offer a resolution, which I ask to have read and referred to the Committee on Commerce.

The PRESIDING OFFICER. The Senator from Oklahoma asks unanimous consent for the reading of the resolution. Without objection, the Secretary will read as requested.

The reading clerk read the resolution (S. Res. 138), as follows:

Whereas it has been charged by the independent oil producers of the United States that there is a monopoly controlling the production of crude petroleum, the refining of same, and the marketing of its products, and that said monopoly is manipulating the markets thereof in such way as to force into bankruptcy the 21,000 independent producers in the United States in order that it may buy up their properties and thus further monopolize the industry; and

Whereas it is charged by the independent producers that in order to bring about this condition the said monopoly is dumping upon the markets of this country such quantities of Mexican output of crude petroleum which it controls as will break the markets of the independent producers and in violation of the antidumping act, thus bringing about a destruction of the independent oil producers; and

Whereas it is charged that a conspiracy exists between certain persons, companies, and corporations to bring about this condition in violation of the laws of the United States and in furtherance of their undertaking to create a monopoly in oil products with the intent and purpose of destroying the independent oil producers, gaining control of their properties, and thus creating a monopoly of the markets for crude petroleum products; and

Whereas it is charged that in furtherance of this conspiracy large sums of money have been borrowed from the Federal reserve banks of the United States by the persons, companies, and corporations involved in this conspiracy to monopolize the industry which is to be used in purchasing producing properties, refineries, controlling interests in stock holdings, and pipe lines of such independent producers, thus enabling them to control the output, transportation, refining, and marketing of crude oils and its products: Therefore be it

Resolved, That the Federal Trade Commission be, and hereby is, authorized and directed to investigate and report to the Senate its findings of fact on the following questions, to wit: First, does a monopoly or monopolies exist having for their purpose or purposes the acquiring of the pipe lines, producing properties, and refineries, which are connected with the petroleum industry in order to create a monopoly? Second, does there exist a conspiracy among persons, companies, or corporations to acquire control of the producing properties, pipe lines, and refineries of the independent producers of crude petroleum and to control prices of crude petroleum and its products? Third, if such monopoly or conspiracy exists, what persons, companies, or corporations are engaged in the effort to create such a monopoly? Fourth, to what extent have the pipe lines used in the transportation of crude oil and controlling the price of crude petroleum and its products been acquired, owned, held, and controlled by such persons, firms, or corporations as are engaged in the effort to monopolize the industry? Fifth, does the importation of crude petroleum and its products from Mexico into the United States affect the production, refining, and marketing of the independent producers of the United States? If so, to what extent? Sixth, to what extent has the group of oil producers known as the Standard Oil group, the Royal Dutch Shell group, and the Doheny group of oil producers borrowed from the Federal reserve banks of the United States funds with which to purchase oil-producing properties, pipe lines, and refineries, and to what extent have they made such purchase during the current year of 1921, and to what extent have they accumulated funds from other sources for that purpose? Seventh, to what extent have the pipe line companies acquired control of producing properties and of production, giving names of pipe line companies and their holdings? Eighth—

Resolved further, That said Federal Trade Commission report to this body the result of its investigations not later than December 15, 1921.

Mr. HARRELD. Mr. President, I ask that the resolution be referred to the Committee on Commerce.

The PRESIDING OFFICER. Without objection, it will be so referred.

Mr. HARRELD. Mr. President, as I said a while ago, it is my purpose to discuss for a few moments the resolution which I have just had read and the proposed amendment of the senior Senator from Kansas [Mr. CURTIS] to the general tariff bill now pending. I am impelled to do this at this time by reason of the fact that the air is full of propaganda, false propaganda, having for its purpose the defeat of any proposition to place a tariff upon crude petroleum or its products. I am impelled to do it because certain people high in administrative affairs have seen fit to take it upon themselves to advise against the imposition of a tariff upon crude petroleum and its products. I think it is because they do not understand the subject.

The oil business is a peculiar business. Only a very small area of the country is engaged in the production of oil, and while there are some 21,000 people engaged in it they occupy a very small proportion of the United States in their operations, and only those people who are connected with it are familiar with its technicalities or are familiar with the facts pertaining to it. For seven years I was an independent producer myself, and I believe I am in a position to speak for them with some authority.

My purpose in addressing the Senate at this time is in the hope that I shall be able to give to the Senate some information which will lead to a fair consideration and a fair determination of the question of whether or not these 21,000 independent oil producers should be protected by the laws of the country from importations of oil from foreign countries.

Mr. HARRISON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from Mississippi?

Mr. HARRELD. I yield.

Mr. HARRISON. May I ask the Senator this question: I have seen something in the paper to the effect that there was a letter written by the President to the chairman of the Ways and Means Committee of the House on the proposition which the Senator is about to discuss. Was I correctly informed about that?

Mr. HARRELD. I will state, as a matter of fact, that the Ways and Means Committee reported out the general tariff bill with a provision in it providing for a tariff on crude petroleum and its products. It was defeated on the floor of the House and therefore the bill comes to the Senate without that provision in it. The Senator from Kansas [Mr. CURTIS], however, has offered an amendment or has given notice that he will offer an amendment providing for the inclusion in the general tariff bill when it comes to the Senate of a schedule covering crude petroleum and its products. I understand that perhaps a letter of that kind was written by the President and that it perhaps had its effect on the House. It is that effect I am trying to remove from the minds of Senators.

Mr. President, there is a confusion of terms in the minds of the people of the country. Generally speaking, people understand, when one speaks of an oil producer, that a Standard Oil producer is meant. The people do not generally understand that the independent producer is one thing and the monopolistic oil producer is another thing. There is a confusion of the terms. I am standing here to-day to speak a word for the independent oil producer, the man who is a pioneer in the oil business just as our forefathers were pioneers in the opening up of our country. He is the man in whose behalf I am lifting my voice, the man who goes out into the undeveloped sections of the country, risks his all in putting down a well, and brings in an oil pool or does not, as the case may be. He is the man who stabilizes the price of oil in this country. A warfare has been going on for 50 years between him and the monopolistic class.

I desire to say that the ground over which they fought has been the scene of tragedies no less important than the tragedies that were enacted in the World War; but they come again, reenforced by others, and it is for that class of oil producers that I want to lift my voice to-day.

Mr. KING. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. JONES of Washington in the chair). Does the Senator from Oklahoma yield to the Senator from Utah?

Mr. HARRELD. I yield.

Mr. KING. I hope the Senator will discuss during the course of his argument the charge made that the independents, of whom the Senator has been speaking, have often collaborated with the Standard Oil Co. and its subsidiary corporations; that they have interlocked, and instead of stabilizing prices have strengthened and perpetuated a monopoly which the Standard Oil Co. and its subsidiaries, it is alleged, have maintained in the United States. Let me say I express no opinion as to the truth of these charges, but refer to them only that the Senator may, if he cares to, give his views in relation to the same.

Mr. HARRELD. I will say in answer to the Senator from Utah that in that case they cease to be independent producers and become a part of the monopoly. That is frequently done. I have in mind now a company which bids fair to compete with the Standard Oil Co., but recently the Standard Oil Co. has acquired a majority of the stock of that company, and of course has swallowed it. Then it ceased to be an independent producer. That, however, is not the class of producers I am upholding or speaking about here.

President Harding said in his recent message to Congress:

> I believe in the protection of American industry and it is our purpose to prosper America first. The privileges of the American market to the foreign producer are offered too cheaply to-day and the effect upon much of our productivity is the destruction of our self-reliance, which is the foundation of the independence and good fortune of our people. Moreover, imports should pay their share of our cost of Government.

Why should this not apply to oil as well as other American products? A tariff on crude petroleum is warranted under any tariff theory that has yet been advanced. It is warranted by the Republican tariff theory of a tariff for protection of home industries against the cheap production of foreign competition. It is warranted under the Democratic theory of a tariff for revenue only, inasmuch as oil production for the last few years has been bearing a great portion of the cost of the Government, both State and National, and will continue to do so if not destroyed by foreign competition. It is warranted by the so-called progressive theory of a tariff which favors a tariff equal to the difference in the cost of producing a commodity in this country and in a foreign country, which takes into consideration the price of labor in producing the finished product as well as in producing the raw material.

The 200 wells in Mexico produce on the average five hundred times as much crude per well as the average of the 300,000 wells in America.

The Mexican wells average 2,630 barrels a day, while the wells in the United States average less than 5 barrels a day. It is estimated that the 200 wells in Mexico represent an investment of $12,000,000, while the 300,000 wells in America represent an investment of $2,000,000,000. To illustrate, how could an American farmer raising wheat at an average production of 20 bushels per acre compete with a Mexican farmer if it were possible for Mexican lands to produce 10,000 bushels of wheat per acre? And yet that is exactly the condition to-day in the oil business between the two countries. The farmer would be clamoring for a tariff on wheat. He would be entitled to it and would get it because he is powerful enough to demand it, but the limited number of persons engaged in the oil business and the limited amount of area of this Government producing oil, not being so powerful in governmental affairs, must necessarily appeal to the intelligence and fairmindedness of those who know nothing about the business, and that is what we are attempting to do by this statement of fact. This comparison is not complete without calling your attention to another fact. The farmer, under the condition stated, might quit raising wheat, he might plant his acreage in other crops, which would not have such features of competition. Not so with the oil man. His wells produce oil and nothing but oil. He, with his well averaging 5 barrels per day, must compete with the Mexican producer whose wells produce 2,600 barrels per day, or else he has the alternative of closing his wells, which means the absolute destruction thereof. Two hundred thousand of the 300,000 wells in the United States produce less than 2 barrels per day, and at present prices are being pumped at a loss. They must necessarily be shut in. Yet these 200,000 wells—strippers, so-called—produce the greater part of the high-grade oil; oil with high gasoline content. They also produce what is known as casing-head gas, which is necessary to mix with the ordinary gasoline content to make the best grade of gasoline. Only strippers produce this casing-head gas in any great degree, and the closing in of these 200,000 wells means to practically destroy the production of casing-head gas, thus reducing materially the output of gasoline. Ordinary gasoline extracted from crude must be more densely refined or else must have the mixture of casing-head gas to give it point. The man who argues that a tariff on crude would increase price of gasoline does not understand the technical nature of the manufacture of gasoline and the use of casing-head gas in that manufacture or he would not make the assertion.

It is estimated that there are over 21,000 producers of crude oil in this country, while in Mexico there are less than 25 producers. There are eight corporations in Mexico which export 80 per cent of the oil exported from that country into the United States. To fail to enact a tariff on crude petroleum would, therefore, be favoring the 25 to the exclusion of 21,000. Among these 25 producers in Mexico are several who are largely interested in production in the United States. One Edward Lawrence Doheny, of California, recent statistics show, produced in 1920 nearly 18 per cent of all oils imported into this country from Mexico. This is the same Doheny who is one of the largest producers in California. The production in California, like the production in Mexico, is controlled by only a few persons. There are only five integrated companies producing oil in California.

The Federal Trade Commission, in its report of April 7, 1921, states:

> All branches of the petroleum industry on the Pacific coast, i. e., crude petroleum production, pipe-line transportation, and refining and marketing, are dominated by a few large interests which control most of the proven oil lands and operate nearly all the pipe-line and refining equipment.

It also states that—

> The earnings of the five large integrated companies, namely, the Standard Oil Co. (California), the Union Oil Co. of California, the Associated Oil Co., the Shell Co. of California, and the General Petroleum Corporation—

That is, the Doheny Co.—

> which are engaged in crude petroleum production, pipe-line transportation, refining and marketing of gasoline, fuel oil, and other petroleum products, and which are the dominating factors in this industry on the Pacific coast, were generally low in 1914 and 1915, but they all show either very good or very high rates of earnings in 1918 and the first half of 1919.

Again, quoting from this report:

> Every branch of the petroleum industry from the ownership of oil lands to the distribution of refined products is controlled by a few large interests. In the ownership of oil lands and the production of crude petroleum there are seven large interests, namely, the Union Oil Co., of California; the Associated Oil Co.; Southern Pacific in-

terests; the Standard Oil Co. (California); the Shell Co. of California; the General Petroleum Corporation; the Doheny companies; and the Santa Fe Railway.

I call the attention of the Senate to this matter because I want to show that practically the same companies that are controlling the products of oil in California also control the output of oil in Mexico.

Is it strange, then, that there has been no reduction in prices in California during the slump in mid-continent crude from $3.50, January 1, 1921, to $1 at the present time, while California crude has declined only nominally, selling for $1.85 per barrel at the present time, and the same quality of oil in Oklahoma for 60 cents?

I will show the reason why for that as I go along.

This Mexican crude is not coming in contact with the production of the Pacific coast in very large quantities; therefore, while the prices have fallen in mid-continent fields more than 70 per cent prices in California have fallen very slightly. One reason for this is that while there was imported from Mexico during the month of May, 1921, 9,000,000 barrels of oil, only 367,000 barrels of this went to the Pacific coast. Perhaps it is because the largest producers in California, Mr. Doheny and others, are also large producers in Mexico and see to it that these importations do not come in contact with their production in California. This is the same Doheny who recently opened an office in London, England, thus Anglicizing his company, and it is reported from good authority sold to the English Government a large interest in his holdings in Mexico, and whose integrated companies produce more than 80 per cent of the crude produced in California and more than 18 per cent of that produced in Mexico.

Mr. KING. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Oklahoma yield further to the Senator from Utah?

Mr. HARRELD. I yield.

Mr. KING. I hope the Senator is not making an argument in support of what I conceive to be a policy at variance with the recommendations of some of the ablest statesmen of our country, that Americans should in the effort to prevent other nations monopolizing the world supply of oil make reasonable and honest attempts to secure oil fields not only for American consumption but for world commerce. The Senator knows that the Senate has discussed at considerable length the action of Great Britain in trying to secure oil fields in Mesopotamia, southern Russia, Rumania, and other countries. The Senator certainly can not be opposed to Mr. Doheny and other Americans acquiring oil holdings in Mexico or in any other land if they may do so in a legal and proper manner and in accordance with the laws of the countries into which they may go.

Mr. HARRELD. Not at all; I am in favor of the Standard Oil group, the Doheny group, or any other group going anywhere in the world they may desire in order to produce oil. What I am inveighing against is the turning over of the markets of this country to those interests to the detriment of the 21,000 people who are engaged in producing oil at home, and helping them to maintain the same kind of monopoly in the mid-continent field and the Appalachian field that they have now in the California field and in the Mexican field. I expect to show before I get through that it would not be conducive to low prices to do that thing. That is the reason I am addressing myself to these figures.

As to this man Doheny, let it be granted that he is an American citizen and that we ought to encourage him to go into foreign countries; but why does Mr. Doheny go over to England and Anglicize his company, and then come back to the United States and demand that this country give to a company that is organized in England the American market for its products? I desire to call attention to the fact that if Mr. Doheny is going to become an American producer, then we will throw around him more protection than we would accord him after he has gone and Anglicized his holdings and his company. Let me read what Moody's Manual for 1921 says:

BRITISH MEXICAN PETROLEUM CO. (LTD.).

According to Moody's Manual for 1920, page 3118, this company was organized in England in July, 1919, with a nominal capital of £3,000,000, of which £2,000,000 was issued, one-half being subscribed for by the Pan-American Petroleum & Transport Co. and one-half by British interests, the latter including Lord Pirrie, who is chairman of the company; William Weir, of the firm of Andrew Weir & Co.; Sir Thomas Royden, deputy chairman of the Cunard Steamship Co.; Sir Peter McClelland, of Duncan, Fox & Co.; Sir James T. Currie, a director of the United Baltic Corporation; J. R. Morton, and L. P. Sheldon, of Blair & Co., London.

In addition to the foregoing, the Wall Street Journal of July 22, 1919, contains the following concerning the organizers and directors of the company:

The organizers and directors of the company are Lord Pirrie, William Weir, Sir Thomas Royden, Sir Peter McClelland, Sir James T. Currie, J. R. Morton, E. L. Doheny, H. G. Wylie, E. L. Doheny, jr., J. M. Danziger, Elisha Walker, and L. P. Sheldon. Sir Alexander McGuire and W. A. White will act as alternates for the American directors residing outside Great Britain.

It shows that this man whom some people seem to be so anxious to protect in his Mexican holdings is no longer operating as an American. He is no longer entitled to the protection that the administration seems to try to throw around American producers, because he has made his company a foreign company. The same man who has a monopoly on the production in California and in Mexico has now Anglicized his company, and yet he comes to this Government and has got a great many of the people of this Government believing that he ought to be protected in his interests in Mexico, notwithstanding the fact that he has to a certain extent Anglicized his company.

Mr. KING. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from Utah?

Mr. HARRELD. Yes.

Mr. KING. If I understand the trend of the Senator's argument, I should think that he would be glad for Mr. Doheny or for any American to form a corporation with English or French or other interests in order to find markets for the oil produced by them in Mexico. This would make the competition with independent producers of whom the Senator speaks much less. And the Senator is considering the effect upon the oil producers of the United States of foreign competition. I express no opinion as to the wisdom or propriety of Mr. Doheny's acts, as described by the Senator. That matter, if important, can be considered later. However, I am not advised of any legal obstacle to the course of Mr. Doheny.

Mr. HARRELD. What I am addressing myself to is this: The President of the United States, in his communication to Mr. FORDNEY, chairman of the Ways and Means Committee, said that a tariff on oil would interfere with his "larger policy"—I will come to that in a moment—and what was that "larger policy"? To encourage American producers to go into foreign countries and acquire production and produce oil; but I am calling attention to the fact that, instead of encouraging American producers to do it, he is encouraging English companies to do it and encouraging Dutch companies to do it, instead of carrying out the "larger policy" he spoke of in his letter to Chairman FORDNEY.

Now, listen:

The Royal Dutch Shell Co., 60 per cent of whose stock is held by English people, is the biggest producer in Mexico. The Standard group is the next biggest producer in Mexico, and the Doheny group is the third biggest producer in Mexico, and the three of them produce over 80 per cent of the oil that is produced in Mexico; so that the "larger policy" which the President speaks of when he writes to Mr. FORDNEY is being carried on to protect what? To protect companies that are really foreign companies, and not Americans, in the production of oil in Mexico. That is what I am addressing myself to.

Mr. KING. Mr. President, if the Senator will still pardon me, the basis of the Senator's argument, or his thesis, as he outlined it in the beginning, is that there ought to be a tariff to protect the American producer against importations from other lands. I merely suggested that if Mr. Doheny or any other American acquired oil lands in Mexico and Anglicized them, or connected themselves with corporations in other countries, and exported their oils from Mexico to those countries instead of the United States, it ought to please the Senator.

Mr. HARRELD. I am perfectly willing for them to do that. What I am objecting to is that the markets of this country have been turned over to a man who assumes to be an American citizen, or rather whose company assumes to be an American company, when it is really an English company.

Mr. KING. I hope the Senator does not mean to challenge the citizenship or the patriotism of Mr. Doheny.

Mr. HARRELD. Not at all.

Mr. KING. I have the pleasure of knowing Mr. Doheny; there is no better citizen nor more patriotic American under the flag than Mr. Doheny.

Mr. HARRELD. Not Mr. Doheny personally—no. I am speaking about the seven integrated companies of which he is a stockholder and director.

President Harding, in his letter to Chairman FORDNEY of the Ways and Means Committee, voiced his opposition to a tariff, basing his opposition upon the statement that a tariff would be out of harmony with the "larger policy" which he had in mind, namely, to encourage American producers to enter foreign fields for the production of oil for the "future needs not alone of our domestic commerce, but in meeting the needs of our Navy and our merchant marine." I agree with him that it is the proper

policy to encourage American producers to develop foreign fields, but I fail to see how a tariff on Mexican crude would very materially interfere or conflict with this "larger policy" he lays down. If to give over to Mr. Doheny and his Anglicized oil company the markets of this country, thus destroying the independent producers of this country, is what is meant by his "larger policy," then I fail to see where that policy is either equitable or right. If to give 25 companies operating in Mexico, including the Dutch Shell Co., 60 per cent of which company's stock is held by England, the Standard Oil and the Doheny companies full charge of the markets of this country; if to encourage the 25 producers in Mexico to the destruction of 300,000 producers in the United States is what he means by his "larger policy," then I am not in favor of that policy. No one objects to permitting imports of crude petroleum from Mexico in sufficient quantities to make up the difference between the production in the United States and the consumption in the United States, which, up to December last, was quite considerable; but I desire to call your attention to the fact that since December, when the Government itself was predicting that there was going to be a shortage in the oil, there has been a vast increase in the production of oil in Mexico; there has also been an increase in production within the United States during that time; so that while it was true that as late as November and December of 1920 the production of the United States was not equal to the consumption, it is equally true that since that time the production in the United Sates has become about equal to the consumption. This was brought about by the producers of the United States speeding up production at the instance and request of the Government. They were induced to do this by the Government in the face of the fact that oil supplies were high in price, the high cost of labor, and the general high cost of development. They were trying to meet what they understood to be an urgent need of increasing the supply of oil. They met that call like patriots, only to find no market for the increased production at high rates of cost. This condition was brought about by the extraordinary increase in production in Mexico during the same period, Mexican production having increased over 200 per cent. Many of them incurred indebtedness in this effort to comply with the request of the Government. They are now unable to pay these debts. The result is that many of them are going into the hands of receivers, being sold under the hammer to pay the debts thus contracted, only to be bought up by the same group of companies, including the Standard and other companies operating in Mexico, and the oil business of this country is gradually passing into the hands of these few mighty companies, and soon the same condition will exist in the mid-continent field that now exists in California and Mexico. We do not believe it wise to advocate any policy that brings about this result.

The 21,000 independent producers of this country produce about 81 per cent of the oil. The larger companies, including the Standard companies, are not producers of oil; they are purchasers and refiners of oil. They produce less than 20 per cent of the oil produced in the United States. When once these large companies get control of the oil production of this country we will then be at their mercy; and who is it that believes that gasoline will sell for a reasonable price, as it is selling at the present time? The 21,000 independent producers stabilize the market value of crude petroleum products. To them is due the credit for 20-cent gasoline. When once they are eliminated I make the prophecy that 40-cent gasoline will be the rule.

Just as a protective tariff on woolen goods is warranted, not so much because prices are thus reduced, but because we want to encourage the manufacture of woolen goods in this country in order to prevent foreign countries from getting a monopoly upon the manufacture of woolen goods, so is the tariff on oil warranted to keep the oil output from becoming monoplized.

One of the main arguments in favor of any tariff is that we desire to encourage the production of a commodity in this country to prevent foreign competition from obtaining a monopoly of that product. History proves the wisdom of this course, because when once a monopoly is established it is not conducive to low prices. A tariff on crude petroleum is therefore justified. Even though it does prevent, as the advocates of free trade in oil urge, the lowering of prices at the present, it is justified because it prevents the increases of prices when once the production of oil passes into the hands of the monopolists who now control the fields of California and Mexico. It is for the general good in the future that we demand that these 21,000 independent producers be protected in their markets, thus protecting them from extinction and the passage of their properties into the hands of the monopolists.

The administration seems to think that a tariff on oil would be a discrimination against other nations. Why should this administration fear that a tariff on oil would interfere with its "larger policy"? For 70 years the United States has furnished 70 per cent of the total output of crude petroleum. We have not been selfish in the handling of that product. Foreigners and foreign corporations have been allowed to come into our territory and produce this oil, using our markets and receiving the same protection that our native citizens and corporations have received.

Other nations do not seem to fear discriminating against the United States. Only on March 10, 1920, this Senate adopted a resolution requesting the President to furnish information concerning discriminations of other nations against United States oil producers; and the presidential report in compliance with said request, dated June 13, 1921, shows that the United States operators are being discriminated against by other countries. Recently rich deposits of oil have been found in the East Indies, in the Provinces of the Netherlands Government, known as the Djambi fields. This report shows, notwithstanding the objections of this Government, that the Netherlands has granted to a home company concessions covering the entire Djambi field, thus shutting out the American producers from that field, notwithstanding the fact that under our beneficent laws in this country the Royal Dutch Shell Co. has for years and years been one of the biggest producers in this country.

No sooner had large deposits of crude petroleum been found within the boundaries and Provinces of these same foreign countries than they begin a policy of selfish exclusion against the producers of America. This was done by the Netherlands Government over the protest of the Secretary of State, and after full notice that the United States would not consider it a friendly act, and after it had been pointed out by the United States—

> That for years the United States has carried the burden of supplying a large part of the petroleum consumed by other countries, that Dutch capital has had free access to American oil deposits, and that the petroleum resources of no other country have been so heavily drawn upon to meet foreign needs as the petroleum resources of the United States.

It also pointed out that the Americans insisted upon the adoption of the principle of equal opportunity, and even hinted to them that no foreign capital could operate in American public lands unless its Government accorded similar privilege to American citizens.

The Dutch Shell Co., a Netherlands company, has been a heavy producer of oil in the United States for years. I am informed that it is a heavy producer of oil in Mexico. It reaches its tentacles into every oil field of the world, but selfishly preserves its own field for its own use.

I am stating these facts to show that the "larger policy" of this country is not practical; that the ideal dream that the fields of other countries will be opened to us just as our fields have always been open to others is not a reality, and never will be a reality. I want to show to you that already the policy of discrimination has been begun by almost every country in the world against the producers of the United States, and that we alone are the ones who are standing, insisting upon this "larger policy" that the President speaks about.

In this connection I call your attention to certain documents from the State Department quoted in the message of the President of the United States to the Senate on June 13, 1921. I quote from a letter written from Van Karnebeek, of the department of economic affairs of the Holland Government, to William Phillips, American minister, The Hague, dated May 10, 1921, in which the Netherlands Government defended its concession of the entire Djambi field to the Netherlands company, stating—

> That in so far as these fields are concerned, the Government of the Queen had already taken a definite decision and had submitted to the States General the project of law having for object the foundation of the Netherlands company (Nederlandsch-Indische, etc.), to which company would be confided the exploitation of the Djambi fields.

In other words, they excused their attempt to discriminate against the American operators by saying that the concession was granted before our State Department had called their attention to it, which is no excuse at all to start with. That is the only reason they gave for it, notwithstanding the American Government said this to them before the act was passed.

To this letter Minister Phillips, for the United States, replied on May 11, calling attention to the fact that he had, on September 7, 1920, and long before the concession was granted, sent to Mr. Van Karnebeek a memorandum in which appeared the following statement:

> The American Government is frank in saying that it believes that the granting to a single company of concessions covering all the best areas of the Dutch East Indies can hardly fail to be construed, whether rightly or wrongly, as a measure of exclusion, and would seem to com-

promise, at least in that region, the principle of equal opportunity, which it is hoped may be a solution of the future oil problem throughout the world—

and calling attention to the fact that the legislation giving this monopoly to the Netherlands company was not introduced or proposed until November 3, 1920, two months after the protest by Mr. Phillips, for the State Department of the United States.

This discrimination is not confined to the Netherlands. Other countries are discriminating against the United States. That is how "the larger policy" is working in other countries. It is resulting in other countries discriminating against the United States producers and forbidding them to have holdings or enter in, and it does not apply only to the Netherlands Government. Listen to this:

Even Great Britain for a time required that an oil-mining lease or license should be granted only to a person who is a British subject or a company or firm controlled by British subjects. I suppose that is the reason why Mr. Doheny felt that he must Anglicize his company. When their attention was called to this provision by the Secretary of State, the Government of England replied by saying that it was only a war-time regulation; yet they have not withdrawn the regulation in question, and its colonies and Provinces still continue to discriminate against the producers of the United States. I quote from the report of the Federal Trade Commission to the House of Representatives of date June 1, 1920:

The British Empire, which among foreign nations appears to be taking the lead in foreign development of the oil industry, has apparently entered upon a policy to bring about the exclusion of aliens from development of the petroleum supply of the Empire, and at the same time endeavoring to secure some measure of control of oil properties in countries outside the Empire. According to the State Department's report, this policy appears to be developing along the following lines, which are directly or indirectly restrictive on the citizens of the United States:

"1. By debarring foreigners and foreign nationals from owning or operating oil-producing properties in the British Isles, colonies, and protectorates.

"2. By direct participation in ownership and control of petroleum companies.

"3. By arrangements to prevent British oil companies from selling their properties to foreign owned or controlled companies.

"4. By orders in council that prohibit the transfer of shares in British oil companies to other than British subjects or nationals."

This general policy is accentuated by drastic specific laws relating to mining and petroleum prospecting in Australia, British East Africa, British West Africa, India, and other portions of the British possessions.

For instance, in British Honduras all mines of mineral oil are reserved to the Crown. In British Guiana the only restrictions on mining concessions discriminating against aliens are in connection with concessions for mineral oil rights. American oil companies are expressly excluded from doing business in Burma. None but British subjects are reported to be entitled to such rights. The same restrictions hold with regard to the transfer of mineral oil rights and property to aliens. In Canada the general British policy as to petroleum rights has not been reflected in the specific regulations enacted in other portions of the British Empire. But on March 1, 1920, the Canadian order in the council made effective the following regulation:

"Any company acquiring by assignment or otherwise a lease under the provisions of these regulations shall be a company registered or licensed in Canada and having its principal place of business within His Majesty's Dominion."

Territories under occupancy by Great Britain: German East Africa—In German East Africa, now under British occupancy, all prospecting for minerals in this territory is at present forbidden by proclamation dated July 7, 1917.

Palestine: In Palestine where large petroleum fields are believed to exist, all restricting regulations covering the exploitation of mineral oils which were in existence prior to the time of occupation by the British Army remain in force.

Persia: Citizens of the United States are generally excluded from petroleum development in Persia where the Anglo-Persian Oil Co. has exclusive petroleum rights, granted May 28, 1901, for a period of 60 years.

Australia, a British Province, in 1913, issued an ordinance as follows:

A foreign company shall not directly or indirectly be capable of acquiring or holding a mineral-oil lease or any interest therein, whether legal or equitable.

The British West African colonies, many of them, have similar provisions. Nigeria, for instance, in an ordinance of 1914, limits the granting of leases and licenses to British subjects or companies; and, so, while the English Government itself denies any intention of discriminating against American producers, its colonies, one by one, are adopting provisions which preclude the American producer from operating in English territory.

Newfoundland, for instance, has given to the Anglo-Persian Oil Co. an exclusive concession for the prospecting of oil within its territory for five years, and undertakes not to grant any mineral areas to other parties during that period.

India will grant oil-mining leases or prospecting licenses only to British subjects or companies or firms "shown to the satisfaction of the local government to be controlled by British subjects."

I quote further from the report of the Federal Trade Commission to the House of Representatives of June 1, 1920, as follows:

In the Dutch East Indies prospecting licenses and concessions are granted only to Dutch subjects inhabitants of the Netherlands or the Netherlands East Indies and to companies incorporated under the laws either of the Netherlands or of the Netherlands East Indies, having in their board of directors a majority of Dutch subjects. Large areas in this territory have been reserved for State exploration and American companies have for years, without success, endeavored to secure leases in this field. On the Sumatran east coast a number of companies are drilling for oil with reported success. All of these companies are said to be controlled by Dutch interests.

FRANCE.

The French Government uses wide discretionary powers in the granting of mineral oil concessions and under this discretion discriminatory action is possible. No mineral-oil concessions appear to have been granted in France, although there are many encouraging indications. In the French colonial possessions of northern Africa several projects are in the course of development. The State Department's report says:

"It is probable that the French policy is to regard all applications for concessions in the light of the public interest, which was reflected by an act of September 9, 1919, providing for complete nationalization of all mineral resources. It is not clear whether petroleum would come within the scope of this act or be covered by special legislation. There is reason to believe that the policy mentioned above would find expression in a restriction on development by aliens, at least to the extent that concessions would not be granted to alien groups unless they form a part of a French joint-stock company, of which two-thirds of the directors should be French citizens."

JAPAN.

In Japan five oil fields, sufficient for the use of the Japanese Navy, are held by the Navy Department. Article 5 of the Japan mining law, promulgated in 1905, reads as follows:

"No persons other than subjects of the Empire, or juridical persons duly formed in accordance with the laws thereof, are entitled to acquire mining rights."

Commenting on this law, the State Department's report says:

"The meaning of 'juridical persons' in the Japanese law is such that it is believed to be practically impossible for foreign countries to retain or transfer undisputed possession of mining rights in Japan."

SOUTH AMERICAN COUNTRIES.

Bolivia: In Bolivia oil lands belong to the State except those already legally taken up privately. Any person may freely prospect on these public lands.

Colombia: In Colombia aliens have the same right as natives to locate and own mines where such rights are secured by treaties or where the aliens' national laws give reciprocal rights to Colombia.

Ecuador: In Ecuador a new law is reported to have nationalized petroleum except as to private rights already acquired. No restrictions as between aliens and nationals are reported.

CENTRAL AMERICA.

Costa Rica: In Costa Rica no distinction is reported between the natives and foreigners. The Government reserves ownership of the subsoil. No permission is required for exploration, but acquisitions can be obtained only by concessions from the Government. Exclusive oil rights have been given to two companies covering six Provinces.

Guatemala: In Guatemala restrictions are laid on aliens in the case of petroleum rights. The nation reserves the absolute right and title to all sources of petroleum and hydrocarbon in existence in the Republic. Acquisition of petroleum land is by means of leases not exceeding 10 years in duration, executed only to native or naturalized citizens. These restrictions apply as well to transfers of petroleum property.

Dominican Republic: In the Dominican Republic there appear to be no legal distinctions in granting concessions between aliens and nationals. A proposed new law provides that petroleum or natural gas wherever found will be considered as the property of the nation. Special permits for exploration are now required.

These excerpts from the Trade Commission's reports show that these discriminations against our producers have been practiced in almost all the countries of the world.

Great Britain, when her attention was called to it, ceased, as a Government, trying to discriminate against American producers, but her colonies have constantly gone on discriminating against the producers of the United States.

Mr. KING. Mr. President, will the Senator permit an inquiry?

Mr. HARRELD. Yes.

Mr. KING. Does that discrimination extend to the purchase of our products or to the prevention of Americans from acquiring oil lands in those countries which the Senator states discriminate against us?

Mr. HARRELD. I have not investigated as to the discrimination against our products, except to this extent: Almost all these countries have imposed a tariff on oil that is shipped from this country into those countries. Even if you ship oil into Mexico they lay a duty on the finished product.

Mr. KING. The Senator knows that the tariff imposed in Mexico is a general one, applicable to all countries, and it is claimed that it is levied for the purpose of raising revenue. We assign the same reason for the duties imposed by Congress, namely, for the purpose of raising revenue to run the Government. But it is not a discrimination by Mexico. She merely seizes upon oil as a legitimate subject to levy tariff duties upon, the same as we seize upon many articles as legitimate commodities upon which to levy tariff duties.

Mr. HARRELD. Answering the Senator's question, I have not investigated further than to convince myself that almost every colony of Great Britain has passed laws forbidding the

acquiring of leases of oil holdings within their boundaries by foreigners. I know they have discriminated to that extent, and I have the records here to show that.

Mr. KING. The Senator knows we passed a law many years ago, and we have maintained it ever since, by which aliens may not acquire title to public lands of the United States and may not locate them.

Mr. HARRELD. Yes; but those laws did not apply particularly to petroleum.

Mr. KING. If the Senator will pardon me, no alien can go upon the public domain and locate under the placer or under any other law any oil land.

Mr. HARRELD. That is true as to the public lands.

Mr. KING. The Federal Government may not go into the States and determine the policies of the States, or the disposition which States will make of their own lands; but the Government itself, from the beginning, has set its seal of disapproval upon the acquisition of public lands by aliens.

Mr. HARRELD. That is true; but what I am talking of here is this, that the President has promulgated his "larger policy," as he calls it, which has for its purpose the encouragement of the American producer to go into other countries and into other fields and into other lands and produce oil. He says this tariff would interfere with that larger policy. But the point I am making is that these other countries, whose nationals have come here and enjoy the privilege of producing oil in this country, including the Dutch Shell Co., which is one of the biggest producers in the United States, are not in sympathy with that larger policy which the President has promulgated. I am citing that to show that he is seeking to put into effect a policy with which the foreign countries are not in sympathy. That was the purpose of my referring to it.

Mr. SHORTRIDGE. Mr. President——

The PRESIDING OFFICER. Does the Senator yield to the Senator from California?

Mr. HARRELD. I yield.

Mr. SHORTRIDGE. I would like to ask the Senator from Utah whether I clearly understood the proposition he announced. Do I understand him to hold, as I hope indeed he does, that California can determine whether aliens shall become the owners of real estate within her borders?

Mr. KING. I shall have to divide the question. May I trespass upon the time of the Senator from Oklahoma?

Mr. HARRELD. Certainly.

Mr. SHORTRIDGE. That question bears perhaps indirectly upon the question the Senator from Oklahoma is discussing.

Mr. KING. California may not determine the disposition which the Federal Government shall make of its lands. California may determine the disposition which shall be made of her own lands unless—and I make this qualification with the utmost diffidence—some treaty exists between the United States and some foreign country which affects the control or disposition of lands by the State of California. In that event there might be some restrictions upon the plenary power of the State of California to legislate respecting its own lands; but, generally speaking, I think I can say to the Senator that the Federal Government has no right to interfere with the policy which a State may determine upon with respect to lands owned by it or by its citizens.

Mr. SHORTRIDGE. Will the Senator give us the benefit of his learning as to this proposition—and I hope he agrees with many, including myself——

Mr. KING. I am sure I would be right if I agreed with the Senator.

Mr. SHORTRIDGE. That the right of an alien to own real estate, confining the matter to real property; that the right of an alien to own real property within a State must be found in the treaty between this country and his country; in other words, unless the right is affirmatively given to the alien to acquire and possess real property, for illustration, in Utah or in California, that right in him does not exist.

Mr. KING. I think that is right, unless the State itself might conclude to give the alien the right.

Mr. SHORTRIDGE. Of course, the State might grant that right. In other words, as bearing perhaps upon this question of acquiring title to oil lands in foreign countries, my contention, our contention, California's contention, is that the right of an alien of any foreign country to acquire and own real property within a given State must be found affirmatively in the treaty between the two countries, and it follows that if that right is not affirmatively given it does not exist.

Mr. KING. Unless the State itself gives the right.

Mr. HARRELD. The State might, under its own State policy, grant it.

Mr. KING. I think I assent to that legal proposition.

Mr. SHORTRIDGE. If that be true, as indeed I think it is, of course, the learned Senator from Oklahoma will bear in mind as he proceeds that foreign nations have the right which we claim; that is to say, that Mexico, for example, has a right to determine who shall become the owner of real property within that Republic, even as we claim that right; as, indeed, Japan has the right, which she has exercised, to determine that no alien shall possess real property within that Empire.

As bearing upon this oil question, which, of course, directly interests California, I would have the Senator bear those thoughts in mind, if he care to, to the end that we may not be demanding what we concede other nations have a right to demand.

Mr. KING. May I say, lest some misunderstanding might arise by reason of the statement made by the distinguished Senator from California with respect to Mexico, undoubtedly the statement made by him is correct, that Mexico may determine whether aliens shall acquire or hold lands within her territory; but Mexico is now seeking, by the enforcement of article 27 of her new constitution, a bolshevik constitution in some respects, to confiscate the property of Americans that was obtained by them under treaty obligations, and in a legitimate and proper way, and Mexico may not, because she has sovereign and plenary power over her people and over her territory, rob Americans who are rightfully there, and who rightfully acquired property. She may apply the right of eminent domain, perhaps, to Americans, as she might to her own citizens, and take property of Americans for public use; but there must be compensation, and if she does not do that, it is pure confiscation and robbery, against which our Government ought to protest in a vigorous manner; and if Mexico persists in robbing Americans and subjecting them to indignities and abuse, then the United States should take such steps as may be necessary to protect their lives and property and vindicate the honor of this Nation.

Mr. SHORTRIDGE. Permit me to add that I very fully agree with the legal propositions stated by the Senator from Utah.

Mr. STERLING. Mr. President——

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from South Dakota?

Mr. HARRELD. I yield.

Mr. STERLING. Mr. President, the Senator from California made as a statement of fact a statement about which I would like to be a little more informed—that is, as to the law in Japan, and as to whether it is the law that no alien can possess real property. My understanding was that aliens in Japan could possess real property, though they might not be owners in fee of that property; that they could possess it under long-time leases.

Mr. HARRELD. I have here what the Federal Trade Commission says about Japan's discrimination against us in the matter of acquiring mining rights, but I have not what it has to say about the acquiring of title. I think I will answer one or two of those questions as I go ahead a little further, and I will have to hasten.

Mexico has attempted to exclude from the development of its oil properties the American producer, as shown by extracts from certain documents of the State Department, which follow:

> In Mexico, under the constitution promulgated in 1917, only Mexicans by birth or naturalization and Mexican companies have the right to acquire ownership in the lands or waters of Mexico, or to obtain concessions to develop mines, waters, or mineral fuels in that country. The nation may grant the same right to foreigners, provided they agree to be considered Mexicans in respect to such property, and accordingly not to invoke the protection of their Governments in respect to the same, under penalty in case of breach of forfeiture to the nation of property so acquired.

That touches the point raised by the Senator from Utah [Mr. KING]. The Mexican Government insists that these questions are questions to be determined by the courts of Mexico.

So while the United States is engaged in promulgating its "larger policy," other countries, as soon as oil is discovered, take immediate steps to see that their supplies of oil are preserved and conserved for the use and benefit of the respective Governments, forgetting the equality of treatment that has been accorded to all nations in the exploitation of American oil fields. Is it not time to begin a series of retaliatory measures, or shall we, in the language of the present Postmaster General, "take punishment lying down"? Would not a tariff such as is proposed be a proper retaliatory measure, serving notice upon the world that we expect equality of treatment in the development of the oil production, and that if we do not get it we will protect the production at home in the future? America up to date has furnished 70 per cent of all the oil that has been produced

in the world. In 1918 it produced 69 per cent of all the oil produced in the world. If we are to be precluded from sharing in the production of oil in other countries, is it not time that we began to conserve the production of our country? And the best way to preserve that production is to preserve our markets for the home producer by the imposition of a tariff such as that proposed.

Several of these foreign countries levy a tariff on gasoline and refined oils shipped into their respective countries. For instance, at this very time, crude oil is being shipped from Mexico into this country duty free, yet if a refiner of this country attempted to ship his refined oils into Mexico, we will say through El Paso or through Laredo, he comes up against a tariff and a tax by the Mexican Government which shuts him out. Last year large cargoes of gasoline were imported into this country from Rumanian oil fields duty free, but if any American manufacturer sought to enter the markets of Rumania in competition with Rumanian oil he would be confronted with a tariff wall he could not climb.

The President, in his letter to Chairman FORDNEY, said:

> I can not refrain from expressing the hope that your committee will take note of the foreign policy, to which we are already committed, under which the Government is doing every consistent thing to encourage the participation of Americans in the development of oil resources in many foreign lands.

I fail to see, however, any inconsistency in this "foreign policy" and the imposition of a protective tariff to protect our home markets. A physician once advised a lady patient who was single that what she needed was contentment of mind and recommended marriage as a remedy. The lady in question promptly responded by saying to the physician, "Doctor, you are single, are you not?" The doctor hastened to reply, "Yes, madam; but it is the business of a physician to prescribe and not to furnish the medicine." It is the business of this Government to encourage American producers in foreign countries, but it is not our business to furnish a market to them for their production when to do so utterly destroys the market so much needed by the local producer. As against all other foreign producers, I am for the American producer anywhere the world over.

I am even for the Standard Oil Co., which has done so much to stifle and destroy the efforts of the independent producer. But as between the Standard Oil Co. and the monopolistic class to which it belongs and the independent producer at home, I am unequivocally on the side of the independent producer. I have been an oil producer for seven years. I have felt the grinding heel of the subsidiaries of the Standard Oil Co.; I know of their tactics when they have the opportunity; I am thoroughly convinced that when once they have obtained control of the markets of the United States, gasoline and other products of oil will not be cheaper than they are at the present time. In fact, knowing their tactics as I do I am firmly convinced that they are using the Mexican flush production to do what the law has somewhat curbed them from doing in recent years. They are deliberately, in my judgment, filling up their empty tanks with Mexican oil at a cheap price to bring about a total collapse of the oil business within the United States, thus causing bankruptcy and demoralization among the independent producers, forcing upon the market at ridiculously small prices the producing properties of the independent producers who are not able to stem the tide, and that they will gradually acquire these properties at a forced sale thus acquiring control of the production in the United States just as they now control the Mexican production and the California production. In fact, I have it on good authority that the various subsidiaries of the Standard Oil Co. have recently negotiated immense loans and with the funds are buying up properties in the fields of the mid-continent, thus taking advantage of a condition which they themselves are bringing about by the wholesale importation of Mexican crude into the United States. This is only a continuation of the tactics which they practiced for years before the Congress of the United States passed laws which curbed them in their rapacity.

The President uses this language:

> The oil industry is so important to our country and our future is so utterly dependent upon an abundance of petroleum that I think it is vastly more important that we develop an abundance of resources rather than temporary profit to a few producers who feel the pinch of Mexican competition.

It seems to me that what we need is not to develop an abundance of resources or an abundance of petroleum, but rather to conserve the oil supply. It is better to preserve the supply of petroleum in the earth and bring it forth as the needs of the country demand. It would be well for American interests to acquire holdings in oil territory of foreign countries, but I take issue with him in his position that it should be produced in an abundance. It would be better, when oil is discovered and territory is substantially proven, if that oil could be held in the reservoirs of the earth and brought forth only as needed. Of course, we can not force the conservation of oil in foreign countries except to cut them off from our markets, and, to my mind, the production of oil in the immense quantities such as is now being produced in Mexico at the rate of 200,000,000 barrels per year is anything else but the following of a policy of conservation. If geologists are right and there is only a limited supply of oil in the earth, would it not be the wise policy, as nearly as possible, to conserve that supply and bring it forth as the needs of the world require? There is only one way by which we can force a conservation of the Mexican supply, and that is by shutting them off from our market, which is the greatest oil market in the world.

There is used in the United States 60 per cent of the total refined products from crude petroleum. To deny to the Mexican producer the use of this market except as to that part of it which we are unable to supply from our own production, would be advisable as a means of conservation of the world's supply. The other 40 per cent of the world's trade in petroleum products would be open to their use, and because of the fact that they can produce crude oil so much cheaper than it can be produced in the United States they would have under those conditions, and have now, a virtual monopoly upon this other 40 per cent of the markets of the world. It would be easier for the eight large producers in Mexico to refrain from further development and invoke this policy of conservation than it would be for the 300,000 operators in the United States who are competing with each other in the drilling of offset wells and must of necessity compete with each other in drilling in order to insure themselves their proportional part of the oil deposits in any given area. The man who holds large concessions like those held in Mexico is not so much troubled about preventing his neighbor from drawing from the earth an unfair proportion of the deposit. He is protected against that by his large holdings, while the owner of a small tract must protect himself against encroachments of his neighbors.

At the present time they not only have a monopoly of the markets of the United States but of the entire world. The other markets of the world outside the markets of the United States would enable the Mexican producers to make a handsome profit upon their investments and at the same time conserve the world's supply for future use. The profits that they could make, even when denied the markets of the United States, would be sufficient to satisfy the appetite of those less insatiable than the few big monopolistic companies who control the Mexican production. To my mind, therefore, it appears that the imposition of a tariff on imports of crude petroleum would in no wise interfere with the "large policy" of the President. Eight corporations export 80 per cent of the oil exported from Mexico into the United States. Shall we protect these eight corporations in their avarice or shall we emphasize that our policy is America first by protecting the independent producers of the United States from extermination? That is the question. The argument has been made that this importation of Mexican crude oil enables the Navy and the Shipping Board to procure cheap fuel. This argument falls flat when you consider that the tariff levied upon that part of the Mexican crude which the Government sees fit to purchase could be purchased free of the duty or the duty could by law be remitted, and thus each of the arguments which are presented against this tariff can be met.

The real facts are that the same group of eight companies that control 80 per cent of the output of crude in Mexico buy about 50 per cent of the crude oil produced in this country, and what they desire to do is to play both ends against the middle, using the Mexican crude to hammer the prices in this country. It is not their sincere wish to give the Government oil at a bargain. Admiral Benson recently said that it required 30,000,000 barrels of fuel oil for the Navy in 1920, and estimated that it would require 40,000,000 barrels in 1921. This 40,000,000 barrels could be bought free of the duty or the Government could buy this 40,000,000 barrels of oil and pay the duty thereon readily, because it would immediately go back into the Treasury of the United States, thus reducing the cost to the Government to the basis of the price before the duty was levied. I dare say that the Navy of the United States is paying more now for their fuel under contracts which have been in existence for some time than they would have to pay under a policy of this kind when those contracts have expired.

The effect of a refusal to protect our markets by a tariff will be to turn that market over to a few American citizens in partnership with foreign citizens operating in Mexico, and whereas we rely upon the producers of the United States largely for our revenue to cover the expenses of Government we are turning those markets over to men and companies many of whom pay

no part of their profits in revenue to the United States, and indeed are likely to become a charge upon that revenue, because from an actual study of the controversy between the Mexican Government and the foreign producers of Mexico I find that there are legal difficulties involved which will result in years of litigation, continual friction, and perhaps war with Mexico. While it is true that it is the duty of the American Government to protect the property rights of its citizens in foreign countries so long as those Americans abide by the just laws and regulations of that foreign Government, yet it is questionable whether the foreign operators in Mexico are doing that thing; that is, it is doubtful if they are giving the proper respect to the laws and ordinances of that Government. I would use the full strength of the Government to protect American citizens in their rights in foreign countries, but not one cent of treasure or blood would I favor using to protect them in their wrongful evasion of the legally prescribed laws and ordinances, and that sometimes becomes a question for the courts to determine rather than a question to be settled by the arbitrament of the sword. So that the questions now pending for settlement in Mexico, now the subject of diplomatic correspondence between this country and Mexico, may become a question to be settled by the courts or it may become a question to be settled by force of arms. In either case the chances are that this Government will be put to great expense to protect the American citizens in their rights in the courts or in the conflict.

In this connection I quote from an article of which President Obregon, of Mexico, was the author, printed in the New York World about June 26:

DECLARES MEXICO'S TAXATION FAIR TO NATIVE AND FOREIGNER ALIKE.

Coming to the question of taxation, it is a fundamental principle of the law of nations that the taxation policy of a country is that country's own peculiar domestic concern. The only proper ground for diplomatic intervention is when the tax discriminates in favor of a native and against the foreigner or in favor of one foreign nation as against another with which the country is on an equally friendly footing, or when the tax is so excessive as to threaten confiscation of the property itself.

This fundamental principle, however, is thrust to one side when Mexico is concerned. Habitual protests and interference force the conviction that the investors of more powerful nations have the idea that we should submit our taxation plans to them for approval and that no tax should be imposed that does not receive their unanimous approval.

I will not attempt to conceal the bitterness that this course has aroused in Mexico, but out of our sincere desire for peace and amity we have frequently swallowed effrontery and smothered indignation. Considering this taxation question in detail, let me state that just as the constitution of Mexico forbids tax exemption so does it forbid tax discrimination. Every Federal tax is applied with absolute equality to natives and foreigners alike. As a matter of fact, almost all of our Federal taxes are indirect, and therefore no attempt to evade the constitution could possibly be successful.

TAX INCREASES NECESSARY.

As for recent tax increases, the necessity should be clear to all. Every country in the world has had to increase its taxes in order to meet increased expenses. In addition, Mexico is facing delinquent obligations that must be met. The increase in petroleum taxes, for instance, is for specific application to our foreign debt. To this purpose and this purpose alone the entire proceeds of the tax will be devoted. I stated this object clearly in the decree that established the tax and there will be no departure from it. To call the tax confiscatory, as the petroleum group is doing, is absurd. When the tax rates of other countries are considered, especially those of the United States, the charge is additional evidence of the rapacity of the group, for even while earning enormous dividends out of the oil taken from Mexican wells, it is still unwilling for Mexico to receive even an appreciable share of its natural wealth as an aid in meeting the just demands of the holders of our foreign obligations.

It is these dividends that give the best answer to the cry of confiscatory taxation. The net profits of the Mexican Petroleum Co. in 1920, after deducting depreciation and taxes, were $9,773,898. Its interlocked associate, the Pan-American Petroleum & Transport Co., declared net profits of $12,987,752 in 1920 after deducting interest charges, taxes, and contingencies. The British-Mexican Petroleum Co., another rich subsidiary formed in order to avoid the scandal of lumped earnings, showed a profit of $5,000,000 in 1920.

PUMPED $28,000,000 IN PROFITS.

It will thus be seen that the Doheny group pumped close to $28,000,000 in net profits out of the soil of Mexico in the single year of 1920, and yet it was with this enormous sum in their pockets that this group flooded the United States with the false cry that the tax policy of the Mexican Government was crushing and ruinous, and to-day, while they are filling the press with page advertisements of protest against confiscatory taxation and appealing to the Government of the United States for action of some sort, Mr. Doheny is cheerfully assuring his stockholders that the first quarter of 1921, after deducting taxes and depreciation, will show an increase of 225 per cent in net profits over the first quarter of 1920.

NO ANTI-AMERICANISM EXISTS.

Permit me, in conclusion, to consider the question of Mexico's anti-Americanism. I deny absolutely that any such feeling exists. To be sure, for many years in our schools our history dealt bitterly with the Texas revolt and with the War of 1846. Such a course, however, is not peculiar to Mexico. The care of every country is its vainglorious or malicious presentation of historical facts.

One of the first things that the revolution did was to call in every school history that taught the youth of our country to hate the United States and Spain.

To-day it is the case that the people of Mexico regard the overwhelming mass of Americans as friends eager to see a sister Republic attain peace and prosperity. Certain evil groups persist—groups willing to invite the horrors of a fratricidal war—in order to increase their dividends, but here in Mexico we have the hope and belief that these groups will soon be exposed and discredited in Mexico's scheme of development. We hope and expect that the United States will play an important part. It is not only that we are neighbors and that our trade relations are mutually necessary and profitable. There is more to it than that. What is it after all that makes people alike? Not blood as ties of common belief, not bonds of race so much as bonds of similar thought.

HAVE SIMILAR ASPIRATIONS.

The people of Mexico and the people of the United States have the same aspirations, the same ideals, the same goals. Nothing could be more unhappy, more unfortunate, than failure to pursue our common destiny hand in hand, shoulder to shoulder. The Government of Mexico is keenly sensible of this and is determined to spare no effort nor neglect any opportunity to do its full share toward bringing about a proper understanding between the people of the country and those of the United States.

Refusal to do certain things which have been asked of us has been mistakenly attributed to anti-American feeling. Nothing is further from the truth. There are certain things which a country may not do without surrender of sovereignty and self-respect. There are certain constitutional limits to the power of the President of Mexico, but short of these impossibilities there is nothing that we will not do to forge stronger bonds between the two Republics, although justice often is forced to wait on patience.

We have full faith in the outcome. Our confidence in the high and proved idealism of the United States fills us with the conviction of a future pregnant with bright promise, of complete understanding, and invincible amity.

I wonder if the American people desire to see the oil industry of this country pass into the hands of such rapacious individuals as those who are referred to in President Obregon's statement.

The thing I am inveighing against is the unrighteousness of delivering to these few men, who are likely to become a charge upon the revenues of the Government, the markets that justly belong to the American producer, for the American producer who produces oil within the confines of our own dominion. The question is, Shall we preserve these markets for the man who produces revenue for the Government, or for the man who is a charge upon the revenue of the Government? As for me, I believe in America first; American markets for Americans. Again quoting the President: "I believe in the protection of American industry and it is our purpose to prosper America first."

If at any time the supply in the United States is less than the demand in the United States, then it would be right to allow importation to the extent of that shortage. But when the supply is equal to the demand, as it is at the present, I believe the market should be preserved for the American producer. Last year all of the oil imported into this country, except about 1,000 barrels, came from Mexico, so that while the proposed tariff is general and applies to all nations, Mexico would be the only country that would be affected by it.

In 1908 oil was put upon the free list. At that time only an inconsiderable quantity of oil was being imported into this country and the lawmakers then rightly decided that it was not necessary to have a tariff. Neither was it necessary until about one year ago.

Prior to 1908 there had been what was known as the countervailing duty on petroleum and its products. In other words, the duty on petroleum and its products entering this country was the same as the duty imposed by that country from which it was exported. This was repealed in 1908, notwithstanding the fact that Mexico was even then charging a duty upon petroleum and its products entering that country. It was repealed because the oil imported into this country at that time was negligible.

Conditions have changed. Before repealing this countervailing duty in 1908 the United States Senate committee which had charge of the matter, in order to familiarize itself with the potential possibilities of production in Mexico, sent Willard C. Hayes chief geologist of the United States, into Mexico to make an examination and report. In his report he stated—and I will ask Senators to listen to this, for it shows the kind of propaganda that was used then and enables one to form an idea of the kind of propaganda that is being used now—

While these fields promise to yield a large quantity of crude oil, the quality is such that it can not compete under present conditions in the markets of the United States or Europe, with the high-grade petroleum of the Appalachian, Illinois, or mid-continent fields. Further, the conditions are such that the demand for fuel and refined products in Mexico exceed the supply available at present or in sight in the near future. There is practically no coal in Mexico, and the railroads are now depending upon Texas, Oklahoma, and English coal, which consumes several times the present production of oil if it were generally adopted as fuel.

After events prove that Mr. Hayes was not a very successful prognosticator, but it served to induce the Senate to put oil on the free list at that time. Mr. Hayes soon after resigned his position with the United States Geological Survey and entered the employ of S. Pearson & Son, then the largest holders of potential producing territory in Mexico, and now one of the greatest producers of crude in Mexico, and remained with this company until his death. Mexican crude shipped into the United States in 1920 was nearly twice as large as in 1918, and more oil was

shipped into the United States from Mexico in the last half of 1920 than was shipped during the whole of the year 1919 by 14,500,000 barrels, and imports from Mexico for the first five months of 1921 exceeded the imports for the first five months of 1920 by 25,000,000 barrels. All these imports for the first five months of 1921 were from Mexico except 1,038 barrels, which came from other countries. (See Report of G. B. Richardson, United States Geological Survey.)

A similar kind of propaganda was started a few days ago. A statement is being circulated that the State geologist of the great State of Ohio has given out a report to the effect that the entire supply of Mexican oil would be exhausted in two years. I do not believe the State geologist of Ohio ever made such a statement as that, but that is the kind of propaganda that is being sent out. It is all fours with the report which was made by Mr. Hayes, the United States geologist who went to Mexico to make a report and came back with a job.

If the producers of Mexico are not satisfied with such profits as they have been able to make, as set out in this statement of President Obregon, which profit the Federal Trade Commission report shows to have been more last year on a $12,000,000 investment in Mexico than was realized by the producers of the United States on an investment of $1,780,000,000; if they must needs complain because Mexico imposes a tax upon them which shows conclusively that they are not satisfied with the profits they have made, would it be wise for this Government to play into the hands of a bunch of monopolists who are so insatiable? Could we expect anything else except that later when they get control they would impose upon the people of the United States higher prices for these commodities? Is it wise to play into the hands of a bunch of monopolists who are out for the coin and are not satisfied to pay reasonable tax to the Government out of their enormous profits? Does it show that they are inclined to be philanthropists?

Another proof that the control of oil production in a few hands is unwise is that the few companies controlling the production, refining, and marketing of crude oil and its products in California in 1919 made a net average profit, according to reports of the Federal Trade Commission, of 26 per cent, some as high as 32 per cent, while the independent refiners of the Mid-Continent field made only an average of 6.3 per cent. This was because the refiners in California are also producers, and produce their own crude, while many of the refiners in the Mid-Continent were compelled to buy their production and pay a premium for same above that which the Standard Oil Co. was paying in the same field.

The point I am making, though, is this: If the producers who control the California fields, and who are practically the same producers who control the Mexican output, can be trusted to keep the price of gasoline at a reasonably low level, why did not they reduce the price of gasoline at their California refineries and be willing to take a less percentage of profit? You can only judge what a man will do by what he has done. If this same bunch of producers who have a monopoly in California and Mexico would continue and make a profit of 25 or 30 per cent without reducing the price of their product, can they be trusted to keep the price of gasoline down when they have obtained a monopoly of the oil business both in Mexico and in the United States?

You may say that if the independent producers of the United States can not compete with producers in Mexico that that is their misfortune—and so it is if by destroying their business you will not create a monopoly; but the reason that American producers can not compete with Mexican producers is that the Mexican wells produce five hundred and thirty times as much on an average as the average well in the United States. The Mexican well does not have to be pumped, while wells in the United States soon become pumpers after they are brought in. It costs 11 cents per barrel to produce oil in Mexico, while in the United States it costs $1.56 per barrel, including interest on the money invested in each case. All the wells in the United States average less than five barrels per day, and there are 150,000 wells in the United States which average less than one-half barrel per day, yet these small wells produce the bulk of the gasoline.

The Mexican crude only produces about 9 per cent of gasoline; California crude only about 9 to 15 per cent; while the Mid-Continent crude produces about 36 per cent, and the small wells in the Appalachian Mountains produce as high as 70 per cent. In other words, the small wells under 2 barrels per day in 1920 produced 40 per cent of all the gasoline produced in the United States, and there are 200,000 such wells in the United States, and while last year Mexican importations amounted to 106,000,000 barrels, it would take twice that amount of importations of Mexican crude, with its 9 per cent content, to supply the deficiency in gasoline caused by the shutting down of the 200,000 small wells referred to above. This will give you an idea of the importance of protecting and preserving the small wells in the United States, because unless you do so we will not only be confronted with high prices in gasoline but we will be confronted with a famine in gasoline.

There is one other phase of this question that I want to call your attention to. It is estimated that there are now 4,500,000 men out of work in the United States. Two hundred and forty-two thousand of these are coal miners. Two hundred thousand of them are oil-field workers. A tariff on oil would revive business in the oil fields and in the mining districts of the United States. The coal miners are directly interested because this cheap oil from Mexico reduces the demand for mine-run coal, with which it comes in competition. When the mine owners can not sell their mine-run coal the entire cost of mining must be borne by the nut coal or lump coal, which, of course, increases the price of the coal which you and I use in our homes. It also curtails the amount of coal which the mines can put forth and is largely responsible for the idleness of the 242,000 men mentioned. Is it not worth while to consider the interests of these working men? Has it not been the boast that that was one of the effects of the protective tariff; that it preserved for the American workingman his job and a reasonable salary for the work performed. From that standpoint, also, a tariff on oil is warranted, and in this connection I call attention to the fact that while in April, 1920, there was produced in the United States 40,000,000 tons of coal, that in April, 1921, only 29,000,000 tons of coal were produced. This will give you an idea of the effects the importation of cheap Mexican crude into this country is having upon the mining industry. I am not so much interested in the mining companies as I am in the multitude of workingmen who are thus thrown out of employment and for whose benefit a tariff law is primarily intended.

Then there is another element that should be considered in considering the losses that would be suffered, and that is the farmers of the country, especially in those counties where there is a suspicion that oil sand exists. There is hardly a county in the United States that has not had or possibly will have an oil boom, resulting in enabling the farmers to lease their farms for oil at a rental sometimes in excess of the value of the farm for agricultural purposes. To destroy the independent producer means to put a stop to this source of revenue for the farmer. These leases would all be allowed to lapse and the farmers would lose the annual rental thereof.

The group of monopolistic companies, such as the Standard Oil Co., have never been wildcatters. They content themselves with waiting until some daring independent producer has gone afield and has taken the risk of putting down a wildcat well, only to rush in when the wildcatter has struck oil and grab up such properties as their geologists conclude to be desirable, often obtaining control of the entire pool of oil discovered before others become aware of its value.

If they are unable to do this, they do another thing which is more reprehensible. That is, they build a pipe line into the field, thus giving them a monopoly upon the markets (because no other company will then build a pipe line), and force the producer to take in many cases less than one-third of the real value of the oil, and by false claims of not having storage capacity or that the gas content is negligible or that it is no good because it contains sulphur or other noxious substances, so reduce the price as to hamper and embarrass the independent producers in that particular field, finally forcing them to sell at nominal prices, and in that way become the owners of the production of this particular field.

Heretofore this has been the practice of the monopolists. The law, however, has in a measure been so changed as to make them afraid to go as far with those sort of practices as they once did. They are now put to it to try other experiments to bring about the same results, and it is a credit to their ingenuity to see the effective way which they have found. They now control the fields of Mexico. They can take the oil out of the ground there in small quantities or large, as they see fit. They can import it into the United States in such quantities as to destroy the independent producers of the United States, as they are doing now, until such time as it suits their purposes to increase the price of crude, thereby furnishing excuse for selling gasoline and other products at high prices. They will then quit importing oil into the United States until such time as they can work off their surplus products at enormous prices, only to begin again heavy importations into the United States when it suits their purpose to do so. Of all the cunning devices that the oil monopoly has ever invented it seems to me this is the most cunning. It puts them outside the pale of the law of the United States. There is no international law governing this

matter, and can be none. So that there is no way by which the independent producer can be protected, except by the proposed tariff which we are asking for, and I predict that unless this protection is given that we will within the next few years have a series of large importations from Mexico followed by small importations for another period and a corresponding manipulation of the prices of crude and of the products of crude. And so the question resolves into this: Shall the United States play into the hands of the few Mexican producers, 65 per cent of whom are Americans, or will they protect the interests of the 21,000 Americans who constitute the great body of independent producers?

AMENDMENT OF NATIONAL PROHIBITION ACT.

Mr. STERLING. Mr. President, I move that the Senate proceed to the consideration of the conference report on the bill H. R. 7294, supplemental to the national prohibition act.

Mr. KING. I rise to a parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. KING. As I am advised, the Senate has made House bill 8107, extending the emergency tariff and the dye embargo laws, the unfinished business and is now considering that measure. The Senator from Oklahoma [Mr. HARRELD] has the floor and has yielded——

The PRESIDING OFFICER. The Senator from Oklahoma has concluded his speech.

Mr. HARRELD. I have yielded the floor.

Mr. KING. The Senator from Oklahoma, at any rate, has been discussing the pending measure. The inquiry I make of the Chair is, Can the bill which is now under consideration be displaced to take up some other measure?

The PRESIDING OFFICER. The Senate by a vote may do so. The Senator from South Dakota moves that the Senate proceed to the consideration of the conference report named by him.

Mr. SIMMONS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from North Carolina suggests the absence of a quorum. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Brandegee	Heflin	McKellar	Shortridge
Broussard	Jones, N. Mex.	McNary	Simmons
Cameron	Jones, Wash.	Moses	Smith
Capper	Kellogg	Nelson	Sterling
Caraway	Kenyon	New	Swanson
Curtis	King	Newberry	Townsend
Ernst	Ladd	Nicholson	Trammell
Fernald	La Follette	Oddie	Wadsworth
Fletcher	Lenroot	Phipps	Warren
Gooding	Lodge	Poindexter	Weller
Harreld	McCormick	Pomerene	Willis
Harrison	McCumber	Sheppard	

The PRESIDING OFFICER. Forty-seven Senators having answered to their names, there is not a quorum present. The Secretary will call the names of the absent Senators.

The reading clerk called the names of the absent Senators, and Mr. HALE and Mr. WATSON of Georgia answered to their names when called.

Mr. FRELINGHUYSEN, Mr. HITCHCOCK, Mr. SPENCER, Mr. SMOOT, Mr. BALL, Mr. GLASS, and Mr. CALDER entered the Chamber and answered to their names.

The PRESIDING OFFICER. Fifty-six Senators have answered to their names. A quorum is present. The Senator from South Dakota moves that the Senate proceed to the consideration of the conference report on the supplementary prohibition act.

Mr. McCUMBER. Mr. President, I hope this motion will not prevail. I do not think——

Mr. STERLING. Mr. President, as I understand, this question is not debatable.

Mr. McCUMBER. The motion is debatable after 2 o'clock.

Mr. STERLING. I do not understand that to be the rule.

Mr. McCUMBER. That certainly is the rule after 2 o'clock.

Mr. LENROOT. Mr. President, I call the Chair's attention to the fact that this is a motion to proceed to the consideration of a conference report. I think the Chair will find that the rule is different in that case.

Mr. McCUMBER. No; the rule is that a conference report can be presented at any time; it has precedence in that respect; but I do not understand that the consideration of a conference report has any precedence.

The PRESIDING OFFICER. The Chair will be obliged to the Senator from Wisconsin if he will call the Chair's attention to the rule he has in mind.

Mr. STERLING. I refer to Rule XXVII. I do not know the rule referred to by the Senator from Wisconsin:

The presentation of reports of committees of conference shall always be in order, except when the Journal is being read or a question of order or a motion to adjourn is pending, or while the Senate is dividing; and when received the question of proceeding to the consideration of the report, if raised, shall be immediately put, and shall be determined without debate.

Mr. McCUMBER. I do not understand that it can take the place of a pending motion or a pending bill. However, I shall abide by the ruling of the Chair.

Mr. STERLING. That seems to be the plain rule.

The PRESIDING OFFICER. The rule seems to be very plain. The Chair had overlooked the rule.

When received the question of proceeding to the consideration of the report, if raised—

That question is raised by the motion of the Senator from South Dakota—

shall be immediately put, and shall be determined without debate.

The question is, Shall the Senate proceed to the consideration of the conference report? [Putting the question.] The "ayes" seem to have it.

Mr. McCUMBER. I ask for a division.

On a division, the motion was agreed to; and the Senate proceeded to consider the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7294) supplemental to the national prohibition act.

Mr. STERLING. Mr. President, I desire to make a brief statement with reference to this conference report and the bill.

First, I call attention to the fact that there were 32 amendments to the House bill, H. R. 7294, adopted by the Senate. The bill went to conference and all the Senate amendments were agreed to except the last amendment made by the Senate, amendment numbered 32, which constituted a new section of the bill, known as section 6.

Mr. KING. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Utah?

Mr. STERLING. I do.

Mr. KING. I wish the Senator would read the modification which has been made by the conferees of the original measure as it passed the Senate.

Mr. STERLING. I will say to the Senator that I expect to do so.

Amendment numbered 32, being section 6, is in the following language:

That any officer, agent, or employee of the United States engaged in the enforcement of this act, or the national prohibition act, or any other law of the United States, who shall search or attempt to search the property or premises of any person without previously securing a search warrant as provided by law, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not to exceed $1,000 or imprisoned not to exceed one year, or both so fined and imprisoned in the discretion of the court.

Any person not a duly authorized officer, agent, or employee of the United States, who, under color or claim to be acting as such, in the enforcement of this act, or the national prohibition act, or any other law of the United States, subjects or causes any person to be subjected to the deprivation of any rights, privileges, or immunities secured or guaranteed by the Constitution of the United States, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by imprisonment for a period of not more than five years or by fine not exceeding $10,000, or by both such fine and imprisonment.

Mr. President, the House itself acted upon three of the amendments adopted by the Senate and amended those amendments. The House receded from its disagreement to two of the three amendments and concurred in the corresponding Senate amendments, and, as I have stated, there was only the one amendment remaining in controversy. The House amendment is as follows:

That no officer, agent, or employee of the United States, while engaged in the enforcement of this act, the national prohibition act, or any law in reference to the manufacture or taxation of, or traffic in, intoxicating liquor, shall search any private dwelling without a warrant directing such search, and no such warrant shall issue unless there is reason to believe such dwelling is used as a place in which liquor is manufactured for sale or sold. The term "private dwelling" shall be construed to include the room or rooms occupied not transiently, but solely as a residence in an apartment house, hotel, or boarding house. Any violation of any provision of this paragraph shall be punished by a fine of not to exceed $1,000 or imprisonment not to exceed one year, or both such fine and imprisonment, in the discretion of the court.

The House amendment, it will be seen, omits the second paragraph of section 6 as adopted by the Senate, which relates to any person not a duly authorized officer or agent or employee of the United States, and his liability for an assumed attempt to enforce this law or any other law.

The essential difference between the Senate amendment and the House amendment will be readily seen. The Senate amendment provided that no officer, agent, or employee of the United States engaged in the enforcement of this act, or the national

prohibition act, or any other law of the United States, should search or attempt to search the property or premises of another without previously securing a search warrant, and made him liable to a fine of not exceeding $1,000, or imprisonment not exceeding one year, if he did not procure a search warrant for the purposes of making the search. It will be seen that it applies to any property or to the premises of any person and would not permit of the search of property or premises other than the dwelling without a search warrant.

The House amendment prohibits the search of a dwelling without a search warrant, and provides that no search warrant shall issue for the search of a dwelling unless there is reason to believe such dwelling is used as a place in which liquor is manufactured or sold.

I want to say, Mr. President, that it was very apparent, soon after the conferees met to discuss the differences between the two Houses, that there could be no agreement reached on the Senate amendment. As I think over the situation, Mr. President, I think there was strong reason in the House position in not agreeing to the Senate amendment, and I believe it will appeal now to all Senators, whatever we may say in regard to the amendment proposed by the House.

Senators will recall some of the circumstances under which the bill passed the House. Passage and final action upon it had been delayed for a long time, day after day, when it was thought, and reasonably, that the bill ought to have the consideration of the Senate; and I do not think it is improper to say that there were evidences of filibuster against the bill from time to time, between the time it was first brought before the Senate and the final vote on the bill. There was no time during that discussion, or the last day of the discussion, when the Stanley amendment was offered, to consider statutes or precedents.

There has been opportunity since, Mr. President, though there was not then, to examine to some extent the statutes and the precedents. I am surprised to find that we would repeal, I think, at least 20 or 25 sections of the statutes, our Internal-Revenue Service statutes, our Postal Service statutes, our customs service statutes, statutes with reference to the Indian Service, if we should pass the Stanley amendment. It is my purpose to refer to some of these statutes.

Let Senators think, before I read the statutes, of what is involved in the collection of our revenues, of what is involved in our postal system, of what is involved in the Government's care of the Indians, of what is involved in our customs service, if, for every seizure made by an officer of the law, a search warrant must be first procured.

I think, Mr. President, if it were required, it would simply work havoc in the enforcement of those laws. But the Stanley amendment would repeal these laws which authorize these searches and seizures by revenue officers, customs officers, and others.

Mr. POMERENE. Am I to understand that it is the contention of the Senator that an officer in any branch of the Government service has the right to search and to seize without an affidavit and without a warrant?

Mr. STERLING. That is the contention with regard to the acts authorized by the statutes I shall quote and I will be able to prove that such right is upheld by the courts.

Mr. POMERENE. I want to be specific in my question so that there can be a specific answer to it. Does the Senator contend that these officers have a constitutional power to do it, or does he mean simply the authority under some statute which has been passed?

Mr. STERLING. They have the statutory power, and I say that they have the constitutional power to do it, and it is no violation of the principle involved in the fourth amendment in regard to unreasonable searches and seizures.

Mr. POMERENE. I shall listen with very great interest to hear the Senator prove that proposition.

Mr. STERLING. I will prove it, and prove it by authority cited frequently as the standard authority and as high authority by those in opposition to this measure and this conference report.

I first call attention to section 2140 of the Revised Statutes, which reads as follows:

If any superintendent of Indian affairs, Indian agent, or subagent, or commanding officer of a military post, has reason to suspect or is informed that any white person or Indian is about to introduce or has introduced any spirituous liquor or wine into the Indian country in violation of law, such superintendent, agent, subagent, or commanding officer, may cause the boats, stores, packages, wagons, sleds, and places of deposit of such person to be searched; and if any such liquor is found therein, the same, together with the boats, teams, wagons, and sleds used in conveying the same, and also the goods, packages, and peltries of such person, shall be seized and delivered to the proper officer, and shall be proceeded against by libel in the proper court, and forfeited, one-half to the informer and the other half to the use of the United States; and if such person be a trader, his license shall be revoked and his bond put in suit.

Mr. KING. Will the Senator permit an inquiry for information?

Mr. STERLING. I yield.

Mr. KING. As I recall the words, does the Senator contend that the words "shall cause to be searched and seized," referring to the liquor or contraband goods, mean that it may be done without a warrant?

Mr. STERLING. I do.

Mr. KING. That it may be done by force and by the high hand of the officers, without resorting to the courts?

Mr. STERLING. No warrant is mentioned, and I am sure that no warrant is contemplated, and I am sure that, as I call attention to several sections of the internal revenue laws and the customs laws, Senators will be convinced that no warrant is provided for and that none was ever contemplated by the statute.

Mr. BROUSSARD. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Louisiana?

Mr. STERLING. I yield.

Mr. BROUSSARD. Mr. President, I wish to inquire of the Senator from South Dakota whether or not the statute which he reads gives certain authority to search and seize when a party is in the act of committing a violation of law, and which is in the presence of an officer? If the Senator will read the first sentence of that "if," and so on, I think that will disclose what I am after.

Mr. STERLING. It reads:

If he "has reason to suspect or is informed that any white person or Indian is about to introduce or has introduced,"

And so forth.

I call the attention of the Senator from Louisiana to a provision of the amendment finally agreed upon by the conferees in that regard.

Mr. BROUSSARD. Then the Senator's contention, if I understand it, is that he may proceed without a warrant?

Mr. STERLING. He may proceed without a warrant. That is surely my position.

Mr. BROUSSARD. What becomes of the constitutional protection?

Mr. STERLING. The Constitution is not affected by it. It is constitutional. It is not an unreasonable search or seizure under the Constitution, and the courts have so held. That is my position.

Mr. BROUSSARD. I understand that the courts have held differently.

Mr. STERLING. I call attention to section 3059, pertaining to customs, which reads:

SEC. 3059. It shall be lawful for any officer of the customs, including inspectors and occasional inspectors, or of a revenue-cutter, or authorized agent of the Treasury Department, or other persons specially appointed for the purpose in writing by a collector, naval officer, or surveyor, to go on board of any vessel, as well without as within his district, and to inspect, search, and examine the same, and any person, trunk, or envelope on board, and to this end to hail and stop such vessel if under way, and to use all necessary force to compel compliance.

And all that without a warrant, either for the arrest of the person, to begin with, or for a search or seizure of any goods or property. It reads:

And if it shall appear that any breach or violation of the laws of the United States has been committed, whereby or in consequence of which such vessel, or the merchandise, or any part thereof, on board of or imported by such vessel, is liable to forfeiture, to make seizure of the same, or either or any part thereof, and to arrest, or in case of escape, or any attempt to escape, to pursue and arrest any person engaged in such breach or violation.

Section 3061 of the Revised Statutes, under the same heading, says:

Any of the officers or persons authorized to board or search vessels may stop, search, and examine, as well without as within their respective districts, any vehicle, beast, or person, on which or whom he or they shall suspect there is merchandise which is subject to duty, or shall have been introduced into the United States in any manner contrary to law, whether by the person in possession or charge, or by, in, or upon such vehicle or beast, or otherwise, and to search any trunk or envelope, wherever found—

He is not protected by a warrant under which he can justify, if sued, and the following words clearly imply that—

in which he may have a reasonable cause to suspect there is merchandise which was imported contrary to law.

Those words "reasonable cause" would not need to be used if he were required to procure a search warrant in the first instance, because his search warrant, not void on its face but fair on its face, would be his authority, and would be his justification if he were sued.

Mr. STANLEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Kentucky?

Mr. STERLING. I yield.

Mr. STANLEY. Does the Senator maintain, first, that that section is not itself in plain contravention of the spirit and the letter of the fourth amendment of the United States Constitution?

Mr. STERLING. I do contend that it is not in violation of the Constitution and that the Supreme Court of the United States has held that it is not in violation of the Constitution.

Mr. STANLEY. Will the Senator kindly cite to me any case decided by the Supreme Court in which that statute is upheld?

Mr. STERLING. I cite to the Senator the case relied upon by the Senator from Arizona in his speech the other day, and relied upon by other Senators, quoted and cited, the case of United States against Boyd.

Mr. STANLEY. The Boyd case does not hold any such doctrine as that.

Mr. STERLING. Oh, yes; I will be able to show the Senator the very language which applies to a case of this kind. If the Senator will acquaint himself with the history of the fourth amendment to the Constitution, the evils it was designed to guard against, and the rights it was designed to protect, the real rights, he will not contend, I think, that a seizure of the kind described here is in violation of the fourth amendment to the Constitution. Remember this always, that it is not any search or seizure, but is unreasonable search or seizure, which is inhibited by the Constitution. The authorized searches and seizures made in the enforcement of the customs laws, internal-revenue laws, postal laws, and laws for the protection of the Indians, are, Mr. President, not unreasonable.

Mr. STANLEY. Does the Senator maintain that because laws peculiarly drastic were enacted to protect a few Indians on an Indian reservation, that now the personal baggage and effects, the trunks and grips and private belongings of men and women traveling over the United States, shall be, without rhime or reason, plundered and pilfered, opened and searched by any inquisitorial revenue or prohibition officer who chooses to go on a smelling expedition?

Mr. STERLING. Yes. If the Senator can find an authority, a decision by the Supreme Court or by any Federal court, for that matter, that will contravene what I have said and say that any of the sections of the Revised Statutes that I have read or shall read are prohibited by the fourth amendment to the Constitution, he may do so. I think he will be unable to find any such authority.

I read section 3064 of the Revised Statutes:

SEC. 3064. The Secretary of the Treasury may from time to time prescribe regulations for the search of persons and baggage, and for the employment of female inspectors for the examination and search of persons of their own sex; and all persons coming into the United States from foreign countries shall be liable to detention and search by authorized officers or agents of the Government, under such regulations.

I wish to read the next section, 3065. There is an expression there that is peculiarly significant, which relates to a dwelling:

SEC. 3065. Any person authorized by this title to make searches and seizures,

Not authorized under and by virtue of a search warrant issued by a United States commissioner or by a justice of the peace, but authorized under this section of the statute, which has no reference whatever to a search warrant—

or any person assisting him or acting under his directions, may, if deemed necessary by him or them, enter into or upon or pass through the lands, inclosures, and buildings, other than the dwelling house of any person whomsoever, in the night or in the day time, in order to the more effectual discharge of his official duties.

There they recognize the sacredness of the dwelling and prohibit that from being thus searched. The courts would hold in such case, probably, if a dwelling were searched under that statute, that it was the business of the officer first to get a search warrant, which he might do.

Here is a statute which requires an oath to be made by the officer, but does not require a warrant. Note the very drastic action to which the officer may resort under this section, section 3107 of the Revised Statutes:

SEC. 3107. If any store, warehouse, or other building shall be upon or near the boundary line between the United States and any foreign country, and there is reason to believe that dutiable merchandise is deposited or has been placed therein or carried through or into the same without payment of duties, and in violation of law, and the collector, deputy collector, naval officer, or surveyor of customs shall make oath before any magistrate competent to administer the same that he has reason to believe, and does believe, that such offense has been therein committed, such officer shall—

When? Upon the procuring of a search warrant? No; but by making record there and filing his oath with the magistrate—

Such officer shall have the right to search such building and the premises belonging thereto; and if any such merchandise shall be found therein, the same, together with such building, shall be seized, forfeited, and disposed of according to law, and the building shall be forthwith taken down or removed.

Mr. STANLEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Kentucky?

Mr. STERLING. I yield to the Senator.

Mr. STANLEY. Is it not a fact that warrants predicated upon the language of that act were declared by Attorney General Knox not to be within the provisions plainly contained in the fourth article of the Constitution, and that a warrant ought not to issue even upon the oath of an officer that he had reasonable grounds to believe that contraband goods were contained upon the person or in the chattels of a citizen without a specific statement of fact to sustain that affidavit?

Mr. STERLING. No; I do not think so.

Mr. STANLEY. I do.

Mr. STERLING. I do not. I turn now to another section, section 3166. This is under the heading of "Internal revenue":

SEC. 3166. Any officer of internal revenue may be specially authorized by the Commissioner of Internal Revenue to seize any property which may by law be subject to seizure—

He is not authorized by warrant sworn out on complaint, filed with a justice of the peace or with a commissioner, but he is authorized by the collector himself to do that—

and for that purpose such officer shall have all the power conferred by law upon collectors; and such special authority shall be limited in respect of time, place, and kind and class of property as the commissioner may specify: *Provided*, That no collector shall be detailed or authorized to discharge any duty imposed by law upon any other collector.

I will not pause to read all these sections, but I refer Senators now to sections 3176 and 3177 of the Revised Statutes, under the subject of internal revenue.

I refer again to section 3276, and I think I had better read that:

SEC. 3276. It shall be lawful for any revenue officer at all times, as well by night as by day, to enter into any distillery or building or place used for the business of distilling, or used in connection therewith for storage or other purposes—

Now, this is without a warrant being required. Under the Stanley amendment as it was agreed to, requiring a search warrant in each and every case, a search warrant would be required for every illicit still in the woods or barns or outbuildings throughout the country, the still operated by some man in defiance of the law—

and to examine, gauge, measure, and take an account of every still or other vessel or utensil of any kind, and of all low wines, and of the quantity and gravity of all mash, wort, or beer—

And so forth.

Then it provides the penalties for the obstruction of an officer in the performance of that duty under the law to make this search and seizure if he finds the property that should be seized under the section.

I refer now to a section or two of the postal laws.

Mr. BRANDEGEE. Mr. President——

Mr. STERLING. I yield to the Senator from Kentucky.

Mr. BRANDEGEE. Does the Senator think there is any distinction between the right of the Government to search, under the customs laws, goods entering the country or under any other governmental function for the collection of governmental revenue and the ordinary enforcement of a criminal statute?

Mr. STERLING. No; I think not, especially when it comes to this, that the enforcement is for the purpose of finding property held in violation of law. That is the object of the search, the object of the seizure—the taking of the property held in violation of law.

Mr. LENROOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Wisconsin?

Mr. STERLING. I yield.

Mr. LENROOT. I call attention to the fact that the Stanley amendment made no distinction, and would prohibit search under the customs laws as well as any other laws.

Mr. STERLING. Certainly. I have already stated that it would in effect repeal every section that I have read and numerous other sections besides.

Mr. BRANDEGEE. I am not stating that the Stanley amendment is perfect. It may require modification. However, that is a question which will come up later. The question is whether the amendment proposed by the conferees is a proper amendment.

Mr. NELSON. We will discuss that with you, too.

Mr. BRANDEGEE. I have no doubt, and I think at some length.

Mr. STERLING. Referring to just one or two other sections under the Postal Service laws, I call attention to sections 3989 and 3990, as follows:

SEC. 3989. Any special agent of the Post Office Department, when instructed by the Postmaster General to make examinations and seizures, and the collector or other customs officer of any port, without special instructions, shall carefully search all vessels for letters which may be on board or which have been conveyed contrary to law.

SEC. 3990. Any special agent of the Post Office Department, collector, or other customs officer, or United States marshal or his deputy, may at all times seize all letters and bags, packets or parcels, containing letters which are being carried contrary to law—

How do they know they are being conveyed contrary to law? Not by an affidavit made and filed with a peace officer, a justice of the peace, or a commissioner, and a warrant issued thereon and put into their hands for service, but they learn it in some way by witnessing the violation or by receiving credible information from some other source, and upon that they are authorized to make the search or the seizure—

letters which are being carried contrary to law on board any vessel or on any post route, and convey the same to the nearest post office, or may, by direction of the Postmaster General or Secretary of the Treasury, detain them until two months after the final determination of all suits and proceedings which may, at any time within six months after such seizure, be brought against any person for sending or carrying such letters.

There they are, letters, private papers, documents, that men hold most prized, perhaps their private correspondence, and yet being carried contrary to the law they are subject to seizure.

Mr. LODGE. Mr. President, does the Senator draw no distinction between private papers in a man's desk, for example, and papers which he commits to the Government to carry for money, when the Government is the carrier? Of course, the carrier can lay down such conditions as he chooses.

Mr. STERLING. I recognize that distinction, and I shall allude to it a little later. I am glad that the Senator speaks of the distinction. The Government has that right. The mails are the great instrumentality of the Government, and it has the right, of course, to see to it that mail is not carried in violation of the law. Our lottery law, our obscene literature law, our law against sending fraudulent matter or matter calculated to defraud through the mails to entice people into fraudulent schemes, are examples of interference upon the part of the Government in these matters.

Mr. HITCHCOCK. Mr. President——

Mr. STERLING. I yield to the Senator from Nebraska.

Mr. HITCHCOCK. Does not a similar reason apply to searches by the Government of goods imported into the country, and has not the Government the right to provide restrictions upon importations of goods, and can it not obviously make as one of the conditions that they must be examined?

Mr. STERLING. Certainly.

Mr. HITCHCOCK. Is not that upon an entirely different basis from searching a man's property in this country?

Mr. STERLING. No; I think not altogether; but property may be taken, it may be seized after it comes into the possession of the owner or the alleged owner in this country. It may be followed by the customs official for that purpose. It may be followed to his premises.

Mr. LENROOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Wisconsin?

Mr. STERLING. I yield to the Senator from Wisconsin.

Mr. LENROOT. Officials may search and seize a man's personal property when he arrives in this country, although he is an American citizen, and although he brings with him nothing dutiable.

Mr. HITCHCOCK. I say absolutely that is a condition to entering the country. In order that the laws of the United States may be enforced it has been found necessary to search everyone, whether carrying dutiable goods or not, in order that the fact may be made known, and anyone entering the country enters it upon that condition.

Mr. LENROOT. Does the Senator think that as to an American citizen leaving the country we can make conditions arbitrarily as to his right to reenter?

Mr. HITCHCOCK. I think so as to his right to bring in goods when he returns.

Mr. LENROOT. But where he does not bring in anything dutiable may he still be searched?

Mr. HITCHCOCK. In order to ascertain that fact the customs regulations require an examination. It is a condition which applies to everyone.

Mr. LENROOT. Exactly, and it is the same in this case. A man does not have a right to have in his possession liquor for the purpose of sale and transportation.

Mr. HITCHCOCK. That is not a parallel case at all. Here is a case in which the Government has made certain regulations for the admission of property to the country. Obviously it is within the power of any government to do that.

Mr. LENROOT. Oh, yes; and so it is as to this question.

Mr. HITCHCOCK. But its power can not be enforced except by examining the property as it comes in, and examining the people as they come in.

Mr. LENROOT. The Senator surely does not contend that the Government has not the power to search in order to find illicit liquor?

Mr. HITCHCOCK. I am disposed to sympathize with the idea that search can not be made without a warrant.

Mr. LENROOT. That is another question.

Mr. HITCHCOCK. That is exactly the question.

Mr. STERLING. I will merely call attention to one more section of the Revised Statutes, under the heading of "Internal revenue":

SEC. 3453. All goods, wares, merchandise, articles, or objects, on which taxes are imposed—

This does not relate to the proposition advanced by the Senator from Nebraska [Mr. HITCHCOCK]; it does not relate to the imported goods at all, but to a tax upon the goods of citizens, which is imposed by the Government—

All goods, wares, merchandise, articles, or objects, on which taxes are imposed, which shall be found in the possession, or custody, or within the control of any person, for the purpose of being sold or removed by him in fraud of the internal-revenue laws, or with design to avoid payment of said taxes, may be seized by the collector or deputy collector of the proper district or by such other collector or deputy collector as may be specially authorized by the Commissioner of Internal Revenue for that purpose, and shall be forfeited to the United States. And all raw materials found in the possession of any person intending to manufacture the same into articles of a kind subject to tax for the purpose of fraudulently selling such manufactured articles, or with design to evade the payment of said tax; and all tools, implements, instruments, and personal property whatsoever, in the place or building, or within any yard or inclosure where such articles or raw materials are found, may also be seized by any collector or deputy collector, as aforesaid, and shall be forfeited as aforesaid. The proceedings to enforce such forfeitures shall be in the nature of a proceeding in rem in the circuit court or district court of the United States for the district where such seizure is made.

Mr. President, that section does not relate to goods which are imported, which are coming here with notice to the importer that they are subject to the laws of the United States, and that they may be searched and seized for that purpose, but it relates to goods, wares, and merchandise of citizens who it is supposed are trying to evade the payment of the Government tax upon such goods or articles. They may be seized not under a warrant but upon the authority of the collector of internal revenue or the Commissioner of Internal Revenue.

Mr. President, I have cited a number of sections of the statutes relating to Indian affairs, internal revenue, the postal system, and customs duties. I could cite many more. Senators could turn to the pure food and drug act and find some provisions authorizing searches and seizures, but I prefer not to do that. I think what I have quoted illustrates the far-reaching effect of the so-called Stanley amendment, and that amendment, by its very terms, would repeal every one of the sections which I have read, and many more besides. I wonder if, on reflection, the Senate of the United States is willing to enact a law like that, or if the Senate will now complain of the conference committee because it has substituted something else which I think is reasonable and is in harmony with other laws and precedents?

Mr. President, there are one or two other matters to which I wish to call attention.

Mr. KING. Mr. President, I desire to ask the Senator from South Dakota a question for information.

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Utah?

Mr. STERLING. I yield to the Senator from Utah.

Mr. KING. Have any of the statutes to which the Senator has just called our attention been called into question? For instance, where an officer, following the statute and without warrant authorizing the seizure or search, has seized and has searched, have his acts been called into question in a court of competent jurisdiction?

Mr. STERLING. I have not been able to find any such case. The nearest approach to it which I have found is the case against Boyd, which I think I can show differs altogether in principle from any case that could arise under the sections of the Revised Statutes which I have quoted.

Mr. KING. The Senator will perceive that Congress in the exercise of, I concede, proper authority might authorize the seizure of certain property alleged to be contraband or alleged to be brought into the United States in violation of law, and the authorization of seizure and the authorization of search might not convey the meaning that it might be done in contra-

vention of the fourth amendment to the Constitution. It might not mean that search could be made or seizure effectuated without the ancilliary proceedings, to wit, an affidavit setting forth the grounds which justify the belief that the law had been infracted and under warrants to be issued pursuant to the affidavit. I was wondering if the Senator could cite any authorities—and I am asking for information, for I am not clear upon the subject myself—showing that the authorization to search and seize had been construed to obviate the necessitiy of complying with the fourth amendment as it has been interpreted by many.

Mr. STERLING. I find no particular authorities to that effect, and I do not think there are any; there can be very few, at any rate, if any. The courts seem generally to recognize that these statutes are valid and that searches and seizures like those contemplated by these statutes are not in violation of the fourth amendment; in other words, they are not unreasonable searches and seizures within the meaning of that amendment.

Mr. LODGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Massachusetts?

Mr. STERLING. I yield to the Senator from Massachusetts.

Mr. LODGE. Mr. President, it is now half past 5 o'clock. We must have an executive session, as there are a great many nominations awaiting to be referred and a great many reports to be made. We did not have an executive session yesterday. I do not wish to interrupt the Senator unduly, but I thought he had reached a point where possibly he would be willing for us to hold an executive session. Of course, if the Senator wishes to go on and conclude, I shall not interrupt him.

Mr. STERLING. I will conclude my remarks in probably 10 minutes or 15 minutes at the outside, I will say to the Senator, and then I shall not personally object to a short executive session. I sincerely hope, however, that we may resume legislative session immediately after the executive session. I appreciate what the Senator says about the need of an executive session, but we have, under a resolution passed some time ago, only to-morrow in which it consider this important question, and I hope we may proceed with it until its conclusion.

Mr. KING. Would the Senator be willing to take a recess until 10 o'clock to-morrow morning?

Mr. STERLING. Later I would; I would not at this time, or even after a short executive session. I think we ought to proceed to-night for a while.

Mr. KING. I will remind the Senator that many of us had no dinner last evening, and I suggest, if the Senator insists upon a night session, that he give us an hour and a half recess, so that we may get something to eat.

Mr. STERLING. If the Senator from Massachusetts will permit, I will conclude.

Mr. LODGE. Certainly; the Senator has the floor; but when the Senator concludes I shall make a motion that the Senate proceed to the consideration of executive business.

Mr. STERLING. I should be pleased to be allowed to continue; I shall not detain the Senate very long.

Mr. WATSON of Georgia. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Georgia?

Mr. STERLING. I yield to the Senator from Georgia.

Mr. WATSON of Georgia. Will the Senator from South Dakota be kind enough to tell us what construction he places, or what importance he attaches, to the four words "no warrants shall issue," in the fourth amendment to the Constitution? That amendment provides "that the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated." The Senator has based his entire construction, as I understand, upon the word "unreasonable," but immediately following that word, with only a comma between, appear the words "and no warrants shall issue."

Mr. STERLING. I understand the Senator. I have thought of that very language.

Mr. WATSON of Georgia. I should be very glad to hear the Senator's construction of it.

Mr. STERLING. I have thought of that very language, and it simply means, according to my construction at any rate, that where it is a proper case for a search warrant, as in all cases in most jurisdictions, anyhow in connection with the right to search a dwelling, a search warrant can only issue upon affidavit "particularly describing the place to be searched and the persons or things to be seized"; but that does not make a seizure or a search without a warrant an "unreasonable seizure."

Mr. WATSON of Georgia. But Mr. President, if the Senator will allow me——

The PRESIDING OFFICER. Does the Senator from South Dakota yield further to the Senator from Georgia?

Mr. STERLING. I yield.

Mr. WATSON of Georgia. The Senator, of course, will remember that these provisions of the Constitution were mere repetitions of personal liberties guaranteed by laws and charters a thousand years old and more.

Mr. STERLING. Yes.

Mr. WATSON of Georgia. And that the men who drew them up were lawyers, cognizant of the laws which had preceded and of the evils they wanted to guard the individual against—the invasion of his house, person, papers, and effects. That language covers all kinds of property.

Mr. STERLING. Exactly.

Mr. WATSON of Georgia. Immediately following the words "unreasonable searches and seizures," I find the words "no warrants shall issue" except upon certain conditions. Why should not all of that sentence be construed together, and why does not reason compel us to construe it to mean that in every case of the search or seizure of house, person, papers, and effects there must be a warrant? Have not the courts so construed it? Otherwise, if the Senator's view should prevail and the proposed law were in effect, would not every occupant of the galleries now be subject to search and seizure in the effort of some law officer to find a flask of whisky or wine?

Mr. STERLING. Now, let me read from the case of Boyd against The United States, in answer largely to the question propounded by the Senator from Georgia—and I hope the Senator will observe the distinction drawn in that case.

A word or two to show what the case is.

First:

The fifth section of the act of June 22, 1874, under which this order was made, is in the following words, to wit:

The order referred to by the court in its opinion was an order requiring the defendant to bring into court his books, papers, documents, invoices, and so forth, for the purpose of use as evidence against him, and under a statute, remember, which provided that if he failed to bring in the books, papers, and so forth, according to the notice or the subpœna, the allegations made in the complaint against him should be taken as confessed; and the court held that that was a violation of the fourth amendment to the Constitution.

And if produced—

Part of the statute—

the said attorney shall be permitted, under the direction of the court, to make examination (at which examination the defendant or claimant, or his agent, may be present) of such entries in said book, invoice, or paper as relate to or tend to prove the allegation aforesaid, and may offer the same in evidence on behalf of the United States. But the owner of said books and papers, his agent or attorney, shall have, subject to the order of the court, the custody of them, except pending their examination in court as aforesaid.

But the statute further provides that failure to produce shall be taken as a confession against him.

The court says:

The principal question, however, remains to be considered. Is a search and seizure, or what is equivalent thereto, a compulsory production of a man's private papers, to be used in evidence against him in a proceeding to forfeit his property for alleged fraud against the revenue laws—is such a proceeding for such a purpose an "unreasonable search and seizure" within the meaning of the fourth amendment of the Constitution? Or is it a legitimate proceeding? It is contended by the counsel for the Government that it is a legitimate proceeding, sanctioned by long usage and the authority of judicial decision. No doubt long usage, acquiesced in by the courts, goes a long way to prove that there is some plausible ground or reason for it in the law, or in the historical facts which have imposed a particular construction of the law favorable to such usage. It is a maxim that, consuetudo est optimus interpres legum; and another maxim that, contemporanea expositio est optima et fortissima in lege. But we do not find any long usage or any contemporary construction of the Constitution which would justify any of the acts of Congress now under consideration.

Then an examination and discussion of these acts follows; but the court says:

As before stated, the act of 1863 was the first act in this country, and, we might say, either in this country or in England, so far as we have been able to ascertain, which authorized the search and seizure of a man's private papers, or the compulsory production of them, for the purpose of using them in evidence against him in a criminal case or in a proceeding to enforce the forfeiture of his property.

Even the act under which the obnoxious writs of assistance were issued (note by the court, 13 and 14 Car. 2, ch. 11, sec. 5) did not go as far as this, but only authorized the examination of ships and vessels, and persons found therein, for the purpose of finding goods prohibited to be imported or exported, or on which the duties were not paid, and to enter into and search any suspected vaults, cellars, or warehouses for such goods. The search for and seizure of stolen or forfeited goods—

Now, note this. Here is the distinction which the court draws in the Boyd case, and which justifies every word of the amendment of the conference committee:

The search for and seizure of stolen or forfeited goods or goods liable to duties and concealed to avoid the payment thereof——

Mr. STANLEY. Mr. President, will the Senator yield for just a minute? I simply want to get the page from which he is reading.

Mr. STERLING. I am reading from page 623 of the report now. It begins on page 616. Let me read it again:

> The search for and seizure of stolen or forfeited goods or goods liable to duties and concealed to avoid the payment thereof are totally different things from a search for and seizure of a man's private books and papers for the purpose of obtaining information therein contained or of using them as evidence against him. The two things differ toto cælo.

They are as far apart as the heavens and the earth.

Mr. BRANDEGEE. Mr. President, that is just what I claimed when I asked the Senator if he could not perceive the distinction between all the acts to enforce the revenue laws which he has been quoting as authority and the search to procure evidence against a man in a criminal suit to be brought against him. The point of the decision which the Senator is reading is destructive of his own claim.

Mr. STERLING. The question of search and seizure for the purpose of obtaining evidence against a man is not involved in the amendment.

Mr. BRANDEGEE. Why, Mr. President, if the Senator will permit me, the whole object of the search by a prohibition enforcement officer of a man's person, his property, or his premises is for nothing else except to get evidence against him to be used in court, and the crime is in having in his possession, with the intent to sell, intoxicating liquors; and the object of the whole search, whether of the person or of the property, is to catch him with the incriminating evidence in his premises or on his person.

Mr. NELSON. Mr. President, will the Senator yield to me?

Mr. STERLING. I yield to the Senator from Minnesota.

Mr. NELSON. I want to call the Senator's attention in this connection to section 30 of the prohibition law:

> No person shall be excused, on the ground that it may tend to incriminate him or subject him to a penalty or forfeiture, from attending and testifying, or producing books, papers, documents, and other evidence in obedience to a subpœna of any court in any suit or proceeding based upon or growing out of any alleged violation of this act; but no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing as to which, in obedience to a subpœna and under oath, he may so testify or produce evidence, but no person shall be exempt from prosecution and punishment for perjury committed in so testifying.

In the case of Interstate Commerce Commission *v.* Baird, the Supreme Court passed upon a very similar clause in respect to giving testimony before the Interstate Commerce Commission; and the couft in that case held that inasmuch as the statute had given the witness immunity he was compelled to testify, and he would suffer no harm from his testimony.

Mr. BRANDEGEE. Mr. President, that is entirely aside from the mark. Where a statute provides that in response to a subpœna duces tecum and interrogation in court a man shall not be prosecuted on account of the testimony he gives, of course he can not be prosecuted. That is not this case. Here you have the case of a search without a search warrant. The question is whether it violates the fourth amendment. The question is whether the statute that we are proposing to enact here carries out the guaranties secured by the fourth amendment.

I do not want to trespass on the Senator's time, but if he will excuse me, in order to make the point about which we may argue, if the Senator will turn to page 627 of the Boyd case, from which he is reading, where the opinion of Lord Camden is quoted as the basis of the decision, he will see where the distinction comes in between the right to search under such statutes as he has read and the right to search under the statute proposed by the conference committee.

Here is what Lord Camden says:

> The great end for which men entered into society was to secure their property. That right is preserved sacred and incommunicable in all instances where it has not been taken away or abridged by some public law for the good of the whole. The cases where this right of property is set aside by positive law are various. Distresses, executions, forfeitures, taxes, etc., are all of this description, wherein every man by common consent gives up that right for the sake of justice and the general good.

But to contend, where men have abandoned a part of their rights of privacy so that the Government can collect the taxes necessary to maintain its own life, that therefore the men and women of this country have surrendered the rights guaranteed under the fourth amendment against unreasonable searches and seizures, will never be maintained by a free people nor justified by a court.

Mr. STERLING. Mr. President, let something else that I may read from the Boyd case be an answer to the Senator from Connecticut.

> The two things differ toto cælo. In the one case the Government is entitled to the possession of the property, in the other it is not. The seizure of stolen goods is authorized by the common law; and the seizure of goods forfeited for a breach of the revenue laws, or concealed to avoid the duties payable on them, has been authorized by English statutes for at least two centuries past (note by the court, 12 Car. 2, ch. 19; 13 and 14 Car. 2, ch. 11; 6 and 7 W. & M., ch. 1; 6 Geo. I, ch. 21; 26 Geo. III, ch. 59; 29 Geo. III, ch. 68, sec. 153, etc.; and see the article "Excise, etc.," in Burn's Justice and Williams's Justice, passim, and Evans's Statutes, vol. 2, p. 221, subpages 176, 190, 225, 361, 431, 447), and the like seizures have been authorized by our own revenue acts from the commencement of the Government. The first statute passed by Congress to regulate the collection of duties, the act of July 31, 1789 (1 Stat., 29, 43), contains provisions to this effect. As this act was passed by the same Congress which proposed for adoption the original amendments to the Constitution it is clear that the members of that body did not regard searches and seizures of this kind as "unreasonable."

If that is not an answer to the Senator from Connecticut it is an answer to the Senator from Kentucky [Mr. STANLEY], who questioned the validity of these acts from which I quoted a while ago, the customs acts, the internal revenue acts, and others.

Mr. BRANDEGEE. I do not question the validity of the customs acts, but they are based upon entirely different authority.

Mr. STERLING. Let me read a little further:

> and they are not embraced within the prohibition of the amendment. So, also, the supervision authorized to be exercised by officers of the revenue over the manufacture or custody of excisable articles, and the entries thereof in books required by law to be kept for their inspection, are necessarily excepted out of the category of unreasonable searches and seizures. So also—

I would have the Senator from Connecticut note these words—

> the laws which provide for the search and seizure of articles and things which it is unlawful for a person to have in his possession for the purpose of issue or disposition, such as counterfeit coin, lottery tickets, implements of gambling, etc., are not within this category.

I wonder, Mr. President, if the transportation or the possession for transportation of intoxicating liquors is not a violation of law and does not come clearly within the language of the court in the Boyd case? But let me read it again:

> So also the laws which provide for the search and seizure of articles and things which it is unlawful for a person to have in his possession for the purpose of issue or disposition, such as counterfeit coin, lottery tickets, implements of gambling, etc., are not within this category. (Commonwealth *v.* Dana.)

If there had been an eighteenth amendment at the time that decision was rendered, and a law for the purpose of carrying it into effect, the court undoubtedly would have enumerated intoxicating liquors unlawfully in the possession of anyone as coming within the same category, and not within the category of things prohibited by the fourth amendment to the Constitution.

So I say, Mr. President, that here is the authority on which the opponents of this measure have so long relied, the authority on which the opponents of the amendment to section 6 have relied as authority, but which proves to be the strongest kind of authority, in the distinction it makes, for the position taken by the proponents of the bill.

Mr. POMERENE. Mr. President, will not the Senator kindly read the next paragraph, or, if he objects, I will read it.

Mr. STERLING. Oh, read it.

Mr. POMERENE. Just after what the Senator has read, the judge uses this language:

> But, when examined with care, it is manifest that there is a total unlikeness of these official acts and proceedings to that which is now under consideration. In the case of stolen goods, the owner from whom they were stolen is entitled to their possession; and in the case of excisable or dutiable articles, the Government has an interest in them for the payment of the duties thereon, and until such duties are paid has a right to keep them under observation, or to pursue and drag them from concealment; and in the case of goods seized on attachment or execution, the creditor is entitled to their seizure in satisfaction of his debt; and the examination of a defendant under oath to obtain a discovery of concealed property or credits is a proceeding merely civil to effect the ends of justice, and is no more than what the court of chancery would direct on a bill for discovery. Whereas by the proceeding now under consideration the court attempts to extort from the party his private books and papers to make him liable for a penalty or to forfeit his property.

That is the distinction, and the authority which the Senator from North Dakota is now reading indicates very clearly that the position taken by the Senator from Connecticut [Mr. BRANDEGEE] is absolutely right.

Mr. STERLING. What about that passage I just read, and what application has that, which the Senator has read, to the point made? If the Senator will read and weigh the words I read, just prior to what the Senator read, I think he will find the distinction, and a very plain distinction.

Mr. POMERENE. I have found it; the Senator does not seem to have found it. He read just far enough to sustain himself and did not read that part which controverts the position which he himself has taken.

Mr. STERLING. I will say to the Senator from Ohio, in all good intent, that there is no need of reading further than I read.

There is nothing in that decision which contravenes or contradicts it. What the Senator has read does not do it.

Mr. WATSON of Georgia. Mr. President, has the Senator recently refreshed his memory by reading the eighty-fourth number of the Federalist, written by Mr. Hamilton?

Mr. STERLING. No; I have not.

Mr. WATSON of Georgia. That gives the reason why the Constitution, as signed by the Philadelphia convention, had no Bill of Rights in it.

Mr. STERLING. I hope the Senator will not take time now to read that; he may read it later, and I shall not object. But I would like in just a few words to conclude.

Mr. WATSON of Georgia. I will state the substance of it, though, as it applies to this legislation. Mr. Hamilton, urging the people of New York in those celebrated letters, which are considered among the greatest state papers of the world, to ratify the Constitution, gave the reasons why the makers of the Constitution did not adopt a bill of rights, including, among other things, freedom of speech, freedom of the press, and just such questions as we are now discussing; and he said it was unnecessary to do it because the Federal Government had not been vested with any authority to take them away. I wish to remind the Senator that the Virginia Bill of Rights, written by one of the leading members of the Constitutional Convention of 1787, contains in explicit language a prohibition against just such legislation as the Senator now advocates.

I would like to ask the Senator what becomes of the maxim that an Englishman's hut or his home is his castle?

Mr. STERLING. It is protected in that amendment. It can not be searched without a search warrant.

Mr. WATSON of Georgia. Under the Senator's amendment, as I understand it, every prohibition enforcer is the judge of the reasonableness of the search, and the citizen is deprived of that protection which Lord Chatham said, in one of the finest bursts of eloquence ever heard in the British House of Commons, guaranteed that the King could not enter the hovel of a poor man, no matter how shabby it was, unless he came by warrant of law. The Senator's amendment would annihilate the protection of a thousand years.

Mr. REED. Mr. President, I want to inquire whether there will be any effort made to bring this bill forward this evening?

Mr. STERLING. That depends somewhat.

ORDER FOR EVENING SESSION.

Mr. REED. I do not want to interrupt this proceeding, but I would like to have an understanding with the Senator from South Dakota, in charge of the bill, as to whether he intends to bring it up after the executive session, it now being 6 o'clock, or whether we are to adjourn at the conclusion of the executive session.

Mr. LODGE. Mr. President, I have received word from the conferees on the farmers' export or War Finance Corporation bill, saying they hope to reach an agreement, or, at all events, a point where they would make a report, and hoped that we would not adjourn at present. That bill ought to be disposed of at the earliest possible moment, if there is any idea of taking a recess; in fact, it must be. I do not feel inclined to move that the Senate adjourn until we have heard from the conferees on the farmers' export bill. I shall be perfectly willing to take a recess, so that we may have an opportunity to get something to eat, at least.

Mr. KING. Until half past 8?

Mr. LODGE. Yes; and come back.

Mr. REED. Let me suggest that the Senator make a motion that when the executive session is concluded the Senate will recess until 8.30 o'clock. Let us adopt that motion now, and then some of us who want to go to dinner and have little engagements can fill them.

Mr. LODGE. I am perfectly willing to make that motion. I move that at the conclusion of the executive session the Senate shall take a recess until 8.30 o'clock p. m.

The PRESIDING OFFICER. The question is on the motion of the Senator from Massachusetts that at the conclusion of the executive session the Senate shall take a recess until 8.30 o'clock p. m. this evening.

The motion was agreed to.

HEARINGS BEFORE COMMITTEE ON MANUFACTURES.

Mr LA FOLLETTE submitted the following resolution (S. Res. 139), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Committee on Manufactures, or any subcommittee thereof be, and hereby is, authorized during the Sixty-seventh Congress to send for persons, books, and papers, to administer oaths, and to employ a stenographer, at a cost not exceeding $1.25 per printed page, to report such hearings as may be had in connection with any subject which may be pending before said committee, the expenses thereof to be paid out of the contingent fund of the Senate, and that the committee, or any subcommittee thereof, may sit during the sessions or recesses of the Senate.

WITHDRAWAL OF PAPERS—HISTORY OF THE WASHINGTON NAVY YARD.

On motion of Mr. MOSES, it was

Ordered, That leave be granted to withdraw from the files of the Senate the manuscript entitled "A History of the Navy Yard, Washington, District of Columbia," submitted to accompany Senate resolution No. 264, Sixty-sixth Congress, second session, there having been no adverse report thereon.

INVESTIGATION OF FEDERAL AID TO ROAD CONSTRUCTION.

Mr. KING introduced a joint resolution (S. J. Res. 113) to authorize the appointment of a commission to investigate the expenditure of Federal money in aid of road construction in the States, which was read the first time by its title, the second time at length, and referred to the Committee on Post Offices and Post Roads, as follows:

Whereas Congress has appropriated large sums of money in aid of public road construction in the various States, and in addition thereto has distributed trucks, automobiles, and other property of the value of more than $100,000,000 to the States in aid of road construction; and

Whereas it is claimed that the appropriations made by Congress, both of money and property, have been used and expended in an extravagant and wasteful manner, and that the road construction actually accomplished has not been commensurate with the labor and moneys expended, and has otherwise been faulty, insecure, superficial, and lacking in permanence and stability; and

Whereas it is reported that some States, and county and municipal corporations within the States, have been induced to issue bonds and incur indebtedness in large sums of money upon the expectation that Congress would appropriate money equal in amount to moneys raised by such bonds and indebtedness, all of which has promoted imprudent and wasteful expenditures on ill-considered and poorly planned road projects: Now, therefore, be it

Resolved, etc., That the President of the United States is authorized to appoint a commission, to consist of three competent engineers especially qualified with respect to the theory and practice of road construction, two of whom shall be detailed from the Engineer Corps of the Army and one of whom shall be appointed from civilian life, which commission is authorized and directed to investigate thoroughly the methods, character, and results of road construction within the States, upon which Federal moneys have been expended or Federal property used and employed, and particularly to investigate whether or not such roads have been constructed upon good and secure and properly prepared beds or foundations, whether or not such construction is of permanent and enduring character, and whether or not such roads are located advantageously for public use and service, and to report its findings and recommendations to Congress. Said commission shall have the power to send for persons and papers, to administer oaths, to summon and compel the attendance of witnesses, and to employ such clerical and expert assistance as may be necessary to execute the power conferred upon such commission by this resolution.

Said commission shall make full report of their operations and expenditures hereunder within six months after the passage of this resolution.

SEC. 2. There is hereby appropriated for the use of said commission in executing the powers conferred upon it by this resolution the sum of $50,000, or so much thereof as may be necessary, out of any moneys in the Treasury not otherwise appropriated, to be available until the work of said commission is completed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. Overhue, its enrolling clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 8117) making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1922, and for other purposes, agreed to the conference requested by the Senate, and that Mr. MADDEN, Mr. CANNON, Mr. KELLY of Michigan, Mr. BYRNS of Tennessee, and Mr. BUCHANAN were appointed managers of the conference on the part of the House.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7294) supplemental to the national prohibition act.

The message further announced that the House had passed without amendment the bill (S. 2207) to amend the act entitled "An act to establish standard weights and measures for the District of Columbia; to define the duties of the superintendent of weights, measures, and markets of the District of Columbia, and for other purposes," approved March 3, 1921.

ENROLLED JOINT RESOLUTION SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (H. J. Res. 195) authorizing the payment of salaries of officers and employees of Congress for August, 1921, and it was thereupon signed by the Presiding Officer [Mr. CURTIS] as Acting President pro tempore.

EXECUTIVE SESSION.

Mr. LODGE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After 10 minutes spent in executive session the doors were reopened; and (at 6 o'clock and 10 minutes p. m.) the Senate, under the order previously made, took a recess until 8 o'clock and 30 minutes p. m.

EVENING SESSION.

The Senate reassembled at 8.30 p. m., on the expiration of the recess.

ST. MARYS RIVER BRIDGE.

Mr. CALDER. I ask permission to report back favorably from the Committee on Commerce Senate bill 2430, a bridge bill, and I submit a report (No. 268) thereon. I ask unanimous consent for the present consideration of the bill.

The PRESIDING OFFICER (Mr. CURTIS in the chair). Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. 2430) to authorize the construction of a bridge across the St. Marys River, at or near Wilds Landing Ferry, between Camden County, Ga., and Nassau County, Fla., which was read, as follows:

Be it enacted, etc., That the Kingsland Bridge Co., a corporation organized under the laws of the State of Georgia, its successors and assigns, be, and is hereby, authorized to construct, maintain, and operate a bridge and approaches thereto across the St. Marys River, at a point suitable to the interests of navigation and at or near the present Wilds Landing Ferry, between Camden County, Ga., and Nassau County, Fla., in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CALL OF THE ROLL.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gooding	Myers	Stanley
Borah	Harreld	Nelson	Sterling
Brandegee	Harrison	Newberry	Sutherland
Broussard	Jones, Wash.	Oddie	Townsend
Calder	Kellogg	Phipps	Trammell
Cameron	Kenyon	Poindexter	Wadsworth
Capper	Ladd	Pomerene	Walsh, Mass.
Caraway	La Follette	Reed	Watson, Ga.
Curtis	Lenroot	Sheppard	Watson, Ind.
Ernst	McLean	Shortridge	Willis
Fernald	McNary	Smith	
Glass	Moses	Smoot	

Mr. JONES of Washington. I desire to state that the senior Senator from Wyoming [Mr. WARREN] is necessarily absent, in attendance on a committee of conference.

The PRESIDING OFFICER. Forty-six Senators having answered to their names, a quorum is not present. The Secretary will call the names of the absentees.

The Assistant Secretary called the names of the absent Senators, and Mr. HEFLIN and Mr. WARREN answered to their names when called.

Mr. FRELINGHUYSEN, Mr. HALE, Mr. NICHOLSON, Mr. NORBECK, Mr. HITCHCOCK, Mr. KING, Mr. MCCORMICK, Mr. MCCUMBER, Mr. MCKELLAR and Mr. NEW entered the Chamber and answered to their names.

The PRESIDING OFFICER. Fifty-eight Senators having answered to their names, a quorum is present.

AMENDMENT OF NATIONAL PROHIBITION ACT—CONFERENCE REPORT.

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7294) supplemental to the national prohibition act.

Mr. STERLING. Mr. President, in addition to the sections of the statutes quoted in my remarks this afternoon—the sections which authorize searches and seizures without search warrants—I want to call attention to just one more. It is a late statute, approved February 24, 1919, relating to opium, coca leaves, and derivative drugs. That act provides as follows:

That all unstamped packages of the aforesaid drugs found in the possession of any person, except as hereinafter provided, shall be subject to seizure and forfeiture; and all the provisions of existing internal revenue laws relating to searches, seizures, and forfeitures of unstamped articles are hereby extended to and made to apply to the articles taxed under this act and the persons upon whom these taxes are imposed.

Mr. President, I desire to devote the remainder of my time to a little further analysis of section 6, the section now in controversy.

It will be noted that it provides:

That any officer, agent, or employee of the United States engaged in the enforcement of this act, or the national prohibition act, or any other law of the United States, who shall search any private dwelling as defined in the national prohibition act, and occupied as such dwelling, without a warrant directing such search, or who while so engaged shall search without a search warrant maliciously and without reasonable cause search any other building or property, shall be guilty—

And so forth.

I have heard some complaint, Mr. President, because of the word "maliciously" in this amendment, complaint grounded on the statement that it can never be proven that both malice and want of probable cause exist on the part of the officer, and hence no case could be made against him; and it has been said that for mere want of reasonable or probable cause in making a search or seizure the officer should be criminally liable. Note that, Senators, and note the fact, too, as I think it is a fact, that if we make an officer criminally liable for performing his believed-to-be duty under the law we will do something that we have never yet done in all our long history.

Mr. ASHURST. Will the Senator yield to me at this juncture?

Mr. STERLING. I yield to the Senator.

Mr. ASHURST. If that be true, why did the Senator accept that amendment on the 8th of August? He is a good lawyer. He knew what its effect was. He talked about it for hours before he agreed to it.

Mr. STERLING. I will answer the Senator in due course of time. If the Senator had been here at the time of my opening remarks he would have known the reason why it was accepted at the time.

But, Mr. President, the reason why we do not make an officer criminally liable for having performed a duty, or, in the succinct case at hand, made a search without reasonable cause, is grounded on a sound public policy; and it would be contrary to good policy to make him criminally liable. The most that could be done would be to make him liable in an action for damages; a civil action. Why, Mr. President, do we not dare to make an officer criminally liable for such failure? Because of the deterrent it would be to officers in the performance of their duties if, not having a reasonable cause, they should be rendered liable to a criminal prosecution. What would result? They would be governed by local public sentiment, by the possible attitude of jurors and judges, as influenced by local public opinion, and they would say, "With a statute like that staring us in the face we do not dare to seek to enforce the law or act upon what we may deem to be reasonable cause." That would be the attitude of the officer.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Missouri?

Mr. STERLING. I yield to the Senator.

Mr. REED. Does the Senator think a man ought to be free from any penalty who searches the private property of another without reasonable cause?

Mr. STERLING. He should be criminally liable if he does it with malice and without probable cause.

Mr. REED. I want to know if the Senator thinks a man ought to go unwhipped of justice if he makes a search without some reasonable cause.

Mr. STERLING. Surely, I take that position, Mr. President—the position that he should not be criminally liable unless, indeed, it is with malice and without probable cause.

Mr. REED. Then the Senator believes in unreasonable searches and seizures.

Mr. STERLING. No; the Senator does not believe in unreasonable searches and seizures. I have referred to seizures and searches under statutes, Mr. President, that are not unreasonable searches and seizures, and for that reason do not come within the prohibition of the fourth amendment.

Mr. REED. I want to be sure that I understood the Senator. He spoke so loud I could hardly hear him when he replied, and there was an echo in the Chamber.

Mr. STERLING. I beg the Senator to excuse me.

Mr. REED. Did the Senator really mean to say that a man should go unwhipped of justice, who made a search and seizure of property of a citizen without reasonable cause?

Mr. STERLING. Where the law authorizes him to make a search and a seizure without a search warrant, he should not be held criminally liable who searches simply without reasonable cause.

Mr. REED. That is what I wanted the Senator to say.

Mr. STERLING. As I have stated, Mr. President, it would be contrary to good, sound public policy to make him criminally liable. Your only recourse in a case of that kind is a civil suit against the officer who inflicts damage by the unreasonable search or by the unreasonable seizure.

Mr. President, there is another feature of this amendment. What is this the counterpart of? What does the search warrant law provide? The search warrant law, enacted, I think, in 1918, a general search warrant law for the United States, provides that any person who maliciously and without probable cause procures the issuance of a search warrant shall be guilty of a misdemeanor, and shall be fined not less than $1,000 or imprisoned for a period of not more than one year. That is our present search warrant law, and the man who procures the issuance of the search warrant is liable to criminal prosecution under it.

What have we done here? Whereas, Mr. President, there has been no law making it a crime for a man to make a search or seizure without a warrant, however malicious may be his action, or however without reasonable cause it may be, we provide a law here to make him criminally liable, and in the event of his malice and want of reasonable cause, he is for the first time in the history of this country, I think, under the provisions of this conference amendment, made criminally liable.

It is right that he should be. If you make the individual criminally liable, who maliciously and without probable or reasonable cause swears out a search warrant, you should make the officer who is authorized to search without a warrant criminally liable if he, with malice and without probable cause, arrests or searches; and that is what we do by this conference amendment. There you have the two—the one making the individual who swears out the warrant liable, the other making the officer who searches without a warrant under the law liable to a criminal punishment.

Mr. REED. Mr. President, does not the Senator think that the statute he has just read, which makes a man criminally liable for swearing out a warrant without probable cause, is the strongest kind of an argument against making a raid without any warrant at all?

Mr. STERLING. The Senator does not think so where the raids are authorized or may be reasonably authorized under the law.

Mr. BRANDEGEE. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Connecticut?

Mr. STERLING. I yield.

Mr. BRANDEGEE. If the Constitution of the United States secures the people of the United States against unreasonable searches and seizures as to their persons, papers, houses, and effects, does not the Senator think the people are as much entitled to have protection of their persons as of their houses?

Mr. STERLING. Oh, yes.

Mr. BRANDEGEE. Then why did the conferees report a bill making it a criminal offense for an officer of the Federal Government to search a private dwelling without a warrant and not making it an offense to search a person or his property without a warrant?

Mr. STERLING. Because, Mr. President, of the particular nature of the offense, we make it so.

Mr. BRANDEGEE. Does the Senator think a person's dwelling, which simply protects his person, is more sacred in the eyes of the law or the Constitution than the person himself?

Mr. STERLING. Special protection is thrown around the home, Mr. President, that is not thrown around the person.

Mr. BRANDEGEE. Not at all; it is thrown around the home because the person lives in the home.

Mr. STERLING. It is because of his residence; but the person may not be in the home, and because he is not in the home he is not always subject to the same protection he would have if in the home.

Mr. BRANDEGEE. Mr. President, if that is so, all the personal liberties of the Anglo-Saxon race have fallen to the ground. The person is just as much protected under our Constitution if he is on the public highway as he is in his own house.

Mr. STERLING. The Senator from Connecticut ignores every Federal statute and every statute of every State which authorizes arrests without warrant.

Mr. BRANDEGEE. I do no such thing.

Mr. STERLING. Of which there are numerous cases.

Mr. BRANDEGEE. I deny it.

Mr. STERLING. That is true. The Senator from Connecticut will admit that every State probably has a statute which permits of arrest without warrant where the offense is committed in the sight of the officer or where he has reason to believe that the offense has been committed, as under the statutes of many States.

Mr. BRANDEGEE. I do not admit any such thing.

Mr. NELSON. Mr. President, the State of Connecticut has such a statute.

Mr. STERLING. Undoubtedly.

Mr. NELSON. The State of Connecticut has a statute under which an officer can arrest a person engaged in committing a crime in his presence.

Mr. BRANDEGEE. Every State has. Every officer may arrest, and every civilian who is not an officer may arrest, when a crime is committed in his presence, without a doubt.

Mr. STERLING. Here are the instances under which arrest may be made in my State, South Dakota, and I think it is very much like other States in that respect:

A peace officer may arrest for a public offense attempted or committed in his presence,

When the person arrested has committed a felony, although not in his presence;

When a felony has been in fact committed, and he has reasonable cause to believe the person arrested to have committed it;

And upon a charge made upon a reasonable cause of the commission of a felony by the party arrested; and

All cases of arrest by officers without warrant.

Mr. BRANDEGEE. Yes; but after a crime has been committed, and upon a charge.

Mr. STERLING. Not upon a charge.

Mr. BRANDEGEE. Not upon mere suspicion.

Mr. STERLING. Not upon a charge at all, but often a felony has been committed, and there has been no warrant issued. If there were a formal charge preferred against a person, of course a warrant would issue.

Mr. BRANDEGEE. But the Senator is asserting the right of an officer to arrest upon suspicion, where no crime has been committed.

Mr. STERLING. No. Second, a private person may arrest without a warrant for a public offense committed in his presence; when the person arrested has committed a felony, although not in his presence.

Does the Senator contend that there must have been a formal charge made against the party that he had committed a felony? A private person being informed that a felony has been committed may make an arrest.

Mr. REED. I would like to ask the Senator two questions: First, does he think in a free country the citizen is only under the full protection of the law when he is in his own house?

Mr. STERLING. Oh, no; I do not think his protection is limited to his being in his own house. I have not argued so at all.

Mr. REED. I think the Senator pretty nearly did.

Mr. STERLING. Oh, no.

Mr. STANLEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Kentucky?

Mr. REED. I was not through. I asked the privilege of asking two questions.

Mr. STANLEY. I beg the Senator's pardon.

Mr. REED. The Senator from South Dakota has just stated that it is the law that even a private citizen may arrest a person without a warrant upon information that a crime has been committed. If that is true, then he can arrest any citizen driving along the highway who is suspected of carrying liquors. Does not that take the whole bottom out of the Senator's claim that the law can not be enforced unless there exists the right to seize the liquor without a warrant?

Mr. STERLING. Now, the Senator in his statement goes further than I have stated it. It is in the case of a felony, not in the case of a misdemeanor, that the private citizen may arrest one who has committed a felony, although not in his presence——

Mr. REED. But the officer can.

Mr. STERLING. Will the Senator bear with me a moment? Although not in his presence when the felony has been committed and he—that is, the private person—has reasonable cause to believe the person arrested to have committed it.

Mr. REED. But the Senator asserts the doctrine that an officer can arrest without warrant upon mere information that a crime has been committed, and, of course, these prohibition officers are officers acting without bond. If that is the case and the prohibition officer suspects a man driving along the highway of having a load of liquor, why could not he arrest him and thus be able to enforce the law, the argument being made upon the other side of the question that you are justified in passing the bill because otherwise you can not enforce the prohibitory act? Yet the Senator states that a prohibition officer can arrest a man anywhere without a warrant under the present law. If that is true, he does not need the pending measure enacted into law.

Mr. STERLING. No; I have not stated that a prohibition officer may arrest a man anywhere and under any circum-

stances under the prohibition law. I call the Senator's attention to section 26 of the prohibition act:

When the commissioner, his assistants, inspectors, or any officer of the law shall discover any person in the act of transporting in violation of the law intoxicating liquors in any wagon, buggy, automobile, water or air craft, or other vehicle, it shall be his duty to seize any and all intoxicating liquors found therein being transported contrary to law.

That is the law as it is now.

Whenever intoxicating liquors transported or possessed illegally shall be seized by an officer he shall take possession of the vehicle and team or automobile, boat, air or water craft, or any other conveyance, and shall arrest any person in charge thereof.

That is, when he has discovered it he has the right to seize the property, the vehicle carrying it, and to arrest the person who is carrying it in violation of law.

Mr. REED. I am not discussing with the Senator the question of the seizure of the article. I am discussing the question of the right, as asserted by the Senator, of a prohibition officer to make an arrrest when a man has liquor in his possession. The Senator has just read the statute giving that power. That being the case, and that law being upon the statute books, what is the necessity for the proposed amendment of the law? Has not the Senator cut from under him the only ground he has for the argument that he must have this bill enacted into law or he can not enforce the prohibitory act? It seems to me that the question answers itself.

Mr. STERLING. Oh, no. The proposed amendment makes it clear, at least, that in an analogous case, an internal-revenue case or a customs-duty case or an Indian Service case or the statutes to which I have referred, an arrest and a seizure may be made without warrant. That is the proposition involved.

Mr. REED. Let me ask the Senator this question, because I think this is an important point. I am really asking the same question. The Senator asserts that an arrest and seizure can be made without warrant. What more does he want, then, than that? The argument that has been advanced in favor of the bill proposing to give the right to search the premises of an individual is that you can not enforce the prohibitory law because men get into automobiles and move very rapidly over the roads transporting liquor and that you have not the time to go and get a search warrant to search the vehicle. But the Senator asserts now that the right exists, outside of the provisions of the proposed bill, to arrest the man without any warrant at all. What more does he want?

Mr. STERLING. The Senator ought not to complain of the law, then, which provides that if the search and the seizure is maliciously done and without reasonable cause the officer should be criminally liable.

Mr. KING. Mr. President, will the Senator permit an inquiry at that point?

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Utah?

Mr. STERLING. I yield.

Mr. KING. I think the Senator has indicated one of the strong reasons for the legislation, the difficulty of enforcing the law and the menacing sword which hangs over the head of the officer if he shall be subjected to fine and imprisonment, one or both, if he makes a mistake. But the Senator has discussed the Boyd case, and as I understand his contention it was that the Boyd case was authority for search and seizure, and the officer could justify himself if he had reasonable ground for suspecting that the citizen whose premises he invaded or upon whose person he laid his hand had violated the prohibition law.

Can the Senator indicate from authorities the line by which the officer might be guided in determining whether there was reasonable cause to justify him in his invasion of the home or the property of another, or invading the person of another?

If the Senator will permit another inquiry, I should be glad to have him answer it.

Mr. STERLING. Will the Senator not permit me to answer one inquiry at a time?

Mr. KING. If the Senator will permit me to trespass again upon his time.

Mr. STERLING. Certainly. I will say in answer to the Senator's question, which is a reasonable question, that the officer, I think, will be governed by the circumstances. He ought to have at least, before he makes the arrest or before he attempts to make the search or the seizure, credible information that the party whose property he seizes is engaged in a violation of law and is using his property in a violation of the law. He ought not to do it on mere suspicion.

Now, let me say this in the same connection: If it was on a mere suspicion, I think it would be without probable cause. The Senator knows the familiar rule that malice may be inferred from the want of probable cause. It has been urged that you can never prove malice, but I think it is the universal rule that where there is an utter absence of probable cause or of evidence of probable cause for making the arrest or the search malice on the part of the party may be inferred therefrom. Express malice, of course, is not required in any case of malicious prosecution.

Mr. REED. Would not the Senator be willing to change the language of the proposed law, so that it would read that if an officer shall make a search or seizure or arrest without credible information upon which to base it, he shall be liable?

Mr. STERLING. No; I do not think I would.

Mr. REED. No; and therefore the Senator is not willing to stand on his own definition of malice.

Mr. STERLING. I would not do that. It would not be good lawmaking to write a statute in terms like that, "on credible information." When the case came before the court the question would be asked whether there was any credible information on the part of the officer making the search at the time that he made it, or did he have such credible information. "Reasonable cause" or "without reasonable cause" is the expression and the term always used, and used in the sections that I read this afternoon relating to searches and seizures under the customs laws and the internal-revenue laws.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota further yield to the Senator from Missouri?

Mr. STERLING. I yield.

Mr. REED. The Senator tells us in one breath that malice can be inferred if the officer acts without probable cause and based upon reasonable information. He then in the next breath declines to write his own definition into the statute. Does not the Senator well know that the ordinary rule as to malice is that malice indicates a heart devoid of justice and fatally bent on mischief?

Mr. STERLING. Yes. The Senator from Missouri knows very well, I think, it is not a good idea to write definitions into statutes.

Mr. REED. Oh, I do not propose to say the Senator shall define malice, but he could write into the law the term that any officer who shall search the premises of another without probable cause, based upon credible information, shall be liable. He is not then defining a term. He is setting out the conditions. Yet the Senator would not put that in the bill if it cost him his right hand, because he knows that under it these seizures on suspicion would have to cease.

Mr. STERLING. Mr. President, I am quite willing, as I think is every citizen, that the court in determining whether the party had reasonable cause or not had credible information before he acted. That is all there is to it. It is a proper element in the case.

Mr. REED. Mr. President, this proposed act does not provide that there shall be a liability in the event that the individual does not have credible evidence or in the event that he makes a seizure where there is no evidence whatever. It only makes him liable where there is malice, and it does not make malice inferable from the lack of credible information.

Mr. STERLING. Mr. President, it may make malice inferable from the want of credible information. It is according to how the court may interpret that, and as to whether or not the court shall say there is any reasonable cause. The court will take into consideration all the circumstances of the case, credible information or any information, that the party has received, in determining whether there is reasonable cause. If the court finds there is no reasonable cause, it is a condition from which malice on the part of the party may be inferred.

Mr. President, in concluding, I want merely to read some extracts from a letter which I received this morning from the attorney general of the State of Kansas, who, it seems, is in the city. I have not seen or conversed with that gentleman, but he is somewhat familiar with the enforcement of the prohibition laws. The letter, I think, was put in the RECORD by my colleague this morning in full. Among other things, the attorney general of Kansas has this to say:

I do not hesitate to say that a law that prevents Federal officers from apprehending rum-running autos and moonshine stills without first securing a search warrant would practically destroy the power of officers to cope with these lawless agencies.

Further on in the letter the attorney general of Kansas says:

It would, of course, be impossible to deal with rum-running autos or other mobile agencies used to distribute liquor. Those who operate these machines are desperate outlaws.

I wish to say in that connection, Mr. President, that the sympathy need not all go to the other side. The officers enforcing the prohibition law have in many sections of the country, and especially along the border, a desperate gang of outlaws to deal with.

Mr. STANLEY. Mr. President——

Mr. STERLING. Just wait a moment, if the Senator please. It becomes a question, I think, sometimes, Mr. President, under the pleas and under the excuses that are made here, in the matter of the eighteenth amendment, and in the matter of the law which was passed for the purpose of carrying into effect that amendment, who shall rule the country—the outlaws, the bootleggers, or those who are devoted to good citizenship and to law and order throughout the country.

Mr. REED. Does the Senator from South Dakota think that the bootleggers are in the majority?

The PRESIDING OFFICER. Does the Senator from South Dakota yield; and if so, to whom?

Mr. STERLING. I yield to the Senator from Kentucky, who first rose.

Mr. STANLEY. Does the Senator from South Dakota believe the stuff which he has just read?

Mr. STERLING. I do believe it, and I will read some more of it.

Mr. STANLEY. I ask, Does the Senator believe it? [Laughter in the galleries.]

The PRESIDING OFFICER. There must be order in the galleries.

Mr. STERLING. Oh, Mr. President, what I have read is corroborated by evidence from many parts of the country, so far as that is concerned, and I do believe it.

Mr. STANLEY. Very well.

Mr. STERLING. The letter of the attorney general of Kansas continues:

> The affidavit for the search warrant must describe the machine, the thing to be searched for—

And so forth.

That is the reason why search warrants should not be required in cases of this kind and why it would be impracticable in the enforcement of the law to resort to search warrants.

Mr. STANLEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield further?

Mr. STERLING. I yield for a question.

Mr. STANLEY. The Senator from South Dakota did not give me a chance to ask the question. I asked the Senator if he believed what he had read, and he said he did; that the original amendment would destroy all law and render the act impotent, and all that. In that event, I wish to ask the Senator why he agreed to that amendment, and, as the RECORD shows, twice pledged the Senate that he would stand for the amendment, if he knew when he agreed to the amendment and when he agreed to carry out the unanimous voice of the Senate that he was at the same time hamstringing and destroying law and civilization?

Mr. STERLING. Mr. President, the Senator from Kentucky might well ask that question of every member of a committee of conference——

Mr. STANLEY. I should like to ask it of every member of the committee of conference, and I should like to get his reply.

Mr. STERLING. When a motion is made that the Senate insist on its amendments, request a conference, and that conferees be appointed—he might well ask of every one of them if they abate one jot or tittle from an amendment that was agreed to by the Senate; why they did not stop there, and say to the conferees from the other House, "We will not agree to any compromise at all"; and then ask them and ask the Senate—ask all Senators—where we would get in the matter of legislation if conferees could not compromise the differences between the two Houses and make a report accordingly.

Mr. STANLEY. Mr. President——

Mr. STERLING. I stated at the beginning of my remarks something of the circumstances under which this bill was passed, the hurry at the time, the fact that there was no opportunity to examine statutes and precedents——

Mr. STANLEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Kentucky?

Mr. STERLING. I yield.

Mr. STANLEY. Mr. President, the Senator from South Dakota is a great lawyer; he is the sponsor for this bill. He had behind him years of study and of skill and the experience of an astute legislator. For days this bill was discussed; time and time again those who sought not to aid the bootlegger but to save the last vestige of liberty as guaranteed by the fourth amendment of the Constitution submitted amendments and suggestions. After the amendment was written and rewritten, in which the Senator from South Dakota himself took a part, suggestions being made from the floor by the Senator to improve the amendment, and after the Senator stood where he now stands and said, "I accept it," suddenly a light breaks from God knows where and God knows how, and he comes in here with a fire alarm from Kansas and says all the other conferees agree. If they do, I should like to have them put it in writing; and I should like to keep it in the archives of this Capitol as one of the most remarkable utterances and one of the most remarkable performances in the history of American legislation.

Mr. STERLING. I am glad that some light broke even while we were considering the matter in the Senate and that the Senator from Kentucky was obliged to amend his original amendment which prohibited any arrest whatever without a warrant.

Mr. STANLEY. Mr. President, I ask the Senator's pardon, but in that he is entirely in error.

Mr. STERLING. Oh, no; the Senator is not in error.

Mr. STANLEY. The amendment as originally drawn prevented the stopping of a person and searching him without a warrant.

Mr. STERLING. And I am very glad, Mr. President, that further light broke in upon myself and upon others of the conferees when we came to examine the statutes and precedents and the law which we did not have time to do here in the Senate amid the haste of discussion, and that we did not agree finally and beyond recovery to the amendment of the Senator from Kentucky. I think it would have been, as I come to reflect upon it now, little short of a calamity, so far as the enforcement of the prohibition law is concerned, had that amendment become the law of the land. Mr. President, I take my full share of the responsibility.

Mr. STANLEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield further to the Senator from Kentucky?

Mr. STERLING. Yes.

Mr. STANLEY. If the Senator will pardon me, speaking of the immunity of the person under this amendment, it throws a flood of light upon the purposes and the animus of the proponents of the amendment embodied in the conference report as well as upon the then attitude of the authors of this bill. The amendment as originally drawn threw the safeguard of the Constitution around the person as well as the property of the citizen. In discussing the amendment the Senator from South Dakota agreed that if we would accept the provision in regard to the person he would not oppose the amendment. The Senator from Connecticut [Mr. BRANDEGEE] insisted that that provision should stay; that it was an inviolate right, and that we should protect not only the home and the chattels and the private belongings but the persons of men, and especially of women, who are traveling over this country or who are abiding in hotels; but we agreed that that part of the amendment should be stricken out.

But not one word was said during all those amicable discussions about this being a sinister and damnable plot to destroy the laws of the country, to legalize bootlegging and moonshining, and to make a tattered rag of all the glorious legislation that had been hitherto enacted. Neither the learned lawyer from South Dakota nor those associated with him ever dreamed of the terrible things that this Kansas attorney general has found out, and to-night we have met to get not the views of the Senator from South Dakota, who for days and days has discussed this amendment, not the wisdom of the Senate, but to get a light from Kansas, from the galleries and the lobby.

Mr. STERLING. Mr. President, without stopping to reply to the Senator from Kentucky, I wish to complete the reading of this letter, and I desire to hurry along. The attorney general of Kansas continues:

> The affidavit for the search warrant must describe the machine, the thing to be searched for, etc. You can not secure this information and the warrant in advance. To require it means the liquor traffic restored on wheels. It is hard enough now in States where prohibition has been established for years for officers to catch these lawbreakers, but it will be still more difficult in other States which have less public sentiment to back up these officers. The States having enforceable prohibition laws now provide for the stopping and seizure of automobiles and the liquor in them without a warrant or a search warrant.

I am inclined to think that would be true of the Senator's own State. It is true of a great many of the States, at any rate, since the national prohibition act was passed.

> The Federal Government would be in an inconsistent position to prevent its officers from doing what State officers are now authorized in doing. It will lead to conflict, as illicit liquor dealers will resist State officers from acting within their authority and plead in their defense that they thought the officer was a Federal agent.
>
> The enforcement officer's work now is hazardous enough. I hope Congress will not make it more so.
>
> Some of the Federal laws that will be repealed or practically destroyed if the amendment above referred to should be adopted are sections authorizing search without a warrant under the postal, game, food, and drug laws and many others, which have been on the statute books for years and been sustained by the courts.

This proposed amendment applies to searches under all laws, and it would be hard to prophesy how far it would cripple the Government in the enforcement of other laws.

As between this amendment and the provisions in the conference committee report, there should be but one choice by friends of law enforcement; that is, accept the conference committee report.

The policy of the Government has always been to give officers of the law, sworn to enforce the law, and under bond to do their duty, certain discretion in doing their duty and not to penalize them for exercising it, even if they do sometimes make a mistake. No officer should be penalized as a criminal for an honest mistake. Unless he shows some criminal intent or malice he should not be branded as a criminal. If all public officers should be penalized because they made a mistake in judgment and some other officer would pass judgment on them, we should have chaos instead of law and order.

Mr. President, I have nothing more to say except to call attention to the last paragraph of section 6, which applies generally to all, and which reads:

Whoever not being an officer, agent, or employee of the United States shall falsely represent himself to be such officer, agent, or employee, and in such assumed character shall arrest or detain any person, or shall in any manner search the person, buildings, or other property of any person, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $1,000, or imprisoned for not more than one year, or by both such fine and imprisonment.

There have been reports, Mr. President, that many infractions of that kind have been made by men, bandits in reality, assuming to act as officers engaged in enforcement of the prohibition law. Heavy penalties should be visited upon them.

Mr. KING. Mr. President——

Mr. STERLING. I merely wish to have a telegram read and I shall have finished.

Mr. KING. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Utah?

Mr. STERLING. I yield to the Senator from Utah.

Mr. KING. If the Senator will pardon me for just a moment, I very much sympathize with many of the remarks of the Senator. I believe that the officers of the law have experienced many difficulties in enforcing the prohibition statute. I am in favor of enacting every reasonable law, every constitutional measure, that will make effective the Volstead Act. We may differ as to the wisdom of the Volstead Act, we may differ as to the propriety of the eighteenth amendment, but we adopted the eighteenth amendment, we enacted the Volstead law, and it is our duty to prescribe reasonable legislation for the purpose of enforcing it. The only question is whether this legislation impinges upon other constitutional provisions, which might be as dangerous to liberty and as meretricious as failure upon the part of Congress to enforce another constitutional amendment.

Before the Senator concludes I want to call his attention to one or two statements, found under the head of "Searches and seizures," and ask his view in regard to them. May I trespass upon the Senator's time?

Mr. STERLING. Yes.

Mr. KING. I read as follows:

The prohibition of the Constitution is violated by a statute authorizing the arrest of a person upon a suspicion, the suspicion being wholly undefined and in no manner connected with any criminal act or conduct on his part. So a search warrant can not be issued merely on the ground that a violation of law is expected to be committed where no offense has actually been committed; nor can a statute authorize an officer to enter and search a house without warrant and merely upon suspicion of wrongdoing.

The point I am trying to make is that even a State—and the same would be true of Congress, because I am assuming that the State has a constitutional provision similar to that which we have in the Federal Constitution—may not enact a law authorizing search and seizure unless that law provides that the methods to be adopted in order to obtain a warrant shall be reasonable and shall be conformable to the Constitution. If you may not by specific statute authorize a search and a seizure without indicating clearly that the ground upon which you predicate your demand for search and seizure conforms to the Constitution, obviously any attempt to search and to seize without a statute and without a warrant would be violative of the right of the individual or the right of the individual's property. Does not that follow? I ask for information.

Mr. STERLING. I think, as a rule, it does follow; yes.

Mr. KING. The Senator indicated that there was no distinction between the guaranty as to the person and the guaranty as to the property. If the Senator cares to have them, there are a number of authorities cited, and I shall be glad to give him those authorities stating that there is no distinction; that the right of the person is just as sacred as the right of the person's property, and that the constitutional guaranties extend equally to the person as to the property.

Mr. STERLING. I think in the main they do; but we were talking a little while ago about the person in the home, and the guaranties that he will have in his house, in the home, and which he might not have outside the home as to immunity from arrest either with or without a warrant; that is all.

Now, Mr. President, I should like to have this telegram read at the desk.

The PRESIDING OFFICER. In the absence of objection, the Secretary will read the telegram.

The Assistant Secretary read as follows:

SAN FRANCISCO, CALIF.,
August 21, 1921.

Senator THOMAS STERLING:
Washington, D. C.:

One thousand delegates and visitors assembled in national convention of the Woman's Christian Temperance Union urge final action on the beer bill before recess.

ANNA A. GORDON, *President.*

Mr. STERLING. Mr. President, just this one word.

That telegram is signed by the president of that great organization, the Woman's Christian Temperance Union—not an extremely radical organization, not a fanatical organization, but one made up, as I understand, of the noblest and best of the women of this great country of ours. I think those women reflect the popular sentiment, the sentiment of the majority, at least, of the people of the 45 States of this Union that ratified the eighteenth amendment, and who are still for its principles, and for the enforcement of a law made for the purpose of carrying them into effect.

Mr. NELSON. Mr. President, I propose for a few moments to discuss the question involved in the amendment agreed upon by the conferees.

I think a great mistake has been made in the discussion of this amendment in assuming, as a good deal of the discussion has assumed, that it was the intention of this constitutional amendment practically to prohibit all searches and seizures.

An examination of the decisions of our Federal and State courts bearing on the subject clearly shows that section 6 of the conference report as agreed upon by the conferees is strictly within constitutional bounds.

The fourth amendment to the Constitution reads as follows:

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

It will be observed on reading this amendment that it does not, as has been assumed in much of the discussion on this floor, prohibit all searches and seizures. It is only unreasonable searches and seizures that are prohibited. Neither does the amendment prohibit arrest without a warrant. It simply prescribes that no warrants shall issue but upon probable cause, and so forth.

It may be further observed that:

The prohibition against unreasonable searches and seizures contained in the Federal and most, if not all, of the State constitutions is directed against the use of general warrants authorizing searches and arrests, and has no effect on the right to arrest without a warrant. Similarly a constitutional provision prohibiting the issuing of warrants without probable cause, and requiring them to be supported by oath or affirmation, does not prohibit the making of arrests without a warrant, since it is the issuing of a warrant without oath or affirmation which is forbidden. (From Ruling Case Law, vol. 2, sec. 21.)

This is also the view of the Supreme Court of Massachusetts, found in the case of Commonwealth against Phelps (209 Mass., 396), decided in 1911. I quote the following from the decision of the court in that case:

The further objection made by the defendant that an arrest without a warrant is in conflict with the fourteenth article of the constitution of the Commonwealth was disposed of in Rohan *v.* Sawin (5 Cush., 281). It was there held that those provisions were in restraint of general warrants to make searches and that they do not conflict with the authority of officers or private persons under proper limitations to arrest without a warrant when authorized by the common law or by statute. To the same effect see Wakeley *v.* Hart (6 Bin. (Pa.), 316). The same is true of the fourth amendment to the Constitution of the United States.

It may be further remarked that the issuance of search warrants pertains to crimes or criminal cases, and does not apply to civil cases. To understand fully in what cases and to what extent a search may be made without a search warrant, it is necessary to consider the question as to when and under what circumstances an arrest of a person may be made without a warrant. In the case of John Bad Elk against United States (177 U. S., 535), the court, in discussing under what circumstances an arrest can be made without a warrant, quotes the Compiled Laws of South Dakota and makes the following statement:

The law upon the subject of arrest in that State is contained in the Compiled Laws of South Dakota, 1887, section 7139, and the following sections, and it will be seen that the common law is therein substantially enacted. The sections referred to are set out in the margin.

Section 7148 reads as follows:

A peace officer may, without a warrant, arrest a person—
1. For a public offense committed or attempted in his presence.

2. When the person arrested has committed a felony, although not in his presence.
3. When a felony has in fact been committed and he has reasonable cause for believing the person arrested to have committed it.
4. On a charge made upon reasonable cause of the commission of a felony by the party arrested.

Judge Deady, of the district court, one of the ablest of our district judges, in the case of ex parte Morrill (35 Fed., 267), in discussing the question as to when a person could be arrested without a warrant, after quoting the fourth amendment, states:

It has never been understood that this provision was intended to or does prevent an arrest by a peace officer—a sheriff or constable—for a crime committed in his presence. (Whart. Crim. Pl. sec. 8; 1 Bish. Crim. Proc. sec. 181.) The knowledge derived by the officer from his observation, acting under the sanction of his official oath, is considered equivalent to information supported by the oath or affirmation of another.

Now, a warrant of arrest may issue on "probable cause" supported by oath, and by analogy a peace officer may arrest on probable cause derived from his own observation. At common law a peace officer might arrest without warrant "on reasonable grounds of suspicion"; and the facts and circumstances which furnish such grounds of suspicion amount to "probable cause," under the Constitution, which is such cause as will constitute a defense to an action for false imprisonment or malicious prosecution. (Whart. Crim. Pl., sec. 9; 1 Bish. Crim. Proc., 182; Rap. & L. Law Dict., "False Imprisonment," "Malicious Prosecution.") Probable cause is a probability that the crime has been committed by the person charged. The facts stated upon oath "must induce a reasonable probability that all the acts have been done which constitute the offense charged." (Cranch, C. J., in United States *v.* Bollman, 1 Cranch, C. C., 379; Wheeler *v.* Nesbitt, 24 How., 551.)

United States District Judge Paul, in the case of Carico *v.* Wilmore (51 Fed., 198), states:

Officers who, by virtue of their offices, are conservators of the peace, have at common law the right to arrest without warrant all persons who are guilty of a breach of the peace, or other violation of criminal law, in their presence. (1 Amer. & Eng. Enc. Law, 734.) The Revised Statutes of the United States provide as follows:

"SEC. 3452. Every person who shall have in his custody or possession any goods, wares, merchandise, articles, or objects on which taxes are imposed by law, for the purpose of selling the same in fraud of the internal revenue laws, or with design to avoid the payment of the taxes imposed thereon, shall be liable to a penalty of $500, or not less than double the amount of taxes fraudulently attempted to be evaded."

A violation of this statute would be a misdemeanor. (Code Va., sec. 3879.) If committed in the presence of a sheriff, the offender could be arrested without a warrant. (Muscoe *v.* Com., 86 Va., 443, 10 S. E. Rep., 534; and Davis Crim. Law, 402.)

I do not think that anyone familiar with the decisions of our State and Federal courts can well question the authority of an officer to arrest without a warrant a person in the act of committing a crime. When such an arrest has been made, a search by the arresting officer may be made for the tokens and evidence of the crime.

I read this case because it is very interesting to these friends who are so sensitive about searching automobiles with liquor in them. The court says:

It clearly proved that James Nelson, the deceased, and his brother, Reuben Nelson, who was with him at the time he was killed, had been engaged only a few hours before in selling liquor unlawfully; that Reuben Nelson, when asked by the petitioner what he had in the keg which he was carrying, replied that he had "a little whisky." These men having been engaged in selling whisky during the day, 10 or 15 miles from their home, and acknowledging that they had whisky in a keg at the time they were accosted by the deputy marshal, the fair presumption is that they had said whisky "for the purpose of selling the same in fraud of the revenue laws," thus bringing their offense within the provisions of section 3452 of the Revised Statutes of the United States. It is further shown by the evidence that the petitioner had been informed but a few minutes before he met the deceased and his brother that unlawful sales of liquor had been made that day at a corn shucking in that immediate neighborhood.

Then the court comments as follows:

So, seeing the keg which one of them carried, and being informed that it contained whisky, the petitioner was authorized to arrest these persons without warrant for a violation of the provisions of section 3452 of the Revised Statutes of the United States.

In this connection—and I imagine this is where the sensitiveness comes in in this matter—I read in the Washington Post yesterday this dispatch from Statesboro, Ga., under the date of August 21:

A big roadster automobile loaded down with 265 quarts of red liquor was seized by officers here to-day. The driver of the car, when placed under arrest, gave the name of R. L. Herndon, St. Louis. The whisky is said to have been brought from Savannah to Macon.

It is that class of men who are so very sensitive about search warrants.

Mr. President, I have so far argued the case from the standpoint of the right of an officer to arrest a man without a warrant. I will now come to the other question, as to what the officer can do when he arrests a man without a warrant, and I quote from the Boyd case first, which shows what an officer can do when he arrests a man without a search warrant.

In the case of Boyd *v.* United States, (116 U. S., 623) Justice Bradley, among other matters, states:

The search for and seizure of stolen or forfeited goods, or goods liable to duties and concealed to avoid the payment thereof, are totally different things from a search for and seizure of a man's private books and papers for the purpose of obtaining information therein contained or of using them as evidence against him. The two things differ toto caelo. In the one case the Government is entitled to the possession of the property; in the other it is not. The seizure of stolen goods is authorized by the common law; and the seizure of goods forfeited for a breach of the revenue laws, or concealed to avoid the duties payable on them, has been authorized by English statutes for at least two centuries past; and the like seizures have been authorized by our own revenue acts from the commencement of the Government. The first statute passed by Congress to regulate the collection of duties, the act of July 31, 1789 (1 Stat., 29, 43), contains provisions to this effect. As this act was passed by the same Congress which proposed for adoption the original amendments to the Constitution, it is clear that the members of that body did not regard searches and seizures of this kind as unreasonable, and they are not embraced within the prohibition of the amendment. So, also, the supervision authorized to be exercised by officers of the revenue over the manufacture or custody of excisable articles, and the entries thereof in books required by law to be kept for their inspection, are necessarily excepted out of the category of unreasonable searches and seizures. So, also, the laws which provide for the search and seizure of articles and things which it is unlawful for a person to have in his possession for the purpose of issue or disposition, such as counterfeit coin, lottery tickets, implements of gambling, etc., are not within this category. (Commonwealth *v.* Dana, 2 Met. (Mass.), 329). Many other things of this character might be enumerated. * * *

* * * In the case of stolen goods the owner from whom they were stolen is entitled to their possession; and in the case of excisable or dutiable articles, the Government has an interest in them for the payment of the duties thereon and until such duties are paid has a right to keep them under observation or to pursue and drag them from concealment.

Mr. STANLEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Kentucky?

Mr. NELSON. Certainly.

Mr. STANLEY. Does the Senator contend, as a matter of law, that you are authorized to search without a warrant?

Mr. NELSON. If the Senator will listen, I will answer that question as I go on.

Mr. STANLEY. Let me finish my question.

Mr. NELSON. I do not want the Senator to inject a speech. If he has a question, I will answer it.

Mr. STANLEY. I am not going to inject a speech; the Senator is making too good a speech for my side himself. Does the Senator undertake to say that you have a right under the law to search without a warrant for any contraband goods of any kind whatsoever that are subject to seizure in case you find them?

Mr. NELSON. Certainly; and I will quote the law if the Senator will have the kindness to listen to me.

Mr. STANLEY. I will.

Mr. NELSON. I will quote the law.

Mr. STANLEY. That is new law.

Mr. NELSON. I will quote the law, if the Senator will listen, and if he will read the books I refer to he will find out what the law is.

In the case of Weeks *v.* United States (232 U. S., 392), which related to the seizure of books and papers, Justice Day, who delivered the opinion of the court, states, among other things:

What, then, is the present case? Before answering that inquiry specifically it may be well, by a process of exclusion, to state what it is not. It is not an assertion of the right on the part of the Government, always recognized under English and American law, to search the person of the accused when legally arrested to discover and seize the fruits or evidences of crime. This right has been uniformly maintained in many cases (1 Bish. on Criminal Procedure, sec. 211; Wharton, Crim. Plead. and Prac., 8th ed., sec. 60; Dillon *v.* O'Brien and Davis, 16 Cox, C. C. 245). Nor is it the case of testimony offered at a trial where the court is asked to stop and consider the illegal means by which proofs, otherwise competent, were obtained, of which we shall have occasion to treat later in this opinion. Nor is it the case of burglar's tools or other proofs of guilt found upon his arrest within the control of the accused.

The proposition that a peace officer in arresting a person may search for evidences of his crime aside from his papers and documents applies with peculiar force to the customs service, where a man is caught in the act of smuggling; or in the Internal-Revenue Service, where a man is caught in the act of handling intoxicating liquors contrary to the excise laws; or in the case of counterfeiting, where a man is engaged in the act of counterfeiting the money of the United States; or in the case of burglary, where a man may be searched for the tools and implements of the burglary; or in the case of larceny, where he may be searched for the stolen goods; or in the case of robbery, where he may be searched for evidences of the robbery; or in the case of gambling and the sale of lottery tickets, where he may be searched for the evidences of these crimes. In all these cases, when a person is caught in the act of committing a crime, violating the law, the evidences of his crime may be searched for and seized, aside from his private papers.

Mr. STANLEY. Mr. President——

The PRESIDING OFFICER. Does the Senator yield further?

Mr. NELSON. I am afraid I shall be unable to answer the gentleman.

Mr. STANLEY. Suppose a man arrested had concealed on his premises contraband goods, like a lottery ticket——

Mr. NELSON. A bottle of whisky, say.

Mr. STANLEY. Say lottery tickets.

Mr. NELSON. Suppose you arrest a man and he has a big bottle of whisky he had smuggled across the line. What would you do?

Mr. STANLEY. What would I do?

Mr. NELSON. I imagine you would seize the bottle. [Laughter on the floor and in the galleries.]

The PRESIDING OFFICER. The Chair must insist that there be order in the galleries and upon the floor.

Mr. STANLEY. A parliamentary inquiry, Mr. President. I wish to ask the President if, in answer to a question of that kind, I have not a right to take advantage of my constitutional privilege and not make a categorical answer?

Mr. NELSON. Mr. President, the Senator from Kentucky takes himself too seriously.

Mr. STANLEY. But the question I wished to ask the Senator was this——

Mr. NELSON. Ask a practical question. Apply it to a keg of whisky or a bottle of beer.

Mr. STANLEY. If in this case the man arrested had in his possession, but not on his person—and this does not apply to the person—contraband goods, like gambling apparatus, or lottery tickets, does the Senator claim that after having arrested the man the officer could search his property for those goods?

Mr. NELSON. Yes, sir; and in many cases the courts have so held.

Mr. STANLEY. My recollection is that the very case the Senator quotes states that you can not do that very thing.

Mr. NELSON. I think you will find that you can always search to get the evidences of crime. When you arrest a man in the act of committing a crime, you can at the same time search him and capture the evidence of that crime. That is the law laid down in the common law; it is the law in the Senator's own State, Kentucky. You have a law in the State of Kentucky permitting a man to be arrested without a warrant.

Mr. STANLEY. If the Senator will read the case he quotes, he will find that the chief justice states with every emphasis——

Mr. NELSON. You ought to read the statute of Kentucky.

Mr. STANLEY (continuing). That you can not do the very thing the learned Senator says you can do; and I will discuss this case at length later on.

Mr. NELSON. Mr. President——

Mr. STANLEY. Mr. President, just one statement and I will be through. I will answer the Senator's question. If I were an officer and should arrest a man and find he had a bottle of liquor on his person, I would do what very few of these officers do—I would produce the evidence.

Mr. NELSON. I am sorry to say I did not listen to the Senator's question, and I do not suppose he cares to repeat it.

Mr. STANLEY. Yes; I will repeat it.

The PRESIDING OFFICER. The Senator has not asked to have it repeated. The Senator from Minnesota has the floor.

Mr. NELSON. Mr. President, the term "unreasonable" in the fourth amendment is, in legal effect, equivalent to the want of probable cause; and "unreasonable search" is, in legal effect, equivalent to a search not based upon probable cause. An action may be brought against a person for maliciously and without probable cause swearing to a complaint on which a search warrant issued. If he swears falsely the warrant will be no protection to him; and if the officer serving the warrant makes the affidavit on which the warrant is issued, he, too, will be liable if he swears falsely. If a search is made without probable cause and with malice, the officer or other person making the search will be both civilly and criminally liable. The want of probable cause will be the main issue in either a civil or criminal prosecution, and from the want of probable cause the law infers malice.

In connection with the matter of search and seizure, I call attention to section 30 of the prohibition act, which reads as follows:

SEC. 30. No person shall be excused, on the ground that it may tend to incriminate him or subject him to a penalty or forfeiture, from attending and testifying or producing books, papers, documents, and other evidence in obedience to a subpœna of any court in any suit or proceeding based upon or growing out of any alleged violation of this act; but no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing as to which, in obedience to a subpœna and under oath, he may so testify or produce evidence, but no person shall be exempt from prosecution and punishment for perjury committed in so testifying.

In the case of the Interstate Commerce Commission *v.* Baird (194 U. S., 25), it was held that such immunity provision would compel a witness to testify and produce papers. The court, on page 46, says:

As we have seen, the statute protects the witness from such use of the testimony given as will result in his punishment for crime or the forfeiture of his estate. Testimony given under such circumstances presents scarcely a suggestion of an unreasonable search or seizure. Indeed, the parties seem to have made little objection to the inspection of the papers; the contest was over their relevancy as testimony.

There are many sections of the Revised Statutes relating to the customs, the internal revenue, and the Indian Service which expressly authorize searches and seizures without warrants. The Stanley amendment would operate to repeal these sections and would cripple and handicap the Government service in many particulars.

If an officer in making an arrest makes a search and seizure in connection therewith without probable cause he will be liable to criminal prosecution under the amendment agreed to by the conferees. If he acts without probable cause, the law infers malice, and he will be liable. In all actions for malicious prosecution or false imprisonment the want of probable cause is the vital issue. If there is a total want of probable cause, the act of arrest, search, and seizure will be deemed in law to have been done with malice. The law presumes malice from the total want of probable cause.

In the case my friend from Kentucky and I were discussing awhile ago, where a man had a bottle of whisky in his pocket and was carrying it across the line for the purpose of selling it or disposing of it, you could search him for the evidence; and where a man is engaged in the act of counterfeiting money of the United States, if you arrest him in the act, you can search for and capture and take all his tools and his counterfeiting apparatus. So, in the case of robbery or burglary, if you catch a burglar in the act, a man who comes there with his flashlight and his jimmy and his other tools, you have a right to search him for those things and to keep them as evidence against him. That is the common-law doctrine prevailing in the United States and all over the world.

The principle is this, and the peace of society rests upon it: If a crime is being committed, if the crime is committed in his presence, it is the duty of the peace officer to arrest the person, and in arresting him he has the right to search for the evidence of the crime and to retain that evidence for the purpose of convicting him. That does not relate to papers and documents. It relates to all the other paraphernalia that pertains to the act. There is no use of shedding tears for these bootleggers and saying we can not arrest them without a warrant.

Now, the term in the fourth amendment, "without reasonable cause," means exactly in law and is equivalent to "want of probable cause." In the amendment we are strictly within our customs laws. We follow in the wake of those laws. Our customs laws provide for search and seizure if some one has goods with which they seek to evade the customs law, but in the one solitary case where they seek to search the man's dwelling they are required to get a search warrant.

In the amendment that we have agreed upon in conference we provide that a man's dwelling can not be searched without a search warrant, but we leave the law as the common law is to-day that an officer engaged in arresting a man for a crime has the right to search him for the evidence of his crime. We provide in the amendment that whoever does that, whoever searches the man or arrests the man without probable cause and maliciously, shall be liable to punishment. We provide that absolutely.

Mr. STANLEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Kentucky?

Mr. NELSON. Yes; I yield.

Mr. STANLEY. In order to make this clear, I am perfectly free to admit and I have never contended——

Mr. NELSON. I am glad I have converted the Senator to some extent.

Mr. STANLEY. The Senator is better as a preacher than as a lawyer on this subject.

Mr. NELSON. The other day the Senator was congratulating me on my ability as a lawyer and I utterly protested. I claimed I was just a humble, hayseed lawyer and he was not satisfied with that. Now I do not know what will satisfy the Senator.

Mr. STANLEY. The Senator is a great lawyer, but he is not using his ability on this occasion.

Mr. NELSON. To-night the Senator thinks I am a great preacher, does he not?

Mr. STANLEY. That is more likely. But, Mr. President, to ask my question, I have not contended that an officer making a lawful arrest, where the officer has the right to make the arrest, has no right to search the person of the man arrested; but he does not have the right because he has made an arrest, whether lawful or unlawful, for that reason to search the premises or the property of the person apprehended.

Mr. NELSON. He has the right to search anything except the dwelling house under the amendment we have agreed on.

Mr. STANLEY. I am not talking about the amendment. I am talking about the law.

Mr. NELSON. We leave the law as it is with reference to the matter of search without a warrant. The amendment agreed upon provides for a search of the dwelling with a warrant, but leaves the question of a search in other respects open to the principles of common law, and we provide a penalty and a punishment. If a man without probable cause or without reasonable cause maliciously searches property, then he is liable to the punishment and penalties provided in the amendment.

Lawyers who are familiar with actions for malicious prosecution and false imprisonment all know there are two fundamental principles involved: First, the question of probable cause; and, next, the question of malice. If there is a total want of probable cause, the law will infer malice. If a man swears out a warrant, even if he makes oath to secure the warrant to be issued, and does that without probable cause and maliciously, he is liable.

I find on looking up the matter that there are 32 States in the Union which allow an arrest to be made without a warrant. In 32 States they can arrest a person if he commits the offense in the presence of a peace officer, and I will read the names of those States for the benefit of doubting Senators:

Alabama, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, and Wisconsin.

Thirty-two States have adopted laws of this kind, so that it can be said to be the common law of the States or the common law of the great majority of the States in the Union that a peace officer, a prohibition officer, has the right to arrest a criminal offender caught in the act of committing the crime; and when he arrests him, if he captures him with counterfeit coin, if he catches him with smuggled goods, if he catches him with goods that are stolen, if he catches him with liquor under the prohibition law, he has the right not only to arrest him without a warrant but to search him and to retain the wet goods as evidence against him.

So there is no occasion for shedding tears. I can imagine how these automobile fellows, who have great big automobiles loaded up with whisky rushing along at a rapid speed, feel that the amendment is obnoxious, and especially the original amendment offered by the Senator from Kentucky. In his generosity he was not only aiming at an amendment to cover the prohibition law but he also aimed to cover—I suppose he did it unintentionally, at least I gave him credit for that—the internal revenue law and the customs law and all those laws that the Senator from South Dakota cited this afternoon.

Mr. STANLEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Minnesota yield further to the Senator from Kentucky?

Mr. NELSON. Wait until I read the amendment that the Senator from Kentucky offered:

> That any officer, agent, or employee of the United States, engaged in the enforcement of this act or the national prohibition act or any other law of the United States—

He provided it could not be done without a warrant. Our customs officers would have to swear out a warrant if that amendment had been adopted. All our customs statutes on that subject, all our internal-revenue statutes, would have been repealed. I do not think honestly the Senator from Kentucky really appreciated the scope and breadth of his amendment, and I think that in his sober moments he will be glad that we saved him that calamity. He will be thankful that we did not adopt his amendment, for it would have remained to plague him forever and ever, and he is too good a man to suffer in that way.

Mr. STANLEY. Will the Senator yield to me now?

Mr. NELSON. Certainly.

Mr. STANLEY. I appreciate the kindly interest of my good friend from Minnesota.

Mr. NELSON. I am glad the Senator feels that I am his good friend.

Mr. STANLEY. I do, and it is reciprocated, I can assure the Senator.

Mr. NELSON. Oh, yes; sure.

Mr. STANLEY. Does the Senator really think that adding the words "and all other laws" has made the amendment much worse and much more dangerous to the welfare of the country?

Mr. NELSON. I think we have gotten along fairly well. We have no searches of men's dwelling houses to be made except by a search warrant. In other respects, we leave it as the common law has left it and as I have aimed to describe it in my remarks this evening.

Mr. STANLEY. But that is not my point.

Mr. NELSON. The Senator failed to understand me. In the first place, I say to him that under the principles of the common law and of the law of 32 States of the Union a revenue officer can arrest a man if he catches him in the act of committing an offense, and when he arrests him he has the right to search for and seize the evidence of the crime. He has the right, if the man comes there with a keg of beer or a bottle of whisky and he catches him in the act, to search him. If he finds the bottle of whisky in his coat pocket, he has the right to take it from his person as evidence of his crime. I am sorry my good friend from Kentucky does not look at it in that true light.

Mr. STANLEY. I fear I failed to express myself clearly. That was not my question. What I asked the Senator from Minnesota was if he thought that adding to my amendment, providing that no man could search the premises or home or residence of a citizen in violation of the national prohibition act, the words "and all other laws of the United States," made the amendment any worse?

Mr. NELSON. That was in the Senator's amendment, not in the amendment which the conferees adopted.

Mr. STANLEY. I understand that the Senator thinks the addition of those words makes the amendment much worse, and that if I had thought about its effect I would not have added them?

Mr. NELSON. No; I do not think the Senator would. I did not think he drafted that part of the amendment with malice prepense.

Mr. STANLEY. Or during my sober moments?

Mr. NELSON. I did not think so then, and I know now, I have faith enough to believe that if the amendment were before the Senate to-night the Senator would move to strike out those words "and any other law."

Mr. STANLEY. Because, as I said, that is the worst part of the amendment. I admit that.

Mr. NELSON. But I wish the Senator to remember in that connection the terrible gulf from which we conferees saved him in adopting a different amendment from that which he offered.

Mr. STANLEY. I think in that respect the Senator helped the amendment.

Mr. NELSON. Does not the Senator think we delivered him out of a bad scrape?

Mr. STANLEY. More or less.

Mr. NELSON. I am glad the Senator thinks so.

Mr. STANLEY. If the Senator will pardon me, the Senator who drew that part of my amendment in his sober moments was the Senator from South Dakota [Mr. STERLING], assisted by the Senator from Ohio [Mr. WILLIS]. The amendment, as originally drawn and presented by me, did not contain the expression "and all other laws." I have the amendment now containing that expression, and those words, "the national prohibition law or any other law of the United States," are in the handwriting of the Senator from South Dakota [Mr. STERLING].

If the Senator will recall—he can recall, because I know he has none but sober moments—the Senator from Ohio and the Senator from South Dakota denounced my amendment because it did not carry that expression, and, unnecessary and, possibly, unwise as it may have been, I allowed them to insert it. Will the Senator argue that the proponents of this measure would deliberately, cuckoolike, lay the wrong egg in my nest and poison an amendment when pretending to perfect it?

Mr. NELSON. I have disavowed that all along.

Mr. STANLEY. I rather think so.

Mr. NELSON. I have all the time said I did not think the Senator did it intentionally.

Mr. STANLEY. I did not do it at all.

Mr. NELSON. I desire to call the Senator's attention to another matter. We improved the Senator's amendment in another respect, and I think he must accord us some credit for that. I refer to this language as found in the report of the committee of conference:

> Whoever not being an officer, agent, or employee of the United States shall falsely represent himself to be such officer, agent, or employee and in such assumed character shall arrest or detain any person, or shall in any manner search the person, buildings, or other property of any person, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $1,000, or imprisoned for not more than one year, or by both such fine and imprisonment.

There we have gone even further and made the provision broader than the amendment of the Senator from Kentucky.

Mr. President, perhaps I have detained the Senate too long, but I wish to say a few more words in conclusion. The Ameri-

can people had a long and hard struggle in securing the great reform of prohibition. Finally they secured it. It was fortunate that our efforts in that direction occurred during the World War for various reasons which I do not care now to recapitulate. We managed, however, to secure the adoption of the constitutional amendment, and, in pursuance of that amendment, a law has been enacted, which is known as the Volstead Law. Both the constitutional amendment and that law have run the gauntlet of the Supreme Court.

The court has held that the constitutional amendment was regularly and lawfully adopted. It has also held the prohibition law to be valid under that amendment. Having won that great battle, shall we suffer our victory to be undermined by bootleggers and all kinds of scamps throughout the country who by land and water are running liquor into the country?

Mr. President, the women of this country have a vital interest in this great reform. I do not, of course, refer to anyone in this Chamber, but the statesmen and rich men who live in Washington and in other places and can use the Negro bootlegger to bring them whisky, so that they may have a hilarious time, care little what becomes of the prohibition law. However, the poor man's family, the wife and children of the poor man, are more vitally interested in the successful execution of this law than is anybody else. For the good of the women and children of America we can not afford to take a back step in the direction now proposed. If we should adopt such an amendment as was the original so-called Stanley amendment, we should undermine and destroy the law and render it incapable of enforcement. We have now a law which has been decided by the highest court in the land to be valid. It is true it will take some time, perhaps, to educate on this subject the masses of the people who are back in the country, though they are sound at heart; but it is the nabobs who live in the cities, it is the people who give fine dinners, it is the men who can go to the health resorts in the summer time, the men who do not have to perform the drudgery, who are the ones who furnish the market for the bootlegger.

Mr. President, I do not see how any Senator can find it in his heart to sympathize with the men who are constantly evading the prohibition law. It was the brewers themselves who brought on prohibition in this country by the great number of saloons which they started. In the city of St. Paul, in the State of Minnesota, which I have the honor in part to represent in this body, of 500 saloons over 400 were owned and financed and controlled by the brewers. The same condition prevailed in Minneapolis, in like proportion, and also in Duluth. The farmers of Minnesota, however, although some of them may not be handsome enough to measure up to the standard of the Senator from Missouri, took up that question, and it was they who secured the ratification of the constitutional amendment. They are to-day doing what they can do to secure the enforcement of the prohibition law, but a cunning movement was inaugurated, Mr. President, to defeat that law. It was said, "We ought to open the door for beer and wine; those are genteel drinks; wine especially is a gentleman's drink; we ought to open that door; do not be so hard on the American people as to deprive them of a gentleman's drink such as port wine or Madeira or something of that kind; open the door, pray, to wine and beer." It was found that that scheme would not work. The opponents of prohibition then hit upon the scheme to open the doors for the doctors, so that they might prescribe the beer of the brewers instead of pills and other lotions.

That was the move. The query was made, "Are we going to keep the doctors of this country and the drug stores from furnishing beer to sick people?" It was even claimed that the American race would soon perish from the face of the earth unless it could get such nourishment. I am glad to say, however—and it is to the credit of the doctors and of the druggists of this country, at any rate, the great majority of them—that they were utterly opposed to this scheme.

This bill is designed to prevent the doctors and druggists from prescribing beer as a medicine; that is all there is to it. The purpose was to open the door in connection with wine and beer, but if we open the door for beer and wine in this country, we will open the door for the American saloon, which was the bane of the Republic.

The battle has been not so much against wine or beer, not so much against alcoholic spirits, as against the business of the American saloon. Mr. President, we have exterminated the beer saloons and the whisky saloons, and, so help me God, they will stay exterminated; and no friend of the bootleggers, no cunning move to undermine the prohibition law will prevail. The American people, the American women, at all events, understand what is involved in this question.

RECESS.

Mr. STERLING. Mr. President, it is now nearly 10.30 o'clock p. m., and I think it is a little late for any Senator to enter upon a discussion of this question. I therefore move that the Senate stand in recess until 10 o'clock to-morrow morning.

Mr. REED. Mr. President, let me ask the Senator what is the object of beginning at 10 o'clock in the morning?

Mr. STERLING. In order that we may have more time to-morrow; that is the simple object.

The PRESIDING OFFICER. The question is on the motion of the Senator from South Dakota.

The motion was agreed to, and (at 10 o'clock and 25 minutes p. m.) the Senate took a recess until to-morrow, Wednesday, August 24, 1921, at 10 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate August 23 (legislative day of August 22), 1921.

TREASURY DEPARTMENT.

COLLECTOR OF INTERNAL REVENUE.

Louis P. Brewer, of Jasper, Tenn., to be collector of internal revenue for the district of Tennessee in place of Edward B. Craig, resigned.

APPRAISER OF MERCHANDISE.

John A. Janetzke, jr., of Baltimore, Md., to be appraiser of merchandise in customs collection district No. 13, with headquarters at Baltimore, Md., in place of James A. McQuade.

DEPARTMENT OF JUSTICE.

UNITED STATES ATTORNEY.

Charles F. Cole, of Arkansas, to be United States attorney, eastern district of Arkansas, vice June P. Wooten, resigned.

UNITED STATES MARSHAL.

Brownlow Jackson, of North Carolina, to be United States marshal, western district of North Carolina, vice Charles A. Webb, resigned.

Clarence R. Hotchkiss, of Oregon, to be United States marshal, district of Oregon, vice George F. Alexander, whose term will expire September 14, 1921.

DEPARTMENT OF COMMERCE.

ASSISTANT DIRECTORS, BUREAU OF FOREIGN AND DOMESTIC COMMERCE.

Leland R. Robinson, of New York, to be assistant director, at $4,000 per annum, in the Bureau of Foreign and Domestic Commerce. (New position.)

Lewis Domeratzky, of Virginia, to be assistant director, at $3,500 per annum, in the Bureau of Foreign and Domestic Commerce, vice Charles E. Herring, transferred.

Thomas R. Taylor, of New Jersey, to be assistant director, at $3,000 per annum, in the Bureau of Foreign and Domestic Commerce, vice Oliver P. Hopkins, promoted.

PUBLIC HEALTH SERVICE.

TO BE ASSISTANT SURGEONS.

Kenneth F. Maxcy.
Milton V. Veldee.
Le Grand B. Byington.

PROMOTIONS IN THE REGULAR ARMY.

MEDICAL CORPS.

To be captains.

First Lieut. Robert Malcolm, Medical Corps, from July 9, 1921.

First Lieut. Alexander Palmer Kelly, Medical Corps, from August 19, 1921.

DENTAL CORPS.

To be captains.

First Lieut. Walter Duncan Love, Dental Corps, from August 14, 1921.

First Lieut. Clarence Walter Johnson, Dental Corps, from August 17, 1921.

VETERINARY CORPS.

To be first lieutenant.

Second Lieut. Claude Francis Cox, Veterinary Corps, from June 28, 1921.

(This officer was nominated July 19, 1921, and confirmed July 22, 1921, with rank from July 6, 1921.)

APPOINTMENTS BY TRANSFER IN REGULAR ARMY.

ORDNANCE DEPARTMENT.

First Lieut. Earl Hendry, Coast Artillery Corps, with rank from August 1, 1919.

FIELD ARTILLERY.

Capt. Marvin Conrad Heyser, Quartermaster Corps, with rank from May 19, 1917.

Capt. Claude Gilbert Benham, Coast Artillery Corps, with rank from July 1, 1920.

AIR SERVICE.

Capt. Hawthorne Charles Gray, Infantry, with rank from February 21, 1920.

First Lieut. James Hicks Carney Hill, Infantry, with rank from November 15, 1919.

POSTMASTERS.

CALIFORNIA.

Anthony F. Sonka to be postmaster at Lemongrove, Calif., in place of A. F. Sonka. Office became third class July 1, 1921.

Edith B. Smith to be postmaster at Patton, Calif., in place of E. B. Smith. Office became third class April 1, 1921.

Fred C. Skinner to be postmaster at Pine Knot, Calif., in place of F. C. Skinner. Office became third class July 1, 1921.

COLORADO.

John W. Emmerson to be postmaster at Canon City, Colo., in place of Clark Cooper, deceased.

Joshua H. Espey to be postmaster at Delagua, Colo., in place of J. H. Espey. Office became third class July 1, 1921.

CONNECTICUT.

Cyrus T. Gilbert to be postmaster at Noroton Heights, Conn., in place of C. T. Gilbert. Office become third class October 1, 1920.

Wilbur C. Hawley to be postmaster at Stepney Depot, Conn., in place of W. C. Hawley. Office became third class April 1, 1921.

John L. Davis to be postmaster at Wilton, Conn., in place of J. L. Davis. Office became third class January 1, 1921.

FLORIDA.

Claud G. Evans to be postmaster at Bonifay, Fla., in place of P. R. Meeker, name changed by marriage.

IDAHO.

Doris A. Pears to be postmaster at Avery, Idaho, in place of D. A. Pears. Office became third class January 1, 1921.

ILLINOIS.

Arthur C. Lueder to be postmaster at Chicago, Ill., in place of William Carlile. Incumbent's commission expired March 16, 1921.

INDIANA.

John S. Moore to be postmaster at Battle Ground, Ind., in place of J. S. Moore. Office became third class July 1, 1921.

IOWA.

William S. Ferree to be postmaster at Hillsboro, Iowa, in place of W. S. Ferree. Office became third class April 1, 1921.

Matilda Johnson to be postmaster at Ridgeway, Iowa, in place of Matilda Johnson. Office became third class April 1, 1921.

George A. Fox to be postmaster at Quimby, Iowa, in place of G. A. Fox. Office became third class July 1, 1920.

KANSAS.

Ray Bartlett to be postmaster at La Harpe, Kans., in place of P. W. Jury, resigned.

Lida Zimmerman to be postmaster at Otis, Kans., in place of Lida Zimmerman. Office became third class January 1, 1921.

Olive Clements to be postmaster at Maplehill, Kans., in place of Olive Clements. Office became third class April 1, 1921.

MAINE.

Lewis C. Whitten to be postmaster at Carmel, Me., in place of L. C. Whitten. Office became third class April 1, 1920.

MICHIGAN.

Grove M. Rouse to be postmaster at Atlanta, Mich., in place of G. M. Rouse. Office became third class July 1, 1920.

Morton G. Wells to be postmaster at Byron Center, Mich., in place of M. G. Wells. Office became third class October 1, 1920.

Ruth O. Olson to be postmaster at Carney, Mich., in place of R. O. Olson. Office became third class January 1, 1921.

Leonard Van Regenmorter to be postmaster at Macatawa, Mich., in place of L. Van Regenmorter. Office became third class January 1, 1921.

Harriet E. Stevens to be postmaster at Posen, Mich., in place of H. E. Stevens. Office became third class July 1, 1920.

Alberta Montpas to be postmaster at Powers, Mich., in place of Alberta Montpas. Office became third class January 1, 1921.

Leslie C. Dawes to be postmaster at Rapid City, Mich., in place of L. C. Dawes. Office became third class April 1, 1921.

Frank J. Gravelle to be postmaster at Rapid River, Mich., in place of F. J. Gravelle. Office became third class October 1, 1920.

Edwin J. Hodges to be postmaster at Vanderbilt, Mich., in place of E. J. Hodges. Office became third class January 1, 1921.

MINNESOTA.

Elmer E. Putnam to be postmaster at Big Lake, Minn., in place of E. E. Putnam. Incumbent's commission expired August 7, 1921.

MISSOURI.

John W. McGee to be postmaster at Ewing, Mo., in place of C. E. Davis, not commissioned.

NEW JERSEY.

Grace E. Cowell to be postmaster at Convent Station, N. J., in place of P. V. Doran, failed to qualify.

Ira L. Longcor to be postmaster at Morris Plains, N. J., in place of M. A. Madden, resigned.

PENNSYLVANIA.

John J. Herbst to be postmaster at McKees Rocks, Pa., in place of T. E. Tierney, removed.

CONFIRMATIONS.

Executive nominations confirmed by the Senate August 23 (legislative day of August 22), 1921.

DEPARTMENT OF JUSTICE.

UNITED STATES ATTORNEY.

Ira K. Wells to be United States attorney, district of Porto Rico.

INTERSTATE COMMERCE COMMISSION.

Frederick I. Cox to be member Interstate Commerce Commission.

DEPARTMENT OF THE INTERIOR.

REGISTERS OF THE LAND OFFICE.

James D. Gallup to be register of land office, Buffalo, Wyo.

Julius P. Knabe to be register of land office, Montgomery, Ala.

RECEIVER OF PUBLIC MONEYS.

Edwin E. Winters to be receiver of public moneys, Montgomery, Ala.

POSTMASTERS.

ALABAMA.

Henry J. Sullivan, Tallassee.
Ira L. Sharbutt, Vincent.

CALIFORNIA.

Roy Freer, Fowler.

GEORGIA.

Frank E. Conley, Blairsville.

IOWA.

John Daly, Alta Vista.
John C. Dow, College Springs.
William M. Young, Defiance.
Ernest T. Greenfield, Douds.
Charles S. Parker, Fayette.
Nettie B. Mullan, Hopkinton.
Jesse O. Parker, Keosauqua.
Walter E. Prouty, Lockridge.
Purley Jennison, Maynard.
Everett H. Moon, New Providence.
S. Paul Figi, Renwick.
Bess J. Cuff, Rolfe.
William N. Horn, South English.
Arthur T. Briggs, Sutherland.
Howard W. Edwards, Tingley.
Clifford C. Clardy, Valley Junction.
Donald G. Gearhart, Washta.

MASSACHUSETTS.

Jesse W. Crowell, South Yarmouth.

MINNESOTA.

Henry J. Gunderson, Bagley.
Benjamin Baker, Campbell.

NEBRASKA.

John B. Fuller, Comstock.

HOUSE OF REPRESENTATIVES.

TUESDAY, *August 23, 1921.*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Eternal God, our heavenly Father, without the birth of morning or the death of evening, we are encouraged to approach Thee because of the grateful memories of the past, for Thy bounties have attended us all our days. Under the gentle pressure of Thy spirit give us the heart that forgives; may hate never become the fatal weakness of our lives. Help us to work, to hope, and to be glad. Deaden our fears and lighten our hearts, and show us the way of obedience. May we overcome evil with good. May we know that this kind of a life can do everything else but fail. Through Jesus Christ, our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 2333. An act to amend an act entitled "An act to amend an act entitled 'An act for making further and more effectual provision for the national defense, and for other purposes,' approved June 3, 1916, and to establish military justice," approved June 4, 1920;

S. 518. An act to carry out the provisions of an act approved July 1, 1902, known as the act entitled "An act to accept, ratify, and confirm a proposed agreement submitted by the Kansas or Kaw Indians of Oklahoma, and for other purposes," and to provide for a settlement to Addie May Auld and Archie William Auld, who were enrolled as members of the said tribe after the lands and money of said tribe had been divided;

S. 464. An act for the relief of the estate of Moses M. Bane;

S. 825. An act for the relief of certain officers in the United States Army;

S. 1022. An act to carry into effect the finding of the Court of Claims in the claim of Elizabeth B. Eddy;

S. 1251. An act providing for investigation for irrigation works in Green River Wyo.;

S. 1021. An act to provide for the exchange of Government lands for privately owned lands in the Territory of Hawaii;

S. 1247. An act for the relief of Frank Carpenter;

S. 28. An act providing for the men and officers in the Russian Railway Service Corps the status of enlisted men and officers of the United States Army when discharged;

S. 165. An act for the relief of Hans Weideman;

S. 724. An act for the relief of Henry J. Davis; and

S. 725. An act for the relief of Orion Mathews.

The message also announced that the Senate had passed without amendment joint resolution of the following title:

H. J. Res. 138. Joint resolution to repeal so much of the act of Congress approved February 28, 1920, as provides for the sale of Camp Eustis, Va.

JOHNSON CITY SANITARIUM.

Mr. ANTHONY. Mr. Speaker, a few weeks ago a sensational statement was published in the newspapers in regard to conditions at the Johnson City, Tenn., sanitarium for disabled soldiers of the late war. An official investigation has been made, and I ask unanimous consent to extend my remarks by publishing the official report on the actual conditions there.

The SPEAKER. The gentleman from Kansas asks unanimous consent to extend his remarks in the RECORD by publishing the official report referred to. Is there objection?

Mr. KINDRED. I make the same request as that made by the gentleman from Kansas.

The SPEAKER. To publish the official report?

Mr. KINDRED. Yes.

The SPEAKER. It does not need to be published twice.

Mr. KINDRED. Together with some comments that I desire to add.

The SPEAKER. The gentleman from Kansas [Mr. ANTHONY] asks simply to print the official report of the investigation. Is there objection?

There was no objection.

The report is as follows:

NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS,
Dayton, Ohio, August 15, 1921.

From: The Inspector General.
To: The President, Board of Managers, National Home for Disabled Volunteer Soldiers.
Subject: Conditions at Johnson City National Sanatorium.

1. Complying with your instructions, the Inspector General proceeded to the Johnson City National Sanatorium, arriving there July 30, 1921, for the purpose of investigating and remedying conditions, and respectfully submits the following report:

2. The first impression received after being in the camp for several hours and mingling with the men proved to be correct. Several days previous an ugly article had been published in the press relative to conditions, and there was a suppressed excitement and uneasiness among many of the patients, which invariably follows such articles. This disappeared in less than two days after the boys learned of my arrival and the purport of my visit, and from that time until the time of my departure, the evening of August 11, 1921, the most excellent cooperation was received from fully 97 per cent of the patients. In order to get the proper picture of conditions, I went from bed to bed in the hospital and patient to patient in the pavilions, and can safely say that I interviewed 90 per cent of the men personally, getting good contact and the viewpoint and opinions of the men. There was a strong feeling and resentment of the men of the abuse which had been placed on the sanatorium as a whole, which would indicate to their families that every man there was either drinking, taking drugs, or running around with prostitutes. The men admitted that a small number of the men would get drunk, or drink, disregard their rest hours and treatment, that there were a few drug addicts who were being treated in the hospital, and that some of the men were associating with prostitutes, but stated that it was a very small percentage, and they felt that they should not be humiliated by being classed with this small number of men, no larger in percentage than would be found in other hospitals or of a like number in civil life. The further my investigations led and the more contact I got with the men thoroughly convinced me that the men had the right picture of conditions.

3. As you are aware, great care has been exercised not to dismiss from the sanatorium for disciplinary reasons any man whose life or cure might be jeopardized by depriving him of treatment. The result of this policy has been that too many men have been given too many chances to correct their conduct, and treatment in many instances continued with cases of this character when they should have been discharged from the sanatorium for disciplinary reasons, and this, perhaps, gave them the impression that they could do as they pleased.

Therefore a humane and kind policy, which had been recommended to the board of managers by the best authorities in the treatment of tuberculosis, was abused by a certain element of the patients. With this in view, the conduct record of each patient was carefully examined, and those showing flagrant disregard of conduct and treatment were brought before me, the statements of the nurses, physicians, and patients carefully obtained in each case, and enforced furloughs recommended, which you have approved, and this element eradicated. These steps immediately boosted the morale and were splendidly received by the patients.

4. Liquor conditions: From reports, the Inspector General had expected to find the conditions in this respect much more serious in the sanatorium than really existed. It was found that there had been and was some bootlegging on the grounds, but what was making it almost an impossibility to detect was that it was being done by the patients themselves, with an occasional outsider coming in the grounds and also doing it. When a patient was detected drinking, drunk, or having liquor in his possession, he was expelled, but that did not get rid of the source of supply. With this in view, most careful and detailed personal investigations were made, with the splendid assistance of the patients and the American Legion post on the reservation, and it was quickly found that the conditions in the city of Johnson City and Washington County were very bad as regards the sale of liquor, vending of drugs, and toleration of prostitutes; while there I personally apprehended nine citizens, brought them before the United States commissioner, and they are bound over to the grand jury; also that a place of sale was raided by the deputy United States marshal, myself, and others, evidence secured, etc. Two patients were also caught bootlegging, and they have been bound over to the grand jury. Drug places known to exist were not raided, as I was advised by the deputy United States marshal and others that in order to get any results whatever it would be necessary to do this in connection with special drug agents. I was advised that the condition as regards drugs had been repeatedly reported to the Federal authorities who have this in charge, but that it had been stated there were no funds with which to conduct a clean-up.

5. As you know, prostitution is not a Federal offense, and the only action we could take was, in case any were caught on the grounds, to arrest them for trespassing, which will be done in the future. I carefully patrolled the grounds, and on August 5 found two, who were evicted and warned never to appear on the grounds again. The quartermaster was also directed to erect a 12-strand barbed wire fence around the grounds, and this work is about completed. The source of the most of the prostitution is in Washington County.

6. As one means of remedy, I requested that seven representative business men confer with me on August 5, and the condition was frankly laid before them as to what was going on in the city and county. Most of them frankly admitted it, some saying it was even worse than represented and others stating it was a revelation to them. At their suggestion, I went before the Rotary and Kiwanis Clubs, made talks frankly telling them of conditions, and appealing to them as the better elements of the community to cooperate with me and clean up the town and county. This resulted in the committee being appointed from the Rotary, Kiwanis, and Commercial Clubs of Johnson City with the sole purpose to clean up conditions. Saturday, August 6, they sent telegrams to the Federal judge, United States district attorney, State enforcement agent, and Federal prohibition enforcement agency at Washington. The burden of the clean-up will rest on the better citizens of Johnson City, and I really feel that they are thoroughly aroused as to the situation and will act.

7. Much has been written and said as regards to firearms and other weapons being on the reservation. Several weeks ago a search was made of the effects of all patients in every building and only a couple of firearms found, and these in trunks which were locked in the baggage rooms and not accessible to patients. Statements in regard to this matter are a gross exaggeration.

8. One interesting thing that developed in my investigation was the fact that a number of the most unruly when closely questioned admitted that they had been in other Government hospitals and had been dismissed for disciplinary reasons and later sent to Johnson City by these hospitals discharging them. The unfortunate part of this was that when sending these men to Johnson City their conduct records were not also sent. In one case, that of Sykes Mobley, his conduct in former hospitals had been such that, as a matter of fact, he should never have been given any further hospitalization, as he never at any time in his hospitalization period made the least effort to get well. A large number of the men who have been at other hospitals told me that the general conduct at Johnson City was as good and even better than it had been at other hospitals they had been in, which they specifically named.

9. During the two weeks I was at the sanitarium I took all my meals at the messes with the patients. The food is most excellent, both as regards quantity, quality, variety, and service, and much superior to what I am getting in the hotel where I am living. Naturally, as in the best regulated of households, there may be a day when the meals are not as good as on other days, but if one article should happen not to be as appetizing as it might be there is always ample of other things to take its place. Excellent milk is served without any limitation, as is every other article of food furnished. The dinners are far superior as regards quantity, quality, variety, and service to any I ever got at the Senate Café at a cost of from $1.25 to $1.50.

10. The morale was splendid when I left and the cooperation of the patients most excellent. You will be interested in knowing that on the nights of August 8, 9, and 10 all patients were in bed at taps, 9.30 p. m. Individual patients and the American Legion Post are doing everything in their power to make the morale of this place superior to others and constructive criticism is at all times being given prompt attention and action taken on same.

11. Dr. Walter C. Klotz, the new medical director, reported for duty August 1, 1921, and has the situation well in hand. He is a man of excellent ability judging from the 10 days I was with him at the sanitarium, thoroughly human, and of good practical ideas. The patients are giving him excellent cooperation, and it is thought that his work will be most successful.

CHAS. M. PEARSALL,
Inspector General, National Home for D. V. S.

The SPEAKER. The gentleman from New York [Mr. KINDRED] asks unanimous consent to extend his remarks on the same subject. Is there objection?

Mr. KINDRED. Together with some comments.

The SPEAKER. The gentleman ought not to print the same report. It ought not to be printed twice.

Mr. KINDRED. The major part of my request is that I would like to make some comments on the subject.

The SPEAKER. That is the way the Chair put it, that the gentleman may extend his remarks on the same subject. Is there objection?

There was no objection.

THE SHEPPARD-TOWNER MATERNITY BILL.

Miss ROBERTSON. Mr. Speaker, I desire to make a speech upon the Sheppard-Towner bill. There is no time to do more than to say that I feel it my duty, as self-appointed to represent many millions of women who have had no way of being heard upon this bill, to ask that I may have an opportunity of bringing it before them for their information. I have been doing this as best I could all along without any organization or any money whatever behind me. I can no longer obtain copies of the bill, because I am informed at the document room that they have not enough left. When I am asked for 2,000 copies in one place and 500 in another, I think I ought to get leave to print. Therefore, I earnestly request that this one minority Member, myself, may receive the gracious consent of the great majority of this House to present my side of the case. [Applause.]

The SPEAKER. The lady from Oklahoma asks unanimous consent to extend her remarks, with leave to print in the RECORD, on the Sheppard-Towner bill. Is there objection?

There was no objection.

GRAIN FUTURES—CONFERENCE REPORT.

Mr. HAUGEN. Mr. Speaker, I call up the conference report on H. R. 5676, taxing contracts for the sale of grain for future delivery, and options for such contracts, and providing for the regulation of boards of trade, and for other purposes.

The SPEAKER. The gentleman from Iowa calls up a conference report, which the Clerk will report.

The Clerk read the conference report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5676) taxing contracts for the sale of grain for future delivery, and options for such contracts, and providing for the regulation of boards of trade, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate, and agree to the same with an amendment as follows: In lieu of the matter proposed by the Senate amendment insert:

"That this act shall be known by the short title of 'The Future Trading Act.'

"SEC. 2. That for the purposes of this act 'contract of sale' shall be held to include sales, agreements of sale, and agreements to sell. That the word 'person' shall be construed to import the plural or singular and shall include individuals, associations, partnerships, corporations, and trusts. That the word 'grain' shall be construed to mean wheat, corn, oats, barley, rye, flax, and sorghum. The term 'future delivery,' as used herein, shall not include any sale of cash grain for deferred shipment or delivery. The words 'board of trade' shall be held to include and mean any exchange or association, whether incorporated or unincorporated, of persons who shall be engaged in the business of buying or selling grain or receiving the same for sale on consignment. The act, omission, or failure of any official, agent, or other person acting for any individual, association, partnership, corporation, or trust within the scope of his employment or office shall be deemed the act, omission, or failure of such individual, association, partnership, corporation, or trust, as well as of such official, agent, or other person.

"SEC. 3. That in addition to the taxes now imposed by law there is hereby levied a tax amounting to 20 cents per bushel on each bushel involved therein, whether the actual commodity is intended to be delivered or only nominally referred to, upon each and every privilege or option for a contract either of purchase or sale of grain, intending hereby to tax only the transactions known to the trade as 'privileges,' 'bids,' 'offers,' 'puts and calls,' 'indemnities,' or 'ups and downs.'

"SEC. 4. That in addition to the taxes now imposed by law there is hereby levied a tax of 20 cents a bushel on every bushel involved therein, upon each contract of sale of grain for future delivery except—

"(a) Where the seller is at the time of the making of such contract the owner of the actual physical property covered thereby, or is grower thereof, or in case either party to the contract is the owner or renter of land on which the same is to be grown, or is an association of such owners, or growers of grain, or of such owners or renters of land; or

"(b) Where such contracts are made by or through a member of a board of trade which has been designated by the Secretary of Agriculture as a 'contract market,' as hereinafter provided, and if such contract is evidenced by a memorandum in writing which shows the date, the parties to such contract and their addresses, the property covered and its price, and the terms of delivery, and provided that each board member shall keep such memorandum for a period of three years from the date thereof, or for a longer period if the Secretary of Agriculture shall so direct, which record shall at all times be open to the inspection of any representative of the United States Department of Agriculture or the United States Department of Justice.

"SEC. 5. That the Secretary of Agriculture is hereby authorized and directed to designate boards of trade as 'contract markets' when, and only when, such boards of trade comply with the following conditions and requirements:

"(a) When located at a terminal market upon which cash grain is sold in sufficient volumes and under such conditions as fairly to reflect the general value of the grain and the difference in value between the various grades of grain, and having recognized official weighing and inspection service.

"(b) When the governing board thereof provides for the making and filing, by the board or any member thereof, as the Secretary of Agriculture may direct, of reports in accordance with the rules and regulations, and in such manner and form and at such times as may be prescribed by the Secretary of Agriculture, showing the details and terms of all transactions entered into by the board, or the members thereof, either in cash transactions consumed at, on, or in a board of trade, or transactions for future delivery, and when such governing board provides, in accordance with such rules and regulations, for the keeping of a record by the board or the members of the board of trade, as the Secretary of Agriculture may direct, showing the details and terms of all cash and future transactions entered into by them, consummated at, on, or in a board of trade, such record to be in permanent form, showing the parties to all such transactions, any assignments or transfers thereof, with the parties thereto, and the manner in which said transactions are fulfilled, discharged, or terminated. Such record shall be required to be kept for a period of three years from the date thereof, or for a longer period if the Secretary of Agriculture shall so direct, and shall at all times be open to the inspection of any representative of the United States Department of Agriculture or United States Department of Justice.

"(c) When the governing board thereof prevents the dissemination, by the board or any member thereof, of false, misleading, or inaccurate report, concerning crop or market information or conditions that affect or tend to affect the price of commodities.

"(d) When the governing board thereof provides for the prevention of manipulation of prices, or the cornering of any grain, by the dealers or operators upon such board.

"(e) When the governing board thereof admits to membership thereof and all privileges thereon on such boards of trade any duly authorized representative of any lawfully formed and conducted cooperative associations of producers having adequate financial responsibility: *Provided*, That no rule of a contract market against rebating commissions shall apply to the

distribution of earnings among the bona fide members of any such cooperative association.

"(f) When the governing board shall provide for making effective the final orders or decisions entered pursuant to the provisions of paragraph (b), section 6, of this act.

"SEC. 6. That any board of trade desiring to be designated a 'contract market' shall make application to the Secretary of Agriculture for such designation and accompany the same with a showing that it complies with the above conditions, and with a sufficient assurance that it will continue to comply with the above requirements.

"(a) A commission composed of the Secretary of Agriculture, the Secretary of Commerce, and the Attorney General is authorized to suspend for a period not to exceed six months or to revoke the designation of any board of trade as a 'contract market' upon a showing that such board of trade has failed or is failing to comply with the above requirements or is not enforcing its rules of government made a condition of its designation as set forth in section 5. Such suspension or revocation shall only be after a notice to the officers of the board of trade affected and upon a hearing: *Provided*, That such suspension or revocation shall be final and conclusive unless within 15 days after such suspension or revocation by the said commission such board of trade appeals to the circuit court of appeals for the circuit in which it has its principal place of business by filing with the clerk of such court a written petition praying that the order of the said commission be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such board of trade will pay the costs of the proceedings if the court so directs. The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to the Secretary of Agriculture, chairman of said commission, or any member thereof, and the said commission shall forthwith prepare, certify, and file in the court a full and accurate transcript of the record in such proceedings, including the notice to the board of trade, a copy of the charges, the evidence, and the report and order. The testimony and evidence taken or submitted before the said commission duly certified and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the circuit court of appeals shall be made a preferred cause and shall be expedited in every way. Such a court may affirm or set aside the order of the said commission or may direct it to modify its order. No such order of the said commission shall be modified or set aside by the circuit court of appeals unless it is shown by the board of trade that the order is unsupported by the weight of the evidence or was issued without due notice and a reasonable opportunity having been afforded to such board of trade for a hearing, or infringes the Constitution of the United States, or is beyond the jurisdiction of said commission: *Provided further*, That if the Secretary of Agriculture shall refuse to designate as a contract market any board of trade that has made application therefor, then such board of trade may appeal from such refusal to the commission described therein, consisting of the Secretary of Agriculture, the Secretary of Commerce, and the Attorney General of the United States, with the right to appeal as provided for in other cases in this section, the decision on such appeal to be final and binding on all parties interested.

"(b) That if the Secretary of Agriculture has reason to believe that any person is violating any of the provisions of this act, or is attempting to manipulate the market price of any grain in violation of the provisions of section 5 hereof, or of any of the rules or regulations made pursuant to its requirements, he may serve upon such person a complaint stating his charge in that respect, to which complaint shall be attached or contained therein a notice of hearing, specifying a day and place not less than three days after the service thereof, requiring such person to show cause why an order should not be made directing that all contract markets until further notice of the said commission refuse all trading privileges thereon to such person. Said hearing may be held in Washington, District of Columbia, or elsewhere, before the said commission, or before a referee designated by the Secretary of Agriculture, who shall cause all evidence to be reduced to writing and forthwith transmit the same to the Secretary of Agriculture as chairman of the said commission. That for the purpose of securing effective enforcement of the provisions of this act the provisions, including penalties, of section 12 of the interstate commerce act, as amended, relating to the attendance and testimony of witnesses, the production of documentary evidence, and the immunity of witnesses, are made applicable to the power, jurisdiction, and authority of the Secretary of Agriculture, the said commission, or said referee in proceedings under this act, and to persons subject to its provisions. Upon evidence received the said commission may require all contract markets to refuse such person all trading privileges thereon for such period as may be specified in said order. Notice of such order shall be sent forthwith by registered mail or delivered to the offending person and to the governing boards of said contract markets. After the issuance of the order by the commission, as aforesaid, the person against whom it is issued may obtain a review of such order or such other equitable relief as to the court may seem just by filing in the United States circuit court of appeals of the circuit in which the petitioner is doing business a written petition praying that the order of the commission be set aside. A copy of such petition shall be forthwith served upon the commission by delivering such copy to its chairman, or to any member thereof, and thereupon the commission shall forthwith certify and file in the court a transcript of the record theretofore made, including evidence received. Upon the filing of the transcript the court shall have jurisdiction to affirm, to set aside, or modify the order of the commission, and the findings of the commission as to the facts, if supported by the weight of evidence, shall in like manner be conclusive. In proceedings under paragraphs (a) and (b) the judgment and decree of the court shall be final except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 240 of the Judicial Code.

"SEC. 7. That the tax provided for herein shall be paid by the seller, and such tax shall be collected either by the affixing of stamps or by such other method as may have been prescribed by the Secretary of the Treasury by regulations, and such regulations shall be published at such times and in such manner as shall be determined by the Secretary of the Treasury.

"SEC. 8. That any board of trade that has been designated a contract market, in the manner herein provided, may have such designation vacated and set aside by giving notice in writing to the Secretary of Agriculture requesting that its designation as a contract market be vacated, which notice shall be served at least 90 days prior to the date named therein, as the date when the vacation of designation shall take effect. Upon receipt of such notice the Secretary of Agriculture shall forthwith order the vacation of the designation of such board of trade as a contract market, effective upon the day named in the notice, and shall forthwith send a copy of the notice and his order to all other contract markets. From and after the date upon which the vacation became effective, the said board of trade can thereafter be designated again a contract market by making application to the Secretary of Agriculture in the manner herein provided for an original application.

"SEC. 9. That the Secretary of Agriculture may make such investigations as he may deem necessary to ascertain the facts regarding the operations of boards of trade and may publish from time to time, in his discretion, the result of such investigation, and such statistical information gathered therefrom, as he may deem of interest to the public, except data and information which would separately disclose the business transactions of any person, and trade secrets or names of customers: *Provided*, That nothing in this section shall be construed to prohibit the Secretary of Agriculture from making or issuing such reports as he may deem necessary, relative to the conduct of any board of trade, or of the transactions of any person found guilty of violating the provisions of this act under the proceedings prescribed in section 6 of this act: *Provided further*, That the Secretary of Agriculture in any report may include the facts as to any actual transaction. The Secretary of Agriculture, upon his own initiative or in cooperation with existing governmental agencies, shall investigate marketing conditions of grain and grain products, and by-products, including supply and demand for these commodities, cost to the consumer, and handling and transportation charges. He shall likewise compile and furnish to producers, consumers, and distributors, by means of regular or special reports, or by such methods as he may deem most effective, information respecting the grain markets, together with information on supply, demand, prices, and other conditions, in this and other countries that affect the markets.

"SEC. 10. That any person who shall fail to evidence any such contract by a memorandum in writing, or to keep the record, or make a report, or who shall fail to pay the tax, as provided in sections 4 and 5 hereof, or who shall fail to pay the tax required in section 3 hereof, shall pay in addition to the tax a penalty equal to 50 per cent of the tax levied against him under this act and shall be guilty of a misdemeanor, and upon conviction thereof be fined not more than $10,000 or imprisoned for not more than one year, or both, together with the costs of prosecution.

"SEC. 11. That if any provision of this act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the act and of the application of

such provision to other persons and circumstances shall not be affected thereby.

"SEC. 12. That no tax shall be imposed by this act within four months after its passage, and no fine, imprisonment, or other penalty shall be enforced for any violation of this act occurring within four months after its passage.

"SEC. 13. The Secretary of Agriculture may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person; and shall have the power to appoint, remove, and fix the compensation of such officers and employees, not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, telegrams, telephones, law books, books of reference, periodicals, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this act in the District of Columbia and elsewhere, and there is hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for such purposes."

And the Senate agree to the same.

G. N. HAUGEN,
J. C. MCLAUGHLIN,
J. N. TINCHER,
J. W. RAINEY,
J. B. ASWELL,
Managers on the part of the House.

ARTHUR CAPPER,
CHAS. L. MCNARY,
E. D. SMITH,
Managers on the part of the Senate.

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H. R. 5676, entitled "An act taxing contracts for the sale of grain for future delivery, and options for such contracts, and providing for the regulation of boards of trade, and for other purposes," submit the following statement in explanation of the effect of the action agreed upon by the conference committee and submitted in the accompanying conference report as to the amendment of the Senate, to which the House recedes with an amendment which is a substitute therefor:

Section 1 provides a short title. This was not changed by the Senate.

Section 2 defines certain terms. The Senate inserted the following: "The term 'future delivery,' as used herein, shall not include any sale of cash grain for deferred shipment." To this amendment the House recedes with an amendment inserting after the word "shipment" the words "or delivery."

Section 3 imposes a tax on "privileges," "bids," "offers," "puts and calls," "indemnities," and "ups and downs." This was not changed by the Senate.

Section 4 imposes a tax on contracts of sale of grain for future delivery, with certain exceptions set forth in subdivisions (a) and (b). The Senate amended the first paragraph of this section by striking out the words "made at, on, or in an exchange, board of trade, or similar institution or place of business." The House recedes.

The Senate amended subdivision (b) of this section by striking out the words "for a period of three years from the date thereof and for such longer period as the Secretary of Agriculture may direct a permanent record of such contract for future delivery," and substituted therefor the following: "such memorandum for a period of three years from the date thereof, or for a longer period if the Secretary of Agriculture shall so direct, which record shall at all times be open to the inspection of any representative of the United States Department of Agriculture and United States Department of Justice." The House recedes with an amendment substituting the word "or" for the word "and" following the words "United States Department of Agriculture."

Section 5 provides that the designation for boards of trade as "contract markets" upon certain conditions set out in subdivisions (a) to (f), inclusive.

The Senate amended subdivision (a) of section 5 by inserting at the end thereof the following words: "and having adequate storage facilities and recognized official weighing and inspection service." The House recedes with an amendment striking out the words "adequate storage facilities and."

The subdivision (b) of section 5 relates to the making and filing of records and reports. The Senate amended this subdivision by striking out all of the House provision and substituting therefor a new provision, as follows:

When the governing board thereof provides for the making and filing, by the board or any member thereof, as the governing board may elect, of reports in accordance with the rules and regulations, and in such manner and form as may be prescribed by the Secretary of Agriculture, and whenever in his opinion the public interest requires it, showing the details and terms of all transactions entered into by the board, or the members thereof, either in cash transactions consummated at, on, or in a board of trade, or transactions for future delivery, and when such governing board provides for the keeping of a record by the members of the board of trade showing the details and terms of all cash and future transactions entered into by them, consummated at, on, or in a board of trade, such record to be in permanent form, showing the parties to all such transactions, any assignments or transfers thereof, with the parties thereto, and the manner in which said transactions are fulfilled, discharged, or terminated. Such record shall be required to be kept for a period of three years from the date thereof, or for a longer period if the Secretary of Agriculture shall so direct, and shall at all times be open to the inspection of any representative of the United States Department of Agriculture and United States Department of Justice.

The House recedes with amendments making the subdivision read as follows:

When the governing board thereof provides for the making and filing, by the board or any member thereof, as the Secretary of Agriculture may direct, of reports in accordance with the rules and regulations, and in such manner and form and at such times as may be prescribed by the Secretary of Agriculture, showing the details and terms of all transactions entered into by the board, or the members thereof, either in cash transactions consummated at, on, or in a board of trade, or transactions for future delivery, and when such governing board provides, in accordance with such rules and regulations, for the keeping of a record by the board or the members of the board of trade, as the Secretary of Agriculture may direct, showing the details and terms of all cash and future transactions entered into by them, consummated at, on, or in a board of trade, such record to be in permanent form, showing the parties to all such transactions, any assignments or transfers thereof, with the parties thereto, and the manner in which said transactions are fulfilled, discharged, or terminated. Such record shall be required to be kept for a period of three years from the date thereof, or for a longer period if the Secretary of Agriculture shall so direct, and shall at all times be open to the inspection of any representative of the United States Department of Agriculture or United States Department of Justice.

Subdivision (c) of section 5 of the bill relates to the dissemination of false, misleading, or inaccurate information. The Senate amended this subdivision by substituting the word "false" for the word "fake." The House recedes.

Subdivision (d) of section 5 relates to the prevention of the manipulation of prices. The Senate amended this subdivision by inserting the words "undue or unfair" before the word "manipulation" and by inserting the words "or the cornering of any grain" after the word "prices." The Senate also struck out the following: "including a reasonable limitation upon the total quantity of grain of the same kind covered by contracts unfulfilled or unsettled at any one time by or on behalf of the same person commonly called 'open trades' in speculative transactions." The House recedes with an amendment striking out the words "undue or unfair" contained in the Senate amendment, so that subdivision (d) will read as follows:

When the governing board thereof provides for the prevention of manipulation of prices or the cornering of any grain by the dealers or operators upon such board.

Subdivision (e) of section 5 relates to the admission on boards of trade of representatives of cooperative associations of producers. The Senate amended the subdivision by correcting a typographical error, by substituting "representative" for the words "executive officer," by striking out the House proviso and substituting therefor a new proviso, as follows:

That no rule of a contract market against rebating commissions shall apply to the distribution of earnings among the bona fide members of any such cooperative association.

The House recedes.

The Senate further amended section 5 by inserting a new subdivision, as follows:

(f) When the governing board shall provide for making effective the final orders or decisions entered pursuant to the provisions of paragraph (b), section 6, of this act.

The House recedes.

Section 6 relates to the procedure involved in the designation and the suspension or revocation of the designation of any board of trade as a contract market. The Senate amendments to this section relate primarily to the establishment of a commission composed of the Secretary of Agriculture, the Secretary of Commerce, and the Attorney General to act in lieu of the Secretary of Agriculture in such proceedings. These amendments are as follows: Strike out the words "The Secretary of Agriculture" at the beginning of the second sentence of section 6 and substitute therefor the following: "(a) A commission composed of the Secretary of Agriculture, the Secretary of Commerce, and the Attorney General." In the second sentence of section 6 insert the words "using reasonable diligence in" before the words "enforcing its rules." In the third sentence strike out the words "Secretary of Agriculture" and substitute the words "said commission" in two places in said sentence. The same change is subsequently made in four places in the remainder of the section. In the fourth sentence

of section 6 insert, after the words "Secretary of Agriculture," the words "chairman of said commission, or any member thereof." At the end of section 6 of the House bill insert a proviso as follows:

Provided further, That if the Secretary of Agriculture shall refuse to designate as a contract market any board of trade that has made application therefor, then such board of trade may appeal from such refusal to the commission described therein, consisting of the Secretary of Agriculture, the Secretary of Commerce, and the Attorney General of the United States, with the right to appeal as provided for in other cases in this section, the decision on such appeal to be final and binding on all parties interested.

Following said proviso insert a subdivision, as follows:

(b) That if the Secretary of Agriculture has reason to believe that any person is violating any of the provisions of this act, or is attempting to manipulate the market price of any grain in violation of the provisions of section 5 hereof, or of any of the rules or regulations made pursuant to its requirements, he may serve upon such person a complaint stating his charge in that respect, to which complaint shall be attached or contained therein a notice of hearing, specifying a day and place not less than three days after the service thereof, requiring such person to show cause why an order should not be made directing that all contract markets until further notice of the said commission refuse all trading privileges thereon to such person. Said hearing may be held in Washington, D. C., or elsewhere, before the said commission or before a referee designated by the Secretary of Agriculture, who shall cause all evidence to be reduced to writing and forthwith transmit the same to the Secretary of Agriculture as chairman of the said commission. Any member of the said commission or said referee shall have authority to administer oaths to witnesses. Upon evidence received the said commission may require all contract markets to refuse such person all trading privileges thereon for such period as may be specified in said order. Notice of such order shall be sent forthwith to the offending person and to the governing boards of said contract markets. After the issuance of the order by the commission, as aforesaid, the person against whom it is issued may obtain a review of such order or such other equitable relief as to the court may seem just by filing in the United States circuit court of appeals of the circuit in which the petitioner is doing business a written petition praying that the order of the commission be set aside. A copy of such petition shall be forthwith served upon the commission by delivering such copy to its chairman, or to any member thereof, and thereupon the commission shall forthwith certify and file in the court a transcript of the record theretofore made, including evidence received. Upon the filing of the transcript the court shall have jurisdiction to affirm, to set aside, or to modify the order of the commission, and the findings of the commission as to the facts, if supported by the weight of evidence, shall in like manner be conclusive. In proceedings under paragraphs (a) and (b) the judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 240 of the Judicial Code.

The Senate recedes as to its amendment inserting the words "using reasonable diligence in." The House recedes on all other Senate amendments to section 6 with amendments as follows: At the end of the last sentence of section 6 of the House bill substitute the words "said commission" for the words "Secretary of Agriculture." In subdivision (b) of the Senate amendment strike out the sentence "Any member of the said commission or said referee shall have authority to administer oaths to witnesses" and substitute therefor the following sentence: "That for the purpose of securing effective enforcement of the provisions of this act the provisions, including penalties, of section 12 of the interstate commerce act, as amended, relating to the attendance and testimony of witnesses, the production of documentary evidence, and the immunity of witnesses, are made applicable to the power, jurisdiction, and authority of the Secretary of Agriculture, the said commission, or said referee in proceedings under this act, and to persons subject to its provisions." In the fifth sentence of the subdivision (b) of the Senate amendment insert after the words "sent forthwith" the words "by registered mail or delivered."

Section 7 of the House bill relates to the procedure to be followed in collecting taxes under the act. The Senate amendment struck out this action. The Senate recedes.

The Senate inserted a new section 7 providing a method by which a board of trade can voluntarily relinquish its designation as a "contract market." The House recedes with an amendment changing the number of the section so that it will be section 8.

The Senate amended section 8 of the House bill by substituting the words "boards of trade" for "future exchanges," by striking out the words "and such parts of reports made to him under this act" and by adding at the end of the House provision the following: "except data and information which would separately disclose the business transactions of any person, and trade secrets or names of customers: *Provided*, That nothing in this section shall be construed to prohibit the Secretary of Agriculture from making or issuing such reports as he may deem necessary relative to the conduct of any board of trade or of the transactions of any person found guilty of violating the provisions of this act under the proceedings prescribed in section 6 of this act: *Provided further*, That the Secretary of Agriculture in any report may include the facts as to any actual transaction on any board of trade without divulging the names of the persons therewith connected. The Secretary of Agriculture, upon his own initiative or in cooperation with existing governmental agencies, shall investigate marketing conditions of grain and grain products and by-products, including supply and demand for these commodities, cost to the consumer, and handling and transportation charges. He shall likewise compile and furnish to producers, consumers, and distributors, by means of regular or special reports, or by such methods as he may deem most effective, information respecting the grain market, together with information on supply, demand, prices, and other conditions, in this and other countries that affect the markets." The House recedes with amendments changing the number of the section, so that it will be section 9, and striking out the following words at the end of the second proviso of the Senate amendment, "on any board of trade without divulging the names of the persons therewith connected."

Section 9 of the House bill provides penalties for violations of the act. This section remains unchanged except that it becomes section 10 in consequence of the changes in the numbering of the preceding sections.

Section 10 of the House bill relates to the interpretation of the constitutionality of the act. This section remains unchanged except that it becomes section 11 in consequence of the changes in the numbering of the preceding sections.

Section 11 of the House bill relates to the enforcement of the act. The Senate amendment substitutes the words "four months" for the words "sixty days." The number of the section is changed to 12 in consequence of the changes in the numbering of the preceding sections. The House recedes with amendments, making the section read as follows:

SEC. 12. That no tax shall be imposed by this act within four months after its passage, and no fine, imprisonment, or other penalty shall be enforced for any violation of this act occurring within four months after its passage.

Section 12 of the House bill authorizes the Secretary of Agriculture to cooperate with other agencies and provides the necessary authority for making appropriations. This section remains unchanged except that it becomes section 13 in consequence of the changes in the numbering of the preceding sections.

G. N. HAUGEN,
J. C. MCLAUGHLIN,
J. N. TINCHER,
J. W. RAINEY,
J. B. ASWELL,
Managers on the part of the House.

Mr. HAUGEN. Mr. Speaker, the Senate amended the House bill by striking out all after the enacting clause and inserting with a few changes substantially what was in the House bill.

The purpose of the first amendment was to make it clear that the provisions do not apply to cash transactions. The Senate inserted the words:

The term "future delivery" as used herein, shall not include any sale of cash grain for deferred shipment.

The House recedes from its disagreement to that amendment with an amendment adding the words "or delivery."

The next amendment of any importance is on page 4. The Senate struck out that part of subdivision (b) of section 5, which reads:

When the governing board thereof provides for the making and filing by the board or any member thereof, as the governing board may elect, "of reports in accordance with the rules and regulations and in such manner and form as may be prescribed by the Secretary, etc."

The House recedes with amendments substituting for the words "governing boards may elect" the words "Secretary of Agriculture may direct" and also the words "and at such times" so that the provision will read:

When the governing board thereof provides for the making and filing by the board or any member thereof, as the Secretary of Agriculture may direct, of reports in accordance with the rules and regulations and in such manner and form and at such times as may be prescribed by the Secretary.

Thus leaving it to the discretion of the Secretary instead of the governing board, which substantially restores the House provisions of the bill.

Mr. KELLY of Pennsylvania. Will the gentleman yield?

Mr. HAUGEN. Yes.

Mr. KELLY of Pennsylvania. I notice on page 3 of the report subdivision (d) a change which to my mind is fatal. The original Tincher bill had a provision in it that the Secretary of Agriculture could make reasonable limitations on future trading.

Mr. HAUGEN. The bill as reported by the conferees is the same except for some slight changes in the language. It reads:

When the governing board thereof provides for the prevention of the manipulation of prices, or the cornering of any grain, by the dealers or operators upon such boards.

It prevents the cornering of grain, and the only way you can prevent cornering is by placing a limit on transactions.

Mr. KELLY of Pennsylvania. What I want to call attention to is the fact that there is no definition as to what manipulation of prices is. Therefore, it can not be touched unless it is a cornering of grain.

Mr. HAUGEN. It also prevents the manipulation of prices.

Mr. KELLY of Pennsylvania. That is a grave proposition, and it would take the Supreme Court to decide it. Why was not the original language left in the bill?

Mr. HAUGEN. It is in the bill; "or the cornering of any grain" is added. It reads:

When the governing board thereof provides for the prevention of manipulation of prices or the cornering of any grain by the dealers or the operators upon such board.

Mr. KELLY of Pennsylvania. Only through trade in excessive amounts can you manipulate prices. In the manipulation of prices nothing can be accomplished.

Mr. FESS. Does the gentleman mean the manipulation of prices as defined——

Mr. KELLY of Pennsylvania. Defined in the original bill by a proposition to limit future trading. That is left out. My question is, Can the Secretary of Agriculture limit excess future trading in grain exchanges?

Mr. HAUGEN. Certainly he can, if in the opinion of the Secretary of Agriculture limiting the transactions prevent the manipulation of prices or cornering of grain.

Mr. KELLY of Pennsylvania. Only when a corner is involved can you limit future trading and prevent manipulation of prices?

Mr. HAUGEN. Certainly then, and that by inserting the words "or the cornering of grain" will accomplish exactly what was sought to accomplish by the language stricken from the bill; that the Secretary, under section 5, is given authority to reject applications for designation unless the governing board provide for the prevention of the manipulations of prices or the cornering of any grain. The cornering of grain can, of course, only be accomplished by the buying of large quantities. Hence, it seems clear that it is in the power of the Secretary to prescribe limitations. The commission provided for in section 6 (a) is given the power to suspend or revoke the designation upon a showing that such board of trade has failed or is failing to comply with the above requirements or is not enforcing its rules of government made a condition of its designation as set forth in section 5, which conditions are as stated in paragraph (d) of section 5 that it provide for the prevention of the manipulation of prices or the cornering of grain. Hence, the commission will have the power to suspend and revoke designations upon a showing that such board of trade permits the buying and selling of unlimited quantity of grain, resulting in the manipulation of prices or the cornering of any grain.

Mr. KINCHELOE. I think the gentleman will agree that one of the most important provisions in the bill was the publicity of these transactions.

Mr. HAUGEN. We have taken care of that.

Mr. KINCHELOE. The gentleman will remember that in the House bill it provided that these transactions should be subject to the inspection at all times of the Agricultural Department and the Department of Justice. Is that provision still in the conference report?

Mr. HAUGEN. Yes.

Mr. KINCHELOE. Was it changed at all?

Mr. TINCHER. It was changed in the Senate and then put back in conference.

Mr. KINCHELOE. And is now in the bill.

Mr. TINCHER. Yes.

Mr. HAUGEN. Mr. Chairman, I yield to the gentleman from Kansas [Mr. TINCHER].

Mr. TINCHER. Mr. Speaker and gentlemen of the House, I think every Member who has followed the bill will agree that the only changes made in the Senate are changes in the language, that the gentleman from Pennsylvania [Mr. KELLY] called attention to. As the bill passed the House it authorized the Secretary of Agriculture to designate places as market places and required the exchange to file an application in which they would include limitations upon trading. In the Senate they had considerable discussion over that proposition, and, of course, the difficulty of that proposition is apparent to anyone. One season of the year limitation in transactions in grain is reasonable, and at another season of the year it would be unreasonable. In one year certain limitations would be reasonable and another year it would be unreasonable. It was deemed best by the friends of the measure to give the Secretary of Agriculture the power to prevent manipulations. The question of the definition of the manipulation of the market came up. I attended the hearings in the Senate and the debate on the floor of the Senate, and I finally agreed to these changes on this theory, That so long as there was no legal definition of manipulation, the Secretary of Agriculture had the power to require rules and regulations on the part of the exchange to prevent manipulation of prices, and, perhaps, we could not afford to complain of the fact that there was no definition of manipulation.

Mr. KELLY of Pennsylvania. Will the gentleman yield?

Mr. TINCHER. Yes.

Mr. KELLY of Pennsylvania. Is the gentleman from Kansas assured that the Secretary of Agriculture has the power to prevent manipulation if it is necessary?

Mr. TINCHER. Yes; and, inasmuch as there is no definition, he is the judge of it himself.

Mr. KINCHELOE. Will the gentleman yield?

Mr. TINCHER. Yes.

Mr. KINCHELOE. The gentleman made a statement awhile ago that there should be different regulations during a season. Does he mean by reason of the ebb and flow of the grain?

Mr. TINCHER. Yes. Right now there is a vast amount of grain being exported from the United States. It is necessary in purchasing grain for export under the present system to have certain transactions on the board, and the quantity of grain, and what would be a reasonable limitation on the quantity of grain now might be unreasonable in February.

Now, there is another concession on the part of the House. I intend to be perfectly frank about it. As the bill passed the House it empowers the Secretary of Agriculture alone to cancel the designation or license of the market place on the finding of certain facts. That provision in the bill occasioned most of the opposition by what we term "the ultra conservatives of the House."

They said it was putting too much power in one man, and that was the opposition and accounted for at least 50 of the 59 votes that were cast against the bill when we passed it before. The Senate committee held extensive hearings on that proposition and finally agreed to compose the commission of the Secretary of Agriculture, the Secretary of Commerce, and the Attorney General to pass on the facts as presented by the Secretary of Agriculture before they would cancel or take away from marketing places the designation as a marketing place.

Mr. CHALMERS. Does not the gentleman think that strengthened the bill?

Mr. TINCHER. From my standpoint, having been an advocate of controlling the exchanges, it did not strengthen the bill, but it strengthened the bill in so far as getting support for it is concerned, and I want to pass the legislation. I hold to the theory that this legislation should have been passed a quarter of a century ago; that it would have been passed and that the grain markets would not have been manipulated by gamblers for a quarter of a century had it not been for the fact that there were two elements fighting the legislation—one element that was against any regulation and one element that was so drastic that it wanted legislation that no American Congress could be prevailed upon to agree to. I will say frankly that the sentiment seemed to be that they did not want to put too much power in the hands of one man. Everybody said so long as Mr. Wallace is Secretary of Agriculture we would be perfectly satisfied, but they cited instances where Secretaries of Agriculture have been more or less drastic, and they wanted this safeguard, and I wanted the bill, and I agreed to that change in the bill, which I am sure does not destroy its effectiveness. I am satisfied that the Secretary of Commerce or the Attorney General at the present time would not question the good judgment of the Secretary of Agriculture if he decided that the market was being manipulated and asked to take a license or designation away from that market, and I suppose it is fair to presume that condition will remain. At least there are two sides to that proposition, and I am one man who can always agree that the other fellow has some right to his opinion.

Mr. JONES of Texas. Mr. Chairman, will the gentleman yield?

Mr. TINCHER. Yes.

Mr. JONES of Texas. Does the gentleman understand it will require the action of all three of these men or a majority?

Mr. TINCHER. A majority of that commission.

Mr. WALSH. Mr. Chairman, will the gentleman yield?

Mr. TINCHER. Yes.

Mr. WALSH. Of course, another reason why this bill did not pass a quarter of a century ago is that the gentleman from Kansas [Mr. TINCHER] was not a Member of Congress at

that time. Is this measure going to close up any of these produce exchanges or boards of trade or other organizations that engage in this character of business?

Mr. TINCHER. It will have no effect whatever on produce exchanges, or on any board of trade that wants to do a legitimate business, such as the representatives of the several boards of trade represented before the Committee on Agriculture, that they wanted to engage in. It will not close up or have any effect upon such exchanges. Since the bill passed the Senate I have noticed interviews from the different representatives of the exchanges that appeared before our committee in the House, and they say that with this change, taking away from one man the power to absolutely cancel their right to do business, they will function under the bill.

Mr. WALSH. Is it going to prevent speculative trading in grain?

Mr. TINCHER. No; it will not prevent speculative trading, but there is a difference between the man who buys grain and takes a chance of making a profit or losing money and the man who goes on the market without any intention of handling any grain and buys a so-called purchase or sale of that grain, fictitious, and manipulates the price of the grain. In other words, this bill will not interfere with a man who really wants to speculate in grain, but it is the hope of its proponents that it will interfere with the man who proposes to fix the price of grain by manipulation.

Mr. WALSH. Is it going to interfere with the fixing of the price by other methods which would come within the definition of manipulation?

Mr. TINCHER. If the bill is a success, as I hope it will be, it will result in the price of grain being fixed by the law of supply and demand, and that will be the only thing.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. TINCHER. Yes.

Mr. MANN. As I understand the gentleman's position, it is that under this bill a man can speculate, based on his judgment as to the future price of grain, based on the law of supply and demand?

Mr. TINCHER. That is correct.

Mr. MANN. The desire of the bill is to stop the prevention of the law of supply and demand by rigging up the market prices through manipulation.

Mr. TINCHER. That is it exactly. A man who buys grain to-night, expecting it to go up, I think has a legitimate right in commerce, but the man who goes with puts and calls to-night and makes a transaction on the board of trade, which he knows will fix the price of grain to-morrow, and enable him to make a transaction that is in no sense a speculation, is not necessary to the legitimate trade.

Mr. WALSH. Why is not that speculation?

Mr. MANN. Here is the distinction, as I understand it. Lots of men keep track of the supply of wheat in the world and the probable supply of wheat. They base their transactions upon their judgment as to whether wheat will go up or down, based upon the law of supply and demand. That is legitimate speculation. But when a man in the face of the law of supply and demand, by offering to sell a great quantity of wheat, endeavors to put down the price of wheat temporarily, in order that he may buy cheaper, or endeavors to put up the price of wheat by long buying, when he knows that that is not the real value of the wheat, endeavoring to buy in at the lower price, he is engaging in the manipulation of prices. There is a distinction between the two propositions.

Mr. TINCHER. Everyone of the large exchanges admitted before our committee that that has been one of the evils of the trade for a quarter of a century. They say that they have passed laws and regulations in order to try and prevent it, because as an exchange, dealing for a commission, they have no ambition to see such transactions.

Now, the Secretary of Agriculture, who is somewhat conversant on this subject, and some people who heard the testimony and have given it consideration, think this bill will stop the manipulation if properly administered.

Mr. MANN. I hope it will, but I do not think man's ingenuity is sufficient to prevent manipulation here or elsewhere.

Mr. TINCHER. We can at least try.

Mr. MANN. Yes; you may help.

Mr. WALSH. Will the gentleman yield?

Mr. TINCHER. Gladly.

Mr. WALSH. Did I understand the gentleman to say 25 years ago this legislation would have been too drastic and it is not drastic now?

Mr. TINCHER. No; I did not say that. I said 25 years ago—and I will call my friend's attention to the fact that 25 years ago my predecessor from my district in this Congress tried to pass legislation of this character. The reason it could not be passed at that time was this, that there was no compromise on the part of those who advocated it; they wanted too drastic legislation; they wanted to prevent trading in all grain futures in the market.

Mr. MONDELL. Will the gentleman yield?

Mr. TINCHER. I will.

Mr. MONDELL. Is not this true that the attitude of the extremists at that time and since that time prevented a sound and sane settlement of this question, as they prevented for years a sound and sane settlement of the question of the regulation of the packing industry?

Mr. TINCHER. Absolutely.

Mr. MONDELL. And when we came to realize that legitimate trading in grain with a view of protecting one's interest was not only legitimate but useful, we had no difficulty in securing the legislation.

Mr. TINCHER. It would be very easy to defeat this bill. As the bill passed the House we provided the Secretary of Agriculture should have the power to take away from the market places their designation of market places. As it passed the Senate it provided that three men should have that power. My research into this subject convinces me in former years less questions than that have prevented the enactment of this class of good legislation, and I concluded that I could not afford to quarrel over that subject, and I will say frankly if I had been headstrong enough and insisted there should be only one man pass on this or we would have no bill there would have been some concessions on the other side. But most people thought we ought to have three men pass on that; and legislation of this character has failed too often in the American Congress just over quarrels in reference to little things of that kind.

Mr. BLANTON. Will the gentleman yield?

Mr. TINCHER. I will yield to the gentleman who commented upon this bill before.

Mr. BLANTON. Does not the gentleman think in defining this bill in poker terms you would say it prohibits——

Mr. MANN. How does the gentleman know——

Mr. BLANTON (continuing). Playing deuces wild or stud poker but permits the ordinary jackpot drawpoker gambling.

Mr. WALSH. What is the gentleman talking about?

Mr. TINCHER. Now, the gentleman has interrupted me and as his remarks are part of my discussion and so will remain in the RECORD I want to say to the gentleman that I do not know what he is talking about. The gentleman is talking along the same line that he followed against this bill in the House. He said that it prevented gambling in the nighttime but permitted it in the daytime, and no one understood it. I believe the reason no one understood that statement of the gentleman from Texas was because we are unfamiliar with deuces loose or wild, or whatever he calls it.

Mr. BLANTON. If the gentleman stays in Congress long enough, he will understand what those terms mean.

Mr. STEENERSON. Will the gentleman yield?

Mr. TINCHER. I will.

Mr. STEENERSON. Subdivision (e), section 5, has been changed since it passed the House, and, as I understand, this now provides cooperative associations shall be permitted as a matter of right.

Mr. TINCHER. Yes.

Mr. STEENERSON. And not in the discretion of the Secretary of Agriculture?

Mr. TINCHER. No. I attended the hearings before the Senate committee and these associations seem to agree that all they wanted was the privilege of dividing their profits with their own members and that language went in the bill in the Senate as an agreement on the part of the representatives of the associations, so I did not argue the matter at all.

Mr. STEENERSON. I think that section is very much improved and I am perfectly satisfied with it, that being along the line of the bill which I introduced on the same subject.

Mr. KINCHELOE. Will the gentleman yield?

Mr. TINCHER. I will.

Mr. KINCHELOE. I heartily agree with the gentleman that he was right in agreeing to this amendment embodying the Secretary of Agriculture, the Secretary of Commerce, and the Attorney General. I believe, however, the gentleman will agree with me in the suggestion that if there should be a disagreement—that is, if the Secretary of Agriculture wanted to take this designation away and the Secretary of Commerce and the Attorney General, who know nothing about it, and I do not know how they could know anything about it, because they would not have the opportunity, might say that it should not be taken away, it would absolutely tie the hands of the Secretary of Agriculture and override the man upon whose shoulders the responsibility

of the enforcement of this law is placed. I think it weakens the bill; but, as I say, I think it beats no bill at all, and therefore I am for it.

Mr. HAUGEN. Mr. Speaker, I move the previous question.

Mr. BLANTON. I will ask the gentleman to give me one minute. The gentleman will probably save 20 minutes by doing so.

Mr. WALSH. Mr. Speaker, I ask for the regular order.

Mr. HAUGEN. Mr. Speaker, I ask for a vote.

Mr. BLANTON. The gentleman from Kansas [Mr. TINCHER] puts me in a wrong attitude.

The SPEAKER. The question is on ordering the previous question.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. BLANTON. Mr. Speaker, I ask for a division.

The House divided, and there were—ayes 28, noes 3.

Mr. BLANTON. Mr. Speaker, I object to the vote in that it does not disclose a quorum, and I make the point of order that there is no quorum present.

The SPEAKER. There is no quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll.

Mr. BROOKS of Pennsylvania assumed the chair as Speaker pro tempore.

The question was taken; and there were—yeas 351, nays 4, answered "present" 1, not voting 74, as follows:

YEAS—351.

Ackerman	Doughton	Kelly, Pa.	O'Brien
Almon	Dowell	Kendall	O'Connor
Anderson	Drewry	Ketcham	Oldfield
Andrews	Driver	Kiess	Oliver
Anthony	Dunbar	Kincheloe	Olpp
Appleby	Dunn	Kindred	Osborne
Arentz	Dyer	King	Overstreet
Aswell	Echols	Kinkaid	Padgett
Atkeson	Edmonds	Kirkpatrick	Paige
Barbour	Elliott	Kissel	Park, Ga.
Beck	Evans	Kline, N. Y.	Parker, N. J.
Begg	Fairchild	Kline, Pa.	Parker, N. Y.
Bell	Fairfield	Knutson	Parks, Ark.
Bird	Faust	Kopp	Parrish
Bixler	Favrot	Kraus	Patterson, Mo.
Black	Fenn	Kreider	Patterson, N. J.
Blakeney	Fess	Lampert	Perkins
Bland, Ind.	Fields	Langley	Peters
Bland, Va.	Fisher	Lanham	Petersen
Boles	Fitzgerald	Lankford	Porter
Bond	Flood	Larsen, Ga.	Pou
Bowers	Focht	Larson, Minn.	Pringey
Bowling	Fordney	Lawrence	Purnell
Box	Foster	Layton	Quin
Brand	Frear	Lazaro	Radcliffe
Brennan	Free	Lea, Calif.	Rainey, Ill.
Briggs	French	Leatherwood	Raker
Brinson	Frothingham	Lee, Ga.	Ramseyer
Brooks, Pa.	Fulmer	Lee, N. Y.	Rankin
Brown, Tenn.	Funk	Lehlbach	Ransley
Browne, Wis.	Garner	Lineberger	Rayburn
Buchanan	Garrett, Tenn.	Linthicum	Reavis
Bulwinkle	Garrett, Tex.	Little	Reber
Burdick	Gensman	Logan	Reece
Burke	Gernerd	London	Reed, N. Y.
Burroughs	Gilbert	Lowrey	Reed, W. Va.
Burtness	Glynn	Luce	Rhodes
Burton	Goodykoontz	Luhring	Ricketts
Butler	Gorman	McArthur	Riddick
Byrnes, S. C.	Graham, Ill.	McClintic	Riordan
Byrns, Tenn.	Graham, Pa.	McCormick	Roach
Cable	Green, Iowa	McDuffie	Robertson
Campbell, Kans.	Greene, Mass.	McFadden	Robsion
Campbell, Pa.	Greene, Vt.	McKenzie	Rodenberg
Carew	Griest	McLaughlin, Mich.	Rogers
Carter	Griffin	McLaughlin, Nebr.	Rose
Chalmers	Hadley	McLaughlin, Pa.	Rosenbloom
Chandler, N. Y.	Hardy, Colo.	McPherson	Rossdale
Chandler, Okla.	Hardy, Tex.	McSwain	Rouse
Chindblom	Harrison	MacGregor	Rucker
Christopherson	Haugen	Madden	Ryan
Clague	Hayden	Magee	Sanders, Ind.
Clarke, N. Y.	Hays	Mann	Sanders, N. Y.
Clouse	Herrick	Mapes	Sanders, Tex.
Cole, Iowa	Hickey	Mead	Sandlin
Collier	Hicks	Michener	Schall
Collins	Hill	Miller	Scott, Mich.
Colton	Himes	Mills	Scott, Tenn.
Connally, Tex.	Hoch	Millspaugh	Sears
Connell	Hogan	Mondell	Shaw
Connolly, Pa.	Houghton	Moore, Ill.	Shelton
Cooper, Wis.	Huddleston	Moore, Ohio	Shreve
Coughlin	Hukriede	Moore, Va.	Siegel
Crisp	Hull	Moores, Ind.	Sinclair
Cullen	Husted	Morgan	Sinnott
Curry	Hutchinson	Morin	Sisson
Dale	Ireland	Mott	Smith, Idaho
Dallinger	Jacoway	Mudd	Smith, Mich.
Darrow	Jefferis, Nebr.	Murphy	Smithwick
Davis, Minn.	Jeffers, Ala.	Nelson, A. P.	Snell
Davis, Tenn.	Johnson, Miss.	Nelson, J. M.	Snyder
Deal	Johnson, Wash.	Newton, Minn.	Speaks
Dempsey	Jones, Pa.	Newton, Mo.	Sproul
Denison	Kearns	Nolan	Stafford
Dominick	Keller	Norton	Steagall
Steenerson	Taylor, N. J.	Vinson	Wilson
Stephens	Taylor, Tenn.	Voigt	Wingo
Stevenson	Temple	Volstead	Winslow
Stoll	Ten Eyck	Walsh	Woodruff
Strong, Kans.	Thompson	Walters	Woods, Va.
Strong, Pa.	Tillman	Ward, N. C.	Woodyard
Sullivan	Tilson	Watson	Wright
Summers, Wash.	Timberlake	Weaver	Wurzbach
Sumners, Tex.	Tincher	Webster	Wyant
Swank	Tinkham	Wheeler	Yates
Sweet	Tyson	White, Kans.	Young
Swing	Underhill	White, Me.	Zihlman
Tague	Vestal	Williams	

NAYS—4.

Blanton	Ellis	Jones, Tex.	Merritt

ANSWERED "PRESENT"—1.

Kunz

NOT VOTING—74.

Ansorge	Dickinson	Johnson, S. Dak.	Slemp
Bacharach	Drane	Kahn	Stedman
Bankhead	Dupré	Kelley, Mich.	Stiness
Barkley	Elston	Kennedy	Taylor, Ark.
Beedy	Fish	Kitchin	Taylor, Colo.
Benham	Freeman	Kleczka	Thomas
Britten	Fuller	Knight	Towner
Brooks, Ill.	Gahn	Longworth	Treadway
Cannon	Gallivan	Lyon	Upshaw
Cantrill	Goldsborough	Maloney	Vaile
Clark, Fla.	Gould	Mansfield	Vare
Classon	Hammer	Martin	Volk
Cockran	Hawes	Michaelson	Ward, N. Y.
Codd	Hawley	Montague	Wason
Cole, Ohio	Hersey	Montoya	Williamson
Cooper, Ohio	Hudspeth	Ogden	Wise
Copley	Humphreys	Perlman	Wood, Ind.
Cramton	James	Rainey, Ala.	
Crowther	Johnson, Ky.	Sabath	

So the previous question was ordered.

The Clerk announced the following pairs:

Until further notice:

Mr. TREADWAY with Mr. TAYLOR of Colorado.

Mr. CROWTHER with Mr. GALLIVAN.

Mr. JOHNSON of South Dakota with Mr. KITCHIN.

Mr. KENNEDY with Mr. DUPRÉ.

Mr. BROOKS of Illinois with Mr. MONTAGUE.

Mr. FULLER with Mr. KUNZ.

Mr. KAHN with Mr. BANKHEAD.

Mr. CANNON with Mr. LYON.

Mr. STINESS with Mr. SABATH.

Mr. VOLK with Mr. JOHNSON of Kentucky.

Mr. WOOD of Indiana with Mr. MARTIN.

Mr. HERSEY with Mr. CANTRILL.

Mr. COOPER of Ohio with Mr. HUDSPETH.

Mr. BACHARACH with Mr. CLARK of Florida.

Mr. PERLMAN with Mr. HAWES.

Mr. VAILE with Mr. MANSFIELD.

Mr. WASON with Mr. RAINEY of Alabama.

Mr. GOULD with Mr. HUMPHREY.

Mr. FREEMAN with Mr. STEDMAN.

Mr. MONTOYA with Mr. THOMAS.

Mr. CRAMTON with Mr. UPSHAW.

Mr. ELSTON with Mr. GOLDSBOROUGH.

Mr. OGDEN with Mr. DRANE.

Mr. LONGWORTH with Mr. BARKLEY.

Mr. WARD of New York with Mr. WISE.

Mr. JAMES with Mr. COCKRAN.

Mr. VARE with Mr. TAYLOR of Arkansas.

Mr. CODD with Mr. LARSEN of Georgia.

Mr. DICKINSON with Mr. HAMMER.

The result of the vote was announced as above recorded.

The SPEAKER. The Doorkeeper will open the doors. The question is on agreeing to the conference report.

Mr. TINCHER. Mr. Speaker, I ask for the yeas and nays on the conference report.

The SPEAKER. The gentleman from Kansas asks for the yeas and nays on the conference report.

The yeas and nays were ordered.

The SPEAKER. Those favoring the adoption of the conference report will, when their names are called, answer "yea"; those opposed will answer "nay."

The question was taken; and there were—yeas 341, nays 9, answered "present" 3, not voting 77, as follows:

YEAS—341.

Almon	Bird	Brand	Burtness
Anderson	Bixler	Brennan	Burton
Andrews	Black	Briggs	Butler
Anthony	Blakeney	Brinson	Byrnes, S. C.
Appleby	Bland, Ind.	Brooks, Pa.	Byrns, Tenn.
Arentz	Bland, Va.	Brown, Tenn.	Cable
Aswell	Blanton	Browne, Wis.	Campbell, Kans.
Barbour	Boles	Buchanan	Campbell, Pa.
Beck	Bond	Bulwinkle	Cannon
Beedy	Bowers	Burdick	Carew
Begg	Bowling	Burke	Carter
Bell	Box	Burroughs	Chalmers

Chandler, Okla.	Harrison	Madden	Scott, Mich.
Chindblom	Haugen	Magee	Scott, Tenn.
Christopherson	Hayden	Mann	Sears
Clague	Hays	Mapes	Shaw
Clarke, N. Y.	Herrick	Mead	Shelton
Clouse	Hickey	Michener	Shreve
Cole, Iowa	Hicks	Miller	Siegel
Collier	Himes	Millspaugh	Sinclair
Collins	Hoch	Mondell	Sinnott
Colton	Hogan	Moore, Ill.	Sisson
Connally, Tex.	Houghton	Moore, Ohio	Smith, Idaho
Connell	Huddleston	Moore, Va.	Smith, Mich.
Connolly, Pa.	Hukriede	Morgan	Smithwick
Cooper, Wis.	Hull	Morin	Snell
Coughlin	Husted	Mott	Snyder
Crisp	Hutchinson	Mudd	Speaks
Cullen	Jacoway	Murphy	Sproul
Curry	Jeffers, Ala.	Nelson, A. P.	Stafford
Dale	Johnson, Miss.	Newton, Minn.	Steagall
Dallinger	Johnson, Wash.	Newton, Mo.	Steenerson
Darrow	Jones, Pa.	Nolan	Stephens
Davis, Minn.	Kearns	Norton	Stevenson
Davis, Tenn.	Kelly, Pa.	O'Brien	Stoll
Deal	Kendall	O'Connor	Strong, Kans.
Dempsey	Ketcham	Oldfield	Strong, Pa.
Denison	Kiess	Oliver	Sullivan
Dominick	Kincheloe	Olpp	Summers, Wash.
Doughton	Kindred	Osborne	Sumners, Tex.
Dowell	King	Overstreet	Swank
Drewry	Kinkaid	Padgett	Sweet
Driver	Kirkpatrick	Paige	Swing
Dunn	Kissel	Park, Ga.	Tague
Dyer	Kleczka	Parker, N. Y.	Taylor, N. J.
Echols	Kline, N. Y.	Parks, Ark.	Taylor, Tenn.
Edmonds	Kline, Pa.	Parrish	Temple
Elliott	Knutson	Patterson, Mo.	Ten Eyck
Evans	Kopp	Patterson, N. J.	Thomas
Fairchild	Kraus	Perkins	Thompson
Fairfield	Kreider	Peters	Tillman
Favrot	Lampert	Petersen	Tilson
Fenn	Langley	Porter	Timberlake
Fess	Lanham	Pou	Tincher
Fields	Lankford	Pringey	Tinkham
Fish	Larsen, Ga.	Purnell	Towner
Fisher	Larson, Minn.	Quin	Tyson
Fitzgerald	Lawrence	Radcliffe	Vestal
Flood	Layton	Raker	Vinson
Focht	Lazaro	Ramseyer	Voigt
Fordney	Lea, Calif.	Rankin	Volstead
Foster	Leatherwood	Ransley	Walters
Frear	Lee, Ga.	Rayburn	Ward, N. Y.
French	Lee, N. Y.	Reavis	Ward, N. C.
Frothingham	Lehlbach	Reece	Watson
Fulmer	Lineberger	Reed, N. Y.	Weaver
Funk	Linthicum	Reed, W. Va.	Webster
Garner	Little	Rhodes	Wheeler
Garrett, Tenn.	Logan	Ricketts	White, Kans.
Garrett, Tex.	London	Riddick	White, Me.
Gensman	Longworth	Roach	Williams
Gernerd	Lowrey	Robertson	Wilson
Gilbert	Luce	Robsion	Wingo
Glynn	Luhring	Rodenberg	Winslow
Goodykoontz	McArthur	Rogers	Woodruff
Gorman	McClintic	Rose	Woods, Va.
Graham, Ill.	McCormick	Rosenbloom	Woodyard
Graham, Pa.	McDuffie	Rossdale	Wright
Greene, Mass.	McFadden	Rouse	Wurzbach
Greene, Vt.	McKenzie	Rucker	Wyant
Griest	McLaughlin, Mich.	Ryan	Yates
Griffin	McLaughlin, Nebr.	Sanders, Ind.	Young
Hadley	McLaughlin, Pa.	Sanders, N. Y.	Zihlman
Hammer	McPherson	Sanders, Tex.	
Hardy, Colo.	McSwain	Sandlin	
Hardy, Tex.	MacGregor	Schall	

NAYS—9.

Ackerman	Humphreys	Moores, Ind.	Underhill
Ellis	Mills	Parker, N. J.	Walsh
Hill			

ANSWERED "PRESENT"—3.

Kunz	Rainey, Ill.	Reber

NOT VOTING—77.

Ansorge	Drane	Johnson, Ky.	Rainey, Ala.
Atkeson	Dunbar	Johnson, S. Dak.	Riordan
Bacharach	Dupré	Jones, Tex.	Sabath
Bankhead	Elston	Kahn	Slemp
Barkley	Faust	Keller	Stedman
Benham	Free	Kelley, Mich.	Stiness
Britten	Freeman	Kennedy	Taylor, Ark.
Brooks, Ill.	Fuller	Kitchin	Taylor, Colo.
Cantrill	Gahn	Knight	Treadway
Chandler, N. Y.	Gallivan	Lyon	Upshaw
Clark, Fla.	Goldsborough	Maloney	Vaile
Classon	Gould	Mansfield	Vare
Cockran	Green, Iowa	Martin	Volk
Codd	Hawes	Merritt	Wason
Cole, Ohio	Hawley	Michaelson	Williamson
Cooper, Ohio	Hersey	Montague	Wise
Copley	Hudspeth	Montoya	Wood, Ind.
Cramton	Ireland	Nelson, J. M.	
Crowther	James	Ogden	
Dickinson	Jefferis, Nebr.	Perlman	

So the conference report was adopted.

The Clerk announced the following additional pairs:

On the vote:

Mr. FREE (for) with Mr. DUPRÉ (against).

Until further notice:

Mr. FAUST with Mr. RIORDAN.

Mr. CLASSON with Mr. WISE.

Mr. ATKESON with Mr. BARKLEY.

Mr. IRELAND with Mr. JONES of Texas.

Mr. KENNEDY with Mr. LYON.

The result of the vote was announced as above recorded.

On motion of Mr. HAUGEN, a motion to reconsider the vote whereby the conference report was adopted was laid on the table.

EXTENSION OF REMARKS.

Mr. STEENERSON. Mr. Speaker, I ask unanimous consent to extend my remarks on the conference report.

The SPEAKER. Is there objection to the gentleman's request?

There was no objection.

Mr. CURRY. Mr. Speaker, I ask unanimous consent to extend my remarks on the subject of aviation and the recent Army and Navy bombing tests.

The SPEAKER. The gentleman from California asks unanimous consent to extend his remarks in the RECORD in the manner indicated. Is there objection?

There was no objection.

ELECTION TO A COMMITTEE.

Mr. GARNER. Mr. Speaker, I ask unanimous consent for the present consideration of a resolution, which I send to the Clerk's desk.

The SPEAKER. The gentleman from Texas asks unanimous consent for the present consideration of a resolution which the Clerk will report.

The Clerk read as follows:

Resolved, That Mr. ALFRED L. BULWINKLE, of North Carolina, be, and he is hereby, elected to the Committee on Elections No. 1.

The SPEAKER. Without objection, the resolution will be agreed to.

The resolution was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, one of its clerks, announced that the Senate had passed, without amendment, joint resolution of the following title:

H. J. Res. 195. Joint resolution authorizing the payment of salaries of officers and employees of Congress for August, 1921.

ORDER OF BUSINESS.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent to dispense with business under the Calendar Wednesday rule tomorrow.

The SPEAKER. The gentleman from Wyoming asks unanimous consent to dispense with business under the Calendar Wednesday rule to-morrow. Is there objection?

Mr. BLANTON. Mr. Speaker, reserving the right to object, may I ask the gentleman from Wyoming, in case there should be objection to unanimous consent for calling up the Ball rent bill——

Mr. MONDELL. If the gentleman wants to object he may.

Mr. BLANTON. I object.

The SPEAKER. The gentleman from Texas objects.

Mr. MONDELL. I was going to ask unanimous consent to call up the Ball rent bill. If the gentleman from Texas wants to defeat that measure, all right.

Mr. BLANTON. I am for that measure, Mr. Speaker——

The SPEAKER. The gentleman from Texas is out of order. He must not make remarks without first addressing the Chair.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that after the consideration of the privileged matters before the House we may take up for consideration unobjected-to bills on the Unanimous Consent Calendar.

The SPEAKER. The gentleman asks unanimous consent that the Unanimous Consent Calendar may be taken up, not to interfere with privileged business.

Mr. MANN. Does the gentleman mean to-day?

Mr. MONDELL. Yes.

The SPEAKER. Is there objection?

Mr. BLANTON. Mr. Speaker, I object.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 5676) taxing contracts for the sale of grain for future delivery, and options for such contracts, and providing for the regulation of boards of trade, and for other purposes.

SENATE BILLS REFERRED.

Under clause 2, Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 28. An act providing for the men and officers in the Russian Railway Service Corps the status of enlisted men and officers of the United States Army when discharged; to the Committee on Military Affairs.

S. 165. An act for the relief of Hans Weideman; to the Committee on Claims.

S. 464. An act for the relief of the estate of Moses M. Bane; to the Committee on Claims.

S. 518. An act to carry out the provisions of an act approved July 1, 1902, known as the act entitled "An act to accept, ratify, and confirm a proposed agreement submitted by the Kansas or Kaw Indians of Oklahoma, and for other purposes," and to provide for a settlement to Addie May Auld and Archie William Auld, who were enrolled as members of the said tribe after the lands and money of said tribe had been divided; to the Committee on Indian Affairs.

S. 724. An act for the relief of Henry J. Davis; to the Committee on Military Affairs.

S. 725. An act for the relief of Orion Mathews; to the Committee on Military Affairs.

S. 1247. An act for the relief of Frank Carpenter; to the Committee on Claims.

S. 1022. An act to carry into effect the finding of the Court of Claims in the claim of Elizabeth B. Eddy; to the Committee on Claims.

S. 825. An act for the relief of certain officers in the United States Army; to the Committee on Claims.

S. 1251. An act providing for investigation for irrigation works in Green River, Wyo.; to the Committee on Irrigation of Arid Lands.

S. 1021. An act to provide for the exchange of Government lands for privately owned lands in the Territory of Hawaii; to the Committee on the Territories.

S. 2333. An act to amend an act entitled "An act to amend an act entitled 'An act for making further and more effectual provision for the national defense, and for other purposes,' approved June 3, 1916, and to establish military justice," approved June 4, 1920; to the Committee on Military Affairs.

QUESTION OF PRIVILEGE.

Mr. NEWTON of Minnesota. Mr. Speaker, I rise to a question of the highest privilege, embodied in the resolution which I send to the desk.

The SPEAKER. The gentleman from Minnesota states that the resolution which he offers presents a matter privileged. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 180.

Resolved, That the language published in the CONGRESSIONAL RECORD on Thursday, August 18, 1921, pages 5605 and 5606, in the report of an address to the Senate by the Senator from Missouri, Mr. REED, is improper, unparliamentary, and a reflection on the character of a Member of the House, the gentleman from Minnesota, Mr. VOLSTEAD, and constitutes a breach of privilege and is calculated to create unfriendly relations and conditions between the House of Representatives and the Senate.

Resolved further, That a copy of this resolution be transmitted to the Senate and that the Senate be requested to take appropriate action concerning the subject.

[Applause.]

The SPEAKER. The question is on agreeing to the resolution.

Mr. NEWTON of Minnesota. Mr. Speaker, I shall ask the attention of the House for but a few minutes. On Thursday, the 18th day of August, during the progress of debate in the consideration of the bill then pending in the Senate, the Senator from Missouri [Mr. REED] made certain improper and unparliamentary remarks which reflected upon the character of a Member of this House, the gentleman from Minnesota [Mr. VOLSTEAD]. I shall not take the time to read the remarks, for they can be found by the Members on pages 5605 and 5606 of the CONGRESSIONAL RECORD for that day. I refer more specifically to the latter portion of the remarks contained at the bottom of the left-hand column of page 5605, the top of the right-hand column of page 5605, and following thereon through the column to the upper portion of the left-hand column on page 5606.

It will be observed that the reference is plain and unmistakable, for the gentleman's name is specifically referred to. I think that any Member who will read the remarks will agree with me that in so far as they relate in any way to the gentleman from Minnesota [Mr. VOLSTEAD] they are improper, unparliamentary, and reflect upon his character.

Mr. Speaker, it is essential that there be the most friendly relations between the House and the Senate, the two branches of our Congress. If the contrary is true, legislation will be obstructed and the interests of the Nation will suffer. To that end the rules of the House provide that a Member of the House can not refer to a Member of the House or to a Member of the Senate by the use of improper or unparliamentary language. It has been the practice of this House to enforce that rule. I recall that during the Sixty-sixth Congress a Member of this body in debate referred to a Senator by using improper and unparliamentary language. The Senate rightly took action and by resolution asked the House to take appropriate action in reference to those remarks. The House, after due consideration, took the necessary action, and the objectionable remarks were stricken from the RECORD.

Mr. DYER. Mr. Speaker, will the gentleman yield?

Mr. NEWTON of Minnesota. I yield to the gentleman from Missouri.

Mr. DYER. Has the gentleman in this resolution followed the wording of the Senate resolution to which he has referred?

Mr. NEWTON of Minnesota. Yes.

Mr. DYER. Is it customary to state in the resolution the words which, in the opinion of the gentleman who presents it, are objectionable?

Mr. NEWTON of Minnesota. I wish to say to the gentleman that I followed the resolution which passed the Senate in connection with the remarks made by a Member of this House in June, 1919. I followed that language, except that I did not use some of the language which was therein used, because the House then deemed that language, or a portion of it, to be unparliamentary in itself. As to the rest of it, I have followed it.

Mr. DYER. The gentleman in his resolution has not stated the words which in his judgment are objectionable. Is that necessary?

Mr. NEWTON of Minnesota. It is not necessary and it is not proper.

I move the previous question on the adoption of the resolution.

The SPEAKER. The gentleman from Minnesota moves the previous question.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the resolution.

The question was taken; and on a division (demanded by Mr. REAVIS) there were—ayes 181, noes 3.

Accordingly, the resolution was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, one of its clerks, announced that the Senate had insisted upon its amendments to the bill (H. R. 8117) making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1922, and for other purposes, had asked for a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and had appointed Mr. WARREN, Mr. JONES of Washington, and Mr. GLASS as the conferees on the part of the Senate.

NATIONAL PROHIBITION—CONFERENCE REPORT.

Mr. VOLSTEAD. Mr. Speaker, I call up the conference report on the bill H. R. 7294, an act supplemental to the national prohibition act.

The SPEAKER. The gentleman calls up a conference report, which the Clerk will read.

The Clerk read the conference report on H. R. 7294, an act supplemental to the national prohibition act, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill H. R. 7294, "An act supplemental to the national prohibition act," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 14.

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate numbered 15, and agree to the same.

That the House recede from its amendment to the amendment of the Senate numbered 10, and agree to said Senate amendment.

That the House recede from its disagreement to the amendments of the Senate numbered 17, 18, and 19, and agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate numbered 32, and agree to the same with an amendment as follows:

In lieu of the matter proposed in the amendment of the House to the amendment of the Senate insert the following:

"SEC. 6. That any officer, agent, or employee of the United States engaged in the enforcement of this act or the national prohibition act, or any other law of the United States, who shall search any private dwelling as defined in the national prohibition act and occupied as such dwelling without a warrant directing such search, or who while so engaged shall without a search warrant maliciously and without reasonable cause search any other building or property, shall be guilty

of a misdemeanor and upon conviction thereof shall be fined for a first offense not more than $1,000, and for a subsequent offense not more than $1,000 or imprisoned not more than one year, or both such fine and imprisonment.

"Whoever not being an officer, agent, or employee of the United States shall falsely represent himself to be such officer, agent, or employee and in such assumed character shall arrest or detain any person, or shall in any manner search the person, buildings, or other property of any person, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $1,000 or imprisoned for not more than one year, or by both such fine and imprisonment."

And the House agree to the same.

ANDREW J. VOLSTEAD,
HATTON W. SUMNERS,
Managers on the part of the House.
THOMAS STERLING,
KNUTE NELSON.
Managers on the part of the Senate.

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7294) supplemental to the national prohibition act, submit the following statement explaining the effect of the action agreed on:

On amendment No. 10, to which the House agreed, has the effect of requiring that before a formula for the manufacture of a sirup or extract under section 4, Title II of the national prohibition act, can be ordered changed or canceled it must appear that the sale or use of such sirup or extract is substantially increased by reason of its use as a beverage or for intoxicating beverage purposes instead of being used more than rarely or exceptionally as provided for in the House bill.

On amendment No. 14, from which the Senate receded, was made a part of amendment No. 15, so as to follow the latter amendment instead of preceding it. This effects no change except a more logical arrangement.

On amendments 17, 18, and 19, to which the House agreed, have the effect of making the national prohibition act applicable to Hawaii and the Virgin Islands, as well as other Territories subject to the jurisdiction of the United States except the Philippines.

Amendment No. 32 made it illegal to make or attempt to make any search of any property or premises without a search warrant. As a number of statutes exist that permit search without search warrants, this would have repealed or modified these statutes. It would also have deprived an officer of the right of search always recognized as incident to a lawful arrest. The adoption of this amendment would greatly have interfered with law enforcement, not only of the prohibition law but of other laws, as its provisions were general in character. It would have served to shield those now engaged in the illegal traffic of liquor by means of automobiles and other swiftly moving vehicles. As the amendment is redrafted it does not take from the officers any right to search where under existing law such right exists, and it does not confer upon them any right to make any search where under existing law they have none. The question of its constitutionality as granting any unlawful right of search is not involved. The provision agreed to simply provides that a penalty may be imposed on any officer for any search made maliciously and without reasonable cause. It should be noted that the amendment agreed to omits the provision contained in the amendment of the House requiring proof that liquor is manufactured for sale or sold in a dwelling before a search warrant can issue. This omission does not effect any real change, for the reason that this requirement is a part of the national prohibition act, and the bill makes no attempt to modify or repeal that provision. The effect of the amendment of the House was to deprive revenue officers of the right to search a private dwelling without a warrant under certain provisions of the revenue laws. That object is attained by the amendment agreed to by your conferees, and in effect the amendment provides for the same thing as the House amendment with the addition above noted.

The last paragraph of the Senate amendment has been rewritten so as to limit it to a field not covered by existing law. It simply provides punishment for any person not an officer who may assume to be such and in that assumed character arrest a person or search certain property.

ANDREW J. VOLSTEAD,
HATTON W. SUMNERS,
Managers on the part of the House.

Mr. VOLSTEAD. Mr. Speaker, when the bill finally reached the stage of conference there were only three matters or perhaps four matters that were open to consideration by the conferees. The amendment of the House to Senate amendment No. 10 really did not effect any material change, but as the Senate insisted on their form of the amendment the House conferees receded. The amendment of the House only made the language of the Senate amendment a little clearer.

Senate amendments 14 and 15 may be considered as one amendment. There was no change made there, because that was a mere rearrangement, amendment No. 14 being put after 15. Amendments 17, 18, and 19 made the national prohibition act applicable to the Hawaiian Islands, the Virgin Islands, and other Territories subject to the jurisdiction of the United States. The Senate insisted on these amendments and we finally yielded.

Then we came to Senate amendment 32, which was the real bone of contention between the conferees. The conference concluded to rewrite the House amendment, modify it, and taking a part of the Senate amendment. The Senate amendment, the so-called Stanley amendment, prohibited all search without a warrant, no matter where it was.

Mr. ROSSDALE. Mr. Speaker, I rise to a point of order. I call attention to the gentleman from Texas [Mr. BLANTON] reading a newspaper while the chairman of the Judiciary Committee is making this important statement.

Mr. BLANTON. What the gentleman from Texas is doing ought not to concern the gentleman from New York.

Mr. ROSSDALE. The gentleman is reading a newspaper and is not listening to these important statements which the chairman of the Judiciary Committee is making.

Mr. BLANTON. I am hearing a darn sight more than the gentleman from New York.

The SPEAKER. The Chair does not think that the gentleman's point of order is one that he should make.

Mr. VOLSTEAD. The so-called Stanley amendment made it necessary to have a search warrant for the search of any and every place, all property and premises. If adopted it would have radically changed the policy that has been carried on by this Government ever since the Constitution was adopted.

Mr. DYER. Will the gentleman yield?

Mr. VOLSTEAD. Not now; in just a minute. The Attorney General's department has sent to Senator WILLIS a statement showing a large number of statutes that would be affected by that amendment, showing that if it passed it would stop the operations of the Government in many ways, because search is not only permitted but necessary without a search warrant—a thing that has been permitted ever since the Government was formed. The contention that it is unconstitutional to search without a warrant is ridiculous; the Constitution does not prohibit a search, it only prohibits unreasonable search. Several of these statutes authorizing search without a warrant were passed by the very men who wrote the fourth and fifth amendments into the Constitution, and they must certainly be presumed to have known what they intended when they said that reasonable search should not be prohibited.

We provide, however, that private homes shall not be searched without a search warrant. That, I think, has been the general rule, but I understand there have been some exceptions to that rule. In the amendment presented by the Judiciary Committee of the House we sought to guard against any search of private dwellings without a search warrant. In the national prohibition act there is a prohibition against the issuance of search warrants against a private dwelling, but there are provisions in the revenue laws under which I understand searches have been made of dwellings by some officers, and it was for the purpose of preventing search and searches under these laws that we inserted the provision against any search of a house without a warrant in the amendment which the House adopted.

We agreed with the Senate in adopting a provision barring any search of a private dwelling. We omitted the provision governing the issuance of a search warrant, because that is provided for in the national prohibition act, and it was not necessary to repeat it here. The law authorizing the issuance of a warrant remains the same as under the national prohibition act. But we absolutely prohibit any search of a dwelling without a warrant, not only under the amendment the House adopted but also under the amendment the conferees have agreed on and now submit. But that did not satisfy the Senate conferees. They insisted that we ought to prevent to some extent the search of other buildings and property. The House conferees refused to agree to that, but they did agree to a provision which I think is going as far as we ever ought to go. We provide that if a search is made under any law that permits a search without a search warrant, the officer, if he makes it maliciously and without reasonable cause for making it, he shall be guilty of a misdemeanor.

Mr. DYER. Will the gentleman yield?

Mr. VOLSTEAD. I will.

Mr. DYER. Will the gentleman state how it is possible to show that a man maliciously made a search and without reasonable cause? Is there any way or method to produce evidence to show such a state of affairs?

Mr. VOLSTEAD. If the gentleman will stop and think, he will see that is not at all either impossible or improbable.

You will recall that in malicious-prosecution cases plaintiff must prove that the suit was malicious and without probable cause. The courts have repeatedly held that malice may be inferred from want of probable cause. That is a common rule. The act itself will in almost every instance be evidence of whether it is malicious or not. If a person does an injury to anyone without any excuse it is evidence of malice, and that fact may be submitted to a jury and from it they are warranted in finding malice.

I want now to call attention to some language that we employed in drafting the search warrant act, and, by the way, I took quite an active part in drafting that act and had reason at that time to examine quite carefully a large number of State statutes for the purpose of determining the general policy that experience had indicated to the legislatures as necessary to protect the public.

Mr. HUSTED. Mr. Speaker, will the gentleman yield?

Mr. VOLSTEAD. In a moment. I quote from section 20 of that act:

A person who maliciously and without probable cause procures a search warrant to be issued and executed shall be fined not more than $1,000.

If a person swears out a warrant, you must, to convict him, show that the act was done maliciously and without probable cause. Take an officer, a man charged with the duty of enforcing the law, who takes an oath and gives a bond to perform his duty, will you ask that he, when he makes a search, shall be subject to greater liability than the man who goes before a justice or a commissioner to swear out a search warrant? It seems to me there ought to be more protection to the officer than to the individual who secures a search warrant. Proof that the act of swearing out the warrant must both be malicious and without probable cause to establish liability, both under the national search warrant law and under the laws of many of the States. I yield now to the gentleman from New York.

Mr. HUSTED. Mr. Speaker, the gentleman from Minnesota inadvertently stated that phrase "maliciously or without reasonable cause." If it so appeared in the amendment, I think it would be a vast improvement on the present language. The phrase, however, is "maliciously and without reasonable cause." It seems to me there is a very great distinction between the words "and" and "or" when used in that context.

Mr. VOLSTEAD. In the statutes that I have been speaking of the language is—

A person who maliciously and without probable cause.

That is the language in our search warrant law, as to the person who secures a warrant. We have copied it and applied it to an officer, and that is as far as I believe we ought to go. I have tried to find in the legislation of the various States anything that is a counterpart to this proposition. It is my judgment that this is the first time that any legislative body of any standing has ever written into a statute a provision for punishing an officer if he makes a mistake in trying to do his duty.

Mr. HUSTED. The gentleman does not think that an officer, under the circumstances, could ever be punished under that phrase, does he?

Mr. VOLSTEAD. He can very readily be punished, and I want to tell you that in some localities we shall have considerable trouble. I am not deceiving myself in regard to that. I know that it is going to be difficult in some places to secure officers who will have the courage to face the danger of a prosecution.

Mr. FESS. Mr. Chairman, will the gentleman yield?

Mr. VOLSTEAD. Yes.

Mr. FESS. The language of section 6, in part, is:

Or who while so engaged shall without a search warrant maliciously and without reasonable cause search any other building or property.

Suppose the officer to be searching a building, for which he has a warrant, and he finds therein suggestions that in a garage or in a storehouse not attached to the building, not within the definition of the warrant, there is liquor. Would he be permitted to go out and search that building?

Mr. VOLSTEAD. If it is not a dwelling, he might. If it was not done maliciously and he had reasonable cause to believe it was there in violation of the law.

Mr. FESS. Suppose he has reason for believing that an automobile which was passing on the road had liquor in it, would he have to have a search warrant in order to search it?

Mr. VOLSTEAD. No; but there is some doubt as to what search he may make. I believe it is section 26 of the prohibition act which provides that an officer may seize an automobile when it is being used for the purpose of carrying liquor. That is because the automobile is forfeited to the United States and because of the familiar doctrine that you may arrest a person in the act of violating the law, and in that connection seize the evidence of his guilt in his immediate possession.

Mr. WALSH. Mr. Chairman, will the gentleman yield?

Mr. VOLSTEAD. Yes.

Mr. WALSH. Have the conferees made any change or added anything with reference to the search of a person?

Mr. VOLSTEAD. No; we added nothing to the right to search of persons. We do not give anyone any right to search that he does not have under existing law. This simply limits the search of a home, and provides that if an officer searches with malice and without reasonable cause he may be punished.

Mr. WALSH. Suppose he searched a person with malice.

Mr. VOLSTEAD. I doubt if it has application to the search of a person. Of course, if he searched his personal baggage, he would probably be liable.

Mr. WALSH. "Probably" he would?

Mr. VOLSTEAD. The gentleman can read it for himself and determine. I can hardly be expected to decide all of these legal questions on the spur of the moment.

Mr. WALSH. Oh, the gentleman is pretty well posted on the law that bears his name and the amendments and supplements to it. I am seeking to ascertain if in the punishment, just now the gentleman said for the first time being provided, for an officer who fails to do his duty there is anything which provides that an officer may be punished who searches a person maliciously and without reasonable cause.

Mr. VOLSTEAD. I think he would be, if the search covered anything outside of his personal wearing apparel.

Mr. FIELDS. Mr. Chairman, I rise to offer a preferential motion.

Mr. VOLSTEAD. Mr. Speaker, I have not yet yielded the floor. I yield 10 minutes to the gentleman from Wyoming [Mr. MONDELL].

Mr. FIELDS. Mr. Chairman, will the gentleman from Wyoming yield to me to make a parliamentary inquiry?

Mr. MONDELL. Certainly.

Mr. FIELDS. Will it be in order; and if so, when, to offer a motion to recommit the report to the conferees with instructions to the managers on the part of the House?

The SPEAKER pro tempore (Mr. TOWNER). That motion would be in order when the gentleman from Minnesota has yielded the floor.

Mr. MONDELL. Mr. Speaker, the fourth amendment to the Constitution of the United States provides:

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated.

The constitutional prohibition is against unreasonable search and seizure. It is a provision of the Constitution that should be carefully guarded and in its proper spirit always upheld. Upon its enforcement depends the liberties and the happiness of the people. But, Mr. Speaker, some people when they think of that provision of the Constitution in certain conditions and in regard to certain acts forget the word "unreasonable."

Mr. LONDON. Will the gentleman yield?

Mr. MONDELL. I will yield.

Mr. LONDON. Does not the same provision in the Constitution lay down the rule for interpretation of what is reasonable? Does not the same provision read that a search warrant may not be issued unless upon information or oath of a person; in other words, upon a sworn statement punishable as perjury if it is false; and does not that provision in the Constitution further stipulate that a search warrant must definitely describe the thing to be searched and the place to be searched?

Mr. MONDELL. Yes.

Mr. LONDON. Then the provision of the Constitution gives a method of determining what is reasonable?

Mr. MONDELL. Yes. That, however, has no relation to what is now under consideration. The question of when a warrant shall issue is determined by the constitutional provision, and that is not at issue right now.

Mr. LONDON. It is at issue at present.

Mr. MONDELL. May I remind the House that at divers times the Congress, in order that there might be no question as to what Congress considered reasonable searches, has in various sections of the Revised Statutes provided for the search of vessels, of vehicles for dutiable articles without warrant, for search of baggage and persons for concealed dutiable articles without warrant? Congress has provided for the seizure of taxable articles concealed in fraud of the revenue, for search for articles or matters carried in the mail in violation of law,

and for search of vehicles transporting intoxicating liquor into the Indian country. That latter provision has been enforced in my country as long as I can remember. There may be seizure of those who violate the migratory bird law. A barefooted boy——

Mr. JOHNSON of Mississippi. Will the gentleman yield?

Mr. MONDELL. A law-abiding hunter, one who intends to be, with a string of fish——

Mr. JOHNSON of Mississippi. Will the gentleman yield?

Mr. MONDELL. I pray the gentleman not to interrupt me.

Mr. JOHNSON of Mississippi. I asked if the gentleman will yield.

Mr. MONDELL. Mr. Speaker, gentlemen ought not to interrupt——

Mr. JOHNSON of Mississippi. I want the gentleman to pay deference to my request to yield and not ignore me. I will not be ignored that way.

Mr. MONDELL. Well, I will not ignore the gentleman that way. A man may be searched for a brace of ducks, fish caught in violation of a treaty, search and seizure for attempting to carry the smallest dutiable article across the border without paying the duty, search and seizure for years in all the western country for those who tried to carry firewater to the Indians. When the bill now before us came before the Senate this amendment was offered:

That any officer, agent, or employee of the United States engaged in the enforcement of this act, or the national prohibition act, or any law of the United States, who shall search or attempt to search the property or premises of any person without previously securing a search warrant, as provided by law, shall be guilty of a misdemeanor.

And so forth.

Certain people seem to have become particularly disturbed with regard to the fourth amendment to the Constitution. All of the provisions of law to which I have referred have been enforced time out of mind since the foundation of the Republic, along all our borders and throughout our entire territory. But certain gentlemen never discovered it, or, if they did, never became disturbed until it was proposed to search rum runners and whisky pirates on the highways. [Applause.]

Mr. REAVIS. Will the gentleman yield?

Mr. MONDELL. I will yield.

Mr. REAVIS. In addition to the measure to which the gentleman has called attention, there is also a law that permits search of a vessel for concealed dutiable goods.

Mr. MONDELL. I think I referred to that.

Mr. REAVIS. I beg pardon, I did not hear it; also the search of one's person or effects without a warrant.

Mr. MONDELL. That is all true.

Mr. ROSSDALE. Will the gentleman yield?

Mr. MONDELL. It is remarkable, it is remarkable that gentlemen have lived all these years with these laws on the statute books and have not become disturbed until the highways of the country have become congested with malefactors, who not only in violation of the Constitution but in violation of State and National law and police regulations insist on bootlegging and rum running. Of course, the conferees on the part of the House did not accept that amendment. They did accept an amendment which I think we ought to approve, and yet that amendment is a questionable one. For the first time in the history of the Republic, so far as I know or have been informed, we feel called upon to threaten an officer of the law in carrying out, upholding, and enforcing the law.

But novel, unusual, and questionable as it is, I am willing to agree to it; to go even that far to prevent acts that are not warranted and are not justified.

The SPEAKER. The time of the gentleman has expired.

Mr. MONDELL. Will the gentleman yield me five minutes more?

Mr. VOLSTEAD. I yield five minutes more to the gentleman.

Mr. MONDELL. But when we hear gentlemen say they do not propose to allow this bill to pass and the Congress to recess unless the extraordinary Senate amendment is adopted I begin to wonder, if it is entirely parliamentary for me to say so, whether such gentlemen are really so profoundly disturbed on account of the Constitution or whether their disturbance arises out of their tenderness for the rum runners. [Applause.]

Perhaps we ought to go as far as the conference report does. I am willing to do so. But it is the first time in our history we have felt called upon to point the warning finger to an officer of the law and remind him that he may go just so far and no further. We have assumed heretofore that with regard to all the statutes an officer will do his duty, knowing that if he does not he is punishable under the law.

Mr. Chairman, I hope I have as high a regard for the Constitution as any man under the flag. It is the only document that I am sworn to uphold and defend, and I propose to live up to my oath and obligation in that regard, but I hope the day will never come when I may mistake sympathy with certain classes of malefactors for regard for the Constitution, or when I shall unwittingly, perhaps, place my regard for lawbreakers above my regard for the Constitution. [Applause.]

Mr. VOLSTEAD. Mr. Chairman, I yield five minutes to the gentleman from Pennsylvania [Mr. GRAHAM]. [Applause.]

Mr. GRAHAM of Pennsylvania. Mr. Speaker and Members of the House, I wish to say a few words upon this question, because I conceive it to be one of great importance. I am not a sympathizer with malefactors; I am not a sympathizer with bootleggers; I am not a sympathizer with those who violate the law, and I would say to the learned gentleman from Wyoming who preceded me that it might be well for him to remember the text when he speaks of those who differ with him, "Judge not that ye be not judged." [Applause.]

You have no right, Mr. Leader, to impute improper motives to the men who differ with you upon a question that is before this House for consideration. [Applause.]

I wish to say that to-day you are confronted with a constitutional question that is of some importance. The constitutional article was not read in its entirety, and the gentleman from New York [Mr. LONDON] called the attention of the gentleman to that fact. It says:

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

Mr. JOHNSON of Mississippi. Will the gentleman yield? I am in sympathy with what he says——

Mr. GRAHAM of Pennsylvania. I would rather not yield until I have finished these remarks, and then I will be glad to do so.

Mr. JOHNSON of Mississippi. Yes. I wanted to discuss this proposition for just a moment.

Mr. GRAHAM of Pennsylvania. It says, "shall not be violated." This was no bestowal of new privileges. It declared that those which existed should not be violated. What was the condition when that was written into the Constitution of this free Republic? Was not a man's house his castle? Was not his person free from the unholy touch of any man who dared, under the guise of law or otherwise, to search his person? Yes. If you found a man committing a crime, you might seize him, you might search him, but there was no man in this country that would willingly submit to a search of his person upon the highway without proper authority and the circumstances of the case warranting it. The gentlemen who framed that article showed what they thought to be unreasonable by specifically abolishing the general search warrant existing at that time.

The gentleman from Wyoming says never before in the history of the country has an attempt been made to make it an offense for an officer and to punish him as this proposed measure intends he shall be punished. But I will say to the gentleman from Wyoming that never before in the history of this Republic have the scenes been witnessed that have been witnessed upon the streets of our great metropolises in the pursuit of the enforcement of prohibition. I am not an enemy of prohibition; I am not one who is opposing prohibition; I am standing here to simply claim that the constitutional right of the individual in his home and in his person shall be protected.

I say to the gentleman from Wyoming that only a few days ago a man walking along the street with a box under his arm was stopped by an officer intent on enforcing prohibition. He said, "What have you there, sir?" "I do not think that it is any of your business," said the man. "I must know, or I will take you to the station house, and then you will have to tell me." The gentleman, not wishing to be embroiled on the street, having business elsewhere that demanded his attention, finally yielded, opened the box, and showed a pair of shoes that he was taking home. The officer suspected that it might contain a bottle of whisky, and therefore he stopped this man on the public highway and searched him. Think of an American citizen submitting to that indignity. If he had turned and shot the officer on the spot no jury would have considered him to have been violating the law to any very considerable degree. [Applause.] Now, it is in order to meet that state of affairs that the amendment that was put into this act by the Senate was placed there—to stop these lawless things.

The SPEAKER. The time of the gentleman has expired.

Mr. VOLSTEAD. I yield five minutes more to the gentleman.

Mr. GRAHAM of Pennsylvania. So that it is a question, not of being surprised at such an enactment being drawn, but it is a question of being surprised at what transpires in the public highways of our communities.

Now, I will yield to the gentleman from Mississippi [Mr. JOHNSON].

Mr. JOHNSON of Mississippi. Mr. Speaker, I desire to call the gentleman's attention to an opinion rendered by Justice Clarke, of the United States Supreme Court, last February, in which he upholds the gentleman's argument. I want to say that I am one of the strongest prohibitionists in this House, but I concur in what the gentleman has said here as to the constitutionality of this act. Justice Clarke in a well-written opinion construed sections 4 and 5 of the Constitution when he cited the case of Silverthorne Lumber Co. against the United States, Boyd against the United States, and Felix Gouled against the United States, all of which uphold the contention made by the gentleman from Pennsylvania. The case in which the decision is made is Lawrence Amos against the United States. The same question is involved.

Mr. GRAHAM of Pennsylvania. The gentleman is quite correct. I have no fear as to being questioned as to the law which he is citing. I have never stated anything in this House as the law which I did not believe to be the law.

I wish to say that the cases of search authorized without a warrant which the gentleman from Wyoming enumerated present rare and unusual conditions. For instance, people coming from abroad and knocking at the door of entrance to this country are stopped and are obliged to submit to certain conditions regarding the importation of things that are violations of the customs duties. You may search a vessel, you may search an individual on a ship, but that is a condition precedent to their entering or reentering the country and has no analogy to this matter of searching a house or searching a person or a citizen on the highways of his own city.

Mr. REAVIS. Mr. Speaker, will the gentleman yield?

Mr. GRAHAM of Pennsylvania. Yes.

Mr. REAVIS. Does the gentleman contend that the Constitution applies only to normal cases and not in rare cases?

Mr. GRAHAM of Pennsylvania. I have made no such assertion.

Mr. REAVIS. The gentleman stated that these were rare cases.

Mr. GRAHAM of Pennsylvania. Now, Mr. Speaker, I wish to conclude very briefly.

Mr. DOWELL. Mr. Speaker, will the gentleman yield?

Mr. GRAHAM of Pennsylvania. Yes.

Mr. DOWELL. Does not the gentleman think he is advocating a very dangerous doctrine when he suggests that the lawbreaker might accept the opportunity of shooting down an officer in the discharge of his duty?

Mr. GRAHAM of Pennsylvania. I wish to say that I have not stated that as being the law. I have only stated that a man who did that under those circumstances would have a great deal of moral justification, and I think so still. I hold that my person is sacred to me, and when a man lays his hand on it with an unholy touch it is my business to resist him even to the end, and I would do it.

Mr. LAYTON. Mr. Speaker, will the gentleman yield?

Mr. GRAHAM of Pennsylvania. Yes.

Mr. LAYTON. I have the very highest regard for the legal attainments of the gentleman from Pennsylvania, and have had for some years. I would like to ask him a serious question, whether if the Senate amendment were placed upon the st[illegible] books of this country you could preserve the life, the prop[illegible] the safety of the people of your city?

Mr. GRAHAM of Pennsylvania. I will answer the gentleman quite candidly. I think as it is worded it is very objectionable. If the words "all other laws" were stricken out, and it were confined to the execution of the national prohibition law and its supplements there could be no objection to it, but on the contrary a commendation of it. That is what it ought to be.

I have risen here not in opposition to the bill. I have not anything to say about the measure itself that has been passed by the House, but I have this one point to make, that while you are so carefully guarding the house you should equally guard the person of the individual. I do not ask that it be extended to the vehicle on the street. I do not ask that it shall put conditions in the way of the enforcement of the prohibition statute. But I do ask that the sacredness of the person of the American citizen shall be put upon a plane of equality with the sacredness of his house, his home, his castle. The Constitution guards the person and the castle; do not let us in our eagerness to pursue violations of the prohibition laws strike down or fail to enforce these safeguards. [Applause.]

Mr. ROSSDALE. Mr. Speaker, will the gentleman yield?

Mr. GRAHAM of Pennsylvania. Yes.

Mr. ROSSDALE. Does not the gentleman think, in the case of a man driving his car over the highway, that the vehicle should not be searched merely on the assumption of an officer?

Mr. GRAHAM of Pennsylvania. That is my individual opinion. I say yes. [Applause and cries of "Vote!"]

Mr. HILL. Mr. Speaker and gentlemen of the House, I only wish to point out to the House the decision and some portions of the opinion of the Supreme Court of the United States in the case of Boyd against the United States, as they bear on the subject, "What's the Constitution between Prohibitionists?"

I rise in opposition to the adoption of the conference report on "An act supplemental to the prohibition act." I do this on the following constitutional grounds: First, because the proposed amendment by the conference committee does not protect the dwelling, even to the extent that the House amendment did. I wish to remind you of what happened in this House last week when you took the vote on that matter. On page 5527 of the RECORD the gentleman from Minnesota [Mr. VOLSTEAD] said:

> We are trying to make certain, however, that no one shall search the home without a warrant, and it seems to me that that is as far as we ought to go. It can not be searched under this amendment unless it is used as a place for the manufacture for sale or for the sale of intoxicating liquor.

He referred to the House amendment which you thereafter passed.

On the same page of the RECORD appears the motion offering an amendment by the gentleman from Kentucky [Mr. FIELDS] on page 7, line 23, to strike out the words "for sale." The House voted that down.

To-day, the House is asked to reverse its vote on Mr. FIELD's motion and to reverse the protection for the home referred to by Mr. VOLSTEAD in the above-quoted words. The statement of the managers on the part of the House is conclusive on this point. On page 3 of the conference report (No. 361) it is stated:

> It should be noted that the amendment agreed to omits the provision contained in the amendment of the House requiring proof that liquor is manufactured for sale or sold in a dwelling before a search warrant can issue.

Thus, two Members of the House and two Members of the Senate attempt to overrule the vote of the whole House of last week.

You have three specific things to consider—first, the Senate amendment known as the Stanley amendment; second, the House amendment upon which you voted favorably last week; and third, the pending conference report which Mr. VOLSTEAD stated a few minutes ago to be a rewriting of both the House and Senate amendments by the conference committee. In this connection it is to be noted that one of the three managers of the Senate conference committee and one of the three managers of the House conference committee refused to sign the conference report upon which you are now asked to act. In other words, you voted last week to make it impossible to search a dwelling unless there "is reason to believe that such dwelling is used as a place in which liquor is manufactured for sale or sold." To-day you are asked to revoke this safeguard which makes partially coherent the fourth amendment to the Constitution.

The fourth amendment to the Constitution reads as follows:

> The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.

The Senate amendment protects the "property or premises of any person" from search without a warrant. The Senate amendment, although not perfect, more nearly approaches a carrying out of the fourth amendment to the Constitution. Under the Constitution the persons, houses, papers, and effects of American citizens should be protected against unreasonable searches.

Three months ago, in the third congressional district of Maryland, which I represent, a raid was made by prohibition officers upon one house in Albemarle Street. During the course of this raid they searched every house in the block, and finally discovered in the bedroom of a citizen half a keg of homemade wine. They arrested the citizen and his wife and took them before the United States commissioner. The case was later dismissed, but these Americans were treated in Baltimore city by the prohibition officers precisely as if they had been in some anarchistic country of Europe. We need a proper enforcement of the fourth amendment to the Constitution just as much as we do of other amendments, and I shall conclude my remarks by quoting to you the decision of Mr. Justice Bradley in the case of Boyd *v.* United States (116 U. S.) on the rights guaranteed by the Constitution.

On page 624, Mr. Justice Bradley says:

> In order to ascertain the nature of the proceedings intended by the fourth amendment to the Constitution under the terms "unreasonable searches and seizures," it is only necessary to recall the contemporary

or then recent history of the controversies on the subject, both in this country and in England. The practice had obtained in the Colonies of issuing writs of assistance to the revenue officers, empowering them, in their discretion, to search suspected places for smuggled goods, which James Otis pronounced "the worst instrument of arbitrary power, the most destructive of English liberty and the fundamental principles of law, that ever was found in an English law book," since they placed "the liberty of every man in the hands of every petty officer." This was in February, 1761, in Boston, and the famous debate in which it occurred was perhaps the most prominent event which inaugurated the resistance of the Colonies to the oppressions of the mother country. "Then and there," said John Adams, "then and there was the first scene of the first act of opposition to the arbitrary claims of Great Britain. Then and there the child Independence was born."

Mr. Justice Bradley then referred at length to the famous case of Entick *v.* Carrington and Three Other King's Messengers, 19 Howell's State Trials, 1029. This decision has always been regarded as one of the permanent monuments of the British Constitution. Mr. Justice Bradley then continues (p. 626):

As every American statesman during our revolutionary and formative period as a Nation was undoubtedly familiar with this monument of English freedom and considered it as the true and ultimate expression of constitutional law, it may be confidently asserted that its propositions were in the minds of those who framed the fourth amendment to the Constitution and were considered as sufficiently explanatory of what was meant by unreasonable searches and seizures. We think, therefore, it is pertinent to the present subject of discussion to quote somewhat largely from this celebrated judgment.

Mr. Justice Bradley then made the following quotation, which is extremely pertinent to the question before you to-day (p. 627):

Papers are the owner's goods and chattels; they are his dearest property; and are so far from enduring a seizure that they will hardly bear an inspection; and though the eye can not, by the laws of England, be guilty of a trespass, yet where private papers are removed and carried away the secret nature of those goods will be an aggravation of the trespass and demand more considerable damages in that respect. Where is the written law that gives any magistrate such a power? I can safely answer there is none; and, therefore, it is too much for us, without such authority, to pronounce a practice legal which would be subversive of all the comforts of society.

[Applause.]

In the Boyd case the Supreme Court decided that it does not require actual entry upon premises and search for and seizure of papers to constitute an unreasonable search and seizure within the meaning of the fourth amendment. It decided that a compulsory production of a party's private books and papers to be used against himself or his property in a criminal or penal proceeding or for a forfeiture is within the spirit and meaning of the amendment.

If the Supreme Court has been so careful in protecting the rights of American citizens from search and seizure of private papers, no further argument should be required to show that the proposed conference report does not carry out the protections of the fourth amendment to the Constitution guaranteeing "the right of the people to be secure in their persons, houses, papers, and effects." This is a great constitutional question, and I shall therefore move to recommit this report to the committee on conference with the hope that we shall finely obtain adequate legislation to enforce the fourth article of the Constitution. [Applause.]

Mr. VOLSTEAD. Mr. Speaker, there has been a good deal of discussion here that has no bearing on this subject; waving the flag and extolling the sacredness of the Constitution is all very well, but it has no place in this discussion as we are not taking away any rights that any one ever had nor do we authorize any search of any kind, but, on the contrary, are taking away authority to search. All this patriotic gush is nothing but camouflage for the purpose of misleading this House. If you stand for the proposition of the Senate you stand for breaking down of all prohibition. There is no question about it. You will give the bootlegger and rum runner a license to practically ply his trade unmolested. The idea that if an officer makes a mistake in arresting you it permits you to shoot him, is the most astonishing doctrine I have heard of in years. If you did shoot you would be guilty of murder, of that there is no doubt. I have no patience with these lawless appeals. They will mean the death of many a brave officer. Not less than a score of men have already fallen as victims to these lawless rum runners. That is what they amount to.

Mr. Speaker, I move the previous question.

The SPEAKER. The gentleman from Minnesota moves the previous question on the adoption of the conference report.

The previous question was ordered.

Mr. LONDON. Mr. Speaker, I desire to make a motion to recommit. Can I do that now, after the previous question has been ordered?

The SPEAKER. I think so. Is the gentleman opposed to the conference report?

Mr. LONDON. I am. I move that after the word "dwelling," line 4 of the proposed amendment as proposed by the conferees of the House, there be inserted the following words: "or person or personal effects."

The SPEAKER. The gentleman proposes to recommit the conference report and instruct the conferees to insist on a certain amendment, which the Clerk will report.

The Clerk read as follows:

Mr. LONDON moves to recommit the conference report to the conferees with instructions to amend by inserting after the word "dwelling," in line 4 of section 6, page 1, the words "or person or personal effects," so that as amended the lines will read:

"SEC. 6. That any officer, agent, or employee of the United States engaged in the enforcement of this act, or the national prohibition act, or any other law of the United States, who shall search any private dwelling or person or personal effects as defined in the national prohibition act," etc.

Mr. VOLSTEAD. Mr. Speaker, I move the previous question on the motion to recommit.

Mr. MANN. Mr. Speaker, I make the point of order that the motion to recommit is not in order.

Mr. LONDON. Will the gentleman yield for a moment? I desire to correct my proposed motion. I desire to insert after the word "any," in line 3 of section 6, the words "person, personal effects, or," so that it will read:

Who shall search any person, personal effects, or private dwelling as defined in the national prohibition act.

The SPEAKER. The Clerk will report the modified amendment.

The Clerk read as follows:

Amendment to section 6, after the word "any," in line 3, and before the word "private," insert the words "person, personal effects, or."

Mr. MANN. Mr. Speaker, I make the point of order that the motion to recommit is not in order. First, it is not within the power of the House to instruct the Senate conferees, as this motion proposes to do. It is subject to a point of order in the House to offer a motion to instruct the Senate conferees what they shall insert in a conference report.

Mr. LONDON. Will the gentleman yield? I am asking for information.

Mr. MANN. Yes.

Mr. LONDON. I intend to instruct the House conferees.

Mr. MANN. I do not know what the gentleman's intention may be. I am judging by the motion that he offered.

Mr. LONDON. The motion is to instruct the House conferees.

Mr. MANN. That is not the motion that was submitted. That is not the motion that was read. That is not the motion the gentleman made. It was to recommit the bill to the conferees with instructions to insert a certain amendment in the conference report. I submit to the Speaker that that is not within the power of the House.

Mr. LONDON. If the gentleman from Illinois will yield, I understood that the Speaker improved upon my motion and stated it in the proper form.

Mr. MANN. I took the motion the gentleman offered and the motion that was reported.

The SPEAKER. If the motion of the gentleman from New York was to instruct the conferees, of course it is out of order.

Mr. HILL. I move to recommit the conference report to the committee of conference.

The SPEAKER. The gentleman from Maryland moves to recommit the conference report to the conferees.

Mr. VOLSTEAD. On that I move the previous question.

The SPEAKER. On that motion the gentleman from Minnesota moves the previous question.

Mr. LONDON. Mr. Speaker, I do not want to waste the time of the House, but I was under the impression that the Speaker had corrected the form of my motion and submitted it in an acceptable and proper form.

The SPEAKER. The Chair has already sustained the point of order, and another motion has been made.

Mr. FIELDS. I offer a substitute for the motion of the gentleman from Maryland.

The SPEAKER. The gentleman from Minnesota moves the previous question. The question is on ordering the previous question.

The question being taken, the previous question was ordered.

The SPEAKER. The question is on the motion of the gentleman from Maryland [Mr. HILL] to recommit the bill to the conferees.

Mr. FIELDS. Is it not in order to offer a substitute?

The SPEAKER. It is not in order after the previous question has been ordered. The question is on recommitting the conference report to the conference committee.

The question was taken, and on a division (demanded by Mr. LEHLBACH) there were—ayes 61, noes 182.

Accordingly the motion was rejected.

The SPEAKER. The question is on agreeing to the conference report.

The question being taken, Mr. STAFFORD and Mr. GRAHAM of Pennsylvania demanded a division.

The House proceeded to divide.

The affirmative vote was taken.

Mr. BLANTON. Mr. Speaker, I ask for the yeas and nays.

The SPEAKER. The gentleman from Texas demands the yeas and nays. All in favor of ordering the yeas and nays will rise and stand until counted. [After counting.] Forty-seven Members rising, not a sufficient number, and the yeas and nays are refused.

Mr. STAFFORD. Is not 47 one-fifth of a quorum?

The SPEAKER. It is not one-fifth of those present.

Mr. STAFFORD. Then I ask for the other side. Forty-four are a sufficient number to demand the yeas and nays under a quorum.

The SPEAKER. Yes; but it is one-fifth of the number present.

Mr. STAFFORD. Then I ask for the other side.

The SPEAKER. The Chair will count. The Chair had already counted 169 in the affirmative. [After counting.] Two hundred and eighty-eight Members present. Forty-seven are not a sufficient number, and the yeas and nays are refused. Those opposed to agreeing to the conference report will rise and stand until they are counted.

The negative vote was taken.

The SPEAKER. On this vote the ayes are 169 and the noes are 81, and the conference report is agreed to.

On motion of Mr. VOLSTEAD, a motion to reconsider the vote by which the conference report was agreed to was laid on the table.

DEFICIENCY APPROPRIATIONS.

Mr. MADDEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the urgent deficiency appropriation bill (H. R. 8117) and to disagree to the Senate amendments and agree to the conference asked by the Senate.

The SPEAKER. The gentleman asks unanimous consent to take from the Speaker's table a bill which the Clerk will report and to disagree to the Senate amendments and agree to the conference asked by the Senate.

The Clerk read the title of the bill (H. R. 8117) making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1922, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. GARNER. Mr. Speaker, reserving the right to object, may I ask the gentleman a question? I do not intend to object, so far as I am concerned, to this bill going to conference, but I do want to call the attention of the gentleman from Illinois [Mr. MADDEN] to one amendment that has been placed on the bill in the Senate. That is an amendment authorizing an appropriation of $100,000 for the purpose of employing experts, if we can judge by the report in the morning paper, to gather data for the purpose of giving information to the Finance Committee of the Senate in order that they may intelligently consider the tariff bill. I was under the impression from what had been said in the House of Representatives by the gentleman from Michigan [Mr. FORDNEY] as well as other Republican members of the Ways and Means Committee, that they had some information when they drew the bill. Although they did not give any information to the House they claimed to have sufficient information to draw that bill scientifically. Now, it seems that the Senate Finance Committee, after considerable hearings, are asking us to give them $100,000, in order that they may get information within the next six weeks upon which to insert the rates applying under the American valuation scheme which is so novel that nobody knows what it will do, and manifestly so dangerous that the Republican Senate and administration must spend a hundred thousand dollars of the public money to further investigate it. The gentleman from Michigan and his obedient Republican colleagues on the committee and in the House have twice swallowed it with their eyes shut. It seems to be "theirs not to know the reason why."

Mr. MADDEN. Does the gentleman from Texas object to the Senate having information?

Mr. MOORE of Virginia. Will the gentleman yield?

Mr. GARNER. Yes.

Mr. MOORE of Virginia. Referring to something said yesterday, does the gentleman consider that we have here something of an insult to the majority of the Ways and Means Committee?

Mr. GARNER. I am not so certain that it is an insult, for the reason that it is demonstrated that they did not have information. I think the Senate is entitled to have information, and I think the House ought to have had information, but it had no information on the bill when it was considered. It was considered from a partisan standpoint and the House was without information. One of two things is true; either the $100,000 is desired for information or else the $100,000 is to get jobs for Republicans. Under the latter condition I doubt whether the House ought to grant it. I do not know why it was that the gentleman from Ohio, who sits in front of me, and the gentleman from Iowa, who stands in front of me, did not seek this information in the beginning. Of course, they say that they want the 50 expert employees, as they are termed, for the purpose of getting information on which the American valuation scheme may be tried.

Mr. GREEN of Iowa. Will the gentleman yield?

Mr. GARNER. Certainly.

Mr. GREEN of Iowa. Does not the gentleman realize that that is different from anything contained in the bill. It results from the bill, but what the gentleman refers to had nothing to do with the draft of the bill.

Mr. GARNER. The provision as to American valuation was in the bill when it passed the House. I was wondering whether, if it is desired to have the extra employees in order to prepare for the administration of the bill, why the gentleman from Iowa did not submit his request to the Committee on Appropriations that it might initiate the matter and appropriate for the purpose. But, gentlemen, here is what it is for. Let us not deceive ourselves. This $100,000 is for the purpose within the next six weeks, as stated in the Washington Post as coming from an official source, to get information upon which to write a tariff bill. That is an indictment of the House; it is an indictment of the Ways and Means Committee, and was feebly drawn to the attention of the House at the time the bill passed the House, but it was like casting pearls before swine, with only 121 Members to protest. I call it to the attention of the gentleman from Illinois to ask him whether he is inclined to agree to the amendment.

Mr. MADDEN. I think the conferees are determined to have a full, fair, and free conference on all matters.

Mr. GARNER. I want to ask the gentleman if the gentleman has had any requests from the Ways and Means Committee to agree to this amendment.

Mr. MADDEN. I have had no requests from anyone to agree to anything.

Mr. GARNER. It raises quite an important question, and I think the gentleman ought to have the judgment of the Ways and Means Committee as to the advisability, because it is a matter pertaining to a bill that originated in the House of Representatives.

Mr. MADDEN. We will try to represent the sentiment of the House as nearly as we can ascertain it.

Mr. LONGWORTH. Will the gentleman undertake to represent the pearl side rather than the swine side? [Laughter.]

Mr. HARDY of Texas. Will the gentleman yield?

Mr. MADDEN. Yes.

Mr. HARDY of Texas. The gentleman will recall that after considerable discussion we limited the salaries that might be paid, except to three employees. I think that is a very important matter, and I think the gentleman ought to assure us that he will not agree to recede from the position of the House without bringing it back to the House for a vote.

Mr. MADDEN. I am frank to say that I am not in favor of the Senate amendment.

Mr. HARDY of Texas. Will the gentleman come to the House before he agrees to it and get a vote on the question?

Mr. MADDEN. I think the gentleman ought to permit the conferees to go into conference unhampered. We will be able to reach an agreement, I am satisfied, that the House will agree to. I do not think it is fair to make agreements unless we are forced so to do.

Mr. HARDY of Texas. What I would like to get at is an assurance from the gentleman.

Mr. MADDEN. I think the gentleman must know how strongly I am opposed to allowing unlimited salaries and an unlimited number of employees in any department. I am opposed to any unlimited conditions such as are in the Senate amendment.

Mr. HARDY of Texas. What I am afraid of is that the Senate will come in with some compromise and get in all the high-priced salaries they want.

Mr. MADDEN. I do not think they will.

Mr. BLANTON. Will the gentleman yield?

Mr. MADDEN. Yes.

Mr. BLANTON. The newspaper report is that in addition to the Senate wiping out the salary restrictions, which will now permit the Shipping Board to keep its 70 high-priced attorneys on the pay roll, drawing salaries up to $20,000 a

year each, the Shipping Board has just sold 205 wooden vessels for $2,100 each, which ships cost the Government from $300,000 to $500,000 apiece. Is there any limitation in the bill that controls the Shipping Board in regard to thus wasting and dissipating of our merchant marine?

Mr. MADDEN. No; there is not.

Mr. BLANTON. Does the gentleman think it is a good policy for the bill to go to conference when the Congress is about to recess, and anything that may be hurriedly agreed to there we will have to swallow here?

Mr. MADDEN. There will not be anything agreed upon——

Mr. BLANTON. The bill will come back from conference in the closing hours, when most of us are away, gone home, and we will have it hurriedly rammed down our throats. Mr. Speaker, this is such an important matter that I object.

Mr. MADDEN. Does the gentleman from Texas refuse to let this matter go to conference?

Mr. BLANTON. Yes; I object.

ENROLLED BILL AND JOINT RESOLUTION SIGNED.

Mr. RICKETTS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill and joint resolution of the following titles, when the Speaker signed the same.

H. R. 5676. An act taxing contracts for the sale of grain for future delivery, and options for such contracts, and providing for the regulation of boards of trade, and for other purposes.

H. J. Res. 195. Joint resolution authorizing the payment of salaries of officers and employees of Congress for August, 1921.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent to dispense with Calendar Wednesday business to-morrow.

The SPEAKER. The gentleman from Wyoming asks unanimous consent to dispense with the Calendar Wednesday business on to-morrow. Is there objection?

Mr. WALSH. Reserving the right to object, what business is likely to come up?

Mr. MONDELL. Mr. Speaker, there are several conference reports. There is the matter that we have just had before the House which must be disposed of before we adjourn. It is the cleaning up of the program.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

UNANIMOUS CONSENT CALENDAR.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that the House take up for consideration this afternoon, not to interfere with privileged matters, the Calendar for Unanimous Consent.

The SPEAKER. The gentleman from Wyoming asks unanimous consent that the House take up for consideration this afternoon, not to interfere with privileged matters, the Calendar for Unanimous Consent. Is there objection?

Mr. BLANTON. Mr. Speaker, I object.

The SPEAKER. The gentleman from Texas objects.

STANDARD LOAF OF BREAD.

Mr. ZIHLMAN. Mr. Speaker, I call from the Speaker's table the bill (S. 2207) to amend the act entitled "An act to establish standard weights and measures for the District of Columbia, to define the duties of the superintendent of weights, measures, and markets of the District of Columbia, and for other purposes," approved March 3, 1921, an identical House bill having been favorably reported from the House Committee on the District of Columbia.

The SPEAKER. The gentleman from Maryland calls up the bill S. 2207, a similar House bill having been previously favorably reported from the Committee on the District of Columbia, which the Clerk will report.

Mr. PARKER of New Jersey. Mr. Speaker, a parliamentary inquiry. Is it identically the same bill?

The SPEAKER. It is the same bill.

Mr. STAFFORD. Mr. Speaker, I wish to reserve a point of order until the bill is reported.

The SPEAKER. The gentleman from Wisconsin reserves all points of order. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the act entitled "An act to establish standard weights and measures for the District of Columbia, to define the duties of the superintendent of weights, measures, and markets of the District of Columbia, and for other purposes," approved March 3, 1921, be, and the same is hereby, amended by striking out section 13 and inserting the following in lieu thereof:

"SEC. 13. That the standard loaf of bread manufactured for sale, sold, offered, or exposed for sale in the District of Columbia shall weigh 1 pound avoirdupois, but bread may also be manufactured for sale, sold, offered, or exposed for sale in loaves of one-half pound, 1½ pounds, or multiples of 1 pound, but shall not be manufactured for sale, sold, offered, or exposed for sale in other than the aforesaid weights. Every loaf of bread manufactured for sale, sold, offered, or exposed for sale in the District of Columbia shall have affixed thereon, in a conspicuous place, a label at least 1 inch square, or, if round, at least 1 inch in diameter, upon which label there shall be printed in plain bold-face Gothic type, not smaller than 12 point, the weight of the loaf in pound, pounds, or fraction of a pound, as the case may be, whether the loaf be a standard loaf or not, the letters and figures of which shall be printed in black ink upon white paper. The business name and address of the maker, baker, or manufacturer of the loaf shall also be plainly printed on each such label. Every seller of bread in the District of Columbia shall keep a suitable scale which shall have been inspected and approved in accordance with the provisions of this act in a conspicuous place in his bakery, bakeshop, or store, or other place where he is engaged in the sale of bread, and shall, whenever requested by the buyer, and in the presence of the buyer, weigh the loaf or loaves of bread sold or offered for sale. Nothing herein shall apply to crackers, pretzels, buns, rolls, scones, or to loaves of fancy bread weighing less than one-fourth of 1 pound avoirdupois, or to what is commonly known as stale bread, provided the seller shall, at the time the sale is made, expressly state to the buyer that the bread so sold is stale bread: *Provided*, That any loaf of bread weighing within 10 per cent in excess or within 4 per cent less than standard weight shall be deemed of legal weight."

Mr. STAFFORD. Mr. Speaker, I withdraw the reservation of the point of order.

The SPEAKER. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. ZIHLMAN, a motion to reconsider the vote by which the bill was passed was laid on the table.

By unanimous consent, the bill H. R. 7661, a similar bill, was ordered to lie on the table.

ADDITIONAL COPIES OF THE INTERNAL REVENUE TAX BILL.

Mr. FORDNEY. Mr. Speaker, I ask unanimous consent to have printed 2,000 additional copies of the bill H. R. 8245, to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes, to be placed in the document room for the use of the membership of the House.

The SPEAKER. The gentleman from Michigan asks unanimous consent to have printed 2,000 additional copies of the internal revenue tax bill, to be distributed through the document room for the use of the House. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

EXTENSION OF REMARKS.

Mr. RAINEY of Illinois. Mr. Speaker, I ask unanimous consent to extend my remarks upon the bill H. R. 7294, the so-called beer bill.

The SPEAKER. The gentleman from Illinois asks unanimous consent to extend his remarks on the bill H. R. 7294. Is there objection?

There was no objection.

Mr. FESS. Mr. Speaker, I ask unanimous consent to extend my remarks upon the railroad bill.

The SPEAKER. The gentleman from Ohio asks unanimous consent to extend his remarks upon the railroad bill. Is there objection?

There was no objection.

IRENE A. DWYER.

Mr. A. P. NELSON. Mr. Speaker, I present the following privileged report from the Committee on Accounts, which I send to the desk and ask to have read.

The Clerk read as follows:

House resolution 175.

Resolved, That the Clerk of the House of Representatives be, and he is hereby, authorized and directed to pay, out of the contingent fund of the House, to Irene A. Dwyer, clerk of the late Hon. ROBER A. JAMES, a Representative in Congress from Virginia at the time of his death, August 6, 1921, the sum of $186.66, being an amount equal to one month's salary of a clerk of a Representative in Congress.

Mr. A. P. NELSON. Mr. Speaker, this is the customary resolution. It has been verified by the Committee on Accounts and recommended by them for adoption. I move the adoption of the resolution.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

On motion of Mr. A. P. NELSON, a motion to reconsider the vote by which the resolution was passed was laid on the table.

H. B. TRUNDLE.

Mr. A. P. NELSON. Mr. Speaker, I present the following privileged report from the Committee on Accounts, which I send to the desk and ask to have read.

The Clerk read as follows:

House resolution 176.

Resolved, That the Clerk of the House of Representatives be, and he is hereby, authorized and directed to pay, out of the contingent fund of the House, to H. B. Trundle, clerk to the late Hon. ROBER A. JAMES, a Representative in Congress from Virginia at the time of his death, August 6, 1921, the sum of $120, being an amount equal to one month's salary of a clerk of a Representative in Congress.

Mr. A. P. NELSON. Mr. Speaker, this resolution is similar to House resolution No. 175 just adopted. It is the customary resolution. It has been before the Committee on Accounts and is unanimously recommended for adoption.

Mr. STAFFORD. Mr. Speaker, will the gentleman yield?

Mr. A. P. NELSON. Yes. I yield to the gentleman.

Mr. STAFFORD. Do these resolutions granting a month's salary date from the death of the Member or are they for the month succeeding? What is the practice of the committee in that respect?

Mr. A. P. NELSON. It would be simply a full month's pay at the rate paid prior to the Member's decease, but not for any particular month. The clerk's pay terminated on the day of the Member's death.

Mr. MANN. Mr. Speaker, will the gentleman yield for a question?

Mr. A. P. NELSON. Certainly. I gladly yield to the distinguished gentleman from Illinois.

Mr. MANN. This is to pay a clerk to the late Representative JAMES?

Mr. A. P. NELSON. Yes.

Mr. MANN. The limit of clerk hire allowed a Member of Congress is $3,200 a year. We just passed a resolution providing for the payment of one clerk at the rate of $186.66 per month. This resolution provides for the payment of the sum of $120 for another clerk for one month. Unless I did not learn arithmetic when I was a boy, those two sums added together amount to a good deal more per month than the basis of $3,200 a year or even $3,600 a year. How does the Committee on Accounts explain that?

Mr. A. P. NELSON. I will explain it this way, Mr. Speaker: The gentleman from Virginia had two clerks——

Mr. MANN. Yes; but the limit he was allowed to pay them out of the Public Treasury was $3,200 a year, which is considerably less than $300 a month.

Mr. A. P. NELSON. But the gentleman will know that the bonus is added.

Mr. MANN. The bonus is added in each case?

Mr. A. P. NELSON. Yes; in each case. For instance, the gentleman from Virginia had two clerks. He paid $2,000 to one and $1,200 to the other, making $3,200. But in each case a bonus of $240 was added, making in one case $2,240 and in the other case $1,440.

Mr. STAFFORD. If the gentleman will permit, I think if the mathematical mind of my friend from Illinois is applied to this problem, he will find that the amounts tally to a penny and adds up $3,200 plus $480 for bonus.

Mr. A. P. NELSON. The gentleman is absolutely correct.

Mr. MANN. I will take a mathematical computation at any time with the gentlemen from Wisconsin on any subject except the tariff or taxes [laughter], but I do not think they know anything of either one of those.

Mr. STAFFORD. Mr. Speaker, on tax measures Wisconsin is preeminent and leads. Illinois has not followed, but New York, Massachusetts, and other States have always followed the illustrious State of Wisconsin on the question of taxes.

The question was taken and the resolution was agreed to.

On motion of Mr. A. P. NELSON, a motion to reconsider the vote by which the resolution was passed was laid on the table.

GEORGE JENISON.

Mr. A. P. NELSON. Mr. Speaker, I present another privileged resolution from the Committee on Accounts, H. Res. 163.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

House resolution 163.

Resolved, That the Clerk of the House of Representatives be directed to pay, out of the contingent fund of the House, to Jay Wilcox, nephew of George Jenison, late special messenger of the House of Representatives, a sum equal to six months' salary as special messenger, and that the Clerk be further directed to pay out of the contingent fund the expenses of the last illness and funeral of said George Jenison, such expenses not to exceed $250.

Mr. A. P. NELSON. Mr. Speaker, this is the usual resolution for dependents of a deceased employee, and I might say, Mr. Speaker, that the committee has taken the usual care to go over carefully the several letters which were written by the dependents of Mr. George Jenison, and the committee believes that the provisions of this resolution are a matter of justice and should be adopted by the House. The resolution was unanimously recommended for adoption by the Committee on Accounts. I presume most of the Members of the House will remember Mr. Jenison, one of the old employees of the House. I understand that he has been in the employ of the House for a period of 30 years. He was continued on the roll by a special resolution of the House January 15, 1900. From the reports which came to the committee from dependents of Mr. Jenison the committee was unanimous in recommending the amount provided for in this resolution. If there are no questions by Members, I shall move that the House agree to the resolution.

Mr. MANN. Will the gentleman yield some time to me?

Mr. A. P. NELSON. I shall be glad to yield to the gentleman from Illinois.

Mr. MANN. Mr. Speaker, I think this resolution ought to be passed. George Jenison was on the west lobby door for many years. I knew him well long before I knew his name. He had been employed by the House under special rule of the House, and there was no employee of the House who was better liked by the old Members, and I think by the new Members who knew him, than George Jenison who recently died.

Mr. HUMPHREYS. Will the gentleman from Wisconsin yield me a few minutes?

Mr. A. P. NELSON. I yield to the gentleman from Mississippi.

Mr. HUMPHREYS. Mr. Speaker, I knew Mr. Jenison, as all of the older Members did. I knew him well although not knowing him intimately, and I think that I can say truthfully that the House never had a more conscientious, a more faithful, or efficient employee than he was. He served here through several administrations. He served when the Republicans were in control of the House and he served when the Democrats were in control of the House. He served as faithfully and as efficiently under one administration as the other, and I hope that this resolution will be agreed to unanimously.

The SPEAKER. The question is on agreeing to the resolution.

The question was taken, and the resolution was agreed to.

On motion of Mr. A. P. NELSON, a motion to reconsider the vote by which the resolution was passed was laid on the table.

DEFICIENCY APPROPRIATION BILL.

Mr. CAMPBELL of Kansas. Mr. Speaker, I submit a privileged resolution (H. Res. 181) from the Committee on Rules.

The SPEAKER. The gentleman from Kansas submits a privileged resolution from the Committee on Rules, which the Clerk will report.

The Clerk read as follows:

Resolved, That upon the adoption of this resolution the bill (H. R. 8117) entitled "An act making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1922, and for other purposes," be taken from the Speaker's table with the amendments of the Senate thereto disagreed to and the conference requested by the Senate agreed to, and the Speaker shall appoint the conferees without intervening motion.

Mr. CAMPBELL of Kansas. Mr. Speaker, this resolution is made necessary by objection just made to sending this bill to conference in the usual way. I move the previous question on the resolution.

The question was taken, and the Speaker announced that the ayes appeared to have it.

Mr. BLANTON. Mr. Speaker, I ask for a division.

The House divided; and there were—ayes 143, noes 3.

Mr. BLANTON. Mr. Speaker, I object to the vote because there is no quorum present, and I make the point of order there is no quorum present.

The SPEAKER. It is clear there is no quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 303, nays 9, answered "present" 3, not voting 115, as follows:

YEAS—303.

Ackerman	Burroughs	Dale	Fordney
Almon	Burtness	Dallinger	Foster
Andrews	Burton	Darrow	Frear
Anthony	Byrnes, S. C.	Davis, Minn.	French
Arentz	Byrns, Tenn.	Davis, Tenn.	Frothingham
Aswell	Cable	Deal	Fulmer
Atkeson	Campbell, Kans.	Denison	Funk
Bacharach	Campbell, Pa.	Dominick	Garner
Barbour	Cannon	Doughton	Garrett, Tenn.
Beck	Cantrill	Dowell	Gensman
Begg	Carew	Drewry	Gernerd
Bell	Carter	Driver	Gilbert
Bird	Chalmers	Dunbar	Glynn
Bland, Ind.	Chandler, N. Y.	Dunn	Goodykoontz
Bland, Va.	Chindblom	Echols	Gorman
Bond	Christopherson	Edmonds	Graham, Ill.
Bowers	Clarke, N. Y.	Elliott	Graham, Pa.
Bowling	Clouse	Ellis	Green, Iowa
Box	Cole, Iowa	Evans	Greene, Mass.
Brennan	Collier	Faust	Greene, Vt.
Briggs	Collins	Favrot	Griest
Brinson	Colton	Fenn	Griffin
Brooks, Pa.	Connally, Tex.	Fess	Hadley
Brown, Tenn.	Connell	Fields	Hammer
Browne, Wis.	Connolly, Pa.	Fish	Hardy, Colo.
Buchanan	Cooper, Wis.	Fisher	Hardy, Tex.
Bulwinkle	Coughlin	Fitzgerald	Harrison
Burdick	Cullen	Flood	Hawley
Burke	Curry	Focht	Hayden

Herrick	Lowrey	Perkins	Steagall
Hickey	Luce	Peters	Steenerson
Hicks	McClintic	Petersen	Stephens
Hill	McCormick	Porter	Stevenson
Himes	McDuffie	Pou	Stoll
Hoch	McFadden	Pringey	Strong, Kans.
Houghton	McLaughlin, Mich	Purnell	Strong, Pa.
Huddleston	McLaughlin, Nebr.	Radcliffe	Summers, Wash.
Hull	McLaughlin, Pa.	Rainey, Ill.	Sumners, Tex.
Humphreys	McPherson	Raker	Swank
Husted	McSwain	Rankin	Sweet
Hutchinson	MacGregor	Ransley	Swing
Jacoway	Madden	Rayburn	Tague
Jefferis, Nebr.	Magee	Reber	Temple
Jeffers, Ala.	Mann	Reece	Ten Eyck
Johnson, Wash.	Mapes	Reed, N. Y.	Thompson
Kearns	Mead	Reed, W. Va.	Tillman
Keller	Merritt	Rhodes	Tilson
Kelley, Mich.	Michaelson	Ricketts	Tincher
Kendall	Michener	Riddick	Tinkham
Ketcham	Miller	Riordan	Towner
Kiess	Millspaugh	Roach	Tyson
Kincheloe	Moore, Ohio	Robsion	Underhill
King	Moore, Va.	Rodenberg	Vestal
Kinkaid	Moores, Ind.	Rosenbloom	Vinson
Kirkpatrick	Morgan	Rossdale	Voigt
Kissel	Morin	Rouse	Volstead
Kline, N. Y.	Mudd	Rucker	Walsh
Kline, Pa.	Murphy	Sanders, Ind.	Walters
Knutson	Nelson, A. P.	Sanders, N. Y.	Ward, N. Y.
Kopp	Nelson, J. M.	Sanders, Tex.	Watson
Kraus	Newton, Mo.	Sandlin	Weaver
Kreider	Nolan	Schall	Webster
Lanham	Norton	Scott, Mich.	Wheeler
Larsen, Ga.	O'Brien	Sears	White, Kans.
Larson, Minn.	O'Connor	Shaw	White, Me.
Lawrence	Oldfield	Shelton	Wilson
Lazaro	Oliver	Shreve	Winslow
Leatherwood	Olpp	Sinclair	Woodruff
Lee, Ga.	Osborne	Sinnott	Woods, Va.
Lee, N. Y.	Overstreet	Sisson	Woodyard
Lehlbach	Padgett	Smith, Idaho	Wurzbach
Lineberger	Paige	Smithwick	Wyant
Linthicum	Park, Ga.	Snell	Yates
Little	Parker, N. J.	Speaks	Young
Logan	Patterson, Mo.	Sproul	Zihlman
Longworth	Patterson, N. J.	Stafford	

NAYS—9.

Black	Jones, Tex.	Parks, Ark.	Quin
Blanton	London	Parrish	Wingo
Johnson, Miss.			

ANSWERED "PRESENT"—3.

Clark, Fla.	Langley	Layton

NOT VOTING—115.

Anderson	Dyer	Kleczka	Ryan
Ansorge	Elston	Knight	Sabath
Appleby	Fairchild	Kunz	Scott, Tenn.
Bankhead	Fairfield	Lampert	Siegel
Barkley	Free	Lankford	Slemp
Beedy	Freeman	Lea, Calif.	Smith, Mich.
Benham	Fuller	Luhring	Snyder
Bixler	Gahn	Lyon	Stedman
Blakeney	Gallivan	McArthur	Stiness
Boies	Garrett, Tex.	McKenzie	Sullivan
Brand	Goldsborough	Maloney	Taylor, Ark.
Britten	Gould	Mansfield	Taylor, Colo.
Brooks, Ill.	Haugen	Martin	Taylor, N. J.
Butler	Hawes	Mills	Taylor, Tenn.
Chandler, Okla.	Hays	Mondell	Thomas
Clague	Hersey	Montague	Timberlake
Classon	Hogan	Montoya	Treadway
Cockran	Hudspeth	Moore, Ill.	Upshaw
Codd	Hukriede	Mott	Vaile
Cole, Ohio	Ireland	Newton, Minn.	Vare
Cooper, Ohio	James	Ogden	Volk
Copley	Johnson, Ky.	Parker, N. Y.	Ward, N. C.
Cramton	Johnson, S. Dak.	Perlman	Wason
Crisp	Jones, Pa.	Rainey, Ala.	Williams
Crowther	Kahn	Ramseyer	Williamson
Dempsey	Kelly, Pa.	Reavis	Wise
Dickinson	Kennedy	Robertson	Wood, Ind.
Drane	Kindred	Rogers	Wright
Dupré	Kitchin	Rose	

So the previous question was ordered.

The Clerk announced the following pairs:

Until further notice:

Mr. LANGLEY with Mr. CLARK of Florida.

Mr. FREE with Mr. DUPRÉ.

Mr. WILLIAMS with Mr. BRAND.

Mr. REAVIS with Mr. SULLIVAN.

Mr. SIEGEL with Mr. WRIGHT.

Mr. HUKRIEDE with Mr. BARKLEY.

Mr. BUTLER with Mr. CRISP.

Mr. LUHRING with Mr. KINDRED.

Mr. SNYDER with Mr. THOMAS.

Mr. TAYLOR of New Jersey with Mr. LANKFORD.

Mr. HOGAN with Mr. LEE of Georgia.

Mr. BLAKENEY with Mr. WARD of North Carolina.

Mr. ROSE with Mr. GARRETT of Texas.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on agreeing to the resolution.

The question was taken, and the resolution was agreed to.

The SPEAKER appointed the following conferees: Mr. MADDEN, Mr. CANNON, Mr. KELLEY of Michigan, Mr. BYRNS of Tennessee, and Mr. BUCHANAN.

PERMISSION TO USE CERTAIN RECORDS OF WAYS AND MEANS COMMITTEE.

Mr. SNELL. Mr. Speaker, by direction of the Committee on Rules, I offer the following privileged resolution.

The SPEAKER. The gentleman from New York offers a resolution, which the Clerk will report.

The Clerk read as follows:

House resolution 182.

Resolved, That immediately upon the adoption of this resolution the House shall proceed to the consideration of the following resolution (H. Res. 183), to wit:

"Whereas in a case of libel now pending in the Circuit Court of Putnam County, Tenn., at Cookeville, styled Cordell Hull against Oscar Clark and Wynne F. Clouse, in which, among other questions, the vote of the said Cordell Hull, who was a Member of the Sixty-sixth and prior Congresses, with respect to proposed bonus legislation for the benefit of certain American ex-soldiers and sailors of the World War is involved; and in which also it is the contention of defendants that the vote or votes of said Cordell Hull as a member of the Ways and Means Committee of said House during the second session of the Sixty-sixth Congress in the executive sessions of said committee with respect to the said proposed soldier and sailor bonus legislation, and particularly with reference to the consideration and reporting out by said committee of H. R. 14089, is material to the issues raised in the above-styled case; and in which it is the contention of the plaintiff that if testimony as to his said votes in the executive sessions of said committee is offered it then becomes material for the entire context to be shown in evidence, viz, the various motions, bills considered, questions arising on each, and votes of each member of said committee thereon with respect to all of the said proposed soldier and sailor bonus legislation and tax measures to pay for same pending before the said committee during the said Sixty-sixth Congress: Now, therefore be it

"*Resolved*, That the clerk of the Ways and Means Committee of the House of Representatives of the Sixty-sixth and Sixty-seventh Congresses of the United States and the Clerk of the House of Representatives be authorized to respond to any subpœna or subpœna duces tecum, or to appear before any person authorized by law to take depositions, at the instance of either party to the above-styled case, but neither of said clerks shall take with him any book, document, or paper on file in his office or under his control or in his possession as such clerk;

"That either of the parties to the above-styled lawsuit have full permission to take the depositions of either or both of the said clerks in respect to any and all phases of the executive and other proceedings of the said Ways and Means Committee in connection with its consideration of each and all the proposed soldier and sailor bonus measures referred to said committee under H. Res. 470 during the Sixty-sixth Congress, including evidence as to all motions made, questions arising, measures considered, and votes of each member thereon, the purpose and effect of each, and to this end permission to either party to the lawsuit aforesaid is given to take copies of any documents or papers in possession or control of either of said clerks so as, however, the possession of said documents and papers by the said clerk or clerks shall not be disturbed, or the same shall not be removed from their place of custody under said clerk or clerks."

And the previous question shall be considered as ordered on the resolution to final adoption.

Mr. SNELL. Mr. Speaker, the reason for this resolution has been fully stated in the preamble. It seems that a present Member of the House has been sued by a former Member of the House, and the material evidence of the case is in the possession of the clerk of the Committee on Ways and Means and the Clerk of the House, and it can not be used in this case without a resolution of this kind. I understand that both parties to the suit are desirous of getting possession of this evidence, and it seems to the Committee on Rules that no harm will be done to anyone to allow the truth to be made public in regard to this matter.

There are several precedents for action of this kind in the House. I shall not take the time to call attention to more than one. This one seems to be exactly the same as what is desired to do at this time. That was in the Forty-second Congress, and it ran as follows:

Resolved, That the clerk of the Committee on the Public Lands be authorized to attach to any deposition he may be required to give in the case of Hovey *v.* Valentine, now pending in the district court at San Francisco, Calif., a copy of the minutes of the proceedings of the Committee on the Public Lands on House bill 1024 (Forty-second Congress), for the relief of Thomas B. Valentine.

Therefore the committee thought it was entirely proper to present this resolution at this time.

I desire to ask the gentleman from North Carolina [Mr. POU] if he desires time?

Mr. POU. I would like the gentleman to yield to me five minutes.

Mr. SNELL. I yield to the gentleman from North Carolina, out of my time, five minutes.

The SPEAKER. The gentleman from North Carolina is recognized.

Mr. POU. Mr. Speaker, I submit the House had better consider well before setting another precedent of this kind.

As I understand them, the facts are these: One gentleman, the manager of one of our colleagues on the floor, brought the charge that a former colleague voted against a bonus to ex-service men. Now, it is proposed to appoint a commissioner to take the deposition of the clerk of the Committee on Ways and Means to ascertain how our former colleague, Mr. Hull, voted, not on the floor of the House but in the deliberations

of the Committee on Ways and Means, which had probably some 30 or 40 different bills before it.

I shall not support this resolution for more reasons than one. If I believed it denied substantial justice to our colleague on the floor at this time, I would not take this position; but, in the first place, the Committee on Ways and Means keeps no official records, and if the deposition of the clerk were taken I submit that it would not be material to the issue, because it can not matter how Mr. Hull voted in the executive sessions of the Committee on Ways and Means. The question is, How did he vote here on this floor? And the RECORD shows that. There can not be any question about it.

Then, in the second place, it is not necessary to pass this resolution. If the evidence is material to the issue—and I say I believe it is not—any gentleman who is a member of the Committee on Ways and Means can be examined without this resolution, and can state—if he knows—how Mr. Hull voted in committee. So I say you are doing a vain thing; you are setting a precedent which opens up the committee records of this House for all the future when there is no substantial reason for it. I can not conceive, in the face of that charge—and I submit it to every lawyer here on both sides—that where one gentleman charges another that he voted against giving a small bonus to the ex-service men, the charge is not as to his vote in the executive session of his committee, it means he voted against such bonus in the House.

Mr. JOHNSON of Washington. Mr. Speaker, will the gentleman yield?

Mr. POU. Yes.

Mr. JOHNSON of Washington. I would like to ask the gentleman if it is not a matter of quite frequent occurrence in committees that test votes and straw votes are taken to see which bill out of a number will be considered?

Mr. POU. Exactly. The gentleman has suggested probably what took place, as I understand it. On one particular occasion, probably, Mr. Hull did vote "no" on some proposition pending before the committee. But there were some twenty or thirty or forty different bills, and frequent votes were taken in committee. While I hope I would be the last man to deny simple justice to any gentleman here, I can not see any reason for passing such a resolution.

Mr. DENISON. Mr. Speaker, will the gentleman yield?

Mr. POU. Yes.

Mr. DENISON. If a Member voted against reporting a bill to the House that was afterwards reported, would that be proper?

Mr. POU. The gentleman stands high in his own State as a lawyer, and I submit to him that would not be an answer to the charge that a gentleman voted against the bonus.

The SPEAKER. The time of the gentleman from North Carolina has expired.

Mr. POU. Mr. Speaker, I ask for three minutes more.

Mr. SNELL. Mr. Speaker, I yield to the gentleman three minutes.

The SPEAKER. The gentleman from North Carolina is recognized for three minutes more.

Mr. POU. That would not be a sufficient answer to the charge that a gentleman on this floor voted against a bonus to the service men.

Mr. BLANTON. Mr. Speaker, will the gentleman yield?

Mr. POU. Yes.

Mr. BLANTON. The House would not permit some one outside to come and ask Members of the House how they voted on the floor. That would not be held to be a matter of privilege, would it?

Mr. POU. I am not quite sure, but in any event if it was in the actual knowledge of any member of the committee as to how Mr. Hull voted on any particular committee roll call, I am inclined to think that it would be competent evidence in court in case a commissioner were appointed to take the deposition of any gentleman on the Committee on Ways and Means who had such actual knowledge.

Mr. KELLEY of Michigan. Mr. Speaker, will the gentleman yield?

Mr. POU. Yes.

Mr. KELLEY of Michigan. As I recollect the reading of the resolution it provided for an examination of records and votes that are kept by the clerk. Does the gentleman know with what particularity those records are kept, whether or not they can be relied upon months afterwards?

Mr. POU. I am informed they were not kept under any order of the committee. I am informed that there are no official records in existence. I think that will not be disputed by any member of the Committee on Ways and Means on either side. The clerk of the committee did make a memorandum of certain proceedings. He did it of his own motion, without any direction from the committee. So I say you are confronted with quite a serious proposition here when, as I submit, there is no urgent reason for you to pass this resolution, when substantial justice is not going to be denied to any man, for you to throw down the bars and open up the records of this House to anyone who may hereafter find fault with anybody who votes this way or that way in a committee session.

Mr. CLARKE of New York. Mr. Speaker, will the gentleman permit a question?

Mr. POU. I yield to the gentleman from New York.

Mr. CLARKE of New York. Is the allegation as to how the gentleman voted in the House or as to how he voted in the committee?

Mr. POU. It does not say. I understand it just says in a general way that the charge was that he voted against the soldier bonus. I submit in all common sense that how the gentleman voted in committee is no answer to any such charge, and I shall oppose the resolution.

Mr. GARRETT of Tennessee. Mr. Speaker, will the gentleman give me a few minutes?

Mr. SNELL. I yield to the gentleman five minutes.

Mr. GARRETT of Tennessee. Mr. Speaker, were it not for the personal situation in which I find myself I should be strongly inclined to oppose this resolution, for the reasons stated by the gentleman from North Carolina [Mr. POU]. But here is a lawsuit between a former colleague who was and is my personal and political friend and a present colleague with whom I am personally friendly. Our present colleague desires this testimony for whatever it may be worth in the defense of the lawsuit brought against him. Our former colleague has no objection to the testimony being taken. Of course there will be legal questions involved as to whether the records of the committee are in fact records, as I understand it, and that will have to be determined by the courts. There will also be other legal questions as to whether the testimony is relevant to the issue, and they will have to be determined by the courts. Personally, so long as we have executive sessions of committees, I would not favor the exposing of the records of those executive sessions unless some public interest were involved in litigation. In other words, I would not favor exposing them in a private lawsuit. But here is a situation in which the gentleman from Tennessee [Mr. CLOUSE] wants the testimony, and our former colleague [Mr. HULL] has no objection to the testimony being taken. For that reason I interpose no objection to the passage of the resolution.

Mr. KNUTSON. Does the gentleman contend that the public has no interest in a matter that involves the right of franchise and representation in Congress?

Mr. GARRETT of Tennessee. Will the gentleman be kind enough to repeat the inquiry? I did not catch it amidst the confusion.

Mr. KNUTSON. The gentleman says he does not believe in making public the records of the committee except where the public interest is at stake. Does the gentleman contend that the public interest is not at stake in this matter?

Mr. GARRETT of Tennessee. The public interest is not at all at stake. This is a private lawsuit between individuals. There is no election contest involved in this.

Mr. KNUTSON. What is it doing before Congress, then?

Mr. SNELL. Mr. Speaker, I feel that this is really a peculiar situation which vitally affects a Member of the House, and one that is not likely to occur often, and the very fact that the presiding judge is holding this case open until this evidence can be made available seems to your committee to make it a material and important matter, and for that reason, and because it was not objected to by either side, we present this resolution.

I move the previous question.

The SPEAKER. The gentleman from New York moves the previous question.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the resolution.

The question was taken; and on a division (demanded by Mr. POU) there were—ayes 151, noes 45.

Accordingly the resolution was agreed to.

The SPEAKER. The question is on agreeing to the resolution incorporated in the rule.

The resolution was agreed to.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted, as follows:

To Mr. HAWLEY (at the request of Mr. MCARTHUR), for the remainder of the week, on account of illness.

To Mr. HAWES, indefinitely, on account of a death in his family.

RENTS IN THE DISTRICT OF COLUMBIA.

Mr. FESS. Mr. Speaker, by direction of the Committee on Rules I present the following privileged resolution.

The SPEAKER. The gentleman from Ohio presents from the Committee on Rules a privileged resolution which the Clerk will report.

The Clerk read as follows:

House resolution 184.

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 2131) to extend for the period of seven months the provisions of Title II of the food control and District of Columbia rents act, approved October 22, 1919, and for other purposes.

That general debate shall be concluded after two hours, one-half to be controlled by those supporting and one-half by those opposing the bill, the debate to be confined to the subject matter of the bill.

Thereafter the bill shall be considered for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendments it shall be reported back to the House with such amendments as may have been agreed to, if any, whereupon the previous question shall be considered as ordered on the bill and all amendments to final passage without intervening motion except one motion to recommit.

Mr. FESS. Mr. Speaker, the rule makes in order the extension of what is known as Title II of the food control and District of Columbia rents act, which under the limitation of law would expire on the 22d of October. It means simply to extend the operation of that act for seven months. If there is no objection I will move the previous question on the rule.

The SPEAKER. The gentleman from Ohio moves the previous question on the rule.

The question being taken, on a division (demanded by Mr. FOCHT) there were—ayes 122, noes 33.

Accordingly the previous question was ordered.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

Mr. WOODRUFF. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of S. 2131, and pending that I would like to learn who is to have charge of the time in opposition to the bill.

The SPEAKER. Does the gentleman submit a request?

Mr. WOODRUFF. I ask unanimous consent, Mr. Speaker, that the chairman of the Committee on the District of Columbia [Mr. FOCHT] have control of the time in opposition to the bill, and that I have control of the time in favor of the bill.

The SPEAKER. The gentleman asks unanimous consent that he may have control of one hour in favor of the bill and that the gentleman from Pennsylvania [Mr. FOCHT] control one hour in opposition to the bill. Is there objection?

There was no objection.

The SPEAKER. The question is on the motion that the House resolve itself into the Committee of the Whole House on the state of the Union.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 2131) to extend for the period of seven months the provisions of Title II of the food control and the District of Columbia rents act, approved October 22, 1919, and for other purposes, with Mr. HICKS in the chair.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That Title II of the food control and the District of Columbia rents act, approved October 22, 1919, shall remain in full force and effect until May 22, 1922.

SEC. 2. That the second paragraph of section 101 of such act is amended to read as follows:

"The term 'rental property' means any building or part thereof or land appurtenant thereto in the District of Columbia rented or hired and the service agreed or required by law or by determination of the commission to be furnished in connection therewith; but does not include (a) any portion of a hotel or apartment building, (b) a garage or warehouse, or (c) any other building or part thereof or land appurtenant thereto, used by the tenant exclusively for a business purpose other than the subleasing or otherwise subcontracting for use for living accommodations."

SEC. 3. That section 103 of such act is amended to read as follows:

"SEC. 103. Each commissioner shall receive a salary of $5,000 a year payable monthly. The commission shall appoint a secretary, who shall receive a salary of $3,000 a year, and an attorney, who shall receive a salary of $5,000 a year, payable in like manner; and subject to the provisions of the civil service laws, it may appoint and remove such officers, employees, and agents, and make such expenditures for rent, printing, telegrams, telephone, law books, books of reference, periodicals, furniture, stationery, office equipment, and other supplies and expenses as may be necessary to the administration of this title. The attorney appointed by the commission shall appear for and represent the commission in all judicial procedings and generally perform such professional duties and services as attorney and counsel to the commission as may reasonably be required of him by the commission. All of the expenditures of the commission shall upon the presentation of itemized vouchers therefor approved by the chairman of the commission be audited and paid in the same manner as other expenditures for the District of Columbia.

"With the exception of the secretary and the attorney, all employees of the commission shall be appointed from lists of eligibles supplied by the Civil Service Commission and in accordance with the civil service law."

SEC. 4. That Title II of such act is amended by adding at the end thereof two new sections to read as follows:

"SEC. 123. In all cases where the owner of any rental property, apartment, or hotel has, prior to April 18, 1921, collected or received any rent or charge therefor in excess of the amount fixed in a determination of the commission made and in full force and effect in accordance with the provisions of the title, he may within 30 days after this section takes effect return such excess rental or charge to the tenant directly, and if such return is made within such period the owner shall not become liable under the provisions of section 112 of this act. An owner who has obtained a judgment against a tenant for, or which includes, such rent or charge in excess of the amount fixed in such a determination of the commission shall move to vacate such judgment to the amount of such excess, within 60 days after this section takes effect. In case such motion is not made and such owner does not exercise reasonable diligence to have such judgment vacated, such judgment, to the amount of such excess, shall be null and void.

"SEC. 124. (a) Any violation of this act or of any order of the commission, committed before the termination of this act may, after such termination, be prosecuted by and in the name of the Attorney General in lieu of the commission in the same manner and with the same effect as if this act had not been terminated.

"(b) In the case of (1) any proceeding begun under the provisions of section 114 before the termination of this act, or (2) any proceeding on appeal from a determination of the commission begun before the termination of this act, such proceeding may, after such termination, be continued in the same manner with the same effect as if this act had not been terminated, and all powers and duties in respect to such proceedings vested in the commission by this act shall for the purposes of such proceedings be vested in the Attorney General.

"(c) Any right or obligation based upon any provision of this act or upon any order of the commission, accrued prior to the termination of this act may, after the termination of this act, be enforced in the same manner and with the same effect as if this act had not been terminated.

"(d) The Attorney General may, after the termination of this act, appoint the attorney last appointed by the commission under the provisions of section 103 to assist in the enforcement of this act. Such attorney shall continue to receive compensation for such services at the rate of $5,000 per annum, payable monthly."

SEC. 5. That the provisions of this act, except section 2, shall take effect upon the enactment of the act. Section 2 shall take effect on and after October 22, 1921.

Mr. WOODRUFF. Mr. Chairman, I yield two minutes to the gentleman from Wyoming [Mr. MONDELL].

Mr. MONDELL. Mr. Chairman, I think this bill ought to pass. I rose more particularly to say that unless privileged matters reach the House I imagine that the gentleman in charge of the bill will not desire to conclude the debate before recess, but it will probably be necessary to recess and return in the evening in order to be prepared to receive conference reports that may come in. If we are to secure a recess tomorrow it will be necessary to advance legislation, now in an incomplete condition, as rapidly as possible.

Mr. WALSH. Will the gentleman yield?

Mr. MONDELL. Yes.

Mr. WALSH. How many more measures before we quit are there that are going to drop out of the sky which were not included in the gentleman's program of legislation that he stated heretofore?

Mr. MONDELL. I do not think anything has been taken up that was not referred to when the program was last discussed.

Mr. BLANTON. This is a blessing from Heaven for the people of Washington.

Mr. WALSH. Has the program been abandoned now as to the legislation that is to be enacted before we recess, if we do?

Mr. MONDELL. I think not.

Mr. WALSH. We are to stick by the program with such incidental matters as may come up?

Mr. MONDELL. I think that is it, with the approval of the gentleman from Massachusetts. [Laughter.]

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. GARRETT of Tennessee. Will the gentleman yield me a minute?

Mr. WOODRUFF. I will yield to the gentleman from Tennessee a minute.

Mr. GARRETT of Tennessee. May I ask the gentleman from Wyoming is it the thought of the gentleman that we shall recess about what time?

Mr. MONDELL. That is a matter for gentlemen in charge of the bill to determine. I was under the impression that gentlemen would want to go on for an hour and a half and then recess, as it will be necessary to be here in the evening in any event. We shall have an evening session without regard to this bill. It is necessary to be here to receive conference reports that may come over from the other House. We will arrange the recess to suit the gentleman in charge of the bill. My thought was that unless we have some privileged matters before the House we would recess from half past 5 until half past 7.

Mr. WOODRUFF. I will say, Mr. Chairman, that that arrangement is satisfactory to me personally. Inasmuch as we

must have an evening session anyway, we might as well go on with this bill.

Mr. BLANTON. It is now 4.35 and we have two hours of general debate. We could finish at 6.35 and finish the bill to-night.

Mr. WOODRUFF. The gentleman knows from experience that we would have during that time not over a dozen men in the Chamber.

Mr. BLANTON. And yet we consider two or three hundred million dollar appropriation bills with 8 or 10 Members present.

Mr. CARTER. I think, if the gentleman will yield, that there might be a point of no quorum made, and then nothing but a roll call and no progress made on the bill.

Mr. WOODRUFF. Yes; but that point of order could be made now as well as later. We want to take the matter up and dispose of it as soon as possible.

Mr. FOCHT. Mr. Chairman, the Members who were opposed to this bill have yielded in various ways with respect to advancing its consideration. In the committee we remained one night till 12 o'clock.

Mr. BLANTON. Mr. Chairman, I demand the regular order.

The CHAIRMAN. The gentleman from Pennsylvania is proceeding in order on the time yielded him.

Mr. WOODRUFF. I did not yield the gentleman any time; he is taking his own time.

The CHAIRMAN. How much time does the gentleman yield himself?

Mr. FOCHT. I will continue, and we will count it up afterwards. During the day there was some understanding that this measure was to be brought along in the regular order. Now, I have been waiting all day for it to be taken up and here it is half past 4. I think as long as the bill is up we had better go through with it and finish the job. Unless we do that, having been delayed all day, I shall have to ask for a quorum to be present.

Mr. MANN. Will the gentleman allow me a suggestion based on considerable experience?

Mr. FOCHT. Certainly.

Mr. MANN. Every Member is desirous, and I know the gentleman from Pennsylvania is desirous, of accommodating the membership of the House as far as practicable. Most Members have dinner about 6 or 6.30 or 7 o'clock. Now, as long as we are going to have an evening session why not be willing to let Members accommodate themselves to the ordinary conditions and come back here this evening? They will have to have a quorum when they come back, and I would suggest to my friend from Pennsylvania that he wait if he can to make his speech until Members come back with their stomachs full, and they will appreciate it much more. [Laughter.]

Mr. FOCHT. Then, Mr. Chairman, as long as we are going to have a meeting to-night, why not start now and let us adjourn and come back.

Mr. WOODRUFF. I would not care to agree to that. It is only 20 minutes of 5, and we can remain until half past 5.

Mr. FESS. Will the gentleman yield?

Mr. WOODRUFF. I will yield five minutes to the gentleman from Ohio.

Mr. FESS. I want the attention of the chairman of the committee. There was a disposition to cut the debate very short since several Members said there was not much demand for debate, and gentlemen will remember that we conceded all the time and wanted only to expedite the work to-night.

Mr. FOCHT. I will state to my distinguished friend that the gentleman yielded to me in the matter of time, but the question was when we would get the time—at a period when the seats are vacant? This is probably the greatest bill that has been brought before this House which relates to the District of Columbia and probably the most iniquitous bill that was ever brought before any legislature. There ought to be a full membership here, and that we will not have.

Mr. FESS. We gave the gentleman all of the time he asked.

Mr. FOCHT. I concede that; but at a time when the question will not be able to be properly debated.

Mr. FESS. Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The gentleman from Michigan has 53 minutes remaining and the gentleman from Pennsylvania 56 minutes.

Mr. WOODRUFF. Mr. Chairman, on October, 1919, the Congress passed what is known as the Ball Rent Act. Everyone present who was in the House at that time knows conditions were such that something of the kind was necessary—conditions brought about by the great influx of people on account of the war. It was hoped then, and I presume it is hoped by nearly all of the membership of the House now, that the time may come soon when it will not be necessary to retain this law on the statute books. But the Committee on the District of Columbia, to which the bill was referred, is of the opinion that conditions existing now and conditions which will exist for some months to come are such that it is absolutely necessary, if we are to consider the interests of the people of the District who have to rent their homes, that the provisions of the law be extended for the time specified in this bill.

Mr. LAYTON. Mr. Chairman, will the gentleman yield?

Mr. WOODRUFF. Yes.

Mr. LAYTON. What city does the gentleman come from?

Mr. WOODRUFF. Bay City, Mich.

Mr. LAYTON. Do I understand that the gentleman thinks this would be a good provision for the Federal Congress to apply to all of the cities and towns in the United States?

Mr. WOODRUFF. Oh, the gentleman knows that the Federal Congress could not apply such a bill to all of the cities of the United States. He knows that just as well as I do; but for the information of the gentleman I would state that I would certainly approve of a law of this character in the city of Bay City if the conditions in Bay City were as they are in the city of Washington. [Applause.]

I do not know how many Members before me have occasion to rent apartments. I know that I have. I know that I have been looking about this city for six weeks for an apartment, and I can not find one. I can not find an apartment in the city that seems to me a fit place for a respectable man and woman to live that the ordinary man can afford to rent. From my experience here I believe that the rent hogs of Washington are about 100 degrees worse than they are in any other city in the country. [Applause.]

I reserve the balance of my time.

Mr. LONDON. Mr. Chairman, will the gentleman yield?

Mr. WOODRUFF. Certainly.

Mr. LONDON. Does this bill cover apartment houses?

Mr. WOODRUFF. It does.

Mr. LONDON. Then the amendment simply extends the operation of the present law?

Mr. WOODRUFF. It simply extends the operation of the present law.

Mr. LONDON. If the gentleman finds it hard to get an apartment now at a reasonable rental, how will this extension of the law improve the situation?

Mr. WOODRUFF. It will make it even harder than it is at present if the law is not extended.

Mr. LONDON. Why?

Mr. WOODRUFF. Because the landlords of the District are held somewhat in restraint by the provisions of this law, and by the activity of the Rent Commission.

Mr. LONDON. Is the present law amended in any other respect?

Mr. WOODRUFF. Yes; it is amended in this respect: It takes from the provisions of the law buildings used only for business purposes. It provides also for the hiring of an attorney and for the employing of a secretary to the commission.

Mr. LINEBERGER. Does the gentleman anticipate that the coming disarmament conference will aggravate the situation?

Mr. WOODRUFF. It was the opinion of the committee that the coming conference would aggravate this situation very materially.

Mr. LINEBERGER. And it makes it all the more necessary that the law should be extended?

Mr. WOODRUFF. Yes.

Mr. KINCHELOE. Mr. Chairman, will the gentleman yield?

Mr. WOODRUFF. Yes.

Mr. KINCHELOE. How far back has a contract to date between a landlord and a tenant so that the tenant is protected under the extension of this law?

Mr. WOODRUFF. I do not understand that that enters into it at all.

Mr. KINCHELOE. Say the contract is made this year and expires about the middle of September or October. Is the tenant protected?

Mr. WOODRUFF. Yes.

Mr. KINCHELOE. Notwithstanding the contract was made within the last year?

Mr. WOODRUFF. Yes.

Mr. KINCHELOE. Does this apply in any way to hotels?

Mr. WOODRUFF. I am under the impression that it does. I do not state that positively.

Mr. KINCHELOE. Why is it that the committee has never gone that far? They are robbing the people here as much as anyone else.

Mr. WOODRUFF. The gentleman will have to ask the commission about that. I could not answer that.

Mr. McLAUGHLIN of Michigan. The gentleman says that this does include apartment houses. The old law now on the books does. As I read the amendment in section 2, on page 1, of the bill, the term "rental property" does not include any portion of a hotel or apartment building, garage, or warehouse, or any other building or part thereof. It excludes an apartment.

Mr. WOODRUFF. No.

Mr. McLAUGHLIN of Michigan. It seems to me it excludes apartments.

Mr. WOODRUFF. No; just read the balance of the amendment and the gentleman will see that it provides for just exactly what I stated.

Mr. McLAUGHLIN of Michigan (reading)—

Used by the tenant exclusively for a business purpose other than the subleasing or otherwise subcontracting for use of living accommodations.

Mr. WOODRUFF. That covers the situation.

Mr. McLAUGHLIN of Michigan. That only qualifies (c) in line 2, and it strikes me that if the intention as indicated by the gentleman from Michigan is to be carried out I would prefer another draft or other words to express that meaning.

Mr. WOODRUFF. I will say this, that it needs a careful reading of this section to get the meaning of it, and I would suggest to the gentleman that when we read the bill under the five-minute rule he does not press the amendment which he has in mind for the reason that Congress is about to recess, and if we amend this bill in any particular and it has to go to conference it is going to require much time which will result in throwing it over until after the recess, which, to my mind, is entirely too late under the present circumstances.

Mr. BURTON. Will the gentleman yield for a question for information.

Mr. WOODRUFF. Certainly.

Mr. BURTON. Can leases be ordered under this law which expire after May 22, 1922?

Mr. WOODRUFF. Yes.

Mr. BURTON. What is the limit of that?

Mr. WOODRUFF. The authority given the commission under the bill as indicated enables them to pass upon a lease no matter when it expires if the lease is in effect during the time they make application.

Mr. BURTON. Then in respect to a 10-year lease they could determine what the rental could be to the end of those 10 years?

Mr. WOODRUFF. I will say for the information of the gentleman that it was the experience of the committee when we had the members of the commission before the committee that it was the impression given that the members of the commission were doing the very best they could and treating not only the tenants fairly but treating the landlords fairly, and they had in their mind to allow the landlord a reasonably fair return on his investment at all times.

Mr. SMITH of Idaho. It does not apply to leases beyond the date stated as the termination of this act, as far as the rate to be charged is concerned.

Mr. BURTON. The gentleman from Michigan says exactly the contrary.

Mr. SMITH of Idaho. I think possibly he misunderstood the question.

Mr. WOODRUFF. In the case in question, and I quote now from paragraph (b), page 4:

In case of (1) any proceeding begun under the provisions of section 114 before the termination of this act, or (2) any proceeding on appeal from a determination of the commission begun before the determination of this act, such proceeding may, after such termination, be continued in the same manner, with the same effect, as if this act had not been terminated, and all powers and duties in respect to such proceedings vested in the commission by this act shall, for the purposes of such proceedings, be vested in the Attorney General.

Mr. BURTON. Will not the tendency be, when we are attempting to pass a law applying it to 10 years, to fix the rental for 10 years when this law expires next May?

Mr. WOODRUFF. This bill as written leaves it entirely to the judgment of the Attorney General.

Mr. BURTON. The Attorney General in his judgment might say that these leases ought to continue for 10 years and might tie up a piece of property? I am asking for information; I have not studied the act. If there is such a provision in it that this can bind the owner of the property to allow a tenant objectionable to him to keep it for 10 years to come, it is certainly very radical and I think very dangerous, even though——

Mr. WOODRUFF. I think it is clear that the provisions of this act will apply to leases only during the life of the commission.

Mr. BURTON. But during the life of the commission applications would be made for occupancy of the property beyond May 22?

Mr. WOODRUFF. Yes.

Mr. BURTON. That date is not the date on which leases usually expire or begin. They begin on the 1st of April, or the 1st of October, or the 1st of May.

Mr. WOODRUFF. I will say largely on the 1st of October in this city.

Mr. BURTON. It does not mean, does it, that all leases terminate on the 22d of May, 1922, and that the authority of the commission is restricted to a tenancy continuing until that time?

Mr. WOODRUFF. I do not believe any court in the country would hold that the authority of the commission would extend beyond its life.

Mr. LAYTON. Does the gentleman think that this is a defensible proposition from the standpoint of principle?

Mr. WOODRUFF. I will ask the gentleman a question: Is the thing that he has in mind the theory of property rights?

Mr. LAYTON. Exactly.

Mr. WOODRUFF. Why in the world do not some of you men who are continually talking about property rights talk once in a while about human rights?

Mr. LAYTON. That is the idea?

Mr. WOODRUFF. Yes.

Mr. LAYTON. Then you and I understand each other.

Mr. WOODRUFF. I think we ought to after that.

Mr. LAYTON. In other words, I belong to the school of men who believe in the Constitution and believe that the Constitution was framed to protect me and you and everybody else in our property rights as well as our individual rights. [Applause.] I do not believe in the school that I see developing on both sides of this House more and more every day, that leads you right down the toboggan slide to socialism.

Mr. McLAUGHLIN of Michigan. The gentleman doubtless knows that the Supreme Court of the United States has upheld this law?

Mr. LAYTON. The courts are made up of human beings.

Mr. WOODRUFF. I want to say that in no instance which has come to the attention of the committee has there been an injustice done to property owners by the commission in this city.

Mr. Chairman, I reserve the balance of my time.

Mr. FOCHT. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois [Mr. SPROUL].

Mr. SPROUL. Mr. Chairman and gentlemen of the committee, I have had quite a little experience as a landlord as well as tenant, and I believe that the tenants are treated just as fairly in the city of Washington as they are in the city of Chicago. We all know that for the last six or seven years everything that we have had to buy has been going up, and why not rents along with the rest? Now, we are trying to protect the tenants, as far as the apartments are concerned. What are we doing with the hotels? When I came here last February I got quarters at the Raleigh Hotel, two small rooms about 10 by 12, and I paid for those two rooms $240 a month. The Rent Commission did not appear to straighten that out.

Now, I want to say that I am opposed to this bill, because when it was enacted it was purely a war necessity and when it was passed it was considered temporary legislation.

Mr. CARTER. Will the gentleman yield?

Mr. SPROUL. No, sir; I refuse to yield until I get through with my statement, and then I will do so.

It is now almost three years since the termination of the war, and the act is still in force, but will expire October 22, 1921. Now the Ball bill is brought before the House for an extension to May 22, 1922, and I believe should be defeated. It has served its purpose. The times do not demand such legislation, and I am sure that all thinking people believe that all war legislation should be repealed.

The Rent Commission is paid on a fifty-fifty basis—that is, 50 per cent by the District and 50 per cent out of the Federal Treasury—at an expense of $15,000 for three commissioners and one secretary at $3,000.

Mr. MADDEN. It is 60–40 now.

Mr. SPROUL. I got it 50–50.

The assessor of the District receives in addition to his regular salary $1,000 per year to act in an advisory capacity with the commission. In addition to those enumerated, there are 12 employees at a total salary of $1,407 per month, or $16,884 per year, making a total of $35,884, and this does not take into account the stationery, rent, and other incidental expenses, which would readily amount to $3,000 more.

We have all been talking economy. Well, here is a good chance to start saving in a small way and right at home, by abolishing the Rent Commission and thereby saving a useless expenditure of nearly $40,000 a year of the taxpayers' money.

Aside from the item of expense, let us look at the practical side of the question from a business standpoint. Under the present law the Rent Commission has the power to set the

rental price, to tell the landlord how much he may receive and the tenant what he shall pay. How is this done? One member of the commission testified before the committee that she arrived at a fair rental price by computing from the assessor's valuation. Now, as you all know, the only fair way by which to determine a rental is from the actual cost to the owner of the property.

Now, anybody who knows what an assessor is knows that he does not make a very fair valuation. He goes out on the street and looks at one house and assesses all the property for two or three blocks in that neighborhood at the same figure.

Another feature of this bill to which I object is that no landlord can cause a tenant to vacate, except that he himself or some member of his immediate family desires to occupy the premises or that he wishes to tear down the building. I am one of those who believe that the owner as well as the tenant should have some rights, and that when I invest my money in a building I should be able to say to a tenant, "Your lease expires at a certain time, and I shall expect you to vacate on that day." I am certainly not doing the tenant an injustice by my request. Now, under the present law, which this bill would extend for another period of seven months, Mr. Tenant goes to the Rent Commission and says, "I am unwilling to move." The landlord has only one recourse; he goes to the same commission, and in order to remove that tenant from his own building he is required to make an affidavit that he wishes the premises for his own occupancy or for that of some member of his immediate family.

This bill, in my judgment, is not only unfair to the owner but to the tenant as well—the satisfied tenant who, when he enters into a lease, is willing to live up to its terms and who does not register unnecessary and unreasonable complaints.

In my opinion, the Rent Commission is the cause of the inactivity in the erection of apartment buildings and houses for rent in this city. Capital will not invest where it knows it is buying trouble, and I am sure that were it not for this commission and its unfair decisions many more apartments would be erected, thereby relieving the serious shortage of accommodations.

I have an apartment that I rented last spring, but I wanted to move; it was not large enough, and I wanted to move from one apartment to another in the same building. There was another apartment there that they were asking $200 a month for. I went down and said I would take the apartment and pay rent in both places. I was paying $100 a month in the one I had. I had not left the office an hour before somebody had been in there and offered the landlord $250 for the apartment which the landlord had offered to me for $200, and the landlord did not ask him for it.

During the hearings before the committee the real estate agents were severely criticized, and, I think, unjustly. No doubt there are some, just as there are some in all lines of business, who are not exactly square in their dealings, but, on the whole, I am sure that the real estate men average up with any other class of business men, and I think that the time has come when we can safely allow the agent and the tenant to adjust their own difficulties without the aid of a paid arbitration board at an expense to the taxpayer of $40,000 or thereabout per year.

As I said before, this bill may have been necessary as a war measure, but, gentlemen, I ask in all sincerity, Do you approve of this kind of legislation, and in times of peace? I for one do not, and I certainly hope that the bill does not pass. [Applause.]

Mr. RAKER. Mr. Chairman, will the gentleman yield for a question?

Mr. SPROUL. Yes.

Mr. RAKER. People at times need an apartment, a place to live in, and are even willing to pay more than the property is worth?

Mr. SPROUL. Yes.

Mr. RAKER. You are in favor of the antiusury law, are you not?

Mr. SPROUL. Yes.

Mr. RAKER. There is no distinction.

Mr. SPROUL. Yes; there is a distinction. I put up my building and it cost me my own good money, and I have the right either to rent that building or to let it stay idle.

Mr. RAKER. And if I have $100 I can loan it, and by the same reasoning I ought to be allowed to loan it at any rate I pleased.

Mr. BLANTON. Mr. Chairman, will the gentleman yield?

Mr. SPROUL. Yes.

Mr. BLANTON. The distinction is this, I will tell my distinguished friend from Chicago: That he is not in the banking business but he is fortunate enough to own fine apartment houses.

Mr. SPROUL. No. I beg the gentleman's pardon. I thought I owned them, and I know I paid for them, but the tenants seemed to own the buildings, and two years ago I practically gave them away, and I do not now own any apartments. [Laughter.]

Mr. WOODRUFF. Mr. Chairman. I yield 10 minutes to the gentleman from Missouri [Mr. RHODES].

The CHAIRMAN. The gentleman from Missouri is recognized for 10 minutes.

Mr. RHODES. Mr. Chairman and gentlemen of the committee, I had no intention of speaking on this measure, but some things have been said in the last few moments which have caused me to change my mind, and I feel inclined to offer a few observations. I listened with interest to what the distinguished chairman of this committee [Mr. FOCHT] said a while ago. I also read his remarks in this morning's Post, and with him I agree on what he had to say with regard to the principle that is involved in this case.

Mr. FOCHT. What is that?

Mr. RHODES. I say I am in hearty accord with the principle announced by the gentleman as reported in this morning's paper. I listened with interest to the various searching questions propounded by my delightful friend from Delaware [Mr. LAYTON], and with him I am also in full accord. But I could not refrain from asking myself the question, when the distinguished gentleman from Delaware [Mr. LAYTON] was propounding his constitutional questions, if he had ever found it necessary to rent an apartment house in the city of Washington?

Mr. LAYTON. I will say to the gentleman that while I do not own any property in Washington, I am not sleeping out in the street. I live in a house. [Laughter.]

Mr. RHODES. The gentleman, I am certain, has made a correct statement, but his statement is not in response to my suggestion. I am now justified in saying that I feel certain that the gentleman from Delaware has never rented an apartment in the city of Washington. I have been a housekeeper about 25 years. I am a small property owner in my State. I have occupied rented houses, and I have occupied my own home. I know something about the law of real property. I have practiced law for 25 years. One of the first things I remember having studied was the law of real property and the relation of landlord and tenant.

I am compelled to say on this occasion that in all my experience I have never known such a situation to exist anywhere in these United States as exists in the city of Washington to-day.

Mr. LAYTON. I am not going to antagonize that statement. I think there is in the city of Washington a band of conscienceless robbers.

Mr. RHODES. I know it.

Mr. LAYTON. But there is a principle at stake in these matters.

Mr. RHODES. The principle is one thing, and the practice is quite another thing. Here is the situation with which I am confronted. I am renting a five-room unfurnished apartment for which I pay $150 a month. I entered into a year's contract, and the agent representing the landlord in the transaction concealed from me certain facts with regard to the property, which, if they had been made known to me, would have caused me to refuse to take the apartment at one-half that price. I imagine this is going to be a sort of experience meeting before we get through with this bill, and this is the grievance committee before which we have a chance to state our troubles. My case is this: Having entered into this contract and become the occupant of the apartment for which I pay $150 monthly in advance, within 30 days after I entered the premises I noticed a lot of loose plastering overhead in one of the rooms, and soon the same condition appeared in the bathroom. We have occupied the premises less than nine months, and three times during this time a water pipe in the apartment above has either burst or leaked and caused water to soak the overhead and side walls, causing the plastering to fall. When I made a complaint the clever agent informed me that my neighbor who occupies the apartment over me was responsible for the trouble, but as he is the secretary of a foreign legation, he is immune from the laws of the United States of America. This clever agent also said they have been trying to eject this distinguished tenant for about three years and have been unable to do so. Not only do we have to put up with this condition but a number of other conditions exist which make the situation almost intolerable. Gentlemen, I know I am paying at least twice as much rent as is fair and right. I know that the city of Washington was originally designed to be the seat of government. I know that

many people here are working for the Government, and I insist that it is contrary to the principle upon which the seat of government was established to allow public officials to be imposed upon by unscrupulous landlords and profiteers in the collection of unjust and unreasonable rents.

Mr. BYRNS of Tennessee. Will the gentleman yield?

Mr. RHODES. I will.

Mr. BYRNS of Tennessee. Outside of Members of Congress, does not the gentleman think Congress owes a duty to these employees who are brought here and who are serving, some of them, for $1,200 and $1,400 and $1,600 a year, and who are being robbed by rent profiteers? [Applause.]

Mr. RHODES. I say yes; it is a case of robbery from one end of this town to the other, so far as my experience goes.

Mr. LAYTON. And I say yes to the gentleman with very deep sincerity. But is this the way to meet the situation?

Mr. BYRNS of Tennessee. How else can you meet it?

Mr. LAYTON. Appropriate the money and build a building here.

Mr. BLANTON. That would be paternalism.

Mr. RHODES. I would like to be permitted to make this additional statement: I believe this bill is the only practical way by which the situation can be met. There is no question in the mind of any Member of this House, since the Supreme Court upheld the constitutionality of the law, but what Congress has the right to continue this law in force as long as is necessary.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RHODES. May I have two minutes more?

Mr. WOODRUFF. I yield five minutes more to the gentleman.

Mr. RHODES. I will say to my friend from Delaware [Mr. LAYTON] that this is the only way on the face of the earth by which Congress has a chance to defend itself.

Mr. LAYTON. Oh, no.

Mr. RHODES. I should not advocate the continuation of this legislation were it practical to meet the situation in any other way.

Mr. LAYTON. I should like to ask the gentleman if a bill has not already been presented to erect a building for the accommodation of Congressmen? I have heard it suggested here, but whether the bill was introduced or not I do not know. And I would like to ask him whether it would not be perfectly constitutional, just as you pay salaries to Government employees, to build dormitories and rent them to Government employees if you please?

Mr. TINCHER. Would that be socialistic?

Mr. LAYTON. No; it would not be socialistic at all. You would not in that case be infringing the rights of property. That is the point I want to make.

Mr. RHODES. However that may be, I think the gentleman from Delaware knows that no bill that is either introduced or in contemplation would become a law under which buildings could be erected for the use of Members of this House during our present terms of office. Therefore, as I say, the passage of this bill is the only remedy there is in store for us.

I am not going to split hairs with the constitutional lawyers and with the other gentlemen who seem to find fault with the bill and its phraseology. I am willing to take this bill just as it is. I am quite sure the Senate did not pass the bill without proper consideration, and as a Member of this House I feel justified in accepting the bill and passing it in its present form. [Applause.]

Mr. WOODRUFF. Mr. Chairman, I ask that the opponents of the bill use some of their time.

Mr. FOCHT. Mr. Chairman, as I said, we have yielded everything to-day, and we are not prepared to go ahead with the bill now. I move that the House recess until 8 o'clock.

Mr. BLANTON. And I make the point of order that such a motion is not in order.

Mr. MONDELL. Mr. Chairman, we can make no arrangement in committee in regard to a recess, but I think we could learn whether all who are present in the committee will be willing in the House to recess from half past 5 to 8 o'clock.

The CHAIRMAN. It seems to the Chair that if the committee desires further consideration of this bill this evening, the proper method of procedure would be for the committee to rise and submit the request to the House after it has risen.

Mr. FOCHT. Mr. Chairman, I withdraw my motion.

Mr. WOODRUFF. Mr. Chairman, I yield 10 minutes to the gentleman from Texas, Mr. Blanton.

Mr. SPROUL. Mr. Chairman, I believe that my friend from Texas does not desire, when he makes a good speech, to make one without a quorum.

Mr. BLANTON. Oh, we have the usual number here.

Mr. SPROUL. I withdraw the suggestion.

Mr. BLANTON. Mr. Chairman, when the rent commissioners came before the committee they indicated that it was absolutely necessary to pass this law to protect the poor people of this District, who were not able to meet the rent situation. They have been refused a renewal of the rent contracts which are to expire on October 1. They have been given notice that they would be evicted. Those who have been offered renewals have been given notice that they must pay a substantial increase of rental if they expected to remain. One commissioner said that an attorney in Washington told her that as soon as the rent law expired he had a bunch of evictions a foot high ready to serve upon tenants to put them out. I know that there are some worthless tenants, there are some who ought to be kicked out, some entitled to no consideration whatever, but there are lots of good, deserving families in the District who have occupied the same house for 5, 10, 15, and even 20 years, paid the rent regularly, amounting in time to more than the value of the property, who are going to be kicked out in order that the landlord may collect more rent.

The opponents of this bill say that the law has stopped building in Washington. But directly I will show you that it has not. Ordinarily I am against this kind of legislation. I am against any kind of paternalistic legislation and would vote against it unless if applied to any State, and would vote against this bill but for the fact that there is an imperative emergency that makes it absolutely necessary. There is an imperative emergency in this case, which means fifty to a hundred thousand poor people being turned out of a home this winter. They say this bill has stopped building. If you go out here on Irving Street between Eighteenth and Nineteenth, this side of the park, you will find where H. B. Gruver within the last three months has built 18 big, fine residences in one block, and he has sold them from $12,000 to $16,500 each. He has built them and sold them within the last three months. And he has within the last 10 days, on another portion of that property, within two blocks of each other, started 12 new residences. One of our colleagues here can tell you about it, because he has purchased one of them. That indicates what building is being done in Washington by one man. If I were like my good friend Dr. LAYTON, from Delaware, if I hailed from that State and I had a rich constituent like his, who could come to Washington and just as a little side line buy the New Willard Hotel and operate it, like his multimillionaire constituent did, I would probably feel different. [Laughter.] If I were like my distinguished friend from Chicago, who until recently at least owned two big apartment houses and who is able to live so luxuriously that he is able to pay his hotel chambermaid a regular tip of $5 a week, I would probably feel as he does.

Mr. SPROUL. I want to say to the gentleman that I never was extortionate, never asked more rent than I thought was coming to me, and——

Mr. BLANTON. I am sure the gentleman is that way; but he must not forget the poor people here who only get $1,200 a year whose rent is to be increased 20, 40, 60, and even 100 per cent in some instances. This Government has the right to protect them from these Shylocks.

Mr. SPROUL. Will the gentleman yield?

Mr. BLANTON. Yes.

Mr. SPROUL. Does this bill add one single additional apartment or house in this town?

Mr. BLANTON. Oh, no; of course not. But I do not blame my friend because he differs with me on this question. Now, the chairman of the District of Columbia Committee is the most important man in Congress. He is the only man I ever saw so big that every newspaper in Washington has a front-line article on him every morning about interviews he gives out.

Mr. FOCHT. The gentleman is getting a little sore, is he?

Mr. BLANTON. He gave out an interview definitely asserting that this bill was not going to be taken up before recess.

Mr. KUNZ. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. But the gentleman from Wyoming [Mr. MONDELL] fooled him. The gentleman from Wyoming sent out to the Rules Committee and told PHIL to get busy, and PHIL brought in a rule making this bill in order, and BENNY is a little sore about it. I yield to the gentleman.

Mr. KUNZ. Can the gentleman show to this committee wherein a reduction has been made by the Rent Commission since it has been in existence?

Mr. BLANTON. Yes; in many instances, as it has decided over 3,500 cases. They have looked into over 3,500 cases and have investigated and decided that many.

Mr. KUNZ. Mr. Chairman, will the gentleman yield further?

Mr. BLANTON. No; I regret that I can not yield any more. The gentleman can get some time. He is on the committee. Mr.

Chairman, I do not blame the chairman of the committee for feeling as he does. When it comes to spending public money, there is not a Representative or a Senator in or out of Congress who can come within a city block of him. Why, after he goes to these banquets downtown and mingles with the high brows, he is ready to spend public money like water. He says to them, as reported by the press, "I am going to give you $800,000,000 for this, and I am going to give you $100,000,000 for that." In spending money nobody can come near him, but when it comes to saving money, when it comes to saving money either for the Government or the people, BENNY is not in it at all. Oh, he ought to forget how he feels in his luxurious homes in Pennsylvania and in Washington, and he ought to remember what the little hovel home means to the little family here, whose income is restricted here in the city of Washington. It means a shelter to the wife and children this winter, and if this bill is not passed before October 22 they are going out to face a severe winter without a shelter, for we are due to have a severe winter. The gentleman ought to stay here and see that this bill passes. [Applause.]

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. WOODRUFF. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. HICKS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill S. 2131, and had come to no resolution thereon.

EXTENSION OF REMARKS.

Mr. KOPP. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the refunding of the foreign loans.

The SPEAKER. Is there objection?

There was no objection.

RECESS.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that the House stand in recess until 8 o'clock p. m.

The SPEAKER. The gentleman from Wyoming asks unanimous consent that the House stand in recess until 8 o'clock p. m. Is there objection?

There was no objection.

Accordingly (at 5 o'clock and 30 minutes p. m.) the House stood in recess until 8 o'clock p. m.

AFTER RECESS.

The recess having expired at 8 o'clock, the House was called to order by the Speaker.

Mr. WOODRUFF. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill S. 2131.

The motion was agreed to; accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill S. 2131, with Mr. HICKS in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill S. 2131, which the Clerk will report by title.

The Clerk read as follows:

S. 2131. An act to extend for the period of seven months the provisions of Title II of the food control and the District of Columbia rents act, approved October 22, 1919, and for other purposes.

The CHAIRMAN. When the committee arose a few hours ago the gentleman from Michigan had 17 minutes remaining, and the gentleman from Pennsylvania had 46 minutes remaining.

Mr. WOODRUFF. Mr. Speaker, I will ask the gentleman from Pennsylvania to utilize some of his time at this time.

Mr. FOCHT. Mr. Chairman, I yield 10 minutes to the gentleman from Ohio [Mr. BURTON]. [Applause.]

Mr. BURTON. Mr. Chairman, I am reluctant to vote against this bill. I am not sure I shall do so. I recognize it was passed originally at a time of emergency due to the war. It is one of the most drastic statutes I ever read. One would think it had been drawn by a disgruntled tenant who had trouble with his landlord and wished to get even with him. If this passes I trust that it will be the last of its kind. We have had too much of control by commissions and too little of settlements of contracts by the old way of individual agreement. I am one of those who voted against the trade commission act. It was quite amusing to see how a number of business men thought it would confer beneficial results. Their idea was this: The commission will be constituted, we will go down to Washington, we will sit on the opposite side of the table from the members, and we will say to them, "Here is the scheme we have, and we want to know whether we can put it over," and the commission would say, "Yes; go ahead." That was their thought. The reality was the commission went after them with a red hot poker all the while, and afterwards they said that the members instead of giving their time to constructive work were constantly seeking to find dishonesty, and if they did not find it they sought some ground of suspicion. Now, I recognize and we all must recognize that there are conditions under which Government regulation must exist. Profiteering and dishonesty must be punished. No one will question as to the Interstate Commerce Commission and other similar organizations. But we are multiplying these various commissions beyond all reason. A veteran lawyer in my State said not long ago that it had come to pass that if the old lady and the boy are dissatisfied with the old man they can incorporate a trust company with the right to act as guardian, and then they can appeal to the commission and put the father under their guardianship. And so this beneficent paternal Government of ours is seeking control of the affairs of the people.

This is an interference with the law of contract. I do not believe there is any decision that has been rendered by the Supreme Court for many years that has caused quite so much criticism by the legal profession as the 5 to 4 decision sustaining this act. It is contrary to every principle which has been maintained. This is not an exercise of the police power. It is a most superficial comparison which would justify this measure by laws for the regulation of the height of buildings or the rate of interest on loans. What is the reason why restrictions are placed upon the height of buildings. For public safety, so they may be safe, for light and air; consideration of an artistic nature as to beauty also enter into the equation. There are laws in regard to usury. But these are not retroactive like this law. Prohibitions of usury provide that loans shall not be made beyond a certain figure—6 per cent or 7 per cent, or whatever it may be—and it is then entirely optional with the lender whether he shall loan his money or not. If the lender enters upon an usurious contract he knows he goes in the teeth of the law, but this is a case where the contracts of lease are already made, where the tenants are already in possession and the law by its strong arm declares that the tenants may retain possession indefinitely. I think no law has ever been passed by the Federal Congress so interfering with the rights of property. That man would be most foolish and unwise who in the face of such a regulation as this would invest money in buildings. And I wish to call the attention of my colleagues to the general situation. There is a great deal of legislation proposed at this time, sometimes by hysterics, sometimes by persons of the best intentions, which defeats its very purpose. The purpose of this law is to lower rents. As regards permanent conditions it will do nothing of the kind. If this statute has been accomplishing what is promised for it, when the 22d of May, 1922, rolls around, there will be evictions galore—there may be a punitive spirit on the part of the landlords, and in the meantime building will have been restricted; there will not be so much of room for the people in the District.

I have something of the same opinion in regard to minimum wage laws. There is some justification for this statute, and there is justification sometimes for minimum wage laws, but it is not desirable that we should establish them as permanent and general policies.

Is it peace or war now? The only excuse for this statute was war; the congestion of population here in Washington; the difficulty in housing the servants of the Government. Afterwards, in 1919, the law was very much broadened, so as to include all classes. Now, gentlemen, I beg of you, if you pass this law, let it put the word "finis" on this kind of legislation. I know many employees of the Government here in this city, and I must say I have not received a single word of complaint from anyone of them on this subject, although I have no doubt profiteering has been rife not merely in the fixing of rents, but in many other ways. I sometimes think that outsiders, who have no interests, are the ones who indulge most in criticism. The poet Horace referred to the old Roman custom of hiring mourners from outside, not of the family, at funerals. And he mentions the fact that those hired mourners by their lugubrious notes and howlings made a great deal more fuss than the real mourners themselves. So I think there are some reformers, possibly very well intentioned, who are making more to do than those who are really suffering from conditions that exist.

There is only one way in which we can solve this situation. The profiteer must recognize that he is an undesirable citizen. We have to put the brake on the extravagance and waste, the spirit of selfishness and pleasure seeking, which has been so greatly stimulated by this war. No law will be sufficient to cure

the situation, especially no law which causes the State to intervene and make contracts for people.

There is no adequate remedy, but an enlightened public opinion which shall condemn the man who is selfish and who seeks to take advantage of his neighbors. That is what this country needs now, a kind of moral education; an appeal, first of all, to patriotism and love of country and, next to that, an answer to the question, "What is the duty that I owe to my neighbor?"

My fear is, Mr. Chairman, that statutes of this nature do a great deal more harm than good.

Mr. GARRETT of Tennessee. Will the gentleman yield?

Mr. BURTON. Certainly.

Mr. GARRETT of Tennessee. As I understand the decision of the Supreme Court, it predicated the sustaining of the law wholly on the ground that it was an emergency.

Mr. BURTON. It went a bit further than that. I do not know that I am an authority on the case, because I only examined the decision hastily this afternoon. The majority seem to have enunciated the doctrine that all private property must be held subject to the public interest, and that such a law might be passed in time of peace as well as in war. But the original idea of the statute was the emergency of war. There have been two resolutions or acts on the subject, one in 1918, the other in October, 1919.

Mr. GARRETT of Tennessee. The impression that I obtained was that they sustained it as an emergency, the war being in progress.

Mr. BURTON. Yes.

Mr. GARRETT of Tennessee. I have been wondering since the bill was called up whether this extension will be productive of litigation and again test the question as to whether an emergency growing out of the war still exists.

Mr. BURTON. If there is any different question, with only a shade of difference, in view of the fact that the court decided the case by 5 to 4, there is liable to be another test case. My recollection, however, is that the decision was rendered not under the resolution of 1918, when the war was in progress, but under the law of 1919, when the war had come to an end, at least so far as hostilities were concerned.

Mr. COOPER of Wisconsin. Will the gentleman yield for a question?

Mr. BURTON. Certainly.

Mr. COOPER of Wisconsin. Does the gentleman think that there could be an analogy drawn as a matter of principle between the law which permits a corporation like a street car company, which is a monopoly, to earn only a certain amount upon its investment and the men who in a city make their money by monopolizing land? Land is a product which can not be increased in amount, and if the men can get the land you will stand upon it or sleep in buildings upon it only as they permit you to do so. I remember to have read in a newspaper of this town of one man who owned an apartment house and was getting 42 per cent upon it. Now, on the grounds of public policy, ought the statute to provide that any man who owns something in the nature of a monopoly——

Mr. BURTON. There is a most vital difference between privately owned property and a public utility. A ground of control of street car companies and railroads, and all that sort of thing, is that they enjoy a franchise given by the State. The State can, under laws in many of the States, take away the franchise, and in any event the State can regulate their charges. Of course, they can not go to the extent of confiscation.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. COOPER of Wisconsin. I ask that the gentleman's time be extended two minutes.

The CHAIRMAN. All time is with the gentleman from Pennsylvania [Mr. FOCHT].

Mr. FOCHT. I yield two minutes more to the gentleman.

Mr. COOPER of Wisconsin. Does not the gentleman see the difference—I am only asking to get his opinion—in the use of a law which may be enacted on the ground of public policy, relating to personal property, which can not be monopolized, and real estate in a municipality, which can be?

Mr. BURTON. Frankly speaking, I say this: That there is a certain difference; but why is there not just as much reason to pass a law when food is scarce that the owner of food, which is personal property—to use the illustration of the gentleman from Wisconsin—shall sell the food at a certain figure as there is to pass a law that a tenement shall be rented at a certain figure? Food even more than shelter is a primary necessity of life. Now, I am frank to say that when you come right down to the fundamentals it seems to me there is just as much excuse for passing a law regulating the price of food as there is for regulating the rent a tenant shall pay.

I can not get along without food, but I might go out in the open, somewhere in the forest, and lie down, and get along with some comparative discomfort, but I could get along. [Applause.]

The CHAIRMAN. The time of the gentleman from Ohio has again expired. The gentleman from Michigan [Mr. WOODRUFF] or the gentleman from Pennsylvania [Mr. FOCHT] is recognized.

Mr. WOODRUFF. Mr. Chairman, I request the gentleman from Pennsylvania to use some of his time.

Mr. FOCHT. Mr. Chairman, I yield 10 minutes to the gentleman from Pennsylvania [Mr. GRAHAM].

The CHAIRMAN. The gentleman from Pennsylvania is recognized for 10 minutes.

Mr. GRAHAM of Pennsylvania. I would rather, Mr. Chairman, have the time passed on to some one else at this moment. I would like to speak a little later. I want to get a copy of a decision that I have sent out for.

Mr. FOCHT. Mr. Chairman, I yield 10 minutes to the gentleman from Missouri [Mr. MILLSPAUGH].

The CHAIRMAN. The gentleman from Missouri is recognized for 10 minutes.

Mr. MILLSPAUGH. Mr. Chairman, it is about time that the sane, sensible business men of this House draw the puckering strings on this class of legislation. [Applause.] Every Socialist and every paternalistic Member of this House has jumped on to this Ball Rent Act to ride it as a hobby the same as he would jump on to a bill for Government ownership and control of the street railways if it were permitted upon this floor.

The excuse given by these men at this time is that in November a disarmament conference will be called here, and that a number of gentlemen who will come here from Europe will not be able to find a place to cover their heads unless this Ball Rent Act is extended. When it was originally passed it was the war that caused it. I am of the opinion that if this bill is extended to the 22d of May next the gentlemen in this Chamber at this time will hear these same advocates come up with another excuse for continuing this act.

It is true that there is a shortage of apartments in this city, the same as there is in any other city. But I want to ask the sensible business men of this Chamber how many of them, if they had a half million dollars to invest, would put their money into building an apartment house, where three persons had the fixing of the earnings from that apartment house, in the choosing of which body they had no voice whatever? I am sure if these men could have been present at the hearings had before this committee and could have heard all of the hearings as we heard them, that they would vote against this bill.

The chairman of the commission was there, and when asked the question as to how a man could get possession of a house if he bought it for his own use, provided the purchaser made an affidavit that he wanted it for his own use, he stated to the committee that that individual would have to prove that he wanted that house for his own use; that he would have to submit evidence; and when asked what evidence there would be, he was unable to say what evidence would convince the commission that the man wanted it for his own purposes.

When the chairman of the commission was asked if the purchaser of a house should demand possession of the house for his own use and should give the 30-day notice, and 29 days had elapsed, when the occupant of the house found that in the notice the purchaser had failed to cross a "t" or dot an "i," he established the fact that the commission would take that technicality as killing the notice, and the purchaser of the house would have to give the occupant another 30-day notice; and to inquiries of a member of the committee the chairman of the commission was unable at any time to tell how soon a man purchasing a house for his own purposes could get possession of it.

The gentleman from Texas [Mr. BLANTON] this afternoon, in his usual manner, spoke of the number of apartment houses—or the number of dwellings, I believe, he put it—that were being constructed out in Irving Street; but as he frequently does, he killed his own argument by saying that every one of those houses that were being built were being built for sale, and not for rent. The fact of the matter is——

Mr. LAYTON. Mr. Chairman, will the gentleman yield for a question?

Mr. MILLSPAUGH. I will.

Mr. LAYTON. Do I understand that under this law I could not purchase a property in the city of Washington without first consulting the commissionship of three men? Is that what the gentleman says?

Mr. MILLSPAUGH. You can purchase a property and give 30 days' notice to the occupant, but you must submit the evidence that you want it for your own personal use or that of your dependents before you could get possession of it.

Mr. LAYTON. You mean occupants or tenants?

Mr. MILLSPAUGH. Tenants.

Mr. LAYTON. I could not dispossess them without giving due notice?

Mr. MILLSPAUGH. You could not.

Mr. McCLINTIC. Mr. Chairman, will the gentleman yield?

Mr. MILLSPAUGH. I regret I can not.

The CHAIRMAN. The gentleman declines to yield.

Mr. MILLSPAUGH. The fact of the matter is that there are hundreds of houses vacant in Washington to-day, owing to the fact that the owners of the houses want to sell them and dare not give possession to tenants. No one wants to rent out a house occupied by a tenant under the Ball Act, for the Lord himself only knows when he will get possession, and He is not going to tell.

Mr. FESS. Mr. Chairman, will the gentleman yield for a question?

Mr. MILLSPAUGH. I like you, Doctor, but my time is so limited that I shall have to decline.

Mention was made this afternoon of the fact that usury laws are passed to control the use of money. The fact of the matter is that the usury is about as useful a proposition as five legs on a pig. We know that during the past two years, while our usury laws have all been in effect, the Federal reserve bank in Kansas City, and I do not know how many others—an instrumentality of the Government—collected 12 per cent per annum on very many of its loans, in the face of the usury law. That is evidence of the fact that the usury law is useless. The limit of interest that can legally be charged under the usury law in Illinois is 7 per cent. But you go to a bank in Illinois to borrow $2,000 at 7 per cent, and before you get it they will make you agree to leave $400, or 20 per cent of that, on deposit with the bank, so that you really do not get it for 7 per cent.

It is impossible to regulate the law of supply and demand, and whenever you put any artificial barrier in between the law of supply and demand you are seeking to overcome the basic law, which will result in the disturbance of the equilibrium of our economics.

In the hearings before the committee not one single meritorious case was brought up where any man had either had his rent reduced or increased to any appreciable extent; and I trust that my colleague, the gentleman from Pennsylvania [Mr. FOCHT], in his remarks will show you the practical workings of this law. Gentlemen, we simply ask that you give due attention to the arguments that will be presented on this bill, so that you can act, not with the fog on it, but with an understanding and in an intelligent manner. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

MESSAGE FROM THE SENATE.

The committee informally rose; and the Speaker having resumed the chair, a message from the Senate by Mr. Craven, one of its clerks, announced that the Senate had passed the following concurrent resolution:

Senate concurrent resolution 11.

Resolved by the Senate (the House of Representatives concurring), That the special committee appointed in accordance with the provisions of section 13 of the act entitled "An act to increase the efficiency of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service," approved May 18, 1920, or any subcommittee thereof, is authorized to sit at any time, in the District of Columbia or elsewhere, to send for persons, books, and papers, to administer oaths, to summon and compel the attendance of witnesses, to report such hearings as may be had in connection with any subject which may come before said committee, to print such hearings and other matter as may be necessary to carry out the purposes of this act. All expenses in pursuance hereof shall be paid from the contingent funds of the Senate and House of Representatives in equal proportions upon vouchers authorized by the committee and signed by the chairman thereof.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. RICKETTS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills and joint resolution:

H. R. 7255. An act authorizing bestowal upon the unknown unidentified American to be buried in the Memorial Amphitheater of the National Cemetery at Arlington, Va., the congressional medal of honor and the distinguished service cross;

H. R. 5676. An act taxing contracts for the sale of grain for future delivery, and options for such contracts, and providing for the regulation of boards of trade, and for other purposes;

H. R. 6407. An act for the relief of Maj. Francis M. Maddox, United States Army;

H. R. 1942. An act for the relief of the owners of the dredge *Maryland;* and

H. J. Res. 195. Joint resolution authorizing the payment of salaries of officers and employees of Congress for August, 1921.

DISTRICT OF COLUMBIA RENTS ACT.

The committee resumed its session.

Mr. WOODRUFF. Mr. Chairman, I yield five minutes to the gentleman from Virginia [Mr. WOODS].

Mr. WOODS of Virginia. Mr. Chairman and gentlemen of the committee, it is with some diffidence that on this occasion I differ with the men on my committee, with whom on questions of legislation I usually agree. I agree with some of the gentlemen who have spoken that one of the evils of our present time is that we are having to much legislation. I agree that the greatest freedom we can give to the individual in his enterprise, in his efforts, and the greatest reward we can give to those efforts will be the most beneficial to the Government. Some reference has been made to the legal status of this bill. It would seem to me that when the highest court of the land, even by a narrow majority decided this question, it ought to be final so far as we are concerned.

But beyond that the trend of the courts has been to extend the principle of regulation and to declare that great fundamental principle, not the one that the distinguished gentleman [Mr. BURTON] announced, that public utilities are regulated because of the provisions of their franchises—that may be one reason—but the great fundamental principle underlying all that, which is that the ultimate title to all property is in the State, and in this case in the Government. If the last war taught us one lesson above another it was that we are nearer to our Government and our Government is nearer to us than we thought. We prided ourselves on the wealth we had, on the money we had, but the Government came and put its hand in our pockets and said: "I need this, and I have the superior title. The war is on. Give me that which is mine." The Government did more. It came and put its hand on the shoulder of the boy you had reared and in whom you took pride and said: "This boy is mine. The hour of my need is at hand. Render unto me that which is mine." So the Government comes here in the District of Columbia and assumes to control and regulate things—not to take property—and it says that when an individual undertakes to impose his unjust will on other people, which is what some individuals have been doing here, the Government has the right to come in and say: "It is necessary for me to have my employees, largely increased in number because of the war, find a place to live at reasonable rental so that they can perform my work at reasonable compensation."

Long lines are standing bidding for these apartments and these residences, and the landlords—not all of them but many of them, or the real estate agents in their cupidity and greed—can impose their arbitrary will upon the servants of the public and thus hinder the work of our Government. That is the principle upon which this bill rests, that the Government will not allow that to be done. I respect most highly the very practical gentleman whom we all esteem so much on our committee, the gentleman from Illinois [Mr. SPROUL]. He is one of those few men, so valuable in a legislative body, possessing that genius of mankind, common sense; but I regret that I can not agree with him on this question. I will stand as long as any man will stand for those two great fundamental rights that have come down to us from our English fathers, the right of person and the right of property; but remember, gentlemen, that incident to the right of property is the right of freedom of contract; and when the landlord stands and demands an arbitrary price, as many of them are doing—two or three hundred per cent more than the prices that prevailed before the war—and tenants are helpless to do anything but pay it, he is imposing his will arbitrarily upon those tenants, the servants of this Government. He is depriving them of their freedom of contract. They have no alternative but to accede to his arbitrary and unjust demands. [Applause.]

The CHAIRMAN. The time of the gentleman has expired. The gentleman from Michigan [Mr. WOODRUFF] has 12 minutes remaining and the gentleman from Pennsylvania [Mr. FOCHT] has 24 minutes remaining.

Mr. WOODRUFF. I will ask the gentleman from Pennsylvania to use some of his time.

Mr. FOCHT. Mr. Chairman, I will ask you to notify me when I have consumed 15 minutes.

Mr. Chairman and gentlemen of the House, I was in Washington and a Member of Congress throughout the entire war and during some years prior to that great event. I might state in opening that it is my belief that most of this difficulty or trouble between tenants and landlords grew primarily out

of the fact of the terrific congestion in Washington during the war, and, secondly, that the high rents that became the fashion here in recent years were imposed upon the owners of property by what are known as the country's rich men, the dollar-a-year men who came here with their business genius to help us through the war, but, nevertheless, with big bank accounts, which they were willing to share with the owners of real estate. They did that in a wholesale way and established prices of rentals that were beyond the reach of the average individual. Consequently we have this situation before us. The Ball Act is before you for consideration. It is self-evident that those who wrote that act had well in mind that it was not a proper piece of legislation to remain permanently upon the statute books of the country. In fact, before they ceased writing it they offered an apology. When you read this little insignificant amendment that is now pending it means nothing.

The original act is the document that contains the drastic features never before heard of in any legislative body in America. This is what we all should have read carefully before voting upon this bill. There is no significance at all in this amendment, except that it extends for seven months the provisions of the old act, continues three $5,000 commissioners, and it looks to me very much as though the amendment would hardly have been made except to slip in an attorney at $5,000 a year. Now, this is the apology, my friends; and it is self-evident that they had no better opinion of this legislation than I have, or they would not have written this section 122 into the act:

SEC. 122. It is hereby declared that the provisions of this title are made necessary by emergencies growing out of the war with the Imperial German Government, resulting in rental conditions in the District of Columbia dangerous to the public health and burdensome to public officers and employees whose duties require them to reside within the District and other persons whose activities are essential to the maintenance and comfort of such officers and employees, and thereby embarrassing the Federal Government in the transaction of the public business. It is also declared that this title shall be considered temporary legislation, and that it shall terminate on the expiration of two years from the date of the passage of this act, unless sooner repealed.

It was clearly and distinctly a war measure, enacted after the war, and now two years have elapsed since the enactment of the law, and we are called upon to continue it. And why? What is the idea? They say there are no houses in Washington in which the people might live. I ask any gentleman to walk down the avenues and see how many signs "for rent" and "for sale" he will find. The fact is that they are there; and it is my opinion that if you allow this law to expire and go out of existence there would be instantly released limitless capital to be invested that now is hampered and chained on account of this legislation. We all know that if anything in the world is sensitive it is capital controlled by paternalistic and socialistic laws.

What has been the result? Has anybody been benefited? If there has, who are they? Let us see who some of them are. We had before our committee a gentleman who was a renter, and he was put on cross-examination, and these are some of the things he said. His name is Bradley. I will not further identify him because any gentleman in favor of the bill and members of the committee know it is correct. The chairman asked him this question. Here was a man, a renter of a house.

The chairman said, "I will ask you a question at this point. He asked you to leave the house at the expiration of your lease. Why didn't you get out?" Mr. Bradley said, "I couldn't get out." The chairman said, "You sublet a part of the house; how much are you getting for subletting it?" Mr. Bradley said, "$50." And he was paying $44.

Surely you will not credit that profiteering to the want of real estate. I would be in favor of a bill regulating rates as far as that is concerned if it could be done, but my opposition to this measure is—and I will show you further if I have the time—how impossible it is for men owning property, under the provisions of this law, ever to regain possession of it. The commissioner of rents in this District was relentlessly pursued by Mr. Kunz, of Illinois, for I should say 10 pages of the hearings, asking him how a man would recover his house—his own property—after it had been leased to a tenant, and up to this time that gentleman has not made a satisfactory answer. You will see what the idea is about prolonging this thing. You will see that the attorney employed under this act is not to cease functioning as an attorney when this commission expires, but the attorney is to be reappointed by the Attorney General to continue his suits against the owners of the property. I would like to know whether that sort of a condition is conducive to a man of capital to invest his money. The only way that you can relieve the situation is to build more houses and give places for the people to live.

Mr. FESS. Will the gentleman yield?

Mr. FOCHT. I will gladly.

Mr. FESS. Since the debate has opened a Member of the House, a colleague of ours, reports to me that he has a contract for a house on the 1st of October, which is now rented and occupied by a tenant. Notice has been given by the proprietor, but the tenant will not vacate. The Member of the House states that he can not get the property.

Mr. FOCHT. He will not get it.

Mr. FESS. Does that state of affairs exist here in Washington?

Mr. FOCHT. It does, as God reigns; and the tenant can appeal and appeal until doomsday.

Mr. BEGG. Will the gentleman yield? The gentleman alluded to by the gentleman from Ohio, Dr. FESS, is not a bona fide purchaser. He is another tenant; and a man who wants to lease the house, of course, can not lease it away from another tenant. He can go and buy a house and get possession of it immediately.

Mr. FESS. I think that something ought to be done to relieve the situation. At the same time I hesitate to vote for a law that would permit that sort of a thing.

Mr. FOCHT. So would anybody else if they knew it. So would I; I would not know it if I had not been chairman of this committee. To show you how absurd the whole law is and how ineffective it is, and how barren of results it is, I will read to you what happened in the Senate hearings. Here is the certified accountant who made an analysis of 2,000 cases with this result: Gentlemen, get this and see how silly the whole law is as to getting anywhere or benefiting anyone. This gentleman is on the stand. He said the total reduction was $13,000, and then he goes on to make his conclusions: Take the figures and he finds that the whole net reduction amounted to $299.73, which is a percentage of 10.65 of the total rent involved, and increases at the same time was 9.6 of the total amount involved, a difference of $293.69. In other words, this commission reduced rents in Washington on a basis of $293.69 a month, not sufficient to pay the salary of one commissioner.

You have three commissioners at $5,000 each, and now you want to hook up another salary grab of $5,000 for an attorney and keep him there forever. It seems to me that we ought to bury a measure like this so far that we will never have a suggestion of the same kind of a proposition again.

Mr. CONNELL. Mr. Chairman, will the gentleman yield?

Mr. FOCHT. Yes.

Mr. CONNELL. I notice on page 2 of the bill, in line 23, that all of the expenditures of the commission shall, upon the presentation of itemized vouchers therefor approved by the chairman of the commission, be audited and paid in the same manner as other expenditures for the District of Columbia.

Mr. FOCHT. Yes.

Mr. CONNELL. Is there any limit to the expenditures?

Mr. FOCHT. No; certainly not. They will come in for an appropriation when we meet again. I just want to simply say that the whole thing is mock economy; that it breaks the sanctity of a contract and denies labor a just opportunity, and if it is not socialistic, it is anarchistic, and ultimately that is the grave of liberty.

Mr. MILLSPAUGH. Mr. Chairman, will the gentleman yield?

Mr. FOCHT. Yes.

Mr. MILLSPAUGH. Is not the salary roll of officers——

Mr. FOCHT. Over $40,000 a year.

Mr. MILLSPAUGH. Twenty-four thousand dollars besides the salaries of the clerks, the cost of printing, agents, commissioners, and other incidental expenses.

Mr. FOCHT. Yes; but if you will count up all of the misery, the trouble, and the expense of lawyers and owners, it will be $500,000.

Mr. SPROUL. I want to say that the salaries amount to over $50,000.

Mr. WOODRUFF. Mr. Chairman, I yield five minutes to the gentleman from Massachusetts [Mr. UNDERHILL].

Mr. UNDERHILL. Mr. Chairman, this subject is rather a tempest in a teapot. It is nothing new. The New York Herald in to-day's issue shows that the emergency rent laws of New York have been extended to November, 1922. Massachusetts, through its legislature this last spring, extended the life of the commission there for a whole year. There is no reason whatever why a law which has been in existence here in Washington for a matter of two years, which has brought little or no harm, except in one or two individual cases, should not be extended for six months longer, when a great deal of good has been accomplished by that law and a great deal of suffering can be prevented by its continuance. I agree with the gentle-

man from Ohio [Mr. BURTON] and the gentleman from Virginia [Mr. WOODS]. I have served for a number of years in a legislative capacity, and I do not believe I ever voted for Government ownership or control of any public building, corporation, or utility—but there is no consistency whatever in legislation. I have found since I have been in Washington many Members voting on one side of a subject on one day and on another side the next day, and where I find an exigency existing I feel perfectly justified in extending a law which has been on the statute books for two years, which has been declared constitutional by the Supreme Court, and which does work for the protection of the people. [Applause.]

Mr. HUSTED. Mr. Chairman, will the gentleman yield?

Mr. UNDERHILL. I can not, as I have only five minutes. The statement that a tenant can not be dispossessed is exaggerated. I am willing to agree to the statement that has been made that there have been some abuses, but there have been very few. On the other hand, property has changed hands here in Washington during the existence of this law, the same property four and five and six times at an advance each and every time a new owner has taken possession and increased the rentals of his tenants, and the commission has found the increase to be justifiable and allowed it. Just one instance came before our committee where an injustice was done to a landlord, and on the other hand, the committee rooms were filled with tenants who have been unjustly and unfairly used by the landlords. It is a question whether you are going to choose now between two classes of people here in Washington, the landlord or the property owner, who has not suffered at all during the last two years, I assure you, and the tenant, who has seen his rent increased year after year, year after year, with no apparent reason except that there is somebody else who wants the property and is willing or forced to pay an exorbitant rate to secure it.

Mr. Chairman, no matter how much we love the Constitution and follow it like my friend from New Jersey—and I am with him—no matter how much we desire to see governmental interference with business eliminated—and I am one of those who does—I do not believe you will find me voting for one of the paternalistic schemes that are coming up here later, which have the backing of a great big constituency, when many of you will hesitate a long time before you vote adversely on them; yet here in Washington, where they have no vote and can only look to the Members of Congress for protection, I think it is only just and fair that the Members of Congress should treat the people here as though they were their own voting constituency at home and give them a fair deal. [Applause.]

Mr. FOCHT. Mr. Chairman, I yield eight minutes to the gentleman from Pennsylvania [Mr. GRAHAM].

Mr. GRAHAM of Pennsylvania. Mr. Chairman and members of the committee, there is no lawyer in the land who will bear greater respect for the decisions of the courts than I. I feel that confidence in the courts is the great remaining mainstay of society, and I am loath, therefore, to express a word that would seem even to be critical of a decision, especially a decision made by the highest tribunal in the land. I must say, however, that when the decision in the rent cases was handed down from a divided court, I know of no opinion that caused a greater tremor or feeling of excitement to run through the legal profession of the country than did the majority opinion in that case. I have yet to hear a lawyer of distinction who unqualifiedly yields assent to the doctrine that was announced in the majority opinion.

Without taking up the time to read the opinions which I have before me, I will endeavor to epitomize what is contained in them. The majority opinion read the act of Congress and then said that it was within the legislative power to declare the existence of an emergency in time of war, an emergency that would change the character of private property and place upon it a sort of public interest, and that by reason of that emergency Congress might control the destiny of that private property. When one reads the opinion of the minority report—the court divided five to four—he naturally feels as a lawyer the tremor of consonance with the reasoning of the court founding that opinion as it did upon the Constitution itself and reasoning to a conclusion so that the mind is carried along to that conclusion and receives it with assent. If this principle is permitted to stand, it is capable of expansion to a degree that will affect every condition of property, personal or real, and that will affect the value of contracts, for this involves the sacredness of contractual relationship. The legislature of this great country has seen fit to say that if you own buildings in the city of Washington and have tenants in them, because there is an unusual demand for places and shelter, it can say to you as the owner you are no longer the master of this property, but you must permit the tenant that is in possession to stay in possession willy-nilly, without regard to your wishes or your wants with respect to the property.

If you wish to receive the property back for your own use and you make an affidavit such as the act requires and give the 30 days' notice, what is the effect? You are not sure of getting this property back again for your own use. The affidavit is not conclusive, although that must be something that largely rests in your own mind and is incapable of external corroboration under most circumstances. Here, however, a commission of three sits in judgment upon you, and says: "We do not believe that this is genuine, and the tenant may remain in possession and you can not even use your own." I am told by those who have gone through the investigation that the operation of the law is a failure, and instances have been recited where men as tenants retained possession of a portion of a property and sublet a portion of it for a higher price than they themselves were paying. That element of injustice must flow from a state of affairs that is founded in injustice. There can be no better admonition given, I think, than that which is expressed in the conclusion of the minority opinion:

> Indeed, we ask, may not the State have other interests besides the nullification of contracts and may its police power be exerted for their consummation? If not, why not? Under the decision just announced if one provision of the Constitution may be subordinated to that power, may not other powers be? At any rate, the case commits the country to controversies, and their decision, whether for the supremacy of the Constitution or the supremacy of the power of the States, will depend upon the uncertainty of judicial judgment.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GRAHAM of Pennsylvania. May I have a few moments additional?

The CHAIRMAN. The control of the time is now in the gentleman from Michigan?

Mr. GRAHAM of Pennsylvania. May I have a moment?

Mr. WOODRUFF. I am sorry, but I have only eight minutes remaining, and I can not yield to the gentleman from Pennsylvania, however much I should like to do so.

Mr. Chairman, I yield the balance of my time to the gentleman from Ohio [Mr. BEGG]. [Applause.]

The CHAIRMAN. The gentleman from Ohio is recognized for eight minutes.

Mr. BEGG. Mr. Chairman and gentlemen of the committee, the question up for decision to-night is whether or not a law that was passed two years ago by the gentlemen now opposing it shall be continued for the period of seven months. I submit to you that in that time there has no serious calamity hit the citizens of Washington nor the property owners nor the realty operators. Now, I want to contradict a whole lot of testimony here to-night. Very few facts have been given to you. The statement has been made that it will stop building; that if you will pull off the restriction there will be millions of dollars' worth of houses going up overnight. Now, it is a physical impossibility to build a house between now and next June and the emergency will be augmented November 11, and the real estate board's report for this year says that the building in the District of Columbia was over $18,000,000, the biggest in a period of 10 years. [Applause.]

Ah, men, you cry socialism to me. My record will speak for itself. I want to ask you men who are crying socialism, I want to ask you if it is any more socialistic to regulate the bank rate of interest that I am compelled to pay? Now, that was taken up by my distinguished colleague from Ohio, as it was by the gentleman from Illinois this afternoon, and they say I am not compelled to rent or borrow money and he is not compelled to loan money. I want to ask you men this: Suppose that I must have money with which to buy the necessaries of life, then I must borrow; and if you control the money that is to be borrowed and charge me beyond the fixed local rate, you are liable to the law of the country in which we live. Is that socialism?

And I want to ask you who are so alarmed over this, is it any worse to regulate the man who loans me money than it is the man who owns the house I must have in which to house my loved ones?

Mr. LAYTON. Will the gentleman yield?

Mr. BEGG. No; I will not yield. The gentleman has been asking all kinds of questions this afternoon, and he has not been to the point on any of them. [Laughter.]

Mr. LAYTON. I will be if the gentleman gives me an opportunity.

Mr. BEGG. I want to ask the gentleman what was his vote when this was passed? It was not with mine, because I was against it. Where were you, if you were so alarmed about socialism? You voted for this bill two years ago.

Mr. LAYTON. Wait until I vote on this. Have you changed your vote?

Mr. BEGG. I certainly have. I have seen the inequities and therefore the necessity for it. [Applause.] The statement was made that this was a war measure by both the distinguished gentleman from Ohio [Mr. BURTON] and the gentleman from Pennsylvania [Mr. FOCHT]. My goodness alive, men, this was passed about 17 months after the war was closed, and you can not prove, and have not offered one single iota of evidence, that there are not as many people in the District of Columbia to-night as there were two years ago to-night.

Mr. LAYTON. Where is the Saulsbury Act?

Mr. BEGG. You say many have been let out of the departments, but you do not know that they have gone away. You say that you can rent houses. Maybe you can. You can not rent apartments for what they are worth in any part of the town by paying 7 or 9 per cent dividends net on the cost of production.

Mr. HUSTED. Will the gentleman yield?

Mr. BEGG. I am sorry that I can not. I would like to yield, but I must continue.

I know rents have risen since the war, and I can cite cases that have been pyramided from two years ago when you passed the bill. I know of one apartment that rented then for $65, and that same apartment is now bringing $125, and notices are out for a 16 per cent raise next October.

Mr. MILLSPAUGH. Will the gentleman yield?

Mr. BEGG. I am sorry I can not yield. Now, my friends, there is not any argument, there is not any evidence to show that renting conditions have changed since two years ago. Either we did not need the law then or we do need it now, for you have failed to prove that housing conditions have changed for the better.

Mr. LAYTON. And forever.

Mr. MILLSPAUGH. Can the gentleman tell us why——

Mr. BEGG. Will the gentleman please sit down? [Laughter.] He had his time.

Mr. MILLSPAUGH. And I yielded, too.

Mr. BEGG. Now, then, I want to put a pertinent question to you, which I hope will settle it in your minds. Any man who has sought to find property knows this, that the kind of property that is suitable to live in costs more than the average man can pay.

Mr. CONNELL. Will the gentleman yield?

Mr. BEGG. I am sorry I can not.

Now, property is hard to find. I live in an apartment. Some of you are disturbed because you can not kick me out. I pay my rent before the due date, in advance always. I have my little family to keep. I can not find another apartment anywhere that I can afford, but the owner says he wants to rent this one to somebody other than myself, who can pay more rent, yet he is getting a big net return on his investment, and some of you people are arguing that that is an inherent right in property, that gives him the right to eject a decent man who pays his rent solely on the grounds of greed for more money. I want to submit to you that if I am a decent, respectable citizen living in an apartment house which you have built, and what for—to rent to the public, to the buying public, just like the man that runs a street car line—have you a bigger right to put me out if I pay than I have to stay in there and protect my wife and children? [Applause.]

Now, my friends, that is what I see confronting us right now, and there is not anybody who is a stronger advocate of property rights than I or more conservative along every line than I am. [Applause.]

The CHAIRMAN. The time of the gentleman has expired. All time has expired. The Clerk will read.

The Clerk read as follows:

Be it enacted, etc., That Title II of the food control and the District of Columbia rents act, approved October 22, 1919, shall remain in full force and effect until May 22, 1922.

Mr. LONDON. Mr. Chairman, I offer an amendment to strike out "1922," in line 5, and insert "1942."

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment by Mr. LONDON: Page 1, line 5, strike out the figures "1922" and insert in lieu thereof "1942."

Mr. BLANTON. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. BLANTON. I make the point of order against the gentleman's amendment that it is not in order in that it is not germane to the purposes of this bill. This is an emergency measure, pure and simple. It is a measure based upon the imperative emergency which exists here in Washington to-day with respect to rentals. There is no purpose of the bill, there is no purpose of the present legislation which the bill amends, other than an emergency one. The amendment of the gentleman from New York is entirely foreign to the purposes of the bill in that, if you extend this law to 1942, it clearly carries it 20 years beyond the emergency.

The CHAIRMAN. The Chair overrules the point of order.

Mr. LONDON. Mr. Chairman, so much has been said about all the Socialists in this Congress being in favor of the bill that I have been scanning the faces of the Members for political companionship in the House. I feel very much alone, and while I know you will have to be traveling the broad road of social legislation, because if you do not want to advance civilization, civilization will, in spite of yourselves, push you forward, and while I have confidence that the triumph of socialistic philosophy is inevitable, I fail to find any evidence of an enlightened social thought in this Congress. I still am in a caucus of one—not always in agreement with myself [laughter], because it is extremely difficult to apply any principle, no matter how broad, to the complex problems of practical life, and I am, after all, more or less of a practical man.

Mr. JOHNSON of Washington. Mr. Chairman, will the gentleman yield?

Mr. LONDON. Yes.

Mr. JOHNSON of Washington. I would like to ask the gentleman, in view of the remarks of our comrade from Ohio [Mr. BEGG], if it is not quite practical to make this amendment extend to 1942?

Mr. LONDON. I am in favor of this bill, and at first my intention was not to speak for it, because I might thereby have endangered it. But most of you gentlemen are personally interested, in the sense that you live here and you personally know the effect of the operations of the rent hog. You know it personally, and therefore you will legislate out of your personal knowledge instead of in accordance with theories that the gentleman from Ohio [Mr. BEGG] might have acquired at public school by reading a secondhand textbook on political economy 15 years ago. [Laughter.]

I desire to take issue with these gentlemen here who are great lawyers. We have had the benefit of the legal judgment of the gentleman from Pennsylvania [Mr. GRAHAM], a profound legal intellect, and we have had the judgment of the gentleman from Ohio, ex-Senator BURTON. Whenever I see a great legal mind my thought is, What a pity! Here is a brain gone to waste. [Laughter.] They fail to distinguish between the modern conception of property and the conception of property inherited from feudal England.

A few days ago, during the discussion of the prohibition bill, such an able gentleman as the gentleman from Nebraska [Mr. REAVIS] was caught in a trap by the gentleman from New York [Mr. COCKRAN], when the gentleman from New York asked him, point blank, the question: "Which, in your opinion, is the more sacred, the castle or the person?" And he answered, "the castle." Of course, that was the feudal conception, as if the castle had any value except as a place of refuge for the person.

The expression "property rights" is a meaningless expression except to a legal mind. What is a right? A right represents a degree of liberty. A right means the use and opportunity to exercise what is in the mind, to do things. The word "right" implies the liberty to do something. When we speak of "property rights," or "the sacredness of property," we really speak of the person who uses that property. Property has no right in itself, and that is particularly true with respect to real estate.

In one of the most conservative textbooks on real property used in most of the law schools in the State of New York, Tiedeman on Real Estate, you will find in the very first chapter the statement that the ultimate title to all real estate is in the State, in the Government, in the people. There can not be any doubt about it.

We exercise it in the right of eminent domain at all times; and in this case in the interest of the city or the municipality—we are in a municipality, so far as the District of Columbia is concerned—in the interest of the municipality, in the interest of public health, in the interest of public order, in the interest of the Government, this being the seat of government, we say to the private landlord, "The land is limited, and since you who control the land take undue advantage of the increased demand for the land, we in our collective capacity as a people, as a municipality, exercise the right to tell you what your profits shall be." [Applause.]

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. LONDON. May I have another five minutes, Mr. Chairman?

The CHAIRMAN. The gentleman from New York asks unanimous consent to proceed for an additional five minutes. Is there objection?

Mr. WOODRUFF. I object.

The CHAIRMAN. Objection is made.

Mr. SISSON rose.

The CHAIRMAN. Does the gentleman rise in support of the amendment?

Mr. SISSON. No; in opposition to it.

The CHAIRMAN. The gentleman from Mississippi is recognized.

Mr. SISSON. Mr. Chairman and gentlemen of the committee, I hope no amendment will be adopted to this bill unless you want to kill it, because it is necessary that it shall pass now. [Applause.]

I am somewhat amazed at gentlemen invoking the doctrine of property rights on this question. If there is anything that I am far from it is the views entertained by my socialistic friend from New York [Mr. LONDON], because I would rather have anarchy than socialism.

If we are to have anarchy in this country, let us have it at once, and not reach it after years of painful agony. [Applause.] That is what you are doing in Russia.

This bill involves the sovereignty of the District of Columbia. The sovereignty over this District was ceded to the Congress of the United States as the seat of the Federal Government, and it is the only spot on this earth that Congress actually controls by virtue of cession of sovereignty by a sovereign State. You may acquire land by condemnation for public purposes elsewhere, but this land within the District of Columbia was ceded for governmental purposes, and the Government was located here on that basis, and I have no patience with that argument which contends that you can not protect the public Treasury of the United States by any regulations necessary to protect this property in the public interest.

I have studied this question for a great many years. If you will let the owners of property here continue to advance their rents you will be compelled—you Republicans—to increase the pay of every one of these governmental employees in order to let them live here and hold positions. [Applause.] In other words, this District of Columbia was intended as the seat of government.

This is no place for profiteers; this is no place for factories; this is no place for institutions in competition with Baltimore and Virginia and the activities of the surrounding country. This District was set up as the seat of government, and everything in the District must yield to the interests of the Government, and the individual who is not willing to yield can take up his bag and baggage and depart from this District. He has no business here. People come here to serve the Government. For that purpose only was this District set apart. It is your sworn duty to protect them against profiteers; and when you say it is not our sworn duty to do that, I take another look at you, and wonder if the real estate men of this District have not got their hands on you. [Laughter.] I want to say to you that here in this District of Columbia is found the wisest men in controlling Congressmen and Senators. They know the game. And when they find a man in Congress that they can control, they know how to reach him.

I do not mean to say they resort to corruption, but I do mean that they are past masters in the art of controlling Congress. I know, because I have been close to this whole situation here since I have been a Member of this Congress. I do not want to do anybody an injustice, but, bless your hearts, I do not want injustice to be done to this Government, and God knows I do not want injustice done to the poor Government employee. And unless you are willing to protect him against the profiteer, then you must make up your minds that the profiteer's profits shall be paid by the constituents whom you represent, because if you do not protect the Government employees from the rapacity of the profiteers you are going to have to increase the salary of every Government employee if you deal justly and honestly with the Government employees. [Applause.]

The CHAIRMAN. The time of the gentleman has expired. The question is on the amendment offered by the gentleman from New York [Mr. LONDON].

The question being taken, the amendment was rejected.

The Clerk read as follows:

SEC. 2. That the second paragraph of section 101 of such act is amended to read as follows:

"The term 'rental property' means any building or part thereof or land appurtenant thereto in the District of Columbia rented or hired and the service agreed or required by law or by determination of the commission to be furnished in connection therewith; but does not include (a) any portion of a hotel or apartment building, (b) a garage or warehouse, or (c) any other building or part thereof or land appurtenant thereto, used by the tenant exclusively for a business purpose other than the subleasing or otherwise subcontracting for use for living accommodations."

Mr. GRAHAM of Pennsylvania. Mr. Chairman, I move to strike out the last word.

I had not quite finished in the five minutes allotted to me by the chairman of the committee. I wish first to recognize the compliment of the distinguished gentleman from New York [Mr. LONDON], and to reciprocate by saying that in his falling into the ways of socialism a powerful and distinguished advocate has been lost to the sustainment of right and justice.

We are concerned here only with the question of right and justice. The argument that this is the District of Columbia, and that the Congress of the United States can legislate for this District, is certainly far aside from the question. The Congress of the United States is bound as much by the constitutional provisions as any State is bound, and the Congress of the United States and the District of Columbia are both subject to the Constitution of the Nation. This bill is a violation of the Constitution of the United States. It has been said that—

The Constitution of the United States is a law for rulers and people equally in war and in peace and covers with the shield of its protection all classes of men at all times and under all circumstances. No doctrine, involving more pernicious consequences, was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of government.

That is precisely what was done here. But in addition to the act that was passed as a measure of exigency, we are now called upon to renew the declaration of exigency again, and to say that now in the time of peace this invasion of contractual relationships and of the principles of the Constitution can be favored by this assembly. Every one of you have taken an oath to support the Constitution of the United States, and until these socialistic views of my friend from New York [Mr. LONDON] have been written into that Constitution you are oath-bound and it is your duty to stand by the Constitution that is the protection of private property and of individual rights. [Applause].

Mr. JOHNSON of Washington. Mr. Chairman, will the gentleman yield?

Mr. GRAHAM of Pennsylvania. Surely.

Mr. JOHNSON of Washington. I should like to ask the gentleman, if you make this extension for seven months, will you not then have to make it for another seven months, and so on?

Mr. GRAHAM of Pennsylvania. It seems to me this is an illustration of the elephant, I think it was, which was permitted to get its trunk into the tent.

Mr. ROBSION. The camel.

Mr. GRAHAM of Pennsylvania. The camel. I am more familiar with the camel than the elephant, for I have ridden one lately in the desert. It seems to me this is an illustration of the camel that was permitted to get its nose under the tent. Finally it will be inside of the tent and the occupants will be excluded or the tent demolished. This is the entering wedge, and, as my friend from Washington [Mr. JOHNSON] has said, if you have the right to extend this for seven months, you have the right to adopt the amendment of the gentleman from New York [Mr. LONDON] and to extend it for 10 or 20 years. [Applause.] Yes; you have the right to extend it ad infinitum.

Mr. BLANTON. Mr. Chairman, will the gentleman yield?

Mr. GRAHAM of Pennsylvania. Surely.

Mr. BLANTON. Right now, especially on October 22, when this law expires, the poor people who need homes in Washington will be facing a winter, but if we extend it for seven months it will carry the time until May 22, when, if they are evicted, they can live in tents if necessary until they can do better.

Mr. GRAHAM of Pennsylvania. That same argument might have been adopted for the extension of the two-year period at the time the original act was passed.

Mr. HUSTED. Will the gentleman yield?

Mr. GRAHAM of Pennsylvania. I yield to the gentleman from New York.

Mr. HUSTED. I should like to ask the gentleman in what way a war exigency can possibly arise after peace has been declared?

Mr. BLANTON. It has not been declared yet.

Mr. GRAHAM of Pennsylvania. I do not see how it can arise. But, in fairness to the advocates of this bill, I must say that the Supreme Court did not place the majority decision squarely upon the existence of war. They have announced a totally new doctrine, which was characterized in the minority opinion as a pernicious doctrine, and it is a pernicious doctrine, for as has been illustrated here by the motion to amend, if you pass this for

7 months you can pass it for 20 years or 50 years. If the Congress of the United States can put the stamp of public interest upon private property in one class, it can put it on another, and the extent to which this can go can not be measured except by a flight of the imagination.

Mr. COOPER of Wisconsin. Will the gentleman yield?

Mr. GRAHAM of Pennsylvania. I yield to the gentleman from Wisconsin.

Mr. COOPER of Wisconsin. The gentleman from Pennsylvania says this power, the existence of which he acknowledges, may be very grossly abused. Does not the gentleman know that it is the language of the law that because a power may be abused that fact is not proof that the power itself does not exist? The Constitution gives the Congress of the United States the power to declare war——

Mr. GRAHAM of Pennsylvania. Pardon me. I gave way for a question, and, as my time is limited, I must finish what I want to say.

Mr. COOPER of Wisconsin. I just wanted to make that illustration.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. COOPER of Wisconsin. I ask unanimous consent that the gentleman from Pennsylvania may have five minutes more.

The CHAIRMAN. The gentleman from Wisconsin asks unanimous consent that the time of the gentleman from Pennsylvania be extended five minutes. Is there objection?

Mr. PARKS of Arkansas. I object.

Mr. LONDON. Mr. Chairman, I rise in opposition to the motion. When I was interrupted I was illustrating that the word "right" is necessarily appurtenant to a human being, is an attribute of the living man, that it involves the exercise of volition, and that it can not be the quality of an inanimate thing. The very expression "property rights" has no meaning except in a legal argument. Now, let me say that the world does move forward in spite of us, that the law does interfere with private property to-day, and that it has been steadily invading the domain of private property.

Take our big insurance corporations. When you study the history of life insurance companies you will find a veritable cemetery of fraudulently bankrupted life insurance companies. The law intervened. I can not go into the history of life insurance legislation. Massachusetts had a very interesting experience, and it was the first to legislate on the matter of life insurance. To-day the State writes the contract for life insurance companies. They have been perpetrating so many frauds that the companies' right to make the contract has been taken away from them, and they can not add a clause to a policy without getting the approval of the insurance commissioner. We have the same principle in the usury law. The State says to a man who desires to use his property that he shall not charge more than a certain rate of interest; he shall not earn more than a certain profit. What does it mean? The State proceeds upon the theory that cash money is the blood of commerce, and that it will not permit you to stop the flow of the normal lifeblood of commerce. The State determines what the interest shall be. If you charge above the amount fixed by law you commit a criminal offense.

We are in an emergency to-day, and it may last several months and it may last several years. It may last as long as disturbed conditions in Europe last.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. COOPER of Wisconsin. Mr. Chairman, I move to strike out the last word. I am very reluctant to dispute with the learned gentleman from Pennsylvania on a question of law, but nevertheless to me his argument seems both ill founded and illogical. The argument was that if this bill can be enacted into law, then the rent law may be extended ad infinitum and result in great wrong, and that therefore the power to pass this bill does not exist in Congress.

Now, anyone who ever studied law remembers that one of the first things he read was that because a power may be abused by a legislature is no proof that the power itself does not exist. There is a very familiar illustration: The Constitution of the United States confers upon Congress the sole power to declare war. It is possible at any time, in the discretion of Congress, for that power to be grossly abused. And yet it is a power granted by the Constitution, and Congress could pass a resolution to-night declaring war against any nation or all the nations in the world.

The fact that a power can be abused does not show that it does not exist. And I also invite the attention of the honorable gentleman from Pennsylvania to the fact that the premise upon which he based his argument was wrong. He knows that the Supreme Court of the United States, the final judicial tribunal, has declared the constitutionality of the power which Congress exercised when it passed the original law which this bill seeks to extend. Therefore, there was nothing in the gentleman's first premise, and starting with an erroneous premise, he did not reach a correct conclusion. He undertook to show that the power did not exist because it might result in indefinitely extending the original rent law and thus result in an intolerable abuse. But, I repeat, the power which the Congress exercised when it passed the initial legislation—the law—exactly in the form in which we now desire to extend it for seven months, has been in an opinion of the Supreme Court of the United States declared to be constitutional and to have been lawfully exercised.

I deny that an argument is sound which is based on the assumption that Congress had not the power to pass a law and that the law is unconstitutional, although the Supreme Court has declared that Congress had full constitutional power to do what I did, and upon the further assumption that because a power might be abused therefore the power does not exist. The gentleman's argument was fallacious in his facts and his reasoning upon them.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. WOODRUFF. Mr. Chairman, I move that all debate on this paragraph and amendments thereto be now closed.

The CHAIRMAN. The gentlemen from Michigan moves that all debate on this section and amendments thereto be now closed.

The motion was agreed to.

The Clerk read as follows:

SEC. 3. That section 103 of such act is amended to read as follows:

"SEC. 103. Each commissioner shall receive a salary of $5,000 a year, payable monthly. The commission shall appoint a secretary, who shall receive a salary of $3,000 a year, and an attorney, who shall receive a salary of $5,000 a year, payable in like manner; and subject to the provisions of the civil service laws, it may appoint and remove such officers, employees, and agents, and make such expenditures for rent, printing, telegrams, telephone, law books, books of reference, periodicals, furniture, stationery, office equipment, and other supplies and expenses as may be necessary to the administration of this title. The attorney appointed by the commission shall appear for and represent the commission in all judicial proceedings and generally perform such professional duties and services as attorney and counsel to the commission as may reasonably be required of him by the commission. All of the expenditures of the commission shall upon the presentation of itemized vouchers therefor, approved by the chairman of the commission, be audited and paid in the same manner as other expenditures for the District of Columbia.

"With the exception of the secretary and the attorney, all employees of the commission shall be appointed from lists of eligibles supplied by the Civil Service Commission and in accordance with the civil service law."

Mr. FOCHT. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Amendment by Mr. FOCHT: Page 2, line 11, strike out all after the word "year" down to the word "and" on line 12.

Mr. FOCHT. Mr. Chairman, as will be seen by the amendment, the purpose is along the lines of the economy that we have heard so much about, of cutting down expenses to the very bone. For the life of me, if this great bill has been so successfully administered, I do not see the necessity for a $5,000 lawyer to further encumber it. Therefore, I am moving to dispense with his services.

Mr. BEGG. Mr. Chairman, I merely make the statement in reply to the gentleman from Pennsylvania that a $5,000 lawyer to-night is not any more of a crime than a $35,000 one was a couple of days ago, when the gentleman voted for it. If we want to kill this bill, let us put on amendments. I am not talking from a personal standpoint. I have taken care of myself for a great many years, and I shall continue to do so, but there are a lot of people here who are dependent upon this legislation. One amendment kills it. That is all I have to say.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania.

The question was taken; and on a division (demanded by Mr. FOCHT) there were—ayes 50, noes 112

So the amendment was rejected.

The Clerk read as follows:

SEC. 4. That title 2 of such act is amended by adding at the end thereof two new sections to read as follows:

"SEC. 123. In all cases where the owner of any rental property, apartment, or hotel has, prior to April 18, 1921, collected or received any rent or charge therefor in excess of the amount fixed in a determination of the commission made and in full force and effect in accordance with the provisions of the title, he may within 30 days after this section takes effect return such excess rental or charge to the tenant directly, and if such return is made within such period the owner shall not become liable under the provisions of section 112 of this act. An owner who has obtained a judgment against a tenant for, or which includes, such rent or charge in excess of the amount fixed in such a determination of the commission shall move to vacate such judgment to the amount of such excess, within 60 days after this section takes effect. In case such motion is not made and such owner does not exercise reasonable diligence to have such judgment vacated, such judgment, to the amount of such excess, shall be null and void.

"SEC. 124. (a) Any violation of this act or of any order of the commission, committed before the termination of this act may, after such termination, be prosecuted by and in the name of the Attorney General in lieu of the commission in the same manner and with the same effect as if this act had not been terminated.

"(b) In the case of (1) any proceeding begun under the provisions of section 114 before the termination of this act, or (2) any proceeding on appeal from a determination of the commission begun before the termination of this act, such proceeding may, after such termination, be continued in the same manner with the same effect as if this act had not been terminated, and all powers and duties in respect to such proceedings vested in the commission by this act shall for the purposes of such proceedings be vested in the Attorney General.

"(c) Any right or obligation based upon any provision of this act or upon any order of the commission, accrued prior to the termination of this act may, after the termination of this Act, be enforced in the same manner and with the same effect as if this act had not been terminated.

"(d) The Attorney General may, after the termination of this act, appoint the attorney last appointed by the commission under the provisions of section 103 to assist in the enforcement of this act. Such attorney shall continue to receive compensation for such services at the rate of $5,000 per annum, payable monthly."

Mr. BURTON. Mr. Chairman, I move to strike out the last word for the purpose of asking the gentleman in charge of the bill the reason for the fixing of the date, April 18, 1921, in line 10, on page 3:

In all cases where the owner of any rental property, apartment, or hotel has, prior to April 18, 1921, collected or received any rent or charge, etc.

Mr. WOODRUFF. Mr. Chairman, that date was placed in the bill in the wisdom of the Senate. Just what prompted that particular date to be fixed by the Senate I do not know, nor does any member of the committee, I think. We were confronted with this situation, that we either had to accept this bill as it was and pass it through the House at this time or put it over until after the recess, which we thought very inadvisable.

Mr. BURTON. A further question. The bill provides further—

collected or received any rent or charge therefor in excess of the amount fixed in a determination of the commission made and in full force and effect in accordance with the provisions of the title.

Does that mean that this commission at this time and between now and May 22, 1922, can make rulings as to rent paid prior to April 18, 1921?

Mr. WOODRUFF. I should judge that is the case.

Mr. BURTON. In other words, complaints can be made to the commission at this date and the rent paid prior to April 18, 1921, can be reviewed and the amount paid in excess of the rate fixed by the commission can be collected by the tenant from the landlord.

Mr. WOODRUFF. I believe the courts would hold that the commission has the power to regulate the rentals paid through the life of the commission.

Mr. BEGG. Mr. Chairman, will the gentleman yield?

Mr. BURTON. Yes.

Mr. BEGG. I will say to the gentleman that that is not actually what happened. The Rent Commission has no jurisdiction unless complaint is made. If a complaint has been made that the rent is too high prior to this date, April 18, 1921, and if the Rent Commission has rendered a decision that it was too high, and then the tenant continued to pay it, it can be recovered. Otherwise, if no complaint is made, you can not go back and open up cases prior to to-day. You can not go and open up your rent for last year before the Rent Commission, because that is gone, but I can open it up as to the future, and if the Rent Commission decides it must be lowered, the landlord can not collect; and if perchance he does collect, then I can recover.

Mr. BURTON. I call my colleague's attention to the fact that it expressly states "prior to April 18, 1921."

Mr. BEGG. Absolutely; but that is where decisions have been rendered.

Mr. BURTON. But let us note the language of the bill—

The amount fixed in a determination of the commission.

Does that mean that it has been fixed or it will be fixed?

Mr. BEGG. Has been.

Mr. BURTON. I suggest that it is extremely ambiguous in that regard. Possibly a court would rule that it referred to a decision already rendered, but the wording leaves it open to the intimation at least that there is an unlimited power to receive complaints in regard to rental collected prior to April 18, 1921. The gentleman does not seem to know why that date is fixed. There is nothing sacrosanct about it, but it is fixed.

Mr. BEGG. I think that is the date when this bill was introduced in the Senate—April 18, 1921.

Mr. BURTNESS. Is not that the date on which the law was sustained by the Supreme Court?

Mr. BEGG. Perhaps that is correct.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. BURTON. Mr. Chairman, I withdraw the pro forma amendment.

Mr. GOODYKOONTZ. Mr. Chairman, I move to strike out the last word. Mr. Chairman and gentlemen of the committee, if this bill shall pass it will constitute a new departure in legislation in this National Congress. The enactment of this measure into law in time of peace will constitute a new landmark in the legislative history of this country. For the first time we will place upon the statute books of the land a soviet doctrine, a doctrine the principle of which is that private property is no longer private property, but the property of the public. The acquisition of property is the greatest incentive in the world to human action, and when you take away from the man the incentive to acquire and hold property as and for his own, that it may pass by the law of descent and distribution or by legacy to his children, whenever you destroy that incentive you cut out the root, the very foundation upon which our liberties and our property rights guaranteed under the Constitution have been safeguarded thus far. I have nothing but detestation and contempt for rent gougers.

Mr. SEARS. Will the gentleman yield?

Mr. GOODYKOONTZ. Just in a moment. Socialism is one thing and sovietism is only a step further on. It is said we have only one socialist in this House. I am here to tell you that you have more than a score of them in embryo and they are developing very rapidly. Members of this Congress were sent here by the people instructed to do away with the war laws—not to extend them—and the decision of the Supreme Court in the New York case and the District of Columbia case, recognizing the power of Congress to pass laws fixing rents, was inspired by the war although the decision was based on the police rather than the war power, and justified on the ground that the law was directed against monopoly.

Mr. SEARS. Mr. Chairman, I make the point of order that the gentleman is not discussing the motion and that there is nothing before the House.

Mr. GOODYKOONTZ. There is a considerable proposition before the House, in fact a great question of policy if not of constitutional law, but the gentleman does not comprehend it. [Laughter.] They boast of the rent commission's accomplishments——

Mr. SEARS. Mr. Chairman, a parliamentary inquiry.

Mr. GOODYKOONTZ. What good has the commission done? It has been asserted by a Member that in a given case rent was increased from $30 to $65 a month by the commission. I regard the rent commission as a perfectly useless and utterly worthless body. If Congress can fix rents, then it may fix the price of any and every commodity.

Mr. SEARS. Mr. Chairman, I make the point of order.

The CHAIRMAN. The gentleman from West Virginia will suspend.

Mr. SEARS. I make the point of order that the gentleman from Ohio [Mr. BURTON] withdrew his motion and there is nothing now before the House.

Mr. GOODYKOONTZ. I move to strike out the last two words.

The CHAIRMAN. The gentleman from West Virginia.

Mr. MANN. Mr. Chairman, a parliamentary inquiry. The gentleman from West Virginia having occupied some time by unanimous consent now submits a motion. Is he not now entitled to five minutes?

Mr. GOODYKOONTZ. Gentlemen, I thank you. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. Mr. Chairman, I do not like to strike out that last word, but I would like to be heard in opposition to it. The truth is that we pass this bill to-night, but there is no special rush about ending the debate. We are hoping that the conferees on the war finance and agricultural-aid bill might reach an agreement of some kind which could be acted upon by the House to-night, or at least be presented to the House. Our getting away to-morrow may—not certainly will—but may depend upon that, so that I hope that if any gentleman really has thoughts swelling in his bosom upon this subject which he feels impelled to impart to a waiting world that he will make use of the opportunity. [Laughter and applause.]

I do not feel that necessity myself, so I am frank to say that I shall vote for the bill now pending [applause], and I shall vote for it for this reason: First, I am opposed utterly to this class of legislation, but the law is on the statute books and it has been declared constitutional by the Supreme Court of the United States. Though that was a divided court in rendering its decision, I have reached that stage in my older life where the law is the law to me [applause], and when the Supreme Court declares what the law is that is the law to me [applause] until the same Supreme Court changes its decision.

Now, here is the situation. They say the war is over, and yet the most important thing, perhaps, in connection with the war is the disarmament conference which is to meet in this city this fall. I said when President Wilson came back with the treaty that I hoped that as a result of this great expenditure of life and property that the world would have sense enough to make some effort against the extravagance of military preparedness in the hope of ending war in the future. [Applause.] I hope that the disarmament conference will be able to so agree and advise the countries of the world that we and other nations may lift somewhat from our back the tremendous burden of the Army and the Navy.

Now, the disarmament conference will bring to this city I do not know how many distinguished representatives, aids, advisers, clerks, and so forth, from foreign lands, and Washington is likely to be crowded with demand for quarters as it has never been crowded before; and already the landlords quite generally—though so far not my landlord; he has got it up so high now he can not put it up any higher—already this demand has caused the landlords to propose to raise their rents when rents ought to be going down. [Applause.] Everything else practically in cost is going down except rents.

Mr. DOWELL. In Washington?

Mr. MANN. I will not say in Washington. I think largely rents are going up all over; but with this extraordinary demand, which is real, and which is being added to by the magnifying of the landlords, rents are threatening to go much higher here.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BEGG. Mr. Chairman, I ask unanimous consent that the gentleman may be allowed 10 additional minutes.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. MANN. I am going to ask somebody else to occupy part of the time.

I think we can well afford under these conditions to say that this commission, created by an act already a law, shall proceed with their work, in the effort not so much as a result of the work which they do but as a result of the law, to have the landlords keep a little common sense and decency in their treatment of their tenants. Therefore, I believe with this emergency we can afford to enact this bill into law, and without, so far as I am concerned, wavering at all in my theory that in the long run the less Government interferes with business the less expensive it is to the people. My observation has been that reforms are usually very expensive, especially if they are reforms to effect economy. [Applause.]

Mr. HUSTED. Mr. Chairman, I move to strike out the last two words.

Mr. Chairman, I have but a word to say on this subject. With all of the respect that I have for the great ability of the gentleman from Illinois [Mr. MANN]—and I do not believe any Member of this House has any more—I must say I can not follow his reasoning in the early part of his statement. He said he was absolutely opposed to this kind of legislation, and then he said that the original Ball Act had been sustained by the United States Supreme Court, and the intimation was that it followed that he must support this extension of the original act. I can not see that at all. The Ball Act expires by limitation. This is an extension of it. We were all ready to accept the Ball Act after it was declared constitutional, but that does not impose, as I see it, any obligation upon us or any one of us to vote for an extension of that act.

Now, the Ball Act was declared constitutional by a divided court, solely, as I understand it, upon the ground that an emergency existed during time of war. It was sustained solely as an exercise of the war power. And while it could not have been sustained on any other ground, we can do almost anything under the exercise of the war power. But the war is now at an end, and this very Congress has adopted a resolution declaring the war at an end, not only with the Imperial German Government but with Austria as well. We are not in a state of war. And while this might have been sustained as an exercise of the war power when we were in a state of war, I submit that this extension in time of peace can not be sustained upon any ground, and that you are doing a futile thing when you pass it, because if this extension goes again to the United States Supreme Court it will clearly be declared unconstitutional.

Mr. DOWELL. Will the gentleman yield?

Mr. HUSTED. I will.

Mr. DOWELL. The decision of the Supreme Court, however, did not base it upon any such ground. It based it upon the ground of a monopoly, which it had a perfect right to do, and which it seems to me under that decision it will follow at any time.

Mr. HUSTED. As I read the decision, it placed it clearly upon the ground that it was in the exercise of the war power.

Mr. GRAHAM of Pennsylvania. Mr. Chairman, I rise in opposition to the motion of the gentleman from New York [Mr. HUSTED].

I desire to say a word or two in answer to the remarks of the gentleman from Wisconsin, my friend, Mr. COOPER. He misapprehended altogether the purport of my argument. Of course, what he says is perfectly correct. He is a good lawyer, and he knows the law, and he quoted it correctly, but he did not grasp the point of my criticism, which was that the argument I advanced was given as a reason why we should not continue this law. It had nothing to do with the premise which he sought to establish, but simply that the law ought not for that reason to be continued, because it was capable of great abuse, and this was the first step in the direction of abusing this power. I wish to say that while I also regret to differ from the distinguished gentleman from Illinois [Mr. MANN] I can not agree with the conclusion which he drew. He referred to the coming peace conference in Washington.

I would join with him in hoping that out of it may come some conclusion that will help to stabilize the affairs of the world and keep us from any such experience again as the waste, extravagance, and losses of this World War, but it seems to me to be a non sequitur to say that because a handful of people are coming here to attend a peace conference, most of whom will be housed in the hotels in Washington and not engaged in making leases of private houses—and the hotels of Washington are exempted from the operations of this act—that therefore we ought to pass this extension of the law in order to cover this great meeting. You might also argue from that, if one of the great parties, Republican or Democratic, should determine to hold a convention in the city of Washington, as there would be a demand for places for the people who would attend in greater number than the attendance would be at the peace conference, that therefore you would have a right to pass such a law as this. Admit it with reference to the peace conference, and it goes on ad infinitum to every big convention or gathering that might be held in the city of Washington. My argument is that the law is in and of itself pernicious, pernicious in violation of the Constitution, pernicious in the manner of its being exercised and administered, pernicious in its effect, pernicious in the fact that it is an invasion of the rights of private property, which ought not to be invaded, and I hope therefore that the men of this committee will see their way clear not to extend this pernicious law or give it a single month of additional life. There is no good reason for its extension. [Applause.]

Mr. WOODRUFF. Mr. Chairman, I move that all debate on this paragraph and all amendments thereto be now closed.

The motion was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk concluded the reading of the bill.

Mr. WOODRUFF. Mr. Chairman, I move that the committee do now rise and report the bill to the House without amendment, with the recommendation that the bill do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. HICKS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having under consideration the bill (S. 2131) to extend for the period of seven months the provisions of Title II of the food control and the District of Columbia rents act, approved October 22, 1919, and for other purposes, had directed him to report the same back to the House with the recommendation that it pass.

Mr. WOODRUFF. Mr. Speaker, I move the previous question.

The SPEAKER. The previous question has been ordered by the rule. The question is on the third reading of the bill.

The bill was ordered to be read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. FOCHT. Mr. Speaker, I move to recommit the bill, and on that motion I demand the yeas and nays.

The SPEAKER. The gentleman from Pennsylvania moves to recommit the bill, and on that demands the yeas and nays.

Mr. WOODRUFF. Mr. Speaker, I move the previous question on the motion to recommit.

Mr. GARRETT of Tennessee. Is it a simple motion to recommit?

Mr. FOCHT. Yes.

The previous question was ordered.

The SPEAKER. The gentleman from Pennsylvania demands the yeas and nays. Those in favor of taking the vote by yeas and nays will rise and stand until they are counted. [After

counting.] Seventy-one gentlemen have risen, a sufficient number.

The yeas and nays were ordered.

The SPEAKER. As many as favor the motion to recommit will, when their names are called, answer "yea"; those opposed will answer "nay."

The question was taken; and there were—yeas 60, nays 180, answered "present" 4, not voting 186, as follows:

YEAS—60.

Ackerman	Fenn	Kline, Pa.	Patterson, N. J.
Appleby	Focht	Kraus	Perkins
Burdick	Funk	Kreider	Ransley
Burton	Garrett, Tenn.	Layton	Rayburn
Chandler, Okla.	Gernerd	Lee, N. Y.	Reber
Clarke, N. Y.	Goodykoontz	McDuffie	Rogers
Connell	Graham, Pa.	McLaughlin, Pa.	Sanders, Ind.
Dale	Green, Iowa	MacGregor	Sproul
Deal	Greene, Mass.	Merritt	Strong, Pa.
Dempsey	Hickey	Millspaugh	Tilson
Dunn	Himes	Moore, Ill.	Walsh
Echols	Husted	Moores, Ind.	Ward, N. Y.
Edmonds	Hutchinson	Osborne	Watson
Ellis	Johnson, Wash.	Paige	Wurzbach
Fairchild	Kirkpatrick	Parker, N. J.	Yates

NAYS—180.

Almon	Doughton	Lehlbach	Robsion
Anderson	Dowell	Lineberger	Rose
Andrews	Dunbar	Little	Rosenbloom
Ansorge	Evans	Logan	Rossdale
Arentz	Fairfield	London	Rouse
Aswell	Faust	Luce	Sanders, Tex.
Atkeson	Favrot	McArthur	Sandlin
Barbour	Fess	McClintic	Scott, Mich.
Begg	Fields	McCormick	Sears
Bell	Fisher	McLaughlin, Nebr.	Shaw
Bird	French	McPherson	Shelton
Black	Frothingham	Magee	Sinclair
Bland, Va.	Garrett, Tex.	Mann	Sinnott
Blanton	Gensman	Mapes	Sisson
Boies	Gilbert	Michener	Smith, Idaho
Bowers	Glynn	Miller	Smith, Mich.
Bowling	Greene, Vt.	Mondell	Smithwick
Box	Hadley	Moore, Ohio	Snell
Brand	Hammer	Morin	Speaks
Brennan	Haugen	Mott	Steagall
Briggs	Hayden	Nelson, A. P.	Stoll
Brinson	Hays	Nelson, J. M.	Strong, Kans.
Bulwinkle	Hicks	Newton, Minn.	Swank
Burke	Hill	Nolan	Sweet
Burtness	Hoch	O'Brien	Taylor, Tenn.
Cable	Hogan	O'Connor	Tillman
Campbell, Pa.	Houghton	Oldfield	Timberlake
Carter	Jones, Tex.	Oliver	Tincher
Chalmers	Keller	Parker, N. Y.	Tyson
Chindblom	Ketcham	Parks, Ark.	Underhill
Christopherson	Kincheloe	Parrish	Vinson
Clague	King	Patterson, Mo.	Walters
Collier	Kinkaid	Porter	Ward, N. C.
Collins	Kissel	Quin	Webster
Colton	Kleczka	Radcliffe	Wheeler
Connally, Pa.	Knutson	Rainey, Ill.	White, Me.
Connally, Tex.	Kopp	Raker	Wilson
Cooper, Wis.	Lampert	Ramseyer	Wingo
Coughlin	Lanham	Rankin	Winslow
Crisp	Lankford	Reece	Woodruff
Curry	Larsen, Ga.	Reed, N. Y.	Woods, Va.
Dallinger	Lawrence	Reed, W. Va.	Woodyard
Davis, Minn.	Lazaro	Rhodes	Wright
Davis, Tenn.	Lea, Calif.	Ricketts	Young
Denison	Lee, Ga.	Roach	Zihlman

ANSWERED "PRESENT"—4.

Hardy, Tex.	Ireland	Langley	Sumners, Tex.

NOT VOTING—186.

Anthony	Cramton	Hawley	McFadden
Bacharach	Crowther	Herrick	McKenzie
Bankhead	Cullen	Hersey	McLaughlin, Mich.
Barkley	Darrow	Huddleston	McSwain
Beck	Dickinson	Hudspeth	Madden
Beedy	Dominick	Hukriede	Maloney
Benham	Drane	Hull	Mansfield
Bixler	Drewry	Humphreys	Martin
Blakeney	Driver	Jacoway	Mead
Bland, Ind.	Dupré	James	Michaelson
Bond	Dyer	Jefferis, Nebr.	Mills
Britten	Elliott	Jeffers, Ala.	Montague
Brooks, Ill.	Elston	Johnson, Ky.	Montoya
Brooks, Pa.	Fish	Johnson, Miss.	Moore, Va
Brown, Tenn.	Fitzgerald	Johnson, S. Dak.	Morgan
Browne, Wis.	Flood	Jones, Pa.	Mudd
Buchanan	Fordney	Kahn	Murphy
Burroughs	Foster	Kearns	Newton, Mo.
Butler	Frear	Kelley, Mich.	Norton
Byrnes, S. C.	Free	Kelly, Pa.	Ogden
Byrns, Tenn.	Freeman	Kendall	Olpp
Campbell, Kans.	Fuller	Kennedy	Overstreet
Cannon	Fulmer	Kiess	Padgett
Cantrill	Gahn	Kindred	Park, Ga.
Carew	Gallivan	Kitchin	Perlman
Chandler, N. Y.	Garner	Kline, N. Y.	Peters
Clark, Fla.	Goldsborough	Knight	Petersen
Classon	Gorman	Kunz	Pou
Clouse	Gould	Larson, Minn.	Pringey
Cockran	Graham, Ill.	Leatherwood	Purnell
Codd	Griest	Linthicum	Rainey, Ala.
Cole, Iowa	Griffin	Longworth	Reavis
Cole, Ohio	Hardy, Colo.	Lowrey	Riddick
Cooper, Ohio	Harrison	Luhring	Riordan
Copley	Hawes	Lyon	Robertson
Rodenberg	Stedman	Temple	Volk
Rucker	Steenerson	Ten Eyck	Volstead
Ryan	Stephens	Thomas	Wason
Sabath	Stevenson	Thompson	Weaver
Sanders, N. Y.	Stiness	Tinkham	White, Kans.
Schall	Sullivan	Towner	Williams
Scott, Tenn.	Summers, Wash.	Treadway	Williamson
Shreve	Swing	Upshaw	Wise
Siegel	Tague	Vaile	Wood, Ind.
Slemp	Taylor, Ark.	Ware	Wyant
Snyder	Taylor, Colo.	Vestal	
Stafford	Taylor, N. J.	Voigt	

So the motion to recommit was rejected.

The Clerk announced the following additional pairs:

Until further notice:

Mr. JOHNSON of South Dakota with Mr. KITCHIN.
Mr. DICKINSON with Mr. BANKHEAD.
Mr. BLAKENEY with Mr. WISE.
Mr. BROOKS of Illinois with Mr. MONTAGUE.
Mr. REAVIS with Mr. POU.
Mr. ELSTON with Mr. RIORDAN.
Mr. FREEMAN with Mr. CULLEN.
Mr. FULLER with Mr. KUNZ.
Mr. BUTLER with Mr. PADGETT.
Mr. RODENBERG with Mr. RUCKER.
Mr. LUHRING with Mr. FLOOD.
Mr. VARE with Mr. BYRNES of South Carolina.
Mr. KENDALL with Mr. DRANE.
Mr. CODD with Mr. McSWAIN.
Mr. BLAND of Indiana with Mr. OVERSTREET.
Mr. KENNEDY with Mr. DUPRÉ.
Mr. VOLK with Mr. CANTRILL.
Mr. KAHN with Mr. LOWBY.
Mr. VOLSTEAD with Mr. THOMAS.
Mr. BIXLER with Mr. WEAVER.
Mr. FREE with Mr. KINDRED.
Mr. CANNON with Mr. JOHNSON of Kentucky.
Mr. GRIEST with Mr. BARKLEY.
Mr. MALONEY with Mr. TEN EYCK.
Mr. KIESS with Mr. MEAD.
Mr. PERLMAN with Mr. RAINEY of Alabama.
Mr. THOMPSON with Mr. SULLIVAN.
Mr. NEWTON of Missouri with Mr. UPSHAW.
Mr. McLAUGHLIN with Mr. MOORE of Virginia.
Mr. SNELL with Mr. DRIVER.
Mr. LANGLEY with Mr. CLARK of Florida.
Mr. HUKRIEDE with Mr. GARNER.
Mr. CONNOLLY of Pennsylvania with Mr. SABATH.
Mr. STINESS with Mr. HUDSPETH.
Mr. COOPER of Ohio with Mr. GRIFFIN.
Mr. SHREVE with Mr. FULMER.
Mr. WOOD of Indiana with Mr. DREWRY.
Mr. SIEGEL with Mr. PARK of Georgia.
Mr. COLE of Ohio with Mr. STEDMAN.
Mr. BACHARACH with Mr. TAYLOR of Arkansas.
Mr. STEENERSON with Mr. BUCHANAN.
Mr. ANTHONY with Mr. CAREW.
Mr. STEPHENS with Mr. JEFFERS of Alabama.
Mr. TREADWAY with Mr. TAGUE.
Mr. CROWTHER with Mr. BRYNS of Tennessee.
Mr. OLPP with Mr. COCKRAN.
Mr. TOWNER with Mr. TAYLOR of Colorado.
Mr. CRAMTON with Mr. JOHNSON of Mississippi.
Mr. TAYLOR of New Jersey with Mr. MANSFIELD.
Mr. MUDD with Mr. LYON.
Mr. WASON with Mr. DOMINICK.
Mr. MURPHY with Mr. HAWES.
Mr. DARROW with Mr. STEVENSON.
Mr. RIDDICK with Mr. HUMPHREYS.
Mr. ODGEN with Mr. GALLIVAN.
Mr. FORDNEY with Mr. LINTHICUM.
Mr. FOSTER with Mr. MARTIN.
Mr. PURNELL with Mr. SUMNERS of Texas.
Mr. BROOKS of Pennsylvania with Mr. HARRISON.
Mr. CLASSON with Mr. HUDDLESTON.
Mr. HERSEY with Mr. GOLDSBOROUGH.
Mr. KEARNS with Mr. JACOWAY.

Mr. HOUGHTON. Mr. Speaker, I desire to vote.

The SPEAKER. Was the gentleman present and listening when his name was called?

Mr. HOUGHTON. I was not.

The SPEAKER. The gentleman does not qualify.

Mr. DARROW. Mr. Speaker, I desire to vote.

The SPEAKER. Was the gentleman present and listening when his name was called?

Mr. DARROW. I was not. If I had been present, I would have voted "yea."

Mr. LANGLEY. Mr. Speaker, I desire to inquire if my colleague, the gentleman from Florida [Mr. CLARK] has voted.

The SPEAKER. He has not.

Mr. LANGLEY. I voted "nay," but I am paired with the gentleman, and I desire to withdraw my vote and answer "present."

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

Mr. WOODRUFF. On that I ask for the yeas and nays.

Mr. SPROUL. I make the point of order that there is no quorum present.

The SPEAKER. The roll call disclosed the presence of 240 Members.

Mr. WOODRUFF. I demand the yeas and nays on the passage of the bill.

Mr. SPROUL. I ask for the yeas and nays on the passage of the bill.

The SPEAKER. The yeas and nays are demanded.

The yeas and nays were ordered.

The question was taken; and there were—yeas 186, nays 65, answered "present" 4, not voting 175, as follows:

YEAS—186.

Almon	Darrow	Lee, Ga.	Roach
Anderson	Davis, Minn.	Lehlbach	Rose
Andrews	Davis, Tenn.	Lineberger	Rosenbloom
Ansorge	Denison	Little	Rossdale
Arentz	Doughton	Logan	Rouse
Aswell	Dowell	London	Sanders, Tex.
Atkeson	Evans	McArthur	Sandlin
Barbour	Fairfield	McClintic	Scott, Mich.
Begg	Favrot	McCormick	Sears
Bell	Fess	McFadden	Shaw
Bird	Fields	McLaughlin, Nebr.	Shelton
Black	Fisher	McPherson	Sinclair
Bland, Va.	French	McSwain	Sinnott
Blanton	Garrett, Tex.	Madden	Sisson
Boies	Gensman	Magee	Smith, Idaho
Bowers	Gilbert	Mann	Smith, Mich.
Bowling	Glynn	Mapes	Snell
Box	Greene, Vt.	Mead	Speaks
Brand	Hadley	Michener	Steagall
Brennan	Hammer	Miller	Stoll
Briggs	Haugen	Mondell	Strong, Kans.
Brinson	Hayden	Moore, Ohio	Swank
Buchanan	Hays	Morin	Sweet
Bulwinkle	Hicks	Mott	Taylor, Tenn.
Burke	Hill	Nelson, A. P.	Ten Eyck
Burtness	Hoch	Nelson, J. M.	Tillman
Byrns, Tenn.	Hogan	Newton, Minn.	Timberlake
Cable	Jeffers, Ala.	Nolan	Tincher
Campbell, Pa.	Jones, Tex.	O'Brien	Tyson
Cannon	Keller	O'Connor	Underhill
Carew	Kelley, Mich.	Oldfield	Vinson
Carter	Ketcham	Oliver	Walters
Chalmers	Kincheloe	Parks, Ark.	Ward, N. C.
Chindblom	King	Parrish	Webster
Christopherson	Kinkaid	Patterson, Mo.	Wheeler
Clague	Kissel	Porter	White, Me.
Collier	Kleczka	Quin	Wilson
Collins	Kline, Pa.	Radcliffe	Wingo
Colton	Knutson	Rainey, Ill.	Wood, Ind.
Connally, Tex.	Kopp	Raker	Woodruff
Connolly, Pa.	Lampert	Ramseyer	Woods, Va.
Cooper, Wis.	Lanham	Rankin	Woodyard
Coughlin	Lankford	Reece	Wright
Crisp	Larsen, Ga.	Reed, N. Y.	Young
Cullen	Lawrence	Reed, W. Va.	Zihlman
Curry	Lazaro	Rhodes	
Dale	Lea, Calif.	Ricketts	

NAYS—65.

Ackerman	Fenn	Kreider	Rayburn
Appleby	Focht	Layton	Reber
Brooks, Pa.	Funk	Lee, N. Y.	Rogers
Burdick	Garrett, Tenn.	Luce	Sanders, Ind.
Burton	Gernerd	McDuffie	Sproul
Chandler, Okla.	Goodykoontz	McLaughlin, Pa.	Strong, Pa.
Clarke, N. Y.	Graham, Pa.	MacGregor	Tilson
Connell	Green, Iowa	Merritt	Walsh
Dallinger	Greene, Mass.	Millspaugh	Ward, N. Y.
Deal	Hickey	Moore, Ill.	Watson
Dempsey	Himes	Moores, Ind.	Winslow
Dunbar	Houghton	Osborne	Wurzbach
Dunn	Husted	Paige	Wyant
Echols	Hutchinson	Parker, N. Y.	Yates
Edmonds	Johnson, Wash.	Patterson, N. J.	
Ellis	Kirkpatrick	Perkins	
Fairchild	Kraus	Ransley	

ANSWERED "PRESENT"—4.

Hardy, Tex.	Jacoway	Langley	Sumners, Tex.

NOT VOTING—175.

Anthony	Brown, Tenn.	Cole, Iowa	Elliott
Bacharach	Browne, Wis.	Cole, Ohio	Elston
Bankhead	Burroughs	Cooper, Ohio	Faust
Barkley	Butler	Copley	Fish
Beck	Byrnes, S. C.	Cramton	Fitzgerald
Beedy	Campbell, Kans.	Crowther	Flood
Benham	Cantrill	Dickinson	Fordney
Bixler	Chandler, N. Y.	Dominick	Foster
Blakeney	Clark, Fla.	Drane	Frear
Bland, Ind.	Classon	Drewry	Free
Bond	Clouse	Driver	Freeman
Britten	Cockran	Dupré	Frothingham
Brooks, Ill.	Codd	Dyer	Fuller
Fulmer	Kendall	Olpp	Steenerson
Gahn	Kennedy	Overstreet	Stephens
Gallivan	Kiess	Padgett	Stevenson
Garner	Kindred	Park, Ga.	Stiness
Goldsborough	Kitchin	Parker, N. J.	Sullivan
Gorman	Kline, N. Y.	Perlman	Summers, Wash.
Gould	Knight	Peters	Swing
Graham, Ill.	Kunz	Petersen	Tague
Griest	Larson, Minn.	Pou	Taylor, Ark.
Griffin	Leatherwood	Pringey	Taylor, Colo.
Hardy, Colo.	Linthicum	Purnell	Taylor, N. J.
Harrison	Longworth	Rainey, Ala.	Temple
Hawes	Lowrey	Reavis	Thomas
Hawley	Luhring	Riddick	Thompson
Herrick	Lyon	Riordan	Tinkham
Hersey	McKenzie	Robertson	Towner
Huddleston	McLaughlin, Mich.	Robsion	Treadway
Hudspeth	Maloney	Rodenberg	Upshaw
Hukriede	Mansfield	Rucker	Valle
Hull	Martin	Ryan	Vare
Humphreys	Michaelson	Sabath	Vestal
Ireland	Mills	Sanders, N. Y.	Voigt
James	Montague	Schall	Volk
Jefferis, Nebr.	Montoya	Scott, Tenn.	Volstead
Johnson, Ky.	Moore, Va.	Shreve	Wason
Johnson, Miss.	Morgan	Siegel	Weaver
Johnson, S. Dak.	Mudd	Slemp	White, Kans.
Jones, Pa.	Murphy	Smithwick	Williams
Kahn	Newton, Mo.	Snyder	Williamson
Kearns	Norton	Stafford	Wise
Kelly, Pa.	Ogden	Stedman	

So the bill was passed.

The following additional pairs were announced:

Until further notice:

Mr. FAUST with Mr. SABATH.

Mr. PURNELL with Mr. SUMNERS of Texas.

Mr. LANGLEY with Mr. CLARK of Florida.

Mr. WILLIAMS with Mr. SMITHWICK.

The result of the vote was announced as above recorded.

On motion of Mr. BLANTON, a motion to reconsider the vote whereby the bill was passed was laid on the table.

THE DEFICIENCY BILL.

Mr. MADDEN. Mr. Speaker, I ask unanimous consent that the conference report on the part of the House on the deficiency bill may be filed at any time before midnight.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the conference report on the deficiency bill may be filed any time before midnight. Is there objection?

Mr. GARRETT of Tennessee. Reserving the right to object, may I ask the gentleman if a full and complete agreement has been reached?

Mr. MADDEN. No; it is not a complete agreement.

The SPEAKER. Is there objection?

There was no objection.

POST OFFICE DEPARTMENT.

Mr. LONDON. Mr. Speaker, I ask unanimous consent to file minority views in connection with the bill (H. R. 104) to amend an act entitled "An act making appropriations for the Post Office Department for the fiscal year ending June 30, 1913, and for other purposes."

The SPEAKER. Is the gentleman a member of the committee?

Mr. LONDON. I am a member of the committee and authorized to file the minority views.

The SPEAKER. The gentleman from New York asks unanimous consent to file minority views on the bill referred to. Is there objection?

There was no objection.

HOUR OF MEETING TO-MORROW.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that when the House adjourns to-night it adjourn to meet at 10 o'clock a. m. to-morrow.

The SPEAKER. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

ADJOURNMENT.

Mr. MONDELL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 11 o'clock and 7 minutes p. m.) the House adjourned until to-morrow, Wednesday, August 24, 1921, at 10 o'clock a. m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. SNYDER, from the Committee on Indian Affairs, to which was referred the bill (H. R. 8010) to authorize the leasing for mining purposes of unallotted lands on the Fort Peck Reserva-

tion, Mont., reported the same with amendments, accompanied by a report (No. 368), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. MOORES of Indiana, from the Joint Select Committee on Disposition of Useless Executive Papers, submitted a report (No. 373) concerning the disposition of useless papers in the War Department, which said report was ordered to be printed.

Mr. STEENERSON, from the Committee on the Post Office and Post Roads, to which was referred the bill (H. R. 7578) providing for "Visit the Dunes, Michigan City," canceling stamp to be used by Michigan City, Ind., post office, reported the same without amendment, accompanied by a report (No. 382), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill (H. R. 8365) to permit the use in the post office at Cincinnati, Ohio, of special canceling stamps bearing the words "Public Health Exposition, Cincinnati, Ohio, October 15 to 22, 1921," reported the same without amendment, accompanied by a report (No. 383), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill (S. 2420) authorizing and directing the Postmaster General to permit the use of a special canceling stamp at the post office of Birmingham, Ala., bearing the words "Birmingham Semicentennial, October 24 to 29, 1921," reported the same without amendment, accompanied by a report (No. 384), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. SNYDER, from the Committee on Indian Affairs, to which was referred the bill (H. R. 4069) authorizing the Secretary of the Interior to sell certain lands on the Wind River Reservation, Wyo., reported the same with an amendment, accompanied by a report (No. 366), which said bill and report were referred to the Private Calendar.

Mr. LEATHERWOOD, from the Committee on Indian Affairs, to which was referred the bill (S. 901) for the payment of certain money to Albert H. Raynolds reported the same without amendment, accompanied by a report (No. 367), which said bill and report were referred to the Private Calendar.

Mr. SNYDER, from the Committee on Indian Affairs, to which was referred the bill (S. 1894) to amend section 26 of an act entitled "An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs," etc., reported the same without amendment, accompanied by a report (No. 369), which said bill and report were referred to the Private Calendar.

Mr. ROSE, from the Committee on Claims, to which was referred the bill (H. R. 3279) to refund certain duties paid by the Nash Motors Co. reported the same with an amendment, accompanied by a report (No. 374), which said bill and report were referred to the Private Calendar.

Mr. WOODS of Virginia, from the Committee on Claims, to which was referred the bill (H. R. 1372) for the relief of the M. Feitel House Wrecking Co. reported the same with an amendment, accompanied by a report (No. 375), which said bill and report were referred to the Private Calendar.

Mr. EDMONDS, from the Committee on Claims, to which was referred the bill (S. 1408) authorizing the Rolph Navigation & Coal Co. to sue the United States to recover damages resulting from collisions reported the same without amendment, accompanied by a report (No. 376), which said bill and report were referred to the Private Calendar.

Mr. LITTLE, from the Committee on Claims, to which was referred the bill (H. R. 4356) for the relief of Arthur J. Burdick, reported the same without amendment, accompanied by a report (No. 377), which said bill and report were referred to the Private Calendar.

Mr. GLYNN, from the Committee on Claims, to which was referred the bill (H. R. 6523) for the relief of John Burke, former Treasurer of the United States, for lost bonds without the fault or negligence on the part of said former treasurer, reported the same with amendments, accompanied by a report (No. 378), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 6524) to permit the correction of the general account of John Burke, former Treasurer of the United States, reported the same without amendment, accompanied by a report (No. 379), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 8217) to authorize the payment of $872.96 to the Government of Italy for the relief of the heirs and assigns of N. Ferro, reported the same without amendment, accompanied by a report (No. 380), which said bill and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill (H. R. 8221) for the relief of the Chinese Government, reported the same without amendment, accompanied by a report (No. 381), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Pensions was discharged from the consideration of the bill (H. R. 5312) granting a pension to Edgar Travis, and the same was referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. BROWNE of Wisconsin: A bill (H. R. 8378) providing for the protection of the public health and the prevention of fraud and deception by prohibiting the manufacture, the sale, the offering for sale, or exposing for sale, or the having in possession with the intent to sell, of adulterated or deleterious butter, and prescribing the penalty for the violation thereof; to the Committee on Agriculture.

By Mr. KING (by request): Joint resolution (H. J. Res. 196) creating the Committees on Labor of the House and Senate a Joint Committee on Unemployment; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANTHONY: A bill (H. R. 8379) authorizing the Secretary of War to donate to the city of Sabetha, State of Kansas, one German cannon or fieldpiece; to the Committee on Military Affairs.

By Mr. CARTER: A bill (H. R. 8380) to remove the charge of desertion from the name of E. D. Macready; to the Committee on Military Affairs.

Also, a bill (H. R. 8381) granting a pension to E. D. Macready; to the Committee on Invalid Pensions.

By Mr. CROWTHER: A bill (H. R. 8382) granting a pension to John W. Boyd; to the Committee on Pensions.

By Mr. FAIRCHILD: A bill (H. R. 8383) granting a pension to Elma L. Holton; to the Committee on Invalid Pensions.

By Mr. FOSTER: A bill (H. R. 8384) granting a pension to Sarah Dailey; to the Committee on Invalid Pensions.

By Mr. GILBERT: A bill (H. R. 8385) granting an increase of pension to Charity A. Freeman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8386) granting an increase of pension to Malinda R. Cotton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8387) granting a pension to James E. Johnson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8388) granting an increase of pension to Sidney Payne Smith; to the Committee on Pensions.

Also, a bill (H. R. 8389) for the relief of Bernard D. Kaltenbacher; to the Committee on Claims.

Also, a bill (H. R. 8390) for the relief of J. W. Brookshire; to the Committee on Claims.

By Mr. HICKS: A bill (H. R. 8391) for the relief of Rose S. Emke; to the Committee on Claims.

Also, a bill (H. R. 8392) for the relief of Rose H. Knell; to the Committee on Claims.

By Mr. KELLY of Pennsylvania: A bill (H. R. 8393) for the relief of William Lucas; to the Committee on Claims.

By Mr. OGDEN: A bill (H. R. 8394) granting three months extra pay proper in case of Turner Anderson; to the Committee on War Claims.

Also, a bill (H. R. 8395) granting a pension to Elizabeth Hatfield; to the Committee on Invalid Pensions.

By Mr. SHELTON: A bill (H. R. 8396) granting an increase of pension to Louisa E. Williams; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

2557. By Mr. CAMPBELL of Pennsylvania: Evidence in support of House bill 8368, granting a pension to Elizabeth Scott Wilhelm; to the Committee on Invalid Pensions.

2558. By Mr. CURRY: Petition of 67 residents of the third congressional district of California indorsing enactment of House bill 7, providing for a department of education; to the Committee on Education.

2559. By Mr. DALLINGER: Resolution of Pocahontas Lodge, No. 129, Improved Benevolent and Protective Order of Elks of the World, of Cambridge, Mass., favoring the passage of the Dyer bill; to the Committee on the Judiciary.

2560. Also, resolutions of Pocahontas Lodge, No. 129, Improved Benevolent and Protective Order of Elks of the World, of Cambridge, Mass., favoring Federal aid for the unfortunate people made homeless by the recent race riot at Tulsa, Okla.; to the Committee on Interstate and Foreign Commerce.

2561. By Mr. FOCHT: Evidence for the relief of Mrs. Jennie C. Richardson (H. R. 8250); to the Committee on Pensions.

2562. By Mr. KETCHAM: Petition of residents of Paw Paw and Berrien Springs, Mich., protesting against Senate bill 1948; to the Committee on the District of Columbia.

2563. By Mr. KISSEL: Petition of John B. Smiley, president of the Poldi Steel Corporation of America, 115 Broadway, New York City; to the Committee on Ways and Means.

2564. Also, petition of George H. Taylor, president of the Chicago Mortgage Bankers' Association, 312 South Clark Street, Chicago, Ill.; to the Committee on Ways and Means.

2565. By Mr. MEAD: Letter from D. W. Sowers, president of the Sowers Manufacturing Co., of Buffalo, N. Y., urging the passage of the dye embargo section of the Fordney tariff bill; to the Committee on Ways and Means.

2566. By Mr. RAKER: Petition of Redding Pyramid, No. 27, A. E. O. of S., of Redding, Calif., indorsing the Smith-Towner bill creating a department of education with a secretary in the President's Cabinet; to the Committee on Education.

2567. Also, petition of the Salinas Chamber of Commerce, of Monterey County, Calif., and the Union Hardware & Steel Co., of Los Angeles, Calif., protesting against any increase in first-class postage rates; to the Committee on Ways and Means.

2568. Also, petition of C. E. Virden, president of the Sacramento Chamber of Commerce, of Sacramento, Calif.; D. C. Jackling, representing the Sacramento Valley & Eastern Railroad, of San Francisco, Calif.; Sacramento Clearing House, of Sacramento, Calif.; S. H. McCartney, of Alturas, Calif., all urging support of the Winslow railroad refunding bill; to the Committee on Interstate and Foreign Commerce.

2569. Also, resolution by the California State Board of Forestry, of Sacramento, Calif., relative to insect control and urging support of House bill 7194; to the Committee on Appropriations.

2570. By Mr. TINKHAM: Letter from Michael Davitt Council, American Association for the Recognition of the Irish Republic, of Boston, Mass., opposing the Penrose bill (S. 2135); to the Committee on Ways and Means.

2571. By Mr. VOLSTEAD: Petition of citizens of the town of De Graff, Minn., protesting against Senate bill 2135 and urging early collection of war loans to European countries; to the Committee on Ways and Means.

2572. By Mr. WARD of North Carolina: Petition of citizens of Pitt County, N. C., against the Zihlman Sunday observance bill (H. R. 4388); to the Committee on the District of Columbia.

SENATE.

WEDNESDAY, *August 24, 1921.*

(Legislative day of Monday, August 22, 1921.)

The Senate reassembled at 10 o'clock a. m., on the expiration of the recess.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, announced that the House had passed without amendment the bill (S. 2131) to extend for the period of seven months the provisions of Title II of the food control and the District of Columbia rents act, approved October 22, 1919, and for other purposes.

CALL OF THE ROLL.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CURTIS in the chair). The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ball	Harreld	Newberry	Stanley
Calder	Harrison	Nicholson	Sterling
Cameron	Heflin	Oddie	Sutherland
Capper	Jones, Wash.	Poindexter	Townsend
Colt	Kenyon	Pomerene	Trammell
Curtis	La Follette	Reed	Wadsworth
Dillingham	Lenroot	Sheppard	Walsh, Mass.
Ernst	McKellar	Simmons	Warren
Fernald	McNary	Smith	Watson, Ga.
Gooding	Myers	Smoot	Watson, Ind.
Hale	Nelson	Spencer	Willis

Mr. SMOOT. I wish to announce the absence of the Senator from Pennsylvania [Mr. PENROSE], who is detained in a meeting of the Finance Committee.

The PRESIDING OFFICER. Forty-four Senators have answered to their names. There is not a quorum present. The Secretary will call the roll of absentees.

The reading clerk called the names of the absent Senators, and Mr. CARAWAY answered to his name when called.

Mr. JONES of New Mexico, Mr. HITCHCOCK, Mr. BROUSSARD, Mr. KING, Mr. SHORTRIDGE, Mr. BRANDEGEE, Mr. LODGE, Mr. LADD, Mr. KELLOGG, and Mr. MOSES entered the Chamber and answered to their names.

The PRESIDING OFFICER. Fifty-five Senators having answered to their names, a quorum is present.

PETITIONS AND MEMORIALS.

The PRESIDING OFFICER (Mr. CURTIS) laid before the Senate a communication from Santiago Iglesias, senator at large of Porto Rico, of San Juan, P. R., transmitting resolutions adopted by the Free Federation of Workingmen, of Porto Rico, protesting against the enactment of legislation permitting the immigration of Chinese coolies into the Hawaiian Islands to work on the sugar plantations, etc., which were referred to the Committee on Immigration.

He also presented a petition of the National Executive Committee of the Private Soldiers and Sailors Legion of the United States of America, praying for aid to the unemployed and determination of the causes for the widespread unemployment, etc., which was referred to the Committee on Education and Labor.

Mr. TOWNSEND presented memorials of sundry citizens of Battle Creek, Jackson, Rives Junction, Spring Arbor, Hanover, Horton, Pufaski, Elm Hall, Sumner, Vassar, and Millington, all in the State of Michigan, remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance, etc., which were referred to the Committee on the District of Columbia.

Mr. CAPPER presented a memorial of sundry citizens of Broughton and Bala, both in the State of Kansas, remonstrating against any raising of railway freight and passenger rates until the high cost of living is reduced, which was referred to the Committee on Interstate Commerce.

SETTLEMENT OF CLAIMS FROM UNEXPENDED BALANCES.

Mr. SHEPPARD. Mr. President, the Senate conferees on the deficiency appropriation bill have found it necessary to recede from an amendment that was unanimously adopted by the Senate clarifying the intention of Congress as to certain unexpended balances of appropriations. I have sought to care for the matter by the introduction of a joint resolution, being Senate joint resolution 109, which was referred to the Committee on Appropriations. I ask unanimous consent that the Committee on Appropriations be discharged from the further consideration of the joint resolution, and, if that is granted, then I shall ask unanimous consent for the immediate consideration of the joint resolution.

Mr. WARREN. I wish to say a word regarding the joint resolution. A provision in the form of an amendment similar to the wording of the joint resolution was added to the deficiency appropriation bill, but it is legislation, and will undoubtedly have to go out of that bill. The matter is one that comes under the Dent Act, which provided for the settlement of war contracts. The case involved in the joint resolution grows out of the action of the Council of National Defense in May, almost immediately following the declaration of war, when it became necessary to provide vessels quickly for transportation in order that we might get our troops and supplies abroad.

The particular claim involved amounts to something like $550,000. The award has been made by the War Department; the present Secretary of War has certified the correctness of it; but it has gone to the comptroller, who raises the question of jurisdiction. The Senator from Texas, I presume, wishes the

matter to be taken care of in the shape of a joint resolution, the amendment having failed in conference.

The PRESIDING OFFICER. By unanimous consent, the Committee on Appropriations will be discharged from the further consideration of the joint resolution.

Mr. SHEPPARD. Mr. President, I ask unanimous consent for the immediate consideration of the joint resolution.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which was read, as follows:

Resolved, etc., That all of the unexpended balances of appropriations chargeable with the settlement of claims resulting from the suspension or termination of contracts or other procurement obligations of the War Department consequent upon the suspension of hostilities, and with the adjustment of claims under the act entitled "An act to provide relief in cases of contracts connected with the prosecution of the war, and for other purposes," approved March 2, 1919, as provided in the second deficiency act, fiscal year 1921, are hereby made available until June 30, 1922, for the payment of any award made by the Secretary of War under the act entitled "An act to provide relief in cases of contracts connected with the prosecution of the war, and for other purposes," approved March 2, 1919, without reference to the purpose of the original appropriations from which the said unexpended balances are taken.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HEARINGS BEFORE THE COMMITTEE ON MANUFACTURES.

Mr. CALDER. From the Committee to Audit and Control the Contingent Expenses of the Senate I report back favorably Senate resolution 139. The resolution simply permits the Committee on Manufactures to hold hearings and to employ a stenographer. It is a routine resolution such as is passed at every Congress to enable various committees to hold hearings. I ask unanimous consent for the present consideration of the resolution.

The resolution was considered by unanimous consent and agreed to, as follows:

Resolved, That the Committee on Manufactures, or any subcommittee thereof, be, and hereby is, authorized during the Sixty-seventh Congress to send for persons, books, and papers, to administer oaths, and to employ a stenographer, at a cost not exceeding $1.25 per printed page, to report such hearings as may be had in connection with any subject which may be pending before said committee, the expenses thereof to be paid out of the contingent fund of the Senate, and that the committee, or any subcommittee thereof, may sit during the sessions or recesses of the Senate.

INTERNATIONAL CENTENNIAL EXPOSITION AT RIO DE JANEIRO.

Mr. LODGE, from the Committee on Foreign Relations, to which was referred the message of the President, transmitting a report from the Secretary of State concerning the participation of the Government of the United States in an international centennial exposition to be opened in Rio de Janeiro, Brazil, on September 7, 1922, reported an original joint resolution (S. J. Res. 114) accepting the invitation of the Republic of Brazil to take part in an international exposition to be held in Rio de Janeiro in 1922, which was read twice by its title, and submitted a report (No. 269) thereon.

The PRESIDING OFFICER. The joint resolution will be placed on the calendar.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CAMERON:

A bill (S. 2445) for the relief of Charles S. Fries; to the Committee on Claims.

By Mr. HARRELD:

A bill (S. 2446) to amend section 101 of chapter five of the Judicial Code; to the Committee on the Judiciary.

By Mr. HARRISON:

A bill (S. 2447) to authorize the construction of a temporary bridge across Pearl River, between Meeks Ferry and Grisbys Ferry and between Madison County, Miss., and Rankin County, Miss.; to the Committee on Commerce.

By Mr. WADSWORTH:

A bill (S. 2448) to create a bureau of civil aeronautics in the Department of Commerce, to encourage and regulate the operation of civil aircraft in interstate and foreign commerce, and for other purposes; to the Committee on Commerce.

By Mr. KENYON:

A bill (S. 2449) for the relief of Warren Robinson; to the Committee on Military Affairs;

A bill (S. 2450) granting a pension to Susannah Truesdell (with an accompanying paper); and

A bill (S. 2451) granting a pension to Julia A. Woodard (with accompanying papers); to the Committee on Pensions.

By Mr. SPENCER:

A bill (S. 2452) granting an increase of pension to John P. Slough; to the Committee on Pensions.

By Mr. MYERS:

A bill (S. 2453) to authorize the Secretary of the Interior to grant extensions of time under oil and gas permits, and for other purposes; to the Committee on Public Lands and Surveys.

By Mr. ASHURST (by request):

A bill (S. 2454) to establish a bureau for the study of abnormal persons; to the Committee on Education and Labor.

By Mr. POINDEXTER:

A bill (S. 2455) to enable the President to restore Second Lieut. Henry Ossian Flipper to grade, rank, and status in the United States Army; to the Committee on Military Affairs.

By Mr. McCUMBER:

A bill (S. 2456) to authorize the acquisition of a site and the erection thereon of a public building in Pembina, N. Dak.; to the Committee on Public Buildings and Grounds.

A bill (S. 2457) for the relief of Anna Volker (with accompanying papers); to the Committee on Claims.

AMENDMENT OF REVENUE BILL.

Mr. SMOOT submitted an amendment intended to be proposed by him to the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes, which was referred to the Committee on Finance and ordered to be printed.

AMENDMENT OF TARIFF BILL.

Mr. BROUSSARD submitted an amendment intended to be proposed by him to House bill 7456, the tariff bill, which was referred to the Committee on Finance and ordered to be printed.

UNEMPLOYMENT INVESTIGATION.

Mr. WALSH of Massachusetts submitted the following resolution (S. Res. 140), which was read and referred to the Committee on Education and Labor:

Resolved, That the Committee on Education and Labor, or any subcommittee thereof to be appointed by it, be, and it hereby is, authorized and directed to make thorough and complete investigation, research, and study into the causes, effects, character, and extent of the present generally prevalent condition of unemployment throughout the country.

The said committee be authorized to administer oaths, to summon before it necessary persons, to send for papers and documents, to visit areas affected by said unemployment, which it deems essential, to employ a stenographer at a cost of not more than $1.25 per printed page to report such hearings, and such other clerical assistance as may be necessary.

That said committee be instructed to survey and recommend any or all of the following remedies as alleviation for said unemployment; public works such as irrigation, reclamation, afforestation, road building, canal building, or any other steps of relief which seem logical outgrowths of said study and investigation.

That said committee be further instructed to consider as an adjunct to proposals for prevention and relief the establishment of a centralized national employment system, and the feasibility of creating a Government agency to encourage the adoption of social unemployment insurance programs by the several States.

That said committee sit during sessions and recesses of the Senate and submit its report within one week following October 1, 1921.

All expenses connected therewith shall be paid out of the contingent fund of the Senate.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. Latta, one of his secretaries, announced that on August 23, 1921, the President had approved and signed the joint resolution (S. J. Res. 88) granting the consent of Congress to an agreement or compact entered into between the State of New York and the State of New Jersey for the creation of the port of New York district and the establishment of the port of New York authority for the comprehensive development of the port of New York.

INTRODUCTION OF ROUTINE BUSINESS.

Mr. STANLEY obtained the floor.

Mr. JONES of Washington. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Washington?

Mr. STANLEY. I yield to the Senator from Washington.

Mr. JONES of Washington. I wish to call attention to paragraph 2 of Rule VII, which, I think, should be enforced from now on, at any rate in connection with the pending measure. That paragraph of the rule provides that—

It shall not be in order to interrupt a Senator having the floor for the purpose of introducing any memorial, petition, report of a committee, resolution, or bill. It shall be the duty of the Chair to enforce this rule without any point of order hereunder being made by a Senator.

The PRESIDING OFFICER. The Chair is familiar with that rule, but it has never been enforced since he has been a Member of the Senate. If the Senator desires to have it enforced while the present occupant is in the chair it will be rigidly enforced. The Senator from Kentucky will proceed.

RAILWAY ADJUSTMENT.

Mr. STANLEY. Mr. President, production and transportation are the very woof and warp of our industrial life. The existence of one is impossible without the other. If the transportation facilities of the country have collapsed, it matters not whether the folly or the fault may be attributable to the railroads or the Government, commerce must move, and if the rates are now all the traffic will bear, then the Government must come to the rescue.

If the commercial life of the country demands it, a people, patient and tax burdened, must stand for a still further drain upon the Public Treasury, notwithstanding the fact that within the last few years the Government has devoted nearly a billion and a half of money to the support and maintenance of the collapsing credit of the carriers of the country.

Conservative friends of the transportation companies, as well as the taxpayer and the shipper, should realize that it is the part of wisdom for these concerns to deal openly and candidly with Congress and with the country.

Mr. President, a farmers' bill now hangs in the balance. If the present railroad funding bill should pass and should go into operation, from what I know of the capacity of that bill and of the forces behind it, it would literally lick up within 30 days the last dollar made available by the Government to the War Finance Corporation, and this loudly proclaimed "farmers' bill" would prove indeed a promise made to the ear and broken to the hope.

The so-called Townsend bill is doubly objectionable. I protest both against the subject matter and the methods employed to force this thing through the Federal Congress and to compel the Senate to accept it "sight unseen," upon the O. K. of the President of the United States and of a few powerful appointees, who alone seem to understand his purposes and to share his confidence.

On the 22d of July the President addressed the Senate upon the obligations of the Government to the railroads, urging the imperative necessity for legislation. Five days later a bill was introduced in this body by the Senator from Michigan [Mr. TOWNSEND]. The author of this bill has stated—hearings, page 11—that he did not assist in its preparation, and further says that he called Mr. Meyer before the committee "because I wanted to know the emergency or the particular reasons that existed for the passage of this bill and just what its proponents had in mind." This bill, or one similar to it in all essentials, was drawn entirely by the counsel for the War Finance Corporation, Mr. G. C. Henderson, and delivered in person by the President of the United States to the acting chairman of the Committee on Interstate Commerce of the Senate. At its hearings no man was permitted to appear before the committee, for or against this measure, except the Director General of Railroads and the managing director of the War Finance Corporation, at whose instance the powers of this corporation were increased, and whose counsel is the sole author of this bill.

The President, assuming the Government to be enormously indebted to the railroads, in his message declares "we are morally and legally bound to pay," it may be $500,000,000, and this bill which he presents to Congress through the acting chairman of the Interstate Commerce Committee will crystallize that assumption into law. I assert here and now, without the fear of successful contradiction, that this bill proposes to fund a debt of hundreds of millions which does not exist, which is not due, and which can not be paid in this way without a fraud upon the Government and an intolerable burden upon the taxpayer.

I assert that under the terms of the "standard contract" entered into with the railroads a balance struck now between the indebtedness of the railroads to the Government and of the Government to the railroads will leave the railroads at this very moment owing the Federal Government over $200,000,000. I assert that the fabulous claim of nearly $800,000,000 now made by the carriers against the Government is composed principally of claims for "maintenance of way," and that from 70 to 75 per cent of that claim is based upon the so-called "inefficiency of labor," a claim repudiated by the Interstate Commerce Commission and by the Director General of Railroads as so speculative and contingent in character as to warrant no consideration whatsoever.

With one side contending that the Government is indebted to the railroads to the amount of half a billion dollars, and the other side as stoutly maintaining that the claim is unwarranted and that the real indebtedness is on the other side of the ledger to the amount of a quarter of a billion, in this state of affairs I felt, and my Democratic colleagues, Senators PITTMAN and SMITH, felt, as did Senator LA FOLLETTE, that we were entitled and that the country was entitled to hear both sides of this question; that with such a difference of opinion existing between the present Director General of Railroads and his predecessor, each with an opportunity to know the facts, should have the opportunity to speak the truth.

The alleged inefficiency of labor is denounced by labor as gratuitous and unwarranted, and the representatives of labor day after day clamored for an opportunity to be heard; but after hearing only those who conceived and created this thing the seal of silence was placed upon the lips of the ex-director general and of all others who knew anything about this complicated case of stock jugglery, and the doors were shut in the face of labor. Under the circumstanees, I felt it my duty to the Senate and to the country to find some other means of throwing light upon this dark and mysterious subject, and giving to this body and to the people of the United States an opportunity to hear and to know the truth before enacting this earnestly urged but dangerous and ill-considered measure.

In answer to my letter of August 17, 1921, Hon. W. G. McAdoo, ex-Secretary of the Treasury and ex-Director General of Railroads, throws a flood of light upon this subject.

On August 17 I wrote the following letter to Mr. McAdoo:

AUGUST 17, 1921.

Hon. WILLIAM G. MCADOO,
43 Exchange Place, New York, N. Y.

MY DEAR MR. MCADOO: I voice the sentiment of many of my colleagues in this request for a statement of your views of the Townsend bill just reported by the Senate Committee on Interstate Commerce, so amending the War Finance Corporation act, the Federal control act, the transportation act of 1920, and the act providing for the reimbursement to the United States for motive power, cars, etc., approved November 19, 1919, as to make it possible, among other things, for the President to sell to the War Finance Corporation at prices at which they were acquired, an aggregate of not exceeding $500,000,000 of securities now held by the Secretary of the Treasury against loans made to the principal railroads of the country, and further providing for the sale of bonds, notes, and other securities not purchased by the corporation at the request of the President.

Your long service as Secretary of the Treasury and Director General of Railroads in the most delicate and eventful period of the country's history, peculiarly qualifies you to interpret this bill. At a meeting of the Committee on Interstate Commerce yesterday, Senator PITTMAN moved that you be invited to appear before the committee, then considering this measure. The motion was defeated by a vote of 7 to 3, Senator LA FOLLETTE and myself voting with Senator PITTMAN. If not trespassing too much upon your valuable time, I shall appreciate a statement of your opinion of the propriety of the enactment of the pending measure and any suggestions you may deem helpful or constructive.

Yours, truly,

A. O. STANLEY.

On August 18 Mr. McAdoo replied as follows:

43 EXCHANGE PLACE,
New York, August 18, 1921.

Hon. A. O. STANLEY,
United States Senate, Washington, D. C.

MY DEAR SENATOR: Replying to your letter of the 17th instant—

In order to understand the proposals of the President in his message of July 26 on the railroad problem it is necessary to keep in mind certain fundamental facts.

The breakdown of the railroads in the latter part of 1917 forced the Government to take control of them January 1, 1918, in order to save the war. Immediate consideration had to be given to the important problem of providing for the customary "additions and betterments," including "motive power and equipment," which the carriers had been obliged to furnish each year during private operation.

These necessitates large annual expenditures which had to be provided for by the railroads themselves notwithstanding the fact that the Government was temporarily operating the properties.

Under private control the railroads procured the money for these purposes by—

(a) Setting aside a part of their net earnings, if sufficient for the purpose; or

(b) Appropriating a part of their net earnings and selling bonds or new capital stock, or both, for the remainder; or

(c) Selling bonds or capital stock, or both, for the entire amount.

The usual practice was to resort in large measure to the sale of bonds (short-term obligations included) to raise the new money.

The United States was under no obligation whatever to advance money for such capital expenditures. In fact, the Federal control act approved March 21, 1918, expressly required that in every agreement between the United States and the railroads it should be stipulated that "the United States may, by deductions from the just compensation (rental to be paid the railroads) or by other proper means and charges, be reimbursed for the cost of any additions, repairs, renewals, and betterments to such property (railroad property) not justly chargeable to the United States."

In pursuance of this act the director general entered into agreements—known as the standard contract—with various railroads providing for annual rental or compensation to the carriers equal to the average of the net earnings of the three best years of their history, namely, from July 1, 1914, to June 30, 1917. These rentals aggregated, for all properties under Federal control, approximately $940,000,000 per annum.

In these contracts (sec. 7) it was expressly agreed that the United States should have the right to deduct from such rentals "all amounts required to reimburse the United States for the cost of additions and betterments made to the property of the company not justly chargeable to the United States, unless such matters are financed or otherwise taken care of by the company to the satisfaction of the director gen-

eral." The director general agreed, however, not to deduct for additions and betterments in such a way as to prevent the railroads from paying the fixed charges "they had theretofore regularly paid."

After sufficient allowance for such fixed charges the director general was free to deduct each year from the rentals due the railroads the amounts advanced for "additions and betterments," even if such deductions should compel the railroads to reduce or defer dividends on capital stock, unless, of course, the railroads financed such "additions and betterments" to his satisfaction.

In order, however, to relieve railroad stockholders of apprehension as to how this power would be exercised, the director general consented to the following provision (sec. 7–A, Standard Contract):

"The power to deduct the amount due by the company for the cost of additions and betterments not justly chargeable to the United States is further declared to be an emergency power to be used by the director general only when he finds that no other reasonable means is provided by the company to reimburse the United States, and, as contemplated by the President's proclamation and by the Federal control act, it will be the policy of the director general to so use such power of deduction as not to interrupt unnecessarily the regular payment of dividends as made by the company during the test period."

This provision imposed no obligation whatever on the director general, as he could not go beyond the power conferred upon him by law. It was a mere declaration of policy.

While I was director general—year 1918—and Walker D. Hines was director general—January, 1919, to March, 1920—the railroads were not required to pay for "additions and betterments" out of the rental due them at the expense of dividends, nor to sell bonds or stock as they had theretofore done, to reimburse the Government for these expenditures. The cost of such "additions and betterments" was generously advanced by the United States so that, on March 1, 1920, when the railroads were returned to private control, they owed—and still owe—the United States the enormous sum of $1,144,000,000. These "additions and betterments" include "motive power and equipment." These expenditures were not forced upon the railroads. The railroads needed them and were glad to have the Government lend them the money at 6 per cent, which was less than the market rate. Congress had to appropriate this $1,144,000,000 out of taxes levied on the people, and these very appropriations for loans to the railroads have been used by unfriendly critics as a basis for the charge that Federal control was wasteful of Government money, whereas the debt the railroads owe the Government on this account is a valuable asset if those charged with the execution of the law insist upon satisfactory security, as the law requires.

Of this vast debt the United States has already extended, for a long period, the time for payment of $381,000,000, representing new "locomotives and cars" furnished to the railroads. This leaves now due for "additions and betterments" the sum of approximately $763,000,000.

February 28, 1920, Congress enacted the "transportation act" providing for the return of the railroads to private control on March 1, 1920, and gave the President, in substance, discretion within certain limitations to set off against the debt the railroads owe the United States any indebtedness, arising out of Federal control, that the United States might be found to owe the railroads.

That act further provides that "any remaining indebtedness of the carrier to the United States in respect to such additions and betterments shall, at the request of the carrier, be funded for a period of 10 years from the termination of Federal control, or a shorter period, at the option of the carrier, with interest at 6 per cent per annum and upon such security as the President, in his discretion, may prescribe."

While it is true that the transportation act seems to confer upon the President discretion to determine, within certain limitations, how much of the debt the United States owes the railroads may be set off against the debt the railroads owe the United States, nevertheless the act does not contemplate that none of the debt of the United States shall be set off; but, on the contrary, assumes that it will be because in express terms it provides for funding only "the remaining indebtedness of the carrier to the United States." At any rate, it is indubitably clear that under the law and the contract between the parties the United States is not "morally and legally bound to fund," as stated by the President in his message, the $763,000,000 of debt the railroads owe the Treasury for "additions and betterments." The President must have been misled into making such a statement. All that the United States is required to do, legally and morally, is to fund for 10 years "any remaining indebtedness of the carriers to the United States" after a balancing of accounts.

Up to July 15, 1920, the railroads had filed with the director general counterclaims against the United States aggregating $758,000,000. Director General Davis says that the greater part of these claims is for undermaintenance of way, structures, and equipment, and that from 70 to 75 per cent of that part is for alleged "inefficiency of labor." The director general characterizes these "inefficiency of labor" claims as "of a too highly indefinite, speculative, and contingent character to warrant consideration," and states that they are not contemplated by the "standard contract," and that he has refused to allow them. The Interstate Commerce Commission has, in a recent decision, upheld the position of the director general.

The President in his message suggests that the claims of the railroads against the United States may amount to $500,000,000. It is difficult to conceive that the just claims of the railroads against the United States can approach any such sum. But assuming, for illustration, that they may, the account may be roughly stated as follows:

Due the United States by the railroads	$763,000,000
Due the railroads, account of alleged undermaintenance	500,000,000
Balance due United States	263,000,000

Payment of this balance the Government would have to defer for 10 years at 6 per cent interest on the request of the carrier, provided security satisfactory to the President is given. This is the kind of settlement the law now authorizes and contemplates. Such a settlement involves "no added expense, no added investment, no added liability, no added tax burden, and no added appropriation." It involves only the risk of loss in waiting 10 years for the remainder, namely, $263,000,000, when the security may not be good, but this risk the Esch-Cummins bill has already fastened on the taxpayers, and it can not be avoided.

But the President proposes a new plan, namely, to defer for 10 years at 6 per cent interest the entire $763,000,000 due by the carriers to the United States and to pay to the carriers in cash $500,000,000 for alleged undermaintenance claims, if that be the amount finally determined. The President assures us that this involves (1) "no added investment," (2) "no added liability," (3) "no added tax burden." Clearly he is mistaken.

(1) There is an "added investment" of the taxpayers' money amounting to $500,000,000, because instead of offsetting or canceling $500,000,000 with an equal amount of the debt the railroads owe the United States the Treasury will have to pay the railroads $500,000,000 of new money.

(2) There is an "added liability" of $500,000,000, because the Treasury must continue to lend that sum to the railroads, some with good and some with poor credit and a large loss may finally result. Thus, if the United States now cancels $500,000,000 with a part of the debt the railroads owe it, at least to the extent of $500,000,000, the chance of loss or liability will be removed.

(3) There will be an "added tax burden" unless the advances and all interest thereon are finally repaid by the railroads, because there is no way for the United States to get $500,000,000 for the railroads except by taxation, unless it borrows on Treasury certificates of indebtedness—the same thing, because these must be paid ultimately out of taxation.

But the President says let the authority of the War Finance Corporation be extended "so that it may purchase these railway funding securities" and thereby avoid the necessity of "added appropriation."

This does not alter the situation, because the War Finance Corporation is merely an agency or bureau of the Treasury. The War Finance Corporation will have to get the money from the Treasury or issue its own bonds, partially tax exempt, and sell them to the public in competition with Treasury financing. In order to do this, authority must be had from the Congress, and that is the purpose of the pending bill. The $400,000,000 credit which the War Finance Corporation has on the books of the Treasury is not money. It is merely a credit and was given for specific purposes which do not permit its use for the railroads any more than an appropriation for the Navy can be used for the railroads. To carry out this plan, whether through the War Finance Corporation or through the Treasury direct, involves a new appropriation.

However, the plan may be consummated, whether through the War Finance Corporation or through the Treasury direct, it remains clear that a new credit of $500,000,000 is to be extended to the railroads for a period of 10 years. Whatever may be said, it is certain that the railroads should be required, before any further advances are made, to abandon the "inefficiency of labor" claims which the director general declares are "too highly indefinite, speculative, and contingent to warrant consideration." The railroads should not be allowed to get $500,000,000 more and remain at liberty to keep the Government in litigation over such improper claims for an indefinite time.

Nor should the Government be forced to buy the obligations of the railroads at a higher price than their market value at the time. The bill as drawn obliges the President, in the exercise of the authority given him, to purchase such railroad securities on a basis that will return not to exceed 6 per cent on the investment, subject to such discount as may represent the customary and reasonable expense of marketing such securities. The bill also authorizes the War Finance Corporation to purchase the securities from the President at the same prices, and so forth, and then prohibits said corporation from selling the securities at less than the original cost. If the War Finance Corporation is to be thus used as the marketing agency, then clearly the securities should bear such rate of interest as will permit them to be sold without loss. If railroad securities can not now be sold on a 6 per cent basis—and I think it will be conceded that they can not be—then the obligations purchased by the Government should bear a higher rate or should be purchased at a price that will yield a high enough rate to attract investors. Otherwise, the United States must either continue to hold them until a market which will absorb them at 6 per cent can be found—a very uncertain contingency—or dispose of them at a loss, a loss which on final analysis must be borne by the taxpayer.

I suppose you realize that in addition to the $1,144,000,000 the railroads owe the Government for "additions and betterments" they have received additional loans under the Esch-Cummins bill of about $300,000,000, making a total of $1,444,000,000.

Stripped of confusing nonessentials, what is now proposed is that the Government shall wait 10 years for $763,000,000 the railroads owe it for betterments and improvements and pay immediately $500,000,000 to the railroads on account of claims for alleged undermaintenance, etc., taking from the 180 or more railroads involved, with their varying degrees of financial responsibility, such securities as they may be able to provide, securities which in many instances may not be adequate to protect the Government against loss.

This is not a question of "legal and moral obligation" on the part of the United States to lend the railroads $500,000,000 more for 10 years. It is a question of policy, and should be considered from that standpoint only. For the adoption of such a policy the administration must, of course, take the responsibility, but it should be candid about it. The public mind should not be confused by juggling of figures, manipulation of accounts or securities, or governmental agencies. To get the facts is the object of your inquiry, as it is equally the object of my reply.

With kind regards, I am, sincerely, yours, W. G. McAdoo.

CALL OF THE ROLL.

Mr. STANLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Shortridge in the chair). The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ball	Harrison	McNary	Spencer
Brandegee	Heflin	Moses	Stanley
Broussard	Hitchcock	Myers	Sterling
Calder	Jones, N. Mex.	Nelson	Townsend
Cameron	Jones, Wash.	Newberry	Trammell
Caraway	Kellogg	Nicholson	Wadsworth
Colt	Kenyon	Oddie	Warren
Culberson	King	Phipps	Watson, Ga.
Ernst	Ladd	Pomerene	Watson, Ind.
Fernald	La Follette	Reed	Weller
Fletcher	Lenroot	Sheppard	Williams
Frelinghuysen	Lodge	Shortridge	Willis
Gooding	McCormick	Simmons	
Hale	McCumber	Smith	
Harreld	McKellar	Smoot	

The PRESIDING OFFICER. Fifty-seven Senators having answered to their names, a quorum is present.

EXTENSION OF EMERGENCY TARIFF AND DYE CONTROL ACTS.

Mr. McCUMBER. Mr. President, I move that the Senate proceed to the consideration of the bill (H. R. 8107) to control importations of dyes and chemicals.

Mr. STERLING. Mr. President, I hope that motion will not prevail. A conference report is before the Senate now, and a conference report, I think, under the rule if not a privileged question is at least in the nature of one under Rule XXVII, which was read yesterday, and which permits of the disposition of a motion to take up a conference report.

Mr. BRANDEGEE. Mr. President, I make the point of order that the pending motion is not debatable at this time.

Mr. STERLING. I think the motion is debatable. A motion to take up a conference report is not debatable.

Mr. BRANDEGEE. I think a motion to proceed to the consideration of a bill is not debatable at this time.

Mr. STERLING. The Senate took a recess last night and did not adjourn.

Mr. BRANDEGEE. Was it not held yesterday afternoon not to be debatable.

Mr. STERLING. A motion to take up a conference report was held not to be debatable under the rule, which distinctly says it is not debatable.

Mr. BRANDEGEE. Very well.

Mr. McCUMBER. I should like to have the decision of the Chair as to whether a motion to displace a conference report is debatable.

The PRESIDING OFFICER. The Chair is inclined to think that it is.

Mr. McCUMBER. I simply wanted a ruling upon it, because I do not wish anyone to raise the question after the Senator from South Dakota has debated it, without giving me an opportunity to reply.

Mr. SIMMONS. Mr. President, I do not know who has the floor.

The PRESIDING OFFICER. The Senator from South Dakota [Mr. STERLING] has the floor.

Mr. SIMMONS. I understand the Senator from North Dakota [Mr. McCUMBER] has moved to take up the dye bill and the Senator from South Dakota is antagonizing that motion.

Mr. STERLING. To which motion I am opposed, as I have already stated.

Mr. SIMMONS. Will the Senator from South Dakota permit me to make a brief statement to him?

Mr. STERLING. I yield for that purpose.

Mr. SIMMONS. I wish to say to the Senator from South Dakota and to the Senate that after much conference on this side of the Chamber an agreement regarding a vote on the dye embargo extension bill has been reached with the Senator from North Dakota that no serious opposition will be interposed to the passage of the bill as it left the House. That bill simply extends the life of the embargo, which will expire on the 27th of this month, for three months.

The feeling on this side of the Chamber is that at the time the dye embargo bill was passed it was intended to bridge over the period which would elapse before the permanent tariff measure could be acted upon. It is now apparent that a permanent tariff measure can not be finally acted upon before the 27th of November, and we feel that it would probably be but fair to offer no dilatory objections to an extension for a reasonable length of time. There may be probably half an hour's discussion in the nature of statements of position with reference to the extension, but I think half an hour will be all the time required on this side.

Mr. KING (to Mr. SIMMONS). Say an hour.

Mr. SIMMONS. Or an hour at most, I think, will be all the time that will be consumed on this side of the Chamber.

Mr. SMOOT. Mr. President, I will say to the Senator that I do not know of anyone on this side of the Chamber who wants to take a moment's time on the bill.

Mr. STERLING. If I could be assured of that, I would be disposed to consent, but I think a better way than to displace the unfinished business by a motion would be that we have unanimous consent to take up the dye bill, and that the unfinished business be laid temporarily aside.

Mr. SMOOT. For one hour.

Mr. STERLING. For not exceeding one hour, for that purpose.

Mr. SIMMONS. That will be entirely satisfactory, I think.

Mr. JONES of Washington. Mr. President, I should like to ask the Senator from North Carolina, if the bill will take such a short time, why can it not be disposed of very promptly after the conference report that is now before the Senate is agreed to?

Mr. McCUMBER. We do not know when the conference report will be agreed to.

Mr. JONES of Washington. Certainly not; but we know it can be disposed of before the 27th of November, at any rate.

Mr. McCUMBER. But we do know that the time of the dye act expires in two or three days.

Mr. JONES of Washington. Notwithstanding that, we ought to be able to dispose of the conference report in less than two days, and an hour's time will dispose of the dye bill. Why not dispose of the conference report that is before the Senate?

Mr. McCUMBER. Because we undoubtedly can not dispose of it to-day.

Mr. JONES of Washington. We can not if we put everything else ahead of it, of course.

Mr. SIMMONS. I wish to say to the Senator from Washington that it is my belief that the disposition of the dye bill will help in the disposition of the conference report.

Mr. JONES of Washington. The Senator really thinks so?

Mr. SIMMONS. I really think so.

Mr. JONES of Washington. I have a great deal of confidence in the Senator's judgment and in his good intentions with reference to both these measures.

Mr. SIMMONS. I am willing that both should be acted upon at once.

Mr. JONES of Washington. If an agreement can be reached something like that suggested by the Senator from South Dakota, without displacing the conference report, fixing a definite time at which we can vote on the dye bill, I shall not oppose it.

Mr. HARRISON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRISON. I understand that the conferees on the agricultural relief measure amending the War Finance Corporation act have disagreed and can not get together. We passed a resolution the other day to recess or adjourn to-day. Is it in order for me to make a motion asking the House to return that resolution to the Senate?

Mr. SIMMONS. I wish to say to the Senator that we had a very positive understanding, stated upon the floor of the Senate by the majority leader of this body, to the effect that he had an understanding that there would be no action by the House upon the recess resolution until the farmers' relief bill had been passed through both Houses and sent to the President.

Mr. LODGE. Yes; I made that statement.

Mr. HARRISON. I realize that that statement was made, and it was on that statement that I voted for the resolution for a recess, but the House is holding the resolution as a hammer over the conferees representing the Senate in the consideration of the agricultural measure; and it seems to me it is time that the Senate withdraw that resolution unless the House is going to take some action or unless the conferees can get together on the agricultural measure.

Mr. SMOOT. Mr. President, I believe that the recess resolution is out of the power of the Senate.

The PRESIDING OFFICER. The Chair is of the opinion that the motion is untimely.

Mr. KENYON. If that is being used as a hammer, as the Senator from Mississippi suggests, I want to say that it is not going to work.

Mr. HARRISON. I am glad to hear it.

Mr. JONES of Washington. I desire to say, also, that while I am ready to give my consent to the proposition suggested a moment ago with reference to the particular bill, I shall not give my consent to bringing in any other bill, conference report, or anything of the sort that requires unanimous consent until the conference report that is now pending before the Senate is disposed of, it does not make any difference if we stay here, as we really ought to do, until the regular session begins.

Mr. KING. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Utah?

Mr. STERLING. I yield.

Mr. KING. I do not want the statement made by my distinguished friend from North Carolina [Mr. SIMMONS] to be interpreted as reflecting the views of myself, at least with respect to the dye bill. I think that bill ought not to pass. I think it is so infamous that it ought not to receive the approval of the Senate of the United States or the House of Representatives, and I am not in favor of bridging over any period or any time whatever by the passage of the dye bill. I do not believe it is any breach of faith if we fail to pass it. I do not believe there was any understanding, at least I had no understanding that it was to be in effect until a tariff bill was enacted, regardless of the time when the tariff bill was to be enacted.

Mr. STERLING. Then, Mr. President, is it unanimously agreed that the dye bill shall be considered by the Senate for

one hour, the unfinished business being temporarily laid aside for that purpose, not exceeding one hour?

Mr. McCUMBER. I wish to ask the Senator from Utah, with the permission of the Senator from South Dakota, if he will be willing to have the measure voted on before the expiration of one hour?

Mr. KING. Does the Senator mean at the expiration of one hour?

Mr. McCUMBER. At or before the expiration of one hour.

Mr. LENROOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Wisconsin?

Mr. STERLING. I yield.

Mr. LENROOT. I should like to ask the Senator from South Dakota what possible gain can there be by displacing the conference report? Is the Senator from South Dakota willing that the conference report shall not be disposed of before the proposed recess?

Mr. STERLING. Oh, certainly not.

Mr. LENROOT. If the Senator is not willing that that shall be done, why should the agreement be made?

Mr. McKELLAR. Mr. President, I object to the unanimous-consent agreement proposed.

The PRESIDING OFFICER. Objection is made.

Mr. SIMMONS. I wish to say that the Senator from Utah [Mr. KING] in his statement just made evidently misunderstood the purport of the statement which I made a few moments ago. When I said that I was friendly to the arrangement for action on the dye bill I meant not that I am in favor of the dye bill. I have been vigorously fighting the dye embargo proposition in the Finance Committee. I simply meant that I am willing to have a vote taken on it after reasonable opportunity is given for statement of the position with respect to it of those who oppose its passage.

Mr. SMOOT. Mr. President, I may say that the Senator from North Carolina has been consistent all the way through. I understand the pending motion is to take up the dye bill.

Mr. McCUMBER. That is the pending motion.

Mr. SMOOT. I have been in favor of having the prohibition or antibeer bill acted upon, but I am going to say to the friends of the bill that it is not going to help the passage of that measure at all if objection is made to the proposed unanimous-consent agreement or the motion of the Senator from North Dakota.

Mr. STERLING. I have not objected to the unanimous-consent agreement. It has been objected to, however, and of course I shall vote against the motion to displace the conference report.

Mr. NELSON. Mr. President——

Mr. STERLING. I yield to the Senator from Minnesota.

Mr. NELSON. There is no use to lay the conference report temporarily aside for the dye bill unless there is an agreement accompanying it that there shall be a vote on that bill within an hour.

Mr. SMOOT. The Senator is right about that.

Mr. NELSON. Otherwise it is merely "love's labor lost" to lay the conference report aside.

Mr. SMOOT. The Senator is right, and that is the request.

Mr. NELSON. If we may have unanimous consent to vote on that bill within an hour, then we may lay the conference report aside temporarily for that purpose, but unless we can have such an agreement it will be merely folly to lay the conference report aside.

Mr. TRAMMELL and Mr. LENROOT addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. TRAMMELL. I suggest as a substitute for the request that by unanimous consent we agree to vote on the conference report which is now pending at 12.30 o'clock to-day.

Mr. BROUSSARD. I object to that, Mr. President.

The PRESIDING OFFICER. Objection is made.

Mr. TRAMMELL. Then, I object to the other request for unanimous consent.

Mr. McCUMBER obtained the floor.

Mr. JONES of Washington. I wish to submit a request for unanimous consent.

Mr. McCUMBER. I yield for that purpose, if the Senator so desires.

Mr. JONES of Washington. I ask unanimous consent that at half past 3 o'clock the Senate may vote on the pending conference report and that not later than half past 5 o'clock we may vote upon the passage of the dye bill.

Mr. REED. Mr. President, to save any discussion of that, I object.

Mr. McCUMBER. I do not think there is any hope of obtaining a unanimous-consent agreement.

Mr. JONES of Washington. Is there objection to my request for unanimous consent?

Mr. REED. Certainly; I objected to it.

The PRESIDING OFFICER. The Chair understood there was objection.

Mr. McCUMBER. Mr. President, I merely want to say a word.

Mr. President, I do not suppose that any great harm will follow if we continue our present form of existence in the United States, so far as the beer bill is concerned, for another month. If it were a question in which the law relative to beer which we now have should cease to be effective in two or three days, I should see a great deal of argument in favor of not allowing the pending conference report to be displaced by any other measure, but there is no such danger. Even if the Senate shall take a recess, and even if the conference report goes over until after the recess, we shall still have the same laws in existence which we have at present, and as much as possible, undoubtedly, they will be enforced.

With reference to the dye bill, and without respect to what any Senator's views may be as to whether it is a proper bill or an improper bill, the fact remains that the present law goes out of existence on the 27th day of August. After the 27th day of August the situation with respect to dyes, and so forth, will certainly be chaotic. It is the desire to carry out what was intended to be the effect of the old law when it was passed, namely, that by the time the law expired we should have placed upon the statute books a supplementary law or some law to supersede it that would deal with the subject. I repeat that law expires on the 27th day of August.

Mr. REED. Will the Senator yield to me?

Mr. McCUMBER. In just a moment. I think we ought to take some action with reference to the extension of law. I am informed that we can within an hour get through with the debate upon the other side and dispose of the bill if we limit the question to the dye proposition alone and withdraw the committee amendment in reference to the tariff on agricultural products. It is because of that situation that I have moved to take up the dye bill at this time. I now yield to the Senator from Missouri for a question.

Mr. REED. I want to ask the Senator how long the dye bill proposes to extend the embargo?

Mr. McCUMBER. It proposes to extend it up to the 27th day of November. The House bill proposes to extend it for three months longer, and as it expires on the 27th day of August it is proposed that it shall be continued until the 27th day of November.

Mr. REED. One other question. I was out of the Chamber a moment ago when this matter was discussed. As I understand, the motion of the Senator from North Dakota is that we vote on the dye bill within one hour?

Mr. McCUMBER. Yes.

Mr. REED. Suppose the Senator from North Dakota changes that request to two hours?

Mr. McCUMBER. I have not asked for a unanimous-consent agreement to vote in an hour.

Mr. REED. No.

Mr. McCUMBER. Because I have asked for one unanimous-consent agreement and that was objected to. The question now is on the motion to take up the bill, and I assume that we can get through with it in an hour.

Mr. STERLING. Mr. President, the part of the argument of the Senator from North Dakota which does not appeal to me is his effort to minimize the importance of the antibeer bill and the conference report thereon.

Mr. McCUMBER. I wish to say to the Senator from South Dakota that I am not minimizing its importance.

Mr. STERLING. I think the Senator did so in his argument.

Mr. McCUMBER. I simply think that the country will live under the present law until another month shall have expired.

Mr. STERLING. The Senator states that we can conveniently wait another month for this legislation. We can not. It is of the highest importance from many considerations and standpoints that the conference report be now acted upon. Those considerations have been stated in the course of the debate, and were stated during the consideration of the bill at the time it was finally passed in the Senate. The question of regulations to be issued by the Internal-Revenue Commission in regard to the manufacture of beer, and so forth, renders it of great importance that the legislation be passed upon now.

Mr. BROUSSARD. May I ask the Senator from South Dakota a question?

The PRESIDING OFFICER. Does the Senator from South Dakota yield to the Senator from Louisiana?

Mr. STERLING. I yield to the Senator from Louisiana.

Mr. BROUSSARD. This bill is intended to prevent doctors from prescribing beer, is it not?

Mr. STERLING. Certainly.

Mr. BROUSSARD. Are the doctors permitted to prescribe beer under the present law as interpreted by the Commissioner of Internal Revenue?

Mr. STERLING. Mr. President, we do not want the doctors to prescribe beer, and to prevent that is one of the great purposes of the proposed law.

Mr. BROUSSARD. Are the doctors prescribing beer now?

Mr. STERLING. I do not know whether they are or not. Under the law possibly they might; probably they might.

Mr. MOSES. May I ask the Senator a question?

Mr. STERLING. Yes.

Mr. MOSES. Have the forces that are controlling the enforcement of the law now lost their power so that they can no longer continue the violation of the law which the commissioner has indulged in for months? Is that the fear of the Senator from South Dakota?

Mr. STERLING. Oh, no.

Mr. MOSES. Have they lost their grip on the organization in the Internal Revenue Bureau?

Mr. STERLING. Oh, no. The Senator from New Hampshire need not imply anything of the kind in his question.

Mr. BROUSSARD. Does the Senator maintain that he still has the grip?

Mr. STERLING. What is the Senator's question?

Mr. BROUSSARD. I wish to inquire whether the Senator maintains that he still has the grip on the Commissioner of Internal Revenue?

Mr. STERLING. Mr. President, I hope the pending motion will not prevail. I was willing at the time that a unanimous-consent agreement be entered into for one hour to be devoted to the discussion of the dye bill, the conference report not to be displaced; but I am opposed now to displacing the conference report, and I hope it will not be displaced.

Mr. WILLIS. Mr. President, my fellow Senators will bear me out in the statement that I have not occupied very much time in the discussion of this measure, but I think before the motion made by the Senator from North Dakota is voted upon it ought to be made perfectly clear what the effect of it will be. The Senator from North Dakota is always frank in his statements. That is a quality that might well commend itself to many others in this body. It can not be said that this proposition when considered seriously leads to anything else than an evasion of a vote on the so-called beer bill. The Senator from North Dakota suggests that we may very well get along for a month, or for whatever time shall elapse during a recess, without any amendment of the law. That, of course, is the purpose of this motion—I should say the effect of the motion, not the purpose; I withdraw the word "purpose"—that is the effect of this motion. What we are about to determine is whether or not the dye business of this country is of more interest to the people of the United States and of more importance than the enforcement of the law.

The Senator says that the law relative to the dye industry, providing an embargo, will expire on August 27. I suggest to him that it is not at all impossible that, if tactics such as we have witnessed in the last 48 hours are continued to be indulged in, the Senate may be here on August 27 prepared to do business. I am not now referring to the Senator from North Dakota.

Mr. BROUSSARD. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Louisiana?

Mr. WILLIS. I yield to the Senator from Louisiana.

Mr. BROUSSARD. I assume from the remarks of the Senator from Ohio that we are being charged again with delaying the consideration of the vote on the beer bill. I should like to remind the Senator——

Mr. WILLIS. Oh, Mr. President——

Mr. BROUSSARD. I will ask the Senator to wait for a moment. I should like to remind him of the fact that the conference report came in on yesterday and that the only Senators who have discussed it have been Senators who are in favor of the measure, and they discussed it from 2 o'clock until nearly 11 o'clock last night.

Mr. WILLIS. Mr. President, that is not a question. I decline to yield for a statement by the Senator. He can make a statement in his own time. I understand what the RECORD shows, and that is that the friends of this bill sat silent day after day while its enemies attacked it, and finally when the conference report was brought in two of the friends of the bill made some remarks in favor of it. I am not charging the Senator from Louisiana with dilatory tactics, but I am saying it is perfectly evident to anyone who has witnessed the proceedings here that there is an effort to put aside a vote upon this bill.

Senators know that if this bill could be brought to a vote now there are votes here to pass it, but the report has been circulated—we hear it in the cloakrooms—that 15 or 20 Senators are to speak on this so-called beer bill. They have that right; I do not complain about that; I am in favor of the fullest discussion; but let us understand the situation. If there is to be a filibuster, with the threat that other legislation can not be enacted unless this bill, which has the right of way, shall be laid aside, then let those who choose to take that action assume the responsibility for it.

So far as I am concerned, Mr. President, in the greatest good humor, I wish to suggest that here is a measure that has been worked upon for months, the conference report has been agreed to by the House and is before the Senate, and the only reason—the only real reason, let me say, if there be a real reason—on the part of anybody for voting for the motion now before the Senate is to get rid of the beer bill. Now, let us vote upon the beer bill direct.

Mr. McCUMBER. Mr. President, will the Senator yield to me?

Mr. WILLIS. I yield to the Senator from North Dakota.

Mr. McCUMBER. The Senator certainly is very much mistaken if he assumes that that is the purpose in any way——

Mr. WILLIS. I meant, and I think I said, the "effect." I absolve the Senator from North Dakota of any improper motive.

Mr. McCUMBER. I am going to vote against any adjournment until we vote upon the beer bill.

Mr. WILLIS. That is fine.

Mr. McCUMBER. As well as upon the other measure. If the present prohibition law——

Mr. McKELLAR. Mr. President——

Mr. McCUMBER. Just a moment. If the present prohibition law would lose any of its efficacy before the 27th day of August, I would not ask to have it displaced by a measure which is designed to perpetuate for a short time a law which will otherwise become obsolete on the 27th day of August. I believe we can handle both bills. It seems the Senator thinks, in view of the argument that is being made by Senators, that there is a filibuster on the other side, and I am not going to disagree with him; it may be that is true, and, if it is true, it is likely to continue for some time. Yet I do not want it to proceed to such a length that the present law on dyestuffs will lapse by reason of the expiration of the time limit contained in the law itself. That is the only reason on earth that I am asking for the consideration of the bill reported by the Committee on Finance, believing that it will not take more than an hour or two at the very most to be disposed of. I think if that bill is out of the way it will facilitate the progress of the other bill rather than delay it, and, above all, I do not think that it will possibly injure the chances of the beer bill.

Mr. WILLIS. Mr. President, I, of course, absolve the Senator from North Dakota from any purpose such as he may have inferred that I had attributed to him; but I do think that the effect of the adoption of the motion which he has made will be that which the gentlemen who are opposed to a vote on this beer bill desire. It is very significant that many Senators who a while ago were not interested in the protection of the dye industry of this country have become exceedingly active in seeking to have a vote upon this dye question now. I do not question anybody's motives. I simply point out the facts that every Senator who is frank must recognize that this vote is simply an attempt to avoid a vote upon the beer bill.

The Senator from North Dakota has suggested that he is in favor of no recess at all. I think he is right about that. I think we should stay here until we get through with the business that we were sent here to perform.

Mr. McCUMBER. I am certainly in favor of no recess until we get through with the bill that the Senator is advocating.

Mr. WILLIS. I agree with the Senator in that; but if that is the case, if the Senate is to remain in session there is not any reason why we can not go ahead with this bill and then take up the dye bill. There is no reason why we should lay this bill aside.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. WILLIS. I yield to the Senator from Tennessee.

Mr. McKELLAR. I just want to call the attention of the Senator from North Dakota, who says he will vote against any adjournment or recess until the liquor bill is disposed of, to the fact that we have already voted on that question, and that that concurrent resolution is over at the House and depends upon the vote of the House and not upon ours at all. When we discontinue our session to-day, or when 12 o'clock to-night

arrives, as I understand the concurrent resolution, if the House agrees to it, we are adjourned, without any action on our part, whatever action we may take.

Mr. McCUMBER. I assumed, of course, that the House probably would have to modify the concurrent resolution, and then it would have to come to the Senate again. I think probably that will be the case; but if what the Senator says is true, it would seem to me that it is impossible to get any of these bills through to-day, unless there is an agreement that we can put at least one of them through. If there is a filibuster there is no question but that there is power enough to debate any bill until after the time for the recess shall have expired.

Mr. WILLIS. Mr. President, as I understand the situation, the Senator from North Dakota proposes, if possible, to have a vote on the dye proposition separate and apart from the emergency tariff bill.

Mr. McCUMBER. Yes; because I am satisfied that we could not get a vote on both of them.

Mr. WILLIS. Then that makes the issue clear and clean-cut which we are to determine by this vote. It is not a question of the emergency tariff law. Let no Senator think that he can hide behind the camouflage that he is in favor of legislation for the farmer.

Mr. McCUMBER. Let me correct the Senator. The tariff law does not expire until November 27.

Mr. WILLIS. I understand that perfectly.

Mr. McCUMBER. So that we have time enough; and I am absolutely certain that if necessary that law will be continued until the new tariff law goes into effect.

Mr. WILLIS. I understand that situation perfectly, Mr. President. What I want to make clear for the RECORD and for the country is this, so that it can not be said by any Senator that his vote was cast because he wanted to get up legislation in the interest of the farmer: The farmer is not particularly interested in the maintenance of the dye monopoly in this country. We are now voting to determine whether we are more interested in the maintenance of the dye monopoly or in the enforcement of the law in this country; and I say this one other thing——

Mr. FRELINGHUYSEN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from New Jersey?

Mr. WILLIS. Just a moment. In response to the suggestion of the Senator from North Dakota, I say that if it is desired to have a vote, the friends of this bill are ready to vote now or at any time to-day. There is no desire to delay.

I now yield to the Senator from New Jersey.

Mr. FRELINGHUYSEN. Mr. President, the Senator from Ohio has stated that the emergency dye bill is in the interest of a dye monopoly. I rise in the interest of truth. In my State there are some 48 factories, all independent, connected in no manner whatsoever with any dye monopoly—chemical factories, color factories, and many institutions that are making dye products. There are at the present time, I am informed, in the harbor of New York awaiting entry dyes that will compete with the products of those factories and completely wipe them out of business.

Mr. STANLEY. Mr. President——

Mr. FRELINGHUYSEN. I refuse to yield.

Mr. WILLIS. Mr. President, I have the floor. I am doing the yielding, I think.

Mr. FRELINGHUYSEN. I understood that the Senator would yield to me until I had finished my statement.

Mr. WILLIS. I yield to the Senator for a brief statement.

Mr. NELSON. Mr. President——

Mr. FRELINGHUYSEN. When the charge is made that this bill is in the interest of a dye monopoly I deny it. It is in the interest of legitimate independent industries of my State that need and are entitled to this protection. I intend to vote for both of these bills; but in the interest of fairness and in the interest of truth, when it is stated in this body that this bill is in the interest of the dye monopoly, as far as my State is concerned, I deny it.

Mr. BROUSSARD. Mr. President, will the Senator yield to me?

Mr. WILLIS. Just a moment. I want to answer my friend the Senator from New Jersey, and I should like to have his attention upon this point.

If it is offensive to the Senator from New Jersey, I very gladly withdraw the word "monopoly" and say "industry"; and I want to say to him while he is talking about the dye industry of his State that we have two or three great factories in our State about twice as big as those he has in his State engaged in the dye business, and I am in favor of legitimate protection for the dye industry. I do not know but that I shall vote for an embargo upon the importation of dyes, but I do not propose that this dye proposition shall be used as a means of coloring the water, as the squid might color it, in order that Senators may fool their constituents as to what they are voting on.

Mr. WILLIAMS. Mr. President, will the Senator pardon a suggestion? Whether these dye establishments together or any one establishment constitute a monopoly or not, they are undoubtedly trying as a whole to monopolize the American market to the exclusion of all foreigners. There can not be much doubt about that.

Mr. WILLIS. Mr. President, we will disuss that when we get to the dye schedule, if we do. What I am now saying to the Senate, and particularly to my great and good friend the Senator from Mississippi, is that this dye proposition is raised here now, this question is brought up, to enable gentlemen who do not want to vote on the beer question to have a place to hide themselves behind the multicolored hues of the dye industry.

Mr. McKELLAR. Mr. President, in order to pour oil on the troubled waters I ask unanimous consent that the Senate may vote on the so-called beer bill at 8 o'clock to-night and on the dye bill at 8.30 to-night. That will give every Senator here all the time he desires to debate the beer question and the dye question. It seems to me it will be fair to everybody, liquor men and antiliquor men, dye men and antidye men. It will be fair to everybody; so I ask unanimous consent that we vote on the liquor bill at 8 o'clock to-night—that will give 8 hours and 20 minutes of debate—and that at 8.30 we vote on the dye bill.

Mr. KENYON. Mr. President, I should like to ask the Senator, in view of the number of books on the desk of the Senator from Missouri [Mr. REED], if he thinks that will be quite time enough?

Mr. McKELLAR. So far as I am concerned, I will yield him all of my time. I shall not take up any time.

Mr. STANLEY. Mr. President, if the Senator from Tennessee will yield——

Mr. McKELLAR. I yield.

Mr. STANLEY. The Senator is under a misapprehension, I fear, or, at least, he is not as happy as he usually is——

Mr. McKELLAR. I am very happy this morning.

Mr. STANELY (continuing). In his choice of expressions usually no Senator expresses himself more gracefully or accurately than the Senator from Tennessee. He talks about wet men and dry men, liquor and the antiliquor men, and the prescribing of beer to the sick. Those things, as I see it, are of infinitely small importance as compared with the great question that confronts the country, and that is embodied in this amendment.

This, I insist, Mr. President, is not a fight between wets and drys. Men have stood here for this amendment and have voted for it who never cast a wet vote, and never will. We are here to defend the sanctity of the holiest temple ever erected by mortal man, ever conceived by human wit, or defended by mortal courage, save and except that temple whose sky-kissing spire is adorned by the cross of my crucified Redeemer. The greatest orator who ever thrilled assemblies of statesmen or who ever adorned an American forum in all the tide of time delivered his greatest utterance in the defense of the Constitution of his country; and the most eloquent expression in all the eloquence of the "old man eloquent," Daniel Webster, himself, was that aspiration, as holy as a prayer, that his dying eyes might not behold a flag dishonored or a Constitution discarded.

"A union of States, one and inseparable, the Constitution now and forever," was the battle cry of Daniel Webster, and it is our battle cry now.

Why, we are told that this temple is infested by a few rats, a few bootleggers; and blind fanaticism, wild in its disregard of the sanctity of the organic law of its country, boldly proclaims that it is willing to wreck the foundations of this temple to kill the rats that infest it. Against such folly I stand. I am utterly indifferent to minor points. I have as great a contempt for a bootlegger and his nefarious business as the self-constituted political Pharisees who attribute to themselves all purity, all courage. Any man who votes for anything except a beer bill is a "crook" or a "coward."

The assertion is made by a Senator that his colleagues are skulking cowards. For one, I resent it. I have endeavored to live unafraid of anything except the God who made me.

Mr. WILLIS. Mr. President——

Mr. STANLEY. I have stood for the Constitution as a Member of Congress for 12 years. I stood against sumptuary legislation in a district as dry as the desert of Sahara.

Mr. WILLIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Ohio?

Mr. STANLEY. In one minute. I have taken my political life in my hands for 20 years in order that without fear and without reproach I might serve my country and my God, undisturbed by the threats of fanaticism even though the fanatic might borrow the livery of heaven to serve the devil in.

Mr. WILLIS. Mr. President——

The PRESIDING OFFICER. Does the Senator yield?

Mr. McKELLAR. I yield to the Senator to ask a question.

Mr. WILLIS. I want to suggest to the Senator from Kentucky that if his remarks had any reference to me, he will find that I have not used toward my colleagues in this body any such term as he has just used. I have not suggested that he or any other Senator is a skulking coward, or anything of the kind. I did say—and the RECORD will bear me out—that the vote on this motion was simply an effort to avoid a vote upon the beer bill. The Senator, of course, has a right to characterize that any way he pleases; but I did not characterize it other than to state a fact.

Mr. STANLEY. Mr. President, I am delighted to hear the gifted and genial Senator from Ohio make that statement. I am getting along in years; I have reached the slopes, where the shadows are a little longer grown, and perhaps memory, like my physical powers, is failing; but I have an indistinct recollection that at no very distant date I heard some fine satirist, who, I thought, resembled the handsome brunette from Ohio, talk with fine scorn of camouflage, of men hiding behind a screen of colored waters in which somebody might conceal himself. I tell that man—not the Senator from Ohio but somebody I thought said some cruel satirical thing like that, who indulged in some such diatribe, not the Senator from Ohio—for one, I need no screen. No man need color the waters for me, and I believe that the day is not at hand for the shame of my country and the dishonor of a body which once sat under the marbled eloquence of Crittenden and Clay.

For the honor of the Senate, for the honor of the United States itself, for the glory of that flag, never lowered in time of peril, may it never trail in time of peace, may we, as legislators, be as strong in moral courage as that flag's defenders around the world were faultless in physical valor. May the day never come when any Senator will hide, not from the Senator from Ohio—there is no fear of him—but from sinister forces paid to watch us, who keep tab on us from the lobby, who crack their whip until it can fairly be heard between the lines of all the Senator says, whose presence, they tell me—but I can not believe it is true—unblushing and insolent, is seen even in the secret conferences of Members of this body.

I pray God that that thing, intimated by somebody—not the Senator from Ohio—does not exist, and that the Senate still may possess the courage of its convictions, may still be worthy of its dead and deathless predecessors.

Mr. McKELLAR. Mr. President, I made the unanimous-consent request because I know every Senator here has made up his mind how he is going to vote. Even the wonderful eloquence of the Senator from Kentucky [Mr. STANLEY] is not going to change any votes. Every Senator here knows exactly how he is going to vote on these measures, and it is just a matter of business. The gentlemen on the other side want to take a recess. Why not let us have the recess, if we are going to have it, after performing the business that is before the Senate? The conference report on the beer bill is here and it ought to be disposed of. The department is about to issue regulations unless it is disposed of. Every Senator in this body knows exactly how he is going to vote. As I said awhile ago, all the arguments and all the eloquence are not going to change any vote, and for that reason, Mr. President, I hope there will be no objection, and that we can have unanimous consent to vote on the beer bill conference report at 8 o'clock to-night and on the dye bill at 8.30.

The PRESIDING OFFICER. Is there objection?

Mr. BROUSSARD. Mr. President, at the beginning of the discussion on the beer bill it was intimated that those who opposed its immediate enactment were resisting the law; that they were lawless; that they favored the bootlegger; that they were for procrastination; and we produced evidence that although the prohibition commissioner had ruled as early as January 31, 1920, that there was no provision in the national prohibition act to prevent a physician from prescribing beer, the regulation in that regard had been withheld up to the time when the public generally knew that the Attorney General held that that was a correct interpretation of the law.

Since that time, Mr. President, we have been repeatedly charged with being against law enforcement, and up to this very day the prohibition commissioner has persisted in violating the law, and even on this day we heard from Senators on this floor that Senators here who merely wish to discuss a constitutional question do not favor law enforcement. When the question is put directly to the Senator from South Dakota, who persists that we shall agree on an hour to vote on this measure, as to whether or not he has lost his grip on the prohibition commissioner, and whether or not these regulations, which should have been issued on January 16, 1920, will shortly be issued, the reply is that he has not lost his grip on the prohibition commissioner.

Then, in a further discussion of this question, Mr. President, it was intimated by one of the Senators on this floor that objection would be made to the consideration of any conference report or the taking up of any measure until this beer bill had been disposed of.

Following that a motion has been made by the Senator from North Dakota [Mr. MCCUMBER] that the business which was laid aside yesterday, the emergency tariff and dye measure, be reinstated as the unfinished business, and, while that motion is pending, we have understood that Senators take the position that they will refuse to give unanimous consent even for the consideration to the extent of one hour of the business which really is the unfinished business before the Senate.

If that be the attitude of gentlemen here, and if it is true, as advocates of both measures claim, that it is impossible to finish the consideration and to vote upon both measures, I desire to enter an objection to the unanimous-consent request.

I wish to state my reason for that objection. The Senate adopted the Reed-Stanley amendment by unanimous consent; it was accepted by the proponents of the bill, and, after a two days' discussion in the committee, it was ascertained by the conferees that they needed further action of the Senate in order that the matter might be properly before the conferees.

Then the Senator from South Dakota returned here, and after having discussed with the conferees for two days the Stanley amendment as amended, and also the amendment which had been put into the bill by the House, after the action of the Senate on the Stanley amendment, after they had been discussing those for two days, the Senator from South Dakota requested that the Senate disagree to the House amendment, and repeatedly promised the Senate that the conferees on the part of the Senate would insist upon the Senate amendments.

Now we find that the conferees, or a majority of the conferees—because the Senator from Arizona [Mr. ASHURST] refused to sign the report—have agreed with the House conferees. They brought back this report yesterday at 4 o'clock, and although they have persistently charged those who opposed this measure as being filibusters, although they claim that we have tried to delay the consideration of and the vote upon this measure, the Senator from South Dakota [Mr. STERLING] and the Senator from Minnesota [Mr. NELSON] consumed all the time between the time the report was taken up by the Senate and the time of recessing last night, between the hours of 4 and 11, without giving us an opportunity to explain the constitutional questions involved, and now that we are forced into the position of having to fight our own conferees, who were pledged to stand by the Stanley amendment, it is sought to preclude debate on our part.

Mr. STERLING. Mr. President——

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from South Dakota?

Mr. BROUSSARD. I yield.

Mr. STERLING. The Senator is mistaken as to the time when this conference report was made. The conference report was first submitted to the Senate on last Saturday, the 20th. It did not come over from the House until yesterday, when it was taken up here in the Senate.

The Senator speaks of the consumption of the time. The object in moving a recess last night until 10 o'clock to-day was to give Senators time in which to discuss the constitutional questions which they think are involved in this controversy, and ample time, I think, would have been given if the time had been taken for that purpose.

Now, Mr. President, I just want to say, if the Senator will yield further, that I was willing that the Senate should enter into a unanimous-consent agreement that not exceeding one hour might be devoted to the dye bill. I think more than one hour has been consumed in the discussion of this motion. It was understood that the dye bill could be disposed of in that time, but objection was made to the unanimous-consent agreement, and of that I do not complain at all.

The situation is this: If the conference report is displaced by a motion, it will be no longer the unfinished business before the Senate, and the question will be when it may again become the unfinished business of the Senate, urgent as it is.

Mr. BROUSSARD. Mr. President, the Senator may obtain the floor in his own time; I think I have been very liberal with him. I wish to state that it is true that the conferees agreed on Saturday, but the papers were sent to the House, and the House acted upon the report of the conferees only yesterday.

We received the papers or the bill only yesterday about 4 o'clock. Immediately upon its reception the Senator from North Dakota asked that the conference report be taken up and that it displace the unfinished business, which is the emergency tariff bill. Objection was made, but the Senate took up the conference report on the beer bill.

I wish to say further that I object to it for another reason. When the emergency tariff bill was before the Senate I supported that measure and voted for it. I am deeply interested in the passage of that measure. The sugar producers of my State will be faced with the immediate dumping into this country of nearly 100,000,000 tons of sugar. The price of sugar at this time is very low. The sugar producers of Louisiana still have some on hand, but the price is so low that we can not even take it out of the warehouse in order to pay the mortgage which was placed upon that sugar. So if the emergency tariff law is permitted to lapse on August 27, we will find ourselves in the position of being entirely at the mercy of the sugar which the Cuban producers would immediately dump on the American market.

Mr. WILLIS. Mr. President, does the Senator understand that the emergency tariff law is to lapse on August 27?

Mr. BROUSSARD. No; I do not now so understand. I have just been informed by the Senator from Utah [Mr. SMOOT] that it will not lapse until November 27.

The emergency tariff law is a measure which I have supported. I supported it almost against the unanimous vote of my colleagues on this side of the Chamber. I intend to vote for it again, and for that reason and for the reason that I shall certainly vote against the beer bill, I make objection to the unanimous-consent request.

Mr. JONES of Washington. Mr. President, the Senator from Louisiana has called attention again to the fact that the amendment was adopted by the Senate by a unanimous vote. That I have seen mentioned several times, not only in the discussions in the Senate, but in the papers. The fact is that the amendment was adopted without any objection. There was no vote taken upon it and it was adopted in the same way that amendments are adopted upon almost every important bill in the Senate. The proposition involved had been discussed for hours, if not for days, by the opponents of the bill. They had proposed amendments of various kinds, and finally the proposition was presented in a form that seemed to be satisfactory to them, and it was accepted in order to get the matter into conference and get the bill through.

Mr. BROUSSARD. Mr. President——

Mr. JONES of Washington. I yield to the Senator from Louisiana.

Mr. BROUSSARD. Was there any objection raised at the time the Senator from South Dakota returned from the meeting of the conferees and asked the Senate to disagree to the House amendment to the amendment of the Senate? When he was asked what was his personal attitude and what would be the attitude of the conferees with reference to the Stanley amendment, the Senator from South Dakota replied that he intended to insist upon the Stanley amendment, and I inquire now if there was any protest at that time on the part of any Senator on this floor?

Mr. JONES of Washington. There was not any occasion for a protest. Everybody understood what the Senator from North Dakota meant, that he would endeavor in the conference to carry out the express will of the Senate so far as he could. There is not a Senator here who does not know what must take place in conference if we are going to have legislation. I have not any doubt that the Senator from South Dakota stood out for the Senate amendment as long as he felt he was justified in doing it, but, as he stated yesterday, he learned something about the amendment, as probably all of us learned, after it was adopted by the Senate. It was adopted, as I said, without any consideration whatever. It was presented here finally after various conferences, and it was adopted with the desire to get the bill through the Senate and to get it into conference. That is the only way in which it may be said that it passed the Senate unanimously.

Now, one other suggestion. The Senator from Louisiana has referred several times to the fact, as he states it, that the friends of the measure occupied most of the time yesterday in its discussion. Anybody who will examine the RECORD of yesterday will find that while, technically, the Senator from South Dakota [Mr. STERLING] and the Senator from Minnesota [Mr. NELSON] had the floor, they did not use very much of the time. Most of the time was used by interruptions, questions, statements, and arguments made by those who are opposed to the bill.

Mr. McCUMBER. Mr. President, the Senator from South Dakota [Mr. STERLING] and the Senator from Ohio [Mr. WILLIS] seem to have forgotten that it was through the motion of the Senator from South Dakota that the bill which I was pressing at that time was displaced. It was displaced at a time when there was not even a quorum voting, not by a yea-and-nay vote, but by a rising vote when very many Senators were absent. That bill was displaced for the conference report.

Now, it appears to me that we can, before the calendar day is over, pass one of these measures. From all appearances, we can not pass the one that is now the unfinished business. I have been in the Senate many times when I have listened to the eloquent debates of the senior Senator from Missouri [Mr. REED]. The Senator from South Dakota knows something about the ability of the senior Senator from Missouri to discuss a subject without a note and without anything in front of him, and something about the length of his brief speeches.

If the Senator from South Dakota will look now at the desk in front of the Senator from Missouri and notice the law books that are piled toward the ceiling, I think he can draw a fair conclusion that the Senator from Missouri and those on the other side, feeling as they do about the beer bill, and that it is a clear infringement of the Constitution, will occupy so much time that when they get through talking about it there will not be much of the day left for any subject, not even for the measure the consideration of which I am urging.

I may be entirely in error, but my conclusion is—and I predict—that the Senator will not get a vote upon the beer bill to-day. If I thought there was a fair possibility of getting it I would not press the other matter, but I am certain that the Senator can not get a vote. If we had had a unanimous-consent agreement to give one hour to the dye bill I think it would have passed by this time. We have lost over an hour, the time it would have taken to have passed the dye bill, in fruitless discussion.

I do not wish to get in the way of the conference report if the Senator thinks there is any possibility of getting it through. I am disposed, with the consent of the Senate, to withdraw my motion at this time, with the hope a little later, when the Senators having charge of the pending business see that it is impossible for them to pass that business, that they will yield long enough to put the dye bill through. With the consent of the Senate, I desire to withdraw my motion.

Mr. SMOOT. I hope the Senator will withhold his request to withdraw his motion.

Mr. McCUMBER. It has to be done with consent, and I ask for that consent. I am in hopes that after a little while we may be able to get a unanimous-consent agreement whereby we can take an hour or an hour and a half to dispose of the dye measure.

Mr. LENROOT. Mr. President, reserving the right to object, I should like to ask the Senator from North Dakota if he has not been advised, as many other Senators have been advised, that the recess resolution will not pass the House of Representatives until the dye bill has also passed?

Mr. McCUMBER. I have not been so advised.

Mr. LENROOT. I have; and many other Senators have likewise been so advised. So when the Senator from North Dakota either now or hereafter shall press consideration of the dye bill to displace the conference report, it means but one thing, that every Senator who votes to displace it votes to postpone consideration of the conference report until after the recess, because there will be no recess until the dye bill and the so-called farmers' relief bill and the deficiency appropriation bill have been passed.

Therefore the Senator from North Dakota need have no fear that this will be the last day to consider the dye bill if the conference report now before the Senate is continued before the Senate. There will not be a recess until the pending conference report, the farmers' relief bill, the dye bill, and the deficiency appropriation bill are disposed of.

Mr. McCUMBER. The Senator forgets, however, that even if the House should not agree to the recess resolution, nevertheless the law expires on the 27th day of this month; and once having expired, I have grave doubts of our disposing of it in any form before a recess is taken. I have no information, as the Senator seems to have had, that the vote of the House upon the recess proposition will depend entirely upon whether or not these two bills shall have passed.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from North Carolina?

Mr. LENROOT. I yield.

Mr. SIMMONS. I wish to ask the Senator from Wisconsin a question. He has made the statement that there will be no recess until the dye bill, the farmers' relief bill, and the deficiency appropriation bill have passed. I wish to ask the Senator if the House does not in that declaration and decision and determination include also the so-called beer bill?

Mr. LENROOT. It is my belief that there will be no recess until the beer bill is also passed, but it has not been stated to me quite so positively with respect to it.

Mr. SIMMONS. I wish to say to the Senator that it has been stated to me that there will be no possibility of the recess resolution being passed by the House until the beer bill is passed, as well as the other three bills to which the Senator has referred.

Mr. McCUMBER. Then, if the Senator will allow me, if there will be no recess until those bills shall have passed, and as one law expires on the 27th day of this month, what good reason can be given for not allowing us first to dispose of the measure which extends the time of the law which will expire on the 27th day of the present month?

Mr. LENROOT. The reason is that if the Senator from North Dakota will reflect for a moment he knows that the House of Representatives will not recess until the farmers' relief bill has passed, and I have been advised, as other Senators have been advised, many of whom are back of the proposition to displace the conference report, that the House will not recess until the dye bill is also passed. So there can be but one purpose, without, of course, ascribing any such purpose to the Senator from North Dakota. There can be but one purpose in the minds of some of those Senators, at least in supporting a proposition to displace the conference report, that they hope at least that if the dye bill is passed we may have a recess and defeat the conference report upon the beer bill at this time.

Mr. McCUMBER. But the Senator understands that the request for unanimous consent was only for one hour, and not to displace the pending measure at all. I hope that we may be able to get that unanimous consent, and I will withdraw my motion now with that hope.

Mr. LENROOT. I understand. The reason that I speak of it now is that, while the Senator from North Dakota withdraws his motion, he does it knowing that later on if it shall appear—as, of course, it will appear—that the day is to be taken up on the conference report, he will renew the motion.

Mr. McCUMBER. No. I said that I hoped that later in the day I should be able to obtain unanimous consent to vote on the bill, and, I might add now, without any interference with the other matter longer than a sufficient time—possibly an hour or so—to dispose of the bill.

Mr. McKELLAR. If the Senator will allow me to interrupt, I desire to say that I am absolutely sure that unanimous consent will not be given to vote on the dye bill unless it is accompanied with an agreement for voting on the beer bill.

Mr. LENROOT. Of course, that is very plain, Mr. President.

Mr. McKELLAR. Otherwise, a unanimous-consent agreement can not be obtained.

Mr. LENROOT. That necessarily must follow, and the question which Senators will have to decide, if that motion shall be renewed in the future, is whether they consider the importation of dyes more important than the enforcement of the eighteenth amendment. That is the question that will be decided by any vote which may be taken.

Mr. President, if the conference report is kept before the Senate, it will be disposed of, of course, and the other matters will also follow and be disposed of. We shall have our recess—not to-day, not to-morrow, for, perhaps, it may take a week, but the conference report will be disposed of. If the situation is such as has been outlined by the Senator from Kentucky [Mr. STANLEY], who calls this the greatest constitutional question that has been before Congress for a generation, I want to ask Senators how any of them can go home to their constituents with such a question pending and say, "We can go fishing, as there is nothing to do in Congress?"

The PRESIDING OFFICER. The Chair understands that the Senator from North Dakota [Mr. McCUMBER] has withdrawn his motion. If that be so, the question before the Senate is on agreeing to the conference report.

Mr. HARRISON. Mr. President, I desire to offer a resolution, which I think is a privileged matter.

The PRESIDING OFFICER. The Secretary will read the resolution.

The principal legislative clerk read as follows:

Resolved, That the House of Representatives be, and it is hereby, requested to return to the Senate concurrent resolution No. 8 providing for an adjournment of the two Houses from August 24 to September 21, 1921.

Mr. HARRISON. Mr. President, we have been in session now, working some days until 12 o'clock and last night until half past 10 o'clock and meeting in the morning at 10 o'clock, trying to rush matters to their ultimate conclusion in order that we may recess according to the resolution which the Senate passed over a week ago; but the discussion this morning touching the prohibition measure, as well as the proposed dye legislation, the amendment to the War Finance Corporation act, and the urgent deficiency conference report shows that this Congress should not now adjourn.

The PRESIDING OFFICER. If the Senator from Mississippi will suspend for a moment, the Chair desires to state that the Chair does not wish to be understood as ruling impliedly that the motion which he has submitted is privileged. The question as to whether or not it is privileged may be raised.

Mr. STERLING. I did not understand the ruling of the Chair.

The PRESIDING OFFICER. The Chair does not understand that the motion submitted by the Senator from Mississippi [Mr. HARRISON] is privileged. The matter before the Senate is the conference report.

Mr. HARRISON. Mr. President, the other House has for a week had the resolution which I now request be returned to the Senate. The main proposition which is keeping that body from adopting that resolution, as I understand, is because the conferees on the part of the Senate and House can not get together upon the amendment of the War Finance Corporation act, the House holding out for what is a bankers' bill, eliminating the proposition that credits may be extended to individuals in foreign countries, where the collateral is good, in order that they may purchase products and expend the money in the United States. That is one proposition, and the Members of the House are against it.

The news that trickles from the conference room is to the effect that the House conferees are also opposed to the amendment which provides that the War Finance Corporation may purchase, if requested by the Federal Farm Loan Board, $100,000,000 worth of bonds this year and $100,000,000 next year. Those are two of the propositions which are involved.

The other question at issue, as I understand, is that the banks may be enabled to charge a greater rate of interest than 2 per cent upon the money which they borrow or obtain from the War Finance Corporation for loans to the farmers of the country. If those provisions which were incorporated in the Senate bill are eliminated, there would be practically nothing left in the bill to carry relief directly to the farmers of the country.

The resolution providing for a recess, which we passed a week ago, is now held up in the other House as a hammer, so to speak, to force the Senate conferees to accept the House amendments to the bill I have named.

Mr. LODGE. Mr. President, I rise to a question of order.

The PRESIDING OFFICER. The Senator will state his question of order.

Mr. LODGE. Rule XIII of the Senate provides:

1. When a question has been decided by the Senate, any Senator voting with the prevailing side may, on the same day or on either of the next two days of actual session thereafter, move a reconsideration.

The second clause of the rule refers to motions concerning the recall of papers, and reads:

2. When a bill, resolution, report, amendment, order, or message, upon which a vote has been taken, shall have gone out of the possession of the Senate and been communicated to the House of Representatives, the motion to reconsider shall be accompanied by a motion to request the House to return the same.

The motion to recall a matter from the other House must be accompanied by a motion to reconsider, and I make the point of order that it is now too late to make that motion.

Mr. HARRISON. May I ask from what clause the Senator read?

Mr. LODGE. I read from Rule XIII, on page 17, which provides that every motion to reconsider must be accompanied by a motion to request the return of the matter from the House.

Mr. HEFLIN. Mr. President, if the Senator from Massachusetts will permit me and the Senator from Mississippi will yield, then if the Senate should change its mind as to the date of adjournment, how can it get its resolution back from the House?

Mr. LODGE. It can not do so; it is in the hands of the House.

Mr. HEFLIN. It makes no difference what might happen, the Senate is bound to adjourn if the House wants it to adjourn?

Mr. LODGE. If the House adopts the resolution, it will adjourn the Congress.

Mr. HARRISON. Mr. President, I am not asking for a reconsideration.

Mr. LODGE. The Senator can not make the other motion unless he does.

Mr. HARRISON. I realize that a motion to reconsider must be made by a Senator voting in the affirmative, and I voted in the affirmative. The motion to reconsider could only be made on one of two succeeding days, but I am not asking for a reconsideration; I am merely moving for the return of the resolution from the House to the Senate. When we get it here, then the other question will come up as to whether or not the motion to reconsider is in order.

Mr. LODGE. The request to the House has to be preceded by a motion to reconsider. It is perfectly plain on the face of the rule.

Mr. LENROOT. Mr. President, the Senator from Massachusetts does not mean that it would not be in order—I am not talking about the question of privilege—that it would not be in order for the Senate to ask the House to return any measure, any bill, or any resolution that it has ever passed?

Mr. LODGE. There is a limitation to that, of course.

Mr. LENROOT. The Senate can ask by a proper resolution for the return of anything which it has sent to the House, as I think the Senator will agree.

Mr. LODGE. The House may return a bill or a paper, but there is a limitation as to that.

Mr. LENROOT. No.

Mr. LODGE. Where there is an intent to reconsider the action, the Senate may request a return of a measure, but a motion to reconsider must precede.

Mr. LENROOT. The Senator from Mississippi has not moved to reconsider, but he may, nevertheless, if he can get the consideration of the Senate, move for a return of the papers.

Mr. HARRISON. What the Senator from Massachusetts has quoted is this:

> When a bill, resolution, report, amendment, order, or a message, upon which a vote has been taken, shall have gone out of the possession of the Senate and been communicated to the House of Representatives, the motion to reconsider shall be accompanied by a motion to request the House to return the same.

That is very true, but I am not moving to reconsider; I am making a motion now that the concurrent resolution be returned here. Then the question will come up as to a motion to reconsider, and the Senator may make his point of order then.

Mr. LODGE. Under what rule does the Senator make that motion?

Mr. HARRISON. Under the rule of good, hard common sense.

Mr. LODGE. I thought so. I think that where the intent is to modify or change a bill or other measure Rule XIII applies.

Mr. STERLING. Mr. President, I understand that it is the ruling of the Chair that the motion of the Senator from Mississippi is not a privileged motion and that the regular order before the Senate is the conference report.

The PRESIDING OFFICER. The Chair has so indicated.

Mr. STERLING. I call for the regular order.

The PRESIDING OFFICER. If the Senator will permit, the Chair has indicated his opinion that the motion of the Senator from Mississippi was not a privileged motion and that the matter before the Senate for immediate consideration was the conference report.

Mr. LODGE. Of course, the motion is out of order at this time; there is no doubt about that.

Mr. STERLING. I make the point of order then distinctly against the motion of the Senator from Mississippi, and call for the regular order.

Mr. HARRISON. Mr. President, on that I desire to be heard.

The PRESIDING OFFICER. The Chair will be glad to be advised.

Mr. HARRISON. I wish to say——

Mr. STERLING. The question is not debatable, I think.

Mr. HARRISON. A point of order is certainly debatable. I have never heard of such a rule invoked by the highest order of autocracy shown by any majority.

Mr. SMOOT. It is debatable only in the discretion of the Chair, however.

Mr. HARRISON. It seems as if the Chair is about the only one who wants to listen to the proposition.

The PRESIDING OFFICER. The Chair has indicated his views; but he is perfectly willing to give heed to any thought of the Senator.

Mr. HARRISON. I hope the Chair will not commit himself too soon.

The PRESIDING OFFICER. The Chair is very well satisfied on the question.

Mr. LODGE. May I ask the Senator from Mississippi a question?

Mr. HARRISON. Certainly.

Mr. LODGE. The Senator surely does not think when there is a pending motion and unfinished business before the Senate that it is in order to make another motion. No motion, no bill, nothing, if the regular order is called for, is in order except the regular order.

Mr. HARRISON. A motion to adjourn is of the highest order of privilege.

Mr. LODGE. There is no motion to adjourn pending.

Mr. HARRISON. And motions incidental to adjournment are probably of the next highest privilege. The motion I have made involves incidentally the question of adjournment.

The PRESIDING OFFICER. The Chair is willing to rule upon that proposition.

Mr. HARRISON. What is the ruling of the Chair?

The PRESIDING OFFICER. The Chair rules against it.

Mr. HARRISON. The Chair sustains the point of order?

The PRESIDING OFFICER. The Chair sustains the point of order.

Mr. STERLING. I call for the regular order.

Mr. HARRISON. I will offer the resolution later as soon as the Senator's motion is disposed of.

The PRESIDING OFFICER. The question before the Senate is on agreeing to the conference report on House bill 7294.

AMENDMENT OF NATIONAL PROHIBITION ACT.

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 7294) supplemental to the national prohibition act.

Mr. REED addressed the Senate. After having spoken for some time (at 1 o'clock p. m.) he said:

Mr. President, I move that the Senate take a recess until 2 o'clock.

Mr. LENROOT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BROUSSARD in the chair). The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Harreld	McNary	Smoot
Ball	Harrison	Myers	Spencer
Borah	Heflin	New	Sterling
Brandegee	Jones, N. Mex.	Newberry	Sutherland
Broussard	Jones, Wash.	Nicholson	Townsend
Calder	Kellogg	Norbeck	Trammell
Cameron	Kenyon	Oddie	Wadsworth
Caraway	King	Phipps	Walsh, Mass.
Culberson	Ladd	Poindexter	Warren
Curtis	La Follette	Pomerene	Watson, Ga.
Ernst	Lenroot	Reed	Watson, Ind.
Frelinghuysen	McCormick	Sheppard	Weller
Gooding	McCumber	Shortridge	Williams
Hale	McKellar	Smith	Willis

The PRESIDING OFFICER. Fifty-six Senators having answered to their names, a quorum is present. The Senator from Missouri has the floor.

Mr. FRELINGHUYSEN. Mr. President, will the Senator from Missouri yield to me?

Mr. REED. I yield for the purpose the Senator has indicated to me.

Mr. FRELINGHUYSEN. There has been presented to me a petition, purporting to be signed by 35,000 voters of the State of New Jersey, declaring for a modification of the Volstead Act. Believing in the right of petition and acceding to the request of the petitioners, I present the petition to the Senate. It is addressed to the Senators from New Jersey and the Representatives in Congress from the State.

With the further indulgence of the Senator from Missouri, I ask that the Secretary may read the petition and that the petition be referred to the Committee on the Judiciary.

Mr. JONES of Washington. Mr. President, I wish to ask if this is being done while another Senator has the floor? I understood that a motion for a recess was pending.

The PRESIDING OFFICER. A motion for a recess is pending.

Mr. REED. I withdraw the motion.

Mr. JONES of Washington. The Senator can not do that. A quorum call has been made.

Mr. REED. I can withdraw the motion which I made for a recess, can I not?

Mr. JONES of Washington. I have no objection to the Senator withdrawing it. I wish to say, however, that I shall contend, when the proper time comes, that the Senator from Missouri has already made one speech.

Mr. REED. I shall contend that the Senator has already made one now.

Mr. JONES of Washington. I do not desire to make any.

Mr. REED. The Senator has now made two.

Mr. FRELINGHUYSEN. I have no desire to delay or take the time of another Senator and interfere with his speech. The Senator from Missouri very courteously allowed me to present the petition, which I consider a public duty, notwithstanding the position I may take on the question of prohibition. I feel that the names of these registered voters of my State should be filed with the Committee on the Judiciary and that their protest should be laid before the Senate.

Mr. JONES of Washington. Mr. President, I ask for the enforcement of the rule which prohibits the presentation of such petitions when another Senator has the floor.

The PRESIDING OFFICER. Objection is made. The petition can not be received at this time. The Senator from Missouri will proceed.

Mr. REED resumed his speech. After having spoken for some time,——

Mr. HITCHCOCK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BROUSSARD in the chair). The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Hitchcock	Myers	Sterling
Ball	Jones, N. Mex.	New	Sutherland
Broussard	Jones, Wash.	Newberry	Swanson
Capper	Kellogg	Nicholson	Townsend
Caraway	Kenyon	Norbeck	Trammell
Colt	Ladd	Oddie	Wadsworth
Curtis	La Follette	Phipps	Walsh, Mass.
Dillingham	Lenroot	Poindexter	Warren
Ernst	Lodge	Pomerene	Watson, Ga.
Frelinghuysen	McCormick	Reed	Watson, Ind.
Gooding	McCumber	Sheppard	Williams
Hale	McKellar	Simmons	Willis
Harreld	McLean	Smith	
Harrison	McNary	Spencer	
Heflin	Moses	Stanley	

The PRESIDING OFFICER. Fifty-seven Senators having answered to their names, a quorum is present. The Senate will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8117) making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1922, and for other purposes; that the House had receded from its disagreement to sundry amendments of the Senate to the bill and concurred therein; that the House had receded from its disagreement to the amendments of the Senate numbered 3 and 8, and concurred therein, each with an amendment, in which it requested the concurrence of the Senate; that the House insisted upon its disagreement to the amendment of the Senate numbered 2, and requested a further conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MADDEN, Mr. CANNON, Mr. KELLEY of Michigan, Mr. BYRNS of Tennessee, and Mr. BUCHANAN were appointed managers of the further conference on the part of the House.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the Presiding Officer [Mr. CURTIS] as Acting President pro tempore:

S. 2131. An act to extend for the period of seven months the provisions of Title II of the food control and the District of Columbia rents act, approved October 22, 1919, and for other purposes;

S. 2207. An act to amend the act entitled "An act to establish standard weights and measures for the District of Columbia, to define the duties of the superintendent of weights, measures, and markets of the District of Columbia, and for other purposes," approved March 3, 1921; and

H. J. Res. 138. Joint resolution to repeal so much of the act of Congress approved February 28, 1920, as provides for the sale of Camp Eustis, Va.

URGENT DEFICIENCY APPROPRIATIONS—CONFERENCE REPORT.

Mr. WARREN. Mr. President, I wish to submit a conference report on the deficiency appropriation bill.

The PRESIDING OFFICER (Mr. BROUSSARD in the chair). Does the Senator from Missouri yield to the Senator from Wyoming?

Mr. REED. I do; but I do not want some generous gentleman to say that that counts for another speech.

Mr. WARREN. This is a partial report.

Mr. REED. I am entirely willing to extend every courtesy to the Senator from Wyoming; but a very generous-hearted gentleman this morning informed me that because I had made a motion to take a recess he would draw the rule on me in regard to the number of speeches I could make. I shall, therefore, have to be very careful. When I am dealing with gentlemen of that kind, of course I must deal a little differently from what I would with the Senator from Wyoming.

Mr. JONES of Washington. Mr. President, the Senator is referring to me, of course. I think the Senator appreciates the situation, and he knows I would treat him just as courteously as any other Senator on this floor. I shall not take any advantage of any proposition here. I am perfectly willing to have him yield to the Senator from Wyoming.

Mr. REED. I yield to the Senator from Wyoming.

Mr. STERLING. Will the Senator from Wyoming yield to me?

Mr. REED. I am yielding to the Senator from Wyoming.

Mr. WARREN. Yes. A conference report comes in under the rule.

Mr. STERLING. I simply want to ask whether or not this is simply the presentation of a conference report?

Mr. WARREN. I wish to make this statement, so that Senators may thoroughly understand what I propose. In the first place, we are in disagreement on a large number of amendments, and lying on the table is a message from the House as to their action. There are but three or four amendments which must go back for further conference. What I wish to do is to have the Senate accept the partial report which I have sent to the desk, which, as I said, shows a large number of disagreements; then I desire to move to agree to the House amendments to two of the Senate, and then move for a further conference on the remaining items.

Mr. REED. I am entirely willing to yield the floor for that purpose.

Mr. STERLING. Mr. President, it is understood that this does not displace the unfinished business before the Senate?

Mr. WARREN. I have no desire to displace anything. I simply wish to get the bill back to conference, so that we may be ready to report a full agreement at some later time.

Mr. CURTIS. Unanimous consent does not displace the unfinished business.

Mr. REED. I want to have it understood that this is a mere interlude in my remarks.

The PRESIDING OFFICER. The Senator from Wyoming submits a conference report, which will be read.

The reading clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8117) making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1922, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 9 and 10.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 6, 7, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 24, 25, 26, 27, 28, 29, 31, 32, 33, and 35; and agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: " : *Provided further*, That no part of this appropriation shall be used for actual expenses of subsistence exceeding $5 a day or per diem in lieu of subsistence exceeding $4 for any officer or employee of the United States Shipping Board or the United States Shipping Board Emergency Fleet Corporation"; and the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment as follows: At the end of the matter inserted by said amendment insert the following: "; *Provided*, That no person shall be paid from this appropriation at a rate of compensation exceeding $5,000 per annum"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"JUDGMENTS, COURT OF CLAIMS.

"For payment of the judgments rendered by the Court of Claims and reported to Congress during the present session in Senate Document No. 63, namely:

"Under the Treasury Department, $166,523.02;

"Under the War Department, except the judgment in favor of the Broadbent Portable Laundry Corporation, $19,012.71;

"In all, $185,535.73.

"None of the judgments contained herein shall be paid until the right of appeal shall have expired."

And the Senate agree to the same.

The committee of conference have not agreed upon the following amendments of the Senate Nos. 2, 3, 5, 8, 22, and 23.

F. E. WARREN,
W. L. JONES,
Managers on the part of Senate.

MARTIN B. MADDEN,
J. G. CANNON,
PATRICK H. KELLEY,
JOSEPH W. BYRNS,
J. P. BUCHANAN,
Managers on the part of the House.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. KENYON. I would like to ask the Senator what the conferees did with the amendment providing for the $200,000, under what is known as the "packers' bill"?

Mr. WARREN. That was agreed to last night, and went back as an agreed item.

Mr. KENYON. Then, what was done with the provision limiting salaries?

Mr. WARREN. It was agreed to, with an amendment to limit the salaries to $5,000.

Mr. KENYON. So that if this is accepted now, no person connected with that work can receive over $5,000 a year?

Mr. WARREN. Not until we may provide otherwise; which, of course, we can do at some other time.

Mr. ASHURST. Mr. President, it is difficult for us to hear over here.

Mr. WARREN. The Senator from Iowa asked if there was a limitation on one of the salaries in the so-called packer bill amendment, and I stated that there was one. It provides that no salary shall be over $5,000.

Mr. KENYON. Mr. President, it is interesting to note that, while we refused to limit salaries in the Shipping Board, and are paying some $35,000 a year, when we come to a great matter like the salary administration of the law as to the packers the amount is limited to $5,000. Of course, it will not work to anybody's benefit if we can not get the proper man to do that work. The Secretary of Agriculture asked for $6,500. I merely refer to the startling discrepancy between salaries of the Shipping Board and salaries where a great measure like this, in which all the people are interested, is concerned.

Mr. WARREN. Only a word, Mr. President. The Shipping Board matter to which the Senator refers is still in disagreement. When the packer matter was before the Senate I rose to state the importance of that provision to the live-stock interests, but I did not receive any support from the floor, and consequently the cut was made of $40,000, and on that account and others the House forced us into adopting the provision.

Mr. KENYON. Of course, the Senate placed no limitation on the salaries; the fault is not with the Senator. I am not complaining of that.

Mr. WARREN. I made a statement of the importance of it, but it did not seem to be understood or to be appreciated.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

The PRESIDING OFFICER. The Chair lays before the Senate the action of the House of Representatives, which will be read.

The reading clerk read as follows:

IN THE HOUSE OF REPRESENTATIVES,
August 24, 1921.

Resolved, That the House recede from its disagreement to the amendments of the Senate numbered 5, 22, and 23 to the bill (H. R. 8117) entitled "An act making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1922, and for other purposes," and concur therein;

That the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert the following: "*Provided further*, That this appropriation shall not be available for the payment of certified public accountants, their agents, or employees, except those now employed in making an audit and taking an inventory of stock, and after the completion of such audit and inventory all auditing of every nature requiring the services of outside auditors shall be furnished through the Bureau of Efficiency."

That the House recede from its disagreement to the amendment of the Senate numbered 8 with an amendment as follows: In line 4 of said amendment, after the word "regulations," insert ", including investigations by the Tariff Commission."

That the House further insist upon its disagreement to the amendment of the Senate numbered 2, and request a further conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. MADDEN, Mr. CANNON, Mr. KELLEY of Michigan, Mr. BYRNS of Tennessee, and Mr. BUCHANAN be the managers of the conference on the part of the House.

Mr. WARREN. Mr. President, I move that the Senate agree to the amendment of the House to Senate amendment No. 3 in regard to the accounting, which has just been read.

The motion was agreed to.

Mr. WARREN. I move that the Senate agree to the House amendment to Senate amendment No. 8, which is as to the customs service.

The motion was agreed to.

Mr. WARREN. I move that the Senate further insist upon the remaining amendment, that the request of the House for a conference be accepted, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. WARREN, Mr. JONES of Washington, and Mr. GLASS conferees on the part of the Senate.

Mr. HARRISON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Mississippi?

Mr. REED. I yield.

Mr. HARRISON. I was temporarily absent from the Chamber when the conference report was adopted. May I inquire, in the time of the Senator from Missouri, the Senator yielding for that purpose, if there has been any agreement on the proviso which was adopted in the House to the $48,500,000 appropriation that limited the amount that might be expended for the salaries of employees and officers?

Mr. WARREN. That is still in disagreement.

Mr. KENYON. Mr. President, I should like to say to the Senator from Mississippi that there is a proviso limiting what shall be paid to the employees of the Department of Agriculture.

Mr. HARRISON. There is in this proposition?

Mr. KENYON. In the bill now.

Mr. HARRISON. In the deficiency appropriation bill?

Mr. KENYON. Yes.

Mr. HARRISON. What is the limitation on the amount that may be paid?

Mr. KENYON. Five thousand dollars as to the administration of the packers' bill, which involves tremendous interests, as the Senator knows.

Mr. HARRISON. That they can pay no more than a certain amount to certain employees?

Mr. KENYON. Yes. So it provides that the man who is in charge of that great work can only receive $5,000 a year, which means, of course, that they can not find a competent man to do it, which of course means blocking successful packer regulation.

Mr. HARRISON. But they can not agree on placing a limitation of not over $12,500 on some attorney or some officer to work for the Shipping Board.

AMENDMENT OF NATIONAL PROHIBITION ACT.

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7294) supplemental to the national prohibition act.

Mr. REED resumed his speech. After having spoken for some time,

Mr. WALSH of Massachusetts. Mr. President——

The PRESIDING OFFICER (Mr. WATSON of Georgia in the chair). Does the Senator from Missouri yield to the Senator from Massachusetts.

Mr. REED. I yield.

Mr. WALSH of Massachusetts. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is suggested. The Secretary will call the roll.

The Assistant Secretary called the roll and the following Senators answered to their names:

Ashurst	Harreld	McNary	Simmons
Ball	Heflin	Moses	Smith
Borah	Hitchcock	Nelson	Spencer
Brandegee	Jones, Wash.	New	Stanley
Broussard	Kellogg	Newberry	Sterling
Calder	Kenyon	Nicholson	Sutherland
Cameron	King	Norbeck	Swanson
Capper	Ladd	Oddie	Townsend
Caraway	La Follette	Phipps	Trammell
Colt	Lenroot	Poindexter	Wadsworth
Curtis	Lodge	Pomerene	Walsh, Mass.
Fernald	McCormick	Reed	Watson, Ga.
Frelinghuysen	McCumber	Sheppard	Williams
Hale	McKellar	Shortridge	Willis

The PRESIDING OFFICER (Mr. FERNALD in the chair). Fifty-six Senators have answered to their names. A quorum is present.

AMENDMENT OF TRANSPORTATION ACT OF 1920.

Mr. LA FOLLETTE. If the Senator from Missouri will yield to me for a moment——

Mr. REED. I yield.

Mr. LA FOLLETTE. Yesterday unanimous consent was granted to me to file the views of the minority upon the bill (S. 2337) to amend the transportation act, 1920, and for other purposes. I present the report and ask unanimous consent that with the majority report the minority report be printed in the CONGRESSIONAL RECORD.

There being no objection, the report of the majority and the views of the minority were ordered to be printed in the RECORD, as follows:

MAJORITY REPORT.

[Sixty-seventh Congress, first session. Senate Report No. 261.]

AMENDING TRANSPORTATION ACT OF 1920.

Mr. TOWNSEND, from the Committee on Interstate Commerce, submitted the following report, to accompany S. 2337:

The Committee on Interstate Commerce, to whom was referred the bill (S. 2337) to amend the transportation act, 1920, and for other purposes, having considered the same, report favorably thereon with the recommendation that the bill do pass with amendments.

The bill in question is one to authorize the United States to sell and the War Finance Corporation to purchase and to sell in the market, or as agent of the United States to sell, the securities taken from the railroads or hereafter to be taken and owned by the Government, and to use the proceeds for the purpose of settling with the railroads under the provisions of section 202 of the transportation act.

The President now has complete power to adjust, settle, liquidate, and wind up all matters, including compensation and all questions of dispute and funding of indebtedness between the Government and the railroads, which is specifically provided for by section 202 and section 207 of the transportation act of February 28, 1920.

This bill does not in any manner change the relationship between the Government and the railroads already provided for by the act of March 31, 1918, known as the Federal control act, by the contracts made by the director general with each of the railroads and by the transportation act of 1920. The obligation and indebtedness of the Government to the railroads and the railroads to the Government has already been fixed by these acts and contracts, and all that it is proposed by this bill is to sell the securities which the Government has, in order to obtain the money to pay the Government's obligations.

It ought to be clearly understood that this bill does not affect in any manner the authority of the President to fund the indebtedness due from the railroads to the Government for additions and betterments chargeable to capital account. A part of this indebtedness the President may or may not fund, according to his judgment in the case of each particular railroad. The wisdom or unwisdom of the transportation act, conferring upon the President this particular discretion or authority is not involved in this measure, which deals with the question of providing funds for the payment of the amounts due the railroads as ascertained according to the Federal control and transportation acts.

The Government now has in its Railroad Administration bonds, notes, and equipment trust certificates amounting to about $470,000,000, and will, as it settles with the railroads and funds the indebtedness of the companies, receive other railroad securities. It is proposed by this bill to sell these securities at the same price at which the Government received them, without any loss whatever.

The origin of these securities is as follows: When the Government took over the railroads on January 1, 1918, it took all of their assets, including money on hand, and, of course, the railroads could not, without the consent of the Government, make any permanent improvements. So during the 26 months of Federal control the Government advanced the money to make the permanent improvements. These improvements were such as are not usually paid for out of current earnings but are paid for out of capital, for which the railroads issue their stocks or bonds. The Government also owed the railroads a large amount for the rental due under the Federal control act and under the contracts entered into between the railroads and the director general.

When the transportation act was passed, it authorized the President to adjust, settle, liquidate, and wind up all matters, including compensation and all questions of disputes arising out of Federal control (sec. 202, transportation act). An appropriation of $200,000,000 was made for this purpose.

Section 207 authorized the President to fund a certain amount of the indebtedness of the railroads to the Government for permanent improvements into bonds running not exceeding 10 years, bearing 6 per cent interest, and authorized the President to make certain offsets of the sums owing the roads by the Government against this indebtedness.

The right of offset was not to be exercised so as to prevent such carrier from having the sums required for interest, taxes, and other corporate charges and expenses referred to in paragraph (b) of section 7 of the standard contract entered into by the Director General of Railroads and the railroads pursuant to the act of March 31, 1918, accruing during Federal control, and also the sums required for dividends declared and paid during Federal control, and a certain sum of money for working capital, provided, of course, the Government should owe the roads these amounts. Beyond that the President was authorized to exercise his discretion in making offsets.

It appears that, as to some roads, the Government can offset a greater sum than as to others, and the Government has not funded any of the indebtedness for permanent improvements of some of the roads which have already been settled with, but has offset it against the rental.

The appropriations heretofore made are not sufficient to settle all the obligations of the Government to the railroads for rental, undermaintenance, moneys taken over, etc., and the object of this bill is for the Government to sell the securities which it has taken or shall take from the railroads, as these settlements and fundings proceed, and thereby obviate any necessity for further appropriation.

It is the opinion of the director general that not over $500,000,000 of the indebtedness of the railroads to the Government will be funded; the balance will be offset.

Taking up the bill in detail, subdivision (h) authorizes the President to take the securities of the railroads at less than 6 per cent, but if so taken, they shall be taken at a discount which will ultimately pay the same rate of interest, and that any discount which would reasonably be necessary to market such securities should be a charge against the railroads instead of the Government. The object of this, if the railroads agree, is to dispose of these securities, but solely at the expense of the railroad companies.

Section 22, subdivision (a), authorizes the President to sell to the War Finance Corporation and the War Finance Corporation to buy not exceeding $500,000,000 of these securities. The object in authorizing this corporation to buy is this: It is desired to sell these securities in the market, but it may be necessary temporarily to take over some of the securities and advance the money to the Railroad Administration in order to wind up and complete the settlement. It is simply, therefore, transferring these securities from one department of the Government to another, as the War Finance Corporation has authority to sell its bonds and obtain capital.

Subdivision (b) authorizes the War Finance Corporation to sell these securities at not less than the original cost thereof, the corporation being required to pay, by the preceding subdivision, the same price at which the Government received the securities.

Subdivision (c) authorizes the War Finance Corporation to sell any of these securities as agent for the President, as it has the machinery by which securities can be marketed, and it may be that some of these securities can be sold without the War Finance Corporation investing any money.

Subdivision (e) simply authorizes the moneys to be paid over to the Railroad Administration as a fund to settle the obligations of the Government and the balance to be paid into the Treasury.

In order that no financing under this measure shall interfere with the financing of agricltural products, the committee added section 3, which provides that the corporation shall not purchase these securities when such purchase would interfere with the granting of the fullest aid for financing and exporting agricultural products under the War Finance Corporation act or any amendment thereof, and provides that it is the intention that preference should be given to financing such agricultural products and exports.

MINORITY REPORT.

[Senate Report No. 261, part 2, Sixty-seventh Congress, first session.]

Mr. LA FOLLETTE, from the Committee on Interstate Commerce, submitted the following minority report, to accompany S. 2337:

The undersigned members of the Committee on Interstate Commerce are unable to approve the report made by a majority of the members of that committee accompanying the bill S. 2337, for the following reasons:

1. This bill has been reported by the arbitrary action of the majority of the committee upon ex parte hearings and after a refusal to permit the testimony of any witnesses who might oppose or criticize its proposals.

2. This measure, if enacted, will put the Government of the United States in the business of dealing in railroad securities. It will put the War Finance Corporation in control of an enormous mass of railroad securities, larger probably than the holdings of any private interest. The War Finance Corporation will therefore become a dominant influence on the stock exchanges through its power to withhold or throw upon the market hundreds of millions of dollars worth of securities. This is no part of the legitimate functions of a Government, nor should the credit of the United States be used for such a purpose.

Far from taking the Government out of business, it will inevitably involve it in the most speculative business in the world—the marketing of corporate securities.

3. Under the terms of this bill the Government will almost certainly lose hundreds of millions of dollars in the proposed transactions. The Government is required to accept the railroad securities upon a 6 per cent basis. As the present market for the best secured railroad bonds is now upon a 7 per cent basis, with inferior bonds yielding 8 per cent or more, the Government will acquire these bonds at from $10 to $20 per $100 above their present market value. It follows, moreover, that the Government will not be able to sell these bonds upon a 6 per cent basis to private investors when they can buy similar securities from banks and brokers at prices which will yield 7 or 8 per cent. The Government will therefore be obliged either to hold this great mass of securities until the railroad bond market is by some miracle again upon a 6 per cent basis or by some future legislation authorize the War Finance Corporation to sell them at market prices. In the latter case the Government stands to lose from $10 to $20 on every $100 worth of bonds sold. If for any reason the railroad bond market should decline the Government's loss will be proportionately increased. The aggregate amount of railroad securities which the War Finance Corporation is authorized by this act to sell is nearly $1,500,000,000. The total loss of the Government, if the bond market remains in its present condition, may therefore be from $150,000,000 to $300,000,000, and in case of a fall in the stock market may be much greater.

4. These highly speculative transactions are not required to secure a just and speedy settlement of the railroad claims. The Government is not morally and legally bound to fund the indebtedness of the railroads on account of additions and betterments made during the period of Federal control, but only that part remaining after the railroad

claims have been offset. On the contrary, every piece of legislation affecting the relations of the railroads to the Government, including the Federal control act and the transportation act, has specifically provided for such an offset and has only authorized the funding of the remaining indebtedness. By offsetting the claims against the indebtedness this entire question can be settled without injuring any carrier and without the payment of a single dollar from the Treasury or the marketing of a single security.

5. No matter what amendments may be adopted the imposition of this great problem of disposing of millions of dollars worth of railroad securities will inevitably hamper the War Finance Corporation in handling the even greater and more important function of financing the marketing of agricultural products.

6. No emergency of a character to justify the extraordinary transaction provided for in this bill has been shown to exist. On the contrary, railroad earnings and railroad credit are steadily improving and are likely to improve even more rapidly with the increase of traffic accompanying the crop-moving season which is about to begin. Many of the railroads undoubtedly need money, but this is true of every class of individuals and businesses in the United States.

7. During the past 18 months, since the passage of the transportation act of 1920, the Government has paid or loaned the railroads $1,376,403,024. The American people are already overburdened with taxes. We can see no reason why the Government should embark upon this highly speculative venture at such a time.

In support of the above conclusions, we submit the following statement:

This bill has been reported by the committee after hearing only two witnesses—Eugene Meyer, jr., managing director of the War Finance Corporation, and Mr. James C. Davis, Director General of the Railroad Administration. These two gentlemen are admittedly the authors of this bill and its principal advocates. They should, of course, have been heard, as they were, to lay before the committee the reasons why in their opinion this legislation should be enacted by Congress. But that the hearings should have been terminated by action of the majority of the committee immediately after the conclusion of their testimony, and without permitting the calling of witnesses whose testimony might be adverse to the proposed legislation, is a procedure which we believe to be without precedent in the annals of Congress.

Before the testimony of Mr. Meyer and Mr. Davis was concluded the chairman of the committee was formally requested to call as witnesses before the committee Hon. William G. McAdoo, former Secretary of the Treasury and Director General of Railroads at the time the railroads were taken over by the Government, and Hon. Walker D. Hines, who succeeded him as head of the Railroad Administration. In the case of Mr. Hines, who is now in Europe, the request was made with the proviso that his testimony might be secured within a reasonable time. The reasons for requesting the calling of these witnesses were twofold. In the first place, it was under their administration of the railroads that the contracts between the Government and the carriers were drawn. It is believed that their testimony would throw a great deal of light upon the obligations which the Government had assumed in taking the railroads over, and also upon the general character of the indebtedness and claims as between the railroads and the Government which the present legislation proposes to provide a means for settling. In the second place, both of these witnesses are unquestionably qualified by reason of their experience to express authoritative opinions as to whether the transactions proposed in the pending bill were sound from a financial standpoint and in the interest of the Government.

The committee, by vote of the majority, refused to permit either of these witnesses to be called, although it had been ascertained that Mr. McAdoo was ready to appear upon the call of the committee and that no unreasonable delay would be occasioned by taking his testimony.

Upon the same day upon which this action of the committee was taken, Mr. L. E. Sheppard, president of the Order of Railway Conductors, representing the four railway brotherhoods, and Mr. William H. Johnston, president of the International Association of Machinists, appeared personally before the committee and requested that they be given opportunity to be heard upon the bill. They were refused a hearing by a vote of the majority of the committee, although the interests of the hundreds of thousands of railroad employees whom they represent are directly affected by this legislation.

Thus, this bill, authorizing transactions of a novel character, entirely without precedent in the history of the Government, and which may involve sums aggregating approximately $1,500,000,000 comes to the Senate with no other evidence or expert opinion available except that presented by the joint authors and proponents of the legislation.

We submit that the Senate should not give its sanction to this unprecedented procedure. If this precedent is permitted to stand and is followed in the future, the Senate will cease to be a deliberative body and will degenerate into a mere tool of the majority.

The purpose of this bill, according to the report of the majority, is "to authorize the United States to sell and the War Finance Corporation to purchase and to sell in the market, or as agent of the United States to sell, the securities taken from the railroads or hereafter to be taken and owned by the Government, and to use the proceeds for the purpose of settling with the railroads under the provisions of section 202 of the transportation act."

A great deal has been said recently by President Harding and other spokesmen of the administration about the desirability of "taking the Government out of business." We submit that instead of taking the Government out of business, this bill proposes to put the Government into the most speculative business in the world—the buying and selling of railroad securities. As we propose to demonstrate elsewhere, the terms under which this business is to be transacted are such that the Government will almost inevitably lose large sums. Nevertheless, assuming even that the Government had an opportunity to make a handsome profit out of the transactions, we submit that the purchase and sale of such speculative securities is no part of the functions of government and will inevitably have demoralizing results.

Under the proposed bill the Finance Corporation will have the power to use the Government's credit in the purchase of railroad securities and in the sale of such securities as are acquired. It will have the power to advance or depress at will the stock market value of the securities of the railroads in general or of any particular railroad. By withholding or throwing upon the market the large blocks of railroad securities which the Government will acquire under this legislation, the War Finance Corporation will be able to exert a great influence upon the Wall Street market. We believe that this is a power which no official of the Government should possess and a purpose for which the credit of the United States should never be made available.

The President of the United States in his message to the Senate of July 26, 1921, urging the passage of this legislation, stated that it would involve "no added expense, no added investment, no added liability, no added tax burdens, and no added appropriation." We find it impossible to accept this view of the proposed transactions. In order to make the situation quite clear it is necessary to examine in some detail the exact nature of the authorization provided for in this bill.

This bill authorizes the War Finance Corporation to purchase from the President any railroad securities which he, or the various agencies of the Government which represent him, may have acquired either now or hereafter to the extent of $500,000,000, and in addition authorizes the War Finance Corporation, at the request of the President, to sell any additional railroad securities which may at any time be in the possession of the Government.

On April 30, 1921, the Treasury of the United States reported that the securities of railroads then held by the Government aggregated $659,684,437. In addition, according to the statement of Director General of the Railroad Administration Davis, there is now in round numbers a sum of approximately $700,000,000 owing to the Government by the railroads on account of additions and betterments made during the period of Federal control. This latter sum, according to the advocates of this bill and the arguments accepted by the majority of the committee, is to be funded into obligations which should be accepted by the Government. We have therefore a total of approximately $1,359,000,000 of railroad securities which are now in the possession of the Government or which may be acquired hereafter under the terms of this bill. It is this enormous mass of securities which the War Finance Corporation is authorized, under the terms of this bill, to "sell, market, or dispose of."

As against these obligations of the railroads to the Government there are claims of the railroads amounting to a sum which no one is willing even to estimate. The Director General of the Railroads states that the total amount of claims filed with the Railroad Administration to date is $633,708,281. He then adds if the claims yet to be filed are prepared on the same general lines as those already filed, the total claims presented on final settlement will aggregate a little more than $1,250,000,000. These claims relate only to the period of Federal control. In addition there are claims already filed with the Interstate Commerce Commission amounting to several hundred million dollars on account of the period of Federal guaranty after the roads were turned back to their private owners. As the committee did not hear any witnesses from the Interstate Commerce Commission, we have no exact information as to the amount of claims already filed, nor have we any estimate as to their probable total. It is certain, however, that the total claims to be filed by the railroads will amount to more than $750,000,000.

The bulk of these claims, according to the testimony of the Director General of the Railroad Administration, is made up of claims on account of alleged "inefficiency of labor." The lack of substance in these railroad claims is indicated by the fact that in the case of claims already adjusted by the Railroad Administration, out of claims amounting to $225,562,764 all but $68,141,222 have been disallowed. In other words, more than two-thirds of the claims examined by the Railroad Administration have been found to be invalid. The Railroad Administration and the Interstate Commerce Commission, as a matter of fact, have fixed as their policy the disallowance of all claims arising out of alleged inefficiency of labor. Nevertheless it is quite certain that this will not end the matter and that these and other unsubstantial claims will be the subject of endless litigation against the Government. That such litigation is expected is indicated by the President in his message of July 26, 1921, in which he states:

"In order to expedite settlement and funding, an informal understanding, which is all that is possible or practical, has been reached, under which the railway claims based on the 'inefficiency of labor' are to be waived to hasten complete and final settlement, without surrender of any rights in court in case there is failure to settle."

We do not believe that a matter of such great importance should be left to a mere informal understanding. On the contrary, we believe that this question of claims arising out of alleged inefficiency of labor should be dealt with by Congress in such a manner that it will be disposed of forever.

The President, in recommending to Congress the passage of such legislation as this bill embodies, states, with reference to the indebtedness which the railroads owe the Government on account of expenditures made for additions and betterments, that "there has been, at no time, any question about the justice of funding such indebtedness to the Government." At another point he characterizes this indebtedness owing to the Government as sums "which we are morally and legally bound to fund." Upon this point we believe that the President has been misinformed. We are unable to find in any of the various acts passed by Congress with reference to Federal control of the railroads any intimation that the Government is morally and legally bound to fund this indebtedness. On the contrary, the Federal control act, approved March 21, 1918, expressly required that in every agreement between the United States and the railroads it should be stipulated that "the United States may, by deductions from the just compensation (rental to be paid to the railroads) or by other proper means and charges, be reimbursed for the cost of any additions, repairs, renewals, and betterments to such property (railroad property) not justly chargeable to the United States."

In pursuance of this act the standard contract entered into between the railroads and the Government, when the roads were taken over, expressly provided in section 7 that the United States shall have the right to deduct from such rentals "all amounts required to reimburse the United States for the cost of additions and betterments made to the property of the company not justly chargeable to the United States, unless such matters are financed or otherwise taken care of by the company to the satisfaction of the director general."

Although it was not required specifically by the act, the Director General of Railroads agreed with the carriers that the indebtedness of the railroads on account of additions and betterments would not be deducted from the standard return in such manner as to interfere with the payment of dividends at the rate which had been maintained during the test period. Except for this and other limitations designed to prevent the power of offsetting this indebtedness in such a way as to cripple individual railroads, it was understood and agreed that the indebtedness on account of additions and betterments might be offset against the amounts due railroads on account of compensation or claims and that the Government would fund only the amount remaining after this balance had been struck.

This same provision was also embodied in section 207 of the transportation act which authorized the President to offset the indebted

ness arising out of additions and betterments against the claims of the railroads and provided that "any remaining indebtedness of the carrier to the United States in respect to such additions and betterments shall, at the request of the carrier, be funded." If it had been the intention of Congress that all the indebtedness of the carriers to the United States on account of additions and betterments should be funded, the transportation act would have so stated in plain terms instead of providing merely that the President might within certain limitation offset such indebtedness against the railroad claims and providing that any remaining indebtedness should be funded.

The difference to the Government between offsetting this indebtedness against the railroad claims and funding the balance, and the plan now proposed of funding substantially the entire amount, is a matter of several hundred millions of dollars. If the claims on account of inefficiency of labor are entirely disallowed, and we believe they should be, the total claims will not amount to more than $500,000,000 at the outside. This amount can be offset against the $700,000,000 which the railroads now owe the Government on account of additions and betterments, and the balance of $200,000,000 can properly be funded under the provisions of the transportation act. By this plan the railroad claims can be settled without the payment of a single dollar out of the United States Treasury and without the sale of a single railroad security by the United States Government. Under the proposed plan the Government will fund the entire indebtedness of the railroads and assume the enormous liability of disposing of these securities.

In our opinion there is grave reason to question whether the Government will ever be able to dispose of the securities under the terms provided in the bill.

Section 1 of the proposed bill provides that the securities acquired by the Government from the railroads shall bear interest at a rate of 6 per cent, or a rate of less than 6 per cent, provided that in the case of bonds bearing a rate of less than 6 per cent they should be received at a price that yields an average annual return of 6 per cent of the purchase price, including interest and depreciation, if held to and paid at maturity.

Section 2, paragraph (c) provides that any securities sold by the War Finance Corporation must be disposed of at not less than the price at which they were originally acquired by the President.

In order to understand the inevitable effect of these two sections it is necessary to understand that the market for railroad securities is now roughly on a 7½ per cent basis. The best secured railroad bonds are to-day selling at a price which yields about 7 per cent, while other bonds having no physical property behind them are selling at prices which yield to the investor more than 8 per cent.

The provision in the bill requiring the Government to accept railroad bonds upon the 6 per cent basis means that the Government will acquire the bonds at a considerable advance above their present market value. In the case of the best secured railroad bonds which now yield 7 per cent the Government will be obliged to take them from the railroads at an advance of approximately $10 per $100 above their market price, while in the case of the poorly secured bonds, which are now on an 8 per cent basis, the advance made will be about $20 per $100.

It should be self-evident that as long as the bond market remains upon its present basis of high interest yields it will be impossible for the War Finance Corporation to sell any of these securities. No investor can possibly be persuaded to buy securities on a 6 per cent basis from the Government when he can go to any bank or broker and obtain the same or similar securities upon a basis which will yield him from 7 to 9 per cent.

It must follow, therefore, that the Government will be obliged either to hold these securities indefinitely until the bond market reaches a 6 per cent basis or authorize the War Finance Corporation to dispose of the bonds at prices which will make them marketable.

In the first case the Government will hold somewhere in the neighborhood of $1,500,000,000 of unsalable railway securities. In the meantime the War Finance Corporation will have advanced to the director general $500,000,000 to be used in the settlement of the railroad claims. If the final settlement amounts to more than $500,000,000 it will be necessary for the Congress to provide for the balance by appropriations.

In the second case, in order to get rid of this huge mass of railroad securities it will be necessary for the Government at some future time to authorize the War Finance Corporation to sell the bonds at whatever price can be obtained for them. There is no reason to believe that the market for railroad securities will be measurably improved within a reasonable time. On the contrary, there are many strong reasons for the expectation that railroad securities will decline in value rather than advance. Assuming, however, that the bond market may remain in approximately its present condition, it will be necessary for the Government to stand a loss of from $10 to $20 on every $100 of the securities which it sells on the entire lot of $1,500,000,000 worth of railroad securities. The Government loss could therefore reach at least $150,000,000, and might be twice as great. If the bond market should for any reason decline the Government's inevitable loss would be proportionately greater.

In any event it must be evident that the entire transaction provided for by this bill is nothing more or less than a speculation for the benefit of the railroads in which the Government has only one possible chance of avoiding great loss. That one chance of avoiding loss is an advance of the railroad bond market at least 10 points above its present condition. Such a chance seems almost impossible in view of the world-wide social and industrial distress. The chances are overwhelming that the Government will lose several hundred million dollars directly in this transaction.

The indirect losses will be almost as great. The marketing of such a mass of securities by the Government can not fail to depress the market for Liberty bonds and other Government securities. Liberty bonds are now selling far below par, and many of them yield more than 6 per cent at present prices. For the Government to undertake the financing of the railroads upon a basis which will tend still further to depress its own obligations would seem to be a transaction which the Congress should refuse to permit.

It is impossible also to understand how the transactions provided for in this bill can be carried out without injuring the interests of agriculture, which have been provided for in a measure already considered by the Senate, or without detrimental effect upon the value of Liberty bonds and other Government securities now held by the public. The committee has proposed an amendment to the bill, apparently intended to protect agricultural interests. This amendment merely provides that the War Finance Corporation shall not purchase railroad securities at a time when such a transaction will interfere with the provision of credit for agriculture. We do not believe that this affords adequate protection in this direction. The agricultural situation requires the application of financial assistance over a long period, while, according to the testimony of Mr. Meyer, managing director of the War Finance Corporation, who is charged with the administration of this measure as well as the act for the relief of agriculture, the railroad situation requires that a large amount of money be immediately available to carry out the settlements with the railroads and enable them to purchase cars and equipment which will be required during the coming winter.

There is nothing in the proposed amendment to prevent the War Finance Corporation from deciding that inasmuch as the immediate needs of agriculture do not require the use of any large proportion of the cash now standing to the credit of the War Finance Corporation in the Treasury, a large part of this cash should be used to purchase railroad securities from the Director General of the Railroad Administration and thus put him in a position to furnish the railroads the relief which they are so earnestly seeking. We are brought to this apprehension by a consideration of the ardor with which the director of the War Finance Corporation paints the present desperate plight of the railroads and pictures the general revival of business which will inevitably follow upon the carrying out of his plan, which has been embodied in the present bill. Believing as strongly as he does that the entire stability of the Nation is dependent upon speedy relief of the railroads, it does not seem to us wise to intrust the decision as between the needs of agriculture and the needs of the railroads entirely to his discretion.

In considering the proposed legislation, we believe that Congress should keep in mind the large sums which have been paid to the railroads out of the United States Treasury since the passage of the transportation act. Since March 1, 1920, the date upon which the railroads were returned to private ownership, and up to May 31, 1921, the United States Treasury has paid to the railroads in cash $1,158,291,357.34. During the same period the Government has loaned the railroads $218,111,667. This makes a total of $1,376,403,024.34 which has been paid to the railroads during a period of a little less than 18 months. In addition, since the present transportation rates were fixed, the railroads have been granted wage reductions estimated to represent an aggregate saving of $400,000,000 a year.

We have no doubt that many of the railroads are in need of funds. This is the condition which to-day confronts nearly every individual and nearly every private business in the United States. Few are immune from the effects of the great industrial depression which has thrown millions of men out of employment and enormously increased the number of business failures in every part of the country. The farmers are not only in a position where they have lost their normal income, but many of them are bankrupt and have seen the savings of a lifetime swept away during the past 12 months. The condition of the railroads, on the contrary is constantly improving. Their net earnings during recent months have been constantly increasing in spite of a decrease in traffic. The credit of the railroads have been steadily advancing, and with the great savings in the wage bill which have been brought about by reason of the reductions ordered by the railroad labor board, there is every reason to believe that their net earnings and consequently their credit will continue to improve with the greater volume of traffic which normally accompanies the crop-moving season.

In any event, no such emergency exists as to justify the extraordinary legislation proposed in this bill.

ROBERT M. LA FOLLETTE.
A. OWSLEY STANLEY.
KEY PITTMAN.

AMENDMENT OF NATIONAL PROHIBITION ACT.

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7294) supplemental to the national prohibition act.

[Mr. REED resumed his speech, and before concluding yielded for an executive session. The part of his speech delivered prior to the executive session is as follows:]

Mr. REED. Mr. President, a great deal has been said here this morning that might have been left unsaid. From the temper that has been exhibited and the irritability displayed I am convinced that if we do not adjourn very soon we shall be settling everything in the manner of trial by battle.

I do not think there is any occasion for crimination or recrimination arising from anything that has transpired here, or that there are any hidden or sinister or diabolic manifestations which would cause irritation under ordinary circumstances.

Briefly, the facts are these:

The so-called beer bill is before the Senate on a conference report. It is well known that that conference report will be vigorously opposed, not in the nature of a filibuster but merely because it is felt by a large number of Members that a great constitutional question is involved which can not be yielded lightly or until the matter has been fully debated.

The Senate had already passed a concurrent resolution to adjourn and sent it to the House; but there were two or three measures which it was believed would involve no particular debate which it was thought could be disposed of before adjournment and without detriment even to the beer bill; so a motion was made here this morning which I had thought would embrace both the farmers' tariff and the embargo act, the intention of that motion being to bring those questions forward, and an understanding has been substantially reached among many Members that the debate would be very short. The reason for that understanding was that both of these measures have been debated in the Senate time and again, the Members have all made up their minds with reference to their respective merits, and we could hope to dispose of those two measures. Then if the House should pass the resolution of adjournment those

two measures, at least, would be taken care of, and any other measures which could be passed in the meantime would likewise be taken care of.

Mr. LODGE. Mr. President, my attention was diverted for a moment. What two measures does the Senator refer to?

Mr. REED. I am speaking of the farmers' emergency tariff bill and the so-called dye measure, both of which were included in one extension of time, both bills having been included in a single measure originally.

Mr. LODGE. If the Senator will allow me, there was, of course, a complete understanding that there should be no recess until what is known as the farmers' export bill was disposed of. The House, as I was informed this morning, also desired to pass the dye embargo and the deficiency bill; and I was told there—I do not know how correctly—that the House would decide for themselves as to whether they wished to stay here until the so-called beer bill is passed.

Mr. REED. There was also, I ought to have said, and I was about to say, what I would call the farmers' loan bill, the bill to authorize the Finance Corporation to spend a large sum of money, a part of which, it was hoped, would be used for the benefit of the farmers.

Mr. President, why all this tempest and storm? The measure brought forward by the Senator from North Dakota this morning could have been passed while we have been talking here about the motives of each other. I have no hesitancy in stating my motives. My motives are to clean up all of the business of the Senate that can be disposed of, and I hope that we will then be able to adjourn for 30 or 40 days and get a little rest and come back here prepared to resume our duties. I have no sinister purpose. I state frankly that I intend to contend against the pending conference report as long as I think contention will do any good.

Perhaps later in the day, when Senators have got the blood out of their heads, something may be accomplished; and, indeed, I think it would have been a very excellent thing if some of our friends who lost their tempers this morning had indulged in the soothing influence of at least one "bracer" before they came to the Senate. I believe they would have been better natured. The solacing effect of a glass of beer taken this evening by some of my prohibition friends will probably put them in a better temper to-morrow.

I am unwilling that this contest shall be placed before the country in any false light; and to undertake to put it in that false light is the most arrant and knavish demagoguery. This is not a question of "wets" or "drys." It is not a question of prohibition on the one hand and free whisky and free beer on the other. The man who so states it does not understand it, or he willfully perverts the facts. The question is one involving the rights of the citizens of the United States under the Constitution. It is a constitutional question, and not a prohibition question. That is evidenced, among other things, by the opposition to the conference report by many men who have been "drys" for many years and who have consistently supported the eighteenth amendment and legislation enacted pursuant thereto.

Let us get, if we can, the dust out of the air, and examine the proposition that is now before the Senate.

The eighteenth amendment has been adopted. It prohibits the manufacture, the sale, and the transportation of every variety of intoxicating liquors for beverage purposes. Every use of these liquors except for medicinal, mechanical, and religious purposes is prohibited by the Constitution of the United States. The Constitution has been accepted and promulgated, and the rum fiend in the way he has been depicted here to-day is as dead as Julius Cæsar. Not a single saloon can be maintained in the United States unless that saloon exists in open defiance of the Volstead Act as now written, and in defiance of the Constitution of the United States itself. Not a brewery or a distillery can exist for the purpose of manufacturing beer or whisky, not a wine establishment can exist for the purpose of manufacturing wine for beverage purposes, except it exist in violation of the law and subject to the severe penalties of the law.

All this has been accomplished; and I pause to say that after the eighteenth amendment was adopted those who had been opposed to its acceptance joined in the passage of this highly drastic and severe legislation which looked to the punishment of all who violated the principle of that amendment. There is not a brewery existing in the United States to-day and manufacturing beer in violation of this law unless the prohibition agents have been grossly derelict in their duty. You can not run a great brewery in a corner.

There they stand, many of them half as big as this Capitol. The prohibition agents know where to go. The goods in moving out of that factory day after day move in the open, and must move in the open if any considerable quantities are sold. I do not deny that there might be an occasional bottle slipped out, but all that liquor is subject to inspection by the inspectors of the Government; the amount of the alcohol that is extracted from this half per cent stuff, which some people call beer, is checked up every day by the Government gauger, for that is the way they make this stuff. They make a beer and then take the alcohol out of it and sell the alcohol for mechanical purposes, under the supervision of the Government, with a Government gauger standing there and checking up at every hour of the day and night.

The sale to all intents and purposes has ceased. Somebody may occasionally get a bottle of beer, somehow, just as somebody occasionally steals a horse or somebody occasionally steals an automobile or somebody occasionally snatches a purse; but the business itself has been destroyed.

Let us look at the situation as it is. Let us deal with facts a little while, and not with the fancies of gentlemen who became excited years ago and have not gotten cooled off in all the years that have passed.

What I have said is true of the large distilleries. They have all been put out of business. There can be no legitimate distilleries in the United States to-day making liquor to sell for beverage purposes. If there is any distillery making liquor—I mean a real distillery; I am not talking of the moonshine business—the Government has its agents there checking that liquor up and seeing to it that it goes only to druggists to be sold upon doctors' prescriptions; and I think there is no such distillery running.

What is the occasion for all the great hurrah we have had here about beer? The Attorney General of the United States held that under the Volstead Act a doctor could prescribe beer to his patients for medicinal purposes—it is outlawed for every other purpose now; and because the doctor was not limited as to the number of bottles of beer that he might prescribe, a lot of very foolish individuals and newspapers started an agitation through the country, telling the people that it meant free beer. It meant nothing of the kind, and the application of a little common sense to the proposition will demonstrate that fact.

Suppose a doctor, who has to get a permit to prescribe liquors of any kind, were to prescribe a barrel of beer for a man. Suppose he were to prescribe beer for everybody indiscriminately, whether sick or well; his permit would be instantly revoked, just as to-day a doctor is allowed to prescribe liquor to a patient, and if he abuse that privilege, and if he should prescribe liquor that was used for beverage purposes, his permit as a physician entitled to prescribe liquor would be revoked. The power is in the officers enforcing the law, armed with every kind of authority they need, to enforce both of these provisions.

A physician gets only a certain number of permits. They are limited by the prohibition director, and if a physician comes in demanding an unusual number of permits, it at once creates suspicion. Every permit is a matter of record; every permit is checked up by the officers from day to day. The name of the party receiving the liquor, whether it is beer or whisky, must appear in the permit, and an accurate record of every such transaction is kept.

What is all this tremendous fuss about? It started about beer. This bill, when it was brought in, proposed only to stop doctors from prescribing beer for sick people. Then an amendment was introduced, the original of which I myself prepared and offered, which was calculated to stop the officers, armed with the little brief authority they may possess, from violating the rights of citizens of the United States; not to stop them from enforcing the prohibition law against violators of the law, but from violating the constitutional rights of the people of the United States.

That brings up the question whether Congress proposes to sanction by implication, if not by exact words, the destruction of those rights which not saloon keepers, not brewers, not bootleggers, not whisky men but the people of the United States have under the Constitution.

Mr. MYERS. I would like to ask the Senator a question, if he will permit. Did the bill as it came from the House provide for the search or seizure of anything or anybody without a warrant?

Mr. REED. Yes; I think it did. That is the very point I am coming to, and I will come to it in order.

Mr. MYERS. Was not the object of the Stanley amendment simply to assure that there should be no search without a warrant? Is not the Senator mistaken about the original bill providing affirmatively for search without a warrant?

Mr. REED. I do not want to be thrown off the trend of my thought, because I am coming to that very question.

Mr. MYERS. I will not pursue that further, then.

Mr. REED. I will try to cover that question. I am discussing facts now for a little bit.

Mr. MYERS. If the Senator will just permit me to make my position clear at this time, there was nothing whatever in the original bill about any search or seizure, nothing whatever, I am sure, and it did not provide for searching and seizing anything without a warrant.

Mr. REED. The original bill?

Mr. MYERS. The original bill.

Mr. REED. It is said, in justification of the effort which is being made to override the fourth and fifth amendments, and to allow seizures without a search warrant, that we can not enforce the law unless we do destroy or disregard these old principles of the Constitution. Speeches have been made here declaring that you can not get out a search warrant in time to capture a vehicle run by some bootlegger and scurrying across the country at a high rate of speed. So the argument is made here that they must put the officers in a position to proceed, without any danger to themselves, because, forsooth, liquor is transported in vehicles, and that these officers can not capture the vehicles, and they start with the proposition that this liquor is being imported from Canada and other countries.

Mr. President, let us stop and look at that just a minute. These gentlemen claim that the revenue service of our country, honestly and efficiently administered, can not stop the bringing of whisky into this country in drayloads across the Canadian line, when that service has been so efficient as to stop people bringing diamonds in in their pockets; when that service has been so efficient as to keep the goods of all the world out of our markets; when the revenue officer has the right to stand up and demand from every man who crosses the red line of the map between Canada and the United States that he shall open his baggage, and, if necessary, the officer can and does search his person as a condition precedent to his entrance into the United States.

Let us be fair, and let us deal with this question as the facts are. If there are wagonloads and truckloads of liquor being brought across the Canadian line into the United States, and we are powerless to stop it, then we are powerless to stop Canadians sending in anything they produce, or all the world sending their goods into this country through Canada. If you can stop the importation of pearls and diamonds and costly jewelry, which can be carried in the pocket, surely you can stop a dray or a great truck carrying tons of liquor on the highway. It can all be stopped at the border, and if it is not stopped at the border, then it is conclusive evidence that there is corruption or inefficiency in the officers of the Government charged with the duty of guarding that border.

Mr. President, I move now that the Senate take a recess until 2 o'clock.

[Mr. LENROOT made the point of no quorum and the roll was called, whereupon Mr. REED withdrew his motion.]

Mr. REED. Mr. President, I was discussing the question of the necessity for a law with reference to the bringing of liquors into the United States and had said that if the revenue officers of the Government can stop people bringing diamonds and jewels, which they can secrete in their pockets, they can stop the importation of liquor. They can stand at the borders of this country and seize this bulky material, and it will not do to argue that it is smuggled in, because a force that can keep out the costliest jewelry can keep out the great bulky packages, and wagons and motor trucks loaded with liquor. So that claim, if it has any merit as applied to the constitutional question, is a claim which can not stand.

I repeat, that if liquor is coming into the country in great quantities it is conclusive evidence, to my mind, that the revenue officers have been corrupted, and that we need new revenue officers. If these have been corrupted in this manner at the border, there would be no reason to believe that any operating in the interior would not be likewise corrupted. That all comes to the point that our Government machinery would be a failure, and I do not think it is.

I wish to observe that there is no one who disputes the proposition that the Government of the United States has the right to search any vehicle or any individual crossing the border into the United States. He is there asking the privilege of entrance. The Government has the right to fix its own conditions. Moreover, it has always been held in those cases and was held before the enactment of the fourth and fifth amendments to the Constitution that the right of search of any person entering the country existed in the Government, and such persons were not, as all the authorities show, included in the principles of the fourth and fifth amendments. The very case cited by my worthy friend as a precedent draws that exact distinction.

Proceeding now, we assume that the liquor is in the country. All the liquor that was in this country at the time the prohibitory law took effect was legitimate for certain purposes. It could be kept in Government warehouses and let out of the Government warehouses under the regulations of the department. It has been so handled, and the only complaint that I find about the sale of any large quantities of whisky and other liquors is with reference to that which is brought in. If the Government can not guard its borders and stop the importation of foreign liquor it is certain that it can not guard the vast interior. So there is no sense in that claim, in my judgment.

But let us assume that in some way the liquor gets in and that some of it is actually transported across the country illegally by bootleggers. I am not willing to sacrifice the liberties of the American people or impair their Constitution to catch even a bootlegger. But it is even wholly unnecessary to violate the Constitution in order to catch a bootlegger.

The bootlegger may be arrested for the illegal transportation of liquor. The proof is easily obtainable that he has liquor if he has a great dray load of it. The individual having been arrested, of course his vehicle is stopped, and all that it is necessary to do is to go to a court, make out an affidavit, the forms of which are found in every lawyer's office who is a lawyer, and swear that John Doe—naming the man, of course, by his right name, if it is known—has in his possession and is engaged in transporting on a certain truck a large quantity of liquor; that it is illegally in his possession and illegally being transported. While the man arrested is giving his bond the search warrant may issue and the liquors may be seized. It is as simple, to use an old expression, as rolling off a log. All that need to be done is to have a little common sense and be willing to conform to the law.

It is said that these men move very fast, but they do not move any faster with liquor than they move if they are running away with a stolen machine. They must move along the principal highways. There are now in all the Eastern States policemen guarding the improved roads over which vehicles pass, and all they need to do in the world, if a man is suspected, is to telephone ahead to the policeman at the next station to stop that particular vehicle, take that man before an officer, swear out a warrant for him, and file a charge against him. It is all very simple.

The trouble is that some of these gentlemen do not want to proceed in accordance with the law. They want to assert their right to search when and where and how they please. Some of them are thieves, some of them are blackmailers, and some of them are trying to get whisky for their own use. I unhesitatingly say that vast quantities of it have been consumed by the revenue officers themselves. So they do not always want it in custodia legis; they want it in custodia officer. I do not make any wholesale charge against these men. Some of them are honest; they all ought to be honest.

So, Mr. President, when we come to discuss this question it simmers down to this: In order to stop doctors prescribing beer as a medicine, subject to all the rules and regulations that have been or that may hereafter be made, and in order to permit prohibition officers to pursue their present high-handed methods of searching the vehicles and baggage of perfectly innocent and respectable people, as they are doing in many parts of the country without any warrant of law, we have this contest brought on here and the demand made that the old safeguards of the common law, of the constitution of England, and of the Constitution of the United States shall be impaired. It is wholly unnecessary.

A man who charges me with standing here in the interest of the liquor traffic charges what is not true, what he will not charge me with unless he deliberately falsifies himself. I am here defending the Constitution of the United States and insisting that we can enforce the liquor law and put out of business the illicit sellers of whisky without violating the Constitution at all; and I am here insisting that we shall proceed in accordance with the ancient law of our country.

Mr. President, the old argument of necessity, that the officers of the law can not succeed save they trample upon the principles of the law, is not a new argument. It is heard every time a blundering, inefficient officeholder finds that he is confronted with some difficulties and can not have his way; it is heard every time a tyrant wants to lay his hands on the rights of the people. It has been heard at various intervals for 700 years among the English-speaking people. It was the pretext of George III when he sought to trample upon the rights of the people of these Colonies. It was the exact pretext and excuse for the issuance of general writs. It was then said that these Colonies were smuggling goods into this country; that they were not paying their taxes to the Crown; that if the Crown was compelled to go before a court of justice and to swear out a search warrant in the manner and form provided by the law the wicked colonists would escape, and that it was entirely too cumbersome and too legal a procedure to be followed by the

officers of the Crown. So they resorted to the device of general warrants which were issued, authorizing officers to search wherever they suspected the presence of contraband goods. That is exactly what our friends want to accomplish under this proposed law. In the English case, what was being done was to require the officers to go before a court and get a general warrant, but even that required some kind of supervision by a court of justice. In the case before us now, our friends wish to remove every penalty for the violation of the Constitution, thus leaving the officer at liberty to proceed without any warrant whatsoever, and to proceed without any penalty whatsoever, unless his victim should be able to prove that actual malice was the incentive of the officer's act.

Mr. President, I think we ought to get started right in the discussion of this question, and, therefore, I believe that it is entirely proper to call attention to a case that has often been cited here, merely for the purpose of demonstrating the truth of what I have just said about searches under general warrants. I read from Boyd *v.* United States (116 U. S.), an opinion by Mr. Justice Bradley, that ought to be read in every schoolhouse in the United States once a month:

> In order to ascertain the nature of the proceedings intended by the fourth amendment to the Constitution under the terms "unreasonable searches and seizures" it is only necessary to recall the contemporary or then recent history of the controversies on the subject, both in this country and in England.
>
> The practice had obtained in the Colonies of issuing writs of assistance to the revenue officers, empowering them, in their discretion, to search suspected places for smuggled goods.

That is exactly where we are left by the amendment as reported back by the conferees. The officers are not required to have evidence in order to escape the penalty of the law; they are only required to believe that the state of facts exists.

> The practice had obtained in the Colonies of issuing writs of assistance to revenue officers, empowering them, in their discretion, to search suspected places for smuggled goods—

I want to read that again and to impress it upon the Senate—

> To search suspected places for smuggled goods.

That is all that is required by the pending measure now before us, namely, that the officer shall suspect or believe that the goods are there. Under the practice which then obtained any officer of the King could go forth and say to any citizen of these Colonies, "I suspect that you have such goods; I believe you have them"; and thereupon he ransacked the home of the citizen; he ransacked his place of business, and, I presume, he could have gone to the extent of ransacking his pockets.

It was distinguishable from the old proceeding in this, that the Government always had the right to search where an individual was secreting stolen goods or goods that had defrauded the revenue, but as a preliminary somebody had to go to a court of justice and swear to facts from which the court would find there was probable cause for searching the citizen's property or his person. In one case the citizen was under the protection of a court; in the other he was subject to the outrages of a police officer; and that is exactly the line of demarcation that exists between the contention of those who are for this measure and the contention of we who oppose it as unconstitutional and as violative of our liberties.

Mr. BRANDEGEE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Connecticut?

Mr. REED. I yield to the Senator.

Mr. BRANDEGEE. Is it not true that what the British Crown was demanding to do under the so-called writs of assistance—which were nothing but general search warrants—these people now are demanding to do without any warrant at all?

Mr. REED. Unquestionably. It was stated yesterday by the Senator in charge of this bill twice, in answer to questions I put to him—for I did not intend to leave it upon one answer—that he insisted upon the right of an officer to search even without reasonable ground for a search.

Mr. BRANDEGEE. Merely upon suspicion, as he said.

Mr. REED. Absolutely. I read from the RECORD of yesterday:

> Mr. REED. Does the Senator think a man ought to be free from any penalty who searches the private property of another without reasonable cause?

I was not even talking of a search warrant then.

> Mr. STERLING. He should be criminally liable if he does it with malice and without probable cause.
>
> Mr. REED. I want to know if the Senator thinks a man ought to go unwhipped of justice if he makes a search without some reasonable cause.
>
> Mr. STERLING. Surely, I take that position, Mr. President—the position that he should not be criminally liable unless, indeed, it is with malice and without probable cause.

It must be not only without probable cause, but with malice.

> Mr. REED. Did the Senator really mean to say that a man should go unwhipped of justice who made a search and seizure of property of a citizen without reasonable cause?
>
> Mr. STERLING. Where the law authorizes him to make a search and a seizure without a search warrant, he should not be held criminally liable who searches simply without reasonable cause.

Mr. BRANDEGEE. When could he be liable, then?

Mr. REED. Why, of course, never liable if he is a prohibition officer.

Now, Mr. President, let me proceed with this Boyd case:

> The practice had obtained in the Colonies of issuing writs of assistance to the revenue officers, empowering them, in their discretion, to search suspected places for smuggled goods, which James Otis pronounced "the worst instrument of arbitrary power, the most destructive of English liberty, and the fundamental principles of law, that ever was found in an English law book;" since they placed "the liberty of every man in the hands of every petty officer."

That is exactly the situation here. I repeat that when a man has liquor in his possession illegally, and that fact is known, the court will, upon a proper affidavit, issue a search warrant, and the liquor can be seized and then introduced in evidence. Now, why is that search warrant required? Not for the protection of the man who has the whisky, but for the protection of the men and women who do not have the whisky; the protection against the petty officer, as James Otis said; the protection against some fellow out of a job, some politician hunting work, who has been appointed to one of these places, who goes about without discretion and frequently without sense; a petty officer walking into the home of a sovereign citizen without any warrant of law and searching the premises. That is the point of this whole controversy, and it never shall be gotten away from in this debate.

These gentlemen say, "You want to protect bootleggers." No; the law can get the bootlegger. He can be gotten, without any earthly question—I do not say every individual in every case, but to all intents and purposes, all of them can be gotten by proceeding according to law. The difference is this: If an officer is required, before he can search the dwelling or the buildings of a citizen, to appear before a court and tell the facts upon which he bases his belief that the liquor is there, then a judge of the court passes upon the question. Before a citizen can be deprived of his liberties under the Constitution or the precincts of his home invaded, a judge of the court has held that there is probable cause. That can be done under the Constitution; but take away that safeguard and every one of these gentlemen who has a 10-cent tin star pinned on his breast and a commission from a revenue officer down here can walk into anybody's house or anybody's premises, at any time of the day or night, and search them. If you can point me to anything in that procedure, whether it is in the name of the enforcement of the liquor law or, in the name of the enforcement of any other law, that will distinguish us from Russia in her darkest hour, I should like to have some one point the distinction.

Mark you, if you could do this in order to get a bottle of liquor—if we are to be swept off our feet by a case of that kind—what would become of this Constitution of ours if some great question were involved which seemed really to imperil the people or the Republic? How easy an instrumentality it would then become in the hands of a tyrant, petty or great; and how readily he could say, "I am searching because I want to find people who are conspiring against the Government." Surely, if you can do it with reference to a bootlegger, who is harming nobody but himself and the men who buy from him and perhaps the families of those men, you could do it in the case of a man charged with a more grievous offense—theft, or the concealment of property belonging to some other individual, or any of the other more serious crimes. Thus, the doctrine of necessity being applied, we would sweep away this old safeguard that has always stood here; and I repeat—and I can not repeat too often—we are not dealing with safeguarding the rights of the bootlegger or of the criminal. We are dealing with restraining the officers of the law so that they shall not interfere with the rights of people who are not bootleggers and who are not criminals.

There are 110,000,000 people in this country, and I suppose there are, all told, 5,000 bootleggers in this country. If there are 5,000 bootleggers in the country, then this force down here is a very inefficient force, for a bootlegger can not operate long without being easily detected.

Mark you, a man may steal your goods and hide them, and no one but the man know where those goods are. He may finally take them to a distant part of the country and dispose of them, and there is very little chance to apprehend him. But a bootlegger has to do business with another man, and he can not make any money doing business with just one man. He has to do business with scores of men and hundreds of men,

and consequently at every transaction he exposes himself and leaves his tracks behind him. To say that you can not enforce a law of this kind without destroying the Constitution is sheer and utter rot.

I read a little further from this case:

The practice had obtained in the Colonies of issuing writs of assistance to the revenue officers, empowering them, in their discretion, to search suspected places for smuggled goods, which James Otis pronounced "the worst instrument of arbitrary power, the most destructive of English liberty and the fundamental principles of law that ever was found in an English law book," since they placed "the liberty of every man in the hands of every petty officer."

* * * * * * * *

This was in February, 1761, in Boston, and the famous debate in which it occurred was perhaps the most prominent event which inaugurated the resistance of the Colonies to the oppressions of the mother country. "Then and, there," said John Adams, "then and there was the first scene of the first act of opposition to the arbitrary claims of Great Britain. Then and there the child Independence was born."

These things and the events which took place in England immediately following the argument about writs of assistance in Boston were fresh in the memories of those who achieved our independence and established our form of government. In the period from 1762, when the North Briton was started by John Wilkes, to April, 1766, when the House of Commons passed resolutions condemnatory of general warrants, whether for the seizure of persons or papers, occurred the bitter controversy between the English Government and Wilkes, in which the latter appeared as the champion of popular rights and was, indeed, the pioneer in the contest which resulted in the abolition of some grievous abuses which had gradually crept into the administration of public affairs. Prominent and principal among these was the practice of issuing general warrants by the secretary of state for searching private houses for the discovery and seizure of books and papers that might be used to convict their owner of the charge of libel. Certain numbers of the North Briton, particularly No. 45, had been very bold in denunciation of the Government, and were esteemed heinously libelous. By authority of the secretary's warrant, Wilkes's house was searched and his papers were indiscriminately seized.

Now, note: Here was a charge that this man was libeling the Government.

[At this point Mr. REED yielded to Mr. HITCHCOCK, who suggested the absence of a quorum, and the roll was called.]

A message was received from the House and a conference report on the deficiency appropriation bill agreed to.

Mr. REED. Mr. President, when I submitted to the interruption for the purpose of facilitating the business of the Senate, I was quoting from the Boyd case that part of the authority which stated the controversy between the North Briton and the Government, and had reached this point:

By authority of the secretary's warrant, Wilkes's house was searched and his papers were indiscriminately seized.

I think it would be well for Senators to listen to this. I do not know whether there is any use in appealing to men to have any regard for the Constitution. I think its principal use in the opinion of a good many men to-day is that it furnishes a subject for debate. But if I am right in my deductions then the Senate is about to violate the Constitution of this country in its spirit if not in its letter. I am not talking here to consume time. If I did not regard this as a great fundamental question I certainly would not occupy a moment, for I am anxious to see the Congress adjourn.

Of course, it is idle to try to convince men who will not listen—men who will not listen to anybody else read and who will not themselves read—but I beseech the Members of the Senate to recall the fact that the principles of liberty must be guarded every day, and I have been trying to show thus far the origin of the doctrine upon which the fourth amendment was bottomed, and which it expressed, and I intend to follow that by, I believe, a conclusive and absolute demonstration that the proposition now pending before us violates the spirit if not the letter of that constitutional enactment.

I repeat now to those Senators who have come in that the doctrine that it is necessary to do this in order to catch this liquor is exactly the doctrine that was urged by George III when he armed his emissaries with general warrants, the claim being at that time made that they could not catch the colonists if they waited to get out a special search warrant. It is the claim that is made in every instance when somebody wants to disregard the Constitution, that it is necessary to do it, and the Constitution is never necessary except when there are people like that abroad in the land.

Now, let us see what happened: Finally the House of Commons itself declared against the issuance of the general writ. I have already pointed out that the difference between the general writ and what the Senator in charge of the bill said yesterday he favored, namely, the right of an officer to proceed into the premises of a citizen without even reasonable cause, is then that a general writ had to be submitted to the court or some other officer than the man who was to enforce it. In that case there was a little supervision, while here, in the words of James Otis, we are turned over to the mercies of every petty officer. The battle raged.

I continue the reading:

By authority of the secretary's warrant, Wilkes's house was searched and his papers indiscriminately seized. For this outrage he sued the perpetrators and obtained a verdict of £1,000 against Wood, one of the party who made the search, and £4,000 against Lord Halifax, the secretary of state who issued the warrant. The case, however, which will always be celebrated as being the occasion of Lord Camden's memorable discussion of the subject, was that of Entick *v.* Carrington and Three Other King's Messengers, reported at length in 19 Howell's State Trials, 1029. The action was trespass for entering the plaintiff's dwelling house in November, 1762, and breaking open his desks, boxes, etc., and searching and examining his papers. The jury rendered a special verdict, and the case was twice solemnly argued at the bar. Lord Camden pronounced the judgment of the court in Michaelmas term, 1765, and the law as expounded by him has been regarded as settled from that time to this, and his great judgment on that occasion is considered as one of the landmarks of English liberty. It was welcomed and applauded by the lovers of liberty in the Colonies as well as in the mother country. It is regarded as one of the permanent monuments of the British constitution, and is quoted as such by the English authorities on that subject down to the present time. (Note by the court: See May's Constitutional History of England, vol. 3 (American ed., vol. 2), chap. 11; Broom's Constitutional Law, 558; Cox's Institutions of the English Government, 437.)

As every American statesman during our revolutionary and formative period as a Nation was undoubtedly familiar with this monument of English freedom and considered it as the true and ultimate expression of constitutional law it may be confidently asserted that its propositions were in the minds of those who framed the fourth amendment to the Constitution and were considered as sufficiently explanatory of what was meant by unreasonable searches and seizures. We think, therefore, it is pertinent to the present subject of discussion to quote somewhat largely from this celebrated judgment.

After describing the power claimed by the secretary of state for issuing general search warrants and the manner in which they were executed, Lord Camden says: "Such is the power, and, therefore, one would naturally expect that the law to warrant it should be clear in proportion as the power is exorbitant."

That exorbitant power is just what has been exercised here by these officials of the Government.

If it is law, it will be found in our books; if it is not to be found there, it is not law.

The great end for which men entered into society was to secure their property. That right is preserved sacred and incommunicable in all instances where it has not been taken away or abridged by some public law for the good of the whole. The cases where this right of property is set aside by positive law are various. Distresses, executions, forfeitures, taxes, etc., are all of this description, wherein every man by common consent gives up that right for the sake of justice and the general good. By the laws of England, every invasion of private property, be it ever so minute, is a trespass. No man can set his foot upon my ground without my license.

Not in my home, not in my habitat, but upon my ground. I call the attention of the Senator from South Dakota to the language.

Mr. POINDEXTER. Mr. President——

The PRESIDING OFFICER (Mr. WADSWORTH in the chair). Does the Senator from Missouri yield to the Senator from Washington?

Mr. REED. I yield.

Mr. POINDEXTER. Congress has now set a precedent, however, for that fundamental principle of law that the Senator has just read in providing that throughout the District of Columbia people can set their feet upon the ground of others without license, authority, or contract of any kind.

Mr. REED. I know that Congress has passed a law somewhat like that, but I do not care to be diverted now to discuss the rent law. It only illustrates how much more careful we ought to be. If we have already been trenching upon dangerous ground so much the more reason to call a halt.

I wish to continue the reading:

No man can set his feet upon my ground without my license but he is liable to an action though the damage be nothing; which is proved by every declaration in trespass where the defendant is called upon to answer for bruising the grass and even treading upon the soil. If he admits the fact, he is bound to show, by way of justification, that some positive law has justified or excused him. The justification is submitted to the judges, who are to look into the books and see if such a justification can be maintained by the text of the statute law or by the principles of the common law. If no such excuse can be found or produced, the silence of the books is an authority against the defendant, and the plaintiff must have judgment. According to this reasoning, it is now incumbent upon the defendants to show the law by which this seizure is warranted. If that can not be done, it is a trespass.

Papers are the owner's goods and chattels; they are his dearest property; and are so far from enduring a seizure that they will hardly bear an inspection; and though the eye can not by the laws of England be guilty of a trespass, yet where private papers are removed and carried away the secret nature of those goods will be an aggravation of the trespass, and demand more considerable damages in that respect. Where is the written law that gives any magistrate such a power? I can safely answer there is none; and therefore it is too much for us, without such authority, to pronounce a practice legal which would be subversive of all the comforts of society.

But though it can not be maintained by any direct law, yet it bears a resemblance, as was urged, to the known case of search and seizure for stolen goods.

Here is the answer to the construction which the Senator from South Dakota placed upon a later case bottomed upon this and which he read as an authority; that is, he argued that as one could search for stolen goods he could, therefore, search

for anything else that it was declared to be illegal to have for certain particular purposes. This opinion continues:

I answer that the difference is apparent. In the one, I am permitted to seize my own goods, which are placed in the hands of a public officer, till the felon's conviction shall entitle me to restitution. In the other, the party's own property is seized before and without conviction, and he has no power to reclaim his goods, even after his innocence is declared by acquittal.

The case of searching for stolen goods crept into the law by imperceptible practice. No less a person than my Lord Coke denied its legality (4 Inst., 176); and therefore if the two cases resembled each other more than they do, we have no right, without an act of Parliament, to adopt a new practice in the criminal law, which was never yet allowed from all antiquity. Observe, too, the caution with which the law proceeds in this singular case. There must be a full charge upon oath of a theft committed. The owner must swear that the goods are lodged in such a place. He must attend at the execution of the warrant to show them to the officer, who must see that they answer the description. * * *

Contrast that with what Senators are now trying to do here. That law was old in the days of Lord Camden. I continue the quotation:

If it should be said that the same law which has with so much circumspection guarded the case of stolen goods from mischief would likewise in this case protect the subject by adding proper checks; would require proofs beforehand; would call up the servant to stand by and overlook; would require him to take an exact inventory and deliver a copy; my answer is that all these precautions would have been long since established by law, if the power itself had been legal; and that the want of them is an undeniable argument against the legality of the thing.

Then after showing that these general warrants for search and seizure of papers originated with the Star Chamber and never had any advocates in Westminster Hall except Chief Justice Scroggs and his associates, Lord Camden proceeds to add:

Now, I am coming to the argument of utility, that we can not stop the sale of liquor unless we rape the Constitution. The argument was old and stale and condemned even then. Here is what Lord Camden said:

Lastly it is urged as an argument of utility that such a search is a means of detecting offenders by discovering evidence. I wish some cases had been shown where the law forceth evidence out of the owner's custody by process. There is no process against papers in civil causes. It has been often tried, but never prevailed. Nay, where the adversary has by force or fraud got possession of your own proper evidence there is no way to get it back but by action. In the criminal law such a proceeding was never heard of—

They had not yet heard of the modern day reformer—

and yet there are some crimes, such, for instance, as murder, rape, robbery, and housebreaking, to say nothing of forgery and perjury, that are more atrocious than libeling.

If he had been writing the opinion to-day, he would have said more atrocious than bootlegging—

But our law has provided no paper search in these cases to help forward the conviction. Whether this proceedeth from the gentleness of the law toward criminals or from a consideration that such a power would be more pernicious to the innocent than useful to the public I will not say. It is very certain that the law obligeth no man to accuse himself, because the necessary means of compelling self-accusation, falling upon the innocent as well as the guilty, would be both cruel and unjust, and it would seem that search for evidence is disallowed upon the same principle. Then, too, the innocent would be confounded with the guilty.

While gentlemen are talking about bootleggers and saying that it is merely intended to get the guilty man, I ask my friends to remember that the right they are asserting—a right which was twice asserted by the Senator from South Dakota on yesterday—is the right to search everybody when they suspect him; not to search the guilty but to search to determine whether or not they are guilty. It applies to the refined lady as she rides along the highway. If this bill is passed, one of these wretches can search the person of that woman, and there can be no punishment inflicted unless it can be proven that he did it with actual malice. Nobody will sympathize much with the bootlegger who is caught, but these officers, as the history of all time shows, when in search for the guilty also apply the same powers to the innocent. It is not the protection of the bootlegger; it is the protection of the decent men and women of this country who are not bootleggers; their protection against the filthy hands or the tyrannous hands of men who proceed without warrant of law—it is for that I appeal and for that I stand.

I ought not to digress from reading this decision, but I will long enough to say that there are States in this Union where these gentlemen have assumed to enter every passenger train and ransack the baggage of every passenger, including the most reputable men and women who may be traveling. Could malice be proved? No. The officer, with unctuous piety, would hold up his hand and say, "I was only trying to save the people of the country from the awful curse of rum," and that would be the end of it.

After a few further observations his lordship concluded thus: "I have now taken notice of everything that has been urged upon the present point, and upon the whole we are all of opinion that the warrant to seize and carry away the party's papers in the case of a seditious libel is illegal and void."

Oh, for the ancient courage that curbed the Senate's will;
Oh, for the tents that in old times whitened the sacred hill!

Away back in the dawn of the eighteenth century an English judge had the courage, even under the very shadow of the Crown, to say:

You can not enter the home of a citizen in order to get evidence of seditious libel.

Now, the gallant champions of the American flag, the votaries of liberty, would enter his habitation or his premises in order to get a bottle of whisky.

Now, let us see whether it is idle to read this opinion. I know it is idle frequently to appeal in this body and that at the other end of the Capitol—and I do not speak it in criticism at all; I state it merely as a fact, for I understand that they have pretty nearly cut off the right of appeal at all by way of debate—but what says the Supreme Court of the United States now with reference to the ancient doctrine?

The principles laid down in this opinion—

That of Lord Camden—

affect the very essence of constitutional liberty and security. They reach further than the concrete form of the case then before the court, with its adventitious circumstances; they apply to all invasions on the part of the Government and its employees of the sanctity of a man's home and the privacies of life. It is not the breaking of his doors and the rummaging of his drawers that constitutes the essence of the offense, but it is the invasion of his indefeasible right of personal security, personal liberty, and private property, where that right has never been forfeited by his conviction of some public offense—it is the invasion of this sacred right which underlies and constitutes the essence of Lord Camden's judgment. Breaking into a house and opening boxes and drawers are circumstances of aggravation, but any forcible and compulsory extortion of a man's own testimony or of his private papers to be used as evidence to convict him of crime or to forfeit his goods is within the condemnation of that judgment. In this regard the fourth and fifth amendments run almost into each other.

And, indeed, you can not discuss the one without discussing the other.

I wonder what the Senator in charge of this bill, in his calmer moments, will think when he reads again the language that I have just read (the Senator who argues that the protection of the law should extend to the home, but not elsewhere; that a man might be punished for entering the home without a search warrant, provided you can prove malice, but that he can enter any other place and go unwhipped if he believed that there was something there to seize, and that without any search warrant):

The principles laid down in this opinion affect the very essence of constitutional liberty and security. They reach further than the concrete form of the case then before the court, with its adventitious circumstances; they apply to all invasions on the part of the Government and its employees of the sanctity of a man's home and the privacies of life. It is not the breaking of his doors and the rummaging of his drawers that constitutes the essence of the offense, but it is the invasion of his indefeasible right of personal security, personal liberty, and private property, where that right has never been forfeited by his conviction of some public offense—it is the invasion of this sacred right which underlies and constitutes the essence of Lord Camden's judgment. Breaking into a house and opening boxes and drawers are circumstances of aggravation, but any forcible and compulsory extortion of a man's own testimony or of his private papers to be used as evidence to convict him of crime or to forfeit his goods is within the condemnation of that judgment.

And I shall show, by the latest decision of the Supreme Court, that they have applied exactly the same rule to whisky, so that there is no use in spending any time making notes in the hope that you can dodge around it and say that this opinion applied to papers. I shall show that it applies to whisky, and moonshine whisky at that, just as it would apply to any other thing that a man had in his home.

The court comes then to consider certain statutes then upon the books, under which the outrage they were considering in this particular case was sought to be justified.

Mr. McKELLAR. Mr. President——

The PRESIDING OFFICER (Mr. WATSON of Georgia in the chair). Does the Senator from Missouri yield to the Senator from Tennessee?

Mr. REED. I do.

Mr. McKELLAR. I want to ask the Senator if the Stanley amendment is not the law now, under the decisions of the Supreme Court?

Mr. REED. It is the law, except that the Supreme Court has held exactly the doctrine that is announced in the Stanley amendment; that is, it has held illegal the doing of the particular things which are condemned by the Stanley amendment; but the Stanley amendment makes it a crime for an officer to invade the property or premises of another except he do so pursuant to a warrant. That is the distinction. The Stanley amendment, of course, is bottomed upon the Constitution and the law.

Mr. McKELLAR. The law is perfectly clear now, in a decision that was delivered very recently by Mr. Justice Clarke.

Mr. REED. I have those decisions, and have them before me, and shall read them.

Mr. McKELLAR. I hope the Senator will, because the truth is that everything that is in the Stanley amendment is the law of this good moment.

Mr. REED. Except the penalty.

Mr. STANLEY. Exactly.

Mr. McKELLAR. Then why bother about the Constitution? Every matter of constitutionality has been settled. There can not be any difference about the Constitution. Senators talk here about this law being in violation of the Constitution. The constitutional questions have been entirely settled. Why not address ourselves solely to the policy of imposing a penalty?

Mr. STANLEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Kentucky?

Mr. REED. I do.

Mr. STANLEY. This amendment by implication authorizes or contemplates the doing of things, and will inevitably result in the doing of things, which you know and I know and everybody else who can read the English language knows are an open violation of the Constitution.

Mr. McKELLAR. Oh, no—oh, no! As I read it the amendment that the conference committee has reported is just a part of the Stanley amendment. That is all it is. I am not hairsplitting; I am not going into the hairsplitting business; but there is nothing in all of this talk about this being in violation of the Constitution, for the reason that the Supreme Court has definitely and fixedly—and that court has the last say on the question—determined that this is the law and that is the Constitution, and there can not be any difference between Senators about that matter. As the Senator from Missouri has well said, the only difference is the difference of penalty.

Mr. REED. Mr. President, I did not say quite that.

Mr. McKELLAR. I so understood the Senator. I understood the Senator to say that the difference was the difference of penalty, and I agree with him entirely in that statement, because I think that is the case, too.

Mr. REED. There is another difference; and I will come to that, if Senators will permit me to proceed in order, for I intend to discuss the very question that was suggested. I remark in passing, however, that there is another difference, and it is a difference that is put in here intentionally, as is shown by the colloquy between myself and the Senator from South Dakota [Mr. STERLING] yesterday. That difference is the one which the Senator from Kentucky just spoke of, that there is implied in this instrument which is brought here to us a right to search anywhere except in a dwelling without a warrant if the officer believes that there is liquor there; and they have changed in that respect the Volstead Act, which previously prohibited these seizures unless the liquor was there, and they are inserting the words "unless they believe it to be there."

Mr. McKELLAR. Mr. President, if the Senator will yield——

The PRESIDING OFFICER. Does the Senator from Missouri further yield to the Senator from Tennessee?

Mr. REED. Yes; I yield.

Mr. McKELLAR. Then, as I understand the position of the Senator, it is that the naming of one prohibition in section 6 of the conference report is, by implication, an exclusion of the right to search the person?

Mr. REED. I mean more than that.

Mr. McKELLAR. It would have to be more than that to be of any value.

Mr. REED. And I do not want to stop to answer that question in the middle of my remarks. I am glad of the Senator's interest, but if he will be so good as to wait until I reach that part of the discussion I then shall be glad to take it up, and get to the matter in a way that I hope will be satisfactory. This much I say: The Senator has been here and heard all the debates, or possibly he may have been called elsewhere; but it is the stout contention of the proponents of this measure that the Stanley amendment would not do at all, and that they purposely changed it and fixed it so that the penalties should not apply except in a case of entering the home, and they have boldly asserted that unless they have the right without warrant to seize property upon the highway and to make these searches without waiting to get a search warrant they can not possibly enforce this law. Now, I am discussing the broad line of demarcation between us.

Mr. McKELLAR. Mr. President, if the Senator will pardon me—I hate to interrupt him, and I will not do so any more after this——

The PRESIDING OFFICER. Does the Senator from Missouri further yield to the Senator from Tennessee?

Mr. REED. Yes.

Mr. McKELLAR. I merely wish to say that I saw no reason why the Stanley amendment should not be adopted. It is the law now. On the same reasoning I saw no reason whatsoever why we should not agree to the conference report. It is the law now. We do not change the law. It is the law, as fixed by the Supreme Court of the United States in a decision rendered just last February. What difference does it make? We merely declare what is already the law. It is wholly immaterial whether we put either one of them in or not. I am willing for them to go in. I was perfectly willing for the Stanley amendment to go in and perfectly willing for this amendment to go in, because it makes no difference. It does not change the law in the slightest.

Mr. REED. The trouble is that it does change the law, not only in the slightest but in very material respects. In the first place it provides a penalty for a scoundrel who shall walk into a man's house and search it without papers, and there is no criminal penalty now under the law.

Mr. STANLEY. Mr. President——

Mr. McKELLAR. As I stated before, the whole matter is a question of penalty.

The PRESIDING OFFICER. Does the Senator from Missouri yield, and to whom?

Mr. REED. I yield to the Senator from Kentucky.

Mr. STANLEY. I know the Senator's time is valuable, and I do not want to take much of it. I simply wish to call the attention of the Senator from Tennessee to this point:

The bill which is now before the Senate is demanded because of an alleged defect in the sweeping provision of the Volstead Act. It was thought at the time that it would catch everything that was wet or damp, in the heavens above or the earth below or the waters under the earth; but it transpires that possibly a doctor might prescribe a little beer to a sick man and the sick man might give it to somebody who was not sick and the country would go to the bow wows. For that reason, and that reason alone, this bill is before Congress to carry into effect the constitutional provision.

A constitutional provision can not enact itself. It is as utterly helpless without a law as a man would be without arms or legs; and just as the Willis-Campbell bill proposes to carry into effect the eighteenth amendment—an amendment recently made to the Constitution—this law proposes to become a buckler and a shield to the most sacred rights ever known or ever defended by free men in a thousand years of civilization.

Mr. REED. Mr. President, the court discusses the statutes under which the officers thought to justify this seizure, and it is just as well at this time to stop and inquire how the case arose. It was declared that a man had imported goods and was attempting to defraud the Government out of its revenues, and that he had in his possession an invoice, and that that invoice would be material evidence. Mark you, he was charged with defrauding the Government, and a statute had been passed which provided that in certain cases the Government could serve notice upon the defendant to produce a paper in a civil suit, and that if he did not produce the paper its contents as alleged by the attorney for the Government should be taken as confessed.

This man was commanded to bring in his paper. He yielded it under the demand, but protesting.

The instrument showed that he had defrauded the Government. Nevertheless, the question came whether the Government could make a man produce evidence against himself. That is one thing that has distinguished English civilization from other civilizations. Other Governments have presumed their subjects guilty when charged, and the poor subject was compelled to take the stand to vindicate himself. Other Governments have unhesitatingly searched the homes of citizens, and other Governments have commanded them to surrender their books and papers. But the Saxons and the Angles who came over brought with them from Germany the doctrine of free men, and it has always been the English doctrine, first, that a man was presumed to be innocent, and that that presumption attended him through every stage of the trial and entitled him to acquittal unless overcome by the evidence produced against him, and that evidence so strong as to remove all reasonable doubt. Second, that you could not compel him to take the stand and testify against himself; you could not extort confession from him by the torture of the rack and the agony of the thumbscrew, as they did in other countries, but that, standing erect, as St. Paul once did, he could exclaim, "Is it lawful to so deal with a Roman citizen?"

So we had heard of these doctrines, and our fathers brought them here, and the question in this case was whether that man, who was undoubtedly guilty, because the paper showed it, be

defended against the production of that paper under that statute?

The court said that it was compelling him to produce evidence against himself; that the statute, which did not say he should produce it, but that if he did not produce it, then certain presumptions should obtain against him, was a compulsion, and would not be tolerated under our system of laws. The court discusses the distinctions, shows how these statutes were modified and changed, and then, in discussing the particular act which I have already described to you, says:

Reverting, then, to the peculiar phraseology of this act, and to the information in the present case, which is founded on it, we have to deal with an act which expressly excludes criminal proceedings from its operation (though embracing civil suits for penalties and forfeitures), and with an information not technically a criminal proceeding, and neither, therefore, within the literal terms of the fifth amendment to the Constitution any more than it is within the literal terms of the fourth. Does this relieve the proceedings or the law from being obnoxious to the prohibitions of either? We think not; we think they are within the spirit of both.

We have already noticed the intimate relation between the two amendments. They throw great light on each other. For the "unreasonable searches and seizures" condemned in the fourth amendment are almost always made for the purpose of compelling a man to give evidence against himself, which in criminal cases is condemned in the fifth amendment; and compelling a man "in a criminal case to be a witness against himself," which is condemned in the fifth amendment, throws light on the question as to what is an "unreasonable search and seizure" within the meaning of the fourth amendment. And we have been unable to perceive that the seizure of a man's private books and papers to be used in evidence against him is substantially different from compelling him to be a witness against himself. We think it is within the clear intent and meaning of those terms. We are also clearly of opinion that proceedings instituted for the purpose of declaring the forfeiture of a man's property by reason of offenses committed by him, though they may be civil in form, are in their nature criminal. In this very case the ground of forfeiture as declared in the twelfth section of the act of 1874, on which the information is based, consists of certain acts of fraud committed against the public revenue in relation to imported merchandise, which are made criminal by the statute; and it is declared that the offender shall be fined not exceeding $5,000 nor less than $50 or be imprisoned not exceeding two years, or both; and in addition to such fine such merchandise shall be forfeited. These are the penalties affixed to the criminal acts, the forfeiture sought by this suit being one of them. If an indictment had been presented against the claimants, upon conviction the forfeiture of the goods could have been included in the judgment. If the Government prosecutor elects to waive an indictment, and to file a civil information against the claimants—that is, civil in form—can he by this device take from the proceeding its criminal aspect and deprive the claimants of their immunities as citizens, and extort from them a production of their private papers, or, as an alternative, a confession of guilt? This can not be. The information, though technically a civil proceeding, is in substance and effect a criminal one. As showing the close relation between the civil and criminal proceedings on the same statute in such cases, we may refer to the recent case of Coffey v. The United States, ante, 436, in which we decided that an acquittal on a criminal information was a good plea in bar to a civil information for the forfeiture of goods arising upon the same acts.

Then the court refers to all the decisions which seem to sustain a contrary doctrine, a long line of decisions of the United States district courts, and overrules all of those decisions.

Mr. President, the Senator in charge of this bill said he had changed his mind once in regard to it, and any man is to be commended for changing his mind if argument is produced. But, reviewing very briefly what is in the case I have just referred to, it will be found that it covers every single argument produced here and that it meets every excuse which is offered here for this radical legislation.

In the first place, it holds that the property of the citizen is not confined to his habitat—to his house—that the protection of the law is thrown over all of his property and over his personal rights, and that to proceed against the citizen in the seizure of his property—and that is what we are now discussing—the searching of his premises, is to violate the very fundamentals of the English common law and the English constitution, which were finally crystallized into the fourth and fifth amendments, and that it affords no excuse for the violation of those sections to say that some particular crime can not be proven unless you violate those provisions of the Constitution.

Moreover, the very distinction which the Senator sought to make in his speech yesterday is clearly pointed out and the deduction of the Senator from South Dakota utterly demolished by the very opinion he read.

The Senator read to us that there were statutes allowing the seizure of stolen goods and various other things of that kind—for instance, searches made at the customhouse. This authority points those very exceptions out, and says they are widely different from the search of the private property of the citizen. One court—I am not certain whether this one or not—uses the Latin expression which is the equivalent of "as wide as the heavens."

Mr. President, following that case came the Weeks case. It has been discussed here, but just for a moment let me refer to it again.

I am now reading this case in order to impress the fact that it is not alone the house in which a man lives that is protected, but it is his property, all his buildings, and his person. Mark you, the pending amendment does provide that there shall not be a search of the house. It clearly contemplates the search of other buildings. In order to understand the question we must go back to the Stanley amendment. The Stanley amendment provided:

That any officer, agent, or employee of the United States engaged in the enforcement of this act, or the national prohibition act, or any other law of the United States, who shall search or attempt to search the property or premises of any person without previously securing a search warrant as provided by law shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not to exceed $1,000—

And so forth.

That language is now stricken out. It applied, of course, to the searching of any building of a citizen. As to the phrase "or any other law of the United States" being in there, whether it ought to be or not I am not prepared to say at this moment. It was not in the original of the amendment which I prepared and filed, and which was afterwards changed here. Whether it ought to be there or not we need not pause to consider, for if it ought not to be there it could have been taken out without in any way affecting the integrity and force of the amendment offered by the Senator from Kentucky.

Now we come to the language which has been adopted in conference, and which we are asked to accept:

That no officer, agent, or employees of the United States, while engaged in the enforcement of this act, the national prohibition act, or any law in reference to the manufacture or taxation of, or traffic in, intoxicating liquor, shall search any private dwelling without a warrant directing such search.

That is the Volstead Act as it stands to-day. That is already in the Volstead Act. Why do we find it brought in here? I will tell you in a moment. The Volstead Act reads:

That no officer, agent, or employee of the United States shall search any private dwelling without a warrant directing such search, and no such warrant shall issue unless such dwelling is used as a place in which liquor is manufactured for sale.

That is the Volstead law now, but these gentlemen who come in here pretending to us that they are strengthening the rights of the people and are protecting them under the Volstead Act injected into it the words "has reason to believe." Under the Volstead Act the language was:

No such warrant shall issue unless such dwelling is used as a place in which to manufacture liquor—

They have brought the amendment in here reading—

unless there is reason to believe such dwelling is used as a place in which liquor is manufactured or sold.

In other words, under the Volstead Act they could not search the premises at all unless they established to the satisfaction of the court by facts, as I shall show is necessary, that the place actually was being used as a place to manufacture or sell liquor; but under the proposed conference amendment all they have to establish is that there is reason to believe such dwelling is so used. It does not even require a degree of probable cause, so that instead of giving us a law which further protects the home they have weakened the present Volstead Act and made it worse than it ever was and opened the home to invasion upon a search warrant that can be issued if somebody has reason to believe that liquor is being manufactured there, where, as the law stands to-day, they must convince the court that liquor is being manufactured there before the court will issue such a warrant. That is the joker in the proposition, slipped in, I have not any doubt, by the oily hand of Mr. Wayne B. Wheeler, and not a word breathed about it in all this long debate.

"Unless there is reason to believe." I shall show a little later on that the courts have uniformly held that when a search warrant is demanded it is an illegal warrant if the affidavits and proof do not show facts from which the court can infer the truth of the charge, and that it is not sufficient to merely make the charge that somebody believes the stuff is there. I shall show that the very language used in the section was in affidavits which the courts of the United States have declared to be utterly without force or effect, and that a warrant issued upon it was an illegal warrant. But that will not make any difference to Wayne B. Wheeler and men of his ilk.

Mr. STANLEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Kentucky?

Mr. REED. I yield.

Mr. STANLEY. In that connection, as illustrative of studied, carefully studied and cunningly devised practices of certain of these officers to evade and to nullify the law, the clause of the revenue law authorizing the issuance of warrants does not comply with the provisions of the fourth amendment to the Consti-

tution, does not require definiteness of statement as to the place and the person sought or to be searched and seized.

In volume 24 of the decisions of the Attorney General, under the administration of Attorney General Knox, he explicitly called attention of the department to the fact that an affidavit, almost verbatim with the amendment adopted by the House, stating that the officer had reasonable grounds to believe that the offense had been committed or that contraband goods were held, was not in compliance with the Constitution and was not sufficient. Yet these officers have deliberately failed and refused to act under the Volstead law, which requires them to comply with the provisions of the espionage act and have acted under this antiquated and discarded revenue section to which the Senator from Minnesota [Mr. NELSON] and others have referred time and again as ample and sufficient authority for such conduct.

[At this point Mr. WALSH of Massachusetts raised the point of no quorum and the roll was called.]

Mr. REED. Mr. President, it is always pleasant to do business in this way, with the assurance that one can not carry on a debate in the ordinary way, but that if he sits down to rest or for lunch he will be put off the track. I want to say to Senators who play that game that there is no filibuster here and there is no attempt at it. We want to debate this question, but to Senators who play that game I say—and I say it in all kindness, for I am a pretty good warrior myself—it can be played on other occasions.

I have never known but one Senator to conduct a single-handed filibuster in the Senate, and that was the distinguished Senator who has raised the point on me. I do remember when we had a single, one-man filibuster here, lasting for some considerable time, but we allowed him to proceed in the ordinary way and let him go home at night and go to bed.

Mr. JONES of Washington. I do not understand to just what the Senator refers.

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Washington?

Mr. REED. Yes.

Mr. JONES of Washington. The Senator from Missouri is looking at me, and I rather think is referring to me, but I do not understand what called forth his remarks.

Mr. REED. I am talking about this: I rose this morning to make an argument in this case on one point, and expected to take my seat, and later to resume the floor as the debate proceeded in the ordinary way. Every Senator on the other side of the Chamber but one left the Chamber. I do not blame them for that for two reasons: In the first place, nothing that I would say probably would be quite up to their standard of intelligence; and, second, I think they were quite busy elsewhere. With the Senate in that situation, I moved to recess for one hour. The Senator from Washington, who had come in in the meantime, immediately arose and notified me that what I said at that time would constitute one speech, that I would not be allowed to make more than one speech more, that I was then making it, and that he proposed to raise the point on me, so that if I left the floor I could not again resume it. That is what I am referring to.

Mr. JONES of Washington. If the Senator will permit me, I desire to say that I was on the floor and merely stepped into the cloakroom for a moment to speak to another Senator in reference to a bill. I heard the call for a quorum and was told that the Senator from Missouri had moved a recess. That is a very unusual proceeding. I concluded that—well, probably what one might call a little sharp practice was being attempted.

I like to hear the Senator from Missouri speak. I have just now come in. I thought probably the Senator had noticed that I had just come in; I do not know of any other reason why he should refer to this matter at the present time. I have been engaged in a conference committee for the last hour or two and came in as soon as I could get through with my duties there.

Mr. REED. I was referring to the fact that I had to get a cup of coffee standing here on my feet, and that I am well aware that if I sit down the Senator will try to prevent my resuming my remarks, because he told me so this morning.

Now, about "sharp practice"——

Mr. JONES of Washington. I thought I was being frank with the Senator and advising him as to what he might expect. I could have gone on, of course, and let the matter go and let the Senator probably try to speak again and then raise the point on him, but I thought I would be perfectly fair and open with him. I do not propose to do it, of course; for when the Senator from Missouri says he is not conducting a filibuster and does not intend to conduct a filibuster, I am going to take his word for that. I have not any reason to doubt it. I have no desire to cut off any legitimate discussion or any discussion that a Senator says that he is carrying on in a perfectly legitimate way. So, under those circumstances, I will say to the Senator now that I shall not make the point.

Mr. REED. I accept the Senator's statement. The Senator, however, seems to think that I was guilty of sharp practice. If I had been I should have moved that the Senate adjourn; but I merely moved that the Senate take a recess for one hour, because it was the hour of noon and all Senators were down to lunch except myself, the Presiding Officer, and about two or three other Senators. So I thought we might all go down and eat together.

Mr. MOSES. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from New Hampshire?

Mr. REED. I do.

Mr. MOSES. I ask the Senator to yield for the purpose of asking unanimous consent to present a highly important report.

Mr. JONES of Washington. I object to that.

The PRESIDING OFFICER. Objection is made.

Mr. REED. Mr. President, I should like the privilege of talking about 15 minutes to conclude one point and to be allowed to continue my remarks to-morrow as part of my present address. I want the opportunity to discuss this question. I have never filibustered in the Senate in my life. I do not want to be shut off from the opportunity of saying what I want to say. I have spoken now for two or three hours. I am physically in pretty fair shape, but I want to keep so. Of course, I will go on, if I am compelled to, because I am going to put into the RECORD what I think is the law of this case. I will say to Senators now that if they desire to invoke the rule that a Senator can only speak twice on one question on the same day they can do so; but I warn them, if that is the rule to be enforced, I shall sit in this Chamber and apply it from now right along just as long as I am in the Senate Chamber. We have not been doing business like pirates and cutthroats, but like gentlemen engaged in important work for the Government.

Mr. JONES of Washington. Mr. President, will the Senator permit me to interrupt him?

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Washington?

Mr. REED. I yield.

Mr. JONES of Washington. I wish to say that I shall never interfere with the orderly procedure so long as I think it is being conducted in the right sort of way. I wish to say, however—and I am not saying this with reference to the Senator from Missouri, because I know he discusses these matters very ably and he discusses them very thoroughly—that I know there are those who are using every method they can to prevent the adoption of the conference report, and, if I think that is being attempted, I shall employ the rules of the Senate.

Mr. REED. If the Senator will pardon me, does he not know that, upon the other hand, very unusual methods have been adopted to force this measure through; that it has even been threatened—and the threat was repeated here on the floor this morning—that the House would not permit the Senate to adjourn—I hope I am not offending the House when I make that statement; I make it with all respect to the House, and let me say now, and say it seriously, that I do respect the House of Representatives, its great prerogatives, and its great men, and I would not have my bit of irony with a personal tinge otherwise construed—but is it not true that we heard the report that the House would not permit the Senate to adjourn until it passed this measure? So we find a Senator here urging the passage of the bill, our good friend from South Dakota [Mr. STERLING], usually the most amiable man in the world, insisting that this bill shall proceed, refusing to give way this morning to the very reasonable request of the Senator from North Dakota [Mr. MCCUMBER], determined, as we can clearly understand, to present to the Senate this issue—pass this measure or you do not adjourn.

Now, that is a little unusual, and so it is not surprising if there have been some men who have said: "Very well; if you are going to try that, we will stay here and argue the question. Let us get both sides together and look at them both at the same time."

Mr. JONES of Washington. Mr. President, if the Senator will permit me just a moment. I will not interrupt him any more.

We have an unusual situation. I think there is not a Senator on the floor but that understands what the situation is, and that there is a determined attempt to prevent the passage of this bill—a bill which has gone through both Houses, has gone to conference, has been reported to one House and the confer-

ence report has been agreed to, has come to this House, has been pending here for a day or two—ever since yesterday—and has been discussed during that time on a conference report. It is a peculiar situation. I say frankly that so far as I am concerned I am going to use every proper method to secure the adoption of this conference report before this Congress adjourns or recesses; and, as I stated this morning, I shall not give my consent to anything that requires unanimous consent coming in ahead of this conference report. I am not going to interfere with legitimate discussion, and all the discussion that the Senator from Missouri wants to give to this bill, and I am going to favor him in every way that I possibly can so far as his comfort is concerned. I do not want him to exhaust himself, but I am not going to allow other measures to come in pending his recuperation.

Mr. REED. I do not ask to have other measures come in. I simply spoke of the matter this morning because we could have disposed of it almost while the Senator from Washington and I have been talking. It had been agreed that there would be no debate upon it except a mere statement of the positions of different Senators.

Mr. KING. Mr. President, let me say to my friend——

Mr. REED. I say "it had been agreed." I ought to say it had been agreed among many Senators. There may have been those who were of different opinion.

Mr. President, I should like to have our friends who are so wedded to this measure stay in the Senate just five minutes while I state a point to them, and let us see whether they can swallow it.

The Volstead Act as it now exists—and I am going to state what I said a moment ago when I was talking to the chairs and a few Senators—the Volstead Act as it now exists contains this language, which now appears in the conference report:

> No officer, agent, or employee of the United States, while engaged in the enforcement of this act, * * * or any law in reference to the manufacture * * * of * * * intoxicating liquor, shall search any private dwelling without a warrant directing such search, and no such warrant shall issue unless such dwelling is used as a place in which liquor is manufactured for sale or sold.

That is the present language. The report which comes here, which we are now discussing, injects the words "is reason to believe," so that, as it now reads, it is as follows:

> No officer, agent, or employee * * * shall search any private dwelling without a warrant, * * * and no such warrant shall issue unless there is reason to believe such dwelling is used as a place—

And so forth. As the Volstead Act now stands, the warrant can not issue unless there is a showing that the building is used as a place to manufacture liquor.

Under the proposition now before the Senate, the warrant can issue if there is reason to believe that it is being so used. So that instead of safeguarding the dwelling by this amendment, we are putting the dwelling in a position where a warrant can be issued for its search if somebody says he has reason to believe it is being used in this way, and all that is necessary is an affidavit that a man has reason to believe that it is being so used.

Let us apply that to the law as it has heretofore existed. The law was that no warrant could be issued upon the belief of a citizen; that you could not issue a search warrant upon opinion or upon belief, or upon the conclusion of the man making the affidavit. You were required to set up the facts from which the court to which the application was made could be satisfied that the affidavit was grounded in fact and that it was the truth. This proposition is, if it can be done, to substitute for that ancient safeguard which puts the decision of the facts submitted into the hands of the court the belief or opinion of somebody.

Can you do that under the law? Can you do that under the old principles of the law? What are these prohibition lobbyists trying to accomplish here? To take away a safeguard that has been upheld in the courts time out of mind; and I say they slipped it in here, and no man has called attention to it on the floor.

Mr. STERLING. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from South Dakota?

Mr. REED. I do.

Mr. STERLING. I can not help but think that the Senator from Missouri is reading the House amendment rather than the conference report.

Mr. REED. I think I have the conference report.

Mr. STERLING. Let me call the attention of the Senator to the conference report, section 6. A search warrant may not issue under section 6 upon an affidavit of reason to believe.

Mr. REED. Exactly—reasonable belief.

Mr. STERLING. No; look again at the section:

> That any officer, agent, or employee of the United States engaged in the enforcement of this act, or the national prohibition act, or any other law of the United States, who shall search any private dwelling as defined in the national prohibition act, and occupied as such dwelling, without a warrant directing such search—

And so forth. So that the usual affidavit stating facts must be made and an application for a search warrant is made in this case as in any other.

Mr. REED. Mr. President, I have been reading from the official publication, which I supposed was correct.

Mr. STERLING. I read from the conference report itself.

Mr. REED. It is hard for me to tell what is official here. If the Senator is right, then the House did pass this with the proposition to which I refer in it.

Mr. STERLING. The House did, if the Senator will allow me to say so; but the conference——

Mr. REED. And in some way it was dropped in conference.

Mr. STERLING. But the conference did not stand for the House amendment.

Mr. REED. Who was it that tried to get that in, anyway?

Mr. STERLING. Oh, I am not to be catechized upon that proposition, Mr. President. I do not think it is material.

Mr. REED. I think the Senator ought to be as frank with me and with the Senate as he would be with Mr. Wheeler or some of these outsiders. I was reading here from what I supposed was the official document. If what the Senator says is true—and undoubtedly he does tell the truth—then the particular point to which I have been calling attention does not exist; but since I have introduced it, and simply for the purpose of putting into the record the authorities on it, and as illustrative of how far these people did try to go, I call attention to the case of United States against Rykowski (267 Federal Reporter).

Mr. ASHURST. Mr. President——

Mr. REED. Mr. President, I am going to withdraw the statement I have just made.

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Arizona?

Mr. REED. Yes.

Mr. ASHURST. I do not rise to ask a question, but to make an observation which will take four or five minutes.

Mr. REED. Will the Senator do that a moment later? I should like to have what I am about to say in the proper context, and then I will yield to the Senator.

I am going to withdraw a part of what I said a moment ago. I think the point is still in the report. My attention has been called to subsequent language, and I think it is as bad as the language of which I spoke, and probably worse. Let me read section 6 of the conference report:

> That any officer, agent, or employee of the United States engaged in the enforcement of this act, or the national prohibition act, or any other law of the United States, who shall search any private dwelling as defined in the national prohibition act, and occupied as such dwelling, without a warrant directing such search, or who while so engaged shall without a search warrant maliciously and without reasonable cause search any other building or property, shall be guilty of a misdemeanor—

And so forth.

Mr. President, what is the plain inference to be drawn from that language? First, you must have a warrant to search the house. Second, if while you are searching the house you proceed without a warrant to search the other buildings or property you are not guilty of any offense unless two things concur: First, you must have been without any reasonable cause to search the other buildings or property, and second, you must have acted maliciously. Two things must concur; and see how plain it is that it is the purpose of these gentlemen to have the other property searched without a warrant. Notice the language. It is worth your while. You are legislating for 110,000,000 people, and you are putting this authority into the hands of irresponsible men, proceeding without bond, armed with big guns, and sent out among the people. The language is:

> Any officer, agent, or employee * * * who shall search any private dwelling, as defined in the national prohibition act, and occupied as such dwelling, without a warrant directing such search—

That is one thing—

> or who while so engaged shall without a warrant maliciously and without reasonable cause search any other building or property, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined—

And so forth.

What is the plain intendment? It is that when you are searching a dwelling you must have a warrant; but you can then proceed to search all the other buildings, and there is no liability unless two things concur: First, there must have been no reasonable cause, and second, upon top of that, there must be a proof of malice.

Mr. BRANDEGEE. And even then you can not put the man in jail until he breaks into your house the second time.

Mr. REED. Yes; and let us see. This is apropos in part, in part not, but it is worth putting in here, because it shows the safeguards which have been put around people's property. In this case of State against Rykowski there was an affidavit. The judge said:

> The affidavit on which a warrant was obtained on March 3 to search the premises of Rykowski is lost, but the warrant recites that the affiant has reason to believe, and does believe, that a fraud upon the revenue of the United States is being committed upon and by the use of certain premises for illicit making, keeping, and storing of distilled spirits containing more than one-half of 1 per cent of alcohol by volume.

This came under the Volstead Act. The language is that—

> The affiant believes a fraud is being perpetrated; that the affiant believes that the premises are being used for illicit distilling purposes.

If he believed it, it would at once be said that, believing it, that was a reasonable ground for him to make a search. That would be the argument. This was a house, but there was another man in the same case, and they searched his premises under the same kind of affidavit, not his house, but his place of business; and they found the stills there, and they found the mash there, so that the belief stated in the affidavit turned out to be an absolute fact; but the question came whether the material seized under an affidavit based on belief complied with the law. The court said you could not invade a man's premises on an affidavit of belief; and yet, if a man believed, you could not say he was acting maliciously, could you, under this present act? You could not have said these officers acted maliciously, because they believed the stills were there, and it happened that the stills were there; but they might have believed the same thing about the best citizen in the community, and have invaded his home, and it is this citizen, who is not violating the law, that the safeguards of the law are erected to protect. What did the court say about belief, unreasonable belief, reason to believe, reason to suspect, and all that sort of thing? The court says in the opinion:

> He (the defendant) operated a soft drink parlor, in the rear of which was a residence occupied by his family. One squad of officers searched those premises, after reading the warrant to Keydoszius's wife. * * * There were found on the premises three barrels of raisin mash and two jugs containing raisin jack, and parts of what would seem to have been a still. * * * He was tried by a jury and convicted: * * * his application for a return of the property seized having been previously overruled, on the theory that his wife's consent to the search was binding on him.

There is a consent when a big bully of an officer walks up to a door and demands admission in the name of the law, and a poor, little, trembling woman stands there and lets him in, and then they come in and claim a consent. But this is what the court said:

> In the opinion heretofore filed in this court in the case of United States v. Borkowski * * * it was ruled that the form of affidavit and search warrant found in Swan's Treatise (21st ed., pp. 933, 934) and in Loveland's Forms * * * should be followed. Attention was also drawn to Kercheval v. Allen * * * as to the form there used. In Ripper v. United States it is made clear what the contents of the affidavit and warrant must be, the language being as follows:
>
> The affidavit on which the warrant was issued sets forth no facts from which the existence of probable cause could be determined.

Mr. STERLING. Mr. President, will the Senator please give me the name of the report?

Mr. REED. The one I am reading now?

Mr. STERLING. Yes.

Mr. REED. I am glad to give it to the Senator. I am reading the case of the United States against Rykowski. He not only was in a bad business but he had an unpronounceable name. It is reported in 267 Federal Reporter, and I am reading the local citation on page 868.

Mr. BRANDEGEE. In what year was the decision?

Mr. REED. It is a somewhat recent case. It was decided October 21, 1920. It is the district court for the western district of Pennsylvania. Here is what the court says:

> The affidavit on which the warrant was issued set forth no facts from which the existence of probable cause could be determined; nor did the warrant itself recite the existence of such cause. There was no recital in the warrant that the officer who issued it found or determined there was probable cause, further than the mere statement that some one had declared under oath that he had good reason to believe, and did believe, the accused was violating the law. It is true that section 3462, Revised Statutes (U. S. Comp. Stat., 1901, p. 2283), authorizes a search warrant to be issued upon such an affidavit, but we think that all the requisites are not there expressed. This was also the view of the Attorney General in an opinion delivered June 19, 1903 (24 Op. Atty. Gen., 685, 688). The oath in writing should state the facts from which the officer issuing the warrant may determine the existence of probable cause, or there should be a hearing by him with that purpose in view. The immunity guaranteed by the Constitution shoud not be lightly set aside by a mere general declaration of a non-judicial officer that he has reason to believe and does believe, etc. The undisclosed reason may fall far short of probable cause.

Let us stop just a moment and apply that to this report now under consideration. It proposes that there shall be no search of a dwelling house of an individual without a search warrant. I assume, for I want to be fair about this, that that means a search warrant issued in due form; but the sole purpose of this legislation which we sought to ingraft here was to stop illegal searches of the person and of the property of the citizen. How is that met? By a provision that the house shall not be searched unless there is a warrant.

Mr. BRANDEGEE. Was not that in the original Volstead Act?

Mr. REED. Yes, absolutely; and no house could be searched under the original Volstead Act unless it was being used as a place to manufacture liquor, and the fact had to be proven.

After having provided that you could not search the house without a warrant, and providing a penalty for searching a house without a warrant, the amendment provides that any person who, while engaged in searching a house, "shall without a search warrant maliciously and without reasonable cause search any other building or property, shall be guilty of a misdemeanor."

The converse of that is that you could go out and search any other building, any other part of the premises, and stand acquitted of any wrong, unless the State can charge and prove two things: One, that you acted without reasonable cause, and the other, that you were actuated by malice. The two things must concur. So that it cuts out the inference of malice which might come ordinarily from a lack of probable cause, and compels you to get an inference of malice outside of that which would come from a lack of probable cause, for you must prove not only the lack of probable cause but the malice.

What is the result of that? That gets you down to that definition of malice, that the person charged with it must have a heart devoid of humanity and fatally bent on mischief. You could not apply the law of constructive malice to it. It must be actual malice.

So that the purpose of the gentlemen who drew this provision beyond any question was to permit a gentleman who had a search warrant for a man to ransack all the premises, all the buildings, go where he pleased, run at large, have a roving permit, and then, when you hold him up and state, "You invaded the buildings of my farm, you invaded my safe," he would look at you and say, "Somebody told me there was something wrong there, and hence I had reasonable cause, but if I did not have reasonable cause, you prove that I had actual malice."

It is intended, I charge, by the real author of this measure, whoever he may be, to take away every penalty for violating everything except the home, and they put the home in only because they had to put in something to afford a reason for the latter part of the section.

Now, they may do it; they may have the votes to do it. I have seen things voted through here time and again, done by men who had pledged themselves when they ran for office that they would vote in a certain way, some of whom had pledged others and felt bound by those pledges. I am not here to criticize those people, but if I ever run for office and get an office by the cowardly pledge of my vote in advance, then I say, "May my tongue cling to the roof of my mouth and my right hand forget its cunning."

Mr. BRANDEGEE. Mr. President——

The PRESIDING OFFICER (Mr. POMERENE in the chair). Does the Senator from Missouri yield to the Senator from Connecticut?

Mr. REED. Certainly.

Mr. BRANDEGEE. Has the Senator noticed that under the language of the amendment if a man has a warrant to search a private dwelling he can search as many other dwellings and buildings as he wants to, no matter whether they are on the premises of the dwelling or not? He can go all over town and search all the buildings in the city if he only has a warrant to search one dwelling house.

Mr. REED. That is what I was trying to say. He has a roving commission and can go anywhere, and you must prove malice or he can not be convicted, and you must prove that he had no reasonable cause to believe the thing true.

Let me read a little further. I read a quotation, so let me read a little from the text of the opinion. Of course, I do not expect that I am going to convert anybody, but a good revivalist will stand up and talk if he can at least make a sinner in the amen corner feel uncomfortable.

After the citation which I read the text of the opinion in the Rykowski case is as follows:

> In that case the testimony of the revenue officers was held admissible, notwithstanding the insufficiency of the affidavit and warrant, but there had been no application made for the return of any property prior to the trial of the case on its merits, nor had the case of Weeks v. United States (232 U. S.) * * * been decided. In Veeder v. United States (242 Fed., 414) * * * the conditions upon which a search warrant may issue and the character thereof are thus stated.

This is old fundamental stuff. I would hesitate to read it under ordinary circumstances for I would expect it to be accepted, but our country is going through a peculiar mental condition and that mental disturbance is nowhere more strongly manifested than in a Congress which is constantly looking over its shoulder and wondering what the voters at home are going to do in the next election. The truth about the matter is I sometimes think that a Congressman or Senator never ought to be allowed to run for a second term. I say that with all respect to the House of Representatives, and I say it very plainly here to my colleagues.

One's person and property—

"One's person." I wish the Senator from South Dakota to get that. "One's person"—not just his house, but his person—

One's person and property must be entitled, in an orderly democracy, to protection against both mob hysteria and the oppression of agents whom the people have chosen to represent them in the administration of laws which are required by the Constitution to operate upon all persons alike. One's home and place of business are not to be invaded forcibly and searched by the curious and suspicious, not even by a disinterested officer of the law, unless he is armed with a search warrant.

So let us have done with this twaddle and rot about the Constitution only extending to the eaves of one's house and that the right to search can be exercised on the highway on your wagon, on the train in your grip, on your person, on the person of your wife and your daughter.

The doctrine of castle need not be confounded with these other propositions. The doctrine of castle has nothing to do with search warrants. The doctrine of castle is that a man standing back of his own threshold can command the intruder to keep out and kill him if he dares cross the threshold, if it is necessary to kill him in order to protect the sanctity of the home. That is the doctrine of castle. Of course, we hope nobody will be killed, but it has been necessary in the past, and foolish men riding runaway hobbies may bring that condition in this country, for I warn you that a man who goes out and without a warrant invades the home of the fellow charged with bootlegging, though proceeding in the first instance perhaps with some reasonable care, will soon reach the point where he will be invading the homes of the innocent, and following that will come the tyranny of petty officers of the law. For the most part, men who engage in the business of hunters of men, men who engage in the business of tracking down their fellow beings, are not the class of men into whose hands can be consigned the liberties and laws of a great people.

But let me read on:

No such warrant shall be issued unless the judge has first been furnished with facts under oath—not suspicions, beliefs, or surmises.

"Not suspicions, beliefs, or surmises." Let me state that backward to the Senate: Not surmises, beliefs, or suspicions—but what?

But with facts which, when the law is properly applied to them, tend to establish the necessary legal conclusion or facts which, when the law is properly applied to them, tend to establish probable cause for believing that the legal conclusion is right.

It is not enough for a man to say, "I believe A. B. is violating the law." It is not enough for him to say, "I have reason to believe." It is not enough for him to say, "I have information and belief," for after all that simply goes down to somebody's opinion, and courts do not act on the opinions of men but upon the facts laid before the court.

Accordingly the law is that the person applying for the writ must appear in court and say, "Your honor, we offer you the evidence of this fact, that fact, the other fact," and from those facts the court decides whether there is probable cause and whether the writ ought to issue. In other words, you have the opinion of a judge and not the prejudice or suspicion of a policeman. Why do you have to have that? Here is the why:

The inviolability of the accused's home is to be determined by the facts, not by rumor, suspicion, or guesswork. If the facts afford the legal basis for the search warrant, the accused must take the consequences. But equally there must be consequences for the accuser to face. If the sworn accusation is based on fiction, the accuser must take the chance of punishment for perjury. Hence the necessity of a sworn statement of fact, because one can not be convicted of perjury for having a belief, though the belief be utterly unfounded in fact and law. The finding of a legal conclusion or a probable cause from the exhibited facts is a judicial function, and it can not be delegated by the judge to the accuser. No search warrant should be broader than the justifying basis of facts. For example, if a murder has been committed by means of a shot from a gun and by no other means, the search warrant should not direct the officer to enter the accused's home and seize the family register of births and deaths. And as the serving officer has no discretion in executing the search warrant in its entirety, the householder is entitled to have the search warrant quashed.

Now, Mr. President, what kind of Americans are these people who are willing to refuse to enact a statute punishing men for breaking the Constitution, who expressly strike out the provisions which fix any penalty for violating the rights of citizens of the United States, except they be violated within his home, everywhere else leaving the violation open without any punishment? Why did you strike that out? What is your reason for refusing to punish a man for violating the rights of the citizen in his barn, in his granaries, in his safe deposit box, in his office?

Why do you refuse to fix a penalty for the violation of those rights, except you intend to promote the violation of those rights, except you intend they shall be trampled upon with impunity, except it is the fond wish of your heart that those old rights secured to the citizens shall be trampled in the dust? Do you tell me that is a question of wet and dry? That is a question of human liberty. It is a question of the Constitution. It is a question of the stability of our institutions.

No demagogue can stand outside this Chamber—of course, there are none here—and talk about widows and about saloons and that sort of stuff and try to make that the question and succeed in doing so. It is not the question. The question is, Will you trample on the Constitution in order to get a bottle of whisky that somebody else has got? If you do it in that instance, then you can trample upon the Constitution in every case. The pity of it all is that there is no necessity for doing it, for the Constitution permits the doing of everything that is necessary in order to apprehend a criminal. Is a bootlegger more difficult to catch than a murderer? Is a bootlegger more difficult to catch than a smuggler? Is a bootlegger more difficult to catch than any other criminal who commits an act and flees into the night? I have already demonstrated that the bootlegger is the easiest man in the world to catch, because the ordinary criminal commits a crime in many instances by himself—in many instances nobody sees him—and when he has committed the crime that is the end of it if he can flee; but a bootlegger can not make money in his business unless every day he plies his trade, and every time he plies his trade he must do it in connection with somebody else; and in the end the law can surely overtake him, for he leaves a thousand tracks behind him as he goes along.

A little further on this opinion, after the quotation which I have read, proceeds:

In that case a petition for writ of certiorari was denied. It was further said touching the affiant that—

"All he swears to is that 'he has good reason to believe and verily does believe' so-and-so. He does not swear that so-and-so are true. He does not say why he believes. He gives no facts or circumstances to which the judge could apply the legal standard and decide that there was probable cause for the affiant's belief. There is nothing but the affiant's application of his own undisclosed notion of the law to an undisclosed state of facts, and under our system of government the accuser is not permitted to be also the judge."

The insufficiency of the affidavit and of the warrant that issued upon it caused a reversal, with the direction that the trial court quash the search warrant. The case was followed with approval in re Tri-State Coal & Coke Co. (D. C.) (253 Fed., 605). In the affidavits and search warrants, in so far as such instruments have been preserved, that were filed or issued, as the case may be, in the cases under consideration, the affiant merely swears that he has good reason to believe and does verily believe certain things. In no instance did he affirmatively swear that anything is true, nor did he in any instance state any facts or circumstances which would enable the United States commissioner to determine whether there was probable cause for his belief. None of the affidavits or search warrants was sufficient and none of the warrants should have been issued.

Mr. President, the remainder of the case is exceedingly instructive and interesting, but I have read enough of it to show the absolute soundness of my position; that we can not, without ravishment of the Constitution, refuse to affix a penalty to the act of a man who without warrant searches the premises of individuals. What kind of a statute would it be if we were to pass a law that any prohibition officer or any other officer could search anything but the homes of citizens and be liable in no respect unless he made the search without reason to believe that there were any contraband goods—I use the term broadly—and, in addition to that, unless actual malice could be proven? Would it not be taken as an attempt to vitiate and destroy the fourth amendment? It could have no other construction; and yet that is exactly what is proposed to be accomplished by the proposition which is now brought to the Senate. No man who will look at the question candidly and fairly can take a different view.

When it is asked why this has been done, the why has been uttered upon this floor, for we have been told by the Senator from Minnesota [Mr. NELSON] and the Senator from South Dakota [Mr. STERLING] in substance and effect that it is desired that this proposed statute shall be so framed that the prohibition officer may seize the goods without a warrant because bootleggers move rapidly in automobiles, forgetting, as they do, that the right to search one automobile without a warrant can be used to search any automobile without a warrant; that where there is one scoundrel of a bootlegger rushing along the highways there are 100,000 decent people pursuing their peaceful courses, with their wives and their daughters,

and that the same authority which may be used to apprehend the occasional guilty man may be employed, backed by a gun in the hands of an irresponsible wretch, against the innocent. It is for the innocent, for the decent people, for the law-abiding people who are entitled to the protection of the Constitution that I stand here this afternoon and plead.

I repeat that the bootlegger may be apprehended. It is utter nonsense to say that he may not be. If we can not apprehend the bootlegger, then there is but one answer and that is that the opinion of the people is so strong against the prohibition law that they will not permit its enforcement. If that ever becomes the case, then of course the law would become a dead letter and every attempt to enforce it would in the end be futile. Such a law ought not to exist in a free country; but I do not believe that to be the condition of public opinion. I believe public opinion to-day is for the prohibitory law, and, so long as the eighteenth amendment remains engraven as a part of the Constitution of my country, I intend in good faith to give it whatever is reasonable in the way of aid and support in the matter of enforcement.

Mr. President, undoubtedly this joker is written into the report because some employees, some paid lobbyists, who had read the Rykowski case and perhaps two or three other cases, had concluded that it would seriously interfere with their expeditions if they had to get a warrant describing the buildings to be searched. So there has been put in here a provision which, as I construe it, amounts to a license to search. I am not sure but it would supersede the laws of every State. I believe it to be the law in many States that if a Federal officer within the State were to violate the rights of a citizen of the State he would become subject to the criminal laws of that State, the same as a private individual; that under the laws of many States a man invading the home of a citizen or invading his property and seizing it without warrant of law would be liable to fine and imprisonment, regardless of whether he proceeded with malice or not. I believe that this proposed Federal statute—I have not had time to examine the law—may have the effect of superseding the State statutes and constitute a bill of immunity granted to these gentlemen who propose to go on their buccaneering expeditions.

Mr. SHORTRIDGE and Mr. BROUSSARD addressed the Chair.

The PRESIDING OFFICER (Mr. FERNALD in the chair). Does the Senator from Missouri yield; and if so, to whom?

Mr. REED. I yield first to the Senator from California.

Mr. SHORTRIDGE. I hope the Senator will develop that idea. Of course, if this proposed law is valid, it will be the supreme law of the land and will supersede and nullify any State law to the contrary notwithstanding.

Mr. REED. I now yield to the Senator from Louisiana.

Mr. BROUSSARD. I was about to suggest, Mr. President, that I believe there have been instances where Federal officers in the execution of their duty have killed private citizens, and in such instances the Federal courts have prevailed and the cases have been removed to the Federal court for disposition. So, if this measure were to become a law, I believe that such cases could be removed to the Federal court and the State court thereby deprived of their jurisdiction.

Mr. REED. Mr. President, I always hesitate to express an opinion on a legal proposition that comes to me while I am on my feet, and I do not want to commit myself on it; but I have a very strong impression that if this proposed law shall be passed, in the case of any officer proceeding or pretending to proceed under it, if he were to be arrested, the penalty of this law and the procedure laid down in this law would be the method of ascertaining his crime and the measure of the punishment. If that is true, it is a bill of acquittal to every so-called prohibition officer who sees fit to get out a search warrant for a man's home and then invade all his other premises, because, as I have already said not once, but many times, and intend to keep on repeating, under this proposed law there can be no conviction for an act of that kind unless two things concur, one that he shall not have had reason to believe and the other that he shall have been actuated by malice.

Mr. CARAWAY. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Arkansas?

Mr. REED. I do.

Mr. CARAWAY. And if, in the execution of the warrant, there was a search, and the officer was to kill some one, there would be no way to punish him.

Mr. REED. I think the Senator is undoubtedly right.

Mr. CARAWAY. That thing happened in my State, and the Federal court quashed a State indictment against him, and the man went scot-free.

Mr. REED. The Senator, who is an experienced lawyer, has cited a precedent already, and the question has not been here for five minutes.

What does it mean? Let us stop and think. You are in your home, or you are in your barn, where your horses are and other valuable things. Somebody, without any just reason, without any sensible or good reason, swears out a search warrant to search your home, and thereupon the officer comes with a search warrant. At common law, before he entered your home he had to read you that warrant, so that you knew when you opened the door that you opened the door to the king then, to the Government of the United States now. Having completed that, he says: "I am going out to search your barn and all your outbuildings." You reply: "You have no warrant." But he says: "I am going to search them. I believe the stuff is there." You say: "You can not enter." He kills you. What happens to him? We have said that the penalty he shall suffer is a fine of $1,000, and that that penalty can not be levied unless it is proved that he did not believe the stuff was there, and unless, in addition to that, malice is proved. Suppose you kill him. What is to be your penalty? You will be tried for murder.

Ah, Senators, I do not care how devout prohibitionists you may be; you can not afford to put this blot on the escutcheon of the Prohibition Party, and if you do it will be the blackest day that the Prohibition Party has ever seen, for if you arouse resentment in the house of the American people against a law as oppressive and unjust they will destroy it, though the law itself be virtuous. If I were the most ardent prohibitionist in the world, as I hope to be one of the most ardent Americans, I would never employ methods like this in order to capture an occasional bottle of whisky.

EXPORTATION OF AGRICULTURAL PRODUCTS.

Mr. HARRISON. Mr. President, will the Senator yield to me?

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Mississippi?

Mr. REED. I do.

Mr. HARRISON. Diverting from the subject of the discussion, I had understood, through a grapevine route, that the conferees between the House and the Senate have agreed on the agricultural amendment to the War Finance Corporation act. Is it possible to get any information from any Senator as to when that report will be submitted, and whether or not we are to vote on that matter to-night? What is to be the procedure? Are we to continue in this discussion without taking up this report?

Mr. LODGE. Mr. President, if the Senator is addressing his remarks to me, I frankly say that I do not know. The conference report on the Finance Corporation bill, whenever it is ready, has to go to the House first. When it comes here I should like to see it taken up and passed.

Mr. SIMMONS. Mr. President——

Mr. HARRISON. I had understood that it was to come here first.

Mr. LODGE. No; I understand that the House granted the conference, and therefore it goes there first.

Mr. SIMMONS. Mr. President, the Senator from Massachusetts is in error about that.

Mr. LODGE. I do not think I am in error.

Mr. KENYON. Mr. President, if the Senator will permit me, we had labored under the impression that it would come here first, and the Senate has had the papers; but the Senate asked for the conference and the House granted the conference, so it goes first to the House.

Mr. LODGE. It goes first to the House. The House granted the conference.

Mr. KENYON. And the papers are on the way to the House now.

Mr. HARRISON. I would not have interjected the question, but I thought the Senate was to take up the conference report first.

Mr. LODGE. No.

Mr. HARRISON. I had understood that they had closed the conference and agreed upon the report; and I was wondering, if that were true, why it was that it was not presented here and either adopted or rejected.

Mr. KENYON. That is true, and I informed the Senator or other members of the conference committee that it would come to the Senate first; but we were mistaken.

Mr. HARRISON. I see.

Mr. SIMMONS. Mr. President, I simply wish to say that I made the statement I did just a while ago because a member of the conference committee told me that the Senate had the papers.

The PRESIDING OFFICER. The Senator from Missouri has the floor.

Mr. REED. Does the Senator from Massachusetts desire the floor for some purpose?

Mr. LODGE. I was going to suggest, not with a view to adjournment, because I know we have to stay on, that we ought to have an executive session. There is a very long calendar; there are a large number of nominations reported yesterday which ought to be disposed of; and while I do not want to interfere with the Senator in charge of the bill, I should like to have him agree to an executive session to clear the calendar, and come right back into legislative session.

Mr. STERLING. Mr. President, I thought that when the hour of 5 o'clock was reached I would not object.

Mr. REED. Would the Senator object to stopping now with this open session and going into executive session? I have not finished what I have to say. I think every Senator here will admit that I have been talking to the question, and I have not been filibustering. Perhaps it is not interesting to anybody else, but it is to me. I have stuck to my text, and I should like very much to stop now. I am not begging for anything, but I should regard it as a courtesy if we could adjourn now.

Mr. STERLING. I am aware of the fact that the Senator from Missouri has been talking now for some time, and I am disposed on that account not to insist that we run on here in legislative session until 5 o'clock if the Senator from Massachusetts desires to move an executive session, with the understanding, of course, that——

Mr. LODGE. Of course, we will come back to legislative session.

Mr. STERLING. With the understanding that we are to come back to legislative session, and then determine whether or not we shall recess until after dinner.

Mr. JONES of Washington. Mr. President——

Mr. REED. If there is an executive session now, and I yield the floor with my remarks incomplete, I want the privilege of resuming the floor to-morrow morning. I have been here a good while. I can go on longer, of course.

Mr. LODGE. Mr. President, I suppose, of course, that if we go into executive session, and later resume legislative session, a Senator who yields for that purpose retains the floor; but we shall go into legislative session immediately after we have disposed of the executive business.

Mr. CURTIS. Mr. President, why can there not be an understanding that at the expiration of the executive session we shall take a recess until a certain time? That will allow us to go home to our dinners.

Mr. KING. Let us take a recess until 8 o'clock.

Mr. SMOOT. Half past 7 o'clock.

Mr. JONES of Washington. Mr. President, the Senator from Massachusetts is the leader on this side of the Chamber, and any suggestions from him, of course, go a long way. He has suggested to the Senate that when the farm conference report comes in it should be taken up and disposed of. I want to say this: That bill is sure to pass. Congress is not going to adjourn until that is done, and we need not worry about that. I am in favor of that measure, but I am not in favor of taking it up until this conference report is disposed of.

I am perfectly willing to recess over until to-morrow morning, and give the Senator from Missouri time to rest and recuperate, and let him have the floor; but I am not willing, so far as I am concerned, to give up any advantage that we have in the situation now.

The farm bill is going to pass before Congress adjourns, it does not make any difference how long the discussion of this conference report goes on, if it goes on a week or two weeks; but there is not any assurance that if the conference report on the farm bill is adopted and one or two other matters disposed of Congress will not dissolve and leave this bill where some of the Members of the Senate would like to have it left. So I want to state, in conjunction with the statement of the Senator from Massachusetts that the farm report should be taken up when it comes in, that I am not in favor of taking it up when it comes in unless this conference report is disposed of.

Mr. STERLING. Mr. President, I have exactly the same feeling that the Senator from Washington has in that regard, and I expect to keep the conference report now being discussed before the Senate until it is disposed of.

Mr. LODGE. Mr. President, of course it is for the Senate to say whether or not they will take up the farm conference report, and it can not be stopped by one objection. If the Senate choose to take up the farm conference report, that is for them to say. Nobody can stop it by simply objecting, and that matter can be dealt with when it comes up. I think that measure is one of such great importance, not only in itself but in its general effect throughout the country and with reference to other measures that are pending, that it ought to be disposed of with the least possible delay. The doubt about the passage of that measure is doing harm; and there are other measures that ought also to pass which I think will have to pass before we have a recess.

Mr. JONES of Washington. Mr. President, I should like to ask the Senator from Massachusetts a question. Has the Senator from Massachusetts any doubt but that the Senate and the Congress will refuse to adjourn until the farm bill is disposed of?

Mr. LODGE. I have not the slightest doubt; but I do not see why it should be used and made a convenience of to promote some other bill.

Mr. JONES of Washington. Mr. President, it is not being made a convenience. The other bill has the right of way. It is now under consideration.

Mr. LODGE. Oh, no; there is no right of way about it. The Senate can take up anything it chooses to take up at any time.

Mr. JONES of Washington. Of course, I know that as well as the Senator from Massachusetts does.

Mr. STANLEY. Mr. President——

The PRESIDING OFFICER. The Senator from Massachusetts has the floor. Does he yield?

EXECUTIVE SESSION.

Mr. LODGE. I should prefer to make the motion now for the executive session, with the understanding that as soon as the consideration of executive business is concluded we shall return to legislative session.

With that understanding, Mr. President, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After one hour spent in executive session the doors were reopened.

SENATOR FROM WISCONSIN.

Mr. SPENCER, from the Committee on Privileges and Elections, to which were referred the resolutions of the Minnesota Commission of Public Safety, presented to the Senate September 29, 1917, petitioning the Senate of the United States to institute proceedings looking to the expulsion of ROBERT M. LA FOLLETTE from the Senate, and upon which the committee conducted hearings, reported a resolution (S. Res. 141) which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate, as follows:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay, out of the contingent fund of the Senate, to ROBERT M. LA FOLLETTE, a Senator from the State of Wisconsin, the sum of $5,000 in reimbursement of fees and disbursements of counsel incurred by him in defense of his title to his seat.

INVESTIGATION OF MOTION-PICTURE INDUSTRY.

Mr. MYERS submitted the following resolution (S. Res. 142), which was referred to the Committee on the Judiciary:

Whereas motion-picture interests, by their own announcement, "have entered politics to become a factor in the election of every candidate, from alderman to President, from assemblyman to United States Senator," the test for candidates being whether or not they pledge themselves to governmental action favoring this one business or their devotion to public interests; and

Whereas the president of the national association of the motion-picture industry, which claims to control 95 per cent of all of the films of the country, having $250,000,000 invested, announced to the Chicago motion-picture industry (as printed in its report of September, 1920) that this industry proposed to use the wonderful power in its hands and go into politics; and

Whereas the ninth annual convention of the Exhibitors' League of Pennsylvania, South New Jersey, and Delaware, in August, 1920, voted to use its publicity power against all State legislators and congressional candidates who may refuse to pledge themselves to support legislation favorable to their business and for the removal of boards of censors whose decisions had been too drastic; and

Whereas at the Atlantic City convention of the Motion Picture Theater Owners of America, July 7, 1921, it is reported that Marcus Loew and Adolph Zukor, two of the most influential men in the industry, pledged all the screens under their control henceforth to enter politics; and

Whereas it is reported the motion-picture interests have already engaged a representative to direct a political campaign in New York before the primary and election next fall to secure the repeal of the New York motion picture law by promising the use of publicity power of the screens of the State to elect all who agree to vote for its repeal and to defeat all candidates who refuse to promise so to do; and

Whereas at a hearing before Gov. Miller, of New York, April 26, 1921, the respresentatives of the national association of the motion-picture industry, in an effort to prove that no State legislative action was necessary to clean up the pictures in that State, claimed that absolute and unlimited power over the whole business was in the hands of four or five men; and

Whereas it is reported that Jacob W. Binder, who was in the employ of what is now called the National Board of Review, at a meeting of the National Exhibitors' League said, July 15, 1915, in San Francisco: "It was through money provided by manufacturers that I, as a representative of the national board, was sent into 13 States to combat bills for legalized censorship"; and

Whereas the president of the national association of motion-picture industry, in a speech to a committee of the State Senate of New Jersey, March 21, 1921, is reported to have said: "You can't control this business, but I can; I am president of the Producers' Association, and, with two or three other men, I control every foot of film shown in the United States; what we say goes"; and

Whereas seven States, namely, Ohio, Pennsylvania, Kansas, Maryland, New York, Massachusetts, and Florida, have enacted either censorship or regulatory laws, three of them in 1921, and the legislature of one other State (Nevada) enacted a censorship law which was vetoed by the governor, such legislative action showing widespread discontent because of the undesirable influence of the films shown in recent years; and

Whereas the Committee on Education of the United States House of Representatives of the Sixty-fourth and Sixty-fifth Congresses held prolonged investigations of motion pictures, and each time reported favorably a bill for the Federal control of films in interstate commerce; and

Whereas three other investigations, namely, those of the New York Legislature in 1917, the British inquiry in the same year, and two years of investigation by the Chicago city government, published in 1920, have each resulted in a declaration that motion pictures need more careful and efficient moral control; and

Whereas it is said to be a fact that no producer in America has ever been punished by a jail sentence for producing an immoral picture, and nine-tenths of all the pictures shown in the world are of American production; and

Whereas there is danger that the motion-picture interests, with an uncontrolled publicity business and political power, may become a serious menace to free elections: Therefore be it

Resolved, That the Judiciary Committee of the Senate or a subcommittee thereof be empowered and directed to conduct, with the assistance of the Department of Justice and the Department of Commerce, an investigation into the political activities of the motion-picture industry in all its branches throughout the United States, together with such other of its activities as might involve violation of the antitrust or other laws or improper relations with State boards of censorship; also be it

Resolved, That the Judiciary Committee or a subcommittee thereof conducting such investigation be empowered to subpœna witnesses for such investigation, and to compel the production of books and papers, and to employ a stenographer and print the proceedings of such investigation, and that the expense thereof be allowed and paid out of the contingent fund of the Senate; be it further

Resolved, That the Judiciary Committee is directed to recommend such remedial action and legislation in the premises as it may deem wise for the Federal Government to undertake.

AMENDMENT OF NATIONAL PROHIBITION ACT.

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7294) supplemental to the national prohibition act.

Mr. FRELINGHUYSEN presented the petition of E. I. Edwards, J. Harry Foley, James R. Nugent, Alexander Archbald, and about 35,000 other citizens and voters of the State of New Jersey, praying for the enactment of legislation modifying the provisions of the so-called Volstead Act, so as to legalize the manufacture and sale of beer and wines, etc., which was ordered to lie on the table and the body of the petition to be printed in the RECORD, as follows:

To the honorable Representatives of New Jersey in the United States Senate and House of Representatives:

We, the undersigned voters of New Jersey, do hereby most respectfully request that you cast your votes in the United States Senate and the House of Representatives in favor of a modification of the stringent provisions of the national prohibition enforcement law known as the Volstead Act, so as to legalize the manufacture and sale of good beer and wines.

The people of the United States have never been given the chance to vote on the question of national prohibition, yet by its provisions their personal liberty has been seriously restricted to such an extent that the harmless enjoyment of millions has been curtailed. We most strenuously protest against the unjust seizure of our rights and appeal to you for relief. We firmly believe that a majority of the people of the country, and most certainly a majority of the people of New Jersey, are opposed to prohibition.

Therefore we ask you to support an amendment to the Volstead Act which will legalize good beer and light wines, and in addition thereto permit each State, under the "concurrent power" clause of the eighteenth amendment to the Constitution, to define what alcoholic strength shall make a beverage intoxicating.

Mr. STANLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CURTIS in the chair). The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Ashurst	Ernst	Kellogg	McNary
Ball	Fernald	Kenyon	Myers
Brandegee	Frelinghuysen	King	Nelson
Broussard	Glass	Ladd	New
Calder	Hale	Lenroot	Newberry
Cameron	Harreld	Lodge	Nicholson
Capper	Harrison	McCormick	Norbeck
Colt	Heflin	McCumber	Oddie
Curtis	Jones, N. Mex.	McKellar	Phipps
Dillingham	Jones, Wash.	McLean	Poindexter
Pomerene	Smith	Sutherland	Warren
Reed	Smoot	Swanson	Watson, Ga.
Sheppard	Spencer	Townsend	Watson, Ind.
Shortridge	Stanley	Wadsworth	Willis
Simmons	Sterling	Walsh, Mass.	

The PRESIDING OFFICER. Fifty-nine Senators have answered to their names. A quorum is present. The question is on agreeing to the conference report. The Senator from Missouri [Mr. REED] is recognized.

Mr. REED. Mr. President——

Mr. KING. Mr. President, let us have order.

The PRESIDING OFFICER. The Senate will be in order. Senators desiring to carry on conversation will please retire, so that they will not disturb the Senator who has the floor. The Senator from Missouri.

Mr. REED. Mr. President, this is the quietest hour the Senate has experienced in many years. I congratulate the Chair. He has accomplished the impossible.

I was calling attention to the fact that the courts of the land have held, even in the enforcement of the Volstead Act, that search warrants are essential, and that those search warrants can not be based on the opinion or belief of the affiant, but that they must set forth the facts upon which the affiant bases his charge that there are contraband goods in the premises described and that the facts must be so fully stated that the judge in examining them can determine for himself whether there is probable cause to issue a warrant authorizing the invasion of the property of the person whose premises it is sought to search. I have undertaken to buttress those opinions by the citation of some of the older authorities and to show their application by calling attention to the fact that the amendment passed by the Senate, in broad terms, prescribes penalties for invading the premises of the citizen without a search warrant, that the conferees had stricken out that amendment, showing a deliberate purpose to change its import, and had put in a provision which simply declared that there should be a search warrant where the home itself was to be invaded, and a penalty for proceeding in that case without a search warrant; and it was further provided that if the officer holding the search warrant to search the home went outside of the home into property not described in the search warrant, and searched without warrant or authority of law, no penalty shall be visited upon him unless two things concur: First, the search shall be held to be without reason; second, actual malice shall be shown.

In other words, the effect of somebody's act is to make a situation where a warrant can be issued to search a man's home, and then the officer having that warrant can go into every other building of the person named in the warrant and search at will, and the only penalty to be visited is one which is dependent upon the proving of express malice, and upon the total want of reasonableness in the search.

I mentioned the fact that that would probably supersede the law of the States for the punishment of trespass, and that it probably would be the only penalty which could be visited upon one of these officers. Since I occupied the floor, a Senator informed me that in his State a single one of these prohibition officers, so called, had killed, not at one time, but at different times, three citizens of his State.

In my own city of Kansas City, which I believe to be the most typically American city in the Union, with a very small foreign population, typically American because, whereas the early settlers largely came from the South, the later settlers have come from all over the country, the North and the South, and the returning tides from the West——

The PRESIDING OFFICER. The Senator from Missouri will suspend, that the Senate may receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, announced that the House had passed without amendment the following Senate bills:

S. 2062. An act ratifying, confirming, and approving certain acts of the Legislature of Hawaii, granting franchises for the manufacture, distribution, and supply of gas, electric light and power, and the construction, maintenance, and operation of a street railway, and for other purposes;

S. 2330. An act to extend the time for payment of grazing fees for the use of national forests during the calendar year 1921; and

S. 2420. An act authorizing and directing the Postmaster General to permit the use of a special canceling stamp at the post office of Birmingham, Ala., bearing the words "Birmingham semicentennial, October 24 to 29, 1921."

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing

votes of the two Houses on the amendments of the House to the bill (S. 1915) to amend the War Finance Corporation act, approved April 5, 1918, as amended, to provide relief for producers of and dealers in agricultural products, and for other purposes.

EXPORTATION OF FARM PRODUCTS—CONFERENCE REPORT.

Mr. KENYON. Will the Senator from Missouri yield a moment that I may present a conference report?

The PRESIDING OFFICER (Mr. WATSON of Indiana in the chair). The Senator from Missouri will suspend that the conference report may be received.

Mr. REED. I suspend. I presume I dare not yield.

Mr. STERLING. Mr. President, I object to the consideration of the conference report at this time, while the Senator from Missouri has the floor.

The PRESIDING OFFICER. The Senator from Missouri is compelled to yield, under the rules of the Senate, because a conference report is a matter of the highest privilege. He can be taken off his feet for that purpose.

Mr. STERLING. Yes; for the presentation of the conference report.

Mr. KENYON. I present the conference report on Senate bill 1915.

The PRESIDING OFFICER. The Secretary will read the conference report.

The Assistant Secretary read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1915) to amend the War Finance Corporation act approved April 5, 1918, as amended, to provide relief for producers of and dealers in agricultural products, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendments numbered 34 and 35.

That the Senate recede from its disagreement to the amendments of the House numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 36, 38, 39, 40, 41, 42, 43, and 44, and agree to the same.

Amendment numbered 10: That the Senate recede from its disagreement to the amendment of the House numbered 10, and agree to the same with an amendment as follows: In lieu of the matter proposed by the House amendment insert the following: "All notes or other instruments evidencing advances to persons outside the United States shall be in terms payable in the United States, in currency of the United States, and shall be secured by adequate guaranties or indorsements in the United States, or by warehouse receipts, acceptable collateral, or other instruments in writing conveying or securing marketable title to agricultural products in the United States"; and the House agree to the same.

Amendment numbered 37: That the Senate recede from its disagreement to the amendment of the House numbered 37, and agree to the same with an amendment as follows: In lieu of the matter proposed by the House amendment insert the following: "The first paragraph of section 12 of Title I"; and the House agree to the same.

WM. S. KENYON,
CHAS. L. MCNARY,
E. D. SMITH,
Managers on the part of the Senate.

LOUIS T. MCFADDEN,
PORTER H. DALE,
OTIS WINGO,
Managers on the part of the House.

The PRESIDING OFFICER. What disposition does the Senator from Iowa desire to have made of the conference report?

Mr. KENYON. I ask unanimous consent for the immediate consideration of the report.

The PRESIDING OFFICER. The Senator from Iowa asks consent for the immediate consideration of the conference report, which the Secretary has just read. Is there objection?

Mr. STERLING. I shall have to object.

The PRESIDING OFFICER. Objection is made.

Mr. KENYON. I move that the Senate proceed to the consideration of the conference report.

Mr. LODGE. That motion must be decided without debate.

The PRESIDING OFFICER. The Senator from Iowa moves that the Senate proceed to the consideration of the conference report.

Mr. LENROOT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Wisconsin will state the inquiry.

Mr. LENROOT. I desire to inquire whether the Senator from Missouri has now yielded the floor to permit this motion to be made. The motion is not privileged; the presentation of the conference report is privileged.

The PRESIDING OFFICER. The Chair understands that the Senator from Missouri has yielded the floor.

Mr. LENROOT. That is the ruling of the Chair?

The PRESIDING OFFICER. The Chair wants to be entirely right about it.

Mr. REED. I do not intend to stand in the way of this business, even if I yield the floor. I think the Senate is entitled to go on with business, and I will trust to the generosity of the Senate to allow me to proceed in order.

The PRESIDING OFFICER. Does the Senator from Missouri yield the floor?

Mr. REED. I do for the consideration of the conference report.

Mr. SMOOT. Before the Senator does that I want to call attention to Rule XXVII, relating to reports of conference committees. It reads as follows:

> The presentation of reports of committees of conference shall always be in order, except when the Journal is being read or a question of order or a motion to adjourn is pending, or while the Senate is dividing; and when received the question of proceeding to the consideration of the report, if raised, shall be immediately put, and shall be determined without debate.

Now, the question is on proceeding to consider the report.

The PRESIDING OFFICER. The question is on the motion of the Senator from Iowa. Shall the Senate proceed to the consideration of the conference report?

Mr. STERLING. I ask for the yeas and nays.

The yeas and nays were ordered, and the Assistant Secretary proceeded to call the roll.

Mr. HALE (when his name was called). Making the same announcement that I made before of my pair and its transfer, I vote "nay."

Mr. KING (when his name was called). I have a general pair with the senior Senator from North Dakota [Mr. MCCUMBER]. I transfer that pair to the junior Senator from Rhode Island [Mr. GERRY] and vote "yea."

Mr. LODGE (when his name was called). I have a general pair with the Senator from Alabama [Mr. UNDERWOOD]. I transfer that pair to the Senator from Vermont [Mr. PAGE] and vote "yea."

Mr. WARREN (when his name was called). I transfer my pair with the Senator from North Carolina [Mr. OVERMAN] to the Senator from California [Mr. JOHNSON] and vote "yea."

The roll call was concluded.

Mr. CALDER. I have a general pair with the senior Senator from Georgia [Mr. HARRIS]. I transfer that pair to the junior Senator from Pennsylvania [Mr. KNOX] and vote "yea."

Mr. MCCORMICK. Making the same announcement as before regarding the transfer of my pair to the Senator from Oregon [Mr. STANFIELD], I vote "yea."

Mr. SUTHERLAND (after having voted in the negative). I have a general pair with the senior Senator from Arkansas [Mr. ROBINSON]. I transfer that pair to the senior Senator from Maryland [Mr. FRANCE] and let my vote stand.

Mr. SIMMONS. I wish to announce that my colleague [Mr. OVERMAN] is unavoidably absent from the Senate. He has a general pair with the Senator from Wyoming [Mr. WARREN].

Mr. HALE (after having voted in the negative). I have been informed that there is some uncertainty as to how the Senator from Iowa [Mr. CUMMINS] to whom I transferred my pair, would vote on this question. I have been unable to secure a transfer and therefore withdraw my vote. If permitted to vote, I would vote "nay."

Mr. HITCHCOCK. I wish to announce that the Senator from Mississippi [Mr. HARRISON] is paired with the Senator from West Virginia [Mr. ELKINS] If present the Senator from Mississippi would vote "yea."

Mr. CURTIS. I wish to announce the following pairs:

The Senator from Delaware [Mr. BALL] with the Senator from Florida [Mr. FLETCHER];

The Senator from New Mexico [Mr. BURSUM] with the Senator from Louisiana [Mr. RANSDELL];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN];

The Senator from New Jersey [Mr. FRELINGHUYSEN] with the Senator from Montana [Mr. WALSH]; and

The Senator from Pennsylvania [Mr. PENROSE] with the Senator from Mississippi [Mr. WILLIAMS].

The result was announced—yeas 40, nays 18, as follows:

YEAS—40.

Ashurst	Harreld	McCormick	Smith
Brandegee	Heflin	McLean	Smoot
Broussard	Hitchcock	McNary	Stanley
Calder	Jones, N. Mex.	Moses	Swanson
Cameron	Kellogg	Newberry	Trammell
Capper	Kenyon	Phipps	Wadsworth
Curtis	King	Pomerene	Walsh, Mass.
Dillingham	Ladd	Reed	Warren
Glass	La Follette	Shortridge	Watson, Ga.
Gooding	Lodge	Simmons	Watson, Ind.

NAYS—18.

Colt	McKellar	Norbeck	Sutherland
Ernst	Myers	Oddie	Townsend
Fernald	Nelson	Poindexter	Willis
Jones, Wash.	New	Sheppard	
Lenroot	Nicholson	Sterling	

NOT VOTING—38.

Ball	Fletcher	Knox	Robinson
Borah	France	McCumber	Shields
Bursum	Frelinghuysen	McKinley	Spencer
Carraway	Gerry	Norris	Stanfield
Culberson	Hale	Overman	Underwood
Cummins	Harris	Owen	Walsh, Mont.
Dial	Harrison	Page	Weller
du Pont	Johnson	Penrose	Williams
Edge	Kendrick	Pittman	
Elkins	Keyes	Ransdell	

So the motion was agreed to and the Senate proceeded to consider the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, announced that the House had agreed to the further report of the committee of conference on the disagreeing votes of the two Houses on amendment numbered 2 of the Senate to the bill (H. R. 8117) making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1922, and for other purposes.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. 8117) making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1922, and for other purposes, and it was thereupon signed by the Presiding Officer [Mr. CURTIS] as Acting President pro tempore.

DEFICIENCY APPROPRIATIONS—CONFERENCE REPORT.

Mr. WARREN. Mr. President, I present the conference report on House bill 8117, the deficiency appropriation bill.

The report was read as follows:

The committee of conference on the disagreeing votes of the two Houses on a certain amendment of the Senate to the bill (H. R. 8117) making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1922, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows:

Restore the matter stricken out by said amendment, amended to read as follows:

"*Provided further*, That not more than six officers or employees of the United States Shipping Board or the United States Shipping Board Emergency Fleet Corporation shall be paid an annual salary or compensation in excess of $11,000."

And the Senate agree to the same.

F. E. WARREN,
W. L. JONES,
Managers on the part of the Senate.

MARTIN D. MADDEN,
J. G. CANNON,
PATRICK H. KELLEY,
JOSEPH W. BYRNS,
J. P. BUCHANAN,
Managers on the part of the House.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

EXTENSION OF EMERGENCY TARIFF AND DYE CONTROL ACTS.

Mr. SMOOT. Mr. President, I move that the Senate proceed to the consideration of the bill (H. R. 8107) to control importations of dyes and chemicals.

Mr. JONES of Washington. Mr. President, I wonder if those who are in favor of the prohibition measure are going to vote now to take up the dye bill. The vote will determine how they stand.

Mr. LENROOT. Mr. President, this is a debatable motion?

The PRESIDING OFFICER. It is.

Mr. LENROOT. I, too, wonder whether the Senate of the United States is now going to vote to make the importation of dyes more important than the enforcement of the eighteenth amendment.

Mr. SMOOT. I will say to the Senator that I do not think the bill will take very much time, not nearly as much time as it would take to discuss the beer bill.

Mr. LENROOT. Of course, every Senator by this time knows that every one of these bills that is passed is just adding one more wound to the conference report on the prohibition bill. Every Senator recognizes that. The Senator from Utah recognizes it. He knows and they all know what the situation is in the House. He knows and must know that the more of these bills that are passed the sooner the House will pass the recess resolution.

Mr. SMOOT. Mr. President, I wish to say to the Senator from Wisconsin that this is a bill which could have been passed here within 15 minutes, I think, this morning. If the bill is not passed within two days, the embargo will cease to exist. I do not think the recess resolution is being held in the House as a club to compel the Senate to pass some other bills, but the Senate can decide.

Mr. LENROOT. If the Senate had the recess resolution before it this afternoon, it would not pass. I confidently make that statement.

I voted for the recess resolution a week ago, and I voted for it because I supposed, as a matter of course, that these measures would be disposed of before to-day. Not being disposed of, the Senate has lost control of the recess resolution, and yet Senators understand very well that the House will not pass the resolution for a recess at 12 o'clock to-night unless certain bills are passed and have gone to the President. Every bill that is passed now by the Senate or taken up for consideration means that Senators who favor that course are in favor of a recess at 12 o'clock to-night, leaving the antibeer bill to go over. Upon that proposition we ought to have the yeas and nays, and let us see where Senators stand upon the proposition.

Mr. STERLING. Mr. President, I merely wish to add one word to what has been said by the Senator from Wisconsin, who aptly describes the situation. It is not because of the time it would take to pass the dye bill, but it is because of the particular situation. It will simply mean an adjournment or recess here without action upon this important bill. Why should we do that?

The Senate of the United States, after the conference report has been agreed to by the House of Representatives, now declines to take action upon it, putting us in a position where action will not be taken upon the bill after the long time that it has been before the Senate, and when the bill is for the very purpose of carrying out the provisions of the eighteenth amendment to the Constitution and the original national prohibition act.

With this as the situation, when Senators contemplate what it means—the right to prescribe beer for medicinal purposes, the right to make of every drug store a saloon, and without the police protection or guardianship that would be effected if we were under the high-license system—how can Senators support the motion of the Senator from Utah? I oppose the motion.

Mr. NELSON. Mr. President, on this question I demand the yeas and nays.

Mr. BRANDEGEE. Mr. President, the idea that the Senate must hold a club over the head of the House to prevent the House from concurring in a resolution that the Senate has already passed is a novelty to me. I do not think that United States Senators are going to be intimidated by the threat which has been made, because they will do their duty as they see it.

I am quite as much interested in seeing the fourth amendment to the Constitution protected and vindicated as I am the eighteenth amendment. In spite of the strident tones and the considerable temper exhibited by the advocates of the conference report, which the Senate has already displaced and which is now back in its proper place on the table, I hope that no one will be terrified or intimidated at this action of the Senate. I hope the motion will prevail.

Mr. WILLIS. Mr. President, I shall utter only a sentence or two in addition to what I said on the subject this morning. No Senator need be deceived by the issue here involved. This does not involve the emergency tariff at all. It is simply the dye proposition, and Senators are now to vote whether the protec-

tion of the dye industry in this country is of more importance than the enforcement of the laws of the country.

Mr. HEFLIN. Mr. President, I voted a few moments ago to take up the conference report on the farm export bill. I have no apology to make to anybody for casting that vote. I think that the bill will be of considerable value to the farmers of the country, and I think the quicker we can get it to the President for his approval, the better it will be. We did not consume 10 minutes altogether in adopting the conference report on the bill. I have been working for weeks for the passage of this bill that provides aid for the distressed farmers of the country.

If I knew that the dye bill could be voted on in a very few minutes I would not object to taking it up for 5 or 10 minutes; but if it is going to be discussed, and therefore displace the beer bill, I shall not vote to take it up. If we can have an agreement that we will vote on it immediately, all well and good. If not, I shall not vote to take it up and displace the beer bill.

Mr. SIMMONS. Mr. President, I merely wish to say to the Senator from Alabama that I do not think Senators on this side of the aisle will occupy any time. So far as I am advised, there will be no discussion at all. I know of only one speech that was to have been made on the bill, and I have just been advised by the Senator who was going to make it that he will not now make it.

Mr. HEFLIN. I would have no objection to an immediate vote upon that question. I would like to see an agreement reached by which we could vote on both the beer bill and the dye bill.

The PRESIDING OFFICER. The question is on the motion of the Senator from Utah that the Senate proceed to the consideration of the so-called dye bill, on which the yeas and nays are demanded. Is there a second?

The yeas and nays were ordered, and the reading clerk proceeded to call the roll.

Mr. CALDER (when his name was called). I have a general pair with the senior Senator from Georgia [Mr. HARRIS]. I transfer that pair to the junior Senator from Pennsylvania [Mr. KNOX] and vote "yea."

Mr. KING (when his name was called). I have a general pair with the senior Senator from North Dakota [Mr. MCCUMBER]. Not knowing how he would vote if present, I withhold my vote.

Mr. LODGE (when his name was called). Making the same announcement concerning my pair and its transfer as heretofore, I vote "yea."

Mr. McCORMICK (when his name was called). Making the same announcement with regard to my pair and its transfer as before, I vote "nay."

Mr. WARREN (when his name was called). As I am not advised as to how my general pair, the Senator from North Carolina [Mr. OVERMAN], would vote, if present, I withhold my vote.

The roll call was concluded.

Mr. STERLING (after having voted in the negative). I have a general pair wtih the Senator from South Carolina [Mr. SMITH]. I see that he has not voted. I transfer that pair to the Senator from New Hampshire [Mr. KEYES], and will allow my vote to stand.

Mr. CARAWAY. I have a pair with the junior Senator from Illinois [Mr. MCKINLEY]. I transfer that pair to the senior Senator from Texas [Mr. CULBERSON], and vote "nay."

Mr. SUTHERLAND. Making the same announcement as before with reference to my pair and its transfer, I vote "nay."

Mr. HALE. I transfer my pair with the Senator from Tennessee [Mr. SHIELDS] to the Senator from Iowa [Mr. CUMMINS], and vote "nay."

Mr. HITCHCOCK. I am requested to state that the Senator from Mississippi [Mr. HARRISON], who is necessarily absent, is paired with the Senator from West Virginia [Mr. ELKINS]. If the Senator from Mississippi were present, he would vote "nay."

Mr. CURTIS. I am requested to announce the following pairs:

The Senator from Delaware [Mr. BALL] with the Senator from Florida [Mr. FLETCHER];

The Senator from New Mexico [Mr. BURSUM] with the Senator from Louisiana [Mr. RANSDELL];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN];

The Senator from West Virginia [Mr. ELKINS] with the Senator from Mississippi [Mr. HARRISON];

The Senator from New Jersey [Mr. FRELINGHUYSEN] with the Senator from Montana [Mr. WALSH]; and

The Senator from Pennsylvania [Mr. PENROSE] with the Senator from Mississippi [Mr. WILLIAMS].

The result was announced—yeas 18, nays 38, as follows:

YEAS—18.

Brandegee	Gooding	Reed	Wadsworth
Broussard	La Follette	Shortridge	Walsh, Mass.
Calder	Lodge	Smoot	Watson, Ind.
Cameron	McLean	Spencer	
Dillingham	Pomerene	Stanley	

NAYS—38.

Ashurst	Heflin	McNary	Sheppard
Capper	Hitchcock	Myers	Sterling
Caraway	Jones, N. Mex.	Nelson	Sutherland
Colt	Jones, Wash.	New	Swanson
Curtis	Kellogg	Newberry	Townsend
Ernst	Kenyon	Nicholson	Trammell
Fernald	Ladd	Norbeck	Watson, Ga.
Glass	Lenroot	Oddie	Willis
Hale	McCormick	Phipps	
Harreld	McKellar	Poindexter	

NOT VOTING—40.

Ball	France	McCumber	Robinson
Borah	Frelinghuysen	McKinley	Shields
Bursum	Gerry	Moses	Simmons
Culberson	Harris	Norris	Smith
Cummins	Harrison	Overman	Stanfield
Dial	Johnson	Owen	Underwood
du Pont	Kendrick	Page	Walsh, Mont.
Edge	Keyes	Penrose	Warren
Elkins	King	Pittman	Weller
Fletcher	Knox	Ransdell	Williams

So Mr. SMOOT's motion was rejected.

PROPOSED RECESS.

Mr. STERLING. I now move that the Senate proceed to the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7294) supplemental to the national prohibition act.

The PRESIDING OFFICER. The question is on the motion of the Senator from South Dakota that the Senate proceed to the consideration of the conference report on the bill named by him.

Mr. REED. Mr. President, I desire to make a privileged motion.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. REED. I move that the Senate take a recess until 8.30 o'clock. That will give Senators an opportunity to get something to eat and come back here and stay with the Senator from South Dakota as long as he desires to stay. It is now 6.30 o'clock.

The PRESIDING OFFICER. The question is on the motion of the Senator from Missouri that the Senate take a recess until 8.30 o'clock.

Mr. STERLING. The conference report for which I ask consideration has not yet been laid before the Senate.

The PRESIDING OFFICER. It has not yet been taken up, the question being first upon the motion of the Senator from Missouri that the Senate take a recess until 8.30 o'clock. That motion is in order.

Mr. JONES of Washington and Mr. McKELLAR asked for the yeas and nays.

The yeas and nays were not ordered.

The PRESIDING OFFICER. The question is on the motion of the Senator from Missouri.

The motion was rejected.

The PRESIDING OFFICER. The Chair now recognizes the Senator from South Dakota.

AMENDMENT OF NATIONAL PROHIBITION ACT—CONFERENCE REPORT.

Mr. STERLING. I now renew my motion that the Senate proceed to the consideration of the conference report on the bill (H. R. 7294) supplemental to the national prohibition act.

The motion was agreed to; and the Senate resumed the consideration of the conference report.

Mr. REED. Mr. President——

Mr. WADSWORTH. Mr. President——

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. WADSWORTH. I do not desire to address the Senate at this time, but I merely desire to ask whether the Senator from South Dakota now objects to the Senate taking a recess until 8.30 o'clock?

Mr. STERLING. The Senate has just expressed itself upon that proposition and has decided it in the negative.

Mr. WADSWORTH. The Senate has scarcely done that finally. The Senator from South Dakota knows when the Senate voted on the motion to take a recess the Senator's conference report had not been made the unfinished business.

Mr. STERLING. I do not think that made any difference in the vote of the Senate, Mr. President, and I am not ready now to consent that a recess be taken.

Mr. WADSWORTH. I supposed the Senator from South Dakota had reached that conclusion, although it is radically different from the one which he reached within the last hour.

Mr. STERLING. I understand that; but the situation is altogether changed from what it was at that time, and I think the Senator from New York realizes it.

Mr. WADSWORTH. I can not realize any such change. The Senator from South Dakota not long ago indicated to his colleagues that he was willing that the Senate should take a recess until 8.30 o'clock.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. REED. Mr. President——

The PRESIDING OFFICER. The Senator from Missouri.

Mr. REED. I suppose I still have the floor?

The PRESIDING OFFICER. The Chair has recognized the Senator from Missouri.

Mr. REED. I yielded the floor for the particular purpose of accommodating the Senate. I will say to Senators that there will be ample time for supper. They may go with perfect safety, although I will not guarantee that some Senator, in the interest of the dissemination of useful information to the Members of the Senate, will not call for a quorum.

Now, Mr. President, let me say to the Senators in charge of this bill that there is not a single thing to gain by forcing the Senators to stay here away from their dinners and their engagements. We never get anywhere by that method. There are four or five Senators on this side prepared to make speeches, and to do so in the best of faith, without any desire to filibuster or anything of that kind; but if there is an attempt made here to force Senators to occupy the floor and keep the Senate in session, there are plenty of Senators here to resent that course of conduct.

The hour and a half or two hours that will intervene between now and half past 8 o'clock can be taken up very easily and the question at issue be adhered to. I assure the Senator in charge of the bill that he will get through just as quickly if we recess now until 8.30 as if he compels us to remain here. That is not a threat; it is simply a plain statement of a fact. There is not anybody going to be bulldozed or driven about this matter. I do not want to do that to anybody else, and I do not want anybody to try it with me. It is not the way to get along.

This is an important bill in the judgment of a number of Senators here whose judgment is entitled to respect; it involves a serious invasion of the great fundamentals of our Government; and, that being the case, they have the right to discuss it. I ask the Senator now if he will not consent to a recess until 8.30 o'clock? I say "8.30 o'clock" because it is now 6.30, and that will leave two hours for dinner. Almost every Senator wants to go home to get his dinner. I submit that suggestion to the Senator.

Mr. STERLING. Will the Senator from Missouri consent to vote on this bill at 10.30 o'clock to-night?

Mr. REED. I have already stated the impossibility of that when I have told the Senator that there are Senators here who are prepared to discuss the measure, without trying to filibuster, and who intend to discuss it.

I can not shut those Senators off; I have no desire to do so. I ought to be the last man in the world to try to cut anybody else off from debate on this question. I have occupied the floor for a considerable time to-day and I expect to occupy it until I finish discussing these legal propositions and submitting the authorities. In saying that I do not want to be understood in any sense except as I would say it on any other bill in which I felt the same interest; it has nothing to do with the suggestion of a filibuster.

Mr. STERLING. I ask the Senator from Missouri why may not some other Senator who desires to speak go ahead with the discussion now, if the Senator from Missouri will yield the floor for that purpose?

Mr. REED. Because I am not through.

Mr. STERLING. I should not object to the Senator's resuming after he has had his dinner.

Mr. REED. That is not the point that I am making. I think the Senate is entitled to a recess, and I think a Senator speaking on this bill is entitled to the attention and attendance of the Senate, theoretically, at least, although, of course, practically we do not get it very much.

Mr. STERLING. Just a few moments ago the Senate decided against recessing, and I am not disposed now to accept the Senator's suggestion.

Mr. SHORTRIDGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from California?

Mr. REED. I do.

Mr. SHORTRIDGE. I move that the Senate take a recess until 8 o'clock this evening.

Mr. WILLIS. Mr. President——

The PRESIDING OFFICER. The Senator from California has made a motion that the Chair is bound to entertain.

Mr. WILLIS. I make the point of order that the motion is not in order, because the Senate has just voted upon that question, and there has been no intervening business.

Mr. WADSWORTH. I call the attention of the Chair and of the Senator from Ohio to the fact that since the motion to recess was voted upon the Senate has transacted business by taking up the conference report.

The PRESIDING OFFICER. The Chair thinks the point of order made by the Senator from Ohio is not well taken.

Mr. LENROOT. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Ashurst	Harreld	Nelson	Stanley
Brandegee	Heflin	Newberry	Sterling
Broussard	Hitchcock	Nicholson	Sutherland
Capper	Jones, Wash.	Norbeck	Townsend
Caraway	King	Oddie	Wadsworth
Colt	Ladd	Phipps	Walsh, Mass.
Curtis	Lenroot	Pomerene	Warren
Dillingham	Lodge	Sheppard	Watson, Ga.
Ernst	McCormick	Simmons	Watson, Ind.
Glass	McKellar	Smith	Willis
Gooding	Moses	Smoot	
Hale	Myers	Spencer	

The PRESIDING OFFICER. Forty-six Senators having answered to their names, a quorum is not present. The Secretary will call the names of the absentees.

The reading clerk called the names of the absent Senators, and Mr. CALDER and Mr. KENYON answered to their names when called.

Mr. LA FOLLETTE entered the Chamber and answered to his name.

The PRESIDING OFFICER. Forty-nine Senators having responded to their names, a quorum is present. The Senator from California [Mr. SHORTRIDGE] moves that the Senate take a recess until 8 o'clock p. m.

Mr. MOSES and Mr. REED called for the yeas and nays, and they were ordered.

The PRESIDING OFFICER. The Secretary will call the roll.

The reading clerk proceeded to call the roll.

Mr. CALDER (when his name was called). Making the same announcement as on the last roll call, I vote "yea."

Mr. CARAWAY (when his name was called). I have a pair with the junior Senator from Illinois [Mr. MCKINLEY]. I transfer that pair to the senior Senator from Texas [Mr. CULBERSON] and will vote. I vote "nay."

Mr. HALE (when his name was called). Making the same announcement as before, I vote "nay."

Mr. LODGE (when his name was called). Making the same announcement as before as to my pair, I vote "yea."

Mr. SUTHERLAND (when his name was called). I have a general pair with the senior Senator from Arkansas [Mr. ROBINSON]. I am unable to get a transfer of that pair at this time, and, therefore, I am unable to vote. If at liberty to vote, I should vote "nay."

The roll call was concluded.

Mr. STERLING (after having voted in the negative). I transfer my pair with the Senator from South Carolina [Mr. SMITH] to the Senator from New Hampshire [Mr. KEYES] and will let my vote stand.

Mr. KELLOGG. Has the Senator from North Carolina [Mr. SIMMONS] voted?

The PRESIDING OFFICER. He has not.

Mr. KELLOGG. I transfer my pair with the senior Senator from North Carolina [Mr. SIMMONS] to the junior Senator from Delaware [Mr. DU PONT] and will vote. I vote "nay."

The result was announced—yeas 18, nays 31, as follows:

YEAS—18.

Brandegee	King	Pomerene	Wadsworth
Broussard	La Follette	Reed	Walsh, Mass.
Calder	Lodge	Shortridge	Watson, Ga.
Gerry	McNary	Spencer	
Hitchcock	Moses	Stanley	

NAYS—31.

Ashurst	Jones, Wash.	Myers	Poindexter
Capper	Kellogg	Nelson	Sheppard
Caraway	Kenyon	New	Sterling
Colt	Ladd	Newberry	Townsend
Curtis	Lenroot	Nicholson	Trammell
Glass	McCormick	Norbeck	Watson, Ind.
Gooding	McCumber	Oddie	Willis
Hale	McKellar	Phipps	

NOT VOTING—47.

Ball	Fernald	Knox	Simmons
Borah	Fletcher	McKinley	Smith
Bursum	France	McLean	Smoot
Cameron	Frelinghuysen	Norris	Stanfield
Culberson	Harreld	Overman	Sutherland
Cummins	Harris	Owen	Swanson
Dial	Harrison	Page	Underwood
Dillingham	Heflin	Penrose	Walsh, Mont.
du Pont	Johnson	Pittman	Warren
Edge	Jones, N. Mex.	Ransdell	Weller
Elkins	Kendrick	Robinson	Williams
Ernst	Keyes	Shields	

So the Senate refused to take a recess until 8.30 p. m.

AMENDMENT OF NATIONAL PROHIBITION ACT.

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7294) supplemental to the national prohibition act.

The PRESIDING OFFICER (Mr. CURTIS in the chair). The question is on agreeing to the conference report.

Mr. REED. Mr. President, I have called attention to some of the authorities bearing upon this question. I now want to call the attention of the Senate to the argument advanced by the Senator from South Dakota, to the effect that liquor was an outlaw under the Volstead Act; that, being an outlaw, it was in the same category with stolen goods, and that a seizure of the goods could take place without the issuance of a search warrant.

Mr. President, it has never been the law that even stolen goods could be seized where the entry upon the premises or property of another without a warrant was involved. It is true that stolen goods, in the act of being carried away, can be taken from the possession of the thief and the thief can be arrested. The goods are then held and can be dealt with according to law.

Unfortunately for those who make this claim in regard to liquor, however, the Supreme Court of the United States does not agree with them. Upon the contrary, the Supreme Court has expressly declared, in liquor cases, that the search can not be had without a warrant without a violation of the Constitution, so that all the argument which was built up by two of the Senators who are sponsors for this measure falls to the ground, and I shall take very great pleasure now in presenting the two cases which settle that proposition, and settle it conclusively against the position taken by those Senators, and they ought to recede from their position, and, having receded, they ought to take this bill back to conference and work out a measure which will not do violence to the Constitution of the United States and yet will aid in the enforcement of the prohibitory act.

Mr. President, I am willing to join in the enactment of measures which will make the prohibitory act effective, for, I repeat, the eighteenth amendment to the Constitution is now my Constitution, and as I swore to uphold and defend the Constitution, I will defend it in all of its parts.

This bill as now presented may be intended to aid in the enforcement of the eighteenth amendment, but it unfortunately runs counter to the fourth and fifth amendments.

A measure can be devised which will put an end to bootlegging and illicit distilling and which will possibly give greater force to the Volstead Act and yet not outrage the Constitution of our country. I shall make no resistance to such a law; indeed, I should be glad to give the proponents of such a law the benefit of some practical suggestions, if they wanted to come to me for them.

I come back now to the question which I spoke of a few minutes ago.

[At this point Mr. REED ordered a page to bring him a sandwich and a cup of coffee.]

Mr. WATSON of Georgia. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Georgia?

Mr. REED. I yield.

Mr. WATSON of Georgia. Sympathizing with the fatigue of the Senator from Missouri, I ask him this question: If he were now attending the marriage in Cana of Galilee, where Jesus Christ made wine for beverage purposes, would he not like to have a glass of that wine?

Mr. REED. If I had a glass, I would divide it with the advocates of prohibition on the other side, and I know they would drink their share. I know that, because they look dry.

Mr. STERLING. Mr. President, I would assume that the Senator from Missouri had it in his lawful possession before he would proffer it.

Mr. REED. Under the law they have passed, if I were to divide that wine with my exhausted and amiable friend, I would be violating a law of the United States, and it is being violated. That is the trouble with the law. You have made it in some respects so drastic and unreasonable, and unnecessarily, that you are bringing not only this law but other laws of your country into disrespect

Bear in mind, as we pass along this dusty road of life, that our great people have many opinions, many viewpoints, and that it is always well to have some respect for the opinions and desires of others, lest you sow seeds of dissension in the hearts of the people that may some day grow a crop dangerous to the Republic.

I do not intend to enter upon that phase of the discussion, however. I of course do not expect to convince the gentlemen who will not stay to listen. There are upon the other side of the Chamber now six men, three of them against this measure, and I think three for it. The rest of them have vanished, after having voted that we could not recess long enough for anybody to get a bite to eat. There are upon the Democratic side four gentlemen, including myself. This is the kind of consideration this bill is receiving.

The valiant advocates of this cause have gone out to gorge their stomachs to the full, and that, perhaps, is one portion of their anatomy that can be filled. I will not say that the rest of their anatomy can be, because it is already full of wisdom that can not be improved upon, and certainly I could not improve upon it.

Mr. President, there are two cases now which must be considered together. They were decided together on the same day and refer each to the other. They settle the question as to the right to search without warrant even in the case of liquor, and they also settle the question as to whether the right of sanctuary or, if you please, the right of castle, or, if you please again, to state it better, the right of the citizen to be secure in his person, property, and effects, is limited to the residence, as was argued here.

Mr. President, I send to the desk and I ask the Secretary to read the case of Gouled against the United States, decided on February 28, 1921, by the Supreme Court of the United States. I shall then resume my remarks.

Mr. STERLING. I should like to ask the Senator if this was just published in the United States Reports?

Mr. REED. It is published in the Supreme Court Reporter. I wish the Secretary would kindly read with his usual very distinct care, because I want it read so that Senators can understand it. I hope he will read it in that way.

The PRESIDING OFFICER. The Secretary will read as requested.

The reading clerk read as follows:

Felix Gouled v. United States.

Appeal; objections; when in time; evidence wrongfully obtained:

1. An objection to the introduction in evidence in a criminal case of a paper surreptitiously taken from the office of the accused by a representative of the Federal Government is in time, though not made before trial, where such objection was made promptly upon the first notice the accused had that the Government was in possession of the paper. [For other cases, see Appeal and Error, VI c., in Digest Sup. Ct., 1908.]

Search and seizure; secret taking of property; absence of force:

2. The secret taking, without force, from the house or office of one suspected of crime, and in his absence, of a paper belonging to him, having evidential value only, by a representative of any branch or subdivision of the Federal Government, violates the constitutional guaranty against unreasonable searches and seizures, whether entrance to such house or office be obtained by stealth or through social acquaintance, or in the guise of a business call, and whether the owner be present or not at the time of entry.

[For other cases, see Search and Seizure, in Digest Sup. Ct., 1908.]

Search and seizure; use of evidence wrongfully obtained; crimination of self:

3. The admission in evidence against the accused in a criminal case of evidence obtained by an illegal search of his premises and seizure of his private papers contravenes the guaranty of United States Constitution, fifth amendment, against self-crimination.

[For other cases, see Search and Seizure; Evidence, VIII; Criminal Law, III, b, 2, in Digest Sup. Ct., 1908.]

Search and seizure; to compel self-crimination:

4. Search warrants may not be used as a means of gaining access to a man's house or office and papers solely for the purpose of making search to secure evidence to be used against him in a criminal or penal proceeding, but they may be resorted to only when a primary right to such search and seizure may be found in the interest which the public or the complainant may have in the property to be seized, or in the right to the possession of it, or when a valid exercise of the police power renders possession of the property by the accused unlawful and provides that it may be taken.

[For other cases, see Search and Seizure; Criminal Law, III, b, 2, in Digest Sup. Ct., 1908.]

Search and seizure; to compel self-crimination:

5. Private papers of no pecuniary value, in which the sole interest of the Federal Government is their value as evidence against the owner in a contemplated criminal prosecution, may not, consistently with the constitutional guaranty against unreasonable searches and seizures, be taken from the owner's house or office under a search warrant.

[For other cases, see Search and Seizure; Criminal Law, III, b, 2, in Digest Sup. Ct., 1908.]

Search and seizure; use of property seized; evidence on trial for other crimes:

6. Property seized under a valid search warrant may be used in the prosecution of a suspected person for a crime other than that which may have been described in the affidavit for the warrant as having been committed by him.

[For other cases, see Search and Seizure; Evidence, IV, v, in Digest Sup. Ct., 1908.]

Evidence; use when wrongfully obtained; criminal case; effect of previous denial of motion to return:

7. If, in the progress of a criminal trial, it becomes probable that there has been an unconstitutional seizure of the papers of the accused, of evidential value only, it is the duty of the trial court to entertain an objection to the admission of such papers in evidence, or a motion for their exclusion, and to consider and decide the question as then presented, even where a motion to return the papers may have been denied before trial.

[For other cases, see Evidence, VIII; Search and Seizure, in Digest Sup. Ct., 1908.]

[No. 250.]

Argued January 4, 1921. Decided February 28, 1921.

On a certificate from the United States Circuit Court of Appeals for the Second Circuit, presenting the question whether there had been an unlawful search and seizure, whether the admission of the property seized in evidence was unlawful, whether the property seized could be introduced in evidence on a trial for a different offense, and whether the court at the trial was bound to entertain an objection to the admissibility of the evidence. Each question answered in the affirmative.

The facts are stated in the opinion.

Messrs. Charles E. Hughes and Owen N. Brown for Felix Gouled.

Solicitor General Frierson for the United States.

Mr. Justice Clarke delivered the opinion of the court:

In a joint indictment the plaintiff in error, Gouled, one Vaughan, an officer of the United States Army, and a third, an attorney at law, were charged in the first count with being parties to a conspiracy to defraud the United States in violation of section 37 of the Federal Criminal Code, and, in the second count, with having used the mails to promote a scheme to defraud the United States, in violation of section 215 of that code. Vaughan pleaded guilty, the attorney was acquitted, and Gouled, whom we shall refer to as the defendant, was convicted, and thereupon prosecuted error to the circuit court of appeals, which certifies to this court six questions which we are to consider.

Of these questions, the first two relate to the admission in evidence of a paper surreptitiously taken from the office of the defendant by one acting under direction of officers of the Intelligence Department of the Army of the United States, and the remaining four relate to papers taken from defendant's office under two search warrants issued pursuant to the act of June 15, 1917 (40 Stat. at L., 217, 228, ch. 30, Comp. Stat., sec. 10496¼a, Fed. Stat. Anno. Supp., 1918, pp. 120, 128). It was objected on the trial, and is here insisted upon, that it was error to admit these papers in evidence because possession of them was obtained by violating the rights secured to the defendant by the fourth and fifth amendments to the Constitution of the United States.

The fourth amendment reads:

"The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrant shall issue but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized."

The part of the fifth amendment here involved reads:

"No person * * * shall be compelled in any criminal case to be a witness against himself."

It would not be possible to add to the emphasis with which the framers of our Constitution and this court (in Boyd *v.* United States, 116 U. S. 616, 29 L. Ed. 746, 6 Sup. Ct. Rep. 524; in Weeks *v.* United States, 232 U. S. 383, 58 L. Ed. 652, L. R. A. 1915B, 834, 34 Sup. Ct. Rep. 341, Ann. Cas. 1915C, 1177; and in Silverthorne Lumber Co. *v.* United States, 251 U. S. 385, 64 L. Ed. 319, 40 Sup. Ct. Rep. 182) have declared the importance to political liberty and to the welfare of our country of the due observance of the rights guaranteed under the Constitution by these two amendments. The effect of the decision cited is that such rights are declared to be indispensable to the "full enjoyment of personal security, personal liberty, and private property"; that they are to be regarded as of the very essence of constitutional liberty; and that the guaranty of them is as important and as imperative as are the guaranties of the other fundamental rights of the individual citizen—the right to trial by jury, to the writ of habeas corpus, and to due process of law. It has been repeatedly decided that these amendments should receive a liberal construction, so as to prevent stealthy encroachment upon or "gradual depreciation" of the rights secured by them by imperceptible practice of courts or by well-intentioned but mistakenly overzealous executive officers.

In the spirit of these decisions we must deal with the questions before us.

The facts derived from the certificate, essential to be considered in answering the first two questions, are: That in January, 1918, it was suspected that the defendant, Gouled, and Vaughan were conspiring to defraud the Government through contracts with it for clothing and equipment; that one Cohen, a private in the Army, attached to the Intelligence Department, and a business acquaintance of defendant, Gouled, under direction of his superior officers, pretending to make a friendly call upon the defendant, gained admission to his office, and, in his absence, without warrant of any character, seized and carried away several documents; that one of these papers, described as "of evidential value only," and belonging to Gouled, was subsequently delivered to the United States district attorney and was by him introduced in evidence over the objection of the defendant that possession of it was obtained by a violation of the fourth or fifth amendment to the Constitution; and that the defendant did not know that Cohen had carried away any of his papers until he appeared on the witness stand and detailed the facts with respect thereto as we have stated them, when, necessarily, objection was first made to the admission of the paper in evidence.

Out of these facts arise the first two questions, both relating to the paper thus seized. The first of these is:

"Is the secret taking without force from the house or office of one suspected of crime of a paper belonging to him, of evidential value only, by a representative of any branch or subdivision of the Government of the United States a violation of the fourth amendment?"

The ground on which the trial court overruled the objection to this paper is not stated; but, from the certificate and the argument, we must infer that it was admitted, either because it appeared that the possession of it was obtained without the use of force or illegal coercion, or because the objection to it came too late.

The objection was not too late, for coming as it did promptly upon the first notice the defendant had that the Government was in possession of the paper, the rule of practice relied upon, that such an objection will not be entertained unless made before trial, was obviously inapplicable.

The prohibition of the fourth amendment is against all unreasonable searches and seizures; and if for a Government officer to obtain entrance to a man's house or office by force or by an illegal threat or show of force, amounting to coercion, and then to search for and seize his private papers would be an unreasonable, and therefore a prohibited, search and seizure, as it certainly would be, it is impossible to successfully contend that a like search and seizure would be a reasonable one if only admission were obtained by stealth instead of by force or coercion. The security and privacy of the home or office and of the papers of the owner would be as much invaded, and the search and seizure would be as much against his will in the one case as in the other; and it must therefore be regarded as equally in violation of his constitutional rights.

Without discussing them, we can not doubt that such decisions as there are in conflict with this conclusion are unsound, and that, whether entrance to the home or office of a person suspected of crime be obtained by a representative of any branch or subdivision of the Government of the United States by stealth, or through social acquaintance, or in the guise of a business call, and whether the owner be present or not, when he enters, any search and seizure subsequently and secretly made in his absence falls within the scope of the prohibition of the fourth amendment, and therefore the answer to the first question must be in the affirmative.

The second question reads:

"Is the admission of such paper in evidence against the same person, when indicted for crime, a violation of the fifth amendment?"

Upon authority of the Boyd case, supra, this second question must also be answered in the affirmative. In practice the result is the same to one accused of crime, whether he be obliged to supply evidence against himself, or whether such evidence be obtained by an illegal search of his premises and seizure of his private papers. In either case he is the unwilling source of the evidence, and the fifth amendment forbids that he shall be compelled to be a witness against himself in a criminal case.

The remaining four questions relate to three other papers which were admitted in evidence on the trial over the same constitutional objections as were interposed to the admission of the first paper. One was an unexecuted form of contract between the defendant and one Lavinsky; another was a written contract, signed by the defendant and one Steinthal; and the third was a bill for disbursements and professional services rendered by the attorney at law to the defendant, Gouled.

Of these papers, the first was seized in defendant's office under a search warrant dated June 17, and the other two under a like warrant dated July 22, 1918, each of which was issued by a United States commissioner on the affidavit of an agent of the Department of Justice. It is certified that it was averred in the first affidavit that there were in Gouled's office * * * "certain property, to wit: Certain contracts of the said Felix Gouled with S. Lavinsky which were used as a means of committing a felony, to wit * * * as a means for the bribery of a certain officer of the United States." It is also certified that the second affidavit declared that Gouled had at his office "certain letters, papers, documents, and writings which relate to and have been used in the commission of a felony, to wit: A conspiracy to defraud the United States." Neither the affidavits nor the warrants are given in full in the certificate, but no exception was taken to the sufficiency of either.

After the seizure of the papers, a joint indictment was returned, as stated, against Gouled, Vaughan, and the attorney, and before trial a motion was made by Gouled for a return of the papers seized under the search warrants, which was denied, and when the motion was renewed at the trial, but before any evidence was introduced, it was again denied. The denial of this motion is not assigned as error.

The contract of the defendant with Steinthal, which was seized under the warrant, was not offered in evidence, but a duplicate original, obtained from Steinthal, was admitted over the objection that the possession of the seized original must have suggested the existence and the obtaining of the counterpart, and that therefore the use of it in evidence would violate the rights of the defendant under the fourth or fifth amendment. Silverthorne Lumber Co. *v.* United States, 251 U. S., 385, 64 L. ed., 319, 40 Sup. Ct. Rep., 182. The unsigned form of contract and the attorney's bill were offered and also admitted over the same constitutional objection. There is no statement in the certificate of the contents of these papers, but it is said of them only, that they belonged to Gouled, that they were without pecuniary value, and that they constituted evidence "more or less injurious to the defendant."

It is apparent from this statement that to answer the remaining four questions involves a consideration of the applicable law of search warrants.

The wording of the fourth amendment implies that search warrants were in familiar use when the Constitution was adopted, and, plainly, that when issued "upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized," searches and seizures made under them are to be regarded as not unreasonable and therefore not prohibited by the amendment. Searches and seizures are as constitutional under the amendment when made under valid search warrants as they are unconstitutional, because unreasonable, when made without them; the permission of the amendment has the same constitutional warrant as the prohibition has, and the definition of the former restrains the scope of the latter. All of this is abundantly recognized in the opinions of the Boyd case, 116 U. S., 616; 29 L. ed., 746; 6 Sup. Ct. Rep., 524; and the Weeks case, 232 U. S., 383; 58 L. ed., 652; L. R. A. 1915B, 834, 34 Sup. Ct. Rep. 341, Ann. Cas. 1915C, 1177, in which it is pointed out that at the time the Constitution was adopted stolen or forfeited property or property liable to duties and concealed to avoid payment of them, excisable articles, and books required by law to be kept with respect to them, counterfeit coin, burglars' tools and weapons, implements of gambling, "and many other things of like character," might be searched for in home or office, and if found might be seized under search warrants lawfully applied for, issued, and executed.

Although search warrants have thus been used in many cases ever since the adoption of the Constitution, and although their use has been extended from time to time to meet new cases within the old rules, nevertheless it is clear that, at common law and as the result of the Boyd and Weeks cases, supra, they may not be used as a means of gaining access to a man's house or office and papers solely for the purpose of making search to secure evidence to be used against him in a criminal or penal proceeding, but that they may be resorted to only

when a primary right to such search and seizure may be found in the interest which the public or the complainant may have in the property to be seized, or in the right to the possession of it, or when a valid exercise of the police power renders possession of the property by the accused unlawful, and provides that it may be taken. (Boyd Case, 116 U. S. 623, 624; 29 L. ed., 748; 6 Sup. Ct. Rep. 524.)

There is no special sanctity in papers, as distinguished from other forms of property, to render them immune from search and seizure, if only they fall within the scope of the principles of the cases in which other property may be seized, and if they be adequately described in the affidavit and warrant. Stolen or forged papers have been so seized (Langdon *v.* People, 133 Ill., 382; 24 N. E., 874), and lottery tickets, under a statute prohibiting their possession with intent to sell them (Com. *v.* Dana, 2 Met., 329), and we can not doubt that contracts may be so used as instruments or agencies for perpetrating frauds upon the Government as to give the public an interest in them which would justify the search for and seizure of them, under a properly issued search warrant for the purpose of preventing further frauds.

With these principles of law in mind, we come to the remaining questions.

The third question reads:

"Are papers of no pecuniary value, but possessing evidential value against persons presently suspected and subsequently indicted under sections 37 and 215 of the United States Criminal Code, when taken under search warrants issued pursuant to the act of June 15, 1917, from the house or office of the person suspected, seized and taken in violation of the fourth amendment?"

That the papers involved are of no pecuniary value is of no significance. Many papers having no pecuniary value to others are of the greatest possible value to the owners, and are property of a most important character (Boyd case, 116 U. S. 627, 628; 29 L. ed. 749, 750; 6 Supt. Ct. Rep. 524); and since those here involved possessed "evidential value" against the defendant, we must assume that they were relevant to the issue.

Restraining the questions to the papers described, and first, as to the unexecuted form of contract with Lavinsky, a stranger to the indictment: While the contents of this paper are not given, it is impossible to see how the Government could have such an interest in such a paper that, under the principles of law stated, it would have the right to take it into its possession to prevent injury to the public from its use. The Government could desire its possession only to use it as evidence against the defendant, and to search for and seize it for such purpose was unlawful.

Likewise, the public could be interested in the bill of the attorney for legal services only to the extent that it might be used as evidence, and the seizure of this also was unlawful.

As to the contract with Steinthal, also a stranger to the indictment: It is not difficult, as we have said, to imagine how an executed written contract might be an important agency or instrumentality in the bribing of a public servant and in perpetrating frauds upon the Government, so that it would have a legitimate and important interest in seizing such a paper in order to prevent further frauds, but the facts necessary to give this contract such a character do not appear in the certificate. On the contrary, this third question recites that the papers are all of no pecuniary, but are of evidential, value, and in the sixth question it is recited that they are "of evidential value only," so that it is impossible to say, on the record before us, that the Government had any interest in it other than as evidence against the accused; and therefore, as to all three papers, the answer to the question must be in the affirmative.

The fourth question reads:

"If such papers, so taken, are admitted in evidence against the person from whose house or office they were taken, such person being then on trial for the crime for which he was accused in the affidavit for warrant, is such admission in evidence a violation of the fifth amendment?"

The same papers being involved, the answer to this question must be in the affirmative, for, they having been seized in an unconstitutional search, to permit them to be used in evidence would be, in effect, as ruled in the Boyd case, to compel the defendant to become a witness against himself.

The fifth question reads:

"If, in the affidavit for search warrant under act of June 15, 1917, the party whose premises are to be searched be charged with one crime and property be taken under the warrant issued thereon, can such property so seized be introduced in evidence against said party when on trial for a different offense?"

It has never been required that a criminal prosecution should be pending against a person in order to justify search for and seizure of his property under a proper warrant, if a case of crime having been committed and of probable cause is made out sufficient to satisfy the law and the officer having authority to issue it, and we see no reason why property seized under a valid search warrant, when thus lawfully obtained by the Government, may not be used in the prosecution of a suspected person for a crime other than that which may have been described in the affidavit as having been committed by him. The question assumes that the property seized was obtained on a search warrant sufficient in form to satisfy the law; and if the papers to which the question refers had been of a character to be thus obtained, lawfully, it would have been competent to use them to prove any crime against the accused as to which they constituted relevant evidence.

The sixth question reads:

"If papers of evidential value only be seized under a search warrant and the party from whose house or office they are taken be indicted, if he then move before trial for the return of said papers and said motion is denied, is the court at trial in law to inquire as to the origin of or method of procuring said papers when they are offered in evidence against the party so indicted?"

The papers being of "evidential value only" and having been unlawfully seized, this question really is whether, it having been decided on a motion before trial that they should not be returned to the defendant, the trial court, when objection was made to their use on the trial, was bound to again inquire as to the unconstitutional origin of the possession of them. It is plain that the trial court acted upon the rule, widely adopted, that courts in criminal trials will not pause to determine how the possession of evidence tendered has been obtained. While this is a rule of great practical importance, yet, after all, it is only a rule of procedure, and therefore it is not to be applied as a hard-and-fast formula to every case, regardless of its special circumstances. We think, rather, that it is a rule to be used to secure the ends of justice under the circumstances presented by each case; and where, in the progress of a trial, it becomes probable that there has been an unconstitutional seizure of papers, it is the duty of the trial court to entertain an objection to their admission, or a motion for their exclusion, and to consider and decide the question as then presented, even where a motion to return the papers may have been denied before trial. A rule of practice must not be allowed for any technical reason to prevail over a constitutional right.

In the case we are considering the certificate shows that a motion to return the papers seized under the search warrants was made before the trial and was denied, and that, on the trial of the case before another judge, this ruling was treated as conclusive, although, as we have seen, in the progress of the trial it must have become apparent that the papers had been unconstitutionally seized. The constitutional objection having been renewed, under the circumstances the court should have inquired as to the origin of the possession of the papers when they were offered in evidence against the defendant.

Each question is answered "yes."

Mr. REED. Mr. President, that case——

Mr. BROUSSARD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Louisiana?

Mr. REED. I do.

Mr. BROUSSARD. A few moments ago a motion was submitted to the Senate as to whether or not we should have a recess to go and eat some supper. I see less than 20 Senators here, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Brandegee	Hale	Moses	Sterling
Broussard	Harreld	Myers	Sutherland
Calder	Hitchcock	Nelson	Townsend
Cameron	Jones, Wash.	Newberry	Warren
Capper	Kellogg	Oddie	Watson, Ga.
Colt	King	Phipps	Watson, Ind.
Curtis	Lenroot	Reed	Weller
Dillingham	Lodge	Sheppard	Willis
Ernst	McCormick	Simmons	
Fernald	McCumber	Smith	
Frelinghuysen	McKellar	Stanley	

The PRESIDING OFFICER. Forty-one Senators having answered to their names, there is not a quorum present. The Secretary will call the names of the absentees.

The reading clerk called the names of the absent Senators, and Mr. HARRISON, Mr. HEFLIN, Mr. LADD, Mr. MCNARY, Mr. NICHOLSON, Mr. NORBECK, Mr. SHORTRIDGE, Mr. SPENCER, and Mr. WADSWORTH answered to their names when called.

Mr. WALSH of Massachusetts, Mr. SMOOT, and Mr. GOODING entered the Chamber and answered to their names.

The PRESIDING OFFICER. Fifty-three Senators having answered to their names, there is a quorum present.

Mr. REED. The case just read applied to the seizure of books and papers, and it has been claimed that there is a difference between the rule with reference to the seizure of books and papers and the rule with reference to the seizure of whisky. It has also been claimed that there is a difference between the rule with reference to the seizure of goods in the house of the citizen and the rule with reference to the seizure of goods in the other buildings of the citizen. On the same day the case just read was decided the Supreme Court decided the case of Lawrence Amos, plaintiff in error, against the United States. I now ask that that case be read.

The PRESIDING OFFICER. The Secretary will read.

Mr. MCKELLAR. Before the reading, permit me to say a word. Those are the cases I called the attention of the Senator to this morning, which declare the law to be precisely what the Stanley amendment provides, minus the penalties that are provided for in the Stanley amendment.

Mr. REED. The Stanley amendment, yes; but the Stanley amendment is not before us. They are cases I referred to, but I do not think they have been read or understood.

Mr. MCKELLAR. I have no objection to them being read. I think they are the law, beyond the shadow of a doubt. The Supreme Court declared so, not only in these cases but time and again before, and these cases show beyond question that there is no great constitutional question involved in this debate.

Mr. REED. Mr. President, that, of course, is a question of opinion. The Senator from Tennessee has a strange sort of logic; at least, it seems strange to me. The Stanley amendment provided that if, in the execution of the prohibitory law, or the execution of any other law of this country, an officer should violate the rights reserved in the Constitution, a punishment should follow, provided the violation was willful. That is the substance of the Stanley amendment. It is the thing that was agreed upon in the Senate, unanimously accepted, and which the chairman of the committee assured the Senate he would insist upon.

How did that differ from the law as it stood prior to the offering of the Stanley amendment? As the law stood prior to that, and as it still stands, no search or seizure could be lawfully made without a warrant having been issued in accordance with law, but if one of these prohibition officers were to proceed without a warrant, or with a void warrant, there would be no

penalty visited on him under the Federal statutes. Having given him this new power, it was thought that there should be attached to the power the restraining influence of a responsibility which would fall upon him, provided he violated the rights of the citizen.

If the Stanley amendment had been accepted, it would have been in strict accordance with the principles of law and of the Constitution, but it would have put into effect those principles by penalizing those who violated the rights of the citizens as secured in the fourth amendment.

That being the case, the only objection anybody ought to have had to the Stanley amendment would have been to have said, "Perhaps the penalty is too severe or perhaps it is not severe enough. With the principle of the amendment we have no quarrel."

That has not been the position taken by the gentlemen who stand as sponsors for this bill. They took that amendment and they proceeded to emasculate it, and I am now discussing the amendment which is before the Senate at this time, the one included in the conference report.

Mr. McKELLAR. Will the Senator yield before he gets off the other proposition?

Mr. REED. I am not getting off it. I am going to state it in full, and then will yield promptly.

The Stanley amendment was emasculated. Instead of leaving the measure so it would have fixed a penalty for invading the house or the property or the person of the individual without a warrant of law, they made it apply its penalty only to the searching of a house without any warrant at all, and then provided, however, that if a search warrant had been issued for the searching of the house and the officer proceeded beyond the house and searched any of the other buildings of the party being searched, regardless of where they were, there could be no penalty under the law visited upon him, unless it was shown, first, that the search was malicious, and, in addition to being malicious, was without reasonable cause.

So that if this law is now enacted it amounts to saying to these officers who get a warrant to search the house that they can proceed then to search all the other buildings, and that there can be no penalty unless actual malice is shown and it is also shown that there is no reasonable cause. That is the point.

It is in effect a license.

That law having been passed by the Federal Government, if it is passed, will, in my judgment, supersede the laws of the several States which might otherwise have visited their penalties on any man who proceeded without authority of law to invade the premises of the citizen. I do not assert that positively, because I have not had the opportunity to examine the authorities; but I assert it as my judgment of the moment; and I am informed that already, in one of the States, where an officer killed three citizens, and they undertook to try him under the laws of the State, the case was removed by certiorari to the Federal courts, and the Federal courts held that there was no law under which he could be punished.

I wanted to complete my statement, because I thought it might change the Senator's viewpoint, but I yield now to any question the Senator wants to ask.

Mr. McKELLAR. Mr. President, the first part of the Senator's statement was very clear; that is, that in so far as the Stanley amendment is concerned, it is just a restatement of the present law as declared by the Supreme Court, with the addition of a penalty prescribed for its violation in the Stanley amendment. That is all it is. There is not any question of the Constitution, or violating the Constitution, or violating our oaths under the Constitution—not a thing in the world of that kind. It is a question of policy, whether we are going to stand on the common-law remedies for a violation of the constitutional provision, or whether we are going to stand on these penalties. So far as the Stanley amendment is concerned, that is all that is involved in it.

What is the difference between the Stanley amendment and the amendment that is proposed by the conference committee in plain, everyday parlance? It is simply this: The Stanley amendment says that you must not search a house or an automobile or a person without a warrant. The conference committee's report merely applies it to a house, and under it, no doubt, automobiles coming in from Canada, or coming in from Mexico, or coming in from anywhere else, could be searched, when the officers believed beyond a doubt that those automobiles had liquor in them.

I think that is a very wise provision to put in the law. Automobiles, as we all know, are used very largely for transportation purposes generally. They have become one of the most convenient methods of transportation and one of the most secure from prosecution, especially for liquor, and it seems to me the conference committee was very wise in making that exception.

So far as the person is concerned, I would have preferred that the conference committee make a restatement of the law as it is now; but they did not do that, and I do not see that any great constitutional question is involved. It is a question of whether or not we are going to enforce a law under the eighteenth and the fourth and fifth amendments to the Constitution. It is a question of whether we are going to do it in good faith or whether we are going to pass a law which will aid the bootleggers.

When it comes to that, I say that all good citizens ought to stand together against law violations, whether by bootleggers or anyone else. That is my view about this question, and that is why I am going to vote for the conference report.

Mr. REED. Mr. President, I was sure the Senator would vote for the conference report, and I was sure that before he took his seat he would avow his entire willingness to have the Constitution of the United States violated, as he has avowed it on his feet in the last five minutes.

Mr. McKELLAR. Mr. President, the Senator does not mean that, I am sure.

Mr. REED. I absolutely mean it, and I shall demonstrate it.

Mr. McKELLAR. The Senator is making a statement that he knows is untrue when he makes that statement. I have taken an oath to uphold and support the Constitution of the United States, and I do that; and when the Senator makes that statement he makes a statement that is not true.

Mr. REED. Mr. President, it is easy enough for a man to stand here and make that kind of a statement.

Mr. McKELLAR. I will stand here or anywhere else.

Mr. REED. Of course——

The PRESIDING OFFICER. Senators must address the Chair when they desire to interrupt.

Mr. McKELLAR. I beg the Chair's pardon.

Mr. REED. I say that the words which the Senator uttered show his entire willingness to have the constitutional rights of citizens violated.

Mr. McKELLAR. Mr. President, I have already characterized that statement and stated what I thought about it.

Mr. REED. Yes; and I am now characterizing what the Senator said; it is in the record and it will stay there forever.

When the Senator first said that the Stanley amendment, which threw its cloak over the citizen and over his property everywhere, and provided that there should be no searches, was the law, and then said that the amendment now proposed to be passed omitted any penalty for the violation of the property of the citizen or his person outside of his home, and that he was in favor of that, his two statements put together show that he knows the law is that the citizen should be protected in all of his property, and that he is willing to have a part of the Constitution nullified; and he can not escape it. He said that he thought that it was well that there should be no penalty for seizing the automobiles without a warrant because they carried liquor. So that he has put himself upon record just as I said. Any man can stand here in the protection of this Chamber and challenge my word if he wants to, but I put his own words against himself and they are in the record and they will stay there and I shall see that the record is not changed.

Mr. McKELLAR. Mr. President, if the Senator will yield to me——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Tennessee?

Mr. REED. I yield.

Mr. McKELLAR. He will find that not one word, jot, or tittle of the record will be changed by me. My words were clear and unmistakable beyond a shadow of doubt, and any man can understand them, and they are not going to be changed. I hope the stenographers got them just exactly as I said them, and I have no doubt they did.

Mr. REED. Now, Mr. President, that is an apt illustration of the entire course of this debate. Senators stand here proclaiming themselves as the defenders of the Constitution. They dared not offer a measure nullifying the Constitution after the question was raised, so they withdrew the penalties of the proposed amendment as to violations of the Constitution in respect to everything but the houses of citizens unless you can prove actual malice and a lack of reasonable cause, well knowing that actual malice under the conditions here set forth could never be proven. I analyzed that a while ago.

Now, let us see about this automobile business. Whisky is carried in automobiles, it is said, and one would think to hear these gentlemen talk that all that was ever put into an auto-

mobile was whisky. But automobiles carry many things beside whisky. Among other things they carry cargoes of very common fools and very common blackguards. Then they carry a lot of ladies and gentlemen and good people. They carry some antiprohibitionists and some prohibitionists. They carry some thieves. They carry doctors, lawyers, and merchants. You can go along the highways of this land anywhere in the evening twilight and there is scarcely room enough to move your machine because the highways represent one vast procession of automobiles. There they are, carrying the lover and his sweetheart, the husband and the wife, the children, the laughing merry throngs, the business man hurrying from his work to his home, myriads of human beings riding in those automobiles every night.

I have no hesitancy in making the guess that there ride every night in automobiles in the United States in the evening hours not less than 25,000,000 to 30,000,000 of the people of the United States, good, honest folks, as good as they ever grow in Tennessee and send to the Senate. [Laughter in the galleries.]

The PRESIDING OFFICER. Occupants of the gallery must be in order. There must be no demonstrations of any kind.

Mr. REED. As good as they grow in any State. They are not the aristocrats, either. Henry Ford brought the automobile within the reach of the mechanic and everybody else, and when the mechanic is too proud to ride in a Henry Ford he gets a second-hand car of some other make, and recently they have been buying the other good ones.

Now, what is your proposition about seizing automobiles, because somebody, some crooked bootlegger, perhaps a half a dozen in the whole United States, is hauling liquor, scoundrels who ought to be arrested and ought to be locked up and can be arrested and locked up. It is to take from them the protection that was intended to be given to all these good men and good women, these laughing children, these merry parties, and put it in the power of any prohibition officer, white or black, intelligent or nonintelligent, to stop any one of those automobiles and search the machine, and search, if he wants to, the persons of the men and of the women, and then to say that there shall be no penalty fixed applicable to that wretch unless you can show absolute malice.

The Senator from Tennessee can not see anything wrong about that. That is all right—there is a bootlegger somewhere. There are people everywhere just so constituted that they never can see but one thing at a time. There are men, it is said, who hold a dollar so close to their eyes that they can not see the shining sun by day or the sweep of the stars by night. To them the dollar's circumference is the boundary of the universe. There are men with ideas so narrow, with souls so small and so contracted, that they can not see a great principle of law through the thick veil of their prejudice, and they nearly always get mad and lose their temper when they join in a debate, too.

Mr. McKELLAR. Yes, Mr. President; when Senators who have been defending in substance the bootlegging business on the pretext that it was a violation of the Constitution, have it shown to them that the constitutional provisions have nothing in the world to do with it, that it is wholly an extraneous matter from the Constitution, I notice that they get angry and undertake to dispute the word of other Senators without cause. So far as the Senator from Missouri is concerned, he has just disputed my word once too often. I characterized it then and I characterize it again as being untrue.

The PRESIDING OFFICER. The Chair must call Senators' attention to clause 2 of Rule XIX of the Senate, which provides that—

> No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or other Senators any conduct or motive unworthy or unbecoming a Senator.

The Chair hopes the debate from now on will proceed in order.

Mr. McKELLAR. Mr. President, I hope the Senator from Missouri will take the advice of the Chair. If he does not, if he is allowed by the Chair to violate the rule, I am going to violate it just a little myself, because I am not going to have him make statements here about me that are untrue without saying that they are untrue.

Mr. REED. Mr. President, I am not going to lose my temper and I am not going to do any braying. I said that the Senator's words were thus and so and they are in the record and the record will speak, and he can take whatever course he pleases to take, now or in the future, world without end. Amen. The trouble with a good many people in this world is that they say things and do not know what they mean, and when they are checked up against their own phraseology they lose their heads, whatever they have.

Mr. President, I was about to call the attention of the Senate to the opinion in the case of——

Mr. McKELLAR. Mr. President, before that is done, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Tennessee?

Mr. REED. I yield.

Mr. McKELLAR. The Senator was evidently referring to me a moment ago when he stated that I lost what head I had. That may be true, but I wish to say that judging from the Senator's argument and his assertions I ought to forgive him for the statement because, perhaps, it is the effect of the cause that he has imbibed that is talking, instead of the Senator's normal tongue. I am quite sure that if the Senator was entirely at himself he would not use that kind of language toward another Member.

Mr. REED. Mr. President, I do not intend to take the time of the Senate in any controversy further with the Senator from Tennessee. The record will show what each of us has said in the matter. He interrupted me and made his statement. I replied, and the Senator has seen fit about four times to accuse me of not telling the truth. Now, I do not know what he means by saying the cause I have imbibed has affected me. The cause I am advocating is the cause of the Constitution of the United States, and any man who asserts that those who insist merely upon the punishment of men who violate the Constitution, any man who asserts that those men are the friends of bootleggers, is taking advantage merely of a position in a body where he is privileged to say almost anything.

Now, I ask the Secretary to read the case which I send to the desk, and I call the attention of the Senate to the fact that there are three propositions in that case.

First, it arose under the Volstead Act; second, the search was made for whisky both in a house and in a store; third, the court laid down the law that the citizen was protected both in his house and in his store building under the fourth amendment. I offer that in answer to the argument that was made here that whisky was contraband; that there was no property in it; and that, therefore, the right existed to seize it wherever it was found and without any warrant of law.

I want to call the attention of the Senate to the fact that it is not the whisky about which we are concerned, but it is the invasion of the home of a man.

If no home was ever invaded except the one where the whisky was, there would be no voice raised here against that, but it is the millions of homes where there is no whisky kept in violation of the law and the millions of automobiles that run in accordance with the law and the millions of people who walk the streets and highways as law-abiding people we want to protect against a constabulary that is organized and which proceeds without warrant. We want to require them to have the warrant of a court, not for the protection of the man who is violating the law but for the protection of the millions of people who do not violate the law. I now ask that the case be read.

The PRESIDING OFFICER. The Secretary will read as requested.

The reading clerk read as follows:

Lawrence Amos, plaintiff in error v. United States.

Search and seizure—return of property unlawfully seized:

1. Property seized in the search of a private home by Government agents without warrant of any kind, in plain violation of United States Constitution, fourth and fifth amendments, should have been returned to the owner on his petition, presented by him after the jury in a criminal prosecution against him was impaneled, but before any evidence was offered.

[For other cases, see Search and Seizure, in Digest Sup. Ct. 1908.]

Evidence—use when wrongfully obtained—criminal case:

2. The rule that courts will not stop the progress of the trial of a criminal case to frame a collateral issue to inquire whether evidence offered, otherwise competent, was lawfully or unlawfully obtained, has no application where it becomes apparent during the trial that there has been an unconstitutional seizure of property of the accused, and the court should exclude such property and any testimony relating thereto, given by the Government agents who made the unlawful seizure, on motion of the accused, made after both property and testimony were introduced in evidence against him.

[For other cases, see Evidence VIII: Search and Seizure, in Digest Sup. Ct. 1908.]

Search and seizure—self-crimination—waiver:

3. The constitutional rights of a person to be secured against unreasonable searches and seizures and self-crimination were not waived when his wife admitted to his home Federal officers, who came without warrant, demanding admission to make search of it under Government authority, even assuming that it is possible for a wife, in the absence of her husband, thus to waive his constitutional rights, since, under the implied coercion here presented, no such waiver was intended or effected.

[For other cases, see Search and Seizure; Criminal Law, III b. 2, in Digest Sup. Ct. 1908.]

[No. 114.]

Argued December 13, 1920. Decided February 28, 1921.

In error to the District Court of the United States for the Eastern District of South Carolina to review a conviction for violating the Federal internal revenue laws. Reversed and remanded for further proceedings.

The facts are stated in the opinion.

Messrs. H. H. Obear, R. Dozier Lee, and Charles A. Douglas for plaintiff in error.

Mr. W. C. Herron and Solicitor General Frierson for defendant in error.

Mr. Justice Clarke delivered the opinion of the court:

The plaintiff in error, whom we shall designate defendant, as he was in the court below, was tried on an indictment containing six counts. He was found not guilty on the first four counts, but guilty on the fifth, which charged him with having removed whisky on which the revenue tax had not been paid to a place other than a Government warehouse, and also on the sixth, which charged him with having sold whisky on which the tax required by law had not been paid.

After the jury was sworn, but before any evidence was offered, the defendant presented to the court a petition, duly sworn to by him, praying that there be returned to him described private property of his which it was averred the district attorney intended to use in evidence at the trial, and which had been seized by P. J. Coleman and C. A. Rector, officers of the Government, in a search of defendant's house and store "within his curtilage," made unlawfully and without warrant of any kind, in violation of his rights under the fourth and fifth amendments to the Constitution of the United States.

Upon reading of this petition and hearing of the application it was denied, and, exception being noted, the trial proceeded.

Coleman and Rector were called as witnesses by the Government and testified that, as deputy collectors of internal revenue, they went to defendant's home, and, not finding him there, but finding a woman who said she was his wife, told her that they were revenue officers and had come to search the premises "for violations of the revenue law"; that thereupon the woman opened the store and the witnesses entered, and in a barrel of peas found a bottle containing not quite a half-pint of illicitly distilled whisky, which they called "blockade whisky"; and that they then went into the home of defendant, and, on searching, found two bottles under the quilt on the bed, one of which contained a full quart and the other a little over a quart of illicitly distilled whisky. The Government introduced in evidence a pint bottle containing whisky, which the witness Coleman stated "was not one of the bottles found by him, but that the whisky contained in the same was poured out of one of the two bottles that had been found in defendant's house on the bed under the quilt, as stated." On cross-examination both witnesses testified that they did not have any warrant for the arrest of the defendant nor any search warrant to search his house, and that the search was made during the daytime, in the absence of the defendant, who did not appear on the scene until after the search had been made.

After these two Government witnesses had described how the search was made of defendant's home without warrant either to arrest him or to search his premises, a motion by counsel to strike out their testimony was denied and exception noted.

This statement shows that the trial court denied the petition of the defendant for a return of his property seized in the search of his home by Government agents without warrant of any kind, in plain violation of the fourth and fifth amendments to the Constitution of the United States, as they have been interpreted and applied by this court in Boyd *v.* United States (116 U. S., 616; 29 L. ed., 746; 6 Sup. Ct. Rep., 524), in Weeks *v.* United States (232 U. S., 383; 58 L. ed., 652; L. R. A. 1915B, 834; 34 Sup. Ct. Rep., 341; Ann. Cas., 1915C, 1117), and in Silverthorne Lumber Co. *v.* United States (251 U. S., 385; 64 L. ed., 319; 40 Sup. Ct. Rep., 182), and also denied his motion to exclude such property and the testimony relating thereto, given by the Government agents after both were introduced in evidence against him, when he was on trial for a crime as to which they constituted relevant and material evidence, if competent.

The answer of the Government to the claim that the trial court erred in the two rulings we have described is that the petition for the return of defendant's property was properly denied because it came too late when presented after the jury was impaneled, and the trial, to that extent, commenced, and that the denial of the motion to exclude the property and the testimony of the Government agents relating thereto, after the manner of the search of defendant's home had been described, was justified by the rule that, in the progress of the trial of criminal cases, courts will not stop to frame a collateral issue to inquire whether evidence offered, otherwise competent, was lawfully or unlawfully obtained.

Plainly, the questions thus presented for decision are ruled by the conclusions this day announced in No. 250, Gouled *v.* United States (U. S., —, ante, 311; 41 Sup. Ct. Rep., —).

There is nothing in the record to indicate that the allegations of the petition for the return of the property, sworn to by the defendant, were in any respect questioned or denied, and the report of the examination and appropriate cross-examination of the Government's witnesses, called to make out its case, shows clearly the unconstitutional character of the seizure by which the property which it introduced was obtained. The facts essential to the disposition of the motion were not and could not be denied: they were literally thrust upon the attention of the court by the Government itself. The petition should have been granted; but, it having been denied, the motion should have been sustained.

The contention that the constitutional rights of defendant were waived when his wife admitted to his home the Government officers, who came, without warrant, demanding admission to make search of it under Government authority, can not be entertained. We need not consider whether it is possible for a wife, in the absence of her husband, thus to waive his constitutional rights, for it is perfectly clear that, under the implied coercion here presented, no such waiver was intended or effected.

It results that the judgment of the district court must be reversed and the case remanded for further proceedings in accordance with this opinion.

Reversed.

Mr. REED. Mr. President, if I can proceed without offense to comment upon these two cases, I shall be able to do so very briefly.

The first case, Gouled against the United States, lays it down that the Government has no right to issue a search warrant unless it is to secure some document or some property in which some citizen or the Government itself has an interest; that it can not issue search warrants merely for the purpose of procuring evidence. It further lays down the principle that has been so much discussed that the facts must be made to appear to a court that property of the prescribed character is in the possession of the person who is accused of holding it, and the property must be particularly described, the place to be searched must be described, and the affidavit must not be mere information but it must be a statement of fact, so that the court, having the facts before it, may judicially weigh them and determine whether this great writ shall issue to enter the property of a citizen which would otherwise be violated by a trespass or invasion by any officer. It is held that a search can not be made merely to procure evidence; that if that is the purpose of the search the search can not be made.

Mr. President, in the Gouled case the papers of a citizen were taken surreptitiously by an agent of the Government. It has been admitted here that papers can not be seized on a search warrant unless the warrant be properly issued, but it has been claimed that a different rule exists in regard to liquor, because it is asserted that liquor is an outlaw. That is true; liquor is an outlaw under some circumstances, but the citizens of the United States are not outlaws, and they are under the protection of the law until they are proven guilty of a crime, a distinction which gentlemen seem often to forget.

I repeat that it has been claimed here that the sanctity of the home was really the only thing under the protection of the law and that places of business could be invaded to seize this contraband or illegal stuff. Mr. President, the Gouled case settled the case with reference to papers. The opinion is long and is learned.

In the Amos case the prohibition officers, without a warrant, entered the man's home and found there liquor—moonshine liquor, I believe.

They then went to his store and found moonshine liquor secreted in a barrel, I think, of peas, or something of that kind. They proceeded to arrest this man, and to put him to his trial, and to introduce this evidence, secured in this way, not under a warrant but in violation of the fourth amendment and the fifth amendment to the Constitution of the United States. The court analyzes the entire case. It has been read, and I call the attention of the Senator from South Dakota [Mr. STERLING] to this language:

> Plainly, the questions thus presented for decision are ruled by the conclusions this day announced in No. 250, Gouled *v.* United States.

So that the same principle was applied for the protection of the papers of the citizen that was applied to protect his home, and the same principle that was applied to protect the home was applied to protect the store—not to protect whisky, but to protect this citizen in his rights under the Constitution of the United States; and that Constitution was broad enough to cover not only the habitat in which he slept at night but his buildings, his person, his property. That is the question which is presented here, not a question of prohibition or nonprohibition. I do not ask everybody to agree with me on the construction of the law; but the man who can not see a distinction between the position that I am taking and that other Senators are taking and a desire to defend a bootlegger has not intelligence enough to go about without a guardian.

I have no bitter quarrel with men who do not see this question as I do. To my mind it involves an invasion of a fundamental principle that is absolutely essential to the maintenance of human liberty. The barbarian, away back in the dim twilight of history, held aloft his shield and brandished his spear, declaring "I am a free man." He had his natural rights as a man—not rights granted to him by a government, but rights that sprang from his Creator. He may have been ignorant, he may have been cruel, but he held his head proudly aloft and maintained his liberty, his sovereignty, within his home. If he afterwards lost a portion of these liberties in his native land, the emigrating tribes somehow or other bore them into every land in which they settled. The Franks, who overwhelmed ancient Gaul and gave it the name of France, boasted that they were free men. The Saxons and the Angles who swept into ancient Brittany and gave it the name of England, boasted that they were free men. In the course of time their liberties were in part taken from them. Then began the struggle to recover them. The barons of Runnymede exacted from King John the cardinal principle from which the fourth amendment to the Constitution was afterwards formulated. Englishmen through the long centuries have proudly held aloft their heads and asserted "the right of castle," the right to walk the streets, "the right to be secure in their persons, their property, their papers, and their effects." No officer of England, save armed with a proper process of the law, dare lay his hand upon the door latch of the citizen's humble cottage

and enter without permission. No officer of England dare arrest a citizen of England without a warrant, unless he detect him hot in the commission of a crime, or at his own grave peril make the arrest, relying upon his ability to prove absolutely that a crime has been committed.

This protection did not extend alone to the house; it embraced all of the buildings. It included everything within "the curtilege." When it was attempted by King George to oppress the people of these colonies the instrumentality he sought to employ was the general search warrant. He did that under the pretext that the colonists were avoiding the payment of their dues, were secreting smuggled goods in their houses, and were defying the rights of the Crown. Against that exercise of power our fathers protested that it was an act of tyranny, and utterly intolerable; and, as has been well said, John Adams declared that the first great protest which fell from the eloquent and immortal lips of Otis was the spark that lighted the Revolution. Since that time and on down to this day we have held it our right as men to walk the streets, and so long as we were not violating the law no policeman dare lay his hands upon our shoulders, no constable dare drag us to imprisonment.

Always the law, to walk under its protection, has been the right of the American citizen.

This, sir, is no effort to preserve bootlegging—a contemptible business that, as I have tried to show, is easily suppressed if you will but get an honest and incorruptible constabulary. It is not a question of the prescription of beer to a sick man or a sick woman. It is not a question of turning drug stores into saloons. That is another phrase that comes from the intemperate lips of those who always denounce every man who differs from them. How can a drug store be turned into a saloon if a doctor loses his license the moment he proceeds to prescribe this liquor as a beverage?

None of those questions are involved. The question that is here is the preservation in all its integrity of the Constitution of the United States. Those who would whittle it away for the sake of a temporary suppression of something that can be suppressed without impairing the Constitution at all think more, it seems to me, of the moment than they do of the centuries that lie ahead.

As for me, I am willing to endure the aspersions of those who challenge my motives, I am willing that every fanatic between the two seas shall declare that I am defending bootleggers. He will not swerve me one jot or one tittle from the fixed course of my mind. I will defend the Constitution of the United States. It is more important to me than the question whether John Doe drinks a glass of liquor. It is more important to me than the question whether the paid lobbyist who has infested this Capitol shall have his will, and impose it upon this body. These principles of the Constitution will survive, notwithstanding the weakness of those who fear to defend them, notwithstanding the assaults of those who prefer to succeed in their own prejudices rather than to preserve the ark of the covenant of human liberty.

Mr. STANLEY. Mr. President, I deeply regret that a purely legal question, a question of such import to every Member of this body, a question of such vital importance to every liberty-loving citizen on the continent, within the confines of this empire, should degenerate into a mere question of motive. How any Senator learned in the law, reverent of the Constitution of his country, could think that this was a contest between those who were in favor of the legalized sale of alcoholic liquors and those who were not, or between those who illicitly sold it and those against that traffic is, to my mind, utterly incomprehensible. The eighteenth amendment is a part of the law of the land. I am in favor of enforcing the eighteenth amendment, as I am in favor of enforcing every amendment, every article, every sentence, every word in that sacred instrument, the Constitution of my country.

I did not favor State-wide or national prohibition as a policy. I opposed it in my State, and when elected governor of that State I refused to pardon men convicted of a violation of the liquor laws. I was perhaps the only liberal governor south of the Mason and Dixon line, or at least south of the Ohio River and east of the Mississippi, who refused to pardon any violation of the liquor laws.

I believe in enforcing the law. I am in favor of enforcing the eighteenth amendment. Is there a lawyer in this body who doubts, who will deny, that to-day the same shield, the same protection, is thrown about all parts of the curtilage, all parts of the possessions of the citizen? Is there a proponent of this measure who will say that the Constitution of the United States offers any more of a shield, any more protection, to the front room than to the back room of his residence, to the bedroom than to the parlor, or the barn than to an outhouse?

This provision of the Constitution, it is admitted—and hundreds of decisions so declare—offers the identical protection to the person and the papers and the property of a citizen. It is admitted that the effect of this amendment, that the purpose of this amendment, is to give one character of protection to the residence and another to the other possessions, the other buildings, other parts of the property, of the home, of the curtilage.

You do not, you admit, give greater protection to the home, greater protection to the residence, than is given it by the Constitution. In that event it must follow ex necessitate that you deprive, deliberately deprive, other parts of his property and of his premises of protection hitherto enjoyed, protection guaranteed by the Constitution of the United States.

Senators indignantly deny that they have any purpose to strike the Constitution from in front. I have more respect for that bold anarchist who would fight the Constitution from in front than for the equivocator, the dodger, who would stab it in the back.

Let us put the shoe upon the other foot. Suppose we who are liberal had attempted the identical thing proposed by the proponents of this measure. What does the amendment do? It provides a punishment for the violation of rights and privileges guaranteed to us by the Bill of Rights. The Constitution, as every Senator here knows, is not self-enacting. Not one provision of that instrument is effective without a law enforcing it. If, when the eighteenth amendment had been enacted, the Senator from Missouri [Mr. REED], or the Senator from Louisiana [Mr. BROUSSARD], or the Senator from Connecticut [Mr. BRANDEGEE] had arisen in his place and said, blandly and devoutly, "Oh, I respect the Constitution and I am in favor of having the law enforced just as it is enacted. You have all the law you want. Have you not an amendment to the Constitution prohibiting the manufacture and sale of alcoholic liquors?" "Yes." "Well, what more do you want?" How long would it have been before such a Senator would have been denounced, either for duplicity or stupidity, or both, by the advocates of the eighteenth amendment?

How long would it have taken the Senator from South Dakota [Mr. STERLING], how long would it have taken the Senator from Ohio [Mr. WILLIS], how long would it have taken the Senator from Minnesota [Mr. NELSON], to rise in his place and say, in parliamentary language, "You are either a crook or an ass. You know that this amendment to the Constitution, unless it is enforced by pains and penalties, is, as Blackstone said of law without a penalty, mere advice. You know that you juggle with empty words when you say you respect the Constitution, and in the next breath refuse to enact legislation to enforce it. You wet sinner, you abominable champion of the brewery and the distillery and the barroom."

To-day these ambidextrous Senators come here with an act designed to give force and effect to the eighteenth amendment, although that amendment has been put into force by hundreds of pages of legislation, by volumes of laws. But they say, "While we believed that we had provided a penalty for every violation, we overlooked penalties, not for the sale of malt liquors for beverage purposes, but we actually overlooked penalties for the sale of malt liquors for purposes which the Constitution permits, for legitimate purposes. We failed to enact laws prohibiting the use of malt liquors for legitimate and constitutional purposes for medicinal use; and now we propose by law to prevent the use of malt liquors for all purposes, constitutional or unconstitutional, and there is no objection, no disposition to delay the passage of the bill or prevent an immediate vote upon it."

But we say at the same time, "Here is this espionage act, governing searches and seizures, and while you have imposed a penalty for obtaining a search warrant without probable cause or for the abuse or excessive use of the powers conferred by the warrant you have imposed no penalties for searching without a warrant. You have absolutely left the law in such shape that though the officer gets no warrant whatever, although he could be put in the penitentiary for making a false statement to get it, although he could be imprisoned for injuring the furniture or property unnecessarily, if he goes without any warrant at all and demolishes it, he is a mere trespasser, and there is no remedy."

I said to the Senator from South Dakota: "That is plainly an oversight. This penalty was never imposed, because no man up to that time had ever dreamed that officers would attempt to search the houses or the persons or the property of people without a search warrant." I said, "Let us apply the same penalties for searching without a warrant that we do for the abuse of the warrant." There was no objection. The

Senate voted for it unanimously; and gentlemen may dodge and squirm as much as they please, but they know and you know and the country knows and God knows that this is a fight for lawlessness, that this is a fight to legalize violence, that this is a fight to tear from the citizen the most precious rights he ever possessed, that this is a violation of the Constitution of the United States and to hold it in utter and ineffable contempt. There is no Senator here who down in his heart does not realize that he is under the same obligation to enact laws that will enforce one amendment as he is to enact laws that will enforce another, and it comes with an amazingly bad grace from those who yesterday clamored for laws to enforce one amendment to stand here and oppose laws that are designed to protect, palpably, the same right under another amendment.

Blow hot or blow cold, gentlemen. Part of the United States is wet and part of the United States is dry, but the intelligent electorate of the United States is candid and square. The love of fair play is the Englishman's heritage. The American people will demand of you to protect one part of the Constitution with the same zealous care that you do another.

I ask Senators who oppose the amendment with law books before them, with citations and cases galore, is it not true that a man in his barn has the same rights that he has in his cottage? Is it not fantastic and absurd to argue that a man on leaving his residence and staying for a week in a hotel should forfeit the privacy and the protection guaranteed to him by the Constitution of the United States? These personal rights were not conferred by the Constitution. They are simply preserved by the Constitution.

Mr. MYERS. Mr. President, will the Senator permit me to make an observation at that point?

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Montana?

Mr. STANLEY. I yield.

Mr. MYERS. I must dissent from the Senator's proposition that a man has no more sacred right in his dwelling house than he has in any other property. I contend that under the law if an intruder persists in forcing himself into your residence you have a right to kill him to prevent it, but you have no right to kill him simply to prevent him setting his foot upon your wheatfield. There is a very decided difference between a dwelling house and other property.

Mr. STANLEY. Unconsciously the learned Senator, because he is a learned Senator and usually very accurate in his statements, is building up a man of straw, answering arguments that I have never made.

Mr. MYERS. I may have misunderstood the Senator.

Mr. STANLEY. I say that very courteously.

Mr. MYERS. I understood the Senator to say that a man had no more right in his house than in any other part of his property.

Mr. STANLEY. A man's rights do not change with his location. A man has as much right on one side of the street as on the other.

Mr. MYERS. If the Senator will yield further, a man's home is enshrouded with greater power by the law than his wheat field.

Mr. STANLEY. Not by the law, but by sentiment. Will the Senator tell me if I make an assault on him in his bedroom that his right of self-defense is greater than if I should make that assault in a wheat field?

Mr. MYERS. I was not speaking of assault. I was speaking of intrusion. I say if a stranger persists in forcing his way against my command into my house that I have the right to expel him to keep him out, even the right to the extent of taking his life if I can not keep him out in any other way.

Mr. STANLEY. If the Senator had a rail fence about his field, would he not have the same right?

Mr. MYERS. I do not think so.

Mr. STANLEY. If the intruder should come, the Senator would have the right to use such force as is necessary. But my argument is that the fourth amendment throws about the citizen the same protection against searches and seizures in a hotel, in a rented house, in the place he owns. A man's right under the Constitution is not dependent upon whether he is a tenant or a landlord, whether in a hotel or a lordly mansion owned by his ancestors for a thousand years.

Mr. MYERS. That is true; just so it is his abiding place.

Mr. STANLEY. No; he does not have to abide. He can be on the move. The idea that locomotion destroys liberty is a fallacy.

Mr. MYERS. No; locomotion does not destroy liberty, but it may alter circumstances.

Mr. WATSON of Georgia. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Georgia?

Mr. WATSON of Georgia. Will the Senator pardon me for reminding him of a familiar principle of law that even in the case of a trespass in a wheat field the owner of the wheat field can put that person out and use whatever force is necessary and may determine for himself under the circumstances what that measure of force may be, and if necessary to take the life of the trespasser he is justified in doing it if he can not otherwise put him out of possession of what is his own property.

Mr. STANLEY. Mr. President, I wish to call the attention of the Senator from Montana to some law that is 10 years older than this Government, a decision rendered by one of the greatest jurists that ever adorned a bench. In 1765, in discussing this right to your land, to your castle—oh, I will say to the Senator from Montana his conception of his own birthright has shriveled. That castle for which your fathers and mine have fought since they were clansmen in the wilds of Schleswig and Friesland, clad in the tawny hides of the beasts and fearless of the wrath of the elements, whether it be the raging storm on the seas or serried foe on land, his castle has been his domain, sacred from intrusion to the last foot, and they who crossed its threshold were guilty of a sacrilege that was punishable by death if no other means were found to rid him of the intruder. Think of it! Your rights and mine not guaranteed by the Constitution. The Constitution was a mere reiteration.

Those rights were questioned a thousand years ago by a stupid king, and his barons then and there made him hold up his craven hand and swear by the God he was supposed to fear to protect that wide domain. The sturdy conqueror of Scotland was forced with all his vigor to renew that pledge at the demand of barons more jealous of the rights of those same fields, of which the Senator speaks so contemptuously, than they were of their lives. Edward the Third carried the British flag across the channel and made English valor immortal, returning with kings in his train, and yet that haughty conqueror was forced again and again to swear to preserve the rights that the Senator now unblushingly is prepared to destroy, and he knows it.

Mr. MYERS. No; Mr. President, I do not know it.

Mr. STANLEY. The Senator will before I get through.

Mr. MYERS. No; I do not think I will. I do not think the Senator can convince me that I am willingly and intentionally and unblushingly prepared to destroy the rights of anybody.

Mr. STANLEY. I regret that statement, and I withdraw it. The Senator is not going to blush about it, but he is going to do it.

Mr. MYERS. As long as the Senator has modified his statement I am willing to let it go.

Mr. STANLEY. Let us recall those same rights. Remember that the rights guaranteed by the fourth and fifth amendments to the Constitution are those same old English rights. A British king quibbled and equivocated and dodged. He did not dare to do what the Senator from South Dakota would do. He did not say "I will take them away." He refused to make the answer required by English custom for the approval of an act of Parliament, and it cost that Stuart his head. Another king attempted to do what some are trying here to-night to do, and it cost him his crown.

What are those rights? In the greatest case ever decided, in the case that is the foundation of all the decisions since, Lord Camden speaks about the rights of a man to his field. It is the same question of search and seizure. He said:

> If it is the law, it will be found in our books; if it is not to be found there, it is not law. The great end for which men entered into society was to secure their property.

Not their bedrooms, not their bathrooms. We have something more to ask than that this impudent, obtruding, lawless fool shall not be permitted to view the dishabille of wives and daughters. That is where your liberty begins and ends, with that privacy that you throw about the home. Why, you can wipe out the whole of the Stanley amendment, you can write into this bill that these spies and informers, without warrant, are trespassers whether you write my amendment or not. You can write into the law that the privacy of your daughter is not secure, that your wives in dishabille shall not escape their obscene gaze, and they will not enter, not because you say they shall not but because there is enough manhood—in Kentucky at least, and I think in the United States—to keep them out, law or no law. There is going to be manhood enough to stop them if they attempt to enter your car or enter your room in the hotel or enter anything else.

Mr. WATSON of Georgia. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Georgia?

Mr. STANLEY. I yield.

Mr. WATSON of Georgia. In connection with what the Senator said, and to support him about the sanctity of the person, I beg to remind him that ages ago a common workman, a tyler by trade, his name Wat, struck down and killed a tax collector in England because that royal tax collector laid hands upon the person of his daughter, and that that act brought about an insurrection of an oppressed peasantry which grew to such enormous proportions that the King's will had to bend to it.

Mr. STANLEY. The Senator from Georgia cites but another instance. Let us see. Lord Camden in 1765, more than 200 years ago, said:

> The great end for which men entered into society was to secure their property.

Not their private dwellings.

> That right is preserved sacred and incommunicable in all instances where it has not been taken away or abridged by some public law for the good of the whole. The cases where this right of property is set aside by positive law are various.

Then he gives them, and continues:

> By the laws of England, every invasion of private property, be it ever so minute, is a trespass.

The Constitution says you shall not trespass; but this proposed act says if you are hunting a bootlegger no man is preserved or safe from that trespass. No wonder Senators wash their hands in invisible water here in this Chamber, and, Pilate-like, say, "Lay not this thing on me"; I am not violating the Constitution; I do not think I am; I do not intend to do so."

Then Lord Camden continued:

> No man can set his foot upon my ground without my license—

He does not say in the front room, or across the threshold of my private boudoir—

> No man can set his foot upon my ground without my license, but he is liable to an action, though the damage be nothing, which is proved by every declaration in trespass where the defendant is called upon to answer for bruising the grass and even treading upon the soil.

No man, much less a searcher, can enter my grounds, though he does not damage it at all, without being a trespasser.

I repeat that declaration in Lord Camden's opinion:

> No man can set his foot upon my ground without my license, but he is liable to an action, though the damage be nothing, which is proved by every declaration in trespass where the defendant is called upon to answer for bruising the grass and even treading upon the soil.

Oh, is not the spectacle presented here pathetic to the thoughtful mind; is it not sad enough to make the angels weep? Oh, I thought when I was a boy, a student of this sacred instrument, the Constitution of my country, as I looked back and saw men struggling up from servitude and slavery, from the weight of cruel kings and implacable despots, from the level of villains and vassals to the priceless heritage of free American citizenship, that we were marching up higher and higher, to brighter and broader and nobler heights of liberty, health, and wealth and length of days and love's sweet dream, all are worse than dross to the man who is not free. He who loves his life better than his liberty is a poltroon and a slave; and yet to-night in this place, a learned Senator speaks in scorn of rights thus defended by this great judge; rights, sir, for which your ancestors have fallen upon deathless fields of fame, for which your scions' great-grandmothers have toiled and delved and sacrificed and wept, but which here, in order to catch some miserable miscreant with a quart of booze, you would throw away.

Mr. MYERS. Will the Senator yield to me for a moment?

Mr. STANLEY. Certainly.

Mr. MYERS. When the Senator says that some of the proceedings here are enough to make the angels weep, I believe him, because the Senator himself is about to weep. I do him the honor to put him in that class.

Mr. STANLEY. I thank the Senator.

Mr. MYERS. But, seriously, the Senator must have misunderstood me.

Mr. STANLEY. I hope I did.

Mr. MYERS. I am sure the Senator did. I do not contend that for a man to make an unwarranted entrance upon any piece of property is not a trespass. Of course, I do not deny that going upon any piece of privately owned property without warrant of law or justification of law is a trespass, but I say that it has always been the spirit of the law that a willful trespass into a dwelling house is a more serious trespass than merely setting foot upon a wheat field.

Mr. STANLEY. That is true.

Mr. MYERS. And I say that, in my opinion, the courts of this country allow a man greater liberty of judgment and action in killing an intruder who forces himself into a dwelling house than one who trespasses upon a mere field which is not habitable.

Mr. STANLEY. The Senator does admit, then, as I understand him, that the fourth amendment to the Constitution protects every part of the curtilage from unreasonable search and seizure without a warrant.

Mr. MYERS. Certainly, every part of it is protected from unreasonable search and seizure. The whole question is, What is unreasonable? Who is to decide what is reasonable? It is for Congress, in the first instance, and the courts in the last instance.

Mr. STANLEY. Let us take the two points. First, if a man's curtilage is protected by the fourth amendment, even though a trespass upon some part of it is not so heinous an offense as a trespass upon another part, would the Senator for that reason deprive a man of the protection guaranteed by the Constitution because he had a greater wrong done to him by violating it in some other place? For instance, to make myself perfectly clear, it is against the law to burn a building or to enter it with felonious intent. To enter it in the daytime is merely housebreaking and ordinarily is punished by a few years in the penitentiary, but under the old law, as the Senator knows, to enter a building at night with intent of burglary was a capital offense. Would the Senator be willing to vote for a law that should leave the home of the citizen open to the marauder in the daytime because the invader chooses not to commit the greater offense of entering it at night?

Mr. MYERS. Oh, no.

Mr. STANLEY. Is there any reason why less protection should be afforded to a man's other property because his home in some ways is more sacred? The Senator and others confuse sacred with private; that is the trouble. The home is more private; but a man's rights are not less inviolate in one place than in another, and the Constitution throws the same protection around both.

Mr. MYERS. Some private rights are more sacred in the eyes of the law than others.

Mr. STANLEY. Yes. I have heard the contention the Senator makes as to "unreasonable" searches and seizures. Does the Senator hold that the residence of a citizen can be searched without a search warrant under the provisions of the fourth amendment of the Constitution? I am sure the Senator will not, because he is too good a lawyer for that.

Mr. MYERS. No; I think the provision of the Stanley amendment which prohibits the search of dwelling houses without a warrant is reasonable; I think that is well enough; I have no objection to that.

Mr. STANLEY. But that is not my question.

Mr. MYERS. What is the Senator's question?

Mr. STANLEY. Does the Senator believe that an officer may, under any circumstances, search his property or his belongings without a search warrant?

Mr. MYERS. Property which is not a dwelling house?

Mr. STANLEY. Yes.

Mr. MYERS. Yes; if there is reason to believe that contraband goods are stored there or that the law is being violated. I do not believe that it is unreasonable to permit an officer under such circumstances to search without a warrant.

Mr. STANLEY. Does the Senator believe that it is not violative of the Constitution to search an outhouse without a warrant?

Mr. MYERS. No; I do not believe it is a violation of the Constitution, because I do not believe that it would be an unreasonable search.

Mr. STANLEY. But is it not true that an unreasonable search can not be made even with a warrant?

Mr. MYERS. Yes; that is true.

Mr. STANLEY. Then what is the use of saying that a man may make a reasonable search with a warrant; that a warrant shall protect him only against unreasonable searches, when unreasonable searches can not be made at all? The minute a man makes an affidavit that he wanted to make an unreasonable search the magistrate would not give him a warrant.

Mr. MYERS. That is true.

Mr. STANLEY. So an unreasonable search can not be made at all.

Mr. MYERS. That is true.

Mr. STANLEY. Then it is absurd to say that only unreasonable searches are such as to require a warrant.

Mr. MYERS. I do not say that at all.

Mr. STANLEY. This is what the law means: The law means and the Constitution provides that a man can not make an unreasonable search at all.

Mr. MYERS. That is true.

Mr. STANLEY. But that he can only make reasonable searches with a warrant; in other words, you can not enter a man's home unless you have a good reason to enter it, and

then you have got to have a warrant. I will cite the Senator a case.

Mr. MYERS. I do not believe that searching an outhouse or an automobile for contraband or where violations of the law are suspected without a warrant is an unreasonable search within the meaning of the Constitution.

Mr. KING. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Utah?

Mr. STANLEY. I will ask the Senator to wait a moment until I conclude the answer to the Senator from Montana, then I will yield. I wish to say to the Senator from Montana that the difference between his belief and the situation is the difference between the law and his opinion.

I wish to call his attention to a case strictly in point. It is a liquor case, decided October 5, 1920, in the Hardin Circuit Court of Kentucky. The bill of rights of Kentucky is practically identical with the Bill of Rights of the United States. The learned judge who decided this case was the chief justice of the court, the author of Carroll's Code and Statutes, the most accomplished jurist, perhaps, in the Commonwealth, but lately the choice of many of its citizens for governor. He is the author of many books, the most erudite and accomplished jurist of my acquaintance. We have this identical case: A man had whisky, moonshine whisky, hid in his residence, and in an outhouse, a garage.

The officers of the law went into the garage under the misapprehension under which the Senator is suffering, that it was not necessary to get a warrant—that wild idea that because a home was more private than a garage, it was less property or less sacred from intrusion, which is, to my mind, a preposterous and absurd proposition. The court held that not only could they not enter the garage without a warrant but, having entered it and secured the whisky, the court held that the whisky itself was not contraband, that it could not be used in evidence against the defendant, and this contraband moonshine whisky was returned by the chief justice of Kentucky to the man that had it.

In that decision the court says:

> It will be observed that the Constitution secures the people against "unreasonable search and seizure," and from the use of the word "unreasonable," it might be thought that a reasonable search and seizure, or one that was not unreasonable, would be allowed without a search warrant. But there is no foundation for this construction. The section does not permit any kind or character of search of houses, papers, or possessions without a search warrant.

And I will say to the Senator that I will insert in the RECORD a line of decisions as long as his leg to the same effect.

Mr. MYERS. Mr. President, if the Senator will yield——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Montana?

Mr. STANLEY. Certainly.

Mr. MYERS. I will say that I allow all due respect to that decision, of course; but one decision or a number of decisions do not always make the law. When we see the Supreme Court of the United States dividing in many important cases five to four, there is no one case nor line of cases which always absolutely settles the law.

Mr. STANLEY. Will the Senator be good enough to quote me one decision in which a court has held that a man could enter private premises to search for property without a warrant?

Mr. MYERS. I have not the cases at hand. I have not investigated the authorities on the subject. In what I have said to-night I have only been giving my impression of the general elemental principles of the law and my idea of the construction of the fourth amendment to the Constitution. I think there were some cases cited here last night by the Senator from South Dakota [Mr. STERLING] and the Senator from Minnesota [Mr. NELSON] which are contrary to the principles of the decision which the Senator has read.

Mr. STANLEY. If the Senator will pardon me, there were instances of certain statutes under which men could do certain things without a warrant. That is true. You can arrest an individual without a warrant for a trespass or a misdemeanor committed in the presence of the officer, and then you can search him, or you can enter even a dwelling where you have reason to believe that a felony is being committed, such as that a man is being killed, or that counterfeit money is being made, or something of that sort. Those are the cases; but there is no such distinction drawn as to the right to enter with or without a warrant where there is not an offense being committed in the presence of the officer, or a felony being committed out of his presence.

Mr. MYERS. The Senator speaks of the cases cited last night being based on statutes. No statute can contravene the Constitution.

Mr. STANLEY. Exactly.

Mr. MYERS. If the thing is constitutional when permitted by statute it would be constitutional if not permitted by statute. The statute can not override the Constitution.

Mr. STANLEY. I understand that thoroughly, and I do not think this statute will.

Mr. KING. Mr. President——

Mr. STANLEY. I yield to the Senator from Utah.

Mr. KING. The Senator from Montana a moment ago, as I understood him, stated that the fourth amendment, as to what constituted unlawful searches and seizures, depended upon what Congress said and what the court said. I think the Senator, upon reflection, will not take that view.

Mr. MYERS. Oh, no; I did not say that. The Senator was unfortunate in misunderstanding me. I said that the fourth amendment simply protected people from unreasonable search and seizure; but who is to define what is unreasonable? Why, in the very essence of things, it is for Congress to do so in the first instance and for the courts to do so in the last instance.

Mr. KING. I ask the Senator to revise his judgment with respect to that, because the Constitution of the United States has adopted an expression as a part of the fourth amendment which was well known at common law, and we would have to go to the common law to determine what was an unreasonable search or an unreasonable seizure; and I affirm that if Congress should declare something to be reasonable which was at variance with the common law's declaration of what was reasonable or unreasonable, it would be null and void. So I think the Senator is in error.

Mr. MYERS. The Senator still does not get my meaning. What I mean is that in voting on this conference report and on the Stanley amendment it is for each and every Senator here to decide for himself, under his oath as a legislator, what is an unreasonable search, and then it is for the courts in the last instance to pass upon that judgment and say if it was correctly exercised.

Mr. KING. Mr. President, if I may trespass further upon the time of the Senator from Kentucky——

The PRESIDING OFFICER. Does the Senator from Kentucky yield further?

Mr. STANLEY. Certainly.

Mr. KING. The Senator from Montana, who is an excellent lawyer and was a great judge, certainly can not take the position that a Senator or a Congressman could justify his oath of office to support the Constitution of the United States and vote for a law which defines a search and a seizure to be reasonable that was unreasonable at common law, and unreasonable at the time the Constitution of the United States was adopted.

Mr. MYERS. In casting your vote on this conference report you are using your judgment as to whether or not the entrance of an officer into an outhouse or an automobile without a warrant is unreasonable; and if you use your judgment on that, and hold that it is unreasonable under the fourth amendment, and vote against the conference report, I have just as much right to use my judgment on it, even though it might lead to a different view. We both use our judgment as to what is unreasonable under the fourth amendment.

Mr. KING. Assume that the courts at common law had decided that certain acts were unlawful searches or unlawful seizures, and we should introduce and pass a bill that affirmed that those same acts, known to the common law and to our fathers when they framed the Constitution to be unlawful, were lawful. Does the Senator think that if we should contravene those decisions it would be a lawful act?

Mr. MYERS. Why, no; I do not claim anything of the kind; but I claim that each and every Senator here, in voting on this conference report, must decide in his own mind in the light of the decisions and of the common law, what the fourth amendment meant by "unreasonable search." We have all got to decide that for ourselves.

Mr. KING. And the Senator concedes that if the courts have decided at common law that certain acts would constitute unlawful searches and unlawful seizures, then we ought not to support a measure that affirms that those acts are lawful.

Mr. MYERS. If that were the unbroken, unvarying, clear, and unequivocal decision of all of the courts, of course, we ought to be bound by it. I will say, however, that I believe the interruptions take a good deal of time without accomplishing much, and I have been very much interested in the able speech of the Senator from Kentucky; and as the hour is getting late, I do not believe I will interrupt any more, because I do not think interruptions amount to much.

Mr. STANLEY. I will say to my good friend the Senator from Montana that notwithstanding the fact that I am very

anxious to conclude my argument, and very much pressed for time, because there is so little time left to argue this great and important matter, I shall try to preserve that courtesy which I have attempted to exercise since being a Member of this body, and I am glad to yield to him or to any other Senator.

Mr. MYERS. The Senator is always courteous, but I prefer to listen to his argument, I think, without any more interruption.

Mr. STANLEY. To proceed with this great decision of Lord Camden, to which the Senator from Montana has inadvertently directed me, the great jurist goes on to describe what is the character of possessions that are exempt from search and seizure. This was a seizure case, where they went into his curtilage and searched his papers.

> No man can set his foot upon my ground without my license but he is liable to an action, though the damage be nothing, which is proved by every declaration in trespass where the defendant is called upon to answer for bruising the grass and even treading upon the soil. If he admits the fact, he is bound to show, by way of justification, that some positive law has justified or excused him. The justification is submitted to the judges, who are to look into the books and see if such a justification can be maintained by the text of the statute law or by the principles of the common law. If no such excuse can be found or produced, the silence of the books is an authority against the defendant, and the plaintiff must have judgment. According to this reasoning, it is now incumbent upon the defendants to show the law by which this seizure is warranted. If that can not be done, it is a trespass.

It is not incumbent upon a citizen to show that you have no reasonable right to enter his curtilage and invade his right. No man has any right to invade my property or my premises at all.

> Papers are the owner's goods and chattels; they are his dearest property; and are so far from enduring a seizure that they will hardly bear an inspection; and though the eye can not by the laws of England be guilty of a trespass, yet where private papers are removed and carried away the secret nature of those goods will be an aggravation of the trespass, and demand more considerable damages in that respect. Where is the written law that gives any magistrate such a power? I can safely answer there is none; and therefore it is too much for us, without such authority, to pronounce a practice legal which would be subversive of all the comforts of society.
>
> But though it can not be maintained by any direct law, yet it bears a resemblance, as was urged, to the known case of search and seizure for stolen goods. I answer—

Now, here is a case which has been argued here repeatedly, that where a man has stolen goods, purloined property that is subject to seizure, it is subject to search. There is no such law. The Senators have utterly confused the difference, and in the Boyd case that difference is cited. In the Weeks case the court says it is not this, that, nor the other. There, there were two rights claimed: First, the right to enter the curtilage, the right to enter the home, and second, the right to seize the property. Now, certain properties like stolen goods or contraband goods are not only subject to search but to seizure. Other things are not subject to seizure, because they are the property of the citizen. You can not enter the home of a thief, even though you have reason to believe that he has stolen those goods, and search his residence, go through his papers, or his barns or his cars or his drawers without a search warrant; and that law is 300 years old.

> But though it can not be maintained by any direct law, yet it bears a resemblance, as was urged, to the known case of search and seizure for stolen goods.

What is the law applicable even to stolen goods?

> I answer that the difference is apparent. In the one, I am permitted to seize my own goods, which are placed in the hands of a public officer, till the felon's conviction shall entitle me to restitution. In the other, the party's own property is seized before and without conviction, and he has no power to reclaim his goods, even after his innocence is cleared by acquittal.

Now, take the law of stolen goods.

> The case of searching for stolen goods crept into the law by imperceptible practice. It is the only case of the kind that is to be met with. No less a person than my Lord Coke denied its legality; and therefore if the two cases resembled each other more than they do, we have no right, without an act of Parliament, to adopt a new practice in the criminal law, which was never yet allowed from all antiquity.

For 250 years the English law has thrown about the thief, with his purloined goods, a protection that you propose to strip from every man or woman in the United States the minute he leaves his threshold. It is appalling, amazing, almost insolent.

Mr. WATSON of Georgia. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Georgia?

Mr. STANLEY. I yield.

Mr. WATSON of Georgia. Let me call the attention of the Senator from Kentucky to the fact that yesterday the Senator from South Dakota [Mr. STERLING] expressly separated the dwelling house from every other kind of property, from the person, and from effects, thus showing that he was dissecting the fourth amendment, thereby admitting that he had no right to violate the fourth amendment as to the dwelling house, but contending in his argument, as the senior Senator from Minnesota [Mr. NELSON] contended in his, that as to anything else than the dwelling house, that as to the person, whether a man or a woman, young or old, rich or poor, on the highway, on the car, in a hotel, the person of every woman and her effects, may be searched.

Mr. President, I have been in this Chamber since 10 o'clock this morning, and I feel that for one day at least I have earned my daily bread. Necessarily, I am weak, in a sorry condition mentally or physically to argue this great case which I had hoped to argue before the debate closed.

As I was about to say, I do not know where other lawyers of the Senate obtained their learning, whether in colleges, whether in great universities, whether in moot courts, but I know where I learned what little I know about the law, and I have no doubt there are others here who had the same experience.

I studied my Blackstone at night, by the blaze of a pine-knot fire after teaching school all day for my living.

Mr. STANLEY. I will say to the Senator I had the same experience—drank from the same sacred fountain.

Mr. WATSON of Georgia. And I have no doubt others here did the same. Mr. President, I learned to love the principles of the English law, as I dug them out one by one, diamond by diamond, from the pages of Blackstone. I thought it was understood to be fundamental that the absolute rights of man included the sanctity of his person, of his property, of his dwelling, of his good name. Where was ever a man who cared to live when he had lost his good name; where is the woman who prizes life after she has lost her good name?

Talk to me about putting the habitation above all, over legal, absolute, natural rights! It seems to me monstrous to do it.

Blackstone told us—when you, sir, like me, read those pages by the flickering flare of the blazing knots in the hearth—that the least touch of the person, unlawful and against our will, was an assault.

Mr. STANLEY. And the only reason that home is sacred, more sacred than a barn, is because prior to such legislation as this men lived in the house and beasts lived in the barn.

Mr. WATSON of Georgia. We learned that imprisonment did not necessarily mean confinement in a jail, but that the least detention of one's personal freedom of movement, on street, on highway, or elsewhere, was false imprisonment, a violation of our right to our perfect freedom of locomotion.

The Senator well knows that it was by slow degrees that our heroic forefathers in the old land wrung from the feudal lords and the kings the rights which were afterwards inserted in charter after charter; not one charter alone, not simply the charter which the mail-clad barons, with swords in their hands, compelled King John to sign in the sunny valley of Runnymede, but other charters, by Henry I, Henry II, and so on. Indeed, Blackstone tells us that the Great Charter was simply a reassertion of the old Anglo-Saxon liberties which the Norman conquerors had taken away from the people.

Then a division came between the Normans, and each bade for the support of the native Saxon and British element, and in that clash of interests rearose the old Anglo-Saxon principles, which reach back to the time when the people met in the woods of Germany, elected their judges, elected their commanders in war, their rulers in peace, made their laws, allotted their lands——

Mr. STANLEY. Mr. President, I am deeply impressed by all that my colleague is saying with such earnestness and such eloquence. I have listened to a great and profound scholar trace back those rights sacred to you and me, who are nearly at the end of the road, when the little bit of life that remains is not worth a snap of the finger to you or to me if they take our liberties away. I have listened to the Senator trace those rights back, and they go back to the Scandinavian forests, and then they came from God, and that is what Jefferson meant when he said that they were inalienable. They were not conferred by anybody, they were inherited from God, and all the law can do is to preserve a heritage as divine as life itself and as precious as the soul; and for those sacred rights we are fighting to-night, fighting to save them from the vandal hands of blind, driven fanaticism. It is amusing to hear men talk about your concern for whisky. Did you know you were fighting for breweries that are dead, and for liquor that is gone, not for Anglo-Saxon rights, according to the contention of these gentlemen, who impugn a motive when they can not answer an argument?

Mr. WATSON of Georgia. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield further?

Mr. STANLEY. I yield further to the Senator from Georgia.

Mr. WATSON of Georgia. When any Senator tells me that the house in which I live, whether my wife be there or not, is

more sacred in his eyes, and in the eyes of the law he proposes to make, than is the person of my wife, he insults me, and outrages the most sacred feelings that a man can have on this earth in human relations.

As I said here the other afternoon, our forefathers said they would not put the Bills of Rights in the Constitution. Benjamin Franklin, Edmund Randolph, James Madison, George Washington, Alexander Hamilton said, "We will not put them there, because it is unnecessary. Nobody disputes them; nobody will ever dispute them. It is not necessary to put them there. They are historic; they are as fixed as the stars are fixed. They are as sure as the light of day is sure." They said, "We have not put them in the Constitution because they are fixed luminaries, whose light can not possibly fail."

Mr. STANLEY. Will the Senator allow a suggestion right there? I wish to read him Jefferson's answer to those same arguments:

Let me add that a bill of rights is what the people are entitled to against every government on earth, general or particlar, and what no just government should refuse or rest on inference.

Mr. WATSON of Georgia. Mr. President, it is true that no speech made here will change a vote in this body, but beyond us and above us and finally to control us there is a public opinion which can be reached, and there are minds which can be influenced by the knowledge of the monstrosity of this legislation. I mean no disrespect, of course, personally to those who support it. I am speaking simply of the legal character of the legislation.

The fourth amendment secures to the people, not for a day but forever, the sanctity of their persons. Think of it. This is the age of travel, not only by automobile but by steamer and railroad cars. There never was since Adam was cast out of Eden such a passing back and forth of the sons and daughters of men. Every lady who travels will, under this law, do so in fear and trembling lest some rude brute, armed with his brief authority, will claim the right to invade her privacy and search her luggage without warrant and only on suspicion.

The Senator from Montana asked who will decide where reasonable cause exists for a search, reasonable cause to search the luggage of the lonely girls traveling on the cars at night, or in the daytime for that matter, and of the men or the women everywhere. Who will be the judge of whether they shall be searched?

Mr. STANLEY. Reasonable cause, I wish to say to the Senator, and I hope he will dwell on that subject, is the basis for securing the warrant, not the excuse for acting without it.

Mr. WATSON of Georgia. Precisely so; and the fourth amendment can not be read altogether without it being perfectly apparent that the fathers who had these amendments attached to the Constitution because there was no Bill of Rights meant that no such search or seizure could be made at all without a warrant. Will anyone say to me, say to you, say to the lady, say to the girl, that any upstart of an officer whom we may not know even to be an officer, who may be a man impersonating an officer, can decide within his own mind that he will subject everything except the dwelling to his invasion, his search, and his seizure? That very moment they would dismember the fourth amendment by taking the dwelling house away from it, when that amendment itself groups them all together, practically saying all sorts of property, and the person is mentioned first as more sacred than any property.

To give that power to an officer or one who pretends to be an officer and say that you have not trampled upon the Constitution of your country is to make a statement which may carry conviction here, but it will not carry conviction to the great outer world when this proposed law goes into effect and the people see how it is worked.

Mr. President, I will say to my friend, the Senator from Kentucky, that I would be ashamed to go back home without having made a fight against the amendment wherein the Senate conferees, with the one exception of the Senator from Arizona [Mr. ASHURST], who represented this side of the Chamber, surrendered their convictions, surrendered our convictions.

Let it be understood everywhere that as soon as this law goes into effect no one's person is to be respected again, no one's private luggage in traveling, no one's private papers, no one's premises except that part in which he dwells is to be respected again—let that be understood, as it will be understood very soon, and you will see taking place in this country a reaction against those who are undermining our Constitution and betraying that for which our ancestors shed their blood on so many battle fields that we have to use but little imagination to almost see the serried ranks of battle and hear the clash of swords as those rights were won.

Mr. WATSON of Indiana. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Indiana?

Mr. STANLEY. I yield for the purpose indicated to me by the Senator, but do not wish to yield the floor.

Mr. WATSON of Indiana. I ask unanimous consent for the immediate consideration of Calendar No. 282, House joint resolution 183, passed by the House and sent to the Senate on the 15th of August, a joint resolution imposing a duty of 90 per cent on all goods exported from the United States for the use of the American Expeditionary Forces and its allied forces and which have been sold to foreign Government or person, when reimported into the United States, and reported back from the Senate Finance Committee with an amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Indiana?

Mr. HITCHCOCK. Mr. President, I object.

The PRESIDING OFFICER. Objection is made.

Mr. STERLING. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from South Dakota?

Mr. STANLEY. I yield.

Mr. STERLING. It is apparent from the trend of affairs that it will be impossible to conclude before midnight the discussion on the conference report. I therefore ask unanimous consent that the unfinished business be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ARMISTICE DAY.

Mr. KING submitted the following resolution (S. Res. 143), which was referred to the Committee on the Judiciary:

Whereas the 11th day of November next will be the third anniversary of the signing of the armistice, which embodied the capitulation of the armed enemies of the United States and brought the war between the free nations of the world and the autocratic empires of Europe to a victorious conclusion for the armies of liberty; and

Whereas said victory was won by the marshaling of the forces of the free nations of the whole world against the autocratic forces of Kaiser, Emperor, and Sultan, which disturbed the peace of nations and threatened the security of liberty throughout the world; and

Whereas said victory, to be complete, must not only have rendered impotent the powers of autocracy to rise again and threaten the peace of the world but must also release and deliver the free States of the world from need of the preparation and maintenance of great armaments on land and sea and air under the provocation of threats against the peace of the world and the rights of nations; and

Whereas suspicions of national avarice or animosity on the part of one nation against another provoke preparation against the possibility of war, which suspicions can only be dissipated by candor, understanding, and conference between the free States of the world; and

Whereas the free States of the world have a community of interest in the peace of the world and desire to follow the ways of peace together, secure in national liberty, territorial integrity, and political independence, and free from threats or suspicions of war; and

Whereas the President of the United States has called a conference to convene at Washington on the 11th day of November next, for the purpose of securing a more perfect and permanent peace and of relieving the nations from the crushing costs of armament and preparation for war, and to divert the tremendous and wasteful expenditures of war and of preparation for war to the payment of the debts and obligations which war has entailed upon all nations and liberate the nations of the world from the waste of their resources and the waste of the work and wealth of their people in the further preparation for war, to the end that the work of free men everywhere may be fruitful of national and personal progress, strength, and independence: Now, therefore, be it

Resolved, etc., That the President is respectfully requested to proclaim and set apart the 11th day of November next a day of rest and thanksgiving throughout this Republic, in order that the people may rest from their daily labors and commemorate the armistice and the accomplishments of the free nations in the Great War and unite in their assemblies for the promotion of peace and fellowship between the nations of the world.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, announced that the House had agreed to the concurrent resolution (S. Con. Res. 8) for the adjournment of the two Houses of Congress from August 24 to September 21, 1921.

The message also announced that the House had passed the joint resolution (S. J. Res. 103) changing the name of the Veterans' Bureau to "United States Veterans' Bureau."

ENROLLED BILLS AND JOINT RESOLUTION SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Presiding Officer [Mr. CURTIS] as Acting President pro tempore:

S. 1915. An act to amend the War Finance Corporation act, approved April 5, 1918, as amended, to provide relief for producers of and dealers in agricultural products, and for other purposes;

S. 2062. An act ratifying, confirming, an approving certain acts of the Legislature of Hawaii, granting franchises for the

manufacture, distribution, and supply of gas, electric light and power, and the construction, maintenance, and operation of a street railway, and for other purposes;

S. 2330. An act to extend the time for payment of grazing fees for the use of national forests during the calendar year 1921;

S. 2420. An act authorizing and directing the Postmaster General to permit the use of a special canceling stamp at the post office at Birmingham, Ala., bearing the words "Birmingham semicentennial, October 24 to 29, 1921"; and

S. J. Res. 103. Joint resolution changing the name of the Veterans' Bureau to "United States Veterans' Bureau."

EXTENSION OF DYE-CONTROL ACT.

Mr. McCUMBER. Mr. President, I ask unanimous consent for the present consideration of the bill (H. R. 8107) to control the importation of dyes and chemicals.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Dakota?

Mr. KING. I object.

Mr. McCUMBER. I move that the Senate proceed to the consideration of the bill.

On a division the motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill, which had been reported from the Committee on Finance with amendments.

The PRESIDING OFFICER. The Secretary will report the first amendment.

The READING CLERK. The first committee amendment is, following the enacting clause, to insert:

That sections 1, 2, and 3 of the emergency tariff act, approved May 27, 1921, are amended by striking out the words "six months" in each of such sections and inserting in lieu thereof the words "seven months and four days."

Mr. HITCHCOCK. Mr. President, I understand that the first question is on agreeing to the committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

Mr. McCUMBER. Mr. President, on that question I wish to be heard.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. McCUMBER. Mr. President, as I have stated before, the dye paragraph of the emergency tariff law expires on the 27th day of August. The general emergency tariff portion of that law does not expire until the 27th day of November. The House, therefore, passed the dye bill alone, making it expire on the 27th day of November, the same day upon which the emergency tariff act would expire.

With the amendment which the Senate has made it is evident that it would require considerable debate and, if passed at all, it would have to go back to the House and be acted upon there and then a conference would have to be had. It is impossible to do all these things between now and the time fixed by the concurrent resolution for the recess. We can take care of the tariff emergency situation in order to protect the dye industry after we meet again at the conclusion of the recess. I am informed that there are immense quantities of dyes about to be dumped into the United States the moment that the law expires.

Under the circumstances I feel that in order to preserve the law upon the dyestuffs as it now stands, I should ask the Senate to disagree to the committee amendment.

This, then, will leave the bill only as it came over from the House, and will extend the dye provision of the emergency tariff law until the 27th day of November, at which time the entire law becomes obsolete and ineffective.

The question is simply upon the amendment, and I hope, under the circumstances, the amendment will be disagreed to.

The PRESIDING OFFICER. The question is on the amendment reported by the Committee on Finance.

Mr. POMERENE. Mr. President——

The PRESIDING OFFICER. Does the Senator from North Dakota yield to the Senator from Ohio?

Mr. McCUMBER. I yield.

Mr. POMERENE. The statement has been repeatedly made in the Senate to the effect that there were great quantities of dyes about to be landed in this country. I have not as yet learned the source of that information.

Mr. McCUMBER. The source of my information, I will state to the Senator from Ohio, is the Senator from New Jersey [Mr. FRELINGHUYSEN], who gave me that information to-day. He went further and stated that those dyes were now in the harbor of New York.

Mr. POMERENE. What is the character of the dyes that are coming in?

Mr. McCUMBER. I do not know.

Mr. POMERENE. It was stated here on yesterday, or perhaps the day before, that in the manufacture of dyes we could compete with—and, in fact, beat—the world. Of course, there were two or three kinds of dyes that were referred to. The information furnished, however, is very general, and is so entirely in keeping with every piece of information which comes here every time there is a tariff measure before the Senate, to the effect that this country is always to be the dumping ground, that I should like to have some specific information, if we could get it. I could vote more intelligently upon the subject if I had such information.

Mr. McCUMBER. Mr. President, before we get through I think that we shall finally succeed in getting some kind of a bill that will be sufficiently protective without an embargo. We have not, however, time at present for the enactment of such a provision.

Mr. POMERENE. I am very glad to have that encouragement from the other side.

Mr. McCUMBER. I think that can be done and will be done.

Mr. POMERENE. There are a great many people in this country who are interested in this particular industry who are determined to have an embargo to exclude all dyes, when at the same time it is known that many of the dyes manufactured in this country are not fast colors, and our woolen industries, cotton industries, silk industries, and the paint interests in the country would be at the mercy of an American dye combination.

Mr. McCUMBER. That certainly will not be true very long.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from North Dakota yield to the Senator from Utah?

Mr. McCUMBER. I yield.

Mr. SMOOT. I simply wish to say to the Senator from Ohio [Mr. POMERENE] that if there are large quantities of dyes awaiting entry into this country, they must be embargoed dyes or else they could come in under the rates of duty to-day.

I want to add my voice in approval of the statement which has been made by the Senator from North Dakota [Mr. McCUMBER], and to say that so far as I am concerned there will never be an embargo if I can prevent it.

Mr. POMERENE. Mr. President, I speak of the dyes that are on the way here with a good deal of doubt in my mind as to whether or not the information to that effect is reliable. I have not forgotten that on the very day the armistice was signed it was stated to us that the German people had vast quantities of dyes ready to be dumped upon the American market. That statement was not true and the people who made it knew it was not true.

Mr. WATSON of Indiana. Mr. President——

The PRESIDING OFFICER. The Senator from North Dakota has the floor. Does he yield to the Senator from Indiana?

Mr. McCUMBER. I yield to the Senator from Indiana, Mr. President.

Mr. WATSON of Indiana. Mr. President, I wish to say with regard to an observation made by the Senator from Ohio that there has been very general testimony as to the quantity of dyes that will be sent into this country should the pending bill fail of passage. I believe the information we have is true. I know that when the information was given out after the armistice it proved for a time to have been exaggerated. The report, however, went all over the world, and the various Governments of Europe acted on the report and permitted the dyes to come into their countries without any restrictions whatever, but afterwards England imposed an embargo, Italy imposed an embargo, France imposed an embargo, and embargoes now exist in all those countries against German dyes. We, of all the great countries that purchase and use dyes, will be the one that has not imposed an embargo if this bill shall fail of passage.

Whatever may be the merits of the embargo, permit me to say to the Senator from Ohio, that as a mere matter of legislative fairness this bill should be permitted to pass, because when the dye embargo was first imposed by legislative enactment it was universally understood that the embargo should remain until a permanent tariff bill was enacted; that if the permanent tariff bill should not carry an embargo, well and good; but that, in order to protect an industry which had been built up under the impulse and the impetus of war and because of the prohibition of imports created by the war, the industry should be protected by an embargo until such time as a complete investigation might be made and a permanent tariff bill enacted.

I do not know whether or not the tariff bill that shall shortly be reported from the Finance Committee will carry an embargo,

but I do know that ample protection will be accorded the dye industry. At the present time, however, in all fairness, and because there is an imminent danger to this great new industry which has been built up in this country during this period of the war and because of war conditions, I believe it is but fair to the people who have invested their money in the industry that the embargo shall be continued until such time as we may have an opportunity fully to debate the question in the Senate in connection with the general tariff bill. I trust, therefore, that the bill may pass.

Mr. HITCHCOCK. Mr. President, I realize that the question now before the Senate is on the committee amendment; but, as Senators have been discussing the dye proposition, I might as well say now what I have to say on the subject.

Senators speak as though there were at the present time no protection to the dye industry of the United States. As a matter of fact, there is a protective tariff for the dye industry at the present time, and it affords exactly that degree of protection which the dye manufacturers themselves asked for in 1916, when the special act of Congress was passed amending the Underwood-Simmons tariff law. That protection amounts to something like 30 per cent ad valorem and 5 cents per pound upon the articles.

In the bill which has recently come over from the House of Representatives that degree of protection is only slightly increased. It is a high protection, and Senators who assume that dyes are coming here in an unlimited flood to destroy the American dye market seem to forget that, after all, there is this high protective tariff which must be paid before a pound of dyes can be brought here.

Again, Mr. President, when Senators ask for justice and fair play for this industry they seem to assume that it is a helpless infant, which needs the greatest tenderness of treatment. Do Senators realize that this industry is practically a monopoly at the present time? The Senator from Ohio awhile ago spoke of a dye monopoly. He did not go too far, for it is now practically a dye monopoly. Two great concerns practically occupy the field and the smaller concerns merely have the leavings. One of those two concerns earned dividends last year of $18,000,000 and the other earned dividends of $20,000,000. Do Senators think that such giant concerns as that, employing large numbers of people and earning great profits at a time when other industries in the United States are languishing, are in need of the tender consideration of the Congress at the present time and that they will be ruined if dyestuffs come in from foreign countries for the few weeks that Congress is to be in recess?

Mr. President, the fact is that the dye industry in the United States at the present time ought to be investigated as an unlawful trust. The fact is that these two great concerns to-day practically form a trust.

But that is not all; they have been so bold, through their representatives, as to ask that they be relieved of the penalties and provisions of the Sherman antitrust law, avowing themselves desirous of establishing an absolute legal monopoly, as it is in fact to-day practically a monopoly of the great American market. Mr. du Pont, the President of the Du Pont de Nemours Co., before the Ways and Means Committee of the House of Representatives on December 10, 1919, used this language:

> The Longworth bill is an embargo; it is a misnomer to call it a license bill. * * * There are undoubtedly a few dyes to-day that would be imported, but it is substantially an embargo bill. * * *
>
> I want further, then, and at the risk of seeming to get a monopoly, to urge that you should provide that the Sherman law does not apply to the dye industry.

There we have it in cold English. The head of this great concern, which, with one other, the Allied Chemical Co., dominates the dye industry of the United States, plainly avowed, in speaking of the Longworth bill, that he thought the Congress should relieve the dye industry of the United States from the provisions of the Sherman antitrust law against monopolies. That is the concern, that is the institution that we are now asked to treat with gentleness and with moderation, a concern which has made millions of dollars, paid for its plant over and over again during the last few years, earned enormous dividends, and is earning enormous dividends at the present time. Is it so feeble that it needs the fostering protection of an embargo against all competition?

Mr. President, the statistics of the Department of Commerce show that the great dye monopoly of the United States during the 12 months named in the report exported to other countries and sold in competition with the world over $20,000,000 worth of dyes. Do Senators think that it is necessary to invoke an extraordinary power of Congress, a prohibition against all imports of dyes, in behalf of a monopoly which is now exporting millions of dollars' worth of dyes and dyestuffs to other countries and selling them in competition with the world?

Mr. President, I can see some reason for a Republican advocating the idea of a protective tariff. It appeals to the imagination and in some cases to the judgment of the American people, who have been anxious to have developed the industrial institutions of the land; but I can not see how a man who believes honestly in a protective tariff can favor the idea of a prohibition against all importation, can advocate the idea of creating a monopoly to feed upon the needs of the American people. So, as a matter of fact, many Republicans do not favor the embargo idea. They have abandoned it in the other branch of this Congress; they are about to abandon it in the Senate Finance Committee; yet, having had it in operation for a number of months, we are asked now to continue it for a number of months longer.

I do not believe that that is even Republican doctrine. It certainly is not Democratic doctrine. I hold in my hand a circular issued by the American Protective Tariff League.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Utah?

Mr. HITCHCOCK. I yield to the Senator.

Mr. SMOOT. The Senator knows, of course, that only a short time remains before the Senate must adjourn. If there were time, I think I could explain to the Senate and also to the Senator the real necessity of this three months' extension. There is a real necessity for it—not for sulphur black, not for synthetic indigo but for dyes that are absolutely essential and should be made in this country, not because of the dyes only but because of the intermediates for making those dyes that are so necessary for other purposes than dye purposes.

If the tariff-bill rates can not be put upon those dyes to protect them, then we shall have to rely upon foreign countries to make them. I want to say to the Senator that I believe—and I was going to say I know—that it can be done, and that is what I am working on until 12 o'clock at night every day now to accomplish; and I say now to the Senator that, as a bitter opponent of the embargo provision in the emergency tariff bill, I want to give this industry three months more so that we can protect the dyes of which I speak.

If there were time, and if it did any good, I could go into the details and tell the Senator what these dyes are that I mean.

Mr. HITCHCOCK. I appreciate the position of the Senator from Utah. I think it is entirely consistent with the Republican theory of government and the building up of industry, and if it is brought in here in the tariff bill it will no doubt receive the votes of those who believe in a high protective tariff, even to the point approaching a prohibition. It has not, however, been done yet; and I can not conceive that this enormous industry, with its two hundred or two hundred and fifty million dollars of invested capital and its enormous products and its great resources, is going to be seriously injured by three or four weeks of importation under a tariff which those same industries themselves said would be sufficient to enable them to establish themselves; and the Senator from Utah is on record as saying here in the Senate and in the committee that those dye industries in 1916 got exactly what they asked for, and what they said would be sufficient upon which to build up their industries in the United States.

Mr. SMOOT. I want to say to the Senator that in that statement I went on to explain why the dye industries at that time did not want to establish the manufacture of intermediate dyes in this country. They imported all their intermediate dyes, and we undertook to put a rate upon the intermediates which was necessary in order to establish the dye industry, but no; the dye manufacturers of this country simply wanted to get these intermediates and mix them, and that was all there was to it, and then sell the dyes mixed from the intermediates made in foreign countries.

Mr. HITCHCOCK. Mr. President, as far as intermediates are concerned, I have been informed that we are actually exporting intermediates to Germany at the present time, and intermediates are protected by a tariff in the existing bill which is only less than the tariff provided for the finished product. That bill was practically dictated only in 1916 by the dye industry of the United States; and its representatives went so far before the committee of the House—possibly of the Senate also, but certainly of the House—as to say that if that tariff were imposed in 1916 they would be willing to have reductions made after it had been in existence for five years. Now, when it has been in existence for five years those same men come here

and by admission have spent a hundred thousand dollars to lobby through this Congress an extension of their embargo, under which they have made millions of dollars, and are making millions of dollars to-day.

I can not look upon this great institution as an object of charity. I think it can take its chances with some of the other industries of the United States. Seven hundred million dollars, I think, are invested in industries that must use these dyes, and the present excessive prices charged by this great monopoly constitute a heavy burden upon those industries. I should think my Republican friends would take those industries into account. I should think they would be disposed to put an end to this embargo, which has created this great monopoly, and which has enabled a few great institutions with hundreds of millions of dollars of capital to make these enormous profits at the expense of the industrial institutions of the United States.

I started to read this circular from the American Protective Tariff League. It is addressed to me, and I presume it is addressed to every Senator. It is dated June 22 of this year, and it reads:

We are informed that the obnoxious dyestuffs embargo or license conditions will remain in the new tariff bill when it is reported by the Ways and Means Committee, House of Representatives, this week. The dyestuffs or dye embargo conditions have been withheld (not yet reported in its proposed form), although the committee has been in session several months. The dye proposal as reported two weeks ago was defeated in committee.

The terms of the dye proposal are not yet known, but it is reasonably certain that they will give drastic authority to the Tariff Commission or some other agency to continue present objectionable embargo powers. Doubts are now expressed as to any right being given in the House of Representatives to review or amend the dye schedule under a rule that may be asked by the committee.

We urge that full opportunity be given for review and amendment in order that any continuing dye embargo powers may be stricken out of the bill, and we urge that the House of Representatives fix adequate tariff duties against foreign products in preference to exclusive rights now enjoyed by monopoly, which has and is spending untold sums for the continuance of its monopoly.

We trust that you will join in strongest protest against a system which substitutes un-American embargo, or prohibition, for adequate protective tariff laws. We ask your earnest cooperation against this existing monopoly.

Very truly, yours,

THE AMERICAN PROTECTIVE TARIFF LEAGUE,
A. H. HEISEY, *President.*
W. F. WAKEMAN, *Treasurer and General Secretary.*
NATIONAL ASSOCIATION OF HOSIERY AND UNDERWEAR MFRS.,
C. B. CARTER, *Secretary.*

Mr. President, there is an appeal from the American Protective Tariff League, the organization which represents the protective-tariff idea to which the Republican Party is wedded, and it denounces this embargo; and not only that, but it proclaims that it has created a monopoly which is now in existence. Can Republicans read such literature as that and not feel a sense of outrage that under the circumstances of recent years, and now by the acts of Congress, this embargo is being continued in the interest of this great monopoly and at the expense of the industries of the United States?

Mr. President, I think people hardly realize the hardships that this monopoly-embargo system, coupled with the license system, involves for American industries. Suppose the officers of an industrial institution find it necessary to use some German dyes—how can they get those dyes at the present time? They can not go to any importer to find out whether there are any such dyes in the country. This embargo does not allow a store of dyes to be here to be selected from. Think of that! The man who requires German dyes must himself apply for the right to import those dyes, and when he imports those dyes he has to do it under rules and regulations which compel him to import them solely for his own use during the next six months. He is not allowed to import a larger amount than he can consume in six months, and no one is allowed to import them for the American users and keep them here in stock so that they can select them when they want them.

When the time comes that they need these foreign dyes, they must make application to the War Trade Board to get them, and the War Trade Board has made rules and regulations which make it almost impossible for an American user of these German dyes to get those dyes in time to use them.

I hold in my hand the circular issued by the Department of State relating to the War Trade Board section. This circular sets forth the conditions upon which American industries are allowed to apply for and possibly secure these dyes; and let me show you how almost impossible these conditions are and what great hardships they impose on the manufacturers of the country who are compelled to use these dyes. I shall not take the time of the Senate to read all of the regulations, but I shall read certain extracts.

Now, remember, an American industry, built up, perhaps, under the shadow of your protective tariff, is not allowed to secure or even to apply for dyes from Germany or any other enemy country until it complies with these conditions:

REGULATIONS GOVERNING THE OBTAINING OF LICENSE FOR IMPORTATIONS OF THE ABOVE-MENTIONED CONTROLLED COMMODITIES.

GENERAL PROVISIONS.

1. Applications for license to import, for consumption in the United States or a United States possession, any material, product, or commodity hereinbefore listed or described, or any mixture, compound, or finished or partly finished product or manufacture thereof, must be submitted to the War Trade Board section of the Department of State in triplicate on War Trade Board application Form M, provided by said section for the purpose, and must be prepared and signed, as indicated in the instructions printed on the form. The special provisions set forth in the following regulations must be fully complied with.

2. Importers and consumers are cautioned that license for the importation of any of the above listed or described controlled materials, products, and commodities should always be obtained in advance of commitment for purchase or the placing of orders abroad. Failure on the part of the intending consumer or importer to obtain such license in advance can not be accepted as a valid reason for the granting thereafter of licenses which would otherwise, under the regulations in effect at the time of shipment from abroad, have to be refused.

3. Neither the general import license above referred to nor any specific individual import license issued by the War Trade Board releases the importer or the person, firm, or corporation for the use of whom or which the goods are sought to be imported from his or its obligation to comply with the customs regulations or with any other governmental regulation that may be in effect at the time relative to importations into the United States or United States possessions, or from the payment of any tariff or customs charge or fee that may lawfully be collectible.

In other words, the poor importer, engaged in the honest manufacture of goods to be sold to the American people, must not only make this application to the War Trade Board, but after he gets his license he must pay the very high protective tariff provided by law. I read further:

DYES AND DYESTUFFS OF ENEMY ORIGIN, INCLUDING CRUDES AND INTERMEDIATES.

4. Applications for license to import from Germany or Austria (as those countries are now territorially constituted) dyes or dyestuffs, including crudes and intermediates entering into the manufacture thereof, and applications for license to import such materials, products, or commodities from any other country when the material, product, or commodity is of enemy production or manufacture, will be considered only when the application, whether made by the intending consumer or by an importing agent appointed by him for the purpose of effecting the importation, is accompanied by the "consumer's statement and guaranty" set forth in War Trade Board printed form No. 4051.

This importer, who needs these dyes for his purposes, must guarantee exactly what he proposes to do with them, must guarantee that he will only import the quantity for six months, and that he will not by any means sell any part of it to anyone else.

Mr. President, talk about shackling trade! Was there ever a case known where trade was worse shackled than it is by this infamous embargo, which makes it practically impossible for a man to import the articles that he needs in his business?

I continue reading from this document:

The intending consumer is required to state:

(a) That the material, product, or commodity proposed to be imported is required for consumption in his own manufacturing establishment during the six months' period next to ensue after receipt of the goods and that the quantity sought to be imported is not in excess of such six months' requirements.

He is tied down to that proposition. He is not allowed to import a pound more than he can use in the six months.

(b) That neither goods similar to those sought to be imported nor any satisfactory substitute therefor is or are obtainable from domestic sources, or that, if obtainable from such sources, the quality thereof has been found by the intending consumer, by actual test, not to be satisfactory for his own particular manufacturing purposes.

He has to make that statement, that he has tested every American dye, and that he has actually found that it is not suitable, or that it can not be purchased at a satisfactory price; and even then this license is not issued to him, even after he has complied with the law in that respect. I read further:

(c) Or else the intending consumer must state that the dyes, dyestuffs, crudes, or intermediates sought to be imported, if obtainable from domestic sources, are not obtainable therefrom at the time desired in quantity sufficient for his manufacturing purposes, and that no satisfactory substitute is obtainable from such sources in such sufficient quantity, or else that, if obtainable from such sources, neither similar goods nor any satisfactory substitute therefor is or are obtainable from domestic sources on reasonable terms as to price or delivery.

Now, mark this requirement of this independent American manufacturer, what he is required to do in paragraph (d):

(d) In each case, therefore, before applying for license to import or causing application for such license to be made by an importing agent, the intending consumer should ascertain through the American Dyes Institute, No. 320 Broadway, New York City, N. Y., whether or not goods similar to those desired to be imported, or some satisfactory substitute therefor, is or are obtainable from domestic sources on reasonable terms as above, and should state that he has made such inquiry.

Our law compels that man to go to the Dye Trust itself, the American Dye Institute, located at 320 Broadway, and from that institute practically get a certificate that what he states is true. He is compelled to go to the dye institute, maintained largely through the Du Pont dye concern and the Allied Chemical Co. He is compelled to go to that concern, at 320 Broadway, New York, in order to get the information as to whether there are satisfactory dyestuffs, at a price satisfactory, in this country. That is really an outrageous affair. Now, I continue reading:

Applications for license to import dyes, dyestuffs, or crudes or intermediates entering into the production or manufacture thereof, which

are of enemy make will not be considered unless in each case the accompanying consumer's statement and guaranty shows exactly wherein the goods therein listed fail to meet the intending consumer's particular manufacturing requirements, if similar kinds or satisfactory substitutes therefor shall have been reported to or ascertained by the War Trade Board section to be obtainable from domestic sources in sufficient quantities on reasonable terms as to price, quality, and delivery.

(e) The intending consumer is required to guarantee that if for any reason the dye, dyestuff, crude, or intermediate imported by or for him under such license should not be used for his own manufacturing purposes, neither the whole nor any part thereof will be sold, exchanged, or otherwise disposed of by him without the consent in writing of the War Trade Board section being first obtained.

Think of such shackles being placed upon a free American industry. If the man happens to import more dyes than he can use in six months, he is not allowed to sell the balance of them without the consent of this Government agency.

Mr. President, what does this War Trade Board do on occasions when the American importer makes out his application to the board and complies with these conditions? It assumes to say whether or not his statements are justified, and there are in the record of the hearings before the Committee on Finance, and the Committee on Ways and Means of the House also, I think, letters written by the War Trade Board practically saying to an importer, in an impudent way, or to a would-be importer, "We do not think you are right when you say that the goods can not be bought in this country at a reasonable price." They admit that the price is higher, but in some of these letters refusing the importation they claim the right to deny these applications, even after the miserable importer has complied with all these conditions. No doubt there are other letters written to importers under those circumstances, stating that the humble request for permission to import these goods is denied because, in the opinion of the War Trade Board, goods of equal quality can be found in this country.

So there we have a condition that is intolerable, it seems to me, contrary to all American ideas of independence in trade and independence in business and unshackled business. We have the industries of the United States which must depend upon the dye manufacturer practically manacled, dictated to by Government agencies and by the American Dye Institute, at 320 Broadway.

The testimony, as far as it appears in the hearings before the committee, indicates that this American Dye Institute, at 320 Broadway, is supported by payments which the American dye manufacturers make in proportion to the size of their businesses. It is easy to see from that, without knowing the exact figures, that two great institutions practically support this American Dye Institute, at 320 Broadway, and it is to that institution that independent American manufacturers are required to go in order to get the information upon which they must depend in making their applications to the War Trade Board for leave to import these dyes.

Mr. President, without taking the time of the Senate to read them, I will ask leave to include in the RECORD the remainder of these instructions issued by the department. It is sufficient to say that they are along the same line and simply extend further the difficulties that the American manufacturer has in securing these dyes.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

5. Importing agents are warned that licenses are issued to importing agents for the importation of such materials, products, and commodities for use by a consumer only with the understanding that the goods are really for the use of such consumer and in his own manufacturing establishment. Such licenses are granted, therefore, on the condition that if the goods imported thereunder should not in any case be accepted by, or can not for any reason be delivered to, the person, firm, or corporation for the use of whom or which the goods shall have been licensed for import, such goods shall not be disposed of otherwise without due notice to the War Trade Board section and without its consent in writing to such disposition having been first obtained.

6. Sales or exchanges of overstock or unaccepted or undelivered enemy dyes, dyestuffs, crudes, or intermediates imported under such licenses are permitted to be made only to actual consumers and for manufacturing purposes. All permissions to sell, exchange, or otherwise dispose of such materials, products, or commodities are granted subject to the condition that the permission is to be held to apply to the transaction only so far as the War Trade Board section is officially concerned with the disposition of imported goods as indicated by its regulations, and that such permission is in no case to subject the section, or any of its officers or employees, to liability in the event that any question should arise between the parties interested, based on considerations other than those involved in mere compliance with the import regulations, as to the right of the grantee of such permission to sell, exchange, or otherwise dispose of the goods specified in the permit.

7. War Trade Board printed form No. 4051, above referred to, supplants the application for allocation forms and allocation certificates used in the procedure formerly in effect. Outstanding allocation certificates, however, may still be used at any time prior to the expiration, respectively, of the respective periods for which they were granted.

DYES AND DYESTUFFS, INCLUDING CRUDES AND INTERMEDIATES, FROM NONENEMY SOURCES.

8. Applications for licenses to import dyes or dyestuffs, or crudes or intermediates entering into the production or manufacture thereof, from countries other than Germany and Austria (as at present territorially constituted) will be considered when the goods are of nonenemy production or manufacture. No such application will be considered, however, unless accompanied by a statement of the intending consumer to the effect:

(a) That the quantity applied for is not in excess of the normal manufacturing requirements of the intending consumer for the six months' period next to ensue after receipt of the goods;

(b) That neither the goods proposed to be imported nor any crude or intermediate entering thereinto is of enemy production or make; and

(c) That the intending consumer will promptly notify the War Trade Board section of the date of receipt of the shipment.

(d) The statement must in each case contain definite information as to the name of the country in which the particular lot of material or the particular commodity desired to be imported was, or is to be, produced or manufactured and the name and address of the producer or manufacturer.

COAL-TAR PRODUCTS (OTHER THAN THOSE REFERRED TO IN PAR. 4), INCLUDING CRUDES, INTERMEDIATES, MIXTURES, AND COMPOUNDS OF COAL-TAR PRODUCTS, AND SYNTHETIC ORGANIC DRUGS AND SYNTHETIC ORGANIC CHEMICALS OF ENEMY PRODUCTION OR MAKE.

9. Applications for license to import sodium nitrate, synthetic organic drugs, synthetic organic chemicals, and coal-tar products (other than dyes, dyestuffs, and crudes and intermediates entering into the manufacture of dyes and dyestuffs), and applications for license to import mixtures or compounds and finished or partly finished manufactures of such drugs, chemicals, or the coal-tar products included in this paragraph, will not be considered when such materials, products, or commodities are of enemy production or make unless the application in each case is accompanied by a statement showing:

(a) The character and chemical composition of the drug, chemical, product or manufacture, mixture, or compound sought to be imported and the trade name thereof, if any.

NOTE.—Any other information in the possession of or available to the intending consumer or importer that will serve to aid in its identification and classification should also be included in the statement.

(b) If the goods are desired for manufacturing purposes, it must also be stated that the quantity proposed to be imported is not in excess of the normal requirements of the intending consumer for the six months' period next to ensue after receipt of the shipment, and that the goods are desired by the intending consumer for his own manufacturing purposes.

(c) If the material, product, or commodity sought to be imported is desired for purposes of sale to the trade, it must be stated that the goods are desired for the purposes of such sale in the ordinary course of the applicant's business as an importer or dealer in such goods, and that the quantity desired is not in excess of his normal six months' requirements for such purposes, or else that the goods are desired for the purpose of fulfilling a special order from a customer for the particular quantity sought to be imported.

(d) In all cases, whether the goods sought to be imported are desired for manufacturing purposes or for purposes of sale to the trade, the intending consumer or importer, as the case may be, must further state that neither the material, product, or commodity sought to be imported nor any satisfactory substitute therefor is obtainable from domestic sources, or else that, if obtainable from such sources, is not obtainable therefrom on reasonable terms as to price, quality, and delivery.

(e) In all such statements the name of the country in which the goods were, or are to be, produced or manufactured and the name and address of the producer or manufacturer must be given.

(f) Appropriate statements, in accordance with the foregoing, from three or more reputable physicians must in each case accompany applications for license to import drugs, medicines, or medicinal preparations composed wholly or in part of the above materials or products when of enemy production or manufacture, whether the finished or partly finished drug, medicine, or preparation is produced, compounded, or manufactured in Germany, Austria, or any other country.

SYNTHETIC ORGANIC DRUGS, SYNTHETIC ORGANIC CHEMICALS, SODIUM NITRITE, COAL TAR PRODUCTS, ETC., FROM NONENEMY SOURCES.

10. Applications for licenses to import from countries other than Germany and Austria (as at present territorially constituted) sodium nitrite, synthetic organic drugs, synthetic organic chemicals, or mixtures, compounds, or finished or partly finished manufactures thereof, will be considered when accompanied by a statement of the intending consumer (if the goods are desired to be imported for manufacturing purposes) or by the importing principal in the transaction (if the importation is proposed to be for sale to the trade) to the effect that no part of the constituents entering into the production, compounding, or manufacture of the material, product, or commodity proposed to be imported is of enemy production or make and that the quantity proposed to be imported is not in excess of the intending consumer's or of such importing principal's normal requirements for the six months' period next to ensue after receipt of the shipment, or is desired in fulfillment of a specific order.

11. Statements accompanying applications for license to import such materials, products, or commodities should also contain in each case the information as indicated in paragraph 9 (e) of the foregoing.

12. Applications for license to import from countries other than Germany and Austria (as at present territorially constituted) any coal-tar product or crude, intermediate, or mixture, compound or finished, or partly finished manufacture of any coal-tar product (other than the materials, products, or commodities referred to in paragraphs 8 and 10 hereof) will be considered on compliance with the conditions and on receipt in each case of a satisfactory statement of the character and to the effect indicated in the foregoing paragraph 8 relative to dyes, dyestuffs, etc., from nonenemy sources.

NATIVE DRUGS AND CHEMICALS.

13. Drugs and chemicals in their native or earthy state as grown or mined, and which shall have been subjected to no chemical treatment whatsoever, are not included in the exceptions from the above-mentioned general import license and may be imported into the United States and its possessions from any country without individual import license for each or any shipment or further authorization by the War Trade Board.

IMPORTATIONS OF COMMODITIES FOR EXPORT TO OTHER COUNTRIES.

14. Applications, on War Trade Board application, Form M, for license to import into the United States or its possessions any of the controlled commodities, materials, or products hereinabove listed or described will be considered when the shipment is shown to be for transit through territory or via ports of the United States en route from a foreign country to another foreign country, or when the goods

desired to be imported are for entry in bond to be resold for export in bond to another country and are not for consumption in the United States or a United States possession, or when the goods are for entry in bond to be transshipped in a United States port and are not for consumption in this country or in a United States possession. In such cases the words "to be imported in bond for reexport in bond" should be inserted in reply to question 23 on Application Form M, and in each case the particulars with respect to the proposed importation should be given.

Mr. HITCHCOCK. Does the Senate of the United States want to continue such an obnoxious condition as that? Does the Senate of the United States want to give to this great monopoly, which has become not only one of the most powerful but one of the most prosperous institutions in the country, rights which it gives to no other American manufacturing institution, after having given it an enormous protection, a protection of 30 per cent and 5 cents per pound, a protection running from 50 per cent to 105 per cent on its manufactured products?

Is it ncessary to carry the Republican idea of protection so far as to continue, even for four months, the prohibition against the importation of dyestuffs under a protective tariff?

Does the Senate of the United States want to continue to fasten the shackles upon American commerce in this way, not in the interest of some infant that is struggling for existence in the industrial world, but for a great concern that has every dollar of protection that it asked for in 1916?

There have been arguments made—and they have been rather appealing arguments—on behalf of the American dye industry, that in the interest of self-defense, of the general defense of the Nation, we should promote and encourage the dye industry, possibly above most other industries, because the manufactories of dyes and dyestuffs are said to be institutions that can manufacture explosives in time of war. There has been a good deal of misinformation on that subject, and a good many false claims, and under that patriotic plea these wealthy concerns have hoodwinked a number of American statesmen.

The real fact is that the explosives and gases in time of war are not made in the dye factories but in the factories that make the intermediates, and the United States has been making intermediates for a good many years. Chiefly, and above all others, the manufacturer of chlorine is the concern that furnishes the gases and the materials for various poison gases and explosives, and in the manufacture of chlorine the United States is almost supreme at the present time. It requires no embargo. Such a tariff as is now imposed is ample for its protection.

We manufactured chlorine before there was any embargo, and there is no record that justifies the statement that these explosives during the war were made in dye factories—I mean in factories making the finished products upon which the embargo was imposed. The testimony, on the other hand, is quite otherwise.

Now, Mr. President, I shall not take the time to go through the testimony of any number of witnesses on the point I have just made, but I wish to read from the testimony of Mr. MacFarland given before the Senate Committee on Finance on August 5 of this year. He made a review of the claims that have been made on the subject. I read as follows:

Senator LA FOLLETTE. Did you hear the testimony of Gen. Fries yesterday with reference to the importance of imposing an embargo here for preparedness purposes with regard to some future war?

Mr. MCFARLAND. Yes; and I heard the testimony of all the military experts this year and last year.

Senator LA FOLLETTE. I would like to have you make some comment on that as occurs to you desirable to make.

Mr. MCFARLAND. Well, Senator, I am not a military expert, and I am rather diffident about commenting on their testimony. But I have read their testimony very carefully, particularly the testimony of Maj. Gen. Seibert and Admiral Earle, given before this committee last year, and I do not think it is immodest for me as a layman to say that the testimony, so far as it was testimony of military experts, was very much opposed to the dye embargo. The testimony which was relevant to the proposition which the proponents of the dye embargo are advancing was really testimony of laymen and not of military men at all. The testimony of these gentlemen as military men was opposed to the embargo for this reason: That it demonstrated that our American chemists and the general organization in industry and enterprise and initiative of our American people distinguished themselves and itself in the production of gases and explosives.

We did better, actually, according to their testimony, in the production of gases and explosives than in the production of almost any other of the military equipment. That is an extraordinary thing to say in view of all this smoke screen and camouflage of testimony about the necessity of the dye industry as a military defense. The actual testimony of these military men as military experts and not as men who as laymen give you secondhand, hearsay testimony about the dye industry is this: That we not only at the time of the armistice were producing about six times the amount of war gases the Germans were producing but we were producing it in such superior quality that the Germans actually found themselves obliged to abandon their method of producing it and adopt our method. We not only met them on the mustard gas but we met them on a gas which they introduced toward the end of the war, which was effective but which the Germans did not apparently understand the use of. We immediately grasped the situation, took their gas, learned its composition, and developed such a superiority over the Germans that we made it effective. That is the whole testimony of the military men as to the disadvantage under which this country labored with our inferior equipment of chemists, and I submit, if that is an inferior equipment of chemists then I hope in the next war we will have still more inferior equipment of chemists.

Later on Mr. McFarland said, in answer to a question:

Senator MCLEAN. If we could improve much faster than the foreign experts our different qualities and kinds of poisonous gases, the chances are we could do it with the dyes, could we not?

Mr. MCFARLAND. That leads me to an observation which I think may be helpful, if you have not examined their testimony as carefully as I have, or asked some of the chemists about the matter, as I have. One of the reasons why these gentlemen apparently are getting away with this defense evidence is that they are interchanging the phrase dye industry or dye plant and chemical plant. While a dye plant is a chemical plant, yet a dye plant is not the whole chemical industry, and it is only in the case of the German chemical industry, especially a department, a unit, in the chemical industry, and it is not the department; it is not the unit which produced poison gases for the war. Poison gases are produced by those plants which produce the raw, crude chemicals like chlorine. Chlorine is the element from which nearly all the effective war gases are produced. I believe that the only other effective war gas that does not use chlorine is the tear gas, which uses bromine. Neither of these come from the coal-tax products.

Yet these gentlemen advocating the embargo on these coal-tar products sought to appeal to the patriotism of the American people by misleading them into the belief that our national defense depended upon the dye industry.

Neither of them are made except incidentally and in very insignificant quantities in the dye industry. Chlorine is nothing but the product of table salt in saturation and subjected to an electrical process. It is made for the purpose of bleaching and purifying water. We use it commercially in this country a great deal more than the Germans do. We are producing it in greater quantities, I believe, than the Germans. We had 23 large plants before the war producing chlorine. We exported to Germany more chemicals in value than the Germans exported to us before the war, and the chemicals that we exported to Germany were the chemicals which were used for poison gases.

The idea of pretending that it is necessary for the public defense to give an embargo to this giant monopoly with its millions and millions of dollars of profits a year, when the fact is that these dye industries do not produce the elements from which poison gases and explosives are made. They are produced in a much more simple way.

The Germans exported to us the refined chemicals taken from the crude ones, like the dyes and medicinal chemicals and other chemicals of that order. We have a very great advantage over the Germans in that respect, and if you are going to protect anything, protect the crude chemical plants, and you do not need to protect them.

Of course, you do not. We can manufacture chlorine in competition with Germany. We did it before the war. It is chlorine which is the main product out of which these poison gases and explosives are made.

Mr. President, I have not any desire to detain the Senate further. I can not view with any degree of patience the plea that we have to give to the dyestuff industry of the United States, the dyestuff manufacturers of the United States, the right to bleed the American people, either under the false plea of patriotism or under the equally false plea that they need it in order to sustain their life.

Mr. KING. Mr. President, I shall take but a moment. It has been determined upon by the majority that the dye monopoly shall be further intrenched and that for a further period it shall be commissioned to rob and exploit the American people. I think the most corrupt, corrupting, and trucculent lobby that has infested the Capitol is the dye lobby. And its sinister influence has not been confined to the Capitol but has been nation wide. Every avenue has been explored and every organization that could be reached has been impressed into its service. Its demands are reprehensible, and the action of the Senate in passing, if it shall pass, this bill is a fitting finale to the legislative accomplishments of the Republican Party. It is one pledge fulfilled, but a pledge to grant the demands of a tyrannous monopoly. And at the same time it reveals that pledges and promises made to the people for wise and wholesome legislation have been broken. Its passage will be conclusive evidence of an alliance between the Republican Party and the trusts and combinations and monopolies of the United States.

If the resolution which has been reported by the Committee on the Judiciary to investigate the dye monopoly, its lobby, and its activities shall be reported favorably by the Committee on Audit and Control, where the resolution is now pending, and that investigation shall be made, it will in my opinion be demonstrated to the satisfaction of the people of the United States that a powerful monopoly exists, oppressive to the textile manufacturers of the United States, and that it has maintained a lobby in the Capitol and throughout the United States to further its plans and purposes. I believe that when all the facts are made known there will be no embargo, and if any tariff at all is granted it will not be such as is demanded by this monopoly.

In the face of what is already known to the Senate, and in view of the action of the Judiciary Committee in reporting a

resolution ordering an investigation of the dye industry, this body can not afford to pass this bill and place the seal of approval upon a monopoly whose record is so black and whose activities have been and are so pernicious.

For the honor of our country and in the discharge of our duty we should defeat this bill.

Mr. JONES of New Mexico. Mr. President, I should like to say just a word in explanation of my vote. I am opposed to the dye embargo as permanent legislation. I am not willing to agree that the dye embargo in the previous legislation was based upon precisely the same footing as the emergency tariff legislation. The emergency tariff legislation was to continue for a period of six months. The dye embargo was to continue for a period of three months. Both provisions were contained in the same bill.

I am quite confident, however, that it was understood that some other provision would be made regarding the dye industry, and that such other provision, whatever it might be, would be made within the period of the operation of the bill approved May 27, 1921.

There is no question but that the dye industry was built up largely as a war measure—it was understood at the time that there would be legislation to enable it to thrive—and, while I am unalterably opposed to an embargo as a permanent policy, yet I consider that we should be breaking faith with that industry if we did not make some provision so that it could continue to exist.

I repeat I am opposed to the embargo; I regret that Congress has not been able to reach this subject and to deal with it as it should be dealt with before this time, but I sincerely believe that we should be doing an injustice to this industry should we not now enact this legislation. Even if it is a monopoly, let us stand a monopoly for three months more rather than to do a deliberate injustice.

Mr. HEFLIN. Mr. President, I am in favor of encouraging and safeguarding the dye industry of the United States in every way that is necessary. I am in favor of making this Government independent of all the other Governments, so far as its dye materials are concerned, just as I am in favor of making it independent in the way of its nitrate supplies. This Government has expended in my State, on the Tennessee River, at Muscle Shoals, eighty-odd million dollars in building a great dam and nitrate plant, seeking thereby to free this Government from dependence upon a foreign power for its nitrate supply in time of war and providing for the manufacture of fertilizers in time of peace. I saw this Congress abandon that project, but I rejoice to say that the President of the United States is looking with favor upon a proposition to finish that project at Muscle Shoals, and seems to be in favor of completing that work, whether it be done by the Government or by Henry Ford or by some other person.

I want to see it finished, and I trust that the President will keep after the matter until it shall be completed.

The PRESIDING OFFICER. The question is on agreeing to the first amendment reported by the committee.

Mr. HITCHCOCK and Mr. HARRISON asked for the yeas and nays.

Mr. SMOOT. I should like to have the Chair state what is the pending amendment.

The PRESIDING OFFICER. The Secretary will state the first amendment reported by the Committee on Finance.

The ASSISTANT SECRETARY. Immediately after the enacting clause it is proposed by the Committee on Finance to insert the following words:

That sections 1, 2, and 3 of the emergency tariff act, approved May 27, 1921, are amended by striking out the words "six months" in each of such sections and inserting in lieu thereof the words "seven months and four days."

The amendment was rejected.

The next amendment of the Committee on Finance was, on page 1, line 7, at the beginning of the paragraph, to insert "Sec. 2," and at the end of line 10 to strike out the words "six months" and to insert in lieu thereof "seven months and four days," so as to read:

SEC. 2. That subdivision (a) of section 501 of the dye and chemical control act, approved May 27, 1921, is amended by striking out the words "three months," and inserting in lieu thereof the words "seven months and four days."

The amendment was rejected.

The next amendment was, on page 2, line 1, to change the number of section 2 to section 3.

The amendment was rejected.

The bill was reported to the Senate without amendment, ordered to a third reading, and read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

Mr. KING and Mr. HARRISON called for the yeas and nays, and they were ordered.

The reading clerk proceeded to call the roll.

Mr. CALDER (when his name was called). Making the same announcement as to my pair and its transfer as on previous votes, I vote "yea."

Mr. CARAWAY (when his name was called). I have a general pair with the junior Senator from Illinois [Mr. MCKINLEY]. I transfer that pair to the senior Senator from Texas [Mr. CULBERSON], and vote "nay."

Mr. FRELINGHUYSEN (when his name was called). I transfer my general pair with the Senator from Montana [Mr. WALSH] to the Senator from Maryland [Mr. FRANCE], and vote "yea."

Mr. HARRISON (when his name was called). I have a general pair with the junior Senator from West Virginia [Mr. ELKINS]. I transfer that pair to the senior Senator from Nevada [Mr. PITTMAN], and vote "nay."

Mr. KELLOGG (when his name was called). I transfer my general pair with the senior Senator from North Carolina [Mr. SIMMONS] to the junior Senator from Delaware [Mr. DU PONT], and vote "yea."

Mr. LODGE (when his name was called). I transfer my pair with the Senator from Alabama [Mr. UNDERWOOD] to the Senator from Vermont [Mr. PAGE], and vote "yea."

Mr. MCCORMICK (when his name was called). Making the same announcement as to my pair and its transfer as heretofore, I vote "yea."

Mr. WARREN (when his name was called). I have a general pair with the Senator from North Carolina [Mr. OVERMAN]. I do not know how that Senator would vote, and I am unable to secure a transfer of the pair. So I am compelled to withhold my vote.

The roll call was concluded.

Mr. HALE. Making the same announcement as before concerning my pair and its transfer, I vote "yea."

Mr. CURTIS. I desire to announce the following pairs:

The Senator from Delaware [Mr. BALL] with the Senator from Florida [Mr. FLETCHER];

The Senator from New Mexico [Mr. BURSUM] with the Senator from Louisiana [Mr. RANSDELL];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN]; and

The Senator from Pennsylvania [Mr. PENROSE] with the Senator from Mississippi [Mr. WILLIAMS].

The result was announced—yeas 39, nays 22, as follows:

YEAS—39.

Brandegee	Frelinghuysen	McCormick	Smoot
Broussard	Gooding	McCumber	Spencer
Calder	Hale	McLean	Sterling
Cameron	Harreld	New	Sutherland
Capper	Jones, N. Mex.	Newberry	Townsend
Colt	Jones, Wash.	Nicholson	Wadsworth
Curtis	Kellogg	Norbeck	Watson, Ind.
Dillingham	Ladd	Oddie	Weller
Ernst	Lenroot	Phipps	Willis
Fernald	Lodge	Shortridge	

NAYS—22.

Ashurst	Hitchcock	Myers	Swanson
Caraway	Kenyon	Pomerene	Trammell
Gerry	King	Reed	Walsh, Mass.
Glass	La Follette	Sheppard	Watson, Ga.
Harrison	McKellar	Smith	
Heflin	Moses	Stanley	

NOT VOTING—35.

Ball	Fletcher	Nelson	Robinson
Borah	France	Norris	Shields
Bursum	Harris	Overman	Simmons
Culberson	Johnson	Owen	Stanfield
Cummins	Kendrick	Page	Underwood
Dial	Keyes	Penrose	Walsh, Mont.
du Pont	Knox	Pittman	Warren
Edge	McKinley	Poindexter	Williams
Elkins	McNary	Ransdell	

So the bill was passed.

The PRESIDING OFFICER. Without objection, the amendment proposed to the title will be rejected.

SENATOR FROM WISCONSIN.

Mr. CALDER. Mr. President, I report back favorably from the Committee to Audit and Control the Contingent Expenses of the Senate Senate resolution 141, and ask unanimous consent for its present consideration.

Mr. ASHURST. Let the resolution be read.

The PRESIDING OFFICER. The resolution will be read.

The Assistant Secretary read the resolution (S. Res. 141), as follows:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay, out of the contingent fund of the Senate, to ROBERT M. LA FOLLETTE, a Senator from the State of Wisconsin, the sum of $5,000 in reimbursement of fees and disbursements of counsel incurred by him in defense of his title to his seat.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

The resolution was considered by unanimous consent and agreed to.

AMENDMENT OF NATIONAL PROHIBITION ACT.

Mr. LODGE obtained the floor.

Mr. STERLING. Mr. President——

Mr. LODGE. I yield to the Senator from South Dakota; but I propose to make a motion for an executive session, which we must have in order to clear up some names on the calendar.

Mr. STERLING. Mr. President, I move that the Senate proceed to the consideration of the conference report on the bill (H. R. 7294) supplemental to the national prohibition act.

The PRESIDING OFFICER. The question is on the motion of the Senator from South Dakota.

Mr. REED. Mr. President——

The PRESIDING OFFICER. The Senator from Missouri.

Mr. LODGE. When I yielded to the Senator from South Dakota I did not know he was going to make a motion which would be debated. I think I am entitled to make the motion which I intended to make.

The PRESIDING OFFICER. It is a privileged motion, and if the Senator from Massachusetts declines to yield the Chair will recognize him.

Mr. LODGE. I have no objection, if the motion can be agreed to, but if there is going to be debate I can not agree to it.

Mr. STERLING. The object of the motion, I will state, is simply that, so far as possible, the conference report may be made the unfinished business. I do not expect, of course, any discussion on the conference report to-night. That is the object of the motion.

Mr. REED. Mr. President, there will be some discussion up to about 12 o'clock, if that motion is insisted upon.

DISPOSITION OF USELESS PAPERS.

Mr. MOSES. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from New Hampshire?

Mr. LODGE. I yield.

Mr. MOSES. I have a report for the presentation of which I vainly tried to secure unanimous consent during the day. As will appear, it is a matter of very great consequence. I ask unanimous consent that I may present the report.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

The Secretary will read the report.

The Assistant Secretary proceeded to read the report (S. Rept. 271).

Mr. LODGE. I ask unanimous consent that the further reading of the report may be dispensed with.

The PRESIDING OFFICER. Without objection the report will be printed and also published in the RECORD.

The report is as follows:

DISPOSITION OF USELESS PAPERS, DEPARTMENT OF STATE.

Mr. MOSES, from the Joint Select Committee on Disposition of Useless Executive Papers, submitted the following report on useless papers in the Department of State:

The joint select committee of the Senate and House of Representatives, appointed on the part of the Senate and on the part of the House of Representatives, to which were referred the reports of the heads of departments, bureaus, etc., in respect to the accumulation therein of old and useless files of papers which are not needed or useful in the transaction of the current business therein, respectively, and have no permanent value or historical interest, with accompanying statements of the condition and character of such papers, respectfully report to the Senate and House of Representatives, pursuant to an act entitled "An act to authorize and provide for the disposition of useless papers in the executive departments," approved February 16, 1889, as follows:

Your committee have met and, by a subcommittee appointed by your committee, carefully and fully examined the said reports so referred to your committee and the statements of the condition and the character of such files and papers therein described, and we find and report that the files and papers described in the report of the Department of State to the Sixty-seventh Congress, first session, dated April 1, 1921, are not needed in the transaction of the current business of such departments and bureaus and have no permanent value or historical interest.

We recommend that, as required by law, the Department of State sell as waste paper or otherwise dispose of such files of papers upon the best obtainable terms after due publication of notice inviting proposals therefor, and receive and pay the proceeds thereof into the Treasury of the United States, and make report thereof to Congress.

Respectfully submitted to the Senate and House of Representatives.

MERRILL MOORES,
A. B. ROUSE,
Members on the part of the House.

GEO. H. MOSES,
KEY PITTMAN,
Members on the part of the Senate.

DEPARTMENT OF STATE,
Washington, April 1, 1921.

The Hon. FREDERICK H. GILLETT,
Speaker of the House of Representatives.

SIR: I have the honor to inform you that the accumulation of useless documents in the American consular offices has presented to the department a serious problem, inasmuch as the storage space in the offices is limited and the volume of the documents is constantly increasing. If the permission of Congress could be obtained to destroy or otherwise dispose of the publications and documents which are useless the valuable storage space now occupied by them could be utilized for papers which are essential to the proper conduct of the offices.

With a view to settling the question of storage in the various consular offices I have the honor to request that the permission of Congress be given for the disposition, from time to time, of the following classes of publications and documents:

Directories, trade journals, trade lists, almanacs, and other publications of a similar nature, which have been replaced or which by reason of their age are useless.

Official bulletins of the United States.

Journals of the War Trade Board and the War Trade Board Journals, which have become useless through the abolishment of the regulations contained in them.

Daily Commerce Reports, which are useless after a comparatively short time owing to the changes in conditions existing in the countries covered by them.

Reappraisement circulars.
Notices to mariners.
Hydrographic bulletins.
Health reports.
Statistical abstracts.
Commercial relations.
Census reports.
Monthly navigation charts.

Immigration bulletins, and other miscellaneous literature of similar character which is of only passing value and which has become obsolete and useless.

Regulations of the Department of Agriculture.

Regulations of the Panama Canal and other branches of the Government after those regulations have been replaced entirely by others or have become obsolete.

Data collected for use in connection with the control of aliens coming to the United States, which have no value for the future control of such aliens.

NOTE.—The committee recommends the destruction of the foregoing publications and documents which bear dates prior to July 1, 1919.

Under present regulations consular officers are required to keep a copy of each consular bill of health issued, and each vessel coming to a port of the United States or its possessions is required to obtain a bill of health. Under date of February 17, 1921, the department was advised by the Assistant Secretary of the Treasury that collectors of customs at the ports of arrival also keep copies of such documents and that no reason was seen for keeping them in the consular offices. Consular officers keep records of the issuance of all bills of health, besides keeping copies of them, and, inasmuch as complete files are kept by the collectors of customs in the United States, permission of Congress is requested to destroy, after five years from the dates thereof, such copies of bills of health filed in the consulates.

NOTE.—The committee recommends the destruction of copies of bills of health in the consular offices which bear dates prior to July 1, 1916.

Consular officers are likewise required to retain copies of all certificates of disinfection to accompany shipments of hides, skins, and other animal by-products for importation into the United States. The department was informed by the Acting Secretary of Agriculture, under date of February 10, 1921, that such certificates are closely associated with the consular invoices which are presented at the ports of entry, and it is understood that they are filed with the entry papers. Permission to destroy the consular invoices was given in the act of February 24, 1903 (32 Stat. L., 854). The Acting Secretary of Agriculture further states that the process of manufacture in such cases is usually accomplished within 12 months of the date of entry and that the Department of Agriculture perceives no necessity for retaining indefinitely the copies of the certificates of disinfection now filed at the consular offices. Under these circumstances it is requested that the Department of State be authorized to instruct consular officers to destroy the certificates after the expiration of five years from the dates of their issuance.

This permission is requested under the provisions of an act entitled "An act to authorize and provide for the disposition of useless papers in the executive departments," approved February 16, 1889, and a similar request has been made to the President of the Senate.

NOTE.—The committee recommends the destruction of copies of all certificates of disinfection to accompany shipments of hides, skins, and other animal by-products for importation into the United States which bear dates prior to July 1, 1916.

I have the honor to be, sir,
Your obedient servant,
CHARLES E. HUGHES.

STATUE OF DANTE.

Mr. BRANDEGEE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Connecticut?

Mr. LODGE. I yield to the Senator from Connecticut.

Mr. BRANDEGEE. From the Committee on the Library I report back favorably three joint resolutions, two of them for the erection of statues in Washington, one of them introduced by the Senator from Illinois [Mr. MCCORMICK], and I ask unanimous consent for their present consideration.

Mr. LODGE. Does the Senator expect to pass all three now?

Mr. BRANDEGEE. Yes. It will not take any time at all.

The PRESIDING OFFICER. The Senator from Connecticut asks unanimous consent for the present consideration of a joint resolution, the title of which will be stated by the Secretary.

The READING CLERK. Joint resolution (S. J. Res. 99) providing a site upon public grounds in the city of Washington, D. C., for the erection of a statue of Dante.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which was read, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Chief of Engineers, United States Army, be, and he is hereby, authorized and directed to grant permission for the erection on public grounds of the United States in the city of Washington, D. C., other than those of the Capitol, the Library of Congress, Potomac Park, and the White House, a statue of Dante: *Provided*, That the site chosen and the design of the monument shall be approved by the National Commission of Fine Arts and that the United States shall be put to no expense in or by the erection of the said monument.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SIX HUNDREDTH ANNIVERSARY OF DANTE'S DEATH.

The PRESIDING OFFICER. The Senator from Connecticut asks unanimous consent for the present consideration of another joint resolution, the title of which will be stated by the Secretary.

The READING CLERK. Joint resolution (S. J. Res. 93) authorizing the President to communicate with the Government of Italy on the six hundredth anniversary of the death of the poet Dante, and appointing September 14, 1921, a national holiday to be known as Dante's Day.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which had been reported from the Committee on the Library, with amendments.

The amendments were, on page 1, line 3, after the word "authorized," to strike out "and directed," and on page 2, to strike out lines 1, 2, and 3, in the following words:

SEC. 2. That the President shall proclaim the 14th day of September, 1921, a national holiday to be known as Dante's day.

So as to make the joint resolution read:

Whereas September 14, 1921, will mark the sixth centennial of the death of the great Italian poet Dante; and
Whereas his sublime genius is duly appreciated by all civilized peoples and has benefited mankind in general: Now, therefore, be it

Resolved, etc., That the President of the United States be authorized and directed to send a communication to His Majesty the King of Italy and his Government and people expressing the great esteem, regard, and veneration in which the Government and the people of the United States hold this illustrious son of Italy on the six hundredth anniversary of his death.

The amendments were agreed to.

Mr. KING. Is this a unanimous report?

Mr. BRANDEGEE. Yes.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read: "Joint resolution authorizing the President to communicate with the Government of Italy on the six hundredth anniversary of the death of the poet Dante."

MEMORIAL TO JEANNE D'ARC.

The PRESIDING OFFICER. The Senator from Connecticut asks unanimous consent for the consideration of a third joint resolution, which will be stated by the Secretary.

The READING CLERK. Joint resolution (S. J. Res. 108) authorizing the erection on public grounds in the city of Washington, D. C., of a memorial to Jeanne d'Arc.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which was read, as follows:

Resolved, etc., That the Chief of Engineers, United States Army, be, and he is hereby, authorized and directed to grant the Société des Femmes de France à New York permission to erect on public grounds of the United States in the city of Washington, D. C., other than those of the Capitol, the Library of Congress, and the White House, a copy of the statue of Jeanne d'Arc by Paul Dubois: *Provided*, That the site chosen and the design of the pedestal shall be approved by the National Commission of Fine Arts, and that the United States shall be put to no expense in or by the erection of the said memorial.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

INVESTIGATION OF INCAPACITATED SOLDIERS' RELIEF BUREAUS.

Mr. SUTHERLAND, from the special committee investigating the bureaus of the Government extending relief to incapacitated soldiers, appointed under Senate resolution 59, agreed to on June 9, 1921, submitted a supplemental report, which was ordered to be printed, with accompanying illustrations, as part 2 of report No. 233.

UNITED STATES SPRUCE PRODUCTION CORPORATION.

Mr. WADSWORTH, from the Committee on Military Affairs, to which was referred the joint resolution (S. J. Res. 90) authorizing the United States Spruce Production Corporation to impose certain conditions on the sale of its railroad in Clallam County, State of Washington, reported it with an amendment and submitted a report (No. 270) thereon.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, announced that the Speaker of the House had signed the enrolled bill (H. R. 8107) to control importation of dyes and chemicals, and it was thereupon signed by the Presiding Officer (Mr. CURTIS) as Acting President pro tempore.

EXECUTIVE SESSION.

Mr. LODGE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 11 o'clock and 35 minutes p. m.) the Senate adjourned, the adjournment being, under the concurrent resolution of the two Houses, until Wednesday, September 21, 1921, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate August 24 (legislative day of August 22), 1921.

REGISTERS OF LAND OFFICES.

Carl G. Helm, of Oregon, to be register of the land office at La Grande, Oreg., vice Charles S. Dunn, term expired and failed of confirmation after reappointment.

James W. Donnelly, of Oregon, to be register of the land office at The Dalles, Oreg., vice H. Frank Woodcock, term expired.

Frank P. Light, of Oregon, to be register of the land office at Lakeview, Oreg., vice James F. Burgess, term expired.

Elzie K. Fritts, of Washington, to be register of the land office at Waterville, Wash., vice Benjamin Spear, whose term has expired. Nominated under date of August 9, 1921, and confirmed August 16, 1921, as "Elgie K. Fritts." (Correction in spelling of first name.)

RECEIVERS OF PUBLIC MONEYS.

John H. Peare, of Oregon, to be receiver of public moneys at La Grande, Oreg., vice Nolan Skiff, term expired.

Thomas C. Queen, of Oregon, to be receiver of public moneys at The Dalles, Oreg., vice Luren A. Booth, term expired.

James J. Donegan, of Oregon, to be receiver of public moneys at Burns, Oreg., vice Sam Mothershead, term expired.

Fred W. Haynes, of Oregon, to be receiver of public moneys at Roseburg, Oreg., vice Richard R. Turner, resigned.

PROMOTIONS IN THE NAVY.

The following-named passed assistant paymasters for temporary service to be passed assistant paymasters in the Navy with the rank of lieutenant to rank from August 3, 1920, in accordance with the provisions of the act of Congress approved June 4, 1920:

Andrew J. McMullen.
William E. Lund.
Lawrence C. Fuller.

Chaplain Maurice M. Witherspoon, for temporary service, to be a chaplain in the Navy with the rank of lieutenant to rank from November 3, 1920, in accordance with the provisions of the act of Congress approved June 4, 1920.

The following-named chaplains, for temporary service, to be chaplains in the Navy with the rank of lieutenant (junior grade), to rank from November 3, 1920, in accordance with the provisions of the act of Congress approved June 4, 1920:

Joel H. Benson.
John A. McCarthy.
Tipton L. Wood.

Passed Asst. Paymaster Frank W. Hathaway, for temporary service, to be a passed assistant paymaster in the Navy with the rank of lieutenant, to rank from August 3, 1920, in accordance with the provisions of the act of Congress approved June 4, 1920.

Asst. Naval Constructor Michael C. Faber, for temporary service, to be an assistant naval constructor in the Navy with the rank of lieutenant (junior grade), to rank from July 1, 1920, in accordance with the provisions of the act of Congress approved June 4, 1920.

POSTMASTERS.

ARKANSAS.

Fairy K. Reynolds to be postmaster at Bradley, Ark., in place of F. K. Reynolds; office third class January 1, 1921.

Jesse F. Booth to be postmaster at Elaine, Ark., in place of J. N. Moore; office third class July 1, 1920.

Max Cook to be postmaster at Gould, Ark., in place of Max Cook; office third class April 1, 1920.

Charles B. French to be postmaster at Harrisburg, Ark., in place of T. W. Sparks; commission expired April 29, 1918.

Dennis S. Farmer to be postmaster at Havana, Ark., in place of W. F. Moffitt, deceased; office third class July 1, 1920.

William J. Martin to be postmaster at Humphrey, Ark., in place of W. J. Martin; office third class January 1, 1921.

Isaac J. Brittingham to be postmaster at Hunter, Ark., in place of J. R. High; office third class January 1, 1921.

William W. Ferguson to be postmaster at Huntington, Ark., in place of C. D. Brown, removed.

William H. Ashburn to be postmaster at Joiner, Ark., in place of W. H. Ashburn; office third class April 1, 1921.

Charles A. Roberts to be postmaster at McNeil, Ark., in place of L. T. Sanders; office third class July 1, 1920.

Thomas D. Peck to be postmaster at Mammoth Spring, Ark., in place of J. F. Hunt, resigned.

Charles H. Dixon to be postmaster at Mansfield, Ark., in place of H. R. Contrell, resigned.

Jesse H. Shaw to be postmaster at Midland, Ark., in place of Blake J. Council; office third class January 1, 1921.

CALIFORNIA.

Joseph M. Hamilton to be postmaster at Crescent City, Calif., in place of T. B. Cutler, commission expired August 11, 1918.

Emma Scott to be postmaster at Trinidad, Calif., in place of Emma Scott; office third class January 1, 1921.

COLORADO.

Ruby R. Breder to be postmaster at Rico, Colo., in place of R. R. Breder; office third class July 1, 1921.

CONNECTICUT.

Rollin S. Paine to be postmaster at Stony Creek, Conn., in place of R. S. Paine; office third class October 1, 1920.

Gertrude W. Tracy to be postmaster at Wauregan, Conn., in place of G. W. Tracy; office third class January 1, 1921.

IDAHO.

Louis E. Diehl to be postmaster at Eagle, Idaho, in place of L. E. Diehl; office third class January 1, 1921.

William S. Dunn to be postmaster at Hazelton, Idaho, in place of W. S. Dunn; office third class January 1, 1921.

Hattie Hibbs to be postmaster at Lapwai, Idaho, in place of Hattie Hibbs; office third class January 1, 1921.

ILLINOIS.

John D. Allen to be postmaster at Armington, Ill., in place of J. D. Allen; office third class April 1, 1921.

Hulda G. Sherman to be postmaster at Ferris, Ill., in place of H. G. Sherman; office third class July 1, 1921.

Olive G. Hayes to be postmaster at Lafayette, Ill., in place of O. G. Hayes; office third class April 1, 1921.

Harvey E. Broaddus to be postmaster at Varna, Ill., in place of H. E. Broaddus; office third class April 1, 1921.

Charlotte M. Spelbring to be postmaster at Waynesville, Ill., in place of C. M. Spelbring; office third class April 1, 1921

INDIANA.

Mollie P. Askren to be postmaster at French Lick, Ind., in place of W. E. Livengood, resigned.

Harold H. Brinkley to be postmaster at Fountain City, Ind., in place of H. H. Brinkley; office third class July 1, 1921.

Henry Chapman to be postmaster at Woodburn, Ind., in place of A. A. Sprunger, resigned; office third class January 1, 1921.

Charles Van Horn to be postmaster at Bluffton, Ind., in place of B. A. Batson, resigned.

Glen Zell to be postmaster at Connersville, Ind., in place of Simon Deenges, resigned.

Homer O. Hart to be postmaster at Linton, Ind., in place of Earl Talbott, resigned.

IOWA.

Edna B. Wylie to be postmaster at Derby, Iowa, in place of E. B. Wylie; office third class July 1, 1921.

John A. Martin to be postmaster at Floyd, Iowa, in place of J. A. Martin; office third class January 1, 1921.

James H. Reynolds to be postmaster at Gilbert, Iowa, in place of J. H. Reynolds; office third class July 1, 1921.

Harvey S. Bliss to be postmaster at Kensett, Iowa, in place of H. S. Bliss; office third class April 1, 1921.

Lillian M. Cochran to be postmaster at Lake City, Iowa, in place of R. M. Reid; commission expired August 7, 1921.

Thomas E. Halls to be postmaster at Lucas, Iowa, in place of T. E. Halls; office third class January 1, 1921.

Melvin A. Smith to be postmaster at Meservey, Iowa, in place of M. A. Smith; office third class July 1, 1921.

Charles J. Denick to be postmaster at Miles, Iowa, in place of C. J. Denick; office third class July 1, 1921.

Clifton A. Riggs to be postmaster at Modale, Iowa, in place of C. A. Riggs; office third class July 1, 1921.

Edward L. Sampson to be postmaster at Nichols, Iowa, in place of E. L. Sampson; office third class April 1, 1921.

Oscar Smith, to be postmaster at Plainfield, Iowa, in place of Oscar Smith; office third class January 1, 1921.

Alba V. Gillett to be postmaster at Randolph, Iowa, in place of A. V. Gillett; office third class January 1, 1921.

KANSAS.

Lawrence J. Barrett to be postmaster at Admire, Kans., in place of L. J. Barrett; office third class, April 1, 1921.

Max E. Bacon to be postmaster at Deerfield, Kans., in place of M. E. Bacon; office third class, January 1, 1921.

Alfred N. Parrish to be postmaster at Dunlap, Kans., in place of A. N. Parrish; office third class, April 1, 1921.

Elmer W. Killion to be postmaster at Florence, Kans., in place of H. L. Haasis, resigned.

Norton O. Richardson to be postmaster at Havensville, Kans., in place of N. O. Richardson; office third class, April 1, 1921.

James R. Bell to be postmaster at Isabel, Kans., in place of J. R. Bell; office third class, January 1, 1921.

Barton A. C. Winter to be postmaster at Olpe, Kans., in place of B. A. C. Winter; office third class, April 1, 1921.

Bruce W. Ruthrauff to be postmaster at South Haven, Kans., in place of H. F. Dodson, resigned.

F. Marion Bowman to be postmaster at Bushton, Kans., in place of F. M. Bowman; office third class, April 1, 1921.

Rudolf Stollenwerk to be postmaster at Liebenthal, Kans., in place of Rudolf Stollenwerk; office third class, July 1, 1921.

LOUISIANA.

Helen S. Barstow to be postmaster at Cheneyville, La., in place of Charles Manning, resigned.

Jean C. Jack to be postmaster at Harrisonburg, La., in place of J. M. Carter, deceased; office third class, January 1, 1921.

Elias C. Leone to be postmaster at Zwolle, La., in place of F. C. Mitchell, deceased.

MAINE.

Kathryn E. Cantello to be postmaster at Hebron, Me., in place of K. E. Cantello; office third class, April 1, 1921.

Henry H. Walsh to be postmaster at Kennebunk Beach, Me., in place of H. H. Walsh; office third class, April 1, 1921.

Amelia A. Swasey to be postmaster at Limerick, Me., in place of A. A. Swasey; office third class, July 1, 1920.

William D. Murphy to be postmaster at New Castle, Me., in place of W. D. Murphy; office third class, January 1, 1921.

James L. Simpson to be postmaster at North Vassalboro, Me., in place of F. S. Brown; office third class, October 1, 1920.

MASSACHUSETTS.

Charles L. Goodspeed to be postmaster at Dennis, Mass., in place of C. L. Goodspeed; office third class April 1, 1921.

Archibald B. McDaniels to be postmaster at Enfield, Mass., in place of A. B. McDaniels; office third class, July 1, 1920.

Clarence S. Perkins to be postmaster at Essex, Mass., in place of C. S. Perkins; office third class October 1, 1920.

Winona C. Craig to be postmaster at Falmouth Heights, Mass., in place of W. G. Craig; office third class January 1, 1921.

Josephine E. Worster to be postmaster at Hull, Mass., in place of J. E. Worster; commission expired July 21, 1921.

Toilston F. Phinney to be postmaster at Hyannis Port, Mass., in place of T. F. Phinney; office third class July 1, 1920.

Alliston S. Barstow to be postmaster at Marshfield, Mass., in place of A. S. Barstow; office third class April 1, 1921.

Perez H. Phinney to be postmaster at Monument Beach, Mass., in place of P. H. Phinney; office third class July 1, 1920.

Florence L. Beal to be postmaster at North Cohasset, Mass., in place of F. L. Beal; office third class July 1, 1920.

William J. Sullivan to be postmaster at North Reading, Mass., in place of M. E. Ryer; office third class April 1, 1921.

Myra H. Lumbert to be postmaster at Pocasset, Mass., in place of M. H. Lumbert; office third class January 1, 1921.

Michael W. Hynes to be postmaster at Wayland, Mass., in place of M. W. Hynes; office third class October 1, 1920.

MICHIGAN.

Ambrose B. Stinson to be postmaster at Kingsley, Mich., in place of A. B. Stinson; office third class October 1, 1920.

Emerson L. Bunting to be postmaster at Walkerville, Mich., in place of E. L. Bunting; commission expired July 21, 1921.

MINNESOTA.

Jacob C. Luchsinger to be postmaster at Correll, Minn., in place of J. C. Luchsinger; office third class July 1, 1921.

John Lohn to be postmaster at Fosston, Minn., in place of J. D. Whaley, resigned.

Elmer W. Thompson to be postmaster at Lismore, Minn., in place of E. W. Thompson; office third class January 1, 1921.

Bernhard Staugenes to be postmaster at Vergas, Minn., in place of Bernhard Staugenes; office third class April 1, 1921.

Bessie H. J. Martinson to be postmaster at Echo, Minn., in place of B. H. Johnson; name changed by marriage.

MISSOURI.

Edward Burkhardt to be postmaster at Chesterfield, Mo., in place of Edward Burkhardt; office third class April 1, 1921.

Myra B. Shadowens to be postmaster at Creighton, Mo., in place of M. B. Shadowens; office third class April 1, 1921.

Henry D. French to be postmaster at Jameson, Mo., in place of H. D. French; office third class April 1, 1921.

Abraham L. McElvain to be postmaster at Elmo, Mo., in place of A. L. McElvain; office third class April 1, 1921.

William H. Jackson to be postmaster at Winfield, Mo., in place of W. H. Jackson; office third class April 1, 1921.

MONTANA.

Ezra A. Anderson to be postmaster at Belfry, Mont., in place of E. A. Anderson; office third class April 1, 1921.

Fred B. Selleck to be postmaster at Buffalo, Mont., in place of F. B. Selleck; office third class April 1, 1921.

Nellie W. Ashley to be postmaster at Hedgesville, Mont., in place of N. W. Ashley; office third class April 1, 1921.

Montie B. Slusher to be postmaster at Huntley, Mont., in place of M. B. Slusher; office third class April 1, 1921.

Eva V. Nance to be postmaster at Redstone, Mont., in place of E. V. Nance; office third class October 1, 1920.

Lydia Elstad to be postmaster at Roberts, Mont., in place of Lydia Elstad; office third class July 1, 1921.

Duncan Gillespie to be postmaster at Windham, Mont., in place of Duncan Gillespie; office third class July 1, 1921.

Jessie Long to be postmaster at Worden, Mont., in place of Jessie Long; office third class April 1, 1921.

Ada B. Koontz to be postmaster at Hot Springs, Mont., in place of A. B. Koontz; office third class July 1, 1921.

NEBRASKA.

Cyril Svoboda to be postmaster at Prague, Nebr., in place of Cyril Svoboda; office third class July 1, 1921.

John R. Bolte to be postmaster at Snyder, Nebr., in place of J. R. Bolte; office third class April 1, 1921.

Warren L. Woodbury to be postmaster at Center, Nebr., in place of W. L. Woodbury; office third class July 1, 1920.

Lester C. Kelley to be postmaster at Monroe, Nebr., in place of L. C. Kelly; office third class January 1, 1921.

Peter J. Johnson to be postmaster at Rosalie, Nebr., in place of P. J. Johnson; office third class April 1, 1921.

NEW HAMPSHIRE.

Stella E. Coburn to be postmaster at North Rochester, N. H., in place of S. E. Coburn; office third class October 1, 1920.

Ella M. P. Fraser to be postmaster at Rye Beach, N. H., in place of E. M. Fraser; office third class October 1, 1920.

NEW JERSEY.

Sylvester A. Smyth to be postmaster at Clementon, N. J., in place of G. B. Wright; office third class January 1, 1921.

Amos W. Weikel to be postmaster at Blackwood, N. J., in place of A. W. Weikel; office third class October 1, 1920.

Arthur Taylor to be postmaster at Boonton, N. J., in place of J. P. Cullen, deceased.

Thomas S. Sprague to be postmaster at Manahawkin, N. J., in place of T. S. Sprague; office third class July 1, 1921.

NEW YORK.

Edna L. Sinclair to be postmaster at Bible School Park, N. Y., in place of E. L. Sinclair; office third class April 1, 1921.

Leslie L. Mendel to be postmaster at Fair Haven, N. Y., in place of L. L. Mendel; office third class July 1, 1921.

William B. Phillips to be postmaster at Greenwood Lake, N. Y., in place of W. B. Phillips; office third class January 1, 1920.

Frank Rosenberg to be postmaster at New Hyde Park, N. Y., in place of Frank Rosenberg; office third class October 1, 1920.

Robert M. Maxon to be postmaster at Bloomville, N. Y., in place of R. M. Maxon; office third class April 1, 1921.

Walter L. Moe to be postmaster at Burke, N. Y., in place of W. L. Moe; office third class July 1, 1920.

Murvin L. Becker to be postmaster at Claverack, N. Y., in place of M. L. Becker; office third class October 1, 1920.

Edward C. Johnson to be postmaster at East Chatham, N. Y., in place of E. C. Johnson; commission expired July 21, 1921.

Mae H. Smith to be postmaster at Genoa, N. Y., in place of M. H. Smith; office third class January 1, 1921.

Milford E. Teator to be postmaster at Ghent, N. Y., in place of M. E. Teator; office third class April 1, 1921.

Grace M. Harpur to be postmaster at Harpursville, N. Y., in place of G. M. Harpur; office third class January 1, 1921.

Catharine A. Hamilton to be postmaster at Manhasset, N. Y., in place of C. A. Hamilton; commission expired July 21, 1921.

William V. Horne to be postmaster at Mohegan Lake, N. Y., in place of W. V. Horne; office third class January 1, 1921.

Howard M. Smith to be postmaster at North White Lake, N. Y., in place of H. M. Smith; commission expired July 21, 1921.

Apollos A. Smith to be postmaster at Paul Smiths, N. Y., in place of A. A. Smith; office third class October 1, 1920.

NORTH CAROLINA.

Baxter Biggerstaff to be postmaster at Bostic, N. C., in place of Baxter Biggerstaff; office third class January 1, 1921.

NORTH DAKOTA.

Albert E. Thacker to be postmaster at Hamilton, N. Dak., in place of A. E. Thacker; office third class October 1, 1920.

Chester A. Revell to be postmaster at Harvey, N. Dak., in place of J. G. Senger, deceased.

Welner B. Andrus to be postmaster at Hazelton, N. Dak., in place of W. B. Andrus; commission expired July 21, 1921.

James Fitzpatrick to be postmaster at Sawyer, N. Dak., in place of James Fitzpatrick; office third class April 1, 1921.

Hattie E. M. Dyson to be postmaster at Haynes, N. Dak., in place of H. E. M. Dyson; office third class January 1, 1921.

Edmund C. Sargent to be postmaster at Ruso, N. Dak., in place of E. C. Sargent; office third class July 1, 1921.

James F. Dunn to be postmaster at McClusky, N. Dak., in place of E. O. Kleve, declined.

OHIO.

Charles W. Evans to be postmaster at Huntsville, Ohio, in place of C. W. Evans; office third class July 1, 1920.

Nelson P. Swank to be postmaster at Quincy, Ohio, in place of N. P. Swank; office third class April 1, 1921.

Varnum C. Collins to be postmaster at Barnesville, Ohio, in place of G. V. Riddile; commission expired July 10, 1920.

OKLAHOMA.

Aciel E. Selby to be postmaster at Nelagoney, Okla., in place of A. E. Selby; office third class April 1, 1921.

OREGON.

Harry J. McDiarmid to be postmaster at Bandon, Oreg., in place of R. E. L. Bedillion, deceased.

Ross R. Cain to be postmaster at Crane, Oreg., in place of R. R. Cain; office third class January 1, 1920.

PENNSYLVANIA.

Lewis A. Brown to be postmaster at Adah, Pa., in place of L. A. Brown; office third class April 1, 1921.

Harry H. Fearon to be postmaster at Beech Creek, Pa., in place of H. H. Fearon; office third class April 1, 1921.

Anna M. Black to be postmaster at Floradale, Pa., in place of A. M. Black; office third class April 1, 1921.

Gordon S. Studholme to be postmaster at Port Allegany, Pa., in place of H. J. Lemon, resigned.

Della Elder to be postmaster at Vestaburg, Pa., in place of Della Elder; office third class October 1, 1920.

Camilla W. Adams to be postmaster at East McKeesport, Pa., in place of C. W. Adams; commission expired March 16, 1921.

SOUTH CAROLINA.

Joseph B. Brabham to be postmaster at Olar, S. C., in place of G. O. Barker; office third class January 1, 1920.

Jasper E. Watson to be postmaster at Travellers Rest, S. C., in place of J. E. Watson; office third class July 1, 1921.

SOUTH DAKOTA.

Aglae Bosse to be postmaster at Jefferson, S. Dak., in place of Aglae Bosse; office third class January 1, 1921.

W. Randall Spurlock to be postmaster at McIntosh, S. Dak., in place of W. F. McGuigan; commission expired January 17, 1920.

TENNESSEE.

Lula L. Shearer to be postmaster at Farner, Tenn., in place of L. L. Shearer; office third class July 1, 1921.

Clifford B. Perkins to be postmaster at Roan Mountain, Tenn., in place of C. B. Perkins; office third class January 1, 1921.

TEXAS.

Clara C. White to be postmaster at Negargel, Tex., in place of C. C. White; office third class January 1, 1921.

Edmund R. Gallagher to be postmaster at San Diego, Tex., in place of J. W. Shaw, deceased.

Merlin M. Eakin to be postmaster at Chilton, Tex., in place of S. E. Miles, resigned; office third class July 1, 1920.

Henry B. Harrison to be postmaster at La Porte, Tex., in place of C. A. Hall, resigned.

UTAH.

Charles E. Walton, jr., to be postmaster at Monticello, Utah, in place of C. E. Walton, jr.; office third class January 1, 1921.

John A. Hatch to be postmaster at Woods Cross, Utah, in place of J. A. Hatch; office third class April 1, 1921.

VERMONT.

Marion T. Flynn to be postmaster at Alburg, Vt., in place of M. T. Flynn; commission expired August 10, 1921.

Lota A. Patch to be postmaster at Cambridge, Vt., in place of L. A. Patch; commission expired July 21, 1921.

Marion J. Hall to be postmaster at South Ryegate, Vt., in place of M. J. Hall; office third class January 1, 1921.

Charles H. West to be postmaster at Rutland, Vt., in place of P. M. Meldon; commission expired December 22, 1918.

Victor L. Smith to be postmaster at East Arlington, Vt., in place of V. L. Smith; office third class October 1, 1920.

Paul H. Gates to be postmaster at Franklin, Vt., in place of P. H. Gates; office third class April 1, 1921.

Frank P. Percival to be postmaster at Jericho, Vt., in place of F. P. Percival; office third class January 1, 1921.

Francis A. Gray to be postmaster at Middletown Springs, Vt., in place of F. A. Gray; office third class April 1, 1921.

Robert H. Allen to be postmaster at South Hero, Vt., in place of R. H. Allen; office third class January 1, 1921.

WASHINGTON.

William N. Meserve to be postmaster at Grays River, Wash., in place of W. N. Meserve; office third class April 1, 1921.

Orris E. Marine to be postmaster at Colton, Wash., in place of O. E. Marine; office third class April 1, 1921.

WEST VIRGINIA.

George W. Sites to be postmaster at Freeman, W. Va., in place of G. W. Sites; office third class October 1, 1920.

Fernando D. Williams to be postmaster at Matoaka, W. Va., in place of M. G. Gilmer; commission expired July 14, 1920.

M. Myrtle Fitzwater to be postmaster at Page, W. Va., in place of M. M. Fitzwater; office third class April 1, 1921.

Harry R. Tribou to be postmaster at Tams, W. Va., in place of H. R. Tribou; office third class July 1, 1921.

Walter B. Beale to be postmaster at Fireco, W. Va., in place of W. B. Beale; office third class April 1, 1921.

Thomas O. Wash to be postmaster at Kayford, W. Va., in place of T. O. Wash; office third class July 1, 1921.

Ennis B. Helton to be postmaster at Raleigh, W. Va., in place of E. B. Helton; office third class July 1, 1921.

WISCONSIN.

Harold E. Webster to be postmaster at Brule, Wis., in place of H. E. Webster; office third class April 1, 1921.

Leonard D. Perry to be postmaster at Cable, Wis., in place of L. D. Perry; office third class January 1, 1921.

Edward G. Carter to be postmaster at Drummond, Wis., in place of E. G. Carter; office third class July 1, 1920.

May I. Kinsey to be postmaster at Fish Creek, Wis., in place of M. I. Kinsey; office third class July 1, 1920.

Edward M. Perry to be postmaster at Forestville, Wis., in place of E. M. Perry; office third class April 1, 1921.

Helmuth F. Prust to be postmaster at Greenleaf, Wis., in place of H. F. Prust; office third class January 1, 1921.

Joseph A. Chisholm to be postmaster at Lake Nebagamon, Wis., in place of J. A. Chisholm; office third class January 1, 1921.

Charles I. Larson to be postmaster at Mason, Wis., in place of C. I. Larson; office third class January 1, 1921.

Freeman E. Boyer to be postmaster at Mattoon, Wis., in place of M. J. Elstad, resigned.

Alice E. Ford to be postmaster at Pelican Lake, Wis., in place of A. E. Ford; office third class January 1, 1921.

Hubert B. Fox to be postmaster at Plum City, Wis., in place of H. B. Fox; office third class July 1, 1921.

Martin J. Jischke to be postmaster at Sister Bay, Wis., in place of M. J. Jischke; office third class January 1, 1921.

Henry A. Lagrandeur to be postmaster at Somerset, Wis., in place of H. A. Lagrandeur; office third class July 1, 1921.

Edward O. Erickson to be postmaster at Stetsonville, Wis., in place of E. O. Erickson; office third class July 1, 1921.

WYOMING.

Jesse B. Budd to be postmaster at Big Piney, Wyo., in place of J. B. Budd; office third class July 1, 1921.

James F. Petrie to be postmaster at Opal, Wyo., in place of J. F. Petrie; office third class July 1, 1921.

CONFIRMATIONS.

Executive nominations confirmed by the Senate August 24 (legislative day of August 22), 1921.

SECRETARIES OF EMBASSIES OR LEGATIONS.

CLASS 1.

William Spencer.
Charles B. Curtis.
H. F. Arthur Schoenfeld.

CLASS 2.

Matthew E. Hanna.
Frank D. Arnold.
Louis A. Sussdorff, jr.
John C. Wiley.
Ferdinand L. Mayer.
Stokley W. Morgan.
Benjamin Thaw, jr.

CLASS 3.

Jay Pierrepont Moffat.
Richard B. Southgate.
James Clement Dunn.
Myron A. Hofer.
Frederick F. A. Pearson.
Harold M. Deane.
W. Merritt Swift.
Edward C. Wynne.

CLASS 4.

Warden McK. Wilson.
Jefferson Patterson.
Elbridge D. Rand.
Raymond E. Cox.
Percy A. Blair.
Thomas L. Daniels.
Lawrence Dennis.
John H. MacVeagh.
John Sterett Gittings, jr.
W. Roswell Barker.
James Orr Denby.
Hugh Millard.
Watson K. Blair.

APPRAISER OF MERCHANDISE.

John A. Janetzke, jr., to be appraiser of merchandise in customs collection district No. 13, with headquarters at Baltimore.

COLLECTOR OF INTERNAL REVENUE.

Louis P. Brewer, of Jasper, Tenn., to be collector of internal revenue for the district of Tennessee.

ASSISTANT ATTORNEY GENERAL.

Albert Ottinger to be Assistant Attorney General.

UNITED STATES ATTORNEY.

Charles F. Cole, of Arkansas to be United States attorney, eastern district of Arkansas.

UNITED STATES MARSHALS.

Brownlow Jackson to be United States marshal, western district of North Carolina.

Clarence R. Hotchkiss to be United States marshal, district of Oregon.

S. Green Proffit to be United States marshal, western district of Virginia.

ASSISTANT DIRECTORS, BUREAU OF FOREIGN AND DOMESTIC COMMERCE.

Leland R. Robinson to be assistant director, at $4,000 per annum.

Louis Domeratzky to be assistant director, at $3,500 per annum.

Thomas R. Taylor to be assistant director, at $3,000 per annum.

CHIEF OF CHILDREN'S BUREAU.

Grace Abbott, of Nebraska, to be Chief of the Children's Bureau.

COMMISSIONER OF IMMIGRATION.

Roberto H. Todd to be commissioner of immigration, San Juan, P. R.

REGISTERS OF THE LAND OFFICE.

Elzie K. Frits to be register of land office, Waterville, Wash.

Edwin Malcolm Kirton to be register of land office, Glasgow, Mont.

Mart T. Christensen to be register of land office, Cheyenne, Wyo.

RECEIVERS OF PUBLIC MONEYS.

Frank Seymour Reed to be receiver of public moneys, Glasgow, Mont.

Isaiah E. Yoder to be receiver of public moneys, Cheyenne, Wyo.

PUBLIC HEALTH SERVICE.

TO BE SURGEON.

Francis A. Carmelia.
Lionel E. Hooper.
Ernest W. Scott.
Joseph Bolten.
Tully J. Liddell.
Walter L. Treadway.
Mather H. Neil.
Harry F. White.

TO BE PASSED ASSISTANT SURGEON.

Harry E. Trimble.
Anthony A. S. Giordana.
Mark V. Ziegler.
James E. Faris.
Paul D. Mossman.
Vance B. Murray.
Thomas Parran, jr.
Roy P. Sandidge.
John W. Tappan.

PROMOTIONS IN THE ARMY.

JUDGE ADVOCATE GENERAL'S DEPARTMENT.

Allen Mitchell Burdett to be major.

ORDNANCE DEPARTMENT.

Guy Humphrey Drewry to be captain.
Edison Albert Lynn to be captain.
Edwin Fry Barry to be first lieutenant.

FIELD ARTILLERY.

Ward Currey Goessling to be captain.
Leo Vincent Warner to be captain.

INFANTRY.

Willis Dodge Cronkhite to be captain.

OFFICERS' RESERVE CORPS.

Adrian S. Fleming to be brigadier general.

MEDICAL CORPS.

To be captains.

First Lieut. Robert Malcolm.
First Lieut. Alexander Palmer Kelly.

DENTAL CORPS.

To be captains.

First Lieut. Walter Duncan Love.
First Lieut. Clarence Walter Johnson.

VETERINARY CORPS.

To be first lieutenant.

Second Lieut. Claude Francis Cox.

APPOINTMENTS BY TRANSFER, IN THE ARMY.

ORDNANCE DEPARTMENT.

First Lieut. Earl Hendry, Coast Artillery Corps.

FIELD ARTILLERY.

Capt. Marvin Conrad Heyser, Quartermaster Corps.
Capt. Claude Gilbert Benham, Coast Artillery Corps.

AIR SERVICE.

Capt Hawthorne Charles Gray, Infantry.
First Lieut. James Hicks Carney Hill, Infantry.

PROMOTIONS IN THE NAVY.

To be passed assistant paymasters, with the rank of lieutenant:

Andrew J. McMullen,
William E. Lund,
Lawrence C. Fuller.

Maurice M. Witherspoon to be chaplain in the Navy, with rank of lieutenant.

To be chaplains in the Navy, with rank of lieutenant (junior grade):

Joel H. Benson,
John A. McCarthy,
Tipton L. Wood.

Frank W. Hathaway to be passed assistant paymaster in the Navy, with rank of lieutenant.

Michael C. Faber to be assistant naval constructor in the Navy with rank of lieutenant.

POSTMASTERS.

ARKANSAS.

Fairy K. Reynolds, Bradley.
Jesse F. Booth, Elaine.
Max Cook, Gould.
Charles R. French, Harrisburg.
Dennis S. Farmer, Havana.
William J. Martin, Humphrey.
Isaac J. Brittingham, Hunter.
William W. Ferguson, Huntington.
William H. Ashburn, Joiner.
Charles A. Roberts, McNeil.
Thomas D. Peck, Mammoth Spring.
Charles H. Dixon, Mansfield.
Jesse H. Shaw, Midland.

CALIFORNIA.

Otto Warnke, Bellflower.
Emma Dodge, Danville.
John C. Neblett, Elsinore.
Leonard W. McBride, Palms.
Josephine Purcell, Represa.
Ashley L. Smith, Ryde.
Ora W. Bercaw, Saugus.
James C. Summers, Seeley.
Joseph M. Hamilton, Crescent City.
Emma Scott, Trinidad.

COLORADO.

Ramond Roberg, Buena Vista.
John W. Emmerson, Canon City.
Ruby R. Breder, Rico.
Joshua H. Espey, Delagua.

CONNECTICUT.

Albert W. Tyler, Broad Brook.
Elbert W. Scobie, Orange.
Matthew E. McDonald, Simsbury.
Benjamin D. Parkhurst, Sterling.
Lewis B. Brand, Versailles.
William T. McKenzie, Yalesville.
William E. Manning, Yantic.
Rollin S. Paine, Stony Creek.
Gertrude W. Tracy, Wauregan.
Cyrus T. Gilbert, Noroton Heights.
Wilbur C. Hawley, Stepney Depot.
John L. Davis, Wilton.

FLORIDA.

James L. Richbourg, Laurelhill.

IDAHO.

Samuel J. Linder, Craigmont.
Doris A. Pears, Avery.
Louis E. Diehl, Eagle.
William S. Dunn, Hazelton.
Hattie Hibbs, Lapwai.
Pearl Lewis, Carey.

ILLINOIS.

James F. Harrison, Leaf River.
Arthur C. Lueder, Chicago.
John D. Allen, Armington.
Hulda G. Sherman, Ferris.
Olive G. Hayes, Lafayette.
Harvey E. Broaddus, Varna.
Charlotte M. Spelbring, Waynesville.

INDIANA.

Edward B. Spohr, Jamestown.
Charles H. Callaway, Milton.
John S. Moore, Battle Ground.
Glen Zell, Connersville.
Homer O. Hart, Linton.
Harold H. Brinkley, Fountain City.
Henry Chapman, Woodburn.
Charles Van Horn, Bluffton.
Mollie P. Askren, French Lick.

IOWA.

Edna B. Wylie, Derby.
John A. Martin, Floyd.
Robert B. Light, Deep River.
Dean Taylor, Fairfield.
Lizzie D. McCormick, Letts.
Elsie N. Morgan, Smithland.
William S. Ferree, Hillsboro.
James H. Reynolds, Gilbert.
Harvey S. Bliss, Kensett.
Lillian M. Cochran, Lake City.
Thomas E. Halls, Lucas.
Melvin A. Smith, Meservey.
Charles J. Denick, Miles.
Clifton A. Riggs, Modale.
Edward L. Sampson, Nichols.

Oscar Smith, Plainfield.
Alba V. Gillett, Randolph.
George A. Fox, Quimby.
Matilda Johnson, Ridgeway.

KANSAS.

John B. Schwab, Morrowville.
Anna M. Hood, Montezuma.
Ray Bartlett, La Harpe.
Lawrence J. Barrett, Admire.
Max E. Bacon, Deerfield.
Alfred N. Parrish, Dunlap.
Elmer W. Killion, Florence.
Norton O. Richardson, Havensville.
James R. Bell, Isabel.
Barton A. C. Winter, Olpe.
Bruce W. Ruthrauff, South Haven.
Lida Zimmerman, Otis.
Olive Clements, Maplehill.
F. Marion Bowman, Bushton.
Rudolf Stollenwerk, Liebenthal.

KENTUCKY.

George A. Seiler, Covington.
Peter H. Butler, Smiths Grove.
Orange H. Marcum, Stearns.

LOUISIANA.

Lawrence O. Barry, Grand Coteau.
Helen S. Barstow, Cheneyville.
Jean C. Jack, Harrisonburg.
Elias C. Leone, Zwolle.

MAINE.

Lewis C. Whitten, Carmel.
Kathryn E. Cantello, Hebron.
Henry H. Walsh, Kennebunk Beach.
Amelia A. Swasey, Limerick.
William D. Murphy, New Castle.
James L. Simpson, North Vassalboro.

MARYLAND.

Richard H. Williams, Midland.

MASSACHUSETTS.

George G. Henry, Ashfield.
Ralph L. Getman, Cheshire.
Archibald B. McDanields, Enfield.
Charles L. Goodspeed, Dennis.
Clarence S. Perkins, Essex.
Winona G. Craig, Falmouth Heights.
Josephine E. Worster, Hull.
Toilston F. Phinney, Hyannis Port.
Alliston S. Barstow, Marshfield.
Perez H. Phinney, Monument Beach.
Florence L. Beal, North Cohasset.
William J. Sullivan, North Reading.
Myra H. Lumbert, Pocasset.
Michael W. Hynes, Wayland.

MICHIGAN.

Grove M. Rouse, Atlanta.
Ambrose B. Stinson, Kingsley.
Emerson L. Bunting, Walkerville.
Morton G. Wells, Byron Center.
Ruth O. Olson, Carney.
Leonard Van Regenmorter, Macatawa.
Harriet E. Stevens, Posen.
Alberta Montpas, Powers.
Leslie C. Dawes, Rapid City.
Frank J. Gravelle, Rapid River.
Edwin J. Hodges, Vanderbilt.

MINNESOTA.

Elmer E. Putnam, Big Lake.
Adolph Wernicke, Bingham Lake.
Emil A. Voelz, Danube.
Leslie A. Persons, Garvin.
Frank H. Griffin, Good Thunder.
Myrtle M. Goodwin, Hills.
William R. Gates, North St. Paul.
Anthony R. McManus, Wendell.
Pearl C. Heigl, Winsted.
Bessie H. J. Martinson, Echo.
Jacob C. Luchsinger, Correll.
John Lohn, Fosston.
Elmer W. Thompson, Lismore.
Bernhard Staugenes, Vergas.
Emil M. Blasky, Mahnomen.

MISSOURI.

Samuel F. Wegener, Blackburn.
Abraham L. McElvain, Elmo.
William H. Jackson, Winfield.
Edward Burkhardt, Chesterfield.
Myra B. Shadowens, Creighton.
Henry D. French, Jameson.
Herbert T. Wilson, Brashear.
Henry H. Haas, Cape Girardeau.
Andrew L. Hogenson, Ethel.
John W. McGee, Ewing.
Orville J. White, Fairfax.
Henry W. Schupp, Fremont.
Lola L. Shumate, Gilliam.
William H. Howe, Hardin.
Thomas E. Sparks, Holliday.
Harry F. Gurney, Kidder.
Enoch W. Brewer, McFall.
Lena M. Bertsch, Mayview.
Nathan J. Rowan, Meta.
Roy D. Eaton, Powersville.
J. Herbert Hunter, Russellville.
George W. Hendrickson, Springfield.
Floyd Rowland, Stover.
Wilbur N. Osborne, Williamsville.

MONTANA.

Ezra A. Anderson, Belfry.
Fred B. Selleck, Buffalo.
Nellie W. Ashley, Hedgesville.
Montie B. Slusher, Huntley.
Eva V. Nance, Redstone.
Lydia Elstad, Roberts.
Duncan Gillespie, Windham.
Jessie Long, Worden.
Ada B. Koontz, Hot Springs.

NEBRASKA.

Cyril Svoboda, Prague.
John R. Bolte, Snyder.
Charles A. Shoff, Grafton.
Warren L. Woodbury, Center.
Lester C. Kelley, Monroe.
Peter J. Johnson, Rosalie.

NEW HAMPSHIRE.

Harry B. Burtt, Amherst.
Fred A. Hall, Brookline.
Arthur G. Robie, Hookset.
Harriette H. Hinman, North Stratford.
Effie T. Smith, North Woodstock.
Edna A. Cummings, Tamworth.
Chester B. Averill, Warren.
Stella E. Coburn, North Rochester.
Ella M. P. Fraser, Rye Beach.

NEW JERSEY.

Charles B. Ogden, Butler.
Amos W. Weikel, Blackwood.
Arthur Taylor, Boonton.
Thomas S. Sprague, Manahawkin.
Grace E. Cowell, Convent Station.
Ira L. Longcor, Morris Plains.
Sylvester A. Smyth, Clementon.

NEW YORK.

Leslie L. Mondel, Fair Haven.
William B. Phillips, Greenwood Lake.
Frank Rosenberg, New Hyde Park.
Charles G. Post, Bangall.
Charles R. Diehl, Brewster.
J. Fred Hammond, Canton.
Nellie MacMorran, Firthcliffe.
Hanna H. Pugsley, Highland Mills.
George W. Aikin, Olcott.
William P. Lister, Rockville Center.
Jacob C. Kopperger, Stottville.
Mabel S. De Baun, Suffern.
Charles M. Roes, West Haverstraw.
Edna L. Sinclair, Bible School Park.
Robert M. Maxon, Bloomville.
Walter L. Moe, Burke.
Murvin L. Becker, Claverack.
Edward C. Johnson, East Chatham.
Mae H. Smith, Genoa.
Milford E. Teator, Ghent.
Grace M. Harpur, Harpursville.

Catharine A. Hamilton, Manhasset.
William V. Horne, Mohegan Lake.
Howard M. Smith, North White Lake.
Apollos A. Smith, Paul Smiths.
Walter J. McMahan, Sonyea.

NORTH CAROLINA.

Baxter Biggerstaff, Bostic.

NORTH DAKOTA.

Niels E. Sorteberg, Bowdon.
Elizabeth I. Connelly, Hurdsfield.
Wanzo M. Shaw, Sheldon.
George H. Rieland, Streeter.
James F. Dunn, McClusky.
Albert E. Thacker, Hamilton.
Chester A. Revell, Harvey.
Welner B. Andrus, Hazelton.
James Fitzpatrick, Sawyer.
George F. Purcell, Amidon.
Hattie E. M. Dyson, Haynes.
Edmund C. Sargent, Ruso.
Belle Elton, Deering.
Emma O. Dickinson, Fullerton.
May K. Retzlaff, Kenmare.
Howard H. Ellsworth, Killdeer.
James A. Elliott, New England.
Albert E. Briggs, New Leipzig.
James O. Lewis, Norma.
Harriet M. Frank, Powers Lake.
Mons K. Ohnstad, Sharon.
Jessie M. Robison, Werner.
Will H. Wright, Woodworth.

OHIO.

Mary C. Lauer, Tiltonsville.
Charles W. Evans, Huntsville.
Nelson P. Swank, Quincy.
Varnum C. Collins, Barnesville.

OKLAHOMA.

Aciel E. Selby, Nelagoney.
Earl W. Drake, Binger.
Sara A. Loveland, Castle.
Charles H. Hoffman, Dilworth.
Henry O. Whala, Haworth.
James E. McNair, Macomb.
Homer M. Canan, Pocasset.
Charles E. Lindsey, Salina.
Harrison H. McMahan, Tecumseh.
Edmond J. Gardner, Valliant.

OREGON.

Lenora Hunter, Mosier.
Harry J. McDiarmid, Bandon.
Rose R. Cain, Crane.

PENNSYLVANIA.

John H. Baldwin, Atglen.
John L. Knisely, Bellefonte.
Jeremiah S. Troxell, Cementon.
Katherine M. Dom, Dawson.
Anna M. Hess, Duncanville.
Wilberforce H. Stiles, Endeavor.
Alice M. Boner, Gilberton.
William G. Childs, Grand Valley.
James Matchette, Hokendauqua.
Camilla W. Adams, East McKeesport.
Caroline E. Boyer, Kersey.
Mae Libbey, Kinzua.
John D. Griffith, Millsboro.
William Boyd, sr., New Salem.
George W. Gosser, Pittsburgh.
Albert W. Zimmerman, Ralphton.
Joseph M. Hathaway, Rices Landing.
Anna W. Richardson, Rochester Mills.
Fred W. Allison, Roscoe.
Howard O. Boyer, Rural Valley.
John A. Van Orsdale, Russell.
John A. Bissell, St. Petersburg.
Millard F. McCullough, Seward.
Peter H. Sickles, Smock.
James S. Hook, Somerfield.
Charles A. McDannell, Wattsburg.
Jeane C. Lewis, Weedville.
Elsie M. Fleming, West Winfield.
William E. Mannear, Wilkes-Barre.
Lewis A. Brown, Adah.
Harry H. Fearon, Beech Creek.
Anna M. Black, Floradale.
Gordon S. Studholme, Port Allegany.
Della Elder, Vestaburg.

RHODE ISLAND.

Beatrice M. Kelly, Little Compton.
Reuben A. Gibbs, West Barrington.

SOUTH CAROLINA.

Joseph G. Brabham, Olar.
Jasper E. Watson, Travellers Rest.

SOUTH DAKOTA.

Henry J. Mensing, Lemmon.
Alfred J. Soukup, Lesterville.
Harry E. Kelly, Vivian.
Aglae Bosse, Jefferson.
W. Randall Spurlock, McIntosh.

TENNESSEE.

Lula L. Shearer, Farner.
Clifford B. Perkins, Roan Mountain.

TEXAS.

Wilson P. Hardwick, Pottsboro.
John S. Sloan, Roscoe.
Theodore Miller, Rusk.
Henry B. Harrison, La Porte.
Clara C. White, Megargel.
Edmund R. Gallagher, San Diego.
Merlin M. Eakin, Chilton.

UTAH.

Etta Moffitt, Kenilworth.
John A. Hatch, Woods Cross.
Charles E. Walton, jr., Monticello.
John W. Guild, Kamas.

VERMONT.

Glennie C. McIntyre, Danby.
Lewis H. Higgins, Newfane.
Blanche A. Belanger, Orwell.
Catherine Neary, Shelburne.
Charles H. West, Rutland.
Victor L. Smith, East Arlington.
Paul H. Gates, Franklin.
Frank P. Percival, Jericho.
Francis A. Gray, Middletown Springs.
Robert H. Allen, South Hero.
Marion T. Flynn, Alburg.
Lota A. Patch, Cambridge.
Marion J. Hall, South Ryegate.

WASHINGTON.

Roy E. Carey, Hartline.
William A. Carlisle, Onalaska.
Kathryn Reichert, Orting.
Arthur Warren, Selah.
Serena D. Vinson, Shamokawa.
Elton J. O'Larey, White Bluffs.
Leonard G. Masters, Wilkeson.
Howard J. Lonctot, Yacolt.
Dow R. Hughes, Yelm.
Orris E. Marine, Colton.
William N. Meserve, Grays River.

WEST VIRGINIA.

Walter B. Beale, Fireco.
Thomas O. Wash, Kayford.
Ennis B. Helton, Raleigh.
George W. Sites, Freeman.
Fernando D. Williams, Matoaka.
M. Myrtle Fitzwater, Page.
Harry R. Tribou, Tams.

WISCONSIN.

Harold E. Webster, Brule.
Leonard D. Perry, Cable.
Edward G. Carter, Drummond.
May I. Kinsey, Fish Creek.
Edward M. Perry, Forestville.
Helmuth F. Prust, Greenleaf.
Joseph A. Chisholm, Lake Nebagamon.
Charles I. Larson, Mason.
Freeman E. Boyer, Mattoon.
Alice E. Ford, Pelican Lake.
Hubert B. Fox, Plum City.
Martin J. Jischke, Sister Bay.
Henry A. Lagrandeur, Somerset.
Edward O. Erickson, Stetsonville.

WYOMING.

Jesse B. Budd, Big Piney.
James F. Petrie, Opal.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *August 24, 1921.*

The House met at 10 o'clock a. m.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Blessed Lord, we thank Thee for the love wherewith Thou hast loved us. We bless Thee for the mercy of the past months with their associations, fraternities, and councils. Give Thy blessing and Thy sanction to their labors and their deliberations. Grant the blessing of rest to Thy servants who have so faithfully administered the duties imposed upon them, and through the days of approaching relaxation be with them and their devoted families with many tokens of Thy love and care. Lift up our whole country and bless it with peace and concord. O Sun of Righteousness, arise with healing in Thy beams, for the whole earth is so sick, so hungry, waiting for Thy touch. Through Jesus Christ, our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, one of its clerks, announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 2430. An act to authorize the construction of a bridge across the St. Marys River at or near Wilds Landing Ferry, between Camden County, Ga., and Nassau County, Fla.

DEFICIENCY APPROPRIATIONS—CONFERENCE REPORT.

Mr. MADDEN. Mr. Speaker, I call up the conference report upon the bill (H. R. 8117), making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1922, and for other purposes.

Mr. ANDERSON. Mr. Speaker, I desire to make a point of order against the conference report at the proper time. When is that time?

The SPEAKER. After the report has been reported to the House. The Clerk will read the report.

The Clerk read the conference report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8117) making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1922, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 9 and 10.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 6, 7, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 24, 25, 26, 27, 28, 29, 31, 32, 33, and 35, and agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "*Provided further*, That no part of this appropriation shall be used for actual expenses of subsistence exceeding $5 a day or per diem in lieu of subsistence exceeding $4 for any officer or employee of the United States Shipping Board or the United States Shipping Board Emergency Fleet Corporation"; and the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment as follows: At the end of the matter inserted by said amendment insert the following: "*Provided*, That no person shall be paid from this appropriation at a rate of compensation exceeding $5,000 per annum"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

JUDGMENTS, COURT OF CLAIMS.

For payment of the judgments rendered by the Court of Claims and reported to Congress during the present session in Senate Document No. 63, namely:

Under the Treasury Department, $166,523.02;

Under the War Department, except the judgment in favor of the Broadbent Portable Laundry Corporation, $19,012,71;

In all, $185,535.73.

None of the judgments contained herein shall be paid until the right of appeal shall have expired.

And the Senate agree to the same.

The committee of conference have not agreed upon the following amendments of the Senate numbered 2, 3, 5, 8, 22, and 23.

MARTIN B. MADDEN,
J. G. CANNON,
PATRICK H. KELLEY,
JOSEPH W. BYRNS,
J. P. BUCHANAN,
Managers on the part of the House.

F. E. WARREN,
W. L. JONES,
Managers on the part of the Senate.

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8117) making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1922, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conference committee and submitted in the accompanying conference report:

On No. 1: Appropriates $5,500, as proposed by the Senate, for miscellaneous expenses of the Supreme Court of the District of Columbia for the fiscal year 1921.

On No. 4: Limits the actual expenses for subsistence of officers and employees of the Shipping Board to not to exceed $5 per day, or their per diem in lieu of subsistence to not to exceed $4.

On Nos. 6 and 7: Appropriates $7,000, as proposed by the Senate, for expenses of the dye and chemical section of the Customs Division for the fiscal year 1922.

On Nos. 9 and 10: Strikes out the paragraph inserted by the Senate reappropriating certain unexpended balances under the War Department for the payment of claims arising out of war contracts.

On Nos. 11 to 16, inclusive, relating to the Department of Justice: Appropriates in the amounts proposed by the Senate for the fiscal year 1921 and prior years, for contingent expenses, detection and prosecution of crimes, books for judicial officers, and payment of costs taxes against the United States.

On Nos. 17, 18, 19, 20, and 21, relating to United States courts: Appropriates, in the amounts proposed by the Senate, for salaries and expenses of United States marshals, salaries and expenses of district attorneys, salaries and expenses of clerks of courts, and fees of jurors, for the fiscal year 1921.

On Nos. 24 and 25, relating to the Atlanta, Ga., Penitentiary: Appropriates, as proposed by the Senate, $1,449.10 for miscellaneous expenses for the fiscal year 1921, and $20,000 for the construction of a water tank.

On Nos. 26 and 27, relating to the Leavenworth, Kans., Penitentiary: Appropriates $30,000 for a new power house and $91,500 for power-house equipment, as proposed by the Senate.

On No. 28: Appropriates $8,200 for the construction of a water works system for the McNeil Island, Wash., Penitentiary.

On Nos. 29 and 30: Appropriates $200,000, as proposed by the Senate, for the enforcement of the packers and stockyards act modified so as to limit the maximum salary to not to exceed $5,000 per annum.

On Nos. 31, 32, and 33, relating to judgments of United States courts: Appropriates $17,467.35 for judgments of United States courts certified to Congress after the bill had passed the House.

On No. 34: Appropriates for judgments of the Court of Claims reported to Congress after the bill had passed the House, modified so as to eliminate from such judgments the payment of a judgment of $106,992.33 in favor of the Broadbent Portable Laundry Corporation.

On No. 35: Appropriates $790,994.43 for the payment of claims allowed by the accounting officers of the Government and reported to Congress after the bill had passed the House.

The committee of conference have not agreed upon the following amendments of the Senate:

On No. 2: Placing a limitation upon salaries of officers and employees of the Shipping Board and Emergency Fleet Corporation.

On No. 3: Relating to the auditing of accounts of the Shipping Board and Emergency Fleet Corporation.

On No. 5: Appropriating $200,000 for expenses of the conference on the limitation of armaments.

On No. 8: Appropriating $100,000 for the customs service.

On No. 22: Appropriating $138,000 for support of United States prisoners.

On No. 23: Appropriating $44,149.65 for miscellaneous expenses of United States courts for the fiscal year 1921 and prior years.

MARTIN B. MADDEN,
J. G. CANNON,
PATRICK H. KELLEY,
JOSEPH W. BYRNS,
J. P. BUCHANAN,
Managers on the part of the House.

Mr. ANDERSON. Mr. Speaker, I make the point of order that the conferees have exceeded their authority in the conference report just read. The Senate adopted an amendment, No. 30, which read as follows:

Enforcement of packers and stockyards act: To enable the Secretary of Agriculture to carry in effect the provisions of the packers and stockyards act, approved August 13, 1921, $200,000.

To that provision the conferees have adopted the following proviso:

Provided, That no person shall be paid from this appropriation at a rate of compensation exceeding $5,000 per annum.

Of course, that provision is in the form of a limitation, but the Senate amendment contains no provision whatever with respect to the salaries which may be paid under the appropriation carried by the Senate amendment. If the conferees can add a limitation which goes to the very purpose and effectiveness of the enforcement of the packers and stockyards act, upon which neither the House nor the Senate have ever had an opportunity to pass, then they can add any germane limitation without reference to action by either the House or the Senate. I am willing to admit that if the Senate had added any sort of a proviso with respect to the salaries which will be paid under the appropriation the conferees could have amended that proviso by any germane amendment, but the question of salaries, which is a legislative and not an appropriation question, not having been inserted by the Senate, my contention is that the conferees in inserting that proviso have exceeded their authority.

Mr. WALSH. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON. Yes.

Mr. WALSH. Does the gentleman contend that the conferees could not have agreed to an amendment striking out $200,000 and inserting $20?

Mr. ANDERSON. No.

Mr. WALSH. That would have gone to the effectiveness and purpose of the enforcement of that act.

Mr. ANDERSON. That is true; but the question of salaries is primarily a legislative question. The question of the maximum salary which is to be paid under this appropriation was not before the conferees.

Mr. WALSH. But the amendment was before the conferees, and the conferees have added by way of an amendment a limitation on an amendment proposing an appropriation.

Mr. ANDERSON. Does the gentleman from Massachusetts contend that the conferees could add to a straight appropriation any limitation which they might desire to incorporate, which was germane to the main proposition?

Mr. WALSH. Any limitation which would have been in order in the House to a Senate amendment.

Mr. MADDEN. This is a Senate amendment. It was not reported in the bill to the House.

Mr. ANDERSON. I understand that, but the Senate amendment fixes the authority of the conferees with respect to the proposition under consideration.

Mr. MADDEN. The whole subject matter was involved in the appropriation itself.

Mr. MANN. Does the gentleman doubt, if the Senate amendment were under consideration in the House, that the House could add this limitation as an amendment to the Senate amendment?

Mr. ANDERSON. I have no doubt about that whatever.

Mr. MANN. The conferees have the same authority representing the House that the House has, subject to the approval of the House.

Mr. HARDY of Texas. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON. Yes.

Mr. HARDY of Texas. I call the attention of the gentleman to the proviso on the first page of the report:

Provided further, That no part of this appropriation shall be used for actual expenses of subsistence exceeding $5 a day or per diem in lieu of subsistence exceeding $4 for any officer or employee of the United States Shipping Board or the United States Shipping Board Emergency Fleet Corporation.

That was substituted for the following Senate amendment:

Provided further, That no part of this appropriation shall be used to pay any employee of the Shipping Board or the Emergency Fleet Corporation a higher per diem than $4 a day in lieu of subsistence.

Is not that a similar limitation?

Mr. ANDERSON. But that is carried in the original Senate amendment, and that question is, therefore, before the conferees, and they have amended that provision properly, I think.

Mr. HARDY of Texas. But the conferees decided in lieu of the matter inserted by the amendment to insert it so that it is an additional limitation on the appropriation.

Mr. ANDERSON. The question, it seems to me, is one of whether the particular matter was before the conferees, and my contention is that the only proposition that was before the conferees was the appropriation which the Senate made, and that they could not add an amendment relating to an entirely different subject.

Mr. HARDY of Texas. The gentleman does not think they can put a limitation upon the expenditure of an appropriation?

Mr. ANDERSON. I do not think they could without exceeding their authority.

Mr. MANN. Mr. Speaker, it seems to me so perfectly plain——

The SPEAKER. It seems to the Chair very clear and the Chair is ready to rule. The gentleman from Minnesota admits that if this proposition were before the House, the amendment would be in order. It seems to the Chair that disposes of the question, because the only objection the gentleman made is that it is not germane. If it would be germane in the House, it would be germane for the conferees to bring it in. The Chair overrules the point of order.

Mr. MADDEN. Mr. Speaker, the amount of the appropriation carried in the bill as it left the House was $48,517,000. The amount in the bill as it passed the Senate was $50,653,215.05. The Senate added $5,500 for miscellaneous expenses of the Supreme Court of the District of Columbia for the year 1921, to which the House conferees agreed.

Limitation on armaments, $200,000, to which the House conferees disagreed because of the fact that it contained legislation which the conferees were not under the rules of the House permitted to agree to. We come back with the expectation of moving to agree in the Senate amendment with an amendment. There was $7,000 added by a Senate amendment to pay the expenses in connection with the dye legislation which recently passed. The House conferees agreed to that. The Senate added $100,000 for the Customs Service, the purpose being that this $100,000 shall be used under the direction of the Secretary of the Treasury and presumably, as we understand, by the Tariff Commission, to ascertain the importance and advisability of adopting the American valuation system in the levying and collection of customs duties. The House conferees bring that back expecting to move to concur, and the reason why they bring it back is that they believe that there was no authority under law by which they could act independent of confirmation by the House. The Senate added an amendment to the bill which provided that all unexpended balances in the War Department should be reappropriated and utilized for the purpose of paying war contract claims of all kinds. It is estimated that in this provision there would be placed at the disposal of the War Department about $38,000,000 that could be used for the payment of claims. The Senate receded from this amendment. The Department of Justice item was not paid because bills which had not been submitted before the appropriation lapsed amounted to $1,426.46, which was added by the Senate and that was agreed to by the conferees.

Mr. RAMSEYER. Will the gentleman yield now or later?

Mr. MADDEN. Just a little later, in a minute or two. The Senate also added $198,000 for the compensation of clerks, marshals, district attorneys, officers, jurors' fees, and so forth, for 1921 and prior years. These amounts were ascertained to have been due and they were certified as being correct from the auditors and agreed to by the conferees. For the support of prisoners in the United States for 1921 the Senate added $138,000. The conferees bring that back and expect to move to concur. Miscellaneous expenses, United States courts, $44,149.65.

The conferees expect to move to concur in that. The reason why these two items are brought back is not because we disagreed to the amount involved in the Senate amendment, but because each of the items contain legislation which under the rules of the House the conferees were not permitted to agree to. The Atlanta Penitentiary, miscellaneous expenses, for 1921, put on by the Senate, amounted to $1,449.10, to which the House conferees agreed. Construction of water tank at Atlanta, an amendment of $20,000, was agreed to, and I wish to say in this connection that the Atlanta Penitentiary receives its water supply from the city of Atlanta. The pressure from the water system of Atlanta is so low that the upper tiers of cells in the Atlanta Penitentiary do not get the water they need there every

morning when the prisoners are required to bathe and when the toilets have to be flushed, and so they are short of water, and the sanitary condition of the penitentiary is very bad. In order to obviate disease caused by this insanitary situation, the authorities of the penitentiary have found it necessary to build a tank of 120,000 gallons capacity, in which they can store the water overnight when the pressure on the Atlanta water-supply plant is not so great and have what water they may need in the early morning hours for the use of the prisoners. The conferees agreed to that.

At the Leavenworth Penitentiary it was found the power house was inadequate. The machinery and boilers are antiquated. They are beyond all possibility of repair. Recently they had an explosion of boilers down there and five men were very seriously injured, three of those men died, and the result has been that in order to enable the authorities at the penitentiary to have facilities, not only to operate the machinery that is used in the penitentiary but also to heat the plant, it was found necessary to make this appropriation. It is all being done by prison labor. The conferees agreed to that, and that involves, also, the power-house equipment, which means new boilers, new engines, new machinery to make the whole thing function, and it was suggested in the course of the consideration of this question that to the extent possible they must get the boilers and the engines and other machinery from the supply now owned by the Government which has come over from the war. The McNeil Island Penitentiary water-works system is provided with an $8,200 appropriation, and that was made necessary by the fact that the water supply for the McNeil Island Penitentiary is taken from springs a short distance from the penitentiary and carried through pipes. These pipes have been badly destroyed and they have been obliged to put in wooden sides to the conduits through which the water flows. The water is becoming contaminated as a result of the condition existing there, and a bad sanitary state exists which requires immediate attention. Your conferees have agreed upon that. The Senate added $200,000 for the enforcement of the packers' act, to which the conferees have agreed with a limitation as to salary.

Mr. TINCHER. Will the gentleman yield?

Mr. MADDEN. I will.

Mr. TINCHER. Did the Secretary of Agriculture or anyone charged with the administration of this law ask the conferees for that limitation?

Mr. MADDEN. No; they did not.

Mr. TINCHER. That is a big industry, and while I did not solicit the appropriation in the proper body where it should originate at this time in the enforcement of that law, does not the gentleman think it is unfair to both sides, both the producer, the packer, and the consumer, to say that the enforcement of this law shall be by men whom you say shall not be paid a salary of over $5,000 a year?

Mr. MADDEN. I wish to say to the gentleman from Kansas [Mr. TINCHER] that no disposition whatever existed in the minds of anybody to embarrass the enforcement of this act. On the contrary, we are all anxious to have it properly enforced, both as to agricultural sections of the country and as to the packers. Nobody knows what amount should be paid, but there is a small number of people to be employed, and the conferees thought that inasmuch as there were only a few people to be employed the man at the head ought not to receive over $5,000.

Mr. TINCHER. Let me call attention to the weakness of that proposition. Here is a law passed by men who gave it careful consideration. The limitation is placed on the appropriation for the enforcement of that law, without consulting either the packers, producers, or the Secretary of Agriculture. That, in the judgment of the men who considered the law and helped to pass it, will prevent its effective administration. I think it demonstrates that appropriations ought to originate in the House and that people who are supposed to have the administration of the law ought to be considered.

Mr. MANN. Will the gentleman yield?

Mr. MADDEN. I will.

Mr. MANN. I would like to see a $50,000 man at the head of this work, but I realize he can not be obtained. Unless you get an increase in the salaries of the Department of Agriculture, how can you start in and say that we pay the man at the head of this branch of the service, a service that is comparatively small when you compare it with the Bureau of Plant Industry, much more than you pay the man at the head of the Bureau of Plant Industry?

Mr. TINCHER. Mr. Wallace will put a man in charge of the administration of this law. He will cope on the part of the producers with Mr. Veeder and Mr. Lightfoot and those men who are not $5,000-a-year men.

I will not say what they are. As long as the appropriation is limited to $200,000, why not give the Secretary of Agriculture a chance to try out this law with a competent man? Why add this limitation without consulting anyone who knows anything about it?

Mr. MANN. The only thing about it is this, which is undoubtedly true, that if you pay the man at the head of this small service a higher salary than you pay the heads of various other bureaus in the Government you would have to increase those in the next Congress.

Mr. TINCHER. I do not agree with the gentleman. I consider this——

Mr. MANN. The gentleman has had enough experience here to know that that would be the case.

Mr. TINCHER. I would at least like a chance to have this law properly administered.

Mr. WALSH. Will the gentleman from Illinois permit me to ask the gentleman from Kansas a question?

Mr. MADDEN. I yield.

Mr. WALSH. Are there not plenty of farmers out in the gentleman's district to whom $5,000 a year would look like a very munificent sum, in view of the great distress in the agricultural industry, and who are aching to get upon Uncle Sam's pay roll and take a crack at the patronage?

Mr. TINCHER. I do not think there are many farmers from my section of the country that have asked to get on the pay roll. I want to say this, that a man who goes on the Government pay roll to compete with men who are drawing $30,000 or $40,000 a year, the Secretary of Agriculture might think it necessary to pay $6,000, and there should not be such a limitation.

Mr. WALSH. According to that, we ought to pay the Supreme Court justices half a million dollars a year.

Mr. BYRNS of Tennessee. Mr. Speaker, if the gentleman will yield, I wish to say that, so far as this appropriation is concerned, there have been no hearings on the part of the House or the Senate. We have had absolutely no information furnished to Congress as to how many employees will be needed or how much will be needed to enforce the law, except, of course, the statement of the Secretary of Agriculture, sent to the chairman of the Senate Committee on Appropriations. I am in thorough accord with the gentleman. I think all laws ought to be properly enforced, and I want to see such employees engaged at such salaries as will insure faithful performance. We are appropriating here now at the beginning of the administration of this law. In two or three months there will be other appropriations necessary to be made for this and other activities of the Government, and then we can have hearings, and it can be settled to the satisfaction of every Member of Congress as to what salary should be paid.

In addition to that I want to call attention to this fact, that the salary fixed here is the same salary that is paid every assistant secretary in every department in this Government. The Assistant Postmaster General gets only $5,000 a year, and the assistant secretaries to other Cabinet officers, including Agriculture, get only that amount. And it seems to me we are going very far when we give the head of a bureau in the department more than the Assistant Secretary of that department.

Mr. MADDEN. The Assistant Secretary of Agriculture gets $5,000 a year. He certainly has a more important position than this man. The Chief of the Weather Bureau gets $5,000 a year. He is at the head of the bureau. The Chief of the Bureau of Animal Industry gets $5,000 a year. That is the most important bureau in the Department of Agriculture. The Chief of the Bureau of Plant Industry gets $5,000, the Chief of the Bureau of Forestry gets $5,000, and the Chief of the Bureau of Chemistry gets the same amount.

Mr. ANDERSON. You have not anybody in the Chemistry Bureau or anybody in other bureaus, and you can not get them, at $5,000, and you can not get anybody that is worth anything to run this job for that amount.

Mr. MADDEN. The Assistant Land Commissioner gets $5,000 a year and the Assistant Postmaster General gets $5,000. This man is to have only 116 men under him.

Mr. TINCHER. I understand that you put the limitation in without consulting the administrative officer at all.

Mr. MADDEN. I got his opinion.

Mr. TINCHER. Who suggested it?

Mr. MADDEN. I did.

Mr. TINCHER. In the interest of economy?

Mr. MADDEN. Yes, sir; and in the interest of good administration. Now, what may happen later I can not tell. After investigation, if it seems proper and necessary to have this man get more, I would be delighted to see him get it. But in the meantime I think it would disorganize the Agricultural Department to do as the gentleman suggests.

Mr. ANDERSON. Let the Secretary of Agriculture wrestle with that.

Mr. MADDEN. I think he ought not to be embarrassed. I hope the gentleman will not think that we had any purpose except to conserve the Government's interests.

Mr. ANDERSON. I think the gentleman went ahead without knowing enough about the proposition and without consulting anybody about it or without any idea of what the result of the action would be.

Mr. MADDEN. I will say that I did consult the Secretary of Agriculture. The Secretary wanted to pay this man $7,500 a year, and I did not agree with him.

Mr. WALSH. Will the gentleman from Illinois yield?

Mr. MADDEN. Yes.

Mr. WALSH. I assume the gentleman did give very serious consideration to the fact that it would be a startling thing to these gentlemen representing farmer constituencies if the chairman of the great Committee on Appropriations should seek to practice a little economy in the appropriations affecting their interests?

Mr. TINCHER. We appropriated $200,000 for the administration of this law. The Secretary of Agriculture, as I understand it, asked indirectly, through the other body of this Congress, for an appropriation. Now he does not ask for this limitation?

Mr. MADDEN. No.

Mr. TINCHER. I wonder if the distinguished gentleman from Massachusetts can get economy out of limiting employments to inefficient men in the administration of the law.

Mr. WALSH. Did the gentleman ever hear of a bureau chief asking for limitations in the interest of economy, particularly in the Department of Agriculture? They do not know the word. They have erased it from the dictionary. [Laughter.]

Mr. McKENZIE. Mr. Speaker, will the gentleman yield to me?

Mr. MADDEN. Yes.

Mr. McKENZIE. This particular appropriation simply illustrates the tendency of the legislation of this House. When we enacted this law it was understood when we put it under the Department of Agriculture that it would not cost very much. The first thing we see is $200,000 asked for the administration of the law. Yesterday we passed the grain futures act. I presume the next appropriation bill that will come in here will include $100,000 for the administration of that act. And then the maternity bill is to come along, and the welfare department, and the truth will be that we shall have this Government loaded down with special agents to enforce these special laws.

Mr. TINCHER. I want to say to the gentleman from Illinois, a member of the Committee on Military Affairs, that when the administration of the packer bill is paid for, and when the administration of the grain gambling and manipulation bill is paid for, it may be possible that the Committee on Military Affairs will be called upon to lop off about one-tenth of 1 per cent of the military appropriations. [Laughter.]

Mr. McKENZIE. I want to say to the gentleman that if the House would follow the gentleman's plan we would destroy the national defense and substitute in its place an army of civilian tax eaters. [Laughter.]

Mr. BLANTON. Mr. Speaker, will the gentleman yield?

Mr. MADDEN. Yes.

Mr. BLANTON. We have been discussing a small matter. Now, I want to call the gentleman's attention to a larger one. By amendment No. 2 all limitations are taken off the salaries in the Shipping Board. Let me call the gentleman's attention to something about those salaries.

Mr. MADDEN. I refuse to yield on that. I know all about that, and the House knows all about it. We will reach that a little later.

Mr. BLANTON. Will the gentleman give me a little time, then?

Mr. MADDEN. Yes; when we reach it.

Mr. WALSH. Mr. Speaker, will the gentleman answer this question? Will the gentleman yield?

Mr. MADDEN. Yes.

Mr. WALSH. What are these items in these amendments Nos. 18, 19, and 20, carrying annual salaries of marshals, district attorneys, and United States court clerks doing in a deficiency bill?

Mr. MADDEN. They do not carry salaries. They carry expenses incurred on account of the increased volume of business.

Mr. WALSH. Amendment No. 19 is district attorneys' salaries.

Mr. MADDEN. Of course, that is the language used ordinarily in the regular appropriation bill. We used the same language, but the fact of the matter is that it is not salaries. It is due to the fact that they had to employ additional marshals on account of a great strike down in New Orleans, for one thing, and it is due also to the fact that they had a large amount of transportation on account of the travel of deputy marshals, due to the increased business in connection with 40,000 cases of prohibition. That increased the volume of expense largely, and that in some measure is due to that. It is also due to the fact that we have more jurors, more people in the prisons, more travel by the marshals, and the department can not control how many jurors the courts will have.

Mr. WALSH. It is getting to be quite a little law-abiding community under prohibition?

Mr. MADDEN. Yes.

Mr. BURTON. Mr. Speaker, will the gentleman yield for a question?

Mr. MADDEN. Yes.

Mr. BURTON. On page 8, line 5, I read, "For 1921, $42,000." To what does that pertain?

Mr. MADDEN. That is under miscellaneous expenses.

Mr. BURTON. That is under amendment 23?

Mr. MADDEN. Yes.

Mr. BURTON. May I ask whether these salaries to jurors, clerks, district attorneys, and marshals have already been paid?

Mr. MADDEN. The salaries have all been paid, but there are expenses coming in, due to the travel of marshals on account of the increased number of marshals they have to employ, and that was on account of a great riot down South, and it was due to the number of added jurors, on account of the added numbers of cases in the courts, and due to the numbers in the jails and in the penitentiaries of the States which the Government of the United States has provided for. There was an average of about 3,000 prisoners a day during the last year in the jails and in the State prisons at the expense of the Government.

Mr. BURTON. Were these paid at the time the service was rendered or the expense incurred, or is it an unpaid debt of the Government?

Mr. MADDEN. It is unpaid.

Mr. BURTON. Were these items here brought to the attention of the Committee on Appropriations before this bill was passed here?

Mr. MADDEN. No. These items went in in the Senate.

Mr. BURTON. Does that mean that the various bureaus and departments regard an appropriation act here in the House as a mere initial step, and when they wish anything they think they must go to the Senate and have it put on as an amendment? Or are they merely awakened to the fact that they have a claim when they see an appropriation bill pass the House?

Mr. MADDEN. I called the attention of the Committee on Appropriations to the matter; and, by the way, we had hearings on these items, notwithstanding the fact that they were put in in the Senate and did not come before us. But we sent for these people and had them testify as to all the facts in the case, and we informed them that in the future if they did not come to the House Committee on Appropriations first, they would find themselves in trouble.

Mr. BURTON. I am glad to hear the chairman of the Committee on Appropriations make that statement. It seems they were merely treating the action of the House as byplay and were going to the Senate as a matter of habit.

Mr. MANN. If the gentleman will permit, it is not customary to send claims of that kind, which are paid without question, to the Senate until the time comes to pass the deficiency bill. When the time for the preparation of the regular deficiency appropriation bill comes these amounts are certified to the House. But here was an emergency deficiency bill which no department knew was going to be presented to the Congress at all until about the time it was presented.

Mr. MADDEN. That is true.

Mr. MANN. When that information gets to the department concerned in taking up these claims that are usually allowed without question, they gather them together and certify them. They did not have time to transmit them between the time when the bill is taken up in the House and is sent to the Senate, and so they send them direct to the Senate.

Mr. BURTON. One or two of them originated, no doubt, since the bill passed the Senate.

Mr. BYRNS of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. MADDEN. Yes; I yield. How much time have I remaining, Mr. Speaker?

The SPEAKER. The gentleman has used 25 minutes.

Mr. MADDEN. I yield 10 minutes to the gentleman from Tennessee [Mr. BYRNS].

Mr. BYRNS of Tennessee. Mr. Speaker, the conferees have practically agreed upon every amendment except the one relating to the salaries to be paid by the Shipping Board. That amendment is brought back in disagreement, owing to the fact that the Senate conferees insisted upon the action of the Senate, which was in effect to leave no limitation whatever with reference to the salaries to be paid in the administration of the Shipping Board and its activities. I understand that it is the purpose of the chairman of the committee [Mr. MADDEN] to move to concur in other amendments to which the House conferees under the rules of the House could give no consideration inasmuch as they carried legislation. If these amendments are adopted by the House this bill will carry about $50,500,000, which, of course, must be added to the direct appropriations which have been made heretofore for this fiscal year. Of that sum $48,500,000 is for the Shipping Board, and I favor that amount, because the Shipping Board must have money with which to function, and certainly no one wants to see the Shipping Board put in a position where it can not function and make the best effort possible in behalf of our merchant marine and maintain it; but I think it ought to be again called to the attention of the House that this is not all that the Shipping Board will have for this fiscal year, because there is a provision in the sundry civil bill for this year which gives the Shipping Board the right to use not exceeding $55,000,000 of any moneys that it may collect on account of deferred payments on ships sold last year, and upon any ships that may be sold during this year. I fear that there is a disposition upon the part of the Shipping Board to sacrifice some of these ships during this year. And in making this statement I refer to steel ships as well as wooden ships, for I think it is very clear that there is a movement on foot to bring about the sale of some, if not all, of those good steel ships at this time, when everyone knows that if sold they will bring a ridiculously low price. I take it that everyone wants to see these ships sold as soon as they can be sold without sacrificing the public interest; but as Mr. Lasker said, this is no time to sell ships. Mr. Lasker was so positive in his statement that he said they could not be sold to anyone if the purchaser was required to operate them at this particular time, on account of depressed business conditions. And yet Mr. Lasker has persistently ever since his appointment as chairman of the Shipping Board endeavored to create the impression that the Shipping Board is a wreck, which I deny, and his statements have, in my judgment, done more than anything else to bring about the sentiment which we frequently hear expressed that these ships should be sold at any price. I do not charge this to have been his intention, but this has clearly been the effect of his repeated statements. I notice in the papers recently that a sale has been made of 205 of the wooden ships. Everyone agrees that these ships ought to be sold, but in view of the statement made by the chairman of the Shipping Board, I believe personally that the sale at this particular time ought to have been delayed, because undoubtedly when business conditions improve, as we hope and expect they will, a better price could have been realized. Now there has been a great deal of propaganda——

Mr. COOPER of Wisconsin. I noticed the same newspaper statement of the sale to which the gentleman refers. As I read it, the ships cost the Government $14,000,000, but they were sold for between $400,000 and $500,000.

Mr. BYRNS of Tennessee. They cost probably $150,000,000. I think that was a misprint. As a matter of fact, I have had the statement made to me that these ships cost about $250 a ton, and the sale which the papers report was made on the basis of about 60 cents a ton. In other words, under the sale the Government will receive about $430,000, whereas these ships cost the Government $150,000,000 and possibly more.

Mr. WALSH. Will the gentleman yield?

Mr. BYRNS of Tennessee. I yield to the gentleman from Massachusetts.

Mr. WALSH. Is it the gentleman's contention that irrespective of the amounts these wooden ships would bring at the sale they can be operated by any existing or future shipping organization?

Mr. BYRNS of Tennessee. Undoubtedly there are some people who feel that they can be operated for certain purposes. As the gentleman knows, there has been a great deal of propaganda throughout this country, giving the idea that the Shipping Board has lost a great deal of money on the operation of ships, and that the Government is sinking a great deal of money in maintaining these ships at this time, and this propaganda, as I believe, is put forth by those who wish to buy these ships at a greatly reduced price by creating a public sentiment which will cause the Shipping Board to sacrifice them, although Mr. Lasker has positively said that this is not the time to sell ships. There has been a great deal said about the cost of maintenance of these wooden ships. Mr. Lasker stated at the hearing that it cost $600,000 a year to maintain these ships, and I noticed in the newspaper that after this sale was announced his assistant, in the absence of Mr. Lasker, stated that it was costing $1,000,000 a year. It has been only a few months since the representatives of the Shipping Board appeared before the Appropriations Committee and stated that it was costing $110,000 every three months to maintain these ships, and I was informed only the other day by a man who is in a position to know, and who I am sure is thoroughly reliable, that it is not costing anything like $50,000 a month to maintain these ships.

He stated that if the books were investigated and if the facts were known it would be found that it is only costing the Government $14,000 a month to maintain all these wooden ships, or at the rate of $1.67 a day for each ship. Now, I submit that in view of those facts, if they be true—and I believe them to be true—it was a sacrifice of the people's property at this particular time of all times to sell these ships for $2,100 apiece, when they cost all the way from $600,000 to $800,000 apiece. We have heard a great deal of criticism of the previous administration for its sale of war assets and war material, but I submit there has never been a sale out of which the Government realized such a ridiculously small sum in comparison with the original cost and the cost of the machinery and equipment which went with the sale, and which is now as good as new, for these ships have never been used and they have been kept in good order and condition.

Mr. WALSH. Will the gentleman yield?

Mr. BYRNS of Tennessee. I yield to the gentleman from Massachusetts.

Mr. WALSH. The chairman of the Shipping Board made the statement that it was costing some $500,000 or $600,000 a year to maintain these ships in the James River, did he not?

Mr. BYRNS of Tennessee. The chairman of the Shipping Board stated that it was costing $600,000 a year, as I said.

Mr. WALSH. The gentleman says he would not be surprised if it was costing only $14,000.

Mr. BYRNS of Tennessee. I did not say I would not be surprised, but I stated that I was informed by one who is in a position to know and who I am sure is thoroughly reliable that if the books were investigated it would be found that it was costing only $14,000 a month to maintain all of these ships.

Mr. WALSH. That is about as close as you can get to any transaction by the books of the Shipping Board, the way they have been kept.

Mr. BYRNS of Tennessee. Now, in addition to that I am further informed that prior to this time all of the instruments, all of the chains and anchors and other movable or portable equipment on these ships have been taken off the ships and put in storehouses, in order that the Government might utilize them whenever necessary upon its steel ships. And I understand that under this sale these instruments which it was stated to me were alone worth $5,000 are going to be taken out of the storehouses and put back on the ships, and they get them with the ships and engines and machinery for the sum of $2,100.

Mr. MILLER. Will the gentleman yield?

Mr. BYRNS of Tennessee. Yes.

Mr. MILLER. Can the gentleman say that these wooden ships have had any machinery or instruments; have they had anchors and chains on them?

Mr. BYRNS of Tennessee. Gentlemen should know that every one of these ships are supplied with engines which cost the Government $64,000. They are supplied with instruments and equipment necessary to sail them. Some of them, I am told, when the sale is perfected, can be put under steam and moved out under their own steam by those who buy them.

Mr. WALSH. Will the gentleman yield?

Mr. BYRNS of Tennessee. Yes.

Mr. WALSH. Did not we pass legislation within a few months ordering and directing the Shipping Board to sell the wooden ships before the 1st of October?

Mr. BYRNS of Tennessee. Not to my knowledge; the Senate put on an amendment last May directing the sale, but it was stricken out in conference. I do not understand that there is any such legislative instruction to the Shipping Board.

Mr. OLIVER. Will the gentleman yield?

Mr. BYRNS of Tennessee. Yes.

Mr. OLIVER. I understand that the purchaser of 205 wooden ships, at $430,500, is a corporation to whom was formerly awarded a contract to build two wooden ships, exclusive of machinery, for about $2,000,000, defaulted on its contracts, and after being paid $1,300,000 still makes claim against the Government for about $700,000. It is reported that this cor-

poration is to be given 205 wooden ships in part payment of a claimed balance of $700,000 on a contract which it held for the construction of the mere hulls of two wooden ships. It may be interesting to further state that the claims department, under the old Shipping Board, have estimated that the corporation purchaser now owes the Government about $300,000 for default in its contract with the Government.

Mr. BYRNS of Tennessee. In my limited time I can not discuss the wooden ships and the Shipping Board any further. I rose principally to call the attention of the House to the fact that the appropriations carried in this bill make a total aggregate of direct appropriations for the fiscal year 1922 of about $2,240,078,944.64, to which must be added indefinite and permanent appropriations of $1,335,776,360.87, which would make an aggregate of $3,575,855,305.41 for the year 1922, as compared with $3,717,271,392.90 for 1921. In addition to that, there must be added certain commitments which have been made, certain unexpended appropriations which departments have been authorized to use, amounting to over $275,000,000. I submit that this does not afford any justification for the claims of economy which have been made for this Congress.

Now, I know it is stated—and I hope it will be found to be true—that it is proposed by the departments to reduce expenses for 1922 under appropriations something like $359,000,000. Of that sum it was stated that $50,000,000 would be saved by the War Department. I read a statement the other day that Secretary Weeks declared a saving of $40,000,000, the details of which were not given. I simply want to call the attention of the House to the fact that whatever saving may be made is not due to the administration or head of any department, but is due to the action of this House in passing these appropriation bills. [Applause.] I think it time to call the attention of the country to the fact that any economies that may be effected are due to the House of Representatives alone on account of the limitations and restrictions carried in these appropriation bills. We all recall that when the military appropriation bill was passed under the able and efficient leadership of the gentleman from Kansas [Mr. ANTHONY] there were placed in that bill limitations and restrictions which compelled the particular saving for which the Secretary of War takes great credit. For instance, the Secretary of War, supported by the Executive and the Senate at the other end of the Capitol, asked for an Army of 175,000 men, and this House refused the request and compelled its reduction to 150,000 men by October 1. In addition to that, it directed the sale of horses and mules, it directed the sale of motor trucks, it denied appropriations for maintaining the cantonments because he has not the army to fill them and the money to maintain them. The Secretary of War takes great credit for withdrawing them and says he is not going to maintain them any longer.

I dare say that any and all savings that may be made in appropriations can be traced to the fact that the House in passing appropriation bills has put on restrictions and limitations which compelled the economy.

Mr. STEAGALL. Will the gentleman yield?

Mr. BYRNS of Tennessee. Yes.

Mr. STEAGALL. Has it been found possible by the War Department to bring about a reduction to 150,000 men, as provided by Congress?

Mr. BYRNS of Tennessee. I understand it will be reduced to 150,000 men, in spite of the contention that it could not be done and in spite of the message of the President of the United States when he signed the bill stating to Congress that he had decided to approve the bill, although he was not in accord with the action of the House in directing a reduction of the Army, and feared from reports given him that it could not be done, and that he expected that it would be necessary for the department to come to Congress for a deficit during this year, because not enough money had been provided in the event the Army was not cut down as contemplated.

We are told that they are going to save $25,000,000 in the Agricultural Department. I asked a gentleman of the Ways and Means Committee the other day to tell me how this amount was to be saved, but no one has furnished the information. To-day we are appropriating $200,000, a necessary sum, I admit, to the Agricultural Department. If they really intend to save $25,000,000 in the Agricultural Department for the next year, why was it necessary to do more than to ask Congress to authorize the expenditure of $200,000 of this amount for the enforcement of the packer law? Why make an appropriation of $200,000 if the department has $25,000,000 which will not be used? This fact shows the absurdity of these claims. The people may be deceived for the time by these claims, but they will quickly realize that they will not be fulfilled. [Applause.]

The SPEAKER. The time of the gentleman has expired.

Mr. MADDEN. Mr. Speaker, I yield to the gentleman from Wyoming.

Mr. MONDELL. Mr. Speaker, I rise for the purpose of thanking the gentleman from Tennessee and to express my appreciation and the appreciation of this side of the House for the splendid tribute he has made to the patriotism, the courage, and the fine record of this Republican House. [Applause.] I hope he will remember the splendid tribute he has rendered when a little later we make a statement of the magnificent record of this session, and I hope that no gentleman on that side will rise and attempt to discount the fine, praiseworthy record of the House. [Laughter.]

Mr. BYRNS of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. MONDELL. Yes.

Mr. BYRNS of Tennessee. Does not the gentleman think it would be a little better, and at least a little safer, if he would wait until June 30 of next year to boast of any economy that he effected during this year?

Mr. MONDELL. Oh, I did not think the gentleman would so soon want to qualify his statement. I was so pleased with his tribute to the House—and I am perfectly willing to give his side credit for their share—that I hoped he would allow that tribute to stand. The hope of the Republic rests here in this House of the American people. [Applause.]

Mr. MADDEN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MADDEN. Mr. Speaker, I move that the House insist upon its disagreement to Senate amendment No. 2.

The SPEAKER. The gentleman from Illinois moves that the House insist upon its disagreement to Senate amendment No. 2, which the Clerk will report.

The Clerk read as follows:

Page 2, strike out in lines 20, 21, 22, 23, and 24 the following:
"*Provided further*, That not more than three officers or employees of the United States Shipping Board or the United States Shipping Board Emergency Fleet Corporation shall be paid an annual salary or compensation in excess of $12,500."

Mr. MADDEN. Mr. Speaker, I yield five minutes to the gentleman from Texas [Mr. BLANTON].

Mr. BLANTON. Mr. Speaker, when this matter was before the House I called attention to some of the salaries paid, and I wish to do so again. Some of our colleagues may not have been here at the time when the matter was up for consideration in the House and may not be familiar with it. On page 208 of the hearings on this bill is to be found the names and the salaries of some of the seventy-odd high-salaried attorneys on the Shipping Board pay roll mentioned by general counsel of the board as being employed at Government expense. Let me call your attention to a few of them:

E. Cateby Jones, chief of admiralty section; offered $25,000 per annum; to advise general counsel as to acceptance.
Norman Beecher, admiralty adviser to general counsel, $10,000.
Chauncey Parker, $20,000 per annum; retained for chief of litigation and investigation section.
Mr. Freund will be paid $25,000 per annum as head of opinion and contracts section if he accepts.
Mr. Sutherland (ex-Senator), retained at $5,000 per annum to give opinions to general counsel or board whenever desired.
Marshall Bullock, assistant to general counsel, $25,000 per annum.
Fletcher Dobbins, trial lawyer, $15,000 per annum.
Mr. Smythe, executive assistant to general counsel, $15,000 per annum.
Mr. Greaf, opinion and contract section, $10,000 per annum.
V. J. Laws, $10,000; assignment not noted.
Mr. Allison, special assignments, $15,000 per annum.
Mr. Aron, no assignment noted, $10,000 per annum.
Mr. Fairbanks, head of claims section, $15,000 per annum.
Joseph H. Gaines, assistant counsel, legislation, $9,500 per annum.
Mr. Aron, $12,000.

Seventy-odd attorneys are employed by this one department of the Government, the Shipping Board, and Mr. Schlesinger, who is at the head of the department and who draws a salary nearly double that drawn by the distinguished chairman of the Committee on Appropriations, in testifying before the committee, when trying to show some reason for it, in answer to a question by my colleague from Texas [Mr. BUCHANAN] why this gentleman Mr. Gaines was employed, said that he was employed for the express purpose of going before the Merchant Marine and Fisheries Committees of the Senate and the House at their meetings about once every two weeks, and yet there has not been a single meeting of the Committee on the Merchant Marine and Fisheries of the House this whole session that that gentleman has attended. He is paid a salary of $9,500 a year for nothing. Even taking the statement of Mr. Schlesinger,

he is paid that money for lobbying purposes, and I say it is time to call a halt.

Mr. BUCHANAN. Mr. Speaker, will the gentleman yield?

Mr. BLANTON. Certainly.

Mr. BUCHANAN. Does my colleague remember when this bill was under consideration that I introduced an amendment to prevent the employment of this man to represent the board before the committees of Congress, and that it was voted down?

Mr. BLANTON. Oh, it was voted down, and our Republican friends will always vote it down. I want to warn my colleagues now, if they do not watch out, that in conference before we know it, the Senate is going to force our conferees to agree to their amendment taking off all these House restrictions on these high salaries.

I heard the distinguished former chairman of this committee, Mr. Good, get on the floor of this House, not 18 months ago, and state emphatically that as long as he was chairman of this great committee he was going to see to it that not another dollar was allowed the Shipping Board, and he promised the country that he was going to see to it, and thereafter he got an important proposal to go out of Congress and enter private business. I can not much blame him for accepting that. We now have another chairman, and in less than 18 months we find the Committee on Appropriations coming in here with a deficiency appropriation bill, proposing to give the Shipping Board $48,000,000 more, right at a time when the distinguished gentleman from Massachusetts gets up here and says that nobody here knows anything about this Shipping Board business, and there has not been a move made to force it to make a full report to Congress on all of its receipts and expenditures.

The SPEAKER. The time of the gentleman from Texas has expired.

Mr. MADDEN. Mr. Speaker, I yield five minutes to the gentleman from Alabama [Mr. OLIVER].

Mr. OLIVER. Mr. Speaker, a fine tribute has just been paid the House by the gentleman from Tennessee [Mr. BYRNS] and the gentleman from Wyoming [Mr. MONDELL]. The gentleman from Wyoming makes bold to say that the safety of the Republic rests in the House, and each has called attention to the claim of department heads for certain economies that the House is alone responsible for. I am not sure that it is well to ever indulge in compliments of this kind to ourselves, and certainly it may prove very inappropriate, unless the House stands firm on its disagreement to the Senate's action in striking from the appropriation bill for the Shipping Board those provisions, in which the House sought to prevent the payment of salaries in excess of $12,000. I am glad to know that the chairman of the committee has now requested the House to further insist on its disagreement, and I hardly think it necessary for the House to adopt a motion instructing our conferees to adhere to the action of the House in fixing a limit on salaries and compensation to employees and officials of the Shipping Board. The conferees certainly understand the sentiment of the House, and will in no way go counter thereto until the House has by direct vote authorized such action.

The chairman of the Appropriations Committee, who is one of the conferees, offered an amendment limiting the number of officials and employees of the Shipping Board and the Emergency Fleet Corporation, to whom could be paid compensation in excess of the $12,000 a year, to three, and the only objection to his amendment in the House was on the part of those who thought that no official or employee of the Shipping Board should receive over $12,000. There certainly was no Member of the House who favored increasing the number above three. There is a rumor afloat that the House conferees might yield to an insistence of the Senate and limit the number of employees and officials of the Shipping Board and Emergency Fleet Corporation to six who can draw pay in excess of $12,000. I can not feel that there is foundation for the rumor that the House conferees will yield on this point. We did more than I thought should be done when the House consented that three should be paid in excess of $12,000, especially in view of the well-known fact that the pay of three vice presidents had already been fixed at an amount aggregating $95,000 per annum. Senator BORAH very properly called attention to the fact that no one could defend this before the people. It is easy to vote money out of the Treasury, but the time will come when we must answer to our constituency for our action, and no reason can be assigned for giving unbridled license to the Shipping Board at this time. [Applause.]

You have properly checked them in the matter of employing attorneys, and every member of the Appropriations Committee approved that check, and my information is that this check as to the employment of attorneys still remains in the bill. This but emphasizes the importance of placing a check in fixing high compensation for other employees and officials.

Mr. MADDEN. I think the Senate amendment takes the limitation off attorneys and everyone else.

Mr. BLANTON. Yes.

Mr. OLIVER. I had not understood the report of the conferees in that way.

Mr. MADDEN. We did not have anything to do with leaving it in or taking it out. The Senate amendment takes the lid off.

Mr. OLIVER. I feel very sure that the conferees will not for a moment yield on the check as to the employment of attorneys, and they should be equally as fair in their insistence on the check as to the employment of other officials and employees.

Mr. HARDY of Texas. Will the gentleman yield?

Mr. OLIVER. I will.

Mr. HARDY of Texas. I would like to ask a question of the chairman of the committee. Would it be in order to make a motion to amend the motion of the gentleman from Illinois by directing the conferees to adhere to the position of the House on this matter?

Mr. MADDEN. Ask the Speaker.

Mr. HARDY of Texas. Mr. Speaker, would it be in order to amend the motion made by the gentleman from Illinois so as to instruct the conferees to adhere to the position of the House in this matter?

The SPEAKER. The Chair thinks it is in order.

Mr. HARDY of Texas. I wish to ask leave to make that motion at the proper time.

Mr. OLIVER. Mr. Speaker, I have no desire to express distrust of the conferees, because I know they are fully advised as to the sentiment of the House in reference to these matters, and I believe the House can rely on its conferees continuing to insist upon the House disagreement as to the action of the Senate in striking out these wise checks placed on the Shipping Board in the matter of the appointment of high salaries. [Applause.]

Mr. CHALMERS. If the gentleman will permit, I think the gentleman is right. I do not think we want to embarrass the conferees on this matter. We have faith in them and we have faith in ourselves, and if they do not carry out our ideas they must bring it back, anyway.

Mr. OLIVER. That is my feeling about the matter. I know that the conferees were in full accord with the other Members of the House when these limitations were written into the bill by the House.

The SPEAKER. The time of the gentleman has expired.

Mr. OLIVER. May I have two minutes?

Mr. MADDEN. I yield the gentleman two minutes.

Mr. OLIVER. A few moments ago I gave to the House information which I felt was reliable relative to the sale of the 205 wooden ships, which it is reported was concluded by the Shipping Board a few days since. That information emphasizes the importance of restraining the chairman of the Shipping Board from the reckless spending of money in employing attorneys, officials, and others to serve the Shipping Board and the Emergency Fleet Corporation.

Mr. McPHERSON. If the gentleman will yield, I would like to ask the gentleman to put in the RECORD, if he has it, the reason that the gentleman in charge of the department gave for paying lawyers employed by the department salaries in excess of that paid to the Judges of the Supreme Court of the United States.

Mr. OLIVER. No good reason could be given for such action. Now, further referring to the sale of the 205 wooden ships, there appears in the New York World of Tuesday a very interesting and informing statement as to this entire transaction. I will later ask permission to extend my remarks by inserting that statement in the RECORD.

The purchaser of the 205 wooden ships formerly had a contract with the Government to construct the hulls of two wooden ships at a cost far in excess of the amount that the Shipping Board now is reported to have sold him 205 completed ships for. The machinery alone in the 205 ships can be salvaged, so it is reliably estimated, for far more than the purchaser has agreed to pay for the completed ships. This same company defaulted in its construction contract with the Government and its yard was taken over and the ships completed by the Government and at the cost of the contracting company who, it is reported, is now the purchaser of the 205 completed wooden ships. The Government claims $300,000 damages against this company, and the company has filed against the Government a claim for $600,000, which it claims represents the damage it

suffered by reason of the Government's declaring the contract forfeited and completing the ships at the company's expense.

Mr. BYRNS of Tennessee. Will the gentleman yield?

Mr. OLIVER. In a moment. It so happens that pending the time that the Shipping Board, through Mr. Lasker, was negotiating with this company for the sale of the 205 ships, and before the sale was concluded, that a reliable firm in Birmingham, Ala., noting Mr. Lasker's statement before the Appropriation Committee that wooden ships were worth nothing and should be sunk, wrote me a letter asking how they could submit bids therefor. This information was supplied to the Birmingham firm, and Mr. Lasker was informed that they stood ready to purchase 15 or 20 wooden ships at not less than $5,000 each. The reply to that letter was that the board was considering an offer made by other parties for a large number of the ships and could not at that time consider further offers. There were also inquiries from Mobile, Ala., that I happen to know of, expressing interest in the purchase of these ships, and I dare say many other Members of the House had inquiries from their districts relative to the same matter. Why the hurry on the part of the Shipping Board, acting through Mr. Lasker, to conclude a sale of 205 ships at $2,100 each, when they had information that a substantial number of these ships could be sold certainly for $5,000 and probably more?

The SPEAKER. The time of the gentleman has expired.

Mr. MADDEN. Mr. Speaker, I move the previous question.

Mr. GARRETT of Texas. Will the gentleman withhold that until I can offer my motion to adhere?

The SPEAKER. A motion to insist has preference over a motion to adhere. If the House votes down the motion to insist, the motion to adhere would be in order, but the motion to insist has prior right.

Mr. KELLEY of Michigan. Will the gentleman yield? Inasmuch as any agreement reached in conference must come back here, what is the advantage of the motion proposed?

Mr. HARDY of Texas. All I want to do is to put the House conferees in a position where they can say to the Senate conferees that this House is opposed to taking off the restriction that the House put on this bill upon the salaries of employees.

Mr. KELLEY of Michigan. When the House votes to insist upon its disagreement it does that, and when you go further I rather think you take the club out of their hands than putting one in their hands.

Mr. HARDY of Texas. I do not want to do anything to interfere with an effective conference of the House, but I do want this House to go on record.

Mr. MADDEN. Mr. Speaker, I move the previous question.

Mr. GARRETT of Tennessee. Will the gentleman from Texas yield?

Mr. MADDEN. The gentleman from Texas has not the floor.

The SPEAKER. This is all by unanimous consent. Without objection, the gentleman from Tennessee will proceed.

Mr. GARRETT of Tennessee. I will say to the gentleman from Texas I do not myself see any particular advantage there is to those who are in favor of limiting to three the number that can be employed at the salaries mentioned in a motion to adhere or instruct the conferees at this time, but I think it might just as well be understood here and now that if the conferees do agree to that and it comes back here we will have quite a lively scrap in the House about it.

Mr. HARDY of Texas. If the gentleman will permit, under the statement made by the gentleman from Michigan [Mr. KELLEY] and my colleague, the gentleman from Tennessee [Mr. GARRETT], I do not want to do anything that would disturb the present relation, and with that understanding I think I shall not undertake to offer any amendment to the motion of the gentleman from Illinois.

The SPEAKER. The gentleman from Illinois moves the previous question.

The previous question was ordered.

The SPEAKER. The gentleman from Illinois moves that the House insist upon its disagreement.

The question was taken, and the motion was agreed to.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

Amendment No. 3: "*Provided further*, That this appropriation shall not be available for the payment of certified public accountants, their agents or employees, except those now employed in taking an inventory of stock, and that hereafter all auditing of every nature requiring the services of outside auditors shall be furnished by the Director of the Budget through the Bureau of Efficiency."

Mr. MADDEN. Mr. Speaker, I move to recede and concur with an amendment.

The SPEAKER. The gentleman from Illinois moves to recede and concur with an amendment, which the Clerk will report.

The Clerk read as follows:

Mr. MADDEN moves that the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment as follows: In lieu of the matter inserted by the said amendment insert the following:

"*Provided further*, That this appropriation shall not be available for the payment of certified public accountants, their agents or employees, except those now employed in making an audit and taking an inventory of stock, and after the completion of such audit and inventory all auditing of every nature requiring the service of outside auditors shall be furnished through the Bureau of Efficiency."

Mr. MANN. Will the gentleman state what is the Bureau of Efficiency?

Mr. MADDEN. The Bureau of Efficiency is one that has been in existence for some years.

Mr. MANN. Why can not the auditing be done by the Comptroller General?

Mr. MADDEN. The auditing is being done by the Comptroller General now.

Mr. MANN. Not at all.

Mr. MADDEN. Let me explain.

Mr. McDUFFIE. Will the gentleman yield?

Mr. MADDEN. In just a moment.

The Shipping Board itself has about 200 men on its own pay roll auditing and taking inventory. Supervising that work, they have a certified accounting concern which is doing the expert work in connection with the audit. That is expected to be completed within the next 60 days, and I hope it will be. Since the 1st of July the Comptroller General of the Treasury Department, the chief accounting officer of the Government, has taken jurisdiction over the audit, which follows the audits that I have just described. Now, the amendment which I have offered, and to which the conferees agreed, provides that in addition to the audit which is to follow the Shipping Board's own audit—through the accounting officer of the Government—in the future there shall be no outside expert audit concern permitted to be employed, and to do that the Bureau of Efficiency, which is already on the pay roll as the result of appropriations made by the Congress, shall be called into requisition on the work only in case of outside audit being necessary. That is all.

Mr. MANN. Will the gentleman yield me a moment or two?

Mr. MADDEN. Yes, sir.

Mr. MANN. Mr. Speaker, at present the accounts of the Shipping Board, so far as they are audited at all, are audited by men employed by the Shipping Board. All the other accounts of the Government were formerly audited by the various auditors. The audits of the various auditors on appeal were passed upon by the Comptroller General. All of the auditors' offices and the office of the Comptroller of the Treasury are consolidated now under the Comptroller General. At present the Shipping Board's accounts are audited by these auditors of the Shipping Board. Any audit made by the Comptroller General is purely superficial. I took occasion recently to ask the Comptroller General what they did in reference to the Shipping Board's audits, and he said they did nothing that amounted to anything. I asked him why his office could not audit accounts of the Shipping Board as well as of the other Government agencies, and he said he could see no reason in the world why they could not do it. Now, what is the sense in maintaining a great office of the Government, not under the direction or control of the Executive, in the Comptroller General's office, for the purpose of auditing all claims and accounts, and then turn over this rotten thing in the Shipping Board so that it is controlled by the Executive? If these accounts are audited in the Comptroller General's office, they will be audited in an office headed by a man who can not be removed. I think it is time that the accounts of the Shipping Board be audited and that they be audited honestly by men who can in no way be controlled by any other officials of the Government. [Applause.]

Mr. McDUFFIE. Referring to the auditing of the books of the Shipping Board, does the gentleman have any idea how much it is costing the Government now a day for the work of the outside auditing that is being done?

Mr. MADDEN. They told me that the total cost when the work was completed, if I recall the figures correctly, would be inside of $50,000. That is what I think they told our committee. Maybe the gentleman from Tennessee [Mr. BYRNS] can refresh my recollection. I understood them to say that the outside figure for the outside accountants would be $50,000.

Mr. BYRNS of Tennessee. That statement was made, and I saw another statement in the Senate hearings that it would not exceed $75,000. I recall Mr. Lasker stated it would be impossible to say, but he expected they would be completed within $60,000.

Mr. McDUFFIE. I have been informed, I will say to the gentleman, that Mr. Montgomery himself is getting about $500 a

day. If that be true, the country ought to know it and the Congress ought to know it.

Mr. MADDEN. There is no use in making that statement. It may not be accurate. They are getting paid under the published rate.

Mr. McDUFFIE. Has the gentleman investigated?

Mr. MADDEN. Yes. The certified accountants work at published rates, and these people are getting the published rates, and have a contract to do the work at published rates and you can not hire them for any less.

I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the motion of the gentleman from Illinois to agree to the amendment with an amendment.

The motion was agreed to.

The SPEAKER. The Clerk will report the next one.

The Clerk read as follows:

Senate amendment No. 5: Page 3, after line 9, insert:

"DEPARTMENT OF STATE.

"Conference on the subject of the limitation of armament: To enable the United States Government suitably to participate in the conference on the subject of the limitation of armament to be held in the city of Washington and for the compensation of delegates or other representatives, clerks, and employees, including personal services in the District of Columbia, notwithstanding the provision of any other act, expenses of transportation, subsistence, printing in English and other languages (including publication of the proceedings), stationery and supplies, entertainment of delegates, and such other objects as the President may deem necessary, to be disbursed under the direction of the Secretary of State, $200,000, or as much thereof as may be necessary: *Provided*, That a report shall be made to Congress not later than June 30, 1922, of the expenditures hereunder."

Mr. MADDEN. Mr. Speaker, I wish to say in connection with this item that the reason why we bring it back is not because we think the amount of money requested is too large, for we really think the amount of money requested is very reasonable, but because there is a legislative provision in the item. It gives the right to the State Department to use the funds for the employment of services within the District of Columbia, which we think is very essential and important, because without that privilege the State Department could not carry on the functions of this service, and as the appropriation is made to cover a period of two months only, it is fair to say to the House that if the conference lasted for a longer period than two months, it is quite likely that a request will be made for additional funds.

I move to recede and concur. In the meantime I yield to the gentleman from Tennessee [Mr. GARRETT].

Mr. GARRETT of Tennessee. I just want to ask one or two questions about the verbiage, beginning in line 14, "and for the compensation of delegates," and so forth.

Mr. MADDEN. If the gentleman wishes information in that connection, I wish to say that the committee inquired if any compensation should be made to the American delegates in official life, if they were appointed, and the answer was it would not; but if men were appointed from civil life to the position of delegates to the conference, they might or might not be paid, depending on the judgment of the President. But the Government would have to pay the expenses of those delegates. There is no expense attached to this appropriation in connection with foreign delegates. They pay all their own expenses. They pay their own hotel bills. We supply the offices in buildings that have been used for the War Department work during the war, but they pay every other expense. We have to pay traveling expenses of any officials that may have to meet them at the ports and see them through the customhouse, but no expense of any foreign delegate or anybody connected with the foreign service.

Mr. GARRETT of Tennessee. I suppose we will pay, or at least we should pay, for the rent of halls for the official use of the conference.

Mr. MADDEN. We expect to use the hall of the Bureau of American Republics, and there will be no rent to be paid.

Mr. GARRETT of Tennessee. Will the gentleman yield 10 minutes to the gentleman from Texas [Mr. CONNALLY]?

Mr. MADDEN. Certainly, in just a moment.

Mr. WALSH. Mr. Speaker, will the gentleman yield?

Mr. MADDEN. Yes.

Mr. WALSH. In line 20 are the words "entertainment of delegates." That, of course, includes delegates to the entire conference?

Mr. MADDEN. Oh, yes.

Mr. WALSH. It is not restricted to American representatives?

Mr. MADDEN. No; we must, of course, entertain all the delegates who come here.

Mr. OLIVER. Mr. Speaker, will the gentleman yield a moment for me to submit a unanimous-consent request?

Mr. MADDEN. One moment. Then I will yield.

Mr. Speaker, I move to recede and concur, so that the question may be properly before the House.

Now I yield to the gentleman.

Mr. GARRETT of Tennessee. The gentleman made that motion before.

Mr. MADDEN. I did not know that it had been stated to the House.

Mr. OLIVER. Mr. Speaker, will the gentleman yield?

Mr. MADDEN. Yes.

Mr. OLIVER. Mr. Speaker, I ask unanimous consent to extend my remarks by inserting an article appearing in yesterday's New York World, about a column and three-fourths in length, setting forth the facts in connection with the sale of the wooden ships. I think it will be informing.

The SPEAKER. The gentleman from Alabama asks unanimous consent to insert a statement in the newspaper named concerning the sale of the wooden ships. Is there objection?

Mr. WALSH. I do not think we should consider statements in newspaper articles as facts. No doubt the reporter thought they were facts, but no reliance can be placed in them. I object.

The SPEAKER. Objection is made.

Mr. MOORE of Virginia. Mr. Speaker, the gentleman from Texas [Mr. CONNALLY] has agreed to defer his remarks for a few moments, to allow me to make a brief statement.

Mr. MADDEN. We must hurry along. We must go back to the conference. How much time does the gentleman wish?

Mr. MOORE of Virginia. Five minutes or less.

Mr. MADDEN. Very well. I yield to the gentleman five minutes.

Mr. MOORE of Virginia. Mr. Speaker, I have no doubt all of us are in hearty sympathy with the pending proposition which is incident to the general effort that is going to be made to reach an agreement with respect to disarmament. It seems to me that, with one single exception, that effort is the most important matter before the world to-day, the most important question being whether it is possible to organize an association of nations that will be able to enforce any agreement that may be made by the disarmament conference or any other agreement the nations make with a view to maintaining international peace. Thus, there is no hesitation on either side in generously appropriating what ever may be necessary for the purposes of the conference.

Last May, when the naval bill, in charge of the gentleman from Michigan [Mr. KELLEY], was before the House I offered an amendment requesting the President to bring about a disarmament conference and providing an appropriation to pay the expense of holding it. That amendment was subjected to a point of order. But the leader on the other side [Mr. MONDELL] went beyond the point of order and said that the amendment implied disrespect to the President. But within a very short time the Borah amendment, similar to that I had offered, was passed by the Senate and came to the House, when it was criticized by the gentleman from Wyoming, not as disrespectful to the President but as not going far enough. The House wisely approved the Borah amendment, and we are now fortunate in the prospect of a disarmament conference which we all trust will have results that will make for peace throughout the future.

Mr. LINEBERGER. Mr. Speaker, will the gentleman yield?

Mr. MOORE of Virginia. In a moment. The other day I proposed an amendment to the railroad bill which was intended to prevent the money of the Government being given to the railroads, by requiring any indebtedness that might be funded to be well secured. The gentleman who is chairman of the Committee on Appropriations [Mr. MADDEN] said that that was an insult to the President.

Mr. MADDEN. Mr. Speaker, will the gentleman yield?

Mr. MOORE of Virginia. Yes.

Mr. MADDEN. The gentleman does not wish the impression to be left that there is no security to be taken by the President, does he?

Mr. MOORE of Virginia. There is no provision in the law clearly requiring that security shall be taken.

Mr. MADDEN. The law does not require security to be taken.

Mr. MOORE of Virginia. It is said that in certain cases adequate security has not been taken, and we should have assurance for the future that good security will be taken.

But I am not upon that point. I am upon the general point that gentlemen should not lightly charge that Members of the minority intend disrespect or insult to the President when they are simply doing what they conceive to be their duty. So far as I am concerned, although I am a Member of the minority and a loyal Democrat, I am absolutely incapable of taking any such

attitude, and there is no man on the floor of the House who is more desirous than I that the President's administration shall prove successful to the advantage and for the benefit of the entire country. [Applause.]

Mr. MADDEN. Will the gentleman yield?

Mr. MOORE of Virginia. Yes.

Mr. MADDEN. I would very much regret to think that the gentleman would believe that I would even suspect that he had any intention to insult the President.

Mr. MOORE of Virginia. I did not suppose the gentleman referred to me personally.

Mr. MADDEN. I hope nobody in the House would think that I would suppose that.

Mr. MOORE of Virginia. Perhaps there is ground for the prediction, that just as the disarmament question was dealt with by the Senate against the original opinion of the leader of the majority, so the amendment I offered the other day to the railroad bill will be dealt with by the Senate so as to afford the Government full protection against heavy losses.

Mr. LINEBERGER. Will the gentleman yield?

The SPEAKER. The time of the gentleman from Virginia has expired.

Mr. MADDEN. I yield to the gentleman from Texas [Mr. CONNALLY] 10 minutes.

Mr. CONNALLY of Texas. Mr. Speaker and gentlemen of the committee, I share with the gentleman from Virginia [Mr. MOORE] the hope that through the disarmament conference to be held in this city during the coming fall the United States may be the instrument through which some definite and concrete machinery may be set up to reduce military and naval armaments and to guarantee the peace of the world.

In April of this year, when the naval appropriation bill was pending in this House, I introduced an amendment to that bill providing for the calling by the President of a disarmament conference. The Republican leader, the gentleman from Wyoming, made a point of order against it. He wanted to prevent a vote on it. The point of order was overruled. Under his leadership the Republicans voted it down. Other than the votes of the Democrats it received negligible, if any, support on the Republican side of this Chamber. The Republicans opposed it because they contended it would embarrass the President.

The bill went to the Senate, and the Borah amendment was adopted, and subsequently concurred in by the House. The Republicans reluctantly accepted it because public sentiment compelled them to do so. I sincerely hope that the President of the United States may be successful in redeeming his public statements that he wants America to lead the world in establishing a tribunal before which the nations of the earth may submit their controversies. [Applause.] I believe that through his representative, the Secretary of State, Mr. Hughes, some hope may be expected that this may be accomplished. I want to congratulate the Nation on the services of Secretary Hughes. [Applause.] Through his wisdom, through his counsel, the President of the United States has been able to avoid temporarily, and I hope entirely, a very embarrassing situation produced by the action of this Congress in enacting the Knox peace resolution. I read in this morning's Washington Post in glaring headlines the following:

Sign Berlin treaty to-day—Harding summons Senators—Pact with Germany ready for signatures of Dresel and Rosen—President calls Republican members of Foreign Relations Committee to White House this morning.

We are informed that to-day in the city of Berlin will be signed a formal treaty of peace between the United States and Germany. But gentlemen may say that we are already at peace. They may ask, "Did not the Congress adopt a peace resolution in July, and thereby absolutely foreclose the question of peace?" True, gentlemen, you passed a resolution; but through the wisdom of the Secretary of State, Judge Hughes, who never did recommend that kind of action by Congress, who never was called before the Foreign Affairs Committee to give his counsel or his approval to that course—through his advice the President has until this good moment declined to issue a proclamation of peace based on the unprecedented and presumptuous Knox resolution; and through the advice of the Secretary of State the President has at last come to the conclusion that the only proper and legal manner in which to conclude peace is by treaty, according to the constitutional processes provided in the organic law, and that the Congress has no part, so far as the House of Representatives is concerned, in the making of peace by treaty.

But that is not all. Let us read from the inspired columns of to-day's Washington Post, whose editor has drunk at that Pierian spring, at which only those who enjoy the confidence of the administration are permitted to quench their thirst:

President Harding issued a call last night—

Whom did President Harding call in after he has negotiated this treaty?—

for all the Republican members of the Senate Foreign Relations Committee to go to the White House at 9 o'clock this morning for a conference. The understanding is that Mr. Harding at that time will lay before them the completed text of the peace treaty between the United States and Germany. It was said that the text had been received yesterday by cable at the State Department.

I desire, gentlemen, to point out the sharp contrast between this action of the President of the United States and the action of President Wilson when he returned from France in February, 1919, on his first trip. When President Wilson came back to the United States no treaty had been signed, no final draft of the treaty had been prepared. When President Wilson reached the United States he invited, not the Democratic members of the Senate Foreign Relations Committee, but President Wilson invited both the Democratic and the Republican members not only of the Senate Foreign Relations Committee but also the majority and the minority members of the Committee on Foreign Affairs of this House, and they went to the White House.

The SPEAKER. The time of the gentleman has expired.

Mr. CONNALLY of Texas. May I have two more minutes?

Mr. MADDEN. I yield to the gentleman two minutes.

Mr. CONNALLY of Texas. President Wilson called both the Democrats and the Republicans into his council chamber and disclosed what had transpired at Paris, and submitted himself to cross-examination by both the Democrats and the Republicans as to what should be written into the treaty. I was present and heard the cross-examination. It was pointed and searching. I refuse to believe that the people of the United States want the foreign affairs of this Nation to be converted into a partisan proceeding by one political party. The interests are too great and the responsibilities too solemn to be considered and settled in a secret Republican caucus.

Let no one say that I am now making a partisan speech on such a subject. I am not. [Laughter.] I am protesting against the Republican administration making it a partisan subject by taking into the councils of the President of the United States only the Republican members of the Senate Foreign Relations Committee. The subject of peace with Germany, the question of bringing a formal and legal peace to this Nation, does not affect the Republicans alone. It affects the whole people of the United States. I want to say here in this presence that the Republican side of this Chamber and the present President of the United States were bitter, they were caustic, they declaimed loudly and long throughout this Union in criticizing President Wilson for not counseling with them more. But President Wilson when making a treaty with Germany frankly and fully informed both parties and both Houses as to the negotiations. One of his severe critics was Senator Harding. He then thought the President should more frequently ask the advice of Congress. When he becomes President and makes peace with Germany he invites only the Republican members of the Foreign Relations Committee to visit the White House and learn the terms of the treaty. He even withholds from them what is in the treaty until after the treaty has been prepared and ready for signatures in Berlin on this good day of August, 1921. [Applause.]

Mr. MADDEN. Mr. Speaker, I yield three minutes to the gentleman from Texas [Mr. BLANTON].

Mr. BLANTON. Mr. Speaker, every Member of this House will gladly vote every dollar that is necessary for the proper needs of this conference. Every foreign nation will pay its own expenses of its own delegates and its proportion of the general expenses. There need not be much expense, comparatively, for this conference if it is properly conducted. The newspapers say, however, that from the time these delegates arrive in the United States until they leave there is going to be in Washington one round of high society after another, one great social function after another, the like of which has never before been known in the United States Capital. I take it that much of the expense that is contemplated is going for this society. The purpose for which the conference meets is one more serious than high society.

Mr. MACGREGOR. Does not the gentleman expect to be invited?

Mr. BLANTON. Oh, yes; we will all get invitations. I hope that every male delegate from every foreign country will leave his wife and lady friends at home. [Laughter and applause.] I hope that every female delegate from a foreign country to this Nation when coming to the conference will leave her husband and all male friends at home. [Laughter.] I hope they will do away with high society. There was too much high society connected with the last peace conference. [Laughter and applause.] It ought to be cut out, it ought to be strictly peace and disarmament business that is to be conducted at this

meeting in Washington. I want to say that while I am willing to vote out of the Treasury any sum of money that is necessarily required to publicly conduct the conference, I am not going to vote for a single dollar to pay for one single social function in Washington during this conference.

Mr. MADDEN. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the motion of the gentleman from Illinois to recede and concur.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

Senate amendment 8.

For all necessary expenses, as may be authorized by the Secretary of the Treasury, in connection with the administration and enforcement of the customs laws and regulations and the consideration of pending legislation, including the employment of any necessary officers and other employees in the District of Columbia, and the several collection districts, $100,000.

Mr. MADDEN. Mr. Speaker, I move that the House recede and concur. In this connection I wish to say that this proposes to appropriate $100,000 for the use of the Treasury Department in connection with the administration of the customs service. Consideration of the pending legislation is intended to give the Tariff Commission facilities through which they will be able to acquire information as to the value of the American valuation system, if it should be adopted, as a policy of the Government.

Mr. WALSH. Will the gentleman yield?

Mr. MADDEN. Yes.

Mr. WALSH. Is it the gentleman's understanding that this amendment will permit the Tariff Commission to spend any of this money?

Mr. MADDEN. I understand the work will be delegated by the secretary to the Tariff Commission.

Mr. WALSH. The Tariff Commission has nothing to do with the enforcement of the customs law.

Mr. MADDEN. The Tariff Commission can ascertain the facts.

Mr. WALSH. That is not what the amendment says. I do not believe the amendment is so phrased as to give the Tariff Commission the authority to spend this money.

Mr. MADDEN. It is in the consideration of pending legislation to ascertain through any Government medium facts which will enable a better understanding and consideration of the legislation.

Mr. WALSH. The Tariff Commission has nothing to do with the consideration of legislation. The legislation is considered by the House and the Senate.

Mr. MADDEN. I think the gentleman misunderstood me. I did not mean to say that the Tariff Commission had anything to do with legislation. What I thought I said, and I am surprised that the gentleman did not understand me for his appreciation is quick and acute, was that it was intended to give the Tariff Commission additional facilities to acquire additional information.

Mr. WALSH. Then why did not the amendment say so? Why come in here with a lot of language that does not point in any line or phrase or word of it to the Tariff Commission?

Mr. MADDEN. We did not put the language in.

Mr. WALSH. But you could put in language making it say what it means.

Mr. MADDEN. This is the action of the President of the United States, who sent it up in a message. We employed the language the President originated, I assume; at any rate, language to which he signed his name and the language employed by the Senate when they put the amendment in the bill is the same.

Mr. WALSH. It used to be a custom when the President sent anything up here that we were required to take it without crossing a "t" or dotting an "i," but I thought that time had gone by.

Mr. GARRETT of Tennessee. Even if the President did, that does not add anything to the clearness of it.

Mr. MADDEN. I hope the gentleman from Massachusetts will not feel that he is bound by anything that anybody says or does, so far as the proper exercise of his judgment as a Member of this House is concerned.

Mr. WALSH. Mr. Speaker, will the gentleman yield further?

Mr. MADDEN. Yes.

Mr. WALSH. This amendment is headed "Customs Service." Then it goes on to provide for all necessary expenses that may be authorized by the Secretary of the Treasury in connection with the administration and enforcement of the customs laws and regulations, and the consideration of pending legislation, including the employment of any necessary officers, and so forth, but there is not a line there which would lead anyone to believe that the Tariff Commission would have anything to do with this appropriation. It is under the head of Customs Service, and the only official referred to is the Secretary of the Treasury.

Mr. LONGWORTH. Mr. Speaker, will the gentleman yield?

Mr. MADDEN. Yes.

Mr. LONGWORTH. Is not this proposition predicated upon the fact that it is expected that a new system of valuation of goods for importation shall be a part of the revenue law?

Mr. MADDEN. Certainly.

Mr. LONGWORTH. In other words, it is to carry out the change from the foreign valuation system to the American valuation system?

Mr. MADDEN. That is it.

Mr. LONGWORTH. At least, in the beginning it is going to be a very complicated proposition.

Mr. WALSH. What has the Tariff Commission to do with that? That is an administrative matter under the Secretary of the Treasury.

Mr. LONGWORTH. There is even more than that. There will have to be not only some additional customs officials, but some scheme must be devised under the provision for the working out of the American valuation system, which, undoubtedly, might very well be undertaken, at least in its preliminary stages, by the Tariff Commission. I am not advised myself as to how much, if any, of this appropriation would be used by the Tariff Commission, but knowing something about the technical difficulties that will occur at the beginning at least of the enforcement of the American valuation system I can see the necessity for an expenditure of some such sum as this.

Mr. WALSH. The gentleman from Ohio is a good deal of an expert in tariff legislation, embargo legislation, and in revenue laws phraseology. Does the gentleman believe that the language of this amendment would permit the expenditure of any of this money by the Tariff Commission?

Mr. LONGWORTH. I would not like to say that I did. I should doubt it, but I should think that the Secretary of the Treasury, in investigation of the means whereby the American valuation system shall be carried out, might well ask the Tariff Commission to undertake certain researches.

Mr. CAMPBELL of Kansas. May I not suggest that the President might direct the Tariff Commission to ascertain certain facts for the Secretary.

Mr. WALSH. He could not do it under this amendment.

Mr. LONGWORTH. I do not think that under this amendment any of this money could go directly to the Tariff Commission.

Mr. CAMPBELL of Kansas. But it is under the direction of the Secretary of the Treasury.

Mr. LONGWORTH. I think he could ask the Tariff Commission to furnish any information or advice in respect to time that it has.

Mr. MADDEN. That is my idea.

Mr. WALSH. There is no language here authorizing any such thing.

Mr. COOPER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. MADDEN. Yes.

Mr. COOPER of Wisconsin. I notice in line 9 the words "the consideration of pending legislation."

Mr. MADDEN. That means tariff legislation.

Mr. COOPER of Wisconsin. But if this is enacted into law the legislation will not be pending in Congress at all. It will already be on the statute books and not pending.

Mr. MADDEN. Oh, they are trying to get this information in time to be used in connection with the consideration of the pending legislation in the other body.

Mr. OLDFIELD. Mr. Speaker, will the gentleman yield?

Mr. MADDEN. Yes.

Mr. OLDFIELD. What is going to become of this information when we get it? Is there any provision in the language here which compels the President or the Secretary of the Treasury to furnish the Congress with this information? Our trouble has been that the minority members of the Committee on Ways and Means have not been getting all of the information.

Mr. MADDEN. Oh, the gentleman from Arkansas has been a Member of Congress as long as I have, and he is a pretty wise man. He knows how to get information which he requires in the different departments.

Mr. OLDFIELD. But you can not force them to do it.

Mr. MADDEN. The gentleman would not expect a member of a committee which reports an appropriation of $100,000 to be able to decide the policy in connection with the expenditure of the money.

Mr. OLDFIELD. I do not know whether that would be proper for the gentleman's committee or not, but there ought to be some provision that the Secretary of the Treasury must furnish Congress the information acquired.

Mr. MADDEN. I agree; and I hope that will be done; but I am sure that it is within the right of every Member of Congress to get such information as may be on file in any of the departments.

I yield five minutes to the gentleman from Tennessee [Mr. GARRETT].

Mr. GARRETT of Tennessee. Mr. Speaker, I confess that I am still wholly in the dark as to what this amendment No. 8 means. I listened with attention to the colloquys that occurred just a moment ago concerning it. The first impression that I obtained was that it was intended to be used in administering the law after the law has been passed. I obtained that impression from the remarks of the gentleman from Ohio [Mr. LONGWORTH], but subsequently the gentleman from Illinois [Mr. MADDEN], in response to an inquiry from the gentleman from Wisconsin [Mr. COOPER], stated that it was desired to utilize this fund in obtaining information for the purpose of making the law. What is it? I wonder if some gentleman will tell us in order that we may try to vote intelligently on the proposition what is intended by this amendment?

Mr. MADDEN. I would suggest, if the gentleman is asking me, that it is intended to give the Secretary of the Treasury $100,000, by the use of which, through any medium he may choose to proceed, preferably the Tariff Commission, such information as may be advisable and useful in connection with the American valuation system may be acquired.

Mr. GARRETT of Tennessee. And the Secretary of the Treasury is to lay that information then before the Finance Committee of the Senate, or what is to be done with it?

Mr. MADDEN. Of course, I assume there will be some way by which it will be put to a useful purpose, but I can not——

Mr. TOWNER. Will the gentleman from Tennessee yield?

Mr. GARRETT of Tennessee. I will yield.

Mr. TOWNER. Does not the gentleman from Tennessee think that if this money is to be expended for the instruction and benefit of the Senate or the Senate committee that the House should be generous in its appropriation? Does not the gentleman think they need it?

Mr. GARRETT of Tennessee. Well, I wonder if we can make it retroactive and make it apply to the Republican members of the House Committee on Ways and Means?

Mr. TOWNER. No; the House has acted with entire and justifiable wisdom, but we are very apprehensive, a great many of us, with regard—— .

Mr. GARRETT of Tennessee. You are going to expend $100,000 to prove that the House committee was wrong?

Mr. TOWNER. No; we are expecting it is necessary, although we very much regret it, to be compelled to furnish the information for the Senate committee.

Mr. GARRETT of Tennessee. Mr. Speaker, when either the Committee on Ways and Means of the House or the Committee on Finance of the Senate has asked for an appropriation to be expended under its direction for the purpose of obtaining information for making up a tariff bill or a revenue bill during my experience here that request has never been refused, no matter which party was in power. If the Senate Committee on Finance desires a fund to use itself, to be expended under its direction for the purpose of collecting information to enable it to pass upon the amendment to the House bills, both tariff and revenue, I apprehend that any reasonable request would not be objected to, but upon what possible theory can we justify an appropriation to be made to the Secretary of the Treasury to obtain information unless at least there be coupled with that a provision that he shall send that information to the body which, according to the statement of the gentleman from Illinois [Mr. MADDEN], it is intended. It seems to me we will have to have more information before some of us can commit ourselves to this motion to recede and concur.

Mr. MADDEN. Mr. Speaker, I yield five minutes to the gentleman from Ohio [Mr. LONGWORTH].

Mr. LONGWORTH. Mr. Speaker, I had nothing myself to do with the drafting of this provision, and in fact it is the first time I have seen it, but my understanding of the idea and necessity for it is that it is to be used mainly for one purpose, and that is in connection with the proposed change from the foreign system of valuation to the American system of valuation. It has nothing to do with the furnishing of information to the Committee on Ways and Means.

Mr. GARRETT of Tennessee. Will the gentleman yield?

Mr. LONGWORTH. I will yield.

Mr. GARRETT of Tennessee. Do I understand, then, that it is the gentleman's construction of this that this fund is to be used in administering the law after it shall have been passed?

Mr. LONGWORTH. And also in preparing for the administration of a new system, but if the gentleman will allow me to explain my view——

Mr. GARRETT of Tennessee. Prepare for the administration?

Mr. LONGWORTH. That is my view, but I will explain it to the gentleman in just a moment. The gentleman must realize that a very vast change is involved in the American valuation system. Hitherto, almost through our entire history except for two years, I believe, all ad valorem duties—duties based upon the value of the article and not the quantity of the articles imported—was based upon the foreign value; that is, the value of the article in the country from which it came at the time of shipment. Now, by a very large majority in the House, after long consideration and deliberate action by the Ways and Means Committee, it was decided to abandon that method of valuation, and the goods landed in this country under this valuation will pay a duty based not upon the foreign value at the time of the shipment but upon the American value; the value of the article or similar articles in this country. Gentlemen must realize that the whole expert service of the Treasury has been devoted to a determination of the foreign value of articles. They must now organize so as to determine the value of domestic articles or the American value of the imported article. It will involve a considerable change of machinery, maybe the addition of new machinery, but the situation to-day is that should this tariff bill pass with no preliminary expenditure by way of furnishing additional machinery so as to ascertain information upon which the administration may or shall rest it might be very difficult to administer the law. In view of the fact that the Finance Committee of the Senate has virtually determined to put this American system into force, it is only the part of wisdom in advance to spend some money to enable that system properly to be carried out. That is my construction of this provision, and upon that construction it is absolutely justified.

Mr. HUSTED. Will the gentleman yield?

Mr. LONGWORTH. I will.

Mr. HUSTED. What will be the rule for determining the value of articles that are not produced in the United States, where similar articles are not produced?

Mr. LONGWORTH. It would take too long, I think, to undertake discussion of that.

Mr. GARRETT of Tennessee. That is what the $100,000 is for, to find out?

Mr. LONGWORTH. Not at all. The provision passed by the House gives in detail the various rules of estimating the American valuation. The Senate Finance Committee has adopted it in substance with some few changes suggested by the Treasury Department. In my view it is going to be a very easy matter to determine off the bat the American valuation of most articles landed here, because they are comparable with other articles produced here of which the wholesale value is known.

Mr. HUSTED. My inquiry was in regard to articles not produced here.

Mr. LONGWORTH. I will say to the gentleman our investigation in regard to the chemical schedule shows there is practically not an article known in chemistry upon which the American value is not known and published in the trade journals. The difficulty is going to come in the articles the exact duplicates of which are not produced here and have no general sale. As it passed the House, the law provides a method of doing that. It goes to the foreign valuation, first, and computation of the value in foreign countries, even though the article is not produced here. It is complicated, and it is going to be necessary to establish machinery, and I think this money will be very well spent on the part of the Government.

Mr. KELLEY of Michigan. Will the gentleman yield?

Mr. LONGWORTH. I will yield.

Mr. KELLEY of Michigan. I understand from the gentleman——

The SPEAKER. The time of the gentleman from Ohio has expired.

Mr. MADDEN. I yield two additional minutes to the gentleman.

Mr. KELLEY of Michigan. Mr. Speaker, I understand the Treasury officials are informed as to foreign valuations, but are probably not so well informed as to the domestic. Now, this is what I want to ask: Would it be an advantage to the committee having this matter under consideration in the Senate, in

checking over the work of the committee of which the gentleman is a member—the action of the House—to have that information before they report their bill?

Mr. LONGWORTH. I doubt whether much of this money will be spent in the mere furnishing of information to the Senate Finance Committee. In my judgment it is only the part of prudence, it having been definitely determined to put this new system in force, to provide in advance for its enforcement.

Mr. KELLEY of Michigan. Would it be of some advantage to any committee in checking these rates over and making it sure to have the American valuation in parallel columns with the foreign valuation?

Mr. ANDREWS. Would not the foreign expense be very largely reduced by the adoption of the American system?

Mr. LONGWORTH. Unquestionably, under the American system not only will the ascertainment be more accurate as to what the real value of goods are. We are going to prevent the persistent system of undervaluation, which this country has always had to contend with, and, furthermore, and even more important, it solves the question of depreciation of foreign exchange.

Mr. ANDREWS. And would not we be able to dispense with the very large clerical force in foreign countries to guard against undervaluation?

Mr. LONGWORTH. In my judgment, in the long run it will be a great saving.

Mr. MADDDEN. Mr. Speaker, I yield three minutes to the gentleman from Tennessee [Mr. BYRNS].

Mr. BYRNS of Tennessee. If the explanation given by our friend from Ohio [Mr. LONGWORTH] as to the real reason for this appropriation is correct, then I submit there can not be any possible excuse for its adoption at this time. The Secretary of the Treasury now has a regular appropriation which was made for the purpose of enabling him to administer the customs service, and if by the passage of any legislation in the future his duties are increased or he is required to make extra expenditures, then of course he can submit his estimates for a deficit in the regular and lawful way, and under such circumstances it would be entirely justifiable and proper. But here is what you are about to do if you adopt this amendment: You are about to appropriate $100,000 in the face of pledges for economy, without one line of information being given to any Member of the House or any member of the conference committee, so far as I personally know, as to what it is intended for. What has been privately told to some Members I do not know. And the source of information is clearly disclosed by the statements which have been made here on the floor of the House in support of this amendment. Now, if it is not for the purpose of giving information to the committee which is preparing a tariff bill, then I submit we ought to wait, because the Secretary of the Treasury now has funds, and if we pass legislation which makes it necessary for him to spend more than the monthly apportionment, he has the right under the law, on account of this new emergency legislation, to waive the apportionment and create a deficit, and then he can come to Congress with proper explanation showing what he did with the money. Now, I submit, we are about to adopt a new policy in reference to appropriations.

I never heard before of appropriations involving $100,000, or anything like that sum, being put upon an appropriation bill by either the House or the Senate without one line of information from those who submit the estimates as to what that money is for. And I submit, gentlemen, that if it is to be used for the purposes indicated by the gentleman from Ohio [Mr. LONGWORTH] no possible damage or injury can be done if we will simply vote this down and then let the Secretary of the Treasury, if necessary, create a deficit for these purposes and then come here in the regular way with an estimate.

Mr. GARRETT of Tennessee. Does the gentleman doubt if the law is passed that Congress will make an appropriation to administer the law?

Mr. BYRNS of Tennessee. There is not the slightest doubt about that. There is not a single Member of this Congress who would oppose an appropriation to properly administer any law that may be passed by Congress. But I submit we ought not now, in advance, on the mere possibility that the Secretary of the Treasury may need $100,000, appropriate it out of an already depleted Treasury.

Mr. COOPER of Wisconsin. Mr. Speaker, I want to ask the gentleman from Illinois [Mr. MADDEN] one question. Line 9 provides for the consideration of "pending legislation." And this "consideration" is not restricted to the tariff bill; it is not restricted to the revenue bill. This provision authorizes the Secretary at the head of a department to investigate and ascertain facts concerning any legislation pending in either House of Congress at any time, now or hereafter. That is a very important thing to remember. This does not confine the investigation to the bills now pending in the Senate, either the tariff or the internal revenue bill. But it is "pending legislation." When? At any time. On what subject? Any subject. Let me suggest to the chairman of the conferees on the part of the House——

Mr. MADDEN. The gentleman will see that that is under the head of Customs Service. It can not be expended under any other method. It is in connection with the administration and enforcement of the customs laws and regulations.

Mr. COOPER of Wisconsin. "Customs laws and legislation" is one subject; "pending legislation" is an entirely separate subject.

Mr. MADDEN. But it is all involved—the consideration of pending legislation. Now, then, the legislation must relate to the Customs Service.

Mr. COOPER of Wisconsin. Does the internal revenue law relate to the Customs Service?

Mr. MADDEN. I think indirectly it does.

Mr. COOPER of Wisconsin. Very indirectly. It does not, in my judgment, relate to it at all. The Customs Service is a service relating to the tariff law and the customhouse, but the internal revenue law does not relate to either.

Mr. MADDEN. For example, a man might come through the customhouse with a bottle of whisky in his pocket.

Mr. COOPER of Wisconsin. Wait a moment. The gentleman from Ohio [Mr. LONGWORTH] said that this provision was to obtain information on the subject of the American plan. Is that the only subject?

Mr. MADDEN. I am free to confess to my friend from Wisconsin [Mr. COOPER] that I do not know.

Mr. COOPER of Wisconsin. But we ought to know; and ought we not, in the opinion of the chairman of the conferees, to have this provision amended before we agree to it, so that it will read "in the consideration of pending legislation relating to the customs laws and regulations"?

Mr. MADDEN. The whole thing relates to the Customs Service.

Mr. COOPER of Wisconsin. That may be; but you provide in line 8 "for the enforcement of the customs laws and regulations." Enforcement is one subject and "consideration" is another. In one case you provide for the "enforcement" of existing laws and regulations; in the other you provide for the "consideration" of bills pending before Congress.

Mr. MANN. Mr. Speaker, will the gentleman yield?

Mr. GARRETT of Tennessee. Mr. Speaker, will the gentleman yield there?

Mr. MADDEN. I yield first to my colleague from Illinois [Mr. MANN] four minutes.

Mr. MANN. Mr. Speaker, this Senate amendment was inserted in this bill, as I understand it, and the estimate of appropriation also was made, at the request of the chairman of the Finance Committee in the Senate.

I voted for the tariff bill in the House, including the American plan, and so far as the American valuation plan was concerned I did it with a great deal of doubt and hesitation. I do not know whether the American valuation plan ought to be adopted or not, and I am frank to say that if it had been a bill only for the American valuation plan that was before us, with the information which I then had on the subject, I would not have voted for the proposition. It is quite a change in the law as regards the collection of customs. The House has passed the tariff bill. The Senate Finance Committee has the tariff bill before it, with the American valuation plan in it. The desire is to have an investigation made and information furnished upon that subject, so that the Committee on Finance will have information upon which it may act.

Mr. GARRETT of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. MANN. What possible objection is there to giving the Senate Finance Committee, and through them both bodies and the country, technical information upon this subject, first, as to whether there should be an American valuation plan; and, second, if the American valuation plan is to be reported favorably to the Finance Committee in the Senate, what the rates of duty shall be upon the American valuation plan as compared with the old foreign valuation plan?

Mr. GARRETT of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. MANN. Yes.

Mr. GARRETT of Tennessee. Mr. Speaker, if that be the purpose, and if it were expressed in the language of the amend-

ment, as I tried to say a while ago, I do not think there would be objection. That is not what the amendment says. That is the gentleman's understanding of it, of course.

Mr. MANN. That is what the amendment says, in my opinion.

Mr. GARRETT of Tennessee. The gentleman from Ohio [Mr. LONGWORTH] does not think so.

Mr. MANN. I did not hear the gentleman's interpretation.

Mr. GARRETT of Tennessee. And the gentleman from Ohio informed us that he had much to do with the drawing of it.

Mr. LONGWORTH. I beg the gentleman's pardon. I said I had nothing to do with it.

Mr. GARRETT of Tennessee. Oh, I understood the gentleman said he had much to do with it.

Mr. MANN. I think the gentleman from Tennessee is as incorrect in this as in what he thought the gentleman from Ohio said.

Mr. GARRETT of Tennessee. I understood the gentleman to say that. He has corrected me in that.

Mr. MANN. I can not see what that has got to do with my statement before the House.

Now, here is a proposition in connection with the administration and enforcement of the customs laws and regulations and in the consideration of pending legislation. That is exactly what it is proposed to do—to find out this information in connection with the administration and enforcement of the customs laws and regulations as they now exist, and as to their effect in connection with the pending legislation now in the Senate; exactly what it proposes to do is what it says.

Mr. GARRETT of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. MANN. Certainly.

Mr. GARRETT of Tennessee. Can the gentleman tell us when there has been a time when we have appropriated funds for the use of the Committee on Ways and Means or the Finance Committee for the purpose of ascertaining information upon which to predicate revenue bills that it has not been expressed directly that it should be expended under the direction of those committees?

Mr. MANN. Oh, we have appropriated money at various times under the direction of the committee and at one time under the personal direction of Mr. UNDERWOOD, there being then no committee.

The SPEAKER. The time of the gentleman from Illinois has expired.

Mr. MANN. I would like to have two minutes more, inasmuch as I have been interrupted.

Mr. MADDEN. I yield to the gentleman two minutes more.

Mr. MANN. Thousands of dollars have been expended by the Treasury Department in connection with the Committee on Ways and Means, both when the Republicans controlled the House and when Democrats controlled the House. Why, I have had the aid of the Treasury Department as an individual in the House, and as the Republican leader of the House under a Democratic administration, and a great deal of money has been expended. Now, the Treasury Department, endeavoring to curtail its expenses elsewhere, desires to have this money expended chargeable to this account, so that we may know how much money is expended for this purpose, whereas before nobody knew how much was expended and for what specific purpose. [Applause.]

Mr. MADDEN. Mr. Speaker, I yield five minutes to the gentleman from Oklahoma [Mr. CARTER].

The SPEAKER. The gentleman from Oklahoma is recognized for five minutes.

Mr. CARTER. Mr. Speaker, I confess I know very little about the item under discussion, but even at that I seem to know as much about it as any other Member who has felt called upon to discuss it. I am more than satisfied that nothing I have to say will have any effect on the fate of this amendment, because I am sure it is going to be passed, and before I am through you will understand why. By its own language this Senate amendment provides $100,000 "for expenses in connection with the administration and enforcement of customs law and regulations and consideration of pending legislation." By its own language it provides an indefinite kind of expenditure to be divided, I presume, in some kind of indefinite way between two coordinate branches of this Government. It may be possible that such a provision has gone through Congress in the past, but I do not recall the adoption by this House of any such general, two-edged, abortive, appropriation since I have been here.

I always have suspicions about any legislative language that is not clear. This amendment is carried in occult and mysterious language. It is vague, nebulous, indefinite, incomprehensible, and yet I know as well as I know that I am standing here that it is expected to serve a very definite purpose. Any doubt I may have had about this mysterious amendment was fully settled when a few moments ago I consulted with a minority member of the Committee on Appropriations. When I asked him if he could throw any light on the subject, he said so far as he knew it had only one purpose, and that was the expenditure of $100,000 to get a bunch of politicians a bunch of jobs. [Applause on the Democratic side.] The gentleman from Tennessee says this is new and novel procedure. Well, it is not so infernally new at that. It has been going on in one way or another ever since I came to Congress. Every administration comes into office with a blare of trumpets for economy carried over from its campaign speeches, but it no more than gets its seat warm until it begins to get more reckless in expenditure of the people's money than the administration that it supplanted.

Mr. KETCHAM. Impossible.

Mr. CARTER. No; not impossible. It was so with the Roosevelt administration when it succeeded the McKinley administration. It was so with the Taft administration when it succeeded the Roosevelt administration. Both these administrations were elected upon a pledge of economy in the expenditure of the Treasury's funds, and each of them exceeded its predecessor in extravagance and sum total of appropriations. When we came into power we started off by cutting down the incidental expenses of the House $185,000, but before we got through with our administration we made you fellows on that side of the aisle look like a bunch of pikers. The bulk of this, of course, was due to necessary war expenditures, but the point I make is that it is continuing right on with the present administration as it has before. We continually talk economy, but never practice economy. Now, you have a provision here under discussion to-day nobody has been able to justify.

The gentleman from Illinois [Mr. MANN] perhaps knows more about the details of Government expenditures and effect of legal language than any man in either House. Yet even such a distinguished and experienced legislator as he has failed to give any explanation of this item that would justify me or anyone else in voting for it. But it is going to pass. It is going to pass because it gives jobs to some political friends back at home, and that is all the justification that anyone has been able to give. And whenever you want to know who is getting these jobs for their friends, just take a look at the man who volunteers to explain the mystery.

This is not the only appropriation of this character that has been passed by this Congress. This is only one of a few. You have passed many of them. They amount to millions in the sum total, and you gentlemen are responsible for this taking of the people's money to pay political debts. This is nothing more nor less than history repeating itself, and I want to warn my friends on the Republican side that this is just exactly the rock upon which former majorities and other administrations have wrecked themselves in the past and been kicked out of power—this rock of paying political debts with the people's money, which in the end mounts up into millions of dollars of appropriations and expenses that could and ought to be avoided. The reckoning day will come, and when it does come you are going to have to answer not only for this $100,000 appropriation but you are going to have to make a better explanation to the people than the best man on your side has been able to make to-day with reference to this matter, for the many other millions of dollars which have and will be thrown into these bills, until in the aggregate you are placed in a position where your economy pledges can not be redeemed but must necessarily be repudiated.

The SPEAKER. The time of the gentleman from Oklahoma has expired.

Mr. MADDEN. Mr. Speaker, how much time have I remaining?

The SPEAKER. Sixteen minutes.

Mr. MADDEN. I yield two minutes to the gentleman from Michigan [Mr. KETCHAM].

Mr. KETCHAM. I yield back my two minutes.

Mr. MADDEN. I yield two minutes to the gentleman from Pennsylvania [Mr. KREIDER].

Mr. KREIDER. Mr. Speaker, I am very much impressed but not at all surprised that my friend from Oklahoma [Mr. CARTER] and the gentleman from Tennessee [Mr. BYRNS] can not understand the Republican method of procedure. Yet it would seem that after men have passed through an experience such as my friends have passed through last November that they should have learned that the Democratic method was obsolete. My friend from Tennessee [Mr. BYRNS] said this is a new order of things. I admit that it is. We purpose now

under the Republican administration to make the appropriations before we spend the money. Under the Democratic administration the money was spent before it was appropriated, and then we had these items included in the deficiency bills brought on the floor of this House and we were compelled to approve the expenditures which had been made. Now, we propose to appropriate the money before it is expended.

Mr. GARRETT of Tennessee. Will the gentleman yield?

Mr. KREIDER. I have only two minutes, and I would like to yield, but I want to make this further statement.

As has been so fully and ably explained by the gentleman from Illinois [Mr. MANN], this money is needed to obtain information that has a direct bearing on pending legislation, and we desire to get the information prior to the passage of the legislation, and thereby depart from the custom of our Democratic friends, who passed legislation without information, which was the direct cause and resulted in writing on the statute books so many ill-advised and harmful laws from which the people are suffering to-day.

Mr. MADDEN. I was about to move the previous question, but I yield to the gentleman from Massachusetts [Mr. WALSH].

Mr. WALSH. Mr. Speaker, I ask for a division of the question. I should like to ask the chairman of the Committee on Appropriations if he would have any objection to concurring with an amendment inserting after the word "regulations," in the third line of the amendment, the words "including investigations by the Tariff Commission."

Mr. MADDEN. Not at all.

Mr. WALSH. I will submit that amendment, to be considered after the question is divided.

The SPEAKER. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

Mr. MADDEN. Mr. Speaker, with the consent of the gentleman from Massachusetts, I will move to recede and concur with the amendment, if the gentleman will permit.

The SPEAKER. The gentleman from Illinois moves to recede and concur with an amendment, which the Clerk will report.

The Clerk read as follows:

After the word "regulations," in line 3 of the Senate amendment, insert "including investigations by the Tariff Commission."

Mr. GARRETT of Tennessee. Mr. Speaker, I wonder if the gentleman from Illinois will yield me two minutes on that?

Mr. MADDEN. Undoubtedly.

Mr. GARRETT of Tennessee. It does not seem to me that the amendment proposed by the gentleman from Massachusetts [Mr. WALSH] in any way corrects what I conceive to be the wrong principle involved in this Senate amendment. If the Finance Committee of the Senate wants a certain amount of money with which to make investigations to aid it in perfecting this tariff legislation, and will say so, and if an amendment is brought in here that will say so in so many words, I do not think it will meet with opposition on the Democratic side, provided the amount is within the bounds of reason. But the language of the Senate amendment is inchoate.

Mr. KELLEY of Michigan. Will the gentleman yield?

Mr. GARRETT of Tennessee. I yield to the gentleman from Michigan.

Mr. KELLEY of Michigan. If the Finance Committee of the Senate should be of the opinion that the work could be done more cheaply and expeditiously by the Secretary of the Treasury, does the gentleman think there would be any objection to that?

Mr. GARRETT of Tennessee. Mr. Speaker, I do; and I will tell the gentleman why. The Secretary of the Treasury is not charged with the responsibility of initiating revenue legislation. The Congress is charged with that duty, and I think the Congress should obtain the information for itself directly.

Mr. KELLEY of Michigan. The Tariff Commission is not charged with legislation, and yet we have created the Tariff Commission for the purpose of advising the two committees of the House and the Senate having jurisdiction of the subject. What is the difference in principle?

Mr. GARRETT of Tennessee. The gentleman's amendment does not limit it to the Tariff Commission; it broadens and widens it.

Mr. KELLEY of Michigan. I was wondering if there was any difference in principle—if the Secretary furnished the information to either branch of Congress.

Mr. GARRETT of Tennessee. If it were confined alone to the Tariff Commission, that is a proposition we could consider, but it is not confined to the Tariff Commission. The language is indefinite. The gentleman from Illinois and the gentleman from Ohio disagree upon what the purpose of this is, and it seems to me it ought to go back to conference and be worked out.

Mr. MADDEN. I yield three minutes to the gentleman from Florida [Mr. SEARS].

Mr. SEARS. Mr. Speaker, this shows the danger of rushing legislation through the House. I briefly called the attention of Members of the House, when the railroad bill was up for consideration, to the danger of such rapid legislation. There was involved in that bill $500,000,000, and the same was rushed through the House in about five hours, or $100,000,000 per hour, and without giving Members of the House a chance to explain amendments.

If I have understood the explanations of gentlemen who have tried to explain this legislation now before us, it simply resolves itself into this one point. The House recently rushed through a certain bill, to wit, the tariff bill. Now, at the other end of the Capitol they are asking for $100,000 to find out what the Members of the House meant when they passed the bill. I voted against the bill, not because of this point alone but because of many objectionable sections contained in the bill. But if for no other reason, Mr. Speaker, I believe I can go before my constituents and clearly convince them that I voted right when I voted against a bill which will now cost the taxpayers $100,000 to find out what the Ways and Means Committee meant and what the House intended when it passed the bill. [Applause on the Democratic side.]

Mr. Speaker, the revenue bill was also considered under a special rule, and although there was involved the raising of about $4,000,000,000 in taxes and the bill contained 83 pages, general debate was limited to two days and consideration of same under the five-minute rule to about two days. No chance or opportunity was given to the Members of the House, except the Republican members of the Ways and Means Committee, to offer any amendment. This bill was passed so rapidly it might well be also called a railroad bill. I trust the Senate will not find it necessary to ask for an additional $100,000 to find out just what the House intended when it passed this bill. The old adage, "Haste makes waste," evidently still holds true, and might well be remembered when important legislation comes before us in the future.

Mr. MADDEN. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the motion of the gentleman from Illinois——

Mr. BLANTON. Mr. Speaker, there was a request for a division.

The SPEAKER. That has been withdrawn.

Mr. BLANTON. Then I ask for a division.

The SPEAKER. The gentleman from Texas asks for a division. The question is on the motion to recede.

The question was taken; and on a division (demanded by Mr. BLANTON) there were 67 ayes and 31 noes.

Mr. BLANTON. Mr. Speaker, I object to the vote and make the point of no quorum.

The SPEAKER. The gentleman from Texas makes the point of no quorum. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The question was taken; and there were—yeas 205, nays 98, answered "present" 1, not voting 126, as follows:

YEAS—205.

Ackerman	Clague	Frear	Kelley, Mich.
Andrews	Clarke, N. Y.	Free	Kelly, Pa.
Ansorge	Cole, Iowa	French	Kendall
Anthony	Colton	Frothingham	Ketcham
Appleby	Connell	Funk	King
Arentz	Connolly, Pa.	Gensman	Kinkaid
Atkeson	Cooper, Wis.	Gernerd	Kirkpatrick
Barbour	Coughlin	Glynn	Kissel
Beedy	Curry	Gorman	Kline, Pa.
Begg	Dale	Graham, Ill.	Knutson
Bird	Dallinger	Graham, Pa.	Kopp
Blakeney	Darrow	Green, Iowa	Kraus
Bland, Ind.	Davis, Minn.	Greene, Mass.	Kreider
Boies	Dempsey	Greene, Vt.	Langley
Bond	Denison	Hadley	Larson, Minn.
Bowers	Dowell	Hardy, Colo.	Lawrence
Brennan	Dunbar	Haugen	Lea, Calif.
Brooks, Pa.	Dunn	Hays	Leatherwood
Brown, Tenn.	Dyer	Hickey	Lee, N. Y.
Burdick	Echols	Hill	Lehlbach
Burroughs	Edmonds	Himes	Lineberger
Burtness	Elliott	Hoch	Longworth
Burton	Evans	Hogan	Luce
Butler	Fairfield	Houghton	Luhring
Cable	Faust	Hukriede	McArthur
Cannon	Fenn	Hull	McFadden
Chalmers	Fess	Husted	McKenzie
Chandler, Okla.	Fish	Jefferis, Nebr.	McLaughlin, Mich.
Chindblom	Focht	Kearns	McLaughlin, Nebr.
Christopherson	Fordney	Keller	McLaughlin, Pa.

McPherson	Osborne	Sanders, N. Y.	Towner
MacGregor	Parker, N. J.	Scott, Mich.	Underhill
Madden	Parker, N. Y.	Scott, Tenn.	Vestal
Magee	Patterson, Mo.	Shelton	Volgt
Mann	Patterson, N. J.	Shreve	Volstead
Mapes	Porter	Sinnott	Walsh
Merritt	Pringey	Smith, Idaho	Walters
Michaelson	Radcliffe	Smith, Mich.	Watson
Michener	Ramseyer	Snell	Webster
Miller	Ransley	Speaks	Wheeler
Millspaugh	Reavis	Sproul	White, Kans.
Mondell	Reber	Steenerson	Williams
Moore, Ill.	Reece	Stephens	Winslow
Moore, Ohio	Reed, N. Y.	Strong, Kans.	Woodruff
Morin	Reed, W. Va.	Strong, Pa.	Wurzbach
Murphy	Rhodes	Summers, Wash.	Wyant
Nelson, A. P.	Roach	Sweet	Yates
Nelson, J. M.	Rogers	Swing	Young
Newton, Minn.	Rose	Taylor, Tenn.	Zihlman
Newton, Mo.	Rosenbloom	Temple	
Nolan	Rossdale	Tincher	
Olpp	Sanders, Ind.	Tinkham	

NAYS—98.

Almon	Davis, Tenn.	Lazaro	Ricketts
Aswell	Deal	Lee, Ga.	Riordan
Bell	Doughton	Linthicum	Robsion
Black	Driver	Lowrey	Rouse
Bland, Va.	Favrot	McClintic	Rucker
Blanton	Fields	McDuffie	Sanders, Tex.
Bowling	Fisher	McSwain	Sandlin
Box	Flood	Mead	Sears
Brand	Fulmer	Moore, Va.	Sinclair
Briggs	Garrett, Tenn.	Morgan	Sisson
Brinson	Garrett, Tex.	O'Brien	Smithwick
Buchanan	Gilbert	O'Connor	Steagall
Bulwinkle	Griffin	Oldfield	Stoll
Burke	Hammer	Oliver	Swank
Byrnes, S. C.	Hardy, Tex.	Overstreet	Ten Eyck
Byrns, Tenn.	Hayden	Padgett	Tillman
Cantrill	Huddleston	Park, Ga.	Tyson
Carew	Humphreys	Parks, Ark.	Vinson
Carter	Jacoway	Parrish	Weaver
Clark, Fla.	Jeffers, Ala.	Pou	Wilson
Collier	Jones, Tex.	Quin	Wingo
Collins	Kincheloe	Rainey, Ill.	Woods, Va.
Connally, Tex.	Lanham	Raker	Wright
Crisp	Lankford	Rankin	
Cullen	Larsen, Ga.	Rayburn	

ANSWERED "PRESENT"—1.

Sumners, Tex.

NOT VOTING—126.

Anderson	Freeman	Kunz	Shaw
Bacharach	Fuller	Lampert	Siegel
Bankhead	Gahn	Layton	Slemp
Barkley	Gallivan	Little	Snyder
Beck	Garner	Logan	Stafford
Benham	Goldsborough	London	Stedman
Bixler	Goodykoontz	Lyon	Stevenson
Britten	Gould	McCormick	Stiness
Brooks, Ill.	Griest	Maloney	Sullivan
Browne, Wis.	Harrison	Mansfield	Tague
Campbell, Kans.	Hawes	Martin	Taylor, Ark.
Campbell, Pa.	Hawley	Mills	Taylor, Colo.
Chandler, N. Y.	Herrick	Montague	Taylor, N. J.
Classon	Hersey	Montoya	Thomas
Clouse	Hicks	Moores, Ind.	Thompson
Cockran	Hudspeth	Mott	Tilson
Codd	Hutchinson	Mudd	Timberlake
Cole, Ohio	Ireland	Norton	Treadway
Cooper, Ohio	James	Ogden	Upshaw
Copley	Johnson, Ky.	Paige	Valle
Cramton	Johnson, Miss.	Perkins	Vare
Crowther	Johnson, S. Dak.	Perlman	Volk
Dickinson	Johnson, Wash.	Peters	Ward, N. Y.
Dominick	Jones, Pa.	Petersen	Ward, N. C.
Drane	Kahn	Purnell	Wason
Drewry	Kennedy	Rainey, Ala.	White, Me.
Dupré	Kiess	Riddick	Williamson
Ellis	Kindred	Robertson	Wise
Elston	Kitchin	Rodenberg	Wood, Ind.
Fairchild	Kleczka	Ryan	Woodyard
Fitzgerald	Kline, N. Y.	Sabath	
Foster	Knight	Schall	

So the motion to recede was agreed to.

The Clerk announced the following pairs:

On the vote:

Mr. JOHNSON of South Dakota (for) with Mr. KITCHIN (against).

Mr. TREADWAY (for) with Mr. TAGUE (against).

Mr. VAIL (for) with Mr. TAYLOR of Colorado (against).

Mr. BROOKS of Illinois (for) with Mr. MONTAGUE (against).

Mr. PAIGE (for) with Mr. GALLIVAN (against).

Mr. FREEMAN (for) with Mr. GOLDSBOROUGH (against).

Mr. FULLER (for) with Mr. KUNZ (against).

Mr. PURNELL (for) with Mr. SUMNERS of Texas (against).

Mr. HICKS (for) with Mr. GARNER (against).

Mr. LAYTON (for) with Mr. COCKRAN (against).

Mr. PERKINS (for) with Mr. TAYLOR of Arkansas (against).

Mr. KIESS (for) with Mr. JOHNSON of Mississippi (against).

Mr. GRIEST (for) with Mr. BANKHEAD (against).

Mr. RODENBERG (for) with Mr. SULLIVAN (against).

Mr. THOMPSON (for) with Mr. KINDRED (against).

Mr. KAHN (for) with Mr. DRANE (against).

Mr. JOHNSON of Washington (for) with Mr. THOMAS (against).

Mr. RIDDICK (for) with Mr. SABATH (against).

Mr. VOLK (for) with Mr. RAINEY of Alabama (against).

Mr. IRELAND (for) with Mr. STEVENSON (against).

Mr. BACHARACH (for) with Mr. STEDMAN (against).

Mr. HUTCHINSON (for) with Mr. DOMINICK (against).

Mr. TAYLOR of New Jersey (for) with Mr. UPSHAW (against).

Mr. SIEGEL (for) with Mr. WARD of North Carolina (against).

Mr. WASON (for) with Mr. HARRISON (against).

Mr. PERLMAN (for) with Mr. BARKLEY (against).

Mr. BIXLER (for) with Mr. DREWRY (against).

Until further notice:

Mr. VARE with Mr. CAMPBELL of Pennsylvania.

Mr. JAMES with Mr. DUPRÉ.

Mr. HERSEY with Mr. MARTIN.

Mr. WOOD of Indiana with Mr. LOGAN.

Mr. KENNEDY with Mr. WISE.

Mr. CROWTHER with Mr. LYON.

Mr. STINESS with Mr. MANSFIELD.

Mr. CODD with Mr. HAWES.

Mr. DICKINSON with Mr. JOHNSON of Kentucky.

Mr. FAIRFIELD with Mr. HUDSPETH.

Mr. CRAMTON with Mr. LONDON.

The result of the vote was announced as above recorded.

The SPEAKER. The question now is on the motion to concur with an amendment.

The question was taken; and on a division (demanded by Mr. BLANTON) there were—ayes 43, noes 1.

So the motion to concur with an amendment was agreed to.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

Amendment No. 22: Page 7, after line 3, insert: "For support of United States prisoners, including necessary clothing and medical aid, etc., including the same objects specified under this head in the sundry civil appropriation act for the fiscal year 1921, $138,000: *Provided*, That the accounting officers are authorized to reimburse from this appropriation the board of prison commissioners of the Texas State prison system in the amount of $5 paid as discharge gratuity to United States prisoner, Hattie Burr."

Mr. MADDEN. Mr. Speaker, I move to recede and concur, and before the vote is taken I wish to make a short explanation. The only reason that we bring this back for ratification by the House is that the prison authorities in one of the Texas prisons gave to a discharged prisoner a $5 gratuity. Under the law no prisoner is entitled to a gratuity unless he has served six months. The prisoner in question was sentenced to only four months. The legislation in this matter is to refund to the prison officer the $5.

I yield two minutes to the gentleman from New Jersey [Mr. LEHLBACH].

Mr. LEHLBACH. Mr. Speaker, at the request of a committee representing the United States Spanish War Veterans and the American Legion and United Veterans of the Republic, I ask for the information of the House that the letter which I send to the desk be read in my time.

The SPEAKER. Without objection, the Clerk will read.

The Clerk read as follows:

AUGUST 24, 1921.

Hon. FREDERICK R. LEHLBACH,
Committee on Reform in the Civil Service,
House of Representatives, Washington, D. C.

DEAR CONGRESSMAN LEHLBACH: On August 23, 1912, the Congress passed an act (37 Stat., 413, sec 4), which reads:

"That in the event of reductions being made in the force in any of the executive departments, no honorably discharged soldier or sailor whose record in said department is rated good shall be discharged or dropped or reduced in rank or salary.

"Any person knowingly violating the provisions of this section shall be summarily removed from office, and may also, upon conviction thereof, be punished by a fine of not more than $1,000 or by imprisonment for not more than one year."

We request at this time that conditions existing in the Boston Navy Yard, Charlestown, Mass., be called to the attention of those whose duty it is to see that the civil service laws are carried out in the discharge and reduction in ratings of ex-service men.

We have just cause to believe that the civil-service regulations regarding the veterans have been ignored, because of the fact that many hundreds of ex-service men have been discharged since the first of the year and many nonservice men have been retained.

As representatives of all the ex-service men's organizations of the State of Massachusetts we respectfully request that this matter be immediately investigated.

Respectfully, yours,

HUGH J. DONNELLY, *Chairman,*
American Legion and United Veterans of Republic,
JAMES F. O'BRIEN,
United States Spanish War Veterans,
Committee.

Mr. MADDEN. Mr. Speaker, I move to recede and concur in amendment No. 22.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

Amendment No. 23: Page 7, after line 12, insert:

"For such miscellaneous expenses as may be authorized by the Attorney General for the United States courts and their officers, including so much as may be necessary in the discretion of the Attorney General for such expenses in the district of Alaska, for the fiscal years that follow:

"For 1918, $7.04;

"For 1919, $524.57;

"For 1920, $1,618.04: *Provided*, That the general accounting office is authorized and directed to settle under this appropriation for the fiscal year 1920 the bill of Judd & Detweller, amounting to $12, for furnishing 50 copies of the brief in the case of Isiah Smith *v.* United States, and to allow in the account of United States marshal for the western district of Oklahoma for the quarter ended September 30, 1920, items aggregating $41.11, covering authorized payments for subsistence in excess of $5 per day cab fare and war tax paid to H. C. Cowles, expert ecologist;

"For 1921, $42,000."

Mr. MADDEN. Mr. Speaker, I move to recede and concur in the Senate amendment, and on that I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the motion to recede and concur.

The motion was agreed to.

Mr. MADDEN. Mr. Speaker, I now ask for a conference with the Senate on Senate amendment No. 2.

The SPEAKER. The gentleman from Illinois asks for a conference on Senate amendment No. 2. Without objection, the conference is agreed to, and the Chair appoints the following conferees: Mr. MADDEN, Mr. CANNON, Mr. KELLEY of Michigan, Mr. BYRNS of Tennessee, and Mr. BUCHANAN.

COMMISSIONED AND ENLISTED PERSONNEL, ARMY, NAVY, AND MARINE CORPS, ETC.

Mr. A. P. NELSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table Senate concurrent resolution No. 11, and to consider the same, and at the proper time I shall offer an amendment to the resolution, if consideration be granted.

The SPEAKER. The gentleman from Wisconsin asks unanimous consent to take from the Speaker's table and consider Senate concurrent resolution No. 11, which the Clerk will report.

The Clerk read as follows:

Senate concurrent resolution 11.

Resolved by the Senate (the House of Representatives concurring), That the special committee appointed in accordance with the provisions of section 13 of the act entitled "An act to increase the efficiency of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service," approved May 18, 1920, or any subcommittee thereof, is authorized to sit at any time, in the District of Columbia or elsewhere, to send for persons, books, and papers, to administer oaths, to summon and compel the attendance of witnesses, to employ a stenographer, at a cost per printed page as fixed by law, to report such hearings as may be had in connection with any subject which may come before said committee, to print such hearings and other matter as may be necessary, and to employ such clerical services as may be necessary to carry out the purposes of this act. All expenses in pursuance hereof shall be paid from the contingent funds of the Senate and House of Representatives, in equal proportions, upon vouchers authorized by the committee and signed by the chairman thereof.

The SPEAKER. Is there objection?

Mr. MANN. Mr. Speaker, consent has not been given yet, has it?

The SPEAKER. No. The Chair supposes that the gentleman from Wisconsin desires to suggest his amendment before consent is given.

Mr. MANN. Mr. Speaker, I reserve the right to object.

Mr. BLANTON. Mr. Speaker, I also reserve the right to object.

Mr. A. P. NELSON. Mr. Speaker, I send to the desk the amendment which I propose to offer if consent be given.

The SPEAKER. The Clerk will report the proposed amendment.

The Clerk read as follows:

Page 1, line 15, after the word "necessary," strike out the comma and the following language: "and to employ such clerical services as may be necessary to carry out the purposes of this act."

The SPEAKER. Is there objection to the present consideration of the concurrent resolution?

Mr. GARRETT of Tennessee. Mr. Speaker, reserving the right to object, may I ask the gentleman from Wyoming if he is about to propose a request for unanimous consent touching the Unanimous Consent Calendar?

Mr. MONDELL. At the earliest opportunity I intend to submit a request that we take up that calendar.

Mr. GARRETT of Tennessee. This is a unanimous-consent request that is now up.

Mr. MONDELL. This is a resolution on the Speaker's table, and all that this will do, I will say to the gentleman, if we adopt the amendment suggested by the gentleman from Wisconsin, would be to authorize the committee referred to to employ a stenographer.

Mr. GARRETT of Tennessee. I am not interested in that. The amendment is satisfactory.

Mr. MONDELL. It is a matter on the Speakers' table which I thought we might dispose of at this time, because it is not exactly in the same category as the bills on the Unanimous Consent Calendar. The joint committee was appointed to review the increase that we made in the pay of certain officers and enlisted men. Our hope is that that committee will report some reductions that will result in economy, and they ask to be authorized to employ a stenographer. That is all the resolution does as now presented.

Mr. SNELL. How much money is it contemplated to spend in this matter?

Mr. MONDELL. It is proposed to employ a stenographer. I do not know that the resolution fixes the salary.

Mr. SNELL. Is that all it provides for?

Mr. A. P. NELSON. The amendment that I have proposed strikes out the provision to employ such clerical services as may be necessary and leaves the committee simply the right to employ a stenographer.

Mr. SNELL. How much is it contemplated to expend on this matter?

Mr. A. P. NELSON. I am not accurately informed on that——

Mr. MONDELL. But it could not be over a few hundred dollars, because the committee must report within a comparatively brief period, and the cost of employment of a stenographer could not be very heavy.

The SPEAKER. Is there objection?

Mr. BLANTON. Will the gentleman yield for a question?

Mr. A. P. NELSON. I will.

Mr. BLANTON. If this resolution passes with the gentleman's amendment, it would give authority to this committee during the recess to sit anywhere they wanted to in the United States and to expend money in connection with paying travel, witness fees, and so forth.

Mr. A. P. NELSON. In reply to the gentleman from Texas I will say that, acting for the Committe on Accounts, I have taken this up at the special request of the committee appointed by the House, of which the gentleman from Illinois [Mr. MCKENZIE] is the chairman, in order to make it possible for them to have hearings at once, so that the committee might be able to make their report by January, 1922, which is the date named when this report must be made.

Mr. BLANTON. But it would permit a junketing trip during the recess.

Mr. A. P. NELSON. I will yield to the gentleman from Illinois [Mr. MCKENZIE], who will be able to answer any inquiry of the gentleman.

Mr. MCKENZIE. Mr. Speaker, I want to say to the gentleman from Texas and the other Members of the House that there will not be any junketing trip connected with this investigation. This joint committee has been appointed in accordance with the law passed in the last Congress, and the purpose of that is to adjust the pay of the Army, the Navy, and the Marine Corps, the Public Health Service, the Coast and Geodetic Survey, and the Coast Guard, which was the result of the legislation passed giving to the Army officers and Navy officers and these other various officers the bonus which was contended was necessary at that time on account of the high cost of living. Now, the purpose of this committee is to go over the whole subject and see if we can not adjust and get information before the House and the Senate so that we will know and the country will know something about the pay and allowances that Army and Navy officers and Public Health Service officers are getting from the Government at this time.

Mr. BLANTON. Will the gentleman yield?

Mr. MCKENZIE. Certainly.

Mr. BLANTON. The members of this committee have been working just as hard as the balance of the membership of the House, and they will probably want to rest from their duties in some other way than in this investigation, will they not?

Mr. MCKENZIE. If the gentleman will permit, I will say to him that we have had one preliminary meeting. The chairman of the joint committee, the Senator from New York [Mr. WADSWORTH], has submitted an inquiry to the Secretary of the Navy and the Secretary of War and the man at the head of the Public Health Service and these various other services, asking them to prepare for us a tabulated statement showing the pay in each grade in these various branches of the service, and to have that ready for us to take up when we come back later in the fall, and we expect that through the month of December, and perhaps in November, to take up this matter and thrash it out and have it ready to submit to the House, and

all of our activities will be carried on here in the city of Washington. And I want to say to the gentleman from Texas that in my humble judgment there is not any one subject, perhaps, that can be submitted to this Congress that ought to be thoroughly and carefully and painstakingly gone into than this very subject of the pay of the Army and Navy.

Mr. MANN. Will the gentleman yield?

Mr. McKENZIE. I will.

Mr. MANN. Is it the expectation that the joint committee will not sit during the recess?

Mr. McKENZIE. Well, I will say very frankly to the gentleman from Illinois, my colleague, that there may be some sessions of the committee during some of the recesses, but not this one that is to take place at the present time.

Mr. MANN. I have in mind the prospective recess, if we pass the Senate concurrent resolution.

Mr. McKENZIE. I will say very frankly I said to the chairman of the committee that I would not be here during this vacation and that I hoped they will get this information prepared and that it might be sent to me at my home, and I will go over it there and study it and be ready to make some suggestion when I return.

Mr. MANN. Well, if the committee is not to meet during the recess, what need will they have of a stenographer during that time?

Mr. McKENZIE. Well, I want to say to the gentleman I can not speak for the Senator from New York. He probably will hold some meeting and might need this stenographer.

Mr. MANN. The Senator from New York will not remain in Washington, and I do not think any member of this committee ought to remain in Washington, but ought to be sent home during the recess or to some other place.

Mr. McKENZIE. I think the gentleman will agree with me that the gentleman from Illinois, my colleague, ought to be sent home. I think all ought to be sent home——

Mr. MANN. I am going home anyhow.

Mr. BLANTON. Mr. Speaker, I object.

Mr. McKENZIE. It is immaterial whether the resolution is adopted or not; I expect to go home, but it might be that the Senator from New York might want to hold a session during the recess, and if he did——

The SPEAKER. But the gentleman from Texas has objected.

Mr. SEARS. Mr. Speaker, I ask unanimous consent to extend my remarks on the subject which I spoke a few moments ago, the conference report.

The SPEAKER. The gentleman from Florida asks unanimous consent to extend his remarks in the manner indicated. Is there objection? [After a pause.] The Chair hears none.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, one of its clerks, announced that the Senate had passed joint resolution of the following title, which was taken from the Speaker's table and referred to its appropriate committee as indicated below:

S. J. Res. 109. Joint resolution relating to unexpended balances of certain appropriations.

ORDER OF BUSINESS.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that the House proceed to the consideration of unobjected bills on the Unanimous Consent Calendar, not to interfere with privileged business.

The SPEAKER. The gentleman from Wyoming asks unanimous consent that the Unanimous Consent Calendar be called, not to interfere with privileged business. Is there objection——

Mr. BLANTON. Mr. Speaker, reserving the right to object, I want to ask the gentleman from Wyoming if we are going to recess to-day and if he thinks this is the proper time, with everybody, most of us with transportation, prepared to leave Washington and those who have not secured transportation expect to procure it, everybody is prepared to get away; does the gentleman think this is the time to take up hurriedly the business on the Unanimous Consent Calendar?

Mr. MONDELL. I think this is a very appropriate time, Mr. Speaker, because there is no possibility that we shall adjourn before late to-night. I still hope that we may agree on a recess some time before midnight. But it is very certain that it will be late to-night before we do, and we may not be able to recess for a month until to-morrow. And in that state of affairs there are several bills on the Unanimous Consent Calendar, Senate bills, not of very great national importance, but important to Members on both sides. I do not know when we would have more time to consider them carefully than we would now, and I think it is highly important that we should dispose of them. It is altogether a matter of unanimous consent. The gentleman from Texas [Mr. BLANTON] can object to all of them if he sees fit.

Mr. BLANTON. The distinguished gentleman from Wyoming will remember what the gentleman from Massachusetts [Mr. WALSH] and the gentleman from Iowa, Mr. Good, had to say in the closing hours of the last session about the thousands of dollars of wasteful pieces of legislation that were rushed in here for us to consider, and nearly all of them passed.

Mr. MONDELL. Mr. Speaker, there can be no rush here. It is only the consideration of small bills on the Unanimous Consent Calendar. Any Member can object to the consideration of any one of them or all of them.

Mr. CANNON. And any Member can object now.

Mr. MONDELL. Yes.

The SPEAKER. Is there objection?

Mr. BLANTON. I regret to object.

Mr. MANN. Will the gentleman reserve it for a moment?

Mr. BLANTON. If there are any important bills that the gentleman from Illinois thinks ought to be taken up for the good of the country——

Mr. MANN. Reserve your objection until I make a statement.

Mr. BLANTON. I have no objection to the bill the gentleman wants to take up.

Mr. GARRETT of Tennessee. Mr. Speaker, the gentleman from Texas [Mr. BLANTON] for several days has been choosing among the bills, and the gentleman from Texas will have to make his objection to all or none. [Applause.]

Mr. BLANTON. Mr. Speaker, I have made my objection, and I exercise my judgment under my sacred duty.

Mr. MONDELL. Mr. Speaker, before anything further is said I want to say that if we can not take up the Unanimous Consent Calendar and give the entire membership of the House the chance to have their bills considered, if no objections are made, then there can be no particular bills taken up because it pleases some gentleman to discriminate as between them.

Mr. MANN. Now, I would like to make this suggestion out of order, to both the gentleman from Texas [Mr. BLANTON] and my distinguished friend from Tennessee [Mr. GARRETT] and even my distinguished leader: It is a very good time for everybody to keep good-natured if we want to get away. [Applause.]

Mr. STEENERSON. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. STEENERSON. The request for unanimous consent was submitted by the Speaker and there was no objection, and it was so announced by the Speaker. Then the gentleman from Texas got up and said he would reserve the right to object. The parliamentary question is, Was consent given?

Mr. BLANTON. No. I made objection.

Mr. CURRY. Will the gentleman withhold it a moment?

The SPEAKER. The Chair would like to state that the Unanimous Consent Calendar was adopted to take away from the Chair the prerogative of recognizing gentlemen for unanimous consent. It is very embarrassing to the Chair ever to recognize any one gentleman for unanimous consent, because it seems like defying the action of the House in taking away from the Speaker that prerogative.

Mr. CURRY. Mr. Speaker, the Committee on Territories has a bill on the Unanimous Consent Calendar that is of a great deal of importance to the people of Hawaii. It is the approval of six acts of the Legislature of Hawaii granting franchises for electric lights and power companies and the extension of a franchise for the Honolulu Railroad. I hope the gentleman will permit such bills as this to be taken up and considered. Really, this bill, under the organic act, would not be required to come before Congress, but, inadvertently in the act a section appeared requiring the approval of Congress before the acts became operative. If this bill is not acted upon to-day it will not be acted upon probably until next January. It will delay the people of that Territory from going ahead and developing and preparing plans to supply them with electric power and gas.

Mr. WALSH. Mr. Speaker, I desire to ask if the regular order is not the call of the calendar, under Rule XXIV?

The SPEAKER. It is. This is all proceeding by unanimous consent, of course.

Mr. SWEET. Mr. Speaker——

The SPEAKER. For what purpose does the gentleman from Iowa rise?

Mr. SWEET. I rise to ask unanimous consent——

The SPEAKER. The Chair has stated the Chair does not feel he ought to recognize requests for unanimous consent when the Unanimous Consent Calendar has been provided for that

purpose. The Chair thinks the gentleman from Texas [Mr. BLANTON] by objecting to that shuts out unanimous-consent requests.

Mr. SWEET. It is Senate Joint Resolution 103, and will take but a few moments.

The SPEAKER. There are a great many, and the Chair hoped that they would all be considered, but the gentleman from Texas objected and they can not be.

The Clerk will call the committees.

CALENDAR WEDNESDAY CALENDAR.

Mr. STEENERSON (when the Committee on the Post Office and Post Roads was called): Mr. Speaker, I call up H. R. 7578. I have three bills reported here. They are very urgent. This simply authorizes the use of a canceling stamp in the city of Birmingham. I understand they are all on the Union Calendar.

The SPEAKER. The Chair understands they are on the House Calendar.

Mr. MANN. If they are on the House Calendar I apprehend that the Committee on the Post Office and Post Roads will not call up any of the bills.

Mr. STEENERSON. Well, there is a bill on the House Calendar which I am very anxious to get up. That is the bill to distribute——

Mr. HUDDLESTON. Mr. Speaker, I would like to know if a Senate bill which has been favorably reported by the Committee on the Post Office and Post Roads and which is now on the House Calendar is not privileged to be called up at this time?

The SPEAKER. It is not privileged, but it can be called up.

Mr. HUDDLESTON. That is the last bill on the calendar, and that is one of the bills that the gentleman from Minnesota is seeking to call up.

Mr. MONDELL. Mr. Speaker, the Committee on the Post Office and Post Roads evidently has nothing on the House Calendar.

Mr. NOLAN. Yes; it has No. 28 on the House Calendar.

Mr. STEENERSON. There are three bills there that I understand were on the House Calendar but they are on the Union Calendar. I have a bill on the House Calendar, but that is to amend the penal code. But I do not want to take up the time with that now. The Committee on the Post Office and Post Roads reported three bills yesterday, to which I think there is no objection, and I thought they were on the House Calendar, but I see they are on the Union Calendar.

The SPEAKER. Has the gentleman any bill on the House Calendar that he desires to call up?

Mr. STEENERSON. No.

Mr. KELLY of Pennsylvania rose.

Mr. HUDDLESTON. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HUDDLESTON. These three bills reported by the Committee on the Post Office and Post Roads should have gone on the House Calendar. By mistake they went on the Union Calendar. Is it not possible now for the gentleman from Minnesota to call them up in the regular order?

The SPEAKER. The gentleman is mistaken about that. They did not go on the House Calendar by mistake. The Chair thought they involved an expense to the Government.

Mr. LONGWORTH. None of those bills so far as I know, and certainly not the one I introduced, involves any expense whatever to the Government.

The SPEAKER. The Chair thought it would involve an expenditure to have a special stamp.

Mr. KELLY of Pennsylvania. That is the point. The Post Office Department took that up and informed us that not a cent of expense would devolve upon the Government by the use of these stamps, which are provided by the city.

Mr. MANN. Is not that a committee amendment?

Mr. KELLY of Pennsylvania. It was a change of form.

Mr. MANN. It was a committee amendment, to the effect that it should not be an expense to the Government.

Mr. PARRISH. That was introduced by Mr. Good.

Mr. HUDDLESTON. The third of these is a Senate bill reported by the committee. Is it not possible for the gentleman from Minnesota to call that up?

The SPEAKER. If it is not on the Union Calendar, it could not be. The fact that it is a Senate bill makes no difference.

Mr. HUDDLESTON. Could not the gentleman be authorized to transfer these three bills to the House Calendar, where they properly belong?

The SPEAKER. Yes; but the Chair does not think they belong on the House Calendar.

Mr. HUDDLESTON. They involve no expense to the Government.

The SPEAKER. It does not appear on the face of the bills that they involve no expense.

Mr. MONDELL. Mr. Speaker, I call for the regular order. If the Committee on the Post Office and Post Roads has nothing, let the list of committees be called.

The SPEAKER. The Clerk will call the roll of committees.

HOT SPRINGS NATIONAL PARK, ARK.

Mr. SINNOTT (when the Committee on the Public Lands was called). Mr. Speaker, I call up the bill H. R. 7109, No. 63 on the House Calendar.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 7109) to accept the cession by the State of Arkansas of exclusive jurisdiction over a tract of land within the Hot Springs National Park, and for other purposes.

Be it enacted, etc., That the provision of the act of the Legislature of the State of Arkansas, approved February 2, 1921, ceding to the United States exclusive jurisdiction over block 82, within the Hot Springs National Park, are hereby accepted, and the provisions of the act approved April 20, 1904, as amended by the acts of March 2, 1907, and March 3, 1911, relating to the Hot Springs Mountain Reservation, Ark., are extended to said block 82.

Mr. WALSH. Mr. Speaker, I make the point of order that the bill is improperly on the House Calendar. It appears on its face that it involves a charge on the Treasury.

The SPEAKER. What is the portion to which the gentleman refers?

Mr. WALSH. Accepting the cession of these lands within the public lands already administered by the Government, and the language that these are to be administered by the Government. They can not be administered in connection with this land without a charge upon the Treasury.

The SPEAKER. The Chair does not see how accepting lands comes under the rule. But the Chair will hear the gentleman.

Mr. WALSH. The title of this bill, Mr. Speaker, is "A bill to accept the cession by the State of Arkansas of exclusive jurisdiction over a tract of land within the Hot Springs National Park, and for other purposes." Now, as I get the reading of the bill, it provides that this tract, which is within a national park, is to be added to the national park, and that it is to be administered by the United States hereafter in accordance with the laws; and then there is some reference to some statutes that have to do with the administration of public reservations and public parks, as to what authority shall control the expenditure of money upon them.

Now, I can not see how the Government of the United States can accept exclusive jurisdiction of a tract of land situated within a national park which is administered by the Government and for which we appropriate money, and have the administration and the jurisdiction of that land which is accepted from the State administered in the same way without it certainly involving a charge upon the Treasury.

The SPEAKER. The Chair is inclined to think that the cession of land to the Government does not necessarily involve an expense, but, on the contrary, a gift to the Government is an advantage to the Government rather than an expense, although, as the gentleman says, we probably know by experience that it will add to the expense.

Mr. WALSH. If the Chair will permit, the references to these statutes in the bill, I think he will find, are references to laws relating to the administration of national parks and other reservations. Now, if we should add a hundred thousand acres to a national park that before was only 50,000 acres in content, I think it would appear to almost anybody that accepting that and having it administered in connection with the original 50,000 acres would be a charge upon the Treasury.

The SPEAKER. The Chair thinks that ceding lands to the Government is not a charge on the Government. The Chair overrules the point of order.

Mr. MANN. I wonder if the gentleman from the Hot Springs district or some other gentleman from Arkansas will tell us what this is. I believe the gentleman representing the Hot Springs district [Mr. TAYLOR of Arkansas] is ill and unable to be here.

Mr. TILLMAN. I do not know anything about the situation as to this bill. My colleague [Mr. TAYLOR of Arkansas] is ill and unable to be here. I think it is his desire that the bill pass. Further than that I know nothing about it.

Mr. SINNOTT. If the gentleman will yield, the purpose of the bill is explained in a letter of the Acting Secretary of the Interior, Judge Finney. He states that—

the United States has now under construction, on block 82, just outside said reservation, now known as the Hot Springs National Park, a new free bathhouse, the site being donated to the United States by residents of Hot Springs. The purpose of H. R. 7109 is to extend the jurisdiction of the United States over said block as an integral part of the Hot Springs National Park.

And he indorses the bill and recommends its passage.

Mr. MANN. Who wrote that letter?

Mr. SINNOTT. The Acting Secretary of the Interior, Judge Finney.

Mr. MANN. He does not know anything about it except what he has been told. Is there any letter from anyone who does know anything about it?

Mr. SINNOTT. No; this is the entire information that we have upon the matter. The author of the bill was sick at the time we took it up.

Mr. TILLMAN. My colleague [Mr. TAYLOR of Arkansas] introduced the bill, did he not?

Mr. SINNOTT. He introduced the bill. Mr. Speaker, if there are no questions on the bill, I move the previous question on the bill to the final passage.

The SPEAKER. The gentleman from Oregon moves the previous question on the bill to its final passage.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

The SPEAKER. Has the Committee on the Public Lands other business?

HOMESTEAD EXEMPTIONS.

Mr. SINNOTT. Mr. Speaker, I call up House joint resolution 57, making the provisions of section 2296 of the United States Revised Statutes applicable to all entries made under the homestead laws and laws supplemental and amendatory thereof.

The SPEAKER. The gentleman from Oregon calls up a joint resolution, which the Clerk will report.

The Clerk read as follows:

Resolved, etc., That the provisions of section 2296 of the United States Revised Statutes have been and are applicable to all entries made under the homestead laws and laws supplemental and amendatory thereof.

Mr. SINNOTT. Mr. Speaker, this joint resolution exempts from execution issued upon a judgment for a debt contracted prior to the issuing of patent lands acquired under the enlarged homestead act, the Kinkaid Act, and the stock raising act. Under the present laws of the United States a 160-acre homestead is not liable to the satisfaction of any debt contracted prior to the issuing of the patent therefor. There is some question as to whether that exemption applies to the 320-acre homestead law, the Kinkaid Act, and the 640-acre stock raising act. I understand one court has held that it does apply and another court, a State court, has held that it does not apply.

Mr. WALSH. Mr. Speaker, will the gentleman yield?

Mr. SINNOTT. Yes.

Mr. WALSH. Was the court that held that it does apply a Federal court?

Mr. SINNOTT. Yes.

Mr. WALSH. Why do they not go to the Supreme Court and have it determined?

Mr. SINNOTT. It might be taken up, but the passage of this act would settle the question, as the department understands it, that the land is exempt.

Mr. MANN. It would be pretty expensive for a man who could not pay his debts and had an execution levied on his homestead to carry the case to the Supreme Court of the United States.

Mr. SINNOTT. Yes; it would.

Mr. MANN. I should think it would have been pretty expensive to have carried it into court at all. Still, maybe the man could get a lawyer on a contingent fee to do it, and lose his property anyhow.

Mr. WALSH. Some of these homesteaders are pretty wealthy men.

Mr. MANN. Those wealthy men pay their debts and do not have executions levied on their homesteads.

Mr. KINKAID. Will the gentleman from Oregon yield?

Mr. SINNOTT. I yield to the gentleman from Nebraska.

Mr. KINKAID. Will the provisions of this joint resolution cover 640-acre homesteads?

Mr. SINNOTT. Has the gentleman a copy of the joint resolution there?

Mr. KINKAID. No; and I can not get it. Otherwise I would not have inquired of the gentleman.

Mr. SINNOTT. Yes; it does cover a 640-acre homestead. Mr. Speaker, if there are no further questions I move the previous question on the bill to the final passage.

The SPEAKER pro tempore (Mr. BURTON). The gentleman from Oregon moves the previous question on the bill to the final passage.

The previous question was ordered.

The joint resolution was ordered to be engrossed and read a third time.

Mr. WALSH. I ask for the reading of the joint resolution in full.

The SPEAKER pro tempore. The gentleman from Massachusetts asks for the reading of the joint resolution. Without objection, the Clerk will report it.

The Clerk read the joint resolution in full.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The joint resolution was passed.

On motion of Mr. SINNOTT, a motion to reconsider the vote by which the joint resolution was passed was laid on the table.

The SPEAKER pro tempore. Is there any other business from the Committee on the Public Lands?

Mr. SINNOTT. That is all from the Committee on the Public Lands.

The SPEAKER pro tempore. The Clerk will resume the call of committees.

CHIPPEWA INDIANS OF MINNESOTA.

The Committee on Indian Affairs was called.

Mr. STEENERSON. Mr. Speaker, I call up the bill (H. R. 7108) authorizing a per capita payment to the Chippewa Indians of Minnesota from their tribal funds held in trust by the United States.

Mr. MANN. Mr. Speaker, a parliamentary inquiry. Has the gentleman from Minnesota been authorized by the Committee on Indian Affairs to call up this bill?

Mr. STEENERSON. I have been authorized by the chairman of the committee, who told me that he was authorized by the committee, by a motion to that effect. He is unavoidably absent and requested me to call it up. I hope there will be no objection. It is a very urgent matter. These Indians are starving, and they have $6,000,000 in the Treasury and are asking for a small part of it.

The SPEAKER pro tempore. The Clerk will report the bill.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized to withdraw from the Treasury of the United States so much as may be necessary of the principal fund on deposit to the credit of the Chippewa Indians in the State of Minnesota arising under section 7 of the act of January 14, 1889 (25 Stat. L., 642), entitled "An act for the relief and civilization of the Chippewa Indians in the State of Minnesota," and to make therefrom a per capita payment, or distribution, of $100 to each enrolled member of the tribe, under such rules and regulations as the said Secretary may prescribe: *Provided*, That the money paid to the Indians as authorized herein shall not be subject to any lien or claim of attorneys or other parties.

Mr. STEENERSON. Mr. Speaker, as I have stated, this is a distribution fund held in trust by the United States for the Indians' benefit.

Mr. WALSH. Will the gentleman yield?

Mr. STEENERSON. Yes.

Mr. WALSH. Is not the gentleman going to give us a little information about this? This payment is not due for several years.

Mr. STEENERSON. The reason for it is that they say they are starving. The Commissioner of Indian Affairs has just visited Minnesota, and has recommended this bill favorably.

Mr. WALSH. One hundred dollars will not keep them from starving.

Mr. STEENERSON. Oh, yes; it will be $300 or $400 or $500 for a family. The condition out there is this: The crops are almost a total failure. There is no employment. The majority of them have to work for a living, and they only get about $20 from the interest on the fund. In 1916 we distributed $2,000,000 among them under a similar law and similar circumstances. They have a lot of property yet to be sold, and we expect to replenish the fund. They have now in the Treasury $6,000,000, and we only take a million and a quarter out of that fund.

Mr. WALSH. How are you going to replenish it?

Mr. STEENERSON. By selling the tract which is unsold, and there is a lot of timber to be sold.

Mr. WALSH. You put the money in the Treasury and when they get tired of working they come and get a special act to distribute it.

Mr. STEENERSON. No; originally the act provided for interest at 5 per cent which would be distributed, three-quarters to them and one-quarter for schools. That furnishes them $15 or $20 a year. Some of them do very well because they get employment, but now the lumber camps are all closed up and there is no work for them and they are in dire distress.

Mr. WALSH. How was the original arrangement entered into with them?

Mr. STEENERSON. In 1889 they had about 4,000,000 acres, two-thirds of which was pineland. The Government took it for the purpose of being classified as agricultural land and agreed to give them 5 per cent interest. The agricultural land

was homesteaded at $1.25 an acre and the money was put in the Treasury as a trust fund. The pinelands were logged by the Government and the logs manufactured, and there has been from $10,000,000 to $12,000,000 deposited in the trust fund. The Government has been very successful in arranging this affair, and this is simply to take now, in view of the hard times and unemployment and failure of crops, this money to be distributed to the Indians. I have received a great many letters, some from the Indians, setting forth their destitution. The commissioner has been up there and there is no doubt the distress is great. Representative LARSEN, representing the Duluth district, where some of these Indians live, appeared before the Committee on Indian Affairs and said that this was an emergency. I had intended to apply for a special rule to consider this bill. The failure of crops and general hard times in that region has resulted in great suffering, and they should have the money out of their trust fund now in the Treasury to prevent them from starving. Mr. Speaker, I yield to the gentleman from Illinois.

Mr. MANN. Mr. Speaker, it may be that we will have to do this. We have a good many charity cases come before Congress. If I recollect rightly—and if I am wrong the gentleman from Minnesota will correct me—the arrangement under which the Government went into this matter provided that the proceeds should be put into the Treasury and remain there for 50 years at 5 per cent, the interest to be distributed to the Indians. It does not present a case of current liability at all. The Government does not owe this money to the Indians to be paid now. It is not due. It may have been an error to have provided that we should try to conserve the future interests of the Indians by saving their money and paying them interest, because wherever in the world you find a lazy man who will not work, with some money that belongs to him, held for his benefit, he wants to get it, and get it just as quickly as he can, and as quickly as he can get it he wants to spend it. We have taught these Indians that it was their right to be taken care of by the Government, and doubly their right when the Government was in possession of money that belonged to them.

But, as I say, I suppose we will have to pass the bill. I would like, however, to see one bill come before the House, if only as a matter of curiosity, that proposes to save money in the Treasury instead of proposing to pay it out. We have a fine record for economy in talk. We had a great exhibition in the House recently about how we are going to reduce the income of the Government eight or nine hundred million dollars, with statements that we propose to reduce the outlay to meet it. I was at home hoeing in my garden, but since I came back a month ago almost every day we have had some bill before the House to spend money, a new one, that we had not thought of before. It is likely that we will pass the bill, because the Indians are hard up. We do not owe the money but they need help.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. MANN. Yes.

Mr. RHODES. Is it not a fact that this is the money of the Indians held by the Government?

Mr. MANN. No; there is no money in the Treasury that belongs to the Indians. It is the fact that they have a credit in the Treasury of this amount of money, to be paid in the neighborhood of 50 years from now, with current interest at 5 per cent.

Mr. RHODES. I am informed by the gentleman in charge of the bill that this is the money of the Indians.

Mr. MANN. The money that is paid into the Treasury was the money of the Indians, and we agreed to keep it for them and pay it to them in 50 years, and pay them 5 per cent interest upon it in the meantime. You may say that it is the money of the Indians. If a man borrows money, it is his money; it is not the lender's money.

Mr. SMITH of Idaho. Mr. Speaker, will the gentleman yield?

Mr. MANN. Yes.

Mr. SMITH of Idaho. Is this money to be paid the Indians from the interest due?

Mr. MANN. Oh, no; this is a part of the principal, which is not due for many years yet. I have not made any misstatement about it, have I?

Mr. STEENERSON. Mr. Speaker, I agree with every word, so far as the statement of the fact is concerned, stated by the gentleman from Illinois. Not all, but some, of these Indians are the wards of the Government, and if they were starving it would be the duty of the Government to take the money out of the people's Treasury and feed them. It would not be humane to let them starve to death.

I yield five minutes to the gentleman from Missouri [Mr. RHODES].

Mr. RHODES. Mr. Speaker and gentlemen of the House, I was a member of the Committee on Indian Affairs during the Sixty-sixth Congress, and while I am not a member of that committee at this time, I do profess to know something about Indian affairs and conditions prevailing generally among the Indian tribes. I feel very reluctant to differ from my distinguished friend from Illinois [Mr. MANN] in the argument he sets forth. But whether these funds actually represent cash to the credit of the Indians held in trust or whether the money involved simply represents a cash credit, the fact remains that this bill deals with property in the hands of the Government which at some future time is to pass to the Indians.

Let me give an example of what I actually observed on one of the great Indian reservations of the country last year. The Government of the United States has been too parsimonious in administering the affairs of the Indians. They are the wards of the Government. Well do I remember going into the tepee of an ex-Indian chief of one of the Flathead Tribes. As I recall his name, he was introduced to me as Chief Kai-kai-she, an old Indian past 80 years of age. He was sitting flat on the floor, without a chair in the room, eating beans out of a tin cup and drinking black coffee out of another tin cup, surrounded by evidences of the most abject poverty. I was informed by the person who took me to the old man's place of abode that the Government of the United States owed him a considerable sum of money. I submit it is not fair for Members of this House to oppose humane legislation of this character upon the theory of economy for the Government of the United States to hold the Indian's money in the Treasury while he starves.

Mr. WALSH. Mr. Speaker, will the gentleman yield?

Mr. RHODES. Yes.

Mr. WALSH. Are the Indians expected to keep any agreement made with the Government or anyone else, the same as white people? Are they supposed to be exempt from the obligations between peoples and nations?

Mr. RHODES. The Indians are not exempt from the performances of treaty or other obligation. These Indians are the wards of the Government, because they have not been emancipated, and regardless of the fact whether they be wards of the Government or fee patent Indians, the fact remains that if this be money in the Treasury of the United States derived from the sale of their lands, it is there by act of Congress, and Congress can likewise by a subsequent act make whatever advances that are necessary for their relief. If Members could have seen what members of the Committee on Indian Affairs saw last year on a trip of inspection over the Indian reservations, they could better appreciate the condition in which many of these Indians are found. I dare say if the gentleman from Illinois [Mr. MANN] knew actual conditions, and if the membership of the House knew the actual conditions among the Indians, there would be little opposition to this bill.

Mr. EVANS. Mr. Speaker, will the gentleman yield?

Mr. RHODES. Yes.

Mr. EVANS. Are these Indians allotted?

Mr. RHODES. Some of these Indians are and some are not.

Mr. EVANS. Why the exception?

Mr. RHODES. There is no reason for it, except as they may have or may not have attained the right to take out their fee patents, but that has nothing to do with the merits of this legislation.

The SPEAKER pro tempore. The time of the gentleman from Missouri has expired.

Mr. STEENERSON. Mr. Speaker, I yield five minutes to the gentleman from Oklahoma [Mr. CARTER].

Mr. CARTER. If the gentleman from Illinois intended to say that the Chippewa Indian moneys are carried on the books of the Treasury as a Treasury balance, I think he is mistaken. While it is not to be distributed until 1939, I understand it is carried in the Treasury not as a balance of the Federal Government but to the credit of the Chippewa Indians, and not available for governmental expenditures.

The affairs of the Chippewa Indians are very complicated. My friend from Minnesota [Mr. STEENERSON], perhaps, understands these matters better than any man in this House. I always find myself in full sympathy with him, and have usually found myself in agreement with him in the past. My sympathies are with him now, first, because it may be true that these Indians are in dire need of this money, and, secondly, I always favor the distribution of Indian funds and getting Indians turned loose from the supervision of the Government as soon as it is practicable. But I regret that I do not find myself in full accord with his purpose to-day, for I can not support the bill he proposes. I can not support it because I feel sure sooner or later it will involve this Government in a suit, and I do not believe it gives the protection that the Government should have.

In 1889 the Federal Government made a treaty with the Chippewa Indians. One of the stipulations of that treaty was that the surplus lands, timber, and other property should be sold and the proceeds should 50 years thereafter be divided per capita among the Chippewa Indians then living and on the rolls. The bill proposed here provides for $100 per capita division of that money this year, 1921, 18 years before the division is stipulated in the treaty. If it is divided this year, it will not be divided among the Indians living in 1939. From 30 to 40 per cent of the Chippewa Indians living to-day will not in all likelihood be living in 1939 when this money comes due in accordance with the treaty. More than that, perhaps the addition to the tribe by birth by that time will amount to 30 or 40 per cent. All those born between now and 1939 will be entitled to their per capita share, and all those who do not live until the year 1939 will not, under the provisions of the treaty, be entitled to participate. So that any payment of the funds to Indians living to-day will in no wise comply with the stipulations of the treaty which require the money to be paid to the Indians living in 1939. What will be the result? Every Indian born subsequent to this payment will undertake to institute a claim against the Government for this $100 paid to Indians 18 years before it is due and not in accordance with the treaty. History will again repeat itself. The claim will be of sufficient justice that we can not refuse to send it to the court. The Court of Claims in all likelihood will render a judgment in favor of the Indians, but whether it does or not, it will involve the Government in some character of litigation as certainly as we make this payment. I do not want to deprive the Indians of this money, but I think this statement ought to be made before the bill is passed.

Mr. KELLY of Pennsylvania. Will the gentleman yield?

Mr. CARTER. I will.

Mr. KELLY of Pennsylvania. I desire to ask the gentleman if it is not a fact there is another question involved, and that is that in 1890, under a treaty, the Red Lake, White Earth, and other Chippewas were to sell their surplus land and the money was to go into the Treasury, and the surplus land of the White Earth Indians and others was sold and the money went into the Treasury and there is still surplus land in the Red Lake Reservation which they claim for themselves, and therefore if this money is distributed the time will come when they will come back with an added claim?

Mr. CARTER. The gentleman very clearly states another obligation the passage of this bill might entail.

Mr. SANDERS of Indiana. Will the gentleman yield?

Mr. CARTER. I will.

Mr. SANDERS of Indiana. I was going to inquire: This was a treaty made between the United States Government on the one hand and private individuals on the other hand, and the third party beneficiaries are to receive the benefits in 1939. What right, then, under a treaty agreement which is merely a contract for the benefit of the third party beneficiaries—what right has one party to an agreement to deprive the third party beneficiaries of the full benefits of the contract without the consent of the third party beneficiaries?

Mr. CARTER. That is exactly the question we must answer for the Chippewa Indians born hereafter.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. STEENERSON. Mr. Speaker, I desire to say that this question of whether Congress has the right to distribute this money now has been thoroughly considered by the Secretary of the Interior and the Commissioner of Indian Affairs, considered three years ago when the gentleman from Oklahoma was a member of the committee, and he voted and the committee reported, I think, unanimously a bill distributing one-third of the money then on hand. There is no question but that it rests in the discretion of Congress to do that, and I think it is proper, and it certainly ought to be done, I think. I yield three minutes to the gentleman from Minnesota [Mr. KNUTSON].

Mr. CARTER. Will the gentleman yield for a question?

Mr. STEENERSON. I will. Before the gentleman from Minnesota [Mr. KNUTSON] begins I would like to answer the question of the gentleman from Oklahoma very briefly.

Mr. CARTER. It is this statement: There is no dispute as to the power of Congress to do what it pleases with the Indian funds. That was settled beyond all doubt in the Cherokee Baby case and the Lone Wolf case——

Mr. STEENERSON. There is no use in reviewing it; the statement is correct.

Mr. CARTER. The assertion I made was this, that the Indians would come back to the Government for a claim, which the Government, perhaps, in the future will pay.

Mr. STEENERSON. If they starve to death, they will not have any successors to make any claims.

Mr. CARTER. There is something in that, too.

Mr. KNUTSON. Mr. Speaker and gentlemen of the House, I shall not confine myself to the legal aspects of this case. I think my colleague from Minnesota [Mr. STEENERSON], who is an authority on such matters, has convinced the House that Congress has the power to pass such legislation. However, I do want to devote myself in the short time given me to present to the House a brief outline of the conditions prevailing among the Indians in Minnesota at the present time. If this money is not appropriated, there is going to be a great deal of suffering among the Chippewas of Minnesota the coming winter.

Mr. REED of New York. Will the gentleman yield?

Mr. KNUTSON. I have only a few minutes, and I am very sorry I can not yield.

Mr. STEENERSON. And the gentleman has just returned from Minnesota?

Mr. KNUTSON. Yes; I have just returned from that State. The Indian agent with whom I talked told me that it is absolutely necessary that this measure be passed soon if the Indians are to be kept from starvation. The gentleman from Oklahoma [Mr. CARTER] is very much concerned about the Indians who are going to be born between now and 1939, when the treaty of 1889 expires. Each succeeding generation of Indians is more capable of taking care of itself than its predecessor, and I am more concerned about the blanket Indians of Minnesota who are living now than those who are to come hereafter, because the latter will be better educated and trained and more capable to look after themselves. I am going to ask you gentlemen to pass this bill now because it is necessary. We are concerning ourselves with the suffering and starving in China, in Armenia, and in other parts of the world. Now let us look after our own poor. [Applause.]

God knows the Indians have something coming to them from the Federal Government. We have taken their lands and timber and nearly everything else from them, and now they are merely asking Congress to pay them $100 per capita out of their own money. This is not an appropriation out of the Federal Treasury. [Applause.]

Mr. STEENERSON. Mr. Speaker, I move the previous question on the bill H. R. 7180.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken, and the Speaker pro tempore announced that the ayes seemed to have it.

Mr. WALSH. Division, Mr. Speaker.

The House divided; and there were—ayes 69, noes 21.

Mr. WALSH. Mr. Speaker, I make the point that there is no quorum present.

The SPEAKER pro tempore. The point of no quorum is made.

Mr. WALSH. Mr. Speaker, I withdraw the point of order.

So the bill was passed.

On motion of Mr. STEENERSON, a motion to reconsider the vote by which the bill was passed was laid on the table.

The SPEAKER pro tempore. If there is nothing further from the Committee on Indian Affairs, the Clerk will continue the call of the committees.

RATIFYING CERTAIN ACTS, LEGISLATURE OF HAWAII.

Mr. CURRY (when the Committee on Territories was called). Mr. Speaker, I call up the bill S. 2062, an act to ratify certain acts of the Legislature of the Territory of Hawaii.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read as follows:

An act (S. 2062) ratifying, confirming, and approving certain acts of the Legislature of Hawaii, granting franchises for the manufacture, distribution, and supply of gas, electric light and power, and the construction, maintenance, and operation of a street railway, and for other purposes.

Be it enacted, etc., That the act of the Legislature of Hawaii (act 134 of the session laws of 1917), entitled "An act to authorize and provide for the manufacture, maintenance, distribution, and supply of electric current for light and power within the district of Hamakua, on the island and county of Hawaii, Territory of Hawaii," approved by the governor of the Territory of Hawaii April 30, A. D. 1917, as amended; the act of the Legislature of Hawaii (act 135 of the session laws of 1919), entitled "An act to authorize and provide for the manufacture, maintenance, distribution, and supply of electric current for light and power within the district of Hana, on the island and county of Maui, Territory of Hawaii, approved by the governor of the Territory of Hawaii on April 25, A. D. 1919; the act of the Legislature of Hawaii (act 101 of the session laws of 1921), entitled "An act to authorize and provide for the manufacture, maintenance, distribution, and supply of electric current for light and power within the districts of North and South Hilo and Puna, in the county of Hawaii, Territory of Hawaii," approved by the governor of the Territory of Hawaii on April 16, A D. 1921; the act of the Legislature

of the Territory of Hawaii (act 105 of the session laws of 1921), entitled "An act to authorize and provide for the manufacture, maintenance, distribution, and supply of electric current for light and power within Kapaa and Waipouli, in the district of Kawaihau, on the island and county of Kauai, Territory of Hawaii," approved by the governor of the Territory of Hawaii on April 16, A. D. 1921; the act of the Legislature of the Territory of Hawaii (act 184 of the session laws of 1921), entitled "An act granting a franchise for the purpose of manufacturing and supplying gas and electric current in the districts of Wailuku and Makawao, county of Maui, Territory of Hawaii," approved by the governor of the Territory of Hawaii on April 26, A. D. 1921; and the act of the Legislature of the Territory of Hawaii (act 186 of the session laws of 1921), entitled "An act to amend an act entitled 'An act to authorize and provide for the construction, maintenance, and operation of a street railway or railways in the district of Honolulu, island of Oahu,' enacted by the Legislature of the Republic of Hawaii July 7, 1898, and granting a franchise to the Honolulu Rapid Transit & Land Co. to operate a street railway in the district of Honolulu, providing for the operation of the same, and providing for the purchase of the same by the city and county of Honolulu," approved by the governor of the Territory of Hawaii on April 26, A. D. 1921, are hereby ratified, confirmed, and approved.

SEC. 2. That Congress or the Legislature of the Territory of Hawaii may at any time alter, amend, or repeal any or all of the above acts.

The SPEAKER pro tempore. The gentleman from California [Mr. CURRY] is recognized.

Mr. CURRY. Mr. Speaker, this Senate bill approved six acts of the Hawaiian Legislature granting franchises. Four are franchises for the production, distribution, and sale of electric light and power; one for electric light, power, and gas; the other extends the franchise of a Honolulu railroad company. Under the organic act exclusive franchises granted by the Territory of Hawaii must be approved by Congress before becoming operative. None of these franchises are exclusive. The reason they are brought before Congress for approval is that inadvertently in the Hawaiian acts a section was included requiring the approval of Congress before the acts became operative. There is a commission in Hawaii that has control over all public utilities—a public utilities commission. Before any stock is issued the commission must authorize the amount of stock. Before any bonds can be sold, the commission authorizes the amount of bonds and the rate of interest. The commission also affixes the price to the public of electricity, power, light, and gas. It also fixes the fare on the street railroad in Honolulu. The fare is 5 cents. Two and one-half per cent of the gross receipts of these corporations is paid into the treasury of the respective counties and municipalities. Each of these acts contains the provision that at any time after six months' notice the franchise may be revoked or the utility may be purchased by the local municipality.

I do not know of anything else that it is necessary to explain in regard to this bill. If any further explanation of the bill is desired, I shall be glad to answer questions.

The SPEAKER pro tempore. The question is on ordering the previous question.

The previous question was ordered.

The bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. CURRY, a motion to reconsider the vote by which the bill was passed was laid on the table.

The SPEAKER pro tempore. Has the Committee on Territories any further business?

Mr. CURRY. Mr. Speaker, I ask that the bills H. R. 6209, H. R. 6672, H. R. 6208, H. R. 6211, and H. R. 6674 be laid on the table.

The SPEAKER pro tempore. The Clerk will report the bills by number.

The bills were read by number.

The SPEAKER pro tempore. The question is on laying the bills, the numbers of which have been read, on the table. Is there objection? [After a pause.] The Chair hears none. The Clerk will continue the call of the committees.

Mr. GARRETT of Tennessee (when the Committee on Education was called). I make the point of order there is no quorum present.

The SPEAKER pro tempore. The gentleman from Tennessee makes the point of order there is no quorum present.

Mr. STEENERSON. Will the gentleman yield for a minute? I would like to know if he would not withdraw that, so that we could go into the committee on those post office bills?

Mr. GARRETT of Tennessee. Has the Committee on the Post Office and Post Roads some bills?

Mr. STEENERSON. Yes.

Mr. GARRETT of Tennessee. I will withdraw the point of order.

"VISIT THE DUNES, MICHIGAN CITY," CANCELING STAMP.

Mr. STEENERSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 7578.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 7578, with Mr. SANDERS of Indiana in the chair.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the Postmaster General be, and he is hereby, authorized and directed to permit the use in the post office at Michigan City, Ind., a special canceling stamp bearing the following words and figures: "Visit the Dunes, Michigan City, Ind., May 1, 1922, to November 1, 1922."

Mr. STEENERSON. Mr. Chairman, this is the usual form, unanimously reported by the Committee on the Post Office and Post Roads. I move the previous question.

Mr. WALSH. Mr. Chairman, will the gentleman yield?

Mr. STEENERSON. Yes.

Mr. WALSH. I notice you have got two or three bills of like tenor on the calendar, and none of them have been passed. Why has not some general legislation been proposed that will give the Postmaster General the discretion to grant this authority without having to get special acts passed?

Mr. STEENERSON. Such special legislation has been passed and is on the statute books, but it is limited, so that the Postmaster General can only grant these permits where there has been an appropriation for the event.

Mr. WALSH. Are there appropriations carried in these bills?

Mr. STEENERSON. No. That is the reason why we have to come to Congress.

Mr. GARRETT of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. STEENERSON. Yes; I yield.

Mr. GARRETT of Tennessee. Under this bill is the Postmaster General permitted to select from among three contestants?

Mr. STEENERSON. I would like to say to the gentleman that the stamp is for advertising. We seek to get a permit, and it involves no expense to the Government.

Mr. GARRETT of Tennessee. How many eligibles are required? [Laughter.]

Mr. STEENERSON. It requires an act of Congress to get permission. [Laughter.] Mr. Chairman, I move that the committee do now rise.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. STEENERSON. Yes.

Mr. GARRETT of Tennessee. Will the gentleman from Illinois yield to me?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Tennessee?

Mr. MANN. Yes; I yield to the gentleman from Tennessee.

The CHAIRMAN. The gentleman from Tennessee is recognized for five minutes.

Mr. GARRETT of Tennessee. Mr. Chairman, I would like to ask that in my time this bill may again be reported.

The CHAIRMAN. Without objection, the bill will again be reported.

There was no objection.

The Clerk read as follows:

Be it enacted, etc., That the Postmaster General be, and he is hereby, authorized and directed to permit the use in the post office at Michigan City, Ind., a special canceling stamp bearing the following words and figures: "Visit the Dunes, Michigan City, Ind., May 1, 1922, to November 1, 1922."

Mr. GARRETT of Tennessee. Mr. Chairman, may I ask the gentleman from Minnesota [Mr. STEENERSON] is this to advertise an exposition of some sort?

Mr. STEENERSON. I believe so. The gentleman from Indiana [Mr. HICKEY] can explain more fully. He appeared before the committee and made a statement the other day. There is to be some sort of an event there, so that people would be invited to visit this place.

Mr. GARRETT of Tennessee. Can the gentleman tell us how much expense there will be to the Government in connection with the change of the stamp from the regular stamp?

Mr. STEENERSON. There is no expense to the Government. The dies are furnished by those who are seeking this permit, and they are simply putting in a canceling machine, and the canceling machine is run, anyway, to cancel the stamps, so that there is no extra work and no extra pay. We recently granted one for the "Pageant of Progress" in Chicago, only about a month ago, and there has been others granted in the same form as this one.

Mr. GARRETT of Tennessee. Will this be in a circle or otherwise?

Mr. STEENERSON. Whatever design they determine on. I notice that the canceling stamp now used by the department is square. They have an advertising stamp that is used on Government mail which is square and says, "Put on the street and number," or some similar words. You have probably

noticed it on letters that you get. The department is using it to call the attention of the public to the fact that it is of assistance to the postal officials to have the street and number placed on the address. That is square, but they can put on any particular design they want and pay the expense.

Mr. GARRETT of Tennessee. One other question. What are the dunes?

Mr. STEENERSON. They are some sandhills that have been blown over to the vicinity of Michigan City from the west, probably from Wisconsin.

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. GARRETT of Tennessee. Mr. Chairman, will the gentleman yield me two minutes more?

Mr. MANN. Yes; I yield the gentleman two minutes more.

The CHAIRMAN. The gentleman from Tennessee is recognized for two minutes more.

Mr. GARRETT of Tennessee. Can the gentleman tell us why the public should be invited to visit the sand hills blown over from another State?

Mr. STEENERSON. I can not give any more information than the gentleman from Indiana [Mr. HICKEY] gave the committee. The gentleman from Indiana explained that it was a very interesting thing; that the dunes were as attractive as some of the national parks on which the Government is spending lots of money. [Laughter.] This is an attraction down there near Michigan City and Indianapolis and Chicago which the people ought to see. It is very instructive. I understand that the forestry people are experimenting there in setting out trees that will eventually stop the progress of these moving sand dunes, and that it is of great importance to the people of the United States to know whether or not this can be done.

The CHAIRMAN. The time of the gentleman from Tennessee has again expired. The Clerk will read the bill for amendment.

The bill was read for amendment.

Mr. STEENERSON. Mr. Chairman, if there are no further remarks, I move that the committee do now rise and report the bill favorably to the House.

The CHAIRMAN. The gentleman from Minnesota moves that the committee do now rise and report the bill to the House with the recommendation that it be passed.

The motion was agreed to.

Thereupon the committee rose; and Mr. BURTON, as Speaker pro tempore, having resumed the chair, Mr. SANDERS of Indiana, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having had under consideration the bill (H. R. 7578) providing for "Visit the dunes, Michigan City," canceling stamps to be used by Michigan City (Ind.) post office, had directed him to report the same back to the House with the recommendation that it be passed without amendment.

Mr. STEENERSON. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. STEENERSON, a motion to reconsider the last vote was laid on the table.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8117) making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1922, and for other purposes, had agreed to the amendments of the House of Representatives to the amendments of the Senate numbered 3 and 8 and had further insisted on the amendment of the Senate numbered 2 and had agreed to the further conference asked by the House, and had appointed Mr. WARREN, Mr. JONES of Washington, and Mr. GLASS as the conferees on the part of the Senate.

SENATE JOINT RESOLUTION REFERRED.

Under clause 2 of Rule XXIV, Senate joint resolution of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. J. Res. 109. Joint resolution relating to unexpended balances of certain appropriations; to the Committee on Appropriations.

SPECIAL CANCELING STAMP, CINCINNATI, OHIO.

Mr. STEENERSON. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 8365) to permit the use in the post office at Cincinnati, Ohio, of special canceling stamps bearing the words "Public Health Exposition, Cincinnati, Ohio, October 15 to 22, 1921," Union Calendar No. 150.

The SPEAKER pro tempore. The question is on agreeing to the motion.

The question was taken, and the Speaker announced that the "ayes" appeared to have it.

Mr. GARRETT of Tennessee. Mr. Speaker, I ask for a division.

The SPEAKER pro tempore. A division is demanded.

The House divided; and there were—ayes 56, noes 6.

Mr. McCLINTIC. Mr. Speaker, I ask for tellers.

The SPEAKER pro tempore. Tellers are demanded. Those who favor taking the vote by tellers will rise and stand until they are counted. [After counting.] Evidently there is not a sufficient number, and tellers are refused.

So the motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 8365, with Mr. SANDERS of Indiana in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 8365, which the Clerk will report.

The Clerk read as follows:

Be it enacted, etc., That the Postmaster General be, and he is hereby, authorized and directed to permit the use in the post office at Cincinnati, Ohio, of special canceling stamps bearing the following words and figures: "Public Health Exposition, Cincinnati, Ohio, October 15 to 22, 1921."

Mr. MONDELL. Mr. Chairman, the bill which has just been reported is similar in its purpose to the bill just passed by the House. I am sure it is a very worthy purpose, which commends itself to every Member. Following this there will be a Senate bill which we hope to take up which provides for a special canceling stamp for the post office at Birmingham, Ala. I think everyone present is favorable to this legislation, and under the circumstances I suggest that the gentleman from Minnesota might properly move that the committee do now rise.

Mr. RAYBURN. May we not have some explanation of the bill?

Mr. MANN. The committee could rise now, but it could not report the bill back yet.

Mr. RAYBURN. Who represents this town where they are going to have this special canceling stamp?

Mr. STEENERSON. I yield to the gentleman from Ohio [Mr. LONGWORTH]. [Applause.]

Mr. LONGWORTH. Mr. Chairman, of course, this bill is for an entirely worthy purpose. It is to promote the health of the people of the city I have the honor to represent and incidentally of the people of the Nation. There will be exhibits of a very educational character at this exposition, and it is hoped to procure the attendance of a number of able lecturers on the subject. I trust I have answered the inquiries of the gentleman from Texas [Mr. RAYBURN].

Mr. RAYBURN. The information is sufficient, and I am for the bill.

Mr. WALSH. Will the gentleman from Ohio yield?

Mr. LONGWORTH. I yield to the gentleman from Massachusetts.

Mr. WALSH. Has this legislation the approval of the Postmaster General?

Mr. LONGWORTH. Unquestionably.

Mr. WALSH. Does he approve of their having a public health exposition in Cincinnati, Ohio, from October 15 to 22, 1922?

Mr. LONGWORTH. He does.

Mr. WALSH. Is he willing to have it advertised to the country by means of a special canceling stamp?

Mr. LONGWORTH. Unquestionably; because it is for a purpose of the very highest character, the promotion of the health of the people of the country. The Postmaster General stands for that.

Mr. WALSH. Is this exposition to be held under the auspices of the Public Health Service?

Mr. LONGWORTH. No; it is not.

Mr. WALSH. It is to be a local affair?

Mr. LONGWORTH. Local.

Mr. WALSH. Provincial?

Mr. LONGWORTH. Nothing which relates to Cincinnati is provincial. It is of national interest.

Mr. GARRETT of Tennessee. Will the gentleman yield?

Mr. LONGWORTH. I yield to the gentleman from Tennessee, whom I had the privilege of entertaining in the city which I have the honor in part to represent.

Mr. GARRETT of Tennessee. I was going to ask if the exposition is going to be held in some of the finished buildings of the nitrate plant that we visited?

Mr. LONGWORTH. No. Probably that is one of the most unhealthy spots which the gentleman visited during his stay there. It is to be held in the great Cincinnati Music Hall, which is devoted to the extension of the arts. I hope that the gentleman during the coming recess will have the opportunity of visiting it.

Mr. GARRETT of Tennessee. The gentleman did not carry me to that building.

Mr. LONGWORTH. The gentleman manifested no desire to go to that building. [Laughter.]

Mr. MANN. Mr. Chairman, I should like to make one inquiry of the gentleman in charge of the bill. Who pays for these canceling stamps?

Mr. STEENERSON. The parties seeking the permit for the use of the stamp.

Mr. MANN. Where is that provided for?

Mr. STEENERSON. The bill simply provides that the Postmaster General may permit the use of the stamp. We have had perhaps a dozen of these permits, and invariably those asking for them have paid for them. There was a bill introduced for the Pageant of Progress Exposition in Chicago recently, providing for special canceling stamps to advertise that. The bill originally provided that the stamps should be paid for by the Government, and the department sent it back to the Committee on the Post Office and Post Roads and said it should read as follows, and gave the form, and that is exactly the way this bill reads. They said if it was in that form then the Government would not have to pay anything, so we took the department's form and it was passed and is the law now, and that is the precedent for this form here.

Mr. MANN. That is passed by.

Mr. STEENERSON. Yes; that is the existing law, and the Government did not pay anything for those canceling stamps. Chicago paid for them, and this bill is exactly in the same terms as the wording of that law, so I think I am justified in saying that the parties seeking this permit will have to pay the cost of making these stamps.

Mr. MANN. That is a matter of policy on the part of the Post Office Department?

Mr. STEENERSON. That is the policy of the Post Office Department, and they drafted that form for that purpose.

The CHAIRMAN. The Clerk will read the bill for amendment.

The Clerk read the bill.

Mr. STEENERSON. If no further debate is desired, I move that the committee do now rise and report the bill to the House favorably.

The CHAIRMAN. The gentleman from Minnesota moves that the committee rise and report the bill to the House with the recommendation that it do pass.

The motion was agreed to.

Accordingly the committee rose; and Mr. BURTON having resumed the chair as Speaker pro tempore, Mr. SANDERS of Indiana, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having had under consideration the bill (H. R. 8365) to permit the use in the post office at Cincinnati, Ohio, of special canceling stamps bearing the words "Public Health Exposition, Cincinnati, Ohio, October 15 to 22, 1921," had directed him to report the same back to the House with the recommendation that it do pass.

Mr. STEENERSON. I move the previous question on the bill to final passage.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

On motion of Mr. STEENERSON, a motion to reconsider the vote by which the bill was passed was laid on the table.

SPECIAL CANCELING STAMP, BIRMINGHAM, ALA.

Mr. STEENERSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill S. 2420.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 2420) authorizing and directing the Postmaster General to permit the use of a special canceling stamp at the post office of Birmingham, Ala., bearing the words "Birmingham semicentennial, October 24 to 29, 1921," with Mr. SANDERS of Indiana in the chair.

The CHAIRMAN. The Clerk will read the bill.

The bill was read, as follows:

Be it enacted, etc., That the Postmaster General be, and he is hereby, authorized and directed to permit the use in the Birmingham, Ala., post office of special canceling stamps bearing the following words: "Birmingham semicentennial, October 24 to 29."

The CHAIRMAN. The Clerk will read the bill for amendment.

The Clerk read the bill for amendment.

Mr. STEENERSON. Mr. Chairman, I move that the committee do now rise and report the bill to the House, with the recommendation that it be agreed to.

The motion was agreed to.

Accordingly the committee rose; and the Speaker pro tempore [Mr. BURTON] having resumed the chair, Mr. SANDERS of Indiana, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (S. 2420) authorizing and directing the Postmaster General to permit the use of a special canceling stamp at the post office of Birmingham, Ala., bearing the words "Birmingham semicentennial, October 24 to 29, 1921," and had directed him to report the same back without amendment and with the recommendation that it do pass.

Mr. STEENERSON. Mr. Speaker, I move the previous question.

The previous question was ordered.

The bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. STEENERSON, a motion to reconsider the vote whereby the bill was passed was laid on the table.

DEFERRING FURTHER THE PAYMENT OF GRAZING FEES.

Mr. HAUGEN. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill (S. 2330) to extend the time for payment of grazing fees for the use of national forests during the calendar year 1921.

Mr. BLANTON. Mr. Speaker, may we have the bill reported?

The SPEAKER pro tempore. The Clerk will report the title of the bill.

The Clerk read as follows:

S. 2330. An act to extend the time for payment of grazing fees for the use of national forests during the calendar year 1921.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Iowa.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. GREENE of Vermont in the chair.

The Clerk read the bill, as follows:

Be it enacted, etc., That the time for making payments of grazing fees for the use of national forests as provided by existing law is extended from the 1st day of September, 1921, to the 1st day of December, 1921.

Mr. HAUGEN. Mr. Chairman, the bill is self-explanatory. It proposes to extend the time for the payment of grazing fees from the 1st of September to the 1st of December. The condition that warrants this action is——

Mr. WALSH. Will the gentleman yield?

Mr. HAUGEN. Yes.

Mr. WALSH. What are the conditions?

Mr. HAUGEN. The drought, the fact that the live stock is not in a condition to be sold upon the market at this time, the excessive transportation rates, and a number of other things, make it impossible for the owners of the live stock to market their stock now, and it is suggested that they be given this additional time so that the stock can be put in condition.

Mr. WALSH. The bill only applies to this year, and is not permanent?

Mr. HAUGEN. It only applies to this year, and is not permanent. The time was extended last March to the 1st of September. This is the second extension.

Mr. WALSH. Do these conditions the gentleman speaks of obtain now? Is there a drought there now, and are their markets low?

Mr. HAUGEN. Yes; the market on live stock is very low.

Mr. WALSH. That is a matter of general knowledge?

Mr. HAUGEN. Yes; and is borne out by the statement by the Department of Agriculture.

Mr. MONDELL. Mr. Chairman, the live-stock grazers on forest reserves ordinarily market their stock in November and December. I do not know why the committee did not extend the time to the 1st of December in the first instance if they intended to relieve the forest grazers, because the market time is late in the fall or very early winter. Of course, at this time, when the grazers are finding it difficult to pay the fees, it is impossible for them to pay until they market their live stock. This gives them until the 1st of December.

Mr. HAUGEN. I yield three minutes to the gentleman from South Carolina [Mr. BYRNES].

Mr. BYRNES of South Carolina. Mr. Chairman, the consideration of these bills from the Post Office Committee and the Agricultural Committee induces me to call attention to the fact that while Congress was sincerely of the opinion that we were

effecting a reduction in the number of Government employees, I have here a statement prepared by the Bureau of Efficiency showing a reduction of only 4½ per cent in the number of civil employees for all branches of the Government from January 1, 1921, to August 1, 1921. The statement shows a reduction of the number of employees in the Army and Navy and in some other departments of the Government. But it shows an actual increase in many departments, among them an increase of 7,000 in the Post Office Department and an increase of a few hundred in the Agricultural Department. On July 1, 1916, there were 296,926 civil employees. During the war they increased to 900,000 on November 11, 1918. Though it is nearly three years since the armistice we still have twice as many civil employees as in 1916. Congress is responsible, because without the money the departments could not have kept them.

Mr. MADDEN. Will the gentleman yield?

Mr. BYRNES of South Carolina. Yes.

Mr. MADDEN. The Post Office Department is a progressive business in the country, and the number of employees is constantly increasing.

Mr. BYRNES of South Carolina. I assume that is true; I do not know what the progression is.

Mr. MADDEN. It is about 7 per cent a year.

Mr. BYRNES of South Carolina. The total decrease from January 1 to August 1 is 4½ per cent. This detailed statement will be of interest to the House, showing the increase and decrease in the departments, and I ask unanimous consent to insert it in the RECORD.

The CHAIRMAN. The gentleman from South Carolina asks unanimous consent to extend his remarks in the RECORD in the manner indicated. Is there objection?

There was no objection.

The statement is as follows:

Statement showing the number of civil employees in the Government service Aug. 1, 1921, compared with Jan. 1, 1921.

Department or establishment.	Jan. 1, 1921.			Aug. 1, 1921.		
	District of Columbia.	Field.	Total.	District of Columbia.	Field.	Total.
Department of State	692	2,392	3,084	619	2,302	2,921
Department of the Treasury	29,738	46,310	76,048	25,378	46,526	71,904
Department of War	10,119	91,881	102,000	6,499	[1] 71,503	78,002
Department of Justice	[2] 700	[2] 5,100	[2] 5,800	723	4,885	5,608
Post Office Department	1,898	296,936	298,834	[3] 2,072	303,888	305,960
Department of the Navy	2,302	78,813	81,115	1,898	[2] 65,000	[2] 66,898
Department of the Interior	5,934	11,642	17,596	6,140	14,667	20,807
Department of Agriculture	4,585	13,907	18,492	4,661	14,505	19,166
Department of Commerce	4,719	8,042	12,761	4,128	8,122	12,250
Department of Labor	1,163	2,892	4,055	1,165	2,668	3,833
The White House	48	.....	48	38	.....	38
Office of the Comptroller General	(4)	(4)	(4)	1,500	.....	1,500
Civil Service Commission	378	23	401	349	25	347
Bureau of Efficiency	55	.....	55	52	.....	52
Smithsonian Institution	457	.....	457	509	2	511
Superintendent, State, War, and Navy Buildings	1,511	.....	1,511	1,238	.....	1,238
Interstate Commerce Commission	975	1,217	2,192	1,189	713	1,902
Commission of Fine Arts	3	.....	3	3	.....	3
Lincoln Memorial Commission	.....	.....	.....	3	.....	3
Rock Creek and Potomac Parkway Commission	2	.....	3	3	.....	3
Board of Mediation and Conciliation	5	.....	5	5	.....	5
Federal Trade Commission	316	.....	316	318	.....	318
National Advisory Committee for Aeronautics	60	.....	60	23	46	69
Council of National Defense	39	.....	39	(5)	(5)	(5)
Employees' Compensation Commission	75	.....	75	81	.....	81
Shipping Board	2,530	4,827	7,357	2,039	5,888	7,927
Federal Board for Vocational Education	900	3,713	4,613	951	5,716	6,667
Tariff Commission	91	.....	91	103	.....	103
Railroad Administration	1,148	116	1,264	1,214	113	1,327
Office of Alien Property Custodian	180	2	182	166	.....	166
Interdepartmental Social Hygiene Board	40	158	198	12	56	68
Government Printing Office	4,489	.....	4,489	4,451	.....	4,451
Library of Congress and Superintendent of Library Buildings and Grounds	590	.....	590	589	.....	589
Botanic Gardens	22	.....	22	51	.....	51
Total	75,785	567,971	643,756	68,170	546,625	614,795

[1] Figures for July 1, 1921.
[2] Estimated.
[3] Includes office of the Auditor for Post Office Department, transferred to this department July 1, 1921.
[4] Established July 1, 1921.
[5] Discontinued July 1, 1921.

Mr. RAKER. Mr. Chairman, originally the Secretary of Agriculture extended this payment after a conference with some of the Senators and Representatives from the West, and then to avoid any possible criticism the distinguished gentleman from Iowa [Mr. HAUGEN] and his colleagues placed the provision in the appropriation bill which extended the time of payment to the 1st of September, 1921. This bill now extends the payment to the 1st of December, 1921.

It should be borne in mind that at least 99 per cent of all these men who are paying grazing fees are permanent residents of the State and of the district where their cattle are grazed, so that if they do not pay the fee they can not get back onto the reserves next year. Therefore it is a mortgage, not only on all of their stock but on their good name, to make every arrangement and exert every effort to pay the Government these grazing fees. I received word just the day before yesterday from some of the stockmen of northern California and in southern Oregon regarding the price of cattle, both dry cows and steers, and it is remarkable how low the price is at the present time. These men ought not to be compelled to slaughter cattle right now, but ought to have a sufficient time to let them run on the range to get the benefit of it, to add as much flesh to their bones as they can during this month and a part of next month, and then to gather them up and place them in their fields where the next month they will place a considerable amount of fat on them so that they will be fit for sale at a reasonable price. In the meantime it will not rush or congest the market, but will give them an opportunity to get rid of their stock in a reasonable number and at a little better price than they can get at the present time. One who is not engaged in the cattle business, who does not know the hardships the cattlemen have undergone during the last couple of years, can hardly appreciate what the cattlemen are up against.

The rent is high, labor has been exorbitantly high, and everything that is necessary for the ranch, as we call it, or the farm is high. So, when they come to sell cows at 5 cents per pound gross, and steers at 5½ cents and 6 cents, it does not really pay for the raising of the animal. This is a just extension to make, and I believe 100 per cent of the men will pay the money. It will be no detriment to the Government and a benefit to the men engaged in the stock business of all kinds. I trust that the bill will be unanimously passed.

Mr. MANN. Mr. Chairman, will the gentleman yield?

Mr. RAKER. Yes.

Mr. MANN. Mr. Chairman, may I ask the gentleman from California at what time under the present law and regulations these grazing fees are due for the calendar year?

Mr. RAKER. My recollection is now that it is on the 1st of February. These fees were due on the 1st of February this year, for this year's grazing. They pay in advance.

Mr. MANN. And the Secretary himself postponed the collection of those fees until after the 3d of March?

Mr. RAKER. Yes.

Mr. MANN. On the 3d of March the act was passed extending the time to September 1?

Mr. RAKER. Yes.

The CHAIRMAN. The Clerk will read the bill for amendment under the five-minute rule.

The Clerk again read the bill.

Mr. HAUGEN. Mr. Chairman, I move that the committee do now rise and report the bill to the House with the recommendation that the bill do pass.

The motion was agreed to.

Accordingly the committee rose; and Mr. BURTON having resumed the chair as Speaker pro tempore, Mr. GREENE of Vermont, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill S. 2330, and had instructed him to report the same back to the House with the recommendation that the bill do pass.

Mr. HAUGEN. Mr. Speaker, I move the previous question on the bill to final passage.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. HAUGEN, a motion to reconsider the vote by which the bill was passed was laid on the table.

EXCHANGE OF LAND, RAINIER NATIONAL FOREST.

Mr. SINNOTT. Mr. Speaker, by direction of the Committee on Public Lands I move that the House resolve itself into the Committee of the Whole House on the state of the Union for consideration of the bill (H. R. 6864) authorizing exchanges of

lands within the Rainier National Forest, in the State of Washington.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 6864, with Mr. SWEET in the chair.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized to accept on behalf of the United States title to any lands not in Government ownership within the Rainier National Forest if, in the opinion of the Secretary of Agriculture, such lands are chiefly valuable for national-forest purposes, and in exchange therefor may issue patent for not to exceed an equal value of Government land, or the Secretary of Agriculture may permit the grantor to cut and remove an equal value of national-forest timber in any national forest in the State of Washington, the values in each instance to be determined by the Secretary of Agriculture and to be acceptable to the owner as fair compensation considering any reservations of timber, minerals, or easements which may be made by either party to the exchange. Timber given in such exchanges shall be cut and removed under the direction and supervision and in accordance with the requirements of the Secretary of Agriculture. Lands conveyed to the United States under this act shall, upon acceptance of title, become parts of the Rainier National Forest.

With the following committee amendments:

Page 1, line 4, after the word "authorized" insert "in his discretion."

Line 9, page 1, after the word "lands" insert "within any national forest within the State of Washington."

Page 2, lines 5, 6, and 7, strike out the words "considering any reservations of timber, minerals, or easements which may be made by either party to the exchange."

Mr. SINNOTT. Mr. Chairman, this bill is identical with a number of other bills of similar nature that Congress has passed for the exchange of lands within national forests, being the exchange of Government lands, or Government timber, for privately owned lands. In this particular national forest there is an emergency. This national forest embraces the wonderful highway leading from Tacoma to Rainier National Forest. Anyone who has traveled that highway has noticed the beautiful belt and fringe of Douglas fir trees, some of them two or three hundred feet high, on each side of the road leading to the Rainier National Forest. At some places along the road, at some points, these trees are owned by private timber companies, who are cutting at some distance away from the road, but toward the road. The National Park Service has arranged with some of these timber companies, if this bill passes, that the timber companies, by exchange, will leave a belt of trees at the particular points in question on each side of the road so that those beautiful trees will be preserved for all time. That is the present emergency.

Mr. WALSH. Mr. Chairman, I notice in this bill that permission is given to exchange land within the Rainier National Forest for lands, not to exceed an equal value, within any national forest within the State of Washington. I do not think there have been very many bills of that character passed.

Mr. SINNOTT. Oh, yes; we passed a number of bills relating to both Oregon and Washington, and a few weeks ago we passed a similar bill relating to Colorado, a bill introduced by Mr. TIMBERLAKE, and we have had bills on the statute books for a number of years authorizing the exchange of land within national forests so that the Government might consolidate its timber areas.

Mr. WALSH. How are they consolidating timber area if they exchange land in one forest for some land in another forest? That gives private ownership in some other forests, does it not?

Mr. SINNOTT. This will enable the Government to put the owners of privately owned land in one end of a national forest and the Government will have its land in the other end of the national forest.

Mr. WALSH. Of course, they can do that, permit them to go into other forests if this amendment were not agreed to, not the Rainier National Forest.

Mr. SINNOTT. They could not make exchanges unless this act is passed authorizing the exchange.

Mr. WALSH. But why permit them to go outside of the Rainier National Forest?

Mr. SINNOTT. There are a number of other forests within the same State. For instance, in Oregon we have the Deschutes National Forest, and not many miles away is another national forest.

Mr. WALSH. Why permit them to go into these other national forests and permit people who may own some land in the Rainier National Forest to get rid of that and have a piece given to them in some other forest?

Mr. SINNOTT. These same parties may have land in other forests that are checkerboarded, interspersed through Government-owned land, and the Government will deed to them the public land scattered through their own private holdings and that will give the private owner a solid block and the Government retains a solid block, or if the Government does not wish to exchange land the Government is not compelled to exchange the land. The Government may give the timber to the private owner and the Government would thus secure the land within the national forest. What the Government puts up is either land or timber at the Government's option.

Mr. WALSH. Well, if this amendment is agreed to it opens up for action under the discretionary power of the Secretary of the Interior all the national forests in the State of Washington.

Mr. SINNOTT. No; the Secretary of Agriculture and the Secretary of the Interior.

Mr. MANN. If the gentleman from Massachusetts will look at that bill carefully he will see it is a limitation and not an extension. It has been the policy of the department where these exchanges were made to limit the exchanges in national forests within the same State, but this bill, as originally drawn, made no such limitation.

Mr. SINNOTT. Without this amendment they could make exchange in any State.

Mr. MANN. It has been the policy, arbitrary policy, to provide for these exchanges within the national forests within a particular State, mostly, I believe, because if it is timberlands owned by timber companies it is timber they take. It may be more convenient to take timber in another national forest where they are operating than in that particular national forest.

Mr. WALSH. I will state to the gentleman from Illinois I was a little bit misled by the title of the bill. I assumed, after hearing the title read and the reading of the bill, that the lands which were to be exchanged were all within the Rainier National Forest. I find now——

Mr. MANN. That is, that the private lands are within the Rainier National Forest.

Mr. WALSH. The title says, "authorizing exchange of lands within the Rainier National Forest." So one would imply that both private lands and Government-owned lands were all within that forest, and I find if that amendment were not in there that they would be restricted to that particular forest.

Mr. MANN. The title has nothing to do with it.

Mr. RAKER. Will the gentleman yield me five minutes?

Mr. SINNOTT. I will yield to the gentleman from Ohio [Mr. FESS] for a question.

Mr. FESS. What proportion of that Rainier Forest is private land?

Mr. SINNOTT. Well, the forest has 1,316,679 acres. Then there have been alienated privately owned lands within the forest to the amount of 244,791 acres. But, of course, it is not likely that anything like that will be desired to be exchanged.

Mr. FESS. You mean title has been conveyed?

Mr. SINNOTT. Yes; by the Government, either in road grants or patents were issued prior to the creation of the forest.

Mr. FESS. If the gentleman will permit me, not long ago I spent a whole day riding in a pretty high-powered car through what appeared to be a national forest, spending the entire day, and I think it would be a revelation to a good many people if they could go and see the timber that is growing in that particular section; that was an eye-opener to me, and I wondered how much of it belonged to the Government and what proportion belonged to the timber companies.

Mr. RAKER. Will the gentleman yield to me five minutes?

Mr. SINNOTT. Mr. Chairman, there are committee amendments.

The CHAIRMAN. The Clerk will report the bill for amendment.

The Clerk read as follows:

A bill (H. R. 6864) authorizing exchanges of lands within the Rainier National Forest, in the State of Washington.

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized to accept on behalf of the United States title to any lands not in Government ownership within the Rainier National Forest if, in the opinion of the Secretary of Agriculture, such lands are chiefly valuable for national-forest purposes, and in exchange therefor may issue patent for not to exceed an equal value of Government land, or the Secretary of Agriculture may permit the grantor to cut and remove an equal value of national-forest timber in any national forest in the State of Washington, the values in each instance to be determined by the Secretary of Agriculture and to be acceptable to the owner as fair compensation considering any reservations of timber, minerals, or easements which may be made by either party to the exchange. Timber given in such exchanges shall be cut and removed under the direction and supervision and in accordance with the requirements of the Secretary of Agriculture. Lands conveyed to the United States under this act shall, upon acceptance of title, become parts of the Rainier National Forest.

The following committee amendments were severally read and agreed to:

Page 1, line 4, after the word "authorized," insert the words "in his discretion."

Page 1, line 9, after the word "land," at the end of the line, insert "within any national forest within the State of Washington."

Page 2, line 5, after the word "compensation," strike out "considering any reservations of timber, minerals, or easements which may be made by either party to the exchange."

Mr. SINNOTT. Mr. Chairman, I move that the committee do now rise and report the bill to the House with the recommendation that the amendments be agreed to and the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. SWEET, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 6864) authorizing exchanges of lands within the Rainier National Forest, in the State of Washington, and had directed him to report the same to the House with sundry committee amendments, with the recommendation that the amendments be agreed to and the bill as amended do pass.

Mr. SINNOTT. Mr. Speaker, I move the previous question on the bill and amendments to final passage.

The previous question was ordered.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them en grosse.

The amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. SINNOTT, a motion to reconsider the vote by which the bill was passed was laid on the table.

URGENT DEFICIENCY APPROPRIATIONS.

Mr. SNELL. Mr. Speaker, I submit a privileged report from the Committee on Rules.

The SPEAKER. The gentleman from New York presents a privileged report from the Committee on Rules, which the Clerk will report.

The Clerk read as follows:

House resolution 186.

Resolved, That immediately upon the presentation of the report of the committee of conference on the disagreeing votes of the two Houses on the bill H. R. 8117, the urgent deficiency appropriation bill, the House shall proceed to its consideration, the general rules of the House to the contrary notwithstanding.

Mr. SNELL. Mr. Speaker, I understand that the conferees have agreed on the urgent deficiency appropriation bill, and this rule is simply to make in order its immediate consideration when it is ready to be presented on the floor of the House. The committee believes that the large majority of the House are in favor of facilitating this legislation. And unless the gentleman from North Carolina [Mr. POU] desires some time, I shall move the previous question.

Mr. POU. I should like five minutes, although I may not take it all.

Mr. SNELL. I yield five minutes to the gentleman from North Carolina [Mr. POU].

Mr. POU. Mr. Speaker, I suppose the House is rapidly approaching the time when the recess resolution will be presented. I think it is only proper to say that, so far as the minority members of the Committee on Rules are concerned, we have not only not attempted to throw any obstacle in the way of the consideration of legislation, but we have cooperated with the majority of the Committee on Rules in facilitating the consideration of measures which have been acted upon in the House.

We have just agreed to resolutions providing for the consideration of two conference reports without having the reports printed. Now, so far as I am concerned, I am going to vote against the taking of this recess. I do not believe it is proper for Congress to recess at this time, but that is a matter for the majority and not for the minority. This recess appears to be a part of your program and, of course, the responsibility is yours. As the time approaches for the presentation of the recess resolution I thought it was proper to state that in so far as the minority members of the Committee on Rules could do so, we have aided the majority in bringing to a successful conclusion all legislation which we believed was in the interest of the American people. [Applause.]

Mr. BLANTON. Will the gentleman from New York yield?

Mr. SNELL. I yield.

Mr. BLANTON. This conference agreement provides that the Shipping Board may employ as many as six employees at salaries of over $11,000 each, does it not?

Mr. SNELL. I can not tell what the conference report provides, for I have not seen it.

Mr. BLANTON. You do not know anything about what they have agreed on?

Mr. SNELL. No, sir.

Mr. BLANTON. Well, it does provide for six employees with no limitation on their salaries. So far as you know they may have agreed to take off all the restrictions the House saw fit to put on?

Mr. SNELL. We have made it possible for its consideration.

Mr. BLANTON. If it does come up under this rule the gentleman knows it will be adopted.

Mr. SNELL. I do not know about that.

Mr. RAKER. Will the gentleman yield for a question?

Mr. SNELL. Certainly.

Mr. RAKER. It may be somewhat presumptuous on my part, but I am a long ways from home. The recess does not do me any good, but that makes no difference. I do not obstruct or delay anything. But I am asking the gentleman this, Will the House agree to adjourn before the beer bill is disposed of?

Mr. SNELL. I can not give the gentleman that information. So far as I am personally concerned, I am anxious to have the House get its business in shape so that it can adjourn late this evening.

Mr. RAKER. Does the gentleman think——

Mr. SNELL. I told you what I think, but I can not tell you anything more.

Mr. RAKER. You did not let me finish the last question. Is it the feeling of the House that we ought not to adjourn with that bill hanging in the air in the Senate?

Mr. SNELL. I can not give the gentleman any other answer than that which I have already given. So far as I personally am concerned, I think we have accomplished a great deal of work during this special session, and I am willing to adjourn.

Mr. WALSH. Will the gentleman from New York yield?

Mr. SNELL. Yes, sir.

Mr. WALSH. We were told in the papers the other day if this bill did not pass that the beer regulations would be issued by the prohibition commissioner and the Commissioner of Internal Revenue. Perhaps that will relieve the worry of the gentleman from California [Mr. RAKER]. [Laughter.]

Mr. RAKER. Just one other question. Irrespective of how the gentleman may feel on the necessity for the beer, the cold weather is on now, and the necessity for it is not quite so great.

Mr. SNELL. Mr. Speaker, I want to corroborate everything the gentleman from North Carolina [Mr. POU] has said in regard to the cooperation that the majority has received from the minority members of the Rules Committee during these closing days. They have done everything they could to help facilitate the legislation that was before the House.

I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the resolution.

The question was taken, and the Speaker announced that the "ayes" seemed to have it.

Mr. BLANTON. Mr. Speaker, I ask for a division.

The SPEAKER. The gentleman from Texas asks for a division.

The House divided; and there were—ayes 116, noes 3.

Mr. BLANTON. Mr. Speaker, I object to the vote because there is no quorum present. I make the point that there is no quorum present.

The SPEAKER. The gentleman from Texas makes the point that there is no quorum present. Evidently there is no quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify the absentees, and the Clerk will call the roll. Those in favor of the resolution will, when their names are called, answer "yea;" those opposed will answer "nay."

The question was taken; and there were—yeas 226, nays 63, answered "present" 1, not voting 140, as follows:

YEAS—226.

Ackerman	Byrns, Tenn.	Driver	Hadley
Andrews	Cable	Dunbar	Hardy, Colo.
Ansorge	Campbell, Kans.	Echols	Haugen
Anthony	Cannon	Edmonds	Hayden
Appleby	Cantrill	Elliott	Hays
Arentz	Carter	Ellis	Herrick
Atkeson	Chalmers	Evans	Hickey
Barbour	Chindblom	Faust	Hill
Beedy	Christopherson	Fenn	Himes
Begg	Clague	Fess	Hoch
Bird	Clarke, N. Y.	Fish	Hogan
Bland, Ind.	Clouse	Fitzgerald	Hukriede
Bland, Va.	Cole, Iowa	Focht	Hull
Bond	Colton	Fordney	Humphreys
Bowers	Connally, Tex.	Free	Jefferis, Nebr.
Brennan	Connell	Frothingham	Kearns
Briggs	Connolly, Pa.	Funk	Keller
Brooks, Pa.	Cooper, Wis.	Garrett, Tenn.	Kelley, Mich.
Brown, Tenn.	Crisp	Gensman	Kelly, Pa.
Buchanan	Curry	Gernerd	Kendall
Bulwinkle	Dale	Glynn	Ketcham
Burdick	Dallinger	Graham, Ill.	King
Burke	Darrow	Graham, Pa.	Kinkaid
Burroughs	Davis, Minn.	Green, Iowa	Kirkpatrick
Burtness	Denison	Greene, Mass.	Kissel
Burton	Dowell	Greene, Vt.	Kleczka
Butler	Drewry	Griest	Kline, N. Y.

Kline, Pa.	Mapes	Rayburn	Strong, Pa.
Knutson	Mead	Reber	Summers, Wash.
Kopp	Merritt	Reece	Sweet
Kraus	Michener	Reed, N. Y.	Swing
Kreider	Miller	Reed, W. Va.	Taylor, Tenn.
Lampert	Millspaugh	Rhodes	Temple
Langley	Mondell	Ricketts	Timberlake
Lanham	Moore, Ill.	Roach	Tincher
Lankford	Moore, Ohio	Robertson	Tinkham
Lawrence	Moore, Va.	Robsion	Towner
Lea, Calif.	Morgan	Rodenberg	Underhill
Leatherwood	Morin	Rogers	Vestal
Lee, Ga.	Mott	Rose	Voigt
Lee, N. Y.	Murphy	Rossdale	Volstead
Lehlbach	Nelson, A. P.	Sanders, Ind.	Walsh
Lineberger	Nelson, J. M.	Sandlin	Walters
Little	Newton, Minn.	Schall	Watson
London	Nolan	Scott, Mich.	Webster
Longworth	Olpp	Scott, Tenn.	Wheeler
Luce	Osborne	Shreve	White, Kans.
Luhring	Parker, N. J.	Sinclair	White, Me.
McArthur	Parker, N. Y.	Sinnott	Williams
McFadden	Patterson, Mo.	Smith, Idaho	Winslow
McLaughlin, Mich.	Patterson, N. J.	Smith, Mich.	Woodruff
McLaughlin, Pa.	Porter	Smithwick	Woodyard
McPherson	Pou	Snell	Wyant
MacGregor	Radcliffe	Speaks	Young
Madden	Raker	Steenerson	Zihlman
Magee	Ramseyer	Stephens	
Mann	Ransley	Strong, Kans.	

NAYS—63.

Almon	Dominick	Kincheloe	Rucker
Aswell	Favrot	Larsen, Ga.	Sanders, Tex.
Bell	Fields	Linthicum	Sears
Black	Fisher	McClintic	Sisson
Blanton	Flood	O'Connor	Steagall
Bowling	Fulmer	Oldfield	Stoll
Box	Garrett, Tex.	Oliver	Swank
Brand	Gilbert	Overstreet	Tillman
Byrnes, S. C.	Griffin	Padgett	Tyson
Carew	Hammer	Park, Ga.	Vinson
Clark, Fla.	Hardy, Tex.	Parks, Ark.	Ward, N. C.
Collier	Harrison	Parrish	Weaver
Collins	Huddleston	Quin	Wilson
Cullen	Jacoway	Rankin	Wingo
Davis, Tenn.	Jeffers, Ala.	Riordan	Woods, Va.
Deal	Jones, Tex.	Rouse	

ANSWERED "PRESENT" 1.

Sumners, Tex.

NOT VOTING—140.

Anderson	Foster	Layton	Ryan
Bacharach	Frear	Lazaro	Sabath
Bankhead	Freeman	Logan	Sanders, N. Y.
Barkley	French	Lowrey	Shaw
Beck	Fuller	Lyon	Shelton
Benham	Gahn	McCormick	Siegel
Bixler	Gallivan	McDuffie	Slemp
Blakeney	Garner	McKenzie	Snyder
Boies	Goldsborough	McLaughlin, Nebr.	Sproul
Brinson	Goodykoontz	McSwain	Stafford
Britten	Gorman	Maloney	Stedman
Brooks, Ill.	Gould	Mansfield	Stevenson
Brown, Wis.	Hawes	Martin	Stiness
Campbell, Pa.	Hawley	Michaelson	Sullivan
Chandler, N. Y.	Hersey	Mills	Tague
Chandler, Okla.	Hicks	Montague	Taylor, Ark.
Classon	Houghton	Montoya	Taylor, Colo.
Cockran	Hudspeth	Moores, Ind.	Taylor, N. J.
Codd	Husted	Mudd	Ten Eyck
Cole, Ohio	Hutchinson	Newton, Mo.	Thomas
Cooper, Ohio	Ireland	Norton	Thompson
Copley	James	O'Brien	Tilson
Coughlin	Johnson, Ky.	Ogden	Treadway
Cramton	Johnson, Miss.	Paige	Upshaw
Crowther	Johnson, S. Dak.	Perkins	Vaile
Dempsey	Johnson, Wash.	Perlman	Vare
Dickinson	Jones, Pa.	Peters	Volk
Doughton	Kahn	Petersen	Ward, N. Y.
Drane	Kennedy	Pringey	Wason
Dunn	Kiess	Purnell	Williamson
Dupré	Kindred	Rainey, Ala.	Wise
Dyer	Kitchin	Rainey, Ill.	Wood, Ind.
Elston	Knight	Reavis	Wright
Fairchild	Kunz	Riddick	Wurzbach
Fairfield	Larson, Minn.	Rosenbloom	Yates

So the resolution was agreed to.

The Clerk announced the following additional pairs:

Until further notice:

Mr. JOHNSON of South Dakota with Mr. KITCHIN.

Mr. TREADWAY with Mr. TAGUE.

Mr. VAIL with Mr. TAYLOR of Colorado.

Mr. BROOKS of Illinois with Mr. MONTAGUE.

Mr. PAIGE with Mr. GALLIVAN.

Mr. FREEMAN with Mr. GOLDSBOROUGH.

Mr. FULLER with Mr. KUNZ.

Mr. PURNELL with Mr. SUMNERS of Texas.

Mr. HICKS with Mr. GARNER.

Mr. LAYTON with Mr. COCKRAN.

Mr. PERKINS with Mr. TAYLOR of Arkansas.

Mr. KIESS with Mr. JOHNSON of Mississippi.

Mr. THOMPSON with Mr. KINDRED.

Mr. KAHN with Mr. DRANE.

Mr. JOHNSON of Washington with Mr. THOMAS.

Mr. RIDDICK with Mr. SABATH.

Mr. VOLK with Mr. RAINEY of Alabama.

Mr. IRELAND with Mr. STEVENSON.

Mr. BACHARACH with Mr. STEDMAN.

Mr. TAYLOR of New Jersey with Mr. UPSHAW.

Mr. PERLMAN with Mr. BARKLEY.

Mr. SNYDER with Mr. BANKHEAD.

Mr. NEWTON of Missouri with Mr. SULLIVAN.

Mr. DUNN with Mr. HUDSPETH.

Mr. BLAKENEY with Mr. O'BRIEN.

Mr. COUGHLIN with Mr. TEN EYCK.

Mr. REAVIS with Mr. LAZARO.

Mr. SHELTON with Mr. LOWREY.

Mr. HUTCHINSON with Mr. WRIGHT.

Mr. COLE of Ohio with Mr. RAINEY of Illinois.

Mr. McLAUGHLIN of Nebraska with Mr. BRINSON.

Mr. WUERBACH with Mr. McSWAIN.

Mr. ELSTON with Mr. McDUFFIE.

Mr. COOPER of Ohio with Mr. DOUGHTON.

The result of the vote was announced as above recorded.

The SPEAKER. The Doorkeeper will open the doors.

PRINTING MINORITY VIEWS ON THE REVENUE BILL.

Mr. OLDFIELD. Mr. Speaker, I ask unanimous consent that 1,000 extra copies of the minority views on the revenue bill be printed for the use of the minority members of the committee or the committee.

The SPEAKER. The gentleman from Arkansas asks unanimous consent that 1,000 extra copies of the views of the minority on the revenue bill be printed for the use of the committee or the House.

Mr. OLDFIELD. Whatever is customary.

The SPEAKER. Is there objection?

There was no objection.

FARM LOANS.

Mr. CAMPBELL of Kansas. Mr. Speaker, by direction of the Committee on Rules, I present the following privileged resolution.

The SPEAKER. The gentleman from Kansas, by direction of the Committee on Rules, presents a resolution which the Clerk will report.

The Clerk read as follows:

Resolved, That immediately upon presentation of the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. 1915) to amend the War Finance Corporation act, approved April 5, 1918, as amended, to provide relief for producers and dealers in agricultural products and for other purposes, the House shall proceed to its consideration, the general rules of the House to the contrary notwithstanding.

Mr. CAMPBELL of Kansas. Mr. Speaker, this rule makes in order the consideration of the conference report on the farm credits bill as soon as that report reaches the House. That is the effect of the resolution. It is unanimously reported from the Committee on Rules.

Mr. GARRETT of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. CAMPBELL of Kansas. I yield to the gentleman from Tennessee.

Mr. GARRETT of Tennessee. As I understand, the effect of this rule is merely to make in order to-day what would be in order to-morrow under the general rules of the House.

Mr. CAMPBELL of Kansas. The understanding of the gentleman from Tennessee is correct.

Mr. MANN. Will the gentleman yield?

Mr. CAMPBELL of Kansas. I yield to the gentleman from Illinois.

Mr. MANN. This rule simply makes in order on the eve of the recess what would be in order under the general rules of the House on the eve of an adjournment.

Mr. CAMPBELL of Kansas. That is true.

Mr. GARRETT of Tennessee. Will the gentleman yield further?

Mr. CAMPBELL of Kansas. Yes.

Mr. GARRETT of Tennessee. The gentleman from Illinois has just made an interesting statement. Are we on the eve of a recess?

Mr. MANN. We are on the eve. I hope we will reach the morning.

Mr. GARRETT of Tennessee. Information concerning that subject is extremely desirable at this time.

Mr. CAMPBELL of Kansas. I wish I could give the information and be accurate in giving it. Just at this time the information is just a little indefinite, and pending the conference report that this resolution makes in order, and information upon the question of the recess, I yield five minutes to the gen-

tleman from Kansas [Mr. WHITE], who desires to speak out of order. [Applause.]

Mr. GARRETT of Tennessee. Does the gentleman mean that he desires that the gentleman from Kansas may proceed out of order?

Mr. CAMPBELL of Kansas. Yes.

The SPEAKER. The Chair understands the gentleman from Kansas to ask unanimous consent that his colleague [Mr. WHITE] may speak out of order.

Mr. CAMPBELL of Kansas. That is the request.

The SPEAKER. Is there objection to the request that the gentleman may speak out of order?

There was no objection.

Mr. WHITE of Kansas. Mr. Speaker, as illustrative of all the movements for progress, efficiency, and economy now agitating the public mind, I want to call attention to the kind of communications that are reaching the desks of Members, and also as illustrative of the attitude of Members in giving careful attention to all requests for information and consideration of these questions I desire to submit the following letter and the reply thereto:

NEW YORK, *August 20, 1921.*

To the Members of the United States Senate and Congress.

GENTLEMEN: Since writing my last book, "Live and Grow Young," there have come to me other indispensable requirements for the prolongation of life. One of the vital needs of the age is to eliminate useless time expended in work, as time is money.

I suggest the following plan: In addressing letters, circulars, and packages, the first nine or more cities of the United States could be addressed by numerals, according to population. For example, in addressing New York, N. Y., use numeral 1; Chicago, Ill., 2; Philadelphia, Pa., 3; and so forth. The adoption of such a plan would result in the saving of labor and expenses now being wasted, the amount of which will astound you.

Probably one-third or more of the mail of the United States goes to these nine cities, and the saving in time from the addressing of mail each day in this way can easily be determined by your statistician. It now takes 114 strokes of the typewriter to address an envelope to the nine largest cities of the United States. By this plan it is done in 9 strokes.

I suggest, providing it is necessary, that an act of Congress be passed, permitting mail to be addressed in this way.

Now: JOHN WATERALL, *47 Pine Street, Philadelphia, Pa.*
By this plan: JOHN WATERALL, *47 Pine Street, 3.*

Pursuing the line of thought suggested in the letter I have written to Mr. Waterall as follows:

HOUSE OF REPRESENTATIVES,
Washington, D. C., August 20, 1921.

MR. JOHN WATERALL,
47 Pine Street, Philadelphia, Pa.

DEAR SIR: Your very interesting and decidedly progressive letter of the 20th instant at hand. I regret I have not had opportunity to examine your book, "Live and Grow Young," but will do so at the earliest possible time, for I am more than intensely interested in the subject; more, especially, in view of the fact that I have been growing old for the past 66 years, and unless my headlong course toward the goal of age is checked soon I feel that I am destined to the inexorable doom of antiquity.

Now, will you pardon a supplemental suggestion, for I say to you that you have aroused my interest. I am ruminating deeply and most seriously on the subject discussed in your letter. Your name is John Waterall. Now, the word Waterall might very properly be interpreted "all water." It now consists of eight letters. The word "cloud" means the same thing. A cloud is all water and also waters all when it rains, but consists of but five letters, thus saving every time you write your name three strokes of the typewriter or pen. But suppose we go further and substitute rain. Now, rain waters all and is also all water. This word consists of but four letters, thus effecting at each writing a saving of four strokes of the typewriter or pen.

But we might go even further and not at all strain the propriety and regularity of the interpretation. Use the word "wet," which is the same as Waterall, but which I admit was not in former times all water, but was employed as a figure of speech to describe localities where such vulgar and superfluous drinks as whisky, beer, etc., might be obtained with reasonable immunity from arrest and imprisonment. But this interpretation of the word is now obsolete and you could sign your name "Wet" with reasonable assurance that the average American citizen would readily understand that it was all, or nearly all, water.

But to deduce: Here is by substituting the word "wet" for Waterall a saving of five strokes. Suppose during the course of a long and adventurous career you write your name 2,000,000 times, your calculus shows a saving of 10,000,000 strokes; a staggering thought. I do not offer this illustration for any purpose except to bring to your attention the extent to which valuable time may be conserved if your very useful and entirely feasible plan shall be brought to its highest efficiency.

Very truly,

HAYS B. WHITE.

[Laughter and applause.]

Mr. CAMPBELL of Kansas. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

DESCHUTES NATIONAL FOREST, OREG.

Mr. SINNOTT. Mr. Speaker, by direction of the Committee on the Public Lands I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. 7600.

The SPEAKER. The gentleman from Oregon, by direction of the Committee on the Public Lands, moves that the House resolves itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. 7600.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 7600) authorizing the adjustment of the boundaries of the Deschutes National Forest, in the State of Oregon, and for other purposes, with Mr. WALSH in the chair.

The CHAIRMAN. The Clerk will report the bill.

The bill was read as follows:

Be it enacted, etc., That the Secretary of the Interior be, and hereby is, authorized in his discretion to accept on behalf of the United States title to any lands in private ownership within or within 5 miles of the exterior boundaries of the Deschutes National Forest which, in the opinion of the Secretary of Agriculture, are chiefly valuable for national forest purposes, and in exchange therefor may issue patent for an equal value of national forest land, or the Secretary of Agriculture may permit the grantor to cut and remove an equal value of timber from any national forest in the State of Oregon, the values in each instance to be determined by the Secretary of Agriculture and be acceptable to the owner as fair compensation considering any reservations of timber or mineral rights or easements made by either party to the exchange. Timber given in such exchanges shall be cut and removed under the direction and supervision and in accordance with the requirements of the Secretary of Agriculture. Lands conveyed to the United States under this act shall, upon acceptance of title, become parts of the Deschutes National Forest.

With the following committee amendments:

Page 1, line 10, after the word "land," insert the words "in the State of Oregon."

Page 2, line 5, after the word "compensation," strike out the words "considering any reservations of timber or mineral rights or easements made by either party to the exchange."

Mr. SINNOTT. Mr. Chairman, this bill is similar to the one we passed early in the day with one exception. It authorizes the taking over of land within 5 miles of the exterior boundary. The reason for this provision is that much of this land was patented by the Government before the forest was created, so that when the forest boundaries were drawn they were drawn so as to exclude the privately owned land. The result of that is a very crooked and indented boundary, also a big gap or tongue of privately owned land running many miles into the heart of the forest. That gap is from 5 to 11 miles wide. The Forest Service first thought that the distance of 5 miles would enable them to take over the land, but on taking it up again with the representatives of the Forest Service it was deemed better to make it 6 miles, so it is my purpose to offer an amendment to line 5, page 1, striking out the word "five" and inserting in lieu thereof the word "six." That will also enable them to take in a township that is 6 miles square. Mr. Chairman, I reserve the balance of my time.

Mr. MANN. Mr. Chairman, I understand I am recognized for one hour. We are in Committee of the Whole House on the state of the Union where a man who has the floor can talk about anything he wants to. I do not really want to talk about anything. I do not know whether the conferees on the War Finance Corporation export bill are ready to present their conference report or not, but whenever they are ready, under the rule any Member can be taken off the floor for the consideration of that conference report. I believe the conference report on the appropriation bill which has been agreed to is to be acted upon in the Senate first. I do not know when that will be acted upon in the Senate. I do not know whether anybody here knows, and I do not know whether anybody in the Senate knows, but I would like to yield a little time to anybody in the House who will entertain the House for a few minutes.

Mr. BLANTON. Will the gentleman yield?

Mr. MANN. I will yield to the gentleman, for he is always entertaining.

Mr. BLANTON. Ninety-nine times in 100 the gentleman from Illinois is right in his statement, but is he exactly right in stating that under general debate the speaker is not limited to the bill. Are we not in the same position to-day as on Calendar Wednesday, when there is a call of the calendar?

Mr. MANN. No; there is a special rule about Calendar Wednesday limiting the time for general debate to two hours, and providing that the subject before the House shall be discussed. We are now proceeding under another rule of the House, a rule which used to be called the morning-hour rule. I think no new Member of the House has ever seen it in operation before, and very few old Members have seen it in operation since the reform rules were adopted 10 or 11 years ago.

Mr. LONDON. Will the gentleman from Illinois yield me 10 minutes? I desire to continue a talk that was interrupted.

Mr. MANN. I will yield to the gentleman from New York 10 minutes.

Mr. LONDON. Mr. Chairman, last night I began to develop the subject of the invasion of the rights of private property by the State. I pointed out as an illustration that the life insurance companies' right in making contracts with policyholders has been taken away from the companies because of the frequent frauds practiced by life insurance companies.

If we examine recent labor legislation, recent sanitary legislation, legislation on behalf of children and women, we will find that the State has been extending its dominion over what were considered to be unassailable rights of private property. When we pass a law regulating the hours of labor of women, when we say to the employer that he is not to take advantage of the law of supply and demand, that the national conscience prohibits him from exploiting helpless women, and that the State is to regulate the hours of labor for him, we substitute the will of the State and the will of the Nation for his will.

We say to the private owner of a factory that we will not permit him to use his factory in his own way, but that we shall tell him under what regulations he will be permitted to run his factory. The same thing is true of legislation relating to child labor. We went to the extent of limiting the hours of labor of railroad employees.

Workmen's-compensation legislation has thrown upon the junk heap the master and servant doctrines of the common law and has laid a new responsibility upon the employer.

Every one of these reforms has been opposed as socialistic, as paternalistic, and as subversive of our form of government. Court after court, State after State, has been compelled to yield to new conditions. Old principles have received entirely new interpretations. Grudgingly, reluctantly, unwillingly, men are compelled to concede that no one's property can be or should be vested with rights superior to the welfare of the people.

And what is more important, the State is being called upon to render financial aid to various groups of the community. The War Finance Corporation law has been extended recently so as to enable the War Finance Corporation to aid the agricultural elements by promoting export trade, and for the life of me I can not see why the bricklayers should not be in a position to come to the Government and by the very same process of reasoning say, "You are appropriating $100,000,000 to aid the farmers to export their grain abroad, and we want you to appropriate $100,000,000 to construct homes, because there is a shortage of homes just now—there is a supposed shortage of 1,500,000 homes. We want you to appropriate that amount of money in order to aid us in obtaining employment." There is no doubt that the sphere of State legislation has been extending during the last 25 years. The war stopped it for a short time.

The problem of civilization to-day is how to secure the largest possible measure of individual liberty consistent with the welfare of society.

When the gentleman from Mississippi [Mr. SISSON] said that so far as he was concerned if he were asked to choose between socialism and anarchy he would choose anarchy, he did not say all that he should have said. I would say for him that he has already chosen anarchy, because the present state of society is nothing but anarchy. Our present state of society is characterized by the taking advantage of the weak by the strong, except in so far as the strong are curbed by the assertion of the collective will of the people; by the assertion of the social principle, which he opposes. The Republicans, I would like to say to the gentleman from Mississippi, are more consistent in that regard. I hate to say more intelligent. They are socialists for the rich, they are the socialists of plutocracy. I am a socialist for the poor devil. The Democrats do not know where in the world they are at. That is the situation. The Republicans proceed upon the theory that by promoting trusts, by encouraging the captains of industry, by helping the great financiers, they will promote the prosperity of the people, and that this prosperity will trickle down to the poor. The Republicans seek to perpetuate the existence of those two classes, the helpless class at the bottom, the rich, powerful class working through a Republican majority in the legislative bodies at the top and through its tremendous economic power controlling the common people.

The Democrats would like to see the trusts broken up. They would like to see competition. They would like to see every Democrat have a mile and a half of railroad, so that every mile and a half of railroad should compete with every other mile and a half of railroad in the United States. They would take a steel plant requiring the expenditure under modern conditions of $100,000,000 and subdivide it into a million parts, and say, "Fellow Democrats, proceed to compete. Each of you has a capital of $100, and let each of you try to establish a great steel plant and may the fittest survive." Of course, the advocate of competition forgets that ultimate success means the elimination of all competitors.

The Republican lives in the immediate present and refuses to prepare for the to-morrow. The Democrat lives in the irretrievable past.

Some day I hope to get an opportunity to explain to you the philosophy of the Socialist, the philosophy of the days to come.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. LONDON. May I have another five minutes?

Mr. MANN. Not at this stage.

The CHAIRMAN. The Clerk will read the bill for amendment.

The Clerk again reported the bill.

The CHAIRMAN. The Clerk will report the committee amendments.

The following committee amendments were severally reported and severally agreed to:

Page 1, line 4, after the word "authorized," insert "in his discretion."

Page 1, line 10, after the word "land," insert "in the State of Oregon."

Page 2, lines 5, 6, and 7, strike out the words "considering any reservations of timber, or mineral rights, or easements made by either party to the exchange."

Mr. PARRISH. Mr. Chairman, I would like to ask the chairman of the committee a question. Is there any question of mineral values, oil, gas, or anything like that, involved in any of this land?

Mr. SINNOTT. Not at all. It is all of a volcanic nature.

Mr. PARRISH. And there will be no reservation of mineral rights in the land the Government takes or gives?

Mr. SINNOTT. No. Mr. Chairman, I move to amend, page 1, line 5, by striking out the word "five" and inserting the word "six."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment by Mr. SINNOTT: Page 1, line 5, after the word "within" strike out the word "five" and insert the word "six."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SINNOTT. Mr. Chairman, I move the committee do now rise and report the bill as amended, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to; accordingly the committee rose, and the Speaker having resumed the chair, Mr. WALSH, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having had under consideration the bill (H. R. 7600), had directed him to report the same with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. SINNOTT. Mr. Speaker, I move the previous question on the bill and amendments to final passage.

The previous question was ordered.

The SPEAKER. Is a separate vote demanded upon any amendment? If not the Chair will put them in gross.

The question was taken and the amendments were agreed to.

The bill as amended was ordered to be engrossed and read the third time, was read the third time, and passed.

On motion of Mr. SINNOTT a motion to reconsider the vote by which the bill was passed was laid on the table.

ORDER OF BUSINESS.

Mr. MONDELL. Mr. Speaker, there are on the calendar two bridge bills. There is also a joint resolution on the Speaker's table changing the name of the Veterans' Bureau to the United States Veterans' Bureau. I shall ask unanimous consent, if it is granted for the first, in turn until these three bills are considered. I now ask unanimous consent for the immediate consideration of the bill (S. 1970), an act granting the consent of Congress to the counties of Bowie and Cass, State of Texas, for construction of a bridge across Sulphur River at or near Pettis Bridge on State Highway No. 8, in said counties and State.

I want to make this explanation. I am making this request for these three bills because after a careful examination of the calendar they are the only bills of this character on the calendar, and if we should get unanimous consent for these three, it would clear up this situation.

Mr. GARRETT of Tennessee. Mr. Speaker, reserving the right to object, my recollection is that we have often considered bridge bills by unanimous consent on other than unanimous-consent days.

Mr. MANN. Very seldom.

The SPEAKER. Never except when there is an emergency which the Chair recognizes.

Mr. MONDELL. One is a Senate bill, and one, I am told, it is important to pass promptly. The other simply provides for changing the name of the Veterans' Bureau.

Mr. WALSH. Does that make it an emergency, because it is a Senate bill?

Mr. MONDELL. Well, being a Senate bill, if the House passes it it becomes a law, and the emergency ceases and it is a thing accomplished.

Mr. MANN. There is a conference report here, and I object for the present.

Mr. MONDELL. Mr. Speaker, since the conference report has been presented I yield for the conference report.

FARM LOANS.

Mr. McFADDEN. Mr. Speaker, I submit a conference report on the bill S. 1915.

The SPEAKER. The Clerk will read the conference report.

The conference report and statement are as follows:

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1915) to amend the War Finance Corporation act, approved April 5, 1918, as amended, to provide relief for producers of and dealers in agricultural products, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendments numbered 34 and 35.

That the Senate recede from its disagreement to the amendments of the House numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 36, 38, 39, 40, 41, 42, 43, and 44, and agree to the same.

Amendment numbered 10: That the Senate recede from its disagreement to the amendment of the House numbered 10, and agree to the same with an amendment as follows: In lieu of the matter proposed by the House amendment insert the following:

"All notes or other instruments evidencing advances to persons outside the United States shall be in terms payable in the United States, in currency of the United States, and shall be secured by adequate guaranties or indorsements in the United States, or by warehouse receipts, acceptable collateral, or other instruments in writing conveying or securing marketable title to agricultural products in the United States."

And the House agree to the same.

Amendment numbered 37: That the Senate recede from its disagreement to the amendment of the House numbered 37, and agree to the same with an amendment as follows: In lieu of the matter proposed by the House amendment insert the following: "The first paragraph of section 12 of Title I"; and the House agree to the same.

LOUIS T. MCFADDEN,
PORTER H. DALE,
OTIS WINGO,
Managers on the part of the House.

WM. S. KENYON,
CHAS. L. MCNARY,
E. D. SMITH,
Managers on the part of the Senate.

STATEMENT.

The managers of the House committee of conference on the disagreeing votes of the two Houses on the bill (S. 1915) to amend the War Finance Corporation act, approved April 5, 1918, as amended, to provide relief for producers of and dealers in agricultural products, and for other purposes, submit the following statement as a result of the conference:

The Senate accepts all of the amendments made by the House of Representatives except those numbered 10, 34, 35, and 37.

On amendments Nos. 34 and 35 the House recedes, thus restoring the provisions of amendment No. 34 and eliminating the House provision of amendment 35.

On amendment No. 10 the Senate recedes with an amendment which strikes out the words "of banks, bankers, or trust companies" and the words "chattel mortgages" wherever they occur in said amendment. It also inserts, after "warehouse receipts," the words "acceptable collateral."

On amendment No. 37 the conferees made a clerical change.

LOUIS T. MCFADDEN,
PORTER H. DALE,
OTIS WINGO,
Managers on the part of the House.

Mr. LUCE. Will the gentleman yield?

The SPEAKER. Does the gentleman yield?

Mr. McFADDEN. I yield.

Mr. LUCE. I understood the Clerk to read, "These agreements shall be secured by taking securities or indorsements of the United States." Is that correct?

The SPEAKER. In the United States.

Mr. McFADDEN. Mr. Speaker and gentlemen of the House, the conferees are very happy to report that the Senate has receded on the principal parts of the bill which were in dispute. The principal controversy arose over that section which the House put in as a new section No. 10 of the bill, which provided that when loans were made under section (b), on page 3 of the bill, to people in foreign countries that those loans should be adequately secured. Your conferees were very insistent that if those loans were permitted and made that the War Finance Corporation should be properly secured. After some difficulties and some considerable discussion we agreed to the amendment which has been read, and I can say for the benefit of Members of the House that the amendment which the House agreed to has been modified in a very slight way. We have simply struck out the words "banks, bankers, or trust companies" in the United States and "chattel mortgages" and inserted "acceptable collateral," so that the amendment will read:

All notes or other instruments evidencing advances to persons outside the United States shall be in terms payable in the United States, in currency of the United States, and shall be secured by adequate guaranties or indorsements in the United States, or by warehouse receipts, acceptable collateral, or other instruments in writing conveying or securing marketable title to agricultural products in the United States.

By striking out the words "banks, bankers, or trust companies" we have left it optional with the War Finance Corporation to determine what kind of indorsements, whether banks, individuals, or otherwise, but they must be satisfactorily secured by indorsements located in the United States. And also we have struck out the words "chattel mortgages" and inserted the words "acceptable collateral." The amendment as it was passed by the House provided also "other instruments in writing conveying or securing marketable title." I feel that we have sufficiently safeguarded this section, and I hope our action in this respect will be approved by the House.

Mr. SMITH of Michigan. Will the gentleman please give us a little explanation of the term "marketable title"? It is used in two or three places in this amendment.

Mr. McFADDEN. That is a stock term, and it means securities or products that are marketable; that they must comply with certain provisions of the laws of the States and the United States and to the rules of trade.

Mr. KING. Will the gentleman yield?

Mr. McFADDEN. I will.

Mr. KING. What did the conference committee do with the amendment eliminating the possibility of selling debentures to the War Finance Corporation?

Mr. McFADDEN. I will say that the conferees accepted the gentleman's amendment, and the transactions are confined entirely to acceptances properly and adequately secured.

Now, the other amendments, particularly No. 27, which the House struck out after quite some difficulty, the Senate receded from their position on that. That is the provision which provides for the War Finance Corporation to buy $200,000,000 worth of farm loan bonds.

They did so on the theory that this is a proposition to help the marketing of our surplus products and not a proposition to be used for the purpose of selling long-time securities, and that it would be entirely unnecessary to set up another governmental organization for the purpose of selling farm loan bonds when the Federal farm loan system has adequate machinery for that purpose.

The House conferees receded on page 10 of the bill on sections 34 and 35. There was considerable dispute in regard to these two sections, which referred to the question of the rate of interest which would be charged by bankers when advances were made by the War Finance Corporation; the amount of interest which they were to charge to their customers to whom they loaned the money. The provision the House put in provided, in addition to the interest rate of 2 per cent which they would be permitted to charge over what the War Finance Corporation charged, the bank could supplement it in certain cases by a commission. There was an uncertainty as to what commission might be charged, and in many cases it was thought that great abuses might occur. So the conferees felt that we were yielding very little when we yielded to the Senate's position in this respect. This, as it now stands, provides that a definite fixed rate not to exceed 2 per cent can be charged by any bank getting

advances from the War Finance Corporation when they make loans to individuals or customers under the law.

Mr. LUCE. Will the gentleman yield?

Mr. McFADDEN. I will.

Mr. LUCE. In the matter of the amendment relating to foreign loans closing with "other instruments in writing, conveying, or securing marketable title to agricultural products in the United States," will the gentleman make clear the situation by explaining to me what would happen in case the manufacturer in Chemnitz presented to the War Finance Corporation warehouse receipts relating to cotton in the United States and secured a loan, and that then the cotton was exported to Chemnitz?

Mr. McFADDEN. I will say to the gentleman that the words "acceptable collateral" might cover such a situation. If Johann Schmidt might have stored in this country a quantity of cotton and wanted to ship it to Germany or any other part of the world, and was not in the position to pay for it, he could furnish adequate collateral, subject to the approval of the War Finance Corporation, and get his cotton out. That is the reason the proposition of "acceptable collateral" was placed in the bill.

Mr. LUCE. The collateral, then, can not of itself be exported——

Mr. McFADDEN. It must be within the United States and it must be acceptable and, of course, gilt-edged collateral, or the War Finance Corporation would not take it, because I am assured by the War Finance Corporation that they will only take, when they make advances on foreign goods, gilt-edged securities, and that security must be in the United States.

Mr. WINGO. Will the gentleman yield?

Mr. McFADDEN. I will.

Mr. WINGO. In addition to that, this goes to subsection (b) and is cumulative with its requirements, and there it says it shall be secured by ample security. I do not know but that it would have to be secured by adequate security in any event, but they can require any kind of guaranty or indorsement of the collateral. The intention is to give it beyond question an absolutely secured basis before it leaves; in other words, to keep the security of the United States at all times. That was the difference between the House and the Senate. The House conferees insisted upon the security here at all times.

Mr. McFADDEN. I do not care to consume a lot of time of the House, but I simply want to call attention to the statement of some of the Members here to the fact that section 21 of the present War Finance Corporation act permits the financing of goods for export now. The War Finance Corporation is now making advances to American citizens and corporations engaged in export trade, and financing these products daily, and I believe that in spite of any criticism on the part of gentlemen here who feel that we have not adequately protected the export business and the sale of our surplus products they will find that in section 29 of the War Finance Corporation act there is ample authority and that they are doing that now. [Applause.]

Mr. Speaker, I yield to the gentleman from Arkansas [Mr. WINGO] five minutes.

The SPEAKER. The gentleman from Arkansas [Mr. WINGO] is recognized for five minutes.

Mr. WINGO. Mr. Speaker, I do not care to let this conference report be adopted without saying a few words. It may be unnecessary, but I want to put them in the RECORD.

The charge has been made in another place that the House Committee on Banking and Currency mutilated a perfectly good farmers' bill and made a bankers' bill, and that the House approved of that scandalous act on the part of the committee. As a matter of fact, the farmers' little lamb was slaughtered before it ever got to the House. The farmers' lamb was named the "Norris lamb" instead of "Mary's lamb," and it was slaughtered in the open Senate so that nothing but its hide reached the House.

The trouble with this whole bill has been that most people who have criticized it or criticized the action of the House were either ignorant of existing law, or had not read the bill, or else had a reckless disregard for all facts.

While it has been stated several times during the discussion of this bill, I think it will bear repetition, in view of some statements that have been made to-day, that under existing law, section 21, the War Finance Corporation can finance domestic products in export trade to the extent of $3,000,000,000, and it can make those advances to persons, if it wishes, individually; and this bill as it came to us from the Senate, and as it came to the House Banking and Currency Committee, and as it passed the House, and as it stands now, does not change the class or the group to which advances may be made except in one particular, and that change was made in the House on an amendment to section 24 that the gentleman from Pennsylvania [Mr. McFADDEN] and myself agreed to, at the insistence of the agricultural organizations of the South and West, who were denied that proposition before it got to the House, because the necessary language that was originally in the bill was stricken out in the Senate, and those agricultural organizations came to us to get the relief that was denied them elsewhere.

So that in section 24 there is a provision that under the domestic transactions provided for in section 24 we in the House did give that privilege to any cooperative association of producers in the United States. So instead of the House making this a bankers' bill and shutting out privileges that went to the agricultural interests and agricultural associations, unless they go through banks, as ill-informed critics charge, the only addition to the present existing law, so far as classes were concerned, was given by the House by authorizing these advances in the domestic trade to cooperative associations of producers in the United States.

Of course, it was not necessary to include them in the export business, because existing law authorizes that, and there was a whole lot of loose talk about that by men who are ignorant of existing law untouched by this bill. Gentlemen need not be afraid, especially my cotton friends who were having "conniption fits" last night because they were afraid the House conferees would defeat the bill, when the House conferees were completely satisfied as to where they stood, knew what they were doing, with whom they were dealing, and would have got this bill in last night with complete agreement if some gentlemen had not gotten "cold feet" and interfered in a way that weakened and delayed our efforts. To satisfy my cotton friends, I will ask the Clerk to read the statement of the War Finance Corporation, issued to-day and published either in the afternoon papers or will be in to-morrow morning's papers, showing what is being done under existing law, not through banks, but through cooperative associations of producers, by advances to enable them to export farm products.

The Clerk read as follows:

STATEMENT FOR THE PRESS.

The War Finance Corporation announces that negotiations for advances to finance agricultural products for export sale are approaching completion, as follows:

Oklahoma Cotton Growers' Association, 200,000 bales of cotton.
Texas Farm Bureau Cotton Association, 300,000 bales of cotton.
California Prune & Apricot Growers (Inc.), 25,000,000 pounds of prunes.
Washington Wheat Growers' Association, 8,000,000 bushels of wheat.
Idaho Wheat Growers' Association, 2,000,000 bushels of wheat.
Oregon Cooperative Grain Growers, 2,000,000 bushels of wheat.
Montana Wheat Growers' Association, 1,500,000 bushels of wheat.

Final action on these applications is expected as soon as all papers are ready, which will be within a few days.

August 24, 1921.

Mr. WINGO. Now, Mr. Speaker, that is being done under present existing law, and this bill does not change it at all. There are a half million bales of cotton, there are about 12,000,000 or 13,000,000 bushels of wheat, there are I do not know how many prunes which have already been taken care of. It indicates that under existing law the War Finance Corporation is functioning and trying to break the jam in commodities by making advances for the purpose of exporting farm products.

The SPEAKER. The time of the gentleman has expired.

Mr. WINGO. I ask for five minutes more.

Mr. McFADDEN. I yield to the gentleman five minutes more.

Mr. WINGO. The occasion for this legislation was that certain agricultural groups in the West said that the cattle growers can not get any relief either under the Federal reserve act or under the present War Finance Corporation act in order to meet their domestic needs.

Why? They said, because under the Federal reserve act, banks of demand deposit could not make one, two, and three year loans, and the War Finance Corporation was only authorized under existing law to make advances for the purposes of export, and the cattle growers of the West did not want to export, nor were they able to finance their operations on 90-day or 6 months' paper, as provided in the Federal reserve law. So they came to the Senate with a proposition to create a separate corporation, a separate organization that would finance their domestic needs. That was proposed, and the conservative Members of the Senate representing the administration offered as a substitute that they amend the War Finance Corporation act so as to take care of those cattle growers, and incidentally extending the law to cover other transactions in domestic trade. That is the way the bill came over here, and when they have charged that the Banking and Currency Committee of the House has shut the door in the face of the producers and made a bankers' bill they simply display their ignorance. Take the bill as it came from the Senate.

In the Senate the words "or producing" was cut out, and the Senate bill provided ample relief to banks and dealers in farm products, but they denied it to the cooperative associations of producers. They provided for financing the men who had gobbled up the distressed cotton of the South at a low price. They were financing them to hold it for export, when they were denying aid to these associations of producers who were banding themselves together and putting their product in bonded warehouses, and were willing to take an advance of only 50 per cent of the market price to enable them to carry their product, for sale in domestic as well as export trade, in an orderly manner.

Read the hearings, and the statements of Mr. Meyer and of Gov. Harding. Heretofore in the past Europe came here and bought the greater part of the year's demand for cotton in a few months' time, but to-day she is bankrupt, buying from hand to mouth. Whereas the European financier used to finance the European spinners to buy their year's supply in a few months' time, to-day that cotton must be financed in America and held while being fed to the market on current demand. The result of this bill we hope will be to aid orderly marketing. It will give relief not only to the cotton growers but to the agricultural banks. It will make steady and persistent the process of transition from the producer to the ultimate consumer, and thus give relief to all business in the United States and help it to get back to a settled normal, stable basis. The farmers are interested in that, it is true, and I am not objecting to that. But the charge I wanted to refute was that we had gone off and thought only of the bankers and were not taking care of the others, the farmers and producers. The House of Representatives is the body that is taking care of these agricultural cooperative associations in the West after they had been turned down elsewhere. [Applause.]

There are some gentlemen who are very much disappointed because they could not get the provision on farm loan bonds. I am always candid with the House. I did not make a speech against the amendment of the House Banking and Currency Committee striking out the Senate provision on the farm loan bond proposition.

I could not honestly and sincerely defend it as a scientific proposition. It was a miserable makeshift, evidently thrown together by somebody not familiar with the farm loan act. The only reason why we could not work out a proposition in conference giving the farm loan bonds an investment character, as proposed in my motion to recommit, was because the Republican leaders instructed the conferees not to agree to anything for the farm loan system. The Senate conferees were willing to do it, but the two Republican House conferees had their orders against it. I took the position that I was not going to jeopardize this bill in order to try and save that proposition. The issue is clear cut. We have ironed out the differences, and there is only one thing in it and that is the adequate security of foreign loans, and the Banking and Currency Committee of the House and your conferees have insisted that the foreigner should be required to give just as much security as American citizens who get advances under this act. [Applause.] We ought to adopt the report and let gentlemen at the other end kill the report if they desire to give preference to the foreigner. [Applause.]

Mr. LUCE. I am placed in an embarrassing position, having occasion to congratulate the representatives of the House for bringing back to us the bill in no worse shape, but at the same time continuing my reluctance to approve the measure in any shape.

My friend from Arkansas has satisfactorily demonstrated that nearly all the quills have been pulled out of the fretted porcupine so that it no longer may be considered especially dangerous even though the quill-pulling process may have left a somewhat ungainly and unattractive beast for our observation. [Laughter.]

He has given a résumé of the history of the bill that is adequate and accurate. In spite of such explanation there remains regret on my part that for the first time, so far as I know, in the history of finance or government, our Nation will have deliberately set forth in a statute a purpose to lend the money of its people to individuals in other countries.

The proposal has been made tolerably innocuous, perhaps completely harmless, by the amendment of the gentleman from Pennsylvania. I still regret that the bill makes even the pretense of lending our money to individual citizens of other countries. But I recognize that the two branches desire thus to show their good will toward the agricultural interests of the country. As a tolerably harmless expression of sympathy in its present form, it may, perhaps, be condoned, although I still insist not with my vote.

Mr. McFADDEN. Mr. Speaker, I ask for a vote.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken, and the conference report was agreed to.

On motion of Mr. McFADDEN, a motion to reconsider the vote whereby the bill was agreed to was laid on the table.

THE STATE OF GEORGIA.

Mr. BRAND. Mr. Speaker, I ask unanimous consent to insert in the RECORD a historical statement made by Miss Mildred Lewis Rutherford, a very scholarly and distinguished woman of Georgia, in regard to many interesting events in the history of our State.

The SPEAKER. The gentleman from Georgia asks unanimous consent to extend his remarks in the RECORD in the manner indicated. Is there objection?

There was no objection.

WITHDRAWAL OF PAPERS.

Mr. TILLMAN, by unanimous consent, was given leave to withdraw from the files of the House, without leaving copies, papers in the case of John Cockrum, no adverse report having been made thereon.

To Mr. DALE, leave to withdraw from the files of the House, without leaving copies, papers in the case of Carrie E. Brown, no adverse report having been made thereon.

RECESS.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that the House stand in recess until 8 o'clock.

The SPEAKER. The gentleman from Wyoming asks unanimous consent that the House stand in recess until 8 o'clock. Is there objection?

There was no objection.

Accordingly (at 5 o'clock and 33 minutes p. m.) the House stood in recess until 8 o'clock p. m.

AFTER THE RECESS.

The recess having expired, at 8 o'clock p. m. the House was called to order by the Speaker.

DEFICIENCY APPROPRIATION.

Mr. MADDEN. Mr. Speaker, I call up the conference report upon the bill (H. R. 8117) making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1922, and for other purposes, which I send to the desk and ask to have read.

The SPEAKER. The gentleman from Illinois calls up a conference report, which the Clerk will report.

The Clerk read as follows:

CONFERENCE REPORT.

The committee of conference on the disagreeing votes of the two Houses on a certain amendment of the Senate to the bill (H. R. 8117) making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1922, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective houses as follows:

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment, amended to read as follows: " : *Provided further*, That not more than six officers or employees of the United States Shipping Board or the United States Shipping Board Emergency Fleet Corporation shall be paid an annual salary or compensation in excess of $11,000"; and the Senate agree to the same.

MARTIN B. MADDEN,
J. G. CANNON,
PATRICK H. KELLEY,
JOSEPH W. BYRNS,
J. P. BUCHANAN,
Managers on the part of the House.

F. G. WARREN,
W. L. JONES,
Managers on the part of the Senate.

STATEMENT.

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on Senate amendment No. 2 to the bill (H. R. 8117) making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1922, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conference committee and submitted in the accompanying conference report:

On No. 2: Restores the language stricken out by the Senate, which placed a limitation of three upon the number of officers or employees of the Shipping Board or the Emergency Fleet Corporation who could be paid an annual salary or compensation in excess of $12,500, modified so as to limit such employments to not more than six persons at a rate in excess of $11,000.

MARTIN B. MADDEN,
J. G. CANNON,
PATRICK H. KELLEY,
JOSEPH W. BYRNS,
J. P. BUCHANAN,
Managers on the part of the House.

Mr. MADDEN. Mr. Speaker when the urgent deficiency appropriation bill was under consideration the House adopted a provision which prohibited the Shipping Board from paying more than three men, officers or employees of the board or the Emergency Fleet Corporation, salaries in excess of $12,500 per year. The Senate struck that limitation out, leaving it within the power of the Shipping Board to pay any officer or employee of the Shipping Board or the Emergency Fleet Corporation any compensation which they might choose to pay. The conferees of the House endeavored to the best of their ability to get the Senate conferees to recede from the Senate position. They were unable to do that, but they succeeded in providing that not more than six officers or employees in the Shipping Board or the Emergency Fleet Corporation should be paid salaries in excess of $11,000 per annum.

I do not know the exact number of those who are being paid $12,000 or more per year in the Shipping Board or in the Emergency Fleet Corporation at the present time, but my understanding is that there are more than 40, at least, who are getting more than $12,000 per year. In the calculation which reduced the compensation authorized by the House from $12,500 to $11,000 per year I figure that if we permit the Emergency Fleet Corporation to increase the number of those to be paid over $11,000 and reduce the compensation of those that were getting more than $12,000 a year to $11,000 a year we would more than save enough to the Treasury to enable us to allow the Shipping Board to employ these three additional men; and further than that, it became evident that three additional experts in shipping were necessary for the proper conduct of the Shipping Board activities. Because of that and because of our belief that the employment of these three additional men would make for the best interests of the Government and prevent loss by the Shipping Board to the enormous extent that that loss has been sustained in the past, your conferees believed that they would better reach this conclusion; and because of our determination to leave no stone unturned to reduce the losses under the Shipping Board activities, we come to the House with this recommendation, and I hope the House will concur in what its conferees have done.

Mr. BLANTON. Mr. Speaker, will the gentleman yield?

Mr. MADDEN. Yes.

Mr. BLANTON. The gentleman knows it to be a fact that under his agreement the Shipping Board, if it sees fit to do so, could pay six of its men $100,000 per year, does he not?

Mr. MADDEN. But it would not dare to do that.

Mr. BLANTON. But it could do it. If it can pay 40 of them more than $12,000 a year, it can do it.

Mr. MADDEN. But it can not do that now.

Mr. BLANTON. But it can pay six of them $100,000 if it is so foolish as to do so.

Mr. MADDEN. Of course, but nobody would tolerate that, and the gentleman knows it would not be tolerated by the House, by the Senate, or by the people of the United States.

Mr. BLANTON. It sold 205 $600,000 ships for $2,100 a piece, and God knows what it will do.

Mr. MADDEN. How does the gentleman know that?

Mr. BLANTON. I know it from reports.

Mr. MADDEN. Nobody knows that. There has been no contract made with anybody to sell any ships so far as I have been able to ascertain. They have received some bids, but what action has been taken on the bids I do not know, and I am sure the gentleman does not.

Mr. BLANTON. The gentleman is correct, because God knows there is not a man in this House who knows a thing with reference to the business of this Shipping Board.

Mr. SCOTT of Michigan. Mr. Speaker, will the gentleman yield?

Mr. MADDEN. Yes.

Mr. SCOTT of Michigan. The gentleman from Texas made a similar statement the other day. I want to say for the information of the gentleman from Texas that within eight months after the close of the war, when Judge Payne was chairman of the board, under the administration of the gentleman's party, these same boats were then offered for sale and something like $30,000,000 was offered for them by a collection of operators, all American citizens.

The bid was rejected, because the Shipping Board insisted that $1,000,000 more should be paid than was offered. The Committee on the Merchant Marine and Fisheries of the House at that time insisted that these ships be sold to the highest bidder at the earliest possible date, but the Shipping Board, relying on existing law which permitted such a sale, insisted that the Congress ought not by any action on its part to urge such action. Within six months of that time those same ships had depreciated in value anywhere from five to ten million dollars, and from that time down to the present the valuation has decreased by leaps and bounds.

Mr. OLDFIELD. I want to ask the gentleman a question.

Mr. MADDEN. But this is my time and not the time of the gentleman. I yield to the gentleman from Massachusetts.

Mr. WALSH. I would like to ask the gentleman if this limitation which the conferees have agreed upon will permit the employment of attorneys at these salaries paid in the judgment of the gentleman?

Mr. MADDEN. Yes; this permits the employment of attorneys or men in any other capacity under the control of the Shipping Board. But this limitation is intended to provide for six operating men who are experts, have knowledge and experience to conduct the Shipping Board's operation successfully.

Mr. WALSH. If the gentleman will permit, as I recall the limitation it was that not more than three officers or employees shall be paid an annual salary. Now, of course, it might prevent the employment of attorneys at annual salaries, but it will not prevent their being retained and getting almost the equivalent of those salaries we have been hearing about, would it?

Mr. MADDEN. I will tell the gentleman what we have understood. During the consideration of this bill the Committee on Appropriations made inquiry of the Department of Justice as to what the policy of the department is in respect to the payment of special counsel. The Attorney General's office reported back to us that it was the policy, well defined and strictly lived up to, that in no case, under any circumstances, no matter how important the case might be, would any special counsel now employed under contract on a special case or employed by the month or the year be allowed to receive any compensation in excess of the pay allowed under the law to the Attorney General of the United States.

Mr. WALSH. The gentleman has received that assurance from the people connected with the Department of Justice?

Mr. MADDEN. Yes, sir.

Mr. WALSH. Of course, if that assurance has been given that is duly safeguarded.

Mr. OLDFIELD. Will the gentleman yield?

Mr. MADDEN. I will.

Mr. OLDFIELD. The newspapers, especially the New York papers, have been carrying for three nights the proposition that 205 of these ships sold for $2,100 apiece. Has the gentleman made any investigation?

Mr. MADDEN. That is not involved in the measure before the House.

Mr. OLDFIELD. Well, the gentleman stated a while ago——

Mr. MADDEN. I said I did not think anybody on the floor of the House could say definitely and finally whether any sale had been made or not. I can not say it, and neither can anybody else. I yield five minutes to the gentleman from Tennessee [Mr. BYRNS].

Mr. BYRNS of Tennessee. Mr. Speaker, the gentleman from Illinois [Mr. MADDEN] has stated that when this bill was before the House an amendment was adopted placing the maximum salary that could be paid by the Shipping Board at $12,500, with the exception of three officers or employees, who might, in the discretion of the Shipping Board, be paid a greater sum. I take it that it was the intention of the House in making this exception to make provision for the three men who had been employed by the Shipping Board for the purpose of operating the ships. That amendment or limitation upon the salaries was stricken out by the Senate, which left the bill without any limitation whatsoever as to salary, and I may say that from the establishment of this Shipping Board, with all the appropriations which have been made in the past, there has never been, so far as I remember or recall, any limitation whatsoever with reference to the salaries which might be fixed by the Shipping Board and which have been paid by the board in the past. Your conferees, as the gentleman from Illinois has stated, made a very earnest effort to retain the House provision in the bill and, as

you will recall, reported the amendment back one time in disagreement. The Senate conferees were insistent upon the Senate provision; they were insistent that no limitation whatever be fixed. Finally the amendment which the gentleman from Illinois has explained was agreed upon by the conferees unanimously, and in my judgment it effects a very much greater saving to the Treasury than even the House amendment, and I will tell you why. As the gentleman from Illinois stated, the amendment proposes that the maximum salary shall be $11,000 and not $12,500, as fixed by the House. It increases the number of those who may be paid in excess of this maximum salary from three to six.

Information has come to the conferees that there are possibly 40 now who are being paid $12,000 a year or more by way of salary. With the exception of six of those, their salaries will necessarily, if this provision is adopted, be reduced to $11,000. Even if they were only receiving $12,500 on an average per annum, that would be a reduction of $1,500 for each one of the 40, but some of them are receiving salaries far in excess of $12,000 or $12,500 per annum.

This provision, which was finally agreed upon and which was the very best the conferees could do, effects a great deal better saving than the saving which would have been effected by the provision which was adopted by the House. I am certainly as much opposed to the payment of large salaries as anyone in the House. For my part, I felt as this House unanimously felt when the amendment was adopted, that it was not necessary to have more than three who were paid these large salaries. But we all realize that when we go into conference with the other body, which has equal legislative power, that some compromise must be reached. It is necessary to yield some things to the other body in order to reach a settlement. We could not have our way entirely. I repeat, that as the matter has been worked out I think that your conferees have brought to you here this evening in this amendment a provision which will save a great deal more to the Treasury of the United States than the provision originally adopted by the House.

Mr. GRAHAM of Illinois. Will the gentleman yield?

Mr. BYRNS of Tennessee. I yield.

Mr. GRAHAM of Illinois. As I remember it, the House bill had a provision in it providing that none of the money should be used for the employment of the attorneys unless the Attorney General approved the contract? Is that still in the bill?

Mr. BYRNS of Tennessee. That is still in the bill. And the only effect this will have, of course, will be that no attorney can be paid more than $11,000 unless he is one of these six who are excepted. I take it that the Attorney General would in no event have approved of a salary of more than $12,000, even without this provision, because we are informed that is the uniform salary paid to the highest paid special attorneys in his department.

Mr. REBER. Can the gentleman tell the House, if he has the information, what the possible salary will be for these six officers that are provided for that are to receive an excess of $11,000?

Mr. BYRNS of Tennessee. I do not know. I will say to the gentleman that I know that there are three officers now who are employed to operate the ships, two of whom are getting $35,000 and one $25,000. Just what the Shipping Board may pay to the other three, or whether these three will continue to draw those salaries, of course I do not know. There is no restriction and no limitation whatsoever upon the Shipping Board with reference to those six salaried officers.

Mr. CONNELL. As I understand, there are two officers now that are paid $35,000 a year each, and one $25,000, and that there are six members of the Shipping Board at $12,000 per annum. That is $155,000.

Mr. BYRNS of Tennessee. The salaries of the members of the Shipping Board are fixed by statute.

Mr. CONNELL. Do I understand you to say that there would be three more in excess of $11,000?

Mr. BYRNS of Tennessee. There will be six who may be paid over $11,000, in addition to members of the board whose salaries are fixed by statute.

Mr. CONNELL. Did I not understand you to say that there will be 40 more?

Mr. BYRNS of Tennessee. No. The information has come to the conferees that there are now 40 employees of the Shipping Board who are drawing either $12,000, or amounts in excess of $12,000, and this, of course, will prevent the payment of all except six of those employees at more than $11,000 a year. And in addition to that, I have been informed—and I gather my information from the record—that the claims board, which has been appointed, either of five or seven members——

The SPEAKER. The time of the gentleman from Tennessee has expired.

Mr. MADDEN. I yield one minute more to the gentleman.

Mr. BYRNS of Tennessee. As I was saying, I have been informed that on this Claims Board of five or seven members the chairman, who is Judge Means from Ohio, receives a salary of $17,500, and the others $15,000 a year. Under this provision the members of that board can not receive more than $11,000, unless they are included among the six who are especially excepted. This amendment will save ninety-five or one hundred thousand dollars per annum more than the original House provision.

Mr. MADDEN. Mr. Speaker, I yield five minutes to the gentleman from North Dakota [Mr. YOUNG].

Mr. YOUNG. Mr. Speaker, the International Joint Commission has completed its preliminary report on the Great Lakes-St. Lawrence deep waterway, and the plans and the estimates and full data will be on exhibition at their offices until September 20. All Members of Congress interested in examining the plans and the estimates, and so forth, should visit the offices of the commission, located in the Southern Building. It will be well worth their while.

Mr. SMITH of Michigan. How much was the estimate?

Mr. YOUNG. The estimated cost is $253,000,000.

Mr. CHALMERS. You do not mean the International Joint Commission has completed their report?

Mr. YOUNG. The engineers selected to examine the project by both the United States and Canadian Governments, and the announcement of the conclusions reached by the engineers is made by the joint commission.

Mr. CHALMERS. That is, the American and Canadian engineers' report——

Mr. YOUNG. Yes. It has been submitted to the joint commission, and they have made the announcement. I venture to say that the estimates of these responsible engineers, made after long and careful investigation, are entitled to greater consideration than the irresponsible curbstone opinions of New York and Buffalo trade bodies.

Mr. SMITH of Michigan. How long is it presumed that it will take to complete the project?

Mr. YOUNG. Eight years. If constructed, it will cost much less and be of much greater value to our country than the Panama Canal. The bringing of ocean-going vessels to the ports of the Great Lakes will help immensely the interior States, and the development of over 4,000,000 horsepower will be of immense value to eastern cities. When the facts become known nothing can stop the carrying out of this great enterprise.

Mr. Speaker, I ask unanimous consent to print a brief statement in regard to it which appeared this morning in the Washington Herald.

The SPEAKER. The gentleman asks unanimous consent to extend his remarks in the RECORD in the manner indicated. Is there objection? [After a pause.] The Chair hears none.

The article is as follows:

ST. LAWRENCE CANAL TO COST $252,728,200—JOINT COMMISSION REPORT GIVES ESTIMATE FOR GIANT PROJECT.—UPKEEP FOR YEAR OVER TWO MILLION—TIME TO COMPLETE WORK NOW ESTIMATED AT EIGHT YEARS.

The canalization of the St. Lawrence River from Montreal to Lake Ontario will cost $252,728,200, according to a tentative report made by the International Joint Commission, after a survey of the navigation improvements and power sites, as proposed in the Great Lakes-Atlantic deep waterway project by a corps of engineers appointed by the United States and Canada.

The entire proposed improvements will be completed eight years after work is begun, provided the work on all of the projects is started simultaneously and the funds are provided as fast as needed, according to the estimates submitted by the engineers.

The annual cost of operation, maintenance, and depreciation of the improved waterway and power sites is estimated at $2,562,000, of which amount $1,457,000 will be expended for the upkeep of the power plants.

CAN INCREASE DEPTH.

Provisions that the proposed 25 feet depth of the waterway, as included in the present report, may be increased to a depth of 30 feet throughout the entire stretch of the river at a cost of $17,986,180, are made in the tentative report.

The report shows that the potential power which can be developed in the river is approximately 4,100,000 horsepower, and that it can be developed along with the improvement of the navigation projects. However, the engineers point out that the simultaneous development of such a vast quantity of power is not a sound economic procedure, as a market to take this output is not in existence at present, and that the sound method is to improve the navigation at present so that the power development could be completed as needed.

The commission, composed of Obadiah Gardner, Rockland, Me., chairman; Clarence D. Clark, of Evanston, Wyo.; Marcus A. Smith, Tucson, Ariz.; and William A. Smith, of Washington, secretary, representing the American section; and Charles A. Magrath, of Ottawa, Ontario, chairman; Henry A. Powell, St. Johns, New Brunswick; Sir William Hearst, Toronto, Ontario; and Lawrence J. Burpee, Ottawa, Ontario, secretary, representing the Canadian section, announces that engineers' report and accompanying maps will be displayed for inspection until September 20 at the commission offices in the Southern Building.

Criticisms and proposed changes in the engineers' plans will be considered at a meeting of the commission to be held in Ottawa on October 4, when it will be determined whether or not a public hearing on the engineering features will be necessary.

ASSETS NOT TOUCHED.

The more tangible assets to be derived from this improvement of railroad freight conditions, while of great importance, are not touched upon in the engineers' report.

In making the survey the engineers divided the length of the river under consideration into five divisions, indicating the canals, dams, and locks required in each and giving the cost of the work necessary. These divisions are as follows:

First division: From Montreal Harbor to Lake St. Louis, to be made by locks and side canals on the Ville Emard route, with the canal sections 25 feet in depth and a bottom width of 220 feet in through cuttings to 450 feet in submerged or submarine channels, and the locks 30 feet in depth. The cost of construction for this division will be $68,727,000, while the cost of upkeep will be $350,000 annually.

PLANS SIDE CANAL.

Second division: From Lake St. Louis to Lake St. Francis, to be made by a side canal from Melocheville to Hungary Bay, with flight locks at Melocheville, the canal sections being 25 feet in depth, and locks 30 feet in depth. The cost of construction for this division will be $36,590,000 and the upkeep will be annually $400,000.

Third division: From Lake St. Francis to the head of St. Regis Island, to be made by dredging a canal 450 feet wide and 25 feet deep at low water, costing $1,158,000, with an annual upkeep cost of $30,000.

Fourth division: From the foot of St. Regis Island to Chimney Point, to be made by a dam at Long Sault Rapids and side canals, with locks at Cornwall. The estimated cost of this project, including the installation of hydraulic and electrical machinery for the power, is $159,097,200, with an annual upkeep cost of $1,762,000.

Fifth division will include the removal of certain shoals and widening of the present channel of the river at an estimated cost of $100,000 and the annual cost of operation and maintenance of $20,000.

Mr. MADDEN. Mr. Speaker, I yield five minutes to the gentleman from Massachusetts [Mr. WALSH].

Mr. WALSH. Mr. Speaker, reference has been made to the sale of these wooden ships that the Shipping Board now has in its possession. I think every former official of the Shipping Board or Emergency Fleet Corporation has expressed the opinion that these wooden ships, with possibly the exception of five or six, would not be of any particular utility or advantage to the United States merchant marine; that they are too expensive to operate. Furthermore, they are all coal-burning craft. Not only have the former officials of the Shipping Board expressed that opinion, but I have heard it expressed by some men who are supposed to be quite expert in the shipping world.

Now, as long as the Shipping Board makes no attempt to rid themselves of these ships the people are criticizing the board and saying that they ought to get rid of them and mark them off and forget them, as a part of the war cost, and then when they begin to negotiate and try to sell them you hear criticism that they ought to wait; that they could get more money later on.

They have advertised for bids. They have received bids in good faith, and unless the contract obligations are filled with fishhooks, so that the bidder can not comply with the terms, I imagine that the sale will be consummated; but if it is not, the Shipping Board, if it does not desire to sell them, ought to reject all the bids, and when they get ready should advertise anew.

But I believe that the sooner the Shipping Board gets rid of this property the sooner it will be able to devote its attention to some of these problems that are pressing for solution, and also the sooner they can eliminate the expense of keeping a lot of worthless hulls floating, some of them equipped and a great many more of them not equipped, the better it will be.

It was the result of a somewhat memorable controversy which arose at the beginning of the war that these ships were built. Some people had glorious dreams of a bridge of wooden ships which was going to be built across the ocean, and it is significant that but very few of them served any useful purpose, even after hostilities ceased. So I say if the Shipping Board has made up its mind to sell these, I think they ought to accept what can be gotten from good, legitimate bids, made in good faith, and then forget about it, as people ought to try to forget about some of the other waste and inefficiency and extravagance and mistakes that were made during this great emergency, when we here, even in the House, would not stop to count the cost, and appropriated money with a lavish hand, much of which was spent by incompetents and men who had no idea of the value of the sums that were placed in their hands for expenditure. So I trust that whatever the Shipping Board may do with reference to these wooden ships the people here and the public will try to have faith that they are acting for the best interests of the country, and incidentally for the future of the American merchant marine, which just at this particular time is in rather a dubious condition. [Applause.]

Mr. MADDEN. Mr. Speaker, I move the previous question.

Mr. HARDY of Texas. Mr. Speaker, will the gentleman yield me five minutes?

Mr. MADDEN. Yes.

The SPEAKER. The gentleman from Texas is recognized for five minutes.

Mr. HARDY of Texas. Mr. Speaker, I want to say that in some respects I doubt the good effects of this report of the conferees. The truth is that the amendment offered on the floor was hastily gotten together without full consideration. We decided that when the limitation or the restriction was adopted of permitting the Shipping Board to employ more than three employees at a salary greater than $12,500 each it was not thereby intended to authorize the Shipping Board to pay all its other employees $12,500 each, but it was supposed that they would exercise judgment and that among these higher employees only three of them should receive $95,000 together, but in no event should the others go above $12,500. It was expected that that would be the exception; that there might be two or three receiving that, but that the others would receive such salaries as the employees of the Department of Justice were accustomed to receive.

Now, it is a strange thing. A great deal has been said about the waste and extravagance of the old Shipping Board. Yet the three men that are being employed at an aggregate cost of $95,000 have all worked for the old Shipping Board for far less, and while they have been charged with being incompetent, the best ones that they are going to use hereafter were men that the old Shipping Board had.

Is it not strange that we have some $300,000,000 worth of wooden ships and we propose to junk them after the chairman of the Shipping Board has done everything in the world that he could do to reduce their value by saying that they were worthless, and by denouncing them, not once, but a dozen times, saying that they were no good and that nobody wanted them, and then he puts them on the market and gets a bid on them? For one lot he gets a bid of $400,000, which will not amount to as much as a year's salary in the aggregate for 25 of the men that he is proposing or has proposed to put on this Shipping Board. I am not in favor of doing anything to cripple that Shipping Board, and when it was suggested by gentlemen on the other side that these men were not expert shipping men, that what was needed was a head for the Shipping Board who was familiar with the shipping business, and that they could not get such men without paying high prices, such as wise superintendents of good shipping companies would pay, I said if they want a good one let them pay him as much as $35,000, and then it was suggested that there should be two such, and then the chairman of the committee made a final suggestion of three. All right; three. That is the way it worked out.

Gentlemen, $35,000 may not be big for an American millionaire, but it is big for the American taxpayer. The House yielded on three, and it seems to me they ought not to take off the limit for any more. That is the reason I opposed this bill, because the sky is the limit. Under the report of the conference committee the sky is the limit for these appointees of the Shipping Board, and we have not any other department in the Government that has any such limit.

Mr. CONNELL. Will the gentleman yield?

Mr. HARDY of Texas. Yes.

Mr. CONNELL. The gentleman said the value of the wooden ships was $300,000,000.

Mr. HARDY of Texas. One hundred and fifty millions, was it not?

Mr. CONNELL. The gentleman said $300,000,000.

Mr. HARDY of Texas. I take that back.

Mr. CONNELL. As a matter of fact, was it not $230,000,000?

Mr. HARDY of Texas. Whatever it was, it ran away up into the hundreds of millions, and we propose to sell them for less than half a million dollars.

Mr. CONNELL. The gentleman ought to get his figures accurate.

Mr. HARDY of Texas. If the gentleman will give me the exact figures, I will be glad to put them in my remarks.

Now, gentlemen, it does seem to me that when we can get the members of the Shipping Board themselves for $12,000 each, it is unreasonable to expect the American Congress to go on record in favor of leaving the sky as the limit for the salaries of six employees. [Applause.]

Mr. MADDEN. Mr. Speaker, I move the previous question on agreeing to the conference report.

The SPEAKER. The gentleman from Illinois moves the previous question on agreeing to the conference report.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the conference report.

The question was taken.

The SPEAKER. The ayes seem to have it, the ayes have it, and the conference report is agreed to.

Mr. HARDY of Texas. I ask for the yeas and nays.

Mr. BLANTON. I ask for a division first.

The SPEAKER. Technically neither gentleman has the right to make the demand. The Chair had announced the result; but the Chair will recognize the gentleman from Texas.

Mr. HARDY of Texas. I will ask for a division, then.

The House divided; and there were—ayes 117, noes 23.

Mr. BLANTON. I object to the vote, Mr. Speaker, because there is no quorum present, and make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Texas makes the point of no quorum present. The Chair will count. [After counting.] One hundred and eighty-three Members present, not a quorum. The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members. As many as are in favor of agreeing to the conference report will, as their names are called, vote "yea," those opposed "nay," and the Clerk will call the roll.

The question was taken; and there were—yeas 192, nays 77, answered "present" 1, not voting 160, as follows:

YEAS—192.

Ackerman	Echols	Langley	Rhodes
Anderson	Edmonds	Lazaro	Ricketts
Andrews	Elliott	Lea, Calif.	Robertson
Appleby	Ellis	Leatherwood	Robsion
Arentz	Evans	Lee, N. Y.	Rodenberg
Aswell	Faust	Linthicum	Rogers
Atkeson	Fenn	Little	Rose
Barbour	Fess	Luce	Rosenbloom
Beedy	Fish	McArthur	Rossdale
Begg	Fisher	McCormick	Sanders, Ind.
Bland, Va.	Fitzgerald	McFadden	Sanders, N. Y.
Boies	Free	McKenzie	Scott, Mich.
Brennan	French	McLaughlin, Mich.	Scott, Tenn.
Briggs	Frothingham	McLaughlin, Nebr.	Shaw
Brooks, Pa.	Garrett, Tenn.	McLaughlin, Pa.	Shreve
Buchanan	Gensman	MacGregor	Sinclair
Burdick	Gernerd	Madden	Sinnott
Burtness	Glynn	Magee	Slemp
Burton	Graham, Ill.	Mann	Smith, Idaho.
Butler	Graham, Pa.	Mapes	Smith, Mich.
Byrnes, S. C.	Green, Iowa	Michener	Smithwick
Byrns, Tenn.	Greene, Mass.	Miller	Snell
Cable	Greene, Vt.	Mondell	Speaks
Campbell, Kans.	Hadley	Moore, Ill.	Stephens
Campbell, Pa.	Hardy, Colo.	Moore, Ohio	Strong, Pa.
Cannon	Harrison	Morgan	Sweet
Chalmers	Hayden	Morin	Swing
Chandler, Okla.	Hickey	Mott	Taylor, Tenn.
Chindblom	Hill	Murphy	Temple
Christopherson	Himes	Nelson, A. P.	Ten Eyck
Clague	Hogan	Newton, Minn.	Timberlake
Clarke, N. Y.	Houghton	Newton, Mo.	Tinkham
Clouse	Hukriede	Nolan	Towner
Cole, Iowa	Humphreys	O'Brien	Underhill
Connell	Jefferis, Nebr.	O'Connor	Vestal
Coughlin	Kearns	Olpp	Volstead
Cullen	Keller	Osborne	Walsh
Curry	Kelley, Mich.	Padgett	Walters
Dale	Kelly, Pa.	Parker, N. Y.	Webster
Darrow	Ketcham	Patterson, N. J.	Wheeler
Davis, Minn.	King	Radcliffe	White, Kans.
Deal	Kinkaid	Rainey, Ill.	Williams
Denison	Kirkpatrick	Raker	Winslow
Doughton	Kissel	Ramseyer	Woodruff
Dowell	Kleczka	Ransley	Wyant
Dunbar	Knutson	Reber	Yates
Dunn	Kraus	Reece	Young
Dyer	Kreider	Reed, W. Va.	Zihlman

NAYS—77.

Almon	Davis, Tenn.	London	Sanders, Tex.
Bell	Driver	McClintic	Sandlin
Bird	Fields	McDuffie	Sears
Black	Flood	McPherson	Steagall
Bland, Ind.	Fuller	McSwain	Stoll
Blanton	Garrett, Tex.	Mead	Strong, Kans.
Bowling	Gilbert	Millspaugh	Summers, Wash.
Box	Hammer	Moore, Va.	Sumners, Tex.
Brand	Hardy, Tex.	Nelson, J. M.	Swank
Brinson	Hoch	Oldfield	Tillman
Bulwinkle	Huddleston	Oliver	Tincher
Burke	Jacoway	Parks, Ark.	Tyson
Carew	Jones, Tex.	Parrish	Vinson
Carter	Kincheloe	Patterson, Mo.	Wilson
Clark, Fla.	Kopp	Quin	Wingo
Collier	Lanham	Rankin	Woods, Va.
Collins	Lankford	Rayburn	Wright
Connally, Tex.	Larsen, Ga.	Riordan	
Cooper, Wis.	Lee, Ga.	Roach	
Crisp	Logan	Rouse	

ANSWERED "PRESENT"—1.

Parker, N. J.

NOT VOTING—160.

Ansorge	Brown, Tenn.	Cramton	Focht
Anthony	Browne, Wis.	Crowther	Fordney
Bacharach	Burroughs	Dallinger	Foster
Bankhead	Cantrill	Dempsey	Frear
Barkley	Chandler, N. Y.	Dickinson	Freeman
Beck	Classon	Dominick	Fuller
Benham	Cockran	Drane	Funk
Bixler	Codd	Drewry	Gahn
Blakeney	Cole, Ohio	Dupré	Gallivan
Bond	Colton	Elston	Garner
Bowers	Connolly, Pa.	Fairchild	Goldsborough
Britten	Cooper, Ohio	Fairfield	Goodykoontz
Brooks, Ill.	Copley	Favrot	Gorman
Gould	Kitchin	Overstreet	Stevenson
Griest	Kline, N. Y.	Paige	Stiness
Griffin	Kline, Pa.	Park, Ga.	Sullivan
Haugen	Knight	Perkins	Tague
Hawes	Kunz	Perlman	Taylor, Ark.
Hawley	Lampert	Peters	Taylor, Colo.
Hays	Larson, Minn.	Petersen	Taylor, N. J.
Herrick	Lawrence	Porter	Thomas
Hersey	Layton	Pou	Thompson
Hicks	Lehlbach	Pringey	Tilson
Hudspeth	Lineberger	Purnell	Treadway
Hull	Longworth	Rainey, Ala.	Upshaw
Husted	Lowrey	Reavis	Vaile
Hutchinson	Luhring	Reed, N. Y.	Vare
Ireland	Lyon	Riddick	Voigt
James	Maloney	Rucker	Volk
Jeffers, Ala.	Mansfield	Ryan	Ward, N. Y.
Johnson, Ky.	Martin	Sabath	Ward, N. C.
Johnson, Miss.	Merritt	Schall	Wason
Johnson, S. Dak.	Michaelson	Shelton	Watson
Johnson, Wash.	Mills	Siegel	Weaver
Jones, Pa.	Montague	Sisson	White, Me.
Kahn	Montoya	Snyder	Williamson
Kendall	Moores, Ind.	Sproul	Wise
Kennedy	Mudd	Stafford	Wood, Ind.
Kiess	Norton	Stedman	Woodyard
Kindred	Ogden	Steenerson	Wurzbach

So the conference report was agreed to.

The following additional pairs were announced:

Mr. ANTHONY (for) with Mr. POU (against).

General pairs:

Mr. FAIRCHILD with Mr. WEAVER.

Mr. LAWRENCE with Mr. HUDSPETH.

Mr. WOOD of Indiana with Mr. SISSON.

Mr. GRIEST with Mr. SULLIVAN.

Mr. HUTCHINSON with Mr. PARK of Georgia.

Mr. HAYS with Mr. DOMINICK.

Mr. WURZBACH with Mr. WARD of North Carolina.

Mr. WOODYARD with Mr. CANTRILL.

Mr. BLAKENEY with Mr. FAVROT.

Mr. LUHRING with Mr. OVERSTREET.

Mr. VARE with Mr. JEFFERS of Alabama.

Mr. LEHLBACH with Mr. GRIFFIN.

Mr. PURNELL with Mr. RUCKER.

Mr. SIEGEL with Mr. DREWRY.

The result of the vote was announced as above recorded.

A quorum being present, the doors were opened.

On motion of Mr. MADDEN, a motion to reconsider the vote whereby the conference report was agreed to was laid on the table.

BRIDGE ACROSS SULPHUR RIVER, TEX.

Mr. MONDELL. Mr. Speaker, before passing to other more important business I feel that it is my duty to now ask unanimous consent for the consideration of the bill S. 1970, an act granting the consent of Congress to the counties of Bowie and Cass, State of Texas, for construction of a bridge across Sulphur River, at or near Pettis Bridge on State highway No. 8, in said counties and State.

The SPEAKER. Is there objection to the request of the gentleman from Wyoming?

Mr. WALSH. I object.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (S. 1915) to amend the War Finance Corporation act, approved April 5, 1918, as amended, and to provide relief for producers of and dealers in agricultural products, and for other purposes.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8117) making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1922, and for other purposes.

VETERANS' BUREAU.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent for the present consideration of Senate joint resolution No. 103, to change the name of the Veterans' Bureau to the United States Veterans' Bureau.

The SPEAKER. Is there objection?

Mr. WALSH. I object.

RECESS RESOLUTION.

Mr. MONDELL. Mr. Speaker, I call up Senate concurrent resolution 8.

The Clerk read as follows:

Senate concurrent resolution 8.

Resolved by the Senate (the House of Representatives concurring), That when the two Houses adjourn on Wednesday, the 24th of August, 1921, they stand adjourned until 12 o'clock meridian on the 21st of September, 1921.

Mr. BLANTON. Mr. Speaker, I raise the question of consideration.

The SPEAKER. The gentleman from Texas raises the question of consideration.

The question was taken; and on a division (demanded by Mr. BLANTON) there were—ayes 193, noes 16.

Mr. BLANTON. Mr. Speaker, I ask for the yeas and nays.

The SPEAKER. The gentleman from Texas asks for the yeas and nays. All those in favor of taking the question by yeas and nays will rise. [After counting.] Two Members have arisen, not a sufficient number, and the yeas and nays are refused.

Mr. MONDELL. Mr. Speaker, on August 16 the Senate passed a concurrent resolution that when the two Houses adjourn on Wednesday, the 24th day of August, they stand adjourned until 12 o'clock meridian Wednesday, the 21st day of September. At the time of the passage of that resolution the matter of the recess was very thoroughly canvassed among the Members of the House, and there was a very general agreement that if we disposed of a certain program by this date the House would agree to the resolution of adjournment.

The House has disposed of that program. Measures that were then referred to as the features of the program that must be passed through the House have all passed the House, and so far as the action of the House is concerned every measure considered as important to be disposed of has been disposed of by the House, and with two possible exceptions those measures are beyond question to become a law.

Mr. PADGETT. Will the gentleman yield?

Mr. MONDELL. In a moment. Those two measures can become law if the Senate shall act upon them, as they may easily do between now and midnight. I will yield to the gentleman from Tennessee.

Mr. PADGETT. I wanted to ask the gentleman if he thought the recess ought to be taken before the passage of the antibeer bill.

Mr. MONDELL. Well, Mr. Speaker, it is not for me to say what the House shall do. Members must decide that for themselves. The antibeer bill can and ought to become a law before we recess.

Mr. PADGETT. I want to say that I think the good roads bill and the antibeer bill ought to be safely enacted before we take any recess.

Mr. MONDELL. The gentleman knows perfectly well that the so-called roads bill was not a part of the program that was considered possible of enactment now, and conditions are such that it would not be possible to have that bill agreed on in conference within 10 days or 2 weeks. As to the other measure, the so-called antibeer bill, it is now before the Senate. The Senate has abundance of time in which to pass it between now and the hour of midnight. Whatever may be the opinion of Members as to the advisability of recessing, I certainly do not feel that I would be justified in refusing to present to the House this resolution for a recess now that the House has performed its full and complete duty with regard to all of these matters. I do not urge any man to vote for the adjournment resolution. [Applause.]

Mr. FESS. Mr. Speaker, will the gentleman yield?

Mr. MONDELL. Yes.

Mr. FESS. Is it not the opinion of the gentleman that if the recess were deferred the unfinished business in the Senate would be passed very shortly?

Mr. MONDELL. I have been in the Congress for only 25 years, and I have not yet learned to read the mind of the Senate. I can not tell.

Mr. FESS. Would the gentleman yield further?

Mr. MONDELL. Yes.

Mr. FESS. If we recess is it not the gentleman's opinion that this unfinished business will not be completed before January or February, because the tax and the revenue bills will come up and occupy the time?

Mr. MONDELL. I would certainly not like to entertain the opinion of the other branch of the Congress that the gentleman suggests. If they meet on the 21st of September I should expect that that measure, if not disposed of to-night, which it may be, which it should be, which it can be, would be disposed of very speedily after the Senate reconvenes. It can be if those who are favorable to it insist upon it.

Mr. VOLSTEAD. Mr. Speaker, will the gentleman yield?

Mr. MONDELL. Yes.

Mr. VOLSTEAD. The gentleman says that the program did not include the so-called antibeer bill. I desire to say that I consented to the postponement of the consideration of the beer bill on some occasions with the distinct understanding that it was to be taken care of at this session, before we took the recess.

Mr. MONDELL. The gentleman from Minnesota certainly did not understand——

Mr. VOLSTEAD. It was stated certainly without the slightest reservation that it would be considered and taken care of before the recess, and we want that done, for if the Treasury Department issues these regulations the country will be flooded with beer, and if it is we will hear from the country some day.

Mr. MONDELL. Mr. Speaker, I have not said at any time that the so-called beer bill was not a part of the program of legislation on which the House was to pass and do its full duty before recessing. The House has passed it, and the other body still has an abundance of time in which to pass upon it before the hour of midnight. I hope they will. I am not apprehending any flood of beer in any event. I am confident there will be none.

Mr. ANDREWS. Mr. Speaker, will the gentleman yield?

Mr. MONDELL. Yes.

Mr. ANDREWS. What is the prospect of the passage of the antibeer bill by the Senate?

Mr. MONDELL. Mr. Speaker, that inquiry will have to be directed to some of the gentlemen at the other end of the Capitol. They have had plenty of time to pass it. They will have lots of time to pass it before the hour of adjournment.

Mr. ANDREWS. Perhaps the gentleman will bring that answer back after he gets over there into the land of doubt.

Mr. TINCHER. Mr. Speaker, will the gentleman yield?

Mr. MONDELL. Yes.

Mr. TINCHER. Is it not pretty well understood by everyone that the beer bill will pass in the Senate when voted on in the Senate?

Mr. MONDELL. I think that is the impression. I think it will.

Mr. TINCHER. And is it not understood in the House at this time that a distinguished gentleman is addressing the Senate who does not propose to conclude his address until midnight?

Mr. MONDELL. I do not know as to that.

Mr. GARRETT of Tennessee. Mr. Speaker, will the gentleman yield me five minutes?

Mr. MONDELL. I yield five minutes to the gentleman from Tennessee.

Mr. GARRETT of Tennessee. Mr. Speaker, if the people had not made the unfortunate mistake which they made last November, there would have been completed by this time a splendid legislative program, but that mistake was made, and it is impossible to correct it until the next election. In view of the fact that 131 men can not initiate legislation as against 300, I see no reason why there should not be given some time for thought on the part of the majority. [Laughter and applause.] If by remaining in session we could do those things that ought to be done, I should favor remaining in session, but in view of the fact that we can not, I do not see why those of us upon this side should object to this motion to recess.

Mr. MONDELL. Mr. Speaker, I yield five minutes to the gentleman from Arkansas [Mr. WINGO].

Mr. WINGO. Mr. Speaker, I recognize the futility of offering any protest against the careless manner in which we are about to discharge our constitutional privilege with reference to the adjournment of either or both Houses of Congress beyond three days as provided in the Constitution. I say I recognize that, and I recognized it when I saw the schoolboy-like ecstasy with which the Members greeted the reading of the resolution. There is nothing comparable to it unless it be the unrestrained abandonment with which a group of Senegambians crawl onto a wagonload of watermelons. I have not been able during the last two weeks when this matter has been suggested to me and when I announced that I would oppose it and demand a record vote, to find or have offered but one single reason based upon the public good why Congress should cease its labors at this time.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. WINGO. No; as I have but five minutes and obtained those under a great deal of difficulty. That one reason is that the longer the Republican Congress stays in session the greater the economic distress of the country. That is a potent reason that appeals to me.

But, gentlemen, the Constitution places not only the privilege but a duty upon us when we undertake to decide by this resolution not alone that we adjourn but that the Senate adjourn to-night and go fishing without the consent of the House. Now, if you want to grant that consent, do it. If you think the condition of the legislative program is such, you can not shift the responsibility to the Senate, because they can not adjourn without our consent for more than three days.

Mr. McARTHUR. Will the gentleman yield?

Mr. WINGO. Certainly not; I have explained that I could not. I do not for one agree that with the tax revision and other things uncompleted that Congress shall cease its labors. I remember quite well over two years ago, when you won this House and won the Senate, that you insisted that a Democratic President call you into extra session in order to clean up and bring about reconstruction and a solution of the problems that grew out of the war. You had two years and you did not do it, and your alibi was a Democratic President. Then your President called this extra session with you Republicans in complete control, and you have had five months and you have not yet put upon the statute books either one of the two major acts for which this extra session was called by your Republican President. Oh, you can act with all the abandon of a schoolboy if you want to, and with the hilarity of a Senegambian, but I for one am in earnest, and if you stand up with me, if you have the courage and guts, you will stand when we demand a roll call and show whether you want lightly to discharge your constitutional privilege and vote to let the Senate go home and play when it should stay here at work. [Applause.]

Mr. MONDELL. Mr. Speaker, I yield five minutes to the gentleman from Illinois [Mr. MANN]. [Applause.]

Mr. MANN. Mr. Speaker, we have stayed in Washington during the hottest season that I have ever known here in 25 years. The House has worked under the brilliant leadership of the gentleman from Wyoming [applause] and the decent leadership of the gentleman from Tennessee. [Applause.] We have completed much legislation. We have sent from this body to the Senate a tariff bill and a tax bill now pending before the Committee on Finance of the Senate. As compared with our numbers, the Senate is a much smaller body. While we have the point of no quorum frequently raised in the House, it is much more frequently raised in the Senate; and at this time in the season, when so many Members of both the House and the Senate are absent from Washington, a demand for a quorum in the Senate means that the Finance Committee must come to the Senate to answer to their names. It would be still more the case if we were to attempt to remain here during the next month. It is desirable from our point of view that the Finance Committee of the Senate be able to sit continuously without being called to the Senate Chamber to answer to their names, so that they may be able to report the tax bill and the tariff bill early to the Senate. It is highly desirable for that reason that the Congress take a recess. Gentlemen say that the program has not been filled.

My observation is, my experience is, that as long as the House remains in session, if it should remain in session 365 days in the year or if the year were doubled in length and it remained in session 700 days in the year, there would still be unfinished business pressing for consideration at the time of the end. Everything is not completed to-day. All wisdom will not die with us. There will always be business for a legislative body to perform. I greatly regret that it is reported, of course I do not know the facts, that a distinguished Democratic orator has prevented or is preventing the completion of the program by enacting the antibeer bill at this time, but after all there has been considerable delay even on the part of those who are advocating that bill in the House, but I do not believe the country has greatly suffered up to date. While I voted for the conference report on the beer bill, I imagine that there will be no serious distress to the country if the final vote on it is postponed a few days or a few weeks. [Applause.] But it is——

Mr. VOLSTEAD rose.

Mr. MANN. Does the gentleman desire to ask a question?

Mr. VOLSTEAD. I want to get recognition for a few minutes; I have no desire to interfere with the gentleman.

Mr. MANN. This I do know, and I speak with the experience of many years in this House, that after those hot days in June and July, sitting here as we did with our noses to the grindstone, I never have seen the House when so many Members on both sides of it had their nerves on edge as just now. And the best thing that can happen to this country, the best thing that can happen to legislation, is for Members to go and take a rest, and then come back with renewed vigor and quieter nerves, prepared to do the work that then will be before us to do. [Applause.]

Mr. MONDELL. Mr. Speaker, I move the previous question on the adoption of the resolution.

The SPEAKER. The gentleman from Wyoming moves the previous question on the adoption of the resolution.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. VOLSTEAD and Mr. BLANTON demanded a division.

The House divided; and there were—ayes 217, noes 55.

So the previous question was ordered.

The SPEAKER. The question is on agreeing to the resolution.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. BLANTON. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 144, nays 130, answered "present" 1, not voting 155, as follows:

YEAS—144.

Ackerman	Dyer	Lazaro	Rayburn
Appleby	Echols	Lea, Calif.	Reavis
Atkeson	Edmonds	Leatherwood	Reber
Barbour	Ellis	Lee, Ga.	Reed, W. Va.
Beedy	Fenn	Lee, N. Y.	Riordan
Begg	Fields	Lehlbach	Robertson
Black	Fish	Linthicum	Rogers
Bowers	Fisher	Logan	Rosenbloom
Box	Frothingham	London	Rossdale
Brand	Fulmer	Longworth	Rouse
Brennan	Garrett, Tenn.	McArthur	Rucker
Brinson	Gernerd	McDuffie	Sanders, N. Y.
Bulwinkle	Glynn	McFadden	Scott, Mich.
Burdick	Graham, Pa.	McKenzie	Slemp
Burke	Greene, Mass.	McLaughlin, Pa.	Smithwick
Burtness	Greene, Vt.	McPherson	Snell
Butler	Hadley	McSwain	Steagall
Byrnes, S. C.	Hickey	Madden	Stephens
Campbell, Pa.	Hill	Mann	Stoll
Cannon	Hogan	Mead	Strong, Pa.
Carew	Houghton	Michaelson	Sullivan
Carter	Hull	Mondell	Ten Eyck
Chandler, Okla.	Humphreys	Morin	Tinkham
Chindblom	Jefferis, Nebr.	Newton, Mo.	Underhill
Clague	Jones, Tex.	Nolan	Vinson
Clark, Fla.	Keller	O'Brien	Voigt
Clarke, N. Y.	Kelley, Mich.	O'Connor	Walsh
Clouse	Kirkpatrick	Oldfield	Weaver
Cole, Iowa	Kissel	Osborne	Webster
Connally, Tex.	Kleczka	Parker, N. J.	Wheeler
Connell	Kline, N. Y.	Parker, N. Y.	Williams
Coughlin	Knutson	Patterson, N. J.	Winslow
Crisp	Kreider	Porter	Woods, Va
Cullen	Langley	Radcliffe	Wright
Darrow	Lanham	Rainey, Ill.	Wyant
Dunn	Larsen, Ga.	Ransley	Young

NAYS—130.

Almon	Evans	McCormick	Scott, Tenn.
Anderson	Faust	McLaughlin, Mich.	Sears
Andrews	Fess	MacGregor	Shaw
Arentz	Fitzgerald	Magee	Shreve
Aswell	French	Mapes	Sinclair
Bell	Funk	Michener	Sinnott
Bird	Garrett, Tex.	Miller	Smith, Idaho
Bland, Ind.	Gensman	Millspaugh	Smith, Mich.
Bland, Va.	Gilbert	Moore, Ill.	Speaks
Blanton	Graham, Ill.	Moore, Ohio	Strong, Kans.
Boies	Green, Iowa	Morgan	Summers, Wash.
Bowling	Hammer	Mott	Sumners, Tex.
Briggs	Hardy, Colo.	Murphy	Swank
Brooks, Pa.	Hardy, Tex.	Nelson, J. M.	Sweet
Burton	Harrison	Newton, Minn.	Swing
Byrns, Tenn.	Hays	Oliver	Taylor, Tenn.
Cable	Herrick	Padgett	Temple
Campbell, Kans.	Hoch	Parks, Ark.	Tillman
Chalmers	Huddleston	Parrish	Timberlake
Christopherson	Jacoway	Patterson, Mo.	Tincher
Collier	Jeffers, Ala.	Quin	Towner
Collins	Kearns	Raker	Tyson
Cooper, Wis.	Kelly, Pa.	Ramseyer	Vestal
Curry	Ketcham	Rankin	Volstead
Dale	Kincheloe	Reece	Walters
Davis, Minn.	King	Rhodes	White, Kans.
Davis, Tenn.	Kinkaid	Ricketts	Wilson
Denison	Kopp	Roach	Wingo
Doughton	Kraus	Robsion	Woodruff
Dowell	Lankford	Rose	Yates
Driver	Little	Sanders, Ind.	Zihlman
Dunbar	Luce	Sanders, Tex.	
Elliott	McClintic	Sandlin	

ANSWERED "PRESENT"—1.

Hukriede

NOT VOTING—155.

Ansorge	Deal	Hawes	Lineberger
Anthony	Dempsey	Hawley	Lowrey
Bacharach	Dickinson	Hayden	Luhring
Bankhead	Dominick	Hersey	Lyon
Barkley	Drane	Hicks	McLaughlin, Nebr.
Beck	Drewry	Himes	Maloney
Benham	Dupré	Hudspeth	Mansfield
Bixler	Elston	Husted	Martin
Blakeney	Fairchild	Hutchinson	Merritt
Bond	Fairfield	Ireland	Mills
Britten	Favrot	James	Montague
Brooks, Ill.	Flood	Johnson, Ky.	Montoya
Brown, Tenn.	Focht	Johnson, Miss.	Moore, Va.
Browne, Wis.	Fordney	Johnson, S. Dak.	Moores, Ind.
Buchanan	Foster	Johnson, Wash.	Mudd
Burroughs	Frear	Jones, Pa.	Nelson, A. P.
Cantrill	Free	Kahn	Norton
Chandler, N. Y.	Freeman	Kendall	Ogden
Classon	Fuller	Kennedy	Olpp
Cockran	Gahn	Kiess	Overstreet
Codd	Gallivan	Kindred	Paige
Cole, Ohio	Garner	Kitchin	Park, Ga.
Colton	Goldsborough	Kline, Pa.	Perkins
Connolly, Pa.	Goodykoontz	Knight	Perlman
Cooper, Ohio	Gorman	Kunz	Peters
Copley	Gould	Lampert	Petersen
Cramton	Griest	Larson, Minn.	Pou
Crowther	Griffin	Lawrence	Pringey
Dallinger	Haugen	Layton	Purnell

Rainey, Ala.	Snyder	Taylor, N. J.	Ward, N. C.
Reed, N. Y.	Sproul	Thomas	Wason
Riddick	Stafford	Thompson	Watson
Rodenberg	Stedman	Tilson	White, Me.
Ryan	Steenerson	Treadway	Williamson
Sabath	Stevenson	Upshaw	Wise
Schall	Stiness	Vaile	Wood, Ind.
Shelton	Tague	Vare	Woodyard
Siegel	Taylor, Ark.	Volk	Wurzbach
Sisson	Taylor, Colo.	Ward, N. Y.	

So the resolution was agreed to.

The Clerk announced the following additional pairs:

On the vote:

Mr. ANTHONY (for) with Mr. POU (against).

Mr. WOODYARD (for) with Mr. BUCHANAN (against).

Until further notice:

Mr. FREE with Mr. DEAL.

Mr. REED of New York with Mr. FLOOD.

Mr. A. P. NELSON with Mr. HAYDEN.

Mr. OLPP with Mr. MOORE of Virginia.

Mr. ANSORGE. Mr. Speaker, I desire to vote.

The SPEAKER. Was the gentleman present and listening when his name was called?

Mr. ANSORGE. No; I was not.

The SPEAKER. Then the gentleman does not qualify.

The result of the vote was announced as above recorded.

Mr. MONDELL. Mr. Speaker, I move to reconsider the vote by which the resolution was agreed to and move to lay that motion on the table.

The SPEAKER. The gentleman from Wyoming moves to reconsider the last vote and to lay that motion on the table. Without objection, it will be so ordered.

Mr. BLANTON. Mr. Speaker, I object.

The SPEAKER. The gentleman from Wyoming moves to reconsider the last vote, and also moves to lay that motion on the table. The question is on the motion to lay on the table.

The question was taken, and the motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, one of its clerks, announced that the Senate had passed without amendment the bill (H. R. 8107) to control importations of dyes and chemicals.

BRIDGE ACROSS SULPHUR RIVER, TEX.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent for the immediate consideration of Senate bill 1970, granting the consent of Congress to the counties of Bowie and Cass, State of Texas, for the construction of a bridge across Sulphur River, at or near Pettis Bridge, on State highway No. 8, in said counties and State.

The SPEAKER. The gentleman from Wyoming asks unanimous consent for the present consideration of the bill, which the Clerk will report.

The Clerk read as follows:

Be it enacted, etc., That the consent of Congress is hereby granted to the counties of Bowie and Cass, State of Texas, to construct, maintain, and operate a bridge and approaches thereto across the Sulphur River at a point suitable to the interests of navigation, at or near the location of Pettis Bridge on Texas State Highway No. 8, as located between Douglassville, in Cass County, and the town of Maud, in Bowie County, State of Texas, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. Is there objection?

Mr. ANDREWS. I object, Mr. Speaker.

The SPEAKER. Objection is heard.

CHANGE OF NAME OF VETERANS' BUREAU.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent for the immediate consideration of Senate joint resolution 103, changing the name of the Veterans' Bureau.

The SPEAKER. The gentleman from Wyoming asks unanimous consent for the present consideration of the Senate joint resolution which the Clerk will report by title.

The Clerk read as follows:

Joint resolution (S. J. Res. 103) changing the name of the Veterans' Bureau to United States Veterans' Bureau.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

Resolved, etc., That the Veterans' Bureau, created by the act entitled "An act to establish a Veterans' Bureau and to improve the facilities and service of such bureau, and further to amend and modify the war risk insurance act," approved August 9, 1921, shall be known as the "United States Veterans' Bureau," and whenever used in such act the term "Veterans' Bureau" shall mean "United States Veterans' Bureau."

Mr. WALSH. Mr. Speaker, will the gentleman yield?

Mr. MONDELL. I yield.

Mr. WALSH. Does the gentleman know anybody who can explain this important change?

Mr. MONDELL. The gentleman from Iowa [Mr. SWEET], I believe, can explain the resolution.

Mr. SWEET. Mr. Speaker, when the so-called Veterans' Bureau act was enacted, consolidating the governmental agencies for the benefit of the disabled soldiers, the bureau was designated as the "Veterans' Bureau." It was made a separate bureau. The director of the bureau informs me that in New York City and in Chicago there are organizations which are designated as "veterans' bureaus." These bureaus are organized for the purpose of assisting and giving aid to disabled soldiers, and considerable confusion has arisen in that connection. In view of the fact that the gentleman from Massachusetts was interested in this matter I would like to have him pay attention to some of the things I am saying.

Mr. WALSH. I have not missed a word that the gentleman said. [Laughter.]

Mr. SWEET. And I will say to the gentleman from Massachusetts that in order to avoid this confusion it has been provided in this resolution that the words "United States" be placed before the words "Veterans' Bureau," and that hereafter the bureau be known as the "United States Veterans' Bureau."

Mr. WALSH. Mr. Speaker, will the gentleman yield?

Mr. SWEET. I will.

Mr. WALSH. Is there any other official bureau of the Government or any other activity of the Government that has the title of "Veterans' Bureau"?

Mr. SWEET. Not that I know of.

Mr. WALSH. What is this that this bureau is confused with because the phrase "The United States" does not precede its real name?

Mr. SWEET. It is quite evident that the gentleman was not listening when I was explaining it. [Laughter.]

Mr. WALSH. I was listening and caught every word that the gentleman said. The gentleman referred to bureaus of other organizations. What bureaus are there?

Mr. SWEET. Bureaus organized in connection with the American Legion, and bureaus organized in connection with the Red Cross, and bureaus that have been organized through legislative enactment in some of the States.

I am informed that the State of Washington has designated one of its State bureaus as the veterans' bureau, and it is to avoid confusion that this change is proposed.

Mr. MANN. Will the gentleman yield for a question?

Mr. SWEET. I yield to the gentleman from Illinois.

Mr. MANN. Are there not many bureaus of the National Government which have titles similar to the titles of bureaus in various States and in private life?

Mr. SWEET. Yes; that is true.

Mr. MANN. There is no confusion on that account.

Mr. SWEET. Especially is that true in connection with the Agricultural Department; but in order to avoid any confusion in this matter and any question as to where the bureau is located, we have designated this bureau as the "United States Veterans' Bureau" under this resolution.

Mr. MANN. It would seem to me that the only purpose of this was to make a long title instead of a short title, and that if the director of this bureau would give more attention to the business of his office, and less attention to trying to lengthen the title of his bureau, he would serve a great deal better purpose.

Mr. SWEET. I will say to the gentleman that I am in favor of the bureau being efficiently administered.

Mr. MANN. We have the Department of Agriculture, we have the Treasury Department, we have the State Department, we have the Department of Commerce. When we created them we did not call any of them the United States Department of State, the United States Department of the Treasury, or anything of that kind. We have a good roads bureau. We did not denominate it the United States good roads bureau, although they have a roads bureau of some kind in every State in the Union.

I think if I ever saw a case where a man was straining at a gnat and swallowing a camel it is this request of the director. While it will add a little to the expense of the Government, I am reminded of the speech of the gentleman from Kansas [Mr. WHITE] this afternoon.

Mr. SWEET. That was a good speech.

Mr. MANN. A long title instead of a short title. I do not know that it will hurt anybody. It will add a great deal to the labor of addressing the bureau and signing the letters.

Mr. SWEET. Let me say to the gentleman that this resolution originated in the Senate, and this is about the only legisla-

tion that has originated at that end of the Capitol in connection with the welfare work done for disabled soldiers.

Mr. MANN. I think this legislation did not originate in the Senate. So far as the joint resolution is concerned, it was introduced first in the Senate.

Mr. SWEET. It was not introduced in the House.

Mr. MANN. It originated with the director.

Mr. SWEET. I think so.

Mr. MANN. My secretary went to this bureau the other day to call on an official of that department. Not knowing where the official was located, she had to inquire of five or six different people, being turned from one to another, on the ground that they did not know and that it was not their business, although they were in places where it was their duty to know. I think if the director would give a little less attention to lengthening his title and a little more attention to improving the service of his office he would do a great deal better work than he has been doing up to date.

Mr. WALSH. Will the gentleman from Iowa yield for a further inquiry?

Mr. SWEET. I yield to the gentleman from Massachusetts.

Mr. WALSH. This is something I do not think the gentleman covered in his previous statement.

Mr. SWEET. That is, as far as the gentleman from Massachusetts heard my statement.

Mr. WALSH. Is the gentleman enthusiastically in favor of this joint resolution?

Mr. SWEET. I can not say that I am enthusiastically in favor of it, but in view of the fact that it may do away with some confusion, and that the new director has requested it, and in order that no burden may be placed upon Congress in regard to any confusion that may arise in connection with the administration of this bureau, I thought it advisable to pass the legislation.

Mr. WALSH. What is the director going to do—wear a uniform or a cap with some letters on it, or something of that sort?

Mr. SWEET. I can not tell.

Mr. SANDERS of Indiana. As a matter of fact, there are 14 regional offices and some 140 suboffices, all of which will be addressed in different States as the Veterans' Bureau.

Mr. SWEET. Yes.

Mr. SANDERS of Indiana. So that if there is confusion with reference to names in the different States it may cause the miscarriage of soldiers' mail, and the gentleman is proposing to enact this joint resolution in order that the soldiers may get prompt responses to their letters?

Mr. SWEET. Yes; and as far as the request is concerned we thought we would give the necessary legislation to the director, so that he can not say that Congress has not enacted proper legislation to carry out the objects of this bureau.

Mr. CHALMERS. Will the gentleman yield?

Mr. SWEET. I will.

Mr. CHALMERS. I can not let the charge against the inefficiency of the present Director of the Veterans' Bureau, Col. Forbes, go unchallenged. In my judgment, the present director has improved the efficiency and the promptness with which we get results from that bureau 100 per cent since he took charge. [Applause.] I have had a good deal of experience with that bureau before the present director took charge and since, and I want to testify to the efficiency and the courtesy and the responses which we get from that bureau under his management. [Applause.]

Mr. WALSH. Will the gentleman yield?

Mr. SWEET. Yes.

Mr. WALSH. It is noted that the present director of the bureau has improved the department when it was known as the War Risk Bureau and when it was simply known as the Veterans' Bureau, and as the gentleman from Ohio says he has brought the department up so that it is nearly current at the present time, and cases can be decided without delay, but it does seem to me that putting the words "United States" before an official bureau of the Government is not done in any other branch of activity and is rather an unusual request.

Mr. STEPHENS. Will the gentleman yield?

Mr. SWEET. Yes.

Mr. STEPHENS. Is it not a fact that they have the letters "U. S." before the Public Health Service and many other departments of the Government—the Shipping Board and other boards—to distinguish them from State boards. It seems to me that there is a good deal of talk here largely to kill time more than it is to convince anybody. [Laughter.]

Mr. GERNERD. Will the gentleman yield?

Mr. SWEET. I will.

Mr. GERNERD. I want to say just what the gentleman from Ohio [Mr. CHALMERS] has said. I have had a great deal of experience—some eight or nine hundred cases—with the War Risk Bureau, and I will say that Col. Forbes is right on the job. [Applause.]

Mr. SWEET. Mr. Speaker, I move the previous question.

Mr. BLANTON. Before the gentleman does that I want to ask the gentleman a question.

Mr. SWEET. All right.

Mr. BLANTON. The gentleman has been in the first basement and probably in the second basement of the War Risk Building, where they keep enormous carloads of supplies. If he has been there he knows that within a few short weeks that have elapsed since we passed this bill the director has had to change all the stationery from the War Risk Bureau to the Veterans' Bureau, and now when we pass this little bill it will all have to be done over again because the work or letters "U. S." has sidetracked it all.

Mr. SWEET. The gentleman is mistaken, as usual. This matter has not been printed yet, but as soon as the resolution is put through it will be done. It is not done now.

Mr. BLANTON. How does the gentleman know. Usually the printing is done before the bill passes Congress. They anticipate it.

Mr. SWEET. The gentleman is wrong again. The printing has not been done and I was so told by the director of the bureau.

Mr. BLANTON. Well, I have helped the gentleman from Massachusetts, designedly, to kill five minutes of time. [Laughter.]

Mr. ARENTZ. There are a good many men interested in the good roads bill, and while we have been discussing whether we should put the letters "U. S." before the Veterans' Bureau we could have passed the good roads bill.

Mr. SWEET. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question now is on the third reading of the joint resolution.

The joint resolution was ordered to be read the third time, was read the third time, and passed.

On motion of Mr. SWEET, a motion to reconsider the vote whereby the joint resolution was passed was laid on the table.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill S. 1970.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. ANDREWS. I object.

DESIGNATION OF SPEAKER PRO TEMPORE.

The SPEAKER. The Chair will designate the gentleman from Massachusetts [Mr. WALSH] as Speaker pro tempore for the next three legislative days in case the Speaker is not present.

RELIEF OF DISABLED VETERANS OF THE LATE WAR.

Mr. SINNOTT. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 7161, a bill for the relief of disabled veterans of the late war.

The motion was agreed to. Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 7161, with Mr. CAMPBELL of Kansas in the chair.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read the bill, as follows:

Be it enacted, etc., That the act of March 1, 1921 (41 Stat., p. 1202), entitled "An act to authorize certain homestead settlers or entrymen who entered the military or naval service of the United States during the war with Germany to make final proof of their entries," be, and the same is hereby, amended by adding thereto at the end thereof the following matter, which shall be known and designated as section 2 of said act:

"SEC. 2. That any entryman under the desert land laws, or any person entitled to preference right of entry under section 1 of the act approved March 28, 1908 (35 Stat. L., p. 52), who after application or entry for surveyed lands or legal initiation of claim for unsurveyed lands, and prior to November 11, 1918, enlisted or was actually engaged in the United States Army, Navy, or Marine Corps during the War with Germany, who has been honorably discharged and because of physical incapacities due to service is unable to accomplish reclamation of and payment for the land, may make proof without further reclamation thereof or payments thereon at such time and place as may be authorized by the Secretary of the Interior, and receive patent to the land by him so entered or claimed: *Provided*, That no such patent shall issue prior to the survey of the land.

With the following committee amendments:

Page 2, lines 12, 13, 14, 15, and 16 strike out:

at such time and place as may be authorized by the Secretary of the Interior, and receive patent to the land by him so entered or claimed: *Provided*, That no such patent shall issue prior to the survey of the land—

and insert in lieu thereof the following:

under such rules and regulations as may be prescribed by the Secretary of the Interior, and receive patent for the land by him so entered or claimed, if found entitled thereto: *Provided*, That no such patent shall issue prior to the survey of the land.

Amend the title so as to read: "A bill to authorize certain desert-land claimants who entered the military or naval service of the United States during the war with Germany to make final proof of their entries."

Mr. SINNOTT. Mr. Chairman, this bill is a bill for the assistance of disabled and incapacitated veterans of the World War who are desert-land settlers or entrymen. It is really a bill to supplement the act approved March 1, 1921, which granted the same rights that are embraced in this bill to homestead settlers and homestead entrymen. But the act of March 1, 1921, does not grant any relief to desert-land settlers or entrymen. The act of March 1, 1921, provided that any settler or entryman under the homestead laws of the United States who, after settlement, application, or entry, and prior to November 11, 1918, enlisted or was actually engaged in the United States Army, Navy, or Marine Corps during the war with Germany, who has been honorably discharged, and because of physical incapacity due to service is unable to return to the land, may make proof without further residence, improvement, or cultivation at such time and place as may be authorized by the Secretary of the Interior and receive patent to the land by him so entered or settled upon, provided that no such patent shall issue prior to the survey of the land.

The Interior Department held that this act could not be taken advantage of by veterans who were desert-land entrymen, for the reason that a desert-land entryman or a settler is not a settler or entryman under the homestead laws. Under the homestead laws the entryman has to reside on the land for three years, and that applies to the 160-acre homestead law or the 320-acre homestead law; but the desert-land law does not require a residence.

It requires a payment of 25 cents an acre when the settler or entryman enters the land. Then, it requires a showing on his part that he has expended each year for three years $1 per acre in the reclamation of the land. Then, in addition to that, when he makes final proof he has to pay $1 an acre for the land and has to make proof that he has reclaimed by irrigation one-eighth of the area of his entry. He is limited to 320 acres, except where he makes a surface entry upon oil or coal lands, and then he is limited to 160 acres.

This bill provides that if the settler or entryman who has been honorably discharged is found on account of physical incapacity due to service to be unable to accomplish the reclamation of the land and the payment to the Government of the $1 an acre, he having already paid the 25 cents when he made his filing, he is not compelled to make those payments or to show that he has reclaimed the land. This relief applies only to a disabled, incapacitated soldier.

Mr. WALSH. Mr. Chairman, will the gentleman yield?

Mr. SINNOTT. Yes.

Mr. WALSH. How many States are there in which this law would apply with reference to desert-land entrymen?

Mr. SINNOTT. The desert-land entry law merely applies to some of the Western States. It applies to the States of California, Oregon, Nevada, Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico, and North and South Dakota.

Mr. WALSH. And this only applies to applications that have been filed? It does not apply to applications that may be filed after the law is passed?

Mr. SINNOTT. Those that have heretofore been filed or where the desert-land entryman has made settlement. In case the land is unsurveyed he initiates his right by settlement on the land.

Mr. WALSH. Then he gets the land on simply the 25 cents payment per acre?

Mr. SINNOTT. He has already paid that.

Mr. WALSH. He has to make no further payments?

Mr. SINNOTT. He has to make no further payment.

Mr. MANN. Mr. Chairman——

The CHAIRMAN. The gentleman from Illinois.

Mr. MANN. Mr. Chairman, I yield 10 minutes to the gentleman from Kansas [Mr. STRONG].

Mr. STRONG of Kansas. Mr. Chairman, I wish at this time to inform the House of the splendid manner in which Camp Funston has been sold by the War Department. Ever since the armistice there has been much merited criticism of the manner in which the War Department has disposed of surplus supplies left from the war. But recently there has been a change in the personnel of the heads of the War Department and a better and more businesslike policy I feel sure has been established.

When it was decided that the greater part of Camp Funston was to be sold I suggested and urged that it be sold in such a manner so that the people living around Camp Funston could buy the material which they needed, instead of letting some speculator make large profits from a lump purchase.

Mr. WALSH. Will the gentleman yield?

Mr. STRONG of Kansas. I shall be glad to do so.

Mr. WALSH. Has this been recently accomplished?

Mr. STRONG of Kansas. It was sold last week.

Mr. WALSH. Does this dispose of this claim which was the subject matter of a bill in the previous session?

Mr. STRONG of Kansas. It certainly does not, because the buildings the people built and paid for, and which the Government seized, were sold by the Government, and the money goes into the Government Treasury; and certainly the people should have returned to them at least their losses for the buildings that they were induced by the Government's representatives to build at that camp during the war.

Mr. WALSH. Then we will have some more of this claim later on?

Mr. STRONG of Kansas. I certainly hope so, and I hope that I will have the gentleman's support in passing it.

Mr. WALSH. I doubt that.

Mr. STRONG of Kansas. The sale at Camp Funston last week was conducted in a far different manner than other sales of war supplies and material that have been held, because the War Department sales officer instructed the auctioneer to sell the buildings and supplies in small lots, so that the people who had been taxed to provide the funds to build that great camp at Camp Funston could have a chance to purchase whatever they needed.

I want, therefore, to place in the RECORD some telegrams that I have received in the last few days regarding this sale. One from the Junction City Daily Union, published at Junction City, within 4 miles of Camp Funston, reads:

CAMP FUNSTON, KANS.,
August 20, 1921.

Hon. JAMES G. STRONG,
Wardman Park Hotel, Washington, D. C.:

For the first time in the history of Riley or Funston, goods offered for sale this week brought practically all they were worth. The sale has amounted to over $250,000; over 350 individual buyers have made purchases. Ninety-eight farmers bought harnesses and everyone had an opportunity to buy buildings, ranges, toilets, or anything available. The public is glad to know that the Government at last is doing business in a businesslike manner and instead of giving the taxpayers' goods away is employing experienced men to conduct these big sales. We believe you should know these facts and inform the officials in charge.

THE JUNCTION CITY DAILY UNION.

I also received the following from S. P. Spessard, chairman of the Republican county committee of Geary County in which Camp Funston is located:

JUNCTION CITY, KANS., *August 18.*

Hon. JAMES G. STRONG,
Washington, D. C.:

Replying to your telegram, I attended the Funston sale myself and was particularly interested with the consideration shown small buyers. I have attended several Government sales. This was the squarest I have seen. A letter will follow.

S. P. SPESSARD.

And the following from O. O. Clark of Junction City, Kans.:

JUNCTION CITY, KANS., *August 18.*

Hon. J. G. STRONG,
House of Representatives, Washington, D. C.

DEAR CONGRESSMAN: Manhattan papers report that small purchasers at Camp Funston auction were not given equal opportunity with big buyers. This is an absolute untruth. I attended every session and was particularly impressed with the preference shown the small buyer. In fact it seemed as though there was a discrimination against the large buyer if anything.

O. O. CLARK.

The Junction City Union, commenting on the sale, says:

It is known that just prior to the sale several lump bids were received on the camp ranging from $60,000 to $110,000.

Checking up the sale totals may not be completed for several days, but local buyers who have watched closely the big auction from its inception estimate that the total will be over $300,000. It is estimated that over 400 individual men bought property.

No sale has ever been held at the post or camp that was conducted in a like manner. As the auctioneer would sell the first building he announced that the price this first building sold for would be the standard price, and all buyers in the crowd who wished one or more buildings could come forward and take one or more.

Many white and black, rich and poor, took advantage of this offer, and after everyone had bought all they desired, what remained of the lot was bunched and sold to one buyer.

This same method was used in furnaces, stoves, and, in fact, everything, and every opportunity was given the individual buyer to get all he wanted.

Gentlemen, I just wanted to get this information in the RECORD to show that there has been a change in the management of Government affairs even by the War Department, and that we are going from this on to sell the great surplus supplies left from the war in a sane, sensible, and businesslike manner, so that the people of the country who are taxed to pay for them will have an opportunitly to buy them, and buy them at a price that will bring a far better return to the Government than if sold in lump sales to speculators.

Mr. FESS. Will the gentleman yield?

Mr. STRONG of Kansas. I will be glad to do so.

Mr. FESS. This war material can not be sold until it is declared surplus, can it?

Mr. STRONG of Kansas. I believe not.

Mr. FESS. Is there any leeway—is there any latitude given in declaring it surplus or——

Mr. STRONG of Kansas. I do not know what the attitude of the War Department will be as to that. I am simply commenting on the sale at Camp Funston and the splendid manner in which it was conducted.

Mr. FESS. Has the gentleman any idea how much war material they have unsold?

Mr. STRONG of Kansas. I can not give the gentleman any exact information, but it will run into the hundreds of millions of dollars.

Mr. FESS. Does anybody know?

Mr. STRONG of Kansas. Not that I know of, but I believe the present administration of the War Department intends to use business methods and business sense in selling the immense war supplies and Army camps, and I congratulate them and the country on the great saving to the people that will result.

Mr. MANN. Mr. Chairman, we are about to go home, at least I am. I do not know what arrangement is going to be made in reference to coming back here on September 21, but I can say now that the only way that I can be brought back on September 21 is by the personal attention of the Sergeant at Arms. [Applause.] The rest of you have worked hard at this session of Congress. I have been a high private in the rear rank, and have been taking it rather easy.

I congratulate the Republican side of the House upon the leadership which has been displayed at this session of Congress. I have served here for several years, and I do not believe that I have ever seen any leader who got along any better than the gentleman from Wyoming does. [Applause.] I know what the job is, because while I never had the honor of being the floor leader of the House, I was for eight years the minority Republican leader of the House, with some following on the Democratic side. [Laughter and applause.]

I would like to make this remark: We have very much missed at this session of Congress one of its Members. The new Members of the House who are serving their first term can not understand or appreciate how much we have missed that one Member. I recall a good many years ago, at an all-night session, that Member walking down the center aisle and making a speech which I had requested him to make which set the House wild and made it determined. And ever since that time I have had a very great and affectionate regard for the gentleman from North Carolina [CLAUDE KITCHIN] [Loud applause.]

The minority side of the House has had at this session an acting leader whom I regard as one of the very ablest men in public life [applause], one of the squarest men in legislation [applause], one of the most courteous gentlemen we have ever laid eyes on. [Applause.]

I would like CLAUDE KITCHIN to know, if it were possible for him to know, how the Members of the House of Representatives love him and how they hope for his speedy and permanent recovery of health. [Applause.] These sentiments which I have expressed come from my heart, though probably I would not take up the time of the House even for them at this moment if we were pressed on other matters.

I hope we will all have a good time when we go home. [Applause.] Of course, I know some of the Members here voted against going home, hoping they would be defeated. [Applause and laughter.] Now that they have been defeated, let them all have a good time. Now, to add harmony and good will to the situation and show my appreciation of another able leader, I yield 10 minutes to the gentleman from Texas [Mr. BLANTON]. [Applause and laughter.]

Mr. SINNOTT. Will the gentleman from Texas yield a moment until I move that the committee rise, after which we will go into the committee again?

Mr. BLANTON. I will.

Mr. SINNOTT. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to; and the Speaker having resumed the chair, Mr. CAMPBELL of Kansas, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 7161 and had come to no resolution thereon.

ENROLLED BILLS SIGNED.

Mr. RICKETTS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill and joint resolution of the following titles, when the Speaker signed the same:

H. J. Res. 138. Joint resolution to repeal so much of the act of Congress approved February 28, 1920, as provides for the sale of Camp Eustis, Va.; and

H. R. 8117. An act making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1922, and for other purposes.

The SPEAKER announced his signature to enrolled bills and joint resolution of the following titles:

S. 2207. An act to amend the act entitled "An act to establish standard weights and measures for the District of Columbia; to define the duties of the superintendent of weights, measures, and markets of the District of Columbia, and for other purposes," approved March 3, 1921;

S. 2131. An act to extend for the period of seven months the provisions of Title II of the food control and the District of Columbia rents act, approved October 22, 1919, and for other purposes;

S. 2420. An act authorizing and directing the Postmaster General to permit the use of a special canceling stamp at the post office of Birmingham, Ala., bearing the words "Birmingham semicentennial, October 24 to 29, 1921";

S. 2330. An act to extend the time for payment of grazing fees for the use of national forests during the calendar year 1921;

S. 1915. An act to amend the War Finance Corporation act, approved April 5, 1918, as amended, to provide relief for producers and dealers in agricultural products, and for other purposes;

S. 2062. An act ratifying, confirming, and approving certain acts of the Legislature of Hawaii, granting franchises for the manufacture, distribution, and supply of gas, electric light and power, and the construction, maintenance, and operation of a street railway, and for other purposes;

H. R. 8107. An act to control importations of dyes and chemicals; and

S. J. Res. 103. Joint resolution changing the name of the Veterans' Bureau to "United States Veterans' Bureau."

SENATE BILL REFERRED.

Under clause 2, Rule XXII, Senate bill and concurrent resolution of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 2430. An act to authorize the construction of a bridge across the St. Marys River at or near Wilds Landing Ferry between Camden County, Ga., and Nassau County, Fla.; to the Committee on Interstate and Foreign Commerce.

Senate concurrent resolution 11.

Resolved by the Senate (the House of Representatives concurring), That the special committee appointed in accordance with the provisions of section 13 of the act entitled "An act to increase the efficiency of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service," approved May 18, 1920, or any subcommittee thereof, is authorized to sit at any time, in the District of Columbia or elsewhere, to send for persons, books, and papers, to administer oaths, to summon and compel the attendance of witnesses, to report such hearings as may be had in connection with any subject which may come before said committee, to print such hearings and other matter as may be necessary to carry out the purposes of this act. All expenses in pursuance hereof shall be paid from the contingent funds of the Senate and House of Representatives in equal proportions upon vouchers authorized by the committee and signed by the chairman thereof—

to the Committee on Accounts.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. RICKETTS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills and joint resolution:

H. R. 8107. An act to control importations of dyes and chemicals;

H. R. 8117. An act making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1922, and for other purposes; and

H. J. Res. 138. Joint resolution to repeal so much of the act of Congress approved February 28, 1920, as provides for the sale of Camp Eustis, Va.

RELIEF OF DISABLED VETERANS OF THE LATE WAR.

Mr. SINNOTT. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 7161.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 7161, with Mr. CAMPBELL of Kansas in the chair.

The CHAIRMAN. The gentleman from Texas [Mr. BLANTON] is recognized.

Mr. BLANTON. Mr. Chairman, when the gentleman from Illinois wants 10 minutes of time consumed, he can have no better person to consume it than myself.

I want to say just a few words on the situation that we leave the Shipping Board in to-night. We have six members of the board drawing $12,000 a year.

Mr. WALSH. Will the gentleman yield?

Mr. BLANTON. I yield.

Mr. WALSH. The Shipping Board consists of seven members.

Mr. BLANTON. We have six members, as I said before, notwithstanding the correction of the gentleman from Massachusetts, who draw $12,000 a year. That is a Cabinet officer's salary. Then we have the chairman of the board, who also draws that salary, making in all, as the gentleman from Massachusetts [Mr. WALSH] says, seven members. In addition to that we have three employees of the board, two of whom draw salaries of $35,000 a year each, and then we have another employee attending to the Shipping Board's business, who draws $25,000 a year. Then in addition to that we have 70 lawyers, or more than 70—I think it is 74—who form the legal end of the Shipping Board, and 40 of them draw salaries of over $12,000 a year each.

There are nine of these attorneys who draw $25,000 a year each, and it has been permitted by this Congress.

Mr. LONDON. Mr. Chairman, will the gentleman permit a question?

Mr. BLANTON. Just in a moment. I want to get a few of these facts into the RECORD showing the exact condition of the Shipping Board. As to the rent that this board pays, I checked up the rent that this Government was paying for the various departments last summer, and, to my great surprise, I found out that the Shipping Board alone, here in Washington and in Philadelphia, was paying out for rent of buildings alone $556,000 a year of the people's money, $556,000 in rent in Philadelphia and Washington.

And now some question was raised as to whether they have made this reputed sale of ships. They have sold them, if the newspapers have reported correctly. They do report some things incorrectly; there is no question about that; but they have reported this matter correctly. They have sold 205 of them; of course, they have not received the money, and I doubt whether they ever do receive it; but they have sold 205 of these wooden ships for $2,100 apiece, and these ships cost this Government from $300,000 to $900,000 apiece. All of such ships have cost this Government $270,000,000, and 205 of them are sold for less than $500,000.

Mr. EDMONDS. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. In just a moment.

Mr. KNUTSON. How old were these ships?

Mr. BLANTON. They have all been built since the war started. They have never been used. They are brand-new ships. They have engines in them, some of them; one an engine that cost more than we received for the whole 205 ships.

Mr. EDMONDS. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. In just a moment. There never was an abler man who served in this House, in my opinion, since I have been here than Jim Good, of Iowa, honest and efficient. He got up on this floor, and he told what a rotten mess this whole Shipping Board was, and he told you that you ought not to ever give this board another cent and he told you that you ought to find out where this money was going. He told you that you ought to take steps to have a proper audit of that company's business; that he knew nothing about its books now, and could not find out anything, although it was handling hundreds of millions of dollars. He said we ought not to give them another dollar, and he said he was not going to do it, and I believed him, and he did not. But you have given them $48,500,000 in the deficiency bill that we disposed of this afternoon, and you took all restrictions off of salaries as to six employees. When I asked the distinguished chairman of the Committee on Appropriations [Mr. MADDEN] if he was willing to take chances on this board's paying some two-by-four justice lawyer $100,000 a year, which they could do under your authorization, he said that was "ridiculous." Is it more "ridiculous" than any other single act they have committed since you put them in charge? They have authority by your act to-day to pay six of them $100,000 a year each.

I tell you what the President of the United States ought to do if he does his duty by the people of this country. He ought to fire them all out, lock, stock, and barrel. He ought not to leave a man on the pay roll there who has been on it before. He ought not to leave a Democrat on it that has been there before, and he ought not to leave a Republican on it who has been there before. He ought to clean them up and put new men there who will be careful as to how they spend the people's money.

I have criticized both Democrats and Republicans. I am not partisan in what I say. When the distinguished gentleman from Kentucky, than whom there is no abler man in the United States, Mr. Swager Sherley, tried to come back to Congress and a Republican beat him, Mr. Sherley was willing to come back and work in Congress for the people of this country for $7,500 a year, but after he was defeated he was put in charge of a railroad job and paid what? Not the salary of $7,500, which he sought and was willing to take, but he was paid $25,000 a year. How long are the people going to stand for this? Are you going home and face your people and answer their questions and say you voted for this conference report that permits unlimited salaries to be paid for as many as six men? When I go down home and meet my honest farmers and they say to me, "Tom, why didn't you stop it?" I will tell them I did my dead level best to stop it. [Applause.]

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. MANN. Mr. Chairman, I am going to submit an observation on this Shipping Board myself. I believe nearly all, if not all, of the chairmen of the Shipping Board from the start have been taken from the salt-sea city of Chicago. Some criticism is now being made because the Shipping Board, consisting of seven members, employed somebody who knew something about shipping. The Shipping Board never ought to have been created. A board of seven members is no good as an executive head—never was, and never will be. [Applause.] But that was not the fault of the Executive. I will not say it was anybody's fault. Congress did it. Now, what is the situation? The Shipping Board have spent three or four billion dollars. It seems to me that with the enormous waste which has been incurred by the Shipping Board and the little value it has been up to date it is high time they employ some high-priced men who know how to get results. [Applause.] Ordinarily in Government affairs we go on the necessary theory that it is not possible to pay ordinary legislators or administrative officials high salaries if they are doing ordinary governmental work; but when we started to build the Panama Canal, a business proposition, the first thing we did was to pay a man $25,000 a year; and we need some $50,000 men in connection with the Shipping Board. [Applause.] Ocean shipping is the most intricate business in the world. The whole world competes, and those countries which have carried on, in the main, the shipping business in the past have men educated to know all the refinements in connection with the securing and the carrying of freight and passengers.

A tenderfoot out West in the early days would have been at home compared with the United States trying to get into the shipping business. Here was this intricate business, more intricate now perhaps than it has been in the past, owing to the keen competition now and the lack of freight. I do not know whether we will continue to try to maintain an American merchant marine or not. Nobody yet has figured out how it can be done profitably in competition with the foreign ships. No one yet knows, no one yet either here or elsewhere has proposed a plan which he even claims will permit the people of the United States or the Government of the United States to maintain an American merchant marine at a profit in competition with foreign ships. If we are going to make this experiment it is wise not to make it with men who do not understand the business. If we are going to make this experiment we ought to have in charge of it men who know the business as well as anybody we can find, and you can not get them for 5 cents a day. If you want the best you must pay for it, whether it be cloth or brains. And as long as we are engaged in this experiment I am in favor of permitting the Shipping Board to engage men who know something about the shipping business and pay them sufficient salaries to get them and see whether we can operate this business at a profit or whether we shall continue to run it at a loss. God knows we have lost enough money now with men who did not know, who did not get good salaries, and we ought to be willing to spend a little money paying good salaries to men who may know.

Mr. DAVIS of Tennessee. Will the gentleman yield?

Mr. MANN. Yes; I yield to the gentleman from Tennessee.

Mr. DAVIS of Tennessee. The three men who have been employed as experts at combined salaries of $95,000 held important positions on the old Shipping Board.

Mr. MANN. Yes; I understand that.

Mr. BLANTON. At lower salaries.

Mr. MANN. I do not care whether they worked for no salaries. They did not succeed under the old Shipping Board. I

do not know whether they will succeed under the new one. I do not know what the handicaps were under the old Shipping Board. All I do know is that for the old Shipping Board the shipping business has not been a success up to date, and if these men were employed under the old Shipping Board that is an evidence that they had some ability. Let them have an opportunity; if the new Shipping Board think they are the best men, give them the opportunity to make this trial and find out whether we are going to spend a billion or a half billion dollars a year in the vain effort to maintain an American merchant marine, or whether they can operate it at a profit, so that we may maintain an American merchant marine. I am not in favor of high salaries as a general thing. I am not a man who believes in gross expenditures, but I believe in having some common sense once in a while. I never believed, not even when I practiced law, that the client who expected to get a $5 a day lawyer used the best judgment. I thought he used better judgment frequently when he came to me and paid a good price. That is the only way he could get me. [Applause.] Would the gentleman from Wyoming [Mr. MONDELL] like to have me quit?

Mr. MONDELL. No; I have been listening with great interest to the gentleman's remarks.

Mr. MANN. I have promised to yield five minutes to the gentleman from Kentucky [Mr. FIELDS] in order to give him an opportunity to abuse the Republican Party. [Laughter.]

Mr. FOCHT. If the gentleman will yield to me a moment, I want to make this observation in connection with the Shipping Board: In the consideration of a bill before the Committee on the District of Columbia pertaining to the merchant marine there appeared before us, probably six weeks ago, the secretary of the Shipping Board, Mr. Dean, who made the statement that the Shipping Board at that time was about paying its way. Now, if it was an even split, I can not understand why this arraignment of the managers after we came out of the war with the competition of the European marine, the subsidies they offer, and the cheaper wages. I think they are doing pretty well. That is Mr. Dean's statement.

Mr. MANN. Mr. Dean is not to be criticized for having made such a statement, because by the accounts in the Shipping Board, so far as they have been audited, you can prove any side of any question.

Mr. HUMPHREYS. Will the gentleman yield?

Mr. MANN. Yes.

Mr. HUMPHREYS. I have seen the statement in the newspapers that the Shipping Board during the past 12 months used a million dollars a day. Is that correct?

Mr. MANN. The gentleman can not prove it or disprove it by me, because I do not know.

Mr. HUMPHREYS. It has been stated in the newspapers by men whom we have a right to believe know what they are talking about. I believe it.

Mr. MANN. I do not know about that, but I do know that for several years we have been appropriating money out of the Federal Treasury in order to operate and go ahead, or at least we have appropriated money out of the Treasury.

Mr. ARENTZ. Will the gentleman yield?

Mr. MANN. I yield to my sailor friend.

Mr. ARENTZ. The building of wooden ships during the war was a paradox. We have men who knew all about ships and all about the laying out and designing of the keel for wooden ships. We have now a ship which was built for slowness rather than for speed. We have a ship that will not hold a cargo, that contains an engine burning 750 tons of coal to carry it across the ocean, the most uneconomical ship ever constructed. I would like to know who was responsible for designing a ship of that character, when it took brains in order to get the timber out of the northwestern country and man power to get them on the ways.

Mr. MANN. I do not charge anybody with the responsibility; I do not know. I know that before they started to build wooden ships and when they commenced to advertise for bids so that they could build them, I remember a gentleman who knew all about the subject assured me that they never would be operated; that they never would carry freight. It was no secret; people connected with the Shipping Board stated the same thing. But the country was all in a nightmare on account of the war. Officials were endeavoring to spend money—and I am not criticizing them, for it seems that the one thing that we could do was to spend money. A lot of it was spent recklessly and improvidently, and those of us who voted for war knew that that would be the case, because when war comes that is human nature and the experience of mankind.

Mr. EDMONDS. I want to say that these wooden ships were designed by Mr. Ferris, one of the most noted marine architects in the country.

Mr. KNUTSON. What is he noted for?

Mr. MANN. For designing these wooden ships. [Laughter.]

Mr. CONNELL. Will the gentleman yield?

Mr. MANN. Yes.

Mr. CONNELL. How about the concrete ships that were built?

Mr. MANN. I do not know, but a gentleman here suggests that that is a concrete proposition. [Laughter.] I yield five minutes to the gentleman from Kentucky [Mr. FIELDS].

Mr. FIELDS. Mr. Chairman, I am confident, in fact I know, that the gentleman from Illinois [Mr. MANN] has expressed the sentiments of the entire membership of the House in his reference to the gentleman from North Carolina [Mr. KITCHIN]. We do miss CLAUDE KITCHIN, and we shall miss him so long as he is absent from the Chamber. The minority, however, was fortunate, indeed, in being able to have selected for its leader the gentleman from Tennessee, who has proven his ability by the way he has led his side of the House. [Applause.]

When I entered this body, more than 10 years ago, the gentleman from Tennessee [Mr. GARRETT] was one of the first Members to particularly attract my attention. I have followed him and studied him from that time until this, and it was gratifying to me, indeed, to hear the gentleman from Illinois [Mr. MANN], whose judgment of men is recognized as authority not only in this body but throughout the country, say a while ago that the gentleman from Tennessee [Mr. GARRETT] is one of the biggest men in public life to-day. [Applause.] Not only have the Members of this body begun to recognize that fact, but the press and the men who mold public sentiment have begun to realize it and talk it throughout the country.

Until recently a statesman in the Southland was in about the same position as a statesman of foreign birth, so far as reaching the Presidency was concerned. But when the conditions existing in a part of the Southland at the last election placed the State of Tennessee in the doubtful column, I thought then of the possibility of one of its favorite sons, and while I am not a prophet and do not profess to be, I want to venture this prophecy now, which may or may not interest the Members of this House, that with the great record of FINIS GARRETT as a national legislator, with his great ability, recognized by all who know him here and elsewhere, and with his State now in the doubtful column, it is not at all improbable that the next Democratic national convention will select him as its standard bearer for the Presidency of the United States. [Applause.]

Mr. MANN. Mr. Chairman, I yield five minutes to the gentleman from California [Mr. CURRY].

Mr. CURRY. Mr. Chairman and gentlemen, the most expensive luxury that can be employed by a private corporation or by the United States Government is a cheap man. The most expensive luxury during the last war was the dollar-a-year men. If the Government had lived up to the law and not tried to escape the law, but had employed able men, capable men, and paid them what they were worth, we would not have wasted the billions of dollars that have been wasted.

A reference was made on the floor of the House a few minutes ago that Swagar Shirley, ex-Member from Kentucky, who was defeated for reelection to this House, was given employment at $25,000 a year. He earned $50,000 a year, and it was money well spent.

So far as the Shipping Board is concerned, it was a mistake from the beginning. The Government from the war has inherited a lot of ships that are of no use, and the Shipping Board ought to get rid of them at any price as soon as possible. I have confidence in Mr. Lasker and Mr. Lissner. They are doing the best they can, and I believe we are going to have more business in government and less government in business in a little while.

They have employed Mr. Frey as one of these six high-salaried men who were spoken of a few moments ago. Mr. Frey is one of the best shipping men in the United States. He learned his business under Mr. Schwerin, in the Pacific Mail, and was made president of the Pacific Mail and made a success of it. He gave up a position of $50,000 a year to take this position as a good, patriotic, American citizen to try to pull us out of the hole we are in on account of the mismanagement of sums which we appropriated for the Shipping Board.

So far as the wooden ships are concerned, a wooden ship properly constructed, with a low-powered Diesel engine, is good enough for the coastwise trade and for some overseas trade. The trouble with the wooden ships that we have that were built during the war is that we paid five times as much for the timber as it was worth, and we had to pay a high price for labor. The timber that was put into those ships was not properly seasoned. It was, to a certain extent, green. It warped and cracked, and it was impossible to calk it so that it

would not leak. In addition to that, they put very expensive, high-powered engines in wooden ships, such as only ought to be put in steel ships. It they had put a Diesel engine in a properly constructed wooden ship, those ships could be sold for what they are worth. We can not expect to-day to get $220 a ton for ships that cost that much during the war.

Mr. MADDEN. They cost $300 per ton.

Mr. CURRY. We can not expect to get $300 a ton for ships when an identical ship can be built at Glasgow for $55 and $60 a ton and those same ships can be built in Philadelphia now for $70 a ton.

Mr. DAVIS of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. CURRY. Yes.

Mr. DAVIS of Tennessee. James A. Farrell made a statement in Cleveland, Ohio, last May in which he said that the ships built by the Shipping Board and the Emergency Fleet Corporation cost now more than the ships of the same character constructed in other countries during the war.

Mr. CURRY. That may be very true. I did not say that they did. I simply said that during the war we paid $300 a ton for the construction of ships that can now be had for $55 to $60 a ton.

Mr. DAVIS of Tennessee. The average price of construction of all the ships is $220 a ton, according to the estimate of Charles M. Schwab and Mr. Piez.

Mr. CURRY. I said $220 a ton in the beginning and was corrected by Mr. MADDEN, who said they cost $300, and I accepted the correction; $220 a ton is four times as much as the ships were worth at any time. The reason the ships will not float is because they were constructed by jackleg carpenters taken up anywhere and given four or five times the wages of good carpenters and good shipwrights; and they bought lumber from people, generally paying from four to five times what the lumber is worth, and the inspectors did not see that the lumber was properly seasoned that was being made into wooden ships; and yet, as I stated before, the wooden ships for certain purposes were just as good as the steel ships. Ninety per cent of the overseas freight of the world is carried in tramps, and the tramp ship is built not for speed but for cargo.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. I yield to the gentleman from Pennsylvania [Mr. KELLY].

Mr. KELLY of Pennsylvania. Mr. Chairman, during the recess upon which we will enter shortly there will be celebrated the six hundredth anniversary of the birth of one of the immortals of world literature, the Italian poet Dante, author of The Inferno. September 14 will be Dante day, in honor of that day in Florence in 1321 when one of the greatest artists of imagery in the world's history first saw the light. "Genius knows no country and overruns all boundary lines." America will honor herself in paying tribute on that day to the poet who visioned the future world and traced in minute detail the dread circles of hades and then the heights of paradise.

To-day I had the pleasure of presenting to President Harding a reproduction of a splendid painting, "Dante and Beatrice," the work of Philip Gambardella, of Pittsburgh, who furnished some of the designs for war posters used by the United States during the war. The President expressed his gratification in receiving this representation of the illustrious Italian poet and his loved Beatrice, the inspiration of his poetry, from an American citizen who was born in the land of Dante.

Mr. Chairman, we are all too apt to forget the debt we owe to other countries and other ages. No country in the world has failed to contribute something to the power and glory of America. There are few countries to whom we owe more than to Italy.

I remember, during the pivotal days of the World War, of standing in our embassy in Rome. A great American flag hung out over the street and almost touched the sidewalk. As our military attaché and myself stood talking together, a little gamin of the streets, about 10 years old, came along and took hold of the flag. The officer started out to seize him, thinking he intended to tear the banner from the staff. But the little lad lifted the corner of the flag to his lips and with all reverence kissed the standard of America.

On the street of the Italian capital I was stopped by an Italian veteran, whose empty sleeve told of his sacrifice for the cause of his country and world civilization. He pointed to the little flag in my buttonhole and asked me if I was an American. When I said that I was, he looked up and declared, "America is an angel in the sky to Italy."

Up on the Alps' peaks I found an Italian battery, where the gunners were sending shells over on the Austrian troops from concealed guns. I was asked to have my picture taken beside the great gun. An Italian private had a miniature camera and he snapped the picture. As he put it back in his pocket, he said in perfect English, "I'll show that picture to my six children in Chicago."

There was a man who had been fighting three long years with the armies of Victor Emmanuel under the tricolor of Italy, but with his heartstrings reaching back to Chicago, United States of America.

I never realized until that trip through Italy in war time how closely that ancient land and the new Republic are bound together. It was a revelation of the fact that the world is indeed a neighborhood.

Like most Americans I did not appreciate the splendid part Italy played in the greatest war in the world's history. But I came back with the knowledge that no nation could perform more marvelous achievements than this old but ever-young nation on the Mediterranean. I have told the story of my experiences in many great gatherings in America, and I desire to record them here in permanent form.

Italy held a front longer than the British and French and American and Belgian lines combined. She faced the military power of Austria and kept the Austrian armies from other fronts. She lost in a single battle more men than fell on both sides in our Battle of Gettysburg. She took hundreds of thousands of prisoners, and stopped great offensives by rushing new armies into place in countless motor trucks, lorries, and automobiles.

Her soldiers fought in mountain trenches, blasted from solid granite, where some of them were frozen to death. They fought in the sun-scorched floor of the Carso, where the bodies of the dead were found baked hard and mummified.

Italy reorganized and rebuilt her industrial, agricultural, and financial systems during the war. She met every difficulty with a smile. When treachery and defeatism resulted in the great disaster of Caporetta, Italy rallied in the midst of defeat, a fact which testified to her temper and spirit as nothing else could do.

I wish every American could have had the opportunity, as I did in 1918, of seeing just how valiant and united and confident the Italians were in the face of their greatest testing time. It would make us all feel like lifting our hats in admiration and respect to Italy.

We took the train at Marseille and skirted the blue sea through the cities of Italy. Every foot of the way is rich with historic interest. Ancient Rome has left her impress on all this country, and it has been the mecca for tourists from every land on the globe. But greater than old Rome, with its grandeur, is new Italy with its modern spirit.

D'Annunzio, the great poet and warrior, expressed the aspirations of Italy in May, 1915, when he said:

> We will no longer be a museum of antiquities, a kind of hostelry, a pleasure resort, under a sky painted over with Prussian blue, for the benefit of international honeymooners. We will take our place in the world as an independent, united commonwealth.

We traveled all night and just at dawn approached the famous old city of Genoa, the birthplace of Columbus. I shall never forget that morning. The sun was a blazing red orb as it pushed up behind the hills. The sky was aflame with color and the air was soft and sweet.

Then on the hill, in that morning glow, we saw a company of Bersaglierri, those famed fighters of Italy, marching along, with the feathers on their hats streaming back, while they sang the songs of fighting Italy. They were as joyous as schoolboys, and when they saw us they saluted and shouted and cheered with might and main.

That was our first welcome to Italy and it was a foretaste of the kindness and hospitality which was shown us everywhere by every Italian, from the King himself down to the humblest citizen in the towns and the last soldier in the ranks.

When we reached Genoa, we found many American soldiers on the streets, and the khaki-clad youths mingled with the greenish-gray garbed Italian soldiers in a comradeship good to see.

Here we met Capt. LaGuardia, then a Member of Congress, who was in Italy with the aviation forces. This Representative was doing a splendid work, and his knowledge of the Italian language has made it possible for him to work in closest connection with the Italian Army. His parents came from Italy to the New World, and the New World gave him welcome and honors. Then he went back to the old land with an American officer's commission and helped to bind the nations together.

Just a few blocks from the American consulate we found the old house where the discoverer of America first saw the light

of day. On the wall of the little building is a bronze tablet with inscription to the immortal adventurer who believed that the world was round and set out across uncharted seas to prove it.

Standing there I thought of that journey of his in that far-off day. Month after month in the wilderness of waters until it seemed that the sight of land would nevermore gladden the eyes of any of the expeditioners. Then came the mate, discouraged and dismayed, saying, "Not even God himself would know if we should perish here. And now, good Admiral, what shall we do?" And the great discoverer, with his eyes fixed on the western horizon, only answered, "Sail on, sail on, sail on."

Mutiny disappeared, doubts vanished, before that invincible will, and they did sail on, on to America, fit symbol of hope and faith and achievement.

Four hundred years and more had passed and now the ships of Columbus were returning, multiplied an hundredfold, to the Italian city which sent forth the discoverer. America was stretching forth her hands to Italy, and the first American force to reach those shores landed at the port of Genoa. It was the vanguard of the army that was to come to fight, shoulder to shoulder, with the men of Italy. The motto of both nations as they faced the stealthy submarines at sea and the brutal Huns on land had become again the motto of Columbus, "Sail on, sail on, sail on." And they will still sail on against whatever dangers and difficulties until the new goal of desire is reached, free nations in a free world.

We went out to the camp of these first American soldiers in Italy. It was situated 2 miles out of the city, and when we arrived there a thrill of pride came to every heart, for there, over the tents that stretched all around, fluttering and waving in the breezes under the famed Italian sky, was Old Glory, the oldest, bravest banner in the world.

It was a camp of American youths, clean-cut as briers, vigorous and virile as champion athletes. They composed the first detachment, United States Army Ambulance Service, and they were there to serve with the Italian Army. Every man seemed aglow with enthusiasm and with the desire to get into the fray at the earliest moment possible.

We talked with the boys, and they told us of their arrival at Genoa on the 1st of July. When they landed and formed in line to march to the camp they found the entire city had turned out to meet and greet them. From the dock to the camp a carpet of flowers had been laid for their marching feet. The streets were crowded with cheering men, women, and children carrying the flags of America and Italy. As the boys marched along flowers were pressed upon them by the women in the streets until they were almost buried under these fragrant offerings of Italy.

The boys told us of the Fourth of July celebration in Genoa, which was another wonderful demonstration of regard. A great fête was arranged, and the troops were reviewed by the mayor and other officials.

The mayor read several unpublished letters of Christopher Columbus reciting his dreams of discovery. This old pathfinder and breaker of traditions was the master dreamer of his age. But still, he never dreamed in all his visions the scene of the Fourth of July, 1918. Here in his own birthplace were the boys from the land he discovered. Greater than the India he sought had become the new western land he found, and its people had become living links in the history of his own native land.

The boys were proud of their officers, proud of their service, and proud of Italy. Many of them urged us to see that the flag which had been made by the Sons of Italy, of Philadelphia, and which had been given to Secretary Baker to be presented to the first troops landing in Italy, should be sent to them.

We found Col. Hallett and Col. Persons and the other officers worthy of these enthusiastic men. Col. Persons said:

America is learning much from this war, and one thing is that Italy, regarded as a decadent nation, is instead strong and virile and brave, worthy to be companion in arms with America. Every man of us all is proud to serve with the Italian fighting forces in this war.

Most of these boys were from Pennsylvania and had been trained at Allentown. They sent messages to relatives and friends through us and I had the pleasure of conveying a number of their messages to fathers and mothers in the old Keystone State. It was amazing to find in every camp we visited, whether in France or England or Italy, so many soldiers from Pennsylvania. They were everywhere—in camps, on the roads, in hospitals, and on the farthest fronts. No wonder that one of the members of our party, from another State, remarked, "It's plain to be seen that this war could not be fought without Pennsylvania."

These boys were organized in sections and each section had 1 commissioned officer, 4 noncoms, and 40 privates. In each section were 12 ambulances, 1 truck, a motor kitchen, and a motor cycle with side car. A number of sections had already been sent to the Italian line on the lower Piave and others were ready for the journey up to the fighting line. The only rivalry was the rivalry to be members of the first section to go. They were there for service, and later Gen. Diaz, commander in chief of the Italian Army, told us that these ambulance sections were filling a need which was imperative.

We bade the boys good-by and good luck, and amid their cheers and shouted messages left the camp. On the train that night on the way to Rome we met a young matron who was returning to her home in Pisa after a visit in Genoa. "I traveled with many friends from Pisa," she said, "to throw flowers on the paths of the American soldiers when they arrived at Genoa, to help show them how my Italy loves your America."

Ah, Genoa, by the blue sea. You gave us Columbus, who gave a new continent to the world. We gave you back our boys by the thousand, who helped to give a new ideal of liberty to the world. Once more it is proven that "like warp and woof all destinies are woven fast." In the web of world record runs a gold thread down the centuries, backward and forward, connecting Genoa and America.

We went on to Rome, where we were met by Ambassador Page, a cultured Virginia scholar and gentleman, who showed us every courtesy possible. He is a lover of Italy and is an authority on ancient Roman history. With him and several Italian officers we went through the ruins of the ancient city by the Tiber. We saw the Coliseum, Pantheon, Forum, and all that enchanted ground of literature and history and art. This old city is filled with scenes memorable in the story of the progress of man. We visited the wonderful church of St. Peters and the hall of the Vatican, both of which glow with the living marble and canvas.

In Rome we had the honor of meeting Senator Marconi, inventor of the wireless telegraph. I had met him before, on the occasion of his visit to the House of Representatives as a member of the Italian mission to America. At that time he did not intend to address the House, but the Members would not permit him to remain silent. As the inventor of the wireless, his name was a household word and the demands for a speech were insistent. It was an extemporaneous utterance, but so eloquent and gracious that he was given an ovation at its conclusion. From his own experience he declared that he could affirm that America is the fairest Nation on earth to those who come to her shores from other lands.

We found Senator Marconi in his home the same gracious gentleman. He insisted on arranging a luncheon, where we met some of the leaders in Italian affairs. Later we were given a reception by the Italian Parliament, and he was present as a member of the senate.

He was working under utmost strain on his new system of wireless telephony, and Col. Buckley, military attaché at our embassy, told us that he had talked from an airplane more than a mile in the air with Senator Marconi in his office.

This modest, unassuming genius was one of the leading figures in this war. Without his wireless snapping its messages from the mast of every vessel at sea, I believe the German submarines would have driven allied shipping from the ocean. America could never have sent 2,000,000 soldiers, with their supplies, across 3,000 miles of water had it not been for the wireless, with its constant connection between the vessels and the homeland. That marvelous use of the waves of the air, visioned by the young lad in Bologna University when he was but 22 years of age, had come to fruition just in time to meet and overmatch the stilettos of the sea sent out by Prussia.

His heartbreaking days of experiment and delay and discouragement were over in 1914. The wireless was a practical and efficient means of communication, proved in a hundred ways. And Marconi, still a young man, plans still greater things, and the young nation in whose councils he sits is also planning greater things for the future. In the list of Italy's contributions to the cause of civilization in the Great War we must put in a high place the wireless telegraph and the name of Senator Guglielmo Marconi.

On leaving Rome we went due north to Padua, that famed old city with its world-renowned university. We inspected the damage which had been wrought in its old cathedrals and public buildings by the Austrian bombing machines, and felt a new hatred against these modern vandals, to whom nothing is sacred. Though Austria and Germany were put in the galleys for a hundred years of unrequited labor, they could not pay for the destruction of these priceless relics of a bygone civilization.

From Padua we were taken to the Italian lines on the Piave River, and we followed the trenches for miles. As we traveled toward the river we went over roads which were screened for

miles with a heavy matting of woven reeds and grass, extending some 12 feet above the ground. This was necessary, as these roads were under direct observation by the Austrians. In some places the screen ran on both sides and overhead, so that we were traveling through veritable tunnels.

Everywhere we saw Italian soldiers, either on their way to the front or returning. Sometimes there would be a detachment out in the fields, and then it was difficult to distinguish them. The Italian uniform was the least visible in all Europe. It is a kind of greenish gray, and blends into the surroundings, so that you can pass a group at a hundred feet and never see them. It is uncanny to observe how companies of these soldiers disappear before your eyes. The Italians love gaudy colors, but they know that there is no place for them in modern war, and their wisdom is shown in their uniforms, which are worn by officers and men alike.

These soldiers were hardy, vigorous fighting men. Many of them were 6 feet tall and broad in proportion. They were the young army of an old race. As I looked at them I thought of the taunt of old Emperor Francis Joseph, who said that the Italian Army was made up of mandolin players, beggars, and brigands. And I thought of the Italian paper I saw in Rome with its cartoon showing that same old Emperor limping away after a great Italian victory under a shower of musical instruments. The mandolin players had put the boasted Austrians to flight and had exacted full payment for the insult.

In the veins of many of these soldiers ran the old heroic strain of imperial Rome. Their ancestry fought under the eagles of Cæsar when his legions ruled the world. The summons to arms in a great cause had awakened the old fires, and one could almost see in their faces the features of the founders of the Eternal City on her seven hills.

Their nation went down into darkness for centuries, but they have climbed out of it, and are headed toward the heights and the sunshine.

We drove along the road and passed many Italian batteries skillfully concealed. Then came a singing whine in the air and a great crash as a shrapnel shell exploded overhead. The Austrians had seen the dust rising and had decided to waste a few shells on us. We stopped behind a little bank and the shells screamed over us and around us but did no damage.

While we were waiting for the bombardment to cease I made a little trip through a field that was traversed by trenches. Great fragments of shells lay everywhere and I found a box of cartridges, which had been left behind by some stricken Italian soldier. I picked up an Austrian trench tool and brought it home as a souvenir.

All around were little wooden crosses marking the graves of Italian soldiers who had died in the great victory of the Piave. All they had they had given to save their country and mankind and scorned to save themselves.

We drove out at last and down the roads toward Venice and her lagoons. The Austrian trenches were just across the river, and there was intermittent firing. But that Austrian line on the other side of the river marked perhaps the greatest triumph for the Allies since the Battle of the Marne. The Austrians had swept across that river in June, 1918, in a tremendous blow which was to end in the capture of Venice, Padua, and the rich Province of Savoy. But Gen. Diaz was ready and delivered a counteroffensive, which broke the back of the Austrian drive. The rains made the Piave a raging torrent, and within a week the Austrian Army was a panic-stricken mob as it sought to cross that river again. They had lost 200,000 men and great quantities of guns and munitions. It was a great message for the world when the news went out, "The enemy has been beaten back across the Piave from Montello to the sea." President Wilson well expressed it when he said:

> Gen. Diaz's victory over the Austrians at the Piave was a very great blow, not only for the liberties of Italy but for the world.

Late in the evening we reached the great lake of the Piave in which Venice is situated. Across the waters we could see the wonderful church of St. Mark's and the buildings which have made this rare old city, which has been one of the world's shrines. It had been bombed many times and great destruction wrought. But still there stood the Lion of St. Mark's, looking out to the enemy's lines and waiting confidently for the day when no enemy should pollute the soil of Italy and the old limits of the Italy irredenta should be restored to a united nation.

That night, back in Padua, I saw an Austrian bombing plane, bent on destruction, put to flight by the very appearance of a Caproni machine handled by an Italian aviator. It was 2 o'clock in the morning when I was awakened by the Austrian motor, and I got out on the court just in time to see a great Caproni mount into the air and make for the invader. The Austrian stood not on the order of going but whirled and made for the frontier at full speed. One bomb had been dropped, but little damage had resulted.

When the complete history of the war is written the name of Caproni will have no small place. This 32-year-old genius of aircraft had produced those great eagles which soar over Italy in protection and Austria and Germany in retribution.

After all the difficulties which come apparently to every inventor, Caproni's machine, in 1914, in open contest with all rivals, proved its superiority and was adopted by the Italian Government. At the first trumpet blast of war the great Capronis flung themselves against the enemy. They took part in every battle and made many victories possible. I saw them by the score sailing the blue sky of Italy challenging the approach of an enemy. When anyone asks what Italy did in the war, mention the name of Caproni, of Italy, whose machines were used on every front.

The next morning Col. Visconti, of the cavalry, and member of a noble family whose name may be found in the records of ancient Rome, insisted that we should see Monte Grappa, one of the key positions in the mountain front.

We started early, and traveled rapidly in one of the splendid Fiat cars over roads everywhere kept in repair by peasants too old for the army. These men toiled away, early and late, keeping those thoroughfares in first-class condition for the needs of war. They worked with the patience and persistence of these peasants, who are glad to do their bit for their country.

As we moved along through Mestre, Castelfranco, Treviso, Bassano, and other towns we saw increasing signs of war. Buildings by the hundreds had been wrecked by shell fire and bombs from airplanes. Here and there little villages had been entirely destroyed, not a building left intact. Then we came to base camps, remount depots, aviation schools, ammunition dumps, and supply depots of all kinds.

The roads began to fill with marching troops, all bound for the front. Once in a while we would see groups of Austrian prisoners on their way back to prison camps.

Then we saw the mountains before us, Monte Grappa looming out above the others. Its sheer sides mount more than 5,000 feet in the air directly from the plain. Stretching north are dozens of other stark peaks, their sides almost as straight as those of a house.

We could see winding round and round the side of the peak the wonderful road which had been built in three months. Talk about your engineering. It was a marvelous feat to blast that shelf on the mountain, and it was done by Italian engineers, who proved many times in the war that they have no superiors in the world.

This road was just wide enough for two automobiles, and our soldier chauffeur started up its steep grade at 30 miles an hour. It was a thrilling moment when we met the first great camion coming down. We turned out, and when we passed the outer wheels of our automobile were grazing the edge of the precipice. You could look down a sheer drop of a thousand feet. We met scores of these mountain lorries, and each time there was a deeper precipice. It made me feel, like Kipling's gunner, that we were "running with one wheel on the horns of the morning and the other on the edge of the pit." Or, as one of our party said, "It was like walking on a shingle roof with smooth-soled shoes." I know that a trip I made later 5,000 feet above the sea in a hydroplane, whose pilot was giving a fantastic exhibition, did not have as many thrills for me as that ride up the sheer sides of Monte Grappa, where a mistake of 2 inches would have landed automobile and passengers at the bottom several thousand feet below.

But that Italian private never turned a hair. He went around those trucks with a sweep, never even straightening himself in his seat. I saw Italian soldiers under shell fire laughing and talking, but as an exhibition of absolute self-control and nerve I give the palm to the chauffeur that day on Monte Grappa.

About half way up the mountain we came to a little table-land, with a number of soldiers in little tents. We got out and made an inspection, finding that it was a battery of 6-inch guns, although it required careful searching to find the guns. They were set up in holes blasted in the mountain and camouflaged with leaves and grass in a remarkable way. Their muzzles were pointed up to the sky, and when they were fired the shells went up over the peaks to land among the Austrians several miles away.

In the old days of warfare the big guns were for the purpose of commanding the field of battle, and were placed in positions where they could directly sweep the enemy. To-day these great guns command nothing. Their muzzles are sky-turned and the gunners never see the objects at which they are aimed.

The Austrian guns over behind the other peaks were the same. Now and then a shell would burst over us, and several times men were wounded by the flying fragments of shrapnel. Then the guns would give vengeful answer, and the echoes would sound like repeated crashes of thunder.

Among these gunners we found several men who had returned from America to take up arms for Italy. They were delighted to see Americans, and expressed the utmost confidence in the outcome of the war since America had come in. One of them said: "I would gladly die in this fight, for I would give my life to help my two countries—Italy and America."

On up the mountain we went on that shelf road. We saw trenches that had been blasted out of the solid rock. Almost at the very top we saw hundreds of soldiers living in caves blasted into the mountain. The air was cold, and it was easy to understand the rigors of winter on this front. However, these Alpine fighters are mountaineers, and they know more about this kind of fighting than any other soldiers in the world. It was due to their skill, hardihood, and courage that the Austrians could make no advances in the mountains. They were gay fighters, too, and their turned-up felt hats, with the eagle's feathers, gave them a jaunty appearance in keeping with their character.

Here we saw the famous teleferic or aerial tramway which had been devised to carry men and supplies up to otherwise inaccessible peaks. These fragile wire railways were rather dangerous looking methods of transportation, but they had made war possible in the very peaks of the Alps. The teleferic was the basket that ran suspended on grooved wheels from an overhead wire. It had metaled sides about 9 inches high and was large enough to carry two passengers. The wire rope ran over a drum at each end of the course and formed a double line of overhead railway, one car going up as the other came down. I saw stores, ammunition, and supplies being swung from one peak to the other by these wire railways in places where there was a sheer drop of 5,000 feet. There was danger in a high wind that one car would strike the other and be thrown on the wire, but in such conditions human passengers were not supposed to be carried.

At the farther point on Monte Grappa we had a view beyond description. We could see the great mountain peaks to the sides and north, while behind us to the south lay the beautiful valley of the Piave. The plain looked like a multicolored checkerboard, the little Italian fields, placed close together without fences, being the squares. Through the plain, like a thread of silver, ran the Piave River, which has seen the battles of 2,000 years come and go.

Beneath us we could see the fields of the great battles in November, 1917, and June, 1918. There was where the Italian Army rallied after its disastrous collapse at Caporetta. On this mountain and in the valley the Italian soldiers bared their breasts and fought almost weaponless in 1917, stemming the sweep of the Austrian Army that had profited from treachery and defeatism in the Italian ranks. Here, too, the Italians held firm in the great offensive of June, 1918, and although at one time they were almost surrounded, Monte Grappa could not be taken by the Austrians, and without it they were lost. No braver name came out of this war than that of this guardian peak where men fought and died but conquered—Monte Grappa.

One morning we were told that if we desired we might see several hundred Italian soldiers decorated for bravery at a great ceremony at Treviso. Of course, we expressed our eagerness to go, and were taken in automobile to the scene. Treviso was the objective in the last days of the great Austrian offensive, but the Austrians never captured it, although great damage was done to its buildings. It is an historic town and a great railroad center.

When we reached the town we were taken at once to the great fairgrounds where the ceremony was to be held. It was a matchless place for the spectacle which had been arranged. Three sides of a square stretched out from the great stand where the King of Italy, many Italian, French, and British officers were gathered. Behind them stretched the seats filled with spectators. In those three lines, each a quarter of a mile long, were 10,000 Italian soldiers from all the different organizations of the army.

There were the Bersaglieri, far-famed fighters, with the feathers in their hats. There were the machine gunners and the field artillery. There were the bicycle corps, with their wheeled steeds. There were the cavalrymen, dashing riders, carrying lances and colors and reminding one of the tourneys of the Middle Ages. There were the Carbiniri, dressed like city dandies, with huge tri-cornered hats and scarlet facing on their uniforms. Their record of service, however, would make any troops proud. There were the Alpini, just come from fighting in their Alpine Mountains.

Then last, but by no means least, there were the Arditi, the famous shock troops of the Italian Army. These fighters wore a distinctive uniform with black jerseys. They went into battle with hand grenades and a knife, the knife between their teeth and the grenades in their hands and in a belt around their waists. These troops were only used for assault, and after they had taken the objective trenches, they were brought back behind the lines to await the order for the next assault.

So deadly was this fighting that it is said the entire organization was destroyed every three months. But such was the glory of the service and the desire for it on the part of the Italian soldiers that there was a long waiting list always on hand from those who wished to be transferred to the Arditi.

While I was watching the ceremony a young lieutenant told me of his brother, who had been a captain of Arditi. He had been wounded 22 times and had been decorated for valor 6 times. Then he was given a leave of absence for three weeks. Just as he was about to leave the orders came to send the Arditi forward to the assault. The captain threw down his leave of absence, went to the head of his troops, and was killed. It was the end of a wonderful service; but the records of the Arditi show many cases like it.

The mortality among Italian officers has been great because the Italian officers fight at the head of their men. In the Austrian Army the opposite principle prevails, the officers staying behind their men.

When peril was to be faced the Italian officers were foremost. It is said that an Austrian general once gave orders for expert marksmen to pick off the Italian officers whenever possible. He explained that there would be no difficulty in distinguishing them because of their habit of exposing themselves to the hottest fire.

At this great Treviso ceremony, the King of Italy himself was in charge, assisted by his cousin, Duke D'Aosti, and Gen. Diaz, commander in chief of the Italian Army. A name would be called and a soldier advanced from the column that was drawn up close to the platform. He mounted the steps, faced the King, and saluted. The King gave him a word of congratulation, to which the soldier responded and then stepped back a pace, saluted, and made his way off the platform to the other side.

It was of great interest to see the regard in which their King was held by all these wiry fighters. They seemed to know him as a brother in arms, their chief but one of themselves after all. The fraternal spirit everywhere in evidence between officers and men were more than likely due to the King himself. One thing can be said, there was not a more democratic army in the world than that of Italy.

That word "democratic" describes the King better than any other. He is a most unassuming man. He was at the front always and had exactly the same 15 days' leave a year which is granted to all other officers. His palace in Rome had been turned into a hospital; the queen was one of the nurses and the royal family had taken its place in the organization through which Italy made war.

I was told by several soldiers that in the thickest fire in the trenches they had found beside them an officer wearing no orders or badges and dressed in the same uniform as themselves. It was the King, unattended and alone, sharing the same dangers and hardships as the humblest private.

I had the privilege of meeting the King on several occasions and each time I was struck with his unassuming manner. He is under average height, slight in build but with strong physique. His eyes attract all observers; they are so intelligent and quick and sympathetic that he seems to know exactly what one desires to say. He speaks English fluently and without an accent.

The first occasion of my meeting him was at dinner at his headquarters, with a number of the officers of the Commando Supremo. He met us cordially, shook hands, and began talking at once of the situation at the front. When one of our party facetiously remarked that he had been along the Piave all afternoon and had only witnessed the explosion of a few Austrian shells, the King spoke quickly, "Ah, you should be glad of that. If you had seen men wounded and killed by the thousands by those shells, as I have, you would be thankful for quiet days like that you have experienced."

Then he went on to tell us of terrible struggles, where brave men had stood and died, and where it had been impossible to give them proper care. He expressed his delight that America had sent the detachment of ambulance troops and declared it would have a tremendous effect for good.

"Italy is proud to fight with America," he said, "and America's help will greatly shorten the war."

One could easily see that King Victor Emmanuel can not be a Napoleon, wading through a sea of blood to attain an imperial desire. He suffers too much with his suffering people for that. He can never be a military commander who would count living men as only so much cannon fodder. He is not even a great king, if to be that means disregard of his people and their lives.

But if it is kinglike to care for his people like a father, to feel their sufferings in his own heart, and to grieve for the lives that go out on the battle lines with a sense of personal loss; if it is kinglike to be a brother to the very humblest soldier in the ranks and to desire safety and happiness for them all, then Victor Emmanuel is a king, indeed.

At this Treviso ceremony the King decorated with his own hand several hundred soldiers and Red Cross workers and spoke a personal word to each one. All the time the photographers of the Italian Army and the American Committee on Public Information and certain American magazines were busy at the task of getting this historic scene on the films.

Out in front, 50 feet from the platform, stood a score of men holding the banners of the different regiments represented. In front of them were the bands of the regiments which furnished music during the hours that the ceremony lasted.

The dignified bandmaster, who led this augmented band, was a sight worth seeing himself. His musicians faced the King and when the bands first took their places it was plain to see that the bandmaster was puzzled as to whether he should face his band and turn his back to the King or face the King and turn his back to the band. However, he quickly decided the question in favor of the King, and therefore he was compelled to direct his band with back toward them. It was rather difficult, as he was forced to use the opposite arm in giving directions, but he came through with flying colors and preserved the proper etiquette.

At last all the decorations were presented, and then followed a grand review of all the troops in the field. They went by in gallant fashion, these men who had dared death on a hundred battle fields, saluting their King and commander in chief as they passed. After them came a great captive balloon, held by ropes to a motor truck, and the observers in the basket saluted as they swept by. Last came five great Caproni airplanes, circling the great course like eagles, and dipping down in a graceful bow as they passed the King and Gen. Diaz.

It was a wonderful sight and one that I shall never forget, that great living square of fighting men on dress parade before their King; that column of nine hundred and more who were decorated for valor on the field of battle; that martial music, which thrilled everyone who heard it.

Then the music was stilled, the pageant dissolved, and the fighters went back to the mud of the Piave and the snow of the Alps to face the enemy, whose guns could even then be heard booming in the distance.

That was Italy. She loved pomp and parade in the sunshine, with music and crowds. But she left all that to endure hardship and dangers in obscurity, freezing and burning and hungering and dying for a great ideal—a united Italy and a free world. Those men in Treviso and 4,000,000 more like them gladly offered all they had to save civilization from the Hun. They formed a living breastwork, over which was an inscription in letters of fire, which they made good with their bodies and their lives: "The barbarians shall not pass."

That night we had a visit with Gen. Diaz, commander in chief of the army. He is a natural commander, with a magnetic personality. All the officers under him love him and admire him. He did not speak English, but his words were interpreted by Col. Buckley and aroused our enthusiasm. He paid a remarkable tribute to America and to the marvelous way in which our Army had been raised, equipped, and transported overseas.

Then he said:

Give me 250,000 of those American soldiers. We will first shake hands with them and then start for Vienna, where we will arrive in three months.

Italy was a member of the Triple Alliance in 1914. But the Kaiser knew she was a lukewarm member and one that would not join in his plans of world conquest. He did not ask that, but he did ask Italy to keep France in doubt as to her intention to be neutral in case of war.

But Italy would not consent to even that. On June 30, two days before Germany declared war on France, the French ambassador at Rome was given the assurance that Italy would not join Germany in a war of aggression. This word was immediately telegraphed to Paris. Then, on August 2, two days before England declared war on Germany, the Italian Government decided on neutrality.

At 1 o'clock in the morning the word came to the Italian diplomat in Paris. He immediately went to the home of Premier Viviani with the news. Viviani, at the entrance of his visitor at such an hour, was convinced that it could only mean that Italy had joined Germany. When he learned the truth he was overjoyed.

But Italy did not stop there. She immediately ordered the withdrawal of her troops 20 kilometers from the French border as evidence that she did not intend an attack.

Viviani ordered that the million men who were along the border should be rushed at once to the Marne. That million men, left free for action by the instant decision of Italy, stopped the drive of the Germans on Paris, won the Battle of the Marne, and saved Paris in those dark days in September, 1914.

Senator Marconi, in a speech in New York, said:

Had there been the slightest hesitation, the least vacillation on the part of Italy, France would not have dared to withdraw a single soldier from the Italian border and the history of the world would have been differently written.

When critics try to cast aspersions on Italy, I ask them to remember this vital action for the Allies at a time when all the world seemed tottering and crashing.

But this declaration of neutrality was not all. In May, 1915, Italy threw her force into the war on the side of the Allies. Was she bargaining then? If so, she should have joined Germany, for the Kaiser in that day was all victorious. It was the darkest day for the Allies. Russia was meeting with heavy reverses. England had not organized her great army. France was gasping under the tremendous effort of bearing the brunt of the battle alone. Belgium was prostrate under the mailed heel of Prussia.

But in that dark hour, with the Central Powers threatening sweeping offensives on every front, Italy stepped out and drew her sword for the cause of the Allies, whose cause was humanity and liberty.

She knew well that the war would be long and bloody. She knew well that she would draw upon her own breast the attacks of her enemies, and that she would face invasion and spoliation.

But Italy could take no other course. If the Government had dared do otherwise, there would have been revolution and a new Government, but the Italians would not fight for Germany and Austria. They showed the meaning of the Italian people in a hundred ways in the early months of 1915 when great meetings were held in every town in Italy calling for war against the Central Powers.

Austria had hung over Italy like a giant vulture. Trentino and Trieste were its talons stuck into the breast of Italy, perpetually menacing her safety. They were Italian, and yet they were fortified with Austrian fortresses, military roads, and so forth, and made ready for bases from which to strike deadly blows at Italy.

Trentino had 347,000 inhabitants, and 337,000 of them were Italians. It stretched down into Italy like a pistol aimed at her heart. It was an armed camp in the very midst of Italy, from which invaders could always threaten her life by cutting the lines between her richest cities.

Trieste was just as overwhelmingly Italian, but the Austrians have ruled them with brutal despotism. The singing of Italian songs led to jail. No Italian could have a place in any of the Government industries or services, and thousands of them had been deported simply to make room for men of other races.

Trentino and Trieste have been given back to Italy, just as Alsace-Lorraine went to France. It was no more imperialistic for Italy to demand her stolen Provinces than for France to demand her own, and the American sense of fair play helped throw the weight of America on the side of this just act at the peace table as American arms helped accomplish it on the battle field.

I saw Italy's far-flung battle lines, where she held a million Austrians at bay in mountains and on plains. I saw the magnificent support given the army by the civilian population, even while they braved many dangers themselves.

I saw her soldiers and her civilians, and her wonderful works of art covered with sandbags to shield them from the vandals. I saw her fighters facing death with a smile and her sailors going down in ships where they took death as a companion on every voyage.

I would not paint Italy in rose-colored hue, as though she had never failed and faltered. I know that her record included defeat and victory; she had her Caporetta as well as her Gorizia and Monte Grappa.

But remember she preferred, when she went to war, the wounds that are honorable to the shame of hidden bruises. When defeat came she rallied and her men held back the foe

with bare arms until new weapons could be fashioned. She had the loss of her bravest and best, and their memory and the desire to be worthy of them made her stronger to do and dare in the common cause.

America was brother in arms with Italy. She will be bound to Italy in the future. We have much from Italy for which to be thankful. We can not forget the illustrious sons Italy has given the world in the past. Galileo and Bruno, the scientists; Dante, Petrarch, Ariosti, and Tasso, the poets; Michel-Angelo and Raphael and Titian, the artists; Verdi, Rossini, and Bellini, the composers.

We can not forget those social regenerators, Savanarola and Rienzi; those statesmen, Cavour and Victor Emmanuel; those pariots, Mazzini and Garibaldi.

We owe Italy our gratitude for the shining names of Diaz, Marconi, Caproni, that other Victor Emmanuel, Sonnino, and Commander Rizzo. These bind us together with links which, pray God, shall never part.

There are millions of men and women in America to-day who were born in sunny Italy. They and their sons and daughters are being interwoven into the fabric of the Republic, becoming a part of a great new race, the American. Their true friends lose no opportunity in emphasizing to them that they can best honor the land of their birth by being loyal, law-abiding, single-hearted, true-blue American citizens. They need America and America needs their devotion. We should all stress the memories and the deeds which bind us together, laying deep and sure the foundations for genuine comradeship between Italy and America which shall endure through all the years to come.

For that reason it seems to me a worthy thing that Americans shall help to celebrate the natal day of Italy's greatest poet, whose works are the possession of the world, and on September 14 honor ourselves by showing appreciation of the genius and the culture, the hopes and the aspirations, the struggles, and the achievements of our brother land in war and in peace—Italy, the land of Dante.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MONDELL. Mr. Chairman, the resolution for recess provides for the next session of the Congress on the 21st of September. Gentlemen are well aware that the program of the House has so far progressed that until the Senate has disposed of some of the very important matters which we have sent to that body there is no good reason why the House should be in session transacting business. It occurs to me that we can in no way advance the public interest by discussing or passing legislation until the Senate shall have taken some action on the legislation we have sent to that body—the tariff bill, the tax bill, the railroad bill, the Indian Bureau bill, the bill for the revision of the laws, and various other measures which we have considered, that body must consider before they shall have caught up with the program of the House.

In that state of affairs, after consultation with gentlemen on both sides, I feel like taking the responsibility of suggesting an understanding under which gentlemen need not expect that the House will transact business until about Monday, the 3d day of October. [Applause.] If some gentlemen did not return until Tuesday they might not find that anything important had occurred on Monday. It may, of course, happen that before that time conditions will arise which we can not now foresee that will necessitate a quorum. If there is any prospect of that condition of affairs arising, Members will be notified sufficiently in advance that they will be able to reach Washington. But, barring some very unusual and unexpected happening, I think we can all agree that gentlemen may make their arrangements to return here Monday or Tuesday, the 3d or 4th of October, and if they are needed sooner we will try to give them notice. I make this statement, I understand, with the approval of the gentlemen on both sides. I have discussed the matter with many of them. I believe that we may very properly extend our recess, and I am sure we can do it without in any way neglecting the public business.

Mr. Chairman, we are about to recess after four months of a very busy special session. As one having had some responsibility, I want to thank the gentlemen on both sides for the kindness and the courtesy they have shown me. [Applause.] I want to thank them for the splendid cooperation we have had. I wish that I could feel that I have at all times and at every moment of the time been as entirely considerate of gentlemen as all of the gentlemen on both sides have been of me. We are all mortal, and I realize that I am among those that are very mortal, and that sometimes in the press of business, and perhaps a little weary and nervous, my disposition may not be entirely angelic. For any momentary lapse I hope to be excused and forgiven. [Applause.]

Mr. Chairman, the House of Representatives having completed its consideration of the program for which the Congress was called in extraordinary session in April, the Congress which it has been possible to complete in the continuous sittings since we assembled, it is proposed that the Congress stand in recess for approximately 30 days in order to give the Senate committees the opportunity to consider important legislation which has passed the House, particularly the tariff and revenue bills.

A brief recess has been abundantly earned and Members can return to their homes with the satisfaction which comes from consciousness of important and arduous duties faithfully performed. [Applause.]

It can be said without the slightest exaggeration and without fear of successful contradiction, that no Congress in American history has made a better record of continuous and conscientious consideration of the public business or of meritorious accomplishment in a wide field of legislation than the present Congress. [Applause]. Meeting April 11 the Congress has continued its labors through the hottest summer the National Capital has known in a generation, and now proposes to take a brief breathing spell during which the Senate committees, undisturbed by the requirement of attendance upon the Senate sessions, may have an opportunity to give undivided attention to the two great measures of tariff and tax revision, which are now before them.

Under the Constitution, the House of Representatives initiates tariff, tax, and appropriation bills, hence at any given time in the progress of such legislation the House program is beyond that of the Senate, and owing to the House rules, which make prompt action on general legislation possible, it is not unusual for the general House program to be advanced beyond that of the Senate. This is the situation at this time rendering the proposed recess desirable as a means of expediting the consideration of the important measures now before the Senate committees.

THE WORK OF THE HOUSE.

Speaking particularly from the standpoint of the House, not only does the record of this session compare favorably with that of any other session, but after a careful review of the history of the Congress for a quarter of a century, during which I have been a Member of it, and of the Congresses before my time, I feel fully justified in saying that in no Congress in American history has the House of Representatives considered and passed upon, in the same length of time, so many important, far-reaching, and vital problems of legislation as in the portion of this special session which is now passing into history. I have no fear of the verdict of history relative to the wisdom of the action we have taken, but whatever one's opinion may be as to that there can be no difference of opinion relative to either the volume or the importance of the legislation we have considered in the little more than four months during which we have been in session. [Applause.]

It would take much more time than I have at my disposal to even briefly outline the provisions of all the important measures that have passed both Houses and become laws, of the more important measures that have passed the House and now await action by the Senate, and of the measures that still remain in conference. I shall refer in some little detail to but few of them and must content myself with merely cataloguing the remainder.

Realizing the tremendous public interest in the tariff and tax bills which have recently passed the House, I shall refer to them briefly before taking up the important measures which have become laws.

THE TARIFF BILL.

The Fordney tariff bill, which will take from the statute books the makeshift Underwood tariff law that would have wrecked the industries and the productive activities of the country but for the European war, will restore and reestablish in America, to the benefit of every section of our country, the equitable and beneficent principles of a Republican protective tariff. There is always ground for honest difference of opinion as to details of schedules even among protectionists, and it can never be fairly said that any general tariff revision is ideally perfect in all of its thousands of items and provisions. Notwithstanding the inevitable difference of opinion as to some details of its many schedules and provisions, the fact remains that the Fordney tariff bill has met less criticism, not only from the standpoint of those who believe in the principle of protection but from others who, while not protectionists, honestly analyze a tariff measure from the viewpoint of its effect on the business, industry, and production of the country than any measure presented to or passed by the House of Representatives in the last half century.

THE TAX-REDUCTION ACT.

The country will welcome and applaud a tax measure which immediately and for the present calendar year lifts $250,000,000 of taxes from the shoulders of families of small incomes and from the traveling and consuming public; that in the next fiscal year will lighten the tax burden where it is the heaviest, where it is most annoying and vexatious, where the levies most tend to pass the burdens in increased amounts to the shoulders of the ultimate consumer, where they most retard, restrict, and discourage thrift, enterprise, and the resumption of the normal flow of production and industry in the sum of $600,000,000; a measure which eventually in full fruition will lift from the shoulders of our people of every class a sum in excess of $800,000,000.

FIRST RELIEF TO HEADS OF FAMILIES.

As is entirely appropriate, the first and immediate relief from war taxes comes to families having an income of less than $5,000. For them there is, for the current calendar year, an additional exemption of $500 from income tax and an additional exemption of $200 for each dependent. There are over 3,000,000 heads of families benefited by this provision. On the passage of the bill, or on January 1 next, the country is to have relief from the payment of the so-called nuisance taxes. Uncle Sam is no longer to collect pennies at soda fountains or pass the hat around for small contributions on purchases of pills, liniments, or baseball bats. The country is to have a welcome relief from stamp taxes, from taxes on articles of apparel and all everyday sporting goods. Transportation taxes—passenger, freight, and express—go by the board and are to be relegated to the limbo of war levies not justified in times of peace. With these reductions comes the repeal of the excess-profits tax—a tax that has worked hardship and injustice upon the people of small means engaged in new and venturesome enterprises in innumerable cases; a tax which even when paid by those who actually made large profits has unquestionably been passed on to the ultimate consumer more successfully than any other tax we have collected; a tax which has prevented free transfer of properties, or the inauguration of new enterprises out of a fear that, even if successful, the fruits of years of efforts may be claimed by the taxgatherer.

RETAINS TAX OF 40 CENTS PER DOLLAR ON LARGE INCOMES.

Still retaining an income tax of 40 cents on the dollar on large incomes the war levies above that amount are repealed, to take effect next year. These repeals follow the spirit of the declarations of both party platforms and the specific recommendations of Presidents Wilson and Harding, of three Secretaries of the Treasury under the Wilson administration—McAdoo, Houston, and GLASS—as well as of the present Secretary of the Treasury, Mr. Mellon. These high levies which have been repealed are clearly levies of war and emergency, prevailing nowhere except under stress of war burdens. In time of peace they drive funds needed in productive industry and for the employment of labor into tax-free securities, dry up sources from which, in the absence of such a tax, housing and building enterprises, mine and land development and improvement projects, and new ventures of all kinds secure a considerable portion of their funds.

FURTHER REDUCTION LATER.

In the presence of the enormous overhang of war expenditure it was not possible to bring Federal taxes down to what should be their normal and peace level. This will be the work to be accomplished in the next revision which, if all goes well, should not be long delayed. In fact, it was necessary to place temporarily some new levies to replace a small portion of the very heavy reductions in revenues which the provisions of the bill would produce. These include an increase of 2½ per cent in the flat tax on corporations from January next; a small tax to be paid by the manufacturers of carbonic-acid gas, fruit juices and fountain sirups, and cereal beverages, and the retention of a small tax on candy and jewelry.

These measures are now in the hands of the Senate. During the recess the Senate committee will give them careful consideration and attention, and on our return a month hence we hope to have speedy action on these measures, with such modifications as may be agreed upon between the two Houses.

MEASURES THAT HAVE BECOME LAWS.

Sixty-five bills and resolutions have become law since Congress met on the 11th of April, more than one bill for every two days of the session, and while the number of bills passed is not, considered by itself, a proper criterion of the value of the labors of a legislative body, when the importance of a majority of these bills is considered the number which have become laws is a striking illustration of the diligence and activity of the session. In addition to these 65 laws, 75 bills and resolutions have passed the House and are now before the Senate, and one bill has passed both bodies, is now in conference, and can be promptly considered on reconvening. Considering, approximately in the order of their passage, the more important bills that have become laws during the session, they are:

EMERGENCY TARIFF.

The emergency tariff on agricultural products, a measure the enactment of which checked, to a certain extent at least, the threatened flooding of our markets at a time when the reaction from high war prices had brought many of the agricultural products of the country to a price far below the cost of production. Conditions which no legislation could change or modify have continued their depressing effect on many staple agricultural products, and yet the emergency tariff promptly passed and recently extended has undoubtedly so steadied the markets as to prevent wide fluctuations and further low levels of prices which, while infinitely harmful to the producer, would have brought but little, if any, benefit to the ultimate consumer. An important feature of this measure is the dye-embargo provision, essential to the development of the exceedingly important dye and chemical industries of the country. The recent extension of this act will carry its benefits to the time when permanent provision may be made in the enactment of the Fordney tariff bill.

IMMIGRATION RESTRICTION BILL.

The immigration restriction bill provides in a practical and workable way for the staying of the great volume of the tide of immigration threatened as an after effect of the war. While America regrets to even partially close her gates against those who in good faith and with good intentions seek our shores, this measure was necessary as a means of preventing a flood tide of immigration, not all of a desirable character and beyond our capacity to speedily assimilate.

THE BUDGET BILL.

The bill providing for a budget system brought to a realization the hopes of those who have been laboring for a generation or more for a more businesslike, scientific, economy-urging system of estimates, appropriations, and expenditures. We have already experienced great benefits through the establishment of a budget system in the checks which have come through that system upon the expenditures of the executive departments. The influence and agencies of the budget system, under the direction of the President as the head of that system, brought the decisions relative to economy in expenditure which made possible the lifting of so large a portion of the Federal taxes in the tax reduction bill. The budget law has already justified the highest expectations of its friends and framers, and there is every reason to believe that it will prove to be what has been claimed for it—the greatest reform in governmental procedure in half a century.

THE PEACE RESOLUTION.

The peace resolution declared the end of the state of war, the existence of which was proclaimed by the war declaration. It placed us in a position of official peace with Germany and Austria and paved the way for the negotiations now being carried on looking to the reestablishment of normal peace relations with our late enemies.

NAVAL APPROPRIATION BILL.

The naval appropriation bill, bequeathed to this special session from a former Congress, became a law with a reduction and saving of $86,000,000 below the sum carried by the same bill in the closing days of the last Congress.

ARMY APPROPRIATION BILL.

The Army appropriation bill, which also came over to us from the former Congress, as it became a law reduced the Army to 150,000 men and the appropriation $15,000,000 below what the bill carried when pocket vetoed by President Wilson, because he then considered it too low.

FUNDS FOR FARM LOAN BOARD.

The bill making provision for an additional Treasury deposit of $25,000,000 for the Farm Loan Board makes available for that important farm loan agency a total working capital of $50,000,000, and places the Farm Loan Board and banks for the first time since their organization in position to function continuously in the making of loans to the farmers of the Nation.

FACILITATING EXPORTS.

The amendment to the Edge bill, providing for the promotion of export trade by facilitating the organization of corporations, was intended to and has very greatly aided, assisted, and facilitated the organization and the operation of those useful agencies.

TELEPHONE BILL.

The bill providing for a much-needed consolidation of independent telephone companies rendered possible the reorganization whereby the losses through unwise duplication have been eliminated or greatly reduced, under which more satisfactory systems and more favorable rates should be secured.

CABLE BILL.

The bill under which the President is authorized to provide for the orderly and controlled landing of submarine cables remedied a situation which had greatly embarrassed the former administration and established a policy under which proper national control of these important agencies of communication is established.

VETERANS' BUREAU BILL.

The so-called Sweet bill, establishing a Veterans' Bureau and consolidating all of the agencies charged with care and responsibility on behalf of the ex-service men, is the fulfillment of a national obligation to provide an organization which, so far as it is possible to do so, will cure the delays which have been complained of in meeting our obligations to our national defenders. Under this bureau it is hoped that there will be little cause for complaint, and that the appropriations of Congress, which will total approximately one-half billion dollars for this fiscal year, may be utilized to the best possible advantage for the benefit of the soldiers of the late World War.

ANTIGAMBLING IN GRAIN FUTURES BILL.

The bill preventing gambling in grain futures, while permitting those dealings in grain which are believed to be legitimate and useful, if not essential, to the maintenance of proper market conditions, condemns and penalizes those operations which are purely speculative and harmful in their nature.

THE PACKERS BILL.

The so-called packers' bill to regulate interstate and foreign commerce in live-stock and dairy products, poultry, and eggs, is a wise, sound, and sensible measure, bringing to a close a long-drawn-out controversy relative to legislation affecting the meat-packing and allied and associated industries and activities which, while avoiding the radical and dangerous experiments which had been urged, does place in the hands of the Secretary of Agriculture authority to regulate these industries in the public interest.

THE FARM PRODUCTS EXPORT ACT.

The bill amending the War Finance Corporation act, to provide relief for producers of and dealers in agricultural products, is expected to afford a very large measure of relief in its provisions, under which the War Finance Corporation may issue and utilize its securities in a sum not to exceed a billion dollars to aid in the carrying and exportation of agricultural products and in providing credit for agricultural purposes, including the breeding, raising, fattening, and marketing of live stock. The measure will, it is believed, have a most beneficial effect in providing markets for our surplus of agricultural products and in relieving the strain on agricultural credits during the period necessary for the development and preparation of these products for the market.

DUTY ON REIMPORTATION OF WAR SUPPLIES.

The act providing for the 90 per cent duty on war supplies sold by the United States in Europe when reimported into the United States became necessary as a protection for our industries against the dumping on our markets of products that were sold to foreign Governments at a very low figure with the expectation that they would be utilized in the countries where sold.

SHIPPING BOARD APPROPRIATION.

The bill appropriating $48,000,000 for the Shipping Board is an unpleasant reminder not only of the enormous expenditures of over three and one-half billions in the building up of a merchant marine during the war; the almost unbelievable waste and extravagance which characterized that expenditure and development, but of the utterly indefensible methods that have been pursued in the handling of the fleet since its construction. Congress was called upon either to make a further contribution to this stupendous enterprise or to see the entire project shipwrecked in bankruptcy. The failure to appropriate to keep the enterprise going during the period of rehabilitation would have simply deferred the day of expenditure, added enormously to the ultimate outlay, and threatened the entire project. It is believed that under the new management order may be brought out of chaos and a reasonably satisfactory condition finally established.

COLORADO RIVER BILL.

The bill providing for an agreement among the Western States for the disposition and apportionment of the waters of the Colorado River is an important measure marking a new and beneficial policy in the settlement of the vexed questions arising out of the use of the waters of interstate streams for the purpose of irrigation. The famous Kansas-Colorado case is the most important of the suits that have been before the courts testing the question of the relative rights of the various States, in the arid region where irrigation is practiced, to the waters of an interstate stream. It is much better, where it is possible, to have an adjustment and settlement of these questions in advance of the appropriation and use of the waters than to wait until rival claims have been established, and then settle the vexed questions frequently at great loss to those who have expended moneys in irrigation enterprises. [Applause.]

In addition to these the following bills have become laws, not including private, pension, and bridge bills:

H. R. 6573. Reclassifying and readjusting compensation of employees in Postal Service.

H. R. 6300. Deficiency appropriation bill, first for 1921.

H. R. 3707. Appropriation for expenses incident to first session Sixty-seventh Congress.

H. R. 5756. Limiting indebtedness of government of Philippine Islands.

H. R. 4586. Providing punishment for handling personal property on contract of sale with intent to defraud.

S. 594. Relief to ex-service men for defeated rights of entry on North Platte irrigation project.

S. 1019. Providing transportation for destitute discharged soldiers and sailors in Europe.

S. J. Res. 30. Authorizing President to appoint member of Committee on Reorganization.

S. 1881. Defining act creating Hawaiian homes commission.

H. R. 2499. Providing for acquisition by United States of fishing rights in Pearl Harbor, Hawaii.

H. J. Res. 148. Relief of Colorado flood sufferers.

H. R. 2428. Granting lands to Converse County, Wyo., for park purposes.

H. J. Res. 52. Authorizing Secretary of Interior to furnish water to entrymen in arrears on public lands.

H. R. 5223. Exempting from cancellation certain desert-land entries in California.

H. R. 5622. Appraisal and sale of Vashon Island Military Reservation.

H. R. 2422. Relief of settlers and entrymen on Baca Float No. 3, Arizona.

H. R. 2466. Making Fort Worth, Tex., port of entry.

H. R. 2421. Granting lands to Phoenix, Ariz., for municipal purposes.

H. J. Res. 82. Ratifying establishment of boundary line between the States of Pennsylvania and Delaware.

H. R. 2185. Cancellation stamp, pageant of progress exposition, for use in Chicago post office.

H. R. 3018. Authorizing dike across Mud Slough on Isthmus Inlet, Oreg.

H. J. Res. 31. Directing the Treasury to allow credit to the disbursing clerk of the Bureau of War Risk.

H. J. Res. 173. Ratifying and confirming naval appropriations as of July 21, 1921.

S. 530. Bill to quiet title to certain lands in the city of Walters, Okla.

S. J. Res. 20. Making immediately available appropriation for diversion dam on the Crow Indian Reservation, Mont.

S. J. Res. 34. Authorizing President to appoint commission to attend first centennial of the Republic of Peru.

S. J. Res. 72. Extending relief to States in cotton belt through efforts to eradicate the pink bollworm.

BILLS THAT HAVE PASSED BOTH HOUSES AND ARE IN CONFERENCE.

The Dowell-Phipps bill, for the amendment to the good roads act, has passed both Houses and is now in conference. It provided, as it passed the House, for modifications to the good roads act to provide for road maintenance, as suggested by President Harding in his message to Congress, for an increased percentage of Federal funds to certain Western States on account of lands remaining in national ownership and control, and, as it passed the Senate, for an appropriation of $75,000,000 as the Federal contribution to road construction for the coming fiscal year, and an appropriation of $5,000,000 and $10,000,000 for Federal road construction in forest reserves in the next and the succeeding year. The measure reached conference too late for an agreement before the recess, but an agreement should be reached adjusting the differences between the two Houses at an early date after Congress reconvenes.

BILLS WHICH PASSED THE HOUSE.

Referring first to the last important bill, which the House considered before recess, the so-called railroad bill.

THE RAILROAD BILL.

The bill for the amendment of the transportation act of 1920 to enable the War Finance Corporation to handle the securities placed in the hands of the Government by the railroads in connection with the funding, as provided by the transportation act, of a portion of the sums due the Government from the railroads on account of expenditures for betterments and equipment during the period of Federal control is one of the most useful and helpful measures which has been considered by the Congress. Under this bill railroad securities, that would otherwise lie in the Treasury unproductive, except for the interest rate they carry, would be placed in the hands of the investing public, and the money thus secured could be utilized for the purpose of meeting Federal obligations to the railroads and otherwise.

Those who have studied the questions involved in this legislation are of the opinion that the funding of a considerable portion of the sums due the Government by the railroads on account of betterments and equipment and the sale by the War Finance Corporation of the securities thus placed in the hands of the Government will greatly improve the business situation throughout the country by relieving the railroads from the necessity of making large payments on capital account out of current revenues, and thus leave them in a position to pay other bills for supplies and equipment, many of which are now overdue.

The relief of the situation thus provided will also place the railroads in a financial condition in which it will be possible to bring about a reduction in freight and passenger rates much more speedily than otherwise would be possible. It is to be hoped that we are nearing conditions where a reduction of rates would within a reasonable time be followed by an increase of business that would more than make up for the losses that would result from the rate reduction. It is true, however, that the roads could not weather even a temporary period of reduced revenues if they are to be compelled to meet and pay immediately out of earnings their obligations to the Government for expenditures which are properly chargeable to capital account. It is important, therefore, that the relief this bill proposes be provided in the interests of all the people who are anxious for rate reduction.

If the operations which the bill authorizes the War Finance Corporation to undertake prove successful, the measure will be highly beneficial to the railroads and through them to those from whom they buy supplies, and it will also prove a boon by increasing the available cash in the Treasury.

THE VOLSTEAD BEER BILL.

The so-called Volstead antibeer bill became necessary as a result of an eleventh-hour decision by Attorney General Palmer the day before the close of the Wilson administration. While there has been much sharp difference of opinion with regard to the provisions of the measure, it is believed that the bill is a fair compromise, maintaining the national faith in the enforcement of the prohibition act, while guarding against the possibilites of abuses of power and authorty.

INDIAN BUREAU BILL.

The bill broadening the organic law of the Indian Bureau in a manner to make in order the ordinary and usual items on the Indian appropriation bill is an important measure made necessary by the adoption of the budget system and the modification of the rules of the House in connection therewith. The passage of this bill calls attention to the highly important reform which came as an incident of the adoption of the budget under which Senate amendments, which were offered in the House, would be subject to a point of order, can not be accepted by House conferees but must be presented to the House and receive an affirmative vote before being accepted. This is a highly important reform, largely curing the evil of legislative riders and appropriations not specifically authorized by law.

In addition to the bills heretofore enumerated, the following is a list of the more important bills that have passed the House:

H. R. 8245. Revision of the tax laws.

H. R. 7456. Fordney tariff bill, providing revenue, regulating commerce with foreign countries, and encouraging industries of the United States.

H. R. 12. Revision of the laws; first since 1878.

H. R. 6754. Regulations for promoting the welfare of American seamen in merchant marine on vessels on the Great Lakes.

H. J. Res. 153. Permitting admission of certain aliens who sailed from foreign ports on or before June 8, 1921.

H. R. 4810. Authorizing incorporation of companies to promote trade with China.

H. R. 4981. Preventing manufacture of adulterated or misbranded foods and drugs.

H. R. 2373. To authorize associations of producers of agricultural products.

H. R. 70. Allowing credit to widows of soldiers and sailors in making homestead entries for their husbands' military service.

H. R. 7158. Appropriation for completion of the acquisition of real estate for the Military Establishment.

H. R. 2376. Competency of witnesses to testify in criminal actions.

H. R. 5585. Permitting execution of pension papers in foreign countries.

H. J. Res. 7. Authorizing Secretary of Navy to open radio stations for use of public.

H. R. 5013. Authorizing Secretary of Navy to sanction certain titles on memorials.

H. R. 6673. Granting franchise for gas and electricity for certain districts of Hawaii.

H. J. Res. 138. Repealing portion of act providing for sale of Camp Eustis.

H. R. 77. Consolidation of lands in Selway National Forest.

H. R. 244. Granting abandoned rights of way to railroad companies.

H. R. 1475. Providing lands for biological station in State of Washington.

H. R. 2205. Adding certain lands to the Shoshone National Forest.

H. R. 2232. Establishing national military park on plains of Chalmette below city of New Orleans.

H. R. 4596. Disposal of drainage water from Rio Grande project.

H. R. 4813. Changing period for doing annual assessment work on mining claims to fiscal year.

H. R. 5621. Disposing of certain public lands in Fort Madison and Bellevue, Iowa.

H. R. 6259. Providing for consolidation of lands in Colorado National Forest.

H. R. 6262. Adding lands to Mount McKinley National Park, Alaska.

H. R. 7204. Providing a water system for Fort Monroe Military Reservation.

H. R. 7255. Providing for congressional medal of honor and distinguished service cross to be awarded unknown American buried in Arlington Cemetery.

H. J. Res. 81. Providing for the erection in the District of Columbia of a memorial to the dead of the First Division, A. E. F., of the World War.

H. J. Res. 30. Granting preferred right of homestead entries to soldiers, sailors, and marines.

Mr. GARRETT of Tennessee. Mr. Chairman, I think it is very generally agreed throughout the country that with a little more practice this will be the worst Congress that has ever assembled in history. [Laughter.] That, of course, is not due to lack of leadership on the majority side.

Mr. HERRICK. Will the gentleman yield for a question?

Mr. GARRETT of Tennessee. Yes.

Mr. HERRICK. The gentleman has stated that this was the worst Congress that has ever been or ever would be assembled here. I just want to ask the gentleman if he has given up all earthly hope of the Democratic Party ever coming back into Congress? [Laughter.]

Mr. GARRETT of Tennessee. I said that the failure was not due to lack of leadership upon the Republican side, and we have had the evidence demonstrated to us. [Laughter.] Of course, the leadership of the Republican Party has been able in this Congress. The failure has been due to the fact that the party did not stand upon any fundamental thing. It has been due to the fact that the majority were so divided that they found themselves unable to get together without making compromises, both as to principle and as to policies. The gentleman from Wyoming [Mr. MONDELL] has referred to the fact that the Fordney tariff bill was passed in a shorter time than any tariff bill of a general character in previous Congresses.

That is true, and yet to-day we had to appropriate $100,000 to enable the Finance Committee of the Senate to find out what the Fordney tariff bill means. [Laughter.] The gentleman from Wyoming [Mr. MONDELL] referred to the tax bill. That is merely an enacting clause for the Senate to build upon. We passed a peace resolution. No soldier has been withdrawn from Germany, not a consul has been appointed, not a proclamation of peace has been issued. The same chaotic condition with reference to foreign affairs exists now that existed before the passage of that resolution. I do not know why so many gentle-

men upon the Democratic side of the Chamber voted against the recess. I do understand, I think, why so many upon the Republican side voted against it. Home evidently has terrors for them. [Laughter.]

Of course, we will be back in a few weeks, and then we shall see what we shall see. But enough has developed to indicate now that there is no reason to expect any improvement during this Congress over the record that has been made so far; but during the Sixty-eighth Congress the people will have some hopes, because a different party will be controlling the destinies of the country. [Applause.]

The CHAIRMAN. The Clerk will read the bill for amendment.

The bill was read, as follows:

Be it enacted, etc., That the act of March 1, 1921 (41 Stat., p. 1202), entitled "An act to authorize certain homestead settlers or entrymen who entered the military or naval service of the United States during the war with Germany to make final proof of their entries," be, and the same is hereby, amended by adding thereto at the end thereof the following matter, which shall be known and designated as section 2 of said act:

"SEC. 2. That any entryman under the desert-land laws, or any person entitled to preference right of entry under section 1 of the act approved March 28, 1908 (35 Stat. L., p. 52), who after application or entry for surveyed lands or legal initiation of claim for unsurveyed lands, and prior to November 11, 1918, enlisted or was actually engaged in the United States Army, Navy, or Marine Corps during the war with Germany, who has been honorably discharged and because of physical incapacities due to service is unable to accomplish reclamation of and payment for the land, may make proof without further reclamation thereof or payments thereon.

With the following committee amendment:

Page 2, line 12, after the word "thereon," strike out "at such time and place as may be authorized by the Secretary of the Interior, and receive patent to the land by him so entered or claimed: *Provided*, That no such patent shall issue prior to the survey of the land," and insert in lieu thereof "under such rules and regulations as may be prescribed by the Secretary of the Interior, and receive patent for the land by him so entered or claimed, if found entitled thereto: *Provided*, That no such patent shall issue prior to the survey of the land."

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. SINNOTT. Mr. Chairman, I move that the committee do now rise and report the bill with the amendment favorably to the House.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. MANN, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having had under consideration the bill (H. R. 7161) to authorize certain homestead and desert-land settlers, applicants, or entrymen who entered the military or naval service of the United States during the war with Germany to make the final proof of their entries, had directed him to report the same back to the House with an amendment, with the recommendation that the amendment be agreed to and that the bill as amended do pass.

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

By unanimous consent the title of the bill was amended so as to read: "A bill to authorize certain desert-land claimants who entered the military or naval service of the United States durin the war with Germany to make final proof of their entries."

On motion of Mr. SINNOTT, a motion to reconsider the vote by which the bill was passed was laid on the table.

RURAL POST ROADS.

Mr. ROBSION. Mr. Speaker, I move to take from the Speaker's table the bill S. 1072, disagree to the Senate amendment, and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky to take from the Speaker's table the bill S. 1072, disagree to the Senate amendment, and agree to the conference asked for?

Mr. MANN. What is the bill?

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read as follows:

S. 1072. An act to amend an act entitled "An act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes," approved July 11, 1916, as amended and supplemented, and for other purposes.

The SPEAKER. Is there objection.

There was no objection.

The Chair appointed as conferees on the part of the House Mr. DUNN, Mr. ROBSION, Mr. WOODRUFF, Mr. DOUGHTON, and Mr. ALMON.

Mr. GARRETT of Tennessee. Mr. Speaker, the gentleman from Wyoming stated in the course of his remarks in the Committee of the Whole that there would be no business transacted until Monday, October 3, as I understood it. Does the gentleman think it worth while to attempt to get an agreement that there may be three days' adjournment following the reconvening of Congress on the 21st, rather than have daily sessions?

Mr. MONDELL. I think it would be very well, indeed, to have such an agreement.

Mr. GARRETT of Tennessee. I assume that there will not be a quorum here on the 21st, and that an effort to make such an agreement at that time might possibly fail. It occurred to me that it might be well enough to try to have an agreement now.

Mr. MONDELL. Well, Mr. Speaker, I ask unanimous consent that when the House reconvenes there shall be an adjournment for three days and a like three days' adjournment be had until Monday, October 3.

The SPEAKER. The gentleman from Wyoming asks unanimous consent that when the House adjourns on Wednesday, September 21, it adjourn for three days, with like adjournments until October 3. Is there objection?

Mr. BLANTON. Will the gentleman incorporate in his request that there shall be no business transacted on those days?

Mr. MONDELL. That is the understanding that there will be no business transacted except the reading of the Journal.

The SPEAKER. Is there objection?

There was no objection.

ADJOURNMENT.

Mr. MONDELL. Mr. Speaker, the business of the session being concluded, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 58 minutes p. m.) the House, under the concurrent resolution, adjourned until Wednesday, September 21, 1921, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

211. A letter from the Secretary of the Navy, transmitting a proposed draft of a bill to provide for the better administration of justice in the Navy; to the Committee on Naval Affairs.

212. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, reports on experiments in the transportation of heavy freights on the Mississippi River between the mouth of the Ohio River and St. Louis and between Dubuque, Iowa, and Minneapolis, Minn., with the experimental tows and barges described in House Document No. 857, Sixty-third Congress, second session (H. Doc. No. 108); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

213. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on an investigation of the general subject of water terminals, with descriptions and general plans of terminals of appropriate types and construction for the harbors and waterways of the United States suitable for various commercial purposes and adapted to the varying conditions of tides, floods, and other physical characteristics (H. Doc. No. 109); to the Committee on Rivers and Harbors and ordered to be printed, with maps and illustrations.

214. A letter from the Acting Secretary of War, transmitting a tentative draft of a bill to authorize appropriaions for the relief of certain officers of the Army of the United States, and for other purposes; to the Committee on War Claims.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. SWEET, from the Committee on Interstate and Foreign Commerce, to which was referred the joint resolution (S. J. Res. 103) changing the name of the Veterans' Bureau to "United States Veterans' Bureau," reported the same without amendment, accompanied by a report (No. 389), which said bill and report were referred to the House Calendar.

Mr. RAYBURN, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (S. 2340) to authorize the construction of a bridge across the St. Marys River, at or near St. Marys, Ga., and Roses Bluff, Fla., reported the same without amendment, accompanied by a report

(No. 390), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (H. R. 8170) to authorize the construction of a toll bridge across the St. Marys River, between Camden County, Ga., and Nassau County, Fla., reported the same with amendments, accompanied by a report (No. 391), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (H. R. 8209) to extend the time for the construction of a bridge across the Cumberland River in Montgomery County, Tenn., reported the same without amendment, accompanied by a report (No. 392), which said bill and report were referred to the House Calendar.

Mr. MOORES of Indiana, from the Joint Select Committee on Disposition of Useless Executive Papers, submitted a report (No. 393) concerning the disposition of useless papers in the Department of State, which said report was ordered to be printed.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. KRAUS: A bill (H. R. 8397) providing for the better administration of justice in the Navy; to the Committee on Naval Affairs.

By Mr. CHANDLER of Oklahoma: A bill (H. R. 8398) to amend section 101 of chapter 5 of the Judicial Code; to the Committee on the Judiciary.

By Mr. McFADDEN: A bill (H. R. 8399) to amend section 11(m) of the act approved December 23, 1913, known as the Federal reserve act, as amended by the acts approved September 7, 1916, March 3, 1919, and February 27, 1921; to the Committee on Banking and Currency.

By Mr. STEPHENS: A bill (H. R. 8400) authorizing the employment of an expert auditor and accountant for the Committee on Naval Affairs; to the Committee on Accounts.

By Mr. LANGLEY: A bill (H. R. 8401) to transfer the custody and control of the United States customhouse wharf at Charleston, S. C., from the Treasury Department to the War Department; to the Committee on Public Buildings and Grounds.

By Mr. MacGREGOR: A bill (H. R. 8402) to amend section 7 of chapter 379 of the act approved March 3, 1897, making the forging of stamps, etc., punishable; to the Committee on the Judiciary.

By Mr. CABLE: A bill (H. R. 8403) amending the War Finance Corporation act; to the Committee on Banking and Currency.

By Mr. McFADDEN: A bill (H. R. 8404) to investigate the international exchange problem for the purpose of determining the means which may best be employed for the stabilization of exchange; to the Committee on Banking and Currency.

By Mr. NEWTON of Minnesota: A bill (H. R. 8405) to promote the general welfare by gathering information respecting the ownership, production, distribution, costs, sales, and profits in the coal industry and by publication of same, and to recognize and declare coal and its production and distribution charged with public interest and use, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. McKENZIE: Joint resolution (H. J. Res. 197) proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. STEPHENS: Joint resolution (H. J. Res. 198) relating to the expenditure of naval appropriations at the naval reservation at Dahlgren, Va.; to the Committee on Naval Affairs.

By Mr. KISSEL: Resolution (H. Res. 185) requesting the Secretary of State to furnish to the House of Representatives certain information; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ACKERMAN: A bill (H. R. 8406) granting an increase of pension to Ross H. Blackwell; to the Committee on Invalid Pensions.

By Mr. FIELDS: A bill (H. R. 8407) granting a pension to Sarah Heilman Wiliburn; to the Committee on Invalid Pensions.

By Mr. FREE: A bill (H. R. 8408) to provide for a survey of San Francisco Bay, opposite South San Francisco, Calif., with a view to securing a channel 30 feet in depth and of suitable width, connecting the deep water above and below the bar; to the Committee on Rivers and Harbors.

By Mr. HUSTED: A bill (H. R. 8409) granting a pension to Eleanor W. Massey; to the Committee on Pensions.

By Mr. JONES of Texas: A bill (H. R. 8410) granting a pension to S. R. Fondren; to the Committee on Invalid Pensions.

By Mr. MOORE of Illinois: A bill (H. R. 8411) granting an increase of pension to Louisa M. Loving; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8412) granting an increase of pension to Antoinette McMacken; to the Committee on Pensions.

By Mr. REECE: A bill (H. R. 8413) granting an increase of pension to Samuel G. Dinsmore; to the Committee on Pensions.

By Mr. STEPHENS: A bill (H. R. 8414) for the relief of W. S. Powers; to the Committee on Claims.

By Mr. SUMMERS of Washington: A bill (H. R. 8415) granting an increase of pension to Emily Watkins; to the Committee on Pensions.

By Mr. WATSON: A bill (H. R. 8416) for the relief of Mordecai Fizone; to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

2573. By the SPEAKER (by request): Letter from George Bennett, director of the American School of Wild Life Protection and Propagation, transmitting a copy of a telegram sent the President of the United States by the American School of Wild Life Protection and Propagation, assembled at McGregor, Iowa, indorsing his position and pledging him support in carrying out his policy relative to the urgent need of national reforestation; to the Committee on Agriculture.

2574. By Mr. APPLEBY: Petition of citizens of New Jersey, requesting the enactment of adequate laws to prevent pollution of the harbor waters of New York and New Jersey by refuse oil; to the Committee on Rivers and Harbors.

2575. By Mr. BEEDY: Resolutions by the American Association for the Recognition of the Irish Republic, Maine directorate, demanding the recognition of the republic of Ireland; to the Committee on Foreign Affairs.

2576. By Mr. DALLINGER: Resolution of Michael Davitt Council of the American Association for the Recognition of the Irish Republic, protesting against the Penrose bill; to the Committee on Ways and Means.

2577. By Mr. GORMAN: Resolutions from P. J. McNamara, secretary of Thomas Jefferson Council, American Association for the Recognition of the Irish Republic; Thomas F. Monahan, president of General Montgomery Council, American Association for the Recognition of the Irish Republic; and resolutions adopted at a meeting of Eamon Kent Council, American Association for the Recognition of the Irish Republic, of Chicago, Ill., protesting against the Penrose bill (S. 2135); to the Committee on Ways and Means.

2578. Also, telegram from J. A. Hullihan, president of Francis Scott Key Council, American Association for the Recognition of the Irish Republic, protesting against the passage of the Penrose bill (S. 2135); to the Committee on Ways and Means.

2579. By Mr. KISSEL: Petition of Robert C. Blumenschein, of 172 Stockholm Street, Brooklyn, N. Y., urging further appropriation for the New York Navy Yard; to the Committee on Appropriations.

2580. Also, petition of Patrick Brown, Maurice Carberry, Thomas P. Conlon, Patrick Dougherty, Charles McComb, and Peter J. McGrath, all of Brooklyn, N. Y., relative to taxation; to the Committee on Ways and Means.

2581. Also, petition of G. P. Rogers, general sales and advertising manager of the Pyrene Manufacturing Co., 17 East Forty-ninth Street, New York City; to the Committee on Immigration and Naturalization.

2582. By Mr. KNIGHT: Petition against House bill 4388, signed by citizens of Lorain County, Ohio; to the Committee on the District of Columbia.

2583. By Mr. LINTHICUM: Petition of Hynson, Wescott & Dunning; the bureau of chemistry; and the General Carbonic Co., of Baltimore, Md., favoring embargo on dyestuffs; to the Committee on Ways and Means.

2584. By Mr. TOWNER: Petition of Mr. H. L. Dawson and 22 other citizens of Creston, Iowa, and elsewhere, protesting against the passage of House bill 4388 and Senate bill 1948, compulsory Sunday observance; to the Committee on the District of Columbia.

SENATE.

WEDNESDAY, *September 21, 1921.*

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

Our Father and our God, we come together this morning with grateful hearts, recognizing the goodness that has crowned the days past, thanking Thee for the rest granted, and asking from Thee all needful guidance in the duties and responsibilities pressing upon the hour. Remember any who are sick, we beseech of Thee, and may Thy healing hand be extended. Where there is sorrow, minister with all the comforts of Thy grace. Upon us here assembled to-day, upon our great country, and its manifold interests and needs, upon the President and his official family and all who bear responsibility to the Nation, we humbly crave Thy benediction. Through Jesus Christ, our Lord. Amen.

The reading clerk proceeded to read the Journal of the proceedings of the legislative day of Monday, August 23, 1921, when, on request of Mr. LODGE and by unanimous consent, the further reading was dispensed with, and the Journal was approved.

CALL OF THE ROLL.

Mr. LODGE. Mr. President, I make the point of no quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Frelinghuysen	Lodge	Smoot
Borah	Gerry	McCumber	Spencer
Broussard	Glass	McLean	Stanley
Cameron	Gooding	Myers	Sterling
Capper	Hale	Nelson	Sutherland
Caraway	Harris	New	Swanson
Colt	Harrison	Nicholson	Trammell
Culberson	Heflin	Oddie	Underwood
Curtis	Johnson	Overman	Walsh, Mass.
Dillingham	Kellogg	Page	Watson, Ga.
Ernst	King	Penrose	Watson, Ind.
Fernald	Ladd	Reed	Weller
Fletcher	La Follette	Sheppard	Willis
France	Lenroot	Shields	

The VICE PRESIDENT. Fifty-five Senators having answered to their names, a quorum is present. The presentation of petitions and memorials is in order.

PETITIONS AND MEMORIALS.

Mr. STANLEY presented a resolution adopted by the Kentucky State Bar Association favoring the enactment of Senate bill 1214, authorizing the Supreme Court to prescribe forms and rules and generally to regulate pleading, procedure, and practice on the common-law side of the Federal courts, which was referred to the Committee on the Judiciary.

Mr. WILLIS presented 15 memorials of citizens of Latty, Paulding, Broughton, Oakwood, Melrose, Van Wert, Westminster, Toledo, Grover Hill, Cecil, Sherwood, Orwell, Youngstown, Dayton, Newark, Vanatta, and Thornville, all in the State of Ohio, remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which were referred to the Committee on the District of Columbia.

He also presented a resolution adopted by Group 8, Ohio Bankers' Association, remonstrating against exempting from tax $500 income derived from shares or deposits in building and loan associations, etc., which was referred to the Committee on Finance.

He also presented a resolution adopted by the Ohio Central Christian Conference at South Solon, Ohio, August 22–25, 1921, commending President Harding for calling the conference on limitation of armaments and urging that the President's hands be upheld in this undertaking, which was referred to the Committee on Foreign Relations.

He also presented petitions of Mrs. E. B. Allison and sundry other members of the First Christian Church, and members of the First Methodist Episcopal Church, all of Kenmore, Ohio, praying that the Navy be reduced to a peace basis; that the Army be not increased; that war be made impossible; and that President Harding be upheld in his present plan for a conference on limitation of armaments, which were referred to the Committee on Foreign Relations.

He also presented resolutions adopted by the council of the city of Cleveland, Ohio, urging that the Attorney General of the United States be requested to investigate the objects and purposes of the Ku Klux Klan and to suppress that organization if within his power so to do, etc., which were referred to the Committee on the Judiciary.

He also presented a resolution adopted by Local Union No. 71, United Mine Workers of America, of Martins Ferry, Ohio, favoring Federal investigation of mining conditions in the West Virginia mine area, including Mingo, McDowell, Fayette, Boone, and Logan Counties, etc., which was referred to the Committee on Mines and Mining.

He also presented a resolution adopted by the American Federation of Labor at its 1921 annual convention, Denver, Colo., favoring the recognition of the Irish republic, which was referred to the Committee on Foreign Relations.

He also presented a resolution adopted by the International Typographical Union at its convention held in Quebec, Province of Quebec, favoring the enactment of legislation providing for the retirement of classified civil-service employees after a 30-year service period, and so forth, which was referred to the Committee on Civil Service.

He also presented a resolution adopted by the Ohio annual conference, Methodist Episcopal Church, at Circleville, Ohio, favoring the adoption of the conference report on House bill 7294, supplemental to the national prohibition act, which was ordered to lie on the table.

Mr. FLETCHER presented 17 memorials of citizens of the State of Florida, remonstrating against the inclusion in the pending tariff bill of a duty of 50 cents per unit on muriate of potash, which were referred to the Committee on Finance, as follows:

Hector Supply Co. and sundry citizens of Miami; H. M. Forman and sundry other citizens of Fort Lauderdale; Harry Benson and sundry other citizens of Boynton; J. P. Gardner and sundry other citizens of Kendall; J. B. Hainey and sundry other citizens of West Palm Beach; F. M. Bowles, of Lake Worth; W. D. Hughes, John Froliock, and sundry other citizens of Miami; R. L. Waldron and sundry other citizens of Pompano; J. W. Strickland and sundry other citizens of Hallandale; J. A. McDonald and sundry other citizens of Fulford; R. Y. Burr and sundry other citizens of Goulds; E. H. Dimick and sundry other citizens of Hypoluxo; J. D. Fowler and sundry other citizens of Perrine; Theodore W. Webb and sundry other citizens of Naranja; C. E. Helseth and sundry other citizens of Indrio and Fort Pierce; F. L. Sherman and sundry other citizens of Fort Pierce, Walton, and Roseland; J. V. McGrew and sundry other citizens of Del Ray; and J. F. Simmons and sundry other citizens of Florida City, all in the State of Florida.

The letter of transmittal accompanying the memorials was referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

OSCEOLA FERTILIZER CO.,
Jacksonville, Fla., September 19, 1921.

Hon. DUNCAN U. FLETCHER,
United States Senate, Washington, D. C.

HONORABLE SIR: We beg to inclose you herewith a bunch of petitions with reference to the Fordney tariff bill, which imposes a duty of 50 cents per unit on potash, which were gotten up in the different towns on the east coast by the farmers and growers who are large users of potash, and this goes to show what the people think of this bill.

I am pleased to know that you will do everything that you can to defeat this bill, and trust that you will be successful in keeping them from placing this duty on these goods.

Thanking you for your efforts in this matter and with kind regards, I am,

Yours, very truly,

W. G. STEDEFORD.

Mr. LADD presented 11 petitions of citizens of Douglas, Evansville, Brandon, Garfield, Farwell, Todd, Carlos, and Alexandria, all in the State of Minnesota, praying for the enactment of legislation to fix a minimum price on wheat and cotton and to purchase all available supplies which can not be sold on the open market at the fixed price, etc., which were referred to the Committee on Agriculture and Forestry.

He also presented a memorial of sundry citizens of Venturia, N. Dak., remonstrating against the enactment of legislation imposing a 4 per cent manufactures tax on medicines, toilet articles, perfumes, etc., which was referred to the Committee on Finance.

He also presented a resolution adopted by the North Dakota Farm Bureau Federation, protesting against the proposed 35 per cent ad valorem wool clause in the pending tariff bill and favoring a 30 cents per pound tariff on clean wool, which was referred to the Committee on Finance.

He also presented a resolution adopted by the North Dakota Farm Bureau Federation, favoring the enactment of legislation increasing the tariff on flax to 50 cents per bushel, and on linseed oil to 40 cents per gallon, which was referred to the Committee on Finance.

He also presented a resolution adopted by the North Dakota Farm Bureau Federation, remonstrating against the repeal of the excess-profits tax and the lowering of the higher surtax on net incomes, which was referred to the Committee on Finance.

He also presented a petition of sundry sheep raisers and wool growers of Bowesmont, N. Dak., favoring the inclusion in the pending tariff bill of a higher duty than 35 per cent ad valorem on wool, etc., so as to afford adequate protection to the wool and sheep industry of North Dakota, which was referred to the Committee on Finance.

He also presented a resolution of the North Dakota Women's Nonpartisan Club, No. 348, of Layton, N. Dak., favoring the calling of an international disarmament conference and protesting against further increased appropriations for future military purposes pending such conference, which was referred to the Committee on Foreign Relations.

Mr. SHEPPARD presented 21 memorials of citizens of Corpus Christi, Beeville, Houston, Pasadena, Chenango, Harrisburg, Goose Creek, Texas City, La Porte, Teague City, and Genoa, all in the State of Texas, remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which were referred to the Committee on the District of Columbia.

TAX REVISION.

Mr. PENROSE. Mr. President, I am directed by the Committee on Finance to report back favorably with amendment the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

I desire to state that the report of the committee has not yet been returned from the printer, but will be presented by me to the Senate on to-morrow. I intend to make every effort to have the bill considered from to-morrow on, so far as may be consistent with the other business of the Senate. With that end in view, on to-morrow I shall at the earliest possible moment move to proceed to the consideration of the bill, so as to have an opportunity at least to have it read for the consideration of the committee amendments.

Mr. GERRY. Mr. President, will the Senator yield to me for a question?

Mr. PENROSE. Certainly.

Mr. GERRY. I presume that the minority will have ample time to present a minority report?

Mr. PENROSE. Oh, yes; of course.

Mr. GERRY. And that will be granted?

Mr. PENROSE. Oh, yes.

Mr. UNDERWOOD. I understand, and I think it ought to be understood as a part of the official order of the Senate, that when the minority presents its report it shall be printed with the majority report as a part thereof.

Mr. PENROSE. I take that for granted.

Mr. UNDERWOOD. Without objection, I ask that that be agreed to.

Mr. PENROSE. That is entirely agreeable.

Mr. LA FOLLETTE. If I should determine to present minority views I ask to have the same order made relative to those views if presented.

Mr. PENROSE. No order is needed. That course is entirely acceptable to the majority.

Mr. UNDERWOOD. It may require an order to have them printed together at a future date, that is all, and I think it should be made clear. In order to make it clear I ask unanimous consent that the minority may have seven days after the majority report is filed in which to present their views, and when presented that they shall be printed in connection with the views of the majority.

Mr. PENROSE. In the meanwhile, of course, the majority report will have been printed.

Mr. UNDERWOOD. Undoubtedly; but I mean the final printing.

Mr. PENROSE. Oh, yes.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. LA FOLLETTE. I make the same request with respect to minority views that I may desire to present.

The VICE PRESIDENT. Together with the views of the Senator from Wisconsin, if he desires to present them. Is there objection? The Chair hears none, and it is so ordered.

Mr. PENROSE. Mr. President, I wish to state further that a subcommittee of the Committee on Finance is conferring with the official draftsmen to have a print of the bill made giving in detail, for greater convenience, more definite information for the Senate and the taxpayers concerning the House provisions, the existing law, and the Senate committee amendments. That print ought also to be ready to-morrow or the next day.

Mr. UNDERWOOD. Mr. President, may I ask the Senator from Pennsylvania how many copies of the bill he has provided for printing? There will probably be a considerable demand for copies for distribution.

Mr. PENROSE. I had a resolution, Mr. President, which I shall not offer until the second reprint of the bill to which I have referred is ready, providing for the printing of 25,000 copies of the bill. It seems to me that all copies which may be desired and are necessary ought to be printed of this most important measure.

Mr. UNDERWOOD. I agree with the Senator from Pennsylvania about that. I hope the Senator has also provided that the bill shall be indexed?

Mr. PENROSE. As a matter of course, that is a part of the program.

Mr. WALSH of Massachusetts. May I ask the Senator from Pennsylvania when he expects the majority report on the bill to be ready?

Mr. PENROSE. I think it will be ready by to-morrow. The report is finished, but has not yet come from the Public Printer.

The VICE PRESIDENT. The bill will be placed on the calendar.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. STANLEY:

A bill (S. 2458) to authorize the acquirement of hospital and other facilities for the treatment of World War veterans afflicted with mental and nervous diseases; to the Committee on Finance.

A bill (S. 2459) to punish officials of the United States for murder and other high crimes and misdemeanors committed in violation of the laws of the several States; to the Committee on the Judiciary.

By Mr. SMOOT:

A bill (S. 2460) to amend an act entitled "An act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain," approved February 25, 1920; to the Committee on Public Lands and Surveys.

A bill (S. 2461) to authorize the exchange of lands with George W. Esplin; and

A bill (S. 2462) for the relief of John D. Dixon and Arthur N. Taylor and authorizing the Secretary of the Interior to issue patents for certain public lands; to the Committee on Public Lands and Surveys.

By Mr. DILLINGHAM:

A bill (S. 2463) to amend the act entitled "An act to allow the bottling of distilled spirits in bond," approved March 3, 1897; to the Committee on the Judiciary.

A bill (S. 2464) to carry out the findings of the Court of Claims in the case of George W. Sneden (with accompanying papers); to the Committee on Claims.

By Mr. McCUMBER:

A bill (S. 2465) granting a pension to Sarah Haley (with accompanying papers); to the Committee on Pensions.

By Mr. NELSON:

A bill (S. 2466) defining and prescribing punishment for certain offenses committed against Federal reserve banks, member banks, Federal farm loan banks, and national banks; to the Committee on the Judiciary.

By Mr. SUTHERLAND:

A bill (S. 2467) to provide relief for the victims of the airplane accident at Langin Field; to the Committee on Claims.

By Mr. LENROOT:

A bill (S. 2468) providing for the sale and disposal of public lands within the area heretofore surveyed as Tenderfoot Lake, State of Wisconsin; to the Committee on Public Lands and Surveys.

By Mr. WALSH of Massachusetts:

A bill (S. 2469) to amend section 2 of the act entitled "An act to incorporate the Sisters of Charity of St. Joseph and the Sisters of the Visitation of Georgetown, in the District of Columbia," approved May 24, 1828; to the Committee on the Judiciary.

A bill (S. 2470) granting a pension to Neil J. Devlin; to the Committee on Pensions.

By Mr. ASHURST:

A bill (S. 2471) to amend an act entitled "An act authorizing the survey and sale of certain lands in Coconino County, Ariz., to the occupants thereof," approved July 28, 1914 (38 Stat., 558) (with accompanying papers); to the Committee on Public Lands and Surveys.

By Mr. SHEPPARD:

A bill (S. 2472) for the relief of Ethel L. Vaughan; to the Committee on Claims.

CONFERENCE ON LIMITATION OF ARMAMENTS.

Mr. HARRISON. I send to the Secretary's desk a resolution and ask to have it read.

The VICE PRESIDENT. The resolution will be read.

The reading clerk read the resolution (S. Res. 144), as follows:

Whereas the Senate of the United States wishes every success for the conference on limitation of armaments called by President Harding to meet in the city of Washington on the 11th day of November, 1921; and

Whereas the Senate of the United States believes that the greatest publicity to which, in reason, consideration of the questions for which the conference is called will admit will tend toward the success of the conference:

Resolved, That the Senate of the United States respectfully requests the representatives of the Government of the United States at the conference to use their influence to have the conference admit representatives of the press to the meetings of the full conference, where the questions for which the conference was called are considered.

Resolved further, That the Senate of the United States respectfully requests the representatives of the Government of the United States at the conference to use their influence to have the conference maintain and preserve a record containing the proceedings of the conference when the matters for which the conference was called are considered and acted upon; and

Resolved further, That the Senate of the United States respectfully requests the representatives of the Government of the United States at the conference to use their influence against any form of censorship upon the part of the conference that will prevent the public from being informed through the press of the correct attitude of delegations and nations touching the questions considered in the conference.

Mr. HARRISON. I request that the resolution may lie on the table.

The VICE PRESIDENT. At the request of the Senator from Mississippi, the resolution will lie on the table.

MARY E. WEST.

Mr. LODGE submitted the following resolution (S. Res. 145), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay from the miscellaneous items of the contingent fund of the Senate to Mary E. West, widow of Charlie West, late a laborer in the employ of the Senate, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

DISARMAMENT—ARTICLE BY FRANK I. COBB.

Mr. BORAH. I ask to have printed in the RECORD an article from the current number of the Atlantic Monthly by Mr. Frank I. Cobb on the subject of disarmament.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The article is as follows:

THE NEED OF DISARMAMENT TO RELIEVE THE EXHAUSTING STRAIN ON THE NATION'S ECONOMIC RESOURCES.

[By Frank I. Cobb, editor of the World.]

(The economic issues involved in the problem of disarmament are admirably summed up by Frank I. Cobb in the current Atlantic Monthly. This extract is republished by permission of the editor of that magazine.)

After a war that cost approximately $348,000,000,000 in property and production, nobody quite knows the aggregate war budget of the nations. It has been variously estimated at from eight to ten billion dollars a year. If we take the smaller figure and capitalize it at the modest rate of 5 per cent, the amount is $160,000,000,000, which means that, after extinguishing $348,000,000,000 of the world's wealth, $160,000,000,000 of what is left is now set aside to pay the reckoning and make ready for new wars.

It is needless to say that labor and industry can not carry that burden, and when the Government attempts to sweat them to that extent it is defeating the very ends of national defense which it professes to serve. War is no longer a conflict between uniformed forces of professional combatants. It is a conflict of all the resources of the belligerents, of whatsoever kind and nature. What ended this war was the overwhelming economic force of the United States. What enabled Germany to fight all Europe to a standstill on two fronts was, not its superior military establishment, but its superior economic system.

The German Army was undoubtedly the most perfect military machine ever constructed by the genius of man, but it ditched itself within six weeks after the beginning of the war. All the elaborately contrived plans of the general staff were frustrated at the Battle of the Marne, after von Kluck had outmarched his communications. The remainder of the war was a series of desperate attempts on the part of the German high command to adjust itself to conditions that it had never contemplated, and in the end it was the economic collapse of internal Germany which left Ludendorff's armies a defenseless shell. So much for military preparedness at its best and its worst.

While military experts are acrimoniously discussing the lessons of the war, the most important lesson attracts practically no attention on their part. It is the lesson that was demonstrated in its most dramatic form by the American intervention—that is, that economic resources can be easily and quickly translated into military resources; that a sound economic system is the essential element in any extensive military undertaking. But these resources are not interchangeable. Economic energy can be speedily converted into military energy, but military energy is not reconvertible into economic energy. Like the radiated heat of the sun, it is lost. It can never be reassembled and welded into another sun.

The white man's civilization is an economic civilization. It is sustained by economic supremacy, and by that alone. It is that which has given to the so-called Nordic races their dominion over land and sea. In point of numbers they are inferior to the brown and yellow races. In point of physical courage they are likewise inferior, for the Oriental faces both torture and death with a resignation and a fatalism that the white man either had never attained or has long ago lost. In ability to endure hardship, to exist on a minimum of nourishment, and to survive in the midst of an evil environment, the swarming millions of Asia are superior to the European or the American. As for intellectual power, dismissing the use to which that power is applied, the eastern mind has attained a discipline and a subtlety of reasoning that the western mind has never yet achieved. It is the white man's economic accomplishments which have been the magic carpet that transported him everywhere, and the armor that none could penetrate. While this economic supremacy exists, no other race can challenge the white man's civilization. Whenever that supremacy has been weakened, the white man's civilization has been menaced. It is again in peril.

Three great military empires were extinguished in the war, but three great economic empires were wrecked as well. Russia has been rightly described as an "economic vacuum." Austria-Hungary is practically in ruins; and whether the great German economic machine will ever be permitted to function freely again is still a matter of speculation. We are only beginning to comprehend the terrific impact of the blow that the war dealt to the economic structure of Europe; and from the day the armistice was signed conditions have grown steadily worse. It must be apparent to anybody who will examine the situation dispassionately that unless this economic fabric can be speedily restored modern civilization may slowly disintegrate to its utter ruin as preceding civilizations have disintegrated.

Obviously the place to begin the work of reconstruction, so far as the Government is concerned, is with the burden of taxation under which all the great nations are groaning. The one point at which an extensive reduction of taxation can be made, which reduction will have an instantaneous economic effect, is military expenditure.

The United States is spending on future wars alone more than the entire net expenses of the Federal Government five years ago. It is spending as much as the aggregate net earnings of all the railroads of the country in their most prosperous year. Nobody has yet shown wherein there is a shadow of an excuse for this exhausting strain on the Nation's economic resources, or what peril or policy of government can warrant such expenditure. To say that it is done for the national defense is silly. The national defense is weakened, not strengthened, by this excessive drain.

Of all the nonsense that is talked about preparedness, no other nonsense quite touches the depths of imbecility which are reached by the prattle about nations that are "rich but defenseless." Nations that are rich are not defenseless. They contain in themselves all the elements for defense. They may have been defenseless in times when war was the exclusive business of professional soldiers, but all that has been changed. The elements of national defense are now the sum total of all the economic resources of the country plus all the man power. In time of imminent danger the mobilization of a thousand chemists might be infinitely more important than the mobilization of a million troops.

The conventional argument that armament is a form of national insurance is one that is not highly impressive in the circumstances. Insurance does not run parallel with competitive armament, and it is with competitive armament that the world is dealing. No property owner feels compelled to take out new policies because a business rival has increased his insurance. Nor does he ever feel impelled to establish a two-policy or three-policy standard in respect to other property owners, or solemnly to announce as a measure of life or death that come what may his insurance must equal that of any of his competitors, whether he occupies a fireproof building or not.

Moreover, if a manufacturer devoted 80 per cent of his total income, as the United States Government is doing, to paying insurance premiums, his creditors would soon intervene, and his case would also receive the careful attention of an expert alienist. He might be solvent, and he might be sane, but neither his solvency nor his sanity would be taken for granted. What an individual could not do without subjecting himself to court proceeding is what every Government is doing in the name of national defense.

No nation can be asked to strip itself of all defense—that is beyond the bounds of reason; but the system of competitive armament has nothing to sustain it except the incompetency of statesmanship. Most wars are made by politicians engaged in capitalizing race prejudices and international rivalries for their own advantage. Wars that spring from the people themselves are few, indeed; and most of the money that is now spent in preparing for another war among the white races is doubly wasted. If there is such a war during the lifetime of the next generation, on a scale equal to that of the recent war, it makes no difference who triumphs or who is defeated. Victor and vanquished alike will perish in the ruins of the civilization that they have destroyed.

Spending money on competitive armament at this time, under the pretext of providing for national defense, is like drawing blood from a patient who is suffering from pernicious anemia. The disease may not be fatal in itself, but the remedy is sure to be. Whether Europe can recover from the effects of this inconceivably disastrous war is still a debatable question. No person even reasonably familiar with the situation in which mankind finds itself would venture to predict the general state of civilization five years hence. The issue is still hanging in the balance.

The old Prussian doctrine of Weltmacht oder Niedergang has taken on aspects that were never dreamed of by Bernhardi or the General Staff. It has extended itself to all western civilization—the Weltmacht that comes from continued economic development, or the Niedergang that must result from economic exhaustion. Collapse is inevitable if the impaired resources of the world are to be steadily depleted by the competition of armament that has been stimulated beyond the wildest dreams of antebellum imperialism. Unless the statesmanship of the world can be brought to a realization of the imperative necessity of economic rehabilitation and of the immediate need of sacrificing everything that stands in the way of that rehabilitation, then indeed was this war the Götterdämmerung—the twilight of the white man's gods.

ADDRESS BY ATTORNEY GENERAL DAUGHERTY.

Mr. NELSON. Mr. President, Attorney General Daugherty, on August 31 last, at Cincinnati, Ohio, delivered a very able address before the joint session of the American Bar Association and the Ohio State Bar Association relating to respect for the law and law enforcement. I ask that the address may be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

RESPECT FOR LAW.

"Where law ends, tyranny begins."—William Pitt.

Mr. Chairman and gentlemen: In the outset I extend to the members of these two bodies, the American Bar Association and the Ohio

Bar Association, in joint meeting assembled, my thanks for the privilege of appearing before you on this occasion. I assure you I appreciate fully the courtesy extended to me.

Many times since I accepted this invitation my duties have prompted me to plead to be excused, but when I remembered the uniform courtesies extended to me by the members of the bar of Ohio and of other States, and the fine spirit of helpfulness which you have manifested on every occasion, I have wished to come, feeling that I might gather renewed personal strength by mingling with you.

You have from time to time had the privilege of hearing the ablest and most profound men of the bench and bar, not only of our own country but also of the British Empire and of other countries. They have presented to you in masterly fashion the profound problems of the law. I have set for myself a much humbler, though possibly a not less useful task, to lay before you a few of the problems which I face day to day as the head of the Department of Justice, in order that you may understand, and, through you, the American people, the principles upon which they are decided. Hence, it seems fitting to speak to you on the general subject of respect for law, or, rather, to enumerate to you for your consideration some of the things that tend to undermine respect for law.

This subject is not new—few vitally important subjects are new. It is, however, timely. By this I do not mean that we have been suddenly ushered into an era of lawlessness. No attempt will be made to prove by statistical or other methods that lawlessness is increasing. My purpose will be mainly to call attention to certain theories of political philosophy advanced by those who either violate the law or sympathize with law violators as a defense and justification of their course. Some of these theories are as old as constitutional government, and have been advanced from time to time by those who have sought to evade the penalties of the law.

Hence, my purpose is, first, to speak to you, by way of background, upon the general subject of respect for law, and, second, to present some of the theories that have been advanced or more vigorously revived since the World War which, if accepted into our constitutional and municipal law, would seriously embarrass the rule of law and order in this country.

I can not conceive of a more appropriate audience with which to discuss the problems and difficulties encountered in the vigorous enforcement of law than with the representatives of the bar here assembled. Who could understand these problems better or play a more efficient part in their solution?

The American bar has had a glorious past. From its ranks have been drawn very many of the great names that stand out for useful service in the founding of our Government, the making of the Constitution, in the expounding and development of this wonderful instrument of government, and in the growth of the Nation under it. In all this work the bar has contributed a leading part.

In that profound study of the correct political philosophy upon which a sound system of constitutional government should be erected the lawyer has stood in the forefront. But, my friends, the opportunities of to-day are no less than they have been in the past. Probably there has been no era in our history in which an able, intelligent, educated lawyer, consecrated to the service of the State, inspired by broad, liberal public spirit, with a sincere devotion to the welfare of his fellow men, has had a larger or more useful field in which to exert his talents than to-day.

You will perceive, therefore, that my coming is a call to service.

Napoleon, standing in the shadow of the pyramids of Egypt, having just received the news that France had given herself up to a drunken orgy of lawlessness and anarchy, exclaimed, as he departed immediately for France:

"The reign of the lawyers is over!"

Whether Napoleon meant by this that the reign of law had yielded to anarchy and lawlessness, and conceived that anarchy needed not the lawyer but the armed rule which he intended to impose upon it, or whether he meant to express disgust and contempt at what he considered the reign of the lawyers is not material. The fact remains that the imperial hand of Napoleon, the stern presence of military force, the glittering bayonet of steel, were all insufficient to furnish the permanent basis upon which a new civilization for France was to be builded. Napoleon failed in much that he undertook, but the Code Napoleon—the work of French jurists performed under his direction—furnished the basis for the civil law of modern Europe and stands to-day as his most enduring monument. The "man of destiny" held the lawyers in contempt, but he was forced to accept their services and counsel before France could be redeemed and placed on a basis of orderly government.

Respect for law is the one essential fact of our civilization. Without it life, liberty, and property are insecure. Without it civilization falls back to the chaos and anarchy of primitive times. Under such conditions each human being is compelled to attend primarily to his own safety and to the protection of his own property, and has neither time nor opportunity for the intellectual, moral, or spiritual development.

The history of civilization has been a continuous struggle for law and order. Through all the centuries men have striven for that protection of life, liberty, and property that comes through well-ordered government. Mankind has paid allegiance to lords and overlords who were able to give this protection.

Our present civilization did not come by chance. It is the result of labor, toil, and consecrated service of hand and mind and heart. The wealth of our day in all its forms is but the surplus of what man has produced and saved over what he has consumed. By the term "wealth" in this connection I do not mean material wealth alone. It included every product of mind as well. The mental, social, moral, and spiritual achievements of the past are a part of the wealth of to-day. Every triumph of mind or spirit that makes for higher and better living to-day is a part of the world's wealth. This wealth, this stored-up savings of men, constitutes the basis for and conditions all his other activities. A people without an accumulated store of wealth lack the first essential element in their civilization to make them able to accomplish spiritual things.

I know it is often said that this is the wealthiest and at the same time the most materialistic age in the world. That is true in a certain sense, but it is also true that the common wealth of the age as well as the sum total of individual wealth furnishes the opportunity for the achievements that have been accomplished. Our schools and colleges, our libraries, our homes of comfort, our means of transportation and communication, and all our means of enjoyment in life are physical conditions necessary for spiritual as contrasted with material upbuilding.

The right of property on the one hand, of life, of liberty, of the pursuit of happiness on the other, are not antagonistic and hostile, to be set off in terms of opposition. Material wealth is the handmaid of spiritual achievement—that is, of intellectual, social, and moral achievement. To this extent the right of property is the ally of the right of life in its fullest enjoyment, of liberty in its proper sense, and of the pursuit of happiness. The individual may not be wealthy himself, yet he is the beneficiary of the common and collective wealth in the civilization in which he lives. He is the "captain of his soul" in that he can steer his course as he chooses and lay under tribute the accumulated wisdom and savings of all time, whether it be in the realm of matter or of spirit. Instead of perishing with its own age, this surplus wealth, both material and spiritual, handed down from one generation to another, remains to bless and nourish each succeeding generation.

Paradoxical as it may seem, all progress is conditioned on the principle of conservation. Conservation, or preservation as it is usually termed, of the wealth of the world, whether it be in the realm of the material or spiritual, is conditioned on the supremacy of the law. If there is one fact history teaches above another, it is that the rights incident to wealth and the rights furnishing the opportunity to enjoy spiritual, intellectual, moral, and social things are conditioned upon the supremacy of the law.

Dr. McCosh, in his work on logic, says that words are the fortresses of thought, meaning thereby that every new idea or concept is held in place, its principle, limitation, an definition permanently preserved by the word which stands in the language for such concept. Law in the development of civilization bears the same relation to the acquisitions of man. Instead of permitting these acquisitions to be lost or dissipated, the law attaches legal rights thereto, establishes a nexus between the person and the thing, and thereby furnishes the strongest motive of the race to conserve. Hence, the conservative occupies the vantage ground in the march of progress. The iconoclast, by destroying existing things, is the enemy of progress. Many modern substitutes in the name of progress serve only to destroy existing things without leaving anything enduring and abiding in their place.

I have always regarded it as a good rule of life to keep my conservative foot firmly planted on solid ground until I find a sure foundation for my progressive foot.

Without the principle of conservation there is no progress, because each generation starts where its predecessor did. Acting under its principle each generation starts where its predecessor left off, and is—

"The heir of all the ages in the foremost files of time."

I do not mean in what I have said to glorify property or the right of property as the chief aim or end of government. Nothing could be further from my mind. Human life is the supreme object above everything else of all government. Property is subservient to the majesty of a human soul. Yet, if the history of civilization teaches one lesson beyond dispute it is that the development of the spirit is intimately interwoven with the conservation of the world's wealth. This affords the opportunities for education, for culture, for study, for enjoyment, for the pursuit of happiness in its various phases, and is in any civilization intimately connected with its stored-up wealth. It also teaches that things of the spirit can best reach their full fruition through the advantages this collective wealth of the world gives. Hence, respect for law is the sine qua non of our civilization.

Turning now from these observations on the historical side of this subject, I desire to mention a few matters of a more concrete and specific nature. And, in passing, permit me to suggest that the supremacy of the law, though challenged, is not undermined by the ordinary criminal who commits murder, robbery, larceny, etc. To the contrary, every occurrence of crimes of this sort tends to impress upon society the profound importance of the supremacy of the law and its vigorous enforcement. The supremacy of the law is and has been challenged mainly in that class of legislation where there exists a difference of opinion as to governmental policy in enacting the legislation in question.

Disrespect for law has manifested itself in the past mainly by large corporations or aggregations of wealth, commonly known as big business, and by labor organizations in relation to such business. At the present time among the forces that are undermining respect for law are the following: The doctrine of so-called political offenses, erroneous conceptions of personal liberty, and false doctrines as to the rights of individuals and minorities. These may not be the only sources of disrespect for law, but they are deserving of attention at this time because their proponents have been especially active in asserting them since the World War.

I wish to speak briefly on each one of these subjects.

Because of 100 years of practically uncontrolled freedom of conduct, large corporations and aggregations of persons and capital have resented the interference of laws regulating them in the interest of the people as a whole. This has been a mistaken attitude. Law and order is the shield of business and its only security. The attitude of contempt for law, resulting in an effort to evade and violate it, is suicidal to business, for it removes its only support. Business should see that its security lies in obedience to law; that the whole doctrine of private property depends upon law; that law violation is contagious, and therefore that all other classes of society can adopt toward property and the persons who own it the same methods and the same attitude. It would be unreasonable, indeed, for any element of society to attempt to invoke the law for its security and protection which it has held in contempt and sought to break down. This, however, has not been the most immediately harmful effect of the disregard of law by business. Unscrupulous business methods in violation of law, an attitude that the power of wealth lifts its owners above the law so that they can defy it with impunity, arouse a spirit of resentment in society. A prejudice is created not only against immediate acts of law violation but also against its very existence and lawful operations. In short, the conduct of business in violating law has often produced a reaction in society that has caused restrictions, limitations, and the penalties to be placed upon it that are in some instances unsoud from an economic, industrial, or social point of view.

The attitude at times of big business that it is above the law has also stimulated the spirit in the public that lawlessness must be met by lawlessness; that one unlawful act by an element of society must be challenged and met by another unlawful act. This, of course, breeds a growing disrespect for law. These acts of lawlessness are contagious, so that the law violator all along the line thinks that he is only following the example set for him by those agencies of business that were strong enough and well enough intrenched to violate the law with impunity. The hold-up man is the counterpart of the profiteer. The lawlessness of labor is the counterpart of the lawlessness of capital. The lawless employee is always an apt pupil of a lawless employer.

As for labor organizations, many have opposed them in principle, especially the employer class. Whether economically wise or not, it is

not material to discuss here. In passing it may be said, however, that most fair-minded people feel that in the absence of regulation by Government for his protection the man who toils is at an unfair advantage, dealing as an individual, with his more powerful employer, who often represents large aggregations of wealth. For this reason society as a whole has not opposed these organizations for the protection of labor, the practical fact being that one combination of men have been brought face to face with another combination of men. The concern of society is that it has been the innocent victim of the struggle between the employer and the employee.

Happily there seems now to be a commendable spirit on the part of the employer representing so-called big business, on the one hand, and the employee, composing the labor groups, on the other, to bring themselves within the law and to respect the law. This is true not only in their direct relation to law but is true as the statement of an attitude toward each other. However, the efforts in working out a harmonious understanding between capital and labor so as to avoid injury to the public have not made the progress that the friends of good government have wished. It is of no avail to preach the doctrine that each of these elements when it understands the other will do the right thing. The men who preach this doctrine, whether they be theorists or practical captains of industry or labor leaders, are usually the class of men who themselves are willing to do the right thing. To these men the love of justice is the prime consideration. Unfortunately they are the exceptions. Therefore since the general rule in business is that the employer wants to secure service on the most advantageous terms to himself and the employee wants to render service on the most advantageous terms to himself, the conflict is ever present. The clash of interests is always a controlling factor.

That the public is a vitally interested party is admitted by all. Yet it has little guaranty from law that its rights will be protected. It has seemed to me, therefore, that there ought to be laws to which either party to the controversy could appeal for the settlement of any dispute that arises between employer and employee in order that the public, as well as the parties, should not be subjected to the hardships resulting from controversies between these two factors of industry.

I do not take the position that either the Federal or State governments should enact a code of legislation binding and tying the hands of these two factors in settling their disputes. Strikes and lockouts, and similar things, ought to be unknown. These weapons came into existence because a tardy public sentiment did not provide the means to secure justice by those who invoke them. We are now in this situation: In the field of social, economic, and political philosophy that must underlie any law on this subject, it may be said that our statesmen, publicists, economists, educators, and thinkers are hopelessly divided. Why? Because in the 25 or 30 years that these questions have been gradually becoming more acute they have not had at hand a trustworthy report of the facts of each case as a basis upon which to work. In any particular controversy the employee diligently sets forth his propaganda, having the advantage of an appeal to the people, whose sympathies are always with flesh and blood as against capital. The employer likewise, by less open but equally effective means, sets forth his propaganda. Each propaganda reaches mainly the class of people previously in sympathy with it. It seems desirable that there should be some agency in Government to investigate the facts of each case as it arises, make a finding, and publish it to those concerned. Such publicity in most cases will be all sufficient to settle the question without further action. In the past we have had legislative investigations, commissions of inquiry, boards of arbitration, etc. The great weakness with these boards and commissions has been that their main purpose has been to get the parties together in the immediate controversy instead of making examination of the facts and reporting a finding in the form of a decision upon those facts in which the general social, economic, and moral principles of justice that should control each case would be set forth. If such a thing were done, these reports would in time acquire a value in furnishing a safe and sane basis for determining relations and crystallizing public sentiment in relation thereto.

I am not much in favor of new nostrums and panaceas to cure the ills of the body politic, but it has occurred to me that there should be some agencies in the Federal and State Governments of this kind. With respect to such agencies, I venture to make the following suggestions:

First. It is an undisputed fact that the public have a right to know what the quarrel is about in every actual or threatened strike or lockout and similar controversies.

Second. There should be some definite agencies in government for ascertaining these facts fully and making an impartial finding by those specially qualified both by temperament and training to do this particular kind of work; and such finding should be reported so that it will be a reliable source of knowledge to which students and publicists and statesmen can resort.

Third. Compulsory jurisdiction over these two factors to compel them to submit to an inquiry of this sort is not only desirable but just.

Fourth. At present our study of this question has not been sufficiently thorough to warrant legislation compelling the acceptance of such findings by the parties thereto. Therefore the jurisdiction of the proper agency should be obligatory upon the parties to submit to the investigation; the acceptance of the finding by the parties should be voluntary.

Fifth. The experience of the past shows that in most cases full, accurate, reliable publicity has been sufficient to compel an adjustment of these cases. Public sentiment is a controlling factor, and it is important, in justice to both of the parties, that it should depend upon something more accurate than successful propaganda.

Sixth. In the course of time knowledge of the nature and causes of these controversies derived in this way may crystallize public sentiment to the extent that laws can be enacted making such controversies impossible.

Society is vitally interested in the proper solution of this question. When some such plan as I have suggested shall have been put in operation, then we will have a more intelligent basis upon which to enact compulsory legislation upon this subject.

I have been discussing acts and conduct as a basis for disrespect for law. I now turn to a consideration of several subjects that tend to create disrespect for law not by specific acts merely but by attempts to justify those acts by certain theories of political philosophy. And of these, the first is the doctrine of so-called political offenses.

Political offenses is a term, as you know, of international law used to denote certain classes of offenses which are excepted from the operation of treaties of extradition between States. The offenses comprehended under this term for which extradition will not be granted are usually those involving matters pertaining to civil, religious, or political liberty. The State in which the fugitive has found asylum frequently reserves to itself the right to refuse to surrender such fugitive on the ground that it is one of the excepted cases under the extradition treaty. The principle at the basis of this doctrine is that two sovereign States do not necessarily have the same civil, religious, or political standards of liberty; that one nation may abridge liberty and prescribe penalties for doing certain forbidden acts, which abridgement is utterly opposed to the fundamental political philosophy upon which such other nation exists. Therefore such other nation reserves to itself the right not to surrender fugitives to a country whose standards upon the subject matter of the crime are entirely different from the standards of the country granting the right of asylum to such fugitives.

From this it will be seen that it is distinctly a doctrine of international rather than of the domestic law of a State. However, some of the European countries who during their history have been torn by revolution and revolt and who for this reason have had to deal with factions within the State have recognized the doctrine of political offenses. Under such circumstances, however, the term still maintains its international character.

The term is unknown in the domestic law of this country. However, in the debates in Congress, in the few years subsequent to the Civil War, the term is found in the discussions pertaining to the status of persons in the Southern Confederacy who gave allegiance to their particular State as against the Union. Here, again, the term has an international rather than a domestic character.

From this brief review it will be seen that the term is one of respectability, as used in international law, and connotes the idea that the fugitive from justice may have performed an act constituting an offense in the State from which he is fleeing, but which act might be regarded as highly heroic and honorable in the State in which he seeks asylum, but which, nevertheless, constitutes the crime for which the demanding State asks for his extradition.

In this country there is now being disseminated an extensive propaganda to dignify the crimes committed by many persons who are now in prison for disloyal conduct or for obstructing or hindering the Government in prosecuting the war with Germany, and by means of such propaganda to create a public sentiment not only to have such criminals freed but to have this general doctrine of political offenses recognized as a part of our domestic law, the purpose being, when the doctrine is once recognized, to enable criminals and those in sympathy with them to continue such opposition to law and order with impunity. This propaganda has been waged by persons mainly hostile to American institutions for the purpose of educating the public, as they term it, to the fundamental distinction between political offenses and common crimes, and to work for the recognition by the United States of the status of political offenders, to create public sentiment favorable to such so-called political offenders, and to obtain immediate release for all so-called political prisoners. In order that the general character of this propaganda may be understood, it should be stated that these propagandists term all the anarchists, I. W. W's, and socialists who have been convicted of law violation, idealists, and heroes of conscience, and demand their release on the ground that the acts of these persons are political offenses merely.

For my own part, I have always acted upon the theory that it never pays to agitate the agitator. I would not dignify this matter if it were confined to socialists, I. W. W's, and anarchists, whether they be natives of this country or, as most of them are, importations from the Old World. But when many very well-meaning people, among whom are ministers of the gospel, teachers, editors, and college professors, to say nothing of that vast number of sentimentalists who always stand ready to make heroes out of criminals whenever opportunity offers, feel that it is sufficient reason for the release of these people to say that they are political prisoners, it is proper that something be said on the subject. Men have often been taken off their guard and caught unawares by catch phrases and slogans that seem to express an idea. From the propaganda waged by the enemies of American institutions, these well-meaning persons seem to have acquired the idea from the phrases "political offenses" and "political prisoners" that all the really dangerous radical believers in "direct action" who are in prison to-day for not only violating the laws of the United States but for counseling other persons to law violation are heroes for conscience's sake and akin in some way to the martyrs of old. If this were true, their opinions would be entitled to great weight. But such is not the case.

From the history of the origin of the doctrine of political offenses it will be seen that there can be no recognition of that doctrine in the municipal law of this country. Why? Because when the sovereign will of the State expresses itself through duly enacted law it is repugnant to every nation of the supremacy of the law and its uniform application to recognize the doctrine of political offenses. Again, the reason for this doctrine is not present under municipal law; that is, the domestic law of a State. It has been seen that under international law the reason for the doctrine was the different standards of two or more sovereignties as to civil, political, or religious concepts. That reason does not exist under the municipal law of a political State or sovereignty in this country. It would destroy the sovereignty in this country. It would destroy the sovereignty of the State to permit two standards, one repugnant to the other, to exist side by side—the standard of the law and the standard of some individual, or group acting as individuals, to set up a so-called political conscience at variance therewith. Such a doctrine has never been recognized in the municipal law of this country. It is one of the most dangerous cloaks that has yet been devised by the enemies of our constitutional system of government to cover lawlessness and disrespect for law. It is dangerous because it is a term incapable of definition. If sought to be applied, it would be as omnibus in meaning as the various shades of elasticity of the political conscience of those who sought to apply it. By the propaganda before us we can readily imagine how elastic this political conscience would be when we are asked to apply it to the idealists, such as anarchists, I. W. W.'s, and socialists.

There might have been some excuse, or even justification, for the recognition of such a doctrine in the schisms and controversies, rebellions, revolts, and revolutions of the Old World, whose history has been in some States one continuous struggle between the arbitrary exercise of tyrannical power on the one hand and the just fight for civil, political, or religious liberty on the other. Again, no organ of government existed in many of these States for the sovereign will of the people to express itself. Hence, revolution, rebellion, revolt, and feud within the State were the agencies that necessity compelled them to invoke in order that the spirit of liberty and democracy might express itself. In view of this the various factions within the State frequently had the de facto status of belligerents. Hence the development of the doctrine after the analogy of international law within

the government of these countries. No such justification for the doctrine can exist in this country. Our constitutional system is so organized that at the ballot box the sovereign elector expresses his will. Changes are to be wrought through the constitutional organs of government and by the orderly processes of law. The Constitution, by the rights, privileges, and immunities granted therein, amply protects any citizen in his religious or political liberty. The limitations of the powers of legislation in the Constitution under its Bill of Rights, together with the judiciary system as the agency for protecting the individual against the invasion of these rights by government, furnish ample security for even the most conscientious. In addition thereto, our Government during the late war, as it always has in other wars, adopted a considerate and liberal policy toward conscientious objectors. Hence, there is no occasion to engraft this so-called doctrine of political offenses, the child of the struggles against arbitrary power in the Old World, upon our American political philosophy.

One word more upon this subject. It would be a far reach to include as heroes of conscience those who claim the conscientious duty of fighting against the country that gives them protection, of despising and holding in contempt its flag and its institutions, by opposing it, and counseling, aiding, and abetting disobedience to law under the guise of political conscience. A man may have a certain religious or political opinion, but one who not only violates the laws his country imposes, but uses his full power to induce others to violate law, to break down peace and order in society, is going too far to excuse himself on the ground that he obeyed his political conscience and thereby committed only a political offense for which he should not be punished. Such a plea offered as a defense or justification, or even extenuation of his conduct, is not consistent with the uniform application and enforcement of law. This subject could not be more forcibly nor tersely expressed than by the present President of the United States in a speech delivered at Omaha, Nebr., October 7, 1920, in which he said:

"No true American will argue that our laws should not be enforced. I refer to laws, no matter of what nature, whether they be those which deal with ordinary crimes and misdemeanors, or those which deal with acts of treason to the United States, threatening to the Constitution and the fabric of our social organization.

"I wish no one to misunderstand me, and, therefore, I will say as plainly as I can that for my part I can see no essential difference between ordinary crimes on the one hand and political crimes and political prisoners on the other hand. If there is a distinction surely it is not a distinction which favors political crimes or political prisoners. The thief, or any ordinary criminal, is surely less a menace to those things which we hold dear than the man or woman who conspires to destroy our American institutions."

Another subject that undermines respect for law, especially prominent at the present time, is an erroneous theory of personal liberty under our constitutional system. This controversy is as old as government itself. It has been asserted with especial vigor recently owing to the eighteenth amendment to the Constitution of the United States and to the amendments in the various State constitutions, and because of legislation on the same subject by Congress and the various State legislatures.

The question of the limitations of personal liberty is, in the first instance, a question of political philosophy and not of law. The advocates of personal liberty have ranged all the way from those who favor the widest measure of license to the individual to do as he pleases, on the one hand, to those who would restrict the individual by the most puritanic standards on the other hand. There is no quarrel on my part with any of these groups. As long as life, personality, individual endowment of mind or heart differ, there will be differences of opinion among the constituent members of society on questions of this sort. As long as they remain purely speculative questions in the realm of the political philosophy proposed by their respective advocates as the basis for social organization there is and can be no objection to them. Everyone has a right to advocate any view that he pleases on this subject. However, when public sentiment has crystallized into law there can be no question as to the duty of good citizens with reference thereto. They may still debate as to the wisdom of the law, but there is only one course of conduct, and that is obedience to the law while it exists.

In order that the weight to be attached to the argument of those persons who claim that their personal liberty is invaded by legislation of Congress and the various State legislatures, it may be profitable to refer to the history of this sort of legislation. In the evolution of government we have gradually limited the sphere of individual liberty. A study of the history of legislation wherein personal liberty has been limited by statute will show that these enactments have been vigorously challenged, and the same arguments have been used against violation of personal liberty that we hear to-day. For example, compulsory education laws, antidueling laws, antigambling laws regulating social relations, and practically all the abridgments by statute of the common law, have in the past been opposed by the argument that we now hear, namely, that they are violations of personal liberty.

In this connection I am reminded of the well-known remark of Madame Roland, who, when led to the guillotine, as she chanced to look up and saw the sign of liberty, which was the slogan of that awful time, exclaimed:

"O Liberty! Liberty! How many crimes are committed in thy name."

Let me be not misunderstood. I do not mean to impute moral turpitude to him who is opposed to the eighteenth amendment or similar amendments in our State constitutions, or who is opposed to the Volstead Act or similar legislation in our States. All I mean to say is that the argument of undue abridgment of personal liberty advanced to-day has in the past been advanced by every champion of lawlessness who has sought to find an excuse for unlawful conduct. And in passing let me repeat that this question is older than the American constitutional system. In fact, it constitutes one of the fundamental points of observation in the history of civilization, and has been one of the principal elements in the cycle theory of civilization. That theory, briefly stated, is that nations develop a strong, virile life of simple living in their infancy, pass through the various steps of development, and then break more and more the restraints of life about them until, surfeited with the luxury that a high civilization can give, they throw off, little by little, the restraints of life until simple living has been changed into license and an unbridled indulgence in everything that appetite and propensities call forth. This effeminates, enervates, and undermines the virility of the nation so that it becomes enfeebled, falling sometimes at the hands of a younger and more virile civilization; sometimes decaying merely by mental, or moral, or spiritual atrophy. Then, after the wake of centuries, starting over again, they repeat the same processes. The lesson of all this is that if our civilization will place such restraints about itself as to keep it virile and strong in health its civilization will endure. If it yields to these false doctrines of personal liberty, it will go the way of the nations of the past.

"Ill fares the land, to hastening ills a prey,
Where wealth accumulates and men decay."

On this subject of personal liberty Howell Dwight Hilles fittingly said:

"He who stoops to bear the yoke of law becomes the child of liberty."

Daniel Webster likewise said:

"Liberty exists in proportion to wholesome restraint."

But, gentlemen, whatever be our individual views as to the wisdom of these constitutional provisions and laws made thereunder in our Federal and State Governments restricting personal liberty, the fact remains that they are on the statute books. They have been regularly enacted and are a part of constitutional and statutory law of the land.

From the standpoint of the Government the only sound view is that of law enforcement. Whatever differences of opinion exist in the views as to the wisdom of some of these laws can be of no concern to the agencies for law enforcement. The executive department can not make the laws. It is equally true that it can not nullify laws. To refuse or to neglect to enforce a valid enactment of the legislative department of government, or to enforce it mechanically or half-heartedly, or to wink at its violation, is without justification on any sound theory of government. Those who ask it or expect it not only contribute to lawlessness but destroy the basis upon which their own security rests. Our safety and happiness lies in obedience to law by every man, woman, and child within the domain of our Republic, and no one can undermine respect for law without being, to that extent, an enemy to law and orderly government.

I am opposed to any system of government in which the rights of any individual or group of individuals depend upon the whim or caprice or temperamental attitude of any public officials.

As early as 1780 the Massachusetts bill of rights declared for the separation of powers, and assigned as a sufficient reason therefor "to the end that this may be a Government of laws and not of men." One of the fallacies of our present-day thinking is that questions of the supremacy of the law and law enforcement must be made an issue in political elections. It is always vital to know the views of the Executive in State or Nation on questions of proposed legislative policy; for the Chief Executive in the Nation and in the States in which he exercises the veto power and in which he is required to give the legislative department information on the state of public affairs and to recommend to them measures of legislation, is a part of the legislative power, and in the course of our development such Executive has become not only an organ of public opinion but also the political leader of his party. Hence, the electors are entitled to know the position of the Executive on matters of legislative policy. But it can never be proper in a government of law and not of men to demand a definition of his attitude toward the enforcement of law. Practical politics sometimes makes this demand, but to the extent that such practical politics is effective it is contrary to the spirit and purpose of our Government. Our fathers who framed our Constitution would have spurned any such political philosophy.

If any citizen dislikes the law under which he is living, his relief is through the legislative department of Government, and not through those who, under the Constitution, have the sworn duty of enforcing the law. As a citizen can not choose what laws he will obey, so, likewise, those charged with law enforcement can not choose what laws they will enforce. The only sound position for those who favor respect for law to take is that those charged with law enforcement must enforce all the laws, and all good citizens must obey all the laws; neither can exercise any right of choice in this matter without placing themselves above the law. It is the part of faithful officials to enforce and the part of good citizens to obey them.

Another subject closely related to the topic just discussed that tends to undermine respect for law, and which has been a mooted question in every system of constitutional government, is the mistaken theories of the relation and attitude of the minority to the majority. Recently we hear much about the rights of the minority, as if it had a special privilege of not obeying the law because it is made by the majority.

Our constitutional fathers understood thoroughly the political philosophy underlying the relation of government to individuals and to minor groups of individuals. There was nothing in the doctrine of minorities in relation to majorities that was not before them for consideration. They gave to the world its first solution of that problem in an instrument which protects the rights of minorities as far as they ought to be protected, and at the same time left the majority free to carry out the sovereign will.

The theory of our constitutional system as framed by our fathers, as is well known to all, is that there is a field of rights, privileges, and immunities set off as a separate domain into which the powers of government can not enter. They also provided the first agency in the world's history for protecting this excluded domain from trespass by government by establishing a judicial system with power to say to the various agencies of the Government—

"Thus far thou shalt go and no farther." The fathers did not claim infallibility for the rule of the majority. They provided against hasty or inconsiderate action by a system of checks and balances, by the doctrine of the separation of powers, and by making the two branches of the Legislature, as well as the Executive, agencies in law making. This system insured careful consideration and the opportunity for the public sentiment of the Nation and States to express itself.

The criticism of our Government, as contrasted with the parliamentary system of government, has heretofore been that by its organization and structure it is difficult for the majority will to express itself freely, rather than the criticism that the Constitution was so made that the majority will could ride roughshod over the minority. In view of these constitutional safeguards there can be no excuse for any person within the domain of this Republic to hold its laws in contempt; to disobey them himself or countenance others to acts of disobedience to them on the ground that the rights of the minority have been disregarded. It is the duty of the minority as well as the majority to obey the law.

I am fully aware that much that I have said is familiar thought to most, if not all, of the audience now present before me. My experience in the last few months as head of the law-enforcing department of the Government has carried to me the conviction that these things should be said to the general public. It has been my thought to use

this occasion and this audience as the media through which to transmit these thoughts and suggestions to the American people, who are vitally concerned in maintaining a just and wholesome respect for law.

I consider the reputable American lawyer everywhere a part of the Department of Justice and expect him to give to both the department and the public advice and support, to the end that the law may be universally understood and uniformly enforced.

If laws are obnoxious to the people, it is their province to repeal them. Until they are repealed they must be observed and enforced without fear or favor.

The Government will endure on the rock of law enforcement; or it will perish in the quicksands of lawlessness.

Those who do not believe in our Government and the enforcement of our laws should go to a country which gives them their peculiar liberty.

To those who come to our shores to take advantage of American opportunities it is becoming to wave the hands of welcome. But it is our duty to warn them to stay away unless they intend to observe our customs and obey our laws.

My duty is clear. As long as I am the responsible head of the Department of Justice the law will be enforced with all the power possessed by the Government which I am at liberty to call to my command.

ADDRESS BY HON. W. G. M'ADOO.

Mr. HARRISON. Mr. President, Hon. W. G. McAdoo on the 7th of September last delivered a very interesting address at Newton, Kans., on the subject of tax revision and the general state of the Union. I ask that it may be incorporated in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

SPEECH OF HON. W. G. M'ADOO AT NEWTON, KANS., SEPTEMBER 7, 1921.

Ladies and gentlemen, the administration has occupied the national stage for six months, and we are beginning to get a clear picture of the policies which are to control its conduct of national and international affairs. In a sentence, those policies seem to be designed to secure the least possible political and commercial intercourse with the rest of the world.

Apparently this is to be accomplished, first, by noncooperation with the 44 nations now bound together in a league for the purpose of preserving the peace of the world through arbitration of international disputes, and for the purpose of cutting down naval and military armaments which are crushing the life and prosperity out of peoples everywhere; and, second, by putting into effect a tariff so high that it will restrict our foreign trade and in large measure destroy it.

Economic disaster will be the inevitable consequence of such short-sighted policies. Already we are feeling the effects. The gravest business depression in our history is upon us, and it will grow more acute as the policies of international isolation are further developed and enforced.

Our domestic policies are a corollary of the foreign policies. Excessive military and naval expenditures are continued because we must prepare to fight the world in order to remain "isolated."

Our new high tariff is, in effect, a declaration of economic warfare on the rest of the world and a step toward physical war.

The promised reduction in taxes can not be made because the principal part of our tax load is due to the wars we have already fought and to the preparations we are now making for the next war.

Suffering business and individual taxpayers, already bled white by war taxes, will get none of the relief promised for the year 1921. The tax bill which has recently passed the House and is now pending in the Senate takes as much money out of the pockets of the harassed business, professional, and working men in the year 1921 as it did in the year 1920. No real reduction of tax burdens is measurably in sight. An analysis of the Government's obligations and future expenditures based upon the policies already defined gives no promise of substantial reductions in the annual expenditures of the Government for some years to come.

This is true, notwithstanding the claims that are from time to time made of great savings in the expenses of government. The margin for such savings is very small unless we deal vigorously with a reduction of our Naval and Military Establishments—a thing we manifestly can not do if the policy of isolation as against international cooperation is adhered to.

The Fordney tariff bill will give the trusts and favored interests more complete control than ever before of our home market by shutting out imports or reducing them to negligibility.

It is a discouraging fact that after 30 years of the Sherman antitrust law, and in spite of all the other laws since passed to prevent or curb trusts and monopolies, we have in America to-day the greatest and greediest monopolies that have ever been organized.

Opening our markets to a reasonable amount of healthful foreign competition is a better regulator of monopolies than all of our antitrust laws, but more than that, reciprocal trade with all nations must be encouraged if we are to have domestic prosperity. The Fordney bill violates these principles. If it becomes a law the masses must pay higher prices for every necessity of life. Already the cost of living has begun to rise again. High tariff and high taxes are producing their inevitable effect.

The new tax bill, which has just passed the House of Representatives, is a fit companion piece to the tariff bill. Its underlying principle is reduction of the taxes of those most able to pay and a redistribution of taxation so as to impose upon the masses an undue proportion of the burden. For instance, the reduction in surtaxes benefits only those who have incomes in excess of $66,000. There is substantially no reduction in the taxes of persons having incomes ranging between $6,000 and $66,000 per annum. These constitute the large class of successful business, professional, and working people whose incomes are derived from their own personal toil and effort. There are small increases in the exemptions, such as allowances for minor dependent children and in other respects, but these are not material.

Under the present law the surtaxes on incomes begin with 1 per cent on $6,000 and progress gradually up to 65 per cent on incomes of $5,000,000 and over. It will seem that the present graduation of surtaxes between 1 per cent and 32 per cent on incomes between $6,000 and $66,000 was based upon the imposition of surtaxes ranging from 32 per cent to 65 per cent on all incomes between $66,000 and $5,000,000 or more. The new tax bill gives relief, therefore, only to people whose incomes range from $66,000 per annum to $5,000,000 or more per annum. There are some incomes in this country of $20,000,000 per annum or more, hence under the tax bill just passed by the House reduction in surtaxes applies to the incomes only of the wealthy and very rich. If a reduction in surtaxes to 32 per cent is made, then justice demands that a new graduation shall be adopted so that small and moderate incomes shall bear a just proportion of surtaxes to the big incomes ranging from $66,000 to $5,000,000 or more per annum. In other words, if the maximum surtax is reduced to 32 per cent, then it should be regraduated and spread over all incomes beginning with $6,000 per annum and ending with $5,000,000 or more per annum, so that small and moderate incomes will get some relief.

The principle should be kept constantly in view of the equitable distribution of the entire burden so as to impose the largest share upon those most able to bear the burden.

There ought to be an express recognition in the new tax bill of the principle that the unearned income—that is, the income derived purely from investments and without any effort on the part of the owner—shall bear a larger proportion of taxation than the earned income; that is, the income derived from the effort and toil of the laboring man, the salaried man, the farmer, the business man, and the professional man.

An amendment to the Constitution should be pushed through with all possible speed to prevent the further issuance of tax-exempt securities. Every tax-exempt bond throws upon the people at large a greater proportion of the burden of taxation than they ought to bear. These tax exemptions are pernicious in every way. They were one of the most serious handicaps I had to encounter as Secretary of the Treasury in financing the Great War. Already we have a preferred or tax-exempt class of wealthy people who are bearing literally no part of the burdens of Government except in so far as consumption taxes are concerned.

We are in the midst of one of the gravest economic crises that the world has ever faced. Widespread business depression prevails and the decline has been steady and progressive for the past eight months. The situation is particularly acute for the farmer and the laboring man, the farmer because his great industry is prostrated and the future is full of doubt and discouragement, and labor because 6,000,000 men are out of employment, factories are closed or running on short time, and winter, with its serious menace for the unemployed, is rapidly approaching. What can be done to improve the situation?

The first thing we have got to learn is that prosperity is international; that it is not merely local, and that it can not be secured to America through political or economic isolation. It can not be repeated too often that civilized society as now organized has forced an interdependence of nations as never before in human history and that no great nation like America, with its preponderant financial power and its excess of production over consumption, can live apart or curb or cease intercourse with other nations without bringing disaster upon itself. Once we concede that America is a part of the world, that business prosperity and the happiness of its people are inextricably bound up with other nations, that we must accept our full share of the responsibilities which those relationships impose, and that we must courageously do our duty as a member of the family of nations, we shall have taken a long step toward an intelligent understanding of the problems that confront us.

The policy of isolation should be abandoned. The policy of international cooperation should be substituted and our domestic economic policies harmonized as far as possible therewith. Economic equilibrium of the world would gradually follow and in due time return of general prosperity would be assured. In a crisis so grave the great and courageous leader will not hesitate to put the public welfare above political consistency or party promises.

Here we are—a Nation of more than 100,000,000 people, with one-third of all the gold in existence, with the greatest financial resources ever possessed by a single power, with immense surpluses of goods, raw materials, and manufactured products we are anxious to sell, and on the other side of the Atlantic is Europe—with 250,000,000 people still torn and bleeding from the wounds of the greatest war in all history, in dire need of the surplus products of the United States, which they need but can not buy.

This anomalous situation has been largely produced by the short-sighted policy of attempted isolation forced upon the American people for the past three years. The resulting failure to cooperate with other nations in securing effective peace, promoting industry and order, and encouraging beneficial international trade has delayed vital recuperative processes in Europe. Her people, already prostrated by four years of colossal war, have been further weakened since the armistice, and we are suffering from the loss of the broad foreign markets which we should have made secure by assisting Europe to recover her strength.

Now that the violent passions aroused by the late political campaign have somewhat subsided so that we can begin to see straight and think clearly again, it becomes more and more obvious that it would have been the part of wisdom to promptly ratify the Versailles treaty and take our place in the League of Nations. By the very terms of that treaty we could have withdrawn from the league upon two years' notice. All we had to do was to notify the other powers contemporaneously with the exchange of ratifications that we would withdraw two years thereafter, reserving, however, the right to continue in the league, provided the experience of two years' membership convinced us that it was to our interest to do so.

Suppose we had gone in on this condition, what would have happened? Already the two years would have expired and we would be out, if we had wanted to be; but America, during these two years, would have been the most powerful influence in the councils of the league. She could have shaped the destiny of the world, because all the nations would have been so anxious to keep her in the league that they would have deferred more than ever to American views, American policies, and American ideals. Standing in such a powerful relationship to world affairs, America could have thrown her influence immediately in behalf of those measures which would have satisfied the big and little nations of Europe alike that peace was secure. These nations could therefore have proceeded safely to make large reductions in military armaments (the League of Nations specifically provides for this) and that in turn would have released for productive purposes large forces of men now held in military idleness at great expense to the State. If these idle men, still held in armed camps in Europe, had for the past two years devoted their energies to the production of wealth there would have been a great transformation in European conditions, prosperity would abide where exhaustion is now supreme and Europe would be in position to buy our products at prices which would have kept the American farmer, laboring man, and manufacturer busy and prosperous. The European nations would be paying, in part at least, interest on the debts they owe the United States and our tax burden would be correspondingly reduced. Instead of facing a future full of uncertainty as we, in the United States, now do, and as the entire world now does, we would have been safely

launched upon a period of recuperation and prosperity. The world would have entered upon a new era of peace and ordered society under conditions which would have reduced the menace of war to a minimum. Unhappily, political partisanship made sport of these great opportunities and we are now paying the price.

Forty-four nations are already members of the League of Nations. This takes in all of the civilized world except the United States, Germany, Austria, Hungary, and Russia. Already Germany, Austria, and Hungary are disarmed by the conditions of the peace and, it is to be hoped, will soon be admitted to the League of Nations. Russia is not at present a serious menace to peace. When she gets established government which the other powers recognize she will no doubt be taken into the league. Then the United States will be the only Nation outside of it.

Can the League of Nations effect a reduction and limitation of military armaments with the United States on the outside? No; because so long as we play a lone hand and continue to increase our naval power and maintain a large potential military establishment (even though our standing army itself be small) we become a possible menace to the peace of other nations and they in self-protection must go on competing with us in military and naval strength. On the other hand, so long as 44 nations are bound together in a league by the very terms of which they must make common cause in serious circumstances for their mutual protection, they become a possible menace to us. Therefore we must continue huge military and naval expenditures to protect ourselves against them. These expenditures approximate $800,000,000 for the present fiscal year, or about one-fifth of all the expenditures of the Government. Every dollar of that money comes from the pockets of the people of the United States. It is not the income tax payer alone who bears this burden. It is the common people who bear most of it. It is taken from them in the form of consumption and other concealed taxes which increase the cost of living and leave them a smaller net return each year than would otherwise be necessary. Make no mistake about it—if the United States wastes money on unnecessary military and naval armaments or in any other fashion, it is the mass of the people who pay. The invisible hand of Uncle Sam reaches into your pockets every hour of the day and night and takes your proportion of the inevitable toll. Is it not a senseless thing for the American people to permit this thing to continue?

Is this not an extraordinary position for America to find herself in, when she has always been the champion of arbitration in the settlement of international disputes and the greatest apostle of peace among the powerful nations of the world? America lined up on one side refusing to cooperate for world peace, and all the other nations lined up for what America has heretofore championed.

Undoubtedly it was in recognition of these facts that Senator BORAH introduced a resolution in the Senate for a conference between the three leading naval powers—Great Britain, Japan, and the United States—for the purpose of agreeing upon a reduction of naval armaments so as to prevent the criminal and wasteful competition in the building of battleships and naval craft which become in a large measure obsolete before they can be put into commission. From the outset I have strongly approved Senator BORAH'S proposal, because it is practicable for these three nations to agree to stop senseless naval competition and thereby reduce the burdens of their overloaded taxpayers. But the President has enlarged the conference to six powers, Great Britain, France, Italy, Japan, China, and the United States, and has broadened its scope so that political questions affecting policies in the Pacific and the general problems of disarmament, military as well as naval, will be discussed. Every citizen hopes that great good to humanity may come out of this conference; that concrete results will be obtained. It is to be regretted, however, that it was not confined to the question of naval armaments as between Great Britain, Japan, and the United States, because agreement between these powers for reduction of their naval programs is attainable, whereas agreement on a program of military disarmament does not seem feasible without bringing in the 44 nations already bound together in the league. This great thing of reduction of naval armaments by agreement with Great Britain and Japan is possible, even if we remain out of the league, and the United States ought to secure it regardless of other questions that may come before the conference.

Discussion of naval reductions brings up the larger question, Why should civilized nations have navies at all? What would follow their complete abolition? Security, of course, for every nation against hostile attack by sea or water. Would not this be one of the most powerful of all influences for peace between nations?

Are not navies the parents of imperialism? Is it not through them that dominion over weak and detached peoples has been maintained by the strong powers? Have not navies been the chief instrumentality through which the great powers have competed with each other in the exploitation of the weaker nations of the earth? Do not navies perform an effective part in the economic warfare or trade competition between nations?

It is through powerful navies that the great nations have gratified their predatory instincts and imperial ambitions. If navies were completely abolished by agreement between all the powers, the sphere of possible warfare would be reduced to contiguous States which would be unable to fight except on land, and such navies as were retained would be confined to small and light craft necessary for police purposes and for protection against smuggling and other forms of lawlessness. It is no more unreasonable to seek an agreement for the abolition of navies than for a reduction of naval strength. Reliance would have to be placed upon the sacred obligation of the contracting parties in either case. Enlightened statesmanship has been struggling for decades through The Hague conferences and otherwise to limit the horrors of war through the adoption of certain rules of civilized warfare. It is generally agreed that the unanchored floating mine and the submarine, for instance, should be outlawed. It is carrying the principle to its logical conclusion to abolish navies altogether.

It will be argued that nations with colonies must have navies to protect intercourse between their possessions; but if all nations are without navies such protection is unnecessary. Where all are restricted to merchantmen all will stand on the same footing and intercourse between them and their colonies will be fully protected.

It may also be argued that warships are required to prevent piracy on the high seas, but this argument fails when all merchantmen can, by agreement between the nations, be armed with light guns that will offer adequate protection against this inconsequential peril. Moreover, wireless telegraphy is an added safeguard against piracy.

We should secure, out of the forthcoming conference, agreement for reduction of naval armaments, but this should stimulate us to take the lead in effecting the next great step toward peace, a transcendent reform in the relations between nations which will make the seas the great highways of peaceful commerce unmenaced and unaffected even by land wars wherever they may hereafter, unhappily, occur. Let us not stop at a mere reduction of naval armaments—let us strive for a navyless world.

The American people are interested, vitally interested, in the maintenance of world peace. They want arbitration of international disputes, because only through a generally accepted and effective policy of arbitration can the menace of war be removed. They want world disarmament, not only because it is an additional guaranty of peace but because reduction of military burdens will promote European prosperity and therefore contribute to American prosperity. They know that a reduction in the military and naval expenditures of the United States will lift a vast burden from their shoulders, and they know that our military burdens can not be lifted unless Europe lifts hers. They are interested in all these problems, not alone for material reasons but also because of their love of humanity and their reverence for the great principles of Christianity upon which our civilization is founded and which, if truly observed, are the greatest guarantor of peace and good will throughout the world.

War has been the greatest scourge of mankind. It has brought civilization to the verge of moral and material bankruptcy. Let us insist that the statesmen of the world rise above the passions of war and the debasing influences of political intrigue and find an enlightened solution of this great problem.

The VICE PRESIDENT. Morning business is closed.

ACCOMPLISHMENTS OF THE ADMINISTRATION.

Mr. HARRISON. Mr. President, I had thought that "politics had adjourned," and since the 4th of March, when the new administration was inducted into office, certainly it can not be charged that the Democratic minority have in the slightest way attempted to play politics or have tried to obstruct legislation which has been proposed by the Republican Party or have unfairly criticized anyone connected with the present administration. So some of us were very much shocked, indeed, we were almost pained, when during the recent recess of the Congress a political letter was written by the President of the United States to the senior Senator from Illinois [Mr. MCCORMICK], the chairman of the senatorial campaign committee, specifying what the President called "the monumental accomplishments" of the Republican administration, a letter which was intended to be used and was used in the election which was held on yesterday for the selection of a United States Senator in New Mexico. It is a most interesting letter, and I am sorry that the distinguished senior Senator from Illinois is not now in his seat, so that as I depict the fallacies of it and refer to the conference that was evidently held between the President and the senior Senator from Illinois when the plan was concocted to foist the scheme upon the people he might give his version, if I am wrong in the delineation that I am about to make.

The President begins his letter to the Senator from Illinois by saying:

> Thank you for your letter of congratulation on the accomplishment of the administration down to date. You have been good enough to speak kindly of the work which the executive departments have accomplished, as well as of that which has been done by the Congress. For myself, I feel disposed to emphasize what seem to me the remarkable achievements of the extraordinary session of the Congress.

Mr. President, those who know the distinguished Senator from Illinois, as well as the very astute President of the United States, those who are acquainted with these distinguished political leaders, their methods, and their ways, will have no doubt as to the genesis of this letter. I imagine now that I can see the distinguished Senator from Illinois as he contemplates the approaching election for Senator in New Mexico become worried over the outlook and endeavor to conjure up in his mind something to help save the situation; and so either he originates the plan or it is suggested to him that he had better see the Chief Executive and obtain a political letter from him. He goes, and there, I imagine, the Senator from Illinois and the President sit closeted discussing the supposed political achievements, "the monumental accomplishments," of the administration since the 4th of March. When the suggestion is put to the President that he must write to the distinguished senior Senator from Illinois as chairman of the senatorial campaign committee a letter intended for the voters of New Mexico setting forth the accomplishments of the party during the past few months, I fancy I can see the President scratch his head and say to the Senator, "Medill"—for I understand the President calls him Medill—"Medill, if I should write such a letter as that, pray tell me what would I put in it? If you ask me to write of the accomplishments of the administration since we came into power, particularizing the achievements of Congress, what would you suggest that I put in such a letter as that? I don't know anything that I could write." Then I imagine they confer further, and go over what they promised in the campaign last September and October. Perhaps the question of reducing the high cost of living comes up in that conference, and one suggests to the other, "We can not say anything in that letter about reducing the high cost of living; we can not deceive the people by any assertion that the high cost of living has been reduced, because, instead of re-

ducing it, we have enacted the emergency tariff law that was an attempt to increase the high cost of living.

And so, I imagine, they agree that there shall be omitted from this letter all statements touching the high cost of living as well as the repudiated emergency tariff law; and it is a most peculiar thing that in this letter, written for campaign purposes by the leader of this administration to the chairman of the senatorial campaign committee, and for campaign purposes, not a word appears praising the emergency tariff legislation that was so gloriously lauded by the Republican leadership at the time.

So, I imagine, when they passed from that, that it was suggested by the Senator from Illinois that something be placed in the letter touching the passage of tax-revision legislation and the tariff; but I fancy I can hear the President say, "No, Medill; we must touch lightly on that subject, because while three years and more ago we promised the people that if they would turn over to us the reins of government one of our first acts would be simplifying the tax laws and revising taxes as well as the tariff, we must not put anything in the letter about that, because we have been in power now close on to three years, and we have not done anything to revise the tax laws nor the tariff." So they pass that up with the statement that they are going to pass it during the extraordinary session of Congress.

Here is what the President said in his letter about that:

> We may confidently hope, I am sure, that, after the recess and before the end of the extraordinary session of Congress, Congress will adopt both the tariff and taxation measures.

Ah, Mr. President, that statement of the President should cause some of you to blush with shame, because if you led the President to believe that the tariff laws would be revised during this extraordinary session of Congress you are hardly worthy of a seat in this body. I can hardly imagine that any Senator can believe that during the few weeks remaining of this Congress there will be passed both tax-revision legislation and a revision of the tariff laws.

Ah, but the distinguished Postmaster General answered that proposition. I wonder if the Senator from Pennsylvania [Mr. PENROSE] read the speech of the former chairman of the national compaign committee, now the distinguished Postmaster General, closer to the President, perhaps, than anyone else. A few days after President Harding issued this political letter to the voters of New Mexico saying that in all probability there would be passed during the closing days of this extraordinary session of Congress tariff-revision legislation, Will Hays, in a speech made at some place in Ohio, declared that conditions are in such a turmoil that in all probability no tariff revision legislation will be further attempted until next year, saying, among other things, practically speaking, that it would be foolish to attempt tariff revision at this time.

I have not forgotten that the man who is now being sponsored as the new leader on the other side, the senior Senator from Indiana [Mr. WATSON], made a speech recently in which he said that you can not tell one month what is going to happen the next month, and that in view of present world conditions tariff legislation should be delayed; but in order to fool and hoodwink and deceive the voters of New Mexico, in order that the other side of the Chamber may retain their present majority here, the word goes out from the President that you are hopeful that tariff-revision legislation will pass during this extraordinary session of Congress. I know that the distinguished Senator from Massachusetts [Mr. LODGE] does not believe that, and the senior Senator from Pennsylvania [Mr. PENROSE] certainly does not believe that.

Mr. PENROSE. Mr. President, I was engaged in conversation and I did not hear what the Senator said.

Mr. HARRISON. It is hardly worth repeating to the Senator, and I fear would have little effect upon him.

Mr. PENROSE. No; I do not imagine it is.

Mr. HARRISON. I thought the Senator would not think so. I was just saying that the Postmaster General had repudiated your President when your President said that you were going to pass tariff revision at this session, for your Postmaster General says that you will not do it until next year. So, Mr. President, I can imagine that after the conference between the Senator from Illinois and the President all except what was placed in the letter was omitted touching tax and tariff revision.

Then evidently the President said, "What would you place in this letter, Medill?" Well, Medill comes from the home of the five big packers. The great city of Chicago is their habitat, and there the grain exchanges are located; and so I fancy I can hear the chairman of the senatorial campaign committee say to the President: "Let us claim as one of the monumental achievements of our party the act for the regulation of grain exchanges and the packers' legislation." And so among the laws claimed as monumental achievements of this administration, evidently at the suggestion of the distinguished Senator from Illinois, these two pieces of legislation are incorporated to hoodwink the voters of New Mexico.

Oh, how the people are deceived as to the true facts about that legislation! I have not forgotten the speech the distinguished senior Senator from Wisconsin [Mr. LA FOLLETTE] made one evening in this Chamber, when he held up to the view of Senators here, in the handwriting of the attorney for the packers, the amendments that were incorporated in the legislation. I have not forgotten when the House had passed packer legislation that was a farce, that had no teeth in it, that could not even bite a baby, and when it came here and the Senate committee reported out a bill that meant real regulation of the packers and would have given some relief to the people against their nefarious practices, how the word came to you from the other end of the Avenue that if you passed that legislation it would be vetoed. And so the influence worked; you walked up the hill and back again, and accepted the House bill, and the weak little measure is now upon the statute books, all sugar-coated, all camouflaged, like every other piece of legislation that you pass, claiming it as a remedy against existing ills.

Then there is the bill regulating the grain exchanges. Who ever heard of the distinguished Senator from Illinois championing a law to regulate Gates and the grain exchanges of Chicago? Why, the Senators who are interested in the legislation know—I see before me the distinguished junior Senator from North Dakota [Mr. LADD]; he knows it—that before that legislation passed practically every recommendation that the grain exchanges made was incorporated in the law, and that as it passed it was not obnoxious to the grain exchanges of the country; and yet that is claimed as one of the monumental achievements of the Republican administration.

The other is the amendment to the War Finance Corporation act. Oh, you rightfully styled it when you called it a bankers' bill. We have not yet forgotten how the distinguished Senator from Nebraska [Mr. NORRIS] fought for the enactment of legislation to bring relief to the farmers of the country in providing them credits and export markets for their products; and not until the administration saw that it might be enacted into law did they offer any substitute or any suggestions to carry out the idea. The threat was made that if the bill did not pass in the form suggested to us it would be vetoed, and before it was allowed to pass all the teeth were extracted from it, and much less good to the farmers is provided for in it than would have been if it had been enacted as it was written by the subcommittee and the Committee on Agriculture and Forestry of the Senate.

But, Mr. President, you have adequately protected and at all times been solicitous of the welfare of certain interests. Any remedial legislation proposed has been either shorn of its injurious effects to the interests or blocked in the committee.

All that you have done has been unaccompanied by enthusiasm and with no concern for the public. The legislation that you have passed would have been improved if the suggestions made and the amendments offered by Democrats had been accepted and adopted.

They were only enacted under the whip and spur of a militant minority, and in order to temporarily appease the indignation of the people you have given them all that you were forced to, and no more.

In this remarkable letter the President talks about retrenchment as one of the accomplishments of the administration.

> We have made much progress toward retrenchment and greatly increased efficiency—

He says.

Mr. PENROSE. Mr. President, may I make an inquiry of the Senator?

The VICE PRESIDENT. Does the Senator from Mississippi yield to the Senator from Pennsylvania?

Mr. HARRISON. I yield.

Mr. PENROSE. I should like to ask the Senator upon what subject he is speaking.

Mr. HARRISON. I am speaking of the iniquities of the party of which the Senator has been one of the conspicuous figures and dominating influences for a long time.

Mr. PENROSE. I have borne up under that burden; but is there anything tangible before the Senate? I am asking about the parliamentary situation.

Mr. HARRISON. There is something very tangible before the Senate, and if the Senator from Pennsylvania would take the suggestions that the Senator from Mississippi is offering the people will obtain some relief.

Mr. PENROSE. Has the Senator a resolution pending before the Senate?

Mr. HARRISON. No.

Mr. PENROSE. Nothing? The Senator, then, is simply fighting windmills?

Mr. HARRISON. The Senator from Mississippi is exposing windmills. The Senator obtained the floor under the rules of the Senate. He expects to proceed as long as the rules of the Senate permit him to do so, and if what he says makes the Senator from Pennsylvania squirm he can not help it.

Mr. PENROSE. I was curious to know what the Senator was talking about, or to what subject he was addressing himself.

Mr. HARRISON. I am glad the Senator asked the question. If he will stay here long enough he will find out, but I am sure he will not, because in a short time it will get too hot for him.

The President in his letter talks about retrenchment. I see the Senator from Utah [Mr. SMOOT] before me. I recall reading a speech he made to the Rotary Club or some other organization in this city, in which he said that it would be almost impossible ever to reduce the expenditures of the Government below $5,000,000,000.

Mr. SMOOT. Mr. President, I think the Senator is correctly quoting what the paper said, but the paper did not quote correctly what I said to the Rotary Club.

Mr. HARRISON. I am glad to know that the Senator does not think we will expend $5,000,000,000 a year in the years to come.

Mr. SMOOT. I think, Mr. President, that the time will come when the Government will expend $5,000,000,000 a year; I think that time will come, but it is not here. I will say to the Senator that if the savings which are promised us by the departments are made, I shall be very well satisfied this year. The only thing I fear is that they can not be made.

Mr. HARRISON. The Senator knows that they will not be made, but we have been stuffed with promises ever since this administration came into control. If you pick up the Washington Post and other administration papers, you will see big headlines to the effect that Lasker or Dawes or Brown or Carter will save several million dollars on this or that item or this or that method, but when we analyze it we find that what Lasker is really doing is dropping a lot of cheap clerks and employing a lot of high-paid men. Yet the morning's papers say that Lasker is in search of a financier to accept the vice presidency of the Emergency Fleet Corporation. We have not forgotten the fight we had in this Chamber only a few weeks ago, and I was sorry we did not have the help of the influential and distinguished Senator from Utah when we tried to prevent Lasker from employing at $35,000 a year men in the Shipping Board who had formerly received $6,500 a year.

All this saving you read of is propaganda. It is merely on paper. What saving is to the Government if appropriations made for specific purposes are turned back into the Treasury this year, merely to make a showing, and a greater sum appropriated for the same purpose next year? The people are going to demand that you make good, not with more promises but with performances.

This sickening propaganda is always going on, fooling the people. It is through that means that you have held as much of the confidence of the country thus far as you have.

I hold in my hand a letter written by a distinguished Republican saying that you have to fight propaganda. What propaganda? The Democratic Party is so poor that they could not buy a turkey for Christmas; yet the man whom many hold to be the future leader of the Republican majority in this Chamber, who the papers herald as the leader who will soon take charge here, who is a distinguished member of the Finance Committee of the Senate, who sits there day after day now revising the tax laws, and who will have a voice in saying how much the special interests will collect through high or low taxes—he, a member of the Finance Committee, the report of which was made this morning, writes a letter and sends it to the selected ones asking for campaign contributions to help spread your propaganda of promises, and deceive the people—I ask to have the letter incorporated in the RECORD in my remarks; or, if any Senator on the other side would rather have me read it, I can read it. It may be well to read it. I shall do it:

Mr. J. A. MCDONNELL,
New York City.

DEAR MR. MCDONNELL: Republican Party leaders in conference with National Chairman John T. Adams—

Republican National Chairman John T. Adams—

are convinced that suitable publicity work must be carried on now in order to meet the misrepresentations of the opposition and the radical and socialistic propaganda which is being carried on with unusual force in certain sections of the country.

I have no doubt that the astute member of the Finance Committee, the distinguished Senator from Indiana [Mr. WATSON], who, it is said, wrote this letter, got the word in some way to Lasker and to Davis, the Secretary of Labor, and to Dawes, that "Boys, we must keep up the propaganda. Even if we can not perform and deliver, let us promise the people that we will do things; let us deceive the people."

Yes; that is the way you came into power, and that is the way you expect to retain a stranglehold upon this Government's affairs.

But I have not finished the letter. I do not know whether or not the Senator from Utah [Mr. SMOOT] knew that his colleague wrote this letter. I do not believe they would ever have gotten the Senator from Utah to write it.

Mr. SMOOT. No.

Mr. HARRISON. I am glad to hear the Senator say no. The letter proceeds:

Funds are necessary to insure the success of this work and to aid in the election of a Republican Congress next year to support the Harding administration, which is now getting well under way in carrying out its platform pledges to the people.

The recent great Republican victory must not lull us into a feeling of false security. This is not alone a matter of partisan politics but of the maintenance of a sound Government based upon fundamental principles.

As you doubtless know, reactionary forces are very active and very aggressive in this country and confiscatory policies are being advocated which, if they can be enacted into law, will undoubtedly overturn our cherished institutions.

The work of Republican publicity can be carried on to the extent that its friends would like to see if men like you will help furnish the funds for that purpose, and therefore I am taking liberty of writing you to ask for your assistance with a check for any sum from $100 up as you may be able to contribute.

No one realizes more than I do that this is an inopportune time to raise money for any purpose, but the immediate urgency of this matter justifies this request at this time. I shall be glad, therefore, if you will mail a check in any amount you see fit to bestow to the national Republican publicity fund and send in the inclosed envelope at your earliest convenience.

I have no personal or pecuniary interest whatever in any publicity enterprise, my sole desire in writing you being to further the interests of the Republican Party and to safeguard the institutions of our Government.

Sincerely, yours,

JAMES E. WATSON.

That is what you are doing. What legislation you pass you camouflage; you sugar coat it, you extract all the punch and teeth from it, and then you attempt to lead the people to believe it a great, monumental achievement.

The President says they are retrenching; that the stupendous progress and strides the Republican Party has made toward economy and retrenchment are wonderful. What are the facts? The facts are that the Secretary of the Treasury, Mr. Mellon, said that to run this Government next year you needed $4,600,000,000.

You say that is not as much as the Government expended last year. No; it is not; and while the Democratic administration was in power one year we expended, I think, $25,000,000,000, but the next year it was cut down to about one-fourth of that amount. That was in war times. But would we have been justified in claiming great economy or retrenchment from that year to the next? No. The only fair way to ascertain or to give a comparison between the expenditures of a Republican administration and those of a Democratic administration is to take a normal year preceding the war and compare it to the normal years following the war. For nearly three years you have held the purse strings of the Government. You controlled in the Senate and the House every appropriation for those years. Why have you not cut down these expenditures before? Why do you continue to talk about what you are going to do, and when you, and you alone, can do it, you fail.

So, Mr. President, let us take the fiscal year 1916–17, immediately preceding our entrance into the war, when normalcy prevailed in this country. In that year a Democratic administration expended $1,114,000,000. Now, three years after the war, we find a Republican administration which claims economy and retrenchment expending $4,600,000,000 a year. If you count the interest on the war debt of a billion dollars, you have yet to reduce your expenditures $2,500,000,000 to compare favorably with the Democratic administration in the year 1916, the year preceding our entrance into the war.

Retrenchment! Do you count the reductions made in the Army and Navy appropriation bills as your achievements? Why, sirs, take the RECORD; read the amendments and motions. Scan the votes, and you will see the reductions came from the Democratic minority in collusion with progressive Republicans. Your reactionary leadership opposed every suggestion of reduction. The only retrenchment you have shown, practically speaking, is in the Employment Service, where they asked you

last year for $1,600,000 and you cut it down to $225,000. Where labor is involved they can retrench, but where the special interests must be taken care of you are most generous.

It seems to me, and I am quite sure it will occur to the country, that if we ever needed a reasonable appropriation for an Employment Bureau in the Department of Labor, it is at this time. Mr. Davis, Secretary of Labor, was asked by Congress to send in a report showing how many unemployed there were in this country. He sent in the report, stating that there were practically 5,750,000 men, women, and children out of employment in this country. Think of it! This party, which now administers the affairs of the Government, told the people a little more than 10 months ago that if they would intrust them with power, prosperity would come; that the smoke from their factories would blacken the skies; yet now we find practically 6,000,000 persons out of employment in the United States.

Oh, have you read of the occurrences over there in Boston? Did you see that there on historic Boston Common, from which the distinguished senior Senator from Massachusetts [Mr. LODGE] many times has expended his eloquence to the people massed on that green, where distinguished and eloquent statesmen have expounded logic, that there only a few days ago, on Boston Common, soldiers who helped to win the war were stripped to their waists and offered on the block as slaves at auction? Ah, it was such a scene as in the past would have touched the heart of the most hardened sinner. I wish you could see that terrible picture, a shame to the American Republic and a repudiation of everything that the Republican Party promised in the last campaign. Only a little while before that your President, the man who wrote this letter and asked the voters of New Mexico to reelect Senator BURSUM, asked this body to defeat the adjusted compensation act.

Oh, yes, you promised adjusted compensation, but you gave to the soldiers auction blocks. It was just about the time that scene was being enacted on Boston Common that you recessed, and I know the Senator from Pennsylvania [Mr. PENROSE] does not realize it, but that recess by Congress was claimed as an accomplishment of the administration by the President.

Mr. PENROSE. I call the Senator's attention to the fact that nearly everyone conversant with the situation will admit that it was that adjournment which rendered possible the production of the revenue bill this morning.

Mr. HARRISON. Yes.

Mr. PENROSE. And I take it that it was paramount in the minds of the people of the country that that bill should be disposed of promptly.

Mr. HARRISON. I am glad the Senator from Pennsylvania agrees with the President that the recess of Congress was one of the monumental achievements of the administration.

Mr. PENROSE. I think it was.

Mr. HARRISON. I voted for your recess. I did it though because I knew the country was better off with this wiggling and wobbling Congress adjourned or recessed and out of the way than it was with it in session.

Mr. PENROSE. It enabled the Senator from Mississippi to store up new material.

Mr. HARRISON. Well, it is very good material, and I hope it pleases the Senator.

I was diverted by the astute Senator from Pennsylvania as I was depicting the scene on Boston Common of the soldier stripped to his waist being offered at auction that he might obtain a job. At that same time there was a beautiful and luxurious yacht that set its sails to the leeward and started out upon a cruise. While it carried the name of *Mayflower*, it was not the historic little bark that centuries ago started from the English coast to fight the headwaters of the Atlantic that its passengers might seek a home here for liberty and freedom. True, its name was the *Mayflower*, but it was much more extravagantly constructed, more luxuriously furnished, much more costly and conveniently equipped than the *Mayflower* in which the Pilgrim fathers came.

This luxurious yacht set sail and serenely glided out into the Atlantic. Those on board had their plans and the agenda was tastily arranged. There were distinguished guests on board, and great questions were to be discussed and happy diversions enjoyed on the deck of the palatial *Mayflower*. Their first thought was to go to Atlantic City, if the papers reported the plans correctly. I read that the bow was pointed toward the boardwalks of gay, festive, frolicsome Atlantic City.

The papers said that one of the distinguished passengers contemplated a game of golf with the distinguished senior Senator from California [Mr. JOHNSON], and yet I have heard it said, even though the country was told that in Atlantic City when the *Mayflower* arrived a game of golf was to be played between Senator HIRAM JOHNSON and the President, that the Senator from California never had a golf stick in his hand in his life and is unfamiliar with the terms "put" and "tee."

But the storms at sea kept the beautiful *Mayflower* from landing, and all the plans went awry, and so they sought the shores along Long Island. Then some one suggested that perhaps up the beautiful waters of the Hudson, among the picturesque hills of New York, they could find fancy free; and so they started out and sailed as far as West Point, viewing the beautiful New York sunsets and basking in pleasant companionship of one another. There were so many sights to see they had to prolong their stay awhile. I notice from this paper that the party could not pass up the Amsterdam Theater, and so the party, while this young soldier on Boston Common was being auctioned off, were evidently entering the theater. They got a great ovation there, however. The New York Herald—and I read from it—says: "Harding receives great ovation. Enters New Amsterdam Theater as Walter Catlett sings 'On with the dance.'" O Senators, millions of mothers bowed their heads in sorrow as they read in columns, side by side, of soldiers being offered on Boston Common at auction, and their President and presidential party skylarking over the country and entering theaters to the tune of "On with the dance." What do you suppose these navy yard employees, who have seen you pass legislation to increase the cost of their living and at the same time pass orders to reduce their wages, thought when they read in the headlines of all the papers these so-called necessary diversions?

Ah, my friends, what the American people want is more work and less play, more results and less recommendations, more meal tickets and less bread lines, more prosperity and fewer poorhouses in the country, more cures for Government evils and fewer cruises at Government expense. They want you Republicans to keep your promises rather than repudiate your campaign pledges, and unless you begin pretty soon you will lose the confidence of the few whose confidence you still hold. Oh, you may walk over in the corner and, like little Jack Horner, talk about what a big boy you are; but if I read the times correctly, about the only people with whom you hold favor now are yourselves, the persons whom you have appointed to office, and those who are still seeking office. The balance of the people are thoroughly disgusted with your do-nothing vacillating, uncertain policy.

Oh, some may say I am criticizing you. No; I am trying to show up the hypocrisy and the deceit of this letter written by the leader of the Republican Party. If I can point out to the American people the camouflage tactics that are being practiced upon them, how they are being fooled and deceived, then I care not if you call it criticism or what. If honest criticism will spur the other side of the Chamber to really go to work and redeem at least one pledge that they made to the people, I shall be perfectly satisfied.

I look at the distinguished Senator from Pennsylvania [Mr. PENROSE] and I know how he has labored on the Finance Committee in behalf of the American people, and then I read in the Washington Post that after his months of laborious work and patriotic effort in behalf of the masses, where the Post said in an editorial, in speaking of the bill that the Senator has just presented:

> Incomes exceeding $66,000 to get the principal relief.

Yes; we thought they would get the principal relief. We are not fooled in their getting the principal relief. I am only surprised that the people have been fooled so long, but when that bill is open for discussion here and its iniquities are revealed to the people, they will knew then that they made a mistake and that the change they wanted last year is not the slightest tittle compared to their desire for a change at this time.

But the President says that he promises some relief. He says you are going to pass the railroad funding bill and the bill providing for funding the international debt. That is a new term—"funding." It is camouflage, merely to camouflage the Government loaning to the railroads $500,000,000, and the people will realize it before it is over, and you will have a harder time passing that bill, as well as your proposed bill funding the international debt, than evidently your President thinks you are going to have.

It gives me a pang of sorrow when I read in that letter that the President, in speaking of the monumental accomplishments of this administration, has alluded to the calling of the disarmament conference on the 11th day of November.

The distinguished leader of the majority, who has been so honored by the President with a great compliment that comes to few men in a lifetime by appointment as one of the representatives to this conference, has told us with eloquence unsurpassed, with an earnestness that was more apparent than real, that no politics should creep into the disarmament conference.

There is none from a Democratic standpoint. There will be no criticism from this side of the Chamber in my opinion while the disarmament conference is in progress. We have tried to cooperate with you in bringing it about. Indeed, it was this side of the Chamber, and the progressive Republicans on the other side of the Chamber, that forced the disarmament conference. It has always been a Democratic principle. We started the fight for disarmament. Our representatives at Versailles wrote into the treaty a plan for limitation of armament. Back in the Sixty-third Congress a Democrat from Missouri—Hon. Walter Hensley—offered a resolution and had it passed calling for disarmament. Before the war a Democratic Senator championed it here. We have always stood for it, and God knows we will not retrace our steps at this time. But it galls some of us a little when we read that President Harding claims the disarmament conference to be held next month as a Republican achievement when we forced it upon him against his will.

I shall not refresh the minds of Senators and the country with what transpired during the consideration of the naval appropriation bill, but if there is a Senator on the other side of the Chamber that takes issue with me and does not agree with what I say touching it, I invite him to rise now and contradict my statement. You were opposed to it at first. You accepted it, and the President accepted it, only when you and he saw that we were going to force it through the Congress of the United States; and yet we read of the disarmament conferference being claimed as a Republican achievement.

Ah, you will find the great leader from Alabama, splendid Democrat and able statesman that he is, going in as one of the representatives in that conference with his heart and soul wrapped up in the purpose for which it is called. If the conference fails it will be due to no lack of earnest enthusiasm upon his part for its success nor failure of his to cooperate to the limit in making it a success.

I hope that the same ardor, enthusiasm, and vigor will be exhibited by the Senator from Massachusetts and the two other American representatives at the conference as will be shown by the Senator from Alabama.

When the conference was first called, in speaking of it no one ever referred to it otherwise than as a "disarmament conference"; everyone understood that it would be a disarmament conference; that was the popular term; that is what we all understood; but a little later—I do not know at whose instance, I do not know why—we find the Secretary of State, in giving out an interview, saying, "You are wrong in calling it a disarmament conference; you must call it a conference on limitation of armaments." In other words, the administration evidently at this time is not expecting to obtain as much as it expected to obtain in the beginning. I do not know whether it is due to the fact that that very astute lawyer from New York, who hypnotizes juries and mesmerizes courts, ex-Senator Root, was appointed on the conference that the administration has changed the designation from a "conference on disarmament" to "a conference on the limitation of armaments." I have heard the conference referred to this morning by a Republican as a "conference on armaments." So it may be that before the conference shall have been concluded the term may evolute until the conference will be called a "conference on armaments." I wish for the conference every success; I trust that the most beneficial results may flow from it; I hope that the burden of taxation which is incident to big navies and large armies may be removed from the people; and I pray that the representatives of America will lead the way for the consummation of that object.

When I call up the resolution which I introduced this morning, which is intended to help and not to hinder, to expedite, not to delay, in which it is proposed that we shall respectfully request our representatives to use their influence at the conference to admit at the full conference representatives of the press in order that the public may be taken into its confidence, I hope the distinguished Senator from Massachusetts will allow the resolution to pass, so that the world may know that the Government and the people of the United States want to lay the cards on the table, and that the responsibility for the defeat of the purposes of the conference may be exposed and placed upon the heads of those who may be to blame.

But, Mr. President, I shall pass on to one other proposition, and then I shall have concluded. The President claims in this political letter that the administration has brought about peace. He says:

> We have established peace and are seeking to establish the generous production and profitable exchange of foodstuffs and commodities under the conditions of peace and corollary assurance of good wages and general employment.

Oh, if only the peace of which the President speaks would bring about the conditions which he suggests! Is it not a travesty on justice that two years and more ago we did not ratify the Versailles treaty so that peace might be restored to a sick world; that business and trade might now be revived; that this country and its people might have escaped the present distressed and deplorable conditions?

I do not know whether the administration has established peace or not. I do not know whether or not the Senator from Massachusetts is of the opinion that we have established peace. Certainly no one has ever yet ascertained whether the Attorney General thinks we are at peace with Germany. The Senate passed a resolution declaring a separate peace with Germany; but the House did not concur in what the Senate had done, and the Senate did not agree with what the House had done; and the President evidently did not agree with what either body had done. However, Congress finally got together and agreed on a makeshift resolution. Then there came the news that in order to obtain peace the declaratory resolution was not sufficient, and that the President would have to issue a proclamation declaring peace. Then we read how the Attorney General worked at his desk for weeks. He did not get out at all to play golf, but had books stacked up on his desk to be consulted for the purpose of determining the intricate proposition of whether or not, since Congress had passed a separate peace resolution, a proclamation of peace by the President was necessary before we had peace. So I do not know whether or not we are at peace with Germany. I do not know how soon we are going to be at peace with her.

I do know that the treaty which has recently been concluded, and which will soon be considered by the Senate, is an absolute betrayal of everything for which American soldier boys fought and won the World War. It is a betrayal of our allies. Republican Senators may think at this time that they have accomplished a great feat, but future generations will look upon the achievement as one of shame. I am wondering what France—oppressed, wonderful, courageous France—will think about it when her people read how you have in this treaty stricken from the pages of the Versailles treaty the responsibility which Germany acknowledged in the treaty of Versailles for the wrongs which had been inflicted upon Alsace-Lorraine.

The courts for generations to come will have to consider and to work upon the intricate proposition of whether or not by striking from the Versailles treaty the League of Nations covenant there has not been eliminated with it all the mandatory rights that the United States has in that treaty. I know not whether it be for political purposes or because it expresses the sincere belief of the administration of what should have been done, but there has been eliminated from the recently negotiated treaty with Germany the provision of the treaty of Versailles for penalties which were to be imposed upon the Kaiser for wrongs which Germany admitted had been wrought when they brought on the cruel, costly, and merciless World War. Republican Senators may think a great work has been accomplished, but the boys who fought the war in the hope that peace might be preserved in the world, that some plan might be evolved that would prevent war, that armaments might be reduced, and savings effected for the people will be disappointed when they realize that the provisions looking to that end are eliminated by the separate treaty. Do Senators believe that President Wilson or his colleagues at Versailles would have ever signed the treaty that it is now proposed to have ratified by this body? Why, they would have spurned it as a sham and a pretense and a piece of hypocrisy.

The best part of the treaty of Versailles and that which, in my opinion, more than anything else influenced the American representatives to sign it was the plan that was offered after weeks and months of laborious work and deliberation to prevent future wars and preserve peace to mankind.

Evidently, however, the Republican administration are not for that, even though they assured the people in October last year, through Mr. Hughes, through President Harding, through Herbert Hoover, and through a thousand other Republican speakers, that they were in favor of preserving the peace of the world and preventing wars through an association of nations. The distinguished Senator from Massachusetts [Mr. LODGE] in debate with his fellow statesman from Massachusetts, Mr. Lowell, defended the Lodge reservations to the League of Nations covenant; but all that has been stricken from the treaty which has been negotiated with Germany.

So far as I am concerned I shall not throw any obstruction in the way of its ratification, for if you want to do an act of infamy, if you want to repudiate everything that our boys fought for, if you want to throw to the breezes the honor of America, then rush the separate treaty through. As for me, however, if there be no other vote here, there will be one vote against the separate treaty of peace which has been negotiated with Germany.

Mr. President, I hope no one will charge that I have talked politics to-day. I have merely tried to answer the assertions made by President Harding when he wrote a political letter to the chairman of the Republican senatorial campaign committee to be used in the election in New Mexico. I wish that the people could understand the Republican tactics; I wish that they could see through Republican deceit and hypocrisy. In time they will, and that time is fast approaching.

Mr. LODGE and Mr. STERLING addressed the Chair.

The VICE PRESIDENT. The Senator from Massachusetts.

Mr. LODGE. I shall be only a moment. I will yield to the Senator in one moment.

Not as an argument, Mr. President, but just as a running commentary on the brilliant speech of the Senator from Mississippi, I ask that the telegram which I send to the desk may be read.

The VICE PRESIDENT. In the absence of objection, the Secretary will read the telegram.

The Assistant Secretary read as follows:

ALBUQUERQUE, N. MEX., *September 21, 1921.*

Hon. GEORGE CURRY,
Washington, D. C.:

Incomplete returns, 26 out of 31 counties, safely indicate BURSUM'S election by upward of 5,000.

O. L. PHILLIPS, *Chairman.*

Mr. LODGE. Mr. President——

Mr. HARRISON. Mr. President, will the Senator yield to me for a moment?

Mr. LODGE. I believe I have the floor. I have not interrupted the Senator.

Mr. HARRISON. I did not object to the Senator interrupting me.

Mr. LODGE. I decline to yield. I only wanted to add that since this telegram was received I have heard that the majority will reach 7,000. I do not offer this as an argument, as I said, but simply as a running commentary.

Mr. HARRISON. Will the Senator yield now?

Mr. LODGE. I am through. I yield the floor.

Mr. HARRISON. I thank the Senator for his courtesy. I simply wanted to ask him, because I am sure he recalls, if it is not true that last November Harding and Coolidge received a majority of between eleven and twelve thousand in New Mexico?

Mr. LODGE. President Harding had 11,000 majority in New Mexico. The Republican candidate for governor had 3,000 majority. If this reaches, as seems now to be indicated, 7,000, it will be the largest Republican majority ever cast in the State except the majority for President Harding.

AMENDMENT OF NATIONAL PROHIBITION ACT—CONFERENCE REPORT.

Mr. STERLING. I move that the Senate proceed to the consideration of the conference report on House bill 7294, supplemental to the national prohibition act.

Mr. KING. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Senator from South Dakota moves that the Senate proceed to the consideration of the conference report on H. R. 7294. Pending that, the Senator from Utah doubts the presence of a quorum. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Borah	Glass	Lenroot	Spencer
Broussard	Gooding	Lodge	Stanley
Capper	Hale	New	Sterling
Caraway	Harris	Nicholson	Sutherland
Colt	Harrison	Oddie	Swanson
Curtis	Heflin	Overman	Trammell
Ernst	Johnson	Page	Underwood
Fletcher	Kellogg	Reed	Walsh, Mass.
France	King	Sheppard	Watson, Ga.
Frelinghuysen	Ladd	Shields	Watson, Ind.
Gerry	La Follette	Smoot	Willis

The VICE PRESIDENT. Forty-four Senators have answered to their names. A quorum is not present. The Secretary will call the names of the absentees.

The Assistant Secretary called the names of the absent Senators.

Mr. MCCUMBER, Mr. CAMERON, Mr. NELSON, and Mr. DILLINGHAM entered the Chamber and answered to their names.

The VICE PRESIDENT. Forty-eight Senators have answered to their names. A quorum is not present. What is the pleasure of the Senate?

Mr. REED. I move that the Senate adjourn.

The VICE PRESIDENT. The Senator from Missouri moves that the Senate adjourn. [Putting the question.] The "noes" appear to have it.

Mr. REED. I ask for the yeas and nays on the motion.

The yeas and nays were ordered, and the reading clerk proceeded to call the roll.

Mr. HARRIS (when his name was called). I transfer my pair with the junior Senator from New York [Mr. CALDER] to the junior Senator from Tennessee [Mr. MCKELLAR] and will vote. I vote "nay."

Mr. KELLOGG (when his name was called). I have a general pair with the senior Senator from North Carolina [Mr. SIMMONS]. I transfer that pair to the junior Senator from New Hampshire [Mr. KEYES], and will vote. I vote "nay."

Mr. STERLING (when his name was called). I transfer my pair with the Senator from South Carolina [Mr. SMITH] to the Senator from Michigan [Mr. TOWNSEND], and will vote. I vote "nay."

Mr. SUTHERLAND (when his name was called). I have a general pair with the senior Senator from Arkansas [Mr. ROBINSON]. I transfer that pair to the junior Senator from Oklahoma [Mr. HARRELD], and will vote. I vote "nay."

The roll call was concluded.

Mr. FRELINGHUYSEN. I transfer my general pair with the Senator from Montana [Mr. WALSH] to the senior Senator from New York [Mr. WADSWORTH], and will vote. I vote "nay."

Mr. FLETCHER. I transfer my general pair with the senior Senator from Delaware [Mr. BALL] to the senior Senator from Texas [Mr. CULBERSON], and will vote. I vote "nay."

Mr. HARRISON. I have a pair with the Senator from West Virginia [Mr. ELKINS], and withhold my vote.

Mr. OVERMAN (after having voted in the negative). Has the Senator from Wyoming [Mr. WARREN] voted?

The VICE PRESIDENT. He has not.

Mr. OVERMAN. I shall be compelled to withdraw my vote, then, as I have a general pair with that Senator.

Mr. CURTIS. I have been requested to announce the following pairs:

The Senator from New Mexico [Mr. BURSUM] with the Senator from Louisiana [Mr. RANSDELL];

The Senator from New York [Mr. CALDER] with the Senator from Georgia [Mr. HARRIS];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN];

The Senator from Illinois [Mr. MCCORMICK] with the Senator from Wyoming [Mr. KENDRICK];

The Senator from Illinois [Mr. MCKINLEY] with the Senator from Arkansas [Mr. CARAWAY];

The Senator from Maine [Mr. FERNALD] with the Senator from New Mexico [Mr. JONES]; and

The Senator from Pennsylvania [Mr. PENROSE] with the Senator from Mississippi [Mr. WILLIAMS].

The result was announced—yeas 7, nays 33, as follows:

YEAS—7.

Broussard	Shields	Underwood	Watson, Ga.
Reed	Stanley	Walsh, Mass.	

NAYS—33.

Borah	Frelinghuysen	Lodge	Sterling
Cameron	Glass	Nelson	Sutherland
Capper	Hale	New	Swanson
Colt	Harris	Nicholson	Trammell
Curtis	Johnson	Oddie	Watson, Ind.
Dillingham	Kellogg	Page	Willis
Ernst	Ladd	Sheppard	
Fletcher	La Follette	Smoot	
France	Lenroot	Spencer	

NOT VOTING—56.

Ashurst	Gooding	McKellar	Poindexter
Ball	Harreld	McKinley	Pomerene
Brandegee	Harrison	McLean	Ransdell
Bursum	Heflin	McNary	Robinson
Calder	Hitchcock	Moses	Shortridge
Caraway	Jones, N. Mex.	Myers	Simmons
Culberson	Jones, Wash.	Newberry	Smith
Cummins	Kendrick	Norbeck	Stanfield
Dial	Kenyon	Norris	Townsend
du Pont	Keyes	Overman	Wadsworth
Edge	King	Owen	Walsh, Mont.
Elkins	Knox	Penrose	Warren
Fernald	McCormick	Phipps	Weller
Gerry	McCumber	Pittman	Williams

So the Senate refused to adjourn.

Mr. STERLING. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The VICE PRESIDENT. The Sergeant at Arms will execute the order of the Senate.

After a little delay,

Mr. LENROOT. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state his parliamentary inquiry.

Mr. LENROOT. May I ask what is the status of the procedure at this time?

The VICE PRESIDENT. The Senate has adopted an order instructing the Sergeant at Arms to request the attendance of a quorum.

Mr. LENROOT. Does the record show that there is not a quorum present?

The VICE PRESIDENT. It does.

Mr. LENROOT. Has there been any call of the Senate to disclose that fact?

The VICE PRESIDENT. There has been.

Mr. LENROOT. Was not the only motion made a motion to adjourn, which does not require a quorum?

The VICE PRESIDENT. That motion did not prevail. The count of the yeas and nays on that motion disclosed the absence of a quorum.

Mr. LENROOT. But my parliamentary inquiry now is, there being nothing before the Senate, How is the absence of a quorum to be disclosed unless the roll of the Senate is called?

Mr. LODGE. Mr. President, it is not necessary to disclose a quorum on a motion to adjourn.

Mr. LENROOT. Certainly it is not.

Th VICE PRESIDENT. Both the previous roll call and the roll call on the motion to adjourn disclosed the absence of a quorum.

Mr. LENROOT. And a quorum has not developed since that time?

The VICE PRESIDENT. It has not.

Mr. ASHURST and Mr. WELLER entered the Chamber and answered to their names.

The VICE PRESIDENT. Fifty Senators having answered to their names, a quorum is present.

ENROLLED BILLS PRESENTED.

Mr. SUTHERLAND, from the Committee on Enrolled Bills, reported that on August 24, 1921, they had presented the following enrolled bills to the President of the United States:

S. 2131. An act to extend for the period of seven months the provisions of Title II of the food control and the District of Columbia rents act, approved October 22, 1919, and for other purposes; and

S. 2207. An act to amend the act entitled "An act to establish standard weights and measures for the District of Columbia; to define the duties of the superintendent of weights, measures, and markets of the District of Columbia; and for other purposes," approved March 3, 1921.

FREE TRANSIT THROUGH PANAMA CANAL.

The VICE PRESIDENT. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The READING CLERK. A bill (S. 665) to provide for free tolls for American ships through the Panama Canal.

Mr. BORAH. Mr. President, of course I do not desire to utilize the unfinished business for the purpose of interfering with other business. I had intended to speak upon the subject, but we were all informed, I suppose, that there would be no session to-day except a very brief one; that there would be an adjournment on account of matters happening elsewhere; and I therefore am not prepared to go ahead. At the same time, I would be forced to go ahead if there should be an attempt to displace the unfinished business.

Mr. STERLING. Mr. President, I had hoped that the unfinished business would be temporarily laid aside at this time. It was my expectation when we reached the hour of 2 o'clock that that would be done. As to the matter of a short session to-day, I have no information such as the Senator from Idaho seems to have.

Mr. BORAH. I did not have any official information, but I made inquiry of those who are supposed to know and I was advised that there would be an adjournment on account of the death of a Member of the House, and therefore I made no preparation to speak to-day. However, I will take the sense of the Senate. I ask unanimous consent that the unfinished business may be temporarily laid aside.

The VICE PRESIDENT. Is there objection?

Mr. REED. Mr. President, I wish to offer an observation on the request of the Senator from Idaho. I suppose that will be followed by an effort to take up the conference report on the so-called beer bill.

The situation in regard to that matter is this: There are some four or five Senators who wish to speak on the conference report, not with any purpose of delay but simply that they may express their views and submit their arguments to the Senate and the country. Nobody expected a session of the Senate to-day, as far as I know. I thought, after talking with many Senators, that it was the general opinion that there would be no session to-day, except the formal proceedings of the morning hour. With that in view, a subcommittee of the Finance Committee, which has charge of the preparation of the print of the revenue bill which is to be submitted, was to meet at 2 o'clock this afternoon.

Now there is an effort made to drive this particular measure, the conference report on the so-called beer bill, through the Senate this afternoon. I have stated there is no disposition to filibuster on the report. If there is any filibustering done it will be because it is forced in order to gain the necessary time for Senators to speak. With that idea in view and with all these considerations in view, I made the motion to adjourn a little while ago.

Now, I am not willing that the canal tolls bill under these circumstances shall be temporarily laid aside in order to bring up a measure which, if it is forced on us this afternoon, will compel somebody to take the floor and hold it in order to give other Senators an opportunity to present their views or else compel a vote without those Senators being permitted to express their views in the manner they want to. I think it is unreasonable to try to hold the Senate in session under those circumstances. There is going to be a very slight attendance in any event. That is quite manifest.

Mr. STERLING. Mr. President, if the Senator from Missouri will allow an interruption, the Senator said there is no desire to filibuster against the conference report. Will the Senator consent to a unanimous agreement that within a reasonable time we may vote upon the conference report?

Mr. REED. That presents an entirely different question. When we agree to vote upon a bill at a given time we all know from experience what that means. It means that Senators absent themselves, that the discussion becomes desultory and frequently perfunctory. Those who are for a measure, or think they are for it, are very likely to walk out of the Senate and pay no attention to the arguments. Other matters intervene, time passes, and the first thing we know the hour for voting has come. It is highly unsatisfactory.

I want to have the conference report discussed. I want it discussed when Senators are here. I want it discussed under conditions that will elicit the interest and attention of the Senate. But I say there is no disposition merely to consume time and to engage in any filibuster against the bill.

Mr. STERLING. Mr. President, will the Senator allow a further interruption?

Mr. REED. In just a moment. If that disposition is manifested, it is going to be created by the unreasonable or what is deemed the unreasonable insistence of the proponents of the bill. They can make that condition, and they can make it very easily. If the report goes over until to-morrow, there will be Senators here prepared to speak upon it. Debate can proceed, and it will proceed then under the conditions that I have named, with no desire merely to consume time but to present views in the ordinary way.

Mr. STERLING. Mr. President, I would be willing, I think, to leave it to the Senate as to whether there has been any unreasonable insistence upon the consideration of the conference report. The Senator talks about time for discussion. The Senator knows as well as I do and as every Senator knows that the report has been discussed, and at very great length. On the last day of the session before the recess I think the Senator from Missouri occupied practically the entire day in a discussion of the report. Other Senators on that side and opposed to the report have discussed it at great length. I think every Senator might have known, without formal notice to that effect, that at the first opportunity after we reconvened I would move for the consideration of the conference report.

Now, the Senator talks about objection to a unanimous-consent agreement. We are doing it all the time, and with reference to every important bill we reach in the discussion a place where a unanimous-consent agreement is made to vote on a certain day. The very measure that the Senator from Idaho [Mr. BORAH] has before the Senate as the unfinished business has with it a unanimous-consent agreement to vote on it October 10.

Hence my question to the Senator from Missouri, if there is no intention to filibuster against the conference report, after the lengthy discussions we have had, why not reach a unanimous-consent agreement at this time? Any reasonable date in the future will be satisfactory to the proponents of the bill.

Mr. REED. Mr. President, I do not think we have reached the time for unanimous consent to vote on the conference report. I do not think the discussion has reached that stage. I think we have had too many unanimous-consent agreements. There have been a good many measures passed here that it would have been better if they had been more thoroughly debated. I understand the attitude of the Senator. He states

that we ought to have known he would attempt to press the conference report for a vote. I think we ought to have known that. It goes without saying.

Mr. BORAH. Mr. President, I certainly would have known it and I would have acted upon it with reference to the conference report had it not been that I was advised of the condition which never prevents adjournment, and that is the death of a Member. So I supposed that an early adjournment would take place to-day. Otherwise I would have known, of course, that the Senator from South Dakota would press the conference report.

Mr. REED. It has been an unwritten law in this body, when a Senator stated that he desired to be heard upon a measure and that he would be ready on the next day or the succeeding day, that the courtesy has been extended to him of passing the measure over. There have been exceptions to that, but it has been when there has been some matter of great pressure pending.

Mr. CURTIS. Mr. President, am I to understand that the Senator from Missouri intends to object to unanimous consent?

Mr. REED. I do intend to object to unanimous consent at this time.

Mr. CURTIS. Under the rule, then, if the Senator from Idaho will yield to me a moment, of course the unfinished business is before the Senate and can only be laid aside by unanimous consent or by a vote. We desire to have a short executive session, and unless the Senator from Idaho desires to proceed this afternoon I should like to move an executive session at this time.

Mr. STERLING. Mr. President, I should like to ask the Senator from Kansas a question. If by motion the conference report were to be taken up at this hour, would that displace the unfinished business?

Mr. CURTIS. It would displace the unfinished business.

Mr. STERLING. I so understand.

EXECUTIVE SESSION.

Mr. CURTIS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 10 minutes spent in executive session the doors were reopened, and (at 2 o'clock and 25 minutes p. m.) the Senate adjourned until to-morrow, Thursday, September 22, 1921, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate September 21, 1921.

ENVOYS EXTRAORDINARY AND MINISTERS PLENIPOTENTIARY.

Joseph C. Grew, of Massachusetts, now envoy extraordinary and minister plenipotentiary to Denmark, to be envoy extraordinary and minister plenipotentiary of the United States of America to Switzerland.

John Dyneley Prince, of New Jersey, to be envoy extraordinary and minister plenipotentiary of the United States of America to Denmark.

ASSISTANT SECRETARY OF AGRICULTURE.

Charles W. Pugsley, of Nebraska, to be Assistant Secretary of Agriculture, vice Elmer D. Ball, resigned, to take effect October 1, 1921.

MEMBER OF THE CALIFORNIA DÉBRIS COMMISSION.

Maj. Ulysses S. Grant, 3d, Corps of Engineers, United States Army, for appointment as a member of the California Débris Commission provided for by the act of Congress approved March 1, 1893, entitled "An act to create the California Débris Commission and regulate hydraulic mining in the State of California."

COLLECTOR OF CUSTOMS.

Millard T. Hartson, of Seattle, Wash., to be collector of customs for customs collection district No. 30, in place of Roscoe M. Drumheller.

COLLECTOR OF INTERNAL REVENUE.

Burns Poe, of Tacoma, Wash., to be collector of internal revenue for the district of Washington, in place of David J. Williams.

UNITED STATES ATTORNEY.

S. Wesley Clark, of South Dakota, to be United States attorney, district of South Dakota, vice E. W. Fiske, resigned, effective October 1, 1921.

SURVEYOR GENERAL OF UTAH.

Erastus D. Sorenson, of Manti, Utah, to be surveyor general of Utah, vice Ingwald C. Thoresen, removed.

REGISTER OF THE LAND OFFICE.

Walter E. Bennett, of Great Falls, Mont., to be register of the land office at Great Falls, Mont., vice Joseph A. Barker, whose term expired August 9, 1921.

RECEIVER OF PUBLIC MONEYS.

Arthur L. Lewis, of Floweree, Mont., to be receiver of public moneys at Great Falls, Mont., vice Thomas Corbally, whose term expired August 10, 1921.

PUBLIC HEALTH SERVICE.

The following-named passed assistant surgeons to be surgeons in the Public Health Service, to take effect from the dates set opposite their names:

Howard F. Smith, September 18, 1921.
Lon C. Weldon, September 16, 1921.

APPOINTMENTS IN THE REGULAR ARMY.

AIR SERVICE.

To be Chief of the Air Service, with the rank of major general.

Col. Mason Mathews Patrick, Corps of Engineers, for a period of four years from the date of his appointment, vice Maj. Gen. Charles Thomas Menoher, now Chief of the Air Service, resigned.

APPOINTMENT, BY TRANSFER, IN THE REGULAR ARMY.

FINANCE DEPARTMENT.

Col. Herbert Mayhew Lord, Quartermaster Corps (Chief of Finance, with the rank of brigadier general), to be colonel in the Finance Department, with rank from September 9, 1917.

PROMOTION IN THE NAVY.

Capt. John K. Robison to be engineer in chief and Chief of the Bureau of Engineering in the Department of the Navy, with the rank of rear admiral, for a term of four years.

TREATY OF PEACE WITH GERMANY.

In executive session this day, on motion of Mr. LODGE, the injunction of secrecy was removed from the following treaty of peace with Germany (Ex. G, 67th Cong., 1st sess), which had this day been transmitted to the Senate by the President:

To the SENATE:

I transmit herewith, to receive the advice and consent of the Senate to its ratification, a treaty between the United States and Germany, signed on August 25, 1921, to restore the friendly relations existing between the two Nations prior to the outbreak of war.

WARREN G. HARDING.

THE WHITE HOUSE, *September 21, 1921.*

The PRESIDENT:

The undersigned, the Secretary of State, has the honor to lay before the President, with a view to its transmission to the Senate to receive the advice and consent of that body to its ratification, if his judgment approve thereof, a treaty between the United States and Germany, signed on August 25, 1921, to restore the friendly relations existing between the two Nations prior to the outbreak of war.

Respectfully submitted.

CHARLES E. HUGHES.

DEPARTMENT OF STATE,
Washington, September 19, 1921.

GERMANY AND THE UNITED STATES OF AMERICA.

Considering that the United States, acting in conjunction with its cobelligerents, entered into an armistice with Germany on November 11, 1918, in order that a treaty of peace might be concluded;

Considering that the treaty of Versailles was signed on June 28, 1919, and came into force according to the terms of its article 440, but has not been ratified by the United States;

Considering that the Congress of the United States passed a joint resolution, approved by the President July 2, 1921, which reads, in part, as follows:

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the state of war declared to exist between the Imperial German Government and the United States of America by the joint resolution of Congress approved April 6, 1917, is hereby declared at an end.

"SEC. 2. That in making this declaration, and as a part of it, there are expressly reserved to the United States of America and its nationals any and all rights, privileges, indemnities, reparations, or advantages, together with the right to enforce the same, to which it or they have become entitled under the

terms of the armistice signed November 11, 1918, or any extensions or modifications thereof; or which were acquired by or are in the possession of the United States of America by reason of its participation in the war or to which its nationals have thereby become rightfully entitled; or which, under the treaty of Versailles, have been stipulated for its or their benefit; or to which it is entitled as one of the principal allied and associated powers; or to which it is entitled by virtue of any act or acts of Congress; or otherwise.

* * * * * * *

"SEC. 5. All property of the Imperial German Government, or its successor or successors, and of all German nationals, which was, on April 6, 1917, in or has since that date come into the possession or under control of, or has been the subject of a demand by the United States of America or of any of its officers, agents, or employees, from any source or by any agency whatsoever, and all property of the Imperial and Royal Austro-Hungarian Government, or its successor or successors, and of all Austro-Hungarian nationals which was on December 7, 1917, in or has since that date come into the possession or under control of, or has been the subject of a demand by the United States of America or any of its officers, agents, or employees, from any source or by any agency whatsoever, shall be retained by the United States of America and no disposition thereof made, except as shall have been heretofore or specifically hereafter shall be provided by law until such time as the Imperial German Government and the Imperial and Royal Austro-Hungarian Government, or their successor or successors, shall have respectively made suitable provision for the satisfaction of all claims against said Governments, respectively, of all persons, wheresoever domiciled, who owe permanent allegiance to the United States of America and who have suffered, through the acts of the Imperial German Government or its agents or the Imperial and Royal Austro-Hungarian Government or its agents, since July 31, 1914, loss, damage, or injury to their persons or property, directly or indirectly, whether through the ownership of shares of stock in German, Austro-Hungarian, American, or other corporations, or in consequence of hostilities or of any operations of war, or otherwise, and also shall have granted to persons owing permanent allegiance to the United States of America most-favored-nation treatment, whether the same be national or otherwise, in all matters affecting residence, business, profession, trade, navigation, commerce, and industrial property rights, and until the Imperial German Government and the Imperial and Royal Austro-Hungarian Government, or their successor or successors, shall have, respectively, confirmed to the United States of America all fines, forfeitures, penalties, and seizures imposed or made by the United States of America during the war, whether in respect to the property of the Imperial German Government or German nationals or the Imperial and Royal Austro-Hungarian Government or Austro-Hungarian nationals, and shall have waived any and all pecuniary claims against the United States of America."

Being desirous of restoring the friendly relations existing between the two Nations prior to the outbreak of war,

Have for that purpose appointed their plenipotentiaries:

The President of the German Empire,

Dr. Friedrich Rosen, Minister for Foreign Affairs, and

The President of the United States of America,

Ellis Loring Dresel, Commissioner of the United States of America to Germany,

Who, having communicated their full powers, found to be in good and due form, have agreed as follows:

ARTICLE I.

Germany undertakes to accord to the United States, and the United States shall have and enjoy, all the rights, privileges, indemnities, reparations, or advantages specified in the aforesaid joint resolution of the Congress of the United States of July 2, 1921, including all the rights and advantages stipulated for the benefit of the United States in the treaty of Versailles which the United States shall fully enjoy notwithstanding the fact that such treaty has not been ratified by the United States.

ARTICLE II.

With a view to defining more particularly the obligations of Germany under the foregoing article with respect to certain provisions in the treaty of Versailles, it is understood and agreed between the high contracting parties:

(1) That the rights and advantages stipulated in that treaty for the benefit of the United States, which it is intended the United States shall have and enjoy, are those defined in section 1, of Part IV, and Parts V, VI, VIII, IX, X, XI, XII, XIV, and XV.

The United States in availing itself of the rights and advantages stipulated in the provisions of that treaty mentioned in this paragraph will do so in a manner consistent with the rights accorded to Germany under such provisions.

(2) That the United States shall not be bound by the provisions of Part I of that treaty, nor by any provisions of that treaty including those mentioned in paragraph (1) of this article, which relate to the covenant of the League of Nations, nor shall the United States be bound by any action taken by the League of Nations or by the council or by the assembly thereof, unless the United States shall expressly give its assent to such action.

(3) That the United States assumes no obligations under or with respect to the provisions of Part II, Part III, sections 2 to 8, inclusive, of Part IV, and Part XIII of that treaty.

(4) That, while the United States is privileged to participate in the Reparation Commission, according to the terms of Part VIII of that treaty, and in any other commission established under the treaty or under any agreement supplemental thereto, the United States is not bound to participate in any such commission unless it shall elect to do so.

(5) That the periods of time to which reference is made in article 440 of the treaty of Versailles shall run with respect to any act or election on the part of the United States from the date of the coming into force of the present treaty.

ARTICLE III.

The present treaty shall be ratified in accordance with the constitutional forms of the high contracting parties and shall take effect immediately on the exchange of ratifications, which shall take place as soon as possible at Berlin.

In witness whereof the respective plenipotentiaries have signed this treaty and have hereunto affixed their seals.

Done in duplicate in Berlin this 25th day of August, 1921.

[SEAL.] ROSEN.
[SEAL.] ELLIS LORING DRESEL.

TREATY OF PEACE WITH AUSTRIA.

In executive session this day, on motion of Mr. LODGE, the injunction of secrecy was removed from the following treaty of peace with Austria (Ex. H. 67th Cong., 1st sess.), which had this day been transmitted to the Senate by the President:

To the SENATE:

I transmit herewith, to receive the advice and consent of the Senate to its ratification, a treaty between the United States and Austria, signed on August 24, 1921, to establish securely friendly relations between the two Nations.

WARREN G. HARDING.

THE WHITE HOUSE, *September 21, 1921.*

The PRESIDENT:

The undersigned, the Secretary of State, has the honor to lay before the President, with a view to its transmission to the Senate to receive the advice and consent of that body to its ratification, if his judgment approve thereof, a treaty between the United States and Austria, signed on August 24, 1921, to establish securely friendly relations between the two Nations.

Respectfully submitted.

CHARLES E. HUGHES.

DEPARTMENT OF STATE,
Washington, September 20, 1921.

THE UNITED STATES OF AMERICA AND AUSTRIA.

Considering that the United States, acting in conjunction with its cobelligerents, entered into an armistice with Austria-Hungary on November 3, 1918, in order that a treaty of peace might be concluded;

Considering that the former Austro-Hungarian monarchy ceased to exist and was replaced in Austria by a republican Government;

Considering that the treaty of St. Germain-en-Laye, to which Austria is a party, was signed on September 10, 1919, and came into force according to the terms of its article 381, but has not been ratified by the United States;

Considering that the Congress of the United States passed a joint resolution approved by the President July 2, 1921, which reads in part as follows:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, * * *

"That the state of war declared to exist between the Imperial and Royal Austro-Hungarian Government and the United States of America by the joint resolution of Congress approved December 7, 1917, is hereby declared at an end.

"SEC. 4. That in making this declaration and as a part of it there are expressly reserved to the United States of America and its nationals any and all rights, privileges, indemnities,

reparations, or advantages, together with the right to enforce the same, to which it or they have become entitled under the terms of the armistice signed November 3, 1918, or any extension or modifications thereof; or which were acquired by or are in the possession of the United States of America by reason of its participation in the war or to which its nationals have thereby become rightfully entitled; or which under the treaty of St. Germain-en-Laye or the treaty of Trianon have been stipulated for its or their benefit; or to which it is entitled as one of the principal allied and associated powers; or to which it is entitled by virtue of any act or acts of Congress or otherwise.

"SEC. 5. All property of the Imperial German Government, or its successor or successors, and of all German nationals which was on April 6, 1917, in or has since that date come into the possession or under control of, or has been the subject of a demand by the United States of America or of any of its officers, agents, or employees, from any source or by any agency whatsoever, and all property of the Imperial and Royal Austro-Hungarian Government, or its successor or successors, and of all Austro-Hungarian nationals which was on December 7, 1917, in or has since that date come into the possession or under control of, or has been the subject of a demand by the United States of America or any of its officers, agents, or employees, from any source or by any agency whatsoever, shall be retained by the United States of America and no disposition thereof made, except as shall have been heretofore or specifically hereafter shall be provided by law until such time as the Imperial German Government and the Imperial and Royal Austro-Hungarian Government, or their successor or successors, shall have respectively made suitable provision for the satisfaction of all claims against said Governments, respectively, of all persons, wheresoever domiciled, who owe permanent allegiance to the United States of America and who have suffered, through the acts of the Imperial German Government or its agents, or the Imperial and Royal Austro-Hungarian Government or its agents since July 31, 1914, loss, damage, or injury to their persons or property, directly or indirectly, whether through the ownership of shares of stock in German, Austro-Hungarian, American, or other corporations, or in consequence of hostilities or of any operations of war, or otherwise, and also shall have granted to persons owing permanent allegiance to the United States of America most-favored-nation treatment, whether the same be national or otherwise, in all matters affecting residence, business, profession, trade, navigation, commerce, and industrial property rights and until the Imperial German Government and the Imperial and Royal Austro-Hungarian Government or its successor or successors shall have respectively confirmed to the United States of America all fines, forfeitures, penalties, and seizures imposed or made by the United States of America during the war, whether in respect to the property of the Imperial German Government or German nationals or the Imperial and Royal Austro-Hungarian Government or Austro-Hungarian nationals, and shall have waived any and all pecuniary claims against the United States of America."

Being desirous of establishing securely friendly relations between the two Nations;

Have for that purpose appointed their plenipotentiaries; the President of the United States of America, Arthur Hugh Frazier, and the Federal President of the Republic of Austria, Johann Schober, who, having communicated their full powers, found to be in good and due form, have agreed as follows:

ARTICLE I.

Austria undertakes to accord to the United States, and the United States shall have and enjoy, all the rights, privileges, indemnities, reparations, or advantages specified in the aforesaid joint resolution of the Congress of the United States of July 2, 1921, including all the rights and advantages stipulated for the benefit of the United States in the treaty of St. Germain-en-Laye, which the United States shall fully enjoy notwithstanding the fact that such treaty has not been ratified by the United States. The United States, in availing itself of the rights and advantages stipulated in the provisions of that treaty, will do so in a manner consistent with the rights accorded to Austria under such provisions.

ARTICLE II.

With a view to defining more particularly the obligations of Austria under the foregoing article with respect to certain provisions in the treaty of St. Germain-en-Laye, it is understood and agreed between the high contracting parties:

(1) That the rights and advantages stipulated in that treaty for the benefit of the United States which it is intended the United States shall have and enjoy are those defined in Parts V, VI, VIII, IX, X, XI, XII, and XIV.

(2) That the United States shall not be bound by the provisions of Part I of that treaty, nor by any provisions of that treaty, including those mentioned in paragraph (1) of this article, which relate to the covenant of the League of Nations, nor shall the United States be bound by any action taken by the League of Nations or by the council or by the assembly thereof, unless the United States shall expressly give its assent to such action.

(3) That the United States assumes no obligations under or with respect to the provisions of Part II, Part III, Part IV, and Part XIII of that treaty.

(4) That while the United States is privileged to participate in the Reparation Commission, according to the terms of Part VIII of that treaty, and in any other commission established under the treaty or under any agreement supplemental thereto, the United States is not bound to participate in any such commission unless it shall elect to do so.

(5) That the periods of time to which reference is made in article 381 of the treaty of St. Germain-en-Laye shall run, with respect to any act or election on the part of the United States, from the date of the coming into force of the present treaty.

ARTICLE III.

The present treaty shall be ratified in accordance with the constitutional forms of the high contracting parties and shall take effect immediately on the exchange of ratifications, which shall take place as soon as possible at Vienna.

In witness whereof the respective plenipotentiaries have signed this treaty and have hereunto affixed their seals.

Done in duplicate in Vienna this 24th day of August, 1921.

[SEAL.] ARTHUR HUGH FRAZIER.
[SEAL.] SCHOBER.

TREATY OF PEACE WITH HUNGARY.

In executive session this day, on motion of Mr. LODGE, the injunction of secrecy was removed from the following treaty of peace with Hungary (Ex. I, 67th Cong., 1st sess.), which had this day been transmitted to the Senate by the President:

To the SENATE:

I transmit herewith, to receive the advice and consent of the Senate to its ratification, a treaty between the United States and Hungary, signed on August 29, 1921, to establish securely friendly relations between the two Nations.

WARREN G. HARDING.

THE WHITE HOUSE, *September 21, 1921.*

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The PRESIDENT:

The undersigned, the Secretary of State, has the honor to lay before the President, with a view to its transmission to the Senate to receive the advice and consent of that body to its ratification, if his judgment approve thereof, a treaty between the United States and Hungary, signed on August 29, 1921, to establish securely friendly relations between the two Nations.

Respectfully submitted.

CHARLES E. HUGHES.

DEPARTMENT OF STATE,
Washington, September 19, 1921.

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THE UNITED STATES OF AMERICA AND HUNGARY.

Considering that the United States, acting in conjunction with its cobelligerents, entered into an armistice with Austria-Hungary on November 3, 1918, in order that a treaty of peace might be concluded;

Considering that the former Austro-Hungarian monarchy ceased to exist and was replaced in Hungary by a national Hungarian Government;

Considering that the treaty of Trianon, to which Hungary is a party, was signed on June 4, 1920, and came into force according to the terms of its article 364, but has not been ratified by the United States;

Considering that the Congress of the United States passed a joint resolution, approved by the President July 2, 1921, which reads in part as follows:

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* * * *

"That the state of war declared to exist between the Imperial and Royal Austro-Hungarian Government and the United States of America by the joint resolution of Congress approved December 7, 1917, is hereby declared at an end.

"SEC 4. That in making this declaration, and as a part of it, there are expressly reserved to the United States of America and its nationals any and all rights, privileges, indemnities, reparations, or advantages, together with the right to enforce

the same, to which it or they have become entitled under the terms of the armistice signed November 3, 1918, or any extensions or modifications thereof; or which were acquired by or are in the possession of the United States of America by reason of its participation in the war or to which its nationals have thereby become rightfully entitled; or which, under the treaty of St. Germain-en-Laye or the treaty of Trianon, have been stipulated for its or their benefit; or to which it is entitled as one of the principal allied and associated powers; or to which it is entitled by virtue of any act or acts of Congress, or otherwise.

"SEC. 5. All property of the Imperial German Government, or its successor or successors, and of all German nationals which was, on April 6, 1917, in or has since that date come into the possession or under control of, or has been the subject of a demand by the United States of America or of any of its officers, agents, or employees, from any source or by any agency whatsoever, and all property of the Imperial and Royal Austro-Hungarian Government, or its successor or successors, and of all Austro-Hungarian nationals which was on December 7, 1917, in or has since that date come into the possession or under control of, or has been the subject of a demand by the United States of America or any of its officers, agents, or employees, from any source or by any agency whatsoever, shall be retained by the United States of America and no disposition thereof made, except as shall have been heretofore or specifically hereafter shall be provided by law until such time as the Imperial German Government and the Imperial and Royal Austro-Hungarian Government, or their successor or successors, shall have respectively made suitable provision for the satisfaction of all claims against said Governments, respectively, of all persons, wheresoever domiciled, who owe permanent allegiance to the United States of America and who have suffered, through the acts of the Imperial German Government, or its agents, or the Imperial and Royal Austro-Hungarian Government, or its agents, since July 31, 1914, loss, damage, or injury to their persons or property, directly or indirectly, whether through the ownership of shares of stock in German, Austro-Hungarian, American, or other corporations, or in consequence of hostilities or of any operations of war, or otherwise, and also shall have granted to persons owing permanent allegiance to the United States of America most-favored-nation treatment, whether the same be national or otherwise, in all matters affecting residence, business, profession, trade, navigation, commerce, and industrial property rights, and until the Imperial German Government and the Imperial and Royal Austro-Hungarian Government, or their successor or successors, shall have respectively confirmed to the United States of America all fines, forfeitures, penalties, and seizures imposed or made by the United States of America during the war, whether in respect to the property of the Imperial German Government or German nationals or the Imperial and Royal Austro-Hungarian Government or Austro-Hungarian nationals, and shall have waived any and all pecuniary claims against the United States of America."

Being desirous of establishing securely friendly relations between the two Nations;

Have for that purpose appointed their plenipotentiaries:

The President of the United States of America, U. Grant Smith, commissioner of the United States to Hungary; and Hungary, Count Nicholas Banffy, royal Hungarian minister for foreign affairs;

Who, having communicated their full powers, found to be in good and due form, have agreed as follows:

ARTICLE I.

Hungary undertakes to accord to the United States, and the United States shall have and enjoy, all the rights, privileges, indemnities, reparations, or advantages specified in the aforesaid joint resolution of the Congress of the United States of July 2, 1921, including all the rights and advantages stipulated for the benefit of the United States in the treaty of Trianon, which the United States shall fully enjoy notwithstanding the fact that such treaty has not been ratified by the United States. The United States, in availing itself of the rights and advantages stipulated in the provisions of that treaty, will do so in a manner consistent with the rights accorded to Hungary under such provisions.

ARTICLE II.

With a view to defining more particularly the obligations of Hungary under the foregoing article with respect to certain provisions in the treaty of Trianon, it is understood and agreed between the high contracting parties:

(1) That the rights and advantages stipulated in that treaty for the benefit of the United States, which it is intended the United States shall have and enjoy, are those defined in Parts V, VI, VIII, IX, X, XI, XII, and XIV.

(2) That the United States shall not be bound by the provisions of Part I of that treaty, nor by any provisions of that treaty including those mentioned in paragraph (1) of this article, which relate to the covenant of the League of Nations, nor shall the United States be bound by any action taken by the League of Nations or by the council or by the assembly thereof, unless the United States shall expressly give its assent to such action.

(3) That the United States assumes no obligations under or with respect to the provisions of Part II, Part III, Part IV, and Part XIII of that treaty.

(4) That while the United States is privileged to participate in the reparation commission, according to the terms of Part VIII of that treaty, and in any other commission established under the treaty or under any agreement supplemental thereto, the United States is not bound to participate in any such commission unless it shall elect to do so.

(5) That the periods of time to which reference is made in article 364 of the treaty of Trianon shall run, with respect to any act or election on the part of the United States, from the date of the coming into force of the present treaty.

ARTICLE III.

The present treaty shall be ratified in accordance with the constitutional forms of the high contracting parties and shall take effect immediately on the exchange of ratifications, which shall take place as soon as possible at Budapest.

In witness whereof the respective plenipotentiaries have signed this treaty and hereunto affixed their seals.

Done in duplicate in Budapest this 29th day of August, 1921.

[SEAL.] U. GRANT SMITH,
Commissioner of the United States to Hungary.

[SEAL.] COUNT NICHOLAS BANFFY,
Royal Hungarian Minister for Foreign Affairs.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *September 21, 1921.*

The House met at 12 o'clock noon and was called to order by Mr. WALSH as Speaker pro tempore.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty God, worthy of all adoration, before whom the angelic hosts lift their voices in eternal praise, which never can be told, we would pause, saying: Blessing, honor, and glory belongeth unto Thee by infinite right. We lay our supplications at Thy feet. Again in the hollow of Thy hand we have found our refuge and our strength; we therefore praise Thee. Fulfill in us the purpose of Thy goodness and enable us to stand fast in the glorious liberty of those who fear nothing, save to offend Thee and to wrong our own souls. Thy laws are holy; Thy ways are just; and may we accept them through the ministry of Thy Spirit and allow nothing to dim the truth. Give discernment, that we may know that the lovers of righteousness and the lovers of peace are ever supreme over the forces of evil. Thus may we now, in Thy solemn presence, rededicate ourselves to righteous duty, righteous authority, and above all to a righteous God. May the breath of a devout patriotism stir through the arteries of our country and bestow blessings of love, mercy, and patience upon our people everywhere; and Thine shall be the glory forever. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of Wednesday, August 24, was read and approved.

ADJOURNMENT.

Mr. ANDERSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 20 minutes p. m.) the House, under the order previously made, adjourned until Saturday, September 24, 1921, at 12 o'clock noon.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 1548) granting a pension to Carrie E. Preston; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 7179) granting an increase of pension to John C. Lane; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 7379) granting an increase of pension to Elizabeth Carroll; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. RAKER: A bill (H. R. 8417) making appropriations for the eradication of poisonous plants on the national forest lands, and for other purposes; to the Committee on Appropriations.

Also, a bill (H. R. 8418) making appropriations for the investigation and scientific study of the natural history of the grasshopper and their elimination from the reserved and unreserved public lands of the United States, and for other purposes; to the Committee on Appropriations.

Also, a bill (H. R. 8419) making appropriations for the prevention of loss of timber from insect infestations on reserved and unreserved public lands in Oregon and California, and for other purposes; to the Committee on Appropriations.

Also, a bill (H. R. 8420) to prevent deceit and unfair prices that result from the unrevealed presence of substitutes for virgin wool in woven fabrics purporting to contain wool and in garments or articles of apparel made therefrom, transported or intended to be transported in interstate or foreign commerce, providing penalties for violation of this act, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HERRICK: A bill (H. R. 8421) making it unlawful for any private individual, company, or corporation to issue tokens, due bills, or scrip as a substitute for money in payment for labor; to the Committee on Banking and Currency.

By Mr. SUTHERLAND: A bill (H. R. 8422) for the reservation of land for public highways in the Territory of Alaska; to the Committee on the Territories.

By Mr. TAGUE: Resolution (H. Res. 188) calling for congressional investigation of the Ku Klux Klan; to the Committee on Rules.

By Mr. FOSTER: Resolution (H. Res. 189) directing the Committee on Mines and Mining to investigate the recent acts of violence in the coal fields of West Virginia and adjacent territory and the causes which led to the conditions which now exist in said territory; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HERRICK: A bill (H. R. 8423) granting a pension to Mary L. Bird; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8424) granting a pension to Stella D. Johnson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8425) for the relief of A. W. Holland; to the Committee on Claims.

Also, a bill (H. R. 8426) granting a pension to Hattie Ousley; to the Committee on Pensions.

Also, a bill (H. R. 8427) to correct the military record of Frank Rector and grant him an honorable discharge; to the Committee on Military Affairs.

By Mr. KING: A bill (H. R. 8428) granting an increase of pension to David Vasen; to the Committee on Pensions.

Also, a bill (H. R. 8429) granting an increase of pension to James D. Silman; to the Committee on Pensions.

By Mr. KNUTSON: A bill (H. R. 8430) granting an increase of pension to John F. Mossberg; to the Committee on Pensions.

Also, a bill (H. R. 8431) granting an increase of pension to Francis H. McGee; to the Committee on Pensions.

By Mr. McLAUGHLIN of Nebraska: A bill (H. R. 8432) granting a pension to Aldora Buffaloe; to the Committee on Invalid Pensions.

By Mr. MONTAGUE: A bill (H. R. 8433) for the relief of John Worthington; to the Committee on Claims.

By Mr. RAKER: A bill (H. R. 8434) granting a pension to Alida D. Garden; to the Committee on Invalid Pensions.

By Mr. REECE: A bill (H. R. 8435) granting an increase of pension to Isaac Trent; to the Committee on Pensions.

Also, a bill (H. R. 8436) granting a pension to Henry T. Nave; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8437) granting a pension to Nancy Ellis; to the Committee on Pensions.

By Mr. TAYLOR of Tennessee: A bill (H. R. 8438) granting an increase of pension to Solomon Hubbard; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

2585. By Mr. LAYTON: Petition of Herbert Masten and 20 others, of Wilmington, Del., protesting against Senate bill 1948; to the Committee on the District of Columbia.

2586. By Mr. RAKER: Petition of B. M. Frederick and others, of Tuolumne, Calif., and W. J. Clark and others, of Placerville and Sacramento, Calif., protesting against the passage of House bill 4388, the compulsory Sunday observance bill; to the Committee on the District of Columbia.

2587. Also, petition of the Railroad Commission of the State of California, urging support of House bill 8131, amending paragraph 4 of section 13 of the interstate commerce act, as amended by the transportation act, 1920; to the Committee on Interstate and Foreign Commerce.

2588. Also, telegram from the California State Automobile Association, of San Francisco, Calif., urging support of Federal aid roads bill; to the Committee on Roads.

2589. Also, petitions of the Pajaro Valley National Bank, of Watsonville, Calif.; the California Rex Spray Co., of Benicia, Calif.; and the Maydwell Co., of San Francisco, Calif., protesting against increasing the tax on letter mail; also, petition of the San Francisco Chamber of Commerce, of San Francisco, Calif., protesting against the American valuation plan in the tariff bill as passed the House; to the Committee on Ways and Means.

2590. Also, petition of A. F. Edwards, of Oakland, Calif., urging the repeal of the present commodity tax and urging the levying of a sales tax; also, petition of the Young Hardware Co. (Inc.), of Napa, Calif., and the San Joaquin Grocery Co., of Fresno, Calif., protesting against increasing the present rate on letter mail; also, petition of the United Chemical Products Co., of Los Angeles, Calif., urging protection for the dye industry of this country; to the Committee on Ways and Means.

2591. Also, petition of B. F. McMurry, of Tulare, Calif., urging the discontinuance of the tax on jewelry sales; also, petition of Klauber Wangenheim Co., of San Diego, Calif., protesting against any increase in the letter mail rate; also, petition of the Metals & Chemicals Extraction Corporation, of San Francisco, Calif., urging protection for the dye industry of this country; also, petition of the Chamber of Mines and Oil of Los Angeles, Calif., relative to the payment of income tax on oil properties; to the Committee on Ways and Means.

2592. Also, petitions of Harry J. Reidsema, of Los Angeles, Calif., and C. F. Weber & Co. (Inc.), of San Francisco, Calif., protesting against increasing the rate on letter mail; to the Committee on Ways and Means.

2593. Also, petition of Pennsylvania State Lodge of the International Association of Machinists, of Allentown, Pa., urging support of congressional action to authorize the War Department to make payment of a claim against the War Department for increases in wages due the machine shop and other employees of the Bethlehem Steel Co.; to the Committee on Military Affairs.

2594. Also, petition of the Sacramento Church Federation, of Sacramento, Calif., urging the limitation of immigration into the United States; to the Committee on Immigration and Naturalization.

2595. Also, resolution by the Orland Unit Water Users' Association, of Orland, Calif., urging support of Senate bill 1728; to the Committee on Irrigation of Arid Lands.

2596. By Mr. TAGUE: Resolutions sympathetic to the cause of Irish independence adopted by the national convention of the American Federation of Labor, held at Denver, Colo.; to the Committee on Foreign Affairs.

SENATE.

THURSDAY, *September 22, 1921.*

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

Our Father, we give Thee thanks for the sunlight, for the cheer it gives to us, and the increase of hope it may stimulate within us. As we turn our attention to the duties of the day grant that we may realize the dignity of service, and that it is our privilege to serve our generation by the will of God. Help us thus to conserve every opportunity to the glory of Thy great name and Thou shall have all the praise. Through Christ our Lord. Amen.

The reading clerk proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. CURTIS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

CALL OF THE ROLL.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Frelinghuysen	McCumber	Shortridge
Borah	Gerry	McKellar	Simmons
Brandegee	Glass	McKinley	Smoot
Broussard	Gooding	McLean	Spencer
Cameron	Hale	Myers	Sterling
Capper	Harris	Nelson	Sutherland
Colt	Harrison	New	Swanson
Culberson	Heflin	Nicholson	Townsend
Curtis	Johnson	Oddie	Trammell
Dial	Kellogg	Overman	Underwood
Dillingham	Kenyon	Page	Watson, Ga.
Ernst	King	Pomerene	Watson, Ind.
Fernald	Ladd	Reed	Willis
Fletcher	La Follette	Sheppard	
France	Lodge	Shields	

Mr. NICHOLSON. I desire to state that my colleague [Mr. PHIPPS] is absent on account of illness and that it will not be possible for him to be present in this body for at least the next 30 days.

The VICE PRESIDENT. Fifty-eight Senators having answered to their names, a quorum is present.

REINTERMENT OF AMERICAN SOLDIER DEAD.

The VICE PRESIDENT laid before the Senate a communication from Brig. Gen. C. R. Krauthoff, Quartermaster Corps, for the Quartermaster General of the Army, which was read and, with the accompanying papers, ordered to lie on the table for inspection by Senators, as follows:

WAR DEPARTMENT,
OFFICE OF THE QUARTERMASTER GENERAL OF THE ARMY,
Washington, September 13, 1921.

The PRESIDENT OF THE SENATE,
Washington, D. C.

MY DEAR SIR: The inclosed copies of lists of American soldier dead returned from overseas, consisting of 6 officers and 111 enlisted men, to be reinterred in the Arlington National Cemetery, Thursday, September 15, 1921, at 2.30 p. m., and 34 enlisted men to be reinterred in that cemetery on Thursday, September 22, 1921, at 2.30 p. m., are furnished for consultation by Senators. It is requested that they be posted or displayed in a suitable place for the purpose desired.

Very truly, yours,

C. R. KRAUTHOFF,
Brigadier General, Quartermaster Corps
(In the absence of the Quartermaster General).

The VICE PRESIDENT laid before the Senate a communication from Brig. Gen. C. R. Krauthoff, Quartermaster Corps, for the Quartermaster General of the Army, which was read and, with the accompanying papers, ordered to lie on the table for inspection by Senators, as follows:

WAR DEPARTMENT,
OFFICE OF THE QUARTERMASTER GENERAL OF THE ARMY,
Washington, September 19, 1921.

The PRESIDENT OF THE SENATE,
Washington, D. C.

MY DEAR SIR: The inclosed copies of lists of American soldier dead returned from overseas, consisting of 3 officers and 116 enlisted men, to be reinterred in the Arlington National Cemetery Thursday, September 22, 1921, at 2.30 p. m., and 3 officers and 121 enlisted men to be reinterred in that cemetery on Thursday, September 29, 1921, at 2.30 p. m., are furnished for consultation by Senators. It is requested that they be posted or displayed in a suitable place for the purpose desired.

Very truly, yours,

C. R. KRAUTHOFF,
Brigadier General, Quartermaster Corps
(In the absence of the Quartermaster General).

DISPOSITION OF USELESS PAPERS.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting, pursuant to law, schedules and files of useless papers devoid of historic interest accumulated in the files of the office of the Army War College, and asking action looking to their disposition, which was referred to a select committee on disposition of useless papers in the executive departments to be selected by the Chair. The Vice President appointed Mr. CAPPER and Mr. SHEPPARD members of the committee on the part of the Senate, and ordered that the Secretary of the Senate notify the House of Representatives thereof.

PETITIONS AND MEMORIALS.

Mr. HARRIS presented the petition of Augustin Daly and sundry other citizens of Macon, Ga., praying for the recognition of the republic of Ireland by the Government of the United States, which was referred to the Committee on Foreign Relations.

Resolution.

He also presented a concurrent resolution of the Legislature of Georgia, which was referred to the Committee on Interstate Commerce, as follows:

Whereas in recent decisions of the Interstate Commerce Commission interpretations have been given the transportation act of 1920, such as gives to the Interstate Commerce Commission complete authority over the entire subject of transportation and including the right to prescribe intrastate rates; and

Whereas it means, in effect, the abrogation of all authority of State regulation to make and prescribe rates for intrastate movement of freight; and

Whereas the freight rates are in some instances so burdensome and excessive at this time as to prohibit the movement of various commodities, and the passenger rates are so excessive as to deter travel, to the end that the railroads are receiving less in passenger revenues than they would receive if a lesser rate were in effect: Therefore be it

Resolved by the House of Representatives of the State of Georgia (the Senate of Georgia concurring), That we call upon the Congress of the United States to so amend the transportation act of 1920, and in such plain language, that the authority of the States over intrastate traffic in their respective States will be fixed and certain in language plainly declaring the right of States to prescribe intrastate rates: Be it further

Resolved, That a copy of this resolution be sent to each United States Senator and Congressman from the State of Georgia.

Mr. HARRIS also presented a concurrent resolution of the Legislature of Georgia, which was referred to the Committee on Agriculture and Forestry, as follows:

Resolution.

Whereas the ravages and destruction by the boll weevil in the cotton-producing States of the United States has gone beyond accurate computation in dollars and cents and to-day is practically unchecked; and

Whereas it would be in the interest of science, economy, and humanity that abundant inducement be offered to bring about some form of discovery on a scientific basis which would rid our country of this pestilence and check its inroad upon one of the greatest necessities of the human family; and

Whereas all research in that direction has thus far been left largely to the individual agricultural departments of the States and the Nation without any special inducement to the scientific brain of the world to devote itself to an effective discovery: Therefore be it

Resolved by the General Assembly of Georgia (both branches concurring), That the Congress of the United States be and it is memorialized to set aside a gratuity in the sum of not more than $5,000,000 to be awarded as a prize to the scientist or person who will discover, to the satisfaction of such examination as the Congress of the United States may deem necessary to provide, an effective method of eliminating the boll weevil, the award of the prize or gratuity to be made in such manner that the right to the discovery shall become the property of the United States Government for the use of the people of the United States: Be it further

Resolved, That a copy of this resolution be forwarded to each Member of the National House of Representatives and the United States Senate, properly signed by the officials of this General Assembly, and the clerk of the House of Representatives of Georgia is hereby instructed to carry out this provision of this resolution.

Mr. KENYON presented the petition of W. G. Daniel, of Polk, and sundry other citizens of the State of Iowa, praying for the election by direct vote of the people of all judges of inferior Federal courts of the United States or the abolition of said Federal courts, etc., which was referred to the Committee on the Judiciary.

He also presented a resolution adopted by the Des Moines (Iowa) Council, American Association for the Recognition of the Irish Republic, protesting against the enactment of Senate bill 2135, relative to refunding the foreign debts of the United States, etc., which was referred to the Committee on Finance.

He also presented nine petitions of sundry citizens of the State of Iowa, praying for the release of political prisoners, with restoration of rights of citizenship, particularly in the case of Eugene V. Debs, which were referred to the Committee on the Judiciary.

Mr. WILLIS presented a memorial of the Columbus (Ohio) Clearing House Association, remonstrating against exemption from income tax of $500 dividends or interest received on building and loan stock or deposits, etc., which was referred to the Committee on Finance.

He also presented a resolution adopted by the music merchants' convention held at Columbus, Ohio, September 12, 1921, and following days, favoring the so-called Smoot sales tax bill, and protesting against a 5 per cent excise tax on musical instruments, etc., which was referred to the Committee on Finance.

He also presented a petition signed by 2,200 citizens of Akron, Ashtabula, Cincinnati, Ironton, Columbus, Norwood, Glendale, Coshocton, Toledo, Elyria, Lima, Lorain, Massillon, Newark, New Straitsville, Shawnee, Swanton, Youngstown, and Wellsville, all in the State of Ohio, praying for the recognition of the republic of Ireland by the Government of the United States, which was referred to the Committee on Foreign Relations.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED.

Mr. SUTHERLAND, from the Committee on Enrolled Bills, reported that on August 24, 1921, they had presented to the

President of the United States enrolled bills and a joint resolution of the following titles:

S. 1915. An act to amend the War Finance Corporation act, approved April 5, 1918, as amended, to provide relief for producers of and dealers in agricultural products, and for other purposes;

S. 2062. An act ratifying, confirming, and approving certain acts of the Legislature of Hawaii granting franchises for the manufacture, distribution, and supply of gas, electric light and power, and the construction, maintenance, and operation of a street railway, and for other purposes;

S. 2330. An act to extend the time for payment of grazing fees for the use of national forests during the calendar year 1921;

S. 2420. An act authorizing and directing the Postmaster General to permit the use of a special canceling stamp at the post office of Birmingham, Ala., bearing the words "Birmingham Semicentennial, October 24 to 29, 1921"; and

S. J. Res. 103. Joint resolution changing the name of the Veterans' Bureau to "United States Veterans' Bureau."

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. KING:

A bill (S. 2473) granting certain lands to the city of Kaysville, Utah, to protect the watershed of the water-supply system of said city; to the Committee on Public Lands and Surveys.

By Mr. MYERS:

A bill (S. 2474) to appropriate money to Swan Johnson, due him from the United States, on account of a completed contract for cutting and delivering logs; to the Committee on Indian Affairs.

By Mr. KENYON:

A bill (S. 2475) to extend to ex-service men the privilege of transmitting through the mail, free of postage, official correspondence; to the Committee on Post Offices and Post Roads.

By Mr. HARRISON:

A bill (S. 2476) for the relief of William Clark; to the Committee on Military Affairs.

By Mr. OVERMAN:

A bill (S. 2477) authorizing and directing the Secretary of Commerce to collect and publish semiannually or oftener statistics concerning the production and consumption of cotton and its by-products; to the Committee on Agriculture and Forestry.

By Mr. SPENCER:

A bill (S. 2478) for the relief of Maurice P. Guy (with accompanying papers); to the Committee on Military Affairs.

A bill (S. 2479) granting a pension to Elsea H. Allison (with accompanying papers); to the Committee on Pensions.

CHANGE OF REFERENCE.

Mr. SMOOT. Mr. President, yesterday I introduced a bill (S. 2460) to amend an act entitled "An act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain," approved February 25, 1920, and it was referred to the Committee on Mines and Mining. I ask that the reference be changed and the bill referred to the Committee on Public Lands and Surveys.

The VICE PRESIDENT. Without objection, the change of reference requested will be made.

CALIFORNIA OIL LANDS.

Mr. KING submitted the following resolution (S. Res. 146), which was referred to the Committee on Commerce:

Resolved, That the Federal Trade Commission report to the Senate all available information respecting the control and ownership of the Union Oil Co., a corporation of Delaware; the Union Oil Co., a corporation of California; and the Shell Oil Co., a corporation of California; and concerning the holdings of such corporations of oil lands in the State of California, and also all information available concerning the relations of the Shell Oil Co., of California, to the said Union Oil Co., of Delaware, and Union Oil Co., of California, and all information concerning any prospective purchase or control of oil lands in California by foreign corporations or by corporations whose stockholders are not citizens of the United States.

AMENDMENT OF NATIONAL PROHIBITION ACT—CONFERENCE REPORT.

The VICE PRESIDENT. Morning business is closed.

Mr. STERLING. Mr. President, I move that the Senate proceed to the consideration of the conference report on House bill 7294, supplemental to the national prohibition act.

Mr. PENROSE. Mr. President, I move to amend that the Senate proceed to the consideration of House bill 8245, the revenue bill, so called.

The VICE PRESIDENT. The motion of the Senator from Pennsylvania is not now in order.

Mr. PENROSE. May the motion not be amended?

The VICE PRESIDENT. The motion may not be amended.

Mr. PENROSE. Then, if I have an opportunity, I shall later move that the revenue bill may be brought before the Senate.

The VICE PRESIDENT. The question is on the motion of the Senator from South Dakota [Mr. STERLING].

Mr. REED. Mr. President, is the motion debatable?

The VICE PRESIDENT. It is not debatable during the morning hour.

Mr. REED. I ask the Senator from Pennsylvania if he is ready to go on with the revenue bill this morning, and if he desires to do so?

Mr. PENROSE. Mr. President, I am not wholly ready to go on with the bill, but we could proceed with the reading of the bill.

Mr. STERLING. Mr. President, I suggest to the Senator from Pennsylvania that we might go on with the consideration of the conference report during the morning hour until we arrive at the hour of 2 o'clock. The Senator from Pennsylvania says that he is not quite ready to proceed with the consideration of the revenue bill. I understood that he was not quite ready to do so. Hence the motion which I have made. If we may have the time until 2 o'clock we may make considerable progress in the consideration of the conference report.

Mr. PENROSE. Of course, the unfinished business will come up at 2 o'clock.

Mr. STERLING. The unfinished business may then, I think, be laid aside temporarily by unanimous consent.

Mr. PENROSE. I have no information that that can be done.

Mr. STERLING. I do not believe there will be any objection to laying aside the unfinished business at 2 o'clock.

Mr. PENROSE. Who is in charge of the unfinished business?

Mr STERLING The unfinished business is in charge of the Senator from Idaho [Mr. BORAH].

Mr. PENROSE. I do not see that Senator in the Chamber.

The VICE PRESIDENT. The question is on the motion of the Senator from South Dakota [Mr. STERLING].

Mr. PENROSE. I merely wish to suggest that while it is true the report of the Committee on Finance on the tax revision bill is not yet before the Senate, it not having come in perfected form from the Public Printer, we certainly could go on and make very great advance with that measure of overwhelming importance by proceeding to read the bill, which has to be done at some time or other.

Mr. STERLING. The motion is not debatable, Mr. President.

Mr. PENROSE. I know it is not, but I was a little late in getting into the Chamber, being delayed over in the other building by the meeting of the Finance Committee. I shall have to seek a later opportunity to move that the tax bill be brought before the Senate.

Mr. REED. I suggest to the Senator from Pennsylvania that if the motion of the Senator from South Dakota [Mr. STERLING] is defeated he can then make his motion to proceed to the consideration of the tax revision bill.

Mr. PENROSE. If the motion of the Senator from South Dakota be defeated, I shall then move to proceed to the consideration of the revenue bill.

The VICE PRESIDENT. The question is on the motion of the Senator from South Dakota.

Mr. REED. I ask for the yeas and nays.

The yeas and nays were ordered, and the reading clerk proceeded to call the roll.

Mr. FLETCHER (when his name was called). I have a general pair with the Senator from Delaware [Mr. BALL]. In his absence I transfer that pair to the Senator from Nevada [Mr. PITTMAN] and will vote. I vote "yea."

Mr. FRELINGHUYSEN (when his name was called). I transfer my general pair with the junior Senator from Montana [Mr. WALSH] to the senior Senator from New York [Mr. WADSWORTH] and vote "nay."

Mr. HARRISON (when his name was called). I have a general pair with the junior Senator from West Virginia [Mr. ELKINS]. He not being present, I am not permitted to vote.

Mr. OVERMAN (when his name was called). In the absence of my general pair, the Senator from Wyoming [Mr. WARREN], I withhold my vote.

Mr. PENROSE (when his name was called). I have a general pair with the senior Senator from Mississippi [Mr. WILLIAMS]. I am informed that that Senator is absent from the city. I will, therefore, transfer the pair to the senior Senator from New Hampshire [Mr. MOSES], and I vote. I vote "nay."

Mr. STERLING (when his name was called). I transfer my pair with the Senator from South Carolina [Mr. SMITH] to the

Senator from Oregon [Mr. McNARY], and will vote. I vote "yea."

The roll call was concluded.

Mr. HARRIS. I have a pair with the junior Senator from New York [Mr. CALDER]. In his absence I withhold my vote. If permitted to vote, I should vote "yea."

Mr. SWANSON. I have a pair with the senior Senator from Washington [Mr. JONES], but I know that he would vote as I am about to vote. Therefore I take the privilege of voting. I vote "yea."

Mr. BROUSSARD. I have a general pair with the senior Senator from New Hampshire [Mr. MOSES], who, if present, would vote as I intend to vote. I therefore feel at liberty to vote, and vote "nay."

Mr. DIAL. I have a pair with the Senator from Colorado [Mr. PHIPPS], which I transfer to the Senator from Nebraska [Mr. HITCHCOCK], and vote "yea."

Mr. CURTIS. I desire to announce the following pairs:

The Senator from New Mexico [Mr. BURSUM] with the Senator from Louisiana [Mr. RANSDELL];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN];

The Senator from Maine [Mr. FERNALD] with the Senator from New Mexico [Mr. JONES]; and

The Senator from Illinois [Mr. McCORMICK] with the Senator from Wyoming [Mr. KENDRICK].

The result was announced—yeas 32, nays 23, as follows:

YEAS—32.

Ashurst	Fletcher	McKellar	Simmons
Capper	Glass	McKinley	Smoot
Caraway	Gooding	Myers	Spencer
Colt	Hale	Nelson	Sterling
Culberson	Heflin	Nicholson	Swanson
Curtis	Kellogg	Oddie	Townsend
Dial	Kenyon	Page	Trammell
Ernst	Ladd	Sheppard	Willis

NAYS—23.

Brandegee	Gerry	McLean	Shortridge
Broussard	Johnson	New	Stanley
Cameron	King	Penrose	Underwood
Dillingham	La Follette	Pomerene	Walsh, Mass.
France	Lodge	Reed	Watson, Ga.
Frelinghuysen	McCumber	Shields	

NOT VOTING—41.

Ball	Harrison	Newberry	Stanfield
Borah	Hitchcock	Norbeck	Sutherland
Bursum	Jones, N. Mex.	Norris	Wadsworth
Calder	Jones, Wash.	Overman	Walsh, Mont.
Cummins	Kendrick	Owen	Warren
du Pont	Keyes	Phipps	Watson, Ind.
Edge	Knox	Pittman	Weller
Elkins	Lenroot	Poindexter	Williams
Fernald	McCormick	Ransdell	
Harreld	McNary	Robinson	
Harris	Moses	Smith	

So the motion was agreed to; and the Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill H. R. 7294, supplemental to the national prohibition act.

The VICE PRESIDENT. The question is on agreeing to the report.

Mr. SHIELDS addressed the Senate in opposition to the conference report. After having spoken for some time,

Mr. REED. Mr. President——

The PRESIDING OFFICER (Mr. HARRISON in the chair). Does the Senator from Tennessee yield to the Senator from Missouri?

Mr. SHIELDS. Certainly.

Mr. REED. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Borah	Frelinghuysen	McKinley	Smoot
Brandegee	Gerry	McLean	Spencer
Broussard	Gooding	Nelson	Sterling
Cameron	Hale	New	Sutherland
Capper	Harris	Nicholson	Swanson
Colt	Harrison	Oddie	Trammell
Curtis	Heflin	Overman	Underwood
Dial	Kellogg	Page	Walsh, Mass.
Dillingham	Kenyon	Reed	Watson, Ga.
Fernald	King	Sheppard	Watson, Ind.
Fletcher	La Follette	Shields	Willis
France	McKellar	Simmons	

The PRESIDING OFFICER (Mr. FLETCHER in the chair). Forty-seven Senators have answered to their names. There is not a quorum present. The Secretary will call the names of the absent Senators.

The Assistant Secretary called the names of the absent Senators, and Mr. LADD and Mr. WELLER answered to their names when called.

The PRESIDING OFFICER. Forty-nine Senators have answered to their names. A quorum is present.

Mr. SHIELDS resumed his speech. After having spoken for some time,

The VICE PRESIDENT. The Senator from Tennessee will suspend. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business.

Mr. BRANDEGEE. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Borah	Gooding	McKellar	Shields
Brandegee	Hale	McKinley	Shortridge
Broussard	Harreld	Nelson	Smoot
Capper	Harris	New	Sterling
Curtis	Harrison	Nicholson	Swanson
Dial	Heflin	Oddie	Trammell
Dillingham	Johnson	Overman	Underwood
Ernst	Kellogg	Page	Walsh, Mass.
Fernald	Kenyon	Penrose	Watson, Ga.
Frelinghuysen	Ladd	Pomerene	Watson, Ind.
Gerry	La Follette	Reed	Willis
Glass	Lenroot	Sheppard	

The VICE PRESIDENT. Forty-seven Senators having answered to their names, a quorum is not present. The Secretary will call the roll of absentees.

The reading clerk called the names of the absent Senators.

Mr. FLETCHER, Mr. LODGE, Mr. McCUMBER, Mr. COLT, Mr. SUTHERLAND, and Mr. STANLEY entered the Chamber and answered to their names.

The VICE PRESIDENT. Fifty-three Senators having answered to their names, a quorum is present.

FREE TRANSIT THROUGH PANAMA CANAL.

Several Senators addressed the Chair.

Mr. BORAH. Mr. President, first, I wish to have the unfinished business laid before the Senate.

The VICE PRESIDENT. The Chair lays before the Senate the unfinished business, which will be stated.

The READING CLERK. A bill (S. 665) to provide for free tolls for American ships through the Panama Canal.

The VICE PRESIDENT. The Senator from Tennessee [Mr. SHIELDS] is entitled to the floor.

Mr. GERRY. Mr. President, will the Senator yield to me for a moment?

Mr. SHIELDS. Certainly.

AMENDMENTS TO TAX REVISION BILL.

Mr. GERRY. I desire to submit an amendment to the revenue bill reported to the Senate yesterday, proposing an amendment of the income tax provision, which is the joint recommendation of the Senator from Massachusetts [Mr. WALSH] and myself.

The VICE PRESIDENT. The amendment will be printed and lie on the table.

Mr. WALSH of Massachusetts. Mr. President——

The VICE PRESIDENT. Does the Senator from Tennessee yield to the Senator from Massachusetts?

Mr. SHIELDS. I yield.

Mr. WALSH of Massachusetts. I desire to submit two amendments to the pending revenue bill and ask that they be printed and lie upon the table. I might add that these amendments have been prepared in conjunction with the Senator from Rhode Island [Mr. GERRY].

The VICE PRESIDENT. The amendments will be received, printed, and lie on the table.

Mr. BRANDEGEE. Mr. President, will the Senator from Tennessee yield to me to ask a question?

Mr. SHIELDS. Certainly.

Mr. BRANDEGEE. May I have the attention of the Senator from Massachusetts [Mr. WALSH] for a moment? Would the Senator object to having the proposed amendments printed in the RECORD?

Mr. WALSH of Massachusetts. I think the suggestion a very excellent one. The amendments which I have proposed in conjunction with the Senator from Rhode Island are extremely vital. They propose to reduce the normal income tax of the individual taxpayer.

One of the weaknesses of the majority report, as we think, is that it has reduced the taxes upon corporations by eliminating the excess-profits tax and reducing materially the surtaxes of the very wealthy class. The amendment proposed by the Senator from Rhode Island and jointly supported by that Senator and myself seeks to reduce materially and substantially the normal income tax of the individual taxpayer.

The other amendment offered by me seeks to change materially the plan of the majority levying a uniform tax of 15

per cent upon the net incomes of corporations. We propose and suggest amending that provision by providing that there shall be a graduated tax applied to the net income of corporations, beginning with a 10 per cent tax upon corporations with net income of $100,000 and fixing the rate at 15 per cent between $100,000 and $300,000, the same as the committee proposes for all corporation net incomes, and a rate at 20 per cent upon net incomes in excess of $300,000.

I think that this brief explanation and the printing of the amendments will help to enlighten Members of the Senate upon just what principle is involved in the proposed amendments.

The VICE PRESIDENT. Without objection, the proposed amendments will be printed in the RECORD as requested.

Amendment intended to be proposed by Mr. GERRY to House bill 8245, the tax revision bill, which was ordered to lie on the table, to be printed, and to be printed in the RECORD:

Amend section 210 by inserting in the proviso, on page 107, line 4, after the words "United States," the words "for each taxable year up to and including the calendar year 1921."

And by adding the following additional proviso:

"*Provided further*, That for the calendar year 1922 and each calendar year thereafter, in the case of a citizen or resident of the United States, the rate upon the first $5,000 for such excess amount shall be 2 per cent; the rate upon the second additional $5,000 of such excess amount shall be 4 per cent; the rate upon the third additional $5,000 of such excess amount shall be 6 per cent."

Amendments intended to be proposed by Mr. WALSH of Massachusetts to House bill 8245, the tax revision bill, which were ordered to lie on the table, to be printed, and to be printed in the RECORD, as follows:

On page 107, at the end of line 5, insert the following additional proviso:

"*Provided further*, That for the calendar year 1922 and each calendar year thereafter, in the case of a citizen or resident of the United States, the rate upon the first $5,000 of such excess amount shall be 3 per cent; the rate upon the second additional $5,000 of such excess amount shall be 6 per cent."

On page 254, after line 20, insert a new subdivision, as follows:

"(24) Gasoline 1 cent per gallon."

Mr. GERRY. Mr. President, if the Senator from Tennessee will permit me——

Mr. SHIELDS. I will yield to the Senator from Rhode Island.

Mr. GERRY. Possibly it will be of interest to the Senator from Connecticut [Mr. BRANDEGEE] to know at this time that the amendment which I proposed in regard to income taxes and in the preparation of which the Senator from Massachusetts [Mr. WALSH] cooperated with me relates to the normal tax and to the percentages of that tax and to a different grading of those percentages. It will lower the normal tax.

Mr. BRANDEGEE. By my request to have the proposed amendments printed in the RECORD I did not intend to ask the Senator to explain them, though I am very glad to have the explanation. May I ask the Senator is the proposed scale of rates on individuals the same as that upon corporations or is it different?

Mr. WALSH of Massachusetts. The present revenue law and the bill as reported by the majority of the committee provide for a normal tax of 4 per cent upon the net income of citizens under $4,000 and 8 per cent upon all above. Our amendments propose to reduce that to 2 per cent upon incomes under $5,000, to 4 per cent on incomes between $5,000 and $10,000, and to 6 per cent upon incomes between $10,000 and $15,000.

It is interesting to know that this apparently very substantial reduction of the normal tax on the incomes of individuals will cause only a loss to the revenues of the Government of about $105,000,000. It is proposed by the proponents of these amendments to seek a source of revenue outside of the income tax, such as a tax, for illustration, for which one of my amendments provides, of 1 cent per gallon upon gasoline, collected at the source. That alone, we are informed by the experts, will produce a revenue of between $100,000,000 and $200,000,000.

It is also proposed that in lieu of this reduction the tax on corporation capital stock, which produces a revenue of $80,000,000, shall be restored, the majority of the committee having stricken that provision from the bill.

Mr. BRANDEGEE. I have no doubt of the importance of the amendments, Mr. President. That is the reason why I thought it would be well for the information of Senators and of the public that they should be printed in the RECORD.

Mr. WALSH of Massachusetts. I think the printing of the amendments will contribute materially, perhaps, to expedite and illumine the discussion upon various provisions of the bill, and if they appear to have merit, as I think they have, will lead, I hope, to their acceptance by the Senate.

AMENDMENT OF NATIONAL PROHIBITION ACT—CONFERENCE REPORT.

Mr. STERLING. Mr. President, when the hour of 2 o'clock arrived the Senator from Tennessee was speaking. It was the intention of the Senator from Idaho, just as soon as the Senator from Tennessee finished, to ask unanimous consent to lay aside the unfinished business temporarily. I think, for the sake of the record that request ought to be made. I therefore ask unanimous consent that the unfinished business may be temporarily laid aside.

Mr. REED. I did not understand the request. I could not quite hear the Senator.

Mr. STERLING. The request is that the unfinished business be temporarily laid aside.

Mr. BRANDEGEE. I object.

Mr. STERLING. Then I move that the unfinished business be temporarily laid aside.

Mr. BRANDEGEE. I make the point of order that no such motion can be made. It takes unanimous consent to lay aside the unfinished business.

The VICE PRESIDENT. The point is well taken. The Senator from South Dakota can move to proceed to the consideration of a measure.

Mr. STERLING. Then I move that the Senate proceed to the consideration of the conference report on House bill 7294.

Mr. BRANDEGEE. If that motion prevails, it will displace the unfinished business, of course.

Mr. HARRISON. Mr. President, I suggest the absence of a quorum.

GRAND ENCAMPMENT OF THE GRAND ARMY OF THE REPUBLIC.

Mr. NEW. Mr. President, I desire to introduce a joint resolution, and to ask unanimous consent for its immediate consideration. It is a joint resolution authorizing the Secretary of War to loan cots to the members of the Grand Army of the Republic, who are to meet in Indianapolis day after to-morrow, in annual encampment, and who find themselves short of the equipment of cots, and nothing more. The joint resolution must have immediate consideration or it will entirely fail of its purpose.

Mr. BRANDEGEE. I hope that the Senator from Mississippi, under those circumstances, will withhold his suggestion of the absence of a quorum.

Mr. HARRISON. I withhold the suggestion of a lack of a quorum, for the consideration of the joint resolution; but in this connection, if there is going to be a motion to displace the unfinished business, the chairman of the committee having it in charge should be in the Chamber.

Mr. BRANDEGEE. Certainly.

The VICE PRESIDENT. The Senator from Indiana asks unanimous consent for the present consideration of a joint resolution, which will be read.

The joint resolution (S. J. Res. 115) to authorize the loan by the Secretary of War to the commander in chief of the Grand Army of the Republic of cots for the use of the members of the Grand Army of the Republic during the sessions of the grand encampment of the Grand Army of the Republic at Indianapolis, Ind., from September 24 to October 1, 1921, was read the first time by its title and the second time at length, as follows:

Resolved, etc., That the Secretary of War is authorized to lend not to exceed 5,000 cots to the commander in chief of the Grand Army of the Republic for use by members of the Grand Army of the Republic at the grand encampment in Indianapolis from September 24 to October 1, 1921, upon receiving from such commander in chief a bond satisfactory to the Secretary of War to indemnify the United States of America from loss of or injury to such cots or any of them, such indemnity bond to be drawn by and approved by the Secretary of War.

Mr. REED. A parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator will state his inquiry.

Mr. REED. Will the consideration and passage of this joint resolution displace the unfinished business?

The VICE PRESIDENT. It will not, unanimous consent being required for that purpose. Is there objection to the present consideration of the joint resolution?

Mr. KING. May I inquire of the Senator from Indiana whether it is his intention, if this joint resolution shall be passed, that the Government shall be free from any expense in the matter?

Mr. NEW. The joint resolution provides for the filing of an indemnity bond by the commander in chief of the Grand Army of the Republic indemnifying the Government against any loss.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

AMENDMENT OF NATIONAL PROHIBITION ACT—CONFERENCE REPORT.

Mr. STERLING. Now, Mr. President, I renew my motion.

Mr. HARRISON. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Brandegee	Hale	McKellar	Stanley
Broussard	Harris	McKinley	Sterling
Cameron	Harrison	Nelson	Trammell
Capper	Heflin	New	Underwood
Caraway	Kellogg	Overman	Watson, Ga.
Colt	Kenyon	Page	Watson, Ind.
Dial	King	Reed	Willis
Fernald	Ladd	Sheppard	
Fletcher	La Follette	Shields	
Gerry	Lodge	Spencer	

The VICE PRESIDENT. Thirty-seven Senators having answered to their names, a quorum is not present. The Secretary will call the roll of absentees.

The Assistant Secretary called the names of the absent Senators, and Mr. ERNST, Mr. KING, Mr. LENROOT, Mr. NICHOLSON, Mr. ODDIE, Mr. SIMMONS, Mr. SMOOT, Mr. SUTHERLAND, Mr. TOWNSEND, and Mr. WALSH of Massachusetts answered to their names when called.

Mr. SWANSON, Mr. FRELINGHUYSEN, Mr. FRANCE, Mr. GOODING, Mr. BORAH, and Mr. JOHNSON entered the Chamber and answered to their names.

The VICE PRESIDENT. Fifty-one Senators having answered to their names, a quorum is present.

TAX REVISION.

Mr. SMOOT. Mr. President, at the request of the Senator from Pennsylvania [Mr. PENROSE] I give notice that to-morrow morning the Senator from Pennsylvania will ask for the reading of the revenue bill with the hope that it may be considered at to-morrow's session.

AMENDMENT OF NATIONAL PROHIBITION ACT—CONFERENCE REPORT.

The VICE PRESIDENT. The question is on the motion of the Senator from South Dakota [Mr. STERLING] to proceed to the consideration of the conference report on House bill 7294.

Mr. BORAH. Mr. President, technically the Panama Canal tolls bill has been before the Senate since 2 o'clock. As a matter of fact it has not. I myself have no desire to take up the time this evening discussing the tolls question. However, if the Senator from South Dakota is able to get up his conference report I should want the Senator to withdraw it before we adjourn.

Mr. BRANDEGEE. If the Senator from South Dakota gets up the conference report it can only be laid aside by unanimous consent.

Mr. STERLING. We have reached a unanimous-consent agreement in regard to the bill of the Senator from Idaho, and I do not understand that a motion now to take up the conference report or any bill would displace that unanimous-consent agreement, and there is all the intervening time before us in which we might consider the conference report.

Mr. LODGE. Mr. President——

The VICE PRESIDENT. Does the Senator from South Dakota yield to the Senator from Massachusetts?

Mr. STERLING. I yield.

Mr. LODGE. Of course, it would not affect the unanimous-consent agreement, but it would displace the tolls bill as the unfinished business, and that bill could only be taken up by a subsequent vote.

Mr. STERLING. The tax bill will displace the tolls bill also, and notice has been given that the reading of the tax bill will be called for to-morrow.

Mr. BRANDEGEE. There is no question that a motion agreed to at this time to proceed to the consideration of another bill, when the bill of the Senator from Idaho is before the Senate as the unfinished business, would displace the unfinished business.

Mr. STERLING. It will displace the discussion, I understand, of the unfinished business, but we have been displacing the discussion of the unfinished business day after day and week after week.

Mr. BORAH. Mr. President, will the Senator from South Dakota withdraw his motion for a moment while I submit a request?

Mr. STERLING. Certainly.

Mr. BORAH. I ask unanimous consent that the unfinished business may be temporarily laid aside.

Mr. BRANDEGEE. I object.

The VICE PRESIDENT. That request had already been made and an objection interposed.

Mr. STERLING. Then I renew my motion.

Mr. BORAH. Mr. President, of course I can not hold the unfinished business before the Senate from now until the 10th of October to the exclusion of the tax bill and other bills. I should not want to do it because there would be nothing gained by such a course. As I understand, the motion to take up the conference report could not affect, of course, the unanimous-consent agreement to vote upon a certain day.

Mr. STERLING. Mr. President, I renew my motion that the Senate proceed to the consideration of the conference report.

Mr. REED. The question, of course, is debatable.

Mr. STERLING. I understand the question is not debatable.

Mr. REED. It is after 2 o'clock.

Mr. STERLING. Under Rule XXVII it is not a debatable question. Rule XXVII reads as follows:

> The presentation of reports of committees of conference shall always be in order, except when the Journal is being read or a question of order or a motion to adjourn is pending or while the Senate is dividing; and when received the question of proceeding to the consideration of the report, if raised, shall be immediately put and shall be determined without debate.

Mr. REED. "When received," but this report was received more than four weeks ago.

Mr. STERLING. I think "when received" means any time after it has been received.

Mr. REED. That is not what the rule says. The Senator from South Dakota is trying to amend the rule in much the same way that he is trying to amend the Constitution.

Mr. STERLING. I know how the rule has been interpreted from time to time.

Mr. LENROOT. May I say a word with reference to the question, Mr. President?

The VICE PRESIDENT. The Chair recognizes the Senator from Wisconsin.

Mr. LENROOT. I have looked for precedents in reference to this question, but I find none. However, it seems to me that under the rule there are two privileges with reference to a conference report, both for the purpose of giving the Senate the opportunity to expedite its consideration. The first is an absolute privilege with reference to presentation. After it has once been presented and received, the rule then gives the further privilege that the question of consideration shall be determined without debate. It seems to me that that privilege continues until the conference report has been disposed of, at any time after it has been received. There certainly is the same reason for giving the privilege of having the question of consideration determined without debate to-day as there was on the day when the report was presented. Therefore the reason of the rule seems very clear to me, and it would be in accordance with both the reason and the letter of the rule to hold that the question of the consideration of the conference report must be determined without debate.

Mr. LODGE. Mr. President, the privilege of a conference report is the absolute privilege of presentation. It has been held, I think, more than once in the Senate, and in the House also, if I am not mistaken, that the privilege of a conference report expires after it has been presented; that the question of its consideration may then be raised, but that no privilege adheres to it after the privilege of presentation shall have been exhausted.

Mr. STERLING. Mr. President, I think the Senator from Wisconsin [Mr. LENROOT] has correctly interpreted the rule. Of course the presentation of the report is privileged, but it is not so much a question of privilege when it comes to the second part of the rule. That is not the matter of privilege; it is simply a statement of the proposition that the question of consideration shall be determined without debate whenever a motion is made for the consideration of a conference report. I think in that respect, perhaps, the Senator from Wisconsin may be subject to a correction. It is not a privilege at all, but it is a principle that whenever received the question of proceeding to the consideration of a conference report, if raised, shall be decided without debate; that is, at any time, according to the usual interpretation—and I have never seen any other interpretation—after the receipt of the report, its consideration may be moved, and the motion is not debatable.

Mr. LENROOT. Will the Senator from South Dakota yield to me?

Mr. STERLING. I yield.

Mr. LENROOT. The Senator from South Dakota misunderstood me if he understood me to say that the conference report was privileged with respect to the latter part of the rule as well as the first. It is a limited privilege only that the question of consideration must be determined without debate.

Mr. STERLING. Then I stand corrected.

Mr. REED. Mr. President, I do not know whether or not the President of the Senate desires any argument on this question.

The VICE PRESIDENT. The Chair will be very glad to hear explanations of the rule.

Mr. REED. To my mind, the question is too plain for dispute. Ordinarily every matter, whether it be an original bill or the report of a committee, is brought before the Senate either by unanimous consent or by vote of the Senate. Conference reports, however, are given a special privilege under Rule XXVII, and whatever rights a conference report has through a difference from the ordinary rules obtaining with reference to reports of committees and bills must be found in the language of Rule XXVII. That language is not to be extended by any strained construction. The rule reads that—

The presentation of reports of committees of conference shall always be in order, except when the Journal is being read—

And so forth. The rule does not provide that their consideration shall always be in order, but it shall always be in order to present them. This conference report was brought to the Senate about six weeks ago and was presented. When the report was presented this right attached—

And when received—

That is, when presented—

the question of proceeding to the consideration of the report, if raised, shall be immediately put and shall be determined without debate.

In a word, the Senator having this report in hand had the right to present it and had the right to move its immediate consideration. The language of the rule is that that question, "if raised, shall be immediately put and shall be determined without debate." The Senator from South Dakota presented the report; he moved its consideration, and he had the right then when he made the motion upon the presentation of the report to insist upon a vote without debate.

Mr. STERLING. Will the Senator yield to me in order that I may ask him a question?

Mr. REED. I will yield in just a moment. Such a motion was made then or immediately afterwards, and the Senate proceeded to the consideration of the report. Since that time a dozen other matters have intervened. The report has been displaced; the Senate has recessed; the report was again made a special order for this morning and taken up by vote of the Senate. We arrived then at 2 o'clock, when the unfinished business automatically came before the Senate.

Mr. STERLING. Now will the Senator yield?

Mr. REED. I will yield when I finish the next sentence.

Mr. STERLING. Very well.

Mr. REED. Under those circumstances the question is open for debate, because it is now a matter pending in the Senate the same as other matters are; and to hold to the contrary would be to establish the rule in the Senate that at any moment a conference report, no matter how long it had lain here, could be called up and no Senator could open his lips to point to a reason why other business should proceed. That has never been the rule in the Senate and has never been the practice in the Senate.

Mr. STERLING. Mr. President, the last statement made by the Senator from Missouri makes my question all the more pertinent. Does the Senator now recall an instance when the question of proceeding to the consideration of a conference report was debated in the Senate?

Mr. REED. I will not undertake to say that I recall the particular bill, but I know that there have been many instances since I have been in the Senate where we have debated the proposition as to whether a conference report should be taken up or not. If the Senator asks me to put my finger upon the particular occasion, I can not do it at this moment, but I will undertake to find plenty of instances where the RECORD is full of debate.

Let us see the situation we would be in: Any Senator having a conference report in charge and having presented it, and the report having been debated and laid aside and other business taken up, could sit here in the Senate and at any moment force a vote on taking up his conference report, and no observations, no arguments, could be made; nothing could be done. The purpose of the rule is perfectly plain. It was to give an opportunity to a conference report to receive immediate consideration when presented. This report has had that privilege.

Mr. LODGE. Yes; and that privilege is exhausted.

Mr. REED. Yes.

Mr. STERLING. I should like to ask the Senator from Massachusetts, since he has interposed in this discussion, whether or not the question of taking up a conference report is, in his opinion, debatable under Rule XVII?

Mr. LODGE. I think it is.

Mr. STERLING. Does the Senator from Massachusetts recall a case where it was debated as against objection, unless it was by unanimous consent?

Mr. LODGE. Yes; I think I can find such cases. I was looking at some just a few moments ago.

Mr. McKELLAR. Mr. President, if the Chair will permit me, I desire to call attention to this fact:

Under the construction of this rule asked for now, if any time at all elapses after the report is presented, it can not be taken up without debate. For instance, if a conference report were made in the morning hour and a motion were made to take it up and the roll were called, or any other business intervened, by unanimous consent, or anything else, it would be too late, if the rule is to be construed as is demanded. It seems to me it is perfectly plain:

And when received—

That is, at the time, when that time arrives, at any time after it has been received. You can not make the motion at the same time. The motion can not be made at exactly the same time that it is received. It has to be afterwards.

If it has to be a minute afterwards, there is no reason why it can not be five minutes afterwards, and so on. It would absolutely abrogate the rule, as it seems to me, to put on it the construction that is asked by the opponents of this measure.

What is the purpose of the rule? Of course, the purpose of it is to transact the business of the Senate. A conference report is finally brought in, and it was the intention of the framers of the rule to give it an immediate hearing; and that has been the unvarying rule in the Senate since I have been here. I know that the motion has not always been made simultaneously with the reception of the report. It is impossible to do it simultaneously. It has to be done afterwards. "When" means "afterwards" in this connection. It can not mean anything else and have any meaning at all.

Mr. STERLING. Mr. President, the Senator from Missouri [Mr. REED] referred to the prejudice that might follow if he could not debate the question as to whether or not a conference report should be taken up for consideration. There are several rules which require a decision without debate. I call the attention of the Senator to one of them.

On page 14 of the rules, under Rule IX, the following motions are set out:

A motion to proceed to the consideration of an appropriation or revenue bill—

Made not later than 2 o'clock.

A motion to proceed to the consideration of any other bill on the calendar, which motion shall not be open to amendment.

A motion to pass over the pending subject, which if carried shall have the effect to leave such subject without prejudice in its place on the calendar.

A motion to place such subject at the foot of the calendar.

Each of the foregoing motions shall be decided without debate and shall have precedence in the order above named, and may be submitted as in the nature and with all the rights of questions of order.

Mr. BRANDEGEE. Is not that if they are made before 2 o'clock?

Mr. STERLING. Certainly; but the question is as to whether debate shall be allowed upon the important question of whether we will take up any one of four particular measures under the rules.

Mr. SPENCER. Mr. President——

Mr. STERLING. I yield.

Mr. SPENCER. May I offer the Chair a suggestion? A conference report represents action, which is after the two Houses of Congress have acted upon it. It has two priorities or preferences over any bill or any other report. One of those preferences is that it has the right to be immediately received. Nothing can prevent that. The other right which it has over other pending matters is that its consideration without debate must be decided by the Senate, and whenever the consideration of a conference report is raised it must be decided without debate.

Mr. LODGE. When it is presented.

Mr. SPENCER. The rule does not so state. The rule states that it has two rights; one of them the right of presentation, that nobody can interfere with, and the other the right of having its consideration determined without debate.

Mr. REED. Will the Senator find that language?

Mr. SPENCER. When you read any other construction into that rule, you read into it something that is not there.

Mr. LODGE. Mr. President, I dislike to make suggestions incessantly, but a different view has been taken. Senator Gallinger was an extremely good parliamentarian, and under the head of "Not privileged after submission," Mr. Gallinger said:

I beg to suggest that a conference report is not always in order. The submission of the report itself is always in order, but it must take its chances for consideration with other business. I have no objection to continuing the consideration of the report, but under our rules it has no special privilege at the present time.

It had no special privilege at that point. Its privilege dies when it is presented. It does not go on living for weeks.

Mr. LENROOT. Mr. President, will the Senator yield?

Mr. LODGE. Yes; I yield.

Mr. LENROOT. The very chances that the conference report must take are provided in the rule itself, that the Senate must have the opportunity to decide whether it will be taken up, and that is the only additional privilege that it has, that the Senate at any time by vote without debate shall decide whether that conference report shall be taken up.

Mr. LODGE. My contention is that that privilege, like the other privilege of presentation, expires with the presentation. It has those two privileges when presented, but the privilege does not last for days and weeks. It is not continuously privileged, like a motion to go into executive session or to adjourn.

Mr. HARRISON. Mr. President, I merely desire to call the attention of the Chair to a decision that was rendered by the Senator from Arkansas [Mr. ROBINSON], presiding on January 12, 1915.

Mr. REED. Will the Senator give the page?

Mr. HARRISON. I am reading now from the precedents. They refer to the CONGRESSIONAL RECORD of January 12, 1915, page 1383:

Mr. ROBINSON. Mr. President, I move to proceed to the consideration of the conference report on H. R. 6060, the immigration bill.

And make the point of order that the motion is not subject to debate.

The VICE PRESIDENT (Mr. Marshall). The motion is not subject to debate.

That was held at that time.

Mr. LODGE. That was at the time of the presentation of the report.

Mr. HARRISON. Yes.

Mr. LODGE. Undoubtedly the privilege exists then.

The VICE PRESIDENT. It is perfectly plain that at the time of presentation the motion for immediate consideration is not subject to debate. The Chair is unable to find any precedent one way or the other as to what the view of the Senate is after the conference report has been presented, especially for a long time, and a motion then comes up for its consideration. The question whether the Senate wants to debate or does not want to debate the motion is one that lies peculiarly within the determination of the Senate. The Chair refers to the Senate the question whether it desires to debate the motion.

Mr. REED. Mr. President, I presume that question is debatable. If it is going to be referred to the Senate, I suppose we shall be permitted to argue the question with the Senate pro and con.

The VICE PRESIDENT. The question before the Senate is, then, Is the motion debatable at this time?

Mr. REED. Mr. President, this is one of the questions that involve the procedure of the Senate.

Mr. LENROOT. Mr. President, I make the point of order that this motion is not subject to debate. Surely the Chair will not hold that the very purpose of submitting this question to the Senate can be defeated by holding this motion subject to debate. The question for the Senate to determine is the very question whether there can be preliminary debate upon the question of the consideration of this conference report.

Mr. LODGE. This is a question submitted by the Chair. I never knew debate to be refused on a question submitted to the Senate by the Chair.

Mr. STERLING. Mr. President, if the Senator will permit me, I understand that the substance of the submission by the Chair is the question as to whether or not the question of taking up the conference report is a debatable question; and it seems to me that that very question can not be debatable in the natural order of things.

Mr. REED. Mr. President, can anything be clearer than that, if a question of procedure is submitted to this body, the construction of the rules of this body, if we are required to construe them and pass upon them and determine what they mean, we have the right to exchange our views and to offer our arguments, each to the other, in order that that question may be determined in a proper manner? I have never in my life heard it contended that any question submitted to the Senate was not debatable unless there was an absolute, written rule forbidding debate. No such rule has been cited thus far, and I know of no such rule.

Now, Mr. President, if I am in order——

Mr. STERLING. Mr. President, the point of order has been made by the Senator from Wisconsin [Mr. LENROOT] against any further debate.

The VICE PRESIDENT. The Chair will read Rule XX:

A question of order may be raised at any stage of the proceedings, except when the Senate is dividing, and, unless submitted to the Senate, shall be decided by the Presiding Officer without debate.

This question having been submitted to the Senate, debate is in order.

Mr. REED. Mr. President, this rule ought not to be decided with reference to the feelings of Members touching the particular question that is involved. It is entirely possible for the Senator from South Dakota to bring his bill before the Senate even though there be debate on the question as to whether it ought to be taken up. The only thing to which objection has been made here is the insistence upon a right to bring up a conference report at any time, and to shut off debate, and not permit any Senator to rise in his place and offer a reason why that particular subject should not be considered at that particular moment.

You may establish the precedent here with reference to this bill, and then it will become a precedent, of course, in some degree, at least, binding upon us at all futures times. Every sort of conceivable difficulty may grow out of it. It is the denial of the right of any Senator to rise in his place and offer a single observation pointing to a reason why some other measure ought to be considered, or why the report should not be considered at that particular moment. Give such a construction to this rule, wrench it from its meaning as it has been construed always in the past, and any man in charge of a conference report who desires to be tricky—of course that is not the case here, and I am not intimating it—can present his report, fail to call it up, let it go to the calendar, and then await his opportunity, call it up, get it before the Senate without debate when there may be only a few Members here—perhaps none except those who favor it—and railroad it through.

It may be said that the same thing could be done immediately upon the presentation of a report. Not at all. When a report is brought to the Senate the other conferees know the fact that it is to be presented. The Senate is nearly always advised. The report, if it comes in in order, comes in during the morning hour. Senators are supposed to have, and do in fact have, a good opportunity to be upon their guard; but if you hold that the bill can be brought up at any moment, and that there can be no word spoken in regard to it, then you have established a very dangerous precedent.

Mr. President, my attention has just been called to proceedings in the Senate, which I have not even had the opportunity to read, and I claim the indulgence of the Senate a moment until I determine who was in the Chair at the time. I am reading from the RECORD of February 22, 1919, at page 4039. Mr. Shafroth had called up a conference report. Mr. Hardwick said:

Mr. President, I desire to occupy just a moment to say a word to the Senator from Colorado, who has raised this question. A conference report has been presented; the conferees have agreed; the bill has passed both Houses and only needs the final action of this body to become a law. The Senator can not expect that the regular supply bills of the Government, which have not yet passed this body and have not gone to conference at all, shall at this late hour in the session be laid aside for a proposition of this sort that can come up after all chance of passing the supply bills has vanished.

There was some debate. Mr. LODGE said:

Mr. President, I merely desire to say a word in regard to the point of order. A conference report is privileged; that is, it can be presented to the Senate at any time, no matter what is going on; but its privilege is exhausted when the conference report is presented. If at the time of the presentation—that is, when the conference report is received—the question of consideration is raised, the vote must be taken without debate; but after the conference report has been before the Senate for several days I myself think that a motion to take it up is open to debate, because I think the privilege relative to cutting off debate on the question of consideration expires unless it is raised at the time of the presentation of the report. I think the ruling of the Chair, as I understand it, is correct.

The PRESIDING OFFICER. Touching the point of order, the Chair desires to state that it has been universally held that conference reports, after they have been received, lose their privilege. The Senator in charge of a conference report may at any time move to proceed to the consideration of that report; but that is an entirely different parliamentary procedure from raising the question of consideration.

Mr. LA FOLLETTE. What is the date of that?

Mr. REED. That was on February 22, 1919.

Mr. STERLING. Will not the Senator read the last sentence or two before he closes?

Mr. REED. I will read what the Presiding Officer said—all of it—so that you will get the context.

Mr. STERLING. May I ask who the Presiding Officer was?

Mr. REED. The Senator from Arkansas [Mr. ROBINSON]. He said:

Touching the point of order, the Chair desires to state that it has been universally held that conference reports, after they have been received, lose their privilege. The Senator in charge of a conference report may at any time move to proceed to the consideration of that report, but that is an entirely different parliamentary procedure from raising the question of consideration.

When a conference report is presented to the Senate, it is in order at that time to raise the question of consideration—not to move formally to proceed to the consideration of the conference report, but the language used would be, "I raise the question of the consideration of the report presented"; and when that is done, under Rule XXVII it must be determined without debate. But after the conference report has been received, when at any subsequent time a motion is made to

proceed to its consideration, the Chair still thinks, notwithstanding the observations of the Senator from Arizona, that that motion to displace the unfinished business is debatable.

The Senator from Arizona, of course, knows that he is at liberty to appeal from the decision of the Chair if he desires to do so.

Mr. ASHURST. Oh, Mr. President, I would not appeal from any decision that the present occupant of the chair might make, because he is so much more skilled and learned in parliamentary law than I am that it would be absurd for me to appeal from one of his decisions.

There is one precedent, and it is a precedent of two years ago. I have not any doubt that a search of the RECORD will show a score of similar precedents. It is in line with common sense, in line with good practice, and nothing but the particular enthusiasm that is back of this bill would ever lead Senators to insist that Senators could not debate this question.

Mr. BRANDEGEE. Let me ask the Senator, as I was not on the floor when he started reading the quotation, who made the ruling?

Mr. REED. The senior Senator from Arkansas [Mr. ROBINSON].

Mr. BRANDEGEE. It seems to me, Mr. President, that the reasoning of the ruling just read by the Senator from Missouri is very convincing. Anybody can well understand how the presentation, the mere offering, of a conference report should be privileged. Then if the question of consideration, as to whether the Senate would then consider it or not, is raised it must be decided without debate.

Mr. OVERMAN. Mr. President, will the Senator yield to me?

Mr. BRANDEGEE. Certainly.

Mr. OVERMAN. What is the reason for the rule that it shall be decided without debate? Is it not for the purpose of facilitating legislation?

Mr. BRANDEGEE. I assume that every rule is for that purpose.

Mr. OVERMAN. After the Senate has discussed a bill, and after the House has discussed it, after it has passed both bodies, and then the conferees come back and present the report, a motion to proceed to its consideration should be decided without debate. The object is to get rid of legislation which has been discussed by both Houses. Why would not the rule obtain when it is called up again? I disagree with the former ruling of the Presiding Officer upon that point, because I think there must be an end of a matter at some time, and the reason is that the matter has been discussed in both Houses, has been debated by the conference committee, and it should come to an end. That was the reason of the rule when it was first presented, that it should be passed without debate, and the rule would obtain in a case where it was presented afterwards.

Mr. LODGE. Then the Senator holds that a conference report retains an imperishable privilege?

Mr. OVERMAN. I think it retains that privilege because of the reason for it. The reason goes with it all the time.

Mr. BRANDEGEE. Mr. President, I know that the Senator from North Carolina disagrees with the former ruling, and I assume there are other Senators who do also. But what I am saying is that this rule was evidently carefully drawn, and, as has been stated, it presents two questions of the privilege which attaches to a conference report. The first part of the rule is:

> The presentation of reports of committees of conference shall always be in order, except when the Journal is being read or a question of order or a motion to adjourn is pending, or while the Senate is dividing.

That is limited simply to the presentation of the report. The second part of the rule is:

> And when received the question of proceeding to the consideration of the report, if raised, shall be immediately put, and shall be determined without debate.

There was no question of consideration raised when this report was presented. The Senate at that time was willing to consider it, and did so. As has been stated, it has considered it several different times. In the meantime the Senate has taken a month's recess. They came back, and yesterday the Senate proceeded to the consideration of this conference report, and the question as to whether it was debatable or not was not raised. I think that the former ruling was entirely correct, that the question of consideration being raised at the time the report is presented is one thing, and a motion to proceed to its consideration weeks afterwards is entirely a different question and influenced by different considerations.

The Senator from North Carolina [Mr. OVERMAN] and the Senator from Tennessee [Mr. MCKELLAR] stated a few moments ago that it seemed to them that the same privilege in acting on a motion to proceed to the consideration of a conference report attached to it and held to it, no matter when that motion should afterwards be made; and the Senator from Wisconsin [Mr. LENROOT] states that the same reason exists for that claim that exists for making the motion to proceed to its consideration originally a nondebatable motion.

But, Mr. President, suppose the motion which the Senator makes to-day, to proceed to the consideration of this report, should be made six months hence. Suppose, in the opinion of the Senate, the matters pending before the Senate now, or a month hence, or six months hence, are of such tremendous importance as compared with this question whether a doctor can give a glass of beer to a sick patient or not that they think then it is best for the country to take up the other matters. Why should not a Senator at that time be allowed to get up and debate the question, and show that it was of more importance to the country to have the other matters taken up?

Mr. OVERMAN. Mr. President——

The VICE PRESIDENT. Does the Senator from Connecticut yield to the Senator from North Carolina?

Mr. BRANDEGEE. I yield.

Mr. OVERMAN. I call the attention of the Senator to the fact, which he doubtless will remember, that when we have a short session, and the 4th of March is approaching, and we get all the supply bills in here in a jam, unless this were the rule, we could not pass our supply bills at all.

Mr. BRANDEGEE. I think we would make just as good progress under the rule as I claim it to be as we would under the rule as the Senator claims it, because it certainly would not be right, if there were five or six supply bills here pending in the shape of conference reports, to have the Senate decide without debate or without any opportunity for those in charge of the various conference reports to explain their respective importance.

The so-called beer bill involves the gravest consideration. In the first place the body of the bill involves the question whether under the constitutional amendment the Congress could prevent the manufacture of or dealing in intoxicating liquors or beer for other than beverage purposes.

In the second place arose the question whether the prohibition officers of the United States could arrest people and search their persons and property arbitrarily, either in their residences or on the streets or wherever they might be found. In the third place, up has come a question as to the procedure of the Senate, all three of these questions being of the greatest importance.

In my opinion the question involving the fourth amendment of the Constitution of the United States, designed to protect the people of the country from unreasonable searches and seizures by the officers of their own Government, entirely exceeds in importance the question whether beer can be prescribed by doctors to their sick patients. That is what is making the trouble about the bill. Both Houses did pass the bill finally, though there was great opposition to the original bill and constitutional questions will be raised about that. An amendment was put on the bill by the Senator from Kentucky [Mr. STANLEY] offered by him, accepted by the managers of the bill in the Senate, and voted on by the Senate, although certain Senators have said that it was a mere acceptance by one Senator and was not the action of the Senate. It was presented to the managers of the bill and agreed to, and then the RECORD showed the amendment was agreed to by the Senate and there was not one voice raised against it.

Mr. STANLEY. Mr. President——

The VICE PRESIDENT. Does the Senator from Connecticut yield to the Senator from Kentucky?

Mr. BRANDEGEE. I yield.

Mr. STANLEY. I am much impressed by what the Senator from Connecticut states. In answer to that flimsy charge that this went through pro forma and as a matter of course, let me state that the Senator from Missouri [Mr. REED]—and I wish to put this in the record at this time—who was called necessarily from the city of Washington rose before he went away—I think two or three days before the bill came up—and offered an amendment which he asked to have printed and which was printed and was placed upon the desk of every Senator in this body, providing the same constitutional guaranties or for the preservation of the same constitutional privileges, rights, and immunities contained in the amendment now before the Senate.

In a forceful address made prior to the time this bill was reported to this body, the Senator from Missouri called attention to the fact that the enforcement officers in charge of the enforcement of this law, or engaged in a nominal or alleged enforcement of it, had inaugurated from coast to coast a program of organized lawlessness, the lawless enforcement of the law. He called attention to the fact that enforcement officers under the Volstead Act were performing their alleged duties in flagrant, open violation of the categorical inhibition of the Constitution of the United States and in violation of the most primary rights of the citizen. He said then that he would insist upon that amendment.

He happened to be away when the bill was taken up. His amendment was offered by the Senator from Louisiana [Mr. BROUSSARD], and that amendment and that amendment alone—for there was no discussion as to the rest of the bill—was discussed for five hours in the Senate and in a full Senate.

In that discussion the Senator from Massachusetts [Mr. LODGE] took part, the Senator from Idaho [Mr. BORAH] took part, and the Senator from Arizona [Mr. ASHURST] made one of the most remarkable addresses ever heard in this Chamber. The Senator from Georgia [Mr. WATSON] made a brilliant address on the same question, and the attention of the whole country was attracted by it.

At the conclusion of that debate not only did the Senator from South Dakota [Mr. STERLING] accept the amendment, but in colloquy after colloquy with the Senator from Massachusetts [Mr. LODGE] and with the Senator from Idaho [Mr. BORAH] and with myself he stated that he admitted—he admitted, said the Senator from South Dakota—that a search could not be made without a warrant. He admitted the virtue and the justice of the amendment, but he claimed that he did not want his law discriminated against. The amendment was then submitted to the Senator from South Dakota, and he wrote certain provisions into it with his own hand, and with the attention of the Senate centered upon it, after a discussion of hours—one of the most active and spirited discussions I have ever heard in this body—the amendment was adopted without a dissenting vote, and from that they can not budge.

The opposition to the amendment, if the Senate please, never came from the lawyers of the Senate. It never came from the men who have a desire to enforce the eighteenth amendment without violating the Constitution. There have been bitter, vicious, false charges made against the amendment, and the propaganda of misrepresentation, traduction, and slander was inaugurated by forces outside of this Chamber, who are attempting now to whip this thing through the Senate.

EXECUTIVE SESSION.

Mr. LODGE. Mr. President——

Mr. BRANDEGEE. I yield to the Senator from Massachusetts.

Mr. LODGE. If the Senator will yield to me, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 5 o'clock and 15 minutes p. m.) the Senate adjourned until to-morrow, Friday, September 23, 1921, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate September 22, 1921.

GOVERNOR GENERAL OF THE PHILIPPINE ISLANDS.

Leonard Wood, of Massachusetts, to be Governor General of the Philippine Islands.

COMMISSIONER OF EDUCATION FOR PORTO RICO.

Juan B. Huyke, of Porto Rico, to be commissioner of education for Porto Rico.

ASSISTANT ATTORNEYS GENERAL.

Mabel Walker Willebrandt, of California, to be Assistant Attorney General, vice Mrs. A. A. Adams, resigned.

John W. H. Crim, of New Jersey, to be Assistant Attorney General, vice R. P. Stewart, resigned.

UNITED STATES DISTRICT JUDGE.

Julius M. Mayer, now United States district judge, southern district of New York, to be United States circuit judge, second circuit, vice Henry G. Ward, resigned.

UNITED STATES ATTORNEYS.

John T. Williams, of California, to be United States attorney, northern district of California, vice Frank M. Silva, appointed by court.

Hugh C. Fisher, of Louisiana, to be United States attorney, western district of Louisiana, vice Joseph Moore, resigned.

S. E. Murray, of Tennessee, to be United States attorney, western district of Tennessee, vice W. D. Kyser, whose term will expire October 6, 1921.

Frank R. Jeffrey, of Washington, to be United States attorney, eastern district of Washington, vice Francis A. Garrecht, resigned.

UNITED STATES MARSHALS.

Frank M. Breshears, of Idaho, to be United States marshal, district of Idaho, vice Leroy C. Jones, resigned, effective October 1, 1921.

Arthur Franklin Kees, of Washington, to be United States marshal, eastern district of Washington, vice James E. McGovern, resigned.

REGISTER OF THE LAND OFFICE.

Irving D. Smith, of Seattle, Wash., who was appointed August 30, 1921, during the recess of the Senate, to be register of the land office at Seattle, Wash., vice George A. C. Rochester.

REAPPOINTMENT IN THE REGULAR ARMY.

COAST ARTILLERY CORPS.

To be first lieutenant with rank from September 19, 1921.

Eugene Reedy Guild, late second lieutenant, Coast Artillery Corps, Regular Army.

CONFIRMATION.

Executive nomination confirmed by the Senate September 22, 1921.

UNITED STATES ATTORNEY.

S. Wesley Clark to be United States attorney, district of South Dakota.

SENATE.

FRIDAY, *September 23, 1921.*

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

Our Father, we delight to call Thee by that name of endearment. It brings us closer to Thy heart of love and enables us to understand that in all our relations in life Thou art ready with Thy sympathy and help, and when trouble comes Thou art a present help in time of trouble. Grant Thy grace this morning, and wisdom, in all the administrations of the day. Through Jesus Christ our Lord. Amen.

NAMING A PRESIDING OFFICER.

The Secretary, George A. Sanderson, read the following communication:

UNITED STATES SENATE,
PRESIDENT PRO TEMPORE,
Washington, D. C., September 23, 1921.

To the SENATE:

Being temporarily absent from the Senate, I appoint Hon. CHARLES CURTIS, a Senator from the State of Kansas, to perform the duties of the Chair this legislative day.

ALBERT B. CUMMINS,
President Pro Tempore.

Mr. CURTIS thereupon took the chair as Presiding Officer.

The reading clerk proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. NELSON and by unanimous consent, the further reading was dispensed with and the Journal was approved.

CALL OF THE ROLL.

Mr. NELSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Dillingham	Kenyon	Overman
Borah	Edge	Ladd	Page
Brandegee	Ernst	La Follette	Penrose
Broussard	Fernald	Lenroot	Sheppard
Cameron	Fletcher	McKellar	Simmons
Capper	Glass	McKinley	Stanley
Caraway	Gooding	McLean	Sterling
Colt	Hale	Myers	Townsend
Culberson	Harris	Nelson	Trammell
Curtis	Heflin	Nicholson	Watson, Ind.
Dial	Kellogg	Oddie	Willis

Mr. McKELLAR. I desire to announce the absence of the Senator from Mississippi [Mr. HARRISON] on public business.

The PRESIDING OFFICER. Forty-four Senators having answered to their names, there is not a quorum present. The Secretary will call the roll of absentees.

The reading clerk called the names of the absent Senators, and Mr. REED, Mr. SHIELDS, Mr. SMOOT, Mr. SWANSON, and Mr. UNDERWOOD answered to their names when called.

Mr. FRELINGHUYSEN, Mr. HARRELD, Mr. McCUMBER, Mr. JOHNSON, Mr. KING, Mr. POMERENE, Mr. LODGE, Mr. WALSH of Massachusetts, Mr. NEW, Mr. SPENCER, and Mr. SUTHERLAND entered the Chamber and answered to their names.

The PRESIDING OFFICER. Sixty Senators having answered to their names, a quorum is present.

PETITIONS AND MEMORIALS.

Mr. NELSON presented a petition of sundry citizens of Hibbing, Minn., praying for the recognition of the Irish republic by the Government of the United States, which was referred to the Committee on Foreign Relations.

Mr. HALE presented resolutions adopted by a mass meeting of citizens of Portland, Me., favoring the immediate recognition of the republic of Ireland by the Government of the United States, and also the payment by England of the principal and interest of the debt owed to the United States, which were referred to the Committee on Foreign Relations.

Mr. CAPPER presented a resolution adopted by Lincoln Post, Department of Kansas, Grand Army of the Republic, of Topeka, Kans., favoring the enactment of legislation granting pensions of $72 per month to Civil War veterans and $50 per month to their widows and monthly payment of pensions, which was referred to the Committee on Pensions.

Mr. LADD presented resolutions adopted by Fargo Lodge, No. 1648, Dakota Blizzard Lodge, No. 1280, of Grand Forks, and Viking Lodge, No. 1580, all of the United Brotherhood of Maintenance of Way Employees and Railway Shop Laborers, all in North Dakota, protesting against the enactment of legislation to authorize the issuance of warrants for the arrest and removal of persons under indictment for offenses against the United States, etc., which were referred to the Committee on the Judiciary.

He also presented a memorial of Buffalo Lodge, No. 1334, United Brotherhood of Maintenance of Way Employees and Railway Shop Laborers, of Devils Lake, N. Dak., protesting against the enactment of Senate joint resolution 82, providing for immigration to meet the emergency caused by an acute labor shortage in the Territory of Hawaii, which was referred to the Committee on Immigration.

He also presented a resolution adopted by the International Typographical Union, at its convention held in Quebec, Province of Quebec, favoring the enactment of legislation providing for the retirement of classified civil-service employees after a 30-year service period, etc., which was referred to the Committee on Civil Service.

He also presented resolutions adopted by the International Typographical Union, at its convention held in Quebec, Province of Quebec, protesting against the enactment of House bill 227, to prevent breaches of the public peace in the District of Columbia by picketing, etc., which were referred to the Committee on the District of Columbia.

Mr. TOWNSEND presented a resolution adopted by the Grand Rapids (Mich.) Trades and Labor Council on August 26, 1921, favoring the proper carrying out of the provisions of the so-called Esch-Cummins Transportation Act, which was referred to the Committee on Interstate Commerce.

He also presented a resolution adopted by the board of directors of the Upper Peninsula Development Bureau, of Marquette, Mich., favoring joint action by the Federal Government and the Dominion of Canada to improve the water routes via the St. Lawrence River and the Welland Canal so as to make them available for ocean-going vessels, which was referred to the Committee on Commerce.

He also presented a resolution adopted by the Kiwanis Club, of Battle Creek, Mich., favoring inclusion in the pending tariff bill of a selective embargo for a limited period against importation of synthetic organic chemicals, etc., which was referred to the Committee on Finance.

He also presented resolutions adopted by Pomona Grange, No. 52, and Victory Grange, No. 1099, both of Mason County, Mich., favoring enactment of the so-called Capper-Volstead bill prohibiting gambling and speculation in agricultural products, without amendment, as it passed the House of Representatives, which were referred to the Committee on Agriculture and Forestry.

He also presented memorials of sundry citizens of Bear Lake, Arcadia, Thompsonville, Benzonia, and Tuscola County, all in the State of Michigan, remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which were referred to the Committee on the District of Columbia.

He also presented a memorial of sundry citizens of Ionia, Lyons, Muir, Pewamo, Portland, and Fowler, all in the State of Michigan, remonstrating against the enactment of House bill 4388, providing for compulsory Sunday observance in the District of Columbia, which was referred to the Committee on the District of Columbia.

He also presented a resolution adopted by sundry citizens of Holland, Mich., favoring a conference on the limitation of armaments, etc., which was referred to the Committee on Foreign Relations.

He also presented resolutions adopted by Monroe Council No. 1266, Knights of Columbus, of Monroe, Mich., favoring the recognition of the republic of Ireland by the Government of the United States, which were referred to the Committee on Foreign Relations.

Mr. STANLEY. Mr. President, in view of certain propaganda which has been circulated, I ask permission to have incorporated in the RECORD a number of petitions received from a single city, the city of Dallas, Tex., and also quite a number of telegrams received from the same place. I can only file petitions from a single city, because if I attempted to incorporate in the RECORD those coming from the whole country I would have to bring them over in a car.

The PRESIDING OFFICER. The Chair wishes to understand if the Senator desires all the petitions printed in the RECORD?

Mr. STANLEY. I do. I ask to have the names printed in the RECORD.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kentucky?

Mr. PENROSE. I object.

Mr. SMOOT. May I ask the Senator if all the petitions are on the same subject?

Mr. STANLEY. They are.

Mr. SMOOT. Then why have all the petitions printed?

Mr. STANLEY. I want to have just one petition printed.

Mr. SMOOT. Why not have one petition printed and then the names?

Mr. STANLEY. That is what I want.

Mr. PENROSE. Mr. President, just a moment. Does the Senator from Kentucky ask to have the names of all the signers of the petitions printed?

Mr. STANLEY. Yes.

Mr. PENROSE. I certainly object to such an unheard-of request.

The PRESIDING OFFICER. There is objection. Under the objection the petitions will be noted in the RECORD, as requested.

The body of one of the petitions is as follows:

BACK TO THE CONSTITUTION.

To Hon. A. O. STANLEY,
United States Senator, Washington, D. C.

DEAR SIR: We, the undersigned citizens of Dallas, Tex., do hereby protest against further legislation to enforce the Volstead law, unless our citizens are given full protection against illegal seizures and searches as is granted in Article IV of the Constitution, and as provided in your amendment to the antibeer bill.

The petitions and telegrams, numerously signed by citizens of Dallas, Tex., praying for full protection against illegal searches and seizures as guaranteed in Article IV of the Constitution and provided in the Stanley amendment to the antibeer bill, were ordered to lie on the table.

Mr. STANLEY. Mr. President, shortly after the relief given to moonshiners from the operation of the eighteenth amendment there was great joy among the moonshiners, and in one city they have changed the national anthem. I ask unanimous consent to have incorporated in the RECORD just one stanza from it.

The PRESIDING OFFICER. Is there objection?

Mr. PENROSE. May I inquire what it is?

Mr. STANLEY. Let me read it.

Mr. PENROSE. I shall be glad to hear it.

Mr. STANLEY. It is dedicated to the eighteenth amendment and reads as follows:

My country, 'tis of thee,
Land of grape juice and tea,
Of thee I sing.
Land where we all have tried
To break the law and lied;
From every mountain side
The bootlegs spring.
My native country thee,
Land of home brewerie,
Thy brew I love.
I love thy booze and thrills
And thy illicit stills;
The moonshine runs in rills
From high above.

Mr. PENROSE. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The regular order is demanded. If there are no further petitions and memorials, the reports of committees are in order.

PEARL RIVER BRIDGE, MISSISSIPPI.

Mr. EDGE. From the Committee on Commerce I report back favorably with amendments the bill (S. 2447) to authorize the construction of a temporary bridge across Pearl River, between Meeks Ferry and Grigsbys Ferry and between Madison County, Miss., and Rankin County, Miss., and I submit a report (No. 273) thereon. I ask unanimous consent for the immediate consideration of the bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendments of the Committee on Commerce were, in section 1, page 1, line 4, before the word "bridge," to strike out the word "temporary"; and in line 5, after the words "at a point," to insert the words "suitable to the interests of navigation," so as to make the bill read:

Be it enacted, etc., That the Pearl River Valley Lumber Co. is hereby authorized to construct a bridge, connecting its timber holdings, across Pearl River, at a point suitable to the interests of navigation, between Meeks Ferry and Grigsbys Ferry and between Madison County, Miss., and Rankin County, Miss., in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill to authorize the construction of a bridge across Pearl River, between Meeks Ferry and Grigsbys Ferry and between Madison County, Miss., and Rankin County, Miss.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. NICHOLSON:

A bill (S. 2480) for the relief of Warren H. Twining; and

A bill (S. 2481) for the relief of Stephen Olop; to the Committee on Claims.

By Mr. DIAL:

A bill (S. 2482) providing for an amendment to existing law (act approved Feb. 26, 1919) respecting the salaries of clerks of United States district courts; to the Committee on the Judiciary.

By Mr. SHEPPARD:

A bill (S. 2483) to amend the act pensioning survivors of certain Indian wars, approved March 4, 1917, by including Company B, Frontier Battalion, Texas Rangers (with accompanying papers); to the Committee on Pensions.

A bill (S. 2484) permitting actions on claims against telegraph, telephone, marine cable, or radio companies during Federal control; to the Committee on Interstate Commerce.

A bill (S. 2485) for the relief of Fred Hartel and others; to the Committee on Claims.

By Mr. KING:

A bill (S. 2486) making appropriation for the construction of roads within the Zion National Park, Utah; and

A bill (S. 2487) making appropriations for the construction of roads in the Sevier National Forest, the Kaibab National Forest, and in the Grand Canyon National Park; to the Committee on Public Lands and Surveys.

By Mr. SPENCER:

A bill (S. 2488) to permit the correction of the general account of John Burke, former Treasurer of the United States; and

A bill (S. 2489) for the relief of John Burke, former Treasurer of the United States, for lost bonds without the fault or negligence on the part of said former Treasurer; to the Committee on Claims.

By Mr. MYERS:

A bill (S. 2490) for the relief of the Jefferson Lime Co.; to the Committee on Claims.

By Mr. McKINLEY (for Mr. McCORMICK):

A joint resolution (S. J. Res. 116) authorizing and requesting the creation of a joint international commission; to the Committee on Foreign Relations.

AMENDMENTS TO TAX REVISION BILL.

Mr. WALSH of Massachusetts. By error an amendment which I presented to the revenue bill on yesterday was not printed in the RECORD. I desire to again present it, and ask that it be printed in the RECORD and lie on the table. It is the amendment which I made some observations about yesterday, which are printed on page 6406 of the RECORD of yesterday's proceedings.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment intended to be proposed by Mr. WALSH of Massachusetts to House bill 8245, the tax revision bill, was ordered to lie on the table, to be printed, and to be printed in the RECORD, as follows:

On page 153, strike out lines 1 and 2 and substitute the following:

(b) For each calendar year thereafter 10 per cent of such excess amount by which the net income does not exceed $100,000, 15 per cent of such excess amount by which the net income exceeds $100,000 and does not exceed $300,000, and 20 per cent of such excess amount by which the net income exceeds $300,000.

Mr. EDGE submitted an amendment intended to be proposed by him to House bill 8245, the tax revision bill, to strike out section 907 in its entirety, which was ordered to lie on the table and to be printed.

Mr. SPENCER submitted an amendment intended to be proposed by him to House bill 8245, the tax revision bill, to strike out paragraph 19 of section 900, which was ordered to lie on the table and to be printed.

Mr. FRELINGHUYSEN submitted an amendment intended to be proposed by him to House bill 8245, the tax revision bill, which was ordered to lie on the table and to be printed.

GOLD-MINING INDUSTRY.

Mr. ASHURST. Mr. President, I rise to ask the junior Senator from Nevada [Mr. ODDIE] whether he has received any response to his letter to the Secretary of the Treasury respecting the gold-mining industry, in which Arizona and other States throughout the country are much interested.

Mr. ODDIE. Mr. President, I will answer the Senator from Arizona by saying that I transmitted the letter to the Secretary of the Treasury on the 17th of August, and in that letter asked him for a complete and detailed reply. I have not had the reply as yet, because it requires much work and detail and time. I expect it shortly.

The PRESIDING OFFICER. Morning business is closed.

PRINTING OF TREATY WITH GERMANY (S. DOC. NO. 70).

Mr. BORAH. Mr. President, I wish to make a request under the head of morning business.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. BORAH. I ask the particular attention of the Senator from Massachusetts [Mr. LODGE] to the request.

Mr. President, I desire to request that the proposed German treaty be printed as a Senate document, together with section 1 of Part IV, and Parts V, VI, VII, IX, X, XI, XII, XIV, and XV of the Versailles treaty. Those are the parts under which the United States claims rights and privileges. I ask that they all be printed together as a Senate document in order that they may be conveniently accessible.

Mr. LODGE. I think such a document would be very useful, and I hope it may be printed.

Mr. REED. Will not the Senator from Idaho include in his request the printing of the other treaties?

Mr. LODGE. Does the Senator from Missouri refer to the treaties with Austria and Hungary?

Mr. REED. Yes.

Mr. LODGE. Those are already printed, and they are substantially the same.

Mr. REED. I think it would be well to have them printed as a part of the same document.

Mr. LODGE. I do not know that there is any objection to the request of the Senator from Missouri.

Mr. BORAH. No; there is no objection, except that it would make the document more cumbersome. I merely desire to have printed in one document the propositions with reference to the Versailles treaty which are involved in the new treaty with Germany.

Mr. LODGE. The other treaties are substantially the same as that with Germany.

Mr. REED. Very well.

Mr. POMERENE. Will the Senator from Idaho yield to me for a suggestion?

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Ohio?

Mr. BORAH. I yield.

Mr. POMERENE. As I understand, the Senator from Idaho desires to have incorporated in the proposed document those provisions of the Versailles treaty under which the United States is to have a benefit. Would it not serve our purposes also if we were to include in the document those provisions which are entirely eliminated from the new treaty? In other words, we do not participate in certain other provisions of the treaty, namely, the political provisions, but we do participate in the others.

Mr. BORAH. The only objection to that is that it would simply involve the reprinting of the entire Versailles treaty.

Mr. POMERENE. No; I think not.

Mr. BORAH. And it would not simplify matters. My view is that we are only interested in the things which we are

getting into, and not in the things which we are getting out of.

Mr. POMERENE. Perhaps I did not express myself as clearly as I intended to do; but this is what I had in mind: Page 6, paragraph 2, of the proposed treaty with Germany reads as follows:

That the United States shall not be bound by the provisions of Part I of that treaty, nor by any provisions of that treaty, including those mentioned in paragraph (1) of this article, which relate to the covenant of the League of Nations.

Mr. BORAH. Then we should have to include Part II, Part III, sections 2 and 8, inclusive, of Part IV, and Part XIII, which would be a reprinting of the Versailles treaty.

Mr. POMERENE. On reflection, I am disposed to think that the Senator from Idaho is right, and I withdraw my suggestion.

The PRESIDING OFFICER. Without objection, the request of the Senator from Idaho will be granted. The Chair hears no objection.

AMENDMENT OF NATIONAL PROHIBITION ACT—CONFERENCE REPORT.

Mr. STERLING. I move that the Senate proceed to the consideration of the conference report on the bill (H. R. 7294) supplemental to the national prohibition act.

The PRESIDING OFFICER. The question is on the motion of the Senator from South Dakota.

The motion was agreed to, and the Senate resumed the consideration of the conference report.

Mr. STERLING. On the question of the adoption of the conference report, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. STANLEY obtained the floor.

Mr. PENROSE. Mr. President——

The PRESIDING OFFICER. The Senator from Kentucky has been recognized. Does he yield to the Senator from Pennsylvania?

Mr. PENROSE. Will the Senator from Kentucky permit me to proceed for one moment?

Mr. STANLEY. I yield to the Senator from Pennsylvania.

TAX REVISION.

Mr. PENROSE. Mr. President, I desire to make a statement on behalf of the Committee on Finance. Ordinarily I should have felt it to be my duty to make a motion to proceed to the consideration of the tax revision bill this morning. I recognize, however, that the final print of that measure will not be available until Monday next. The bill has been completed in all its details by the committee and can not be changed unless amended on the floor of the Senate. It is now in the hands of the Public Printer for a final print. After the consideration of the bill had been completed by the Committee on Finance it was suggested that for the convenience of the Senate and of the taxpayers of the country a reprint of the bill should be made, presenting in different type the bill as it passed the other House, the original law, the amendments proposed by the Committee on Finance, and other phases of the measure. That could not be done until the consideration of the bill was completed by the Committee on Finance. A subcommittee of the Committee on Finance was appointed who directed the form in which the bill should be reprinted. That has been done solely in the interest of an easier reading and understanding of the measure, which is complicated enough at best.

I think that this explanation is due to the Senate and to the public to account for an apparent delay of one or two days in moving the consideration of the bill, which is unavoidable because the form of the printing could not be determined until the bill was completed. The bill, however, will be ready on Monday; and I now desire to give notice that I shall then move to proceed to the consideration of the measure and shall endeavor in every way, so far as may be consistent, to keep it before the Senate until it shall have been disposed of.

Until Monday, therefore, I will not ask the Senate to consider the bill.

Further, Mr. President, a complete print of the bill, embodying all the changes that have been made, being before the Senate, it seems to me only fair and reasonable that the Senate and the taxpayers of the country and the public generally should have a few days to consider this measure of overwhelming importance before it is taken up. There is no disposition to rush it unduly, but every disposition and every determination to push it promptly and without delay or dilatory tactics or any postponement, unless there shall be very good and sufficient reason. I hope when the time comes to consider the bill——

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Pennsylvania yield to the Senator from North Carolina?

Mr. PENROSE. In a moment more I will be through.

Mr. SIMMONS. I merely wanted to ask the Senator a question.

The PRESIDING OFFICER. Does the Senator from Pennsylvania yield for a question?

Mr. PENROSE. Yes.

Mr. SIMMONS. Do I understand the Senator to mean that, while the bill will come before the Senate as finally printed on Monday and will be called up, yet, for the purpose of giving Senators an opportunity to study the measure and the taxpayers an opportunity to look into it, he will not expect to press it for several days after Monday? I am asking the Senator if that is what he means?

Mr. PENROSE. Now, Mr. President, I am confronted with the old story, as ancient as the history of the Democratic Party, of procrastination and delay. I shall certainly insist that the bill be pressed on Monday until it is finished, and I shall not consent to have the Senate merely meet and adjourn or take up other business because Senators are not prepared to speak or have not read the bill or have been away.

Mr. SIMMONS. If the Senator will pardon me for a moment, he misunderstood me——

Mr. PENROSE. I do not think I did.

Mr. SIMMONS. If he understood me as asking him to delay the consideration of the bill after Monday. The Senator can take it up on Monday and begin to debate it at once if he wants to.

Mr. PENROSE. I intend to do so.

Mr. SIMMONS. But the Senator made a statement, and I asked him whether he meant by his statement that he would not press the measure on Monday, because the Senator had said that after the bill was printed in its final form the Senate and the taxpayers would be entitled to some time to consider it.

Mr. PENROSE. No, Mr. President.

Mr. SIMMONS. The Senator need not fly off in any tirade against the Democratic Party simply because I asked him whether he meant by that that he would press the bill immediately.

Mr. PENROSE. I meant that the unavoidable delay due to the fact that the bill is in the Printing Office would give the taxpayers and the Senate additional time to consider the bill. I did not mean that after Monday still further delay was to be permitted in its consideration.

Mr. SIMMONS. Then the strictures of the Senator with reference to delays sought by this side of the Chamber are utterly unfounded.

Mr. PENROSE. They may be unfounded, but I can smell what is coming. [Laughter.] The Senator's remarks sound familiar; I have heard them before; but I intend on this occasion to do all I can to suppress delay. I meant that any Senator who is sufficiently interested would have from now until Monday morning, in addition to the two or three days he has already had, to read the bill, but certainly after Monday we want to go straight ahead. There will be no changes in the bill, Mr. President, except that where there are now italics there may be roman letters and where there are now roman letters there may be italics, but there will be no change in the subject matter of the bill.

I trust the Senator from North Carolina will join with the majority in the patriotic, disinterested desire to raise money for the Government, and to help make good the waste and wanton expenditures of the last eight years, so that the bill may be promptly passed, and I hope that he may exhibit the same spirit that the Republicans, then in the minority, exhibited when we stood behind him and passed the present revenue law.

Mr. REED. Mr. President——

Mr. STERLING. I ask for the regular order.

The PRESIDING OFFICER. The Senator from Kentucky [Mr. STANLEY] has the floor, and the Chair will have to state that if the regular order is demanded the Senator from Kentucky can not yield for speeches and can only yield for questions.

Mr. STANLEY. The Senator from Kentucky has not stated that he yielded for a speech.

Mr. REED. The Chair seems to be gifted with the same smelling ability as the Senator from Pennsylvania, and evidently thinks that I am going to make a speech, and so I will resume my seat.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Kentucky is entitled to the floor.

AMENDMENT OF NATIONAL PROHIBITION ACT—CONFERENCE REPORT.

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7294) supplemental to the national prohibition act.

Mr. STANLEY addressed the Senate. After having spoken for some time,

Mr. REED. Mr. President——

The PRESIDING OFFICER (Mr. SPENCER in the chair). Does the Senator from Kentucky yield to the Senator from Missouri?

Mr. STANLEY. I yield.

Mr. REED. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is suggested. The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Ashurst	Glass	Lenroot	Sheppard
Brandegee	Gooding	Lodge	Shields
Broussard	Hale	McCumber	Simmons
Cameron	Harreld	McKellar	Smoot
Capper	Harris	McKinley	Spencer
Caraway	Harrison	McLean	Stanley
Culberson	Heflin	Nelson	Sterling
Curtis	Johnson	New	Sutherland
Dial	Kellogg	Nicholson	Swanson
Dillingham	Kenyon	Oddie	Townsend
Ernst	King	Overman	Trammell
Fletcher	Ladd	Page	Willis
Frelinghuysen	La Follette	Reed	

Mr. McKELLAR. I desire to state that the Senator from Massachusetts [Mr. WALSH] and the Senator from Rhode Island [Mr. GERRY] are absent from the Chamber on official business.

The PRESIDING OFFICER. Fifty-one Senators having answered to their names, there is a quorum present. The Senator from Kentucky has the floor.

Mr. STANLEY resumed his speech. After having spoken for some time,

Mr. BROUSSARD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CURTIS in the chair). Does the Senator from Kentucky yield for that purpose?

Mr. STANLEY. I yield for that purpose only.

The PRESIDING OFFICER. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Gooding	McCumber	Shields
Borah	Hale	McKellar	Smoot
Brandegee	Harris	McKinley	Spencer
Broussard	Harrison	Myers	Stanley
Capper	Heflin	Nelson	Sterling
Caraway	Johnson	New	Sutherland
Colt	Kellogg	Nicholson	Swanson
Curtis	Kenyon	Oddie	Townsend
Dillingham	King	Overman	Trammell
Ernst	Ladd	Page	Underwood
Fletcher	La Follette	Pomerene	Watson, Ind.
Frelinghuysen	Lenroot	Sheppard	Willis

The PRESIDING OFFICER. Forty-eight Senators—less than a quorum—have answered to their names. The Secretary will call the roll of absentees.

The reading clerk called the names of the absent Senators, and Mr. SHORTRIDGE answered to his name when called.

Mr. DIAL, Mr. CAMERON, Mr. SIMMONS, Mr. LODGE, Mr. GLASS, Mr. HARRELD, and Mr. REED entered the Chamber and answered to their names.

The PRESIDING OFFICER. Fifty-five Senators having answered to their names, a quorum is present.

The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The READING CLERK. A bill (S. 665) to provide for free tolls for American ships through the Panama Canal.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. The Senator from Kentucky [Mr. STANLEY] has the floor. Does he yield to the Senator from Idaho?

Mr. STANLEY. For what purpose does the Senator rise?

Mr. BORAH. I wish to ask that the unfinished business be temporarily laid aside.

The PRESIDING OFFICER. Does the Senator from Kentucky yield for that purpose?

Mr. STANLEY. I do.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Idaho to temporarily lay aside the unfinished business?

Mr. BROUSSARD. I object.

The PRESIDING OFFICER. The Senator from Louisiana objects. The Senator from Kentucky has the floor.

Mr. STERLING. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from South Dakota?

Mr. STANLEY. I yield for a question.

Mr. STERLING. I desire to make a motion.

Mr. STANLEY. I will not yield for a motion.

The PRESIDING OFFICER. Does the Senator from Kentucky yield for a motion?

Mr. STANLEY. I do not.

The PRESIDING OFFICER. The Senator from Kentucky has the floor and declines to yield.

Mr. STANLEY resumed his speech. After having spoken for some time,

Mr. REED. Mr. President——

The PRESIDING OFFICER (Mr. LENROOT in the chair). Does the Senator from Kentucky yield to the Senator from Missouri?

Mr. STANLEY. I yield.

Mr. REED. I desire to suggest the absence of a quorum. A very important speech is being made on this question with the Senate absent, only six Senators being present in the Chamber, I believe.

Mr. STERLING. Mr. President, I make the point of order that the suggestion of the absence of a quorum is out of order, as there has been no business transacted since the last call for a quorum.

Mr. REED. Was not the unfinished business laid before the Senate since the last call?

Mr. BRANDEGEE. Mr. President, if I may be allowed a suggestion, I do not know whether the present occupant of the chair was in the chair at the time, but I was here when the unfinished business was laid before the Senate, and it is still before the Senate; and the conference report, of which the Senator from South Dakota is in charge, was displaced at that time. Unanimous consent was asked to temporarily lay aside the unfinished business, and objection was made. I think all those proceedings constitute the transaction of business.

Mr. STERLING. It is true, as the Senator from Connecticut has stated. If that is the transaction of business, then the point of order is not well taken; but my thought was that it was not the transaction of business. There was no vote taken.

Mr. BRANDEGEE. The transaction of business can be had without a vote. The Chair laid before the Senate the unfinished business, unanimous consent was asked to temporarily lay it aside, and it was denied, which swept away from the Senate the conference report in charge of the Senator from South Dakota. It seems to me that those proceedings constitute the transaction of business.

The PRESIDING OFFICER. When the last quorum call was had the question before the Senate was the adoption of the conference report. Since that time the unfinished business has been laid before the Senate. A request was made for unanimous consent to temporarily lay aside the unfinished business, but objection was made. At any rate, the question before the Senate now is a different question from that which was pending at the time the last quorum call was made. The Chair therefore overrules the point of order. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Brandegee	Gerry	Lodge	Spencer
Broussard	Glass	McKellar	Stanley
Cameron	Gooding	Nelson	Sterling
Capper	Hale	New	Sutherland
Caraway	Heflin	Nicholson	Townsend
Curtis	Johnson	Overman	Trammell
Dial	Kellogg	Page	Underwood
Dillingham	Kenyon	Pomerene	Walsh, Mass.
Ernst	King	Reed	Willis
Fletcher	La Follette	Sheppard	
Frelinghuysen	Lenroot	Simmons	

The PRESIDING OFFICER. Forty-two Senators have responded to their names—not a quorum. The Secretary will call the names of the absent Senators.

The reading clerk called the names of absent Senators, and Mr. WATSON of Indiana responded to his name when called.

Mr. ASHURST, Mr. MYERS, Mr. HARRIS, Mr. COLT, Mr. ODDIE, Mr. SWANSON, and Mr. MCKINLEY entered the Chamber and answered to their names.

The PRESIDING OFFICER. Fifty Senators have responded to their names. A quorum is present. The Senator from Kentucky.

Mr. STANLEY resumed his speech. After having spoken for some time,

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, one of his secretaries, announced that on August 24, 1921, the President had approved and signed bills and a joint resolution of the following titles:

S. 1915. An act to amend the War Finance Corporation act, approved April 5, 1918, as amended, to provide relief for producers of and dealers in agricultural products, and for other purposes;

S. 2062. An act ratifying, confirming, and approving certain acts of the Legislature of Hawaii granting franchises for the manufacture, distribution, and supply of gas, electric light and power, and the construction, maintenance, and operation of a street railway, and for other purposes;

S. 2131. An act to extend for the period of seven months the provisions of Title II of the food control and the District of Columbia rents act, approved October 22, 1919, and for other purposes;

S. 2207. An act to amend the act entitled "An act to establish standard weights and measures for the District of Columbia; to define the duties of the superintendent of weights, measures, and markets of the District of Columbia; and for other purposes," approved March 3, 1921;

S. 2330. An act to extend the time for payment of grazing fees for the use of national forests during the calendar year 1921;

S. 2420. An act authorizing and directing the Postmaster General to permit the use of a special canceling stamp at the post office of Birmingham, Ala., bearing the words "Birmingham semicentennial, October 24 to 29, 1921"; and

S. J. Res. 103. Joint resolution changing the name of the Veterans' Bureau to "United States Veterans' Bureau."

AMENDMENT OF NATIONAL PROHIBITION ACT—CONFERENCE REPORT.

Mr. STANLEY resumed his speech. After having spoken for some time,

Mr. REED. Mr. President——

The PRESIDING OFFICER (Mr. WILLIS in the chair). Does the Senator from Kentucky yield to the Senator from Missouri?

Mr. STANLEY. I yield.

Mr. REED. Before the Senator takes up a new theme I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is suggested. The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Broussard	Harris	McKinley	Shields
Cameron	Heflin	Myers	Stanley
Capper	Kellogg	Nelson	Sterling
Caraway	Kenyon	New	Sutherland
Curtis	King	Oddie	Swanson
Dial	La Follette	Overman	Underwood
Ernst	Lenroot	Page	Watson, Ga.
Fletcher	Lodge	Reed	Willis
Hale	McKellar	Sheppard	

The PRESIDING OFFICER. Thirty-five Senators have answered to the roll call. There is not a quorum present. The Secretary will call the names of absent Senators.

The Assistant Secretary called the names of the absent Senators, and Mr. COLT, Mr. HARRELD, Mr. NICHOLSON, Mr. TRAMMELL, and Mr. WATSON of Indiana answered to their names when called.

Mr. FRELINGHUYSEN entered the Chamber and answered to his name.

The PRESIDING OFFICER. Forty-one Senators have answered to their names. There is not a quorum present.

Mr. STERLING. I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will carry out the instructions of the Senate.

Mr. BRANDEGEE, Mr. LADD, Mr. EDGE, Mr. GOODING, Mr. POMERENE, Mr. BORAH, Mr. MCCUMBER, and Mr. TOWNSEND entered the Chamber and answered to their names.

The PRESIDING OFFICER. Forty-nine Senators have answered to their names. A quorum is present. Without objection, the order directing the Sergeant at Arms to request the attendance of absent Senators will be vacated. The Senator from Kentucky is entitled to the floor.

Mr. STANLEY resumed his speech. After having spoken for some time,

Mr. LODGE. Mr. President——

The PRESIDING OFFICER (Mr. WATSON of Indiana in the chair). Does the Senator from Kentucky yield to the Senator from Massachusetts?

Mr. STANLEY. For what purpose does the Senator wish me to yield?

Mr. LODGE. I desire to make a request. Of course, I can not take the Senator from the floor, but it is very important that we should have a short executive session, and I was about to request that the Senator allow me at this point to move an executive session, with the understanding, of course, that he will have the floor when we return to legislative session.

Mr. STANLEY. If there is unanimous consent, that my rights shall be unprejudiced in the matter of my holding the floor, of course I will yield.

Mr. LODGE. I think that there will be no objection to the Senator retaining the floor.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kentucky? The Chair hears none, and it is so ordered.

EXECUTIVE SESSION.

Mr. LODGE. Mr. President, with that understanding, I move that the Senate proceed to the consideration of executive business.

Mr. STERLING. Before the question is put, I wish to state that I expect to move that the Senate shall return to legislative session.

Mr. LODGE. Certainly. I thought I stated that I meant to do so.

The PRESIDING OFFICER. The Senator from Massachusetts moves that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 15 minutes spent in executive session the doors were reopened.

AMENDMENT OF NATIONAL PROHIBITION ACT—CONFERENCE REPORT.

The PRESIDING OFFICER. In accordance with the agreement entered into before the executive session, the Senator from Kentucky [Mr. STANLEY] is recognized.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Missouri?

Mr. STANLEY. I yield for a question.

Mr. REED. I hope that there is not any attempt to be made here to take advantage. I was going to offer a motion to adjourn when we were in executive session before the motion to return to open session was made. I was informed by the Senator from Connecticut [Mr. BRANDEGEE] that there had been an implied agreement that we would return to open session. I therefore withheld the motion at that time, because I did not want to violate any agreement that had been made. I was standing on my feet, and was waiting to address the Chair, but the Chair had requested that we wait until the clerks came in.

The PRESIDING OFFICER. The Chair will state to the Senator from Missouri that it was a part of the agreement originally made that the Senator from Kentucky [Mr. STANLEY] should resume his remarks in open session, and therefore the Chair was compelled to recognize the Senator in accordance with the agreement.

Mr. REED. I did not know of that.

The PRESIDING OFFICER. But the Chair can recognize the Senator from Missouri to make a motion to adjourn, because the motion is in order.

Mr. REED. I desire to do that, but I do not want to deprive the Senator from Kentucky of his right to the floor. If the understanding is that it will not in any manner affect the Senator's right, I will make the motion.

Mr. LENROOT. Mr. President, I raise the point of order that the Senator from Kentucky can not yield for that purpose without yielding the floor.

Mr. STANLEY. I am perfectly willing to yield to the Senator from Missouri, with the understanding, of course, that it will not prejudice or interfere with or in any way impair my right to resume the floor.

The PRESIDING OFFICER. If the Senator from Kentucky desires to make a motion to adjourn, he can do so, for he has the floor.

Mr. LENROOT. If the Senator from Kentucky makes a motion to adjourn he thereby concludes his speech for that purpose. I suggest to the Senator that he can not then resume the floor without being subject to the rule.

Mr. REED. Let the Chair rule on the question and let us understand about it. I make the parliamentary inquiry whether or not if the Senator from Kentucky now makes a motion to adjourn he will be held to have concluded his speech?

The PRESIDING OFFICER. The Chair is inclined to the opinion that if the Senator from Kentucky makes a motion to adjourn he loses the floor.

Mr. REED. Mr. President, I suggest the absence of a quorum.

Mr. BRANDEGEE. Would the Senator from Kentucky lose the floor if he makes a motion to adjourn and it is not carried?

The PRESIDING OFFICER. The Chair thinks not.

Mr. LENROOT. If the motion to adjourn should fail, does the Chair think the Senator from Kentucky will not thereby have lost the floor?

The PRESIDING OFFICER. The Chair is inclined to think not.

Mr. LENROOT. May I make the suggestion to the Chair that the Senator from Kentucky now has the floor for the purpose of debate? If the Senator from Kentucky makes a motion, that certainly is not a part of the Senator's speech, and he must conclude his speech to make the motion. Whether the motion carries or not is immaterial, the Senator will have lost the floor.

Mr. BRANDEGEE. I myself do not so understand.

Mr. LENROOT. It seems very clear to me.

Mr. BRANDEGEE. That may be, but it is not so to me.

Mr. LENROOT. May I suggest that if the contrary view were correct a Senator could stand on his feet here, make any kind of a motion that might be relevant, occupy the day making motions of various kinds, hold the floor indefinitely, and the rule never could apply?

Mr. STERLING. And, Mr. President, I might add that whenever a Senator became tired while making a speech he might move to adjourn and resume the floor on convenience.

Mr. BRANDEGEE. Why not?

Mr. REED. That would only amount to this: If the Senator moved to adjourn and the Senate should adjourn, of course he would hold the floor; but if the Senate did not adjourn he would have to proceed immediately.

The PRESIDING OFFICER. The Chair does not agree with the Senator from Missouri on the proposition that if the Senate adjourned the Senator from Kentucky would continue to hold the floor.

Mr. REED. But he could take the floor to-morrow.

The PRESIDING OFFICER. He would take his chances like any other Senator of getting the floor to-morrow.

Mr. LENROOT. Is it not also true that if the motion to adjourn should fail, it would be a matter of new recognition, and any other Senator who could then secure recognition from the Chair would be entitled to the floor? That being so, it must necessarily follow that the Senator from Kentucky would lose the floor so far as that particular right of debate is concerned.

Mr. BRANDEGEE. I advise the Senator from Kentucky not to make a motion to adjourn.

Mr. REED. Let us have a ruling, Mr. President.

The PRESIDING OFFICER. After consulting with the parliamentary clerks at the desk, who usually advise the Chair and who know more about parliamentary law than does the present occupant of the chair—and the Chair is willing to accept their advice—they inform the Chair, and therefore it will be the ruling of the Chair, that the position taken by the Senator from Wisconsin is well taken, and that if the Senator from Kentucky makes a motion to adjourn he thereby loses the floor.

Mr. REED. Then, I think the Senator from Kentucky will have to proceed, if I have not taken him off the floor by that remark.

AMENDMENT TO NATIONAL PROHIBITION ACT—CONFERENCE REPORT.

Mr. STANLEY. Mr. President——

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. STANLEY resumed his speech. After having spoken for some time,

Mr. REED. Mr. President——

The PRESIDING OFFICER (Mr. SUTHERLAND in the chair). Does the Senator from Kentucky yield to the Senator from Missouri?

Mr. STANLEY. I yield.

Mr. REED. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Ashurst	Heflin	Myers	Spencer
Cameron	Kellogg	Nelsen	Stanley
Capper	Kenyon	Nicholson	Sterling
Curtis	Ladd	Oddie	Sutherland
Dial	Lenroot	Overman	Swanson
Ernst	Lodge	Reed	Townsend
Hale	McKellar	Sheppard	Watson, Ind.
Harris	McKinley	Smoot	Willis

The PRESIDING OFFICER. Thirty-two Senators have answered to their names. There is not a quorum present.

Mr. STANLEY. Mr. President, in attempting an analysis of this grotesque aggregation of legislative blunders known as the Sterling bill, I can but regret that the Senator from Missouri [Mr. REED], in the rich exuberance of his fancy, allowed himself to be diverted from so rich a theme for his superb satire to a jocose and passing reference to the physical unloveliness of its putative father.

Mr. President, it has been assumed by the proponents of this measure that they are the sole guardians of the cause of temperance, and that those who oppose it have under the guise of patriotism, raised the false cry of personal liberty and constitutional rights as a flimsy mask to cloak their sinister and criminal efforts to accelerate the operations of the moonshiner and the activities of the bootlegger.

Why, Mr. President, this bill imposes no serious burden upon the liquor interests of the United States, legitimate or illegitimate. The authors of this bill assume intoxicants will reach the consumer through the instrumentality of the medical profession. That unwarranted assumption is a gratuitous insult to the doctors of this country, upon whom this traffic never has and never will depend. For more than 10 years they have been clothed by the Harrison Act with practically plenary power in prescribing habit-forming drugs. Any doctor can secure an unclean increment to his income by pandering to the drug addict and the inebriate, but this he has not done, and there is no reason to assume that he will abuse an authority to prescribe brewed liquors any more than to prescribe spirituous liquors. Having the right to prescribe liquors 100 proof in alcohol, to say that he would deliberately overlook such an opportunity to supply the bootlegger and the inebriate, and then attempt to flood the country with beer, a liquor from 2 to 5 per cent in alcohol, is an absurdity on its face.

Mr. President, the wine growers are not opposing the passage of this bill. Prohibition of the legitimate manufacture and sale of wines has made millionaires of the grape growers who supply the raw material to the moonshiner. In a recent address at Louisville, Ky., Mr. Aaron Sapiro gives a graphic account of the effect of prohibition upon the raisin growers of Fresno County. Prior to the Volstead Act raisins were fed to hogs or sold at a cent a pound. Says Mr. Sapiro:

> Then came prohibition, and since prohibition raisins no longer have a food problem, but a booze problem, and it is still with us. Since that time the raisin growers, instead of receiving 8 or 9 cents a pound, are getting this year almost 20 or 21 cents a pound for raisins, so that you no longer have a problem of any kind of merchandising.

The production of raisins has increased from a few thousand pounds to thousands of tons. On the Great Lakes grapes have increased in value 1,000 per cent. So we find the wineries and the vineyards of California and Michigan just simply delighted with any old kind of prohibition.

Who is opposing it? The breweries? The Anheuser-Busch, the greatest brewery ever erected, the richest brewing interest in the world, openly appeared before the committee and advocated the passage of the Sterling bill. When the Secretary of the Treasury gave the press his reasons for refusing to carry out the plain provisions of the law directing the promulgation of regulations covering the prescription of beer as a medicine, he said:

> The main factor governing the Treasury's decision to hold the beer regulations, however, was said to be the lack of applications from brewers to permit them to manufacture beer for medicinal purposes. With no pressure being brought to bear upon it, the Treasury was declared to take the position that, if the brewers themselves were not desirous of obtaining the regulations, there was no necessity of making them effective.

Are the distilling interests demanding it? Why, Mr. President, no bill has ever done more for the distilling interests. To-day in my State alone warehouse receipts evidencing the ownership of 30,000,000 gallons of distilled spirits are almost worthless. Why? Because the outage, the leakage, the loss by fire, the loss in transit must be borne by the distiller, and he must pay a tax upon that liquor so lost, whether it is sold or not. This bill provides, and justly provides, that such losses shall not be borne by the distiller, that taxes so paid can be refunded under the terms of this bill. It means multiplied millions to the distilling interests of the United States; and there is not a distiller in Kentucky or elsewhere vile enough to prefer his income to his independence who does not favor this bill. This is abundantly established by telegrams indorsing this measure and urging its immediate passage, addressed to the Senator in charge of this bill, and read by him on the floor of this Chamber.

The distillers know that one crooked enforcement officer with a pocketful of permits can turn loose more illicit liquors in 40 minutes than all the doctors in the United States, with their little pint prescriptions, can furnish in 40 years.

Mr. President, my opposition to this bill is not based upon its effect upon the liquor traffic, one way or the other.

I never have and never shall support any act palpably unconstitutional.

When it adopted the eighteenth amendment Congress understood alcohol had a legitimate, a necessary use, knew that, with the possible exception of essential foodstuffs and iron, there is no substance known to art or industry more essential to the life and comfort of the American people.

Prohibit the use of alcohol and you turn every dental chair, every operating table, into a chamber of horrors; you destroy

anæsthetics and you paralyze surgery. You can not make a rubber tire without it. Absolutely prohibit the manufacture of alcohol and you close every automobile factory in the United States. All mercerized fabrics are dependent upon it; dyes and colors are impossible without the use of this solvent. It is an integral part of all high explosives. You would shut every munition plant on this continent the day you prohibited the manufacture of alcohol. It is essential to our spiritual, material, and industrial life, essential to our comfort and to our health in time of peace, and to our security in time of war.

That they knew full well who adopted this amendment, and for that reason the amendment prohibits the manufacture, sale, importation, and transportation of intoxicating liquors for beverage purposes, and that is all it prohibits. The Volstead Act purports to encourage the manufacture of alcohol for medicinal, sacramental, and scientific uses. Will any friend of this legislation maintain for an instant that you can prohibit the legalized, necessary use of an article in order to prevent its unnecessary use? Will any court in Christendom prohibit the manufacture or sale or use of a commodity for the benefit of all the people, for the legitimate and necessary use of an entire community, because, forsooth, the same substance may be illegitimately used for an unnecessary purpose by a few of the people?

The sole province of this legislation is to carry out the prohibitions of the eighteenth amendment, and nothing not prohibited by the eighteenth amendment can be prohibited by any law carrying it into effect.

The eighteenth amendment does not prohibit the medicinal use of alcohol, whether produced by brewing, fermentation, or distillation. If you can prohibit the use of an alcoholic liquor containing 2½ per cent of alcohol obtained by a process of brewing, why, in the name of reason, can you not prohibit another fluid 100 proof in alcohol, obtained by the process of distillation? If you can prohibit the medicinal use of alcohol, you can prohibit the scientific use of alcohol, you can prohibit the sacramental use of alcohol, you can make the eighteenth amendment an absolute interdiction upon its production, its transportation, and its sale.

This bill is in palpable violation of the Constitution, and, Mr. President, I have an abiding faith that whenever it is brought before any court of competent jurisdiction that will be the end of it.

It is not so much to the subject matter as to the proposed method of enforcing this bill that I object. When this was first brought to the attention of the Senate it invoked a widespread protest not from wet but from dry Senators, a protest not from those who opposed sumptuary legislation but from the most doughty and ardent advocates of prohibition.

The attention of the Senator from South Dakota [Mr. STERLING] was called to the fact that enforcement officers were everywhere engaging in an absolutely lawless enforcement of this law; not temporarily intoxicated but permanently drunk with power, for, Mr. President—

> Authority intoxicates,
> And makes mere sots of magistrates;
> The fumes of it invade the brain
> And make men giddy, proud, and vain.

The Senate was told of outrages perpetrated from sea to sea by officers of the law in the name of the law. That protest, Mr. President, has not been confined to the Senate. It is heard not from the brewery but from the bench.

The Senator from South Dakota was at first of the opinion that the authority of enforcement officers was sufficiently safeguarded by existing law, and in support of that contention cited sections 20 and 21 of the espionage act. Section 20 of Title XI provides that—

> A person who maliciously and without probable cause procures a search warrant to be issued and executed shall be fined not more than $1,000 or imprisoned not more than one year.

Section 21 that—

> An officer who in executing a search warrant willfully exceeds his authority, or exercises it with unnecessary severity, shall be fined not more than $1,000 or imprisoned not more than one year.

The Senator from Massachusetts has shown that these provisions do not touch this act—top, side, or bottom. These provisions simply safeguard the abuse of the writ, have nothing to do with the outrage of attempting to search without it.

In the case of the United States against Borkowski (268 Fed. Reporter), Judge Sater quoting with approval Archbold's Criminal Proceedings and Practices (8th ed., 131), says:

> The proceedings upon search warrants should be strictly legal, for there is not a description of process known to the law the execution of which is more distressing to the citizen. Perhaps there is none which excites such intense feeling in consequence of its humiliating and degrading effects.

Mr. FLETCHER. What page is that?

Mr. STANLEY. Page 410, decided by Judge Sater in the western district of Ohio on May 24, 1920.

This unusual process, so offensive to the sensibilities of a free people, could not be executed as an ordinary warrant. Such restrictions are imposed only when the officer becomes at once a policeman and a spy.

Mr. SHIELDS. And as a war measure.

Mr. STANLEY. And as a war measure, as the Senator from Tennessee has well suggested. This espionage act was designed for the apprehension of men who were blowing up bridges, who were defacing this Capitol, who were inciting the Negroes of the South to rapine and to war, who were prepared to cross the border of Mexico with a lawless band, who were tearing down the Starry Banner and spitting upon it, who were in possession of secret documents and of high explosives; and yet about them is thrown this solemn protection, this safeguard in the exercise of this writ. Do you tell me that the law in time of war would provide such safeguards for the protection of suspected traitors and pro-German spies, and in time of profound peace would leave its loyal citizens naked and defenseless against this wanton outrage?

There is but one explanation for this anomalous omission in the law—hitherto no lawmaker ever dreamed that an officer in a free country would dare to do such a thing. When the Senator from South Dakota was told that they did dare to do it, that it was occurring everywhere, that the sanctity of homes was invaded, that our highways were dappled with the blood of unoffending citizens, and that indignant protests came not from brewers and bootleggers but from judges clad in the ermine and in the solemn discharge of a solemn duty, removed for life from the clamor of the multitude, without the fear of punishment or the hope of reward—from the Federal bench came this anathema. What was his answer? Did he deny it? Will he deny it? Will those associated with him deny the perpetration of these offenses?

The opinion from which I have just quoted says:

> From direct inquiry I have learned that the Government officers were either not instructed at all or imperfectly instructed as to their rights and power. Their want of instruction as to legal requirements makes their action appear amateurish.

Judge Mulqueen, in New York, warns enforcement officers:

> You know the old maxim, "An Englishman's home is his castle." No man can say, "I will go into that house because I suspect something wrong is going on." A judge must first issue a warrant, or a magistrate, and if that magistrate acts on improper or insufficient evidence he is held personally responsible.

In Brooklyn Judge Bayes emphasizes the fact that "nobody is above the law, not even the enforcer thereof," and that "no purpose, however lawful, justifies the use of unlawful means."

Judge Clayton, of Alabama, the author of the Clayton Act, Judges Carroll and Evans, in Kentucky, and Foster, in Louisiana, have all warned these officers or denounced their ruthless disregard of the constitutional rights of the citizen.

The Senator from South Dakota on August 8 admits the naked illegality of such searches and seizures:

> The law assumes, of course, that there can be no search without a search warrant, and rightly assumes that there can be no search without a search warrant.

When the Senator from Massachusetts [Mr. LODGE] and the Senator from Idaho [Mr. BORAH] pointed out this glaring defect in the law did the Senator from South Dakota then object to this amendment? No; he simply asked that his law be not discriminated against; suggesting that any penalty imposed upon an officer attempting to search without a warrant in the enforcement of this act should apply in the same way to the enforcement of all other acts. At his request or at least at his suggestion the amendment was so modified as to apply to the national prohibition act, to this act, and to all other acts of the United States.

This remedy was demanded, this just thing was insisted upon, not by men engaged in the legitimate or illegitimate sale of liquor, not by the opponents of prohibition but by men who have fought for prohibition for 20 years, but who to-day stand by and for the Constitution, for the rights of their countrymen; who are demanding that no petty officer in the alleged execution of the law shall violate the Constitution of the United States. Will their motives be impugned? Will it be said that they one and all are playing a melodramatic part to shield the bootlegger, to aid in the surreptitious distribution of alcoholic liquor in the United States?

There is the Senator from Massachusetts [Mr. LODGE] who supported the Volstead Act, the Senator from Idaho [Mr. BORAH] who supported the eighteenth amendment, the Senator from Tennessee [Mr. SHIELDS] with a lifetime of devoted service to the cause of prohibition, the Senator from Georgia [Mr. WATSON] who has been its fair-haired boy for 30 years, and

who refused a nomination for the Presidency on the Prohibition ticket, the Senator from Louisiana [Mr. RANSDELL] who tells you that he never cast a vote contrary to the interests of the so-called drys in all his life, and the Senator from Arizona [Mr. ASHURST] whose allegiance to the cause none can question.

These are the men who, when John Barleycorn was King, stood in the forefront of the fight against the open saloon, and these men are to-day as much opposed as ever to a legalized traffic in alcoholic liquors, whatever a lobby may say to the contrary. They stand here in defense of the liberties of their countrymen, without fear and without reproach.

[At this point Mr. REED raised the question of a quorum, and the roll was called.]

Mr. STANLEY. Mr. President, the deplorable condition having been abundantly established by the public press, by the bench, and by his colleagues upon the floor, whose wisdom, whose patriotism, whose sincerity he could not doubt, or, doubting, dared not question, the Senator agreed to this amendment. The amendment is the joint work of the Senator from South Dakota [Mr. STERLING], the Senator from Missouri [Mr. REED], and myself. After having assisted in the modification of the amendment, the Senator from South Dakota arose in his place on August 8 last and, addressing the Chair, said:

Mr. President, the amendment is satisfactory, and I accept the same.

On a subsequent occasion, as a conferee, the Senator said, still insisting upon the amendment:

I had the motion that I wished to make in mind before making it, and the motion was that the Senate insist on its amendments and request a conference.

The amendment was not only supported by the Senator from South Dakota, it was supported by the Senate and adopted without a dissenting voice, and when the amendment had been mutilated in the House of Representatives and was returned to this body, again he rises in his place and says:

I meant to insist and insisted upon the amendments of this body.

Strange as it may seem, unaccountable as it is, the fact remains that after the Senate of the United States had twice unanimously voted to maintain the constitutional privileges and immunities of the people of the United States, a cry was heard, not in this body but outside of it, that the constitutional immunities and guaranties of the fourth amendment of the Constitution, forsooth, interfered with the rigorous enforcement of the act, and for that reason those guaranties should be forgotten or ignored.

So the bill went to the House of Representatives and there this amendment was so mutilated that its father does not know it. It has come back to us, but, alas, how changed from what I knew it!

Let us look at the proposition made to the country by the House of Representatives. The amendment, as redrafted by the Judiciary Committee, provides:

That no officer, agent, or employee of the United States while engaged in the enforcement of this act, the national prohibition act, or any law in reference to the manufacture or the taxation of or traffic in intoxicating liquor shall search any private dwelling without a warrant directing such search, and—

Note this language—

No search warrant shall issue unless there is reason to believe such dwelling is used as a place in which liquor is manufactured for sale or sold.

Under that provision no officer can enter a dwelling house, with or without a warrant, unless the moonshiner in that house is manufacturing liquor for sale or is engaged in selling it.

Under such a law the moonshiner can bring his still into his bedroom or his kitchen, and no officer, seeing it in operation, could enter or disturb him, notwithstanding the fact that the manufacture of alcoholic liquor is contrary to the plain provisions of the very amendment they say they are trying to enforce, and notwithstanding the fact that the distillation of alcoholic liquor is a felony in a third of the States of the Union.

Under that provision the moonshiner who debauched his wife, his children, and his guests was absolutely immune; if he made whisky and drank it, he was safe; but if he made it and let somebody else drink it, he went to jail. While the man who thus degraded himself, his family, and his guests, was absolutely immune, the woman who, crushing a handful of grapes, made a glass of wine and carried it across the street to a sick neighbor could be haled into court, mulcted in heavy fines, and immured

In a felon's cell,
The fittest earthly type of hell.

This thing amazed the brave and valiant few who still consider this thing a moral force rather than a political expedient. The Representative from the ninth district of Kentucky [Mr. FIELDS] thus voices his indignation at this absurd proposal:

That is giving to the illicit manufacturer of liquor protection that was not extended to him prior to the enactment of the Volstead Act. * * * He can drink it himself, debauch himself, give it away to his neighbors, and debauch the young manhood of the community, and under the provision of this section there is no law which can reach him, or, at least, an officer can not invade his home with a warrant if this section is written into law as reported by the committee.

And yet history with a commiserating smile must record that a great deliberative body marched around the tellers in solemn and farcical order and gave that monstrous thing the sanction of law, and did it in the holy name of temperance.

"Great God," said the woodcock, and away he flew.

Why, Mr. President, that amendment as passed by the House of Representatives sent a thrill of delight through every moonshiner, through every hooch consumer, through every home debased into a stillhouse or a brewery. The fact that prohibition was settled by ceasing to prohibit is thus stated in the columns of the Washington Herald of August 18, 1921:

It will do more than an army of agents to put bootleggers out of business. * * * It will spoil most of the joy of violating the law, because violation will not be necessary. * * *

It was never the intention to, nor was there ever anything but unwisdom in forbidding the making of wine or beer, or even whisky, for personal use.

And so we are going to have prohibition and peace by permitting the moonshiner to make it easier than he can buy it. That thing ought to have been entitled: "An act to relieve moonshiners from the operation of the eighteenth amendment, to domesticate drunkenness, and for other purposes."

Again this act was amended, and amended for the worse.

Mr. President, if this sort of a thing had never occurred before, if this were the first time despotism or bigotry had ever attempted to invade the liberties of American citizens, we who stand here for the Constitution might be left with no other defense than the assertion of the purity of our purposes and the disinterestedness of our motives. Most fortunately this is not the first time. The advocates of such legislation as this have mistaken the rising for the setting sun, and they have been moving not forward but backward for over 160 years. The Volstead Act was enacted first by the British Parliament and 160 years afterwards by the American Congress. This attempt to prohibit the importation of alcoholic liquors and then to pursue the smuggled liquor without a valid warrant into the home of the consumer was first attempted by George III.

Let us see. I will read a section of that act, and see if it does not sound like home. This is chapter 15 of the so-called Molasses Act. It will be recalled that after the close of the French and Indian war the British Government determined to impose a heavy burden of taxation upon the Colonies to recoup the losses incident to that conflict; and in order to increase the revenues of the British Government and to compel the Colonies to contribute to those revenues, traffic with the French West Indies was absolutely prohibited and the importation of French wines and liquors was interdicted. This act, page 155 of the General Statutes of Great Britain, provides:

I call the attention of the Senate specifically to this act because you will find it interesting—

And be it further enacted by the authority aforesaid, That from and after the 29th day of September, 1754, no rum or spirits of the produce or manufacture of any of the Colonies or Plantations in America, not in the possession or under the dominion of His Majesty, his heirs or successors, shall be imported or brought into any of the Colonies or Plantations in America which now are, or hereafter may be, in the possession or under the dominion of His Majesty, his heirs or successors—

Now, listen to this—

upon forfeiture of all such rum or spirits, together with the ship or vessel in which the same shall be imported, with the tackle, apparel, and furniture thereof; to be seized by any officer or officers of His Majesty's customs and prosecuted in such manner and form as hereinafter is expressed, any law, custom, or usage to the contrary notwithstanding.

So 160 years ago officers were authorized to seize ships and vehicles and persons having in their possession contraband liquor imported in violation of the law, and then, as now, the private property—the conveyances and ships—or any other thing that brought in contraband liquor was subject to seizure and to forfeiture.

The contraband liquor continued to flow in, the law to the contrary notwithstanding, and then a British tyrant attempted to force the American Colonies to submit to this outrage. He prepared to revive what were known as general warrants.

Mr. President, I call the attention of the Senate at this time to the provisions of the proposed law—

That any officer, agent, or employee of the United States engaged in the enforcement of this act, or the national prohibition act, or any other law of the United States, who shall search any private dwelling

as defined in the national prohibition act, and occupied as such dwelling, without a warrant directing such search, or who while so engaged shall without a search warrant maliciously and without reasonable cause search any other building or property, shall be guilty of a misdemeanor and upon conviction thereof shall be fined for a first offense not more than $1,000, and for a subsequent offense not more than $1,000, or imprisoned not more than one year, or both such fine and imprisonment.

In other words, if an officer searches without a warrant, any part of the curtilage other than a dwelling house, he is justified, by the mere statement that he had reasonable ground to believe that some offense was being committed, or that contraband articles were to be found on the person or the premises of the citizen.

This bill differs from the general warrants authorized by George III in this—under the general warrants of that time, which caused a tumult here and later shook old England to its base in the libel suits of John Wilkes—under the general warrants of George III no officer could enter the premises of the citizen without a warrant issued by a magistrate. Like this abominable act they were not returnable; they did not, according to the requirements of the common law, particularly describe the place to be searched and the persons or things to be seized, and the Colonies years before we had a Constitution protested against this outrage. Who were they who first raised their voices against the right of any officer, anywhere, at any time, to enter the curtilage, to invade the premises, to violate the sanctity of the person or property of the citizen by laying his unclean hands upon a freeman's body, by leering into a freeman's home, without a warrant sworn to before an officer of competent jurisdiction particularly describing the place to be searched and the persons or things to be seized?

They were "The dead but sceptered sovereigns who still rule our spirits from their urns"—Washington, Adams, Franklin, and Henry, a galaxy of patriots whose glory will be undimmed when the sun is old and the stars are cold.

I call the attention of the Senate to the first trial of this question. Contraband liquors had been smuggled into Boston. Liquors of the value of £500, an enormous sum in those days, had been confiscated within a month, and for the first time the right of an English sleuth to enter an American home or warehouse without a warrant was challenged.

[At this point Mr. BROUSSARD raised the question of a quorum, and the roll was called.]

Mr. STANLEY. Mr. President, as I said a few moments ago, the main provisions of the Volstead Act were passed not a few days ago, but 160 years ago.

They sent orders and instructions to the collector of the customs in Boston, Mr. Charles Paxton, to apply to the civil authorities for writs of assistance to enable the customhouse officers to command all sheriffs and constables, etc., to attend and aid them in breaking open houses, stores, shops, cellars, ships, bales, trunks, chests, casks, packages of all sorts, to search for goods, wares, and merchandise which had been imported against the prohibitions.

The blanket authority in the pending bill is, however, infinitely more oppressive and more intolerable than the general warrants of George III.

The case was tried in Boston before a colonial judge, and this identical question was raised, namely, Can an officer of the law enter not the residence but the premises of a citizen without a warrant particularly describing the place to be searched and the persons or things to be seized? In that case James Otis represented the colonies, and in a letter written by John Adams to his friend, William Tudor, on March 29, 1817, the whole scene is graphically described.

Whenever you shall find a painter, male or female, I pray you to suggest a scene and a subject for the pencil.

The scene is the Council Chamber in the old Town House in Boston. The date is in the month of February, 1761. * * * That council chamber was as respectable an apartment as the House of Commons or the House of Lords in Great Britain, in proportion, or that in the Statehouse in Philadelphia, in which the Declaration of Independence was signed in 1776. In this chamber round a great fire were seated five judges, with Lieut. Gov. Hutchinson at their head as chief justice, all arrayed in their new, fresh, rich robes of scarlet English broadcloth; in their large cambric bands and immense judicial wigs. In this chamber were seated at a long table all the barristers at law of Boston and of the neighboring county of Middlesex in gowns, bands, and tie wigs. They were not seated on ivory chairs—

Said John Adams—

but their dress was more solemn and more pompous than that of the Roman Senate when the Gauls broke in upon them.

Here is another incident worthy of the pen of the historian and of the artist.

Two portraits, at more than full length, of King Charles the Second and of King James the Second, in splendid golden frames, were hung up on the most conspicuous sides of the apartment. * * * There was no painter in England capable of them at that time. They had been sent over without frames in Gov. Pownall's time, but he was no admirer of Charles or James. The pictures were stowed away in the garret among rubbish until Gov. Bernard came, who had them cleaned, superbly framed, and placed in council for the admiration and imitation of all men—no doubt with the advice and concurrence of Hutchinson and all his nebula of stars and satellites.

The future antiquarian and historian, Mr. President, will note the coincidence—a fitting thing—above that scene of so much glory and so much shame, looking down upon prostituted judges, upon mercenary counsel, upon the heroic figure of James Otis were the hated effigies of the Stuart tyrants, Charles II and James II. And so, Mr. President, it was peculiarly appropriate that, when general warrants were for the first time served in the western world, when they were to try for the first time the right of an officer to enter the curtilage of a freeman without a returnable warrant issued by a responsible magistrate particularly describing the place to be searched and the persons or things to be seized, it was, I repeat, peculiarly appropriate that the patron saints of this act of tyranny should have adorned that scene, especially when it is remembered that the first general warrants, the loathsome spawn of the star chamber, were issued to wreak the vengeance of a coward and to satisfy the lust of a beast.

[At this point Mr. REED raised the point of a quorum, and the roll was called.]

Mr. STANLEY. Mr. President, it is strange, it is "passing strange," that in the cycle of time history should repeat itself in important instances with such certainty of detail that it looks like the return of the same thing in the great revolving wheel of a century. One hundred and sixty years ago this very question was raised in this very country. Place a gown upon the Presiding Officer; allow counsel for and against the people to appear at those tables; fill this assembly hall with eager spectators; close your eyes and listen to the arguments made for and against general warrants in that court which are so graphically described by the glowing pen of John Adams, and you would imagine, for all the world, that it was the debate between the Senator from South Dakota [Mr. STERLING] and myself, except that I lack the eloquence of Otis.

The same identical questions are raised; the same arguments are made. The colonists complained that notwithstanding their rights under the common law—for there was then no Constitution—their homes and their persons were not immune from unreasonable searches and seizures. Strange to say, the Crown maintained, not that it was not an invasion of the citizen's rights, but that the law could not be enforced without an invasion of those rights; that the only way to save the revenues of the Crown was to sacrifice the liberties of the citizen.

There was, however, this difference: England claimed, not without cause, that the security of the State depended upon the maintenance of her revenues, while here the poor excuse is that we must abolish the Constitution in order to catch a bootlegger. The argument for the Crown was made by a great lawyer, of whom President Adams says:

Mr. Gridley argued with characteristic learning, ingenuity, and dignity, and said everything that could be said in favor of Cockle's petition—

That is, the petition for general warrants—

All depending, however, on the "if the Parliament of Great Britain is the sovereign legislature of all the British Empire." Mr. Thacher followed him on the other side, and argued with the softness of manners, the ingenuity, and cool reasoning which were remarkable in his amiable character—

Gridley had been the preceptor of James Otis. He was the most ingenious lawyer of New England in his day. He said:

It is true the common privileges of Englishmen are taken away in this case.

How, Mr. President, were the common privileges of Englishmen taken away in that case? Officers were searching for illicitly imported rum hidden in the warehouses and homes of the citizens. Those homes were being entered by virtue of warrants—not without warrants at all—which failed to particularly describe the places to be searched and the persons or things to be seized. That and that only was the objection, as Otis further shows, they were general and not special warrants. Gridley admitted such outrages were in violation not of constitutional but of common-law rights, which are older than the Constitution of the United States and which the Constitution was designed to preserve and maintain forever.

He said:

It is true the common privileges of Englishmen are taken away in this case. * * *

There was no claim that it was legal.

Is not the revenue the sole support of fleets and armies abroad and ministers at home, without which the nation could neither be preserved from the invasions of her foes nor the tumults of her own subjects? Is not this, I say, infinitely more important than the imprisonment of thieves or even murderers? Yet in these cases 'tis agreed houses may be broken open. * * * So it is established, and the necessity for having public taxes effectually and speedily collected is of infinitely greater moment to the whole than the liberty of any individual.

"The collection of taxes," said the British Government, "is worth more than a citizen's immunity from unlawful search and

seizure." The execution of such warrants is a more intolerable outrage than ever ship money was.

No "village Hampden, with dauntless breast," ever withstood a tyrant half so odious as the constable with a general warrant in England or a constable without one in the United States. It was more odious than the tax on tea; it was a thousand times more indefensible and outrageous than the Stamp Act. It was an invasion that aroused the Colonies for the first time. How did they meet this demand of the British Government?

Did they say, "Well, the morals of the community are worth more than the liberties of the people, and unless we violate the constitutional rights, the common-law rights of the citizen, we are not going to stop this illicit traffic in rum?" Did they denounce Washington, did they denounce Adams, did they denounce Otis, as the allies of the liquor interests because they stood for the liberties of the people?

Adams thus describes the effect of this abominable attempt:

> Every observing and thinking man knew that this appointment—
>
> That of Chief Justice Hutchinson—
>
> was made for the direct purpose of deciding this question in favor of the Crown, and all others in which it should be interested. An alarm was spread far and wide. Merchants of Salem and Boston applied to Mr. Otis to defend them against the terrible menacing monster, the writ of assistance. Great fees were offered, but Otis said: "In such a case I despise all fees."

Mr. President, in reviewing the great speech of Otis in defense of the liberties of his countrymen, I can recall argument after argument made by the Senator from Missouri [Mr. REED] and his colleagues in defense of our liberties now.

> Your honors will find—
>
> Said Otis to that court—
>
> in the old books concerning the office of a justice of the peace precedents of general warrants to search suspected houses. But in more modern books you will find only special warrants to search such and such houses, specially named, in which the complainant has before sworn that he suspects his goods are concealed; and will find it adjudged that special warrants only are legal. * * * The writ prayed for in this petition, being general, is illegal. It is a power that places the liberty of every man in the hands of every petty officer.
>
> Bare suspicion without oath is sufficient.
>
> In the first place—

Now, bear in mind that the same powers are being exerted now—

> In the first place, the writ is universal, being directed "to all and singular justices, sheriffs, constables, and all other officers and subjects"; so that, in short, it is directed to every subject in the King's dominions. * * * In the next place, it is perpetual; there is no return. A man is accountable to no person for his doings. * * * In the third place, a person with this writ, in the daytime, may enter all houses, shops, etc., at will. * * *

What did Otis think of this power to enter houses and shops at will?

> I will to my dying day oppose with all the powers and faculties God has given me all such instruments of slavery, on the one hand, and villainy, on the other, as this writ of assistance is.
>
> It appears to me the worst instrument of arbitrary power, the most destructive of English liberty and the fundamental principles of law that ever was found in an English law book. * * * I argue with a greater pleasure, as it is in favor of British liberty, * * * and it is in opposition to a kind of power the exercise of which in former periods of English history cost one King of England his head and another his throne.
>
> Let the consequences be what they will, I am determined to proceed. The only principles of public conduct that are worthy of a gentleman or a man are to sacrifice estate, ease, health, and applause, and even life, to the sacred call of his country. * * *

And then, in a burst of impassioned eloquence, he defied all the power of the British Crown:

> If the King of Great Britain in person were encamped on Boston Common at the head of 20,000 men, with all his navy on our coast, he would not be able to execute these laws.

In rapturous admiration John Adams declares:

> Otis was a flame of fire, with a promptitude of classical allusions, a depth of research, a rapid summary of historical events and dates, a profusion of legal authorities, a prophetic glance of his eyes into futurity, and a rapid torrent of impetuous eloquence, he hurried away all before him. American independence was then and there born. The seeds of patriots and heroes * * * were then and there sown. Every man of an immense crowded audience appeared to me to go away as I did, ready to take arms against writs of assistance. Then and there was the first scene of the first act of opposition to the arbitrary claims of Great Britain. Then and there the child Independence was born. In 15 years—i. e., in 1776—he grew up to manhood and declared himself free.

Will it be said—O God, preserve us yet!—will it be said that 160 years ago not a British King, not a British Army encamped on Boston Common could, with all the power of the queen of the seas and the empire of the world, compel a few struggling colonists to submit to this wanton and brutal act of tyranny, and now, after a hundred years and more, in the dawn of the twentieth century, a hundred million strong, but yesterday the conquerors of the world, the inspiration of free men from the rising to the setting of the sun—will it be said, that at the instance of an insolent propaganda the chosen, trusted representatives of the people, ambassadors of sovereign States, will bow their proud necks in folly, bigotry, or fear to a despised yoke that not a king could place upon our gallant fathers?

Oh, the prayer of John Adams was not answered. No Rubens, no Van Dyke has preserved that trial and that scene upon any canvas; but, thank God, it lives. Otis lives. I can hear now his ringing voice. I can see the eager throng; I can see the smirking face of a prostituted judge; I can see the cowardly, treacherous, gold-loving glee of hireling counsel doing the will of their royal master for their master's gold. They are all preserved, like flies caught in amber, in the eloquence of Otis. There they are and there they shall abide, for the abhorrence of the lovers of their country, for the emulation of their kind.

> Wearing a vile mask, a Gorgon would disown,
> A cheek of parchment and an eye of stone;
> Exalted o'er their less abhorred compeers,
> And festering in the infamy of years.

The first organized opposition to the hated tyranny of George III was not three years later, in Boston, when they hurled the tea into the harbor; it was not five years later, when they defied the collectors under the Stamp Act; it was not four years later, when Patrick Henry thrilled the South with the cry for liberty or death; it was when James Otis defied the King and the King's army 20,000 strong on Boston Common to do what the Senator from South Dakota and the Senator from Ohio propose to do now.

For my colleagues, they can choose as they may, but for me and mine, with James Otis, I shall stand, for the sanctity of the home, for the liberties of the people, and for the preservation, in all of its vigor, untouched and unstained, of the Constitution of the United States of America.

Mr. President, do you presume, can any Senator here presume, that this fourth amendment guarantees to us less than we had without it? There was no Constitution then, there was no Bill of Rights then. That was 15 years before the Declaration of Independence. These men were defending rights that came down to them from Magna Charta, rights that existed under the common law.

Do you believe that the wise framers of the Constitution of the United States, when they came to write the fourth amendment exempting the property—the houses, persons, papers, and effects—of citizens from search and seizure, whittled down that immunity?

Mr. WATSON of Georgia. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Georgia?

Mr. STANLEY. I yield.

Mr. WATSON of Georgia. Will the Senator from Kentucky allow me to suggest that the very name of France to-day, superseding the old name of Gaul, was taken because of a German tribe, the Franks, which meant "free," and that word "free" included everything that is enumerated in the Bill of Rights?

Mr. STANLEY. Mr. President, I am grateful to the Senator from Georgia for the suggestion, and before I conclude this argument I shall have demonstrated—to my satisfaction, at least, and, I hope, to the satisfaction of the Senator from Georgia—that these rights for which I am contending here were just as jealously safeguarded, were regarded as just as precious and as inestimable when they protected the mud hut of a Scandinavian savage in the wilds of Schleswig and Friesland.

Mr. President, let us analyze what was in the minds of the framers of the Constitution with reference to these rights. In a great decision, Boyd *vs.* The United States (116 U. S., 616), Justice Bradley in 1885, after the lapse of a hundred years, recalls the great decision of Lord Camden and refers to the fact that the great case of Entick *vs.* Carrington (Howell's State Trials, vol. 19, p. 1029), involving the same question—general search warrants—was decided but a few years after the speech of Otis and but a few years before the meeting of the Constitutional Convention.

> As every American statesman during our Revolutionary and formative period as a Nation was undoubtedly familiar with this monument of English freedom and considered it as the true and ultimate expression of constitutional law, it may be confidently asserted that its propositions were in the minds of those who framed the fourth amendment to the Constitution and were considered as sufficiently explanatory of what was meant by unreasonable searches and seizures.

But, Mr. President, we are rewriting history these days with remarkable rapidity, and I understand that they are going to rewrite that part of our history which deals with our relations with Great Britain. We are going to find that the English Government has always been our dear, tender, devoted friend and protector, and that all this talk about our ever having to fight with her or having her hurt us or rob us is ridiculous. George Washington and the rest of them were hot-headed and indiscreet enough to break loose from a dear, indulgent mother, and for that reason we unfortunately became free. If history is written after that fashion, doubtless some future historian will

discover that Washington was a distiller and Franklin a brewer and, it is said, Patrick Henry used to stand behind the bar.

Mr. WATSON of Georgia. And sell liquor.

Mr. STANLEY. And sell liquor. Mention it not in Gath; tell it not upon the streets of Ascalon. I shall not be much surprised to see the Senator from South Dakota calling the attention of the country to the fact that Washington the distiller, Franklin the brewer, and Patrick Henry the barkeeper, or their friends, were nefariously smuggling contraband liquor into Boston. I will say to my colleague from Georgia [Mr. WATSON] that the great historian Bancroft, whom we both accept as authority, says the Colonies could not have lived at all without that contraband trade.

Mr. WATSON of Georgia. Especially the trade in rum.

Mr. STANLEY. Rum was a very material thing.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Missouri?

Mr. STANLEY. I yield.

Mr. REED. In line with the Senator's argument, when the future history is written, it will not be referred to as the "American Revolution" but as the "whisky rebellion."

Mr. STANLEY. The "rum rebellion."

Mr. REED. The "bootleggers' insurrection."

Mr. STANLEY. This country, says John Adams, found her liberties cradled about an ardent patriot defending his right to smuggle in a keg of rum. I do not say so; that is Adams.

These general warrants were issued by Charles II.

Right at this point, to reminisce, this was the first time in the history of England tyranny ever assumed so odious a form, John Lackland and Richard III were brutal, they imperiled the liberties of their country; but they attempted to enslave, not to debase, their subjects.

In all the long and dreary annals of oppression, Mr. President, despotism has ever assumed one of three forms. It has appeared in the guise of an executioner, of a jailer, or of a spy. As an executioner, it fills us with terror; as a jailer, with despair; as a spy, with a sense of shame, infinite humiliation. Tyranny is brutal as an executioner; it is pitiless as a jailer; it is despicable as a spy; and it is tyranny in the despicable guise of a spy that I am fighting now.

No other tyrant could ever have conceived this foul thing, could ever first have offered this humiliation, could ever have sent his sleuths crawling like serpents on their bellies into the homes of English freemen to search their effects, their trunks, their casks, save this same licentious, unblushing beast, disregarding all the decencies of life and all the liberties of Englishmen—no other despot ever dreamed of such a thing, none but that debased and debasing Stuart—not so much a scandal as a stench in the nostrils of history. It was from the star chamber of this reeking wretch that this abominable thing did creep.

It was from his polluted lips that the first petty officer ever heard the abominable command, "Go unauthorized into the homes of Englishmen." For less wrongs than these, for an act less monstrous than this, the head of one Stuart toppled from the headsman's block at Whitehall and another, bereft of his crown and his kingdom, died a homeless, friendless wanderer in a foreign land and was buried in a foreign soil.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Missouri?

Mr. STANLEY. I yield.

Mr. REED. The Senator has referred to this order as having been issued from a star chamber, a body meeting in secret. Does he see any connection between that and a similar program having been devised in secret by a lot of hired lobbyists and promulgated through their agents who had consorted with the conferees and met with them while they were preparing this measure?

Mr. STANLEY. Mr. President, I hope the Senator will not press me for too many similitudes, or somebody will see another Hutchinson, another Ridley, without his wig and with an infinitely greater store of insolence, parading the streets of Washington or adorning the galleries of the Senate, if not the secret councils of Senators.

But was it a matter of supersensitiveness on the part of the irate and easily angered colonists that caused them to rise in rebellion with no special reason? Let me tell you. We fought the tax on tea. The Englishmen did not. We fought the Stamp Act. The Englishmen did not. Did you ever think of that? They submitted to the levying of "ship money" for years, until it became an abuse. We refused to endure acts of oppression Englishmen suffered without complaint. They submitted to having their money taken without consent by Parliament time and again and it was the abuse, not the exercise, of that power that cost Charles I his head.

But two years after this attempt to enter the houses of the colonists they attempted to search the home of one John Wilkes, to search and seize his baggage and effects, and he sued the men who did it, and that suit shook all England. In the case in which that whole matter is decided, Entick against Carrington, one of the greatest judges in the whole history of English jurisprudence reviews from the start every phase of this law, not in the light of a violation of the American Constitution but in the light of a violation of the inherent, inalienable rights of an Englishman as preserved in the unwritten constitution of England, which means as preserved in royal charters and in the decisions of judges interpreting them and in the customs of a free people.

Mr. WATSON of Georgia. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Georgia?

Mr. STANLEY. Certainly.

Mr. WATSON of Georgia. Before my friend the Senator from Kentucky proceeds with that decision I would call his attention to a fact that may be of some weight in the discussion.

During the recent recess of the Congress the only murders committed in the State of Georgia were committed by dry enforcement officers, who shot down and killed, in premeditation and cold blood, men whom they supposed to be in possession of liquors, and in no case was there the slightest provocation for the killing. In two cases there was no liquor and in the other two cases the arrest could have been made without the commission of murder.

Therefore the very license which was impliedly given in the debate which was had here the last night before we took the recess for dry enforcement officers to stop automobiles on the highways and to stop persons in the streets or in hotels gave these dry enforcement officers encouragement to shoot down in cold blood four of the citizens of the State of Georgia, the only murders that were committed during the recess, and one of them committed by an officer from Tennessee, who came down into Georgia and killed a man in Atlanta.

Mr. STANLEY. In that connection I wish to call the attention of the Senator from Georgia [Mr. WATSON] and the Senator from Missouri [Mr. REED] and the Senator from Louisiana [Mr. BROUSSARD] to this fact. I shall make a statement that will astound them.

I state here and now that an enforcement officer, without a warrant, with nothing but his star, stopping a citizen upon the highway, entering a citizen's curtilage, his property, upon being resisted by that citizen in the lawful resistence to this admittedly unlawful thing—if in this act the citizen is killed by that officer, there is no law in the United States that can even take jurisdiction of the offense—no State of Federal law. He is absolutely immune against a charge for murder. I repeat that, and I defy Senators on either side of the question to doubt the accuracy of what I say.

Take this sort of a case: A Federal officer starts out to search. He stops my automobile, pokes his insolent head into my car. I have no liquor, and I have certain rights, and I say, as the Senator from Arizona [Mr. ASHURST] would say to him: "You keep out of this car or I will knock you out." I proceed to eject him. The officer honestly believes I have liquor in there, mistaking my car for somebody's else, and he insists on entering. I eject him by force, using more force than he does, being a stronger man, and he draws a revolver and murders me. He is not only immune from a charge for murder but he can not be tried anywhere on earth. He can not be haled before a grand jury. There is no power in the United States that can take cognizance of that dastardly crime.

Mr. WATSON of Georgia. Mr. President, if the Senator will allow me, I should like to describe one of those Georgia cases.

Mr. STANLEY. I shall be delighted.

Mr. WATSON of Georgia. I refer to one of those that happened not during the recess but shortly before. There was a hardworking old Negro man in one of the counties in the congressional district which I once had the honor to represent in the other branch of Congress. It was midnight. The old Negro, after a hard day's work, was sound asleep. There was a knock at his door, and the door was forced. A white man, a stranger to him, appeared. He did not disclose his official capacity. He did not show his warrant. So the old Negro, suddenly awakened from a very sound sleep after a hard day's work, thought him to be a midnight marauder. With the natural instinct of a man, he jumped from his bed and ran toward the corner of his cabin where his gun always stood, to be on the defensive against what he supposed to be a midnight marauder who had come there, perhaps, to rob him or do him personal injury. He had a right to do this. The Senator from Kentucky would have done it. The Senator from South Dakota would have done it. I, I hope, would have done it.

Without disclosing his character as an officer, this white man immediately drew his automatic revolver and shot the old Negro to death. His dying face fell upon his own hearthstone. The pretense upon which he was killed was that he was a distiller. It turned out afterwards that he was no distiller and had no connection with any distillery.

What was done with this man who murdered the old Negro in his humble home at midnight?

The Federal court threw its shield over him, threw its protection around him, and he was not even fined for breaking down the door of the Negro man's cabin.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Missouri?

Mr. STANLEY. I yield.

Mr. REED. If I may inquire, upon what theory did the Federal court decide that a man who happened merely to be a Federal officer, who was not proceeding under any warrant of law but who was a trespasser in the home of the Negro man, and who killed him without just cause or provocation, was not amenable to the law of the State?

Mr. WATSON of Georgia. Mr. President, with the permission of the Senator from Kentucky——

Mr. STANLEY. I yield to the Senator from Georgia.

Mr. WATSON of Georgia. I will state the theory on which the decision was based, as published in the newspapers at the time. The officer said he was in the discharge of his duty as a Federal officer; that the Negro in rushing toward his gun meant to kill him; when, as a matter of fact, the Negro had not even reached his gun and did not even know that the man at the door who had broken it down was an officer of the law.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Missouri?

Mr. STANLEY. I yield.

Mr. REED. I simply want to say, if the Senator will permit me, that the judge who made the decision ought to be impeached.

Mr. WATSON of Georgia. Undoubtedly, but he is at a higher bar than this now. He is dead.

Mr. STANLEY. I shall insert in the RECORD an editorial from the Knickerbocker, of New York, an instance where a farmer and his son returning to their home in an automobile happened to be confronted by a similar situation. A hue and cry had been raised that rum runners were going down the road over which the farmer and his son were traveling, and in sight almost of the spot where Otis spoke the farmer and his son were mistaken for rum runners. They made no attempt to resist the officers who jumped upon the running board of their car and placed their revolvers in their faces; but taking them for highwaymen—a very natural supposition—the poor, frightened farmer and his son, who had no liquor, who never dreamed of violating the law, left their car and fled. They were shot down by those officers.

Mr. WATSON of Georgia. Mr. President——

The PRESIDING OFFICER (Mr. CURTIS in the chair). Does the Senator from Kentucky yield to the Senator from Georgia?

Mr. STANLEY. I yield.

Mr. WATSON of Georgia. The Senator will probably be interested in knowing the details of two of the other cases in Georgia that happened during the recess.

Mr. STANLEY. I shall be interested.

Mr. WATSON of Georgia. The dry officers in Tennessee——

Mr. STERLING. Mr. President, I am going to invoke the rule of the Senate that when a Senator yields the floor for anything else than a question——

Mr. STANLEY. I yielded for a question.

Mr. STERLING. He yields the floor for good. He can not yield the floor for a speech by another Senator. I observe that the Senator from Kentucky has been yielding the floor for remarks or statements by other Senators instead of for simple questions. I make that point.

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Georgia for a question?

Mr. STANLEY. I yield for a question.

Mr. WATSON of Georgia. I have no question to ask.

Mr. STANLEY. Then I will proceed.

Mr. President, to return to the question. How did Englishmen act when their rights were invaded in the same way, when officers dared to enter the Englishman's home and to search his house or his person or his papers or his effects without a warrant obtained under oath particularly describing the place to be searched and the person or thing to be seized?

This whole question was elaborately reviewed in the case of Entick against Carrington; and 100 years after Lord Camden delivered his famous opinion a justice of the Supreme Court of the United States, Mr. Justice Bradley, with great erudition, reviewing all the decisions, English and American, touching the question during a century of litigation, declared in the case of Boyd against United States, 116 U. S., 616:

> The case, however, which will always be celebrated as being the occasion of Lord Camden's memorable discussion of the subject, was that of Entick *v.* Carrington and three other King's messengers, reported at length in 19 Howell's State Trials, 1029. The action was trespass for entering the plaintiff's dwelling house in November, 1762, and breaking open his desks, boxes, etc., and searching and examining his papers. The jury rendered a special verdict, and the case was twice solemnly argued at the bar. Lord Camden pronounced the judgment of the court in Michaelmas Term, 1765, and the law as expounded by him has been regarded as settled from that time to this, and his great judgment on that occasion is considered one of the landmarks of English liberty. It was welcomed and applauded by the lovers of liberty in the Colonies as well as in the mother country. It is regarded as one of the permanent monuments of the British Constitution, and is quoted as such by the English authorities on that subject down to the present time.

Such was the opinion of the Supreme Court of the United States of that profound pronouncement.

I throw this challenge at the feet of the proponents of this bill, learned lawyers that they are; I defy the Senator from South Dakota [Mr. STERLING], I defy the Senator from Ohio [Mr. WILLIS]; I defy any of the champions of intolerance to point out one single other instance where a justice of the Supreme Court of the United States has ever gone back for 100 years and, laying his hand upon a great pronouncement of a great jurist, has said, "This is the monument and this and this alone settles the law."

Here is a great finding, a landmark that has determined not a mere matter of law but the right of patriots on both sides of the globe, and to-day it stands as immutable as then. Just a few weeks ago the Supreme Court of the United States again made the same solemn finding in the case of Gouled *vs.* The United States, decided February 28, 1921. So the philosopher, the historian, and the patriot well may weigh every word of this immortal utterance of Lord Camden.

Mr. President, let us see in what respect this case in its facts differs and can be differentiated from the present condition. Here were the facts in the case:

> The defendants plead, first, not guilty to the whole declaration, whereupon issue is joined. Secondly, as to the breaking and entering the dwelling house and continuing four hours, and all that time disturbing him in the possession thereof, and breaking open the doors to the rooms, and breaking open the boxes, chests, drawers, etc., of the plaintiff in his house, and the searching and examining all the rooms, etc., in his dwelling house, and all the boxes, etc., so broke open, and reading over, prying into, and examining the private papers, books, etc., of the plaintiff there found, and taking and carrying away the goods and chattels in the declaration first mentioned there found, and also as to taking and carrying away the goods and chattels in the declaration last mentioned, the defendants say, the plaintiff ought not to have his action against them, because, they say, that before the supposed trespass, on the 6th of November, 1762, and before, until, and all the time of the supposed trespass, the Earl of Halifax was, and yet is, one of the lords of the King's Privy Council, and one of his principal secretaries of state, and that the earl before the trespass on the 6th of November, 1762, made his warrant under his hand and seal directed to the defendants, by which the earl did in the King's name authorize and require the defendants, taking a constable to their assistance, to make strict and diligent search for the plaintiff, mentioned in the said warrant to be the author, or one concerned in the writing of several weekly very seditious papers, entitled "The Monitor or British Freeholder, Nos. 357, 358, 360, 373, 376, 378, and 380, London, printed for J. Wilson and J. Fell in Paternoster Row," containing gross and scandalous reflections and invectives upon His Majesty's Government and upon both Houses of Parliament, and him the plaintiff having found to seize and apprehend and bring together with his books and papers in safe custody before the Earl of Halifax to be examined concerning the premises, and further dealt with according to law; in the due execution whereof all mayors, sheriffs, justices of the peace, constables, and all other His Majesty's officers, civil and military, and loving subjects, whom it might concern, were to be aiding and assisting to them the defendants, as there should be occasion.

This officer, thus armed, proceeded to enter the home and to seize the person and papers of Entick. It transpires in this case that these officers had reason to believe that these seditious papers were to be found in the possession of the defendant. An affidavit was actually made in that case. Evidence was heard before they dared to enter the home of this man:

> The voluntary information of J. Scott: In the year 1755 I proposed setting up a paper and mentioned it to Dr. Shebbeare, and in a few days one Arthur Beardmore, an attorney at law, sent for me, hearing of my intention, and desired I would mention it to Dr. Shebbeare that he (Beardmore) and some others of his friends had an intention of setting up a paper in the city. Shebbeare met Beardmore and myself and Entick (the plaintiff) at the Horn Tavern, and agreed upon the setting up the paper by the name of "The Monitor," and that Dr. Shebbeare and Mr. Entick should have £200 a year each. Dr. Shebbeare put into Beardmore's and Entick's hands some papers, but before the papers appeared Beardmore sent them back to me (Scott). Shebbeare insisted on having the proportion of his salary paid him; he had £50, which I (Scott) fetched from Vere and Asgill's by their note, which Beardmore gave him; Dr. Shebbeare upon this was quite left out, and the moneys have been continued to Beardmore and Entick ever since, by subscription, as I supposed, raised I know not by whom; it

has been continued in these hands ever since. Shebbeare, Beardmore, and Entick all told me that the late Alderman Beckford countenanced the paper.

And this was the seditious paper:

They agreed with me that the profits of the paper, paying all charges belonging to it, should be allowed me. In the paper of the 22d May, called Sejanus, I apprehend the character of Sejanus meant Lord Bute; the original manuscript was in the handwriting of David Meredith, Mr. Beardmore's clerk. I before received the manuscript for several years till very lately from the said hands, and do believe that they continue still to write it. Jona. Scott, St. James's, 11th October, 1762.

The above information was given voluntarily before me, and signed in my presence by Jona. Scott.

J. WESTON.

Now, what have you? You have the secretary of state of Great Britain with the sworn statement before him that Entick is guilty of publishing a seditious libel, a felony in Great Britain; and if you will examine the facts in this case you will find that it is argued by the attorneys for the Crown that any talk of the invasion of the liberty of the citizen is absurd. It was nowhere contended in Entick against Carrington that any ordinary sleuth, any policeman picked up on the street, any volunteer, any cross-roads constable armed with nothing but a star and a sufficient amount of gall and unconcern for the Constitution of the United States, could go out on a sort of legislative jamboree and stop any kind of a conveyance in the road or enter any man's premises. That never entered the head of a British tyrant and was never endured by a British slave.

Then Entick's home was entered, let us see. Take a parallel case. Suppose that the Senator from Missouri [Mr. REED] were suspected of owning contraband liquor. No one would suspect him of that.

Mr. REED. No; I am above suspicion.

Mr. STANLEY. Suppose the Senator from South Dakota [Mr. STERLING], or some other of his colleagues, should go before the Secretary of State, Mr. Hughes, and show positive proof, apparently, of the guilt of the Senator from Missouri, and should bring the affidavit of man after man to the effect that they had lived in the house of JAMES A. REED, of Missouri, and had seen him import and imbibe alcoholic liquors, vinous, brewed, and fermented, ad libitum, and that these liquors were brought into the District of Columbia in violation of law; that thereafter the Secretary of State, under the seal of the United States, should issue his warrant authorizing an officer to enter the house of JAMES A. REED, to break open desks and drawers, and to bring his property and his effects into court. There you would have the case of Entick against Carrington. Think how infinitely less of an outrage it was than if some common constable on a sort of smelling expedition, upon the authority, not of a magistrate, but by virtue of his own suspicions, had committed the offense!

I call the attention of the Senate to the fact that even in the days of the star chamber no man ever dreamed of a search warrant not issued by a magistrate, for the reason that a magistrate is supposed to have a discretion not essential to a policeman or a sleuth.

Now, we have an officer armed with a warrant issued by a magistrate describing in a general way the place to be searched and the persons or things to be seized.

The essential defects found in that warrant are both in this bill. In the first place, it was not returnable. In the next place, it did not particularly describe the place to be searched and the persons or things to be seized, but authorized a general inspection of the effects of Entick, and the British Government gave him heavy damages, and then a few years thereafter the English Parliament passed a solemn act forever banning as illegal and indefensible the very thing that you are attempting to do by virtue of this conference report.

Mr. WATSON of Georgia. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Georgia?

Mr. STANLEY. For a question.

Mr. WATSON of Georgia. I should like to ask the Senator from Kentucky, in that very connection, if he does not recall the case of Algernon Sydney, who is regarded as one of the great pioneers of English-American liberties, whose head was struck off on the block because of papers found in his desk, searched without warrant, never circulated, in which papers he had announced some of the very principles which are now embodied in the Bill of Rights of Great Britain and of the States of this Union?

Mr. STANLEY. I concur entirely with the Senator.

I wish, Mr. President, to go into the facts of this case of Entick against Carrington—the law has been discussed here several times—in order that the American people may understand just what the judge passed on.

Now, we have an officer authorized by a magistrate, or in that case by an undersecretary to the Secretary of State, describing in a general way the thing that was sought.

The two essential defects, and the only defects, that were found in that warrant are both in this bill. In the first place, it was not returnable. In the next place, it did not definitely describe the place to be searched and the persons or things to be seized, but they authorized a general inspection of the effects of Entick, and the British Government gave him heavy damages, and then a few years thereafter the English Houses of Parliament passed a solemn act forever banning as illegal and indefensible the very thing that you are attempting to do by virtue of this conference report.

Mr. WATSON of Georgia. Mr. President——

The PRESIDING OFFICER. Does the Senator yield to the Senator from Georgia?

Mr. STANLEY. I yield.

Mr. WATSON of Georgia. Will the Senator not recall in this connection that even an indictment by a grand jury, returned in open court, will not stand if it be shown by competent testimony that the witness upon whose evidence the true bill was found was not sworn upon that very bill? The grand jury itself has no dragnet power, no right to make a dragnet investigation; but the grand inquest of the county must frame its indictment against the particular man for the particular offense, and the witnesses must be sworn upon that or the indictment is quashed upon motion of the defendant's counsel.

Mr. STANLEY. Absolutely.

Mr. REED. Mr. President, since the Senator has been interrupted, I want to ask a question; but I can not ask it so that it will be understood unless I am permitted to say that the Senator said that if the Secretary of State were to issue a command to an officer to do a particular thing, that would be a parallel with the great English case he has cited. But is there not this distinction even then, that the Secretary of State here has no authority to order the issuance of a warrant, whereas in the English case was it not true that the officer who issued the order did have authority to issue warrants of a certain character?

Mr. STANLEY. With the proper affidavit.

Mr. REED. But went beyond it, or had not the proper foundation. Is not that the case?

Mr. STANLEY. That is true. The Secretary of State was not such an officer as had no right to issue such a warrant. That question is also raised here. But the point I make is that the law clothed the Secretary of State with that right.

Mr. REED. If it did?

Mr. STANLEY. The law did; the act gave the Secretary of State the right to issue these warrants.

Mr. REED. In England?

Mr. STANLEY. In England.

Mr. REED. But in our case?

Mr. STANLEY. In our case it must be a magistrate, duly authorized.

Mr. REED. That right is not vested in the Secretary of State, so that the illustration the Senator used is weaker even than the English case?

Mr. STANLEY. Absolutely.

Mr. SHIELDS. The Secretary of State would have to go to a justice of the peace.

Mr. STANLEY. Yes; he would have to go to a justice of the peace. Mr. President, I wish to call attention to another fact in further discussing this case. In arguing it the counsel for the plaintiff and the defendant did exactly what is done here. They made the same arguments as were made by Gridley, and the same old, frayed sophistries of despotism, "necessity." In this case the counsel for Entick thus described this power:

A power to issue such a warrant as this is contrary to the genius of the law of England; and even if they had found what they searched for they could not have justified under it. * * * But if having in one's custody was the crime, no power can lawfully break into a man's house and study to search for evidence against him. This would be worse than the Spanish inquisition; for ransacking a man's secret drawers and boxes, to come at evidence against him, is like racking his body to come at his secret thoughts. * * * This would be monstrous, indeed; and if it were lawful no man could endure to live in this country.

It has been argued in this assembly that this act should be overlooked, that this outrage should be condoned, because other acts of Congress have condoned it. I do not admit that Congress ever did pass such an act as this, and I hope it never will; but if it has no number of unconstitutional acts justify a violation of the Constitution.

You can not pass an unconstitutional law often enough to make it valid, and it transpires that these searches and seizures of which Entick complained, which Wilkes brought to the attention first of the courts, then of the English Parliament, and then of

the world, had repeatedly been made from the days of Charles II until the hearing of the case of Entick against Carrington, and the attorneys and the learned judge united in declaring that no statute, no number of statutes, no tolerance of a lawless and unconstitutional thing would justify that thing. It is not necessary to argue that except in answer to the propaganda of a lobby.

Said the learned counsel in this case:

These warrants are not by custom; they go no further back than 80 years.

For 80 years they had been issuing these illegal warrants when this case was brought to the attention of Lord Camden.

Most amazing it is they have never before this time been opposed or controverted, considering the great men that have presided in the King's bench since that time, but it was reserved for the honor of this court, which has ever been the protector of the liberty and property of the subject, to demolish this monster of oppression and to tear into rags this remnant of star-chamber tyranny.

Mr. President, I will now proceed to the analysis of this remarkable case by the great jurist. He said:

The question that arises upon the special verdict being now dispatched, I come in my last place to the point, which is made by the justification; for the defendants, having failed in the attempt made to protect themselves by the statute of the 24th of Geo. 2, are under a necessity to maintain the legality of the warrants under which they have acted and to show that the Secretary of State in the instance now before us had a jurisdiction to seize the defendants' papers. If he had no such jurisdiction the law is clear, that the officers are as much responsible for the trespass as their superior.

This, though it is not the most difficult, is the most interesting question in the cause; because if this point should be determined in favor of the jurisdiction the secret cabinets and bureaus of every subject in this kingdom will be thrown open to search and inspection of a messenger whenever the Secretary of State shall think fit to charge, or even to suspect, a person to be the author, printer, or publisher of a seditious libel.

* * * * * * *

It is further insisted that this power is essential to government, and the only means of quieting clamors and seditions.

They argued to Camden that it was necessary to permit this abuse because it was the only way to quiet sedition, and now they say, as if that were an argument, that it is the only way to stop liquor. Which imperils the country more—sedition and rebellion or the crossing of the Canadian border by an automobile with a quart of whisky?

I read further from this case:

Before I state the question it will be necessary to describe the power claimed by this warrant in its full extent. If honestly exerted it is a power to seize that man's papers who is charged upon oath to be the author or publisher of a seditious libel; if oppressively, it acts against every man who is so described in the warrant though he be innocent. It is executed against the party before he is heard or even summoned; and the information, as well as the informers, is unknown. * * * If this injury falls upon an innocent person, he is as destitute of remedy as the guilty.

"If this injury falls upon an innocent person, he is as destitute of remedy as the guilty," said Lord Camden in 1765. In 1921, 156 years afterwards, a Senator rises in his place in this body and tells of innocent men, black and white, in their homes and on the highways, not only searched and seized but butchered by the ruthless enforcers of the Volstead Act; and, in the words of Lord Camden, it still is true "the injury falls upon an innocent person, and he is as destitute of remedy as the guilty." Come into a man's house with the right ad libitum to search or into his garage or into his barn. Suppose you find him there, you inquire, "What are you hunting here for?" "None of your business." Did you ever think of that? You are entitled to know the purpose of the man who enters your home with a search warrant. He has no more right to enter your home with that search warrant without notifying you of the thing he desires to take or proposes to take than he has to arrest you without notifying you of the offense you are charged with having committed. There is nothing of that kind provided in this bill. The officer can search anywhere, any place, any time, and take away anything.

After hearing the argument of counsel, first to the effect that the security of the State demands the destruction of the liberties of the citizen, and second that this right was confined to his person or his bedroom, the great lord brushes it all away with an indignant and sweeping description of an Englishman's rights. Said Lord Camden:

The great end for which men entered into society was—

Was what? Did men enter society to be ruled? Were governments created for the people or were the people created for the governments? Do we come at last back to the theory of the fawning sycophants who licked the filthy feet of Roman emperors and medieval kings? Are we to maintain that it is the province of government to mold its plastic and helpless slaves into such form as is desired; that the principal end of man is to be governed?

Mr. WATSON of Georgia. Mr. President——

The PRESIDING OFFICER (Mr. WILLIS in the chair). Does the Senator from Kentucky yield to the Senator from Georgia?

Mr. STANLEY. I yield.

Mr. WATSON of Georgia. Does the Senator from Kentucky know that the dry enforcement officers have construed their powers to mean that they have the right to disturb religious gatherings, camp meetings, and so forth?

Mr. STANLEY. No; I did not know that. I never heard of one of them going about a church.

Mr. WATSON of Georgia. If the Senator will allow me, just before the recess the Methodist church held its annual camp meeting in my home county and my wife attended. I was here in Washington. The dry officers claimed the right without warrant to search automobiles on that camp-meeting ground, and they thereby disturbed religious worship in a place that had been dedicated to that worship for at least 50 years to my own knowledge.

Mr. STANLEY. I can say, in answer to the Senator's question, that that is the only character of outrage of which I have not previously heard.

Mr. WATSON of Georgia. It happened in my county while we were here, just before the recess. They found no whisky, but the outrage was committed and the disturbance occurred. There was not an attendant on the camp-meeting ground, including my own wife, who did not feel outraged at the conduct of the dry enforcement officers.

Mr. STANLEY. Mr. President, this very right to security from unwarranted interference by the Government or anybody else is considered first by the great jurist.

That right is preserved sacred and incommunicable in all instances where it has not been taken away or abridged by some public law for the good of the whole. The cases where this right of property is set aside by positive law are various—

And he describes them. But, said the great lord—

By the laws of England every invasion of private property, be it ever so minute, is a trespass.

Every invasion is a trespass, and yet we are told that every part of a man's property may be divested of the security and the sanctity that it has enjoyed for centuries, that it enjoyed in Camden's time, if, forsooth, not the Constitution but the generous authors of this law throw us a poor sop and say, "No longer is the Englishman's home his castle, no longer is his curtilage immune, but we will agree that the boudoir of his wife shall still be comparatively free from the libidinous leer of one of these sleuths." If he will keep his long, cadaverous nose out of the kitchen sink; if the parlor, bedroom, and bath are preserved, not by any constitutional barrier, but by the grace of whosoever spawned this thing, we should be content.

But that was not the law even before the Constitution of the United States was adopted. This idea that one part of a man's property is more sacred than another is absurd, a thing that never entered the head of any English or American jurist. One part of a man's property may be more private than another. It is his privilege to dedicate one part of his property to one use and another part to another, but the security of his property and the right to defend it is not dependent upon the uses to which he puts it. If that were the case, the security of the property of a citizen would depend not upon the law but the whim of the owner.

I continue reading:

The great end for which men entered into society was to secure their property. That right is preserved sacred and incommunicable in all instances.

What right is sacred and incommunicable? The bedroom, the kitchen, the front porch, the barnyard, or such other premises as are usually more or less private? No.

By the laws of England every invasion of private property, be it ever so minute, is a trespass.

What trespass was Lord Camden talking about? It was the outrage of having a spy come in there without a warrant, the very thing that is involved here.

No man can set his foot upon my ground without my license but he is liable to an action, though the damage be nothing, which is proved by every declaration in trespass where the defendant is called upon to answer for bruising the grass or even treading upon the soil. * * * Where is the written law that gives any magistrate such a power? I can safely answer there is none, and therefore it is too much for us without such authority to pronounce a practice legal which would be subversive of all the comforts of society. * * *

The case of searching for stolen goods crept into the law by imperceptible practice. * * * No less a person than my Lord Coke (4 Inst., 175) denied its legality.

* * * Observe, too, the caution with which the law proceeds in this singular case. * * * There must be a full charge upon oath of a theft committed. The owner must swear that the goods are lodged in such a place. * * * And lastly the owner must abide the event at his peril, for if the goods are not found he is a trespasser. * * *

Lastly, it is urged as an argument of utility that such a search is a means of detecting offenders by discovering evidence. I wish some cases had been shown where the law forceth evidence out of the owner's custody by process. * * * In criminal law such a pro-

ceeding was never heard of, and yet there are some crimes, such, for instance, as murder, rape, robbery, and housebreaking, to say nothing of forgery and perjury, that are more atrocious than libeling.

Now, in this connection I wish to call further attention to a delusion that has entered the minds of a great many Senators and of some of the learned Senators who have discussed this question.

[At this point Mr. REED raised the question of a quorum, and the roll was called.]

Mr. STANLEY. Mr. President, I have discussed at length the wide sphere of the rights of the Englishman under the common law. I have quoted this decision, which the Supreme Court has said is a landmark, to show that every foot is exempt from the clutch or the entrance or the obtruding presence of an officer attempting to search the house or person or papers or effects of a citizen without warrant of law. I have called the attention of the Senate to the fact that the Supreme Court of the United States has declared that this decision and the great cases then pending, commanding the attention of the world, were in the view and in the mind and in the heart and purpose of the framers of the Constitution and of this amendment when the Constitution was adopted and when the amendment was added to the organic law.

Will it be argued that the privileges and immunities of an American citizen are less now than they were then? The fact that you have such a guaranty does not lessen at all your common-law rights; and the statement in the amendment to the Constitution that the people shall be secure—that is a strong, good word—in their persons, houses, papers, and effects against unreasonable searches and seizures, and that no warrant shall issue without probable cause, upon oath or affirmation describing particularly the place to be searched and the persons or things to be seized, is "as broad and general as the casing air," and it is a part of the Constitution of the United States, if that still means anything in the Senate.

What does it mean, Mr. President—"unconstitutional"?

When our blessed Lord was here on earth, when His sinless life had ended in the darkness of the tragedy out yonder on the rugged timbers of a Judean cross upon the black brow of Golgotha, and they sought, those who had followed in His gentle footsteps by the Sea of Galilee, had watched His expiring agonies upon Calvary, and sat with Him when He took the bread and brake it and passed the cup and said unto them, "As often as ye do this think of me, for this is my body and this is my blood," and then the chroniclers sought for the most sacred word in the ancient tongues to describe the most solemn, the most holy thing in all the ceremonies of the ages. What word did they choose? In the midst of universal degradation and despair, in the midst of prostitution and falsehood and slavery, there was to be found in all the Roman Empire no truth or honor left save along its borders, among an uncorrupted soldiery. The only thing that was respected at that hour was the oath of a Roman legionary, standing with one hand upon his heart and the other upon his reeking sword, calling all the gods to witness that he would keep his oath to defend his Emperor and the Empire, and that oath was called the sacramentum—his sacrament. As I see it, my colleagues, the most solemn and awful thing you can do is to stand before that bar, under that flag, in the presence of the greatest deliberative body on earth, and call God to witness that you will preserve and protect and defend the Constitution of the United States. No officer on the land or the sea is permitted to execute the duties intrusted to him until he has taken that solemn oath.

This thing of preserving and protecting and defending a constitution has its roots, has its genesis, in a thousand years of civilization. Chartered rights were precious to us before we had a Constitution.

Mr. President, when the Constitution was adopted it was Hamlet without Hamlet; it was a body without a soul. The great and sacred thing which made Magna Charta and the Petition of Rights of 1625 and the Bill of Rights of 1688 the bulwark of English liberties was lacking, for it was adopted without a bill of rights.

The truth had just as well be known and spoken now.

There is but one reason, and one reason only, why there was no bill of rights in the Constitution of the United States. A motion to incorporate the Bill of Rights was made in the convention, and it failed by a tie vote; and the reason why it failed was that the delegates from slave-owning States declared that the Declaration of Independence had contained the expression that all men are created equal and have certain inalienable rights, among which are life, liberty, and the pursuit of happiness, and that bills of rights usually contained some such declaration, and they said, "If you put that in the Constitution, and you find it in the Declaration of Independence, it will not be long until that sentiment, buttressed by the organic law of the land, will strike the last shackle from the ebon limbs of 8,000,000 human chattels," and so it was beaten.

Mr. President, southern in every fiber, from my boyhood I have abhorred the institution of chattel slavery—the barbarous custom that would impose chains and stripes upon the body of some poor, cowering wretch to make him work to suit you. It is only less abhorrent, it is only less brutal, than that still more savage thing, intolerance—the servitude of the soul—invoking the thumbscrew, the rack, and the boot, the stake, and the jail to make men think and act to suit a self-constituted master. And so to-day I invoke the Bill of Rights, the thing those who exercise any illegal dominion over men, whether it be the power of a tyrant or the ruthless autocracy of a majority, have always hated, the thing that they have ever attempted to dodge or defy or violate, has been a declaration of the clean, specific, unquestioned rights of the individual, the personal liberties of the citizen.

The Constitution as first adopted was hardly more than the plans and specifications of an organized government, for there was nothing sacred about that. It provided for three departments—executive, legislative, and judicial; gave Congress the right to grant letters of marque and reprisal, to coin money and to fix the value thereof, to establish a standard of weights and measures; provided for the qualifications of judges and executives, and so forth. In the meantime, you have changed the method of electing Senators, of levying taxes, you have changed the qualifications of the electorate, you have amended this plan in twenty different ways; but secure, untouched, and undefiled until this hour and this attempt, has stood the Bill of Rights, because the Bill of Rights is the eternal guaranty of "inalienable privileges, inalienable rights," which, said Jefferson, come not from constitutions but are the gift of God, and it is the province of law not to enlarge, not to invent, but to preserve and to protect, that is all; and this is the first time in a hundred and forty years that any man has dared to violate the sanctity of the Bill of Rights of the Constitution of the United States.

Mr. President, I have likened the Constitution to a temple, and it is a temple—a sacred temple, less sacred only than the first temple ever erected to the worship of a Triune God, and like the temple of Solomon it has its holy place, and its holy of holies, and its holiest of holies, the most solemn place within it, the most sacred, the most holy is the Bill of Rights, and there to-day is the Shekinah of liberty's presence, the most precious thing for which heroes ever fought or died in the past, the buckler and the shield of the present, the beacon to nations and to generations yet unborn. The Bill of Rights changes not. Immutable and sacred forevermore it should be, and, as far as this poor voice and influence can avail in private or public life, so help me God, it shall be.

Our fathers understood better than we the necessity for a bill of rights; that is the only constitution Jefferson and Madison and Henry knew anything about. England had an unwritten constitution. The only thing they wrote down was a statement of the personal and property rights of the citizen, and they made the King sign that. They never bothered with the details of government, and when the people found that they had left out the thing for which their fathers and their fathers' fathers had fought for 2,000 years, they would have none of it. The amazement, the horror, the indignation that spread over the Colonies when they found that there was no bill of rights in the Constitution can at this day only be surmised as it is revealed in the glowing annals of Bancroft and other chroniclers of the time.

George Washington, with that force and iron will and patient determination that characterized him, threw himself urgently, persistently, with the mighty weight of his influence—and he was idolized by the people—into this fight for the adoption of a Constitution without a bill of rights. Says Bancroft:

Richard Henry Lee had opposed the adoption of a Constitution without a bill of rights. The efforts of Richard Henry Lee was counteracted in Philadelphia by Wilson—

James Wilson, a member of the Constitutional Convention, whom Washington at that time called "as able, candid, and honest a member as was in the convention."

On the 6th of October, at a great meeting in Philadelphia, he held up the Constitution as the best which the world had yet seen; to the objection derived from its want of the Bill of Rights he explained that the Government of the United States was a limited Government, which had no powers except those which were specifically granted to it. The speech was promptly reprinted in New York as a reply to the insinuations of Lee, and, through the agency of Washington, it was republished in Richmond; but the explanation of a want of a bill of rights satisfied not one State.

With James Wilson in Pennsylvania, Hamilton in New York, and Washington in Virginia, espousing the Constitution, the

Colonies said "No" in thunder tones to any attempt to impose upon them a constitution that did not guarantee in black and white those inestimable privileges which the Senator from South Dakota would now spew from his mouth.

Mr. KING. Will the Senator yield?

Mr. STANLEY. For a question.

Mr. KING. I was just about to suggest that perhaps, in fairness to the position taken by President Washington and those who shared his views, it should be said——

Mr. STERLING. Mr. President, I might suggest that under the rule the Senator can only yield for the asking of a question.

Mr. STANLEY. I understand it is a question the Senator from Utah is asking.

Mr. STERLING. I did not so understand.

Mr. STANLEY. I understand the purpose is not to have speeches made while I am speaking and I am prepared to speak, if the Senator from Utah could ask a question, I should be delighted to answer it.

Mr. STERLING. I do not object to his asking a question.

Mr. STANLEY. I have just started to debate this question.

Mr. KING. If the Senator from South Dakota intends to apply in a technical way the rule, perhaps I should say, in fairness to the Senator from Kentucky, that I was about to suggest something which would modify his statement, and it was really not an interrogatory, so properly I ought not to ask it, because it might lend a reason for technical men to take the Senator from the floor.

Mr. STANLEY. I will say to the Senator from Utah that I am firmly of the opinion that 100 years from now some wise man—if this Government still exists, as I hope it will, in spite of this sort of legislation—will review this scene; and, with a commiserating smile, will record that fanaticism could be so ruthless and so blind and so brutally indifferent not only to the rights of those now living but to the memories of our immortal dead, as to interpose a technical objection to a discussion of the part played by the Father of His Country in the most immortal work even of Washington himself. But not the tomb, or the works of Washington, not the life or the aspirations of Jefferson, not the eloquence or the sacrifices of Henry—they speak in vain.

It was once said to Dives, when he wished to return to earth, that they who set their stubborn necks to do a monstrous thing would not listen though God himself should come or angels speak, and I believe that a ministering angel might to-day enter this Chamber, and we who love liberty might listen to the whir of his mighty wings and the music of his voice, but neither God, nor man, nor angel, nor red-fanged fiend can stop those on their way who have received sealed orders from the Hon. Wayne B. Wheeler.

But to proceed——

[At this point Mr. STANLEY yielded to Mr. LODGE, who moved an executive session, and 15 minutes were spent in executive session.]

Mr. STANLEY. At the time the Senate went into executive session, I was explaining to the Senate the fact that there was originally no Bill of Rights in the Constitution of the United States, due to the opposition of certain Southern States.

At that time Patrick Henry, standing towerlike among his colleagues in the convention of Virginia, thundered his indignation against the adoption of any constitution which eliminated the Bill of Rights. We seem to hear him even now, not less eloquent than when in his youth he refused to choose between the loss of life and liberty. With the same fiery eloquence, with the same dauntless courage, with the same invincible purpose with which he led the colonists to revolt against the tyranny of the British Crown, he rallied them to the support of a deathless instrument that should forever afterwards prevent the establishment of a like tyranny under the Stars and Stripes. In that immortal debate said Patrick Henry:

> The great and direct end of government is liberty. Secure our liberty and privileges, and the end of government is answered. If this be not effectually done, government is an evil.

Again, he declared that if twelve States and a half had adopted it he would with manly firmness and in spite of an erring world, reject it. "You are not to inquire," said he, "how your trade may be increased or how you are to become a great and prosperous people, but how your liberties may be secured."

Thomas Jefferson's puissant pen, his mighty voice, his very heart and soul, were devoted to this fight for the Magna Charta of our liberties:

> A bill of rights is what the people are entitled to against every government on earth, general or particular, and what no just government should refuse or rest on inference.

I thank God that that part of Virginia called Fincastle County stood by Patrick Henry. Without variableness or shadow of turning, without the loss of a man, that land across the smoky tops of the Blue Ridge, the fairest portion of all the great old State, composed, without an exception, of lovers of liberty, stood like a rock for a bill of rights. Fincastle County was afterwards carved into the imperial State of Kentucky, and now, in the Senate of the United States, I take the same stand taken by my forefathers, who, as delegates to that convention, applauded the eloquence and inspired the courage of Patrick Henry, in standing like adamant for the Bill of Rights.

Mr. President, why is it that the Colonies so tenaciously held to a bill of rights? I attribute it to the fact that constitutional government is successful, reaches its ripe and rich fruition, and distributes its inestimable blessings only among Saxon civilizations. Constitutional government has nowhere else ever given that measure of liberty, claimed that unqualified devotion, inspired that zealous care and that almost affectionate and deferential love, and the reason is not far to seek. Constitutional liberty failed in 1848 in Germany because the German was lost in a metaphysical fog; constitutional government failed after the French Revolution because the French revolutionists dealt in generalities.

A similar effort in Italy was followed by a similar result, because of the effort of the States of continental Europe to incorporate into the organic law of the land a thesis upon the subject of liberty. That the Englishman has never done. He has delimited his rights. He has described them as he does his lands, by metes and bounds. He knows the items of which that liberty consists. He knows its length and breadth and thickness, and he has incorporated it into the organic law with the definiteness of a deed.

This matter is discussed at length in an address to the graduating classes of the law school of Yale University on June 26, 1905, by Chief Justice Taft.

> Our Anglo-Saxon ancestors hammered out their civil liberty by securing from their would-be royal oppressors not general declarations of principles of freedom like a French constitution, but distinct and definite promises that certain rules, not of substantive but of adjective law, should obtain. * * * Run through the Magna Charta of 1215, the petition of right of 1625, the Bill of Rights of 1688, the great charters of English liberty, and you find in them an insistence not on general principles but upon procedure.

A definite insistence upon well-defined rights is what the Magna Charta is. It is what the Petition of Rights is. It is what the Bill of Rights is. It is what the Bill of Rights of the Constitution of the United States is. But the Chief Justice is mistaken in an inference, if such an inference is warranted, in the assumption that the Magna Charta of 1215 was the origin of charter rights by the Saxon race. It was but an instance in that eternal insistence of our ancestors, whose passionate love of liberty is older than their faith in God, is older than their civilization.

Mr. WATSON of Georgia. It was a reassertion.

Mr. STANLEY. A reassertion.

Green, in his History of England, recites exquisitely this story. Speaking of the great charter of English liberties, he says:

> One copy of it still remains in the British Museum, injured by age and fire, but with the royal seal still hanging from the brown, shriveled parchment. It is impossible to gaze without reverence on the earliest monument of English freedom which we can see with our own eyes and touch with our own hands, the great charter to which from age to age patriots have looked back as the basis of English liberty.

O Mr. President, the indifference of Senators in this Chamber is to me a scene sad enough to make the angels weep, if beatific spirits notice aught of the wickedness, the folly, or the fanaticism of these poor creatures here below. While Englishmen, like Green, approach a charter 800 years old with bowed heads and tearful eyes to gaze upon its fading parchment and its broken seal and think of the deathless dead who have preserved it, we meet here in unconcern or in cavalier contempt to tear and rend a sacred instrument more precious to the hopes of all mankind than a million magna chartae.

The great Senator from Missouri [Mr. REED] has said that I have not indulged in a filibuster, and truly has he said. I look back over the life that is behind me, over the days that are gone, and from the sunlit scenes of my childhood until this meridian hour there was never a time, as I believe there never will come a time again, until I fold my tired hands in deathless and eternal sleep, when so much will depend upon the issue of the hour as forebodes now, while we discuss for the first time whether or not we will tear and rend and spit upon and despise the most sacred part of the Constitution of my country.

But the Magna Charta was not the origin of Englishmen's rights. It had its birth in no parchment wrung from the reluctant hand of a king. It came to them as life came to them. It came to them back in the dim ages, centuries before, when, unrestrained, they established their exquisite though savage

civilization in the wilds of Saxony and Schleswig and Friesland and along the frozen shores of the North Sea. Says Green:

But in itself the charter was no novelty, nor did it claim to establish any new constitutional principles.

Mr. President, there is nothing in all the history of Saxon civilization, in all the annals of freedom, that to my mind is more inspiring or more instructive than to watch the course of this vigilant, patient, ceaseless fight of the Saxon for his personal rights and his personal liberty. When it was endangered by armies with banners he defended it with dauntless bravery, and when the fortunes of war made him a serf he clung to it as more precious than life or property in the midst of humiliation, of servitude, and of chains. The Englishman enjoyed these rights before the prows of his frail ships had crossed the channel and before the Saxon had driven the Celt from the scene.

These rights were enjoyed, Mr. President, before the green vales of old England attracted the avarice or the aspirations of our Saxon conquerors. In his native wilds—

The basis of their society was the free man—

That is, the Saxon—

He alone was known as "the man," or "the churl"; and two phrases set his freedom vividly before us. He was "the free-necked man," whose long hair floated over a neck that had never bent to a lord.

"They live apart"—

Says Green, quoting Tacitus—

And as each dweller within the settlement was jealous of his own isolation and independence among his fellow settlers, so each settlement was jealous of its independence among its fellow settlements.

Tacitus, the most astute critic of ancient times, has described the isolation of the Saxon's hut. Gibbon attributes the purity of the Saxon home to its isolation. Before he ever landed upon British soil, this thing that is demanded by the Senator from South Dakota [Mr. STERLING] would have been an outrage, and would have been resented by our barbarous forbears when they wore the hides of wild beasts and drank blood from a skull.

War was no sooner over—

Says the great historian—

than the warrior settled down into a farmer, and the home of the peasant churl rose beside the heap of goblin-haunted stones that marked the site of the villa he had burnt. Little knots of kinsfolk grew together in "tun" and "ham" beside the Thames and the Trent as they had settled beside the Elbe or the Weser, not as kinsfolk only, but as dwellers in the same plot, knit together by their common holdings within the common bounds. Each little village-commonwealth lived the same life in Britain as its farmers had lived at home. Each had its own moot-hill or sacred tree as a center, its "mark" as a border; each judged by witness of the kinsfolk and made laws in the assembly of its freemen, and chose the leaders for its own governance, and the men who were to follow headman or ealdorman to hundred court or war.

That was the civilization that was overthrown, those were the rights that were invaded by William the Conqueror. It is a fact overlooked by the historian, Mr. President, that these rights—the right of the person of the Saxon to be free from search or seizure, yea, from the touch of an officer—were absolutely sacred for a thousand years before Magna Charta was ever dreamed of. The mark, the boundary, separated his little villages, and he who attempted to enter a Saxon home or a Saxon village without giving the alarm met certain death a thousand years before Magna Charta was ever signed, a thousand years before and more, in the days of Tacitus and of Cæsar; and so, when these institutions crossed the channel, no Saxon ever dreamed that it was necessary to have some king's pledge not to protect the sanctity of his property or of his person from any slinking sleuth, until a conquering army landed at Hastings, deprived him of his lands, made him a serf, and imposed not the monstrous abuses that are now proposed, but the loss of those liberties that he had enjoyed since the twilight of time.

Thirty years after the Norman conquest Henry Beauclerc usurped the rights of his brother, Robert the Crusader; and it will be remembered that at the very time the first Henry attempted to filch the royal treasury and the crown, Robert was leading the Crusaders over the ramparts of Jerusalem; and it was his standard that attracted the admiration of the Christian world, till from Rome to London it sang the praises of this generous and dauntless prince.

Yet this promise to restore rights enjoyed prior to the Norman conquest induced his people to atone for the wrongs done his brother and to yield to a usurping prince, because he placed in every convent in Great Britain a royal charter, a written promise, to observe certain rights, the most sacred of which the Senator from South Dakota now proposes to violate.

After the lapse of a century, John overthrown, suppliant and helpless before his all-conquering barons, made the charter of Henry Beauclerc the model of Magna Charta. The essential difference between Magna Charta and the Charter of Henry I is not in its contents but is the method of enforcing it. Before, they took the word of a king; now they made him put his throne and his kingdom in pawn that he would keep it; that he would restore to them the liberties they enjoyed yonder by the North Sea, where in the frozen wilds they gathered about their mud huts in their little local communities the first local self-governments ever known, and chose their leaders, whom they followed "to hundred court and war."

From that time on, with changeless insistence, with invincible purpose, with the patience of destiny, our Anglo-Saxon forebears have watched and waited like a sleepless hawk to play upon the weakness of the timid, the avarice of the necessitous, and the high aspirations of conquering kings, to secure a renewal again and again of these same specific rights that the Senator from South Dakota would spurn under his disdaining feet, or spew contemptuously from a mouth that has forgotten how to say, "I call God to witness that I will preserve, protect, and defend the Constitution of my country."

Bye and bye the great Justinian of English monarchs ruled with wisdom and with firmness. A conqueror to the north, to the south, to the east, and to the west of him, with one mailed hand he suppressed the highlanders of Scotland, and with the other he bowed the pride of the nobility of France, and when he returned to old England they made him bend, as John had bent his haughty neck, and call his God to witness his acknowledged perfidy to his people, and swear by his crown and his hope of heaven that he would never invade rights the Senator from South Dakota and his colleagues enjoy despoiling now.

A little while longer, and the sun dawned upon the brightest and the mightiest day that even old England ever knew, and the people gathered to greet the victor of Creey and Poictiers. Like a Roman conqueror did he return, with a king at his chariot wheels.

Yet when he returned with his flaunting triplumed crest, when he returned with a captive king and all France at his feet, when all was done they said to the third Edward, "Come and swear. Forget your glories and your power and swear that you will forever preserve and protect and defend our solemn and sacred rights.

I recall the story of the Black Prince, an exquisite tale I shall never tire of telling. In the battle of Crecy the old blind King of Bohemia, finding that all was lost, had one rein fastened to the bridle of a courier upon his right and another upon his left, and, guided only by the sound of battle, by the groans of the wounded and the dying, he rushed into the thickest of the fight, and when the day was done and the prowess of your fathers and mine was forever established on the Continent of Europe and battle flags were hung in great abbeys that shall inspire us as long as we love liberty or valor or chivalric disdain of death—when that day was done, and the pale moon looked down upon the mangled slain, out there in its misty light stood three riderless horses and at their feet three dead horsemen, and the King, looking upon the glazed eyes of the poor, blind, butchered King of Bohemia, lifted his blood bedabbled triune crest, upon which was inscribed the immortal motto, "Ich dien" (I serve), and, raising it high above all the battered shields, all the flaunting banners of a thousand years of victory, he made it the insignia of the Prince of Wales, and to-day it is the crest of the first born of all English Kings—"Ich dien, I serve."

Ah, how beautiful the thought. It is almost as sacred and almost as sweet, a great king serving, as that other scene of a greater King, His loins bound about with a towel, wiping the feet of His disciples and speaking words that touched the hearts of His disciples then, and will be a balm to the humble Christians until we are all gathered to our eternal rest—"I serve."

What did he serve? What was it that the prince was pledged to serve? His countrymen, to serve in the protection of their liberties. Yet when he returned with his flaunting triplumed crest, when he returned with a captive king and all France at his feet, when all was done they said to the third Edward, "Come and swear. Forget your glories and your power and swear that you will forever preserve and protect and defend the solemn and sacred rights that are now invaded after the lapse of centuries."

To kings who protected homes from searches and seizure, to kings who respected constitutional rights, Englishmen opened their hoard and filled their royal treasuries with gleaming gold. To kings who conceded—and 30 times they did concede—the confirmation of charters, they filled their columns with dauntless soldiers, who died upon a thousand gory and immortal fields, giving their lives for the king who swore he would not do the things the Senator from South Dakota and his confrères are doing now.

Kings wicked or foolish enough to invade the constitutional rights of their subjects instantly provoked their righteous wrath

and their irresistible rebellion. For wrongs less than those which reek and fester within this measure a Stuart was sent to a scaffold at White Hall. For wrongs less than those committed to-day upon every highway in this land, and against the sanctity of every home in America, with a whip of scorpions they drove a second James from kingdom and from crown, and from that day till this neither cupidity nor ambition nor strength nor weakness nor any other thing has ever induced a British king to invade the constitutional rights of his subjects.

Mr. President, that is the history, that is the secret of the almost worshipful reverence of our fathers for charter rights, set down by metes and bounds, and for their defense, a specific inhibition. "Thou shalt not"; and there is no "Thou shalt not" as emphatic, as categorical, as "Thou shalt not enter the home of a free man without the warrant of law."

Mr. President, is this an invasion? Have I simply indulged in idle rhetoric here? Does the proposed bill violate the solemn and sacred rights contained in the fourth amendment to the Constitution of the United States? That should be the only question. If that question can be answered "nay," you have your defense. If it is answered "yea," you are indefensible. You may escape to-day, you may do this abominable thing and receive the unclean, perfunctory applause of an organized lobby, but the future historian will not defend—he will apologize for your conduct.

Is it an invasion of a solemn right? Why, Mr. President, some of them say no in a faint, half-hearted sort of a way, but let us see. What does the Constitution provide:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated—

But it did not stop right there—

> And no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

Why, they say, there are two kinds of searches and seizures, reasonable and unreasonable. If you can make reasonable searches and seizures without a warrant, there is only one other kind left to make with a warrant, and that is unreasonable searches and seizures.

But until this good hour no police, no sleuth, was ever permitted to search and seize for the stolen goods of a thief, for the papers of a traitor, for the arms of an assassin without a warrant. A magistrate must authorize it always. The officer must go to the magistrate and give his reasons, and they must be good reasons and made in good faith. If he obtains it by fraud or without probable cause, the officer making the false statement is liable and, said Judge Mulqueen, the magistrate issuing the warrant is liable. Imagine an officer coming before a magistrate to procure a warrant for the only kind of a search which requires a warrant, according to the Senator from South Dakota, viz, an unreasonable search, and giving his reasons under oath for doing an unreasonable thing.

Mr. REED. Mr. President——

The PRESIDING OFFICER (Mr. SUTHERLAND in the chair). Does the Senator from Kentucky yield to the Senator from Missouri?

Mr. STANLEY. I yield for a question.

Mr. REED. I take it the Senator is speaking in irony in his last remarks. Of course, the first part of the clause, the right of the people to be secure in their persons, houses, papers, and effects, as against unreasonable searches and seizures, is an absolute guaranty that they never shall be searched unreasonably.

Mr. STANLEY. Under any circumstances.

Mr. REED. Under any circumstances. Then follows the clause that in addition to the reasonableness of the search and as preliminary to it, and as a safeguard to show that it is reasonable, they are required to appear before a magistrate and to show under oath the cause for the search and particularly describe the person, the place, and the thing. I take it the Senator and I do not disagree upon that. There must be the reasonable cause and that reasonable cause must then be followed by the warrant of the court under the penalties of the law.

Mr. STANLEY. I was speaking of the absurdity of the position taken by the Senator from South Dakota.

Mr. REED. I thought the Senator meant so.

Mr. STANLEY. I am describing now a warrant obtained by the Senator from South Dakota under the proposed law. Reasonable searches and seizures can be made, says he, without a warrant; only unreasonable searches and seizures require a warrant.

To get a warrant for an unreasonable search and seizure he must go before a magistrate and say, "I want a warrant to enter the home of Senator REED. I want to make an unreasonable search of his house, and I am going to give a reason for doing it." It is an absurdity on its face. If he did give a reason for doing an admittedly unreasonable thing to get his warrant, he could not enter a house with it, because unreasonable searches and seizures are forbidden by the fourth amendment, whether with or without a warrant.

What is the common sense of the provision? It is as plain as the nose on a man's face, and that nose a Roman nose. The right of the people to be secure in their persons, houses, papers, and effects against all unreasonable searches is guaranteed. That leaves only reasonable searches to be made.

How simple and reasonable it is. You can not go into a citizen's house without a good reason. Then you must give the reason. Then, to insure that you will tell the truth and assume the responsibility for lying, you must swear to it.

Now, you have sworn to your reason for believing that Senator REED has contraband property in his home, but that is not enough. You must not make a general accusation. If it is whisky you must say it is whisky. If it is stolen property you must say whether it is money, a mule, or a shotgun. You must describe the property, and the place, and you must say where it is, whether it is in a house or in a field or barn.

Mr. REED. Does not the Senator also think, whether under warrant or not, it is not a reasonable search unless it is such a search in principle as was warranted under the common law of England at the time we adopted the Constitution and that we adopted those limitations with the Constitution?

Mr. STANLEY. I thank the Senator for the suggestion. My contention is that the Bill of Rights confirms, but never limits or lessens or detracts from the rights under the common law enjoyed by the citizen before the adoption of the Constitution of the United States.

[At this point Mr. REED raised the question of a quorum, and the roll was called.]

Mr. REED. I move that the Senate adjourn.

The PRESIDING OFFICER. The question is on the motion of the Senator from Missouri.

Mr. STERLING. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Assistant Secretary proceeded to call the roll.

Mr. HARRIS (when his name was called). I transfer my pair with the junior Senator from New York [Mr. CALDER] to the senior Senator from Texas [Mr. CULBERSON] and vote "nay."

Mr. LODGE (when his name was called). I have a general pair with the Senator from Alabama [Mr. UNDERWOOD]. As I do not see the Senator from Alabama in the Chamber, I transfer that pair to the junior Senator from Delaware [Mr. DU PONT] and vote "nay."

Mr. STERLING (when his name was called). I transfer my pair with the Senator from South Carolina [Mr. SMITH] to the Senator from Oregon [Mr. MCNARY] and will vote. I vote "nay."

The PRESIDING OFFICER (when Mr. SUTHERLAND'S name was called). The present occupant of the chair transfers his pair with the senior Senator from Arkansas [Mr. ROBINSON] to the junior Senator from Oregon [Mr. STANFIELD] and votes "nay."

Mr. SWANSON (when his name was called). I have a pair with the senior Senator from Washington [Mr. JONES], who is unavoidably absent from the Senate. I am satisfied that if he were present the Senator from Washington would vote as I am about to vote. Consequently I feel at liberty to vote and vote "nay."

The roll call was concluded.

Mr. FRELINGHUYSEN. I transfer my general pair with the junior Senator from Montana [Mr. WALSH] to the senior Senator from New York [Mr. WADSWORTH] and vote "nay."

Mr. KELLOGG (after having voted in the negative). I transfer my pair with the senior Senator from North Carolina [Mr. SIMMONS] to the junior Senator from South Dakota [Mr. NORBECK] and allow my vote to stand.

Mr. OVERMAN (after having voted in the affirmative). I have a general pair with the senior Senator from Wyoming [Mr. WARREN]. He being absent, I withdraw my vote.

Mr. DIAL (after having voted in the negative). I transfer my pair with the Senator from Colorado [Mr. PHIPPS] to the Senator from Nevada [Mr. PITTMAN] and allow my vote to stand.

Mr. CURTIS. I have been requested to announce the following pairs:

The Senator from Delaware [Mr. BALL] with the Senator from Florida [Mr. FLETCHER];

The Senator from New Mexico [Mr. BURSUM] with the Senator from Louisiana [Mr. RANSDELL];

The Senator from West Virginia [Mr. ELKINS] with the Senator from Mississippi [Mr. HARRISON];

The Senator from Illinois [Mr. McCORMICK] with the Senator from Wyoming [Mr. KENDRICK];

The Senator from New Hampshire [Mr. MOSES] with the Senator from Louisiana [Mr. BROUSSARD];

The Senator from Vermont [Mr. DILLINGHAM] with the Senator from Virginia [Mr. GLASS];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN];

The Senator from Maine [Mr. FERNALD] with the Senator from New Mexico [Mr. JONES];

The Senator from North Dakota [Mr. McCUMBER] with the Senator from Utah [Mr. KING]; and

The Senator from Pennsylvania [Mr. PENROSE] with the Senator from Mississippi [Mr. WILLIAMS].

The call of the roll resulted—yeas 4, nays 28, as follows:

YEAS—4.

Reed	Shields	Stanley	Watson, Ga.

NAYS—28.

Ashurst	Hale	McKinley	Sterling
Capper	Harris	Myers	Sutherland
Caraway	Kellogg	Nelson	Swanson
Curtis	Kenyon	Nicholson	Townsend
Dial	Ladd	Oddie	Trammell
Ernst	Lodge	Sheppard	Watson, Ind.
Frelinghuysen	McKellar	Spencer	Willis

NOT VOTING—64.

Ball	France	Lenroot	Poindexter
Borah	Gerry	McCormick	Pomerene
Brandegee	Glass	McCumber	Ransdell
Broussard	Gooding	McLean	Robinson
Bursum	Harreld	McNary	Shortridge
Calder	Harrison	Moses	Simmons
Cameron	Heflin	New	Smith
Colt	Hitchcock	Newberry	Smoot
Culberson	Johnson	Norbeck	Stanfield
Cummins	Jones, N. Mex.	Norris	Underwood
Dillingham	Jones, Wash.	Overman	Wadsworth
du Pont	Kendrick	Owen	Walsh, Mass.
Edge	Keyes	Page	Walsh, Mont.
Elkins	King	Penrose	Warren
Fernald	Knox	Phipps	Weller
Fletcher	La Follette	Pittman	Williams

The PRESIDING OFFICER. On this motion the yeas are 4 and the nays are 28. The Senate therefore refuses to adjourn. The absence of a quorum being disclosed, the Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Ashurst	Harris	Nelson	Sutherland
Capper	Kellogg	Nicholson	Swanson
Caraway	Kenyon	Oddie	Townsend
Curtis	Ladd	Sheppard	Trammell
Dial	Lodge	Shields	Watson, Ga.
Ernst	McKellar	Spencer	Watson, Ind.
Frelinghuysen	McKinley	Stanley	Willis
Hale	Myers	Sterling	

The PRESIDING OFFICER. Thirty-one Senators have answered to their names. A quorum is not present. The Secretary will call the roll of absentees.

The Assistant Secretary called the names of the absent Senators.

The PRESIDING OFFICER. Thirty-one Senators have answered to their names. A quorum is not present.

Mr. STERLING. I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will request the attendance of absent Senators.

Mr. FLETCHER entered the Chamber and answered to his name.

After some delay, Mr. OVERMAN, Mr. HEFLIN, Mr. GOODING, Mr. CAMERON, and Mr. LENROOT entered the Chamber and answered to their names.

After further delay, Mr. GLASS entered the Chamber and answered to his name.

Mr. STERLING. Mr. President, it seems practically impossible to secure a quorum to-night. The Sergeant at Arms has been endeavoring to get a quorum; but, from the latest report from him, I judge that it will be impossible to obtain a quorum this evening. I therefore move that the Senate adjourn.

The motion was agreed to; and (at 7 o'clock and 25 minutes p. m.) the Senate adjourned until to-morrow, Saturday, September 24, 1921, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate September 23, 1921.

COLLECTOR OF INTERNAL REVENUE.

Clyde G. Huntley, of Oregon City, Oreg., to be collector of internal revenue for the district of Oregon, in place of Milton A. Miller.

COLLECTOR OF CUSTOMS.

George U. Piper, of Portland, Oreg., to be collector of customs for customs collection district No. 29, with headquarters at Portland, Oreg., in place of Will Moore.

APPRAISER OF MERCHANDISE.

Edward N. Wheeler, of Portland, Oreg., to be appraiser of merchandise in customs collection district No. 29, with headquarters at Portland, Oreg., in place of George E. Welter.

UNITED STATES MARSHALS.

Fred R. Fitzpatrick, of Kansas, to be United States marshal, district of Kansas, vice Otho T. Wood, resigned.

William C. Hecht, of New York, to be United States marshal, southern district of New York, vice Thomas D. McCarthy, resigned, effective November 1, 1921.

COMMISSIONER OF NAVIGATION.

David B. Carson, of Tennessee, to be commissioner of navigation in the Department of Commerce, vice Eugene T. Chamberlain, resigned.

RECEIVER OF PUBLIC MONEYS.

Ray L. Bronson, of Bellefourche, S. Dak., to be receiver of public moneys at Bellefourche, S. Dak., vice Kirk E. Baxter, term expired.

REGISTER OF THE LAND OFFICE.

John Widlon, of Viborg, S. Dak., to be register of the land office at Gregory, S. Dak., vice Edwin M. Starcher, term expired.

PROMOTIONS IN THE REGULAR ARMY.

To be colonel with rank from September 10, 1921.

Lieut. Col. Francis Neal Cooke, Coast Artillery Corps.

To be lieutenant colonel with rank from July 1, 1920.

Maj. Albert Brevard Sloan, Infantry. (Nominated Feb. 4, 1921, and confirmed Mar. 2, 1921, under the name of Albert Brown Sloan.)

To be captain with rank from July 1, 1920.

First Lieut. Robert Wilbar Wilson, Field Artillery. (Nominated Mar. 11, 1921, and confirmed Mar. 14, 1921, under the name of Robert Whipple Wilson.)

MEDICAL CORPS.

To be captains.

First Lieut. Robert Effinger Cumming, Medical Corps, from August 26, 1921.

First Lieut. Francis William Custites, Medical Corps, from August 31, 1921.

First Lieut. William Shell Crawford, Medical Corps, from August 31, 1921.

First Lieut. William Samuel Prout, Medical Corps, from September 1, 1921.

First Lieut. Walter Fleming Hamilton, Medical Corps, from September 3, 1921.

First Lieut. Elgen Clayton Pratt, Medical Corps, from September 4, 1921.

First Lieut. Frank Tenney Chamberlin, jr., Medical Corps, from September 6, 1921.

First Lieut. Harry Ripley Melton, Medical Corps, from September 8, 1921.

First Lieut. James Martin Miller, Medical Corps, from September 9, 1921.

DENTAL CORPS.

To be captain.

First Lieut. Clarence Walter Johnson, Dental Corps, from August 7, 1921.

VETERINARY CORPS.

To be first lieutenant.

Second Lieut. James Earl Noonan, Veterinary Corps, from August 6, 1921.

NOTE.—Capt. Johnson was nominated August 23, 1921, and confirmed August 24, 1921, with rank from August 17, 1921; Lieut. Noonan was nominated August 17, 1921, and confirmed August 20, 1921, with rank from August 7, 1921. This message is submitted for the purpose of correcting the errors in the dates of rank of nominees.

DENTAL CORPS.

To be captains.

First Lieut. Egbert Wesley von Dolden Cowan, Dental Corps, from September 3, 1921.

First Lieut. Frank William Small, Dental Corps, from September 5, 1921.

First Lieut. Arthur Edmon Brown, Dental Corps, from September 8, 1921.

First Lieut. Lemuel Paul Woolston, Dental Corps, from September 14, 1921.

First Lieut. Robert Clyde Craven, Dental Corps, from September 18, 1921.
First Lieut. Melville Alexander Sanderson, Dental Corps, from September 19, 1921.
First Lieut. Rollo Lown, Dental Corps, from September 19, 1921.

CHAPLAINS.

To be chaplains with the rank of major.

Chaplain Walter Kenyon Lloyd, from August 31, 1921.
Chaplain John Franklin Chenoweth, from September 12, 1921.

REAPPOINTMENTS IN THE REGULAR ARMY.

ORDNANCE DEPARTMENT.

To be major with rank from September 16, 1921.

Richard Herbert Somers, late major, Coast Artillery Corps, Regular Army.

FIELD ARTILLERY.

To be major with rank from August 23, 1921.

Maj. Claude Killian Rhinehardt, retired.

To be first lieutenants with rank from September 16, 1921.

William Hugh Burns, late first lieutenant, Field Artillery, Regular Army.
Robert Milton Eichelsdoerfer, late first lieutenant, Cavalry, Regular Army.
Edward Taylor Kirkendall, late second lieutenant, Field Artillery, Regular Army.
Winston Reese Withers, late second lieutenant, Cavalry, Regular Army.

COAST ARTILLERY CORPS.

To be first lieutenant with rank from September 16, 1921.

Otto Max Jank, late first lieutenant, Coast Artillery Corps, Regular Army.

INFANTRY.

To be first lieutenants with rank from September 16, 1921.

Charles Speir Lawrence, late first lieutenant, Cavalry, Regular Army.
William Cadwalader Price, jr., late first lieutenant, Infantry, Regular Army.

AIR SERVICE.

To be major with rank from September 16, 1921.

Walter Woolf Wynne, late captain, Cavalry, Regular Army.

APPOINTMENTS, BY TRANSFER, IN THE REGULAR ARMY.

FIELD ARTILLERY.

Capt. Leo Vincent Warner, Infantry, with rank from November 6, 1920. (Nominated Aug. 19, 1921, and confirmed Aug. 24, 1921, with rank from Nov. 2, 1920.)

ORDNANCE DEPARTMENT.

Maj. DeWitt Clinton Tucker Grubbs, Infantry, with rank from July 1, 1920.
Capt. Harry Lee Campbell, Coast Artillery Corps, with rank from July 1, 1920.
First Lieut. Richard Cox Coupland, Coast Artillery Corps, with rank from July 17, 1919.
First Lieut. Richard Zeigler Crane, Infantry, with rank from August 9, 1919.

CHEMICAL WARFARE SERVICE.

Maj. George Matthew Halloran, Infantry, with rank from July 1, 1920.

FIELD ARTILLERY.

Capt. Earl Elliott Major, Infantry, with rank from July 1, 1920.
Capt. Wilson Stuart Zimmerman, Infantry, with rank from July 1, 1920.
First Lieut. Lowell Whittier Bassett, Air Service, with rank from July 1, 1920.

COAST ARTILLERY CORPS.

Capt. Sidney Forrester Mashbir, Infantry, with rank from November 6, 1917.

INFANTRY.

Maj. Elbe Allen Lathrop, Air Service, with rank from July 1, 1920.
Capt. Samuel Charles Harrison, Cavalry, with rank from July 1, 1920.

AIR SERVICE.

Maj. Roy Stuart Brown, Cavalry, with rank from July 1, 1920.
First Lieut. Walter Albert Ball, Infantry, with rank from July 1, 1920.

POSTMASTERS.

ALABAMA.

Bessie L. Crim to be postmaster at Siluria, Ala. Office became presidential April 1, 1921.

ARIZONA.

Harry E. Jenkins to be postmaster at Cooley, Ariz. Office became presidential January 1, 1921.
David H. Weech to be postmaster at Pima, Ariz. Office became presidential October 1, 1920.
Orvil L. Larson to be postmaster at Thatcher, Ariz. Office became presidential October 1, 1920.
Lee L. Scott to be postmaster at Ajo, Ariz., in place of L. L. Scott. Incumbent's commission expired January 18, 1921.
Ella G. Clarke to be postmaster at Florence, Ariz., in place of G. W. Sigler, resigned.
Frank O. Polson to be postmaster at Williams, Ariz., in place of L. S. Williams, removed.

ARKANSAS.

Mary Brown to be postmaster at Alpena Pass, Ark. Office became presidential April 1, 1921.
Ira R. Silvey to be postmaster at Cove, Ark. Office became presidential January 1, 1921.
Thomas W. Goodson to be postmaster at Fouke, Ark. Office became presidential April 1, 1921.
George H. Mills to be postmaster at Garfield, Ark. Office became presidential April 1, 1921.
Robert R. Wright to be postmaster at Garland, Ark. Office became presidential January 1, 1921.
William M. Goucher to be postmaster at Huntsville, Ark. Office became presidential April 1, 1921.
Ernest R. Clark to be postmaster at Knobel, Ark. Office became presidential April 1, 1921.
James L. Willson to be postmaster at Moro, Ark. Office became presidential April 1, 1921.
Wiley C. King to be postmaster at Salem, Ark. Office became presidential January 1, 1921.
Maud Jackson to be postmaster at Sherrill, Ark. Office became presidential January 1, 1921.
William R. Blakely to be postmaster at Sparkman, Ark. Office became presidential January 1, 1921.
Robert E. Jeter to be postmaster at Wabbaseka, Ark. Office became presidential January 1, 1921.
William T. McKinnon to be postmaster at Wesson, Ark. Office became presidential October 1, 1920.
John M. Harrell to be postmaster at Williford, Ark. Office became presidential April 1, 1921.
Adine Counevey to be postmaster at Bauxite, Ark., in place of G. C. Raper, resigned.
Addison M. Hall to be postmaster at Marmaduke, Ark., in place of E. J. Cook. Incumbent's commission expired June 29, 1920.
Ed C. Sample to be postmaster at West Fork, Ark. Office became presidential April 1, 1921.
Louella Boswell to be postmaster at Almyra, Ark., in place of Louella Wheeler; name changed by marriage.
Ray W. Walker to be postmaster at Gillett, Ark., in place of A. L. France. Incumbent's commission expired January 12, 1921.
John W. Bell to be postmaster at Greenwood, Ark., in place of A. J. Stewart. Incumbent's commission expired January 31, 1921.
John L. Collett to be postmaster at Huttig, Ark., in place of C. A. Perry, resigned.
Willard L. Brennan to be postmaster at Parkin, Ark., in place of I. N. Deadrick, resigned.
Florence F. McKinzie to be postmaster at Wilson, Ark., in place of F. F. McKinzie. Incumbent's commission expired January 12, 1921.
Howell A. Burnes to be postmaster at Yellville, Ark., in place of J. C. Perkins. Incumbent's commission expired April 19, 1921.

CALIFORNIA.

George C. Coggin to be postmaster at Armona, Calif., in place of G. C. Coggin. Incumbent's commission expired March 16, 1921.
William E. Mack to be postmaster at Banning, Calif., in place of C. L. Gassaway, resigned.
Harry A. Hall to be postmaster at Bigpine, Calif., in place of H. A. Hall. Incumbent's commission expired March 16, 1921.
William M. Smith to be postmaster at Brea, Calif., in place of A. U. McVeigh, resigned.

Grace M. Leuschen to be postmaster at Highland, Calif., in place of N. E. Boyd. Incumbent's commission expired December 20, 1920.

John W. Platt to be postmaster at Manteca, Calif., in place of Anna Dryden, resigned.

Charles E. Wells to be postmaster at Maxwell, Calif., in place of S. E. Crutcher, resigned.

Clara C. King to be postmaster at Ojai, Calif., in place of G. W. Mallory. Incumbent's commission expired April 16, 1921.

Edna B. Hudson to be postmaster at Perris, Calif., in place of W. G. Stewart, resigned.

Annie M. Lepley to be postmaster at Plymouth, Calif., in place of A. M. Lepley. Incumbent's commission expired March 16, 1921.

Wat Tyler to be postmaster at Puente, Calif., in place of Solomon Geer. Incumbent's commission expired March 16, 1921.

Frederick C. Huntemann to be postmaster at Ripon, Calif., in place of Audley McCausland, resigned.

Ella S. Stroup to be postmaster at San Andreas, Calif., in place of G. H. Treat. Incumbent's commission expired March 16, 1921.

Ollos D. Way to be postmaster at San Dimas, Calif., in place of Floyd Godfrey, resigned.

Alice M. Burris to be postmaster at Baldwin Park, Calif. Office became presidential July 1, 1920.

Jackson James to be postmaster at Butte City, Calif. Office became presidential October 1, 1920.

Charles B. Scheffer to be postmaster at Downieville, Calif. Office became presidential January 1, 1921.

George H. Burk to be postmaster at Elk, Calif. Office became presidential January 1, 1921.

Bessie L. Rogers to be postmaster at Esparto, Calif. Office became presidential January 1, 1920.

Lewis A. Barnum to be postmaster at Heber, Calif. Office became presidential January 1, 1921.

Edna F. Grant to be postmaster at Hopland, Calif. Office became presidential July 1, 1920.

William R. Darling to be postmaster at Lakeside, Calif. Office became presidential January 1, 1921.

Neal B. Vickrey to be postmaster at Mount Lowe, Calif. Office became presidential January 1, 1921.

Lawrance S. Wilkinson to be postmaster at Newport Beach, Calif. Office became presidential October 1, 1920.

Georgia Regester to be postmaster at Oakley, Calif. Office became presidential January 1, 1921.

Spencer Briggs to be postmaster at Oleum, Calif. Office became presidential January 1, 1921.

Stanton K. Helsley to be postmaster at Ceres, Calif., in place of M. M. Crawford, resigned.

Zoe B. McCarty to be postmaster at Hammonton, Calif. Office became presidential January 1, 1921.

John A. Liggett to be postmaster at Korbel, Calif. Office became presidential October 1, 1920.

Brayton S. Norton to be postmaster at Laguna Beach, Calif. Office became presidential January 1, 1921.

Genevieve Frahm to be postmaster at Palmdale, Calif. Office became presidential January 1, 1921.

COLORADO.

Lewis M. Markham to be postmaster at Lamar, Colo., in place of J. B. Traxler, removed.

Albert A. Hagerman to be postmaster at Springfield, Colo., in place of C. B. Mordica, resigned.

John H. Kincaid to be postmaster at La Veta, Colo., in place of C. C. Simpson, resigned.

Agapito P. Atencio to be postmaster at Walsenburg, Colo., in place of Edward Slates, removed.

FLORIDA.

Glenna J. Pedrick to be postmaster at Dunnellon, Fla., in place of W. H. Hoffman, resigned.

James T. Phillips to be postmaster at Greenville, Fla., in place of G. I. English, resigned.

Emma S. Fletcher to be postmaster at Havana, Fla., in place of E. S. Fletcher. Incumbent's commission expired March 16, 1921.

William H. Downing to be postmaster at High Springs, Fla., in place of L. E. McCall, resigned.

Ethyl O. Hay to be postmaster at Inverness, Fla., in place of M. D. Bell, resigned.

Florence M. Wackerle to be postmaster at Melbourne, Fla., in place of A. P. Carmichael, resigned.

Edna L. Goss to be postmaster at Mulberry, Fla., in place of J. B. Potter, resigned.

Arthur L. Stevens to be postmaster at Waldo, Fla., in place of A. L. Stevens. Incumbent's commission expired December 20, 1920.

John H. McLain to be postmaster at Auburndale, Fla., in place of J. P. Jones. Incumbent's commission expired December 20, 1920.

Orin E. Smith to be postmaster at Cocoanut Grove, Fla., in place of Stella Blocker, name changed by marriage.

Charles A. Miller to be postmaster at Crystal River, Fla., in place of C. A. Miller. Incumbent's commission expired December 20, 1920.

Edna F. Hope to be postmaster at Dunedin, Fla., in place of E. F. Hope. Incumbent's commission expired March 16, 1921.

Daniel L. Thorpe to be postmaster at Manatee, Fla., in place of D. L. Thorpe. Incumbent's commission expired March 22, 1920.

Daniel H. Laird to be postmaster at Millville, Fla., in place of Laura Knight, resigned.

David S. Simpson to be postmaster at Mount Dora, Fla., in place of D. S. Simpson. Incumbent's commission expired January 11, 1920.

Rexford D. L. Graves to be postmaster at Seabreeze, Fla., in place of H. D. Gilmore. Incumbent's commission expired March 16, 1921.

Robert T. Heagy to be postmaster at Archer, Fla. Office became presidential January 1, 1921.

Grace M. Mashburn to be postmaster at Caryville, Fla. Office became presidential January 1, 1921.

Robert J. Henson to be postmaster at Dania, Fla. Office became presidential July 1, 1920.

Elwyn B. C. Nichols to be postmaster at Ellenton, Fla. Office became presidential January 1, 1921.

Jesse E. Franklin to be postmaster at Glen St. Mary, Fla. Office became presidential October 1, 1920.

Ethel Sims to be postmaster at Jupiter, Fla. Office became presidential October 1, 1920.

Daniel H. Petteys to be postmaster at McIntosh, Fla. Office became presidential April 1, 1921.

Robert E. L. Pryor to be postmaster at Oldsmar, Fla. Office became presidential January 1, 1921.

Henry A. Drake to be postmaster at Port St. Joe, Fla. Office became presidential January 1, 1921.

Louis B. Ritch to be postmaster at Raiford, Fla. Office became presidential July 1, 1920.

William F. Durance to be postmaster at Sutherland, Fla. Office became presidential October 1, 1920.

Charles W. Pierce to be postmaster at Boynton, Fla. Office became presidential October 1, 1920.

Marion A. Carrier to be postmaster at Fellsmere, Fla. Office became presidential October 1, 1920.

Gerben M. De Vries to be postmaster at New Port Richey, Fla. Office became presidential July 1, 1920.

Ellen O'Donald to be postmaster at Pablo Beach, Fla. Office became presidential January 1, 1921.

Lonie M. Watkins to be postmaster at Webster, Fla. Office became presidential October 1, 1920.

GEORGIA.

Robert L. Lovvorn to be postmaster at Bowden, Ga., in place of J. A. Glodney, resigned.

Jessie Gunter to be postmaster at Social Circle, Ga., in place of M. E. Gunter. Incumbent's commission expired August 7, 1921.

Will P. Tate to be postmaster at Trion, Ga., in place of W. P. Tate. Incumbent's commission expired March 16, 1921.

Eldon A. McCollum to be postmaster at Baconton, Ga. Office became presidential January 1, 1921.

Ida V. Wyatt to be postmaster at Menlo, Ga. Office became presidential July 1, 1920.

Archie B. Austin to be postmaster at Emory University, Ga. Office became presidential July 1, 1920.

Riley C. Milwood to be postmaster at Flowery Branch, Ga. Office became presidential January 1, 1921.

George C. Bamberg to be postmaster at Omega, Ga. Office became presidential January 1, 1921.

Mary E. Everett to be postmaster at St. Simons Island, Ga. Office became presidential January 1, 1921.

HAWAII.

Maria Silva to be postmaster at Eleele, Hawaii. Office became presidential April 1, 1921.

John Lennox to be postmaster at Ewa, Hawaii. Office became presidential April 1, 1921.

William I. Wells to be postmaster at Haiku, Hawaii. Office became presidential January 1, 1921.

Antone Silva to be postmaster at Hawi, Hawaii. Office became presidential April 1, 1921.

Manuel S. Botelho to be postmaster at Honokaa, Hawaii. Office became presidential July 1, 1920.

Walter D. Ackerman to be postmaster at Kealakekua, Hawaii. Office became presidential April 1, 1921.

Benjamin D. Baldwin to be postmaster at Makaweli, Hawaii. Office became presidential October 1, 1920.

James Campsie to be postmaster at Pahala, Hawaii. Office became presidential January 1, 1921.

Edward J. Weight to be postmaster at Papaikou, Hawaii. Office became presidential April 1, 1921.

IDAHO.

Justin B. Gowen to be postmaster at Caldwell, Idaho, in place of J. C. Ford. Incumbent's commission expired January 6, 1920.

William H. Shoup to be postmaster at Salmon, Idaho, in place of O. F. Vose; appointee declined.

ILLINOIS.

Leslie K. Valentine to be postmaster at Hinckley, Ill., in place of J. L. Schmidt, deceased.

Nellie S. Cowing to be postmaster at Homewood, Ill., in place of N. S. Cowing. Incumbent's commission expired September 24, 1921.

Frank Gandy to be postmaster at Ullin, Ill. Office became presidential October 1, 1920.

INDIANA.

James A. Raper to be postmaster at Brazil, Ind., in place of T. W. Englehart. Incumbent's commission expired July 3, 1920.

Lyman D. Heavenridge to be postmaster at Spencer, Ind., in place of W. G. Moss. Incumbent's commission expired July 3, 1920.

IOWA.

Oltman A. Voogd to be postmaster at Aplington, Iowa, in place of Dick Voogd, resigned.

William C. Rolls to be postmaster at Dow City, Iowa, in place of Edmund Ahart, resigned.

Ama M. Wilhelmi to be postmaster at Garwin, Iowa, in place of C. L. Woods, resigned.

George W. Graham to be postmaster at Oakville, Iowa, in place of D. D. Marshall. Incumbent's commission expired April 24, 1921.

William W. Sunkin to be postmaster at Salem, Iowa, in place of W. L. Hoggatt. Incumbent's commission expired March 16, 1921.

Harry E. Frantz to be postmaster at Winthrop, Iowa, in place of Joseph H. Riseley, resigned.

Wallace E. Snyder to be postmaster at Westgate, Iowa. Office became presidential July 1, 1921.

KANSAS.

Porter Young to be postmaster at Great Bend, Kans., in place of J. F. Hostetler, resigned.

Herbert W. Chittenden to be postmaster at Hays, Kans., in place of B. M. Dreiling. Incumbent's commission expired June 27, 1920.

Howard L. Stevens to be postmaster at Norton, Kans., in place of D. F. Bruner, resigned.

Homer M. Limbird to be postmaster at Olathe, Kans., in place of J. H. Cosgrove, resigned.

Albert A. Cochran to be postmaster at Pratt, Kans., in place of William Barrett. Incumbent's commission expired January 8, 1921.

Edwin A. Boyd to be postmaster at Dwight, Kans. Office became presidential January 1, 1921.

KENTUCKY.

Carrie E. Groves to be postmaster at Clay City, Ky. Office became presidential July 1, 1921.

LOUISIANA.

Mamie S. Kiblinger to be postmaster at Jackson, La., in place of Lee Kiblinger, deceased.

Lee O. Taylor to be postmaster at Bogalusa, La., in place of Green Wilcox, resigned.

Thomas L. Ducrest to be postmaster at Broussard, La. Office became presidential July 1, 1921.

Ernest B. Miller to be postmaster at Denham Springs, La. Office became presidential April 1, 1920.

Elias F. Kelly to be postmaster at Gilbert, La. Office became presidential July 1, 1920.

MAINE.

Ralph W. Chandler to be postmaster at Machias, Me., in place of W. B. Parlin, resigned.

Everett W. Gamage to be postmaster at South Bristol, Me. Office became presidential July 1, 1920.

MARYLAND.

Margaret T. Bowdoin to be postmaster at College Park, Md., in place of M. T. Bowdoin. Incumbent's commission expired July 14, 1920.

Leo F. McGinity to be postmaster at Camp Meade, Md. Office became presidential January 1, 1921.

MASSACHUSETTS.

Benjamin C. Kelley to be postmaster at Harwich Port, Mass., in place of B. C. Kelley. Incumbent's commission expired July 21, 1921.

MICHIGAN.

Elmon J. Loveland to be postmaster at Vermontville, Mich., in place of J. C. Downing, deceased.

Josephine I. Dunham to be postmaster at Montrose, Mich. Office became presidential October 1, 1920.

MINNESOTA.

George A. Etzell to be postmaster at Clarissa, Minn., in place of G. A. Etzell. Incumbent's commission expired March 16, 1921.

Albert Anderson to be postmaster at Clearbrook, Minn., in place of Albert Anderson. Incumbent's commission expired August 7, 1921.

Gena A. Hagen to be postmaster at Beaver Creek, Minn. Office became presidential July 1, 1920.

Lily M. Clark to be postmaster at Brownsdale, Minn. Office became presidential April 1, 1921.

Julius Severson to be postmaster at Clitherall, Minn. Office became presidential April 1, 1921.

Alwyne A. Dale to be postmaster at Dover, Minn. Office became presidential April 1, 1921.

Otto A. Haggberg to be postmaster at Isle, Minn. Office became presidential April 1, 1921.

Charles S. Jameson to be postmaster at Littlefork, Minn. Office became presidential January 1, 1921.

Michael A. Callahan to be postmaster at Minneiska, Minn. Office became presidential April 1, 1921.

Thomas J. Godfrey to be postmaster at Northland, Minn. Office became presidential October 1, 1920.

Gertrude A. Muske to be postmaster at Swanville, Minn., in place of G. A. Muske. Incumbent's commission expired August 7, 1921.

August O. Lysen to be postmaster at Lowry, Minn. Office became presidential April 1, 1921.

MISSISSIPPI.

Andrew McD. Patterson to be postmaster at Como, Miss., in place of S. H. Jones, removed.

MISSOURI.

Patrick S. Woods to be postmaster at Columbia, Mo., in place of L. J. Hall, deceased.

John R. Wiles to be postmaster at Jamesport, Mo., in place of H. S. Hook, resigned.

W. M. Johns to be postmaster at Sedalia, Mo., in place of E. E. Johnston, deceased.

Edward E. Whitworth to be postmaster at Poplar Bluff, Mo., in place of G. C. Orchard, deceased.

NEBRASKA.

Edith F. Francis to be postmaster at Belden, Nebr. Office became presidential April 1, 1921.

NEW JERSEY.

Lewis A. Shaw to be postmaster at Minotola, N. J. Office became presidential October 1, 1920.

Elias H. Bird to be postmaster at Plainfield, N. J., in place of A. E. Hoagland. Incumbent's commission expired June 13, 1918.

NEW YORK.

George M. McKinney to be postmaster at Ellenburg Depot, N. Y. Office became presidential July 1, 1921.

Harrington Mills to be postmaster at Upper Saranac, N. Y. Office became presidential October 1, 1920.

Florence H. Bailey to be postmaster at Chappaqua, N. Y., in place of W. J. Ferrick, resigned.

Carrie De Revere to be postmaster at Eastview, N. Y. Office became presidential July 1, 1920.

Phoebe C. Way to be postmaster at Orient, N. Y. Office became presidential January 1, 1921.

Dwight C. Squires to be postmaster at Port Jefferson Station, N. Y. Office became presidential October 1, 1920.

James Dimond to be postmaster at Peekskill, N. Y., in place of F. W. Otte. Incumbent's commission expired March 22, 1920.

NORTH CAROLINA.

Henry R. Vroom to be postmaster at Pinehurst, N. C., in place of F. T. Currie. Incumbent's commission expired January 30, 1921.

Thad G. Tucker to be postmaster at Elk Park, N. C. Office became presidential April 1, 1921.

NORTH DAKOTA.

Clifford E. Kelsven to be postmaster at Almont, N. Dak. Office became presidential January 1, 1921.

Tom S. Farr to be postmaster at Hillsboro, N. Dak., in place of Anna Carmody, resigned.

Thomas W. Kinsey to be postmaster at Towner, N. Dak., in place of H. A. Holmes, resigned.

Nellie W. Fowler to be postmaster at Center, N. Dak. Office became presidential January 1, 1921.

OHIO.

George F. Burford to be postmaster at Farmdale, Ohio. Office became presidential July 1, 1921.

Frank F. Dunham to be postmaster at Fayetteville, Ohio. Office became presidential April 1, 1921.

OKLAHOMA.

Leo N. Hawkins to be postmaster at Hitchcock, Okla. Office became presidential January 1, 1921.

Odessa H. Willis to be postmaster at Pittsburg, Okla. Office became presidential October 1, 1920.

Albert H. Lyons to be postmaster at Bristow, Okla., in place of H. T. Wolfe, resigned.

Fred T. Kirby to be postmaster at Ponca City, Okla., in place of A. C. Smith, resigned.

James L. Shinaberger to be postmaster at McAlester, Okla., in place of P. S. Lester, resigned.

Harvey E. Brinson to be postmaster at Redrock, Okla., in place of V. E. Woolverton, resigned.

Vernon Whiting to be postmaster at Pawhuska, Okla., in place of C. M. Hirt. Incumbent's commission expired February 7, 1920.

OREGON.

Gertrude H. Ashley to be postmaster at Bay City, Oreg. Office became presidential January 1, 1921.

Henry W. Tohl to be postmaster at Nehalem, Oreg. Office became presidential April 1, 1920.

PENNSYLVANIA.

Harry U. Walter to be postmaster at Biglerville, Pa. Office became presidential January 1, 1920.

Frank C. Fisher to be postmaster at Cheltenham, Pa., in place of F. C. Fisher. Incumbent's commission expired August 7, 1921.

Ernest A. Fullerton to be postmaster at Tobyhanna, Pa., in place of W. M. Lynch. Incumbent's commission expired August 7, 1921.

SOUTH CAROLINA.

Lemuel Reid to be postmaster at Iva, S. C., in place of L. Reid. Incumbent's commission expired July 25, 1921.

SOUTH DAKOTA.

Mary J. Graves to be postmaster at Interior, S. Dak. Office became presidential January 1, 1921.

Charles A. Olson to be postmaster at Claremont, S. Dak. Office became presidential January 1, 1921.

Adams M. Wright to be postmaster at Hoven, S. Dak. Office became presidential October 1, 1920.

Harry C. Sherin to be postmaster at South Shore, S. Dak. Office became presidential January 1, 1921.

Gustaf A. Frederickson to be postmaster at St. Lawrence, S. Dak., in place of George Fugate, not commissioned.

Jefferson C. Seals to be postmaster at Sioux Falls, S. Dak., in place of Stephen Donahoe, deceased.

TENNESSEE.

Robert B. Sharp to be postmaster at Coal Creek, Tenn., in place of J. C. Worthington, resigned.

John Herd to be postmaster at Harrogate, Tenn., in place of K. W. Southern, resigned.

TEXAS.

Willie P. Hallmark to be postmaster at Dublin, Tex., in place of W. E. Abbee. Incumbent's commission expired July 14, 1920.

Arthur N. Richardson to be postmaster at Electra, Tex., in place of A. B. Corder, removed.

George H. Draeger to be postmaster at Seguin, Tex., in place of H. F. Theis, not commissioned.

Morus B. Howard to be postmaster at Sweetwater, Tex., in place of R. C. Crane, removed.

VIRGINIA.

Alexander L. Martin to be postmaster at Catawba Sanatorium, Va., in place of A. L. Martin. Incumbent's commission expired January 31, 1921.

Grace S. White to be postmaster at Ballston, Va. Office became presidential April 1, 1921.

Harry M. Giles to be postmaster at Roseland, Va. Office became presidential April 1, 1921.

Mamie A. Young to be postmaster at Shawsville, Va. Office became presidential January 1, 1921.

Otye E. Hancock to be postmaster at Trevilians, Va. Office became presidential January 1, 1921.

VERMONT.

Corydon W. Cheney to be postmaster at Sharon, Vt. Office became presidential January 1, 1921.

WASHINGTON.

Lester I. Walrath to be postmaster at Mineral, Wash. Office became presidential October 1, 1920.

WEST VIRGINIA.

Columbus A. Murphy to be postmaster at Jenkinjones, W. Va. Office became presidential April 1, 1920.

Calvin Shockey to be postmaster at McComas, W. Va. Office became presidential April 1, 1921.

Juniata Amos to be postmaster at Leon, W. Va. Office became presidential July 1, 1921.

John S. Scott to be postmaster at Fairmont, W. Va., in place of C. S. Holt, resigned.

Samuel A. Simmons to be postmaster at Spencer, W. Va., in place of G. F. Hedges, resigned.

WISCONSIN.

Mae Caldwell to be postmaster at De Soto, Wis., in place of O. B. Copper, resigned.

Wallace H. Pierce to be postmaster at Menasha, Wis., in place of John Schreibeis. Incumbent's commission expired June 29, 1920.

Lewis A. Gehr to be postmaster at Mercer, Wis. Office became presidential July 1, 1921.

Mamie Auger to be postmaster at Saxon, Wis. Office became presidential July 1, 1921.

Robert A. Elder to be postmaster at Argonne, Wis. Office became presidential July 1, 1921.

SENATE.

SATURDAY, *September 24, 1921.*

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

Our Father, we approach the throne of grace this morning conscious of our needs, seeking Thy help in the understanding of the times through which we are passing, and asking for that conviction of duty and the blazing for us of a path of truth and righteousness, that we may fulfill the obligations resting upon us, to the glory of Thy great name. Through Jesus Christ, our Lord. Amen.

NAMING A PRESIDING OFFICER.

The Secretary, George A. Sanderson, read the following communication:

UNITED STATES SENATE,
PRESIDENT PRO TEMPORE,
Washington, D. C., September 24, 1921.

To the SENATE:

Being temporarily absent from the Senate, I appoint Hon. FRANK B. BRANDEGEE, a Senator from the State of Connecticut, to perform the duties of the Chair this legislative day.

ALBERT B. CUMMINS,
President Pro Tempore.

Mr. BRANDEGEE thereupon took the chair as Presiding Officer.

The reading clerk proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. LODGE and by unanimous consent, the further reading was dispensed with and the Journal was approved.

CALL OF THE ROLL.

Mr. LODGE. Mr. President, I make the point of no quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Dillingham	Heflin	Myers
Borah	Edge	Johnson	Nelson
Brandegee	Ernst	Kellogg	New
Broussard	Fletcher	Kenyon	Oddie
Cameron	France	King	Overman
Capper	Frelinghuysen	Ladd	Page
Caraway	Gooding	La Follette	Pomerene
Colt	Hale	Lenroot	Reed
Culberson	Harreld	Lodge	Sheppard
Curtis	Harris	McKellar	Shortridge
Dial	Harrison	McKinley	Simmons

Smoot	Sutherland	Wadsworth	Williams
Spencer	Townsend	Watson, Ga.	Willis
Stanley	Trammell	Watson, Ind.	
Sterling	Underwood	Weller	

The PRESIDING OFFICER. Fifty-eight Senators having answered to their names, a quorum of the Senate is present.

SESSION LAWS, ETC., OF PORTO RICO (S. DOC. NO. 71).

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read, and, with accompanying papers, referred to the Committee on Territories and Insular Possessions and ordered to be printed:

To the Senate and House of Representatives:

As required by section 23 of the act of Congress approved March 2, 1917, entitled "An act to provide a civil government for Porto Rico, and for other purposes," I transmit herewith copies of certain acts and resolutions enacted by the Tenth Legislature of Porto Rico during its first session (Feb. 14 to June 28, 1921, inclusive).

These acts and resolutions have not previously been transmitted to Congress and none of them has been printed.

WARREN G. HARDING.

THE WHITE HOUSE, *September 21, 1921.*

PETITIONS AND MEMORIALS.

Mr. WILLIS presented a memorial numerously signed by members of the Angeline Johnson Altruistic Association, of Leesburg, Ohio, remonstrating against the imposition of any discriminative tax on musical instruments, which was referred to the Committee on Finance.

Mr. NELSON presented the petition of B. F. Pay, of Mankato, Minn., praying for the enactment of legislation imposing a per capita tax on all men and women, which was referred to the Committee on Finance.

He also presented a memorial of sundry members of St. Cloud Lodge, No. 1296, United Brotherhood of Maintenance of Way Employees and Railway Shop Laborers, of Hewitt, Minn., protesting against the enactment of legislation providing for immigration to meet the emergency caused by an acute labor shortage in the Territory of Hawaii, which was referred to the Committee on Immigration.

Mr. CAPPER presented petitions of members of the King's Business Class of the Methodist Episcopal Sunday School, of Augusta, and members of the Methodist Episcopal Church and sundry other citizens of Jefferson, all in the State of Kansas, favoring the enactment of legislation to create a department of education, which were referred to the Committtee on Education and Labor.

JOHN H. RHEINLANDER.

Mr. SPENCER, from the Committee on Claims, to which was referred the bill (S. 167) for the relief of John H. Rheinlander, reported it without amendment and submitted a report (No. 274) thereon.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WADSWORTH:

A bill (S. 2491) making an appropriation for the purpose of fostering athletic sports in the United States Army;

A bill (S. 2492) to amend an act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1922, and for other purposes," approved June 30, 1921;

A bill (S. 2493) to relieve enlisted men affected thereby from certain hardship incident to the operation of the proviso of section 4b of the national defense act of June 3, 1916, as amended by the act of June 4, 1920, and to protect disbursing officers in connection therewith; and

A joint resolution (S. J. Res. 118) authorizing the Secretary of War to obligate funds appropriated for the support of the Army for the fiscal year ending June 30, 1921, to the amount of $236,095 from unexpended balances now in the Treasury; to the Committee on Military Affairs.

ENCAMPMENT OF UNITED CONFEDERATE VETERANS.

Mr. McKELLAR. Mr. President, I ask unanimous consent for the immediate consideration of the joint resolution, which I send to the desk.

The PRESIDING OFFICER. The Secretary will read the joint resolution.

The joint resolution (S. J. Res. 117) to authorize the loan by the Secretary of War to the commander in chief of the United Confederate Veterans of cots and tents for the use of the members of the United Confederate Veterans during the sessions of the national encampment of the United Confederate Veterans at Chattanooga, Tenn., from October 24 to October 27, 1921, was read the first time by its title and the second time at length, as follows:

Resolved, etc., That the Secretary of War is authorized to lend not to exceed 5,000 cots and 5,000 tents and blankets to the commander in chief of the United Confederate Veterans at their national encampment to be held in Chattanooga, Tenn., from October 24 to October 27, 1921, upon receiving from such commander in chief a bond satisfactory to the Secretary of War to indemnify the United States of America from loss or injury to such cots and tents or any of them, such indemnity bond to be drawn by and approved by the Secretary of War.

Mr. SMOOT. Mr. President, does the Senator from Tennessee ask unanimous consent for the present consideration of the joint resolution?

Mr. McKELLAR. I do. A similar joint resolution passed relating to the Union veterans a few days ago, and I imagine there will be no objection to it.

Mr. SMOOT. I have no objection to allowing the tents and cots to be loaned. That is what ought to be done, but the joint resolution as now worded includes blankets. If the Senator will strike out the words "and blankets," I shall have no objection to the passage of the joint resolution.

Mr. McKELLAR. I ask permission to amend the joint resolution so that it will read just exactly like the previous one to which I have referred.

Mr. SMOOT. Then I shall have no objection to it.

Mr. LODGE. The other one was only for cots.

Mr. McKELLAR. I ask permission to modify the joint resolution by striking out the words "and blankets," so that it will read "cots and tents."

The PRESIDING OFFICER. Without objection, the joint resolution will be modified in that respect. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered as in Committee of the Whole.

Mr. WADSWORTH. I did not hear the joint resolution read, but the Senator from Tennessee can tell me what I desire to know. Is this action desired in behalf of the national encampment of the Confederate veterans?

Mr. McKELLAR. Yes; it is for the national encampment of the Confederate veterans. Their encampment is similar to those which have heretofore been provided for.

Mr. WADSWORTH. I simply asked the question to emphasize the point that the Military Affairs Committee have adopted a policy with reference to resolutions of this character that, so far as it can, it will disapprove the loaning of tents and cots and blankets or other material to other than national encampments of the Grand Army of the Republic, of Confederate veterans, of veterans of the Spanish-American War, and veterans of the World War.

Mr. McKELLAR. This comes within that category.

Mr. KENYON. I should like to ask the Senator from New York if any exceptions have been made to the rule to which he refers?

Mr. WADSWORTH. Not one.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THE MERCHANT MARINE.

Mr. FLETCHER. Mr. President, I have an article by Mr. J. W. Hart, which was printed in the September number of the South Atlantic Ports, on the subject of a plan for establishing and maintaining an American merchant marine. I think it of interest and importance at this time, and I ask leave to have it printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the September number of South Atlantic Ports.]

(By J. W. Hart.)

One of America's greatest propagandists has tritely covered the basis of his success gained in anonymity as follows: "There is no time like the present to damn the future—and inversely to praise it."

Arranged by such a master, the past holds nothing for our eyes but the weaknesses of other mortals, or their strength, but in troubled times, as are upon us, the faults of the past are more acceptable of magnification than the virtues. We Americans accept too generally and generously the right to seek causes that condemn rather than to value the gain through experience, and it is at this point our paid propagandist takes rein and subtly proffers the conviction we have been most liberal.

The Traffic World, a publication issued in Chicago, and the American Magazine, published in Springfield, Ohio, editorially and through a contributor, respectively, have placed themselves in the class that ordinarily is placed on the defensive when American institutions are assailed.

The July 23 number of the Traffic World carried an editorial headed, "Why an American Merchant Marine?"

The September number of the American Magazine offers an article by T. H. Price seeking to prove that America will prosper without export commerce.

These matters will be answered, but the replies are based on a conviction that plans are on foot to make one of the greatest clean-ups in the disposition of our merchant marine fleet that has ever attracted the attention of the American public, and the element fostering these hopes spells patriotism with a "y" that places emphasis on the first syllable. Americans can stand by and see the accomplishment if they will, but if a draft can be called to stop it, now is the time to call it. The cause is no greater—not even as great—as that for which we crossed the Atlantic and left our dead in Flanders fields. The object of this article is not to charge that the authors of either of the articles are aligned with the movement to mulct the American public. No such inference can be drawn. There is a certainty that any criticism in recent war times of American aims and institutions, contrary to the opinion of the majority, was met with suspicion, at least of the motives encouraging the assault, and the two matters under discussion herein are guarded assaults on the continuance of an American merchant marine and their subtlety is insidious, mischievous, and the purpose sinister.

THE EDITORIAL.

The Traffic World asks (1) "Is there anything sacred in the doctrine of an American merchant marine, or any lack of patriotism in being opposed to such an institution as an economic extravagance?" The answer is yes to both ends of this question. If there is any sacredness in American traditions, then the doctrine that America will have her merchant marine is sacred, and any opposition to it is unpatriotic. Since what age can open opposition to our traditions be flaunted in the faces of millions just recently returned from conflict for them. No one condones "economic extravagance"—not even a theorist for the sake of theorizing, but if we may indulge a simile, what traffic official would destroy a tariff that contains errors—he supplements it; does a transportation official plot the destruction of a locomotive because it jumps the track? That is the way the path of the editorial leads, destruction not reconstruction.

(2) "Can an American merchant marine be maintained without what amounts to subsidy and the taxation of the public?" Yes. The country generally most certainly recognizes an opposition to the cost of operations of the fleet in the past so far as we understand them. However, no business can operate without overhead, and either the revenue of the business must be taxed for it, or proving inadequate, by drawing on other capital. The question as propounded leaves no room for any other means of operation than as the ships have been operated and counsels "junking" the ships. Chairman Lasker has stated that the fleet efficiently managed and developed (not destroyed) should in time pay off our entire war debts. A plan for the operation of the fleet, however, is a later part of this article.

(3) "Is John Smith, who knows and cares nothing about the shipping business, willing to be taxed, and ought he to be taxed, in order that Bill Jones's goods may be carried in American rather than foreign bottoms?" (4) "Does Bill Jones care, or ought he to care, whether his goods are carried in American or foreign bottoms? If he ought to care, why ought he? Should John Smith pay taxes so that Bill's care may be gratified?" (5) "If an American merchant marine can not be maintained without taxation of the public—in other words, if it can only be maintained and operated at a loss—why not let the foreign ships have the business?"

These questions evidence a childishness and consequent lack of conception that with one's preconceived ideas of any editor's acumen make us wonder if the seeming cunning to be found elsewhere in the questionnaire can be so lacking here. If we are to admit no interdependencies—if the fleet is to be operated for a few—if it must be destroyed to satisfy another few—who will stand up and say, "I am without sin." There are Bill Jones and John Smiths throughout the length and breadth of the land who do not care if the Traffic World or any other interest it may stand sponsor for ever reaches any goal, and no one can blame them. The Traffic World is operated for gain for its owners, and Jones and Smith may rightfully manifest no concern, but when Jones and Smith have no interest or concern in what their country does, the time has come to turn over, not only the American merchant marine to those factions that would destroy it but our country as well. Bold, however, am I in the assertion that might never will sway this land, nor will power be vested in a few to throttle any endeavor that brings to the United States of America that honor among nations that her sons upon necessity go out to battle for. There is a provincialism in these United States that sets up the faith—"I am not my brother's keeper"—that may lend courage to the professions inferred in the question—"Should John Smith pay taxes so that Bill's care may be gratified"—but, and we mark the charge with words of care—Is there no way to operate an American merchant marine but by taxation? Is there nothing the Traffic World can make its preachment on but taxation and subsidy? Is the Traffic World a party to any movement to damn our merchant marine by carrying the banner of oppressive taxation always to the forefront? The editor should know, but if he is convinced as another question leads up to—"If it can only be maintained and operated at a loss, why not let the foreign ships have the business?"—then we say the time is ripe to line up the factions for and against the development of a merchant marine, which ship-minded men accept as a cargo and passenger-carrying fleet unsurpassable.

LINE UP THE FACTIONS.

If the present was the time to line up the factions, we would place on one side the million soldier boys who went overseas in part of this fleet and are now returned to commercial life throughout the States, and with them the memories of those who will never return and those who now come back in draped caskets on vessels flying Old Glory; the American who never characterizes American ingenuity and hopes for an American merchant marine, as sentiment, but rather knows it as abiding confidence; the foreign trader who has encountered the stifling competition through the same foreign ships we are now asked to turn to; and lastly that big majority that has no immediate concern, but who says what other nations can accomplish we can surpass. If the opposing strength might be appraised, we would head it with that great number of foreigners eating into the vitals of the fleet organization and belittling it; the journals that lend ear to their professions and are doubting Thomases, if not fearful patriots; the capitalist that cares nothing for country, and lastly those that want to wipe out the fleet with one fell swoop to their private and financial aggrandizement, and to this opposition might be asked, "What greater traitor was Benedict Arnold?" The country had little to give when he bartered it—but to-day—

The editorial joins in the applause accorded President Harding for stating "the railroads must support themselves," but backhandedly rejoins, "If they (the boats) can not support themselves and there are foreign boats that can and will carry our commerce, why try to infuse the breath of life into a dead thing?" With hesitation, with bated breath, this query must have been read and reread by Americans everywhere. Who will stand up and be counted and declare the American merchant marine is "a dead thing"? Can this be the "insidious propaganda" the chairman of the Shipping Board has warned about with a frequency? Has he been so convinced of its pernicious and damning influences as to repeatedly address the country with warnings that we might expect it in most unbelievable quarters? This condition approaches the days when some were wont to tell us that Germany could not lose—bringing quick to our minds that then we had to. How did we regard the professions of hopefulness that always accompanied the expressions regarding our enemy's strength? How did we appraise the value of the suggestion? How can we regard this same editorial that continuing remarks in a sense that the fleet was constructed out of what "seemed" a war necessity * * * and should now be "junked," with the war demand ended. Is there not cause for the belief that a war is still on that has for its object the extermination of American institutions?

To palliate his readers, the editor assures them he is neither sarcastic or humorous. Thank God. He says he wants the ideas of his readers, and that Congress should have them. One would not be venturesome in asserting that the editor's wants have been filled and that Congress with unmistakable Americans of Senator JONES's type will correctly appraise the feeling. The editorial concludes with the truism that "we still have foreign bottoms." The good company that landed at Plymouth Rock came in foreign bottoms. The tea party in Boston Harbor had foreign bottoms as its stage. Egyptian cotton moves in foreign bottoms. American shipwrecked sailors are returned to our shores in foreign bottoms. American commerce, the struggle for whose maintenance American manufacturers, exporters, associations are striving, also moves in foreign bottoms—but for how long? Not longer than the ships' manifests and spying foreigners can prevent it. And yet Americans say destroy our means of carrying American products forever to foreign trade. Without our eyes to guide us, we might consider unbelievable that any periodical would have the effrontery to suggest its discontinuance.

What editor can countenance such comments with his advertising columns burdened with advertisements of these same Shipping Board vessels? He may excuse them if he is a party to any movement in conjunction with advertisements to put over the biggest steal ever perpetrated on the American public, which may be "aboilin'" at this writing, August 20.

The main difficulty, if there is any at all, with the operations of the American merchant marine is the nonenforcement of various agencies of the Government and in particular the Jones Act. Sections of the act referred to herein are reproduced at the end of this article. This act was originated by an American. Senator WESLEY L. JONES is the type of public servant the country needs many more of; a man gifted beyond question with great powers of discernment and beguiled not a whit by manufactured surface conditions; a man whose conceptions of future emergencies tends to the belief that in framing this act in early 1920 he foresaw the birth of the great propaganda and the machinations of interests now at work. However, the country and all of us suffer by the nonenforcement of the Jones Act. For all the South we will ascribe no motives beyond fearlessness in Americanism, but unequivocally state there must be an American merchant marine continued on the basis we now have, and the Jones Act will provide it if enforced. The negligence in this respect has cost the Shipping Board hundreds of millions of dollars in cargo lost to foreign ships since the enactment of the Jones Act. Every American operator knows it.

ENFORCE JONES ACT.

The Shipping Board and Interstate Commerce Commission should be called upon to jointly administer the terms of the merchant marine act and transportation act as the latter pertains to American vessels. (See sec. 441 of the transportation act, the terms of which the Interstate Commerce Commission has not complied with.) Operators of Shipping Board vessels have been done a tremendous injustice by the Shipping Board through its failure to enforce section 28 of the Jones Act, and through the failure to take advantage of the tremendous powers conferred upon the Shipping Board by sections 8 and 19 of the Jones Act.

If the Shipping Board had enforced these provisions of the law in the past, Shipping Board operators would have been able to control and handle hundreds, if not thousands, of cargoes which have been handled by foreign-flag vessels. Probably some of the reasons for the failure to enforce section 28 of the Jones Act and to take advantage of sections 8 and 19 have been foreign-flag contracts between the eastern trunk lines and foreign-flag lines and so-called American lines, such as the International Mercantile Marine, whose fleet consists of a great many vessels of English-flag registry. Notwithstanding that, hundreds of Shipping Board vessels have been tied up for more than a year. Section 28 has not been enforced in one instance.

Under section 8 of the law the Shipping Board would be authorized to appoint various commercial interests of the country, such as flour millers, lumber first-hand factories, iron and steel shippers, cotton exporters, and other exporters and importers embracing major commodities, or groups of commodities, as the Shipping Board's exclusive agencies to carry out the authority conferred by sections 28 and 8. In other words, the organization of "commodity export transportation companies" would serve as the exclusive agencies of the Shipping Board both as same pertain to rail and ocean handling of traffic and rail and ocean charges thereon, and all other matters pertaining to the collective handling and coordination of the rail and ocean transportation of our export and import traffic.

Obviously, these trade interests are familiar with the world-wide competition and what relationship transportation service and transportation charges bear thereto, which information is not possessed by either the railroads or the steamship lines. Therefore there is a tremendous advantage which would accrue through a partnership between the Shipping Board operators and the collective commodity export and import trade interests of the country. The Webb-Pomerene Act, the Edge Act, and the War Finance Corporation plainly demonstrate that Congress recognizes the urgent need for consolidating and coordinating all of our export activities. Under these laws these so-called "export and import transportation companies" could be organized and in turn coordinate themselves with each other under the supervision of the Shipping Board, Interstate Commerce Commission and in coordination with the Department of Commerce, Department of Agriculture, and other governmental departments having relationship with our export and import trade.

We may therefore dwell upon this aspect of the situation to first prove that our merchant marine can be made a great success if the Jones Act is fearlessly, intelligently, and efficiently administered.

FLEET TO VETERANS.

We suggest the reading of the CONGRESSIONAL RECORD of August 20, page 5320, and succeeding pages having to do with Senator DUNCAN U. FLETCHER'S exposé of the true conditions of the Shipping Board's past operations. A reading of these pages of the RECORD brings us to the point that some plan may be welcomed for the operation of the fleet to serve the country as a whole. There is no need of further assurance that any plan offered by the American Steamship Owners' Association, the United States Ship Operators' Association, or the International Mercantile Marine will find no favor here. It is, however, admitted—will you mark the admission—that the business interests of the country would be as well off in junking the fleet as they would be in having the vessels come into control of the coterie that countenances binding arrangements with foreign powers not to do anything for the improvement of our trade if it is harmful to European shipping. We positively stand on the brink of that yawning chasm now.

The times are unpropitious for the completion of promises made our men in service and the country quite generously may accept the true state of affairs. In the short space of the next few years we may see the boy we knew five years ago as a young man of promise in most any town or city, retarded in his profession or trade, hopelessly handicapped in endeavor, or, if not maimed, forgotten for the service so gallantly rendered when his country called. Their situation, because of the immensity of the struggle in which they were engaged, can not be likened to our previous wars. We therefore propose that the fleet belong in a measure to the boys who saw service under the colors that have never known dishonor.

HERE IS THE PLAN.

This proposal is for the issuance of merchant marine bonds, approximating the original costs of constructing our Government-owned tonnage, omitting cost of administering the board which would manifestly make available at least $3,000,000,000. Necessarily, depreciation would be reckoned, but this should be determined by a disinterested commission of experts, composed of a representative of the Shipping Board, of present operators, ship construction company, and an expert from the ranks of former service men. We propose the distribution of these bonds on a pro rata basis to each soldier and sailor serving in the late emergency and to the next of kin of the boys who gave their lives to the cause for which the fleet was primarily constructed.

We propose that the governmental operation of the ships be discontinued and that stock operating companies be organized with their stock, widely held only by American citizens in the communities from which service will be operated, and these companies take over the operation of a given number of vessels under a plan, "bare boat" or what you will, calling for the payment to the Government of the interest accruing on the bonds of a value equal to the value of the ships assigned to said stock operating company.

There is no denying that there is a sinister purpose on the part of selfish American and alien interests to acquire the fleet at a "song." This plan will prevent it. The conditions of the money market throughout the world will not permit the purchase of the ships at any figure approximating their worth. There is a bill pending in Congress calling for the loan of $500,000,000 to our railroads. This would be unnecessary if the money market was responsive. Congress has just passed an amendment to the War Finance Corporation act making a billion dollars of Government funds available for the exportation of agricultural products. This would be uncalled-for legislation with world money markets responsive. Under these circumstances, how can the board's vessels be offered for sale? How could they bring more than a song? Why sell them? This is a buyer's market. Why give away what we have already given time, funds, energy, and initiative to construct and as the Jones Act in preamble states: "It is necessary for national defense and for the proper growth of its foreign and domestic commerce that the United States shall have a merchant marine of the best equipped and most suitable types of vessels sufficient to carry the greater portion of its commerce and serve as a naval or military auxiliary in time of war or national emergency * * *. The Shipping Board shall * * * keep always in view this purpose and object as the primary end to be attained." True American language. Woodrow Wilson when suggesting a plan of counteracting the German undersea craft activities was told by one of the Allies that his plan was not "prudent." History relates that he established an axiom for those who say "it can not be done" that runs, "Eliminate prudence from your deliberations when must is your orders." We face that condition now.

In order to avoid loss now, the value of the board's vessels should be converted into nontaxable bonds bearing interest at 5 per cent; the vessels should be allocated to strictly American operators, the allocation to be for periods of years under a bonded guaranty that the Government will be paid 8 per cent on the value of the bonds representing the value of the ships allocated to the said stock steamship companies; that the allocation specifically provide that the operators shall not operate or have any connection with foreign-flag vessels nor foreign agents; that the Shipping Board will enforce sections 8 and 19 and all of the other provisions of the Jones Act, not overlooking section 34; that the Shipping Board will undertake the organization of "export and import commodity transportation companies" under section 8 of the act, these companies being empowered to serve as the Shipping Board's exclusive agents for the handling of export and import traffic exclusively in connection with steamship companies operating American-flag vessels; to establish offices in all sections of the country where shippers and receivers may determine the rail and water costs of transporting their products and the rates for passengers, and in every other way energetically and actively enforce policies and practices, which will coordinate the movement of exports and imports in connection with American-flag ships; those concerns who have purchased vessels from the Shipping Board on time payments to be given privilege of completing contracts or turning title back to the Government with right to operate under the new plan.

Out of the 8 per cent paid the Government, the Government to use 3 per cent as a sinking fund for replacement of all ships destroyed or retired under a constructive and ship-maintenance plan and for operations of bureaus, etc.

The Government would necessarily guarantee the interest to the bondholders, taking requisite surety from the operators, and it is certain that with normal traffic and economical and unhindered private operation the operators with proper capitalization can earn a minimum of 6 per cent, after paying the Government 8 per cent to meet the interest on the bonds and maintaining the sinking fund.

Obviously this plan imposes no current expense upon the Government, and if section 28, section 8, and other provisions of the Jones Act are enforced American vessel operators would be in partnership, as it were, in practice at least, with the American railroads, an asset unquestionably serving to establish an attractive market for the stock of the ship operating companies.

JUST BEGINNING TO FIGHT.

This plan is subject to the searchlight of American public opinion. The assets dealt with are a possession of our Government, and the plan merely offers to convert the ships into bonds and the surrender of the bonds to those who have served the country and well. It affords a means to make promise and performance synonymous. It places the country on the basis it was when with sad hearts we told the anxious boys not to worry—we were with them through thick and thin. The days are thin and these men who want no charity, but seek to restore their faith in their fellow men, their representatives in Washington, ask, "How long does a promise hold?" We believe they are like John Paul Jones, who, standing in the rigging of his ship, when called on to admit defeat, declared, "I have not yet begun to fight."

The plan does not propose that title to the ships should pass from the Government and into private hands at a small percentage of their original cost as sale at present compels. Nor does it countenance any squandering. It would taboo further extravagance. It would hold up to opprobrium such practices as the gift to France of our billion-dollar terminals at French ports without any preferential rights to Shipping Board vessels.

THE FIGHTERS.

The plan necessarily encourages the formation of the merchant-marine minutemen of America. The ranks should be filled from ex-service men in every State in the Union, who could be invited to serve as members of the organization committee under a plan calling for admission of all ex-service men at a nominal admission fee of 25 cents per year, civilian members to be admitted at a membership fee of $1 per year; membership fees to be expended in enlarging the organization, publicity, and for establishing offices in principal cities, particularly Washington, where the merchant marine bond compensation plan would be called up ultimately for action.

The Merchant Marine Minute Men of America will be a militant, patriotic, Nation-wide organization, open to all the veterans of the Army and Navy who served against the Central Powers. It will number millions, the membership welcoming American civilians as well. There will be need for auxiliaries for the women and the children of to-day, who will prosper under this bond plan in the future and who will be the exporters and importers in the years to come, and using this American merchant marine now to be fostered. The Shipping Board fleet, these veterans truthfully will contend, as the Jones Act in preamble states, is an auxiliary of our fighting ships, and in consequence must be maintained on a high plane to assure safety for those who fought and will battle again when necessity requires. With practical ownership through the bonds these millions of ex-service men will establish their interest and insistence on the fleet being surrendered to them for safekeeping, and they will see to it that the only material legacy worth while from the Great War is not taken over by selfish aliens and American interests, no matter what influence their propaganda has established. The Merchant Marine Minute Men will shortly insist that their representatives in Congress enforce section 441 of the transportation act and all sections of the Jones Act, or admit that the American spirit that encouraged the enactment of these laws is dead.

Positive means of keeping the operations of the minute men before the entire membership can be through a publication distributed to all members. The circulation of this magazine will be greater than any other publication in the world, and solely have as its watchword the upbuilding of our foreign commerce, the further development of our merchant marine to care for this trade, which in consequence and in addition carries on to future generations returns to the bondholders justly entitled to the country's recognition of service.

The Merchant Marine Minute Men would oppose the sale in bulk of war goods or of our entire wooden fleet to one purchaser bringing bids of $2,500 per vessel and from one favorably considered bidder, who it is said installed the machinery in one of these boats at a cost of $300,000. Nor would the sale of any vessel without restriction as to competition with our soldiers' and sailors' merchant ships be countenanced.

The membership will be wide, with the establishment of offices in every city of the United States, general agencies in the large cities, and headquarters in the Capital, so that no alien or "American" can rise up without knowledge that thousands of American merchant marine bondholders stand at his elbows. Certainly all Congress will assist in any development of the plans of these interested citizens.

Contrary to the propagandists, the merchant marine is of great value. Its real worth is in the service it was built to perform, namely, the carrying of Americans and their products to world markets. The American exporter and importer knows the competition he has to meet and the obstacles foreign vessels and foreign operators of American vessels place in his path. No better servants of American commerce can be found than the men who fought to retain our preeminence, not in details but in general. The merchant marine minutemen of America should begin at once to stop the shattering of our ideals and the destruction of our greatest asset—the merchant fleet. These men in olive drab know that their present predicament parallels Admiral Dewey's far eastern experience. President McKinley ordered Dewey to capture or sink the Spanish fleet in Manila Harbor. A German admiral, with his fleet pulling at its anchors, became concerned in Dewey's activities and inquired his destination. Being rebuffed, the German called on the succeeding day to inform our admiral that the German fleet would accompany him. To this Dewey rejoined, "Don't get between my guns and the enemy." We may as well shoot straight in this emergency and, with the deserving veterans, counsel the enemy as Dewey warned the Germans.

With reference to the article carried in the American Magazine and written by Mr Theodore H. Price, it can only be said that if the ex soldiers and sailors of the United States become partners with the Government and through the Government with the ship operators and the American railroads, the answer to our needs for foreign trade will ring to high heaven.

We are certain that un-American propaganda will be nailed once it appears with the merchant marine minutemen distributed over the length and breadth of the land.

EXCERPTS FROM JONES ACT.

The following are the sections of the Jones Act (H. R. 10378), approved June 5, 1920, that are referred to elsewhere in this article:

"SEC. 8. That it shall be the duty of the board, in cooperation with the Secretary of War, with the object of promoting, encouraging, and developing ports and transportation facilities in connection with water commerce over which it has jurisdiction, to investigate territorial regions and zones tributary to such ports, taking into consideration the economies of transportation by rail, water, and highway and the natural direction of the flow of commerce; to investigate the causes of the congestion of commerce at ports and the remedies applicable thereto; to investigate the subject of water terminals, including the necessary docks, warehouses, apparatus, equipment, and appliances in connection therewith, with a view to devising and suggesting the types most appropriate for different locations and for the most expeditious and economical transfer or interchange of passengers or property between carriers by water and carriers by rail; to advise with communities regarding the appropriate location and plan of construction of wharves, piers, and water terminals; to investigate the practicability and advantages of harbor, river, and port improvements in connection with foreign and coastwise trade; and to investigate any other matter that may tend to promote and encourage the use by vessels of ports adequate to care for the freight which would naturally pass through such ports: *Provided*, That if after such investigation the board shall be of the opinion that rates, charges, rules, or regulations of common carriers by rail subject to the jurisdiction of the Interstate Commerce Commission are detrimental to the declared object of this section, or that new rates, charges, rules, or regulations, new or additional port terminal facilities, or affirmative action on the part of such common carriers by rail is necessary to promote the objects of this section, the board may submit its findings to the Interstate Commerce Commission for such action as such commission may consider proper under existing law.

"SEC. 19. (1) The board is authorized and directed in aid of the accomplishment of the purposes of this act.

"(a) To make all necessary rules and regulations to carry out the provisions of this act;

"(b) To make rules and regulations affecting shipping in the foreign trade not in conflict with law in order to adjust or meet general or special conditions unfavorable to shipping in the foreign trade, whether in any particular trade or upon any particular route or in commerce generally and which arise out of or result from foreign laws, rules, or regulations or from competitive methods or practices employed by owners, operators, agents, or masters of vessels of a foreign country; and

"(c) To request the head of any department, board, bureau, or agency of the Government to suspend, modify, or annul rules or regulations which have been established by such department, board, bureau, or agency, or to make new rules or regulations affecting shipping in the foreign trade other than such rules or regulations relating to the Public Health Service, the Consular Service, and the Steamboat-Inspection Service.

"(2) No rule or regulation shall hereafter be established by any department, board, bureau, or agency of the Government which affect shipping in the foreign trade, except rules or regulations affecting the Public Health Service, the Consular Service, and the Steamboat-Inspection Service, until such rule or regulation has been submitted in the board for its approval and final action has been taken thereon by the board or the President.

"(3) Whenever the head of any department, board, bureau, or agency of the Government refuses to suspend, modify, or annul any rule or regulation or make a new rule or regulation upon request of the board, as provided in subdivision (c) of paragraph (1) of this section, or objects to the decision of the board in respect to the approval of any rule or regulation, as provided in paragraph (2) of this section, either the board or the head of the department, board, bureau, or agency which has established or is attempting to establish the rule or regulation in question may submit the facts to the President, who is hereby authorized to establish, or suspend, modify, or annul such rule or regulation.

"(4) No rule or regulation shall be established which in any manner gives vessels owned by the United States any preference or favor over those vessels documented under the laws of the United States and owned by persons who are citizens of the United States.

"SEC. 28. That no common carrier shall charge, collect, or receive, for transportation subject to the interstate commerce act, of persons or property, under any joint rate, fare, or charge, or under any export, import, or other proportional rate, fare, or charge, which is based in whole or in part on the fact that the persons or property affected thereby is to be transported to or has been transported from any port in a possession or dependency of the United States or in a foreign country by a carrier by water in foreign commerce any lower rate, fare, or charge than that charged, collected, or received by it for the transportation of persons, or of a like kind of property, for the same distance, in the same direction, and over the same route, in connection with commerce wholly within the United States, unless the vessel so transporting such persons or property is, or unless it was at the time of such transportation by water, documented under the laws of the United States. Whenever the board is of the opinion, however, that adequate shipping facilities to or from any port in a possession or dependency of the United States or a foreign country are not afforded by vessels so documented, it shall certify this fact to the Interstate Commerce Commission, and the commission may, by order, suspend the operation of the provisions of this section with respect to the rates, fares, and charges for the transportation by rail of persons and property transported from, or to be transported to, such ports, for such length of time and under such terms and conditions as it may prescribe in such order, or in any order supplemental thereto. Such suspension of operation of the provisions of this section may be terminated by order of the commission whenever the board is of the opinion that adequate shipping facilities by such vessels to such ports are afforded and shall so certify to the commission.

"SEC. 34. That in the judgment of Congress articles or provisions in treaties or conventions to which the United States is a party, which restrict the rights of the United States to impose discriminating customs duties on imports entering the United States in foreign vessels and in vessels of the United States, and which also restrict the right of the United States to impose discriminatory tonnage dues on foreign vessels and on vessels of the United States entering the United States should be terminated, and the President is hereby authorized and directed within 90 days after this act becomes law to give notice to the several Governments, respectively, parties to such treaties or conventions, that so much thereof as imposes any such restriction on the United States will terminate on the expiration of such periods as may be required for the giving of such notice by the provisions of such treaties or conventions."

LIMITATION OF ARMAMENTS.

Mr. LA FOLLETTE. Mr. President, I ask leave to have printed in the RECORD an editorial which appeared in the Saturday Evening Post of August 20, 1921. It is not very long. It is on the subject of disarmament.

The PRESIDING OFFICER. Without objection, it is so ordered.

The editorial is as follows:

[From the Saturday Evening Post, Philadelphia, Aug. 20, 1921.]

THE NEW INTERNATIONALISM.

No man knows how much lasting good may be accomplished by the international conference on the limitation of armament to be held in Washington a few months hence; and yet there are certain minimal results of the highest significance that may be regarded as reasonably certain. The cordiality with which the American invitation was accepted is evidence of a world-wide realization of the momentousness of the occasion; for no matter how the scope of the conference may be limited by the powers represented, all men know that the envoys who sit down at the table will have met together to hold an inquest on the military and economic state of the world and to say what steps their respective nations are prepared to take to save our civilization.

Among the minimal effects of the conference that may be expected with considerable confidence are a clear restatement and the common acceptance of a world issue as broad as humanity itself, an issue that overshadows every local or national or international difference and involves the destiny of the human race.

Disarm or die. That is the alternative that confronts all men who dare look ahead. Men who are not afraid to face facts know that just as nature kills off the weak and the unfit, so war wipes out the strong and courageous and robs the race of its most vital blood. Long after the population has renewed itself the race remains impoverished.

Baron Takahashi, Japanese minister of finance, observed with truth that "we must be careful to avoid the possibility of such a convention proving futile or terminating in a disagreement. Such a result would lead to more friction and more rivalry and to greater armament expenditures." And yet disagreement is easily possible unless every envoy is instructed that agreement is so absolutely essential to his nation's future welfare that it will be cheaply bought at the price of concession.

The inevitable way to bog down into a futile impasse and adjourn in a stalemate is to approach the problems in the spirit that was so lamentably and irrepressibly present at Versailles. If the representatives of any nation, including our own, take their places at the council table as if it were a gaming table, resolved to win unfair advantage by the tricks and legerdemain of diplomacy, they will be the betrayers not of their own States alone but of an anguished world. If divergence of interest makes the score, everyone is bound to lose. If community of interest is the game, each and every participant wins and the world wins.

Every day the issues to be discussed by the conference become more clearly defined. The real line-up will not be between nations so much as between factions. The actual test of strength will be between war as a vested interest and peace as a vested right. Armament—to include in a single word every form of military activity and collateral requirement—is a stupendous industry that has fed or slain its millions in every country. Since time out of mind it has never been without a powerful influence upon government. Over against this force for war, with its vast anthology and folklore, its myths, legends, and werewolf literature, with the aid of which it sells its wares to governments and creates uses for them, stands that great inert majority that wants peace, that welter of humanity that must do the fighting and the dying when militarism decrees that fighting and dying must be done. The creed of all these millions is the new internationalism that has lately come into visible being.

The old abhorrent internationalism of communism is based upon a community of hatreds. It is a sinister brotherhood of man patterned after the brotherhood of Cain toward Abel. Its plane of cleavage is horizontal. It separates the lowest layer of humanity from the middle and the upper. It arrays the collarless against the collared, haphazard group against family, license against liberty, bestiality against decency. Five years of this fratricidal brotherhood have set back the destinies of Russia a full hundred years, and only generations of steady inbreeding of superior foreign stock can enable the remnants of the old Russia to make up her lost century. Militarism, in its essence, is as truly a form of internationalism as bolshevism or communism, but it is more menacing than either, for history proves that it is more enduring.

But now there is springing up a new internationalism, opposed to militarism and utterly unlike communism. Its plane of cleavage is not horizontal but vertical. It is not negative but positive. Its community of interest is not hatred but good will, a willingness to live and let live. Its ranks include high and low without distinction. Neither wealth nor poverty is its shibboleth. Its adherents are those who are determined to give the world a chance to heal its wounds and live. Its followers wear no class badge of education or of ignorance, of high estate or low, of creed or color, caste or race.

Unorganized, unofficered, almost inarticulate, scarcely aware of their own existence as units in a great entity, these new internationalists are the men and women who are working to make an end of war. They are not pacifists within the war-time meaning of the word.

One crystallizing touch of unification and organization, such as may come any day, would endow them with the power and momentum of an avalanche. By a strange paradox their very obscurity and individual weakness give strength to them in the mass, for they pervade even the remotest backwaters of society. Already they are beginning to make their voices heard, and the world listens with ready sympathy because they utter the world's desire. Every day they break out in a new spot with their demands for lasting peace. The press of the continents is full of their activities. Yesterday we perhaps read a cabled paragraph in the newspapers about the peace meeting of the board of trade in some provincial town in France. Day before yesterday it was perhaps the silk merchants of Yokohama who held a similar meeting. Last night the high-school debating team and the speakers in a local lodge thrashed the matter out, and in both cases disarmament won. Clergymen preach about it; women's clubs discuss it. This sort of thing is going on all over the world. Twenty years ago peace was the hobby of rich philanthropists; to-day it is the heart's desire of the multitude. The inescapable alternative, disarm or die, is no longer a phrase but a reality. And this is but the

beginning. Gradually, but with increasing volume, the idea of peace is getting the kind of publicity that counts.

Such is the mighty but still static force that militarism is straining every faculty to resist. No envoy to the conference will be an absolutely free agent except so far as concerns his own good faith and courage. Even those of the highest rank and station will be, in a very real sense, serious and dignified marionettes actuated by the invisible cords that lead to their own seats of government. The cabinet ministers who pull the cords will be in their turn set in motion by the millions of unseen threads, slender as those that bound Gulliver, that trace back to the hands of their constituencies.

There will be two sets of these invisible strands—one on which the militarists will tug with might and skill and practiced teamwork, and one that will tassel out into the hands of that great unschooled majority which will pull for the whole world's salvage. On the net result of these tugs of peace and war will the fate of the conference hang. What Senator BORAH said to his own countrymen should be advertised to the ends of the earth before the conference meets: "This is the people's salvation and it is, therefore, the people's fight." And it is a fight that can be won.

Not one of the obstacles that stand in the way of a momentously happy outcome of the conference is insurmountable. Japan, for example, has sometimes appeared not unwilling to raise difficulties; and yet, when that nation's peculiar position is taken into account, strong reasons can be urged upon us and upon other powers for making that position less strained. Japan is like a young samurai, poor, but very proud, engaged in a game of chance in which the stakes are perilously high; and yet, high as they are, the young player would lose his last yen with exquisite suavity before he would propose that the stakes be lowered and a limit set.

The Japanese are the most reticent people on the face of the globe. Silence is often golden, and a still tongue is a great gift; and yet the overreticent are likely to be misjudged and misunderstood. Inscrutability, which is accounted as part of the equipment of every successful gamester or diplomatist, is essential when dissimulation is necessary, but when frankness and simplicity are most needed that same impassivity is not a help but a hindrance. The blankest countenance does not go unread. It is merely misread, and often to its owner's damage. Japan is not unacquainted with that experience. Excessive silence has sometimes led to the misreading of her mind, and she has been charged with being overbearing when at heart she was merely troubled and perplexed.

Consider her situation. In years gone by Nippon was confronted by a white peril to the west of her far more real than any yellow peril that we have ever dreaded. Overpopulated, ill-endowed with natural resources, and laboring under grievous taxation, she is frankly land hungry. When she overran the bounds of her island empire she plotted out and occupied her circles of influence on the Asiatic mainland in imitation of the European nations that had preceded her. It is clear that she hopes to break the Chinese dragon to harness; but always in the back of her head burns the thought that one day the too lightly harnessed dragon may kick himself free and annihilate her. She dreads the not impossible day when she may lose not only colonies but have to defend her very homeland as well. If the coming conference, or the negotiations that are to antedate it, can evoke a frank statement of Japan's perplexities that have their roots in the Asiatic mainland, and if her apprehensions over them can be cleared up, she will be in a position in which she can discuss without constraint the problems that have their seat to the east of her.

France faces the future with a brave and smiling face. Her courage is undaunted, yet her wounds are all but mortal. Great Britain, as a political entity, is living upon sheer grit and upon her amazing Anglo-Saxon aptitude for weathering storms. Spendthrift America is still solvent, but great as her resources are they are not so stupendous that a war can not absorb and dissipate them.

Look where we will, it would seem as if the new internationalists came into being in the very nick of time. They were even born with a golden argument in their mouths. That argument is Germany. The pill that was thrust down her throat at Versailles in the expectation that it would keep her weak for 50 years has indubitably saved her economic life. Month by month as she waxes stronger it is borne in upon a startled world that the one splendid and enduring achievement of the Congress of Versailles was the accidental discovery of an infallible cure for war-sick nations. That cure is disarmament.

ADDRESS BY SENATOR KENNETH M'KELLAR.

Mr. CARAWAY. Mr. President, I ask unanimous consent to have printed in the RECORD a speech delivered by the junior Senator from Tennessee [Mr. MCKELLAR] before the Tennessee Bar Association on June 9 last.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

SPEECH OF HON. KENNETH MCKELLAR, UNITED STATES SENATOR FROM TENNESSEE, BEFORE THE TENNESSEE BAR ASSOCIATION, JUNE 9, 1921.

Mr. MCDERMOTT. Ladies and gentlemen, the distinguished speaker of the morning is strongly in favor of leagues, and when we approached him to come here on our program we had to make a league or covenant with him that it should be explained at this meeting that we caught him somewhat unawares. But he is full of his subject, and I am convinced that when a man has brought such great honor to his State and to his profession, it is idle for me to waste time in introducing him to you. We are proud of his past record, we are proud that he is of our profession, and it is my pleasure to present to you the junior Senator from Tennessee, Senator MCKELLAR.

[Applause.]

Senator MCKELLAR. Mr. President, ladies, and gentlemen, I am glad that my distinguished friend, your president, made my excuses to begin with. It just happens that no man was ever caught more unprepared to discuss a subject of this kind. In my service in the House and in the Senate I regret to say that I have never been upon the Naval Committee of either body, and I may also say that while I have spoken on almost every other subject before the American people I am quite sure I have never discussed specifically any Navy or disarmament question. While I have always taken the greatest interest in disarmament and voted for every disarmament resolution that has come before the Congress, I have never prepared a speech on that subject. So that my knowledge of the subject is necessarily general, and you will have to bear with me as a pinch-hitter, and I am afraid you will have to exercise a very great deal of forbearance with me in my discussion of this subject. Knowing lawyers as I do—and I have been one of them for a long time—I feel confident I can ask you to be lenient in your judgment. I remember that it has been said that lawyers are the most critical people in the world, and I know that they are when they are on the other side. I know also that my opponents in lawsuits have never failed to criticize me. I see my friend, Mr. Gates, sitting over there, and I will bear evidence he has done it many times himself, and very successfully, too.

Mr. President, I am delighted to have the pleasure of attending this meeting of the Tennessee Bar Association, and while it is a little disconcerting to speak before them without notes and without preparation, still that is overcome by the pleasure of renewing my acquaintanceship and association with so many of the bar of Tennessee, clasping hands with so many warm personal friends, and of being one of you again. I am very proud of our profession and after all, there is no greater profession than that of the law. Lawyers of this State, lawyers of any State, lawyers of our entire country, constitute the balance wheel of our State and National Governments. By training and by experience they have become the conservative element of our people. They are always on the side of law and order. They are against evil innovations of every kind. While you occasionally find one beyond the pale, yet the great body of them represent all that is good and reasonable and upright and able in our citizenship. It has always been my greatest pride that I was educated as a lawyer, and that I have been a very active practitioner at the bar, and I again say that it is with the greatest pleasure that I am here with you gentlemen this morning.

Mr. President, the Tennessee bar has always been of the very highest order among the lawyers of our country. The history of the bar in this State has been a wonderful history. Tennessee's lawyers have been noted for being among the best of the land. During a very large part of our national history we have had representation on the Supreme Court of the United States, the highest judicial tribunal of the world. Before the Civil War, Judge Crafton, for more than a generation, served on the bench with the greatest distinction, and I know since I have been in Tennessee we have almost continuously had a representative upon that bench. Mr. Justice Howell E. Jackson, one of the greatest lawyers of Tennessee and one of the great judges of the land occupied a distinguished place there for many years. Later on Mr. Justice Lurton, whom we, and especially most of us older ones, knew and loved so many years, an able, distinguished, and learned lawyer and lovable man, adorned for many years a place on that bench, and when he was removed by an untimely death his place was taken by another distinguished Tennessean, one of the ablest members of the present bench, Mr. Justice J. C. McReynolds, of Nashville.

In this connection I might suggest that there are likely to be other appointments made to that bench. There is one vacancy now and likely to be two or three other vacancies before a great while. I believe three of the judges are now old enough to retire and have served long enough to retire, and it is said that President Harding will probably have the privilege of appointing four new judges. Whether he will come to Tennessee or not, we, of course, do not know. We have heard, however, that he is contemplating the appointment of a judge from Tennessee. Well, we all know that we have the very best material here for such an appointment, and it makes no difference whether the President wants a Democrat or a Republican, we have distinguished lawyers on both sides of the very best kind, that will fill the place with the greatest credit. If the President wants a Democrat, he can easily find one in Tennessee. My colleague, the present senior Senator, the Hon. JOHN K. SHIELDS, has been suggested a number of times, and it goes without saying to you, the members of the bar of Tennessee, that he would make a splendid representative on the highest court of the land, if he should be appointed and if he were willing to accept. On the other hand, if the President wants a good, everyday Republican, where could he find a stronger or an abler man than your own distinguished Federal judge here, the Hon. E. T. Sanford? And there are many others in Tennessee who would adorn the position. We have the material here, and I hope that President Harding will look down toward Tennessee when he wants to find the very best kind of lawyer to fill the vacancy on that bench, and that he will add another Tennesseean to it.

My friends, you have asked me to talk about disarmament. At present this is one of the great burning questions in the United States. It is one of the most important questions that ever came before our country or before the world. It is a leading question from almost any angle it may be viewed. If it would bring world peace, its importance can not be estimated. From a standpoint of taxation it is of the highest interest to every citizen. Looked at from a standpoint of business, its happy settlement would probably mean the restoration of good business, and it is the most vital question, not only before the American people but before the people of the world.

Our newspapers frequently speak of disarmament as if it were a discovery and accord the honor of that discovery to a distinguished Member of the United States Senate, Mr. WILLIAM E. BORAH. Well, Mr. BORAH is one of the very finest of men, one of the ablest of Senators, and probably the most eloquent Senator we have. I think he is one of the greatest speakers I have ever heard talk. He is a devout believer in disarmament. His work for disarmament since the war has been more conspicuous than that of any other Senator or any other citizen. In advocating it he has locked horns with the leaders of his party and even with the President of the United States. In advocating disarmament, just as in advocating any other policy that he believes is right, he has been able and fearless. But he did not discover the policy of disarmament. As a matter of fact, the original disarmament resolution was offered by the Hon. Walter L. Hensley, a member of the Committee on Naval Affairs in the House and a Democratic Congressman from Missouri, as an amendment to the naval appropriation bill of the year 1916, and this amendment became the law in 1916. In substance that amendment directed the then President of the United States, as soon as the war, which was then raging in Europe, might end, to call a meeting of representatives of all nations together with a view to securing a limitation of naval armaments. If permitted, I will secure a copy of this original resolution and the other disarmament resolutions and insert in my remarks before they are printed. I can only give the substance of them now. The resolution is as follows:

"It is hereby declared to be the policy of the United States to adjust and settle its international disputes through mediation or arbitration, to the end that war may be honorably avoided. It looks with apprehension and disfavor upon a general increase of armaments throughout the world, but it realizes that no single nation can disarm, and that without a common agreement upon the subject every considerable power must maintain a relative standing in military strength.

"In view of the premises, the President is authorized and requested to invite, at an appropriate time, not later than the close of the war in Europe, all the great Governments of the world to send representatives to a conference which shall be charged with the duty of formulating a plan for a court of arbitration or other tribunal, to which disputed questions between nations shall be referred for adjudication and peaceful settlement, and to consider the question of disarmament and submit their recommendation to their respective Governments for approval."

This resolution, originating, as I have said, with Mr. Hensley, had the mutual approval of the then Secretary of the Navy, Josephus Daniels, and of President Wilson. As soon as the war was over, President Wilson carried out the direction of Congress in this resolution by having inserted in the treaty of Versailles the following provision:

"ART. 8. The members of the league recognize that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations. The council, taking account of the geographical situation and circumstances of each State, shall formulate plans for such reduction for the consideration and action of the several Governments. Such plans shall be subject to revision and reconsideration at least every 10 years. After these plans shall have been adopted by the several Governments, the limitation of armaments therein fixed shall not be exceeded without the concurrence of the council."

Last year Senator BORAH introduced the following resolution:

"*Resolved*, That the President of the United States is requested, if not incompatible with the public interest, to advise the Governments of Great Britain and Japan, respectively, that this Government will at once take up directly with their Government, and without waiting for the action of any other nation, the question of naval disarmament, with a view of promptly entering into a treaty by which the naval building programs of each of said Governments, to wit, that of Great Britain, Japan, and the United States, shall be substantially reduced annually during the next five years to such an extent and upon such terms as may be agreed upon."

That resolution was favorably reported at the last session of Congress and was unanimously inserted as a part of the naval appropriation bill of last year, but that bill failed, and Senator BORAH again introduced the resolution at the present session of Congress, and it has again unanimously passed the Senate, over the very active opposition of President Harding and of the administration leaders in the Senate. At the time the Hensley disarmament resolution was passed in 1916 little was said about it in the papers, and, of course, when we got into the war that ended discussion of disarmament during the period of the war. After the war was over the President of the United States, carrying out the direction of Congress, undertook to and did put a disarmament resolution in the League of Nations. We all know that agreement was not finally ratified by the Senate of the United States, and therefore it has never become binding upon this country. However, the question is not ended. It is more alive to-day than it ever was. Mr. BORAH'S resolution is a mere modification of the previous Hensley resolution and a mere modification of the Wilson resolution in the Versailles treaty.

When the Borah resolution came up in the Senate last winter it was adopted by a vote of 58 to nothing. In the present Congress Mr. BORAH again introduced his resolution, and while President Harding and his administration fought it for a while, the newspapers stating that the President was very greatly opposed to it, still, when it came to a vote, the opposition vanished when the roll was called and the vote was 72 to nothing. Not a single Senator voted against it. The naval bill, with this resolution in it, will go to conference, and it has been announced by the floor leader of the House of Representatives, Mr. MONDELL, who is a very ardent disarmament man, that the Borah resolution will be changed so as to include all nations. Whether this will result or not I do not know, but if it does pass in that form, it will be exactly the resolution that was passed in 1916, and in substance and effect it will be exactly the resolution that was put in the League of Nations by Mr. Wilson under the act of the Congress in 1916.

But, my friends, the form of the resolution is nothing. The substance of all three resolutions is the same. It calls for a meeting of the representatives of the various nations, and an agreement to reduce costly and expensive naval armaments, which are likely to throw the world into war again. The original credit is due to Mr. Hensley. The greatest credit is also due to President Wilson for furthering the project, and for giving to it the sanction of all the nations of the earth except the United States. The greatest credit is likewise due to the distinguished and able Senator from Idaho [Mr. BORAH], who is about to secure the ratification of the project by the United States. His task in overcoming the opposition of President Harding and his administration is great, but if he overcomes it the greater will be the honor to him, and if we finally secure a disarmament conference and a reduction of armaments, the result will be due to Senator BORAH more than to any other man in the Nation.

Now, my friends, I want to discuss why we should agree to a disarmament conference and to a reduction of armaments. Why should we take these steps? The United States in the past has deemed it proper for its own protection to build up a great Navy. Why, at this time, should we seek to disarm ourselves and the other nations of the world? The reasons are perfectly plain. The first of these reasons is the enormous cost of maintaining a great Navy and the consequent burden of taxation that is imposed upon the people. Did you ever think of what the cost of war to our country is and how that cost is divided? I want to tell you. We spent over $5,000,000,000 last year, and the fiscal year just ending we will spend over $5,000,000,000 again. Five thousand million dollars have been taken in in taxes from the American people this year, and where have these taxes gone? Ninety-two and eighty-three one hundredths per cent have gone for war. Just a fraction over 7 per cent of these taxes go to defray the ordinary expenses of government, go to pay your judges, your Representatives in Congress, to pay all the civil officers of the Government, go for agriculture and commerce. Just 7.17 per cent go for these ordinary functions of the Government, while 92.83 go for war, past and future. In round numbers, $1,300,000,000 go for interest on debts incurred in the war. Over one billion goes for pensions alone, if you include the sums for the rehabilitation of our soldiers. We spent last year over $500,000,000 on our Navy, probably nearly $600,000,000, and the Senate is just passing a bill of more than $500,000,000 this year for the Navy, and the remainder of the 92.83 per cent is made up of expenditures for war purposes. My friends, in order to show you how we are going on the question of war expenditures in peace time, last year my distinguished friend, Senator WADSWORTH, the able chairman of the Military Affairs Committee, on which I have the honor to serve, put in a bill for the reorganization of the Army of the United States, which, if it had been enacted into law, would have cost our Government $1,000,000,000 a year for our Army alone. When I tell you that Germany in the height of her militarism never spent over $200,000,000 a year in times of peace on her army, you can imagine what was proposed in this country by that bill, known as the Army reorganization act. Among other things, it provided for universal compulsory military service. It was Mr. MONDELL, Republican leader in the House, who declared that the lowest estimated cost of that bill, if it had been enacted into law, would be $1,000,000,000 per year. It provided for one of the greatest armies ever organized in peace time in any country of the world. I do not know whether you approved of my course of not, but I fought it from the beginning to the end. The only result of the various amendments I offered to it in the Senate was the elimination of universal compulsory military training from the bill, thus reducing the cost of it several hundred millions of dollars, in my judgment.

But when the bill went over to the House, in substance they adopted all of the contentions that I fought for in the Senate, with the result that instead of spending a billion dollars for our Army last year we spent $392,000,000, an enormous sum indeed; but there were saved to the Government in the neighborhood of $600,000,000 over what was proposed. This enormous expenditure must be reduced.

There was no use for such an enormous Military Establishment. We had already trained the finest soldiers that ever followed any flag in the history of the world. There was no reason, as it seemed to me, in times of peace and in times of reconstruction, for building up this enormous Army. There was no reason for taxing the American people a billion dollars to keep their Army going. I don't know how you feel about it, but I did not feel that we were running any risk in seeking to reduce the Military Establishment. There was no reason for turning America into a military camp.

I believe in a good Army. I believe in holding the nucleus of a good Army which may be expanded. I believe in having at all times the necessary trained officers; but to have a great standing Army of officers and men in times of peace, far exceeding anything that was ever known in military Germany, even, was to my mind something abhorrent to the ideals of American democracy.

My friends, $392,000,000 were spent for the Army last year, and we are going to spend in the neighborhood of $330,000,000 this year for our Army alone. Before the war we spent from $75,000,000 to $100,000,000 a year on our Army, and now we spend probably four times as much as we did in former peace years. It is possible that in the upset state of the world we should spend more. It may be that in the present situation the Army should be some larger than it was before the war. I am not one who believes that we should disband our Army, but we ought to be reasonable about it. We ought to consider the taxpayers before making these enormous expenditures. We ought not to tax them in the reckless way that we have been taxing them. It is true that the American people have responded to this taxation, but in my judgment we are carrying the expenditures of government beyond the bounds of reason, and we should curtail the expenses of war for a while.

And then, too, we are going to spend over $400,000,000 this year on our Navy. We already have a great Navy. It is becoming larger every year. The 1916 program of building is being kept up. Our country feels that it has to be kept up as long as other nations continue to build. I have given you these figures about the cost of war, about the cost of our Army and Navy, for the purpose of showing you what the real disarmament question is. I do not believe that America should disarm as long as England and Japan continue to build even greater naval armaments. We can not afford to go unprotected. China is an illustration of the unprotected nation; but surely the good sense of England and Japan, if ever they are brought into a conference, will suggest to those nations that they can not build greater navies than America can build, and that the wise thing to do is to come to an agreement by which each has a relatively small naval establishment. England spent last year $765,000,000 on her navy. And she is increasing her program this year. Japan spent somewhere in the neighborhood of $300,000,000 on her navy last year, and is continuing these enormous expenditures this year. As long as these two nations continue to build up their navies—because the others really do not count, speaking from a naval standpoint—but as long as Great Britain on the one hand and Japan on the other are building and continuing to build enormous additions to their navies, in self-defense we can not reduce our Navy. It would not be a wise thing to do.

In 1916 we adopted what was known as the American naval building program, and under that program then adopted, if it had not been for the war, by 1923 we would have had as large a Navy as Great Britain's. Under that program, if it is continued as it is to-day, by 1925 we will have a Navy about the same size as the navy of Great Britain. Japan, if she continues her program, will have a navy probably a little over half as large as ours. Great Britain to-day has a navy half as large again as ours. By 1925, if we continue our present program of building, we will be up with her. Now, under these circumstances what can we do by 1925 if disarmament negotiations do not go through in the meantime? The United States will be in an admirable position to force a disarmament.

Great Britain can not keep up the naval pace. Her people are taxed to the last limit now. America, as high as our taxes are, has not reached the tax limit to which we could go, and we can continue the pace. Great Britain can not continue the pace and neither can Japan. There must come a time in this great rivalry for sea power when these three nations have got to listen to reason. If they don't, of course, the United States will win in the long run, and the peace of the world will again be in jeopardy. If it simply degenerates into a race as to which nation can build the greatest army, the United States, having the money, having the material, and having the men, is obliged to win out. Our British and Japanese friends may as well understand that. But we should leave no stone unturned to get them to agree voluntarily to disarm.

My idea of a proposed naval disarmament program is this: That it be agreed by the United States and Great Britain that each shall have an equally balanced navy, whatever the size of it, and that no other country shall have as large a navy, substantially speaking. This means that Japan is the only other country that needs to be really considered, and the agreement might provide that she should have a navy half as large as ours and half as large as Great Britain's. If the relative size of navies be once agreed upon the reduction would follow as a matter of course. In other words, if Great Britain should reduce her navy to one-fourth the size it is now and the United States had a navy equally as large as Great Britain's and Japan had a navy one-half as large, it would save to the three nations simply enormous sums in taxation and would make the peace of the world secure, and relatively each would be as well protected as now.

Of course, a general agreement of all the nations, as proposed by Mr. Hensley and by President Wilson, would be even better still for the

peace of the world. Such reduction of naval armaments would be a great step toward permanent and lasting peace, if taken in all the world, and if Great Britain and the United States, the two greatest English-speaking people of the world, the leaders in all that is best in government, the leaders in all that is best in civilization—if they would agree to have each an equally balanced navy, and then reduce it, and all other nations reduce correspondingly in relation to these two, the peace of the world would be secured. Of course, Japan can not compete with us in a naval program. She has not the materials with which to build a navy. When she builds battleships she has to buy the materials from other nations. She has to buy them from nations that are her competitors, so that the result is that if Great Britain and the United States are able to agree, the agreement can be enforced and naval disarmament and freedom from war will become a certainty.

Now, my friends, let us consider additional reasons for disarmament. Can any sane person differ on the advisability of disarmament, if it can be had by agreement? Is it possible that there could be differences of opinion, that this is the reasonable and proper and economical and wise thing to do? We are not only spending these enormous sums of money for a Navy, but at the same time we are building up a military spirit in this country. It does seem to me that after the experience we have had in the late war, when the lives of 10,000,000 of young men have been snuffed out, when the war has thrown into bankruptcy the whole of Europe and has shaken the financial foundations of this country to the center, when Europe has been almost desolated, and when it is doubtful if many of her nations will ever recover—surely it is the duty of thinking men, thinking men and women like you gentlemen and ladies here to-day—surely it is the duty of Christian people everywhere to take those wise and needful steps that will prevent a recurrence of war. The great cry to-day is for the reduction of taxation to the American people, and it is a cry that should be heard, and yet it is impossible to reduce them materially as long as we keep making enormous appropriations for armaments on land and sea.

Why, my friends, I have not been into a business house since I have been here in Knoxville, I have not been in a bank or talked to a business or professional man since I have been here, that I am not asked the question as to when Congress is going to reduce taxes. I would like to answer that question that we are going to reduce them immediately, but we can't reduce taxes substantially when we make these enormous expenditures for the Army and Navy, these enormous expenditures for war. It is impossible to reduce them as long as we keep up these expenditures. One gentleman said to me the other day, "Why don't you get rid of all those clerks up there? You ought not to have more than one-half the clerks you have in Washington." I replied in this manner: I have no doubt that we could get along with one-half the clerks we now have. No doubt we have a good many more there than we ought to have, but, my friends, if we moved every clerk out of Washington, it wouldn't make one one-thousandth of 1 per cent difference in the amount of taxes you would have to pay, because, as I said before, 92.83 per cent of all your taxes are going to pay for war purposes, and not for peace purposes, and only 7.17 per cent go for peace purposes. I wish you could see a diagram that we have hanging on the wall of the United States Senate. We keep it there as a constant object lesson to Senators on the extravagance of war expenditures. It is in the form of a solid wheel, 92.83 per cent of it is red, indicating the war expenditures of the Government; 1.01 per cent white, indicating expenditures for research, public health, and education; 2.97 per cent of it white with black lines, showing the sums spent for public works, rivers and harbors, Panama Canal, and public buildings; and 3.19 per cent shown with white and black dots, and constituting the legislative, executive, and judicial expenses of the Government. To show you more concretely what I am trying to convey to you, I need only say that but for war expenditures you would not have to pay a single dollar of income tax, corporation tax, internal-revenue tax, or excess-profits tax. All of those taxes go for war, and so when you feel that these various income and corporation taxes are heavy you will understand the price that we are paying for war. Substantially speaking, government as we have it to-day is a government for war. It is not a government for peace. It is not a government to build up the material prosperity of this country. We do not spend our substance to make men more prosperous, we do not spend our taxes to make men better educated, happier, and more contented, but we spend our substance for the purpose of killing men and destroying the property of the nations of the world. We spend our substance in looking after the war interests of this country and the world, and not after its peace interests. Oh, if I could impress this lesson upon everyone that what we now need in this period of reconstruction is to revise our views on the subject of government. If we could arrange to devote a little less attention to war and more attention to making men better educated, to build them up in mind and body, to build up and develop the material resources of our Nation, to build up their transportation facilities, to develop their minds, to develop their fields, to make agriculture more attractive, to make our entire people more prosperous, would it not be infinitely better than to devote our time and talents and taxes to the purpose of attempting to tear down other peoples and other nations? What a splendid condition it would be in our country if we could get the American people to take their minds off of war and get them back to the problems of peace! When I tell you that we spend more for a single battleship than we spend on the entire agricultural interests of America you will see what I mean. We spend more than $40,000,000 for an up-to-date battleship—just one—and this past year we spent $39,000,000 to aid and develop the entire agricultural interests of our great country. We have done much in the development of our agricultural interests, it is true. We have farm extension work, we have done splendid things in teaching the people to increase the productivity of their soils, we have done much to eliminate ticks and weevils and other insects hurtful to agriculture, we have done much in making men better farmers, but all we have done does not cost our Government as much as a single battleship that may be obsolete in three years and have to be sunk in experimentation for more up-to-date engines of war. We spend ten times as much on a single battleship as we do toward getting foreign markets for our surplus products.

This country's prosperity, my friends, depends almost wholly and alone, these days, upon foreign markets for our surplus products. Think of it for a moment! We make more in this country than we consume. We can not be truly prosperous by merely selling to each other. In order for this country to be prosperous we must have foreign markets for the surplus products we make. How are we going to get these foreign markets? We are spending this year less than $5,000,000 toward getting markets for our surplus products, about one-eighth as much as a single battleship costs, and yet we will spend several hundred millions for battleships. Mind you, I am not one of those who believe that our country should go unprotected, but I think that we ought to be reasonable and level-headed in building up our protection, and we ought to form some plan and come to some agreement by which the building up of our material prosperity could go hand in hand with our just protection. At present our expenditures are all one-sided. It is necessary for us now to go out and obtain these markets in these days of reconstruction. Every other country is going out and developing their trade while we are sitting quietly at home and paying no attention to our foreign markets, and thus we are suffering a great depression in business and contenting ourselves by saying, "Yes; these are indeed hard times; they are indeed awful." We are taking no steps to do away with them. We can not do away with them except to get our foreign markets, and I thank God that in this period of war America had the good sense to take one splendid forward step in securing these markets. We have built up since the war began the second greatest merchant marine in the world, and if we but stand behind it and make it a success it will mean the permanent and everlasting prosperity of the American people.

My friends, when we went into this war only 8 per cent of our products were carried to foreign markets in our own ships, and to-day nearly 44 per cent of all we produce and sell abroad is carried in our own vessels, and I hope the day may come when 75 per cent of all we send abroad may be sent in American bottoms, and this will be done if the American people will stand behind the great merchant marine that was created during the war; and I believe we will stand behind it.

I want to talk to you about another matter for a moment—you can see by what I am saying to you that I am just talking to you as I stand here, and that I have no prepared speech. Nevertheless, the subject is intimately connected with disarmament. European nations, many our allies, owed to the United States at the end of the war nearly $10,000,000,000; principal and interest, they owe us to-day in the neighborhood of $11,000,000,000. They have paid us substantially no interest. We do not even hold the usual bond obligations which they agreed to give us when they got the money. We merely have the I O U's for this enormous sum of $11,000,000,000. This is a problem of reconstruction that all good Americans should consider. It is a great international problem, a great business problem, a great economic problem. It is a problem that will not only mean a great loss to us in money but the greatest losa to us in our prestige throughout the world if we do not take steps to see that these debts are properly secured and the interest thereon promptly paid.

You ask why we do not reduce taxes? We could reduce taxes if our allies would pay the interest on their debts. The yearly interest on our foreign loans amounts to $500,000,000. If we could collect this interest alone upon our debts, we could reduce taxation at once to the extent of $500,000,000 a year. We are not collecting it. Why, no one seems to know. Great Britain alone owes us a yearly interest of $225,000,000. She hasn't paid any of her interest yet. I noticed in the papers a day or two ago that one of her distinguished statesmen, Mr. Churchill, stated that they were going to make arrangements to begin paying next year, and I sincerely hope they will, but we have no bonds up to date, and we merely have her I O U's and there is much mystery about those. Great Britain admits the debt, she knows what her interest amounts to, but she has not offered to pay it, and yet she spent $765,000,000, on her navy last year. Think of it, my friends, she spent $765,000,000 last year on her navy and will probably spend more this year, and yet she hasn't money enough to pay the interest on the debt to us. She likewise spent probably $500,000,000 last year in buying up oil of the world, largely for the purpose of supporting her navy. She bought oil fields in Persia, she has taken over the oil fields of Mesopotamia, she has the oil fields of Palestine. She has bought oil fields in Russia, she has bought oil fields in the United States, in Mexico, in Central and South America. She has recently made a treaty with Russia by which she will no doubt control the oil fields of all Russia. Everywhere she could lay her hands on oil fields, the Government has joined with her citizens and bought them and she won't allow an American citizen to even prospect for oil or acquire any kind of oil rights in the lands of any country which she owns or controls. She will not permit an American to buy or lease a foot of ground in any British territory under the sun. Her Government is using the very interest which she owes to us and ought to pay us to buy up the oil fields of the world, and yet she is unable to pay us any interest. Why is she buying these oil fields? Principally because she wants to have the most up-to-date navy and knows that the swiftest vessels can only be run with oil. It is naval rivalry that actuates her and it is a rivalry against the United States, of course, because no other nation can hope to compete with her in naval building. If we could have an agreement with Great Britain about the reduction of armaments there would be no incentive for her to discriminate against American citizens as she is doing everywhere in the world, and she is discriminating against them while we are paying for her discrimination. She uses the very money that she should pay us in buying war materials to strike us down if need be. If England would agree to disarm, she could then pay her debts to us and to that extent relieve our people of the burden of taxation.

So, my friends, the question of disarmament is the greatest problem before the world to-day. It is the greatest in its economic possibilities, but greater still in its peace possibilities. Have we not had enough of war? I voted for the last war, and let me stop here long enough to say that I was conscientious when I cast that vote. I did not vote for war because we were afraid not to go into that war. I did not vote to send our boys 3,000 miles across the sea to defend our own country. I voted for that war as I believe every other Congressman and Senator voted for it who did vote for it. I voted for it to aid in the saving of humanity and in saving the civilized nations of the world.

But, oh, my friends, have not we had enough of it? Ought we not to take steps to do away with it? I am not one of those optimists who believe that we can forever and eternally do away with war by agreement, but we can minimize the likelihood of war. We can make war exceedingly uncertain. There is another thing that we must consider in providing for permanent peace. Should we have another war, the horrors of such a war must be considered. The horrors of the last war were awful. The high-powered guns, the enormous shells, the dropping of shells by aircraft on defenseless women and children and upon hospitals, the use of poison gas on the field of battle, the use of poison gas anywhere were all awful specimens of present-day war. But I am told that an American citizen has invented poison gas that can not be seen, that can not be smelled, but it can be shot from a cannon and can be sent many miles and that when it explodes no living, breathing thing for many miles around can escape its awful effect. It is said

that it will kill man and beast instantly and absolutely. A whole city, it is claimed, can be destroyed with one shot from such a gas shell if it explodes in the midst of that city. Such improvements have been made in the engines of war that it is almost inconceivably horrible and barbarous, and surely if these and even more barbarous methods are to be pursued in the future it is well worth our time to consider methods of preventing it altogether. Surely if these are the methods, and no one doubts they will be the methods, we who believe in the religion of Jesus Christ, we who believe in worshipping God after our own consciences whatever be our religion, we the civilized people of America, surely, my friends, we owe it to ourselves, to our consciences, and our religion to take such steps as to prevent a recurrence of the awful barbarities of present-day war.

Again, Europe to-day is in a deplorable condition. Her nations are practically bankrupt. It will take a hundred years for them to recover their normal state of civilization which they had before the war began. The war has done away with many kings and emperors. To that extent the result has no doubt been good. The people will control in the future, I sincerely hope, but they are not in a position to take the lead in bringing about an agreement to keep the peace. We, the people of this great, virile Republic, this greatest of all Christian nations, it is our duty to take the first step in bringing about disarmament. I hope Mr. BORAH will convert President Harding. I hope the administration will take the lead, but at the present the prospects do not look bright.

There are some advocates of disarmament who say that the first step we ought to take is to disarm ourselves. They say we ought to declare a naval holiday, regardless of whether Great Britain or Japan wants one. I am not inclined to this view. You can tell from what I have said this morning that I would go to any length within the bounds of reason and safety to bring about disarmament, but I do not believe that it would be safe for us to disarm ourselves and, like China, announce to the world that we are noncombatants. As much as I dislike to believe it, it looks impossible for us to fail to go on with our naval program of defense as long as Great Britain and Japan, one on one side of us and one on the other, continue to build even greater navies. In this connection, let me ask what is Great Britain building her navy for? What is she spending $675,000,000 a year on her navy for? What enemy does she expect to fight? It can not be Japan. Her navy is inconsequential. It can not be France, because she has no navy to speak of. It can not be Italy, for she has less. No other nation has any navy to amount to anything. One British dreadnaught or one American dreadnaught could probably dispose of any other nation's navy except Great Britain's or Japan's or the United States'. Why, then, is Great Britain continuing to build? Why is the United States continuing to build? These are important questions. Is it because of mutual distrust and jealousy? Is it because of the desire of each to control the world? It is time, my friends, that men and women, like you—safe, conservative, educated, trained, thinking men and thinking women—should consider these questions.

It would be well for the bar association of this and other States to consider them. It is time for you to take counsel with one another and see if there isn't some way to stop or to limit the likelihood of the recurrence of war. The great question is, How can it be done? This disarmament conference will undoubtedly be called. The overwhelming sentiment of the American people is in favor of it, and their desire will control. It is true that great and powerful influences in this country have sought and are seeking to prevent it. These influences showed themselves in the effort to defeat this resolution in the Senate. The newspapers in Washington on several occasions claimed that Senator BORAH'S resolution would never pass the Senate. The President threw the weight of his great influence against it. The President's spokesmen on the floor were opposed to it, and yet when the record vote came, when the ayes and nays were called for, not a single Senator dared to vote against it.

My friends, this resolution will become the law. The President of the United States is going to call that conference whether he favors the calling of it or not. That conference is going to be held, and I hope and believe that naval disarmament, at least, will be brought about. There are two reasons why this will be done. The first is the enormous cost of war and the enormous taxation that is inflicted upon every nation to keep up a great navy. But the other and the greater and better reason is that Christianizing influences that have been going on for 2,000 years in the world are going to see to it that civilized men do not live for the purpose of destroying one another. These are the two great influences that will bring about disarmament.

My friends, I am proud of the Government that is ours. It has from time to time made mistakes. It frequently does so. Everybody who amounts to anything makes mistakes at times. But, after all, the United States, whatever may be said to the contrary, has earned her place as the leader of the world in all that is good in government, in all that is good in higher civilization, and all that is good in humanity.

And though there may be some who will say that we won't take our place in the world, that our only purpose as a nation is to isolate ourselves, that our greatest good will come from living alone, yet I say to you the time is surely coming, as the shining sun comes after the blinding darkness of night, that the United States will again take her place as the leader of the world in everything that is good, which place your boys won for our Government, all our people, in the Great War that is just over.

No power on earth can keep us out of our true place. No antiquated ideal of isolation will hold us back long. We are going to lead in civilization. We are going to lead in government. We are going to lead in commerce. We are going to lead in production, and we are going to lead in righteousness. We are going to lead, also, in the great world council of peace which must come. It may be temporarily set back, yes. It may be temporarily delayed, yes. But the time will come, and I believe speedily, when this great nation of ours will find itself again and will recognize that our prosperity and our happiness and the prosperity and happiness of all mankind will be best found in our becoming a part of the world and taking the lead in all of its activities and not in isolating ourselves from the world.

Ladies and gentlemen, I thank you. [Applause.]

COTTON PRODUCTION IN SOUTH CAROLINA.

Mr. DIAL. Mr. President, I ask unanimous consent to have printed in the RECORD a short statement relative to the cotton crop of the United States. I am proud to say that South Carolina leads in the production per acreage.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

[From The State: Columbia, S. C., Friday morning, Sept. 23, 1921.]

STATE LEADS IN CROP VALUES TO ACRE—PRODUCTION ABOVE $70 ON EACH ACRE OF IMPROVED LAND IN SOUTH CAROLINA AND TAKES FIRST RANK IN CENSUS FIGURES FOR ALL STATES OF UNION.

(By F. H. Jeter.)

ATLANTA, GA., *September* 22.

With a farm value of $70.50 per acre for crops grown in the State, little South Carolina leads the States of the Union in value of crops grown on her acres of improved land. Director J. N. Harper, of the southern soil improvement committee, has just finished a digest of the report of the Census Bureau and finds that South Carolina has an enviable record for the year 1919, for which year the census figures were gathered. Her acreage of improved land was 6,206,644 acres, and the value of her farm crops grown on this land was $437,121,837, which gives a value of $70.50 per acre.

It is interesting to note in this connection that South Carolina's expenditures for fertilizers amounted to $52,546,795, or that for each acre she spent an average of $8.46. This would not be so significant were it not for the fact that North Carolina, her nearest competitor in the South, with over 2,000,000 more acres of improved land, spent $5.96 per acre for fertilizers and has a farm value of crops per acre of $61.50. North Carolina had 8,194,409 acres in improved land and a total value of farm crops amounting to $503,229,313, or a value per acre of $61.50. This State spent $48,796,694 for fertilizers during that year.

Now compare these figures with those from two other States of the same region.

Georgia had 13,054,010 acres of improved land and a total value of farm crops amounting to $540,613,626. This gives Georgia a farm value of crops per acre of $41.40. She spent $46,196,434, or only $3.53 per acre for fertilizers, and her value of crops per acre dropped correspondingly. Alabama with 9,893,407 acres of improved land had a total value of crops amounting to $304,348,638, which is an acre value of $30.40. Alabama, however, spent only $14,066,108, or just about $1.42 per acre for fertilizers, and her value per acre of farm crops dropped below half of the value secured on South Carolina farms. North Carolina spent just about $6 per acre for fertilizers, and doubled the value per acre of Alabama's crops. Putting this in another way, North Carolina spent a little over four times as much for fertilizers as Alabama and made 100 per cent on the investment.

According to Director Harper it seems that as is the use of fertilizers so is crop production. These figures issued by the Census Bureau seem to bear out his assertion. It brings to mind the old argument that a less number of acres intelligently farmed and liberally fertilized can be made to pay more actual profit than by trying to farm large areas and securing low acre yields. With the changing system of farming that is gradually coming over the South, it becomes more and more imperative that the acreage be reduced.

This is especially true of cotton. Under boll weevil conditions, farmers can not hope to farm large areas in cotton profitably. This has been brought forcibly to their attention this year when the boll weevil has reduced the yields in some sections to where the farmers will not make a bale on from 6 to 10 acres of land. This is a conservative estimate given by some leading farmers in the districts seriously affected. It would seem that fewer acres of cotton, liberally fertilized and carefully tended; the growing of all food and feed crops and plenty of hay and roughage for the cattle and hogs; the keeping of sufficient cows to furnish all the milk and butter needed; a home poultry flock; and an orchard and garden will work for the complete financial independence of the Southern farmer.

Figures show that crops must be fertilized to give highest yields per acre and greatest profit, and when there is a good income from every acre of farm lands planted in the South then we have reached that condition where we can boast of our efficiency. South Carolina is leading the way, North Carolina is close behind, while Georgia and Alabama are somewhat lagging when acre returns are considered.

TREATY OF PEACE WITH GERMANY.

Mr. LODGE. Mr. President, I move that the Senate, in open executive session, proceed to the consideration of the treaty of peace with Germany.

The PRESIDING OFFICER. The Senator from Massachusetts moves that the Senate proceed to the consideration of executive business, in open session, for the consideration of the treaty of peace with Germany. Is there objection?

Mr. STERLING. Mr. President, I know the motion is privileged and is not debatable; I wish it were otherwise; but I have simply to say that should the motion not prevail I shall move the consideration of the conference report on House bill 7294.

The PRESIDING OFFICER. The Chair hears no objection, and the Senate is in open executive session for the consideration of the treaty of peace with Germany.

Mr. LODGE obtained the floor.

Mr. STERLING. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from South Dakota?

Mr. LODGE. I do.

Mr. STERLING. I understood that the Senator from Massachusetts made a motion instead of a request for unanimous consent.

Mr. LODGE. I did not ask unanimous consent; I made a motion.

The PRESIDING OFFICER. The Chair will put the question. The question is on the motion of the Senator from Massachusetts.

The motion was agreed to; and the Senate, as in Committee of the Whole and in open executive session, proceeded to consider the treaty of peace with Germany.

Mr. LODGE. I now ask that the treaty with Germany, as reported by the Senate Committee on Foreign Relations, be

read, together with the resolution of ratification which contains the reservations which are proposed by the committee.

The PRESIDING OFFICER. The Secretary will read as requested by the Senator from Massachusetts.

The Assistant Secretary read as follows:

Considering that the United States, acting in conjunction with its cobelligerents, entered into an armistice with Germany on November 11, 1918, in order that a treaty of peace might be concluded;

Considering that the treaty of Versailles was signed on June 28, 1919, and came into force according to the terms of its article 440, but has not been ratified by the United States;

Considering that the Congress of the United States passed a joint resolution, approved by the President July 2, 1921, which reads, in part, as follows:

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the state of war declared to exist between the Imperial German Government and the United States of America by the joint resolution of Congress approved April 6, 1917, is hereby declared at an end.

"SEC. 2. That in making this declaration, and as a part of it, there are expressly reserved to the United States of America and its nationals any and all rights, privileges, indemnities, reparations, or advantages, together with the right to enforce the same, to which it or they have become entitled under the terms of the armistice signed November 11, 1918, or any extensions or modifications thereof; or which were acquired by or are in the possession of the United States of America by reason of its participation in the war or to which its nationals have thereby become rightfully entitled; or which, under the treaty of Versailles, have been stipulated for its or their benefit; or to which it is entitled as one of the principal allied and associated powers; or to which it is entitled by virtue of any act or acts of Congress; or otherwise.

* * * * * * *

"SEC. 5. All property of the Imperial German Government, or its successor or successors, and of all German nationals, which was, on April 6, 1917, in or has since that date come into the possession or under control of, or has been the subject of a demand by the United States of America or of any of its officers, agents, or employees, from any source or by any agency whatsoever, and all property of the Imperial and Royal Austro-Hungarian Government, or its successor or successors, and of all Austro-Hungarian nationals which was on December 7, 1917, in or has since that date come into the possession or under control of, or has been the subject of a demand by the United States of America or any of its officers, agents, or employees, from any source or by any agency whatsoever, shall be retained by the United States of America and no disposition thereof made, except as shall have been heretofore or specifically hereafter shall be provided by law until such time as the Imperial German Government and the Imperial and Royal Austro-Hungarian Government, or their successor or successors, shall have respectively made suitable provision for the satisfaction of all claims against said Governments, respectively, of all persons, wheresoever domiciled, who owe permanent allegiance to the United States of America and who have suffered, through the acts of the Imperial German Government or its agents or the Imperial and Royal Austro-Hungarian Government or its agents, since July 31, 1914, loss, damage, or injury to their persons or property, directly or indirectly, whether through the ownership of shares of stock in German, Austro-Hungarian, American, or other corporations, or in consequence of hostilities or of any operations of war, or otherwise, and also shall have granted to persons owing permanent allegiance to the United States of America most-favored-nation treatment, whether the same be national or otherwise, in all matters affecting residence, business, profession, trade, navigation, commerce, and industrial property rights, and until the Imperial German Government and the Imperial and Royal Austro-Hungarian Government, or their successor or successors, shall have, respectively, confirmed to the United States of America all fines, forfeitures, penalties, and seizures imposed or made by the United States of America during the war, whether in respect to the property of the Imperial German Government or German nationals or the Imperial and Royal Austro-Hungarian Government or Austro-Hungarian nationals, and shall have waived any and all pecuniary claims against the United States of America."

Being desirous of restoring the friendly relations existing between the two nations prior to the outbreak of war,

Have for that purpose appointed their plenipotentiaries:

The President of the German Empire,

Dr. Friedrich Rosen, Minister for Foreign Affairs, and

The President of the United States of America,

Ellis Loring Dresel, Commissioner of the United States of America to Germany,

Who, having communicated their full powers, found to be in good and due form, have agreed as follows:

ARTICLE I.

Germany undertakes to accord to the United States, and the United States shall have and enjoy, all the rights, privileges, indemnities, reparations, or advantages specified in the aforesaid joint resolution of the Congress of the United States of July 2, 1921, including all the rights and advantages stipulated for the benefit of the United States in the treaty of Versailles which the United States shall fully enjoy notwithstanding the fact that such treaty has not been ratified by the United States.

ARTICLE II.

With a view to defining more particularly the obligations of Germany under the foregoing article with respect to certain provisions in the treaty of Versailles, it is understood and agreed between the high contracting parties:

(1) That the rights and advantages stipulated in that treaty for the benefit of the United States, which it is intended the United States shall have and enjoy, are those defined in section 1, of Part IV, and Parts V, VI, VIII, IX, X, XI, XII, XIV, and XV.

The United States in availing itself of the rights and advantages stipulated in the provisions of that treaty mentioned in this paragraph will do so in a manner consistent with the rights accorded to Germany under such provisions.

(2) That the United States shall not be bound by the provisions of Part I of that treaty, nor by any provisions of that treaty including those mentioned in paragraph (1) of this article, which relate to the covenant of the League of Nations, nor shall the United States be bound by any action taken by the League of Nations or by the council or by the assembly thereof, unless the United States shall expressly give its assent to such action.

(3) That the United States assumes no obligations under or with respect to the provisions of Part II, Part III, sections 2 to 8, inclusive, of Part IV, and Part XIII of that treaty.

(4) That, while the United States is privileged to participate in the Reparation Commission, according to the terms of Part VIII of that treaty, and in any other commission established under the treaty or under any agreement supplemental thereto, the United States is not bound to participate in any such commission unless it shall elect to do so.

(5) That the periods of time to which reference is made in article 440 of the treaty of Versailles shall run with respect to any act or election on the part of the United States from the date of the coming into force of the present treaty.

ARTICLE III.

The present treaty shall be ratified in accordance with the constitutional forms of the high contracting parties and shall take effect immediately on the exchange of ratifications, which shall take place as soon as possible at Berlin.

In witness whereof the respective plenipotentiaries have signed this treaty and have hereunto affixed their seals.

Done in duplicate in Berlin this 25th day of August, 1921.

[SEAL.] ROSEN.

[SEAL.] ELLIS LORING DRESEL.

The ASSISTANT SECRETARY. The Committee on Foreign Relations reports the following resolution:

Resolved (*two-thirds of the Senators present concurring therein*), That the Senate advise and consent to the ratification of the treaty between the United States and Germany, signed at Berlin August 25, 1921, to restore the friendly relations existing between the two nations prior to the outbreak of war, subject to the understanding, which is hereby made a part of this resolution of ratification, that the United States shall not be represented or participate in any body, agency, or commission, nor shall any person represent the United States as a member of any body, agency, or commission in which the United States is authorized to participate by this treaty, unless and until an act of the Congress of the United States shall provide for such representation or participation; and subject to the further understanding, which is hereby made a part of this resolution of ratification, that the rights and advantages which the United States is entitled to have and enjoy under this treaty embrace the rights and advantages of nationals of the United States specified in the joint resolution or in the provisions of the treaty of Versailles, to which this treaty refers.

The PRESIDING OFFICER. Under the rule, the Senate will proceed with the consideration of the treaty by articles.

Mr. LODGE. Mr. President, I am sure that all Senators appreciate the need of prompt action on this treaty and on the treaties with Austria and Hungary which accompany it, and which are substantially the same.

I desire to say at the outset that I have no intention whatever of pressing unduly for action upon the treaty. I desire that there shall be all reasonable debate and every opportunity for

discussion, but I hope that the Senate will sustain me in endeavoring to get action as soon as we reasonably can.

Mr. President, there seems to be no alternative to the action we are asked to take here of ratifying these treaties but remaining in a state of technical war with Germany, with Austria, and with Hungary; and I am sure that not only the Senate but the country is very anxious to bring to an end the present anomalous condition of a technical state of war where there is no war. The sooner this condition can be removed, with the stabilizing effects which I believe it is going to have to a certain degree on business, the better. I am anxious personally, of course, for a prompt disposition of the treaties; and at this point I desire to take the liberty of asking to have read a note which I received some days ago from the President, and which I feel at liberty to make public.

The PRESIDING OFFICER. The Secretary will read the communication.

The Assistant Secretary read as follows:

THE WHITE HOUSE,
Washington, September 21, 1921.

Hon. H. C. LODGE,
United States Senate, Washington, D. C.

MY DEAR SENATOR LODGE: I am sending to the Senate to-day the treaties of peace which have been negotiated with Germany, Austria, and Hungary. As you already know, these covenants are in complete harmony with the resolution adopted by the Congress; indeed, they are the outcome of the Executive's endeavor to carry out the expressed wish of the Congress. I feel quite sure that the Senate will be glad to give early expression of approval and ratification. Formal peace has been so long delayed that there is no need now to emphasize the desirability of early action on the part of the Senate. It will be most gratifying if you and your colleagues will find it consistent to act promptly so that we may put aside the last remnant of war relationship and hasten our return to the fortunate relations of peace.

Very truly, yours,

WARREN G. HARDING.

Mr. POMERENE. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Ohio?

Mr. LODGE. Certainly.

Mr. POMERENE. Some months ago the Congress passed the so-called Knox resolution. In view of what the Senator has just said and in view of the statement contained in the letter of the President, I take it that it is the position of the Senator that that joint resolution did not accomplish peace, but that it is necessary to have a treaty, formally ratified. Is that the position of the Senator?

Mr. LODGE. I should think that was the almost inevitable conclusion. That resolution ended the war so far as the United States was concerned, but in order really to bring peace and the normal relations of peace it was necessary to have a treaty with Germany.

Mr. POMERENE. I am glad to have my position confirmed by so eminent an authority as the distinguished Senator from Massachusetts. I had my own serious doubts as to whether the Knox resolution accomplished that purpose.

Mr. LODGE. I think the Knox resolution ended the war so far as the United States was concerned, but that is not a treaty of peace.

Mr. POMERENE. If the war was ended by that resolution, then we are at peace.

Mr. LODGE. So far as the United States is concerned, I say. That was our action alone.

With the indulgence of the Senate, I desire to make a brief statement in regard to the treaty now submitted.

It was necessary in making this treaty to make it in such a way that it would conform to the resolution passed by the Congress, and that was a work of no little difficulty. The resolution was general in its terms, elaborate in regard to the protection of claims of citizens of the United States, and stated broadly that we should insist on reserving all rights and advantages that came to us under the treaty of Versailles, whatever they might be. It required, I think, no little skill to make a treaty conforming to a resolution of that kind, and I think the Secretary of State is to be congratulated upon the fine work he has done in securing such a treaty as is now before us, under which it seems to me that we secure every advantage that the United States desired to secure and have not been asked to make any concessions that will be embarrassing.

The treaty reserves, as I have said, in more explicit form than the resolution all the rights and interests of the United States under the Versailles treaty, and the preamble of the treaty, which has been read to the Senate, recites sections 1, 2, and 5 of the resolution as preliminary to the formal clauses agreed to between the two powers. It is made, so far as a preamble can be, part of the treaty.

Article 1 of the treaty makes the general provision that the United States shall have all the rights and advantages specified in the resolution, which I have already said, including those stipulated for the benefit of the United States in the treaty of Versailles.

Article 2 of the treaty defines more particularly the obligations of Germany with respect to certain provisions in the treaty of Versailles, so as to make them more distinct.

It is provided that the rights and advantages stipulated in the treaty of Versailles for the benefit of the United States which it is intended the United States shall enjoy if they so elect are those defined in section 1 of Part IV and Parts V, VI, VIII, IX, X, XI, XII, XIV, and XV. I will run briefly over those in order to show just what has been done.

Section 1 of Part IV, which is first named, refers to the provisions by which Germany renounced her former overseas possessions in favor of the principal allied and associated powers. This covers the rights of the United States, for example, in regard to the cable station at Yap and also all her rights in regard to her share in the overseas possessions of Germany.

It will be remembered that in section 1 of Part IV of the treaty of Versailles the overseas possessions of Germany were given not to the allied and associated powers, but absolutely and entirely to the five principal allied and associated powers; that is, the title to those German overseas possessions was given to Great Britain, the United States, France, Italy, and Japan. It is not a question I desire to argue at this point, but I have never had any doubt myself that whether we ratified the treaty of Versailles or not did not take from us in any way the right given, without limitation, to the five principal allied and associated powers under section 1 of Part IV. It is not necessary for me to say anything further in regard to that, because the necessity of reserving to ourselves the rights and advantages of the United States under that clause is perfectly obvious.

Also, there are reserved to us, as containing rights and advantages, articles 159 to 213 of Part V, the military, naval, and air clauses, which contain the provision for the interallied commissions of control, military, naval, and aeronautical.

Part VI relates to prisoners of war and graves, Part VIII to the Reparation Commission, Part IX to the financial clauses, Part X the economic clauses, Part XI the aerial navigation, Part XII ports, waterways, and railways, Part XIV guaranties affecting western and eastern Europe, and the United States reserves the right to insist on all rights and advantages that may pertain to her under those clauses. It is a question of election. If she chooses to assert and claim any rights or advantages, so far as Germany is concerned, she can. If the United States wishes to have members on the commissions, she reserves that right and all rights that pertain to her. Of course, the enumeration of the clauses in the treaty of Versailles is descriptive, and they are simply named because it would needlessly add too much to the text of the treaty to print them in full.

Now, we come to those provisions under which the treaty specifically provides that the United States shall not be bound by any of the provisions of the treaty of Versailles, and those I will read:

ARTICLE II, SECTION 2. The United States shall not be bound * * * by any of the provisions of that treaty * * * which relate to the covenant of the League of Nations.

* * * * * * *

SEC. 3. That the United States assumes no obligations under or with respect to the provisions of Part II, Part III, sections 2 to 8, inclusive, of Part IV, and Part XIII of that treaty.

That is, the treaty of Versailles.

Part II relates to the boundaries, and as to those we refuse all obligations.

The clauses of Part III enumerated, articles 31 to 116, are all the political clauses affecting Europe.

Part IV, articles 128 to 158, covers German rights and interests outside Germany other than her overseas possessions—that is, the sections relate to China, Siam, Liberia, Morocco, Egypt, Turkey and Bulgaria, and Shantung.

Part XIII contains the labor provisions and the establishment of the labor conference. We explicitly decline all obligation under all the parts and clauses I have enumerated.

Article 1 of this treaty now before us provides that:

Germany undertakes to accord to the United States, and the United States shall have and enjoy, all the rights, privileges, indemnities, reparations, or advantages specified in the aforesaid joint resolution of the Congress of the United States of July 2, 1921, including all the rights and advantages stipulated for the benefit of the United States in the treaty of Versailles which the United States shall fully enjoy notwithstanding the fact that such treaty has not been ratified by the United States.

It is not necessary to dwell upon that article. Article 2 provides that:

With a view to defining more particularly the obligations of Germany under the foregoing article with respect to certain provisions in the treaty of Versailles, it is understood and agreed between the high contracting parties,

Then comes an enumeration of the different parts in which we retain an interest, and the language of the treaty in regard to those parts which I have enumerated here I wish to call to the attention of the Senate. It is:

The United States in availing itself of the rights and advantages stipulated in the provisions of that treaty mentioned in this paragraph will do so in a manner consistent with the rights accorded to Germany under such provisions.

Then comes the second clause of article 2 of the treaty, which I have already read, "That the United States shall not be bound by the provisions of Part I," and so forth. That article continues, in regard to those by which we are not bound explicitly:

Nor by any provisions of that treaty including those mentioned in paragraph (1) of this article, which relate to the covenant of the League of Nations, nor shall the United States be bound by any action taken by the League of Nations, or by the council or by the assembly thereof, unless the United States shall expressly give its assent to such action.

Then comes clause 3 of article 2, "that the United States assumes no obligations under or with respect to the provisions" of certain other parts, which I have already enumerated.

Then section 4 of article 2 provides:

That while the United States is privileged to participate in the Reparation Commission, according to the terms of Part VIII of that treaty, and in any other commission established under the treaty or under any agreement supplemental thereto, the United States is not bound to participate in any such commission unless it shall elect to do so.

The others are formal; I have read the important sections.

I desire, once more, to call the attention of the Senate to the fact that we are left absolutely free in regard to all these provisions.

Mr. KING. Will the Senator yield?

Mr. LODGE. I yield.

Mr. KING. Does the Senator think that the statement just made by him, that we are left free with respect to certain clauses which relieve us from the obligations of the Versailles treaty, a reason that commends this treaty to us? As I understand the treaty now before us and the statement of the Senator, the United States claims all the advantages it can get, but is unwilling to share any of the responsibilities which the treaty imposes upon the allied associated powers.

Mr. LODGE. I do not think this imposes any obligations on the United States in regard to those clauses in which it reserves an interest under the joint resolution of Congress and under the treaty itself. I do not think it imposes any obligations, because we have the choice as to whether we shall enter or not.

Mr. UNDERWOOD. I do not know whether the Senator has completed his statement or not——

Mr. LODGE. I have not completed it; but I have no objection to being interrupted.

Mr. UNDERWOOD. The treaty is reported back to the Senate with two reservations, as I understand it, or one reservation embracing two subjects.

Mr. LODGE. There are two reservations.

Mr. UNDERWOOD. I understand, of course, the first reservation, but I am not a member of the Committee on Foreign Relations, and from the reading at the desk I did not clearly understand the reservation which relates to the nationals of the United States. I would like to have the Senator explain that.

Mr. LODGE. I shall explain the reservations in a moment, if the Senator does not mind waiting.

Mr. President, I do not suppose anyone imagines that after the Great War, and after the making of peace, however obtained, we were not to have such relations with other nations at least as we have always had, such relations, for instance, as we have had in The Hague conventions. I do not wish to enter upon controversial ground, but to my mind there is a very great distinction between any relations we have hitherto maintained and relations proposed under the League of Nations. I entirely approve of those prior to that period, but I disapprove of that because I think it constitutes an alliance, and we have never had alliances with any nation.

There is special mention made of the Reparation Commission. That commission has very great powers, as Senators, who are all familiar with the Versailles treaty, of course, know. That commission largely will control the tariff and taxation arrangements of Germany, and the tariffs and the rights to enter markets and all similar powers are of very great importance to the United States from a trade point of view, and it may be thought desirable that we should be represented on that commission, when so much is at stake affecting our business and our economic prosperity; but I do not think it involves us in any obligation in the nature of an alliance. The Reparation Commission provision, as I understand it, does not authorize, in any event, the use of force.

Mr. OVERMAN. Mr. President, if this treaty is ratified, is it expected that we will have in the future another treaty with Germany, a treaty of commerce and amity, or will this be the only treaty between the two countries?

Mr. LODGE. That I can not tell the Senator; I do not know. There may be, I suppose, a consular convention, which will be necessary to renew the trade relations between the countries, ordinarily called a treaty of commerce and amity. There are details which I suppose will have to be covered, relating merely to the transaction of business, subject, of course, to this treaty.

Mr. WATSON of Georgia. Mr. President, will the Senator give us his opinion as to how we are left by this treaty as to the maintenance of an army on the Rhine?

Mr. LODGE. I was coming to that next; the Senator has just anticipated me.

Mr. WATSON of Georgia. I ask the Senator to pardon me.

Mr. LODGE. It is too often forgotten that we are now and have been ever since November 11, 1918, living under the armistice. I thought I had a copy of it here, but I think I know it well enough to get on without it.

Of course, when the treaty of Versailles was agreed to by the signatory powers that superseded the armistice, while we have continued under the armistice, which will be superseded, I hope very soon, by the ratification of this treaty.

Under that armistice the United States was named in the agreement to keep troops on the Rhine. That is now superseded. I do not think myself that article 14, if we should see fit to adopt it, imposes any obligation upon us, certainly no legal obligation. I am speaking of an obligation to the nations with which we were associated in war. Of course, there is no obligation to Germany.

I have now a copy of the armistice and call attention to this language:

Evacuation by the German armies of the districts on the left bank of the Rhine. These districts on the left bank of the Rhine shall be administered by the local authorities under the control of the allied and United States armies of occupation. The occupation of these territories by allied and United States troops shall be assured by garrisons—

And so forth.

The armistice will be superseded by this treaty. Article 14 remains, which contains the guaranties in the treaty of Versailles. I do not think it binds us, I do not know that anybody thinks it binds us, to have troops on the Rhine unless it is thought there is a moral obligation on our part toward the other allied and associated powers. I do not think myself there is any moral obligation, and I am sure there is no legal obligation. It is perfectly obvious that it is not the opinion of the allied and associated powers that there is any moral obligation, because neither Italy nor Japan has any troops on the Rhine.

I think I am at liberty to say that while the exact time for complete withdrawal, withdrawal of the flag, from Coblenz and regions now intrusted to United States troops has not been determined, the troops will begin to return at once. There will be a very large immediate reduction in the force. They will be brought home, I think, as rapidly as troop ships can be found to bring them. There is some delay in getting those ships, but the return will begin at once after the ratification of these treaties. The necessity for that lies in the fact that we are still under the armistice and we wish to supersede it with this treaty.

Now, Mr. President, I come to the reservations reported by the committee. There are two reservations, and I will first take up the second one, about which the Senator from Alabama [Mr. UNDERWOOD] inquired. That reservation is as follows:

* * * Subject to the further understanding, which is hereby made a part of this resolution of ratification, that the rights and advantages which the United States is entitled to have and enjoy under this treaty embrace the rights and advantages of nationals of the United States specified in the joint resolution or in the provisions of the treaty of Versailles, to which this treaty refers.

Senators will observe that in section 2 of the resolution of Congress, which is quoted in the preamble, it is said:

That in making this declaration, and as a part of it, there are expressly reserved to the United States of America and its nationals any and all rights, privileges, indemnities, reparations, or advantages.

But when we come to the treaty, in article 1 of the treaty it will be noticed that it says:

Germany undertakes to accord to the United States, and the United States shall have and enjoy, all the rights, privileges, indemnities, reparations, or advantages—

And so forth.

The word "nationals" is omitted. I am frank to say that I did not think it absolutely necessary, but it was suggested by the Senator from Ohio [Mr. POMERENE], and the majority of the committee deemed it wise to put in a reservation which

should cover the omission of the word "nationals," which is in the resolution of Congress but is not in article 1 of the treaty. That is the purpose of the second reservation, to which I can not conceive there should be any objection by Germany or anybody else.

Mr. POMERENE. Mr. President, will the Senator pardon an interruption?

Mr. LODGE. Certainly. I gladly yield to the Senator from Ohio.

Mr. POMERENE. When the Knox resolution was before the Congress of the United States we saw fit to provide that all the advantages, rights, privileges, indemnities, and reparations should inure to the benefit of the United States and its nationals. In other words, we recognized the fact that there were two classes of claims, one belonging to the Government, the other belonging to our nationals, such as the claims of our nationals arising out of the sinking of the *Lusitania*, the *Suffolk*, and a hundred or more other vessels.

Now, when it came to the drafting of the treaty between the United States and Germany we used simply the phrase "the United States," ignoring entirely the nationals. It seems to me that under the rules of legal construction, when we had before us the two classes of claims and in the contract or treaty of peace we only referred to one, certainly a very strong legal argument could be made to the effect that it was the intention of the draftsmen to exclude the other class. That was the reason for the suggestion of the reservation.

Whether the Senator from Massachusetts is right or not in his contention that it is not necessary, it seems to me that when a question of doubt arises a majority of the committee did the right thing in incorporating this interpretative reservation in the resolution of ratification.

Mr. LODGE. I hope the Senator does not think I am opposing it. I entirely approve of it. I merely said it is my personal belief that it was not necessary.

Mr. POMERENE. My attention was challenged by the fact that the Senator had just expressed himself, and I know the very great weight of his opinion. However, I think as the question has come up we are in entire agreement that it is at least the part of sound discretion.

Mr. LODGE. We shall not suffer from an abundance of caution.

Mr. POMERENE. Indeed not.

Mr. LODGE. The first reservation requires a little more explanation. It will be observed that the language of the treaty is:

> The United States is not bound to participate in any such commission unless it shall elect to do so.

Now, who is to determine that election by the United States? I think I am right in saying that the question of what constitutes the United States in such a manner as that has not been subject to judicial decision, but I believe myself that it is a sound constitutional procedure, where the United States has to take a step of such importance as this, is called upon to decide whether it shall participate in the proceedings of the Reparation Commission, for example, that the United States should mean the whole Government of the United States and not simply the Executive.

Mr. McKELLAR. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Tennessee?

Mr. LODGE. Certainly.

Mr. McKELLAR. I merely wish to ask the Senator if this language would prevent the President from sending an informal representative to such a commission?

Mr. LODGE. Of course, the informal representative who has been sent there was simply an agent of the President and could not bind the United States at all. He was not an officer of the United States. I think it undesirable that a person without the official character should be sent to take part or even merely as an observer to take part in a transaction of such importance.

If Senators will allow me to complete what I wish to say about that, I will suggest that I made a mistake in saying "the entire Government of the United States." Of course, I meant the executive and legislative branches. I did not mean to include the judiciary. The Senator from Mississippi [Mr. WILLIAMS] kindly called my attention to the point. I mean the Government in its legislative and executive branches should decide what the United States will do. I think that is sound. It is with that view that we have the first reservation.

Mr. FLETCHER. Mr. President——

Mr. LODGE. I yield to the Senator from Florida.

Mr. FLETCHER. May I ask the Senator whether, if the treaty is ratified as the resolution contemplates, the property in the hands of the Alien Property Custodian will remain subject to the adjustment of claims?

Mr. LODGE. Absolutely; because the treaty expressly provides in the first article that we shall have all the "rights, privileges, indemnities, reparations, and advantages specified in the aforesaid joint resolution of the Congress of the United States." A large part of that was taken up with alien claims.

Mr. FLETCHER. I supposed that was the case, but I desired to have it stated explicitly.

Mr. LODGE. Yes; that is covered.

Mr. KING. Mr. President, will it interrupt the Senator if I propound a question at this point?

Mr. LODGE. I yield.

Mr. KING. May I inquire whether it is the understanding of the Senator that the administration will participate in the proceedings of the Reparation Commission, whether it will appoint some one to represent the United States in the activities of that organization; and if so, whether the Senator feels that the Executive should make that appointment or whether it should await the action of Congress?

Mr. LODGE. That is the exact point covered by the reservation, if the Senator will allow me to read it.

Mr. KING. I am familiar with it. Then the Senator takes the position that if we have any voice in the Reparation Commission it will be when Congress speaks?

Mr. LODGE. Absolutely; under this reservation.

Mr. KING. Is it the policy of the administration that we shall participate in the activities of the Reparation Commission?

Mr. LODGE. On that I have no authority to answer the Senator. I do not know what the administration contemplates doing.

Mr. KING. Does the Senator think that, claiming so many of the advantages of that treaty, we ought not to assume some of the responsibilities? Does not the Senator think that participation in the work of the Reparation Commission is something in which we should have a voice, particularly as it——

Mr. LODGE. I think it is a very strong argument for having representation there, because we have great interests at stake there. I am not disturbed about the interests of others.

Mr. KING. Is it the opinion of the Senator that we should participate in the proceedings of the Reparation Commission?

Mr. LODGE. I will frankly say that I have not made up my mind on that point.

Mr. KING. If it would not be betraying the secrets of the administration, may I inquire whether the State Department has recommended or whether the President has recommended any legislation, if this treaty shall be ratified, that would call for our participation in the proceedings of the Reparation Commission?

Mr. LODGE. To my knowledge none has been recommended. The point now, however, is that no such thing can be done without the action of Congress and the confirmation by the Senate of the officers who may be selected.

Mr. KING. Then, so far as the Senator from Massachusetts knows, the administration has no policy with respect to that matter?

Mr. LODGE. Whether the administration will recommend such action as creating the office of commissioner on the Reparation Commission, I do not know.

Mr. KING. The Senator knows of no policy by the administration that we shall participate in the work of the Reparation Commission?

Mr. LODGE. I have told the Senator from Utah, I think, four times that I know of no such decision on the part of the administration.

Mr. KING. Perhaps it was the poverty of the intellect of the Senator from Utah that he could not understand exactly what the Senator from Massachusetts meant.

Mr. LODGE. I have endeavored to say—and I will try to say it again—that I do not know whether or not the administration intends to recommend the appointment of a member of the Reparation Commission; but what I do know is that under this reservation if we participate in the deliberations of the Reparation Commission it will be by the action of Congress and the Executive together.

Mr. McKELLAR. Mr. President, will the Senator from Massachusetts yield just on that point?

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Tennessee?

Mr. LODGE. I yield.

Mr. McKELLAR. The question which I asked a while ago was if the Senator from Massachusetts thought that the language to which I referred in the treaty would prohibit the

President from sending an informal observer or representative there.

Mr. LODGE. There is no language which we can frame or no law which we may pass which can prevent the President from sending a personal agent where he desires to send one.

Mr. McKELLAR. Very well. So, under this language an observer could be sent by the President to the Reparation Commission?

Mr. LODGE. I do not know whether it is possible to do it in the cases which are covered by this treaty because the reservation to the treaty says "that the United States shall not be represented or participate," and so forth.

Mr. McKELLAR. I agree very fully with the Senator that this language is right and proper, and that we ought not to have a representative on such a commission unless the Congress authorizes it and the President sends his name to the Senate for confirmation.

Mr. LODGE. We could not, either by treaty or law, in my opinion, take away from the President powers which are admittedly his.

Mr. SHIELDS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Tennessee?

Mr. LODGE. I do.

Mr. SHIELDS. Mr. President, the Senator from Massachusetts, in reply to a question propounded to him by my colleague [Mr. McKELLAR], has made the statement that the President has constitutional rights in connection with our foreign affairs that no act of Congress could in the slightest degree interfere with or limit, and to have a personal representative abroad is one of those rights. Of course, this reservation was not intended and could not have any effect to infringe upon those constitutional rights of the President. However, I was delighted to see the progress in the minds of certain Senators upon that subject, and especially in the mind of my colleague when he expressed himself to the effect that the President should have no representative on the Reparation Commission without the consent of Congress, and that the reservation to that end is entirely necessary, for about a year ago my colleague was not of that opinion. His present position, however, indicates that he is now a progressive and not a reactionary.

Mr. McKELLAR. I do not know that I have changed my mind in the slightest degree on that subject. I have never felt any doubt as to it. I therefore think my colleague is wholly mistaken about any change of mind on my part. I am still of the same opinion I formerly was. I merely desired to know the opinion of the Senator from Massachusetts as to the effect of this language.

Mr. LODGE. Mr. President, I think it is perfectly clear that under this proposed treaty no one can represent the United States and speak with authority as an officer of the United States on the Reparation Commission, or on any other commission, unless the office has been created by the Congress and the holder of the office shall have been confirmed by the Senate; but the President's right to appoint an agent for the purpose of securing information, or even for the purpose of making a treaty, I do not think can be questioned.

The gentleman who, on behalf of the United States, signed this treaty in Berlin and who has done his work there, I may say, with great ability, as is recognized by all who are familiar with his work, is a presidential commissioner and was sent there by President Wilson. Naturally the position was one of very great delicacy, for he did not represent the United States; we could not have a representative there, because we were in a state of war with Germany.

The President very properly felt that we must have somebody to represent us; and he sent an agent in the person of Mr. Dresel, who had been in the diplomatic service and did some very good work during the World War. That situation affords an illustration of what I have been describing. We can not by statute or treaty take away the constitutional right of the President to authorize somebody to get information for him, but we can provide that the United States shall not be represented or committed or shall not participate in any proceeding under this treaty without the consent of Congress; and that object the first reservation to the treaty accomplishes.

Mr. POMERENE. Mr. President, will the Senator from Massachusetts yield to me?

Mr. LODGE. Certainly.

Mr. POMERENE. Directing the Senator's attention to the subject matter of the questions asked by the Senator from Utah [Mr. KING], if I may put the question in a slightly different form—and I want to put it in a form so that if the Senator from Massachusetts has the information and feels that he is not privileged to give it, I shall not ask him for it—is the Senator from Massachusetts able to state, or does he feel that he can state, if he has the knowledge, whether the Secretary of State is of the opinion that we ought to participate in the proceedings of the Reparation Commission or not?

Mr. LODGE. Mr. President, I have no right or authority to state what the opinions of the Secretary of State are. I know that the matter has been considered by him, as it has been considered by others, and as it must be considered by us, because the interests of the United States involved in the Reparation Commission are very serious, and the question of our representation there ought to be considered both by the Congress and the Executive.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Missouri?

Mr. LODGE. I yield.

Mr. REED. Of course, the answer of the Senator to the question is probably the only answer he feels at liberty to make; but it is, so far as I am concerned, a highly unsatisfactory answer. I myself should like to know what the disposition of the Secretary of State and the President both may be in regard to what we should do under this treaty, because we all know that President Wilson was eminently correct when he said in one of his works that the President, while limited in his power, nevertheless could do many things—I am not quoting absolutely——

Mr. LODGE. I know the passage to which the Senator refers.

Mr. REED. That the President could do many things which would so involve the country that Congress would be greatly embarrassed in refusing to carry them out. As I have said, I apprehend the Senator has made the only answer he feels at liberty to make, and I have injected this remark merely to express my own view; but I want to ask the Senator what right he thinks we have under the treaty of Versailles which he regards as important? I would relieve him from answering, of course, as to any claim which Germany may have against the United States, for I think she has none under the treaty of Versailles.

Mr. LODGE. Those are not, of course, included in the Reparation commission.

Mr. REED. Or any question between Germany and ourselves regarding the reparations which may be made to our nationals, because that is a question upon which we can not be very much in disagreement.

Mr. LODGE. There are separate clauses providing for that outside of the provisions with reference to the Reparation Commission.

Mr. REED. Yes; but now as to the other rights, the rights that we mean to insist upon; what does the Senator understand them to be?

Mr. LODGE. Without reading the whole of the Reparation Commission section I can not undertake from memory to give them all, but there are certain ones that occur to me at once. The Reparation Commission has very large powers in regard to the imposition of tariffs and taxes in Germany, in that way affecting the economic relations between Germany and other countries. It may seem best to stand outside of the Reparation Commission and allow them to make arrangements, which they very easily could make, which would be very unfriendly to our entry into German markets, and then trust to our own power, which is very great, to force them to alter their opinion and force them to make suitable arrangements which will be fair to the United States and its interests; or the view may be taken that it would be better for us and that we should be able to better maintain our relations in the German markets and our position there if we had representation on the body itself which is going to deal with the question.

Mr. WATSON of Georgia. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Georgia?

Mr. LODGE. With pleasure.

Mr. WATSON of Georgia. To mention only one of the questions which are not covered by this treaty, take the activities of Capt. Boy-Ed and of Von Papen in this country before we entered the war, and then also the sinking of the *Lusitania*. I understand this treaty does not settle those questions.

Mr. LODGE. We have those claims; beyond doubt we have prewar claims against Germany, and they can not be taken from us by any treaty. There are provisions made for the payment of prewar claims in the treaty of Versailles.

Mr. WATSON of Georgia. Of course, we only know of these things as we read them in the papers, but it was stated in the papers that the Kaiser himself personally decorated Capt. Boy-Ed for his criminal activities in this country against our innocent working people.

Mr. LODGE. I think that is highly probable.

Mr. WATSON of Georgia. That was the statement; and that the commander of the submarine which sank the *Lusitania* never was punished, but was rewarded. Is it not highly probable that in the attempt to settle those questions we will be face to face with war conditions, and that this treaty will not have established peace at all?

Mr. LODGE. The Senator no doubt remembers that the German Government struck a medal, which I have seen, commemorating the sinking of the *Lusitania*. I take the *Lusitania* claims merely as an example; we have not many claims; we have those and a few others, but they stand on a wholly different ground. Those are prewar claims. There is a provision which covers the claims of this Government against Germany, no matter what treaty she makes, I think, under which we hold the alien property as security against those claims.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Missouri?

Mr. LODGE. Certainly.

Mr. REED. The Senator from Georgia by his question has anticipated in part what I was trying to elucidate by these questions.

The Senator has mentioned the tariffs and taxes which may be levied upon Germany by the Allies, and that they might be so levied as to be inimical to our interests, and that that is a proceeding in which the United States might have a profound interest. What other matter of importance has the Senator in mind?

Mr. LODGE. If I can ever find Part VIII in this print——

Mr. REED. Part VIII is on page 91.

Mr. LODGE. Yes; "reparation." I read from page 98:

> In periodically estimating Germany's capacity to pay, the commission shall examine the German system of taxation, first, to the end that the sums for reparation which Germany is required to pay shall become a charge upon all her revenues prior to that for the service or discharge of any domestic loan, and secondly, so as to satisfy itself that in general the German scheme of taxation is fully as heavy proportionately as that of any of the powers represented on the commission.

That, of course, bears more immediately on the debt.

> (d) In the event of bonds, obligations, or other evidence of indebtedness—

That is all thrown under the control of the commission as to the payment of those debts.

Mr. REED. Mr. President, I understand that the Senator has mentioned it, and I am not now going to take his time to ask him to quote particular sections. We understand that there are clauses of that kind in the treaty—that is, clauses which relate to the taxation, and so forth—but if the Senator will kindly turn to page 91——

Mr. LODGE. Page 108 is where the detailed provisions come in about the tariff in regard to dyestuffs and chemical drugs.

Mr. REED. All that broad subject is, under the treaty of Versailles, left to the Reparation Commission.

Mr. LODGE. Yes; the control of taxation in Germany.

Mr. REED. And there is also left to the Reparation Commission under the treaty of Versailles the question of payment to the allied and associated powers of all claims for damages. Then there is a particular clause in section 232 in which Germany pledges complete restoration of Belgium and undertakes—

> In addition to the compensation for damage elsewhere in this part provided for * * * to make reimbursement of all sums which Belgium has borrowed from the allied and associated Governments up to November 11, 1918.

And so forth. There is in this treaty, as I understand, in addition to that, provision for the surrender by Germany to the allied and associated powers of her overseas possessions.

Mr. LODGE. Yes.

Mr. REED. Now, the first thing I want to ask the Senator is this: Does he understand it to be any part of the purpose of this Government to demand any part of those German overseas possessions, unless possibly it is some sort of an interest in the island of Yap?

Mr. LODGE. I have heard no other mentioned.

Mr. REED. The treaty that we now negotiate leaves the question of the island of Yap open for future negotiation between the United States and Germany?

Mr. LODGE. It takes the ground which has been taken by our Government, that the title which passed to the five principal allied and associated powers under the terms of the treaty of Versailles, which included the United States, was not affected by our failure to ratify; that we are one of the powers to whom those possessions were turned over, and therefore we have a right to be consulted as to the mandates. Of course, nobody, no American, certainly no one in the Government, no responsible person, thinks for a moment of our taking any of those mandates for ourselves.

Mr. REED. But the treaty we now make does not settle the question of what we are going to claim from Germany as our part or interest in any of the overseas possessions. That still remains to be settled by some tribunal or by the Governments directly?

Mr. LODGE. Of course, we have no intention of taking any territory of any kind under the mandates; but those large territories have been assigned to different countries. It is very possible that some of the mandatories might engage in legislation very discriminating against the United States, and we want to reserve our rights of access to the mandate countries. It is all economic, and concerns tariffs, just like the commission.

Mr. REED. I have a little different point in mind, I think, than the Senator has, as indicated by his last answer; but as far as mandates are concerned, as far as the Germany overseas possessions are concerned, we do not settle by this treaty what we are or are not going to do. Whatever those questions are they remain to be settled in future negotiations?

Mr. LODGE. Of course, this treaty binds only Germany.

Mr. REED. Exactly.

Mr. LODGE. Whatever settlements may be made of those other things we must make with the powers with which we were formerly associated.

Mr. REED. If the Senator will pardon me just a minute, there is an agreement in the Versailles treaty that Belgium's debts to the allied powers shall be paid by Germany. Belgium owes us a sum of money which we loaned her. The treaty which we are now making does not in any manner solve the question as it now stands. The question of how much Belgium owes us, and how much Germany is to pay on that, and how she is to pay it, all remains open to the future.

Mr. LODGE. Why, certainly we do not undertake in this treaty to abrogate Germany's obligations to other powers under the treaty of Versailles. We certainly do not undertake to do that. We could not do it.

Mr. REED. No; and we do not undertake to settle in this treaty what Germany shall pay us.

Mr. LODGE. All that Germany has to pay us is in response to the claims for damages prior to the war. These claims stand on a perfectly independent footing, and with them the other powers have nothing to do.

Mr. REED. Germany has agreed in the Versailles treaty that she will assume the obligations of Belgium to the allied powers for money advanced prior to the armistice. The only point I am trying to make is this: This treaty does not settle the question as to how much Germany is to pay the United States, and that is still a thing that has to be settled by some tribunal or by negotiation.

Mr. LODGE. Mr. President, unless we are going to make claims under the head of reparation—that is, reparation for the war, for our military expenses—we have no claim against Germany except the prewar claims, when we were a neutral power, and those can not be affected by either treaty. The treaty of Versailles provides that we can hold German property for the payment of those claims.

Mr. REED. I do not agree with the Senator's construction of that at all, because I think a promise made for the benefit of another can be enforced. However, the point I am trying to get at is simply this: We have not settled in this treaty the question as to whether we are ever to make any claim against Germany on account of her agreeing to guarantee or pay the Belgium debt to us.

Mr. LODGE. I do not understand that there is any such guaranty or pledge anywhere.

Mr. REED (reading):

> In accordance with Germany's pledges, already given, as to complete restoration for Belgium, Germany undertakes, in addition to the compensation for damage elsewhere in this part provided for, as a consequence of the violation of the treaty of 1839, to make reimbursement of all sums which Belgium has borrowed from the allied and associated Governments up to November 11, 1918, together with interest at the rate of 5 per cent per annum on such sums.

That is what I am referring to.

Mr. LODGE. That does not cover us, does it?

Mr. REED. I presumed that we were one of the allied and associated powers.

Mr. LODGE. Yes; the Senator is right. I had forgotten the clause; that term would cover us.

Mr. REED. Yes; I think we are clearly entitled to be there, and I am not interested in the question of whether or not we are going to make the claim. I am interested now in the question as to whether or not we have settled the proposition as to whether or not we are going to make a claim by this treaty.

Mr. WATSON of Georgia. Mr. President——

Mr. LODGE. No; this treaty certainly does not have anything to do with the Belgian debt to us, except as we can claim payment under the reparation clause as one of our rights and advantages specified in the treaty.

Mr. WATSON of Georgia. Mr. President——

Mr. REED. The Senator from Massachusetts has the floor. I have been talking in his time.

Mr. WATSON of Georgia. With the permission of the Senator from Massachusetts, the Senator knows that it was reported in the papers that the Alien Property Custodian sold very valuable property owned by German nationals, property which has been claimed to be under the protection of our treaty with Prussia, and under the protection of international law. One instance was a manufacturing corporation in New York, said to have been worth several million dollars, sold in Boston in a private room, with no advertisement. I happen to remember that particular case; but I should like to ask the Senator how we are going to make restitution to Germany in a case of that sort, or how Germany is to make restitution to us in a case of that sort. Does it not leave the whole thing up in the air, and subject to all sorts of disputes hereafter, and a possible cause of war?

Mr. LODGE. I do not think there is any cause of war in it.

Mr. REED. I simply ask these questions—and I am not going to pursue them——

Mr. LODGE. If the Senator will pardon me, I would like to answer the Senator from Georgia. I think the joint resolution of Congress entirely covers the Alien Property Custodian fund. As to its administration, that is something for which our Government is responsible, of course.

Mr. REED. I will not pursue the theme. I asked the questions to make plain, if possible, the fact that there are a large number of matters of very great importance which will have to be hereafter settled by the Reparation Commission, or will have to be hereafter settled between Germany and the United States directly; that this treaty does not resolve these difficulties and settle them now so that when we sign the treaty we have a closed transaction, but the treaty seems to me to be nothing more nor less than an agreement that we will make peace, and that hereafter we will settle our difficulties, the United States in the meantime holding certain securities which it has in its possession.

Mr. LODGE. Will the Senator give me the reference to that Belgian matter?

Mr. REED. Gladly. My eye simply happened to catch it. I have not been studying this proposition yet. It is on page 92, beginning at the fourth line.

Mr. LODGE. That comes under the Reparation Commission.

Mr. REED. Yes.

Mr. LODGE. Mr. President, the Reparation Commission, whether wisely or unwisely established, is to have a life of 40 years. Does the Senator expect us or anybody else in a moment to settle all the questions which may arise in the next 40 years?

Mr. REED. That is answering a question by the method that I believe originated in the Senator's own State, by asking another. I am trying merely to get clear in my own mind whether this treaty will settle our difficulties, conclude them, put them behind us, or whether, after all, it is nothing more nor less than a sort of an agreement that we do make peace, and a preliminary agreement that we will proceed hereafter to the settlement of other matters, and whether it does not leave us with the difficulties on our hands, instead of the difficulties being settled.

Mr. LODGE. Of course, so far as this treaty is concerned, taking, for instance, the case of Belgium, if Congress and the President decide to be represented on the Reparation Commission, the representative of the United States there will, of course, deal with the question of the Belgian refunding, as I have said it is one of the rights and advantages mentioned in the treaty. If we do not, then we have to approach it from outside.

Mr. REED. Exactly. If we undertake to deal with it through the Reparation Commission, then we do not settle the question of what is right and wrong between us and Germany, but a tribunal of interested parties will settle the question for us, and that tribunal has 40 years in which to conclude its labors.

Mr. LODGE. How would the Senator settle it, if we are not represented?

Mr. REED. I am simply trying to elicit the fact that this is the situation in which we find ourselves. As far as I am concerned, I may have a method, and it may be utterly unwise. I say now that I think this treaty ought to have been a treaty that proceeded to settle our difficulties, as far as they are presently ascertainable, and that the other difficulties which may lie before us should be settled by a tribunal which we create in this treaty, and it ought to be a tribunal representing Germany and representing the United States, not a tribunal which represents fourteen or fifteen other interested parties, or at least five others.

Mr. LODGE. Mr. President, the Senator forgets that Germany is tied by the treaty of Versailles—is bound. She is not a free agent.

Mr. REED. The treaty of Versailles has not bound the United States yet.

Mr. LODGE. It has not, and never will, in my opinion; but it does bind Germany, and it is with Germany that we are dealing.

Mr. REED. That is true; but the fact that the other powers have exacted certain things from Germany should not prevent the United States from settling our own difficulties directly with Germany. We may be obliged in dealing with Germany to consider Germany's resources and her powers and her limitations, and in what I say I am not committing myself one way or another on this treaty; I am trying to get light, and I think I am coming to the proper source when I ask the Senator these questions; but to agree that the United States is to make a sort of conditional peace with Germany, and that then what the United States is to get out of that peace, one way or the other, is to be determined by a body of foreigners, every one of whom is interested, every one of whom is necessarily interested, or may be interested, against the United States, is to my mind a very grave question, and if the Senator will indulge me, I find this treaty with Germany in utter contrast with the kind of treaties we have heretofore made with countries.

Mr. LODGE. Mr. President, if we ratify this treaty, as I hope and believe we shall, we then have the right, so far as Germany is concerned, to be represented on the Reparation Commission if we want to be. If we go on to the Reparation Commission it will be because the Congress of the United States and the President approve of our going on. If we do not go on—and it is perfectly within our power not to go on—then we have the position we are in now, which is the only alternative the Senator from Missouri offers, and which does not seem to me a particularly remunerative or satisfactory position, that we shall have no arrangement at all.

Mr. REED. Exactly; and that leads me to the remark that it seems to me that this treaty, which is called a treaty of peace and which is supposed to imply a treaty of settlement, has left nearly all of the difficulties which confront us still before us, still to be settled, and that all we are accomplishing by it after all is the creation of a formal state of peace between ourselves and Germany, with all the difficulties still outside and unsettled.

Mr. LODGE. The Senator's solution is to leave them exactly as they now are, unsettled.

Mr. REED. Exactly; and we are presented with a treaty here which the country has been led to believe does settle these difficulties——

Mr. LODGE. I do not know why the country should have been led to believe it. It has been printed in every newspaper, and the people can see what is in it.

Mr. REED. I do not say what I have said in order to stir up the least bit of antagonism. This treaty has been talked about as the treaty of peace with Germany. The average man understands, when you talk about a treaty of peace, that you have settled your difficulties, adjusted matters growing out of the war, and that the countries are then ready to proceed along well-defined lines of peace. As a matter of fact, as I now understand the situation—and I am not committing myself upon it—all that this instrument does is to create a formal state of peace, but leaves open for dispute and for adjustment, either through the Reparation Commission or by direct negotiation to be undertaken hereafter by Germany and the United States, every question of controversy between the United States and Germany which grew out of the war.

Mr. WATSON of Georgia. Mr. President, if the Senator from Massachusetts will indulge me further, he will remember when there was a very serious question between Great Britain and the United States growing out of the *Alabama* claims.

Mr. LODGE. I recall it; yes. I was not present, but I remember the fact.

Mr. WATSON of Georgia. Of course the Senator remembers it. That question was settled in a peaceful way at Geneva, by a tribunal established, as the Senator well knows, by mutual agreement.

Mr. LODGE. By the treaty of Washington.

Mr. WATSON of Georgia. Yes. The people at large throughout our country will not draw any distinction between the Reparation Commission at Paris and any other body growing out of or leagued with the League of Nations. If we plead to the jurisdiction of the Reparation Commission, we have hit the

tar baby the first blow, and the others will follow in due, logical course until every limb of our body will be stuck to the tar baby, and we will be backed into the League of Nations. That is my judgment about it, and the Senator knows that I fought the League of Nations in the South unconditionally, while he fought it in his part of the country with his reservations.

Mr. LODGE. The result was the same.

Mr. WATSON of Georgia. That remains to be seen, Mr. President, and that is the very question in my mind now, as to whether or not this virtual pleading to the jurisdiction of the Reparation Commission, which is a foreign tribunal, made up mainly of Great Britain, Japan, and France, will not give it jurisdiction over every question which we can raise.

Mr. LODGE. Mr. President, they certainly will have no jurisdiction except what is given to them by the treaty of Versailles, and they will not have any jurisdiction which will involve us unless we go into it.

Mr. WATSON of Georgia. But I thought we had rejected the treaty of Versailles.

Mr. LODGE. We have nothing to do with it. I meant unless we go into the Reparation Commission. Of course, we explicitly exclude the league in this treaty.

Mr. WATSON of Georgia. If we go into the antechamber we are pretty sure to be led into the living room.

Mr. LODGE. Why go into the antechamber? This treaty does not take you there.

Mr. WATSON of Georgia. But logically it seems to do so before we can settle these questions.

Mr. LODGE. It does not; it is left to the Congress of the United States, and unless the body to which the Senator belongs agrees to go into that commission, we shall never go. We have to have confidence in something in this country, and if we can not have confidence in the Congress of the United States and the Executive together, then our Government is not worth thinking of, and we are not going to be saved by shutting out a treaty.

Mr. WATSON of Georgia. The wise thing is to resist the beginning, and the question is whether or not this treaty, with its ambiguous clause, is not the beginning of our entrance into the League of Nations.

Mr. LODGE. I do not think so at all. I totally disagree with that view. I think this is very benefical to the country, and I do not think it ties the United States to anything that will be of the slightest danger.

Mr. President, I have occupied the floor too long, and I now yield.

The PRESIDING OFFICER. The question is on agreeing to the first article of the treaty.

Mr. LA FOLLETTE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Ashurst	Gerry	Lodge	Spencer
Borah	Glass	McCumber	Sterling
Brandegee	Hale	McKellar	Sutherland
Broussard	Harreld	McKinley	Swanson
Cameron	Harris	Nelson	Townsend
Capper	Harrison	New	Trammell
Caraway	Heflin	Oddie	Underwood
Colt	Johnson	Overman	Wadsworth
Dial	Kellogg	Page	Watson, Ga.
Dillingham	Kenyon	Pomerene	Watson, Ind.
Ernst	King	Reed	Williams
Fletcher	Ladd	Sheppard	Willis
France	La Follette	Shields	
Frelinghuysen	Lenroot	Shortridge	

Mr. LODGE. I wish to announce that the senior Senator from Kansas [Mr. CURTIS] is detained on official business.

The PRESIDING OFFICER. Fifty-four Senators having answered to their names, a quorum of the Senate is present.

Mr. BORAH. Mr. President, the unfinished business has not been laid before the Senate?

The PRESIDING OFFICER. There is no unfinished business in executive session.

Mr. BORAH. We are still in executive session?

The PRESIDING OFFICER. We are in executive session.

Mr. BORAH. Mr. President, the Senator from Massachusetts [Mr. LODGE] has stated that he desires to make as rapid progress with the consideration of the treaty as possible, and I am quite in sympathy with that program. I do not wish to delay it. I am subject to the orders of the Senator from Massachusetts upon the matter. I do not wish to delay the consideration of the treaty, and I assure him of that. I am not so sure, however, but that we could make time by letting it go over until Monday, because there are a great many documents to be considered. However, there is a preliminary statement which I can make if it shall be understood that when I get through with it I shall not be compelled to go ahead, because I have not my documents here.

Mr. LODGE. Mr. President, will the Senator allow me a moment in that connection?

Mr. BORAH. Certainly.

Mr. LODGE. I shall be very glad to have the Senator go ahead to-day so far as it may be agreeable to him to do so. I realize that there are many documents required. I only wish to say in regard to my purpose that I have no idea of pressing the treaty with any undue haste. I wish to give an opportunity to everyone who desires to be heard, but I am very anxious not to delay the tax bill. That will be brought up on Monday by the Senator from Pennsylvania [Mr. PENROSE]. I know it is not pleasant to sit in the evening, but in order not to delay the tax bill I am going to ask the Senate—and I hope it will support me—to have, not on Monday, but after Monday, beginning Tuesday, a session of two or three hours in the evening to consider the treaty.

Mr. UNDERWOOD. Mr. President, I hope the Senator from Massachusetts will not finally reach a conclusion to-day in reference to night sessions.

Mr. LODGE. I do not desire night sessions any more than the Senator from Alabama does. I do not, however, wish to delay the consideration of the tax bill.

Mr. UNDERWOOD. I only wish to say that undoubtedly there is a certain amount of debate which will be desired on this side of the Chamber and a certain amount on the other side. So far as I am informed, there is no desire at all to unduly delay a final vote on the treaty. I think probably by Monday or Tuesday we shall be able to find out about how long the debate will last, and I think night sessions can be avoided entirely.

Mr. LODGE. I hope they can. I do not like them any more than does the Senator from Alabama.

Mr. UNDERWOOD. I do not think we accomplish much by night sessions.

Mr. LODGE. We can let that go over until Monday or Tuesday and determine it then.

Mr. BORAH. Mr. President, as I stated, I do not wish to be placed in the position of seeming to delay action upon the treaty. However much I may be opposed to it, I realize the importance of disposing of it one way or the other. I am going to take some little time this afternoon to make what I conceive to be a preliminary statement to the real argument upon the treaty.

The terms of the treaty, upon its face, appear to be very simple. It is comparatively brief in its provisions, and a casual reading of the treaty would give one the impression that it would not be difficult to understand its terms and conditions. But when we come to analyze the treaty in conjunction with the terms of the treaty of Versailles, to which it refers and under which it claims rights and privileges, it becomes the most involved and complex instrument with which I have ever had to deal.

I do not believe that it is possible for any lawyer, trained though he is in the analysis of legal instruments, to tell the American people what our rights would be under the treaty. I know that I have not been informed of them, and I think one of the ablest lawyers in the United States was before the committee. In other words, we link this treaty into the vast Versailles treaty, and we must take both the instruments and undertake to analyze them in order to determine the effects of this treaty.

Briefly, the treaty first claims all rights and advantages running to the United States in the Versailles treaty found in the first section of Part IV. As stated by the Senator from Massachusetts, in all probability any rights that we have under that provision of the Versailles treaty would be just as amply secured to us by the terms of the armistice if there were no treaty at all.

In section 1, Part IV, Germany renounces all her rights and titles to her overseas possessions and transfers them to certain allied and associated powers. It will be observed, however, as we read section 1 of Part IV that the Reparation Commission already comes in early under it to discharge certain duties and perform certain functions. In that respect it is possible that it may have some interest to us under this treaty.

Part V covers demobilization of the German military forces. I am only calling attention to these matters generally in order to argue them fully later. In chapter 2, article 164, Germany agrees to abide by the decision of the League of Nations with reference to certain matters.

Suppose France is not satisfied with Germany's demobilization and insists that other beneficiaries of the treaty help to enforce this provision of the treaty; what position would we be in under this treaty? I venture to say that no man can define

what our position would be. Technically we could refuse, but practically we could not ignore her request.

Under section 170 we have importation of arms, munitions, and war materials of every kind prohibited. Suppose some of the beneficiaries of the treaty should insist upon the enforcement of this provision; what would be our position toward France and England under this treaty? We claim certain rights and privileges. These dovetail into these numerous conditions in Part V.

Part VI, under which we claim also in the treaty of Versailles, deals with prisoners of war, a very simple matter that need not be discussed.

Part VIII provides for reparations, and turns over to the Reparation Commission the important affairs of 70,000,000 of people. We claim all the rights and privileges running to the United States under Part VIII. Part VIII, as I have just stated, is that part of the treaty which provides for reparations and creates a Reparation Commission to administer its provisions. We shall return later to Part VIII and to the powers of the commission.

Part IX comprises the financial clauses of the treaty. That provision of the treaty makes the costs of reparations and all other costs, subject to such exceptions as the Reparation Commission shall make, a first charge, lien, or mortgage upon Germany. It also provides that the entire adjustment of the public debt between Germany proper and her ceded territories is to be passed upon by the Reparation Commission.

Part X deals with duties, tariffs, shipping, and so forth. Part XI deals with aerial navigation. Part XII of the Versailles treaty, under which we claim the rights and privileges running to the United States, deals with ports, waterways, and railways. Part XIV, under which we make similar claim, is the guaranty provision of the Versailles treaty. That is the provision which guarantees the execution of the Versailles treaty by maintaining troops upon the Rhine. Part XV deals with a number of miscellaneous matters, which we shall come to a little later.

It will be observed, Mr. President, that we claim rights and privileges under certain parts of the Versailles treaty—the parts which I have named—but the great bulk of those rights and privileges which we claim are not defined. The United States is seldom or never mentioned; no rights or privileges or very few belonging to the United States is designated by the Versailles treaty. We can not, therefore, look into the Versailles treaty and say thus and so belongs to us by virtue of the terms of the treaty, because the United States is not dealt with separately. In other words, the parts of the treaty under which we claim rights and privileges are provisions of the treaty which grant certain rights and privileges to some seven or eight allied and associated powers, all of those rights and privileges undefined and undistinguished, and without any demarcation between the several Governments. There may be minor or single exceptions but, generally speaking, everything is given or granted to the allied and associated powers as a group. Those rights and privileges are bunched, as it were, and the interested nations must as a practical proposition settle the rights and their apportionments among themselves.

Therefore when it is stated that we claim such rights and privileges as run to the United States under the Versailles treaty we practically arrive nowhere. Why? Because the rights and privileges under the Versailles treaty are things which are now unsettled, undefined, liquid, and entirely at the disposal and discretion of the allied and associated powers. We can never know what the rights of the United States are under any provision of the treaty until the Reparation Commission or some body sits in judgment upon those rights and determines what those rights are. In other words, we must first take our seat with Japan, Great Britain, France, Italy, and the other powers named; we must confer, discuss, and finally arrive at a conclusion as to what our rights are. Either through the Reparation Commission or by conferring in some way a decision must be had. In my judgment, as a practical proposition it will have to be done by the Reparation Commission, the body provided for in the treaty. Those rights may be one thing or another; they may be this or they may be that; but at the present time, so far as this treaty is concerned, we have no knowledge of what they are, because what our rights are—at any rate the extent of them—are yet to be determined by the provisions of the Versailles treaty and the agencies which are there chosen to execute that treaty, or some other method yet to be provided. So I say, Mr. President, it is a very difficult question to determine, and we can not from the terms of this treaty arrive at any conclusion at all as to what we are getting. We must await a decision of some commission or some conference.

The first step, therefore, under this treaty with Germany is practically an alliance. In other words, Japan, the United States, Great Britain, Italy, and France sit down together for the purpose of determining the rights of the respective nations under the Versailles treaty, and all questions which arise under that treaty from beginning to end will or can be taken into consideration in that discussion and that decision.

While we do not claim rights under certain provisions of the Versailles treaty, Japan may claim rights under those provisions, and when we sit in conference with Japan, Japan will be looking after her interests under her provisions, and we shall be looking after our interests under our provisions. Therefore, we are in alliance with those five or six powers determining, adjudging, and executing the Versailles treaty. Let me say here that I am discussing this proposed treaty not as a theoretical proposition set in cold type, but as this instrument will be when it comes to executing it. I am not permitted as a Senator to shut my eyes to what must in reason if not inevitably follow when we seek to execute this treaty. I am going to deal with it as a practical proposition and what I believe will be its effect upon the American people when it is translated into results.

We have gone into the Versailles treaty under the very first provision of the pending treaty, and it is impossible to escape from it except by the surrender of our rights under it, and stepping out to hold the same position which we should occupy if we had not referred to that treaty at all.

Mr. STERLING. Mr. President, will the Senator from Idaho permit a question?

Mr. BORAH. Yes; I will permit a question, but I will say that I should like to continue my argument without interruption.

Mr. STERLING. Under article 4 of the Versailles treaty, for example, could Germany in making a treaty with us be any more specific than the terms of the Versailles treaty itself, because under the very first section of article 4 of the Versailles treaty Germany renounces in favor of the principal allied and associated powers all her rights and titles over her overseas possessions?

Mr. BORAH. Mr. President, I have referred to that matter and covered it. As I have said, it is covered in the armistice, and it is covered in this treaty. Therefore, so far as the provision of the pending treaty is concerned, it gives us no right which we should not have under the armistice. I repeat, I have covered that point.

Mr. President, we do not conclude very much under the pending treaty. We say that we will have certain rights and privileges; that contract is made with Germany; but Germany has nothing to dispose of. We contract for the privilege—and that is all—of sitting with France, Japan, and Great Britain, to see what we shall get under the Versailles treaty.

Mr. KELLOGG. Mr. President, will the Senator yield for a question?

Mr. BORAH. I should prefer at this time to conclude my argument, but when I get through, if the Senator will make a note of the question he desires to ask, I shall be glad to respond. It must necessarily follow, if the presentation is to be worth anything, that in presenting this matter there must be some continuity of presentation. I do not decline, however, to answer questions. I shall be very glad to do so after I have gotten through with the original presentation.

For instance, under the reparation clauses and under the financial clauses of the treaty Germany has nothing to dispose of; she has no reserved rights which she can transfer to us; she had transferred all of them already to the allied and associated powers under the Versailles treaty. We come in and ask Germany—for what? For nothing, really, except the privilege to sit with those powers to determine what our rights shall be. Whatever we can agree with them we shall have, Germany waives her rights in our favor. So we must go at last to the conference, to the meeting of these powers, to determine what our rights are. If that does not constitute an alliance, a combination tied together by these several interests, all concerned in taking care of their own rights and privileges under the Versailles treaty, I do not know what would constitute an alliance. When you take into consideration the nature and terms of the Versailles treaty you will quickly conclude that it makes an alliance of those powers which seek to execute its provisions.

It was stated by the able Senator from Massachusetts that we are not bound in the pending treaty by the political clauses of the Versailles treaty. On paper that is correct, but in practical effect it is wholly incorrect. Consider the question for a moment. The Versailles treaty works out a system supposed to be complete, efficient, and sufficient to administer the po-

litical, the economic, and the financial conditions of three or four great nations. The entire structure of the Versailles treaty rests upon its political agreements and understandings. If the political foundation of the Versailles treaty falls, the financial, the economic, the customs system, indeed the entire fabric of the Versailles treaty, falls with it. If the political boundaries which have been established under the Versailles treaty fall apart and the newly established nations disintegrate and begin to separate and divide themselves amongst other powers, the entire Versailles treaty, financial clauses and all, falls with it. If I take a mortgage upon a house and the foundation of the house begins to give way, I must either strengthen the foundation and maintain it or lose my mortgage, because the house will fall with the fall of the foundation. So, while we claim under the reparation, the financial, the economic, and the transportation clauses only, yet no one can read and analyze the Versailles treaty without knowing that those all rest upon the political foundations laid by the Versailles treaty which we must maintain and support, else we have nothing coming to us from the other clauses. Now, I repeat we may abandon the whole business, but assuming that we are going in and claim and seek to realize under these particles or parts of the Versailles treaty we must as a practical proposition prop up and maintain the treaty as a whole. When that treaty begins to crumble in any of its important provisions it will all go down together. But once we are in it and once claiming under it we will have to respect it as a whole.

I say again, I am not looking at this treaty, Mr. President, simply as a technical proposition; I am looking at it in its operation and in its execution. I believe I know what its practical effect must be and what it will have to be. If we are interested in Parts VIII, IX, and X, relating to reparation and finances, we will be no more willing for the political foundations of the Versailles treaty to fall than will France. What interest has France in the political foundations of the Versailles treaty except as a basis upon which the superstructure is raised? But the moment we take our place in the conference for the purpose of seeing to the execution and the division of the rights under the economic and financial clauses, all the questions as to the political stability of Europe are bound to arise, and what are our rights under those clauses worth with the political structures of Europe shaken to the earth? So, sir, if we are going to claim rights under the economic and financial clauses, we can not ignore the political clauses, however much we might wish to do so, and regardless of the mere phraseology of this treaty.

I, of course, understand that it is said to us we may not elect to take any advantages at all under the Versailles treaty, financial, economic, or otherwise; that it is up to us to elect to do so; but in that respect we are in no different position from that of France or England or Japan. They are not bound to take anything under the Versailles treaty; they simply have the privilege of doing so, the same as have we; they simply have the permission to take the reparations if they wish to do so. They could abandon them if they wanted to. So we stand in no different position under the Versailles treaty from that which they occupy; there is no corresponding obligation between them and Germany that is not upon us also.

The treaty of Versailles, Mr. President, of course will always be construed as a unit, as a whole.

We can not construe it by ourselves, notwithstanding we have an interest in it now, because there are others equally interested, and the Versailles treaty itself provides how it shall be construed, and what instruments and what agencies shall construe it. The Reparation Commission is given ample power, full power, uncircumscribed power, to construe the Versailles treaty. While we are undertaking to take care of our trade, our tariff, our customs interests, our shipping interests, Japan will be talking of her interests under other provisions, and as a practical proposition we shall be compelled to sit in judgment with her, to listen to her counsel and advice. We can not alone construe a single clause of that treaty except to disregard it.

One other matter in that connection and that is this: What will be our position morally in this matter after we have ratified this German treaty?

Here is a great treaty—I do not say "great" in the moral sense, but in the sense that it encompasses as many affairs, perhaps, as any treaty ever did in the history of the world; a treaty which deals with the life of at least three great nations or peoples, and indirectly with all of the Continent of Europe. We see certain advantages which we think ought to accrue to us under that treaty, and we make a contract with Germany that we are to have those advantages, but we especially provide that we are not to incur any obligation which may be necessary in order to make those advantages fruitful. We especially provide that whatever comes to us must come free, without the discharge of any responsibility or obligation whatever upon our part. The execution of the Versailles treaty, whether it is expensive in treasure or blood, we step from under. Its obligations, however costly, are to cost us nothing; we claim all the advantages and privileges flowing to the United States without being willing to assume any of the obligations or any of the burdens of executing the treaty.

Mr. President, I have always been in favor of staying out of Europe. I am yet; but I say that to go into Europe for the purpose of securing some moiety of trade, some advantage in business, some material compensation, some right or privilege under that treaty, and to refuse to stay to perform any obligations connected with the realization of that is a position that is indefensible in morals, and we will not long stand to it before the world.

The United States will not take permanently any such position. It will either stay out of Europe under the Versailles treaty or claim nothing by virtue of the Versailles treaty. The moral pressure of the world will force it to assume the obligations which make those privileges and rights fruitful.

As an illustration, we approve and claim all rights and privileges under Part XIV of the treaty of Versailles. What is Part XIV? Part XIV, article 428, reads as follows:

As a guarantee for the execution of the present treaty by Germany—

As a guarantee for the execution of the treaty with Germany, all of it, economic clauses, financial clauses, and all other clauses—

As a guarantee for the execution of the present treaty by Germany, the German territory situated to the west of the Rhine, together with the bridgeheads, will be occupied by allied and associated troops for a period of 15 years from the coming into force of the present treaty.

There is no guarantee for the execution of the Versailles treaty except this, so far as the provisions of the treaty itself are concerned. That is designed to insure the compliance of Germany with all the provisions of the treaty. The troops of France must stand guard at the bridge for 15 years or the Versailles treaty falls to the ground so far as its guarantee of execution is concerned. The English troops, or France's troops, or some nation's troops must hold the Rhine for the next 15 years. Why? Not as a mere matter of display of force, or for the purpose of imposing upon Germany an additional burden in the way of keeping them there, but they are held there for the purpose of insuring that Germany will respond to the judgments of the Reparation Commission and execute in general the terms of the treaty.

I ask you this question: Suppose France should withdraw her troops from the Rhine and the other nations should withdraw their troops from the Rhine? Then the only guarantee in the treaty would fall. In other words, if France would do what we propose to do this would be guarantee of execution. Will we ever have the hardihood to claim any rights under a treaty whose burdens of execution and obligation we reject? I say in all seriousness my country will never stoop to so selfish a policy.

It is said that we propose to withdraw our troops immediately after this treaty is ratified. I do not know whether we are to do so or not. I am thoroughly in favor of withdrawing the troops. I am not, however, in favor of claiming advantages and benefits under the Versailles treaty which the French troops are to execute. I am not willing to take rights and advantages which come only from the presence of the French troops upon the Rhine. If we are to have these advantages, then every sense of moral responsibility insists that we shall do our part in the way of executing the treaty.

Take one clause of the part dealing with the Reparation Commission. I want to ask the Senators to pay particular attention to this clause. It has no counterpart in the history of the world:

ART. 241. Germany undertakes to pass, issue, and maintain in force any legislation, orders, and decrees that may be necessary to give complete effect to these provisions.

That is, the provisions relating to the Reparation Commission and its powers. No matter what the Reparation Commission may determine, no matter what judgment it renders, no matter what tax system it provides for, no matter what transportation system it provides for, no matter what it does, it issues its decree, and the German Government has agreed that it will take that decree, reduce it to legislative form, pass it by its legislature, and execute it by its executive power.

Suppose the troops upon the Rhine leave? Would any nation in the world, except under a constant threat of force, permit a reparation commission or a foreign body to issue decrees and then compel its citizens by legislation to execute them in the manner specified?

Thus, you go back to the very heart of the Reparation Commission's power, and you find that it stops still without any

power to execute or to compel execution unless the forces are maintained upon the Rhine. If I were a German I would never execute such a provision save driven to it by force. No nation on earth would do so save driven to it by force. That is the guaranty clause. That is the guaranty for every provision of the treaty. Mr. President, we can not take the position and maintain it before the world that we will place upon France the burden of executing all the decrees of the Reparation Commission and of this treaty, take no obligation ourselves, and claim the fruits and benefits of it. It is an intolerable position; it is an indefensible position; and I venture to say that we will not long undertake to maintain it.

There are many other illustrations which might be given as to the provisions of the treaty which the presence of the troops would be necessary in order to make effective at all, under which provisions we are claiming rights and privileges. Now, I submit to the Senate of the United States, Do you want to go on record as saying that you are going to take all the advantages and privileges that you can get under this treaty and assume no obligation or responsibility for its execution?

Mr. President, the first proposition therefore in this debate to which I direct particular attention, and which I wish to leave in the mind of the Senate to-day, is that we are tied in completely to the Versailles treaty, and that we never can get any benefit out of it except we help to execute it. I should be glad if some one would advise me, for instance, how we can get anything at all under Part VIII as a practical matter except by judgment of the Reparation Commission. How can we get anything under the financial clause except by judgment of the Reparation Commission, or under any of the economic clauses or the transportation clauses, except by the judgment of the Reparation Commission? Of course, we can disclaim all rights under these clauses or parts, but if we go in and claim under them, then as a practical proposition we will be compelled, in order to realize, to join the commission. It must follow that we must either become a member of the Reparation Commission, if we are going to protect our rights, or we must step out of that treaty entirely and undertake to enforce our rights by virtue of our influence as a separate and independent power, exerting that power upon the nations which may be interested rather than under the Versailles treaty or under this treaty.

Mr. President, if I should go further at this time, I would be compelled to take up the reparation clauses, which I would prefer not to do to-day unless the Senators in charge of the program think we ought to. I can do so, but naturally the reparations subject is a subject within itself.

The Senator from Minnesota wished to ask me a question a while ago, and I would be glad to answer it now.

Mr. KELLOGG. I simply wished to ask the Senator a question which perhaps he would prefer to answer when he comes to the reparation clauses, and if so, he need not answer it now. It is whether Part IV did not give certain specific rights to this country, as well as the other allied countries in the war, as to the rights of American nationals whose property had been taken in Germany, and settle the rights of German nationals as to property in the United States.

Mr. BORAH. Mr. President, that comes under the discussion of the reparations proposition, all of which it will take some time to cover, because I not only want to examine the powers of the Reparation Commission, but I want to go through this treaty section by section, and show the Senate something about what that Reparation Commission has to do. If any man thinks we escape the effects of the League of Nations, should we get into the Reparation Commission, he is due to a sad awakening.

Mr. REED. Mr. President——

The PRESIDING OFFICER (Mr. GERRY in the chair). Does the Senator from Idaho yield to the Senator from Missouri?

Mr. BORAH. Certainly.

Mr. REED. If the Senator has reached a point in his remarks where he can permit interruption without breaking the thread of his discourse, I want to ask a question. It is possible the Senator covered the matter in the early part of his remarks; I unfortunately was absent from the Chamber then.

As a matter of fact, does the Senator think that this treaty accomplishes anything in the world except a formal declaration of peace between the United States and Germany, leaving all questions of dispute to be settled hereafter?

Mr. BORAH. Mr. President, that is about the conclusion. There are some exceptions to that, but they are of a minor nature. As I said a moment ago, we get no rights as a practical proposition under this treaty at all except the right to sit with the commissions or in conference under the Versailles treaty, and to determine what we shall have under that treaty.

Mr. REED. Exactly; and that right we could have had at any moment by signing the Versailles treaty. But what I am trying to emphasize by my question is this, ordinarily a treaty concluded at the end of a war settles the questions growing out of the war, gives a final judgment in the case. If there are certain matters requiring accounting, or if there are matters that require long hearings, a tribunal of some kind is agreed upon to settle those particular cases in accordance with rules laid down in the treaty itself. So that the treaty is a finality, to all intents and purposes, as to the controversies which caused the war, and which have grown out of it. That is what I understand to be the usual practice.

Does the Senator understand that the present treaty does anything else, I mean of a substantial and important nature, except to say that as between Germany and the United States there is hereby created a condition of peace by mutual agreement, but all of the questions growing out of this war, including even Germany's conduct in the future with reference to the United States, are left open, and must either be settled by future negotiations between the United States and Germany or by the Reparation Commission?

Mr. BORAH. That is correct. Let me read to the Senator from the treaty. After what might be called the preamble the treaty says:

> With a view to defining more particularly the obligations of Germany under the foregoing article with respect to certain provisions in the treaty of Versailles it is understood and agreed between the high contracting parties—

Now, this is all that Germany agreed to—

> (1) That the rights and advantages stipulated in that treaty—

To wit, the treaty of Versailles—

> for the benefit of the United States, which it is intended the United States shall have and enjoy, are those defined in section 1 of Part IV—

And so forth.

> The United States in availing itself of the rights and advantages stipulated in the provisions of that treaty mentioned in this paragraph will do so in a manner consistent with the rights accorded to Germany under such provisions.

That is, the provisions of the Versailles treaty. What is the situation we are in? Germany grants us all the rights and privileges under those parts of the Versailles treaty which may be coming to the United States. Where do we go next? We then go to the Versailles treaty. We find there that the Reparation Commission has sole and exclusive jurisdiction of the execution of these provisions of the treaty. Therefore, in order to know what we are getting, we must ask the Reparation Commission what we are getting, and after we have asked the Reparation Commission what we are getting, we must go back and consult the powers behind the Reparation Commission. I am assuming that we elect to go in under Parts VIII and IX.

So, Mr. President, there is just one thing granted to the United States under this provision, and that is the right to consult the Reparation Commission or the other powers as to what we shall get.

Mr. REED. Exactly. Now, I hope the Senator will pardon me a moment while I state a matter I want to get his view upon.

When the war ended—that is to say, when the armistice was signed and the fighting ceased—President Wilson said to us, "Thus the war comes to an end," and I think that statement of President Wilson was absolutely accurate, the war had come to an end. Then the doctrine was set up that the war having come to an end had not come to an end. That was set up because there were certain powers that it seemed desirable to some people to exercise, and we found ourselves here for a period of over two years in what was termed a technical state of war. I want to interject that I never accepted that doctrine, and I never intend to. There is no such thing as a technical state of war as distinguished from an actual state of war. You either have war or you do not have it. There can not be any such thing as an imaginary war.

That doctrine was promulgated in the country, and in order to bring it to an end, to wipe out this fiction that had been created, and because we could not get a treaty negotiated, the Knox resolution undertook to formally declare a state of peace. That was passed by the American Congress and signed by the President of the United States.

In that resolution the language was employed that while we declared a state of peace to actually exist, we did so reserving all the rights that we might have under the Versailles treaty. In other words, we expressly said that we did not waive those rights, but we left them open, by implication at least, to future settlement between the United States and Germany.

The first question I want to ask is, Does the Senator understand that the present administration insists that a state of war exists, non obstante the resolution passed by Congress?

Mr. BORAH. Indeed, I am not familiar with what the administration thinks.

Mr. REED. Then, as the Irishman said, "there are a pair of us"; I do not know.

Mr. BORAH. I have never heard the administration express itself on that subject.

Mr. REED. If the doctrine is that the peace resolution is effective to create the status of peace, then this treaty leaves us exactly where the Knox resolution left us, except that Germany has assented, and every question which was open for settlement by treaty under the Knox resolution was left, and this treaty settles not one of them, but leaves us just exactly where we were when we passed the Knox resolution, except that Germany has said that they agreed to the terms of the Knox resolution.

So that we have every controversy open, except that if the Senator from Idaho is correct in his diagnosis of the case we are practically compelled to get most of our remedies, if we sign this treaty, by and through the instrumentality of the Reparation Commission, instead of having the question wide open, so that we could demand from Germany an adjustment between Germany and the United States directly. Is that the Senator's understanding of this?

Mr. BORAH. Yes; that is my understanding of it.

Mr. REED. If the Senator will pardon me, I simply want to offer in his time this observation, without committing myself at the present moment to any position upon this treaty.

I heretofore had thought that the business of a treaty of peace was to settle the difficulties between the countries at war. You treat with reference to the difficulties, and you resolve the difficulties, and you write the conclusion or the decree, if you please, on a piece of paper, and both nations agree to abide by it. Is this treaty anything more than this, that the United States and Germany propose to formally declare a state of peace to exist and then reserve every question of dispute for future settlement?

Mr. BORAH. This modification ought to be made, that Germany agrees to the peace proposition, and then she says: "Now, whatever rights you can get out of the Reparation Commission and those other agencies to execute the Versailles treaty I surrender them to you, but you will have to go there to get them."

Mr. REED. That is the case. There was a remark made this morning, which I do not want to pass, as to what the United States is going to do. Germany has tied herself in certain ways in the Versailles treaty, and therefore she is not at liberty to act. I think I was asked what could be done about it, and I do not want that to go in that way. Is it to be the doctrine of the United States that if we are at war with a nation and four other nations are at war with that nation, if the other four nations get together and agree on how they want to have it settled, they can create a condition which bars us from insisting upon our rights; in other words, that anything England, France, Japan, or Italy did in this treaty, to which we were not a party, is a sacred thing that we can not disturb and that as an independent and sovereign nation we are bound by their action, to which we were not a party.

If it be true that they so bound Germany with chains as to make it impossible for Germany to do justice by us in any matter that we might have in controversy with Germany, are we compelled to submit to the exactions they made, and to then submit our rights to a tribunal which they create and which they control, a tribunal every member of which is directly interested and is sitting in judgment in a case where it is a principal?

I have this hope out of the pending treaty—and it is what I thought these long negotiations were for—not that we would agree to reserve the disputes for the future, but that we would resolve all disputes in the present and write them into this document, so that when we declared peace with Germany the high road would be open and the obstacles would have been removed, and we could proceed along that highway in perfect amity. I had hoped that the United States would have settled with Germany, if not in dollars and cents the amount that was to be paid by Germany in reparations to our people, at least a full acknowledgment of the claims and the creation of a tribunal to fix the amount, leaving nothing to be tried except the mere question of fact; that in regard to any of the other rights which we might have, they would have been settled in the same manner and written into this instrument, and that as a part of it we would agree with Germany upon the resumption of trade relations; that upon the resumption of trade relations there would be written into the instrument probably the old clause that we and all our nationals would be entitled to the benefits of the most-favored-nation doctrine; that there would be probably written into the treaty articles which would have to do with the settlement in an equitable manner of any disputes that might hereafter arise between Germany and the United States; that there would probably be written into the treaty articles which would provide that if engaged in war in the future with any other country, Germany would solemnly promise that she would not again attack the commerce of the United States or undertake the wholesale destruction of our fleets upon the ocean; that these questions would be settled, written into this treaty, and brought here for the judgment of the Senate.

As the treaty appears to me to-day, it is nothing more than a sort of interlocutory decree in court which settles nothing except a temporary status from which, or after which, the real controversy is to proceed.

Mr. President, I think this treaty deserves some very careful consideration. It looks to me a good deal like a shell without any kernel, except we find within the kernel the bug of internationalism. That is not a very good metaphor, but I adopt it for want of a better.

Mr. LODGE. Mr. President, I wish to say just a word about the doctrine, which is new to me, that a treaty of peace will settle every outstanding question between the countries involved. I can adduce plenty of instances otherwise, but one is enough. We made the treaty of Ghent, a treaty of peace with England, in 1815. Three years later we made another treaty with England, settling all outstanding commercial questions which were not considered or covered, or attempted to be covered, in the treaty of peace.

Now, Mr. President, if the Senator from Idaho does not care to continue, I wish to move that the Senate go into secret executive session.

Mr. SHIELDS. Mr. President, before the Senator makes the motion that he has in view, I wish to ask the Senator a question. As I understand the expression of opinion made by the Senator from Idaho [Mr. BORAH] and the Senator from Missouri [Mr. REED], this treaty simply declares peace and leaves the terms of it to what is called the Reparation Commission, composed, or to be composed, if we go into it, according to the terms of the treaty of Versailles, of the representatives of several foreign nations and one representative of the United States.

Now, if their position is correct and sound, that no treaty is really made, it is just an arrangement that upon disputed questions the Reparation Commission may make a treaty for the United States and Germany. That is what their position amounts to. If they are sound upon the proposition in their construction of the treaty, is not that an end of it? Have the President of the United States and the Senate of the United States any power to delegate to any foreign body or any person or representative the right to make treaties for the United States which will bind it?

Mr. LODGE. I do not understand that any such proposition is involved here at all.

Mr. SHIELDS. I so understood both Senators to state their position.

Mr. LODGE. The Reparation Commission will have no right to make a treaty.

Mr. SHIELDS. I wish to hear the Senator's view on that, as to whether the two Senators to whom I have referred are sound on that proposition.

Mr. BORAH. The Senator has not stated the position which I stated. I said any rights or privileges which we would enjoy under the Versailles treaty would have to be determined by the Reparation Commission.

Mr. SHIELDS. That is a matter of treaty, is it not? I can not draw any distinction.

Mr. BORAH. Let me ask the Senator from Tennessee a question.

Mr. SHIELDS. That is the way I understood the Senator to state his position.

Mr. BORAH. What rights do we get under Part VIII except any that the Reparation Commission may give us?

Mr. SHIELDS. I do not understand that we can get any. It is left with them. The provision confers powers on this commission that are as broad as Omnipotence. It provides that they shall not be governed by any rule or law of evidence, but shall determine matters according to their views of equity. I believe that is the language.

If these Senators are right and there is nothing binding in the treaty and all the rights we are to get out of the war are to be obtained through the deliberations of the Reparation Commission, then we are simply delegating to that commission the power to make a treaty for the United States and agreeing to be bound by it without any reference to the Executive in negotiating it or the Senate in ratifying it. Whether that is a proper construction, is not that what their position would result in?

Mr. LODGE. I did not hear the statement of his position by the Senator from Idaho, but I do not think personally that that construction is a possible one. I should be glad to take it up

later when we discuss the treaty further. It is Saturday afternoon, and we are anxious to have an executive session with closed doors at this time.

Mr. SHIELDS. I hope the Senator from Massachusetts will understand that I am not committing myself to that view.

Mr. LODGE. Oh, I understand.

Mr. SHIELDS. Nor am I opposed to the treaty. It has just been reported. Most of it is in the treaty of Versailles and that has not been before the committee. I presume very few Members of the Senate have considered the Versailles treaty for 12 months or more. I know that some of them have been trying to forget that there ever was such a thing.

Mr. KING and Mr. KELLOGG addressed the Chair.

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). Does the Senator from Massachusetts yield; and if so, to whom?

Mr. LODGE. I think it is useless for me to attempt to move a secret executive session at this time if Senators wish to proceed with the debate on the treaty. I yield the floor.

Mr. SHIELDS. Mr. President, I do not wish to reach a conclusion upon this treaty without again thoroughly considering the Versailles treaty, and, as the Senator from Idaho has very well said, not only the provisions that are here referred to but the specific provisions that are referred to in the treaty, as I understand many of them are. They are intermingled and interwoven so that much more careful study is necessary.

Mr. KING. Mr. President——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Utah?

Mr. SHIELDS. I yield.

Mr. KING. Is there any difference in principle in the two cases I am about to suggest? The treaty of Versailles commits certain authority and power to the Reparation Commission, namely, to allocate to the allied and associated powers certain property and certain revenues and the determination of certain other rights more or less judicial. Some are merely executory in their character; others are administrative in their character.

Does the Senator think there is any difference between a treaty which authorizes that body to perform acts—administrative, judicial, executive, or otherwise—and a treaty which commits to a tribunal—call it the league, The Hague council, or any other instrumentality—the determination of some question of fact or the determination of some question of law which the high contracting parties agree, when the determination is made, they will observe?

It seems to me there is no commitment of authority or delegation of authority by our Government, if we should ratify this treaty or ratify the Versailles treaty, to some other body, to wit, the Reparation Commission, to negotiate a treaty any more than there would be a delegation of authority to a tribunal which might be set up by a treaty which might be negotiated to ascertain certain facts and then pronounce judgment upon those facts. It appears to me that the Senator from Tennessee is in error if he assumes that the Reparation Commission is a body to whom is delegated plenary power by a sovereign State for the negotiation of a treaty.

Mr. SHIELDS. I do not quite understand whether the Senator from Utah questions my legal conclusions, for really I had none, but I was asking the Senator from Massachusetts [Mr. LODGE] for his conclusions upon the subject, or whether he questions my statement of facts with reference to the powers of the Reparation Commission. But you can not determine this question by The Hague tribunal or any other body or council or commission that was ever created since the dawn of creation, because in all that time there never was anything like it. It is without precedent and has to be settled and construed according to its own terms.

EXECUTIVE SESSION WITH CLOSED DOORS.

Mr. LODGE. Mr. President, I now make the motion which I have been trying for some time to make. I move that the Senate go into secret executive session.

The motion was agreed to, and the doors were closed. After 15 minutes spent in secret executive session the doors were reopened, and (at 3 o'clock and 30 minutes p. m.) the Senate, as in legislative session, adjourned until Monday, September 26, 1921, at 12 o'clock meridian.

CONFIRMATIONS.

Executive nominations confirmed by the Senate September 24, 1921.

ENVOYS EXTRAORDINARY AND MINISTERS PLENIPOTENTIARY.

Joseph C. Grew to be envoy extraordinary and minister plenipotentiary to Switzerland.

John Dyneley Prince to be envoy extraordinary and minister plenipotentiary to Denmark.

ASSISTANT SECRETARY OF AGRICULTURE.

Charles W. Pugsley to be Assistant Secretary of Agriculture.

COLLECTOR OF INTERNAL REVENUE.

Burns Poe to be collector of internal revenue, district of Washington.

COMMISSIONER OF NAVIGATION.

David B. Carson to be Commissioner of Navigation in the Department of Commerce.

POSTMASTERS.

CALIFORNIA.

Bert Woodbury, Fall Brook.

FLORIDA.

Claud G. Evans, Bonifay.

ILLINOIS.

Fred Elfring, Bensenville.
Tice D. Mason, Browns.
Allen L. Grace, Goreville.
Lewis M. Crow, Grand Tower.
Lela Killips, Lyons.
Bailey H. West, Makanda.
Ellis H. Jones, Minooka.
George F. Allain, St. Anne.
Katherine Maloy, Summit.
Fred S. Edwards, Troy.

NEW JERSEY.

Frank C. Dalrymple, Pittstown.

NEW YORK.

Frank S. Harris, Sacandaga.

NORTH CAROLINA.

Clyde H. Jarrett, Andrews.
Roscoe C. Tucker, Fair Bluff.
William J. Mode, Rutherfordton.
Hester L. Dorsett, Spencer.
Asa C. Parsons, Star.

PENNSYLVANIA.

Harry E. Marsh, Bareville.
Marshall M. Smith, Gaines.
John J. Herbst, McKees Rocks.
Isaac H. Snader, New Holland.
James R. McGill, Paoli.
Edwin A. Hoopes, Pocono Manor.
Lizzie A. Steffy, Ronks.
Joseph Straka, Universal.

SOUTH CAROLINA.

Lida E. Setsler, Cowpens.

HOUSE OF REPRESENTATIVES.

SATURDAY, *September 24, 1921.*

The House met at 12 o'clock noon and was called to order by Mr. WALSH as Speaker pro tempore.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Heavenly Father, we bless Thee for the eternal constancy of Thy goodness and mercy. We thank Thee for life and all things that make it happy, beautiful, and heroic. Bring us into full harmony with everything that is good and upright. Enable us day by day to walk in Thy ways, to live in Thy spirit, and labor in Thy love, and may we ask no other reward than Thy approval. Through Christ our Lord. Amen.

The Journal of the proceedings of Wednesday, September 21, was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, one of its clerks, announced that the Senate had passed bill and joint resolutions of the following titles, in which the concurrence of the House of Representatives was requested:

S. 2447. An act to authorize the construction of a bridge across Pearl River between Meeks Ferry and Grigsbys Ferry and between Madison County, Miss., and Rankin County, Miss.;

S. J. Res. 115. Joint resolution to authorize the loan by the Secretary of War to the commander in chief of the Grand Army of the Republic of cots for the use of the members of the Grand Army of the Republic during the sessions of the grand encampment of the Grand Army of the Republic at Indianapolis, Ind., from September 24 to October 1, 1921:

S. J. Res. 108. Joint resolution authorizing the erection on public grounds in the city of Washington, D. C., of a memorial to Jeanne d'Arc;

S. J. Res. 99. Joint resolution providing a site upon public grounds in the city of Washington, D. C., for the erection of a statue of Dante; and

S. J. Res. 93. Joint resolution authorizing the President to communicate with the Government of Italy on the six hundredth anniversary of the death of the poet Dante.

The message also announced that the Vice President had appointed Mr. CAPPER and Mr. SHEPPARD members of the joint select committee on the part of the Senate, as provided for in the act of February 16, 1889, as amended by the act of March 2, 1895, entitled "An act to authorize and provide for the disposition of useless papers in the executive departments," for the disposition of useless papers in the War Department.

SENATE BILL AND JOINT RESOLUTIONS REFERRED.

Under clause 2, Rule XXIV, Senate bill and joint resolutions of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 2447. An act to authorize the construction of a bridge across Pearl River between Meeks Ferry and Grigsbys Ferry and between Madison County, Miss., and Rankin County, Miss.; to the Committee on Interstate and Foreign Commerce.

S. J. Res. 93. Joint resolution authorizing the President to communicate with the Government of Italy on the six hundredth anniversary of the death of the poet Dante; to the Committee on Foreign Affairs.

S. J. Res. 99. Joint resolution providing a site upon public grounds in the city of Washington, D. C., for the erection of a statue of Dante; to the Committee on the Library.

S. J. Res. 108. Joint resolution authorizing the erection on public grounds in the city of Washington, D. C., of a memorial to Jeanne d'Arc; to the Committee on the Library.

S. J. Res. 115. Joint resolution to authorize the loan by the Secretary of War to the commander in chief of the Grand Army of the Republic of cots for the use of the members of the Grand Army of the Republic during the sessions of the grand encampment of the Grand Army of the Republic at Indianapolis, Ind., from September 24 to October 1, 1921; to the Committee on Military Affairs.

ADJOURNMENT.

Mr. ANDERSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 2 minutes p. m.) the House, under its previous order, adjourned to meet on Wednesday, September 28, 1921, at 12 o'clock noon.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 3534) granting a pension to Charlotte I. Mallory; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 3539) granting a pension to Martha Thornton; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. KAHN: A bill (H. R. 8439) authorizing the Secretary of War to convey certain portions of the military reservation of the Presidio of San Francisco to the regents of the University of California for art, educational, and park purposes, and providing for the acquisition through eminent domain proceedings of a railroad right of way for the use of said military reservation as a consideration for said grant, and for other purposes; to the Committee on Military Affairs.

Also, a bill (H. R. 8440) authorizing and directing the Attorney General of the United States to institute and prosecute proceedings in eminent domain for the acquisition, for the use of the War Department for military purposes, of a right of way for a spur track railroad extending from the military reservation of the Presidio of San Francisco to the Fort Mason military reservation, and authorizing the conveyance by the United States to the regents of the University of California for art, educational, and park purposes, as full consideration for said right of way, in the event that the defendants in said eminent domain proceedings first consent thereto, of a certain portion of said military reservation of the Presidio of San Francisco, and for other purposes; to the Committee on Military Affairs.

By Mr. STEENERSON: A bill (H. R. 8441) relating to special delivery of mail matter; to the Committee on the Post Office and Post Roads.

By Mr. CURRY: A bill (H. R. 8442) to amend an act entitled "An act to authorize the President of the United States to locate, construct, and operate railroads in the Territory of Alaska, and for other purposes," approved March 12, 1914, as amended; to the Committee on the Territories.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. JAMES: A bill (H. R. 8443) granting a pension to John L. Williams; to the Committee on Pensions.

Also, a bill (H. R. 8444) granting a pension to Nicholas J. Fezzey; to the Committee on Pensions.

By Mr. KELLEY of Michigan: A bill (H. R. 8445) granting a pension to Emma Loop; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8446) granting an increase of pension to Sarah F. Clark; to the Committee on Pensions.

By Mr. LAYTON: A bill (H. R. 8447) granting a pension to George Emma Outten; to the Committee on Invalid Pensions.

By Mr. McLAUGHLIN of Nebraska: A bill (H. R. 8448) for the relief of Joseph Zitek; to the Committee on Claims.

By Mr. PATTERSON of Missouri: A bill (H. R. 8449) granting an increase of pension to Louisa Mawhinney; to the Committee on Invalid Pensions.

By Mr. SANDERS of New York: A bill (H. R. 8450) granting a pension to Susan C. McCollum; to the Committee on Invalid Pensions.

By Mr. SINNOTT: A bill (H. R. 8451) granting a pension to Mary Myrtle Leone Tucker; to the Committee on Pensions.

By Mr. THOMAS: A bill (H. R. 8452) granting an increase of pension to Francis M. Coats; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

2597. By Mr. CANNON: Petition from citizens of Illinois, protesting against legislation for compulsory Sunday observance; to the Committee on the District of Columbia.

2598. By Mr. CURRY: Petition of 170 citizens of the third congressional district of California, for enactment of the Sterling-Towner bill creating a department of education; to the Committee on Education.

2599. By Mr. SMITH of Michigan: Petition of the Kiwanis Club of Battle Creek, Mich., favoring the inclusion in permanent tariff bill of a selective embargo for a limited period against importation of synthetic organic chemicals; to the Committee on Ways and Means.

2600. Also, petition of Woman's Christian Temperance Union of Battle Creek, Mich., protesting against passage of law making it illegal to search premises for liquor without warrant; to the Committee on the Judiciary.

SENATE.

MONDAY, *September 26, 1921.*

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

Our Father, we thank Thee for yesterday, its hallowed associations and influences. Grant that as we enter upon the duties of this day it may be under some of those influences, helping in the decision of great issues and guiding thought in a direction which shall be acceptable before Thee. We ask in Christ our Lord's name. Amen.

The VICE PRESIDENT resumed the chair.

The reading clerk proceeded to read the Journal of the proceedings of Saturday last, when, on request of Mr. CURTIS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

SUPPRESSION OF LIQUOR TRAFFIC.

Mr. STERLING. Mr. President, on Friday last the Senator from Kentucky [Mr. STANLEY] had placed in the RECORD, at page 5738, what I regard as an ignoble parody on our noble national anthem, "My Country, 'Tis of Thee." This parody is said to have been dedicated to the eighteenth amendment. In fine contrast to this effusion I desire to present and have read at the desk the action of the judicial section of the American

Bar Association at its annual meeting lately held at Cincinnati, Ohio. It is short, and I ask unanimous consent that it may be read.

Mr. OVERMAN. Let it be read.

The VICE PRESIDENT. Without objection, it will be read.

The reading clerk read as follows:

THE JUDICIAL SECTION OF THE AMERICAN BAR ASSOCIATION STRONGLY CONDEMNS LAWLESSNESS.

The executive committee of the judicial section carefully considered and approved the report of Judge Charles A. Woods, chairman of this section of the American Bar Association. This report was unanimously adopted by the judicial section of the American Bar Association. It is a timely warning to private citizens and public officials who are encouraging lawlessness.

The report in part says:

"The judicial section of the American Bar Association, venturing to speak for all the judges, wishes to express this warning to the American people: Reverence for law and enforcement of law depend mainly upon the ideals and customs of those who occupy the vantage ground of life in business and society. The people of the United States, by solemn constitutional and statutory enactment, have undertaken to suppress the age-long evil of the liquor traffic. When, for the gratification of their appetities, or the promotion of their interests, lawyers, bankers, great merchants, and manufacturers, and social leaders, both men and women, disobey and scoff at this law, or any other law, they are aiding the cause of anarchy and promoting mob violence, robbery, and homicide, they are sowing dragon's teeth, and they need not be surprised when they find that no judicial or police authority can save our country or humanity from reaping the harvest."

CALL OF THE ROLL.

Mr. HARRISON. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	France	McCumber	Sheppard
Ball	Gerry	McKellar	Shortridge
Borah	Gooding	McKinley	Simmons
Brandegee	Hale	McLean	Smoot
Broussard	Harreld	McNary	Spencer
Calder	Harris	Moses	Sterling
Cameron	Harrison	Myers	Sutherland
Capper	Heflin	Nelson	Swanson
Caraway	Hitchcock	New	Townsend
Colt	Johnson	Nicholson	Trammell
Culberson	Kendrick	Oddie	Underwood
Curtis	Kenyon	Overman	Wadsworth
Dial	King	Page	Watson, Ga.
Dillingham	Ladd	Penrose	Watson, Ind.
Edge	La Follette	Pomerene	Willis
Ernst	Lenroot	Reed	
Fletcher	Lodge	Robinson	

The VICE PRESIDENT. Sixty-six Senators having answered to their names, a quorum is present.

ADDRESS BY SENATOR WILLIAM M. CALDER.

Mr. EDGE. Mr. President, last week the junior Senator from New York [Mr. CALDER] delivered a very notable speech in Syracuse, N. Y. I think it contains a great deal of very interesting details and suggestions as to the settlement of national problems. I ask unanimous consent to have it incorporated in the RECORD and that it be printed in the ordinary RECORD type.

The VICE PRESIDENT. Without objection, it is so ordered.

Senator CALDER's address is as follows:

SPEECH OF SENATOR CALDER AS PERMANENT CHAIRMAN OF THE REPUBLICAN STATE CONVENTION AT SYRACUSE, N. Y., SEPTEMBER 23, 1921.

Mr. Chairman and delegates, I am pleased with the compliment bestowed upon me in my selection as permanent chairman of this convention.

To-day we chose a candidate for justice of the court of appeals, an exalted office, removed somewhat from the world of political activity, but, in its significance, immeasurably more important than that of governor or United States Senator. In the past we of this State have been fortunate in the character of the men selected for membership in our highest court. Although keenly alive to changing conditions and anxious sanely to deal with present problems, nevertheless they have willingly risked unpopularity by the maintenance of the supremacy of constitutional rights and limitations. They have sought to preserve among us a government of laws and not of men.

Gathered here as members of a political party, it is well to recall the impressive record of our court of appeals in cases involving election to public office. In not one instance in its history have the judges of that court divided along party lines on a political question. We rejoice as we think of this integrity and because our whole system of government is founded upon the independence of the judiciary. The Republican Party in this State has ever insisted that the best of our citizenship should be selected for membership in the court of appeals, to be left uncontrolled after election save by conscience and reason. I am sure the nominee of this convention will carry into office the same exalted conception of duty which characterizes his future associates.

I speak under some difficulty to-day, for my distinguished colleague, the senior Senator, has already discussed important national problems. He has had a great part in the deliberations of the Senate during recent years. As chairman of the Committee on Military Affairs he has had a leading place in the reorganization of the Army, standing steadfast for proper national defense, but boldly courageous in removing waste and extravagance in an effort to get back to efficient peace conditions. In his discussion of national problems he has given us a wealth of information. We shall long remember his remarks on the Army and Navy and our international relations.

The subjects to which I call your attention are not such as permit of oratory. They are the dry-as-dust topics of taxation and revenue, of governmental receipts and expenditures, of the business side of government, which, however, as representatives of a great American political party, we can not ignore. Indeed, in our last national platform we gave much space to them, because they are inseparable from the common concerns of our people, and the hard-headed practical folk who make up this Nation believed we were mightily interested in and had honesty and intelligence to deal with these subjects. It was said of Gladstone that he presented a budget in Parliament with such consummate skill that members listened entranced as he item by item rehearsed the financial needs and proposed financial measures for the British Government. I fear, however, that even the gifted Gladstone would find it difficult to arouse American taxpayers to applaud, though he had measures for their relief, because they know that the burden of taxation they are obliged to carry could have been lighter had the common sense found in the homes and places of business of America been found in public office in the recent past.

In November, 1918, the American people awoke and realized that the gift of speech was not the only gift necessary for the conduct of national affairs. Therefore, in spite of the appeal of President Wilson, they voted a lack of confidence in the Democratic Party and placed our party in control of the House of Representatives during the last two years of the Wilson administration. Our party also had a nominal control of the Senate by a majority of two, but this could not always be counted upon. During those two years our party struggled to reduce the cost of government and restore normal conditions. The task was tremendous, because the Nation had just come out of war. Practically every department of government had thousands of unnecessary employees. We had built and were still building a merchant marine. We had contracted for the expansion of our Navy and naval docking facilities. Ammunition plants, armor plants, gas plants, gun factories, Government housing settlements, railroads, airplane factories, and many other institutions were owned or controlled by the Government.

The armistice found the Wilson administration almost totally unprepared for the problems of peace. Some war activities ceased, but many went on without reduction in the expenditure of public funds. One need only mention the operation of the railroads and the Shipping Board as instances of war activities continued after peace had come.

At the end of the war we had completed only 3,000,000 tons of shipping. Since then we have finished almost 9,000,000 additional tons at a cost of $2,000,000,000, two-thirds of which is valueless.

If we had begun to adjust our railroad problem immediately after the armistice was signed, we would have saved nearly a billion dollars in railroad expenditures.

If we had ceased the building of naval vessels provided for in the program of 1916–17, $500,000,000 would not have been spent.

If we had cut down the size of our Army immediately after November, 1918, $400,000,000 would have been saved without impairing the national defense.

Notwithstanding the legacy of obligations left us by the Democratic Congress, the Republican Congress during the last two years of the Wilson administration reduced the cost of Government, based on estimates made by Democratic heads of departments, by over $3,000,000,000. In other words, if we had voted to appropriate all the money asked for by the departments, our national debt would be $3,000,000,000 more than it is to-day and a reduction in taxation would be impossible.

This saving was made in spite of the fact that there was and could be no consultation with President Wilson. He had determined upon a foreign policy distasteful to the American people, and because we would not adopt his foreign policy executive and legislative teamwork for the solution of the great industrial and economic problems confronting the Nation was impossible. Indeed, not only was teamwork impossible between the Executive and our party, it was likewise

impossible between the Executive and the leaders of his own party.

Therefore, on March 4, last, our party took control of the Government with some problems only partially settled and many totally untouched. We immediately began to keep faith with the American people. The President called Congress in special session in April to pass the necessary appropriation bills to meet the needs of the Nation. Teamwork in the conduct of government was reestablished. Consultation and cooperation were sought by executive and legislative branches of government. Governmental efficiency required scrutiny of the estimates made by the departments for the coming year. These estimates were presented by the outgoing Democratic administration. They had no desire to aid us and they attempted to make low estimates.

Nevertheless, we took their figures and reduced them by one billion and a half dollars. We have begun and will continue to keep the pledge we gave the country to reduce the cost of government.

AGRICULTURE.

Fellow delegates, though often heard by you, I believe it ought never be overlooked that the agricultural interests of this Nation must be conserved and promoted if national greatness is to continue. We men born and reared in the cities of the State know this. While the Republican Party has never made an appeal to any class or special group as such, it has ever been mindful that basic industries should not be destroyed. As a party we have not been ashamed to confess more concern for the American producer and manufacturer and workingman than for those of any other part of the world. We have world vision and world interests, but that vision and those interests lose nothing when we strive to help Americans first. By our platform we declared we would strive to promote the agricultural welfare of the country. Let me ask you to hear how we have shown our sincerity.

We have revived the War Finance Corporation and it is now operating successfully. It has been asked and has given aid primarily for agricultural relief. From the revival of its activities in January last, through a resolution passed by Congress over President Wilson's veto, aid was given to agriculture, and to a lesser extent to industry, by the extension of credit to American exporters, or to American banks assisting exporters. For that purpose the War Finance Corporation has approved applications amounting to $75,000,000. These applications cover cotton, tobacco, wheat, condensed milk, canned fruit and vegetables, meat products, railroad equipment, copper, steel, and sugar-mill machinery.

Further legislation has broadened the powers of the War Finance Corporation so that it now may extend credit to associations of producers or banks in order that agricultural products may be carried until marketed through export channels, and in certain cases the War Finance Corporation may finance the orderly domestic marketing of surplus agricultural products. Difficult situations, such as those affecting wheat, corn, live stock, etc., can now be aided.

My friends, through the instrumentality of this agency of government the Republican administration has demonstrated the national scope of our party's interest. Early this year the most critical agricultural situation was faced by the cotton growers. Consequently the South, from the agricultural, business, or banking standpoint, was pressed harder than any other section of the United States, and the demands upon the resources of the War Finance Corporation were greatest from the cotton producers and their bankers.

So effective has been the aid given that conditions in the South are now decidedly on the mend and the crisis appears to be passed. Save for the aid given, bankruptcy would have been the lot of producers and perhaps of banks. In the last campaign we charged our opponents with sectionalism and declared we were not and never would be a sectional party. In this emergency the South has found us true to our traditions. We have vindicated our claim that there is but one real national party in this Nation, and I believe that the time is near at hand when the States of the South will in greater numbers follow the lead of Tennessee in 1920 and march under the Republican banner.

But whether it be the South or the North, East, or West, the American farmer will find that by the War Finance Corporation we have sought to give him a foreign market, while by the tariff we will protect him fairly in the home market.

RAILROADS.

Men and women of this convention, farm and factory production may reach the limit of efficiency, but unless the market for the product can be reached speedily and economically, trade will languish and business become stagnant. The transportation problem grows daily more serious. Railroad executives and workingmen are face to face with a bewildering situation where demagogic utterance in or out of legislative halls will do no good. We are confronted with a transportation condition and not a theory. It was a Republican Congress that returned the railroads to private ownership after the complaints of producers and consumers against Government operation had become most pronounced. The return of the roads did not, however, settle the account between them and the Government. The Railroad Administration still owes the railroads part of the rental due under Federal control. The roads, on the other hand, owe the director general for additions and betterments.

The director general has power to accept from the railroads their obligations in payment for advances for additions and betterments, but he has not the funds necessary to pay the amount due as rental. Pending legislation proposes that the War Finance Corporation shall be permitted to buy from the director general not to exceed $500,000,000 sound and marketable securities, which he may take from the railroads. The director general would thereby get the funds to pay his indebtedness to the railroads. The War Finance Corporation would then proceed to dispose of the securities so purchased. The Government will not lose a dollar by this proposed legislation, because no security can be sold at a loss to the Government. Through this plan the railroads would receive $500,000,000 due to them for rental, without appropriation from the Federal Treasury and without any addition to the tax burden of the country. With this money they could commence normal expenditures for maintenance of additions and betterments. They could pay their bills and thereby relieve the banking situation. They could pay the amounts owing to railroad supply companies and get additional credit from those companies. When you realize that the normal monthly expenditures for railroad supplies is $125,000,000, you can appreciate what it means to promise as a whole to put the railroads in a position to function normally. Moreover, probably 1,000,000 of the 3,000,000 men now idle would be given a chance to work. Surely no sane man can object to a measure which, without appropriation, taxation, or loss to the Government, means the probable employment of 1,000,000 men.

GOVERNMENT MANAGEMENT.

Fellow delegates, unquestionably the electorate will commend what we have thus attempted and propose for the revival of commerce and industry; but I believe the management of purely governmental affairs is our greatest accomplishment. At the last regular session of Congress the two Republican Houses passed a budget bill, for which American economists had pleaded for nearly 25 years. President Wilson vetoed that measure. At the present session we reenacted and the President signed the bill. The Budget Bureau is now, under the leadership of that splendid American, Gen. Dawes, preparing the budget which will be submitted to Congress in December for the fiscal year beginning July 1, 1922. Already he has disclosed the expenditure unnecessarily of millions of dollars by useless duplication of work in governmental departments.

Moreover, a group of Senators and Representatives are reorganizing these departments. Mr. Walter Brown, of Ohio, is chairman of this group, and Senator WADSWORTH is a member of it.

It is expected that the work of the Budget Bureau and the Brown Commission will result in a saving of $400,000,000 this year. Useless places are being abolished; greater care is taken in contracts for Government materials; the salvage of our war supplies is watched more closely. Not only in Washington, but elsewhere, there are sure signs of increased governmental efficiency. As the President said in his recent public statement:

> We are leaving the welter of waste which dominated America during the war until the present administration took office.

But men and women ask why has the cost of government reached $4,000,000,000 to-day compared with one billion previous to 1915? The reasons are simple, if not consoling. Before the war we had little or no national debt. To-day our indebtedness exceeds $23,000,000,000. We are bound to pay the interest on that debt and lay aside annually for its final payment. This year for those purposes we will need one and one-quarter billion dollars. Appropriations this year for war risk, hospitalization, and rehabilitation of our soldier sick and wounded total nearly one-half billion dollars. Pensions for Spanish and Civil War veterans and their widows will require $250,000,000. These items aggregate $2,000,000,000. To them you must add the cost of the Army and the Navy, which, although cut in half, still amounts to $700,000,000.

Then, again, practically every other department still takes double the amount it did before the war, because supplies, and so forth, have been contracted for at war prices.

Republicans of New York, the cost of government has increased beyond other years for another reason. The States have yielded to the Federal Government control of matters intended originally to be controlled by them. As a party we have emphasized the need of a strong, efficient central Government, but we have never been committed to the destruction of local government. We recognize the consolidating influence of invention, education, and most recently of war. We are still building a Nation, but the cost of carrying the Nation will never be diminished by continual calls for Federal aid and Federal control of purely State affairs. It is extreme folly to believe the States get something for nothing from the Federal Government. Whatever is given is purchased by increased taxation to the citizens of the States.

Admittedly changing conditions demand that government shall not be stationary, but the creation of new Federal bureaus is not always the wisest means to meet changed conditions, and certainly is not always the least costly. There are constitutional limits to the powers of the Federal Government, but there are also practical limits to the exercise of even constitutional powers. Wherever the general welfare of the Nation demands it we should never hesitate to exert the powers possessed by the central Government, but the whims and fancies of a few ought never to force Federal taxation for purposes which may be lawful, and even beneficial, when those purposes can be accomplished better and more economically by local government.

We know the measures of economy already taken, and the gradual decrease of interest charges by the amortization of our debt will reduce the total cost. Further reduction will come from the cutting of Army and Navy expenditures at least one-third. We can hope for the payment of interest by European countries on their indebtedness to us and thereby look for still further reduction in Government cost. Before the present administration ends the Nation's annual budget can and will be lowered by at least $1,000,000,000, and taxation will consequently become easier if we resolutely determine that not a dollar in the Federal Treasury shall be expended unless justified by the requirements of the whole Nation.

TAXATION.

Fifteen years in the House of Representatives and the Senate of the United States, with service on committees dealing with the ways and means of raising money to conduct public business, forced me to face the fact that taxation does eventually touch the table of each American home. Other men, led by fancy, may paint beautiful word pictures of the resources of the Nation; but, while yielding to none in admiration for the natural greatness of my country or the industry and independence of my countrymen, I declare to you that it is high time to insist that there must be present at every discussion of taxation the sobering truth that the tax burden is carried by all the people of the United States and from their toil and effort alone can taxes be gathered. We can afford to tell to our citizenship the truth as to actual Government needs. They are not fooled by the phrase maker who assures them taxation, like candy-coated pills, can be made pleasant. They know that there are irremovable charges that must be met, but they expect, and have the right to expect, in the conduct of public affairs that the standards of frugality and common sense followed in our homes, on our farms, and in our factories will be adopted by public servants.

In our last platform we promised to lift the load of taxation. We are endeavoring honestly to perform that promise. The House of Representatives has passed the bill revising the internal revenue laws and the Senate Finance Committee, of which I am a member, has had it under consideration. It will be passed by the Senate in the very near future.

Before the war we knew little of what income taxes meant. Duties on imports and internal-revenue taxes on tobaccos and liquors were the chief sources of financial supply. From them, together with our postal receipts, $1,000,000,000 a year was collected, and this sufficed to carry on the business of the Nation. Since 1917 we have collected an average of $6,000,000,000 annually. Indeed, in one of these years we raised $7,000,000,000. We can not continue these vast collections without irreparable injury to the commercial, agricultural, and manufacturing welfare of our own people. They insist that taxation must be reduced and the cost of the war spread over a period of years. The Republican Party has the responsibility, following a successful appeal for confidence, and it must, through its members, meet that responsibility immediately.

We must change a system of taxation which has forced men and women to resort to investment in tax-exempt securities, such as city, county, State, and National bonds, because it is unprofitable to put capital into the usual investment channels. In an attempt to cast the load on special groups the present law has been successful in placing the heaviest burden on the man of moderate income and indirectly upon the farmers and workingmen of the country, forcing capital away from legitimate industrial and commercial enterprise. The excess-profits tax and heavy surtaxes should be repealed if we will attract money back into industry. We can not hope otherwise to develop our railroad system, expand our factory plants, and build homes for our people. With them should be repealed many of the annoying and burdensome taxes on the immediate necessities of life. I am confident they will be repealed. It is extreme cowardice to hesitate to set in motion the wheels of industry, because some fear the country will not understand our course. We Republicans believe with Lincoln, that it is impossible "to fool all the people all of the time." They want business revived and they expect us to aid in its revival. We can unhesitatingly follow what conscience and sound taxation demand and let the results justify our cause. The American people will forgive mistakes made in an honest attempt to push forward the work of the Nation, but they will never forgive inaction born of fear of their common sense. We propose to help the Nation "carry on," and when the pending internal revenue bill is finally finished we confidently expect to hear the Nation echo the slogan of Postmaster General Hays, "Let's go."

TARIFF.

Fellow Republicans, control of the Government has been given our party after many campaigns in which the protective tariff has had the chief place. In the last campaign we promised revision of the Democratic tariff law which in 1914 to 1917 closed factories and stopped industry, and since the war has stood a barrier to the resumption of business. Until there has been a complete revision of the Democratic tariff American manufacturers will not move with confidence to the beginning or enlargement of their business. Knowing this, we are daily striving to perform the task of revision. It is not the work of a single day, however. It never has been easy to perfect a tariff bill, and to-day the task is more difficult because we are confronted with an unparalleled condition at home and abroad. We seek a law which will protect American industry yet which will not be unjust to the consuming public. We are compelled to note present as well as remember past conditions. The German mark when Germany was one of our greatest competitors for world trade was worth 24 cents in our currency. To-day that mark has an exchange value of less than 1 cent and has a purchasing power in Germany of 4¾ cents. The currency of Italy, France, and England are respectively 60, 40, and 30 per cent less valuable now than they were before the war. In fact, I am informed that the Hongkong dollar is the only currency other than our own holding a value comparable with that in 1914.

Nor can we overlook the changed attitude of European workmen, for they are fast realizing that they, too, must help in liquidation of the cost of commodities and assist their countries in regaining foreign commerce. They have accepted standards which we will not tolerate.

To meet lower exchange rates a new method of levying the tariff had to be devised. For 100 years we based our rates upon the foreign value of goods brought into this country. The new rates will be based upon the American valuation upon the date of importation. This valuation will in many cases be 100 per cent more than the foreign value, and in adjusting rates on this basis we are forced to minutely consider the entire domestic situation.

Nevertheless we will, I am confident, complete and have in operation a tariff law acceptable to the vast majority of Americans before the end of this year.

DISABLED SOLDIERS AND SAILORS.

Members of the convention, I have spoken generally of the necessities of government and the means for meeting them. Permit me for a moment to speak of a subject of expenditure which justly loosens the hands of those who held the purse strings, and while taxation can never be painless, no complaint will come from the taxpayers because we have dealt generously with the wounded and disabled soldier and sailor. Our Republic has not been ungrateful to those who have sacrificed for it in land or naval conflict, and the Republican Party, knowing the spirit of America, and as its agent, in the past has manifested and in the present will manifest the Nation's gratitude. It was my privilege to serve as one of the special committee to inquire into the needs of our sick and wounded

soldiers and to serve as a member of the committee which prepared the bill creating the Veterans' Bureau. We have devised a measure to get the benefit of public money to those for whom it was intended without wicked and irritating absorption of that benefit by many who have no claim to it. As I have stated, we have appropriated this year nearly $500,000,000 for this service, and I owe it to my colleagues from this State, both in the House of Representatives and in the Senate, to tell you that each of them has cheerfully cooperated in every measure to provide for the comfort and happiness of our war-stricken youth.

SHIPPING BOARD.

It is not pleasant now to turn to a subject which arouses feeling directly in conflict with those caused by contemplation of service and sacrifice in the Nation's behalf. You will, I know, pardon me if again the gigantic problems of the Shipping Board are mentioned. Three and one-half billion dollars have been given to it. During the war we daily read of the sinkings of allied vessels and we were called upon to furnish ships and more ships. We were expected to build two for every one sunk, and successfully met the demand made upon us, but when the war ceased the demand ceased, yet the Democratic administration continued to build. The men who spent $350,000,000 in the construction of wooden ships can not expect forgiveness from the American people. On the floor of the Senate, while they constructed them, I insisted wooden vessels were worthless. Nevertheless, they continued to build not only wooden but other vessels even after the armistice and at a cost of nearly $2,000,000,000.

Since my entry into Congress I have, with other Members from this State, urged a policy of Government assistance to passenger and freight vessels operated by Americans in foreign trade. Had we adopted such a policy 25 years ago, we would have had a merchant fleet instead of attempting to construct one in the excitement and at the prices produced by war.

But I call your attention to this subject, not because I desire to condemn either a group of individuals or a party. My purpose is to awaken the membership of the Republican Party to the necessity for sure thinking if the American flag is to fly on the watery highways of the world. Again I appeal to you to consider the actual facts of life. We remember it was Hamilton who said pure "abstractions" without relation to the practical affairs of our people ought to have no weight in fixing national policies. The vast expenditures for useless vessels will be a great cost for the education of this Nation to its maritime needs, but if the lesson is learned, all will not have been uselessly spent.

England can operate vessels for one-half the cost to us. Her crews receive 50 per cent of the wages paid to our crews. Her supplies cost less; her construction costs but 60 per cent of ours. We can not hope to successfully compete with her and other maritime nations of the world without Government aid.

It would be unavailing to give some of these ships away. They can not be used in foreign trade successfully, even with a subsidy. They should be sold to anyone who will purchase them. The better vessels, comprising about one-half of the fleet, should be disposed of as speedily as possible to American companies to be operated under our flag, and the price and terms should be made with a view to their continued operation. The intelligent opinion of Republicans must be turned to this subject if we are to maintain a merchant marine comparable with our ambitions to see the sea decorated with our colors.

GOV. MILLER.

Let us turn for a moment to note how fortunate it is that New York has as governor a man of the type of Nathan L. Miller. His achievements are known not only within the confines of this Commonwealth, but are praised by men and women from every section of the land. He has harmonized the State's expenditures with the State's income. He has brought order out of disorder and put State affairs on a business basis. He has dared criticism to translate into reality the pledges of our State platform. He has placed himself high in the list of our State executives.

CONCLUSION.

Fellow delegates, there is much talk of bad times and unemployment. I wonder often if it is altogether founded on actual conditions. True it is that here and there men are working only a few days a week, but there is no well-founded belief that idleness is to be long. Indeed, in the last few weeks the old spirit of assurance has returned and our business men and manufacturers look forward expectantly to a revival of activity. The building industry, which for five years has been almost dormant, is now active beyond previous high records, and building activity has always preceded a general betterment.

In closing, I call your attention to some figures that ought to hearten us. The savings and loan associations of this State increased their deposits during the past year from $90,840,000 to $105,474,000, a gain in one year of 15 per cent. The deposits in the mutual savings banks of the State have gone from $2,398,000,000 on July 1, 1920, to $2,648,000,000 on July 1 of this year, an increase of $250,000,000.

Throughout the land crop reports indicate this year will equal that of any recent year. Agricultural conditions are reported everywhere to be in improved condition. Whenever the two elements, working people's deposits and farmers' prosperity have been found together, good times have been near at hand.

For nearly 70 years the Republican Party has proved it is the best equipped party to conduct the business of the Nation. It has combined morality, courage, vision, and common sense. In the years of its beginning it sensed and obeyed the moral sentiment which freed the slave; it had the broad vision which enacted the homestead law for the prairies of the West; and it possessed the practical common sense which erected the national banking system and championed the protective tariff, the essential means for building American industry. Its membership has been men and women who desired public affairs conducted in accordance with the standards of private life.

Fortunate in our membership, we have likewise been fortunate in our leadership. While I speak you recall the names of men who in days gone by summoned us to the defense of American institutions and the maintenance of sound governmental ideals. Out of our ranks, in every emergency, there have come stalwart men equipped to hold the wheel of the ship of state. Again we have such a leader. It is easy to understand why he succeeds. In birth, in early struggle, and in thought he is typically an American. Like the majority of us, his success or failure was a matter of personal application. He has outstripped us all, but we rejoice in his success, for without special advantage or great material possession he has reached the Chief Magistracy. Our people intelligently sympathize with him. They have a deep feeling that he is just the right man for the time. They confidently expect, and we have resolved, that we will fulfill to the last jot our platform pledges under the leadership of our big, broad-minded President, Warren G. Harding.

FREE TRANSIT THROUGH PANAMA CANAL.

Mr. BORAH. Mr. President, I ask permission to have printed in the RECORD a statement made by the junior Senator from Pennsylvania [Mr. KNOX], May 11, 1914, on the question of Panama Canal tolls and its relationship to the Hay-Pauncefote treaty.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

In the discussion of the canal question now, as in the past, too much consideration has been given to treaties, correspondence, documents, opinions, beliefs, and imaginings that are wholly foreign to the simple issue involved. This issue arises out of one tremendous fact and one brief treaty affecting that fact. The fact is our canal at Panama and the treaty is the one negotiated in 1901 by John Hay and Lord Pauncefote. This is the only treaty affecting the issue, as it in explicit terms abrogates the Clayton-Bulwer treaty—the only other one we ever had with Great Britain upon the subject of an Isthmian Canal. It is true that in the preamble of the later treaty it is recited that one of the things the negotiators intended to do was to include in its terms a provision for the neutrality of the canal, as was contemplated by the earlier treaty, and this they did in its third article.

The present controversy arises out of Great Britain's challenge of our right to exempt American coastwise vessels from the payment of tolls. The challenge is predicated upon the claim that by the Hay-Pauncefote treaty we bargained away that right incident to our ownership.

I am willing to accept the definition of the nature of the issue thus raised, given by two eminent gentlemen, one of whom openly favors the repeal of the tolls exemption to American coastwise ships, and the other it is known, while not asking, would not object to its repeal. Mr. Richard Olney has put in two sentences the nature of Great Britain's claim upon the canal. "The claim of Great Britain," said Mr. Olney, "is, in effect, a territorial claim. The United States possesses no more costly and perhaps no more valuable piece of territory than the Panama Canal, and Great Britain's claim is that the Hay-Pauncefote treaty not only encumbers that territory with equal rights of use by all other nations, but impresses upon it a servitude by which the United States loses the free use of its own canal for its own vessels."

Sir Edward Grey's protest states the same proposition in different words. "The treaty," says Sir Edward, "imposes limitations upon the freedom of action of the United States" in respect to the canal. In other words, he claims the treaty imposes limitations upon American sovereignty. From these premises it is easily deduced that the patriotism and good faith of those who maintain as an earnest conviction either side of this disputed legal question should not be challenged. It is just as praiseworthy to defend the American right to deal with our own in accordance with our own convictions of true national interest, if we believe we have not parted with that right, as it is to insist that we should fully comply with our international engagements if we have contracted away our full liberty of action.

The President has assigned three reasons why he wishes Congress to repeal the free-tolls provision:

First. Because it violates our treaty.

Second. Because it is bad economic policy.

Third. Because it will assist him in handling our foreign relations.

If the first reason is good, no other is necessary. If the first reason is not good, the other two are as insufficient as they would be if they

were urged as reasons for voluntarily dividing our sovereignty over the Mississippi River.

If the exception is a violation of the treaty, no man who believes it needs an apology for favoring its repeal. If it does not violate the treaty, no man who believes it does not can justify favoring a surrender of American sovereignty over American property under pressure from a foreign government.

I will confine my observations to the first reason assigned by the President, namely, that the exemption violates our treaty.

In any discussion of the President's statement that the tolls act violates our treaty, or of Sir Edward Grey's more specific claim that our freedom of action in respect to the canal is limited by the Hay-Pauncefote treaty, it is important to carry in mind that such limitation must either be found in the words of the treaty or arise by necessary and irresistible implication from the facts defining the relation of the parties to the treaty and to its subject.

The principle of international law governing a claim in derogation of sovereignty being that no treaty can be taken to restrict the exercise or rights of sovereignty unless effected in a clear and distinct manner.

First, let us look at the facts. The United States paid to Panama $10,000,000 for the zone itself; we have agreed to pay to Panama a yearly annuity of $250,000 forever; we paid to the French Panama Canal Co. $40,000,000 for its rights in the Isthmus; we are building the canal at a total expenditure of about $400,000,000; we alone are to meet the $25,000,000 which it appears to be now proposed to pay Colombia; we alone are expending the untold millions necessary to fortify and protect the canal so that some belligerent, eager to secure the resulting advantage, may not destroy it; we alone are bearing the risk of losing all this investment as the result of some natural cataclysm, such as an earthquake, against which no human agency can secure us; we alone have stood for whatever of criticism has come from the manner of acquiring the Canal Zone, a criticism encouraged and fostered by the very class which now seeks to turn over to Europe as a gratuity the benefits of our action; we alone have put the lives of the flower of our Army engineers and of thousands of American citizens through all the hazards and dangers of fatal tropic maladies; and, finally, no other country has shared and does not propose to share one penny of this expenditure, or any phase of any risk, connected with our stupendous undertaking. Surely upon these facts there arises no necessary implication that Great Britain is entitled to the benefits of this colossal work on the same and identical terms as we, the owners, the builders, the operators, the protectors, and the insurers of the canal, or that she shall dictate how we shall treat matters of purely local national trade and commerce, or that we shall be denied the very rights in respect to our domestic commerce which she herself claims and exercises and which every other nation in the world possesses.

If the limitation which Sir Edward Grey says is imposed upon our freedom of action in respect to the canal does not arise by necessary implication from these facts, let us see if we can find it in the language of the treaty. In short, let us seek the words of limitation.

They are found, according to the British contention, in article 3. This article is a declaration by the owner of the canal of the terms upon which it is to be used. There are, all told, six rules. The first grants a privilege, the other five specify the conditions upon which that privilege is to be enjoyed. "The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules" is the language of the grant.

The conditions to be observed set out in these rules not only all relate to war, but all have reference to imposing the least inconvenience to the owner of the canal arising out of a state of war between the powers using it:

"RULE 2. Such belligerents shall not blockade or exercise any act of hostility within the canal.

"RULE 3. Shall not revictual or take stores except so far as may be strictly necessary, and shall effect transit with the least possible delay.

"RULE 4. Shall not embark or disembark troops or munitions of war.

"RULE 5. These provisions shall apply to waters within 3 miles of the canal, and vessels of war shall not remain in such waters longer than 24 hours.

"RULE 6. The plant, establishment, buildings, works, etc., of the canal shall be deemed a part thereof and shall enjoy complete immunity from attack by belligerents and acts calculated to impair their usefulness as part of the canal."

Do these rules apply to the United States? They do if the United States is included in the language upon which Great Britain relies, namely, "the canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality."

Of course, it must be admitted that by applying a childish logical formula to this text it can be claimed that the United States is included within the words "all nations," but a consideration of the relation of the parties to the subject of the treaty shows that the United States, the grantor of conditional privileges in the canal to all nations, parted with no particle of its rights of ownership in the property or subjected its own use of the canal to the conditions it imposed upon the beneficiaries of its generosity.

Has the United States bound itself not to use the canal if it should exercise a right of war or act of hostility within it; if it should revictual its ships or take stores in the canal; if it should embark or disembark troops within the canal; if its vessels of war should remain within the waters longer than 24 hours; and if so, who is going to enforce these rules upon the United States, and will our obedience to them be compelled by the guns we are planting there for the protection of the canal? Does not such a view of our rights invite all other nations to war with us if we, during an actual state of war, use the canal for any military purpose? In short, would we not thus make all nations the allies of our immediate adversary if we have agreed with all nations through Great Britain that the rules we prescribe for the use of the canal apply to ourselves, the grantors of the use?

Let us see how Great Britian meets this embarrassment. Sir Edward Grey seeks to avoid the application to the United States of all the rules in article 3 except rule 1 by saying, "Now that the United States has become practical sovereign of the canal, His Majesty's Government do not question its title to exercise belligerent rights for its protection." That is to say, our subsequently acquired sovereignty automatically exempts us from the application of five of the rules to be observed by all nations as a condition for the use of the canal, but our ownership plus our sovereignty does not exempt us from the other one.

Now, if the right to protect the canal and the right to protect ourselves by exercising privileges in and about the canal denied to other nations by our rules is an incident to our sovereignty and thus takes the United States out of the meaning of the general words "all nations," the right to promote our domestic commerce in a field exclusively its own is an incident of sovereignty and ownership having the same effect. To deny the free use of our own canal for our own vessels is just as much an impairment of our sovereignty as to deny our right to exercise acts of belligerency in and for its protection. And the implication that we have not surrendered one of these sovereign powers by the use of the words "all nations" is just as strong under the first rule, which is our contention, as it is under the other five, which is Sir Edward Grey's contention.

"Practical sovereignty," which, as Great Britain claims, permits us at our own expense and risk to defend the canal, to maintain its neutrality, and to exclusively exercise belligerent rights within its boundaries in time of war, imports to its possessor no higher title or privileges than does sovereignty and ownership in time of peace. Our rights in peace bear a just relation to our obligations in war. The benefits of sovereignty go hand in hand with its burdens.

In further illustration of this point it is very interesting to note and consider the admitted effect of another statement in the British protest. It reads: "At the date of the signature of the Hay-Pauncefote treaty the territory on which the Isthmian Canal was to be constructed did not belong to the United States and consequently there was no need to insert in the draft treaty" articles preserving sovereign rights. In fine, the fact that we were not sovereign over the canal when the treaty was made excuses us for not reserving sovereign rights. But in the very next sentence the protest states the effect of our subsequently acquired sovereignty was to read into the treaty sovereign powers and thereby exempted the United States from the conditions prescribed to govern the use of the canal by all nations.

The perfectly sound principle involved in all this, and so frankly admitted by Sir Edward, is that where sovereignty exists the exercise of its attributes need not be reserved, they are implied, and this is the reason why John Hay, scholar and statesman, familiar with and guided by accepted principles, felt under no compulsion to reserve the rights incident to what he characterized as our complete ownership of the canal.

It was never contemplated at any period in the history of the Isthmian undertaking that Great Britain should be on terms of equality with the owner of a canal or even with the other users of the canal except as compensation for her protection of the canal. She never had any treaty with any nation contemplating building a canal until the Hay-Pauncefote treaty, her previous efforts having been confined to declaring the extent of her intentions in respect to some one else's canal to which she proposed to extend her powerful protection.

How is the United States assured that Great Britain or any other nation will observe the rules we have prescribed for the use of the canal? They have not agreed to do so. The Hay-Pauncefote treaty contains no such an obligation on their part. We refused to accept language proposed by Great Britain that would make the right to use the canal by other nations a contractual right.

The failure of other nations to comply with our rules only debars them from the use upon equal terms with such nations as do comply with them, and how are we to know whether they will comply with the rules, which all relate to war, until war exists?

We find ourselves in rather a ridiculous situation under the British interpretation of the treaty. We are to curtail the rights flowing from sovereignty and absolute ownership of the canal upon the hypothesis that the beneficiaries of our generosity will be so good, even when quarreling with each other, as to comply with the rules we prescribe for its neutrality. The neutrality of the canal will most likely be respected if and only as we, its sovereign, are able to enforce it.

Great Britain in her protest did not ask that the tolls exemption be repealed. Her position, advanced before the canal act was passed, was that if the exemption was not restricted to bona fide coastwise trade and, later, if the tolls were not computed upon the basis of all shipping using the canal, then her rights under the treaty would be violated, and asked arbitration of this construction of the treaty. The United States replied to this protest, disputing Great Britain's construction of the treaty, and by informing her that Congress had passed a law limiting the exemption to the coastwise trade and that the President had met the second ground of protest by fixing tolls predicated upon all the shipping likely to use the canal. If these two statements were true, they completely disposed of the British complaint. The United States went one step further, however, and offered, if Great Britain questioned these facts, to agree to a commission to investigate the whole controversy as provided in the unratified peace treaties recently negotiated between the two Governments (which we proposed to ratify) or to make a special agreement to that end.

As Great Britain only claimed that the canal act impaired her treaty rights if it extended the exemption to trade other than legitimate coastwise trade or if the tolls were computed without taking into acccount that trade, why should we repeal the act when neither of these causes of offense exists?

What Great Britain really claims is that the Hay-Pauncefote treaty "imposes limitations upon our freedom of action" and what she originally asked was, "in view of the President's memorandum" attached to the canal act that the question thus raised should be submitted to arbitration.

Mr. Bryce very truly said in his note of February 27, 1913, submitted after a bill had been introduced to repeal the exemption, "that a reference to arbitration would be rendered superfluous if steps were taken by the United States to remove the objection entertained by His Majesty's Government to the act." It certainly would. To repeal the act on the ground that it violates the treaty would be to sanction by act of Congress all that Great Britain could claim before an arbitral tribunal, and so far as the Senate is concerned, confirm the British claim by a majority vote, whereas it would require a two-thirds vote to refer it to arbitration.

In the British protest an argument is based on the assumed identity of conditions in the Welland Canal and the Panama Canal. The cases are quite distinct, and parity between them is almost wholly lacking. In the case of the Welland Canal it must be remembered that from the signature of the treaty of peace with Great Britain down to the conclusion of the treaty of Washington in 1870 the coterminous waters between the United States and Canada and their outlet to the sea were a joint waterway of the two countries, the citizens and commerce of each having equal rights in the waters common to both countries. The Welland Canal is not an independent waterway, but is part of the coterminous water system, being merely a loop around an unnavigable portion of the common waterway. Its common use by citizens and commerce of the two countries is just as necessary to the fulfillment of the convention compact as the common use of the Sault Ste. Marie Canal, which passes in American territory. None of these conditions are discernible in the case of the Panama Canal.

As Great Britain has no interest in the canal itself, but only in the use of the canal, the United States should not admit that the Hay-

Pauncefote treaty "imposes limitations upon the freedom of action of the United States" to legislate upon matters not affecting Great Britain's use or the terms upon which her use is to be enjoyed. And, in the absence of allegation or proof that the canal act itself or the President under authority of the act has, as a fact, by exempting coastwise vessels from paying tolls or otherwise, imposed terms upon the British use or charges for such use that otherwise British vessels would not have been compelled to meet or to pay, the freedom of action of the United States in legislating respecting its own coastwise trade is not restrained.

This was the position taken by President Taft, written into our laws by an act of Congress, indorsed by the three great political parties, and supported by all the presidential candidates in the last national campaign.

It is as sound now as then; indeed, time confirms its wisdom, its patriotism, and its strength.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT laid before the Senate resolutions adopted by the American Legion, Department of Hawaii, in convention assembled, favoring the enactment of the so-called Hawaiian emergency labor bill, which were referred to the Committee on Immigration.

He also laid before the Senate resolutions adopted by the American Bar Association at its annual meeting in Cincinnati, Ohio, September 1, 1921, condemning the conduct of Kenesaw M. Landis in engaging in private employment and accepting private emolument while holding the position of a Federal judge and receving a salary as Federal judge, and so forth, which were referred to the Committee on the Judiciary.

Mr. SPENCER presented the memorial of A. S. Winter and sundry other citizens of Joplin, Mo., remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which was referred to the Committee on the District of Columbia.

Mr. NELSON presented resolutions adopted by the Brainerd (Minn.) Chamber of Commerce, indorsing the efforts of the Minnesota State Highway Department to provide road work during the coming winter for the benefit of the unemployed and urging that Federal highway aid be doubled for 1921, which were referred to the Committee on Post Offices and Post Roads.

Mr. CAPPER presented resolutions adopted by Victor Post No. 293, of Fort Dodge, and Canby Post, No. 11, of Osage City, both of Kansas, and of the Department of Kansas, Grand Army of the Republic, favoring the granting of $72 per month pensions to Civil War veterans and $50 per month to their widows, and the monthly payment of pensions, which were referred to the Committee on Pensions.

Mr. SHORTRIDGE presented telegrams in the nature of petitions from Joseph T. Brooks, L. Hart & Son, Shaw Family (Inc.), Robt. H. Syer, secretary Merchants' Association, of San Jose; L. J. Smythe & Co., of Coachella; R. H. Mack, secretary Chamber of Commerce of San Bernardino; Chamber of Commerce of San Pedro; Chamber of Commerce of San Diego; California Development Association, Stewart Fruit Co., Angelo J. Ross, president Downtown Association, and the Central California Traffic Association, of San Francisco; and California Fruit Exchange, of Sacramento; all in the State of California, praying for the enactment of legislation reducing express charges in proportion to the reduction of passenger and freight charges, which were ordered to lie on the table.

He also presented four memorials numerously signed by sundry citizens of San Diego, San Bernardino, Riverside, and Los Angeles Counties, Calif., remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which were referred to the Committee on the District of Columbia.

LIMITATIONS IN CRIMINAL CASES.

Mr. STERLING, from the Committee on the Judiciary, to which was referred the bill (S. 2410) to amend section 1044 of the Revised Statutes, United States, relating to limitations in criminal cases, reported it with an amendment and submitted a report (No. 276) thereon.

BILL AND JOINT RESOLUTIONS INTRODUCED.

A bill and joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BALL:

A bill (S. 2494) to authorize the Chief of Engineers, United States Army, to grant permits for certain installations in public grounds under his control within the District of Columbia; to the Committee on the District of Columbia.

By Mr. CURTIS (for Mr. McCORMICK):

A joint resolution (S. J. Res. 119) authorizing the Secretary of War to loan surplus stores to be used in the care of the unemployed; to the Committee on Military Affairs.

By Mr. WADSWORTH:

A joint resolution (S. J. Res. 120) providing funds for carrying into effect the provisions of Public, No. 28, Sixty-seventh Congress, approved June 30, 1921; to the Committee on Military Affairs.

AMENDMENT OF TAX REVISION BILL.

Mr. FRELINGHUYSEN submitted an amendment intended to be proposed by him to House bill 8245, the tax revision bill, which was ordered to lie on the table and to be printed.

COMPILATION OF TREATIES (S. DOC. NO. 72).

Mr. MOSES. Mr. President, I present a compilation of treaties showing the text of the ratification by foreign powers of treaties having amendments, modifications, or reservations adopted by the United States Senate, together with the action of the foreign Governments thereon, and I ask that it be printed as a Senate document.

The VICE PRESIDENT. Without objection, it is so ordered. The morning business is closed.

TAX REVISION.

Mr. PENROSE. Mr. President, I move that the Senate proceed to the consideration of the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

Mr. STERLING. Mr. President, before the motion of the Senator from Pennsylvania is put I wish to make a brief statement. I do not resist the taking up and consideration of the tax revision bill nor shall I, pending the discussion of the treaties, oppose the consideration of the treaties; I realize the importance of both these matters; but, Mr. President, I pursue that course with the distinct understanding that when the treaties and the tax bill are out of the way, when they shall have finally been disposed of, the conference report on the anti-beer bill shall then be taken up and that nothing shall then be permitted to intervene to prevent the consideration of that report until a final vote thereon is had.

Mr. FLETCHER. Mr. President, to-day, I believe, is Calendar Monday. I should like to inquire if there is any objection to proceeding to the consideration of the bills on the calendar?

Mr. PENROSE. There is so much confusion in the Chamber that it is difficult to hear what is being said by Senators on the other side.

Mr. FLETCHER. I say that under our rules we are supposed to take up the calendar on Monday.

Mr. PENROSE. That may be, but I have made a motion, which I assume is in order, and the Senate can determine what shall be done as to it.

Mr. FLETCHER. I understand that, but I call attention to the fact that we have a calendar, that this is calendar day; and I ask whether we can not first dispose of the calendar before taking up the Senator's motion? I am not particularly concerned about any item on the calendar, but there may be other Senators who are interested in it.

Mr. PENROSE. Well, let the others look out for themselves, if the Senator is not concerned. I hope he will not put any obstacle in the way of at least beginning with the supremely important measure which I have moved be taken up.

Mr. UNDERWOOD. Mr. President, I wish to say to the Senator from Pennsylvania that there certainly may be some opposition to his bill from this side of the Chamber, but there will be no effort unduly to delay it. I am sure of that. We shall be willing, after reasonable debate, to come to a vote on the proposals which are contained in the bill, but so far as the calendar is concerned, of course, Congress has been in recess for more than four weeks and the minor bills on the calendar are of importance and ought to be disposed of. If there is any particular reason why the Senator does not wish to have the calendar taken up this morning, and we may take it up later, I shall have no objection to its going over until next Monday. I hope, however, that we are not going to entirely abolish Calendar Monday whilst we are considering the tax bill and the treaties. I think that the two hours which are spent on the calendar on Monday should not be dispensed with, for there are a number of bills on the calendar which are important to Members on both sides of the Chamber.

If the Senator prefers that the calendar shall be called on next Monday instead of to-day, I have no objection to his going ahead with his bill, but I hope the Senator has not any idea of not letting the calendar be called when it is properly reached on next Monday.

Mr. PENROSE. I do not desire to press the tax bill unduly, or to the inconvenience of other Senators, or to the detriment of minor meritorious legislation, but I should like very much at least to start on the bill.

Mr. UNDERWOOD. As that is the Senator's desire, I have no objection; we may let the calendar go over for to-day.

Mr. SIMMONS. Mr. President, if the Senator from Pennsylvania [Mr. PENROSE] will permit me, I wish to say to him that, so far as I am concerned—and I think the minority members of the Committee on Finance feel as I do about the matter—we have no disposition whatever to delay action upon the tax revision bill. On the contrary, we are very anxious to assist the majority in expediting its consideration; but the bill has just been reported from the committee; the majority report has been filed, while the minority report has not as yet been filed.

I want to suggest to the Senator that, in my judgment, it would be better to allow the morning hour to be devoted to the line of business which is ordinarily considered during that time until we shall have had an opportunity to prepare ourselves for the discussion and consideration of the tax bill, and for the next few days I suggest that he take that bill up after the morning hour. During the intervening time opportunity will be afforded Senators to examine the report of the committee on the bill and the hearings, and an opportunity will also be given the minority members to prepare their report. When we make the tax bill the unfinished business and take daily recesses probably, and displace all other business, we shall then be ready to go on with the debate and consideration of the measure. I hope for the next day or two the Senator from Pennsylvania will not press his bill during the morning hour.

Mr. LODGE. Mr. President——

The VICE PRESIDENT. Does the Senator from North Carolina yield to the Senator from Massachusetts?

Mr. SIMMONS. I yield.

Mr. LODGE. If we should take up the calendar to-day under the rule, we would probably go on with it all day.

Mr. SIMMONS. That will not be necessary.

Mr. LODGE. The bills on the calendar, of course, we want to clear up, and we shall clear them all up, but they are minor measures, while the tax bill is a measure of first importance which has got to be disposed of. Why can it not at least be read?

Mr. SIMMONS. If the members of the majority side of the Chamber think they will make time by rushing into the consideration of this bill before Senators are prepared, I have nothing at all to say about it. I simply suggested in all sincerity and without any notion of delaying action on the bill, that for the next day or two it would be better to let the morning hour be devoted to other matters.

Mr. LODGE. Mr. President, if the tax bill should be set aside, I should feel it to be my duty to press the consideration of the pending treaty of peace with Germany.

Mr. SIMMONS. That treaty might be considered; probably Senators are ready to speak upon the treaty, and it might be considered each day until 2 o'clock, when it would be displaced by the unfinished business.

Mr. LODGE. I had rather not consider the treaty in a piecemeal way. I think it is better that the great tax bill which we must pass be disposed of as soon as possible. That bill must be read.

Mr. SIMMONS. We have been proceeding for many years under the rule of taking up the unfinished business at 2 o'clock; it can only be taken up before 2 o'clock by a motion or by unanimous consent; and I do not see where in the present situation there is any necessity for deviating from the general rule.

Mr. PENROSE. Mr. President, purely as a matter of form—for the bill has been reprinted under the direction of a subcommittee consisting of the Senator from Utah [Mr. SMOOT], the Senator from North Dakota [Mr. MCCUMBER], and the Senator from Missouri [Mr. REED]—I ask to have the bill as originally reported recommitted to the Committee on Finance.

The VICE PRESIDENT. In the absence of objection, the bill will be recommitted to the Committee on Finance.

Mr. PENROSE. I am directed by the Committee on Finance to report the bill back with amendments as it has been reprinted, and I submit a report (No. 275) thereon. I ask to have the copy of the bill as now reported read.

The VICE PRESIDENT. The question is on the motion of the Senator from Pennsylvania.

Mr. UNDERWOOD. Mr. President, the Senator has reported a new bill.

Mr. PENROSE. It is identical with the bill as formerly reported.

Mr. UNDERWOOD. Undoubtedly, but a new bill has been reported back. I have no objection to the Senator's proposition, and, if he asks unanimous consent, so far as I am concerned, I shall not object, but it requires unanimous consent now to consider the bill. Now, let it be shown that unanimous consent is given.

Mr. PENROSE. Mr. President, I do not think it requires unanimous consent, because every member of the committee has been polled, but still I ask unanimous consent.

Mr. UNDERWOOD. Undoubtedly it requires unanimous consent. If a new bill has been reported, it requires unanimous consent to consider it.

Mr. LODGE. Certainly; it may not be taken up on the day it is reported except by unanimous consent.

Mr. PENROSE. It is the same bill printed in different form.

Mr. SIMMONS. I understand that the bill now reported is the old bill revised and corrected.

Mr. PENROSE. It is identical with the bill as first reported.

Mr. SIMMONS. I take it, then, that so far as the bill which is reported to-day is concerned, this will be the date of the report of the bill which the Senate is to consider. The bill as heretofore reported will not be considered, but the Senate will consider the bill as reported to-day.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The ASSISTANT SECRETARY. The Senator from Pennsylvania, from the Committee on Finance, reports with amendments the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

Mr. PENROSE. I ask unanimous consent that the formal reading of the bill be dispensed with and that the bill be read for amendment, the amendments of the committee to be first considered.

Mr. SIMMONS. Mr. President, if the Senator proposes to begin the consideration of amendments this morning, I shall object. If he wants to have the bill read, I shall not object.

Mr. PENROSE. I should like to have the reading of the amendments proceed.

Mr. SIMMONS. I say I will object if it is proposed to read the amendments for consideration, but if it is merely the desire to have the bill read, I shall not object.

Mr. PENROSE. Very well; let the bill be read.

The VICE PRESIDENT. The Secretary will read the bill.

The Assistant Secretary proceeded to read the bill.

Mr. UNDERWOOD. May I interrupt the reading for just a moment to call the attention of the Senator from Pennsylvania to the fact that there have been a number of amendments submitted to the former bill, some of them coming from this side of the Chamber. I desire to ask unanimous consent that all amendments which have been submitted to the bill as originally reported may be considered as in order to the bill as now reported.

Mr. PENROSE. I take that entirely for granted. There is no difference between the two bills except that there are a few more italics and Roman letters in one print than in the other.

Mr. UNDERWOOD. I realize that, but I want the order made by unanimous consent, so that there will be no question about it.

Mr. PENROSE. I entirely approve of the suggestion.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. SMOOT. Mr. President, I ask unanimous consent that an order be entered by the Senate for the printing of the bill as it has just been reported by the committee, showing the House text in Roman, all the committee amendments in stricken-through type or italics, with such parts of committee amendments as reenact the present law of 1918 in small capital italics, and new matter in regular italics.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. REED. Mr. President, how many copies of the bill as now presented have been printed?

Mr. PENROSE. There are 200 copies printed and available this morning, and the Senator from Utah is about to offer a resolution providing for a larger edition of the bill.

Mr. REED. That is the point I was raising.

Mr. SMOOT. Mr. President, I ask unanimous consent to submit the concurrent resolution which I send to the desk, and ask for its immediate consideration.

The VICE PRESIDENT. Without objection, the Secretary will read the concurrent resolution.

The concurrent resolution (S. Con. Res. 12) was read, considered by unanimous consent, and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes, as reported to the United States Senate on September 26, 1921, be printed as a Senate document, with an index, and that 19,000 additional copies be printed, of which 7,000 shall be for the Senate document room,

10,000 for the House document room, 1,000 for the Committee on Finance of the Senate, and 1,000 for the Committee on Ways and Means of the House of Representatives.

Mr. REED. Now, may I inquire of the Senator from Utah how soon we can probably get these extra copies?

Mr. SMOOT. I think by to-morrow evening they will all be available.

The VICE PRESIDENT. The Chair is uncertain what it is that the Senate wants to have read, whether it is the bill as reported by the committee, or the House text of the bill.

Mr. UNDERWOOD. Mr. President, as I understand the proposition, the bill that is now before the Senate is the revised print that the Senator from Pennsylvania, by unanimous consent, had substituted.

Mr. PENROSE. It is the identical bill, verbatim, with the exception that the type is different.

Mr. UNDERWOOD. But that is the bill that the Senator has asked to have read?

Mr. PENROSE. Yes.

Mr. UNDERWOOD. Not for amendment, but the first reading of the bill?

Mr. PENROSE. That is right.

Mr. SIMMONS. Mr. President, I distinctly objected to unanimous consent if the purpose was to read only the amendments. I did agree to unanimous consent with the understanding that the bill itself, textually, should be read in its entirety.

Mr. PENROSE. The Senator wants to have the whole bill read?

Mr. SIMMONS. Yes; if the Senator insists upon taking it up this morning.

Mr. PENROSE. That is the Senator's right. I hope he will remain here and listen to it.

Mr. SIMMONS. I am exercising my right, and I will say to the Senator from Pennsylvania that I intend to exercise it. The Senator has volunteered so much criticism here that I think I may well stand upon my rights, and I am going to do it.

Mr. PENROSE. I hope the Senator's rights will not suffer on account of his absence.

Mr. SIMMONS. The Senator again speaks about my absence, Mr. President. The Senator is a sick man; I would not say anything offensive to him; but without speaking of the Senator's own absence, and without speaking of the delays that have resulted from his absence—I would not like to do that—I wish to repudiate as unjust and untrue his statement that I have been absenting myself from this Chamber or from the committee of which he is the chairman. On the contrary, I have been here attending to my duties every day except three since the session began last April. I have attended the hearings before his committee, and he knows it, when he, unfortunately, much of the time was not able to be present himself. Then he comes here, Mr. President, and reiterates statements about my "delays" and about my "absence."

I am surprised at the Senator from Pennsylvania. I think he will find in the end that the tactics to which he is now resorting with reference to this bill, instead of expediting its enactment, will result in impeding its progress through the Senate.

The VICE PRESIDENT. The Secretary will read the bill as it came from the House.

The Assistant Secretary proceeded to read the bill as passed by the House of Representatives. After having read for some time,

Mr. HARRISON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. STERLING in the chair). The absence of a quorum is suggested. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ball	Harrison	Moses	Sterling
Borah	Heflin	Nelson	Sutherland
Brandegee	Johnson	New	Swanson
Cameron	Kellogg	Nicholson	Townsend
Caraway	Kenyon	Oddie	Trammell
Curtis	King	Page	Underwood
Dial	Ladd	Penrose	Wadsworth
Dillingham	La Follette	Pomerene	Watson, Ga.
Edge	Lenroot	Reed	Watson, Ind.
Frelinghuysen	Lodge	Sheppard	Weller
Gooding	McKinley	Shortridge	Willis
Hale	McLean	Simmons	
Harris	McNary	Spencer	

The PRESIDING OFFICER. Fifty Senators have answered to their names. There is a quorum present.

The reading clerk resumed and concluded the reading of the text of the House bill.

The PRESIDING OFFICER. The reading of the bill has been concluded.

Mr. PENROSE. Mr. President, do I understand that the Senator from North Carolina objects to our going on with the reading of the committee amendments?

Mr. SIMMONS. No; I do not. I think they ought to be read now, but not for the purpose of consideration.

Mr. LODGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Pennsylvania yield to the Senator from Massachusetts?

Mr. PENROSE. Yes.

Mr. LODGE. The bill has been read. Amendments are not read en bloc; they are read as they are reached. The bill is before the Senate as in Committee of the Whole, and is open to amendment—to any amendment. All the amendments to a bill are never read at once. It is never done. The bill is now in the position where it is open to any amendment. Of course, the amendments are read when they are taken up.

Mr. SIMMONS. What the Senator has said is true; but if the Senator in charge of the bill desires the amendments to be read en bloc for the information of the Senate, I do not see any objection to their being read.

Mr. LODGE. They will all have to be read the second time. It seems to me that would be a mere waste of time.

Mr. PENROSE. I assume that the Senator from Massachusetts is correct in stating that they would all have to be read again. Would the Senator from North Carolina object to going on for a while with the consideration of the unobjected amendments? There are quite a number of them.

Mr. SIMMONS. It would be very difficult, I should think, to separate now the unobjected amendments from the amendments that are objected to.

Mr. LODGE. If an objection is made to an amendment, it can be laid aside.

Mr. SIMMONS. That makes it necessary for us to stay here, and makes it necessary for me to stay here. I am very anxious to get a little time to-day; but if any Senator on the other side of the Chamber is ready to go on, I suggest that he proceed.

Mr. PENROSE. Mr. President, I hope now—and I say this very respectfully to the Senator, whom I esteem highly—that the Senator will cease to talk about when this side are ready to go on. This side will go on when they are ready, and when no one is ready they will ask for a vote on the bill or on any pending amendment. No one on this side wants to go on to-day, or cares whether he goes on at all or not. We want to take up amendments and discuss the bill as occasion requires from time to time. I do not think there is anyone on this side who wants to make any extended speech.

Mr. SIMMONS. How long does the Senator want to go on with the bill?

Mr. PENROSE. As long as the Senator from North Carolina is willing. I would like to go on the rest of the day with unobjected amendments.

Mr. SIMMONS. Mr. President, it will be very difficult to pick out unobjected amendments to the bill at this time. Senators have had no opportunity to study these amendments, as the bill was just reported this morning. One can not understand an amendment from merely hearing it read at the desk. All of us know that. Senators ought to have some time to examine the amendments and ascertain which amendments they will not object to. If the amendments are taken up before we have time to study them, I might object to many amendments which otherwise would not be objected to, because I would not know whether they should be objected to or not.

Mr. PENROSE. I know the Senator does not intend to be misleading. This bill, as I stated in the beginning of my remarks, is literally the same bill that has been pending before the Senate for several days. It is practically the same bill which has been before the Senate for a week, and it was introduced to-day simply with a change of italics to make it plainer. The Senator can not very fairly state that it was only introduced this morning.

Mr. SIMMONS. I state to the Senator that if the bill is taken up now for the consideration of unobjected amendments, many amendments will be objected to which probably would not be objected to to-morrow, because if there is the slightest doubt in the mind of any Senator he would naturally object.

Mr. PENROSE. Do I understand that the Senator would prefer not to go on—that he does not want to remain to object?

Mr. SIMMONS. Of course, if the bill is taken up, I shall remain in the Chamber; but, Mr. President, the bill has just been reported, as I said; it was only officially reported to the Senate this morning, not two hours ago, and the understanding, as I thought, was that the bill would be taken up to-day only for the purpose of having it read and not for the purpose of having it considered. I do not think the Senator from Penn-

sylvania willl make any headway by having the amendments read to-day.

Mr. WATSON of Indiana. Mr. President, my understanding was that after the reading of the bill there would be objection made to its further consideration this afternoon, and that immediately upon the conclusion of the reading the Senator from Idaho [Mr. BORAH] would resume his speech on the treaty, to be followed, as I understood, by the Senator from Massachusetts [Mr. LODGE]. Whether or not that understanding has been abrogated or a different understanding has been reached since, I am not informed.

Mr. PENROSE. Mr. President, I confess that I am not entirely clear as to the detail of the understanding. I do not want to be unreasonable. I want to accommodate and work with the Senator from North Carolina in every way. I know his patriotic interest in fathering legislation of this character in the past, and under all the circumstances, if that was the understanding as stated by the Senator from Indiana, I will not press the measure further to-day.

Mr. SIMMONS. Mr. President, I will state to the Senator from Pennsylvania that it has been my understanding that some arrangement of that sort was reached, and that carried out the idea I had when I made objection, that nothing would be done to-day except the reading of the bill.

Mr. PENROSE. Under those circumstances, I will not press the bill, and will simply state that I shall feel it my duty to solicit the urgent help of the Senator from North Carolina to keep the bill before the Senate until it is disposed of.

Mr. SIMMONS. I have already stated to the Senator that I shall not oppose his efforts to get his bill through with reasonable expedition, of course reserving the right of full and free discussion.

Mr. LODGE. Mr. President, I want to make sure that I understand the situation. My understanding is that the bill will be now laid aside, and that when taken up to-morrow it will be in Committee of the Whole and open to amendment, and that the consideration of amendments will be begun.

Mr. SIMMONS. If the Senator from Pennsylvania insists on taking it up to-morrow, that undoubtedly would be the order.

Mr. PENROSE. Mr. President——

Mr. SIMMONS. I shall not object if the Senator insists on taking it up to-morrow.

Mr. PENROSE. I shall be very much disappointed if I can not have the bill considered to-morrow morning.

Mr. SIMMONS. I shall make no sort of objection to the Senator going on with the bill to-morrow morning, if he wants to take it up, as soon as the gavel falls.

Mr. PENROSE. I thank the Senator very much.

TREATY OF PEACE WITH GERMANY.

Mr. LODGE. Mr. President——

Mr. BORAH. Mr. President, is the Senator about to move that the Senate proceed to the consideration of the treaty of peace with Germany?

Mr. LODGE. Yes; I am.

Mr. BORAH. I am perfectly willing to go on now. I did not expect to go on, however. I thought the tax revision bill was to be read; and I should like to have about 20 minutes before I proceed.

Mr. LODGE. The tax bill was read.

Mr. BORAH. I understood the other part of it was to be read. If we could go on with the calendar for 20 minutes, I could be ready.

Mr. LODGE. I will say to the Senator, if he will allow me to call up the treaty, I have a few additional things I should like to say about it. I will not guarantee to occupy 20 minutes, but I think I shall come very near it.

Mr. President, I move that the Senate proceed, in open executive session, to consider the treaty of peace with Germany.

The motion was agreed to; and the Senate as in Committee of the Whole and in open executive session resumed the consideration of the treaty of peace with Germany.

The VICE PRESIDENT. The pending question is on agreeing to article 1.

Mr. LODGE. Mr. President, I desire very briefly to restate one or two points which I did not cover very fully on Saturday. I shall not again go over the details of the articles in the treaty of Versailles. I only wish to speak in general terms of the purpose and effect of this treaty, and with this treaty I include the treaty with Austria and the treaty with Hungary, which are substantially the same, although the references in them are not to the treaty of Versailles but to the treaty of the Trianon, which is the Hungarian treaty, and the treaty of St. Germain, which is the Austrian treaty.

Mr. President, I am sure no one, either in Congress or elsewhere in the country, can wish to continue the present condition of technical war with Germany, Austria, and Hungary. Congress itself has recognized this by resolution, and the only alternative to the present condition of technical war is to reestablish peace relations with Germany, Austria, and Hungary by treaty.

A defeat of the treaties would mean the continuance of the present abnormal and most undesirable condition. It seems to me personally that these treaties meet this situation admirably. We secure all that is desirable for the United States and are not called upon to make any embarrassing concessions.

This pending treaty, the one now actually before the Senate, is with Germany, and only goes so far as to secure the consent of Germany to the reestablishment of peace relations, to the provisions of the resolution of Congress, and to the assertion of certain rights under certain clauses of the treaty of Versailles by the United States if the United States chooses to assert those rights.

Germany, of course, can not give what she does not possess. Our only claims against Germany, which concern Germany and the United States alone, are our prewar claims for damages inflicted upon us by Germany while we were still a neutral power. These claims are elaborately protected by the resolution of Congress, to which Germany assents. This in itself is certainly a very desirable result.

The rest of the provisions of this treaty consist in Germany's assent to our retaining and securing any rights which may accrue to us under the treaty of Versailles, and we are left at full liberty to assert our claims to such rights and privileges if we so elect, so far as Germany is concerned. In other words, we have the assent of one party to the treaty of Versailles to our claiming these rights and advantages if we see fit to do so, and that is all we get, or all that Germany could give under this treaty.

It is also not to be forgotten that Germany is bound and limited by the treaty of Versailles, where she was one party, the party of the second part, and there are 40 other signatory nations, parties of the first part. She can give nothing outside those limitations.

Now I wish to call attention a little more explicitly than I did the other day to the provisions by which Germany consents to our full liberty of assertion and of insistence upon certain rights and privileges contained in certain clauses of the treaty of Versailles, if the United States thinks it is desirable to make such assertion and insistence; and, of course, they would all require the assent of the other parties to the treaty of Versailles.

The treaty begins by specifically excluding the covenant of the League of Nations; then all clauses relating to European boundaries; then all clauses relating to other nations not European—Egypt, Siam, China, Shantung, and so forth—and the whole of Part XIII, establishing the labor conference.

On these we give notice to Germany and to the world for the first time in a formal, diplomatic, and international document that we assume and will assume no obligation under those provisions of the treaty of Versailles.

Then are enumerated those parts and articles in which we reserve the right to demand rights and advantages to the United States, if any such rights and advantages exist, and if we choose to do so. All is left to our determination: First, whether we think there are rights and advantages contained in any of these clauses beneficial to the United States; and, second, whether we think it is desirable that we should claim and assert our claim to those rights and advantages if we decide that they exist. I take as an example that which has been most spoken about here, the Reparation Commission. There are also the provisions about mandates which economically are quite as important to us, but I will take the Reparation Commission. If we choose to seek membership upon it, we can do so. If we decide not to seek membership upon it, we need not do so.

There has been an attempt to give the impression that the treaties bring us nearer to joining the Reparation Commission. This is not and can not be the case. The President can recommend now that we join the Reparation Commission and ask legislation for that purpose just as well as if the treaties had failed of ratification or had never been written. But with the treaties ratified the first reservation makes the assent of Congress necessary to join the commission. Besides, the Senate not only confirms the representatives, but the office has to be created by act of Congress. Those who fear such a result are explicitly protected and assured of the necessity of the assent of Congress, and certainly if we can not trust the Congress and the Executive together to guard and represent

the interests of the United States there is no one on earth whom we can trust.

The difficulty has arisen, I suppose, from the somewhat nebulous position occupied by what are known as presidential agents. It is the unquestioned right of the President to appoint personal agents to gather information for him, as was done in a rather famous case when Ambrose Dudley Mann was sent to Hungary at the time of Kossuth's rebellion, or the President, of course, can appoint anyone he chooses to represent him in a negotiation, because the power of initiating and negotiating a treaty is in his hands.

We have an example at this moment in the treaty with Germany now before us. As I stated on Saturday, the gentleman who represented us in Berlin had been sent there by President Wilson, taken from the diplomatic service and charged to represent the United States as far as it could be done as a commissioner. He was simply a personal agent of the President. He could not officially represent the United States. We could not have an ambassador because we were technically at war with Germany. Therefore he was sent there, and he represented the President in negotiating the treaty with Germany now before us and signed it.

The same thing was done in the case of the treaty of peace with Mexico. President Polk sent Mr. Nicholas Trist to negotiate that treaty. I think at the time he was chief clerk of the State Department, but he was the President's personal agent appointed for that purpose to enable the President to carry on the negotiations.

It is impossible that any personal agent should have any power resembling that under the terms of the reservation in regard to membership in the reparation or any other commission under the treaty of Versailles. I have no reason to suppose that any President would think of having a personal agent present at the sessions of any of those commissions except as an observer. No such agent certainly would have power to represent the United States. The reservation provides that any person, in order to represent or participate on behalf of the United States in any of these commissions, must hold an office created by Congress and be confirmed by the Senate of the United States.

Another objection that was made on Saturday was to the effect that the treaty does not settle all outstanding questions with Germany. I was rather surprised to hear the Senator from Missouri [Mr. REED] speak as if it were the rule that a treaty of peace settled all outstanding questions between the two countries which had been at war.

I thought, and my remembrance was, that the precedents were all the other way, and I looked up some of the treaties. But before speaking of the result of my inquiry I think it is well to notice that there are only two questions absolutely outstanding between this country and Germany at this moment. One is the restoration of normal relations of peace between the two countries, so that ambassadors can be exchanged, and the other the prewar claims; and both are provided for in the treaty, as I have already said, which relates to Germany and the United States alone.

Now, as to the other cases of precedents, I have not gone outside our own experience, but I find my memory is confirmed by looking at the authorities. We made a definitive treaty of peace—and I use the official term—with Great Britain in 1784. Ten years later—that is, in 1794—we made a treaty of amity, commerce, and navigation, known as the Jay treaty, settling a number of postponed questions not covered by the original treaty of peace of 1784.

The treaty of Ghent was signed in 1814 and proclaimed February 18, 1815. Three years later, in 1818, we made a treaty of commerce and navigation with Great Britain, covering a great many questions which had been left outstanding by the treaty of Ghent, questions which were much contested, as the northeastern fisheries, and even after they had been included in the treaty of 1818 they remained a subject of discussion for nearly a century, and were only finally settled at The Hague a few years ago.

With Mexico we made a treaty of peace in 1848, and in 1853 we made the Gadsden treaty, settling some questions left outstanding by the definitive treaty of peace.

With Spain in 1898 we made a treaty of peace, and in 1900 we made an additional treaty for the cession of certain outlying islands of the Philippines, and in 1902 a treaty of friendship and general relations, which had been left outstanding and which is usually called a treaty of amity and commerce and which covers all the questions of amity and commerce which usually are covered by treaties between nations.

Now, Mr. President, in conclusion I wish to say just a word. Where would the failure to ratify leave us? It would leave us where we are to-day—in a technical state of war with Germany, Austria, and Hungary. I think the treaties are distinctly beneficial, as they certainly get rid of war relations and reestablish peace relations, and they involve us in nothing more. I think in their effects upon public opinion that they will be valuable in the business situation. It is quite true that we have been trading freely with Germany since the armistice, but necessarily through more or less indirect ways, because we were not represented as a country, and such formal business as we have had to do relating to trade particularly has been done through Spain, I believe it is, who took over our affairs with Germany at the time of the war. We shall have to have, I suppose, a consular convention with Germany in order to reestablish our consular system, but by these treaties we smooth the way for business, for exports to what is a great market for certain of our products, and for imports.

I think, moreover, the settlement and restoration of peace relations is much desired by the country, as it ought to be, to get rid of war relations with Germany, with Austria, and with Hungary. I have merely made this restatement in order to emphasize to the Senate the strong feeling that I have that the treaties ought to be ratified, and I trust that they may be ratified promptly.

Mr. KING. Mr. President, before the Senator takes his seat may I ask him a question?

Mr. LODGE. Certainly.

Mr. KING. As I understood the position of the Senator from Missouri [Mr. REED] it was that the treaty did not specifically determine the obligations of Germany to the United States nor did it specifically determine how those obligations should be satisfied; that there was no provision for determining what should be paid for submarine atrocities committed by Germany——

Mr. LODGE. The Senator means prior to the war?

Mr. KING. Yes.

Mr. LODGE. That is all provided for.

Mr. KING. That there was nothing in the treaty to determine the damages which had been done by Germany to American nationals; nothing to indicate the measure of relief for property seized by Germany which was in Germany, in Rumania, in Russia, in Belgium, and in other territories which had been invaded by the military forces of Germany, and no provision made by Germany for the payment of those damages when ascertained and the time within which payment should be made.

In other words, as I understood the position of the Senator from Missouri, it was that the treaty did nothing toward determining the unsettled controversies between the United States and Germany other than to say that we are at peace, and that it left to future negotiations the formulation of some other plan by which those damages might be ascertained and provisions made for the payment of damages when ascertained. In other words, we are no further advanced upon the highway of complete pacification when the treaty shall have been ratified than we would be if it had not been ratified.

Mr. LODGE. Mr. President, I stated, or tried to state, plainly, that in my judgment, the only questions outstanding between Germany and the United States alone are the questions of the prewar claims and the restoration of relations of peace. Those are covered by the pending treaty, and they are fully and amply covered by it.

As to the other claims of which the Senator speaks, those are all involved in the question of reparations, in which Germany is bound by her agreements under the treaty of Versailles. I suppose we are not going to make claim for war reparations; I have never heard it suggested that we should do so; but we can not with Germany alone determine any of those questions. Germany is only one party to the treaty of Versailles. By this treaty she gives her assent to our making any claims under the treaty of Versailles; she consents that we may have the benefit of any clauses that we think confer benefit. That is all she could give.

Now, for the damages in Rumania, of which I confess I know nothing, those are covered by the provisions of the treaty of Versailles. All Germany could say was that she had no objection to our asserting our claims there.

Mr. KING. May I say to the Senator that claims of American citizens have been filed in the State Department aggregating 672,000,000 lei—whatever the value of a lei is I am unable to state—growing out of wrongs committed by Germany in Rumania and damages done by Germany in Rumania to the property of American citizens? I am not sure, I will confess, about their nature.

Mr. LODGE. Are those prewar claims?

Mr. KING. No.

Mr. LODGE. Or are they claimed as reparation for war damages?

Mr. KING. Those damages resulted from the occupation of Rumania.

Mr. LODGE. Exactly. They are damages caused by acts of war after we had entered the war.

Mr. KING. That is correct.

Mr. LODGE. The questions concerning those damages, of course, are covered by the provisions of the treaty of Versailles, which we have not ratified. Germany consents to our securing any advantages or any rights that we have in the case of Rumania; and all she can do is to give her consent as one party to the treaty. As to the other parties, we may take any course we may choose in representation to the other parties to the treaty of Versailles, and I take it all such questions come under commissions of one kind or another; in fact, I am sure they do.

Mr. KING. Then, as I understand the Senator, provision is made in the treaty now before us for the liquidation of prewar claims in virtue of the recitation in the treaty of the provisions of the Knox resolution?

Mr. LODGE. Those are claims that exist only between us and Germany; they relate only to us and Germany; they do not relate to the other countries, because they are claims for damages which were inflicted on us when we were a neutral.

Mr. KING. I am not sure that the contention of the Senator is right, but I hope that it is and that ample provision is made in the treaty for the settlement of prewar claims. Let me ask the Senator——

Mr. LODGE. There is such a provision made for the settlement of such claims in the treaty of Versailles.

Mr. KING. Do we have to resort for the determination of all controversies existing between the United States and its nationals and Germany and its nationals to the provisions of the treaty of Versailles which are approved by the pending treaty?

Mr. LODGE. If the claims are for war damages we have to make our claims, of course, for reparation by Germany under the limitations which are imposed on Germany by the treaty of Versailles. That may be done as a matter of diplomatic representation to the other powers, if we choose, or we may send a representative to the Reparation Commission. In any event, however, rejecting the treaty would not improve our situation a particle.

Mr. KING. Of course, then, it is obvious that whatever damages the United States as a Government or our nationals may obtain from Germany, aside from the prewar claims, must be obtained under the provisions of the treaty of Versailles?

Mr. LODGE. No.

Mr. KING. And by resort to the machinery therein provided for ascertaining such damages and receiving compensation.

Mr. LODGE. No; that is not necessary. My point is that all Germany can do as to anything which is covered by the treaty of Versailles is to give her assent. Germany is only one party to that treaty. We may adopt any method we please for getting the consent of the other parties. We can do it either through diplomatic channels or we can have representation on the commissions.

Mr. KING. Yes; but the Senator does not mean to contend that we could go outside of the provisions of the Versailles treaty for the purpose of ascertaining and, indeed, determining the damages to which our Government or its nationals might be entitled growing out of any causes for damages after we entered the war?

Mr. LODGE. We may assert our claims of the kind which the Senator describes to the other parties to the treaty whether we join in the Versailles treaty or not.

Mr. KING. But, if the Senator will pardon me, would not our claims be limited by the Versailles treaty?

Mr. LODGE. Germany is limited by the Versailles treaty, but we are not.

Mr. KING. Are we not limited as to the character of claims to be presented either by the Government or by individuals by the terms of the Versailles treaty?

Mr. LODGE. We are not limited by the Versailles treaty at all.

Mr. KING. Will the Senator, then, please indicate in the pending treaty any provision by which any American or the Government of the United States may obtain one penny of damages outside of the provisions of the Versailles treaty?

Mr. LODGE. I will ask the Senator, then, to indicate to me what method we have of securing those claims without the pending treaty?

Mr. KING. Mr. President, that is not the question before us.

Mr. LODGE. That is the question before us, and it is very much before us. The Senator's proposition is to reject the treaty, and leave us where we are to-day.

Mr. KING. I am making no proposition at all, Mr. President, with respect to that matter. So far as I am concerned I approve of those terms of the Versailles treaty. My principal objection to the treaty now before us is that it does not go far enough. We adopt a part of the provisions of the Versailles treaty, but we do not adopt all that relate to the entire subject of damages and reparation.

Mr. LODGE. We can do nothing more in any treaty with Germany, no matter what it is, than get her assent so far as the Versailles treaty is concerned.

Mr. KING. I hope the Senator from Massachusetts does not misunderstand me. I am attempting to elucidate his position and to get him to confess if it be a fact—and I think it is a fact—that no claim can be presented against Germany for damages either by the Government of the United States or by our nationals for damages claimed after we entered the war other than those damages which are specified and set forth and indicated in the Versailles treaty.

Mr. LODGE. No; I do not think that is the case. Germany is limited in what she can give by the Versailles treaty.

Mr. KING. Yes.

Mr. LODGE. She gives us by her consent all that she can give, and her consent is necessarily limited by her obligations to other nations. That much is gained; we have Germany's consent.

Now, if we have claims we want to assert which are not prewar claims, we can present those claims to the other parties, whether we have representation on the Reparation Commission or whether we do not. I am not discussing now which is the easier way.

Mr. KING. May I ask the Senator are we not precluded from presenting any claim against Germany, for instance, for pensions which we may pay to our soldiers or damages for the loss of our war vessels or vessels of our merchant marine during the war? Does not the Versailles treaty restrict us and prohibit us from presenting such claims?

Mr. LODGE. The Versailles treaty can not restrict us from doing anything we please; we are not a party to the Versailles treaty; we have nothing to do with it; we are outside of it. To-day we can make any claim we like on Germany. Germany may be unable to meet that claim owing to other obligations. In that case we can arrange it with those who hold the obligation, if we choose, by diplomatic methods.

Mr. KING. Oh, Mr. President, if the position of the Senator is correct, then I submit that we are perpetrating, if I may be pardoned the expression, a shell game on Germany. Germany, I have no doubt, believes that with the ratification of this treaty——

Mr. LODGE. I do not think we are perpetrating any shell game on anybody. I think Germany is a good deal better able to take care of herself than the Senator from Utah is able to take care of her. I am not worrying about Germany at all.

Mr. KING. I am not trying to take care of Germany; but I am trying to see that the United States shall not in the negotiation of the treaty make any misrepresentations that would justly entitle Germany to contend that we had attempted to deceive her. I have been attempting to ascertain whether or not we are at liberty to present claims against Germany for damages other than those damages which may be indicated in the Versailles treaty.

Mr. LODGE. Of course, we can present any claim we like against Germany. The only question is whether Germany is able to meet it, owing to other obligations of her own.

Mr. KING. If I understand the distinguished Senator from Massachusetts, then I respectfully submit that he is wrong. I challenge that statement, and contend that we may not present claims against Germany for a single dollar, either on behalf of the Government or any American national, except such claims as are indicated by the Versailles treaty itself.

Mr. LODGE. Mr. President, I think I am right in the statement I have made, and I shall have to bear up as best I may against the Senator from Utah thinking I am wrong.

Mr. LENROOT. Mr. President, will the Senator from Massachusetts yield to me before he takes his seat?

Mr. LODGE. Certainly.

Mr. LENROOT. I should like to ask the Senator whether his view is not that, with this treaty ratified, the Government of the United States has two options with reference to compensation claims? If the Government chooses to use the machinery

of the Versailles treaty to determine the amount of the claims, Germany assents to that.

Mr. LODGE. That is correct.

Mr. LENROOT. On the other hand, if the Government desires to negotiate directly with Germany to determine the amount of claims, that is permissible under the treaty.

Mr. LODGE. It is perfectly permissible.

Mr. LENROOT. But the United States will, then, have in some way to look out for the payment of those claims, which can only be done in conjunction with the other parties.

Mr. LODGE. There is no doubt of that.

Mr. KING. If I may interrupt the Senator from Wisconsin, I submit, with all due respect to him, that I think his construction of the treaty is wrong.

Mr. LODGE. That is too bad.

Mr. KING. Yes; I think it is too bad. I concede that the Senator has uttered one accurate statement this morning.

Mr. LODGE. I was sympathizing with the Senator from Wisconsin because now he is found to be wrong by the Senator from Utah, as I have been.

Mr. KING. I ask the Senator from Wisconsin if he believes that with this treaty ratified Germany would expect that the United States could present to her for payment claims growing out of the losses which we sustained during the war?

Mr. LENROOT. If Germany does not expect that, she must have some understanding other than appears from the plain provisions of the treaty, because the treaty simply recognizes certain rights upon the part of the United States and certain liabilities upon the part of Germany; there is nothing in the treaty that binds the United States as to pursuing those rights or claims through the treaty of Versailles.

Mr. KING. Does not the Senator think that the Versailles treaty upon its face clearly indicates that none of the allied and associated powers will prefer any claims against Germany for war expenses?

Mr. LENROOT. For war expenses?

Mr. KING. Yes; for expenses incurred in the prosecution of the war. We have spent billions of dollars. Does the Senator think, under the Versailles treaty and the terms thereof which we adopt if we ratify the pending treaty, that we would be justified in morals in presenting a claim to Germany for ten or fifteen or twenty billions of dollars for expenses which we had incurred in the prosecution of the war?

Mr. LENROOT. No.

Mr. KING. Exactly.

Mr. LENROOT. Does the Senator think the United States ought to present such a claim?

Mr. KING. Of course the United States ought not to present such a claim, and that is what I was attempting to elicit from the Senator from Massachusetts. The position of the Senator from Massachusetts, as I understood his position, was that we can present any claim we please against Germany; that there is no inhibition in the Versailles treaty against the presentation of such claim, and there is nothing that would inhibit or require Germany not to meet it.

Mr. LENROOT. It seems very clear to me that our rights and Germany's liabilities are defined by the Knox resolution and by the treaty of Versailles, and the only thing in the world the treaty of Versailles has to do with the question is to ascertain what our rights are and what the liabilities of Germany are; but the mode of enforcing them——

Mr. KING. Mr. President, I agree absolutely now with the Senator. The Versailles treaty, then, does determine the claims which we may prefer and it does indicate the method by which those claims may be preferred.

Mr. LENROOT. If they are not included in the Knox resolution, we can only go as much further as our rights are conceded by Germany in the treaty of Versailles.

Mr. KING. I agree now absolutely with the Senator, and he is not in agreement with the position taken by the Senator from Massachusetts. My position is simply this: That under the terms of the pending treaty we may not rightfully present demands upon Germany other than those for which provisions are made in the Versailles treaty, and that Germany has no greater obligations to the United States, or nationals, than those defined in such treaty.

Mr. BORAH. Mr. President, I do not think it is ever necessary in the Senate of the United States for a Senator to apologize for urging his views; yet I feel that possibly a word of explanation may not be inappropriate.

As to this treaty, I regret very much to find myself entirely out of harmony with the views of practically all my colleagues upon this side of the Chamber. If it were a matter that could be regarded as an ordinary one, a matter upon which I might have entertained indifferent views, I should undoubtedly yield to the judgment of my colleagues. I entertain, however, precisely the same view with reference to this situation that I did upon the 21st of February, 1919, when I spoke against entering the League of Nations. I did not oppose entering the league because Mr. Wilson had written it, but because in my judgment it was a surrender of the traditional policies of this Government and involved us interminably in the affairs of Europe.

I have no doubt at all but that the step which we are now to take in the ratification of this treaty is the first step to the same end and that there is only one other step to be taken. Naturally being opposed to the principle, I can not give my consent to taking the first step, when I know as well as a Senator can know a thing that the second step is to be asked of me and which I do not propose to take. It would not be acting fairly with myself, and certainly not with the President or with my colleagues, if I should indorse the first step and then refuse to take the second one, which, in my judgment, is inevitably to come and which, when taken, will involve us in all the affairs of the Continent of Europe, economic, political, financial, and which will ramify into all the things which we were supposed to have escaped from when we escaped from the league.

The Senator from Massachusetts [Mr. LODGE] has reiterated the proposition that it would be unfortunate to have us remain in a technical state of war. I had supposed that the Knox resolution had had some effect upon that proposition; but let us assume now that we were mistaken in that. Nevertheless, Mr. President, that while it may be a strong argument to those who are in favor of this treaty, it can not be any possible argument for those who are opposed to it, for the same reason that that argument did not reach those who were opposed to the league two years ago.

We were advised then by our friends on the other side of the Chamber that we were continuing a state of war, a state of chaos, a condition of affairs which was intolerable, by postponing the ratification of the treaty. But, being unalterably opposed to the league, without reservations, being unalterably opposed to the principle upon which it was founded, that did not appeal to the Senator from Massachusetts at all, and it does not appeal to me to-day for the same reason that it did not appeal to him at that time. If we know how and can ever arrive at a method by which to conclude peace with Germany, I am just as anxious to have peace with Germany as anyone else can be; but I am not willing to purchase peace with Germany by a surrender of those things which, in my judgment, are far more precious to the people of the United States than peace. If we adopt a course which carries us into all these concerns of Europe, and especially if we prop up the Versailles treaty, you had just as well not call the conference at Washington for disarmament. Instead of disarming, we will be arming for the next 40 years at least, for that treaty can only be maintained and executed by force of arms.

With that preface, Mr. President, I will proceed with the discussion of the question as I understand it.

I think the League of Nations was objectionable. I have always felt that the Versailles treaty without the League of Nations was intolerable. The League of Nations was at least built upon a hope, an aspiration, that it would effectuate something for the reconcilement and peace of the world. The Versailles treaty is built upon the opposite principle. Stripped of the League of Nations, it is built upon force. Its fundamental principle is imperialism. Its moving power is that of devastation of subject peoples; and while I have no right to say this from authority, I venture to say that the then President of the United States, Mr. Wilson, never would have attached his name to the Versailles treaty had not the League of Nations been in it, through which he hoped to better its terms.

Standing alone, the Versailles treaty is to me more objectionable because of the principle which runs through it, the policy upon which it is founded, and the theory upon which it is built. Believing, therefore, that the ratification of this treaty is simply the first step toward entering the treaty of Versailles, naturally I can not bring myself to believe that it is my duty, however agreeable it would be, to vote for it.

Take another view as a preliminary proposition with reference to the effect of the Versailles treaty:

We have called a conference at Washington for the 11th of November for the purpose of considering the question of disarmament—disarmament by land and disarmament by sea. It is my opinion that disarmament by land to any appreciable extent is an impossibility so long as the Versailles treaty continues in existence and unchanged. With the League of Nations eliminated from it, it stands there as a complete militaristic document, making it impossible to disarm in Europe until it shall have been executed. What the League of Nations might have done, as some of its defenders claim, toward changing that con-

dition of affairs, it is not necessary for me to-day to discuss; but without the league, the treaty standing by itself, it is based entirely for its strength, for its capacity to accomplish what it desires to accomplish, upon military force.

You will recall, when the first assembly of the Council of the League of Nations met at Geneva, they brought in a resolution providing for disarmament. The resolution as it was first brought in had some substance to it. It would not have been, in my judgment, very effective, but it was a step in the right direction. You will recall that that report was changed, modified, and mollified until, as Lord Cecil said, it consisted of nothing more than a pious expression that at some time the nations would disarm. It was presented for a vote before the assembly, and France and five or six other nations voted against even the expression which it contained favorable to disarmament at some time. France stated that she was not in a position to disarm nor to consider the question of disarmament until after the execution of the Versailles treaty. The representative of France stated that until its terms should have been fulfilled and all its provisions ripened into results, France would not even consider the question of disarming. Naturally, she thought she could not. Who expects that she will?

A few days ago the assembly of the League of Nations met again, and again they brought up the question of disarmament, and there was the same result. France, Great Britain, and Japan, the "big three" in the combination at this time, voted against a resolution which provided for nothing more than to report upon the condition of arms in their countries. Why? Because of the fact that back of them was the execution of the Versailles treaty, and the moment you stack arms the Versailles treaty is considered by them a dead instrument. Thus, Mr. President, in my opinion the Versailles treaty stands there as a challenge to any movement at all in favor of lessening the military burden upon the people of Europe; and until it shall have been executed and the countless subject peoples who are under it shall have been reduced to subjection—peonage, if you please—and shall have accepted their fate, you will have no disarmament by land in Europe.

I read a paragraph from a statement of Mr. Lange, made to the assembly of the league when the question of disarmament was up. He said:

> Its members are not nominated by the league. They are nominated by the various war ministries and admiralties of the different countries, and they receive instruction from their ministries. That is to say, in the league itself, in dealing with this question, there is an outpost of war ministries which regard these questions from the point of view of military attachés and not as servants of the league.

Thus we see, if I may be permitted to say so, the militarism which saturates the Versailles treaty according to Mr. Lange, a representative of a neutral power, has now injected its poison completely into the league itself; and the league, instead of becoming as was hoped by President Wilson, an instrumentality of peace has been reduced to an instrument to execute the mandates of the military instrument itself. We having stripped the league from the Versailles treaty propose now, in my judgment, as I shall undertake to show in a few moments, to accept the more obnoxious features of the entire instrument.

This statement continues:

> The commission on disarmament at Geneva voted 15 to 3 in favor of a resolution demanding from each nation a statement covering its military plans and expenditures, the number of its soldiers, ratio of population, period of service, and army and navy budget. This was to be preliminary to orders for disarmament. The nations which voted against it were only three.

They were Great Britain, France, and Japan, the controlling powers in the Versailles treaty, the people with whom we will have to sit in judgment when we enter it, as I think we are going to.

I want to read a single paragraph, Mr. President, from a statement made public by some 60 or 70 economists and publicists of Europe in regard to this treaty, published a short time ago. The entire statement is well worth reading, but I shall, for the sake of time, read only a paragraph:

> The revision of the Versailles treaty in the light of modern international thought of the prearmistice utterances of President Wilson culminating in the 14 points and even in the earlier utterances of the Entente statesmen themselves is imperative. This revision should be carried out by the representatives of all nations, irrespective of the parts they played during the Great War.

I ask, Mr. President, to have this entire statement inserted, not in the body of my speech but at the conclusion of it.

Thus, if you view Europe to-day as an economic proposition, Europe can never recover while the Versailles treaty, as it now stands, is in existence, and instead of us strengthening and recognizing and preparing to maintain it, if we are going to speak of it at all, in the name of civilization we ought to inveigh against its existence in its present terms.

Secondly, not only will the conditions in Europe remain as they are economically until the Versailles treaty is amended and changed—changed, if you please, in accordance with the principles which were announced before President Wilson went to Europe—not only will that be the case necessarily, but you will have no progress in disarmament in Europe until it is changed.

Mr. President, if we ratify this treaty, what is the situation? I understand perfectly, of course, that the ratification of this treaty of itself does not take us into the Versailles treaty absolutely, and if anyone authorized to speak for the administration will say that there is no intention to join the Reparation Commission, that it is not the policy of the administration, so far as I am concerned, my argument will cease and you can have a vote when you get ready for it. But I know to my own satisfaction, and I think if I should reveal all the facts it would be to the satisfaction of anyone else, that the policy is to go into the Versailles treaty and to become a member of the Reparation Commission.

How is that to be done? To go into it in the hope of getting something out of it, but with the hope of taking none of its obligations. That, in my judgment is impractical in the first place and unmoral in the second place. You can not go into the Versailles treaty, as I contend, and as a practical proposition demand and take anything out of it without assuming the responsibilities which will go with it; and if we could do it, it would be such an unmoral proposition that we would not undertake to do it for any length of time.

We think just as much of our honor, yea, more, and when you get down to the heart of the American people and present it to them they will determine to retain their honor even at the expense of some trade with certain peoples. This treaty, as I said, is the first step. Will we take the second by becoming a member of the Reparation Commission?

I do not think that is a very difficult question to determine. The President said in his first message to Congress, speaking of this very subject—and I ask particular attention to this, for it is much plainer than it has been assumed to be, and, read in the light of this treaty, no man need err:

> It would be idle to declare for separate treaties of peace with the Central Powers on the assumption that these alone would be adequate—

It would be idle to assume that this German treaty settled anything in the way of a conclusion. You must go somewhere else—you must make other treatites, you must see Japan, and you must see Great Britain, France, and Italy, and you must see them, in my humble judgment, not necessarily as a matter of absolute power, but as a practical proposition you must see them under the terms of the Versailles treaty. The sentence continues:

> Because the situation is so involved that our peace engagements can not ignore the Old World relationship and the settlements already effected, nor is it desirable to do so in preserving our own rights and contracting our future friendships.

This treaty, said the President, would be an idle thing unless it had in contemplation either our going into the Versailles treaty or the making of separate treaties with these other powers, and I am going to undertake to show in a few minutes that the idea of making treaties with the other powers, without regarding the Versailles treaty, as a practical proposition is simply inconceivable, unless we are going to assume that they are going to throw up the Versailles treaty. The President continued:

> The wiser course would seem to be the acceptance of the confirmation of our rights and interests as already provided and to engage under the existing treaty, assuming, of course, that this can be satisfactorily accomplished by such explicit reservations and modifications as will secure our absolute freedom from inadvisable commitments and safeguard all our essential interests.

The German treaty, in my opinion, is the Versailles treaty, in the President's mind, with reservations; but Mr. Hughes—and perhaps he was correct—thought he could write those reservations better than we could, and so he has put in here the reservations excepting our responsibility from certain parts of the treaty, and has sent the German treaty in here, referring to the other parts of the Versailles treaty, which, when it is ratified, will constitute but a ratification of the Versailles treaty with reservations, assuming, of course, now, that we take the other step, which I am coming to in a few moments. I feel that step will be taken, just as I feel that this is to be taken.

There is nothing concealed, therefore, upon the part of the President, in that proposition, and I am not criticizing him; I am only differing with him, as I differed with him all the days in regard to the League of Nations. He was always willing to go in with reservations. He is willing to go in now with reservations. It is the same issue, precisely.

But, Mr. President, that is not all. I do not think it is improper to say that as a member of the Foreign Relations Committee I have information that the President now thinks that the practical way for us to deal with this question is for the United States to become a member of the Reparation Commission. There is no concealment of the fact that it is Mr. Hughes's view that the only practical way is for us to become a member of the Reparation Commission, and there is no concealment of the fact that other very potential gentlemen in the Cabinet have the same view.

I venture to say, Mr. President, that the well-settled policy of the State Department at this time is to have the United States become a member of the Reparation Commission. If that were not true, we would have had a statement to that effect from some source.

Take, for instance, Mr. Hughes's statement during the campaign—and Mr. Hughes is quite as much entitled to express his view and just as much to be respected for insisting on carrying out his policies as I claim for myself. I repeat, it is a difference of view and a cleavage which will never be settled by unanimity of vote.

In this address, which was issued to the voters of the United States on the 15th day of October, 1920, Mr. Hughes, over his signature, with others said:

> The question accordingly is not between a league and no league but is whether certain provisions in the proposed league agreement shall be accepted unchanged or shall be changed.
>
> We have reached the conclusion that the true course to bring America into an effective league to preserve peace is not by insisting with Mr. Cox upon the acceptance of such a provision as article 10, thus prolonging the unfortunate situation created by Mr. Wilson's insistence upon that article, but by frankly calling upon the other nations to agree to changes in the proposed agreement which will obviate this vital objection and other objections less the subject of dispute. The Republican Party is bound by every consideration of good faith to pursue such a course until the declared object is attained.

The Republican Party, said Mr. Hughes to the voters of this country, is under every obligation to pursue, persistently and uncompromisingly, a course which will take us into the league with article 10 left out; and he is now on the way.

The statement continued:

> The conditions of Europe make it essential that the stabilizing effect of the treaty already made between the European powers shall not be lost by them and that the necessary changes be made by changing the terms of the treaty rather than by beginning entirely anew.
>
> That course Mr. Harding is willing to follow, for he said in his speech—

And so forth.

I do not quote that as representing Mr. Harding's views, but as the view of the very able, adroit, farseeing, and determined Secretary of State.

Now, Senators, suppose we ratify this treaty. The President, representing the Secretary of State's views and his own, because the President feels, in my opinion, that we should be members of the Reparation Commission, sends in a message to the effect that we should pass a joint resolution authorizing the President to go in and appoint a reparation commissioner. How many votes will be cast against it on this side of the Chamber? I presume that a number of votes upon the other side would be cast in favor of it, naturally, because Senators on that side have been advocates of the Versailles treaty, and the further into it we get the better it suits them.

So, Mr. President, I believe that the only contest which can be made must be made here and now, so far as I am concerned. It will be useless, after we have ratified this treaty, to say that we should not avail ourselves of the only practical method there is for the United States to realize her rights and privileges. If we should take such a stand, Mr. Hughes could make an argument to which, in my judgment, there would be no answer, that having voted for this treaty, you must be practical and deal with a situation in Europe which we can not change, and we must submit to it. He would say to you, "The Versailles treaty is there. France is committed to it. The Reparation Commission is in session. It has passed upon some questions already; it is now investigating others. Germany is under the receivership of that Reparation Commission. How do you expect your Secretary of State to get any rights except by recognizing that condition?"

What will be our answer? We will make none. Having ratified the treaty your Secretary of State will say this treaty can be executed in no other way, but you will be in position where you must either join the commission or refuse to execute the treaty you have ratified.

Thus, Mr. President, using very little power of prophecy and but a small amount of vision, I argue this question to-day precisely as I would if we were in the Versailles treaty and a member of the Reparation Commission. I have no doubt, unless the public should protest in no uncertain terms, our course is now mapped out and our destiny certain.

Believing as I do that this is the other step which we will take, I wish to call the attention of the Senate to what we will be in when we get in.

Mr. BRANDEGEE. Mr. President——

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from Connecticut?

Mr. BORAH. I yield.

Mr. BRANDEGEE. Suppose we do not ratify the treaty, is not the President in just as good position to send a message to Congress and ask us to pass an act authorizing the appointment of a member of the Reparation Commission as he is if we do ratify the treaty?

Mr. BORAH. Yes; he is in just as good a position to send it in, but I am much freer to oppose it if I have not voted for a treaty which practically invites him to send it in.

Mr. BRANDEGEE. I thought the Senator was arguing that if we ratified the treaty we were more liable to be put on these commissions to which he objects.

Mr. BORAH. No; I say we will have taken the first step. My proposition is neither to ratify the treaty nor ratify anything else which takes us into the Versailles treaty or takes us closer to the Versailles treaty. If the President sends a message here without this treaty ratified, I am in the same position then that I am now. I simply oppose it, and I oppose everything that goes in that direction. I do not see how I could do anything else. I see no use to start on a journey which is obnoxious to me from the beginning to the end. On the other hand, I feel it my solemn duty not to give even moral sanction to starting on a course the end of which seems fraught with peril for my Government and our people. I will not trifle with such serious matters.

Mr. BRANDEGEE. But how are we in any greater danger of getting on the Reparation Commission or any other of the commissions under the Versailles treaty after we have ratified the pending treaty than we are if we do not ratify it?

Mr. BORAH. I have already indicated, but I will answer further.

We have ratified the German treaty, we will say, and the President sends in a message asking us to give him power to appoint a member of the Reparation Commission. He turns to the treaty and he reads that the rights and advantages stipulated in the Versailles treaty for the benefit of the United States, which it is intended the United States shall have and enjoy, are those defined in section 1, Part IV, Parts V, VI, VIII, and so forth. The rights and advantages stipulated in the Versailles treaty which we are expected to have and to enjoy are provided for in this treaty.

When the message comes in we are told by the Secretary of State that that is the only possible way to carry out the treaty which we have ratified; that the other way may be all right in theory, but in practice it can not be done. We will be told that we have ratified a treaty declaring that we want certain rights and privileges which are defined in certain provisions of the Versailles treaty. He will then say to you, after examining the situation, that you must take the second step if you want to realize those rights and privileges provided for in the German treaty.

My idea is that we should not recognize the Versailles treaty at all. When we do recognize it we practically say that we will accept the conditions which are there provided for realizing our rights in case we want to enjoy those rights.

Mr. BRANDEGEE. Does the Senator think that merely referring to the Versailles treaty, an existing document, for a reference, is a recognition of the treaty as binding upon us?

Mr. BORAH. When I say recognition I do not mean that it constitutes that kind of recognition which makes a separate treaty. I did not mean that. It is just, as the Senator would know as well as myself, as if we recognized the existence of a contract by stipulating that there were certain privileges in it which we are to enjoy. It necessarily follows, in my judgment, that if we are going to take those rights and privileges we must do it in accordance with the terms provided for in that contract.

Mr. BRANDEGEE. The Senator, of course, will not deny that the Versailles treaty is in existence and in operation as between the signatories to it?

Mr. BORAH. Oh, yes; it is a sad fact, but it is true.

Mr. BRANDEGEE. I can not see, and I wish the Senator would inform me, and I have no doubt he will before he gets through, of his view of it, why by referring to it instead of reciting a lot of rights that the treaty recites, but simply referring to the section which contains them, it is any more binding upon us than it would be if I were giving a deed and in-

stead of copying a long description of a lot of land I referred to another deed which contained the same description.

Mr. BORAH. We do not refer to description; we refer to rights and privileges, and we take those rights and privileges subject to the terms of the instrument under which they are created, defined, and limited.

Mr. BRANDEGEE. I beg the Senator's pardon. I do not wish to interrupt the Senator if he does not care to be interrupted at this point, but if he will allow me, let us assume that there is a contract on file in a town clerk's office or land record office between a municipality and one of its citizens containing a great many agreements between those parties, and among others a description of a certain piece of land. Suppose I owned a piece of land and was deeding it to the Senator from Idaho and should refer to the contract as describing the piece of land which I intend to convey, would that in any way obligate me to the contract between the municipality and the other parties?

Mr. BORAH. No; but let me tell the Senator what would be the condition and what is the condition in this treaty and not the condition which the Senator speaks of. If John Doe and Richard Roe and John Smith owned a piece of land in partnership, if they owned it together as a common estate, and I was taking an interest in that land, and I should refer to that deed for a description of that interest, I would undoubtedly have to take it subject to the rights of the other parties also. If a partition imposed conditions, I would get it subject to those conditions. We refer to certain rights and privileges under Part VIII. Now, those rights and privileges are undefined, the extent of them is not known, and the power created by the same Part VIII to define those rights is the Reparation Commission. I say we must take those rights as the commission determines them to be.

Mr. BRANDEGEE. If the reference were simply for the purpose of description?

Mr. BORAH. That is all the Senator claims this is?

Mr. BRANDEGEE. I do.

Mr. BORAH. That is it exactly.

Mr. BRANDEGEE. Simply for the purpose of description, and it no more implicates us in the treaty of Versailles than it would in the instance cited to refer to an old deed containing a long description of a piece of land instead of writing it out in the new deed.

Mr. BORAH. Let me put it in another way. If the Versailles treaty referred to a right of the United States and defined it, I concede that the Senator is correct in his position, but there is no such thing in the Versailles treaty. There is no right in Part VIII except such rights as are ground out of the hopper of the Reparation Commission. That I will come to in a few moments.

Mr. REED and Mr. BRANDEGEE addressed the Chair.

Mr. BORAH. Just a moment until I get through with this proposition. The Reparation Commission has control of the situation, and if we take that right under Part VIII we must take it subject to any conditions which are already imposed upon us.

Mr. BRANDEGEE. The Senator thinks, does he not, that although we did not ratify the treaty of Versailles, that treaty went into existence, and we were one of the five principal allied and associated powers and took some rights under it?

Mr. BORAH. No; we did not take them by virtue of the Versailles treaty. We took them by virtue of the fact that we entered the war and the terms of the armistice.

Mr. BRANDEGEE. But the Senator on Saturday stated, as I remember, that if we executed this treaty, inasmuch as the rights which we were to take were not defined in the treaty of Versailles, that we would have to come in with the other powers and join with them in proportioning the rights.

Mr. BORAH. Yes; if we take under Versailles treaty.

Mr. BRANDEGEE. Would we not have to do that anyway if we did not ratify the treaty?

Mr. BORAH. No.

Mr. BRANDEGEE. If the rights are undefined in the treaty of Versailles, how could we ascertain what our rights were as one of the cobelligerents with the Entente Allies except to negotiate with them and decide what our rights are?

Mr. BORAH. I am coming to that in a few moments and explain the situation as I read the Reparation Commission provisions and the powers of the Reparation Commission. Let us take this as an illustration, for instance. Suppose we should come to the conclusion as a separate proposition that Germany was indebted to us so much, but that we have expressly provided in Part VIII that whatever Germany may be indebted to us it shall be trimmed down proportionately with what she is indebted to other people; therefore we must take subject to that condition.

Mr. REED. Mr. President——

Mr. BORAH. I yield to the Senator from Missouri, but after I shall have yielded to him I should like to conclude my argument and then I shall be glad to yield for questions.

Mr. REED. The question I am about to propound is with reference to a point in the illustration used by the Senator from Connecticut [Mr. BRANDEGEE]. The Senator's illustration was: Suppose that a contract existed between several people and that contract describes a particular piece of land; then if it is desired to assert our rights or to have a conveyance of the land is it necessary to redescribe the land, and if we do use the description by incorporating the description by reference, does that bind us to the terms of the contract between the three parties?

The difficulty with the Senator's illustration is that it does not fit this case. But suppose that there was a contract between the three parties not only describing a piece of land and referring to the three parties but referring to ourselves, and suppose that contract provided for a settlement of the respective rights of the parties and a tribunal for settlement——

Mr. BRANDEGEE. And that we had not signed the contract.

Mr. REED. And that we had not signed the contract; and suppose we then make a contract in which we agree to have certain rights specified in that other contract, then our rights in the other contract are measured, of course, by the other contract; and we would not be merely describing a piece of land but we would be describing a piece of land plus an agreement to accept the result of a determination with reference to that land and all rights in it. That is exactly what we are doing here.

Mr. BRANDEGEE. Mr. President——

Mr. BORAH. I should like to proceed with my argument.

Mr. BRANDEGEE. I do not desire silence to give assent. I simply wish to say I can not agree with the Senator from Missouri.

Mr. BORAH. I wish to say that if Senators will make a note as I go along of anything about which they might wish to ask, I will be glad to undertake to answer them when I get through. But this is rather a long affair, and I should like to present it as best I can with some degree of continuity.

Mr. President, I said a moment ago that this is the first step, and I assume that we are going to take the second step; that if a resolution is sent in here to authorize the President to appoint a member of the Reparation Commission we will indorse it. Nobody thinks differently. So I am not going to argue the question as if the indorsement had taken place. I wish to point out, if I can, the direction in which we are going and the mess we are getting into. I understand perfectly that those who wanted to enter the Versailles treaty are enthusiastic about this proposition, and they should be.

They are not uninformed as to where they are going. But let us see about an illustration of the statement made by the Senator from Missouri. Let us take Part VIII, where members of the Reparation Commission are provided for. Article 232 provides:

> The allied and associated Governments recognize that the resources of Germany are not adequate, after taking into account permanent diminutions of such resources which will result from other provisions of the present treaty, to make a complete reparation for all such loss and damage.

Now having gone in under Part VIII and become a member of the Reparation Commission we are first informed, just as the Senator from Missouri said, that there is a limitation to our right. By reason of the fact that Germany is not to pay us all that we have been damaged, we must take the judgment of a tribunal as to how much of that damage we are to have. So when we came in to sit with them we are not in a position to claim our rights absolutely as we would be if we did not sit with them, but we must take it according to the terms and those terms to be fixed by whom? Why, by the Reparation Commission.

Mr. BRANDEGEE. Will the Senator pardon me for one minute?

Mr. BORAH. Yes.

Mr. BRANDEGEE. Mr. President, I do not wish the Senator from Idaho to understand or to infer that because I expect to vote for the pending treaty I am in favor of the United States having representation on the Reparation Commission or on any other commission under the treaty of Versailles. I think I come pretty near to agreeing with the Senator from Idaho as to what would happen if we should put a member on the Reparation Commission.

Mr. BORAH. Yes.

Mr. BRANDEGEE. But my position is that I do not think we shall be in any more danger of having a representative on the Reparation Commission if we ratify the pending treaty than we shall be if we do not ratify it.

Mr. BORAH. Perhaps we shall not be in any more danger, because both of those things are going to be done; so it can not be said that we are in any more danger; but I shall have the keen gratification of knowing that I have not consented to either one. Article 233 of the Versailles treaty reads:

ARTICLE 233.

The amount of the above damage for which compensation is to be made by Germany shall be determined by an interallied commission, to be called the Reparation Commission and constituted in the form and with the powers set forth hereunder and in Annexes II to VII, inclusive, hereto.

This commission shall consider the claims and give to the German Government a just opportunity to be heard.

The findings of the commission as to the amount of damage defined as above shall be concluded and notified to the German Government on or before May 1, 1921, as representing the extent of that Government's obligations.

When the Secretary of State reads that provision of the treaty of Versailles to the Senator from Connecticut and says to him, "There is no other way, as a practical proposition, by which we can carry out the treaty with Germany which the Senate has ratified," the Senator from Connecticut will have to take the position which I take to-day and say, "Well, then, I do not propose to carry it out; that is all."

Mr. BRANDEGEE. I think I shall take that position.

Mr. BORAH. Then, let us go together to-day; let us now start together. The Senator from Connecticut has no doubt at all that if the request comes here from the President for the appointment of a member on the Reparation Commission we shall agree to it, and remember it only takes a majority to pass that resolution or bill, while it takes many more to ratify this treaty.

Mr. BRANDEGEE. Yes; but I think the request can come just as well whether we ratify the treaty or not.

Mr. BORAH. Yes; I know it can; but the Senator ought not to invite it by voting for a treaty which can not be carried out in any other way.

Mr. BRANDEGEE. And it will come.

Mr. REED. Mr. President——

Mr. BORAH. Just a moment. However, the public opinion of the country will be built up, if I can have my way, between now and the time the request comes, so that it will not come in secretly and unknown to the people of the United States. If, however, we sit here with our mouths closed and raise no objection and do not warn the people as to where we are going, and then vote for it when it comes here, we are in without the people of the United States knowing anything about it.

Mr. REED. I should like to be permitted—though the Senator from Idaho asked not to be interrupted, he has submitted to one or two interruptions—to ask the Senator from Connecticut if he meant to say that we would be taken into the league in this way?

Mr. BRANDEGEE. I do not wish to impose on the time of the Senator from Idaho without his consent.

Mr. BORAH. I should like to be permitted to go ahead. I can not make an argument over on side issues.

Mr. BRANDEGEE. But I must answer the Senator from Missouri [Mr. REED], no; that I do not think we would be in the league; but I think we would be in a very embarrassing situation.

Mr. BORAH. Yes; we should, indeed. The league is an infantile conception compared with the Reparation Commission. The Reparation Commission is a governmental institution in the heart of Europe. The treaty continues:

ARTICLE 234.

The Reparation Commission shall after May 1, 1921, from time to time, consider the resources and capacity of Germany, and, after giving her representatives a just opportunity to be heard, shall have discretion to extend the date and to modify the form of payments, such as are to be provided for in accordance with article 233; but not to cancel any part, except with the specific authority of the several Governments represented upon the commission.

ARTICLE 237.

The successive instalments, including the above sum, paid over by Germany in satisfaction of the above claims will be divided by the allied and associated Governments in proportions which have been determined upon by them in advance on a basis of general equity and of the rights of each.

Now, observe this:

ARTICLE 241.

Germany undertakes to pass, issue, and maintain in force any legislation, orders, and decrees that may be necessary to give complete effect to these provisions.

Assume that we shall ratify the pending treaty and shall claim all rights and privileges under Part VIII; when Mr. Hughes begins to seek to agree upon or to define our rights under Part VIII, he finds here article 241, which provides that Germany shall agree to execute all the decrees which the Reparation Commission shall make, and he says to Senators, "Unless we go into the Reparation Commission Germany is not compelled to execute anything for us; she has only agreed to execute such judgments and decrees as the Reparation Commission may make, and unless we join the Reparation Commission there is no such obligation upon the part of Germany," will it not be a conclusive argument that in order that we may get the same advantage as the others we must have representation upon the Reparation Commission? As I have said, the Secretary of State, having gone into these things, is of that opinion, and, in my judgment, he will be correct as a practical proposition.

Of course, I recognize what the Senator from Massachusetts [Mr. LODGE] says—and I think the Senator from Wisconsin [Mr. LENROOT] entertains the same view—that we may stay out. I agree to that; but when it is put to us as a practical proposition that if we do stay out and that, as a practical proposition, we can not realize what we ought to realize, we will go in.

Then, to put it in another way, suppose we take it through diplomatic channels, the settlement of these questions with Great Britain, Japan, Italy, and France, we must at least deal with the Reparation Commission, because the Reparation Commission represents those countries and we will be claiming rights under Part VIII. So we would be referred immediately to the Reparation Commission to ascertain what the Reparation Commission had decided, as to how much was due to those countries which are represented on the Reparation Commission, and the remainder would be ours.

Mr. LENROOT. Will the Senator from Idaho yield to me?

Mr. BORAH. In view of the fact that I was looking at the Senator from Wisconsin, I think I ought to yield.

Mr. LENROOT. I will not ask the Senator to yield now, but the Senator used my name.

Mr. BORAH. Then, I will yield to the Senator from Wisconsin now.

Mr. LENROOT. I wish to ask the Senator from Idaho, if what he has stated be true, whether it would not also be true under any treaty which the Senator from Idaho might favor?

Mr. BORAH. No, sir; I do not think so.

Mr. LENROOT. If the statement which the Senator has just made is correct, that if we are to receive our rights and our compensation there is no other way of receiving it except through the Reparation Commission, the same thing must be true under any treaty which the Senator from Idaho might favor or any other treaty, so far as that is concerned.

Mr. BORAH. There are two answers to that question, both of which I am going to cover some time in this debate, but one answer now which I wish to make is this: When we get into the Reparation Commission we take upon our shoulders a thousand things that have no relation whatever to any obligation that we need to take with reference to a separate settlement. It is because when we join the Reparation Commission we are dealing with a multitude of things which we take on by virtue of joining it which we should not have to take on by a separate treaty. However, I will come to that later in the debate.

I am now simply dealing with some of the things which seem to force us in.

The commission shall in general have wide latitude as to its control and handling of the whole reparation problem as dealt with in this part of the present treaty and shall have authority to interpret its provisions.

Now, there is another proposition: We would be sitting there with the Reparation Commission which has power to interpret the provisions of the treaty, and as we go further along we will see what that means.

Subject to the provisions of the present treaty, the commission is constituted by the several allied and associated Governments referred to in paragraphs 2 and 3 above as the exclusive agency of the said Governments, respectively, for receiving, selling, holding, and distributing the reparation payments to be made by Germany under this part of the present treaty. * * *

In periodically estimating Germany's capacity to pay the commission shall examine the German system of taxation, first, to the end that the sums for reparation which Germany is required to pay shall become a charge upon all her revenues prior to that for the service or discharging of any domestic loan, and, secondly, so as to satisfy itself that in general the German scheme of taxation is fully as heavy proportionately as that of any of the powers represented on the commission.

Assume that we are on that commission, as I do, what is one of the functions of that commission? It is to provide a tax system for 70,000,000 people; to provide a tax system for Hungary; a tax system for Austria, when we are having a great deal of trouble to provide a tax system for the people of the

United States. One of the obligations we take upon ourselves when we become a member of the Reparation Commission, which we certainly would not need and which we would infinitely better sacrifice any interest we have there than to assume, is to participate in a government whose function and duty it shall be to provide a tax system for the German people.

Mr. BRANDEGEE. Mr. President, if the Senator does not object to yielding there, I should like to ask him a question in connection with the question of taxation which the Reparation Commission is to supervise. Suppose we did have representation on the Reparation Commission and they should decide that the taxes of Germany were too low to pay the reparations which they had agreed upon, and suppose the commission should order the taxes to be raised, and that thereupon the people of Germany should rebel, and that then the Governments which are represented on the Reparation Commission should say to us, "You voted with us to impose this tax upon them; now we have got to send troops in there; send your share." Would we not be morally bound to send our share of troops?

Mr. BORAH. Yes; we would be morally bound to send troops there. That is one of the beauties of the Reparation Commission. Instead of staying out and settling our affairs individually, we would be in a position where we would have to go in and do our duty. That is what I say. I am assuming, of course, all the time that we can stay out. I know we will not; but when we do go in we have pledged the people of the United States to execute every decree that the Reparation Commission shall make, and, if it requires soldiers to do it, we are in honor bound before the world to supply the soldiers. Do Senators think the United States, having representation upon that commission, which has fixed a tax system, when Germany shows her teeth would come skulking home, surrendering her rights rather than to execute those provisions which have been made in conjunction with the other powers? Bear in mind my friends that through the Reparation Commission Europe holds the key to the situation every single hour. We could not put through a single resolution there unless we could at all times control a majority of the commission. The United States upon this side of the ocean, separated in many ways from the internal turmoils of Europe, is always a minority upon that commission. We might vote for a certain system of taxation and France and Italy and Great Britain might vote for another. Could we skulk out because we were outvoted?

Mr. President, you could have gotten out of the league if you had gotten in, but you can not get out of this thing honorably for 40 years, because that is the time now fixed when it expires—30 years under the first provision—but now, as they have fixed the debt for 40 years, it provides that it shall not expire until the debt and everything else shall have been paid.

Mr. KELLOGG. We can withdraw, under a clause.

Mr. BORAH. Oh, yes. I said we could not get out honorably. We can withdraw after a year's notice, provided we are not bound up with them in a situation where we can not honorably give it—

> The damage for repairing, reconstructing, and rebuilding property in the invaded and devastated districts, including reinstallation of furniture machinery, and other equipment, will be calculated according to the cost at the dates when the work is done.

Again—

> Questions involving the sovereignty of any of the allied and associated powers, or the cancellation of the whole or any part of the debt or obligations of Germany—

Constitute another power belonging to them. Again, the treaty says that the commission shall have power to make—

> Any postponement, total or partial, beyond the end of 1930, of the payment of instalments falling due between May 1, 1921, and the end of 1926, inclusive;
>
> Any postponement, total or partial, of any instalment falling due after 1926 for a period exceeding three years.
>
> Questions of applying in any particular case a method of measuring damages different from that which has been previously applied in a similar case—

And—

> Questions of the interpretation of the provisions of this part of the present treaty—

Belong to the Reparation Commission.

> Decisions of the commission, in accordance with the powers conferred upon it, shall forthwith become binding and may be put into immediate execution without further proceedings.
>
> No member of the commission shall be responsible, except to the Government appointing him, for any action or omission as such member.
>
> When all the amounts due from Germany and her allies under the present treaty or the decisions of the commission have been discharged and all sums received, or their equivalents, shall have been distributed to the powers interested, the commission shall be dissolved.

Mr. President, I am not going to read the duties of the commission under the finance clauses, but it has a very wide power even under the finance clauses. Thus you see something of the powers, the jurisdiction, and the duties of the Reparation Commission. It is a receivership for three nations in the heart of Europe, and you could no more separate the duties and liabilities and responsibilities of the United States from those of other powers than you could fence off a square mile of water in the ocean. These vast and intricate problems, taxes, reparation customs, transportation, shipping, are a unit, and we must do our whole part once we sit in the game of running the affairs of these nations.

Mr. NEW. Mr. President——

The PRESIDING OFFICER (Mr. ROBINSON in the chair). Does the Senator from Idaho yield to the Senator from Indiana?

Mr. BORAH. I do.

Mr. NEW. Without conceding that we might at any time join the reparation commission, does not the Senator think that it might be both practical and possible for us, in such an event, to limit our participation in it to those matters which concern and affect us?

Mr. BORAH. Mr. President, I understand what the Senator means, but in my judgment that is utterly impossible. You can not go and sit down with those three or four men there, who have their affairs to look after on a common commission, and say, "Now, I will be bound only as to those things which affect me." If France, for instance, should say, "I will be bound only as to those things which affect me," you would have no commission; and I venture to say to the Senator from Indiana—and I suspect he knows it better than I do—that the President of the United States will resent the Congress sitting here trying to tell his agent what he shall do six months from now, sitting upon that commission, under conditions which the Senate of the United States can not possibly foresee. The President will say to you, and he will say properly: "No human mind, no finite power, can tell the multitude of questions, the intricacies, and the involvements, and the sudden conditions which will arise upon the reparation commission. You must trust your President and the executive department and the State Department, who are in touch with the situation, knowing conditions which we may not even want to make public, to use our own discretion in the matter;" and that is what you will have to do. The law which creates that power will be a very simple proposition. I should not be a particle surprised to see it take the form of a joint resolution, simply declaring that we have elected to go in, and authorizing the President to appoint a commissioner. I do not believe that the Secretary of State for a moment would undertake to administer the rights of the United States in that difficult situation with strings or limitations upon the power of the agent over there. He could not give them to him himself. Besides, Mr. President, I refer again to the proposition that we can not go in under those conditions. We have got to do what it is necessary for us to do in order to carry out the entire program.

Now, Mr. President, just a few words more with reference to the peculiarity of the Reparation Commission, which I believe we are just as good as a member of to-night.

The commission, as I said a moment ago, is a government possessing the attributes of sovereignty. It has power to legislate, or, rather, to issue decrees which the German Government must put in the form of legislation, which is the same thing. It has the superior power. It has quasi, if not complete, judicial power. It certainly has executive power. They are all combined in one commission, perfectly vicious to the conception of an American as a government. It is a government also which is created to rule over another people by people other than those over whom it is to rule. It is like the old Roman prætor, sent out from the city of Rome with undefined and uncircumscribed power to administer to the people over whom he was sent as in his judgment he saw fit. This Reparation Commission is not only a foreign body but it is specifically provided that it shall sit in a foreign city, that its headquarters shall be in the city of Paris; and there in the atmosphere of the enemy, in the atmosphere of those who are doubtless actuated by a feeling akin not only to that of hate but of fear, this foreign body makes its decrees, enters its judgments, and calls upon the German people to execute them.

I beg of you to consider with me how long it will be until the German people will refuse to execute those decrees. Human nature is human nature. You can not even shoot it out of a person; and no people in the world with any self-respect or with the animating passions which belong to the human heart, will long take their decrees from a foreign body sitting in a foreign city. They may say some day: "If this is peonage, if this is slavery, we prefer death;" and it would be the most characteristic thing if they should say it; and in that hour, we having

sat upon the commission, what will be our duty? What shall we do?

But that is not the worst of it, Mr. President. It is especially provided in the charter which creates this commission that it shall not only have this power, but it is a secret body. It is not even legislating in the open. The charter itself which creates it and brings it into existence provides that its sessions shall be in secret; and this is the body which, in my opinion, we are taking the first step to join—a foreign body, with absolute control, judicial, legislative, and executive combined, and a secret body, in contravention to every principle which animates the heart of an American citizen.

Mr. FRANCE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Maryland?

Mr. BORAH. If he will ask a real short question.

Mr. FRANCE. I will.

I do not understand that the Senator is arguing that such a commission as that could under any circumstances, even though we might have membership upon it, bind the United States. I would remind the Senator that sometimes a commission proposes and the Senate of the United States disposes, and I anticipate that that will be the situation in the future.

Mr. BORAH. What would be the situation as indicated by the Senator from Maryland?

Mr. FRANCE. The situation would be that no commission of that character will ever bind the United States of America, under any circumstances, whether we have membership on it or whether we have not. The destinies of this country are determined by the legislative bodies of this country, and so it will always be.

Mr. BORAH. Very well. In other words, Mr. President, the Senator accentuates the proposition that we are going to stay in as long as we like it, and we will "kick out" when we do not. We are to send a man over there; if we like his acts we will stand by them, if we do not we repudiate our agent. It is not practical and it would not be honorable.

Mr. President, there is a law stronger than constitutional law, stronger than legislative law, and that is the moral law, and it finally wins. While I agree with the Senator as an actual fact that we could repudiate it, because we have the power to do it, I venture to say that if we sit upon that commission the Senate of the United States will execute the decrees which it inaugurates. We can not stand before the world and refuse to do it. Our eyes are open. We know what we are joining. We are joining a despotism; we are joining a secret body; we are joining an unlimited power; and we say to the world that we are joining it and we propose to help execute it. What will be the position of the United States if it refused to do so?

I have already referred to the proposition that the commission shall have the power to interpret the treaty; that it has the taxing power; that it determines the amount Germany shall pay; that it has entire charge of the bonding, revenue, and financial system; in short, that it has autocratic and complete power over the wealth, the health, and the life of an entire people; in fact, three peoples. It is the most absolute and despotic form of government since the time of the Roman prætors. It is clear also that this power over Germany must to a great degree control the affairs of the entire Continent of Europe.

Germany is the most powerful economic unit in Europe. The Central Powers were altogether the most powerful economic factor in Europe; and when we undertake to administer the affairs of Germany, Austria, and Hungary, we must ramify and extend our interests into every conceivable enterprise, interest, and business, and all the politics of the entire Continent of Europe. We must deal with all the nations of Europe. We must adjust the tariffs of all the nations of Europe. We must be a part of the financial system of Europe. We must deal with the exchange system of Europe. We must deal with the transportation system of Europe. We are a European power.

As I said a moment ago, Mr. President, if I felt that we did not have any intention of going into this commission, I should not be wasting the time of the Senate nor trespassing upon the patience of the body by its discussion. But feeling as I do, that this is the destiny which awaits us, I do not know of any way to fight a battle except to fight in every ditch to which you are forced to fall back.

Mr. President, there are two other features of the Versailles treaty which I want to discuss later, if I have the time; I am not going to ask the indulgence of the Senate now to do so. But, Mr. President, my aversion to the Versailles treaty, to principles upon which it is built, the old imperialistic policies which have brought the world into sad ruin, makes it impossible for me to ever vote for any treaty which gives even moral recognition to that instrument. That alone would prevent me from voting for this treaty.

I am not forgetful, I trust, of the times and circumstances under which the Versailles treaty was written. They were extraordinary; they were without precedent. All the suffering and passions of a terrible war, led by the intolerant spirit of triumph, were present and dominant. It was a dictated treaty, dictated by those who yet felt the agony of conflict and whose fearful hours of sacrifice, now changed to hours of victory, thought only in terms of punishment. It was too much to expect anything else. We gain nothing, therefore; indeed, we lose much by going back to criticize or assail the individuals who had to do with its making; it was a treaty borne of a fiendlike struggle and also of the limitations of human nature. So let its making pass.

But three years have come and gone since the war, and we have now had time to reflect and to contemplate the future. We have escaped, I trust, to some extent the grip of the war passion and are freer to think of the things which are to come rather than upon the things which are past. We have had time not only to read this treaty and think it over, but we have had an opportunity to see its effects upon peace and civilization. We know what it is now, and if we recognize it and strengthen it or help to maintain it, we will not be able to plead at the bar of history the extenuating circumstances which its makers may justly plead. We see now not alone the punishment it would visit upon the Central Powers, but we see the cruel and destructive punishment it has visited and is to visit upon millions, many of whom fought by our side in the war. We know it has reduced to subjection and delivered over to exploitation subject and friendly peoples; that it has given in exchange for promises of independence and freedom dependence and spoliation. But that is not the worst. "If it were done when it is done," we could turn our backs upon the past and hope to find exculpation in doing better things in the future. But we know this treaty has in it the seeds of many wars. It hangs like a storm cloud upon the horizon. It is the incarnation of force. It recognizes neither mercy nor repentance, and discriminates not at all between the guilty and the innocent, friend or foe. Its one-time defenders now are frank to admit it. It will bring sorrow to the world again. Its basic principle is cruel, unconscionable, and remorseless imperialism. Its terms will awaken again the reckoning power of retribution—the same power which brought to a full accounting those who cast lots over Poland and who tore Alsace-Lorraine from her coveted allegiance. We know that Europe can not recover so long as this treaty exists; that economic breakdown in Europe, if not the world, awaits its execution; and that millions of men, women, and children, those now living and those yet unborn, are to be shackled, enslaved, and hungered if it remains the law of Europe. All this we know, and knowing it we not only invite the lashings of retribution, but we surrender every tenet of the American faith when we touch the cruel and maledict thing.

When the treaty was written it had incorporated in it the so-called League of Nations. I believe it correct to say the treaty proper was only accepted by Mr. Wilson because the league was attached. I have never believed, I have never supposed, he could have been induced to accept this treaty, so at variance with every principle he had advocated and all things for which he had stood, had he not believed the league in time would ameliorate its terms and humanize its conditions. In that, of course, I think he was greatly in error.

In my opinion the league, had it been effective at all, would have been but the instrument to more effectually execute the sinister mandates of the predominant instrument. Under the treaty the league would have quickly grown into an autocracy, an autocracy based upon force, the organized military force of the great powers of the world. But now, so far as we are concerned, the league has been stricken from the document. The sole badge of respectability, the sole hope of amelioration, so far as American advocates were concerned, now vanish. With the league stricken out, who is there left in America, reared under the principles of a free government, to defend the terms and conditions of this treaty? There it is, harsh, hideous, naked, dismembering friendly peoples, making possible and justifying the exploitation of vast populations, a check to progress and at war with every principle which the founders interwove into the fabric of this Republic and challenging every precept upon which the peace of the world may be built. For such a treaty I loath to see my country even pay the respect of recognition, much less to take anything under its terms.

Mr. President, some nation or people must lead in a different course from the course announced by this treaty and its policies

or the human family is to sink back into hopeless barbarism. Reflect upon the situation. We see about us on every hand in the whole world around conditions difficult to describe—a world convulsed by the agonies which the follies and crimes of leaders have laid upon the people. Hate seems almost a law of life and devastation a fixed habit of the race. Science has become the prostitute of war, while the arts of statecraft are busy with schemes for pillaging helpless and subject peoples. Trade is suspended, industry is paralyzed, famine, ravenous and insatiable, gathers millions into its skeleton clutches, while unemployment spreads and discontent deepens. The malign shadows of barbarism are creeping up and over the outskirts of civilization. And this condition is due more to the policies which the political dictators of Europe have imposed upon that continent since the armistice than any other one thing. Repression, reprisal, blockades, disregard of solemn pledges, the scheming and grabbing for the natural resources of helpless peoples, the arming of Poland, the fitting out of expeditions into Russia, the fomenting of war between Greece and Turkey, and, finally, the maintenance of an insurmountable obstacle to rehabilitation in the Versailles treaty—how could Europe, how can Europe, ever recover? Is there no nation to call a halt? Is there no country to announce the gospel of tolerance and to denounce the brutual creed of force and to offer to a dying world something besides intrigue and armaments?

In this stupendous and bewildered crisis America must do her part. No true American wants to see her shirk any part of her responsibility. There are no advocates of selfishness, none so fatuous as to urge that we may be happy and prosperous while the rest of the world is plunging on in misery and want. Call it providence, call it fate, but we know that in the nexus of things there must be something of a common sharing, all but universal and inexorable in the burdens which these great catastrophies place upon the human family. It is not only written in the great book but it is written in the economic laws of nature—"Bear ye one another's burdens." We do not differ as to the duty of America, we differ only as to the manner in which she shall discharge that duty.

We say to surrender her ancient policies or give up her great maxims of liberty means not service to mankind, but means the extinction of the last great hope of civilization. America can not be of service to the cause of humanity nor true to herself, she can not show her friendship to the world nor loyalty to her own, by accepting or recognizing, much less encouraging or joining, these policies and programs which are wrecking Europe. We can not serve the cause of reconstruction or of rebuilding by encouraging or taking advantage of this vast scheme of repression and destruction. We can not be loyal either to our own or to others by abandoning the policies which have made us great and strong; by surrendering the maxims of justice and liberty, of reason and tolerance, and accepting the creed of tooth and claw—the supreme law of the jungle. Neither can we long retain our self-respect, nor the respect of others, by having our ambassadors and agents sitting about the councils and commissions of Europe like human hawks to prey with others upon the oil wealth of Mosul or of Mesopotamia, or perchance gather some moiety of trade from plundered peoples and then take wing in case the victim stirs. This Republic, the Republic of Washington and Lincoln, can not afford to pursue such a course, at once so futile and so ignominious. It is not to her interest or to the interest of the world that she do so. Undoubtedly by reason of our participation in the war and by the terms of the armistice we have the technical right to demand our portion of the spoils, but we have a higher right and a more commanding right to insist that these peoples shall not be despoiled of their wealth and left eternal paupers in the poorhouse of the world. We want trade; we want to secure trade. We have always wanted it and we have always secured it in an honorable and successful way. But the nation which can see no other way to power save through intrigue and overreaching; which knows no other source of law than that of force; which refuses to recognize there is a thing called justice, a law of right and wrong, the law by which all governments must at last be tested, can never be a strong nation, a powerful nation, regardless of the amount of its trade or of the extent of its territorial dominion. It has been said that opinions alter, manners change, creeds rise and fall, races come and go, nations dominate and depart, but the moral law remains. The Versailles treaty, in my judgment, is the most pronounced negation of that moral law which has yet been crystalized into form by the hand of man. It must in the end, after working what evil and enforcing what misery it may, also perish. I want no favor from its terms. I want no recognition of its policy.

Mr. President, one of the revolting monstrosities born of this war, the illegitimate offspring of secret diplomacy and violence, is the absurd, iniquitous belief that you can only have peace through martial means—that force, force, is the only power left on earth with which to govern men. I denounce the hideous, diabolical idea, and I insist that this Government ought to be counted against all plans, all treaties, all programs, all policies, based upon this demoniacal belief. Let us have an American policy. Or, if the word "American" be considered by some as provincial or distasteful—a term of incivility—then let us have a humane policy, a Christian policy, a policy based upon justice, resting upon reason, guided by conscience, and made dominant by the mobilized moral forces of the world.

I hear them say unsafe, impractical, powerless, insecure. I assert it is the only hope—the only escape from barbarism. Properly led, properly organized by a great people like this it will win, it will dominate, it will bring order out of chaos. When Woodrow Wilson went to Europe, carrying with him a new code, he could have overthrown any ministry in Europe, so strong was public opinion, so irresistible the moral purposes of the masses. Now, by what means did he secure this power? By the power of an idea, by an appeal to the better side of man's nature—a plea for liberty, a plea for justice, a plea for reason. But they closed the doors. Behind the doors intrigue and barter and surrender dominated. When the doors opened the new code had disappeared. A treaty of militarism and imperialism, oppression, and exploitation came in its stead. A treaty which Clemenceau has declared is but a continuation of the war. Public opinion fell away. The people lost hope, the liberal forces of the world became disorganized. Discontent and despair reigned throughout Europe. Democracy gave way to bolshevism. Rapine and murder and war and famine now curse the face of the whole Continent. Ruthlessness triumphed. Everything which we were told the Prussian would do if he won the war this treaty does to some one or to some people. There is not a principle of Bernhardi but may be found in this treaty. How can we compromise with it? How can we take favors of this betrayal of a race?

Be not deceived, my friends, God is not mocked. "What a man soweth, that shall he also reap"—a law which obtains with nations as with men. You know the fate that awaited the despoilers of Poland—the brand of Cain was upon the guilty nations from the hour the partition was finished. They now stand at the judgment bar of an overruling Providence, humiliated and dishonored, broken and bleeding. You know the judgment, swift and condign, as we measure the life of nations, that awaited the author of the crime of Alsace-Lorraine. The Saar Basin, upper Silesia, and Danzig, to say nothing of others, carry with them the same seeds of war, the same weird promise of retribution. You know that Shantung bodes ill to the world's peace. You know that Syria and Mesopotamia and Egypt, after being promised freedom and independence, are now being reduced to subjection and despoiled of the wealth which is theirs. Why prolong the story? The laws of justice may be thwarted for a time, but they can not be permanently suspended. The rule of righteousness is no respecter of persons or of peoples. Dare we longer connive at this program? After all the bloody past, are we longer to defy the divine law of justice? Are we still unmindful of the doom which awaits the strong nation which tramples upon the rights of the weak? Shall we not be advised by all history and by our own sense of right that "They shall not rule who refuse to rule in righteousness"? I confess it stirs all the wrath of my being, it disappoints me to think that this Republic is to recognize or take from or advantage in any way by this instrument. I would have striven in every possible way to have avoided recognition of that which I conceive to be a conspiracy against justice, against peace, against humanity, and against civilization.

Mr. WILLIAMS obtained the floor.

Mr. LENROOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Wisconsin?

Mr. LENROOT. The Senator from Idaho promised to yield for questions when he had concluded his speech.

The PRESIDING OFFICER. The Senator from Mississippi has the floor. Does he yield to the Senator from Wisconsin?

Mr. WILLIAMS. I yield for a question.

Mr. BORAH. The Senator from Mississippi has the floor, and with his indulgence I shall be glad to answer any question.

Mr. LENROOT. I wish to ask the Senator from Idaho one or two questions. In response to the query of the Senator from Indiana [Mr. NEW] the Senator from Idaho expressed the opinion that the President would resent any attempt upon the part of Congress to limit our participation upon the Reparation Commission. I wish to ask the Senator from Idaho whether the treaty of Versailles itself does not deny full participation upon the Reparation Commission to all except four nations?

Mr. BORAH. Yes; as to the times she sits. But that does not have anything to do with the question which I answered, as I see it.

Mr. LENROOT. Let us see. Does not the treaty of Versailles deny Japan, one of the principal allied and associated powers, participation upon the Reparation Commission except as to damages at sea and matters especially concerning Japan?

Mr. BORAH. I so understand.

Mr. LENROOT. If that be true, why does the Senator from Idaho say that in his opinion the President would resent our partial participation when that is the rule?

Mr. BORAH. That is a different proposition entirely. Japan has no limitation upon the proposition to which the Senator refers, excepting as to the times in which she shall sit, and that is written in the treaty. But what I said is that in my opinion the President would say that it is impossible for us to foretell what the different terms and conditions and situations will be, and the Congress can not say that the commissioner shall be permitted to vote upon this question or to take part in that question, because the Congress can not know in advance what all the intricacies and involvements will be.

Mr. LENROOT. Exactly; and the participation of the American commissioner can be confined to questions where the interests of the United States are concerned.

Mr. BORAH. Very well. We will confine it to questions where the interests of the United States are concerned, although no man except the man on the ground can say as to when, where, and how the United States is concerned. Who is going to decide where the interests of the United States are involved? Who will decide it? The man who is there knowing all the circumstances and details as they arise.

Mr. LENROOT. In many cases or most of the cases under the reparation clauses it is clear that the United States is not concerned at all.

Mr. BORAH. But we have to leave the decision to somebody.

Mr. LENROOT. Exactly. I suppose it would be left with our own Government, with instructions to the commissioner.

Mr. BORAH. I presume it will, and our Government would instruct our commisioner to vote only where the United States was concerned. How can Congress put anything into the law except a general proposition that he shall only act where the United States is concerned, which is no limitation at all, in fact? But what would be the situation if it were possible to really limit his powers, take away his discretion?

Mr. LENROOT. That is the point I was making. Does the Senator think the President would resent such a limitation of our participation, confining him to where the interests of the United States are involved?

Mr. BORAH. No; I do not think he would; but where the United States is concerned would depend upon a multitude of questions, and we would have nothing to do with that whatever.

Mr. LENROOT. On the other hand, it is clear that there are many things regarding which everybody would agree that the United States was not concerned.

Mr. BORAH. I doubt that. I read of men sitting upon commissions over there now, advising with reference to things with which, so far as I am informed, the United States has no concern whatever.

Mr. LENROOT. One other question. The Senator stated that in his opinion the treaty of Versailles was an unconscionable treaty, and he also stated that if we secure any benefits under the treaty we are under a moral obligation to enforce its unconscionable terms.

Mr. WILLIAMS. Mr. President, I thought I was yielding to one Senator to ask another Senator a question and for the other Senator to reply. I did not know I was yielding to a long and extended altercation.

Mr. BORAH. I think I can answer briefly.

Mr. WILLIAMS. If the one Senator is through asking the question and the other Senator is through replying, I should like to proceed.

Mr. BORAH. I take it when we sit there with the Reparation Commission, we can not make the rules to suit ourselves, and we can not determine for ourselves what is to be enforced and what is not. Japan will be sitting with us. Japan may have some affairs in Shantung which she does not want to come up for discussion at all. If they do come up for discussion she will checkmate us in our affairs; therefore we sit silent, and we permit Japan to enforce her decrees or her judgment or her wishes with reference to her affairs. If it becomes necessary in order to get her rights, Japan may say, "We want your cooperation," and if we are intertwined with them, if we are mingled with their affairs, we must take into consideration their interests as well as our own, and when we get through the entire treaty as a unit will be the subject of enforcement, and we shall have to help do it.

Mr. LENROOT. But that is not what the Senator said——

Mr. WILLIAMS. Mr. President, I decline to yield any further.

The PRESIDING OFFICER. The Senator from Mississippi has the floor and declines to yield further.

APPENDIX.

CORRESPONDENCE.

REVISE THE TREATY OF VERSAILLES!

(From the Nation.)

To the EDITOR OF THE NATION:

SIR: More than two years have now elapsed since the Central Powers sued for peace and actual fighting between them and the Entente ceased. Even yet, however, the world is not at peace; nowhere have normal conditions of life been restored, while over lands inhabited by hundreds of millions of people it has not been possible even to begin the work of restoration. To us as to many thousands more this is a profound disappointment not only because such a state of things is deplorable in itself but because of the high hopes that might reasonably have been entertained in November, 1918.

The Allies, it must be remembered, one and all accepted as a basis for the future peace the famous fourteen points of President Wilson. Whether, in any case the Central Powers would then or later have been compelled to surrender at discretion, it is certain they had every right to expect a settlement substantially on the basis then laid down. And had the terms ultimately imposed at Versailles been conceived in the spirit to which this program committed the Entente, it is certain that immeasurably greater progress in the task of reconciliation and reconstruction would have been made ere now. The fourteen points not only represented the opinion of President Wilson but they put into definite shape ideas that had been forming in the minds of thinking people ever since the world began.

The Union of Democratic Control in this country and similar organizations abroad had familiarized the world with the ideas of (1) democratic control in foreign politics, (2) increased freedom of international trade, (3) reduction of armaments, (4) self-determination of peoples, and (5) a League of Nations.

The peace treaty has been dictated by men who have proclaimed, but have not followed, these ideals. It is a settlement, not arrived at by any "general association of nations," but dictated by the victors in the Great War. It has not secured a diplomacy proceeding "frankly and in the public view," as the discreditable intrigues with the Russian adventurers in arms against the bolsheviks and the secret agreement between France and Belgium show. It has not prevented the blockade of a great part of Europe in peace time. It has done nothing to check the drift of central Europe into famine and revolution.

The revision of the Versailles treaty in the light of modern international thought, of the prearmistice utterances of President Wilson culminating in the fourteen points, and even in the earlier utterances of the Entente statesmen themselves is imperative. This revision should be carried out by the representatives of all nations, irrespective of the parts they played during the Great War, and should aim at:

1. The abrogation of all clauses in the treaty which demand ruinous and unworkable indemnities and other crippling economic conditions.
2. The immediate and general reduction of armaments.
3. The publication and registration of all existing treaties and understandings with a definite repudiation by each power of any secret understandings to which it may be committed.
4. The honest application of the principle of self-determination, with adequate safeguards for racial minorities.
5. The provision of adequate credits to countries ruined by the war, accompanied and conditioned by a wide extension of freedom of trade.
6. The immediate admission, on the same terms as those admitting the original framers of the league, of any nation desirous of joining the League of Nations.
7. An adequate supervision of the mandates by the league in order to secure the liberty and well-being of the native races and an open door for trade.

The world has taken the wrong road and has manifestly lost its way; it can only recover it by retracing its steps to the signpost erected by those who had studied the path to peace. To preserve civilization, now manifestly threatened by destruction, it is necessary to go back to the policy identified with the 14 points and to the widespread world ideal which it embodies.

A. Aall (professor of philosophy at University of Christiania), William A. Albright, Norman Angell, Lord Ashton of Hyde, Lady Barlow, Henri Barbusse, Sir Hugh Bell, H. N. Brailsford, Charles Roden Buxton, Noel Buxton, Lady Byles, Edward Carpenter, Lord Henry Cavendish Bentinck, Lady Courtney, A. C. Drolsum (chief librarian University of Christiania), Miss M. E. Durham, Very Rev. Moore Ede, Norman Garstin, Principal A. E. Garvie, Lady Dorothea Gibb, Y. Gleditsch (dean of the diocese of Christiania), Gen. Gough, Mrs. M. A. Hamilton, Knut Hamsun (Nobel-prize winner in literature for Sweden), Carl Heath, J. A. Hobson, Jerome K. Jerome, Rudolf Kycken (professor at University of Upsala), R. C. Lambert, H. B. Lees Smith, Sir H. S. Leon, Lucien Le Foyer (secretary general of Délégation Permanente des Sociétés Françaises de la Paix), Jean Longuet (editor of Le Populaire), Earl Loreburn, J. Ramsay Macdonald, Mme. Magdeleine Marx, Y. Meinich (former mayor of Christiania), Lord Mersey, F. Merttens, S. Michelet (professor of theology at University of Christiania), P. A. Molteno, Oscar Montelius (Ph. D., LL. D., Stockholm), E. D. Morel, Dr. W. E. Orchard, Lord Parmoor, Sir George Paish, Arthur Ponsonby, Arnold Rowntree, Miss Evelyn Sharp, G. Bernard Shaw, F. J. Shaw, Robert Smillie, Mrs. Ethel Snowden, Philip Snowden, Ben Spoor (M. P.), Mrs. H. M. Swanwick, Gustaf F. Steffen (Ph. D., professor at University of Gothenburg), Bishop Y. Tandberg (Norway), Brig. Gen. C. B. Thomson, Gouttenoire de Courcy, Charles P. Trevelyan, Ben Turner, E. A. Walton, P. R. S. W., R. S. A., Prof. James Ward, Lady Warwick, Israel Zangwill.

LONDON, *April 18.*

Mr. WILLIAMS. Mr. President, in a somewhat extended public life, I have never been very much afraid of a charge of inconsistency. I have thought it was better to be right than to be consistent. I have thought that if my opinion expressed last week was honest, and that a contrary opinion expressed this week was equally honest, they were both worthy of my own respect, whether of other people's regard or not. But I find myself in a position now where I think it well to avoid a charge of inconsistency.

Some time ago when the question of this treaty was up in the Foreign Relations Committee I said, when the Secretary of State was present and either did or could have heard it, that I "expected to vote for this treaty." In saying that I was guided by two notions. In the first place, the American people had just declared, mistakenly as I thought, ingloriously as I believed, that while they were willing to accept all the benefits of victory they were not willing to undergo any of the war and common burdens and were perfectly willing to shift all the war's responsibilities.

I thought to myself in a moment of pessimism, "But I am dealing with this incalculable Yankee Nation," as Tom Carlyle called it, and the people after all constitute the Republic. They have said what they want, and we might just as well let the other side have it. If the people want to disgrace themselves by declaring that they are not a part of the civilized world, that they are isolated from its most precious interests and its most glorious purposes and that they propose to walk a pathway for themselves alone, a sort of American Sinn Fein "for ourselves alone," it is their affair and it is not mine. Let them have it and let them even have the inglorious conclusion of a separate treaty with Germany which was denounced by the senior Senator from Massachusetts [Mr. LODGE] upon this floor as being the most disgraceful thing that an American could contemplate.

I was in a moment of pessimism. I thought not only to satisfy public sentiment in that way, to let the tail go with the hide, but I thought this, too: The American people have been persuaded, rightfully or wrongfully, that a state of peace with Germany is not a real peace, that a technical state of war with Germany can not coexist with a real peace. Of course, I knew as a matter of fact there was peace with Germany; that there is now peace with Germany; and that Americans and Germans were trading every day. I knew as a matter of course that the recent sales of cotton to Germany had helped the southern planters very much.

I knew all that. But I thought after all it is a psychological problem. The American people will not be satisfied until somebody can go out on the housetops and say to them, "We have made peace with Germany." I thought if anybody said, "But we have peace with Germany," they would say, "Oh, no; we have been told by both sides in the Senate—by men whose trade it is to talk—that there is 'no peace with Germany.' The Democrats have told us so; the Republicans are now telling us so and are telling us we have to have a treaty in order to have peace." "Let the people have their way." "Throw a sop to Cerberus, bow your head, and let it go."

In that sort of pessimistic frame of mind I uttered the words which a moment ago I quoted, and several times afterwards I repeated them. Then I got to thinking about it, not only in the daytime, when I was pessimistic, but at night; not only in the moments of blues, but in the moments of high thinking for the future of the world, the future which the Senator from Idaho might have helped to consummate if his vision had been long enough and broad enough and not so isolated and provincial.

I am astonished that now he of all men—and I love him very much personally—should object to this treaty, which is almost as selfish as the position which he took in arguing against the covenant of the League of Nations. A man who concludes that there can not be an ultimate or just peace in the world and that every nation must walk its own way, that it must be proud of its own opinion and its own so-called sovereignty, and that America is not its brother's keeper, has now, in a few eloquent words just prior to his conclusion, attempted to tell us that every nation must be to a certain extent its brother's keeper.

Mr. President, in municipal life there are higher things than my individuality or yours or the interests and the welfare and the happiness of both of us, of all of us, of the world, when you come to nations and count them as individuals in the arena of world politics.

Now, the more I began to contemplate this thing in my moments of aspiration and hope for an unselfish, great humanitarian world peace, a "parliament of man and a confederation of the world," the more it began to grow upon me that I could not do what I said I expected to do, until finally, bringing it to consummation not long ago, this morning, thinking about the sacrifice of intellectual integrity that would be necessary upon my part in order to throw this "sop to Cerberus" if I voted for this treaty, it not only palled upon my imagination but it disagreed with the "stomach of my sense" until I began to feel a nausea that was absolutely unconquerable, and I have concluded now that I can not vote for this treaty—not for the reasons given by the Senator from Idaho; not because it entangles us too much in the affairs of Europe; not because it makes us responsible parties in the history and doings of the world; not because it makes us confess that we are a part of the world and are standing nolens volens, shoulder to shoulder, in touch with our brethren in the balance of the world; not because I am seeking isolation; not because I am seeking to shift burdens; but for exactly the opposite reasons, Mr. President; because I do not want to affix my name even sub silentio—and that was the only way in which I intended to affix it by a response to the roll call in this body—to an agreement which leaves out of consideration our allies and associates and the boys who represented them upon the field of battle and who died with our boys there.

Finally, after all is said and all is done, after a temptation to surrender to a political motive, believing as a Democrat it would be wiser to let the treaty pass here and let the responsibility rest with the Republican Party and the reaction come against it, notwithstanding all that feeling, which is a temptation for the time being, "MacGregor is himself again." I regard my own views and my own opinions and my own intellectual integrity as superior even to the policy of my party or of anything else.

Mr. President, this treaty can not be said to be anything else, and even when in my own mind I partially concluded or altogether concluded to vote for it, it still did not present itself to my mind as anything else than an ignominious and inglorious postscript added to one of the most glorious chapters in the world's history in which the American people were dramatis personæ. I felt for a time a little like the Roman officer, Pilate, felt when he said, "Let the mob have its way; they are crucifying this man Jesus, but he amounts to very little; they are intent upon it; they seem to think it is going to do a great deal of good. Let them have it; let it go."

But, Mr. President, I got to thinking about some of the details of it. I recalled to mind the scene in the House of Representatives when the greatest man in modern history, except perhaps David Lloyd-George, was addressing the Congress of the United States, when he was promulgating the purposes of the war and the conditions upon which alone we should be willing to cease to make war upon Germany. I remembered that upon that occasion this man, the latchet of whose shoes those who are now criticizing him are unworthy to untie, said another thing:

> The great wrong done to France in 1870–71 must be undone.

In other words, Elsass-Lothringen, or, as the French call it, Alsace-Lorraine, must be restored to France, where her people want to be. I looked around at that moment to see who was applauding. Every Republican Senator and Representative who was present, as well as all Democrats, were applauding.

One of the minor humiliations of the pending treaty is that we now expressly agree with Germany that we have nothing to do with that announced purpose of the war; we expressly deny all responsibility for the political boundaries of the German Empire; we expressly deny the responsibility for taking Alsace-Lorraine back from the robbers, who kept her for a generation, and even deny ourselves the credit of giving her back to her mother.

I remember another thing which occurred upon that occasion. It was said that Belgium must be made safe. The Versailles treaty makes a rectification of the boundaries between Belgium and Germany, giving to Belgium a small territory—I do not now remember how much—with a small population, I believe, of less than 10,000, but giving into her charge the passes, so that she can fortify herself for self-defense, a thing that she could not do before. This treaty expressly denies that we can be held responsible for enabling Belgium to protect herself in the future should another German robber Government undertake to walk over her prostrate body, she having done nothing, with no excuse for German enemies except that thereby it may more easily reach the desired goal. For that we have expressly declared we will not be responsible.

Mr. President, at the moment when my mind first dwelt upon our failure to get a recognition of the new boundaries of France, including Alsace and Lorraine as a part of France, I said to the Secretary of State before the committee, "This treaty does not seem to involve any agreement by Germany with

us that the new boundaries of Germany after the session of Alsace-Lorraine are, upon that particular border, to be respected."

I inquired, "Do you think your commissioner could have gotten an agreement to that effect?" He very frankly replied that he did not know. Mr. President, of course they could have gotten it, because Germany had already made an agreement in the Versailles treaty to that effect, and she certainly could not have objected to it in a treaty with us, and we would not have been assuming a burden that even an isolated, provincial, "parish monger" of an American could object to. But I thought to myself it does not make much difference about that, because if Germany would violate the treaty with France and England effected at Versailles, she would not mind violating two treaties. So I let that go for the time being, but the more I thought about it the more detestable and humiliating it seems to me that we should effect an agreement with Germany without saying one word about one of the sine qua non purposes of war declared by the President of the United States amidst the tumultuous applause of both Houses of Congress gathered in the Hall of the House of Representatives.

Another thought occurred to me at the time that made me rather not so strenuous about an agreement on Germany's part recognizing to us as well as to the remainder of the world the Alsace-Lorraine boundary, and that was this: I thought then, and I think now, that the militaristic party has possession of France, and I thought that Mr. Wilson and David Lloyd-George had been compelled by the apprehensions of the French people, their perhaps reasonable apprehensions, to agree to a thing which I am certain neither one of them of his own volition ever would have agreed to, and that was that the German people in Austria should never be permitted to unite themselves with the German people in the new German Republic.

The conduct of France in that respect reminded me a little bit of the woman who was not afraid of a burglar but knocked him down with a shovel, and then got scared to death about a mouse. It seemed to me, inasmuch as the Versailles treaty had been predicated upon the proposition that people of any common language ought to have a common government, being generally of a common race, that that ought to apply in justice as well to our enemies as to our friends; that when we formed a separate government in Czechoslovakia of Bohemians and Moravians, one race and one language; when we formed a separate government of the Serbs in old Serbia, Bosnia, and Herzegovina and in Croatia under the name of the Jugo-Slav Republic; and when we had inaugurated a separate government for the people of Poland, "the fair land of Poland," which has suffered so much, that every man who spoke the German language had an equal right to be under a German Government. I thought that then, and I think it now, and I think that France is standing in her own light when she objects to it, because she leaves in lots of German hearts, to use her own words, a spirit of "revenche," which is not quite the synonym of the English word "revenge," but is at once revenge and "getting even," "getting it back," "restituting all things" to one's self. I believe it would be better for France to do that. I thought at the time, and I think now, that the only hope of destroying Prussian predominancy in Germany—and it was Prussianism more than Germanism that threatened the world—is to put the 6,000,000 people who occupy little Austria into the German Empire.

What has been done instead? What is it that France insists upon out of a pure spirit of fear, like the woman who knocks the burglar in the head with a pair of tongs and then gets afraid of a mouse. She insists that Austria shall remain independent, with a city of 2,000,000 people and hardly no population outside of it, with no possible economic life in front of it, with no possibility of either transportation for its manufactures or bringing in agricultural products needed to feed its people, simply because France does not want 6,000,000 more Germans in the German Empire. What difference does it make? They will be living, will they not, whether they are in the German Empire or not? They will be enemies of France, will they not—and much more dangerous enemies of France—whether they are in the German Empire or not? When I have several enemies, I should like to have them all with just one head and one neck, so that I may know where to find them. So that thought occurred to me, and I said to myself, "Oh, well; I do not feel so bad about Alsace-Lorraine since France is not willing to do the same justice with regard to the German population of Austria as with regard to Alsace-Lorraine. That was a part of that moment of pessimism and disgust and desperation that led me to make that remark about "expecting to vote for the treaty." I am not excusing it. I am not justifying it. I am not apologizing for it. I am merely confessing the inconsistency. I am saying that while day before yesterday I was almost ready to swear I would vote for this treaty, I am to-day plenteously able and willing to swear that I will not under any circumstances vote for this treaty. I do not want my children to see that I even voted sub silentio for this thing that was denounced even by the Senator from Massachusetts—and if denounced by him it must have been awfully mean and selfish—as the most inglorious and contemptible thing of which we could be guilty.

Mr. President, there are some things to which I want to call the attention of the Senate, not because the Senate does not know them, for everybody here knows them.

I hear constant prating about dissevering ourselves from Europe, and having nothing to do with Europeans—the "great and splendid isolation of the American Republic." Why, if a man came down here from Mars and heard that sort of talk he would imagine that you and I were not Europeans, whereas as a matter of course we are Europeans, all of us except the Negroes and the North American Indians—Europeans by race, though not by territoriality; and race is supreme over nationality and territoriality, and always will be so.

Get rid of the affairs of Europeans and their interests and their aspirations, their past, and their present? Why, you are asses if you think you can get rid of their past. It is in your bone and your blood and your body. You are little short of asses if you think you can get rid of it in the present. This very treaty is proving that we are trying now to get rid of a little of it; and you are dreamers if you think you can be anything but Europeans all your lives, whether you come from Norway or from France or from Wales or from England or from Scotland, or whencesoever else you come from the Old World.

Mr. President, that brings me down to this:

There are certain Epropean questions that must be settled before this great disarmament conference can reach any practical result. France must receive assurance of safety. France can not disarm even now, much less when we withdraw our troops from the Rhine, with Germany lying crouching, ready to spring. It is unreasonable to expect her to do it. Clemenceau tried to bring around the assurance of safety among the French people by the agreement of the French-English-American treaty. I was in favor of its ratification by this body, and as far as I know I am the only Member of the Senate who was. If there were any others, none of them ever "spoke out in meeting." I believed all the time that if we had entered into that agreement to protect France from unprovoked attack by Germany there never would have been a German attack. There never would be now. But instead of doing that we have entered into a treaty with her in which we expressly deny that we are parties to her new political boundaries, in which we shift all burden and responsibility as a part of the Versailles treaty for the return of Alsace and Lorraine and the rectification of the Belgian boundary!

The disarmament of the world can take place to-morrow, when that conference meets, provided that treaty between Great Britain, France, and the United States—not aggressive, not offensive, but merely to protect France against any future aggression and offensive warfare by the German people—shall be agreed to. There will be no burden. There will be no responsibility. It will be like a father saying to a child, "If you touch that, I will knock you down." The child will not touch it. But France naturally feels that if she is thus isolated in Europe—we have already given notice as far as we are concerned that she is isolated from any express agreement, at any rate, and she has been taught for generations to distrust Great Britain as Albion perfide—perfidious Albion—and that Great Britain will leave her in the lurch whenever the slightest imperial interest demands it, she must keep up her army.

Another thing must be assured before anything can come out of that conference. Great Britain must be assured that her people in the two islands can not be starved to death for lack of protection of the trade channels overseas. Eight weeks of lack of importation of foodstuffs would starve the British people. Great Britain, therefore, must either keep a navy that shall control the trade channels of the world across the seas or she must have an agreement between the several parties to this conference that capture of private property on the high seas, especially foodstuffs, shall not take place at all.

I picked up the last Literary Digest. These two points were noted in an article by somebody, I have forgotten now by whom. Another was noted, and that was that Japan must have an egress for her overpopulation, a place under the sun to live in—not a place under the sun, like Germany's ambition, to rule in, but a place to live in. I think we had better quit our needless and useless talk about the Japanese peaceably interpenetrating in certain parts of the world. Let them go; see to it that there is an open door; see to it that their interpenetration in-

dividually is not accompanied by governmental power and militaristic control; see to it that she does not come to your own shores if you do not want her, but leave her free to go everywhere else where people permit her to come.

Mr. President, it seems to me that when the Senator from Idaho [Mr. BORAH] is talking so much about the disarmament of the world, he must keep in mind the necessary conditions antecedent and precedent to any possible disarmament. This treaty with Germany, before us now, is an ignominious postscript to one of the most glorious chapters in the history of the world. I tried to get my consent to vote for it. For a time I did get my consent. I just thought: "The people want it. They think it will do good. I do not think it will do much good myself, but perhaps it may. Let it go." But, as I said in the beginning, the more closely I contemplate the food upon the dish the more it revolted the stomach of my sense, and it has created a nausea that I can not overcome; and I thought it was due to myself, after a previous utterance, to explain why my vote will not agree with what I then thought it would be.

Mr. President, the Senator from Idaho spent some time—and after this thought I am going to quit—talking about eschewing all force in the world. Now, I suppose that if there be a man upon this floor who is notorious as a peace lover and a peace seeker, that man is probably I; but I have never been absurd enough to think that any peace could exist in this world without force behind it to enforce it. I am perfectly aware of the fact that no decree of any court is worth the paper it is written upon unless there be a sheriff behind the court, that no decision of any justice of the peace is worth the idle air into which it is uttered unless there be a constable ready to support it, and that neither sheriff nor constable with court and justice of the peace is worth a cent unless there be behind them both the force of the community to carry out the law.

I was very much amused to find the present Chief Justice, formerly president of the League to *Enforce* Peace—enforce peace!—all at once finding that the only thing that he did not quite agree with in the covenant of the league was that it might be *enforced*. That was after his party had lined up in opposition to Woodrow Wilson, and when, like most of us politicians, it seemed advisable, if possible, to line himself up with the party. But he was the president of a league to *enforce* peace, and the only objection he ever made to the covenant was that it wanted to enforce it.

Mr. KING. Will the Senator object to my calling his attention to the fact that Mr. Roosevelt, in his Nobel peace speech and also in several of his books, stated that force would be necessary to enforce a league of peace and to preserve the peace of the world; and that the strong nations should form a union for the purpose of compelling any recalcitrant nation to keep the peace of the world?

Mr. WILLIAMS. Certainly. But, Mr. President, I did not refer to that for two reasons: First, because I never argue with the dead; in the second place, because I knew Mr. Roosevelt very well, and I knew his very queer habit of "thinking out loud." He thought one thing on Monday, he thought another thing on Saturday, and he expressed them both; and I always rather admired that trait about him, because when I thought two different things, if I happened to think them out loud, followed his example and it did not make any difference to me, provided I was equally sincere both times. But I never argue with the dead. There is no use in it, and they have no chance to come back. But some of these gentlemen who signed that ever-memorable card announcing that there was much more certainty of getting a league of nations under Harding, and that we would get it much quicker, than under Wilson, are living, and I can argue with them. Therefore I referred to the Chief Justice's queer position.

I was myself a member of the League to Enforce Peace, but when the present Chief Justice prevailed upon the league to "enforce" peace to agree to a resolution that they would not "enforce" anything, then I sent in my resignation.

Mr. President, no man who has any common sense expects to accomplish any good result in this world except upon the basis of either actual or potential force. Every religion, in trying to make people good, threatens them with some form of hell fire, or future punishment, and even if there be no form of hell fire, it is a very useful belief; it helps a fellow to behave himself.

No court can carry out its decrees, no Congress can expect its laws to be obeyed without potential force. The only question is whether it shall be a force upon the side of war and violence and law breaking or whether it shall be a force upon the side of law and peace keeping. You have to have one or the other, and the only question is, What shall be the greater force? I am not charging you Republicans with anything very wrong, because the people agreed with you in the election, for the nonce, at any rate, but every one of you agreed that you would not be a party to the force of the better purpose, even if you left the world in anarchy, left every part of it to be the prey of the worse purpose wherever they chose. So far as you were concerned you would not even agree to enforce the Lord's Prayer if it were necessary. If you carried the same system into your domestic affairs you would not agree to enforce the law against murder or theft; you would merely promulgate some general opinions to the effect that they were both wrong and that you were not in favor of them.

There is nothing more certainly written in the book of fate, whether you like it or whether you do not, than this, that if the civilization and supremacy of the civilization of the white race is to exist in this world, and to continue to exist, it must be through some form of federated union for the enforcement of peace, or else the time will come when some new Genghis Khan, with a power of organizing and disciplining ignorance and violence, shall turn upon a disunited Europe the hordes of Asia—the private soldiers probably chiefly Chinese, the generals and other officers chiefly Japs. Your civilization may be perpetuated, but it can not possibly be perpetuated except under the protection of the shadow of the wings of a great angel representing a just and permanent peace.

I do not mean by that that nations will never fight. When a State passes a law appointing conservators of the peace and enjoining conservation of the peace, and punishing peace disturbers, it has never yet succeeded in keeping some people from fighting; but when they do fight, the law comes in and takes the disturber of the peace, the aggressor in the fight, the starter of the row, by the scruff of the neck, and throws him in jail. That is what the treaty of Versailles, under the covenant of the League of Nations, proposed to do; but you said, "It is all right with the balance of the world, but you can not ever take the American people by the scruff of the neck. We will not stand that." I expect many a very good fellow in the original state of society, when they first began to pass laws against every man taking the law into his own hands, said that, too. He probably said, "I do not mean by that so much Mr. WATSON or Mr. ROBINSON, who have high tempers, or Mr. REED, because he does not always know whom he is going to hit next. But that does not apply to me. I am a gentleman and do not propose to take the offensive against anybody anyhow, so you must not have any law that takes me by the scruff of the neck."

The Senator from Idaho [Mr. BORAH] occupies a most peculiar position. He comes here first wanting to keep us out of alliances. The treaty of Versailles was no alliance. The Senator from Idaho wants to keep us out of trouble and out of war, when the very object of the agreement was to keep us out of exactly those things. Now he comes to-day telling us that he does not believe in force of any description, but that we must rely upon some high idealism of some sort, and a few months ago he was denouncing the idealism of Woodrow Wilson.

Even Woodrow Wilson was never idealist enough to suppose that any good purpose could be accomplished, even by world agreement, without potential force behind it, and actual force if necessary. You could not keep order in this Chamber, as august a body as it is, unless it was understood that the Sergeant at Arms could arrest a man who was violating the rules of the body when he undertook to cudgel another who was differing with him in debate, and in our earlier and less trained days even that did not do much good. We had to bring them up and punish them by a vote of the body.

Mr. President, I can not give my consent to vote for this treaty, notwithstanding my past expressions. Even if I have to conclude that JOHN SHARP WILLIAMS has been mistaken, I am rather reconciled to the idea by the fact that in some of the 67 years of my life I think I can venture the statement that I have been right oftener than wrong, and have come to the conclusion afterwards that what I had previously said had no particular sense to it.

But in this particular case I had a talk with my friend CARTER GLASS, of Virginia, this morning, and CARTER and I both concluded that you could swallow this dish if you wanted to, and we were willing to try it if we thought it would do a great deal of public good, but that really it created a nausea that would make us throw up the food before we got it plumb down.

EXECUTIVE SESSION.

Mr. CURTIS. I move that the Senate proceed to the consideration of executive business with closed doors.

The motion was agreed to; and the doors were closed. After 10 minutes spent in secret executive session the doors were reopened.

RECESS.

Mr. CURTIS. I move that the Senate take a recess until 12 o'clock to-morrow.

The motion was agreed to; and (at 5 o'clock and 5 minutes p. m.) the Senate, in open executive session, took a recess until to-morrow, Tuesday, September 27, 1921, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate September 26, 1921.

SECRETARY OF THE TERRITORY OF HAWAII.

Raymond C. Brown, of Hawaii, to be secretary of the Territory of Hawaii, vice Curtis Piehu Iaukea, term expired.

SURVEYOR GENERAL OF CALIFORNIA.

John Plover, of San Francisco, Calif., to be surveyor general of California, vice Louis H. Mooser, resigned.

APPOINTMENT IN THE OFFICERS' RESERVE CORPS OF THE ARMY.

MEDICAL OFFICERS' RESERVE CORPS.

Sanford H. Wadhams to be brigadier general, Medical Officers' Reserve Corps, from September 6, 1921.

PROMOTIONS IN THE NAVY.

MARINE CORPS.

Lieut. Col. Charles T. Westcott to be a lieutenant colonel in the Marine Corps from the 4th day of June, 1920, to correct the date from which he takes rank as previously nominated and confirmed.

Lieut. Col. Frederick A. Ramsey to be a lieutenant colonel in the Marine Corps from the 5th day of June, 1920, to correct the date from which he takes rank as previously nominated and confirmed.

Lieut. Col. Chandler Campbell to be a lieutenant colonel in the Marine Corps from the 4th day of July, 1920, to correct the date from which he takes rank as previously nominated and confirmed.

Lieut. Col. Walter E. Noa, assistant quartermaster, to be an assistant quartermaster in the Marine Corps, with the rank of lieutenant colonel, from the 21st day of February, 1921, to correct the date from which he takes rank as previously nominated and confirmed.

Lieut. Col. Earl H. Ellis to be a lieutenant colonel in the Marine Corps from the 6th day of April, 1921, subject to the examinations required by law, to correct the date from which he takes rank as previously nominated and confirmed.

First Lieut. George Bower to be a captain in the Marine Corps from the 1st day of July, 1921.

Second Lieut. William H. Faga to be a first lieutenant in the Marine Corps from the 1st day of July, 1921.

Second Lieut. Herman H. Hanneken to be a first lieutenant in the Marine Corps from the 1st day of July, 1921.

Second Lieut. Daniel R. Fox to be a first lieutenant in the Marine Corps from the 1st day of July, 1921.

Second Lieut. William Ulrich to be a first lieutenant in the Marine Corps from the 1st day of July, 1921.

Second Lieut. Ralph W. Culpepper to be a first lieutenant in the Marine Corps from the 1st day of July, 1921.

Second Lieut. Herbert C. Bluhm to be a first lieutenant in the Marine Corps from the 1st day of July, 1921.

Second Lieut. Lloyd R. Pugh to be a first lieutenant in the Marine Corps from the 1st day of July, 1921.

Second Lieut. David H. Owen to be a first lieutenant in the Marine Corps from the 1st day of July, 1921.

Second Lieut. William W. Scott to be a first lieutenant in the Marine Corps from the 1st day of July, 1921.

Second Lieut. Henry A. Riekers to be a first lieutenant in the Marine Corps from the 1st day of July, 1921.

Second Lieut. Brownlo I. Byrd to be a first lieutenant in the Marine Corps from the 1st day of July, 1921.

Second Lieut. Lemuel A. Haslup to be a first lieutenant in the Marine Corps from the 1st day of July, 1921.

Second Lieut. Floyd W. Bennett to be a first lieutenant in the Marine Corps from the 1st day of July, 1921.

Second Lieut. Harry E. Leland to be a first lieutenant in the Marine Corps from the 1st day of July, 1921.

Second Lieut. John A. McShane to be a first lieutenant in the Marine Corps from the 1st day of July, 1921.

Second Lieut. Edwin U. Hakala to be a first lieutenant in the Marine Corps from the 1st day of July, 1921.

CONFIRMATIONS.

Executive nominations confirmed by the Senate September 26, 1921.

COLLECTOR OF CUSTOMS.

Millard T. Hartson to be collector of customs, customs collection district No. 30.

RECEIVER OF PUBLIC MONEYS.

Arthur L. Lewis to be receiver of public moneys at Great Falls, Mont.

REGISTERS OF THE LAND OFFICE.

Walter E. Bennett to be register of the land office at Great Falls, Mont.

Irving D. Smith to be register of the land office at Seattle, Wash.

Ivan G. Bishop to be register of the land office at Vancouver, Wash.

PUBLIC HEALTH SERVICE.

Howard F. Smith to be surgeon in the Public Health Service.

Lon C. Weldon to be surgeon in the Public Health Service.

Kenneth F. Maxcy to be assistant surgeon in the Public Health Service.

Milton V. Veldee to be assistant surgeon in the Public Health Service.

LeGrand B. Byington to be assistant surgeon in the Public Health Service.

POSTMASTERS.

FLORIDA.

Emma S. Fletcher, Havana.
Daniel H. Laird, Millville.
Henry A. Drake, Port St. Joe.

GEORGIA.

Jessie Gunter, Social Circle.

SENATE.

TUESDAY, *September 27, 1921.*

(Legislative day of Monday, September 26, 1921.)

The Senate met in open executive session at 12 o'clock meridian, on the expiration of the recess.

The President pro tempore (Mr. CUMMINS). The Senate is in open executive session.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Alabama suggests the absence of a quorum. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ball	Frelinghuysen	Lenroot	Robinson
Borah	Gerry	Lodge	Sheppard
Brandegee	Glass	McCumber	Shields
Broussard	Gooding	McKellar	Simmons
Calder	Hale	McKinley	Smoot
Cameron	Harreld	McLean	Spencer
Capper	Harris	McNary	Stanley
Caraway	Harrison	Moses	Sterling
Colt	Heflin	Nelson	Sutherland
Culberson	Hitchcock	New	Swanson
Cummins	Johnson	Nicholson	Townsend
Curtis	Kellogg	Oddie	Underwood
Dial	Kendrick	Overman	Wadsworth
Dillingham	Kenyon	Page	Walsh, Mass.
Edge	King	Penrose	Watson, Ga.
Ernst	Ladd	Pomerene	Watson, Ind.
Fletcher	La Follette	Reed	Willis

The PRESIDENT pro tempore. Sixty-eight Senators have answered to their names. There is a quorum present.

Mr. LODGE. Mr. President, I move that the Senate proceed to the consideration of legislative business.

The motion was agreed to.

The PRESIDENT pro tempore. The Senate is in legislative session.

Mr. PENROSE obtained the floor.

Mr. BORAH. Will the Senator permit me to introduce a resolution?

Mr. PENROSE. I yield for that purpose.

REPRESENTATION ON REPARATION COMMISSION.

Mr. BORAH. I submit a resolution which I ask to have read, and in view of the fact that the Senator from Pennsylvania desires to proceed with the tax revision bill I simply ask that it may lie on the table.

The PRESIDENT pro tempore. The Secretary, for information, will read the resolution.

The resolution (S. Res. 147) was read, as follows:

Resolved, That the Secretary of State be, and he is hereby, requested to advise the Senate, if not incompatible to the public interests—

First. Whether the United States, or the Executive department, has any representative or agent at the present time in any way connected with the Reparation Commission, or any subcommission thereunder, under the Versailles treaty; and if so, in what capacity he is acting.

Second. Whether a Mr. Boyden at one time represented the United States, or the President, on the Reparation Commission; and if his connection has ceased, give the date on which it ceased.

Third. Whether a Col. Blanton Winshop and a Mr. Kiplinger were connected with subcommissions of the Reparation Commission at any time; and if their relationship has ceased, give the dates on which they ceased to be connected with said subcommissions.

The PRESIDENT pro tempore. Is there objection to the introduction of the resolution? The Chair hears none, and it will lie on the table.

TAX REVISION.

Mr. PENROSE. I move that the Senate proceed to the consideration of the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. PENROSE. Mr. President, as I understand it, the bill has been read as it passed the House of Representatives and came to the Senate and it is now before the Senate and open to amendment. That being the parliamentary status of the measure, which I think it important to have distinctly understood as there has been some confusion in connection with it——

Mr. SIMMONS. Mr. President, we can not hear the Senator because there is so much talk going on in the back part of the Hall.

The PRESIDENT pro tempore. The Senate will be in order.

Mr. PENROSE. Shall I repeat my statement for the benefit of the Senator?

Mr. SIMMONS. I did not hear what the Senator said.

Mr. PENROSE. I stated for the information of the Senate that the bill is now before the Senate and was read on yesterday as it came from the House of Representatives to this body, and it is now open to amendment. The first amendments to be considered are the committee amendments. There is a very large number of those amendments. The great bulk of them are of a very minor technical nature, relating in a very great number of cases to matters of administration. I think it would expedite the passage of the bill and simplify it for the intelligent consideration and understanding of Senators if these minor amendments could be considered and disposed of. They are what I may describe as unobjected amendments or amendments that are not objected to.

I therefore ask to have the amendments of the committee read in their order, and, as they are objected to or agreed to, passed over or disposed of. Then the amendments which are not disposed of will come up for debate and consideration. This method will further, in my opinion, greatly simplify the method of debate. Instead of Senators making speeches, or attempting to make them, of an academic character on the whole bill, we can have those speeches, which will be illuminating and important, made upon the high spots of the measure, many of which embody and comprise important and distinct issues.

I therefore ask, if there is no objection, that the Secretary proceed—and I hope we may have order in the Chamber while this rather important preliminary is going on—I ask that the Secretary read the amendments and that the unobjected ones may be considered.

Mr. REED. Mr. President——

The PRESIDENT pro tempore. The Chair ought to state at this moment that he is not very familiar with the occurrences of yesterday, but he is informed that there has been no agreement as yet made that the committee amendments shall be first considered.

Mr. PENROSE. No; but it would be usual and natural to consider the committee amendments first. However, of course, if any Senator has an amendment that he desires to have considered first, and can justify the request, it may be that I would not stand in the way.

The PRESIDENT pro tempore. Is there objection to the consideration of the committee amendments first?

Mr. SIMMONS. Mr. President, if the Senator from Pennsylvania will allow me, I think it has been the general course——

Mr. PENROSE. Mr. President, there is so much conversation in the Chamber that I can not hear the Senator from North Carolina.

Mr. SIMMONS. I said that I think it has been the usual course in the consideration not only of this bill but practically of all bills to have an order entered at the beginning.

Mr. PENROSE. Mr. President, unless we can have order in the Chamber I shall have to insist that we suspend proceedings. There is a conference going on immediately in front of the Senator from North Carolina, shared in by three Senators.

The PRESIDENT pro tempore. The Senate will be in order. The Chair understands that the Senator from North Carolina does not object to the order asked by the Senator from Pennsylvania, and therefore it is so ordered.

Mr. REED. Mr. President, I addressed the Chair, not trying to obstruct this matter, but I should like to have it clear. I think the Senator from Pennsylvania [Mr. PENROSE] inadvertently did not state the matter as the Chair understands it. I do not understand that the Senator from Pennsylvania has asked that the committee amendments shall be first considered. On the contrary, as I understood, he has stated that other amendments might be considered.

Mr. PENROSE. I am asking, Mr. President, for unanimous consent to consider the committee amendments. The request I make is purely to dispose of the unimportant committee amendments, which constitute the great bulk of the bill, in order to facilitate the labors of the Senate.

Mr. REED. If I understand the Senator, he asks unanimous consent that we first consider committee amendments; that those not objected to shall be adopted; and if there is objection to any particular amendment, it shall be temporarily passed over and reserved for future action?

Mr. PENROSE. Yes.

Mr. REED. I have no objection to that.

The PRESIDENT pro tempore. The Chair hears no objection to the request of the Senator from Pennsylvania, and it is agreed to. The Secretary will state the first committee amendment.

Mr. SMOOT. Mr. President, throughout the bill the instances are many where it has been desirable to get rid of superfluous quotation marks. Those quotation marks, together with the numeral or word immediately following or preceding have been stricken through and the exact numeral or word has been reinserted without the quotation marks. There also are numerous instances where the word "commissioner" begins with a small "c," where it has been stricken through, and the word "Commissioner" has been reinserted beginning with a capital "C." I ask that all such amendments may now be considered en bloc, and that they be now agreed to. That method will save time and simplify the proceedings.

If Senators desire to know what I mean, and any of them will turn to page 7 of the bill, they will find that the first word in line 9 (b) is stricken out; the quotation mark is also stricken out; and the paragraph then begins with a "b" in italics inclosed in parentheses.

Mr. McCUMBER. Mr. President, if the Senator's suggestion be adopted I am afraid there are many instances running through the bill where there will be a misunderstanding as to what has been agreed to en bloc and what has not been agreed to. Inasmuch as those amendments are immaterial, it seems to me that we might save time by simply agreeing to them as we go along. There are not very many of them, and I believe that there will be danger of our running into some amendments as to which there will be a claim that they have not been included in the agreement suggested by the Senator from Utah that certain amendments shall be agreed to en bloc.

Mr. SMOOT. My request was made in order to get rid of the superfluous quotation marks to which I have referred. I do not see why we should take up the time of the Senate in about 300 or 400 cases in the bill in repeating the words over and over again when such purely formal amendments do not make a particle of difference in the meaning of the bill. The amendments to which I have referred are simply designed to get rid of the quotation marks, and that is all there is to it.

Mr. REED. Let what the Senator from Utah suggests be the agreement with the understanding that if any dispute arises, if any Senator thinks that more has been included in the request than ought to be, he shall be at perfect liberty, without a motion to reconsider the vote whereby the amendments were agreed to, to have the matter he has in mind taken up.

Mr. SMOOT. Certainly.

Mr. PENROSE. That is entirely acceptable. I ask that the Secretary now proceed to state the committee amendments.

The PRESIDENT pro tempore. The Secretary will state the unanimous-consent agreement which has been asked for by the Senator from Utah [Mr. SMOOT].

The ASSISTANT SECRETARY. The unanimous-consent agreement asked for by the Senator from Utah [Mr. SMOOT] is that where quotation marks are reported by the Committee on Finance to be stricken from the bill and some number or word following those quotation marks has been stricken out and

the numbers or words following or preceding have been reinserted in exact terms, that all such amendments be now considered en bloc and agreed to.

Mr. REED. With the understanding that at any time any Senator without a motion to reconsider may bring any of those changes before the Senate for consideration.

The PRESIDENT pro tempore. In the absence of objection, that will be the understanding.

The ASSISTANT SECRETARY. It is also proposed that where the word "commissioner" is begun with a small "c" and is reported by the Committee on Finance stricken through and is reinserted with a capital "C," such amendments shall be considered en bloc and be now agreed to.

The VICE PRESIDENT. Is there objection to the request? The Chair hears none, and the amendments as proposed are agreed to. The Secretary will state the first amendment which has been reported to the bill by the Committee on Finance.

The first amendment of the Committee on Finance was, on page 1, line 3, to strike out the heading "Title I. Definitions," and to insert in large capitals "Title I.—General Definitions."

The amendment was agreed to.

The next amendment was, in section 1, page 1, line 5, before the word "act," to strike out "This" and to insert "That this," so as to read:

SECTION 1. That this act may be cited as the "revenue act of 1921."

The amendment was agreed to.

The next amendment was, on page 1, after line 6, to strike out section 2, as follows:

SEC. 2. Terms defined in the revenue act of 1918 shall, when used in this act, unless the context otherwise indicates, have the same meaning as when used in the revenue act of 1918, as amended by this act.

And to insert:

SEC. 2. That when used in this act—

(1) The term "person" includes partnerships and corporations as well as individuals;

(2) The term "corporation" includes associations, joint-stock companies, and insurance companies;

(3) The term "domestic" when applied to a corporation or partnership means created or organized in the United States;

(4) The term "foreign" when applied to a corporation or partnership means created or organized outside the United States;

(5) The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia;

(6) The term "Secretary" means the Secretary of the Treasury;

(7) The term "Commissioner" means the Commissioner of Internal Revenue;

(8) The term "collector" means collector of internal revenue;

(9) The term "taxpayer" includes any person, trust, or estate subject to a tax imposed by this act;

(10) The term "military or naval forces of the United States" includes the Marine Corps, the Coast Guard, the Army Nurse Corps (female), and the Navy Nurse Corps (female), but this shall not be deemed to exclude other units otherwise included within such terms; and

(11) The term "Government contract" means (a) contract made with the United States, or with any department, bureau, officer, commission, board, or agency under the United States and acting in its behalf, or with any agency controlled by any of the above if the contract is for the benefit of the United States, or (b) a subcontract made with a contractor performing such a contract if the products or services to be furnished under the subcontract are for the benefit of the United States. The term "Government contract or contracts made between April 6, 1917, and November 11, 1918, both dates inclusive," when applied to a contract of the kind referred to in clause (a) of this subdivision, includes all such contracts which, although entered into during such period, were originally not enforceable, but which have been or may become enforceable by reason of subsequent validation in pursuance of law.

The amendment was agreed to.

The next amendment was, at the top of page 4, to strike out the heading as follows:

Title II.—Income tax amendments.

and to insert lines 2, 3, and 4, as follows:

Title II.—Income tax. Part 1.—General provisions; definitions.

The amendment was agreed to.

The next amendment was, on page 4, after line 4, to strike out:

SEC. 201. Section 200 of the revenue act of 1918 is amended by adding at the end thereof two new paragraphs to read as follows:

And to insert:

SEC. 200. That when used in this title—

(1) The term "taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed under section 212 or section 232. The term "fiscal year" means an accounting period of 12 months ending on the last day of any month other than December. The first taxable year, to be called the taxable year 1921, shall be the calendar year 1921 or any fiscal year ending during the calendar year 1921.

Mr. REED. Mr. President, I desire to ask the chairman or some other member of the committee what is the effect of that change?

Mr. McCUMBER. That is no change; that is the law as it now stands.

Mr. REED. The committee have stricken out nearly three lines.

Mr. McCUMBER. There is a change in the number of the section; that is all the change that is made there.

Mr. REED. Is that all?

Mr. McCUMBER. Yes; all which appears printed in capitals is the old law as it now stands.

Mr. REED. That was not included in the House bill, but is brought into this bill. Very well.

The PRESIDENT pro tempore. The question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

The next amendment was, on page 4, after line 18, to insert:

(2) The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person, trust, or estate;

(3) The term "withholding agent" means any person required to deduct and withhold any tax under the provisions of section 221 or section 237.

Mr. LA FOLLETTE. Mr. President, if I can have the attention of the chairman of the committee for a moment, I desire to have paragraph 4 and paragraph 5, on page 5, passed over; and if it could be understood now that when any Senator desires a section may be passed over, if he is certain regarding the matter without waiting for the reading of the section, time might be saved by asking when the section or provision is reached to have it passed over.

Mr. PENROSE. I think the Senator's request, Mr. President, is entirely proper, but it will be just as well, perhaps, to give a very brief opportunity for explanation, because it may be that a word of explanation might result in the request being withdrawn.

Mr. LA FOLLETTE. Possibly that is so.

Mr. PENROSE. I know the Senator has an interest in this matter, and I cheerfully acquiesce that the paragraphs may go over.

Mr. LA FOLLETTE. I will wait until they are read, if the Senator prefers that course.

Mr. PENROSE. I am perfectly willing that they shall go over without being read, if the Senator desires.

Mr. LA FOLLETTE. I merely made the suggestion in the interest of saving time.

Mr. PENROSE. I think the suggestion is a good one, but I think the Senator will agree that, perhaps, an opportunity to explain on the part of some member of the committee might cause the objection to be dropped. I ask that the paragraphs mentioned by the Senator from Wisconsin may go over, namely, paragraphs 4 and 5.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McCUMBER. I inquire if all of the amendments on page 4 have been agreed to?

The PRESIDENT pro tempore. Will the Senator from Wisconsin state again what portion of the bill he desires passed over?

Mr. LA FOLLETTE. I ask to have passed over paragraphs 4 and 5, on page 5, from line 1 to line 22, inclusive.

The PRESIDENT pro tempore. The portions indicated by the Senator from Wisconsin will be passed over; and, without objection, the amendment on page 4 is agreed to.

The next amendment was, on page 5, after line 22, to insert:

(6) The term "paid," for the purposes of the deductions and credits under this title, means "paid or accrued" or "paid or incurred," and the terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under section 212; and

(7) The term "personal-service corporation" means a corporation whose income is to be ascribed primarily to the activities of the principal owners or stockholders who are themselves regularly engaged in the active conduct of the affairs of the corporation and in which capital (whether invested or borrowed) is not a material income-producing factor; but does not include any foreign corporation, nor any corporation 50 per cent or more of whose gross income consists either (1) of gains, profits, or income derived from trading as a principal, or (2) of gains, profits, commissions, or other income, derived from a Government contract or contracts made between April 6, 1917, and November 11, 1918, both dates inclusive.

The amendment was agreed to.

The next amendment was, on page 6, after line 19, to strike out:

SEC. 202. (a) Subdivisions (a), (b), (c), and (d) of section 201 of the revenue act of 1918 are amended to read as follows:

The amendment was agreed to.

Mr. KELLOGG. Mr. President——

Mr. PENROSE. Mr. President, I ask to have sections 201 and 202 go over, to give the Senator from Minnesota an opportunity later on to address himself to them.

The PRESIDENT pro tempore. Upon request of the Senator from Pennsylvania, sections 201 and 202 will be passed over.

Mr. LA FOLLETTE. From what page to what page?

Mr. PENROSE. From line 24, on page 6, down to line 4, on page 15.

The PRESIDENT pro tempore. All beginning with the word "dividends," on line 23, page 6, down to and including line 4, on page 15, will be passed over.

The next amendment was, on page 15, after line 4, to insert:

INVENTORIES.

SEC. 203. That whenever in the opinion of the commissioner the use of inventories is necessary in order clearly to determine the income of any taxpayer, inventories shall be taken by such taxpayer upon such basis as the commissioner, with the approval of the Secretary, may prescribe as conforming as nearly as may be to the best accounting practice in the trade or business and as most clearly reflecting the income.

Mr. KING. Mr. President, may I inquire of the committee—whichever member has this matter in hand—whether it is the purpose of this amendment to authorize the commissioner to determine the form of inventory which shall be followed by all business houses in the United States that would be subject to these provisions, regardless of the efficiency and honesty of the methods pursued by business houses in carrying their inventories and ascertaining their liabilities, assets, and so forth?

Mr. PENROSE. Mr. President, the provision is existing law, without any alteration, and is now being administered without any great complaint having been called to my attention. Where the books of a concern are accurate and kept in a businesslike way I am informed that they are accepted by the Treasury Department without question.

Mr. SIMMONS. Mr. President——

Mr. PENROSE. The law says that the best accounting practice in the trade or business is to be followed. That is all that is necessary. There is no trouble about this.

Mr. KING. Let me say to the Senator that there have been some complaints.

Mr. PENROSE. There may be.

Mr. KING. Not many have been brought to my attention, but some, that arbitrary requirements have been made by the department with respect to the form of inventories. Certain businesses have established a method of inventorying their business which have met their requirements, and which are regarded by them and by others as being fair and honest, and a true reflection of the condition of the business; and it has been felt by some that to abandon accepted standards of business, adopted by business men, to conform to the whims and caprices—and I do not use those terms at all offensively—of officials works a very serious hardship.

Mr. PENROSE. Mr. President, if the Senator will pardon the expression, let me take absolute issue with him on that point. The department does not make any arbitrary rules of accounting. The law compels the Internal Revenue Department to compel the taxpayer to follow the best accounting practice. They do not put their arbitrary methods in force. If there is some concern that can get along more conveniently by not following the best accounting practice, I shall be very glad to have the committee consider any amendment the Senator may offer justifying the acceptance of such an inventory that is framed unlike the best accounting practice.

Mr. KING. If the Senator will pardon me, he knows that experts in accounting differ, as experts in every other line of activity differ, and what some say is the best accounting practice might not be so regarded by many business men. Indeed, methods of accounting are employed by some business men that are frowned upon by experts who claim that they have adopted and advocated the finest accounting system in the world.

Mr. PENROSE. Then I suggest that the Senator offer an amendment providing that the Internal Revenue Department seriously consider the acceptance of accounting practices which are condemned by a very large number of reputable accountants.

Mr. KING. I do not want to offer any amendment. I just wanted the views of the Senator. My attention has been called by two or three persons to what they conceive to be the rather oppressive recommendations of the department. I know nothing about it.

Mr. WATSON of Indiana. Mr. President, if the Senator will permit me, inasmuch as this is the accustomed practice of the department that has been tested and is now the law, and inasmuch as the Senator says that accountants differ, why not permit this to stand just as it is? This is the custom. The Senator says that accountants differ. That is quite true. Then what would be gained by taking up some other system?

Mr. KING. The point I had in mind is this, if the Senator will excuse me——

Mr. WATSON of Indiana. Certainly.

Mr. KING. For instance, Mr. A. in the Senator's own State may have pursued for years a policy of accounting or adopted certain bookkeeping methods. They are condemned by a new administration, by new officials, and a different system is required to be instituted by him in the conduct of his business. It really is a great inconvenience and involves considerable expense for him to depart entirely from the plan which he has pursued and adopt an entirely different system. Now, it may be wise in the interest of the Government to compel a complete abandonment of accepted standards of bookkeeping and accounting adopted by the business men in that State; but I submit that the Government ought to hesitate a long time before it compels business men to abandon their standards of bookkeeping and their standards of inventorying their assets in order to conform to some plan that may be evolved by some officials of the Government, no matter how competent they may be.

I believe in differentiating; and when you attempt to standardize everything, and make individuals conform their personal conduct and their business conduct to standards established by the Government, instinctively people revolt at it, and resent such an attempt, as I do.

Mr. FRELINGHUYSEN. Mr. President——

Mr. KING. I think the Government ought to hesitate to compel an abandonment of accepted standards to put into practice one that may be recommended by the Government.

Mr. WATSON of Indiana. Mr. President, I am informed that the Treasury Department thinks, without division of sentiment among the officials concerned, that this is the proper policy to pursue. Some system must be adopted. This has been tried. While, of course, it has not been found altogether free from objection, nevertheless it has been sympathetically administered, so that no grievances have sprung up in the past because of its administration—that is, none that have not been worked out in a kindly spirit. My judgment is that we had better "bear the ills we have than fly to others we know not of" by the adoption of an entirely new system, other than the one that has worked so well.

Mr. KING. If I may have the attention of the chairman of the committee, I shall not move to pass over this amendment; but if, upon conference with the Senator from North Carolina [Mr. SIMMONS] and other members of the committee, and getting further explanations, I feel that I should like to return to this section, I will submit a motion to reconsider.

Mr. PENROSE. That will be satisfactory.

Mr. SMOOT. Mr. President, on line 13 of the amendment, in the word "clearly," the "y" is left out.

Mr. PENROSE. That has been fixed.

The VICE PRESIDENT. Typographical errors will be corrected in printing. The question is on agreeing to the amendment, which has been stated.

The amendment was agreed to.

The next amendment was, on page 15, after line 14, to strike out:

SEC. 204. Section 204 of the revenue act of 1918 is amended to read as follows:

The amendment was agreed to.

The next amendment was, on page 15, line 17, to insert the heading "Net losses"; in line 18, before the numerals "204," to strike out the quotation marks and "Sec." and to insert "Sec."; in line 19, after the word "resulting," to strike out "after December 31, 1920"; in line 20, before the word "business," to insert "trade or"; in line 23, before the word "business" in line 24, to insert "trade or"; in line 25, after the numerals "234," to strike out "of this act"; on page 16, line 1, before the word "gross" in line 2, to strike out "The" and to insert "the"; in line 4, before the word "business" in line 5, to insert "trade or"; and in line 5, after the word "amounts," to insert "received as dividends and," so as to make the paragraph read:

NET LOSSES.

SEC. 204. (a) That as used in this section the term "net loss" means only net losses resulting from the operation of any trade or business regularly carried on by the taxpayer (including losses sustained from the sale or other disposition of real estate, machinery, and other capital assets, used in the conduct of such trade or business); and when so resulting means the excess of the deductions allowed by section 214 or 234, as the case may be, over the sum of the following: (1) the gross income of the taxpayer for the taxable year, (2) any interest received free from taxation under this title, (3) the amount of deductible losses not sustained in such trade or business, (4) amounts received as dividends and allowed as a deduction under paragraph (6) of subdivision (a) of section 234, and (5) so much of the depletion deduction allowed with respect to any mine, oil or gas well as is based upon discovery value in lieu of cost.

The amendment was agreed to.

The next amendment was, on page 16, line 10, before the word "If," to strike out the quotation marks and "(b)" and to

insert "(b)"; in line 12, before the word "that," to strike out "commissioner" and to insert "Commissioner"; and in line 19, after the words "prescribed by the," to strike out "commissioner" and to insert "Commissioner," so as to make the paragraph read:

(b) If for any taxable year beginning after December 31, 1920, it appears upon the production of evidence satisfactory to the Commissioner that any taxpayer has sustained a net loss, the amount thereof shall be deducted from the net income of the taxpayer for the succeeding taxable year; and if such net loss is in excess of the net income for such succeeding taxable year, the amount of such excess shall be allowed as a deduction in computing the net income for the next succeeding taxable year; the deduction in all cases to be made under regulations prescribed by the Commissioner with the approval of the Secretary.

The amendment was agreed to.

The next amendment was, on page 16, after line 20, to strike out:

(c) In ascertaining whether a net loss (as defined in this section) has resulted in any taxable year, the computation shall be made without reference to the provisions of section 207; and if a net loss is established it shall, in the first or second succeeding taxable year or years, be taken into account for the purposes of section 207 as a deduction in computing the ordinary net income as defined in such section.

The amendment was agreed to.

The next amendment was, on page 17, line 3, before the word "The," to strike out the quotation mark and "(d)," and to insert "(c)"; in line 5, after the words "prescribed by the," to strike out "commissioner" and to insert "Commissioner"; and in line 6, after the words "approval of the," to strike out "Secretary.", and the quotation marks, and to insert "Secretary"; so as to read:

(c) The benefit of this section shall be allowed to the members of a partnership and the beneficiaries of an estate or trust under regulation prescribed by the Commissioner with the approval of the Secretary.

The amendment was agreed to.

The next amendment was, on page 17, after line 7, to insert:

(d) If it appears, upon the production of evidence satisfactory to the commissioner, that a taxpayer having a fiscal year beginning in 1920 and ending in 1921 has sustained a net loss during such fiscal year, such taxpayer shall be entitled to the benefits of this section in respect to the same proportion of such net loss which the portion of such fiscal year falling within the calendar year 1921 is of the entire fiscal year.

The amendment was agreed to.

Mr. KING. Mr. President, I rise, for information, to inquire whether this is a reading of the Senate bill textually, or merely a reading of the amendments offered by the Finance Committee of the Senate to the House bill? My understanding was that the order was that the House bill should be read, and then the Senate bill read in full, and then the amendments tendered by the Finance Committee should be taken up for consideration.

The VICE PRESIDENT. The House bill has been read, in accordance with the rule, and the Senate committee amendments are now being read for adoption or rejection.

Mr. KING. Then the order was not to read the bill as reported by the Senate committee?

The VICE PRESIDENT. That is what is now being read. The House text has been read.

Mr. KING. I understand, then, only the amendments tendered by the Senate committee to the bill as it passed the House are now being read?

The VICE PRESIDENT. That is correct.

Mr. KING. And the order made yesterday did not involve a reading of the bill as reported by the Senate committee, which would include amendments, as well as the bill as it passed the House to which the amendments were made?

The VICE PRESIDENT. It did not.

The next amendment was, on page 17, after line 14, to strike out:

SEC. 205. Section 205 of the revenue act of 1918 is amended to read as follows.

The amendment was agreed to.

The next amendment was, on page 17, line 17, to insert the heading "Fiscal years 1920-21 and 1921-22"; in line 18, before the numerals "205," to strike out the quotation marks and "Sec.," and to insert "Sec."; in line 22, after the word "under," to strike out "this title (as in force prior to the passage of the revenue act of 1921)," and to insert "Title II of the revenue act of 1918"; on page 18, line 4, after the word "year," to strike out "1921," so as to make the paragraph read:

FISCAL YEARS 1920-21 AND 1921-22.

SEC. 205. (a) That if a taxpayer makes return for a fiscal year beginning in 1920 and ending in 1921, his tax under this title for the taxable year 1921 shall be the sum of: (1) the same proportion of a tax for the entire period computed under Title II of the revenue act of 1918 at the rates for the calendar year 1920 which the portion of such period falling within the calendar year 1920 is of the entire period, and (2) the same proportion of a tax for the entire period computed under this title at the rates for the calendar year which the portion of such period falling within the calendar year 1921 is of the entire period.

Mr. SMOOT. Mr. President, on page 18, line 4, for the figures "1921," proposed to be stricken out, and before the comma, I move to amend by inserting the figures "1921." That has to be done in order to put the comma in there to make the sentence complete.

The VICE PRESIDENT. The Secretary will state the amendment to the amendment.

The ASSISTANT SECRETARY. On line 4, page 18, it is proposed to strike out "1921" and to insert "1921" and a comma.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment was, on page 18, line 6, before the word "amount," to strike out the quotation marks and "Any" and to insert "Any"; in line 7, before the words "on account of," to strike out "the revenue act of 1921" and to insert "this act"; in line 10, before the words "shall be credited," to strike out "this title (as in force prior to the passage of the revenue act of 1921)" and to insert "Title II of the revenue act of 1918," so as to make the paragraph read:

Any amount paid before or after the passage of this act on account of the tax imposed for such fiscal year by Title II of the revenue act of 1918 shall be credited toward the payment of the tax imposed for such fiscal year by this act, and if the amount so paid exceeds the amount of such tax imposed by this act, the excess shall be credited or refunded in accordance with the provisions of section 252.

The amendment was agreed to.

The next amendment was, on page 18, line 15, before the word "If," to strike out the quotation marks and "(b)" and to insert "(b)"; and in line 23, after the word "title," to insert "(as in force on January 1, 1922)," so as to make the paragraph read:

(b) If a taxpayer makes return for a fiscal year beginning in 1921 and ending in 1922, his tax under this title for the taxable year 1922 shall be the sum of: (1) the same proportion of a tax for the entire period computed under this title (as in force on December 31, 1821) at the rates for the calendar year 1921 which the portion of such period falling within the calendar year 1921 is of the entire period, and (2) the same proportion of a tax for the entire period computed under this title (as in force on January 1, 1922) at the rates for the calendar year 1922 which the portion of such period falling within the calendar year 1922 is of the entire period: *Provided*, That in the case of a personal service corporation the amount to be paid shall be only that specified in clause (2).

The amendment was agreed to.

The next amendment was, on page 19, line 5, before the word "If," to strike out the quotation marks and "(c)" and to insert "(c)"; and in line 18, after the word "fiscal" in line 17, to strike out "year" and the quotation marks and to insert "year," so as to make the paragraph read:

(c) If a fiscal year of a partnership begins in 1920 and ends in 1921, or begins in 1921 and ends in 1922, then (1) the rates for the calendar year during which such fiscal year begins shall apply to an amount of each partner's share of such partnership net income (determined under the law applicable to such year) equal to the proportion which the part of such fiscal year falling within such calendar year bears to the full fiscal year, and (2) the rates for the calendar year during which such fiscal year ends shall apply to an amount of each partner's share of such partnership net income (determined under the law applicable to such calendar year) equal to the proportion which the part of such fiscal year falling within such calendar year bears to the full fiscal year.

The amendment was agreed to.

The next amendment was, on page 19, after line 18, to strike out:

SEC. 206. Part I of Title II of the revenue act of 1918 is amended by adding at the end thereof a new section, to take effect January 1, 1922, to read as follows:

The amendment was agreed to.

The next amendment was, on page 19, line 22, in the heading before the word "gain," to strike out the quotation marks and the word "capital" and to insert "capital"; and in line 23, before the word "That," to strike out the quotation marks and "Sec. 207 (a)" and to insert "Sec. 206 (a)," so as to read:

CAPITAL GAIN AND CAPITAL LOSS.

SEC. 206. (a) That for the purpose of this title.

The amendment was agreed to.

The next amendment was, on page 20, at the beginning of line 1, to strike out the quotation marks and "The term 'capital gain'" and to insert "(1) The term 'capital gain,'" so as to read:

(1) The term "capital gain" means taxable gain from the sale or exchange of capital assets consummated after December 31, 1921.

The amendment was agreed to.

The next amendment was, on page 20, at the beginning of line 4, to strike out the quotation marks and "The term 'capital loss'" and to insert "(2) The term 'capital loss,'" so as to read:

(2) The term "capital loss" means deductible loss resulting from the sale or exchange of capital assets consummated after December 31, 1921.

The amendment was agreed to.

The next amendment was, on page 20, at the beginning of line 7, to strike out the quotation marks and "The term 'capital deductions'" and to insert "(3) The term 'capital deductions'"; and in line 11, before the word "defined," to strike out "herein" and after the same word to insert "in this section," so as to read:

(3) The term "capital deductions" means such deductions as are allowed under this title for the purpose of computing net income and are properly allocable to or chargeable against items of capital gain as defined in this section.

The amendment was agreed to.

Mr. WADSWORTH. Mr. President, the remaining amendments on that page are similar to the amendments just agreed to, and may they not be adopted en bloc?

Mr. SMOOT. Mr. President, I thought my motion took in just such cases as this.

Mr. WADSWORTH. Let us do it now, anyway.

The VICE PRESIDENT. There are different numerals inserted.

Mr. WADSWORTH. They are just in sequence.

Mr. SMOOT. I thought the same motion which covered the letters would cover the numerals.

The VICE PRESIDENT. Without objection, all the amendments on page 20 will be considered as agreed to.

The amendments agreed to on page 20 are as follows:

At the beginning of line 12, strike out the quotation marks and "The term 'capital net gain'" and insert "(4) The term 'capital net gain,'" so as to read:

(4) The term "capital net gain" means the excess of the total amount of capital gain over the sum of the capital deductions and capital losses.

At the beginning of line 15, strike out the quotation marks and "The term 'capital net loss'" and insert "(5) The term 'capital net loss,'" so as to read:

(5) The term "capital net loss" means the excess of the sum of the capital losses plus the capital deductions over the total amount of capital gain.

At the beginning of line 18, strike out the quotation marks and "The term 'ordinary net income'" and insert "(6) the term 'ordinary net income,'" so as to read:

(6) The term "ordinary net income" means the net income, computed in accordance with the provisions of this title, after excluding all items of capital gain, capital loss, and capital deductions.

At the beginning of line 22, strike out the quotation marks and "The term 'capital assets'" and insert "(7) The term 'capital assets,'" so as to read:

(7) The term "capital assets" as used in this section includes property acquired and held by the taxpayer for profit or investment (whether or not connected with his trade or business), but does not include property held for the personal use or consumption of the taxpayer or his family, or stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year.

The next amendment was, on page 21, after line 5, to strike out:

(b) In the case of any taxpayer (other than a corporation) whose ordinary net income and capital net gain together exceed $29,000, there shall be levied, collected, and paid, in lieu of the taxes imposed by sections 210 and 211 of this title, a tax determined as follows:

A partial tax shall first be computed upon the basis of the ordinary net income at the rates and in the manner provided in sections 210 and 211, and the total tax shall be this amount plus 12½ per cent of the capital net gain, or minus 12½ per cent of the capital net loss, as the case may be; but in no such case where the taxpayer derives a capital net gain shall the total tax be less than 12½ per cent of the total net income. The total tax thus determined shall be levied, collected, and paid at the same time and in the same manner and subject to the same provisions of law, including penalties, as other taxes under this title.

And to insert:

(b) In the case of any taxpayer who for any taxable year derives a capital net gain, such capital net gain shall, under regulations prescribed by the commissioner with the approval of the Secretary, be stated separately from the ordinary net income in the taxpayer's return; and only 40 per cent of such capital net gain shall be taken into account in determining the amount of the net income upon which taxes are imposed by sections 210, 211, and 230 of this title.

Mr. LENROOT. Mr. President, I ask that the balance of this section be passed over.

Mr. SMOOT. Will the Senator object to having an amendment made on page 22, line 7, simply to omit a comma, in order to make it read correctly?

Mr. LENROOT. I do not object to that.

The VICE PRESIDENT. The Secretary will state the amendment.

The ASSISTANT SECRETARY. On page 22, line 7, strike out the comma with the word "income."

The amendment to the amendment was agreed to.

The VICE PRESIDENT. The amendment, on page 21 and on page 22, to line 15, will be passed over.

The Assistant Secretary proceeded to read the amendment beginning in line 16, page 22, part 2, individual, normal tax, proposing to insert section 210.

Mr. SIMMONS. Mr. President, let that go over.

Mr. LA FOLLETTE. The Senator means the entire section 210?

Mr. SIMMONS. Yes.

Mr. LA FOLLETTE. And section 211 under the heading "Surtax" also?

Mr. SIMMONS. Yes; and section 211.

Mr. PENROSE. Of course, Mr. President, that section is one of the important features of the bill, and obviously it should go over at this time.

The VICE PRESIDENT. On request it will go over.

Mr. SIMMONS. And let section 211, which applies to the surtax, go over.

The VICE PRESIDENT. Section 211 will also be passed over.

Mr. LENROOT. I ask to have printed and lie on the table two proposed amendments to this surtax section.

Mr. SIMMONS. I myself shall desire to offer several amendments to the section.

The VICE PRESIDENT. The amendments will be printed and lie on the table.

Mr. PENROSE. Everything goes over down to line 4, on page 31.

The VICE PRESIDENT. Everything will be passed over, beginning with line 16, page 22, down to and including line 7, on page 32.

The next amendment was, on page 32, after line 7, to strike out:

SEC. 208. Subdivision (a) of section 213 of the revenue act of 1918 is amended to read as follows:

The amendment was agreed to.

The next amendment was, on page 32, after line 9, to insert:

GROSS INCOME DEFINED.

SEC. 213. That for the purposes of this title (except as otherwise provided in sec. 233) the term "gross income"—

On page 32, line 14, before the word "Includes," to strike out the quotation marks and "(a)," and to insert "(a)"; in line 15, after the word "service," to strike out "of whatever kind and in whatever form paid"; in line 17, after the words "in the case of," to insert "the President of the United States, the judges of the Supreme and inferior courts of the United States, and all other"; in line 19, after the word "and," to strike out "employees," and to insert "employees, whether elected or appointed"; in line 22, after the name "District of Columbia," to strike out "whether elected or appointed,"; in line 23, after the words "received as such," to insert "of whatever kind and in whatever form paid"; on page 33, line 6, before the word "community," to insert "marital"; in line 8, before the word "community," to strike out the word "the," and to insert the word "such"; and in the same line, after the word "community," to strike out the word "property," and to insert "property, and shall be taxed as the income of such spouse"; and in line 15, after the word "period," to strike out the word "but," the quotation mark, and the period, and to insert the word "but"; so as to make the paragraph read:

(a) Includes gains, profits, and income derived from salaries, wages, or compensation for personal service (including in the case of the President of the United States, the judges of the Supreme and inferior courts of the United States, and all other officers and employees, whether elected or appointed, of the United States, Alaska, Hawaii, or any political subdivision thereof, or the District of Columbia, the compensation received as such), of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever. Income received by any marital community shall be included in the gross income of the spouse having the management and control of such community property, and shall be taxed as the income of such spouse. The amount of all such items (except as provided in subdivision (d) of section 201) shall be included in the gross income for the taxable year in which received by the taxpayer, unless, under methods of accounting permitted under subdivision (b) of section 212, any such amounts are to be properly accounted for as of a different period; but——

Mr. KING. Let that go over, Mr. President.

Mr. FLETCHER. The whole section?

Mr. KING. The whole section.

Mr. PENROSE. That may go over.

Mr. WATSON of Indiana. That is under the head "Gross Income Defined"?

Mr. KING. Yes; I would like to have it go over.

The VICE PRESIDENT. The matter beginning with section 213 on page 32, beginning with line 10, will be passed over, down to and including line 19, on page 37.

The next amendment was, on page 37, after line 19, to insert:

DEDUCTIONS ALLOWED INDIVIDUALS.

SEC. 214 (a) That in computing net income there shall be allowed as deductions:

The amendment was agreed to.

The next amendment was, on page 37, line 23, before the word "All," to strike out the quotation marks and "(1)", and to insert "(1)"; and on page 38, line 5, after the word "use," to strike out the word "of," and to insert the word "or"; so as to make the paragraph read:

(1) All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered; traveling expenses (including the entire amount expended for meals and lodging) while away from home in the pursuit of a trade or business; and rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity.

The amendment was agreed to.

The next amendment was, on page 38, line 13, after the words "income to the," to strike out the word "taxpayer" and to insert "taxpayer: *Provided*, That in the case of returns made for the taxable year 1921 or 1922 there shall be allowed as a deduction interest paid or accrued during such taxable year and before January 1, 1922, on indebtedness incurred or continued to purchase or carry obligations of the United States issued after September 24, 1917, even though the interest therefrom is so wholly exempt," so as to make the paragraph read:

(2) All interest paid or accrued within the taxable year on indebtedness, except on indebtedness incurred or continued to purchase or carry obligations or securities, the interest upon which is wholly exempt from taxation under this title as income to the taxpayer: *Provided*, That in the case of returns made for the taxable year 1921 or 1922 there shall be allowed as a deduction interest paid or accrued during such taxable year and before January 1, 1922, on indebtedness incurred or continued to purchase or carry obligations of the United States issued after September 24, 1917, even though the interest therefrom is so wholly exempt.

Mr. KING. Mr. President, I would like to inquire of the Senator in charge of the bill as to the propriety of this exemption. I have no view upon the matter to present, but, as I understand it, it is to allow as an offset the interest which the individual paid upon loans made by him for the purpose of purchasing Liberty bonds or other obligations of the Government from which he derived a revenue.

Mr. McCUMBER. That was allowed, if the Senator please, under the existing law. Some time having passed since the purchase of those bonds, the Senator can easily see that one can credit certain borrowings which are being made all the time to the purchase of those Liberty bonds. To correct any injustice which might be done in the future, the House struck out that provision entirely; but the Senate committee desired that the law be not changed during the year 1921. Hence this proviso is offered continuing the old provision during the balance of the year 1921, and after the beginning of 1922 the interest on those amounts borrowed will not be allowed as a set-off.

Mr. SMOOT. It is simply giving notice ahead that after this year there will not be an exemption of the interest allowed on those bonds. In other words, Mr. President, there are many people who have borrowed money to buy Liberty bonds. They are paying interest upon the borrowed money and paying a heavier rate of interest than the bonds are bringing to them. If they are to be taxed upon the interest of those bonds, we want to give them notice ahead so that if they want to sell they can sell. The object is to protect the loyal citizen of this country who bought bonds, put those bonds up as security, and paid more interest to the bank than he was drawing from the bonds.

Mr. KING. May I suggest to my colleague that my information is that some persons who borrowed money to purchase bonds—and did not pledge the bonds as collateral, because they had other collateral—have disposed of the bonds which they acquired, but they have not liquidated their indebtedness. As I understand this provision, it would enable them to escape taxation upon an amount for which otherwise they would be taxed, because they can get a deduction to the extent of the interest which they pay upon that obligation.

Mr. SMOOT. No, Mr. President; they would not get any deduction if they have sold the bonds. It is the interest from the bonds which is exempt from taxation. If they sold the bonds, they are no longer in their possession. It only applies to the person who borrowed money to buy Liberty bonds, and paid more interest to the bank for the money with which he purchased the Liberty bonds than the interest on the bonds.

Mr. KING. May I inquire of my colleague, is it the intention by this provision to credit an individual, who has borrowed money to purchase Liberty bonds, with the amount of the interest which he would pay, as a deduction upon his taxes?

Mr. SMOOT. No; not the amount of interest he would pay, but the amount of interest he received on the bonds. I think this is doing just what the Senator desires.

Mr. KING. If it is limited to that, I have no objection to the amendment.

Mr. HITCHCOCK. Mr. President, it means that a bank, for instance, owning a million dollars worth of 3½ per cent bonds which are exempt can borrow the money of the Federal reserve bank up to a million dollars and be entirely exempt from taxation on the income from that money.

Mr. SMOOT. On the income, yes; and that is the existing law, and all that the Senate of the United States is doing is just what the Senator from North Dakota stated. We are giving simply a decent notice to the purchasers of those bonds, whether they be small or whether they be large, that after January 1, 1922, the interest will not be allowed to be deducted.

Mr. HITCHCOCK. What amount of revenue is involved?

Mr. SMOOT. It is nominal.

Mr. HITCHCOCK. What does the testimony show?

Mr. SMOOT. I think perhaps under this arrangement we will gain a little, and necessarily so.

Mr. McCUMBER. Mr. President, the Senator from Nebraska does not seem to understand that we are dealing with deductions. Under the present law you may deduct from your general income in determining your net income the interest which you pay upon an obligation given to borrow money to buy these tax-free securities. We have decided that that can not be done after January 1, 1922. Therefore the net income will be increased just to that extent, and the taxes received therefrom will be just that much more.

Mr. HITCHCOCK. As I understand it, the House of Representatives decided that it could not be done even this year. What you are doing is to give another year of exemption. You are giving an additional year of exemption to the very large holders of 3½ per cent bonds who are borrowing money upon them.

Mr. McCUMBER. The Senator is mistaken.

Mr. WATSON of Indiana. Mr. President, the Senator will understand that when these Liberty bonds were bought they were bought with the understanding that money could be borrowed for the purpose of buying them. This provision does not affect the revenue. It is simply disallowing the deduction and giving one year's notice to bondholders that hereafter it will be disallowed.

Mr. HITCHCOCK. It does affect the revenue. It reduces the taxes of every man who owns 3½ per cent bonds. We all know that the 3½ per cent bonds have gradually drifted into the hands of the very wealthy interests of the country. So the position which the Senate committee has taken exempts them from this deduction for another year, while the House of Representatives, as I understand it, by omitting the provision, cut them short.

Mr. SMOOT. I will simply say to the Senator that that is the reason why I gave the answer I did. It increases the revenue over the existing law. It does change what the House did by giving notice that hereafter the law will be just as the House provided it should be.

Mr. HITCHCOCK. It gives far more than a notice. It absolutely takes out of taxation those items for the whole year, which is nearly closed, whereas, under the House provision, this is a retroactive law from the 1st day of January of the present year, and the big interests which own the bonds and borrow money on them would not be allowed to deduct the interest.

Mr. SMOOT. I am not worried about the big interests at all, and I had no reference to them, as far as I was concerned, in voting for the provision. I know that in my State there are small investors who did not have a single dollar with which to buy bonds. They were asked to purchase bonds, and they went to the bank and borrowed money and purchased the bonds. I can not say how many millions of them there are in the United States.

It is true that there may be some of the large banks holding these bonds and borrowing money on them from Federal reserve banks, but they are not the people we are looking after or whom we desire to relieve. It is the people who from one end of the country to the other were appealed to to buy these bonds, and I know many of them mortgaged their homes and borrowed money for that purpose. Not only that, but I know of banks which were carrying the loans secured by these bonds, and they have been doing so ever since they were first issued. It does seem to me that we ought to say to those people in the United States that we are not going to allow this deduction after January 1, 1922, and that they must make whatever ar-

rangements they can now to take care of the condition which will then confront them.

Mr. HITCHCOCK. The Senator has designated this as giving them reasonable notice. The point I am making is that it is something far more than giving them notice to dispose of their bonds in saying to them, "You shall be allowed to deduct for the whole year, 12 months, the interest payments you have made from your tax returns," which means a material reduction in the receipt of taxes by the Government.

Mr. SMOOT. The purchasers of those bonds had a perfect right, when we passed the law, to think it was going to continue in effect. Under the existing law they can deduct the interest as long as they hold the bonds. But, as the Senator has said, conditions have changed and many of the bonds have gotten into the hands of large holders and therefore we say to all of them, it does not make any difference who they are, that after January 1, 1922, the interest can not be deducted.

Mr. HITCHCOCK. If this is an important matter and involves a good deal of money, as the Senator indicates——

Mr. SMOOT. No; I did not indicate that.

Mr. HITCHCOCK. It must involve a large amount of revenue. I should like to know from some member of the committee what the testimony shows as to the amount of revenue that is involved.

Mr. SMOOT. I can not state the amount and there was no testimony before the committee as to the amount involved, but I wish to say to the Senator that it is only a small sum. It will increase rather than diminish the revenue, but I can not state what is the amount involved.

Mr. HITCHCOCK. I ask that the amendment may go over.

Mr. KING. Mr. President, may I inquire of my colleague or some member of the committee whether under the law as it now exists, supplemented by this amendment, money which has been borrowed by the present holders of the bonds since the bonds were purchased originally from the Government and the bonds used as collateral could claim the benefit of this exemption?

Mr. SMOOT. Only to January 1, 1922.

Mr. KING. So there will be no misunderstanding about that.

Mr. SMOOT. If there was no amendment of the existing law to-day, they would go on forever claiming exemption.

Mr. KING. I understand that, but I do not think the Senator understands me. To bring a concrete case before us for consideration, if, in 1917 or 1918, I purchased bonds issued by the Government and borrowed money for that purpose, since which time I have sold the bonds to the Senator from Nebraska, and the Sentor from Nebraska a year ago took those bonds as collateral and borrowed money on them, may he now claim the same advantage and benefit that I would be permitted to claim if I still held those bonds?

Mr. SMOOT. Of course there is no difference. It applies to all bonds, no matter who holds them, on the 1st day of January, 1922.

Mr. KING. That is what I was afraid of, and I think, therefore, that the provision ought to be amended. I have no objection, I will say, to those who purchased bonds when the Government was selling them and borrowed money for that purpose, getting the benefit of the provision; but if the bonds have passed out of the hands of the original purchaser and are now utilized by individuals who purchased them for the purpose of securing credit at the banks, I do not think they ought to be entitled to the same benefits and the same deductions as would be enjoyed by the original purchaser from the Government.

Mr. SMOOT. If it were possible to tell what bonds were held by the original purchasers and what have been transferred, there might be fair consideration given to the statement made by my colleague; but that is impossible to do. We are trying now to say that no matter where the bonds are or who holds them the holders shall not, after January 1, 1922, deduct the amount of interest.

Mr. KING. I sympathize with the provision; I think it is wise.

Mr. SMOOT. I am quite sure if the Senator will stop and think, he will realize that he can not suggest to anyone any kind of wording that would enable it to be administered to take care of the situation he has just stated. What he states is correct; I am not denying it; but I say it would be absolutely impossible to find out the facts in order to administer the law.

Mr. FLETCHER. Mr. President, I think I can suggest an amendment that would meet the situation, and that is to change the word "or" between the word "purchase" and the word "carry" to "and," so that the deduction would apply to the interest paid on the indebtedness incurred in order to "purchase and carry" the bonds. If the bonds were afterwards disposed of, then the deduction would not be any longer allowed.

Mr. SMOOT. Of course no matter whether purchased originally or whether purchased later, they carry the bonds. As long as they do not carry them, of course they can not get the exemption.

Another thing I will say to the Senator, how on earth could we find out or how could we tell——

Mr. FLETCHER. Of course we would have to have it specified in the return. The taxpayer himself would have to show that he was carrying the bonds and paying the interest on the obligations.

Mr. SMOOT. He has to do that under the existing law.

Mr. FLETCHER. He would have to show when he disposed of his bonds. It would not be fair to allow everybody to buy the bonds and make deductions for indebtedness incurred in buying them, but the original purchaser who bought them and is carrying them and has continued to carry them and would show that by his return would be allowed the deduction. I suggest the amendment.

Mr. SMOOT. With all due respect to the Senator's idea, I do not care where the purchase was made or who purchases them and carries them, every new purchaser would be in exactly the same position.

Mr. FLETCHER. But under the language as it is the party incurring the obligation first to purchase the bonds is entitled to make a deduction of the interest he pays on the amount of that obligation, then the next man to whom the bonds are transferred incurs an obligation to purchase them and he gets a deduction, and then they are transferred again and the next man gets it, because the language is that every purchaser is entitled to this deduction. What I am after is to limit the deduction to those who purchase and carry the bonds.

Mr. SMOOT. Mr. President, I understand there is objection to the amendment and that it goes over. So we can discuss it later.

The VICE PRESIDENT. The amendment will be passed over.

Mr. HEFLIN. Mr. President, there is a good deal in the suggestion of the Senator from Utah [Mr. SMOOT] that those who bought Liberty bonds had to pay more interest to the banks than the interest rate borne by the bonds themselves. That was caused by the destructive deflation policy of the Federal Reserve Board in increasing the discount rate from 3½ per cent to 7. It was a severe blow to those who had purchased bonds and who had to borrow money for that purpose. It was a campaign, in my judgment, to drive out of the hands of the small bondholders of the country these gilt-edge securities so that they could be purchased by the big financiers of the country.

The Federal Reserve Board's action in increasing the discount rate of interest made it impossible for thousands of people to obtain the money to complete the payments on these bonds. Holding the Government bond that paid 4 per cent or 4½ per cent, the bondholder was confronted with the fact that he had to pay 7 per cent discount rate in order to obtain money to pay on bonds bearing 4 and 4½ per cent.

Not only that, Mr. President, but the bonds had greatly depreciated in value under the deflation campaign of the Federal Reserve Board until they were selling in the market for $85 on the $100. So when the poor bondholder appeared at the bank he was told that he had to pay 7 per cent interest in order to get money to pay on a bond that was $15 less on the hundred than when it was purchased. Thousands upon thousands of American bond purchasers who bought bonds to enable the United States to win the war have had their bonds literally driven out of their hands into the hands of Wall Street purchasers by a deflation campaign conducted by the Federal Reserve Board.

The party of the Senator from Utah [Mr. SMOOT] is holding that Federal Reserve Board in authority to-day after it has lost the confidence of honest business men in the South and West. That board sits there, a part of the Republican administration, and when the Republican Party holds it in power it indorses its acts. By retaining that board in power you place the stamp of your approval upon its conduct. And you do so in the face of the fact that that board's deadly deflation policy robbed the South and West of billions and billions of dollars.

The PRESIDING OFFICER (Mr. WALSH of Massachusetts in the chair). The committee amendment will be passed over, as requested by the Senator from Nebraska [Mr. HITCHCOCK]. The next amendment of the Committee on Finance will be stated.

The next amendment was, on page 38, line 22, after the word "United," to strike out "States or any of its possessions

or of any foreign country and" and to insert "States, (b) so much of the income, war-profits and excess-profits taxes imposed by the authority of any foreign country or possession of the United States, as is"; on page 39, line 2, before the word "taxes," to strike out "and (b)" and to insert "(c)"; in line 3, after the word "property," to strike out the word "assessed," the semicolon, the quotation marks, and the period and to insert "assessed, and (d) taxes imposed upon the taxpayer upon his interest as shareholder or member of a corporation, which are paid by the corporation without reimbursement from the taxpayer," so as to make the paragraph read:

(3) Taxes paid or accrued within the taxable year except (a) income, war-profits, and excess-profits taxes imposed by the authority of the United States, (b) so much of the income, war-profits, and excess-profits taxes, imposed by the authority of any foreign country or possession of the United States, as is allowed as a credit under section 222, (c) taxes assessed against local benefits of a kind tending to increase the value of the property assessed, and (d) taxes imposed upon the taxpayer upon his interest as shareholder or member of a corporation, which are paid by the corporation without reimbursement from the taxpayer.

The amendment was agreed to.

The next amendment was, on page 39, after line 7, to insert:

(4) Losses sustained during the taxable year and not compensated for by insurance or otherwise if incurred in trade or business.

Mr. KING. Mr. President, I do not rise for the purpose of submitting any criticism of the amendment.

Mr. PENROSE. That provision is the present law.

Mr. KING. I understand that; but how far will it go? I am asking solely for information.

Mr. PENROSE. It will go just about as far as it has been going in the last three or four years.

Mr. KING. That is not very illuminating. Let me say to my friend from Pennsylvania that I had hoped that by the Committee on Finance freeing itself from the smoke of the World War—and in the smoke of that war the present revenue law was drafted—a clearer and a better law might have been reported, one which would meet the necessities of the people and measure up to peace-time requirements. It seems, however, as if the committee has been more intent upon reproducing a war-time bill than in producing a peace-time bill.

Mr. PENROSE. Mr. President, if there is very much talk indulged in by the minority concerning war-time bills, there may be some interesting oratory on the side of the majority concerning utter waste, inefficiency, and criminal maladministration prevailing for eight years during the Great War crisis.

This provision has been in legislative enactments since the act of 1913 and there has never been a complaint against it. It is for the Senator from Utah to come here now and talk about war fever and an ancient law. A similar provision was enacted before we were at war with Germany.

Mr. KING. Mr. President, if the Senator from Pennsylvania thinks I shall be deterred by the threat of Republican oratory—which I should welcome, as we all would, for we always delight in oratory—from making criticism of the pending measure, he is very much mistaken.

Mr. PENROSE. Mr. President, well-taken criticisms are invited and are helpful; but certainly the criticisms of existing law which was passed in 1913 and talk about war fever, when there was no war except among those who generally get valiant before a war begins, is not altogether calculated to inspire a feeling of confidence in the wisdom of the speaker.

Mr. KING. Mr. President, I will repeat what I said, for it is clear the Senator from Pennsylvania did not get the full significance of it, that I regret that the Committee on Finance did not report a bill that would be a departure from a revenue measure which was drawn during the World War. I repeat that the measure before us here is, in great part, a reproduction of the revenue bill which was drawn during the World War. Doubtless in that bill there were some provisions which existed in anterior legislation, but this bill is in large measure the war bill which was passed in 1917 and is drawn upon the same theory. The excess-profits tax is eliminated and a few of the taxes which imposed legitimate burdens upon wealth are reduced, but, in the main, this is the bill of 1917 which was drafted for war purposes, and is a projection into peace time of war-time legislation.

Mr. WADSWORTH. Mr. President, does the Senator from Utah make that complaint concerning paragraph 4?

Mr. KING. No. I will say to the Senator that I arose only to secure information respecting the paragraph, and I stated that I had no other object.

Mr. WADSWORTH. I suspected the Senator rose to make a speech.

Mr. KING. I did not.

Mr. WADSWORTH. Because the Senator has not been discussing section 4, which is not war-time legislation. He asked how far it would go. He has had since 1913 to ascertain how far it goes, for there has been no change since then.

Mr. KING. Mr. President, I arose, as I stated, not for the purpose of criticism, but to inquire the extent to which the provision goes. The Senator from Pennsylvania—and he was within his prerogatives, of course—made an answer which I did not think was quite relevant, and then made such a statement as provoked the reply which I submitted. If the Senator is content with that answer, I am.

The PRESIDING OFFICER. Without objection, the amendment reported by the committee is agreed to.

The next amendment of the Committee on Finance was, on page 39, after line 10, to strike out:

SEC. 214. Paragraphs (5), (6), and (7) of subdivision (a) of section 214 of the revenue act of 1918 are amended to read as follows:

The amendment was agreed to.

The next amendment was, on page 39, line 21, after the word "under," to strike out "paragraphs (4) and (5)" and to insert "this paragraph"; in line 24, before the word "where," to strike out "the revenue act of 1921" and to insert "this act"; in the same line, after the word "that," to strike out "at or about" and to insert "within 30 days after"; and, on page 40, line 1, after the word "acquired," to insert "(otherwise than by bequest or inheritance)," so as to make the paragraph read:

(5) Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in any transaction entered into for profit, though not connected with the trade or business; but in the case of a nonresident alien individual or foreign trader only if and to the extent that the profit, if such transaction had resulted in a profit, would be taxable under this title. No deduction shall be allowed under this paragraph for any loss claimed to have been sustained in any sale or other disposition of shares of stock or securities made after the passage of this act where it appears that within 30 days after the date of such sale or other disposition the taxpayer has acquired (otherwise than by bequest or inheritance) identical property in the same or substantially the same amount as the property sold or disposed of. If such new acquisition is to the extent of part only of identical property, then the amount of loss deductible shall be in proportion as the total amount of the property sold or disposed of bears to the property acquired.

The amendment was agreed to.

Mr. PENROSE. I ask that the paragraph beginning in line 19, page 40, may be passed over.

The PRESIDING OFFICER. Without objection, the paragraph on page 40, commencing in line 19, will be passed over.

The next amendment was, at the top of page 41, to insert:

(8) A reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence. In the case of such property acquired before March 1, 1913, this deduction shall be computed upon the basis of its fair market price or value as of March 1, 1913.

The amendment was agreed to.

The next amendment was, on page 41, after line 6, to strike out:

SEC. 215. Paragraph (9) of subdivision (a) of section 214 of the revenue act of 1918 is amended by striking out the words "taxes imposed by this title and by Title III" and inserting in lieu thereof the words "income, war-profits and excess-profits taxes."

The amendment was agreed to.

The next amendment was, on page 41, after line 11, to insert:

(9) In the case of buildings, machinery, equipment, or other facilities, constructed, erected, installed, or acquired, on or after April 6, 1917, for the production of articles contributing to the prosecution of the war against the German Government, and in the case of vessels constructed or acquired on or after such date for the transportation of articles or men contributing to the prosecution of such war, there shall be allowed a reasonable deduction for the amortization of such part of the cost of such facilities or vessels as has been borne by the taxpayer, but not again including any amount otherwise allowed under this title or previous acts of Congress as a deduction in computing net income. At any time before March 3, 1924, the commissioner may, and at the request of the taxpayer shall, reexamine the return, and if he then finds as a result of an appraisal or from other evidence that the deduction originally allowed was incorrect, the income, war-profits, and excess-profits taxes for the year or years affected shall be redetermined; and the amount of tax due upon such redetermination, if any, shall be paid upon notice and demand by the collector, or the amount of tax overpaid, if any, shall be credited or refunded to the taxpayer in accordance with the provisions of section 252.

Mr. KING. Mr. President, I inquire of the committee—and I make the inquiry in good faith and for information—whether they have taken into account the fact that a large number of the plants and vessels covered by this section were paid for by the profits derived from the business which conducted the plants or the marine business which purchased and operated the vessels; and whether in those cases where amortization of the plants and the ships has been completed there is full protection now, so that the Government may not be compelled to make further allowance upon the ground of obsolescence or deterioration or what not, for the value of the plant or some part of it.

Mr. PENROSE. Mr. President, I would prefer to refer the Senator to Messrs. SIMMONS and KITCHIN, distinguished statesmen in the financial history of the country, as this is a verbatim repetition of an enactment sponsored by them and explained by them and voted for by the Senator's party now in the minority. It is simply to provide for a continuation of the settlement of these matters relating to the vessels, and so forth.

Mr. SIMMONS. Mr. President, if the Senator in this bill is proposing to reenact this provision which he says originated, in part, with myself, I imagine he is prepared to make an explanation of it. If he does not understand it, he ought not to reenact it; if it is wrong in principle, he ought not to reenact it; and it is no answer to say that in proposing to reenact a part of the existing law he is not responsible or is not the proper party of whom to ask information because the original law was written and adopted by a different party and a different administration.

Mr. KING. Mr. President, may I suggest to the Senator from North Carolina, too, that even if that were justified at the time it was passed—and it was—that fact would not justify its reenactment now. An allowance during the war for expenditures made in the construction of war plants and in the purchase of vessels used in the war is one thing; but making such an allowance now, long after the war, after an allowance was made then for this expenditure, would be highly improper. So that we may justify this legislation as wise and prudent in war times, and we might not feel justified in supporting the same legislation under the present circumstances.

Mr. SIMMONS. Why, of course the proposition of the Senator is absolutely sound.

Mr. PENROSE. Mr. President, I do not intend to go into any long explanation of this provision. If there is any question about it, I am content to have it go over, although I do not think it necessary. This provision simply applies to the amortization of war-time plants. That process is going on now, and is just as necessary, if not more necessary, than it was during the war. That is my understanding of it.

Mr. KING. Will the Senator allow an interruption?

The PRESIDING OFFICER. Does the Senator from Pennsylvania yield to the Senator from Utah?

Mr. PENROSE. Yes.

Mr. KING. I agree with the Senator, if I understand him correctly. I think that where amortization was provided for and has not been fully effectuated, the process of amortization should continue. What I was afraid of was that, though amortization had been effectuated during the war, under some pretext further claims would be made now, by reason of obsolescence or otherwise, under which further exemptions would be claimed. I suggest that the Senator consent that this go over to give me an opportunity to find out the full significance of this section.

Mr. PENROSE. Certainly. I simply desire to explain to the Senator that this provision expressly prevents old claims, because the dates are fixed in the provision; but it will be entirely satisfactory, of course, to have it go over.

Mr. KING. I think the Senator and I agree. We desire the same result, namely, to give a fair chance for those who are entitled to amortization to have credit for it, but not to permit them to use that as a pretext for defrauding the Government, or for making further claims which ought not to be allowed.

Mr. WATSON of Indiana. Mr. President, I will say to the Senator that under the provisions of clause (9) that can not be done. The old claims have all been settled. They have been put forward. This has reference only, as the Senator will see by reading lines 14, 15, and 16, to buildings, and so forth, "constructed, erected, installed, or acquired on or after April 6, 1917, for the production of articles contributing to the prosecution of the war." There is no possible chance for the presentation of any new claims whatever; only those relating to and growing out of the war.

Mr. KING. Let it go over, Mr. President.

The PRESIDING OFFICER. The amendment commencing on page 41, line 12, and ending on page 42, line 13, will be passed over.

The next amendment was, on page 42, after line 13, to insert:

(10) In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case, based upon cost, including cost of development not otherwise deducted: *Provided*, That in the case of such properties acquired prior to March 1, 1913, the fair market value of the property (or the taxpayer's interest therein) on that date shall be taken in lieu of cost up to that date: *Provided further*, That in the case of mines, oil and gas wells, discovered by the taxpayer, on or after March 1, 1913, and not acquired as the result of purchase of a proven tract or lease, where the fair market value of the property is materially disproportionate to the cost, the depletion allowance shall be based upon the fair market value of the property at the date of the discovery, or within 30 days thereafter: *And provided further*, That such depletion allowance based on discovery value shall not exceed the net income, computed without allowance for depletion, from the property upon which the discovery is made, except where such net income so computed is less than the depletion allowance based on cost or fair market value as of March 1, 1913; such reasonable allowance in all the above cases to be made under rules and regulations to be prescribed by the commissioner, with the approval of the Secretary. In the case of leases the deductions allowed by this paragraph shall be equitably apportioned between the lessor and lessee.

Mr. SIMMONS. Mr. President, a part of this amendment is taken from the present law. Another part of it is new legislation. The part of it beginning after the word "thereafter" on line 7, page 43, and going down to and including part of line 13 is new legislation. Probably the Senator from Utah [Mr. SMOOT] is more familiar with that proviso than anyone else on the committee, as he lives in a country where large quantities of oil are produced, and he has shown a great deal of interest in that provision of the law. I should be glad if the Senator would favor the Senate with an explanation of the meaning of that proviso and its effect.

Mr. SMOOT. Mr. President, this is simply a limitation on the deductions allowed under existing law. There have been cases where the claims for depletion have been even more than the net income of the mine. This says that that shall not be. It is a limitation and clarifies just what the depletion charges shall be and limits them to a certain extent. Under existing law there was no limitation whatever. This limits them, or, in other words, it says:

And provided further, That such depletion allowance based on discovery value shall not exceed the net income.

The Senator, I suppose, knows of one or two cases in the United States where there has been a mining company owning other interests outside of the mining company, and in one case they have taken depletion charges which were more than the net income of the company and deducted them from the income of the other business institution. I will say to the Senator that without a doubt it is a limitation.

Mr. KING. Mr. President, may I inquire of my colleague or of others upon the committee if the working of this section—that is, the section respecting depletion, and so forth—has not been so unsatisfactory and so complicated as to call for some different method of ascertaining the value for assessment purposes of mines, oil properties, and so forth?

Mr. SMOOT. I think now they have come to a general rule that has been pretty thoroughly agreed to, not only by the mining industries but by the department itself. My colleague is well aware of the troubles they had when the question of what was a depletion was first brought up for decision. I think to-day that matter has been thrashed out in such a way that there is very little trouble in determining what is a depletion and the amount of depletion allowable. Under existing law, however, the depletion charges could go beyond and exceed the net income. Of course, that was not proper nor right, nor should such a charge be allowed to be deducted from any other interest that may be held in conjunction with the mine. That has been done in the past. This is a limitation on it, and I think it is a very wise provision, indeed.

I do not know how to express the matter, nor could I express it by words, better than the law is to-day expressed as to what a depletion is. With this information and with this amendment I think that hereafter the numerous cases of abuse that have heretofore arisen will not occur. I do not know how many there have been, and perhaps they are limited; but I do know of cases where the provision has been abused in the past, and that is why this amendment is put here.

Mr. KING. So many abuses have arisen under the application of the law with respect to taxing mines, and especially oil properties, that it did seem to me that in the consideration of this subject the committee, if possible, ought to have devised some different plan. It is possible that the regulations now promulgated and in force meet the situation, but the injustices in the past have been so great that remedial legislation was required. Indeed, we know that the department perhaps transcended the law in attempting to give an equitable flexibility to the law, in order that injustices which in some instances almost amounted to confiscation might be obviated.

I should like to inquire of a member of the committee—I can not ask Mr. Adams, of course, upon the floor here, but he is very familiar with the subject—whether, under the present administration, those injustices have been obviated, and whether a plan has now been adopted that fairly meets the reasonable demands of the Government, and does not bear oppressively upon the man who goes out upon the public domain and attempts by his industry and his expenditures to add to the wealth of the country by pouring into the channels of trade the minerals that may be taken from mother earth?

Mr. SMOOT. Mr. President, all I can say is that I think I have been down to the department about as many times as anybody because of disputes arising within my own State on this subject matter, and I have been informed, not only once but a good many times, and I believe it to be a fact, that the oil producers and the miners of the country fully agree that the regulations that have been issued by the department are satisfactory, and they think they are satisfactory both to the Government and to the producers of oil and other minerals. Some of the old cases are not settled yet. There are a number of them that are still unsettled. I hope that at some time or other within the near future they will be settled; but after applying the rules and regulations that have now been agreed to I do not think there will be so very much complaint.

My colleague is right, however, in stating that when the law was first enacted, and when the first regulations were sent broadcast, and the first complaints came in, of course, there were great injustices done. Not only that, but in some cases there was great injustice done to the Government of the United States, particularly where some company running some other business went into the discovery of oil and developed an oil well, and the business itself was losing money, and they would take the gains from the oil well and make the other taxes that much less by deducting from them the losses of the business itself.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The next amendment was, on page 43, after line 19, to strike out:

SEC. 216. Paragraph (11) of subdivision (a) of section 214 of the revenue act of 1918 is amended to read as follows:

The amendment was agreed to.

The next amendment was, on page 44, line 1, after the word "any," to strike out "corporation" and to insert "corporation,"; in line 9, after the word "all," to strike out the word "of"; in line 18, after the words "prescribed by the" in line 17, to strike out "commissioner" and to insert "Commissioner"; and in line 18, after the words "approval of the," to strike out "Secretary," the semicolon, the quotation marks, and the period, and to insert "Secretary;"; so as to make the paragraph read:

(11) Contributions or gifts made within the taxable year to or for the use of: (A) The United States, any State, Territory, or any political subdivision thereof, or the District of Columbia, for exclusively public purposes; (B) any corporation, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual; or (C) the special fund for vocational rehabilitation authorized by section 7 of the vocational rehabilitation act; to an amount which in all the above cases combined does not exceed 15 per cent of the taxpayer's net income as computed without the benefit of this paragraph. In case of a nonresident alien individual or foreign trader this deduction shall be allowed only as to contributions or gifts made to domestic corporations, or to community chests, funds, or foundations, created in the United States, or to such vocational rehabilitation fund. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the Commissioner, with the approval of the Secretary.

The amendment was agreed to.

The next amendment was, on page 44, after line 19, to strike out:

SEC. 217. Subdivision (a) of section 214 of the revenue act of 1918 is amended by adding at the end thereof a new paragraph to read as follows:

The amendment was agreed to.

The next amendment was, on page 44, line 23, before the word "If," to strike out the quotation marks and "(13)" and to insert "(12)"; on page 45, line 4, after the words "by the," to strike out "commissioner" and to insert "Commissioner"; in line 6, after the word "acquisition," to strike out "directly or through the purchase of stock,"; in line 8, after the word "converted," to insert "or in the acquisition of 80 per cent or more of the stock or shares of a corporation owning such other property"; in line 12, before the words "of the gain," to strike out "so much"; in line 13, after the word "entire," to strike out "proceeds, and the property acquired shall be treated as taking the place of a like proportion of the property converted," the period and the quotation marks, and to insert "proceeds. The provisions of this paragraph prescribing the conditions under which a deduction may be taken in respect of the proceeds or gains derived from the compulsory or involuntary conversion of property into cash or its equivalent shall apply so far as may be practicable to the exemption or exclusion of such proceeds or gains from gross income under prior income, war-profits and excess-profits tax acts," so as to make the paragraph read:

(12) If property is compulsorily or involuntarily converted into cash or its equivalent as a result of (A) its destruction in whole or in part, (B) theft or seizure, or (C) an exercise of the power of requisition or condemnation, or the threat or imminence thereof; and if the taxpayer proceeds forthwith in good faith, under regulations prescribed by the Commissioner with the approval of the Secretary, to expend the proceeds of such conversion in the acquisition of other property of a character similar or related in service or use to the property so converted, or in the acquisition of 80 per cent or more of the stock or shares of a corporation owning such other property, or in the establishment of a replacement fund, then there shall be allowed as a deduction such portion of the gain derived as the portion of the proceeds so expended bears to the entire proceeds. The provisions of this paragraph prescribing the conditions under which a deduction may be taken in respect of the proceeds or gains derived from the compulsory or involuntary conversion of property into cash or its equivalent shall apply so far as may be practicable to the exemption or exclusion of such proceeds or gains from gross income under prior income, war-profits and excess-profits tax acts.

Mr. KING. May I inquire of some member of the committee, as I do not have the whole section in mind, the purpose of the amendment found in lines 8 and 9, and just what effect that would have, where it is proposed to add "or in the acquisition of 80 per cent or more of the stock or shares of a corporation owning such other property."

Mr. SMOOT. This is where property is compulsorily or voluntarily converted into cash or its equivalent as the result of subdivision (a) and certain other deductions.

Mr. McCUMBER. If the Senator will allow me, it applies to a case where, instead of buying the property, they can not get the property, but it is converted into a corporation, and they buy at least 80 per cent of the stock of the corporation instead of the investment of the money in the property directly.

Mr. SIMMONS. Mr. President, I would be very glad to have some statement as to the meaning of the section and whether it is not retroactive. I request that some Senator on the other side advise the Senate as to the effect of the amendment which begins at the end of line 15, on page 45, whether it is retroactive, and how far back it is retroactive.

Mr. WATSON of Indiana. My understanding is that it applies to prior income taxes and war profits. It is my understanding of the provision, I will say to the Senator, though I have not had an opportunity to discuss it with Dr. Adams on the floor, that this is now the practice of the department, except that it is taken as the exemption from gross income, rather than a deduction, and they are now seeking to have it safeguarded with the same provisions.

Mr. SIMMONS. The last part of it reads:

As may be practicable to the exemption or exclusion of such proceeds or gains from gross income under prior income, war profits, and excess profits tax acts.

So that it would be retroactive from the beginning and apply to all profits collected under the act of 1916, the act of 1917, or the act of February, 1919.

Mr. WATSON of Indiana. In so far as the provisions of this section would apply to a situation of that kind. They allow all this under present departmental practice, and all they are seeking to do is simply to put into the law what the practice is.

Mr. SMOOT. It is deducted out of gross income to-day entirely, and now they want specifically to state just exactly what they can deduct it from, and this is simply to conform to what the rules and regulations of the department are, so that there will be no question about the law.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, on page 45, after line 22, to strike out:

SEC. 218. Subdivision (b) of section 214 of the revenue act of 1918 is amended to read as follows:

The amendment was agreed to.

The next amendment was, on page 46, line 2, after the word "subdivision," to strike out "(a) [except," and to insert "(a), except"; in line 4, before the words "be allowed," to strike out "(11)] shall," and to insert "(11), shall"; in line 10, before the word "with," to strike out "commissioner" and to insert "Commissioner"; in line 11, after the words "approval of the," in line 10, to strike out "Secretary, which determination shall be final," the period and the quotation marks, and to insert "Secretary."; so as to make the paragraph read:

(b) In the case of a nonresident alien individual or a foreign trader, the deductions allowed in subdivision (a), except those allowed in paragraphs (5), (6), and (11), shall be allowed only if and to the extent that they are connected with income from sources within the United States; and the proper apportionment and allocation of the deductions with respect to sources of income within and without the United States shall be determined as provided in section 217 under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

The amendment was agreed to.

The next amendment was, on page 46, after line 11, to strike out:

SEC. 219. Section 215 of the revenue act of 1918 is amended by adding at the end of such section a new subdivision to read as follows:

The amendment was agreed to.

The next amendment was, on page 46, after line 14, to insert:

ITEMS NOT DEDUCTIBLE.

SEC. 215. (a) That in computing net income no deduction shall in any case be allowed in respect of—

(1) Personal, living, or family expenses;

(2) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate;

(3) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made; or

(4) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy.

Mr. SIMMONS. I desire that that go over.

Mr. SMOOT. The whole of section 215?

Mr. SIMMONS. The whole of the section.

Mr. McCUMBER. Did I understand the Senator to ask to have section 215 passed over?

Mr. SIMMONS. I did.

Mr. McCUMBER. That is exactly as the law now stands.

Mr. SIMMONS. I understand that, but you are reenacting it, and I am not satisfied with it.

Mr. McCUMBER. The agreement is, of course, to pass over anything that a Senator desires passed over.

Mr. SIMMONS. I object especially to the first provision. I probably shall want to offer an amendment with reference to that, not curtailing it, but enlarging it.

The PRESIDING OFFICER. Section 215 will be passed over.

The next amendment was, on page 47, line 7, before the word "Amounts," to strike out the quotation marks and "(c)" and to insert "(b)"; in line 10, after the word "bequest," to strike out "devise"; and in line 19, after the words "holder is" in line 18, to strike out "entitled," the period, and the quotation marks, and to insert "entitled," so as to make the paragraph read:

(b) Amounts paid under the laws of any State, Territory, District of Columbia, possession of the United States, or foreign country as income to the holder of a life or terminable interest acquired by gift, bequest, or inheritance shall not be reduced or diminished by any deduction for shrinkage (by whatever name called) in the value of such interest due to the lapse of time, nor by any deduction allowed by this act for the purpose of computing the net income of an estate or trust but not allowed under the laws of such State, Territory, District of Columbia, possession of the United States, or foreign country for the purpose of computing the income to which such holder is entitled.

The PRESIDING OFFICER. Did the request of the Senator from North Carolina include the entire section?

Mr. SIMMONS. It included the entire section.

The PRESIDING OFFICER. The whole of section 215 will be passed over.

The next amendment was, on page 47, after line 19, to strike out:

SEC. 220. Subdivision (a) of section 216 of the revenue act of 1918 is amended to read as follows:

The amendment was agreed to.

The next amendment was, on page 47, after line 21, to insert:

CREDITS ALLOWED INDIVIDUALS.

SEC. 216. That for the purpose of the normal tax only there shall be allowed the following credits.

The amendment was agreed to.

The next amendment was, at the top of page 48, to strike out:

(a) The amount of dividends included in the gross income.

The amendment was agreed to.

The next amendment was, on page 48, after line 2, to insert:

(a) The amount received as dividends (1) from a domestic corporation other than a foreign trade corporation, or (2) from a foreign corporation when it is shown to the satisfaction of the commissioner that more than 50 per cent of the gross income of such foreign corporation for the three-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence) was derived from sources within the United States as determined under the provisions of section 217.

Mr. LA FOLLETTE. I will ask to have that paragraph passed over.

The PRESIDING OFFICER. On the request of the Senator from Wisconsin the amendment on page 48, from line 3 to line 12, will go over. Does the Senator from Wisconsin desire to include the amendment from line 13 to line 16?

Mr. LA FOLLETTE. I covered simply that which the Clerk had read up to that time. I may want further provisions passed over.

Mr. KING. I wish to inquire whether any amendments have been offered to this section dealing with the normal tax.

Mr. SIMMONS. I do not think any amendment has been offered dealing with the normal tax of an individual, but there has been an amendment offered dealing with the income tax of corporations, which is analagous to the normal tax of individuals.

The PRESIDING OFFICER. The Chair is informed that no amendments have been filed yet.

Mr. KING. Not by Senators. I understood there had been an amendment offered to this whole section. That is the reason why I made the inquiry, and I was about to suggest that the entire section go over, if amendments had been offered, or were likely to be offered to this section. May I inquire of the Senator from North Carolina if amendments have not been tendered also to the provision relating to surtaxes of individuals?

Mr. SIMMONS. No; but there will be amendments offered. We have not reached that yet.

Mr. McCUMBER. The committee offered an amendment on that.

Mr. LA FOLLETTE. Mr. President, I understand that on top of page 48, lines 1 and 2 were stricken out?

The PRESIDING OFFICER. Yes; without objection.

Mr. LA FOLLETTE. That was agreed to without objection?

The PRESIDING OFFICER. It was.

Mr. LA FOLLETTE. I wish to include that in the request which I made, because it is really a part of the same provision. That is stricken out and the other is substituted for it, and therefore I wish to have it all passed over.

The PRESIDING OFFICER. Without objection, lines 1 and 2, page 48, will be considered as not having been acted upon and will be passed over.

The next amendment was, on page 48, after line 12, to insert:

(b) The amount received as interest upon obligations of the United States and bonds issued by the War Finance Corporation, which is included in gross income under section 213.

Mr. FLETCHER. Before passing subdivision (b), let me call the attention of the Senate to the fact that the language is "the amount received as interest"; that is, the amount with credits allowed individuals for the purpose of normal taxes only. Included in that would be the amount received as interest on obligations of the United States and bonds issued by the War Finance Corporation. Would that include interest on farm-loan bonds?

Mr. SMOOT. Under the law creating the Federal Farm Loan Board the interest on those bonds is exempt.

Mr. FLETCHER. This refers only to those bonds which are exempt from all taxation?

Mr. SMOOT. They are exempt from the normal tax, of course, but this is the only revenue law we have passed since we authorized the issue of the War Finance Corporation bonds.

Mr. FLETCHER. So the bonds are covered under another section?

Mr. SMOOT. Yes.

The amendment was agreed to.

The next amendment was, on page 48, after line 16, to strike out:

SEC. 221. Subdivisions (c), (d), and (e) of section 216 of the revenue act of 1918 are amended to read as follows.

The amendment was agreed to.

The next amendment was, on page 48, line 25, after the word "personal," to strike out "exemption, which shall be computed on their aggregate net income; and in case they," and to insert "exemption. The amount of such personal exemption shall be $2,500, unless the aggregate net income of such husband and wife is in excess of $5,000, in which case the amount of such personal exemption shall be $2,000. If such husband and wife," so as to make the paragraph read:

(c) In the case of a single person, a personal exemption of $1,000; or in the case of the head of a family or a married person living with husband or wife, a personal exemption of $2,500, unless the net income is in excess of $5,000, in which case the personal exemption shall be $2,000. A husband and wife living together shall receive but one personal exemption. The amount of such personal exemption shall be $2,500, unless the aggregate net income of such husband and wife is in excess of $5,000, in which case the amount of such personal exemption shall be $2,000. If such husband and wife make separate returns the personal exemption may be taken by either or divided between them.

Mr. SIMMONS. Mr. President, I shall offer several amendments to that paragraph, and I ask that it go over.

Mr. SMOOT. Let the whole section go over.

Mr. SIMMONS. I do not ask now that any part shall go over except subdivision (c), beginning with line 19 and going down to line 8, on page 49.

The PRESIDING OFFICER. On page 48, commencing with line 19, down to and including line 7, page 49, will go over.

Mr. SIMMONS. I believe I will ask that the balance of that section go over also, to line 3, page 50.

The PRESIDING OFFICER. It will be so ordered.

The next amendment was, on page 50, after line 3, to strike out:

SEC. 223. Section 217 of the revenue act of 1918 and the heading preceding such section are amended to read as follows:

The amendment was agreed to.

The next amendment was, on page 50, line 7, to strike out the quotation marks and the word "net" at the beginning of the line and to insert the word "Net."

The amendment was agreed to.

Mr. LA FOLLETTE. I ask that section 217, the entire section, be passed over.

The PRESIDING OFFICER. Objection having been made by the Senator from Wisconsin, section 217 will be passed over.

Mr. LA FOLLETTE. I desire that to include line 11, page 57.

The PRESIDING OFFICER. Commencing on page 50, line 9, all the matter contained up to and including line 11, on page 57, will be passed over.

The next amendment of the Committee on Finance was to strike out from line 12 on page 57 to line 7 on page 58, in the following words:

SEC. 224. (a) Subdivisions (b) and (c) of section 218 of the revenue act of 1918 are repealed to take effect January 1, 1922. In the case of a personal service corporation having a fiscal year beginning in 1921 and ending in 1922, amounts distributed prior to January 1, 1922, to its stockholders out of earnings or profits accumulated after December 31, 1920, shall be taxed to the distributees under Title II of the revenue act of 1918 as in force prior to the passage of this act; and the stockholders of record on December 31, 1921, shall be taxed under such title upon their distributive shares of the difference (if any) between such distributed profits and the portion of the corporation's net income assignable to the calendar year 1921, determined in the manner provided in clause (1) of subdivision (c) of section 205 of the revenue act of 1918 as amended by this act.

(b) Subdivision (d) of section 218 of the revenue act of 1918 is amended to read as follows:

"(d) The net income of the partnership shall be computed in the same manner and on the same basis as provided in section 212."

The amendment was agreed to.

The next amendment was, on page 58, to insert:

PARTNERSHIPS AND PERSONAL SERVICE CORPORATIONS.

SEC. 218. (a) That individuals carrying on business in partnership shall be liable for income tax only in their individual capacity. There shall be included in computing the net income of each partner his distributive share, whether distributed or not, of the net income of the partnership for the taxable year, or, if his net income for such taxable year is computed upon the basis of a period different from that upon the basis of which the net income of the partnership is computed, then his distributive share of the net income of the partnership for any accounting period of the partnership ending within the fiscal or calendar year upon the basis of which the partner's net income is computed.

(b) The partner shall, for the purpose of the normal tax, be allowed as credits, in addition to the credits allowed to him under section 216, his proportionate share of such amounts specified in subdivisions (a) and (b) of section 216 as are received by the partnership.

(c) The net income of the partnership shall be computed in the same manner and on the same basis as provided in section 212 except that the deduction provided in paragraph (11) of subdivision (a) of section 214 shall not be allowed.

(d) Personal service corporations shall not be subject to taxation under this title, but the individual stockholders thereof shall be taxed in the same manner as the members of partnerships. All the provisions of this title relating to partnerships and the members thereof shall so far as practicable apply to personal service corporations and the stockholders thereof: *Provided*, That for the purpose of this subdivision amounts distributed by a personal service corporation during its taxable year shall be accounted for by the distributees; and any portion of the net income remaining undistributed at the close of its taxable year shall be accounted for by the stockholders of such corporation at the close of its taxable year in proportion to their respective shares.

Mr. KING. Mr. President, may I inquire of some member of the committee with respect to paragraph (b), page 58, and paragraph (c), page 59, what changes, if any, they make from existing law?

Mr. McCUMBER. None at all. That is the existing law as shown in both those paragraphs.

Mr. SMOOT. Word for word.

Mr. KING. This amendment was reported by the Senate Finance Committee.

Mr. McCUMBER. In order to understand the bill, the Senator will remember that the House, instead of attempting to rewrite a new tariff act en bloc, seeks to amend the old law section by section and some portions not referred to. The Senate Committee on Finance, in order to bring all the law into a single instrument, so it would not be necessary to refer to any previous law, proposed an amendment by which they include in this bill every part of the old law which was still left in existence, and that portion is printed in capitals in the bill for the convenience of Senators, so that they may see at a glance what is the present law. All of the sections printed in capitals are the law as it now exists.

Mr. KING. I wish to say to the Senator—and that is the reason for my inquiry—that complaints have been made to me by some of the representatives of the Government—that is, of the Internal Revenue Department—that in the application of existing law to partnerships the law has been construed too liberally in behalf of partnerships, as the result of which the Government has been deprived of revenue which ought to have been collected.

Mr. McCUMBER. That is a complaint which I can not understand, because each partner must make his return, and his return must show his share in all profits of the partnership. It is such a simple proposition that it seems to me there is no open door anywhere for any partner to escape the profits of the partnership in making his returns.

Mr. KING. The complaint has been made that allowances for salaries and compensations have been so enormous as that they have absorbed the profits of the business.

Mr. McCUMBER. The Senator can see it would be impossible to escape from that standpoint, because if the partnership pays a big salary to one of the partners, of course, that salary must go into his income.

Mr. KING. And it is subject to the income tax.

Mr. McCUMBER. It makes no difference whether it went in as profits of the partnership or whether it went in as profits inuring directly to the partner.

Mr. KING. The contention was that the distribution for compensation of partners and employees was so adjusted as to escape the surtax. That complaint has been made by representatives of the Government.

Mr. SMOOT. That could only be done by dividing among the partners either 50–50 if it was a partnership of two, or 10 and 90. If the Senator will figure it out, if they tried to divide it up 10 and 90, the poor fellow who gets 90 gets stung a great deal more in the amount of tax, if we take them both together, than if they had divided 50–50.

Mr. KING. I think the Senator will discover that by making enough adjustments between enough individuals, they may dissipate the earnings of a partnership, if not too large a partnership, to such an extent that no part of it would be subject to the surtax. That is the complaint of which I am speaking.

Mr. SMOOT. The complaint generally is that the partnership has not an equal chance with the corporation. That is the complaint that we get.

Mr. KING. I think the Senator will find that under the provisions of the bill some of the corporations will disincorporate and avail themselves of the benefits which they think will be secured under the partnership provision.

Mr. SMOOT. There are a few cases that would justify a corporation doing that under the provisions of the bill. I am perfectly willing to say that, but I do not care what kind of law we enact, I do not care what the wording of it may be, there would be cases which would take advantage of the law, either as partners or as corporations.

Mr. KING. I think so, too.

Mr. SMOOT. It all depends upon the amount of money they make and the capital they have and the number of partners there are in the partnership. There is no living being on earth who could write a law which would be so worded that in some cases it would not be an advantage to just reverse the organizations that they have to-day.

The PRESIDING OFFICER. The Chair will state for the benefit of the junior Senator from Utah that there are really two classes of amendments offered to the bill now before the Senate, one the class of amendments which represent the old law and the other the class of amendments making changes in the House bill. The reading clerk has just read an amendment representing the old law.

Mr. SIMMONS. Mr. President, the mere fact that a provision incorporated in the existing law is brought forward in this bill and reenacted is not sufficient to warrant us in assuming that it ought to be adopted. The amendments that the bill makes to the present law will throw the bill altogether out of joint in many of the provisions of the existing law that are not repealed, but are brought forward and reenacted. So I think that it is necessary for us to scrutinize just about as closely the old provisions that are brought forward as the new provisions that are proposed to be incorporated in the bill.

I am saying this because there has been some little display of impatience when inquiries were made about a provision that is brought forward from the old law into this bill; there has been some intimation that because the provision was in the old bill this side of the Chamber especially ought not to query about it at all, but incontinently accept it.

I wish to say that in my judgment the old revenue acts, whether of 1916, 1917, or 1918, were adopted in times altogether different from those which now exist. They were intended to meet conditions which have either passed away, become moribund, or are passing away; and in my judgment in the enactment of this peace-time revenue bill it would be better to have struck out boldly on new lines instead of tinker-

ing with and trying to repair a machine that was created to meet other circumstances and conditions.

Mr. WATSON of Indiana. Mr. President——

The PRESIDING OFFICER. Does the Senator from North Carolina yield to the Senator from Indiana?

Mr. SIMMONS. I yield.

Mr. WATSON of Indiana. In order to build up a tax system from the ground, what, very briefly, if the Senator can state it, would he do differently from what is being done in this bill?

Mr. SIMMONS. That I expect to show in different amendments which I shall offer.

Mr. WATSON of Indiana. Would the Senator be willing to vote for a sales tax or turnover tax on goods, wares, and merchandise?

Mr. SIMMONS. That matter is to be discussed in the Senate.

Mr. WATSON of Indiana. But I am asking the Senator's personal opinion, if he feels free to give it.

Mr. SIMMONS. If the author and sponsor for the manufacturers' tax on the other side of the Chamber shall see fit to accept certain sweeping and radical amendments which will be offered to the bill from this side of the Chamber, serious consideration will be given to his proposition as a part of that scheme; but, independently of that scheme, I answer the Senator, "no." As a part of that scheme, however, if such a tax shall be necessary in order to obtain the required revenue, the proposition would be seriously considered.

Mr. WATSON of Indiana. Of course, those are the larger questions which we shall finally approach in the discussion of the bill after the minor amendments shall have been passed upon.

Mr. SIMMONS. Yes; and that is the reason I do not desire to discuss the proposition now.

Mr. WATSON of Indiana. But, in order that we might approach an understanding, I was trying to find out precisely what the Senator from North Carolina really thought of a sales tax—whether he would favor it or oppose it. The Senator from North Carolina is opposing the pending bill because the bill was formulated——

Mr. SIMMONS. No, Mr. President; the Senator from North Carolina is going to oppose certain features of the bill.

Mr. WATSON of Indiana. But I understand that the Senator from North Carolina will not vote for the bill?

Mr. SIMMONS. Whether the Senator from North Carolina will finally oppose the passage of the bill will depend upon whether certain amendments affecting vital parts of the bill shall be adopted.

Mr. WATSON of Indiana. Nevertheless my statement is correct, that if the bill were put upon its passage as it is now the Senator from North Carolina would vote against it?

Mr. SIMMONS. Yes; in its present shape, because I think in its present form the bill is the most horrible and unjust proposition of taxation that has ever been presented in this Chamber.

Mr. WATSON of Indiana. Therefore my statement that the Senator would vote against the bill as now presented is correct?

Mr. SIMMONS. Yes; I should vote against the bill as now presented.

Mr. WATSON of Indiana. What I am trying to get at is, how does the Senator propose to change the bill?

Mr. SIMMONS. I have just stated to the Senator that Senators on this side of the Chamber will offer very extensive amendments to vital parts of the bill, and if those amendments are adopted, then we would consider the manufacturers' tax proposition on its merits.

I do not desire to go into, and I am not now going into, a discussion of the various and sundry amendments which we propose to offer to the bill; but I think when they are offered the Senator from Indiana will agree that they very radically propose to change the material provisions of the bill, and, Mr. President, I hope, if adopted, will produce something like uniformity of taxation between the different classes and groups of taxpayers in this country and will remedy some of the class discriminations with which the bill reeks throughout.

The Senator said a little while ago that there would be a widespread disposition to incorporate in order to get the benefit of certain provisions of the bill. Mr. President, I think the Senator is right about that. I think that the favoritism which this bill displays toward the corporations of the country and against the partnerships and individuals of the country is so great that most of the partnerships will desire to incorporate, and every individual in the country who can, if possible, will wish to convert his operations into corporate form.

Mr. SMOOT. Mr. President, the Senator from North Carolina, I am sure, does not wish to give the impression that the Committee on Finance did not consider the present law in making the amendments which they have reported to the Senate? The Senator does not wish to imply that in the consideration of the bill as reported by the Finance Committee of the Senate the existing law was not taken into consideration?

Mr. SIMMONS. No; I did not say that.

Mr. SMOOT. Then, perhaps, I misunderstood the Senator; but from the manner in which he phrased his remarks I gathered the impression that he indicated that the Finance Committee had merely included in the bill the law which is found printed in the bill in capitals without having given any consideration to it.

Mr. SIMMONS. I did not mean that. What I meant was to oppose the intimation that the fact that certain provisions incorporated in the bill were in the existing law and were being reenacted was sufficient in itself; that there ought to be no inquiry and no discussion, but that we ought, as a matter of course, to accept such action without any discussion whatsoever.

Mr. SMOOT. I agree with the Senator from North Carolina as to that, because every portion of the existing law which is incorporated in the bill which was not acted upon by the House of Representatives is open to amendment.

Mr. SIMMONS. Of course.

Mr. SMOOT. And I think it ought to be seriously considered, because if adopted it will be the future law under which we will have to live.

Mr. SIMMONS. Exactly.

The PRESIDING OFFICER. Without objection, the amendment in reference to partnerships and personal service corporations on pages 58 and 59 will be agreed to. The Secretary will proceed with the statement of the committee amendments.

The next amendment of the Committee on Finance was, at the top of page 60, to insert:

This subdivision shall not be in effect after December 31, 1921. In the case of a personal service corporation having a fiscal year beginning in 1921 and ending in 1922, amounts distributed prior to January 1, 1922, to its stockholders out of earnings or profits accumulated after December 31, 1920, shall be taxed to the distributees under Title II of the revenue act of 1918; and the stockholders of record on December 31, 1921, shall be taxed under such title upon their distributive shares of the difference (if any) between such distributive profits and the portion of the corporation's net income assignable to the calendar year 1921, determined in the manner provided in clause (1) of subdivision (c) of section 205 of this act.

The amendment was agreed to.

The next amendment was, on page 60, after line 13, to strike out:

SEC. 225. Section 219 of the revenue act of 1918 is amended to read as follows:

The amendment was agreed to.

The next amendment was, on page 60, after line 15, to insert the following subheading:

Estates and trusts.

The amendment was agreed to.

The next amendment was, on page 61, line 17, after the word "section," to strike out "214;" and to insert "214."; and in line 18, before the words "in which," to strike out "and in" and to insert "In," so as to make the paragraph read:

(b) The fiduciary shall be responsible for making the return of income for the estate or trust for which he acts. The net income of the estate or trust shall be computed in the same manner and on the same basis as provided in section 212, except that (in lieu of the deduction authorized by paragraph (11) of subdivision (a) of section 214) there shall also be allowed as a deduction, without limitation, any part of the gross income which, pursuant to the terms of the will or deed creating the trust, is during the taxable year paid or permanently set aside for the purposes and in the manner specified in paragraph (11) of subdivision (a) of section 214. In cases in which there is any income of the class described in paragraph (4) of subdivision (a) of this section the fiduciary shall include in the return a statement of the income of the estate or trust which, pursuant to the instrument or order governing the distribution, is distributable to each beneficiary, whether or not distributed before the close of the taxable year for which the return is made.

The amendment was agreed to.

The next amendment was, on page 63, line 2, after the words "allowed as," to strike out "credits" and insert "credits,", so as to make the paragraph read:

(d) In cases under paragraph (4) of subdivision (a), and in the case of any income of an estate during the period of administration or settlement permitted by subdivision (c) to be deducted from the net income upon which tax is to be paid by the fiduciary, the tax shall not be paid by the fiduciary, but there shall be included in computing the net income of each beneficiary that part of the income of the estate or trust for its taxable year which, pursuant to the instrument or order governing the distribution, is distributable to such beneficiary, whether distributed or not, or, if his taxable year is different from that of the estate or trust, then there shall be included in computing his net income his distributive share of the income of the estate or trust for its taxable year ending within the taxable year of the beneficiary. In such cases the beneficiary shall, for the purpose of the normal tax, be allowed as credits, in addition to the credits allowed to him under section 216, his proportionate share of such amounts specified in subdivision (a) and (b) of section 216 as are received by the estate or trust.

The amendment was agreed to.

The next amendment was, on page 63, after line 18, to insert:

(f) An irrevocable trust created by an employer as a part of a stock bonus or profit-sharing plan for the exclusive benefit of some or all of his employees, to which contributions are made by such employer, or employees, or both, for the purpose of distributing to such employees the earnings and principal of the fund accumulated by the trust in accordance with such plan, shall not be taxable under this section, but the amount actually distributed or made available to any such employee shall be taxable to him in the year in which so distributed or made available to the extent that it exceeds the amounts paid in by him. Such distributees shall for the purpose of the normal tax be allowed as credits that part of the amount so distributed or made available as represents the items specified in subdivisions (a) and (b) of section 216.

The amendment was agreed to.

The next amendment was, on page 64, after line 7, to strike out:

SEC. 226. Section 220 of the revenue act of 1918 is amended to read as follows:

The amendment was agreed to.

The next amendment was, on page 64, after line 9, to insert the following subhead:

Evasion of surtaxes by incorporation.

The amendment was agreed to.

The next amendment was, on page 65, after line 22, to strike out:

SEC. 227. Subdivisions (a) and (b) of section 221 of the revenue act of 1918 are amended to read as follows:

The amendment was agreed to.

The next amendment was, at the top of page 66, to insert the following subhead:

Payment of individual's tax at source.

The amendment was agreed to.

The next amendment was, on page 66, line 7, before the word "interest," to insert "(1)"; in line 8, before the word "interest," to insert "(2)"; in the same line, after the word "deposits," to strike out "in banks, banking associations, and trust companies," and to insert "with persons carrying on the banking business"; in line 16, before the word "partnership," to strike out the words "of any"; in line 17, after the word "than," to insert "income received as"; and in line 18, after the word "dividends," to insert "of the class allowed as a credit by subdivision (a) of section 216"; so as to make the paragraph read:

SEC. 221. (a) That all individuals, corporations, and partnerships, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the United States having the control, receipt, custody, disposal, or payment of interest (except (1) interest received from foreign traders or foreign trade corporations, and (2) interest on deposits with persons carrying on the banking business paid to persons not engaged in business in the United States and not having an office or place of business therein), rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income, of any nonresident alien individual or partnership composed in whole or in part of nonresident aliens (other than income received as dividends of the class allowed as a credit by subdivision (a) of section 216) shall (except in the cases provided for in subdivision (b) and except as otherwise provided in regulations prescribed by the Commissioner under section 217) deduct and withhold from such annual or periodical gains, profits, and income a tax equal to 8 per cent thereof: *Provided*, That the Commissioner may authorize such tax to be deducted and withheld from the interest upon any securities the owners of which are not known to the withholding agent.

The amendment was agreed to.

The next amendment was, on page 67, line 15, after the word "alien," to strike out the word "individually" and to insert "individual"; and in line 17, after the word "partnership," in line 16, to strike out "or a corporation," so as to make the paragraph read:

(b) In any case where bonds, mortgages, or deeds of trust, or other similar obligations of a corporation contain a contract or provision by which the obligor agrees to pay any portion of the tax imposed by this title upon the obligee, or to reimburse the obligee for any portion of the tax, or to pay the interest without deduction for any tax which the obligor may be required or permitted to pay thereon, or to retain therefrom under any law of the United States, the obligor shall deduct and withhold a tax equal to 2 per cent of the interest upon such bonds, mortgages, deeds of trust, or other obligations, whether such interest is payable annually or at shorter or longer periods and whether payable to a nonresident alien individual or to an individual citizen or resident of the United States or to a partnership: *Provided*, That the Commissioner may authorize such tax to be deducted and withheld in the case of interest upon any such bonds, mortgages, deeds of trust, or other obligations, the owners of which are not known to the withholding agent. Such deduction and withholding shall not be required in the case of a citizen or resident entitled to receive such interest, if he files with the withholding agent on or before February 1 a signed notice in writing claiming the benefit of the credits provided in subdivisions (c) and (d) of section 216; nor in the case of a nonresident alien individual if so provided for in regulations prescribed by the Commissioner under subdivision (g) of section 217.

The amendment was agreed to.

The next amendment was, on page 68, after line 3, to insert:

(c) Every individual, corporation, or partnership required to deduct and withhold any tax under this section shall make return thereof on or before March 1 of each year and shall on or before June 15 pay the tax to the officer of the United States Government authorized to receive it. Every such individual, corporation, or partnership is hereby made liable for such tax and is hereby indemnified against the claims and demands of any individual corporation, or partnership for the amount of any payments made in accordance with the provisions of this section.

(d) Income upon which any tax is required to be withheld at the source under this section shall be included in the return of the recipient of such income, but any amount of tax so withheld shall be credited against the amount of income tax as computed in such return.

(e) If any tax required under this section to be deducted and withheld is paid by the recipient of the income, it shall not be recollected from the withholding agent; nor in cases in which the tax is so paid shall any penalty be imposed upon or collected from the recipient of the income or the withholding agent for failure to return or pay the same, unless such failure was fraudulent and for the purpose of evading payment.

The amendment was agreed to.

The next amendment was, on page 69, after line 5, to strike out:

SEC. 228. Subdivision (a) of section 222 of the revenue act of 1918 is amended to read as follows:

The amendment was agreed to.

The next amendment was, on page 69, after line 7, to insert the following subhead:

Credit for taxes in case of individuals.

The amendment was agreed to.

The next amendment was, on page 69, at the beginning of line 9, to strike out the quotation marks and "(a)" and to insert "SEC. 222. (a)."

The amendment was agreed to.

The next amendment was, on page 70, line 8, after the words "of the," to strike out the word "tax," and to insert "tax, against which such credit is taken," so as to make the paragraph read:

(5) The above credits shall not be allowed in the case of a foreign trader; and in no other case shall the amount of credit taken under this subdivision exceed the same proportion of the tax against which such credit is taken, which the taxpayer's net income (computed without deduction for any income, war-profits and excess-profits taxes imposed by any foreign country or possession of the United States) from sources without the United States bears to his entire net income (computed without such deduction) for the same taxable year.

The amendment was agreed to.

The next amendment was, on page 70, after line 14, to insert:

(b) If accrued taxes when paid differ from the amounts claimed as credits by the taxpayer, or if any tax paid is refunded in whole or in part, the taxpayer shall notify the commissioner, who shall redetermine the amount of the tax due under Part II of this title for the year or years affected, and the amount of tax due upon such redetermination, if any, shall be paid by the taxpayer upon notice and demand by the collector, or the amount of tax overpaid, if any, shall be credited or refunded to the taxpayer in accordance with the provisions of section 252. In the case of such a tax accrued but not paid, the commissioner as a condition precedent to the allowance of this credit may require the taxpayer to give a bond with sureties satisfactory to and to be approved by the commissioner in such penal sum as the commissioner may require, conditioned for the payment by the taxpayer of any amount of tax found due upon any such redetermination; and the bond herein prescribed shall contain such further conditions as the commissioner may require.

The amendment was agreed to.

Mr. WADSWORTH. Was the little amendment on line 14, page 70, adopted?

The PRESIDING OFFICER. The Chair will inform the Senator that that amendment is included in the request made by the Senator from Utah [Mr. SMOOT] early in the proceedings to-day.

Mr. WADSWORTH. Very well.

The next amendment was, on page 71, after line 10, to strike out:

SEC. 229. Subdivision (c) of section 222 of the revenue act of 1918 is amended to read as follows:

The amendment was agreed to.

The next amendment was, on page 71, after line 18, to strike out:

SEC. 230. Section 222 of the revenue act of 1918 is further amended by adding at the end thereof a new paragraph to read as follows.

The amendment was agreed to.

The next amendment was, on page 72, after line 3, to strike out:

SEC. 231. Section 223 of the revenue act of 1918 is amended to read as follows:

"SEC. 223. That every individual having a net income for the taxable year of $1,000 or over, if single, or if married and not living with husband or wife, or of $2,000 or over, if married and living with husband or wife, shall make under oath a return stating specifically the items of his gross income and the deductions and credits allowed by this title. A husband and wife living together may make a single joint return, in which case the tax shall be computed on the combined income.

"If the taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer.

Mr. SIMMONS. I ask that the sections with reference to individual and partnership returns may go over.

The PRESIDING OFFICER. The Chair will state for the benefit of the Senator from North Carolina that commencing in line 4, on page 22, the amendment is to strike out down to line 18 and to insert.

Mr. SIMMONS. I do not know that I catch the suggestion of the Chair.

The PRESIDING OFFICER. Section 223 in italics is an insert for section 223, which has been stricken out. Does the Senator desire to have the section stricken out retained, or merely to pass over the new sections proposed?

Mr. SIMMONS. Mr. President, what I desired was to have action postponed upon the sections under "Individual returns" and "Partnership returns."

Mr. SMOOT. Then the Senator does not desire to have the amendment agreed to striking out section 223, for this is a substitute for section 223.

Mr. SIMMONS. Let it all go over.

The PRESIDING OFFICER. Without objection, then, the lines stricken out on page 72, lines 6 to 18, will go over, and the amendment under "Individual returns" on pages 72 and 73 will go over, and also the amendment under "Partnership returns," section 224.

Mr. SIMMONS. I think we might just as well also let "Fiduciary returns," section 225, go over. I do not include in that section 226.

The PRESIDING OFFICER. All the amendments commencing on line 6, page 72, and including line 14 on page 75, will go over.

Mr. SIMMONS. Suppose we let it all go over to the beginning of page 77.

The PRESIDING OFFICER. At the request of the Senator from North Carolina all up to the beginning of page 77 will be passed over.

The next amendment was, at the top of page 77, to insert:

TIME AND PLACE FOR FILING INDIVIDUAL, PARTNERSHIP, AND FIDUCIARY RETURNS.

SEC. 227. (a) That returns (except in the case of nonresident aliens) shall be made on or before the fifteenth day of the third month following the close of the fiscal year, or, if the return is made on the basis of the calendar year, then the return shall be made on or before the 15th day of March. In the case of a nonresident alien individual returns shall be made on or before the fifteenth day of the sixth month following the close of the fiscal year, or, if the return is made on the basis of the calendar year, then the return shall be made on or before the 15th day of June. The commissioner may grant a reasonable extension of time for filing returns whenever in his judgment good cause exists and shall keep a record of every such extension and the reason therefor. Except in the case of taxpayers who are abroad no such extension shall be for more than six months.

(b) Returns shall be made to the collector for the district in which is located the legal residence or principal place of business of the person making the return, or, if he has no legal residence or principal place of business in the United States, then to the collector at Baltimore, Md.

The amendment was agreed to.

The next amendment was, at the top of page 78, to insert:

UNDERSTATEMENT IN RETURNS.

SEC. 228. That if the collector or deputy collector has reason to believe that the amount of any income returned is understated, he shall give due notice to the taxpayer making the return to show cause why the amount of the return should not be increased, and upon proof of the amount understated may increase the same accordingly. Such taxpayer may furnish sworn testimony to prove any relevant facts, and if dissatisfied with the decision of the collector may appeal to the commissioner for his decision, under such rules of procedure as may be prescribed by the commissioner with the approval of the Secretary.

The amendment was agreed to.

The next amendment was, on page 78, after line 14, to strike out:

SEC. 233. Paragraph (2) of subdivision (a) of section 230 of the revenue act of 1918 is amended to read as follows:

"(2) For the calendar years 1919, 1920, and 1921, 10 per cent of such excess amount, and for the calendar year 1922 and each calendar year thereafter, 12½ per cent of such excess amount."

The amendment was agreed to.

Mr. SIMMONS. I ask that the title "Corporations" go over, down to line 7, page 79.

The PRESIDING OFFICER. At the request of the Senator from North Carolina, Part III, "Corporations," up to and including line 7, on page 79, will be passed over.

Mr. KING. May I inquire of the Senator from North Carolina whether the remainder of the section or chapter or part dealing with corporations bears any relation to the part which has been passed over?

Mr. SIMMONS. The next section deals altogether with the exemptions allowed corporations. I have no desire to call in question those provisions. It is only the part as to the tax on corporations that I wish to have go over. I do not care particularly about the exemptions.

The next amendment was, on page 79, after line 7, to insert:

CONDITIONAL AND OTHER EXEMPTIONS OF CORPORATIONS.

SEC. 231. That the following organizations shall be exempt from taxation under this title:

(1) Labor, agricultural, or horticultural organizations.

(2) Mutual savings banks not having a capital stock represented by shares.

Mr. WADSWORTH. Mr. President, may I ask whether the language on line 11 relating to labor, agricultural, or horticultural organizations is the language of existing law?

Mr. McCUMBER. It is.

The PRESIDING OFFICER. The Chair will state that it is.

Mr. WADSWORTH. May I ask whether that exemption applies to or goes so far as to exempt cooperative societies which distribute profits to their members?

Mr. McCUMBER. That is in another section.

Mr. WADSWORTH. That is taken care of in another section?

Mr. McCUMBER. It is.

Mr. KING. Mr. President, may I inquire of the Senator from North Dakota, on the same subject, whether under the head "agricultural or horticultural organizations" they would be exempt from taxation if they were engaged as, for instance, the Raisin Trust of California is engaged in handling the products of practically all of the grape producers of California?

Mr. McCUMBER. The Senator will observe that these are exempted from taxation "under this title." There are other provisions for taxation on corporations unless they come clearly under those corporations which are not organized for profit. That is found in another section of the bill.

Mr. KING. Supposing that there is an agricultural or horticultural organization that is engaged in business solely for profit?

Mr. WADSWORTH. On page 81 will be found the language which taxes that.

Mr. KELLOGG. Mr. President, I should like to ask the chairman of the committee if this is intended to cover State or county fairs belonging to the States or the counties?

Mr. McCUMBER. I will state that those are taken care of entirely in another section of the bill.

Mr. KING. May I suggest to the Senator from New York, in view of his suggestion as to the provisions found on page 81, and linking that suggestion to my inquiry, whether it would not be wise to amend lines 11 and 12 so as to link them to the provisions of paragraph (10), found on page 81? That is to say, if they are not engaged along the lines indicated in the amendment found on page 81, then they should be subject to taxation; but if they are engaged in business purely for pecuniary profit, I am not quite clear as to the reason why they should be exempt from the corporate tax.

If individuals form a corporation to buy and sell apples, or to buy or sell grain, or any of the products of field or farm, what reason is there for exempting them from the corporate tax which we find provided for in the preceding section? I am asking the Senator from North Dakota for information.

Mr. McCUMBER. I suppose there would be no objection to inserting, after line 12, the words that are inserted in a subsequent provision between lines 14 and 17 of page 80; that is, the words:

No part of the net earnings of which inures to the benefit of any private stockholder or individual.

That is really what is intended. As I say, this simply provides that labor, agricultural, or horticultural organizations shall be exempt from taxation "under this title," which is dealing simply with corporations organized for profit, and not with those which are not organized for profit. I think there is no question but that the matter is taken care of in the bill; but if the Senator thinks that it ought to be reinserted also as I have suggested, that will make it clear that it does not apply to those we speak of here, which are exempt when they are organized for mutual benefit in marketing, and so forth, and no profit inures to the stockholders or individuals.

Mr. KING. Mr. President, I am in entire sympathy with the provision of the bill which exempts from taxation corporations of the character just referred to; but I am not clear but that the provision in lines 11 and 12 of page 79 will lead to confusion and to a condition of affairs where corporations which do make a profit, if they can link themselves in any way to the word "agricultural" or the word "horticultural," will claim to be exempt from taxation.

I am willing to pass the matter over; and if, upon further consideration, I feel that that provision should be amended, I shall ask the indulgence of the Senator to return to it.

Mr. WATSON of Indiana. Mr. President, I think there would be no objection to amending the provision, but I am told by the Treasury experts that there never has been a single instance in which any corporation has undertaken to abuse the privilege here accorded.

Mr. McCUMBER. And that is the present law, which has been in existence for some years.

Mr. POMERENE. Mr. President, may I ask the Senator in charge of the bill whether lines 13 and 14 are as they are contained in the present law?

Mr. McCUMBER. They are just as they are contained in the present law.

Mr. POMERENE. Will the Senator give me a reason why these organizations should be exempt from this tax?

Mr. McCUMBER. The language mentioned by the Senator refers to mutual savings banks not having a capital stock represented by shares. They have not been taxed under previous laws for the reason that there are no profits that could be divided among shareholders.

Mr. POMERENE. But the profits are divided among the depositors, who are the same as shareholders; and very large salaries are paid the officers, and so forth. Some of them are very great aggregations of wealth. Some of them are the largest banks in the country, and they are to be exempted while others, simply because of the fact that they issue shares of stock, are not exempt.

Mr. McCUMBER. The Senator will understand, of course, that individuals, if they receive anything from this character of a corporation, would pay upon their individual earnings; but my understanding is that this is practically the same as a building and loan association, and not organized for profit.

Mr. POMERENE. Mr. President, my judgment about it is that every time we make an exemption of any of these organizations we are increasing the burden of some one else, and as a rule there is not any reason which can be given for exempting one which may not with equal force be given for exempting another.

Mr. McCUMBER. I want to say to the Senator that this has been the law since 1913; it was in the very first income tax law.

Mr. POMERENE. I think the Senator has stated that correctly. I am objecting to the general principle of making such exemptions. Mr. President, I ask that this amendment may go over for the time being.

The VICE PRESIDENT. It has been passed over at the request of the Senator from Utah [Mr. KING].

Mr. WADSWORTH. Does that mean that all of section 230 will be passed over?

The VICE PRESIDENT. Lines 8 to 14 on page 79 will go over.

Mr. POMERENE. Mr. President, while I am on my feet, if I may I want to ask also, until I can make a little further investigation, that paragraph 4, beginning on line 24, page 79, to and including line 3 on page 80, go over.

I ask that for this reason: In the State of Ohio, while all the building and loan associations, as I understand it, are organized under the same law, there are slight differences. In some of these associations when the borrower makes a loan he is required to subscribe to certain shares of stock, and thereby becomes a member. There are certain other organizations which have some by-law under which they simply sign an agreement making application for membership, and are charged a small fee, in some cases 25 cents and in some cases two or three dollars. They are members, and the loans are made to them as members, so that under the phraseology of the bill they would be exempt; but there are other organizations which sometimes make loans to outsiders.

The only difference is that in the one class of loan associations there will be a nominal fee of 25 or 50 cents charged, which will constitute the borrowers members of a certain class of associations which would be exempt. But if they do not charge this fee, and thereby make the expense of the loan that much less to the borrower, and thereby decrease the amount of the income of the building and loan association, technically they will be subject to this tax, and I do not think it is fair.

I may say to Senators that during the last week, when I was in Ohio, I saw some of the prominent men in the associations. They are not complaining seriously, some of them, about the tax at all, if all are treated alike; but there ought not to be a line of discrimination which makes one group of associations subject to a tax and the other not.

In one of the smaller cities there are two very substantial loan companies. They both take deposits, as I understand it. One of them makes loans purely to its members, charging a membership fee; the other makes loans to its stockholders and to some outsiders. The tax which the latter association would be subject to would amount to twenty or twenty-five thousand dollars a year. They are doing the same business, upon substantially the same terms with their borrowers, but there is just the technical difference that one has signed an application for membership, and perhaps paid a small fee, and the other has not.

I am in entire accord with the proposition that if one is taxed the other should be taxed, or neither should be taxed.

Mr. McCUMBER. There has been considerable complaint, Mr. President, on the ground that many of these building and loan associations were really business enterprises, not organized particularly for the benefit of their members mutually, but simply for profit, and that by incorporating as building and loan associations many of them escape the tax. So the House in drawing the bill provided that domestic building and loan associations operated exclusively for the purpose of making loans to members should be excluded.

There was a class of these corporations the most of whose business was in making loans only to its own members, but in some instances they did make loans to some outsiders. So the Senate amended by striking out the words "exclusively for the purpose of making loans to members" and inserted "domestic building and loan associations substantially all the business of which is confined to making loans to members."

I do not know that that entirely meets the objection that is pointed out by the Senator, but I imagine that there may be many methods of doing business between the several associations calling themselves building and loan associations, but if they are engaged strictly in the business of making loans to their own members, or substantially so, without profit to the individual, the law seeks to exempt them from taxation.

Mr. POMERENE. Mr. President, if the Senator will permit me, this question has arisen in the administration of the Internal Revenue Department, and I understand that in my own State building and loan associations either have already begun or are about to begin some litigation to test the question as to whether certain of these building and loan associations shall be subject to the tax provided in the law as it now stands, and meanwhile I understand an application will be made to the collectors in that State, in the form of a petition in abatement, to hold up the collection of these taxes until such time as this question may be adjudicated; and I have asked that this may go over so that I can get in touch with some of these gentlemen who have studied this problem and will be able to make such suggestions as they may present.

What is uppermost in my mind is that there should be an equality of treatment. I have no doubt my colleague has some information on this subject, too.

Mr. WILLIS. Mr. President, I desire to join in the request of my colleague that this matter shall go over, because I shall want to make some observations upon this amendment.

While I am on my feet I want to ask a question of the Senator from North Dakota. Can he state what the language of the present law is bearing upon this subject? Perhaps he has it there. I am anxious to see just what change there is in the phraseology between the law and this bill.

Mr. McCUMBER. Under the present law it is provided that domestic building and loan associations shall be exempt. It exempts them all, without reference to the kind or character, and it was found that thereby they were exempting many who were conducting a business for profit. Hence the House provision and the change by the Senate amendment.

Mr. WILLIS. Then, Mr. President, the litigation to which my colleague has correctly referred is litigation that is growing out of the Treasury decision. My colleague has correctly stated that matter. I think, Mr. President, that this is a very important section of the bill.

We have a very peculiar situation in the State of Ohio. The law governing our building and loan associations is somewhat different from the law of any other State. As I understand this provision, as it now stands, not only will it operate as a discrimination amongst certain of our building and loan associations, but it will also strike with peculiar force all the building and loan associations in Ohio to a very much greater extent than it will those of any other State in the Union. I think, in view of the fact that these associations have proceeded according to the law of our State in the usual way, and have distributed whatever earnings there have been, if it is now proposed to attach this legislation to them it will bear with very great severity upon them, and will create a very dangerous situation in the State.

Then, while I am on my feet, I wanted to ask the Senator from North Dakota [Mr. McCUMBER], or the Senator from Indiana [Mr. WATSON], or some one who is giving attention to

this measure, what, in the discussions of the committee, was the meaning that was supposed to be attached to the language, "substantially all the business of which is confined"? I can understand the English language, of course; but I wondered what, in the judgment of the committee, practically speaking, "substantially all" would mean. What is "substantially all," in the judgment of the committee?

Mr. McCUMBER. That is rather a difficult question, but the Senator understands it as well as any member of the committee, and as well as anyone could understand it. It was first considered that possibly they should use the words "80 per cent of which is purely a business of a mutual character." Under that there might be a little discrimination, and it was thought best to leave the matter within the discretion of the department to determine what was substantially a corporation doing business as a building and loan association for the mutual benefit of its stockholders rather than for profit.

Mr. WILLIS. Then it was the judgment of the committee that probably 75 or 80 per cent should be considered as the test?

Mr. McCUMBER. The committee considered that, and it was considered better to use the word "substantially."

Mr. WILLIS. I understand; I simply wanted to get the thought of the committee.

Mr. McCUMBER. So that it would give the Treasury Department some leeway in determining what was just and fair and proper, and they could take every individual case by itself. One might have 89 per cent of its business of a mutual character and 11 per cent of another character, and another might have 91 per cent of a mutual character, and yet the business might be such altogether that it would be fairer to take the one with the 91 per cent and exempt it than the one with the 89 per cent; and that was left with the Treasury Department to determine.

Mr. FRELINGHUYSEN. Before the Senator takes his seat, may I ask him a question? Is it not true that nearly all these domestic building and loan associations are entirely mutual in character, made so by reason of the restrictions of the State law? What business do these building and loan associations do other than loaning mutually to their members?

Mr. McCUMBER. A great many of them are loaning to outside people who are not members of the association at all, and are doing business in many lines that are strictly not mutual building and loan association business.

Mr. FRELINGHUYSEN. That answers the question.

Mr. WILLIS. Not entirely, Mr. President. In our State we have the largest building and loan association in the world. They are not doing a general banking business. They have no authority, under the statutes of our State, to engage in the general business of banking, carry checking accounts, or anything of that sort, or to act as a trust company; but many of them do loan to nonmembers, as the Senator from North Dakota said, and a considerable percentage of their business is that, what percentage I am not at this moment prepared to say. To that extent they would not perhaps come within this definition. But what I want to make clear to the Senator from New Jersey is the fact that they are not doing a general banking business, and are not, to that extent, coming at all in competition with the banks.

Mr. FRELINGHUYSEN. Mr. President, I think we are all deeply interested in this question; I know I am. The building and loan associations in my State have over 500,000 members, and I think this ought to be passed over until we have some opportunity to study it, and determine what effect it will have.

Mr. SMOOT. I will say to the Senator, as one member of the committee, that I thought the House provision was better than the amendment proposed by the Senate committee.

I do know that there are what are termed domestic building and loan associations that are loaning a considerable part of their money to people outside of the membership of the organization. That practice is growing. I think if we are going to exempt them from all forms of taxation it ought to be those associations which loan their money to the members of the associations.

Mr. McCUMBER. Exclusively.

Mr. SMOOT. Exclusively to the members, and that is the way the House had it. The Senate committee amendment, reading "substantially all of the business of which is confined," will, of course, require the issuance of some rule or regulation as to the amount of business to be done before they can enforce that provision. If I had my way I would disagree to the committee amendment, and I would have it apply exclusively to members of domestic building associations.

Mr. McCUMBER. This was liberalized to cover the cases mentioned by the Senators from Ohio.

Mr. POMERENE. I presume there is some truth in that, but I wish to offer this suggestion in view of the situation in Ohio. Whatever is done, it seems to me that the law should take effect as to them at some future date and the tax should not attach for the past year, because it will leave some of those associations where they will be compelled to pay the tax and others will not, when, in effect, they are doing substantially the same business. I think it is well that this go over and perhaps those who are interested in it can get together and formulate something.

Mr. McCUMBER. Certainly I agree that it should go over, but I wish if possible to correct a misapprehension of the Senator, if I understood him correctly.

The Senator must remember that those who are doing any business whatever outside of business with their members are taxable under the present law.

Mr. POMERENE. Will the Senator please read the present law?

Mr. McCUMBER. Yes; I will read it. That provision reads as follows:

> Domestic building and loan associations and cooperative banks without capital stock organized and operated for mutual purposes and without profit.

That is the law as it now stands, and if a portion or any part of its business was done for profit, it would be taxable under the present law, so what we are doing is to relieve them from that tax for 1921.

Mr. POMERENE. If I may so say to the Senator, that is one of the questions which is in litigation now, and no doubt will be determined within the next few months.

Mr. McCUMBER. I will ask that the amendment be passed over.

Mr. WILLIS. Before it is passed over, I wish to make this one suggestion growing out of the suggestion made by the Senator from Utah [Mr. SMOOT]. If I understood him, he would have very much preferred the language of the bill as it came from the other body, reading as follows:

> Domestic building and loan associations operated exclusively for the purpose of making loans to members.

I suggest, for the consideration of the Senator from Utah, that if that were written into the law it would be the easiest thing in the world for building and loan associations to adopt a regulation that they would make no loan except to a person who had become a member of the association by buying a very small share of stock, and in that way the Government would lose the revenue and no good purpose would be accomplished. It is my understanding that these people are not objecting to the payment of the tax if it is not made retroactive, as suggested by my colleague. If it is fair, it ought to bear upon all alike; but if it shall be in this form as proposed, that will be the effect of it. They will simply change the form of organization and will make loans only to persons who own a small share of stock, and the Government will be deprived of the revenue and we will not get anywhere.

Mr. SMOOT. In answer to the Senator from Ohio, I wish to say that in every building and loan association that I know anything about the amount of the loan to a member of the association depends upon the amount of stock that he subscribes in the association. If he subscribes for a few dollars of stock he can only borrow, under the by-laws of the association, a few dollars. That would not assist him in any way.

But I do believe that whenever we begin to make exemptions from all forms of taxation there ought to be a good reason for it. Why was this exemption ever asked in the first place? It was because it was a mutual company, and a mutual company ought only to apply to the members of the company and the objects of the association. If any business is done outside the objects of the association and outside the mutual benefits derived by the members of the association, then they ought to pay a tax just the same as any other business does.

Therefore I am in favor of the House provision, which provides that these associations shall operate exclusively for the purpose of loaning to their members. Then there would be no question about it at all. Borrowers would have to be members of the association, and if they wanted to borrow $10,000 they would have to have a sufficient number of shares of stock to equal when paid up the amount of $10,000, or $1,000, or whatever amount they desired to borrow. That would be fair and just to the Government of the United States.

Mr. KING. Why not adopt the House provision?

Mr. SMOOT. I hope we may do so.

Mr. WILLIS. Mr. President, so far as the Ohio building and loan associations are concerned, the Senator from Utah is to some extent in error, because it is not simply an idea of mutuality that there obtains. That is not the reason or the sole

reason for the existence of building and loan associations, but rather, and in addition to that, the fact that it is a sort of community association.

I do not care to take the time of the Senate now to discuss the question, but I simply point out the facts. I myself know, as I have no doubt my colleague knows, of communities where practically all the homes in the communities have been built through the operations of the building and loan association business. We are very familiar with that system in our State, and consequently shall view with a good deal of care any proposition to make them so generally subject to taxation.

Mr. President, I ask that the section be passed over.

The VICE PRESIDENT. The section will be passed over.

Mr. McKELLAR. Mr. President, I desire to ask the acting chairman of the committee if subsection (b), on page 73, went over? If not, I would like to have it go over.

Mr. SMOOT. That all went over.

Mr. McCUMBER. That has already been passed over.

Mr. McKELLAR. Very well. I was out of the Chamber for a few moments and was not certain that it had been passed over.

Mr. KING. Mr. President, I ask the indulgence of the acting chairman of the committee and call his attention again to lines 11 and 12 on page 79, so that I may not have to recur to that provision.

Mr. McCUMBER. That has been passed over.

Mr. KING. Then I shall address myself to the Senator later.

The next amendment of the Committee on Finance was, on page 79, to strike out lines 15 and 16, as follows:

SEC. 234. Subdivisions (3) and (4) of section 231 of the revenue act of 1918 are amended to read as follows.

The amendment was agreed to.

The next amendment was, on page 79, line 18, before the word "operating," to insert "(a)"; in line 19, after the word "members," to strike out "or beneficiaries of members"; and in line 21, after the word "system," in line 20, to insert "and (b) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents," so as to make the paragraph read:

(3) Fraternal beneficiary societies, orders, or associations. (a) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system; and (b) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

The amendment was agreed to.

The VICE PRESIDENT. It has been requested that paragraph 4, lines 24 and 25, page 79, and lines 1, 2, and 3, page 80, be passed over. It is so ordered.

The next amendment was, on page 80, after line 3, to insert:

(5) Cemetery companies owned and operated exclusively for the benefit of their members.

Mr. POMERENE. Is the word "companies" construed anywhere to include associations?

Mr. McCUMBER. I suppose it would be included. I do not know what construction has been given by the committee.

Mr. POMERENE. Allow me to suggest the insertion there of the words "or associations,' 'so that it willl read "cemetery companies or associations."

Mr. SMOOT. If the Senator will look on page 2 of the bill, he will find the following:

The term "corporation" includes associations, joint-stock companies, and insurance companies.

Mr. FLETCHER. That is merely the definition of a corporation.

Mr. POMERENE. That is true. I suggest that the amendment be amended by inserting after the word "companies" the words "or associations."

The ASSISTANT SECRETARY. The Senator from Ohio proposes to amend the proposed committee amendment on line 4, after the word "companies," by inserting the words "or associations."

Mr. McCUMBER. Let us see whether that would exempt corporations.

Mr. KING. The better way is to strike out the word "companies" and insert the word "corporations." With the definition of "corporations" it would include associations.

Mr. McCUMBER. I suggest that we insert the word "corporations" after the word "cemetery" and then insert the words "or associations" after "companies."

Mr. KING. Just strike out the word "companies" and insert the word "corporations" and you have it all.

Mr. SMOOT. The term "corporation" includes associations, joint-stock companies, and insurance companies.

Mr. KING. I suggest that we strike out the word "companies" and insert in lieu thereof the word "corporations," and with the definition of corporations it would embrace associations, companies, and everything else.

Mr. CURTIS. If we include corporations, I would remind Senators that they have no members. We must have a company or association so as to include members.

Mr. SMOOT. Not only that, but if we include corporations there are cemetery corporations which operate for profit just the same as any other corporation does.

Mr. WADSWORTH. But the language continues:

Owned and operated exclusively for the benefit of members.

You can have a member of an association, and the term "corporation" includes associations.

Mr. FLETCHER. In this connection let me state that the bill provides on page 2 that the term "corporation" shall include associations, joint-stock companies, and insurance companies. This is not an insurance company. I do not think the definition of corporation is sufficient to cover this sort of an association.

Mr. WATSON of Indiana. I think every corporation is organized and operated for the benefit of its members.

Mr. McCUMBER. Let me suggest to the Senator from Ohio that we follow his first suggestion of inserting the words "or associations" after the word "companies," and that we had better look a little further into the matter before we introduce the word "corporations."

Mr. SMOOT. Why not let it go over?

Mr. POMERENE. Let me make this further suggestion to the Senator. I have in mind certain cemetery associations that are not conducted for profit. The fact is that in Ohio we have corporations for profit and corporations not for profit. They have a potter's field, where burials are made of the poor by charitable associations. They are not members of the corporation or association, but the organizations are doing that as a charity work. Surely if that is the extent of their activities outside of their membership they ought not to be subject to a tax. I suggest for the Senator's consideration some change of the rest of the phraseology.

Mr. SMOOT. I will ask that the amendment go over.

The VICE PRESIDENT. At the request of the Senator from Utah, the amendment will go over.

The next amendment was, on page 80, after line 5, to strike out:

SEC. 235. Subdivision (6) of section 231 of the revenue act of 1918 is amended to read as follows.

Mr. KELLOGG. Mr. President, I should like to ask the Senator in charge of the bill if subdivision 6, on page 80, would be subject to amendment?

The VICE PRESIDENT. That is the House text and is subject to amendment.

Mr. McCUMBER. Certainly; any subdivision will be subject to amendment.

Mr. KELLOGG. The subdivision to which I refer is not a part of the committee amendment.

Mr. McCUMBER. The understanding, however, is that we shall first take up committee amendments.

Mr. KELLOGG. Very well.

The VICE PRESIDENT. The question is on agreeing to the amendment of the committee last read.

The amendment was agreed to.

The next amendment was, on page 80, after line 13, to insert:

(7) Business leagues, chambers of commerce, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private stockholder or individual;

(8) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare;

(9) Clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private stockholder or member;

(10) Farmers' or other mutual hail, cyclone, or fire insurance companies, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations of a purely local character, the income of which consists solely of assessment, dues, and fees collected from members for the sole purpose of meeting expenses.

Mr. WADSWORTH. Mr. President, I do not wish to appear captious in the inquiry I am about to make, but in paragraph 8, which has just been read and which has reference to "civic leagues or organizations"—which in itself is a rather vague term—the further term or expression is used, "social welfare." That is equally vague and there will always be a good deal of dispute as to what "social welfare" may be. I wish to ask the Senator in charge of the bill why in paragraph 8 the same language is not used or may not be used which is used in paragraph 7, the next preceding paragraph, to the effect:

And no part of the net earnings of which inures to the benefit of any private stockholder or individual.

Mr. McCUMBER. I think, of course, that is understood, but there would be no objection if the Senator from New York desires to suggest that amendment.

Mr. SMOOT. I think the amendment should be inserted.

Mr. McCUMBER. I will agree to the amendment which the Senator from New York suggests. I think that probably it should be inserted.

Mr. WADSWORTH. Then the words "social welfare," which I doubt if anyone can define, could be eliminated.

Mr. McCUMBER. If the Senator from New York desires, the committee at this time will accept the amendment.

Mr. WADSWORTH. Then, Mr. President, on page 80, line 19, after the word "profit," I move to strike out the remainder of the line and also line 20 and to insert "and no part of the net earnings of which inures to the benefit of any private stockholder or individual."

Mr. McCUMBER. Why strike out the words "social welfare"? If I understand, that is what the Senator wishes to strike out. Why not leave those words in?

Mr. WADSWORTH. Because the term "social welfare" is so indefinite. What is meant by a league operated exclusively for the promotion of social welfare? It is proposed to exempt all such organizations.

Mr. McCUMBER. That is all subdivision 80 proposes to provide for; it deals only with organizations of that character; and if we should strike out those words there would be nothing left of the subdivision.

Mr. WADSWORTH. Just what the committee had in mind is a puzzle to me. What sort of organization had the committee in mind?

Mr. WALSH of Massachusetts. Does the Senator from New York understand that this provision is the same as the present law?

Mr. McCUMBER. It is the same as the old law, which has been in force for a number of years.

Mr. WALSH of Massachusetts. As I understand, it has been administered by the department without any trouble.

Mr. WADSWORTH. Then I withdraw my proposed amendment, but I am still hungry for a definition of "social welfare."

The VICE PRESIDENT. Does the Senator from New York understand that everything which is printed in the bill in small capitals is the existing law?

Mr. WADSWORTH. I am reminded of that, Mr. President.

The VICE PRESIDENT. Without objection, the amendment reported by the committee is agreed to.

The next amendment was, on page 81, after line 7, to strike out:

SEC. 236. Subdivision (11) of section 231 of the revenue act of 1918 is amended to read as follows:

The amendment was agreed to.

The next amendment was, on page 81, line 18, after the word "necessary," to strike out "purchasing expenses" and insert "expenses."

The amendment was agreed to.

The next amendment was, on page 81, after line 19, to insert:

(12) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title.

The amendment was agreed to.

The next amendment was, at the top of page 82, to insert:

(13) Federal land banks and national farm-loan associations as provided in section 26 of the act approved July 17, 1916, entitled "An act to provide capital for agricultural development, to create standard forms of investment based upon farm mortgage, to equalize rates of interest upon farm loans, to furnish a market for United States bonds, to create Government depositaries and financial agents for the United States, and for other purposes."

The amendment was agreed to.

The next amendment was, on page 82, after line 10, to strike out:

SEC. 237. Subdivision (14) of section 231 of the revenue act of 1918 is repealed, to take effect January 1, 1922.

The amendment was agreed to.

The next amendment was, on page 82, after line 12, to insert:

(14) Personal service corporations. This subdivision shall not be in effect after December 31, 1921.

The amendment was agreed to.

The next amendment was, on page 82, after line 14, to insert:

NET INCOME OF CORPORATIONS DEFINED.

SEC. 232. That in the case of a corporation subject to the tax imposed by section 230 the term "net income" means the gross income as defined in section 233 less the deductions allowed by section 234, and the net income shall be computed on the same basis as is provided in subdivision (b) of section 212 or in section 226.

Mr. SIMMONS. Mr. President, I ask that that section go over. I ask that sections 233 and 234 go over.

The VICE PRESIDENT. Without objection, the sections indicated will be passed over.

Mr. WALSH of Massachusetts. Mr. President, at some time, perhaps when the matter is taken up later, I think some member of the committee ought to explain the changes made in the existing law relative to the taxing of personal service corporations. Inasmuch as the Senator from North Carolina has asked to have the matter go over perhaps now is not the time to have such explanation, but at some time the provisions ought to be explained to the Senate.

Mr. McCUMBER. I did not quite understand the Senator's suggestion on account of the noise in the Chamber.

Mr. SIMMONS. I did not ask that the provisions in regard to personal service corporations be passed over. I started to ask that that be done, but changed my mind after a second reading. I ask, however, that three subsequent sections go over.

Mr. WALSH of Massachusetts. I should like to have lines 13 and 14, on page 82, go over, because I think it is very important that the Senate should understand just what the changes are that this bill makes in the taxing of personal service corporations.

Mr. McCUMBER. Mr. President, I think the Senate understands that the decision of the Supreme Court which held that dividends could not be taxed unless they were paid in actual cash to the distributees, so that they could have control of the dividends, would apply equally to undistributed earnings of a personal service corporation. I think there can be no question as to that. Personal service corporations, then, may very easily, if they make large profits, distribute only a small portion of such profits, and thus in many instances escape taxation of their earnings. Heretofore the tax on the earnings has been on the same basis in the case of personal service corporations as in the case of partnership associations, the incorporators or stockholders being taxed for the undistributed profits. Inasmuch as that was held to be unconstitutional in the case to which I have referred, it has been sought by the committee to compel such corporations making such profits, when they do not distribute them, to pay a higher tax in order to compel distribution. So in the bill it is provided that the stockholders shall be taxed for the undistributed profits or earnings. If, however, the profits are not distributed, then the tax, instead of being 15 per cent, will be 25 per cent upon the personal service corporations, the purpose being to compel the distribution, so that the earnings may be taxed in the hands and as a part of the income of the distributees.

Mr. WALSH of Massachusetts. I do not know that I have any objection to the amendment which has been read, but it seems to me that all of the provisions relating to personal service corporations might be passed over and be taken up together, because there is a very important change made by the bill in relation to them.

Mr. McCUMBER. Very well.

Mr. KING. Mr. President, I was called from the Chamber for a moment, and I should like to inquire of the Senator if the amendment to which the Senator from Massachusetts has just referred relates to corporations other than personal service corporations?

Mr. McCUMBER. It does not, and the Senator has just asked that it be passed over.

Mr. KING. Have the committee in the pending measure made provision for the taxing of undivided profits of corporations, profits which they hold in the treasury and do not divide for the purpose of escaping taxation?

Mr. McCUMBER. No; but instead of that the bill imposes a flat tax on all net earnings of corporations, increased from 10 per cent to 15 per cent, which is in lieu, of course, of the excess-profits tax. It would make no difference then whether the profits were distributed or not.

Mr. KING. If I may say a word more, the Senator will recall that the Senator from New Mexico [Mr. JONES] when the last revenue bill was under consideration offered an amendment, the object of which was to tax undivided profits and surplus which were held in the treasury of the corporation. The position which he took appealed to many Senators, and I think that there was a sort of consensus of opinion that when the war was over, if we perpetuated this form of taxation, something should be done to compel the distribution of those funds or that they should be subjected to taxation. I was wondering whether the subject had received attention at the hands of the Finance Committee.

Mr. McCUMBER. The subject has received attention, but there are quite a number of important considerations in con-

nection with the matter just referred to which there is no use of going into at this time; but when we come to discuss the 15 per cent tax upon corporations in lieu of all other taxes upon their net income, then the matter will be pertinent and can be discussed at that time.

Mr. KING. Very well.

Mr. SIMMONS. Mr. President, I do not think the change which has been made by the committee in the manner of taxing corporate income affects in any way the question of undistributed income. It remains just as it was before as to that. We never can get the surtax on the undistributed part of the income of corporations under the pending bill any more than under the existing law; and that question, which was so ably presented by the Senator from New Mexico [Mr. JONES], confronts us again, and according to my view confronts us in a very much more forceful way than it did at that time. In other words, I think the effect of relieving the corporations of the excess-profits tax and confining the taxes levied against them to 15 per cent of their income makes it more important than ever that we should be certain that we get the surtax upon at least the great bulk of the earnings, and if anything is to be retained undistributed for business reasons, that it should be limited to a very reasonable amount.

Mr. WATSON of Indiana. Mr. President, I should like to ask the Senator whether or not he is in favor of taxing the undistributed earnings of corporations?

Mr. SIMMONS. I never have been in favor heretofore of taxing the undistributed earnings of corporations. I think now that a certain per cent of their earnings should be retained. I think sound business considerations require that; but I think now, more than under the existing law, if this bill becomes law, we should look after that matter and see that no more is retained so as to escape this surtax than is absolutely necessary in order that the corporation may continue a growing concern and have an opportunity to expand its business.

Mr. SMOOT. Mr. President, not only do I believe that every corporation ought to keep as a reserve part of its earnings every year, but if I had the power and such a law could be passed I would compel them by law to do it. The American people have lost vast sums of money by investing in corporations which have not only paid out in dividends all they made in the business, but they have paid dividends on bad accounts and losses that should have been written off year after year; and just as soon as hard times approach or there is a business reverse of any kind the poor stockholder does not get his money back, but he has received a few paltry dollars in dividends that have actually destroyed his capital. Therefore I hope nothing will be done in the way of the passage of a law that would encourage or even tend to force this distribution in the way of dividends of supposed profits, and by so doing destroy the capital itself.

I tell you, Mr. President, the successful business institutions of this country are the ones that provide for a rainy day. It is just as it is with a man who is the head of a family, who provides for a day when sickness may befall him or his family, and who lays aside through savings enough to meet the condition that may arise in that way. If every individual in the United States did it—and in ninety-nine cases out of one hundred he could do it—there would be less suffering in families when reverses come; and the same principle applies to business concerns as well. Therefore, as I say, if I had my way and I could enforce a law on the subject I would compel corporations to keep a part of their earnings undistributed.

Mr. KING. Mr. President, I am very glad that my colleague does not have the authority to carry out the purpose which he has just suggested. The statements which he has made with respect to thrift and the proper methods of conducting private business are very pertinent and very sound. However, the evil that the Senator from New Mexico [Mr. JONES] had in mind when he offered the amendment, and to which the Senator from North Carolina has just referred, goes a little further than the position which my colleague takes.

Mr. SMOOT. I hope my colleague will not conclude from what I said that I think there is not an evil in not distributing any part of the earnings of a corporation. I was simply replying to what the Senator from North Carolina [Mr. SIMMONS] said. I know that during the war there was an evasion of taxation by not paying any dividends. I know of one corporation in a State not far from here, that the head of the concern told me of, that made over 100 per cent profit during two years. He organized the corporation, and there was not anybody in the corporation but himself and his family, and they decided that they could live without a distribution of the profits, as they had plenty of resources outside, and they just kept the profits there.

I know that there are evils of that kind, and I had no reference whatever to them; but I will say to my colleague that from now on, for the next few years, if any corporation makes its regular dividend it will do very well; very well, indeed. I do not think there will be any holding back of earnings to any extent from now on for perhaps another 10 years—perhaps not quite that long, but for several years to come—and the organization that can pay its regular dividends is the most fortunate institution that there possibly can be on earth to-day.

Mr. KING. Mr. President, I do not quite agree with my colleague. Even though the Republicans shall be in power during the next few years, I believe we are going to have good times, and that there will be a great revival of business, and that enormous profits will be made by business houses in a legitimate and in a proper way. The point I wanted to emphasize, however, was that there was a situation developed during the war to which the Senator from New Mexico [Mr. JONES] called attention, and there were, as my colleague has stated, a large number of corporations that sought to evade the payment of legitimate and proper taxes by failing to make distribution of their earnings. I am inclined to think that there ought to be some provision in this law that will meet a repetition of those conditions that were animadverted upon by the Senator from New Mexico.

The ASSISTANT SECRETARY. The Senator from Massachusetts [Mr. WALSH] asks that paragraph (14), on page 82, embraced in lines 13 and 14, be passed over.

The VICE PRESIDENT. Without objection, the paragraph will be passed over.

The ASSISTANT SECRETARY. The Senator from North Carolina [Mr. SIMMONS] asks that, beginning with line 15, on page 82, sections 232, 233, and 234 be passed over, or everything down to and including line 5, on page 94.

The VICE PRESIDENT. Without objection, the sections indicated will be passed over.

The next amendment was, on page 94, after line 5, to insert:

ITEMS NOT DEDUCTIBLE BY CORPORATIONS.

SEC. 235. That in computing net income no deduction shall in any case be allowed in respect of any of the items specified in section 215.

The amendment was agreed to.

The next amendment was, on page 94, after line 9, to insert:

CREDITS ALLOWED CORPORATIONS.

SEC. 236. That for the purpose only of the tax imposed by section 230 there shall be allowed the following credits:

(a) The amount received as interest upon obligations of the United States and bonds issued by the War Finance Corporation, which is included in gross income under section 233;

(b) In the case of a domestic corporation, $2,000; and

(c) The amount of any war-profits and excess-profits taxes imposed by act of Congress for the same taxable year. The credit allowed by this subdivision shall be determined as follows:

(1) In the case of a corporation which makes return for a fiscal year beginning in 1920 and ending in 1921, in computing the income tax as provided in subdivision (a) of section 205, the portion of the war-profits and excess-profits tax computed for the entire period under clause (1) of subdivision (a) of section 335 shall be credited against the net income computed for the entire period as provided in clause (1) of subdivision (a) of section 205, and the portion of the war-profits and excess-profits tax computed for the entire period under clause (2) of subdivision (a) of section 335 shall be credited against the net income computed for the entire period as provided in clause (2) of subdivision (a) of section 205.

(2) In the case of a corporation which makes return for a fiscal year beginning in 1921 and ending in 1922, in computing the income tax as provided in subdivision (b) of section 205, the war-profits and excess-profits tax computed under subdivision (b) of section 335 shall be credited against the net income computed for the entire period as provided in clause (1) of subdivision (b) of section 205.

Mr. SIMMONS. Mr. President, I ask that subdivision (b) of section 236 may go over. I desire to offer an amendment to that subdivision.

The VICE PRESIDENT. It will be passed over. Is there objection to the rest of the amendment? If not, the rest of the amendment is agreed to.

The next amendment was, on page 95, to strike out lines 18 to 20, both inclusive, in the following words:

SEC. 245. On and after January 1, 1922, section 237 of the revenue act of 1918 is amended by striking out the figures "10" and inserting in lieu thereof the figures "12½."

The amendment was agreed to.

The next amendment was, on page 95, after line 20, to insert:

PAYMENT OF CORPORATION INCOME TAX AT SOURCE.

SEC. 237. That in the case of foreign corporations subject to taxation under this title not engaged in trade or business within the United States and not having any office or place of business therein, there shall be deducted and withheld at the source in the same manner and upon the same items of income as is provided in section 221 a tax equal to 15 per cent thereof (but during the calendar year 1921 only 10 per cent), and such tax shall be returned and paid in the same manner and subject to the same conditions as provided in that section: *Provided*, That in the case of interest described in subdivision (b) of that section the deduction and withholding shall be at the rate of 2 per cent.

Mr. SIMMONS. Mr. President, I desire that that whole section go over.

The VICE PRESIDENT. On objection, it will go over.

The next amendment was, on page 96, after line 10, to strike out lines 11, 12, and 13, as follows:

SEC. 246. The first paragraph of subdivision (a) of section 238 of the revenue act of 1918 is amended to read as follows:

The amendment was agreed to.

The next amendment was, on page 96, line 14, to insert a subhead as follows:

Credit for taxes in case of corporations.

The amendment was agreed to.

The next amendment was, on page 96, line 22, to strike out the word "tax" and insert in lieu thereof the words "taxes, against which such credit is taken"; and on page 97, line 3, to strike out the word "year" and the quotation marks and to insert in lieu thereof the word "year," so as to make the paragraph read:

SEC. 238. (a) That in the case of a domestic corporation the tax imposed by this title, plus the war-profits and excess-profits taxes, if any, shall be credited with the amount of any income, war-profits, and excess-profits taxes paid during the same taxable year to any foreign country, or to any possession of the United States: *Provided*, That the amount of credit taken under this subdivision shall in no case exceed the same proportion of the taxes, against which such credit is taken, which the taxpayer's net income (computed without deduction for any income, war-profits, and excess-profits taxes imposed by any foreign country or possession of the United States) from sources without the United States bears to its entire net income (computed without such deduction) for the same taxable year.

The amendment was agreed to.

The next amendment was, on page 97, after line 3, to insert:

(b) If accrued taxes when paid differ from the amounts claimed as credits by the corporation, or if any tax paid is refunded in whole or in part, the corporation shall at once notify the commissioner, who shall redetermine the amount of the income, war-profits and excess-profits taxes for the year or years affected, and the amount of taxes due upon such redetermination, if any, shall be paid by the corporation upon notice and demand by the collector, or the amount of taxes overpaid, if any, shall be credited or refunded to the corporation in accordance with the provisions of section 252. In the case of such a tax accrued but not paid, the commissioner as a condition precedent to the allowance of this credit may require the corporation to give a bond with sureties satisfactory to and to be approved by him in such penal sum as he may require, conditioned for the payment by the taxpayer of any amount of taxes found due upon any such redetermination; and the bond herein prescribed shall contain such further conditions as the commissioner may require.

The amendment was agreed to.

The next amendment was, on page 98, to strike out lines 1 and 2, as follows:

SEC. 247. Subdivisions (b) and (c) of section 238 of the revenue act of 1918 are amended to read as follows.

The amendment was agreed to.

The next amendment was, on page 98, line 3, to strike out the quotation marks and "(b)" and to insert in lieu thereof "(c)"; and on line 7, at the end of the line, to strike out the word "credit" and the semicolon and to insert in lieu thereof the word "credit" and a period, so as to make the paragraph read:

(c) These credits shall be allowed only if the taxpayer furnishes evidence satisfactory to the commissioner showing the amount of income derived from sources without the United States, and all other information necessary for the verification and computation of such credit.

The amendment was agreed to.

The next amendment was, on page 98, line 8, to strike out the quotation marks at the beginning of the line and "(c)" and to insert "(d)"; and on line 14 to strike out the word "taxpayer" and the semicolon and to insert in lieu thereof the word "taxpayer" and a period, so as to make the paragraph read:

(d) If a domestic corporation makes a return for a fiscal year beginning in 1920 and ending in 1921, the credit for the entire fiscal year shall, notwithstanding any provision of this act, be determined under the provisions of this section; and the commissioner is authorized to disallow, in whole or in part, any such credit which he finds has already been taken by the taxpayer.

The amendment was agreed to.

The next amendment was, on page 98, line 15, to strike out at the beginning of the line the quotation marks and "(d)" and to insert "(e)"; and on line 16 to strike out the word "corporation" and the period and the quotation marks and to insert in lieu thereof the word "corporation" and a period, so as to make the paragraph read:

(e) For the purposes of this section a foreign trade corporation shall be treated as a foreign corporation.

The amendment was agreed to.

The next amendment was, on page 98, line 18, to insert a subhead "Corporation returns" and the following:

CORPORATION RETURNS.

SEC. 239. (a) That every corporation subject to taxation under this title and every personal service corporation shall make a return, stating specifically the items of its gross income and the deductions and credits allowed by this title. The return shall be sworn to by the president, vice president, or other principal officer and by the treasurer or assistant treasurer. If any foreign corporation has no office or place of business in the United States, but has an agent in the United States, the return shall be made by the agent. In cases where receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, such receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns made by receivers, trustees, or assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control.

(b) Returns made under this section shall be subject to the provisions of sections 226 and 228. When return is made under section 226 the credit provided in subdivision (b) of section 236 shall be reduced to an amount which bears the same ratio to the full credit therein provided as the number of months in the period for which such return is made bears to 12 months.

The amendment was agreed to.

The next amendment was, on page 99, after line 22, to strike out lines 23 and 24, as follows:

SEC. 248. Subdivision (a) of section 240 of the revenue act of 1918 is amended to read as follows:

The amendment was agreed to.

The next amendment was, on page 100, line 13, to strike out subhead:

CONSOLIDATED RETURNS OF CORPORATIONS.

The amendment was agreed to.

The next amendment was, on page 100, line 13, to strike out the quotation marks at the beginning of the line and the word "In," and to insert "(b) In," and in line 21 to strike out "236" and the quotation marks and insert "236."

The amendment was agreed to.

The next amendment was, on page 100, beginning with line 22, to insert the following:

(c) For the purpose of this section two or more domestic corporations shall be deemed to be affiliated (1) if one corporation owns directly or controls through closely affiliated interests or by a nominee or nominees substantially all the stock of the other or others, or (2) if substantially all the stock of two or more corporations is owned or controlled by the same interests.

Mr. KING. Before the amendment is agreed to may I inquire of the Senator from North Dakota whether, in the enforcement of the present law in regard to consolidated corporations, which, as I recall, is substantially the same as the provision just read, there have been any evasions as a result of which the Government has been deprived of revenue to which it was properly entitled?

Mr. McCUMBER. I am informed by the experts of the Treasury Department that there have been none, so far as they are informed.

Mr. KING. I make the inquiry because I was told of one instance where a pretext of consolidation was made for the purpose of avoiding taxation, and that the consolidation was so successfully accomplished on its face, the camouflage was so perfect, that the Government was robbed of a considerable revenue to which it was entitled. If it is possible for corporations to pretend a consolidation, or to create some artificial and superficial condition behind which they may take refuge to escape taxation, then there ought to be an emendation of this provision.

Mr. McCUMBER. I can only conceive of one instance in which anything could be gained by a consolidation and that is where there is a loss on the part of some subsidiary and that loss may be carried into the profits of the other concern.

Mr. KING. That is the case I have reference to.

Mr. McCUMBER. It seems to me that in almost every instance the Government would get more by reason of the consolidation. I have heard of no such cases as the Senator has mentioned. Of course, there may be an attempt to evade any tax law by some fraudulent act, and I do not know any way we could devise it so that there might not be such an attempt; but if it is merely a pretended consolidation and not in reality a consolidation, in most instances I suppose that course could be discerned and the Treasury Department would refuse to recognize the consolidation.

Mr. KING. The instances to which I refer were such as are within the mind of the Senator. They were cases where the same forces, the same individuals, controlled a number of corporations, and losing corporations were consolidated, for the time being at least, with the winning corporations, and in that way the Government was denied taxes from the profitable corporations to which it was entitled, as the money was taken to recoup the losses of the corporations that failed to have any earnings.

Mr. McCUMBER. Of course, under the present law, if the other corporation is owned by the principal, or whichever way you have a mind to put it, it is a legitimate consolidation and they have a right at the present time to consolidate them; in fact, they are compelled to consolidate. But I do not under-

stand that there is any danger which at any particular moment will flow from that.

Mr. KING. I do not understand the Senator's statement that they are compelled to consolidate. Conceive two corporations, in part owned by the same stockholders, one a profitable mining company, the other an unprofitable one. There is certainly nothing to compel the consolidation of those two corporations; but it would certainly be improper to bring them together merely for the purpose of evading the law.

Mr. McCUMBER. If the stockholders owning one substantially own the other, then under the present law they are compelled to make a consolidated return. That is the law at the present time, and I do not quite understand the position of the Senator.

Mr. KING. I gave an illustration of two corporations——

Mr. McCUMBER. If they are corporations that are not related, then, of course, if they consolidate after the loss has occurred the Government would not allow the loss of one corporation, made before it was consolidated, when it was an entirely independent corporation, to be placed against the profits of the other corporation.

Mr. KING. The cases I referred to would come under that category, and there was some juggling by the persons interested, and they effected a consolidation by which the losses of one corporation were met by the earnings of the other, and the Government was denied the taxes.

Mr. McCUMBER. They could not do that unless the consolidation was completed before the losses occurred.

Mr. KING. I am not sure, in the instance I had in mind, of the precise time of the consolidation, but I know that the Government, if my information is correct, was obliged to forego some taxes to which it legitimately was entitled.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, on page 101, after line 5, to strike out lines 6 and 7, as follows:

SEC. 249. Subdivision (c) of section 240 of the revenue act of 1918 is amended to read as follows:

The amendment was agreed to.

The next amendment was, on page 101, line 8, at the beginning of the line, to strike out the quotation marks and "(c)" and to insert "(d)."

The amendment was agreed to.

The next amendment was, on page 101, line 19, at the beginning of the line, to strike out the quotation marks and "(d)," and to insert "(e)"; and on line 23, after the word "by," to strike out the words "this act as in force prior to the passage of the revenue act of 1921," and to insert in lieu thereof the words, "the revenue act of 1918," so as to make the paragraph read:

(e) Corporations which are affiliated within the meaning of this section shall make consolidated returns for any taxable year beginning prior to January 1, 1922, in the same manner and subject to the same conditions as provided by the revenue act of 1918.

The amendment was agreed to.

The next amendment was, on page 102, beginning with line 1, to insert the following:

TIME AND PLACE FOR FILING CORPORATE RETURNS.

SEC. 241. (a) That returns of corporations shall be made at the same time as is provided in subdivision (a) of section 227, except that in the case of foreign corporations not having any office or place of business in the United States returns shall be made at the same time as provided in section 227 in the case of a nonresident alien individual.

(b) Returns shall be made to the collector of the district in which is located the principal place of business or principal office or agency of the corporation, or, if it has no principal place of business or principal office or agency in the United States, then to the collector at Baltimore, Md.

The amendment was agreed to.

The next amendment was, on page 102, after line 14, to strike out lines 15, 16, and 17, as follows:

SEC. 250. Part III of Title II of the revenue act of 1918 is amended by adding at the end thereof five new sections, to take effect January 1, 1922, to read as follows:

The amendment was agreed to.

The next amendment was, on page 102, line 18, before the word "insurance," to insert the word "life."

The amendment was agreed to.

The next amendment was, on page 102, line 20, to strike out the word "life," with a single quotation mark, and to insert the word "life" with a double quotation mark, and to strike out the word "company" followed by a single quotation mark and to insert the word "company" followed by a double quotation mark.

The amendment was agreed to.

The next amendment was, on page 103, line 2, to strike out "sections 230 and 1000" and to insert in lieu thereof "section 230 of this act, and by Title III of the revenue act of 1918"; on line 4 to strike out "1922" and to insert in lieu thereof "1921"; on line 5, at the end of the line, to strike out the word "life"; on line 7, after the word "domestic," to insert the word "life"; in line 9, after the word "foreign," to insert the word "life"; and in line 10, before "per cent," to strike out "12½" and insert "15," so as to make the section read:

SEC. 243. That in lieu of the taxes imposed by section 230 of this act, and by Title III of the revenue act of 1918, there shall be levied, collected, and paid for the calendar year 1921 and for each taxable year thereafter upon the net income of every life insurance company a tax as follows:

(1) In the case of a domestic life insurance company, 15 per cent of its net income.

(2) In the case of a foreign life insurance company, 15 per cent of its net income from sources within the United States.

The amendment was agreed to.

Mr. SIMMONS. Mr. President, I think I will ask that that part of the section beginning in line 7 and down to and including line 11 be passed over.

The PRESIDING OFFICER. It will be necessary to reconsider the vote by which the amendments to the section were agreed to.

Mr. SIMMONS. Just let the whole of that section go over.

Mr. McCUMBER. It seems to me that the Senator had better ask that the whole of the section go over.

Mr. SIMMONS. I have already asked that.

The PRESIDING OFFICER. Without objection, the vote by which the amendments to section 243 were agreed to will be reconsidered and section 243 will be passed over. That includes all of lines 1 to 11, inclusive, on page 103.

The next amendment was, on page 103, line 12, to strike out the word "an" and insert the words "a life," so as to make the paragraph read:

SEC. 244. (a) That in the case of a life insurance company the term "gross income" means the gross amount of income received during the taxable year from interest, dividends, and rents.

(b) The term "reserve funds required by law" includes, in the case of assessment insurance, sums actually deposited by any company or association with State or Territorial officers pursuant to law as guaranty or reserve funds, and any funds maintained under the charter or articles of incorporation of the company or association exclusively for the payment of claims arising under certificates of membership or policies issued upon the assessment plan and not subject to any other use.

The amendment was agreed to.

The next amendment was, on page 104, line 1, to strike out the word "an" and insert the words "a life," so as to make the section read:

SEC. 245. (a) That in the case of a life insurance company the term "net income" means the gross income less, etc.

The amendment was agreed to.

The next amendment was, on page 104, to strike out the words "(3) the amount of dividends included in the gross income" and insert:

(3) The amount received as dividends (a) from a domestic corporation other than a foreign trade corporation, or (b) from any foreign corporation when it is shown to the satisfaction of the Commissioner that more than 50 per cent of the gross income of such foreign corporation for the three-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the foreign corporation has been in existence) was derived from sources within the United States as determined under section 217.

The amendment was agreed to.

The next amendment was, on page 105, in line 6, to strike out the words "in the case of life insurance companies," so as to make the paragraph read:

(4) An amount equal to 2 per cent of any sums held at the end of the taxable year as a reserve for dividends (other than dividends payable during the year following the taxable year) the payment of which is deferred for a period of not less than five years from the date of the policy contract.

The amendment was agreed to.

The next amendment was, on page 106, in line 3, to strike out the semicolon after the word "obsolescence" and insert a period and the following: "In the case of property acquired before March 1, 1913, this deduction shall be computed upon the basis of its fair market price or value as of March 1, 1913," so as to make the paragraph read:

(7) A reasonable allowance for the exhaustion, wear and tear of property, including a reasonable allowance for obsolescence. In the case of property acquired before March 1, 1913, this deduction shall be computed upon the basis of its fair market price or value as of March 1, 1913.

The amendment was agreed to.

The next amendment was, on page 106, in line 11, after the word "taxpayer," to insert the following proviso:

Provided, That in the case of returns made for the calendar year 1921 there shall be allowed as a deduction interest paid or accrued during such year on indebtedness incurred or continued to purchase or carry obligations of the United States issued after September 24, 1917, even though the interest therefrom is so wholly exempt.

So as to make the paragraph read:

(8) All interest paid within the taxable year on its indebtedness, except on indebtedness incurred or continued to purchase or carry obligations or securities, the interest upon which is wholly exempt from taxation under this title as income to the taxpayer: *Provided*, That in the case of returns made for the calendar year 1921 there shall be allowed as a deduction interest paid or accrued during such year on indebtedness incurred or continued to purchase or carry obligations of the United States issued after September 24, 1917, even though the interest therefrom is so wholly exempt.

The amendment was agreed to.

The next amendment was, on page 106, in line 20, to strike out the word "an" and insert the words "a life," so as to make the paragraph read:

(b) No deduction shall be made under paragraphs (6) and (7) of subdivision (a) on account of any real estate owned and occupied in whole or in part by a life insurance company unless there is included in the return of gross income the rental value of the space so occupied. Such rental value shall be not less than a sum which in addition to any rents received from other tenants shall provide a net income (after deducting taxes, depreciation, and all other expenses) at the rate of 4 per cent per annum of the book value at the end of the taxable year of the real estate so owned or occupied.

The amendment was agreed to:

The next amendment was, on page 107, in line 4, after the word "foreign," to insert the word "life," and in line 10 to strike out the comma after the word "States," so as to make the paragraph read:

(c) In the case of a foreign life insurance company the amount of its net income for any taxable year from sources within the United States shall be the same proportion of its net income for the taxable year from sources within and without the United States, which the reserve funds required by law and held by it at the end of the taxable year upon business transacted within the United States is of the reserve funds held by it at the end of the taxable year upon all business transacted.

The amendment was agreed to.

The next amendment was, on page 107, line 13, after the word "every," to insert the word "life," so as to make the section read:

SEC. 246. That every life insurance company not exempt under the provisions of section 231 shall make a return for the purposes of this act. Such returns shall be made, and the taxes imposed by section 243 shall be paid, at the same times and places, in the same manner, and subject to the same conditions and penalties as provided in the case of returns and payment of income tax by other corporations, and all the provisions of this title not inapplicable, including penalties, are hereby made applicable to the assessment and collection of the taxes imposed by section 243.

The amendment was agreed to.

The next amendment was, on page 107, after line 22, to insert "Part IV.—Administrative provisions. Payment of taxes."

Mr. SIMMONS. Mr. President, I wish to inquire of the chairman of the committee how much longer he proposes that the Senate shall continue this evening?

Mr. PENROSE. I desire, of course, to proceed as long as I can; I had thought possibly until 6 o'clock.

Mr. SIMMONS. We have made considerable progress to-day on the bill. I think we will get along faster to-morrow if we give some opportunity to consider and study the bill, and I believe it would not be time lost if the Senator would now move to adjourn.

Mr. PENROSE. Mr. President, let us have order. I can not hear the Senator.

Mr. SIMMONS. I say I believe we would lose no time by taking an adjournment at this time, or a recess, whichever may be decided upon. I think that, far from delaying action upon the bill, the Senator would facilitate it.

Mr. PENROSE. The Senator is fully aware, as I am, of the overwhelming importance of the prompt passage of the bill. I do not have to expand on that. Not only ought it to be passed promptly as a notice to taxpayers, but to permit the departments to promulgate the rules. The German treaty is pending and will crowd this body to the limit. At the same time I wish to conduct the proceedings in a way that will be convenient to the former chairman of the committee and the minority leader in charge of the bill. Has the Senator any view to express as to what shall be done?

Mr. SIMMONS. I simply suggested that we adjourn or recess, whichever the Senator may prefer.

Mr. PENROSE. Until 11 o'clock to-morrow?

Mr. SIMMONS. I have explained to the Senator and explained to the Senate that the bill was reported yesterday morning, and I have not had sufficient time to go over the bill and determine what sections I wish to go over under the system under which we are now proceeding. If I had time to do that, I would probably consent to speedier action upon many of the sections and provisions which I now have to ask shall go over.

Besides, I have not had, since the committee reported the bill and made its report, adequate time to prepare the minority report. I do not recall since I have been in the Senate, now going on 21 years, when there has been such a rush as we have had here to-day, the first day the bill is before the Senate. When such important bills have been before the Senate, after the bill was presented and the report made, we have generally, during the first few days at least, not been so aggressive in our efforts to secure immediate action.

Mr. WATSON of Indiana. Mr. President——

Mr. SIMMONS. Just a moment. I know very well it is important that the bill should pass. It has been important for the last five months that the bill should pass. It was important that it should pass all the time we were taking it along leisurely in the Committee on Finance, and when the bill is presented, when everybody knows that Senators on neither side of the Chamber have had an opportunity to study it, I do not understand why it should be pressed in this way. Numbers of Senators have come to me to-day saying that they do not understand these items because they have had no opportunity to read the bill.

I think, if the Senator will pardon me, that the haste to-day has been rather out of the ordinary and undue and unnecessary under the circumstances. If a filibuster had developed, I could understand the attitude of the Senator from Pennsylvania.

Mr. McKELLAR. Mr. President, I ask leave to offer an amendment to the pending bill.

The PRESIDING OFFICER. The amendment will be printed and lie on the table.

Mr. WATSON of Indiana. Mr. President, after having had a conference with the Senator from North Carolina, and understanding his views on the situation, I trust that the Senator from Pennsylvania, the chairman of the committee, will accede to his request to take a recess until to-morrow at 12 o'clock, with the understanding that thereafter the hour of meeting shall be 11 o'clock and that recesses shall be taken from day to day and no adjournments, in order that the passage of the bill may be facilitated.

It is not sufficient for the Senator from North Carolina to say that we ought to have passed the bill some months ago. The Senator very well knows that the bill did not come to the Senate until a short time ago. He well knows that all legislation of this character must originate in the House, and that we immediately took it up for action in the Finance Committee just as soon as it came to us, and without the loss of one single day we continued to deliberate upon the bill until it was formulated and presented to the Senate. No one knows that better than my friend the Senator from North Carolina, who was personally present at practically every meeting which the Finance Committee had. Under all these circumstances, I do not think that the Senator should charge us with having been lax or laggard in the discharge of our duties and our obligations.

I trust that the Senator from Pennsylvania will now accede to the request of the Senator from North Carolina that we take a recess until to-morrow at 12 o'clock.

Mr. PENROSE. Mr. President, I have been impressed with what the Senator from North Carolina [Mr. SIMMONS] has said. I have no desire to inconvenience the Senator, but I must challenge the Senator's statement that this is the first day we have had to consider the pending measure. The bill is substantially, with certain modifications, the same as the one in the consideration of which I sat next to the Senator from North Carolina, shoulder to shoulder, for eight long months when we framed the existing law. There is nothing radically new in the bill. The situation in which the Senator finds himself is different from that of a new Senator who has never previously read the bill. The Senator from North Carolina has the advantage of the assistance of any of the experts upon whom he may call. The same Treasury experts who are now at his elbow have been in the committee room. The three or four able gentlemen, who have been so helpful, and who have assisted in perfecting the pending bill, helped the Senator from North Carolina in framing the existing law.

The pending bill was formally presented to the Senate last week, not to-day. I repeat, there is nothing new about it. I also venture the assertion that without a little gentle pressure, procrastination—not a filibuster—will be quite noticeable in the Chamber every morning. I shall, however, if it is agreeable to the Senator from North Carolina, agree to the suggestion of the Senator from Indiana [Mr. WATSON], that we now take a recess until 12 o'clock to-morrow, and that thereafter we take a recess every evening until 11 o'clock the following morning.

Mr. LA FOLLETTE. If the suggestion of the Senator from Pennsylvania is in the nature of a request for unanimous consent, I will make an objection to it.

Mr. PENROSE. I knew I could not get unanimous consent for the request; so I did not make it. I simply gave notice of what my purpose was, so far as I might be sustained by a majority of the Senate in my effort in that direction.

Mr. LODGE. Mr. President, if the Senator from Pennsylvania will now yield to me I desire to make a motion for an executive session.

Mr. PENROSE. I yield to the Senator from Massachusetts.

Mr. LODGE. I take this occasion to say that to-morrow afternoon, at the proper hour, it is my intention to ask the Senate to hold an evening session for the consideration of the treaty of peace with Germany and for nothing else. I simply give that notice.

Mr. PENROSE. At what hour does the Senator from Massachusetts intend that the Senate shall reconvene in the evening?

Mr. LODGE. At such hour as may be agreed upon. There will, of course, be a recess for dinner, and we may come back here, say, at 8 or half past 8 o'clock.

Mr. WADSWORTH and Mr. McNARY addressed the Chair.

Mr. LODGE. I yield to Senators who may desire to present morning business.

Mr. WADSWORTH. I think what I desire to present is in order at this time; it is not morning business. I submit an amendment to the pending measure, which I ask may be printed and lie on the table.

The VICE PRESIDENT. The amendment will be printed and lie on the table.

Mr. McNARY. I submit two amendments to the pending measure and ask that they may be printed and lie on the table.

The VICE PRESIDENT. The amendments submitted by the Senator from Oregon will be printed and lie on the table.

EXECUTIVE SESSION.

Mr. LODGE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 10 minutes spent in executive session, the doors were reopened.

MERCHANT-MARINE HEARINGS IN NEW YORK.

The VICE PRESIDENT laid before the Senate the following communication from the secretary of the United States Shipping Board, which was ordered to lie on the table and to be printed in the RECORD:

UNITED STATES SHIPPING BOARD.
Washington, September 26, 1921.

The PRESIDENT UNITED STATES SENATE,
Washington, D. C.

SIR: I am directed by the United States Shipping Board to communicate to you the following resolution which was adopted by the board at a meeting held on September 23, 1921:

"Whereas the United States Shipping Board is to hold a meeting in New York on the 4th and 5th days of October, 1921, for the purpose of inquiring into the questions involved in the existing contract between the International Mercantile Marine Co., incorporated under the laws of the State of New Jersey, and the British Government, and the relationship of said company, in view of said contract, with United States Shipping Board ships and their allocation to this or other companies operating under foreign flags, and kindred subjects, and whereas this inquiry is of national as well as of international interest, as evidenced by discussions in Congress and in the press: Be it

"*Resolved*, That an invitation be extended to the Senate and House of Representatives, through the President of the Senate and the Speaker of the House of Representatives, to attend said hearings and participate in the interrogation of witnesses or in such other way as they may see fit with the view to eliciting facts that will aid in the establishment of an American merchant marine under the act of June 5, 1920."

Respectfully,

CLIFFORD W. SMITH,
Secretary United States Shipping Board.

REPORT OF THE PUBLIC UTILITIES COMMISSION OF THE DISTRICT OF COLUMBIA.

The VICE PRESIDENT laid before the Senate a communication from the chairman of the Public Utilities Commission of the District of Columbia, transmitting, pursuant to law, a report of the official proceedings of the commission for the year ended December 31, 1920, together with other information relative to the public utilities of the District of Columbia, which, with the accompanying report, was referred to the Committee on the District of Columbia.

PETITIONS AND MEMORIALS.

Mr. NELSON presented a resolution adopted at a regular meeting of the city council of Crookston, Minn., September 13, 1921, indorsing the efforts of the Minnesota State highway department to provide road work during the coming winter for the benefit of the unemployed and urging that Federal highway aid be doubled for 1921, which was referred to the Committee on Post Offices and Post Roads.

Mr. CAPPER presented a resolution adopted by members of Lew Gove Post, No. 100, Grand Army of the Republic, at a meeting held at Manhattan, Kans., September 22, 1921, favoring the granting of $72 per month pensions to Civil War veterans and $50 per month to their widows, and the monthly payment of pensions, which was referred to the Committee on Pensions.

Mr. TOWNSEND presented a memorial of sundry citizens of Conklin, Coopersville, and Grand Rapids, all in the State of Michigan, remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which was referred to the Committee on the District of Columbia.

He also presented resolutions adopted by the first State convention of the American Association for the Recognition of the Irish Republic, at Bay City, Mich., September 4 and 5, 1921, favoring the recognition of the Irish republic by the Government of the United States, which was referred to the Committee on Foreign Relations.

He also presented a resolution adopted by the Sault Ste. Marie (Mich.) Civic and Commercial Association, favoring the enactment of legislation to establish an all-water route from the Great Lakes to the Atlantic seaboard via the St. Lawrence River, available for ocean-going vessels, etc., which was referred to the Committee on Commerce.

Mr. McLEAN presented a resolution adopted by the Bridgeport (Conn.) Junior Chamber of Commerce, favoring the enactment of legislation to establish an all-water route from the Great Lakes to the Atlantic seaboard via the St. Lawrence River, available for ocean-going vessels, etc., which was referred to the Committee on Commerce.

He also presented a petition of the Brewery Workers of New Haven, Conn., praying for the enactment of legislation restoring good beer and light wines, which was referred to the Committee on the Judiciary.

He also presented resolutions of Kevin Barry Council, of Waterbury; the Commodore Barry Council, of New Britain, both of the American Association for the Recognition of the Irish Republic, and Friends of Irish Freedom, of Naugatuck, all in the State of Connecticut, protesting against the cancellation of the debt owed the United States by Great Britain or the postponement of the interest thereon, etc., which were referred to the Committee on Finance.

He also presented resolutions of sundry citizens of Hartford, and Commodore Jack Barry Council, American Association for the Recognition of the Irish Republic, of New Britain, both in the State of Connecticut, favoring the recognition of the republic of Ireland by the Government of the United States, which were referred to the Committee on Foreign Relations.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. TOWNSEND:

A bill (S. 2495) to carry out the findings of the United States Court of Claims in the case of Philip H. Andrews (with accompanying papers); to the Committee on Claims.

A bill (S. 2496) granting an increase of pension to John A. Battenfield (with accompanying papers); to the Committee on Pensions.

A bill (S. 2497) to correct the military record of Francis English (with accompanying papers); and

A bill (S. 2498) to correct the military record of Alonzo C. Shekell (with accompanying papers); to the Committee on Military Affairs.

By Mr. NEW:

A bill (S. 2499) granting an increase of pension to John W. Thomas (with accompanying papers); and

A bill (S. 2500) granting a pension to Ida M. Loucks (with accompanying papers); to the Committee on Pensions.

By Mr. COLT:

A bill (S. 2501) to remove the charge of desertion from the military record of John T. Goldsmith, deceased (with accompanying papers); to the Committee on Military Affairs.

By Mr. WILLIS:

A bill (S. 2502) authorizing the transfer of the remains of a German airplane to the Ohio State Archæological and Historical Society; to the Committee on Military Affairs.

By Mr. CALDER:

A bill (S. 2503) for the relief of the Vindal Co.; to the Committee on Claims.

By Mr. PAGE:

A bill (S. 2504) providing for the readmission of certain deficient midshipmen to the United States Naval Academy; to the Committee on Naval Affairs.

AMENDMENTS OF TAX REVISION BILL.

Mr. LENROOT and Mr. McNARY each submitted two amendments, and Mr. WADSWORTH and Mr. McKELLAR each submitted one amendment, intended to be proposed by them to House bill 8245, the tax revision bill, which were ordered to lie on the table and to be printed.

WITHDRAWAL OF PAPERS—EDWARD S. CONKLING.

On motion of Mr. CALDER, it was—

Ordered, That leave be granted to withdraw from the files of the Senate the papers in the case of Edward S. Conkling, Senate bill 6650, Sixty-first Congress, there having been no adverse action taken thereon.

RECESS.

Mr. LODGE. I move that the Senate take a recess until to-morrow at 12 o'clock noon.

The motion was agreed to; and (at 4 o'clock and 30 minutes p. m.) the Senate took a recess until to-morrow, Wednesday, September 28, 1921, at 12 o'clock meridian.

CONFIRMATIONS.

Executive nominations confirmed by the Senate September 27 (legislative day of September 26), 1921.

ASSISTANT ATTORNEY GENERALS.

Mabel Walker Willebrandt to be Assistant Attorney General.
John W. H. Crim to be Assistant Attorney General.

UNITED STATES ATTORNEYS.

John T. Williams to be United States attorney, northern district of California.

Frank R. Jeffrey to be United States attorney, eastern district of Washington.

UNITED STATES MARSHALS.

Gilbert B. Stevens to be United States marshal, fourth division, district of Alaska.

Fred R. Fitzpatrick to be United States marshal, district of Kansas.

William C. Hecht to be United States marshal, southern district of New York.

Arthur Franklin Kees to be United States marshal, eastern district of Washington.

Frank M. Breshears to be United States marshal, district of Idaho.

COLLECTOR OF INTERNAL REVENUE.

Clyde G. Huntley to be collector of internal revenue, district of Oregon.

SURVEYOR GENERAL OF UTAH.

Erastus D. Sorenson to be surveyor general of Utah.

POSTMASTERS.

ALABAMA.

Bessie L. Crim, Siluria.

FLORIDA.

Robert T. Heagy, Archer.
Charles W. Pierce, Boynton.
Grace M. Mashburn, Caryville.
Orin E. Smith, Cocoanut Grove.
Robert J. Henson, Dania.
Edna F. Hope, Dunedin.
Ethyl O. Hay, Inverness.
Ethel Sims, Jupiter.
Daniel H. Petteys, McIntosh.
Daniel L. Thorpe, Manatee.
Florence M. Wackerle, Melbourne.
David S. Simpson, Mount Dora.
Ellen O'Donald, Pablo Beach.
Rexford D. L. Graves, Seabreeze.
William F. Durance, Sutherland.
Arthur L. Stevens, Waldo.

INDIANA.

James A. Raper, Brazil.
Lyman D. Heavenridge, Spencer.

KANSAS.

Edwin A. Boyd, Dwight.
Porter Young, Great Bend.
Herbert W. Chittenden, Hays..
Howard L. Stevens, Norton.
Homer M. Limbird, Olathe.
Albert A. Cochran, Pratt.

MICHIGAN.

Josephine I. Dunham, Montrose.
Elmon J. Loveland, Vermontville.

OHIO.

Frank F. Dunham, Fayetteville.

OKLAHOMA.

Albert H. Lyons, Bristow.
Leo N. Hawkins, Hitchcock.
James L. Shinaberger, McAlester.
Vernon Whiting, Pawhuska.
Odessa H. Willis, Pittsburg.
Fred T. Kirby, Ponca City.
Harvey E. Brinson, Redrock.

TEXAS.

Willie P. Hallmark, Dublin.
Arthur N. Richardson, Electra.
George H. Draeger, Seguin.
Morus B. Howard, Sweetwater.

SENATE.

WEDNESDAY, *September 28, 1921.*

(Legislative day of Monday, September 26, 1921.)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. William Tyler Page, its Clerk, announced that the House had passed bills and a joint resolution of the following titles, in which it requested the concurrence of the Senate:

H. R. 7108. An act authorizing a per capita payment to the Chippewa Indians of Minnesota from their tribal funds held in trust by the United States;

H. R. 7578. An act providing for "Visit the Dunes, Michigan City," canceling stamp to be used by Michigan City (Ind.) post office;

H. R. 8365. An act to permit the use in the post office at Cincinnati, Ohio, of special canceling stamps bearing the words "Public Health Exposition, Cincinnati, Ohio, October 15 to 22, 1921";

H. R. 6864. An act authorizing exchanges of lands within the Rainier National Forest, in the State of Washington;

H. R. 7109. An act to accept the cession by the State of Arkansas of exclusive jurisdiction over a tract of land within the Hot Springs National Park, and for other purposes;

H. R. 7161. An act to authorize certain desert-land claimants who entered the military or naval service of the United States during the war with Germany to make final proof of their entries;

H. R. 7600. An act authorizing the adjustment of the boundaries of the Deschutes National Forest, in the State of Oregon, and for other purposes; and

H. J. Res. 57. Joint resolution making the provisions of section 2296 of the United States Revised Statutes applicable to all entries made under the homestead laws and laws supplemental and amendatory thereof.

The message also announced that the House had agreed to the concurrent resolution (S. Con. Res. 12) providing for printing as a Senate document, with an index, 19,000 additional copies of the tax-revision bill.

HOUSE BILLS AND JOINT RESOLUTION REFERRED.

The following bills and joint resolution were severally read twice by title and referred as indicated below:

H. R. 7108. An act authorizing a per capita payment to the Chippewa Indians of Minnesota from their tribal funds held in trust by the United States; to the Committee on Indian Affairs.

H. R. 7578. An act providing for "Visit the Dunes, Michigan City," canceling stamp to be used by Michigan City (Ind.) post office; to the Committee on Post Offices and Post Roads.

H. R. 6864. An act authorizing exchanges of lands within the Rainier National Forest, in the State of Washington;

H. R. 7109. An act to accept the cession by the State of Arkansas of exclusive jurisdiction over a tract of land within the Hot Springs National Park, and for other purposes;

H. R. 7161. An act to authorize certain desert-land claimants who entered the military or naval service of the United States during the war with Germany to make final proof of their entries;

H. R. 7600. An act authorizing the adjustment of the boundaries of the Deschutes National Forest, in the State of Oregon, and for other purposes; and

H. J. Res. 57. Joint resolution making the provisions of section 2296 of the United States Revised Statutes applicable to all entries made under the homestead laws and laws supplemental and amendatory thereof; to the Committee on Public Lands and Surveys.

PUBLIC HEALTH EXPOSITION, CINCINNATI, OHIO.

The bill (H. R. 8365) to permit the use in the post office at Cincinnati, Ohio, of special canceling stamps bearing the

words "Public Health Exposition, Cincinnati, Ohio, October 15 to 22, 1921," was read twice by its title.

The VICE PRESIDENT. The bill will be referred to the Committee on Post Offices and Post Roads.

Mr. POMERENE. I ask that the bill may be permitted to lie on the table until my colleague [Mr. WILLIS] comes into the Chamber. I have an impression that the Committee on Post Offices and Post Roads has acted upon a somewhat similar bill. I am not clear about it, and therefore ask that the bill may lie on the table until my colleague is here.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. POMERENE subsequently said: Some time ago while my colleague was out of the Chamber I asked to have a certain bill, which had been messaged to the Senate by the House lie on the table until he could be present. I have conferred with him since and think the bill should be referred to the Committee on Post Offices and Post Roads.

The PRESIDING OFFICER (Mr. CURTIS in the chair). The bill will be referred to the Committee on Post Offices and Post Roads.

TAX REVISION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

Mr. PENROSE. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Borah	Gooding	McKinley	Shortridge
Brandegee	Hale	McLean	Simmons
Broussard	Harreld	McNary	Smoot
Cameron	Harris	Moses	Spencer
Capper	Harrison	Myers	Sterling
Caraway	Heflin	Nelson	Sutherland
Colt	Johnson	New	Swanson
Culberson	Kellogg	Nicholson	Townsend
Cummins	Kendrick	Norbeck	Trammell
Curtis	Kenyon	Oddie	Underwood
Dial	King	Overman	Walsh, Mass.
Dillingham	Ladd	Page	Watson, Ga.
Edge	La Follette	Penrose	Watson, Ind.
Ernst	Lenroot	Pomerene	Williams
France	Lodge	Reed	Willis
Frelinghuysen	McCumber	Robinson	
Glass	McKellar	Sheppard	

The VICE PRESIDENT. Sixty-six Senators having answered to their names, there is a quorum present.

The Secretary will proceed with the reading of the bill at page 109, line 21.

Mr. MCNARY. Mr. President, I ask unanimous consent to offer an amendment to the bill now before the Senate.

The VICE PRESIDENT. The amendment will be received, printed, and lie on the table.

The next amendment of the Committee on Finance was, on page 109, after line 20, to strike out:

SEC. 251. The second and third paragraphs of subdivision (b) of section 250 of the revenue act of 1918 are amended to read as follows:

The amendment was agreed to.

The next amendment was, on page 110, line 8, before the word "disregard," to strike out "willful" and insert "intentional"; in line 25, before the word "tax," to strike out "entire" and to insert "whole amount of the," and in the same line, after the word "tax," to strike out "unpaid," so as to make the paragraph read:

If the amount already paid is less than that which should have been paid, the difference, to the extent not covered by any credits due to the taxpayers under section 252 (hereinafter called "deficiency"), together with interest thereon at the rate of one-half of 1 per cent per month from the time the tax was due (or, if paid on the installment basis, on the deficiency of each installment from the time the installment was due), shall be paid upon notice and demand by the collector. If any part of the deficiency is due to negligence or intentional disregard of authorized rules and regulations with knowledge thereof, but without intent to defraud, there shall be added as part of the tax 5 per cent of the total amount of the deficiency in the tax, and interest in such a case shall be collected at the rate of 1 per cent per month on the amount of such deficiency in the tax from the time it was due (or, if paid on the installment basis, on the amount of the deficiency in each installment from the time the installment was due), which penalty and interest shall become due and payable upon notice and demand by the collector. If any part of the deficiency is due to fraud with intent to evade tax, then, in lieu of the penalty provided by section 3176 of the Revised Statutes, as amended, for false or fraudulent returns willfully made, but in addition to other penalties provided by law for false or fraudulent returns, there shall be added as part of the tax 50 per cent of the total amount of the deficiency in the tax. In such case the whole amount of the tax unpaid, including the penalty so added, shall become due and payable upon notice and demand by the collector.

The amendment was agreed to.

The next amendment was, on page 111, after line 2, to insert:

(c) If the return is made pursuant to section 3176 of the Revised Statutes as amended, the amount of tax determined to be due under such return shall be paid upon notice and demand by the collector.

The amendment was agreed to.

The next amendment was, on page 111, after line 7, to strike out:

SEC. 252. Subdivisions (d) and (e) of section 250 of the revenue act of 1918 are amended to read as follows:

The amendment was agreed to.

The next amendment was, on page 111, line 10, after the words "the amount of," to strike out "tax" and insert "income, excess-profits, or war-profits taxes"; in line 14, before the word "years," to strike out "three" and insert "four"; in line 15, before the word "due," to strike out "tax" and insert "any such taxes"; in line 16, before the word "years," to strike out "fiscal" and insert "taxable"; in line 17, after the word "acts," to insert "or under section 38 of the act entitled 'An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes,' approved August 5, 1909"; in line 25, after the word "any," to strike out "tax" and insert "such taxes"; on page 112, line 2, after the word "tax," to strike out "acts" and insert "acts, or of any taxes due under section 38 of such act of August 5, 1909"; in line 6, after the words "passage of," to strike out "the revenue act of 1921" and insert "this act"; and in line 15, after the words "may be," to strike out "determined" and insert "determined, assessed, and collected, and a suit or proceeding for the collection of such amount may be begun," so as to make the paragraph read:

(d) The amount of income, excess-profits, or war-profits taxes due under any return made under this act for the taxable year 1921 or succeeding taxable years shall be determined and assessed by the commissioner within four years after the return was filed, and the amount of any such taxes due under any return made under this act for prior taxable years or under prior income, excess-profits, or war-profits tax acts, or under section 38 of the act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909, shall be determined and assessed within five years after the return was filed, unless both the commissioner and the taxpayer consent, in writing, to a later determination, assessment, and collection of the tax; and no suit or proceeding for the collection of any such taxes due under this act or under prior income, excess-profits, or war-profits tax acts, or of any taxes due under section 38 of such act of August 5, 1909, shall be begun, after the expiration of five years after the date when such return was filed, but this shall not affect suits or proceedings begun at the time of the passage of this act: *Provided*, That in the case of income received during the lifetime of a decedent, all taxes due thereon shall be determined and assessed by the commissioner within one year after written request therefor by the executor, administrator, or other fiduciary representing the estate of such decedent: *Provided further*, That in the case of a false or fraudulent return with intent to evade tax, or of a failure to file a required return, the amount of tax due may be determined, assessed, and collected, and a suit or proceeding for the collection of such amount may be begun, at any time after it becomes due: *Provided further*, That in cases coming within the scope of paragraph (9) of subdivision (a) of section 214, or of paragraph (8) of subdivision (a) of section 234 or in cases of final settlement of losses and other deductions tentatively allowed by the commissioner pending a determination of the exact amount deductible the amount of tax or deficiency in tax due may be determined, assessed, and collected at any time; but prior to the assessment thereof the taxpayer shall be notified and given a period of not less than 30 days in which to file an appeal and be heard as hereinafter provided in this subdivision.

The amendment was agreed to.

Mr. REED. Mr. President, going back to a phrase in the amendment just agreed to, I should like to ask what the effect of that wording will be.

Mr. SMOOT. Will the Senator please call attention to the particular part of the amendment to which he has reference?

Mr. REED. The part of the amendment to which I refer is that which strikes out, in line 10, page 111, the word "tax" and inserts "income, excess-profits, or war-profits taxes."

Mr. SMOOT. Under the law as it is to-day the amount of the tax due under any return made under the act applies to the tax of 1921. The law reads that way to-day, but under the regulations of the department and under the practice of the department it is always applied to income, excess-profits, or war-profits taxes.

Mr. REED. The words appear to be words of limitation.

Mr. SMOOT. It has always been that way, I will say to the Senator, and amendments, if the Senator will notice in the balance of the bill clear through, follow out these exact words; in other words, in every section it is the same. It will make no limitation on what has been the practice and the rule of the department.

There is an amendment, I will say to the Senator, which provides that other taxes of all kinds shall have the same period in which the taxpayer may have a right to make an appeal. If the Senator will notice, we have had a provision that an appeal might be taken within three years, and now it is made four years, and in all the other sections of the bill we have made it

four years. Heretofore in some provisions it was three years and in some provisions it was five years, as far as the tax on income and excess profits was concerned. That situation would still prevail without the amendment in line 14, striking out "three" and inserting "four" before "years." The amendment makes it apply to these three kinds of taxes, and they are all now placed in the four-year period throughout the bill.

Mr. REED. The only effect of the amendment is to employ language so that it is plain that the four-year period applies to all of them instead of the different periods as now provided in the law?

Mr. SMOOT. Yes; as now provided in the law.

Mr. REED. The bill is necessarily so extremely technical that I do not feel like passing over language until I know what is the intent of it.

Mr. SMOOT. The Senator will remember that that was the situation. The same amendment will appear in two or three other sections. As I said, it is for the purpose of making it clear as to the time limit in order that the taxpayer may know just what his rights are and that the Government itself may know what its rights are.

Mr. PENROSE. Mr. President, the amendment is not of any great importance. It is merely in the interest of uniformity.

The next amendment was, on page 113, at the beginning of line 4, to strike out "If," the quotation marks, and the comma and to insert "If"; in line 4, after the word "return," to insert "a tax or"; in line 6, after the word "days," to insert "after such notice is mailed"; in line 8, after the words "why the," to insert "tax or"; in line 9, after the word "paid," to strike out "The appeal shall be promptly decided after opportunity is given for a hearing thereon, and any" and to insert "Opportunity for hearing shall be granted and a final decision thereon shall be made as quickly as practicable. Any tax or"; and in line 21, after the word "such," to strike out "notice" and to insert "notice or awaiting the conclusion of such hearing," so as to make the paragraph read:

If upon examination of a return, a tax or a deficiency in tax is discovered, the taxpayer shall be notified thereof and given a period of not less than 30 days after such notice is mailed in which to file an appeal and show cause or reason why the tax or deficiency should not be paid. Opportunity for hearing shall be granted and a final decision thereon shall be made as quickly as practicable. Any tax or deficiency in tax then determined to be due shall be assessed and paid, together with the penalty and interest, if any, applicable thereto, within 10 days after notice and demand by the collector as hereinafter provided, and in such cases no claim in abatement of the amount so assessed shall be entertained: *Provided*, That in cases where the Commissioner believes that the collection of the amount due will be jeopardized by such delay he may make the assessment without giving such notice or awaiting the conclusion of such hearing.

The amendment was agreed to.

The next amendment was, on page 114, line 8, after the word "the," to strike out "notice and the 30-day period for filing an appeal as provided in" and to insert "provisions of," so as to read:

(e) If any tax remains unpaid after the date when it is due, and for 10 days after notice and demand by the collector, then, except in the case of estates of insane, deceased, or insolvent persons, there shall be added as part of the tax the sum of 5 per cent on the amount due but unpaid, plus interest at the rate of 1 per cent per month upon such amount from the time it became due: *Provided*, That as to any such amount which is the subject of a bona fide claim for abatement filed within 10 days after notice and demand by the collector, where the taxpayer has not had the benefit of the provisions of subdivision (d), such sum of 5 per cent shall not be added and the interest from the time the amount was due until the claim is decided shall be at the rate of one-half of 1 per cent per month on that part of the claim rejected.

The amendment was agreed to.

The next amendment was, on page 114, line 16, before the word "sufficient," to strike out the word "deemed"; in line 18, before the word "sufficient," to strike out the word "deemed"; and, in line 19, after the word "due," to insert "In the case of each subsequent installment the collector may, within 30 days and not later than 10 days before the installment becomes due, mail to the taxpayer notice of the amount of the installment and the date on which it is due for payment. Such notice of the collector shall be sufficient notice and sufficient demand under this section," so as to make the paragraph read:

In the case of the first installment provided for in subdivision (a) the instructions printed on the return shall be sufficient notice of the date when the tax is due and sufficient demand, and the taxpayer's computation of the tax on the return shall be sufficient notice of the amount due. In the case of each subsequent installment the collector may, within 30 days and not later than 10 days before the installment becomes due, mail to the taxpayer notice of the amount of the installment and the date on which it is due for payment. Such notice of the collector shall be sufficient notice and sufficient demand under this section.

The amendment was agreed to.

The next amendment was, at the top of page 115, to strike out "SEC. 253. Subdivision (f) of section 250 of the revenue act of 1918 is repealed" and to insert:

(f) In the case of any deficiency (except where the deficiency is due to negligence or to fraud with intent to evade tax) where it is shown to the satisfaction of the commissioner that the payment of such deficiency would result in undue hardship to the taxpayer, the commissioner may, with the approval of the Secretary, extend the time for the payment of such deficiency or any part thereof for such period not in excess of 18 months from the passage of this act as the commissioner may determine. In such case the commissioner may require the taxpayer to furnish a bond with sufficient sureties conditioned upon the payment of the deficiency in accordance with the terms of the extension granted. There shall be added in lieu of other interest provided by law, as a part of such deficiency, interest thereon at the rate of two-thirds of 1 per cent per month from the time such extension is granted; except where such other interest provided by law is in excess of interest at the rate of two-thirds of 1 per cent per month. If the deficiency or any part thereof is not paid in accordance with the terms of the extension granted, there shall be added as part of the deficiency, in lieu of other interest and penalties provided by law, the sum of 5 per cent of the deficiency and interest on the deficiency at the rate of 1 per cent per month from the time it becomes payable in accordance with the terms of such extension.

Mr. OVERMAN. Mr. President, I should like to have some Senator explain the amendment which has just been read. I do not understand it.

Mr. SMOOT. This is an amendment which was suggested by the Senator from Missouri [Mr. REED]. It is to cover cases which may arise that are not covered under existing law or because of a ruling of the Supreme Court. There are cases in that connection, I think, where an extreme hardship would be worked if the taxpayers had to pay their tax under existing law at once. This provision gives them time by the payment of the rate of interest provided for in the amendment, so that they will not be forced into bankruptcy; in other words, a demand which might be made upon them for the immediate payment would be so heavy in some cases that unless they are given additional time during which they must pay the interest provided in the law they must inevitably go into bankruptcy.

Mr. OVERMAN. And it is proposed to give them additional time, by the payment of the interest provided, in which to make their payments? Is that all which it is proposed to do by the amendment?

Mr. SMOOT. It gives them time to pay whatever the amount may be. That is all there is to it.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, at the top of page 116, to strike out "SEC. 254. Subdivision (g) of section 250 of the revenue act of 1918 is amended by adding at the end thereof the following sentences," and insert:

(g) If the commissioner finds that a taxpayer designs quickly to depart from the United States or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect the tax for the taxable year then last past or the taxable year then current unless such proceedings be brought without delay, the commissioner shall declare the taxable period for such taxpayer immediately terminated and shall cause notice of such finding and declaration to be given the taxpayer, together with a demand for immediate payment of the tax for the taxable period so declared terminated and of the tax for the preceding taxable year or so much of said tax as is unpaid, whether or not the time otherwise allowed by law for filing return and paying the tax has expired; and such taxes shall thereupon become immediately due and payable. In any action or suit brought to enforce payment of taxes made due and payable by virtue of the provisions of this subdivision the finding of the commissioner, made as herein provided, whether made after notice to the taxpayer or not, shall be for all purposes presumptive evidence of the taxpayer's design. A taxpayer who is not in default in making any return or paying income, war-profits, or excess-profits tax under any act of Congress may furnish to the United States, under regulations to be prescribed by the commissioner with the approval of the Secretary, security approved by the commissioner that he will duly make the return next thereafter required to be filed and pay the tax next thereafter required to be paid. The commissioner may approve and accept in like manner security for return and payment of taxes made due and payable by virtue of the provisions of this subdivision, provided the taxpayer has paid in full all other income, war-profits, or excess-profits taxes due from him under any act of Congress. If security is approved and accepted pursuant to the provisions of this subdivision and such further or other security with respect to the tax or taxes covered thereby is given as the commissioner shall from time to time find necessary and require, payment of such taxes shall not be enforced by any proceedings under the provisions of this subdivision prior to the expiration of the time otherwise allowed for paying such respective taxes.

Mr. REED. That is an important amendment. I should like to have it passed over temporarily.

Mr. PENROSE. Let the amendment be passed over.

The VICE PRESIDENT. The amendment will be passed over.

The next amendment was, on page 118, line 13, after the words "of the," to insert "tax or"; and in line 14, after the words "at the rate," to strike out "provided by this section in the case of the filing of a false or fraudulent return" and to

insert "of 1 per cent per month from the time the tax became due," so as to make the paragraph read:

In the case of a citizen of the United States about to depart from the United States the Commissioner may, at his discretion, waive any or all of the requirements placed on the taxpayer by this subdivision. No alien shall depart from the United States unless he first secures from the collector or agent in charge a certificate that he has complied with all the obligations imposed upon him by the income, war-profits, and excess-profits tax laws. If a taxpayer violates or attempts to violate this subdivision there shall, in addition to all other penalties, be added as part of the tax 25 per cent of the total amount of the tax or deficiency in the tax, together with interest at the rate of 1 per cent per month from the time the tax became due.

Mr. McKELLAR. I ask in what respect the amendment just read is a change of existing law?

Mr. SMOOT. Wherever aliens in this country are subject to taxation this section provides that the Government may detain them and not allow them to leave the United States until there shall be collected from them such taxes as are due the Government.

Mr. McKELLAR. I think the same rule ought to be applied to them in reference to making false returns as is applied to others, instead of merely assessing against them a penalty of 1 per cent per month.

Mr. SMOOT. This provision is the same as the existing law, with the exception that the amendment is designed to soften the provision somewhat, because the present law does in some cases work a hardship. Under the provision the taxpayers covered by it will not escape, but will be allowed to pay the tax and the added rate of interest as provided.

Mr. McKELLAR. At first blush, from the reading of the provision, it would look as though these people were excused from the penalties for making and filing false or fraudulent returns and were only penalized by an addition of 1 per cent per month from the time the tax became due. If that is the case, it seems to me they ought not to be treated better than are any other taxpayers. I do not think this amendment ought to be agreed to, and I ask it may be passed over until I may have an opportunity to look into it.

Mr. SMOOT. Will the Senator allow me further to explain the provision?

Mr. McKELLAR. I shall be delighted to have the Senator do so.

Mr. SMOOT. The persons to whom the Senator refers are liable under section 3176 of the Revised Statutes of the United States, and a penalty is there imposed. There is no necessity for repeating that law in here. It not only applies to aliens, but it applies to citizens of the United States as well. Therefore the penalty which the Senator thinks the taxpayer is escaping he is not escaping, because the Revised Statutes of the United States to-day provide what the penalty shall be.

Mr. McKELLAR. Does that statute apply as to revenue measures?

Mr. SMOOT. If the Senator will turn to page 268 of the bill, beginning in line 21, he will find the penalty imposed. It reads as follows:

In case a false or fraudulent return or list is willfully made, the Commissioner of Internal Revenue shall add to the tax 50 per cent of its amount.

That is the penalty provided for making false returns. So there is no earthly need of having it repeated at the point in the bill which we have now reached.

Mr. McKELLAR. There is a different penalty, then, for instead of 50 per cent of the amount of the tax, it is proposed here to add as to those who leave the country 1 per cent per month from the time the tax became due.

Mr. SMOOT. That is the rate of interest provided in case of a citizen of the United States who does not pay his tax. He has got to pay that amount of interest on the tax that is due.

Mr. McKELLAR. The Senator may be entirely right about it, but I will ask that the amendment may go over at this time in order that I may look into it.

Mr. SMOOT. In other words, the amendment now under discussion provides a specific amount that the taxpayer must pay in any event, and then, for a fraudulent return he is penalized according to the provision which I have read.

Mr. McKELLAR. I will ask that the amendment go over. It may be that the Senator is entirely right, but I should like to look into it further.

Mr. McCUMBER. I should like to know how much of the amendment the Senator desires to go over?

Mr. McKELLAR. Simply the amendment in lines 14, 15, 16, and 17 on page 118.

The PRESIDING OFFICER (Mr. FRELINGHUYSEN in the chair). Without objection, the amendment will be passed over.

Mr. WALSH of Massachusetts. Mr. President, I should like the attention of the Senator from Utah. I have been following the report of the majority of the committee, and reading section 250, which is the section just now being read at the desk, I observe a provision which I should like the Senator from Utah to explain. I read from the report:

By section 1322 of this act the time for the making of an assessment, increases of taxes other than income, excess-profits, war-profits, or corporations excise taxes under the act of August 5, 1909, has been limited to four years after the tax becomes due. In section 250 (d) the time for assessing income, excess-profits, and war-profits taxes under this act has been limited to four years.

What does that language mean?

Mr. SMOOT. Under existing law three years were allowed for the amount of tax due to be paid under any return, and then under other provisions of the law there was the right of appeal within five years. We have made a change in the law so that no more than four years shall be allowed in all cases.

Mr. WALSH of Massachusetts. What is the distinction between "the making of an assessment, increases of taxes," and "assessing income taxes," and so forth?

Mr. SMOOT. The difference is the imposition of an additional assessment; that is all. There may be an additional assessment imposed.

Mr. WALSH of Massachusetts. Is the time for an assessment increase as well as the time for an assessment without an additional assessment four years?

Mr. SMOOT. It is four years in the case of the additional assessment.

Mr. WALSH of Massachusetts. The same limitation is provided in both instances?

Mr. SMOOT. The limitation is the same in both.

Mr. WALSH of Massachusetts. What was the time limit under the old provision?

Mr. SMOOT. It was five years under the act of 1918; that is, for the additional assessment.

Mr. WALSH of Massachusetts. So that the Government will now have four years after the tax comes due to reassess the tax and compel increased payments?

Mr. SMOOT. In other words, the account must be settled within four years, or else no additional tax may be imposed.

Mr. WALSH of Massachusetts. That the settlement must be within four years or that the assessment must be within four years?

Mr. SMOOT. The additional tax must be imposed within four years.

The next amendment of the Committee on Finance was, on page 118, after line 17, to insert:

RECEIPTS FOR TAXES.

SEC. 251. That every collector to whom any payment of any tax is made under the provisions of this title shall upon request give to the person making such payment a full written or printed receipt, stating the amount paid and the particular account for which such payment was made, and whenever any debtor pays taxes on account of payments made or to be made by him to separate creditors the collector shall, if requested by such debtor, give a separate receipt for the tax paid on account of each creditor in such form that the debtor can conveniently produce such receipts separately to his several creditors in satisfaction of their respective demands up to the amounts stated in the receipts; and such receipt shall be sufficient evidence in favor of such debtor to justify him in withholding from his next payment to his creditor the amount therein stated; but the creditor may, upon giving to his debtor a full written receipt acknowledging the payment to him of any sum actually paid and accepting the amount of tax paid as aforesaid (specifying the same) as a further satisfaction of the debt to that amount, require the surrender to him of such collector's receipt.

The amendment was agreed to.

The next amendment was, on page 119, after line 17, to strike out:

SEC. 255. Section 252 of the revenue act of 1918 is amended by striking out the period at the end thereof and inserting a colon and the following: "*Provided.*"

The amendment was agreed to.

The next amendment was, on page 119, after line 20, to insert:

REFUNDS.

SEC. 252. That if, upon examination of any return of income made pursuant to this act, the act of August 5, 1909, entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," the act of October 3, 1913, entitled "An act to reduce tariff duties and to provide revenue for the Government, and for other purposes," the revenue act of 1916, as amended, the revenue act of 1917, or the revenue act of 1918, it appears that an amount of income, war-profits or excess-profits tax has been paid in excess of that properly due, then, notwithstanding the provisions of section 3228 or the Revised Statutes, the amount of the excess shall be credited against any income, war-profits or excess-profits taxes, or installment thereof, then due from the taxpayer under any other return, and any balance of such excess shall be immediately refunded to the taxpayer: *Provided*, That no such credit or refund shall be allowed or made after five years from the date when the return was due, unless before the expiration of such five years a claim therefor is filed by the taxpayer.

The amendment was agreed to.

The next amendment was, on page 120, line 21, after the words "revenue act of," to strike out the numerals "1917" and to insert "1917, the revenue act of 1918"; in line 22, after the

word "this," to strike out "act" and to insert "act,"; and on page 121, line 6, after the words "in this," to strike out the word "section," the period, and the quotation marks, and to insert:

section: *And provided further*, That nothing in this section shall be construed to bar from allowance claims for refund filed under the provisions of subdivision (a) of section 14 of the revenue act of 1916, prior to the date of the passage of the revenue act of 1918.

So as to make the proviso read:

Provided further, That if upon examination of any return of income made pursuant to the revenue act of 1917, the revenue act of 1918, or this act, the invested capital of a taxpayer is decreased by the commissioner, and such decrease is due to the fact that the taxpayer failed to take adequate deductions in previous years, with the result that an amount of income tax in excess of that properly due was paid in any previous year or years, then, notwithstanding any other provision of law and regardless of the expiration of such five-year period, the amount of such excess shall, without the filing of any claim therefor, be credited or refunded as provided in this section: *And provided further*, That nothing in this section shall be construed to bar from allowance claims for refund filed under the provisions of subdivision (a) of section 14 of the revenue act of 1916, prior to the date of the passage of the revenue act of 1918.

The amendment was agreed to.

The next amendment was, on page 121, after line 10, to insert:

PENALTIES.

SEC. 253. That any individual, corporation, or partnership required under this title to pay or collect any tax, to make a return or to supply information, who fails to pay or collect such tax, to make such return, or to supply such information at the time or times required under this title, shall be liable to a penalty of not more than $1,000. Any individual, corporation, or partnership, or any officer or employee of any corporation or member or employee of a partnership, who willfully refuses to pay or collect such tax, to make such return, or to supply such information at the time or times required under this title, or who willfully attempts in any manner to defeat or evade the tax imposed by this title, shall be guilty of a misdemeanor and shall be fined not more than $10,000 or imprisoned for not more than one year, or both, together with the costs of prosecution.

The amendment was agreed to.

Mr. KING. Mr. President, may I have the attention of one of the members of the committee? I call attention to the section that has just been read, section 252, entitled "Refunds."

Mr. McCUMBER. That has just been passed.

Mr. KING. Yes. I want to recur to it for one moment. Under the operation of this section, if payment of taxes is made without objection by the taxpayer, no protest is lodged at the time of payment, and no claim for a refund is made by the taxpayer, and the department, in investigating the accounts of the taxpayer at a later period, but within the period of the statute of limitations, discovers under some new rule that too great a tax was paid by the taxpayer, though not perhaps under the law as interpreted at the time the payment was made, does this section contemplate that a refund shall be made?

Mr. McCUMBER. I think it does. In other words, there are many cases in which the taxpayer does not know what his rights are. He accepts the construction that is made by the department. Some other taxpayer who questions that construction goes into court to determine the matter, and in the court action it is determined that the Government was insisting upon the payment of taxes to which it was not entitled. This section gives the person who pays without protest the same right to a refund that it gives to the one who has protested and gone to court.

Mr. KING. I apprehend that that was the construction to be placed upon the section, although I have just hurriedly read it; but I invite the attention of the committee to the fact that that is in contravention of the usual practice in States, and in all countries so far as I know, in dealing with the question of taxation.

Mr. SMOOT. Mr. President, I want to say to my colleague that this is the practice now in the department, and it has been in the past. Whenever the department finds that a taxpayer has overpaid his taxes, as long as the statute of limitations has not run, the Government of the United States in the past has paid back those taxes to him, and I think it ought to pay them back.

Mr. KING. Mr. President, I have no doubt as to the justice of the rule which would require repayment by the Government, either National or State, of taxes which are paid by the taxpayer in excess of the construction which then exists with respect to the bill or the provision under consideration. Where, however, the taxpayer pays the tax without objection, without protest, under the law as it is then construed, and subsequently the department makes another construction of the act because of some appeal which is made, or the court makes a construction because of some case that is carried to the court, and the first interpretation is reversed and another is placed upon the act under which it would appear that the tax paid was too great, I have some serious doubts as to the wisdom of making a refund under those circumstances.

Mr. McCUMBER. Mr. President, the committee thought the taxpayer was entitled to the same rights as the Government. When the taxpayer makes his return and makes his payment the Government accepts it without any intimation that it is not sufficient; and yet the Government can go ahead until the expiration of four years and can again review that return and insist that the taxpayer should pay more. Now, inasmuch as the Government is not estopped by its silence from demanding a greater amount than the taxpayer has thought he was entitled to pay, even under a construction which the Government may have made at that time, it is equally fair, it seems to me, that the Government should concede the same right to the taxpayer, so that if he ascertains or the Government ascertains for him at any time after he has paid his taxes that the Government has collected too much, it should pay back the excess, notwithstanding the fact that he did not make the claim at the time that he filed his return. Very often he does not know at that time that he is entitled to a refund.

Mr. KING. Mr. President, I shall not ask for a reconsideration of the action of the Senate in approving this amendment. I was more interested in knowing whether the Senate had considered all aspects of this question, because I apprehend that with the varying views of those who interpret the law, and the multitudinous constructions which they place upon this tax bill and all tax bills, there will be occasion for many modifications of taxes which have been collected, and demands will be made for refunds that will extend perhaps to hundreds of millions of dollars.

Mr. SMOOT. Mr. President, take the case of stock dividends. I suppose that 98 per cent of all of the taxpayers of the country, after the ruling of the department and the regulation of the department that stock dividends were taxable, reported and paid the tax upon them without a protest. Perhaps 2 per cent of them protested. Under the position taken by the Senator those that protested then would be entitled to a refund, but the 98 per cent that did not protest would not be. The department has held that those who did not even protest on the subject after the decision of the Supreme Court should be given credit for the amount that they had paid upon those stock dividends; and it is only fair and just, no matter whether it takes a few dollars out of the Treasury of the United States or not. If it were on the other hand, the Government of the United States would claim the tax.

Mr. UNDERWOOD. Mr. President, there is a clause in this bill, and I think it relates to this section, that I do not care to take up for consideration now, if I take it up at all. I merely want to call to the attention of the Senate the matter that I have in mind, and ask that no rights shall be waived because it is not taken up for consideration at the time the Senate amendments are being considered.

When the original income tax law was passed, the question was raised as to where capital should stop and where accumulated dividends or profits should begin. In the original drafting of the first income tax after the passage of the constitutional amendment the original draft did not prescribe the time when accumulated capital should be fixed.

It was an oversight, and when the matter was called to the attention of the Ways and Means Committee they went into further hearings and consideration of it and finally worked out this proposition, that the income-tax amendment to the Constitution became effective on the 28th day of February, 1913; that regardless of what academic views we may have entertained as to the right to levy an income tax before that time, the Supreme Court had declared an income tax law unconstitutional, and therefore, no matter what our academic views might be, under the law for the Federal Government to levy taxes on incomes before that date was a violation of the Constitution and it could not be done.

Therefore the committee which drafted the first bill adopted the 1st day of March, 1913, as the beginning of the time when incomes or profits could be treated as such for the purpose of taxation, holding that before that time the accumulated profits and dividends were treated as the body of the estate, as principal. I think that conclusion was correct. I think it was correct from a legal standpoint, because prior to that time you did not have a right to reach back and tax the income unless you divided it in proportion to population.

Mr. SMOOT. There is no change in that.

Mr. UNDERWOOD. That is just what I am coming to. But after that time it left the income or profits of an estate subject to taxation.

I think that under the decision of the Supreme Court of the United States there is no limitation on the power of the Con-

gress to reach back and levy taxes, provided they are within the Constitution. You could reach back to the time of Jefferson as your basis of taxation by a bill passed to-day if it was within the Constitution; but before the 1st day of March, 1913, it was not within the power of the Congress, as declared by the Supreme Court, to levy an income tax.

The provisions of the original bill, as substantially carried in the bill as it passed the House, have been modified by the Finance Committee in this respect. I am not intending to criticize the committee when I say that the provisions of the bill are involved, as I read them. By that I do not mean a criticism, but the committee has provided for cross references as to what shall be taxed and what shall not be. So it is quite difficult to understand, and I have not yet gotten a clear understanding in my own mind from reading the provisions; but if it is the intention of the committee, either as to accumulated dividends of corporations or as to the growth of the value of property, when it is distributed either through the means of the stockholder or the corporation itself, to reach back to levy a tax on accumulations which occurred before the 1st day of March, 1913, I think you are writing an unconstitutional bill.

Mr. McCUMBER. Mr. President, I want to say to the Senator, first, that these provisions are contained in sections 201 and 202, and they have been passed over, but in order that the Senator may understand distinctly what the committee intended, I will state it. The committee agree entirely with the Senator that all accumulations prior to March 1, 1913, become a part of the principal, a part of the invested capital, of the corporation, and there is no intention to take those profits which had accumulated at that time and bring them forward and levy a tax upon them as profits; but if the Senator had owned a piece of land which he had bought in 1910, and he sold it in 1920, while we do not tax him on the difference between the 1910 price and the 1920 price for which he sold the property, we do tax him on the profit, measuring the 1920 sale price with the March 1, 1913, value. That measures his profit.

Mr. UNDERWOOD. If that is all the bill does, I have no complaint; but I am not sure that that is all it does.

Mr. McCUMBER. Let me carry it further. If, instead of purchasing a tract of land, the Senator had purchased stock in a corporation in 1910, and there were accumulations up to March 1, 1913, then whatever the property was worth in 1913 became, as the Senator has suggested, his capital; it belonged to him. If he sold that property in 1920, or disposed of any part of it, he was therefore disposing of a part of his capital, because it was treated as capital, and if he made a profit over and above what that part of the capital was worth on March 1, 1913, when he sold it in 1920, we simply tax the profits of the sale; not levying a tax on profits, but a tax upon the sale of his capital, of the thing itself, not of the profits arising from the thing. That is what is intended. I do not know that I agree even with that as a good policy, but that is really the only point that is involved, I think, in the amendment.

Mr. UNDERWOOD. Let me ask the Senator another question, because I want to understand this matter. From his statement I understand him to say that the bill as reported by the committee does not tax any of the accumulated profits which were embraced as capital before March 1, 1913, in any event. Is that true?

Mr. McCUMBER. No; it taxes simply the profit on a man's holdings, and that which he had accumulated prior to 1913 is a part of his holdings, a part of his capital. It is worth so much. If he does not sell it, of course there is no profit, and it can not be taxed; but if he sells it in 1920, the difference between the 1913 price and the 1920 price, if there is a profit, is made taxable, as it is a sale of the corpus itself.

Mr. UNDERWOOD. I am not raising any question about what occurred after 1913; I think that is strictly within the jurisdiction of the Congress; we have a right to tax it.

I know that the report of the Finance Committee carries out exactly what the Senator says, but the Supreme Court is not going to decide this case on the report of your committee; it is going to decide it on the language of the bill. I have not the bill before me now, and, as I said, it is rather involved, and I will not go into a discussion now, and I hope it will not be necessary to do so. I do hope, however, that if the Senator's committee means what he says they mean, and what their report says they mean, they will put a proviso in those paragraphs distinctly saying that these paragraphs shall not be construed to tax accumulations or profits accruing prior to the 1st of March, 1913. If he will say that, that will end it.

Mr. McCUMBER. The Senator will remember that the chairman of the committee, Senator PENROSE, asked that this matter might go over, with the intention on the part of the committee to reconsider the very point the Senator brings up.

Mr. UNDERWOOD. I hope the committee will, and I hope they will make it clear, because under the Constitution there can be no doubt about the proposition.

Mr. McCUMBER. There is no doubt it should be made clear, if it is not clear now.

Mr. UNDERWOOD. And as it is now, it seems to me to be unconstitutional; there can not be any doubt about the proposition and it is no use to invite lawsuits on the subject.

Mr. SIMMONS. I desire to say to the Senator from Alabama that when the section to which he has referred was reached, there were quite a number of Senators who felt exactly as the Senator from Alabama does. I myself feel that way. It was passed over.

Mr. UNDERWOOD. I am sure the Senator agrees with me about the matter.

Mr. SIMMONS. Practically I do.

Mr. UNDERWOOD. As a matter of fact, a number of years ago we agreed in conference on this proposition. I think it will prevent future lawsuits and future differences if the Finance Committee will propose a simple amendment, declaring that nothing in this act shall be construed as warranting a construction that the bill taxes accumulated profits or dividends accruing prior to the 1st day of March, 1913. I think a simple statement would clear the whole thing up.

Mr. KING. Mr. President, in view of a statement made by the Senator from North Dakota in his reply to the Senator from Alabama, may I engage the attention of the Senator for a moment?

In the drafting of this bill, as I read it, the Senate committee has not distinguished between the business of vending real estate, or other property, and the mere sporadic, or accidental, or occasional disposition of property by the owner; and it taxes the owner of the property where profits have been made, and the profits are, in part, at least, determined by finding the difference between the value of the property at a certain date and the price for which it was sold.

Does not the Senator think that the application of that principle is a deterrent to legitimate business, that it is unfair to men who make occasional sales of real estate or of personal property?

Mr. WATSON of Indiana. What section is the Senator talking about?

Mr. KING. I was asking the Senator from North Dakota a question, in view of a statement which he made in his reply to the Senator from Alabama, and I do not recall what section the Senator from Alabama was referring to.

Mr. WATSON of Indiana. He was referring to sections 201 and 202, but they have been passed over by agreement. In a day or two the committee will meet, and the Senator from Minnesota [Mr. KELLOGG] will come before the committee for the purpose of discussing the matter with Dr. Adams, with a view to clarifying the provisions along the line of the suggestions made by the Senator from Alabama. It was passed over with that understanding. I think that what the Senator from Utah is referring to does not come within those provisions.

Mr. KING. Even if it does not come within those provisions, the Senator from North Dakota, in answering the Senator from Alabama, adverted to the matter to which I have just called attention, and for information I was asking the Senator whether the committee, in drafting this bill, attempted to distinguish between those accidental or occasional sales of real estate and those sales which are made as a part of the business.

To illustrate what I mean: If a person now sells a piece of real estate at a profit—that is, under this bill as I understand it—that is to say, if he sells for very much more than what he bought it for 5, 10, or 15 years ago, the bill, as I interpret it, levies a tax upon it. It does seem to me that it is a questionable practice to tax the vendor of real estate or of personal property for an occasional sale, not as a part of his business, though he does make a profit upon it.

I express no opinion; there may be weighty reasons in favor of the adoption of that principle; but it does seem to me that in its application, in the ordinary affairs of life, it is hurtful and harmful to business, and is oppressive particularly upon the individuals who have small holdings and who occasionally make exchanges of their property. I ask the Senator if there can not be some modification of that principle of the bill and if the committee considered the necessity or wisdom of making a modification along the lines indicated?

Mr. McCUMBER. Nothing further than what is contained in section 206. The Senator will find that at the bottom of page 20, subdivision 7, and it reads:

The term "capital assets" as used in this section—

And we are now considering capital gains and losses—

includes property acquired and held by the taxpayer for profit or investment (whether or not connected with his trade or business), but does not include property held for the personal use or consumption of the taxpayer or his family or stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year.

That is the only distinction that is made, and it possibly reaches what the Senator is now discussing

Mr. SMOOT. Mr. President, in addition to what the Senator has said and in order that my colleague may have it all, I call his attention to page 21, subdivision (b), at the bottom of the page. This is the business part of it; that is, to take care of business transactions:

(b) In the case of any taxpayer who for any taxable year derives a capital net gain, such capital net gain shall, under regulations prescribed by the Commissioner, with the approval of the Secretary, be stated separately from the ordinary net income in the taxpayer's return; and only 40 per cent of such capital net gain shall be taken into account in determining the amount of the net income upon which taxes are imposed by sections 210, 211, and 230 of this title.

That takes care of at least 60 per cent of the cases to which the Senator refers, and the way we figured it was that during that length of time, paying no taxes whatever, at least the taxpayer ought to pay on 40 per cent and escape the 60 per cent. Of course, the percentages could be changed, but I do not think they ought to be.

Mr. KING. May I inquire whether the section was definitely agreed upon?

The PRESIDING OFFICER. It was passed over at the instance of the Senator from Wisconsin [Mr. LENROOT].

Mr. KING. In view of that fact I shall recur to it at a later date.

The next amendment was, on page 122, after line 4, to insert:

RETURNS OF PAYMENTS OF DIVIDENDS.

SEC. 254. That every corporation subject to the tax imposed by this title and every personal service corporation shall, when required by the commissioner, render a correct return, duly verified under oath, of its payments of dividends, stating the name and address of each stockholder, the number of shares owned by him, and the amount of dividends paid to him.

The amendment was agreed to.

The next amendment was, on page 122, after line 13, to insert:

RETURNS OF BROKERS.

SEC. 255. That every individual, corporation, or partnership doing business as a broker shall, when required by the commissioner, render a correct return duly verified under oath, under such rules and regulations as the commissioner, with the approval of the Secretary, may prescribe, showing the names of customers for whom such individual, corporation, or partnership has transacted any business, with such details as to the profits, losses, or other information which the commissioner may require, as to each of such customers, as will enable the commissioner to determine whether all income tax due on profits or gains of such customers has been paid.

The amendment was agreed to.

The next amendment was, on page 123, after line 3, to strike out:

SEC. 256. Section 256 of the revenue act of 1918 is amended by inserting before the words "of $1,000 or more" the words "at the rate."

The amendment was agreed to.

The next amendment was, on page 123, after line 6, to insert:

INFORMATION AT SOURCE.

SEC. 256. That all individuals, corporations, and partnerships, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, and employers, making payment to another individual, corporation, or partnership, of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments described in sections 254 and 255), of $1,000 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the commissioner, under such regulations and in such form and manner and to such extent as may be prescribed by him with the approval of the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.

Such returns may be required, regardless of amounts, (1) in the case of payments of interest upon bonds, mortgages, deeds of trust, or other similar obligations of corporations, and (2) in the case of collections of items (not payable in the United States) of interest upon the bonds of foreign countries and interest upon the bonds of and dividends from foreign corporations by individuals, corporations, or partnerships, undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange.

When necessary to make effective the provisions of this section the name and address of the recipient of income shall be furnished upon demand of the individual, corporation, or partnership paying the income.

The provisions of this section shall apply to the calendar year 1921 and each calendar year thereafter, but shall not apply to the payment of interest on obligations of the United States.

The amendment was agreed to.

The next amendment was, on page 125, beginning with line 1, to insert:

RETURNS TO BE PUBLIC RECORDS.

SEC. 257. That returns upon which the tax has been determined by the commissioner shall constitute public records; but they shall be open to inspection only upon order of the President and under rules and regulations prescribed by the Secretary and approved by the President: *Provided*, That the proper officers of any State imposing an income tax may, upon the request of the governor thereof, have access to the returns of any corporation, or to an abstract thereof showing the name and income of the corporation, at such times and in such manner as the Secretary may prescribe: *Provided further*, That all bona fide stockholders of record owning 1 per cent or more of the outstanding stock of any corporation shall, upon making request of the commissioner, be allowed to examine the annual income returns of such corporation and of its subsidiaries. Any stockholder who pursuant to the provisions of this section is allowed to examine the return of any corporation, and who makes known in any manner whatever not provided by law the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any such return, shall be guilty of a misdemeanor and be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.

The commissioner shall as soon as practicable in each year cause to be prepared and made available to public inspection in such manner as he may determine, in the office of the collector in each internal-revenue district and in such other places as he may determine, lists containing the names and the post-office addresses of all individuals making income-tax returns in such district.

Mr. LA FOLLETTE. Mr. President, I ask to have that section passed over.

The PRESIDING OFFICER. The Senator from Wisconsin asks that the section be passed over.

Mr. POMERENE. Mr. President, before it goes over may I ask a question of some member of the committee? I notice that provision is made here that in States where they have an income tax, on the request of the governor he may have access to the returns of the corporations. I have no objection to that, but I wonder why the committee has seen fit to say that the State shall have access to the returns of corporations but shall not have access to the income returns of individuals or partnerships.

Mr. SMOOT. This is the existing law, I will say to the Senator, and I think it is as far as Congress intended to give the power to go into returns—that is, of corporations. Does the Senator desire that it go over?

Mr. LA FOLLETTE. I have asked that it go over.

Mr. POMERENE. I understand that the Senator from Wisconsin asked that it go over, but that question occurred to me as the section was being read.

The PRESIDING OFFICER. Without objection, section 257 will be passed over at the request of the Senator from Wisconsin [Mr. LA FOLLETTE].

The next amendment was, on page 126, after line 11, to insert:

PUBLICATION OF STATISTICS.

SEC. 258. That the commissioner, with the approval of the Secretary, shall prepare and publish annually statistics reasonably available with respect to the operation of the income, war profits and excess profits tax laws, including classifications of taxpayers and of income, the amounts allowed as deductions, exemptions, and credits, and any other facts deemed pertinent and valuable.

Mr. LA FOLLETTE. I ask that this section may go over also.

The PRESIDING OFFICER. Without objection, section 258 will be passed over also.

The next amendment was, on page 126, beginning with line 21, to insert:

COLLECTION OF FOREIGN ITEMS.

SEC. 259. That all individuals, corporations, or partnerships undertaking as a matter of business or for profit the collection of foreign payments of interest or dividends by means of coupons, checks, or bills of exchange shall obtain a license from the commissioner and shall be subject to such regulations enabling the Government to obtain the information required under this title as the commissioner, with the approval of the Secretary, shall prescribe; and whoever knowingly undertakes to collect such payments without having obtained a license therefor, or without complying with such regulations, shall be guilty of a misdemeanor and shall be fined not more than $5,000, or imprisoned for not more than one year, or both.

Mr. KING. Mr. President, I am not satisfied that the fundamental theory underlying this section is wise. I am not prepared to say that some steps are not necessary in order to obtain taxes upon the subject to which this section refers, but when we inaugurate a system of licensing individuals or corporations and obtaining that license from an agency of the Federal Government, such as the Commissioner of Internal Revenue, we are establishing a precedent which may come home to vex us later. It may be used as a basis for demands for the licensing of many activities which ought not to be subject to Federal cognizance.

I confess to such a reluctance to the imposition by the Federal Government of its power upon business and interference in the affairs of the business of the country that I have opposed measures that seemed to look in the direction of subjecting business unnecessarily to the tutelage of the Federal Government. I ask that the section may go over.

Mr. LODGE. Mr. President, the section under consideration is printed in small capitals. Am I not right in understanding that that indicates that it is the existing law?

Mr. SMOOT. It is; word for word. I will say to my colleague, although since he has asked that it go over it perhaps is not necessary to say anything more about it, I think we can convince him it is absolutely necessary if we intend to get revenue from this source. I am just as much opposed to any licensing system on the business of the country as my colleague could possibly be, but I do not know of any other means that we can adopt through which we can get revenue from this source.

Mr. LODGE. It is the existing law.

Mr. SMOOT. Word for word.

Mr. KING. Let me say to the Senator from Massachusetts that many of the provisions found in the bill are existing law, but my contention is that notwithstanding that fact we ought to repeal many of them. Indeed, I regret that we are not repealing more, and the fact that it is existing law would not influence me necessarily in its favor.

Mr. LODGE. The committee is not responsible for the existing law, of course.

Mr. KING. I appreciate that fact. I hope the Senator is not making any point because I am criticizing existing law. I would just as soon criticize existing law if I thought it was wrong as any proposed legislation. There is no sanctity in legislation that may have been enacted by a Democratic Congress, and if I think it is wrong I will attack it just as quickly as if it were enacted by a Republican Congress.

Mr. LODGE. Oh, I have no doubt of that, of course.

The PRESIDING OFFICER. Does the Senator from Utah request that the section be passed over?

Mr. KING. Yes; but I desire to make just one further observation.

I agree with my colleague that we desire to reach the taxes or the fountains of taxation to which this section refers, and I have no objection to that, and I shall favor any measure that will enable us to collect taxes along the lines indicated. But the point that challenged my attention was the idea of giving an agency of the Government such as the Commissioner of Internal Revenue the power to issue Federal licenses. That measure does not meet my aproval at all, and unless there is some overwhelming necessity for it and unless we can not devise any better system, or if we can devise any better system, I shall oppose this section. Of course, if we can not, if this is the last word upon the subject, then we may have to accept it no matter how obnoxious it is.

The PRESIDING OFFICER. The section will be passed over at the request of the Senator from Utah [Mr. KING].

The next amendment was, on page 127, after line 11, to insert:

CITIZENS OF UNITED STATES POSSESSIONS.

SEC. 260. That any individual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States, shall be subject to taxation under this title only as to income derived from sources within the United States, and in such case the tax shall be computed and paid in the same manner and subject to the same conditions as in the case of other persons who are taxable only as to income derived from such sources.

Nothing in this section shall be construed to alter or amend the provisions of the act entitled "An act making appropriations for the naval service for the fiscal year ending June 30, 1922, and for other purposes," approved July 12, 1921, relating to the imposition of income taxes in the Virgin Islands of the United States; and the provisions of this act relating to foreign traders and foreign trade corporations shall not apply to residents, corporate or otherwise, of such islands.

Mr. SMOOT. Mr. President, as to the title of section 260, which has just been read, I merely wish to reserve the right to move to change it. It may be that it would be better to change that title so that instead of reading "Citizens of United States possessions" it should read "Citizens of the possessions of the United States."

The PRESIDING OFFICER. That will be the understanding.

The amendment was agreed to.

The next amendment was, on page 128, after line 5, to insert:

PORTO RICO AND PHILIPPINE ISLANDS.

SEC. 261. That in Porto Rico and the Philippine Islands the income tax shall be levied, assessed, collected, and paid as provided by law prior to the passage of this act.

The Porto Rican or Philippine Legislature shall have power by due enactment to amend, alter, modify, or repeal the income tax laws in force in Porto Rico or the Philippine Islands, respectively.

Mr. KING. Let me ask, merely for information, whether by this section it is intended that the inhabitants of those islands shall not have any taxes imposed by this act?

Mr. SMOOT. They have their own tax laws to-day.

Mr. KING. Yes; I know that.

Mr. SMOOT. And they impose their own taxes. This was simply inserted following out not only the practice but the policy of the United States as to those islands.

Mr. KING. Mr. President, it seems to me that if the inhabitants of those islands are given the unrestricted authority to impose their own taxes—and I am making no complaint with respect to that—there is no necessity of this legislation at all. If they have their own laws—as we know they do—and if they are to be exempt from any Federal contributions, why not simply say that the inhabitants of those islands shall not be subject to taxation by the Federal Government under the provisions of this act?

Mr. SMOOT. If we should not insert this provision in the bill, then it would be taken as a matter of course that Congress did not intend that the inhabitants of those islands should enjoy the privilege which they have always enjoyed in the past. Insertion of this language in the bill at this point is only to emphasize the fact that those people have that right and that is all.

Mr. KING. Mr. President, I think it rather a unique method of dealing with this subject.

Mr. LODGE. This bill follows the practice with reference to the islands named since we took them over.

Mr. SMOOT. The next item, as to retroactive exemption, of course is a change, and if the Senator desires an explanation of that I can give it now. Perhaps, however, I had better not do so until it shall have been read.

Mr. KING. I should like to have it read.

The PRESIDING OFFICER. Without objection, the amendment on page 128, from line 6 to line 15, inclusive, is agreed to.

The next amendment was, on page 128, after line 15, to insert:

RETROACTIVE EXEMPTION OF INCOME FROM SOURCES WITHIN THE POSSESSIONS OF THE UNITED STATES.

SEC. 262. (a) That in the case of citizens of the United States or domestic corporations, satisfying the following conditions, gross income under the revenue act of 1918, as in force prior to the passage of this act, means only gross income from sources within the United States—

(1) If 80 per cent or more of the gross income of such citizen or domestic corporation (computed without the benefit of this section) for the three-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within a possession of the United States; and

(2) If, in the case of such corporation, 50 per cent or more of its gross income (computed without the benefit of this section) for such period or such part thereof was derived from the active conduct of a business within a possession of the United States; or

(3) If, in the case of such citizen, 50 per cent or more of his gross income (computed without the benefit of this section) for such period or such part thereof was derived from the active conduct of a trade or business within a possession of the United States either on his own account or as an employee or agent of another.

(b) In case an amount of tax has been paid under the revenue act of 1918, as in force prior to the passage of this act, in excess of a tax determined with the benefit of this section, the amount of such excess shall be credited or refunded in accordance with section 252 of this act.

Mr. LA FOLLETTE. I ask that that amendment go over.

The PRESIDING OFFICER (Mr. CURTIS in the chair). The amendment will be passed over.

The next amendment was, on page 129, after line 20, to insert the following heading:

Effective date of title.

The amendment was agreed to.

The next amendment was, on page 129, line 22, before the word "title," to strike out "257. This" and to insert "263. That this"; and in line 23, after the date "January 1," to strike out "1921, except sections 206, 207, 224, 237, 241, 242, 245, 250, and 903, and subdivision (b) of section 202, all of which shall take effect January 1, 1922." and to insert "1921.", so as to make the paragraph read:

EFFECTIVE DATE OF TITLE.

SEC. 263. That this title shall take effect as of January 1, 1921.

The amendment was agreed to.

Mr. SIMMONS. Mr. President, the next title relates to war-profits and excess-profits taxes. I ask that the whole of the title may go over.

Mr. SMOOT. Does the Senator desire section 263 to go over? That has reference to incomes.

Mr. SIMMONS. We have agreed to that.

The PRESIDING OFFICER. That has been agreed to.

Mr. SIMMONS. All I ask is that the title to which I referred may go over.

The PRESIDING OFFICER. Without objection, the portion of the bill referred to by the Senator from North Carolina will be passed over.

Mr. LA FOLLETTE. I ask that the amendment from lines 22 to 25, at the bottom of page 129, may also be passed over.

The PRESIDING OFFICER. In order to do that it will be necessary to reconsider the vote by which the amendment in the lines indicated was adopted. Without objection, the vote whereby the amendment was agreed to will be reconsidered, and the amendment will be passed over at the request of the Senator from Wisconsin. At the request of the Senator from North Carolina the war-profits and excess-profits tax provisions for 1921 will be passed over.

Mr. LA FOLLETTE. I will inquire to what page will that carry us?

The PRESIDING OFFICER. Will the Senator from North Carolina please state on what page he desires the reading to be resumed?

Mr. LA FOLLETTE. I understood the Senator from North Carolina to ask that the entire Title III go over.

Mr. SIMMONS. Yes; down to the bottom of page 145.

Mr. SMOOT. Mr. President, I may not be in the Chamber when the particular point is reached, and therefore before the entire title is passed over, on page 135, line 13, I move that the letter "(A)" in parentheses be stricken out. I make that suggestion merely for the reason that there is only one paragraph in that section and therefore there is no need of putting in the letter "A" in parentheses.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. SMOOT. I desire to offer one other amendment. On the same page, in line 20, after the word "patents," I move to insert a comma.

The amendment was agreed to.

The PRESIDING OFFICER. Now, as requested by the Senator from North Carolina, Title III, down to the bottom of page 145, will be passed over.

The READING CLERK. At the top of page 146, the committee proposes to strike out the heading "Title IV. Estate tax amendments" and to insert "Title IV.—Estate tax"——

Mr. KING. Mr. President, the estate tax provisions are very important, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ball	Gooding	McCumber	Shortridge
Borah	Hale	McKellar	Smoot
Brandegee	Harreld	McKinley	Spencer
Calder	Harris	McLean	Sterling
Capper	Harrison	McNary	Sutherland
Caraway	Heflin	New	Townsend
Curtis	Hitchcock	Nicholson	Trammell
Dial	Kellogg	Oddie	Underwood
Dillingham	Kendrick	Overman	Wadsworth
Ernst	King	Page	Watson, Ga.
Fletcher	Ladd	Pomerene	Watson, Ind.
France	La Follette	Reed	Williams
Frelinghuysen	Lenroot	Sheppard	Willis
Glass	Lodge	Shields	

The PRESIDING OFFICER. Fifty-five Senators have answered to their names. A quorum is present. The Secretary will state the next amendment of the committee.

The next amendment of the Committee on Finance was, at the top of page 146, to strike out the heading "Title IV. Estate tax amendments" and insert:

TITLE IV.—ESTATE TAX.

SEC. 400. That when used in this title—

The term "executor" means the executor or administrator of the decedent or if there is no executor or administrator any person in actual or constructive possession of any property of the decedent;

The term "net estate" means the net estate as determined under the provisions of section 403;

The term "month" means calendar month; and

The term "collector" means the collector of internal revenue of the district in which was the domicile of the decedent at the time of his death or if there was no such domicile in the United States then the collector of the district in which is situated the part of the gross estate of the decedent in the United States or, if such part of the gross estate is situated in more than one district, then the collector of internal revenue of such district as may be designated by the commissioner.

The PRESIDING OFFICER. Without objection, the amendment will be agreed to.

Mr. LA FOLLETTE. No, Mr. President. I suppose the whole section will be read.

Mr. WATSON of Indiana. The Secretary has read the section.

Mr. KING. I desire to have the whole title go over.

The PRESIDING OFFICER. The Secretary will read the whole title.

Mr. KING. When it is read, I desire to have the entire subdivision dealing with the subject of estate and inheritance taxes go over, because an amendment will be offered to it.

Mr. LA FOLLETTE. What is done with section 400? Is it reserved?

The PRESIDING OFFICER. It is reserved until the whole of Title IV is read.

Mr. WILLIAMS. Mr. President, I should like to make a very few remarks in regard to the general subject of the inheritance tax.

The entire theory of the present Federal inheritance tax is upon a wrong basis. It taxes the estate instead of taxing the distributive share of the estate that goes to the legatee or distributee. This question was up before the Finance Committee of the Senate at one time, and I announced that view and got the permission of the committee to let the matter go over until an amendment could be drawn to change the basis which had been fixed by the Ways and Means Committee and by the House of Representatives. After that I learned that the State of Rhode Island had an almost perfect inheritance tax, based upon the distributive share of each legatee or distributee; and I left the Senator from Rhode Island [Mr. GERRY] to draw an amendment after the lines of the Rhode Island law. That amendment was adopted by the committee and later on was included in the Senate bill; but when we came into conference with the House one day the conferees surrendered the principle involved.

Mr. President, I want the few Senators who are present to understand precisely what the point at issue is.

A lies down and dies and leaves, say, $110,000. He has no wife and he has no children. Now, remember, this is a graded tax. Then B lies down and dies and leaves a wife and one child. Under the distributive statute of the State of Mississippi and under the statutes of most of the States that $110,000 would be divided into three equal parts, the wife receiving a distributive share. Along comes Q, pretty nearly down at the end of the alphabet, and he leaves nine children and a wife. Now, this tax is so graded that it is graded according to the estate and not according to the distributive share received by each beneficiary under the will, or, if there be no will, under the statute of distribution of the State.

It is obviously plainly unfair that there should be the same deduction from a $10,000 inheritance, to be paid ultimately by the beneficiary, though, of course, primarily by the administrator or executor, as from an inheritance of $110,000. It is bad enough, anyhow, to have the tax collector enter the back door as the corpse goes out of the front door when men are trying to take care of their children.

It is bad enough when one remembers that the white race is perhaps the only race in the world that ever thought more about its children than it thought about itself; but to grade a tax not according to the amount received by the beneficiary but according to the amount left by the dead man, and thereby continue the wrong of letting dead men's hands creep out of their graves and control the destinies of the living, and to emphasize that wrong by making it part of legislation, is thoroughly wrong. I have always hoped that the day would come sometime when we might correct the fundamental iniquities contained in this tax, and when we might base exemption and taxation, by gradation or otherwise, upon the amount received by the beneficiary instead of upon the amount left by the dead man, who no longer belongs to the world and ought not to be considered economically a part of it at all in any way.

I have always agreed with Thomas Jefferson, who, in one of his letters from France expressing his idea of what was wrong with nearly all Europe, said that there must some day be set by legislation a limitation upon the amount of money that can be left by the dead to any one person or any one purpose in the world, because the testamentary right is a statutory right and not a natural right. The natural right of man is a right only to what he earns; and society, in the interest of society, has passed laws to take care after a man's death of what he has earned, so that it goes to his children and other people according to his will or according to distribution statutes, with the view of doing the most possible good for society, not with a superstitious reverence for the will of the dead at all, because he has ceased to be a part of the living community.

The Senator from Utah [Mr. KING] contemplates offering an amendment which will change the entire basis of this inheritance tax by the Federal Government. In talking to me a moment ago he expressed the view that the inheritance tax ought to be left to the States. I differ with him in that respect. I think that the inheritance tax ought peculiarly to be left to the Federal Government and ought to be uniform throughout the Union, and that the States ought to let it alone as a subject of taxation, and let the Federal Government alone deal with it, because that is the only way to allow families in some States to be, after the death of their parents, upon ground of equality with families in other States similarly situated.

But at any rate, Mr. President, I think it must be apparent to everybody with a fair mind that an inheritance tax ought to rest upon the party receiving, and not upon the party—I started to say donating, but the party dying perhaps without donation; it ought to be a tax upon the living, and not upon the dead, and it ought to be fair to the living amongst the living; and I heartily hope that the minds of Senators who happen to be present will be prepared for the amendment which the Senator from Utah probably will offer. It was really in accordance with the principle of the scale of taxation upon inheritances which Rhode Island provided, which, as it seemed to me, after reading it, was eminently just, and in accord with my notions of the fundamental basis upon which this sort of taxation ought to be adjusted.

The PRESIDING OFFICER. The Secretary will continue the reading.

The reading clerk proceeded to read section 401, beginning on page 146.

Mr. McCUMBER. I understand the Senator from Wisconsin desires that this section shall be passed over, and if that is true there is no necessity of reading it at the present time.

The PRESIDING OFFICER. To what page does the Senator refer?

Mr. McCUMBER. The whole of section 401.

The PRESIDING OFFICER. The Senator from Wisconsin also requested that section 400 go over, did he not?

Mr. LA FOLLETTE. I made that request.

The PRESIDING OFFICER. If the whole title is to go over, then we will turn to page 167.

Mr. LA FOLLETTE. I do not want to ask to have any portion passed over that does not seem necessary to the amendments which I intend to propose, and up to the present time I have only requested that we pass over beginning with line 1, on page 146, to and including line 12, on page 149. If, as the reading progresses, I see that it is desirable to have any of the other provisions of the title passed over, I will request it; but I do not at this time.

The PRESIDING OFFICER. The sections referred to by the Senator from Wisconsin will be passed over, and the Secretary will begin to read section 402, page 149.

The next amendment was, on page 149, after line 12, to insert:

SEC. 402. That the value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated—

(a) To the extent of the interest therein of the decedent at the time of his death which after his death is subject to the payment of the charges against his estate and the expenses of its administration and is subject to distribution as part of his estate;

(b) To the extent of any interest therein of the surviving spouse, existing at the time of the decedent's death as dower, curtesy, or by virtue of a statute creating an estate in lieu of dower or curtesy;

(c) To the extent of any interest therein of which the decedent has at any time made a transfer, or with respect to which he has at any time created a trust, in contemplation of or intended to take effect in possession or enjoyment at or after his death (whether such transfer or trust is made or created before or after the passage of this act), except in case of a bona fide sale for a fair consideration in money or money's worth. Any transfer of a material part of his property in the nature of a final disposition or distribution thereof, made by the decedent within two years prior to his death without such a consideration, shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this title;

Mr. KING. Mr. President, before I left the Chamber a moment ago I stated that I should like to have the entire title which related to the estate tax go over, because an amendment would be tendered to that.

The PRESIDING OFFICER. While the Senator was out, the Senator from Wisconsin requested that sections 400 and 401 be passed over, and the Chair thought that included what the Senator from Utah wanted to have passed over. Does the Senator want the remainder of the section to go over?

Mr. KING. No; I ask that it be read.

The PRESIDING OFFICER. There is no use reading it if it is to go over.

Mr. KING. I will withdraw the request, and then, as it is read, the request may be made.

The PRESIDING OFFICER. The question is on agreeing to the amendment inserting section 402.

The amendment was agreed to.

The next amendment was, on page 150, after line 19, to strike out:

SEC. 401. Subdivision (d) of section 402 of the revenue act of 1918 is amended to read as follows:

The amendment was agreed to.

The next amendment was, on page 151, after line 17, to insert:

(e) To the extent of any property passing under a general power of appointment exercised by the decedent (1) by will, or (2) by deed executed in contemplation of, or intended to take effect in possession or enjoyment at or after, his death, except in case of a bona fide sale for a fair consideration in money or money's worth; and

(f) To the extent of the amount receivable by the executor as insurance under policies taken out by the decedent upon his own life; and to the extent of the excess over $40,000 of the amount receivable by all other beneficiaries as insurance under policies taken out by the decedent upon his own life.

The amendment was agreed to.

The next amendment was, on page 152, after line 7, to insert:

SEC. 403. That for the purpose of the tax the value of the net estate shall be determined—

(a) In the case of a resident, by deducting from the value of the gross estate—

(1) Such amounts for funeral expenses, administration expenses, claims against the estate, unpaid mortgages upon, or any indebtedness in respect to, property (except, in the case of a resident decedent, where such property is not situated in the United States), losses incurred during the settlement of the estate arising from fires, storms, shipwreck, or other casualty, or from theft, when such losses are not compensated for by insurance or otherwise, and such amounts reasonably required and actually expended for the support during the settlement of the estate of those dependent upon the decedent, as are allowed by the laws or the jurisdiction, whether within or without the United States, under which the estate is being administered, but not including any income taxes upon income received after the death of the decedent, or any estate, succession, legacy, or inheritance taxes.

The amendment was agreed to.

The next amendment was, on page 153, after line 4, to strike out:

SEC. 402. Paragraph (2) of subdivision (a) of section 403 of the revenue act of 1918 is amended to read as follows:

The amendment was agreed to.

The next amendment was, on page 153, line 8, after the word "estate," to insert "situated in the United States"; in line 15, after the word "under," to strike out "the revenue act of 1917 or this act," and to insert "this or any prior act of Congress"; and in line 23, after the word "this," to strike out the word "section," the period and the quotation marks, and to insert "section. This deduction shall be made in case of the estates of all decedents who have died since September 8, 1916;" so as to make the paragraph read:

(2) An amount equal to the value of any property forming a part of the gross estate situated in the United States of any person who died within five years prior to the death of the decedent where such property can be identified as having been received by the decedent from such prior decedent by gift, bequest, devise, or inheritance, or which can be identified as having been acquired in exchange for property so received: *Provided*, That this deduction shall be allowed only where an estate tax under this or any prior act of Congress was paid by or on behalf of the estate of such prior decedent, and only in the amount of the value placed by the commissioner on such property in determining the value of the gross estate of such prior decedent, and only to the extent that the value of such property is included in the decedent's gross estate and not deducted under paragraphs (1) or (3) of subdivision (a) of this section. This deduction shall be made in case of the estates of all decedents who have died since September 8, 1916.

The amendment was agreed to.

The next amendment was, at the top of page 154, to insert:

(3) The amount of all bequests, legacies, devises, or transfers, except bona fide sales for a fair consideration in money or money's worth, in contemplation of or intended to take effect in possession or enjoyment at or after the decedent's death, to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, or to a trustee or trustees exclusively for such religious, charitable, scientific, literary, or educational purposes. This deduction shall be made in case of the estates of all decedents who have died since December 31, 1917; and

(4) An exemption of $50,000;

(b) In the case of a nonresident, by deducting from the value of that part of his gross estate which at the time of his death is situated in the United States—

(1) That proportion of the deductions specified in paragraph (1) of subdivision (a) of this section which the value of such part bears to the value of his entire gross estate, wherever situated, but in no case shall the amount so deducted exceed 10 per cent of the value of that part of his gross estate which at the time of his death is situated in the United States.

Mr. SIMMONS. Mr. President, I ask that that may go over.

The PRESIDING OFFICER. The amendment will be passed over.

The next amendment was, on page 155, after line 8, to strike out:

SEC. 403. Paragraphs (2) and (3) of subdivision (b) of section 403 of the revenue act of 1918 are amended to read as follows:

The amendment was agreed to.

The next amendment was, on page 155, line 13, after the word "estate," to insert "situated in the United States"; in line 20, after the word "under," to strike out "the revenue act of 1917 or this act" and to insert "this or any prior act of Congress"; and on page 156, line 4, after the word "section," to insert "This deduction shall be made in case of the estates of all decedents who have died since September 8, 1916; and," so as to make the paragraph read:

(2) An amount equal to the value of any property forming a part of the gross estate situated in the United States of any person who died within five years prior to the death of the decedent where such prop-

erty can be identified as having been received by the decedent from such prior decedent by gift, bequest, devise, or inheritance, or which can be identified as having been acquired in exchange for property so received: *Provided*, That this deduction shall be allowed only where an estate tax under this or any prior act of Congress was paid by or on behalf of the estate of such prior decedent, and only in the amount of the value placed by the commissioner on such property in determining the value of the gross estate of such prior decedent, and only to the extent that the value of such property is included in that part of the decedent's gross estate which at the time of his death is situated in the United States and not deducted under paragraphs (1) or (3) of subdivision (b) of this section. This deduction shall be made in case of the estates of all decedents who have died since September 8, 1916; and

The amendment was agreed to.

The next amendment was, on page 156, line 8, after the word "or," to strike out "gifts" and to insert "transfers, except bona fide sales for a fair consideration, in money or money's worth, in contemplation of or intended to take effect in possession or enjoyment at or after the decedent's death," so as to make the paragraph read:

(3) The amount of all bequests, legacies, devises, or transfers, except bona fide sales for a fair consideration, in money or money's worth, in contemplation of or intended to take effect in possession or enjoyment at or after the decedent's death, to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or for the use of any domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, or to a trustee or trustees exclusively for such religious, charitable, scientific, literary, or educational purposes within the United States. This deduction shall be made in case of the estates of all decedents who have died since December 31, 1917.

The amendment was agreed to.

The next amendment was, on page 157, line 14, after the word "deposited," to strike out "in any bank, banking institution, or trust company in the United States," and to insert "with any person carrying on the banking business"; so as to make the paragraph read:

The amount receivable as insurance upon the life of a nonresident decedent, and any moneys deposited with any person carrying on the banking business, by or for a nonresident decedent who was not engaged in business in the United States at the time of his death, shall not, for the purpose of this title, be deemed property within the United States.

The amendment was agreed to.

The next amendment was, on page 158, line 7, after the word "tax," in line 6, to strike out "under existing law"; and in line 8, after the word "under," to strike out the word "paragraph" and to insert "paragraphs (2) and," so as to make the paragraph read:

In the case of any estate in respect to which the tax has been paid, if necessary to allow the benefit of the deduction under paragraphs (2) and (3) of subdivision (a) or (b) the tax shall be redetermined and any excess of tax paid shall be refunded to the executor.

The amendment was agreed to.

The next amendment was, on page 158, after line 11, to insert:

SEC. 404. That the executor, within two months after the decedent's death, or within a like period after qualifying as such, shall give written notice thereof to the collector. The executor shall also, at such times and in such manner as may be required by regulations made pursuant to law, file with the collector a return under oath in duplicate, setting forth (a) the value of the gross estate of the decedent at the time of his death, or, in case of a nonresident, of that part of his gross estate situated in the United States; (b) the deductions allowed under section 403; (c) the value of the net estate of the decedent as defined in section 403; and (d) the tax paid or payable thereon; or such part of such information as may at the time be ascertainable and such supplemental data as may be necessary to establish the correct tax.

Return shall be made in all cases where the gross estate at the death of the decedent exceeds $50,000, and in the case of the estate of every nonresident any part of whose gross estate is situated in the United States. If the executor is unable to make a complete return as to any part of the gross estate of the decedent, he shall include in his return a description of such part and the name of every person holding a legal or beneficial interest therein, and upon notice from the collector such person shall in like manner make a return as to such part of the gross estate. The commissioner shall make all assessments of the tax under the authority of existing administrative special and general provisions of law relating to the assessment and collection of taxes.

The amendment was agreed to.

The next amendment was, on page 159, after line 19, to insert:

SEC. 405. That if no administration is granted upon the estate of a decedent, or if no return is filed as provided in section 404, or if a return contains a false or incorrect statement of a material fact, the collector or deputy collector shall make a return and the commissioner shall assess the tax thereon.

The amendment was agreed to.

The next amendment was, on page 160, after line 2, to insert:

SEC. 406. That the tax shall be due and payable one year after the decedent's death; but in any case where the Commissioner finds that payment of the tax within such period would impose undue hardship upon the estate, he may grant an extension or extensions of time for payment not to exceed three years from the due date.

The executor shall pay the tax to the collector or deputy collector, and to such portion of the tax, not paid within one year and six months after the decedent's death, interest at the rate of 6 per cent per annum from the expiration of one year after such death shall be added as part of the tax irrespective of any extension or extensions of time that may have been granted for the payment of the tax, or any portion thereof.

The amendment was agreed to.

The next amendment was, on page 160, after line 16, to insert:

SEC. 407. That where the amount of tax shown upon a return made in good faith has been fully paid, or time for payment has been extended, as provided in section 406, beyond one year and six months after decedent's death, and an additional amount of tax is, after the expiration of such period of one year and six months, found to be due, then such additional amount shall be paid upon notice and demand by the collector, and if it remains unpaid for one month after such notice and demand there shall be added as part of the tax interest on such additional amount at the rate of 10 per cent per annum from the expiration of such period until paid, and such additional tax and interest shall, until paid, be and remain a lien upon the entire gross estate.

The collector shall grant to the person paying the tax duplicate receipts, either of which shall be sufficient evidence of such payment, and shall entitle the executor to be credited and allowed the amount thereof by any court having jurisdiction to audit or settle his accounts.

The amendment was agreed to.

The next amendment was, on page 161, after line 10, to strike out:

SEC. 404. Section 407 of the revenue act of 1918 is amended by adding at the end thereof the following paragraph:

The amendment was agreed to.

The next amendment was, on page 162, after line 5, to insert:

SEC. 408. That if the tax herein imposed is not paid on or before the due date thereof the collector shall, upon instruction from the Commissioner, proceed to collect the tax under the provisions of general law, or commence appropriate proceedings in any court of the United States, in the name of the United States, to subject the property of the decedent to be sold under the judgment or decree of the court. From the proceeds of such sale the amount of the tax, together with the costs and expenses of every description to be allowed by the court shall be first paid, and the balance shall be deposited according to the order of the court, to be paid under its direction to the person entitled thereto.

If the tax, or any part thereof, is paid by or collected out of that part of the estate passing to or in the possession of any person other than the executor in his capacity as such, such person shall be entitled to reimbursement out of any part of the estate still undistributed or by a just and equitable contribution by the persons whose interest in the estate of the decedent would have been reduced if the tax had been paid before the distribution of the estate or whose interest is subject to equal or prior liability for the payment of taxes, debts, or other charges against the estate, it being the purpose and intent of this title that so far as is practicable and unless otherwise directed by the will of the decedent the tax shall be paid out of the estate before its distribution. If any part of the gross estate consists of proceeds of policies of insurance upon the life of the decedent receivable by a beneficiary other than the executor, the executor shall be entitled to recover from such beneficiary such portion of the total tax paid as the proceeds, in excess of $40,000, of such policies bear to the net estate. If there is more than one such beneficiary the executor shall be entitled to recover from such beneficiaries in the same ratio.

The amendment was agreed to.

The next amendment was, on page 163, after line 20, to insert:

SEC. 409. That unless the tax is sooner paid in full, it shall be a lien for 10 years upon the gross estate of the decedent, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of such lien. If the Commissioner is satisfied that the tax liability of an estate has been fully discharged or provided for he may, under regulations prescribed by him with the approval of the Secretary, issue his certificate releasing any or all property of such estate from the lien herein imposed.

If (a) the decedent makes a transfer of, or creates a trust with respect to, any property in contemplation of or intended to take effect in possession or enjoyment at or after his death (except in the case of a bona fide sale for a fair consideration in money or money's worth) or (b) if insurance passes under a contract executed by the decedent in favor of a specific beneficiary, and if in either case the tax in respect thereto is not paid when due, then the transferee, trustee, or beneficiary shall be personally liable for such tax, and such property, to the extent of the decedent's interest therein at the time of such transfer, or to the extent of such beneficiary's interest under such contract of insurance, shall be subject to a like lien equal to the amount of such tax. Any part of such property sold by such transferee or trustee to a bona fide purchaser for a fair consideration in money or money's worth shall be divested of the lien and a like lien shall then attach to all the property of such transferee or trustee, except any part sold to a bona fide purchaser for a fair consideration in money or money's worth.

The amendment was agreed to.

The next amendment was, on page 165, after line 6, to insert:

SEC. 410. That whoever knowingly makes any false statement in any notice or return required to be filed under this title shall be liable to a penalty of not exceeding $5,000 or imprisonment not exceeding one year, or both.

Whoever fails to comply with any duty imposed upon him by section 404, or, having in his possession or control any record, file, or paper containing or supposed to contain any information concerning the estate of the decedent, or, having in his possession or control any property comprised in the gross estate of the decedent, fails to exhibit the same upon request to the commissioner or any collector or law officer of the United States, or his duly authorized deputy or agent, who desires to examine the same in the performance of his duties under this title, shall be liable to a penalty of not exceeding $500, to be recovered, with costs of suit, in a civil action in the name of the United States.

The amendment was agreed to.

The next amendment was, on page 166, after line 2, to insert:

SEC. 411. That if it appears upon the examination of any return made pursuant to this title or to Title IV of the revenue act of 1918 that an amount of tax has been paid in excess of that properly due, the commissioner is authorized to refund such excess amount, notwithstanding the provisions of section 3228 of the Revised Statutes: *Provided*, That no such refund shall be made after three years from the payment of such excess amount unless before the expiration of such three years a claim for refund thereof is filed by the executor, or by such other person or persons as may be legally entitled to receive payment thereof.

Mr. McCUMBER. I ask that this section may be passed over. I shall desire to offer an amendment, substituting four years for three years.

The PRESIDING OFFICER. At the request of the Senator from North Dakota the section will be passed over.

The next amendment was, on page 166, after line 13, to insert:

SEC. 412. (a) That the term "resident" as used in this title includes a citizen of the United States with respect to whose property any probate or administration proceedings are had in the United States Court for China. Where no part of the gross estate of such decedent is situated in the United States at the time of his death, the total amount of tax due under this title shall be paid to or collected by the clerk of such court, but where any part of the gross estate of such decedent is situated in the United States at the time of his death, the tax due under this title shall be paid to or collected by the collector of the district in which is situated the part of the gross estate in the United States, or, if such part is situated in more than one district, then the collector of such district as may be designated by the commissioner.

(b) For the purpose of this section the clerk of the United States Court for China shall be a collector for the territorial jurisdiction of such court, and taxes shall be collected by and paid to him in the same manner and subject to the same provisions of law, including penalties, as the taxes collected by and paid to a collector in the United States.

(c) The proviso in the act entitled "An act making appropriation for the Diplomatic and Consular Service for the fiscal year ending June 30, 1921," approved June 4, 1920, which reads as follows: "*Provided*, That in probate and administration proceedings there shall be collected by said clerk, before entering the order of final distribution, to be paid into the Treasury of the United States, the same inheritance taxes from time to time collected under the laws enacted by the Congress of the United States from the estates of decedents residing within the territorial jurisdiction of the United States," is hereby repealed.

The amendment was agreed to.

The next amendment was, on page 167, after line 19, to strike out:

Title V. Transportation and insurance tax repeals.

The amendment was agreed to.

The next amendment was, on page 167, after line 20, to insert a subhead:

Title V.—Tax on transportation and other facilities.

Mr. SIMMONS. Mr. President, I ask that that go over.

Mr. McCUMBER. Several Senators wish to offer amendments to this title, and therefore I ask that it go over.

Mr. McNARY. Mr. President, I desire to offer an amendment to this title, and I think the time of the Senate might be conserved if I ask, in view of that situation, that this title be passed over.

The PRESIDING OFFICER. Without objection, Title V, down to and including the last line on page 175, will be passed over.

The next amendment was, at the top of page 176, to strike out line 1, as follows:

Title VI. Beverage tax amendments.

And to insert in lieu:

Title VI.—Tax on soft drinks and constituent parts thereof.

The amendment was agreed to.

The next amendment was, on page 176, after line 3, to strike out:

SEC. 601. Subdivision (a) of section 600 of the revenue act of 1918 is amended by striking out the period at the end thereof and inserting a colon and the following: "*Provided*, That on all distilled spirits on which tax is paid at the nonbeverage rate of $2.20 per proof gallon and which are diverted to beverage purposes or for use in the manufacture or production of any article used or intended for use as a beverage, there shall be levied and collected an individual tax of $4.20 on each proof gallon, and a proportionate tax at a like rate on all fractional parts of such proof gallon, to be paid by the person responsible for such diversion."

The amendment was agreed to.

The next amendment was, on page 176, after line 14, to strike out:

SEC. 602. Section 605 of the revenue act of 1918 is amended by adding at the end thereof the following: "The process of extraction of water from high proof spirits for the production of absolute alcohol shall not be deemed to be rectification within the meaning of section 3244 of the Revised Statutes, and absolute alcohol shall not be subject to the tax imposed by this section, but the production of such absolute alcohol shall be under such regulations as the commissioner, with the approval of the Secretary, may prescribe."

The amendment was agreed to.

The next amendment was, on page 176, after line 23, to strike out:

SEC. 603. Sections 628 and 629 of the revenue act of 1918 are amended to read as follows:

The amendment was agreed to.

The next amendment was, on page 177, at the beginning of line 1, to strike out the quotation marks and "Sec. 628" and to insert "Sec. 600"; in the same line, after the word "That," to insert "from and after January 1, 1922"; and in line 3, after the word "paid" in line 2, to insert "in lieu of the taxes imposed by sections 628 and 630 of the revenue act of 1918—," so as to make the paragraph read:

SEC. 600. That from and after January 1, 1922, there shall be levied, assessed, collected, and paid, in lieu of the taxes imposed by sections 628 and 630 of the revenue act of 1918—

The amendment was agreed to.

The next amendment was, on page 177, line 8, after the words "a tax," to strike out "of 4" and to insert "of 2," so as to make the paragraph read:

(a) Upon all beverages derived wholly or in part from cereals or substitutes therefor, containing less than one-half of 1 per cent of alcohol by volume, sold by the manufacturer, producer, or importer, a tax of 2 cents per gallon.

The amendment was agreed to.

The next amendment was, on page 177, line 24, after the word "waters," to insert "and imitations thereof"; and on page 178, line 2, after the words "a tax," to strike out "of 3" and to insert "of 2," so as to make the paragraph read:

(c) Upon all still drinks containing less than one-half of 1 per cent of alcohol by volume, intended for consumption as beverages in the form in which sold (except natural or artificial mineral and table waters and imitations thereof, and pure apple cider), sold by the manufacturer, producer, or importer, a tax of 2 cents per gallon.

Mr. SIMMONS. Mr. President, I inadvertently failed to ask that sections 600 and 601 go over. As I think some amendments embraced in those have already been adopted, I ask that the vote by which they were adopted be reconsidered and the two sections passed over.

The PRESIDING OFFICER. Without objection, the vote by which the amendments to the two sections was agreed to will be reconsidered and the sections will be passed over at the request of the Senator from North Carolina, including pages 176, 177, 178, 179, and the first seven lines on page 180.

Mr. SIMMONS. That takes in all down to Title VII.

The next amendment was, on page 180, after line 7, to insert:

TITLE VII.—TAX ON CIGARS, TOBACCO, AND MANUFACTURES THEREOF.

SEC. 700. (a) That upon cigars and cigarettes manufactured in or imported into the United States, and hereafter sold by the manufacturer or importer, or removed for consumption or sale, there shall be levied, collected, and paid under the provisions of existing law, in lieu of the internal-revenue taxes now imposed thereon by section 700 of the revenue act of 1918, the following taxes, to be paid by the manufacturer or importer thereof—

On cigars of all descriptions made of tobacco, or any substitute therefor, and weighing not more than 3 pounds per thousand, $1.50 per thousand;

On cigars made of tobacco, or any substitute therefor, and weighing more than 3 pounds per thousand, if manufactured or imported to retail at not more than 5 cents each, $4 per thousand;

If manufactured or imported to retail at more than 5 cents each and not more than 8 cents each, $6 per thousand;

If manufactured or imported to retail at more than 8 cents each and not more than 15 cents each, $9 per thousand;

If manufactured or imported to retail at more than 15 cents each and not more than 20 cents each, $12 per thousand;

If manufactured or imported to retail at more than 20 cents each, $15 per thousand;

On cigarettes made of tobacco, or any substitute therefor, and weighing not more than 3 pounds per thousand, $3 per thousand;

Weighing more than 3 pounds per thousand, $7.20 per thousand;

(b) Whenever in this section reference is made to cigars manufactured or imported to retail at not over a certain price each, then in determining the tax to be paid regard shall be had to the ordinary retail price of a single cigar.

(c) The commissioner may, by regulation, require the manufacturer or importer to affix to each box, package, or container a conspicuous label indicating the clause of this section under which the cigars therein contained have been tax-paid, which must correspond with the tax-paid stamp on such box or container.

(d) Every manufacturer of cigarettes (including small cigars weighing not more than 3 pounds per thousand) shall put up all the cigarettes and such small cigars that he manufactures or has manufactured for him, and sells or removes for consumption or sale, in packages or parcels containing 5, 8, 10, 12, 15, 16, 20, 24, 40, 50, 80, or 100 cigarettes each, and shall securely affix to each of such packages or parcels a suitable stamp denoting the tax thereon and shall properly cancel the same prior to such sale or removal for consumption or sale under such regulations as the commissioner, with the approval of the Secretary, shall prescribe; and all cigarettes imported from a foreign country shall be packed, stamped, and the stamps canceled in a like manner, in addition to the import stamp indicating inspection of the customhouse before they are withdrawn therefrom.

Mr. FLETCHER. Mr. President, I have the act of 1914 before me and would like to inquire of some member of the committee whether these taxes are increased over the taxes levied in that act?

Mr. McCUMBER. I understand they are just the same as they were in the old law.

Mr. FLETCHER. So far as I have gone, that is the case as I observed it; but I wished to be assured.

The amendment was agreed to.

The next amendment was, on page 182, after line 22, to insert:

SEC. 701. (a) That upon all tobacco and snuff manufactured in or imported into the United States, and hereafter sold by the manufacturer or importer, or removed for consumption or sale, there shall be levied, collected, and paid, in lieu of the internal-revenue taxes now imposed thereon by section 701 of the revenue act of 1918, a tax of 18 cents per pound, to be paid by the manufacturer or importer thereof.

(b) Section 3362 of the Revised Statutes, as amended by section 701 of the revenue act of 1918, is reenacted without change, as follows:

"SEC. 3362. All manufactured tobacco shall be put up and prepared by the manufacturer for sale, or removal for sale or consumption, in packages of the following description and in no other manner:

"All smoking tobacco, snuff, fine-cut chewing tobacco, all cut and granulated tobacco, all shorts, the refuse of fine-cut chewing, which has passed through a riddle of 36 meshes to the square inch, and all refuse scraps, clippings, cuttings, and sweepings of tobacco, and all other kinds of tobacco not otherwise provided for, in packages containing one-eighth of an ounce, three-eighths of an ounce, and further packages with a difference between each package and the one next smaller of one-eighth of an ounce up to and including 2 ounces, and further packages with a difference between each package and the one next smaller of one-fourth of an ounce up to and including 4 ounces, and packages of 5 ounces, 6 ounces, 7 ounces, 8 ounces, 10 ounces, 12 ounces, 14 ounces, and 16 ounces: *Provided*, That snuff may, at the option of the manufacturer, be put up in bladders and in jars containing not exceeding 20 pounds.

"All cavendish, plug, and twist tobacco, in wooden packages not exceeding 200 pounds net weight.

"And every such wooden package shall have printed or marked thereon the manufacturer's name and place of manufacture, the registered number of the manufactory, and the gross weight, the tare, and the net weight of the tobacco in each package: *Provided*, That these limitations and descriptions of packages shall not apply to tobacco and snuff transported in bond for exportation and actually exported: *And provided further*, That perique tobacco, snuff flour, fine-cut shorts, the refuse of fine-cut chewing tobacco, refuse scraps, clippings, cuttings, and sweepings of tobacco, may be sold in bulk as material, and without the payment of tax, by one manufacturer directly to another manufacturer, or for export, under such restrictions, rules, and regulations as the Commissioner of Internal Revenue may prescribe: *And provided further*, That wood, metal, paper, or other materials may be used separately or in combination for packing tobacco, snuff, and cigars, under such regulations as the Commissioner of Internal Revenue may establish."

The amendment was agreed to.

The next amendment was, on page 185, after line 7, to insert:

SEC. 702. That there shall be levied, collected, and paid, in lieu of the taxes imposed by section 703 of the revenue act of 1918, upon cigarette paper made up into packages, books, sets, or tubes, made up in or imported into the United States and hereafter sold by the manufacturer or importer to any person (other than to a manufacturer of cigarettes for use by him in the manufacture of cigarettes) the following taxes, to be paid by the manufacturer or importer: On each package, book, or set containing more than 25 but not more than 50 papers, ½ cent; containing more than 50 but not more than 100 papers, 1 cent; containing more than 100 papers, ½ cent for each 50 papers or fractional part thereof; and upon tubes, 1 cent for each 50 tubes or fractional part thereof.

Every manufacturer of cigarettes purchasing any cigarette paper made up into tubes (a) shall give bond in an amount and with sureties satisfactory to the commissioner that he will use such tubes in the manufacture of cigarettes or pay thereon a tax equivalent to the tax imposed by this section, and (b) shall keep such records and render under oath such returns as the commissioner finds necessary to show the disposition of all tubes purchased or imported by such manufacturer of cigarettes.

The amendment was agreed to.

The next amendment was, on page 186, after line 11, to insert:

SEC. 703. That section 3360 of the Revised Statutes, as amended by section 704 of the revenue act of 1918, is reenacted without change, as follows:

"SEC. 3360. (a) Every dealer in leaf tobacco shall file with the collector of the district in which his business is carried on a statement in duplicate, subscribed under oath, setting forth the place, and, if in a city, the street and number of the street, where his business is to be carried on, and the exact location of each place where leaf tobacco is held by him on storage, and, whenever he adds to or discontinues any of his leaf tobacco storage places, he shall give immediate notice to the collector of the district in which he is registered.

"Every such dealer shall give a bond with surety, satisfactory to, and to be approved by, the collector of the district, in such penal sum as the collector may require, not less than $500; and a new bond may be required in the discretion of the collector or under instructions of the commissioner.

"Every such dealer shall be assigned a number by the collector of the district, which number shall appear in every inventory, invoice, and report rendered by the dealer, who shall also obtain certificates from the collector of the district setting forth the place where his business is carried on and the places designated by the dealer as the places of storage of his tobacco, which certificates shall be posted conspicuously within the dealer's registered place of business, and within each designated place of storage.

"(b) Every dealer in leaf tobacco shall make and deliver to the collector of the district a true inventory of the quantity of the different kinds of tobacco held or owned, and where stored by him, on the 1st day of January of each year, or at the time of commencing and at the time of concluding business, if before or after the 1st day of January, such inventory to be made under oath and rendered in such form as may be prescribed by the commissioner.

"Every dealer in leaf tobacco shall render such invoices and keep such records as shall be prescribed by the commissioner, and shall enter therein, day by day, and upon the same day on which the circumstance, thing or act to be recorded is done or occurs, an accurate account of the number of hogsheads, tierces, cases, and bales, and quantity of leaf tobacco contained therein, purchased or received by him, on assignment, consignment, for storage, by transfer, or otherwise, and of whom purchased or received, and the number of hogsheads, tierces, cases, and bales, and the quantity of leaf tobacco contained therein, sold by him, with the name and residence in each instance of the person to whom sold, and if shipped, to whom shipped, and to what district; such records shall be kept at his place of business at all times and preserved for a period of two years, and the same shall be open at all hours for the inspection of any internal-revenue officer or agent.

"Every dealer in leaf tobacco on or before the 10th day of each month, shall furnish to the collector of the district a true and complete report of all purchases, receipts, sales, and shipments of leaf tobacco made by him during the month next preceding, which report shall be verified and rendered in such form as the commissioner, with the approval of the Secretary, shall prescribe.

"(c) Sales or shipments of leaf tobacco by a dealer in leaf tobacco shall be in quantities of not less than a hogshead, tierce, case, or bale, except loose leaf tobacco comprising the breaks on warehouse floors, and except to a duly registered manufacturer of cigars for use in his own manufactory exclusively.

"Dealers in leaf tobacco shall make shipments of leaf tobacco only to other dealers in leaf tobacco, to registered manufacturers of tobacco, snuff, cigars, or cigarettes, or for export.

"(d) Upon all leaf tobacco sold, removed, or shipped by any dealer in leaf tobacco in violation of the provisions of subdivision (c), or in respect to which no report has been made by such dealer in accordance with the provisions of subdivision (b), there shall be levied, assessed, collected, and paid a tax equal to the tax then in force upon manufactured tobacco, such tax to be assessed and collected in the same manner as the tax on manufactured tobacco.

"(e) Every dealer in leaf tobacco—

"(1) Who neglects or refuses to furnish the statement, to give bond, to keep books, to file inventory, or to render the invoices, returns, or reports required by the commissioner, or to notify the collector of the district of additions to his places of storage; or

"(2) Who ships or delivers leaf tobacco, except as herein provided; or

"(3) Who fraudulently omits to account for tobacco purchased, received, sold, or shipped;

shall be fined not less than $100 or more than $500, or imprisoned not more than one year, or both.

"(f) For the purposes of this section a farmer or grower of tobacco shall not be regarded as a dealer in leaf tobacco in respect to the leaf tobacco produced by him."

The amendment was agreed to.

Mr. KING. Mr. President, while I was out getting a little lunch the paragraph in the bill dealing with transportation was reached. I have an amendment proposing to strike out that entire title, and I desire to inquire whether or not the title was passed over?

The VICE PRESIDENT. The title was passed over.

Mr. POMERENE. Mr. President, I wish to ask one question in regard to that title. As I recall, it provides for a change in the tax on freight and passenger charges, but no reference is made to charges on express matter. What was the reason for making the changes with respect to freight and passenger charges and not making similar changes in connection with express charges?

Mr. McCUMBER. We did not seek, Mr. President, to make a change from the House bill in reference to express, telegraph, and telephone charges. Those were left as they are fixed in the present law.

Mr. POMERENE. But what was the reason for that action?

Mr. McCUMBER. The reason for it was, I suppose, that the committee considered that those particular industries could stand the tax and that the revenue was needed.

Mr. POMERENE. Of course, the tax is paid by the users, and many people, particularly those who send small packages, use the express service for that purpose. That tax has become quite a burden, and I had hoped that the Senate committee could see its way clear very substantially to reduce all those taxes, if not to entirely dispense with them. We all realize what burdens are now placed upon transportation.

Mr. KING. Will the Senator from Ohio yield to me?

Mr. POMERENE. I will.

Mr. KING. I suggest to the Senator from Ohio that, as I see the point, there is a distinction between a tax upon expressage and a tax upon transportation. Transportation affects everybody, and particularly the farmers—they are the ones who are suffering most now, I believe, because of the high transportation charges—but the express companies deal with only a limited quantity of articles. Usually they deal with matter that can best bear the burden of a tax. The farmers, however, those who are now oppressed by the high transportation charges, ought to be relieved from them. It seems to me that there is a distinction between telegraph companies, telephone companies, express companies, and transportation companies, because it is not the transportation companies really which pay the tax, but it is the farmer and the ultimate consumer.

Mr. POMERENE. There is a distinction, of course, in that when it comes to commodities one class is carried by freight or in the passenger cars and the other is carried by express cars. That is about the only difference.

The next amendment was, on page 190, after line 17, to strike out "Title VII. Amendments to taxes on admissions and dues" and insert "Title VIII.—Tax on admissions and dues."

The amendment was agreed to.

The next amendment was, on page 190, after line 21, to strike out:

SEC. 701. Paragraph (2) of subdivision (a) of section 800 of the revenue act of 1918 is repealed.

The amendment was agreed to.

The next amendment was, on page 190, after line 23, to strike out:

SEC. 702. Paragraphs (3) and (4) of subdivision (a) of section 800 of the revenue act of 1918 are amended to read as follows:

Mr. SIMMONS. I ask that sections 800 and 801 of the bill, going down to line 20 on page 195, be passed over.

The VICE PRESIDENT. At the request of the Senator from North Carolina, the sections referred to by him will be passed over.

Mr. SIMMONS. I also request that section 802 be passed over, going down to line 7 on page 196.

The VICE PRESIDENT. At the request of the Senator from North Carolina, the section will be passed over.

Mr. SIMMONS. I ask that the entire title—Title IX, excise taxes—may be passed over, down to the end of line 11 on page 212.

The VICE PRESIDENT. The title will be passed over.

Mr. FLETCHER. Mr. President, I understand that according to the last observation of the Chair we passed over to page 212; but where did we begin in that?

The VICE PRESIDENT. From page 196, line 9, down to and including line 11 on page 212.

Mr. SMOOT. Mr. President, if Senators will turn to page 208, I know this is going over, but I want to make a correction at this time so that it will not be forgotten.

On page 208, line 22, after the matter proposed to be stricken out, I move to insert "Sec."

The VICE PRESIDENT. The amendment will be stated.

The READING CLERK. On page 208, line 22, where it is proposed to strike out "Sec. 814 (a) If," and to insert "908," before the numerals "908" it is proposed to insert "Sec."

The amendment was agreed to.

The READING CLERK. On page 212, after line 11, the committee proposes to insert the following:

TITLE X.—SPECIAL TAXES.

SEC. 1000. That on and after July 1, 1922, there shall be levied, collected, and paid annually the following special taxes—

(1) Brokers shall pay $50. Every person whose business it is to negotiate purchases or sales of stocks, bonds, exchange, bullion, coined money, bank notes, promissory notes, other securities, produce or merchandise, for others, shall be regarded as a broker. If a broker is a member of a stock exchange, or if he is a member of any produce exchange, board of trade, or similar organization, where produce or merchandise is sold, he shall pay an additional amount as follows: If the average value, during the preceding year ending June 30, of a seat or membership in such exchange or organization was $2,000 or more but not more than $5,000, $100; if such value was more than $5,000, $150.

(2) Pawnbrokers shall pay $100. Every person whose business or occupation it is to take or receive, by way of pledge, pawn, or exchange, any goods, wares, or merchandise, or any kind of personal property whatever, as security for the repayment of money loaned thereon, shall be regarded as a pawnbroker.

Mr. KING. Mr. President, the matter to which I am directing attention now is not very consequential. I observe that the tax on brokers is graduated; that is, the tax is increased according to the value of the business done or the value of the seat. Coming to pawnbrokers, there is a flat rate of $100, regardless of the business done or the opportunities. As I say, it is not very important, but——

Mr. SMOOT. Mr. President, I will say to my colleague that the only reason for that is that a pawnbroker does not have to buy a seat on an exchange. A broker does; and the reason of that is to try to equalize, if possible, the taxes between the two.

Mr. KING. I agree with the provision with respect to brokers, and I think there should be a distinction made. I was wondering, though, whether it was quite fair to tax pawnbrokers in small cities, whose business is limited, as much as we tax pawnbrokers in large cities, whose business is extensive. If the committee has considered those disparities and is satisfied I shall not press the matter.

Mr. SMOOT. I do not think a pawnbroker, with the amount of profit he makes, ever objects to the $100 tax. I have not received a single letter from a pawnbroker objecting to it, and that is the law to-day.

Mr. KING. Personally I would make the tax on pawnbrokers in cities much larger than $100. I would require them to pay $500 a year; and I am not sure that the tax ought not to be graduated so that the pawnbroker doing a limited business in small territories would pay as low as $100.

May subdivision (2) go over, to give me an opportunity to see whether an amendment may be logically offered?

Mr. SMOOT. Mr. President, I have just one more correction to make. I ask now, out of order, to turn to page 267, line 5. After the word "That" I move to strike out the double quotation mark and insert a single quotation mark.

The VICE PRESIDENT. The amendment will be stated.

The READING CLERK. On page 267, line 5, after the word "That," strike out the double quotation mark and insert a single quotation mark.

The amendment was agreed to.

Mr. KING. What I desire to have go over is part (2), on page 213, lines 5 to 11, inclusive.

The VICE PRESIDENT. That is part of one amendment. The whole amendment will have to go over.

Mr. KING. I suggest that the residue of the amendment be read.

The reading clerk read as follows:

(3) Ship brokers shall pay $50. Every person whose business it is as a broker to negotiate freights and other business for the owners of vessels or for the shippers or consignors or consignees of freight carried by vessels shall be regarded as a ship broker.

(4) Customhouse brokers shall pay $50. Every person whose occupation it is, as the agent of others, to arrange entries and other customhouse papers, or transact business at any port of entry relating to the importation or exportation of goods, wares, or merchandise, shall be regarded as a customhouse broker.

Mr. LA FOLLETTE. I ask unanimous consent, if paragraph (3) has been adopted—my attention was diverted just at the moment——

The VICE PRESIDENT. It has not been adopted.

Mr. LA FOLLETTE. I wanted that paragraph passed over for the time being.

The VICE PRESIDENT. It goes over on the request of the Senator from Utah.

Mr. SMOOT. The whole section goes over.

Mr. WATSON of Indiana. Mr. President, if the Senator from Utah will permit me, there does not seem to be any request that this whole section shall go over.

Mr. SMOOT. It is one amendment, and I do not see how you are going to let part of an amendment go over and adopt the other part. We might just as well not spend any time on it now. We shall have to read it all over again, anyhow, and I think it will save time to do it in this way.

Mr. KING. May I say to the Senator from Indiana that when I asked that subdivision (2) go over it was suggested by the Chair that that would involve the whole section going over.

Mr. WATSON of Indiana. No; these are entirely separate amendments. No one of them has any relation to the others, and there is no reason why any of them can not be adopted separately.

Mr. KING. If the Senator from Indiana can convert the Chair to that view, I have no objection.

Mr. SMOOT. I understand that my colleague has asked that section (2), Title X, go over. I think, of course, that all of that section ought to go over if any part of it goes over. That is all there is to it. We will save time by letting it all go over.

Mr. McCUMBER. Mr. President, if we were voting upon that section, any Senator would have a right to have it divided into its several paragraphs, as they are so distinct; and if any Senator would have a right to have the section divided into several paragraphs, the Committee of the Whole has the right to consider it paragraph by paragraph and to accept one and pass over another or adopt all of them.

The VICE PRESIDENT. There is no present agreement to consider the bill by paragraphs or by sections.

Mr. McCUMBER. What I understood was that we were to consider it for action on the committee amendments. If the committee amendments are subject to division, and if any Senator might ask for a division, as he could under the rules, I can see no objection to our passing upon each one of those which are perfectly separate and independent amendments. I can not agree with the Senator that because there is a whole section put in necessarily there are not as many amendments as there are parts of that section. There is no reason for saying that a whole section should be one amendment.

Mr. SMOOT. I will leave it to the Chair.

Mr. WADSWORTH. Mr. President, I think it is within the right of a Senator to ask for a division of the question.

The VICE PRESIDENT. He has that right, but that right has not been exercised.

Mr. WADSWORTH. I ask, therefore, that Title X, which is regarded as one amendment, be divided into its different parts.

The VICE PRESIDENT. And taken up paragraph by paragraph?

Mr. WADSWORTH. Yes.

The VICE PRESIDENT. Is there objection? The Chair hears none, and without objection that course will be followed.

Mr. WATSON of Indiana. Mr. President, now may we find out what section the Senator from Wisconsin wants to go over, and what section the Senator from Utah wants to go over?

Mr. KING. I asked that subdivision (2) go over, and the Senator from Wisconsin asked that subdivision (3) go over, as I understood him, found in lines 12 to 17, inclusive.

Mr. LA FOLLETTE. That is right. I just want an opportunity to look into it.

The VICE PRESIDENT. Without objection, then, all down to paragraph (2) is agreed to. Paragraphs (2) and (3) are passed over. The question is on agreeing to paragraph (4). Without objection, it will be agreed to.

The reading clerk read as follows:

(5) Proprietors of theaters, museums, and concert halls, where a charge for admission is made, having a seating capacity of not more than 250, shall pay $50; having a seating capacity of more than 250 and not exceeding 500, shall pay $100; having a seating capacity exceeding 500 and not exceeding 800, shall pay $150; having a seating capacity of more than 800, shall pay $200. Every edifice used for the purpose of dramatic or operatic or other representations, plays, or performances, for admission to which entrance money is received, not including halls or armories rented or used occasionally for concerts or theatrical representations, and not including edifices owned by religious, educational, or charitable institutions, societies or organizations where all the proceeds from admissions inure exclusively to the benefit of such institutions, societies, or organizations or exclusively to the benefit of persons in the military or naval forces of the United States, shall be regarded as a theater: *Provided*, That in cities, towns, or villages of 5,000 inhabitants or less the amount of such payment shall be one-half of that above stated: *Provided further*, That whenever any such edifice is under lease at the time the tax is due the tax shall be paid by the lessee, unless otherwise stipulated between the parties to the lease.

Mr. LA FOLLETTE. I ask to have subdivision (5) passed over.

The VICE PRESIDENT. It will be passed over.

Mr. SMOOT. Mr. President, I may as well say at this stage of the proceedings that I expect to offer an amendment to take the place of all of these taxes; and to-morrow, I think, I shall have the amendment that I propose to offer to the bill ready for submission to the Senate. It is my intention to address the Senate then on Monday, if possible, on my amendment to the bill. It will be virtually in the form of a substitute for all of the taxes in this bill with the exception of the income tax, the flat tax of 10 per cent upon corporations, the tobacco tax as the bill provides, the inheritance tax, and the alcoholic section of the beverage tax. I may have to ask unanimous consent for reconsideration of the amendments that have already been adopted, but I am either going to do that or else rewrite the bill as a whole and substitute the whole bill by striking out all after the enacting clause. One or the other I shall do; but I do not think there will be any objection at all to my request that the amendments that have been adopted be reconsidered for the purpose of submitting a substitute.

The reading clerk continued the reading, as follows:

(6) The proprietor or proprietors of circuses shall pay $100. Every building, space, tent, or area, where feats or horsemanship or acrobatic sports or theatrical performances not otherwise provided for in this section are exhibited shall be regarded as a circus: *Provided*, That no special tax paid in one State, Territory, or the District of Columbia shall exempt exhibitions from the tax in another State, Territory, or the District of Columbia, and but one special tax shall be imposed for exhibitions within any one State, Territory, or District.

The paragraph was agreed to.

The reading clerk read as follows:

(7) Proprietors or agents of all other public exhibitions or shows for money not enumerated in this section shall pay $15: *Provided*, That a special tax paid in one State, Territory, or the District of Columbia shall not exempt exhibitions from the tax in another State, Territory, or the District of Columbia, and but one special tax shall be required for exhibitions within any one State, Territory, or the District of Columbia: *Provided further*, That this paragraph shall not apply to Chautauquas, lecture lyceums, agricultural or industrial fairs, or exhibitions held under the auspices of religious or charitable associations: *Provided further*, That an aggregation of entertainments, known as a street fair, shall not pay a larger tax than $100 in any State, Territory, or in the District of Columbia.

The paragraph was agreed to.

The reading clerk read as follows:

(8) Proprietors of bowling alleys and billiard rooms shall pay $10 for each alley or table. Every building or place where bowls are thrown or where games of billiards or pool are played, except in private homes, shall be regarded as a bowling alley or a billiard room, respectively.

The paragraph was agreed to.

The reading clerk read as follows:

(9) Proprietors of shooting galleries shall pay $20. Every building, space, tent, or area, where a charge is made for the discharge of firearms at any form of target shall be regarded as a shooting gallery.

The paragraph was agreed to.

Mr. KING. Mr. President, may I recur to paragraph 7? My attention was diverted while that was being read. Does that call for but one tax for the year, or one tax for each State or Territory in which an exhibition or exhibitions may be given?

Mr. McCUMBER. It is each Territory or State.

Mr. KING. Calling attention to paragraph 6, is there any distinction as to the extent of the circus; that is to say, if it is but one tent, and one or two animals, a little dog show, is as high a tax required as on the huge three-ring circus of our infantile imagination, and our more mature years' realization?

Mr. SMOOT. It is taxed if it is a circus.

Mr. WATSON of Indiana. There is no distinction.

Mr. KING. The little pony show that pleases the children pays the same as the three-ring circus that pleases the grown-up?

Mr. WATSON of Indiana. Does the Senator think we should fix a graduated tax, based upon the number of dogs, ponies, or other animals?

Mr. KING. I was wondering whether the committee had considered the question of the justice of imposing the same tax upon all shows.

Mr. SMOOT. If the Senator will look at paragraph 7 he will find that some of the shows to which he refers would fall under the $15 provision. It provides that—

Proprietors or agents of all other public exhibitions or shows for money not enumerated in this section shall pay $15.

In other words, if the exhibition does not fall within the definition of a circus, it pays $15, and if it does it is a circus and pays $100.

The VICE PRESIDENT. The Secretary will continue the reading.

The reading clerk read as follows:

(10) Proprietors of riding academies shall pay $100. Every building, space, tent, or area, where a charge is made for instruction in horsemanship or for facilities for the practice of horsemanship shall be regarded as a riding academy.

Mr. WADSWORTH. May I call attention to one effect which paragraph 10 would have?

It will take me just a moment.

It so happens that the members of many of the mounted units of the National Guard organized themselves into associations, under the State laws, for the purpose of carrying on, in a supplementary way, some of the business of their organizations. That is particularly true in the State of New York. I know of several troops of Cavalry in that State, for example, who, under the State military law, form a membership association, authorized to purchase property, to hold property, to borrow money, and conduct various business enterprises recited in the statute. Some of them own farms upon which they pasture Cavalry horses. Many of them own their own horses; in large degree they do, although, of course, the Government provides 32 horses per troop.

One of the methods which they have of supplementing Federal funds is to rent horses to persons other than members of the troop of Cavalry. They do it, as a general proposition, always under the direction of an officer or a highly specialized noncommissioned officer who is an enlisted man in the troop and who in many instances is an old Regular Army Cavalry sergeant.

Under paragraph 10 every National Guard unit in the country which rents horses will be taxed $100, and I have a little amendment which will simply eliminate that.

Mr. SMOOT. May I ask the Senator if there ever has been a protest against this paragraph? It is the existing law, and I have never received a letter from any part of the United States in regard to it. Has the Senator?

Mr. WADSWORTH. I have received protests against it.

Mr. SMOOT. That is the first I ever heard of a protest against it.

Mr. WADSWORTH. Certainly the language is very plain. It reads:

Every building, space, tent, or area where a charge is made for instruction in horsemanship or for facilities for the practice of horsemanship shall be regarded as a riding academy.

These organizations do not engage in this practice as military organizations. They organize themselves into a civil association, but the membership is identical.

Mr. WATSON of Indiana. Then, let me ask the Senator, why should they not pay the tax?

Mr. WADSWORTH. Because it makes it all the more difficult for those men to support these troops of Cavalry for the defense of the country.

Mr. WATSON of Indiana. It is really done, then, as a part of the National Guard?

Mr. WADSWORTH. It is. The money is used to provide additional facilities, which the Government does not provide, for the training of soldiers. They can keep more horses this way.

Mr. WATSON of Indiana. Do they organize themselves in a military fashion?

Mr. WADSWORTH. In accordance with the military law of the State. The military law of the State of New York specifically provides that the members of a National Guard unit may organize themselves into a membership corporation and may do certain things. One of the things they do, for example, is to own farms, raise hay and grain, and feed it to their own horses, and to Government horses upon occasion, the Government not providing enough hay and feed, and one of their sources of money is the renting of saddle horses to people in the community.

Mr. SMOOT. The renting of the horses does not fall under this provision.

Mr. WADSWORTH. It falls under "the practice of horsemanship."

Mr. SMOOT. It is the "facilities for the practice of horsemanship." The renting of horses does not fall under that. The "facilities" includes the barn and the yards and the places. It has never been held by the department that that included the renting.

Mr. WADSWORTH. "Every building"—that would include an armory, "space, tent, or area"—that is outdoors, "where a charge is made for instruction in horsemanship or for facilities for the practice of horsemanship."

Mr. SMOOT. I may not understand the Senator. Has this organization a building?

Mr. WADSWORTH. It has.

Mr. SMOOT. Owned by the association?

Mr. WADSWORTH. Owned by the State.

Mr. SMOOT. That would not be taxable.

Mr. WADSWORTH. How about their farm?

Mr. SMOOT. Do they own a farm?

Mr. WADSWORTH. They do.

Mr. SMOOT. What is the farm used for; for the practice?

Mr. WADSWORTH. Exercising the horses, and feeding and grazing the horses. People go to these farms to take rides on the horses.

Mr. SMOOT. I suppose that would be held to be a facility.

Mr. WADSWORTH. Yes; it is a little thing. If you collect a hundred dollars apiece from every National Guard troop of Cavalry, or Field Artillery battery, which do the same thing in some States, I do not suppose you would find more than 30 in the whole country doing it; and you would not get over three or four thousand dollars revenue. But that hundred dollars is an important thing to those men, who have to go down into their own pockets, in the majority of instances, to keep these troops of Cavalry going.

Mr. KING. If the Senator will pardon me, it seems to me if you tie these organizations to the activities of the guard, they ought to be exempt from taxation.

Mr. WADSWORTH. I have this simple amendment to offer:

Provided, That this tax shall not be collected from associations compassed exclusively of members of units of the federalized National Guard or the organized reserve.

Mr. SMOOT. I have no objection to that.

Mr. WADSWORTH. It would not make $3,000 difference in the bill, but it makes a lot of difference to those people.

Mr. SMOOT. The only reason for that is that they are members of the National Guard?

Mr. WADSWORTH. That is all. It really is done in the Government service.

Mr. McCUMBER. I wish the Senator would have the matter passed over at this time. At a glance, I can not bring myself to the idea that if you charge one civil association a fee, you should not charge another civil association. It is not a military association, it is a civil association, and you are proposing to make a distinction between different classes because in one instance the members of the association may belong to the military. I think we ought to pass it over at this time and let the committee consider whether they really want to do that.

Mr. WADSWORTH. In the cases I have in mind, it is a civil association organized under military law and composed entirely of soldiers.

The VICE PRESIDENT. On request, the paragraph will go over.

The Secretary will continue the reading.

The reading clerk read as follows:

11. Persons carrying on the business of operating or renting passenger automobiles for hire shall pay $10 for each such automobile having a seating capacity of more than two and not more than seven, and $20 for each such automobile having a seating capacity of more than seven.

The paragraph was agreed to.

The reading clerk read as follows:

(12) Every person carrying on the business of a brewer, distiller, wholesale liquor dealer, retail liquor dealer, wholesale dealer in malt liquor, retail dealer in malt liquor, or manufacturer of stills, as defined in section 3244 as amended and section 3247 of the Revised Statutes, in any State, Territory, or District of the United States contrary to the laws of such State, Territory, or District, or in any place therein in which carrying on such business is prohibited by local or municipal law, shall pay, in addition to all other taxes, special or otherwise, imposed by existing law or by this act, $1,000.

The payment of the tax imposed by this subdivision shall not be held to exempt any person from any penalty or punishment provided for by the laws of any State, Territory, or District for carrying on such business in such State, Territory, or District, or in any manner to authorize the commencement or continuance of such business contrary to the laws of such State, Territory, or District, or in places prohibited by local or municipal law.

The taxes imposed by this section shall, in the case of persons upon whom a corresponding tax is imposed by section 1001 of the revenue act of 1918, be in lieu of such tax.

Mr. KING. May I inquire of the Senator whether the Government issues licenses now, in view of the eighteenth amendment and the Volstead Act and in view of State prohibition statutes, to persons in States where they do have prohibition statutes, who desire to engage in the business of brewing or distilling or in wholesale liquor vending?

Mr. McCUMBER. Mr. President, I think the Senator understands, of course, that since the adoption of our eighteenth amendment the United States itself could not grant a license, either by a tax or in any other way, to do that which the Constitution prohibits. There may be instances in which citizens of the United States or others may be doing those things which are prohibited by the Constitution, and if they do, if they sell liquor for beverage purposes, and it is ascertained that they have sold for beverage purposes, they shall, in addition to the penalties provided for disobedience of the laws, both of the State and of the Nation, pay a sum to the Government the same as under the old law.

Mr. KING. This is what I inquired about particularly. As the Senator knows, before the eighteenth amendment was adopted the Federal Government would grant a license to vend intoxicating liquors, or manufacture intoxicating liquors, in any State or any municipality, regardless of the law or the ordinance of the State or the municipality, and I was wondering if there had been a departure from that practice.

Mr. McCUMBER. No. The Government simply provided for a tax if they did that and gave them no authority. A license would carry with it some authority or right.

Mr. KING. It was simply an excise tax?

Mr. McCUMBER. An excise tax.

Mr. KING. Under which they might operate, so far as the Federal Government was concerned.

Mr. SMOOT. This is nothing more nor less than a penalty.

Mr. KING. I appreciate that; but the inquiry was pertinent in view of the consideration of this section. I was wondering whether there was any departure by the Federal Government from its past policy of dealing with persons vending intoxicating liquors.

Mr. McCUMBER. There is none.

Mr. FLETCHER. If it is merely a penalty, it seems somewhat out of place in a revenue act. How do we expect to raise any revenue by this sort of a provision?

Mr. SMOOT. Take the case just cited by the Senator from North Dakota. A man pays a tax of $2.20 a gallon on alcohol which is withdrawn for medicinal or mechanical purposes, or whatever purposes the law allows. That $2.20 tax is paid, but he may use it for beverage purposes, and the tax for beverages is $6.40 a gallon. If a man does that, he ought to be at least penalized and pay the $6.40 tax as it was for beverage purposes before the prohibition law went into effect. That is a penalty, and that is what we want to reach.

Mr. FLETCHER. I agree that a man who violates the law ought to be penalized, but it seems to me we ought to put in the statute a punishment for violating the law. I presume this is a sort of safeguard that might possibly have a restraining influence on some persons who might feel inclined to violate the law. I can not see that much revenue can be obtained from it.

Mr. SMOOT. That is taken care of under the Revised Statutes. This is the existing law, and I think it ought to remain to reach just such cases as have been cited.

The paragraph was agreed to.

The next amendment was, on page 218, after line 6, to insert:

SEC. 1001. That on and after July 1, 1922, there shall be levied, collected, and paid annually, in lieu of the taxes imposed by section 1002 of the revenue act of 1918, the following special taxes, the amount of such taxes to be computed on the basis of the sales for the preceding year ending June 30—

Manufacturers of tobacco whose annual sales do not exceed 50,000 pounds shall each pay $6;

Manufacturers of tobacco whose annual sales exceed 50,000 and do not exceed 100,000 pounds shall each pay $12;

Manufacturers of tobacco whose annual sales exceed 100,000 and do not exceed 200,000 pounds shall each pay $24;

Manufacturers of tobacco whose annual sales exceed 200,000 pounds shall each pay $24, and at the rate of 16 cents per thousand pounds, or fraction thereof, in respect to the excess over 200,000 pounds;

Manufacturers of cigars whose annual sales do not exceed 50,000 cigars shall each pay $4;
Manufacturers of cigars whose annual sales exceed 50,000 and do not exceed 100,000 cigars shall each pay $6;
Manufacturers of cigars whose annual sales exceed 100,000 and do not exceed 200,000 cigars shall each pay $12;
Manufacturers of cigars whose annual sales exceed 200,000 and do not exceed 400,000 cigars shall each pay $24;
Manufacturers of cigars whose annual sales exceed 400,000 cigars shall each pay $24, and at the rate of 10 cents per thousand cigars, or fraction thereof, in respect to the excess over 400,000 cigars;
Manufacturers of cigarettes, including small cigars weighing not more than 3 pounds per thousand, shall each pay at the rate of 6 cents for every 10,000 cigarettes, or fraction thereof.

In arriving at the amount of special tax to be paid under this section, and in the levy and collection of such tax, each person engaged in the manufacture of more than one of the classes of articles specified in this section shall be considered and deemed a manufacturer of each class separately.

In computing under this section the amount of annual sales no account shall be taken of tobacco, cigars, or cigarettes, sold for export and in due course so exported.

Mr. KING. Mr. President, may I inquire of some member of the committee whether these are the rates in the existing law?

Mr. McCUMBER. They are. There is no change whatever.

Mr. KING. It seems to me that the rates are so small—for instance, $6, $12, and $24 for manufacturing—that they ought to be increased. It would cost nearly as much to collect the taxes as we shall recover.

Mr. McCUMBER. We already have very high tobacco rates in another title, as the Senator will remember.

Mr. KING. I appreciate that.

Mr. McCUMBER. Taking the two together it was thought that this was about all the tobacco industries could well stand. In addition to that, there has been a sort of a conviction, on the part of the committee at least, that we should in no cases raise the taxes higher than they are under the present law.

Mr. KING. May I inquire of the Senator whether the Secretary of the Treasury or the department having the enforcement of the law made any recommendation for higher taxes?

Mr. McCUMBER. Not in respect to this matter.

Mr. SMOOT. I wish to call my colleague's attention to the fact that they not only have this tax to pay, but they have the regular tax imposed on the capital stock; then they have the tax for corporations; and then when divided they have the individual income tax—and out of the tobacco tax alone we collect $255,000,000 a year, taking into consideration cigars, cigarettes, and tobacco.

Mr. FLETCHER. In addition to that there is a very high tariff duty which the manufacturers have to pay on the finer qualities of tobacco imported.

Mr. SMOOT. That helps this provision rather than otherwise.

Mr. KING. I appreciate the fact that the tobacco industry bears a very heavy tax, but it seemed to me that a tax of $6 to be imposed by the Federal Government upon a manufacturing concern was rather too insignificant. However, if the committee is satisfied and the Secretary of the Treasury makes no recommendation I shall accept it.

Mr. SIMMONS. Mr. President, I call the attention of the Senator that while there are but few, perhaps seven, great tobacco manufacturing corporations in the country, there are hundreds of thousands of small manufacturers, who manufacture very little, and this tax means something to many of those.

The PRESIDING OFFICER (Mr. LADD in the chair). Without objection, the amendment is agreed to.

The next amendment of the Committee on Finance was, on page 220, after line 7, to strike out:

SEC. 902. Section 1003 of the revenue act of 1918 is amended by adding at the end thereof a new paragraph to read as follows:

"On and after January 1, 1922, the tax imposed by this section shall apply only in the case of yachts or boats over 5 net tons and over 32 feet in length."

The amendment was agreed to.

The next amendment was, on page 220, after line 13, to insert:

SEC. 1002. That on and after July 1, 1922, and thereafter on July 1 in each year, and also at the time of the original purchase of a new boat by a user, if on any other date than July 1, there shall be levied, assessed, collected, and paid, in lieu of the tax imposed by section 1003 of the revenue act of 1918, upon the use of yachts, pleasure boats, power boats, sailing boats, and motor boats with fixed engines, of over 5 net tons and over 32 feet in length, not used exclusively for trade, fishing, or national defense, or not built according to plans and specifications approved by the Navy Department, a special excise tax to be based on each yacht or boat, at rates as follows: Yachts, pleasure boats, power boats, motor boats with fixed engines, and sailing boats, of over 5 net tons, length over 32 feet and not over 50 feet, $1 for each foot; length over 50 feet and not over 100 feet, $2 for each foot; length over 100 feet, $4 for each foot.

In determining the length of such yachts, pleasure boats, power boats, motor boats with fixed engines, and sailing boats the measurement of over-all length shall govern.

In the case of a tax imposed at the time of the original purchase of a new boat on any other date than July 1, the amount to be paid shall be the same number of twelfths of the amount of the tax as the number of calendar months (including the month of sale) remaining prior to the following July 1.

The amendment was agreed to.

The next amendment was, on page 221, after line 19, to insert:

SEC. 1003. That any person who carries on any business or occupation for which a special tax is imposed by sections 1000 or 1001, without having paid the special tax therein provided, shall, besides being liable for the payment of such special tax, be subject to a penalty of not more than $1,000 or to imprisonment for not more than one year or both.

The amendment was agreed to.

The next amendment was, on page 222, after line 2, to insert:

SEC. 1004. That section 1 of the act entitled "An act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes," approved December 17, 1914, as amended by section 1006 of the revenue act of 1918, is reenacted without change, as follows:

"SECTION 1. That on or before July 1 of each year every person who imports, manufactures, produces, compounds, sells, deals in, dispenses, or gives away opium or coca leaves, or any compound, manufacture, salt, derivative, or preparation thereof, shall register with the collector of internal revenue of the district his name or style, place of business, and place or places where such business is to be carried on, and pay the special taxes hereinafter provided;

"Every person who on January 1, 1919, is engaged in any of the activities above enumerated or who between such date and the passage of this act first engaged in any of such activities shall within 30 days after the passage of this act make like registration and shall pay the proportionate part of the tax for the period ending June 30, 1919; and

"Every person who first engages in any of such activities after the passage of this act shall immediately make like registration and pay the proportionate part of the tax for the period ending on the following June 30.

"Importers, manufacturers, producers, or compounders, $24 per annum; wholesale dealers, $12 per annum; retail dealers, $6 per annum; physicians, dentists, veterinary surgeons, and other practitioners lawfully entitled to distribute, dispense, give away, or administer any of the aforesaid drugs to patients upon whom they in the course of their professional practice are in attendance shall pay $3 per annum.

"Every person who imports, manufactures, compounds, or otherwise produces for sale or distribution any of the aforesaid drugs shall be deemed to be an importer, manufacturer, or producer.

"Every person who sells or offers for sale any of said drugs in the original stamped packages, as hereinafter provided, shall be deemed a wholesale dealer.

"Every person who sells or dispenses from original stamped packages, as hereinafter provided, shall be deemed a retail dealer: *Provided*, That the office, or if none, the residence, of any person shall be considered for the purpose of this act his place of business; but no employee of any person who has registered and paid special tax as herein required, acting within the scope of his employment, shall be required to register and pay special tax provided by this section: *Provided further*, That officials of the United States, Territorial, District of Columbia, or insular possessions, State or municipal governments who in the exercise of their official duties engage in any of the business herein described, shall not be required to register, nor pay special tax, nor stamp the aforesaid drugs as hereinafter prescribed, but their right to this exemption shall be evidenced in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulations prescribe.

"It shall be unlawful for any person required to register under the provisions of this act to import, manufacture, produce, compound, sell, deal in, dispense, distribute, administer, or give away any of the aforesaid drugs without having registered and paid the special tax as imposed by this section.

"That the word 'person' as used in this act shall be construed to mean and include a partnership, association, company, or corporation, as well as a natural person, and all provisions of existing law relating to special taxes, as far as necessary, are hereby extended and made applicable to this section.

"That there shall be levied, assessed, collected, and paid upon opium, coca leaves, any compound, salt, derivative, or preparation thereof produced in or imported into the United States and sold or removed for consumption or sale an internal-revenue tax at the rate of 1 cent per ounce, and any fraction of an ounce in a package shall be taxed as an ounce, such tax to be paid by the importer, manufacturer, producer, or compounder thereof, and to be represented by appropriate stamps, to be provided by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, and the stamps herein provided shall be so affixed to the bottle or other container as to securely seal the stopper, covering, or wrapper thereof.

"The tax imposed by this section shall be in addition to any import duty imposed on the aforesaid drugs.

"It shall be unlawful for any person to purchase, sell, dispense, or distribute any of the aforesaid drugs except in the original stamped package or from the original stamped package; and the absence of appropriate tax-paid stamps from any of the aforesaid drugs shall be prima facie evidence of a violation of this section by the person in whose possession same may be found; and the possession of any original stamped package containing any of the aforesaid drugs by any person who has not registered and paid special taxes as required by this section shall be prima facie evidence of liability to such special tax: *Provided*, That the provisions of this paragraph shall not apply to any person having in his or her possession any of the aforesaid drugs which have been obtained from a registered dealer in pursuance of a prescription, written for legitimate medical uses, issued by a physician, dentist, veterinary surgeon, or other practitioner registered under this act; and where the bottle or other container in which such drug may be put up by the dealer upon said prescription bears the name and registry number of the druggist, serial number of prescription, name and address of the patient, and name, address, and registry number of the person writing said prescription; or to the dispensing, or administration, or giving away of any of the aforesaid drugs to a patient by a registered physician, dentist, veterinary surgeon, or other practitioner in the course of his professional practice, and where said drugs are dispensed or administered to the patient for legitimate medical pur-

poses, and the record kept as required by this act of the drugs so dispensed, administered, distributed, or given away.

"And all the provisions of existing laws relating to the engraving, issuance, sale, accountability, cancellation, and destruction of tax-paid stamps provided for in the internal-revenue laws are, in so far as necessary, hereby extended and made to apply to stamps provided by this section.

"That all unstamped packages of the aforesaid drugs found in the possession of any person, except as herein provided, shall be subject to seizure and forfeiture, and all the provisions of existing internal-revenue laws relating to searches, seizures, and forfeitures of unstamped articles are hereby extended to and made to apply to the articles taxed under this act and the persons upon whom these taxes are imposed.

"Importers, manufacturers, and wholesale dealers shall keep such books and records and render such monthly returns in relation to the transactions in the aforesaid drugs as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulations require.

"The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make all needful rules and regulations for carrying the provisions of this act into effect."

Mr. KING. May I inquire of the Senator from North Dakota [Mr. McCUMBER], or whichever Senator has had the matter in charge, whether this language conforms to the narcotic law? I have it not before me.

Mr. McCUMBER. This is merely a repetition of what is known as the Harrison law, which passed the Senate some time ago.

Mr. SMOOT rose.

Mr. KING. Let me say to my colleague that there have been some criticisms of the Harrison law. Some applications have been made, as I have been told, to committees to strengthen the provisions of that law. As to the merit of those contentions I am not able to say, but I was wondering whether the Committee on Finance had considered the question of the wisdom of strengthening the Harrison Act.

Mr. McCUMBER. There might be something of that kind necessary, but this bill deals only with the matter of raising revenue, while what is sought by strengthening the act is along lines of enforcement and does not pertain to the revenue. Therefore the committee did not consider that matter.

Mr. SMOOT. When this provision was first enacted into law I doubt whether there has ever been such a painstaking investigation made as was made by the subcommittee which was appointed by the Senate for the consideration of the matter and the framing of the law. The committee consisted of the then Senator from Colorado, Mr. Thomas, the Senator from Mississippi [Mr. WILLIAMS], and myself. We had before that subcommittee the best physicians in the United States; we had also experts from the Treasury Department; and we obtained information from every source from which it could be gathered anywhere in the United States. We considered everything which was affected by this very important matter from Mrs. Winslow's soothing syrup to the most deadly narcotic. We were not a day but we were weeks considering the provision, and if the junior Senator from Utah will notice in line 10, on page 222, it is specifically stated that the present law is reenacted without change. Therefore I am afraid if any amendment were made to the provision now there would be some very sad results follow from such action.

Mr. POMERENE. Mr. President, I desire to ask the Senator a question, and I ask it because I remember that certain features of this law were called to the attention of my then colleague, Senator BURTON, and myself and certain modifications were made in response to some suggestions by Senator BURTON and myself.

Mr. SMOOT. Those modifications were made, I will say to the Senator from Ohio.

Mr. POMERENE. I think so; but what I wanted to ask was, Is there any change made in the character of remedies in which narcotics may be used or in the regulations connected with their prescription?

Mr. SMOOT. None whatever, I will say to the Senator from Ohio.

Mr. McCUMBER. There are certain other matters, I will inform the Senator, which will be found in succeeding sections of the bill which bear upon the same subject and which cover what I think the Senator has in mind.

Mr. POMERENE. I had especially in mind certain remedies for asthma which were compounded by some firm located at Mount Gilead, Ohio, as I now understand.

Mr. McCUMBER. I think that matter is protected and covered by the next section of the bill.

Mr. POMERENE. In the original draft the language seemed to interfere with the manufacture of that remedy, which many people regarded as an excellent one. I know nothing about its merits, but that was one of the things which I had in mind.

The next amendment was, on page 228, after line 16, to insert:

SEC. 1005. That section 6 of such act of December 17, 1914, as amended by section 1007 of the revenue act of 1918, is reenacted without change, as follows:

"SEC. 6. That the provisions of this act shall not be construed to apply to the manufacture, sale, distribution, giving away, dispensing, or possession of preparations and remedies which do not contain more than two grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them in one fluid ounce, or, if a solid or semisolid preparation, in one avoirdupois ounce; or to liniments, ointments, or other preparations which are prepared for external use, only, except liniments, ointments, and other preparations which contain cocaine or any of its salts or alpha or beta eucaine or any of their salts or any synthetic substitute for them: *Provided*, That such remedies and preparations are manufactured, sold, distributed, given away, dispensed, or possessed as medicines and not for the purpose of evading the intentions and provisions of this act: *Provided further*, That any manufacturer, producer, compounder, or vendor (including dispensing physicians) of the preparations and remedies mentioned in this section shall keep a record of all sales, exchanges, or gifts of such preparations and remedies in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall direct. Such record shall be preserved for a period of two years in such a way as to be readily accessible to inspection by any officer, agent, or employee of the Treasury Department duly authorized for that purpose, and the State, Territorial, District, municipal, and insular officers named in section 5 of this act, and every such person so possessing or disposing of such preparations and remedies shall register as required in section 1 of this act, and, if he is not paying a tax under this act, he shall pay a special tax of $1 for each year, or fractional part thereof, in which he is engaged in such occupation, to the collector of internal revenue of the district in which he carries on such occupation as provided in this act. The provisions of this act as amended shall not apply to decocainized coca leaves or preparations made therefrom, or to other preparations or coca leaves which do not contain cocaine."

Mr. POMERENE. Mr. President, if I may ask the Senator a question, in just what respect does this section change the old law?

Mr. SMOOT. It does not change it at all.

Mr. McCUMBER. There is no change in the old law at all; it is exactly a repetition of the existing law.

Mr. POMERENE. Then I misunderstood the Senator, for I thought he called my attention to this section and said that there would be some change in it.

Mr. McCUMBER. No; I stated the following section would cover the point that I knew the Senator had in mind, which section has already been enacted into law, and would cover the case of the doctors in the Senator's State who are prescribing for hay fever, and so forth.

The PRESIDING OFFICER. Without objection, the amendment reported by the committee is agreed to.

The next amendment was, on page 230, after line 15, to insert:

SEC. 1006. That all opium, its salts, derivatives, and compounds, and coca leaves, salts, derivatives, and compounds thereof, which may now be under seizure or which may hereafter be seized by the United States Government from any person or persons charged with any violation of the act of October 1, 1890, as amended by the acts of March 3, 1897, February 9, 1909, and January 17, 1914, or the act of December 17, 1914, as amended, shall upon conviction of the person or persons from whom seized be confiscated by and forfeited to the United States; and the Secretary is hereby authorized to deliver for medical or scientific purposes to any department, bureau, or other agency of the United States Government, upon proper application therefor under such regulation as may be prescribed by the commissioner, with the approval of the Secretary, any of the drugs so seized, confiscated, and forfeited to the United States.

The provisions of this section shall also apply to any of the aforesaid drugs seized or coming into the possession of the United States in the enforcement of any of the above-mentioned acts where the owner or owners thereof are unknown. None of the aforesaid drugs coming into possession of the United States under the operation of said acts, or the provisions of this section, shall be destroyed without certification by a committee appointed by the commissioner, with the approval of the Secretary, that they are of no value for medical or scientific purposes.

The amendment was agreed to.

The next amendment was, on page 231, line 22, to insert the heading "Title XI.—Stamp Taxes."

The amendment was agreed to.

The next amendment was, on page 231, after line 22, to insert:

SEC. 1100. That on and after January 1, 1922, there shall be levied, collected, and paid, for and in respect of the several bonds, debentures, or certificates of stock and of indebtedness, and other documents, instruments, matters, and things mentioned and described in Schedule A of this title, or for or in respect of the vellum, parchment, or paper upon which such instruments, matters, or things, or any of them, are written or printed, by any person who makes, signs, issues, sells, removes, consigns, or ships the same, or for whose use or benefit the same are made, signed, issued, sold, removed, consigned, or shipped, the several taxes specified in such schedule. The taxes imposed by this section shall, in the case of any article upon which a corresponding stamp tax is now imposed by law, be in lieu of such tax.

Mr. KING. Mr. President, I should like to ask the committee if they could not find some other source of revenue so as to relieve business and the country of stamp taxes? Such taxes have always been obnoxious, and now when business is subjected to so many embarrassments and inasmuch as corporations will be taxed very greatly under this bill—and perhaps

properly so—it seems to me that every effort possible should be made to relieve business and corporations and the country of stamp taxes.

Mr. McCUMBER. Mr. President, the colleague of the junior Senator from Utah will propose an amendment that will do away with all the stamp taxes, and if the Senator from Utah has any suggestion as to some other method than that already spoken of by his colleague by which we could secure the same revenue and obtain it in a better way or with less injustice to any class of people, certainly the committee would be glad to hear from him, as I know the Senate would. I do not know, I confess, of any other means, unless it would be some general sales tax, either a manufacturers' or a turnover tax that we could substitute for the stamp taxes, which have very properly been described as nuisance taxes. I repeat, if the Senator has some suggestion of a substitute, I know we will be glad to hear it.

Mr. KING. May I inquire of the Senator the amount that it is expected will be raised from the stamp taxes levied under section 1100?

Mr. McCUMBER. Will the Senator repeat his question?

Mr. KING. Does the Senator recall the amount of taxes that it is estimated section 1100 will yield?

Mr. McCUMBER. About $70,000,000.

Mr. KING. Is not the Senator in error?

Mr. McCUMBER. That is, under that title.

Mr. KING. Oh, under that title. I was asking for that section alone. It is quite likely that the Treasury Department has not furnished statistics as to each subject.

Mr. McCUMBER. I could not state, at least at the present time, just what it would be.

Mr. KING. But it does seem to me that the stamp taxes levied under this section might be distinguished from the stamp taxes upon other articles.

Mr. SMOOT. Mr. President, if the Senator will turn to page 7 of the report he will find there the estimated income from these stamp taxes under three heads—that is, on issues and conveyances, stocks, bonds, and so forth, $55,000,000; on capital stock transfers, $6,000,000; and on sales of produce on exchange, and so forth, $7,500,000. Those are the estimated amounts that will be received from this source.

Mr. KING. Mr. President, I have prepared an amendment to this particular provision and also to other provisions under this title.

Mr. McCUMBER. I understand that the Senator is objecting to the stamp taxes.

Mr. KING. Yes.

Mr. McCUMBER. The entire title deals only with stamp taxes; and the entire amount collected through the stamp taxes is about $70,000,000, as I have stated.

Mr. KING. I want the Senator to understand that I approach this matter in no critical spirit——

Mr. McCUMBER. I understand.

Mr. KING. Because I appreciate the difficulty under which the committee labored. We are compelled to raise billions of dollars for the Government. It is easy to spend money; it is hard to raise money; and the fountains of revenue have been pretty well dried up by reason of the precarious situation of business. I sympathize very much with the Committee on Finance and the Committee on Ways and Means of the House in their efforts to produce a bill that will give the country the revenue which it requires, but I regret very much that the committee was not able to find some fitting substitute so that it could have relieved the country of the burdens of the stamp taxes. They have always been obnoxious, and they are doubly obnoxious now, because it is so important that business should have every possible facility for revival; and any impediment to legitimate business so far as possible should be removed.

Mr. McCUMBER. I am informed by the department that there has been very little complaint on the part of those who pay the stamp taxes. I presume that that is because they are at least simple taxes, and they know just what they are in every instance.

Mr. POMERENE. Mr. President, of course when the Senator says that he has been informed by the department that there has been little complaint along that line, I know and we all know that the Senator tells the truth just exactly as he heard it; but if the Treasury Department make that statement they had better go out through the country and find out. No more obnoxious tax than this was ever levied.

Mr. McCUMBER. If the Senator will allow me, the complaint that I mean is a complaint that is made to the department. All that the department have stated to me, through their experts, is that there was less complaint made to the department against the stamp tax than any other subdivision of the tax.

Mr. POMERENE. Mr. President, I accept the Senator's statement as correct; but if it be true that there is less complaint, it is because the people have gotten tired of complaining about it. The Senator has said that we get from fifty to fifty-five millions of revenue from the stamp tax. That is only a small part of the amount which the public is compelled to pay to those who place the stamp on the article. For instance, I know of my own personal knowledge that on an article that ordinarily cost 50 cents the stamp tax has been 1 cent, and druggists in this town charge 55 cents for it. They make the tax an excuse for increasing the price of the article; and, again, there are others who sell these articles who never place any stamp at all upon them.

Mr. SMOOT. That is true.

Mr. McCUMBER. The Senator is speaking, I think, of another title, and not of the one that we have under consideration. Under this title the stamp is put on, for instance, as in medicines, by the retailer, and it can only be put on at one time, and if it is a transfer of property of course it can only be made at one time.

Mr. POMERENE. Of course, I was discussing generally the proposition of a stamp tax.

Mr. SMOOT. The Senator, however, is right when he says that many of the retailers do not put on the stamp at all.

Mr. POMERENE. Undoubtedly so.

Mr. SMOOT. There are millions and tens of millions of dollars lost to the Government in that way.

Mr. POMERENE. Undoubtedly so, and as compared with what we get out of this stamp tax this means nothing, but it is used as an excuse to add very materially to the prices of the articles that are sold. That is the principal vice of the tax, and I do hope that the majority of the committee can see their way clear to abandon the tax entirely before we get through with it.

Mr. WATSON of Indiana. Mr. President, let me ask the Senator from Ohio whether or not he would be willing to substitute an additional penny on letter postage? That would raise $70,000,000, about an equivalent amount.

Mr. POMERENE. No; but I am willing to do this: The first-class postage more than pays the cost of handling first-class mail, but when it comes to the second-class mail we get about 25 per cent of what it costs the Government.

Mr. WATSON of Indiana. That is quite true.

Mr. POMERENE. I am willing to add something to that. That is a very impolitic thing to say, but that is what I mean.

Mr. WATSON of Indiana. But what we must do is to raise revenue to run the country.

Mr. POMERENE. I realize that fully.

Mr. WATSON of Indiana. And if we do not raise it here we will have to raise it somewhere else; and, of course, every man who came before the committee insisted on putting the tax on somebody else.

Mr. POMERENE. Undoubtedly so.

Mr. WATSON of Indiana. Certainly; and if we had listened to all of them we would not have had any bill at all.

Mr. POMERENE. I realize that the Senator has had his difficulties, and I can understand that perhaps that is one of the reasons why we have not had any extensive explanation of this bill, because I realize the difficulties that have confronted the committee.

Mr. McCUMBER. This particular title raises $70,000,000. That is a small sum, but it helps toward the billions, anyway.

Mr. POMERENE. Oh, certainly.

Mr. McCUMBER. What would the Senator substitute, inasmuch as we have to tax something? I repeat the invitation to him to suggest something that would be less onerous and more acceptable to the public than this form of taxation, as long as we have to raise that $70,000,000.

Mr. POMERENE. I made a suggestion a moment ago as to how part of it could be raised. I will make another suggestion which was made to me just the other day with regard to this matter, and that is a tax on advertising. I pick up the weekly or the monthly journals, and my arm gets tired of holding up before me the advertising matter contained in a literary magazine.

Mr. McCUMBER. I might agree with the Senator, but the Senator also will agree with me that what we want is something that can pass both Houses; and I think the Senator, for reasons which we both will understand, believes that it would be impossible to get such a measure through both branches of the Congress. I might be in favor of a general sales tax as a cure-all for many of these nuisance taxes, but if I felt certain that it would be impossible to get such a measure through both branches of the Congress I would not spend any time on it. I might consider a great many things, but what I am asking the

Senator is to suggest something which he and I believe we can get through both branches of the Congress.

Mr. POMERENE. That is a very pertinent inquiry. I am not a leader on either side or a whip on either side, and I have not made any canvass of this situation. There is not any tax that can be proposed here to which there will not be some opposition, and it may be a concerted opposition. I understand that very fully. I recognize the extreme selfishness that inspires many people when they come before the Finance Committee. The Senator from Indiana a moment ago told the difficulty in a word. They wanted some scheme devised whereby the other fellow would pay the tax. Of course, that is what is wanted.

Mr. WATSON of Indiana. The tax of which the Senator from Ohio was complaining a while ago is an entirely different tax from the one imposed by this title. This title has reference to a documentary tax—a tax on bonds, notes, and so forth. The tax of which the Senator complains comes under Title IX—a tax on proprietary medicines, and so forth—which is an entirely different tax from the one we are considering.

Mr. POMERENE. I realize that fully; but the discussion was a little broader than the pending section.

Mr. WATSON of Indiana. The repeal of the tax on proprietary medicines is recommended by the Treasury Department, and we embody that repeal in this bill.

Mr. POMERENE. I am very glad to know that.

The VICE PRESIDENT. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The next amendment was, on page 232, after line 14, to insert:

SEC. 1101. That there shall not be taxed under this title any bond, note, or other instrument, issued by the United States, or by any foreign Government, or by any State, Territory, or the District of Columbia, or local subdivision thereof, or municipal or other corporation exercising the taxing power; or any bond of indemnity required to be filed by any person to secure payment of any pension, allowance, allotment, relief, or insurance by the United States, or to secure a duplicate for, or the payment of, any bond, note, certificate of indebtedness, war-savings certificate, warrant, or check, issued by the United States; or stocks and bonds issued by cooperative building and loan associations which are organized and operated exclusively for the benefit of their members and make loans only to their shareholders, or by mutual ditch or irrigation companies.

The amendment was agreed to.

The next amendment was, on page 233, after line 6, to insert:

SEC. 1102. That whoever—

(a) Makes, signs, issues, or accepts, or causes to be made, signed, issued, or accepted, any instrument, document, or paper of any kind or description whatsoever without the full amount of tax thereon being duly paid;

(b) Consigns or ships, or causes to be consigned or shipped, by parcel post any parcel, package, or article without the full amount of tax being duly paid;

(c) Manufactures or imports and sells, or offers for sale, or causes to be manufactured or imported and sold, or offered for sale, any playing cards, package, or other article without the full amount of tax being duly paid;

(d) Makes use of any adhesive stamp to denote any tax imposed by this title without canceling or obliterating such stamp as prescribed in section 1104;

Is guilty of a misdemeanor and upon conviction thereof shall pay a fine of not more than $100 for each offense.

The amendment was agreed to.

The next amendment was, on page 234, after line 3, to insert:

SEC. 1103. That whoever—

(a) Fraudulently cuts, tears, or removes from any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title, any adhesive stamp or the impression of any stamp, die, plate, or other article provided, made, or used in pursuance of this title;

(b) Fraudulently uses, joins, fixes, or places to, with, or upon any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title, (1) any adhesive stamp, or the impression of any stamp, die, plate, or other article, which has been cut, torn, or removed from any other vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title; or (2) any adhesive stamp or the impression of any stamp, die, plate, or other article of insufficient value; or (3) any forged or counterfeited stamp, or the impression of any forged or counterfeited stamp, die, plate, or other article;

(c) Willfully removes, or alters the cancellation, or defacing marks of, or otherwise prepares, any adhesive stamp, with intent to use, or cause the same to be used, after it has been already used, or knowingly or willfully buys, sells, offers for sale, or gives away, any such washed or restored stamp to any person for use, or knowingly uses the same;

(d) Knowingly and without lawful excuse (the burden of proof of such excuse being on the accused) has in possession any washed, restored, or altered stamp, which has been removed from any vellum, parchment, paper, instrument, writing, package, or article;

Is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than $1,000, or by imprisonment for not more than five years, or both, and any such reused, canceled, or counterfeit stamp and the vellum, parchment, document, paper, package, or article upon which it is placed or impressed shall be forfeited to the United States.

Mr. KING. Mr. President, calling the attention of the Senate to section 1102, on page 233, my attention has been directed to this provision:

That whoever—

(a) Makes, signs, issues, or accepts, or causes to be made, signed, issued, or accepted, any instrument, document, or paper of any kind or description whatsoever without the full amount of tax thereon being duly paid; * * * is guilty of a misdemeanor.

The Senator will observe that the subsequent sections, providing penalties, contain the element of willfulness or fraud. It has been suggested to me that there should be some limiting language in paragraph (A). My attention was called to the fact that if an ignorant person, who was unable to read or write, accepted one of the inhibited or prescribed papers without a stamp upon it, he would not be cognizant that any law was violated; indeed, he would not know that there was a law requiring a stamp to be placed upon the document. Of course, I appreciate the fact that under such circumstances there probably would be no prosecution.

Mr. McCUMBER. I think it would be very proper, myself, that we should put the word "knowingly" in there. It is the present law, and the committee did not seek to change the present law in that respect, as we heard of no complaint against it.

Mr. KING. Let me say to the Senator that I am not sure that the word ought to go in, broadly, because I think there ought to be a duty enforced upon a man who negotiates one of these instruments to see that the stamp is placed thereon, and he ought to know; yet I can conceive that under the language of the statute as it is now there might be some grave injustices.

Mr. SMOOT. Let me suggest to the Senator why it was put in this way when the original law was passed, and it may be that that will clear the question in his mind.

Mr. KING. I yield to my colleague.

Mr. SMOOT. I would not be satisfied to have the word "knowingly" put in here.

Mr. KING. I think it ought to be in, perhaps, with respect to some of the elements, but not all.

Mr. SMOOT. This is what the committee took into consideration when this provision was written as it is in the existing law. If there was a case such as the Senator points out—and there may be—the judge would have a perfect right to fine the man $1. He is not to be fined more than $100. He may not fine him at all if the evidence beyond the question of a doubt proves that he was an ignorant man and that he had been imposed upon. But remember that both parties are involved, just as my colleague stated, and it does seem to me, Mr. President, that this is a transaction which happens so often with nearly every citizen of the United States that it ought to be as the law now provides, and the word "knowingly" should not be put in there.

Mr. KING. It is possible that the word "knowingly" ought to characterize the conduct of individuals in some instances, but I would not be willing, much as I object to the section as it is, to qualify the entire section by the word "knowingly." Let me ask the Senator to pass it over and I will see if I can frame something that will be acceptable.

Mr. McCUMBER. I call the Senator's attention to the fact, however, that it is declared to be a misdemeanor only, and I doubt if anyone would ever prosecute if the parties would make payment, even though they had made the error.

Mr. KING. I think that is true, yet I dislike to convict a man, even though he is not fined, and the court says, "Go thy way and sin no more," where there is no evil intent or no culpability morally.

Mr. SMOOT. This provision has been in every stamp tax law since the Civil War, and I understand there has never been complaint made against it, and no injustice has ever been done a person through it. I think when a law has stood the test that long, we ought to be very careful before we change it.

Mr. KING. I agree with the Senator in that observation. Yet the passage of time does not sanctify a law. Many crude laws were drawn many years ago. I ask that the amendment may go over.

The VICE PRESIDENT. It has already been agreed to.

Mr. McCUMBER. Does the Senator ask that simply that paragraph go over?

Mr. KING. That is all.

The VICE PRESIDENT. The Senator from Utah wishes to have passed over paragraph A of section 1102, found on page 233. Without objection, it will be considered as having been passed over.

The question is on agreeing to the amendment inserting section 1103.

The amendment was agreed to.

The next amendment was, on page 235, after line 21, to insert:

SEC. 1104. That whenever an adhesive stamp is used for denoting any tax imposed by this title, except as hereinafter provided, the person using or affixing the same shall write or stamp or cause to be written

or stamped thereupon the initials of his or its name and the date upon which the same is attached or used, so that the same may not again be used: *Provided*, That the commissioner may prescribe such other method for the cancellation of such stamps as he may deem expedient.

The amendment was agreed to.

The next amendment was, on page 236, after line 6, to insert:

SEC. 1105. (a) That the commissioner shall cause to be prepared and distributed for the payment of the taxes prescribed in this title suitable stamps denoting the tax on the document, articles, or thing to which the same may be affixed, and shall prescribe such method for the affixing of said stamps in substitution for or in addition to the method provided in this title, as he may deem expedient.

(b) All internal revenue laws relating to the assessment and collection of taxes are hereby extended to and made a part of this title, so far as applicable, for the purpose of collecting stamp taxes omitted through mistake or fraud from any instrument, document, paper, writing, parcel, package, or article named herein.

The amendment was agreed to.

The next amendment was, on page 236, after line 22, to insert:

SEC. 1106. That the commissioner shall furnish to the Postmaster General without prepayment a suitable quantity of adhesive stamps to be distributed to and kept on sale by the various postmasters in the United States. The Postmaster General may require each such postmaster to give additional or increased bond as postmaster for the value of the stamps so furnished, and each such postmaster shall deposit the receipts from the sale of such stamps to the credit of and render accounts to the Postmaster General at such times and in such form as he may by regulations prescribe. The Postmaster General shall at least once monthly transfer all collections from this source to the Treasury as internal-revenue collections.

The amendment was agreed to.

The next amendment was, on page 237, after line 12, to insert:

SEC. 1107. (a) That each collector shall furnish, without prepayment, to any assistant treasurer or designated depositary of the United States, located in the district of such collector, a suitable quantity of adhesive stamps to be kept on sale by such assistant treasurer or designated depositary.

(b) Each collector shall furnish, without prepayment, to any person who is (1) located in the district of such collector, (2) duly appointed and acting as agent of any State for the sale of stock transfer stamps of such State, and (3) designated by the commissioner for the purpose, a suitable quantity of such adhesive stamps as are required by subdivisions 3, 4, and 5 of Schedule A of this title, to be kept on sale by such person.

(c) In such cases the collector may require a bond, with sufficient sureties, to an amount equal to the value of the adhesive stamps so furnished, conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of, and for the payment monthly of all quantities or amounts sold or not remaining on hand. The Secretary may from time to time make such regulations as he may find necessary to insure the safekeeping or prevent the illegal use of all such adhesive stamps.

The amendment was agreed to.

The next amendment was, on page 238, after line 9, to insert:

SCHEDULE A.—STAMP TAXES.

1. Bonds of indebtedness: On all bonds, debentures, or certificates of indebtedness issued by any person, and all instruments, however termed, issued by any corporation with interest coupons or in registered form, known generally as corporate securities, on each $100 of face value or fraction thereof, 5 cents: *Provided*, That every renewal of the foregoing shall be taxed as a new issue: *Provided further*, That when a bond conditioned for the repayment or payment of money is given in a penal sum greater than the debt secured, the tax shall be based upon the amount secured.

The amendment was agreed to.

The next amendment was, on page 238, after line 22, to strike out:

SEC. 903. Subdivision (2) of Schedule A of Title XI of the revenue act of 1918 is amended, to take effect January 1, 1922, to read as follows:

The amendment was agreed to.

The next amendment was, on page 239, line 12, after the words "50 cents," to insert the following proviso:

Provided, That where a premium is charged for the issuance, execution, renewal, or continuance of such bond the tax shall be 1 cent on each dollar or fractional part thereof of the premium charged.

So as to make subdivision 2 read:

2. Bonds, indemnity, and surety: On all bonds executed for indemnifying any person who shall have become bound or engaged as surety, and on all bonds executed for the due execution or performance of any contract, obligation, or requirement, or the duties of any office or position, and to account for money received by virtue thereof, and on all policies of guaranty and fidelity insurance, including policies guaranteeing titles to real estate and mortgage guarantee policies, and on all other bonds of any description, made, issued, or executed, not otherwise provided for in this schedule, except such as may be required in legal proceedings, 50 cents: *Provided*, That where a premium is charged for the issuance, execution, renewal, or continuance of such bond the tax shall be 1 cent on each dollar or fractional part thereof of the premium charged: *Provided further*, That policies of reinsurance shall be exempt from the tax imposed by this subdivision.

Mr. McCUMBER. I ask that subdivision 2 on page 239 may be passed over.

The VICE PRESIDENT. It will be passed over.

Mr. FLETCHER. Mr. President, I have no objection to that, but I may not be in when the section is reached again, and I want to submit just a few observations in connection with it for the committee to consider.

It seems to me this House provision ought to be amended. I have no objection, so far as I can see, to the Senate committee amendment. I think that the added proviso helps the section rather than otherwise, and I have no objection to either of the provisos; but in the text itself as it came from the House I think an injustice is about to be done, if the text remains as it is.

In the first place, I have information which I will insert in the RECORD to the effect that in the case, for instance, of mail carriers, thousands of them are bonded and the premium on each individual bond does not exceed 50 cents. The surety company making the bond for the mail carrier does not receive over 50 cents as a premium. To say that each one of those bonds shall be taxed 50 cents seems to me almost absurd. If that tax is levied and it is passed on to the mail carrier it makes him pay $1 for a bond which he now gets for 50 cents. If it is not passed on, it comes out of the surety company, and that would be a very considerable tax levy on the surety company and out of all reason.

In addition to that there are thousands of bonds made by these surety companies where the premium does not exceed $1. To say that each one of those bonds must be taxed 50 cents, it seems to me, is out of reason, too. That tax of 50 cents is passed on to the poor fellow who has to give a bond to account for some money or to insure the performance of his services in some office or position, either as an agent or an employee or an official of some kind where he is required to give a bond, and that 50 cents will be added to the premium, and he will have to pay it or else it will come out of the surety company, and it would be, in the instance of one surety company alone, my information is, a burden of something like $100,000 a year, largely growing out of bonds on which the premium does not amount to more than 50 cents in a great many instances or $1 in a great many other instances. I have a letter here from the National Surety Co., of New York, and there is no reason why it should not be inserted in the RECORD. It is very brief: They say:

We have bonds covering many thousand letter carriers in the United States, and we charge them only 50 cents each for the bond. We have perhaps 50,000 men whose bonds we execute where we do not get more than $1 premium. The imposition of this tax would cost the National Surety Co. alone estimated at more than $100,000 per annum, and would amount in many cases to confiscation of our entire premium charge.

That is hardly fair to the surety company, and if they pass it on to the individuals, who in most instances must be of limited means, on salaries, not getting very large compensation, anyhow, it would mean a tax on them amounting to a very considerable sum.

I feel inclined to propose, and I will suggest now to the committee, an amendment which I think might help that situation.

On line 12, after the word "proceedings" and before the numerals "50," I propose to insert the words "where the premium charged by the surety exceeds $3." That is to say, on bonds where the premium amounts to $3 or more the stamp tax shall be required of 50 cents, but on bonds where the premium is less than $3 there would not be this tax. I merely suggest that now while we have the matter before us. I propose the amendment and will let it lie on the table to be considered when the section is taken up again.

Mr. McCUMBER. I will say that objections of the character mentioned by the Senator have been made to and filed with the chairman of the committee, and it was for that reason, and that it might be reconsidered, that at the suggestion of the chairman during his absence I asked that it might be passed over.

Mr. FLETCHER. Mr. President, I ask to have inserted in the RECORD in connection with my remarks the letter to which I referred.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL SURETY CO.,
New York, September 22, 1921.

Re H. R. 8245, section 903.

Hon. DUNCAN U. FLETCHER,
United States Senate, Washington, D. C.

MY DEAR SIR: We respectfully protest against requiring surety bonding companies to affix a 50-cent stamp on all bonds of indemnity and all policies of guaranty and fidelity insurance.

We have bonds covering many thousand letter carriers in the United States and we charge them only 50 cents each for the bond. We have perhaps 50,000 men whose bonds we execute where we do not get more than $1 premium. The imposition of this tax would cost the National Surety Co. alone estimated at more than $100,000 per annum and would amount, in many cases, to confiscation of our entire premium charge.

There is no more reason why a stamp should be required to be affixed by a corporate bonding company doing a fidelity insurance business than that a fire insurance company be required to affix a stamp to every

policy it issues. We are all in the insurance business. We recognize that this was an oversight on the part of the House and we respectfully ask that you correct it in the Senate.

Very truly, yours,

WM. B. JOYCE, *President.*

Mr. PENROSE. I will state to the Senator from Florida for his information, and I think perhaps it is as well for the information of the Senate for me to say, that the committee will meet from day to day and consider all amendments that are offered on the floor. The amendment just submitted by the Senator will be very carefully considered by the committee.

Mr. FLETCHER. I am much obliged to the chairman of the committee. The amendment was offered on the spur of the moment, but I will let it lie on the table to be considered when the section is taken up again.

The VICE PRESIDENT. The amendment proposed by the Senator from Florida will be received, and lie on the table.

The next amendment of the Committee on Finance was, on page 239, after line 19, to insert:

3. Capital stock, issued: On each original issue, whether on organization or reorganization, of certificates of stock, or of profits, or of interest in property or accumulations, by any corporation, on each $100 of face value or fraction thereof, 5 cents: *Provided*, That where a certificate is issued without face value, the tax shall be 5 cents per share, unless the actual value is in excess of $100 per share, in which case the tax shall be 5 cents on each $100 of actual value or fraction thereof.

The stamps representing the tax imposed by this subdivision shall be attached to the stock books and not to the certificates issued.

4. Capital stock, sales or transfers: On all sales, or agreements to sell, or memoranda of sales or deliveries of, or transfers of legal title to shares or certificates of stock or of profits or of interest in property or accumulations in any corporation, or to rights to subscribe for or to receive such shares or certificates, whether made upon or shown by the books of the corporation, or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence or transfer or sale, whether entitling the holder in any manner to the benefit of such stock, interest, or rights, or not, on each $100 of face value or fraction thereof, 2 cents, and where such shares are without par or face value, the tax shall be 2 cents on the transfer or sale or agreement to sell on each share: *Provided*, That it is not intended by this title to impose a tax upon an agreement evidencing a deposit of certificates as collateral security for money loaned thereon, which certificates are not actually sold, nor upon the delivery or transfer for such purpose of certificates so deposited, nor upon mere loans of stock nor upon the return of stock so loaned: *Provided further*, That the tax shall not be imposed upon deliveries or transfers to a broker for sale, nor upon deliveries or transfers by a broker to a customer for whom and upon whose order he has purchased same, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided further*, That in case of sale where the evidence of transfer is shown only by the books of the corporation the stamp shall be placed upon such books; and where the change of ownership is by transfer of the certificate the stamp shall be placed upon the certificate; and in cases of an agreement to sell or where the transfer is by delivery of the certificate assigned in blank there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers. Any person liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person, who makes any such sale, or who in pursuance of any such sale delivers any certificate or evidence of the sale of any stock, interest or right, or bill of memorandum thereof, as herein required, without having the proper stamps affixed thereto with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding $1,000, or be imprisoned not more than six months, or both.

5. Produce, sales of, on exchange: Upon each sale, agreement of sale, or agreement to sell (not including so-called transferred or scratch sales), any products or merchandise at or under the rules or usages of, any exchange, or board of trade, or other similar place, for future delivery, for each $100 in value of the merchandise covered by said sale or agreement of sale or agreement to sell, 2 cents, and for each additional $100 or fractional part thereof in excess of $100, 2 cents: *Provided*, That on every sale or agreement of sale or agreement to sell as aforesaid there shall be made and delivered by the seller to the buyer a bill, memorandum, agreement, or other evidence of such sale, agreement of sale, or agreement to sell, to which there shall be affixed a lawful stamp or stamps in value equal to the amount of the tax on such sale: *Provided further*, That sellers of commodities described herein, having paid the tax provided by this subdivision, may transfer such contracts to a clearing-house corporation or association, and such transfer shall not be deemed to be a sale, or agreement of sale, or an agreement to sell within the provisions of this act, provided that such transfer shall not vest any beneficial interest in such clearing-house association but shall be made for the sole purpose of enabling such clearing-house association to adjust and balance the accounts of the members of such clearing-house association on their several contracts. Every such bill, memorandum, or other evidence of sale or agreement to sell shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers; and any person liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person, who makes any such sale or agreement of sale, or agreement to sell, or who, in pursuance of any such sale, agreement of sale, or agreement to sell, delivers any such products or merchandise without a bill, memorandum, or other evidence thereof as herein required, or who delivers such bill, memorandum, or other evidence of sale, or agreement to sell, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding $1,000 or be imprisoned not more than six months, or both.

No bill, memorandum, agreement, or other evidence of such sale, or agreement of sale, or agreement to sell, in case of cash sales of products or merchandise for immediate or prompt delivery which in good faith are actually intended to be delivered shall be subject to this tax.

6. Drafts or checks (payable otherwise than at sight or on demand) upon their acceptance or delivery within the United States whichever is prior, promissory notes, except bank notes issued for circulation, and for each renewal of the same, for a sum not exceeding $100, 2 cents; and for each additional $100, or fractional part thereof, 2 cents.

This subdivision shall not apply to a promissory note secured by the pledge of bonds or obligations of the United States issued after April 24, 1917, or secured by the pledge of a promissory note which itself is secured by the pledge of such bonds or obligations: *Provided*, That in either case the par value of such bonds or obligations shall be not less than the amount of such note.

7. Conveyances: Deed, instrument, or writing, whereby any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his, her, or their direction, when the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds $100 and does not exceed $500, 50 cents; and for each additional $500 or fractional part thereof, 50 cents. This subdivision shall not apply to any instrument or writing given to secure a debt.

8. Entry of any goods, wares, or merchandise at any customhouse, either for consumption or warehousing, not exceeding $100 in value, 25 cents; exceeding $100 and not exceeding $500 in value, 50 cents; exceeding $500 in value, $1.

Mr. KING. Mr. President, at this point, may I inquire of some member of the committee whether or not a real estate transaction which culminates in a foreclosure or sale under a trust deed, and title passes, would call for a stamp tax? As I understand the bill, it provides that if it is an obligation to secure a debt, if the contract relates to that or the instrument itself is for security, then no stamp tax is required. Suppose, however, that it is a trust deed and there is a strict foreclosure or it is sold at public auction by the sheriff pursuant to the terms of the trust deed and title passes on to the vendee——

Mr. SMOOT. Then it will have to carry a stamp.

Mr. KING. What provision is there that it shall do that?

Mr. SMOOT. The part of the section which was just read, paragraph 7, under "conveyances," provides:

Deed, instrument, or writing, whereby any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers.

That transfer would necessarily carry a stamp.

Mr. KING. May I ask the Senator who would pay the tax?

Mr. SMOOT. In that case, of course, the purchaser would have to pay the tax because he has purchased the property. It is a foreclosure and he gets whatever rights there are in it and whatever is necessary to make the transfer he must pay.

Mr. KING. I think that is eminently proper, but I did not feel that there should be an omission from the bill of some provision that would call for a tax where property was sold under execution or under trust deed.

Mr. SMOOT. There should not be an omission and this will cover it.

Mr. KING. I am satisfied with that particular feature if provision is made for it.

The reading of the amendment was resumed and concluded, as follows:

9. Entry for the withdrawal of any goods or merchandise from customs bonded warehouse, 50 cents.

10. Passage ticket, one way or round trip, for each passenger, sold or issued in the United States for passage by any vessel to a port or place not in the United States, Canada, or Mexico, if costing not exceeding $30, $1; costing more than $30 and not exceeding $60, $3; costing more than $60, $5. This subdivision shall not apply to passage tickets costing $10 or less.

11. Proxy for voting at any election for officers, or meeting for the transaction of business, of any corporation, except religious, educational, charitable, fraternal, or literary societies, or public cemeteries, 10 cents.

12. Power of attorney granting authority to do or perform some act for or in behalf of the grantor, which authority is not otherwise vested in the grantee, 25 cents. This subdivision shall not apply to any papers necessary to be used for the collection of claims from the United States or from any State for pensions, back pay, bounty, or for property lost in the military or naval service, nor to powers of attorney required in bankruptcy cases nor to powers of attorney contained in the application of those who become members of or policyholders in mutual insurance companies doing business on the interinsurance or reciprocal indemnity plan through an attorney in fact.

13. Playing cards: Upon every pack of playing cards containing not more than 54 cards manufactured or imported and sold or removed for consumption or sale a tax of 8 cents per pack.

14. Parcel-post packages: Upon every parcel or package transported from one point in the United States to another by parcel post on which the postage amounts to 25 cents or more, a tax of 1 cent for each 25 cents or fractional part thereof charged for such transportation, to be paid by the consignor.

No such parcel or package shall be transported until a stamp or stamps representing the tax due shall have been affixed thereto.

15. On each policy of insurance, or certificate, binder, covering note, memorandum, cablegram, letter, or other instrument by whatever name called whereby insurance is made or renewed upon property within the United States (including rents and profits) against peril by sea or on inland waters or in transit on land (including transshipments and storage at termini or way points) or by fire, lightning, tornado, windstorm, bombardment, invasion, insurrection or riot, issued to or for or in the name of a domestic corporation or partnership or an indi-

vidual resident of the United States by any foreign corporation or partnership or any individual not a resident of the United States, when such policy or other instrument is not signed or countersigned by an officer or agent of the insurer in a State, Territory, or District of the United States within which such insurer is authorized to do business, a tax of 5 cents on each dollar or fractional part thereof of the premium charged: *Provided*, That policies of reinsurance shall be exempt from the tax imposed by this subdivision.

Any person to or for whom or in whose name any such policy or other instrument is issued, or any solicitor or broker acting for or on behalf of such person in the procurement of any such policy or other instrument, shall affix the proper stamps to such policy or other instrument, and for failure to affix such stamps with intent to evade the tax shall, in addition to other penalties provided therefor, pay a fine of double the amount of the tax.

Mr. WALSH of Massachusetts. Mr. President, I should like to ask one of the Senators in charge of the bill if it is a fact that there has been absolutely no change made in the stamp tax law.

Mr. SMOOT. Does the Senator mean as to paragraph 15, which applies to foreign insurance policies?

Mr. WALSH of Massachusetts. Except as to foreign insurance policies.

Mr. SMOOT. There is one amendment found on page 247.

Mr. WALSH of Massachusetts. Does that increase the rate or is it only an administrative amendment?

Mr. SMOOT. It exempts inferinsurance. That is the only amendment that is made.

Mr. WALSH of Massachusetts. So, with those two exceptions dealing with insurance companies, the stamp tax remains absolutely as the law is to-day?

Mr. SMOOT. With that particular amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

Mr. LENROOT. I should like to ask the Senator from Utah or the Senator from North Dakota a question. In framing subdivision 5 of Schedule A, providing for a tax upon contracts on boards of trade, and so forth, I wish to ask whether or not the committee had in mind the bill which was passed just before the recess imposing on certain contracts on boards of trade a prohibitive tax; and, this being a reenactment of law, what the effect might be of reenacting the old law merely without reference to the new one?

Mr. SMOOT. The Senator from Wisconsin is right in his suggestion; so far as I am concerned I did not think of the question he raises. If the matter to which he refers is not taken care of in subdivision 5 of the schedule, it ought to be. I think that subdivision ought to go over in order that whatever amendment may be necessary in consequence of the passage of the law to which the Senator refers may be incorporated in subdivision 5. Therefore I ask that subdivision 5, on page 242, go over.

The VICE PRESIDENT. The subdivision will be passed over.

Mr. WALSH of Massachusetts. Mr. President, for the information of Senators, I suggest that the RECORD ought to show just what the yield from stamp taxes was last year and what it is expected to be during the next fiscal year.

Mr. SMOOT. If the Senator will allow me, I desire to say that on page 7 of the committee report he will find set forth the yield produced under each title of the bill in 1921 and the yield expected in 1922 and 1923.

Mr. WALSH of Massachusetts. I thought it would be helpful to have the information in the RECORD, so that Senators who read through the discussion of to-day's proceedings would have it before them, without going to the table to which the Senator from Utah refers. Can the Senator from Utah give us that information?

Mr. SMOOT. I will say to the Senator that the yield from stamp taxes is $70,000,000.

Mr. WALSH of Massachusetts. And it is expected to be the same for the next fiscal year as it was last year?

Mr. SMOOT. Yes. The yield for the fiscal year was, in round numbers, $70,000,000; it was $69,000,000 and something over.

The VICE PRESIDENT. With the exception of paragraph 5, without objection, the schedule is agreed to.

The next amendment was, on page 249, after line 2, to insert the heading:

TITLE XII.—TAX ON EMPLOYMENT OF CHILD LABOR.

Mr. OVERMAN. I should like to inquire whether any change from the existing law has been made by the provisions of Title XII imposing a tax on the employment of child labor?

Mr. SMOOT. Not a word of the present law has been changed.

Mr. OVERMAN. The provisions of the pending bill in that respect are the same as those of the old law, which has been declared to be unconstitutional?

Mr. WALSH of Massachusetts. It has not been declared to be unconstitutional by the Supreme Court of the United States.

Mr. POMERENE. It was held to be unconstitutional, I believe, in one of the lower courts.

Mr. WALSH of Massachusetts. In North Carolina.

Mr. POMERENE. But I think we had better possess our souls in peace, for I am satisfied that when that law gets into the Supreme Court of the United States it will be held to be constitutional.

Mr. OVERMAN. That law is there now, and has been there for two years. I hope we may soon get a decision on it.

Mr. POMERENE. Does the Senator from North Carolina mean the law has been in the Supreme Court of the United States?

Mr. OVERMAN. It is now in the Supreme Court of the United States.

Mr. SMOOT. It is before the Supreme Court of the United States.

Mr. WALSH of Massachusetts. I am informed that that law has been pending there for a year.

Mr. OVERMAN. Yes; it has been pending there for a year and has not yet been decided.

Mr. SMOOT. A moment ago I said to the Senator from Massachusetts [Mr. WALSH] that there had only been one amendment in the insurance provisions, and that that was found on page 247. My attention has been called to a slight amendment on page 241, line 5, which reads:

Nor upon mere loans of stock, nor upon the return of stock so loaned.

I simply wish to put that into the RECORD in order that the RECORD may show the amendment. I am sure the Senator from Massachusetts will agree to the amendment which I have just read. It relates to the case of a loan of stock. If I loan certain stock to the Senator from Ohio and he returns that stock to me, upon its return to me he is not compelled to put a stamp upon it if I merely loaned it to him and did not sell it.

The VICE PRESIDENT. Without objection, the amendment reported by the committee in lines 3 and 4, page 249, is agreed to.

The next amendment was, on page 249, after line 4, to insert:

SEC. 1200. That every person (other than a bona fide boys' or girls' canning club recognized by the Agricultural Department of a State and of the United States) operating (a) any mine or quarry situated in the United States in which children under the age of 16 years have been employed or permitted to work during any portion of the taxable year; or (b) any mill, cannery, workshop, factory, or manufacturing establishment situated in the United States in which children under the age of 14 years have been employed or permitted to work, or children between the ages of 14 and 16 have been employed or permitted to work more than eight hours in any day or more than six days in any week, or after the hours of 7 o'clock p. m., or before the hour of 6 o'clock a. m., during any portion of the taxable year, shall pay for each taxable year, in addition to all other taxes imposed by law (but in lieu of the tax imposed by section 1200 of the revenue act of 1918), an excise tax equivalent to 10 per cent of the entire net profits received or accrued for such year from the sale or disposition of the product of such mine, quarry, mill, cannery, workshop, factory, or manufacturing establishment.

The amendment was agreed to.

The next amendment was, on page 250, after line 4, to insert:

SEC. 1201. That in computing net profits under the provisions of this title, for the purpose of the tax there shall be allowed as deductions from the gross amount received or accrued for the taxable year from the sale or disposition of such products manufactured within the United States the following items:

(a) The cost of raw materials entering into the production;

(b) Running expenses, including rentals, cost of repairs, and maintenance, heat, power, insurance, management, and a reasonable allowance for salaries or other compensations for personal services actually rendered, and for depreciation;

(c) Interest paid within the taxable year on debts or loans contracted to meet the needs of the business, and the proceeds of which have been actually used to meet such needs;

(d) Taxes of all kinds paid during the taxable year with respect to the business or property relating to the production; and

(e) Losses actually sustained within the taxable year in connection with the business of producing such products, including losses from fire, flood, storm, or other casualties, and not compensated for by insurance or otherwise.

The amendment was agreed to.

The next amendment was, on page 251, after line 5, to insert:

SEC. 1202. That if any such person during any taxable year or part thereof, whether under any agreement, arrangement, or understanding or otherwise, sells or disposes of any product of such mine, quarry, mill, cannery, workshop, factory, or manufacturing establishment at less than the fair market price obtainable therefor either (a) in such manner as directly or indirectly to benefit such person or any person directly or indirectly interested in the business of such person; or (b) with intent to cause such benefit; the gross amount received or accrued for such year or part thereof from the sale or disposition of such product shall be taken to be the amount which would have been received or accrued from the sale or disposition of such product if sold at the fair market price.

The amendment was agreed to.

The next amendment was, on page 251, after line 21, to insert:

SEC. 1203. (a) That no person subject to the provisions of this title shall be liable for the tax herein imposed if the only employment or permission to work which but for this section would subject him to the

tax has been of a child as to whom such person has in good faith procured at the time of employing such child or permitting him to work, and has since in good faith relied upon and kept on file a certificate, issued in such form, under such conditions, and by such persons as may be prescribed by a board consisting of the Secretary, the commissioner, and the Secretary of Labor, showing the child to be of such age as not to subject such person to the tax imposed by this title. Any person who knowingly makes a false statement or presents false evidence in or in relation to any such certificate or application therefor shall be punished by a fine of not less than $100, nor more than $1,000, or by imprisonment for not more than three months, or by both such fine and imprisonment, in the discretion of the court.

In any State designated by such board an employment certificate or other similar paper as to the age of the child, issued under the laws of that State, and not inconsistent with the provisions of this title, shall have the same force and effect as a certificate herein provided for.

(b) The tax imposed by this title shall not be imposed in the case of any person who proves to the satisfaction of the Secretary that the only employment or permission to work, which but for this section would subject him to the tax, has been of a child employed or permitted to work under a mistake of fact as to the age of such child, and without intention to evade the tax.

The amendment was agreed to.

The next amendment was, on page 253, after line 6, to insert:

SEC. 1204. That on or before the first day of the third month following the close of each taxable year a true and accurate return under oath shall be made by each person subject to the provisions of this title to the collector for the district in which such person has his principal office or place of business, in such form as the commissioner, with the approval of the Secretary, shall prescribe, setting forth specifically the gross amount of income received or accrued during such year from the sale or disposition of the product of any mine, quarry, mill, cannery, workshop, factory, or manufacturing establishment, in which children have been employed subjecting him to the tax imposed by this title, and from the total thereof deducting the aggregate items of allowance authorized by this title, and such other particulars as to the gross receipts and items of allowance as the commissioner, with the approval of the Secretary, may require.

The amendment was agreed to.

The next amendment was, at the top of page 254, to insert:

SEC. 1205. That all such returns shall be transmitted forthwith by the collector to the commissioner, who shall, as soon as practicable, assess the tax found due and notify the person making such return of the amount of tax for which such person is liable, and such person shall pay the tax to the collector on or before 30 days from the date of such notice.

The amendment was agreed to.

The next amendment was, on page 254, after line 8, to insert:

SEC. 1206. That for the purposes of this act the commissioner, or any person duly authorized by him, shall have authority to enter and inspect at any time any mine, quarry, mill, cannery, workshop, factory, or manufacturing establishment. The Secretary of Labor, or any person duly authorized by him, shall, for the purpose of complying with a request of the commissioner to make such an inspection, have like authority, and shall make report to the commissioner of inspections made under such authority in such form as may be prescribed by the commissioner with the approval of the Secretary of the Treasury.

Any person who refuses or obstructs entry or inspection authorized by this section shall be punished by a fine of not more than $1,000, or by imprisonment for not more than one year, or both.

The amendment was agreed to.

The next amendment was, at the top of page 255, to insert:

SEC. 1207. That as used in this title the term "taxable year" shall have the same meaning as provided for the purposes of income tax in section 200.

Mr. WALSH of Massachusetts. Mr. President, I understand that there has been absolutely no change made, either by the House bill or by the Senate amendment, to the present law on the subject of the tax on the employment of child labor except the last section, namely, section 1207.

Mr. PENROSE. There has been no change whatever, Mr. President.

The VICE PRESIDENT. The question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

The next amendment was, on page 255, after line 4, to strike out the heading "Title X. Administrative provisions," and to insert:

Title XIII.—General administrative provisions. Laws made applicable.

The amendment was agreed to.

The next amendment was, on page 255, after line 8, to insert:

SEC. 1300. That all administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this act, and every person liable to any tax imposed by this act, or for the collection thereof, shall keep such records and render, under oath, such statements and returns, and shall comply with such regulations as the commissioner, with the approval of the Secretary, may from time to time prescribe.

The amendment was agreed to.

The next amendment was, on page 255, after line 18, to insert:

METHOD OF COLLECTING TAX.

SEC. 1301. That whether or not the method of collecting any tax imposed by Titles V, VI, VII, VIII, IX, or X of this act is specifically provided therein, any such tax may, under regulations prescribed by the commissioner, with the approval of the Secretary, be collected by stamp, coupon, serial-numbered ticket, or such other reasonable device or method as may be necessary or helpful in securing a complete and prompt collection of the tax. All administrative and penalty provisions of Title XI, in so far as applicable, shall apply to the collection of any tax which the commissioner determines or prescribes shall be collected in such manner.

The amendment was agreed to.

The next amendment was, on page 256, after line 5, to insert:

PENALTIES.

SEC. 1302. (a) That any person required under Titles V, VI, VII, VIII, IX, X, or XII to pay, or to collect, account for and pay over any tax, or required by law or regulations made under authority thereof to make a return or supply any information for the purposes of the computation, assessment, or collection of any such tax, who fails to pay, collect, or truly account for and pay over any such tax, make any such return or supply any such information at the time or times required by law or regulation shall in addition to other penalties provided by law be subject to a penalty of not more than $1,000.

(b) Any person who willfully refuses to pay, collect, or truly account for and pay over any such tax, make such return or supply such information at the time or times required by law or regulation, or who willfully attempts in any manner to evade such tax, shall be guilty of a misdemeanor, and in addition to other penalties provided by law shall be fined not more than $10,000 or imprisoned for not more than one year, or both, together with the costs of prosecution.

(c) Any person who willfully refuses to pay, collect, or truly account for and pay over any such tax shall in addition to other penalties provided by law be liable to a penalty of the amount of the tax evaded, or not paid, collected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected: *Provided, however,* That no penalty shall be assessed under this subdivision for any offense for which a penalty may be assessed under authority of section 3176 of the Revised Statutes, as amended, or for any offense for which a penalty has been recovered under section 3256 of the Revised Statutes.

(d) The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

The amendment was agreed to.

The next amendment was, at the top of page 258, to insert:

RULES AND REGULATIONS.

SEC. 1303. That the commissioner, with the approval of the Secretary, is hereby authorized to make all needful rules and regulations for the enforcement of the provisions of this act.

The commissioner, with such approval, may by regulation provide that any return required by Titles V, VI, VII, VIII, IX, or X to be under oath may, if the amount of the tax covered thereby is not in excess of $10, be signed or acknowledged before two witnesses instead of under oath.

The amendment was agreed to.

The next amendment was, on page 258, after line 11, to insert:

OVERPAYMENTS AND OVERCOLLECTIONS.

SEC. 1304. That in the case of any overpayment or overcollection of any tax imposed by section 600 or by Title V, Title VIII, or Title IX, the person making such overpayment or overcollection may take credit therefor against taxes due upon any monthly return, and shall make refund of any excessive amount collected by him upon proper application by the person entitled thereto.

The amendment was agreed to.

The next amendment was, on page 258, after line 20, to insert:

ARTICLES EXPORTED.

SEC. 1305. That under such rules and regulations as the commissioner with the approval of the Secretary may prescribe, the taxes imposed under the provisions of Titles VI, VII, or IX shall not apply in respect to articles sold or leased for export and in due course so exported. Under such rules and regulations the amount of any internal-revenue tax erroneously or illegally collected in respect to exported articles may be refunded to the exporter of the article, instead of to the manufacturer, if the manufacturer waives any claim for the amount so to be refunded

The amendment was agreed to.

The next amendment was, on page 259, after line 8, to insert:

FRACTIONAL PARTS OF A CENT.

SEC. 1306. That in the payment of any tax under this act not payable by stamp a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

The amendment was agreed to.

The next amendment was, on page 259, after line 14, to insert:

RETURNS.

SEC. 1307. That whenever in the judgment of the commissioner necessary he may require any person, by notice served upon him, to make a return or such statements as he deems sufficient to show whether or not such person is liable to tax.

The amendment was agreed to.

The next amendment was, on page 259, after line 20, to insert:

EXAMINATION OF BOOKS AND WITNESSES.

SEC. 1308. That the Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, is hereby authorized, by any revenue agent or inspector designated by him for that purpose, to examine any books, papers, records, or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the person rendering the return or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons.

The amendment was agreed to.

The next amendment was, on page 260, after line 11, to insert:

UNNECESSARY EXAMINATIONS.

SEC. 1309. That no taxpayer shall be subjected to unnecessary examinations or investigations, and only one inspection of a taxpayer's books of account shall be made for each taxable year unless the taxpayer requests otherwise or unless the Commissioner, after investigation, notifies the taxpayer in writing that an additional inspection is necessary.

Mr. WALSH of Massachusetts. Mr. President, I think the chairman in charge of the measure ought to explain the importance of that provision, which I think is a very beneficial one, and perhaps call attention to the change it makes in existing law. It is a provision of which I heartily approve, but I think it is of such importance that some comment ought to be made upon it at this time.

Mr. PENROSE. Mr. President, the provision is entirely in the interest of the taxpayer and for his relief from unnecessary annoyance. Since these income taxes and direct taxes have been in force very general complaint has been made, especially in the large centers of wealth and accumulation of money, at the repeated visits of tax examiners, who perhaps are overzealous or do not use the best of judgment in the exercise of their functions. I know that from many of the cities of the country very bitter complaints have reached me and have reached the department of unnecessary visits and inquisitions after a thorough examination is supposed to have been had. This section is purely in the interest of quieting all this trouble and in the interest of the peace of mind of the honest taxpayer.

Mr. WALSH of Massachusetts. So that up to the present time an inspector could visit the office of an individual or corporation and inspect the books as many times as he chose?

Mr. PENROSE. And he often did so.

Mr. WALSH of Massachusetts. And this provision of the Senate committee seeks to limit the inspection to one visit unless the commissioner indicates that there is necessity for further examination?

Mr. PENROSE. That is the purpose of the amendment.

Mr. WALSH of Massachusetts. I heartily agree with the beneficial results that the amendment will produce to the taxpayer.

Mr. PENROSE. I knew the Senator would agree to the amendment, and it will go a long way toward relieving petty annoyances on the part of honest taxpayers.

Mr. WALSH of Massachusetts. I trust the Senator will excuse me for asking him to make a statement about the amendment.

Mr. PENROSE. I am very glad the Senator did.

Mr. WALSH of Massachusetts. I felt that the Senate ought to have its attention called to a beneficial provision of this kind.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment was, on page 260, after line 18, to insert:

JURISDICTION OF COURTS.

SEC. 1310. (a) That if any person is summoned under this act to appear, to testify, or to produce books, papers, or other data, the district court of the United States for the district in which such person resides shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, or other data.

(b) The district courts of the United States at the instance of the United States are hereby invested with such jurisdiction to make and issue, both in actions at law and suits in equity, writs and orders of injunction, and of ne exeat republica, orders appointing receivers, and such other orders and process, and to render such judgments and decrees, granting in proper cases both legal and equitable relief together, as may be necessary or appropriate for the enforcement of the provisions of this act. The remedies hereby provided are in addition to and not exclusive of any and all other remedies of the United States in such courts or otherwise to enforce such provisions.

The amendment was agreed to.

The next amendment was, on page 261, after line 16, to insert:

AMENDMENTS TO REVISED STATUTES.

SEC. 1311. That sections 3164, 3165, 3167, 3172, 3173, and 3176 of the Revised Statutes, as amended, are reenacted, without change, as follows:

"SEC. 3164. It shall be the duty of every collector of internal revenue having knowledge of any willful violation of any law of the United States relating to the revenue, within 30 days after coming into possession of such knowledge, to file with the district attorney of the district in which any fine, penalty, or forfeiture may be incurred, a statement of all the facts and circumstances of the case within his knowledge, together with the names of the witnesses, setting forth the provisions of law believed to be so violated on which reliance may be had for condemnation or conviction.

"SEC. 3165. Every collector, deputy collector, internal-revenue agent, and internal-revenue officer assigned to duty under an internal-revenue agent, is authorized to administer oaths and to take evidence touching any part of the administration of the internal-revenue laws with which he is charged, or where such oaths and evidence are authorized by law or regulation authorized by law to be taken.

"SEC. 2167. It shall be unlawful for any collector, deputy collector, agent, clerk, or other officer or employee of the United States to divulge or to make known in any manner whatever not provided by law to any person the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of his official duties, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any income return, or to permit any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; and it shall be unlawful for any person to print or publish in any manner whatever not provided by law any income return, or any part thereof or source of income, profits, losses, or expenditures appearing in any income return; and any offense against the foregoing provision shall be a misdemeanor and be punished by a fine not exceeding $1,000 or by imprisonment not exceeding one year, or both, at the discretion of the court; and if the offender be an officer or employee of the United States he shall be dismissed from office or discharged from employment.

"SEC. 3172. Every collector shall, from time to time, cause his deputies to proceed through every part of his district and inquire after and concerning all persons therein who are liable to pay any internal-revenue tax, and all persons owning or having the care and management of any objects liable to pay any tax, and to make a list of such persons and enumerate said objects.

"SEC. 3173. It shall be the duty of any person, partnership, firm, association, or corporation made liable to any duty, special tax, or other tax imposed by law, when not otherwise provided for, (1) in case of a special tax, on or before the 31st day of July in each year, and (2) in other cases before the day on which the taxes accrue, to make a list or return, verified by oath, to the collector or a deputy collector of the district where located, of the articles or objects, including the quantity of goods, wares, and merchandise made or sold and charged with a tax, the several rates and aggregate amount, according to the forms and regulations to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, for which such person, partnership, firm, association, or corporation is liable: *Provided*, That if any person liable to pay any duty or tax, or owning, possessing, or having the care or management of property, goods, wares, and merchandise, article or objects liable to pay any duty, tax, or license, shall fail to make and exhibit a list or return required by law, but shall consent to disclose the particulars of any and all the property, goods, wares, and merchandise, articles, and objects liable to pay any duty or tax, or any business or occupation liable to pay any tax as aforesaid, then and in that case it shall be the duty of the collector or deputy collector to make such list or return, which, being distinctly read, consented to, and signed and verified by oath by the person so owning, possessing, or having the care and management as aforesaid, may be received as the list of such person: *Provided further*, That in case no annual list or return has been rendered by such person to the collector or deputy collector as required by law, and the person shall be absent from his or her residence or place of business at the time the collector or a deputy collector shall call for the annual list or return, it shall be the duty of such collector or deputy collector to leave at such place of residence or business with some one of suitabe age and discretion, if such be present, otherwise to deposit in the nearest post office a note or memorandum addressed to such person, requiring him or her to render to such collector or deputy collector the list or return required by law within 10 days from the date of such note or memorandum, verified by oath. And if any person on being notified or required as aforesaid shall refuse or neglect to render such list or return within the time required as aforesaid, or whenever any person who is required to deliver a monthly or other return of objects subject to tax fails to do so at the time required, or delivers any return which, in the opinion of the collector, is erroneous, false, or fraudulent, or contains any undervaluation or understatement, or refuses to allow any regularly authorized Government officer to examine the books of such person, firm, or corporation, it shall be lawful for the collector to summon such person, or any other person having possession, custody, or care of books of account containing entries relating to the business of such person or any other person he may deem proper, to appear before him and produce such books at a time and place named in the summons, and to give testimony or answer interrogatories under oath respecting any objects or income liable to tax or the returns thereof. The collector may summon any person residing or found within the State or Territory in which his district lies; and when the person intended to be summoned does not reside and can not be found within such State or Territory he may enter any collection district where such person may be found and there make the examination herein authorized. And to this end he may there exercise all the authority which he might lawfully exercise in the district for which he was commissioned: *Provided*, That 'person,' as used in this section, shall be construed to include any corporation, joint-stock company or association, or insurance company when such construction is necessary to carry out its provisions.

"SEC. 3176. If any person, corporation, company, or association fails to make and file a return or list at the time prescribed by law or by regulation made under authority of law, or makes, willfully or otherwise, a false or fraudulent return or list, the collector or deputy collector shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise. In any such case the Commissioner may, from his own knowledge and from such information as he can obtain through testimony or otherwise, make a return or amend any return made by a collector or deputy collector. Any return or list so made and subscribed by the Commissioner, or by a collector or deputy collector and approved by the Commissiner, shall be prima facie good and sufficient for all legal purposes.

"If the failure to file a return or list is due to sickness or absence, the collector may allow such further time, not exceeding 30 days, for making and filing the return or list as he deems proper.

"The Commissioner of Internal Revenue shall determine and assess all taxes, other than stamp taxes, as to which returns or lists are so made under the provisions of this section. In case of any failure to make and file a return or list within the time prescribed by law, or prescribed by the Commissioner of Internal Revenue or the collector in pursuance of law, the Commissioner of Internal Revenue shall add to the tax 25 per cent of its amount, except that when a return is filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect, no such addition shall be made to the tax. In case a false or fraudulent return or list is willfully made, the Commissioner of Internal Revenue shall add to the tax 50 per cent of its amount.

"The amount so added to any tax shall be collected at the same time and in the same manner and as part of the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax."

The amendment as amended was agreed to.

Mr. WALSH of Massachusetts. Mr. President, I would like to ask the Senator in charge of the bill at what time he expects the Senate to take a recess?

Mr. PENROSE. Mr. President, it occurred to me that we could, in a few minutes, finish the reading of the bill the way it is being read, passing over objected amendments, and then I had intended to cease to press the bill for to-day.

Mr. WALSH of Massachusetts. Several Senators have referred to the fact that we are to meet at 8 o'clock this evening.

Mr. PENROSE. I think the reading of the bill can be completed in a very few minutes. Let us go on until 5 o'clock, and I think at that time we will be able to take a recess.

The next amendment was, on page 269, after line 4, to insert the following heading:

Final determinations and assessments.

The amendment was agreed to.

The next amendment was, on page 269, line 6, before the word "after," to strike out "1001. If" and insert "1312. That if," so as to make the section read:

SEC. 1312. That if after a determination and assessment in any case the taxpayer has without protest paid in whole any tax or penalty, or accepted any abatement, credit, or refund based on such determination and assessment, and an agreement is made in writing between the taxpayer and the Commissioner, with the approval of the Secretary, that such determination and assessment shall be final and conclusive, then (except upon a showing of fraud or malfeasance or misrepresentation of fact materially affecting the determination or assessment thus made) (1) the case shall not be reopened or the determination and assessment modified by any officer, employee, or agent of the United States, and (2) no suit, action, or proceeding to annul, modify, or set aside such determination or assessment shall be entertained by any court of the United States.

The amendment was agreed to.

The next amendment was, on page 269, after line 20, to insert:

ADMINISTRATIVE REVIEW.

SEC. 1313. That in the absence of fraud or mistake in mathematical calculation, the findings of facts in and the decision of the commissioner upon (or in case the Secretary is authorized to approve the same, then after such approval) the merits of any claim presented under or authorized by the internal revenue laws shall not be subject to review by any administrative officer, employee, or agent of the United States.

The amendment was agreed to.

The next amendment was, on page 270, after line 3, to insert the following heading:

Retroactive regulations.

The amendment was agreed to.

The next amendment was, on page 270, line 5, after "SEC.," to strike out "1002. In," and to insert "1314. That in"; so as to make the section read:

SEC. 1314. That in case a regulation or Treasury decision relating to the internal revenue laws made by the commissioner or the Secretary, or by the commissioner with the approval of the Secretary, is reversed by a subsequent regulation or Treasury decision, and such reversal is not immediately occasioned or required by a decision of a court of competent jurisdiction, such subsequent regulation or Treasury decision may, in the discretion of the commissioner, with the approval of the Secretary, be applied without retroactive effect.

The amendment was agreed to.

The next amendment was, on page 270, after line 14, to strike out:

SEC. 1003. Section 1305 of the revenue act of 1918 is amended by adding at the end thereof a new paragraph to read as follows:

"No taxpayer shall be subject to unnecessary examinations or investigations, and only one inspection of a taxpayer's books of account shall be made for each taxable year unless the taxpayer requests otherwise or unless the commissioner, after investigation, notifies the taxpayer in writing that an additional inspection is necessary."

The amendment was agreed to.

The next amendment was, on page 270, after line 23, to strike out:

SEC. 1004. Section 1307 of the revenue act of 1918 is amended to read as follows:

"SEC. 1307. That whether or not the method of collecting any tax imposed by Titles V, VI, VII, VIII, IX, or X of this act is specifically provided therein, any such tax may, under regulations prescribed by the commissioner with the approval of the Secretary, be collected by stamp, coupon, or serial numbered ticket. All administrative and penalty provisions of Title XI, in so far as applicable, shall apply to the collection of any tax which the commissioner determines or prescribes shall be collected in such manner."

Mr. WALSH of Massachusetts. Mr. President, is section 1315 a substitute for section 1003 which was stricken out?

Mr. PENROSE. It is a substitute.

Mr. WALSH of Massachusetts. Rewritten?

Mr. PENROSE. Yes, sir.

Mr. SMOOT. I will say to the Senator from Massachusetts that the balance of the provisions stricken out later in the bill will be found in the bill in exactly the same form, but in the proper places.

The amendment was agreed to.

The next amendment was, on page 271, after line 9, to insert:

REFUNDS.

SEC. 1315. That section 3220 of the Revised Statutes, as amended, is reenacted without change, as follows:

"SEC. 3220. The Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, is authorized to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected; also to repay to any collector or deputy collector the full amount of such sums of money as may be recovered against him in any court, for any internal-revenue taxes collected by him, with the cost and expenses of suit; also all damages and costs recovered against any assessor, assistant assessor, collector, deputy collector, agent, or inspector, in any suit brought against him by reason of anything done in the due performance of his official duty, and shall make report to Congress at the beginning of each regular session of Congress of all transactions under this section."

The amendment was agreed to.

The next amendment was, on page 272, after line 8, to insert:

SEC. 1316. That section 3228 of the Revised Statutes is amended to read as follows:

"SEC. 3228. All claims for the refunding of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, must be presented to the Commissioner of Internal Revenue within four years next after payment of such tax, penalty, or sum."

The amendment was agreed to.

The next amendment was, on page 272, after line 19, to insert:

SEC. 1317. That the paragraph of section 3689 of the Revised Statutes, as amended, reading as follows: "Refunding taxes illegally collected (internal revenue): To refund and pay back duties erroneously or illegally assessed or collected under the internal-revenue laws," is repealed from and after June 30, 1920; and the Secretary of the Treasury shall submit for the fiscal year 1921, and annually thereafter, an estimate of appropriations to refund and pay back duties or taxes erroneously or illegally assessed or collected under the internal-revenue laws, and to pay judgments, including interest and costs, rendered for taxes or penalties erroneously or illegally assessed or collected under the internal-revenue laws.

The amendment was agreed to.

The next amendment was, on page 273, after line 9, to insert:

LIMITATIONS UPON SUITS AND PROSECUTIONS.

SEC. 1318. That section 3226 of the Revised Statutes is amended to read as follows:

"SEC. 3226. No suit or proceeding shall be maintained in any court for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund has been duly filed with the Commissioner of Internal Revenue, according to the provisions of law in that regard, and the regulations of the Secretary of the Treasury established in pursuance thereof. No such suit or proceeding shall be begun before the expiration of six months from the date of filing such claim unless the Commissioner renders a decision thereon within that time, nor after the expiration of five years from the date of the payment of such tax, penalty, or sum."

The amendment was agreed to.

The next amendment was, on page 274, after line 4, to insert:

SEC. 1319. That section 3227 of the Revised Statutes is hereby repealed but such repeal shall not affect any suit or proceeding instituted prior to the passage of this act.

The amendment was agreed to.

The next amendment was, on page 274, after line 7, to insert:

SEC. 1320. That no suit or proceeding for the collection of any internal revenue tax shall be begun after the expiration of five years from the time such tax was due, except in the case of fraud with intent to evade tax, or willful attempt in any manner to defeat or evade tax. This section shall not apply to suits or proceedings for the collection of taxes under section 250 of this act, nor to suits or proceedings begun at the time of the passage of this act.

The amendment was agreed to.

The next amendment was, on page 274, after line 15, to insert:

SEC. 1321. (a) That the act entitled "An act to limit the time within which prosecutions may be instituted against persons charged with violating internal revenue laws," approved July 5, 1884, is amended to read as follows:

"That no person shall be prosecuted, tried, or punished for any of the various offenses arising under the internal revenue laws of the United States unless the indictment is found or the information instituted within three years next after the commission of the offense: *Provided*, That the time during which the person committing the offense is absent from the district wherein the same is committed shall not be taken as any part of the time limited by law for the commencement of such proceedings: *Provided further*, That the provisions of this act shall not apply to offenses committed prior to its passage: *Provided further*, That where a complaint shall be instituted before a commissioner of the United States within the period above limited, the time shall be extended until the discharge of the grand jury at its next session within the district: *And provided further*, That this act shall not apply to offenses committed by officers of the United States."

(b) Any prosecution or proceeding under an indictment found or information instituted prior to the passage of this act shall not be affected in any manner by this amendment, but such prosecution or proceeding shall be subject to the limitations imposed by law prior to the passage of this act.

The amendment was agreed to.

The next amendment was, on page 275, after line 16, to insert:

ASSESSMENTS.

SEC. 1322. That all internal revenue taxes, except as provided in section 250 of this act, shall, notwithstanding the provisions of section 3182 of the Revised Statutes or any other provision of law, be assessed within four years after such taxes become due, but in the case of fraud with intent to evade tax or willful attempt in any manner to defeat or evade tax, such tax may be assessed at any time.

The amendment was agreed to.

The next amendment was, at the top of page 276, to insert:

FRAUDULENT RETURNS.

SEC. 1323. That section 3225 of the Revised Statutes of the United States, as amended, is reenacted without change as follows:

"SEC. 3225. When a second assessment is made in case of any list, statement, or return, which in the opinion of the collector or deputy collector was false or fraudulent, or contained any understatement or undervaluation, such assessment shall not be remitted, nor shall taxes collected under such assessment be refunded, or paid back, or recovered by any suit, unless it is proved that such list, statement, or return was not willfully false or fraudulent and did not contain any willful understatement or undervaluation."

The amendment was agreed to.

The next amendment was, on page 276, after line 15, to insert:

INTEREST ON REFUNDS.

SEC. 1324. That upon the allowance of a claim for the refund of or credit for taxes paid, interest shall be allowed and paid upon the total amount of such refund or credit at the rate of one-half of 1 per cent per month to the date of such allowance, as follows: (1) If such amount was paid under a specific protest, setting forth in detail the basis of and reasons for such protest, from the time when such tax was paid, or (2) if such amount was not paid under protest but pursuant to an additional assessment, from the time such additional assessment was paid, or (3) if no protest was made and the tax was not paid pursuant to an additional assessment, from six months after the date of filing of such claim for refund or credit. The term "additional assessment" as used in this section means a further assessment for a tax of the same character previously paid in part.

The amendment was agreed to.

The next amendment was, on page 277, after line 6, to insert:

PAYMENT OF TAXES BY CHECK OR UNITED STATES SECURITIES.

SEC. 1325. That collectors may receive, at par with an adjustment for accrued interest, notes or certificates of indebtedness issued by the United States and uncertified checks in payment of income, war-profits, and excess-profits taxes, and any other taxes payable other than by stamp, during such time and under such regulations as the commissioner, with the approval of the Secretary, shall prescribe; but if a check so received is not paid by the bank on which it is drawn the person by whom such check has been tendered shall remain liable for the payment of the tax and for all legal penalties and additions the same as if such check had not been tendered.

The amendment was agreed to.

The next amendment was, on page 277, after line 22, to insert:

FRAUDS ON PURCHASERS.

SEC. 1326. That whoever in connection with the sale or lease, or offer for sale or lease, of any article, or for the purpose of making such sale or lease, makes any statement, written or oral, (1) intended or calculated to lead any person to believe that any part of the price at which such article is sold or leased, or offered for sale or lease, consists of a tax imposed under the authority of the United States, or (2) ascribing a particular part of such price to a tax imposed under the authority of the United States, knowing that such statement is false or that the tax is not so great as the portion of such price ascribed to such tax, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $1,000 or by imprisonment not exceeding one year, or both.

The amendment was agreed to.

The next amendment was, on page 278, after line 14, to insert the following heading:

Tax simplification board.

The amendment was agreed to.

The next amendment was, on page 278, line 16, after "SEC.," to strike out "1005. (a) There," and to insert "1327. (a) That there"; so as to read:

SEC. 1327. (a) That there is hereby established in the Department of the Treasury a board to be known as the "tax simplification board" (hereinafter in this section called the "board"), to be composed as follows:

The amendment was agreed to.

The next amendment was, on page 278, line 23, after the word "officers," to strike out "or employees"; and in line 25, after the word "Secretary," to strike out "of the Treasury"; so as to read:

(2) Three members who shall represent the Bureau of Internal Revenue and shall be officers or employees of the United States serving in such bureau, to be appointed by the Secretary.

The amendment was agreed to.

The next amendment was, on page 279, line 10, after the word "Secretary," to strike out "of the Treasury"; so as to read:

(c) The Secretary shall furnish the board with such clerical assistance, quarters, and stationery, furniture, office equipment, and other supplies as may be necessary for the performance of the duties vested in them by this section.

The amendment was agreed to.

The next amendment was, on page 279, line 17, to strike out "Internal Revenue Laws," and to insert in lieu thereof "internal revenue laws," so as to read:

(d) It shall be the duty of the board to investigate the procedure of and the forms used by the bureau in the administration of the internal revenue laws, and to make recommendations in respect to the simplification thereof. The board shall make a report to the Congress on or before the first Monday of December in each year.

The amendment was agreed to.

The next amendment was, on page 280, after line 3, to strike out:

SEC. 1006. Section 3466 of the Revised Statutes is amended to read as follows:

"SEC. 3466. Whenever any person indebted to the United States is insolvent, or whenever the estate of any deceased debtor in the hands of the executors or administrators is insufficient to pay all debts due from the deceased, the debts due the United States shall first be satisfied; and the priority hereby established shall extend as well to cases in which a debtor, not having sufficient property to pay all his debts, makes a voluntary assignment thereof, or in which the estate and effects of an absconding, concealed, or absent debtor are attached by process of law, as to cases in which an act of bankruptcy is committed. Whenever a petition in bankruptcy shall have been filed the clerk of the district court in which the same is pending shall within three days after the entry of such petition of record give notice of such fact to the collector of internal revenue for the collection district in which the alleged bankrupt resides."

The amendment was agreed to.

The next amendment was, on page 280, after line 21, to strike out:

SEC. 1007. (a) Title II of the revenue act of 1917 shall be construed to impose the taxes therein mentioned upon the basis of consolidated returns of net income and invested capital in the case of domestic corporations and domestic partnerships that were affiliated during the calendar year 1917.

(b) For the purpose of this section a corporation or partnership is affiliated with one or more corporations or partnerships (1) when such corporation or partnership owns directly or controls through closely affiliated interests or by a nominee or nominees all or substantially all of the stock of the other or others, or (2) when substantially all of the stock of two or more corporations or the business of two or more partnerships is owned by the same interests: *Provided*, That such corporations or partnerships are engaged in the same or a closely related business, or one corporation or partnership buys from or sells to another corporation or partnership products or services at prices above or below the current market, thus effecting an artificial distribution of profits, or one corporation or partnership in any way so arranges its financial relationships with another corporation or partnership as to assign to it a disproportionate share of net income or invested capital.

(c) The provisions of this section are declaratory of the provisions of Title II of the revenue act of 1917.

The amendment was agreed to.

The next amendment was, on page 281, after line 21, to strike out:

SEC. 1008. (a) If subdivision (e) of section 218 of the revenue act of 1918 is by final adjudication declared invalid, there shall, in addition to all other taxes, be levied, collected, and paid on the net income received during the calendar years 1918, 1919, 1920, and 1921, by every personal service corporation included within the provisions of such subdivision, a tax equal to the taxes imposed by sections 230 and 301 of the revenue act of 1918, as in force prior to the passage of this act. In such event every such personal service corporation shall, on or before the fifteenth day of the third month following the date of such final adjudication, make, in the manner provided by the revenue act of 1918, a return for the calendar years 1918, 1919, 1920, and 1921. Such tax shall be assessed, collected, and paid upon the same basis, in the same manner, and subject to the same provisions of law, including penalties, as the taxes imposed by sections 230 and 301 of the revenue act of 1918, as in force prior to the passage of this act, but no interest shall be due or payable thereon for any period prior to the date upon which the return is herein required to be made and the first installment paid. The amount of any tax paid by any shareholder or member of a personal service corporation pursuant to the provisions of subdivision (e) of section 218 of the revenue act of 1918 shall be credited against the tax due from such corporation under this section upon the joint written application of such corporation and such shareholder or member or his representatives, heirs, or assigns, if such application is filed with the commissioner within 90 days from the date of such final adjudication.

(b) Notwithstanding any other provision of law, no claim for a credit or refund of taxes paid under subdivision (c) of section 218 of the revenue act of 1918 may be filed after the expiration of 90 days from the date of such final adjudication of invalidity: *Provided, however*, That a personal service corporation of which no shareholder or member has filed such claim within the period herein limited shall not be subject to the tax imposed by this section.

The amendment was agreed to.

The next amendment was, on page 283, after line 8, to strike out:

SEC. 1009. Subdivision (a) of section 18 of the second Liberty bond act, as amended, is amended by striking out the words and figures "for the purposes of this act, and to meet public expenditures authorized by law, not exceeding in the aggregate $7,000,000,000," and inserting in lieu thereof the words and figures "for the purposes of this act, to provide for the purchase or redemption of any notes issued hereunder, and to meet public expenditures authorized by law, not exceeding in the aggregate $7,500,000,000 at any one time outstanding."

Mr. WALSH of Massachusetts. I understand that the language stricken out on pages 281, 282, and 283 has been inserted elsewhere in the bill in different form?

Mr. SMOOT. Except section 1006, on page 280. That section is stricken out entirely. The others are all stricken out where they now appear, but will be found in their proper places in the bill, just the same as the section referred to by the Senator a few moments ago.

The amendment was agreed to.

The next amendment was, on page 283, after line 18, to insert the following heading:

CONSOLIDATION OF LIBERTY BOND TAX EXEMPTIONS.

The amendment was agreed to.

The next amendment was, on page 283, line 20, after "SEC.", to strike out "1010. The," and to insert "1328. That the," so as to read:

SEC. 1328. That the various acts authorizing the issues of Liberty bonds are amended and supplemented as follows:

The amendment was agreed to.

The next amendment was, on page 284, after line 20, to strike out:

SEC. 1011. The portions of the revenue act of 1918 repealed or amended by this act shall remain in force for the assessment and collection of all taxes which have accrued or may accrue under the revenue act of 1918 as in force prior to the passage of this act, and for the imposition and collection of all penalties or forfeitures which have accrued or may accrue in relation to any such taxes.

The amendment was agreed to.

The next amendment was, on page 285, after line 2, to insert:

DEPOSIT OF UNITED STATES BONDS OR NOTES IN LIEU OF SURETY.

SEC. 1329. That wherever by the laws of the United States or regulations made pursuant thereto any person is required to furnish any recognizance, stipulation, bond, guaranty, or undertaking, hereinafter called "penal bond," with surety or sureties, such person may, in lieu of such surety or sureties, deposit as security with the official having authority to approve such penal bond United States Liberty bonds or other bonds or notes of the United States in a sum equal at their par value to the amount of such penal bond required to be furnished, together with an agreement authorizing such official to collect or sell such bonds or notes so deposited in case of any default in the performance of any of the conditions or stipulations of such penal bond. The acceptance of such United States bonds or notes in lieu of surety or sureties required by law shall have the same force and effect as individual or corporate sureties, or certified checks, bank drafts, post-office money orders, or cash for the penalty or amount of such penal bond. The bonds or notes deposited hereunder, and such other United States bonds or notes as may be substituted therefor from time to time as such security, may be deposited with the Treasurer or an Assistant Treasurer of the United States, a Government depository, Federal reserve bank, or member bank, which shall issue receipt therefor, describing such bonds or notes so deposited. As soon as security for the performance of such penal bond is no longer necessary, such bonds or notes so deposited shall be returned to the depositor: *Provided*, That in case a person or persons supplying a contractor with labor or material as provided by the act of Congress approved February 24, 1905 (33 Stat., 811), entitled "An act to amend an act approved August 13, 1894, entitled 'An act for the protection of persons furnishing materials and labor for the construction of public works,'" shall file with the obligee, at any time after a default in the performance of any contract subject to said acts, the application and affidavit therein provided, the obligee shall not deliver to the obligor the deposited bonds or notes nor any surplus proceeds thereof until the expiration of the time limited by said acts for the institution of suit by such person or persons, and in case suit shall be instituted within such time shall hold said bonds or notes or proceeds subject to the order of the court having jurisdiction thereof: *Provided further*, That nothing herein contained shall affect or impair the priority of the claim of the United States against the bonds or notes deposited or any right or remedy granted by said acts or by this section to the United States for default upon any obligation of said penal bond: *Provided further*, That all laws inconsistent with this section are hereby so modified as to conform to the provisions hereof: *And provided further*, That nothing contained herein shall affect the authority of courts over the security, where such bonds are taken as security in judicial proceedings, or the authority of any administrative officer of the United States to receive United States bonds for security in cases authorized by existing laws. The Secretary may prescribe rules and regulations necessary and proper for carrying this section into effect.

The amendment was agreed to.

The next amendment was, on page 287, after line 22, to insert:

LOST STAMPS FOR TOBACCO, CIGARS, ETC.

SEC. 1330. That section 3315 of the Revised Statutes, as amended, is reenacted without change, as follows:

"SEC. 3315. The Commissioner of Internal Revenue may, under regulations prescribed by him with the approval of the Secretary of the Treasury, issue stamps for restamping packages of distilled spirits, tobacco, cigars, snuff, cigarettes, fermented liquors, and wines which have been duly stamped but from which the stamps have been lost or destroyed by unavoidable accident."

The amendment was agreed to.

The next amendment was, on page 288, after line 8, to insert:

CONSOLIDATED RETURNS FOR YEAR 1917.

SEC. 1331. (a) That Title II of the revenue act of 1917 shall be construed to impose the taxes therein mentioned upon the basis of consolidated returns of net income and invested capital in the case of domestic corporations and domestic partnerships that were affiliated during the calendar year 1917.

(b) For the purpose of this section a corporation or partnership was affiliated with one or more corporations or partnerships (1) when such corporation or partnership owned directly or controlled through closely affiliated interests or by a nominee or nominees all or substantially all the stock of the other or others, or (2) when substantially all the stock of two or more corporations or the business of two or more partnerships was owned by the same interests: *Provided*, That such corporations or partnerships were engaged in the same or a closely related business, or one corporation or partnership bought from or sold to another corporation or partnership products or services at prices above or below the current market, thus effecting an artificial distribution of profits, or one corporation or partnership in any way so arranged its financial relationships with another corporation or partnership as to assign to it a disproportionate share of net income or invested capital.

(c) The provisions of this section are declaratory of the provisions of Title II of the revenue act of 1917.

The amendment was agreed to.

The next amendment was, on page 289, after line 9, to insert:

ALTERNATIVE TAX ON PERSONAL SERVICE CORPORATIONS.

SEC. 1332. (a) That if either subdivision (e) of section 218 of the revenue act of 1918 or subdivision (d) of section 218 of this act is by final adjudication declared invalid, there shall, in addition to all other taxes, be levied, collected, and paid on the net income (as defined in section 232) received during the calendar years 1918, 1919, 1920, and 1921, by every personal service corporation (as defined in section 200) included within the provisions of such subdivisions, a tax equal to the taxes imposed by sections 230 and 301 of the revenue act of 1918 and, in the case of income received during the calendar year 1921, by sections 230 and 301 of this act.

(b) In such event every such personal service corporation shall, on or before the 15th day of the sixth month following the date of entry of decree upon such final adjudication, make a return of any income received during each of the calendar years 1918, 1919, 1920, and 1921 in the manner prescribed by the revenue act of 1918 (or in the manner prescribed by this act, in the case of income received during the calendar year 1921). Such return shall be made and the net income shall be computed on the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in the manner provided for other corporations under the revenue act of 1918 and this act.

(c) If either subdivision (e) of section 218 of the revenue act of 1918 or subdivision (d) of section 218 of this act is so declared invalid, claims for credit or refund of taxes paid under both such sections shall be allowed, if made within the time provided in subdivision (f) of this section.

(d) In case the claims for credit or refund, filed within six months from such date of entry of decree, represent less than 80 per cent of the outstanding stock or shares in the corporation, the amount of taxes imposed by this section upon such corporation shall be reduced to that proportion thereof which the number of stock or shares owned by the shareholders or members making such claims bears to the total number of stock or shares outstanding.

(e) The tax imposed by this section shall be assessed, collected, and paid upon the same basis, in the same manner, and subject to the same provisions of law, including penalties, as the taxes imposed by sections 230 and 301 of the revenue act of 1918 (or by sections 230 and 301 of this act, in the case of income received during the calendar year 1921), but no interest or penalties shall be due or payable thereon for any period prior to the date upon which the return is herein required to be made and the first installment paid. The amount of tax paid by any shareholder or member of a personal service corporation pursuant to the provisions of subdivision (e) of section 218 of the revenue act of 1918 or subdivision (d) of section 218 of this act shall be credited against the tax due from such corporation under this section upon the joint written application of such corporation and such shareholder or member or his representatives, heirs, or assigns, if such application is filed with the Commissioner within six months from such date of entry of decree.

(f) Notwithstanding any other provision of law, no claim for a credit or refund of taxes paid under subdivision (e) of section 218 of the revenue act of 1918 or subdivision (d) of section 218 of this act, may be filed after the expiration of six months from such date of entry of decree: *Provided, however*, That a personal service corporation of which no shareholder or member has filed such claim within the period herein limited shall not be subject to the tax imposed by this section.

Mr. WALSH of Massachusetts. That provision is an amendment offered by the Senate committee. Will the chairman state just what was the purpose in inserting this new section?

Mr. PENROSE. This is to validate the system followed with the personal-service corporations in case the provisions in relation to those corporations should be declared unconstitutional.

Mr. WALSH of Massachusetts. In case the earlier provisions relating to personal-service corporations are declared unconstitutional, this provision will become operative?

Mr. PENROSE. Yes, sir.

The amendment was agreed to.

The next amendment was, at the top of page 292, to insert:

TITLE XIV.—GENERAL PROVISIONS.

REPEALS.

SEC. 1400. (a) That the following parts of the revenue act of 1918 are repealed, subject to the limitations provided in subdivision (b):

Title II (called "income tax");

Title III (called "war-profits and excess-profits tax");

Title IV (called "estate tax");

Sections 500, 501, and 502 of Title V (being the taxes on transportation and other facilities);

Sections 503 and 504 (being the tax on issuance of insurance policies), effective January 1, 1922;

Sections 628, 629, and 630 of Title VI (being the taxes on soft drinks, ice cream, and similar articles);

Title VII (called "tax on cigars, tobacco and manufactures thereof");

Title VIII (called "tax on admissions and dues");

Title IX (called "excise taxes");

Title X (called "special taxes");

Title XI (called "stamp taxes");

Title XII (called "tax on employment of child labor"); and

Sections 1314, 1315, 1316, 1317, 1319, and 1320 of Title XIII (being certain administrative provisions).

(b) The parts of the revenue act of 1918 which are repealed by this act shall remain in force for the assessment and collection of all taxes which have accrued under the revenue act of 1918 at the time such

parts cease to be in effect, and for the imposition and collection of all penalties or forfeitures which have accrued or may accrue in relation to any such taxes. In the case of any tax imposed by any part of the revenue act of 1918 repealed by this act, if there is a tax imposed by this act in lieu thereof, the provision imposing such tax shall remain in force until the corresponding tax under this act takes effect under the provisions of this act. The unexpended balance of any appropriation heretofore made and now available for the administration of any such part of the revenue act of 1918 shall be available for the administration of this act or the corresponding provision thereof.

The amendment was agreed to.

The next amendment was, on page 293, after line 16, to insert:

INCREASE IN NOTE AUTHORIZATION.

SEC. 1401. That subdivision (a) of section 18 of the second Liberty bond act, as amended, is amended by striking out the words and figures "for the purposes of this act, and to meet public expenditures authorized by law, not exceeding in the aggregate $7,000,000,000," and inserting in lieu thereof the words and figures "for the purposes of this act, to provide for the purchase or redemption of any notes issued hereunder, and to meet public expenditures authorized by law, not exceeding in the aggregate $7,500,000,000 at any one time outstanding."

The amendment was agreed to.

The next amendment was, on page 294, after line 2, to insert:

SAVING CLAUSE IN EVENT OF UNCONSTITUTIONALITY.

SEC. 1402. That if any provision of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

The amendment was agreed to.

The next amendment was, on page 294, after line 8, to insert the following heading:

Effective date of act.

The amendment was agreed to.

The next amendment was, on page 294, line 10, after "SEC.," to strike out "1012. Except", and to insert "1403. That except"; so as to make the paragraph read:

SEC. 1403. That except as otherwise provided, this act shall take effect upon its passage.

The amendment was agreed to.

The VICE PRESIDENT. This completes the reading of the bill.

Mr. PENROSE. Mr. President, the reading of the bill is now completed, so far as its actual reading and the reading and consideration of unobjected amendments are concerned. I shall not at this late hour request the Senate to turn back and begin the consideration of the remaining amendments, but at the request of a number of Senators will be willing to forego the further consideration of the measure this afternoon, hoping, however, to bring the bill up immediately after the Senate convenes to-morrow morning.

Mr. SIMMONS. May I ask the Senator whether it is his desire to recess this evening, and if we recess, to what hour?

Mr. PENROSE. To 12 o'clock to-morrow, after the evening session.

PETITIONS AND MEMORIALS.

Mr. WILLIS presented a resolution adopted by Group 9, Ohio Bankers' Association, at its annual meeting held September 14, 1921, protesting against exempting from income tax the first $500 of income received by any taxpayer on shares or deposits in building and loan associations, which was ordered to lie on the table.

He also presented the petition of H. M. Fritch and sundry other members of the Goss Memorial Reformed Church, of Kenmore, Ohio, praying that the Navy be reduced to a peace basis; that the appropriations for the Navy be reduced; that the Army be not increased, and commending President Harding in his plans for a conference on disarmament, which was referred to the Committee on Foreign Relations.

He also presented a memorial of the Park Savings Co., of Columbus, Ohio, remonstrating against any discriminatory taxation of domestic building and loan associations operating under the laws of the various States, which was ordered to lie on the table.

Mr. SHORTRIDGE presented four memorials of sundry citizens of Orange, Escondito, Hemet, and Loma Linda, all in the State of California, remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which were referred to the Committee on the District of Columbia.

He also presented 41 telegrams in the nature of petitions from the Los Angeles Chamber of Commerce, and candy manufacturers and retailers of California, as follows: Matthews Candy Co., Renshaw, Jones & Sutton Co., Bishop & Co., Geo. W. Leihy Candy Co., H. Jevne Co., California Chocolate Shops (Inc.), Kahn, Beck & Co., Paulais Co., Hoffman Candy Co., Busy Bee Candy Manufacturing Co., W. N. Petitfils, Pig Whistle Co., of Los Angeles; Harry Hoefler Candy Co., Pacific Coast Candy Co., Boldemann Chocolate Co., California Candy Co., Gimbal Bros., M. Zeiss, Foster & Orear, Lyons California Glace Fruit Co., California Retail Candy Dealers' Association, D. Ghirardelli Co., Benj J. Baum, the Golden Pheasant, Geo. Haas & Sons, Henry Rhine & Co., Sunset Nut Shelling Co., L. Demartini Supply Co., Pig and Whistle Co., of San Francisco; the White Peacock (Inc.), Vernon Peck, Varsity Candy Shop, of Berkeley; Izer Davis Candy Co., Showley Bros., Ingersoll Candy Co., of San Diego; Cardinet Candy Co., E. Lehnhardt, of Oakland; R. L. Jones, Oroville; San Joaquin Valley Retail Candy Dealers' Association, Ernest Wilson, Palo Alto, Stanford, San Jose, Turlock, Fresno, all of the State of California, praying for the enactment of legislation providing a uniform tax of 3 per cent on candy, which were ordered to lie on the table.

Mr. LADD presented a resolution adopted by the Wellsburg (N. Dak.) Women's Nonpartisan Club, favoring the calling of an international disarmament conference and protesting against further increases in appropriations for future military purposes pending the conference, which was referred to the Committee on Foreign Relations.

He also presented telegrams in the nature of petitions from the Chaney Everhart Candy Co., of Fargo; the Stern Candy Co., of Valley City; and the Congress Candy Co., of Grand Forks, all in the State of North Dakota, praying for the enactment of legislation providing a uniform tax of 3 per cent on candy, which were ordered to lie on the table.

He also presented a resolution adopted by the Grand Forks (N. Dak.) Civil League, protesting against the enactment of legislation imposing a duty on herrings and mackerel in brine packed in containers of over 30 pounds, 1½ cents per pound, gross weight, etc., which was referred to the Committee on Finance.

He also presented a memorial of sundry citizens of Sanborn, N. Dak., remonstrating against the enactment of legislation imposing a luxury tax on musical instruments, which was ordered to lie on the table.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SWANSON:

A bill (S. 2505) for the relief of Walter S. Warner; to the Committee on Claims.

By Mr. SPENCER:

A bill (S. 2506) granting an increase of pension to Ethel Kingsbury; to the Committee on Pensions.

By Mr. McKELLAR:

A bill (S. 2507) to extend the time for the construction of a bridge across the Cumberland River in Montgomery County, Tenn.; to the Committee on Commerce.

By Mr. LADD:

A bill (S. 2508) granting the consent of Congress to the counties of Cass, N. Dak., and Clay, Minn., and their successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the Red River of the North at a point suitable to the interests of navigation between the cities of Fargo, N. Dak., and Moorhead, Minn.; to the Committee on Interstate Commerce.

By Mr. McKELLAR:

A bill (S. 2509) granting an increase of pension to Annie N. Sullivan; to the Committee on Pensions.

By Mr. CURTIS:

A joint resolution (S. J. Res. 121) authorizing the Shipping Board to modify and adjust contracts covering the sale of vessels; to the Committee on Commerce.

AMENDMENTS OF TAX REVISION BILL.

Mr. McNARY, Mr. SHORTRIDGE, and Mr. FLETCHER each submitted an amendment, intended to be proposed to House bill 8245, the tax revision bill, which were ordered to lie on the table and to be printed.

RECESS.

Mr. LODGE. I move that the Senate now take a recess until 8 o'clock p. m., at which hour it is my intention to move that the Senate proceed, in open executive session, to consider the treaties with Germany, Austria, and Hungary, and no other business to be transacted.

The motion was agreed to; and (at 5 o'clock p. m.) the Senate took a recess until 8 o'clock p. m.

EVENING SESSION.

The Senate reassembled at 8 o'clock p. m., on the expiration of the recess.

TREATY OF PEACE WITH GERMANY.

Mr. LODGE. I move that the Senate proceed in open executive session to consider the treaty with Germany.

The motion was agreed to; and the Senate, as in Committee of the Whole and in open executive session, resumed the consideration of the treaty between the United States and Germany signed August 25, 1921, to restore friendly relations existing between the two nations prior to the outbreak of war.

Mr. LODGE. Mr. President, I now make the point of no quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Borah	Frelinghuysen	Lodge	Sheppard
Brandegee	Gooding	McCumber	Shortridge
Broussard	Hale	McKellar	Smoot
Capper	Harreld	McKinley	Spencer
Colt	Harrison	McNary	Sutherland
Curtis	Kellogg	New	Townsend
Dial	Kenyon	Oddie	Underwood
Ernst	Ladd	Overman	Wadsworth
France	La Follette	Reed	Willis

The VICE PRESIDENT. Thirty-six Senators have answered to their names. A quorum is not present. The Secretary will call the roll of absentees.

The Secretary called the names of the absent Senators, and Mr. POMERENE, Mr. STERLING, and Mr. WATSON of Indiana answered to their names when called.

Mr. EDGE, Mr. DILLINGHAM, and Mr. CAMERON entered the Chamber and answered to their names.

The VICE PRESIDENT. Forty-two Senators having answered to their names, a quorum is not present.

Mr. LODGE. I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The VICE PRESIDENT. The Sergeant at Arms will execute the order of the Senate.

Mr. HEFLIN, Mr. WATSON of Georgia, Mr. KING, Mr. NICHOLSON, Mr. MOSES, Mr. TRAMMELL, Mr. LENROOT, and Mr. HITCHCOCK entered the Chamber and answered to their names.

The VICE PRESIDENT. Fifty Senators have answered to their names. A quorum is present.

Mr. KELLOGG. Mr. President, I listened with great admiration to the eloquent speech of the Senator from Idaho [Mr. BORAH]. His eloquence charmed me even if his logic did not convince me. He objected to the pending treaty with Germany principally because it entangled us in the affairs of Europe. The Senator from Mississippi [Mr. WILLIAMS] objected to it principally because it did not entangle us sufficiently. The Senator from Idaho further objected to the treaty because it was too burdensome and oppressive upon Germany, while the Senator from Mississippi objected because it is not burdensome enough. They took different routes, but they arrived at the same goal—opposition to the treaty.

Mr. President, it seems to me that if one will consider the treaty fairly he will come to the conclusion that it obtains for this country all that could be obtained without negotiating a treaty not only with Germany but with the allied and associated powers. I take it that the principal objection of the Senator from Idaho is that we should not adopt any part of the treaty of Versailles or obtain any rights or privileges under that instrument, for he denounced that treaty in unmeasured terms and laid to it all of the ills which Europe is now suffering.

Mr. President, all the ills of Europe can not be laid to the Versailles treaty. I do not think I am called upon to defend that treaty in all of its parts, as some of its provisions I have heretofore criticized and time has only deepened my conviction of their unwisdom; but that treaty is not the cause of the unfortunate condition of the peoples of Europe to-day. That condition is due to the war.

The war swept over Europe like a consuming flame, leaving in its pathway destroyed nations and institutions, the growth of centuries, ruined cities, and devastated lands and homes. There is in the Old World disorder and anarchy, starvation and disease, but they were not caused by the Versailles treaty. You can not uproot the governments and the economic laws of centuries of growth and stir up all the hatreds of peoples without bringing about disorder and anarchy. I believe anyone who will candidly consider the facts will come to this conclusion.

In my judgment the hope of the restoration of order, prosperity, and happiness among the peoples of Europe lies in the maintenance of the present Governments there existing to-day—in Germany, in Poland, in Czechoslovakia; and especially, I might say, in Germany—because if those Governments fail what will come next?

I am not an advocate of meddling in all the affairs of Europe. I did not believe that it was our province to fix the boundaries, to set up the various Governments, or to guarantee their territorial integrity and their political independence, and I would not vote for it. I do not believe that that is one of the things which should be cast upon this country as the result of the war. But, Mr. President, Europe can not relapse into chaos and we remain untouched by it. The flame of revolution and anarchy which lights the skies of Russia to-day, if these Governments fail, may sweep westward to the Atlantic and may touch the Western Hemisphere.

Can we say that we are not interested in order, in prosperity, in the return of orderly economic laws in Europe—although we can, I believe, say that many of the burdens which the original treaty cast upon this country were not and should not be for us to assume.

The Senator from Idaho [Mr. BORAH] denounced the Versailles treaty because it enslaved the peoples of Europe. It did not enslave Poland, Czechoslovakia, Rumania, Serbia, Lithuania, Finland, or Esthonia. In fact, Poland, for the first time in a century, is realizing her aspirations of self-government. Czechoslovakia, out from under the iron rule of the Hapsburgs, is fast coming to order, prosperity, and the establishment of a stable government.

Mr. President, the Senator from Idaho principally turned his vials of wrath upon that part of the treaty dealing with reparations. I am not sure that all of the provisions of the treaty in this regard are wise. I am not sure that Germany can make all the payments there provided for and maintain her economic life; but, as the Senator said, these provisions were drafted at the close of a great war. Western Europe, and especially France, stood in terror of a resumption of hostilities by the Central Empires. If some of these provisions are not wise, if they can not be carried out, and Germany maintains a stable government and prosperity, they should be modified; but remember that Germany could not pay all of the indemnity at once, as France did in 1871. Remember that the allied Governments could not enter into Germany and take possession of it and hold it until those payments were made. It might have been better had they marched to Berlin; but to remain there through the years that Germany was required to make these payments of reparations could not be done, and France demanded certain guaranties. Some of them may not be equitable; some of the obligations upon Germany may not be carried out; but we must remember the circumstances under which and the times when this treaty was made.

But, Mr. President, whatever may be said, the treaty is in existence, signed by Germany, Japan, England, France, and Italy. The Reparation Commission is functioning, and it was impossible for us to make a treaty without negotiating with all of the allied powers that were parties to that treaty. If we had attempted this in advance of making this treaty, months, perhaps years, would have elapsed before we would have come to a final agreement with Germany and ended the war. I believe, therefore, we should make this treaty, end the war, appoint our ambassador and commercial agents to Germany, resume trade relations, and lend our influence toward her rehabilitation.

I wish now, Mr. President, as briefly as possible, to take up certain parts of this treaty, and I believe I can demonstrate that we are not imperiling our Government or our people by meddling in the affairs of Europe.

It is not possible for this country to carry on a great war like the World War in connection with England, France, Italy, and Japan and utterly ignore them in making a treaty, or make a treaty solely by ourselves. The Senator from Idaho denounced this treaty on the ground that we are taking all the benefits and assuming none of the obligations. I do not believe that that criticism is just; but, if it is, I know of no one more responsible for the failure of this country to assume some of the obligations than the distinguished Senator from Idaho. Many of those obligations I was not willing that this country should assume, and I have not changed my mind in that regard. I am not going to discuss over again the issue of the League of Nations. This treaty renounces it. I believe that there are parts of the Versailles treaty to which we should not become parties, which we should not sanction, and they are specifically mentioned and repudiated in the treaty before the Senate—the League of Nations with its guaranties of territorial integrity and political independence, fixing the boundaries and setting up the various governments of Europe. I do not think we are taking the benefits and refusing to assume

obligations when we decline to do that. England and France and Italy are living in the neighborhood of these countries. Their position is different. England had to fight this war or have the British Empire go down. It was different with us. Take the Shantung deal. Would anyone have us assume that obligation? That is one that we refused to take upon ourselves; then there are the labor provisions and others. I say that we are not taking the benefits and refusing to assume proper obligations when we refuse to ratify those provisions.

Let me now briefly call the attention of the Senate to parts of the Versailles treaty, under which we obtain rights, advantages, and privileges under the present treaty.

Take section 1, Part IV. By section 1, Part IV of this treaty, Germany renounces in favor of the principal allied and associated powers all her rights and titles over her oversea possessions. I can not see how accepting the benefits of the provisions of this part of the Versailles treaty can in any way involve the United States in controversy. If we do not wish to take any part of those oversea possessions, we are at perfect liberty to renounce them. If we do decide that we want any part of them, they have been made over to the allied and associated powers, and we are only one of the five, and we would necessarily have to deal with the other powers in order to obtain our rights under those provisions.

Suppose that we should want to take the Island of Yap for a cable station. Can we procure it by a separate treaty with Germany without recognizing the rights of the allied and associated powers under this treaty? We certainly can not. I do not believe that it is the policy of this country, or should be, to take the colonies or to take mandates over any of the colonies of Germany; but we do not assume to do it; we are under no moral obligation to do it, by ratifying this treaty.

Take Part V of the Versailles treaty. By this treaty we also accept the rights and advantages stipulated for the benefit of the United States of the Versailles treaty. Part V provides for the disarmament of Germany, limits the size of its army, the manufacture of armament, munitions, and war materials, provides for the manner of recruiting and military training, the reduction of fortifications, the size of the navy, the size and control of the air service, and provides for an interallied commission to enforce these articles.

We carried on the war, at great sacrifice of life and of money, in order that Germany might not again imperil the peace of the world. Are we not interested in her disarmament? Is there any reason why we should not take the benefits to us of disarming Germany so that she may not again inflict such a calamity upon the world?

The President has called a limitation of armaments conference to meet in Washington. I know of no greater advocate of that than the distinguished Senator from Idaho [Mr. BORAH]. Yet the Senator would not have us join in a treaty or take the provisions of a treaty which disarms Germany, the arch criminal of the age.

Clearly, the United States could not make a separate peace with Germany on the question of disarmament and limitation of armaments or military training. Germany could not comply with one standard at the instance of the United States and with another standard at the instance of France, Italy, Japan, and England. True, we may not be interested so much in that provision of the treaty as are France, England, and Italy, living next door to Germany, but, Mr. President, we are interested in the peace of the world; we are interested in the rehabilitation of Germany.

The President never said a truer or a wiser thing than when he said this, when he delivered his message to Congress:

> It would be idle to declare for separate treaties of peace with the Central Powers on the assumption that these alone would be adequate, because the situation is so involved that our peace engagements can not ignore the Old World relationship and the settlements already effected, nor is it desirable to do so in preserving our own rights and contracting our future relationships.

This article demonstrates the wisdom of that.

Part VI of the treaty provides for the repatriation of prisoners of war and interned civilians, and an agreement for the respect and maintenance of the graves of soldiers and sailors buried in their respective territories. I make no comment upon that provision.

But the main argument of the Senator from Idaho is that the Reparation Commission, under Part VIII of the Versailles treaty, is a supergovernment, imposing upon Germany burdensome and impossible obligations, and that we will become a party to it, therefore we should not make the treaty at all, should have a separate treaty with Germany, but fight every step which might in any way involve us in any understanding with the allied or associated powers.

As I said before, I am not at all convinced that all of the provisions in relation to reparations are wise. It may be that the reparations demanded are greater than Germany can pay. But no one will deny the justice of compelling Germany to pay all she can. She ruthlessly inflicted upon the Allies and upon the world the greatest disaster recorded in all history. The reparations should not be so great, the penalties for her conduct should not be such as to ruin her people and destroy their aspirations, but they should be so great as to compel her to make restitution so far as she can, and to be a warning to the nations of the world in the future.

But, as I said before, the Versailles treaty is fait accompli. It has been made and is in existence, with the Reparation Commission, with all its power, its financial clauses, its provisions for the abrogation of treaties, and this commission is in existence with the same economic power over Germany whether we accept any of these provisions or not, and I know of no way whereby the United States can enter into a separate treaty, accomplishing all we desire and should accomplish, for this country, without either negotiating with those allied powers or becoming a party to the Reparation Commission. We have the option to join the Reparation Commission. I do not say we should; that is a question which will be considered when the subject comes before Congress. As I have said before, if we should undertake to negotiate an entirely separate treaty, it would lead to long negotiations and delays, and I consider it extremely doubtful if we ever could obtain all the rights that we can obtain under this treaty now before the Senate.

Let me illustrate. Germany, by Part VIII of the treaty, acknowledges responsibility to the allied and associated Governments for all loss and damage to them and their nationals on account of the war. That includes the United States. She agrees to pay to the Reparation Commission a lump sum in reparation, which is undoubtedly all she ultimately will be found able to pay, if not more. Upon this question I express no opinion. I do not think it is important in the discussion of this treaty.

Germany undertakes to maintain legislation, orders, and decrees necessary to carry out these provisions, and to give the Reparation Commission the right to examine its tax system, to the end that the sums agreed to be paid in reparation may be a charge upon its revenues prior to that for its domestic loans.

Those provisions are denounced by the Senator from Idaho because they impose upon Germany an intolerable supervision. There is no obligation under the reparation clause or any provision of this treaty resting upon any single power to enforce those provisions, but when you stop to look at it candidly, was France or England or Belgium simply to take the promise of Germany, without a knowledge of what she was doing about the payment of her domestic loans in relation to her commerce, her gold exports, and other things that are provided for in this treaty? Whether those provisions were wise or not, they exist in this treaty just as much as though we were not parties to it, and there is no obligation whatever resting upon this country to use an army to enforce it, as was intimated in the Senate the other day.

Under the financial clauses, Part IX, the cost of these reparations is made a first charge on all the assets and revenues of the German Empire and its constituent States. Here we have a treaty in existence, we might say, mortgaging the revenues and property of Germany to the allied and associated powers, to be enforced by the Reparation Commission. What position would we be in to make a treaty and obtain any payment with all the property of Germany and its revenues mortgaged under this treaty? Stop and think about it.

By Annex III Germany recognizes the right of the allied and associated powers to the replacement, ton for ton, gross tonnage, and class for class, of all merchant ships and fishing boats lost or damaged owing to the war, and has turned over a large amount of her shipping to the Reparation Commission to make good this loss, and contracted with the allied and associated powers to construct other ships for these purposes. In what position would we be to obtain any part of the ships turned over, or those being manufactured, unless we negotiated first with the allied and associated powers, because we find a condition existing which we can not ignore?

So, as I think I can demonstrate, whether we take any benefits accruing to the United States under this treaty or not, we could not collect damages for our ships sunk, or reparations, if we desired to, without separate negotiations with these powers or enforcement through the Reparation Commission, because the resources of Germany have been turned over to the Reparation Commission, and ability to pay is, to a large extent, limited by the provisions of the Versailles treaty.

By making this treaty we do not prevent this country from negotiating with Germany as to the amount of any damages to

which we are entitled, but we are then confronted with the proposition of how we are going to get paid for it in view of the provisions of this treaty now in force.

But we should obtain peace at once, reestablish our diplomatic and consular relations, protect our trade and commerce, and use our influence in a perfectly proper manner for the rehabilitation of Germany, a matter of profound interest to this country. We can not be prosperous with all central Europe in chaos. I do not mean by that that the responsibility for the rehabilitation of Germany, or carrying out all the provisions of this treaty, is upon us, but to say that we should withdraw entirely, have nothing whatever to do with Europe, enter into no negotiations or treaties with the allied powers, simply make a treaty with Germany which we could not enforce, in my judgment, is not in the interest of the people of this country.

Whether we finally decide to insist on receiving through Germany a part of the general reparation fund is a matter we can hereafter decide just as well as we can decide it now by a separate treaty.

By article 231 Germany assumes an obligation to us for all loss and damage on account of the war, and places us upon an equality in this regard with the other allied nations. This gives us an advantageous position, because the allied powers owe us a large amount of money, and their ability to pay depends, I have no doubt, a great deal upon their ability to collect the reparation from Germany. We certainly, if we forego our indemnity for the losses and damages of war, are in a very advantageous position to insist that if the allied powers get that indemnity they should pay us the $10,000,000,000 they owe us. Would we be in any better position to make a treaty with Germany to-morrow and say we take no reparation at all, waive it entirely before we have settled with the allied and associated powers for the billions they owe us? I can not see it in that light.

It was said by the Senator from Idaho, as I understood him, that if we entered the treaty we must obtain everything through the Reparation Commission, that there are no provisions securing advantages directly to us or directly for our benefit. That is as I understood the Senator. It is impossible for me to-night in the few moments more which I expect to occupy the attention of the Senate to detail every advantage stipulated for our benefit in the provisions of Parts VIII, IX, X, XI, XII, XIV, and XV of this treaty, under which it is stipulated by the treaty before the Senate that the advantages and benefits shall accrue to this country, but let me mention a few of them. So far as I have been able in the short time at my command I have made a memorandum of the benefits which accrue to us under the treaty.

By article 232 Germany becomes obligated to pay the debts of Belgium to the allied and associated powers. This includes us. It is a direct obligation. It is true, to be sure, that the amount is to be found by the Reparation Commission, but there is no dispute about the amount that Belgium has borrowed from this country.

She obligates herself to replace all of our merchant ships lost or damaged in the war and waives all claims against the allied and associated powers for loss or damage to German ships or boats, but she has turned over to the Reparation Commission all of the ships that she could spare from her merchant marine, and perhaps more, and has contracted to build additional ships. How are we going to obtain ships to take the place of those lost?

The costs of the army of occupation during the armistice and since the making of the treaty of Versailles are to be a first charge upon those lump sums paid to the Reparation Commission. How are we going to obtain that if we should make a treaty with Germany to-morrow that she would pay us for the expenses of our army of occupation? Where will she get the money? I think it is recognized that the obligations she has assumed under this treaty are all, at least, that she will be able to pay.

Germany undertakes that goods the produce or manufacture of any of the allied or associated States imported into German territory, from whatsoever place arriving, shall not be subject to either high or higher duties or charges, including internal charges, than those to which like goods the produce or manufacture of any other such State or any other country are subject, and agrees also not to discriminate against the commerce of any of the allied and associated States. That is covered by articles 264, to 286, inclusive, Part X.

I have heard it said that we were going to enter into this alliance, these entanglements, for the benefit of trade and commerce. Are we not interested in the trade and commerce of the central empires and all of eastern Europe? Are we to maintain our great export commerce if central Europe goes into chaos or Germany discriminates against us or Austria or Hungary discriminates against us? Is not that an advantage which we have a right to take under the treaty, and how can we be prejudiced and how are we entangled by accepting this guaranty from Germany? Will it be more to our advantage if we take it by separate treaty than if we take it under a treaty that has already been negotiated?

Germany undertakes to accord the vessels of the allied and associated powers the most favored nation terms for sea fishing, maritime coast trade, and maritime trade generally. That is another advantage accruing to the United States.

Germany undertakes to give the nationals of the allied and associated powers equal rights in regard to the exercise of trade, profession, or industry with the aliens of all countries and stipulates that the persons and property of the nationals of the allied and associated powers shall be protected and have free access to the courts of law. This is provided in articles 276 and 277.

Another provision of the treaty that is of very great importance is section 2, providing for the abrogation of existing treaties, and prevents Germany from claiming anything under the old treaties with this country. It also applies to the postal conventions, telegraph conventions, and various other conventions in which we are interested. If Senators will refresh their memories, they will find in existence between this country and Prussia a treaty which was afterwards assumed by Germany, which we claim of course Germany violated, but which we have insisted, on account of her violation, we will not live up to. All of these treaties are abrogated by the Versailles treaty equally for the benefit of the United States.

Another provision of the treaty for our benefit as well as the benefit of the other allied powers is the settlement of debts owing from German nationals to American nationals, and vice versa. We are left free to create our own clearing-house office, or to adopt a clearing house already created. I shall not stop to describe the provisions of this part of the treaty. It provides, as is usual in such cases, that Germany guarantees the debts of her nationals and we of ours, except where the debts were uncollectible on account of bankruptcy, and so forth. It provides a system of clearing those debts.

But one of the most important of these provisions is the adjustment of the claims by American citizens for property taken from them by the German Government or injury to such property rights or interests during the war, and also for the adjustment of claims by German nationals for property taken by the United States after we entered the war. As to the latter Germany ratifies and is bound by all acts for the taking, conversion, and handling of the property of her citizens in the United States. I know that in the past it has been the policy of the United States not to confiscate the property of aliens in this country during war. I presume that we will follow this honorable policy in the settlement of alien property in this country. But we obtain by this treaty the guaranty of Germany to pay for all property which has been taken from American citizens in Germany or any of her possessions, and all damages thereto.

Mr. KING. Mr. President, would it interrupt the Senator for me to propound a query at this point?

The PRESIDING OFFICER (Mr. SHORTRIDGE in the chair). Does the Senator from Minnesota yield to the Senator from Utah?

Mr. KELLOGG. Certainly.

Mr. KING. Do I understand the Senator to take the position that we will restore to German nationals property which we sequestrated and which is now in the possession of the Alien Property Custodian?

Mr. KELLOGG. No; I do not take any such position. I do not know whether we will or not. If Germany restores to our citizens all the property taken from them, it may be that we will do the same with the citizens of Germany in this country. That has been the policy of this country in the past.

Mr. KING. I invite the attention of the learned Senator to the fact that Germany has restored to American citizens all real estate, all stocks and bonds, and all property, unless, perhaps, money deposited in banks, which were sequestrated during the war and which she held until some recent ordinances were passed by the Reichstag.

Mr. KELLOGG. She undoubtedly has restored some. We have restored some, too, by act of Congress, and we have some prewar claims. I might say further that Germany recognizes our right, however, to do as we see fit with this property. I do not say that that is any objection to this treaty.

I think the Senator from Utah objected the other day that this treaty did not settle any of the details in relation to this property. I would like to ask the Senator if he ever knew of a treaty of peace that contained in the body of the treaty the

detailed settlement of all the claims of the nationals of each country? If we waited to do that we would not make a treaty in 20 years.

Mr. KING. If the Senator asks that as a question——

Mr. KELLOGG. What a treaty always does is to set out certain general principles, obtain certain rights, and the details are worked out afterwards exactly as they will be worked out in this instance.

Mr. KING. Mr. President, I agree entirely with the Senator. He is mistaken in assuming that I took the position which he attributes to me. I did not object to the treaty because of a lack of detail. I insisted that we could not write into the Versailles treaty all the details incident to the settlement. The Senator is attributing to me a position which was assumed by some other Senator.

But, if I may be pardoned just one moment more, does the Senator think, in the light of the historic position of the United States from the time of the Jay treaty down to the present, that we should confiscate the property of German nationals and devolve upon Germany the duty of compensating them, bankrupt as she is, when they have invested money in the United States and their property perhaps for the benefit of Americans as well as for the benefit of themselves?

Mr. KELLOGG. I have taken no such position. I have said that it is the traditional policy of this country not to confiscate property of aliens taken by the Government during the war.

Mr. KING. Then if that is true the Senator must change his answer which he made a moment ago and admit that we should restore to German nationals the property now in the possession of the Alien Property Custodian.

Mr. KELLOGG. There is absolutely nothing in this treaty that would indicate that we did not intend to do it. This treaty grants us certain rights and leaves it for Congress to provide for the disposition of the alien property taken. This treaty leaves it just where the Congress left it. When we took over that property it was provided that it was to be held in trust and disposed of by Congress, and Germany consented to that and leaves it for the Congress to dispose of. I am disposed to think that the Congress will be just and equitable to the German nationals.

Mr. KING. I hope we will do so, and I hope that we will restore it to German nationals and make Germany pay American nationals for damages which they sustained at the hands of the German Government.

Mr. KELLOGG. By this treaty Germany agrees to assume and does assume all obligations, and agrees to pay the Government of the United States for all property taken and all damage to property taken from American citizens anywhere within the German Empire.

Another portion of the treaty of Versailles, under the head of "Contracts, prescriptions, and judgments," being section 5, articles 299 to 303, and the annex, provides for the abrogation of contracts existing between American and German nationals during the war for the extension of the limitation of the right of action, for the enforcement of judgments, with provisions in relation to stock exchange and commercial exchange contracts, securities, negotiable instruments, contracts of insurance, fire, life, marine, and reinsurance. They are too long for me to detail in this speech. There are many others, but these will suffice to illustrate the advantages which we have and which we may take under this treaty, the details of which are settled by the provisions of Parts VIII, IX, X, XI, XII, XIV, and XV of the Versailles treaty.

There is one other provision of the treaty of Versailles to which I should like to call the attention of the Senate, and then I am through. Article 439 is a very important article. Allow me to read it. It provides as follows:

> Without prejudice to the provisions of the present treaty, Germany undertakes not to put forward, directly or indirectly, against any allied or associated power, signatory of the present treaty, including those which, without having declared war, have broken off diplomatic relations with the German Empire, any pecuniary claim based on events which occurred at any time before the coming into force of the present treaty. The present stipulation will bar completely and finally all claims of this nature, which will be thenceforward extinguished, whoever may be the parties in interest.

Mr. President, in closing let me say that if the United States Government was required to obtain all of these rights which we should obtain and which are just and equitable and to which the people of the United States are entitled by a separate treaty with Germany which does not refer to at all but utterly ignores the Versailles treaty, months and perhaps years of negotiation would take place between the United States and Japan, the United States and Great Britain, and France and Italy in order to settle the various rights and obligations provided for in this treaty. I have not heard any Senator say that they give to this country more than we are entitled to. I have heard the Senator from Mississippi say that we do not assume obligations which we ought to assume, and I do not agree with him. I do not believe the Senate agrees with him. I believe that the provisions of this treaty which Germany has made, the details of these advantages which are set forth in the Versailles treaty, are no more than just and equitable to the American people, and I do not believe they could be obtained without months of delay.

Three years have elapsed, Mr. President, since the close of this memorable war. It is time that peace was declared between the Central Empires and the United States. I am not going to hark back to the discussions and the dissensions which have delayed the consummation of peace; that is past history. We are confronted now with a treaty, and the question is, Shall we ratify it or shall we not? As the Senator from Massachusetts said the other day, if we do not ratify it, what are we going to do? Are we going to continue this intolerable state or condition of war? Are we going to cut off all relations with the Central Empires? Are we going to ignore their trade? Are we going to ignore their restoration to prosperity? I know of no country which will receive greater advantages by the restoration of trade and commerce than the United States. Let us have the treaty ratified and end this condition.

Mr. LODGE. Mr. President, I do not know whether there is any other Senator who desires to speak to-night. If there is not, I shall in a moment make a motion to take a recess. Before doing so I desire to say that to-night I shall not press for a vote or say that unless Senators are ready to speak we must vote; but to-morrow evening it is my intention to ask Senators either to debate or let us vote on the treaty.

I now ask that the order to the Sergeant at Arms be vacated.

The PRESIDING OFFICER (Mr. SHORTRIDGE in the chair). Without objection, the order will be vacated.

RECESS.

Mr. LODGE. I move the Senate take a recess until 12 o'clock to-morrow, as the minority desire to consider the treaty further. I make the motion as in legislative session.

The motion was agreed to; and (at 9 o'clock and 20 minutes p. m.) the Senate, as in legislative session, took a recess until to-morrow, Thursday, September 29, 1921, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *September 28, 1921.*

The House met at 12 o'clock noon, and was called to order by Mr. WALSH as Speaker pro tempore.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Blessed Lord, of all this wondrous world which we see, Thou art the God of life, of light, and of wisdom. May we turn our eyes toward these and take up the tasks of each day. Endow us with Thy strength in joy and in pain and never allow us to stand alone and may all sorrow be dissolved in the sunshine of Thy love. We ask in the name of Jesus our Savior. Amen.

The Journal of the proceedings of Saturday, September 24, 1921, was read and approved.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message in writing from the President of the United States was communicated to the House of Representatives by Mr. Latta, one of his secretaries, who informed the House of Representatives that the President had on the following dates approved and signed bills and joint resolutions of the following titles:

On August 24, 1921:

H. J. Res. 138. Joint resolution to repeal so much of the act of Congress approved February 28, 1920, as provides for the sale of Camp Eustis, Va.;

H. R. 8107. An act to control importations of dyes and chemicals;

H. R. 8117. An act making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1922, and for other purposes; and

H. R. 1942. An act for the relief of the owners of the dredge *Maryland*.

On July 26, 1921:

H. J. Res. 31. Joint resolution authorizing and directing the accounting officers of the Treasury to allow credit to the disbursing clerk of the Bureau of War Risk Insurance in certain cases.

On July 29, 1921:

H. R. 5651. An act providing for a preliminary examination of the Yazoo River, Miss., with a view to the control of its floods.

On August 9, 1921:

H. R. 6611. An act to establish a Veterans' Bureau and to improve the facilities and service of such bureau, and further to amend and modify the war risk insurance act.

On August 15, 1921:

H. R. 6320. An act to regulate interstate and foreign commerce in live stock, live-stock products, dairy products, poultry, poultry products, and eggs, and for other purposes.

On August 16, 1921:

H. R. 7208. An act to extend the time for the construction of a bridge across the Roanoke River in Halifax County, N. C.; and

H. R. 7328. An act to authorize the construction of a bridge across the Pend d'Oreille River, Bonner County, Idaho, at the Newport-Priest River Road crossing, Idaho.

On August 17, 1921:

H. J. Res. 112. Joint resolution authorizing the erection on public grounds in the city of Washington, D. C., of a memorial to employees of the United States Department of Agriculture who died in the war with Germany.

On August 18, 1921:

H. R. 1269. An act to make a preliminary survey of the Calaveras River in California with a view to the control of its floods.

On August 19, 1921:

H. R. 6877. An act to permit a compact or agreement between the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming respecting the disposition and apportionment of the waters of the Colorado River, and for other purposes.

On August 22, 1921:

H. J. Res. 153. Joint resolution permitting the admission of certain aliens who sailed from foreign ports on or before June 8, 1921, and for other purposes.

On August 23, 1921:

H. J. Res. 195. Joint resolution authorizing the payment of salaries of officers and employees of Congress for August, 1921;

H. R. 1475. An act providing for a grant of land to the State of Washington for a biological station and general research purposes; and

H. R. 1940. An act for the relief of the Southern Iron & Metal Co., Jacksonville, Fla.

On August 24, 1921:

H. R. 1945. An act for the relief of E. W. McComas;

H. R. 2117. An act for the relief of the city of West Point, Ga.;

H. R. 4813. An act changing the period for doing annual assessment work on unpatented mineral claims from the calendar year to the fiscal year beginning July 1 each year;

H. R. 5621. An act for the disposal of certain lands in the town sites of Fort Madison and Bellevue, Iowa;

H. R. 5676. An act taxing contracts for the sale of grain for future delivery and options for such contracts and providing for the regulation of boards of trade, and for other purposes;

H. R. 6407. An act for the relief of Maj. Francis M. Maddox, United States Army;

H. R. 6514. An act granting Parramore Post, No. 57, American Legion, permission to construct a memorial building on the Federal site at Abilene, Tex.; and

H. R. 7255. An act authorizing bestowal upon the unknown unidentified American to be buried in the Memorial Amphitheater of the National Cemetery at Arlington, Va., the congressional medal of honor and the distinguished service cross.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, one of its clerks, announced that the Senate had passed joint resolution and Senate concurrent resolution of the following titles, in which the concurrence of the House of Representatives was requested:

S. J. Res. 117. Joint resolution to authorize the loan by the Secretary of War to the commander in chief of the United Confederate Veterans of cots and tents for the use of the members of the United Confederate Veterans during the sessions of the national encampment of the Confederate Veterans at Chattanooga, Tenn., from October 24 to October 27, 1921; and

Senate concurrent resolution 12.

Resolved by the Senate (the House of Representatives concurring), That the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes, as reported to the United States Senate on September 26, 1921, be printed as a Senate document, with an index, and that 19,000 additional copies be printed, of which 7,000 shall be for the Senate document room, 10,000 for the House document room, 1,000 for the Committee on Finance of the Senate, and 1,000 for the Committee on Ways and Means of the House of Representatives.

SENATE BILL REFERRED.

Under clause 2, Rule XXIV, Senate joint resolution (S. J. Res. 117) to authorize the loan by the Secretary of War to the commander in chief of the United Confederate Veterans of cots and tents for the use of the members of the United Confederate Veterans during the sessions of the national encampment of the Confederate Veterans at Chattanooga, Tenn., from October 24 to October 27, 1921; to the Committee on Military Affairs.

PRINTING OF THE TAX BILL.

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that Senate concurrent resolution No. 12, which is messaged over by the Senate, be laid before the House and may be presently considered.

The SPEAKER pro tempore. The gentleman from Minnesota asks unanimous consent that the Senate concurrent resolution No. 12 may be now considered.

Mr. GARRETT of Tennessee. Mr. Speaker, reserving the right to object, I understand this is the resolution which authorizes the printing in parallel columns of the revenue bill, so as to enable the Members to make a comparison between the present law and the House bill?

Mr. ANDERSON. I do not know in just what form the bill is to be printed; but, as I understand, the resolution provides for the printing of the Senate bill with an index, and, I suppose, the amendments proposed or adopted by the Senate Committee on Finance.

Mr. GARRETT of Tennessee. May we have the resolution reported?

The SPEAKER pro tempore. Pending the request for the consideration of Senate concurrent resolution No. 12, the resolution will be read.

The Clerk read as follows:

Senate concurrent resolution 12.

Resolved by the Senate (the House of Representatives concurring), That the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes, as reported to the United States Senate on September 26, 1921, be printed as a Senate document, with an index, and that 19,000 additional copies be printed, of which 7,000 shall be for the Senate document room, 10,000 for the House document room, 1,000 for the Committee on Finance of the Senate, and 1,000 for the Committee on Ways and Means of the House of Representatives.

Mr. GARRETT of Tennessee. Mr. Speaker, I can not tell, from the reading of that, whether it provides for printing in parallel columns or not. It has been my information that it provided for a comparison of the bills. As I catch the reading of that, that does not provide for anything except the Senate bill.

Mr. ANDERSON. Of course, the Senate bill will be the House bill with the amendments proposed by the Senate Committee on Finance, which would tell the whole story.

Mr. OLDFIELD. Mr. Speaker, will the gentleman yield for a question?

Mr. ANDERSON. Yes.

Mr. OLDFIELD. I am informed by Mr. Grayson that this resolution provides that the present law, the revenue act of 1918, and the tariff bill as it passed the House, and the bill as reported by the Finance Committee of the Senate, be printed in parallel columns. If that is true, I am very much in favor of the adoption of the resolution, because that is the information that every Member of the House and of the Senate should have. If it does not provide for that, it ought to so provide. Does the gentleman know about that?

Mr. ANDERSON. I do not know in what form the proposed bill is.

Mr. GARRETT of Tennessee. I also understand that for some reason or other—and I do not know what the reason is—if the printing of this be deferred for as much as a week it will add considerably to the cost. I do not know why.

Mr. CAMPBELL of Kansas. The bill is already set up.

Mr. ANDERSON. If it is deferred for a week my understanding is that the Senate will have it printed for its own use in the meantime, and that will result, of course, in additional expense.

Mr. YOUNG. And the House will have no supply for its use.

Mr. ANDERSON. Correct.

Mr. GARRETT of Tennessee. Of course, Mr. Speaker, there was an agreement that no business was to be transacted. I understand that that agreement was to be interpreted in the light of common sense, and that routine matters would not be objected to. I think we may very well, without violating in any way the spirit of the agreement, permit this resolution to pass.

The SPEAKER pro tempore. The Chair will state that this is a concurrent resolution, not requiring the signature of the Chair. It is, in a sense, a resolution which is offered providing for the printing of the tariff bill, which is now under consideration in the coordinate branch, and the Chair felt that, as a matter of courtesy to the coordinate branch, we should at least receive the message and take it up for consideration, and hence the Chair recognized the gentleman from Minnesota.

Mr. BLANTON. Reserving the right to object—and I do not intend to object——

The SPEAKER pro tempore. The gentleman from Texas reserves the right to object.

Mr. BLANTON. I do not, however, think the statement of the gentleman from Tennessee should be construed as a precedent for taking up any further so-called routine matters under the agreement we had at the time we adjourned, because there might be so-called routine matters that would be objectionable to the absent membership. But I will say this, that I shall not object to this, because if we do not pass this resolution the Senate will have this bill printed anyway for its own use, and the House will get no copies, and I think the people of the country want to know what is in this amended revenue bill.

The SPEAKER pro tempore. Is there objection to the consideration of the Senate concurrent resolution No. 12?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the Senate concurrent resolution.

The resolution was again read.

The SPEAKER pro tempore. The question is on the passage of the Senate concurrent resolution.

The Senate concurrent resolution was agreed to.

The SPEAKER pro tempore. The resolution is passed unanimously.

MESSAGE FROM THE PRESIDENT.

The SPEAKER pro tempore. The Chair lays before the House a message from the President.

Mr. BLANTON. Mr. Speaker, I object to the message of the President being considered at this time by the House, because under the unanimous-consent agreement, had at the time the membership was largely present, just before we adjourned, no business of any kind was to be taken up. This might be a matter that would call for immediate action upon the part of the House.

The SPEAKER pro tempore. The Chair would state that in the opinion of the Chair the receipt of a message is not business.

Mr. BLANTON. I make the point of order that it is improper to place this message now before the House under the unanimous-consent agreement had with the House until at least the 4th day of October, when it was understood business would again be taken up.

The SPEAKER pro tempore. Will the gentleman from Texas permit an inquiry?

Mr. BLANTON. I will.

The SPEAKER pro tempore. Does the gentleman contend that receiving a message which does not involve any action on the part of the House would be a breach of the agreement that no business would be transacted? The Chair would like to ask if the gentleman believes that the House would make any agreement whereby it would refuse or decline to receive a message from the Senate or the President?

Mr. BLANTON. Mr. Speaker, replying to the query, I would add this: The President, if he had seen fit, instead of sending this written communication to the House could have come here in person and presented himself at the door of the House and informed the Speaker that he wanted to address a communication orally to the House. Suppose he had seen fit so to have done instead of sending this written communication would the Speaker then hold that with only a handful of Members here and our other colleagues understanding under the gentlemen's agreement and the unanimous-consent agreement entered in the record that there would be no business transacted, are still at their homes and at other places, would it have been fair——

The SPEAKER pro tempore. The Chair would state the message has been received. The messenger appeared at the door and the announcement was made that a message had been received from the President. The message was duly received.

Mr. BLANTON. The point of order I am making is that though it has been received it should not now be placed before the House. We do not know what it contains, and I make the point of order that it is improper for the Speaker now to lay it before the House for consideration until the 4th day of October, in accordance with the unanimous-consent agreement entered in the record.

The SPEAKER pro tempore. Well, the Chair overrules the point of order——

Mr. BLANTON. Then, Mr. Speaker——

The SPEAKER pro tempore. But the Chair prefers——

Mr. BLANTON. I ask for a quorum of the House——

The SPEAKER pro tempore. The Chair overrules the point of order of the gentleman from Texas, but in view of the attitude of the gentleman from Texas in making the point of order that it was not proper to lay before the House a message which has already been received, the Chair will defer laying the message before the House until a later session of the House.

ADJOURNMENT.

Mr. ANDERSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 14 minutes p. m.) the House, under its former order, adjourned to meet at 12 o'clock Saturday, October 1, 1921.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. HERRICK: A bill (H. R. 8453) prohibiting the holding of any pageant, carnival, celebration, exposition, theatrical or vaudeville shows where any person shall impersonate a king or queen or do any act or thing to keep prominently before the minds of the public the idea of kingcraft or royalty in a laudatory manner, and for other purposes; to the Committee on the Judiciary.

Also, a bill (H. R. 8454) for the purpose of raising revenue and diverting a portion of the citizenship of the Nation from nonproductive employment to productive employment, and for other purposes; to the Committee on Ways and Means.

Also, a bill (H. R. 8455) for the purpose of stimulating food production, averting famine, and enabling the wheat grower to obtain a return for his products that will pay the cost of production and return him a profit; to the Committee on Agriculture.

By Mr. GREEN of Iowa: A bill (H. R. 8456) extending the time of the emergency tariff act; to the Committee on Ways and Means.

By Mr. CHANDLER of Oklahoma: A bill (H. R. 8457) to validate certain deeds executed by members of the Five Civilized Tribes, and for other purposes; to the Committee on Indian Affairs.

By Mr. ACKERMAN: A bill (H. R. 8458) providing for the readmission of certain deficient midshipmen to the United States Naval Academy; to the Committee on Naval Affairs.

By Mr. HUDSPETH: A bill (H. R. 8459) for the erection of a public post-office building at Big Springs, Howard County, Tex., and appropriating money therefor; to the Committee on Public Buildings and Grounds.

By Mr. SUTHERLAND: A bill (H. R. 8460) to authorize the occupation and use of certain lands in Alaska by Ketchikan Post, No. 3, American Legion, and for other purposes; to the Committee on the Territories.

By Mr. LINEBERGER: A bill (H. R. 8461) providing for the "Fiftieth Anniversary Pasadena, All the Year 1924" canceling stamp to be used by the Pasadena post office; to the Committee on the Post Office and Post Roads.

By Mr. SWING: A bill (H. R. 8462) providing for dietitians who served with the American Expeditionary Forces abroad the status of enlisted men of the United States Army when discharged; to the Committee on Military Affairs.

By Mr. HERRICK: Joint resolution (H. J. Res. 199) requesting the President of the United States of America to make representations to the Government of France, requesting the French Government to immediately withdraw the negro troops from German territory and replace them with white troops; to the Committee on Foreign Affairs.

Also, resolution (H. Res. 190) for the creation of a special committee for the purpose of drawing and introducing a standardized wage and commodity bill; to the Committee on Rules.

By Mr. RYAN: Resolution (H. Res. 191) calling for an investigation of the activities of the Knights of the Ku-Klux Klan (Inc.) and an investigation of the returns made by this organization to the collector of internal revenue; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CHANDLER of Oklahoma: A bill (H. R. 8463) authorizing the Secretary of War to donate to the city of Tulsa, Okla., one German cannon or fieldpiece; to the Committee on Military Affairs.

By Mr. GREEN of Iowa: A bill (H. R. 8464) authorizing the Veterans' Bureau to pay the insurance premiums of Edward Smith to his foster parents; to the Committee on Interstate and Foreign Commerce.

By Mr. KINKAID: A bill (H. R. 8465) granting a pension to Charles H. Jackson; to the Committee on Pensions.

By Mr. MAPES: A bill (H. R. 8466) granting a pension to Israel J. Mazerall; to the Committee on Pensions.

By Mr. SWING: A bill (H. R. 8467) granting a pension to W. S. Cooper; to the Committee on Invalid Pensions.

By Mr. SINNOTT: A bill (H. R. 8468) granting a pension to Samuel J. Heron; to the Committee on Pensions.

By Mr. WHEELER: A bill (H. R. 8469) granting an increase of pension to Hannah L. Palmer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8470) granting a pension to Ollie V. Metz; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8471) granting a pension to Charles L. Nelson; to the Committee on Pensions.

Also, a bill (H. R. 8472) granting an increase of pension to Minerva D. McClernand; to the Committee on Invalid Pensions.

By Mr. WATSON: A bill (H. R. 8473) authorizing the Secretary of War to donate to Perkiomen Post, No. 184, American Legion, of East Greenville, Pa., one German cannon or fieldpiece; to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

2601. By Mr. ARENTZ (by request): Petition to Congress from sundry citizens of Reno and Sparks, Nev., protesting against the compulsory Sunday observance bill (H. R. 4388); to the Committee on the District of Columbia.

2602. Also, resolution of the Nevada Hotel Association, signed by H. J. Gosse, president, and Charles Sadlier, secretary, asking that immediate action be taken to the end of eliminating the war tax on railroad transportation and the surcharge on Pullman fares; to the Committee on Ways and Means.

2603. By Mr. DEMPSEY: Resolutions of Niagara Falls Council, American Association for the Recognition of the Irish Republic, protesting against the passage in its present form of Senate bill 2135, to enable the refunding of obligations of foreign Governments owing to the United States of America, and for other purposes; to the Committee on Ways and Means.

2604. By Mr. MAPES: Resolution of J. F. Piper, president, and C. B. Waller, secretary, and other members of the West Michigan Conference of Seventh Day Baptists, and by Mrs. Ella H. Fox and several other residents of Conklin and Coopersville, Mich., against the passage of House bill 4388, the Sunday observance bill; to the Committee on the District of Columbia.

2605. Also, resolutions by citizens of Holland, Mich., adopted at a meeting to make plans for disarmament day; to the Committee on Foreign Affairs.

2606. By Mr. ROGERS: Petition of Frederick Houghton and 29 others, of Methuen, Mass., opposing the passage of the Sunday observance bill (H. R. 4388); to the Committee on the District of Columbia.

2607. By Mr. SWING: Petition of citizens of Riverside, Escondido, Loma Linda, Hemet, and Orange, Calif., protesting against the passage of House bill 4388, the Sunday observance bill; to the Committee on the District of Columbia.

2608. By Mr. YOUNG: Petition of the North Dakota Women's Nonpartisan Club, of Nome, N. Dak., favoring an international disarmament conference, etc.; to the Committee on Foreign Affairs.

2609. Also, resolution of the American Federation of Labor convention, at Denver, Colo., June 13–25, 1921, favoring the enactment of legislation to protect small investors in the purchase of stocks, bonds, and other securities; to the Committee on the Judiciary.

2610. Also, petition of the Women's Nonpartisan League, Club No. 348, of Bantry, N. Dak., favoring an international disarmament conference; to the Committee on Foreign Affairs.

SENATE.

THURSDAY, *September 29, 1921.*

(Legislative day of Monday, September 26, 1921.)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

Mr. HEFLIN and Mr. PENROSE addressed the Chair.

The VICE PRESIDENT. The Senator from Alabama.

Mr. HEFLIN. I suggest the absence of a quorum.

Mr. PENROSE. I was going to make the same suggestion.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll and the following Senators answered to their names:

Ashurst	Glass	McKellar	Simmons
Ball	Gooding	McKinley	Smoot
Borah	Hale	McLean	Spencer
Brandegee	Harreld	McNary	Stanley
Broussard	Harris	Moses	Sterling
Cameron	Harrison	Myers	Sutherland
Capper	Heflin	Nelson	Swanson
Caraway	Hitchcock	New	Townsend
Colt	Johnson	Nicholson	Trammell
Culberson	Kellogg	Oddie	Underwood
Cummins	Kendrick	Overman	Wadsworth
Curtis	Kenyon	Page	Walsh, Mass.
Dial	Ladd	Penrose	Watson, Ga.
Dillingham	La Follette	Pomerene	Watson, Ind.
Ernst	Lenroot	Robinson	Williams
Fletcher	Lodge	Sheppard	Willis
France	McCormick	Shields	
Frelinghuysen	McCumber	Shortridge	

The VICE PRESIDENT. Seventy Senators having answered to their names, a quorum is present.

MICHIGAN SENATORIAL ELECTION.

Mr. SPENCER. Mr. President, I ask unanimous consent to present to the Senate the majority report (No. 277, pt. 1) of the Committee on Privileges and Elections in the Ford-Newberry contest. I wish to give notice, if I am allowed to present the report and let it lie on the table, that after Senators have had an opportunity to make such examination as they may desire of this report and of the minority report, which, I understand, will be filed now, I shall seek to call it up at as convenient a date as may be possible for the consideration of the Senate. All I ask now is permission to file the report and let it lie on the table.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. POMERENE. Mr. President, I present the minority report (No. 277, pt. 2) of the Committee on Privileges and Elections, which is concurred in by the Senator from Utah [Mr. KING], the Senator from Arizona [Mr. ASHURST], and myself. Also I present the additional separate views by the Senator from Arizona [Mr. ASHURST]. I present them at his request.

If I may be permitted to so say, the minority members will join with the majority in trying to have this matter brought up within a reasonable time.

The VICE PRESIDENT. Without objection, the views of the minority will be received, printed, and lie on the table.

DISPOSITION OF USELESS PAPERS.

The VICE PRESIDENT laid before the Senate a communication from the Acting Secretary of the Smithsonian Institution, transmitting a list of papers and documents in the files of the institution which are not needed in the conduct of business and have no permanent value or historic interest, and asking for action looking to their disposition, which was referred to a Joint Select Committee on Disposition of Useless Papers in the Executive Departments. The Vice President appointed Mr. BRANDEGEE and Mr. BROUSSARD members of the committee on the part of the Senate and ordered that the Secretary of the Senate notify the House of Representatives thereof.

PETITIONS AND MEMORIALS.

Mr. WILLIS presented a petition of the Akron (Ohio) Typographical Union, No. 182, praying for "less Army, less Navy, and less taxes," and favoring a conference on the limitation of armaments, which was referred to the Committee on Foreign Relations.

He also presented a letter in the nature of a petition from John Whyte, director of research, etc., containing declarations made by the board of directors, National Association of Credit Men, at a recent meeting in Atlantic City, N. J., favoring the repeal of the excess-profits tax, the levying of income tax on the income of individuals only and not on corporations as such, and opposing any increase in the rate of normal tax levied on the income of corporations, etc., which was ordered to lie on the table.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent the second time, and referred as follows:

By Mr. NICHOLSON:

A bill (S. 2510) to amend the interstate commerce act; to the Committee on Interstate Commerce.

By Mr. SHORTRIDGE:

A bill (S. 2511) granting a pension to John Kiernan;

A bill (S. 2512) granting a pension to Olive J. Hurst; and

A bill (S. 2513) granting a pension to Helen A. Seeker; to the Committee on Pensions.

By Mr. HARRIS:

A bill (S. 2514) granting a pension to Fanny DeRussy Hoyle; to the Committee on Pensions.

By Mr. WADSWORTH:

A bill (S. 2515) to amend an act entitled "An act to amend an act entitled 'An act for making further and more effectual provision for the national defense, and for other purposes,' approved June 3, 1916, and to establish military justice," approved June 4, 1920; to the Committee on Military Affairs.

By Mr. FLETCHER:

A bill (S. 2516) granting an increase of pension to Mary A. Hires (with accompanying papers); to the Committee on Pensions.

AMENDMENTS OF TAX REVISION BILL.

Mr. NICHOLSON, Mr. SIMMONS, Mr. NELSON, Mr. BROUSSARD, Mr. OVERMAN, and Mr. KING submitted amendments intended to be proposed by them to House bill 8245, the tax revision bill, which were ordered to lie on the table and to be printed.

CHANGE OF REFERENCE—EXCHANGE OF LANDS IN HAWAII.

Mr. NEW. Mr. President, the bill (H. R. 4598) to provide for the exchange of Government lands for privately owned lands in the Territory of Hawaii, was referred to the Committee on Territories and Insular Possessions. I think there are reasons why it should be considered rather by the Committee on Military Affairs as it relates strictly to military lands. I therefore ask that it be referred to that committee.

The VICE PRESIDENT. Without objection, the Committee on Territories and Insular Possessions will be discharged from the further consideration of the bill, and it will be referred to the Committee on Military Affairs.

TAX REVISION.

Mr. PENROSE. Mr. President, I ask to have the revenue bill now laid before the Senate and proceeded with.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

Mr. SIMMONS. Mr. President, I desire to present several amendments, which I send to the desk, to the pending bill and ask that they be printed. I have an additional amendment which I shall offer later in the day with reference to surtaxes.

The VICE PRESIDENT. The amendments will be received, printed, and lie on the table.

Mr. SIMMONS subsequently said: Mr. President, I desire to offer an additional amendment to House bill 8245, the tax revision bill, which I ask may be printed and lie on the table.

The VICE PRESIDENT. The amendment will be received, printed, and lie on the table.

Mr. PENROSE. Mr. President, the bill having been read and unobjected committee amendments having been duly considered and agreed to, I ask that the Secretary start at the beginning of the bill to read those committee amendments which have been passed over, with the hope that as many of them as possible may be considered and passed upon.

The VICE PRESIDENT. The Secretary will read the first amendment passed over.

Mr. WALSH of Massachusetts. Mr. President, inasmuch as in all probability some of the amendments that have been passed over will probably require only a short discussion and others will require a very long discussion, may I suggest to the Senator from Pennsylvania that in the second reading of the amendments now the right be given to Senators to have all important amendments passed over for discussion and vote at a later date. I think there are many of the amendments passed over about which there will be very little said and probably no vote taken, but there are some of a very substantial character that will involve a debate of several days, possibly, and a roll call. So it seems to me we might expedite business by discussing the nonimportant amendments to-day and passing over those that will lead to very long and extended debate. I should like to have the Senator's views on that suggestion.

Mr. PENROSE. I recognize the force of the suggestion of the Senator from Massachusetts. There are undoubtedly certain high spots, if I may use the term, in the bill which will create considerable discussion, and in numerous instances illuminating discussion. As to other parts of the bill, after a short discussion or further information presented, the Senate may perhaps be enabled to come to a prompt decision.

So far as I am concerned and, I believe, the members of the committee who are actively in charge of the bill, there will be every disposition to facilitate the labors and wishes of each Senator. I suggest that we go on and read the committee amendments and take up each case on its individual merits. So far as I am individually concerned I would be only too glad to make every concession for the convenience and pleasure of the Senate or of Senators.

Mr. WALSH of Massachusetts. I have not any authority to speak for the minority, but I think there is a disposition upon this side to urge later that a time be fixed for voting upon certain of the important amendments to the bill and that the debate for a day or two preceding that time be concentrated upon those features of the bill. So it seems to me that if we went through the amendments and eliminated those which will not lead to much controversy we would be getting down toward the amendments that will involve a wide division of opinion here. I say that simply because I think it is already appreciated that the minority has shown no disposition to filibuster or delay the passage of the bill. I should like to see some arrangement made whereby a certain time could be fixed for voting upon some of the provisions of the bill that are of very great importance and upon which there is a very wide division of opinion in the Chamber.

Mr. PENROSE. I think the Senator's suggestion is very admirable to agree, by unanimous consent, upon a time to vote on certain of these important questions, and if later on I could reasonably request the Senate to agree on a day certain to vote on the whole bill I should be glad to do so.

Mr. WALSH of Massachusetts. I will say to the Senator from Pennsylvania that I have reason to believe that the leader of the minority will confer with the Senator from Pennsylvania and the leader on the other side of the Chamber, perhaps, in reference to some program along the line which I have just suggested.

Mr. PENROSE. The Senator will find me and—so far as I know—my associates entirely desirous to facilitate his view in every way. I do not imagine he has any schedule of matters to be arbitrarily passed over, and I would suggest to him whether it would not be better to proceed in an orderly way and when we come to something, perhaps, like the direct inheritance tax, he may ask to have it go over and I shall not object. Let us, therefore, take up the first objected-to and passed-over amendment, if that be agreeable to the Senator and to the leader of the minority.

Mr. SIMMONS. Mr. President, having managed a number of bills of this character, I realize that it is absolutely impossible in advance to select the amendments which ought to be taken up without further postponement and those which in their nature would call for some delay; but as we go on and proceed with the consideration of the amendments as we severally reach them I think it will occur to every Senator that certain of them are of a character that they may be taken up and disposed of without further postponement, while there are others that are of such vital consequence that they will likely lead to protracted debate and upon which there will be sharp division, it may be, on both sides of the Chamber. If there is a feeling when they are reached that we are not ready for their consideration, and there is a desire that they be postponed in order to afford further opportunity to prepare for their discussion, I think that such amendments ought to be temporarily laid over; and I understand that is the program which the Senator from Pennsylvania now suggests, that as an amendment is reached we may determine the question of whether its importance is such as to justify further postponement in case there be a demand for it.

Mr. PENROSE. Mr. President, with the disposition which seems to exist on both sides of the Chamber to expedite as rapidly as may be the passage of the pending measure, I do not think there will be the slightest difficulty in our agreeing with the views of the Senator from North Carolina as to the procedure.

Mr. SIMMONS. I think it will be proper to pursue the same course as that which has heretofore been pursued in connection with such measures.

Mr. PENROSE. I do not think there will be any trouble as to that.

Mr. SIMMONS. When we may reach one of these important provisions, such as the repeal of the excess-profits tax, I presume we shall have long discussion, but I think it would be well

after we have had a reasonable discussion, to agree upon a time to vote upon the amendment.

Mr. PENROSE. That seems satisfactory, so far as I understand it. Now, if the Secretary will proceed with a statement of the first amendment which is in order we shall see how we get on.

The ASSISTANT SECRETARY. On the 27th instant, at the instance of the Senator from Wisconsin [Mr. LA FOLLETTE], the Senate passed over, on page 5, paragraphs (4) and (5), including the amendments of the Committee on Finance. The amendments of the committee are on line 1, where it is proposed to strike out the double quotation marks and the words "The term 'foreign trader,'" with the words "foreign trader" embraced in single quotation marks, and to insert the numeral "4" in parentheses, the words "The term 'foreign trader,'" with "foreign trader" embraced in double quotation marks; in line 10, to insert "trade or" before "business"; and in line 12, after the words "agent of," to strike out the word "another" and the period and insert "another" and a semicolon, so as to make the paragraph read:

(4) The term "foreign trader" means a citizen or resident of the United States or domestic partnership, (1) 80 per cent or more of whose gross income for the three-year period ending with the close of the taxable year (or for such part of such period immediately preceding the close of the taxable year as may be applicable) was derived from sources without the United States as determined under section 217, and (2) 50 per cent or more of whose gross income for such period or such part thereof was derived from the active conduct of a trade or business without the United States either on his own account or as the employee or agent of another.

Also, on page 5, line 13, before the word "term," the committee proposes to strike out the quotation marks and the word "The" and insert "(5) The"; in line 21, before the word "business," to insert the words 'trade or'; and in line 22, to strike out the word "States," the period, and the quotation marks and insert the word "States" and a semicolon, so as to read:

(5) The term "foreign trade corporation" means a domestic corporation, (1) 80 per cent or more of the gross income of which for the three-year period ending with the close of the taxable year (or for such part of such period as the corporation has been in existence) was derived from sources without the United States as determined under section 217, and (2) 50 per cent or more of the gross income of which for such period or such part thereof was derived from the active conduct of a trade or business without the United States.

Mr. LA FOLLETTE. Mr. President, I move to strike from the bill paragraph numbered 4, on page 5, and paragraph numbered 5, on page 5. Those two paragraphs merely define the term "foreign trader" and the term "foreign trade corporation." There are other provisions of the bill which are dependent upon those definitions in carrying out the policy which those provisions will inaugurate with respect to domestic capital which is invested in foreign enterprises.

I wish, Mr. President, this morning to submit to the Senate very brief observations pertaining to the policy which it is proposed to inaugurate with regard to the taxation of domestic capital when invested in foreign business. This bill proposes a very important departure with respect to the taxation of a vast amount of capital. It may be possible that I shall be so fortunate as to impress Senators with the importance of this proposed policy so that they will be willing to defer the determination of this matter for further consideration. To that end I will occupy a few minutes of the Senate's time in stating the view with which I am impressed regarding this policy.

The plain purpose of the provisions of the bill under consideration and their allied provisions is to permit individuals and corporations of great wealth in this country to escape taxation by withdrawing their investments here and placing them abroad. I say this is a device to enable individuals with great wealth to escape taxation because the field of foreign exploitation is one requiring vast capital and the organization and power and influence which go with it. It is not a field attractive to the small investor, or one in which he can hope for success.

That this proposal should be seriously put forward at this time by the people's representatives only shows how completely the great financial interests of our country control our Government. Who has demanded this legislation? Who expects to benefit by it? Not the farmer; not the laborer; not the small business man; not any of the plain citizens of this country, constituting 99 per cent of its population; but the demand for this legislation has come from those captains of industry whose wealth has been largely created or augmented by the recent war.

They have been so fed up with war profits that the field of domestic industry, large though its returns may be, is not enough. China, Mexico, Russia, and other undeveloped or war-stricken countries permit them fabulous profits, ranging from 100 to 1,000 per cent on their investment, and a chance to escape the financial burdens of the war from which they have so largely profited. So it is that they have come to the people's representatives with this proposition, which no political party would have dared publicly to defend before election, and, at their demand, I fear it is about to be enacted into law.

Aside from the crime with which the entire scheme of this bill is properly chargeable, the crime to untax wealth and its studied purpose to make the poor bear the burdens of Government while wealth escapes, the inconsistency and folly of its provisions are unbelievable. There is one demand, Mr. President, to-day in which all the people of this country unite, and that is the demand to be relieved of the present intolerable burdens of taxation. Never, sir, in the history of this country has such a burden of taxation been laid upon the people as that which they are required to bear to-day, and must continue to bear during this and succeeding generations, in order that we may pay the expenses of the late war. Never has such ingenuity been manifested by framers of legislation and public officials to devise new subjects of taxation and new methods by which taxes may be extorted from the people.

Shops and factories have closed down; the great agricultural interest of this country is in distress as never before; a vast army of laborers are unemployed and restless; and this situation, we are told, can not be remedied unless we can lighten the tax upon industry and capital in this country. Yet, sir, in the face of this situation, this bill proposes to withdraw from taxation hundreds of millions and probably billions of dollars of the wealth of this country by the simple device of securing investment abroad.

We are seeking out in the homes of the country the articles of everyday use, the necessaries of life, the humblest forms of amusement and recreation, as subjects of taxation, because the Government must have money, while we are inviting vast masses of capital to escape taxation altogether by the simple device of finding investment abroad. There never was a time in all history, sir, when we stood in such need of capital to develop our own resources.

I shall not take the time to go into this matter in detail. Take the matter of land. The census reports of 1910 show that out of 878,000,000 acres of land inclosed, representing nearly all of the cultivable land in this country, over 400,000,000 acres, or one-half, is not being tilled. At the time that census was taken it was undeveloped. The crying need of this country is capital to develop our agricultural resources. The population of the United States in 1910 was 33 to the square mile. Denmark, one of the most prosperous of countries, has 183 to the square mile. France has 191 people to the square mile, Switzerland 234, Belgium 671. You talk about capital not having opportunities in this country! We have hardly scratched the surface of this country's resources. It is stated by economists that the United States could maintain a population of at least 500,000,000 in comfort if its resources were developed proportionately to those of the other countries I have mentioned. There never was, sir, such a demand in this country for houses in which to live as exists in our cities to-day from one end of this country to the other. Investigation has shown that there are 200,000 vacant building lots in Greater New York alone. There is not a great city in the country that is not confronted with the problem of how to house its people, and the question is everywhere how to find capital with which to build new homes.

Think for a moment of our undeveloped water power and our coal mines. The greatest water power in the world is to be found in the United States and is practically undeveloped. Even our coal mines that have been opened are operated only a part of the year. You will recall that the bituminous-coal miners went on a strike in 1919 and demanded a 6-hour day and a 30-hour week, not because they wanted less work but because they wanted more continuous work. The miners claimed and proved that they were actually employed less than 30 hours a week. Yet, sir, with this imperative need of capital for the development of these vast resources, the development of which is absolutely necessary to the life of the country, we are putting forward in this bill a scheme to drain the country of its capital in order that the favored few may reap fabulous profits in developing the resources of other countries, and it is proposed here that the capital so invested shall escape taxation.

Mr. HITCHCOCK. Mr. President——

The VICE PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Nebraska?

Mr. LA FOLLETTE. Certainly.

Mr. HITCHCOCK. Does that mean that all capital invested by an American individual or partnership or corporation in foreign countries, the profit of which comes to this country, shall be exempt from income tax?

Mr. LA FOLLETTE. Certainly; provided 80 per cent of the business is done abroad. The Senator includes that, of course, in his question.

Mr. HITCHCOCK. Yes. Then an individual doing 80 per cent of his business abroad——

Mr. LA FOLLETTE. Is to escape taxation here.

Mr. HITCHCOCK. Can the Senator tell what is the motive for such legislation? What is the reason given in favor of it?

Mr. PENROSE. Mr. President, if the Senator will permit me, of course they are heavily taxed abroad; and the proposition is not to tax them here and abroad also, and take everything they have.

Mr. HITCHCOCK. Is it not a fact that an American resident abroad, deriving his revenues from the United States, is taxed abroad on those revenues?

Mr. PENROSE. Yes; and he is also taxed 80 per cent on the income that comes to this country from Belgium, or wherever it may be.

Mr. HITCHCOCK. Then why should we not levy a tax on a foreign company in this country doing business abroad?

Mr. LA FOLLETTE. Mr. President, a critical study of these provisions will develop the fact that here is offered to capital simply one more opportunity to escape bearing its share of the burdens of this Government, and of the frightfully enhanced taxation necessary to meet the obligations incurred by and through the late war.

Mr. KING. Mr. President, if it will not interrupt the Senator, I should like to ask him a question. I appreciate that the inquiry I am about to make may disturb the continuity of the Senator's most admirable speech, and I shall be perfectly willing that he may pretermit replying, if he cares to reply at all, until he concludes. I suggest that before he concludes I shall be very glad to hear him discuss, if he cares to, this proposition, and whether or not the concrete case I am about to give differentiates it and cognate or similar cases from the general principle which the Senator is now discussing.

A good many American manufacturers have recently been compelled to acquire capital in other countries in exchange for their goods. That is to say, they have sold their products abroad; they could not get gold; they could not get commodities; but the intervention of banks, and so forth, has resulted in payment ultimately being made in securities, and in some instances in land, as I am advised, in other countries. Those securities and lands are now held by Americans, not because they want to hold them—they would be glad to get rid of them—but they were compelled to take them in order to effectuate sales. Now, I do not know whether capital of that kind, acquired in other lands as a result of trade, should be differentiated from a bald investment in other countries for the purpose of making profits there.

Mr. LA FOLLETTE. Mr. President, it may be that that and other phases of foreign investment will require careful scrutiny when we come to consider the various provisions which are involved in the establishment of this new policy, and as we get further into it I think it will invite the closest scrutiny. I am simply trying to lay before the Senate in a broad and general way the principles involved in this proposal, the first legislative proposition of which we are confronted with on page 5.

Mr. HITCHCOCK. Mr. President, will the Senator permit a question there?

Mr. LA FOLLETTE. Certainly.

Mr. HITCHCOCK. I should like to know whether this proposed change in our law would permit an American to invest, say, a million dollars in 8 per cent French bonds, invest all his fortune in French bonds, and enjoy the revenue in the United States, while escaping taxation on the income?

Mr. LA FOLLETTE. I am not prepared to answer that question.

Mr. PENROSE. I can answer it, if the Senator from Wisconsin will permit me. The investment is expressly barred out. The exemption applies only to the proceeds from active, going business.

Mr. HITCHCOCK. I notice that banking corporations are mentioned.

Mr. PENROSE. Yes.

Mr. HITCHCOCK. If a banking corporation has invested its capital in these foreign bonds rather than in American bonds and makes some profit on them, I should like to know whether or not those profits are subject to taxation.

Mr. PENROSE. All the Senator has to do is to read the definition. It applies to the active conduct of a trade or business without the United States.

Mr. LA FOLLETTE. I am not quite certain, if I may interpose, as to whether an investment company might not come within the definition here and be included as a business.

Mr. PENROSE. If there is any doubt on that point the committee will readily accept any amendment.

Mr. LA FOLLETTE. But, Mr. President, I do not think that makes any difference. The great, broad proposition presented here by this proposed legislation is, I think, wrong in principle, vicious in its effect, and is a discrimination in favor of the great aggregation of capital which has grown up during the late war and which is now to be employed in profitable enterprises without bearing any of the burdens of taxation.

Mr. TOWNSEND. Mr. President, will the Senator yield in order that I may get myself straight with the Senator's argument? As I understand, his motion now is to strike out these two definitions.

Mr. LA FOLLETTE. It is. That is as far as I could go. There are many provisions further on that would have to be taken up in connection with it; but I am just addressing myself now to the policy in the hope—perhaps a vain hope—that I can so interest Senators that they will be willing to have action suspended until we can give the fullest consideration to this matter in connection with all the provisions of the bill which are a part of the complete program.

I proceed, Mr. President. One of the great problems in this country to-day is that of unemployment. It is only a few days ago that an unemployment conference was called in this city by President Harding. It is, I believe, at this moment in session. Great minds connected with the management of that conference were, according to press reports, taxed to their utmost even to suggest a possible way of finding jobs for the army of the unemployed; yet the provisions of the bill now under consideration seek to lure into other lands, for the benefit of the labor of other lands, the capital so much needed in our industries to furnish employment to our own people.

We levy prohibitory tariffs, the avowed purpose of which is to encourage capital to invest in the home industries; yet by this bill we offer the greatest inducement to capital to desert these industries in favor of foreign enterprises. It is common knowledge, of course, that the tax bill under consideration is to be followed by a great tariff bill which is going to erect such tariff barriers as will effectually exclude from our markets the cheap products of foreign labor.

We are not satisfied with tariffs; we impose embargoes. Only yesterday there came to me a letter from a well-known citizen of this country complaining that he has bought abroad at $1.55 a pound a large quantity of coumarin, a substance which enters into the manufacturing of flavoring extracts, and he was not permitted by our War Trade Board to import it, although he could not get the same article in this country for less than $4.50 to $5 per pound. We are encouraging capital to invest in the production of that article in this country by means of the embargo, and yet, sir, while we seek by all artificial means of tariffs and embargoes to encourage capital to invest in home industries, we make certain by the provisions of this bill that capital will not invest in those industries, but will seek foreign fields, because there they escape the great burden of taxation which the necessities of our Government require us to levy upon the profits of capital invested here.

We are seeking at the present time, by every possible means, to force down the price of commodities in this country and the wages of labor. We are insisting that labor shall stand a cut in wages of 25 to 50 per cent. Wherever the Government is an employer of labor it has been firm in its requirement that wages shall be largely reduced. We have an example of that, Mr. President, in the action with respect to the employees of the navy yard, and we have knocking at the doors here now delegations representing those who, as they contend, were so reduced in their earnings by the orders made effective there as to find it wholly impossible to meet the cost of living that prevails to-day.

If the provisions of this bill, which exempts capital invested in foreign industry from taxation, become the law, the inevitable result must be to force up prices of those commodities produced here. The surest way to increase the price of an article is to limit its output by withdrawing the capital engaged in its production.

All over this country the thought uppermost in the minds of the people just at this time is disarmament. With the lessons of the Great War fresh in mind, the great mass of the people of this country are demanding that there shall be no more war. They see as never before the folly and the injustice and the needlessness of it and the crime of it. They are determined that when the debts of this war are paid, there shall be no more war debts to pay. They are fixed in their purpose that the generations which follow us shall not suffer the bloody horrors of another war.

I doubt, Mr. President, if many of us sitting here within these four walls have any conception of the deep and determined conviction of the people of this country upon this question of disarmament. Before this convention that is to assemble here shall have advanced far in its deliberations, the great capital of this country will pulse the deep feeling of all the people of this country in a way to impress even the representatives who have been selected to speak for the United States upon the subject of disarmament. When all the organized churches of the country, when the organized labor of the country, when the agricultural interests of the country, when the great mass of the people of the United States bring their influence to bear upon Washington, I am inclined to think that there will not be any question in the minds of gentlemen as to whether they are holding a disarmament conference, instead of a conference, as Mr. Secretary Hughes has suggested, to limit armaments. A world movement will culminate here before this disarmament conference arrives at any conclusion. The people of the world, if necessary, will be on their knees in prayer that this conference shall be fruitful of the purpose which was back of the resolution that was introduced here by the distinguished Senator from Idaho [Mr. BORAH]. It is not to be twisted and given another meaning.

Mr. President, I undertake to say that the provisions of this bill which make certain the investment of hundreds of millions of dollars of capital of this country in the exploitation of foreign peoples and the resources of their countries will certainly lead us into another war. That has been the history of all the exploiting nations of the earth. That was the cause of the last war, and it will be the cause of the next war.

Remember that every dollar of capital that seeks investment in foreign fields under the provisions of this bill has back of it for its protection the Army and the Navy of the United States, and therein lies the incentive for the upbuilding of a great Navy and a great Army. That is what goes along with these investments; that is always a part of the program of every government that is pushing its investments in the exploitation of the resources of the weaker countries of the world.

Our Steel Trust will obtain concessions of mines and minerals and build its plants in China, Russia, and elsewhere. Standard Oil, always an adventurer, will seek a monopoly in every country which it enters as it has done at home. It is a part of the lure of these investments that the country which they seek out shall return fabulous profits before it is undeveloped and unsettled and usually without a stable government. The very conditions which make their venture profitable financially make it dangerous, not to the capitalists but to the people of the country who must furnish the men and the ships to give protection to the investments wherever they are made. If the unsettled conditions of the country in which the investment is made are not sufficient to provoke a conflict between our capitalists and the exploited people, then the conflict of interests between the great exploiting countries whose capitalists have sought the same field of exploitation is certain to breed war.

No one, sir, familiar with the causes of the late war in Europe doubts that it was the conflicting ambitions of British, German, and French capitalists which were the real causes which led up to that war. The incident or incidents which precipitated it were unimportant. Every responsible statesman in Europe had known for years that the war would come. They knew that the conflicting interests of their capitalists in Turkey, in Asia Minor, Mesopotamia, Morocco, and elsewhere made the war inevitable.

Think of the fraud that is being perpetrated on the people of this country by our talk about disarmament, when we deliberately adopt a policy which will send millions and possibly billions of dollars of our capital to the remote portions of the earth for investment, when we know that we must provide the Navy and, when necessary, the Army to accompany and protect it.

Dr. Frederic C. Howe, in his little book entitled "Revolution and Democracy," has written a number of paragraphs upon this subject which are distinctly in point on the present discussion. I read from it the following:

The United States has passed through the same economic evolution as England, France, and Germany. England was the first great creditor nation, as England was the first country to develop industry and commerce. Her overseas investments at the outbreak of the war amounted to $20,000,000,000. France is also a creditor nation. Her overseas investments amounted to over $9,000,000,000. Germany became a creditor nation in the decade which preceded the Great War. Her foreign investments amounted to $6,000,000,000. Each of these nations in turn was led into imperialistic undertakings and the exploitation of weaker people as a result of alien capitalism. Great Britain was drawn into Egypt, South Africa, Persia, China, Central and South America, as well as her colonies. The expansion of the British Empire was largely the result of the growth of overseas interests and the demand on the part of the investing classes that political power should follow their investments. French capital penetrated into Algiers, Tunis, and Morocco. It was invested in Russia, Turkey, the Balkan States, and Central Africa. The surplus capital of Great Britain was drawn from ground rents of the aristocracy and the profits of the manufacturing, shop owning, and commercial classes. The surplus wealth of France came from the petty savings of the peasants, which was mobilized by the Paris banks, which loaned it to other Governments or used it for exploitation purposes in foreign lands.

Germany adopted and perfected the methods employed by England and by France. Through international banks, of which the Deutsche Bank was the chief, she penetrated rapidly into countries where British and French capital had already found lodgment. She came into conflict with England and France in Turkey, Asia Minor, and Mesopotamia. Her investments in these regions, and especially the Bagdad Railway, was a menace to the British Empire. Germany conflicted with France in Morocco, and the Morocco incident of 1911, which nearly precipitated war at that time, was a result of the warring claims of German and French concession seekers and bankers which came in conflict not only in the making of the public loans but in the securing of iron-ore concessions as well. Alien capitalism is the forerunner of imperialism. It has always been so.

Mr. FLETCHER. Mr. President, may I interrupt the Senator?

Mr. LA FOLLETTE. Certainly.

Mr. FLETCHER. I do not know whether the Senator has made any inquiry as to what proportion of these enterprises, individuals, and partnerships under the first paragraph, corporations under the second paragraph, really pay any taxes in foreign countries. I take it that it is largely true that a great many of them get concessions which exempt them from taxation in the foreign countries, and if that is true, then they pay no taxes either in the foreign country or in this country. It seems to me there ought to be at least a proviso here that they would only be exempt in cases where they pay taxes in the foreign countries. I expect there are a great many of these large enterprises, partnerships, individuals, and corporations which get concessions in foreign countries which exempt them from all taxation in those countries.

Mr. LA FOLLETTE. I have no doubt that the conditions are variable, but I am trying to impress the Senate with the fact that this proposal is wrong in principle and a menace to the peace of the country. I believe that it should find no encouragement in any legislation which we adopt. If the capitalists of this country desire to invest in foreign countries let them invest there under the laws of those countries and take their chances with other investors under those laws. Let them organize, if they desire to do so, their foreign corporations.

Mr. FLETCHER. I understand it is proposed to do that, but the proposition here now is to exempt them from taxation in this country.

Mr. LA FOLLETTE. Yes; that is the proposition.

I continue the quotation which I was reading when interrupted:

The investing classes in America are now politically ascendant, as they were in England, France, and Germany. The foreign investor demands an aggressive foreign policy and the use of diplomacy for the securing and protection of loans and concessions. He demands that the flag shall follow his investments, and in furtherance of such demands insists upon a large navy and a sufficiently large army to enforce his claims. International usage sanctions the right of a creditor nation to use force for the securing of concessions and their maintenance once they have been secured. It sanctions intervention in weak countries, the overthrow of governments, the fomenting of revolutions, and the use of intrigue and power in the interest of its foreign investors. We see alien capitalism at work in Mexico to-day, in which country American investors have claims aggregating nearly a billion dollars. These claims are in oil wells, copper mines, plantations, railroads, and other investments of a monopolistic sort.

Alien capitalism is a most serious check to domestic development. It exports capital that should be invested at home. France was greatly weakened by the export of capital. Money that should have been used for the expansion of the railroads, the development of waterways and industry found its way into other countries. The same is true of Great Britain. The poverty of her people, the decay of agriculture, the shortage of homes, and the relative impairment of her industry is traceable to the export of capital to countries where higher rates of interest are obtainable, where wages are low, and human labor, along with natural resources, are open to exploitation.

Our own industrial development is now menaced by the lending of billions of credit to other countries. Our railroads need billions of dollars for their proper extension. The same is true of our waterways. The country is in need of vast hydroelectric development, which would enable us to save fuel, operate our industries and railways, light our towns, and substitute the white coal of our rivers for the black coal of the pits. There is need of a million houses and as many farms. But we can not use capital abroad and at home at the same time. The export of capital starves agriculture. It increases interest rates. It limits our supply of houses and creates monopoly conditions and with them monopoly rents. Billions of dollars should be spent to-day for the better housing of our people while hundreds of millions more should be used in the opening of our lands, the encouragement of agriculture, the building of roads, and the bringing of the country to a proper state of development. America has scarcely scratched her resources; the productive power of labor could be greatly increased by additional capital investment. Our resourcefulness and productive capacity would be greatly stimulated if the surplus wealth accumulated during the war were used for our own purposes rather than for the development of backward countries in which high and usurious interest rates can be obtained.

The export of capital lowers wages by reducing opportunities for labor. It reduces the demand. It thus reduces wages. Alien capitalism is not only a menace to our industrial development, it is a menace to the wage-working population and to the whole consuming public.

ECONOMIC SABOTAGE.

Alien capitalism is the final step in economic sabotage. It makes its appearance with the monopoly of resources at home; the control of natural resources by the banking-exploit group, and the opening of opportunities for the acquisitions and exploitation of similar resources in other lands. Under natural conditions, surplus wealth means a falling interest rate. It means cheap money and abundant credit. Falling interest rates would stimulate industry, encourage new projects, and reduce the cost of living. Alien capitalism is thus at war with the best interests of the country. It is antisocial. It is an agency of the exploiting classes for increasing their economic power.

Alien capitalism is a foe to labor, to industry, to agriculture, and to the peace of the Nation as well. For alien capitalism leads to imperialism. Imperialism leads to an increasing military and naval establishment. Imperialism in other countries has been followed by national decay. This was the experience of Rome, of Spain, of Portugal, of the Hanseatic League. In the nineteenth century, it was the experience of France, England, Germany, Austria-Hungary, and Russia. Alien capitalism and imperialism are the gravest menace to America. They are the natural and inevitable consequences of the ascendancy of privilege in our economic and political life.

Mr. REED. Mr. President——

The PRESIDING OFFICER (Mr. SPENCER in the chair). Does the Senator from Wisconsin yield to the Senator from Missouri?

Mr. LA FOLLETTE. Certainly.

Mr. REED. I dislike to interrupt the Senator, but I would like, in connection with his statement regarding the internal improvements of the country, to call his attention to the fact that I think it is $287,000,000 we have already spent in maintaining an army on the Rhine since the war, and that that amount of money would probably complete every improvement conceived by the engineering department on every river and harbor of the United States. Yet with that situation the gentleman who now controls Congress through the budget board has issued a mandate which practically nullifies the action of Congress in appropriating $15,000,000 for the improvement of rivers and harbors last year.

Mr. LA FOLLETTE. And, Mr. President, the maintenance of the American Army upon the Rhine is a mere bagatelle in the just and broad consideration of this great problem with which we are now confronted on almost the very first page of the bill. In the name of common sense——

Mr. POMERENE. Mr. President, will the Senator yield for a question?

Mr. LA FOLLETTE. Certainly.

Mr. POMERENE. I understand the general proposition as it has been presented by these business men who are seeking the exemption. I am not clear that I understand the proposition as it is incorporated in the bill pending, and I desire to ask the Senator, if he will permit me, this question:

As I understand it, if there are two manufacturers with an investment of a million dollars each in the State of Ohio, both manufacturing goods for the foreign markets and one of them is located in the city of Cleveland, it is, of course, subject to the taxes provided; but if the other competitor, seeking the same trade, takes one-half of that investment to China and engages there in the same line of manufacturing for the Chinese trade it would be exempt. Am I right about that?

Mr. LA FOLLETTE. The Senator will notice the language of paragraph 5 is:

> The term "foreign trade corporation" means a domestic corporation 80 per cent or more of the gross income of which for the three-year period ending with the close of the taxable year (or of such part of such period as the corporation has been in existence) was derived from sources without the United States as determined under section 217.

If 80 per cent of its gross income is derived from sources outside of the United States, then it is to have that advantage over the domestic corporation with which it is in competition.

Mr. POMERENE. I accept the modification for the purpose of my question. Then we are in this situation: American capital will be encouraged to go to China to employ coolie labor to manufacture the same article that it theretofore was manufacturing in the United States.

Mr. LA FOLLETTE. I think that is inevitable.

Mr. POMERENE. And to the extent that it would employ coolie labor to manufacture those articles which theretofore were manufactured in the United States you are taking away from American labor the opportunity of employment and you are giving it to coolie labor in China.

Mr. LA FOLLETTE. Beyond any question of doubt I think that is true.

Mr. POMERENE. Then, we should entitle this provision "An act for the purpose of employing coolie labor."

Mr. LA FOLLETTE. That, I think, would partly cover it. I do not think that covers all the iniquity of it by any means.

Mr. REED. Mr. President——

Mr. LA FOLLETTE. I yield to the Senator from Missouri.

Mr. REED. I do not wish to take the other side of that question, but I do desire to call the Senator's attention to what I think is a fact which ought to be considered in connection with it. There is nothing that can keep an American capitalist, if he wants to, from going over to China and investing his money in a corporation that may be organized in China. If he found it profitable he could do that.

Mr. LA FOLLETTE. I grant that, but we propose here to pay him a premium to do it.

Mr. REED. The present proposition goes to the extent of permitting it to be organized as an American corporation, but if it does 80 per cent of its business in a foreign country then to escape taxation on that 80 per cent.

I am not saying that the Senator is not absolutely right, but I am calling attention now to the fact, for instance, that without any such law as this what we call the Harvester Trust, the International Harvester Co., I think is the name, some years ago was organized in the United States and had a large business in Europe and factories in Europe. The Department of Justice, I think when Gen. Wickersham was Attorney General, but I am not certain as to that, brought a suit to dissolve the Harvester Trust upon the ground that it was a combination in restraint of trade.

The testimony which was taken and is on file here in the Senate with reports discloses the fact that the Harvester Trust proceeded to organize a European corporation and to turn over to that European corporation some $80,000,000, as I now recall, of the assets of the corporation, and did it admittedly for the express purpose of trying to put that much of its assets beyond the jurisdiction of the legal authorities of the United States. They might have succeeded in that device if the court had held them to be a trust. The court might have reached it notwithstanding. But the fact that they did do it illustrates that any American corporation engaged in doing business in the United States could take part of its capital, organize another corporation, and reduce its capital or, instead of increasing its capital, organize the other corporation in the first instance under the laws of some European State, or of China, and proceed to do the thing that the Senator has been denouncing.

So I think that phase of the situation, the ability of these gentlemen to go to other countries and take out charters under the laws of other countries, is a matter that must be considered along with the other question. I am not defending it.

Mr. LA FOLLETTE. Granting all that the Senator has said, I do not think it bears at all upon the argument which I am making here. What I am contending against is offering a premium or an inducement to the capital of this country to escape taxation. If the capital of this country wants to go to China and organize under that Government, let it go there; it has a right to go there; but the pressure behind this legislation by the organized wealth of this country to secure an exemption from taxation by law is a sufficient answer to the suggestion that it would otherwise go there and do the same thing if the provision was not a part of the law.

Mr. PENROSE. Will the Senator permit a slight correction on that point?

Mr. LA FOLLETTE. I will permit any interruption.

Mr. PENROSE. I know the Senator from Wisconsin does not want to state that this provision was put into the bill purely at the behest of the organized capital of the country, because in doing so he makes a rather wide indictment. This matter was very largely considered favorably in constructing the bill at the very urgent, persistent, and repeated request of Mr. Hoover, the Secretary of the Department of Commerce, of Mr. Hughes, the Secretary of State, and at the request of a great many American citizens who are doing business abroad. I know the Senator from Wisconsin will be interested in having the facts stated with absolute correctness; therefore I thought I would make the correction.

Mr. LA FOLLETTE. Mr. President, I am not at all surprised at the information which the Senator from Pennsylvania contributes.

Mr. REED. Mr. President, I am not taking sides on this question, but I am trying, if I can, to throw a little light on it by suggesting the facts. In connection with what I have said, I want to submit this: It is, of course, true that American capitalists may organize a Chinese corporation or a Persian corporation or a corporation in any other country; they may take their money and go there and invest it and thereby escape American taxation. This bill, however, proposes to allow them to organize in the United States and to escape taxation upon the business they do abroad; but there is a great distinction between the two propositions. I am not sure but it is controlling, and I suggest it to the Senator from Wisconsin.

If American capitalists see fit to go abroad and organize a foreign corporation and if that corporation gets into difficulties,

if the country becomes involved in war and the property of the corporation is swept away, it being a corporation organized under the laws of China or some other country, the incorporators have no just right to come to the United States and ask for protection by the power of this Government; but if we permit them to organize under the laws of the United States and they go abroad, they go abroad as an American corporation. If they are in any respect injured, they will immediately call upon this Government to defend them; and that request might go to the extent of a demand that we defend them by the use of our Army and our Navy. I think that is a proposition of very serious import, and I should like to hear the views of the Senator from Wisconsin upon it when he gets to that point.

Mr. LA FOLLETTE. I had covered that point very fully before the Senator from Missouri came into the Chamber.

Mr. REED. I did not hear the Senator.

Mr. LA FOLLETTE. I am aware of that.

Mr. OVERMAN. Mr. President, may I ask the Senator from Wisconsin a question?

Mr. LA FOLLETTE. Certainly.

Mr. OVERMAN. In our investigations into the situation in Russia, much to my surprise, we found that various great industries of this country had gone over there, that one of our great banks had taken a million dollars of its capital and had established a large bank there. Under this provision of the bill, would that bank escape taxation?

Mr. LA FOLLETTE. If it were incorporated in this country to do business in the foreign country, I have not any doubt that it would, provided it met the requirements of the various provisions of the bill and if 80 per cent of its income was derived from the business which it transacted in the foreign country.

Mr. OVERMAN. In view of what the Senator from Wisconsin now states, there is no doubt that many of our industries and great banks would establish corporations in other countries.

Mr. LA FOLLETTE. As branches in other countries, I take it.

Mr. OVERMAN. As branches of their establishments here in other countries.

Mr. KING. Will the Senator from Wisconsin yield to me?

Mr. LA FOLLETTE. Yes.

Mr. KING. What I desire to say is not quite pertinent, but if the Senator from Missouri [Mr. REED] will give his attention, I can cite an illustration of the proposition which he has just been submitting.

Recently in Mexico laws have been enacted by a number of the various States of Mexico, as well as by the Mexican Federal Government, under which large real estate holdings are being confiscated and distributed to the Mexican peons. Some Americans organized a corporation in Mexico some time ago and acquired a considerable tract of territory, which has recently been confiscated and distributed to Mexicans. At the request of persons interested in that corporation, without my knowing that the corporation was organized under the laws of Mexico, I asked the State Department to make a protest to the Federal Government of Mexico because of that expropriation proceeding. A protest was made, but Mexico very promptly responded that the corporation referred to was a Mexican corporation. With that information conveyed to me, of course I desisted from my efforts to have intervention by the United States for the purpose of protecting the property.

I have no doubt that many Americans who have holdings in Mexico and who have taken out Mexican charters, if this policy of expropriation continues, will disincorporate in Mexico and organize corporations in the United States. The present situation merely illustrates the proposition that if Americans organize in foreign countries under the statutes of those countries they may not justly, it seems to me, ask the United States to intervene for their protection; at any rate, they could not ask that the United States use its military and naval forces for the protection of property which may be confiscated by Mexico when that property is held by a Mexican corporation; but a different rule undoubtedly would apply if the corporation were organized under the laws of the United States and an American corporation owned the property.

Mr. LA FOLLETTE. There is no doubt about that. The rule of the State Department for a century has been that where capital is invested in a foreign country under the laws of that country the State Department and this Government will not intervene in any way except to make certain that the citizen of this country who has so invested his capital shall receive the same consideration in the courts of the foreign country as that to which the citizens of that country are entitled.

I have just a few words to add in conclusion, Mr. President. In the name of common sense, if the Congress is determined to exempt wealth from taxation then let us do it, but let us keep that wealth at home in so far as we can. Surely, one crime against the people is enough; do not commit the double atrocity of exempting wealth from taxation and at the same time adopting the policy which will drain the capital out of this country for the development of foreign countries.

I am aware that it is said that we must do this thing because other Governments do it. It is said that England by a somewhat similar scheme exempts her foreign investors from taxation. I do not know to a certainty whether that is true or not. I should like to hear the proof before I accept the statement. We will have plenty of statements of that kind made, and I should like to have those who make the statements furnish the authority upon which they make them when the statements are made. But granting all that, suppose it is true; what of it? Must we commit every folly and crime against the people of this country that England commits against her people? Suppose she grants an outright subsidy to her foreign investors; must we do that, too? Must we follow her crooked policies of imperialism which brought her to the brink of ruin, from which only our intervention rescued her? If we are to learn anything from the lessons of the Great War, the first lesson should be to avoid the imperialistic policies of Great Britain and the other countries which caused the war.

Mr. STANLEY. Mr. President——

Mr. LA FOLLETTE. I yield.

Mr. STANLEY. I suggest to the Senator that outside of the difference in viewpoint politically between the monarchy of Great Britain and the Republic of the United States, the physical conditions of a small island, incapable, perhaps, of further development and dependent entirely upon the mastery of her resources across the seas, are entirely different from the conditions in this country, where we have undeveloped resources, in fact, illimitable resources, within the territorial limits of our own domain.

Mr. LA FOLLETTE. That is absolutely true, Mr. President, and it was for that reason that in my modest attempt to interest the Senate in this provision I laid in the beginning the foundation of our great need of capital here at home by directing attention to the very small relative proportion of our agricultural lands which have been brought under cultivation, and to the fact that we have only a population of 33 per square mile as against a population of from six to eight times that in other countries where the cultivation of agricultural lands has reached something like perfection. Here we are wrestling with the problems of unemployment, of destitution, and of how to provide capital for agriculture to move its products. A goodly portion of the time of the session of Congress before the recess was taken up in trying to meet this situation. We have had an outcry from a number of lines of industry; the merchants of the country are complaining that their interest rates have been advanced enormously, and yet, with agriculture and other lines of industry suffering for capital, with people out of employment, with development languishing, we are here laying the foundation for luring the capital of this country into foreign investments by exempting it from taxation.

I have seen some statements with regard to the profits made in China, for instance. A short time ago I read a very interesting article—and if the consideration of these paragraphs and the others that go with them interests the Senate sufficiently so that this debate extends, I wish to read it to the Senate—containing a criticism of this sort of procedure, written by a cultured Chinese and published in one of our periodicals. It was a very scathing denunciation of legislation such as that now proposed. He stated in the article that the capital of other countries that came into China has an opportunity to make a profit of as high as 1,000 per cent upon the investment. Mr. President, that is enough. We do not need on top of that to exempt such capital from paying taxes. If American investors want to go abroad and take the chances that may exist in foreign countries with weaker governments to obtain the alluring profits which are offered there, let them go; we have no right to restrain them, but let us not push them into enterprises of that kind.

Mr. HARRELD and Mr. KING addressed the Chair.

The PRESIDING OFFICER. To whom does the Senator from Wisconsin yield?

Mr. LA FOLLETTE. I yield, first, to the Senator from Oklahoma.

Mr. HARRELD. Mr. President, as was brought out in the debate awhile ago, we have various domestic corporations in this country that are developing resources in Mexico, especially in the oil industry. I know of one domestic corporation that last year made $28,000,000 profit in the oil business in Mexico

on a $4,000,000 investment. Under the provisions of the pending bill, does the Senator mean to say that that corporation would be exempt from taxes on that $28,000,000 profit?

Mr. LA FOLLETTE. I mean to say, Mr. President, that if it meets the requirements of this section—that is, if 80 per cent of its income is derived from its foreign business as an American corporation—it would be in the fortunate position of escaping taxation under the provisions of this bill.

Mr. HARRELD. Every bit of its income except 2 per cent comes from Mexican production.

Mr. LA FOLLETTE. Then it would be one of the "lucky boys" that would be taken care of by the provisions of this bill.

Mr. KING. Mr. President, I invite the attention of the Senator from Wisconsin to the fact that a bill is now pending in the Senate—I think it has passed the House—which has for its object the granting of a Federal charter to corporations—one or more; I am not clear which, now—to engage in business in China. They are not satisfied with taking out charters under the States or under the District of Columbia, but they must clothe themselves with the prestige and the power of a Federal charter. Of course, one of the objects is, after getting the prestige of the Government behind the corporation and saying that it has a Federal charter, a charter granted by the Congress of the United States, to claim exemption from taxation. When that bill comes before the Senate I hope the Senator will give it his consideration, because it is directly related to the matter which the Senator is discussing so forcibly this morning.

Mr. LA FOLLETTE. I have been interested to the extent of making a little study of that bill. As it passed the House of Representatives it provided for exempting corporations from taxation in this country, but as reported from the Committee on the Judiciary by the Senator from Connecticut [Mr. BRANDEGEE] that part of the House bill was stricken out. When I observed that I was prompted to inquire of myself if it were possible that the Committee on the Judiciary understood, when they reported that bill, that the subject was to be taken care of in the revenue bill. It was in connection with the criticism of that bill that I read the very interesting article by the Chinese gentleman whose name escapes me just now, and he referred to the people of this country being led to adopt such legislation as a people who were blind and led by a one-eyed leader.

Mr. WALSH of Massachusetts. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. I yield to the Senator from Massachusetts.

Mr. WALSH of Massachusetts. Directing the Senator's attention to the two paragraphs that are under discussion, the purpose of inserting these paragraphs in this bill was to provide tax exemptions to certain individuals, partnerships, and corporations that now pay taxes.

Mr. LA FOLLETTE. That is true.

Mr. WALSH of Massachusetts. Has the Senator any list of the individuals, partnerships, or corporations that will be affected by this exemption?

Mr. LA FOLLETTE. No; I have not.

Mr. WALSH of Massachusetts. Has the committee been furnished information as to the amount of money invested by individuals or partnerships or corporations that will be exempted?

Mr. LA FOLLETTE. I have no information upon that subject, as to the extent to which this is to be a loss of revenue to the Federal Government.

Mr. WALSH of Massachusetts. These clauses are inserted, then, to protect from taxation some mysterious persons, individuals or corporations, that are now taxed, under the claim that they are doing a foreign business, and receiving their income from foreign capital?

Mr. LA FOLLETTE. Yes.

Mr. WALSH of Massachusetts. I want to bring home that point. Has the Senator been able to get, from any of the authorities or from the committee, any information as to the number of corporations, the number of partnerships, or the number of individuals, who they are, and what kind of business they have been doing, that will be exempted under these phrases?

Mr. LA FOLLETTE. I have not been able to get that information; and of course it opens the door wide, and extends an unlimited invitation to all capitalists to engage in this profitable enterprise of escaping taxation by investing in countries where they can make enormous returns upon their investments.

Mr. WALSH of Massachusetts. But one thing is certain: Some interests are to be affected, or else these provisions would not be here.

Mr. LA FOLLETTE. Yes. I will remind the Senator from Massachusetts that later in the bill there are provisions, covering nearly a page, which I asked to have passed over, which exempt corporations in the Philippines. The Senator may remember that. I think he was present at the session when that matter came up—the American corporations that are already doing business in the Philippines. We not only have exempted those corporations by special provisions, but we have provided that a few of the corporations shall have refunded to them from the Treasury the taxes which they have paid. We have made the legislation retroactive in that respect.

Mr. WALSH of Massachusetts. I hope that whoever of the majority of the committee makes answer to the Senator's speech will state a typical case, a typical business house or establishment, that is going to be affected by these provisions of the bill.

Mr. OVERMAN. Mr. President, is there not some way to ascertain that information from the books of the Treasury?

Mr. WALSH of Massachusetts. The Senator is appreciative of the difficulty that has been experienced already in ascertaining information about this particular subject.

Mr. OVERMAN. It seems to me that in the case of the Philippines it would be easy to ascertain.

Mr. WALSH of Massachusetts. There is nothing in the records of the committee on that point.

Mr. McCUMBER. Mr. President, the Senator from Wisconsin has the floor, of course. When the Senator is through I will give the Senator from Massachusetts a typical case of the character he is asking for.

Mr. LA FOLLETTE. Mr. President, just a few words in conclusion. A policy of foreign exploitation which might find some excuse in countries like England, France, or Germany, whose natural resources at home have been largely developed, finds not the least justification when applied to this country, with its vast natural resources almost untouched. A single one of our States is as large, and richer in natural resources and productiveness, than any one of these countries. All our capital, and many times the amount, can be profitably employed at home.

The scheme of this provision of the bill has a double purpose. First, it offers to the capital which goes abroad the possibility of fabulous profits and exemption from taxation. In the second place, it increases the interest rates of that which remains for investment in our own country, because it greatly lessens the supply. From every point of view this provision of the bill is intended simply to promote the selfish interests and to enhance the great fortunes of the few at the expense of all the rest of the people. It is inexcusable and indefensible from any point of view as I see it, and it should be stricken from this bill.

I want to add just one suggestion with respect to one of the arguments that is made in support of this proposition, and that is that other countries exempt from taxation, as it is proposed here that we exempt from taxation, the capital of their corporations and the capital of individuals invested in the development of foreign enterprises, and that therefore without provisions of this kind our capital invested abroad in that way, either by individuals or by corporations, would not be on an even footing with the capital with which it comes in competition. But, Mr. President, that is true of capital invested in our own country. The local taxation in the different States is widely different. In some States it is exceedingly high; in other States it is relatively very low; and yet the corporations established in these different States compete with each other in the markets of this country on the products which they put upon the market.

The great, big proposition that underlies this whole scheme, however, is its rank injustice to the taxable property of the country in the exemption that it makes of a portion of the wealth of the country, in the depletion of this country of its capital investments, and in the entanglements into which it will lead us later. That, in my view, is the more serious aspect of the whole plan—that we are later to be called upon to intervene in these countries that offer the largest possible inducement in the way of profits, which always come from the country where the government is the weakest, where revolutions sweep over the country from time to time. There is where we are going to be especially called upon to intervene for the protection of these gentlemen who go abroad to make great profits upon their investments.

Mr. President, if this matter is to be discussed further, I shall not press it for a vote now. I should like to have leave to add to the matter which I shall put in the RECORD some quotations which I neglected to read in order to save time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCUMBER. Mr. President, I have heard given as the purpose of these House provisions an intendment that never was suggested in the committee, and I do not think any one of the committee ever thought that there was such an intendment at the time the matter was before the committee. At least, if there was the idea that the purpose of these two provisions was to enable individuals of great wealth to escape taxation, it was not discussed by anyone in the committee, and I think probably it did not occur to any other person, possibly, than the Senator from Wisconsin. If I had thought that that question was at all involved I would rather that it had been discussed in the committee, so that each member of that committee could have had his mind directed to that particular phase of the question.

There are two matters involved here. The first is the matter of the competitive business of American corporations and citizens in the trade of the world. The second, of course, is the question of revenue for the benefit of the United States. Let me give one illustration.

Here is an American corporation operating ships between the United States and Great Britain. There is another British corporation operating ships between Great Britain and the United States. Their competition must necessarily be intense.

Let us suppose that the American corporation is taxed on every bit of business that is done by it, both in Great Britain and in the United States. Let us suppose that Great Britain will allocate that portion which she says belongs to the United States, or is earned from sources in the United States, and the corporation is taxed only upon that portion which is allocated as belonging to earnings from the United Kingdom. How long would the American ships sail the ocean? How long would it be before they would be put out of business? That is but a single illustration.

A British subject doing business in the United States pays to the Government of the United States an income tax or a profits tax upon every dollar of net earnings from business in the United States, but he does not pay one dollar to the British Government upon the net earnings made in the United States. An American doing business, under the present law, in Great Britain would be taxed not only upon whatever he makes in Great Britain but also upon what he makes in the United States.

As between the two countries on the latter proposition, it might not become so important; but suppose both of them are doing business in the Philippine Islands. While under the control of the United States, that is a foreign country. It makes its own revenue laws. It makes its own tax laws. An American corporation doing business in the Philippine Islands today will be taxed upon all of its profits made in the Philippine Islands, and also upon its profits made in the United States. If a British subject is doing business in the Philippine Islands, the British subject will pay the Filipino tax, but it will not pay a cent to the British Government.

How long, under such competitive conditions, can the American corporation or the American business man compete with the British or the Japanese?

Let me take a still more exaggerated case. Take a case in a foreign country where the taxes are very low in the foreign country, and where the income taxes are not high. Suppose we were dealing in Sweden, and that there was no heavy tax and no abnormal tax whatever. The British subject doing business there would pay almost no tax. The American business man doing business there, though all of his profits were made there, would pay an enormous tax if he made a great sum of money.

We are seeking to expand our commerce. The Senator from Wisconsin [Mr. LA FOLLETTE] thinks that the money in the United States ought to be used for the development of business in the United States; but the development of business in the United States which increases a surplus in this country without providing an outlet for that surplus only exaggerates the bad conditions which we have to-day. What we want is not to raise more wheat and oats and barley for the farmer in the United States; he has not a big enough American market for it now. What he is more interested in is that we should increase the foreign demand, open up new markets for his surplus; and that but follows the general thought that the whole energy and thought of the American people to-day should be to increase their exports, and as against any character of competition.

Mr. POMERENE. Mr. President——

The PRESIDING OFFICER. Does the Senator yield to the Senator from Ohio?

Mr. McCUMBER. I yield.

Mr. POMERENE. Is the illustration which the Senator gives an actual state of facts or is it a hypothetical case?

Mr. McCUMBER. I will give the actual facts.

Mr. POMERENE. Before going to that, I want to ask a question.

Mr. McCUMBER. Certainly; what I have given is based upon actual conditions. I have given an illustration relating to the Philippines and others.

Mr. POMERENE. Allow me to make another suggestion.

Mr. McCUMBER. Certainly.

Mr. POMERENE. I want to get the Senator's viewpoint. There are different views with regard to what policy shall prevail with respect to our merchant marine, but I take it there are 96 Senators in this Chamber who want a merchant marine. Suppose this bill is passed and a man comes along with a capital of $10,000,000 which he wants to invest in a certain line of vessels. If he sees fit to invest as an American under an American charter, of course he is subject to the taxes; but if this bill is passed, would it not be an encouragement to him to make his investment under, let us say, a British charter?

Mr. McCUMBER. Just the opposite.

Mr. POMERENE. Or a French charter?

Mr. McCUMBER. Just the opposite.

Mr. POMERENE. No; because then his investment would be in a foreign country and it would be exempt from taxation under this bill.

Mr. McCUMBER. No.

Mr. POMERENE. Certainly.

Mr. McCUMBER. Suppose you take the American Shipping Corporation and say to it, "Upon the profits from your business of shipping, or that proportion of your business which is obtained from your shipments from foreign countries and paid by foreigners, you will pay a tax, and then, in addition to that, you will pay a tax upon all your profits that are made by shipping American goods to a foreign country. Now you are taxed upon your earnings both ways." But suppose the other country says to him, "We will give you a better show if you will come to our country and incorporate. You will then only have to pay your tax upon the business of the shipping from this country."

So I say that we should eliminate whatever encourages driving the American who wants to do this foreign business by incorporating under the laws of his own country and to defend himself against taxation from both ends to incorporate under the foreign country.

Mr. POMERENE. Mr. President, I do not think that fairly represents what I have in mind.

Mr. McCUMBER. Possibly I did not comprehend entirely what the Senator had in view.

Mr. POMERENE. It may be that I was not clear in my own expression. This is what I have in mind: Suppose the individual wants to invest $10,000,000 in shipping. He knows that if he goes to New York and opens up an office and invests in cargoes and engages in international or transoceanic shipping, of course he is subject to this tax, whatever it may be; but, on the other hand, suppose he wants to invest in a line of ships which, it may be, is engaged entirely in foreign transportation, or, let us say, between two foreign countries. What he is interested in is getting an investment upon which he is going to have a return. My point is that if he goes, for instance, to Great Britain, and takes out a British charter, with the intention of making his investment there and conducting his shipping between Great Britain and India, or Egypt, or South Africa, under this exemption, as I conceive it to be, his investment would be free from all taxes whatsoever. That is what I had in mind, and if I am not right about it I would like to be set right.

Mr. McCUMBER. He can do that under the present law.

Mr. POMERENE. But you are encouraging him to do it by this law.

Mr. McCUMBER. No; it seems to me it is just the opposite. If, through our giving him better conditions to compete with the world by exempting him from those taxes on business earned in a foreign country he can still do business as an American corporation, I think he would prefer to retain the American status rather than to take a foreign status.

Mr. OVERMAN. Mr. President, will the Senator yield to allow me to offer an amendment?

Mr. McCUMBER. I yield for that purpose.

Mr. OVERMAN. I offer an amendment to the pending bill, which I ask to have printed and lie on the table.

The PRESIDING OFFICER. It is so ordered.

Mr. SMOOT. Mr. President, I want to say to the Senator from Ohio that if the law stands as it exists to-day it is virtually an embargo against any American citizen doing business in a foreign country. If the English tax and the present American tax were paid to both countries, every cent of the citizen's income would be taken, and in some cases more. It would take

every cent of it, and in some cases he would be penalized and part of his capital taken, providing they brought suit against him.

The Senator, I know, does not want such a thing as that to happen, and that is what would happen in the Philippine Islands, if both taxes are paid, and has been for years past. There have been a few American citizens who have paid the double tax in the Philippines, but there are only a few of them. As I remember the amount paid, it was less than $300,000. The other American citizens in the Philippines who have been doing business claimed exemption, and those questions are in the department to-day for settlement, and if the decision of the department is that they must pay the double tax there is not one of them who can pay it without bankruptcy.

Do we want to do that? I warn Senators now that if this provision should go out of the bill nearly every American citizen who is doing business in the Philippine Islands who has withheld paying his tax will be bankrupt.

Mr. HITCHCOCK. Mr. President, it does not take any such sweeping provisions as there are here to remedy that situation.

Mr. SMOOT. There is another provision in the law——

Mr. HITCHCOCK. So that need not be a reason for it. But is it not a fact that these provisions here are so sweeping that millions of dollars of money invested by Americans in outside securities, in outside enterprises, will utterly escape American taxation, as far as the income is concerned which those people in the United States receive?

Mr. SMOOT. Providing the business is done outside and no part of the business is done in the United States.

Mr. HITCHCOCK. Is it not a fact that other countries levy taxes upon Americans resident in those countries deriving their income from the United States?

Mr. SMOOT. No; they do not.

Mr. McCUMBER. The Senator is mistaken there. That is what makes this bill conform to the laws of the other countries of the world.

Mr. HITCHCOCK. Do I understand the Senator to say that an American, resident in Great Britain, who has taken up his residence there and is drawing income from sources in the United States, pays no British income tax?

Mr. SMOOT. They are credited with the amount of income tax they have to pay in the United States.

Mr. HITCHCOCK. But they pay a British income tax.

Mr. SMOOT. Yes; as I have already stated.

Mr. HITCHCOCK. Then why should we exempt those deriving their revenues from British sources?

Mr. McCUMBER. We are making the law conform exactly to those taxes which the British law imposes upon Americans. We make no distinction.

Mr. HITCHCOCK. I understood the Senator to say no. He now admits that Americans resident in Great Britain deriving revenues from sources in the United States pay British income taxes to-day.

Mr. McCUMBER. There is an American citizen, and, of course, we have a right to tax the American citizen. The American citizen is doing business in the United States, no matter where he happens to be temporarily located, and, of course, we tax him as an American citizen.

If the British citizen resided in the United States he would be taxed by the British Government as a British citizen or subject and he would be taxed on what he made in Great Britain, as though he had been living in Great Britain. In that respect the proposed law would be the same.

Mr. HITCHCOCK. If that citizen of Great Britain has American investments, does he not pay a tax in Great Britain on those investments?

Mr. McCUMBER. Certainly.

Mr. HITCHCOCK. Why then should we exempt Americans——

Mr. McCUMBER. Perhaps I misunderstood the Senator. He does not pay taxes upon profits arising from his business in the United States.

Mr. HITCHCOCK. I think he does. I know he does.

Mr. McCUMBER. I know he does not. I can give the Senator the law.

Mr. HITCHCOCK. I would like to have the reference. I would like to have the proof because I have knowledge of British citizens who have investments in the United States and receive an income from the United States and pay taxes to the British Government on those incomes, and I do not see why Americans deriving incomes from foreign investments should not pay taxes on those incomes.

Mr. FLETCHER. Mr. President, this situation has come to my attention recently. An American citizen who is employed by the Shipping Board in Germany, stationed at Hamburg, is required to pay an income tax in Germany. He is now paying an income tax here also. Because he is said to be engaged in commercial business he has to pay an income tax to Germany, although he is an American citizen and he is there simply as an employee of the Shipping Board.

Mr. SMOOT. We must not get income mixed up with the business that is done. We are here defining what a foreign trader is. That is what we do in this provision.

Mr. FLETCHER. I understand that.

Mr. SMOOT. An American citizen or an American concern can not be considered a foreign trader unless 80 per cent of his income is derived from business done in a foreign country—

and 50 per cent or more of the gross income of which for such period or such part thereof was derived from the active conduct of a trade or business.

We incorporated that provision which does not appear in the existing law to-day. We have inserted the words "trade or business." We must separate the income from the business itself. What the Senator from Nebraska [Mr. HITCHCOCK] said is true. That was an income perhaps from a building from which the American derives rent. That is his income, but that is not his business. He ought to pay an income tax and he does, not only in this country but in every other country.

Mr. FLETCHER. I do not think an American citizen employed to represent some interest of ours in a foreign country, who is required to pay an income tax to his Government, ought to be also taxed by the foreign Government where he happened to be.

Mr. WATSON of Indiana. He is not, under the express provision of this bill. That is a different proposition.

Mr. SMOOT. It is an entirely different proposition. This is simply a definition saying when an American citizen or an American corporation shall be considered a foreign trader. That is all there is to it. Unless the amendment is adopted we might as well say to every American citizen, "You can not do trading abroad."

Mr. McCUMBER. Mr. President, we are getting quite away from the matter that we were discussing a short time ago, namely, the matter of competition between an American citizen and a corporation doing business in a foreign country.

Mr. KING. Mr. President, may I suggest to the Senator from North Dakota, regardless of the departure from the provision which the Senator was discussing, that the statement made by my colleague and by the Senator from Indiana sotto voce as to the effect of the provision, that when we get down to the reason of it it is simply this: It is the desire to exempt from taxation persons or corporations, American in origin or nationality, who are doing 80 per cent of their business in foreign countries. It is to give them a subsidy to the extent of the exemption from taxation, and to the extent to which you exempt them from taxation pro tanto you must levy taxes upon the people to meet it.

Mr. WATSON of Indiana. Mr. President, may I say one word there? In the first place, this is not granting a subsidy. Dr. Adams—and I presume we all understand that he is our greatest expert—assures me that he will stake his reputation as an authority on the tax question on the statement that we will derive a greater revenue from this provision of the bill if enacted into law than we derive at the present time.

Mr. HITCHCOCK. Can the Senator explain how that comes about?

Mr. WATSON of Indiana. Certainly; it is because they do not return it, and we do not get it.

Mr. HITCHCOCK. Who does not return it?

Mr. WATSON of Indiana. They do not.

Mr. HITCHCOCK. Who are they?

Mr. WATSON of Indiana. The people living abroad who ought to return it and do not return it.

Mr. HITCHCOCK. Well, Mr. President——

Mr. WATSON of Indiana. Will the Senator permit me to finish the statement? The Senator from Wisconsin [Mr. LA FOLLETTE] said that by the provisions of the bill we are seeking to lure capital abroad. That is the very thing we are seeking to prevent, because unless this provision is enacted into law the people who are taxed under the provisions of the existing law will surrender as American corporations and form foreign corporations, and the capital, instead of being lured here by the enactment of the provisions of the bill, will be driven away if this provision be not enacted into law.

Mr. HITCHCOCK. Does this apply only to corporations?

Mr. WATSON of Indiana. No.

Mr. HITCHCOCK. It applies to individuals and partnerships, and it also applies to banking corporations?

Mr. WATSON of Indiana. It applies to business.

Mr. HITCHCOCK. It applies to banks and the interest paid by banks on bank deposits, does it not?

Mr. WATSON of Indiana. No.

Mr. HITCHCOCK. Let me read it to the Senator.

Mr. WATSON of Indiana. Here is the plain provision of the bill——

Mr. HITCHCOCK. I would like to read to the Senator a section appearing later on in the bill.

Mr. WATSON of Indiana. It reads—

Was derived from sources without the United States as determined under section 217, and 50 per cent or more of the gross income of which for such period or such part thereof was derived from the active conduct of a trade or business without the United States.

That excludes all these investment companies, and the instance cited by the Senator from Nebraska a moment ago, where a man might buy a million dollars of French bonds and be exempt under this provision, is not applicable at all, because it is not a trade or business.

Mr. HITCHCOCK. It is not applicable under these two paragraphs, but I would like to ask the Senator whether it is not applicable later on under section 217?

Mr. SMOOT. That is another proposition entirely, not connected with this, and if the Senator would like an explanation of it I would be glad to give it to him.

Mr. HITCHCOCK. Yes; I would be glad to have it. It seems to me to be along the same line.

Mr. SMOOT. The Senator need not read the section to which he refers, for I know what it is. Let me make a statement about it, and then if the Senator desires to read it he may do so.

The reason why the item to which the Senator refers was inserted in the bill was this: Every Secretary of the Treasury for the last 12 years, I think, has recommended legislation along this line, with a view to encouraging foreigners to make deposits in the banks here in America. They do that in every other country, and yet in this country on the deposits that are made here, if they are paid 2 per cent upon the daily balances the recipient is taxed upon the amount. It is only to encourage foreign capital to come to the United States that the amendment is reported.

I will say to the Senator that I do not think there has been a Secretary of the Treasury for the last 12 years who has not recommended that we enact legislation of this kind. I know if the Senator will examine into it and see what effect it has, he will never have any objection to it. But that has nothing whatever to do with the question that we have under consideration now. That is another matter entirely.

Mr. HITCHCOCK. It is the same policy.

Mr. SMOOT. No; this applies to a foreign citizen. It is applicable to interest on money deposited in this country to expand business in this country. The other is where an American citizen goes to a foreign country and starts up business as an American citizen. Just as surely as this provision is not enacted into law, every American doing business in the Philippines or any other country is going to take out incorporation papers or operate as an individual in those countries under the laws of those countries.

Mr. HITCHCOCK. And pay taxes to that country?

Mr. SMOOT. Pay taxes only to that country, and we will not get anything at all.

Mr. HITCHCOCK. What will we lose if we are going to exempt him in this bill?

Mr. SMOOT. We will lose 20 per cent of it anyhow, because if there is over 20 per cent he pays on that here. We limit that, and we will get that much, but the other way we would not get anything.

Mr. HITCHCOCK. We propose in this bill to exempt him, because if we do not he will get an exemption in the Philippines by incorporating there. I consider that a very inadequate reason.

Mr. SMOOT. It may be inadequate, but that is the reason why. Would not the Senator do it himself?

Mr. HITCHCOCK. I would like to ask the Senator this question.

Mr. SMOOT. Would not the Senator do it himself? If he were an American citizen and had gone to the Philippine Islands, and the tax in the Philippine Islands was 40 per cent on his net income, and the tax in the United States was 40 per cent likewise, which would be 80 per cent, does the Senator think he could or would run a business under such conditions?

Mr. HITCHCOCK. I should not answer that yes or no. I answer it by saying the Philippine Islands, like our other dependencies, are under the control of Congress.

Mr. SMOOT. Not as to her taxes.

Mr. HITCHCOCK. They are absolutely under the control of Congress and Congress can alter any law they have at any time, and Congress can provide either for exempting them in the United States or for exempting them in the Philippines or dividing their taxes; but it ought to be specifically and definitely done, and in order to accomplish it we ought not to make a provision so broad as to include a good many other things.

The Senator referred to the provision I have cited, section 217, as being intended to enable the big international banks of this country to receive deposits from abroad.

Mr. SMOOT. Or the small bankers, if they desire to do so.

Mr. HITCHCOCK. And to pay interest on those deposits. Suppose he paid taxes abroad under the present law, what happens? Who pays the tax?

Mr. SMOOT. The tax is withheld by the corporation now under existing law; that is, provided they do not have a place of business in the United States.

Mr. HITCHCOCK. That is to say, if a business man from abroad receives from a New York bank interest on his daily balances——

Mr. SMOOT. And has no place of business in the United States——

Mr. HITCHCOCK. That bank in New York withholds that amount and pays it to the Government of the United States. I should like to ask if the committee investigated to find out what that amounts to?

Mr. SMOOT. That would all depend on the amount of deposits, and nobody can tell, as sometimes the deposits are very heavy from foreign countries and sometimes very light.

I will say to the Senator that we are in hopes of having the foreigner who comes to this country, even though he lives in this country and goes back home occasionally, so satisfied with conditions here that he will not take his gold back with him but will keep it here.

Mr. HITCHCOCK. Then it is to enable the bank in New York to pay interest on foreign deposits? Is that the idea? So the Government sacrifices this possible revenue in order that the bank may do a profitable business. It is for the benefit of the New York banks, or, in other words, the international banks in this country. Is that right?

Mr. SMOOT. No; I do not think so, altogether.

Mr. HITCHCOCK. They are the ones who ask it, and for whose benefit is it if not for theirs?

Mr. SMOOT. It is for the benefit of men who control the foreign money that will be deposited in the banks in New York or Boston or San Francisco or any other bank, instead of having it deposited in London, Paris, or any other foreign city.

Mr. HITCHCOCK. That is what I thought. It is legislation for the promotion of the business of the big international banks; and, in order that they may get it, the United States is to sacrifice the income it might derive from the taxes on their profits.

Mr. SMOOT. Mr. President——

Mr. McCUMBER. Mr. President, before I yield further to either one of the Senators, I should like to ask them to kindly tell me to what extent the subject which they are now discussing is connected with the particular matter as to which I am attempting to answer the criticisms of the Senator from Wisconsin [Mr. LA FOLLETTE].

Mr. SMOOT. I have already stated that it was not connected with it at all. I did not know that the Senator from North Dakota had the floor, and I apologize to him.

Mr. McCUMBER. I do not ask for an apology; it is not necessary; but I do want to get to the subject which we are discussing. Senators are discussing matters that are entirely outside of anything connected with the pending proposition. The Senator from Wisconsin has moved to strike out two subdivisions of the bill, and he has challenged the purpose of the committee in accepting the House provisions. I am attempting to answer his criticisms.

We found that the House had passed this bill in this form, and we did not change it. None of the arguments that were made by the Senator from Wisconsin was presented to the committee by him or by anyone else in opposition to those two provisions. The junior Senator from Utah [Mr. KING] just now gave his own definition of the object of the provision and the purposes which actuated the committee. I can give them here in a concrete form; and I think the intendment of and the reasons for the proposal ought to come before the Senate as given by those who support it rather than as given by those who assume to state what their reasons were.

Mr. HITCHCOCK. I did not intend to divert the Senator from North Dakota, but he asked the question what the provision on page 50, which I have read and discussed with the Senator from Utah [Mr. SMOOT], had to do with the two sections on page 5. They have this to do with them: The provision which the Senator from Utah and I have been discussing is section 217, and section 217 is referred to in the two pro-

visions which the Senator from Wisconsin seeks to strike from the bill.

Mr. McCUMBER. Relating to bank deposits, as I understand?

Mr. HITCHCOCK. Yes. Section 217 is mentioned in the paragraphs the Senator from Wisconsin desires to strike from the bill; so I referred to that section. It seems to me that that section refers to the banking business and to bank deposits.

Mr. McCUMBER. That is water that has passed over the wheel; and I shall not now take time to go back to the subject. I will give the reasons which actuated me and which, I think, actuated the other members of the committee in agreeing to the House proposition.

First. The American traders in foreign countries can not compete with foreign rivals if handicapped by burdens not borne by their competitors.

So the whole question is whether, if that be true, we should follow the advice of the Senator from Wisconsin and drive them out of the foreign business for the purpose of compelling them to invest in the United States.

Second. The citizens of all countries except the United States when actively conducting a business abroad are exempt from the payment of taxes to their home Governments on income derived within the foreign country. Having that advantage, and seeking to expand and develop our foreign trade, and seeking to give American citizens and corporations something like an equal opportunity for foreign business with their rivals, the committee believed that this was a just provision.

Third. American citizens resident in foreign countries pay the United States income and excess-profits taxes on all income received from all sources.

Fourth. The revenue obtained by taxing American traders in foreign countries on income derived from foreign sources is relatively insignificant. We are getting but very little even of what would be relatively insignificant because those taxes are not paid.

Again, greater revenues than those obtained from taxes on American traders abroad can be secured from the taxes levied on domestic industry and agriculture made prosperous through the development and maintenance of foreign trade. That is giving the reasons in a nutshell.

Mr. HITCHCOCK rose.

Mr. McCUMBER. Before I yield to the Senator from Nebraska I desire to say the Senator from Massachusetts [Mr. WALSH] asked me to give some concrete case of this inability of the American trader to compete with the foreign trader. I will give him a concrete illustration in the Philippine Islands.

There is a French concern in Manila handling American automobiles, tractors, and so forth. In 1919 it is reported to have earned a net profit, in American money, of $600,000. Upon that it would pay to the Philippine Government an income tax of something less than $77,735. It paid no taxes upon such income to the French Government.

There is also in Manila an American house which is engaged in handling automobiles, tractors, and so forth. Upon a like volume of business it is obligated to pay not only the Philippine tax of $77,735 but an additional tax of $297,455 to the United States Government, a payment from which its foreign competitor is altogether exempt. How long can the American concern compete with the French concern in the Philippines, handicapped with a tax that is four times as great as that of the foreign competitor?

The Committee on Finance received a cablegram from Gen. Wood after his arrival in the Philippine Islands and following investigations made by him. It was a very strong cablegram, calling attention to the great handicap under which American capital and American business houses were laboring, and stating that unless they were relieved it would be impossible for them to continue business in the Philippine Islands.

After all, is it not a fairer and a better proposition for the United States, seeking business abroad, seeking a line of connections between the United States and the Philippine Islands and between the Philippine Islands and the United States, seeking to develop foreign business, and desiring to promote a demand for American goods and American supplies, to encourage rather than by any character of legislation to shut the gates against those engaged in such endeavor and compel them to grope in a country, in their own country, for business outlooks at a time when we are suffering greatly because production under present conditions is greater than the consumptive ability of the country? I think it is better to encourage the foreign trade; but whether we encourage it or not I think it is a better policy to say to Great Britain or France, "Anything that your subjects or citizens earn by doing business in the United States we will tax, because the profits are made here, but you need not tax them, and anything that our citizens or our corporations obtain by way of profits in your country you may tax them in your country and we will not tax them, for they are earned in your country." It is a fair proposition and, like the matter of shipping, to which I referred a short time ago, becomes very important to the American foreign trade. So, Mr. President, I think that the criticism made by the Senator from Wisconsin is not well taken.

The Senator from Oklahoma [Mr. HARREL]—and I am sorry he is not present in the Chamber now—gave the illustration of an American corporation which, I think, he said had made $28,000,000 profit in Mexico on an investment of $4,000,000, and it was stated that the enactment of the provision now under discussion would relieve them from taxation. I am not at present questioning the figures stated as to the amount of their profits, whether they are on paper or whether they are real profits, but I am wondering how any American corporation or any foreign corporation on earth can get out of Mexico with such a haul as that without having all or the greater part of it taken away by bandits or by Government edict. Generally corporations in that country have been able to get away with but little of the money they may have made.

But, answering directly the Senator from Oklahoma, if the corporation to which he refers wants to escape such taxation, all on earth it has got to do is to incorporate under the laws of the foreign country, and I am inclined to think, if it could save the money which the Senator says it would save if the provision now under consideration were enacted as a part of this bill, it would not wait for the bill to become a law, but it would incorporate under the foreign government. We can not prevent American capital or any other capital from going where it can earn the greatest amount. Earnings mean always the greatest net amount of profit, and every corporation has to take into consideration the matter of taxation. So if it is more profitable for the purpose of escaping excessive taxation to incorporate under the laws of a foreign government there is nothing on earth to prevent the corporation doing so, and it will do so. We can not prevent that. What we seek to do is to give the American who desires to retain his American status in an American corporation the right to do business in a foreign country without being handicapped by conditions which render it impossible for him to compete with his foreign rival. That is what is sought. If we fail to accomplish this object, then the law certainly should be amended, but I will ask Senators to think twice before they undertake to change this provision of the bill simply because, with the provision stricken out, we might secure a little revenue which in the end would fail us because the business from which the revenue was obtained would seek a foreign situs and be exempt from American taxation.

Mr. POMERENE and Mr. KELLOGG addressed the chair.

The VICE PRESIDENT. Does the Senator from North Dakota yield, and if so to whom?

Mr. McCUMBER. I think the Senator from Ohio first addressed the chair, and I will yield to him first.

Mr. POMERENE. Mr. President, the Senator has put up the proposition pretty forcibly so far as it relates to an individual who is engaged in trading; but let us assume for the sake of the argument that the taxpayer involved is a manufacturer who manufactures goods in the United States to be sold in China. Another manufacturer is manufacturing goods in the United States which are also sold in China, but he finds that he can go over to China and manufacture the goods there, paying coolie wages, and so forth. Necessarily, as it seems to me, he would be tempted to go over there and make his investment in order that he might have the advantage of coolie labor; and, at the same time, when you relieve him from the payment of this tax, by so much you are encouraging him to go over there.

This is not purely a hypothetical case. A good many of our corporations and interests are already making investments in Japan and China for that very purpose, and I think that is a matter that ought to be given serious consideration. I do not know, except from what the Senator says, as to the extent to which this is being considered. I realize that there is the one viewpoint which has been presented by the Senator from North Dakota with very great force, but there is the other viewpoint which was presented by the Senator from Wisconsin with equal force; and it seems to me that while we are trying to relieve one of these individuals, and thereby encourage him to do his trading abroad, at the same time we are encouraging other individuals to do their manufacturing in other countries with coolie labor, and at the expense of American labor.

Mr. McCUMBER. Mr. President, the American now, as the law now stands, can go over to China, and he can employ coolie

labor to manufacture his goods, and he can ship them to the United States if he sees fit. You can not prevent that any more than you can by law prevent the operation of the law of supply and demand.

Mr. POMERENE. He has to meet the tariff, however.

Mr. McCUMBER. He can go over if it is beneficial to him to go over. Now, take the case that the Senator has mentioned. The Senator says that the American can manufacture the same goods cheaper in China, and therefore, if we relieve him from the payment of taxes upon the profits that he makes in China, we encourage him to do his work in China.

The Senator does not go a step further to see just exactly where that leads. There are two sides to that. If we impose a tax upon the profits which he makes in China we do not prevent his doing business in China if he is inclined to do it, but we drive him bodily over to China with his corporation, and that is what he would do. We prefer to keep him in the United States, because if he has 21 per cent of his business in the United States we can tax him on the whole, and if he has 19 per cent we can still tax him upon the 19 per cent in the United States. If we drive him with his corporation entirely over into China he escapes all, unless he has a little business in the United States on which he will pay the tax, and he pays no tax whatever upon his Chinese profits.

Mr. KELLOGG. Mr. President, will the Senator yield?

Mr. McCUMBER. I yield to the Senator from Minnesota.

Mr. KELLOGG. I think the case mentioned by the Senator from Ohio is not a hypothetical case. I understand that American traders and corporations doing business in China are now at a great disadvantage on account of the English tax system, and I wish to know if I am correct in this statement.

If an American corporation manufacturing goods and doing business in the United States and China pays simply its local taxes in China, all of its income from all of its business, both in the United States and in China, under the old law becomes subject to the taxes in this country, while the British corporation organized under the laws of Great Britain and doing business in Great Britain and China is not required to pay income and excess-profits taxes upon the business which it does in China. Under the law as it now exists, the American company would simply be given credit on its taxes for the amount of excess-profits and income taxes which it paid in China; but if it did not pay excess-profits and income taxes, but paid some other form of taxes, it would be given no credit at all, and it would have to pay all its taxes to China and all of the income and excess-profits taxes under the old law. Is that correct?

Mr. McCUMBER. Yes; that is substantially correct.

Mr. KELLOGG. Then I understand that it is the object of this provision to place American corporations and traders upon the same basis that they are placed in the other great commercial and manufacturing countries, and that it would not be taken care of by the present system of simply crediting them with the excess-profits and income taxes which they pay abroad.

Mr. HITCHCOCK and Mr. WATSON of Georgia addressed the Chair.

The VICE PRESIDENT. The Senator from Nebraska.

Mr. HITCHCOCK. Mr. President, I want to show the Senator from North Dakota the extent to which these paragraphs are connected with the international banking business. I think he is entirely mistaken in assuming that they have no connection whatever. It looks to me very much as though the international banking institutions would be the large beneficiaries of these provisions.

Mr. REED. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Ball	Hale	McCumber	Sheppard
Borah	Harreld	McKellar	Shortridge
Brandegee	Harris	McLean	Simmons
Broussard	Harrison	McNary	Smoot
Cameron	Heflin	Moses	Spencer
Capper	Hitchcock	Myers	Sutherland
Caraway	Johnson	Nelson	Townsend
Cummins	Kellogg	New	Trammell
Curtis	Kendrick	Nicholson	Underwood
Dial	Kenyon	Oddie	Wadsworth
Ernst	King	Overman	Walsh, Mass.
Fletcher	Ladd	Page	Watson, Ga.
France	La Follette	Pomerene	Watson, Ind.
Frelinghuysen	Lenroot	Reed	Williams
Glass	Lodge	Robinson	Willis

The VICE PRESIDENT. Sixty Senators have answered to their names. A quorum is present.

Mr. HITCHCOCK. Mr. President, I had expected at this time to reply to the Senator from North Dakota for the purpose of showing that these two paragraphs include much more than he indicated that they do include; but in view of the fact that I have been informed that the Senator from Georgia [Mr. WATSON] gave way to the Senator from North Dakota for the purpose of making his address, I will yield the floor.

Mr. WATSON of Georgia obtained the floor.

Mr. FLETCHER. May I interrupt the Senator just long enough to make one observation?

Mr. WATSON of Georgia. I yield.

Mr. FLETCHER. I think the illustration by the Senator from North Dakota as to the automobile business was quite apt and pertinent; but I disagree with him in regard to the shipping conditions which he mentioned, and I simply want to call his attention to section 21 of the merchant marine act, which provides that by February, 1922, we may extend our coastwise laws to the Philippines, and eventually it will be entirely in the power of the United States to exclude all foreign shipping from the Philippines. It will be treated as a part of our coastwise trade if section 21 of the American merchant marine act is carried out.

Mr. McCUMBER. My shipping illustration was simply to show that if you allowed both countries to tax a corporation doing a shipping business between the two countries on the entire profits you would have double taxation. Under the present rule ships registered in Great Britain pay a tax on their entire profits to Great Britain, and those registered in the United States pay a tax on their entire profits from both sides to the United States, according to the laws of each country; but in that way they do not pay double.

Mr. SIMMONS. Mr. President, will the Senator from Georgia yield to me?

Mr. WATSON of Georgia. I yield.

Mr. SIMMONS. At the request of many Senators on this side of the Chamber who have felt the necessity of some general discussion of the more important provisions in the bill before we proceed further, I had intended to make a general speech this afternoon covering practically all the essential changes made by the Senate committee and by the House. I do not desire to interfere with the Senator from Georgia, and it would suit me very much better to speak to-morrow morning. I wish, therefore, to give notice that immediately upon the assembling of the Senate to-morrow morning I shall desire to address the Senate upon the general provisions of the bill.

TREATY OF PEACE WITH GERMANY.

Mr. WATSON of Georgia. Mr. President, in the October, 1921, number of the Century Magazine there is an article by A. G. Gardiner, the author of a standard book whose title is "Prophets, Priests, and Kings." The first paragraph of the article reads as follows:

> Europe, three years after the war, is like a derelict ship left helpless on the face of the waters. The storm has passed and the waters have subsided, but the ship is a wreck. Its timbers have parted; its machinery is scrapped; helm and compass and all the mechanism of control are lost. Worst of all, there is no captain.

Since there have been recorded annals of the human race there has been no such situation throughout the world as now exists, and it is not due only to the great World War; it is due to a large extent to the League of Nations and the council of the prime ministers of the great military nations.

There has been no consistency in the action of the league. There has been no constructive principle in the action of the league. Self-determination, allowed to one country, has been denied to another. People have been handed back and forth like pawns on a chessboard. The names of ancient countries have been stripped from them. Bohemia no longer is known to history as Bohemia, and the glorious traditions of that people become submerged in a new name, meaningless to most of the world.

A part of the heritage of every country are its historic memories. They are the regalia gems which should be, and are, sacred in the eyes of patriotism. But we have seen the map of Europe sliced and cut and pieced together, a matter of scissors and paste, with new names covering old countries, old countries merged into new, and an unscrupulous militarism dominating the whole.

We are not even aware of the full extent to which that situation prevails. How many Senators on this floor have realized that the Republic of France, in addition to the hundreds of thousands of black troops which she brought into Europe and used during the war and which are now domiciled upon the white people of Germany, has an army of 5,000,000 white men along the River Niger, ready to be brought into Europe? To a lesser degree England has used the brown men and the black men against the whites, and has almost unlimited Asiatic and African military resources at the bidding of her foreign policy.

Japan, armed from head to feet, with the unsheathed sword in her hand, and the attitude of menace to the West in every-

thing that she does, every step that she takes, every policy she adopts, is reaching forth to militarize the 400,000,000 yellow people of China; and the education of one generation and the work of the drill sergeant can turn those 400,000,000 people into a potential irresistible militarism which will, perhaps, again threaten the western world with invasions from the East, such as they have known in the past.

We came out here last night to listen to the distinguished Senator from Minnesota [Mr. KELLOGG] discuss this treaty. His ostensible purpose was to answer the argument of the Senator from Idaho [Mr. BORAH]. We all knew that the Senator from Minnesota was amply able to handle any question connected with this treaty or the League of Nations. We knew his capacity, and we respect it. But last night he chose not to grapple with the main questions presented by the Senator from Idaho. The most formidable thought expressed by the Senator from Idaho was that if we ratify this treaty we link ourselves automatically with the Versailles treaty and consequently with the League of Nations, because the magician never lived who can separate that warp from that woof. They are woven together with infinite skill, and you can not tear out either the one or the other without the destruction of the fabric.

Is it true, as claimed by the Senator from Idaho, that the ratifying of this treaty will put us under the jurisdiction of the Reparation Commission?

Mr. STANLEY. Mr. President——

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Kentucky?

Mr. WATSON of Georgia. I yield.

Mr. STANLEY. The Senator has given profound thought both to the pending treaty and to the treaty of Versailles, and I desire to ask if the Senator from Georgia knows of any good argument which has been or can be used against the treaty of Versailles that does not apply with additional cogency and force against this thing?

Mr. WATSON of Georgia. My line of reasoning, Mr. President, will answer my distinguished friend from Kentucky in the negative. If one is a dangerous foreign maelstrom to be avoided, the other is also. No Senator need deceive himself about it for a moment.

Mr. STANLEY. If the Senator will pardon me again, I can see how those who favored the treaty of Versailles can possibly take this excuse for it, this rehabilitation of it, as the lesser of two evils; but I have not yet been able to understand the ratiocination of those who so valiantly fought the treaty of Versailles and who now come here and offer this treaty instead.

Mr. WATSON of Georgia. I beg to refer my literary and eloquent friend from Kentucky to the song which Alice sings in Wonderland, about the supple and nimble old gentleman who balanced an eel on the end of his nose.

The Senator from Minnesota [Mr. KELLOGG] last night said the American people wanted peace with Germany. I agree with him about that, but since when have we been at war with Germany? The President of the United States said to this Congress, after the armistice of November 11, 1918, "The war is ended." That seemed to be an official declaration coming from the very highest source. Then, to make assurance doubly sure, we passed a resolution which declared the state of war at an end, and declared that peace existed between the two countries. Both Houses passed that resolution, and President Harding signed it. Did it have no meaning? Is it a mere scrap of paper? Did it accomplish what its distinguished author intended it should, what Congress and what the Chief Executive intended it should?

Mr. KELLOGG. Mr. President, will the Senator yield?

Mr. WATSON of Georgia. With pleasure.

Mr. KELLOGG. So far as the United States is concerned, and any law which depended for its existence upon the continuance of war, undoubtedly that resolution ended it; but can we end a technical state of war without the consent of Germany?

Mr. WATSON of Georgia. Mr. President, the answer to that would seem to be that Germany never declared war.

Mr. KELLOGG. She made war upon us.

Mr. WATSON of Georgia. Yes; and we went 3,000 miles to make war upon her. There are several ways of ending a war. You can do so by mutual agreement, which you can call by any name you choose. You can do so by the utter defeat and annihilation of the enemy and the withdrawal of your army. We were not at war with Great Britain when we established the Geneva tribunal to try the claims growing out of the raids of the Confederate cruiser *Alabama*.

Nearly every nation on earth was at peace with us after our peace treaty with England in 1783, and it took many years to negotiate separate treaties with those nations, with none of whom we were at war. Therefore I do not think it can be maintained, as the Senator from Minnesota seemed to claim last night, that there is any state of war. The country at large understands that peace prevails between the two countries, and the surest barometer of that fact is the enormous growth of our trade with Germany.

The Senator asked what would we do if we did not go into this treaty? Well, this is one of a dozen different treaties that might have been negotiated. Are we obliged to take this? Can we not say we want a better one than this? Can we not say we have objection to this? Can we not say, "This is unsatisfactory," and negotiate another? Let us not becloud our future with so much danger. Surely we are not bound to take the very first treaty that comes, when that treaty seems to be an absolute violation of the verdict of the people rendered less than one year ago. When a majority of 7,000,000 Americans speak, shall they not be heard in this Chamber? Shall they not be heard at the White House? Shall they not be heard throughout the world? Who are the sovereigns of this country if not the people? Our Government was founded on that theory and upon that theory it is operated. I am not prepared to see it set aside or to have a hand in setting it aside.

Mr. McCORMICK. Mr. President, will the Senator yield for a question?

Mr. WATSON of Georgia. With pleasure.

Mr. McCORMICK. If I understand the Senator, he urges, as I would, that the verdict of the last electorate was that the United States should not enter the League of Nations.

Mr. WATSON of Georgia. Oh, assuredly. I am arguing just that very proposition, that it does.

Mr. McCORMICK. I think the Senator has misunderstood me. Does not the treaty provide that the United States shall not enter the League of Nations?

Mr. WATSON of Georgia. I did misunderstand the Senator. I will answer him now, understandingly.

I do not think so. I think that the Secretary of State, acting with the President, must have had a motive in putting the words in that treaty "unless the Congress decides to enter the league." Why should those words have been put into the treaty? They were not germane. They were not indispensable. Has it been denied here that the President means to send in a nomination for a representative on the Reparation Commission, and did not the Senator from Connecticut [Mr. BRANDEGEE] admit on the floor of the Senate before the recent recess that while Col. Harvey, sitting in the council, or our ambassador listening in somewhere else, did not commit us to the league, but that, if we were represented on the Reparation Commission, we would be in the league? I so understood him. I regret that he is not in his seat to explain himself if I misunderstood him, because it is not my intention to do him an injustice.

Let us be perfectly fair to President Harding. He did not in his campaign entirely repudiate the league. The Senator from Massachusetts [Mr. LODGE] did not do so. President Harding dealt fairly with the American people, from his point of view, and said that he favored an association of nations. In the State of Georgia, during the campaign, I took the position which I take here now, that we can not have an effective association of nations that does not amount to a league, just as an effective league is nothing else in the world but an association under a different name. Why split hairs about this? Why not face the facts? We have been steadily, since the inauguration of Mr. Harding, drifting into the league, and I have so stated in private conversations with the Senator from Massachusetts [Mr. LODGE] and the Senator from Idaho [Mr. BORAH]. That has been my belief all the time.

Now, the Senator from Minnesota [Mr. KELLOGG] spoke of what we get under this treaty. He did not tell us what we lose under it. His speech might have been reduced to terms of pounds, shillings, and pence. It had the dollar mark all over it, and the one thing that we said to the whole world was that we were not going into the war to get profit out of it. Now we are urged to accept this treaty which puts us into the league, because we get profit out of it—German ships, confiscated property, alien owned property, indemnity, and so forth.

Does this treaty take our Army off the Rhine? Has the President said one word about bringing the American troops home? The only participation which we now have and have had since the 11th day of November, 1918, has been the presence of our Army on the Rhine. Some Senators say that the Germans want them there. Other Senators say the French want them there. Others say the soldiers want to stay there. These are certainly three pretty good reasons. If every one of those statements is true, the last one of those boys will

probably die on the Rhine—"Bingen on the Rhine." He never wants to see the homeland again. He never wants to hear the ripple of the clear streams of his boyhood neighborhood. He never wants to kiss the old folks at home, whether it be in "My Old Kentucky Home" or the more universal "Home, Sweet Home." He is a voluntarily expatriated, unpatriotic, unhome-loving man. I do not believe it.

There was never a Frenchman whose wandering feet took him so far from the sunny slopes of France that his pulse did not quicken at the music of the Marseillaise. There never was a German so far from the fatherland that he did not thrill when he heard "The Watch on the Rhine." There never was a southern boy who went so far in foreign lands whose heart did not leap when he heard the strains of "Dixie," or any of the songs that had become a part of his soul as that soul was becoming mature in manhood. There never was a northern, or an eastern, or a western man who did not have that common sentiment. One of the most beautiful poems that I ever read is Bayard Taylor's "Song of the Camp," which was written during the Crimean War, when the Irish, the Scotch, and the English were in the Crimea, making war upon Russia. Bayard Taylor beautifully describes how every heart was melted when they sang the songs of the homeland:

They sang of love, and not of fame;
Forgot was Britain's glory;
Each heart recall'd a different name,
But all sang "Annie Laurie."

Voice after voice caught up the song,
Until its tender passion
Rose like an anthem, rich and strong—
Their battle-eve confession.

Dear girl, her name he dared not speak,
But, as the song grew louder,
Something upon the soldier's cheek
Washed off the stains of powder.

* * * * *

And Irish Nora's eyes are dim
For a singer, dumb and gory;
And English Mary mourns for him
Who sang of "Annie Laurie."

Soldiers! to your honored rest,
Your fame and valor bearing;
The bravest are the tenderest,
The loving are the daring.

Mr. President, this treaty fails to do another thing. It does not open the prison door to American citizens who are confined because they dared to form and express opinions of their own that happened to be minority opinions. Languishing in the Federal penitentiary at Atlanta is a citizen of Iowa, who was sent there for 10 years because he repeated in Iowa a part of a speech which I made in Thomson, Ga., where I live. The gist of that speech was that the conscription of the American soldier to send him abroad was unconstitutional, and had always been so under our Constitution and the constitution of Great Britain. Should he be in the Senate and I in the penitentiary? He did not say any more in Iowa than I have said here in the Senate, and I think I am in somewhat better company than he. That is only an opinion of mine. [Laughter.]

No prison door is opened by this treaty. We make peace with the Germans who torpedoed the *Lusitania* and murdered 119 American citizens, some of them mothers with babes in their arms. Why not make peace with those who are in our own bastiles? Why not say, as Gen. Grant nobly said, "Let us have peace"?

The Senator from Minnesota [Mr. KELLOGG] made another point. He said that we need trade with Germany; that we want mutual commerce with Germany. I agree with him about that; but let me remind him of another great inconsistency of the present administration. There are supposed to be something like 70,000,000 Germans, but there are more than twice that many Russians. Russia never fired a gun at us, except when an American Army, without a declaration of war by Congress, was sent to fire upon the Russians standing upon their native soil. Russia never gave us any provocation. Russia gave 4,000,000 lives to save France and England; and then what? France, England, and this country blockaded her coasts, boycotted her business, refused to accept her gold in payment for our cotton and wheat; and the state of war with Russia still exists, and nobody has proposed officially, so far as I know, to put an end to it.

The Senator from Maryland [Mr. FRANCE], as we all know, has been to Russia. I have been eagerly awaiting the time when he would give the Senate the benefit of the information he derived at first hand. I hope he will soon do so.

Mr. President, when the Czar was overthrown and Kerensky took his place a cablegram went from the White House, prefaced by President Wilson's favorite expression, "May I not" congratulate you upon this revolution; but when a more violent element overthrew Kerensky, then the boycott and the blockade were on. Thousands and thousands of innocent women shriveled with hunger and fell dying in the streets; babes at the breast and in the cradle famished and died by reason of our blockade; all that time Russia, struggling in the agonies of new birth, was tendering us her friendship, her trade, and her gold, and we scorned them all.

Mr. President, the violence of every revolution is in exact proportion to the abuses of power that went before; there is no exception to that rule. Can we realize that at so late a date as 1861, when the embattled armies of the North and South were meeting in the shock of conflict, the main result of which was to emancipate 3,000,000 black slaves, there were more than 50,000,000 white slaves in Russia, 30,000,000 of them belonging to the Czar, nearly 20,000,000 to the nobility, and 3,000,000 to the Church of Jesus Christ. Think of it—3,000,000 slaves owned by a Christian church, the Orthodox Greek Church in Russia, professing to worship the lowly Nazarene, who never owned a home, less blest than the foxes and birds, with no where to lay His head! To make them work, they were scourged; they were chained; they were tortured; they were killed; they were separated husband from wife, mother from daughter, father from son—a most horrible condition. There was no law except the word of the Czar, and the Czar was controlled by the camarilla around him, as every crowned head always has been ruled. And now these people, trying to lift themselves from ages of slavery and degradation, find in us not sympathizers, not helpers, but blockaders, starvers, shooters, invaders, and, having starved them until the conscience of the world is aroused, we go to them with a loaf of bread and say, "We first took it out of your mouths and now we are giving it back."

On that condition of affairs a recent author publishing a book in London in 1916 says:

> Everything was corrupt; everything unjust; everything dishonest. The judges took bribes; State officials took bribes; military officers took bribes, and everybody imposed on the serf.

They were subjected to inhuman punishments, imprisoned in underground cellars, kept in chains, even flogged to death by order of the master or his stewards. Prince Kropotkin, in his memoirs published a few years ago, having sided with these people, had to flee his country for his life, although he was one of the highest of the nobility, and his descriptions of how those serfs were treated are among the most heart-rending pictures that the human pen ever put to paper.

Mr. President, the point is that we are in a great hurry to do business with sixty or seventy million Germans—which is all right—but we are in no hurry at all to do business with 180,000,000 Russians. I fail to comprehend the foresight of statesmanship like that.

Mr. REED. Mr. President——

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Missouri?

Mr. WATSON of Georgia. With pleasure.

Mr. REED. Can not the Senator realize the wisdom of extending alms and at the same time refusing trade—of feeding impoverished people and at the same time taking action to keep them in perpetual poverty?

Mr. WATSON of Georgia. Mr. President, I have thought it the strangest, most anomalous situation that the world ever witnessed. Before we would hold out a spoonful of victuals to a starving child in Russia we compelled them to open the prison doors to eight Americans. They did it. Then we began to feed them. When are we going to open the prison doors to our own political prisoners and do for our own flesh and blood what we compelled Russia to do? Where is the consistency of staying in a state of war, or at least of nonintercourse, with a great nation which has always been our friend and at the same time handing out food to them as objects of charity? We first destroy their commerce and then try to replace it by gifts, by doles of food.

If Russian human nature is like the average throughout the world—and they, too, are a great white race—all they need and all they ask is a free field and a fair fight, the open door, the open sea, the open highways of commerce. Give them a chance to trade with the world. Encourage them to produce. Do not shut them up, seal their empire from the family of nations, and sweep their fleets of commerce from the seven seas. Treat them like Christians.

Much has been said here about what we owe to other nations. I take issue with some Senators as to that. I think we do not owe anything to other nations except to treat them right, be friendly to them, and do them no harm. When our forefathers made this Constitution and this Government they knew pretty well what they were doing. They were not theorists. They were

not doctrinaires, dreamers, or sentimentalists—such men as Washington and Franklin and Madison and Mason and Rutledge and Lee. They were very practical men. They did not leave to conjecture why they made this third Constitution and third Government. They wrote it down in the preamble to the Constitution, and it does not create a Don Quixote to mount his steed and ride throughout the world seeking for wrongs to redress. It expressly says, "To secure the blessings of liberty to ourselves and our posterity." No government could be founded on any other principle.

Our first duty is to ourselves. Our duty to our neighbors was stated in the Farewell Address of George Washington, in the first inaugural of Thomas Jefferson, in the various State papers afterwards. The first time, so far as I remember, that we took a decided stand in European affairs was when President James Monroe, on March 8, 1822, sent his celebrated message to Congress in which he declared his purpose to recognize the independence of the South American Republics, and intimated that those Republics would be defended from the interference of foreign kings. To translate it into simple language, Mr. Monroe said (following the teachings of Madison and Jefferson): "You stay on your side of the ocean with your system, but don't you bring that system over here. The period of colonization, of conquest, of foreign rule, has ended." The converse of the proposition is that we shall not interfere with affairs on the other side of the ocean. The one proposition is the corollary of the other.

Mr. STANLEY. Mr. President, as I understand the Senator from Georgia, "the extension of the Monroe doctrine to the world" is a contradiction in terms.

Mr. WATSON of Georgia. It is a dissipation of the doctrine; it is an evaporation of the doctrine; it is a disappearance of the doctrine. It is like the cat described by Alice in Wonderland, the cat that disappeared—first his tail, then his hind quarters, then his body, then his shoulders, then his neck, then his head, and nothing was left but his grin; and poor little Alice said, "I have seen cats without a grin, but this is the first time I every saw a grin without a cat."

Mr. REED. Mr. President, the Senator has said that the proposition that we will keep out of European affairs is a corollary of the proposition that Europe should keep out of our affairs, and that is very true; but it is also true that the first part of James Monroe's message, the first proposition he deals with, is the express promise or declaration that the United States proposes to and will keep out of their affairs, and after he has laid down that doctrine he deals with the question of what they must do here. I have not read the message in a long time, but that is my recollection of it.

Mr. WATSON of Georgia. I thank the Senator for refreshing my recollection. I have not read it in a long time, either.

Every Senator here remembers well how the French, under Napoleon III, undertook to reestablish an empire in Mexico, the empire of the Hapsburgs, and brought over here the Archduke Maximilian, and with bayonets behind him thrust him upon the throne of Mexico, throwing out Juarez and the patriots who had established an independent Republic. Everybody remembers that while the Civil War was on our Government could not attend to that; but as soon as the most splendid of human swords was sheathed at Appomattox and the great soldier of the South bowed to the inevitable the stateliest of human heads, the Federal Government immediately turned its attention to the Emperor Napoleon. He was told, first by Secretary Seward and next by President Andrew Johnson, in substance, "Take your army out of Mexico or we will drive it out." Both Grant and Sheridan furnished modern weapons to the ill-armed troops of Juarez and got ready for the fray, when the French emperor saw that he had made a fatal mistake, and withdrew his army. That was the first fatal step that he himself took on his march to Sedan.

Mr. President, it will be remembered that when the Hungarians were in revolt against Austria in 1848, as I remember—the Senator from Mississippi [Mr. WILLIAMS] will correct me if I am wrong—they were put down brutally by the combined armies of Russia and Austria; and Kossuth, the Hungarian patriot, having first visited England, where he was enthusiastically welcomed, came to America, where he met the same warm welcome; but when he went to see Henry Clay at the old National Hotel, up here on Pennsylvania Avenue, almost the very first words that the Kentucky statesman said to him after the introduction was over were:

> We sympathize with your people, sir, but we can not intervene, and you must not labor under any false impression.

We took exactly the same position about Greece when she was making her war for independence. Nonintervention in the domestic affairs of foreign nations is one of the great principles of international law, and it has been almost uniformly practiced. The only violations of it took place under the Holy Alliance of 1815, which was as much like this League of Nations as two black cats are like one another, meaning they are the same size and the same weight and have the same yellow eyes. I could read here about that unholy alliance, what it professed and what it did. What it professed might have been the creed of an angel; what it did might have been the record of a devil; and it took Europe 30 years to throw off that combination of kings and reestablish the rights of peoples.

The great fault in the Holy Alliance was that it took no account of peoples; it was king dealing with king, diplomat with diplomat, ministry with ministry. That same fault is in this league. No people has been consulted. There has been no referendum vote, with the solitary exception of that in the State of Georgia, where, with great trouble and at some expense, we got a referendum, and those who even compromised with that foreign affair were swept off of their feet by overwhelming majorities.

Mr. President, I hope I am not deficient in public feeling, nor in a moderate sense of what, in the way of common humanity, we owe to the other nations of the world, but let any man of common sense ask himself, How can any association or any league reconcile so many different races, made so constitutionally different by God Almighty? The blacks and the whites, the browns and the yellows, the Mohammedans and the Buddhists, the Greeks and the Roman Catholics and the Protestants—how are you going to reconcile all these discordant elements?

How are you going to harmonize all these nations? How can any power on earth drive this team in harness? It can not be done.

In ancient times the league was tried again and again, and it failed. In the Middle Ages the league was tried again and again, and it always failed because of its human unworkability.

It was tried in the Quadruple Alliance, and it failed. It was tried in the Quintuple Alliance, and it failed. It is being tried under the League of Nations now, and its failure spreads throughout the universe, and the dogs of war are loose, under the sun and under the stars, in every clime of this globe.

Mr. KING. Mr. President——

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Utah?

Mr. WATSON of Georgia. With pleasure.

Mr. KING. I do not rise for the purpose of precipitating any controversy; I would have none with my distinguished friend, whose friendship I prize so highly.

It seems to me that the views of the Senator, if they shall prevail in the hearts of men, are prophetic of a very gloomy future. They would indicate that as the centuries come and go there will be no evolutionary development, no altruistic progress which will bring about a happier condition of affairs under which humanity may dwell together in peace and amity. Does not the Senator think, Christian as he is, broad humanitarian as he is, that the seeds of justice and righteousness and peace are so planted in the human heart that even black men and white men and brown men ultimately may be brought together in a condition where they may live in concord and in peace?

Even if that is not possible, does not the Senator believe that it is worthy the effort of the biggest and the littlest of us, of the greatest and the humblest, to try to effectuate some international union, not that will destroy nationality, but such a cooperation or union of peoples as will eventuate at least in the formation of a tribunal to determine international controversies, if not to accomplish something along better and broader and more liberal lines?

Mr. WATSON of Georgia. Mr. President, in answering the question of my friend, the Senator from Utah, I might remind him that peace is the dream of the philosopher and that war is the history of man. There is not a step that the human race has made upward and onward that is not filled with human blood. It is the price we have to pay, and the Good Book tells us that until the end of time there will be wars and rumors of wars. Man is a fighting animal, and when he ceases to do so he will live on beets and celery and asparagus and thin soup, and become a noncombatant, and therefore a degenerate.

Mr. KING. Mr. President, may I invite the Senator's attention to the fact that Herbert Spencer in his great work on synthetic philosophy—and he was a good deal of a materialist—affirms the proposition that there is, first, the disorder, the confusion, the contradiction, resulting from ignorance; then there is the confusion and the disorder that result from investigation and inquiry; and finally there is the harmony which results from the triumph of reason and of truth. We are passing through the processes of inquiry. We must, by the attrition

incident to the development of progress, erode away those peculiarities and faults and frailties incident to life, and does not the Senator believe that ultimately the lives of humanity, bottomed upon great principles of truth emanating from God Himself, may evolve some form of civilization that will prevent the horrors of war and bring into this world of ours peace and concord? Are we forever doomed to the treadmill of war, the atrocity of bloodshed? Shall it always be said that the path of progress is macadamized by human bones and cemented by human blood? May we not have the path of progress strewn with the primroses and flowers of love and affection, rather than with the hatreds that are incident to this infirm condition of the world at the present time?

Mr. WATSON of Georgia. Mr. President, the vision, heavenly, millennial, which the Senator from Utah conjures up, is fascinating; but the truth of it is, it is not founded on human nature. You give us a different human race and we will have different conditions; but, so far as we know anything about the past, the human race has always been pretty much the same everywhere as it is now. Intelligent selfishness has been the guide of nations.

In a community we preserve peace and get along best when every man minds his own business. Among nations the same truth would apply. Let every nation attend to its own business. Let us go as far as Washington went; we are no wiser than he. Let us go as far as Clay went; we are no wiser than he, and no wiser than Jefferson.

Mr. Clay, in one of the finest bursts of eloquence that ever sprang from his musical lips, congratulated his country upon the fact that it had everything that the human family could desire, that it never would need additional territory, that it was sufficient unto itself; every flower that bloomed, bloomed for us; every fruit that ripened, ripened for us; that every food the human appetite craved is at our command; every variety of soil and of climate are ours, and he congratulated the country upon its self-sufficiency.

I feel as Milton felt, when, in his blindness, he dreamed of a Paradise Lost. At the conclusion of the finest thing he ever wrote or dictated he said this:

> When the cheerfulness of the people is so sprightly up as that it hath not only wherewith to guard well its own freedom and safety but to spare, and to bestow upon the solidest and sublimest points of controversy and new invention, it betokens us not degenerated nor drooping to a fatal decay, but casting off the old and wrinkled skin of corruption, to outlive these pangs and wax young again, entering the glorious ways of truth and prosperous virtue, destined to become great and honorable in these latter ages. Methinks I see, in my mind, a noble and puissant nation rousing herself, like a strong man after sleep, and shaking her invincible locks; methinks I see her as an eagle mewing her mighty youth, and kindling her undazzled eyes at the full midday beam; purging and unscaling her long-abused sight at the fountain itself of heavenly radiance; while the whole noise of timorous and flocking birds, with those also that love the twilight, flutter about, amazed at what she means, and in their envious gabble would prognosticate a year of sects and schisms.

I yield to no man in my pride of birth, or in pride because my ancestors bore their muskets in the Revolutionary War and helped to establish the independence of the American Colonies. I am for my country in every forward step she wants to take for the general welfare of our people; but when any theorist, any doctrinaire, would deprive the ship of her pilot, chart, and compass and send her adrift on uncharted seas, then I am opposed to it, and I say let us stay at home, live at home, attend to our own business; be righteous in our relations with all foreign peoples, and defend ourselves against all aggressions, making no aggressions ourselves.

TAX REVISION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

The VICE PRESIDENT. The pending question is on the amendment passed over at the request of the Senator from Wisconsin [Mr. LA FOLLETTE], paragraphs 4 and 5 on page 5.

Mr. McCUMBER. Mr. President, the Senator from Wisconsin is not present, but I think there was an understanding between that Senator and the chairman of the committee that these paragraphs might be passed over, and he would bring the matter again before the Senate. For that reason I ask that it may be passed over.

The VICE PRESIDENT. Without objection, the amendments will be passed over a second time.

The ASSISTANT SECRETARY. The next amendment passed over is the section devoted to dividends, beginning on page 6, line 23, and extending to page 15, line 4.

Mr. REED. Mr. President, that is a somewhat important, and I think a most complicated or technical provision of the bill. The ranking member of the committee upon this side of the Chamber is absent. I think he expects to make some remarks generally upon the bill to-morrow. I am inclined to think that this section ought to be passed over. I am not prepared myself to discuss it. It was asked that it be passed over at the time it was originally reached, and there has been no discussion of it, no explanation, and no reason advanced for the amendment. I ask that it may go over for the reasons I have just given.

Mr. McCUMBER. The Senator from Minnesota [Mr. KELLOGG] is also deeply interested in that particular subject. He is not in the Chamber at the present time. I think other Senators are likewise interested, including the Senator from Alabama [Mr. UNDERWOOD], who suggested some amendments. That being the case, I think the position of the Senator from Missouri is well taken, and we may pass it over for the present.

The VICE PRESIDENT. Without objection, the amendment will be passed over.

The ASSISTANT SECRETARY. The next amendment passed over is, on page 21, beginning with the striking out of subsection (b) and inserting a new subsection (b). The part reserved begins on line 6, page 21, and embraces all down to and including line 15, on page 22. It was passed over at the instance of the Senator from Wisconsin [Mr. LA FOLLETTE]. The committee proposes to strike out lines 6 to 21, both inclusive, and to insert:

> (b) In the case of any taxpayer who for any taxable year derives a capital net gain, such capital net gain shall, under regulations prescribed by the commissioner, with the approval of the Secretary, be stated separately from the ordinary net income in the taxpayer's return; and only 40 per cent of such capital net gain shall be taken into account in determining the amount of the net income upon which taxes are imposed by sections 210, 211, and 230 of this title.

The committee also proposes, on page 22, line 7, to strike out "income" and the comma and insert "income and"; and, in line 8, after the words "net gain," to strike out "or capital net loss," so as to make the paragraph read:

> (c) In the case of a partnership or of an estate or trust, the proper part of each share of the net income which consists, respectively, or ordinary net income and capital net gain shall be determined under rules and regulations to be prescribed by the commissioner, with the approval of the Secretary, and shall be separately shown in the return of the partnership or estate or trust, and shall be taxed to the member or beneficiary or to the estate or trust as provided in sections 218 and 219, but at the rates and in the manner provided in subdivision (b) of this section.

Mr. McCUMBER. Mr. President, this section is almost directly connected with the section which has just been passed over. Both of them deal with capital gains and losses, and while the other portion made taxable those earnings of a corporation which had become capitalized prior to 1913, this is a modification of it, and would provide that no more than 40 per cent of such earnings should be taxed or considered if there was a sale afterwards of the capital itself. So I think that this amendment should go over with the other, and I ask that that order be made.

The VICE PRESIDENT. Without objection, the amendment will be passed over.

Mr. KING. Mr. President, may I inquire of the Senator if that was not a matter as to which the Senator from North Carolina [Mr. SIMMONS] desired to offer an amendment?

Mr. McCUMBER. I am not certain, but it has been passed over anyway, and if he so desires he can do so.

The ASSISTANT SECRETARY. The next amendment passed over at the instance of the Senator from North Carolina [Mr. SIMMONS] is Part II, individuals, normal taxes, on page 22, beginning with line 16. That Senator also asked to have passed over the subsection pertaining to the surtax, being all the bill from page 22, line 16, down to and including line 7 on page 32.

The VICE PRESIDENT. The question is on agreeing to the amendment.

Mr. REED. Mr. President, this relates to the income tax, and is perhaps the most important section in the bill. I do not know what progress we are going to make by continuing to read amendments passed over, because I shall have to ask that all these important matters may go over until the Senator from North Carolina is present. I am not prepared myself to discuss them to-day, and the other Members upon this side who are in opposition to the changes proposed are not prepared to discuss them except in the most general way. I know the principle involved and I could discuss it, but I prefer to discuss it with the figures before me.

I think this amendment should go over, and I wish to suggest if there is any other business the Senate could attend to it might be well to take it up, as we are not going to make much progress under the circumstances. I am not trying to delay the bill.

Mr. McCUMBER. Mr. President, a great many of the provisions, after further consideration by Senators who asked that they be passed over, will probably be quickly disposed of. As the Senator from Missouri said, there is no question but that

this is one of the principal provisions in the bill—that is, the matter of individual income tax and surtax.

The principal change that has been made is that there are no surtaxes above 32 per cent and there has been some change with reference to the lower brackets. I think under $22,000 the income tax will be less than it is under the present law. Above $22,000 I think it will be in some respects a little greater, but with the extra amount that is allowed for families, increasing the allowance from $2,000 to $2,500, it will probably make the income tax, as a rule, less up to some thirty thousand and odd dollars than it is to-day. That is the only change that has been made.

I myself will desire to ask for one change in the brackets. I think this is the real question and the important question on the income tax, and I presume it ought to be discussed at length by those who have opposing views. I think the Senator from Wisconsin [Mr. LA FOLLETTE], for instance, voted against the committee proposition. If the Senator from Wisconsin is ready to go on and discuss it, of course I would like to have him do so. If he is not or prefers that it shall go over, as it is one of the important questions, I do not know that I would object.

Mr. UNDERWOOD. Mr. President, if the Senator will allow me, I understand this particular paragraph relates to the income tax and would be affected by certain amendments proposed by members of the minority. Just at this time they are not present. It is late in the afternoon and I would like to have these matters go over until we can arrange to take them up.

Mr. McCUMBER. There will be no question, of course, and the Senator from Alabama will not object if the Senator from Wisconsin desires to present his objection at this time. I would be glad if he could do so, but I am going to abide by his own wishes in that respect.

Mr. HITCHCOCK. Mr. President, I was out of the Chamber temporarily. I should like to inquire what became of the amendments offered by the Senator from Wisconsin [Mr. LA FOLLETTE]?

The VICE PRESIDENT. In his absence they were passed over.

Mr. LA FOLLETTE. I am ready to have a vote taken on the amendment which I proposed this morning, if that is the desire of the committee.

Mr. HITCHCOCK. I wish to recur to paragraphs 4 and 5 on page 5 of the bill, which the Senator from Wisconsin has moved to strike out. I had taken the floor at one time to make some suggestions drawn out by the remarks made by the Senator from North Dakota [Mr. McCUMBER] on those two paragraphs. I understood the Senator from North Dakota to say that they had nothing to do with the banking business.

Mr. McCUMBER. I said, I think, that I could not see the relevancy of the arguments that were being made at that time in the discussion between the Senator from Nebraska and the Senator from Utah [Mr. SMOOT] to the particular question which we were then discussing.

Mr. HITCHCOCK. I wish to direct the Senator's attention to what I consider very conclusive evidence that these paragraphs do refer directly to certain classes of banking business, and that they involve the enormous international banking transactions upon which great profits have been made and are being made at the present time.

The two paragraphs ostensibly and apparently relate to commerce. They are apparently confined to commerce by the language that has already been quoted, to the effect that they refer only to profits "derived from the active conduct of a trade or business." The banking business is included in that expression. There is an apparent effort to camouflage the matter by conveying the impression that they relate only to commercial trade, to manufacturing, to exportation, and to foreign business; but it does evidently and technically include the banking business. Banking is a business just as much as merchandizing is a business. Banking must be included in those expressions.

If any further evidence is needed to show that this exemption from taxation is intended to apply to banking business it is found in the fact that on line 8, section 217, it is specifically referred to, and if we turn to section 217 we find the provision which is substantially as follows, and I omit some of the confusing language in order to get the definite meaning:

That in the case of a * * * foreign trader—

And in this case I assert the foreign trader is the banker doing business in the United States and in other countries—

That in the case of a * * * foreign trader, the following items of gross income shall be treated as income from sources within the United States:

"(1) Interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise, not including (a) interest received from foreign traders or foreign trade corporations, (b) interest on deposits with persons carrying on the banking business paid to persons not engaged in business within the United States and not having an office or place of business therein, or (c) interest received from a resident alien individual or a resident foreign corporation when it is shown to the satisfaction of the commissioner that less than 20 per cent of the gross income of such resident payor has been derived from sources within the United States, as determined under the provisions of this section, for the three-year period ending with the close of the taxable year of such payor, or for such part of such period immediately preceding the close of such taxable year as may be applicable.

Mr. President, there is no escaping the conclusion that this clause is designed to exempt from taxation income and profits made by great international banking corporations, 80 per cent of whose profits are earned from sources without the United States, and 50 per cent of whose business is done in other countries.

The attempt has been made to assert that this excludes banking corporations because of the language providing that 50 per cent or more of the gross income for such period must be "derived from the active conduct of a trade or business." But a trade or business includes banking; and the language means that any big international bank, floating enormous loans in this country as the representative of foreign countries or of foreign municipalities and making enormous profits in the transaction of an international banking business would be exempt by this provision from the payment of taxes upon the income derived in that way. I make the assertion, and I challenge the supporters of this provision to deny it, that under the guise of referring only to commercial business they have definitely attempted to exempt from taxation the enormous profits which we know are being made in connection with great international banking transactions.

Mr. REED. Mr. President, there being a dispute, an honest difference between these two eminent Senators, we can easily see how interminable disputes may arise hereafter, and I suggest that the easiest way out of the difficulty, if it is not intended to include banks and trust companies and institutions of that kind, is for the Senator from Nebraska [Mr. HITCHCOCK] to prepare an amendment excluding them, and let it be presented and accepted.

I make that suggestion because I understand the position of the Senator from North Dakota is that banks are not included. Therefore there must be no intention to include them. The Senator from Nebraska thinks that very likely they are included, and there being no disagreement in regard to the main question the difficulty could easily be cured by an amendment such as I suggest.

Mr. HITCHCOCK. The amendment suggested by the Senator from Missouri would cure that portion of the provision to which he has referred, but it would not remove the objections of those who do not believe in exempting from taxation even concerns which are engaged in foreign trade and commerce. I think exemption from taxation is one of the grave evils of the day. We have exempted such great quantities of securities from taxation that such action has enormously increased the burden upon other taxpayers. Some day there must be an amendment to the Constitution of the United States which will put a stop to the exemption of so large a volume of securities which are being constantly issued. When it is undertaken by a tax bill to begin exempting certain lines of business upon almost any theory, we are entering upon a plan of subsidy which is bound to increase the taxes upon other taxpayers who are not favored with an exemption. I carry my objections as far as the Senator from Wisconsin [Mr. LA FOLLETTE] carries his, but what I have developed here is over and above his objection. My objection is based upon the fact that, without appearing to do so, this provision actually exempts great banking institutions from their fair share of the taxation of the country.

Mr. McCUMBER. If the Senator will pardon me, he does not claim, does he, that under the law which we now propose if a foreign bank is doing business in the United States it does not pay taxes upon its business?

Mr. HITCHCOCK. What I am claiming is that when we use the term "foreign trader" we virtually include banking institutions.

Mr. SMOOT. There is no doubt about that at all in my opinion.

Mr. LA FOLLETTE. Of course not.

Mr. McCUMBER. If a bank is organized in France, even though there may be American stockholders, of course it would be a French bank; it is a foreign bank; but if it does business in the United States it pays its taxes upon the profits derived from business done in the United States. I do not see that it is exempt from taxation.

The only point that I see in the Senator's position is this—and I am making this suggestion because I am not certain that

I fully understand him. A bank or an individual in a foreign country may have deposits in the United States; it may be a commercial company; but the bank, the individual, or the corporation, we will say, that makes the deposit is paid 2 per cent on the daily balances throughout the year, as is paid to American citizens by a great many banks. The object of the provision is to free the foreigner or foreign banker from any tax upon the income that comes from such deposit. The action along that line follows the advice of former Secretary McAdoo, former Secretary Houston, and I think former Secretary Glass, although I am not absolutely certain as to him, and also the present Secretary of the Treasury. The idea was that it is conducive to trade and commerce with the world to have in domestic banks foreign deposits against which drafts may be drawn. If, for example, a French concern has on deposit in New York a sum of money it is more likely to do its business in New York and make purchases there than in Buenos Aires or some other South American city, where it has no deposits and no banking relations. It was thought by all of the Secretaries referred to that it would be conducive to our foreign trade; that trade went with the extension of banking relations.

In this connection there may be cited the effort we made to interest capital to establish banks in South America, believing that the establishment of such banks in South America would be conducive to an increase of our trade relations with that section of the globe. So in this case it was thought that it would be well to induce foreign capital to remain in this country. If it is engaged in business, of course it pays a tax, but if it is not engaged in business and the deposit is simply to be drawn against by the foreigner it would assist in relieving the demand for money in the agricultural sections and otherwise would produce a greater supply in the United States. If we err in that, if that is not a good policy to follow, of course it can be corrected.

Mr. HITCHCOCK. Will the Senator permit me to ask him one or two questions?

Mr. McCUMBER. Certainly.

Mr. HITCHCOCK. Does the Senator from North Dakota now concede, as the Senator from Utah does, that the term "trade" or "business" includes banking?

Mr. McCUMBER. Yes; trade or business includes banking, for banking certainly is business.

Mr. HITCHCOCK. So that it includes the international banker as well as the international merchant?

Mr. SMOOT. Provided 80 per cent of his profits are derived from sources abroad.

Mr. McCUMBER. A foreign international banker in the United States pays the taxes on his business in the United States.

Mr. HITCHCOCK. I stated this morning that this provision relieves the international banker from the payment of taxes to the same extent that it relieves the international merchant, providing 80 per cent of that banker's profits are derived from foreign sources and 50 per cent of his business is with foreign countries. Is that correct?

Mr. McCUMBER. Certainly; if he is doing his business with foreigners.

Mr. HITCHCOCK. Then it is the intention of the committee, is it, to relieve from taxation the international banker whose business is owned in the United States but 80 per cent of whose profits come from abroad? It is proposed, is it, to relieve him from taxation to the same extent that the international merchant is relieved?

Mr. LA FOLLETTE. It certainly is.

Mr. HITCHCOCK. If that is the issue, I think we have made some progress.

Mr. McCUMBER. He is relieved from taxation on the interest he pays on his deposits; yes.

Mr. HITCHCOCK. He is relieved to the same extent that the international merchant is relieved because he is classified as a "foreign trader."

Mr. SMOOT. Mr. President, will the Senator from Nebraska yield?

Mr. HITCHCOCK. Yes.

Mr. SMOOT. The Senator insists upon connecting paragraphs 4 and 5, under the title "income-tax definitions," with the "net income of nonresident alien individuals and foreign traders." There is no connection whatever between the two. I said this morning that under the income-tax sections the provision under discussion applies in the case of a foreign banker just as it does to the foreign trader. There is not any question about that. But what I understand the Senator to object to is section 207 (a), which is referred to in paragraphs 4 and 5 of the definitions under the income tax.

Now, let me tell the Senator all that this provision possibly can do. If a foreign banker designated under the law as a "foreign trader" deposits money in a bank in the city of New York or any other city in the United States, or if a nonresident alien in the United States deposits his money in a bank at New York and the bank pays 2 per cent interest upon such deposits, that being the customary rate of interest, then the foreign trader and the nonresident alien who deposit money in that bank are not required to pay a tax upon the 2 per cent interest. That is what the provision is.

Mr. HITCHCOCK. That is part of it.

Mr. SMOOT. That is all there is to it.

Mr. HITCHCOCK. No; it is not all there is to it by any means. I ask the Senator from Utah this question: Suppose an international banker in New York City, by means of financial contracts which he makes with foreign countries or foreign municipalities, or through a great international operation which is conducted abroad, makes a million dollars, and 80 per cent of his profits come from abroad and 50 per cent of his business is done abroad; is he not relieved from taxation exactly and to the same extent that the international merchant is who does 50 per cent of his business abroad and makes 80 per cent of his profits abroad?

Mr. SMOOT. That is absolutely true, as the Senator states it.

Mr. HITCHCOCK. That is all I want to know.

Mr. SMOOT. But I wish to say, in answer, that there is no such business and no such banker, and there never will be such a business or such a banker.

Mr. REED. Mr. President, in order to clarify this matter, I should like to ask the Senator a question in the form of an illustration.

Suppose that a banking institution is organized in the United States with a capital of $1,000,000; that it establishes offices or a branch in London, England; that 81 per cent of its gross income is derived from the business it conducts in London, and 19 per cent of its gross income is derived from business done in the United States, and 50 per cent of its gross income from sources outside the United States. In that case would or would not that bank be exempt from taxation under this bill?

Mr. SMOOT. It would be exempt from taxation on the 81 per cent, but it would be taxed on the 19 per cent of business done in the United States.

Mr. REED. Exactly.

Mr. SMOOT. That is what this provision says, and that is the result of the law.

Mr. REED. Yes. That is what I want to get clear, and I think we now have a pretty clear understanding of the matter.

Mr. SMOOT. There was no intention on my part to cover it up in any way, shape, or form.

Mr. REED. I do not think anybody tried to cover it up, but the statements were not clear before, and I think they are now.

Mr. McCUMBER. Now, where would it be taxed? The branch bank in a foreign country must be a foreign bank. That foreign bank will be taxed in its own country. The 19 per cent which will be earned in this country pays taxes in this country, and the 81 per cent pays taxes over there.

Mr. REED. I am not trying to argue this question. I am trying to get it so that I understand what the question is, and so that the other Senators also understand it; but I do not think it necessarily follows that an American corporation doing business abroad would be taxed upon the business that it transacted in every country where it transacted banking business.

Mr. SMOOT. The only case of that kind is where it is a country without an income tax. There it would not be taxed, but it would pay a personal tax on its property. There may be a few countries left now that have not any income tax, but there are mighty few. There is not any idea here of relieving anybody of any sort of taxation, unless it is a tax that interferes with foreign trade, and a double taxation.

I have considered this matter as carefully as I can—I do not mean the amendment to section 217, which is a small matter, but I mean paragraphs 4 and 5 of the income-tax provision—and I say to the Senator in all seriousness that unless we adopt these provisions every American citizen who undertakes to do business in a foreign country will be virtually embargoed in doing business, particularly where the tax of that country is exceedingly high. It will be impossible for him to do it. He can not pay the two taxes.

I do not know whether the Senator was in the Chamber or not when I made the statement this morning as to the American citizen who is in our own possessions, in the Philippines. If the Government of the United States enforces the rule that is laid down in the regulations of the department on the American traders in the Philippines and compels them to

pay the tax in this country, they already having paid it in the Philippines, it is going to bankrupt them. They can not pay it. I want to say that to the Senator, and I say it because I believe it with all my heart.

Mr. REED. I have not any doubt about the entire sincerity of the Senator, nor have I any doubt that he has given this bill very careful consideration. As I say, I have not risen to controvert this item at this time, but I want the fact understood which the Senator from Nebraska [Mr. HITCHCOCK] was seeking to bring out. Baldly stated, and in a few words, it is this: If any American business institution, banking or otherwise, organized under the laws of the United States, receives more than 80 per cent of its income from its business abroad, and the business in volume is 50 per cent of its total business, then that institution becomes exempt from taxation by the American Government upon all of the business done abroad. If it receives less than 80 per cent of its income from its business abroad, it then has to bear the taxation here upon all of its business and such taxes as may be levied upon it in the foreign country. Accordingly, the only institution which will escape the double taxation is one that conducts its business abroad to such an extent as to get 80 per cent of its income there. It follows that an institution like the City Bank of New York, if it has a branch bank in London, because the income from it is not equal to 80 per cent of the total income of that banking institution, will have to pay whatever taxes the British Government imposes, and it will have to pay also the full taxes levied by this country, whereas other institutions might be created, and doubtless they exist—in fact, it is conceded that they exist—that would do some business in the United States, but do 80 per cent of their business abroad, and they would escape the taxation upon what they do abroad. So it must be apparent to everybody that if an institution does 80 per cent of its business abroad, and must escape taxation here or be subjected to double taxation and to bankruptcy, then every institution doing business abroad suffers in proportion to the amount of business it does abroad.

Mr. SMOOT. Not necessarily.

Mr. REED. It pays the double taxes.

Mr. SMOOT. Not necessarily.

Mr. REED. Well, take my illustration. Here is one institution that does a total business of $1,000,000 a year. Its income is $1,000,000. It gets $800,000 of that from England. It pays no taxes to this Government upon the $800,000. Here is another institution of the same size that makes $799,000 from its income abroad and the balance of the million dollars here. It must pay taxes upon the $799,000 it makes abroad.

Mr. SMOOT. The Senator is right in that; but there is no such case in the United States and never has been, and the Senator knows that we must have some arbitrary rate fixed. We fixed the rate so high that there was not an institution in the United States that would have 80 per cent of its gross income from a foreign country; but if we had not mentioned this arbitrary 80 per cent some concern could have bought $10,000 of foreign bonds, and a part of its income would then have come from foreign sources. So we had to put in an arbitrary rate in order to say that a mere $10,000 holding of foreign bonds should not exempt them from taxation.

Mr. REED. I am afraid the Senator has argued at least one leg out of court now, because a moment ago he said that if we did not adopt this rule and grant this exemption corporations would be bankrupted.

Mr. SMOOT. I was speaking of the Philippines.

Mr. REED. And the Senator spoke about the Philippines?

Mr. SMOOT. Yes.

Mr. REED. Now he says there is not a single corporation that can come within this class. Plainly, if there is not a single corporation which can come within this class, then the bill will do no good to anybody, and we might as well levy the tax broadly upon all institutions, because they will be exempt anyway.

Mr. SMOOT. No; the cases I referred to were in the Philippine Islands, and in those cases nearly all of their business is done in the Philippine Islands.

Mr. REED. Then, there are such corporations?

Mr. SMOOT. No; they are American citizens. They are doing business over there in the Philippines, and because of the fact that they are American citizens they are supposed to make their returns here and pay their taxes here. Many of them have not done it, and we are not getting the money, but of course they are liable for that tax under our present law; but there are no corporations that would fall under this provision, and I do not think there ever will be, that have business in the United States, and that is what this provision says.

Mr. POMERENE. Mr. President, we enacted an amendment to the Federal reserve act which authorized the incorporation of branch banks to do business in foreign countries, and under that act the member banks of the Federal reserve system were authorized to subscribe or apportion a given amount of their capital to these branch banks. Certainly all the banks that are organized under that act will be doing a foreign business.

Mr. SMOOT. But not 80 per cent of their whole business will be foreign.

Mr. POMERENE. Such a bank will be doing 100 per cent of its whole business in foreign countries.

Mr. SMOOT. If they do 80 per cent of their business in foreign countries and 20 per cent in this country, we tax the 20 per cent in this country and the foreign country taxes the 80 per cent.

Mr. WATSON of Indiana. Take the Morgan bank, for instance, which has a branch bank in France. That is taxed in France. If it has a branch in England, that is taxed in England.

Mr. HITCHCOCK. This act goes much further than that. If a British citizen, resident in New York, borrows $1,000,000 from a New York bank and pays interest on that money, that bank, if it is an international bank doing a large part of its business abroad, would not have to pay taxes on the interest which it receives from that British subject.

Mr. WATSON of Indiana. Will the Senator not restate that?

Mr. HITCHCOCK. If an international bank located in New York City, doing 50 per cent of its business abroad, lends $1,000,000 to a British subject living in New York and receives interest from him on that amount for one year, it would not be taxed on that income.

Mr. WATSON of Indiana. Does the Senator mean an American institution or a foreign institution?

Mr. HITCHCOCK. I mean an American institution which comes under the head of a foreign trader; that is, doing 50 per cent of its business abroad.

Mr. WATSON of Indiana. No; 80 per cent.

Mr. HITCHCOCK. Receiving 80 per cent of its profits, but 50 per cent of its gross income.

Mr. SMOOT. No; 80 per cent of its income.

Mr. HITCHCOCK. I say that such a bank lending a million dollars to a British subject, resident in New York, for one year would not have to pay any tax on the interest received.

Mr. SMOOT. But the Senator does not think for a moment that there is such a case as that?

Mr. HITCHCOCK. Then why this provision?

Mr. SMOOT. Because we had to have an arbitrary percentage, that is all. It might have been 90 per cent or 85 per cent.

Mr. HITCHCOCK. Here is what you exempt from taxation, among other things. This is in addition to the exemption which you place upon the foreign trader or international banker. You also exempt taxes on "interest received from a resident alien individual or resident foreign corporation when it is shown to the satisfaction of the commissioner that less than 20 per cent of the gross income of such resident payor has been derived from sources within the United States, as determined under the provisions of this section." That is to say, if a British subject, deriving his whole revenue from Great Britain, borrows a million dollars from a bank in New York City and pays, say, $60,000 a year for it, that revenue of $60,000 a year you propose to exempt from taxation. You relieve the bank from paying taxes on that $60,000.

Mr. SMOOT. That would have to be 80 per cent of its gross income.

Mr. HITCHCOCK. No; I am talking about a British subject who derives all of his income from Great Britain, who is a nonresident, who is an alien. You have provided specifically that when a bank in New York City which comes under the head of a foreign trader, deriving 80 per cent of its profits from abroad, loans to such an individual, it pays no taxes on the interest which he pays the bank.

Mr. SMOOT. If he is English, no.

Mr. HITCHCOCK. No; he is a resident of New York. I am taking exactly the terms of your bill. You have exempted the bank from paying taxes on that revenue.

Mr. SMOOT. Then, Mr. President, if that is the case the Senator is referring to, his income is not derived from sources within the United States.

Mr. HITCHCOCK. No; of course it is not.

Mr. SMOOT. The bill provides for an exemption where less than 20 per cent of the gross income of such payor has been derived from sources within the United States.

Mr. HITCHCOCK. I am referring to a British subject who does not derive even 1 per cent of his income within the United States.

Mr. SMOOT. Then he does not fall under this provision.

Mr. HITCHCOCK. Yes; he does, because it is less than 20 per cent. He is the very man who borrows the money at the bank, and you exempt the bank from paying any taxes on the revenue derived as interest on that loan. You can not read that provision in any other way. You admit that such a bank comes under the head of a foreign trader. A foreign trader who has interest received from a resident alien individual pays no taxes on the interest so received.

Mr. PENROSE. Now, let us vote, Mr. President, on this amendment. A large majority of the committee are in favor of it. I have heard nothing in the argument——

Mr. HITCHCOCK. Mr. President, I shall suggest the absence of a quorum——

Mr. PENROSE. I thank the Senator; I was about to do that myself.

Mr. HITCHCOCK. Because the Senator from Wisconsin is not here, and the amendment was passed over on account of his absence.

Mr. PENROSE. On account of whose absence?

Mr. HITCHCOCK. These two amendments were passed over temporarily. I have simply been talking on them because I got started. I ask the Senator to let them go over until to-morrow.

Mr. PENROSE. On what ground?

Mr. HITCHCOCK. I think the committee themselves want some amendment made to the amendments.

Mr. PENROSE. No; the committee are fully ready to vote on the provision.

Mr. HITCHCOCK. Then, on account of the absence of the Senator from Wisconsin, and because it was heretofore agreed that the amendments should go over, I ask that they may go over.

Mr. PENROSE. I am not a party to such an agreement. There was a quasi suggestion made that they might go over; I have forgotten now who made it.

Mr. McCUMBER. Mr. President, if the Senator will allow me, I think the two Senators have their minds on two different paragraphs. The portion which the Senator from Wisconsin desired to have go over was on page 5.

Mr. PENROSE. Relating to foreign traders.

Mr. McCUMBER. Two of them. We are now on page 22, on a different matter entirely.

Mr. PENROSE. Different, but a kindred subject. I suggest the absence of a quorum, Mr. President, with a view of having a vote on this provision.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ball	Hitchcock	New	Sutherland
Borah	Kellogg	Nicholson	Swanson
Brandegee	Kendrick	Overman	Townsend
Cameron	Ladd	Page	Trammell
Capper	La Follette	Penrose	Underwood
Curtis	Lenroot	Pomerene	Walsh, Mass.
Dial	Lodge	Reed	Watson, Ga.
Frelinghuysen	McCumber	Robinson	Watson, Ind.
Glass	McLean	Sheppard	Willis
Hale	McNary	Smoot	
Heflin	Nelson	Sterling	

The VICE PRESIDENT. Forty-two Senators having answered to their names, there is not a quorum present. The Secretary will call the names of the absent Senators.

The reading clerk called the names of the absent Senators, and Mr. BROUSSARD, Mr. COLT, and Mr. HARRIS answered to their names when called.

Mr. ERNST, Mr. McCORMICK, Mr. ODDIE, Mr. CARAWAY, Mr. McKELLAR, Mr. MOSES, Mr. FRANCE, Mr. GOODING, Mr. ASHURST, Mr. SPENCER, and Mr. HARRELD entered the Chamber and answered to their names.

The VICE PRESIDENT. Fifty-six Senators having answered to their names, a quorum is present.

Mr. McCUMBER. Mr. President, so that we may understand just where we are on this bill, I think the next amendment to be considered is section 212, on page 31; in other words, the normal and surtax provisions have been passed over.

Mr. PENROSE. Mr. President, if the Senator from North Dakota will permit me, I was unavoidably detained for a little while from the Chamber, and I would like to inquire in what way these previous provisions were passed over.

The VICE PRESIDENT. They were passed over a second time by unanimous consent.

Mr. PENROSE. Then, of course, being absent at the time that consent was given, I shall not attempt to interfere in the matter. I did not know whether they had been passed over at the request of some particular Senator or for some particular purpose. I think the Senator from Wisconsin did consult me about passing over one of the amendments; but if they were passed over, I shall not pursue the matter at this late hour.

Mr. McCUMBER. I will say to the Senator that there were quite a number of Senators, this being one of the important or high spots, as he calls it, who requested that the amendments might go over to-day.

Mr. PENROSE. Very well.

Mr. McCUMBER. I do not understand that the request of the Senator from Wisconsin to pass over the normal and surtax items included section 212, which defines what net incomes are, namely:

(a) That in the case of an individual the term "net income" means the gross income as defined in section 213, less the deductions allowed by section 214.

(b) The net income shall be computed upon the basis of the taxpayer's annual accounting period—

And so forth. It is simply following the old law in that respect.

Mr. LA FOLLETTE. Mr. President, those amendments were not passed over at my request, I will say to the Senator, but on the request, as I understood, of the Senator from North Carolina [Mr. SIMMONS], who wishes to address himself to all those provisions in the morning. He gave notice to that effect just before he left the Chamber.

Mr. PENROSE. To-morrow morning?

Mr. LA FOLLETTE. Yes; he said that he would speak to-morrow morning at the opening of the session.

Mr. UNDERWOOD. Mr. President, it is 5 o'clock, and I know some Senators on this side who are on the Finance Committee expect to discuss these particular provisions of the bill. They have come up now unexpectedly, and I hope the Senator from Pennsylvania will not push the bill further to-night.

Mr. PENROSE. As I have stated, I desire to facilitate the convenience of Senators on the other side and of all Senators. We have spent the whole day on a very small part of the bill and have determined nothing. At that rate of proceeding it is difficult to know where we will be along about the first of the year.

Mr. UNDERWOOD. I sympathize entirely with the Senator. I have had revenue bills in charge myself, and I know the difficulties involved.

Mr. PENROSE. Yes; I appreciate that.

Mr. UNDERWOOD. But I am not prepared to proceed this evening. The Senator from North Carolina [Mr. SIMMONS] is the senior minority member on the committee, and he is almost always here. He has been in his seat continuously, but this evening he is not in the Senate. To-morrow, at the first opportunity, he expects to address himself to this feature of the bill, and necessarily at this late hour it would not be exactly fair to insist on a vote.

Mr. PENROSE. In the absence of the Senator from North Carolina, and I know how rare his absences are, I do not desire to be disagreeable and press the bill, and I shall not press it. I move that the Senate take a recess——

Mr. LODGE. Will the Senator withhold the motion a moment?

Mr. PENROSE. Certainly.

CONSIDERATION OF THE PEACE TREATIES.

Mr. LODGE. Mr. President, a conference of the minority party was held to-day. I have had conversations with the Senator from Alabama [Mr. UNDERWOOD], representative of that conference, and I think I am warranted in saying that there is every reasonable hope and expectation that we may be able to come to an agreement in regard to a vote on the treaties. For that reason I shall not ask the Senate to remain in session this evening.

Mr. UNDERWOOD. Mr. President, I desire to confirm what the Senator from Massachusetts has said. I was authorized by a caucus of my party to discuss the question with the Senator of a time for consideration of the treaties, and I think we have practically reached an agreement, but it will take until to-morrow to consummate it. Therefore I think it wise to let the whole matter go over until to-morrow.

Mr. LODGE. That was my idea.

Mr. UNDERWOOD. Then we can reach a unanimous-consent agreement in all probability.

Mr. LODGE. I did not mean to offer it at this time, but the matter looks so near settlement that I see no occasion to insist on the Senate coming back this evening.

Mr. TOWNSEND. Will the Senator from Pennsylvania yield to me?

Mr. PENROSE. I yield.

Mr. TOWNSEND. At the request of several Senators who are interested, I desire to report some bills for which I wish

to ask immediate consideration. The nature of the bills is to grant authority of Congress to use a special stamp for certain special occasions, such as we have done heretofore, without expense to the Government, and for the accommodation of the various institutions.

Mr. PENROSE. I yield for that purpose.

PUBLIC HEALTH EXPOSITION, CINCINNATI, OHIO.

Mr. TOWNSEND. From the Committee on Post Offices and Post Roads I report back favorably without amendment the bill (H. R. 8365) to permit the use in the post office at Cincinnati, Ohio, of special canceling stamps bearing the words "Public Health Exposition, Cincinnati, Ohio, October 15 to 22, 1921," and I ask for its present consideration.

There being no objection, the bill was considered as in Committee of the Whole, and it was read, as follows:

Be it enacted, etc., That the Postmaster General be, and he is hereby, authorized and directed to permit the use in the post office at Cincinnati, Ohio, of special canceling stamps bearing the following words and figures: "Public Health Exposition, Cincinnati, Ohio, October 15 to 22, 1921."

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

INTERNATIONAL AERO CONGRESS.

Mr. TOWNSEND. From the Committee on Post Offices and Post Roads I report back favorably without amendment the bill (S. 2359) providing for an international aero congress cancellation stamp to be used by the Omaha post office, and I ask for its present consideration.

There being no objection, the bill was considered as in Committee of the Whole, and it was read, as follows:

Be it enacted, etc., That the Postmaster General be, and he is hereby, authorized and directed to permit the use in the Omaha post office of special canceling stamps bearing the following words and figures: "International Aero Congress, Omaha, November 3 to 5, 1921."

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THE DUNES, MICHIGAN CITY, IND.

Mr. TOWNSEND. From the Committee on Post Offices and Post Roads I report back favorably without amendment the bill (H. R. 7578) providing for "Visit the Dunes, Michigan City," canceling stamps to be used by Michigan City, Ind., post office, and I ask for its present consideration.

There being no objection, the bill was considered as in Committee of the Whole, and it was read, as follows:

Be it enacted, etc., That the Postmaster General be, and he is hereby, authorized and directed to permit the use in the post office at Michigan City, Ind., of a special canceling stamp bearing the following words and figures: "Visit the Dunes, Michigan City, Ind., May 1, 1922, to November 1, 1922."

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LIMITATION OF DEBATE.

Mr. TOWNSEND. Mr. President, I ask unanimous consent to submit the resolution which I send to the desk. It proposes to amend the standing rules of the Senate. I ask that it be referred to the Committee on Rules.

Mr. REED. Let it be read.

The VICE PRESIDENT. The resolution will be read.

The Assistant Secretary read the resolution (S. Res. 148), as follows:

Resolved, That the standing rules of the Senate be amended by striking out the words "two-thirds" from the amendment to Rule XXII adopted March 8, 1917, and inserting in lieu thereof the word "majority," so that said rule as thus amended will read as follows:

"If at any time a motion, signed by 16 Senators, to bring to a close the debate upon any pending measure is presented to the Senate, the Presiding Officer shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one he shall lay the motion before the Senate and direct that the Secretary call the roll, and, upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by an aye-and-nay vote the question:

"'Is it the sense of the Senate that the debate shall be brought to a close?'

"And if that question shall be decided in the affirmative by a majority vote of those voting, then said measure shall be the unfinished business to the exclusion of all other business until disposed of.

"Thereafter no Senator shall be entitled to speak in all more than one hour on the pending measure, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been presented and read prior to that time. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

Mr. McCORMICK. I assume that the proposed amendment to the rules will go to the Committee on Rules.

Mr. TOWNSEND. I have asked that that reference be made.

The VICE PRESIDENT. The resolution will be referred to the Committee on Rules.

Mr. REED. Mr. President, may I inquire if it is the object of the Senator proposing this amendment to the rules to adopt the Tom Reed rules of the House of Representatives at the same time?

Mr. TOWNSEND. There is no such intention on the part of myself, nor does the resolution, if it shall be adopted, result in that situation. I realize that it probably will not be considered during the consideration of the tax bill. I do think, however, that the country and the majority of the Congress are in favor of the Senate doing business.

The amendment, if it is adopted, after it is invoked by the petition of 16 Members of the Senate, which may be after days of debate, will then present the matter to the Senate and if the rule be then applied there would be 96 hours of debate if every Senator took advantage of his privilege after the rule is applied. It will simply give us an opportunity to act upon business in the Senate.

Mr. BORAH. Mr. President, would the Senator be willing to attach to his rule a proviso that all Senators shall be in attendance upon the Senate when it is invoked?

Mr. TOWNSEND. I should like very much——

Mr. PENROSE. Mr. President, I did not yield for the purpose of a running debate on this very interesting resolution.

Mr. SIMMONS entered the Chamber.

RECESS.

Mr. PENROSE. I move that the Senate take a recess until 11 o'clock to-morrow morning.

Mr. SIMMONS. I ask the Senator if he will not make that 12 o'clock?

Mr. PENROSE. I knew something like that was coming.

Mr. SIMMONS. It is coming and we are going to insist upon it.

Mr. PENROSE. That is another delay.

Mr. SIMMONS. The Senator can call it delay, Mr. President. We have had delays about this measure for five months. The Finance Committee has had an opportunity to consider the bill for five months. It has now got into the Senate and there is the most unseemly drive going on here to force the consideration of the measure before Senators have had time to investigate it and examine it, and no time is allowed for the investigation and examination of it by insisting that we shall stay here from 11 until 6 o'clock and then have night sessions from 8 until 11.

Why is this, Mr. President? It is because the Senators in charge of the measures of the administration have delayed them for five months, and they find now that the extra session is about to expire and nothing has been accomplished, and they are here now seeking to drive us without that seemly consideration which has always characterized the proceedings of the Senate. We are not going to submit to it upon this side of the Chamber without opposition.

No delay and no charges of delay from the man who is the archcriminal of delay will disturb me for a moment. I have heard that thing repeated here day after day as an excuse and nothing but an excuse for their own delays, trying to blame their shortcomings upon this side of the Chamber because we demand deliberate senatorial consideration and action.

I say to the Senator now that if he undertakes to force the measure through with that sort of tactics the measure will not pass the Senate until the snow flies.

Mr. PENROSE. Mr. President, I was reliably informed that the Senator had gone home.

Mr. SIMMONS. The Senator's chief argument is his little personal slurs. He can not avoid them. It is a misfortune of his. I do not criticize it; I simply, as his friend, regret it. The Senator has heard nothing of the sort. He makes a statement here about me based upon his mere purpose and desire to misrepresent me, sometimes, I am afraid, to save himself from criticism for his own faults.

I had given notice, I will say to the Senator, that I would speak to-morrow, and I had gone to my room for the purpose——

Mr. PENROSE. Of going home?

Mr. SIMMONS. Of getting ready——

Mr. PENROSE. To go home?

Mr. SIMMONS. For the presentation of this matter to the Senate. If the Senator wishes to keep up his personal references to me, he can do so, but I hope he will not find that the exigencies of the situation in which he finds himself make it necessary for him to indulge in unseemly personalities that have never characterized this body during all the time I have been a Member.

Mr. WATSON of Indiana. Mr. President, are we to understand from the Senator from North Carolina that he is objecting to a vote on the motion made by the Senator from Pennsylvania?

Mr. SIMMONS. No; I was not. I was simply asking the Senator to take a recess until 12 o'clock, and the Senator began to slur me again, charging absence from the Senate because I happened to go to my room for a little while——

Mr. PENROSE. On your way home? Mr. President, I wish to apologize for injuring the Senator's feelings.

Mr. SIMMONS. The Senator has not injured them.

Mr. PENROSE. They appear to be. The minority leader, a highly respected veteran Senator, stated, as the stenographer's notes will show, that the Senator from North Carolina had gone home.

Mr. UNDERWOOD. If the Senator will allow me, I did not say where the Senator from North Carolina then was. I said the Senator was not here; that he had been here continuously; that the matter that was coming up was one in which he was very much interested, and I asked the Senator from Pennsylvania to recess or adjourn the Senate until to-morrow. That was all. I did not state where the Senator from North Carolina was. I merely said he was absent.

Mr. PENROSE. That he was absent from the Chamber.

Mr. UNDERWOOD. And that we were not prepared to go on with the bill in any event.

Mr. PENROSE. I said that that was such a rare event that I was disposed to give it serious consideration. Now, it appears—and I am very glad the matter is cleared up—that the Senator had not gone home, but had only reached his committee room in order to get his hat on his way home. In view of the feeling which the Senator exhibits, and appreciating his desire to be not interrupted in the course he has mapped out toward his farm, I will move that the Senate take a recess until 12 o'clock to-morrow, in order to accommodate him. I hope that will not be too early, Mr. President.

The VICE PRESIDENT. The Senator from Pennsylvania withdraws his former motion and moves that the Senate take a recess until 12 o'clock to-morrow.

The motion was agreed to; and (at 5 o'clock and 20 minutes p. m.) the Senate took a recess until to-morrow, Friday, September 30, 1921, at 12 o'clock meridian.

SENATE.

FRIDAY, *September 30, 1921.*

(Legislative day of Monday, September 26, 1921.)

The Senate reassembled at 12 o'clock meridian, on the expiration of the recess.

Mr. PENROSE. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	France	Lodge	Reed
Ball	Frelinghuysen	McCormick	Robinson
Borah	Glass	McCumber	Sheppard
Brandegee	Gooding	McKellar	Shields
Broussard	Hale	McKinley	Shortridge
Calder	Harreld	McLean	Simmons
Cameron	Harris	McNary	Smoot
Capper	Harrison	Moses	Spencer
Caraway	Heflin	Myers	Sterling
Colt	Hitchcock	Nelson	Sutherland
Culberson	Johnson	New	Townsend
Cummins	Kellogg	Nicholson	Trammell
Curtis	Kendrick	Norbeck	Underwood
Dial	Kenyon	Oddie	Walsh, Mass.
Dillingham	King	Overman	Watson, Ga.
Edge	Ladd	Page	Watson, Ind.
Ernst	La Follette	Penrose	Williams
Fletcher	Lenroot	Pomerene	Willis

The PRESIDENT pro tempore. Seventy-two Senators have answered to their names. There is a quorum present.

CONSIDERATION OF THE PEACE TREATIES.

Mr. LODGE. Mr. President, I desire to offer the following agreement for unanimous consent. I will say that I have discussed it with the Senator from Alabama [Mr. UNDERWOOD]. We have consulted with members of the Finance Committee and of the Foreign Relations Committee and with other Members, and I trust it will prove to be a satisfactory agreement.

The PRESIDENT pro tempore. The Secretary will read the proposed unanimous-consent agreement.

The Assistant Secretary read as follows:

It is agreed by unanimous consent that the Senate will continue the consideration of the treaties with Germany, Austria, and Hungary to the exclusion of any other bill or resolution upon the calendar or that may be reported from a committee or the consideration of other business that is not unanimously recognized as urgent, and will dispose of such treaties in the order named.

That at not later than 11.30 o'clock a. m. on the calendar day of Friday, October 14, 1921, the Senate will proceed to the consideration of the said treaties and continue such consideration until they are finally disposed of, and that from and after the hour named on the said day no Senator shall speak upon any or all of said treaties or upon any amendments that may be offered thereto or to the resolutions of ratification for a longer period than 30 minutes in the aggregate.

It is agreed that if within the period outlined by the foregoing provisions no Senator is prepared to discuss the treaties, or either of them, then the Senate shall proceed at once to the consideration of H. R. 8245, the tax bill, so called, and will give that measure the right of way over other legislation until such time as the consideration of the treaties is resumed.

Provided, That nothing in this unanimous consent shall in any manner interfere with the unanimous-consent agreement entered into on August 15, 1921, respecting the final vote upon S. 665, the Panama Canal tolls bill.

The PRESIDENT pro tempore. Is there objection?

Mr. UNDERWOOD. Mr. President, I wish to make one suggestion to the Senator from Massachusetts. The Democratic conference yesterday authorized me under certain circumstances to make an agreement with the Senator from Massachusetts, and we have agreed on this proposition. My understanding is that the vote will not be taken on the treaties until the 14th of October or thereafter, but it has been called to my attention that the wording of the proposed agreement is "not later than the 14th." I think the understanding between the Senator and myself was that the treaties shall be pending subject to debate and discussion until the 14th of October, and then debate shall be limited to 30 minutes in the aggregate. It is entirely satisfactory to me, but I wish it understood that the vote will not be taken before the 14th.

Mr. LODGE. Certainly; that is my understanding.

The ASSISTANT SECRETARY. Strike out the words "not later than," so as to read "at 11.30 o'clock a. m. on the calendar day of Friday, October 14," and so forth.

The PRESIDENT pro tempore. Is there objection to the proposed unanimous-consent agreement?

Mr. REED and Mr. STERLING addressed the Chair.

The PRESIDENT pro tempore. The Senator from Missouri.

Mr. REED. Mr. President, I do not want to offer an objection, but I wish the Senator from Massachusetts would let it lie over for about an hour and let us examine the text of it. It would be more agreeable to me to have a chance to read it over, and then we will know just what the request is.

Mr. SIMMONS. I suggest to the Senator that it go over until 3 o'clock.

Mr. REED. I am perfectly willing to settle it to-day, and as to the main proposition I am not going to offer any objection. I desire to have an opportunity to examine the text of the proposed agreement.

Mr. LODGE. The Senator from Alabama and I endeavored in drafting the proposed agreement to make it conform to what we understood were the wishes of the Senator from Missouri, as expressed to us yesterday.

Mr. REED. I would like to look at it. I do not care to delay it.

Mr. LODGE. I am perfectly willing to let it lie over for several hours, and will call it up later in the day.

Mr. LA FOLLETTE. I suggest that it go over until 5 o'clock. Some of us will be occupied here on the floor, and that will give a better opportunity for an examination of the proposed agreement. I understand there are only one or two copies of it, and I have not had an opportunity to look at it. So I request that it may go over until at least 5 o'clock.

Mr. STERLING. Mr. President, I shall be loath to object to any unanimous-consent agreement. I do not think I ever have yet objected to any. I shall not object to this proposed agreement going over, of course, until this afternoon, until 5 o'clock, or any other hour, to be brought up again at that time; but my disposition is now to say that I shall object then, as I should object now, to the unanimous-consent agreement if the matter were pressed at the present time.

I think I have good reasons for it. It has been intimated, of course, that after the treaties are disposed of and the tax bill is disposed of there will then be an adjournment without the disposition of the conference report on the antibeer bill. Mr. President, that must be included in the program of measures to be finally disposed of before I yield to any unanimous-consent agreement.

The PRESIDENT pro tempore. The Chair understands that the Senator from South Dakota objects.

Mr. STERLING. No; I do not object to the matter going over until later this afternoon.

Mr. SMOOT. Let it go over until 5 o'clock.

Mr. LODGE. I have no objection to its going over until 5 o'clock.

Mr. REED. Mr. President, in view of the Senator's statement I shall not ask that the matter go over until 5 o'clock. It can be brought before the Senate now, and we can determine whether there is to be an objection to it.

The PRESIDENT pro tempore. Is there objection to the unanimous-consent agreement?

Mr. LODGE. Mr. President——

Mr. STERLING. If the matter is to be submitted now, I shall object to the unanimous-consent agreement.

The PRESIDENT pro tempore. Objection is made.

Mr. LODGE. Mr. President, I am in charge of the proposed agreement for the moment, and I should like to say one word before it is disposed of in this way, because I hope that some arrangement may be reached. The only attempt that was made by the Senator from Alabama and me was to reach some arrangement in regard to the two great measures which are now pending before the Senate. The most important things to dispose of first are the treaties. I have just learned from the Associated Press dispatch that the German treaty has been ratified by the Reichstag. Therefore Germany has concluded her part of the matter. I think the treaties ought to be disposed of without unreasonable delay. That is the view of the Senator from Alabama also, for everything which has been done in regard to reaching an agreement I have done in company with him.

I am anxious to interfere as little as possible with the great tax bill, which we all know must be passed, and we did not attempt to consider anything other than these two matters. Of course, if the Senator from South Dakota [Mr. STERLING] conceives it to be his duty to prevent facilitating business on these two great measures, I can not help it; but I think it is most unfortunate that on account of any other measure the two measures which I have named should be interfered with. We have not even attempted to make an agreement to vote on the tax bill, which the Senator from Alabama knows was pressed upon our attention. We have merely tried to make provision for disposing of the treaties in such a way as not to interfere with the previous unanimous-consent agreement, and to interfere as little as possible with the tax bill. I think that is a reasonable and proper arrangement, and I sincerely hope that assent to dispose of other measures, which I think can not be obtained, will not be used to prevent action on the treaties and the tax revision bill.

Mr. STERLING. I am quite willing that the request for a unanimous-consent agreement may go over until 5 o'clock this afternoon.

Mr. UNDERWOOD. Mr. President, before this matter is disposed of let me say a few words. The conference of the Democratic Senators on yesterday took no party action in reference to the treaties; they have left the matter entirely open to the individual judgment of Senators without making it a party question; but the Democratic conference authorized me to say to the Senator from Massachusetts—and I want to say the same thing to the Senate, in order that there may be no misunderstanding about it—that we regard the treaties of such importance that they should receive careful and deliberate consideration. The Versailles treaty was debated for months in the Senate before a vote upon it was taken. Now that we come back to a treaty for the conclusion of peace we do not propose to acquiesce in an effort by night sessions to drive through the consideration of the treaty, and I wish to say to the majority side of the Chamber that unless we receive proper consideration from the majority of the Senate in the consideration of this matter they will endanger the ratification of the treaties.

We have shown our good faith in the matter.

Although the Versailles treaty required months for consideration, we are prepared to make an agreement to bring the pending treaties to a vote and final conclusion by the middle of October, which is not an unreasonable time. I hope, if the Senator from Massachusetts can not procure unanimous consent from his side, he will at least follow the wish of this side of the Chamber to have deliberate and reasonable consideration of the treaties, and will not attempt any tactics to jam the treaties through unreasonably. I am not talking simply for idle purposes; this side must protect its rights and this is the only way we can do it, and I wish to assure the Senator that he will deliberately endanger the treaties if we do not have a reasonable and fair opportunity for their consideration.

Mr. LODGE. I am sure the Senator from Alabama will do me the justice to say that I have made every effort to give the minority every fair and reasonable opportunity to discuss the treaties. That has been my effort.

Mr. UNDERWOOD. I am sure of that.

Mr. LODGE. Now, Mr. President, I will withdraw the request for unanimous consent which I asked and will take the matter up at 5 o'clock this afternoon.

The PRESIDENT pro tempore. The request is withdrawn.

Mr. BORAH. Mr. President, before the pending matter is finally disposed of, I desire to ask the Senator from Alabama when, in all probability, if at all, Senators on the other side will submit their reservations to the pending treaty?

Mr. UNDERWOOD. I will say to the Senator from Idaho that I am not a member of the Committee on Foreign Relations, and I have no reservations to submit. If reservations come from our side of the Chamber, they will come from members of the Foreign Relations Committee. The Senator from Nebraska [Mr. HITCHCOCK] or the other minority members of that committee are very much better prepared to answer the Senator's question than am I.

Mr. BORAH. I should like to be informed, before the matter is finally disposed of, whether there are reservations and, if so, when we may expect to have them presented.

Mr. UNDERWOOD. If reservations are offered, they will not come as party measures; they may be voted for by all the Democrats on this side, and probably will be; but they will not come under party action, and I am not authorized to speak in reference to the matter.

Mr. BORAH. It may look like there has been party action by the time we get through with them.

Mr. BRANDEGEE. Mr. President, before proceeding to the consideration of the tax bill, I wish to offer a suggestion to the Democratic members on the Foreign Relations Committee. If they propose to offer reservations to the pending treaty, of course, we have no exact information of what the nature of those reservations may be. They may be very vital; they may be very fundamental; they may change the entire character of the treaty; and I want to suggest to them that, if we are going to make an agreement for unanimous consent to vote so arranged that no Senator may speak more than half an hour on any reservation or amendment which may be proposed, it would hardly be fair nor in line with the suggestion of the Senator from Alabama, in which I heartily concur, that everyone should have ample time for adequate consideration of these very important matters, to withhold reservations until within a day before we have a vote upon them, then offer a series of important reservations embracing novel points, when each Senator would be limited to a half an hour, and then proceed to a vote.

I wondered if before 5 o'clock, when the unanimous-consent agreement may be modified and again presented, the Senators who contemplate preparing and offering reservations at the proper time might not agree to a provision that all proposed reservations and amendments to the treaty shall be offered at least a week before the time agreed upon to vote.

Mr. WILLIAMS. Mr. President, I do not think an agreement in the precise form suggested could be made. I agree with the Senator from Connecticut that the reservations ought to be presented in time for each individual Senator to become acquainted with their nature and purport, so that no Senator may be taken by surprise in voting upon a reservation any more than in voting upon the treaty itself.

In accordance with what I have stated, I suggest to the Senator from Alabama, and the Senator from Massachusetts, if I may have his attention——

Mr. HITCHCOCK. Mr. President, I rise to a parliamentary inquiry. Is there anything before the Senate at the present time?

The PRESIDENT pro tempore. There is something before the Senate.

Mr. WILLIAMS. I am before the Senate at present.

The PRESIDENT pro tempore. There is before the Senate an amendment proposed by the Committee on Finance to section 212 on page 31.

Mr. WILLIAMS. I suggest that an agreement might probably be made that all reservations be offered to the Senate before the close of the session on the 11th day of October. That would give the time from the 11th to the date of the vote on the 15th for the consideration of whatever reservations may be offered.

Mr. LODGE. That is entirely agreeable to me. I should be glad to have that arrangement made.

Mr. WILLIAMS. In remodeling the request for unanimous consent some provision of that kind, I think, ought to be made, whether that precise date be fixed or another; but it seems to me that that would give ample time for the study of the reservations.

Mr. STERLING and Mr. SIMMONS addressed the Chair.

The PRESIDENT pro tempore. The Senator from South Dakota.

Mr. STERLING. I do not quite understand the Senator from Massachusetts as to whether he withdrew altogether the request for unanimous consent.

Mr. LODGE. I have withdrawn it and stated that I would call it up again at 5 o'clock.

Mr. STERLING. Very well; if that is the understanding. That was going to be my request if the Senator had not made it.

Mr. LODGE. I have already made it, and the Senate is still discussing the question.

Mr. SIMMONS. Mr. President——

Mr. PENROSE. Mr. President, I rise to a question of order.

The PRESIDENT pro tempore. The Senator from Pennsylvania will state his question of order.

Mr. PENROSE. Has the revenue bill been laid before the Senate this morning?

The PRESIDENT pro tempore. The question now before the Senate is the amendment to that bill found on page 31, section 212.

Mr. PENROSE. I do not understand that the bill as yet has been formally laid before the Senate.

Mr. SMOOT. It is before the Senate without formal action, as the Senate recessed last night.

Mr. PENROSE. I recall now that there was no executive session yesterday evening. Very well, Mr. President; I hope the bill may be proceeded with.

TAX REVISION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

Mr. SMOOT and Mr. SIMMONS addressed the Chair.

The PRESIDENT pro tempore. The Senator from Utah.

Mr. SMOOT. Mr. President, I will take only a very few moments' time of the Senate.

Mr. HITCHCOCK. Mr. President, I call the attention of the Senator from Utah to the fact that the Senator from North Carolina has been trying to obtain the floor for some time.

Mr. SMOOT. I am perfectly willing that the Senator from North Carolina should obtain the floor, but the Senator from North Carolina has agreed to yield to me for a few moments.

Mr. SIMMONS. Mr. President, what I desired was to take the floor. I have, however, informed the Senator from Utah that I would yield to him, as he has advised me that he desires to make a statement which will take only about 10 minutes. It was my desire to obtain the floor so that I might not be delayed unduly. I am glad, however, to yield to the Senator from Utah.

Mr. SMOOT. Mr. President, I offer at this time certain amendments to House bill 8245. I do not ask to have them read, but do ask that they may be printed in the RECORD and also printed in the usual form, and that they may lie upon the table.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendments submitted by Mr. SMOOT are as follows:

On page 78, lines 23 to 25, inclusive, and page 79, lines 1 to 7, inclusive, strike out said page 78, lines 23 to 25, inclusive, and page 79, lines 1 to 7, inclusive, and insert in the place thereof the following:

"SEC. 230. That in lieu of the tax imposed by section 230 of the revenue act of 1918 there shall be levied, collected, and paid for the calendar year 1921 and for each calendar year thereafter upon the net income of every corporation a tax of 10 per centum of the amount of the net income in excess of the credits provided in section 236."

Pages 130 to 145, inclusive, strike out all of said pages 130 to 145, inclusive, and insert in place thereof the following:

"TITLE III.—EXCESS PROFITS TAX REPEAL.

"SEC. 300. Title III of the revenue act of 1918 is repealed to take effect January 1, 1921."

Page 167, line 20, to page 175, inclusive, strike out said page 167, beginning with line 20, to and including page 175, and insert in place thereof the following:

"TITLE V.—TRANSPORTATION AND INSURANCE TAX REPEALS.

"SEC. 500. Title V of the revenue act of 1918 is repealed to take effect January 1, 1922."

Pages 176 to and including page 180, line 7, strike out all of said pages 176 to 179, inclusive, and page 180, lines 1 to 7, inclusive, and insert in place thereof the following:

"TITLE VI.—BEVERAGE TAX REPEAL.

"SEC. 600. Sections 628 to 630, inclusive, of Title VI of the Revenue Act of 1918 are repealed, to take effect January 1, 1922."

Page 190, line 18, to and including page 196, line 7, strike out said pages 190 beginning with line 18 to and including page 196, line 7, and insert in place thereof the following:

"TITLE VIII.—ADMISSION AND DUES TAX REPEAL.

"SEC. 800. Title XIII of the revenue act of 1918 is repealed, to take effect January 1, 1922."

Page 196, line 8, to and including page 211, line 14. Strike out said pages 196, beginning with line 8, to and including page 211, line 14, and insert in place thereof the following:

"TITLE IX.—MANUFACTURERS' AND PRODUCERS' TAX.

"SEC. 900. That in addition to all other taxes there shall be levied, collected, and paid (a) upon every commodity manufactured or produced when sold, leased, or licensed for consumption or use without further process of manufacture, a tax equivalent to 3 per cent of the price for which such commodity is sold, leased, or licensed; such tax to be paid by the manufacturer or producer; and (b) upon every commodity manufactured or produced in a country other than the United States, when imported into the United States for consumption or use without further process of manufacture, a tax equivalent to 3 per cent of the value at port of entry of such commodity, such tax to be paid by the importer.

"SEC. 901. (a) That this title shall not apply to sales, leases, or licenses made during any year in which the total price for which the taxable sales, leases, or licenses are made does not exceed $6,000, nor to sales of refined gold or silver.

"(b) If any manufacturer, producer, or importer of any commodity taxable under this title customarily sells, leases, or licenses such commodity both at wholesale and retail, the tax in the case of any commodity sold, leased, or licensed by him at retail shall be computed on the price for which like commodities are sold, leased, or licensed by him at wholesale; or if sold, leased, or licensed by him at retail only, the tax shall be computed on the fair market price at which like commodities are customarily sold, leased, or licensed at wholesale.

"(c) If any person who manufactures, produces, or imports any commodity taxable under this title (1) sells, leases, or licenses such commodity to a corporation affiliated with such person within the meaning of Section 240 of this Act, at less than the fair market price obtainable therefor, the tax thereon shall be computed on the basis of the price at which such commodity is sold, leased, or licensed by such affiliated corporation; and (2) if any such person sells, leases, or licenses such commodity whether through any agreement, arrangement, or understanding, or otherwise, at less than the fair market price obtainable therefor, either, first, in such manner as directly or indirectly to benefit such person or any person directly or indirectly interested in the business of such person, or, second, with intent to cause such benefit, the amount for which such commodity is sold, leased, or licensed shall be taken to be the amount which would have been received from the sale, lease, or license of such commodity if sold, leased, or licensed at the fair market price obtainable therefor.

"(d) Every individual, firm, or corporation liable for any tax imposed under this title shall make monthly returns under oath in duplicate and pay the taxes imposed by such title to the collector for the district in which is located the principal place of business. Such returns shall contain such information and be made in such time and place and in such manner as the commissioner, with the approval of the Secretary, may by regulation prescribe.

"(e) Taxes levied under this title shall, without assessment by the commissioner or notice from the collector, be due and payable to the collector at the time fixed for filing the return. If the tax is not paid when due there shall be added as part of the tax a penalty of 5 per centum, together with interest at the rate of 1 per centum for each full month, from the time when the tax becomes due.

"SEC. 902. (a) That the taxes imposed by this title shall not apply to sales, leases, or licenses made by (1) the United States; (2) any foreign government; (3) any State or Territory or political subdivision thereof, or the District of Columbia; (4) any hospital; (5) Army or Navy commissaries and canteens; or (6) any corporation organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of the net earnings of which inures to the benefit of any private stockholder or individual; or (7) any public utility.

"(b) The tax imposed by this title shall not apply to sales, leases, or licenses of any article taxable under Title VI of the Revenue Act of 1918 (except sections 628 and 630) or Title VII of this act.

"(c) The taxes imposed by this title shall not apply with respect to articles sold, leased, or licensed for export and in due course so exported.

"SEC. 903. That in the case of any erroneous payment of any tax imposed by this act, any person making such erroneous payment may take credit therefor against taxes due upon any subsequent return.

"SEC. 904. That the provisions of this title shall become effective on and after January 1, 1922.

"SEC. 905. Title IX of the revenue act of 1918 is repealed, to take effect January 1, 1922."

Page 211, line 15 to and including page 212, line 11, and page 212, line 13 to and including page 222, line 2, strike out from page 211 beginning with line 15 to page 212 line 11, inclusive. Also from page 212 beginning with line 13, to page 222, line 2, inclusive, and insert in place thereof the following:

"SEC. 1000. Sections 1000 to 1005, inclusive, of the Revenue Act of 1918 are repealed."

Page 222, line 3, strike out the words "Sec. 1004" and insert in place thereof the words "Sec. 1001."

Page 228, line 17, strike out the words "Sec. 1005" and insert in place thereof the words "Sec. 1002."

Page 230, line 16, strike out the words "Sec. 1006" and insert in place thereof the words "Sec. 1003."

Page 231, line 22, to and including page 249, line 2, strike out all of said pages 231, line 22, to page 249, line 2, inclusive, and insert in place thereof the following:

"TITLE XI.—STAMP TAX REPEAL.

"SEC. 1100. Title XI of the Revenue Act of 1918 is repealed, to take effect January 1, 1922."

Page 292, strike out lines 7, 8, 10 to 15, inclusive, 18, 19, and 21.

Page 292, strike out line 20 and insert in lieu thereof:

"Sections 1006, 1007, and 1008 of Title X (being the so-called narcotic taxes)."

Mr. SMOOT. Mr. President, my proposed amendments to H. R. 8245, as reported with committee amendments, will raise practically the same amount as the bill under consideration. They will more than cover the Treasury requirements for the fiscal years 1922 and 1923.

My plan for a revision of the taxation system has as its foundation two fundamental thoughts: First, the raising of the necessary revenue for the Treasury Department; and, second,

a system which is simplified from the Treasury viewpoint as well as that of the taxpayer. In other words, I have viewed the taxation problem as a business problem from the standpoint of all three interested groups—the Treasury Department, the taxpayer, and the ultimate bearer of all taxes, the consuming public.

The public wants to get rid of all these annoying taxes, and they *should* be eliminated for the sole reason, if for no other, that they were resorted to only as war-emergency taxes.

The amendments which I offer provide, in substance:

1. Repeal of the excess profits tax, effective with reference to net income of 1921, instead of postponing the repeal until January 1, 1922, as provided in the House bill. The only result that will follow the imposition of the excess profits tax for the year 1921 will be to further burden small or moderate-sized business in this country, for the great corporations will have no excess profits to tax. By small or moderate-sized business I mean business concerns that depend not so much on their capital for their profits as they do upon the personal efforts of the owners in directing the business.

I favor this repeal because I believe that in the last election the American people expressed their desire to have this obnoxious and unintelligible form of taxation immediately abolished. There is every reason why this tax should be wiped from the statutes, and I know of no sound reason why it should be retained. It was a war necessity, clumsy, unfair, inequitable, unscientific, and difficult of administration. Every reason for its repeal on January 1, 1922, is equally applicable to its repeal as of January 1, 1921. Business expected that it would be immediately repealed after March 4, 1921, and so in figuring prices did not take into consideration any element for the excess profits tax.

2. Repeal of all the various other war taxes; the excise taxes, luxury taxes, stamp taxes, capital stock tax, transportation, telegraph, and insurance taxes, the taxes on soft drinks, ice cream, cosmetics, the taxes on admissions and dues, and all of the other "57 Varieties" of obnoxious, discriminatory forms of taxation, the repeal of these to be effective on January 1, 1922. I postpone this repeal so as to afford the Treasury Department ample time to provide the necessary forms and regulations for the substitute measure of which I shall later speak.

3. Retain the corporation tax at its present rate of 10 per cent. Any higher rate of taxation upon corporate income would be unjustified, particularly in connection with the repeal of the excess-profits tax. The House bill with the Senate amendment makes the corporation tax 15 per cent instead of 10 per cent, but as the large majority of corporations do not pay the excess-profits tax, a flat 15 per cent tax would mean a 50 per cent increase in taxes for the corporations which are least able to bear it. Such an imposition would mean relieving the burden of the excess-profits tax from one group of corporations, those having net income in excess of about 11 per cent of their invested capital, and placing that burden on corporations having net income below 11 per cent.

As my amendments will raise ample revenue with a flat 10 per cent tax on the net income of corporations, I can perceive no justification for merely transposing an inequity to a corporation which is least able to bear it.

4. My amendments contemplate no change in the present tobacco, liquor, and inheritance taxes and custom duties as provided for under tariff legislation.

5. In substitution for the various taxes repealed, I provide for a production or sales tax in the following language:

> That in addition to all other taxes there shall be levied, assessed, collected, and paid upon every commodity manufactured, or produced, when sold, leased or licensed for consumption or use without further process of manufacture, a tax equivalent to 3 per cent of the price for which such commodity is sold, leased, or licensed; such tax to be paid by the manufacturer or producer.

It should be noted that as the tax is imposed only when articles are sold "for consumption or use without further process of manufacture," the tax will be noncumulative in effect, and will give the integrated business no advantage over the nonintegrated business. There will be but one tax. If a commodity is sold for consumption or use in a further process of manufacture, no tax will be imposed. For example, coal sold for consumption in a boiler will be taxable, but coal sold for the manufacture of coke will not be taxable, the coke bearing a tax when sold. Likewise, crude oil sold for fuel would be taxable, but if sold to a refinery for the making of gasoline or other commodities would not be taxable.

In order to avoid administrative difficulties with small sales the bill provides for an exemption of all sales of less than $6,000 during one year. This will exclude about 1 per cent of the manufactured goods in the country, according to the census of manufacturers. It will practically exempt all the agricultural products, since the average value of products of farms for this year has been estimated by the Department of Agriculture at between $1,000 and $2,000; but as most agricultural products would find their way into manufactured products, they would be exempt anyway under the definition of the tax.

Provision is made for a like tax upon similar imported commodities, so that there can be no discrimination against American products.

The yield of this tax has been carefully estimated and approved by one of the foremost economists in the country, Prof. Charles J. Bullock of Harvard, to produce during the calendar year 1922 $759,756,000. Conservatism has been exercised throughout this estimate.

Mr. WALSH of Massachusetts. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from Massachusetts?

Mr. SMOOT. If the Senator will just allow me to finish, which will take only a moment, I will yield; or, if the Senator prefers, I will yield now.

Mr. WALSH of Massachusetts. I simply wanted to ask the Senator if there was not a difference of opinion about the yield that this tax will produce, and if it is not true that Treasury experts fix the sum at $300,000,000?

Mr. SMOOT. Mr. President, I know they will not claim it after an investigation. I will say to the Senator in this connection that within a short time I will go into every detail, and I will tell the Senate of the United States just the source where the money will come from. Taking the 351 classifications of manufactured goods, I have divided them into four classes, and I say that I can prove the correctness of my figures to any man who will give me time to explain to him.

Mr. WALSH of Massachusetts. I do not want to prolong the discussion, but I call the Senator's attention to the fact that when his scheme was first proposed it was thought that it would yield one billion two hundred million dollars. The yield is now estimated to be seven hundred and fifty million dollars, and experts in the Treasury Department fix it at three hundred million dollars.

Mr. SMOOT. Mr. President, I do not think they will claim that again. The exemptions and discounts that are made under my bill are more liberal than originally proposed and accounts for the difference in the amount to be raised from my first estimate, and if the Senator will only wait until I take up the bill for discussion in detail I will show just exactly what the differences are. The yield will undoubtedly be close to $1,000,000,000, but the figure given is more than ample to provide the revenue which will be lost by the repeals which I propose.

The basis for this estimate, as applied to manufactures, was the Department of Commerce Census of Manufactures for 1919. The total value of products was $62,500,000,000. The 351 classes of manufactured goods were carefully considered in detail in cooperation with a representative from the department, and classification was made with reference to whether particular articles would fall within the definition of the amendment. The figures were tabulated, and it was found that sales to the value in 1919 of $39,296,099,000 would be taxable. Most liberal deductions were there made for the difference in price levels between 1919 and the present time, the difference in production, the $6,000 exemption, and for goods sold for export.

Similarly, computations were made as to the estimated production of coal and mineral oil, and due consideration was given for imported and exported commodities taxable and nontaxable under the bill. In fact, the most careful study was given to the matter, and conservatism exercised at every point.

Producing enterprise, the revival of which alone makes jobs and spreads its benefits among all the people, demands relief now, not some time in the future. My proposal is the only one which, without lessening the Government's necessary revenue, affords immediate relief to productive enterprise for 1921, and, stripping the immediate tax burden from transportation, supplies the first step in lessening the cost of freight and passenger transportation.

We are approaching the end of a calendar year under the necessity of immediate preparation for tax collections covering the period behind us. Unless our system is drastically simplified, we shall subject the taxpayer to vexatious and costly delays in the receipt of forms and the final settlement of accounts; and the business situation is such that the Government should do everything in its power to lessen, rather than increase, the anxieties and burdens of this hour.

Later, I will present to the Senate a detailed statement showing just what effect my amendments will have on the revenues to be received, and how the figures are arrived at.

The only conceivable reason for this tax not raising the estimated revenue will be an abnormal fall in prices in 1922; but as such a condition would have an equal effect upon any revenue estimates under the House bill, such a result can not be charged against the merits of this bill.

I want to see all of the special taxes eliminated—the discriminatory, obnoxious war taxes. I want to see a real revision of our tax laws, and not the perpetuation in times of peace of revenue laws which were devised under the emergency of war.

I want to see a return to prosperity for the American people, and believe we can bring it through the enactment of a proper tax system.

I believe that these amendments will accomplish the desired result, and I know that the people throughout this country are of similar belief, from the general approval which the plan has received.

Mr. SIMMONS addressed the Senate. After having spoken for some time,

Mr. WALSH of Massachusetts. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LADD in the chair). The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Gooding	McKellar	Simmons
Ball	Hale	McKinley	Smoot
Borah	Harreld	McLean	Spencer
Broussard	Harris	McNary	Stanley
Calder	Harrison	Moses	Sutherland
Cameron	Heflin	Myers	Swanson
Capper	Hitchcock	Nelson	Townsend
Caraway	Johnson	New	Trammell
Colt	Kellogg	Nicholson	Underwood
Curtis	Kendrick	Norbeck	Walsh, Mass.
Dial	Kenyon	Oddie	Watson, Ga.
Dillingham	King	Overman	Watson, Ind.
Edge	Ladd	Page	Williams
Ernst	La Follette	Reed	Willis
Fletcher	Lenroot	Robinson	
France	McCormick	Sheppard	
Glass	McCumber	Shields	

The PRESIDING OFFICER. Sixty-five Senators having answered the roll call, a quorum is present.

Mr. SIMMONS. Mr. President, I want to say, in the beginning of my remarks, that to cover the ground I have laid out for discussion will require some considerable time, and will somewhat tax my physical resources, in the condition in which I find myself this morning, even if I am not interrupted. If I am interrupted and drawn into other lines of discussion, I am afraid that I shall not have the strength to finish my discussion of the various points that I wish to consider. I shall, therefore, take the liberty of asking Senators not to interrupt me and to reserve any questions which they may desire to ask until I have concluded. Then I will try, if it is a question, to answer it.

I have no purpose, Mr. President, I wish to say in the outset, of discussing any part of this bill except that part of it which relates to the repeal or modification of existing taxes or the imposition of new taxes. That will cover substantially all of the vital parts of the bill, questions in which Senators and the country are most deeply interested.

There are a great many purely administrative amendments presented by the Senate committee. Some of them, of course, indirectly affect the amount of taxes which will have to be paid, especially those sections which relate to credits and deductions; but in the main they are matters of minor importance and we can dispose of them promptly, as practically no objection has been made to them. As a general rule, there was no disagreement in the committee about these administrative amendments. They were brought to us by the Treasury Department, drafted by the Treasury expert, who is a very able and distinguished man in his profession, explained by him to the committee, and adopted without much discussion, and I shall not now undertake to burden the Senate with a discussion of any of them.

Coming down to the discussion of the vital provisions of the bill, Mr. President, I wish first to call attention to the revision of our revenue laws made just after the armistice in 1918. It will be recalled that just before the armistice the House passed the bill, which was finally adopted. We were just at the end of one of the most prosperous years, from a business standpoint, that the country had ever witnessed. Enormous profits had been made. Enormous expenses had been incurred, however, by the Government. The bill as it came from the House provided only taxes to be paid in the fiscal year following its passage. Before that bill was taken up in the Senate, however, the armistice was signed and a new condition was created.

We had one year of war to provide for, certainly, so far as our excess profits and our income taxes were concerned, because they are based upon the earnings of a calendar year, and the taxes then imposed would be necessarily based upon the earnings of the taxable year 1918. For that year we levied a very high tax. It was the peak tax levied during the war. It was estimated that it would raise $8,000,000,000, and that was not more than was necessary.

But, Mr. President, it was realized then that the war having come to an end our expenditures would thereafter not be so great, and that in the same bill in which we made these increases for the calendar year 1918 we could and ought to make reductions for the calendar year 1919 and subsequent years, suited to the new conditions which had arisen as the result of the termination of the war. So that in that bill we had the anomalous situation of a large increase, on the one hand, in rates which applied to the earnings of the year 1918, and of a radical decrease in the rates upon incomes and profits accruing in the calendar year 1919 and subsequent years.

That revision was very hurriedly made, because it was thought that as we were going to radically change these rates the business interests of the country were entitled to know in advance what the changes would be, so that they might regulate their business affairs accordingly. The changes were made, of course, in the expectation that the expenditures of the country would be greatly reduced.

What did we do under those circumstances? We reduced taxes something over $2,000,000,000, as I now recall; probably nearer $3,000,000,000; I have not the exact figures in my mind at this moment. But in making that reduction, whatever the amount in income from taxes may have been, we practically confined ourselves to a reduction of the taxes imposed upon incomes of individuals and corporations and taxes imposed in the way of war and excess profits taxes.

With the exception in the revision of 1918 of one single reduction made in miscellaneous taxes, and that a reduction of 1 cent additional tax on postage stamps, which amounted to $70,000,000, every reduction that was made from the taxes of the people of this country was a reduction made in behalf of the income-tax payer and in behalf of the corporation earning excess profits.

The result was that we cut the excess-profits-tax rates in half. We reduced them from 60 and 40 to 40 and 20 and repealed what was known as the war-profits tax. That was distinguished from the excess-profits tax in that a different method was provided for ascertaining the amount of tax due. We also made very substantial reductions in the normal income taxes, reducing those from 12 and 6 per cent to 8 and 4 per cent.

But we made another change in the law in behalf of the individual and the partnership taxpayer, which, taken together with the reductions made in the normal tax, practically cut the income tax of the individual taxpayer in half, just as we cut the tax on excess profits in half. That change was this: Up to that time individuals and partnerships, as well as corporations, had been subject to the excess-profits taxes. It was found in that revision that while individuals, partnerships, and corporations were alike made subject to this tax imposed upon each in the act of 1917, there was a very glaring and inexcusable discrimination in the aggregate tax in favor of the corporation as against the individual and the partnership, and in order to remedy that discrimination in the act of 1917, and to at least approximately equalize the taxes of these three groups of taxpayers, we provided in the act of 1918 that only corporations should thereafter be subject to the excess-profits tax. So that since that time individuals and partnerships have not had to pay those taxes.

In that way we equalized this tax among those classes of taxpayers and in that way, I say, we tremendously cut down the taxes imposed under the 1917 act upon the individual taxpayer and the partnerships, just as we had cut by the reduction the excess-profits taxes paid by corporations.

I must not neglect to state in this connection that another great reduction which we made at that time in behalf of the corporation was a reduction of the corporation income tax rate from 12½ per cent in the 1917 act to 10 per cent, the present rate.

Why am I recalling these facts? Why am I undertaking to show the Senate that the reductions that have heretofore been made in the war-time taxes inure practically altogether to and in behalf of the corporations and the individual income taxpayer, and that the miscellaneous taxpayers of the country have had practically no reduction under former revisions? I am doing that because in the bill that now is presented to us, both as it passed the House and as it comes from the Finance Committee of the Senate, again practically all the reductions in taxes that are made are in behalf of the corporations and not in behalf of the individual taxpayers of the country; in behalf

of the taxpayers of the country whose incomes exceed $66,000; in behalf of the corporations and the ultrarich. The amount of the reductions in miscellaneous taxes made in the pending bill is practically the same as was made in the reductions in 1918—$70,000,000, if we eliminate from the category of miscellaneous taxes, as I think should be done, transportation taxes and capital-stock taxes.

When we made the first reduction it was felt that we had to act quickly, and it was felt then and expressed upon the floor of the Senate as well as in the committee that under the circumstances the best way to do was to reduce the taxes upon the sources I have just indicated, only slightly reducing the miscellaneous taxes, and that when another revision should take place that process should be reversed and that those who pay the miscellaneous taxes should have the advantage in the reduction rather than the corporation and the individual income taxpayer. That would have been the equitable thing. Such was, as I understood it, the intent of the committee at that time.

Now, if this bill shall become a law we shall again be cutting in half the taxes of corporations and again cutting in half the taxes of individuals having incomes in excess of $66,000, while the individual who has an income below that amount will get practically no reduction under this bill, and the millions of people who pay the miscellaneous taxes will continue to pay the peak rates of war time. True, they have eliminated the tax on a few miscellaneous items, but all these reductions amount in the aggregate, as I am advised by the actuary, to a sum not exceeding $70,000,000, leaving out transportation taxes and capital stock taxes.

Now, Mr. President, I have taken a litle more time in presenting this phase of the subject than I had intended. But I thought it desirable that while the Senate is making this second revision it should clearly understand who had received the benefits resulting from the former reduction. I think it will help us very materially in reaching a just and fair conclusion as to who should receive first consideration in the reductions now to be made; whether it should be the same classes favored in former reductions or the taxpayers who received no consideration then and who are now paying practically the same taxes as during the war.

Mr. President, let me pass from that. On the 4th of August of this year, soon after the Ways and Means Committee of the House had begun the consideration of the revision of the internal-revenue taxes, Secretary of the Treasury Mellon addressed a communication to the chairman of that committee, Mr. FORDNEY, and later, as I understand, appeared before the committee in person and advocated the suggestions made in that letter, suggesting in connection with the framing of the new bill what things should be repealed, what things should be modified respecting these taxes, and how the losses sustained by the repeals, modifications, and reductions which he proposed should be made up.

I wish first to call the attention of Senators to Mr. Mellon's estimate then made of the amount of revenue that would be necessary to meet the expenses of the Government during the fiscal year 1922. I have his estimates here, giving the amount that would be necessary and the purposes for which it was required. He first filed with the committee a detailed statement of the amount of money actually appropriated by the Congress for the expenses of the several departments of the Government. Those appropriations amounted, according to his statement, to $3,909,000,000, as I now recall. All the items in these appropriations are embraced in his estimates.

Senators will remember the circumstances under which those appropriations were made. Senators will remember the song of "cutting every item of expenditure and appropriation to the bone." The total amount of these estimates made at that time to the Ways and Means Committee as necessary to defray the expenses of the Government was $4,554,012,817. At the same time Mr. Mellon submitted suggestions with reference to revision of the present revenue law. I have them here. He suggested the following reductions and repeals of existing law:

First, limitation of surtaxes to 32 per cent for 1921 and 25 per cent thereafter.

I will say, in passing, that when Mr. Mellon came before the Finance Committee he advocated an immediate reduction down to 25 per cent in the surtax rate. Before the House committee he had suggested that as something for the future, showing the trend of his mind.

Second, the repeal of the excess-profits taxes and an increase of the income tax on corporations to 15 per cent. Third, the repeal of taxes on transportation. That was to his credit, but he limited it so that one half would be effective on January 1, 1922, and the other half on January 1, 1923. He also recommended the repeal of soda-fountain and luxury taxes.

Those were the taxes Mr. Mellon asked to be repealed and reduced, and Senators will see, if they will examine the bill, that with respect to his recommendations as to repeals and reductions, both the House and the Senate Committee on Finance have adopted all his suggestions, and his suggestions comprise practically all the reductions which amount to anything.

Mr. Mellon, of course, realized that under existing law the estimated receipts would not equal the amount he estimated would be necessary to pay the expenses of running the Government and of meeting its various current obligations for the fiscal year 1922. I believe it is estimated that the present law will raise for this year $4,217,643,000, of which sum $3,460,000,000 will come from internal revenue and the balance from customs and miscellaneous receipts.

This sum is less than the estimated expenditures for 1922. Therefore Mr. Mellon knew in those conditions that there could be no reduction in taxation unless that reduction was made up by the levy of new taxes or unless the money was borrowed. While, therefore, he recommended the repeal of certain taxes, he also recommended the imposition of other and additional taxes to make up the resulting loss in revenue.

I want to contrast the repeal of taxes recommended by Mr. Mellon to effectuate these reductions with the recommendations as to the sources from which he would get by new taxation what was lost through the repeals. Here they are:

First. Approximately double the documentary stamp tax.

Second. A tax of 2 cents on each bank check.

Third. An increase of 1 cent in the rate of postage.

Fourth. Repeal of the $2,000 exemption as to corporations.

Fifth. A license upon motor vehicles, averaging about $10.

Those were his recommendations as to the manner of raising these taxes. He realized that revenue must be raised from new taxes. Well and good. The taxes Mr. Mellon wanted to get rid of and about which evidently the majority members of the House and the Senate committees agreed with him were the taxes on corporations and on big incomes. Those were the taxes he wanted to reduce, but he wanted to reduce them by shifting them to the other sources which I have just enumerated.

The House committee did not agree with him about that. They had more political sagacity. They saw the effect upon their party in its national relations of repealing these taxes on big wealth and incomes, the incomes of millionaires, of the ultrarich, and substituting little taxes such as check taxes and postage taxes, and so on, which were suggested by Mr. Mellon. They positively declined to adopt that method, but they were unable to select any new tax. In these conditions it was found that the only way by which the repeals proposed by the Secretary and favored by the administration and the majority on the finance committees of the two Houses could be accomplished was by cutting down either actually or colorably governmental expenditures.

That was the attitude in which the matter presented itself; and in that situation that famous conference between the President and the heads of the different departments of the Government hurriedly convened at the White House for the purpose of devising some scheme by which they might accomplish their objective of repealing certain taxes upon favored groups without imposing new taxes and thus enable them to claim that they had carried out their campaign pledges to reduce taxes.

Mr. President, the conference to which I have referred was hurriedly called in order to devise, as I have said, some sort of process, some system of financial legerdemain, if you please, by which certain taxes could be repealed without the imposition of any new taxes. They did not mind shifting the taxes, but they did not desire to impose any new taxes, especially those of the obnoxious character proposed by Mr. Mellon, which were proposed by him as an expedient to enable a reduction to be made in other taxes. They found that they could not raise the amount necessary to meet the estimated expenditures and reduce taxes by the process of repeal without imposing new taxes, and that no process of "shifting" would avail them to this end.

As a result of that conference one of the most remarkable programs, when properly analyzed, ever adopted for the consummation of a purpose was agreed upon. What was that plan? Here was the situation: The present law would yield in taxes less than would be required to meet the appropriations of Congress and the estimates for the present fiscal year. So it was found that to make any reductions it would be necessary to cut down the estimates, and the several departments were asked to reduce their expenditures. It was agreed that the Secre-

tary might revise his estimates, reducing the amounts for the several departments as shown in the following table:

	Last revised estimate.	New estimate.	Net reduction.
War Department	$450,000,000	$400,000,000	$50,000,000
Navy Department	487,225,000	387,225,000	100,000,000
Shipping Board	200,000,000	100,000,000	100,000,000
Department of Agriculture	123,000,000	98,000,000	25,000,000
Railroads	545,000,000	495,000,000	50,000,000
Miscellaneous			25,000,000
Total reduction			350,000,000

These reductions, it must be remembered, were promised to be made from the amounts recently appropriated, most of them by this Congress and since March 4, 1921, which amounts were then declared to be the irreducible minimum of departmental requirements under rigidly economical administration.

Mr. WATSON of Georgia. Mr. President——

The PRESIDING OFFICER (Mr. LADD in the chair). Does the Senator from North Carolina yield to the Senator from Georgia?

Mr. SIMMONS. I do.

Mr. WATSON of Georgia. I am very much absorbed in the interesting speech being made by the Senator from North Carolina. In connection with his reference to the proposal to add 1 cent to the postage on every letter sent through the mail of the United States, I beg to remind him that except in war times it is the most revolutionary proposition that has been made in 100 years. It has been almost a century since it cost a shilling, about 25 cents, to pay postage on a letter in Great Britain, and under that system the post office department was run at a loss. A preacher by the name of Roland Hill proposed to reduce postage on letters to a penny, about 2 cents in our money. The Duke of Wellington opposed it as being absolutely a nonsensical proposition. Parliament adopted it, and the immediate result was——

Mr. SIMMONS. Mr. President, I dislike to interrupt the Senator, but I did not want to yield except for a question, or, perhaps, a short statement.

Mr. WATSON of Georgia. I beg the Senator's pardon.

Mr. SIMMONS. I beg the pardon of the Senator.

What I was proceeding to say was that under these circumstances this conference met, and the result of their meeting was that they agreed to cut the appropriations that had already been made for the Navy Department $100,000,000, for the War Department $50,000,000, for the Shipping Board $100,000,000, for the Agricultural Department $25,000,000, for the railroads $50,000,000, and for miscellaneous purposes $25,000,000. I tried very hard in committee to obtain from these departments itemized statements as to how they were going to accomplish these reductions of $350,000,000 from the appropriations, all these items appropriated for by this Congress and the last Congress, but I have been unable to get them. It was said that Mr. Dawes would furnish the statements to the committee, but if Mr. Dawes has ever furnished them we have not gotten them. I was curious, when Mr. Mellon appeared before the Finance Committee, to learn from him as to how these departments were going to accomplish these reductions, but it seemed he could give us no definite or specific information. He was asked particularly about the Department of Agriculture. It was suggested to him that it was difficult to see how the Agricultural Department could cut off $25,000,000 from its appropriations except by curtailing some essential public program of improvement or public service of the department that the Congress had authorized and directed and by all means desired to go forward.

Mr. Mellon in his reply to the implied inquiry stated that he rather thought the reduction would have something to do with the expenditures for good roads by the Federal Government. That, Mr. President, is a fair specimen of the way, I imagine, that these several reductions in expenditures are to be accomplished, if they are to be accomplished at all.

There is a vast difference between a promise to cut down and an actual cutting down in expenditures, and I imagine that all of these departments are just about as good spenders now as they have been in the past. Even when we dealt with them liberally in our appropriations, and not grudgingly, as the Republicans say they have, they have generally come here and asked for additional appropriations to meet deficits; and I venture the prediction now that every dollar of the money appropriated, including this $350,000,000 that Mr. Mellon says will be saved, will be actually expended, and probably a deficiency appropriation will be asked. But, Senators, if it is not expended, as they contend these amounts will not be—this $350,000,000—the so-called saving will be accomplished by circumscribing, delaying, and postponing to a future time some essential work relating to the public welfare which Congress has authorized and directed, or it will be accomplished by cutting off some essential and vital service of the Government.

Mr. President, the additional $170,000,000 appropriated and included in Mr. Mellon's estimates of expenditures, which the table I have presented shows it was agreed to eliminate from the estimates, embraces $100,000,000 for redemption of war savings securities which it is estimated will be presented for payment this year and $70,000,000 to meet the requirements of the so-called Pittman Act for obligations incurred in the purchase of silver. This amount, together with the $350,000,000 to be saved by the departments, represents the $520,000,000 eliminated in the Secretary's second revised estimates.

This elimination from the estimates made it possible to carry out the Secretary's recommendation for the repeal of certain taxes without imposing new taxes. That is the process by which they made it possible to take these taxes off excess profits and off the surtaxes of personal incomes.

What does that mean, Mr. President? It means that if the money that has been appropriated for these departments is spent, the appropriation authorizes the expenditure; and if these departments draw a draft upon the Treasury for the money to cover the expenditure and the Treasury has not that money, it has the authority under the Liberty loan act to issue certificates of indebtedness and borrow the money. That will be done. Of course, if the $170,000,000 on account of the Pittman Act and the war savings stamps redemption are eliminated from the estimates, and no money is provided for their payment, the only way in which they can be paid is by borrowing the money. They must be paid, because the law provides that upon 30 days' notice the holders of these savings stamps may obtain payment at any time within five years; and there, again, is authority to borrow the money. There is no trouble about making estimates of expenditures where the appropriations have been made, as in this case, to any extent that the administration sees fit, and then coming in before the committees of Congress and saying, "Here is a margin for a reduction of taxes."

There is no difficulty in the administration exercising its discretion, and in this way eliminating as much from the estimates as they may see fit, in order to accomplish a political purpose or make a showing of extraordinary economy and retrenchment in expenditures of the people's money.

I imagine, Mr. President, that this mere shifting from payment of these obligations of the Government by taxes collected from the people to their payment by the process of borrowing the money will be heralded through the country when this bill is passed and these repeals are consummated upon the faith of these reductions as an extraordinary accomplishment by the Republican Party in connection with their program of saving money to the people. The method of borrowing money to pay obligations is no more commendable in connection with the administration of the finances of the Government than it is in the administration of the finances of an individual.

In connection with the subject of these reductions in estimates accomplished through promised reductions in departmental expenses, I wish to venture as my only observation along that line, in addition to what I have already said, that if these departments can properly and without crippling the machinery of the Government now make the reductions that are promised from the appropriations, then there must have been something radically wrong in the economy program of the Republican Party early in the present year and late in the preceding year, when they made these appropriations which the Secretary of the Treasury and the President assure the country were not needed, to the extent of $350,000,000, to defray the expenses of the departments of the Government. There must have been some recklessness when these appropriations were being made in the application of a Republican program of economy and cutting of expenditures to the bone and saving the money of the people.

According to the confession, according to the logical implications of the act, deliberately the administration confesses now that it was reckless in appropriating the people's money in this very year of our Lord, when they were already in full control of every department of the Government, for they now claim they then appropriated for departmental expenses $350,000,000 more than the departments needed. It is a mighty dangerous thing, Mr. President, a mighty reckless thing, for a great party, carrying out an economy program, to appropriate for these departments here in Washington more money than they need; for if they do not need it, they are pretty certain to find a need for it once it is appropriated.

Mr. President, there is one thing certain; the Republican Party is not, in this bill at least, either carrying out or even so much as attempting to carry out its pledge to the people that immediately upon coming into power it would proceed without delay, making it the business of first consideration upon the calendar, to reduce the burdensome and oppressive taxes that their leaders informed the country in the last campaign the Democratic Party had imposed upon them and was keeping upon them. These Republican leaders may and do propose some reductions in expenditures to be made up by borrowing money to fill the hole upon the faith and credit of the United States. They do propose some reductions in the taxes accruing in 1922. But in this whole year, during nine months of which when it ends the Republican Party will have been in control of every branch of the Government, there has been no redemption of the promise of immediate reduction; not only no redemption of that promise, but there has not been and will not be if the pending bill becomes a law, either as it was passed by the House or amended by the Finance Committee, any redemption of that promise.

The only reduction that will be made in the taxes that will have to be paid during this calendar year will be the result of the enlarged exemptions that are allowed the heads of families on account of family expenditures and on account of dependents. Not another reduction that is made in the bill, so far as I have been able to discover and am advised, will be operative during the first nine months after the Republicans came into full control of the Government. During all these nine months the people, notwithstanding the promise of the Republican Party, will have had to struggle along under the Democratic taxes.

When Mr. Mellon reached the point of making his recommendations with respect to the reduction of taxes, he found, upon the basis of the estimates he then made, that if sufficient taxes were levied to meet those estimates they would amount to a larger sum in the aggregate than the taxes imposed in the existing law. The reductions which the bill as amended by the Finance Committee proposes about equal the amount Mr. Mellon eliminated from his estimates.

Now, Mr. President, what is the Republican scheme of reduction and whom will it help and whom will it hurt? I am afraid that sometimes, when we are levying taxes, too little consideration is given to the question of who will be hurt, and when we are providing repeals too little consideration is given to the question of who will be helped. I shall attempt to show that the revision proposed in the pending bill is a reduction in the interest of the corporations of the country and in the interest of the big rich, or, to express it in common parlance, in the interest of the millionaire class. I shall attempt to show that it will lift more than half a billion dollars in taxes off the shoulders of corporations and the millionaires and shift that sum to the shoulders of less fortunate taxpayers.

As I have said, the recommendations of Mr. Mellon with reference to repeals were adopted by the House and concurred in by the Senate Finance Committee. The result of adopting this scheme, slightly supplemented by certain taxes that fit in with the scheme and are calculated to accomplish the purposes of the scheme, will be to reduce by between $500,000,000 and $600,000,000 the taxes which otherwise corporations and individuals whose income exceeds $66,000 would have to pay.

Mr. President, that $66,000 income is the dead line of the bill. On one side of that line are formed in serried columns the forces of the millionaire classes of the country. On one side—the upper side—of that line are arrayed 13,000 taxpayers. I say they are the millionaire class because it will take a million dollars earning 6½ per cent to produce an annual income of $66,000, so that, tested by the basis of reasonable interest-bearing investments, the men who stand on the upper side of that line are millionaires. There are 13,000 of them in the United States, as the tax returns will show. On the other side, the lower side of that dead line, there are grouped 600,000 American taxpayers.

Surtaxes have been reduced from 65 per cent to 32 per cent. They have come down to the dead line in that way, and what is the result? Let the estimate of the Treasury experts state the result. The result, Mr. President, is that these 13,000 taxpayers on the upper side of that line, reveling already in their accumulations and their wealth and their power to control finance and government, by this reduction in the surtaxes are to get a further reduction in their taxes, a little stipend from the people of the United States of $90,000,000 a year, while those 600,000 taxpayers, earning between $5,000 and $66,000 a year by toil, investment, and all the efforts which characterize the miscellaneous population of the country, get a reduction of only $18,000,000 on account of the surtax.

Is not that a monstrous result? Oh, but it is worse than that. Consider now the rich. Every single, solitary man who stands on the upper side of that line—this mobilized army of millionaires that has just finished its successful drive against Congress and the National Treasury—has got his surtax rate cut. How much has it been cut? Mr. President, the figure is startling. It has been cut more than one-half; it has been reduced to 32 per cent from 65 per cent. Every one of them, every mother's son of them, gets his surtax cut more than one-half. That is the millionaire class who, when the members of it want their taxes cut down, becomes a beggar class, begging alms of the Government and of the hundred million of people of this country. They get their surtax cut in half—from 65 per cent to 32 per cent.

How about the poor unfortunates who are below that dead line which the Republican Party has drawn? Let me say to the other side of the Chamber, you will hear more about this dead line before the ides of November have passed, and you will hear still more about it later. How have those below this dead line fared with reference to surtax rates? There is, Mr. President, a reduction in surtax rates below that line of 1 per cent of income, on incomes between $5,000 and $20,000; a reduction that is insignificant when compared with the reduction of 33 times as much, proportionately, given to the members of the millionaire class. There is only this one little miserable reduction of 1 cent on the dollar for those below the Republican dead line.

I have heard that there has not been any increase of taxes proposed in the law as reported by the Senate committee. The Senators on the other side have overlooked the little item of the surtax on incomes between $20,000 and $36,000. I think that is probably the only increase in rates which has been made in the bill. If I am correct in that conjecture, in the campaigns that are to be waged over the policies of the parties with reference to taxation and other questions, this little increase of 1 per cent in the surtax rates on incomes between $20,000 and $36,000 will become a famous incident in the politics of America.

Mr. CURTIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from North Carolina yield to the Senator from Kansas?

Mr. SIMMONS. I yield.

Mr. CURTIS. I wish to ask the Senator from North Carolina if he will not again look over the figures which he is quoting? He is clearly mistaken in regard to there being an increase in any surtax. On the contrary, there is a decrease proposed by the bill in the surtax on every income.

Mr. SIMMONS. I think the Senator from Kansas is mistaken.

Mr. CURTIS. I will hand the Senator the figures if he desires to see them, which will show that there is a decrease in the surtax on every income.

Mr. SIMMONS. I have no time to examine them at present, but I have been advised by the actuary that the facts are as I have stated them.

Mr. CURTIS. I merely wish to make a brief statement.

Mr. SIMMONS. If the fact is not as I have stated the Senator can make the correction later.

Mr. CURTIS. I want the RECORD to speak the truth. The amendment providing for such decrease was made upon my motion; the instruction in the preparation of the bill was to reduce the surtax on every income; and I hold in my hand the report showing such reduction to have been made in every case.

Mr. SIMMONS. The Senator from Kansas states that there is a reduction of the surtax rates on every income embraced in the bill?

Mr. CURTIS. There is a reduction as to every one.

Mr. SIMMONS. From what rate; from what point?

Mr. CURTIS. The reduction is below that provided for in the bill as it came from the other House, but I have not figured out the exact amount.

Mr. SIMMONS. I am now talking about incomes below $36,000.

Mr. CURTIS. I know that on every income from $5,000 up there is a reduction of the surtax.

Mr. SIMMONS. Of 1 cent on the dollar.

Mr. CURTIS. In some places it is more than 1 cent on the dollar.

Mr. SIMMONS. It is about 1 cent on the dollar.

Mr. CURTIS. There is a reduction in the surtax on every income.

Mr. SIMMONS. I think the misunderstanding which has arisen between the Senator and myself is probably due to the fact that he is talking about one thing and I am talking

about another thing. I was speaking of the reduction and increase in surtax rates on incomes between $5,000 and $36,000, and the Senator from Kansas is talking about the amount of total surtax which will be paid on different incomes in all the brackets between that minimum and maximum. The rate of the surtax on incomes in the brackets from $5,000 to $20,000 is reduced 1 per cent, but the surtax rate on incomes in the bracket between $20,000 and $36,000 is increased by 1 per cent. But because the surtax upon incomes above $20,000 will get the benefit of the reductions upon incomes in the brackets below $20,000, the increase will be offset by the reduction, so that the total amount paid by any individual will not be increased. That result, however, does not alter the fact that the surtax rate on that part of incomes falling in the bracket between $20,000 and $36,000 has been increased 1 per cent.

But even if the Senator's party, working in committee, did provide for a reduction of 1 cent on the dollar in the total surtaxes which are imposed upon the 000,000 taxpayers of the country, each of whom has an income of less than $66,000, upon what principle of justice or equity or fair dealing or parity in the distribution of benefits and of burdens do they justify a reduction from the present law of more than one-half in the surtaxes on the incomes of the 13,000 millionaires who stand upon the upper side of that $66,000 dead line?

Mr. President, I wish now to discuss the other method of reduction proposed by the Republican majority, and that is the repeal of the excess-profits tax. I wish to make my position with reference to the excess-profits tax perfectly clear. I discussed the question many times in the committee before that tax was adopted in 1918; I discussed it in the committee recently during the consideration of the pending bill; and I have discussed it upon the stump in my State. My position upon the excess-profits tax is now and has always been that, as a war method of collecting taxes to meet a great and extraordinary emergency, no more admirable system than that devised in the present law and in the act of 1917 could be conceived and adopted. I have always believed, and said so when I was chairman of the Finance Committee when that committee was considering this tax, that it was an admirable tax for the purpose for which it was levied, but in my judgment it would be an undesirable peace-time tax. I have not changed my opinion about that.

I do not like the excess-profits tax in peace times. There never has been a minute when I have liked it since the return of peace, and I have so stated upon the stump in my State. My position about it as a peace-time tax is very much the same as that of President Wilson and his great Secretary of the Treasury, Mr. McAdoo. But, Mr. President, I recognize the fact that many things must be taken into consideration in connection with the repeal of this tax. I shall discuss those things before I get through; but I wish to say right now that if changes are made, which I hope will be made, which might justify the repeal of the excess-profits tax I would not vote to repeal that tax for the purpose of relieving the corporations of the tax unless, contemporaneously with that repeal, and in some other form, the amount of burden lifted from the corporations by reason of its repeal is reimposed upon those corporations by means of some other tax less objectionable. They shall not with my consent shift the amount of the tax to the shoulders of those less able to bear it.

Of course, the corporations want the tax repealed in order to get rid of it; but my position is that if we repeal it at all it must be with the distinct understanding that it is not for the relief of the corporations, but that the corporations are to have imposed upon them a substitute tax of approximately and substantially equal amount. Why do I say that? Mr. President, is there a man in this country who believes that during the war, that since the armistice, that to-day, the great corporations of this country are paying any more than their share of the taxes which we have to exact from the people in order to support the Government and to meet the obligations and expenses that have arisen out of the war? Will anybody say that the corporations are paying more than their share or have paid more than their share of such taxes?

Who were the greatest profiteers in this country during the war? I will withdraw the word "profiteers," and ask, Who made the greatest profits? It was the corporations. Who were financially most benefited from the conditions evolved by the war in all the confines of these 48 States? The corporations. Why are we to-day in peace times levying these heavy taxes? Principally to meet the expenses incident to the struggle out of which they made their profits. Are they to be allowed to shirk the payment of their share of the expense of meeting the indebtedness and the obligations of this Government incurred as the result of the war?

So long as we are paying these war taxes I will never consent to the repeal of the excess-profits tax, thereby taking $600,000,000—measured by what they will pay this year—off of the backs of the great, rich, powerful, wealthy corporations of this country—for the excess-profits tax being collected this fiscal year is estimated at $600,000,000—and substitute for it only $260,000,000 of additional income tax. If you want it repealed, repeal it as an unfair tax, as difficult of administration, as a tax full of inequities because of the difficulty in finding uniform and fair bases of capitalization for calculating the amounts that will have to be paid upon the fixed basis of exemption; but that is not a good and sufficient reason and ought not to be regarded as a sufficient reason for repeal, if the only result is the relief of the corporations of these taxes. Repeal it for those reasons, and then, coincidentally with the relief which the corporations get, let us impose practically the same amount of tax upon them in some other and better form. That, I say, is a logical and an unanswerable position, unless you can show me that the corporations are now paying more than their fair share of the taxes required to meet present abnormal expenditures.

But, Mr. President, it is proposed here not only to repeal this tax to relieve the corporations—for nobody else but the corporations can be relieved by this repeal; it does not apply to any other taxpayer—it is proposed not only to relieve the corporations of excess-profits taxes, but it is also proposed to further relieve the corporations by abolishing one of the best and most equitable and just taxes in the whole revenue law as it now exists, and that is what is known as the capital-stock tax—$1 upon each $1,000 of capital stock, measured by the actual market value of the capital stock, yielding between $75,000,000 and $80,000,000—$81,000,000 it is estimated this year. They have taken that off, so you must deduct that from the increase of $260,000,000. Take it off and you will leave only $185,000,000 added to the corporation income tax, while you have relieved them, based upon estimated collections of this fiscal year, of $600,000,000 excess-profits tax and of $80,000,000 capital-stock tax. That is what this pending bill proposes.

Mr. President, I do not know whether or not it has occurred to others, but in addition to these two repeals I want to call your attention to the further relief which the corporations will get through the proposed reduction of more than half—from 65 per cent to 32 per cent—on the surtaxes of individuals earning in excess of $66,000 each. After the corporation pays its income tax it distributes its funds to its stockholders—not all of its funds; it ought to distribute them more largely than it does, but it distributes them—and upon every dollar of dividends received from corporations by those whose incomes are in excess of $66,000 the tax will be reduced from 65 per cent to 32 per cent in the application of the surtax rate to those dividends.

I asked the distinguished actuary of the Treasury, Mr. McCoy, than whom no man in this Nation stands higher in the Treasury Department, for some information on that point. Wherever the financial operations of this Government extend in their influence and application there is no man whose estimates are received with—I am going to put it strongly, but it is the truth—the same degree of confidence in their verity and accuracy as the estimates of Mr. McCoy. They are marvelous for their accuracy; and he tells me, after consideration and investigation, that in his judgment at least one-half of the $90,000,000 reduction which this bill makes in the taxes upon individual incomes in excess of $66,000 will be realized by the recipients of the dividends of corporations. So there is another addition to their exemptions under this bill—$600,000,000 this year on account of excess-profits taxes, $81,000,000 on account of the proposed repeal of the capital-stock tax, $45,000,000 on account of the reduction of the surtax on dividends of corporations. For that there is substituted nothing but a 5 per cent additional tax on corporate incomes, estimated to increase the taxes on incomes $267,500,000.

I talked a good deal, a little while ago, about these surtaxes. I tried to point out how inequitable they are. I do not want to add anything to what I said then, except that I want to draw some illustrations from some tables that I have here.

SURTAXES.

It is estimated that the changes in surtaxes mean a reduction in revenue of $108,000,000, a loss of $90,000,000 from the reduction of the surtax rates on incomes in excess of $66,000 to 32 per cent, and a loss of $18,000,000 from the reduction of 1 per cent on the surtax rates on incomes from $5,000 to $20,000. For 1919, the latest year for which these figures are available, there were 11,077 taxpayers who reported incomes in excess of $66,000 and 578,731 taxpayers who reported incomes between $5,000 and $20,000. Thus the proposed law in changing surtax rates reduces in the amount of $90,000,000 the taxes of 11,077

wealthy taxpayers and only reduces by $18,000,000 the taxes of 578,731 comparatively poor taxpayers. The surtaxes, under the present law and under the proposed law, of taxpayers in different classes follows:

Income.	Present law.	Proposed law.
$10,000	$110	$60
$20,000	710	560
$30,000	1,810	1,760
$40,000	3,410	3,400
$50,000	5,510	5,500
$60,000	8,090	8,080
$70,000	11,890	11,820
$80,000	15,590	15,020
$90,000	18,910	17,580
$100,000	23,510	20,780
$200,000	77,510	52,780
$300,000	137,510	84,780
$500,000	263,510	148,780
$1,000,000	583,510	308,780

There is a table showing the amount of surtaxes that an individual with an income of a million dollars would pay under the present law. Under the present law he would pay $583,510; under the bill as it passed the House he would pay $308,780; and under the Senate committee bill he would pay the same, $308,780. In other words, if you will take those figures and deduct one from the other, you will find that there is a difference of $274,730 a year. He would pay under the Senate committee bill and the bill as it passed the House on account of his surtaxes $274,730 less than he would pay under the present law.

Mr. President, follow that down to the income of $100,000. Under the present law the surtax of the individual with an income of $100,000 would be $23,510. Under the House and Senate bills the surtaxes of that same individual would be $20,790, or a difference of a little less than $3,000. Ten taxpayers with incomes of $100,000 each would have a gross income, added together, of a million dollars. These 10 taxpayers, upon their incomes aggregating as much as that of the one millionaire income taxpayer, under this bill would have an aggregate reduction on account of surtaxes of about $30,000 from the rate of the present law, and you would give the millionaire income taxpayer, without a dollar more than they have, a reduction of $274,730 on account of the reduction in his surtaxes.

Mr. REED. Mr. President, I did not understand the last statement of the Senator. I either misunderstood the Senator or he said something that I think he did not mean to say.

Mr. SIMMONS. I said that under the bill as it passed the House the 10 men would get a reduction of $3,000 each from what they would be charged under the present law as surtaxes, but that one having a million dollars income would get a reduction from the present law, under the bill as it passed the House and the Senate committee bill, of $274,730.

Mr. REED. I understand that statement, and maybe the Senator made it that way before, but I thought he did not.

Mr. SIMMONS. Here is another interesting table:

Comparative table showing difference in surtaxes between present bill and Senate Finance Committee bill upon all income-class brackets.

[Tax computed on the basis of net income of a married man without dependents.]

SURTAXES.

Brackets.	Individual tax, present law.	Individual tax, Senate bill.	Difference.
Thousands.			*Minus.*
5-6	$10		$10
6-8	50	$20	30
8-10	110	60	50
10-12	190	120	70
12-14	290	200	90
14-16	410	300	110
16-18	550	420	130
18-20	710	560	150
20-22	890	760	130
22-24	1,090	980	110
24-26	1,310	1,220	90
26-28	1,550	1,460	70
28-30	1,810	1,760	50
30-32	2,090	2,060	30
32-34	2,390	2,380	10
34-36	2,710	2,700	10
36-38	3,050	3,040	10
38-40	3,410	3,400	10
40-42	3,790	3,780	10
42-44	4,190	4,180	10
44-46	4,610	4,600	10
46-48	5,050	5,040	10
48-50	5,510	5,500	10

SURTAXES—continued.

Brackets.	Individual tax, present law.	Individual tax, Senate bill.	Difference.
Thousands.			*Minus.*
50-52	$5,990	$5,980	$10
52-54	6,490	6,480	10
54-56	7,010	7,000	10
56-58	7,550	7,540	10
58-60	8,110	8,100	10
60-62	8,690	8,680	10
62-64	9,290	9,280	10
64-66	9,910	9,900	10
66-68	10,550	10,540	10
68-70	11,210	11,180	30
70-72	11,890	11,820	70
72-74	12,590	12,460	130
74-76	13,310	13,100	210
76-78	14,050	13,740	310
78-80	14,810	14,380	430
80-82	15,590	15,020	570
82-84	16,390	15,660	730
84-86	17,210	16,300	910
86-88	18,050	16,940	1,110
88-90	18,910	17,580	1,330
90-92	19,790	18,260	1,530
92-94	20,690	18,860	1,830
94-96	21,610	19,500	2,110
96-98	22,550	20,140	2,410
98-100	23,510	20,780	2,730
100-150	49,510	36,780	12,730
150-200	77,510	52,780	14,730
200-300	137,510	84,780	52,730
300-500	263,510	148,780	114,730
500-1000	583,510	308,780	274,730

Let us go a little further down this line; it is exceedingly interesting. Get down to the $66,000 income, this dead line I have been talking about to-day, and let us see what these reductions in the surtaxes mean, how much benefit a man with an income of $66,000 a year is going to get, and how much benefit the people below that are going to get, from the reductions in surtaxes proposed in the pending bill.

It appears that a man whose income is between sixty-six and sixty-eight thousand dollars will get a reduction, on account of the reductions proposed by the committee in the surtaxes below the present law, of just $10. Then, on every income below that, the reduction on account of this revision in the surtaxes to each one of these men is just $10. Go another step higher. Go to the income of $70,000, which is just across the dead line. The man who has an income of $70,000, under this Republican scheme of reducing surtaxes, will get a reduction from the rates of the existing law of $30. A man with $72,000 will get a reduction of $70; a man with $74,000 a reduction of $130. A man with an income of $90,000 will get a reduction by these Republican rates of $1,330. A man with an income of $100,000 will get a reduction in his taxes of just one-ninetieth of what the one individual whose income is $1,000,000 will get, the man with an income equal to the aggregate incomes of the 10 who get a saving of only $3,000 each. Mr. President, that might be elaborated extensively, but I am going to hurry on.

I believe I have discussed the capital-stock tax with sufficient fullness heretofore, and I am not going to bother further with that.

There is one other thing I do wish to discuss, however, and to emphasize, and that is the disparity under the Republican bill, both as it came from the House and as it was amended by the Senate committee, as between corporations on the one hand and individuals and partnerships on the other. These disparities are so glaring and so gross that, in the absence of any attempt whatsoever to remedy them or to ameliorate them in the slightest degree, they seem to be an outrage, an indefensible outrage, a discrimination in favor of one group of taxpayers, and that the group of greatest power, taken severally and in the aggregate, against another group that are weak, that are in these matters to a degree defenseless, because there are so many of them that they have not the organization and the machinery for the dissemination of their schemes and propaganda and for reaching and influencing and dominating and controlling the action and course of legislation. These weak ones always suffer.

In the revision of 1918 there was no question that was more thoroughly investigated and more fully debated and considered than the question of equalizing the taxes among these three groups of taxpayers. It was recognized that under the law of 1917, when the excess-profits tax scheme was first adopted in its larger and broader scope, it was made to apply to all taxpayers alike, corporations, individuals, and partnerships; and when we came to revise that system, after it had been in operation for a reasonable test period, it was unanimously agreed

that, as the result of applying this system of taxation to individuals and copartnerships, under the method of taxing individual incomes, a partnership having to pay virtually as an individual has to pay, all of its earnings being considered as distributed, whether distributed or not, horrible injustices and inequalities had resulted.

Tables were prepared for the purpose of showing that, and we felt the necessity of doing something. Not only was there an inequality on that account but there were some other things that brought about injustice and inequality.

After mature deliberation, in a sincere effort to bring about equality and parity in the taxation of these groups, representing the productive industries, and measuring the productive activities of the country, we decided that the best method of accomplishing that purpose was to exempt copartnerships and individuals from the excess-profits tax, and we did it, and as a result there was not absolute parity, but there was approximate parity and a closer measure of justice. Of course, we can not hope for absolute parity in taxation.

When you repeal all excess-profits taxes, as is proposed in both the House bill and the Senate Finance Committee bill, if you do not put upon the corporations another tax by way of compensating for the relief that is had in being released from those taxes, you inevitably restore the inequality which we sought to remedy by the exemption of individuals and partnerships from the excess-profits tax. I think the Senator from Georgia [Mr. WATSON] will see that that is the inevitable result, and I think every Senator here will see it.

I refer again to the tables furnished me by the distinguished actuary, of whom I have already spoken, prepared by him as the result of a most careful investigation which he has made.

Comparison of taxes on certain forms of business.

[Percentage of total net income payable in tax. Surtax rates computed upon basis of House bill.]

Class of business.	Net income.			
	$1,000,000	$500,000	$100,000	$50,000
	Per cent.	*Per cent.*	*Per cent.*	*Per cent.*
Individual	38.85	37.69	31.19	18.38
Partnership:				
2 parties	37.69	35.39	18.38	11.52
4 parties	35.39	30.77	11.52	7.16
5 parties	34.23	28.47	7.95	5.90
8 parties	30.78	21.63	7.16	.....
Corporation, no dividends	15.00	14.94	14.70	14.20
50 per cent dividends:				
4 stockholders	26.49	22.01	15.56	15.26
5 stockholders	25.36	20.45	15.25	14.52
8 stockholders	22.04	18.12	14.76	14.20
10 stockholders	20.48	17.34	14.70	14.20
75 per cent dividends:				
4 stockholders	34.49	29.97	17.14	16.84
5 stockholders	33.36	27.73	16.45	15.12
8 stockholders	30.00	22.62	15.43	14.80
10 stockholders	27.76	20.87	15.10	14.40
20 stockholders	20.39	17.38	.....	.....
100 per cent dividends:				
4 stockholders	42.48	37.97	19.50	16.12
5 stockholders	41.36	35.73	18.25	15.50
8 stockholders	38.00	29.08	16.42	14.64
10 stockholders	26.84	25.96	15.80	14.40
20 stockholders	25.99	19.74	14.70	.....

According to this table, upon the basis of an income of $1,000,000, the tax of the individual amounts to 38.85 per cent, nearly 39 per cent; a partnership, with two partners, 37.69 per cent; and a partnership with eight partners, 30.78.

Now let us take the corporation: The flat rate proposed is 15 per cent, but when we estimate a corporation's taxes we have to make some reasonable allowance for the tax that will have to be paid by the stockholders upon the dividends distributed by the corporation. Taking all that into consideration, the actuary reports that if the dividends provide for the distribution of 50 per cent of their net earnings, the tax upon the basis of 10 stockholders, which undoubtedly is not above the usual number of stockholders, would be only 20 per cent. If they distribute 75 per cent, and that is the average amount, I am advised, that they usually do distribute, and with 20 stockholders, which would be a small average, the corporation tax would be only 20 per cent.

I wish Senators to bear in mind that this embraces not only the tax of 15 per cent flat, but it takes in an estimate of how much would be paid on dividends by the stockholders upon distributed earnings of the corporation. Let us consider this situation. If we repeal the excess-profits tax, and that is what it is proposed to do, we have absolutely nothing substituted for the reductions that will be given the corporation. They have substituted no other tax for the excess-profits tax and capital-stock tax except that 5 per cent on income.

If we estimate upon the basis of the present bill, the corporation with an income of $1,000,000 distributing 75 per cent of its earnings will pay 20 per cent tax upon its income, the copartnership with eight partners will pay nearly 31 per cent, and with four partners will pay a little over 35 per cent, while the individual will pay nearly 39 per cent, or within 1 per cent of twice as much as the corporation with 20 stockholders, distributing 75 per cent of its earnings. That, I am told, is the average amount that they distribute, or probably a little bit in excess of the average amount which they distribute.

I wish to impress this upon Senators, because I believe it is vital in connection with the scheme of taxation. I am saying that what I have just pictured is exactly what this bill, if passed and enacted into law, will accomplish. Is there any man in this Chamber or outside of this Chamber who would dare stand up before his fellow citizens and advocate a system of taxation which he admitted would impose a tax of practically 40 per cent upon the earnings of an individual and impose a tax of only one-half of that amount upon the equal earnings of a great, powerful, rich, dominating, and controlling corporation?

That is what the bill does. Senators of the majority may try to answer it, but it can not be answered. That is the inevitable effect of the bill. I say that no man would openly advocate such a discrimination as that. If he did that he would write himself down as the emissary and tool of corporations and trusts and combinations.

Oh, Mr. President, taking the bill from the beginning to the end of it, there is hardly a tax that is touched where the little man is not forgotten and ignored and his rights trampled upon, while the rich man's slightest whisper for relief is heard, and the money of the people lavishly rebated and remitted to the men who have grown so mighty in this country that they can fix the prices of my product when it is one of their raw materials and then fix the price that I shall pay for the finished product after they have manipulated it. In spite of the laws of supply and demand, these men have gained control of the prices of the country, and they have the people by the throat and are making out of them whatever profit, not always but in many instances, their avarice may suggest and the ability of the people to buy may support and make profitable.

Do these interests yet have a large part of their swollen war-time profits? If anybody thinks they have not he is mistaken. There may be some corporations who have to struggle mightily and scramble mightily to pay their taxes to the Government, but those corporations with large incomes are not of that class.

There is one other thing reflected in the bill that amazes me, and that is the refusal of the Senate Finance Committee to repeal the transportation tax. Can Senators in their ingenuity, and with the exercise of all their initiative and inventive talent in searching out reasons and justifications for human action, give me any good reason why in the conditions that now confront this country the Republican Party, after relieving one class of taxpayers, the corporations, of their excess-profits tax, should be willing before the country to sponsor, defend, and stand for a further bounty, gift, and gratuity to these corporations by repealing the capital-stock tax of corporations, remitting to them nearly $100,000,000, and at the same time refuse to remit and remove the $131,000,000 in taxes which this bill retains on transportation?

Mr. POMERENE. What was the amount the Senator from North Carolina stated?

Mr. SIMMONS. The amount retained by the bill as a transportation tax is $131,000,000.

When the propaganda for the repeal of the excess-profits tax started in this country—and it has been a great propaganda—all of the thousand and one agencies of these great financial combinations which are ordinarily put in operation in order to influence and mold public sentiment were brought to bear with all of their machinery and power in the drive—the mobilized drive—that has been made to lift the burden from the shoulders of the corporations and at the same time safeguard the corporations against any tax in substitution for the one of which they sought to be relieved. Their chief argument was that it was a tax upon thrift, a tax upon initiative and enterprise, a clog and incubus upon business; that if we wanted to have and were to have any return to the normally prosperous conditions it was essential that this handicap, this handcuff, this fetter, this burden, be taken off, and that they be set free while other people continued to pay twice the tax that they pay. That was the argument.

They said this excess-profits tax was a war tax, that it worked very well in war times and was justified by war condi-

tions, but now that the war was over it should be taken off, that they should be freed so that they might proceed in their sky-earning income enterprises unfettered and unhampered.

Now, let us see about the transportation tax. The transportation tax is not the only trouble; there are also the high transportation rates. Where do the present high transportation rates come from? We did not have them before the World War. What is the source, the root, and the cause of them now? It is the war. They have been occasioned in part by the Government control of railroads. I shall not go into the discussion of what happened, but Government control of the railroads was necessary if we were going to win the war. When that control ended, however, there followed Government guaranties during a limited period. In order to put the railroads again upon their feet, so that they might ultimately possibly return to the rates of prewar times, we in part, if not altogether, guaranteed to them that the Government through the Interstate Commerce Commission and the other administrative agencies of the country would permit such an increase in rates of transportation as would enable those agencies of commerce to make an income of from 5½ to 6 per cent.

It was the war and this Government's action that have imposed upon the people of the country the high railroad rates they are now paying. I say here that, while in a technical sense it is not a tax, in a real sense it is a tax, a governmental tax upon all the products of the industry of the 110,000,000 people who strive and struggle day in and day out to make what is necessary in order to sustain life and to conduct business.

The additional tax which it is proposed to levy upon transportation is a most unfortunate and unnecessary tax. If there be any tax which ought to be taken off in the interest of business it is the transportation tax, so that we may have a speedy return to prosperity in this country, so that the products of labor upon the farm, in the mine, and in the factory may have a profit and a market, for in many instances the profit upon such products has been cut in half and frequently absorbed almost if not quite entirely by the high charges incurred in the process of transportation and distribution. You, who talk about the little $600,000,000 tax on excess profits being a burden upon the industries of this country—meaning, I presume, chiefly the corporate industries of the country—I tell you that this tax which the Government imposes directly, and the high rates for transportation, which are indirectly a Government tax because they constitute a burden which the action of the Government has imposed, are the greatest handicap, the greatest clog, the greatest incubus upon the restoration of normal and prosperous business conditions in the United States to-day. Yet the Republican Party would repeal incontinently the excess-profits tax and the capital-stock tax on corporations for the purpose of "relieving industry" and then retain the transportation tax. I say shame upon such a policy. In the name of every farmer in this country, especially the farmer who finds his market in distant parts of his own country or in foreign countries, and therefore has to transport his products by rail and by water great distances—in their name as well as in the name of every other productive industry in this country, I adjure the Republican Party with respect to this tax to repent and recant, upon their bended knees ask the pardon of 100,000,000 American toilers, take the tax off, and to the full measure of their ability help in the reduction of the high rates of transportation and relieve the producers and consumers of the United States to that extent if no more.

Mr. STANLEY. Mr. President, before the Senator gets off of that subject, what is the amount of transportation tax now carried in this bill?

Mr. SIMMONS. It will amount this year to about $262,000,000; and they repeal half of it for the year 1922, leaving about $131,000,000 of it remaining. They do not repeal any of it for this year and only half of it for next year.

Now, Mr. President, I have a program here which I would like to discuss, but really I have not the strength left.

Mr. STANLEY. Mr. President, at that point, if the Senator will permit me, I am very much interested in the very able argument he is making, especially on this phase of the question. How do the majority explain this effort to turn over to the railroads $500,000,000 to $1,000,000,000, literally hand it to the railroads out of the Federal Treasury, and then tax them in this bill? The public in that event, as I see it, will "get it in the neck," if you will excuse a slang expression, twice. It goes out of the Federal Treasury and then comes back there. Every dollar that is collected in this transportation tax is 400 per cent worse than if it were a direct tax, for the reason that it is estimated by the experts that by the time it reaches the shipper and the consumer it has been increased by at least 400 per cent.

Mr. SIMMONS. The Senator's argument is in the main sound, but the Senator will pardon me if I do not stop to discuss it. I think he has stated it in its essential features.

I am simply going to read now the program which I hope may be in part followed. It would not entirely cure the evils of this bill, and yet it would help very much.

The program to which I refer is, first, to increase the corporate income taxes, graduated on the plan of the amendment introduced by the Senator from Massachusetts [Mr. WALSH], making the maximum range from 12½ per cent to 25 per cent, instead of a flat rate of 15 per cent. That will raise—I have only some rather hurried estimates made by the actuary—not less than $60,000,000 additional revenue from corporations' incomes. I think it will probably raise a bit more than that, probably $70,000,000. I would retain the capital-stock tax on corporations, which it is proposed to repeal and which amounted last year to $81,000,000, as I have said before, and it is estimated to yield hereafter about $75,000,000 annually.

Mr. WALSH of Massachusetts. That tax is not repealed in the House bill.

Mr. SIMMONS. No; it is not repealed in the House bill.

Mr. WALSH of Massachusetts. But the Senate Finance Committee has recommended its repeal in the committee amendments. It will be eliminated from the law, unless we restore it here in the Senate.

Mr. SIMMONS. Yes. Those two items would add quite materially to the corporation tax.

Then repeal the $2,000 exemption on corporate incomes. Mr. President, I have studied this question of exemption on corporation incomes very thoroughly; I have analyzed it carefully, and I can not for the life of me find any justification for an exemption for a corporation. I do find substantial reasons for an exemption to an individual with a low income. The chief difference between the corporation and the individual is this: The individual is not allowed, in estimating his net income, to reduce it one cent on account of family expenses—not one cent. The corporation is permitted to reduce its net income by every single legitimate item of expenditures, and therefore a corporation exemption can not be justified upon the ground of analogy with the individual exemption, and the corporation exemption ought to come off. My understanding is that the repeal would add to the revenue.

That covers the program with reference to corporations, except the surtax.

I further propose that we confine individual exemptions to $2,000 in case of incomes below $20,000 and above $5,000. That would not interfere at all with the $500 exemption increase which the committee proposes to allow on incomes of less than $5,000.

Mr. WALSH of Massachusetts. That is, the Senator would not permit those who have incomes of over $20,000 a year to deduct an exemption of $2,000 or more?

Mr. SIMMONS. I would not allow them any exemption on account of family or dependents where the net income exceeds $20,000. What benefit is that exemption to the man of a big income? It is a mere bagatelle, but it is a matter of consequence and importance to a man earning $20,000 or less. If he is earning more than $20,000, he can pay without that exemption and still have a living left.

Mr. WALSH of Massachusetts. What will that save?

Mr. SIMMONS. $15,000,000, I believe.

Mr. WALSH of Massachusetts. That will bring in an additional revenue of $15,000,000?

Mr. SIMMONS. Yes; I think that is correct. My stenographer may have made some mistakes in figures, but I will correct them later if necessary.

Further, I propose that we restore the surtax to a maximum of 52 per cent on incomes in excess of $500,000, thus giving a reduction under the existing law, but increasing the maximum under the House bill 20 points. The estimated increase in revenue would be about $55,000,000.

The Senators from Rhode Island [Mr. GERRY] and from Massachusetts [Mr. WALSH] have introduced amendments to reduce the normal tax on incomes up to $15,000 which, I think, are meritorious, and which I had intended to discuss, but I will not discuss them now because of the lateness of the hour and my weariness.

We should, of course, repeal the transportation tax.

Now, let us come to the manufacturers' tax. I have not time to discuss it, but I want to say that if the Republicans permit us to make our desired changes in the interest of justice and fairness in this bill, and will get their taxes upon a basis that one can sustain and support in conscience, and if as a part of that scheme the corporation taxes are not very materially reduced from what they are under the present law, I shall have

no objection to their repealing the excess-profits tax as far as I am concerned.

When all of that is done, however, if that can be adjusted satisfactorily, then, Mr. President, the people who are paying this one billion three hundred and odd millions of so-called miscellaneous taxes—that was the amount last year—on account of our miscellaneous levies, covering the broad field of activities in this country, embracing taxes which the people of this country pay every day, taxes that confront them wherever they go, taxes that they see, that they feel, that can not be hidden or concealed from them—those taxpayers will be, I say, with respect to these taxes, right where they were in the highest tax bill that ever was passed by any Government in the world, the tax levy for the calendar year 1918, when we laid taxes to raise eight billions of dollars. The men who pay this one billion and more than one billion of dollars of miscellaneous taxes have had no reduction, and they are entitled to consideration; and I will tell you now that the party that ignores them in any tax revision that may be passed is going to hear from them.

If we can make an equitable readjustment of taxes so that these several groups of taxpayers will be brought upon a parity in bearing the burdens of government, and if wealth can be made to assume its full and proper share of the burdens that have been created by the war and have necessarily added to the burdens always incident to the maintenance of government—if that can be done, and then you want to establish what is distinctively and immediately a consumption tax, such as the tax now imposed on tobacco, such as the tax now imposed on automobiles, which by its terms can be passed on only once, which would involve absolutely no turnover, and would be safeguarded agninst collection more than once, and which fixes the amount to be collected, I do not know that I, speaking personally, would not give very serious consideration to the question of supporting the proposition of the Senator from Utah with reference to a manufacturers' tax, provided always that through it and by it we are enabled to, and do as a matter of fact, wipe out and clean the slate of all the miscellaneous and nagging and irritating and vexatious war taxes which heretofore have not been repealed or reduced, including, of course, because it is so catalogued among them, the transportation tax, and excluding, because it is not among them, the capital-stock tax. Of course I do not include liquor and tobacco taxes in this catalogue.

I advance only my individual opinion. I believe that if this question can be worked out, and if it is worked out at all it must be worked out here on the floor of the Senate, we can get enough votes to pass a bill to do those things, namely, first, equalize the taxes as among corporations, individuals, and partnerships; bring about parity in the distribution of the burdens of taxes among these groups of taxpayers, the partnership, the man who pays an individual income tax, and the corporation that pays the corporation tax, an income tax upon a different basis. If we can work it out so as to bring about a parity by the processes I have suggested, or any other process, then, when that is done, if we can agree upon some substitute, though I know of none now available, or that has been suggested, except, the manufacturers' tax, which would raise enough money to accomplish that great end and wipe out those taxes which distress the people and irritate and confront the people every day of their lives, I think we will have then a composite bill, which would work in the interest of the people, which would be fair and equitable, which Democrats and Republicans alike could stand for, and which would contribute tremendously to the early, speedy, and permanent restoration of prosperous conditions in this country, with normal business activity and earnings.

Mr. President, I think those who have done me the honor to listen to me during the long hours I have been speaking will agree that I have studiously avoided injecting politics into this question any more than was absolutely necessary in order to make clear the line of cleavage as to policies of taxation between the two parties and between the interests that they stand for and represent, not only in fact, but in the estimation and opinion of the people of the country.

I have not desired, and I do not desire now, to make this a party question. I resent, with all of my might and energy, the dragging into politics unnecessarily of a measure, a great measure, which, in its broad and comprehensive effects, reaches out and reaches up and reaches down and takes within its embrace every human being within the borders of this great country of ours. What I want above all things with reference to this, if I know my heart and mind, is to get a bill that will be fair, not to one class of taxpayers or one group of taxpayers only in this country, but fair in its distribution of the burden of taxes to all the people of this country, and a bill that will raise sufficient revenue and contribute, at the same time, where relief is needed and relief is required, to the relief of industry from the fetters and the burdens and the loads under which it has been struggling for many years, as the result of the exorbitant and tremendous outlays and expenditures which the people were forced to make to safeguard themselves and this free Nation against the greatest menace that has ever come to the world and to our country.

I would adjust these tax burdens in no spirit of sectionalism, and in no spirit of discrimination among individuals, and with no idea or thought of party advantage. I would do that, and I have tried to discuss this matter in that way. When I have referred to parties at all, it has been because it was necessary in order that I might differentiate between the fiscal and economic policies of the one party and those of the other party, between the classes for which one party has generally stood, and has been understood to stand, in the levying and collecting of taxes, whether tariff or revenue, and those for which the other party has stood.

Now, I appeal to Senators here—I care not upon which side of the Chamber they may stand—let us come together, without any pride of opinion, without any partisan bias, but with a spirit of good will toward all the people of this country, and with a desire to be just to them. For the prosperity of the whole country, let us come together and see if we can not make up a bill that will meet the requirements of this situation and these conditions, and let us not be deterred by what the Finance Committee has done or by what the House has done.

The Finance Committee has been in a hurry about the preparation of this bill. It did not begin on it until after the recess. Then it worked under an agreement, which the chairman said he had with the Senate, that the bill would be reported the first day the Senate met; and so, under whip and spur, he has driven the pending bill on without adequate consideration and investigation, at least so far as the Finance Committee was concerned. I believe if we had had time we would have made a more thorough and better investigation and we would have reached a sounder and a more equitable adjustment of these tax matters. But we did not do it. We have this hodgepodge here. It is the old war-time act. It is an old machine which, when it was new, was pretty well adapted to the purpose for which it was built, but it is worn out now and obsolete, and the purposes for which it was built in the main no longer obtain. Entirely different conditions have arisen. We have only the same old machine.

I thought, I hoped, that the committee would practically cast it aside and say, "Let us make a new, logical, cohesive, well-balanced bill to meet the conditions of these times, and let us shut our eyes and forget the conditions for which this machine was built, for those conditions are gone." If we had done that, and worked patriotically and with an eye and a heart single to the best interests of this country, we would have had a very different bill from what we have.

Instead of doing that, you started to tinker with it, patching it up, and you have it in no better condition for effective and successful service than in the case where the average automobile garage gets an old, worn-out automobile, which you carry to it in the hope that they may patch it up a little, but which, after you have spent several hundred dollars on it in the process of patching it up, you find to be not as good as it was when it went to the shop.

So after all your patching you have a bill here which will not raise as much revenue as the present law will raise. You have a bill which will not raise within $520,000,000 of as much as you estimated four months ago would be required to run this Government. You have a bill here which will yield in the future more than $1,000,000,000 less revenue than the present law will yield for the year 1921, and the only way you have been able to even colorably make a reduction in the burdens of the people has been by deciding that you will not spend $520,000,000, $350,000,000 of which you have already deliberately appropriated, after applying your economy and paring-to-the-bone policy to the departments of this Government. You have a bill that will raise $468,000,000 less than the money you must expend, because you will find that you will have to spend $350,000,000, and of course you have to spend that $100,000,000 on account of the redemption of the savings stamps, payment of which is going to be demanded this year. Of course, if you cut that out of the estimates and do not levy taxes to pay it you will have to pay it some way, and the only way you will have to raise the money to pay it will be to borrow it on the faith of the Government by the issuance of certificates.

If you spend this $350,000,000 in the departments, which you have estimated that you cut out upon the plea that they are not going to spend it, the only way to get your money to pay the

appropriations which have already been made will be to borrow it.

So it is proposed to cut down taxes for the fiscal year 1922 more than $600,000,000, and to accomplish that result by adopting a scheme of borrowing $520,000,0000 on certificates and short-term notes, which ought to be paid in cash from the taxes of the people and which the Congress and the administration, up to the time they discovered that no reduction could be made in any other way than this, had believed and intended should be paid from the taxes and not through borrowing.

You get nowhere if you take $520,000,000 off of your estimates for expenses for this year and, instead of raising the taxes to meet that amount of expenditure, proceed to borrow it.

Of course a man who has credit can always borrow enough money to pay current expenses, and as long as the Government has credit it could, if it desired, levy no taxes and borrow all the money for all expenditures. In this case it has been decided to be a matter which ought to be paid as a part of the current expenses of the country from the tax money collected from the people, but instead of paying it in that way, as ought to be done, they will simply give the Government's note for it and borrow the amount. When that occurs I hope that no one of the party now in power will have the assurance and the effrontery to go before the American people and say, "We have reduced your taxes; we have saved you $520,000,000." The people are not going to swallow any more of your boasts of your ability to wisely govern and to conduct government upon sound business principles and methods with this specimen confronting them—this wonderful performance of yours, "saving" by borrowing to pay necessary expenses instead of "paying as you go" out of your current tax receipts.

Mr. McCUMBER. Mr. President, I wish to take just a few moments to reply to one feature of the remarks of the Senator from North Carolina.

This is the third revenue bill which we have had since the beginning of the Great War. We had a general revenue bill in 1913, another general revenue bill in 1916, another one in 1918, and now this one in 1921. I have been a member of the Finance Committee during these years and during the discussion of all of these revenue measures. The Senator from North Carolina, who has just closed a long partisan speech, has also been a member of that committee and chairman of the committee during the consideration of the last two revenue bills.

I can not help contrasting the support given by the Senator from North Carolina and a few of his adherents with the support given him by every Republican member of the Finance Committee during the consideration of those bills. In every instance the two parties met and considered these questions as though no element on earth of partisanship had ever entered into them. No partisan word was ever uttered before the committee in the consideration of those two great revenue bills. We sought to follow the lead of the Senator from North Carolina to get the best bills that we could to raise the necessary revenues to conduct the Government through a great war. We knew it was impossible to get a perfect bill at that time, but we gave him unreserved and patriotic support from every member of that committee on this side of the Chamber.

I regret, Mr. President, that at this time, when the mighty obligations which were forced upon us by the Great War have to be met by a revenue bill, the Senator from North Carolina can not find it in his heart to discard his partisan feelings and his partisan purposes for a sufficient length of time to get a bill through Congress which will best subserve the interests of the American people and at the same time raise the revenue necessary to conduct the affairs of the Government. It is useless now to discuss the wild extravagances of the last administration, the incompetency of the administration which has forced upon the American people billions and billions of unnecessary bonds and indebtedness. They are on us to-day; we have got to meet them, and it is the duty of every man in Congress—in the Senate and in the House—to give his best judgment, his best information, and his best intellectual powers in common to assist in making a bill that will be satisfactory to the American people. To do this we must all do constructive work.

We have listened for four hours to a systematic condemnation of the Republican side of the Committee on Finance, but not one word of constructive thought has been given to the Senate this afternoon for the purpose of making a revenue bill. It avails us very little to say that by this bill we are eliminating $400,000,000 or $600,000,000 from one source and have got to make it up from some other source. The Senator from North Carolina understands just as well as I do, and as well as every other Senator here does, that every penny imposed in taxation against any corporation, manufacturing or otherwise, whose products must be purchased by the American public, must be conveyed, the same as the cost of labor, the same as the overhead expense, the same as the insurance, to the ultimate consumer. We have got to raise the $600,000,000 that the Senator from North Carolina has condemned. The public have got to pay that $600,000,000, and the only question that is presented to this Congress is how best to raise it.

The Senator from North Carolina, while he injects partisan spleen and partisanship into this debate, can not avoid the result of every sentence which he has uttered, which has been replete with partisan prejudice and a desire to gain some partisan advantage, by declaring at the close that he does not intend to make this a partisan question. It would have been well for the Senator to have admitted that we must raise this vast sum of money and then tell us at some place within the four hours of denunciation where and how we could best raise it.

I regret that the Senator has not only put himself in opposition to the Republican Members and the Republican side upon every proposition in the bill but he has put himself in opposition to the best Democratic thought and the Democratic platform of 1920 upon the same bill. I am assuming that the junior Senator from Virginia [Mr. GLASS], at one time Secretary of the Treasury of the United States, is just as good a Democrat, just as intellectual a Senator, just as honest in his purpose, and just as patriotic in his devotion to the American people as is the Senator from North Carolina. I am inclined to believe that the Senator from North Carolina would accredit him with equality of patriotism, of intellectuality, and of honesty in all those respects.

The Republican Party, if you say it was a Republican vote, did vote to do away with the excess-profits tax; it did vote in committee to do away with the brackets in the surtaxes which were above 32 per cent. Why did it do so? I can give the answer. It is contained in the report, which said:

> Your committee recommends the repeal of the war-profits and excess-profits tax as of January 1, 1922. The repeal of this tax is recommended because of its inequalities and difficulty of administration and because of the manner in which it discriminates against corporations with small invested capital. Its repeal was recommended by Secretary GLASS—

Now the junior Senator from Virginia—

> in his annual report for the fiscal year ending June 30, 1919, and by Secretary Houston—

A Democratic Secretary—

> in his annual report for the fiscal year ending June 30, 1920.

It was again recommended by Secretary Mellon. I wish to read what Secretary Mellon said. He expressed perhaps a little more definitely and a little more exactly just what the other Secretaries have declared. He said:

> The excess-profits tax is complex and difficult of administration and is losing its productivity. It is estimated that for the taxable year 1921 it will yield about $450,000,000 [$400,000,000], as against $2,500,000,000 in profits taxes for the taxable year 1918, $1,320,000,000 for the taxable year 1919, and $750,000,000 for the taxable year 1920. In fairness to other taxpayers and in order to protect the revenues, however, the excess-profits tax must be replaced, not merely repealed, and should be replaced by some other tax upon corporate profits.

That is exactly what was done. Whatever that tax might bring in was not passed over to some other class of people, but it is still placed upon the corporations; it is placed upon every corporation instead of being simply placed upon a few of the smaller corporations. Why? In the first instance, the experts declared that for 1922 a direct tax upon the corporations would bring in more money than the excess-profits tax.

The committee was not seeking means to injure people; it was not actuated by hate against any class of corporations, but was actuated by the single desire to secure the greatest revenue with the least amount of injustice. Will that be done? We have in this country thousands of small corporations in which the directors are the active members, putting in their work day in and day out and year in and year out, making a success of their little corporations.

They are honest in their efforts, honest in their capitalization, and many of them are making above 8 per cent. Not one of the great corporations, the Steel Trust, the Tobacco Trust, the immense corporations in the packing business, which are overcapitalized, I believe, and have been overcapitalized for years, will pay one cent in excess-profits tax this year; not one of them will pay one cent of excess-profits tax next year, in my humble judgment.

Mr. President, the little corporations are the ones that are paying all of the excess-profits tax. Their success, as I have said, is due primarily to the individual efforts of their directors, who are really partners in the business. We want the greater corporations to pay their proportionate share, notwithstanding

the fact that their capitalization is immense. Consequently, we propose to place a 15 per cent direct tax upon their profits, no matter whether they are excess profits or not. That will bring in more than would be brought in by the method of taxing excess profits.

What I say in reference to excess profits applies also to the higher brackets of the surtax. Why? The Democratic Secretaries of the Treasury as well as the present Republican Secretary of the Treasury had only one thing in view—the welfare of the country and the payment of our debts as they shall fall due.

We all understand the present depression in trade; we all understand that capital is holding aloof; we all understand that no man having a large income will invest his money in any character of American business, with all the hazards of business, when the tax upon it will be greater and would leave him less in such employment than he would receive if he invested the same money in 6 per cent tax-free bonds such as are issued by our municipalities all over the country. The complaint is made that we are driving the capital of the country into tax-free securities, and that we are encouraging extravagance on the part of the cities because of the ready sale of their tax-free bonds to people who have money to invest, because they can thereby save in Federal taxes.

Mr. President, I want to turn back to the recommendations of Senator GLASS—who was Secretary Glass at that time—which were made in 1919. He said:

> The Treasury's objections to the excess-profits tax even as a war expedient (in contradistinction to a war-profits tax) have been repeatedly voiced before the committees of the Congress. Still more objectionable is the operation of the excess-profits tax in peace times. It encourages wasteful expenditure, puts a premium on overcapitalization, and a penalty on brains, energy, and enterprise, discourages new ventures, and confirms old ventures in their monopolies. In many instances it acts as a consumption tax, is added to the cost of production upon which profits are figured in determining prices, and has been, and will, so long as it is maintained upon the statute books, continue to be, a material factor in the increased cost of living.
>
> The revenue sacrificed by elimination or reduction of this tax must be sought in an increase of the normal income tax (from which the income on Liberty bonds is exempt) and of the lower brackets of the surtax.

With that advice from the Democratic Secretary of the Treasury still ringing in their ears the Democratic convention of 1920 was called, and, knowing what Secretary GLASS had said, the Democratic committee on resolutions inserted and had passed this declaration:

> We advocate tax reform and a searching revision of the war-revenue acts to fit peace conditions, so that the wealth of the Nation—

Note the words—they had in mind the same thing which Secretary GLASS had been speaking of—

> so that the wealth of the Nation may not be withdrawn—

Secretary GLASS said it would be withdrawn—

> may not be withdrawn from productive enterprise and diverted to wasteful or nonproductive expenditure.

That is the Democratic platform, following the advice of Secretary GLASS, which advice was concurred in and emphasized by the report of the Democratic Secretary of the Treasury, Mr. Houston. I think they were both right. They were not acting as partisans. The difference between their position and that of the Senator from North Carolina is that they spoke with the responsibility of the financial integrity of the United States upon their shoulders and not as partisans, while the Senator from North Carolina speaks with the responsibility of finding something in the way of partisan ammunition for the benefit of his own party. I think it would be far better if we would do just what the Senator from North Carolina says we ought to do, and that is for Republicans and Democrats to throw partisanship to the winds in the discussion of this matter and in the consideration of every amendment that shall be offered.

If Secretary GLASS is wrong, if Secretary Houston is wrong, if Secretary Mellon is wrong—and all three of them joined in the recommendation that instead of the war excess-profits tax we should provide a straight tax—then let us say that they were wrong, without blaming the Republican Party or the Democratic Party or any member of the committee because of the view that a Senator may express.

Mr. President, I can see no reason on earth for condemning the committee with reference to its action in connection with the excess-profits tax nor with reference to its action in connection with the higher brackets of the income tax. Let us see how the provision will operate. Eight per cent is taken as the basis of what would be regarded as a fair profit. If we levy 25 per cent upon 8 per cent or its equivalent we would take 2 per cent. Two per cent deducted from 8 per cent would leave 6 per cent. Therefore if the tax is so great that, taking into consideration the hazards of business, a 25 per cent tax upon the income would be equivalent to a reduction of 2 per cent, the money which would be taxed by the excess brackets would go into nontaxable securities paying 6 per cent or its equivalent. We all took that into consideration, but, feeling that we ought to be more than certain, we provided for 32 per cent. I believe that that is a wise provision. Nobody wants to relieve a person who is receiving thousands of per cents or hundreds of per cents of profits from paying a profits tax. You get your tax on every corporation if you levy a flat income tax upon profits. The experts say that by another year this will bring us in more money than the method we have at the present time.

Now, just remember another thing. I reiterate that the consumer pays the tax. What he is most interested in is that it shall be levied fairly and equitably and that the producers of certain lines, we will say, of goods or otherwise should not have to bear the burden, and the consumers, through the producers, the burden of these heavier taxes. The tax must be paid—I know of no way to escape its being paid—by the public. The committee by a majority vote evidenced their belief that although we have a declining market and in a declining market not every tax can be carried on to the consumer, in all probability the greater amount of the tax has been paid by the consumer during 1921, and therefore, as it has been charged to him and in most instances he probably has paid it, we should not relieve the producer from the taxes which have probably been passed on to some one else in 1921.

Mr. President, I simply wanted very briefly to justify the action of the committee upon what it considered would be the better way to levy this tax, which may amount to $450,000,000 this year, but which the Secretary of the Treasury, differing with even his expert, the actuary of the Treasury Department, in his belief says will be very much less than this; that it will open up capital for investment in business, and that it will bring in the same amount ultimately, if not more, than is brought in by the excess-profits tax.

Mr. WALSH of Massachusetts. Mr. President, I send to the desk an amendment which I ask to have printed and lie on the table.

The VICE PRESIDENT. The amendment will be received, printed, and lie on the table.

Mr. REED. Mr. President, I do not expect to occupy the attention of the Senate for more than a moment.

I have listened to a very singular argument; at least, the first part of the argument was, to my mind, singular. Its purport was that during the war the Republican members of the Finance Committee, being then in the minority, did not seek to defeat revenue measures; that they fell in line to help enact revenue measures to carry on the war; and that therefore it is now the duty of everybody, regardless of politics, to fall in line and help enact this particular measure.

Mr. PENROSE. Mr. President, will the Senator permit a suggestion on that point? I do not think anyone contends that it is the duty of everyone to follow this particular measure. Criticism of this measure is invited and welcomed. No one claims that it is perfect. We want the best talent and knowledge on all sides of the Chamber; but I do think that a bill to raise revenue for the Government should not be made a matter of demagogic appeal or partisan politics. It should be considered on its merits, particularly as we are trying to rescue the country from the awful condition it is in on account of the waste and inefficiency of the recent administration.

Mr. REED. Mr. President, that is a good illustration, I will not say of the hypocrisy, of the chicanery, or of the demagoguery of anybody in this Chamber, but it is a good illustration of the species of attack which we sometimes witness. Here is a Senator who arises and appeals to everybody to rise above politics and then ends by his usual and oft-repeated fling at the past administration. The fact is, I think the Senator has so often referred to the "waste and extravagance" of the last administration that he talks it in his sleep and uses the expression as a part of his dreams.

I do not intend to be diverted from the few words I wanted to say.

I construe the argument of the Senator from North Dakota to amount to just what I said—that the Republicans during the war had fallen in line and helped pass revenue measures, and therefore that it was the duty of everybody to fall in line and aid the passage of this particular measure. The circumstances were very different.

During the war we had to raise revenues quickly, devise plans almost overnight, and we put them into operation understanding them to be temporary in their character and to be warranted by the exigencies of the war. In voting for such measures the Republican and the Democrat alike laid aside the natural desire to study and examine these questions, and they were

passed—many of them, I think, imperfect, many of them in some respects inequitable and unjust.

I agree—for I want to discuss this question fairly—that it is the duty of every man in Congress to do all that he can to pass a wise revenue bill, a bill that will provide the revenue necessary to run this Government; but it does not follow that at this time of profound peace we should not take sufficient time to understand the bill, and there is no duty falling upon any man in this body to accept the bill merely because it has been reported by the committee.

I think, therefore, that any accusation that the Senator from North Carolina—whose able speech it will be difficult to answer—has been playing politics, any intimation that he has been indulging in demagoguery, is not only unkind but is wholly unjustifiable from any possible viewpoint. I listened to the speech and it was singularly free from partisan bias.

I think, also, that the accusation made that there is criticism without a constructive policy is an unjust accusation. In the first place, if there had been criticism without construction it would have been perfectly justifiable. If a bad proposition is put forward and I can point out that the proposition is bad, wicked, and injurious to my country, it is not necessary that I shall accompany that with another proposition which will exactly meet the exigencies of the hour. If I can demonstrate that the thing proposed is a bad thing, then that ought to give pause to every man in this body until somebody can devise a plan that is wise, equitable, and just. So the demand that the Senator from North Carolina should bring forward such a plan can not be bottomed upon any claim of justice or right. But the Senator from North Carolina did bring forward a plan—a plan which, I think, while I do not agree to every part of it, is vastly superior to the plan proposed in this bill.

The Senator from North Carolina proposed to restore the original corporation stock tax, which it is estimated would increase the revenues $75,000,000.

He proposed to repeal the exemption of $2,000 on corporate incomes as it appears in this bill, which would produce $60,000,000.

He proposed to confine individual exemptions to incomes below $20,000, which would produce, according to the estimates, another $10,000,000.

He proposed to restore the surtax to a maximum of 52 per cent on incomes in excess of $500,000, thus giving a reduction under the existing law, but increasing the maximum in the House bill 20 points, which it is estimated would increase the revenues by $50,000,000.

He proposed then to repeal, as of January next, the transportation tax.

That is a constructive program.

Mr. SIMMONS. If the Senator will pardon me——

Mr. REED. I did not know the Senator was in the Chamber or I would not have been undertaking to discuss what he had discussed.

Mr. SIMMONS. I further suggested that if we could adjust this matter, personally I would be willing to consider the proposition of the Senator from Utah with reference to the manufacturers' tax, if it would result in the elimination of the miscellaneous taxes.

Mr. REED. That was a suggestion the Senator made and which I had intended to mention. I would not have been speaking here in defense of the Senator, but I thought he was absent from the Chamber. The Senator can defend himself; he does not need any defense from me.

Mr. President, I have said this much because I thought it ought to be said at this time. I want simply to make this one statement, which I intend to discuss at a future time, regardless of what any Secretary of the Treasury, past, present, or future, has said or may say, regardless of any political platform adopted on the Pacific coast or elsewhere or the construction which may be placed upon such platform. I suspect that that platform is full of imperfections, because it will be remembered I had no part in its preparation.

But, jesting aside, this bill, boiled down, as I understand it, proposes to take off the excess-profits tax, and proposes to take off the surtax. Those reductions must be made up from other sources. The surtax reaches the people with enormous incomes. If we must raise a certain amount of money, and the people with enormous incomes are relieved from the burden of the surtax, that burden must be paid from other sources. If we must raise a given amount of money, and are raising it under the present law, and a large part of that money is contributed from excess profits, and we remove or reduce the burden of the man who receives the excess profits, we must transfer that burden to the shoulders of somebody else. The somebody else is the man who does not make the excess profits. The somebody else, in the instance of the surtax, is the man who does not enjoy an enormous income.

You may talk about this bill until you are black in the face; you may argue it from the standpoint of technicalities; you may quibble, and you may dodge; but when you take the burden from the man with a fortune that pays him an enormous income, so that he must pay a heavy surtax, you increase the burden upon the man who does not enjoy that income. The same thing is true with reference to excess profits. I do not intend to argue this question to-night. I simply mean to state the issue in as few words as I possibly can.

It has been said, Mr. President, that there will be no excess profits gathered in from the very large corporations, because the large corporations are capitalized so high that the 8 per cent upon their swollen and inflated capital will eat up their profits. So goes the argument. Perhaps that is the reason we have also taken off the tax of $1 a share, so that they will not have to pay even that dollar tax upon their inflated capital. Perhaps that is the reason.

If it be true that these enormous concerns will not have to pay any excess-profits tax because they are overcapitalized, does it necessarily follow that the Government of the United States is thereby placed in a position where it can not compel them to pay their share? Is our ingenuity exhausted, so that a clause can not be prepared for insertion in this bill which would reach these great concerns and tax them a reasonable sum in proportion to the amount of their stock, and thus, if they inflate their stock, nevertheless compel them to pay their just dues to this Government?

But there are concerns which make excess profits. The concerns which make these excess profits are, for the most part, not little concerns. The little concern gets in under the personal-service corporation plan. There are concerns to-day of very considerable magnitude—witness our great department stores and institutions of that kind. The profits not only of department stores but of many other institutions have run to enormous figures. They have made that money and they have put it away. Shall the institution that has made only 8 or 10 per cent be put substantially upon the level of the institution which has made 40 or 50 or 100 per cent?

It is said that this tax is passed along to the ultimate consumer. Mr. President, as was said by one of the experts before the committee, that is a question which requires very careful consideration. For the most part, all taxes are passed on to the ultimate consumer. If a concern understands that it must pay a certain amount of fixed taxes it adds that in as part of its fixed expenses and increases its prices correspondingly. But I am not at all sure that a tax upon excess profits would be passed along. Allow me to explain by asking this question: How did one of these institutions make its 30, 40, 50, or 100 per cent profit? Plainly, these high earnings were made because the institution was placed in some advantageous position. What limited its charges? The same thing that limited the charges of the railroads in the olden days; the railroads levied a freight charge which was based upon the idea that they were to get all that the traffic would bear. When they had gotten to the point of all the traffic would bear they would stop increasing the freight rates. The man who is making 30 or 40 or 50 per cent profit must be acting in accordance with that formula and exacting all he can from the public. That being the case, he is hardly in a position to add the tax which he contemplates he may pay. Having once acquired it, having in his pocket 30 or 40 or 50 per cent, I want to know why, out of his great prosperity and out of his levies upon the business of the country and the people of the country, this Government should not make him pay a tax?

Mr. President, those, as I understand it, broadly speaking, are two or three of the issues presented to this bill.

I want to say one word further. There has been no disposition to delay this bill. It did not receive any very profound or extended consideration by the committee; although I do not criticize the committee for that. I hold that when a Democrat rises on the floor of the Senate with a suggestion in regard to this bill he should not be called upon to apologize for the waste and extravagance of another administration. So far as that waste and extravagance go, I will undertake at the proper time to show that while there was some waste and there was some extravagance, the greater part of it is palliated by the fact that we had to act under the exigencies of a great war, and I will undertake further to show that in that waste and extravagance the greatest Republicans of the United States were parties. But I do not think we ought to get into a partisan debate on this, and I protest against partisanship being brought in here.

CONSIDERATION OF THE PEACE TREATIES.

Mr. LODGE. Mr. President, I am about to offer a request for unanimous consent, as I indicated this morning that I should do. As a necessary preliminary, I make the point of no quorum.

The PRESIDING OFFICER (Mr. McNARY in the chair). The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Gooding	McKinley	Smoot
Borah	Hale	McLean	Spencer
Broussard	Harris	McNary	Stanley
Calder	Harrison	Moses	Sterling
Cameron	Heflin	Nelson	Sutherland
Capper	Hitchcock	New	Townsend
Caraway	Kellogg	Nicholson	Trammell
Colt	Kendrick	Oddie	Underwood
Curtis	Kenyon	Overman	Walsh, Mass.
Dial	King	Page	Watson, Ga.
Edge	Ladd	Penrose	Watson, Ind.
Ernst	La Follette	Pomerene	Williams
Fletcher	Lenroot	Reed	Willis
France	Lodge	Robinson	
Frelinghuysen	McCormick	Sheppard	
Glass	McKellar	Shields	

The VICE PRESIDENT. Sixty-one Senators having answered to their names, a quorum is present.

Mr. LODGE. I offer the following unanimous-consent agreement, Mr. President.

The VICE PRESIDENT. The Secretary will read the proposed unanimous-consent agreement.

The Assistant Secretary read as follows:

It is agreed by unanimous consent that the Senate will continue the consideration of the treaties with Germany, Austria, and Hungary to the exclusion of any other bill or resolution upon the calendar or that may be reported from a committee, or the consideration of other business that is not unanimously recognized as urgent, and will dispose of such treaties in the order named:

That at 11.30 o'clock a. m. on the calendar day of Friday, October 14, 1921, the Senate will proceed to the consideration of the said treaties and continue such consideration until they are finally disposed of, and that from and after the hour named on the said day no Senator shall speak upon any or all of said treaties, or upon any amendments that may be offered thereto or to the resolution of ratification, for a longer period than one hour in the aggregate on the treaties and not more than 10 minutes on any reservation.

Provided, That if within the period outlined by the provisions of the first paragraph hereof no Senator is prepared to discuss the treaties, or either of them, then the Senate shall proceed at once to the consideration of H. R. 8245, the tax bill, so called, and will give that measure the right of way to the exclusion of other legislation until such time as the consideration of the treaties is resumed.

Provided further, That nothing in this unanimous consent shall in any manner interfere with the unanimous-consent agreement entered into on August 15, 1921, respecting the final vote on S. 665, the Panama Canal tolls bill.

Mr. STERLING. Mr. President, on last Monday when the Senator from Pennsylvania [Mr. PENROSE] moved the consideration of the tax bill I spoke as follows, if the Senate will indulge me:

I do not resist the taking up and consideration of the tax revision bill nor shall I, pending the discussion of the treaties, oppose the consideration of the treaties; I realize the importance of both these matters; but, Mr. President, I pursue that course with the distinct understanding that when the treaties and the tax bill are out of the way, when they shall have been finally disposed of, the conference report on the antibeer bill shall then be taken up and that nothing shall then be permitted to intervene to prevent the consideration of that report until a final vote thereon is had.

Mr. President, I made that statement after conference with several leaders on the Republican side and after conference had also by the Senator from Ohio [Mr. WILLIS] with others; and in addition to the conferences there seemed to be general acquiescence in the statement that I made.

But since that time came the rumor that after the tax bill and the treaties are disposed of there will be an adjournment of Congress until the next session, and the newspapers have contained some accounts to that effect. Then came the request this morning for a unanimous-consent agreement. Under the circumstances I was disposed to object to the unanimous-consent agreement, but since the matter was presented this morning I have conferred with Senators again; I have conferred with the leaders on this side, and I have even a more distinct and explicit understanding than I had before, and that is to the effect that when the treaties are out of the way and the tax bill is disposed of consideration shall be given to the conference report on the antibeer bill, and that there will be no adjournment of this session unless or until the conference report on the antibeer bill is disposed of.

With that understanding I am not disposed to object to the proposed unanimous-consent agreement.

Mr. REED. Mr. President, I ask permission to make this statement. I do not object to any statement that the Senator from South Dakota [Mr. STERLING] desires to make as to his understanding, nor to his making a statement as to any agreement he may have arrived at with anybody; but I do not want my silence to indicate that I am any party to that agreement or that those of us who have opposed the Senator's measure are in any manner bound by any such understanding.

Mr. STERLING. I am not purporting to speak for the Senator from Missouri, and I did not so state.

The VICE PRESIDENT. Is there objection to the proposed unanimous-consent agreement? The Chair hears none, and the unanimous-consent agreement is entered into.

PETITIONS AND MEMORIALS.

Mr. LA FOLLETTE presented a resolution adopted by the Common Council of the city of Milwaukee, Wis., favoring the enactment of legislation providing for the construction of a breakwater to protect Lake terminals designed to be located at Milwaukee, Wis., which was referred to the Committee on Commerce.

Mr. BALL presented memorials of sundry citizens of Loomis, Wash.; of Johnston, S. Dak.; and of the District of Columbia, remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which were referred to the Committee on the District of Columbia.

Mr. WILLIS presented a petition signed by sundry officers, directors, and members of the German-American Loan & Building Co., of Cincinnati, Ohio, praying that the income-tax exemption clause relating to building and loan companies contained in existing law be incorporated in the pending tax revision bill, which was ordered to lie on the table.

Mr. TOWNSEND presented a resolution of the Women's Democratic Club in Michigan, favoring the limitation of armaments, which was referred to the Committee on Foreign Relations.

REPORTS OF THE COMMITTEE ON MILITARY AFFAIRS.

Mr. SUTHERLAND, from the Committee on Military Affairs, to which were referred the following bills and joint resolutions, reported them severally without amendment, and submitted reports thereon:

A bill (S. 2492) to amend an act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1922, and for other purposes," approved June 30, 1921 (Rept. No. 278);

A bill (S. 2515) to amend an act entitled "An act to amend an act entitled 'An act for making further and more effectual provision for the national defense, and for other purposes,' approved June 3, 1916, and to establish military justice," approved June 4, 1920 (Rept. No. 279);

A joint resolution (S. J. Res. 118) authorizing the Secretary of War to obligate funds appropriated for the support of the Army for the fiscal year ending June 30, 1921, to the amount of $236,095 from unexpended balances now in the Treasury (Rept. No. 280); and

A joint resolution (S. J. Res. 120) providing funds for carrying into effect the provisions of Public, No. 28, Sixty-seventh Congress, approved June 30, 1921 (Rept. No. 281).

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. LA FOLLETTE:

A bill (S. 2517) for the relief of Augustus Peters Hinckley; to the Committee on Naval Affairs.

A bill (S. 2518) granting an increase of pension to Anna Barker (with accompanying papers); to the Committee on Pensions.

By Mr. CALDER:

A bill (S. 2519) for the relief of Mary O'Grady; to the Committee on Claims.

By Mr. TOWNSEND:

A bill (S. 2520) to carry out the findings of the Court of Claims in the case of William A. Maetzke (with accompanying papers); to the Committee on Claims.

AMENDMENTS OF TAX REVISION BILL.

Mr. WALSH of Massachusetts, Mr. SMOOT, Mr. TRAMMELL, and Mr. KING submitted amendments intended to be proposed by them to House bill 8245, the tax revision bill, which were ordered to lie on the table and to be printed.

CHANGE OF REFERENCE—RED RIVER OF THE NORTH BRIDGE.

Mr. LADD. I move that the Committee on Interstate Commerce be discharged from the further consideration of the bill (S. 2508) granting the consent of Congress to the counties of Cass, N. Dak., and Clay, Minn., and their successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the Red River of the North, at a point

suitable to the interests of navigation, between the cities of Fargo, N. Dak., and Moorhead, Minn., and that the bill be referred to the Committee on Commerce.

The motion was agreed to.

EXECUTIVE SESSION.

Mr. LODGE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened.

RECESS.

Mr. LODGE. I move that the Senate take a recess until to-morrow at noon.

The motion was agreed to; and (at 5 o'clock and 15 minutes p. m.) the Senate took a recess until to-morrow, Saturday, October 1, 1921, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate September 30 (legislative day of September 26), 1921.

COLLECTORS OF INTERNAL REVENUE.

William E. Snead, of Boaz, Ala., to be collector of internal revenue for the district of Alabama, in place of John D. McNeel.

Harvey H. Motter, of Olathe, Kans., to be collector of internal revenue for the district of Kansas, in place of William H. L. Pepperell, resigned.

UNITED STATES MARSHAL.

George A. Stauffer, of Ohio, to be United States marshal, northern district of Ohio, vice Charles W. Lapp, term expired.

SURVEYOR GENERAL OF COLORADO.

William H. Clark, of Colorado, to be surveyor general of Colorado, vice John B. McGauran removed.

REGISTER OF THE LAND OFFICE.

Walter S. Hunsaker, of Visalia, Calif., to be register of the land office at Visalia, Calif., vice Carl A. Ferguson, resigned.

RECEIVER OF PUBLIC MONEYS.

Miss Florence Zumwalt, of Visalia, Calif., to be receiver of public moneys at Visalia, Calif., vice Joseph Allen, resigned.

PROMOTIONS IN THE REGULAR ARMY.

MEDICAL CORPS.

To be captains.

First Lieut. Howard Joseph Hutter, Medical Corps, from September 21, 1921.

First Lieut. Charles Vincent Hart, Medical Corps, from September 22, 1921.

DENTAL CORPS.

To be captains.

First Lieut. Edward James Kubesh, Dental Corps, from September 21, 1921.

First Lieut. Frank Alf Crane, Dental Corps, from September 22, 1921.

First Lieut. Arne Sorum, Dental Corps, from September 23, 1921.

VETERINARY CORPS.

To be first lieutenant.

Second Lieut. Edwin Kennedy Rogers, Veterinary Corps, from August 20, 1921.

APPOINTMENTS BY TRANSFER IN THE REGULAR ARMY.

ORDNANCE DEPARTMENT.

First Lieut. Samuel S. Burgey, Infantry, with rank from July 1, 1920.

FIELD ARTILLERY.

Col. William Wright Harts, Corps of Engineers, with rank from June 23, 1917.

Lieut. Col. Allen James Greer, Infantry, with rank from July 1, 1920.

INFANTRY.

Maj. Harry Westervelt Gregg, Air Service, with rank from July 1, 1920.

Maj. John Stephen Sullivan, Air Service, with rank from July 1, 1920.

AIR SERVICE.

Capt. Vincent Bargmant Dixon, Coast Artillery Corps, with rank from August 1, 1919.

PROMOTIONS AND APPOINTMENT IN THE NAVY.

Commander Harlan P. Perrill to be a captain in the Navy from the 11th day of May, 1921.

The following-named commanders to be captains in the Navy from the 3d day of June, 1921:

Leonard R. Sargent.	Walton R. Sexton.
Clarence S. Kempff.	John Halligan, jr.
William C. Watts.	Zeno E. Briggs.

Lieut. Commander Charles C. Moses to be a commander in the Navy from the 8th day of June, 1920.

Lieut. Commander Charles C. Soule, jr., to be a commander in the Navy from the 1st day of January, 1921.

Lieut. Commander Forde A. Todd to be a commander in the Navy from the 7th day of February, 1921.

The following-named lieutenant commanders to be commanders in the Navy from the 3d day of June, 1921:

Harry A. Stuart.	William F. Halsey, jr.
Allen B. Reed.	Ormond L. Cox.
Royal E. Ingersoll.	Herbert F. Leary.
John N. Ferguson.	Walter B. Woodson.
Herbert E. Kays.	Louis P. Davis.

The following-named lieutenants to be lieutenant commanders in the Navy from the 1st day of January, 1921:

Edmund W. Strother.	Cleveland McCauley.
Abner M. Steckel.	Leslie C. Davis.
Allan G. Olson.	

Lieut. (Junior Grade) Oliver O. Kessing to be a lieutenant in the Navy from the 6th day of June, 1920.

The following-named lieutenants (junior grade) to be lieutenants in the Navy from the 1st day of July, 1920:

William D. Sullivan.	John E. Ostrander, jr.
Seabury Cook.	Laurence E. Kelly.
Donald A. Green.	Thaddeus A. Hoppe.
Joseph J. Clark.	J. Warren Quackenbush.

Ensign Laurence E. Kelly to be a lieutenant (junior grade) in the Navy from the 30th day of March, 1920.

The following-named ensigns to be lieutenants (junior grade) in the Navy from the 29th day of June, 1920:

Thaddeus A. Hoppe.
Joseph J. Clark.
Vaughn Bailey.

Ensign William D. Sample to be a lieutenant (junior grade) in the Navy from the 1st day of July, 1920.

The following-named assistant surgeons to be passed assistant surgeons in the Navy with the rank of lieutenant from the 6th day of June, 1920:

Glen M. Kennedy.
Frank J. Carroll.
Albin L. Lindall.

Asst. Surg. Francis W. Carll to be a passed assistant surgeon in the Navy with the rank of lieutenant from the 1st day of July, 1920.

Lyle J. Millan, a citizen of Maryland, to be an assistant surgeon in the Navy with the rank of lieutenant (junior grade) from the 6th day of September, 1921.

The following-named passed assistant dental surgeons to be dental surgeons in the Navy with the rank of lieutenant commander from the 11th day of May, 1921:

Emory A. Bryant.
Harry E. Harvey.
Joseph A. Mahoney.

Asst. Dental Surg. Lou C. Montgomery to be a passed assistant dental surgeon in the Navy with the rank of lieutenant from the 6th day of June, 1920.

The following-named assistant dental surgeons to be passed assistant dental surgeons in the Navy with the rank of lieutenant from the 1st day of July, 1920:

James McK. Campbell.
Charles R. Wells.
Francis G. Ulen.

The following-named pay inspectors to be pay directors in the Navy with the rank of captain from the 7th day of July, 1921:

Edmund W. Bonnaffon.
David Potter.
Samuel Bryan.

The following-named paymasters to be pay inspectors in the Navy with the rank of commander from the 7th day of July, 1921:

George W. Pigman, jr.
John S. Higgins.

The following-named assistant paymasters to be passed assistant paymasters in the Navy with the rank of lieutenant from the 1st day of July, 1920:

Frank C. Dunham.	Edwin F. Barker.
James D. Boyle.	Clifford C. Edwards.
Gerald A. Shattuck.	Melvin F. Talbot.
David W. Mitchell.	Raymond T. Mahon.

The following-named passed assistant paymasters for temporary service to be passed assistant paymasters in the Navy with the rank of lieutenant from the 3d day of August, 1920, in accordance with the act of Congress approved June 4, 1920:

Timothy J. Mulcahy. George Winchester Armstrong.
Arthur D. Turner. John E. Roberts.

The following-named assistant paymasters for temporary service to be assistant paymasters in the Navy with the rank of ensign from the 6th day of June, 1919, in accordance with the act of Congress approved June 4, 1920:

William T. Ross.
Harold T. Smith.

Asst. Paymaster Worth B. Beacham, United States Naval Reserve Force, to be an assistant paymaster in the Navy with the rank of lieutenant (junior grade) from the 1st day of July, 1920.

Carpenter Dorus Nyburg to be a chief carpenter in the Navy, to rank with but after ensign, from the 26th day of October, 1920.

Lieut. William W. Booth, for temporary service, to be a lieutenant in the Navy from the 3d day of August, 1920, in accordance with the act of Congress approved June 4, 1920.

The following-named passed assistant surgeons, for temporary service, to be passed assistant surgeons in the Navy with the rank of lieutenant from the 3d day of August, 1920, in accordance with the act of Congress approved June 4, 1920:

Maurice Joses.
Harry J. Noble.

The following-named passed assistant dental surgeons, for temporary service, to be passed assistant dental surgeons in the Navy with the rank of lieutenant from the 3d day of August, 1920, in accordance with the act of Congress approved June 4, 1920:

Leslie T. Conditt.
Carl E. Hall.

Assistant Civil Engineer Clyde A. Coryell, for temporary service, to be an assistant civil engineer in the Navy, with the rank of lieutenant (junior grade), from the 1st day of July, 1920, in accordance with the act of Congress approved June 4, 1920.

Assistant Paymaster Roe L. Flowers, for temporary service, to be a chief pay clerk in the Navy, to rank with but after ensign, from the 5th day of August, 1920, in accordance with the act of Congress approved June 4, 1920.

The following-named passed assistant surgeons of the United States Naval Reserve Force to be passed assistant surgeons in the Navy, with the rank of lieutenant, from the 3d day of August, 1920, in accordance with the act of Congress approved June 4, 1920:

Furman Angel. Frederick L. Schwartz.
Clifford G. Hines. Leslie H. Wright.
James G. Dickson.

Passed Assistant Paymaster Maurice M. Smith, United States Naval Reserve Force, to be a passed assistant paymaster in the Navy, with the rank of lieutenant, from the 3d day of August, 1920, in accordance with the act of Congress approved June 4, 1920.

Assistant Paymaster Robert W. Wilson, United States Naval Reserve Force, to be an assistant paymaster in the Navy, with the rank of ensign, from the 4th day of June, 1920, in accordance with the act of Congress approved June 4, 1920.

Chief Pay Clerk John D. Dearmin, United States Naval Reserve Force, to be a chief pay clerk in the Navy, to rank with but after ensign, from the 5th day of August, 1920, in accordance with the act of Congress approved June 4, 1920.

POSTMASTERS.

ALABAMA.

Stella M. Stallworth to be postmaster at Chapman, Ala. Office became presidential July 1, 1920.

ARIZONA.

Ross H. Cunningham to be postmaster at Jerome, Ariz., in place of W. L. Leonard, removed.

Harry B. Magill to be postmaster at Oatman, Ariz., in place of E. C. Shuck, resigned.

Harry M. Wright to be postmaster at Somerton, Ariz., in place of O. J. Moss, resigned.

ARKANSAS.

Della E. Penick to be postmaster at Lake City, Ark., in place of A. B. Couch. Incumbent's commission expired January 12, 1921.

Eston G. Berry to be postmaster at Magazine, Ark., in place of H. P. Cravens, deceased.

CALIFORNIA.

Oliver W. Miller to be postmaster at Murrietta, Calif. Office became presidential October 1, 1920.

Matie E. Bole to be postmaster at Newark, Calif. Office became presidential July 1, 1920.

Elizabeth A. Follett to be postmaster at Pixley, Calif. Office became presidential January 1, 1921.

Carrie E. Berry to be postmaster at Brentwood, Calif., in place of Minnie Sheddrick. Incumbent's commission expired March 16, 1921.

Ida M. Fink to be postmaster at Crows Landing, Calif., in place of I. M. Fink. Incumbent's commission expired May 16, 1921.

Wilhelm T. Botzbach to be postmaster at Galt, Calif., in place of W. T. Botzbach. Incumbent's commission expired July 10, 1920.

John H. Tucker to be postmaster at Kennett, Calif., in place of William O'Grady. Incumbent's commission expired March 16, 1921.

Ira L. Casey to be postmaster at Loma Linda, Calif., in place of I. L. Casey. Incumbent's commission expired April 16, 1921.

Robert G. Isaacs to be postmaster at Montague, Calif., in place of E. K. Loosley, resigned.

CONNECTICUT.

Harvey Ackart to be postmaster at Rowayton, Conn. Office became presidential January 1, 1921.

FLORIDA.

Walter R. McLeod to be postmaster at Apopka, Fla. Office became presidential October 1, 1920.

Vance Ervin to be postmaster at Maitland, Fla. Office became presidential January 1, 1921.

Charlotte E. Henry to be postmaster at Nocatee, Fla. Office became presidential July 1, 1920.

Goldie B. Dillaplane to be postmaster at Oneco, Fla. Office became presidential July 1, 1920.

Oakley K. Key to be postmaster at Cocoa, Fla., in place of J. A. Haisten, resigned.

Nathan J. Lewis to be postmaster at Newberry, Fla., in place of Thomas McLeod. Incumbent's commission expired January 11, 1920.

N. Macon Thornton to be postmaster at Ormond Beach, Fla., in place of N. M. Thornton. Incumbent's commission expired March 16, 1921.

IDAHO.

Alta E. Bowen to be postmaster at Ririe, Idaho. Office became presidential July 1, 1921.

Paul Bulfinch to be postmaster at American Falls, Idaho, in place of S. H. Laird, resigned.

ILLINOIS.

James M. Pace to be postmaster at Macomb, Ill., in place of R. J. Simmons. Incumbent's commission expired January 29, 1921.

Nancy Jamison to be postmaster at Biggsville, Ill. Office became presidential July 1, 1920.

Fred E. Schroeder to be postmaster at Warrensburg, Ill. Office became presidential April 1, 1921.

Isaac A. Foster to be postmaster at Zeigler, Ill. Office became presidential January 1, 1920.

INDIANA.

Lee G. Corder to be postmaster at Merom, Ind. Office became presidential January 1, 1921.

IOWA.

Frederick W. Werner to be postmaster at Amana, Iowa. Office became presidential July 1, 1921.

Margaret M. Walter to be postmaster at Bennett, Iowa. Office became presidential January 1, 1921.

Mary J. Morse to be postmaster at Steamboat Rock, Iowa. Office became presidential April 1, 1921.

Pauline M. Hummel to be postmaster at Yale, Iowa. Office became presidential October 1, 1920.

Winfield Cash to be postmaster at Leon, Iowa, in place of E. E. Beck. Incumbent's commission expired March 16, 1921.

Nettie Lund to be postmaster at St. Ansgar, Iowa, in place of M. P. Klindt, deceased.

KANSAS.

Lillie N. Johnson to be postmaster at Midian, Kans. Office became presidential April 1, 1920.

Anna W. Lowe to be postmaster at Moscow, Kans. Office became presidential April 1, 1920.

KENTUCKY.

Leonas C. Starks to be postmaster at Hardin, Ky. Office became presidential January 1, 1921.

Verda Grimes to be postmaster at Salem, Ky. Office became presidential April 1, 1921..

LOUISIANA.

Helen W. Allen to be postmaster at Peason, La. Office became presidential January 1, 1920.

George S. O'Brien to be postmaster at Rhoda, La. Office became presidential July 1, 1920.

Ethel S. O'Neal to be postmaster at Trees, La. Office became presidential July 1, 1920.

MAINE.

Lewis H. Lackee to be postmaster at Addison, Me. Office became presidential January 1, 1921.

David H. Smith to be postmaster at Darkharbor, Me. Office became presidential October 1, 1920.

William F. Huen to be postmaster at Sabattus, Me. Office became presidential January 1, 1921.

Evelyn W. Dunning to be postmaster at Topsham, Me. Office became presidential October 1, 1920.

Lewis W. Weston to be postmaster at Rockwood, Me., in place of L. H. Perham, resigned.

MARYLAND.

Charles Roemer, jr., to be postmaster at Owings Mills, Md. Office became presidential January 1, 1921.

Charles W. Meyer to be postmaster at East New Market, Md. Office became presidential January 1, 1921.

MASSACHUSETTS.

Matthew D. E. Tower to be postmaster at Becket, Mass., in place of M. D. E. Tower. Incumbent's commission expired January 30, 1921.

Lillian M. Allen to be postmaster at Deerfield, Mass. Office became presidential April 1, 1921.

William A. Burnham to be postmaster at Montague City, Mass. Office became presidential January 1, 1921.

MICHIGAN.

Henry P. Hossack to be postmaster at Cedarville, Mich. Office became presidential July 1, 1921.

Cyrenius P. Hunter to be postmaster at Gagetown, Mich. Office became presidential July 1, 1920.

Gordon J. Murray to be postmaster at Michigamme, Mich. Office became presidential October 1, 1920.

Jennie Van Der Ven to be postmaster at New Era, Mich. Office became presidential January 1, 1921.

Mack Herring to be postmaster at Osseo, Mich. Office became presidential April 1, 1921.

Minnie E. Morrison to be postmaster at Stevensville, Mich. Office became presidential July 1, 1920.

Louis W. Biegler to be postmaster at Marquette, Mich., in place of M. C. Scully. Incumbent's commission expired December 17, 1919.

George M. Dewey to be postmaster at Owosso, Mich., in place of H. K. White. Incumbent's commission expired July 11, 1920.

Harry A. Dickinson to be postmaster at Port Hope, Mich., in place of F. J. Melligan. Incumbent's commission expired July 21, 1921.

William J. Eva to be postmaster at Vulcan, Mich., in place of B. R. Miller, resigned.

MINNESOTA.

Minot J. Brown to be postmaster at Owatonna, Minn., in place of John Deviny. Incumbent's commission expired August 7, 1921.

Amelia M. Rajkowski to be postmaster at Rice, Minn., in place of A. M. Rajkowski. Incumbent's commission expired August 7, 1921.

Frank J. Thielman to be postmaster at St. Cloud, Minn., in place of Frederick Schilplin, removed.

Arthur B. Paul to be postmaster at Big Falls, Minn. Office became presidential January 1, 1921.

Jacob P. Soes to be postmaster at Climax, Minn. Office became presidential April 1, 1921.

Mary J. Anderson to be postmaster at Cyrus, Minn. Office became presidential April 1, 1921.

Edward F. Koehler to be postmaster at Mound, Minn. Office became presidential October 1, 1920.

Charles W. Field to be postmaster at Northome, Minn. Office became presidential October 1, 1920.

Anna Barnes to be postmaster at Randall, Minn. Office became presidential October 1, 1920.

Harvey Harris to be postmaster at Vesta, Minn. Office became presidential January 1, 1921.

MISSISSIPPI.

Bessie M. Nickels to be postmaster at Artesia, Miss. Office became presidential July 1, 1921.

James W. Gresham to be postmaster at Ashland, Miss. Office became presidential April 1, 1921.

James C. Bonds to be postmaster at Guntown, Miss. Office became presidential October 1, 1920.

Mary A. Patterson to be postmaster at Pinola, Miss. Office became presidential January 1, 1921.

William P. Gardner, jr., to be postmaster at Saltillo, Miss. Office became presidential July 1, 1920.

Emma M. Berry to be postmaster at Silver Creek, Miss. Office became presidential July 1, 1920.

MISSOURI.

John N. Hunter to be postmaster at Holt, Mo. Office became presidential April 1, 1921.

Frederick M. Harrison to be postmaster at Gallatin, Mo., in place of R. J. Ball. Incumbent's commission expired March 16, 1921.

Henry A. Scott to be postmaster at Gilman City, Mo., in place of D. A. Reid, resigned.

MONTANA.

Frank M. Douglas to be postmaster at Clydepark, Mont. Office became presidential July 1, 1920.

George P. Bartlett to be postmaster at Sumatra, Mont. Office became presidential April 1, 1921.

James T. Bradbury to be postmaster at Willow Creek, Mont. Office became presidential April 1, 1921.

NEBRASKA.

Astor B. Enborg to be postmaster at Bristow, Nebr. Office became presidential January 1, 1921.

Harry C. Rogers to be postmaster at Upland, Nebr., in place of H. G. Rogers. Incumbent's commission expired August 6, 1921.

NEW JERSEY.

Edith D. Wikoff to be postmaster at Fanwood, N. J. Office became presidential October 1, 1920.

NEW MEXICO.

Berthold Spitz to be postmaster at Albuquerque, N. Mex., in place of H. C. Roehl, resigned.

Perry E. Coon to be postmaster at Gallup, N. Mex., in place of Frank Canavan, appointee declined.

NEW YORK.

William H. Mead to be postmaster at Palmer, N. Y. Office became presidential October 1, 1920.

James E. McKee to be postmaster at Waddington, N. Y. Office became presidential January 1, 1921.

Henry C. Patterson to be postmaster at Youngsville, N. Y. Office became presidential Januaray 1, 1921.

George H. Burres to be postmaster at Garnerville, N. Y., in place of G. H. Burres. Incumbent's commission expired July 21, 1921.

NORTH CAROLINA.

William J. Flowers to be postmaster at Mount Olive, N. C., in place of B. A. Summerlin, resigned.

NORTH DAKOTA.

Clara J. Leet to be postmaster at Brocket, N. Dak. Office became presidential January 1, 1920.

Ruth L. Gibbons to be postmaster at Lawton, N. Dak. Office became presidential January 1, 1921.

Josephine J. Luther to be postmaster at Monango, N. Dak. Office became presidential January 1, 1921.

Fredrich A. Rettke to be postmaster at Niagara, N. Dak. Office became presidential July 1, 1920.

Bennie M. Burreson to be postmaster at Pekin, N. Dak. Office became presidential April 1, 1920.

John J. Mullett to be postmaster at Perth, N. Dak. Office became presidential October 1, 1920.

John H. Gambs to be postmaster at Pettibone, N. Dak. Office became presidential July 1, 1921.

Cornelius Rowerdink to be postmaster at Strasburg, N. Dak. Office became presidential January 1, 1921.

Lydia R. Schultz to be postmaster at Tappen, N. Dak. Office became presidential April 1, 1921.

Mary E. Freeman to be postmaster at Verona, N. Dak. Office became presidential April 1, 1921.

Henry Walz to be postmaster at Zeeland, N. Dak. Office became presidential April 1, 1921.

OHIO.

Robert H. Brown to be postmaster at Clyde, Ohio, in place of W. T. Mann. Incumbent's commission expired July 21, 1921.

John S. DeJean to be postmaster at Nevada, Ohio, in place of H. E. Kinzly. Incumbent's commission expired July 21, 1921.

Charles S. Ridgley to be postmaster at Chesterhill, Ohio. Office became presidential April 1, 1921.

Elizabeth L. D. Tritt to be postmaster at North Lewisburg, Ohio. Office became presidential January 1, 1921.

OKLAHOMA.

Ray A. Chapman to be postmaster at Healdton, Okla., in place of D. W. Study, removed.

A. C. Whitaker to be postmaster at Pershing, Okla. Office became presidential October 1, 1920.

OREGON.

William H. Weatherson to be postmaster at Florence, Oreg. Office became presidential July 1, 1920.

PENNSYLVANIA.

Louis Wiest to be postmaster at Aspers, Pa. Office became presidential April 1, 1921.

Will F. Cady to be postmaster at Harrison Valley, Pa. Office became presidential July 1, 1921.

David L. Greenawalt to be postmaster at Chambersburg, Pa., in place of William Alexander, removed.

Ervin F. Moyer to be postmaster at Shenandoah, Pa., in place of J. J. Coughlin. Incumbent's commission expired January 31, 1921.

RHODE ISLAND.

George W. Burgess to be postmaster at Pawtucket, R. I., in place of P. J. Heffern. Incumbent's commission expired January 24, 1921.

SOUTH CAROLINA.

James H. McCord to be postmaster at Hodges, S. C. Office became presidential July 1, 1921.

John L. Hames to be postmaster at Lockhart, S. C. Office became presidential April 1, 1920.

Miriam J. Miller to be postmaster at Trenton, S. C. Office became presidential January 1, 1921.

SOUTH DAKOTA.

Bessie A. Drips to be postmaster at Gannvalley, S. Dak. Office became presidential July 1, 1920.

Mary J. Carr to be postmaster at Stratford, S. Dak. Office became presidential January 1, 1921.

TEXAS.

Pearl L. Ward to be postmaster at Roaring Springs, Tex. Office became presidential October 1, 1920.

VERMONT.

Ernest F. Illingsworth to be postmaster at Springfield, Vt., in place of C. W. Locke, removed.

Charles H. Stone to be postmaster at Windsor, Vt., in place of F. H. Clark, resigned.

VIRGINIA.

Benjamin G. Porter to be postmaster at Virginia Beach, Va., in place of R. C. Sawyer, resigned.

Emeline P. Lacy to be postmaster at Scottsburg, Va. Office became presidential January 1, 1921.

WASHINGTON.

Regina E. Blackwood to be postmaster at Bellevue, Wash. Office became presidential January 1, 1921.

WEST VIRGINIA.

George Lafferty to be postmaster at Glen Jean, W. Va. Office became presidential January 1, 1921.

Eli Lusk to be postmaster at Herndon, W. Va. Office became presidential April 1, 1921.

WISCONSIN.

William T. Robertson to be postmaster at Ferryville, Wis. Office became presidential January 1, 1921.

Elizabeth A. Forsyth to be postmaster at Westboro, Wis., in place of E. A. Forsyth. Incumbent's commission expired September 8, 1921.

WYOMING.

Ennis V. Pointer to be postmaster at Osage, Wyo. Office became presidential January 1, 1921.

CONFIRMATIONS.

Executive nominations confirmed by the Senate September 30 (legislative day of September 26), 1921.

UNITED STATES ATTORNEY.

S. E. Murray to be United States attorney, western district of Tennessee.

COMMISSIONER OF EDUCATION FOR PORTO RICO.

Juan B. Huyke to be commissioner of education for Porto Rico.

PROMOTION IN THE NAVY.

John K. Robison to be Engineer in Chief and Chief of the Bureau of Engineering.

POSTMASTERS.

GEORGIA.

Riley C. Milwood, Flowery Branch.
Mary E. Everett, St. Simons Island.

NEW YORK.

Phoebe C. Way, Orient.
Dwight C. Squires, Port Jefferson Station.
Harrington Mills, Upper Saranac.

NORTH CAROLINA.

John M. Pully, La Grange.
Carl McLean, Laurinburg.

SOUTH CAROLINA.

Tully A. Sawyer, Chesnee.

SENATE.

SATURDAY, *October 1, 1921.*

(Legislative day of Monday, September 26, 1921.)

The Senate reassembled at 12 o'clock meridian, on the expiration of the recess.

Mr. PENROSE. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Gooding	McKinley	Spencer
Ball	Hale	McLean	Sterling
Borah	Harreld	Moses	Sutherland
Calder	Harris	Nelson	Swanson
Cameron	Harrison	New	Townsend
Capper	Heflin	Nicholson	Trammell
Caraway	Johnson	Norbeck	Underwood
Culberson	Kellogg	Oddie	Walsh, Mass.
Cummins	Kendrick	Overman	Walsh, Mont.
Curtis	Kenyon	Page	Warren
Dial	King	Penrose	Watson, Ga.
Dillingham	Ladd	Pomerene	Watson, Ind.
Edge	La Follette	Reed	Williams
Ernst	Lenroot	Robinson	Willis
France	Lodge	Sheppard	
Frelinghuysen	McCormick	Simmons	
Gerry	McKellar	Smoot	

Mr. CAMERON. I desire to announce that the junior Senator from California [Mr. SHORTRIDGE] is absent on business of the Senate. I ask that this announcement may stand for the day.

The VICE PRESIDENT. Sixty-five Senators having answered to their names, a quorum is present.

TREATY OF PEACE WITH GERMANY.

Mr. LODGE. Mr. President, under the unanimous-consent agreement I desire to ask if there is any Senator who now wishes to discuss the treaties?

Mr. BORAH. Mr. President, I do not desire to discuss the pending treaty, but I wish to take about two minutes to have read into the RECORD an item with reference to the treaty which I think is of such importance that it should be read. However, I shall not occupy any further time.

Mr. LODGE. It is not necessary to go into open executive session?

Mr. BORAH. Oh, no.

The VICE PRESIDENT. The Secretary will read as requested.

The reading clerk read as follows:

BOYDEN RULING ON BELGIAN DEBT GIVES FRANCE BIG SUM.

[By the Associated Press.]

PARIS, *September 30.*

Roland W. Boyden, American member of the Reparation Commission, ruled to-day that Belgium's debts to the Allies, payable by Germany under the peace treaty, should be made at the rate of exchange for gold marks on armistice day, November 11, 1918. He was asked to make a decision by the allied supreme council as to whether payment should be made at present rates or upon the rate at the time the loans were made.

The Versailles treaty prescribed that Germany should pay in gold marks Belgium's debts to the Allies, these debts having been contracted in pounds and francs.

France, therefore, was deeply interested in the question as to whether the depreciation in the franc as regarded gold would be taken into account in repaying her. Her allies proposed that she receive the same number of francs as she lent Belgium, which would mean the loss of half the money advanced. Under Mr. Boyden's judgment France will receive more than 2,000,000,000 gold marks instead of less than 1,000,000,000, which she would have received had the proposal of her allies been accepted.

Mr. BORAH. As I said to the Senator from Massachusetts, it is not my purpose to discuss the treaty at this time. I only wish to call attention to the fact that if this Associated Press dispatch is correct, it reveals a systematic program of deception to the American people.

Mr. LODGE. Mr. President, I repeat my inquiry whether any Senator desires to discuss the treaty at this time? If there is, under the unanimous-consent agreement, I shall ask the Senate to go into open executive session for that purpose. If no one is ready to go on, then I shall not make the motion, and we can continue the consideration of the tax bill under the provisions of the unanimous-consent agreement.

ADVANCES BY WAR FINANCE CORPORATION TO BANKS.

Mr. DIAL. Mr. President, some misapprehension has arisen in regard to the War Finance Corporation making advances or loans to banks, trust companies, and farm organizations. I desire to insert in the RECORD a ruling of that organization issued the other day. I am informed that they have appointed commissioners in a great many States, possibly in all the States, and that the board is now functioning under the new law known as the Norris or Kellogg Act.

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

[Statement for the press. For release afternoon Sept. 27.]

WAR FINANCE CORPORATION,
September 27, 1921.

Inquiries received by the War Finance Corporation indicate that some national banks are of the opinion that section 5202 of the Revised Statutes prohibits them from receiving advances from the War Finance Corporation if their outstanding bills payable or other obligations representing borrowed money equal the capital stock of the national bank. This is erroneous. Under the law there is no limitation to the amount which the War Finance Corporation may advance to national banks, the matter being controlled by the terms and conditions of the War Finance Corporation act and sound business judgment.

PETITIONS AND MEMORIALS.

Mr. TOWNSEND presented a resolution adopted by the annual session of the Lenawee County Sunday School Association at Morenci, Mich., favoring such limitations of armaments as is consistent with the Christian idea of government, which was referred to the Committee on Foreign Relations.

He also presented resolutions adopted by the boards of directors of the Chambers of Commerce of Escanaba and Iron River, Mich., favoring the completion of the Great Lakes-St. Lawrence waterway for ocean-going vessels, which were referred to the Committee on Commerce.

He also presented a resolution adopted at a meeting of the Retail Merchants of Saginaw, Mich., protesting against the taxes on express shipments, passenger fares, Pullman fares, and other transportation charges, which was ordered to lie on the table.

Mr. BALL presented memorials of sundry citizens of the District of Columbia; Springfield, Ohio; Wilmington, Del.; and St. Louis, Taneyville, Garrison, Nevada, Carthage, Cole Camp, Mansfield, Joplin, Jasper, Horton, Macomb, Cedar County, Grant City, and Parnell, in the State of Missouri, remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which were referred to the Committee on the District of Columbia.

Mr. MYERS presented resolutions adopted by a mass meeting held September 4, 1921, at Butte, Mont., protesting against the United States taking any steps toward the limitation of armaments until all other nations, especially England and Japan have given practical proof of their desire for universal peace and liberty by curtailing armaments, etc., which were referred to the Committee on Foreign Relations.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent the second time, and referred as follows:

By Mr. LODGE:

A bill (S. 2521) granting a pension to Juline B. Tripp (with accompanying papers); to the Committee on Pensions.

A bill (S. 2522) for the relief of Frederick M. Coughlan (with accompanying papers); to the Committee on Claims.

By Mr. NELSON:

A bill (S. 2523) to amend sections 13, 14, 15, 16, 17, and 18, as amended, of the Judicial Code; to the Committee on the Judiciary.

By Mr. BALL:

A bill (S. 2524) to amend the license laws of the District of Columbia; to the Committee on the District of Columbia.

By Mr. TOWNSEND (for Mr. NEWBERRY):

A bill (S. 2525) for the relief of the Federal Motor Truck Co. of Detroit, Mich. (with accompanying paper); to the Committee on Claims.

By Mr. HARRELD:

A bill (S. 2526) for the relief of Leslie C. Brown; to the Committee on Claims.

A bill (S. 2527) to validate certain deeds executed by members of the Five Civilized Tribes, and for other purposes (with an accompanying paper); to the Committee on the Judiciary.

By Mr. CALDER:

A bill (S. 2528) for the relief of Rosen Bros.; to the Committee on Finance.

By Mr. HEFLIN:

A bill (S. 2529) authorizing the President, by and with the consent of the Senate, to appoint Warrant Officer James Devine a captain in the Quartermaster Corps, United States Army, to take rank under section 24a of the act of Congress approved June 4, 1920; to the Committee on Military Affairs.

TAX REVISION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

Mr. KELLOGG and Mr. KING submitted amendments intended to be proposed by them to the bill, which were ordered to lie on the table and to be printed.

Mr. ASHURST. Mr. President, I especially desire the attention of the Senator from Pennsylvania [Mr. PENROSE], chairman of the committee, because I wish to discuss for a few moments a provision on page 33 of the bill, as follows:

Income received by any marital community shall be included in the gross income of the spouse having the management and control of such community property, and shall be taxed as the income of such spouse.

Now, reduced to English language that provision means that if it becomes the law, the law of the States of Arizona, Texas, Louisiana, Idaho, New Mexico, Nevada, and Washington will be overthrown respecting the right to make separate income-tax returns. It means that the Congress, if it shall enact this provision into law, will intend and attempt to overthrow the community-property system which those States I have mentioned have set up and which they enjoy and have always enjoyed since they have been States.

This subject was passed upon by the Attorney General no longer ago than March—March 3 last—by Treasury decision 3138. The question was asked of the Attorney General by the Secretary of the Treasury as to whether in the community-property States where they have the community or ganancial or Spanish system instead of dower or curtesy the husband and wife domiciled therein were permitted and authorized to make separate income-tax returns.

The Attorney General, in a comprehensive opinion, pointed out that the States of Washington, California, Arizona, Idaho, New Mexico, Louisiana, Nevada, and Texas having a community-property system, and having adopted it long prior to the enactment of the income-tax provisions of our Federal statutes, the husband and wife were permitted and authorized to make separate income-tax returns; yet under this provision, if it should be enacted, we should find that the entire income would be treated as belonging to one of the spouses instead of to both.

The community-property States which I have mentioned departed from the common law, believing that the wife had a right to one-half of the property acquired during coverture. If the husband died, the surviving wife did not inherit all the estate but only the one-half which the husband owned, as she already owned and possessed one-half thereof by virtue of her community-property interest; yet if this proposal should be enacted into law we should find that the provision for the income-tax returns would require the property in such case to be treated not as community property but as the separate property of the husband.

I ask unanimous consent to include in the RECORD at this point a copy of the opinion of the Attorney General upon which all of the States that have the community-property system rely and with which they are satisfied. In that way it will be available to Senators on Monday morning when the provision shall be reached for consideration.

The VICE PRESIDENT. Without objection, it will be so ordered.

The opinion referred to is as follows:

(T. D. 3138.)

1. INCOME TAXES—HUSBAND AND WIFE—COMMUNITY PROPERTY.

In Washington, Arizona, Idaho, New Mexico, Louisiana, and Nevada the husband and wife domiciled therein, in rendering separate income-tax returns, may each report as gross income, one-half of the income which under the laws of the respective States becomes, simultaneously with its receipt, community property; this is not based upon any statute enacted subsequent to March 1, 1913, and applies under income-tax acts prior to the revenue act of 1918.

2. ESTATE TAX—HUSBAND AND WIFE—COMMUNITY PROPERTY.

In Washington, Arizona, Idaho, New Mexico, Louisiana, and Nevada there should be included in gross estate, in computing the estate tax of a deceased spouse, one-half only of the community property of husband and wife domiciled therein; this is not based upon any statute enacted subsequent to March 1, 1913, and applies under estate tax acts prior to the revenue act of 1918.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C.

To collectors of internal revenue and others concerned:

There is given below in full for your information and guidance an opinion rendered by the Attorney General under date of February 26, 1921, dealing with the right of husband and wife domiciled in certain States having so-called community property laws to divide certain of their income for the purpose of the income tax and as to the inclusion of community property in the gross estate of a deceased spouse. See, in this connection, Treasury decision No. 3071.

WM. M. WILLIAMS,
Commissioner of Internal Revenue.

Approved March 3, 1921.

D. F. HOUSTON,
Secretary of the Treasury.

Hon. DAVID F. HOUSTON,
Secretary of the Treasury.

DEAR MR. SECRETARY: My opinion has been requested upon the following questions:

1. In which of the States, other than Texas, in which the community property system exists may a husband and wife domiciled therein, in rendering separate income-tax returns, each report as gross income one-half of the income which, under the laws of such State, becomes, simultaneous with its receipt, community property?

2. In which of the States in which the community property system exists should there be included in gross estate, in computing the estate tax of the estate of a deceased spouse, one-half and only one-half of the community property of husband and wife domiciled therein?

3. If your answers to questions 1 and 2 as to any State are based upon a statute enacted subsequent to March 1, 1913, please give the rule as to such State existing from March 1, 1913, to the passage of such statute for my guidance in allowing claims for refund.

4. Do your answers to questions 1 and 2 apply under income and estate acts prior to the revenue act of 1918?

The community property system prevails in Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, and Washington. The application of the income tax act to the income from community property belonging to husband and wife domiciled in Texas was disposed of in my opinion of September 10, 1920.

The significant portions of the Arizona statutes bearing upon the community property system in that State, all of which except article 1100 were enacted prior to 1913, are:

"ART. 3850. All property acquired by either husband or wife during the marriage, except that which is acquired by gift, devise, or descent, or earned by the wife and her minor children while she has lived or may live separate and apart from her husband, shall be deemed the common property of the husband and wife, and during the coverture personal property may be disposed of by the husband only; but husband and wife must join in all deeds and mortgages affecting real estate except unpatented mining claims, which may be conveyed by the husband or wife only, as provided by the laws of this State relating to conveyances: *Provided*, That either husband or wife may convey or mortgage separate property without the other joining in such conveyance or mortgage.

"ART. 1100. Upon the death of the husband, one half of the community property shall go to the surviving wife and the other half is subject to the testamentary disposition of the husband, and in the absence of such disposition goes to his descendants equally, if such descendants are of the same degree of kindred to the decedent, otherwise according to the right of representation, and in the absence of both such distribution and such descendants, is subject to distribution in the same manner as the separate property of the husband. Upon the death of the wife, one half of the community property shall go to the surviving husband and the other half is subject to the testamentary disposition of the wife, and in the absence of such disposition goes to the descendants equally, if such descendants are of the same degree of kindred to the decedent, otherwise according to the right of representation and in the absence of both such distribution and such descendants, is subject to distribution in the same manner as the separate property of the husband.

"ART. 2061. No conveyance, transfer, mortgage, or encumbrance of any real estate which is the common property of husband and wife, or any interest therein, shall be valid unless such conveyance, transfer, mortgage, or encumbrance shall be executed and acknowledged by both the husband and wife. But the provisions of this section shall not apply to unpatented mining claims which may be conveyed, transferred, mortgaged, or encumbered by the one in whose name the title or right of possession of any such mining claim may be without the other joining in such conveyance, transfer, mortgage, or encumbrance.

"ART. 3848. All property, both real and personal, of the husband, owned or claimed by him before marriage and that acquired afterwards by gift, devise, or descent, as also the increase, rents, issues, and profits of the same, shall be his separate property, and all property, both real and personal, of the wife owned or claimed by her before marriage, and that acquired afterwards by gift, devise, or descent, as also the increase, rents, issues, and profits of the same, shall be her separate property."

Prior to 1913 article 1100 read:

"Upon the dissolution of the marriage relation by death all the common property belonging to the community estate of the husband and wife shall go to the survivor if the deceased have no child or children; but if the deceased have a child or children, his survivor shall be entitled to one-half of said property, and the other half shall pass to the child or children."

The Supreme Court of the State of Arizona has held these statutes established in the wife an equal interest with the husband in community property in that State. In the case of La Tourette *v.* La Tourette (15 Ariz., 200 (1914)), the court said, after reviewing the statutes above set forth:

"The law makes no distinction between the husband and wife in respect to the right each has in the community property. It gives the husband no higher or better title than it gives the wife. It recognizes a partial community wherein both are equal. Its policy plainly expressed is to give the wife in this marital community an equal dignity, and make her an equal factor in matrimonial gains.

* * * * * * *

"That the interest of the wife in the community property during the coverture is not a mere possibility—not the expectancy of an heir—is quite apparent. The old saying is not true that community is a partnership which begins only at its end. Upon the dissolution of the community by death, the wife does not inherit her share of the common property, but with the death of the husband the management and control of the statutory agent or trustee ceases. The wife acquires not her share, for that was already hers, but in addition to her share she acquires the right of management, control, and disposition of that share, her status being thereby fixed as that of a feme sole. If there be no child or children of the deceased husband, all of the common property goes to the surviving wife. She has her share in the property, and in addition, by right of survivorship and not as an heir, she acquires the share that belonged to the husband, and she takes all of the property in her own right, and with respect to the management, control, and disposition of such property is reduced to the status of a feme sole and must thenceforward with respect to it act for herself."

The Idaho law provides, article 4656 of the Compiled Statutes of 1919, that all property of the wife owned by her before marriage, and that acquired afterward by gift, bequest, devise, or descent, or that which she shall acquire with the proceeds of her separate property, shall remain her sole and separate property to the extent and with the same effect as the property of her husband similarly acquired.

Article 4659 defines the separate property of the husband to be all property owned by him before marriage, and that acquired by gift, bequest, devise, or descent. Community property is defined as "all other property acquired after marriage by either husband or wife, including the rents and profits of the separate property of the husband and wife * * * unless by the instrument by which any such property is acquired by the wife it is provided that the rents and profits thereof be applied to her sole and separate use, in which case the management and disposal of such rents and profits belong to the wife, and they are not liable for the debts of the husband."

By article 4666 "the husband has the management and control of the community property except the earnings of the wife for the personal services and the rents and profits of her separate estate. But he can not sell, convey, or encumber the community real estate unless the wife join with him in executing and acknowledging the deed or other instrument of conveyance by which the real estate is sold, conveyed, or encumbered."

This section, which was amended in 1915 to read as above, previously and by amendment in 1913 provided:

"The husband has the management and control of the community property, but he shall not sell, convey, or encumber community real estate unless the wife join with him in executing the deed or other instrument of conveyance by which the real estate is sold, conveyed, or encumbered, and such deed or other instrument of conveyance must be acknowledged by him and by his wife."

A new provision of the law of 1915, article 4667, reads:

"The wife has the management and control of the earnings for her personal services and the rents and profits of her separate estate."

On the death of either husband or wife it is provided by article 7803 that—

"One half of all the community property shall go to the survivor, subject to the community debts, and the other half shall be subject to the testamentary disposition of the deceased husband or wife in favor only of his, her, or their children or a parent of either spouse, subject also to the community debts, provided that not more than one-half of the decedent's half of the community property may be left by will to a parent or parents. In case no such testamentary disposition shall have been made by the deceased husband or wife of his or her half of the community property, it shall go to the survivor, subject to the community debts, the family allowance, and the charges and expenses of administration: *Provided, however*, That no administration of the estate of the wife shall be necessary if she dies intestate."

Section 5713, as previously enacted in 1907, provided:

"Upon the death of either husband or wife one half of the community property shall go to the survivor, subject to the community debts, and the other half shall be subject to the testamentary disposition of the deceased husband or wife, subject also to the community debts. In case no testamentary disposition shall have been made by the deceased husband or wife of his or her share of the community property it shall descend equally to the legitimate issue of his, her, or their bodies. If there be no issue of said deceased living, or none of their representatives living, then the said community property shall all pass to the survivor, to the exclusion of collateral heirs, subject to the community debts, the family allowance, and the charges and expenses of administration."

In Ewald *v.* Hufton, 31 Idaho, 373 (173 Pac., 247), decided in 1918, the Supreme Court of Idaho said that under the laws of Idaho no distinction is made between husband and wife as to the degree, quantity, nature, or extent of the interest each has in community property, and held that upon the dissolution of the community by the death of either spouse the survivor becomes tenant in common with the heirs of the deceased member, and the survivor can not convey title to the half belonging to the heirs which descended to them from the deceased spouse. It was therein decided that after the death of the wife a conveyance by the surviving husband conveys title only to his half.

In Kohny *v.* Dunbar, 21 Idaho, 258 (121 Pac., 544), decided in 1912, the Supreme Court of Idaho fully considered the respective interests of husband and wife. This was a case where it was attempted, after the death of the husband, to levy an inheritance tax under the Idaho inheritance tax law upon the wife's half of the community property. The court held that section 5713, Revised Statutes of Idaho, as amended in 1907, in force at the time of the death of Kohny recognized the husband and wife as equal partners in the community estate and authorized each to dispose of his or her half by will, and that the survivor on the death of one spouse merely continued to hold as owner one-half of the community property subject to the payment of community debts, saying:

"This statute clearly and unmistakably provides that the surviving spouse takes his or her half of the community property, not by succession, descent, or inheritance, but as survivor of the marital community or partnership. The same section provides further that in the event there be no issue of the marriage living at the time of the death of one of the spouses and he or she leaves no will or testament, the half of the community property which belonged to the deceased shall go to the survivor as an heir, and, therefore, by descent and under and by virtue of the intestate laws of the State.

* * * * * * *

"Since the interests of both husband and wife are the same and equal in and to the community property, and each takes one-half interest therein by will, it is clear to us that if the wife must pay an inheritance tax on her half of the property upon the death of the husband, that the husband would likewise be obliged to pay an inheritance tax on his half of the property on the death of his wife. The law clearly places them both on an equality in this respect. This illustration, however, accentuates the unreasonableness of the contention, for no one claims that the husband is required to pay such tax on his interest in the community estate.

* * * * * *

"We conclude that upon the death of husband or wife the survivor takes one-half of the property in his or her own right as survivor and is not liable under section 1873 (inheritance tax act) to pay an inheritance tax on such interest in the community estate."

The significant portions of the laws of Louisiana bearing on the questions before us are found in the following articles of the Revised Civil Code:

"ART. 915. In all cases, when either husband or wife shall die, leaving no descendants nor ascendants, and without having disposed by last will and testament of his or her share in the community property, such undisposed of share shall be inherited by the survivor in full ownership.

"ART. 916. In all cases, when the predeceased husband or wife shall have left issue of the marriage with the survivor, and shall not have disposed by last will and testament of his or her share in the community property, the survivor shall hold a usufruct, during his or her natural life, so much of the share of the deceased in such community property as may be inherited by such issue. This usufruct shall cease, however, whenever the survivor shall enter into a second marriage."

Article 915 was amended in 1920 to read as follows:

"When either husband or wife shall die, leaving neither a father nor mother nor descendants, and without having disposed by last will and testament of his or her share of the community property, such undisposed of share shall be inherited by the surviving spouse in full ownership. In the event the deceased leave descendants his or her share in the community shall be inherited by such descendants in the manner provided by law. Should the deceased leave no descendants, but a father and mother (or either), then the share of the deceased in the community estate shall be divided in two equal portions, one of which shall go to the father and mother or the survivor of them, and the other portion shall go to the surviving spouse."

ART. 2332. The partnership, or community of acquests or gains, need not be stipulated; it exists by operation of law in all cases where there is no stipulation to the contrary.

But the parties may modify or limit it; they may even agree that it shall not exist.

"ART. 2334. The property of married persons is divided into separate property and common property.

"Separate property is that which either party brings into the marriage or acquires during the marriage by inheritance or by donation made to him or her particularly.

"Common property is that which is acquired by the husband and wife during marriage in any manner different from that above declared.

"ART. 2385. The paraphernal property, which is not administered by the wife separately and alone, is considered to be under the management of the husband.

"ART. 2386. When the paraphernal property is administered by the husband, or by him and the wife indifferently, the fruits of this property, whether natural, civil, or the result of labor, belong to the conjugal partnership if there exists a community of gains. If there do not, each party enjoys, as he chooses, that which comes to his hands; but the fruits and revenues which are existing at the dissolution of the marriage belong to the owner of the things which produce them.

"ART. 2399. Every marriage contracted in this State superinduces of right partnership or community of acquests or gains if there be no stipulation to the contrary.

"ART. 2402. The partnership or community consists of the profits of all the effects of which the husband has the administration and enjoyment, either of right or in fact, of the produce of the reciprocal industry and labor of both husband and wife, and of the estates which they may acquire during the marriage, either by donations made jointly to them both or by purchase, or in any other similar way, even although the purchase be only in the name of the two and not of both, because in that case the period of time when the purchase is made is alone attended to and not the person who made the purchase.

"ART. 2404. The husband is the head and master of the partnership or community of gains; he administers its effects, disposes of the revenues which they produce, and may alienate them by an onerous title without the consent and permission of his wife.

"He can make no conveyance inter vivos, by a gratuitous title, of the immovables of the community, nor of the whole, or of a quota of the movables, unless it be for the establishment of the children of the marriage.

"Nevertheless he may dispose of the movable effects by a gratuitous and particular title to the benefit of all persons.

"But if it should be proved that the husband has sold the common property, or otherwise disposed of the same by fraud, to injure his wife, she may have her action against the heirs of her husband, in support of her claim in one-half of the property, on her satisfactorily proving the fraud.

"ART. 2406. The effects which compose the partnership or community of gains are divided into two equal portions between the husband and the wife, or between their heirs, at the dissolution of the marriage; and it is the same with respect to the profits arising from the effects which both husband and wife brought reciprocally in marriage, and which have been administered by the husband, or by husband and wife conjointly, although what has been thus brought in marriage by either the husband or the wife be more considerable than what has been brought by the other, or even although one of the two did not bring anything at all."

These statutes were all enacted prior to 1913 except article 915, which was amended in 1916 and again in 1920. The later amendments provide for the succession of the deceased spouse's half of the community property when such spouse dies without disposition of such interest by will.

Up to 1907, with a few exceptions, the courts of Louisiana appear to have generally adhered to the view that the wife's interest in the community property is that of an expectant heir, and that she has no vested interest therein until the dissolution of the community. But in the succession of Marsal (118 La. 211, 1907), it was held that the wife did not take either her one-half of the community property nor the usufruct of her husband's one-half as heir (art. 916), and that she was not therefore compelled to pay an inheritance tax on either under the inheritance tax law of Louisiana, saying:

"It is true that the right of usufruct which is vested in the surviving spouse is defensible at the will of the deceased, but it is nevertheless a right conferred by the law, which enters into and forms a part of the marriage contract, and of which the survivor can be deprived by no one save the deceased spouse, and it seems to us hardly correct to say that the surviving spouse necessarily takes the usufruct by inheritance from the deceased, because the latter has not made a testamentary disposition to the contrary."

In the succession of May (120 La. 601, 1908) it was held, on the other hand, that where a deceased wife had by will bequeathed her one-half interest in the community property to her husband, the husband must pay an inheritance tax on such share after community debts had been deducted from the whole.

The principle that the rights of husband and wife in the partnership's gains grow out of the marriage contract and do not originate at its dissolution was expounded by the court in Dixon *v.* Dixon's Executors (4 La., 188 (1831)), where it was said that the wife has rights in the acquest before the husband dies and that the objection confounds the power of the husband to defeat the wife's rights with the existence of such rights.

In Beck *v.* Natalie Oil Co. (143 La., 154 (1918)) the court said:

"The property involved in this suit was acquired by the father of plaintiffs while the community of acquest and gains existed between him and the mother of the plaintiffs, and the mother of the plaintiffs, as partner in community, became owner of one-half of it. This half the plaintiffs inherited from their mother, subject to the payment of the debts of the community."

In New Mexico the following statutes, enacted in 1907 or prior thereto, define the respective rights of husband and wife in that State:

"SEC. 2757. All property of the wife owned by her before marriage and that acquired afterwards by gift, bequest, devise, or descent, with the rents, issues, and profits thereof, is her separate property. The wife may, without the consent of her husband, convey her separate property.

"SEC. 2758. All property owned by the husband before marriage and that acquired afterwards by gift, bequest, devise, or descent, with the rents, issues, and profits thereof, is his separate property.

"SEC. 2764. All other property acquired after marriage by either husband or wife, or both, is community property; but whenever any property is conveyed to a married woman by an instrument in writing the presumption is that title is thereby vested in her as her separate property. And if the conveyance be to such married woman and to her husband, or to her and any other person, the presumption is that the married woman takes the part conveyed to her as tenant in common unless a different intention is expressed in the instrument, and the presumption in this section mentioned is conclusive in favor of a purchaser or incumbrancer in good faith and for a valuable consideration. And in cases where married women have conveyed or shall hereafter convey real property which they acquired prior to March 18, 1907, the husband, or their heirs or assigns, of such married woman may be barred from commencing or maintaining any action to show that said real property was community property, or to recover said real property, as follows, as to conveyances hereafter made from and after one year from the filing for record in the country clerk's office of such conveyances, respectively.

"SEC. 2766. The husband has the management and control of the community property, with the like absolute power of disposition, other than testamentary, as he has of his separate estate: *Provided, however,* That he can not make a gift of such community property or convey the same without a valuable consideration, unless the wife in writing consent thereto: *And provided also,* That no sale, conveyance, or incumbrance of the homestead which is then and there occupied and used as a home by the husband and wife or which has been declared to be such by a written instrument signed and acknowledged by the husband and wife and recorded in the county clerk's office of the county, and furniture, furnishings, and fittings of the home, or of the clothing and wearing apparel of the wife or minor children, which is community property shall be made without the written consent of the wife.

"SEC. 2767. Whenever the husband is non compos mentis or has been convicted of a felony and sentenced to imprisonment for a period of more than one year or has abandoned his wife and family, and left her and his family, if they have children, without support or is an habitual drunkard or for any other reason is incapacitated to manage and administer the community property the wife may present a petition duly verified to the district court of the county wherein any of the community property is located or situated, stating the name of her husband, a description of all community property, both real and personal, and the facts which render him incapacitated to manage and administer the community property and praying that she be substituted for her husband as the head of said community, with the same power of managing, administering, and disposing of the community property as is vested in the husband by this chapter.

"SEC. 2770. Upon the hearing of the petition so filed by the wife the court shall render judgment therein, either dismissing said petition or adjudging the wife thereafter to be the head of said community, with full power of managing, administering, and disposing of the community property, either real or personal, with such limitation therein as to the court may appear to be in furtherance of justice.

"SEC. 2774. Whenever husband and wife shall have permanently separated and no longer live or cohabit together as husband and wife, either may institute suit in the district court for a division of property, or for the disposition of the children, without waiting for or obtaining in said suit a dissolution of the bonds of matrimony; * * *.

"SEC. 2781. The failure to divide the property on divorce shall not affect the property rights of either the husband or wife; either may subsequently institute and prosecute a suit for division and distribution thereof, or with reference to any other matter pertaining thereto which could have been litigated in the original suit for divorce.

"SEC. 1840. Upon the death of the wife the entire community property, without administration, belongs to the surviving husband, except such portion thereof as may have been set apart to her by a judicial decree for her support and maintenance, which portion is subject to her testamentary disposition, and in the absence of such disposition goes to her descendants, or heirs, exclusive of her husband.

"SEC. 1841. Upon the death of the husband one half of the community property goes to the surviving wife and the other half is subject to the testamentary disposition of the husband, and in the absence of such disposition goes one-fourth to the surviving wife and the remainder in equal shares to the children of the decedent and further as

provided by law. In the case of the dissolution of the community by the death of the husband the entire community property is equally subject to his debts, the family allowance, and the charge and expenses of administration."

Section 2766 was amended in 1915 to read as follows:

"The husband has the management and control of the personal property of the community, and during coverture the husband shall have the sole power of disposition of the personal property of the community other than testamentary, as he has of his separate estate; but the husband and wife must join in all deeds and mortgages affecting real estate: *Provided*, That either husband or wife may convey or mortgage separate property without the other joining in such conveyance or mortgage: *And provided further*, That any transfer or conveyance attempted to be made of the real property of the community by either husband or wife alone shall be void and of no effect."

In the recent case of Beals v. Ares (185 Pac., 780, 1919) the Supreme Court of New Mexico carefully reviewed the history of the community-property system in New Mexico, arriving at the following conclusions:

(1) That under the law in this jurisdiction the wife's interest in the community property is equal with that of the husband; that, while he is by statute made the agent of the community and given dominion and control over the community property during the continuance of the marriage relation, his interest in the property by reason of such fact is not superior to that of his wife.

(2) That the wife does not forfeit her interest in the community property by the commission of adultery.

(3) That there is no statute in this State conferring upon the district court the power to divide the community property between the parties at its discretion; that, while it has power to divide the property, this power does not extend further than to set apart to each of the spouses their undivided half interest in the property.

(4) That the district courts have the power in all cases to set apart such portion of the community property or of the property of the respective spouses as in its discretion may be necessary for the proper support, care, and maintenance of the children born as a result of the marriage.

The conclusion of the court that the interest of husband and wife in community property are equal is based upon the provisions of sections 2774 and 2781. The former, the court says, "clearly recognizes an existing, present interest in the wife during the existence of the matrimonial status. * * * Section 7481 recognizes that this interest continues even after divorce, where the property is not divided by the decree in the divorce case. Now, if she had no interest in the property during the existence of the community, but simply an expectancy which would ripen into an interest only upon the death of the husband, and which expectancy continued only during the existence of the marital status, this expectant interest would be cut off by the divorce decree. * * *

"* * * The sections referred to clearly recognize a present interest in the wife, and the whole act shows that she was an equal partner with her husband in the matrimonial gains. He was constituted by section 16, chapter 37, laws of 1907, as the agent or manager of the community property, but this did not vest him with the larger or superior interest in the property upon division."

In Nevada the relative rights of husband and wife in community property are defined in the following sections of the Revised Laws of that State:

"SEC. 2155. All property of the wife owned by her before marriage, and that acquired by her afterwards by gift, bequest, devise, or descent, with the rents, issues, and profits thereof, is her separate property; and all property of her husband owned by him before marriage, and that acquired by him afterwards by gift, bequest, devise, or descent, with the rents, issues, and profits thereof, is his separate property.

"SEC. 2156. All other property acquired after marriage by either husband or wife, or both, except as provided by sections 14 and 15 of this act, is community property.

"SEC. 2160. The husband shall have the entire management and control of the community property, with the like absolute power of disposition thereof, except as hereinafter provided, as of his own separate estate: *Provided*, That no deed of conveyance or mortgage of a homestead as now defined by law, regardless of whether a declaration thereof has been filed or not, shall be valid for any purpose whatever unless both the husband and wife execute and acknowledge the same as now provided by law for the conveyance of real estate: *Provided further*, That the wife shall have the entire management and control of the earnings and accumulations of herself and her minor children living with her, with the like absolute power of disposition thereof, when said earnings and accumulations are used for the care and maintenance of the family.

"SEC. 2164. Upon the death of the wife the entire community property belongs, without administration, to the surviving husband, except that in case the husband shall have abandoned his wife and lived separate and apart from her without such cause as would have entitled him to a divorce, the half of the community property subject to the payment of its equal share of the debts, chargeable to the estate owned in community by the husband and wife, is at her testamentary disposition in the same manner as her separate property, and in the absence of such disposition goes to her descendants equally, if such descendants are in the same degree of kindred to the descendant; otherwise, according to the right of representation; and in the absence of both such disposition and such descendants goes to her other heirs at law, exclusive of her husband.

"SEC. 2165. Upon the death of the husband one-half of the community property goes to the surviving wife and the other half is subject to the testamentary disposition of the husband, and in the absence of such disposition goes to his surviving children equally; and in the absence of both such disposition and surviving children, the entire community property belongs without administration to the surviving wife, except as hereinafter provided, subject, however, to all debts contracted by the husband during his life that were not barred by the statute of limitations at the time of his death: *Provided, however*, That the homestead set apart by the husband and wife, or either of them, before his death, and such other property as may be exempt by law from execution or forced sale, shall be set apart for the use of the widow and minor heirs, and if no minor heirs, for the use of the widow. In case of the dissolution of the community by the death of the husband, the entire community property is equally subject to his debts, the family allowance, and charges and expenses of administration: *Provided, however*, That if in the absence of said testamentary disposition the surviving wife and children, and in the absence of such children the wife, shall pay or cause to be paid all indebtedness legally due from said estate, or secure the payment of the same to the satisfaction of the creditors of said estate, then and in such case the said community property shall not be subject to administration."

Section 2166 provides that on dissolution of the marriage on divorce the community property must be equally divided between the parties, except that in case of divorce for adultery or extreme cruelty the guilty party is entitled to only so much thereof as the court may allow. All of the above sections, except 2160, which was amended in 1917, were enacted prior to 1913.

One of the most recent and comprehensive decisions of the Supreme Court of Nevada, interpreting the above statutes and defining the interests of husband and wife in community property is In re Williams, 40 Nev., 241, rendered in 1916. In that case it was sought to collect a tax under the Nevada inheritance tax act of 1913 on the one-half of the community property which passed to the wife on the death of the husband. But the court, after a careful review of the decisions and the constitution of the State, which provided in section 31 of article 4 that "laws shall be passed more clearly defining the rights of the wife in relation as well to her separate property as to that held in common with her husband," said:

"It may, we think, be asserted, supported by the great weight of authority, that the interest of the wife in the community property and her title thereto is no less than that held by the husband, and this interest and title in the wife is not to be regarded as a mere expectancy.

"Concluding, as we do, that the wife's interest in the community property goes to her not by succession or inheritance but rather by a right vested in her at all times during marriage, it follows that it is not subject to the law of inheritance tax."

The respective rights of the husband and wife in the community property of the State of Washington are defined by the following sections of Pierce's Washington Code of 1919, all of which were enacted prior to 1913:

"SEC. 1424. The property and pecuniary rights of every married woman at the time of her marriage or afterwards acquired by gift, devise, or inheritance, with the rents, issue, profits thereof, shall not be subject to the debts or contracts of her husband, and she may manage, lease, sell, convey, encumber, or devise by will such property to the same extent and in the same manner that her husband can property belonging to him.

"SEC. 1428. A wife may receive the wages of her personal labor and maintain an action therefor in her own name and hold the same in her own right, and she may prosecute and defend all action at law for the preservation and protection of her rights and property as if unmarried.

"SEC. 1432. Property and pecuniary rights owned by the husband before marriage and that acquired by him afterwards by gift, bequest, devise, or descent, with the rents, issues, and profits thereof, shall not be subject to the debts or contracts of his wife, and he may manage, lease, sell, convey, encumber, or devise by will such property without the wife joining in such management, alienation, or encumbrance as fully and to the same effect as though he were unmarried.

"SEC. 1433. Property not acquired or owned, as prescribed in sections 2400 and 2408 acquired after marriage by either husband or wife or both, is community property. The husband shall have the management and control of community personal property, with a like power of disposition as he has of his separate personal property, except he shall not devise by will more than one-half thereof.

"SEC. 1434. The husband has the management and control of the community real property, but he shall not sell, convey, or encumber the community real estate unless the wife join with him in executing the deed or other instrument of conveyance by which the real estate is sold, conveyed, or encumbered, and such deed or other instrument of conveyance must be acknowledged by him and his wife: *Provided, however*, That all such community real estate shall be subject to the liens of mechanics and others for labor and materials furnished in erecting structures and improvements thereon as provided by law in other cases, and to liens of judgments recovered for community debts and to sale on execution issued thereon.

"SEC. 1435. Upon the death of either husband or wife, one half of the community property shall go to the survivor, subject to the community debts, and the other half shall be subject to his testamentary disposition of the deceased husband or wife, subject also to the community debts.

"SEC. 1436. In case no testamentary disposition shall have been made by the deceased husband or wife of his or her half of the community property it shall descend equally to the legitimate issue of his, her, or their bodies. If there be no issue of said deceased living or none of their representatives living, then the said community property shall all pass to the survivor, to the exclusion of collateral heirs, subject to the community debts, the family allowance, and the charges and expenses of administration."

It appears to be the setted law of that State that the wife has, during coverture, as well as upon the dissolution of the marriage, a vested and definite interest and title in community property, equal in all respects to the interest and title of her husband therein. Leading cases are:

Holyoke *v.* Jackson, 3 Wash. T. 235; Mable *v.* Whittaker, 39 Pac. 172; Marston *v.* Rue, 92 Wash. 129 (159 Pac. 111); Schramm *v.* Steele, 166 Pac. 634 (97 Wash. 309); Huyvaerts *v.* Roedtz, 178 Pac. 801.

The statutes of California defining the relative property rights of husband and wife are found in the following sections of the Civil Code:

"SEC. 162. All property of the wife, owned by her before marriage, and that acquired afterwards by gift, bequest, devise, or descent, with the rents, issues, and profits thereof, is her separate property. The wife may, without the consent of her husband, convey her separate property.

"SEC. 163. All property owned by the husband before marriage, and that acquired afterwards by gift, bequest, devise, or descent, with the rents, issues, and profits thereof, is his separate property.

"SEC. 164. All other property acquired after marriage by either husband or wife, or both, including real property situated in this State, and personal property wherever situated, acquired while domiciled elsewhere, which would not have been the separate property of either if acquired while domiciled in this State, is community property; but wherever any property is conveyed to a married woman by an instrument in writing, the presumption is that the title is thereby vested in her as her separate property. And in case the conveyance is to such married woman and to her husband, or to her and any other person, the presumption is that the married woman takes the part conveyed to her, as tenant in common, unless a different intention is expressed in the instrument, and the presumption in this section mentioned is conclusive in favor of a purchaser or encumbrancer in good faith and for a valuable consideration. And in cases where married women have conveyed, or shall hereafter convey, real property which they acquired

prior to May 19, 1889, the husband, or their heirs or assigns, of such married women, shall be barred from commencing or maintaining any action to show that said real property was community property, or to recover said real property, as follows: As to conveyances heretofore made, from and after one year from the date of the taking effect of this act; and as to conveyances hereafter made, from and after one year from the filing for record in the record's office of such conveyances, respectively.

"SEC. 172. The husband has the management and control of the community personal property, with like absolute power of disposition, other than testamentary, as he has of his separate estate: *Provided, however*, That he can not make a gift of such community personal property or dispose of the same without a valuable consideration, or sell, convey, or encumber the furniture, furnishings or fittings of the home, or the clothing or wearing apparel of the wife or minor children that is community, without the written consent of the wife.

"SEC. 172a. The husband has the management and control of the community real property, but the wife must join with him in executing any instrument by which such community real property or any interest therein is leased for a longer period than one year, or is sold, conveyed, or encumbered: *Provided, however*, That the sole lease, contract, mortgage, or deed of the husband holding the record title to community real property, to a lessee, purchaser, or encumbrancer, in good faith without knowledge of the marriage relation shall be presumed to be valid; but no action to avoid such instrument shall be commenced after the expiration of one year from the filing for record of such instrument in the recorder's office in the county in which the land is situate.

"SEC. 1401. Upon the death of the wife, the entire community property, without administration, belongs to the surviving husband, except such portion thereof as may have been set apart to her by judicial decree, for her support and maintenance, which portion is subject to her testamentary disposition, and in the absence of such disposition goes to her descendants or heirs, exclusive of her husband.

"SEC. 1402. Upon the death of the husband, one-half of the community property goes to the surviving wife, and the other half is subject to the testamentary disposition of the husband, and in the absence of such disposition, goes to his descendants, equally, if such descendants are in the same degree of kindred to the decedent; otherwise, according to the right of representation, and in the absence of both such disposition and such descendants, is subject to distribution in the same manner as the separate property of the husband. In case of the dissolution of the community by the death of the husband the entire community property is equally subject to his debts, the family allowance, and the charges and expenses of administration."

Sections 164 and 172 were amended to read as above in 1917, and 172a was then added. The changes in section 164 then made are underlined. Prior to 1917 section 172 applied to all the community property and was amended only by the insertion of the word "personal." Section 172a imposes a limitation upon the power of the husband to alienate community real property.

While the statutes of California are in some respects similar to the community property laws of the other community property States, the rule established by the highest courts of that State is that during coverture the wife has no vested interest in the community property, her interest therein being a mere expectancy.

In Spreckles *v.* Spreckles (116 Calif., 339, 1897), the supreme court of that State held that prior to the amendment of 1891 to section 172 of the Civil Code, forbidding the husband to give away community property without consent of the wife in writing, the code vested in the husband all the elements of absolute ownership of the community property; that the wife's interest was a mere expectancy, and as to all the world except the wife there was, prior to that amendment, no distinction between the community estate and the separate estate of the husband; and that the amendment could not be construed retroactively so as to deprive the husband of his vested right to dispose by gift of community property acquired prior to the amendment without the consent of the wife.

In 1905 California passed an inheritance tax law, and subsequently the question was raised whether a widow should be compelled to pay such tax on that one-half of the community property that she took on the death of her husband. In the Estate of Moffit (153 Calif., 359, 1906), the Supreme Court of California held that she did, since she had no vested interest in the community estate and took her one-half on the death of her husband as his heir.

This case was taken to the Supreme Court of the United States (Moffit *v.* Kelly, 218 U. S., 400), where the judgment of the lower court was affirmed, the court laying down the rule that the nature and character of the right of the wife in community property for the purpose of taxation is a peculiarly local question and the determination of the State court in regard thereto is not reviewable by the Supreme Court, and further that the law of California of 1905 taxing all property passing by will or intestacy having been construed by the highest court of that State as applying to the wife's share of the community property, such tax is not in conflict with the contract, due process, or equal protection clauses of the Constitution.

Subsequently the inheritance tax law of California was amended to provide "that for the purpose of this act" the one-half of the community property which goes to the surviving wife on the death of her husband, under the provisions of section 1402 of the Civil Code, "shall not be deemed to pass to her as heir to her husband, but shall for the purpose of this act be deemed to go, pass, or be transferred to her for valuable and adequate consideration."

It is obvious that this language does not change the rule of community property in the State nor vest in the wife any interest thereto prior to the dissolution of the community, rather it emphasizes the existing rule that the wife has no vested interest in community property.

As to the effect of section 172a of the Civil Code, enacted in 1917, it is not to be presumed that the legislature intended by the enactment of same to make so revolutionary a change in the existing rule of property in California as to divest the husband of his ownership in the community property. As was said in Spreckles *v.* Spreckles, supra, "If a husband can not make a valid transfer of the property for the purpose of depriving his wife of it, that does not show a vested right in her"; and giving the fullest possible effect to the language, unless the wife had a vested interest by virtue of the law as it theretofore existed, which it must be conceded she did not, the operation of the amendment would necessarily be confined to community property acquired after May 23, 1917.

SUMMARY.

Summarizing, it appears that in all of the community property States except California their own courts have held that the wife has, during the existence of the marriage relation, a vested interest in one-half of the community property. Her rights in the property of the community are perhaps most fully recognized in the State of Washington, where both spouses have testamentary disposition over one-half of the community property, and where in the absence of such disposition it descends to their issue, or, in the absence of issue, to the survivor; while the husband is manager of the community estate in Washington he may not sell, convey, or encumber real estate unless the wife join with him in the conveyance; and, as was held in Huyvaerts *v.* Roedtz, ante, and Schram *v.* Steels, ante, the separate debt of the husband can not be satisfied out of community property where it is not incurred in connection with the community business nor for the benefit of the community.

In Idaho it is seen that the limitation upon the alienation of the community real property is the same as in Washington. But while the wife's earnings and the rents and profits of her separate estate are community property she is given the management and control of same. The Idaho rule governing the disposition of community property on the death of either spouse is, with minor variations, the same as that of Washington. In neither State is an inheritance tax payable on the one-half of the community estate that goes to the one spouse on the death of the other.

In Arizona the husband only may dispose of community personal property, but the wife must join him in deeds or mortgages affecting real estate, except unpatented mining claims. One-half of the community property is subject to the testamentary disposition of either spouse and in absence of such disposition goes to his or her descendants; where there is neither testamentary disposition nor descendants, it is subject to distribution in the same manner as the separate property of the husband. On decree of divorce the court may divide the property as he sees fit, but in the absence of provision for the community property the parties from the date of the decree hold as tenants in common. The courts of Arizona hold that the wife is equal owner with her husband.

In Nevada the husband has the entire management and control of the community property, except that the wife has entire control of her earnings when living separate from her husband. Upon her death the husband takes the whole community estate, except that where he has abandoned her without good cause she may by will dispose of half and in absence of such disposition it goes to her heirs, exclusive of her husband. On the death of the husband the wife takes half and the husband may dispose of the other half by will, or it goes to his surviving children; if there is no will and no children survive, the whole goes to the wife without administration, subject to certain provisos. On dissolution of community by divorce for any other ground than adultery or extreme cruelty, the community property must be equally divided between the parties. The wife pays no inheritance tax under the inheritance tax law of Nevada on her interest in community property, the courts holding that she takes not as heir but by a right vested in her at all times during marriage. It is to be noted that the constitution of Nevada recognizes the wife's interest in community property.

In New Mexico while the husband is manager of the community estate he may not transfer real property without a valuable consideration without the written consent of his wife; and under certain circumstances the wife may be substituted as manager; prior to 1915 he could not transfer community personal property except for a valuable consideration without her written consent; on dissolution of the community by the death of the wife the husband takes all except such portion as may have been set aside to the wife by judicial decree, which portion goes to her heirs unless she has disposed of same by will; on death of the husband one half goes to the wife and the other half is subject to testamentary disposition by the husband. If he makes no will one-fourth of his one-half goes to the wife and the remainder to the children. On separation either may petition for division of community property and after divorce continue to hold as tenants in common where no disposition has been made in the divorce decree. New Mexico has no State inheritance tax act.

In Louisiana the community property comprehends all property acquired during the marriage by either husband or wife except that acquired with separate funds or by inheritance or particular donation and excepting the earnings of the wife when she is living separate from her husband; the husband is manager of the community, but he may not convey community immovables by gratuitous title, and can not dispose of movables in fraud of the wife; either spouse may dispose of one-half the community property by will, and the laws governing the descent of such property in the absence of testamentary disposition apply equally to both spouses, the survivor taking the deceased spouse's half by inheritance when there is no will and neither father, mother, or descendants. As heretofore stated the survivor pays no inheritance tax on his or her one-half of the community property but does pay on that part inherited from the deceased spouse.

In California the wife has no power of testamentary disposition of community property except of such as may have been set aside to her by judicial decree; she takes one-half as heir on the death of the husband, but on the death of the wife the entire community property belongs to the husband without administration. The California courts have held that under the law as it stood prior to 1917 the wife had no vested interest in community property prior to the dissolution of the marriage; the amendment to the inheritance tax act being limited to the purposes of that act could not have had the effect of vesting an interest in her, and had the addition of section 172a had that effect any amendment of the inheritance tax act would have been unnecessary to exempt her one-half from taxation thereunder. In the case of Blum against Wardell, now pending before the circuit court of appeals of the ninth circuit, on appeal from the district court of the northern district of California, the application of the Federal estate tax act of 1916 is under consideration.

As appears from my opinion of September 10, 1920, in Texas the control of community property is divided between the husband and wife; in that State on the death of either spouse without issue the survivor takes the whole, and where there is issue takes one half, the other half going to said issue or their descendants. Under the State inheritance tax law the wife pays no tax on her half of the community property.

In Warburton *v.* White (176 U. S., 484, 496) the principle was enunciated that where State decisions have interpreted State laws governing property or controlling relations that are essentially of a domestic and State nature the United States Supreme Court will follow the State decisions, if possible to do so, in the discharge of its duties. Also in De Vaughn *v.* Hutchinson (165 U. S., 566, 570) it was held that to the law of the State in which property is situated we must look for the rules which govern its descent, alienation, and transfer, and for the effect and construction of wills and other conveyances. In United States *v.* Crosby (7 Cranch, 115) it was

held that the title to land can be acquired and lost only in the manner prescribed by law of the place where same is situated.

In arriving at an answer to the questions propounded by you we are called upon to determine the rules of property in the community property States; we have therefore, pursuant to the rules of the above cases, adopted the rules laid down by the highest courts of the various States. There remains to be determined the application thereto of the income and estate tax provisions of Federal statutes. In my previous opinion it was stated that since in Texas the ownership in one-half of all community property vests in each spouse, whatever is income to the community is income to both. This conclusion applies, therefore, to all States in which community property is held to be vested equally in both spouses.

Section 201 of the revenue act of 1916 and section 401 of that of 1918 impose a tax "upon the transfer of the net estate of every decedent" dying after the passage thereof, to be determined as is set forth in the sections following, which are:

Revenue act of 1918:

"SEC. 402. That the value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated—

"(a) To the extent of the interest therein of the decedent at the time of his death, which after his death is subject to the payment of the charges against his estate and the expenses of its administration and is subject to distribution as part of his estate.

* * * * * * *

"(d) To the extent of the interest therein held jointly or as tenants in the entirety by the decedent and any other person or deposited in banks or other institutions in their joint names and payable to either or the survivor, except such part thereof as may be shown to have originally belonged to such other person and never to have belonged to the decedent."

Subdivisions (a) and (c) of section 202 of the revenue act of 1916 are identical with subdivisions (a) and (d) of section 402 of the revenue act of 1918, quoted above.

While the community estate of husband and wife has not in the strictest sense all the incidents of a joint estate or an estate in the entirety as they were known at common law, I am convinced that the community estate is for all practical purposes within the language of subdivision (d) of section 402, there being deductible therefrom in arriving at the net estate of decedent the one-half interest of the surviving spouse, which may be shown to have originally belonged to such person, and never to have belonged to the decedent.

And even though it should be held that the community estate is not a "joint estate" or an "estate in the entirety" within the meaning of the revenue acts, the one-half interest of the deceased spouse in community property would still be subject to tax under the language of subdivision (a) above.

My answers to your questions are therefore:

(1) That in Washington, Arizona, Idaho, New Mexico, Louisiana, and Nevada the husband and wife domiciled therein, in rendering separate income-tax returns, may each report as gross income one-half of the income which under the laws of the respective States becomes, simultaneously with its receipt, community property.

(2) In the States mentioned in answer to question 1 there should be included in gross estate, in computing the estate tax of a deceased spouse, one-half only of the community property of husband and wife domiciled therein.

(3) Neither of the above answers is based upon a statute enacted subsequent to March 1, 1913.

(4) My answers to these questions apply under income and estate tax acts prior to the revenue act of 1918.

Respectfully,

A. MITCHELL PALMER,
Attorney General.

Mr. PENROSE and Mr. BORAH addressed the Chair.

Mr. ASHURST. I yield first to the Senator from Pennsylvania.

Mr. PENROSE. The Senator from Arizona has addressed an inquiry to me, I believe. I merely wish to say that this matter was very thoroughly and carefully considered in the committee and is fully understood by the committee. The opinion of the Attorney General to which the Senator refers is familiar to the members of the committee. The provision of the bill as reported to the Senate simply proposes to place the so-called community property States on an equality with the other States of the Union from the point of view of taxation. There is no reason why the so-called marital community system in Arizona should have a preference in connection with taxation in this relation over Pennsylvania or New York. Certainly all parts of the country ought to be similarly treated. It is for that purpose the proposed law was framed as it is found in the bill. Still, of course, if the Senator from Arizona wishes to discuss the matter in open session, that is entirely within his privilege. The committee, however, I think, was unanimous as to this portion of the bill.

Mr. BORAH. Mr. President——

Mr. ASHURST. I yield to the Senator from Idaho, who rose immediately after the Senator from Pennsylvania.

Mr. BORAH. I do not know whether there is any Member on the Committee on Finance who represents a State where the system of law referred to by the Senator from Arizona [Mr. ASHURST] prevails.

Mr. PENROSE. No; there is not; but the members of the committee are very familiar with the law.

Mr. BORAH. It occurred to me that the committee, perhaps, while familiar with the law in a general way, might not have been familiar with its operation as a practical proposition. For that reason I thought we ought to present the matter to the Senate; and, after discussing the matter yesterday with the Senator from Arizona, we felt that we ought at least to call the attention of the Senate to it.

Mr. PENROSE. Mr. President, I think it will be well, of course, to discuss the subject thoroughly. I merely thought that I ought to inform the Senator from Arizona that the committee had considered the matter carefully, and, according to my recollection, had acted unanimously in reporting the provision; but, of course, discussion is to be invited and will be illuminating. I hope the Senator will further explain the question on Monday.

Mr. ASHURST. Mr. President, I am glad to have the announcement of the Senator from Pennsylvania that the Committee on Finance have considered this subject carefully. In view of the reckless disregard of the statutes of eight States, one of which States has had this community-property statute over 100 years, for 112 years, and in view of the fact that those statutes are attempted to be repealed and disregarded, it is refreshing now to have the assurance that the subject was carefully considered, for I had feared that there had been very little consideration accorded to it.

Mr. POMERENE. Mr. President——

The VICE PRESIDENT. Does the Senator from Arizona yield to the Senator from Ohio?

Mr. ASHURST. I yield.

Mr. POMERENE. I was engaged at the time the Senator from Arizona was making a part of his statement, and I now wish to inquire whether he named the States where the community-property system prevails?

Mr. ASHURST. If I do not wear the patience of the Senator from Pennsylvania [Mr. PENROSE], I shall further briefly discuss the matter, because I desire the facts to be before Senators when they vote upon this question. I have already secured permission to put into the RECORD a copy of the opinion of the Attorney General relative to the subject. However, I do not like to occupy the attitude of asking Senators to read what I say, but I do ask them to read the opinion of the Attorney General.

As we all know, most of the States—indeed, all of them but the eight to which I have referred—have the common-law system of property; that the wife has the right of dower and the husband of tenancy by curtesy.

Mr. TOWNSEND. I ask the Senator to what provision of the bill he is now directing his attention?

Mr. ASHURST. I am now addressing my remarks to the language on page 33, commencing with the word "Income," in line 5, and going down to and including the word "spouse," in line 9. I will read a brief extract from Ballinger on "Community Property," page 31:

The American system—Origin of. The conquest of Mexico by the Spaniards and their acquisition of the Florida territory resulted in the introduction on American soil of the Spanish ganancial system. Louisiana was originally a French colony, but was afterwards ceded to Spain, when the Spanish law was introduced, but again reverted to the French, and from them was acquired by the United States. The confusion of laws resulting from these numerous changes caused the adoption of a code in 1806–1808, which did not supersede the ancient laws except when in conflict therewith. A further revision was made in 1822 and adopted in 1824.

The code of Louisiana has, with slight modifications, adopted the "dotal system" of the code Napoleon as regards the separate property rights of the spouses, but as to their common property it retained the essential features of the Spanish ganancial system, as will be seen by reference to the Appendix.

Texas and California being originally a part of the territory of Mexico, before their acquisition by the United States possessed the community system of Spain and Mexico, but on the adoption of their constitutions it was provided that all property, both real and personal, of the wife, owned or claimed by her before marriage, and that acquired afterwards by gift, devise, or descent, shall be her separate property, and laws were required to be passed more clearly defining her rights therein. These provisions had the effect to render inoperative the dotal system of the Spanish law in those States, and their legislatures, in conformity with this provision of the organic law, gave the wife substantially the right of a femme sole in all her separate property; hence it is apparent that the dote and arras of the Mexican law could serve no useful purpose under a status which so fully emancipated the wife as to her property rights and left the husband the same privileges in his separate property.

* * * * * * *

Originally the community laws prevailed in Florida and in all the Louisiana territory, but has been superseded in Florida, Missouri, Arkansas, Iowa, Mississippi, and all this territory except Louisiana, by the common law.

The Spanish ganancial system formerly existed in Missouri.

It was, however, abandoned there long ago.

The community system as adopted in older community States has been borrowed by Nevada, Washington, and Idaho, with certain modifications, which will be seen by reference to the Appendix; hence the American community system prevails at this day in Louisiana, Texas, California, Nevada, Arizona, Washington, Idaho, and New Mexico, and is indebted to Spain for its origin.

To the lawyer whose mind has been trained under the common law the system proposed to be treated herein—

That is, the community property system—

will perhaps be found to be embarrassing and possibly perplexing.

I have no doubt that the members of the committee, able lawyers as they are, who have been trained under the common law found this a perplexing subject and that their intellects could not at once grasp this puzzling question of community property law. So this author also says that it will be embarrassing to lawyers and possibly perplexing.

The influences of education and association are such strong factors in coloring our tastes and ideas that to some the ganancial system of marital rights may meet with severe criticism.

But whatever may be said of it—

That is, the community property system—

it presents many commendable features which we would more readily expect to have originated in the most polished ages of social advancement rather than out of the barbaric customs of the ancient Goths of the Middle Ages—.

In other words, the Spaniards acquired the system from the Goths of the Middle Ages—

and although environed as it is in America with the strong influence of the common law, as practiced by the lawyers and the courts of our country, and its merits thus, to some extent, obscured, it is confidently asserted that such environment can not long impede the development of a system of laws which yield to the wife, in matters of property, the equality of interest and right with the husband which Christian justice demands.

Mr. President, we are just fresh from an era of advancement materially, spiritually, and legally. After many years of labor the woman suffrage amendment has been added to the Constitution, and women now vote at the polls. Whatever attitude anyone may have taken in the past all now cheerfully acquiesce in that constitutional amendment. Certain States of the Union, however, have seen fit to adopt the community property system which makes the wife an equal owner with her spouse in all property acquired after the marriage except that which is acquired by either spouse by gift, devise, or descent.

The wife has the right to make her own income-tax return, and the highest legal authority in the executive branch of the Government has stated that each spouse has a right to make a separate income-tax return of the income, and yet, in the face of the widespread opinion that woman should have, so far as property is concerned, equal rights with man, we find that the committee has brought in a bill—and I am told that it is the unanimous action of the committee—which provides that hereafter in the States that have this community property system the spouses shall not be permitted to make separate income-tax returns, but that one of the spouses shall make it on behalf of the other.

Mr. POMERENE. What is the reason for that?

Mr. ASHURST. The reason is that the experts of the Treasury Department are like sportsmen who wish to go out and kill as many ducks as they can. They do not have any regard for justice, and the committee simply takes for granted what the experts say. The Congress of the United States does not write tax bills any more; the people's representatives do not originate tax bills. Let us not deceive the people by making them believe that the revenue bills have been written by any committee of Congress for the last 15 years. The experts of the Treasury Department write the tax bills.

I know that if Senators understood this matter they would not attempt to perpetrate an injustice of the kind proposed upon the women who in certain States have the right to make a separate income-tax return if they see fit. I repeat, this provision has been written into this bill by experts. I am not such a simpleton as to fail to perceive that no lawyer ever wrote the provision. I say that it has been written by experts from the Treasury Department who, like sportsmen, go out to kill just as many birds as they can without regard to where they shoot or when or in what direction.

Mr. POMERENE. Mr. President——

Mr. ASHURST. I will be glad to yield in a moment. I do not understand how we can justify an attempt to say that the community property laws of Texas, Louisiana, Arizona, Nevada, New Mexico, Washington, Idaho, and California shall be absolutely overthrown and that the woman, one of the spouses to the marital relation in those States, shall be treated just as if she did not exist. I now yield to the Senator from Ohio.

Mr. POMERENE. Mr. President, this is entirely a new proposition to me, because we do not have this system in Ohio.

Mr. ASHURST. Yes; that is true.

Mr. POMERENE. I understand, then, that the effect of this provision is that there will be one rule for return by the husband and wife in all of the States where they do not have this marital community property, and in the seven or eight States to which the Senator has referred there will be another rule of return for the husband and wife. Is that it?

Mr. ASHURST. Heretofore, in all the States but eight, the husband was authorized to, and I suppose did, make a return for all the property that might be community property in a community-property State. As it was in the past, in those States both husband and wife had a right to make separate income-tax returns. For instance, a man owned a farm in New Mexico, Arizona, or Texas. The avails of the farm were, gross, $8,000. The wife would make her return showing that she had earned $4,000 during the year, and the other spouse, the husband, would make a return showing that he had earned $4,000. He was not authorized to say that he had earned $8,000 from that farm, because under the community property law of that State $4,000, or one-half of the earnings, belonged to his wife. Two returns may be made if the spouses so desire, but under this law only one will be made. It says, for instance, as follows:

Income received by any marital community shall be included in the gross income of the spouse having the management and control of such community property, and shall be taxed as the income of such spouse.

That is, such spouse having the control. Manifestly, even in these community-property States they recognize that one of the two spouses shall control the community, but neither may alienate it or mortgage it without the other joining in the conveyance or the bill of sale.

Mr. POMERENE. Am I right in this position—that if this committee amendment is adopted, then there will be one rule of return in the eight States to which the Senator has referred and another rule of return in the others?

Mr. ASHURST. No; if this amendment is adopted, then those States that have community property are brought into the same situation as those States that have not. In other words, a marital community in New Mexico or Arizona or Texas would be required to make but one return, just the same as they would make in New York or Maryland, whereas we insist that having in our States set up this community-property system we are entitled to all of the benefits of it.

As this author well says, lawyers are perplexed and embarrassed when they have recourse to this ganancial system, but we from those States that have it believe in it. We have found it to be of value.

The VICE PRESIDENT. The question is on agreeing to the amendment on page 31, after line 4, which will be stated.

The READING CLERK. On page 31, after line 4, it is proposed to insert:

NET INCOME OF INDIVIDUALS DEFINED.

SEC. 212. (a) That in the case of an individual the term "net income" means the gross income as defined in section 213, less the deductions allowed by section 214.

(b) The net income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer; but if no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made upon such basis and in such manner as in the opinion of the commissioner does clearly reflect the income. If the taxpayer's annual accounting period is other than a fiscal year as defined in section 200 or if the taxpayer has no annual accounting period or does not keep books, the net income shall be computed on the basis of the calendar year.

(c) If a taxpayer changes his accounting period from fiscal year to calendar year, or from one fiscal year to another, the net income shall, with the approval of the commissioner, be computed on the basis of such new accounting period, subject to the provisions of section 226.

The amendment was agreed to.

The VICE PRESIDENT. The Secretary will state the next amendment passed over.

The READING CLERK. The next amendment passed over is on page 32, under the subhead "Gross income defined," down to and including line 15 on page 33, passed over on September 27 on the request of the junior Senator from Utah [Mr. KING].

Mr. KING. Mr. President, what item is that, may I ask?

The VICE PRESIDENT. "Gross income defined," page 32.

Mr. KING. I asked that that go over at the request of another Senator. I have nothing to submit in respect to it.

The VICE PRESIDENT. The amendment will be stated.

The READING CLERK. On page 32, after line 9, it is proposed to insert a subhead, "Gross income defined," and the following:

SEC. 213. That for the purposes of this title (except as otherwise provided in sec. 233) the term "gross income"—

The amendment was agreed to.

The READING CLERK. On the same page, line 15, it is proposed to strike out the words "of whatever kind and in whatever form paid."

The amendment was agreed to.

The READING CLERK. On line 17, after the word "of," insert "the President of the United States, the judges of the Supreme and inferior courts of the United States, and all other."

The amendment was agreed to.

The READING CLERK. On line 19, strike out the word "employees" and insert "employees, whether elected or appointed."

The amendment was agreed to.

The READING CLERK. On line 22, strike out "whether elected or appointed."

The amendment was agreed to.

The READING CLERK. On line 23, after the word "such" in parentheses, insert "of whatever kind and in whatever form paid."

The amendment was agreed to.

The READING CLERK. On page 33, line 6, before the word "community," insert the word "marital."

Mr. ASHURST. Mr. President, that is the item I discussed. The Senator from Louisiana [Mr. BROUSSARD] has an amendment by which he proposes, on page 33, after the word "whatever," on line 5, to strike out the remainder of line 5 and all of lines 6, 7, 8, and 9.

Louisiana is one of these community-property States. Indeed, it is the oldest community-property State, and the Senator from Louisiana is unavoidably detained from the Chamber for a moment. Would there be any objection to letting that item go over for a couple of hours?

Mr. PENROSE. No, Mr. President; if the Senator desires to have it go over, let it go over.

Mr. ASHURST. Now, I must not be misunderstood. I shall not be in the attitude of delaying this tax bill two minutes. The Senator from Louisiana is unavoidably detained. He drew the amendment, and I know he wants to be heard briefly, and on that account I shall be glad if it might be passed over.

Mr. PENROSE. Let it go over, Mr. President.

Mr. UNDERWOOD. Mr. President, I have no objection to the amendment going over, but while the Senator is on his feet I want to see if I can get an understanding of this proposition, because I may not have the opportunity hereafter.

As I understand this bill, it does not change existing law authorizing the husband and the wife to make separate returns where they have separate estates the title to which stands in their names. I understand that that is correct.

Mr. ASHURST. That is correct.

Mr. UNDERWOOD. Now, I understand that in certain States—Texas, for instance—under the law the title to a piece of real estate or to a bond may stand in the name of the husband, but, under the law, if it was acquired after marriage one-half of the actual property and income therefrom belongs to the wife.

Mr. ASHURST. Yes.

Mr. UNDERWOOD. Of course, if that is the case, it seems to me that all that would be needed would be a ruling of the department, because the husband there stands in the nature of a trustee.

Mr. ASHURST. Precisely.

Mr. UNDERWOOD. And it is his duty as trustee to deliver one-half of the income to the wife, and it is her property, and she would have a right to enjoy it. I have no objection to that for this reason: It does not make any difference whose title it may be. The Senator and I may own a piece of property jointly, but the Senator from Utah, who is sitting in front of me, may have the title in his name as trustee for us. The income from that property does not belong to the Senator from Utah, although he owns the actual title, but the income belongs to us, and we return it. It seems to me that that is the case of this community property, and therefore I see no objection whatever to the law being carried out, but I want to ask this question of the Senator:

The law must be geographically uniform throughout the United States, and there is but one question involved here, and that is geographical uniformity, because although it does not name States it refers to communities where this law prevails, which is a geographical subdivision. Under the way the amendment is drawn and stands in this bill as presented is there not very great danger of its meeting a constitutional objection in the courts, because there is no geographical uniformity in reference to the return?

Mr. ASHURST. Not the slightest.

Mr. UNDERWOOD. It seems to me that if instead of that there were a provision in the bill requiring the Treasury Department in all cases to accept returns of the income where the actual income belonged, and not where the title happened to be, that could apply to all cases geographically, whereas here you have a geographical limitation.

Mr. ASHURST. I think the statute itself here might be unconstitutional, in that it says—to use an example—that although the Senator from Alabama and I jointly own some property, and I am entitled to one half of the rents, issues, and profits thereof and he is entitled to the other half, he only shall be taxed and he only shall make the income tax return, and I shall be disregarded. Then how can the Congress say that although A owns a part in his right, and can convey it by deed of conveyance, can mortgage it, can bequeath it by will, yet that he shall not be authorized to make an income-tax return, but that the other owner shall be arbitrarily selected as the one who shall make the return.

Mr. UNDERWOOD. I agree with the Senator about the justice of his cause, but not about his legal argument. I do not think there is any limitation on the right of the Government of the United States to tax the property in the hands of the trustee who holds it for somebody else rather than in the hands of the actual owner. I do not say it is just; I am not disagreeing with the Senator as to the justice of his cause, but I do say the Government has that power; but the Government has no power to pass a statute that is not geographically uniform.

Mr. ASHURST. Mr. President, I will ask if it would be geographical uniformity, or uniform otherwise if Congress should pass an act which should say that all persons having incomes shall pay a tax to the Government, but that all persons whose names begin with B shall not be permitted to make an income-tax return, that some other person shall make it for them and on their behalf, and that if sent to the Treasury Department it shall not be received and some one else shall make the second return for them?

Mr. UNDERWOOD. That is the law now.

Mr. SMOOT. Mr. President, if the Senator will yield for just a moment, I want to know the attitude of the Senator on this particular item. It does seem to me that this is a very, very fair proposition. Does the Senator believe that because there are certain laws in 8 particular States the income of husband and wife in the other 40 States that have not such laws should be treated differently than in the 8 States? This means that under existing law the income from husband and wife in 8 States would be treated differently if carried out under the law of those States than would the income of husband and wife in the other 40 States. The law here proposed applies to all alike, to all husbands and wives having incomes in all parts of the United States; and the amendments were made for that purpose and that purpose alone.

It is true, of course, as far as the State taxes are concerned, under these community property laws in the eight States spoken of by the Senator, the States can impose any kind of a restriction or any kind of a law in the way of collecting the taxes from those people. But does not the Senator believe that when the Government of the United States is imposing taxes, the taxes should be imposed upon all citizens of the United States alike. That is the nub of this proposition.

Mr. ASHURST. What I am contending for is that all persons shall be treated alike; otherwise I would not vex the ears of the Senate. I am asking that the two spouses to a marital community in these community-property States shall be treated, to use the language of Ballinger, "with Christian justice."

I am asking for equality of treatment because these certain States have set up this community property law, and I view with extreme disrelish any attempt in a Federal tax bill to overslaugh the constitutions and laws of eight States.

Mr. SMOOT. The Senator recognizes the fact that even under this provision, if it become a law, if the wife has an income of her own arising from her own property, then she makes a separate return.

Mr. ASHURST. Certainly.

Mr. SMOOT. Therefore, in 40 States of the Union, if this amendment is not adopted, there would be a different return upon the incomes from husband and wife from that in the 8 States.

Mr. ASHURST. Certainly.

Mr. SMOOT. Why should the husband of a woman in Arizona, whose wife has no income whatever from property held by her, have a less rate of taxation imposed upon him than a man in the same position in the State of New York?

Mr. ASHURST. I do not see the application of the Senator's illustration.

Mr. SMOOT. This is the application: If the income of the husband is divided, the income falls in lower brackets under the income tax law than otherwise.

Mr. ASHURST. Of course. The Senator will remember that one-half of all moneys earned by the husband after marriage, namely, his salary as a bookkeeper, his gainings on the stock exchange, his wages as a laborer, the moment he receives it in a community-property State becomes ipso facto the property of the wife, unless he obtains it by gift, devise, or by descent.

Mr. SMOOT. That is only in case of claim.

Mr. ASHURST. It is a very real thing in the States that have seen fit to adopt it.

Mr. SMOOT. I would like to have the Senator from Arizona consider the case of a taxpayer in Louisiana whose income is $20,000, we will say. Let us assume that it costs $4,000 for

the expenses of the family, leaving him $16,000 net gain, and suppose he should invest that $16,000. Would the stock certificate, if it were in a company, be issued half in his wife's name and half in his name?

Mr. ASHURST. In most States it would be carried in the name of one of the spouses; sometimes in the names of both.

Mr. SMOOT. And it is always the husband?

Mr. ASHURST. Not always; in many instances in these community property States the title is carried in the name of the two spouses, the husband and the wife.

Mr. BROUSSARD. Mr. President——

Mr. ASHURST. I yield the floor, Mr. President. The Senator from Louisiana, who has entered the Chamber, has something to say on this question.

Mr. WATSON of Indiana. Mr. President, I would like to ask whether the amendment of the committee is to be passed over or debated and voted on now.

Mr. BROUSSARD. I would like to make a statement now. I would like to take it up.

Mr. WATSON of Indiana. I understand the Senator is entirely willing to go on, but the Senator from Arizona asked that the amendment be passed over for the present.

Mr. ASHURST. The Senator from Louisiana happened to be out for a moment, and I saw we were approaching this item and obtained the floor. I repeat, I would look with severe disapprobation upon any Senator, Democrat or Republican, who would delay any bill in the Senate one moment. The condition of the country is such that you Republicans ought to hold night sessions and sessions on holidays to work on these bills.

Mr. WATSON of Indiana. The Senator has made a request that it go over.

Mr. ASHURST. I withdraw the request, because the Senator from Louisiana was absent when I made the request, and he has come into the Chamber.

Mr. WATSON of Indiana. Very well.

Mr. BROUSSARD. Mr. President, the provision which I have, by way of amendment, proposed to eliminate from this bill was never incorporated in any of the revenue acts before.

The Secretary of the Treasury, in administering the present law for the years 1918 and 1919, required the husband to make a return, as it is now intended that they shall make it under the proposed law. People living in the community property States protested against this, and the matter was fully discussed, and, in an opinion rendered by the Attorney General, wherein the laws of the different States having community property laws were thoroughly examined and digested, the Attorney General, in that opinion, which I hold in my hand, not only quoted the statutes governing community property in those States but also gave the jurisprudence. I would like to have the Senator from Utah follow me in this matter, because I think I may convince him that he is in error.

The Attorney General rendered an opinion holding that the wife and the husband under the law very properly should make separate returns, and there are now pending a number of claims for a refund. A great many of those claims have been settled; others are still pending. It is for that reason that the expert who advised the committee has suggested that the provision be incorporated in the bill. It was incorporated in the House, and the Senate Finance Committee has made one or two changes which, to my mind, are merely intended to restrict it to the marital community.

We are objecting to the administration of any revenue law in these 8 community States, which are California, Arizona, Idaho, Louisiana, Nevada, New Mexico, Texas, and Washington, in a manner different from the manner in which they are administered in the other 40 States. Our contention, Mr. President, is that if this provision is carried you will be applying the law in those eight States different and more onerously than you would upon the remaining States. There must be a basis upon which the calculation must be made, and, as I understand it, any tax must be levied against the party owning the property.

A great many of the attorneys who are not familiar with the law prevailing in the eight States do not grasp the meaning of that. For instance, I am more familiar with the laws of the State of Louisiana, where I have practiced for a great many years; but from the review of the opinion of the Attorney General I find that the same rule and the same principles of law apply in the other seven States.

Here are the conditions in Louisiana: Parties intending to enter into marital relations may, before the marriage, enter into a contract. That contract would have the effect of doing away with the community laws. The parties may also, in the marriage contract, provide that there shall be no community property between them. Or they may, Mr. President, after marriage, by consent, enter into a contract whereby there shall be no community property, and if after marriage one of the spouses refuses to enter into such a contract separating their respective interests and doing away with the community property, either one of the spouses may then, by applying to the court, obtain judgment dissolving the community existing between them. So we have this community property law, which applies to all cases where parties enter into a marriage contract, or continue one without providing otherwise. These fall into the community property.

Now, let us review it a little further and follow up the facts as they exist, so as to see whether or not the husband should be made to account for the revenues of that community; and before I enter upon that I wish to state that if either one of the spouses had property previous to the marriage, which never comes into the community, which is kept separate from the community, or if either one of the spouses inherits property, or receives a gift from anybody, in other words, acquires something separate and apart from the community property itself, or acquires it otherwise than through the efforts of one or the other or both, any property acquired outside of this community falls into what we call separate property, and in the return, of course, that spouse must include the revenue from that property as belonging to him or to her.

But, Mr. President, let us assume that a community earned $20,000 last year, and this law requires the spouse to make a return and to account for the $20,000 and to pay a tax upon that amount.

The next morning either the wife or the husband may decide no longer to remain in community, and under the law they can go to court, obtain a separation of property, and the husband is required to account for one-half of every cent that that community has received. Therefore, as we contend, the basis for assessing the tax should always be the ownership of the property.

I notice, from the questions which have been asked, that the members of the Finance Committee do not understand the community property laws. For instance, here is what the Senator from Kansas [Mr. CURTIS] inquired:

> Why should that be, when under the law the husband absolutely controls the property, except that he can not sell it without the wife signing the deed? The property becomes absolutely his if the title is in his name, and the children get nothing in the case of her death.

That is absolutely contrary to what the law is. It makes no difference under the laws of community property States whether the property is acquired and the title vested in the wife or husband.

Mr. OVERMAN. Does not the doctrine of survivor ownership obtain in the Senator's State?

Mr. BROUSSARD. Only when there are no heirs, what the civil court recognizes as forced heirs, and then in that case, I will say to the Senator from North Carolina, we have an inheritance tax in the State of Louisiana, and the husband, for want of heirs left by the wife, being the heir of the wife, would be required to pay that estate tax.

The Attorney General in reviewing this matter has very clearly demonstrated that unless the husband, in the case where the wife had no heirs, inherited the wife's share, he should not be made to pay income tax for the wife's interest which can not go to him so long as the wife has any heirs.

The theory of the law and the principle as enforced is contrary to what the Senator from Kansas believed it to be. It makes no difference who takes the title upon the dissolution of the community, whether by the dissolution of the community property where the two spouses continue to live together as husband and wife, but separate in property, or a dissolution caused by an absolute divorce or the death of one spouse.

Mr. WATSON of Indiana. Mr. President, may I ask the Senator a question?

Mr. BROUSSARD. I shall be glad to answer it if I can.

Mr. WATSON of Indiana. Suppose, as is the case, husband and wife own the property jointly, but the husband has the sole management of the property and derives the sole income from its use and enjoyment. Having that income should he not pay the tax on that income? That is all that is involved here. This is not a property tax; it is solely an income tax.

Mr. BROUSSARD. I understand that.

Mr. WATSON of Indiana. The question is, Who gets the income and who should pay the tax on the income? That is all there is to the proposition.

Mr. BROUSSARD. I will answer the question propounded by the Senator from Indiana by stating that his argument would require the manager of a corporation, for instance, after making his own return, to include all the property under his management. The law does not recognize the husband as the owner of all these revenues. The law recognizes the husband

as the owner of one-half of the community revenue, and he may at any moment be called upon to account for the share of his wife. If the wife were to die the next morning after making this return or if she obtained a divorce, or even did not resort to that, but merely obtained a separation of property, he must account for every cent of it because the ownership of it upon receiving it is immediately seized in a dual capacity, and one half of it belongs to the wife and the other half to the husband, and the law merely permits the husband to administer the one half belonging to the wife. It is not his income, it is not his revenue. He only has one half of that and the other half is permitted to remain in his custody provided his spouse is willing for him to invest it in her interest; but he at no time owns that other half.

I would take it, whether it is the intention to levy a tax upon property or a tax upon income, that the title of the property is the basis upon which the assessment of this tax or contribution should be based.

I wish to go a little further with that. Our contention is that no man may be required to return property which is not vested in him or does not belong to him, and to pay taxes upon it. We feel so very strongly upon that that I will state that we argued, when the question was before the Attorney General, that to require the husband to account for the revenues of another person and to pay upon those revenues was not constitutional. What does your advisor here testify? You will find Dr. Adams testified before the committee as follows:

I think I ought to say that there is some doubt about the constitutionality of this provision.

I am satisfied that if we were to adopt this provision at no time could the husband be forced to pay tax upon an interest, one-half of the revenue of the community, which at no time belongs to him. To do that would be the same as to require A to include in his revenues the income of B. We complain about that. We think it is such a great injustice not only in that the husband is forced to pay the tax of another person, but let us assume that the community income is $20,000 and see what results. The husband really owns $10,000 and the wife $10,000. Immediately the husband pays upon the $20,000 the wife or her heirs may demand the wife's $10,000 of the husband, and if he refuses to give it she or her heirs can go to court and get a judgment and require him to turn that money over, because it belongs to her and remains in the custody of the husband merely with her consent.

If, instead of accounting, as the Attorney General has held, for $10,000 and then permit the wife to account for $10,000, you require the husband to account for $20,000, what is the effect? Immediately he is thrown into the higher brackets; he is thrown into the surtax. He is very probably thrown into the excess profits. I have knowledge of a case for the two years of 1918 and 1919 in my State where the difference under the returns rendered under the decision of the Attorney General for those two years makes the Government indebted to this one man for $61,000. So that you can appreciate to what extent you are affecting the States having community property laws.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER (Mr. WILLIS in the chair). Does the Senator from Louisiana yield to the Senator from Utah?

Mr. BROUSSARD. With pleasure.

Mr. SMOOT. Of course, in the first place the individuals who pay income taxes such as the community laws require never pay an excess-profits tax under any law we have ever had.

Mr. BROUSSARD. Why not?

Mr. SMOOT. Because they are not in business. It is the corporations which pay that tax.

Mr. BROUSSARD. Does the Senator say they are not in business?

Mr. SMOOT. They are not.

Mr. BROUSSARD. I think the Senator is in error about that.

Mr. SMOOT. There is no excess-profits tax imposed upon any individual unless he is engaged in business. It is only on the corporations.

Mr. BROUSSARD. Then the surtax must be paid.

Mr. SMOOT. Well, that is a different thing.

Mr. BROUSSARD. And you throw him into the upper bracket by making his revenue $20,000 instead of $10,000 in the case I have cited.

Mr. SMOOT. That is what I said when I answered the Senator from Arizona [Mr. ASHURST]. But now suppose Louisiana wanted to extend her community law and say that it shall not only apply to wife and husband but to every child they may have.

Mr. BROUSSARD. I would say to the Senator from Utah that we are not contending for this because the State of Louisiana has adopted community-property laws. We claim as a basic principle that the ownership of the property is not wholly in the husband and that half of the property belongs to the wife. The laws of the community-property States, I will say to the Senator, permit the husband, with the consent of the wife, to administer that property.

Mr. SMOOT. I am aware of that, but what I wish to do is to impress upon the Senator from Louisiana the fact that if Congress is to take into consideration the question of the different community laws that are passed imposing a tax upon income, then a State could pass a law claiming not only community privileges for the husband and wife but for every child that was born to the husband and wife. If they have six or seven children they could divide the amount up in such way that a man could have at least $70,000 or $75,000 income and never pay a cent of income tax to the Government of the United States.

Mr. BROUSSARD. The Senator from Utah is entirely wrong about that. I will illustrate by referring to a case to be applied to the Senator's State of Utah. Let us assume that the Legislature of the State of Utah were to pass a law which permitted the older member of the family to administer the revenues of all of the other brothers and sisters who are of age, with their consent, and that this party should administer the property and account, whenever they want it, to each one for his share.

In other words, this man is running a garage, and by and with his consent the oldest brother conducts that business for him; another member of the family owns a beet-sugar factory, and this man by common consent under the law administers the beet-sugar factory. They are not in partnership, but he administers these various businesses.

If this bill shall be enacted into law as it is now before Congress, some one in the Treasury Department will then say, "This man is managing all of that property under the law, and therefore we must require him to include in his own return not only his own income but the income of Henry, John, Philip, and Paul." That would be wrong, would it not? That is absolutely an illustration which applies to the community-property States.

Mr. SMOOT. But in the case to which I have reference John and Tom and Harry and all the other children were not doing anything at all in the way of business. They were living on the income of their father and their mother, and, as the community law was enacted, they had an equal right in the property. If there are seven children, with the husband and wife there would be nine members of the family, and when the final income would be arrived at it would be divided into nine parts as far as the income-tax return is concerned, and each one would have the exemption provided for under the law, and they would pay no income tax unless their income exceeded $5,000 for each one of them. The Senator can see exactly what would be the result as affecting the revenue of the Government in such a case.

Mr. BROUSSARD. But we must always consider the basis upon which any tax may be legally imposed.

Mr. SMOOT. If it can be done in the case of a husband and wife, it can be done in the case of a child in just the same way.

Mr. BROUSSARD. But here is the State law which provides that immediately upon the receipt of this income for the community one-half of it is immediately vested in the wife and belongs to her.

Mr. SMOOT. It may be under the community law that it immediately vests one-eighth in the wife and one-eighth in each of the seven children.

Mr. BROUSSARD. But is not the basis of the imposition of all taxes the ownership of property?

Mr. SMOOT. No; this applies to income and not ownership. This does not apply to property at all.

Mr. BROUSSARD. Income upon what?

Mr. SMOOT. Income upon property.

Mr. BROUSSARD. But whose income? The ownership of whose income?

Mr. SMOOT. So far as that is concerned the children could have a right just the same as the wife does in the property and make a return just the same as the wife would, as the Senator is now contending for.

Mr. BROUSSARD. My contention is that the basis of the levy of any tax must be ownership of property or the revenue or income or whatever it is. We must have a basis. We can not make a law for Louisiana different from that provided for Utah.

Mr. SMOOT. But that is what the Senator is trying to accomplish.

Mr. BROUSSARD. That is what we will have if this provision prevails, because in Utah they tax the ownership of the income, and in Louisiana you propose to tax first the ownership and then add an equal amount belonging to another party to the ownership of the husband and require him to make return upon that which he owns and that which he merely has the right to control and manage subject to the desire of his spouse, and therefore you are imposing a law in the community-property States entirely on a different basis from that which you are applying to Utah.

Mr. SMOOT. Now, Mr. President, the Senator is contending that it should be applied differently. What we are contending is that it shall be uniform in all the States. A wife in the State of Utah has a one-third interest in all the property owned by the husband at his death.

Mr. BROUSSARD. But in Louisiana, so long as she is on earth, she owns one-half at all times.

Mr. SMOOT. But in Louisiana the wife does not handle the property and it is not in the wife's name.

Mr. BROUSSARD. Frequently she handles it.

Mr. SMOOT. Oh, yes; certainly.

Mr. BROUSSARD. I will state that in Louisiana the courts make no distinction as to ownership in the community property, whether it be acquired in the name of the wife or the husband, just so long as it is acquired during the existence of that community.

Mr. SMOOT. All that the Senator is contending for is that if there are a man and wife living in Louisiana and their income is $100,000, the wife shall pay a tax on an income of $50,000 and the husband on an income of $50,000, whereas if a man and wife live in the State of New York and have the same identical income, say, $100,000, the husband shall pay a higher income tax on $100,000, it falling in the higher bracket, than is paid on an income of the same amount by a husband and wife in Louisiana. That is the whole story.

Mr. BROUSSARD. No; I will state to the Senator from Utah that my contention is that each person should be made to pay the income tax upon the income which belongs to that particular person. I will ask the Senator from Utah what is the basis for the imposition of the income tax? Is it not the ownership of the income when it is received?

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from Utah?

Mr. BROUSSARD. Yes; I yield to the Senator, because I have asked the Senator from Utah a question which I should like him to answer.

Mr. SMOOT. It is proposed that the party who receives and handles and invests the income shall pay the tax thereon. That is what happens in New Orleans when dividends are received or income derived from property which is handled by the husband.

Mr. BROUSSARD. No. In the case of corporations the theory of the proposed law is that the manager of a corporation shall be held accountable for the revenues of that corporation, but is not the basis for the imposition of the tax—the ownership of the income, not to management?

Mr. SMOOT. The tax is based on the income, and if, as the Senator says, the wife has the management of the property, then her income is taxed.

Mr. BROUSSARD. I will state to the Senator from Utah that in Louisiana the wife may and frequently does manage the property.

Mr. SMOOT. Then she will pay the tax.

Mr. BROUSSARD. She will pay the tax.

Mr. SMOOT. Yes; she will pay the tax, and the laggard husband will not pay it.

Mr. BROUSSARD. That is not illustrating the point at issue. I am asking the Senator from Utah what is the basis for the imposition of the proposed tax under this law? Is it not ownership of the income?

Mr. SMOOT. No, sir; it is the receipt of the income; that is what it is.

Mr. BROUSSARD. Then, what becomes of the receipts which the manager of a concern receives? Does he return them as his own and not the corporation's?

Mr. SMOOT. If the manager of a corporation receives an income——

Mr. BROUSSARD. Does the manager make the return or does the corporation make the return? I mean in whose name is the return made?

Mr. SMOOT. It is made in the name of the corporation.

Mr. BROUSSARD. Certainly; and the only basis and the only theory upon which any tax may be imposed is the ownership of the property or of the income.

Mr. SMOOT. The Senator from Louisiana is entirely mistaken in that.

Mr. BROUSSARD. I should like the Senator from Utah to explain to me if there is any other instance under this proposed law where a tax is imposed upon any other except the one who owns the income when it is received. I should like to have the Senator cite any other such case in this proposed law.

Mr. UNDERWOOD. Will the Senator from Louisiana yield to me for a minute?

Mr. BROUSSARD. I yield to the Senator from Alabama.

Mr. UNDERWOOD. I was asking some questions relative to this matter before the Senator from Louisiana came in. I think the Senator is clearly right in his contention. I had some part originally in writing the existing law, and I can say without hesitancy that absolute ownership, final ownership, is undoubtedly the basis of the distribution of the income. That is clearly so in the case of a guardianship. If the Senator should be the guardian of five children, and each one had a taxable income, he would not return that income to be taxed in gross in the higher brackets, but he would make a separate income return for each child.

I am not affected by the position which has just been taken by the Senator from Utah [Mr. SMOOT] in reference to the owner of an income being taxed more in New York than he is in Louisiana. The Senator is really thinking of the owner of the title of the property and not the income.

Mr. BROUSSARD. Yes.

Mr. UNDERWOOD. That proposition does not affect me at all. So far as that is concerned, if I have a taxable income of $10,000 and my wife has none, and I make the return because I receive the income, and the Senator from Louisiana and his wife have each a taxable income of $5,000 and make separate returns, I pay more tax than do the Senator and his wife.

It is the ownership of the income, however, which is the basis of the payment of the tax. We are looking at the individuals separately and not going back to the fiction of the harem age that the man owns the woman and though she has the property he owns the income. I think the Senator from Louisiana is clearly right about the matter.

I have, however, grave doubts about the way in which this bill is written. The bill seems to make a distinction as to communities where the civil law prevails and a division of the property under the law rests between the husband and wife. It seems to me that that is a geographical division, and if it be a geographical division then the proposal is unconstitutional.

Mr. BROUSSARD. It is unconstitutional, and Dr. Adams testified before the committee that he believed it was unconstitutional.

Mr. SMOOT. Mr. President, my attention has just been called to a case which has already been decided in Moffitt *v.* Kelly (218 U. S. Repts., p. 400), in which it was held that in a community interest where the husband has the sole use of the income he may use it in any way he wishes to; he may give it away if he wishes to.

Mr. BROUSSARD. In what State was that decision rendered?

Mr. SMOOT. I have sent for the report, and I will tell the Senator as soon as I get it. It is, however, the case of Moffitt *v.* Kelly (218 U. S.).

Mr. BROUSSARD. In what State did that case originate?

Mr. SMOOT. I am informed by Dr. Adams that it is a California case.

Mr. BROUSSARD. I am not familiar with the laws of California. I am only guided in my statement here by what I know of the laws of Louisiana.

Mr. SMOOT. But the decision, of course, will apply to Louisiana.

Mr. BROUSSARD. No; that does not necessarily follow.

Mr. SMOOT. Let us wait until we get the decision, and then we shall see.

Mr. BROUSSARD. As I have stated, I am familiar with the laws of Louisiana and I know that the laws of Louisiana are very plain and specific in reference to this matter. I think the Senator from Arizona [Mr. ASHURST] stated that we had had the community-property law from 1808, but we have had the civil code in Louisiana from away back in 1600 and something; it was in existence there before Napoleon revised the civil code; and it has been continued from that time right down to the present.

Mr. LENROOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from Wisconsin?

Mr. BROUSSARD. I yield.

Mr. LENROOT. For information, I should like to ask the Senator from Louisiana if it is true that in Louisiana a wife

may at any time demand one-half of the income from community property and place it to her own separate estate?

Mr. BROUSSARD. A wife may demand a separation of the community at any time.

Mr. LENROOT. May she demand a separation of the community income and place that income to her own separate estate?

Mr. BROUSSARD. She may demand a dissolution of the community.

Mr. LENROOT. But that is a different proposition.

Mr. BROUSSARD. And the minute she makes that demand there must be a settlement of the income.

Mr. LENROOT. But that is a very different proposition; but so long as the community property exists has the wife in Louisiana the right to demand one-half of the community income and place that one-half to her separate estate?

Mr. BROUSSARD. No.

Mr. LENROOT. That is the whole thing.

Mr. SMOOT. Yes; that is the whole question.

Mr. BROUSSARD. I can not say that she has. The law simply provides that so long as she is willing to permit the community to exist the husband is the head of the community. However, I will call the attention of the Senator from Wisconsin to the fact that he is again building an argument upon premises which are not real, because any tax that is imposed must be based upon the ownership of the property, and, so far as the ownership of the income is concerned, that is not ever questioned in any of the community-property States; it belongs in part to the wife; it is hers immediately upon being received by the head of the community.

Mr. LENROOT. But the Senator said that she had no right to demand half of the community income and place it to her separate estate.

Mr. BROUSSARD. But it is her property. She may terminate the community at any time. Let us assume now that a man is rendering an account with the Government for the year 1921 and is made to account for the entire income of the community property; immediately after having settled with the Government his wife may demand a dissolution of the community, and he must not only account for the 1921 revenue but he must account for every piece of property and all income and revenue since the time of the marriage.

Mr. LENROOT. Now, let us see as to that. Is not what the wife is entitled to one-half of all the community property that exists at the time of the dissolution of the community?

Mr. BROUSSARD. Yes; in Louisiana——

Mr. LENROOT. Is she entitled to any more than that?

Mr. BROUSSARD. Yes.

Mr. LENROOT. Is she entitled to an accounting for all of the revenue?

Mr. BROUSSARD. I was about to explain to the Senator from Wisconsin that if the husband makes a bad investment, or if the husband is about to dissipate the community property, or if the husband sells a piece of property for less than its value, the wife has an action in court for the purpose of setting aside the transaction.

Mr. WATSON of Indiana. But where the husband, as the manager under the arrangement agreed upon, receives the income himself, ought he not to pay the taxes on that income? That is the whole question.

Mr. BROUSSARD. Not at all.

Mr. WATSON of Indiana. Why should he not?

Mr. BROUSSARD. I will ask the Senator from Indiana the question which I have been trying to get the Senator from Utah to answer.

Mr. WATSON of Indiana. Let me ask first the Senator from Louisiana a question.

Mr. BROUSSARD. Let me ask the Senator from Indiana this question: What is the basis, what is the legal right of the Government to impose a tax? Is it not the ownership of the thing taxed?

Mr. WATSON of Indiana. No; this is not a property tax; this is an income tax.

Mr. BROUSSARD. I know it is an income tax.

Mr. WATSON of Indiana. Ownership has not anything to do with it; it is purely an income tax.

Mr. BROUSSARD. But would the Senator from Indiana contend that the Government could tax anyone who receives the revenues or income of property which does not belong to him? Is not the basis of the imposition of the tax the ownership of the income?

Mr. WATSON of Indiana. No; not at all.

Mr. BROUSSARD. Well, what is the basis?

Mr. WATSON of Indiana. The basis, I think, is that which both the husband and wife own, either as joint tenants or as tenants of the entirety, the survivor taking the whole in case of death. Now, when the husband has the sole management of the property under the arrangement agreed to and the husband under that arrangement derives all the income, this provision says that he shall pay the tax on that income.

Under the arrangement suggested by the Senator the wife, having no management, no control, and getting none of the income, would make half of the return and the husband the other half, which would cut the tax down.

Mr. BROUSSARD. But she owns half of it.

Mr. WATSON of Indiana. This is not a property tax; ownership has nothing in the world to do with it; it is solely a question of income. The wife does not control the income and the husband has no accounting to make afterwards. He does not account for a dollar, I will say to the Senator.

Mr. BROUSSARD. Yes; he does account for it.

Mr. WATSON of Indiana. No; not actually.

Mr. BROUSSARD. Immediately when his wife dies he must account to her heirs for every cent of the revenue. He must account for all of the property, and all of the income which has come into the community; in other words, he must give the wife or her heirs one-half of all of the property belonging to the community which includes the income and revenues derived.

Now, I desire to say to the Senator from Indiana it strikes me as the provision is written that we might just as well tax the manager of a partnership concern and require him to include in his income tax the revenues which are produced by the business which he manages.

Mr. SMOOT. Mr. President, can not the Senator see that there is a difference between the two cases?

Mr. BROUSSARD. I do not see it at all.

Mr. SMOOT. Every partner has a perfect right to demand his share of the gains.

Mr. BROUSSARD. Then, why should not the wife be allowed to permit her husband to manage her property?

Mr. SMOOT. That is quite a different proposition. In Louisiana the wife has no right to demand any of the income. It is not her income unless she dissolves the community interest. She does not own it; she can not control it; she can not invest a dollar of it. The husband does that; he receives the income; he has the distribution of it, and he ought to pay the tax.

Mr. BROUSSARD. Is not the fact that he continues to administer that community based upon the fact that he does so with her consent, in view of the fact that the law permits her the right to terminate that community at any time; and is not the manager of a partnership managing that business because the owners of the business are satisfied to permit him to continue to manage it?

Mr. SMOOT. But every partner has a right not to dissolve the partnership but to demand his share of the profits, and he gets his share of the profits.

Mr. BROUSSARD. Does not the wife have the same right?

Mr. SMOOT. No; the wife has not the same right, unless she dissolves the marriage bond, and if she does that of course there is a different proposition involved. It is not the same as a partnership at all. If the wife had the right in Louisiana to demand half of all of the gains that are received by the husband and take that money and put it in her own name, and had a right to invest it no matter whether the husband objected or not, then she would control it, and it would be her income; but it is not her income. It is the husband's income, and she has the right to control it in one case only, and that is the case to which I have already referred.

Mr. BROUSSARD. The Senator refers to the fact that the wife does not actually manage it, and she does not control it, and she does not invest it. I call his attention to the fact that in the case of the larger corporations here, their stockholders, scattered all over the United States, do not know how and when any portion of the assets of the corporation are invested, but they have a manager.

Mr. SMOOT. Yes.

Mr. BROUSSARD. Now, we are contending that the wife has the right to permit her husband to manage her property.

Mr. SMOOT. Why, Mr. President, a corporation is incorporated under the laws of a State and in the incorporation papers the precise powers that are given to the directors are stated.

Mr. BROUSSARD. And the laws of Louisiana state what powers a husband has.

Mr. SMOOT. Ah! That is quite different.

Mr. BROUSSARD. But the laws of Louisiana do not affect the ownership of the wife's interest in the income.

Mr. SMOOT. No; but the manager of the corporation can not distribute the money and say that this one shall have a

half or that one a quarter or this one a third. If the distribution is made, it is not made by the manager; it is made by the board of directors of the corporation.

Mr. BROUSSARD. If there is a distribution in Louisiana, it is made by the manager, who is the husband.

Mr. SMOOT. Then the husband in Louisiana could make a distribution, if he wanted to, and give any share of it that he pleased to his wife.

Mr. BROUSSARD. But the law compels him to give half to his wife.

Mr. SMOOT. But the wife can not demand it. The stockholder can.

Mr. BROUSSARD. I have just explained to the Senator that the wife may terminate that condition at any moment.

I do not see why the Finance Committee persists in its attitude with reference to this question as against the opinion of the Attorney General and against the opinion of Dr. Adams, who says that in his opinion the provision is not constitutional.

I do not think you can impose a tax upon anybody except the particular person who owns the revenue; and if you must have a basis—and naturally you must have a basis—if that basis is the ownership of the income which is taxed, then naturally you can not add the income of one individual to that of another in order not only to require him to pay a tax on double the amount but to throw him into higher brackets and require him to pay surtaxes. It is not equitable, it is absolutely unfair, and I do not think the courts would ever permit the Congress to adopt one system in one State and then to ignore it in another.

The only theory upon which you have a right to enact this law is the ownership of the thing taxed, and that ownership in this particular case is not disputed. Nobody says that it does not belong to the wife; and if it belongs to the wife, then how can you make the husband account for it and add it to his own income? You may require him to make a return as manager for his wife, but why should you require him to return the income which belongs to his wife as being his own when it does not belong to him?

Mr. SMOOT. Mr. President, let us get down to a concrete example. Does the Senator from Louisiana think that if he had an income of $20,000 a year he ought to make a return on only $10,000 of it and his wife on $10,000 of it, notwithstanding that the wife has no control over that income, whereas if the Senator from Utah had a $20,000 income in the State of Utah and had to make a return on the full $20,000 the income of the Senator from Louisiana would fall in lower brackets and the income of the Senator from Utah would be in higher brackets? There would be a disparity between what the Senator from Utah would have to pay and what the Senator from Louisiana paid. All that this amendment means is that if the Senator from Louisiana is married and his income is $20,000 he shall pay the same as the Senator from Utah pays if his income is exactly the same. That is all there is to it.

Mr. BROUSSARD. The answer to that is very simple, and that is that each party shall make a return according to the ownership in that income. If under the laws of Utah the Senator owned all of that $20,000, why should he not make the return for all of it? If under the laws of the State of Louisiana I own only one-half of that income, why should I be required to make the return for the $20,000?

Mr. SMOOT. Because the Senator uses it?

Mr. BROUSSARD. It does not belong to me.

Mr. SMOOT. But the Senator can not get rid of a thing by saying that it does not belong to him when nobody can take it away from him.

Mr. BROUSSARD. You are now departing from the basis of that. The basis is the ownership.

Mr. SMOOT. No; the basis is the receipt of an income. That is the basis of it. This tax is on income, not on capital, and the wife of the Senator has no right whatever to take one cent of that income. The only way she can do it is to go into court and break the community bond, and in my State the only way the wife can do it is by doing the same thing, by getting a divorce; that is all.

Mr. BROUSSARD. I have an idea that if this provision is adopted naturally these eight States will have to go to court, and I have an idea that this provision will be eliminated from the bill, because there must be only one basis for the imposition of this tax, and it can not work differently in one State than it does in another State; and the basis is the ownership.

Mr. LENROOT. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from Wisconsin?

Mr. BROUSSARD. Yes; I yield.

Mr. LENROOT. In the Senator's State the title to community property is vested either in the husband or in the wife. If it is vested in the husband, can not the husband sell without the consent of the wife?

Mr. BROUSSARD. As I stated before, he has the right to sell, to dispose of all the property, to invest the property, always subject to the interference of the wife in case he is dissipating the property.

Mr. LENROOT. But that has nothing to do with the property.

Mr. BROUSSARD. Oh, he has the right to dispose of it, as I said.

Mr. LENROOT. So that he does have the title to the property. He owns the property, but the wife has certain rights to the proceeds of the property. Is not that true?

Mr. BROUSSARD. She has ownership in that property.

Mr. LENROOT. But he may dispose of it.

Mr. BROUSSARD. But he may dispose of it, subject to her having the matter reviewed in case he is trying to dissipate the property or giving an undue advantage to any other party.

Mr. LENROOT. He may be held accountable for that?

Mr. BROUSSARD. He may be held accountable for that.

Mr. LENROOT. Yes.

I have the statutes of the Senator's State before me, and I should like to read one of them. The Senator is familiar with it. I simply want to refresh his recollection:

When the paraphernal property is administered by the husband, or by him and the wife indifferently, the fruits of this property, whether natural, civil, or the results of labor, belong to the conjugal partnership, if there exists a community of gains. If there do not, each party enjoys as he chooses that which comes to his hands; but the fruits and revenues which are existing at the dissolution of the marriage belong to the owner of the things which produced them.

Mr. BROUSSARD. Not if it is community property.

Mr. LENROOT. I am reading the statute.

Mr. BROUSSARD. What is that?

Mr. LENROOT. This is section 4449 of the Revised Statutes of Louisiana.

Mr. BROUSSARD. What was the last part of that, if I may ask the Senator to read it again?

Mr. LENROOT (reading)—

But the fruits and revenues which are existing at the dissolution of the marriage—

That is the point I was making—

belong to the owner of the things which produced them.

In other words, when the marriage is dissolved, whatever property exists at the time, whether that originally acquired or any additions through gains and profits, of course, belongs to husband and wife.

Mr. BROUSSARD. I call the Senator's attention to the fact that that is to provide for the ownership of the fruits of the different kinds of property. For instance, you have a community between two spouses, but one of the spouses or both may come into the marriage having property.

Mr. LENROOT. Surely.

Mr. BROUSSARD. Now, then, at the dissolution of the marriage the fruits of the community are divided equally between the two; but that statute has reference to the fruits of the separate property.

Mr. LENROOT. No; the fruits that exist at the time of the dissolution.

Mr. BROUSSARD. Surely; at the time of the dissolution, but not the fruits of the community existing at the dissolution of the community.

Mr. LENROOT. No; but the Senator does not contend under this language that the revenues for a period of 20 years may be had in an accounting, although there may be no property existing growing out of those revenues at the time of the dissolution.

Mr. BROUSSARD. The community begins with nothing in every case, and then it accumulates. At the termination of that community, either by death or by divorce or by anything of that kind, one-half of the fruits, as well as one-half of everything that belongs to that community, goes to each party.

Mr. LENROOT. Provided it is in existence at the time of the dissolution.

Mr. BROUSSARD. Surely. Now, referring to the clause which the Senator read, I had understood the Senator to mean that the fruits of the community depended upon the efforts of the individual.

Mr. LENROOT. Oh, no. The point was, whatever fruits there are at the time of the dissolution are divided.

Mr. BROUSSARD. Yes.

Mr. LENROOT. But nothing more.

Mr. BROUSSARD. Nothing more.

Mr. LENROOT. That is correct.

Mr. BROUSSARD. Because the separate property of either spouse, together with its fruits, are there.

Mr. LENROOT. So that if the husband had used all of the revenues of community property, so far as the division of property was concerned, those revenues would not be taken into account unless they existed at the time of the dissolution.

Mr. BROUSSARD. Why, it would be the same as a business that had grown. At the time you dissolve that business each partner takes his half, or his third, if there are three members; and, as a matter of fact, I will state that the community is nothing but income and revenues derived since the marriage. It has no existence until the marriage, and from that date it begins to accumulate. There is no settlement to be made of anything except the fruits of the joint labors and cooperation one with another in accumulating during the existence of that marriage. The wife may have a million dollars and the husband may have but $100,000, and neither one of these amounts will figure in the community at all. The community begins as something absolutely new, which is born with the marriage; and that is the distinction that we are trying to make here. Of course in that case, where the wife owned a million dollars, we are not contending that that should be divided between her and the husband. We are saying that the revenues of that community should be accounted for in proportion to their real ownership.

I do not know that I can state anything more with reference to the matter. I am satisfied, from the answers given here, that the members of the committee thought that at the dissolution of this community the surviving spouse took everything, and that is the reason why I wanted to argue the question. Personally, I agree with Dr. Adams that this clause is not constitutional, and for that reason I should like to avoid a repetition of what we have had to do in the past, when we had to take this matter up, and the Attorney General had to decide it. I think the result would be the same.

Mr. SMOOT. Dr. Adams did not say that it was unconstitutional.

Mr. BROUSSARD. No; but I read what he said, and I should like to put it in the RECORD again.

Mr. SMOOT. He said there was a question about its constitutionality.

Mr. BROUSSARD. He said:

I ought to say that there is some doubt about the constitutionality of this.

I think there is enough doubt to make the committee hesitate and consider the thing from its real angle. I could not conceive of any plan of taxation that would have anything but a uniform basis to be applied throughout the country, and I do not see how any tax can be levied under this bill except as against the real owner.

The PRESIDING OFFICER. The question is on agreeing to the amendment, which has already been reported.

The amendment was agreed to.

The next amendment passed over was, on page 33, line 8, to strike out the word "the" and to insert the word "such."

The amendment was agreed to.

The next amendment passed over was, on page 33, line 8, to strike out the word "property" and insert "property, and shall be taxed as the income of such spouse."

The amendment was agreed to.

The next amendment passed over was, on page 33, after line 15, to insert:

(b) Does not include the following items, which shall be exempt from taxation under this title.

The amendment was agreed to.

The next amendment passed over was, on page 33, to strike out lines 18 and 19, as follows:

SEC. 209. Paragraph (1) of subdivision (b) of section 213 of the revenue act of 1918 is amended to read as follows:

The amendment was agreed to.

The next amendment passed over was, on page 33, line 21, to strike out "insured," the semicolon, the quotation marks, and the period and to insert "insured" and a semicolon.

The amendment was agreed to.

The next amendment passed over was, on page 33, after line 21, to insert the following:

(2) The amount received by the insured as a return of premium or premiums paid by him under life insurance, endowment, or annuity contracts, either during the term or at the maturity of the term mentioned in the contract or upon surrender of the contract.

(3) The value of property acquired by gift, bequest, devise, or descent (but the income from such property shall be included in gross income).

Mr. WALSH of Massachusetts. May I inquire upon whose request that amendment was passed over?

The PRESIDING OFFICER. It was passed over at the request of the junior Senator from Utah [Mr. KING].

Mr. WALSH of Massachusetts. In his absence I think we ought to know whether he has withdrawn his objection to the amendment.

The PRESIDING OFFICER. The Chair is advised that the Senator from Utah waived his request, and withdrew his objection.

Mr. WALSH of Massachusetts. If that is the fact, it is all right. I wanted to know who raised the question.

Mr. SMOOT. I will say to the Senator that the attention of the junior Senator from Utah was called to his request to have the amendment passed over, and he withdrew his request.

Mr. WALSH of Massachusetts. With that information, I will not delay action on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. UNDERWOOD. Mr. President, there is an amendment on lines 3 and 4, page 34, which I desire to say something about before it is acted on.

The PRESIDING OFFICER. The Secretary will state the amendment.

The READING CLERK. On page 34, after line 2, the committee proposes to insert:

(3) The value of property acquired by gift, bequest, devise, or descent (but the income from such property shall be included in gross income).

Mr. UNDERWOOD. Mr. President, I desire to ask the committee in reference to this amendment the purpose of inserting in the amendment the latter words in brackets—

but the income from such property shall be included in gross income.

Mr. SMOOT. That is the same as the present law. We have always included it in the gross income.

Mr. UNDERWOOD. I am not sure that it is the existing law. It seems to me that there is an effort to change the existing law here.

Mr. SMOOT. Not in this case. I will get the existing law and read it.

Mr. WATSON of Indiana. As I understand it, it is purely a matter of income; not the value of the property acquired by gift—that is, the gift itself—but the income from such property shall be included in the gross income. In other words, it is an income tax.

Mr. UNDERWOOD. That is what I want to find out. I do not know whether the committee understands what it is or not, but I want them to make me understand it, and I do not now. Of course, I understand that this is an exemption from tax of the gross property received by gift or devise, but it does not exempt the income. The income will be subject to taxation. In other words, if a man dies and leaves an estate of $100,000, the estate itself, going to the heirs, is not subject to the income tax. That is so far correct, is it not?

Mr. SMOOT. That is right.

Mr. UNDERWOOD. But the income derived from that will be subject to the tax. That is correct?

Mr. SMOOT. Yes.

Mr. UNDERWOOD. That is not the law now.

Mr. SMOOT. Let me read the law to the Senator.

The value of property acquired by gift, bequest, devise, or descent (but the income from such property shall be included in gross income).

It is word for word what the existing law provides.

Mr. WATSON of Indiana. Of course, after it reaches the donee.

Mr. UNDERWOOD. That is just what I am coming to, and what I want to know. If this is existing law, why is it put in by way of an amendment?

Mr. SMOOT. We are reenacting all the existing law in this bill, clear through. Every one of the sections printed in capital italics is existing law.

Mr. UNDERWOOD. Let me ask the Senator a question. In this estate of $100,000, the capital, we agree, is not taxed, but the income going to the executors of the estate is taxed. Under this amendment as you have proposed it, will the income be taxable in the hands of the executors?

Mr. SMOOT. If it is an income from the estate of $100,000.

Mr. UNDERWOOD. That is what I thought, and if that is the case, we are changing the law, because the Supreme Court of the United States has held that the income in the hands of the executors is not taxable. The Senator from Utah says it is, and I just want to know.

Mr. LENROOT. It would not be.

Mr. UNDERWOOD. I want to find out from the committee whether it is or not. The Senator from Wisconsin is an authority on one side, and the Senator from Utah on the other.

Mr. WATSON of Indiana. If the executors have property from which income is derived, it is taxable like anything else.

Mr. UNDERWOOD. And it should be.

Mr. SMOOT. It is under this provision.

Mr. WATSON of Indiana. When it reaches the donee it becomes subject to the provision.

Mr. UNDERWOOD. I do not know what this bill will do, and to tell the honest truth and without any reflection on the committee, I am not sure that the committee knows in every respect what the bill will do; and right here, on this proposition, the committee is divided as to whether income in the hands of the executor is taxable.

Mr. SMOOT. It always has been, it is to-day, and there is not a word changed from the existing law, and it ought to be taxable.

Mr. UNDERWOOD. Let me state to the Senator what I am trying to get at. I am seeking information. If the Senator is correct about it and there is no change, I shall have nothing more to say.

Under the existing law the income is always subject to tax where it is a net income, and deductible from that net income——

Mr. SMOOT. Interest which may be paid.

Mr. UNDERWOOD. All taxes, including the estate tax, unquestionably, under the existing law. The Treasury Department held that the estate tax was not deductible, but the Supreme Court said the Treasury Department was wrong and held that it was deductible.

Mr. SMOOT. That is right.

Mr. UNDERWOOD. What I am trying to find out is whether you are by this bill trying to change that status?

Mr. SMOOT. Not at all.

Mr. UNDERWOOD. If the Senator is sure of that, I have nothing more to say.

Mr. SMOOT. I am quite positive of it.

Mr. UNDERWOOD. I was apprehensive that the words added here would take this out of the category which the Supreme Court decided it is in, which I think is right. I do not think it ought to be subject to taxation.

Mr. SMOOT. The Senator and I agree there.

Mr. WATSON of Indiana. All there is to it is right here. This is the existing law:

The tax imposed by sections 210 and 211—

That is, the normal and surtaxes—

shall apply to the income on estates or on any kind of property in trust, including, first, income received by estates of deceased persons during the period of administration or settlement of the estates.

That determines what is being done with it while it is passing from the estate of the deceased to the donee or devisee.

Mr. UNDERWOOD. You make it especially taxable there?

Mr. SMOOT. This is taxable here, just as I stated, and it is only a repetition of the requirement in the other section.

Mr. WATSON of Indiana. That is all.

Mr. SMOOT. The Senator and I agree.

Mr. UNDERWOOD. If there is no attempt to change——

Mr. SMOOT. There is not a word changed.

Mr. UNDERWOOD. Then I have nothing more to say.

Mr. SIMMONS. Mr. President, I want to say to the Senator from Alabama that, while the committee has not brought forward and reenacted all the provisions of the present law which relate to internal-revenue taxes, it has brought forward many of those provisions, and whenever it has brought them forward, it has treated them as being an amendment to the law.

Mr. SMOOT. There is one title that we left out entirely.

Mr. SIMMONS. All the provisions in small italic capitals are merely provisions taken from the old law and proposed to be reenacted in the new law. This is one of them.

Mr. UNDERWOOD. The Senator from North Carolina agrees with the Senator from Utah that there is no change in reference to this matter?

Mr. SIMMONS. There is none.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment passed over was, on page 34, to strike out lines 6 and 7, as follows:

SEC. 210. Paragraph (4) of subdivision (b) of section 213 of the revenue act of 1918 is amended to read as follows:

The amendment was agreed to.

The next amendment passed over was, on page 34, line 15, after the numerals "1917," to insert "(other than postal savings certificates of deposit)."

The amendment was agreed to.

The next amendment passed over was, on page 34, after line 22, to insert:

(5) The income of foreign Governments received from investments in the United States in stocks, bonds, or other domestic securities, owned by such foreign Governments, or from interest on deposits in banks in the United States of moneys belonging to such foreign Governments, or from any other source within the United States.

Mr. SIMMONS. Mr. President, let me inquire what Senator asked that this amendment should go over?

The PRESIDING OFFICER. The Chair is advised that the junior Senator from Utah [Mr. KING] asked that that go over. The Chair is further advised that the junior Senator from Utah subsequently withdrew that request.

Mr. SIMMONS. May I suggest that as these amendments are reached, being amendments which have been passed over, the Clerk announce what Senator asked that the amendment go over. It would be exceedingly unfair to Senators who have asked that amendments go over to take them up and insist on action in their absence, and in order that we may know whether the Senator who asked that an amendment should go over is present or not, we ought to have the Clerk announce his name.

Mr. SMOOT. I will say to the Senator that when this heading was reached it was announced that the junior Senator from Utah had asked that it go over. He was temporarily out of the Chamber, but he came in just a few minutes after and withdrew his request that it go over.

Mr. SIMMONS. That is very satisfactory in this case.

Mr. SMOOT. I will assure the Senator that when I am in the Chamber, if there is any request that has been made that I have marked—and I think I have everyone of them marked in my copy of the bill—unless the Senator who asked that the amendment go over is in the Chamber I shall ask that it go over until he can be notified.

Mr. SIMMONS. That has been the course in the Senate since I have been a Member of it.

Mr. SMOOT. It will be now so far as I can follow it.

The PRESIDING OFFICER. The announcement was made that the amendment was passed over at the request of the junior Senator from Utah, and in the future reading the Secretary will announce the name of the Senator on whose request the amendment was passed over.

The question is on agreeing to the amendment just read.

The amendment was agreed to.

The READING CLERK. The next amendment passed over, on request of the junior Senator from Utah [Mr. KING], was, on page 35, after line 4, to insert:

(6) Amounts received, through accident or health insurance or under workmen's compensation acts, as compensation for personal injuries or sickness, plus the amount of any damages received whether by suit or agreement on account of such injuries or sickness.

The amendment was agreed to.

The READING CLERK. The next amendment passed over, at the request of the junior Senator from Utah [Mr. KING], was, on page 35, after line 10, to insert:

(7) Income derived from any public utility or the exercise of any essential governmental function and accruing to any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, or income accruing to the Government of any possession of the United States, or any political subdivision thereof.

Mr. KING. Mr. President, before taking up that item, may I ask my colleague or one of the other members of the committee to recur to page 28 of the bill. The plan has been adopted in this legislation of exempting from the normal tax all dividends which have been distributed to the stockholders of corporations.

Mr. SMOOT. That is only the normal tax, not the surtax.

Mr. KING. Exactly; the normal tax but not the surtax. In 1918 the report shows that there were approximately $2,400,000,000 of dividends distributed. The normal tax upon that, as the Senator can perceive, would be a considerable sum.

Mr. SMOOT. If it is an individual or partnership the normal tax now is imposed. If it is a corporation, then the corporation has already paid taxes upon it.

Mr. KING. I am speaking of dividends distributed by corporations. I suppose the theory of exemption is based upon the fact that the corporation is presumed to have paid the normal tax, and the normal tax having been paid by the corporation before distribution of dividends, the theory is that the receiver of the dividends should be exempt from the normal tax.

Mr. SMOOT. If the corporation had not paid the normal tax, then that amount of the tax would have gone in dividends to the individual.

Mr. KING. I comprehend, but I am not quite able to see the fairness and justice to the Government of exempting from the normal tax the receiver of the dividend. Of course, it may be averred that it would be double taxation, that the corporation has already paid a normal tax upon the $2,400,000,000 of dividends which were distributed, and therefore the distributees ought to be exempt from a further normal tax; but I am not quite able to see the justice of the exemption. The distributee pays his normal tax upon his other receipts, whether from

farms or from leasehold interests, or from any other source. Why should I, if I receive from a corporation a thousand dollars by way of dividends, not be required to pay the normal tax of 4 or 8 per cent upon that amount?

Mr. SMOOT. That raises the question as to the equalization of the tax between the corporation and the individual. That has been tried through all the laws to be equalized. No law could be written which could not have a case pointed to under it which would be a discrimination against the corporation or a discrimination against the individual.

When the first law was passed we had the normal tax at 8 per cent on corporations and the normal tax at 4 per cent on individuals doing business. Taking the business of the country as a whole, the little business and the big business, that was supposed to equalize the difference in the final income tax paid by the individual as an individual and by the individual receiving the dividends from the corporation. I believe that the difference of 4 per cent was hardly sufficient. In the pending bill we provide that there shall be a flat tax of 10 per cent upon the net income of corporations.

That is made to equalize, if possible, the individual and the partnership doing business who have to pay a higher tax through coming into a higher bracket than where the profits of the corporation are divided into more than two parts or in the case of an individual where there is no division of the profits. I think the 10 per cent will equalize it. I have not any doubt about it. In cases, of course, where there are profits less than 15 per cent or less than 10 per cent there is no doubt that the corporation is at an advantage. It may have a little advantage, perhaps, after that amount, taking all of the business of the country into consideration, but I do not know of any other way of equalizing it better than we have undertaken to do here.

Mr. KING. I have tried to follow the explanation of my colleague, and I appreciate that there is very much force in the position which he has taken, yet I am unable to comprehend the justice to the Government of a law which denies to the Government the right to apply the normal income tax to receipts distributed to individuals in the form of dividends. If my investments are in corporations and my income consists of dividends distributed by corporations, I do not see why I should be exempt from the normal tax because the corporation before making the distribution has paid a corporation tax to the Government.

Mr. SMOOT. Does not my colleague see that unless he is, it would be a double taxation?

Mr. KING. I suggested at the outset that it might be charged that it was a double taxation.

Mr. SMOOT. There is no doubt it would be.

Mr. KING. Of course, the corporation has paid a tax to the Government, as my colleague has very pertinently stated.

Mr. SMOOT. And the corporation is simply the stockholders, and so every stockholder has paid his share of that tax. Now, if he has to pay that over again, it is a double taxation, and it would not be fair.

Mr. KING. I do not quite agree with the last statement of my colleague. It is in a sense double taxation, and I might say that much of our taxation is double taxation; but if I choose to make my investments in a corporation rather than in lands or personal property subject to my control and from which I derive my revenue or my income, and that corporation makes profits and pays to the Government the tax imposed on it, and after paying that tax there are dividends for distribution and I receive dividends, it does seem to me that I ought to pay the normal tax upon those dividends.

My colleague admits that when those dividends reach the datum line where the surtaxes begin, then the Government may apply the surtax to the amount above that datum line, so that in a sense that is double taxation, because those dividends have been subjected in the hands of the corporation to a tax before distribution, and now when they reach the datum line where the surtaxes apply they are subjected to taxation, so there is a double taxation in that instance.

Mr. SMOOT. In that instance it is on the basis of the ability of a man to pay.

Mr. KING. Oh, yes.

Mr. SMOOT. That has been adopted not only in this country but in every other country, and I do not believe we can get away from it. The only way to get away from it, in order to have the amount of tax graded according to the amount of income, would be to have a flat income tax, and there is no country in the world that has adopted that plan. I think it would be very difficult, indeed, for the man who has an income below $10,000. It would be exceedingly burdensome on the man who has an income of five or six thousand dollars. I agree that if we are going to look at it from the standpoint that everyone ought to pay the same proportion, then, of course, it should be a flat rate upon all the incomes, whether they be small or whether they be large.

I wish to say to my colleague that as the committee reported the provision I see a great disadvantage to a certain class of men in the country who are most active; in other words, it seems to me that the man who has an income of $30,000 or $40,000 or $50,000 is the man who puts his personal efforts into the business. He is not a large corporation, but he is struggling; he is an active man; he is a man who is pushing forward; he is a man who is always looking ahead to increase his business, get more employees, expand, and, of course, under this provision he would pay a rather heavy tax.

I wish it were possible to divide it at somewhat higher than the 32 per cent bracket, but it is not, because I believe that the man who receives an income that would justify paying taxes in a higher bracket than 32 per cent ought to escape taxation.

That is not it at all. The only reason I approve of that is because if it is any higher the man will invest his money in tax-exempt securities and the Government of the United States gets no income whatever. That is the only excuse and the only reason why I would support the proposition. I know my colleague, after the investigations he has made, has found that there is no question of doubt that that is what is going on. When we first passed the 65 per cent brackets we used to get nearly a billion dollars a year from incomes over $300,000. The very next year it fell to a little over $700,000,000, and the next year to a little less than $500,000,000. Of course, just as fast as they can transfer their properties they are going to do it and get tax-exempt securities. In other words, I will say to my colleague that a man who has an income of $300,000 is not going to take any chances when he can buy tax-exempt securities and upon his investment make at least 22 per cent, whereas if he paid his tax under existing law it would take the greater part of all he received. It is that kind of a man on whom I wish to impose the tax. I do not wish him to escape all forms of taxation.

Mr. KING. Mr. President, I shall suggest an amendment, to come in on pages 28 and 29, but before formally offering it I will pass it to the committee, and I should like their expert, Dr. Adams, in connection with the members of the committee, to examine it, for my amendment also proposes to consolidate the normal and the surtaxes in one bracket so as to make more readily ascertainable what the taxes are.

At the time that I offer that amendment I shall offer another amendment, because it will embrace the same subject, which will impose a tax upon distributed dividends, which will raise, as I figure it, in the neighborhood of $192,000,000, which is no small sum, as a part of the revenues to be derived from this bill.

Mr. FRELINGHUYSEN. Mr. President, is the junior Senator from Utah now offering an amendment or has he surrendered the floor?

Mr. KING. I have surrendered the floor.

Mr. FRELINGHUYSEN. I send to the desk a letter, which has been written me by the Chamber of Commerce of Jersey City, N. J., which I ask may be read for the information of the Senate. It relates to certain tax provisions of the pending bill.

The PRESIDING OFFICER. The Senator from New Jersey asks that a certain letter, which he sends to the Secretary's desk, may be read. Is there objection? The Chair hears none, and the letter will be read.

The reading clerk read the letter, as follows:

CHAMBER OF COMMERCE,
Jersey City, N. J., September 29, 1921.

Hon. JOSEPH F. FRELINGHUYSEN,
United States Senate Office Building, Washington, D. C.

MY DEAR SENATOR FRELINGHUYSEN: This will serve to acknowledge receipt of your letter of September 27. Fortunately the Jersey City Chamber of Commerce has already devoted a great deal of time and attention to the subject of general taxation, going to the extent, about six weeks ago, of conducting a referendum among its 1,800 members in Hudson County.

As a result of this referendum, in which more than 1,000 ballots were received, the chamber has gone on record as favoring:

1. The repeal of all excess-profits tax, dating from January 1, 1921.
2. The repeal of war excise taxes levied in relation to particular businesses.
3. The repeal of war excise taxes levied in relation to communication.
4. A tax on all turnovers, to bring in such revenues lost through the repeals as the Government's necessities require.
5. The decentralization of the administration of income taxation.
6. The ascertainment by the Government of any taxes based on income before it is payable.
7. The establishing of a court or courts of tax appeals entirely separate and independent of the Treasury Department.
8. Recognition of the principle that the income from any new issues of securities which may lawfully be made subject to Federal tax should be taxable.

It is our understanding that the Fordney bill now being considered by the Senate does not meet the desires of our membership in any of these features. Our principal objections to the Fordney bill is that while it is a step in the right direction it has not gone anywhere near far enough. While it advocates the repeal of war excise taxation

in relation to some businesses, the repeal is very limited, and it seems to be the unanimous opinion of business men in Jersey City that all of this type of taxation should be removed. We approve of these features in the Fordney bill providing for the repeal of war excise taxes on transportation, and of the provision that losses in any taxable year may be set up as credits in the two succeeding years, and that the exchange of property of a like or similar nature is to be considered merely as a replacement.

We note that the Senate committee has amended the tax bill as it came from the House, in respect to the transportation tax, to the extent that they have recommended that the tax on freight, passenger tickets, and Pullman accommodations be continued until January 1, 1922, be cut in half after 1922 and then be repealed; that the present tax be continued on express shipment, transportation of oil by pipe line, messages by telegraph, and so forth. In view of the unanimous sentiment expressed in opposition to these taxes in Hudson County the Jersey City chamber would like to urge their immediate repeal.

The chamber also regrets that the proposed tax bill makes no provision for the general sales tax, such as a tax on all turnovers, for which this organization is unanimously on record. As far as the Jersey City Chamber of Commerce can ascertain there seems to have been a pretty general sentiment amongst the business men all over the United States in favor of the general tax on turnovers to replace the revenue lost by the elimination of the present excess-profits tax, transportation tax, and particular business taxes. It has seemed to us after careful consideration that the general condition of business could be materially improved were the present taxing evils eliminated.

We also regret to note that the Senate committee has rejected the House provision for permitting corporations to deduct charitable gifts, the aggregate not to exceed 5 per cent of their net income. The Jersey City chamber believes that corporations should be permitted to make these deductions because in recent years charitable contributions have reached such a stage that they may be properly classed as a practical business necessity. The action of the Senate committee will in our opinion have a tendency to curtail to some extent the revenue of every welfare organization in the United States, and that in turn will work a hardship on the unfortunates of our country, who must from time to time depend upon the bounty of their more successful fellow citizens.

As the Representative from New Jersey, the Jersey City Chamber of Commerce hopes and trusts that you will use your influence to have the practically unanimous views of your constituents, as represented in this organization, reflected in the tax legislation finally adopted by the Senate.

Thank you for your interest in inviting our expression of opinion.

Sincerely, yours,

WILLARD G. STANTON, *Manager.*

The PRESIDING OFFICER. The Secretary will proceed with the statement of passed-over amendments beginning with the amendment on line 11, page 35.

The next amendment passed over was, on page 35, after line 10, to insert:

(7) Income derived from any public utility or the exercise of any essential governmental function and accruing to any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, or income accruing to the Government of any possession of the United States, or any political subdivision thereof.

Whenever any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, prior to September 8, 1916, entered in good faith into a contract with any person, the object and purpose of which is to acquire, construct, operate, or maintain a public utility, no tax shall be levied under the provisions of this title upon the income derived from the operation of such public utility, so far as the payment thereof will impose a loss or burden upon such State, Territory, District of Columbia, or political subdivision; but this provision is not intended to confer upon such person any financial gain or exemption or to relieve such person from the payment of a tax as provided for in this title upon the part or portion of such income to which such person is entitled under such contract.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. KING. Mr. President, has the Secretary a notation as to what Senator asked that that amendment go over?

The PRESIDING OFFICER. The amendment was passed over at the request of the junior Senator from Utah [Mr. KING].

Mr. KING. I suggest the absence of a quorum. Several Senators desire to be here when the amendment is considered.

The PRESIDING OFFICER. The Senator from Utah suggests the absence of a quorum. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Harreld	McLean	Simmons
Borah	Harris	Moses	Smoot
Broussard	Harrison	Myers	Spencer
Calder	Heflin	Nelson	Sterling
Cameron	Hitchcock	New	Sutherland
Capper	Kellogg	Norbeck	Swanson
Caraway	Kendrick	Oddie	Townsend
Culberson	Kenyon	Overman	Trammell
Curtis	King	Page	Underwood
Dial	Ladd	Poindexter	Walsh, Mass.
France	La Follette	Pomerene	Walsh, Mont.
Frelinghuysen	Lenroot	Ransdell	Warren
Gerry	Lodge	Reed	Watson, Ind.
Gooding	McCormick	Robinson	Williams
Hale	McKellar	Sheppard	Willis

Mr. HARRIS. I wish to announce that my colleague, the junior Senator from Georgia [Mr. WATSON] is absent from the Chamber on account of illness.

The PRESIDING OFFICER. Sixty Senators have answered to their names. A quorum is present. The question is on agreeing to the amendment of the Committee on Finance which has just been stated.

Mr. HITCHCOCK. Mr. President, on page 36, after the word "intended," on line 4, I move to insert the words "and shall not be construed."

The language now is:

But this provision is not intended to confer upon such person any financial gain or exemption.

It may not be intended to do so, but it might do so unless the declaration is made that it shall not be so construed.

Mr. SMOOT. I see no objection to that amendment. That is what the law intends.

The PRESIDING OFFICER. Let the Secretary state the amendment to the amendment.

The READING CLERK. On page 36, line 4, after the word "intended," it is proposed to insert the words "and shall not be construed," so that it will read:

But this provision is not intended and shall not be construed to confer upon such person—

And so forth.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Nebraska to the amendment of the committee.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The PRESIDING OFFICER. The Secretary will state the next amendment passed over.

The READING CLERK. The next amendment passed over is on page 36, lines 10 to 25, both inclusive, and on page 37, lines 1 to 19, both inclusive, passed over at the request of the junior Senator from Utah [Mr. KING].

Mr. KING. Mr. President, I inquire whether that does not relate to the amendment offered by the senior Senator from Wisconsin [Mr. LA FOLLETTE]? Does not that relate to the same subject to which he was addressing himself?

Mr. SMOOT. Mr. President, I think that ought to go over with the rest. The same principle is involved, so we might just as well let it go over and pass on it all at once.

The PRESIDING OFFICER. So that it may be understood, what is the request of the Senator now?

Mr. KING. There is another amendment which precedes this to which the Senator from Wisconsin [Mr. LA FOLLETTE] addressed himself the other day. This is cognate to the same matter that has gone over. I ask that it may go over until the other matter is disposed of.

Mr. SMOOT. The Senator means only from line 13 down to line 22. That is the subject matter that the Senator from Wisconsin was discussing the other day.

Mr. KING. Yes.

The PRESIDING OFFICER. The Senator requests, then, that the matter from line 13 to line 22 be passed over? Is that the request of the Senator from Utah?

Mr. KING. One moment, if the Chair will permit me. May I inquire of the junior Senator from Wisconsin if that is not the same subject?

Mr. LENROOT. I do not think myself that that has anything to do with it.

Mr. KING. It relates to foreign corporations.

Mr. LENROOT. Foreign corporations doing business within the United States.

Mr. MOSES. Mr. President, the other person was an American doing business in foreign countries.

Mr. SMOOT. The only respect in which it can be compared is as to the percentage of business done.

Mr. LODGE. It is confined to shipping, is it not?

Mr. SMOOT. Yes; this is confined entirely to shipping; but the principle is the same as to arriving at a definition of corporations as to the amount of business done within the United States.

Mr. LODGE. Of course if we pass over anything dealing with the subject, we must pass it all over.

Mr. WATSON of Indiana. If the Senator will permit me, what reason would the Senator have for asking it to go over?

Mr. KING. As I understand, there is some relation between this amendment and the amendment which was offered by the Senator from Wisconsin [Mr. LA FOLLETTE] the other day.

Mr. WATSON of Indiana. My judgment is that the only relation between the two is that they are printed in the same bill.

Mr. KING. If that is the only relation, then of course this ought not to go over; but if it is connected with the same subject matter, then it ought to be considered when the matter to which the Senator from Wisconsin directed his atten-

tion is considered. If the Senator assures me that there is no relation, the committee amendment may be agreed to.

Mr. SMOOT. There is no relation as to the subject matter itself—none whatever.

The PRESIDING OFFICER. What is the request with reference to this section?

Mr. KING. I shall withdraw my request that it be passed over, with the understanding, however, let me say, that if the Senator from Wisconsin [Mr. LA FOLLETTE] upon his return to the Chamber takes the position that it is related in any manner to the subject which he was considering the other day, we may move to reconsider.

Mr. SMOOT. Mr. President, so that there will be no misunderstanding at all about it, I will say that it is an entirely different subject matter, but, as I stated before, the treatment of it is somewhat along the same line.

Mr. KING. I understand that the junior Senator from Wisconsin [Mr. LENROOT] desires to move to strike out the entire matter.

Mr. LENROOT. I have no objection to the adoption of these amendments. When they are adopted I shall then move to strike out the entire paragraph.

Mr. KING. Does the Senator from Wisconsin desire to make that motion now or to wait until the committee amendments are adopted?

Mr. LENROOT. I say I have no objection to the committee amendments being adopted.

Mr. KING. I withdraw my objection to the present consideration of the section.

The PRESIDING OFFICER. The amendments of the committee will be stated.

The READING CLERK. On page 36 it is proposed to strike out lines 10 to 12, both inclusive, in the following words:

SEC. 211. Subdivision (b) of such section 213 is further amended by striking out paragraph (8) and inserting in lieu thereof four new paragraphs to read as follows.

The amendment was agreed to.

The next amendment passed over was, on page 36, line 13, to strike out "(8) The income" and insert "(8) In the case"; in the same line, after the word "alien," to insert "individual"; in line 14, after the word "foreign," to strike out "corporation which" and insert "corporation, more than 95 per centum of whose gross income (computed without the benefit of this paragraph);" in line 16, after the word "consists," to strike out "exclusively"; in the same line, after the word "of" where it occurs the second time, to insert "gross"; in line 19, after the words "United States," to strike out "and to corporations organized in the United States" and insert "or to domestic corporations—the amount of gross earnings derived from such operation"; so as to make the paragraph read:

(8) In the case of a nonresident alien individual or foreign corporation, more than 95 per cent of whose gross income (computed without the benefit of this paragraph) consists of gross earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States or to domestic corporations—the amount of gross earnings derived from such operation;

The amendment was agreed to.

Mr. LENROOT. Mr. President, I now move to strike out paragraph (8).

The PRESIDING OFFICER. The Chair is of the opinion that the committee amendments should be first considered, under the agreement that was made here. The committee amendments have not yet been disposed of.

Mr. LENROOT. I think we had better dispose of these paragraphs as we go along. I ask unanimous consent to move to strike out the paragraph.

The PRESIDING OFFICER. The Senator from Wisconsin asks unanimous consent to make a certain motion. Is there objection? The Chair will hear the motion.

Mr. LENROOT. I move to strike out paragraph (8).

The PRESIDING OFFICER. The Senator from Wisconsin now moves that paragraph (8) be stricken from the bill.

Mr. LENROOT. Mr. President, if this paragraph stays in the bill, it is an invitation to every American shipowner now flying the American flag to organize a foreign corporation and change the flag to that of some other country. That is all that the paragraph does. It proposes to discriminate in taxation against American corporations flying the American flag in favor of foreign corporations flying foreign flags upon business done here in the United States.

I confess that with the situation we are now in, trying to build up an American merchant marine, and with the demand being made for a subsidy to enable us to do it, for the Congress now to say that an American corporation with ships flying the American flag shall be subject to these taxes, but that a foreign corporation doing the same business, deriving its revenue from the United States, shall be exempt from taxation, is something utterly beyond my power of comprehension.

Mr. KING. Mr. President, will the Senator yield?

Mr. LENROOT. I yield.

Mr. KING. Does the Senator include in the criticism which he is now submitting lines 20, 21, and 22, which relate to domestic corporations in contradistinction to foreign ones?

Mr. LENROOT. My criticism applies to the entire paragraph, lines 13 to 22. What the paragraph does is to exempt any foreign corporation whose ships fly a foreign flag from taxation under this bill if the country under whose laws they are organized gives our own citizens or our own corporations a like privilege. Now, what would happen? Why, every shipowner in the United States would seek some country having nominal taxation laws that do give the same privilege that we propose to give to a foreign corporation, and they would get out from under the American flag, of course. They would organize under the laws of that country and they would fly the flag of that country whose taxation laws were the lowest.

Mr. President, it is so simple that I really can not understand how it is possible that a committee of either House would attempt to strike this blow at the American merchant marine. I shall be very glad to have some explanation from some member of the committee, because the result can not be otherwise than I have stated.

Mr. SMOOT. Mr. President, the Committee on Commerce of the Senate has an amendment exactly like this in a bill which it is to report to the Senate, and which I think it did report to the Senate at the last session of Congress.

Mr. LENROOT. I happen to be a member of the Committee on Commerce, and I am not aware of any such legislation.

Mr. SMOOT. Well, the result of that amendment would be exactly the same as this.

Mr. President, the only object of this is to have one taxation, as far as American shipping is concerned, in all parts of the world. To-day there is double taxation. This is guarded by simply saying that—

In the case of a nonresident alien individual or foreign corporation, more than 95 per cent of whose gross income (computed without the benefit of this paragraph) consists of gross earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States or to domestic corporations, the amount of gross earnings derived from such operation—

shall be exempt from taxation under this title.

I can not see but that this is absolutely just to the shipping interests of the United States. When the question was discussed by the committee it was decided that there were disadvantages in this and there were advantages, and from the testimony that the committee received it developed the fact that perhaps there were 40 per cent of disadvantages and 60 per cent of advantages; and as we understood that the Commerce Committee of the Senate intended to recommend the passage of a law similar in effect to this, if not similar in words, we thought it might be just as well put in the revenue law as far as the collection of taxes is concerned.

Mr. LENROOT. The Senator has no license to refer to the Commerce Committee as authority for any such proposition, because it never has been even considered by the Commerce Committee.

Mr. SMOOT. Then, shall I say the chairman of the committee?

Mr. LENROOT. It may be.

Mr. SMOOT. I will confine my statement, then, to the chairman of the committee. I had understood, however, that it had been considered by the committee. But be that as it may, Mr. President, all I ask the Senate of the United States to do is to pass judgment on this matter. I admit that there are disadvantages in adopting the amendments made by the Senate committee, but I also believe that there are more advantages to the shipping interests of the United States than there are disadvantages.

Mr. OVERMAN. Mr. President, we should like to hear what the advantages are.

Mr. LENROOT. Mr. President, let me ask the Senator a question.

Mr. SMOOT. Why, Mr. President, the great advantage is the elimination of double taxation. As it is now, an American ship has to pay American taxes and it has to pay foreign taxes, too. This will eliminate that, and it puts all shipping interests on an equal footing as far as taxation by the Government of the United States is concerned; and if a foreign country does not agree to it, then, of course, there is nothing lost.

Mr. LENROOT. Will not the Senator admit that if this becomes the law a ship flying the American flag will not be exempt from taxation upon American business, while a ship

flying a foreign flag, owned by a foreign corporation, will be exempt from taxation?

Mr. SMOOT. No; I can not admit that. I suppose the Senator will admit that we escape foreign taxation under the amendment. Is not that so?

Mr. LENROOT. We do not, because these companies will seek that country which has the lowest or nominal taxation, and will have their ships chartered there. England taxes her ships, and England taxes our ships.

Mr. SMOOT. That is left entirely in the hands of our Government, and if a foreign country that we desire to do business with, and where business is, does not grant us this right, we will not grant it to them. But if the bill passes, there will be only one taxation and that is the advantage.

Mr. LENROOT. Does the Senator think that they will go to some little South American country to grant them the right to have their ships exempted from taxation? Would there be any incentive to secure this equality?

Mr. SMOOT. Mr. President, I do not think any great American shipping interest which has business worth while would run down into Mexico, would have to go to Mexico or some South American country, to get its charter. It is not conceivable, and I can not see why that question would be considered as an objection to this amendment. Why not let the Senate vote upon it, and if they want it to go out, let it go out. But I have made the statement as to the advantages and disadvantages, according to the testimony that was received, showing that the advantages were about 60 per cent and the disadvantages 40 per cent.

Mr. KING. If this question is of such great importance to the shipping interests of the United States, manifestly it must be of importance to the shipping interests of other countries, and may I inquire if it has been the subject of negotiation by our State Department and other nations, with a view to securing reciprocity treaties, or some sort of a reciprocal relation, by which American shipping would receive consideration from other countries?

Mr. SMOOT. All I can say in answer to that is that the State Department, the Department of Commerce, and the Treasury Department have appointed committees to investigate that matter, and they are now investigating the question of double taxation, not only of the shipping interests but every other American interest.

Mr. POMERENE. Mr. President, that being so, is it not very evident that the Senator can not be very well satisfied with his statement when he says that this plan would be 60 per cent beneficial to the United States and 40 per cent against it? Why would it not be better to meet the situation by suggesting some provision here instructing the State Department to take this subject up with each of these countries, and to make such treaties as might be beneficial to our shipping interests?

Mr. SMOOT. I understand, Mr. President, that the investigation has gone far enough now so that the Treasury Department approves of this proposition, and I will say that there is no necessity whatever of directing them to do it, because they are doing it now; it is under way.

Mr. POMERENE. We could make some definite rule, or permit them to make some definite rule, which would control the situation, and I think it could be done more advantageously to our shipping interests if it were taken up as a special subject of negotiation, rather than to attempt to settle it this way, in view of the present uncertainty.

Mr. SMOOT. The Senator will admit that we would lose nothing by adopting the amendment, as it is limited to the question of allowing the exemption to a foreign country which allows an exemption to us.

Mr. POMERENE. Mr. President, that depends upon circumstances. They may have more shipping than we have to get the advantage of it.

Mr. SMOOT. If they have, then, of course, there would not be any advantage to us.

Mr. POMERENE. Assuming they have the same amount of tonnage, then the Senator's statement would be exactly correct.

Mr. SMOOT. As far as I am concerned, I have not any more to say about it, Mr. President. I think it is the judgment of those who know that there is more advantage than disadvantage. If the Senate wants it to go out, all they have to do is to vote it out. I only want a vote upon it.

Mr. DIAL. I agree with the junior Senator from Wisconsin that this matter has not been up before the Committee on Commerce, and as there are very few Senators here to-day and it is a matter of importance, I think it ought to go over.

Mr. KING. I was about to suggest that this matter is quite important, and the Senator from Wisconsin, by unanimous consent, has brought it up for consideration, and I think we ought to vote intelligently. I am going to ask for a quorum, so that the Senator from Wisconsin may make such further statement as he may desire, in order that the matter may be fully presented. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Harris	Moses	Smoot
Broussard	Heflin	Myers	Spencer
Cameron	Hitchcock	Nelson	Sterling
Capper	Kellogg	New	Sutherland
Caraway	Kendrick	Norbeck	Swanson
Culberson	Kenyon	Oddie	Townsend
Curtis	King	Overman	Trammell
Dial	Ladd	Page	Underwood
France	La Follette	Poindexter	Walsh, Mass.
Frelinghuysen	Lenroot	Pomerene	Walsh, Mont.
Gerry	Lodge	Ransdell	Watson, Ind.
Gooding	McCormick	Reed	Willis
Hale	McKellar	Sheppard	
Harreld	McLean	Simmons	

Mr. CAMERON. I wish to announce that the junior Senator from California [Mr. SHORTRIDGE] is detained on business of the Senate.

Mr. HARRIS. I wish to announce that my colleague [Mr. WATSON of Georgia] is detained at home on account of illness.

The VICE PRESIDENT. Fifty-four Senators have answered to their names. A quorum is present.

Mr. LENROOT. Mr. President, several Senators have asked me to say just a word in further explanation of this paragraph which I have moved to strike out.

It is admitted, Mr. President, that if this paragraph becomes a law it will exempt foreign corporations operating ships under foreign flags from any taxation upon American business, while American corporations flying the American flag will be taxed, and that is what I object to. It puts an additional handicap upon our own American merchant marine. It is difficult at best for it to compete with the vessels of other nations, and this proposes to put an additional handicap by saying, "If you will organize under the laws of another country, transfer your vessels from the American flag to another flag, we will then exempt you from taxation upon business you do here in the United States, while if you continue as an American corporation, and continue to fly the American flag, we will tax you."

I want to know whether the Senate is going to stand for any such proposition as that.

Mr. UNDERWOOD. Mr. President, I want to say just a word. In the days before Jackson's administration we built up an American merchant marine by discriminating in favor of American ships, and that was under a long course of leadership of Democratic Presidents. When we abandoned discrimination in favor of American ships, our rivals on the seas continued to discriminate in favor of their ships, until finally the American flag was lost from the seas of the world.

Now we are attempting to return that flag to commerce. I do not believe it can be successfully done unless we are going to meet discrimination with discrimination, and on the same basis that our commercial rivals propose to keep their ships on the seas we should keep ours.

That being the case, it seems to me that it is folly for us to expect for one moment that we can keep the American ships on the seas if we are not only not going to meet the discrimination of our foreign rivals but are going to set up a discrimination ourselves against American shipping. I shall therefore vote for the motion of the Senator from Wisconsin.

Mr. SMOOT. Mr. President, I simply want to say that what I said was in defense of the action taken by the committee. This is not vital one way or the other. I am not going to discuss it any further. The main and principal object that we had in view was a single tax for shipping interests all over the world. Whatever the Senate does will be perfectly satisfactory to me.

The VICE PRESIDENT. The question is on the motion of the Senator from Wisconsin to strike out.

The motion was agreed to.

Mr. SMOOT. Mr. President, I ask unanimous consent that the Secretary be directed to renumber the section on line 23, which will now be numbered 8, and if the amendments are disagreed to, on page 37 I also ask at this time that those numbers be corrected.

The VICE PRESIDENT. Without objection, unanimous consent will be granted for the Secretary to renumber the sections at the conclusion of the consideration of the bill.

Mr. SMOOT. That is satisfactory to me.

The READING CLERK. The next amendment passed over was, on page 37, line 3, after the words "in time of," to strike out war;" and to insert "war.", so as to read:

(9) Amounts received as compensation, family allotments and allowances under the provisions of the war risk insurance and the vocational rehabilitation acts, or as pensions from the United States for service of the beneficiary or another in the military or naval forces of the United States in time of war.

The amendment was agreed to.

The READING CLERK. The next amendment passed over is, on page 37, where the committee proposes to strike out lines 4 to 19, both inclusive, passed over at the request of the junior Senator from Utah [Mr. KING].

Mr. OVERMAN. Mr. President, there is one section of this with reference to which I desire to be heard briefly. That is on page 37, paragraph numbered 11, where the committee proposes to strike out the following language:

(11) So much of the amount received by an individual as dividends or interest from domestic building and loan associations, operated exclusively for the purpose of making loans to members, as does not exceed $500.

The House exempted building and loan associations where the amount received by the individual as dividends or interest from building and loan associations does not exceed $500. This, I suppose, was for the purpose of encouraging building and loan associations, which are doing so much now to build houses for the laboring people.

We are very much interested in that, as everybody is. I have asked the expert as to the amount of taxes received under this provision, and he said it would be inconsiderable and amount to approximately nothing. Then why should the Senate strike it out?

I hope that the Senate will restore the House provision, which is for the purpose of encouraging the building of houses. We exempt farm-loan bonds for the purpose of aiding the farmer in the purchasing of land. Why not aid these people who invest their money for the purpose of building houses for poor people? We need houses. Everyone knows there is a great scarcity of houses in the country, and if we can encourage the building of houses in the cities we ought to do it. I think the amount of revenue received under this provision is so inconsiderable that the Senate can afford to disagree to the amendment.

Mr. SMOOT. Mr. President, the Finance Committee disagreed to the House provision allowing an exemption of not to exceed $500 for each individual, because, as the House provided, there could be eight members of a family, and eight times $500 would be $4,000 which might be exempt from taxation if received as interest from these building and loan associations. We thought it was unjust and should not be allowed. Therefore the committee struck it out. I can not see why it should not be struck out.

Mr. KING. Mr. President, may I inquire of my colleague if there is any reason why, if profits are made out of a loan association, exemption should extend to the distributees of those profits any more than of any other company?

Mr. SMOOT. None whatever. Not only that, but the committee had in mind, too, the stopping of exemptions whereby the Government of the United States is to be deprived of revenue. That principle is growing by leaps and bounds. It is drying up the fountains from which the Government of the United States must receive its income.

Mr. McKELLAR. Mr. President——

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from Tennessee?

Mr. SMOOT. Certainly.

Mr. McKELLAR. I wish to ask the Senator this question: Will this not mean that the tax will have to be paid by the borrowers of the money for house-building and home-building purposes? Of course, while this exemption is put upon the earnings, it will just mean that they will pass it on to the borrower who has to borrow the money to pay for the building of his home.

Mr. SMOOT. I do not think the man who borrows the money is going to borrow it any more cheaply in the one case than he does in the other. The man who receives the interest is taxed. He receives the interest; and why should he not pay the tax, whether he is a subscriber to the stock of the building and loan association or not? He would not subscribe to stock in that association unless it was going to make money for him and unless he felt it was absolutely safe. Under this provision, if he had six children and a wife, there would be a possibility of having $4,000 income for which exemption could be claimed.

Mr. OVERMAN. The Senator has said this is for the purpose of revenue. Will he tell me how much revenue it will raise? The expert tells me it will not raise anything, approximately.

Mr. SMOOT. We do not want to enter into any further exemption privileges.

Mr. OVERMAN. This is to encourage house building on the part of the building and loan associations, who put in their money for the purpose of building houses for the laboring people. I think we ought to encourage them. I wish to read what one of the leading building and loan association men in my State has to say about it. I have received many such letters. The one to which I refer reads as follows:

CHARLOTTE, N. C., *September 26, 1921.*

Senator LEE S. OVERMAN,
Washington, D. C.

MY DEAR SENATOR: The Senate Finance Committee has eliminated from the revenue bill as it came from the House the amendment exempting from taxation as much as $500 of annual income received by the shareholders of building and loan associations. I would ask you to earnestly use your best endeavors to see that this exemption remain in the finance bill. It is absolutely necessary to finance the building and loans of the country, and this will aid materially.

The farm loan banks get a cheaper rate of interest and have the Government to back them, and I recommend these banks as one of the greatest human institutions ever established for home owning, the very hope of our land. The building and loans in towns have had no Government assistance whatsoever. The owning of homes is the very safety of our American institutions.

I would urge you to do your utmost to see that the Senate Finance Committee does not eliminate the provision before mentioned.

Sincerely,

HERIOT CLARKSON.

If this does not raise any revenue—and the Senator can not tell me how much it will raise—then why not disagree to the committee amendment? The expert has told me it will not raise anything, so why not accept the House provision?

Mr. SMOOT. I suppose when the expert said it would not raise anything, he meant not as compared with the $4,000,000,000 we have to raise.

Mr. OVERMAN. He said it would be an inconsiderable amount.

Mr. SMOOT. I wish to say to the Senator that if he desires to encourage home building, the only way to do it is to exempt the whole investment of money that goes into home building.

Mr. OVERMAN. No; I would not propose that.

Mr. SMOOT. Then there is a discrimination, and we already have discriminations enough. Here we have the Federal Farm Loan Board, we have the War Finance Corporation, we have all of the State bonds, all of the issues of county, city, and school-district bonds, and we are issuing bonds here for irrigation districts and associations——

Mr. OVERMAN. Why do we exempt them? Is not that to encourage the farmers to acquire land? If that is the principle upon which it is being done, why should we not encourage them to build homes for the laboring men who can not find a place to live? This is on the same principle that was adopted in the instances to which the Senator has referred.

Mr. SMOOT. I wish to say to the Senator from North Carolina that unless some action is taken by the Congress about the securities that are exempt from all taxation we are going to find ourselves in the position that we shall have to raise all of the money to maintain our Government from some source other than the men who have the money of the country.

Mr. OVERMAN. I know the Senator has always been in favor of taxing the farm-loan bonds, but the Senate has not been with him.

Mr. SMOOT. No; I was not in favor of taxing the farm-loan bonds at the time the bill passed.

Mr. OVERMAN. The Senator was against the exemptions?

Mr. SMOOT. I am the way they are going, and I wish to say now that there has got to be a halt. There is no doubt about that. There will be a change. When the great bulk of the American people have to pay all of the taxes because of the fact that these tax-exempt bonds are purchased by men who hold the money of the country and are perfectly safe in holding these tax-exempt securities, because they are not going to invest their money in any industry where there is any chance of a loss, then there will be a decided change. That is the natural result.

Mr. POMERENE. Mr. President, will the Senator yield for a brief statement?

Mr. SMOOT. I gladly do so.

Mr. POMERENE. I understand there are more building and loan associations in the State of Ohio than in any other State in the Union. They have grown to magnificent proportions. They are doing a most wonderful work. I would not for the world do anything that would discourage them in the least. They are one of the great institutions of the State. I wish to say, with all due deference to my friend the Senator from North Carolina [Mr. OVERMAN], that the building and loan people of Ohio are not by any means a unit in their desire for this exemption.

Let us pause for a moment and consider the proposition. Some of the building and loan people, some in my own State, have written certain letters that were insinuating as to what they would do in a political way, but those matters do not disturb me in the least. They are not speaking for the dear workingman when they ask for this exemption. They are speaking in the interest of the rich stockholder who makes his investment in the building and loan association stock, and so long as he can get $500 of interest on his building and loan stock exempt from taxation, which stock usually pays about 8 per cent, he is on the winning side.

Mr. SMOOT. It generally matures in seven years.

Mr. POMERENE. Just bear this in mind, that at the present time, when labor and material are sky high, you are not benefiting the laboring man very much by encouraging him to get these loans in that kind of way. That will come later.

Now, let us see what is the effect of this. It is true everybody wants the workingman to have a home. In our industrial towns they are encouraging that, but is he going to be benefited when his home is to be built out of this high-priced material and this high-priced labor? The same argument that is made against the exemption from tax of dividends on this stock can be made in favor of the exemption of any investment in any manufacturing concern. The manufacturer can come in here and say, "Why, if I am relieved from this income tax I can pay higher wages to my employees." If you are to look to the interests of the workingman himself it is infinitely better that he have work than that he have a house built out of this high-priced material and high-priced labor at the present time.

Mr. OVERMAN. Then the Senator would be in favor of stopping the building of houses at this time, would he?

Mr. POMERENE. Oh, no. If it comes to the question of a shortage of money, there is a shortage everywhere in every line of business. I can make an argument that will satisfy anyone in any line of business that his business ought to be exempt from this tax. That is all there is to it.

Mr. SMOOT. And he will agree with the Senator, too.

Mr. POMERENE. Undoubtedly. I am very frank to say that some months ago some of these men got together in my State and passed a resolution and sent it to me asking me to favor this very amendment. I replied promptly that I could not do it.

Mr. NELSON. Mr. President, will the Senator yield to me?

Mr. SMOOT. Certainly.

Mr. NELSON. I wish to say that some years ago, in connection with the appointment of a judge in the District of Columbia, I had occasion to look up what the building and loan associations here were actually charging the poor borrower who went in there for a loan. I found in the case of that particular company here in the District—and the man had the papers, having made the loan and finally redeemed it—that he had been paying over 36 per cent interest to that building and loan association.

From my information in that case I came to the conclusion that the chief promoters of the building and loan associations were the men who sought to get a higher rate of interest than they could in the ordinary way, and that is, as a matter of fact, what they secured.

I regret that a poor man finds it necessary to go into one of these building and loan associations. He is very unfortunate, indeed, because if he can get the money from any other source he will fare far better than he will with them. The only advantage that I can see is that sometimes they loan money to a man who could not borrow money elsewhere, but it is a most expensive and burdensome way to borrow. I think it would be a great relief to the public to be rid of this kind of loans.

Mr. POMERENE. I have no doubt there are cases just such as the Senator from Minnesota has described. Years ago that was the history of the building and loan associations in Ohio. I am very happy to say that that condition does not exist in Ohio to-day, and the loans which are being made there are being made at very reasonable rates of interest. But every industrial city is short of capital now. It is not alone the building and loan associations. The savings banks and the commercial banks are all of them suffering a shortage of money; much of their money is tied up.

If the proposed committee amendment were adopted and the House provision struck out, it would be an easy matter for a wealthy man has a large family to make an investment in building and loan association stock and to place such an amount of that stock in his own name as would result in an exemption of $500 dividends received on it; and a similar investment of stock in the name of his wife and in the name of each of his children and his sisters and his cousins and his aunts. That is what is done; that is the purpose of the amendment.

Mr. TOWNSEND. Mr. President, I am very deeply interested in building and loan associations. My experience is that they are institutions that ought to be encouraged. The original intent of such associations was to give their members the opportunity to borrow money for the purposes of building homes and then making small payments on easy terms. With that purpose I am in very hearty sympathy; I am willing to grant any privilege for that purpose that ought to go with it; but, as the Senator from Ohio [Mr. POMERENE] has stated, the facts which have come to my attention are that men and women of large means now avail themselves of the opportunity to invest their money in building and loan associations without any thought of ever building a home for themselves, for they already have homes. Thus they are defeating the original and very worthy object of such associations.

I know that in some cases such associations loan money not for the purpose of building homes but for the purpose of building blocks of houses. I know that in some of those cases they have used their money for business purposes. In those cases the poor men who invested their money for the purpose of building homes for themselves on easy payment terms were denied the money which they required when they asked for it and needed it in the construction of their homes.

Mr. President, I repeat that I am very much in favor of encouraging the legitimate and original purposes of building and loan associations. Those associations have succeeded in building many homes, and they are now building homes all over this country; but who could get the advantage of the $500 exemption clause here proposed? Not the poor man, not the man who was putting in his money for the purpose of constructing a home on easy terms, but it would be the man who puts his money into the building association for investment purposes.

Mr. OVERMAN. But some one would have to put the money into the association in order that the poor man might build his house, for merely by making the payments in seven years, unless money was already on hand, he could not get the funds with which to build a house. Some one has got to furnish the money with which to build the house. The poor man gets the money and uses it to build his house, and is able to pay off the indebtedness in small, easy payments. The investor puts the money into the association in order to enable the poor man to build a house, and the home builder may perhaps pay it off in seven years, which, I believe, is the usual rule.

Mr. TOWNSEND. Do I understand the Senator from North Carolina to say that the investor who puts his money in a building and loan association and who does not have any hope or desire of building a home puts his money into the association for the purpose of helping the poor man to build a home?

Mr. OVERMAN. That is what I say. How could the poor man otherwise build his home?

Mr. TOWNSEND. No; the investor does not make the investment for that purpose. He deposits the money in the building and loan association for the purpose of the investment it affords him. It happens frequently where such investments are made that the poor man may get the benefit, but take the large associations whose members combine mutually and pool their deposits, taking their stock and making weekly payments upon it, they do not all want to build homes at the same time. When a man does want to build a home he withdraws his money and has to pay so much weekly into the association on the amount which he borrows.

Mr. OVERMAN. There are 96 Senators in this Chamber. Suppose we each desire to build a home and we each take stock in a building and loan association. How are we going to get the money unless we go out and get somebody to put funds into the association which we engage to repay by installments in seven years?

Mr. TOWNSEND. The fact is, however, that we should not all want to build homes at the same time; that is not the history of building and loan associations. Their members do not all desire to build homes at the same time, but they wish to build them as opportunity may present itself and as their deposits increase.

As I have said, I do not want to do anything which would be adverse to the building and loan associations. This matter was presented to me when I was at home. I then said to the State Association of Building and Loan Associations that it looked to me as though this was a proposition to benefit the man who ought to pay his taxes; the man who was able to pay his taxes, the big investor, who went into such associations not for the purpose of building a home but for the purpose of

getting a larger return upon his money than he could get anywhere else, the kind of man who ought not to escape taxation, but ought to pay his taxes just the same as any other man in the country. That is my honest opinion.

The money which is invested in building and loan associations should be expended in the interest of the ordinary individual citizen, the poor man, who does not want to build a $10,000 home. The man who wishes to build an expensive home does not go into a building and loan association. Those associations are not organized for his benefit. They are organized for the benefit of the man of small means who wants to build a $3,000 or a $4,000 or a $5,000 house. Such a man takes advantage of this cooperative method in order to build his home. I think, as the Senator from Ohio has said, that by the adoption of this provision we shall be defeating the very purpose of building and loan associations by granting this special privilege to men who are not entitled to it.

Mr. FRELINGHUYSEN. Mr. President, I represent in part a State that has a great many building and loan associations. There are at the present time, I believe, some 500,000 members of the building and loan associations of New Jersey. Those associations were started years ago when the development of the State became very rapid owing to the number of people who came there from the congested centers in New York and Philadelphia in order to make their homes. Those organizations are operated under the drastic laws of the State of New Jersey, and there is very little exploitation from real estate speculators and development companies. Most of the building and loan associations are helpful, cooperative associations, and are established for the workingman, for clerks in New York who receive moderate salaries and live in the country because living conditions are there cheaper. I am informed that there are very few members of such associations who invest money in them for the sake of the dividends; that they are mostly mutual self-help organizations for the building of homes. I do not know whether or not it would be a wise policy to tax the dividends which are received from such associations.

Mr. SMOOT. Will the Senator from New Jersey yield to me?

Mr. FRELINGHUYSEN. Yes.

Mr. SMOOT. This provision does not apply to mutual building associations; it applies to domestic associations.

Mr. FRELINGHUYSEN. Domestic building and loan associations are mutual associations.

Mr. SMOOT. No; they are not.

Mr. FRELINGHUYSEN. They are "operated exclusively for making loans to members."

Mr. SMOOT. For making loans to members.

Mr. FRELINGHUYSEN. That is exactly what I am speaking of. I am referring to that class of associations. Perhaps my term was not well used.

Mr. SMOOT. No. There are mutual associations where the funds are furnished by the members, but this language does not apply to such associations, I will say to the Senator. It applies to such associations as those which have just been described so exactly by the Senator from Michigan [Mr. TOWNSEND].

Mr. OVERMAN. The language is quoted correctly by the Senator from New Jersey:

> Operated exclusively for the purpose of making loans to members.

Mr. SMOOT. Yes; that is what they do, but they receive money from everybody, and anybody may go into such associations and subscribe for the stock.

Mr. FRELINGHUYSEN. Even so, admitting that the Senator is right in his interpretation of the section, let us follow it out a little further. Suppose that a man builds a home and pays for it in installments of certain amounts, and then he becomes successful and invests $1,000 in a domestic building and loan association in order that others may be able to build. That is the situation to which the Senator refers. Is not such a man entitled to the exemption for devoting his earnings to the building of homes in his home community?

In New Jersey we are suffering to-day from a lack of housing facilities; we want to develop greater building activity, to devote more capital to home construction. The State association in New Jersey—and there is such an association, a league, the members of which have discussed this tax provision—are a unit in requesting that this exemption go into this bill, otherwise they believe many investors who are assisting those who desire to build homes will be deterred from investing in such associations. I think that the exemption ought to be retained.

Mr. NELSON. Mr. President, the Senator from New Jersey has referred to the lack of housing facilities and to the cessation in great measure of building operations. We all know that that situation prevails throughout the country; but what is retarding building operations to-day? Nothing in the world to so great an extent as the labor situation. Union labor insists on war-time wages, with the result that the only people who build in these times of high cost of labor are those who are actually driven as a matter of necessity to do so. If the men engaged in the building trades—the carpenters, the bricklayers, the masons, and the plasterers—would come down to reasonable and fair wages we would see the greatest building boom that has ever been experienced in this country and there would not be an idle mechanic in the building trades to-day. The fact is, however, that bricklayers, masons, painters, and other artisans are asking for $1 to $1.50 an hour, and then in many instances refuse to do the maximum work they ought to do. That condition more than anything else is retarding building operations in this country. My opinion is, Mr. President, that nothing so retards industrial revival in this country to-day as the attitude of organized labor in refusing to come down to reasonable wages and a reasonable basis of employment. All over the United States we are suffering because of that situation.

In the case of transportation, the railroads are unable to reduce the rates because of the high cost of operation arising from excessive wages which their operatives demand, and which they were accustomed to receive during the war under the administration of Mr. McAdoo as director general of the railroads. Until there is a reduction in that high scale of wages and a change in the demand as to limited hours and other peculiar conditions, including the bonuses which were provided in the days of the war, the outlook for the people of this country securing cheaper transportation rates and better facilities is hopeless, and without cheaper transportation rates there will not only be a failure of industry to revive as it ought to revive but, more than that, the farmers of this country will labor under a severe handicap.

Aside from the railroads, I can not conceive of any industry, Mr. President, where there is a greater opportunity for revival, for an increase of activity in all directions, than in the building trades. We all admit that there is a scarcity of buildings throughout the country, but the high cost of labor and the high cost of material—and labor is a factor in that high cost, in fact, labor is what makes building material high—deter building operations.

I have been told by the junior Senator from New York [Mr. CALDER] that bricklayers in the city of New York are asking $14 a day for eight hours' work. We all know that the unions do not allow their members to do the maximum amount of work, but they are only allowed to lay so many bricks a day, for instance, or to do so much work along other lines a day, and no more.

If we could get labor in the building trades at fair and reasonable wages, and if men would exert themselves as they did in the old times, you would see the greatest building boom that you have ever seen in this country. I am a friend of the laboring man, but I am sorry to say that we are threatened with idleness and lack of employment in this country; but these men are themselves to blame if there is any lack of employment.

I have no doubt, Mr. President, that if instead of charging from ten to fifteen dollars a day in the building trades they would come down to four or five dollars a day, there would be such a revival in the building trades of this country as was never known before, and there would not be a single carpenter, a single bricklayer, a single painter, or a single plasterer idle in this country. There would be an abundance of work; and what an encouragement it would be to the farmers of this country, who are suffering from low prices, if the railroad employees who are to-day pro forma threatening the country with a strike would come down to reasonable wages!

I have for a long time thought over this industrial situation, Mr. President, and to me it seems that there is nothing in this country that to-day so retards the industrial revival as the attitude of union labor throughout the country in all the trades and employments, transportation and building trades and in all directions.

The farmer has had to submit to lower figures. The farmer has been obliged to sell his products at a sacrifice, compared with war prices, of more than 100 per cent. Farm labor has gone down. In my country, a year ago last summer, men were charging from $6 to $7 a day to work in the harvest fields and thrashing. Farm labor has gone down to $3 or $4 a day, which is a fair wage; but how is it in reference to the operatives of our railroads? How is it in reference to the mechanics engaged in our building trades? They have not come down; and when Judge Landis the other day made a reasonable reduction for the building trades in Chicago—I thought it was very moderate and very reasonable—yet, Mr.

President, they protested and threatened to strike. Under such conditions, if they find themselves in a state of idleness they are themselves to blame.

There would not be many idle men in this country to-day if union labor would come down to a reasonable and moderate figure in conformity with what is occurring in other lines of business and in other directions. Until we reach a lower level of prices in connection with union labor, and until we get more effective service, it is useless to look for a return of prosperity and a complete revival of the industries of this country.

I am aware of the fact that I may be stepping on the toes of some of these gentlemen who are the leaders of labor organizations; but, Mr. President, I am getting to be an old man. I do not expect to be with you very long; and for that reason, if for no other, I feel at liberty on this occasion to express my honest convictions. I trust that the convictions I have expressed here to-day may permeate throughout the whole country, and that union labor all over the country will take heed and lisen to them.

We are now threatened with a railroad strike. The men have taken a vote, and they are posing as ready to take the whole country by the throat again, as they were at the time the Adamson law was passed. Let me tell you a little incident.

You all know that I was born in the little mountain country of Norway. It is a poor country, and practically all the railroads in the country are owned and operated by the Government. Last winter the men who work on the railroads concluded to have a strike there. They laid their heads together, and undertook to tie up all the railroads in that country. What happened?

The business men in the cities and the high officials of the railroads managed to operate enough trains in the country to carry the mails and bring supplies and provisions to the cities, so that there was no suffering, and then they let the strike go on. The strikers were all the time desiring to negotiate with the Government. The Government said, "We will not negotiate with you until you quit striking"; and at the end of 14 days they were glad to lay down their arms and glad to come back to work and glad to resume their duties, as they did. I venture to say that that experience of 14 days was such a lesson to them that they will never again call a strike.

Mr. President, I am getting tired of these strike threats. With that matter in view that came under my observation, I do not know but that it would be a good thing for the country if these railroad men should start on a strike. Let the people of this country once for all understand what these men mean by their striking. Let the people realize that they will be deprived of their food supply, their fuel, and everything else. If these men ever embark on a strike that leads to such results, I venture the prediction that the American people will rise in their might and wipe them from the face of the earth.

We can not tolerate in this country a government or a rule stronger than the people of the United States. We can not tolerate a government within a government. We can not afford to have any people take our country by the throat and say, "You must do as we want or we will destroy everything in this country. We will hold up the entire transportation system of the country and deprive the cities and the towns of their fuel, their food supply, and everything else, unless you do as we want." It is time, Mr. President, that we taught these men the lesson that they are not bigger than the Government of the United States.

Mr. TOWNSEND. Mr. President, I want to say just a word in answer to the Senator from New Jersey [Mr. FRELINGHUYSEN].

As I stated before, I am very much in sympathy with the building and loan associations that are organized for the benefit of their members who wish to build homes, who make their investments with the ultimate thought in mind that they are going to build homes; but the suggestion of the Senator from New Jersey that these investors are putting their money into these building and loan associations for the purpose of helping others to build homes is the same argument that could be used by every real-estate man in the country who is building homes and selling them to the individual. On the same theory he ought to be exempt from any taxation. It is only because these associations represent men of very moderate means that they are going to help build their little homes that the Government has any right to step in and assist them. I want to go just as far as we can go in that direction, but I can not, under the guise of an investment for building homes, allow men of means to get a larger rate of interest than they otherwise could, and thus escape taxation, at least to the extent of $500.

Mr. President, this is my view. I have tried very hard to bring myself to believe that in some way this exemption provision would be beneficial to the home builders of the country. I am in sympathy with them; they are my friends; but I see in this what I regard only as a benefit to the man of means, who ought not to escape taxation. As the Senator from Utah has stated, we have too much of this exemption already. We should have a more just and equitable system of taxation, which will not permit any man of means to escape taxation by investing in nontaxable securities.

Mr. SMOOT. Mr. President, will the Senator yield there?

Mr. TOWNSEND. I yield.

Mr. SMOOT. The statement was made that this provision was going to take care of the little man. A man would have to have an income of over $5,000 before this provision would affect him at all. If there is any individual whose income is not over $5,000 who lends money to a building association, this does not affect him.

Mr. TOWNSEND. I tried to say that to begin with. This can not possibly help the little man, the poor man who goes in to build a home for himself. It can not help him. It can only reach the man of large means, who never expects to build a home out of the building and loan associations, but who makes the investment because from these little men he can receive a greater rate of interest than he can receive in any other way.

Mr. HEFLIN. Mr. President, I always listen with keen interest to the speeches of the distinguished Senator from Minnesota [Mr. NELSON]. I believe that some of the strikes that have been ordered in times past were without justification. I think that the power to produce a strike has at times been abused and wrongfully employed, but I would not deprive the laboring man of his right to strike unless I deprived the man who employed him of his power to reduce him to a starvation wage.

What would a thousand men do, trained in the work of a particular industry and working for a wage that barely covered their living expenses, if those in control of the industry should come and say, "We decided last night to reduce your wages"? Would Senators deprive these thousand men of their right to confer together, to advise as to what course was best to pursue, and then to strike, if need be, to prevent starvation to themselves and their loved ones? I do not believe that they would.

There are now in the United States thousands of profiteers who became millionaires during the World War. They made their money out of the distress and necessity of their Government in time of war, and they are sitting back now clipping their coupons and listening to the clink of their yellow coin. This Republican tax bill does not touch them. They escape taxation, while the party in power lays burdensome taxes upon the backs of the struggling masses of America. Senators, you are taxing the crumbs and rags of Lazarus, while you exempt from taxation the purple and fine linen of Dives.

Mr. President, we have repeatedly said here that those who furnished the campaign funds to the Republican Party to help win the last election would have their day in court, and it seems that their day has arrived in this tax bill. The Republican Party is undertaking to exempt the profiteers of America, to let them go free, while it imposes heavy taxes upon people who are having a hard time to live under a Republican administration.

I am reminded of the Scripture, "The ox knoweth his owner, and the ass his master's crib." So it seems that those who are responsible for this tax bill had that scripture in mind.

You are going to undertake to put in this bill before you are through with it a sales tax. It has always been the policy of the Republican Party to load its taxes upon the masses of the people. The money kings, those who have obtained their fortunes by reason of class legislation, by reason of advantages given to them by your party in the years gone, are to escape, but the litle fellows struggling in the common walks of life and many of them eking out a miserable existence, they are the ones that you are going to load these taxes upon. That is plain. Even a wayfaring man can see that that is the plan and purpose of this bill.

Mr. President, there has been nothing like this performance in the history of legislation during my service of 17 years. Here is a tax bill which covers nearly everything from the cradle to the grave, which affects vitally the everyday life of the masses of the people, and we have had no explanation of it from the Republican leaders. This performance is unparalleled in the history of parliamentary procedure in this body. A tax measure which goes into the very vitals of the business life of this Nation is dumped into this Chamber without any discussion of its purpose, without any explanation of its multitude of strange and curious items. Heretofore some member of the committee on the majority side would make a lengthy and

well-prepared statement explaining the bill in all its details. Why was not that done this time? Are you trying to slip something over?

The first attack was made upon it yesterday, able and powerful, by Senator SIMMONS, of North Carolina, calling attention to the wicked schemes in it and pointing out the obnoxious provisions of this unfair and unjust tax bill. Nobody on the other side had engaged the attention of this body to tell us just what this bill meant and to explain in detail the various provisions of the measure, and it dawns upon us this afternoon that there is a provision in it, reported back to this body by the committee on the other side, which would take away from American ships flying the American flag all our transportation business on the ocean and turn it over to foreign ships, which would be exempt from taxes because they did business with this country. That was a nice, smart piece of business on the part of some slick-fingered artist. I do not know who he was, but what a nice and innocent-looking thing it was, suggesting that ships doing business with us should not pay this tax.

What would happen, Mr. President? Here is an American ship sailing out of an American port loaded down with goods for foreign markets, and here is a foreign ship, doing business with us, ready to sail. The man who sends his goods on the American ship would have to pay the tax. If he placed that cargo on the foreign ship, he would be exempt from the tax. Here you are, in charge of the instrumentalities of this great Government, legislating against the merchant marine of your own country in the interest of the ship trust of foreign countries. That is what you Senators over there are doing. That is one of the awful provisions that we have found in this bill in the short time that we have been considering it.

Mr. President, on top of that they have levied a freight or transportation tax. The people of the West and the people of the South, groaning beneath the burden of high freight rates, crying out for deliverance from this evil foisted upon them by the Republican Party, see no relief in sight. Are you stretching forth the healing rod to give to them deliverance? No; you are fastening your fingers tighter upon their throats, and you are going to impose a transportation tax on top of the heavy freight rates already borne, and you are killing legitimate transportation business all over the country. You will make it impossible for goods to move from farm and factory to the markets of the country.

I agree with the Senator from Utah [Mr. SMOOT] when he says that there is going to be a change. Mr. President, there is no question but that there is going to be a change. He said when the people of the country, the masses, find that they have to pay all these taxes and that the big interests escape, there is going to be a change. He did not go quite far enough with that idea. I will tell you what the change is going to be. It is going to be a sifting out of a good many on the other side of this Chamber who are responsible for the pending tax bill, which imposes these burdens upon those least able to bear them and taking them off the shoulders of those most able to bear them.

Let me suggest to Senators on the other side that it would be well for you to read the story of the lowly Nazarene and follow His suggestion with regard to the parable of the talents. He demanded more of the man with five talents than He did of the man with two. That is a good principle to apply in Government. Those who flourish most ought to bear most of the burdens of the Government. Those most fortunate, those who have most, ought to pay most; those who have least should pay least. That is a sound principle and ought to be adhered to by both Democrats and Republicans.

Last fall you told the people what you would do, that you were going to spread prosperity o'er a smiling land, and all would be well; but you have spread financial distress and business disaster amongst millions of American people. You have 5,000,000 men and more roaming the country to-day out of employment, begging for something to do to enable them to obtain food for themselves and families, and for the first time in the history of our Government white men have been stripped to the waist and put upon the auction block on Boston Common and bartered to the highest bidder. Some of them had carried that flag on a foreign field and offered their lives for their country. Talk about Republican patriotism, skill, and statecraft; where are they? Go out after the 23,000 millionaires, the profiteers, who sprang up in the nighttime during the war. But your plan is to leave them alone. Where are these 5,000,000 men who used to work when every wheel was whirling and every industry going under a Democratic administration, 5,000,000 hungry men they march, the American army of the unemployed?

Here you are, permitting a situation to exist that is intolerable. And now you are talking about cutting down the wages of the poor fellows who have employment. You have driven 5,000,000 out of employment, and now you want to take away the living wage from those who yet have employment. It is just like the Republican Party to call for retrenchment and reform on the poor fellows who have no power with which to fight back. You withdraw from them the things which would enable them to live, and you reduce some of them to such a state of poverty that they become objects of prey for those who would buy votes at election time. Is not that an awful situation, that a party will adopt a policy that will deny to a large portion of the population the instrumentalities with which to make a living, and reduce them to such a state of abject poverty that the money kings can by the corrupt use of money control elections in certain States and through that arrangement control the law-making body of the Nation?

According to reports, you had money flowing like a river out in New Mexico in the recent election, and then boasted that you had won a great victory. You fell down on the majority received. Your majority was smaller than that received by President Harding.

Now, let me suggest to Senators on the other side a matter where real retrenchment and reform are much needed. The Federal Reserve Bank of New York is reveling in increased salaries that shock and astound the average man. At a time when economy should be employed and practiced by all, and especially by all Government officials, we find the Federal reserve bank officials of New York recklessly raising their salaries, not by the hundreds of dollars but by the thousands and tens of thousands. They placed the salary of Benjamin Strong, governor of the Federal reserve bank, at $30,000, and then raised it to $50,000. Then they raised Pierre Jay's salary from $16,000 to $30,000.

They raised E. R. Kenzel's salary from $4,000 to $25,000, and they raised A. W. Gilbert's salary from $1,800 to $12,000. They have increased G. L. Harrison's salary from $4,000 to $22,000. They have increased J. W. Jones's salary from $2,500 to $12,000. I will not read the entire list now but will print it in the RECORD. But listen, Senators, the salaries paid to about 30 officers by the New York Federal Reserve Bank, exclusive of the salaries of other employees, amount to about as much as the combined salaries of one-half of the Members of the United States Senate, plus the salaries of the President and Vice President of the United States. Here is the complete list in a letter written by Hon. John Skelton Williams:

[From the Manufacturers' Record, Sept. 22, 1921.]

AMAZING WASTE OF PUBLIC MONEY IN INCREASE OF SALARIES TO OFFICERS AND EMPLOYEES OF NEW YORK FEDERAL RESERVE BANK.

RICHMOND, VA., *September 12, 1921.*

Editor MANUFACTURERS' RECORD:

I have your letter of the 10th instant referring to statements made in my recent speech at Augusta, Ga., concerning the extravagant management of the Federal Reserve Bank of New York, and asking for further information in that connection.

It is, I believe, entirely true that the management of the Federal Reserve Bank of New York has been distinctly extravagant. Despite the reticence of the officials in this connection, I think I can give you some facts and figures which may be of interest to your readers on this subject.

My observation has been that when it suits their purposes to pose as Government institutions the reserve banks are ready enough to fly the Federal colors, but when it comes to assuming responsibilities or sharing the restrictions which apply to Government agencies there is a change of front and they promptly proclaim their independence. As is well known, the salaries and compensation of all employees of the United States Government, from the President down, are published, and I see no reason why there should be any secrecy as to the salaries or compensation paid to the officers and other employees of the Federal reserve banks.

The official reports of the Federal Reserve Board show that in the calendar year of 1920 the Federal Reserve Bank of New York's pay roll amounted to $4,639,273. For the calendar year 1918 the pay roll was $3,104,830, an actual increase in pay roll since the close of the war of $1,534,443.

The actual number of officers and employees in 1918 was 2,657. The number of employees and officers in 1920 was 2,936, an increase of 279 employees. In other words, the number of employees increased about 10 per cent, while the salaries increased about 50 per cent.

It is also interesting to note that in the years of acute deflation, from 1919 to 1920, the pay roll of the New York Reserve Bank (see Annual Report Federal Reserve Board 1920, p. 272), increased $777,309, or from $3,861,964 in 1919 to $4,639,273 in 1920, although the number of employees on December 31, 1920, was only 2,936 as compared with 2,963 a year before.

Owing to the secretive policy of the Reserve Board concerning some matters of public interest which ought to be in the open and aboveboard, it is impracticable for me to give you the up-to-date information which you desire regarding the salaries of reserve-bank officers and employees, but I am submitting for your information and for the information of your readers a list which was prepared from information furnished me some time ago which I have reason to believe is substantially correct, although I think that it probably understates rather than overstates salaries paid at this time. If, however, it is not entirely correct, it can be readily corrected by reserve bank authorities.

List of salaries paid to certain officers of the Federal Reserve Bank of New York, indicating increases in salaries from the time of their employment to 1920–21. (The reserve banks were started in November, 1914):

Benj. Strong	$30,000 to $50,000
Pierre Jay	16,000 to 30,000
J. H. Case	20,000 to 30,000
E. R. Kenzel	4,000 to 25,000
L. F. Sailer	7,000 to 25,000
G. L. Harrison	4,000 to 22,000
Francis Oakey	——— to 20,000
L. H. Hendricks	6,000 to 18,000
H. A. Hopf	——— to 18,000
Shepard Morgan	5,000 to 15,000
E. H. Hart	——— to 15,000
A. W. Gilbart	$1,800 to $12,000
J. D. Higgins	2,500 to 12,000
J. W. Jones	2,500 to 12,000
L. R. Rounds	2,000 to 12,000
J. L. Morris	9,000 to 12,000
Chas. Snyder	——— to 12,000
W. D. Matteson	1,500 to 10,000
A. J. Lins	1,500 to 10,000
G. E. Chapin	1,500 to 9,000
W. H. Jefferson	3,000 to 8,000
J. E. Crane	1,500 to 7,500
W. H. Hamilton	1,500 to 7,500
R. M. O'Hara	1,500 to 7,500

I understand certain salaries were raised above the figures shown in this list, which is intended to show the salaries paid to 24 of the officials of the New York Reserve Bank some months ago. It will be observed that each one of these "officials" draws a salary as large, if not larger, than United States Senators, one of them as much as six Senators. The list also shows, from the best data available, the enormous increases which have been made in salaries.

It will be observed that these salaries have been increased in numerous cases from 100 to 500 per cent. I have been told that 60 per cent of these "officers" never reached over $1,500 to $2,500 before they came to the reserve bank, but they are now drawing salaries as high as those paid to Cabinet officers.

The salaries paid to about 30 "officers" by the New York Federal Reserve Bank, exclusive of the salaries of other employees, amount to about as much as the combined salaries of one-half of the Members of the United States Senate, plus the salaries of the President and Vice President of the United States.

I am also advised that although Cabinet officers and other high officials of the Government, and national bank examiners, are limited in their expenses to $5 per day, that the expense allowances of officers and employees, including bank examiners of the Federal reserve banks, are practically unlimited, and that an inspection of some of the expense accounts of the Federal reserve banks would be decidedly edifying to a congressional committee if they should be looked into.

I think it would also be interesting to the public to be informed as to the payments made by the Federal Reserve Board and the Federal reserve banks for "publicity" and "propaganda" and for the printing and distributing of numerous publications which are gotten out under the auspices of the reserve system, directly or indirectly, and paid for out of public moneys. I have reason to believe that the waste in this direction has been enormous.

JOHN SKELTON WILLIAMS.

Mr. KING. Mr. President——

The PRESIDING OFFICER (Mr. GERRY in the chair). Does the Senator from Alabama yield to the Senator from Utah?

Mr. HEFLIN. I do.

Mr. KING. Was that done with the approval of the Federal Reserve Board here in Washington?

Mr. HEFLIN. Why, certainly. The Federal Reserve Board has the power to remove the governor and other officers of the Reserve Bank of New York.

Mr. KING. There has been no protest from them?

Mr. HEFLIN. Not that I know of.

Mr. KING. Does the Senator know whether corresponding increases have been made in the Federal reserve districts?

Mr. HEFLIN. I am not sure about that, but I think that the salaries of the officers of the other reserve banks have been increased. But these increases in New York are unreasonable, inexcusable, and indefensible, and while Senators on the other side are rising up and asking that a living wage be taken away from the poor wage earners of the country, I want them to invade Wall Street, the wicked source from which comes your campaign funds. Go to Wall Street and seek out those who are squandering the people's money in the high salaries of bank clerks and other bank officials. This bank is under control of the Federal Reserve Board and you are in power. You are charged with responsibility for the conduct of every branch of the Government, and not one of you protest against this conduct permitted by your Federal Reserve Board. Not one of you protest against the conduct of the New York Federal Reserve Bank in raising salaries sky high. The next time one of you Republican Senators feel called on to get up here and lambast labor, I suggest that you clean up the high-salary scandal at the reserve bank in New York.

Mr. SMOOT. Mr. President, does the Senator think that a Senator can object to the raising of those salaries? What law is there under which a Senator could do that or under which any official in the Government itself could do it? Those salaries are not fixed by Congress. I was surprised to learn the other day that they had been raised as they have been, but the Senator certainly is not finding fault with Congress?

Mr. HEFLIN. Certainly I am.

Mr. SMOOT. Why?

Mr. HEFLIN. Because you have the power to prevent such extravagant and outrageous salaries and you dare not do it.

Mr. SMOOT. That is an easy thing to say, but I do not see by what law we have a right to fix those salaries.

Mr. HEFLIN. Does the Senator pretend to say to the Senate that he does not believe that a law could be passed saying that no governor of a Federal reserve bank shall receive more than a certain amount? The salary of the governor and other members of the Federal Reserve Board is fixed by law. Why should the governor of the Federal reserve bank of New York be permitted to raise at will its salaries higher and higher? Why should these men be given unlimited authority to thus use and misuse the funds of the people in raising their own salaries?

Mr. SMOOT. I was asking the Senator if there is any law that Congress could enforce to prevent the raising of salaries in the Federal reserve banks in the different districts of the country. Congress does not fix the salaries. The board has the power to fix the salaries, and Congress has no power unless there is specific legislation passed by Congress to limit the powers of the Federal board. Those salaries that are being paid in the city of New York were never made public until just the other day.

Mr. HEFLIN. Congress has the power to limit these salaries. How long since the Senator knew that these salaries had been so greatly increased?

Mr. SMOOT. I think it was about two weeks ago.

Mr. HEFLIN. Has the Senator made any protest to the Federal Reserve Board?

Mr. SMOOT. I certainly have.

Mr. HEFLIN. What steps has the Senator taken to bring those enormously high salaries down?

Mr. SMOOT. It is for the Federal Reserve Board to attend to that.

Mr. HEFLIN. And the Senator proposes to leave it to the pleasure and sweet will of the Federal Reserve Board?

Mr. SMOOT. The board is exactly the same as it has been for years past. It does not behoove the Senator from Alabama to try to make politics out of that at this time and rant about the Republican Party because of action that was taken, so far as I know, before the Republican Party was in power.

Mr. HEFLIN. Mr. President, I am far from trying to play politics with this serious question. It is too important for that. There are some Democrats, so called, on the Federal Reserve Board. I criticize and condemn them just as I do the Republicans. I play no favorites in my demand for clean and honest administration of the people's affairs. Let the Republican majority provide for an immediate investigation of this whole disgraceful affair. The Republican Party is in power. Will the Senator from Utah, one of the leaders on the other side, demand an investigation? Will the Senator vote for an investigation of the Federal reserve bank in New York and bring this question of salaries up for consideration, looking to the enactment of a law to prevent such unreasonable and outrageous salaries from being paid in future?

Mr. SMOOT. I do not think there is any dispute as to the salaries being paid; I have not heard of it; and I think there will be an effort made to see that those salaries are not paid in the future.

Mr. HEFLIN. A question of this magnitude should not be thrown aside with the suggestion that the Senator thinks that an effort will or may be made some time to prevent the payment of such salaries. We are going into the slender purse of the American masses. We are going into that daily in the consideration of this tax bill, but the purse-proud plutocrats of Wall Street are walking with heads high in air, while the light of Republican approval is upon their faces, and yet the Senator from Utah has not challenged their right to use the Government's money to increase their salaries as they have done.

I demand that the Republican Party take the responsibility. You are responsible and you must accept that responsibility. Suppose we were in power and this thing should be going on, what would you Republicans say to the Democrats? You would say, "You are responsible. Our hands are tied. We are in the minority. You are in the majority. You have the votes, so go on and investigate and pass such laws as you think are necessary." That is what you would say to us. But now, when you have 22 majority in this body and more than 150 in the other body, it is disgustingly painful to find your party hamstrung and helpless in the hands of sinister interests.

The Senator from Utah has had something to say about the Government securities—Liberty bonds, and so forth—passing out of the hands of the small purchasers and owners into the hands of the financially powerful who are able to hold them. I told

him three days ago how that happened. I told him that it happened when the Federal Reserve Board adopted its deflation policy, which was inaugurated and carried on with the knowledge and approval of his party. Every one of that board, I think, voted the Republican ticket last fall, and certainly if the Republican President is not pleased with the conduct of the Federal Reserve Board he should ask its members to resign.

Mr. FLETCHER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Florida?

Mr. HEFLIN. I gladly yield to the Senator.

Mr. FLETCHER. Is the Senator quite confident that even if Congress should pass a law providing for a limitation of those salaries there would not be found some way to get around it? Recently we passed a deficiency appropriation bill providing for certain sums to go to the Shipping Board, and we incorporated a provision that no part of that sum should be used to pay the compensation of any attorneys unless the contract of employment has been approved by the Attorney General. My understanding is that the general counsel of the Shipping Board instructs the officers of that organization to proceed to pay all lawyers engaged for $11,000 a year or less, and to give no attention whatever to that provision of the act which requires that the Attorney General shall pass upon the question. I do not know what we are coming to with a procedure of that sort being indulged in, an act of Congress apparently absolutely ignored.

Furthermore, we gather from the newspapers that recently the chairman of the Shipping Board has found it necessary to engage a financial expert at $30,000 a year. So we have now a financial expert at $30,000 a year to advise an $84,000 a year Shipping Board and a $95,000 a year board of operators, composed of three members, and $100,000 a year staff of lawyers how to arrange and manage their financial affairs.

Mr. KING. May I correct the Senator? One hundred thousand dollars will not begin to pay the staff that is employed by Mr. Lasker.

Mr. FLETCHER. I think the Senator is entirely correct, but I wanted to be thoroughly within the bounds when I named $100,000 as the amount, and I only had in mind the staff here in Washington; not the lawyers engaged in various portions of the country besides. Some of these sums are being paid out to lawyers engaged to advise other lawyers what their duties are; officers and experts are engaged to advise other officers and experts how to get along and manage their affairs, at enormous cost and expense. An enormous amount of money is paid out for this purpose and the whole thing is being made, I think, largely a political machine.

Then I call attention to the present policy of the board of taking off ships, for instance, where they have been put upon new routes, where they have spent money to build up and develop trade, and tying them up and fast making a corpse of the American merchant marine. We are gradually approaching the time when the American merchant marine, much heralded everywhere, is becoming merely "painted ships upon a painted ocean."

Mr. HEFLIN. I thank the Senator for his observations. The point he makes is additional proof of Republican recklessness and incompetency.

Mr. McKELLAR. Mr. President, may I interrupt the Senator from Alabama?

Mr. HEFLIN. Certainly.

Mr. McKELLAR. Recently a constituent of mine wrote me asking if it would be possible for him to charter an American Shipping Board vessel to take a whole shipload of freight from some point in Texas to a point in the United Kingdom. I received a letter from Mr. J. B. Smull, one of these $35,000 a year men, suggesting that my constituent confer with the British merchant marine, that they could do it more cheaply, that he could charter a British steamer much cheaper than an American steamer could be chartered, and it would be wise for him to look up the British shipping interests.

To my certain knowledge we have some 500 or more Shipping Board ships tied up doing nothing. It is a travesty upon business.

Mr. FLETCHER. And responsible parties are offering to make bare boat charters and can not get them.

Mr. McKELLAR. Absolutely that is the fact.

Mr. HEFLIN. The Senator from Tennessee has disclosed an ugly piece of testimony against the Shipping Board, and the fact that he points out deserves the attention of the Congress and the country.

Mr. President, I wish to thank the Senator from Florida and the Senator from Tennessee for their very interesting observations. Both Senators have called attention to conditions that deserve serious consideration at the hands of Congress. I wish that the truth of Republican doings here could reach the American people. I think later on in this session we will be able to arrange so that the people may be informed as to just what is going on here. It seems hard to get certain information out to the people through some of the agencies of the press. There must be some way to get around that, however.

A suggestion is made by the Senator from Florida about these enormous salaries in the Shipping Board—salaries unauthorized by law. The Senator from Utah [Mr. SMOOT] is, with his colleagues, responsible for that. He and they certainly have the power to correct those wrongs. Why do they not do it? The Senate has given its sanction through the majority to these things or they would not and could not exist.

Your Shipping Board has squandered millions of money in the sale of ships built by the Government. Ships which cost the Government $600,000, $700,000, and some $800,000 each, nearly $4,000,000,000 in all, are bartered to fortunate purchasers for $2,100 apiece. My God, Senators, what will the American people say when they learn of that? Ships that cost the Government $600,000 of money out of the taxpayers' pockets are sold to private individuals at private sale for $2,100!

Do you Republicans know what you would have said if we had done a thing like that? If the Republicans had been in the minority, as you will be as soon as the people can pass on you again, and we had been in the majority, and that thing had happened, you would have been bobbing up and down over there, all of you, like one of these little cuckoos in a clock at striking time. As soon as one Senator took his seat another would get up, and you would have said, "There is something wrong about this thing." You would have said, "Now, what honest business man would think of selling a ship for $2,100 that cost the Government $800,000?" You would have said, "There is something wrong about that," and just between us you would have been right about it. But you are in the majority now and we are in the minority, and this thing has happened. What do you suppose that we think about it, and what will the people think about it?

No wonder the Senator from Utah [Mr. SMOOT] wants to drop this thing and have these facts forgotten. He would like to bow and smile this thing away, but he can not do it. His party is running the hand of the taxgatherer deeper and deeper into the pockets of the American people. Somebody must make protest; and, as long as this Chamber is at all free from the absolute control of the money changers, somebody must and will dare to speak out for the rights of the people.

Let me mention another thing in this connection. Why, you have created such a deplorable and distressing condition among the wage-earning army of the country that a Republican Senator has a resolution now pending to let out the Government tents, blankets, and other equipment to the unemployed for use this fall and winter. It looks as though you intended to keep them idle all the winter. Is there never going to be any end to this thing? Tents, blankets, and stools! Five millions of men unable to find work under a Republican administration. These are the fruits of the Republican administration, "and by their fruits ye shall know them."

Senators on the other side of the Chamber used to talk about soup houses under Cleveland. I contrast the old soup-house situation in the city with the situation where the Republicans are going into the War Department to drag out millions of tents to put up on the plains to house and protect from the cold and the rain the army of the unemployed whom their unfair and shortsighted policies have driven from employment to unemployment. What a spectacle! Millions of half starved idle men huddled in tents and wrapped in blankets are expected to rejoice and be glad for the great blessings that have come to them from the present Republican administration.

Ex-soldiers stripped to the waist and sold at auction on Boston Common!

Lord God of Hosts be with us yet.
Lest we forget. Lest we forget.

Senators, what are we coming to? For what was the World War fought? It was fought to free this Government from the dangers that threatened it; fought to preserve the ideals and institutions of our country. There is no excuse for idleness, and no excuse for suffering and want in our country where people are willing to work. Senators, crafty and avaricious interests are encamped about the Capitol.

Let us resolve to-day that they shall not pervert the Government from the ends of its institution and use it for their own special benefit.

I trust that Senators on the other side of the Chamber will change their tactics; I trust that they will help to make those most able to bear the tax burdens of the Government pay their

full share under the provisions of this bill. Senators, in the name of that quiet army out yonder, the men and women who make up the strength and glory of the Republic, I beg you not to tax them to death, but I ask you, in the name of right and justice, to make those who have their millions of ill-gotten gains come up here and put their money down upon the altar of their country to help pay the war debt. Until you have done justice by the soldiers, until you have made good your campaign promises to the people, you can not shake your gory locks at Woodrow Wilson, who, crippled now and broken in health, gave a record of constructive service to the American people that will live while this Republic lasts.

Mr. SIMMONS. Mr. President, I wish to say just a word in reference to the pending amendment. I agree with what the senior Senator from Utah [Mr. SMOOT] has said about the undesirability of extending our exemptions from taxation. I very much regret that in the past we have deemed it expedient to make so many such exemptions; and yet, knowing the plan upon which building and loan associations are conducted in the southern section of the country, I am constrained to believe that, if the other organizations to which we have given exemptions are to be continued in the possession of that privilege, it would not be inequitable to extend the same leniency in the matter of taxation to investments in these organizations.

I think, Mr. President, there is an entirely different system of building and loan associations in the Northern and Eastern States and possibly in some of the Western States from that which obtains in the South. References have been made by Senators from those sections of the country that rather indicate that to be the fact. They speak of large sums being invested by individuals in such associations. That does not happen in the South. The investors in building and loan associations there are not men of large incomes; they are not men of wealth; they are the people of small means in the cities and towns who make such investments more in a spirit of community help, to aid those who are unable to borrow through commercial sources money necessary to enable them to build little homes. Scarcely anybody invests in such associations in my section of the country as money-making ventures. They invest to help the community; the spirit of the investment is community help, to help the weak; no big incomes are derived from that source; and while, as I said in the beginning, I do not approve of extending exemptions, and I think we shall have to curtail them, yet I also think when we begin we ought not to start with building and loan associations, but we ought to extend to them the same privilege which has been extended to other institutions.

Mr. SMOOT. Nobody would be affected by this provision unless he had an income of over $5,500.

Mr. SIMMONS. Yes; but a great many people who have incomes to that amount invest their money in building and loan associations not in order to make money—the interest rates of such institutions are too low to tempt big capital—but they invest it simply to help the community; and when a man of large income so invests he invests in the same spirit. I do not wish to make any extended argument; I merely wanted to make that simple statement.

Mr. PENROSE and others. Question!

The PRESIDING OFFICER (Mr. GERRY in the chair). The question is on agreeing to the amendment of the committee proposing to strike out lines 4, 5, and 6, on page 37.

Mr. OVERMAN. Is the question on the amendment on striking out on lines 4, 5, and 6, or on striking out lines 7 to 10?

The PRESIDING OFFICER. What is the inquiry of the Senator from North Carolina?

Mr. OVERMAN. I was merely trying to ascertain the amendment on which the vote is about to be taken.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment striking out lines 4, 5, and 6 on page 37.

Mr. OVERMAN. To that I have no objection.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The next amendment passed over was on page 37, after line 6, to strike out:

(11) So much of the amount received by an individual as dividends or interest from domestic building and loan associations operated exclusively for the purpose of making loans to members as does not exceed $500.

SEC. 212. Subdivision (c) of such section 213 is amended to read as follows:

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. OVERMAN. I ask to have a vote on that amendment; I object to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

The next amendment passed over was, on page 37, after line 16, to strike out:

SEC. 213. Paragraphs (1), (2), and (3) of subdivision (a) of section 214 of the revenue act of 1918 are amended to read as follows:

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. KING. I understood that with the disposition of that amendment we would adjourn or take a recess.

RECESS.

Mr. PENROSE. I move that the Senate now take a recess until 12 o'clock on Monday next.

The motion was agreed to; and (at 4 o'clock and 25 minutes p. m.) the Senate took a recess until Monday, October 3, 1921, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES.

SATURDAY, *October 1, 1921.*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Our Father in Heaven, about Thy holy name cluster all the most sacred affections of earth. There are none so ignorant that they can not be led by Thy Spirit, and there are none so wounded that they can not be healed by Thy touch. Impress us that a defeated life means an undiscovered God. Establish for us a right-away that leads into the wisdom, peace, and blessedness of an ageless life. Bless us with a pure heart that sees God and moves on in rare discernment among the forces of this work-away world. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of Wednesday, September 28, 1921, was read and approved.

ADJOURNMENT.

Mr. ANDERSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 12 o'clock and 5 minutes p. m.) the House adjourned until Monday, October 3, 1921, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

215. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on the preliminary examination and survey of the Harbor of New Rochelle and Echo Bay, N. Y. (H. Doc. No. 110); to the Committee on Rivers and Harbors and ordered to be printed, with map and illustrations.

216. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination and plan and estimate of cost of improvement of La Grange Bayou, Fla. (H. Doc. No. 111); to the Committee on Rivers and Harbors and ordered to be printed, with illustration.

217. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination of the South Fork of the Kentucky River, Ky.; to the Committee on Rivers and Harbors.

218. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination of the Brazos River and tributaries, Tex., with a view to devising plans for flood protection; to the Committee on Rivers and Harbors.

219. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination of Boston Harbor, Mass., South Bay, from point of Fort Point Channel, Federal Street Bridge, to Massachusetts Avenue; to the Committee on Rivers and Harbors.

220. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination of Poropotank Bay and Creek, Va.; to the Committee on Rivers and Harbors.

221. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination of Nehalem River, Oreg., including removal of the submerged rock near the inshore end of South Jetty; to the Committee on Rivers and Harbors.

222. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination and survey of Hudson River, N. Y., from its mouth to Hudson, with a view to securing a depth of 30 feet, and a

harbor at Hudson of the same depth; to the Committee on Rivers and Harbors.

223. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination of Redwood City Harbor and Creek, Calif.; to the Committee on Rivers and Harbors.

224. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination of Gulfport Harbor and Ship Island Pass, Miss.; to the Committee on Rivers and Harbors.

225. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, reports on preliminary examination and survey of Bayou Lafourche, La., with a view to the construction of a lock at its head, etc.; to the Committee on Rivers and Harbors.

226. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on survey of Columbia River from the mouth of the Willamette to Vancouver, Wash.; to the Committee on Rivers and Harbors.

227. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination and survey of Erie Harbor, Pa. (H. Doc. No. 112); to the Committee on Rivers and Harbors and ordered to be printed, with illustration.

228. A letter from the chairman of the Public Utilities Commission of the District of Columbia, transmitting report of the commission's official proceedings for the year ending December 31, 1920; to the Committee on the District of Columbia.

229. A letter from the Secretary of the Navy, transmitting draft of legislation for the reinstatement of midshipmen in the United States Naval Academy, under certain conditions; to the Committee on Naval Affairs.

230. A letter from the Secretary of the Navy, transmitting a tentative draft of a bill to repeal section 315 of Article III of the war risk insurance act, as amended; to the Committee on Interstate and Foreign Commerce.

231. A letter from the Secretary of War, transmitting a draft of legislation providing for appropriation of funds for the transportation of honorably discharged soldiers and their families from Europe to America; to the Committee on Appropriations.

232. A letter from the Secretary of Commerce, transmitting part 2 of the Annual Report of the Commissioner of Lighthouses for the fiscal year ended June 30, 1921; to the Committee on Expenditures in the Department of Commerce.

233. A letter from the Secretary of War, transmitting a tentative draft of a bill to authorize the Chief of Engineers, United States Army, to grant permits for certain installations in public grounds under his control within the District of Columbia; to the Committee on the District of Columbia.

234. A letter from the Secretary of War, transmitting a list of useless papers on file in the office of the Army War College to be disposed of; to the Committee on Disposition of Useless Executive Papers.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. KAHN: A bill (H. R. 8474) to amend the national defense act of June 3, 1916, as amended by the act of June 4, 1920, by adding section 37b, relating to "Reserve Warrant Officers"; to the Committee on Military Affairs.

Also, a bill (H. R. 8475) to relieve enlisted men affected thereby from certain hardship incident to the operation of the proviso of section 4b of the national defense act of June 3, 1916, as amended by the act of June 4, 1920, and to protect disbursing officers in connection therewith; to the Committee on Military Affairs.

By Mr. OLDFIELD: A bill (H. R. 8476) to authorize the construction of a bridge across the White River, in Prairie County, Ark.; to the Committee on Interstate and Foreign Commerce.

By Mr. SMITHWICK: A bill (H. R. 8477) to authorize the State road department of the State of Florida to construct and maintain a bridge across the Choctawhatchee River, near Caryville, Fla.; to the Committee on Interstate and Foreign Commerce.

By Mr. DYER: Resolution (H. Res. 192) providing for an investigation of the activities of an organization known as the Ku Klux Klan; to the Committee on Rules.

By the SPEAKER (by request): Memorial of the Legislature of the State of Louisiana, calling the attention of Congress to the great menace to navigation in the bayous of the State of Louisiana by the water hyacinths, and urging the removal of said obstructions to navigation; to the Committee on Rivers and Harbors.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FREAR: A bill (H. R. 8478) granting a pension to Arthur Thorson; to the Committee on Pensions.

By Mr. KEARNS: A bill (H. R. 8479) granting a pension to Cora A. Froman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8480) granting a pension to Joseph Watts; to the Committee on Pensions.

Also, a bill (H. R. 8481) granting an increase of pension to Margaret E. Geist; to the Committee on Invalid Pensions.

By Mr. KELLEY of Michigan: A bill (H. R. 8482) granting a pension to May Davis; to the Committee on Invalid Pensions.

By Mr. KINDRED: A bill (H. R. 8483) granting a pension to Louisa Donnelly; to the Committee on Pensions.

By Mr. MERRITT: A bill (H. R. 8484) granting a pension to Florence Belle Anderson; to the Committee on Pensions.

Also, a bill (H. R. 8485) granting a pension to Anna Rehwinkel; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8486) granting a pension to James M. Burns; to the Committee on Pensions.

By Mr. REECE: A bill (H. R. 8487) granting an increase of pension to Arthur D. Warden; to the Committee on Pensions.

Also, a bill (H. R. 8488) granting a pension to William H. Jenkins; to the Committee on Invalid Pensions.

By Mr. REED of West Virginia: A bill (H. R. 8489) granting an increase of pension to Sarah E. Squires; to the Committee on Pensions.

By Mr. REED of New York: A bill (H. R. 8490) granting a pension to Maryettie Crawford; to the Committee on Invalid Pensions.

By Mr. REED of West Virginia: A bill (H. R. 8491) granting an increase of pension to D. Casto Nutter; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8492) granting a pension to Viola Fisher; to the Committee on Pensions.

Also, a bill (H. R. 8493) granting a pension to Perry Talbott; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8494) granting an increase of pension to Flora I. Siggins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8495) granting an increase of pension to Susan M. Haymond; to the Committee on Pensions.

By Mr. TEN EYCK: A bill (H. R. 8496) granting a pension to Mary J. Trimble; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8497) granting a pension to Elizabeth S. Atkins; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

2611. By the SPEAKER (by request): Resolution from members of MacCurtain Council, American citizens, of West Newton, Mass., denouncing the bill introduced by Senator PENROSE conveying blanket powers to the Secretary of the Treasury in the disposition of obligations of foreign Governments to the United States Government; to the Committee on Ways and Means.

2612. Also (by request), resolution adopted by the Common Council of Milwaukee on September 16, urging Congress to provide for the construction of a breakwater to protect lake terminals designed to be located at Milwaukee, Wis.; to the Committee on Rivers and Harbors.

2613. Also (by request), resolutions adopted by members of the Portsmouth, N. H., Metal Trades Council on September 16, protesting against the apparent disregard of previous governmental policies, the illiberal interpretation of the wage law, and disregard of the facts and figures favorable to the employees; to the Committee on Naval Affairs.

2614. Also (by request), resolution of employees of the Boston Navy Yard and citizens of greater Boston gathered in mass meeting in Faneuil Hall, requesting that naval ships now in commission be properly conditioned and that the building program be continued until such time as a practical plan of disarmament is agreed upon by all nations; to the Committee on Naval Affairs.

2615. Also (by request), resolutions adopted at the labor demonstration in the city of Chicago, relative to the use of Federal troops during strikes; to the Committee on Labor.

2616. Also (by request), petition from Arthur Burrage Farwell, president of the Chicago Law and Order League, transmitting a document composed of data in regard to the lax enforcement of the eighteenth amendment in that city; to the Committee on the Judiciary.

2617. Also (by request), petition of Augustin Daly and 18 others, citizens of the United States residing in Georgia, urging Congress to recognize the Irish republic; to the Committee on Foreign Affairs.

2618. Also (by request), resolutions adopted by Paul Revere Council, American Association for the Recognition of the Irish Republic, on September 27, 1921, urging Congress to pass Senator La Follette's bill for the recognition of the Irish republic by the United States, and further appeals to Congress so to deal with Great Britain's enormous indebtedness to the United States as to make such recognition effective; to the Committee on Ways and Means.

2619. Also (by request), letter from Margaret M. Madden, Ohio State secretary of the American Association for the Recognition of the Irish Republic, transmitting a petition signed by P. A. McDonough and 29 others, of New Straitsville, Ohio, requesting Congress to bring about the recognition of the Irish Republic; to the Committee on Foreign Affairs.

2620. Also (by request), resolution adopted by the American Legion, Department of Hawaii, favoring the passage of the Hawaiian emergency labor resolution (H. J. Res. 171); to the Committee on the Territories.

2621. Also (by request), resolutions adopted by the members of the North Michigan Conference of Seventh Day Adventists, at Cedar Lake, Mich., August 28, 1921, urging Congress not to pass any of the several bills now before that body which have for their purpose the compulsory observance of Sunday; to the Committee on the Judiciary.

2622. By Mr. CURRY: Protest of J. L. Flanagan, president of the Northern California Hotel Association, against proposed 10 per cent tax on hotel rooms rented for more than $5 per day; to the Committee on Ways and Means.

2623. By Mr. DYER: Resolution adopted by the International Brotherhood of Boiler Makers and Iron Ship Builders and Helpers of America, Local No. 694, of Jersey City, N. J., opposing Senate bill 657; to the Committee on the Judiciary.

2624. Also, letter from T. F. Lawrence, vice president of the Missouri State Life Insurance Co., transmitting a letter from James M. Macconel, general agent of the company in the Hawaiian Islands, urging the passage of the emergency labor bill affecting the Territory; to the Committee on Immigration and Naturalization.

2625. Also, letter from the H. D. Lee Mercantile Co., of Kansas City, Mo., relative to railroad legislation; to the Committee on Interstate and Foreign Commerce.

2626. Also, petition of the American Trapshooting Association, Great Lakes zone headquarters, Chicago, Ill., urging the repeal of the 10 per cent tax on ammunition and sporting goods; to the Committee on Ways and Means.

2627. Also, letter from Alexander & Baldwin (Ltd.), of Honolulu, Hawaii, urging the passage of the emergency labor resolution (H. J. Res. 171); to the Committee on Immigration and Naturalization.

2628. By Mr. ELSTON: Resolution of Golden State Lodge, No. 76, of the International Order of Good Templars, of Oakland, Calif., urging relief for the unemployed; to the Committee on Labor.

2629. By Mr. KISSEL: Petition of Paul Revere Council, American Association for the Recognition of the Irish Republic, of Brooklyn, N. Y., for the recognition of the Irish republic; to the Committee on Foreign Affairs.

2630. By Mr. STEENERSON: Resolution of the Crookston, Minn., Association of Public Affairs, asking for an increase in the appropriation for public highways; to the Committee on Appropriations.

2631. Also, resolution of the Board of County Commissioners of Ramsey County, Minn., in favor of the Great Lakes-St. Lawrence Waterway; to the Committee on Rivers and Harbors.

2632. Also, resolution of the Board of County Commissioners of Ramsey County, Minn., in favor of increased Federal highway aid appropriatiton; to the Committee on Appropriations.

2633. By Mr. TEN EYCK: Petition of residents of Schuyler Park, Quedar Park, and Thompson Park, of Watervliet, N. Y., relative to sale of the property of the United States Housing Corporation; to the Committee on Public Buildings and Grounds.

2634. By Mr. ZIHLMAN (by request): Petition of sundry citizens of Smithburg, Md., protesting against the compulsory Sunday observance bills (H. R. 4388 and S. 1948); to the Committee on the District of Columbia.

SENATE.

MONDAY, *October 3, 1921.*

(Legislative day of Monday, September 26, 1921.)

The Senate reassembled at 12 o'clock, on the expiration of the recess.

Mr. PENROSE. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll and the following Senators answered to their names:

Ashurst	Frelinghuysen	McKellar	Shortridge
Ball	Gooding	McKinley	Simmons
Borah	Hale	McLean	Smoot
Brandegee	Harreld	McNary	Spencer
Broussard	Harris	Myers	Sterling
Calder	Harrison	Nelson	Sutherland
Cameron	Heflin	New	Swanson
Capper	Hitchcock	Nicholson	Townsend
Caraway	Johnson	Norbeck	Trammell
Culberson	Kellogg	Oddie	Underwood
Cummins	Kendrick	Overman	Wadsworth
Curtis	Kenyon	Page	Walsh, Mass.
Dial	King	Penrose	Walsh, Mont.
Dillingham	Ladd	Poindexter	Watson, Ga.
Edge	La Follette	Pomerene	Watson, Ind.
Ernst	Lenroot	Ransdell	Willis
Fletcher	Lodge	Reed	
France	McCumber	Sheppard	

The VICE PRESIDENT. Seventy Senators having answered to their names, a quorum is present.

GENERAL RULES AND REGULATIONS, STEAMBOAT-INSPECTION SERVICE.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of Commerce, transmitting, pursuant to law, a complete set of general rules and regulations prescribed by the Board of Supervising Inspectors, Steamboat-Inspection Service, at the meeting of January, 1921, and approved by the Secretary of Commerce, which, with the accompanying documents, was referred to the Committee on Commerce.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT laid before the Senate resolutions adopted by the second department convention, the American Legion, held in Hilo, county and Territory of Hawaii, September 2 and 3, 1921, favoring the extension of Federal aid in road construction in the Territory, the registration of all persons born in the Territory, and the making of a treaty with the Imperial Japanese Government whereby that Government shall stipulate, among other things, to relinquish all claims to and release all persons who may at the time of registration be over 20 years of age and signify their intention of remaining true and loyal citizens of the United States, and thereafter such other persons as may signify, as they become 20 years of age, their intention to become true and loyal citizens of the United States, which were referred to the Committee on Territories and Insular Possessions.

Mr. WILLIS presented a memorial of sundry railway employees of Kyle, Ohio, remonstrating against the enactment of the so-called Townsend bill, providing funds for the railroads, etc., which was ordered to lie on the table.

Mr. CAPPER presented a resolution adopted by J. P. Sheldon Post, No. 35, Grand Army of the Republic, of Burlingame, Kans., praying for the enactment of legislation granting pensions of $72 per month to Civil War veterans and $50 per month to their widows, and monthly payment of pensions, which was referred to the Committee on Pensions.

Mr. CAMERON (for Mr. BURSUM) presented a petition of sundry citizens of Magdalena, N. Mex., praying that the Government of the United States extend relief and protection to the imperiled peoples of the Near East, particularly of Armenia, which was referred to the Committee on Foreign Relations.

Mr. TOWNSEND presented memorials of sundry citizens of Onondaga and Ann Arbor, Mich., remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which were referred to the Committee on the District of Columbia.

He also presented a memorial of sundry ex-service men of Detroit, Mich., remonstrating against the enactment of Senate bill 2135, to enable the refunding of obligations of foreign Governments owing to the United States, and so forth, and favoring immediate payment of the interest or part of the principal of such foreign debts, so as to enable the granting of a bonus to ex-service men, which was ordered to lie on the table.

Mr. SHORTRIDGE presented letters in the nature of petitions from Margaret McHugh, Mrs. R. J. McShane, J. C. Hicks,

William J. Loftus, Mr. and Mrs. Daniel Healy, William McHugh, and Richard McShane, all of San Francisco, Calif., praying that the republic of Ireland be recognized by the Government of the United States, and for the passage of the so-called La Follette and Norris resolutions with reference to Ireland, which were referred to the Committee on Foreign Relations.

He also presented letters, telegrams, and resolutions in the nature of memorials of Branch No. 27, American Association for the Recognition of the Irish Republic, of Santa Barbara; P. T. Duffy and John P. Doyle, president and secretary American Association for the Recognition of the Irish Republic, of Richmond; Eugenia C. Ryan, of San Francisco; and Patrick Connolly, treasurer American Association for the Recognition of the Irish Republic, of Livermore; all in the State of California, remonstrating against the enactment of Senate bill 2135, to enable the refunding of obligations of foreign Governments owing to the United States, which were ordered to lie on the table.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. POMERENE:

A bill (S. 2530) to amend and supplement an act entitled "An act relating to bills of lading in interstate and foreign commerce," approved August 29, 1916; to the Committee on Interstate Commerce.

By Mr. CAPPER:

A bill (S. 2531) to create a board of accountancy for the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

AMENDMENTS OF TAX REVISION BILL.

Mr. LODGE, Mr. KING, Mr. HARRELD, Mr. HARRIS, and Mr. TRAMMELL submitted amendments, intended to be proposed by them to House bill 8245, the tax revision bill, which were ordered to lie on the table and to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, communicated to the Senate the intelligence of the death of Hon. SAMUEL M. TAYLOR, late a Representative from the State of Arkansas, and transmitted the resolutions of the House thereon.

The message also announced that the House disagreed to the amendment of the Senate to the amendment of the House to the bill (S. 1072) to amend the act entitled "An act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes," approved July 11, 1916, as amended and supplemented, and for other purposes; agreed to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. DUNN, Mr. ROBSION, Mr. WOODRUFF, Mr. DOUGHTON, and Mr. ALMON were appointed managers of the conference on the part of the House.

The message further announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice President:

H. R. 7578. An act providing for "Visit the Dunes, Michigan City," canceling stamp to be used by Michigan City, Ind., post office; and

H. R. 8365. An act to permit the use in the post office at Cincinnati, Ohio, of special canceling stamps bearing the words "Public Health Exposition, Cincinnati, Ohio, October 15 to 22, 1921."

TAX REVISION.

Mr. PENROSE. Mr. President, the Senate having met after a recess, I suggest that we proceed with the revenue bill.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

The VICE PRESIDENT. The pending amendment will be stated.

The ASSISTANT SECRETARY. The point reached when the bill was last under consideration is on page 38, the committee amendment beginning on line 13, where it is proposed to strike out the word "taxpayer" and the semicolon and insert the word "taxpayer" and a colon and the following proviso:

Provided, That in the case of returns made for the taxable year 1921 or 1922 there shall be allowed as a deduction interest paid or accrued during such taxable year and before January 1, 1922, on indebtedness incurred or continued to purchase or carry obligations of the United States issued after September 24, 1917, even though the interest therefrom is wholly exempt.

This amendment was passed over at the instance of the Senator from Nebraska [Mr. HITCHCOCK].

Mr. HITCHCOCK. Mr. President, I would like to make an inquiry. As I understand it, the bill, if it were enacted as it came from the House, would change the present law. Is that correct?

Mr. PENROSE. The Senator is correct. As the bill came from the House it would change the law and deny the exemption.

Mr. HITCHCOCK. I should like to ask, then, why the holder of Government bonds which are exempt from taxation, who borrowed money by using those bonds as security, should be permitted to deduct from his income account the interest which he has paid in using the bonds as security. I can see why the holder of Liberty bonds which are subject to taxation might be allowed to make such a deduction, but when he is already exempted by his Government from taxation upon those securities why should he be permitted in borrowing money against them to deduct the interest which he pays? Should there not be a distinction between bonds which are exempt from taxation and bonds which are subject to taxation?

Mr. PENROSE. I do not think there is any difference of opinion whatever on that point. The bill simply gives ample notice to the taxpayers as to the conditions which will prevail after a certain date, namely, January 1, 1922.

Mr. HITCHCOCK. The language used in the last line of the proviso reads as follows:

Even though the interest therefrom is so wholly exempt.

I should like to ask the Senator this question: Does not that mean that a man who has borrowed a million dollars in January of the present year by using 3½ per cent bonds as security, those bonds being exempt from taxation, may use that money in the purchase of other securities, say, paying 7 per cent, and yet be allowed to deduct from his return the amount of interest which he has paid on his loan secured by securities which are entirely exempt from any form of taxation?

Mr. PENROSE. The Senator is entirely right in his view of the matter. Such deductions should not be permitted, and the purpose of the provision as reported by the Senate committee is merely out of fairness to the taxpayer to give him notice that the present practice which has heretofore prevailed shall cease on January 1, 1922. Instead of stopping the practice abruptly and suddenly, as was done by the House provision, it is only a matter of fairness to the taxpayer to give him a little notice that the law is being changed.

Mr. HITCHCOCK. It seems to me it was wrong originally——

Mr. PENROSE. It was; the Senator is correct.

Mr. HITCHCOCK. Ever to permit the holders of the tax-free bonds to borrow against those bonds and not only have their earnings from the bonds exempt from taxation but then be allowed in addition to deduct from their income reported for taxation the interest which they have paid upon the loans.

Mr. PENROSE. The Senator is entirely right. The practice was wrong in principle, but the bonds were sold on the basis that such might be done. Now, it is the intention of Congress to stop the practice or the privilege, whatever we may term it, but rather than have the guillotine operate immediately, without notice, it was thought only fair to say that it should begin on January 1, 1922. It is not a matter about which the committee cares much one way or the other.

Mr. HITCHCOCK. What was the nature of the testimony before the committee which led to this proposed change?

Mr. PENROSE. I do not think there was any testimony. It was a matter of discussion in the committee. It was submitted by the Treasury Department and recommended by their experts. I may say, however, that I, as chairman of the committee, and the other members of the committee and the Treasury Department received many letters, many thousands of letters, I think, urging some such amendment to the House provision, saying that there ought to be notice. The committee does not care much about it. It is simply in the interest of equity.

Mr. HITCHCOCK. Does not the Senator think there ought to be some distinction made between bonds which are exempt from taxation and bonds which are subject to taxation?

Mr. PENROSE. I am informed that this does it.

Mr. HITCHCOCK. No; on the other hand, the last line of the proposed amendment reads:

Even though the interest therefrom is so wholly exempt.

Mr. PENROSE. Mr. President, it was distinctly stated by the Treasury experts, and I am now so informed, that that provision specifically relates only to an extension up to January 1, 1922.

Mr. HITCHCOCK. Undoubtedly; but it gives a whole additional year from last January to next January in which the holders of these millions of dollars worth of tax-exempt bonds may use them for purposes of borrowing money, and may not

only draw the interest on the bonds but deduct from their tax returns the interest which they pay upon the loans.

Mr. PENROSE. All I can say, and I could not say any more if I took an hour to explain the matter, is that these bonds were sold with the full understanding that they should have this privilege. Now, Congress determines otherwise, and it was thought that it would not be fair, in view of the widespread character of the situation and the numerous instances of such transactions and the very general complaint and criticism, not to provide the extension. It is provided as an act for equity. If the Senator from Nebraska does not approve of it, let the Senate vote on it.

Mr. HITCHCOCK. Then, I move to amend the committee amendment by striking out on line 19, page 38, the words "even though the interest therefrom is so wholly exempt."

Mr. PENROSE. Why does not the Senator move to disagree to the entire amendment?

Mr. HITCHCOCK. No; I am not proposing to disagree to the whole amendment. I want to make a distinction between tax-free bonds and those that are not tax free. So I move to strike out the words "even though the interest therefrom is so wholly exempt."

Mr. PENROSE. I am not interested in perfecting the amendment of the Senator from Nebraska, but if he wishes to accomplish what seems to be in his mind he had a great deal better move to strike out the whole committee amendment.

Mr. HITCHCOCK. Mr. President, I do not like the committee amendment, but I am only conceding what the Senator from Pennsylvania has said, that to do this without any warning and in a retroactive way might seem to be a little harsh to the owners of ordinary Liberty bonds.

Mr. PENROSE. Would the Senator like to have the provision go over for a little while?

Mr. HITCHCOCK. That would be satisfactory to me, as I have a committee meeting which I should like to attend in the meanwhile.

Mr. PENROSE. I suggest that the amendment go over, and I may then have an opportunity to submit a further explanation to the Senator.

Mr. HITCHCOCK. Very well.

Mr. SMOOT. In order that the Senator from Nebraska may consider the matter in the meantime, I should like to call his attention to the fact that "even though the interest therefrom is so wholly exempt," as provided in the amendment, the same provision exactly is found in line 12, page 38, and in the law as it exists to-day. In that instance an exception is made in the case of "obligations or securities, the interest upon which is wholly exempt from taxation under this title as income to the taxpayer."

Mr. PENROSE. There is no doubt about that.

Mr. SMOOT. Has the Senator from Nebraska noticed that there must be a repetition if it is desired to carry out the object of the amendment?

Mr. HITCHCOCK. I hope the amendment may go over, as I should like to consider it further.

The VICE PRESIDENT. The amendment will be passed over.

Mr. BRANDEGEE. Let me ask the Senator a question. What is the effect of the word "so" before the word "wholly," where the language reads "is so wholly exempt"? If it means "thus" wholly exempt under this title, then I understand it. Is that what it means?

Mr. PENROSE. Yes. Let it go over for a little while.

The VICE PRESIDENT. The amendment will go over.

The next amendment passed over was, on page 40, line 20, after the word "taxable," to strike out "year (or, in the discretion of the commissioner, a reasonable addition to a reserve for bad debts); and when satisfied that a debt is recoverable only in part, the commissioner may allow such debt to be charged off in part" and to insert "year," so as to read:

(7) Debts ascertained to be worthless and charged off within the taxable year.

Mr. SMOOT. Mr. President, I should like to state to the chairman of the committee that we had that matter under consideration this morning in the committee, and I should like to have the amendment go over for the present.

Mr. PENROSE. Let the amendment go over.

The VICE PRESIDENT. The amendment will go over.

Mr. PENROSE. Mr. President, in the paragraph beginning in line 19, page 40, referred to by the Senator from Utah [Mr. SMOOT], as I understand, the Senator desires the committee amendment to be receded from?

Mr. SMOOT. Yes; I think the committee ought to recede from the amendment. That is the reason I made the request that it go over for the present.

Mr. PENROSE. In the interest of the prompt dispatch of business, I suggest now that the Senate disagree to the committee amendment.

The VICE PRESIDENT. The question is on agreeing to the committee amendment.

Mr. KING. May I inquire what would be the effect of rejecting the amendment?

Mr. PENROSE. The effect would be to adopt the provision as it passed the House of Representatives.

Mr. KING. That is, to leave worthless debts to be charged off and deductions allowed therefor? Is that the object of the provision?

Mr. SMOOT. As the Senate committee has amended the provision it was:

Debts ascertained to be worthless and charged off within the taxable year.

If that is the wording, of course the institution which had bad debts or the individual doing business who had bad debts would be made the judges of what are worthless debts, while, as the law stands to-day, that must be determined by some judicial body or be passed upon by the department; in other words, as the committee report the provision here, I think it is altogether too open and allows the individual or the corporation to charge off a debt which perhaps may not be altogether worthless, but which during a year when the tax is high may be deducted, and perhaps during the next year, when the tax would not be so high, if anything is collected of the debt it may be charged to the individual or the corporation.

Mr. KING. May I inquire of my colleague if it has not been the practice heretofore—and I am not combating his view—for the taxpayer to submit the debts which he has charged off, for the department pro forma to accept his view, and later on, in reviewing the case, perhaps, to reverse the position which the taxpayer has taken?

Mr. SMOOT. Yes; the position of the taxpayers as to the charging off of their debts is often reversed, but if this provision is stricken out debts will be allowed as an exemption.

Mr. KING. If the law remains as it now is, will it be construed, or has it been construed, to mean that in paying taxes a prima facie showing made by the taxpayer is not entitled to consideration until the question as to whether the debts were worthless has been passed upon by the department?

Mr. SMOOT. The rule has been that the fact must be determined by some tribunal; in other words, it must be demonstrated without a question that the debt is a total loss. The department under the law to-day has a perfect right to refuse to make allowance for such debts, and if they find that the debts have not been definitely determined to be a loss they may impose a tax upon them.

Mr. KING. I am in entire accord with that view; but what I was trying to get at was this—and I will submit a concrete case, so as to clearly illustrate what I have in mind—suppose that the taxpayer returns $5,000 of worthless debts, and in making his return has sworn that such debts are uncollectible, will the Government accept his view of the worthlessness of the account and accept payment, crediting him with the claimed deduction, or will it refuse to accept payment and hold the matter over until the board of review has passed upon the question?

Mr. SMOOT. I think the Government would in either case reserve the right to hold the matter open, as they do in the case of every other return made by the taxpayer; but I think the House has put around the provision certain safeguards that I hardly think should go out. If, however, the Senator is desirous of having the committee amendment accepted——

Mr. KING. No; I am in accord with what the senior Senator from Utah is trying to effectuate. The only point I had in mind was that if a prima facie showing is made by the taxpayer when he files his return, it would seem that for the time being, until review is had, the Government ought to accept that, and when he sends a check receipt him for that amount——

Mr. SMOOT. They do that to-day, I will say to the Senator.

Mr. KING. And when they reach the case and discover that he is not entitled to the deduction, then require him to pay taxes on that amount.

Mr. SMOOT. They require him to make the payment.

Mr. KING. If that is the procedure, I have no objection.

Mr. SIMMONS. Mr. President, this seems to be a proposition to reject the committee amendment and accept the House provision.

Mr. SMOOT. Yes; that is the proposition.

Mr. SIMMONS. I have not had time since the suggestion has been made to consider the matter very carefully, but I am afraid that the restoration of that part of the House provision which was stricken out by the Finance Committee will inject

an element of considerable danger and will probably open a door for more or less fraud, evasion, and possibly final escape from taxation.

Mr. SMOOT. That is why I want the Senate committee amendment disagreed to.

Mr. SIMMONS. I understand the Senator wants the House provision restored?

Mr. SMOOT. I do.

Mr. SIMMONS. I say that if that provision is restored I think it will introduce an element of danger, while without it I do not see that danger.

Mr. SMOOT. The situation is just the reverse.

Mr. SIMMONS. The Senator says the situation is the reverse. Of course, I have not had an opportunity to consider his suggestion as long as he has, but, as I understand, as the Senate committee left this provision it is only a provision to the effect that "debts ascertained to be worthless and charged off within the taxable year" may be deducted.

That is the way the Senate committee left it. There is no uncertainty or doubt about that whatever; there is no doubt about the meaning of that language. It means that a taxpayer shall not be allowed to deduct on account of a debt until it has been ascertained that the debt is bad and until the taxpayer himself has actually charged it off. That practically has been the law for a number of years, and there is no danger in that. The taxpayer will be permitted to charge off whatever debts have been ascertained to be bad by him and by the commissioner and have been charged off. What will be the effect of restoring the language of that part of the House provision which the Senate committee, I think properly, advisedly, and in the interest of the payment of the taxes which the Government is entitled to receive, have stricken out of the House bill?

Mr. PENROSE. May I interrupt the Senator for a moment?

Mr. SIMMONS. Certainly.

Mr. PENROSE. If the Senator desires to have the amendment of the Finance Committee adopted the committee will cheerfully agree to that, and if he desires to have it rejected we will agree to that. We are willing to suit the Senator in either way.

Mr. SIMMONS. I am perfectly satisfied with the amendment of the Finance Committee.

Mr. PENROSE. Then I have no objection to the amendment being retained.

Mr. SIMMONS. What I am afraid is that the restoration of the House provision will inject an element of danger, and I was going to point that danger out, but I will not do so if it is agreed that the amendment shall be agreed to.

Mr. PENROSE. I should like to suggest that the matter is hardly worth taking any time over now.

Mr. SIMMONS. It is worth taking considerable time over, if necessary.

Mr. PENROSE. The majority of the committee will agree to anything the Senator wants on that point.

Mr. SMOOT. Let me say to the Senator that if he does not want the limitation on the provision as provided by the House let it go out. I will not ask that the amendment be rejected.

Mr. SIMMONS. Mr. President, I should not object to a proper limitation; but I certainly object to the limitation provided by the House, because I believe that under that provision any bank in this country that has bad debts or debts that it regards as bad will be permitted to establish a reserve without taking them off of its books.

Mr. PENROSE. Mr. President, I can not be more accommodating than to be willing to agree to any proposition the Senator may make.

Mr. KING. Mr. President, I dislike to disagree with the Senator from North Carolina, in whose judgment I repose so much confidence, and he may be right in this; but I rise for the purpose of satisfying myself a little further, if I may claim his indulgence.

The language under discussion is:

> Debts ascertained to be worthless and charged off within the taxable year.

It would seem that there are no limitations there, and the provision would seem to leave the matter wholly within the determination of the person claiming the deduction. Who is to ascertain it? I presume that the reasonable construction of those words would be that the taxpayer is the one who makes the ascertainment. At any rate, it is a question of fact and he passes upon it in the first instance. He determines that the debt is worthless and is to be charged off, and in his return he charges it off. There should be some review, it seems to me, of his action.

Mr. McCUMBER. Mr. President, if the Senator will examine the rules of the department and also one of the blank forms of return which the department sends to each taxpayer, he will ascertain that it is not sufficient for the taxpayer simply to say that he has indebtedness which has proved to be worthless and which must be deducted. He must show the impossibility of collecting that indebtedness. He must show whether or not he has obtained judgment, and whether any part of the judgment has been collected; and the matter is so guarded by the rules that unless it is made clear to the department that it is impossible to collect the debt a mere statement that a certain debt is a loss never passes the department.

Mr. KING. If we should strike out the words embodied in the House provision—and which, I presume, are part of existing law—and leave the provision just as it came from the Senate committee, would there be authority to make the provisions which the Senator now says are found in existing law?

Mr. McCUMBER. Certainly.

Mr. KING. Doubtless those provisions in existing law find their justification in these words:

> (Or, in the discretion of the commissioner, a reasonable addition to a reserve for bad debts); and when satisfied that a debt is recoverable only in part the commissioner may allow such debt to be charged off in part.

It would seem that under that provision there would be authority for the Commissioner of Internal Revenue to promulgate regulations for the purpose of ascertaining whether a debt is worthless and should be charged off. If we should strike out those words and declare that debts ascertained to be worthless and charged off within the taxable year are to be deducted, is there any authority resting in the department to make any further inquiry or may they not be compelled to rest upon the declaration of the taxpayer himself?

Mr. McCUMBER. I think they are not compelled to rest upon the declaration of the taxpayer in any return that he makes, and they are especially zealous in guarding the claim of loss by insisting that the taxpayer under the present law—and the same would be true under this law—must show conclusively to the satisfaction of the department that the debt is a loss and can not be recovered.

Mr. KING. Then the Senator takes the position that the words stricken out are meaningless and add nothing to the jurisdiction or power of the department in determining whether or not a debt is worthless and should be charged off?

Mr. McCUMBER. I do not think they are meaningless in either instance, but I do not think they make any difference in the law.

Mr. KING. The Senator thinks the power of the commissioner is just the same without them?

Mr. McCUMBER. I think the power is there, and will be exercised in either case.

Mr. SIMMONS. Mr. President, the language retained by the Senate committee is practically the language of the present law. Of course, the commissioner under the present law, as always, can exercise such supervision and make such investigations as he sees fit to make as to whether a debt ought or ought not to be charged off. The language which the Senate committee has stricken out is not in the present law. It was added by the House.

Mr. SMOOT. Oh, no; the Senator is mistaken there. The House provision is exactly the existing law; is it not?

Mr. SIMMONS. No; this is a House amendment.

Mr. SMOOT. Oh, yes; I see, now.

Mr. SIMMONS. The part of the provision that is stricken out is not in the present law. The House added it.

Mr. SMOOT. That is true.

Mr. SIMMONS. So that if the Senate committee amendment is adopted, the commissioner will have the same right to exercise discretion and supervision that he has at present.

Mr. President, I am not particularly opposed to all of the part of the House provision that was eliminated by the Senate committee. I am only opposed to one portion of it, that portion of it which is in brackets, and I think that is dangerous. I will read it to the Senate.

The paragraph begins:

> Debts ascertained to be worthless and charged off within the taxable year—

Then, in brackets—

> (Or, in the discretion of the commissioner, a reasonable addition to a reserve for bad debts.)

I do not know what that means. That may mean that the commissioner would have power to authorize every man and every institution in this country to set up a reserve fund to take care of possible contingent losses on account of bad debts, and to deduct the amount of that reserve that they are per-

mitted to lay aside each year from their taxable income. It is the part of the amendment eliminated by the Senate committee that is in brackets to which I object. I do not object to the balance of it at all. I believe that part of it to be a very dangerous provision to put in this bill.

Mr. SMOOT. Let us agree to the committee amendment, then.

The VICE PRESIDENT. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

Mr. WALSH of Massachusetts. Mr. President, may I inquire whether paragraph (3), on page 38, has been passed over?

The VICE PRESIDENT. It has been passed over a second time. The Secretary will state the next amendment passed over.

The ASSISTANT SECRETARY. The next amendment passed over is on page 41, beginning on line 12, where the committee proposes to insert a new subdivision, as follows:

(9) In the case of buildings, machinery, equipment, or other facilities, constructed, erected, installed, or acquired, on or after April 6, 1917, for the production of articles contributing to the prosecution of the war against the German Government, and in the case of vessels constructed or acquired on or after such date for the transportation of articles or men contributing to the prosecution of such war, there shall be allowed a reasonable deduction for the amortization of such part of the cost of such facilities or vessels as has been borne by the taxpayer, but not again including any amount otherwise allowed under this title or previous acts of Congress as a deduction in computing net income. At any time before March 3, 1924, the commissioner may, and at the request of the taxpayer shall, reexamine the return, and if he then finds as a result of an appraisal or from other evidence that the deduction originally allowed was incorrect, the income, war-profits, and excess-profits taxes for the year or years affected shall be redetermined; and the amount of tax due upon such redetermination, if any, shall be paid upon notice and demand by the collector, or the amount of tax overpaid, if any, shall be credited or refunded to the taxpayer in accordance with the provisions of section 252.

Mr. KING. Mr. President, there may be ample reason for the allowance of this deduction. I shall be glad to hear from some member of the committee the reasons that are submitted justifying it.

We know that during the war many corporations were formed for the purpose of carrying on war activities. Investments were made by them, advances in some instances being made by the Government. It is assumed—and I think the assumption is warranted—that the enormous profits made by many of such corporations in the manufacture of war munitions, and so forth, fully compensated them for the investments they made. We know that the prices of all products and commodities purchased by the Government were greatly in excess of those prevailing prior to the war; indeed, they were, generally speaking, extortionate. The high prices charged the Government account for the enormous amount expended by the United States in the prosecution of the war.

I have felt that the Government was in many instances the victim of selfish and exploiting individuals and corporations. The prices charged by labor upon some of the plants were too great and the Government was robbed by some who supplied it with commodities imperatively required during the war. And corporations have sought in some instances to charge off large sums under the head of obsolescence, depreciation, and so forth. I know of one corporation that charged off more than $150,000,000 on account of buildings, equipment, or construction as acquired during the war.

Mr. President, I am only asking that corporations pay the taxes imposed by law, the corporation tax and the excess-profits tax. Why should they be allowed further deductions now because of the alleged depreciation in the value of the property? That does not affect the profits which they have made in the past. That will not affect the profits which they make in the future, unless, of course, the matter of profits is referred to the uncertain standard of capitalization rather than production and money expended in operating expenses and profits derived upon the operations of the corporation.

During the war a large number of persons bought or constructed and operated vessels charging enormous prices for transportation. It is known that prices for freight increased several hundred per cent during the war, and I am told that in some instances the rates were increased to 1,000 per cent. Many individuals and corporations who built or purchased ships paid for them in one year because of the extortionate demands which they made upon the Government of the United States.

Mr. LA FOLLETTE. In a single trip.

Mr. KING. As the Senator from Wisconsin says, in a single trip. Now, after they have profited beyond the dreams of avarice, and after reasonable deductions and allowances and exemptions have been made, the proposition is, if I understand this section, to allow further deductions, and to permit a complete amortization of their plants, although doubtless most of them have amortized them or could have done it if they had not paid out such enormous dividends.

Mr. President, this provision seems to require some explanation. There may be justification for it, and I pause for some member of the committee to submit facts which supply such justification.

Mr. PENROSE. Mr. President, it appears to have seemed good to the Senator when he voted in favor of the existing law, of which this is an exact copy and which his party passed in the emergency of war, as an act of proper equity to those who came forward to supply the wants of the Government. Now, when his party is in a hopeless minority, he suddenly exhibits a remarkable change of heart. It is for him to explain, Mr. President, not for the committee, why this change has occurred.

This is exactly the present law, with the single exception that the war being over, a date is fixed. The question of profits does not enter into this matter. It is simply a question whether the owners of extensive plants, built at the urgent request of the Government to meet the requirements of the Government for the purposes of the war, now largely useless, if not entirely so, should have this privilege of amortization and appraisal. I can not understand why the Senator was so zealous at one time for this provision and now exhibits great doubt about it.

Mr. KING. Mr. President, may I say to my friend from Pennsylvania that I do not know that I ever exhibited any zeal for this section. As a matter of fact the RECORD will disclose that I did not. I voted for the bill, as the Senator from Pennsylvania voted for the bill.

Mr. PENROSE. In profound ignorance, perhaps, of the details of the measure.

Mr. KING. I had confidence in the Senator from Pennsylvania and other members of the Finance Committee that they would report a tax bill—one that was best suited for the conditions then obtaining. I was not a member of the Finance Committee, and I have no doubt that many other Senators, in the pressure of the war, voted for measures as to the details of which they did not have a complete knowledge.

Let me add, however, that many of the provisions of the bill reported by the committee did not meet my approval. I prepared a substitute bill, and also several amendments, but voted for the war revenue bills, though they did not in all respects meet my views.

But I make no excuse whatever, Mr. President, on that ground. I voted for the war revenue act because I believed it would raise a large amount of revenue which the Government needed for the prosecution of the war and because I could not get a measure that in all particulars measured up to my ideas of what a tax bill for war purposes should be. If I had had my way I would have enacted a law that yielded more revenue than those enacted during and immediately following the war.

I believed in taxing to the limit excess profits and large incomes. I believed that prices would not rise to destructive levels if taxes were heavy and bond issues and other obligations of the Government were small.

But a proposition to allow certain claims for amortization on account of buildings and plants constructed for war purposes, when such allowance is to be made during the progress of the war, does not call for a policy of continuing amortization allowances or deductions long after the war is over.

Mr. PENROSE. Mr. President, I believe I have the floor.

Mr. KING. I beg the Senator's pardon.

Mr. PENROSE. I intend to yield it in a moment, and the Senator can then go on.

Perhaps I ought to correct his idea of the situation, however, by impressing on him the fact that these deductions have already been made, and none can be made hereafter. Peace was declared in 1921, and this merely gives three years thereafter, to March, 1924, to complete the consideration of these amortization claims, in the interest of accuracy, and to protect the Government. I can not see how any profiteers are being benefited. The Government is being protected.

Mr. KING. The Senator has raised a point which had not been suggested, and I would like to make an inquiry of him. He construes this section, then, I understand, to mean that the power of review only is extended until March 3, 1924?

Mr. PENROSE. Absolutely.

Mr. KING. But there is no substantive provision here which permits further reductions or claims of exemption because of amortization?

Mr. PENROSE. Absolutely none.

Mr. KING. I do not combat the Senator's view, and if that is the proper construction of the section it would seem that there could be no reasonable objection to it.

Mr. PENROSE. I thought the Senator would state that, Mr. President, when the matter was fully explained to him.

Mr. KING. If I may interrupt the Senator further, his statement a moment ago conveyed the idea to me, whether the language warranted it or not, that this section would permit further amortization and further credits upon the ground of amortization.

Mr. PENROSE. No; I did not mean to convey that impression, and I am glad the Senator has given me an opportunity to correct it if I did.

Mr. SMOOT. Mr. President, will the Senator yield a moment so that I may read the existing law?

Mr. PENROSE. I yield.

Mr. SMOOT. I desire to call my colleague's attention to the existing law, and he can then see why this change was made. The law to-day reads:

> At any time within three years after the termination of the present war the commissioner may, and at the request of the taxpayer shall, reexamine the returns.

That is the existing law. Peace was declared July 2, 1921. So we are giving to the commissioner three years, which the original law intended, to examine into these returns. That is all there is to it. He ought to have three years in which to go into the matter, and if there are any errors made, see that they are corrected.

Mr. KING. Mr. President, I repeat, if it is the purpose of subsection 9 to extend the period of review by the commissioner until March 3, 1924, I think it is wise legislation. If, however, the section may be construed as authorizing further deductions for amortization, upon the ground that all of the deductions which might have been made for amortization purposes have not heretofore been charged, then I am opposed to it, and if the committee is so sanguine that their construction is correct, I beg that they permit an amendment to this effect:

> *Provided*, That nothing herein shall be construed as authorizing the taxpayer to claim further deductions for amortization or other purposes as set forth in said subsection 9.

Mr. SMOOT. Let me call the attention of my colleague to the basis of deductions. If he will turn to page 41, line 15, he will find that the exemptions are to be "for the production of articles contributing to the prosecution of the war against the German Government." There are no articles being produced, nor have there been any articles produced since November 11, 1918, "contributing to the prosecution of the war with the German Government."

Mr. PENROSE. Mr. President, if I may be permitted to continue my explanation to the Senator, the Government is amply protected by the fixing of the date of March 3, 1924, and it is necessary to allow a little margin. I think the Government is amply protected.

Mr. KING. I agree with the Senator that there should be an extension of the time within which the Government may review the claims which have been preferred for amortization. I am not complaining of that at all. The point I am attempting to make is this, that, as I read the section, contrary to the construction placed upon it by my colleague, it would permit further reasonable allowances for the cost of building, machinery, equipment, and other facilities constructed, erected, installed, or acquired on or after April 6, 1917, even though war munitions are not now being produced if a full claim for full or complete amortization has not heretofore been made. All I am contending for is that if the claim for amortization has not heretofore been made the time shall not be extended for a further preference of the claim.

Mr. PENROSE. The answer to the Senator, which seems to me conclusive from the point of view of the interest of the Government, is that these claims may be reduced during this period, and are just as apt to be reduced, under the present vigorous policy of the administration toward economy, as they are to be raised. The wages of labor are down, the prices of materials are down, everything is reduced, and the overwhelming probability is that these claims will be reduced. It is a good deal better to give the Government a short period in which to have an opportunity to reduce them and adjust them than to lock the door and leave everything in confusion.

Mr. KING. I agree with the Senator.

Mr. SMOOT. My colleague does not think for a minute that any concern which has any claim for amortization has not already made it, when the taxes were the highest they could possibly be?

Mr. PENROSE. I have already stated that, Mr. President, or tried to do so.

Mr. KING. I am not so sure about that, and that is the reason I desire the committee amendment, further amended. I am only trying to protect the Government from improper claims which may be presented. The record of claims for amortization and depreciation and obsolescence is not a claim as it should be. The Government has been deprived of revenue by allowances and deductions that were improper if not fraudulent.

Mr. TOWNSEND. Mr. President, I am not exactly clear as to this provision myself. I understand the statement of the Senator from Pennsylvania, but I am wondering why it is necessary to repeat this section of existing law. The repetition of the section would indicate that this is a continuing power, and that this amortization may be made hereafter; that is, I take it that is what one would understand from reading the section itself. If it is clear that all the provision intends is simply to afford the power of review to the commissioner up until 1924, of course there could be no possible objection to it; but, I repeat, as I read it, the impression I get from it is that the statute is repeated in order that it may be made a continuing power for the purpose of amortization.

I do not know whether the junior Senator from Utah has worded his amendment properly to cover the ground, but I do feel that if it is the object of the committee to accomplish what the Senator from Pennsylvania states, rather an unfortunate way has been adopted to accomplish it.

Mr. KING. Then, as I understand the Senator, he thinks that notwithstanding this is a continuing authority, it might be so constructed that persons who have not claimed amortization up to the present, might in the future assert claims limited only by the provision of this amendment as to time, viz, 1924.

Mr. TOWNSEND. I felt that way, and I felt that because of the fact that the committee provides "not including any amount otherwise allowed," you might include some new element.

Mr. KING. That is exactly the point I have been making.

Mr. PENROSE. Would it satisfy the criticism, if such has any foundation, which in my opinion at least I doubt, if an amendment was accepted to the effect that no new claims should be recognized and no claims of any kind should be considered that were not for construction for war purposes?

Mr. KING. In fact, I do not ask the Senator to attach the last provision. The first part of the sentence of the Senator, I think, covers the criticism which I have been making.

Mr. PENROSE. Will the Senator submit such an amendment?

Mr. KING. I shall be very glad to do so.

Mr. PENROSE. Or I will ask the Treasury expert to draw it up and submit it.

Mr. KING. I will take the amendment which was suggested by the Senator in the first part of his sentence. I have no pride in this matter; I simply desire to get as good a bill as we can and protect the Government wherever possible.

Mr. PENROSE. I appreciate the Senator's interest, and desire him and every Senator to feel that as far as I am concerned I invite criticism and want their help.

Mr. KING. I appreciate that. The criticism I have offered is not in any partisan spirit, as I am sure the Senator will understand.

Mr. PENROSE. I understand that.

Mr. POMERENE. Mr. President——

The PRESIDING OFFICER (Mr. STERLING in the chair). Does the Senator from Pennsylvania yield to the Senator from Ohio?

Mr. PENROSE. Certainly.

Mr. POMERENE. Is it the purpose of the amendment to permit the opening up of any or all the controversies which have heretofore been heard and adjudicated by the departments?

Mr. PENROSE. I do not so understand it. It is simply to adjudicate cases which are practically pending and propositions that involve only war matters, the war being over, so that no one can enter into a contract with the Government for the prosecution of the war.

Mr. POMERENE. I was not quite clear from my reading of the paragraph if a controversy had been heard and determined, if the claimant or the Government, for that matter, thought they had some additional testimony, whether it could be opened up for the purpose of hearing that testimony and rendering such further finding as to them might seem proper under the newly discovered evidence.

Mr. PENROSE. Of course, the ascertainment of new testimony or evidence is deliberately left open, so that the Government may have fairly ample opportunity to conduct this amortization plan in the interest of the Government. Certainly it is to the interest of the Government to appraise these properties on a peace basis.

Mr. KING. Mr. President, if the Senator will pardon me——

Mr. PENROSE. I yield.

Mr. KING. As I understand the Senator from Ohio, I think his position would be disadvantageous for the Government, and I would be inclined to support the position of the Senator from Pennsylvania.

Mr. POMERENE. I have not taken any position. I am simply asking for information as to what the effect would be.

Mr. KING. I understood the Senator to take the position that the Government ought not to open up the accounts after an adjustment had been made.

Mr. POMERENE. No; I have taken no position at all. I simply wanted to have it properly considered if I could, so as to ascertain what position I ought to take.

Mr. HITCHCOCK. Mr. President, I should like to ask the chairman of the committee, if the amendment is adopted, whether such concerns would be permitted a second time to secure a deduction for the cost of the properties or partial cost of the war construction owned by a company that had contracts with the Government and which contracts have been adjusted, as thousands of them have been, with the War Department, in which adjustment there has been taken into account the destruction of the properties at high costs?

Mr. PENROSE. This provision affects the taxing power of the Government, not the contractual relations of the War or Navy Department.

Mr. HITCHCOCK. Yes; I understand. But as I read the section it means that if a manufacturing concern during the war in supplying the Government with necessary war materials had constructed at large expense a great plant for which there is comparatively little use now it would be allowed a credit for that depreciation in its tax bill.

Mr. PENROSE. Of course, it would be if the depreciation was actual, but that is for the Treasury Department to find out.

Mr. HITCHCOCK. There are many cases, as I recall, in which that depreciation has already been taken into account by the War Department in adjusting the contracts.

Mr. PENROSE. That may be, and probably in a very extravagant and lavish way and at a great loss to the Government.

Mr. HITCHCOCK. Then should such a concern be permitted now to secure through the tax power another allowance for that same depreciation?

Mr. PENROSE. If the commissioner allows it, and it is on a basis that in my opinion will be very much lower and more to the interest of the Government than any settlement made by either the Navy Department or the War Department during war times.

Mr. HITCHCOCK. But my point is that the concern receives that consideration twice; first in the contract of adjustment with the Government, which results in the Government paying it money and taking into account the depreciation of its property, and again in its tax report.

Mr. PENROSE. The practice of the United States Government has been to consider these matters purely from the point of view of the collection of taxes, and the problem is simply one of amortization relating to plants and the appraisal of plants which are now useless because they were constructed for war purposes, and the war is over.

Mr. HITCHCOCK. Would the Senator accept an amendment drawn to prevent just such double allowances as I have outlined?

Mr. PENROSE. I would be willing to accept an amendment that no greater allowance should be permitted than had already been given by the War or Navy Department.

Mr. HITCHCOCK. That would be allowing it twice.

Mr. PENROSE. But suppose the allowance is very much lower in the interest of the Government?

Mr. HITCHCOCK. But my point is that in many cases those concerns have already been paid for the depreciation of their property by the Government. Now, they should not be permitted again to receive credit for that depreciation upon their tax bills.

Mr. PENROSE. Well, they will not.

Mr. KING. If the Senator will pardon me, I think that the provision as reported, followed by the amendment which the Senator from Pennsylvania himself suggested, will make ample provision to cover cases such as those instanced by the Senator from Nebraska, and would protect the Government against pyramiding or padding of accounts or claims heretofore submitted for amortization.

Mr. HITCHCOCK. Will the Secretary please read the amendment submitted by the Senator from Utah?

The ASSISTANT SECRETARY. The amendment offered by the Senator from Utah [Mr. KING] is, on page 43, line 13, to strike out the semicolon and insert a new proviso, as follows:

Provided, That no new claims shall be recognized and no claim of any kind shall be considered that did not grow out of construction for war purposes.

Mr. HITCHCOCK. That does not cover it at all. I put the query once more to the Senator. Suppose a concern having a large contract with the Government, which was cut short by the close of the war, presents to the Government a bill not only for articles actually delivered and received by the Government but including such items as damage by the cancellation of the contract and damage by the depreciation in property and in not being allowed to finish it. Suppose the concern received $200,000 in cash, for instance, on account of that depreciation, should it be allowed now, as the result of this paragraph, to get a credit for depreciation of that property which the Government has already paid for?

Mr. PENROSE. I should like to read to the Senator an extract from the regulations of the department:

All allowances made to a taxpayer by a contracting department of the Government or by any other contractor for amortization or fall in the value of property, whether such allowances were made as a part of the price of the contract or in settlement of claims arising out of the cancellation or termination of contracts, shall be included in gross income.

Mr. HITCHCOCK. I think that would ordinarily cover the case, if it were not for this special provision allowing them to make claim for depreciation. That would cover the law as it is now. It is a very wise regulation, but it seems to me if you insert an amendment specifically allowing them to count the depreciation, you overcome that regulation.

Mr. PENROSE. I suggest that this is a matter of some little computation, and there is no use of taking up the time of the whole Senate with it. I will have an amendment very carefully prepared and submitted to the Senator and to the Senate. Let it go over for that purpose.

Mr. KING. Mr. President, I am not advised as to whether paragraph 8 of this section, 214, has been adopted. It provides, in substance, that a reasonable allowance for the exhaustion, wear, and tear of property used in the trade or business, including a reasonable allowance for obsolescence, shall be allowed as a deduction in computing net income tax. There are other provisions in the bill which provide that in computing the net income of corporations, "deductions shall be allowed for exhaustion, wear, and tear of property used in the trade or business, including a reasonable allowance for obsolescence." I concede that these provisions are not new, but a reenactment of existing law. I have no doubt that there are appealing reasons in behalf of these provisions, but I believe there have been so many injustices to the Government, and, indeed, frauds, that these provisions should either be wholly repealed or materially modified.

Mr. PENROSE. What is the Senator's suggestion?

Mr. KING. I think the provisions first referred to, as well as the others, should be stricken out. There are more than $2,000,000,000, as I recall the figures, that have been deducted from the net incomes of corporations because of the alleged exhaustion, obsolescence, and so forth, for which deductions and allowances are made.

Mr. PENROSE. Would the Senator insert "depreciation" instead of "obsolescence"?

Mr. KING. The Senator from Nebraska [Mr. HITCHCOCK] has asked me if this is not the present law. I have stated that the provisions to which I have referred are substantially, if not textually, the existing law. The evils which have resulted from the present system need correction. It may be that the provisions to which I have referred ought not to be entirely eliminated; and it is possible some deductions should be permitted under certain circumstances, because of depreciation or exhaustion or obsolescence. Yet I am inclined to think that it would be far better to repeal these provisions and, if adequate and just allowances are not permitted under the heading of "operating expenses," to meet legitimate depreciation and obsolescence, then modification should be made of the provisions dealing with the question of allowances or deductions incident to operation.

Let us briefly look at the question. A corporation engaged in business makes profits. Under the law very large deductions are allowed before the net profits are determined, upon which a 10 per cent corporation tax is charged. If excess profits have not been earned, then no additional tax is imposed. If there are excess profits, why should not the excess-profits tax be paid, regardless of the theoretical depreciation of the property? The law has been liberally construed so that generous allowances have been made for operating expenses, replacements, and so forth, and these items have been permitted as deductions, to be made before the net profits were determined.

The records show that more than $2,415,000,000 were allowed in 1918 for obsolescence, wear and tear of property, and so forth. Enormous deductions had been allowed for operating expenses. A 10 per cent corporation tax upon this amount

would have added to the revenue of the Government $240,000,000, and the amount of tax which would have been realized under the head of excess profits would have been greatly increased if this item of more than two billion four hundred millions had not been allowed as a deduction.

The subject of theoretical depreciation is one that is so nebulous and uncertain as to occasion difficulties, complications, and evils in the effort to administer a revenue system containing such provisions. No two persons agree as to what would be a legitimate deduction for depreciation or obsolescence or wear and tear of property "used in the trade or business." The discretion granted is too great. The latitude afforded the agents of the Government in determining these questions is too wide to permit in the enforcement of the law any system or principle of uniformity. The result is that inequalities and injustices follow its administration; injustices to the individuals and injustices to the Government. I repeat, that where liberal provisions are contained in the law which take care of operating expenses and necessary replacements there would seem to be no justification for further deductions comprehended under the heading of "obsolescence, wear and tear, depreciation," and so forth.

Mr. George N. Webster, of New York, in a pamphlet entitled "Theoretical Depreciation," has discussed in a clear and admirable manner some of the evils and dangers resulting from the adoption of a system which permits the application of the principle of theoretical depreciation. While he is primarily discussing this question in its relation to public utilities and as it affects the public and the investor, nevertheless, the principle which he invokes has direct application in the consideration of the question underlying the provision of this bill to which I am briefly calling attention. He states:

* * * The method of unsound valuation against which this article is directed may be described briefly as the "cost less depreciation" method. The "cost" may be "original cost," "average cost," or "present cost." The depreciation which is deducted therefrom and which may be said to have its origin in the concept that used property is less valuable than new property, is based upon the assumption that used property becomes uniformly less valuable during the period of its alleged life expectancy, starting at 100 per cent value and ultimately reaching zero value. The amount to be deducted is computed by finding the ratio of the expired life to the assumed total life and by applying that ratio to the "cost"; the amount thus obtained, deducted from "cost," is supposed to represent the "present value."

* * * The world is expanding. This country is expanding more than any other. There are centuries of expansion before it. Then why dream of amortizing investment in public service companies? Almost without exception they are growing, not shrinking. It will be time enough to talk of amortizing investments in them when, if ever, there are signs of shrinkage.

The consideration of age enters no more into the question of the rates of a public service company which is able to, and does, render the service it was organized to render, than does the age of a taxicab or of its driver or of the clothes he wears enter into the question of the fare. A driver 20 years old with a new car and a new uniform can charge no more than a man of 60 with a 10-year-old car still operating efficiently. It is transportation the passenger is buying; he expects to pay uniformly for a uniform service, regardless of the age of the equipment.

* * * A celebrated lawyer who died within a year and who bequeathed many millions of dollars to a great college had in his office the simplest and oldest furniture the writer ever saw. Furthermore, his earning capacity increased annually to the day of his death at the age of 74. He probably never realized what a liar he was making out of the professional depreciationist.

The fraud which would have been perpetrated upon the public if the theory of "depreciation," which is being exploited as a profession by demagogues and impostors, had been adopted by public service companies years ago, when they were starting in business, would have been on a par with the fraud which these charlatans now undertake to perpetrate upon the companies. This would be true even if there were such a thing as life expectancy in plant and equipment. But there is no such thing. Aside from what may be deemed to be the wearing parts of a complete system, including such small units as rails, ties, poles, gas and electric meters, etc., retirements of units for wear and tear do not occur. They have, therefore, no determinable life. The date when, if ever, they will be withdrawn from the service because of obsolescence and inadequacy can not be even approximated, because the date and character of future inventions and of the development of the community can not be foretold. * * *

We are confronted with the task of providing revenue to meet the enormous expenditures of the Government. The existing law, framed during war times and for war purposes, obviously needs modification. There are some who would strike down all its essential features. There are others who would eliminate provisions found to be oppressive and substitute others that would be more temperate and yet afford a large yield of revenue to the Government. There are those who would like to lay all the burdens upon the great mass of the people; and there is an insistent demand upon the part of a few that consumption taxes supply the major part of our needed taxes.

In my opinion, Mr. President, if economies and efficiency characterize the operations of the Government, a sufficient revenue can be produced without oppressing wealth by modifying in a number of particulars the measure now under consideration. I do not believe that there should be an absolute repeal of all provisions of existing law relating to excess profits.

It is not my purpose to discuss at this time the subject of excess profits or to analyze the clamorous contention that any form of excess-profits tax is an impediment to business. Undoubtedly taxes may be so onerous as to be destructive of enterprise and business activity. It is recognized that the power to tax is the power to destroy; and the arbitrary and tyrannous employment of the taxing power may not only paralyze business, but grievously affect the entire social and economic organism. But taxes should be laid where they can be best borne. There are more than forty millions of wage-earners in the United States, and yet only five millions filed income-tax returns; and these returns show, as I remember, less than twenty billions of dollars for the year 1919. Perhaps the earnings of all the people of the United States amounted in that year to between fifty and sixty billions of dollars. It is manifest, therefore, that more than forty millions of wage-earners earned less than $1,000 each; and the amount so earned by them was consumed in their living expenses. In other words, by far the greater part of that produced by all the people was consumed for living expenses. Taxes, therefore, must be borne by those who received (either as the result of wages or interest or rents) the residuum; that is, that portion of the earnings not consumed. It follows necessarily that those whose incomes and profits are large must bear the principal part of governmental expenses.

But returning to the deductions which I mentioned at the outset of my remarks. The reports from the Treasury Department indicate, as I have stated, that more than $2,400,000,000 were allowed as deductions for depreciation, obsolescence, and so forth. This means that this large sum was exempted from taxation, not only the 10 per cent corporate tax, but the excess-profits tax. If this sum had been taxed it would have brought into the Treasury between three and four hundred millions of dollars as corporate taxes and excess-profits taxes.

The present bill also allows as exemptions from the normal personal income tax dividends which in 1918 amounted to $2,400,000,000. There is no reason why this huge sum should be exempted from taxation, and if it had been taxed more than one hundred and ninety millions would have been added annually to the Treasury. This bill, as I view it further, exhibits its solicitude for wealth by deducting from taxation substantially $2,600,000,000 received by corporations but allowed as a deduction on account of interest paid on funded debts. In other words, corporations earned more than $2,600,000,000 in 1918 for which they were credited or allowed a deduction on account of interest paid upon bonds.

A corporation that borrowed money for capital purposes and issued bonds escapes taxation upon the interest paid upon such bonds, but if it issues preferred capital stock it is allowed no deduction for the dividends or interest paid upon such stock.

The bill also allows corporations a $2,000 credit to be deducted from its earnings; in other words, a corporate exemption of $2,000 is allowed. If this exemption were repealed, many millions of dollars would be added to the Treasury.

Mr. President, between $750,000,000 and $1,000,000,000 could be raised if a temperate and just excess-profits tax were imposed and taxes were laid upon the items to which I briefly called attention; and if that were done, many of the consumption taxes found in this bill could be repealed.

Recurring to the question of depreciation and deduction, permit me to call attention to what every Senator knows, namely, the difficulty which has been encountered by the Government in administering the provisions of the law dealing with this subject. It has been the source of prolific controversy, unexampled confusion and injustice, if not positive wrong.

The Senator from Pennsylvania [Mr. PENROSE] may say that this provision is found in the original war revenue act and therefore we should perpetuate it. I do not assent to this position if it should be assumed. I make this observation because the Senator, without respect to an item to which I heretofore called attention, replied that it was a part of the existing law.

Mr. PENROSE. The provision is existing law.

Mr. KING. I admit this provision is in the present revenue act——

Mr. PENROSE. And was put into the law by the Democratic Party.

Mr. KING. It is a part of the revenue law by the votes of Democrats and Republicans. As I recall, the war revenue acts were passed with practical unanimity. They were regarded as necessary to meet the heavy demands made upon the Government. The legislation was in part experimental. I did not refer to the income-tax provisions of the law and those provisions dealing with excess profits. This Government had not theretofore adopted the policy of imposing excess-profits taxes, but it

was felt, as I have heretofore stated, that the enormous profits which were being made by business enterprises and corporations justified the imposition of heavy excess-profits taxes.

It is contended by many that the legislation should have gone further and that the business profits of all corporations and the earnings of all individuals in excess of their prewar profits and prewar earnings should have been taken by the Government under an appropriate tax law. However, Mr. President, I am not discussing this matter in a partisan way. I take my full share of responsibility for the war revenue act and for whatever infirmities it possesses. I was not a member of the Finance Committee, as the Senator was, and had no hand in the preparation of the bill, as doubtless the Senator and other Republicans of the Finance Committee did. But, conceding that the bill is seriously defective and that the party in power when it was enacted should be criticized because of its provisions, that furnishes no excuse for perpetuating the provisions therein which experience has demonstrated are defective or inequitable.

The Senator from Pennsylvania is a student of economics, a man of ability and large experience, and he should bring his splendid talents to the rectification of whatever inequalities, injustices, and incongruities may be found in the legislation which he attributes to the Democratic Party.

Mr. PENROSE. If the Senator will permit me to interrupt him there, because I have to withdraw from the Chamber for a moment, if there is one word sacred to the Democracy in tax legislation it is the word "obsolescence." I would rather besmirch the memory of Thomas Jefferson than to tax "obsolescence" in a revenue bill.

Mr. KING. Mr. President, the Senator from Pennsylvania in reporting this bill has continued the use of the word "obsolescence." I am sure that in so doing he was not actuated by any admiration for Thomas Jefferson or for the Democratic Party. I think that the reason why the distinguished Senator approves of this term and continues it in the present bill is because he believes that it exempts corporations from taxes—taxes which in my judgment they should be compelled to meet.

Mr. EDGE and Mr. SMOOT addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Utah yield, and if so, to whom?

Mr. KING. I yield first to the Senator from New Jersey.

Mr. EDGE. Mr. President, I am just wondering if the Senator, in his criticism of the repeal of the excess-profits tax and other taxes on going business, has taken into consideration at all the fact, which seems to be pretty well established, that there are 6,000,000 men out of employment in this country, and the further fact that there might be something wrong with the present system or that condition would not exist, and the possibility if actual going business was somewhat relieved by wise revision of taxes whether it might not operate to employ some of the 6,000,000 men who, according to statistics and information, are now walking the streets.

Mr. KING. Mr. President, I shall briefly reply to the Senator. In the first place, the extensive unemployment, serious as it is, is not in my opinion to be laid at the door of our revenue laws. There has been a persistent clamor upon the part of huge corporations and the great interests of our country to be relieved from taxation. There has been a nation-wide propaganda to secure the repeal particularly of the excess-profits tax and the surtaxes imposed upon individuals. Accompanying this propaganda, and as a part of it, claims had been made that the serious economic situation and the industrial depression existing in the country were due entirely to the failure of Congress to repeal these provisions of the existing revenue law. Undoubtedly there is some foundation for the claim that the present revenue law contains inequalities and should be modified, but the extravagant statements and charges made as to this bill being the cause of the paralysis in business and the unemployment in the country are not in my opinion warranted.

Mr. EDGE. Mr. President, will the Senator yield further?

Mr. KING. I yield.

Mr. EDGE. The Senator, I am sure, will agree with me that no legislation will compel those men who have usually been leaders in industry and development again to risk their capital unless they see fit so to do, and nothing that Congress can do will in any way, I may say, guarantee or justify a resumption of general business enterprise, which means the employment of thousands of men, of course, as it has in the past, unless the men who take such risks can see a reasonable opportunity of retaining a reasonable profit for the risks which they assume. Without attempting to charge all of our economic ills to the existence of the present tax system, still will not the Senator admit that it is common sense and logic that a man who has means and ability and has been a leader heretofore in general enterprise will not, to any great extent at least, where very much risk is involved, go into the development of any large going industry or new industry, or take advantage of resources that have not been developed, unless he sees a reasonable opportunity of profit for such risk? Is not that logic and common sense?

Mr. KING. Undoubtedly there are some business men whose activities have been curtailed by reason of their antagonism to our tax laws. Doubtless there are some who sincerely believe that the heavy taxes imposed upon corporations and upon large personal incomes are impediments to a revival of business. The psychology of the situation, no doubt, has reacted to the disadvantage of business. There has been so much talk about excess-profits taxes and the heavy burdens of taxation that unquestionably it has had its effect along certain business lines. I believe, however, that there are some in our country who have used the excess-profits tax and the other heavy taxes imposed by the Government as a pretext to continue their assaults upon Congress to compel a repeal of the entire excess-profits law as well as the surtaxes found in the present revenue law.

There are persons who are selfish and who are unwilling to make proper contribution to the Government. Doubtless there are business men who come within the category referred to by the Senator, and are unwilling to make further investments and extensions of their business, incurring, as he contends, great risks, under present conditions.

There are a few men in every community who are unwilling to take any risks, who are governed by selfishness, and who seek personal advantage in all of their business activities rather than the general good. There are others whose paramount object is the public welfare. They are interested not so much in personal aggrandizement as they are in building up the country, furnishing employment to the people, and adding to the general prosperity of all classes. There are in the United States many great men like Mr. Hill, whose vision and courage projected the Great Northern Railroad and added untold wealth to this Republic. He had dreams of the development of his country and was willing to take all manner of risks in order to execute his magnificent plans. The question of personal gain to him and to others was unimportant.

I believe the American business men, as a rule, measure up to the highest standards of rectitude and integrity. They have pride in their country and in its advancement. There are some, however, who are selfish and who would utilize the Government for their own advantage, though in so doing they oppress the masses of the people.

Unfortunately, there have been and there are interests so selfish as to need the corrective hand of the Government. They have no concern for labor and are interested only in escaping honest taxation and in amassing enormous fortunes.

Of course, those who engage in business activities, as well as those who undertake any enterprise, are entitled to rewards for their services. The toiler in the field, the worker in the mines, the man in the bank, or the capitalist in Wall Street—all are entitled to just rewards for their efforts. If the Government enacts unwise and oppressive legislation affecting either or all of these individuals and the great classes of which they form a part, then there will be depression and industrial paralysis. The Government ought not lay a heavy hand upon enterprise and thrift. It rather should encourage business activity, industrial development, and economic growth.

But it is a fallacy to suppose that honest and legitimate taxation constitutes an impediment to legitimate and proper business development. Congress should be careful not to enact vexatious and oppressive legislation such as would destroy the initiative or militate against the splendid courage and genius which finds expression in the lives of the American business men.

I say to my friend from New Jersey that in my opinion it is erroneous to attribute the unemployment and industrial depression now existing in our country to our present tax system. Doubtless the enormous demands made by the Government and States and municipalities have interfered in a greater or less degree with the business of the country. Taxes may be so oppressive as to destroy initiative and paralyze business. Unfortunately, the States and the municipalities during and since the war have been almost profligate in their expenditures. Heavy taxes have been imposed, aggregating hundreds of millions of dollars, and bonds have been issued exceeding $1,000,000,000. In addition, during and immediately following the war there was an orgy of waste and extravagance upon the part of the people. The virtues of thrift and economy were forgotten. The high wages paid to the wage earner, in a very large degree, were not conserved or placed in savings banks, and the farmers and the business men and the people generally

proceeded upon the theory that high prices were to continue and that the inflated conditions existing were to be perpetuated.

Production slackened and inefficiency characterized the activities of many of the people. These things conspired to bring about a reaction and to precipitate a financial depression, if not a financial panic, such as we find existing to-day.

The Federal tax system only in an indirect way produced the conditions of which the Senator speaks. Undoubtedly, when the Federal Government takes from the people five or six or seven billions of dollars per annum and expends it in governmental operations, such course reflects itself to the disadvantage of the industrial condition and life of the people. I frankly concede that when the Government takes from the people a large part of their savings that it affects the business and economic conditions of the entire country. Prosperity follows investments and investments result from savings, and if taxes compel surrender by the people of all their savings, then a business collapse is inevitable. Large as the demands of the Federal Government have been—indeed, these demands are too large—they are not primarily responsible for the unemployment or for the business depression existing in our country to-day. Many of the evils which we are now experiencing would have come if there had been no taxes and some bounteous fairy had placed in the Treasury the golden funds with which to meet all legitimate expenses of our Government.

Mr. EDGE. Will the Senator yield?

Mr. KING. I yield.

Mr. EDGE. Is the Senator aware that in Great Britain to-day, according to statistics that I have seen—I can only vouch for them from that understanding—there are approximately less than 1,000,000 men out of employment, and that with all the tremendous expenditures in Great Britain because of the war they repealed the excess-profits tax, known as the E. P. D., I think, a year ago—certainly it is repealed now—and that the surtaxes on incomes in Great Britain do not reach anywhere near the figures reached by the bill we are endeavoring to amend? I point to that only as a situation existing—that there are less than 1,000,000 men unemployed out of a population of something like two-thirds of our population.

Mr. KING. No; the Senator is speaking of Great Britain and Ireland?

Mr. EDGE. Yes.

Mr. KING. Probably 47,000,000.

Mr. EDGE. Then I will say a population approximately one-half the size of ours, while, according to the information we have from the Secretary of Labor—I have no other way to verify it—our unemployed to-day appear to number between five and six million.

Mr. KING. Mr. President, I do not know that any deduction could be drawn from the figures submitted by the Senator, or whether the illustration which he has given of the situation in Great Britain would furnish any rule by which we might predicate sound judgment as to the reasons which have caused the unemployment and the economic paralysis in our country to-day.

Mr. EDGE. Would not the Senator naturally draw the deduction that if there is a very much smaller percentage of the population unemployed in Great Britain, and if the taxation conditions are as I have stated, as far as they relate to profits in business, it is reasonable to assume that the business men over there are showing revived energy and are employing men? Can we draw any other deduction?

Mr. KING. Mr. President, I do not think we have sufficient factors to enable us to submit any intelligent conclusion as to the reasons for the alleged revival in business in Great Britain or the limited condition of unemployment. It is impossible to institute a parallel between Great Britain and the United States any more than it would be possible to institute a fair and just comparison between the United States and China and Germany and France and Poland and other countries which are suffering from poverty, unemployment, and a multitude of social, political, and economic ills. I might reply that the alleged improved conditions in Great Britain resulted from the policy of comparative free exchange of commodities.

But I have no doubt that the business men of Great Britain are applying themselves with the utmost energy to the rehabilitation of the economic and industrial condition of their country. They are exhibiting a vision that is creditable and a courage and ability that command admiration even of their enemies.

They appreciate that Great Britain's prosperity depends upon the industrial activity of the people. Great Britain must find markets for her manufactured products. She must have raw materials; and ruin and starvation face Great Britain unless her factories are operating and her manufactured products and commodities are carried to the markets of the world. However, the condition of Great Britain is not as favorable as the Senator would indicate. There is poverty and distress among the people. Hundreds of thousands are living upon contributions made by the Government. Discontent and unemployment go hand in hand.

In this morning's press we read that Mr. Thomas, the secretary of the National Union of Railway Men, declares that "the situation is black and dangerous; more so than at any time during the war." We all know that Mr. Thomas, who is a member of Parliament, is a man of great ability, and perhaps knows as well as any man in Great Britain the industrial and political dangers which menace the country.

Mr. President, there is unemployment in many countries of the world—countries where excess-profits taxes are not imposed and heavy income taxes are not levied. The condition in Italy is serious. Unemployment and poverty go hand in hand in that land. In France, Poland, Jugoslavia, in South American Republics, and in other lands we find poverty and distress, industries paralyzed, and the very foundations of States threatened. It would be absurd to attribute these unfortunate conditions solely or largely to the tax systems prevailing therein.

If I were partisan and desired to be disingenuous, I might say that the unsatisfactory conditions prevailing in the United States have resulted because of the Republicans coming into power. The present tax law was enacted in 1917. There was great prosperity during that year and in 1918 and in 1919, as well as in 1920. The earnings of the people in 1910 and 1911 were approximately thirty to thirty-five billions of dollars per annum. In 1917, 1918, 1919, and 1920 they approximated sixty to seventy billions of dollars per annum. Under the excess-profits tax and the heavy income tax which still exists this prosperity came to the people. The heavy taxes paid to the Government seemed to be no impediment to prosperity. The earnings of the people never were so great; the wages of the laboring man never were so high; and the wealth of the country was never larger.

These conditions of prosperity and great wealth came under a Democratic administration and under the operation of the very law which the Senator is now condemning, and to the existence of which he attributes our financial and economic ills. I repeat, Mr. President, that if there is any relation between the present industrial depression and the revenue law, it is but comparatively unimportant and, in my judgment, furnishes no justification for the charge that excess-profits tax and heavy income taxes are the source of our woes and economic ills.

There are many reasons why there is industrial depression followed by unemployment. I have briefly alluded to some of them. Doubtless one important reason is the serious condition of foreign exchange. When our foreign commerce was from ten to thirteen billions per annum we had prosperity. Our foreign commerce has been almost cut in two. Our exports are shrinking and our imports are diminishing. With the ruinous condition of exchange our foreign purchasers are turning to other markets where they can find better prices for their products. Our threats of embargoes and high tariffs have had a disastrous effect upon our foreign trade, and the Fordney bill, if it shall become a law, will create further obstacles to foreign trade and commerce and aggravate the unfortunate industrial conditions now prevailing in our country. There is another cause, Mr. President, that is in part responsible for the depression which hangs like a pall upon our country.

During the war corporations and business interests effected actual or potential consolidations, and entered into agreements and arrangements which resulted in forming high price or cost levels. It became a common practice to enter into understandings and agreements to keep up prices. These agreements constituted restraints of trade and conspiracies to stifle competition. These conditions have been continued and trusts and combinations in restraint of trade are operating in a brazen and brutal manner in all parts of our land.

Many of the promoters of these illegal and criminal conspiracies and organizations insist upon reduction in the wages of the laboring men, but they are determined to maintain the high level of prices which they commanded during the war. Manufacturers in many parts of the United States have robbed the people and are still robbing them. They have refused and still refuse to bring prices down. They are so used to profiteering that they fail to see the enormity of their offenses and seek to perpetuate their past criminal course. There seems to be a determination on the part of most manufacturers and wholesalers and retailers to maintain high prices. Agreements, secret or open, are entered into for the purpose of keeping up prices.

Mr. President, the price levels must come down before there can be a marked revival in business. The agriculturalists, because of their surplus products and their reliance in part on

foreign markets, were compelled to take great losses. Their products have fallen 100 per cent or more. The producers of raw materials have suffered by reason of the fall in prices, but most of the manufacturers and those related to their interests have refused to permit the laws of supply and demand legitimate and proper operation. They have conspired and are still conspiring to restrain trade and commerce, to strangle competition and to maintain extortionate and destructive price levels. These combinations, criminal and sinister, violate State laws as well as the Sherman antitrust law. The retailers particularly are violating State statutes. The prosecuting attorneys in the various States should bring to the bar of justice the individuals and corporations who are contributing so much to the poverty and distress existing in our country to-day. The Attorney General of the United States should use the great power committed to his hands to punish these malefactors whose offenses are bringing sorrow and distress and unemployment.

It is time that the criminal statutes of the States and of the United States should be employed to punish these combinations. Criminal proceedings should be instituted—not merely civil suits to dissolve monopolies and corporations and criminal conspiracies. If some of these criminals were sent to the penitentiary a marked improvement in our industrial situation would at once result. The investigations in New York and Chicago recently conducted by Mr. Untermyer and others revealed a most serious situation. Some corrupt labor leaders were confederating with builders and others to keep up prices in building materials and building construction. Thousands, if not millions, of people need homes, and they are denied the opportunity to acquire them by reason of these conspiracies and illegal combinations. Recently the District Committee of the Senate considered the question of constructing imperatively needed schoolhouses in this city. I made some investigations and discovered that the cost of building schoolhouses was more than 100 per cent in advance of prewar prices. We have the Cement Trust, the Lumber Trust, and the Brick Trust and trust and combinations controlling nearly every commodity entering into the lives of the people. Their brutal and tyrannous hands, so heavily laid upon the Nation, are largely responsible for the unfortunate conditions prevailing in our land. In my opinion the laboring men will approach this question in a fair way. Let capital show a willingness to meet these economic conditions in a just and proper way, and most laboring men will be found willing to do their part.

If we will disintegrate monopoly instead of integrating it, then there will be a fall in commodity prices, purchases will increase, employment will be augmented, and a great revival in business will ensue. This bill is not a sine qua non for business prosperity. No tax bill that might be enacted would cure our industrial situation. If the Senator reads history aright he will learn that every great conflict, such as the one through which the world has just passed, has been followed by business depression; unrest, confusion, political and industrial evils are the aftermath of war.

Mr. President, I am not partisan enough to attribute the serious situation in our country to the Republican Party alone. That party is not responsible for the world conditions, except in so far as it contributed to the defeat of a great treaty, which in my opinion would have made for world peace and the stabilization of world conditions. I want no partisan advantage by seeking to prejudice the people of our country against the Republican Party because of unemployment and the financial depression which is bringing so much distress to our land. A world war which destroyed more than 10,000,000 of human beings and impaired the health and strength of 20,000,000 more, and destroyed the avenues of national and international wealth and the accumulated savings of many years, was bound to produce political and industrial disturbances, not only in the belligerent countries, but throughout all the world.

The Republican Party, however, is responsible for its failure to meet conditions with firmness and statesmanship. It should have formulated and adopted plans and policies that would have tended to stabilize world conditions and bring back into normal channels the great tides of progress, whose flow had been interrupted, but the potential force of which only needed liberation to carry the peoples forward to domestic peace and felicity and to international good will. Mr. President, the Senator from New Jersey attributes, as I have stated, all our evils to our fiscal system. I admit that the revenue law does make heavy exactions upon those enjoying inordinate profits. I believe in a system of taxation that lays the burdens where they can be best borne. That is one of the classic maxims announced by Adam Smith, and it is as sound and rational to-day as it was when announced by him. I do not mean that unjust taxation should be imposed upon the rich or upon any class of people. Business should not be destroyed by taxation or by governmental regulation. But wealth derives important benefits from stable government and from just political systems. If our economic system produces great corporations and stupendous business enterprises and they obtain enormous profits in their operations, they should contribute in a large degree to the expenses of maintaining the Government.

Our courts, our police protective system, indeed the Government itself, are largely for the protection of property. In this I find no fault. I have no sympathy with the discontented and radical forces who seek the destruction of government and the overthrow of what is denominated as the capitalistic system. Private ownership of property is essential to progress and to civilization. If individuals are deprived of property and the right to contract, and are reduced to a mere status, retrogression will follow and the progress of humanity will be arrested.

The communists of Russia denied the right of private ownership in property, and the enforcement of their creed has brought ruin to a great nation and starvation and indescribable horrors and sorrows to a patient and suffering people.

There must be no confiscation of property under the guise of taxation, but it must do its part in the discharge of governmental obligations. I am, therefore, in favor of an income tax. It should be graduated and obtain a progressively increasing amount of revenue from those incomes which are found within the limits of progressive graduation. Mr. President, I favor a reasonable and fair excess-profits tax; not such an one as is imposed in the present revenue law, which, as stated, was based on war requirements.

I know the Republican Party has declared in favor of a repeal of all excess-profits taxes, and it will enact an income tax law, which will relieve those individuals whose incomes are enormous of what I conceive to be a fair and reasonable contribution to the Treasury of the Government.

Perhaps members of my own party favor a repeal of all excess-profits taxes. If so, I am not in accord with such position. A reasonable excess-profits tax should be levied. If such a tax were levied and the deductions and exemptions which I have referred to were eliminated, so that corporations would pay a just and fair tax upon their net incomes, then it would not be necessary to increase the corporate tax from 10 to 15 per cent, as is proposed by the pending bill.

Mr. President, I have gone far afield from the subject which prompted me to rise. I called attention to paragraph 8 and other provisions relating to deductions to be allowed corporations for depreciation, obsolescence, and so forth, and I now give notice that I shall present amendments dealing with these provisions of the pending bill.

The PRESIDING OFFICER. The Chair understands that paragraph No. 9 is passed over temporarily, pending the preparation of an amendment thereto.

Mr. WALSH of Massachusetts. Do I understand that paragraph 8 is now under discussion and by unanimous consent will be temporarily passed over?

The PRESIDING OFFICER. Paragraph 8 has been agreed to.

Mr. KING. I was not aware of that action, and I shall move at the appropriate time for a reconsideration. I do not desire to interrupt the consideration of the bill in the manner desired by the committee.

Mr. WALSH of Massachusetts. The Senator from Utah can ask unanimous consent for a reconsideration.

Mr. KING. I prefer not to interfere with the purpose of the chairman of the committee. If the committee prefer to go on instead of recurring to that, I shall not interfere with them.

Mr. WALSH of Massachusetts. The Senator can get it up and let it remain open.

Mr. KING. In view of the fact that we have passed it, the committee might feel that they would prefer to go on. Let us go on with the bill and return to it later.

Mr. WALSH of Massachusetts. I think that the Senator has opened up for discussion some very important suggestions in connection with the interpretation of the section, and I hope it will be reopened.

Mr. SMOOT. Mr. President, if we are going into it, I would like to present the side of the committee, and I think I can point to cases after a consideration of which I do not believe any Senator would say that obsolescence is not a factor in actual business and ought not to be allowed as a deduction.

Mr. WALSH of Massachusetts. May I ask the Senator a question or two in addition to what the junior Senator from Utah has said, so that when he makes his answer he can cover the suggestions which I want to make about this section?

I want to ask, first of all, if this language in subsection 8, on page 41, refers to intangible property as well as tangible property?

Mr. SMOOT. I do not see how it could refer to intangible property.

Mr. WALSH of Massachusetts. Why does it not refer to such intangible property as patents?

Mr. SMOOT. What obsolescence can there be in the case of intangible property?

Mr. WALSH of Massachusetts. Patents might become obsolete.

Mr. SMOOT. Only by law.

Mr. WALSH of Massachusetts. By exhaustion. I think the department has included patents within this language. Patents, copyrights, and good will are all included in the language "property used in the trade or business."

Mr. SMOOT. I suppose, as there is a limit of 17 years on a patent, it might become obsolescent.

Mr. WALSH of Massachusetts. We ought to know whether patents, copyrights, and good will are included under this subsection or not.

Mr. SMOOT. I think likely they would be, and I think there should be an allowance for that where there is a limit by law to their life.

Mr. WALSH of Masssachusetts. Why should not the language in the second sentence be changed so that it should read, instead of "fair market price or value as of March 1, 1913," as follows:

In the case of property acquired before March 1, 1913, this deduction shall be computed upon the basis of its cost.

In other words, I want to know why the cost should not be the basis for the computation, rather than the fair market value, and I want the Senator to give me his views on this point. I want to put to him the case of a patent which a man gets for nothing and which has increased in market value in March, 1913, to $100,000. Under the provision of the bill, as I interpret it, he would be allowed to deduct $100,000, because the deduction is based upon fair market value rather than cost. I would like to have the Senator explain to me how such unfair deductions can be prevented under this language.

Mr. SMOOT. Mr. President, I suppose the Senator knows that under a decision of the Supreme Court all gains of every kind made before March 1, 1913, are nontaxable. If the gains on that patent were made between 1890 and March 1, 1913, then the owner is entitled to those gains, and the fair market price as of March 1, 1913, the day that the new income tax law took effect in conformity with the decision of the Supreme Court, is the basis of the value of the property the man held upon that day. It is just the same, if it is a patent, if the patent were valued at $100,000, as it would be as to any other property.

I will say to the Senator that "fair market price or value" is the expression which has generally been used in our laws, and it is well understood. It has stood the test in the courts, and if we now undertake to change those words and substitute "cost," I think we will get into trouble.

Mr. WALSH of Massachusetts. If the Senator will turn to the provision which fixes the basis for determining gain or loss, on page 14, he will find the following language:

(f) The basis for ascertaining allowable deductions for loss, exhaustion, wear and tear, obsolescence, amortization, and other like deductions, except those authorized in paragraph (10) of subdivision (a) of section 214 and in paragraph (9) of subdivision (a) of section 234, shall be the same basis as that provided by subdivisions (a) and (b) of this section.

Then, turning to subdivision (a), on page 9, we find the following language:

That the basis for ascertaining the gain derived or loss sustained from a sale or other disposition of property, real, personal, or mixed, acquired after February 28, 1913, shall be the cost of such property.

Will the Senator tell me why, when it comes to determining gain or loss, you fix cost as the basis, and when you come to make allowances for obsolescence or exhaustion you make the basis the market value?

Mr. SMOOT. The reports are made yearly, and the net gains occur on the sale of the property, and on the actual cost of the property that is purchased or sold; but if the man had owned that property before March 1, 1913, it would not be cost; it would be the market value as of March 1, 1913. That is the difference. If the Senator will permit, I was going to answer the junior Senator from Utah in relation to obsolescence.

Mr. WALSH of Massachusetts. I simply wanted to call my difficulties to the attention of the Senator, so that when he answered the junior Senator from Utah he could answer me also.

Mr. SMOOT. The junior Senator from Utah is not in the Chamber, and perhaps I had better not take the time of the Senate to answer at this time, because I think I could point him to circumstances that have happened in our own State which will prove beyond a question of doubt that obsolescence ought to be taken into consideration.

Mr. WALSH of Massachusetts. The matter is of such importance, Mr. President, that I suggest the absence of a quorum in order that more Senators may hear the explanation of the Senator from Utah.

The PRESIDING OFFICER. The Senator from Massachusetts suggests the absence of a quorum. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Harreld	McKellar	Smoot
Ball	Harris	McKinley	Spencer
Brandegee	Harrison	McNary	Sterling
Broussard	Heflin	Moses	Sutherland
Cameron	Hitchcock	Nelson	Swanson
Capper	Johnson	New	Townsend
Curtis	Kellogg	Nicholson	Trammell
Dial	Kendrick	Oddie	Underwood
Edge	Kenyon	Overman	Wadsworth
Ernst	King	Page	Walsh, Mass.
Fletcher	Ladd	Pittman	Walsh, Mont.
France	La Follette	Poindexter	Warren
Frelinghuysen	Lenroot	Pomerene	Watson, Ga.
Gerry	Lodge	Reed	Watson, Ind.
Gooding	McCormick	Sheppard	Williams
Hale	McCumber	Simmons	

Mr. LENROOT. I wish to announce that the Senator from Ohio [Mr. WILLIS] is absent attending the funeral of a deceased Ohio soldier.

The PRESIDING OFFICER (Mr. MCNARY in the chair). Sixty-three Senators having answered to their names, a quorum is present.

Mr. MCCUMBER. Mr. President, I am not certain, but I understood the Senator from Utah [Mr. KING] to object to the use of the word "obsolescence." I also understood from the remarks of the Senator from Massachusetts [Mr. WALSH] that he thought this subsection ought to be amended.

Mr. WALSH of Massachusetts. And the word "cost" substituted for "fair market value."

Mr. MCCUMBER. I am taking first the question whether or not the word "obsolescence" should be used in the paragraph. Of course this is the old law, which reads:

A reasonable allowance for the exhaustion, wear, and tear of property used in the trade or business, including a reasonable allowance for obsolescence.

It was suggested that the word "obsolescence" would include good will in business, and would also include patents. I can not for the life of me see how the department could work that construction into those words. I do not know what the department have ruled, but I can not imagine how they could use, in the physical sense that is intended here, the good will in the conduct of the business or how they could use the patent in the performance of the business.

Mr. WALSH of Massachusetts. Mr. President, will the Senator yield a moment?

Mr. MCCUMBER. Certainly.

Mr. WALSH of Massachusetts. The term "good will," or the suggestion of good will, patent, or copyright, as included in this subsection, does not relate to the word "obsolescence," but it is claimed that they are included in the words "property used in the trade or business." I contend that the words "property used in the trade or business" include good will, copyrights, and patents. Indeed, there can be no dispute about it, because the regulations of the Treasury do so interpret and have so interpreted the language.

Mr. MCCUMBER. I would amend it in such way that the department can give it no such strained construction. The usual rule of construction would prevent the department holding that they were included, because the subject matter there discussed is of an entirely different nature. We are considering now what may be set off in the line of losses that arise from the operation of the business, and we say—

(8) A reasonable allowance for the exhaustion—

We all understand what that means.

Mr. WALSH of Massachusetts. Yes; of course, of the property used in the business.

Mr. MCCUMBER. Yes; of the property. That is what we are discussing all the time.

A reasonable allowance for the exhaustion, wear—

Of the property all the time—

tear—

Of the property that is used in the business. It says:

Exhaustion, wear, and tear of the property used in the trade or business.

The words "wear, tear, and exhaustion" include what else? They include obsolescence. What is obsolescence? Tear is not obsolescence. Wear is not obsolescence. Ordinary depreciation from the elements, the weather, does not mean obsolescence; but there is another loss connected with the use of it.

You may have a kind of motor power in the plant that you have used for a number of years. It may be just as good as it was when you purchased it and put it in, but the character of the business is such that you have got to put in a different kind of a plant, perhaps a lighting plant that will decrease the cost of your lighting, perhaps a different kind of an engine that will be more effective. Your old one is not worn out, but it has become obsolete and of no use to you; all you can do is to scrap it. That ought to be included, and there is no question in my mind that that is what was in the minds both of the Congress and of the committees in drafting the old law.

Mr. WALSH of Massachusetts. The Senator from North Dakota seems to be addressing himself to me. I have no dispute with him about the necessity of the word "obsolescence" being used here. It is important. I am raising no question about that. I am simply asking if intangible properties are included in the properties referred to in the language of this section, and whether the basis for determining depreciation ought to be cost or market value.

Mr. McCUMBER. I heard what the Senator said on the matter of determining the market value or the cost. If I remember rightly, the section to which the Senator referred was a section that referred to capital losses and gains.

Mr. WALSH of Massachusetts. No; to deductions in determining net income.

Mr. McCUMBER. But it is in estimating gains and losses in income.

Mr. WALSH of Massachusetts. I referred to the section on page 9. Will the Senator first look at (f), on page 14? There he will find this language:

The basis for ascertaining allowable deductions for loss, exhaustion, wear and tear, obsolescence, amortization, and other like deductions, except those authorized in paragraph (10) of subdivision (a), * * * shall be the same basis as that provided by subdivisions (a) and (b) of this section.

Subdivision (a), section 202, reads as follows:

That the basis for ascertaining the gain derived or loss sustained from a sale or other disposition of property—real, personal, or mixed—acquired after February 28, 1913, shall be the cost of such property.

Mr. McCUMBER. "Except." Read on and get your exception, and then we will better understand it.

Mr. WALSH of Massachusetts. The basis there is the cost with certain exceptions. The basis in the section we are now dealing with is the market value with no exceptions. I might suggest to the Senator, after consultation with the junior Senator from Utah, that we thought the matter might go over and possibly be discussed among ourselves and a conclusion reached. There is no serious difference between us that can not be adjusted satisfactorily.

Mr. McCUMBER. On page 10, subsection (b) reads as follows:

(b) The basis for ascertaining the gain derived or loss sustained from the sale or other disposition of property, real, personal, or mixed—

And so forth. I do not understand that there is any distinction between them after you have taken into consideration the exceptions of the one section as compared with the other. Take a purchase of property before March 1, 1913. It may be purchased for $10,000. On March 1, 1913, it may be worth only $9,000, and it would be sold for $8,000 after March 1, 1913. Then the loss, instead of being the difference between the March 1, 1913, value and the sale price would be the loss on the original purchase even prior to 1913, and it would be $2,000 instead of $1,000 in case you would take March, 1913, as your basis.

But the point that I wish to make is to offer an amendment to the other section, on page 41, line 4, by inserting after the word "obsolescence" the words "of plant, machinery, and other tangible property." That would put it beyond any possibility of the department construing it to mean intangible property such as good will, patents, and so forth.

Mr. WALSH of Massachusetts. The amendment seems to be one that will remove the difficulty I have suggested. I am troubled as to whether the word "exhaustion" would not include the exhaustion of a patent.

Mr. McCUMBER. I would like to look a little further into the other subject so as to know whether I am right with reference to what I have already suggested.

Mr. WALSH of Massachusetts. We are evidently moving in the same direction, and I now request that the section go over until later.

Mr. SMOOT. Mr. President, I would not like to have the amendment adopted to-day, I will say to the Senator. As the junior Senator from Utah [Mr. KING] has already given notice that he intends to call this matter up when it reaches the Senate, we shall have to discuss it again, and we might as well let it go over now.

Mr. McCUMBER. It has already been agreed to, and of course we would have to reconsider the vote by which it was agreed to.

The PRESIDING OFFICER. Without objection, the subsection will be passed over.

Mr. WALSH of Massachusetts. Mr. President, some time ago I inquired if subdivision 3, section 214, on page 38, had been passed over, and the then occupant of the chair informed me it had been passed over on the second reading, but the Senator from Indiana called my attention to the fact that the Chair must have been mistaken, that it was subdivision 2 and not subdivision 3 that has been passed over.

The PRESIDING OFFICER. Subdivision 2 was passed over.

Mr. WALSH of Massachusetts. And subdivision 3 has not been passed over?

The PRESIDING OFFICER. Subdivision 3 was agreed to.

Mr. WALSH of Massachusetts. I ask unanimous consent that the vote by which subdivision 3 was agreed to may be reconsidered, as I wish to make a very short observation with reference to that section.

Mr. SMOOT. Does the Senator from Massachusetts desire to make his observation now?

Mr. WALSH of Massachusetts. Yes; or at a later time.

The PRESIDING OFFICER. The Senator from Massachusetts asks unanimous consent that the vote by which subdivision 3 of section 214, on page 38, was agreed to be reconsidered. Without objection, it is so ordered.

Mr. WALSH of Massachusetts. I wish to call attention to the fact that there is an opportunity in this section by a slight amendment to perfect a situation that has arisen under the administration of the present law that has resulted in a considerable loss of revenue. It is this:

After the collection of an estate tax by the Government in a given year the Government assumed the practice of collecting also an income on the income of the estate. One of the large estates of the country raised the question that they ought to be allowed to deduct from the income of the estate the estate tax which was paid. That question was taken to the Supreme Court, and the Supreme Court ruled that such an allowance could be made, and should have been made, under the law as it then read, with the result that now a large estate that has paid an estate tax is not required in many instances to pay any income tax during the year that it pays the estate tax.

That is a very important matter, and we ought now to adopt a policy as to what we are going to do in the future. An estate of $10,000,000 pays such an estate tax that—although its income in a given year may be $500,000—it has to pay no income tax for that year; in other words, the estate tax, being very much in excess of the income of the estate, wipes out completely any tax upon the income. So all estates that are very large are practically immune during the year that they pay the estate tax from the payment of any income tax. I think that is a situation which we ought now to correct, and it may be very easily corrected by inserting in line 21, page 38, after the words "excess profits," the words "and estate," so as to read:

(3) Taxes paid or accrued within the taxable year except (a) income, war-profits and excess-profits and estate taxes.

It seems to me that is an amendment which ought to be made, for it ought not to be possible for a very large estate to escape all income tax the year it pays its estate taxes, when small estates have to pay some income tax at least, when the deduction of the estate tax is not sufficient to offset the income which the estate would be taxed on.

I should like to have the views of the committee upon this proposition, and I ask the committee if they do not think the suggestion I have made is important enough at least to pass this section over for later consideration?

Mr. UNDERWOOD. Mr. President, before the provision is passed over I should like to say a word.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield to the Senator from Alabama?

Mr. WALSH of Massachusetts. I have concluded my remarks.

Mr. UNDERWOOD. Mr. President, I do not agree with the views of the distinguished Senator from Massachusetts in reference to this matter. I appreciate his viewpoint, but, whilst the matter is pending before the Senate, I desire to take advantage of the opportunity to express mine.

We must bear in mind in approaching this subject that we have an estate tax as well as an income tax that pyramids. I am in favor of that proposition; I am one of those who wrote it in the original law. A very large estate pays a very much greater estate tax than does a small estate, just as a man with a large income pays a very much greater income tax than does a man who has a small income. If an attempt

be made to make the change which is suggested by the Senator from Massachusetts——

Mr. WALSH of Massachusetts. And which was the practice until the decision of the Supreme Court.

Mr. UNDERWOOD. It was not the practice, as a matter of fact. I myself was one of the parties who carried the case to the Supreme Court, so that I am very familiar with it.

Mr. WALSH of Massachusetts. There must have been a tax levied; otherwise the Senator would not have had a case to take up to the Supreme Court.

Mr. UNDERWOOD. Of course, but I will state the nature of the case, for I think if we do not bear the principles in mind we are going to get into a great many difficulties. The first principle in writing the original law—and I think the principle ought to remain in the amendment to the law—was that the tax was levied on income in a going concern. It required a constitutional amendment to authorize taxing of income, but there has been no constitutional amendment authorizing the taxing of principal. When we cross the line between income and principal and attempt to impose a tax which will take away from the owner a part of his principal we have not only gone beyond the power of the Constitution of the United States, but we have entered the domain of the Russian Soviet and endeavor to equalize values by confiscation. I know that my distinguished friend from Massachusetts agrees with me on that proposition. So I take it that unless we have a change in our form of government on principle we are going to agree that we may tax income or gain but that the principal must remain intact so far as the income tax is concerned.

Now, take the other side. The courts have held that it did not require a constitutional provision in order to tax inheritances; that such a tax was within the terms of the original Constitution, although the tax on inheritances is a tax levied against the principal and not against the income. In the one case we are inhibited against taxing principal, while in the other case the tax is levied on principal based on the idea that the estate passes by reason of the sanction of the law—and I refer to the law of the States of the Union and not the Federal law—that only by virtue of the law itself does the estate pass from the decedent to his heirs or those to whom he leaves it, and by reason of that passing the Government is entitled to tax it. I have no objection to that, provided the tax is reasonable and is confined within reasonable limits, because then it is taxation; but when the tax is made so excessive that, instead of taking a reasonable modicum of the body of the estate, the great body of the estate is taken, then it is the destruction of property and is undertaking by law to do the same thing that a communist might do under the red flag and with a mob, for whenever taxation is carried to that point it becomes confiscation.

Now, let us analyze this question. Heretofore under the law passed some years ago we taxed estates; we took out of the body of the principal which the deceased left a portion by way of taxation. The taxes have been pretty high in some instances, but I am not prepared to say that they have not been reasonable, especially as they were levied in war time and as war taxation. We are proposing in this bill to continue the tax on estates, and I am not objecting to that. I assume that there has been written in this bill what is considered a fair and just and reasonable tax, or confiscation of a portion of the property of an estate, no more and no less, and that those who prepared the bill are in accord with their own work, and contend that the tax as levied is a reasonable and just separation from the heirs of the estate of a part of the property of the deceased because of the passing of the estate to them.

Now, let us consider the other idea. It is true that the large estate does not pay an income tax because the estate tax has swallowed it up; under the provisions of the law Congress has imposed such a high tax upon large estates that no income tax is left to be paid. I have no doubt that the owners of such estates would have been perfectly willing to have been left at a point where the inheritance tax would not have swallowed up the entire income of the estate; but in the case which my friend from Massachusetts instances to the Senate of an estate on which the tax is so heavy that all the income for the particular year is taken, besides part of the principal——

Mr. WALSH of Massachusetts. Mr. President——

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Massachusetts?

Mr. UNDERWOOD. I yield.

Mr. WALSH of Massachusetts. May I also add for the information of the Senator that in the instance which I cited it would be possible for three years for the income of the estate to be exempt from taxation, because the amount paid as an inheritance tax would spread over a period of three years as an offset against the income of the estate.

Mr. UNDERWOOD. I think not under the law. The tax might be that much, but——

Mr. WALSH of Massachusetts. Under the law, no; but under the provisions of this bill that would be the situation for two or three years.

Mr. UNDERWOOD. That was not in the original law.

Mr. WALSH of Massachusetts. No; but it is the pending bill.

Mr. UNDERWOOD. Of course, the original law limited it to the one year. That, however, is a detail of this bill which I do not care now to discuss, because it does not go to the question with which I am at present dealing.

Mr. WALSH of Massachusetts. Under the provisions of this bill the moment an estate tax is paid the income tax on the estate would be suspended until the amount of the estate income is consumed.

Mr. UNDERWOOD. Of course, that has not heretofore been the case. As to that portion of the bill the Senator may be right that spreading it over three years may not be proper; but I am talking about the law as it originally stood that for the year in which the estate tax is paid the payment of an income tax should not be required. Why? Because under the Constitution of the United States Congress is only entitled to levy an income tax, which is to be construed, and is construed, as a tax on the net income of the estate. It can not be on anything else; it is not an income tax if it is not levied on the net income of the estate.

If it is thought that inheritances have not been sufficiently taxed in this bill, if we are allowing estates to pass without making the tax on inheritance heavy enough, then let the inheritance tax be raised; that is the fair thing to do, because then it is applied all along the line, and it is made a graduated proposition.

Mr. WALSH of Massachusetts. What we are really saying here is that estates shall pay certain taxes, except that they shall not have to pay any income tax during certain years.

Mr. UNDERWOOD. No; the Senator is mistaken. The Constitution says that. The Constitution says that no estate and no individual shall pay an income tax except when he has a net income. The Senator and I may have the same amount of property; he may have a net income from it because of his good fortune, and will pay the income tax, whereas for that particular year I may not have a net income and will not pay the income tax. In such case the law does not contemplate because I own as much property as does the Senator that I shall pay on income which I have not received simply because he is paying a tax on net income which he really has.

What I am coming to is this: If in this bill we have not levied a tax on inheritances that we think is ample and just and right, then we should amend the bill as to the inheritance tax and put it at what we think the inheritance should pay—not attempt to enter the question by a back door, but come out in the open and tax the inheritance. Under the old law if we took away a portion of it every estate was affected by it, because if we took only $10 from a small estate they could deduct that from the net income before they paid the tax or from the gross income to make the net income. If it was half, they deducted it, and then the balance became subject to the income tax; but if our own taxes ran so high that they consumed all the income, they had no net income.

I have this case on the desk here, Mr. President, and I will ask consent to print the decision in the RECORD as an appendix to my remarks. I will not take the time of the Senate to read it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALSH of Massachusetts. Mr. President, will the Senator yield for a moment?

Mr. UNDERWOOD. I yield.

Mr. WALSH of Massachusetts. Under the present law we agree that in computing net income certain deductions are not allowed—namely, income taxes paid, war-profits taxes paid, excess-profits taxes paid—but estate taxes are allowed. Now, query: Should not all of them be treated alike—income taxes, war-profits taxes, excess-profits taxes, and estate taxes?

Mr. UNDERWOOD. The taxpayer is allowed certain deductions from his income. He is allowed to deduct taxes levied by the State of Alabama or the State of Massachusetts. He is allowed his net losses. This is just one of the taxes that the estate has to bear; and if the taxes in the State of Massachusetts are so high on the estate because of its passing that it has no income left, the net income is not taxed then; but here

is the point that I am trying to make—it is not on that question. I take it for granted that when we levy an estate tax we levy what we think is an equitable and just contribution on the estate; but if on top of that we proceed to make the administrators of the estate pay an income tax when they have not any net income, when the charges against the estate have wiped out all the net income, then we are just making them pay that much in addition to the estate tax. We are violating the Constitution of the United States, which does not authorize us to invade the principal.

That is on the assumption, and I think it is a fair assumption, that when the Congress gets through it has fixed an estate tax at what it thinks is equitable and just; and when that is done we ought not to make the individual who receives the estate pay a charge in addition to what we say the estate tax requires him to pay, because if we do that we are taking away from the principal of the estate under a form of taxation. I doubt its constitutionality if we attempted to do it; but, assuming that it is constitutional, we are taking away from that estate part of the principal—not the income, not part of the principal as a tax for the passing of the estate, because we have already fixed that, but part of the principal under an income tax when the income does not exist.

I do not think, therefore, that this provision ought to be changed. The original law, as drafted, contemplated taxing net income. It allowed all proper charges to be deducted from the gross income before the net income was reached, with certain exceptions, and one of those exceptions was that the taxpayer could not deduct the income tax from his return in making up his net income. It said nothing about estate taxes. It said nothing about the taxes levied by the various States of the Union. I never have understood in my own mind how the Treasury Department reached its conclusion that a legitimate charge against the principal, the body of the estate, was not deductible because it happened to be taxes, and tried to draw a distinction between deducting taxes levied by the various States of the Union and taxes levied by the Federal Government.

Mr. McCUMBER. Mr. President——

Mr. UNDERWOOD. Just one minute. It is sufficient to say, however, that the case went to the Court of Claims, and by a unanimous opinion the Court of Claims decided against the Government's contention. The Government then took the case to the Supreme Court of the United States, and the Supreme Court of the United States by a unanimous opinion, Judge Van Devanter rendering the opinion, decided against the contention of the Government. Of course, I have no further interest in the matter. It happened that in the case that went to the Supreme Court I was one of the executors. The lawyers handled the matter, but I happen to be familiar with it. I have no further interest in the matter myself, because it is settled, and I never expect again to have the handling of any estate that will come within the tax limit. I am only saying this because I happen to be familiar with the facts, and as a matter of principle I do not think the Congress ought to invade the question of taking a man's property, the principal of the estate, under the guise of levying an income tax.

I now yield to the Senator from North Dakota.

Mr. McCUMBER. Mr. President, I want to get a little information from the Senator and also his opinion on the very phase that he is now discussing. The Senator in broad assertion claims that the Government ought not to tax a person unless that person makes a profit.

Mr. UNDERWOOD. As an income tax, not an estate tax. I drew the distinction.

Mr. McCUMBER. I understand that now clearly, that the Senator claims that he ought not to be taxed upon his income for the year 1921 unless after having met every business obligation that was upon him there is left some profit on which that tax can be levied.

Mr. UNDERWOOD. Mr. President——

Mr. McCUMBER. Just a minute. I want to make myself clear and then the Senator can answer me. Now, I can see no distinction between allowing a State tax as a set-off against your income and allowing a Government tax as a set-off against your income. I would go further than the Senator. I would allow him not only to set off every penny that he paid as a State tax but to set off every penny that he had to pay out to the Government.

Let me give an illustration.

Mr. UNDERWOOD. The Senator probably was not in the Chamber when I started my speech. I am not in contest with the Senator.

Mr. McCUMBER. I know it, but I want to see if the Senator would not support an amendment to this bill so that no man would be compelled to pay a tax upon an income unless he had an income in excess of what he had to pay out.

In the first law, in 1913, we allowed the individual or the corporation to set off against income all interest and all taxes that had to be paid out or which were incurred during that year. Then if there was anything left the individual or the corporation paid a tax on it. In 1916, however, although an argument was made—I remember that I made one myself—against the proposition that we should not include as an offset the taxes paid to the Government, we changed that law and we continued the change in the law of 1918. If the Senator should make $10,000 in his business, without considering taxes for the year 1921, and he paid a State tax of $8,000, which would leave only $2,000, and then paid another tax of $4,000 to the United States Government, a tax upon his profits of last year, if he did not have any other source of income he would have to borrow enough to pay the Government, and yet the Government taxes him. Now, why should that system be continued? Why do we include State tax and municipal taxes of all kinds and then exclude the taxes that we pay to the Government?

Mr. UNDERWOOD. I am in accord with the Senator. There may not be many people in the present day who agree with me, but I was not on the committees that wrote the recent bills passed during the war, and I suppose that during war times we went further in many things than we would go in peace.

Mr. McCUMBER. We changed that in 1916, before we were in the war.

Mr. UNDERWOOD. I was not on the committee then, but I was on the committee that wrote the original act, and on the subcommittee that drafted it.

Mr. McCUMBER. And it was the best act we have had. I want to give the Senator that credit.

Mr. UNDERWOOD. I thank the Senator for what he says; but I think that act was written in accordance with principle, and the principle was that the Constitution of the United States had been amended so as to authorize the Government to collect income taxes, and not to confiscate property. There is the distinction. If we want to confiscate property, then we may not be satisfied with remaining within the tax limit; but I do not believe in the confiscation of property. I do not believe there is any constitutional warrant for the confiscation of property. Perhaps sometimes we can go in the back door and gather out of the body of a man's property his principal, and the courts can not stop us; but I say that the clear enunciation of the Constitution of the United States in that under an income tax we are only entitled to tax the net income, and nothing more.

Mr. WALSH of Massachusetts. Mr. President, do I understand the Senator to say that the Supreme Court decided that it was unconstitutional?

Mr. UNDERWOOD. No, no; I say it is unconstitutional.

Mr. WALSH of Massachusetts. I understand that the Supreme Court merely said that the language of the law authorized the making of the deductions—the estate tax—which the department ruled could not be made against the income of the estate.

Mr. UNDERWOOD. The Senator is correct in that.

Mr. WALSH of Massachusetts. I understand that for years, indeed until a year ago, the department officials have proceeded to prevent the sum paid as an estate tax being deducted from income of the estate, and that, by reason of the ruling the Supreme Court has made, very, very large repayments are being made to those estates, and we must now decide which policy we will adopt in the future, whether we are to try to make this law mean what the department officials claimed it meant before the Supreme Court decision or whether we shall accept the interpretations of the Supreme Court as our future policy.

Mr. UNDERWOOD. I understand that. I did not say the Supreme Court decided it was unconstitutional. I said it was unconstitutional, if the Senator will allow me, not the Supreme Court.

The question of its constitutionality did not come before the Supreme Court, because it was not necessary. There was nothing in this law to prevent a man from deducting the estate tax any more than there was anything to prevent him from deducting the loss which he made in business or the taxes collected by the State of Massachusetts. It was not here, and that was the only question raised before the Supreme Court, and the Supreme Court naturally said that there was no basis for this unusual ruling of the Treasury Department; that was all; it just was not there, and, of course, there could be no doubt about it when the thing was carefully analyzed. I will put that decision in the RECORD.

What I am trying to impress on the Senator is this: We do not propose to confiscate people's property; that is no part of

be made to make the change which is suggested by the Senator from Massachusetts——

Mr. WALSH of Massachusetts. And which was the practice until the decision of the Supreme Court.

Mr. UNDERWOOD. It was not the practice, as a matter of fact. I myself was one of the parties who carried the case to the Supreme Court, so that I am very familiar with it.

Mr. WALSH of Massachusetts. There must have been a tax levied; otherwise the Senator would not have had a case to take up to the Supreme Court.

Mr. UNDERWOOD. Of course, but I will state the nature of the case, for I think if we do not bear the principles in mind we are going to get into a great many difficulties. The first principle in writing the original law—and I think the principle ought to remain in the amendment to the law—was that the tax was levied on income in a going concern. It required a constitutional amendment to authorize taxing of income, but there has been no constitutional amendment authorizing the taxing of principal. When we cross the line between income and principal and attempt to impose a tax which will take away from the owner a part of his principal we have not only gone beyond the power of the Constitution of the United States, but we have entered the domain of the Russian Soviet and endeavor to equalize values by confiscation. I know that my distinguished friend from Massachusetts agrees with me on that proposition. So I take it that unless we have a change in our form of government on principle we are going to agree that we may tax income or gain but that the principal must remain intact so far as the income tax is concerned.

Now, take the other side. The courts have held that it did not require a constitutional provision in order to tax inheritances; that such a tax was within the terms of the original Constitution, although the tax on inheritances is a tax levied against the principal and not against the income. In the one case we are inhibited against taxing principal, while in the other case the tax is levied on principal based on the idea that the estate passes by reason of the sanction of the law—and I refer to the law of the States of the Union and not the Federal law—that only by virtue of the law itself does the estate pass from the decedent to his heirs or those to whom he leaves it, and by reason of that passing the Government is entitled to tax it. I have no objection to that, provided the tax is reasonable and is confined within reasonable limits, because then it is taxation; but when the tax is made so excessive that, instead of taking a reasonable modicum of the body of the estate, the great body of the estate is taken, then it is the destruction of property and is undertaking by law to do the same thing that a communist might do under the red flag and with a mob, for whenever taxation is carried to that point it becomes confiscation.

Now, let us analyze this question. Heretofore under the law passed some years ago we taxed estates; we took out of the body of the principal which the deceased left a portion by way of taxation. The taxes have been pretty high in some instances, but I am not prepared to say that they have not been reasonable, especially as they were levied in war time and as war taxation. We are proposing in this bill to continue the tax on estates, and I am not objecting to that. I assume that there has been written in this bill what is considered a fair and just and reasonable tax, or confiscation of a portion of the property of an estate, no more and no less, and that those who prepared the bill are in accord with their own work, and contend that the tax as levied is a reasonable and just separation from the heirs of the estate of a part of the property of the deceased because of the passing of the estate to them.

Now, let us consider the other idea. It is true that the large estate does not pay an income tax because the estate tax has swallowed it up; under the provisions of the law Congress has imposed such a high tax upon large estates that no income tax is left to be paid. I have no doubt that the owners of such estates would have been perfectly willing to have been left at a point where the inheritance tax would not have swallowed up the entire income of the estate; but in the case which my friend from Massachusetts instances to the Senate of an estate on which the tax is so heavy that all the income for the particular year is taken, besides part of the principal——

Mr. WALSH of Massachusetts. Mr. President——

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Massachusetts?

Mr. UNDERWOOD. I yield.

Mr. WALSH of Massachusetts. May I also add for the information of the Senator that in the instance which I cited it would be possible for three years for the income of the estate to be exempt from taxation, because the amount paid as an inheritance tax would spread over a period of three years as an offset against the income of the estate.

Mr. UNDERWOOD. I think not under the law. The tax might be that much, but——

Mr. WALSH of Massachusetts. Under the law, no; but under the provisions of this bill that would be the situation for two or three years.

Mr. UNDERWOOD. That was not in the original law.

Mr. WALSH of Massachusetts. No; but it is the pending bill.

Mr. UNDERWOOD. Of course, the original law limited it to the one year. That, however, is a detail of this bill which I do not care now to discuss, because it does not go to the question with which I am at present dealing.

Mr. WALSH of Massachusetts. Under the provisions of this bill the moment an estate tax is paid the income tax on the estate would be suspended until the amount of the estate income is consumed.

Mr. UNDERWOOD. Of course, that has not heretofore been the case. As to that portion of the bill the Senator may be right that spreading it over three years may not be proper; but I am talking about the law as it originally stood that for the year in which the estate tax is paid the payment of an income tax should not be required. Why? Because under the Constitution of the United States Congress is only entitled to levy an income tax, which is to be construed, and is construed, as a tax on the net income of the estate. It can not be on anything else; it is not an income tax if it is not levied on the net income of the estate.

If it is thought that inheritances have not been sufficiently taxed in this bill, if we are allowing estates to pass without making the tax on inheritance heavy enough, then let the inheritance tax be raised; that is the fair thing to do, because then it is applied all along the line, and it is made a graduated proposition.

Mr. WALSH of Massachusetts. What we are really saying here is that estates shall pay certain taxes, except that they shall not have to pay any income tax during certain years.

Mr. UNDERWOOD. No; the Senator is mistaken. The Constitution says that. The Constitution says that no estate and no individual shall pay an income tax except when he has a net income. The Senator and I may have the same amount of property; he may have a net income from it because of his good fortune, and will pay the income tax, whereas for that particular year I may not have a net income and will not pay the income tax. In such case the law does not contemplate because I own as much property as does the Senator that I shall pay on income which I have not received simply because he is paying a tax on net income which he really has.

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Mr. UNDERWOOD. I was not on the committee then, but I was on the committee that wrote the original act, and on the subcommittee that drafted it.

Mr. McCUMBER. And it was the best act we have had. I want to give the Senator that credit.

Mr. UNDERWOOD. I thank the Senator for what he says; but I think that act was written in accordance with principle, and the principle was that the Constitution of the United States had been amended so as to authorize the Government to collect income taxes, and not to confiscate property. There is the distinction. If we want to confiscate property, then we may not be satisfied with remaining within the tax limit; but I do not believe in the confiscation of property. I do not believe there is any constitutional warrant for the confiscation of property. Perhaps sometimes we can go in the back door and gather out of the body of a man's property his principal, and the courts can not stop us; but I say that the clear enunciation of the Constitution of the United States in that under an income tax we are only entitled to tax the net income, and nothing more.

Mr. WALSH of Massachusetts. Mr. President, do I understand the Senator to say that the Supreme Court decided that it was unconstitutional?

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Mr. WALSH of Massachusetts. I understand that the Supreme Court merely said that the language of the law authorized the making of the deductions—the estate tax—which the department ruled could not be made against the income of the estate.

Mr. UNDERWOOD. The Senator is correct in that.

Mr. WALSH of Massachusetts. I understand that for years, indeed until a year ago, the department officials have proceeded to prevent the sum paid as an estate tax being deducted from income of the estate, and that, by reason of the ruling the Supreme Court has made, very, very large repayments are being made to those estates, and we must now decide which policy we will adopt in the future, whether we are to try to make this law mean what the department officials claimed it meant before the Supreme Court decision or whether we shall accept the interpretations of the Supreme Court as our future policy.

Mr. UNDERWOOD. I understand that. I did not say the Supreme Court decided it was unconstitutional. I said it was unconstitutional, if the Senator will allow me, not the Supreme Court.

The question of its constitutionality did not come before the Supreme Court, because it was not necessary. There was nothing in this law to prevent a man from deducting the estate tax any more than there was anything to prevent him from deducting the loss which he made in business or the taxes collected by the State of Massachusetts. It was not here, and that was the only question raised before the Supreme Court, and the Supreme Court naturally said that there was no basis for this unusual ruling of the Treasury Department; that was all; it just was not there, and, of course, there could be no doubt about it when the thing was carefully analyzed. I will put that decision in the RECORD.

What I am trying to impress on the Senator is this: We do not propose to confiscate people's property; that is no part of

the law. We propose to tax them justly in levying an estate tax for the passage of an estate. It is commonly called an inheritance tax, but is an estate tax under the law. I take it that the gentlemen who wrote the bill attempted to do even and exact justice in fixing a tax for the passing of an estate, so that you have no right to add to the estate tax anything on the side.

Limiting the argument to the income tax, I say it is beyond the power of Congress, under the Federal Constitution, to levy a tax as an income tax that must come out of the body of the estate. Does the Senator see what I mean?

Mr. WALSH of Massachusetts. I understand.

Mr. UNDERWOOD. After you have taken away all the net income for the year, if you still make the man pay an income tax, he has no other place from which to pay it except from the body or principal of the estate, and I say that is not in accordance with the Constitution of the United States.

Mr. WALSH of Massachusetts. I agree with the principle enunciated by the Senator, that we must not proceed to confiscate property through a system of taxation; but I do want it to be clearly understood, when we get through with this law, that when we say we are taxing an estate we also say that the income from that estate shall be exempt during the period that they are paying the estate tax.

Mr. UNDERWOOD. I want my friend to understand my position, and I want to understand his clearly. You say right now, do you not, that when a man has not an income you do not tax him; if he has not any net income you do not tax him? You are making no distinction in reference to estates when you say that if you put such heavy taxes on them that you have wiped out the income they shall not pay. You have made no distinction. You have simply made the tax so great that you have wiped out all the income, and therefore you have not any. But the point I am carrying to seems so clear to my mind that I think it can not be controverted; and yet maybe I do not make myself clear. My point is that when you have made your estate tax so great that it has not only absorbed all of the income but has absorbed part of the principal, if in that year you make a man pay an income tax, not on his net income, because he has not any, but on a part of his gross income, he has no income to pay it out of, and must pay it out of the principal, and I say under the income tax amendment you have not a right to absorb part of the principal of his estate.

Mr. WALSH of Massachusetts. But this bill goes further. It now permits him to spread the payment out over a period of years.

Mr. UNDERWOOD. I have no contention to make about that; I think the original law was right. You have to have some limit. If this bill, as the English law, I think, does, balanced the income tax and the estate once in every three years, and you fixed that period, I think it would be all right; but I do not see any reason why your taxing period should not be alike for one and all, and as you make it one year, let everybody rest within the year. In other words, I believe in having the law stand foursquare alike to every American citizen, with no distinction for one or the other, no distinction between rich and poor, great and small.

I am not critical of this bill. I know the difficulties in writing a tax bill, because I have tried it myself; but if I did make any criticism of the bill, I would say that there are too many invidious distinctions already in the measure.

Mr. WALSH of Massachusetts. I agree with the Senator in that. I want the Senator to understand that I estimate, from the figures presented to me, that an estate of $10,000,000 will be exempt for three years from paying any income tax. Indeed, we can conceive of estates where the estate tax would be so large that no income tax could be collected for several years.

Mr. UNDERWOOD. I think the balancing of the figures should take place each taxable year. I believe that is where it should begin and end. Of course, there are a great many men who pay no income tax in their business, because they have losses vastly greater than their profits, and if you carry it over for the estate, why not carry it over for live business? I am not controverting what the Senator has said about that at all. I say that if you change the law back, and attempt to tax an estate that has no income, you are taking your tax out of the money of the estate, which you have no right to do.

Mr. HITCHCOCK. Mr. President, I wish the Senator would explain on what theory he argues that the estate has no income.

Mr. UNDERWOOD. No net income, of course.

Mr. HITCHCOCK. Is it upon the theory that the State or the United States has exacted an inheritance tax which has absorbed the income?

Mr. UNDERWOOD. Of course.

Mr. HITCHCOCK. I think that is a mistaken theory. Neither the State nor the Government levies a tax upon the income of the estate when it levies an inheritance tax. That is a tax upon the principal.

Mr. UNDERWOOD. The Senator was not in the Chamber when I referred to that whole proposition, and said just what he is saying. If he will examine the RECORD in the morning he will see that I said that on the passing of an estate there was no constitutional question raised, that it was governed by the laws of the several States, and they had a right to take out of the estate a portion of it for the privilege of passage; but that the income tax was a matter fixed by the Constitution of the United States, and under the income-tax amendment you had no right to invade the principal of the estate. You can do that in the case of an inheritance tax or an estate tax, but you have no right to invade the principal of the estate, because the Constitution only contemplated that you should tax incomes, or, as properly construed, net incomes.

Mr. HITCHCOCK. The point I am making is that the State, when it levies an inheritance tax, does not touch the income; it touches the principal, and it leaves the income where it was, and the income ought to be still subject to the taxing powers of the Federal Government.

Mr. UNDERWOOD. The Supreme Court of the United States did not agree with the Senator on that quesion.

Mr. HITCHCOCK. Does it deny that a State can take a part of the principal?

Mr. UNDERWOOD. No; not at all; but here is the proposition: You have an estate. The estate has so much income for this particular year, and then, by taxation, you take it all away.

Mr. HITCHCOCK. But you do not.

Mr. UNDERWOOD. You can take it all.

Mr. HITCHCOCK. You do not touch the income when you levy an inheritance tax.

Mr. UNDERWOOD. Yes, you do.

Mr. HITCHCOCK. You levy a charge upon the principal as a condition of allowing the property to descend, either according to the law of inheritance or to be disposed of under a will.

Mr. UNDERWOOD. You levy it not only on the principal, but you levy it on the principal and the accumulations of the estate. You levy it on the estate. The net income is the same. You first take that away, and when you have taken it away you have no net income left. You can not have anything taken out without depreciating the body of the estate.

Mr. HITCHCOCK. Of course, that is what the law was intended to do. It was intended to take a part of the principal as a condition for allowing the descent of the property by inheritance or its going in accordance with a will, and it does not affect the income at all. The estate is still receiving an income, but the principal is being divided. I can not see any reason why one should be confused with the other.

Mr. UNDERWOOD. The Senator is in business. The State of Nebraska levies a tax on his business, and he deducts that tax in making his return to the Federal Government, as we all do. Does the Senator contend that he should not have a right to deduct that tax before ascertaining his net income?

Mr. HITCHCOCK. I do not quite understand the question, but this is my proposition: An inheritance tax is not a tax on income, and does not affect the income. The income is still there for the Government to levy upon in computing income tax. I die possessed, say, of a million dollars. The State of Nebraska has the right to say that it will take away $100,000 of that money as a condition of allowing the $900,000 to go to my heirs. The income is not affected.

Mr. UNDERWOOD. That argument was made before the Supreme Court before the case was decided, and the court declined to take that view, and did not. The Supreme Court decided that case unanimously. That argument is part of one of the briefs in the case. But it is perfectly clear to me that there is no difference between this tax levied by the Federal Government and one levied by the State of Nebraska. If you are willing, under the law, to deduct the tax of the State of Nebraska before you reach net income and tax the man, why should you not make the same deduction of a tax levied by the United States Government? I can not see any distinction.

Of course, some may be carried through on the idea that it is the larger estate that is escaping taxation. The larger estate may escape entirely because the estate tax or inheritance tax you levy is so great that it has no application; but this principle affects every estate, large or small. The only reason it does not eat up entirely the little estate is because you have a graduated estate tax, and the estate tax is not so heavy. If it were proportionately heavy, it would do the same thing.

But it does affect the small estate, as well as the big one, and it seems to me that if there was any time in the world in the passing of property or levying taxes when the law would be lenient instead of drastic, it would be when the earner of an estate advanced to his fathers and his wife and children were attempting to wind the estate up and have the property preserved for their care and their maintenance in the future, property which the decedent had succeeded through his life in amassing for them. That applies to the hundreds of thousands of little estates that are considered every year. Of course, if you want to, you can pick out some big estate and say, "This man is reeking in millions, and it is nothing to his children or his wife if you confiscate a large portion of it." Of course, I do not agree with that class of argument. I think that leads us into the field of communist literature.

But it is not right to do an injustice to the thousands of small people along the line because we may find one large estate covered in the law, and I see no reason why we should mulct the average small estate in the year that it is being wound up, and, in the face of the hundreds of difficulties that those who are winding it up must meet, why they should be confronted with a proposition to tax an income when they have no income to be taxed.

APPENDIX.

United States, appellant, *v.* Alan H. Woodward et al., executors, etc.

INTERNAL REVENUE—ESTATE TAX—DEDUCTIONS—INCOME TAX.

1. The amount of the Federal estate tax laid by the act of September 8, 1916, which accrued and was paid during the year, may be deducted by executors from gross income when making their return of the income of the testator's estate for the taxable year, for the purpose of the income tax imposed by the act of February 24, 1919, upon the net income received by estates of deceased persons during the period of administration or settlement, which statute, in section 214, makes express provision for the deduction of taxes paid or accrued within the taxable year, imposed by the authority of the United States, except income, war-profits, and excess-profits taxes. (For other cases, see Internal Revenue, III, h, in digest Sup. Ct., 1908.)

INTERNAL REVENUE—ESTATE TAX—NATURE—WHEN DUE.

2. The Federal estate tax laid by the act of September 8, 1916, is made a charge on the estate, and is to be paid out of it by the administrator or executor substantially as other taxes and charges are paid. It becomes due, not at the time of the decedent's death but one year thereafter, as the statute plainly provides. It does not segregate any part of the estate from the rest and keep it from passing to the administrator or executor for purposes of administration, but it made a general charge on the gross estate, and is to be paid in money out of any available funds, or, if there be none, by converting other property into money for the purpose. (For other cases, see Internal Revenue, III, h, in digest Sup. Ct., 1908.)

[No. 811.]

Argued April 18, 1921. Decided June 6, 1921.

Appeal from the Court of Claims to review a judgment in favor of executors for money claimed to have been erroneously exacted from them as a tax on the income of the testator's estate. Affirmed.

The facts are stated in the opinion.

Solicitor General Frierson and Special Assistant to the Attorney General Davis for appellant.

Mr. E. J. Smyer for appellees.

Mr. Justice Van Devanter delivered the opinion of the court:

This is an appeal from a judgment in favor of the executors of Joseph H. Woodward, deceased, for money claimed to have been erroneously exacted from them as a tax on the income of his estate while in their hands.

The testator died December 15, 1917. The revenue act of 1916 (September 8, 1916, chap. 463, title 2, 39 Stat. L., 777; Comp. Stat., sec. 6336¼a; Fed. Stat. Anno. Supp. 1918, p. 303; March 3, 1917, chap 159, title 3, 39 Stat. L., 1002, Comp. Stat., sec. 6336¼b, Fed. Stat. Anno. Supp. 1918, p. 306; October 3, 1917, chap. 63, title 9, 40 Stat. L., 324, Comp. Stat. sec. 6336¼bbb, Fed. Stat. Anno. Supp. 1918, p. 311) "imposed upon the transfer of the net estate of every decedent" dying thereafter a tax which it called an "estate tax." The act fixed the amount of the tax at a named percentage "of the value of the net estate," made the tax a lien upon the "entire gross estate," required that it be paid "out of the estate" before distribution, declared that it should "be due one year after the decedent's death," charged the executor or administrator with the duty of paying it, and declared that the receipt therefor should entitle him to a credit for the amount in the usual settlement of his accounts. Under that act these executors were required to pay an estate tax of $489,834.07. The tax became due December 15, 1918, and they paid it February 8, 1919. Shortly thereafter the executors made a return, under the revenue act of 1918 (February 24, 1919, chap. 18 title 2, secs. 210–214, 219, 1405, 40 Stat. L., 1062–1067, 1071, 1151, Comp. Stat., secs. 6336¼e–6336¼g, 6336¼ll, 6371¼c. Adv. Ops. October term, 1920), of the income of the testator's estate for the taxable year 1918, and claimed in the return that in ascertaining the net income for that year the estate tax of $489,834.07 should be deducted. The Commissioner of Internal Revenue refused to allow the deduction, and assessed an income tax of $165,075.78 against the estate. Had the deduction been allowed there would have been no taxable net income for that year and no part of the $165,075.78 would have been collectible. Payment of that sum, as so assessed, was pressed on the executors and they paid it under duress. Then, after taking the necessary steps to entitle them to do so, they brought this suit in the Court of Claims to recover the money thus exacted from them.

The sole question for decision is, Was the estate tax paid by the executors, and claimed by them as a deduction in the income-tax return for the year 1918, an allowable deduction in ascertaining the net taxable income of the estate for that year? The Court of Claims held that it was. (Court of Claims.)

The solution of the question turns entirely upon the statutory provisions under which the two taxes were severally collected. The act of 1918, by sections 210, 211, and 219, subjects the net income "received by estates of deceased persons during the period of administration or settlement" to an income tax measured by fixed percentages thereof; by sections 212 and 219 requires that the net income be ascertained by taking the gross income, as defined in section 213, and making the deductions named in section 214, and by section 214 makes express provision for the deduction of "taxes paid or accrued within the taxable year, imposed (a) by the authority of the United States, except income, war-profits, and excess-profits taxes." This last provision is the important one here. It is not ambiguous but explicit, and leaves little room for construction. The words of its major clause are comprehensive and include every tax which is charged against the estate by the authority of the United States. The excepting clause specifically enumerates what is to be excepted. The implication from the latter is that the taxes which it enumerates would be within the major clause were they not expressly excepted, and also that there was no purpose to except any others. Estate taxes were as well known at the time the provision was framed as the ones particularly excepted. Indeed, the same act, by sections 400 to 410, expressly provides for their continued imposition and enforcement. Thus their omission from the excepting clause means that Congress did not intend to except them.

The act of 1916 calls the estate tax a "tax," and particularly denominates it an "estate tax." The court recently has recognized that it is a duty or excise, and is imposed in the execution of the taxing power of the United States. (New York Trust Co. *v.* Eisner, U. S., ante, 620, 41 Sup. Ct. Rep.) It is made a charge on the estate, and is to be paid out of it by the administrator or executor, substantially as other taxes and charges are paid. It becomes due not at the time of the decedent's death, as suggested by counsel for the Government, but one year thereafter, as the statute plainly provides. It does not segregate any part of the estate from the rest and keep it from passing to the administrator or executor for purposes of administration, as counsel contend, but is made a general charge on the gross estate, and is to be paid in money out of any available funds, or, if there be none, by converting other property into money for the purpose.

Here the estate tax not only "accrued," which means became due, during the taxable year of 1918, but it was paid before the income for that year was returned or required to be returned. When the return was made the executors claimed a deduction by reason of that tax. We hold that under the terms of the act of 1918 the deduction should have been allowed.

Judgment affirmed.

Mr. WATSON of Indiana. Does the Senator from Massachusetts [Mr. WALSH] desire to offer an amendment?

Mr. WALSH of Massachusetts. At the suggestion of several members of the committee, who seem to feel friendly disposed toward the suggestion I made I request that the matter go over.

The VICE PRESIDENT. The amendment of the committee having been agreed to, there will have to be a reconsideration.

Mr. WALSH of Massachusetts. I thought it was agreed that the matter should be treated as if it had not been agreed to.

Mr. WATSON of Indiana. It was to go over.

Mr. WALSH of Massachusetts. And treated as if it had not been agreed to.

The ASSISTANT SECRETARY. The Senator from Massachusetts proposes, on page 38, line 21, in the House text, before the word "taxes," to insert the words "and estate."

Mr. WALSH of Massachusetts. May I read the language as I have it before me? On page 38, line 21, strike out the word "and" after "excess profits," and insert a comma and the words "and estate," so that it will read:

War profits, excess profits, and estate taxes.

The VICE PRESIDENT. The question is on agreeing to the amendment to the amendment.

Mr. SMOOT. I thought it was to go over.

Mr. WATSON of Indiana. It is to go over.

Mr. SMOOT. The Senator from Massachusetts is just submitting an amendment at this time, but it all goes over.

Mr. WALSH of Massachusetts. I submitted it, so that the record will show what the amendment is.

The ASSISTANT SECRETARY. Also in the committee amendment on line 24, after the words "war profits," the Senator from Massachusetts proposes to amend by striking out the word "and," and after the word "taxes" and the comma, inserting "and estate taxes."

Mr. WALSH of Massachusetts. I am informed that that change need not be made. It is only the first amendment which I have proposed which is necessary.

The VICE PRESIDENT. May the Chair suggest that it is not necessary to pass it over in order to amend it?

Mr. McCUMBER. I understand the Senator from Massachusetts desires that all of subdivision 3 may go over?

Mr. WALSH of Massachusetts. That is my request.

The VICE PRESIDENT. At the request of the Senator from Massachusetts subdivision 3 will go over.

The ASSISTANT SECRETARY. The next amendment passed over is section 215, on page 46, beginning with line 15, the subhead "Items not deductible," passed over at the instance of the Senator from North Carolina [Mr. SIMMONS]. The committee

amendment proposes to insert with a subhead "Items not deductible," the following as section 215:

SEC. 215. (a) That in computing net income no deduction shall in any case be allowed in respect of—
(1) Personal, living, or family expenses;
(2) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate;
(3) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made; or
(4) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy.

Then follows the House text, which, with an amendment striking out "devise" after "bequest," reads:

(b) Amounts paid under the laws of any State, Territory, District of Columbia, possession of the United States, or foreign country as income to the holder of a life or terminable interest acquired by gift, bequest, or inheritance shall not be reduced or diminished by any deduction for shrinkage (by whatever name called) in the value of such interest due to the lapse of time, nor by any deduction allowed by this act for the purpose of computing the net income of an estate or trust but not allowed under the laws of such State, Territory, District of Columbia, possession of the United States, or foreign country for the purpose of computing the income to which such holder is entitled.

Mr. SIMMONS. Mr. President, I have offered an amendment as to deductions which I wish to discuss somewhat extensively. That is one of the important or vital matters in the bill that I think ought to go over under the understanding we had until we have gotten rid of the amendments that are not of such magnitude and general interest. I will ask that this go over again.

Mr. McCUMBER. Has the Senator drafted his proposed amendments so that we may know what they are?

Mr. SIMMONS. I find that I was mistaken in supposing this to be the section to which I offered an amendment. The amendment I had in mind that I offered applied to another section.

Mr. LA FOLLETTE. The Senator requested that this section go over.

Mr. SIMMONS. I know I did, and I observe that I made a mistake. So I will withdraw the request.

Mr. McCUMBER. That is simply the same as the present law.

The VICE PRESIDENT. The question is on agreeing to section 215 as proposed by the committee. Without objection, it is agreed to.

Mr. SIMMONS. I wish to say a word before we leave that section. Subsection (a) reads:

That in computing net income no deduction shall in any case be allowed in respect of—
(1) Personal, living, or family expenses.

I am not now going to make any objection to that, but it has always struck me as strange, in dealing with exemptions that we allow from income taxes, that we should have adopted such an entirely different system with reference to corporations from that which we adopted with reference to individuals. In the present law we allow, and it is continued in the bill, an exemption of $2,000 to corporations, after the corporation has been permitted to exempt all kinds of expenditures, including, of course, salaries, and including allowances of all kinds for work which has entered in any way into the production of the things which it was engaged in manufacturing or producing. But when we come to individuals we do not permit the individual, whose income is the result of his own personal, physical, manual labor, to make any deduction on account of the services performed by him in making the thing out of which his profits arise.

I am just saying this to call to the attention of the Senate what seems to me to be a gross injustice. Take, for instance, the farmer, a tenant farmer, if you please, who makes his crop entirely by the labor of himself and his wife and his children, toiling in the field from sunrise to sunset. He is not permitted in making his return to have any deduction on account of the personal services of himself and his family. The justice of that never appealed to me.

Mr. SMOOT. The Senator knows that the individual is allowed $2,000 exemption.

Mr. SIMMONS. So is the corporation allowed $2,000 exemption.

Mr. SMOOT. But that $2,000 is in lieu of the living or family expenses.

Mr. SIMMONS. And that is the very point I am making. He is allowed $2,000 exemption, and he is not permitted an exemption on account of any of the expenses that are incurred to support his wife and his family to make the crop or on account of the services of his wife and family in making the crop. But when you come to deal with corporations which are allowed an exemption of $2,000 you permit them to exempt in addition to that every single solitary item of expense incurred in the production of its product.

Mr. McCUMBER. I can not understand what the Senator means by that. Certainly we do not allow family expenses to the corporation. We do not allow any expenses that are mentioned in section 215.

Mr. SIMMONS. Families have nothing to do with corporations.

Mr. McCUMBER. To what expenses does the Senator refer?

Mr. SIMMONS. I say the corporation is permitted to deduct every item of expense. There is no expense that the corporation is not permitted to deduct, and therefore I see no excuse for the additional exemption of $2,000 to the corporation. But in the case of the individual—and I just selected a farmer to illustrate—he is not permitted to deduct his living expenses, his family expenses, or a sum to pay his family who do the work in making the crop. The $2,000 that you give him——

Mr. McCUMBER. Would the Senator be in favor of——

Mr. SIMMONS. Will the Senator pardon me until I finish my sentence? The $2,000 exemption which you give him is to take the place of those expenses which he is not permitted to deduct; but in the case of the corporation, which employs its labor to perform that service that is necessary to produce the product that it is manufacturing with hired labor, it is allowed to deduct that and every other expense, and then $2,000 in addition to that.

Mr. SMOOT. The Senator does not state that under the existing law a corporation has to pay 10 per cent upon all profits, and under the proposed committee amendment 15 per cent.

Mr. SIMMONS. I am not talking about profits; I am talking about exemptions. I am talking about the $2,000 exemption.

Mr. SMOOT. The exemptions have a bearing upon the profits, and the corporation is taxed upon the profits under the existing law, as I said, 10 per cent, and under the bill as reported by the committee 15 per cent. The individual is not taxed in that way.

Mr. SIMMONS. I do not follow the Senator, and do not see the pertinency of his observation.

Mr. McCUMBER. I understand that the Senator's objection is to another feature of the bill anyway that relates to corporations.

Mr. SIMMONS. Yes; I just injected that observation.

Mr. McCUMBER. So the Senator has no objection to agreeing to the amendment of section 215?

Mr. SIMMONS. No.

The VICE PRESIDENT. The question is on agreeing to section 215. Without objection, it is agreed to.

The ASSISTANT SECRETARY. The next amendment of the committee is on page 47, to strike out lines 20 and 21, as follows:

SEC. 220. Subdivision (a) of section 216 of the revenue act of 1918 is amended to read as follows.

The amendment was agreed to.

The ASSISTANT SECRETARY. The next committee amendment passed over is, beginning with line 1, page 48, where the committee proposes to strike out, in lines 1 and 2, the words "(a) the amount of dividends included in the gross income" and to insert the following:

(a) The amount received as dividends (1) from a domestic corporation other than a foreign trade corporation, or (2) from a foreign corporation when it is shown to the satisfaction of the commissioner that more than 50 per cent of the gross income of such foreign corporation for the three-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the corporation has been in existence) was derived from sources within the United States as determined under the provisions of section 217;
(b) The amount received as interest upon obligations of the United States and bonds issued by the War Finance Corporation, which is included in gross income under section 213.

Mr. LA FOLLETTE. Mr. President, the first amendment which was considered when we took up the bill, after having disposed of unobjected amendments, was on page 5. That amendment had been passed over at the first reading of the bill at my request that it should be passed over. I submitted some observations on it when we began the second reading of the bill. I was entirely willing to have the amendment voted upon at that time, but it was passed over. Inasmuch as it was then passed over, I am now going to request that the other amendments that are connected with the same subject also be passed over the second time, in order that they may be taken up when we shall have completed the second reading of the bill and that we dispose of all those questions at one time. Otherwise I should have to move to reconsider, and I wish to avoid that.

Mr. McCUMBER. I wish to ask the Senator from Wisconsin just exactly what he now asks to have go over. It is rather

difficult to determine precisely what the Senator may have in his mind when he refers to other sections relating to the same subject.

Mr. WATSON of Indiana. Does the Senator from Wisconsin have any objection at this time to going back to the original section?

Mr. LA FOLLETTE. Yes; because there are a number of items in the bill which will have to be taken up when we reach them which bear upon the same subject—the item with regard to Philippine corporations and others—and I think it will operate to save time to dispose of them en bloc at one time. Does not the Senator from Indiana agree that such a course will make for the saving of time?

Mr. WATSON of Indiana. I quite agree with the Senator.

Mr. McCUMBER. There will be no objection to that course if the Senator from Wisconsin will indicate what he desires to have go over.

Mr. LA FOLLETTE. It may be that there are other items in the bill, some of them of great importance, as to which I shall conclude I can deal with the subject better by offering a substitute proposition for the entire bill and dispose of it in a single argument here. If I can do that, I think that that will promote timesaving. Therefore I have made the request which I have.

Mr. WATSON of Indiana. Certainly; I have no objection to the Senator's request.

Mr. LA FOLLETTE. My request is similar to the proposal of the Senator from Utah [Mr. SMOOT]. There are many provisions running through the pending bill which the Senator from Utah desires to eliminate and which he proposes to cover by a substitute proposition. I may conclude that that is the better course for me in dealing with the provisions of the pending bill to which I especially object.

The VICE PRESIDENT. Will the Senator from Wisconsin designate what he desires shall be passed over?

Mr. LA FOLLETTE. I desire to have passed over the committee amendment on page 48, from line 1 to line 12, inclusive.

The VICE PRESIDENT. Without objection, the amendment will be passed over for the second time.

Mr. TRAMMELL. Mr. President, if in order, I desire to offer an amendment at this time. On line 10, page 49, I move to strike out "eighteen" and to insert "twenty."

The VICE PRESIDENT. The Senator's amendment will not be in order until the committee amendments shall have been first disposed of.

Mr. TRAMMELL. Then I shall offer my amendment later.

The VICE PRESIDENT. The Senator from Florida may present his amendment and have it lie on the table.

Mr. WATSON of Indiana. The Senator from Florida is not asking to have his amendment passed on now, is he?

Mr. TRAMMELL. I stated that I should offer it if it was in order. Of course I could not offer the amendment if not in order, but I shall offer it at the proper time. I did not know just what course was being pursued in regard to the disposition of amendments other than committee amendments.

The VICE PRESIDENT. The next committee amendment passed over will be stated.

The ASSISTANT SECRETARY. Beginning on page 48, line 17, section 221, there was passed over, at the instance of the Senator from North Carolina [Mr. SIMMONS], all down to and including line 3 on page 50.

Mr. SIMMONS. Mr. President, that is the amendment to which I referred a few moments ago when I asked that the section go over a second time. The Senator from North Dakota [Mr. McCUMBER] asked me what my amendment was, and I will state to the Senator that the amendment was presented some days ago and has been printed. The amendment, in substance, is to confine the exemption of $2,000 to individuals whose incomes are below $20,000, and likewise with reference to the exemption on account of dependents. It does not interfere, however, at all with the proposed increase of $500 exemption which is allowed under the bill as reported by the Senate committee on incomes of less than $5,000. Of course that amendment will lead to some considerable discussion, and I will ask the Senator from North Dakota to let the section go over.

Mr. McCUMBER. Is not the Senator from North Carolina ready to discuss that matter now?

Mr. SIMMONS. I prefer not to do so. I think the larger matters had better be retained for discussion until we shall have disposed of the less important matters. There are several matters of prime importance in the bill; indeed, the controversy in reference to the bill revolves around merely a few main questions, and this is one of them.

Mr. McCUMBER. I think, Mr. President, that we practically have now reached the important amendments. I think nearly all those remaining undisposed of are equally important.

Mr. SIMMONS. I do not think we have disposed of a single amendment which I have offered. I offered one amendment which applies to the surtax, and I am sure we have not yet disposed of that.

Mr. McCUMBER. I know that. What I said to the Senator was that all of the amendments remaining undisposed of are important. I know of none that are unimportant which are left in the bill undisposed of. We can not now pass them over upon the ground that we shall take up the unimportant amendments, for there are no such amendments left.

Mr. SIMMONS. I supposed there were quite a number of amendments that probably now would not meet with any serious objection and which are not vital but which have not yet been disposed of or agreed to. However, I do not know and can not therefore say.

Mr. McCUMBER. I can not recall any such amendment just now.

Mr. SIMMONS. I ask that the portion of the bill which has just been indicated by the Secretary may go over for the present.

Mr. McCUMBER. I have no objection to that.

The VICE PRESIDENT. Without objection, it will be passed over.

Mr. LA FOLLETTE. I ask that section 217, beginning in line 7, on page 50, and ending in line 11, on page 57, inclusive, be passed over for the second time.

The VICE PRESIDENT. Without objection, it will be passed over for the second time.

The ASSISTANT SECRETARY. The next amendment passed over was at the request of the Senator from North Carolina [Mr. SIMMONS], on page 72, beginning with line 4, where the committee propose to strike out:

SEC. 231. Section 223 of the revenue act of 1918 is amended to read as follows:

"SEC. 223. That every individual having a net income for the taxable year of $1,000 or over, if single, or if married and not living with husband or wife, or of $2,000 or over, if married and living with husband or wife, shall make under oath a return stating specifically the items of his gross income and the deductions and credits allowed by this title. A husband and wife living together may make a single joint return, in which case the tax shall be computed on the combined income.

"If the taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer."

And insert:

INDIVIDUAL RETURNS.

SEC. 223 (a) That the following individuals shall each make under oath a return stating specifically the items of his gross income and the deductions and credits allowed under this title—

(1) Every individual having a net income for the taxable year of $1,000 or over, if single, or if married and not living with husband or wife;

(2) Every individual having a net income for the taxable year of $2,000 or over, if married and living with husband or wife; and

(3) Every individual having a gross income for the taxable year of $5,000 or over, regardless of the amount of his net income.

(b) If a husband and wife living together have an aggregate net income for the taxable year of $2,000 or over, or an aggregate gross income for such year of $5,000 or over—

(1) Each shall make such a return, or

(2) The income of each shall be included in a single joint return, in which case the tax shall be computed on the aggregate income.

(c) If the taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer.

Mr. SIMMONS. I have no objection to taking that amendment up now.

The VICE PRESIDENT. The question is on agreeing to the amendment reported by the committee.

Mr. KING. May I inquire whether that involves the question which was presented by the junior Senator from Louisiana [Mr. BROUSSARD]? He raised a question, as I recall, in regard to joint returns by husband and wife, and in the absence of that Senator I felt disposed to call attention to the matter. If the amendment does not embrace the question in which he is interested, then I have no objection.

The VICE PRESIDENT. The question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

The next amendment passed over was, on page 73, after line 18, to insert:

PARTNERSHIP RETURNS.

SEC. 224. That every partnership shall make a return for each taxable year, stating specifically the items of its gross income and the deductions allowed by this title, and shall include in the return the names and addresses of the individuals who would be entitled to share in the net income if distributed and the amount of the distributive share of each individual. The return shall be sworn to by any one of the partners.

The VICE PRESIDENT. The question is on agreeing to the amendment.

Mr. KING. Mr. President, is the purpose of the form of return provided to enable the Government to tax the partnership?

Mr. McCUMBER. It is to enable the Government to tax the individual partners. The Government will know, then, whether the two partners, if there be two, make the same return as to the partnership profits. It will assist the Government in passing judgment upon the return of each individual partner.

Mr. KING. I supposed that was the purpose. It is not intended by this provision, then, which seems to call for a duplication of returns to submit the profits to double taxation?

Mr. McCUMBER. Certainly not.

Mr. KING. It is a check.

Mr. McCUMBER. Yes. If the Senator is in a partnership with another person he makes his individual return and includes in that such profits as he receives from the partnership, giving the name of the other partner?

Mr. KING. The partnership return is merely a check upon all of the partners.

Mr. McCUMBER. That is all.

Mr. KING. To enable the Government to determine whether or not the receipts of the various partners from the partnership business have been accurately stated in the several and respective returns submitted by the partners?

Mr. McCUMBER. The Senator is correct.

The VICE PRESIDENT. The question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

The next amendment passed over was on page 74, after line 3, to insert:

FIDUCIARY RETURNS.

SEC. 225. (a) That every fiduciary (except a receiver appointed by authority of law in possession of part only of the property of an individual) shall make under oath a return for any of the following individuals, estates, or trusts for which he acts, stating specifically the items of gross income thereof and the deductions and credits allowed under this title—

(1) Every individual having a net income for the taxable year of $1,000 or over, if single, or if married and not living with husband or wife;

(2) Every individual having a net income for the taxable year of $2,000 or over, if married and living with husband or wife;

(3) Every individual having a gross income for the taxable year of $5,000 or over, regardless of the amount of his net income;

(4) Every estate or trust the net income of which for the taxable year is $1,000 or over; and

(5) Every estate or trust of which any beneficiary is a nonresident alien.

(b) Under such regulations as the commissioner with the approval of the secretary may prescribe a return made by one of two or more joint fiduciaries and filed in the office of the collector of the district where such fiduciary resides shall be sufficient compliance with the above requirement. Such fiduciary shall make oath (1) that he has sufficient knowledge of the affairs of the individual, estate, or trust for which the return is made to enable him to make the return, and (2) that the return is, to the best of his knowledge and belief, true and correct. Any fiduciary required to make a return under this act shall be subject to all the provisions of this act which apply to individuals.

Mr. KING. Mr. President, may I inquire of the committee relative to paragraph (3), page 74, the reason for limiting the amount as to which the report shall be made? The language is:

Every individual having a gross income for the taxable period of $5,000 or over, regardless of the amount of his net income.

In other words, as I understand this language, no report is required to be made by a fiduciary if the amount under his control is less than $5,000. Is that the meaning of that provision?

Mr. McCUMBER. No; I do not so understand. The fiduciary must make a report of the interest of the cestui que trust, and where the individual has a gross income of more than $5,000 he must report it, or if he has a net income of $1,000 he must report it. If he has not a net income of $1,000—something small, which would be exempt anyway—or if he has a gross income of less than $5,000, he is not compelled to make a report of it.

The Senator understands the reason for compelling the report of any person having a gross income of $5,000. The law has been so changed in this bill that every person having a gross income of $5,000 must make a return. The reason for that has been that if we have no method of checking, as was suggested by the Senator the other day, any person can make a statement and can assume that he is not taxable, even though the department, after going over his books, would claim that there was some net income on which he should pay a tax; and the committee made $5,000 the line of demarcation between those who should and those who should not make returns, irrespective of their net profits. Of course, the Government would not compel every one to make a return, whether he had $1,000 net income or whether he had any. It would be impossible to deal with so many returns.

Mr. KING. As I understand it, if the Senator will excuse me, under this bill those having a net income exceeding $1,000 must submit a return.

Mr. McCUMBER. Yes; and those who have a gross income of $5,000, whether they have any net income or not according to their view, must make a return.

Mr. KING. So the plan is to have a fiduciary submit a return if there is a net income of $1,000, and if there is a gross income of $5,000, whether it is all exempt or not, to have him submit a return with respect to that?

Mr. McCUMBER. Yes; so that you may have the same return from the fiduciary that you would have from the individual.

Mr. WALSH of Massachusetts. Mr. President, I will say to the Senator that the minority of the committee were in hearty accord with the majority on that proposition, and thought it was a very beneficial provision. The question of whether or not a man pays a tax ought not to be left to himself alone. At present he can decide for himself whether he ought to pay a tax or make a return. We felt that at least all those who had a gross income of $5,000 ought to be obliged to make a return, to see if they were not in fact taxable, although they claimed they were not taxable.

Mr. KING. I hope that is the purpose of it, because, as I suggested the other day when a matter was under consideration, it looked to me as though too much latitude and discretion was permitted the taxpayer as to when and under what circumstances he would submit a return.

Mr. SMOOT. Mr. President, there is no doubt that there are many individuals in the United States whose gross income is $5,000 and who never make a return at all, and there is not any question at all but that they are taxable. This is for the purpose of catching the thousands and tens of thousands of people of that kind.

Mr. KING. I think the Government has been deprived of a great many millions of dollars of taxes from those whose gross incomes exceeded $5,000, but, left to themselves, they have failed to make returns and thus escaped taxation.

Mr. SMOOT. Where one is caught a hundred are lost.

The VICE PRESIDENT. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The VICE PRESIDENT. The Secretary will state the next amendment passed over.

The ASSISTANT SECRETARY. It is also proposed to insert the following, beginning on line 75, page 15, with a subhead:

RETURNS WHEN ACCOUNTING PERIOD CHANGED.

SEC. 226. (a) That if a taxpayer, with the approval of the commissioner, changes the basis of computing net income from fiscal year to calendar year, a separate return shall be made for the period between the close of the last fiscal year for which return was made and the following December 31. If the change is from calendar year to fiscal year, a separate return shall be made for the period between the close of the last calendar year for which return was made and the date designated as the close of the fiscal year. If the change is from one fiscal year to another fiscal year, a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year.

The amendment was agreed to.

The next amendment passed over was, on page 76, to strike out lines 7 and 8, in the following words:

SEC. 232. The second paragraph of section 226 of the revenue act of 1918 is amended to read as follows:

The amendment was agreed to.

The next amendment passed over was, on page 76, line 9, to strike out "In all of the above cases" and insert "(b) In all the cases referred to in subdivision (a)," so as to make the paragraph read:

(b) In all the cases referred to in subdivision (a) the net income shall be computed on the basis of such period for which separate return is made, and the tax shall be paid thereon at the rate for the calendar year in which such period is included; and the credits provided in subdivisions (c), (d), and (e) of section 216 shall be reduced respectively to amounts which bear the same ratio to the full credits provided in such subdivisions as the number of months in such period bears to 12 months.

The amendment was agreed to.

The next amendment passed over was on page 76, line 18, to strike out "'In" and insert "(c) In"; in line 21, after the words "and the," to strike out "surtax" and insert "tax"; in line 22, after the words "of a," to strike out "surtax" and insert "tax"; and in line 23, after the word "twelve," to strike out "months'" and insert "months," so as to make the paragraph read:

(c) In the case of a return for a period of less than one year the net income shall be placed on an annual basis by multiplying the amount thereof by 12 and dividing by the number of months included

in such period; and the tax shall be such part of a tax computed on such annual basis as the number of months in such period is of 12 months.

The amendment was agreed to.

The ASSISTANT SECRETARY. The next amendment passed over is on page 78, line 21, "Part III.—Corporations," all down to and including line 7 on page 79, passed over at the instance of the Senator from North Carolina [Mr. SIMMONS].

Mr. KING. Mr. President, that matter is a very important one, and a number of amendments will be submitted by members of the minority and perhaps members of the majority side; I do not know. I ask, therefore, that it be passed.

I want to say to the committee that I may offer an amendment to strike out lines 6 and 7 on page 79, providing that certain amendments which I shall offer—and I have heretofore adverted to a number of them—are adopted; but if those amendments shall be defeated, then I shall have no amendment to offer to lines 6 and 7.

Mr. McCUMBER. The part which the Senator now asks to have go over is section 230?

Mr. KING. Yes.

Mr. McCUMBER. Very well.

The VICE PRESIDENT. It will be passed over a second time. The Secretary will state the next amendment passed over.

The ASSISTANT SECRETARY. On page 79, the amendment beginning with line 8, down to and including line 14, was passed over at the instance of the Senator from Utah [Mr. KING]. It reads as follows:

CONDITIONAL AND OTHER EXEMPTIONS OF CORPORATIONS.

SEC. 231. That the following organizations shall be exempt from taxation under this title—

(1) Labor, agricultural, or horticultural organizations;

(2) Mutual savings banks not having a capital stock represented by shares.

Mr. KING. Mr. President, as I understand, the Senator from Ohio [Mr. WILLIS] is interested in that matter.

Mr. POMERENE. Mr. President, my colleague [Mr. WILLIS] is unavoidably absent to-day, or at least for a part of the day; and he, too, is very much interested in this subject of building and loan associations. I ask that all of the provisions of the bill with respect to that subject go over until he can be present.

Mr. WILLIS entered the Chamber.

Mr. POMERENE. Here he is now.

Mr. McCUMUBER. The Senator is present now. I suppose, that being the case, that the Senator is willing to go on.

Mr. POMERENE. I will state to my colleague that the subject matter of the building and loan associations, on page 79, is now before the Senate.

Mr. WILLIS. Mr. President, I have just come into the Chamber. If the Senator in charge of the bill will permit it, I should like very much to have that section passed over. I am getting certain information relative to the paragraph. The Senator knows that I am not disposed to delay the progress of this bill; I am quite anxious to further it; but if that section could be passed over, I should appreciate it as a very great favor.

Mr. McCUMBER. We will try to accommodate the Senator; but I do not think he desires to have passed over the first portion of section 231, dealing with labor, agricultural, and horticultural organizations, mutual savings banks, and fraternal societies. In other words, subdivisions (1), (2), and (3) may be passed on now, may they not?

Mr. POMERENE. Mr. President, I have no objection to the Senate taking up that matter now.

Mr. WILLIS. I will say to the Senator from North Dakota that the paragraph I desire to have passed over is the one beginning in this print of the bill at line 24, page 79, up to and including line 3, on page 80, or paragraph (4) of section 231. I should be glad if that could be passed over.

Mr. McCUMBER. I think we have already agreed to subdivision (3). I will ask, then, that we may agree to subdivisions (1) and (2).

Mr. KING. Mr. President, before the request of the Senator is granted, may I inquire of him as to the interpretation placed by the committee upon the words "agricultural or horticultural organizations"? As I understand, the purpose of subdivision (1) of this provision is to exempt agricultural and horticultural organizations from taxation under this title.

Mr. McCUMBER. It means those that are not organized for profit.

Mr. KING. Does it mean that?

Mr. McCUMBER. Yes; and article 512 of the regulations covers the subject of dealing with that character of associations.

Mr. KING. I am in entire sympathy with that view, but the Senator knows that there are organizations claiming to be agricultural and horticultural that constitute trusts, and are organized for the purpose of restraining trade or preventing competition, and are making enormous profits. I called attention the other day to one known as the Raisin Trust. Would that be called a horticultural organization?

Mr. McCUMBER. If it is organized or operated for profit to its members for the purpose of gains, it would not fall under the rule here.

Mr. SMOOT. Mr. President, I think it is fair to say to my colleagues that if the Raisin Trust of California is an agricultural organization, as I understand that it is, and if the organization itself is not organized for the purpose of making money or securing profits but to regulate the price at which the raisins shall be sold, then it is for the benefit of the raisin growers, and under this provision it would be exempt from taxation.

Mr. McCUMBER. Of course I suppose that every organization of agriculture and horticulture, any kind of business, is for the general benefit of that business in the United States, and if you allowed that idea to be made the basis of a determination as to whether they should be taxable or not, of course all would be taxable. There is no use of a grain growers' association or any other association being exempt if it is to be exempt only in case it is organized so that the results of its labors can not possibly benefit any of its members.

Mr. SMOOT. The Senator and I agree; but I thought, from the statement that was made, that the junior Senator from Utah would conclude that the raisin trust, so called, if there is such a thing, would have to pay taxes. They will not, as I understand it.

Mr. KING. They ought to; and the organization should be dissolved. Let me call the attention of the Senator from North Dakota to one or two instances to determine just how he construes this bill. I noticed in a recent paper that the potato growers of New Jersey had formed an organization, and that they consign all potatoes raised by them to a committee to hold and dispose of the same for the benefit of the growers, as I understand. A corporation, as I understand, was formed, and that corporation borrows money for the purpose of making advances to the growers of the potatoes, and when the potatoes are sold, distribution is made, I suppose, according to the interest which each grower has in the aggregate amount disposed of.

Mr. McCUMBER. That is a case where there is selling for profit, is it not?

Mr. KING. I do not know. Obviously the farmers do not buy and they are not purchasers unless the corporation of which they are members purchased the product from the farmers. I suppose there is profits made by the corporation, and I will say frankly that I would be glad to support any measure which would facilitate the sale by agriculturists of their products without the intervention of brokers and agents and gouging profiteers who get the benefit of the toil and labor of the farmer, and also rob the public.

Mr. FRELINGHUYSEN. Mr. President——

The VICE PRESIDENT. Does the Senator from Utah yield to the Senator from New Jersey?

Mr. KING. I yield.

Mr. FRELINGHUYSEN. The Senator from Utah has referred to the potato growers' association of New Jersey. Has he any information as to that organization?

Mr. KING. I stated what I saw in the papers.

Mr. FRELINGHUYSEN. What did the Senator see in the papers regarding price fixing? He mentioned something of that character.

Mr. KING. Let me reassure my friend that I was making no criticism of the organization. I was merely instancing that for the purpose of trying to get an interpretation by the committee of the meaning of this section.

Mr. FRELINGHUYSEN. Mr. President, I am very glad the Senator has used that organization as an illustration. Potato growing is a very large industry in New Jersey, and the potato growers of that State have formed themselves into an association to bring about better conditions in the distribution of their product. Those improvements are brought about by grading potatoes and classifying them. There is no price fixing, there is no organization, and no conspiracy in restraint of trade. The buyers come there and buy from the association, and they buy at different prices. It is an organization to improve and better the conditions for the marketing of the products, and the price of the potatoes changes from day to day according to the general market. There is no organization there in restraint of trade, because any member can sell his potatoes for any price he sees fit.

Mr. KING. May I inquire of the Senator from New Jersey, before he takes his seat, whether the products of farmers outside of the organization are purchased by the association and sold, and the profits, if any, distributed to those who are members of the corporation?

Mr. FRELINGHUYSEN. I do not think so.

Mr. McCUMBER. Certainly not. If they did they would at least be doing business for profit, and they would not be included in this exemption.

Mr. WATSON of Indiana. Mr. President, I think there is a very clear line of distinction between an organization designed to bring additional profit to the members of that organization. For instance, all agricultural societies are organized for the purpose of benefiting the members of those organizations. The organizations as such reap no profit, but by reason of their activity they do bring additional profit to the individuals of the organization.

Mr. KING. That is, the farmers themselves?

Mr. WATSON of Indiana. Certainly. That is the very object of the organization.

Mr. McCUMBER. The Senator is a little ahead of the provision which deals with what he is discussing. If he will turn to page 81, lines 10 to 19, he will find exactly the provision on the subject he is now discussing.

Mr. KING. If I may have the attention of the Senator, I was wondering whether there was a conflict between subdivision 1, page 79, and the section to which the Senator has just referred, or whether it was intended that they should coordinate and one supplement the other.

Mr. McCUMBER. The latter is the case, because when you say, "That the following organizations shall be exempt from taxation under this title," and you enumerate "labor, agricultural, or horticultural organizations," that, standing alone, would include everything; so you could not tax any of those, no matter what their profits were.

Mr. KING. Absolutely.

Mr. McCUMBER. You must take that with reference to other sections of the bill, and other sections of the bill provide that if these are organized for profit they will not come under the general provision.

Mr. KING. There is no doubt, Mr. President, that if the Senator would divide the clause under consideration, found in lines 11 and 12, making labor a separate clause, and then place the agricultural and horticultural organizations in a separate section conformably to the provisions of subdivision 10 hereof, there could be no misinterpretation.

Mr. McCUMBER. Mr. President, this is the law just as it now stands. Take a labor union, for instance. While it is organized to secure better wages for laborers and better conditions it does not do business at a profit; it is not organized for the profit of the organization, or for profit at all, except in a general way for the benefits to be derived from it and like organizations.

Mr. KING. I hope the Senator does not misunderstand me.

Mr. McCUMBER. Agricultural and horticultural organizations are exactly on the same footing. So I see no necessity of separating them.

Mr. KING. I am in favor of the exemption of labor organizations. I have no controversy at all with the Senator nor any criticism of the bill in that respect. The point I was trying to make was that the words "agricultural or horticultural organizations," separated as they are by a large number of paragraphs from subdivision 10, may not be construed as being modified or limited by such subdivisions.

Mr. McCUMBER. It has already been construed, and this is the law as it now stands, and this is the rule adopted by the department in the matter of taxation. Article 512 of the regulations, No. 45, reads:

> Agricultural or horticultural organizations exempt from tax do not include corporations engaged in growing agricultural or horticultural products or raising live stock or similar products for profit, but include only those organizations which, having no net income inuring to the benefit of their members, are educational or instructive in character and have for their purpose the betterment of the conditions of those engaged in these pursuits, the improvement of the grade of their products, and the encouragement and promotion of these industries to a higher degree of efficiency.

Mr. KING. I agree entirely with that, Mr. President, and I think organizations engaged along the lines indicated by the rules and regulations ought to be exempt, and if the department construes the words "agricultural or horticultural organizations" found on page 79 as being tied to the provisions found in subdivision 10 and construes the provisions of subdivision 10 as a limitation upon those words I have no objection.

Mr. LENROOT. Mr. President, will the Senator yield?

Mr. McCUMBER. I yield.

Mr. LENROOT. I would like to have the Senator's view on this point: A labor organization in Ohio, I understand, is conducting a bank. Does the Senator think that labor organization is subject to taxation under the law?

Mr. McCUMBER. I think the bank which makes the money ought to be taxed.

Mr. LENROOT. If it is separately incorporated that would be true; but does the Senator think that the labor organization itself, which might conceivably, under the laws of any State, go into the banking business as such, subject to banking rules, would be taxable?

Mr. McCUMBER. Certainly.

Mr. LENROOT. Or if it were engaged in merchandising, does the Senator think it would be taxable?

Mr. McCUMBER. Certainly.

Mr. LENROOT. Under what authority?

Mr. McCUMBER. Because it is an organization for profit.

Mr. LENROOT. Yes; but where is the limitation "for profit" found anywhere in the law?

Mr. McCUMBER. To that extent it is not a labor organization at all. What it is doing in the line of banking business is certainly taxable as business, and everywhere through the law you find the provision for taxing as well as in the rule that I have read here relating to horticultural organizations, and you will find a like rule laid down with reference to labor organizations.

Mr. LENROOT. The Senator would not say the rule could go beyond the law?

Mr. McCUMBER. No; the rule does not go beyond the law. I am simply giving the construction which has been placed upon that law as it is written, and that particular section, taken in connection with the rest of the law.

Mr. LENROOT. If there is a labor organization coming within the provisions of the rule, and also engaging in a mercantile business for the profit of its members, does the Senator say that, in his judgment, that labor organization is subject to taxation?

Mr. McCUMBER. If I understand the Senator correctly, it is subject to taxation.

Mr. LENROOT. I must say I do not believe so, because it is a labor organization, such as is defined by the rule, and certainly the department has no right to add the words "doing business without profit" unless those words are found in the law.

Mr. McCUMBER. I do not know how you could designate a labor organization doing business for profit without considering it as a business organization, and generally when we speak of a labor organization or a horticultural organization, or any other kind of a nonprofitable or charitable organization of any kind, we do not have in mind those organizations which are doing business for profit.

Mr. LENROOT. But in the very next paragraph, where cooperative banks are referred to, the limitation is there used, "doing business without profit." There is no limitation here, and, notwithstanding what the regulations may be, I do not believe a labor organization, if it chooses as such organization to engage in a mercantile business, is subject to taxation.

Mr. WILLIS. Mr. President, I suggest to the Senator from Wisconsin that the question he is proposing may become a very practical one, because the particular labor organization to which he refers, as I am advised, is proposing not only to establish a bank, but also to establish a sort of a wholesale business for the purpose of purchasing supplies for its members. I should like to ask the Senator from North Dakota whether, if it goes into general mercantile business and conducts a store as well as a bank, it will be subject to taxation? What is the opinion of the Senator from North Dakota on that point?

Mr. McCUMBER. If it is organized for profit, it will be subject to taxation. If it is organized as a sales agent, for instance, or as a purchasing agent for the benefit of its members, it is not. For instance, a labor or other organization may find that the charges made by retail stores are so excessively high that they propose to try to benefit their members by purchasing their goods directly from the manufacturer and allowing the members of their organization to have the benefit of the lower prices.

No profit goes to the organization. The only charges are those necessary for the expenses. They distribute those goods to their members for exactly the price that they pay for them plus the bare expenses of handling. That is not an organization for profit and that organization would not pay taxes. The Senator is asking concerning the present law?

Mr. LENROOT. Certainly. Suppose that the corporation, instead of confining its sales to its members, sells to the public

and actually makes a profit, which profit is divided among its members.

Mr. McCUMBER. Then it is engaged in business and is taxable.

Mr. LENROOT. Very well. Now, I wish to come to another question. This is what I am really endeavoring to reach: The Senator's position is, then, if a labor organization establishes a store and sells to the public, the labor organization is taken out of the exemption for all purposes and can be taxed upon all its income, including the dues of its members.

Mr. McCUMBER. All of its profits. If it sells to its members for a certain price, which price represents only what it paid plus the cost of handling, then, of course——

Mr. LENROOT. Oh, of course.

Mr. McCUMBER. Let me make my position clear. Then, of course, it would not be taxable for the purchases which went to its members. But if it engages in a general business of selling, the real profits that it makes, of course, on what it sells to outsiders would be taxable and it would have to pay taxes upon those profits.

Mr. LENROOT. Oh, no.

Mr. McCUMBER. It might give the preference to its members.

Mr. LENROOT. The Senator is again reading something into the law that is not there. The question for determination is whether under this title a given organization is exempt from the provisions of the title. Now, the Senator says if it is not doing business for profit it is exempt, but if it does do business for profit it is not. It is either exempt or it is not. If it does business for profit, where does it find its exemption for any of its income? It seems very clear to me, if the Senator is correct, that a labor organization would be taxable for all its income if it did any business for profit in the way of conducting a mercantile establishment.

Mr. McCUMBER. I think we can bring this question to a focus very quickly. This is the law. The way it has been working has been satisfactory. We have heard no complaint in the world. Of the rules that have been adopted, there has been no complaint. The Senator now feels that there may be abuses or that the present law is not sufficiently explicit. If he will indicate wherein he wishes to have the present law modified and the amendment that he desires, it certainly will receive most careful consideration.

Mr. WATSON of Indiana. On page 80, in clause 7, occurs this language:

> Business leagues, chambers of commerce, or boards of trade not organized for profit and no part of the net earnings of which inures to the benefit of any private stockholder or individual.

I should like to ask the Senator from Utah [Mr. KING] whether or not he is willing to append that as an amendment to paragraph (1), labor, agricultural, or horticultural organizations, and (2) mutual savings banks not having a capital stock represented by shares. Is that what the Senator means? If he does not mean that, what amendment does he desire to have made?

Mr. KING. Let me state to my friend from Indiana that I expressed my satisfaction with the explanation made by the Senator from North Dakota with respect to the words "agricultural or horticultural organizations." He said that the department had construed those words as being limited by subdivision 10, on page 81, and has construed that section as a specific and direct limitation upon the words "agricultural or horticultural organizations." Having that interpretation placed by the department upon the words quoted, and the department having enforced such interpretation, I am content to accept the words of the bill on this point.

Mr. WATSON of Indiana. The Senator would not be willing to have the words which I read on page 80 attached as an amendment to each of the clauses on page 79:

> Not organized for profit and no part of the net earnings of which inures to the benefit of any private stockholder or individual.

Mr. KING. I have no objection.

Mr. WATSON of Indiana. Would not that dissipate every organization, either agricultural or horticultural, because do not the benefits of those societies inure to the individuals?

Mr. KING. I think that would be satisfactory. The Senator knows what I had in mind, namely, that there were organizations, and I instanced one and could refer to others, that are seeking to evade taxation by claiming to be horticultural or agricultural associations. Often a number of farmers go into these organizations and then accept the membership of others who are not farmers, and the organizations make profits upon agricultural or horticultural products and then claim exemption from taxation. They ought to be taxed.

I am perfectly willing that any provision shall be carried in the bill that will facilitate the distribution of the products of farm and field by the farmers themselves. I think they should be encouraged in that. I am in sympathy with organizations by farmers to aid in the distribution of their products so as to avoid passing through the hands of so many middlemen, who rob the farmers as well as the public. It was for the purpose of reaching those individuals who were trying to utilize these provisions to save themselves from taxation that I submitted this criticism.

Now I wish to come back to the suggestion made by the Senator from Wisconsin [Mr. LENROOT]. How does the Senator from Indiana propose to limit the labor organizations?

Mr. WATSON of Indiana. I propose nothing. I am perfectly satisfied with it as it is, and I think it fully covers the whole situation.

Mr. KING. The Senator has heard the suggestions made by the Senator from Ohio [Mr. WILLIS]?

Mr. WATSON of Indiana. But the Senator from Ohio has offered no amendment.

Mr. KING. It is said that some labor organizations form banks and engage in mercantile and other commercial pursuits. The Senator from North Dakota has just stated that the merchandizing business seemed to be all right providing they organize for the purpose of preventing profiteering by retailers in their neighborhood. May I suggest to the Senator that if corporations are to be exempted because the stockholders desire to cut down prices or prevent undue profits by those engaged in business pursuits, then there may be no limit upon the number and kind that may escape taxation. Farmers and various groups might engage in business, through corporations, hoping to cheapen prices of commodities required by them. Lawyers and Senators might feel constrained to engage in banking or merchandising to get cheaper goods and cheaper money. Why might not Senators form a corporation for the purpose of buying merchandise to sell to themselves and avoid being robbed by the profiteers of Washington? Where will the line be drawn if groups or classes may engage in any kind of business and be exempt from taxation upon the theory that they desire to secure merchandise at a lower price or assail the high prices charged or alleged to be charged in various business activities?

I can not quite see the reason for the distinction the Senator seeks to make. If we exempt from taxation labor organizations who form corporations to go into the banking business or merchandising business, how may we avoid exempting from taxation farmers who organize merchandising establishments, banks, and other enterprises for the purpose of aiding themselves in the cheapening of prices or accomplishing other proper and worthy objects?

Of course, if labor unions or farmers or any other class or group of citizens desire to engage in banking or mercantile pursuits they should have the fullest opportunity. I am only considering the question as to how far they should be exempt from taxation.

The VICE PRESIDENT. The question is on agreeing to the amendment.

Mr. KING. I suggest that subdivision (1) be passed over temporarily merely for the purpose of attempting to provide some amendment as suggested by the Senator from Wisconsin.

Mr. McCUMBER. That is agreeable.

The VICE PRESIDENT. Without objection, it will be passed over. The question now is on agreeing to the remainder of the amendment.

Mr. McCUMBER. Subdivision (1) has just been passed over. It seems to me if that should be passed over, subdivision (2) should be passed over also.

Mr. LENROOT. The Senator from North Dakota asked me to suggest an amendment. I do not want all the income of these organizations to be subject to taxation if by chance they do a little business for profit. I wish to ask the Senator from North Dakota, who asks me for a suggestion, whether these words, added to subdivision (1), "except as to business conducted by them for profit," would not clear it up?

Mr. McCUMBER. I think the Senator should give such an amendment most careful consideration before he asks to have it inserted. To allow them to do a sort of double business, part for profit and part not for profit, and for the Government to keep watch over them to compel them to keep books and to have experts to see that they have made a right division between their profit business and their nonprofit business, would be quite a complicated procedure. I am afraid we would be led into great dangers. It would seem to me better, if they wish to claim exemption, to insist that they do no business for profit. I believe that is the better plan.

As to the other line which the Senator mentions that he has in mind I do not think they need a separate law if there is a labor organization that is doing business for the benefit of its members in buying their necessary merchandise for them and their families. In the distribution of that merchandise which they may buy for the stockholders and which they distribute to their members there would be no profit anyway. Therefore we could not charge them for any profit on that business. If they deal outside, then the profits will be entirely upon their outside business and that would be taxed. So there would be no necessity of making a distinction for fear that they might be taxed on profits that were accrued to the benefit of their members or from dealings in which their members are interested, because if they do that they ought to pay taxes.

Mr. LENROOT. I have now read the regulation, and it is very clear to me from the regulations that if a labor organization or a farmers' cooperative association did any business for profit they would be taken entirely out of the exemptions under the regulations, and all their income from whatever source would be taxed under the regulation as it stands. But if the subdivision is passed over I shall give it further consideration.

The VICE PRESIDENT. The Chair understands that all of the amendment is to be passed over. Without objection, the whole of the amendment will be passed over.

The READING CLERK. The next amendment passed over is on page 80, after line 3, to insert:

(5) Cemetery companies owned and operated exclusively for the benefit of their members.

This was passed over on the request of the senior Senator from Utah [Mr. SMOOT].

Mr. SMOOT. The junior Senator from Utah [Mr. KING] was speaking upon this amendment and suggested that the word "companies" be stricken out and "corporations" inserted. I thought it had better go over in order that the Senate might give a little attention to it. I am quite sure that if the word "corporations" were in there he would not accomplish the desired purpose. The effect of it would be exactly what my colleague does not desire.

Mr. KING. May I say to my colleague that this matter was suggested by the Senator from Ohio [Mr. POMERENE]? He had some amendment in mind and the Senator from Massachusetts [Mr. WALSH] and myself sotto voce suggested perhaps the word "corporations" there might relieve the amendment of the criticism that was leveled against it. I was not specially interested in the matter and have given it no particular attention.

Mr. SMOOT. If we insert the word "corporations" it would simply mean that every company now doing business could organize itself into a corporation and there would be no good result accomplished. The Senator knows that many corporations in the United States go out and buy a lot of land for no other purpose in the world than to make money. That is the case in my own State, and no doubt in a number of other States. I think we are going far enough when we say "companies."

Mr. KING. I have no criticism to make of this section. The Senator from Ohio [Mr. POMERENE] previously made some observations on the subject; there was some controversy as to the best way of reaching the objections which he made; and I came to the rescue of others. I suggested that the word "corporations" be inserted at that point. I have no objection to the present phraseology.

The VICE PRESIDENT. Without objection, the amendment is agreed to. The next committee amendment passed over will be stated.

The READING CLERK. The next committee amendment, which was passed over at the request of the junior Senator from Massachusetts [Mr. WALSH], was on page 82, after line 12, to insert:

(14) Personal service corporations. This subdivision shall not be in effect after December 31, 1921.

Mr. WALSH of Massachusetts. I simply wanted an opportunity at some time to discuss the whole question of personal service corporations and investment corporations and how this bill will affect them. I can take that opportunity at another time.

Mr. REED. If the Senator from Massachusetts intends to discuss those subjects, I think this amendment had better be passed over and action on it be withheld. Is it the meaning of the language of the amendment, as the Senator from Massachusetts understands, that the personal service corporations are hereafter to be taxed exactly the same as are other corporations?

Mr. SMOOT. That is correct; that is what the language means, that after December 31, 1921, they shall be so taxed.

Mr. REED. After next December?

Mr. SMOOT. Yes.

Mr. REED. This is a topic with which I am not particularly familiar. I think the Senate ought to know what the situation is and what it will be after this proposed change shall have been made. I think that those who propose the change ought to state the reasons for it.

Mr. SMOOT. Mr. President, the reason for the change is that if the excess-profits tax shall be repealed, as it is proposed to be in this bill, the necessity of the existing law is removed. Therefore, it is proposed that we shall in the future treat personal service corporations just the same as other corporations are treated, the legislation to take effect on December 31, 1921; in other words, the excess-profits tax is repealed on January 1, 1922, and the provision referred to takes effect one day before that date, on December 31, 1921, because after that date there will be no excess-profits tax, should it be repealed; and, I repeat, personal service corporations are to be treated just the same as are all other corporations. That is the object of the amendment.

Mr. SIMMONS. Mr. President, there are Senators who have in process of preparation an amendment which will materially affect this provision of the bill, and I think the amendment had better go over.

Mr. SMOOT. Mr. President, if the excess-profits tax shall not be repealed, then, of course, this provision would have to be changed.

Mr. SIMMONS. I understand the point of the Senator from Utah in reference to that.

Mr. SMOOT. I do not see any reason why the amendment should not go over, however, if the Senator from North Carolina desires that it shall.

Mr. SIMMONS. I think the amendment had better go over. There is pretty strong opinion on the part of certain Senators that there ought to be some differentiation between earned and unearned income. Of course, personal service corporations generally have no capital, or, at least, their capital is an unimportant element in connection with their business. Their earnings are made through the personal activities of the individual members of the corporation. There are those of us who feel that there ought to be some difference between the taxes which are imposed upon such personal service earnings and upon income which is derived from investments or upon the profits of trade.

This is one of the most important and difficult problems with which the committee, not only this year but in former years in dealing with income-tax matters, have had to contend. We had hoped that we had reasonably solved it when we permitted personal service corporations to pay upon the principle of a partnership instead of upon the principle of a corporation. Now, the Committee on Finance has decided that the discrimination which we were then trying to avoid, and which we thought we had avoided by exempting such corporations from excess-profits taxes, will be removed if the excess-profits taxes are repealed.

Mr. President, in view of the fact that there are others of us who think that even if we wipe out the excess-profits tax it would be a little bit unfair to impose the same rate of taxation upon the incomes resulting from the labor of human beings that we impose upon incomes resulting from investments and from trade, I ask that the amendment go over.

Mr. SMOOT. Has the Senator from North Carolina an amendment to propose?

Mr. SIMMONS. No; I have not; but I know there are certain Senators at work on such an amendment. Whether they will be able to work out a scheme which will be satisfactory to them or that will receive serious consideration from the Senate I do not know; but I think we ought not to act before those Senators have had an opportunity to frame whatever amendments, if any, they propose to frame.

As the Senator from Utah has said, the repeal of the excess-profits tax would remove any difficulty in restoring, as this bill proposes to do, the taxes on personal service corporations upon the principle of corporations instead of partnerships as provided in the present law. I think, however, we ought to withhold action on this amendment until we shall have repealed the excess-profits tax. It would be putting the cart before the horse first to repeal this tax, if its equity and justice depend upon that contingency.

Mr. McCUMBER. Mr. President, the Senator left out of consideration what I regard as the most important feature which influenced the committee to go back to the old method of taxation. Of course, the Senator will agree with me that taxing personal service corporations simply as partners was fair, and we thought we had solved the question at one time in that way. Then, in many instances personal service corporations made no distribution of their profits, as they did not need to make them to any great extent where very large profits were earned. In a

partnership, however, each partner had to pay on the undistributed profits, whether he received them or not. The Supreme Court, in the case of Eisner against Macomber—the stock-dividend decision—held that Congress could not tax the individual any part of the income of the corporation which had not been distributed to the stockholder and of which the stockholder was not in control. Therefore, we believed that under that Supreme Court decision it would be impossible to tax personal service corporations upon undivided profits. For that reason we thought best to go back and tax them in this way, unless the subcommittee could find some other way of working out that proposition that would be more equitable.

Mr. SIMMONS. I realize the difficulty to which the Senator now refers, growing out of the decision of the Supreme Court, and to the complications of the question. It is an exceedingly complicated question, and I do not know whether it can be worked out, but there are some Senators who are trying to do so.

Mr. SMOOT. Does the Senator desire that the amendment may be passed over?

Mr. SIMMONS. Yes.

The VICE PRESIDENT. Lines 13 and 14, on page 82, will be passed over. The Secretary will state the next amendment which has been passed over.

The READING CLERK. The next amendment passed over was, at the request of the senior Senator from North Carolina [Mr. SIMMONS], on page 82, line 14, "Net income of corporations defined," down to and including line 5, on page 94.

Mr. SIMMONS. Mr. President, I shall not object to taking that up now.

Mr. HARRELD. Are the various subdivisions to be taken up separately?

The VICE PRESIDENT. They are to be taken up separately. The Secretary will state the amendment to be considered.

The READING CLERK. On page 82, after line 14, it is proposed to insert:

NET INCOME OF CORPORATIONS DEFINED.

SEC. 232. That in the case of a corporation subject to the tax imposed by section 230 the term "net income" means the gross income as defined in section 233 less the deductions allowed by section 234, and the net income shall be computed on the same basis as is provided in subdivision (b) of section 212 or in section 226.

The amendment was agreed to.

The next amendment passed over was, on page 82, after line 22, to insert the heading "Gross income of corporations defined."

The amendment was agreed to.

The next amendment passed over was, on page 82, after line 23, to strike out:

SEC. 238. Section 233 of the revenue act of 1918 is amended to read as follows.

The amendment was agreed to.

The next amendment passed over was, on page 83, line 4, after the word "except," to strike out "that:" and insert "that"; after line 4, to strike out:

(1) In the case of life insurance companies there shall not be included in gross income such portion of any actual premium received from any individual policyholder as is paid back or credited to or treated as an abatement of premium of such policyholder within the taxable year.

(2) Mutual—

And insert "mutual," so as to read:

SEC. 233. (a) That in the case of a corporation subject to the tax imposed by section 230 the term "gross income" means the gross income as defined in sections 213 and 217, except that mutual marine insurance companies shall include in gross income the gross premiums collected and received by them less amounts paid for reinsurance.

The amendment was agreed to.

The next amendment passed over was, on page 83, line 15, after the name "United States," to strike out "as determined" and insert "determined (except in the case of life insurance companies)," so as to read:

(b) In the case of a foreign corporation or a foreign trade corporation, gross income means only gross income from sources within the United States, determined (except in the case of life insurance companies) under the provisions of section 217.

The VICE PRESIDENT. Without objection, the amendment is agreed to.

Mr. HARRELD. Mr. President——

The READING CLERK. The next amendment passed over is on page 83 after line 17, to insert:

DEDUCTIONS ALLOWED CORPORATIONS.

SEC. 234. (a) That in computing the net income of a corporation subject to the tax imposed by section 230 there shall be allowed as deductions:

(1) All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered, and including rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity.

Mr. HARRELD. Mr. President, I have been trying to get the floor in order to offer an amendment on page 83, line 17, following the numerals "217," I should like to have the amendment read.

The VICE PRESIDENT. The Senator from Oklahoma offers an amendment, which the Secretary will state.

Mr. HARRELD. I will say that the amendment is to the House text, and, as a matter of parliamentary procedure, I do not know whether it is in order at this time.

Mr. LODGE. Mr. President, in that connection I have an amendment which I desire to offer to section 234 under the head of "Deductions allowed corporations." I am not sure where it would properly go in, but I should like to ask how far that runs.

Mr. WATSON of Indiana. To page 94.

Mr. LODGE. I do not know the precise point at which my amendment ought to go in, but I suppose that under the agreement the committee amendments are first to be disposed of. In that case I shall withhold mine until the time comes for offering individual amendments. Meantime I will ask to have it printed and lie on the table.

Mr. HARRELD. My amendment goes to the question of foreign traders and foreign trading corporations.

Mr. LODGE. Mine goes to another deduction; that is all; but it would not be in order now, because it is an individual amendment to the whole thing, and not a change of language proposed by the Senate committee.

The VICE PRESIDENT. Under the agreement, the committee amendments are first to be passed on.

Mr. HARRELD. I withdraw my amendment.

The VICE PRESIDENT. The amendment offered by the Senator from Massachusetts will be printed and lie on the table.

Mr. KING. Mr. President, heretofore under unanimous consent, where an individual amendment was clearly relevant to a matter under consideration we have consented to its consideration. I ask unanimous consent that the Senator from Oklahoma may be permitted to present his amendment at this time.

Mr. McCUMBER. As I understand, the amendment of the Senator from Oklahoma is to the House bill, and not an amendment to an amendment made by the committee.

Mr. LODGE. That is what I understood.

Mr. McCUMBER. If that is true, it had better go over until we get through.

Mr. LODGE. It is in the same case with mine.

Mr. McCUMBER. If we made an exception in this instance, we would have to make it every time the request was made.

Mr. HARRELD. My amendment affects the whole subject of foreign traders and foreign trading corporations. Therefore it is an amendment to the committee amendment.

Mr. WATSON of Indiana. It ought to go over

Mr. HARRELD. Very well; that may simplify the matter. I will file it, then, as a proposed amendment, and ask that it may be printed and lie on the table.

The VICE PRESIDENT. The amendment will be received, printed, and lie on the table.

Mr. LODGE. The amendment which I offer is an addition, a new amendment; and, I think, clearly ought to wait until the individual amendments are reached.

Mr. WATSON of Indiana. Mr. President, inasmuch as a motion will be made to adjourn until 11 o'clock to-morrow——

Mr. McCUMBER. To recess.

Mr. WATSON of Indiana. No; to adjourn, because of the death of a Member of the House; and inasmuch as the Senator from Massachusetts desires a short executive session, I trust that the acting chairman of the committee will consent to lay aside the bill now.

Mr. LODGE. I should like first to make the request that when the Senate adjourns it be to meet at 11 o'clock to-morrow.

The VICE PRESIDENT. Does the Senator make that in the form of a motion?

Mr. LODGE. I do.

The VICE PRESIDENT. The Senator from Massachusetts moves that when the Senate adjourns to-day it be to meet at 11 o'clock to-morrow morning.

The motion was agreed to.

Mr. HARRIS. I offer an amendment which I ask to have printed and lie on the table. There is no difference in this bill between the taxes on income derived from labor and personal services and those on dividends and other income. This amendment is to reduce the taxes on income derived from labor and personal services.

The VICE PRESIDENT. The amendment will be received, printed, and lie on the table.

Mr. TRAMMELL. I offer an amendment and ask that it be printed and lie on the table.

The VICE PRESIDENT. The amendment will be received, printed, and lie on the table.

EXECUTIVE SESSION.

Mr. LODGE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 10 minutes spent in executive session the doors were reopened.

DEATH OF REPRESENTATIVE SAMUEL M. TAYLOR.

Mr. CARAWAY. Mr. President, I ask that the resolutions of the House of Representatives on the death of the late Representative TAYLOR of Arkansas may be laid before the Senate.

The VICE PRESIDENT. The Chair lays before the Senate resolutions of the House of Representatives, which will be read.

The resolutions of the House were read, as follows:

Resolved, That the House has heard with profound sorrow of the death of Hon. SAMUEL M. TAYLOR, a Representative from the State of Arkansas.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect this House do now adjourn.

Mr. CARAWAY. Mr. President, I offer the resolutions which I send to the desk, and ask for their adoption.

The resolutions (S. Res. 149) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. SAMUEL M. TAYLOR, late a Representative from the State of Arkansas.

Resolved, That the Secretary communicate these resolutions to the House of Representatives.

Mr. CARAWAY. Mr. President, I move, as a further mark of respect to the memory of the deceased Representative, that the Senate do now adjourn.

The motion was unanimously agreed to; and the Senate (at 4 o'clock and 45 minutes p. m.) adjourned until to-morrow, Tuesday, October 4, 1921, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate October 3 (legislative day of September 26), 1921.

ASSISTANT APPRAISERS OF MERCHANDISE.

Ferdinand M. Becker, of Queens County, N. Y., to be assistant appraiser of merchandise in customs collection district No. 10, with headquarters at New York, N. Y., in place of Frank S. Terry, resigned.

Herman W. Beyer, of New York, N. Y., to be assistant appraiser of merchandise in customs collection district No. 10, with headquarters at New York, N. Y., in place of Martin F. Tanahey, resigned.

John T. Donnelly, of Beacon, N. Y., to be assistant appraiser of merchandise in customs collection district No. 10, with headquarters at New York, N. Y., in place of Charles W. Bunn, resigned.

UNITED STATES ATTORNEY.

Thomas P. Revelle, of Washington, to be United States attorney, western district of Washington, vice Robert C. Saunders, resigned.

UNITED STATES MARSHAL.

E. B. Benn, of Washington, to be United States marshal, western district of Washington, vice John M. Boyle, resigned.

APPOINTMENTS IN THE REGULAR ARMY.

GENERAL OFFICER.

To be brigadier general.

Col. Frank Long Winn, Infantry, from October 2, 1921.

FIELD ARTILLERY.

To be second lieutenant.

Richard Sears, of Massachusetts, with rank from September 23, 1921.

PROMOTIONS IN THE REGULAR ARMY.

MEDICAL CORPS.

To be captains.

First Lieut. Paul Seibert Seabold, Medical Corps, from July 11, 1921.

First Lieut. Virgil Blackstone Williams, Medical Corps, from September 21, 1921.

First Lieut. Hamilton Pope Calmes, Medical Corps, from October 1, 1921.

REAPPOINTMENTS IN THE REGULAR ARMY.

INFANTRY.

To be majors.

Capt. Edward Dworak, Philippine Scouts, retired, with rank from September 28, 1921.

Capt. Charles Bealle Townsend, Philippine Scouts, retired, with rank from September 21, 1921.

To be first lieutenants.

Claude Delorum Collins, late second lieutenant, Infantry, Regular Army, with rank from September 22, 1921.

Clarence Matthew Tomlinson, late second lieutenant, Infantry, Regular Army, with rank from September 22, 1921.

COAST ARTILLERY CORPS.

To be first lieutenant.

Donald William Tyrrell, late second lieutenant, Coast Artillery Corps, Regular Army, with rank from September 28, 1921.

APPOINTMENTS BY TRANSFER IN THE REGULAR ARMY.

ORDNANCE DEPARTMENT.

Capt. Burnett Ralph Olmsted, Coast Artillery Corps, with rank from January 17, 1920.

COAST ARTILLERY CORPS.

Capt. Clare Hibbs Armstrong, Infantry, with rank from November 18, 1919.

POSTMASTER.

NORTH CAROLINA.

Edgar E. Lady to be postmaster at Kannapolis, N. C., in place of F. C. Gillam, removed.

CONFIRMATIONS.

Executive nominations confirmed by the Senate October 3 (legislative day of September 26), 1921.

MEMBER OF THE CALIFORNIA DÉBRIS COMMISSION.

Ulysses S. Grant, 3d, to be member of the California Débris Commission.

SURVEYOR GENERAL OF CALIFORNIA.

John Plover to be surveyor general of California.

REGISTERS OF THE LAND OFFICE.

Carl G. Helm to be register of the land office at La Grande, Oreg.

James W. Donnelly to be register of the land office at The Dalles, Oreg.

Frank P. Light to be register of the land office at Lakeview, Oreg.

John Widlon to be register of the land office at Gregory, S. Dak.

RECEIVERS OF PUBLIC MONEYS.

John H. Peare to be receiver of public moneys at La Grande, Oreg.

Thomas C. Queen to be receiver of public moneys at The Dalles, Oreg.

James J. Donegan to be receiver of public moneys at Burns, Oreg.

Fred W. Haynes to be receiver of public moneys at Roseburg, Oreg.

Ray L. Bronson to be receiver of public moneys at Bellefourche, S. Dak.

PROMOTIONS IN THE ARMY.

Mason Mathews Patrick to be Chief of Air Service.

Herbert Mayhew Lord to be colonel, Finance Department.

Francis Neal Cooke to be colonel, Coast Artillery Corps.

Leo Vincent Warner to be captain, Field Artillery.

Albert Brevard Sloan to be lieutenant colonel, Infantry.

Robert Wilbar Wilson to be captain, Field Artillery.

Richard Herbert Somers to be major, Ordnance Department.

Claude Killian Rhinehardt to be major, Field Artillery.

William Hugh Burns to be first lieutenant, Field Artillery.

Robert Milton Eichelsdoerfer to be first lieutenant, Field Artillery.

Edward Taylor Kirkendall to be first lieutenant, Field Artillery.

Winston Reese Withers to be first lieutenant, Field Artillery.

Otto Max Jank to be first lieutenant, Coast Artillery Corps.

Charles Spier Lawrence to be first lieutenant, Infantry.

William Cadwalader Price, jr., to be first lieutenant, Infantry.

Walter Woolf Wynne to be major, Air Service.

Eugene Reedy Guild to be first lieutenant, Coast Artillery Corps.

DeWitt Clinton Tucker Grubbs to be major, Ordnance Department.

Harry Lee Campbell to be captain, Ordnance Department.
Richard Cox Coupland to be first lieutenant, Ordnance Department.
Richard Zeigler Crane to be first lieutenant, Ordnance Department.
George Matthew Halloran to be major, Chemical Warfare Service.
Earl Elliott Major to be captain, Field Artillery.
Wilson Stuart Zimmerman to be captain, Field Artillery.
Lowell Whittier Bassett to be first lieutenant, Field Artillery.
Sidney Forrester Mashbir to be captain, Coast Artillery Corps.
Elbe Allen Lathrop to be major, Infantry.
Samuel Charles Harrison to be captain, Infantry.
Roy Stuart Brown to be major, Air Service.
Walter Albert Ball to be first lieutenant, Air Service.
Robert Effinger Cumming to be captain, Medical Corps.
Francis William Gustites to be captain, Medical Corps.
William Shell Crawford to be captain, Medical Corps.
William Samuel Prout to be captain, Medical Corps.
Walter Fleming Hamilton to be captain, Medical Corps.
Elgen Clayton Pratt to be captain, Medical Corps.
Frank Tenney Chamberlin, jr., to be captain, Medical Corps.
Harry Ripley Melton to be captain, Medical Corps.
James Martin Miller to be captain, Medical Corps.
Egbert Wesley van Delden Cowan to be captain, Dental Corps.
Frank William Small to be captain, Dental Corps.
Arthur Edmon Brown to be captain, Dental Corps.
Lemuel Paul Woolston to be captain, Dental Corps.
Robert Clyde Craven to be captain, Dental Corps.
Melville Alexander Sanderson to be captain, Dental Corps.
Rollo Lown to be captain, Dental Corps.
Walter Kenyon Lloyd to be chaplain, with the rank of major.
John Franklin Chenoweth to be chaplain, with the rank of major.
Clarence Walter Johnson to be captain, Dental Corps.
James Earl Nonnan to be first lieutenant, Veterinary Corps.
Sanford H. Wadhams to be brigadier general, Medical Officers' Reserve Corps.

POSTMASTERS.

ARIZONA.

Lee L. Scott, Ajo.
Harry E. Jenkins, Cooley.
Ella G. Clarke, Florence.
David H. Weech, Pima.
Orvil L. Larson, Thatcher.
Frank O. Polson, Williams.

CALIFORNIA.

George C. Coggin, Armona.
Alice M. Burris, Baldwin Park.
William E. Mack, Banning.
Harry A. Hall, Bigpine.
William M. Smith, Brea.
Jackson James, Butte City.
Stanton K. Helsley, Ceres.
Charles B. Scheffer, Downieville.
George H. Burk, Elk.
Bessie L. Rogers, Esparto.
Zoe B. McCarty, Hammonton.
Lewis A. Barnum, Heber.
Grace M. Leuschen, Highland.
Edna F. Grant, Hopland.
John A. Liggett, Korbel.
Brayton S. Norton, Laguna Beach.
William R. Darling, Lakeside.
John W. Platt, Manteca.
Charles E. Wells, Maxwell.
Neal B. Vickrey, Mount Lowe.
Lawrance S. Wilkinson, Newport Beach.
Georgia Regester, Oakley.
Clara C. King, Ojai.
Spencer Briggs, Oleum.
Genevieve Frahm, Palmdale.
Edna B. Hudson, Perris.
Annie M. Lepley, Plymouth.
Wat Tyler, Puente.
Frederick C. Huntemann, Ripon.
Ollos D. Way, San Dimas.

FLORIDA.

Charles A. Miller, Crystal River.
Glenna J. Pedrick, Dunnellon.
Jesse E. Franklin, Glen St. Mary.
James T. Phillips, Greenville.
William H. Downing, High Springs.
Louis B. Ritch, Raiford.

IDAHO.

Justin B. Gowen, Caldwell.
William H. Shoup, Salmon.

KENTUCKY.

Carrie E. Groves, Clay City.

MINNESOTA.

Gena A. Hagen, Beaver Creek.
Lily M. Clark, Brownsdale.
George A. Etzell, Clarissa.
Albert Anderson, Clearbrook.
Julius Severson, Clitherall.
Alwyne A. Dale, Dover.
Otto A. Haggberg, Isle.
Charles S. Jameson, Littlefork.
August O. Lysen, Lowry.
Michael A. Callahan, Minneiska.
Thomas J. Godfrey, Northland.
Gertrude A. Muske, Swanville.

NEW JERSEY.

Lewis A. Shaw, Minotola.

NORTH DAKOTA.

Clifford E. Kelsven, Almont.
Nellie W. Fowler, Center.
Tom S. Farr, Hillsboro.

OHIO.

George F. Burford, Farmdale.

SOUTH CAROLINA.

Miriam J. Miller, Trenton.
Paul M. Davis, Donalds.
Lemuel Reid, Iva.
Susie J. Miller, Jefferson.
Harrison H. Watkins, McBee.
John W. Quick, Pageland.
Robert L. Plexico, Sharon.

SOUTH DAKOTA.

Charles A. Olson, Claremont.
Adams M. Wright, Hoven.
Mary J. Graves, Interior.
Gustaf A. Frederickson, St. Lawrence.
Jefferson C. Seals, Sioux Falls.
Harry C. Sherin, South Shore.

WISCONSIN.

Andrew C. Redeman, Amberg.
Mae F. Harris, Goodman.
William H. Froelich, Jackson.
Paul J. Zeidler, Lomira.
Louise Halberg, Mishicot.
John Theune, Oostburg.
Nicholas Lucius, jr., Solon Springs.
Otto G. Berge, Valders.
William H. Petersen, Waldo.

HOUSE OF REPRESENTATIVES.

MONDAY, *October 3, 1921.*

The House met at 12 o'clock and was called to order by the Speaker.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Our Lord and our God, again within the shadow of Thy presence all alarms have been stilled; we therefore, with quiet confidence come before Thee with thanksgiving. Settle and fix our plans and our purposes with the weight of Thy wisdom. Within the peaceful folds of Thy spirit, give counsel. Grant that all our achievements may bear the mark of a high and a splendid Christian faith. Look through our clouds and brush our tears away. Be our guide, our strength, our comfort, and our all, and Thine shall be the praise forever. In the name of Him who spake as never man spake. Amen.

The Journal of the proceedings of Saturday, October 1, 1921, was read and approved.

MESSAGE FROM THE PRESIDENT—ENACTMENTS OF THE PORTO RICO LEGISLATURE.

The SPEAKER laid before the House the following message from the President of the United States, which was read and referred to the Committee on Insular Affairs:

To the Senate and House of Representatives:

As required by section 23 of the act of Congress approved March 2, 1917, entitled "An act to provide a civil government

for Porto Rico, and for other purposes," I transmit herewith copies of certain acts and resolutions enacted by the Tenth Legislature of Porto Rico during its first session (February 14 to June 28, 1921, inclusive).

These acts and resolutions have not previously been transmitted to Congress and none of them has been printed.

WARREN G. HARDING.

THE WHITE HOUSE, *September 21, 1921.*

ORDER OF BUSINESS.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent to address the House for three minutes.

The SPEAKER. The gentleman from Wyoming asks unanimous consent to address the House for three minutes. Is there objection?

There was no objection.

Mr. MONDELL. Mr. Speaker, it is very gratifying to see so many gentlemen here after our brief recess. I trust gentlemen have had a very pleasant and restful time during the well-earned recess.

While the unanimous-consent agreement as to three-day recesses was to terminate to-day, my recollection is that the statement was made—at least it seems to be the impression among Members—that we were not to transact any business, or at least any business of importance, to-day. This is unanimous-consent day. Under the circumstances I think at the proper time I shall ask unanimous consent that on to-morrow we take up business that would be in order to-day.

When we recessed our expectation was that the Senate would be well along with its consideration of the tax bill by to-day. My understanding is that it is doubtful if the Senate will dispose of that measure for some days. In the meantime, as I view the matter, it does not seem highly important that the House should, for a few days at least, proceed to the regular consideration of business. There is committee work to be done which will be done whether the House is in session or not. The road bill is in conference, but my understanding is that it will be some days before an agreement can be reached. The apportionment bill has been reported, and before very long, within a reasonable time, the House should take it up for consideration. However, until the Senate has disposed of the peace treaty and the tax bill there is no probability of the Senate's giving attention to that measure if we should pass it, so that it is not essential that we should consider it for the next few days. On the 27th of November the emergency tariff bill expires. At a reasonably early day I assume that Members of the House will desire consideration of a measure extending that bill until such time as the general tariff bill becomes a law.

Having just arrived in the city, not having had opportunity to discuss legislative matters with Members, I am not now prepared to make any definite suggestion relative to the sessions of the next few days, but on to-morrow, after having talked the matter over with Members of the majority and the minority, I think we should have an agreement as to whether or no we shall proceed immediately to the consideration of business or have some further agreement for three-day recesses, for a brief period. For the present I ask unanimous consent, Mr. Speaker, that the business which is in order to-day shall be in order to-morrow.

The SPEAKER. The gentleman from Wyoming asks unanimous consent that the business in order to-day be in order to-morrow. Is there objection?

Mr. GARRETT of Tennessee. Mr. Speaker, reserving the right to object, that is business of the Unanimous Consent Calendar, as I understand?

Mr. MONDELL. Yes; and suspensions.

Mr. GARRETT of Tennessee. Of course.

The SPEAKER. Is there objection?

Mr. WALSH. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Wyoming if he is prepared to state whether or not Calendar Wednesday is to be observed this week? Is it the intention to observe it?

Mr. MONDELL. My intention is to meet the members of the steering committee and other Members of the House, of the majority and the minority, this afternoon, and arrive at a determination and understanding as to what it may be wise to do in the matter of procedure for the next few days, the balance of this week; until that time, until I have had an opportunity to discuss the matter with gentlemen on both sides, I am not in position to say whether or no we should dispense with Calendar Wednesday.

Mr. GARRETT of Tennessee. If the gentleman will permit, I would like to offer this suggestion: If it should be decided that it is the wise thing to do to arrange another series of three-day recesses, it seems to me it might be highly desirable that that fact should go to the country as quickly as possible, particularly to the Members who have not yet returned to the city. I myself have had communications from gentlemen on this side of the House inquiring as to the program and the probable time by which it shall be essential for them to return in order to meet important legislation. Of course I have not been able to advise them. Those of us who have traveled recently are aware of the fact that railroad fare is something of an item, and if we are to agree upon a time it seems to me desirable to agree as quickly as possible upon the status of business, so that those who come here shall not have to go away again.

Mr. MONDELL. I should like to meet gentlemen this afternoon and obtain from them an expression of opinion personally with regard to the matters we have discussed. At this time, at least, it can be said that we have under consideration the question of three-day recesses for a brief period, perhaps a week.

Mr. BYRNS of Tennessee. Will the gentleman yield?

Mr. MONDELL. I will yield.

Mr. BYRNS of Tennessee. I understand that if the gentleman's request is granted it will carry over until to-morrow the Unanimous Consent Calendar and the suspensions?

Mr. MONDELL. Yes.

Mr. BYRNS of Tennessee. Is it the purpose to call the Unanimous Consent Calendar to-morrow, or will the day be taken up by suspensions?

Mr. MONDELL. At this time I have no knowledge of any requests for suspension.

Mr. BYRNS of Tennessee. The reason I ask the gentleman the question is in view of the fact that I have a bridge bill on the Unanimous Consent Calendar, and there has been now more than a month's delay in making contracts.

Mr. MONDELL. Let me call the attention of the gentleman from Tennessee to the fact that I stated suspensions were in order to-morrow, not because of any known demand or request for suspensions, but because they will be in order.

Mr. BYRNS of Tennessee. I hope the gentleman will take the same interest in the bridge bills that he did before the recess, when he tried to get them up.

Mr. MONDELL. I did try to have all the bridge bills passed before the recess. I shall take an equal interest in them to-morrow.

The SPEAKER. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

Mr. GARRETT of Tennessee. Mr. Speaker, will the gentleman inform the House whether the conferees on the road bill have had any meeting during the recess?

Mr. MONDELL. I do not know.

Mr. GARRETT of Tennessee. In the measures mentioned by the gentleman that is a matter of the greatest importance.

Mr. MONDELL. I think it is a matter of interest and importance and a matter that should be disposed of as speedily as possible.

Mr. WALSH. Will the gentleman yield?

Mr. MONDELL. Yes.

Mr. WALSH. I simply wish to state that the revenue act, the printing of which was provided for in a Senate concurrent resolution, has been printed with the House bill and Senate amendments and the existing law and is available for distribution in the document room.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, one of its clerks, announced that the Senate had passed without amendment bills of the following titles:

H. R. 8365. An act to permit the use in the post office at Cincinnati, Ohio, of special canceling stamps bearing the words "Public Health Exposition, Cincinnati, Ohio, October 15 to 22, 1921"; and

H. R. 7578. An act providing for "Visit the Dunes, Michigan City," canceling stamp to be used by Michigan City, Ind., post office.

The message also announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 2359. An act providing for an International Aero Congress cancellation stamp to be used by the Omaha post office.

The message also announced that the Vice President had appointed Mr. BRANDEGEE and Mr. BROUSSARD members of the

joint select committee on the part of the Senate, as provided for in the act of February 16, 1889, as amended by the act of March 2, 1895, entitled "An act to authorize and provide for the disposition of useless papers in the executive departments," for the disposition of useless papers in the Smithsonian Institution.

ENROLLED BILLS SIGNED.

Mr. RICKETTS, from the Committee on Enrolled Bills, reported that the Committee on Enrolled Bills had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 8365. An act to permit the use in the post office at Cincinnati, Ohio, of special canceling stamps bearing the words "Public Health Exposition, Cincinnati, Ohio, October 15 to 22, 1921"; and

H. R. 7578. An act providing for "Visit the Dunes, Michigan City," canceling stamp to be used by Michigan City, Ind., post office.

SENATE BILL REFERRED.

Under clause 2, Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 2359. An act providing for an International Aero Congress cancellation stamp to be used by the Omaha post office; to the Committee on the Post Office and Post Roads.

DEATH OF REPRESENTATIVE TAYLOR OF ARKANSAS.

Mr. OLDFIELD. Mr. Speaker, it becomes my painful duty to announce the death of Hon. SAMUEL M. TAYLOR, a Member of Congress for many years from the State of Arkansas. He died in this city on September 13 last. At some future time I shall ask the House to set aside a day for memorial services. At the present time I offer the following resolutions.

The Clerk read as follows:

House resolution 193.

Resolved, That the House has heard with profound sorrow of the death of Hon. SAMUEL M. TAYLOR, a Representative from the State of Arkansas.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect this House do now adjourn.

The resolutions were agreed to.

ADJOURNMENT.

Accordingly (at 12 o'clock and 20 minutes p. m.) the House adjourned until to-morrow, Tuesday, October 4, 1921, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

235. Under clause 2 of Rule XXIV, a letter from the Secretary of Commerce, transmitting complete set of general rules and regulations prescribed by the board of supervising inspectors, Steamboat-Inspection Service, which have been approved by the Secretary of Commerce, was taken from the Speaker's table and referred to the Committee on the Merchant Marine and Fisheries.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. HILL: A bill (H. R. 8498) to provide for the erection of a new post-office building at Baltimore, Md., for the exchange of the present building and land with the mayor and city council of Baltimore City for new site, and for other related purposes; to the Committee on Public Buildings and Grounds.

By Mr. SNYDER: A bill (H. R. 8499) for extending the time within which allotments may be made in the Crow Reservation, Mont.; to the Committee on Indian Affairs.

By Mr. JOHNSON of South Dakota: A bill (H. R. 8500) authorizing the bestowal upon the unknown, unidentified Italian soldier to be interred in the national monument to Victor Emanuel II in Rome of the congressional medal of honor; to the Committee on Military Affairs.

By Mr. OLDFIELD: Resolution (H. Res. 194) authorizing the Clerk of the House to pay out of the contingent fund of the House to Chester W. Taylor and M. J. Taylor one month's salary as clerks to the late Hon. SAMUEL M. TAYLOR; to the Committee on Accounts.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FORDNEY: A bill (H. R. 8501) granting a pension to Annie M. Gage; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8502) granting an increase of pension to Jane Myers; to the Committee on Pensions.

By Mr. HICKS: A bill (H. R. 8503) authorizing the Secretary of War to donate to the village of Sag Harbor, State of New York, one German cannon or fieldpiece; to the Committee on Military Affairs.

Also, a bill (H. R. 8504) authorizing the Secretary of War to donate to the village of Babylon, State of New York, one German cannon or fieldpiece; to the Committee on Military Affairs.

By Mr. HOUGHTON: A bill (H. R. 8505) granting an increase of pension to James T. Gibbs; to the Committee on Pensions.

By Mr. RICKETTS: A bill (H. R. 8506) granting a pension to Mary A. Valentine; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8507) granting an increase of pension to Sarah H. Matheny; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8508) granting a pension to Harry Lee; to the Committee on Pensions.

By Mr. SANDERS of Indiana: A bill (H. R. 8509) granting a pension to John Whyte; to the Committee on Invalid Pensions.

By Mr. TIMBERLAKE: A bill (H. R. 8510) granting a pension to Mary J. Weaver; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

2635. By Mr. BARBOUR: Petition of residents of Reedley, Calif., opposing the passage of H. R. 4388, a bill for Sunday observance; to the Committee on the District of Columbia.

2636. Also, petition of residents of Kings County, Calif., opposing the passage of H. R. 4388, a bill for Sunday observance; to the Committee on the District of Columbia.

2637. Also, petition of the board of directors of California Citrus League, urging the repeal of section 15–A of the interstate commerce act; to the Committee on Interstate and Foreign Commerce.

2638. By Mr. CURRY: Petition of the California Citrus League, asking for the repeal of section 15–A of the interstate commerce act; to the Committee on Interstate and Foreign Commerce.

2639. Also, petition of 50 citizens of the third California district, for enactment of House bill 7, providing for a department of education; to the Committee on Education.

2640. By Mr. KISSEL: Petition of Thomas E. Morrissey, Esq., Brooklyn, N. Y., relative to taxation; to the Committee on Ways and Means.

2641. By Mr. RAKER: Petitions of T. H. Larkin, of Berkeley, Calif.; Lloyd H. Patterson, of San Francisco, Calif.; and Levy Bros., of Fresno, Calif., urging legislation relative to taxing governmental securities which are now tax free; to the Committee on Ways and Means.

2642. Also, resolution by the Northern California Hotel Association, San Francisco, Calif., urging support of an increased appropriation for Lassen National Park; also urging that the war tax on railroad transportation and the surcharge on Pullman fares be eliminated in the interest of "see America first"; to the Committee on Appropriations.

2643. Also, petition of the American Federation of Labor, urging the full recognition of the republic of Ireland; to the Committee on Foreign Affairs.

2644. Also, telegrams from C. T. Bliss, Tahoe Tavern, Calif., and J. L. Flanagan, president of the Northern California Hotel Association, Sacramento, Calif., protesting against 10 per cent tax on hotel-room earnings; to the Committee on Ways and Means.

2645. By Mr. SWING: Petition of various citizens of San Ysidro, Redlands, El Cajon, San Diego, and San Bernardino, Calif., protesting against the passage of H. R. 4388, the Sunday observance bill; to the Committee on the District of Columbia.

SENATE.

TUESDAY, *October 4, 1921.*

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

Our Father, we thank Thee that with the passage of time Thou art teaching us to number days and apply our hearts unto wisdom. Help us so to interpret duty that it may become the highest privilege of our lives to fulfill Thy good pleasure in the performance of every task committed to us. We ask in Christ our Lord's name. Amen.

The reading clerk proceeded to read the Journal of the proceedings of the legislative day of Monday, September 26, 1921, when, on request of Mr. MCCUMBER and by unanimous consent, the further reading was dispensed with and the Journal was approved.

CALL OF THE ROLL.

Mr. REED. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	France	McKinley	Smoot
Ball	Gerry	McLean	Spencer
Borah	Gooding	McNary	Sterling
Broussard	Hale	Myers	Sutherland
Calder	Harreld	Nelson	Swanson
Cameron	Harris	New	Trammell
Capper	Harrison	Nicholson	Underwood
Caraway	Heflin	Overman	Wadsworth
Colt	Johnson	Page	Walsh, Mass.
Culberson	Kellogg	Poindexter	Walsh, Mont.
Cummins	Ladd	Ransdell	Watson, Ga.
Curtis	La Follette	Reed	Watson, Ind.
Dial	Lenroot	Robinson	Willis
Dillingham	Lodge	Sheppard	
Ernst	McCumber	Simmons	
Fletcher	McKellar	Smith	

Mr. CURTIS. I wish to announce that the Senator from Illinois [Mr. MCCORMICK], the Senator from Nevada [Mr. ODDIE], and the Senator from Ohio [Mr. POMERENE] are detained in a committee meeting.

The PRESIDENT pro tempore. Sixty-one Senators have answered to their names. There is a quorum present.

REDISCOUNT RATES.

Mr. SHEPPARD. Mr. President, I ask permission to have printed in the RECORD a letter from Gov. Harding of the Federal Reserve Board with reference to rediscount rates. When I stated some weeks ago that Gov. Harding had not replied to a letter of mine on this subject I was in error. I wrote him later, however, and received the reply which I now ask to have published in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The letter is as follows:

AUGUST 26, 1921.

MY DEAR SENATOR SHEPPARD: I acknowledge receipt of your letter of the 25th instant and note your suggestion that the board give immediate consideration to the advisability of lowering the rediscount rate on paper secured by Liberty bonds to 3½ per cent and on agricultural and commercial paper to 4½ per cent.

It seems clearly to be the intent of the Federal reserve act (sec. 14) that changes in discount rates should be initiated by the directors of a Federal reserve bank rather than by the Federal Reserve Board. Each Federal reserve bank is authorized "to establish from time to time, subject to the review and determination of the Federal Reserve Board, rates of discount to be charged by the Federal reserve bank for each class of paper." While the Federal Reserve Board has occasionally modified rates that have been proposed by a Federal reserve bank, I do not recall that it has ever fixed a rate over the protest of the directors of a Federal reserve bank. As Federal reserve banks do not make loans direct to individuals, firms, or corporations, but merely rediscount paper for member banks, with their indorsement, it does not follow as a matter of course that a reduction in the discount rate at a Federal reserve bank would mean cheaper credit to the public. The Federal Reserve Board makes a continuous survey of all questions bearing upon rediscount rates and our information is that member banks generally throughout the country are not yet disposed to make any concessions in their rates. Some of them justify their position upon the theory that they have losses which must be charged off, and others say they are still overloaned. The statistical facts quoted in your letter are impressive and are used by many in predicting lower market rates for money. I think that when and as banks generally begin to look around for loans and to compete with each other for paper, market rates will decline and that such a decline will be reflected in the rediscount rates of the Federal reserve banks.

There will be a meeting before very long of the Federal advisory council, which is a statutory body, composed of one member from each Federal reserve district, and which has the power under the law to confer directly with the Federal Reserve Board on general business conditions, to call for information and to make recommendations in regard to discount rates, rediscount business, and the general affairs of the reserve banking system. At this meeting business conditions and rediscount rates will be fully discussed, to the exclusion, I think, of all other topics. Mr. R. L. Ball, chairman of the board of directors of the National Bank of Commerce of San Antonio, Tex., is the member of the Federal advisory council from your district.

It might be well, however, for merchants in the principal cities to inquire of their banks as to what the effect of lower rediscount rates at the Federal reserve bank would be on the rates of interest charged by the local member banks. If merchants generally would institute such an inquiry and would furnish the board with a synopsis of what they learn, I think the board would have a valuable line on the situation. Reports which have already been received indicate that in the smaller towns especially banks are not disposed to reduce their interest charges and would look upon a reduced rate at the Federal reserve bank as a source of additional profit to themselves. I have a letter this morning from Judge Ramsey, Federal reserve agent and chairman of the board of directors of the Federal Reserve Bank of Dallas, in which he says that he doubts seriously whether "if our rediscount rate on farm paper was reduced even as low as 4 per cent per annum this would find reflection in a much lower rate granted by member banks to individual borrowers."

The large increase in the gold holdings of the Federal reserve banks is due to the demoralized conditions of foreign exchanges, which has made necessary the large shipments of gold which have come to this country. As the United States produces a surplus both of raw materials and of manufactured products, it is the belief of some that a part, at least, of the recent increase in our holdings of gold should be regarded as a basis for long-time credit transactions which seem necessary if our trade with other countries is to continue. If, on the other hand, our present large gold holdings were deliberately made the basis for an undue extension of domestic credits, as might well be the case if our discount rates were made so low as to offer an alluring profit to almost all member banks in borrowing from their Federal reserve bank, there might develop a very dangerous condition in the United States. No small part of the responsibility of the Federal reserve system is to make sure that the consequences of this flood of gold are not wild speculation and unsound banking practices.

Sincerely, yours,

W. P. G. HARDING,
Governor Federal Reserve Board.

ORDER OF BUSINESS.

The PRESIDENT pro tempore. Petitions and memorials are in order.

Mr. MCCUMBER. Mr. President, I understand under the unanimous-consent agreement we are to go right on with the revenue bill.

The PRESIDENT pro tempore. The Chair is in doubt with regard to the proper interpretation of the unanimous-consent agreement. He is inclined to believe that the agreement does not exclude routine morning business, but will be glad to hear from those who were active in preparing the agreement upon that point.

Mr. FLETCHER. Mr. President, it will be recalled that the unfinished business really is Senate bill 665, on the subject of the Panama Canal tolls. We have agreed by unanimous consent to dispose of that measure next Monday, the 10th of October, and the first paragraph of the recent unanimous-consent agreement does not in any wise interfere with that. I wish to submit some observations upon that subject before we reach a vote. I do not desire to interfere with the orderly procedure of the revenue bill, and I would like to submit to members of the Finance Committee on both sides of the Chamber the question as to when will best suit their convenience for me to take 30 to 45 minutes in the discussion of the Panama Canal tolls bill. That measure ought to be considered. Up to this time there has been no discussion of it whatever. It looks like it is about to go by default. I myself wish to explain my own position in regard to it, and I shall be glad to take such time as will suit the convenience of those having in charge the revenue bill.

Mr. MCCUMBER. The Senator is right, of course, in saying that the unanimous-consent agreement makes the matter of first consideration the tolls bill, but the real question now before the Chair is whether or not morning business can be interposed. I call the attention of the Chair to the first paragraph of the unanimous-consent agreement. The first paragraph reads:

It is agreed by unanimous consent that the Senate will continue the consideration of the treaties with Germany, Austria, and Hungary to the exclusion of any other bill or resolution upon the calendar or that may be reported from a committee, or the consideration of other business that is not unanimously recognized as urgent, and will dispose of such treaties in the order named.

This certainly excludes morning business in the matter of the consideration of the treaties, because it says "of other business."

It reads, "to the exclusion of any other bill or resolution," and also "of other business."

The second paragraph takes into consideration the treaties and excludes all character of legislative business, and then makes a proviso which simply broadens the general exclusion, so that it may take in the particular bill H. R. 8245. It provides:

That if within the period outlined by the provisions of the first paragraph hereof no Senator is prepared to discuss the treaties, or either of them, then the Senate shall proceed at once—

At once—

to the consideration of H. R. 8245, the tax bill, so called, and will give that measure the right of way to the exclusion of other legislation until such time as the consideration of the treaties is resumed.

So that, taking into consideration paragraph 2, which eliminates the consideration of any other business at all, and considering the proviso affecting the paragraph as it does, it seems to me it clearly excludes morning business; and I think that was the general understanding.

Mr. LODGE. Mr. President, referring first to the suggestion of the Senator from Florida [Mr. FLETCHER], it seems to me that there can be no doubt of the right under the unanimous consent of Senators to make such observations or remarks as they choose in regard to the tolls bill. I myself desire to speak briefly on that subject before the vote is taken. I suppose we can probably dispose of it in one day.

But there is no doubt in my own mind that it was the intention of the unanimous-consent agreement to permit Senators to discuss the Panama Canal tolls bill if they desired to do so, and I think that the last proviso of the agreement makes it very clear that nothing shall interfere with the previous unanimous-consent agreement in reference to the Panama Canal tolls bill. It would, however, interfere with the unanimous-consent agreement if an attempt were made to cut off debate. I think there can be no doubt about that interpretation.

Now, as to the other point that is made, it seems to me that, strictly speaking, under these two provisos, one in reference to the taking up of the treaties and the other in regard to the tax bill, all other business is cut out if the point is made that it is not in order.

Mr. UNDERWOOD. If the Senator will allow me to interrupt him on that point, I desire to say that I concur with the Senator that the unanimous-consent agreement cut out all business except the treaties, the revenue bill, and the Panama tolls bill, unless it is urgent.

Mr. LODGE. I was going to say that it cuts out all other business unless it is urgent.

Mr. UNDERWOOD. I merely wish to say this if the Senator will allow me.

Mr. LODGE. I was proceeding to make the statement which the Senator has made when he interrupted me.

Mr. UNDERWOOD. The Senator from Massachusetts and I were together in making the agreement, and I do not want to get into a position which I really do not occupy. I repeat that the unanimous-consent agreement cuts out all business except the matters I have enumerated unless it is urgent. Now, who is to determine the urgency of the particular matter presented? That, of course, is for the Senate.

Mr. LODGE. The unanimous-consent agreement covers matters "unanimously recognized as urgent."

Mr. UNDERWOOD. As to whether a matter is urgent or not the Senate must determine. It seems to me the way to give an opportunity for that determination is that we shall whilst we are in the morning hour let Senators who have bills which they think are urgent ask unanimous consent for their consideration. I think that will work the matter out. If there is objection, such bills will go over.

Mr. LODGE. I was going to make the same point which the Senator from Alabama has just made, that if the point is made the agreement excludes all other business which "is not unanimously recognized as urgent," except the treaties, the tax bill, and the Panama Canal tolls bill. It would be my conception that if Senators have measures which are "unanimously recognized as urgent" they might present them in the morning hour. The Senator from New York [Mr. WADSWORTH] has such a measure. I also have a measure here, which I have held back on account of this agreement, which has been reported from the Committee on Foreign Relations, and which I think the question of time makes absolutely urgent. I refer to the joint resolution providing for the participation of the United States in the exposition to be held in celebration of the one hundredth anniversary of the independence of Brazil. Of course, if any Senator objects, both of the measures to which I refer would go over, but I think they come within the class of being urgent if they shall be so recognized by the Senate.

Mr. WATSON of Indiana. How much time, if the Senator will allow me to ask him, remains in which the measure to which he refers may be passed?

Mr. LODGE. The time has been extended to the end of the present month, but the measure will also have to pass the House of Representatives.

Mr. WATSON of Indiana. I did not suppose that anything was so urgent as the pending tax legislation.

Mr. LODGE. I do not think anything is so urgent, and if the Senator from Indiana objects that will be the end of the matter.

Mr. WATSON of Indiana. I rather thought that I should object to all other measures.

Mr. LODGE. I can find no fault with the Senator if he does so. I think he will be fully entitled to do so.

Mr. WATSON of Indiana. I have not any desire to place anything in the way of legislation which is really urgent if time is of the essence of the situation.

Mr. LODGE. I do not want to take time to explain the matter to which I refer, though it would only take me a moment. It is, however, urgent, for we must inform Brazil whether or not we will take the land she has set aside for the purpose of being assigned to the United States for our buildings.

Mr. McCUMBER. I understand that the measure to which the Senator from Massachusetts refers will not provoke any debate, will it?

Mr. LODGE. Of course, if it should provoke debate that would be tantamount to an objection, and the measure would have to be laid aside. I also regard as urgent the resolution which the Senator from New York desires to present. I do not know as to the other matters.

Mr. McCUMBER. I suggest to the Senator that I think we might dispose of those measures very quickly, and probably there would be no objection made to them.

Mr. LODGE. But I do not think ordinary morning business can be admitted under the unanimous-consent agreement if objection is made.

Mr. WATSON of Indiana. Of course, Mr. President, to my mind there is nothing so urgent as the speedy passage of the pending tax bill, but inasmuch as Senators desire to bring up certain measures which they think are very urgent, I shall make no objection unless they excite debate, and if they do, then I think that the debate itself will be an objection.

Mr. LODGE. Absolutely.

Mr. WATSON of Indiana. Because that takes away the unanimous-consent phase of the consideration of such measures.

The PRESIDENT pro tempore. The Chair understands that the Senator from North Dakota [Mr. McCUMBER] has already objected to morning business.

Mr. McCUMBER. I objected to morning business, Mr. President, as a general rule, with the exception of cases where a Senator claims that such business is important. I simply desired to go on record as stating that my own view was that the unanimous-consent agreement covered morning business as well as any other business.

Mr. WADSWORTH. Mr. President, the objection of the Senator from North Dakota having been made, and against which I have no criticism to offer, I simply desire to make a very brief statement.

On a former occasion the Congress by joint resolution authorized the President of the United States to confer the congressional medal of honor upon the unknown, unidentified French soldier buried under the Arc de Triomphe in Paris and also upon the unknown, unidentified British soldier who is buried in Westminster Abbey in London. Senators will recall that Gen. Pershing is now abroad conferring those decorations.

It seems now, Mr. President, that the Italian Government has taken definite and final steps to bury an unknown and unidentified soldier in the Victor Emanuel II Memorial at Rome, in Italy. The joint resolution which I desire to offer by unanimous consent is merely to authorize the President of the United States to confer the same congressional medal of honor upon the unknown, unidentified Italian soldier.

The PRESIDENT pro tempore. The Chair is in very grave doubt with regard to a proper construction of this unanimous-consent agreement so far as the present situation is concerned; but in view of the interpretation which has been given to it by those Senators who prepared it and the evident assent of the Senate to that interpretation the Chair will rule that, pending the execution of the unanimous-consent agreement, neither morning business nor any other business which is generally included in morning business may be transacted save by unanimous consent.

BESTOWAL OF MEDAL OF HONOR ON ITALIAN SOLDIER.

Mr. WADSWORTH. I therefore ask unanimous consent to introduce a joint resolution, and I also ask that it may be passed under a suspension of the rules.

The PRESIDENT pro tempore. Is there objection?

Mr. SMOOT. I should like to have the joint resolution read.

Mr. WADSWORTH. It is in exactly the same language as similar joint resolutions hertofore passed, but if the Senator desires to have it read let it be read.

The joint resolution (S. J. Res. 122) for the bestowal of the congressional medal of honor upon an unknown, unidentified Italian soldier to be buried in the National Monument to Victor

Emanuel II, in Rome, Italy, was read the first time by its title and the second time at length, as follows:

Whereas the Congress has authorized the bestowal of the congressional medal of honor upon unknown, unidentified British and French soldiers buried in Westminster Abbey, London, England, and the Arc de Triomphe, Paris, France, respectively, who fought beside our soldiers in the recent war; and

Whereas, animated by the same spirit of friendship toward the soldiers of Italy who also fought as comrades of the American soldiers during the World War, we desire to add whatever we can to the imperishable glory won by their deeds and to participate in paying tribute to their unknown dead: Now, therefore, be it

Resolved, etc., That the President of the United States be, and he is hereby, authorized to bestow, with appropriate ceremonies, military and civil, the congressional medal of honor upon the unknown, unidentified Italian soldier to be buried in the National Monument to Victor Emanuel II, in Rome, Italy.

Mr. WADSWORTH. I ask unanimous consent for the immediate consideration of the joint resolution.

The Senate, by unanimous consent, proceeded to consider the joint resolution as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

HUNDREDTH ANNIVERSARY OF INDEPENDENCE OF BRAZIL.

Mr. LODGE. I ask unanimous consent for the present consideration of the joint resolution (S. J. Res. 114) accepting the invitation of the Republic of Brazil to take part in the international exposition to be held in Rio de Janeiro in 1922. The joint resolution has been reported to the Senate by the unanimous approval of the Foreign Relations Committee. The Government of Brazil has invited the United States to take part in the exposition to be held on the 7th day of September, 1922, in celebration of the one hundredth anniversary of their independence. I need not dwell on the relations between this country and Brazil, which have been of the most friendly character. I will merely remind the Senate that at the St. Louis Exposition Brazil expended $600,000—a large sum for that country—in erecting a building and participating in the exposition held there.

The passage of the joint resolution is recommended by the President and by the Secretary of State, as well as by the Foreign Relations Committee. It involves a commission to be sent to Brazil, and authorizes the expenditure of a million dollars to provide for the participation by the United States in the Rio de Janeiro Exposition. Answer should be sent to Brazil by the 31st of October, as Brazil has postponed for one month the time within which action may be taken. The matter has been pressed upon me by the State Department, and therefore I venture to call up the joint resolution and ask unanimous consent for its immediate consideration. Of course, it will also have to pass the House.

Mr. REED. How much money does the joint resolution involve?

Mr. LODGE. A million dollars.

Mr. ROBINSON. Mr. President, if the Senator from Massachusetts will yield to me, the exposition at Rio de Janeiro will be held, as I understand, a year from now?

Mr. LODGE. Yes; but there is immediately involved the question of the land which the Brazilian Government is setting aside for the various countries expecting to participate in the exposition.

Mr. ROBINSON. Would it, in the opinion of the Senator from Massachusetts, work any very great inconvenience to allow this matter to go over for the present so that it may be considered by the Senate in detail? As the Senator knows, we are working under a unanimous-consent order.

Mr. LODGE. If there is the slightest objection to the joint resolution, of course it can not be considered.

Mr. ROBINSON. I do not know that I object; I know nothing whatever about it, except the statement just made by the Senator from Massachusetts, and I could not hear that very well on account of the confusion in the Chamber.

Mr. LODGE. I will repeat it to the Senator; it will take me only a moment to do so. Brazil is about to celebrate the hundredth anniversary of her independence; she has invited us to take part in that celebration, in connection with which an international exposition is to be held, to consist of exhibits relating chiefly to farming, agriculture, and kindred industries. They have proposed to set aside for us a large tract of land on which the United States will erect a building and install exhibits. They have postponed the decision a month on our account, and we ought to inform them before the end of the present month. The joint resolution must pass the House also. In view of our relations with Brazil I think it very desirable that the joint resolution should pass, and that was the view of the committee. If we take any action at all, we must not be niggardly about it.

Mr. McKELLAR. Mr. President, as I understand, there was no objection on the part of any of the members of the committee, but the committee were unanimous.

Mr. LODGE. There was no objection whatever.

Mr. BORAH. There was not any objection on the part of the committee, but I was not present. I do not wish to object to the joint resolution having a hearing now, but I do want to say a word about it before it shall pass.

Mr. LODGE. That is sufficient. Of course I withdraw the request.

Mr. ROBINSON. I make no objection to the consideration of the joint resolution.

Mr. REED. Mr. President, I understand that the joint resolution called up by the Senator from Massachusetts is not to be voted upon this morning. I therefore desire to address myself to the pending bill.

The PRESIDENT pro tempore. The Chair understands that the request of the Senator from Massachusetts is withdrawn.

Mr. LODGE. Yes; I withdraw the request, Mr. President.

The PRESIDENT pro tempore. The Chair desires to say to the Senator from Florida that in the ruling which he just made there was no reference to the bill with regard to the Panama Canal tolls. The Chair understands that upon motion that bill may be brought before the Senate in perfect accord with the unanimous-consent agreement.

Mr. LODGE. That is on the assumption, of course, that no Senator desires to consider the treaties, because if there is such a desire the treaties have the right of way.

TAX REVISION.

Mr. McCUMBER. I ask that the revenue bill may be laid before the Senate and proceeded with.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

Mr. REED obtained the floor.

Mr. BORAH. Mr. President, will the Senator yield for just a moment?

Mr. REED. Certainly.

Mr. BORAH. I think I ought to state that the tolls bill is to be voted on next Monday, and if any Senator wants to discuss it in the meantime and will signify a desire to do so I will try to make arrangements to have it before the Senate for that purpose. I want the Senate to understand that there will be an opportunity to discuss it if anyone desires to do so.

Mr. FLETCHER. Mr. President, I have already stated that I propose to submit some remarks on the question. I should like to meet the convenience of the committee having charge of the revenue bill. I can proceed at any time that they desire.

Mr. REED addressed the Senate. After having spoken for some time,

Mr. WALSH of Massachusetts. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Missouri yield to the Senator from Massachusetts?

Mr. REED. I yield.

Mr. WALSH of Massachusetts. The Senator from Missouri is making a very elaborate and exhaustive presentation of the bill, and it seems to me we ought to have a larger attendance. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hale	McNary	Smith
Ball	Harreld	Moses	Smoot
Borah	Harris	Nelson	Spencer
Brandegee	Harrison	New	Stanley
Broussard	Heflin	Nicholson	Sutherland
Calder	Johnson	Norbeck	Swanson
Capper	Kendrick	Oddie	Trammell
Caraway	Kenyon	Overman	Underwood
Culberson	King	Page	Wadsworth
Cummins	Ladd	Pittman	Walsh, Mass.
Curtis	La Follette	Poindexter	Walsh, Mont.
Dial	Lenroot	Pomerene	Warren
Dillingham	Lodge	Ransdell	Watson, Ga.
Elkins	McCormick	Reed	Watson, Ind.
Ernst	McCumber	Robinson	Willis
Fletcher	McKellar	Sheppard	
Gerry	McKinley	Shields	
Gooding	McLean	Simmons	

The PRESIDENT pro tempore. Sixty-nine Senators having answered to their names, there is a quorum present. The Senator from Missouri will proceed.

Mr. REED resumed his speech. After having spoken for some time,

The VICE PRESIDENT (at 1 o'clock p. m.). The morning hour having closed, the Chair lays before the Senate the unfinished business, which will be stated.

The ASSISTANT SECRETARY. A bill (S. 655) to provide for free tolls for American ships through the Panama Canal.

Mr. LODGE. I ask unanimous consent that the unfinished business be temporarily laid aside, unless some one desires to address the Senate upon it.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the Senator from Missouri will proceed.

Mr REED's entire speech is as follows:

Mr. REED. Mr. President, I have desired to submit and shall submit some remarks myself on the Panama Canal tolls bill, but it seems that matter is not now being pressed. Therefore, I shall proceed with a discussion, which I hope will be reasonably brief, of the pending measure, the revenue bill.

Mr. President, here is a singular situation. A bill proposing to raise over $4,000,000,000 by taxation is brought to the Senate. Not one of its sponsors has arisen to explain its terms or eulogize its virtues. They simply drop it like an illegitimate baby on the public door step and run. They have not had the grace to append the anonymous legend usually attached to the skirt of the child of shame, "Please be kind to the baby; it was not to blame." Candor, however, compels the admission that they still manifest a slight interest in the fate of their offspring, for they can be observed lurking in the neighborhood.

Apparently these learned gentlemen are aware that the fifth amendment provides that "no person shall be compelled in any criminal case to be a witness against himself," and have concluded to exercise their constitutional right and "stand mute."

As we contemplate this attitude of silence Pope's lines are recalled:

> Silence co-eval with eternity,
> Thou wert, ere nature's self began to be,
> 'Twas one vast nothing, etc.

Likewise we think of another verse:

> Silence, the knave's repute, the bawd's good name,
> Thy very want of tongue makes thee a kind of fame.

I presume, however, my friends prefer a still later verse, which I present as a balm to their wounds:

> Silence,
> The country wit, religion of the town,
> The courtier's learning, policy of the gown,
> Are best by thee expressed and shine in thee alone.

Mr. President, so much for the remarkable performance of presenting a bill without a word of explanation, evidently with the idea that the less said about the thing the better.

I now want to discuss for a moment the simplicity of this measure.

We were also assured the bill would be made so plain that any taxpayer could understand it; but they constructed a labyrinth so complicated that the members of the committee, lost in bewildering mazes, required the constant services of five Treasury experts to guide them along its crooked ways. Indeed, three or four of them are kept constantly in the Senate lest the chairman of the committee and his cohorts shall even now take the wrong track and get themselves lost again.

This is not said in derogation of the intelligence or industry of the majority members of the committee, for at this blessed moment even the guides have themselves become confused as to directions and dispute "whether the snake that made the track was going south or coming back."

Badly confused as the makers of this measure become, they appear never to forget that the two fixed stars of their enterprise are the reduction of taxes on swollen incomes and corporate profiteers. They intend that toward these two objectives all paths shall ultimately lead, however devious their meanderings.

These gentlemen appear to have artfully concluded that by preserving a considerable part of the phraseology of the present law and patching their ideas and schemes on to that they can so intermix the two as to escape detection. Their sagacity bears a close resemblance to the device of the colored chicken thief who keeps to the traveled path, hoping that his footprints may not be distinguished from the honest man who preceded him. I heard one of the architects of this conception declare, "We have maintained the greater part of the present law which the Democrats wrote. They can not complain."

The argument, however, will not suffice. The present law was enacted as a war measure. It was amended when the Treasury was suddenly confronted by unprecedented demands. There was no time for deliberation. An emergency had to be met and met at once. But, sir, within three months after its enactment, and over three years ago, President Wilson forcibly called attention to the necessity for the adoption of a permanent plan of taxation suitable to a time of peace.

The Republican Party has for three years been in complete control of both branches of Congress. It can not plead lack of time, neither can it deny that it has had the opportunity to act in the light of experience.

Mr. President, I propose to refer very briefly to the existing fiscal condition, and I shall then proceed to an analysis of this bill.

The expenditures as estimated by the Secretary of the Treasury on the 3d day of August, 1921, for the fiscal year beginning on the 1st day of July, 1921, and ending on the 30th day of June, 1922, were $4,554,012,817.

The revised estimate of the Secretary of the Treasury made on the 10th day of August, 1921, fixes the aggregate at $4,034,012,817, being a reduction of $520,000,000 from the previous estimate.

This is accomplished by a promised reduction in the disbursements of the various departments as follows:

War Department	$50,000,000
Navy Department	100,000,000
Shipping Board	100,000,000
Department of Agriculture	25,000,000
Railroads	50,000,000
Miscellaneous	25,000,000
Total	350,000,000

In addition to this the Treasury Department has concluded to refund certain public debts aggregating $170,000,000 instead of paying them off.

It is the old story of the man who renewed his promissory note and then said: "Thank God, that debt is paid!"

This public debt is made up of $100,000,000 of war-savings certificates, and seventy millions of dollars indebtedness incurred for the retirement of the Pittman Act certificates for purchase of silver bullion. Adding the $170,000,000 to the $350,000,000 alleged savings, there is effected a grand total of reduction of $520,000,000.

The $50,000,000 saved in the War Department is not on account of the reduction in the size of the Army. That reduction had already been included in the sum of $66,687,047.90, which represents the decrease of Army appropriations for 1922 under 1921.

There has been no specification filed showing how the $520,000,000 is to be saved, or how any of the saving is to be made on the other items, except that it is stated that they propose to renew the $170,000,000 indebtedness instead of paying it.

It is important to inquire how the promised reduction in expenditures of $350,000,000 is to be brought about. Clearly, if it is proposed that all work ordered to be done by Congress is to be carried on but at a smaller expense, then there will be an actual saving.

But if the expenditures are to be reduced by discontinuing and abandoning the work ordered to be done by Congress, then there has been no saving whatever, for the country is deprived of the benefit of the improvements ordered to be made.

In the latter case all that has been done is the arbitrary nullification by subordinate officers of the Government of the acts of Congress, for which, if these officers occupy positions of sufficient dignity to warrant impeachment, impeachment should be had.

If the method of saving now referred to is justifiable and were carried out to its logical conclusion, then the entire Army might be dismissed, the Navy junked, road building stopped, rivers and harbors abandoned, all employees of the Government discharged, and the salaries of the President, of Congress, and the judges and officers of the courts stopped. In this event government would cost nothing whatsoever, since we would have no Government.

As to methods of saving, there have been letters sent here to which are attached two or three other communications, and there is no man in heaven above or the earth beneath who can tell anything about the proposition as stated in those letters. This information has not been furnished to the committee, and except in certain instances I am uable to give it.

Perhaps a good illustration is found in the treatment of the rivers and harbors appropriation.

When the appropriation was made Congress took into consideration all of the unexpended balances, the contracts which were actually outstanding, the condition of the work, and the absolute necessity of protecting works already created and of completing work in process of construction, and thereupon cut the appropriation to $15,000,000.

Now comes the Budget Board and proceeds to cut the appropriation by 25 per cent, thus, in fact, reducing the appropriation of the last Congress from $15,000,000 to $4,000,000. As all of the money under the old appropriation is either spent or obligated the result is that the cut must necessarily nearly all be made out of the $15,000,000 appropriated by the last Congress. The action of the Budget Board is nothing more nor less than

an impudent assertion of the right to revise and set aside the action of the legislative bodies.

We are told that one of these reductions is $25,000,000 in the Agriculture Department, and the information, as far as we are able to get it, is that they propose to effect that reduction by withholding $25,000,000 from the building of roads. In other words, these gentlemen assume the right to stop the road building which Congress authorized and ordered. Moreover, it means that other road building to the value of from $50,000,000 to $75,000,000 will be arrested in this country because the Government frequently contributes only 25 per cent to the building of the roads, and the balance of the expense is borne by the States or by local communities. This, as far as I am advised, is the method of saving. I denounce it as illegal. I denounce it as a defiance of the power of Congress. I denounce it as a willful nullification of the will of Congress. I assert that if it is allowed to proceed Congress has forfeited the greatest right legislative bodies of a free country have ever possessed, namely, the right to say how much money shall be spent and where and how it shall be applied.

As already stated, the estimated expenses of the Government for the ensuing year are $4,034,012,817.

It is proposed to raise that sum from the following sources by the pending bill:

Source of tax.	Revenue collections during the fiscal year—		
	1921, actual collections.	1922, estimated.	1923, estimated.
Customs	$308,564,391	$275,000,000	$350,000,000
Internal revenue:			
Income tax		850,000,000	750,000,000
Personal		430,000,000	540,000,000
Corporation	3,225,790,653	600,000,000	150,000,000
Profits tax		230,000,000	300,000,000
Back taxes, I. and P.			
Miscellaneous	1,369,210,112	1,214,000,000	995,700,000
Miscellaneous:			
Sale of public land		1,500,000	1,500,000
Federal reserve bank		60,000,000	60,000,000
Interest on foreign obligations	719,941,589	25,000,000	25,000,000
Repayment of foreign obligations		30,000,000	30,000,000
Sale of surplus war supplies		200,000,000	100,000,000
Panama Canal receipts		14,500,000	15,000,000
Other miscellaneous		156,000,000	150,000,000
Total	5,623,506,745	4,086,000,000	3,467,200,00

I intend to discuss this measure only with reference to four or five of its principal items.

I shall undertake to show: First, that the bill decreases the burden borne by individuals possessing great fortunes and the individuals and corporations making great profits. In other words, the bill decreases taxation upon the very rich and upon the profiteers.

Second, that in proportion as the taxes are lightened upon the two classes named, the burden is inevitably shifted to those citizens who do not possess great fortunes and who do not engage in profiteering practices.

SURTAXES.

I print a table from the majority report of the committee which shows in parallel columns the surtaxes levied under existing law and those which will be levied under the pending bill:

Income.	Surtax rates under—	
	Existing law.	Proposed bill, as reported to the Senate.
	Per cent.	*Per cent.*
$5,000 to $6,000	1	
$6,000 to $8,000	2	1
$8,000 to $10,000	3	2
$10,000 to $12,000	4	3
$12,000 to $14,000	5	4
$14,000 to $16,000	6	5
$16,000 to $18,000	7	6
$18,000 to $20,000	8	7
$20,000 to $22,000	9	10
$22,000 to $24,000	11	11
$24,000 to $26,000	10	12
$26,000 to $28,000	12	13
$28,000 to $30,000	13	14
$30,000 to $32,000	14	15
$32,000 to $34,000	15	16
$34,000 to $36,000	16	16
$36,000 to $38,000	17	17
$38,000 to $40,000	18	18
$40,000 to $42,000	19	19
$42,000 to $44,000	20	20
$44,000 to $46,000	21	21
$46,000 to $48,000	22	22
$48,000 to $50,000	23	23
$50,000 to $52,000	24	24
$52,000 to $54,000	25	25
$54,000 to $56,000	26	26
$56,000 to $58,000	27	27
$58,000 to $60,000	28	28
$60,000 to $62,000	29	29
$62,000 to $64,000	30	30
$64,000 to $66,000	31	31
$66,000 to $68,000	32	32
$68,000 to $70,000	33	32
$70,000 to $72,000	34	32
$72,000 to $74,000	35	32
$74,000 to $76,000	36	32
$76,000 to $78,000	37	32
$78,000 to $80,000	38	32
$80,000 to $82,000	39	32
$82,000 to $84,000	40	32
$84,000 to $86,000	41	32
$86,000 to $88,000	42	32
$88,000 to $90,000	43	32
$90,000 to $92,000	44	32
$92,000 to $94,000	45	32
$94,000 to $96,000	46	32
$96,000 to $98,000	47	32
$98,000 to $100,000	48	32
$100,000 to $150,000	52	32
$150,000 to $200,000	56	32
$200,000 to $300,000	60	32
$300,000 to $500,000	63	32
$500,000 to $1,000,000	64	32
$1,000,000 and over	65	32

In passing, I merely pause to say that the changes in the taxation of incomes below $66,000 are almost inconsequential, with the single exception of an increased exemption to those who have dependents or children. But when we reach the point of a $66,000 income the surtaxes (which under the present law continue to advance to 65 per cent on the surplus above $66,000 income) cease advancing and remain at the flat rate of 32 per cent.

I print a table from the majority report in parallel columns. This table shows the results of the different rates of taxation when applied to specific incomes. Column No. 1 shows the amounts paid upon specific incomes under the present law; column No. 2 the amounts which will be paid under the pending bill.

Income tax revenue upon specified incomes under existing law and the bill as reported to the Senate.

[Tax computed on the basis of the net income of a married man without dependents.]

Income.	Present law—surtax.	As reported to the Senate—surtax.
$2,000		
$2,500		
$2,500[1]		
$3,000		
$3,000[1]		
$4,000		
$4,000[1]		
$5,000		
$5,000[1]		
$8,000	$10	
$8,009	50	$20
$10,000	110	60
$12,000	190	120
$14,000	290	200
$16,000	410	300
$18,000	550	420
$20,000	710	560
$25,000	1,200	1,100
$30,000	1,810	1,760
$40,000	3,410	3,400
$50,000	5,510	5,500
$75,000	12,950	12,780
$100,000	23,510	20,780
$150,000	49,510	36,780
$200,000	77,510	52,780
$300,000	137,510	84,780
$500,000	263,510	148,780
$1,000,000	583,510	308,780
$2,000,000	1,233,510	628,780
$3,000,000	1,883,510	948,780
$5,000,000	3,183,510	1,588,780

[1] Net income not in excess of $5,000.

I want to call attention to a few of these figures, and only a few.

Under the present law an income of $200,000 pays a surtax of $77,510. Under the proposed law the tax would be reduced to $52,780.

An income of a million dollars under the present law pays $583,510; under the proposed law it would pay only $308,780.

An income of $2,000,000 under the present law pays $1,233,510, and under the proposed law would pay $628,780.

An income of $5,000,000 under the present law pays $3,183,510; under the proposed law it would pay $1,588,780.

Mr. OVERMAN. Mr. President, has the Senator the total amount raised under the present law, and how much will be saved to these great millionaires if this bill becomes a law?

Mr. REED. I will give those figures as I proceed, so that they will be reasonably plain.

It is to be observed that under the present law there is a graduated increase of surtax rates from $5,000 up, continuing until the income reaches $1,000,000, and from that point on at the rate of 65 per cent. Under the pending bill there is a reduction of 1 per cent on the excess over $5,000 on incomes of from $5,000 to $20,000. The range of reduction for this bracket, therefore, is from a few cents to $150, the latter amount applying to a $20,000 income.

There is no substantial change in incomes between $36,000 and $66,000. When the income reaches $66,000, the tax ceases to increase and remains at 32 per cent. The reduction on these incomes by the present bill above $68,000 therefore ranges from 2 to 33 per cent, dependent upon the size of the income.

The actuaries estimate that this change results in a loss to the Government of approximately $100,000,000, of which amount there will be, as I have stated, a saving to those who enjoy incomes in excess of $66,000 per annum of $90,000,000.

The actuaries estimate that these total changes in the law result in a loss to the Government of $100,000,000, of which amount there will be, as I have stated, a saving of $90,000,000 to those who enjoy incomes above $66,000 per annum.

Mr. BORAH. Mr. President, are we to understand that the $90,000,000 is the amount which the Senator estimates will be saved from the large incomes by the change from the old law to the proposed new law?

Mr. REED. Exactly. It is not my estimate, however. It is the estimate of all the actuaries of the Government who have been working on the bill. There have been a number of them, and I have no doubt their figures are exceedingly conservative on this particular item.

Mr. SIMMONS. Mr. President, I will say to the Senator that my understanding is that the committee itself accepted that estimate in reporting the tax bill.

Mr. REED. There has been no dispute about it.

Mr. SIMMONS. None whatever.

Mr. REED. Now, let us understand it. The bill proposes at one stroke of the pen to take $90,000,000 of the burden of taxation from those individuals who have incomes annually in excess of $66,000. I think if we could get the attention of the Senate to one or two items of that kind the bill would be sent back to the committee, where it ought to go.

There are in the United States, according to the estimate, 12,000 individuals with incomes in excess of $66,000. These 12,000 individuals, as I have stated, will be benefited by the change in the law to the amount of $90,000,000. There are in the United States 6,493,000 individuals who have taxable incomes below $68,000. I will use the figure $68,000, because there is an exemption of $2,000 that comes in there. The tax taken off of 12,000 individuals with incomes in excess of $68,000, to wit, $90,000,000, must be made up by taxes paid by the rest of the people and the business institutions of the United States.

The burden of this enormous sum of $90,000,000 is shifted from the well-represented 12,000 individuals possessing swollen incomes to the backs of the common and unrepresented masses. This startling fact is illustrative of the purpose of those who inspired the bill, and characterizes the entire policy of the scheme.

As was said by the Senator from North Carolina [Mr. SIMMONS], an income of $68,000 is nearly 6½ per cent on $1,000,000. It is fair to presume that a man receiving that income has property of the value of $1,000,000. As there are 12,000 of those individuals, the proposition of the bill is to relieve 12,000 millionaires of $90,000,000 of taxation annually and to place that burden upon the people and the industries of the country who do not possess these vast fortunes. If we can get the Senate to pay enough attention to the bill to get that figure in its head, then the Senate will defeat the bill or the country will know that what has been charged for many years against the Republican Party has been verified and demonstrated, to wit, that its real master is in Wall Street.

[At this point Mr. WALSH of Massachusetts raised the question of a quorum and the roll was called.]

Mr. REED. Mr. President, I was just pointing out the fact that the present bill takes $90,000,000 off of 12,000 men enjoying incomes in excess of $68,000, that an income of $68,000 is equivalent to the interest upon $1,000,000, and that, therefore, the bill is a bill to take $90,000,000 off of the backs of 12,000 millionaires and place that burden upon the industries and people of the United States who are not favored by the possession of these large fortunes.

Now, there have been various reasons offered or excuses advanced for this remarkable performance. I propose to analyze those excuses and to show, if I am able, that they are without any substantial merit.

First, the argument is that the exaction of surtaxes will lead these fortunate persons who have large incomes to invest in nontaxable securities.

To this there are two answers. If a tax above 32 per cent will lead to the investment in nontaxable securities, then a tax of 32 per cent will do exactly the same thing, for no nontaxable security bears any interest approximating 32 per cent.

Second, persons enjoying incomes of the character under discussion have already invested in nontaxable securities. They will continue to do so, as will every other heavy tax bearer, until the nontaxable securities are absorbed or until the law is amended to control the matter by statute where it is necessary.

As a matter of fact, those who are reached by the high surtaxes are the very wealthy people of the country, and it is safe to say that, excluding savings banks and similar institutions, the very rich already hold practically all of the nontaxable securities on the market. The argument, therefore, is a subterfuge; it is unsound, and it will not stand the test of analysis.

Third. It is claimed that certain persons possessing enormous incomes are investing their money in real estate and in mining properties with the intention of holding those properties for an advance in the market; that some of them have resorted to devices whereby they purchase such property almost entirely on deferred payments and then charge the interest upon these payments against their incomes, thus reducing the amount of the income; and that, because of these devices, which can be characterized as nothing else than fraudulent schemes to cheat the Government of its taxes, the Government is compelled to submit to the fraud or reduce the burden of taxes. That, indeed, was the argument and the very illustration used by the Secretary of the Treasury in advancing his reasons for reducing the surtax upon very large incomes.

There are two answers which, in my judgment, are conclusive. In the first place, if an individual buys property and holds it for a long period of time for an advance, then he must pay taxes on that property while he is holding it to the State and the county of the location, and if he has invested any considerable amount of money he must be deprived of the use of that money for a long period of time. That will not be a very pleasant sensation to a man who likes to collect a large income. At the end of that period of time he must sell or use the property in order to realize, and he must at that time pay to the Government a tax on the profits he has realized on the transaction; and the profits coming, probably, in bulk, would result in a very high, if not the maximum, rate of taxation. The inducement, therefore, does not exist, or, at least, it exists in a very small degree.

If, upon the other hand, he resorts to the fraudulent scheme to which I have referred and has invested but a small amount of cash, giving his notes, bearing interest, and deducts that interest from the amount of his income, he may for a time postpone the evil day when he must pay his taxes. But when he comes to sell the property, having already been allowed his interest upon the indebtedness incurred in purchasing the property, and being therefore out practically no money, substantially all that he makes out of the property will be profit, and he will have a settlement to make with the tax collector, which will disabuse his mind of the idea that his scheme is a profitable one.

I venture to say that the devices referred to will not long be pursued and that in the end the Government will get its money.

I make the same argument here that I previously advanced with reference to the investment in nontaxable securities; that is, whoever would resort to such devices to escape a surtax of 65 per cent would be very likely to resort to the same schemes if the surtax is 32 per cent. Carried to its logical conclusion, the argument I am discussing would result in the Government levying no taxes upon incomes because the taxpayer might be induced, in order to escape paying any taxes at all, to invest his money in nontaxable securities.

Concluding this thought, let me say that we have always had nontaxable securities. The result has been not that those secu-

rities have advanced in the market because of the bidding for them, but the municipalities and States authorized to issue bonds have reduced the rate of interest because of the demand. Accordingly that portion of what constitutes the general public debt has borne a less burden than it otherwise would. Further than this, there is a limit to such securities. They have been practically absorbed and are now held by the possessors of great incomes.

There is no excuse for placing the man who has a million-dollar income upon the same level of taxation as the man with a $66,000 income any more than there is excuse for placing a man with a $66,000 income on the same basis of taxation as the man who has an income of only $1,000.

I venture the assertion that when the people of this country understand what is being done to them here by these gentlemen who do not undertake to defend this measure, and who I think hope to pass the bill by a conspiracy of silence; when the people learn the truth they will have something to say to those who vote for this infamy.

I come now, Mr. President, very briefly, to consider the excess-profits tax. Under the present law a corporation is entitled to an absolute exemption from taxation of $2,000 of income. If, therefore, the income of a corporation is less than $2,000 it pays no tax whatever to the Government, except a capital stock tax, which I propose to discuss in a moment. If a corporation does make $2,000 and not in excess of $2,000, plus 8 per cent on its invested capital, it pays no excess-profits tax, but does pay a tax of 10 per cent on its profits above $2,000. If a corporation makes profits over and above those just mentioned, including exemption, then upon the difference between 8 per cent, plus the exemption, and 20 per cent profit on its invested capital, it pays an excess-profits tax of 20 per cent. On all profits above 20 per cent it pays an excess-profits tax of 40 per cent, and, in addition, a tax of 10 per cent on its net income after the excess-profits tax has been deducted from the net income, less the $2,000 exemption.

Let us see how this works. Take, for illustration, a corporation having $100,000 of invested capital. If at the end of the year's business it has made less than $2,000, it pays no tax whatever. If at the end of the year's business it has made $11,000, or, in this instance, it has made $8,000, or 8 per cent on its invested capital, plus the $3,000 exemption, a total of $11,000, it pays no excess-profits tax but does pay a tax upon 10 per cent of $11,000 minus the $2,000 exemption; that is to say, it pays 10 per cent on $9,000 or a tax of $900. If its profits are 20 per cent, or $20,000, it then pays an excess-profits tax and a normal tax.

The excess-profits tax is arrived at as follows:

First, there is deducted from the $20,000 profits the $11,000 aforesaid, leaving subject to the excess-profits tax $9,000. This $9,000 is taxed at 20 per cent, making $1,800 excess-profits tax.

The normal tax is arrived at as follows:

From the total of the net income is first deducted the $2,000 exemption, reducing the total net income to $18,000. From the $18,000 is then deducted the $1,800 of excess-profits tax, leaving a balance of $16,200. Upon this $16,200 the corporation pays the normal tax of 10 per cent.

In the illustration just given the total tax paid by the corporation would be $1,800 excess-profits tax plus $1,620 normal tax, or a total of $3,420.

If, however, the profits exceed 20 per cent, then upon the excess of the profits above 20 per cent the corporation pays an excess-profits tax of 40 per cent. Applying this to the previous illustration, and assuming in this instance that the corporation makes a profit of 50 per cent, the corporation would pay a tax as follows:

First, an excess-profits tax of 20 per cent on the first $20,000 of its profits, minus 8 per cent upon its invested capital, plus the $3,000 exemption, or a total of $11,000; that is to say the corporation pays a 20 per cent excess-profits tax on $9,000, or $1,800; and in addition it pays 40 per cent on the $30,000 of net income which is in excess of the 20 per cent already accounted for, or a tax of $12,000.

The entire excess-profits tax is, therefore, $1,800 plus $12,000, or $13,800. This $13,800 is then deducted from the net income of $50,000, minus the $2,000 exemption, or $48,000, leaving a balance of $34,200, upon which the corporation pays a normal tax of 10 per cent, or $3,420.

In the illustration used the corporation, therefore, pays an excess-profits tax of $13,800 and a normal tax of $3,420, a total of $17,220, and has left a profit of 32.78 per cent on its invested capital.

Under the Senate bill a corporation is entitled as at present to an exemption of $2,000 of income from taxation. On all income in excess of $2,000 it pays a flat normal tax of 15 per cent, all excess-profits taxes being extinguished after January 1, 1922.

Applying the illustration just used to the present bill we find that where the corporation made a profit of $50,000 it would pay a tax under the Senate bill of 15 per cent minus the $2,000 exemption, or $48,000. In this instance the tax paid would be $7,200. That is to say, under the present law a corporation making $50,000 on its $100,000 of invested capital would pay $17,220, and under the Senate bill will pay only $7,200. A difference of almost $10,000 in taxes which are escaped by this corporation that makes 50 per cent upon its invested capital.

I have used the foregoing illustration for the purpose of making as plain as I can the present law as distinguished from the Senate bill.

It will be noticed from the figures given that the corporation making a very high percentage of profits finds its taxes greatly reduced by the Senate bill. A further examination will show that the Senate bill increases the burden of taxation on all corporations making less than 8 per cent on their invested capital and decreases the taxes upon substantially all the corporations making more than 10 per cent on their invested capital.

Indeed, this result is inevitable, because under the present law a corporation making 8 per cent and less is only taxed 10 per cent upon the net income, whereas under the Senate bill its taxes are immediately increased to the amount of 15 per cent. The corporation, therefore, which has been exacting only moderate profits finds its taxes increased by substantially 50 per cent, while a corporation which has been making excessive and exorbitant profits finds its taxes greatly reduced.

This is "tax reform," according to the processes of our friends on the other side.

Now, let us see how the wiping out of the excess-profits tax affects the revenue.

This raises two questions. First, what will be the effect upon the revenues of the Government? Second, what classes of people will be particularly benefited?

Answering the first question, under the present law the Government collected in excess-profits tax the following sums:

For the calendar year 1918, $2,505,000,000; for the calendar year 1919, $1,320,000,000; for the calendar year 1920, $1,000,000,000 (estimated); for the calendar year 1921, $450,000,000 (estimated); for the calendar year 1922, $450,000,000 (estimated).

The present bill, therefore, proposes to strike out of the Government revenues on this one item $450,000,000.

The figures for both 1920 and 1921 are estimated because that remarkably efficient organization at the other end of town has not yet balanced its books for the year 1920. For the year 1922, according to the estimates of the Government's actuaries, the loss in revenue will be $450,000,000. Now, put those figures in your mind.

Mr. POMERENE. The loss compared with what year?

Mr. REED. By taking off the excess-profits tax we simply reduce the revenues that much at once. We cut out that much; we allow that much money to stay in the pockets of the profiteers. Now, put the two figures together.

Mr. POMERENE. But, Mr. President, I do not think the Senator caught the import of my question. The statement which the Senator has made is that under the Senate bill the Government will lose $450,000,000. That must be based upon a certain excess-profits earning, and so forth, or a total amount of perhaps the previous year or the year before.

Mr. REED. This is an estimate made by the Treasury experts as to what we will collect this year in excess-profits taxes if we let the law stand. If we pass the Senate bill, we will collect nothing in excess profits. Last year we collected $1,000,000,000. It is estimated that instead of getting $1,000,000,000 this year under the present law we would get $450,000,000, because the excess profits, it is thought, are not so great.

Let us keep the facts in mind if we can: $90,000,000 of taxes taken off of the shoulders of 12,000 American millionaires, every one of them enjoying an income in excess of $68,000 per annum; $450,000,000 taken from the shoulders of institutions which have heretofore made over 10 per cent net on their invested capital after their officers have taken out every expense and every salary, including their own, charged off all they can think of for depreciation and for obsolescence, and deducted all they can expend in advertising. It is proposed to lift from them the burden of $450,000,000 per annum.

Speaking broadly, an excess-profits tax does not begin to operate until a corporation has earned 10 per cent. I have already said that, but I want to repeat it.

The actual burden of the existing excess-profits tax is greatly overstated. We have heard from these gentlemen by day and by night. Their propagandists have been busy. I remember attending a banquet in New York City held by a certain great club. They devoted the evening to a discussion of a method of taxation which would put the burden upon every human being, and, as they said, "take it off of business." I have no doubt, sir, that there was five or six billion dollars represented in that room. I do not attack these people for having money. I do not attack them even for an effort to escape taxation; but I do attack any body of legislators, put here to protect the people of the United States, who will not see that these gentlemen pay their fair share of taxes.

The following table, which I propose to print and refer to in my remarks, omits entirely from consideration the $3,000 exemption, which would greatly modify these figures, making the illustration all the more startling. It shows the amount of excess-profits tax on each $100, and the amount of excess profits remaining in the hands of the profiteers after they have paid their tax. The excess profits, mark you, do not begin until 8 per cent has been realized; in fact, 10 per cent on the invested capital. Accordingly a corporation making 9 per cent pays excess-profits taxes upon only 1 per cent of its invested capital. In other words, it pays $2.22 of taxes for each $100 of excess profits, and has remaining of its excess profits on each $100, $97.78. That is where it makes 9 per cent, and I have started at that figure.

I present this table and ask to have it printed.

The VICE PRESIDENT. Without objection, it will be so ordered.

The table referred to is as follows:

Table showing excess-profits tax on each $100 and the amount of income remaining in the hands of the profiteer.

Net income in percentage of invested capital.	Tax in percentage of net income.	Of each $100 of net income, the tax will be—	
		Tax.	Balance in hands of profiteer after paying tax.
8 per cent	Nothing	$0.00	$100.00
9 per cent	2½ per cent	2.22	97.78
10 per cent	4 per cent	4.00	96.00
11 per cent	5½ per cent	5.45	94.55
12 per cent	6⅔ per cent	6.67	93.33
13 per cent	7⅔ per cent	7.69	92.31
14 per cent	8⅝ per cent	8.57	91.43
15 per cent	9⅓ per cent	9.33	90.67
16 per cent	10 per cent	10.00	90.00
20 per cent	12 per cent	12.00	88.00
25 per cent	17.6 per cent	17.60	82.40
30 per cent	21⅓ per cent	21.33	78.67
35 per cent	24 per cent	24.00	76.00
40 per cent	26 per cent	26.00	74.00
50 per cent	28.8 per cent	28.80	71.20
75 per cent	32⅓ per cent	32.53	67.47
100 per cent	34.4 per cent	34.40	65.60
200 per cent	37.2 per cent	37.20	62.80
400 per cent	38.6 per cent	38.60	61.40
500 per cent	38.88 per cent	38.88	61.12
1,000 per cent	39.44 per cent	39.44	60.56

Mr. REED. Allow me to comment for a moment on this table, giving a few more illustrations.

Here is a concern that makes 8 per cent on $100. It pays no taxes. One that makes 9 per cent, without taking into account the exemptions, pays, as I have said, $2.22 of taxes and has left $97.78. I shall not read these figures through, but just call attention to them. A corporation making 16 per cent pays a tax of $10 on the $100 profits and has left $90 of its 16 per cent profit. A corporation making 30 per cent, and now we are getting pretty close to the line of profiteers, pays on $100 under the present law $21.33 and has left of its 30 per cent profit $78.67 on every hundred.

Mr. POMERENE. Under the pending bill?

Mr. REED. Under the present law. The new bill wipes it all out. They wipe out all these excess-profits taxes. They say to the profiteer, "Take all you can get and keep it."

Under the present law a corporation which makes 50 per cent net on its invested capital pays the Government only $28.80 and keeps of its profiteering loot $71.20.

A corporation which makes 100 per cent on its invested capital under the present law pays the Government only $34.40 and keeps $63.60.

Now, we get to the larger percentages. A corporation which makes 200 per cent pays to the Government on the $100 only $37.20 and keeps of its 200 per cent $62.80.

A corporation which makes 500 per cent pays to the Government $38.88 on each $100 and keeps $61.12.

A corporation which makes 1,000 per cent pays to the Government only $39.44 and keeps $60.56.

That is the present law, sir, against which these gentlemen have inveighed.

I do not class all of the men who paid excess-profit taxes as profiteers, but to save those who have made more than 10 per cent it is proposed to take $450,000,000 out of the revenues of this Government. That burden, of course, must be borne by the people and the industries of the United States.

Mr. President, if these gentlemen had come forward and proposed to modify the excess-profits tax, to lessen it, although it has been twice lessened since it was first laid, and although the burdens upon the masses of the people have not been correspondingly lessened, I should not have made so bitter a complaint. Sir, if we were to continue this tax and levy a rate of 20 per cent on the incomes over 20 and not in excess of 50 per cent, and a 40 per cent tax on profits above 50 per cent, we would still realize for the Government $100,000,000. But nothing of that kind is proposed. The whole tax is to be wiped out.

I print at this point in my remarks a table showing the taxes which would be paid under that modified scheme, which I present not as my plan but as illustrative of the fact that the excess-profits taxes could have been taken off every institution which does not make more than 20 per cent and $100,000,000 could still have been saved for the Treasury of the United States.

SUGGESTED EXCESS-PROFITS TAX.

Exempt the first 20 per cent of net income; rate 20 per cent on excess over 20 per cent if not in excess of 50 per cent; 40 per cent on remainder:

Net income in percentage of invested capital.	Tax in percentage of net income.	Of each $100 of net income the distribution will be—	
		Tax.	Balance after paying tax.
20 per cent	0.00 per cent	$0.00	$100.00
21 per cent	.95 per cent	.95	99.05
22 per cent	1.82 per cent	1.82	98.18
23 per cent	2.61 per cent	2.61	97.39
24 per cent	3.33 per cent	3.33	96.67
25 per cent	4.00 per cent	4.00	96.00
30 per cent	6.67 per cent	6.67	93.33
35 per cent	8.57 per cent	8.57	91.43
40 per cent	10.00 per cent	10.00	90.00
50 per cent	12.00 per cent	12.00	88.00
75 per cent	21.33 per cent	21.33	78.67
100 per cent	26.00 per cent	26.00	74.00
200 per cent	33.00 per cent	33.00	67.00
400 per cent	36.50 per cent	36.50	63.50
500 per cent	37.20 per cent	37.20	62.80
1,000 per cent	38.60 per cent	38.60	61.40

Mr. President, the pending bill actually decreases the tax on many of the great corporations, even when they are enormously overcapitalized. I asked one of the experts of the Treasury to examine that question and to present me with typical cases. He went through the tax sheets, and this is his statement:

A comparison of the taxes paid by representative large corporations and representative small corporations under the existing excess profits tax law and under the proposed bill follows:

The tax of six representative large corporations computed under the existing law and under the proposed bill is given below. These corporations were picked at random from the largest in the United States. These figures are based upon the returns of the corporations for 1920, the latest year for which figures are available.

Corporation No. 1:

Invested capital: $7,937,801.
Net income: $2,970,690.
Tax under existing law: $960,207.
Tax under proposed bill: $445,590.

A corporation with nearly $8,000,000 capital and a net income of nearly $3,000,000 finds its taxes, under the beneficent scheme which is now presented, cut in half, and it is saved in one year's time practically $445,000.

Mr. POMERENE. Mr. President, am I to understand that the illustration which the Senator is making is an actual case?

Mr. REED. An actual case.

Mr. POMERENE. Not hypothetical?

Mr. REED. It is taken from the taxpayer's report by a Government expert as a typical case.

Such a corporation could afford to subscribe more money to the next campaign than Mr. Proctor, over in Ohio, put up for Gen. Wood in the last presidential primary.

Of course, the names of these corporations are not given; they are kept secret under the law.

Corporation No. 2:
Invested capital, $11,448,875.
Net income, $6,052,020.
Tax under existing law, $2,205,017.
Tax under proposed bill, $907,953.

Take your pencil and figure it. In voting for this bill we will save $1,300,000 to this institution, which made $6,000,000 on a $11,000,000 capital in one year, while the people were clamoring for a reduction in prices. I wonder why that institution did not reduce some of its prices.

Corporation No. 3:
Invested capital, $4,076,390.
Net income, $1,577,247.
Tax under existing law, $517,814.
Tax under proposed bill, $236,587.

It could supply a quarter of a million dollars to a campaign fund and make it up in one year.

Next is corporation No. 4. Think of it, Mr. President. It has been argued before the committee that the big corporation is not touched by this excess-profits tax, that it is only the little fellow. I have not called attention to any very small ones yet. Here is one now with a capital of $55,281,989. It made a net income in 1920 of $51,667,660. Its tax under the existing law is $15,912,826. That leaves it in the possession of profits of about $36,000,000. That ought to be reasonably satisfactory. That is under the existing law. Under the pending bill the taxes will be $7,750,149. In other words, that one corporation is saved $7,000,000 in one year by this infamous measure. I so characterize it and denounce it. Seven million dollars to profiteers whose conscienceless spirit allowed them to exact in one year's time from the American people a profit of practically 100 per cent on a capital of $55,000,000.

[At this point the Vice President announced the expiration of the morning hour, and the unfinished business was laid before the Senate and temporarily laid aside.]

Mr. REED. It has been suggested that that would pay the entire expenses of the great Republican Party in the last campaign, even as estimated by Brother Cox.

Truly, Mr. President, "the ox knoweth his owner and the ass his master's crib." These gentlemen come before the committee with voices as soft as the gentlest breeze that ever soughed through the grass in the springtime, with hands folded in pious unction, and they almost whisper it to us that "the excess-profits tax is paid only by the little corporations," and that in their tenderness of heart they want to relieve the little corporations. Then they go back to the other end of the Capitol and sit down and devise some other scheme to tax some one other than the profiteers.

Now, here is a very large corporation that is probably very greatly overcapitalized. I frankly admit that the excess-profits tax will perhaps not reach some of these concerns that have been permitted to form trusts and combinations and issue watered stock against future profits which they expect to make by exploiting the people. This is a corporation with a capital of $1,666,000,000. It had a net income of practically $188,000,000. The tax under the present law is $28,290,000, and under the provisions of the bill would be $28,196,000, but in that instance the Government gets something from the excess profits.

Corporation No. 6—and I am presenting the entire document as furnished me—has an invested capital of $172,000,000, with profits of $12,880,000. Its tax under the present law is $1,120,000, and its tax under the pending bill would be $1,932,000. That corporation made the small return of about 7 per cent upon its invested capital, yet it finds its taxes are increased, whereas the taxes of the gentlemen who make the enormous profits are in every instance decreased.

The Treasury expert makes this comment:

It would seem from the above that the proposed bill would reduce approximately 50 per cent the taxes paid by those corporations earning abnormally large profits, considering the capital invested, and would increase the taxes of the corporation earning just a normal 7 or 8 per cent return on its capital.

The returns for 20 of 41 comparatively small corporations, invested capital of about $100,000, were secured. These returns were selected at random and not with the idea of demonstrating any particular fact. Of the 41 corporations 23 earned less than 14 per cent on the capital invested. The proposed bill increases the tax on these 23 corporations from a fraction of 1 per cent to 50 per cent.

The proposed bill! Get it, and having received it never let it escape your mind that the proposed bill increases the burden of taxation on the institution that makes only a moderate profit, while it decreases the taxes upon every institution that makes an enormous profit.

I continue reading:

Eighteen of these corporations earned from 14 to 58 per cent on the invested capital. The proposed bill decreased their taxes in an amount ranging from 1 per cent to 66 per cent. It appears here, as with the large corporations, the proposed bill increases the tax on corporations earning a normal return on the capital invested, 14 per cent and less, and reduces the taxes on those corporations earning abnormal profits ranging from 48 to 58 per cent.

Of course, some of them range to 500 per cent—not on every income, because the higher you get the greater the reduction.

The corporation whose tax is most decreased is the corporation which earns the greatest return on the investment, and the decrease of the tax bears a direct relation to the percentage of return on capital invested. These figures would also seem to prove that the statement that the proposed bill benefits the small corporation rather than the large corporation is without foundation.

Mr. POMERENE. Mr. President, will the Senator permit an interruption?

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Ohio?

Mr. REED. I do.

Mr. POMERENE. The statement has been repeatedly made that under the present law providing for the excess-profits tax there has been a temptation on the part of stockholders in those very profitable concerns to dispose of their stock and securities and invest the proceeds thereof in nontaxable securities. However, it would seem from the data presented by the Senator that all of those securities, even after the payment of this very large excess-profits tax, produce a very much larger return on the investment than the holders would get from the nontaxable securities.

Mr. REED. Why, certainly; and to follow that thought for a moment, because this is the very crux of the bill, let me refer to the table which I presented a while ago. Here is an institution that makes 1,000 per cent—1,000 per cent!—and it is allowed, after it has paid its taxes, to keep for itself 60.56 per cent of the thousand per cent; that is to say, it keeps for itself two-thirds of the loot over 60 per cent interest. Will anybody answer me what kind of an idiot owning stock of that kind would sell it and buy 4½ per cent nontaxable Ohio or Missouri bonds?

Mr. POMERENE. Or United States bonds.

Mr. REED. Yes; or buy a United States bond. Let me pause here long enough to interject this thought, that as long as men can be free of a surtax on profits of 50 per cent, 100 per cent, or even 1,000 per cent, Government bonds that only pay 3½ and 4 and 4¼ per cent will be below par, because the people will not want the low interest bearing securities.

Mr. President, I have thus far presented the fact that $90,000,000 of surtaxes are to be forgiven those who have incomes over $68,000 a year, and I have now shown that $450,000,000 burden is taken from corporations that make profits net in excess of 10 per cent. The total thus far accounted for, therefore, is $540,000,000. I now come to the next step taken in the process of relieving and serving the corporations. It is a boot-licking performance.

The present law levies a tax of $1 per thousand upon the market value of corporate stock. That is a very light tax.

Mr. POMERENE. Mr. President, before the Senator goes into that subject I should like to ask another question with reference to the previous part of his argument. While it has been repeatedly stated that there were so many of the men who were surrendering their investments in these very highly profitable industries and investing in nontaxable securities, was the Finance Committee furnished with the names of any of those gentlemen or corporations?

Mr. REED. Oh, no. We were not furnished any names. Let me call to the Senator's attention and to the attention of all Senators that argument. How is a man to sell his stock in corporation "A" in order to get his money out and put it into low interest bearing securities and nontaxable unless he sells it to another gentleman who steps into his shoes and carries on his operations? A school boy in a country debating society out at the forks of the creek would not dare advance the argument to which the Senator from Ohio has called attention.

I come now to consider the other theme of which I spoke a moment ago—the tax of $1 per thousand on the "fair average value" of the shares of stock. How does that operate? A corporation with a capital of $10,000 only pays $10; it is infinitesimal; it is no burden. A corporation with a capital of $100,000 pays $100; that is no great burden; that corporation does not suffer; it does not contribute much. A corporation with a capital of $300,000 pays only $300. Ah, Mr. President, but when we reach the billion-dollar corporations it makes a great difference. Some corporations, of course, have their stock vastly inflated, and the law ought to provide that they pay upon the face value of their stock; but they are only required to pay upon its market value. Let us see how that comes out.

In the case of a billion-dollar corporation it would pay $1,000,000 tax on its capital stock, if the stock were worth par. The tax amounts to something when you get up there; but trust these doughty contributors to look after their interests. Let us

apply this to a few well-known institutions. Take the Woolworth Co., which has 1,100,000 shares, the value of which is $110 a share. By this bill it is proposed to relieve that institution of $120,995 of tax upon its capital stock. Take United States Steel, which does not appear to embrace at all the general combination which we ordinarily call the Steel Trust; its shares number 9,500,000; their market value is $78. That institution will save $770,995 on this tax every year.

Mr. STANLEY. That must include only the parent company, not accounting for the subsidiaries?

Mr. REED. Yes; as I say, it does not include the others. But take the figures—nearly three-quarters of a million dollars—representing the amount of the tax that is removed from that one institution that has laid its conscienceless hands upon the throats of its employees and of the American people. The Supreme Court once declared it had been conceived in violation of law. Then later the Supreme Court said that since it had quit its unlawful practices and had reformed they would allow it to continue to exist. If we have a few more decisions of that kind, the antitrust acts will be wiped out of existence and the Supreme Court will become the object of very severe criticism.

I will give Senators other illustrations. I will not bother about reading all of these figures, by any means, nor give all the data, but I will put the table into the RECORD.

Mr. STANLEY. Mr. President——

Mr. REED. Let me finish this statement. The United States Rubber Co. would save $179,995 each year. The Standard Oil Co. of California would save $79,160. The Standard Oil Co. of New Jersey would save $806,395 in one year by the repeal of the corporation stock tax. Our friend, John D. Rockefeller, can endow another institution and locate it here in Washington to teach morals and honest money making to the American people. The General Motors is saved $800,795 a year. The American Tobacco Co., that levies a tax upon the tobacco user every time he spits, will save $224,807. Our old friend the American Woolen Co. will save $69,995. The National City Bank, the financial agent for Europe, Asia, Africa, and South America, will save $123,595. The General Electric Co. will save $229,395. The International Harvester Co., which we expelled from Missouri under a decision of the Supreme Court, because it was a combination in restraint of trade, will save $193,595.

The table, which I wish to append in full, contains only a few examples of savings by the proposed repeal of this tax. It is proposed now to relieve these institutions of the corporation tax amounting to about $75,000,000 a year. I ask permission that I may insert at this point in my remarks the table to which I have referred.

The VICE PRESIDENT. Without objection, permission is granted.

The table referred to is as follows:

Capital stock tax estimated for 28 corporations.

Corporation.	Year.	Average market value.	Number of shares.	Total taxable value.	Tax.
American Beet Sugar	1920	$38	200,000	$7,595,000	$7,595
American Car & Foundry	1920	124	600,000	74,395,000	74,395
American Smelting	1920	37	1,150,000	42,545,000	42,545
American Sugar	1920	77	900,000	69,295,000	69,295
American Tobacco	1920	120	2,040,106	224,807,720	224,807
American Woolen	1920	70	1,000,000	69,995,000	69,995
Anaconda	1920	37	3,000,000	110,995,000	110,995
Baldwin Locomotive	1920	78	400,000	31,195,000	31,195
Bethlehem Steel	1920	53	1,050,000	58,345,000	58,345
Chemical National Bank	1920	470	45,000	21,145,000	21,145
City National Bank	1920	309	400,000	123,595,000	123,595
Famous Players-Lasky	1920	63	600,000	37,795,000	37,795
General Electric	1920	124	1,850,000	229,395,000	229,395
General Motors	1920	13	61,600,000	800,795,000	800,795
Guaranty Trust Co	1920	197	200,000	39,245,000	39,245
International Harvester	1920	84	2,300,000	193,595,000	193,595
Kennecott Copper	1920	19	3,000,000	56,995,000	56,995
Midvale Steel	1920	28	1,500,000	41,995,000	41,995
Pennsylvania R. R	1920	37	12,000,000	443,995,000	443,995
Pressed Steel Corporation	1920	72	625,000	44,995,000	44,995
Pullman Co	1920	100	1,200,000	119,995,000	119,995
Sinclair	1920	22	6,500,000	142,995,000	142,995
Standard Oil:					
California	1920	71	1,115,000	79,160,000	79,160
New Jersey	1920	126	6,400,000	806,395,000	806,395
Texas Co	1920	37	6,578,200	243,381,000	243,381
United States Rubber	1920	60	3,000,000	179,995,000	179,995
United States Steel	1920	78	9,500,000	770,995,000	770,995
Woolworth	1920	110	1,100,000	120,995,000	120,995

NOTE.—This estimate is necessarily very rough. The average market value was obtained by averaging high and low market prices for the current year. In cases of industrials having both common and preferred stock, the market value of the common stock has been used as a basis to obtain the value. Actually, of course, in nearly all cases, preferred stock is worth more than the common. These market quotations were obtained from the financial columns of the New York Evening Post. Information concerning the capital stock of industrial and manufacturing concerns was drawn from Poor's Manual of Industrials, 1921; of banks from the American Bank Reporter, March, 1921; and of railroads from Moody's Analysis, 1920.

Mr. REED. Mr. President, let Senators now take their pencils and see what the committee has done for the corporations. The sum of $450,000,000 in excess-profits taxes is taken off; $75,000,000 of corporation stock tax is taken off. That gives us $525,000,000. Then from the surtaxes of the 12,000 millionaires in this country the committee has removed $90,000,000. That gives us a grand average of $615,000,000. This is the burden forgiven the profiteers who have bled the American people white until they cry for mercy.

The farmer is selling his produce at prewar prices, and in some instances for less. Wheat is selling at from 80 to 90 cents a bushel; corn is selling at a corresponding level; barley, rye, potatoes, the great food materials of our country, are selling at a very low price; cattle are selling at five or six dollars a hundred; and yet when those products have passed through the hands of the institutions which have been paying excess-profits taxes and reach the American people they are being sold to them substantially at war prices.

The farmer sells the hide of a 4-year-old steer for $1.25, and the people pay $10 and $12 a pair for their shoes.

The profiteer, the individual upon whose rapacity there is no check except the inability to compel the people further to disgorge, is the special favorite of this bill.

This is the tax reform that was visioned in campaign promises. Sometimes they were specific. They told us that the burden would be reduced. That was always the promise. I think, however, the real political sagacity of the last campaign was shown by one man, running for a very high office, who made this sort of a speech. I can not be too specific lest I seem to be personal. He said:

> Gentlemen, they tell us, some of them, that the taxes are too high; some of them say that the taxes are too low. Well, if they are too high, we will put them down. If they are too low, the Republican Party will put them up. If they are wrong, we will fix up the wrong. If they are right, we will make them righter; but, gentlemen, whatever you do, let the tax be revised by its friends.

Now, that was a pretty straight sort of a speech to make. It was not as specific as the President made and as the distinguished Senators upon the other side made.

I have shown you how these scores and hundreds of millions of dollars are taken from the backs of those who are able to pay. Now let me call your attention to some taxes that ought to be relieved, but which we are told can not be reduced because the revenue must be had.

THE TRANSPORTATION TAX.

The present law levies a heavy transportation tax on freight, express, passengers' seats, berths, and staterooms, and also on oil carried by pipe lines, telegraph and telephone messages. For the year 1921 these taxes aggregated $301,512,000. The Senate committee bill repeals one half of the tax as of January 1, 1922, on freight, passengers' seats, berths, and staterooms, and repeals the other half of the tax on January 1, 1923. This results in a loss of revenue for the year 1922 of $170,000,000, and thereafter a loss of $240,000,000 a year. The whole of this would be nearly twice over taken care of by the excess-profits tax alone, but we only take off one-half for the ensuing year. There is no reduction in taxes levied on express companies, oil transported by pipe lines, or on telegraph and telephone messages, and the proposed bill allows the tax on parcel-post packages to remain. The exact amount of tax on parcel post can not be given, but it is estimated that that tax alone amounts to from eighteen to twenty million dollars.

I insist that the transportation tax of $240,000,000 per annum is a direct burden upon substantially all the people of the United States, and that it is one of the elements which have advanced rates to a point where they restrict the commerce of the Nation.

Mr. STANLEY. Mr. President, will the Senator yield?

Mr. REED. I yield.

Mr. STANLEY. I would suggest to the Senator that it is worse than a tax of that amount or double that amount. The Director General of Railroads has estimated, and I think has estimated correctly, that an increase in freight rates—and that is what that means—is reflected in the added cost to the consumer and the shipper in at least 400 per cent of the amount of the rate. The same argument will apply to the tax.

Mr. REED. I thank the Senator. I was just coming to that, and I was about to make this remark, although I have not stated it as well as the Senator has.

It should be noted that since these taxes upon transportation charges were levied the rates have been greatly advanced. This, of course, resulted in a proportional increase in the

amount of taxes exacted by the Government, and that burden, as I have said, is borne by the entire public. In other words, by raising the railroad rates we automatically increase the tax rate. For instance, a passenger tax falls as heavily upon the poor man or poor woman as it does upon the rich.

The tax on transportation is subject to the further criticism that it is added to the cost of commodities, and is carried along by the various dealers, and a profit upon the entire investment, which may also include a corporation tax, is added.

The transportation tax, therefore, is not only paid directly by the traveler or the shipper in the first instance, but the freight charges appear in the bill of the grocery keeper or other dealer, magnified by the profits of all the dealers who have handled the commodity. This tax, if possible, should be wiped out at once. It can be accomplished in this way:

Defeat the proposition of this bill to repeal the capital-stock corporation tax, and we will retain from seventy-five to eighty million dollars by that operation.

Mr. CARAWAY. Mr. President, will the Senator yield before he passes from the transportation tax?

Mr. REED. Yes.

Mr. CARAWAY. Another iniquitous feature of that tax is that a man living in the Senator's section or mine will pay three or four times as much tax as one living in the Eastern States, because it is a flat tax upon transportation. Where the freight rates are higher the man is compelled to pay a greater tax. The Middle West pays from three to four times as much tax upon the same amount of freight or hauling as the Eastern States pay.

Mr. STANLEY. Mr. President, right at that point, while we are on that subject, I will take this occasion, if the Senator will permit me, to add just a word to the very lucid and forceful argument that he has made on this subject.

The most iniquitous tax that can be imposed at any time, if the Senator will pardon me, is a transportation tax; and the worst time to impose a transportation tax is the present time. The rates have crushed the business. That everybody knows; and to give the railroads, as has been proposed, $500,000,000 of money with one hand, and to impose this tax with another, is an act of consummate folly. Every dollar that is collected in the way of a transportation tax is transferred, of course, to the man who pays the freight; and it means that this tax is levied not upon the ability of the people to pay but upon the necessities of the people. They pay not in proportion to what they have when they pay a transportation tax but in proportion to what they must consume. It is a direct tax upon the necessities of the people, as direct as a tax imposed by the Government, and has no relation to the ability of the payer to pay, but the necessities of the consumer measure the quantum of the tax.

Mr. REED. I am obliged to both Senators. I concur in everything they have so well said. There is very great weight in the argument presented by the Senator from Arkansas. It is true that those who have to ship long distances to the seaboard are those who pay the principal part of the tax at the point where the transportation begins. The consumer, of course, ultimately has to pay it also.

As I have stated, we can get a revenue of from $75,000,000 to $80,000,000 over and above the present bill by refusing to repeal the capital-stock corporation tax. Why is that being thrown away? What excuse is there for its repeal? It does not benefit the small corporation enough to take into account, but, as I have shown, it saves hundreds of thousands of dollars to the great corporations.

The surtaxes, which will bring us in $450,000,000 per annum—under the pending bill only $350,000,000—should not be changed, or, if changed, should certainly not be changed to the amount suggested. There is $100,000,000 more that can be saved; and by retaining those two taxes we can take the entire tax off transportation on the 1st day of January, 1922, instead of taking half of it off at that time and the balance a year later.

The transportation tax amounts to about $240,000,000 a year, half of it being approximately $120,000,000. Which is the greatest benefit to the people of this country—to take off that $120,000,000 now and let $120,000,000 rest for next year, or to take off all of it now? That $120,000,000 necessary to add to this bill can be realized by simply preserving the surtaxes upon income and by preserving the corporation tax. Those two items alone will make up enough money so that the transportation tax can be repealed as of next January. Which is the greater benefit to the country, which is the fairer thing to do, to take off the transportation tax and relieve all the people, or take the surtaxes off of 12,000 millionaires, realizing $68,000 a year plus of income? Which is the better?

I am willing to go to the country on that issue. This is not a partisan measure, but it will be a party measure after the vote is cast on this bill.

The restoration of the excess-profits tax would give an additional $450,000,000 for the year 1923, because they propose to repeal it, and that falls alone upon the institution which has made, using round figures, 10 per cent on its investment after it has paid every expense, including the salaries of its officers and its depreciation, as I have said before.

Four hundred and fifty million dollars, $75,000,000 on stocks, and $90,000,000 on surtaxes on incomes makes $615,000,000 taken out of the revenue collected under the present law, and taken from these sources where the tax can be most easily borne. That $615,000,000 would enable us, as I have said, to wipe out the tax upon transportation. It would enable us to take up the $170,000,000 of securities now due and which, in fact, represents what were current expenses, instead of renewing that debt. It would enable us to carry on the road building in this country as Congress designed it and to improve our rivers and our harbors. It would enable us, in addition to that, to wipe out every so-called nuisance tax.

How hard were these gentlemen pressed! The Secretary of the Treasury came before us with the suggestion to take these taxes off. How hard he was pressed; what must have been the demands upon him, when he proposed, in lieu of them, new taxes, stamp taxes on checks and bonds, and a lot of other devices of that kind! Always the source of the inspiration of this bill has been the Treasury Department. Who doubts to-day that the Treasury Department, consciously or unconsciously, is in sympathy with the great interests, among which the Secretary of the Treasury occupies so conspicuous a position?

Mr. President, there has been a great deal of talk here about saving money by cutting down our naval program. The amount of money that is saved to the profiteers of this country by this bill in five years' time would build a navy which would dominate the ocean and compel the world to respect our rights. Aye, the amount saved in two years to the profiteers would do that. But how much better than the expenditure of the money in that way, better even than the expenditure of the money in making internal improvements, perhaps, is it to leave the money in the pockets of the mass of the people who earn it, and thereby reduce the burden of taxation upon them, and allow it to remain upon those who profit at the expense of the rest of the people.

Mr. President, it is said that if we tax the profiteer upon his excessive profits he merely increases his prices and sends the tax on to the ultimate consumer. Many taxes are carried on to the ultimate consumer, but I do not believe that to be true of the profiteers' tax. What is it the profiteer has in mind? It is not the making of a fair return upon his capital; it is making all he can make. What, therefore, is the limit upon his cupidity? It is limited only by his ability to extract the money from the pockets of the people.

That being the rule which controls him, he can not add any more by way of tax, because he has already added all that he can by way of cupidity, and if you levy your tax upon the excess profits he has made you take those profits out of his pocket after he has gathered them, and he gathered every cent he could. Besides all that, as has been suggested by my good friend the Senator from Kentucky [Mr. STANLEY], if the tax could be passed along, if he could get it all back, he would not have been so active in fighting the tax and seeking its repeal. The truth is, this bill simply means to allow him to remain secure in his profits.

The gentlemen who will vote for this bill and who are absent from the other side of the Chamber during all the speeches and debate upon it will be standing on their feet within 10 days from this time denouncing profiteers and weeping crocodile tears over the wrongs and oppressions of the people. They will go out to their States and denounce profiteers in voices that will be heard reverberating for 20 miles around, but they will say nothing about having voted to take the tax off of the profiteers and load the burden onto somebody else.

Mr. President, I do not want to be misunderstood. I am not standing here to-day denouncing wealth. I have never played the demagogue in my life, and I never intend to. There are people in this country who hate and are envious of every man who accumulates money. They look upon the possessors of great fortunes as enemies. They would confiscate those fortunes. I do not belong to that class. I praise the man who by honest means can make a livelihood. I praise the man who by honest means can accumulate a competency. I do not criticize any man who fairly can accumulate a great fortune, and in nothing that I say have I appealed, nor do I

intend to appeal, to class hatreds or to prejudice. What I am appealing for is that the burden of taxation shall be laid in accordance with what I conceive to be the principles of justice, and the principles of justice, in my opinion, demand that the institution or the individual possessing the ability to pay should pay in proportion to that ability and that the individual possessing but a very small income should only bear burdens in proportion to that small income.

Now, let me tell you why. The individual with a small income or a small amount of property only receives protection upon his person and the trifling property that he has. The institution or the individual with an enormous amount of property receives protection upon that enormous amount of property. What are the corresponding duties? Every individual, high and low alike, owes not only the duty to pay taxes but he owes another duty—the duty of citizenship. What is the duty of citizenship? It is very great, as we have had reason recently to learn. In times of peace it is to help maintain the community, its morale, its civic enterprises, to serve upon juries, to form a part of the posse comitatus at times; in time of war that duty requires the individual citizen to lay his life upon the altar of his country.

Now, let us take two illustrations, two men, one of them a man with no property.

The Government protects him in his life and his liberty, and that is all. But if a man possesses a fortune of many million dollars the Government does more than protect him in his life and his liberty. It protects that vast fortune. Yet the personal service which either of them can render is exactly the same. The only way the disparity can be made up is by taxes paid upon property. Let us see how far-reaching that is.

Here is a corporation with assets of $2,000,000,000. They are scattered in every State. They embrace iron mines, iron properties, woodlands, docks, yards, vessels, railroads, vast steel plants. They are engaged in myriads of transactions every moment. They are carrying on their business in every part of the United States and in every part of the world. They have the protection of the courts of every State, of the militia of every State, of the Army and Navy of the United States upon all their property. For them the doors of the tribunals of justice are standing open, and 90 per cent of the time of those tribunals is taken up in trying, at the expense of the public, the causes of controversy which have arisen over their business transactions.

The proprietor of one of those institutions and the man in humble circumstances each renders the same personal service in case the country is imperiled. Each must give his life if necessary. But in the one instance the poor man gives all he has and obtains the slight protection of his liberty and his life, and in the other instance the rich man's vast estate is being protected and there is no element of personal service to offset it.

So when we talk about levying taxes higher and higher upon the great fortunes that have been amassed, let us not place ourselves in the category of those who defy or hate wealth. Let us place ourselves with those demanding that wealth shall bear its share and that the burdens shall be borne by those who obtain the greatest benefits of government and who have the ability to pay without suffering.

Mr. President, I do not think that anything I have said will change a vote in the Senate. It may be that there are those upon the other side of the Chamber who will refuse to bow their necks to this yoke. There may be some who will insist upon some changes.

No bill that takes $615,000,000 of taxes off of the men with incomes above $68,000, off of the profiteer and off of the corporate tax, is a just bill. No such bill can be defended. No such bill will ever meet the approval of the American people.

Drive on, gentlemen, and drive as fast as you will. Rush this thing through which no man has yet dared to rise and defend or explain. But if you do—and I think you intend to do so—there will come the day of reckoning and the answer will have to be made. I hope there will be no Democrat support the measure in its present form. I hope there will be no big, broad-minded Republican, who loves his country and his constituency, who will support it. I would have every confidence that they would not support it if they would but listen to arguments and understand the measure; but they are not listening either to myself, for which I make no complaint, or to anyone else; they have listened to no one. They will come into the Chamber without any knowledge whatever regarding the bill and inquire, "How is the majority of the committee voting on this amendment or that amendment?" They will not even stay to listen to the argument of the Senator from Utah [Mr. SMOOT] on the proposition to which he has given very much study and which relates to an amendment which he proposes to the bill.

It is said that the President wants Congress to get through before the limitation of armaments conference convenes. I hardly think the President need be disturbed. The Congress is so near dead as to be innocuous, and the probabilities are it could not muster enough vitality even to convince that conference that it is in existence.

Mr. President, I thank the Senate.

Mr. FLETCHER. Mr. President, I ask the privilege of having the unfinished business laid before the Senate.

Mr. SMOOT. Mr. President, will the Senator object to allowing me to suggest the absence of a quorum, as I promised to do at the conclusion of the remarks of the Senator from Missouri [Mr. REED]?

Mr. FLETCHER. I have no objection to that.

Mr. SMOOT. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MCNARY in the chair). The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Harris	Myers	Smoot
Ball	Harrison	Nelson	Spencer
Borah	Heflin	New	Stanley
Calder	Hitchcock	Nicholson	Sterling
Cameron	Kellogg	Oddie	Sutherland
Capper	Kendrick	Overman	Trammell
Caraway	Kenyon	Page	Underwood
Curtis	King	Pittman	Wadsworth
Dial	Ladd	Poindexter	Walsh, Mass.
Dillingham	La Follette	Pomerene	Walsh, Mont.
Ernst	Lenroot	Ransdell	Warren
Fletcher	Lodge	Reed	Watson, Ga.
Gerry	McCumber	Robinson	Watson, Ind.
Gooding	McKellar	Sheppard	Willis
Hale	McLean	Simmons	
Harreld	McNary	Smith	

The PRESIDING OFFICER. Sixty-two Senators having answered to their names, a quorum is present.

REINTERMENT OF AMERICAN SOLDIER DEAD.

The VICE PRESIDENT laid before the Senate a communication from Brig. Gen. C. R. Krauthoff, Quartermaster Corps, Acting Quartermaster General of the Army, which was read, and, with the accompanying papers, ordered to lie on the table for the inspection of Senators, as follows:

WAR DEPARTMENT,
OFFICE OF THE QUARTERMASTER GENERAL OF THE ARMY,
Washington, October 3, 1921.

The PRESIDENT OF THE SENATE,
Washington, D. C.

MY DEAR SIR: The inclosed copies of lists of American soldier dead returned from overseas, consisting of 4 officers and 104 enlisted men, to be reinterred in the Arlington National Cemetery, Thursday, October 6, 1921, at 2.30 p. m., are furnished for consultation by Senators. It is requested that they be posted or displayed in a suitable place for the purpose desired.

Very truly, yours,

C. R. KRAUTHOFF,
Brigadier General, Quartermaster Corps,
Acting Quartermaster General.

PETITIONS.

Mr. CURTIS presented a petition of E. P. Sheldon Post, No. 35, Grand Army of the Republic, of Burlingame, Kans., praying for the enactment of legislation granting pensions of $72 per month to Civil War veterans and $50 per month to their widows, and for the monthly payment of pensions, which was referred to the Committee on Pensions.

Mr. WILLIS presented a resolution adopted by a regular session of the Laymen's Association, North East Ohio Conference, Methodist Episcopal Church, at Massillon, Ohio, September 30, 1921, favoring the enforcement of the eighteenth amendment to the Constitution, which was referred to the Committee on the Judiciary.

REPORTS OF THE COMMITTEE ON MILITARY AFFAIRS.

Mr. MYERS, from the Committee on Military Affairs, to which was referred the bill (S. 268) for the relief of William O. Mallahan, reported it without amendment, and submitted a report (No. 282) thereon.

Mr. WADSWORTH, from the Committee on Military Affairs, to which was referred the bill (S. 2363) to abolish the limitation on military service without the continental limits of the United States, imposed by the act of Congress approved March 4, 1915, reported it without amendment, and submitted a report (No. 283) thereon.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CURTIS:

A bill (S. 2532) extending the time within which allotments may be made in the Crow Reservation, Mont.; to the Committee on Indian Affairs.

A bill (S. 2533) granting a pension to Edward J. Meacum (with accompanying papers);

A bill (S. 2534) granting a pension to Elizabeth Vollmar (with an accompanying paper);

A bill (S. 2535) granting a pension to Ellen O'Donnell (with accompanying papers); and

A bill (S. 2536) granting an increase of pension to Amanda E. Pollard (with accompanying papers); to the Committee on Pensions.

A bill (S. 2537) for the relief of Ellen Oglesby (with an accompanying paper); to the Committee on Military Affairs.

A bill (S. 2538) granting a pension to Jennie E. Neely (with accompanying papers);

A bill (S. 2539) granting a pension to Nannie V. Elliott (with accompanying papers);

A bill (S. 2540) granting an increase of pension to Ellen Seybold (with accompanying papers);

A bill (S. 2541) granting an increase of pension to Julia S. Webb (with an accompanying paper);

A bill (S. 2542) granting an increase of pension to Isobel M. Evans (with an accompanying paper);

A bill (S. 2543) granting an increase of pension to Matilda M. Funk (with accompanying papers); and

A bill (S. 2544) granting an increase of pension to Andrew P. Larson (with an accompanying paper); to the Committee on Pensions.

By Mr. NEW:

A bill (S. 2545) granting an increase of pension to Amanda J. Hunt (with an accompanying paper); and

A bill (S. 2546) granting an increase of pension to William D. Thompson (with accompanying papers); to the Committee on Pensions.

AMENDMENTS OF TAX-REVISION BILL.

Mr. LODGE, Mr. CALDER, and Mr. HARRIS submitted amendments, intended to be proposed by them to House bill 8245, the tax-revision bill, which were ordered to lie on the table and to be printed.

THE HOUSING CONDITIONS.

Mr. CALDER. Mr. President, at the unemployment conference held last week in the city of Washington it was estimated that some 4,000,000 men and women were out of employment in this country. At that conference it was pointed out that there was one industry which, if it could be revived, would do more to settle this question and bring about general employment again than any other one thing, and that was the construction industry.

The Members of the Senate undoubtedly recall that for a period of six months last year the subcommittee of the Senate, of which I was chairman, inquired into the housing conditions throughout the country and we reported to the Senate that perhaps over 1,000,000 homes were needed to meet the requirements of the people of the Nation.

I have prepared two amendments to the tax bill, which is pending, which I believe will help materially to revive the construction industry of the country. I shall not have them read now, but shall simply submit them, and give notice that at the proper time I shall offer them to the bill. I express the hope that the Members of the Senate will carefully examine these amendments, for I am offering them in good faith, and shall present them and argue for them, and hope that they may be agreed to.

I ask that the amendments may be printed and lie on the table.

The VICE PRESIDENT. The amendments will be received, printed, and lie on the table.

FREE TRANSIT THROUGH PANAMA CANAL.

The Senate as in Committee of the Whole resumed the consideration of the bill (S. 665) to provide free tolls for American ships through the Panama Canal.

Mr. FLETCHER. Mr. President, by unanimous consent we have agreed that at not later than 4 o'clock p. m. on the calendar day of Monday, October 10, 1921, we are to vote upon the bill S. 665, which provides for "free tolls for American ships through the Panama Canal."

That is the title of the bill, but the substance of it is, "That hereafter no tolls shall be levied upon vessels passing through the Panama Canal engaged in the coastwise trade of the United States."

In other words, it does not propose that all American ships shall be exempt from tolls. It confines that exemption to vessels engaged in the coastwise trade of the United States.

There is, of course, a wide difference between free transit for American ships through the Panama Canal and free transit for ships through the canal engaged in coastwise trade of the United States. American ships not engaged in the coastwise trade, strictly and exclusively, I take it, would not be affected should the bill pass.

There has been practically no discussion of the bill. Pending treaties and the revenue bill are absorbing our attention, respecting the consideration of which there is also a unanimous agreement. The time for final disposition of the tolls bill (S. 665) is rapidly approaching, and I feel constrained to submit some of the reasons which prompt me to oppose its passage. The subject is not a new one, and I do not feel that it is necessary to examine it in all its details. I shall make reference to documents where fuller information can be had, if desired.

TREATIES.

This question first arose when the Hay-Pauncefote treaty of February 5, 1900, was under consideration in the Senate, December 13, 1900 (S. Doc. No. 85, 57th Cong., 1st sess.). Preceding that treaty and referred to in it was the Clayton-Bulwer treaty of April 19, 1850. It is necessary to go back to that, because article 8 of the convention is expressly made a part of the Hay-Pauncefote treaty, and also of the treaty of November 18, 1901, between the United States and Great Britain.

The principle in the Clayton-Bulwer treaty is carried forward in the two subsequent treaties mentioned, and is reaffirmed and perpetuated therein.

It will be noted that in article 1 of the Clayton-Bulwer treaty it is set forth that—

The Governments of the United States and Great Britain hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal, etc.

In article 3 the joint protection of the canal is provided for.

That treaty established a kind of partnership between the United States and Great Britain regarding the canal, its construction, operation, and control.

Article 8 referred to is as follows:

The Governments of the United States and Great Britain having not only desired in entering into this convention to accomplish a particular object, but also to establish a general principle, they hereby agree to extend their protection by treaty stipulations to any other practicable communications, whether by canal or railway, across the Isthmus which connects North and South America, and especially to the interoceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama. In granting, however, their joint protection to any such canals or railways as are by this article specified, it is always understood by the United States and Great Britain that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

In the course of events not necessary to relate it became important and even essential for the United States to remove any objection which might arise out of the convention of April 19, 1850, to the construction of such canal under the auspices of the Government of the United States. Accordingly the Hay-Pauncefote treaty was entered into, but it was expressly stated that while the purpose was to be relieved of objections in the Clayton-Bulwer treaty, that was to be done "without impairing the general treaty of neutralization established in article 8 of that convention."

Accordingly in the Hay-Pauncefote treaty it was agreed that the canal "may be constructed under the auspices of the Government of the United States," and in article 2 it is provided:

The high contracting parties, desiring to preserve and maintain the "general principle" of neutralization established in article 8 of the Clayton-Bulwer convention, which convention is hereby superseded, adopt as the basis of such neutralization the following rules, substantially as embodied in the convention between Great Britain and certain other powers signed at Constantinople October 29, 1888, for the free navigation of the Suez Maritime Canal, that is to say:

"1. The canal shall be free and open, in time of war as in time of peace, to the vessels of commerce and of war of all nations on terms of entire equality, so that there shall be no discrimination against any nation or its citizens or subjects in respect of the conditions or charges of traffic or otherwise.".

When the Hay-Pauncefote treaty was laid before the Senate the committee reported three amendments, to wit:

Amend article 2 by inserting after the word "convention," in line 24, page 2, the following, "which convention is hereby superseded," and striking out article 3, which provided simply for exchanging notices, and inserting at the end of section 5 of article 2 the following:

It is agreed, however, that none of the immediately foregoing conditions and stipulations in sections Nos. 1, 2, 3, 4, and 5 of this article shall apply to measures which the United States may find it necessary to take for securing by its own forces the defense of the United States and the maintenance of public order.

These amendments were agreed to and the treaty was ratified as amended.

The record shows, page 16, that Mr. Bard proposed an amendment, to wit:

Strike out article 3 and substitute the following:

"ART. 3. The United States reserves the right in the regulation and management of the canal to discriminate in respect of the charges of traffic in favor of vessels of its own citizens engaged in the coastwise trade."

A vote was taken on that amendment. The yeas were 27, the nays 43. Consequently it was defeated.

The Senate being in executive session there is no record of the debate, but evidently the purpose of that amendment was to lay the foundation in the treaty itself for exempting from tolls American vessels engaged in coastwise trade.

The Senate declined to insert that provision in the treaty, and so it was left without reserving any such right to the United States but carrying forward the general principle of neutralization established in article 8 of the Clayton-Bulwer convention.

Mr. KING. Mr. President, would it interrupt the Senator if I should ask him a question?

The PRESIDING OFFICER. Does the Senator from Florida yield to the Senator from Utah?

Mr. FLETCHER. I yield.

Mr. KING. Does the Senator recall what the contemporary discussion was in Congress and in the press with respect to the policy of the neutralization; and, secondly, as to whether or not under the Hay-Pauncefote treaty or under the Clayton-Bulwer treaty the principle of equality of treatment of all vessels, including those of the United States, was to be preserved in any policy that should be adopted or in any treaty that should be negotiated?

Mr. FLETCHER. Unquestionably it was very important; in fact, it was essential for the United States to be relieved of the provisions of the Clayton-Bulwer treaty if the United States was to go on and build the Panama Canal. Consequently, as I have said, it was essential for us to get out of that treaty.

Great Britain had many advantages under that treaty; and, in order to be relieved of that treaty and to accomplish our purpose to go on and see that the canal was built or to construct it ourselves, we had to make a new treaty. Great Britain was willing to yield the advantages, the partnership arrangement, the joint control which vested in her under the Clayton-Bulwer treaty, but only on condition that article 8 of that treaty, which provided for the neutralization of the canal and the treatment of all nations upon equal terms in its use, should be carried forward in any subsequent treaty. It was carried forward, therefore, in the Hay-Pauncefote treaty, and in the subsequent treaty of 1901 the same provision is carried forward. So evidently that was regarded as a very important part of the treaty, and the consideration for it was the surrender largely of certain rights which Great Britain had under the Clayton-Bulwer treaty.

Mr. KING. May I inquire of the Senator if it is not also a fact that there was considered the question of whether or not the exemption of the American coastwise trade from tolls involved a subsidy or bounty, which many Americans deemed to be obnoxious?

Mr. FLETCHER. Unquestionably. I deal with that as I proceed in logical order, and I would a little rather not take that up now if the Senator will allow me to pass from it, but unquestionably that is what it would amount to—a subsidy to the coastwise trade to that extent.

Mr. KING. Some contention has been made that while article 8 of the Clayton-Bulwer treaty is referred to in the Hay-Pauncefote treaty, that reference is found only in what may be denominated the preamble, and is therefore not a substantive part of the treaty itself. I am not in sympathy with that argument, although I have heard it made. Even if it is referred to only in the preamble, if it was clearly the intent of the parties that the provisions of article 8 as found in the Clayton-Bulwer treaty should constitute a part of this treaty, or that the principle of article 8 should be imported into the new treaty, it seems to me we are in honor bound to place that interpretation upon it and to regard article 8 as a substantive part of the treaty itself.

Mr. FLETCHER. The Senator is correct in so far as that being a substantive part of the treaty is concerned. Not only does the announcement appear in the preamble of the Clayton-Bulwer treaty but it appears in article 2 of the Hay-Pauncefote treaty of February 5, 1900, where it is expressly provided as follows:

The high contracting parties, desiring to preserve and maintain the "general principle" of neutralization established in article 8 of the Clayton-Bulwer convention, which convention is hereby superseded, adopt, as the basis of such neutralization, the following rules, substantially as embodied in the convention between Great Britain and certain other powers, signed at Constantinople October 29, 1888, for the free navigation of the Suez Maritime Canal; that is to say—

The first rule, appearing under article 2 of the Hay-Pauncefote treaty:

The canal shall be free and open, in time of war as in time of peace, to the vessels of commerce and of war of all nations on terms of entire equality, so that there shall be no discrimination against any nation or its citizens or subjects in respect of the conditions or charges of traffic or otherwise.

The announcement also appears in the preamble of the treaty of November 18, 1901.

As I say, subsequent developments made it desirable, in order to facilitate the construction of the canal connecting the Atlantic and Pacific Oceans by whatever route might be considered expedient and remove any objection which might arise out of the convention of April 19, 1850, but without impairing the general principle of neutralization established in article 8 of that convention, to enter into a further treaty with Great Britain, to wit, the treaty of November 18, 1901, which is rather a modification of the Hay-Pauncefote treaty.

It is interesting to note the proceedings in connection with that treaty, which the Senate entered upon December 16, 1901. Certain amendments were offered.

(1) To strike out of the preamble the words "without impairing the 'general principle' of neutralization established in article 8 of that convention."

On that question the yeas were 18 and nays 60, so that the amendment was lost, and that provision remained in the preamble.

An amendment was offered similar to that offered to the Hay-Pauncefote treaty, to wit, insert at the end of section 5, article 3, the following:

It is agreed, however, that none of the immediately foregoing conditions and stipulations in sections Nos. 1, 2, 3, 4, and 5 of this article shall apply to measures which the United States may find it necessary to take for securing by its own forces the defense of the United States and the maintenance of public order.

The vote on that amendment was—yeas 15, nays 62. It was therefore defeated, and that clause which appears in the Hay-Pauncefote treaty is not carried forward in the latter treaty of November 18, 1901. It is not so material, however, as we shall see later on.

Another amendment was offered to strike out of article 3 the following:

Substantially as embodied in the convention of Constantinople, signed the 28th October, 1888, for the free navigation of the Suez Canal.

On that amendment the vote is not given, but the question was determined in the negative.

The question coming on agreeing to the final resolution of ratification, it was determined in the affirmative—72 yeas, 6 nays.

It will be noted that in this last convention of November 18, 1901, between the United States and Great Britain the preamble carries forward, repeats, and perpetuates the principle of neutralization established in article 8 of the Clayton-Bulwer convention.

Article 1 provides that—

The high contracting parties agree that the present treaty shall supersede the aforementioned convention of the 19th April, 1850.

It was essential that the convention of 1850 should be superseded, in order that the United States should proceed with the canal.

Article 4 was inserted, to wit:

It is agreed that no change of territorial sovereignty or of international relations of the country or countries traversed by the beforementioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties under the present treaty.

Other clauses in this treaty are practically the same as in the Hay-Pauncefote treaty, except there is an entire elimination of paragraph 7 in article 2 of that treaty, to wit:

No fortifications shall be erected commanding the canal or the waters adjacent. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

And the elimination of the clause inserted by way of amendment at the end of paragraph 5 of article 2, to which I have referred.

Under this last treaty of November 18, 1901, the restrictions as to fortifications were eliminated—they appear in the Hay-Pauncefote treaty—and perhaps that is the reason why the clause at the end of paragraph 5 of article 2 of the Hay-Pauncefote treaty is omitted in this last treaty. That clause I have just read, the clause which was inserted in the Hay-Pauncefote treaty:

It is agreed, however, that none of the immediately foregoing conditions and stipulations in sections Nos. 1, 2, 3, 4, and 5 of this article

shall apply to measures which the United States may find it necessary to take for securing by its own forces the defense of the United States and the maintenance of public order.

Mr. WATSON of Georgia. Mr. President——

The PRESIDING OFFICER. Does the Senator from Florida yield to the Senator from Georgia?

Mr. FLETCHER. I yield.

Mr. WATSON of Georgia. I should like to ask the Senator from Florida, who has apparently been giving this subject close thought and study, whether he has found any evidence that at the time of the Clayton-Bulwer treaty there was some proposition that Great Britain herself, in conjunction with the southern Republics which she had just recognized, would build this canal, and whether or not it was considered a great triumph for American diplomacy that we obtained the agreement from Great Britain that we should have joint control should such a canal be built?

Mr. FLETCHER. I have not gone carefully into the history of those times because I have not felt that it would be very material to go back of the Clayton-Bulwer treaty, and only to that for the purpose of showing the provisions which were brought forward in all the subsequent treaties; but I think the Senator's recollection of the matter is entirely correct, and I judged that from the proceedings in connection with these various treaties—the modification, in other words, of the Clayton-Bulwer treaty, and the subsequent developments.

Mr. WATSON of Georgia. Mr. President, with the consent of the Senator, he will remember that it had not been so long since Great Britain had acquired great prestige and good will in the South American Republics by recognizing their independence, in spite of the protests of the continental powers. Great Britain, of course, had great interests down there, territorial interests.

Now, as I remember, it was considered a great victory for American diplomacy that we could get Great Britain, whose power perhaps was then as great as now, while ours was very much less, to agree to virtually make us partners in that enterprise should it be undertaken; and the point is this: If we are to abrogate the Hay-Pauncefote treaty, we could not restore the conditions which we were glad to accept and take advantage of under the Clayton-Bulwer treaty. Therefore we can not make restitution.

Mr. FLETCHER. That is entirely sound and correct. I see no possible escape from our living up in good faith to our contract obligations. Our national honor would demand that; and, as the Senator suggests, it would be impossible, if we should break our contract, to put the parties to that contract in the same position that they were in before the contract was made.

It is plain that the principle that the canal shall be open to citizens and subjects of the United States and Great Britain on equal terms, and shall also be open on like terms to the citizens and subjects of every other State, is carried forward and preserved in the Hay-Pauncefote treaty, and in the last treaty of November 18, 1901.

We have seen, too, that in the proceedings on the ratification of the Hay-Pauncefote treaty the Senate refused to amend the treaty to conflict with that principle by having it provide, as was proposed and rejected, that the United States might discriminate as to its vessels engaged in coastwise trade.

The last treaty referred to, which I have mentioned as being signed at Washington November 18, 1901, was considered in the Senate December 16, 1901, and was declared ratified the 21st of February, 1902, and proclaimed February 22, 1902.

We made a treaty with the Republic of Panama, which was ratified February 26, 1904, in which we made certain concessions to Panama. Strictly speaking, they were not in conformity with the treaty with Great Britain, but as the exemptions applied only to Government vessels of Panama, and the provision was part of the agreement with Panama under which the canal was built, Great Britain raised no objection at the time.

The exemptions provided for in article 19 of the treaty with Panama, of February 26, 1904, are as follows:

> The Government of the Republic of Panama shall have the right to transport over the canal its vessels and its troops and munitions of war in such vessels at all times without paying charges of any kind. The exemption is to be extended to the auxiliary railway for the transportation of persons in the service of the Republic of Panama, or of the police force charged with the preservation of public order outside of said zone, as well as to their baggage, munitions of war, and supplies.

Secretary of State Olney in 1896, in a memorandum on the Clayton-Bulwer treaty, said (Moore, 3 Dig. Int. Law, p. 207):

> As article 8 expressly declares, the contracting parties by the convention desired not only to accomplish a particular object but to establish a general principle. This general principle is manifested by the provisions of the first seven articles, and is that the interoceanic routes thereby specified should, under the sovereignty of the States traversed by them, be neutral and free to all nations alike.

We can not afford to ignore this sound construction of the express language of that treaty, placed upon it by one of the ablest lawyers of this country and one of the greatest Secretaries of State the Government ever had. This "general principle" he mentions, bear in mind, is preserved and expressly continued in the treaties we made with Great Britain of February 5, 1900, and November 18, 1901.

Matters proceeded until we reached the measure, which became "An act to provide for the opening, protection, and maintenance of the Panama Canal, and the sanitation and government of the Canal Zone," approved August 24, 1912.

In section 5 of that act was inserted the provision:

> No tolls shall be levied upon vessels engaged in the coastwise trade of the United States.

And the further provision that the tolls based upon net registered tonnage for ships of commerce shall not exceed $1.25 per net registered ton, nor be less, "other than for vessels of the United States and its citizens," than the estimated proportionate cost of the actual maintenance and operation of the canal, subject, however, to the provisions of article 19 of the convention between the United States and the Republic of Panama.

In the consideration of this measure the very questions now before us were debated quite fully. It was strongly contended then that these provisions, particularly the one with reference to free tolls to vessels engaged in coastwise trade, were in violation of the treaties with Great Britain. Certainly British vessels are not on an equality with American vessels. Surely the plain terms of article 8 of the Clayton-Bulwer treaty are not observed, but are distinctly violated, if any merchant vessels of the United States are allowed to pass free of tolls through the canal, while like vessels of all other countries must pay tolls.

The Panama Canal act was passed August 24, 1912. In pursuance of that act the President issued his proclamation of November 13, 1912, specifying the amount of tolls to be paid on merchant vessels carrying passengers and cargo, and on vessels in ballast, and upon naval vessels, and upon Army and Navy transports, colliers, and the like.

The British Government on July 8, 1912, called attention to the proposals being made—no doubt, when the Panama Canal act was under discussion—and asserted that the proposal to exempt all American ships from the payment of tolls would, in the opinion of His Majesty's Government, involve an infraction of the treaty of November 18, 1901. They said further—

> Nor is there, in their opinion, any difference in principle between charging tolls only to refund them and remitting tolls altogether.

Mr. Innes did say on July 8, 1912:

> As to the proposal that exemption shall be given to vessels engaged in the coastwise trade, a more difficult question arises. If the trade should be so regulated as to make it certain that only bona fide coastwise traffic, which is reserved for United States vessels, would be benefited by this exemption, it may be that no objection could be taken.
>
> It appears to my Government that it would be impossible to frame regulations to prevent the exemption from resulting in fact in a preference to United States ships, and consequently in an infraction of the treaty.

Following that came the communication of November 14, 1912, from the secretary of state for foreign affairs of Great Britain to Ambassador Bryce, in which Sir Edward Grey took the position that the effect of these provisions is that vessels engaged in coastwise trade will contribute nothing toward the upkeep of the canal. Similar vessels belonging to the Government of Panama will, in pursuance of the treaty of 1903, contribute nothing to the upkeep of the canal.

Again—

> In the cases where tolls are levied, tolls in the case of vessels belonging to the United States and its citizens may be fixed at a lower rate than in the case of foreign ships and may be less than the estimated proportionate cost of the actual maintenance and operation of the canal.

He contended that—

> These provisions (1) clearly conflict with the rule embodied in the principle established in article 8 of the Clayton-Bulwer treaty of equal treatment for British and United States ships, and (2) would enable tolls to be fixed which would not be just and equitable, and would therefore not comply with rule 1 of article 2 of the Hay-Pauncefote treaty.

With regard to the contention that the United States has a right to subsidize its shipping and to favor its coastwise trade, that may be done, but not in this way, because, as stated—

> in the first place, exemption will result in the cost of the working of the canal being borne fully by foreign-going vessels, and on such vessels, therefore, will fall the whole burden of raising the revenue necessary to cover the cost of working and maintaining the canal.

Our Secretary of State, Mr. KNOX, replied to this dispatch January 17, 1913, and Ambassador Bryce submitted on February 27, 1913, his response. (S. Doc. No. 11, 63d Cong., 1st sess.)

It has been stated that Great Britain admitted that free tolls through the canal for American coastwise vessels was not in contravention of the treaty. No such admission was made. The British Government distinctly averred that if toll exemption could be restricted rigidly to bona fide coastwise shipping there would still be the powerful objection to such exemption that it would decrease canal revenues, and hence increase the burden placed upon foreign vessels to meet canal expenses.

Our Government said:

It is not now deemed necessary, therefore, to enter upon a discussion of the views entertained by Congress and by the President as to the meaning of the Hay-Pauncefote treaty in relation to questions of fact that have not yet arisen, but may possibly arise in the future, in connection with the administration of the act under consideration.

Clearly Secretary KNOX did not meet the arguments of Sir Edward Grey at all, but he simply said: "As to your proposition to arbitrate this question, we have not gotten to it yet. Wait until the canal is in actual operation and the tolls are put into effect and then see whether you are discriminated against."

In other words, we contended that the canal act did not fix the tolls, the President's proclamation did fix the tolls, and that until the canal was in operation it could not be determined that, as a matter of fact, there would be inequality of demands or unjust or inequitable tolls in conflict with the terms of the Hay-Pauncefote treaty, and "until these objections rest upon something more substantial than mere possibility it is not believed they should be submitted to arbitration."

Great Britain had proposed that the questions be arbitrated. Our reply was, as yet there was nothing to arbitrate, because it might be found that there was no difference of opinion between the two Governments on any important question of fact involved in the discussion.

There was no allegation that the tolls as fixed by the President's proclamation were not just and equitable and that all traffic had not been reckoned in fixing them.

We contended, as a matter of fact, the tolls which would be paid by American Government coastwise vessels, but for the exemption contained in the act, were computed in determining the rate fixed by the President.

Great Britain very strongly objected to the Panama Canal act on the ground that it provided no tolls shall be levied on ships engaged in coastwise trade of the United States, and, second, that a discretion appears to be given to the President to discriminate in fixing tolls on ships belonging to the United States and its citizens as against foreign ships, and, third, that an exemption has been given to the vessels of the Republic of Panama under article 19 of the convention with Panama of 1903.

No objection was made to that convention until 1912, and I do not think the contention as to that on the part of Great Britain is well taken, but the other provisions mentioned in the Panama Canal act are certainly in contravention of the Hay-Pauncefote treaty and the treaty signed November 18, 1901.

The canal was not opened until August 15, 1914.

In the meantime there must have been further correspondence between the United States and Great Britain.

At any rate, on March 5, 1914, President Wilson appeared before a joint session of the two houses of Congress and said:

I have come to ask you for the repeal of that provision of the Panama Canal act of August 24, 1912, which exempts vessels engaged in the coastwise trade of the United States from payment of tolls, and to urge upon you the justice, the wisdom, and the large policy of such a repeal with the utmost earnestness of which I am capable.

It has been said that the only reason the President gave for this request was support of the foreign policy of the administration and his inability "to deal with other matters of even greater delicacy and nearer consequence" if the request was not granted in an ungrudging measure.

It is true the President did not indulge in a lengthy discussion of the whole question, but he said a very great deal in a very few words, and he stated emphatically—

In my own judgment, very fully considered and maturely formed, that exemption constitutes a mistaken economic policy from every point of view, and is, moreover, in plain contravention of the treaty with Great Britain concerning the canal concluded on November 18, 1901.

He further said—what is of very great significance—

Whatever may be our own differences of opinion concerning this much-debated measure, its meaning is not debated outside of the United States. Everywhere else the language of the treaty is given but one interpretation, and that interpretation precludes the exemption I am asking you to repeal.

These are very strong and substantial reasons for the President's request, independent of any question of foreign policy or matters of "greater delicacy."

In response to that request, and after another extended consideration of the question by Congress, the act of June 15, 1914, was passed, amending the Panama Canal act and repealing the clause, "No tolls shall be levied upon vessels engaged in the coastwise trade of the United States," and likewise amending the third paragraph of section 5 of the said act so as to eliminate any possible discrimination in favor of American vessels, thus meeting substantially the objections raised as to conflict with the treaties.

Now, it is proposed to repeal that act of June 15, 1914, and expressly grant free tolls to vessels engaged in coastwise trade of the United States.

In other words, the proposition is to go back to the provisions of the Panama Canal act.

THE EFFECT.

If this bill should be enacted into law the effect would be that vessels enrolled and licensed in the coastwise trade of the United States would pass through the canal without paying toll.

In the first place, that would be a discrimination between American vessels engaged in foreign trade and American vessels engaged in coastwise trade.

If a vessel sailed from New York for San Francisco through the canal and called at Habana to discharge and take on cargo, that vessel would pay tolls. If it did not call at any foreign port, and was engaged exclusively in coastwise trade, it would not pay tolls.

If a vessel sailed from San Francisco to Boston through the canal it would pass through without paying tolls. If after passing through the canal it called at a port in the West Indies or at Habana, and took on cargo, it would have escaped the payment of tolls wrongfully.

This illustrates the difficulty of separating American vessels engaged exclusively in coastwise trade from those which may be engaged in both coastwise and foreign trade.

Already all foreign ships are excluded from our coastwise trade. Our vessels serving that trade have a distinct monopoly. They have no competition with any foreign vessels.

There is a proposal in the merchant marine act to extend our coastwise trade laws to the Philippines. They already extend to Porto Rico and Hawaii.

I can see no sound reason for granting these further benefits to our coastwise vessels, especially thereby diminishing the revenues to the canal, and obliging the deficit to be made up by the other taxpayers of the country.

These benefits will be very considerable.

It is sometimes estimated that the cost of operating a ship may be taken at 25 cents per net ton a day.

The cost of the tolls on laden ships is equivalent to about five days of operation at sea.

In other words, other considerations being equal, if a ship saves over five days in her voyage by using the canal, it is profitable to go that way.

A 10-knot ship, traveling 240 nautical miles a day, will gain by using the canal, if it shortens the distance by 1,200 miles.

On the same basis, a ship in ballast can profit by using the canal if it saves three days.

Tolls are levied on the net tonnage of the ship, which is the interior space which can be devoted to the carriage of cargo or passengers. The rates for laden ships is $1.20 per net ton, Panama Canal measurement, and the rate for ships in ballast is 72 cents per net ton, with the proviso that the amount collectible shall not exceed the equivalent of $1.25 per net ton as determined under the rules for registry in the United States, or be less than 75 cents per net ton on the same basis.

From the opening of the canal, August 15, 1914, to July 1, 1920, the total revenues collected, including tolls and miscellaneous business profits, had amounted to $34,426,675.28. The expenses of operation and maintenance of the canal during that period had been $36,657,766.89, leaving a deficit in the amount of $2,231,091.61.

During the last three fiscal years the revenues have increased.

The canal is in a fair way toward paying the cost of operation, without allowance of interest charges on the capital invested in the plant, to wit, $367,151,696.38, or a reserve for covering the cost of replacements of machinery which will be necessary from time to time.

Certain concessions have been made to Panama, as stated.

Certain concessions were made to Colombia.

In addition to that, the United States passes through the canal Government vessels which pay no tolls.

A summary of that traffic for the fiscal year 1921 is as follows:

Item.	Atlantic to Pacific.	Pacific to Atlantic.	Total.
Number of vessels	274	152	426
Panama Canal net tonnage	329,381	138,122	467,503
Displacement tonnage	464,904	433,759	898,663
Cargo carried, tons	443,033	10,736	453,769
Tolls collectible at commercial rates	$588,886.49	$336,014.80	$924,901.29

We paid none of this. This amount of traffic cost us nothing in the way of tolls. These privileges we enjoy without protest.

Now, to give free passage to our coastwise shipping is not keeping faith with other countries, and certainly not with Great Britain. Her interests are very considerable.

Mr. KELLOGG. Mr. President——

Mr. FLETCHER. I yield to the Senator from Minnesota.

Mr. KELLOGG. As I understand the Senator, he claims that the Hay-Pauncefote treaty places upon this Government an obligation that its vessels and the vessels of its citizens shall not pay less tolls than the vessels of the citizens and Government of any other country, Great Britain included. If that applies to the United States as to its merchant shipping, why does it not apply to its war vessels and Government vessels, as the language is exactly the same? That is a question that bothers me a good deal. If the provisions of the Hay-Pauncefote treaty apply to this Government as a proprietor, then why can we pass our warships through without tolls?

Mr. FLETCHER. I think that is because we are charged with the protection of the canal. The Senator will remember that the article in the Hay-Pauncefote treaty which prohibited our fortifying the canal was stricken out in the treaty of 1901, and we have the right now to fortify the canal, and we have the duty of protecting that canal, and therefore all our naval vessels, our transports, our colliers, and our supply vessels needed for that work should not be required to pay tolls.

Mr. KELLOGG. But the answer to that seems to me to be that we pass all our Government vessels through, whether they are used in protecting or fortifying the canal or not. For instance, vessels that were sent to the Philippines. If we should be engaged in war with any South American country, or any other country, we might send our entire fleet through at any time without the payment of tolls.

Mr. FLETCHER. There may be some question that we are exceeding really our rights under that treaty by the present practice, but it has not been protested, so far as I have known, by Great Britain or any other country.

Mr. KELLOGG. Great Britain does not claim we are violating the treaty in that regard, does she?

Mr. FLETCHER. I do not know that. So far as the record shows she makes no such claim. What has happened between our departments I am not advised, but there must have been some further correspondence since the correspondence between Secretary KNOX and Sir Edward Grey. However, what it has been I am not advised. They may have raised some such question as the Senator suggests, but I doubt it.

As I said, I would not admit that our Government is exceeding the rights and privileges by the use which it has made in the year 1921, according to the figures which I have just given. The only reason why it has not is because we are charged with the responsibility of protecting the canal and maintaining it.

Mr. KING. Mr. President, will the Senator yield?

Mr. FLETCHER. I yield to the Senator from Utah.

Mr. KING. I have a rather indistinct recollection of a letter written by Sir Edward Grey during the Panama Canal tolls debate in the Senate a number of years ago, in which he, I will not say attempted to answer the suggestion made by the Senator from Minnesota, but incidentally referred to that proposition. My recollection is that he assumed the position that when the Hay-Pauncefote treaty was negotiated we did not have the fee to any part of the Isthmus of Panama; that since the negotiation of that treaty we obtained a title for the construction of the canal and for the purpose of exercising certain authority over it from the new Republic of Panama; that that title which we obtained necessarily carried with it the right to defend the canal which we constructed; and he therefore differentiated between Government vessels, particularly those denominated war vessels, and the merchant marine vessels and merchant ships, and the traffic of individuals and the traffic of the Government, for that matter, if it was regular commercial traffic.

I was wondering whether the Senator had come across that correspondence or whether my recollection was imperfect and inaccurate.

Mr. FLETCHER. I have here a letter from Secretary KNOX of January 17, 1913, to the British Government in reply to Sir Edward Grey's letter, and I also have the letter of Sir Edward Grey, but I can not refer at the moment to the clause in it which the Senator mentions. This is a part of Secretary KNOX's letter which probably throws light upon it. Secretary KNOX said:

It is not believed, however, that in the objection now under consideration Great Britain intends to question the right of the United States to exempt from the payment of tolls its vessels of war and other vessels engaged in the service of this Government. Great Britain does not challenge the right of the United States to protect the canal. United States vessels of war and those employed in Government service are a part of our protective system. By the Hay-Pauncefote treaty we assume the sole responsibility for its neutralization. It is inconceivable that this Government should be required to pay canal tolls for the vessels used for protecting the canal, which we alone must protect. The movement of United States vessels in executing governmental policies of protection are not susceptible of explanation or differentiation. The United States could not be called upon to explain what relation the movement of a particular vessel through the canal has to its protection. The British objection, therefore, is understood as having no relation to the use of the canal by vessels in the service of the United States Government.

Mr. POMERENE. I think the Senator will find that Sir Edward Grey's position is fully discussed in correspondence which was quoted rather extensively by the senior Senator from North Dakota [Mr. MCCUMBER] in a speech that he made some years ago.

Mr. FLETCHER. That correspondence appears in the Senate document to which I have just referred. I have not had occasion to examine the speech made by the Senator from North Dakota which has just been mentioned, but shall be glad to do so.

As I said, Great Britain's interests are very considerable. Next to the United States she is the largest user. For the fiscal year ending 1921 there were 970 British ships passed through the canal, and they paid tolls amounting to $3,976,395.33.

We had 1,212 ships to pass through the canal, on which the tolls were $4,797,463.60.

The total amount of tolls collected for the fiscal year ending 1921 were $11,276,889.91.

In addition to the commercial traffic, as shown above, 426 Government vessels transited the canal during the fiscal year, with tonnage, Panama Canal net, 467,503, carrying 453,769 tons of merchandise, all free of tolls.

In 1921, 322 United States coastwise vessels transited the canal, paying $1,434,281.75 in tolls.

Our coastwise ships have paid since the opening of the canal $5,642,575.21 in tolls.

This coastwise business is increasing. The amount of tolls to be derived from it will increase.

It is now proposed by this bill under discussion to give to the United States coastwise vessels over $1,500,000 a year and thereby reduce to that extent the earnings of the canal.

In stating the amount of tolls paid by coastwise shipping it will be remembered that during the year 1916 the canal was closed for seven months.

It is difficult to determine exactly the volume of the United States coastwise trade through the Panama Canal. Many of the vessels engaging in this trade also call at one or more foreign ports; for example, at Habana and Kingston on the Atlantic side and at Central American and Mexican ports on the west coast. Freight steamers trading between the Atlantic coast and the Orient commonly make Los Angeles, San Francisco, Portland, or Seattle ports of call. Steamers trading from the Atlantic to the Pacific ports of the United States call also at the foreign port of Vancouver. In other words, the domestic trade through the canal is so inextricably bound up with closely related foreign trade that statistical segregation is almost impossible. The above figures indicate the coastwise trade through the canal during the fiscal years shown as nearly as can be determined from data subject to many possibilities of error.

Indicating the increase in coastwise trade, the Panama Canal Record of September 14, 1921, gives the following:

GROWTH OF THE UNITED STATES COASTWISE TRADE.

The rapid growth of the United States coastwise trade through the Panama Canal during recent months is indicated by a comparison of the statistics for the period of eight months from January 1 to August 31, 1921, with those for the calendar year 1920.

Period.	Atlantic to Pacific.		Pacific to Atlantic.		Total.	
	Ships.	Cargo tons.	Ships.	Cargo tons.	Ships.	Cargo tons.
Calendar year 1920.....	116	416,819	122	644,833	238	1,061,652
January to August, 1921...	141	569,300	123	634,203	264	1,203,503

Both the number of ships and the cargo tonnage were greater during the first eight months of the current year than during the entire year 1920.

It would seem the coastwise trade is doing quite well without this proposed subsidy.

It would seem, too, that in estimating the expenses of operating the canal, to which the earnings should be applied, we

should consider the interest on the investment and the wear and tear on the machinery and equipment, not merely the actual outlay in connection with the operation.

DISCRIMINATION BETWEEN AMERICAN VESSELS.

We have enrolled and licensed in the coastwise trade on the Great Lakes 2,884 vessels of the gross tonnage of 2,616,632. These, of course, are not affected by this bill.

Our seaboard and river vessels—the coastwise vessels—number 19,192, and have a gross tonnage of 4,583,814. These it is proposed to exempt from tolls, while our 11,081,690 gross tons, registered and engaged in foreign trade, must pay the same tolls as the vessels of other nations.

On that point I quote from the House report on the bill which became the act of June 15, 1914:

The portion of our merchant marine that needs strengthening is that portion which is struggling to build up trade with foreign nations. Giving benefits to the coastwise ships does not carry our sails to the foreign ports of the world and exchange business with all nations.

Under the exemption of the coastwise trade our most cruel and inexcusible discrimination is against our own people in the foreign trade. Under exemption of tolls one-half of the lockages would be performed as a gratuity and the other half be expected to supply what revenue might be realized.

And—

Two vessels leave the Atlantic port at once, each measuring or estimated at 5,000 tons. One is bound for a Pacific port, heavily laden at remunerative freight rates and certain of a return cargo, exempt from foreign competition, and through courtesy exempted from domestic competition. The other ship is bound for a foreign port, without any aid or protection, in competition with the ships of all the nations of the world in every port it may visit. It goes lightly loaded to hunt for business, under threatened exclusion by rings, pools, and combines, and with little hope of a profitable return cargo. That ship is our representative abroad, our hope of recognition, and our standard of respectability and commercial character. The two ships tie up at the guide wall at Gatun. The first, prosperous, protected, and independent, is carried through at the expense of the Treasury, which means our people, absolutely free. The other is handicapped in its weakness and adversity by a charge of $6,000 to cheer it on its way in its quest of business and in its effort to uphold abroad the character and dignity of our commerce.

OBJECTIONS NOT MERELY TECHNICAL.

I am not attempting to argue the case of Great Britain. In all fairness, however, we must grant that the "principle of equality" which she has insisted on continuously is of very great importance to her. It has not been mere chance that the principle has been expressly incorporated in every treaty from 1850 to date on the subject of the canal. The objections raised by Great Britain to the Panama Canal act, when they proposed to arbitrate the question, were not captious or technical. They have never failed to take care of their shipping and guard their foreign trade.

As indicating their interest, note this statement from the Canal Record, August 10, 1921:

BRITISH SHIPPING AND THE PANAMA CANAL.

In the statistics of the Panama Canal British shipping takes second place immediately after that of the United States. By British is meant imperial, since Australia, New Zealand, and Canada all contribute materially to the tonnage under the British flag. In the fiscal year 1921 approximately one-third of the whole traffic was British, figured either by the number of vessels, net tons Panama Canal measurements, or tons of cargo. To be accurate, 33 per cent of all vessels passing through the canal were British, 34 per cent of the total net tonnage was British, and 32 per cent of all the cargo handled was carried in British bottoms. Approximately the same percentages apply for 1918, 1919, and 1920. During the first three years of canal traffic, i. e., 1915, 1916, and 1917, British shipping represented from 41 to 45 per cent of the total. The relative decline is explained by the rapid development of American shipping during and after the war in Europe. The following table shows the number of British vessels passing through the canal in either direction during the fiscal year since the opening of navigation and the relative importance of British shipping in the total traffic.

British shipping, by fiscal years, 1915 to 1921.

Year.	Atlantic to Pacific.	Pacific to Atlantic.	Total British.	Total all flags.	Percentage, British.
1915	226	239	465	1,068	42
1916	193	165	358	787	45
1917	371	409	780	1,876	41
1918	303	306	609	2,130	33
1919	306	296	602	2,025	30
1920	393	360	753	2,478	30
1921	500	472	972	2,892	33
Total	2,292	2,337	4,629	13,276	34

The development of the traffic in the early years was retarded by slides in the Gaillard Cut. The war at first impeded traffic, and then stimulated it along certain routes. This latter effect is apparent in the figures for 1918, which represent a temporary peak. During the last three years there has been a gradual increase in the number and aggregate tonnage of all vessels using the canal, and a corresponding increase in tonnage under the British flag, which has maintained its relative position. Approximately the same number of British vessels pass the canal in either direction; but this applies to the aggregate trade only.

The table accompanying the statement, analyzed, shows that during the fiscal year 1921 the most important British trade served by the Panama Canal was that between Europe and Australia and New Zealand, with an aggregate cargo tonnage for both directions of 950,000. Second place was taken by the trade between Europe and the West Coast of South America, with 747,000 cargo tons. Then followed the trade between the United States and Australia and New Zealand, with 505,000 tons; the trade between the United States and the Far East, with 451,000 tons; and finally the trade between Europe and the west coast of North America, with 380,000 tons. These five trade routes amount to 81 per cent of all cargo carried through the canal under the British flag.

The amount of tolls British vessels are required to pay is a matter of no small consequence.

Great Britain has 11,433 vessels of the gross tonnage of 22,070,798, while the United States has, registered in foreign trade, 5,976 vessels of the gross tonnage of 11,081,690.

There is no ground for the claim or excuse for the subterfuge that our guaranty of equality to all nations meant all nations except ourselves.

The statistics appearing in the Panama Canal Record of September 14, 1921, are most interesting, and will throw light on the question as to what extent we and other nations are competitors under the guaranty.

For that purpose and because of the detailed information respecting various matters, to wit, trade routes, the use and usefulness of the canal, I submit tables, as follows:

(1) Commercial traffic through the Panama Canal during the fiscal year 1921, by trade routes, Atlantic to Pacific; and the same, Pacific to Atlantic.

Also—

(2) Tons of cargo carriel by commercial vessels through the Panama Canal from its opening to June 30, 1921, by fiscal years.

The preponderance of cargo movement in one direction over some of the routes is striking, notably in the traffic between the Atlantic coast of the United States and the Far East and between Europe and the west coast of both North and South America. The movements from Atlantic to Pacific, and those from Pacific to Atlantic, are shown separately in order of quantity in the tables following, which also state the percentage of cargo which moved over each route:

Commercial traffic through the Panama Canal during the fiscal year 1921, by trade routes. Atlantic to Pacific.

	Number of ships.	Panama Canal net tonnage.	Tons cargo.	Percentage of cargo.	
				Atlantic to Pacific.	Both directions.
East coast of United States to Far East	187	915,720	1,213,906	20.60	10.45
East coast of United States to west coast of South America	253	837,254	933,261	15.84	8.05
United States coastwise	177	783,420	698,429	11.85	6.02
East coast of Mexico to west coast of South America	77	383,466	654,659	11.11	5.64
East coast of United States to Australasia	90	476,854	620,428	10.53	5.35
Europe to Australasia	72	499,763	391,843	6.65	3.38
Europe to west coast of South America	136	533,329	297,166	5.04	2.56
Mexico to west coast of United States	27	143,046	261,205	4.44	2.25
Europe to west coast of United States	80	383,022	144,591	2.46	1.25
Cristobal to west coast of South America	151	228,108	85,190	1.45	.74
East coast of United States to west coast of Canada	13	59,598	82,827	1.40	.72
East coast of United States to Balboa, Canal Zone	7	42,531	69,128	1.17	.60
Cristobal, Canal Zone, to west coast of United States	24	43,578	32,048	.54	.27
Cristobal, Canal Zone, to west coast of Central America	32	21,013	15,227	.26	.13
West Indies to west coast of United States	4	10,934	3,466	.06	.03
West Indies to west coast of South America	4	5,261	2,512	.04	.02
Miscellaneous trade routes	123	384,008	386,187	6.55	3.33
Warships, cruisers, etc., other than United States	14	(1)			
Total	1,471	5,740,902	5,892,078	100.00	50.00

[1] Displacement tonnage of 87,473.

Pacific to Atlantic.

	Number of ships.	Panama Canal net tonnage.	Tons of cargo.	Percentage of cargo. Pacific to Atlantic.	Percentage of cargo. Both directions.
West coast of United States to Europe	158	782,117	1,154,840	20.23	9.96
West coast of South America to east coast of United States	239	778,898	975,597	17.09	8.41
West coast of South America to Europe	178	743,148	922,499	16.16	7.95
United States coastwise	145	647,557	673,959	11.81	5.81
Australasia to Europe	100	701,530	579,745	10.16	5.00
Far East to east coast of United States	74	351,901	428,044	7.50	3.69
West coast of Canada to Europe	22	103,234	154,513	2.71	1.33
Australasia to east coast of United States	27	156,283	147,877	2.59	1.28
West coast of South America to Cristobal, Canal Zone	155	237,486	139,547	2.45	1.20
West coast of South America to Azore Islands	17	59,910	106,910	1.87	.92
West coast of South America to West Indies	12	30,696	47,989	.84	.42

Pacific to Atlantic—Continued.

	Number of ships.	Panama Canal net tonnage.	Tons cargo.	Percentage of cargo. Pacific to Atlantic.	Percentage of cargo. Both directions.
West coast of Central America to Cristobal, Canal Zone	39	25,733	17,378	.31	.15
West coast of United States to Cristobal, Canal Zone	23	41,976	14,578	.26	.13
West coast of United States to east coast of Mexico	40	204,977	8,155	.15	.07
West coast of Central America to east coast of United States	4	3,214	1,431	.03	.01
West coast of South America to east coast of Mexico	79	400,455	230		
Balboa, Canal Zone, to east coast of United States	9	51,448			
Balboa, Canal Zone, to east coast of Mexico	9	46,972			
Miscellaneous trade routes	89	307,466	333,844	5.85	2.87
Warships, cruisers, etc., other than United States	2				
Total	1,421	5,674,974	5,707,136	100.00	49.02

Tons of cargo carried by commercial vessels passing through the Panama Canal from its opening to June 30, 1921, by fiscal years.

Nationality.	1915	1916	1917	1918	1919	1920	1921	Total.
Belgian					464	406	12,700	13,570
Brazilian						8,916	6,700	15,616
British	2,200,514	1,570,660	3,393,750	2,615,675	1,876,939	2,830,268	3,738,257	18,226,063
Chilean	50,879	53,573	184,446	153,259	161,340	104,738	61,737	769,972
Chinese				13,417	13,421	13,700	14,400	54,938
Colombian						27		27
Costa Rican			3,069	2,091	1,137		2,112	8,409
Cuban			7,370				1,200	8,570
Danish	116,603	94,950	242,567	420,063	325,277	42,533	322,039	1,564,032
Dutch	26,402	61,959	314,203	233,063	119,297	128,442	216,488	1,099,854
Ecuadorian					72			72
Finnish							7,101	7,101
French	13,600	7,176	36,680	159,859	286,812	125,249	132,836	762,212
German						59,239	73,837	133,076
Greek				5,741	8,301			14,042
Honduran		321						321
Italian	900		5,700	13,793		63,441	47,988	131,822
Japanese	42,600	117,780	446,338	407,399	503,427	726,338	758,617	3,002,519
Jugo-Slovak							8,325	8,325
Mexican			22,545	253	142		3,785	26,725
Nicaraguan	6							6
Norwegian	166,522	229,366	597,581	1,090,823	577,679	404,323	637,887	3,704,183
Panaman			135			872	1,500	2,507
Peruvian	8,202	62,210	159,609	143,344	121,524	119,418	105,322	719,629
Portuguese						10,775		10,775
Russian	21,030	24	3,230	7,059	8,340	12,867	11,343	63,893
Spanish			71,080	35,394	10,047	101,563	143,076	361,160
Swedish	53,292	47,236	94,515	132,521	143,516	74,244	128,919	674,243
United States	2,187,904	848,857	1,475,725	2,098,277	2,758,885	4,547,140	5,163,025	19,079,814
Totals	4,888,454	3,094,114	7,058,563	7,532,031	6,916,621	9,374,499	11,593,214	50,433,496

Mr. President, the Panama Canal was built by the use of the money of all the people of the United States. All the people are entitled to have the benefit of all revenue derived from its operation as a highway of commerce. That revenue has not up to this time equaled the cost of operation, protection, and maintenance. All the people have been obliged to furnish the money required to make up the difference.

As the commerce increases, all revenue should be applied to cover expenses, first, and then to restore the amounts taken from the people in the past to carry the burden of the annual deficit, and when all these sums are made good, if a clear profit is shown, we should take into account the interest on the total investment—the people having paid interest on the Panama bonds—as any business return would exact, and then the creation of a reserve fund out of which machinery and equipment can be replaced, as will inevitably be required. After all that, if there is still a profit, it belongs to all the people in the nature of dividends on their great enterprise.

Merchant shipping engaged in the coastwise trade did not build the canal; did not bear alone the burden of its maintenance, operation, and protection. These interests are entitled to precisely the same and no other benefits as every other interest in the United States. They now seek the special and additional benefit of the free use of the canal, which would be equivalent to donating to them out of the earnings of the canal, and thus out of funds belonging to all the people, over a million and a half dollars annually. It troubles them not at all that such a course would mean an utter disregard of our solemn contract with Great Britain, made in part consideration of their surrender of advantages and rights vested in them by a prior treaty which they allowed to be superseded by the later ones we very much, in our own interest, desired.

It troubles them in no degree that if they are exempt from tolls just that much the people of the whole country must pay more than they otherwise would pay. They are willing to ignore the fact that other American shipping would be thus discriminated against for their advantage. The shipping of other countries would be denied rights which they have under the pledge of our bond and our honor, but as to that this particular class, already petted and pampered by the favor of our laws, are wholly indifferent.

We may be certain that interests so selfish, if this bill should become a law, would not reduce their freight rate and passenger charges one penny. They would never consider passing any portion of the benefits thus conferred as a subsidy on them on to the shippers of the country. They would retain the last farthing of the savings and put into their own treasuries the money that belongs to the American people.

For the reason that the bill proposes to contravene the provisions of our treaties and violate our covenant and place the United States in the attitude of scorning the respect of the civilized world and on the economic grounds I have mentioned, I trust the bill will not pass.

Mr. POMERENE. Mr. President, will the Senator from Florida permit me to make this suggestion: If we were to consider this subject solely from the standpoint of American citizens, they are entitled to equality of treatment. At the present time the freight rates from coast to coast through the Panama Canal are from one-half to two-thirds less than they are across

the continent to the central part of the United States, and I speak particularly with reference to Ohio. Our shipments, whether to the coast or from the coast, are required to pay traffic rates which must be sufficient to pay a return on the investment in the roadbeds of those several transcontinental lines; and now, by the proposition before us, we are asked to furnish the right of way through the canal, which cost the United States $400,000,000, free to the coastwise shipping. In other words, the differential between the freight rates which citizens on the coast would have to pay and the freight rates which citizens in the interior of the country would have to pay would be increased if we should relieve coastwise shipping of the toll rates through the canal.

Mr. FLETCHER. I see the point the Senator makes, and I think it is a very excellent one. I am obliged to him for mentioning it.

Mr. OVERMAN. Mr. President, if this bill should pass, how much would it cost the American people in the way of taxes to make up the amount they would lose by reason of allowing coastwise ships to go through the canal free?

Mr. FLETCHER. At the rate of traffic through the canal for the fiscal year ending June 30 last, and supposing that we continued in our coastwise trade the same number of vessels that we have now carrying the same tonnage, it would amount to about $1,500,000 a year; but I look forward to an increase of that coastwise trade, and an increase of the tonnage and the number of vessels. It has been increasing of late years over what it was in former years. We have more ships now and less expensive ships—that is, they cost less to the shipowner—and I look forward not only to an increase in the number of ships but to an increase of coastwise trade, and of course the more that increases the more the tolls will increase. If we should allow those tolls to be waived and those vessels to be exempt from paying tolls, it would mean a gratuity to them of at least $1,500,000 a year.

Mr. OVERMAN. And we would have to make up by taxation the deficiency for operating the canal?

Mr. FLETCHER. Precisely.

Mr. OVERMAN. And calculated on the basis of last year's receipts, I understand it would cost the American people over a million dollars?

Mr. FLETCHER. The differences have been very considerable in past years. The revenues now are approaching the operating expenses; but even when they figure that they do not count anything for interest on the investment or for the replacement of machinery that is going to wear out from time to time, and we will have to buy new machinery; and they do not take into consideration the cost of fortifying and protecting the canal, either, when they figure that the present earnings very nearly equal the operating expense.

Mr. KING. Mr. President, nor do they take into account the stupendous military cost of maintaining a large number of troops there.

Mr. FLETCHER. That is true, too. That I would include under the general term "fortifying and protecting."

Mr. KING. The Senator knows that we are spending millions of dollars for the construction of barracks and buildings for our troops, and are keeping upon the Panama Canal from 12,000 to 20,000 troops, at enormous cost to the Government.

Mr. FLETCHER. That has nowhere been figured as a part of the expense in estimating the difference between the revenues and the expenses.

Mr. HARRISON. Mr. President, there has been a good deal of discussion in the Senate and in the papers throughout the country touching the adjournment of Congress. It has been freely predicted and pretty thoroughly understood by Senators, I think, and Members of the House, that the Senate and the House would adjourn by the 10th of November, so that Congress could get out of the way, that the deliberations of the disarmament conference might not be hampered. I think plans to that effect were under way. I am not in the secret councils or in the confidence of the leaders on the other side, but we have all understood that this haste was being indulged in in order that Congress might adjourn, partly because of the disarmament conference and partly because certain Members might desire their mileage during the coming Congress. So I read with a good deal of interest this morning in the Washington Herald, which, no doubt, speaks authoritatively, that the Senate leaders are told, and told very emphatically and in such language that you dare not resist, you can not adjourn.

The article reads, in the first column of the first page, in big headlines, "Harding Wants Senate to Act on Legislation."

It is natural that he should want you to act on legislation, and the country wants you to act on legislation. We on this side are trying to help you as much as possible, but you will not speed up this legislation at all. You get in such turmoil over there, and such differences between yourselves. We do not know now whether a substitute will be offered to this revenue bill that has been considered in the committee for months. We are told that conferences are being held at night, and that cliques are being formed on the other side to support what is known as the Smoot manufacturers' sales tax amendment. We are told that the Senator from Utah has allied with him the very distinguished and powerful Senator from Indiana [Mr. NEW]. I do not know whether he is the junior or senior Senator; I think they came in at the same time; anyway, they are brothers together sometimes in crime. He is with the Senator from Utah on this matter, fighting his colleague [Mr. WATSON], who was heralded a few weeks ago as the new leader on the Republican side; but something has happened, and we hear nothing about it now. But we do not know, when the Smoot substitute is offered, whether it will have the indorsement of the Finance Committee, so we are all up in the air about these questions.

The article says:

> Unperturbed by the prospect of Congress in session simultaneously with the International Armament Conference, President Harding has given Senate leaders to understand that he expects them to carry out the legislative program without consideration of an adjournment.
>
> An announcement—

Here is the object of my rising—for the purpose of having this announcement pronounced. I do not know what Senator is going to give it to us, but we are patiently waiting to hear the announcement. We have been all day—

> An announcement to this effect probably will be made in the Senate to-day by one of the Republicans, for the purpose of ending the doubt and confusion which has arisen over the program.
>
> Heretofore leaders have been shaping their plans with a view to adjourning the present session of Congress not later than November 10, the day before the opening of the armament conference.

Will the Senator please not disappoint us, and will not this Senator who has been designated by the President to make this very important announcement tell us about it and take us into his confidence? Is the paper mistaken? Is this article not correct, or is some leader on the other side withholding something from us?

I am looking at the Senator from Utah [Mr. SMOOT]. I wonder if he has that information, if he is so close to the President as to bring it to us.

Mr. SMOOT. All I am going to say is that we have been in session nearly five hours, and we have not had a chance even to consider one word of the tax bill, and no Senator on this side has said a word. If the Senator will just let us proceed with the bill we will get through before the 1st of January, and if the legislation is not passed there will be no recess.

Mr. HARRISON. I have taken no time of the Senate, and the speeches to-day have been quite interesting, and on very important questions.

Mr. SMOOT. I am not objecting to the speeches; the Senator must not have that idea; but the Senator is complaining of us not getting through with the legislation.

Mr. HARRISON. No; I am asking a question, and I thought the Senator from Utah was so close to President Harding that he might be the one who had been designated by him to deliver this announcement.

Mr. SMOOT. I do not think President Harding knows anything about what is in the paper, and I assure the Senator that the Senator from Utah does not. As far as that report in the paper is concerned, and as far as I know anything about it, it is made like thousands of other newspaper articles are made, coming from the same source. I know that the Senator from Mississippi in the past has taken a great deal of pleasure in reading such articles.

Mr. HARRISON. Yes; I like to read from the Herald sometimes; but we ought to know so that we can make our plans. We would like to have you take us into your confidence about what you are going to do on this sales-tax proposition. I am sure the Senator wants to get votes over here.

Mr. WATSON of Indiana. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Mississippi yield to the Senator from Indiana?

Mr. HARRISON. I will be glad to yield to the Senator.

Mr. WATSON of Indiana. Did my friend from Mississippi say that he intends to vote for the sales-tax proposition?

Mr. HARRISON. No; I am against burdening the people with these taxes.

Mr. WATSON of Indiana. I imagined as much.

Mr. HARRISON. Really, I do not want any unjust taxes, but I think the sales tax is a most objectionable tax. I think

it is almost as objectionable as some of the other provisions in the bill which has been brought in by the committee.

Mr. WATSON of Indiana. Has the Senator made a poll of the Democratic side to find out how many will vote for the Smoot amendment?

Mr. HARRISON. Indeed no; I have not. I think this side is going to vote against the very bad bill which the Senator is sponsoring here.

Mr. WATSON of Indiana. Then why the Senator's anxiety to find out whether we are going to spring, later on, the Smoot manufacturers' tax?

Mr. HARRISON. I was just wondering if you were making any progress toward getting together on the other side. You have been at odds so often, and you are getting apart so much, and you have no policy and no fixed program about anything. I was in hopes that you might have one touching this revenue bill.

Mr. WATSON of Indiana. There is this difference between the two parties. There was a time when the Democratic Party were told what to do from the White House, and they did not have to get together in little knots or cliques or groups or caucuses; they simply followed the wish of the President.

We have a very different way of doing things. We are discussing the tax proposition, the excess-profits tax, and the surtaxes, and the corporation taxes, and the Smoot substitute. We are considering all those propositions every day—and I may say every night—and we propose finally to evolve a tax bill which will not only relieve business to a very great extent, but we hope to revive industry in the United States, to reinvest capital, to reemploy labor, and to do the things the Republican Party promised in the last campaign would be done. We probably shall be compelled to do all those things without the aid and assistance of the Senator from Mississippi, because he intends to oppose the tax bill, no matter what we put in it.

Mr. HARRISON. I do not know.

Mr. WATSON of Indiana. And he intends to oppose the railroad bill.

Mr. HARRISON. The Senator can not speak for me in that way.

Mr. WATSON of Indiana. I say no matter what we would put in it.

Mr. HARRISON. I think the Senator from Mississippi would oppose any bill the Senator from Indiana would write.

Mr. WATSON of Indiana. I have not any doubt about that in the world, and he would honor me by so doing.

Mr. HARRISON. I thank the Senator. We are still far apart.

Mr. WATSON of Indiana. The Senator will oppose the railroad bill when it comes up.

Mr. HARRISON. I certainly will.

Mr. WATSON of Indiana. And that is on the program.

Mr. HARRISON. Yes.

Mr. WATSON of Indiana. And the Senator will oppose the foreign debt funding bill when it comes.

Mr. HARRISON. I certainly will.

Mr. WATSON of Indiana. And that is on the program.

Mr. HARRISON. Yes.

Mr. WATSON of Indiana. And the Senator will oppose the tariff bill when it comes up.

Mr. HARRISON. I certainly will.

Mr. WATSON of Indiana. And that is on the program.

Mr. HARRISON. I was in hopes that you would present something in the interest of the people that I could help you out on.

Mr. WATSON of Indiana. We shall look after the people, because the people looked after us to the extent of about 7,000,000 majority. So we are entirely satisfied with the attitude of the people toward the President and the Senate and the House, and we shall be content with what the future may develop.

While I have no authority to speak for the President of the United States here or elsewhere, and, having no such authority, I do not assume it, nevertheless I am free to say that I speak with some degree of assurance when I do utter the statement that my views are in harmony with those of the President of the United States with regard to this program, and what the people of the United States demand of the Senate of the United States is action and not political speeches.

Mr. HARRISON. Is the Senator now delivering the message? Is he the Senator designated by the President?

Mr. WATSON of Indiana. I am delivering my own message and no message from the White House.

Mr. HARRISON. This is not the message, then, which comes from the White House that is referred to in this article?

Mr. WATSON of Indiana. This is no message from the White House.

Mr. HARRISON. I understood the Senator to say that the views he was then expressing were the views of the President.

Mr. WATSON of Indiana. No; I say that I happen to know that the President believes in the program I have stated and wants to see that program carried out; and, as far as his wish is to be respected, and as far as his views are to have weight here, that program will be carried out; but he has not said that he intends to drag Congress in by the scruff of the neck and force it to do this, that, or the other thing.

Mr. HARRISON. I have no doubt that the wishes of the President will be obeyed and carried out by the Senator from Indiana, as far as he can.

Mr. WATSON of Indiana. As far as I have power to do so——

Mr. HARRISON. I think other Republican Senators will do likewise.

Mr. WATSON of Indiana. Because this is a Government by and through the agency of political parties, and I believe in party management; I believe in party organization, and I believe in party government. When the people by 7,000,000 majority voted a Republican President into power and gave us 24 majority in the Senate and 150 majority in the House, it is our business to consult together, and it is our business to pass legislation in accordance with the wishes of the people and the promises which were made in the last campaign, and that is precisely what we are going to do, I will say for the edification of my friend from Mississippi.

Mr. HARRISON. The Senator has been very kind. Is the Senator now through?

Mr. WATSON of Indiana. It depends on what the Senator from Mississippi says as to whether I am through or not.

Mr. HARRISON. The Senator from Mississippi wanted to say a little more in response to what the Senator has said. I was delighted to hear the Senator say that they expected to evolve a real revenue bill before this measure is finished. If you get up a new bill entirely, it will be much better than the one you are now considering.

The Senator talks about President Wilson, and how the Democrats once acted; that all he had to do was to speak from the White House and they acted accordingly; we have heard a great deal about them being rubber stamps. The Senator should be the last one in the world to bring that up. If there ever was a crowd of Senators submissive to the will of the President, it is the Republican Senators at the present time. You have no views on any proposition. You change and you "wiggle and wobble" from one day to the other. You have no program and you know it. You make up one on one day and the next you have changed your policy.

I am glad to hear the Senator's campaign speech for the new leadership of the Republican Party in the Senate. It is a very admirable speech, and I know of no Senator over there who would grace that high place more than the distinguished Senator from Indiana.

Mr. McCUMBER. Mr. President, will the Senator yield?

Mr. HARRISON. Of course, I except the Senator from Massachusetts [Mr. LODGE], but I had understood that the Senator from Massachusetts, burdened by the cares of the disarmament conference, was going to resign his place as Republican leader, give it up, and that this new honor was to be thrust upon the Senator from Indiana [Mr. WATSON]. Of course, we would dislike to see him leave that position, and we would have regretted very much to see the distinguished Senator from Iowa [Mr. CUMMINS] give up the position of President pro tempore of the Senate. There were many rumors rife about that distinguished and able legislator resigning. We sympathized with him while he was on his sick bed in Atlantic City, and we were indeed sorry to hear that his illness was such as to prevent him from continuing as the presiding officer of this body. Of course, everybody denies now that there was any thing to it. We on this side never did believe there was anything to it. But when he read of the rumors afloat he felt as if he had to come and protect his rights, and so he did, and we have not heard a thing about it since. And we are glad that his health has returned and he is now here among us in the fullness of his health, of course, to the delight of all his colleagues.

So the leadership about which you differed so much apparently has been settled. You are ironing out your differences gradually, and it was in the hope that you would get together in the interest of the country and present a program for revenue legislation that I propounded the question to the Senator from Utah. But we remain in the dark.

Mr. McCUMBER. Mr. President——

The VICE PRESIDENT. Does the Senator from Mississippi yield to the Senator from North Dakota?

Mr. HARRISON. I yield.

Mr. McCUMBER. We have one program now before the Senate, and that is the revenue bill. Will not the Senator allow us to go on? That is important. We are pressed for time, and we would like to go on with the revenue bill if the Senator will allow us to go on. The other speeches to-day have been made on subjects that are really before the Senate, as both the bills are before the Senate, but now it seems to me, as late as it is getting, the Senator wanting to help us out to get a revenue bill which the majority of the Senate at least will agree to, will he not kindly help us out by helping us save the time?

Mr. HARRISON. I am trying to spur you on. That is why I am making these few remarks.

Mr. McCUMBER. We will be spurred much more rapidly if the Senator will just desist long enough for us to have another paragraph of the bill read at the Secretary's desk.

Mr. HARRISON. The Senator from North Dakota no doubt heard the remarks of the distinguished Senator from Indiana when he talked about the submission of the Democrats once to a President. He remembers the proposed soldiers' bonus legislation, because he was one of the few champions over there. He waxed eloquent and long in behalf of the adjusted compensation bill, and I saw the frown come over the Senator's face. It was shameful the way Senators followed the President when he had promised the boys adjusted compensation and after the Senator from Indiana and the other Senators over there had promised adjusted compensation for the service boys. Then the President came to Congress and said, "Change front, fellows; we can not give the boys that now"; and you changed front.

That was only one instance.

I could cite a number of instances where you have changed over there, and yet we have it hurled at us that once we submitted to a President of the United States.

Mr. McCUMBER rose.

Mr. HARRISON. Did the Senator want to say something else?

Mr. McCUMBER. The real question, however, that is before the Senate this very moment is the adoption of section 234 of the revenue bill. And that is the only thing before the Senate, and I wish the Senator would allow us to get to it and pass it or reject it if it is wrong.

Mr. HARRISON. If I could just get an answer to the question I propounded some time ago. I see all the leaders of the Republican side over there. I want to get an answer to this article, that the President had designated some Senator to say that you had to go on and could not adjourn on the 10th of November and that the announcement would come in the Senate to-day. I imagine the Senator from North Dakota is not the one designated to do that. I see the Senator from Massachusetts [Mr. LODGE], but he does not rise and make the announcement. The other Senator from Indiana [Mr. NEW] does not speak. So I take it that this paper is wrong in the deductions here in this article. I did not accuse the Senator from North Dakota——

Mr. McCUMBER. But inasmuch as no one, I suppose, has ever for a moment believed we were going to have an adjournment, and inasmuch as it is a pure matter of a press report, and so far as I can understand there is no foundation for it anywhere, inasmuch as it has been reiterated again and again on the Senate floor that the very best we could do if we kept in session every day would be to get the revenue bill and the tariff bill through during the session, I simply can not imagine why we should take the time in discussing articles in the press when there is this pressing necessity for action upon the revenue bill.

Mr. HARRISON. I can understand why the Senator does not agree to it, but I wanted to ask the Senator a question. He stated that he thought the tariff bill would be passed during this session also. Did I understand him correctly?

Mr. McCUMBER. I hope both bills will be passed, but I do not expect to get the tariff bill through before the 1st of January, even if we work every day from now on to the 1st of January, and without any adjournment. I hope the Senator, guided by his patriotic impulses, will try to help us get some bill through on the tariff question and upon the revenue question, and we can not get either through if we are to discuss partisan politics over and over again.

Mr. HARRISON. The Senator from Mississippi does not think this is politics. I am trying to elicit an answer, and I can not draw it from anyone. The Senator recalls the speech which Postmaster General Hays made in Ohio. He said it was no time to pass the tariff bill. I imagine he was speaking by the card, authoritatively, representing the President.

Mr. McCUMBER. I assume the Senate has to determine that question rather than the Postmaster General, and inasmuch as the Senate—this side of the Chamber, at least—is attempting to press this bill and to get the Senator from Mississippi to cease talking on another subject until we can pass it. I think he can infer from that attitude that we prefer to go right along, notwithstanding what the Postmaster General may have stated.

Mr. HARRISON. The Senator read that speech, did he not?

Mr. McCUMBER. Well.

Mr. HARRISON. The Senator says "well." I imagine he means yes.

Mr. WATSON of Georgia. Mr. President, I wish to ask my friend the Senator from Mississippi, since the Senator from Indiana, my handsome cousin over there, admitted that they are cooking a new bill to take the place of this one which we have been trying to cook here in the daytime, what is the use of having two bakeries going on at the same time?

Mr. WATSON of Indiana. Of course, the sole object of all this discussion is delay, in which I do not care to participate.

Mr. WATSON of Georgia. Why should we waste time on this bill if you are cooking another one at night?

Mr. WATSON of Indiana. My namesake from the State of Georgia has unfortunately misinterpreted my remarks. I did not say that a new bill was being cooked up to take the place of the pending bill.

Mr. HARRISON. Evolved?

Mr. WATSON of Indiana. Nor is there any such bill in contemplation that I know of. The thing that is being discussed is the pending measure and the different provisions of the pending measure, not only on the floor of the Senate when our friends on the other side will give us the opportunity to discuss it, but among ourselves, just as is our right to do and our duty to do; and that is all there is to that.

Now, I do second the effort of my friend from North Dakota and ask Senators on the other side if they will not permit us to continue with the tax bill.

Mr. HARRISON. Oh, yes; we are going to proceed very rapidly——

Mr. WATSON of Indiana. I thank the Senator very much.

Mr. HARRISON. In the hope that it will be defeated in the end.

Mr. WATSON of Indiana. I have no doubt of that purpose.

Mr. HARRISON. Not being able to get a response to the question I propounded some time ago, all the statements of the Senators who have interrupted having been as clear as mud, I presume we shall have to remain thoroughly in the dark as to your program and future policies.

Mr. McCUMBER. I thank the Senator.

Mr. LENROOT. Mr. President, I wish to say just one word. I hope the country will not judge the Senator from Mississippi by the political speeches that he feels called upon to make about every 24 hours. Really, the Senator from Mississippi is one of the most genial gentlemen in the Senate and in all other matters he is a very able legislator, but he is obsessed with the idea that every day he must get up and make a political speech. The country can not look the Senator from Mississippi in the face as we Senators here upon the floor do. We all realize that he is not talking seriously, but the country may not realize that. I only rose to say that I hope the country will not take the Senator from Mississippi seriously.

Mr. PITTMAN. Mr. President, I assure the acting chairman of the committee [Mr. McCUMBER], who has the bill in charge, that I do not desire, in the few remarks I am going to make, to delay action on the bill. There is a matter, however, pending in Congress that is of far more immediate importance to the country, in my opinion, than the passage of the pending bill.

There are probably 5,000,000 unemployed men in the country. I think that is the most serious subject before the American people to-day. It is so serious that the President of the United States felt justified in calling a great conference to see if something could be devised to relieve that condition. One of the first recommendations made by that conference, which was headed by the Secretary of Commerce, a member of the President's Cabinet, was the building of roads throughout the United States immediately.

Members of the Senate and of the House have tried for eight months to obtain legislation from Congress looking to the building of roads through the aid of the Federal Government. There is a bill now in conference which will supply $75,000,000 for that purpose. That bill has been in conference ever since the 19th day of August, and there has not been a meeting of that conference committee, as I am informed. Why?

Mr. McCUMBER. Mr. President, will the Senator allow me?

Mr. PITTMAN. Certainly.

Mr. McCUMBER. Is there not about $75,000,000 unexpended balance already on hand that can be put into operation just as soon as the States——

Mr. NEW. It is $130,000,000.

Mr. McCUMBER. There is $130,000,000, I am informed, that can be utilized just as quickly as any one of the States says it is ready to go on with the project.

Mr. PITTMAN. The Senator is correct in that, but I call attention to the fact also that additional legislation was found necessary for the purpose of enabling the public-land States of the country to take advantage of that appropriation.

Mr. WATSON of Indiana. Mr. President, will the Senator yield just a moment?

Mr. PITTMAN. I yield.

Mr. WATSON of Indiana. The clerks at the desk inform me that the Panama Canal tolls bill, the unfinished business, was laid before the Senate, and I think that it ought to be temporarily laid aside and the tax bill regularly laid before the Senate.

Mr. PITTMAN. I assumed that the tax bill was before the Senate.

Mr. WATSON of Indiana. No; the other bill is still before the Senate.

Mr. PITTMAN. I have no objection to that.

The VICE PRESIDENT. Is there objection to temporarily laying aside the unfinished business? The Chair hears none and it is so ordered. Is there objection now to laying before the Senate the tax bill? The Chair hears none.

TAX REVISION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

Mr. PITTMAN. Mr. President, the Committee on Post Offices and Post Roads of the United States Senate back in February felt that it was necessary to amend the Federal good roads act and proceeded to report a bill known as the Phipps bill for the purpose of accomplishing that amendment. That was along in February. There was a balance in money still unused, if that was all that was essential, but the Committee on Post Offices and Post Roads knew that that was not all that was essential. They started in to write legislation in February, and to-day they have accomplished nothing.

Oh, I have no doubt the chairman of that committee will say that a great conference has been called for the purpose of devising ways and means for getting a whole lot more money for roads; but what the people want is an opportunity to work. They do not want to have these conferences indefinitely continued. Do you suppose the 5,000,000 idle men in the country have received any comfort from this great conference that was called by the President to decide what to do with them? Nothing can be done for them except through legislation. But it is possible, it is even probable, that there are members of the Committee on Post Offices and Post Roads and other Members of the Senate as well who do not realize the suffering that some of the people of the country are undergoing.

I wish to say to members of that committee that I have just come from the West. I have seen in copper camps that once had 5,000 men at work 5,000 idle men who have been idle for three or four months. They are doomed to be idle, so far as their regular occupation is concerned, for seven or eight months longer. I marveled at the way those men and those women could support themselves and their families. That is an instance to which I call attention. That is represented in nearly every occupation throughout our country. It has been going on for months and months.

I do not belittle your efforts to meet in conference and try to devise some larger scheme to help them out, but why delay when you can help them now while you converse with regard to larger means? You have in conference now a bill that will start them at work throughout the public-land States at least. Everyone knows what it means. Along in February the chairman of the committee [Mr. TOWNSEND] expressed his entire sympathy with the remedial legislation carried in the Phipps bill. It simply provided that the public-land States should only pay their equitable proportion of the cost of building the roads. It simply provided that in a State like Nevada, where 90 per cent of all of the land is owned by the Federal Government, that the Federal Government should put up 90 per cent of the money to build the roads in that State.

The chairman of that committee knew it was impossible under the conditions for a State to raise the taxes to put up dollar for dollar with the Federal Government. The chairman of that committee in February knew, and the Committee on Post Offices and Post Roads knew, that until that condition was remedied the building of roads throughout the public-land States must cease. So the chairman away back in February expressed his approval of that legislation. Not only did he express his approval of that legislation, but he said this—and, mark you, that was at a time when I offered an amendment to the Post Office appropriation bill carrying the same provision that was in the Phipps bill, and I offered it because there was not any action on the part of the committee to attempt to pass the Phipps bill at that time.

We wanted action. The committee did not see the necessity apparently for action. But then and there and at that time the chairman said this—and I am reading from page 3370 of the CONGRESSIONAL RECORD of February 18:

> I wish to say to the Senator from Nevada, in furtherance of the statement as to my attitude on the question and my interest in it as demonstrated by amendments or bills before the Senate, that when the Committee on Post Offices and Post Roads of the Senate takes up the question at the very beginning of the next session this proposition will be included, because I have found very little objection to it.

That was in February, seven or eight months ago, when there was very little objection to it. On May 16 a bill was reported by that committee known as the Phipps bill. I do not think there was any objection in the Committee on Post Offices and Post Roads, and the day it was reported to the Senate the urgency of the matter was explained to the Senate. It was explained to the Senate by the Senator from Colorado [Mr. PHIPPS], and it was explained to the Senate by the Senator from Nevada, myself.

There were two Senators who were inclined to object to its consideration at that time, the Senator from Wisconsin [Mr. LA FOLLETTE] and the junior Senator from Utah [Mr. KING]. They were persuaded not to make objections to the consideration of the bill at that time, because it was evident that there existed a great emergency for the passage of the bill; and the Senate recognizing the emergency, and the Senators who were about to object recognizing it, withheld their objection, and the bill passed almost unanimously upon the report of the committee.

Did the emergency exist on May 16? The Senate thought so. The Senators who withdrew their objections thought so, and the bill on that date passed and went to the House of Representatives. Did the House of Representatives hold it up long? Oh, no; they amended it and passed it on June 27, and it came back to this body.

Was there any hurried action upon it when it came back to this body? The bill was in the form in which bills usually are sent to conference. It should have gone to conference. It was a bill that had passed the Senate; it was a bill that had passed the House with amendments, and it was ready for conference. There was so little difference in the two bills that there is no doubt that the three conferees from the Senate and the three conferees from the House could have agreed on their differences, and that bill would now be the law, and the conditions that have prevented the building of roads throughout the West for over a year would have been removed and the several thousand idle men in the copper mining camps and in the other mining camps, and in the fields where they can not sell the hay and on the ranges where they can not sell the cattle and where men can not afford to employ help, would have had some means of subsistence during the coming winter.

But they did not do that. Oh, no. They forgot that there was an emergency existing. They desired to have more conferences with regard to road legislation; the same old fever for conferences, for talk and not for action, again possessed the committee, and instead of sending the measure to conference it was moved to send it back to the same committee which had considered it for months before. So the measure went back to the Post Office Committee. Did the committee immediately take it up and begin action on it? It went back into the Committee on Post Offices and Post Roads on June 27, and on the 10th day of August it was still there. On that day, when I rose on this floor and suggested to the Senator from Michigan the urgency of the matter and urged him to bring the bill out, if I am not mistaken the Senator said the committee were about to order the bill reported out the next day.

Mr. TOWNSEND. The same day.

Mr. PITTMAN. The same day? It was reported out the next day. Remember that that bill had been in the committee from the 27th day of June to the 9th, 10th, or 11th of August, I forget the exact date—the Senator from Michigan may have it there—but it was one of those three days. After the bill had been reported out on the floor of the Senate was there any effort on the day it was reported to get immediate consideration of the report? There was none whatever; not the slightest.

What happened on the following day with regard to that bill upon which no action had been taken on the 11th day of

August? At that time I again called the attention of the committee to matters that constituted the urgency of the proposed legislation, and on the 16th day of August—the day that the distinguished Senator from Massachusetts [Mr. LODGE] called up his resolution for a recess—no effort had been made to pass the road legislation. Yet it was an emergency matter.

Let us see whether or not there is any truth in that statement of fact. I shall now read from the CONGRESSIONAL RECORD of August 16, pages 5046-47. I wish to read what took place; on the day when the Senator from Massachusetts brought up his resolution for a recess. I want to see what action the committee had taken with regard to this great emergency matter. The CONGRESSIONAL RECORD states:

Mr. LODGE. Mr. President, I should like very much to hear the Senator from Nevada speak, but I have no desire to keep him on the floor until 2 o'clock when the unanimous-consent agreement will displace his discussion in any event. I do not know that I have the right to do so, but if there is no objection, I ask permission to withdraw the resolution, and I shall submit it at a subsequent time.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Massachusetts to withdraw his concurrent resolution?

Mr. PITTMAN. I object.

The PRESIDING OFFICER. Objection is made. The question is on agreeing to the concurrent resolution.

Mr. PITTMAN. Mr. President, I know that the Senate desires to hear this very enlightening report from the Committee on Post Offices and Post Roads with regard to roads. The committee have said that they have been considering this subject for several years. The committee composed of these very able Senators have been giving seven years of intense thought to this matter, and after that length of time they have brought in a bill which they seem to be afraid to submit to the Senate.

It is a strange thing that less than a week ago the chairman of that committee should have been so anxious to assure the Senate that he was going to hasten this legislation. Now he sits in his place and makes no statement to this body with regard to the time when he is going to ask for action on the legislation. I have asked whether he expects to pass it before there is any recess, and I hear nothing from him in reply.

Mr. TOWNSEND. Mr. President, I did not hear what the Senator said, if he was addressing me.

Mr. PITTMAN. I asked if the Senator expects to pass the good-roads legislation before the Senate takes a recess?

Mr. TOWNSEND. Not if the Senator from Nevada takes all the time that is left between now and the time proposed for a recess in discussing a matter that is not before the Senate.

Mr. PITTMAN. But the Senator is only addressing the Senate to keep from having the time cut off in which the Senate may act.

Mr. TOWNSEND. That is no excuse. The question of taking a recess has been withdrawn, or rather the offer was made by the Senator from Massachusetts to withdraw it, and the Senator from Nevada objected.

Mr. PITTMAN. That is hardly a fair statement to the Senate, when the Senator from Michigan knows that the Senator from Massachusetts, in asking to have it withdrawn, had in mind the purpose of having it voted on immediately after 2 o'clock.

Mr. LODGE. Oh, no, Mr. President.

Mr. TOWNSEND. Furthermore, let me say, inasmuch as the Senator has interrogated me, that the Senator understands from the meeting that was just held, over which I presided, that I was anxious to report back to the Senate the road bill, and this morning, and when the first opportunity was given to me to call it up, the Senator from Nevada has prevented that possibility.

Mr. PITTMAN. I think that is hardly——

Mr. LODGE. Mr. President, if the Senator will allow me one moment, I said that at 2 o'clock the unanimous-consent agreement with reference to the rent act would come before the Senate and that, of course, displaces everything at that time.

Mr. PITTMAN. Undoubtedly; and then there will be business before the Senate, and the Senator's point of order against debating the matter of a recess after that hour will be in order.

Mr. LODGE. When there is business before the Senate I shall certainly bring it up.

Mr. PITTMAN. Undoubtedly. We should not try to deceive ourselves about the matter, because it is apparent.

Mr. LODGE. I endeavored not to deceive the Senator.

Mr. PITTMAN. Oh, no; but I did not want the Senator to deceive himself nor the Senator from Michigan. I was afraid the Senator from Michigan was deceived by the Senator's offer of withdrawal. He seemed to feel that that ended it.

Now, as to the serious charge that the Senator from Michigan has made, that the Senator from Nevada is responsible for the road bill not having been called up this morning, I desire to say a few words. I assume that he bases that on the ground that while a member of the Committee on Interstate Commerce, and while present there, I offered an amendment to the bill then pending before the committee to protect the farmers——

Mr. TOWNSEND. Oh, no.

Mr. PITTMAN. Then I do not know what it is.

Mr. TOWNSEND. No. The Senator evidently was charging me with being dilatory in calling up the bill. I suggested in the committee meeting this morning that I wanted to quit at 12 o'clock in order to get over to the Senate to call up the road bill, which had been reported on yesterday.

Mr. PITTMAN. The Senator could have called up the bill on yesterday by unanimous consent.

Mr. TOWNSEND. The Senator knows that it was not possible then to call it up. It was only reported on yesterday and had not even been printed. The Senate has not had an opportunity to see it, and we know and the Senator from Nevada knows that there are many Senators who would object to any road bill being considered by unanimous consent. The bill must be called up and was to be called up as soon as printed and that was not until to-day. If the Senator from Nevada had not occupied the time this morning in his discussion the bill, which ought to be called up in order, when we can get action upon it, would have been called before this time.

Mr. PITTMAN. I am trying to understand the Senator from Michigan. Was it some act of the Senator from Nevada in committee which he charges delayed the bill?

Mr. TOWNSEND. It was not, but it is the Senator's action now.

Mr. PITTMAN. Oh, now?

Mr. TOWNSEND. Yes; this day, on the floor of the Senate.

Mr. PITTMAN. There were quite a few minutes this morning during which the Senator had an opportunity to call up the bill. I have no doubt that the Senator from Massachusetts [Mr. LODGE] would have withdrawn his resolution for a recess in order to allow the Senator from Michigan to ask unanimous consent for the present consideration of the bill.

Mr. TOWNSEND. If the Senator will now yield, and give me the opportunity of calling up the road bill, I will do so.

Mr. PITTMAN. Undoubtedly if the bill is going to be allowed to be considered, I shall be very glad to yield to the Senator for that purpose. I certainly desire action on the road bill. That is what I am contending for.

INTERSTATE HIGHWAY SYSTEM.

Mr. TOWNSEND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nevada yield to the Senator from Michigan?

Mr. PITTMAN. Yes; I yield.

Mr. President, that is the history of what took place on the day that the resolution providing for a recess was under consideration. The Senator from Michigan asked unanimous consent for the present consideration of the bill, but objection was made by the Senator from Massachusetts. Then the Senator from Michigan moved to take up the bill, and the bill was taken up and passed. According to the history of the bill in the RECORD, it passed on the 19th day of August; conferees were appointed on the part of the Senate on the 19th day of August; conferees were appointed on the part of the House; and yet, as I am informed—and if I am in error I should like to be corrected——

Mr. TOWNSEND. Did the Senator state that the House conferees were appointed on the 19th day of August?

Mr. PITTMAN. No; I said that conferees were appointed on the part of the Senate.

Mr. TOWNSEND. Why does not the Senator tell when they were appointed?

Mr. PITTMAN. I will ask the Senator when they were appointed?

Mr. TOWNSEND. The appointment of conferees on the bill was about the last thing done by the House about 12 o'clock before the recess was taken on August 24.

Mr. PITTMAN. Very well.

Mr. TOWNSEND. And yesterday the Senate was formally notified of the action of the House in appointing their conferees.

Mr. PITTMAN. Very well. On the 19th day of August the Senate appointed its conferees and on the 24th of August the House appointed its conferees. Now I will ask the Senator from Michigan, who is chairman of the conferees, as I understand, on the part of the Senate, when he made an effort to get the conferees together.

Mr. TOWNSEND. I made such an effort almost immediately, but found that every member of the House conferees was out of the city, although I had strictly no right to act upon the matter until yesterday, when the House formally notified the Senate of the names of the conferees and that it agreed to a conference. I wish to answer the Senator in full later, but I am willing to answer now the question he has just asked.

When Congress resumed its sessions after the recess I called up, or had my secretary call up, the various conferees, and even wrote to the conferees at their homes, telling them that I wanted a meeting of the conferees, assuming that there would be a proper report to the Senate in due time of the action of the House. For the first time—and not all of the conferees are here, so far as that is concerned—I have been able to get a meeting of the conferees, which will be held day after to-morrow morning.

I presume the Senator will go back home now and say that his action has hastened the calling of a meeting of the conferees by the chairman of the committee. For fear that he might say that let me tell him that on yesterday, which was the first occasion when any of the members of the House conference committee were here, the conference was called to meet on Thursday morning.

Mr. PITTMAN. Mr. President, if it were possible for the Senator from Nevada to say anything which would not be offensive and which would in any way tend to urge prompt action on the part of any member of that conference committee—and I am not addressing my remarks entirely to the chairman—if it would aid in any way, I will admit that I should feel highly gratified. I have told the Senator, the chairman of the committee, and I have told the Members of the Senate of the matters that I consider so urgent. I look to the passage of this bill to furnish employment to thousands and thousands of men, not only in my State but throughout the whole country, this winter. I am frank to say to the Senator that in some of the public-land States where they have no manufacturing institutions I do not see any other remedy at all other than this kind of employment. I consider it a grave matter. Winter

is now coming on those people out there. They must have employment. If not, they are going to be a public charge—a public charge on whom, when the whole community is in exactly the same fix?

If this is in the nature of criticism, it really has a serious purpose behind it. I am satisfied that if the Senator had seen the conditions that I have seen in one little community he would feel just as I feel now about the matter, that anything that can be said or done to urge immediate action on this matter is justifiable.

I do not mean to say that the chairman of the Post Office Committee is entirely responsible for what a conference committee does. I know that he is not. The chairman has stated the action that he has taken in the matter. I hope, however, that other members of the conference, I hope that the conferees of the House, can be in some way apprised of the seriousness of this situation. It is not so serious in some sections as in others, and yet it is serious. I do not know of any other possible way in which we can give employment to the people in that country out there than through this legislation.

The towns out there are really in no condition to do town work. The State is in no condition to go further than this bill requires. This road work has to be done at some time. Why not start it now? That is the theory of the conference on labor. They believe that the building of roads should be started at once. It is true that in some parts of the country roads may be built now, under existing appropriations, where the money has not all been exhausted. I think possibly the allotment in most of the States has been exhausted, and in the public-land States it can not be exhausted, because those States can not afford to match the money under existing law.

All that I am doing is this: I am trying to impress upon the conferees—not alone on the Senator from Michigan, who is chairman of the committee, because he is not chairman of the conference—the importance of immediate action. I am trying to reach the matter in some way, and I know of no other way in which I can reach it than through this medium. I do not know of any other way to lay before them what I have seen and what I know of the emergency, and to urge them that they try to get together on this matter just as quickly as possible. Then, as to the conference on Federal roads, to enlarge the scheme or to get more money for it, all of us favor it, I think. At least I favor it. I know of no one who is opposed to it. I would help in every possible way that was in my power, although, not being a member of the committee, I have no voice in the matter at this time.

Those are the things that I have been urging, and that is all I have done it for.

Mr. ODDIE. Mr. President, I should like to ask a question of the senior Senator from Nevada. He has addressed some remarks to the members of the Post Offices and Post Roads Committee. I am a member of that committee.

I want to ask the senior Senator from Nevada if he does not realize that one day before the recess was taken might have had a great deal to do with passing this road legislation; and I want to ask the senior Senator from Nevada, further, if he does not remember that he left the Senate Chamber on the evening of August 18, the time when the committee had planned to pass the road bill? The Senator from Nevada, with one other Senator, left the Senate Chamber just in the middle of that discussion and prevented a quorum, so that the matter had to go over until the next day.

Mr. PITTMAN. Mr. President, I pardon the Senator's excitement. I realize that when a new Member of the Senate is a member of a great and important committee like the Committee on Post Offices and Post Roads his zeal for defense sometimes overcomes his memory. Again, I was present, and so was the junior Senator from Nevada, at that time and when the bill was reported here. I was here on the floor, urging the chairman of the committee on the 16th to bring up his bill for a vote, and I threatened to filibuster here against the motion to adjourn until a vote was had, and I was chided somewhat by the Senator from Massachusetts [Mr. LODGE]; at least, he seemed to think that I was pursuing a rather arbitrary course in a matter of that character and kind. I did stay upon the floor and filibuster, if you please, until the chairman of the committee asked if I would yield for the purpose of bringing up the road bill for consideration. I did yield for that purpose, and I stayed here until it was passed.

Now, I will ask the distinguished junior Senator from Nevada what he did in the matter? Did he help to oppose a recess until this bill came up? Did not the junior Senator from Nevada telegraph out to his people in the State that he thought it would facilitate matters to allow the bill to go over until after the recess?

Mr. ODDIE. I did not telegraph in that way. I telegraphed that I was in favor of the recess; that there was certain legislation before the Senate which could be handled much more expeditiously by the Finance Committee during the recess.

Mr. PITTMAN. And that the Senator thought no harm would be done by the bill going over until after the recess?

Mr. ODDIE. The Senator misconstrues the telegram that I sent out. It was not in those words at all.

Mr. PITTMAN. Well, what did the Senator say at any time by way of urging the passage of this bill?

Mr. ODDIE. I worked as a member of the committee constantly with the other members. We attended the meetings time and again, I should say a dozen or two dozen times, and we worked earnestly with the chairman of the committee, trying to untangle a very bad situation. I will say that the Senator from Michigan [Mr. TOWNSEND], the chairman of the committee, is entitled to credit for working all the time. He has not delayed the matter. I know, as a member of the committee, that he has worked constantly, and I should like to have the Senator from Michigan answer certain matters that have been brought up here in the last few minutes.

Mr. PITTMAN. On the 16th day of August I assume that the junior Senator from Nevada was in his seat all of the time—he seems to attach so much importance to being seated there all the time—but on that date I spoke on behalf of this measure for over an hour. Did the junior Senator from Nevada say anything in behalf of it? On August 11 I spoke on behalf of this measure. My speech appears in the CONGRESSIONAL RECORD on pages 4855–4861. Did the junior Senator from Nevada speak on behalf of this road measure?

Mr. ODDIE. Mr. President, it was not necessary, because the work was being done by the members of the committee, and it was not necessary to talk on the road measure at that time.

Mr. PITTMAN. The junior Senator from Nevada, in his excitement, has charged that there was a lack of a quorum, and that that was the reason why this bill did not pass earlier. He must have been horribly offended because a Senator walked from the floor, and thereafter there was a quorum call. He must have been awfully excited because it did not pass at that minute. Was not the bill brought before the Senate on the 16th? What did the Senator do then or after that to try to get this bill passed?

Mr. ODDIE. Mr. President, the junior Senator from Nevada voted for it the next day, when the senior Senator was not on the floor.

Mr. PITTMAN. Why, I have just read from the RECORD that the senior Senator from Nevada yielded the floor for the very purpose of having this road bill passed. Is there any doubt in the mind of the junior Senator from Nevada as to the facts or the efforts made by the senior Senator to force the passage of this bill? Does he wish to create the impression that he believes that the senior Senator from Nevada has not made every effort for several months to force the passage of this bill? I should like to have the Senator answer that question, if he will.

Mr. ODDIE. Will the Senator please ask that question again?

Mr. PITTMAN. Does the junior Senator from Nevada desire to create the impression that he believes that the senior Senator from Nevada has not made every effort since February to obtain the passage of this bill?

Mr. ODDIE. I think the senior Senator from Nevada has gone out of his way in doing things that were not called for, and has thwarted the passage of the bill by taking up unnecessary time when the bill was being considered by the committee, and the plans were all made to get the bill through.

Mr. PITTMAN. The record I have read will disclose the efforts that I have made, and I fail to find efforts made by the junior Senator [Mr. ODDIE]; but I will say to the Senate that there is no mistake in the State of Nevada with regard to the attitude taken by the two Senators from that State with regard to this legislation. As the Senator has brought up the matter himself, and has seen fit to make rather a personal matter out of it, I will simply read a few telegrams into the record, and I will ask the Senator if he has any telegrams to read.

Here is one from the Nevada Highway Association:

CARSON CITY, NEV., *August 13, 1921.*

HON. KEY PITTMAN,
Senator, Washington, D. C.:

We urge you to continue to block recess until road legislation is considered, as this is greatly needed by State.

NEVADA HIGHWAY ASSOCIATION.

Has the Senator received any congratulatory telegrams from the Nevada Highway Association? If so, I should like to have him read them into the record. It would be a good place for them.

Here is another telegram addressed to me:

CARSON CITY, NEV., *August 12, 1921.*

Hon. KEY PITTMAN,
Senator, Senate Office Building, Washington, D. C.:

The public here is absolutely behind you in your attitude of opposing recess until road bill is passed. Congratulations.

C. C. COTTRELL.

Mr. Cottrell was chairman of the highways board and chief engineer. Perhaps the junior Senator from Nevada has received some telegrams of congratulations from him.

Let me read a few more of them:

CARSON CITY, NEV., *August 12, 1921.*

Hon. KEY PITTMAN,
United States Senate, Washington, D. C.:

Strongly urge continuing block until promised road legislation passed Senate.

W. P. HARRINGTON,
State Counsel Lincoln Highway.

—

RENO, NEV., *August 12, 1921.*

Senator KEY PITTMAN,
Washington, D. C.:

Your stand of yesterday demanding passage of road legislation appreciated here. Accept our thanks.

RENO CHAMBER OF COMMERCE.

—

CARSON CITY, NEV., *August 12, 1921.*

Hon. KEY PITTMAN,
United States Senate, Washington, D. C.:

West demands road legislation without further delay, and we urge immediate action on compromise bill before adjournment.

GREATER CARSON CLUB.

—

RENO, NEV., *August 13, 1921.*

Hon. KEY PITTMAN,
United States Senator,
Senate Office Building, Washington, D. C.:

To-day's press dispatches call attention to fact that you are determined to secure favorable action on the Phipps-McDowell Federal highway construction bill before fall recess of Congress. Board of directors of Reno Lions Club, in special session, to-day passed resolutions highly commending your efforts and determination in this matter. We consider the passage of this measure of vital importance to the progress and prosperity of Nevada.

S. M. SAMPLE, *President.*

Here is a similar telegram from A. R. Kent, secretary of the Rotary Club of Reno.

Here is a similar telegram from the president of the largest mining company in that section of the country.

Here is a telegram from the Overland Trail Club:

LOVELOCK, NEV., *August 13, 1921.*

KEY PITTMAN,
Senator from Nevada, Washington, D. C.:

We congratulate you on your splendid work in trying to prevent the present Congress from taking a vacation until they have really done something and particularly to take action on the compromise road bill. Road building in the public-land States is at a standstill until this necessary legislation is enacted, and we urge you to keep up the good work and assure you we are solidly behind you in your determined fight to get results.

OVERLAND TRAIL CLUB.

There is certainly no such understanding with regard to my action in regard to this road bill as the junior Senator from Nevada would create the impression of by his remarks here in the Senate.

Mr. TOWNSEND. Mr. President, if it would delay action on the business before the Senate, I would pay absolutely no attention to what the Senator has said. Perhaps he ought to be congratulated upon this auspicious opening of his campaign. I can not possibly explain the reports which come to me from the press in his State, and his speeches on the floor, on any other theory than that he is attempting to get political credit when he is entitled to none. I would not make reply if the Senator had not so frequently injected into the record statements which are not faithful to the facts.

It is true that the Phipps bill, so called, which had special reference, and reference only, to the public-land States, was passed in February, near the end of the last Congress. It passed the Senate unanimously, and will I be pardoned if I say that it was not the Senator from Nevada [Mr. PITTMAN] who first called the country's attention to this proposed legislation beneficial to the public-land States. I introduced that measure in a bill several years ago, and brought it to the attention of the Senate. I have supported it ever since. It took form in the Phipps bill and was passed by the Senate. The House did not act upon it in the last Congress and it lost its place on the calendar the 4th of last March.

At the beginning of the next session—this extra session of Congress—we took up that bill again, simply for the purpose of aiding the public-land States by granting them rights of apportionment which they did not have under the law as to existing appropriations. That bill passed the Senate practically unanimously. It went over to the House, and the House gave no consideration to it as a separate bill.

The Senate committee in the meanwhile was working upon the road legislation, legislation which did not affect simply the public-land Sates but all of the States of the Union, all of which were interested in it. We had framed a bill and were working upon it. It was a general measure for the whole country. Some portions of this measure were incorporated in the House bill, which, after hearings, the committee inserted in the Phipps bill; that is, it struck out all after the enacting clause of the Phipps bill and inserted the so-called Dowell bill, containing the Phipps provisions, or a large part of them, but was general road legislation. It did not, however, carry any appropriations.

That bill passed the House and was sent to the Senate. The Senator from Nevada criticizes the action of the Senate, and, as I take it, the action of the chairman of the Committee on Post Offices and Post Roads, because that bill was referred to the Senate Committee on Post Offices and Post Roads, and yet the fact is that the Senator from Nevada voted to refer it if he was here; if he was not here, then that is his fault, because it went unanimously to the Committee on Post Offices and Post Roads.

Mr. PITTMAN. Mr. President——

The VICE PRESIDENT. Does the Senator from Michigan yield to the Senator from Nevada?

Mr. TOWNSEND. I yield.

Mr. PITTMAN. Unquestionably the Senator from Nevada was not here.

Mr. TOWNSEND. That is frequently the case.

Mr. PITTMAN. Because he would have made a protest if he had been here. But I was here frequently when the Senator from Michigan was here, and when he did not act I proceeded to block legislation, as far as I was able, until he did act.

Mr. TOWNSEND. We will talk about that. The Senator has been unfortunate in having been absent from the Senate so much of the time, and of course I am not charging him with any peculiar dereliction in reference to this particular thing, but I am reciting the facts as the record will show it.

That bill was referred to the Committee on Post Offices and Post Roads unanimously. Not a single Senator voted not to refer it, because all believed that this was a subject of great importance, not affecting, I repeat, the public-land States alone, but all of the States of the Union, and two particular bills had been worked out, one in the House and one in the Senate.

As I have said, the House bill was referred to our committee, and we proceeded to act upon it at the very earliest moment possible. Unlike the senior Senator from Nevada, some of us on that committee have something else to do. We are connected with other committees, interested in other legislation, and we have to coordinate our work so as to get an opportunity to do it. But I will leave it to his colleagues on the committee if there was ever the slightest disposition on the part of the chairman, or any other member of the committee, to delay the hearings and the consideration of this road bill. We had our hearings, and we reported the measure at the earliest time consistent with the business of the Senate.

The Senator refers to the incident over in the Interstate Commerce Committee. I was acting chairman of that committee, due to the illness of the regular chairman. I stated to the committee, of which the Senator from Nevada was a member, and when he was present, that I must adjourn the Commerce Committee meeting in order to get to the opening of the Senate for the purpose of calling up the road bill. I came as directly as I could, but when I got here I found the Senator from Nevada chiding the committee, occupying the floor of the Senate, when I had stated in his presence a few minutes before that I wanted to get here for the purpose of calling up this bill. I proceeded to call it up as quickly as the Senator would yield the floor.

He states that he was filibustering to prevent an adjournment before that bill was acted upon. I had stated repeatedly that this bill would be acted upon, and what the Senator did, did not expedite matters in the least. As his colleague has said, if his holding the floor and discussing the matter out of order had any effect, it was to delay action. Mr. President, I have become exceedingly weary of these efforts to play politics, to do something on the floor of the Senate and say something elsewhere for political purposes regardless of the facts.

I submit, Mr. President, I have not played that game, although I am a partisan. I have not felt disposed to do it, although I have been tempted to say things many, many times, and I may be tempted too far. There never has been any partisanship in the Committee on Post Offices and Post Roads since I have been a member of it. We have considered matters carefully, fully, impartially, and without the slightest prejudice to

anybody, and we have arrived at our conclusions after full consideration.

The bill in conference passed the Senate some time about the middle of August. It went over to the House, as it had to do, and the House took no action upon it. I went over repeatedly and talked with the leader of the House and with members of the Roads Committee, asking them if they would not have conferees appointed so that we could get final action. No action was taken until the night of adjournment, the 24th of August. I learned that about the last thing the House did was to name conferees, but this action was not reported to the Senate until yesterday.

About a week after Congress recessed I saw a report that the House had agreed to the Senate's request for a conference, and I tried to get in touch with the House members of the conference in order to find out if we could not have an early meeting, but not one of them was in Washington. When I returned to the city I had my secretary ask again, and they were still absent.

Mr. McKELLAR. I suppose the Senator means the House members.

Mr. TOWNSEND. I said the House members.

Mr. McKELLAR. I wanted to correct the Senator if he referred to Senators, because I was here.

Mr. TOWNSEND. The Senate conferees have been here all the time. As many as four times I have inquired if the House members were in the city, so that we could have a conference, but not until this morning did one of them respond, and the other members are not here yet, but I am informed that the leader of the House has wired to those conferees on the road bill who are now absent to be here, and I have called a conference for next Thursday morning in the office of the Committee on Post Offices and Post Roads.

The senior Senator from Nevada gives himself too much credit. He takes himself too seriously in reference to this matter. We have considered all the time that he was playing politics, and that it was necessary as an emergency in his political game to carry this thing forward, no matter how he reflected upon the members of the Committee on Post Offices and Post Roads, who have devoted their time assiduously to this work, as every member of that committee will bear evidence, I am sure.

I could not have a meeting of our committee from the 3d of July to the 6th, as the Senate was in recess, and I was urged by some of the members of the committee, who are quite as desirous of securing action on the road bill as is the Senator from Nevada, not to call the conferees together until they could get back from the Fourth of July vacation, and I observed their wishes.

It is unbecoming of me, perhaps, to say that I was the author of the proposition to get special aid for the Western States. I urged the passage of the special relief bill, and it was put through the Senate twice. We did not get it enacted, but that was not the fault of the Senate. The Senator, for the sake of the Western States, would neglect the interests of every other State in this Union and enact a law which would not be acceptable to the majority of the Congress and would bring them no aid. Such a bill can not be passed.

I am a better friend to your State, sir, than many who profess so much loyalty to it, and I have worked unselfishly for all of the States, not specially regarding what the effect might be upon my own State. I have voted to aid the public-land States; I have urged it, because I have believed in it.

This proposed appropriation of $75,000,000 was not mentioned in any House bill that has come to the Senate during this session; not a House bill carried a dollar of appropriation for roads in the Western States or in any other State.

I noticed an article in a paper this morning to the effect that the House had passed an appropriation of $100,000,000 and that the Senate had cut it to $75,000,000. I repeat that not a dollar has been carried by any bill in the House during this session for good roads. Our committee inserted the $100,000,000 item and the Senate reduced it to $75,000,000. That is one of the matters that will be in controversy before the conference which is to meet next Thursday morning.

I have said this much, Mr. President, because I have lost patience with this misrepresentation of facts by men who are either not familiar with them or regardless of them, but who seem to think that statesmanship consists of making speeches on the floor of the Senate, out of order, and upon those speeches they hope to get credit before their constituents.

Mr. President, the friends of good roads, the friends of aid to the public-land States, have been persistent in season and out for the good of those States, but they also recognize the rights and interests of the other States. They have a single purpose in view, namely, that of getting the best road legislation possible for all the people of the United States.

Mr. LODGE. Mr. President, it is 5 o'clock, and I make a motion——

Mr. PITTMAN. Mr. President, will the Senator yield a moment?

Mr. LODGE. I make a motion to proceed to the consideration of executive business.

Mr. PITTMAN. I want just a moment, to say about five words.

Mr. LODGE. Mr. President, I do not want to interfere with the Senator, but he seems to have had a very fair opportunity this afternoon. I yield to the Senator.

Mr. PITTMAN. I wish to say that the Senator from Michigan shows considerable excitement. I realize that the Senator has been annoyed by the frequency with which I have called attention to this matter.

It is perfectly natural that he should have been annoyed. It is perfectly natural that the chairman of any committee that has done so much for roads should be annoyed that he had done so little for roads when he commenced to do something along in February and has not done anything yet.

I know that if the Members of my State and of the great public-land States of the West knew how much the distinguished Senator had done for them it would be useless for us to play the politics he says we are playing. There would be no opposition to him from any party whatever. They have looked to him longingly since February. They realize that all of the protestations of their highway commissions and of the societies and of the chambers of commerce have been unfounded. They realize that he is not responsible because nothing has been done in eight months. They realize, for instance, that in his great love for those public-land States he has no other love whatever. They understand that the Townsend bill, which changed the whole system of road legislation entirely, was nothing that he particularly loved. They know that he did not want the Phipps-Dowell bill referred back to his committee for the purpose of substituting the Townsend bill. There is no one who suspects, for instance, the efforts that he made in committee to accomplish that. Not at all!

Oh, he wants great general legislation. At the same time he so loves the Western States that all others who come from there must sink into insignificance in the great brilliancy of his glory. He speaks of playing politics and blowing one's own horn. The modesty with which he spoke of himself on this occasion must appeal to all his colleagues.

So far as stating facts is concerned, I have read from the CONGRESSIONAL RECORD with regard to everything. The RECORD will show it when it is printed to-morrow. The people will understand who is to blame in this matter. Criminations and recriminations amount to nothing. The charge that they thought I was playing politics is immaterial in the result of the whole matter. The record of Congress will disclose the facts, and those facts are plainer than any speeches ever made.

EXECUTIVE SESSION.

Mr. LODGE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After 10 minutes spent in executive session the doors were reopened.

RECESS.

Mr. LODGE. I move that the Senate take a recess until 11 o'clock to-morrow.

The motion was agreed to; and the Senate (at 5 o'clock and 10 minutes p. m.) took a recess until to-morrow, Wednesday, October 5, 1921, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate October 4, 1921.

ENVOYS EXTRAORDINARY AND MINISTERS PLENIPOTENTIARY.

The following-named persons to be envoys extraordinary and ministers plenipotentiary of the United States of America, as follows:

Lewis Einstein, of New York, to Czechoslovakia.
John E. Ramer, of Colorado, to Nicaragua.
John Glover South, of Kentucky, to Panama.
Edward E. Brodie, of Oregon, to Siam.
Roy T. Davis, of Missouri, to Guatemala.
Charles L. Kagey, of Kansas, to Finland.
Willis C. Cook, of South Dakota, to Venezuela.
Charles S. Wilson, of Maine, a secretary of embassy or legation of class 1, assigned to Sofia, Bulgaria, to be envoy ex-

traordinary and minister plenipotentiary of the United States of America to Bulgaria.

AGENT AND CONSUL GENERAL AT CAIRO, EGYPT.

J. Morton Howell, of Ohio, to be agent and consul general of the United States of America at Cairo, Egypt.

COLLECTOR OF INTERNAL REVENUE.

Gilliam Grissom, of Greensboro, N. C., to be collector of internal revenue for the district of North Carolina in place of Josiah W. Bailey.

SURVEYOR OF CUSTOMS.

Lawrence J. Flaherty, of San Francisco, Calif., to be surveyor of customs in customs collection district No. 28, with headquarters at San Francisco, Calif., in place of John S. Irby.

COLLECTOR OF CUSTOMS.

William B. Hamilton, of San Francisco, Calif., to be collector of customs for customs collection district No. 28, with headquarters at San Francisco, Calif., in place of John O. Davis.

UNITED STATES MARSHAL.

George B. McLeod, of Georgia, to be United States marshal, southern district of Georgia, vice Joseph S. Davis, whose term has expired.

SURVEYOR GENERAL OF WYOMING.

Clyde W. Atherly, of Basin, Wyo., to be surveyor general of Wyoming, vice Charles L. Decker, term expired.

PROMOTION IN THE REGULAR ARMY.

To be colonel with rank from September 24, 1921.

Lieut. Col. Stanley Dunbar Embick, Coast Artillery Corps.

POSTMASTERS.

ARIZONA.

Charles W. Hicks to be postmaster at Bisbee, Ariz., in place of L. R. Bailey, removed.

Harry B. Riggs to be postmaster at Patagonia, Ariz., in place of G. H. Francis, deceased.

ARKANSAS.

Claude G. Felts to be postmaster at Alicia, Ark. Office became presidential October 1, 1920.

Dell W. Lee to be postmaster at Mineral Springs, Ark. Office became presidential April 1, 1920.

Therese N. Scott to be postmaster at South Fort Smith, Ark. Office became presidential January 1, 1921.

Floyd M. Carter to be postmaster at De Queen, Ark., in place of J. L. Cannon, resigned.

Andrew I. Roland to be postmaster at Malvern, Ark., in place of Claude Mann. Incumbent's commission expired December 16, 1919.

CALIFORNIA.

Walter D. Neilson to be postmaster at Del Monte, Calif., in place of W. D. Neilson. Incumbent's commission expired February 23, 1920.

Fred Swartz to be postmaster at Indio, Calif., in place of I. T. MacKenzie, resigned.

Ralph H. Read to be postmaster at Middletown, Calif., in place of R. H. Read. Incumbent's commission expired March 16, 1921.

Clara J. Firmstone to be postmaster at Portola, Calif., in place of N. R. Feirl, removed.

Archie R. Beckes to be postmaster at Wasco, Calif., in place of N. P. Cormack, resigned.

John N. Bennetts to be postmaster at Broderick, Calif. Office became presidential April 1, 1921.

Emelia R. Ross to be postmaster at Veterans Home, Calif., Office became presidential April 1, 1921.

CONNECTICUT.

Edna M. Jenkins to be postmaster at Middlefield, Conn. Office became presidential October 1, 1920.

Dexter S. Case to be postmaster at Soundview, Conn. Office became presidential January 1, 1921.

Robert A. Dunning to be postmaster at Thompson, Conn. Office became presidential January 1, 1921.

Edgar W. Lewis to be postmaster at Chester, Conn., in place of C. W. Leet. Incumbent's commission expired June 2, 1920.

Claude M. Chester to be postmaster at Noank, Conn., in place of F. E. Williams. Incumbent's commission expired April 24, 1921.

Louis M. Phillips to be postmaster at South Coventry, Conn., in place of J. S. Champlin. Incumbent's commission expired January 30, 1921.

Willis Hodge to be postmaster at South Glastonbury, Conn., in place of Willis Hodge. Incumbent's commission expired July 25, 1920.

Edward F. Schmidt to be postmaster at Westbrook, Conn., in place of E. F. Schmidt. Incumbent's commission expired December 20, 1920.

FLORIDA.

John H. Collins to be postmaster at Milton, Fla., in place of J. H. Collins. Incumbent's commission expired February 7, 1920.

Lauchlin L. McKinnon to be postmaster at Chattahoochee, Fla. Office became presidential April 1, 1920.

Myrtle B. Johnson to be postmaster at Jensen, Fla. Office became presidential October 1, 1920.

Tom E. Chaires to be postmaster at Odessa, Fla. Office became presidential April 1, 1921.

GEORGIA.

Joshua R. Wimberly to be postmaster at Jeffersonville, Ga., in place of J. R. Wimberly. Incumbent's commission expired April 16, 1921.

Edmund R. Mathews to be postmaster at Talbotton, Ga., in place of W. K. Kimbrough, resigned.

INDIANA.

Fred J. Merline to be postmaster at Notre Dame, Ind., in place of C. F. Ill, resigned.

Cyrus V. Norman to be postmaster at Sheridan, Ind., in place of C. E. Couch, resigned.

IOWA.

Frank L. Wuamett to be postmaster at Alvord, Iowa. Office became presidential January 1, 1921.

Robert N. Seydel to be postmaster at Ladora, Iowa. Office became presidential January 1, 1921.

Charles F. Brobeil to be postmaster at Lytton, Iowa. Office became presidential October 1, 1920.

John E. Mieras to be postmaster at Maurice, Iowa. Office became presidential January 1, 1921.

KANSAS.

Walter A. Briggs to be postmaster at Cherryvale, Kans., in place of G. S. Hoss, jr., resigned.

MAINE.

George L. Baker to be postmaster at Bingham, Me., in place of G. L. Baker. Incumbent's commission expired December 20, 1920.

Isaac T. Maddocks to be postmaster at Sherman Mills, Me. Office became presidential January 1, 1921.

Joseph M. Gerrish to be postmaster at Winter Harbor, Me. Office became presidential January 1, 1921.

George H. Blethen to be postmaster at Rockland, Me., in place of J. L. Donohue. Incumbent's commission expired January 9, 1921.

MASSACHUSETTS.

Augusta M. Kelley to be postmaster at Centerville, Mass., in place of A. M. Kelley. Incumbent's commission expired January 23, 1921.

Samuel L. Wildes to be postmaster at Montague, Mass. Office became presidential January 1, 1921.

Frank M. Tripp to be postmaster at Marion, Mass., in place of F. M. Tripp. Incumbent's commission expired January 3, 1921.

MICHIGAN.

Frank J. Eisengruber to be postmaster at Bay Port, Mich. Office became presidential January 1, 1921.

Clarence E. Norton to be postmaster at Dimondale, Mich. Office became presidential April 1, 1921.

Lawrence Tobey to be postmaster at Free Soil, Mich. Office became presidential January 1, 1921.

Charles J. Schmidlin to be postmaster at Rockland, Mich. Office became presidential July 1, 1920.

Grace E. Gibson to be postmaster at Scotts, Mich. Office became presidential April 1, 1921.

MINNESOTA.

Ina Jarvi to be postmaster at Kinney, Minn., in place of E. E. McGrath, resigned.

Anton Malmberg to be postmaster at Lafayette, Minn. Office became presidential January 1, 1921.

Ole N. Aamot to be postmaster at Watson, Minn. Office became presidential April 1, 1921.

MISSOURI.

Fred A. Hearn to be postmaster at Lilbourn, Mo., in place of T. L. Winston, removed.

Frank Riemeier to be postmaster at Marthasville, Mo. Office became presidential July 1, 1920.

Fred E. Hart to be postmaster at Norwood, Mo., in place of P. L. Connolly. Incumbent's commission expired July 25, 1921.

NEBRASKA.

Harry H. Woolard to be postmaster at McCook, Nebr., in place of E. J. Brady, resigned.

NEW HAMPSHIRE.

Ben O. Aldrich to be postmaster at Keene, N. H., in place of A. L. Holden, resigned.

NEW JERSEY.

Louis A. Thievon to be postmaster at Stirling, N. J. Office became presidential January 1, 1921.

NEW MEXICO.

Helen M. Lindsey to be postmaster at Portales, N. Mex., in place of A. F. Jones. Incumbent's commission expired January 25, 1920.

NEW YORK.

Arthur N. Christy to be postmaster at Newark, N. Y., in place of R. E. Wilder. Incumbent's commission expired January 11, 1920.

Bertha M. Burt to be postmaster at Hague, N. Y. Office became presidential January 1, 1920.

Robert H. Johnston to be postmaster at Merrick, N. Y. Office became presidential July 1, 1921.

NORTH CAROLINA.

Edward A. Simkins to be postmaster at Goldsboro, N. C., in place of L. M. Michaux. Incumbent's commission expired July 21, 1921.

OHIO.

Cyrus S. Daulton to be postmaster at Winchester, Ohio, in place of T. N. Swearingen, resigned.

OKLAHOMA.

Joseph Hunt, jr., to be postmaster at Vinita, Okla., in place of C. O. Berry. Incumbent's commission expired March 4, 1920.

PENNSYLVANIA.

Harry H. Potter to be postmaster at Bushkill, Pa. Office became presidential January 1, 1921.

Ernest D. Mallinee to be postmaster at Townville, Pa. Office became presidential October 1, 1920.

Howard S. Crownover to be postmaster at Curwensville, Pa., in place of G. F. Kittelberger, removed.

Fred Goodman to be postmaster at Galeton, Pa., in place of Daniel Lennon. Incumbent's commission expired June 29, 1920.

SOUTH DAKOTA.

Hulda C. Roth to be postmaster at Columbia, S. Dak. Office became presidential July 1, 1920.

TEXAS.

George W. L. Smith to be postmaster at Henderson, Tex., in place of P. D. Chapman. Incumbent's commission expired December 16, 1919.

Charles A. Tiner to be postmaster at Lavernia, Tex., in place of C. A. Tiner. Incumbent's commission expired January 31, 1921.

William P. Harris to be postmaster at Sulphur Springs, Tex., in place of W. H. Rand, resigned.

UTAH.

Rufus A. Garner to be postmaster at Ogden, Utah, in place of W. W. Browning, deceased.

VIRGINIA.

Lucy E. Claiborne to be postmaster at Forest Depot, Va., in place of L. E. Yancey. Incumbent's commission expired July 21, 1921.

James C. Thomas to be postmaster at South Clinchfield, Va. Office became presidential April 1, 1921.

WASHINGTON.

Roy H. Clark to be postmaster at Palouse, Wash., in place of R. A. Belvail, resigned.

WEST VIRGINIA.

George L. Carlisle to be postmaster at Hillsboro, W. Va. Office became presidential July 1, 1921.

William C. Bishop to be postmaster at Scarbro, W. Va. Office became presidential January 1, 1921.

WISCONSIN.

Desire J. Baudhuin to be postmaster at Abrams, Wis. Office became presidential April 1, 1921.

Stephen M. Peeters to be postmaster at Little Chute, Wis. Office became presidential January 1, 1921.

Clara H. Schmitz to be postmaster at St. Cloud, Wis. Office became presidential April 1, 1921.

CONFIRMATIONS.

Executive nominations confirmed by the Senate October 4, 1921.

WAR DEPARTMENT.

GOVERNOR GENERAL OF THE PHILIPPINE ISLANDS.

Leonard Wood, of Massachusetts, to be Governor General of the Philippine Islands.

TREASURY DEPARTMENT.

COLLECTOR OF INTERNAL REVENUE.

Harvey H. Motter, of Olathe, Kans., to be collector of internal revenue, district of Kansas.

PROMOTIONS IN THE ARMY.

William Wright Harts to be colonel, Field Artillery.
Allen James Greer to be lieutenant colonel, Field Artillery.
Harry Westervelt Gregg to be major, Infantry.
John Stephen Sullivan to be major, Infantry.
Vincent Bargmant Dixon to be captain, Air Service.
Howard Joseph Hutter to be captain, Medical Corps.
Charles Vincent Hart to be captain, Medical Corps.
Edward James Kubesh to be captain, Dental Corps.
Frank Alf Crane to be captain, Dental Corps.
Arne Sorum to be captain, Dental Corps.
Edwin Kennedy Rogers to be first lieutenant, Veterinary Corps.
Samuel S. Burgey to be first lieutenant, Ordnance Department.

POSTMASTERS.

ARKANSAS.

Eston G. Berry, Magazine.

GEORGIA.

Eldon A. McCollum, Baconton.
Robert L. Lovvorn, Bowdon.
Archie B. Austin, Emory University.
Ida V. Wyatt, Menlo.
George C. Bamberg, Omega.
Will P. Tate, Trion.

INDIANA.

Lee G. Corder, Merom.

KANSAS.

Lillie N. Johnson, Midian.
Anna W. Lowe, Moscow.

MICHIGAN.

Henry P. Hossack, Cedarville.
Cyrenius P. Hunter, Gagetown.
Jennie Van Der Ven, New Era.
Mack Herring, Osseo.
Harry A. Dickinson, Port Hope.

NEW JERSEY.

Elias H. Bird, Plainfield.

NORTH CAROLINA.

Raymond B. Wheatly, Beaufort.
William J. Flowers, Mount Olive.

NORTH DAKOTA.

Thomas W. Kinsey, Towner.

OHIO.

Charles A. Ridgley, Chesterhill.
Robert H. Brown, Clyde.
John S. DeJean, Nevada.

PENNSYLVANIA.

Harry U. Walter, Biglerville.
Ella T. Cronin, Centerville.
Glenn W. Irvin, Conneaut Lake Park.
William F. Eckbert, jr., Lewistown.

RHODE ISLAND.

John C. Sheldon, Hillsgrove.

SOUTH CAROLINA.

John B. O'Neal, Fairfax.
James H. McCord, Hodges.
John L. Hames, Lockhart.

TENNESSEE.

Roscoe T. Carroll, Estill Springs.
Frank H. Smothers, Holladay.
Lex C. Bashaw, Mount Joliet.
William S. Stanley, Oneida.
Herbert G. Roberts, Parsons.
Ben Sloan, Vonore.

TEXAS.

Pearl L. Ward, Roaring Springs.

WISCONSIN.

James L. Ring, Osseo.
Willis S. E. Morgan, Woodville.

HOUSE OF REPRESENTATIVES.

TUESDAY, *October 4, 1921.*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

O God, our help in ages past and our hope for years to come, with one accord we offer Thee our humble gratitude. Give each of us the blessing of a calm and a thankful heart. Sustain us by Thy truth, which is so fadeless and pure; and may we never leave our peace of mind and joy of soul to the mercy of events, but let the sweet tokens of Thy presence bring peace and satisfaction to all our breasts.

From day to day may all our labors be characterized by strength, firmness, and confidence, and always with a deep concern for our country and good will for all humanity. In the name of Him who is the way, the truth, and the life. Amen.

The Journal of the proceedings of yesterday was read and approved.

CONTESTED-ELECTION CASE—CAMPBELL V. DOUGHTON.

The SPEAKER laid before the House a communication from the Clerk, transmitting original testimony, papers, and documents relating to the contested-election case of J. I. Campbell against Robert L. Doughton, which was referred to the Committee on Elections No. 2.

EXTENSION OF REMARKS.

Mr. BLANTON. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD upon the improvements in the Government Printing Office.

The SPEAKER. The gentleman from Texas asks unanimous consent to extend his remarks in the RECORD in the manner indicated. Is there objection?

There was no objection.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, one of its clerks, announced that the Senate had passed the following resolution:

Senate resolution 149.

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. SAMUEL M. TAYLOR, late a Representative from the State of Arkansas.

Resolved, That the Secretary communicate these resolutions to the House of Representatives.

Resolved, That as a further mark of respect to the memory of the deceased the Senate do now adjourn.

The message also announced that the Senate had passed joint resolution of the following title, in which the concurrence of the House of Representatives was requested:

S. J. Res. 122. Joint resolution for the bestowal of the congressional medal of honor upon an unknown unidentified Italian soldier to be buried in the National Monument to Victor Emmanuel II in Rome, Italy.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. RICKETTS, from the Committee on Enrolled Bills, reported that on October 3 they had presented to the President of the United States, for his approval, the following bills:

H. R. 7578. An act providing for "Visit the Dunes, Michigan City," canceling stamp to be used by Michigan City (Ind.) post office; and

H. R. 8365. An act to permit the use in the post office at Cincinnati, Ohio, of special canceling stamps bearing the words "Public Health Exposition, Cincinnati, Ohio, October 15 to 22, 1921."

ORDER OF BUSINESS.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent to address the House for three minutes.

The SPEAKER. Is there objection?

There was no objection.

Mr. MONDELL. Mr. Speaker, yesterday I stated that after consultation with members of the minority and the majority I might deem it wise to submit a request for unanimous consent relative to the sessions of the House for the balance of the week. I now submit such a request, to the effect that when we adjourn to-day, after consideration of the Calendar for Unanimous Consent and other matters that may come before the House, we adjourn to meet on Friday next, and that when we meet on Friday, without taking up important business, we adjourn to meet on Monday next. I submit that request, Mr. Speaker, for the reason suggested yesterday. When we recessed and entered into the unanimous-consent agreement, which carried us to the session of yesterday, it was with the expectation that the Senate would by this time be well along in its consideration of the tax bill. The progress so far in the consideration of that measure has not been as great as we had anticipated. It is apparent that it will be some time before the Senate concludes its consideration of the tax bill. The House program is well in hand. There is nothing specially pressing for consideration at this time. We are waiting on the Senate for the tax, the tariff, the railroad, and the antibeer bill.

Mr. Speaker, if my request be granted, it will be with the expectation that we shall have a quorum on Monday, then to proceed steadily with the transaction of the business before the House. Monday is District of Columbia day. If it is the desire of the District of Columbia Committee to use that day, I think that committee should have that opportunity.

Quite early in the week we would expect to take up the apportionment bill. Whether or no it shall be deemed wise to take it up on Tuesday I am not prepared at this time to say, and could not say without further consultation with members of the committee and other Members of the House. In any event we expect to take that bill up very early in the week.

We are hoping for a report from the committee of conference on the road bill, and that would be taken up for consideration by the House.

It is expected that the Committee on Ways and Means will take up for consideration at a reasonably early date the matter of the extension of the emergency tariff.

There are several bills on the calendar, such as the bill relating to the business of the Patent Office, that ought to have reasonably early consideration.

There is a contested-election case that ought to have prompt consideration. In fact, there is business enough before the House to keep us busy when on Monday we take up the business of the House in the regular way.

Mr. GARRETT of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. MONDELL. Yes.

Mr. GARRETT of Tennessee. The gentleman referred to a contested-election case. I believe there is a unanimous report in that case, and I take it there is no reason why we can not have early consideration of that matter.

Mr. MONDELL. I think that should be promptly disposed of.

Mr. KINCHELOE. Mr. Speaker, will the gentleman yield?

Mr. MONDELL. Yes.

Mr. KINCHELOE. In respect to the conference report upon the good roads bill, will the gentleman state to the House with which House the papers in that matter would be, the Senate or the House?

Mr. MONDELL. The gentleman from Wisconsin [Mr. STAFFORD] assures me—and he is generally correct about those things—that the papers would be with the House.

Mr. KINCHELOE. And, therefore, the House would act first.

Mr. MONDELL. Yes.

The SPEAKER. The gentleman from Wyoming asks unanimous consent that when the House adjourns to-day it adjourn to meet on Friday next, and that when it adjourns on Friday next it adjourn to meet upon the following Monday. Is there objection?

There was no objection.

UNANIMOUS-CONSENT CALENDAR.

The SPEAKER. The Clerk will call the Calendar for Unanimous Consent.

PUYALLUP RIVER, WASH.

The Clerk reported the title of the bill H. R. 1578 to provide a preliminary survey of the Puyallup River, Wash., with a view to the control of its floods.

Mr. JOHNSON of Washington. Mr. Speaker, I ask unanimous consent that the bill H. R. 1578, just reported by the Clerk, and the following bill, H. R. 1577, to provide a preliminary survey of the Cowlitz River, Wash., with a view to the control of its floods, be passed over without prejudice and that they may retain their places on the calendar.

The SPEAKER. The gentleman from Washington asks unanimous consent that the first two bills on the calendar referred to by him be passed over without prejudice but that they retain their places on the calendar. Is there objection?

There was no objection.

BRIDGE BILLS.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that the bridge bills on the calendar be taken up for consideration before the other bills.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the first bridge bill.

BRIDGE ACROSS SULPHUR RIVER, TEX.

The Clerk reported the title of the bill S. 1970, granting the consent of Congress to the counties of Bowie and Cass, State of Texas, for the construction of a bridge across Sulphur River, at or near Pettis Bridge, on State Highway No. 8, in said counties and State.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER. The Clerk will report the bill.

The Clerk reported the bill as follows:

Be it enacted, etc., That the consent of Congress is hereby granted to the counties of Bowie and Cass, State of Texas, to construct, maintain, and operate a bridge and approaches thereto across the Sulphur River at a point suitable to the interests of navigation, at or near the location of Pettis Bridge on Texas State Highway No. 8, as located between Douglassville, in Cass County, and the town of Maud, in Bowie County, State of Texas, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. The question is on the third reading of the bill.

The bill was ordered to be read a third time and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. WINGO. Mr. Speaker, I desire to get some information in respect to the bill. Is it open for discussion at this time?

The SPEAKER. The gentleman from Arkansas is recognized.

Mr. WINGO. Mr. Speaker, I would like to know of the gentleman from Texas if this bill takes the place of a bridge authorized in the last Congress across this river, or is it on a different highway? The bridge I had in mind was a highway that went out of Texarkana.

Mr. BLACK. I will state to the gentleman from Arkansas that this bill was introduced by the Senator from Texas [Mr. SHEPPARD] in the Senate, and I am not very familiar with the particular location of the bridge. The gentleman from Texas [Mr. RAYBURN], who is a member of the Committee on Interstate and Foreign Commerce, and which committee reported this bill, informed me that he understood a similar bill passed the Senate at the last session.

Mr. WINGO. I will state to the gentleman that the bill——

Mr. BLACK. But it did not pass the House.

Mr. WINGO. There was a bill put through for a bridge across the highway that went out of Texarkana.

Mr. BLACK. I am not sure that this is the same highway the gentleman has in mind.

Mr. WINGO. But the gentleman has had no protest and no controversy over the two highways?

Mr. BLACK. None whatever. I am sure it does not conflict with any bill previously passed.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. BLACK, a motion to reconsider the vote by which the bill was passed was laid on the table.

BRIDGE ACROSS CUMBERLAND RIVER IN MONTGOMERY COUNTY, TENN.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 8209) to extend the time for the construction of a bridge across the Cumberland River in Montgomery County, Tenn.

The bill was read by title.

The SPEAKER. Is there objection to the present consideration of this bill?

Mr. WALSH. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Tennessee what is the reason for asking for this extension of time?

Mr. BYRNS of Tennessee. I will state to the gentleman the construction of this bridge was authorized two years ago. There was some difficulty in the floating or issuance of the bonds which have been authorized for the purpose of constructing the bridge, and some question between the county and the State highway departments in reference to their respective proportionate expenditures for the construction of the bridge. Now that has been all authorized. The money is on hand, the trouble now being the authorization, and the calling for bids for the construction of the bridge.

Mr. WALSH. Well, they have a contract prepared and the material is in sight?

Mr. BYRNS of Tennessee. They have not the material in sight, I will say to the gentleman; they could not do that, but they propose to advertise for bids.

Mr. WALSH. Is this a toll bridge?

Mr. BYRNS of Tennessee. No; it is not a toll bridge; it is a free highway bridge.

The SPEAKER. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none.

The bill was read, as follows:

Be it enacted, etc., That the times for commencing and completing the construction of a bridge authorized by act of Congress approved August 31, 1919, to be built by the county of Montgomery, State of Tennessee, across the Cumberland River at a point suitable to the interests of navigation and within a distance of 7 miles from Clarksville in said county and State, are hereby extended one and three years, respectively, from the date of approval hereof.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The bill was ordered to be engrossed and read the third time, was read the third time, and passed.

On motion of Mr. BYRNS of Tennessee, a motion to reconsider the vote by which the bill was passed was laid on the table.

BRIDGE ACROSS ST. MARYS RIVER, GA.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 8170) to authorize the construction of a toll bridge across the St. Marys River between Camden County, Ga., and Nassau County, Fla.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of this bill?

Mr. WALSH. Reserving the right to object, I would like to ask the gentleman who introduced this measure if we are to understand from the proposed amendment that this is to be a free bridge when constructed?

Mr. LANKFORD. I understand it is to be a toll bridge, but there is an amendment which does away with the payment of toll, and it will be a free bridge.

Mr. WALSH. That is the purpose of the amendment?

Mr. LANKFORD. Yes, sir.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. LANKFORD. Mr. Speaker, the bill S. 2430, an identical bill with this bill, has passed the Senate and is now before the House.

The SPEAKER. The gentleman from Georgia asks unanimous consent to substitute an identical Senate bill—S. 2430—for the House bill. Is there objection?

Mr. WALSH. Reserving the right to object, is it identical with the House bill as amended?

Mr. LANKFORD. The Senate bill has the amendment in it.

Mr. WALSH. I will ask to have the bill reported.

The SPEAKER. The bill will be reported.

The Clerk read as follows:

An act (S. 2430) to authorize the construction of a bridge across the St. Marys River, at or near Wilds Landing Ferry, between Camden County, Ga., and Nassau County, Fla.

Be it enacted, etc., That the Kingsland Bridge Co., a corporation organized under the laws of the State of Georgia, its successors and assigns, be, and is hereby, authorized to construct, maintain, and operate a bridge and approaches thereto across the St. Marys River, at a point suitable to the interests of navigation and at or near the present Wilds Landing Ferry, between Camden County, Ga., and Nassau County, Fla., in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to be read the third time, was read the third time, and passed.

On motion of Mr. LANKFORD, a motion to reconsider the vote by which the bill was passed was laid on the table.

The SPEAKER. Without objection, a similar House bill will lie on the table.

There was no objection.

BRIDGE ACROSS ST. MARYS RIVER, GA.

The next business on the Calendar for Unanimous Consent was the bill (S. 2340) to authorize the construction of a bridge across the St. Marys River, at or near St. Marys, Ga., and Roses Bluff, Fla.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of this bill? [After a pause.] The Chair hears none.

The Clerk read as follows:

Be it enacted, etc., That the St. Marys Bridge Co., a corporation organized under the laws of the State of Georgia, its successors and assigns, be, and is hereby, authorized to construct, maintain, and operate a bridge and approaches thereto across the St. Marys River at a point suitable to the interests of navigation and at or near St. Marys, Camden County, Ga., known as the "Borrell tract," and to the shore opposite thereto, known as "Roses Bluff," in Nassau County, Fla., in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The bill was ordered to be read the third time, was read the third time, and passed.

On motion of Mr. LANKFORD, a motion to reconsider the vote by which the bill was passed was laid on the table.

LOAN OF COTS TO GRAND ENCAMPMENT OF THE GRAND ARMY OF THE REPUBLIC AT INDIANAPOLIS, IND.

Mr. MOORES of Indiana. Mr. Speaker, I ask unanimous consent for the immediate consideration of Senate joint resolution 115.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

Senate joint resolution (S. J. Res. 115) to authorize the loan by the Secretary of War to the commander in chief of the Grand Army of the Republic of cots for the use of the members of the Grand Army of the Republic during the sessions of the grand encampment of the Grand Army of the Republic at Indianapolis, Ind., from September 24 to October 1, 1921.

Resolved, etc., That the Secretary of War is authorized to lend not to exceed 5,000 cots to the commander in chief of the Grand Army of the Republic for use by members of the Grand Army of the Republic at the grand encampment in Indianapolis from September 24 to October 1, 1921, upon receiving from such commander in chief a bond satisfactory to the Secretary of War to indemnify the United States of America from loss of or injury to such cots or any of them, such indemnity bond to be drawn by and approved by the Secretary of War.

The SPEAKER. Is there objection to the present consideration of the Senate joint resolution?

Mr. STAFFORD. Reserving the right to object, Mr. Speaker, I notice that this bill refers to an event that has already occurred. My query is whether or not the passage of this resolution is for the purpose of ratifying the act of the Secretary of War?

Mr. MOORES of Indiana. That is the sole purpose. There is a general act, known as the act of 1913, permitting tents to be lent to the Grand Army of the Republic and to the United Confederate Veterans, or whatever the name of the organization is. That is the act of 1913. Under that act the Grand Army of the Republic met at Indianapolis two years in succession. Last year the commandant at Fort Benjamin Harrison, assuming that tents included the equipment of the tents, let the cots go. This year he assumed that the same thing would be done, but this year the War Department placed the construction upon the law that tents did not include cots, and the Secretary of War requested the passage of this resolution, agreeing to furnish cots if the Senate passed the resolution, on the assurance and the probability that the House would pass it as a ratification.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the resolution.

The Senate joint resolution was again read.

The SPEAKER. The question is on the third reading of the Senate joint resolution.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

LOAN OF COTS TO UNITED CONFEDERATE VETERANS.

Mr. BROWN of Tennessee. Mr. Speaker, I desire to ask unanimous consent for the consideration of Senate joint resolution 117.

The SPEAKER. The gentleman from Tennessee asks unanimous consent for the present consideration of Senate joint resolution 117, which the Clerk will report.

The Clerk read as follows:

Joint resolution (S. J. Res. 117) to authorize the loan by the Secretary of War to the commander in chief of the United Confederate Veterans of cots and tents for the use of the members of the United Confederate Veterans during the sessions of the national encampment of the United Confederate Veterans at Chattanooga, Tenn., from October 24 to October 27, 1921.

The SPEAKER. Is there objection to the present consideration of the resolution?

There was no objection.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

Resolved, etc., That the Secretary of War is authorized to lend not to exceed 5,000 cots and 5,000 tents to the commander in chief of the United Confederate Veterans at their national encampment to be held in Chattanooga, Tenn., from October 24 to October 27, 1921, upon receiving from such commander in chief a bond satisfactory to the Secretary of War to indemnify the United States of America from loss or injury to such cots and tents, or any of them, such indemnity bond to be drawn by and approved by the Secretary of War.

The SPEAKER. The question is on the third reading of the resolution.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

BESTOWAL OF CONGRESSIONAL MEDAL OF HONOR UPON AN UNKNOWN ITALIAN SOLDIER.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent for the immediate consideration of Senate joint resolution 122, just messaged over from the Senate.

The SPEAKER. The gentleman from Wyoming asks unanimous consent for the immediate consideration of Senate joint resolution 122, which the Clerk will report.

The Clerk read as follows:

Joint resolution (S. J. Res. 122) for the bestowal of the congressional medal of honor upon an unknown, unidentified Italian soldier to be buried in the National Monument to Victor Emanuel II, in Rome, Italy.

Whereas the Congress has authorized the bestowal of the congressional medal of honor upon unknown, unidentified British and French soldiers buried in Westminster Abbey, London, England, and the Arc de Triomphe, Paris, France, respectively, who fought beside our soldiers in the recent war; and

Whereas, animated by the same spirit of friendship toward the soldiers of Italy who also fought as comrades of the American soldiers during the World War, we desire to add whatever we can to the imperishable glory won by their deeds and to participate in paying tribute to their unknown dead: Now, therefore, be it

Resolved, etc., That the President of the United States be, and he is hereby, authorized to bestow with appropriate ceremonies, military and civil, the congressional medal of honor upon the unknown, unidentified Italian soldier to be buried in the National Monument to Victor Emanuel II, in Rome, Italy.

The SPEAKER. Is there objection to the present consideration of the resolution?

There was no objection.

The SPEAKER. The Clerk will report the resolution.

The resolution was again read.

Mr. CANNON. Mr. Speaker, may I ask the gentleman a question?

Mr. MONDELL. Certainly.

Mr. CANNON. There is nothing I would object to that receives the approval of the Members of the House and of the Senate that would do honor to the men who were in the late war. But how can you distribute such a medal? The bill provides for distribution to an unknown soldier. I would just like to know. I am asking in good faith.

Mr. MONDELL. The gentleman from Illinois recalls the presentation on yesterday—or was it the day before—by Gen. Pershing on behalf of the United States of a congressional medal to an unknown soldier buried in Paris.

Mr. CANNON. What is to become of it?

Mr. MONDELL. I presume, although I do not know, that that medal would rest in the national archives, unless it be buried with the body of the soldier. I should rather imagine it would be placed in the national archives with a proper notation as to the method of its bestowal and the purpose of it.

Mr. CANNON. The resolution then covers only one medal?

Mr. MONDELL. One medal to an unknown, unidentified soldier to be buried quite soon at Rome.

The SPEAKER. The question is on the third reading of the Senate joint resolution. But first, without objection, the preamble will be agreed to.

There was no objection.

The SPEAKER. The question is on the third reading of the joint resolution.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

The SPEAKER. The Clerk will report the next bill on the calendar.

PROCEEDINGS IN CONTESTED-ELECTION CASES.

The next business in order on the Calendar for Unanimous Consent was the bill (H. R. 7761) to amend the Revised Statutes of the United States relative to proceedings in contested-election cases.

The title of the bill was read.

The SPEAKER. Is there objection to the present consideration of this bill?

Mr. STAFFORD. Mr. Speaker, reserving the right to object, I believe this is the first time in many, many years since any legislation has been proposed amending the contested-election laws. I am in sympathy with the purpose of the committee in framing the bill, but I do not believe they have gone far enough. In one place the committee recommends that the contestant's brief shall be sent by registered mail to the contestee, but they overlook entirely the existing law that does not require the contestee's brief in reply to be returned to the contestant by registered mail.

I think it better, Mr. Speaker, that this bill be passed over without prejudice, in order to allow the distinguished chairman of the Committee on Elections No. 1 to consider further amendments with a view to improving our election laws. In

fact, I believe the bill should not be considered by unanimous consent. It is rare that the Committee on Elections No. 1, or any of the election committees, has any bill on the calendar, and when the committees are called I think this bill is one of sufficient importance to engage the attention of the House for an hour or so rather than for a few minutes under unanimous consent.

Here we have some old, obsolete provisions that were passed perhaps a hundred years ago, before modern methods of mail transportation were heard of, and these provisions require the contestant and contestee in making up their bill of testimony to come here and agree upon the part of the testimony that shall be printed in the final case. I take it that could be arranged by sending copies of the testimony to the respective attorneys and allowing them to agree in advance, if possible; and if they could not agree, then, as the present statute provides, to permit the Clerk to determine what testimony should be printed. I may say that I have had some experience on an elections committee, and I know that these election contests are oftentimes instituted merely in order to get the $2,000 allowed as expenses. It was while I was a member of that committee that we for the first time took the position, which the House approved, that the amount voted as expenses in these specious contests should be restricted—contests often proposed without any valid basis whatsoever for them.

These proposed amendments are meritorious, and yet I really think that the committee can go further in amending the existing law. Certainly some amendments should be proposed along the lines I have indicated, where in one instance you suggest that the brief should be sent by registered mail, and yet in the next instance it is not provided that it shall be so sent.

Mr. MONDELL. Mr. Speaker, will the gentleman yield?

Mr. STAFFORD. I yield to the gentleman if I have the floor.

Mr. MONDELL. Why would it not be a good idea to make the amendments suggested by the committee, in the hope that later we may go still further and make the further amendments which the gentleman suggests?

Mr. STAFFORD. Mr. Speaker, in reply to the inquiry of the gentleman from Wyoming, I will say that the bill is now up for the consideration of any amendments. The bill as reported provides for amendments to sections 105, 106, and 127 of the Revised Statutes. If the bill is taken up for consideration—I have no serious objection to its being considered—it will take an hour or so to offer the various amendments that I have in mind to propose. I hardly think it is fair to the other bills that are on the Calendar for Unanimous Consent, which have been very well considered and can be passed on without delay. Therefore I suggest that, for the time being at least, the gentleman ask that the bill be passed over without prejudice.

Mr. DALLINGER. Mr. Speaker, in view of the attitude of the gentleman from Wisconsin, I ask unanimous consent that the bill be passed over without prejudice.

Mr. WALSH. Reserving the right to object, Mr. Speaker, I should like to ask my colleague from Massachusetts [Mr. DALLINGER] if each of the Committees on Elections has jurisdiction to report legislation on this subject?

Mr. DALLINGER. All I can say in reply to my colleague from Massachusetts [Mr. WALSH] is that this bill was referred to the Committee on Elections No. 1. I desire to state that this matter was considered not only by the Committee on Elections No. 1 but it was taken up by the chairmen of the other two elections committees, who made suggestions, and we have made our report. I assume that it is too late now to raise the question of jurisdiction, when the bill has been referred to the committee, acted upon by it, and reported.

The SPEAKER. Is there objection?

Mr. WALSH. Further reserving the right to object, I should like to ask the gentleman from Massachusetts [Mr. DALLINGER] if he knows that any legislation has ever been reported by an elections committee?

Mr. DALLINGER. Mr. Speaker, I understand from the Speaker's parliamentary clerk that the present statute governing the conduct of contested elections was originally reported by the Committee on Elections, and I understand that was the reason why this bill, which is an amendment to it, was referred to our committee.

Mr. WALSH. Does the gentleman know whether or not amendments to election laws have been reported by any other committee of the House on more than one occasion?

Mr. DALLINGER. Mr. Speaker, this particular bill relates only to the law governing contested elections in the House of Representatives. Of course, I know that other amendments to the election laws have been reported by the Committee on the Judiciary; but, as I understand it, this present law, governing the conduct of contested elections in the House of Representatives, was originally reported by the old Committee on Elections when there was only one such committee, which, of course, was the first committee established in the Congress.

Mr. WALSH. I have no objection to the request of the gentleman from Massachusetts.

The SPEAKER. Without objection, the request will be granted. The Clerk will report the next bill.

THE DISABLED AMERICAN VETERANS OF THE WORLD WAR.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 216) to incorporate The Disabled American Veterans of the World War.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. STAFFORD. Mr. Speaker, under reservation of objection, I should like to inquire of some distinguished member of the committee that reported this bill—the Committee on the Judiciary—as to the meaning of the first section. I do not see very many members of the Committee on the Judiciary here, but I see one member who is always present.

Mr. WALSH. Mr. Speaker, the gentleman said he preferred his inquiry to some of the "distinguished" members of the committee. I will say they have not returned. [Laughter.]

Mr. STAFFORD. Of course, the distinguished members to whom the gentleman from Massachusetts refers have been so engrossed with dry legislation that they have not been able to get seasoned out during the recess sufficiently to come back and report for duty. I would like to direct my inquiry as to the meaning of the first section. I notice in scanning the bills reported from the distinguished Committee on the Judiciary—and I am not referring now to the distinguished members of the committee—on bills relating to dry legislation they are most meticulous in their phraseology, but in other legislation they are sometimes rather sloppy and careless in their phraseology.

Mr. BLANTON. Will the gentleman yield?

Mr. STAFFORD. But permit me first to present to the attention not only of the distinguished gentleman from Texas [Mr. BLANTON] but of other Members of the House the particular words of the section that I have in mind.

On page 2, section 1, it reads:

and such persons as may be chosen who are members of "The Disabled American Veterans of the World War," an unincorporated patriotic society of the soldiers, sailors, and marines of the Great War of 1917–18, known as The Disabled American Veterans of the World War, and their successors, are hereby created and declared to be a body corporate.

Let me read that again for the elucidation and illumination not only of the gentleman from Massachusetts—I will not refer to him as a distinguished member of the Judiciary but the distinguished gentleman from Massachusetts, because he may take exception——

Mr. WALSH. When the gentleman gets to his terminal I will answer.

Mr. STAFFORD. I read again:

and such persons as may be chosen who are members of "The Disabled American Veterans of the World War," an unincorporated patriotic society of the soldiers, sailors, and marines of the Great War of 1917–18, known as The Disabled American Veterans of the World War, and their successors, are hereby created and declared to be a body corporate.

Now, will some Member, if the gentleman from Massachusetts is stumped, explain what that means?

Mr. WALSH. I do not know upon what the gentleman from Wisconsin bases his assertion that the gentleman from Massachusetts is stumped.

Mr. STAFFORD. Because the gentleman took his seat.

Mr. WALSH. I said that when the gentleman from Wisconsin reached his terminal I would endeavor to answer his question. He wandered all over Robin Hood's barn, as he usually does, and had his little fling at the law which is named for the distinguished chairman of the Judiciary Committee. He asked what the language which he has read twice means. I would state that it means that such persons as may be chosen who are members of "The Disabled American Veterans of the World War," an unincorporated patriotic society of the soldiers, sailors, and marines of the Great War at 1917–18, known as the Disabled American Veterans of the World War, and their successors, are hereby created and declared to be a body corporate.

I trust that answers the gentleman's question. [Laughter.]

Mr. STAFFORD. It answers it as well as any person can answer it, but it is far from an answer.

Mr. WALSH. It means that these men named in the first section and certain others of that organization, under appropriate proceedings, under its by-laws or constitution, may select

others to be charter members of this organization to be incorporated by act of Congress.

Mr. STAFFORD. Oh, the gentleman is adding phraseology not in the bill. There is nothing in the bill which says that the additional persons are to be selected. It says "and such persons as may be chosen"—chosen by whom?

Mr. WALSH. Mr. Speaker, it is rather a strange interpretation, it seems to me, to assume that persons outside of an organization can choose members of the organization.

Mr. STAFFORD. Here is a voluntary association comprising a large membership. It is never the purpose in incorporating an organization of this kind to specify the entire membership. It is proper to designate a few, but here we are attempting not only to designate a few, one representative from nearly every State, but "such persons as may be chosen." This is the organic act, and it should be specific.

Mr. BLAND of Indiana. Will the gentleman yield?

Mr. STAFFORD. I yield to the gentleman.

Mr. BLAND of Indiana. It strikes me that section 2 is meant to cover the point which the gentleman has raised.

It occurred to me that it is not very clearly stated in the first section who these additional members are to be, but in section 2 it says:

That said persons named in section 1, and such other persons as may be selected from among the membership of "The Disabled American Veterans of the World War," an unincorporated patriotic society of the soldiers, sailors, and marines of the Great War of 1917–18, are hereby authorized to meet to complete the organization of said corporation by the selection of officers, the adoption of a constitution and by-laws, and to do all other things necessary to carry into effect the provisions of this act.

It occurs to me that it was the intention of those who drafted the legislation to permit others to be named by virtue of that provision.

Mr. STAFFORD. The gentleman from Indiana is a good lawyer and has had much experience in incorporating voluntary societies. It is necessary for the original act to have some persons described who will be the incorporators. Would it not be better to substitute for the language in section 1 "and such additional names as may be selected by the persons above-named from the membership of the Veterans of the World War, an unincorporated patriotic society of the soldiers, sailors, and marines of the Great War of 1917 and 1918"?

Mr. WALSH. If the gentleman will permit, I do not wish to contend that the language to which he has referred is not free from criticism, but if you add any language there it seems to me that all that would be necessary would be to say "such members as may be chosen in accordance with the provisions of section 2." Section 2 sets forth how they are to be chosen.

Mr. STAFFORD. I think I sense the purpose of the committee in having the incorporators not only those who are named but those who may be selected by those named by the original act. It is not intended to have all the members come together to organize the corporation, so as to have validity given to the first meeting, but to have the majority of those named and others who may be selected by them.

Mr. CHINDBLOM. Mr. Speaker, will the gentleman yield?

Mr. STAFFORD. Yes.

Mr. CHINDBLOM. Does not the gentleman think that in lines 18 and 19, on page 2, the words—

known as The Disabled American Veterans of the World War—

have been inadvertently included?

Mr. STAFFORD. I had difficulty with those words. I did not know what their purpose was, and I struggled over them to find their meaning.

Mr. CHINDBLOM. If the gentleman will look at section 2, he will find the same description of this unincorporated society.

Mr. STAFFORD. But it is not repeated as it is in section 1.

Mr. CHINDBLOM. It is not repeated in the same way. Therefore I think the words to which I have referred should be stricken out, because they must have been inadvertently included.

Mr. STAFFORD. That will certainly clarify the meaning, and I think that something should be stated in section 1 in respect to the method of choosing these additional incorporators. I think some method should be stated as to who will be the incorporators.

Mr. CHINDBLOM. Why not then, in line 15, change the language so as to read—

and such persons as may be chosen by and who are members of the Disabled American Veterans of the World War.

Will not that cover the objection of the gentleman?

Mr. STAFFORD. No; because I think that it would be impractical to require all of the members should vote as to who the incorporators shall be. I do not think we should make any provision which will not be workable. The idea is to have a small body get together and incorporate.

Mr. BLANTON. Mr. Speaker, will the gentleman yield?

Mr. STAFFORD. Yes.

Mr. BLANTON. The gentleman puts dicta into the RECORD to the effect that the distinguished Committee on the Judiciary is very careful always in framing dry legislation to weigh its words, and yet in other legislation to make the language sloppy.

Mr. STAFFORD. Oh, not to make it sloppy; but I said that as reported here it is sloppy.

Mr. BLANTON. The gentleman has forgotten that regardless of his statement the gentleman from Massachusetts [Mr. WALSH] with respect to the last dry bill that committee brought in here ran a freight train through it from beginning to end.

Mr. STAFFORD. Notwithstanding the activity of that illustrious leader of the "drys" whom the gentleman follows—the I. W. W.

Mr. BLANTON. Oh, no; I do not follow the I. W. W.

Mr. STAFFORD. Oh, I refer to I. Wayne Wheeler.

Mr. BLANTON. I follow Mr. Wheeler and I am not ashamed of it.

Mr. STAFFORD. So I see, and I pay the gentleman that compliment.

Mr. WHITE of Maine. Mr. Speaker, will the gentleman yield?

Mr. STAFFORD. Yes.

Mr. WHITE of Maine. The general practice is in the incorporation of organizations to name certain incorporators and then permit those incorporators to fill out the body of the organization. It strikes me that all of the objections could be met here by simply adding in line 15 on page 2, after the word "chosen," the words "by the above-named incorporators"; and again in section 2, after the word "selected," in line 24, add the words "by the above-named incorporators." That would conform with the usual practice and it strikes me would clear up any ambiguity.

Mr. STAFFORD. Mr. Speaker, I think we are as one in respect to the phraseology of section 1, that it should be corrected. I want now to direct another inquiry to the gentleman from Massachusetts [Mr. WALSH] or some other member of the committee——

Mr. WALSH. Permit me to state to the gentleman from Wisconsin that I did not report this measure—and I am not stating this by way of excuse—and neither was I present when the matter was voted upon in the committee. I can see no objection to making some slight change in the phraseology to which the gentleman has referred. The gentleman who has charge of the measure is unavoidably absent.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. STAFFORD. Mr. Speaker, reserving the right to object, I want now to inquire of the gentleman from Massachusetts or some other member of the committee as to the reason why in this form of bill the committee requires a report each year to Congress? Why would it not be sufficient to require a report to the Secretary of War rather than to burden the Congress with a report of the fiscal doings of these organizations?

Mr. WALSH. It is customary where an organization is permitted to incorporate by act of Congress, which requires the payment of dues and also permits the acquirement and holding of real estate, particularly where it includes within its membership men who formerly served in the Army and the Navy or the Marine Corps, or some of the military branches of the Government, which are sometimes the subject of legislation by Congress, to require that a report of its doings be filed with the Congress for the convenience of Members who may be interested, for the sake of ready reference in case legislation is desired by way of amendment to the charter, or of permitting the extension of rights and privileges granted or the curtailing of them. I think the gentleman will find that in a great many of these corporations the requirement is that there shall be a report made to Congress.

Mr. SANDERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. STAFFORD. Yes.

Mr. SANDERS of Indiana. While the gentleman is discussing some proposed amendments I suggest that in section 3, if the bill be amended, the expression "Federal Board for Vocational Education, the United States Bureau of War Risk Insurance, the United States Public Health Service" be stricken out and the words "United States Veterans' Bureau" be inserted, because all those activities have been taken over by that

bureau, and the Bureau of War Risk Insurance has been abolished.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. RANKIN. Mr. Speaker, for the time being, at least, I shall object.

Mr. WALSH. Mr. Speaker, would the gentleman have any objection to having the bill passed over and retaining its place on the calendar?

Mr. RANKIN. No.

Mr. WALSH. Then, Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice, to retain its place on the calendar.

The SPEAKER. Is there objection?

There was no objection.

INCORPORATION OF GRAND ARMY OF THE REPUBLIC.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 2908) for the incorporation of the Grand Army of the Republic.

Mr. MOORES of Indiana. Mr. Speaker, I ask unanimous consent, in the absence of Mr. VOLSTEAD, that the bill be passed over without prejudice, to retain its place on the calendar.

The SPEAKER. Is there objection?

There was no objection.

AGRICULTURAL ENTRIES OF COAL LANDS IN ALASKA.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 7948) to provide for agricultural entries of coal lands in Alaska.

The title of the bill was read.

The SPEAKER. Is there objection?

Mr. STAFFORD. I ask unanimous consent——

Mr. QUIN. I would like to know what is the purport of this bill—what it is?

Mr. SUTHERLAND. Mr. Speaker, I ask unanimous consent that the bill be passed without prejudice?

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

TO ADD CERTAIN LANDS TO MINIDOKA NATIONAL FOREST.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 2914) to add certain lands to Minidoka National Forest.

The title of the bill was read.

The SPEAKER. Is there objection to the present consideration of this bill?

Mr. WINGO. Mr. Speaker, reserving the right to object, does this bill propose to add certain private lands to the forest reserves?

Mr. FRENCH. No; these lands are not private lands. The lands proposed to be added embrace an area of about a township and a half. It has an elevation of 6,000 to 8,000 feet and is chiefly valuable for watershed purposes. It is Government land now, and the control will be transferred from one department to another under the bill.

Mr. WINGO. I will state to the gentleman the reason I asked is I have observed that under such bills, when we ought to be practicing economy, thousands of dollars are being spent in my district to buy private lands to add them to worthless forest reserves, though I have some good personal friends profiting from the transaction. I am outraged because it is a waste of the public money to add these lands. It is no time to be using public funds for this purpose, and we ought to save the taxpayers that much. You can not get any relief. You talk to the present Secretary of Agriculture about it or submit anything to him about anybody, and he will turn around and send your personal communication over to the very man of whom you complain. You can not get your present Secretary of Agriculture even to notice the complaint from you about it, and he will send my personal letter addressed to him to the very man about whom you complain. Of course, he is not going to investigate himself.

Mr. STAFFORD. Will the gentleman yield? Does the gentleman mean to state that under the existing law there is being taken private lands in exchange for Government lands or lumber or——

Mr. WINGO. Under the Weeks law it is claimed they are buying private lands and adding them to useless reserves in Arkansas—lands after the timber companies or some farmer has homesteaded and then got dissatisfied he can sell to Uncle Sam for a price that is satisfactory to him—and they are buying them up in my district, and the present district attorney is busy passing on abstracts of title——

Mr. STAFFORD. Will the gentleman permit further?

Mr. WINGO. Yes.

Mr. STAFFORD. As I remember, the original Weeks Act provided, although I may be in error, that before the Government could purchase these lands they had to be approved by a congressional committee, of which I know one Member of the minority is a distinguished member.

Mr. WINGO. I will say——

Mr. STAFFORD. The purpose was to safeguard the interests of the Government so that worthless lands would not be acquired.

Mr. WINGO. I know this much, ever since I have been in Congress I have been fighting this practice, because from the standpoint of a national forest it is absolutely ridiculous. There are two reserves in my State, and I know whereof I speak, and I have got the names of the men who got the money and the sections of land that were bought, and the district attorney right now is busy passing on abstracts, and money will go out of the Treasury to pay for land in my district which is a waste of public money at this time.

I say I know whereof I speak, and I have in my possession the names of the men who got the money, and the sections of land that were bought; and the district attorney down there is busy now with a batch of abstracts, passing on them, of lands to be bought with money to come out of the Federal Treasury, lands in my district, when it is a waste of public money to buy them at this time and add those lands to the forest reserve. Of course it is profitable to some of my friends, but I think it is a waste of public funds, and I have so publicly stated.

Mr. STAFFORD. Mr. Speaker, will the gentleman yield further?

Mr. WINGO. Yes.

Mr. STAFFORD. While I voted against the Weeks law because I did not believe in that policy of appropriating national money for public purposes, still Congress at that time safeguarded it as best it could by providing that no private lands should be purchased until their proposed purchase was approved by a joint committee consisting of Members of the House and of the Senate. Those instances that the gentleman from Arkansas points out must have had the approval of the congressional committee before the administration proceeded to buy those tracts.

Mr. WINGO. I am not making a partisan attack, but the trouble with the whole thing is that leaders of both the Republican and Democratic Parties have gone daffy about this proposition of conservation, and it is a joke to any man who knows anything about reforestation and the restoration of the timber supply and conservation to go through that district. The finest farm lands in the world—that is, uplands—were included in those reserves, and time and time again I have had to spend a great deal of time in getting certain pieces of land out of the forest reserve so that they could be farmed. You had to fight the men in charge and controvert their statements with reference to the character of the land. I have seen farm products grown on lands that were cut out of that reserve that took prizes in agricultural fairs, and yet those men said that they were unfit for agricultural purposes. They had down there at one time a man whose only recommendation was the fact that he had been the private secretary, the very efficient secretary, to a Senator from New England.

That country can be developed. There are men who have made a success of it, and they have made good homes in that upland region there. It is a wonderful country. Yet you have been exploiting that country down there and placing a burden on the Federal Treasury and providing places for people who ride around dressed up like geared up shoats—people whose only business it is to draw pay.

There is no use in spending money out of the Federal Treasury by buying land down there. In some cases there was nothing on it but timber, but before the sales were made the timber had been cut off. The land is inaccessible except to some one who wants to buy a mountain farm. Some of my friends down there have had their financial distress relieved by unloading these lands on the Government and getting paid by Uncle Sam by money drawn out of the Public Treasury.

Mr. BANKHEAD. Mr. Speaker, will the gentleman yield?

Mr. WINGO. I will yield to the gentleman, but I have not control of the time.

The SPEAKER. All this discussion is proceeding by unanimous consent.

Mr. BANKHEAD. I have some lands in my county similar to the lands the gentleman has described, with which they are undertaking and trying to enlarge the area of their forest reserves, presumably in order to protect the headwaters of navigable streams in my State. Has the gentleman any answer to his correspondence with the Secretary as to the authority under

which they are acting in undertaking to extend these forest reserves?

Mr. WINGO. Yes. They were acting under the Weeks Act, as I recall, is their claim. And if you want to get an interesting literary production all you have to do is simply to write a critical letter to the Secretary of Agriculture on this subject. I refer to the preceding Secretary just as much as I do to the present one. This is no partisan matter with me. If you write such a letter to the Secretary of Agriculture, it will be turned over immediately to some gentleman down there whose business it seems to be to try to outdo Arthur Sumners Roche or Rupert Hughes in a literary description of the beauties of this forestry policy. Talk to me about protecting the headwaters of the Washita! Since I have been in Congress I have got nearly a million acres, by hard fighting, released from these reserves, but as fast as I get one farm released they go out and buy more land from somebody else. It would not do from their standpoint for all of it to be released. They have got to add to it, because if the size of the reserve was diminished somebody would lose a job and this beautiful dream would be dissipated.

Mr. BANKHEAD. I will say to the distinguished gentleman from Arkansas that the protest my constituents are making is that the Government is paying them only the minimum price for the land that it is seeking to take, and that they do not feel that they are being properly compensated in the offers that are being made by the Government. The owners of the land are being intimidated into the acceptance of prices for their good lands which are entirely inadequate.

Mr. WINGO. The gentleman has put his finger on another danger of this system.

Mr. STAFFORD. I am informed that the Legislature of Alabama petitioned the Senators from that State, of whom the father of the distinguished gentleman from Alabama [Mr. BANKHEAD] was one at that time, to vote for this particular measure.

Mr. BANKHEAD. Yes.

Mr. STAFFORD. If I remember the record correctly, and if I am informed advisedly, the distinguished Senator from Alabama, Mr. Bankhead, the father of the present distinguished Member from Alabama [Mr. BANKHEAD], voted for the bill under protest, because the legislature had petitioned him to vote for it, and did so although he was personally opposed to the bill.

Mr. BANKHEAD. That may be the historical fact leading up to the distinguished Senator's participation in the legislation, but my protest is that they have already enough of this land in the forest preserve, and I object to their incorporating this new land into it.

Mr. STAFFORD. I think the best way to stop this nefarious practice is to get after our committee so that they will not approve of these purchases.

Mr. WINGO. I had no intention of raising a tempest in a teapot, but here is my objection to this policy: In the first place, this forest reserve to-day is a joke from the standpoint of a forest reserve. In the next place, it is not treated as a genuine reforestation scheme but purely as a job-holding scheme; that is all. The next objection is that by reserving these agricultural lands, even though they are hill lands, and taking them off the tax books of the county, you are impoverishing the people of those counties so that they can not support their schools, and the little road money that they get is a mere bagatelle, and the fund they get that goes to school purposes is a mere bagatelle compared to the revenues that they lose by the lands being withdrawn from taxation and the development of the country retarded.

Then another thing; if you want to see the operation of a genuine autocracy, get out into a mountain county on a forest reserve and observe the men, very charming men personally, who are holding these jobs in connection with the forest reserve, and whose official conduct is such that they have got the inhabitants of that territory almost afraid to look them in the face, because they are constantly under the threat of some Federal law, and of being dragged away to a Federal court under the claim that they are interfering with these Federal agents. If you want to see a terrifying sight just look at one of these little appointees as he goes up and down the land with all the pomp and dignity of fourteen Cæsars rolled into one, as the representative of the great Government of the United States. You dare not look upon him with disrespect. If you do, you are guilty of lèse majesté, and you are a bad citizen in the eyes of the Government. I am not going to vote for any more money for this purpose, and when the next Agricultural bill comes up I am going to continue my fight on this vicious, wasteful, harmful scheme.

Mr. BLANTON. Mr. Speaker, reserving the right to object, the gentleman from Wisconsin offered as an excuse for the Weeks Act the question that there is a legislative committee, composed of some Senators and Representatives, whose approval must be had before the lands could be purchased. I call the attention of gentlemen to the fact that not merely by the approval of a legislative committee, but at the time that the last appropriation of $360,000 was passed through Congress for free garden seeds there was then passed in that connection by the approval of the House itself and of the Senate an appropriation of $1,000,000 to buy worthless mountain tops to be added to these forest reserves. That was not merely with the approval of the legislative committee, but also with the approval of the House itself. If the House membership will waste $1,000,000 on worthless mountain tops in connection with the passage of an appropriation of $360,000 for free garden seeds, what can you expect from a mere legislative committee?

Mr. WALSH. Mr. Speaker, reserving the right to object, this discussion is very interesting, but I should like some additional reasons why this bill should be passed, other than those contained in this report.

Mr. FRENCH. Mr. Speaker, let me direct the attention of the committee to the bill under consideration. It does not involve the Weeks law; it does not involve the purchase of land by the Federal Government. The land involved embraces an area of one and one-half townships. It is owned by the Federal Government, and therefore not one penny will be taken from the Federal Treasury to be used to pay for the land. It is now so-called public land, administered through the Interior Department; that is to say, it is not administered at all unless somebody seeks to acquire it under some one of the public land laws.

Mr. BLANTON. Mr. Speaker, I object.

The SPEAKER. Objection is made.

Mr. FRENCH. Mr. Speaker, I ask unanimous consent that the bill may be passed without prejudice.

The SPEAKER. The gentleman from Idaho asks unanimous consent that the bill may be passed without prejudice. Is there objection?

There was no objection.

CONVEYANCE OF LAND TO MISSOURI FOR ENLARGEMENT OF STATE CAPITOL GROUNDS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 8297) authorizing the Secretary of the Treasury to convey certain land to the State of Missouri for enlargement of the State capitol grounds of that State.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and empowered to convey by quitclaim deed to the State of Missouri, for enlargement of the State capitol grounds, and for no other purpose, all the right, title, and interest of the United States of America in and to that portion of Stewart Street, in the rear of the Federal building site, Jefferson City, Mo., which is particularly described as follows: Beginning at a point at the intersection of the southerly line of Main Street and the concrete curb on the westerly side of Stewart Street, said point being distant north 46 degrees 24 minutes west, 59 feet from the northwesterly corner of the foundation of the two-story brick residence situate at the southeasterly corner of Main and Stewart Streets, running thence south 43 degrees and 38 minutes west along said curb line 151⅛ feet to a point on said curb; thence on a curve to the right (the radius of which is 10 feet) 15½ feet to a point of reverse curve to the left; thence along said reverse curve (the radius of which is 38 feet) 59½ feet to the point of tangent to said curve; thence south 43 degrees and 38 minutes west, 23 feet to the northerly line of inlot No. 328, which is also the southerly line of Stewart Street; thence north 46 degrees and 24 minutes west along the northerly line of said inlot, 76⅞ feet to the northwesterly corner of said inlot; thence north 43 degrees and 38 minutes east, 80 feet to the northerly line of Stewart Street; thence south 46 degrees and 24 minutes east and along the northerly line of said Stewart Street 104⅞ feet to the intersection of the westerly line of the north angle of Stewart Street; thence north 43 degrees and 38 minutes east and along the westerly line of said Stewart Street 141⅞ feet to the southerly line of Main Street; thence south 46 degrees and 24 minutes east and along the southerly line of Main Street 20 feet to the place of beginning: *Provided, however*, That the State of Missouri shall not have the right to sell or convey the described premises, nor to devote the same to any other purpose than as hereinbefore described, and shall not erect thereon any structures or improvements except such as are incidental to boundaries and ornamentation as part of the State capitol grounds; and in the event that said premises shall not be used as above provided and as part of the said State capitol grounds and cared for and maintained as such, the right, title, and interest hereby authorized to be conveyed shall revert to the United States.

The following committee amendment was read:

In line 10, page 2, after the word "used," insert the words "as above provided and."

The committee amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. ROACH, a motion to reconsider the vote whereby the bill was passed was laid on the table.

GRANTING LAND TO MICHIGAN FOR GAME REFUGE.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 6817) to authorize the Secretary of the Interior to issue patent in fee simple to the State of Michigan of a certain described tract of land to be used as a game refuge.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. WALSH. Reserving the right to object, what is this land to be transferred for?

Mr. BENHAM. The State of Michigan purchased a tract of land comprising 15,000 acres on the east shore of Lake Michigan as a game refuge. In attempting to enforce the law it has been discovered that there has been in the past sand bars formed on the lake shore to the extent of something like 115 acres. It is worthless absolutely for agricultural purposes, being merely sand bars, and not being under the jurisdiction of the State of Michigan, or any citizen, it has operated to defeat the purposes of the game refuge. This bill has received the unanimous approval of the Land Committee and, as the report shows, has the approval of the Secretary of Agriculture.

Mr. WALSH. I want to direct the gentleman's attention to the fact that in the act there is no reference to the fact that this land is to be used as a game refuge. It is mentioned in the title but it is not in the act.

Mr. CHINDBLOM. It is referred to in the second proviso.

Mr. SINNOTT. It is mentioned in section 2.

Mr. WALSH. The bill states that if the grantee shall fail to use the land as a game refuge or shall devote the same to other uses, the title thereto shall revert to the United States.

Mr. BENHAM. And also in the committee amendment it provides that it shall be used in trust.

Mr. WALSH. It is to issue the patent to the State of Michigan in trust but for what purpose? When it is issued it should be stated for what purpose.

Mr. SINNOTT. That is stated on page 2, lines 7 and 8—that if they fail to use it as a game refuge.

Mr. WALSH. That has nothing to do with the issuing of the patent. They might use it for a game refuge and also for a hundred other different purposes.

Mr. SINNOTT. Anyone who was examining the patent would refer back to the act of Congress authorizing the issue of the patent, and is therefore put on notice, and in that way it would not make any difference how the patent read.

Mr. WALSH. The patent reads that it is to be issued in trust. Now they say if they fail to use the land as a game refuge, but they might use it as a game refuge and for other purposes as land is used for other purposes when used for game refuge in various places. It seems to me that when they issue the patent in trust it should be issued in trust for the purpose of a game refuge and therefore it would exclude its use for other purposes.

Mr. SINNOTT. If they fail to use it for a game refuge, it would revert to the United States.

Mr. WALSH. They might use it for a game refuge and for other purposes at the same time. They do it in other sections of the country.

Mr. SINNOTT. This is a mere pile of sand.

Mr. WALSH. That is what it is now, but the gentleman has stated that this land came there by accretion. They may desire to make some changes for game refuge purposes, and that may make it desirable for use for other purposes.

Mr. SINNOTT. Mr. Speaker, that is not very likely to happen. Has the gentleman any amendment that he has in mind?

Mr. WALSH. I would amend by inserting after the word "Michigan" the words "for purposes of a game refuge."

Mr. SINNOTT. Mr. Speaker, I would have no objection to that. Would the gentleman from Indiana?

Mr. BENHAM. No.

The SPEAKER. Is there objection to the present consideration of the bill? [After a pause.] The Chair hears none. The Clerk will report the bill.

The Clerk read the bill as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to issue patent in fee simple to the State of Michigan for the following tract of land, to wit: Lots 1 and 2, section 23, township 39 north, of range 6 west, containing 99.86 acres; also fractional section 24, township 39 north, of range 6 west, containing 15.91 acres, such lands being located in the county of Emmet, State of Michigan: *Provided*, That there shall be reserved to the United States all oil, coal, or other mineral deposits found in the land, and the right to prospect for, mine, and remove the same: *Provided further*, That this grant shall be subject to all prior valid existing rights under the land laws of the United States, and that if the grantee shall fail to use the land as a game refuge or shall devote the same to other uses the title thereto shall revert to the United States.

With the following committee amendments:

Page 1, line 4, after the word "patent," strike out the words "in fee simple."

The SPEAKER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The Clerk read as follows:

Page 1, line 5, after the word "Michigan," insert the words "in trust."

The SPEAKER. The question is on agreeing to the committee amendment.

Mr. HILL. Mr. Speaker, I desire to be heard on the amendment. This is an important amendment, but I shall not detain the House by a long consideration of it.

The House will soon take up for consideration the matter of reapportionment of Representatives. At the present time, in the State of Maryland, there is a constitutional amendment proposed which reapportions the delegates to the State legislature. I ask unanimous consent in that connection to include in my remarks an address which I delivered the other night upon this constitutional amendment.

The SPEAKER. The gentleman from Maryland asks unanimous consent to extend his remarks in the RECORD in the manner indicated. Is there objection?

There was no objection.

REMARKS OF HON. JOHN PHILIP HILL BEFORE THE REPUBLICAN CITY COMMITTEE OF BALTIMORE AT THE SOUTHERN HOTEL, SEPTEMBER 26, 1921, ON "A FAIR DEAL FOR BALTIMORE AND A SQUARE DEAL FOR THE STATE."

Gentlemen of the Republican city committee: You organize to-night for the most important city campaign since the Maryland constitution of 1867 was adopted. Your battle cry will be, "A fair deal for Baltimore and a square deal for the State." It is my hope that the Republican Party will carry Baltimore city by a bigger majority than it did last fall for President Harding; it should do so because of the great outstanding issue embodied in the above slogan of the campaign.

For the first time since the adoption of the present constitution in 1867, there has been presented to the people of the city and State by a political party a plan of representation in the legislature that is fair both to the city and the State, and this plan carries with it a double importance, because not only does it mean a properly balanced vote and responsibility for the city and the counties in the legislature but also in the conventions of the two great political parties.

The Republican State convention adopted at its recent convention the following plank in its platform:

"In the campaign of 1917 the Republican Party promised annexation to Baltimore. The manner in which it kept that pledge, despite the bitter Democratic opposition, is an absolute assurance that it sympathizes with Baltimore's present desire for increased representation in the general assembly. The party pledges its support to such an increase as will be fair to the city and at the same time safeguard the rights of the less populous rural sections of the State.

"We propose that Baltimore city shall be entitled to a legislative district for each portion of its population as shall equal the population of the most populous county in the State, and that each district so constituted shall be entitled to one senator and one member of the house of delegates for each 20,000 of the inhabitants of said district: *Provided however*, That under no conditions in the future shall the representation of Baltimore city in either senate or house of delegates exceed 35 per cent of the membership in either body."

The above plank has been characterized as a bold step, but a right step, and in nine cases out of ten right wins over expediency. At present the city, the population of which is more than half that of the great State of Maryland, out of 106 members of the house of delegates, has but 24; of the senate Baltimore city has but 4. There never was such a case of "taxation without representation," to use the old freedom cry of the Revolution. It is a pernicious system fastened upon the State by an ante-bellum oligarchy, of which ex-Senator John Walter Smith has long been the head. It is unfair both to the city and to the State. As a native of Anne Arundel County and a life-long citizen of Baltimore, I can enlist in this cause with the greatest possible enthusiasm.

Our cause is a just one, and we are sure of victory if we "put our shoulders to the wheel."

You members of the Republican State central committee for Baltimore city are called once more into the arduous, active service of the people of the city and State as your party representatives. In a few moments you will select as your chairman Mr. George W. Cameron, for years a member and vice chairman of this committee. He and Mayor Broening are both thoroughly versed in political leadership, and I gladly pledge them and this committee my support in the coming campaign.

The SPEAKER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. WALSH. Mr. Speaker, I move to amend, on line 5, page 1, after the word "land," by inserting the words "to be used as a game refuge."

The SPEAKER. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. WALSH: Page 1, line 5, after the word "land," insert "to be used as a game refuge."

Mr. SINNOTT. Mr. Speaker, I have no objection to the amendment, but I think it is wholly surplusage, because the proviso states that should they fail to use the land for a game

refuge it shall revert, and the proviso further states that if they devote the land to other purposes it shall revert. I see no necessity for the amendment, but I shall not object to it.

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER. The Clerk will report the next committee amendment.

The Clerk read as follows:

Page 1, line 10, strike out the words "ninety-one" and insert in lieu thereof the word "ninety."

The SPEAKER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. BENHAM, a motion to reconsider the vote by which the bill was passed was laid on the table.

GRANT SOUVENIR GOLD DOLLAR.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 6119) for the coinage of a Grant souvenir gold dollar in commemoration of the centenary of the birth of Gen. Ulysses S. Grant, late President of the United States.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. WALSH. Mr. Speaker, I object.

The SPEAKER. The gentleman from Massachusetts objects.

Mr. WALSH. Mr. Speaker, I ask unanimous consent that the bill may retain its place on the calendar.

The SPEAKER. Is there objection?

There was no objection.

DISTRIBUTION OF ABANDONED TOBACCO.

The next business on the Calendar for Unanimous Consent was the bill (S. 1718) authorizing the distribution of abandoned or forfeited tobacco, snuff, cigars, or cigarettes to hospitals maintained by the United States for the use of present or former members of the military or naval forces of the United States.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the last proviso of section 3369 of the Revised Statutes is amended to read as follows:

"*And provided further*, That in case it shall appear that any abandoned, condemned, or forfeited tobacco, snuff, cigars, or cigarettes, when offered for sale, will not bring a price equal to the tax due and payable thereon, such goods shall not be sold for consumption in the United States; and upon application made to the Commissioner of Internal Revenue, he is authorized to order the destruction of such tobacco, snuff, cigars, or cigarettes by the officer in whose custody and control the same may be at the time, and in such manner and under such regulations as the Commissioner of Internal Revenue may prescribe, or he may, under such regulations, order delivery of such tobacco, snuff, cigars, or cigarettes, without payment of any tax, to any hospital maintained by the United States for the use of present or former members of the military or naval forces of the United States."

The SPEAKER. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time, was read the third time, and passed.

CONSOLIDATION OF CERTAIN FOREST LANDS, NEW MEXICO.

Mr. SINNOTT. Mr. Speaker, I ask unanimous consent that the next bill on the calendar (S. 920), an act for the consolidation of forest lands in or near national forests, New Mexico, and for other purposes, be passed without prejudice.

The SPEAKER. Is there objection?

There was no objection.

BRIDGE ACROSS RIO GRANDE RIVER, EL PASO, TEX.

Mr. HUDSPETH. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (H. R. 6809) granting the consent of Congress to the city of El Paso, Tex., to construct a bridge across the Rio Grande River within or near the city limits of El Paso, Tex., such construction to be made with the consent and the cooperation of the Republic of Mexico.

The SPEAKER. The gentleman from Texas asks unanimous consent for the present consideration of the bill referred to. Is there objection?

Mr. STAFFORD. Mr. Speaker, reserving the right to object, that bill has been favorably reported by the Committee on Interstate and Foreign Commerce?

Mr. HUDSPETH. Yes.

Mr. STAFFORD. Without amendment?

Mr. HUDSPETH. With an amendment.

Mr. STAFFORD. Mr. Speaker, let the bill be reported.

The SPEAKER. The Clerk will report the bill.

The Clerk read the bill as follows:

Be it enacted, etc., That the consent of Congress is hereby granted to the city of El Paso, Tex., to construct, maintain, and operate a bridge and approaches thereto across the Rio Grande River, at a point suitable to the interests of navigation within or near the city limits of El Paso, Tex., in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906, such construction to be made only with the consent and cooperation of the Republic of Mexico, and such bridge to be free of any toll.

SEC. 2. That this act shall be null and void unless the construction of said bridge is commenced within two years and completed within five years from the date of approval hereof.

SEC. 3. That the right to alter, amend, or repeal this act is hereby expressly reserved.

With the following committee amendment:

Strike out all after the enacting clause and insert:

"That the times for commencing and completing the construction of a bridge, authorized by act of Congress approved October 6, 1917, to be built by the city of El Paso, Tex., across the Rio Grande, within or near the city limits of El Paso, Tex., are hereby extended one and three years, respectively, from the date of approval hereof.

"SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved."

Amend the title so as to read: "A bill to extend the time for the construction of a bridge across the Rio Grande, within or near the city limits of El Paso, Tex."

Mr. BLANTON. If the gentleman will yield, I will state to the gentleman from Wisconsin that the bill was passed once before and this simply extends the time.

Mr. STAFFORD. I wish to inquire of the gentleman from Texas [Mr. HUDSPETH] whether actual construction has been begun under the original authorization of the Congress?

Mr. HUDSPETH. No, sir. Actual construction has not begun for the reason that they have not been able to get Mexico to put up her part, but I understand now that her part is promised.

Mr. BLANTON. And then the war came on.

Mr. STAFFORD. I withdraw the reservation.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The amendment was agreed to.

The bill as amended was ordered to be engrossed and read the third time, was read the third time.

Mr. WINGO. Mr. Speaker——

The SPEAKER. The gentleman from Arkansas.

Mr. WINGO. Mr. Speaker, I ask for recognition on the bill, as I desire to submit a few observations. As I gather from this bill, and I want to know if it is true, this simply extends the time for the construction of a bridge already authorized to be built by a former act?

Mr. HUDSPETH. Yes, sir.

Mr. WINGO. Mr. Speaker, that reminds me of a letter I received this morning from a good Republican friend in my district who was complaining—and I think I shall write him a letter rebuking him for complaining—about the present administration following in the footsteps of Wilson, and specifically mentioning the Mexican policy. He was very bitter during the last administration as to the policy it pursued, in that they did not recognize the present existing Government of Mexico. I was not alarmed when Secretary Hughes was appointed Secretary of State, because I felt pretty sure the State Department would be safely conducted, and I have not been surprised by any of the notes which Secretary Hughes has written. I am not an international lawyer, although I have studied the relations of countries with each other and diplomatic precedents, but I had great respect for the intellectual integrity of Secretary Hughes and I felt sure that he would pursue the proper procedure, and while he may write notes a little bit differently phrased than his predecessor, I knew the legal proposition involved would be the same. Here these people want their bridge built. Now, this administration is pursuing exactly the same policy of the last administration in reference to Mexico. We do not know when the bridge will be built. I presume they will not build the bridge until at least there is stability in the condition of affairs along the Rio Grande, but anyway I want these folks to have their bridge. I want to get the people of Mexico and our Texas friends together, because, frankly, at times, in moments of exasperation with some of my good friends from Texas, I have even threatened to introduce a bill to repeal the ordinance of annexation of Texas and let them fight it out with each other. Now, I have made this speech to save me the trouble of dictating a reply to my Republican friend in my district, and I shall simply send him the CONGRESSIONAL RECORD of to-day, which will let him know that the administration is still following the example of Mr. Wilson in his Mexican policy.

Mr. STAFFORD. Mr. Speaker, I ask for recognition for a few minutes.

The SPEAKER. The gentleman from Wisconsin will be recognized.

Mr. STAFFORD. A few moments ago, Mr. Speaker, there was up for discussion——

Mr. WINGO. I will state to my friend from Wisconsin that that was not a period; it was just a semicolon. But I am always delighted to hear the gentleman, and therefore I yield the floor to him. [Laughter.]

Mr. STAFFORD. A few moments ago, in the consideration of one of the bills providing for the extension of the domain of the forest reserves, the Weeks law was brought up for consideration. The gentleman from Arkansas [Mr. WINGO] criticized the application of the Weeks law, and in one particular called attention to the fact of these lands being purchased by the National Government and having them taken away from taxation for State purposes. I sent for a copy of the law, and I find that not only must all these lands be selected by the commissioners to whom I referred in casual debate, comprising the Secretary of Agriculture, the Secretary of the Interior, and two Members of the Senate, to be selected by the President of the Senate, and two Members of the House of Representatives, to be selected by the Speaker, but I find this additional safeguard to the rights of the States in appropriating lands which the States, perhaps, will not wish to have appropriated for the purpose of conservation. In section 7 I find this proviso:

Provided, That no deed or other instrument of conveyance shall be accepted or approved by the Secretary of Agriculture under this act until the legislature of the State in which the land lies shall have consented to the acquisition of such land by the United States for the purpose of preserving the navigability of navigable streams.

Now, Mr. Speaker, if there has been abuse, or if there is abuse under the operation of the Weeks law in Arkansas or in Alabama, then I think the State legislatures of those States are subject to like criticism for perpetuating this policy of foisting onto the National Government lands which are not of value for conservation or forestation purposes at a value perhaps greater than the market value.

Mr. WINGO. Mr. Speaker, will the gentleman yield right there?

Mr. STAFFORD. Yes.

Mr. WINGO. One becomes confused when he digs into this subject. I will be frank with the gentleman. I do not know how they are buying those lands or under what authority.

It is contended by some—and I am not sure that the contention is by the department—that it is done under the Weeks law; but, on the other hand, I am told by experts that it is not possible to buy them under the Weeks Act. But whatever may be the authority, I am talking about facts that are undisputed. The district attorney for the western district of Arkansas has been busy, and he is busy now, in passing upon abstracts of lands to be conveyed to the United States to be added to the forest reserves bought from private individuals.

The gentleman from Wisconsin [Mr. STAFFORD] talks about the legislatures of the States. If he goes into this conservation game and looks into this forestry bunch, then, to use a slang, inelegant illustration, I must say they have no more respect for the rights of the States—perhaps the term I would use is inappropriate to use in a colloquy with such a sedate, dignified Member as the gentleman from Wisconsin, but there is the point, and I think the gentleman will see it.

Mr. STAFFORD. I know what the gentleman means. We have frequent private talks. [Laughter.]

Mr. WINGO. They first wanted us to agree to that, and we said we were opposed to a special act authorizing it; and yet somewhere in a law where I have not been able to find it they did get authority to use public funds to buy lands in my district, and about all that I can say about it is that the only inducement to the gentlemen who select them is that it adds to this great forestry and conservation scheme.

Mr. WALSH. The international bridge is all right, is it not?

Mr. WINGO. Yes. It is necessary so that when peace comes once again to the denizens of the Rio Grande President Harding may meet thereon the President of Mexico, act as did the governors of the Carolinas upon an historic occasion, and then repair to the nearest golf links. [Applause.]

The SPEAKER. The question is on the passage of the bill.

The question was taken, and the bill was passed.

On motion of Mr. HUDSPETH, a motion to reconsider the vote whereby the bill was passed was laid on the table.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. SHAW (at the request of Mr. BROOKS of Illinois), for 10 days, on account of important business;

To Mr. CLOUSE, for 15 days, on account of important business;

To Mr. BRAND (at the request of Mr. LARSEN of Georgia), until October 10, on account of important business;

To Mr. SINCLAIR, for two weeks, on account of important business; and

To Mr. THOMAS (at the request of Mr. BYRNS of Tennessee), indefinitely, by the advice of his physician.

ADJOURNMENT.

Mr. WALSH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 45 minutes p. m.) the House adjourned, pursuant to the order previously made, until Friday, October 7, 1921, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

236. A letter from the Secretary of War, transmitting draft of a proposed bill to authorize an appropriation for the relief of Capt. George W. Hawkins; to the Committee on Claims.

237. A letter from the Secretary of War, transmitting a file of papers relative to the labor claims of the Bethlehem Steel Co. and its employees for compensation for increased labor costs; to the Committee on Claims.

238. A communication from the Clerk of the House of Representatives, transmitting original testimony, papers, and documents relating to the contested-election case of J. I. Campbell *v.* Robert L. Doughton, from the eighth congressional district of North Carolina; to the Committee on Elections No. 2, and ordered to be printed.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 8449) granting an increase of pension to Louisa Mawhinney; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 5784) granting a pension to Frederick C. Harlacher; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 7666) granting an increase of pension to Harry H. Sieg; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 7753) granting a pension to Eva A. Smith; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 8096) granting a pension to William B. Davis; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 8387) granting a pension to James E. Johnson; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII,

Mr. CABLE introduced a bill (H. R. 8511) to amend the 3 per cent immigration law, and imposing a penalty for the violation thereof; to the Committee on Immigration and Naturalization.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CABLE: A bill (H. R. 8512) granting an increase of pension to Ida S. Guthrie; to the Committee on Pensions.

By Mr. CANNON: A bill (H. R. 8513) granting a pension to Harry E. Schwartz; to the Committee on Pensions.

By Mr. CHRISTOPHERSON: A bill (H. R. 8514) granting a pension to Gertrude A. Robinson; to the Committee on Invalid Pensions.

By Mr. OGDEN: A bill (H. R. 8515) granting an increase of pension to Elizabeth Northcraft; to the Committee on Invalid Pensions.

By Mr. PATTERSON of Missouri: A bill (H. R. 8516) granting an increase of pension to Harriet R. J. Hughes; to the Committee on Invalid Pensions.

By Mr. ROACH: A bill (H. R. 8517) for the relief of Samuel G. Riggs; to the Committee on Military Affairs.

By Mr. SMITHWICK: A bill (H. R. 8518) granting a pension to John N. Day; to the Committee on Pensions.

By Mr. WHEELER: A bill (H. R. 8519) granting a pension to Mary T. Reeves; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

2646. By the SPEAKER (by request): Resolution from Henry P. O'Sullivan, convention adjutant of the American Legion, Territory of Hawaii, urging provision for the Territory to be included in the benefits of the Townsend road bill, recently passed by Congress; to the Committee on Roads.

2647. Also (by request), resolutions from the American Legion, Department of Hawaii, favoring and requesting a Federal registration immediately of all persons born in the Territory whose births are not of public record; to the Committee on Foreign Affairs.

2648. Also (by request), resolutions adopted at a meeting of the directors of the Southern Lumber Exporters' Association, held in New Orleans, September 23, 1921, urging the United States Government to give its approval of an issuance of Cuban bonds for financing needed and economically desirable road and port improvements on the island; to the Committee on Foreign Affairs.

2649. Also (by request), copy of resolutions passed by the American Bar Association at its annual meeting at Cincinnati, Ohio, September 1, 1921, condemning the conduct of Kenesaw M. Landis in engaging in private employment and accepting private emolument while holding the position of a Federal judge and receiving a salary from the Federal Government, such conduct being unworthy of a judge, derogatory of the dignity of the bench, and undermining public confidence in the independence of the judiciary; to the Committee on the Judiciary.

2650. By Mr. KISSEL: Petition of Edward M. West, Esq., of White Plains, N. Y., relative to taxation; to the Committee on Ways and Means.

2651. By Mr. TEMPLE: Petition of Charles W. Davidson, of Charlerol, Pa., in support of Senate bill 1565; to the Committee on Military Affairs.

2652. By Mr. TAGUE: Petition of MacCurtin Council, American Association for the Recognition of the Irish Republic, concerning the extension of certain powers to the Secretary of the Treasury; to the Committee on Ways and Means.

2653. Also, resolution of the Corkmen's Club, Knights of St. Finbarr, opposing the adoption of the Smith-Towner bill; to the Committee on Education.

SENATE.

WEDNESDAY, *October 5, 1921.*

(*Legislative day of Tuesday, October 4, 1921.*)

The Senate reassembled at 11 o'clock a. m., on the expiration of the recess.

Mr. PENROSE. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll and the following Senators answered to their names:

Brandegee	Harrison	Myers	Smoot
Calder	Heflin	New	Spencer
Cameron	Hitchcock	Oddie	Stanley
Capper	Johnson	Page	Sutherland
Caraway	Kendrick	Penrose	Swanson
Curtis	Keyes	Poindexter	Trammell
Dial	La Follette	Ransdell	Underwood
Fletcher	Lenroot	Robinson	Walsh, Mass.
Gooding	McCumber	Sheppard	Warren
Hale	McLean	Simmons	Watson, Ga.
Harris	McNary	Smith	Willis

Mr. SWANSON. I desire to state that my colleague [Mr. GLASS] is detained at home on account of illness. I will let this announcement stand for the day.

The VICE PRESIDENT. Forty-four Senators having answered to their names, a quorum is not present. The Secretary will call the names of the absentees.

The reading clerk called the names of the absent Senators, and Mr. BROUSSARD, Mr. EDGE, Mr. GERRY, Mr. MCCORMICK, Mr. MOSES, Mr. POMERENE, and Mr. WADSWORTH answered to their names when called.

Mr. ASHURST, Mr. COLT, Mr. DILLINGHAM, Mr. CUMMINS, Mr. OVERMAN, Mr. ELKINS, Mr. MCKELLAR, Mr. CULBERSON, Mr. NELSON, Mr. SHORTRIDGE, Mr. NORBECK, Mr. STERLING, Mr. ERNST, Mr. WALSH of Montana, Mr. WATSON of Indiana, Mr. KENYON, Mr. HARRELD, Mr. SHIELDS, and Mr. FRANCE entered the Chamber and answered to their names.

The VICE PRESIDENT. Seventy Senators having answered to their names, a quorum is present.

PETITION AND MEMORIAL.

Mr. WILLIS presented resolutions of the George Washington Parke Custis Council, American Association for the Recognition of the Irish Republic, and the Friends of Irish Freedom, both of Columbus, Ohio, favoring the enactment of legislation providing free tolls for American ships through the Panama Canal, which were ordered to lie on the table.

He also presented a resolution of the George Washington Parke Custis Council, American Association for the Recognition of the Irish Republic, of Columbus, Ohio, protesting against the enactment of Senate bill 2135, to enable the refunding of obligations of foreign Governments owing to the United States, etc., until Ireland is dealt with justly by England, which was ordered to lie on the table.

LEGISLATION IN AID OF GOOD ROADS.

Mr. ODDIE. Mr. President, I ask unanimous consent to have a copy of telegram of date August 15, 1921, addressed by myself to various organizations in Nevada relating to highway matters, in answer to telegrams received from them, printed in the RECORD. The telegrams were referred to last night in the debate on the floor on good road legislation between the senior Senator from Nevada [Mr. PITTMAN] and myself.

The VICE PRESIDENT. Without objection, the telegram will be printed in the RECORD.

The telegram is as follows:

Copy of telegram to the following:

AUGUST 15, 1921.

RENO CHAMBER OF COMMERCE, *Reno, Nev.*; S. M. SAMPLE, *President Reno Lions Club, Reno, Nev.*; A. R. KENT, *Secretary Rotary Club, Reno, Nev.*; OVERLAND TRAIL CLUB, *Lovelock, Nev.*; STATE HIGHWAY DEPARTMENT, *Carson City, Nev.*:

Your telegram received. Original Phipps bill provided relief for public-land States by reducing match money required of States and extending for two years availability of present funds. This promptly passed the Senate. Bill passed by House so materially amended Phipps bill as passed by Senate that further consideration by those best informed was deemed imperative. Senate committee has ordered substitute reported Monday. Efforts being made to have it passed Tuesday. In this substitute Senate committee has retained provision in Phipps bill for reduction in contributions required of public-land States and that all funds now or heretofore available shall continue available. This retroactive feature of substitute bill insures Nevada against any loss of money to which she has been or now is entitled. The substitute bill contains best features of Phipps, Dowell, and Townsend bills and carries appropriation for future highway projects when present Federal funds are exhausted. There has been no unnecessary delay by Senate committee if well-balanced and well-considered legislation is desired. Early passage of revenue and tariff legislation is of great importance to live stock, agricultural, and mining industries of Nevada. Main purpose of proposed recess is to allow committees sufficient time to give continuous uninterrupted consideration to these important matters, which they have not now. Any impression that purpose of recess is to delay and make impossible consideration of these important matters is without foundation in fact. Action on such measures will be greatly expedited by committees being given necessary time to devote to their continuous consideration.

TASKER L. ODDIE.

TAX REVISION.

Mr. SIMMONS. Mr. President, I desire, in behalf of the Democratic members of the Committee on Finance, to present a report on House bill 8245, to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

Mr. LA FOLLETTE. Mr. President——

The PRESIDING OFFICER (Mr. WATSON of Indiana in the chair). The consent of the Senate was granted to the Senator from North Carolina [Mr. SIMMONS] some days ago to submit views of the minority, and also to the Senator from Wisconsin [Mr. LA FOLLETTE] to submit his views on the bill.

Mr. LA FOLLETTE. I desire to present the views of a minority of the Committee on Finance, and I ask that the same be printed as a part of the dissenting report submitted by the Senator from North Carolina [Mr. SIMMONS].

Mr. SIMMONS. I understand that the minority views presented by the Senator from Wisconsin will be printed in the same pamphlet with the views of the other minority members.

The PRESIDING OFFICER. The Chair so understands. They will be printed together as part 2 of Report No. 275.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. ROBINSON:

A bill (S. 2547) to amend the act to establish a veterans' bureau and to improve the facilities and service of such bureau, and further to amend and modify the war risk insurance act, approved August 9, 1921; to the Committee on Finance.

By Mr. MOSES:

A bill (S. 2548) granting an increase of pension to Florence B. Eldred; to the Committee on Pensions.

By Mr. WADSWORTH:

A joint resolution (S. J. Res. 123) authorizing the Secretary of War to expend from the appropriation "Disposition of remains of officers, soldiers, and civilian employees, 1922" (act of Mar. 4, 1921, Public No. 389, 66th Cong.), such sum as may be necessary to carry out the provisions of public resolution No. 67, Sixty-sixth Congress; to the Committee on Military Affairs.

SPECIAL OFFICER—OFFICE OF SECRETARY OF THE SENATE.

Mr. WARREN submitted the following resolution (S. Res. 150), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to employ a special officer for the office of the Secretary of the Senate at a salary of $1,800 per annum, to be paid out of the miscellaneous items of the contingent fund of the Senate until provided otherwise by law.

ADDRESS BY ALBERT D. LASKER.

Mr. CALDER. Mr. President, I submit a request for unanimous consent to the Senate. My request is that the address delivered by Albert D. Lasker, chairman of the United States Shipping Board, at New York to-day, before the Advertising Club, be printed in the RECORD.

Mr. ROBINSON. May I ask the Senator from New York the subject of the address?

Mr. CALDER. It is an address by the chairman of the Shipping Board on the Shipping Board and its future policy.

Mr. MOSES. Mr. President, I think the address had better be referred to the Committee on Printing, as it is not an address delivered by a Member of the Senate.

Mr. CALDER. I have no objection to that reference.

The PRESIDING OFFICER. Objection is made to the request as presented by the Senator from New York. Does the Senator from New York desire to have the address received by the Senate and referred to the Committee on Printing?

Mr. CALDER. I do, Mr. President.

The PRESIDING OFFICER. The address will be referred to the Committee on Printing.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, announced that the House had passed, without amendment, the following Senate bills and joint resolutions:

S. 1718. An act authorizing the distribution of abandoned or forfeited tobacco, snuff, cigars, or cigarettes to hospitals maintained by the United States for the use of present or former members of the military or naval forces of the United States;

S. 1970. An act granting the consent of Congress to the counties of Bowie and Cass, State of Texas, for construction of a bridge across Sulphur River, at or near Pettis Bridge on State Highway No. 8, in said counties and State;

S. 2340. An act to authorize the construction of a bridge across the St. Marys River, at or near St. Marys, Ga., and Roses Bluff, Fla.;

S. 2430. An act to authorize the construction of a bridge across the St. Marys River at or near Wilds Landing Ferry, between Camden County, Ga., and Nassau County, Fla.;

S. J. Res. 115. Joint resolution to authorize the loan by the Secretary of War to the commander in chief of the Grand Army of the Republic of cots for the use of the members of the Grand Army of the Republic during the sessions of the grand encampment of the Grand Army of the Republic at Indianapolis, Ind., from September 24 to October 1, 1921;

S. J. Res. 117. Joint resolution to authorize the loan by the Secretary of War to the commander in chief of the United Confederate Veterans of cots and tents for the use of the members of the United Confederate Veterans during the sessions of the national encampment of the United Confederate Veterans at Chattanooga, Tenn., from October 24 to October 27, 1921; and

S. J. Res. 122. Joint resolution for the bestowal of the congressional medal of honor upon an unknown, unidentified Italian soldier to be buried in the National Monument to Victor Emanuel II, in Rome, Italy.

ORDER OF PROCEEDING.

Mr. CURTIS. Mr. President, I desire to ask if there is any Senator who wishes to speak on the treaty with Germany? If there is not, I suggest that we proceed with the consideration of the revenue bill.

Mr. SHEPPARD. Mr. President, I wish to speak on the treaty.

Mr. CURTIS. Then I suggest that the treaty with Germany be laid before the Senate.

The VICE PRESIDENT. The Chair lays before the Senate the treaty with Germany.

Mr. CURTIS. It should be considered in open executive session.

Mr. PENROSE. Mr. President, I should like to ask, if I may, of the Senator from Kansas or the Senator from Texas, as it will make some difference in the arrangement concerning the revenue bill, whether there is any information as to other Senators expecting to address the Senate to-day on the treaty?

Mr. CURTIS. I will state that I know of no other Senator. Does the Senator from Texas know of anyone else?

Mr. SHEPPARD. I do not, but it is probable that I may consume the day.

Mr. SIMMONS. I understand that the Senator from Tennessee [Mr. MCKELLAR] desires to address the Senate this afternoon, but whether upon the treaty or the tax bill I am not informed.

Mr. PENROSE. Then are we to understand that the day is likely to be taken up with treaty discussion?

Mr. SIMMONS. I do not know anything about that.

Mr. CURTIS. Can the Senator from Texas advise us about it?

Mr. SHEPPARD. It is very likely.

Mr. PENROSE. Do I understand the Senator from Texas to state that it is very likely the day will be taken up with a discussion of the treaty?

Mr. SHEPPARD. Yes, sir.

Mr. PENROSE. I only desire information. Of course the treaty has the right of way.

Mr. CURTIS. I move that the Senate proceed to the consideration of the treaty in open executive session.

Mr. UNDERWOOD. I have no objection to the motion, but I understand that under the rule the treaty is automatically laid before the Senate.

Mr. CURTIS. Then I withdraw my motion.

POSTMASTER AT CLAY CITY, KY.

Mr. WATSON of Georgia. Mr. President, if the Senator from Texas will yield——

Mr. SHEPPARD. I yield to the Senator from Georgia.

Mr. WATSON of Georgia. I ask unanimous consent that there be reconsidered the nomination of postmaster at Clay City, Powell County, Ky., which by inadvertence went to the Secretary's desk and was confirmed, I think, en bloc with others, about three days ago.

Mr. ROBINSON. Mr. President, I suggest to the Senator from Georgia that he submit his request in a different form. I suggest that he submit the request that as in closed or secret executive session the nomination be reconsidered.

The VICE PRESIDENT. The form of procedure is that the President be requested to return the papers, and notice be given of a motion to reconsider.

Mr. WATSON of Georgia. I make that motion and give that notice, as in closed executive session.

The VICE PRESIDENT. Without objection, such record will be made. The question is on the motion of the Senator from Georgia that the President be requested to return the papers to the Senate.

The motion was agreed to.

The VICE PRESIDENT. Notice of the motion to reconsider will be entered.

TREATY OF PEACE WITH GERMANY.

The Senate, as in Committee of the Whole, and in open executive session, resumed the consideration of the treaty of peace with Germany.

THE WORK OF THE LEAGUE OF NATIONS.

Mr. SHEPPARD. Mr. President, I am opposed to the pending treaty because I believe that it is the duty of this Nation to ratify the treaty of Versailles and join the League of Nations. This belief has been strengthened by a study of the accomplishments of the league. I desire to lay before the Senate and the country a recital of its record before a vote is taken on an instrument in which we again assert our separation from it.

Mr. President, one of the most widely read books of the year outlines the advance of mankind from the earliest eras to the present. It concludes with a chronology of the principal events of history, the latest of which it describes as the first meeting of the League of Nations in 1920.

The league has been in operation nearly two years. Neither the American people nor Congress have had anything approaching an adequate account of its proceedings. Handicapped as it has been by the failure of the United States to become a member the league has more than justified its existence. In proof of this assertion I propose to review its work. An insight into its growth, its habits of thought and action, its aims and

achievements requires an almost literal reproduction of much that was said by the representatives of the nations composing it as they proposed and discussed its various policies and enactments.

It is hardly practicable or desirable for the purposes of this statement to repeat everything that has been said in the league's deliberations or the details of all that has been done. Nothing should be overlooked, however, which would contribute to a correct impression of the league's development. It is well to begin with the initial session. As a mark of honor for the American soldier and the American people it was provided in article 5 of the league covenant that the first meeting of the council and the assembly should be summoned by the President of the United States.

The hope of the world for a better existence rested on the belief that the common spirit which had brought victory to the allied and associated arms would survive to translate that victory into a higher civilization—a civilization over which would not hang the shadow of another catastrophe like that of 1914. It seemed fitting to the nations with whom we had fought for universal democracy that the Republic which had contributed so much to the cause of liberty in its darkest hour should continue to direct the way. These nations ratified the league and treaty in due season, accepting article 10 without question, but postponed formal approval in the hope that the United States would join them. Conditions throughout the earth continued, however, to drift from bad to worse, and it became necessary to proceed with the United States out.

FIRST SESSION OF THE COUNCIL.

On January 10, 1920, the league and treaty came into force. A few days later the President of the United States, in accordance with the terms of article 5 issued a call for the first meeting of the council of the league at Paris on January 16, and on that day the world saw the beginning of the most practical effort humanity has yet made to substitute right for force in the settlement of international disputes. In an imposing structure on the banks of the Seine a distinguished company assembled at the appointed hour to witness the initiation of the momentous undertaking. As the sunlight flooded the council chamber of the nations it threw across the table where were gathered the representatives of the participating countries the shadow of an empty chair—the chair that should have been occupied by a representative of the United States. To this day the nations of the league have kept that chair vacant, waiting and praying for our help and comradeship.

Venizelos, representative of Greece, proposed that Bourgeois, of France, should be the first president of the council. This proposal was seconded by Lord Curzon and carried unanimously.

Representative Bourgeois took his place as president.

He then stated the objects of the league, as recited in the preamble of the covenant. He said further:

To-day, gentlemen, we are holding the first meeting of that council, convened by the President of the United States on January 13, 1920. The task of presiding at this meeting and of inaugurating this great international institution, which opens so wide a field of hope for humanity, should have fallen to President Wilson. We respect the reasons which still delay the final decision of our friends in Washington, but we may all express the hope that these last difficulties will soon be overcome and that a representative of the great American Republic will occupy the place which awaits him among us. The work of the council will then assume that definite character and that particular force which should be associated with it.

He said that January 16, 1920, would go down in history as the date of the birth of the new world; that the decision taken on that day would be in the name of all States adhering to the covenant, and would be the first decree of all the free nations leaguing themselves together for the first time in the world to substitute right for might.

He said that the league had been allotted two distinct functions, the first belonging to the present, the second to the future; the first being the execution of the treaty of peace, the second the establishment of international justice, peace, security, disarmament. He said that the first function was to be performed immediately in order to make possible the development of the second, that "in order to build on strong foundations the structure of to-morrow we must first remove the ruins accumulated by the war."

THE SAAR RIVER BASIN FRONTIER DELIMITATION COMMISSION.

He referred to the fact that article 48 of the treaty of Versailles required the appointment by the council of a commission of five members charged with the delimitation of the territory of the Saar River Basin within 15 days after the treaty came into force, one to be appointed by France, one by Germany, and three by the council.

Lord Curzon, Great Britain, then spoke, opposing the idea that the league was a superstate or supersovereignty, saying that the very title "League of Nations" should be sufficient to dispel that misconception, that the league did not interfere with nationality but rested on the fact of nationhood. He added:

Whilst I am in entire agreement with all that Monsieur Bourgeois said, I should wish especially to express my full concurrence in his observations as regards the United States of America. The decision must be her own, but if and when the United States elects to take her place in the new council chamber of the nations the place is vacant for her and the warmest welcome will be hers.

Senator Ferraris, Italian representative, addressed the council, stating that his country's aim was to have done with the past of suspicion and distrust among nations and to strive for the relief of suffering humanity; for the reconstruction of homes destroyed; for the ideal of universal brotherhood of governments and peoples; for social peace and progress, security, and well-being of States and citizens. He said that throughout the centuries Italy had been ready to embrace the idea of the League of Nations; that the league represented the fundamental principle inherited from doctrines of Roman law, handed down through priests and students of the Middle Ages to the philosophers and statesmen of the last century; that humanity was looking to the league for the solution of the tremendous problems arising out of the war. He stated in conclusion that the wise handling of these matters would convince the suffering nations how real and durable was the value of the league which was now being laid on the altar of history and consecrated to the triumph of justice over brute force—the advancement of social peace.

An address was then delivered by Representative da Cunha, Brazil, who said that Brazil, faithful to her history, would devote herself with persistent eagerness to the cause of peace and brotherhood among the nations; that she would aid with heart and soul in enabling the league to realize the ideal set before it—the organization of justice through victory; that the advent of the league marked a turning point in history, the dawn of a new era in human life; that he felt great happiness in speaking for the whole American Continent, inasmuch as his was the only American country represented.

President Bourgeois then suggested that the council proceed to select three members of the Saar Basin Delimitation Commission in accordance with article 48 of the Versailles treaty of peace. The three unanimously selected were Col. Wace, British Empire; Maj. Lambert, Belgium; Maj. Kobayashi, Japan.

RESULTS OF FIRST INTERNATIONAL LABOR CONFERENCE.

The secretary general announced that he had received the deposit of authenticated copies of the six draft conventions and of the six recommendations adopted at the first session of the International Labor Conference at Washington late in 1919, the conference authorized by the Versailles treaty to operate, not as a part of the league itself, but in connection with it. These conventions and recommendations were:

I.—DRAFT CONVENTIONS.

1. Draft convention limiting the hours of work in industrial undertakings to 8 in the day and 48 in the week.
2. Draft convention concerning unemployment.
3. Draft convention concerning the employment of women before and after childbirth.
4. Draft convention concerning employment of women during the night.
5. Draft convention fixing the minimum age for admission of children to industrial employment.
6. Draft convention concerning the night work of young persons employed in industry.

II.—RECOMMENDATIONS.

1. Recommendation concerning unemployment.
2. Recommendation concerning reciprocity of treatment of foreign workers.
3. Recommendation concerning the prevention of anthrax.
4. Recommendation concerning the protection of women and children against lead poisoning.
5. Recommendation concerning the establishment of Government health services.
6. Recommendation concerning the application of the Berne Convention of 1906 on the prohibition of the use of white phosphorus in the manufacture of matches.

The secretary announced that he had communicated the duly certified copy of these draft conventions and recommendations to the Governments of all the countries interested in accordance with the provisions of the treaties of peace, for such action as might be deemed advisable.

FIRST PUBLIC MEETING, SECOND SESSION OF THE COUNCIL (LONDON).

At the beginning of the second session, February 11, 1920, Representative Balfour, Great Britain, having been unanimously elected president, took the chair and made an address in which he said that after consultation with Representative Bourgeois and his other colleagues the conclusion had been reached that

the details of the work of the council could not with advantage take place in an open assembly, that they recognized "the extreme importance and indeed necessity of publicity in the true and useful form of that phrase," but that they believed the actual detailed discussion could be only carried on with that perfect freedom which was desirable and necessary if the work was to be efficiently done. He stated that the course proposed was to have the present meeting an open one, then to have the council resolve itself into a committee "to deal with the agenda in detail in executive session, and then to have another open meeting at which general results were to be made public."

SECOND PUBLIC MEETING OF SECOND SESSION.

The next public meeting of the second session of the council was held in the morning of February 13.

President Balfour opened the meeting with an address in which he again explained that the procedure "consisted of a preliminary meeting open to the public, then private discussions in committee, terminated by other public meetings at which formal decisions regarding subjects on the agenda will be taken." "The council have agreed," he said, "that the final stage of their decisions shall be taken in public." He said that the council had been given the assistance of representatives of the other allied powers outside the great powers and of representatives of neutral countries during preceding days, and that a businesslike, friendly, and conciliatory spirit had marked the proceedings. He then called on Representative Bourgeois to report on the permanent court of international justice.

PERMANENT COURT OF INTERNATIONAL JUSTICE.

In the early part of his remarks Representative Bourgeois quoted article 14 of the league covenant, as follows:

The council shall formulate and submit to the members of the league plans for the establishment of a permanent court of international justice. This court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it. The court may also give an advisory opinion upon any dispute or question referred to it by the council or by the assembly.

Representative Bourgeois then gave a brief recital of efforts to arbitrate disputes between sovereignties in the past, referring in some detail to the unsuccessful attempts of the two Hague conferences to set up permanent courts. He said that it remained for the League of Nations to establish for the first time in history a permanent court of international justice; that the military and moral unity which for five years had held the free peoples together and concentrated their efforts in the defense of right must survive with victory; that this unity could find no nobler expression nor more splendid symbol than the erection of such a court. He said that the work should be intrusted to a commission of legal experts whose conclusions would be considered at a subsequent meeting. He proposed the following names for the commission: Mr. Satsuo Akidzuki, a former Japanese ambassador; Mr. Rafael Altamira, senator and professor of law at the University of Madrid; Mr. Clovis Bevilaqua, professor of the faculty of law of Pernambuco and legal adviser to the Brazilian ministry of foreign affairs; Baron Descamps, Belgian minister of state; Señor Luis Maria Drago, former minister for foreign affairs of the Argentine Republic; Prof. Fadda, professor of law, University of Naples; Mr. Fromageot, legal adviser to French ministry of foreign affairs; Dr. G. W. W. Gram, former member of the supreme court of Norway; Dr. Loder, member of the court of cassation of the Netherlands; Lord Phillimore, member of the English privy council; Mr. Elihu Root, former Senator and Secretary of State of the United States; Mr. Vesnitch, minister of the Serbs, Croats, and Slovenes to France.

The proposal was adopted.

The President then read the letter of instructions which it was proposed that the council send to each of the above jurists. In the letter it was stated that the court was a most essential part of the League of Nations. When Mr. Root accepted the appointment on a commission to establish one of the most vital parts of the League of Nations he became one of the prominent builders of the league.

The letter was approved by the council.

TRANSIT.

Representative Quinones de Leon, of Spain, then submitted a report on transit, ports, waterways, and railways. He said that both the covenant and the treaty imposed heavy responsibilities on the league in these respects.

He quoted article 23 of the league covenant, as follows:

Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the members of the league—

(e) Will make provision to secure and maintain freedom of communications and of transit and equitable treatment for the commerce of all members of the league. In this connection the special necessities of the regions devastated during the war of 1914–1918 shall be borne in mind.

He then pointed out that Part XII of the treaty of Versailles and the corresponding parts of the other treaties contained clauses concerning ports, waterways, and railways, the application of which was intrusted to the League of Nations. He quoted article 338 of the treaty, as follows:

The régime set out in articles 332 to 337 above shall be superseded by one to be laid down in a general convention drawn up by the allied and associated powers and approved by the League of Nations relating to the waterways recognized in such convention as having an international character. The convention shall apply to the whole or part of the above-mentioned river systems of the Elbe, the Oder, the Niemen (Russtrom-Memel-Niemen) and the Danube, and such other parts of these river systems as may be covered by a general definition.

The speaker then stated that under article 379 of the treaty this convention must be completed within five years from the coming into force of the peace treaty. He referred to various articles of the peace treaties charging the league with the preservation of the international character of several rivers and transit thereon, investing the league with authority to settle disputes between interested powers arising with regard to the articles on ports, waterways, and railways, and authorizing the council to propose changes in the permanent administrative régime as well as to revise certain stipulations in the section of the treaty under consideration.

He said that all this suggested the creation of a permanent committee on communications and transit. In order that this committee might be intelligently created he moved that the commission which had functioned at Paris on this subject at the peace conference and which had made a deep and scientific study of the problems involved be invited,

(a) To submit to the council proposals for the formation of a permanent organization as part of the organization of the League of Nations concerning communications and transit.

(b) To prepare for submission to the council drafts of general international conventions with regard to transit, waterways, ports, and, if possible, railways.

(c) Provisionally and until the organization has been formed to advise on questions which the council may submit and which fall within the jurisdiction of the league under article 23 of the covenant and articles in the various peace treaties relating to ports, waterways, and railways.

The motion carried.

INTERNATIONAL HEALTH PROBLEMS.

Representative da Cunha, of Brazil, was then asked to submit a report on international health problems. He began by stating that articles 23 and 25 of the covenant vested the league with important functions relating to health matters throughout the world. He referred to paragraph (f), article 23, which states that members of the league "will endeavor to take steps in matters of international concern for the prevention and control of disease," and to article 25, which states that "the members of the league agree to encourage and promote the establishment and cooperation of duly authorized voluntary national Red Cross organizations having as purposes the improvement of health, the prevention of disease, and the mitigation of suffering throughout the world." He said that health measures were essentially international measures, whether it be a question of combatting contagious or epidemic diseases or of popularizing methods of cure and treatments; that a permanent committee was needed capable of coordinating and instituting the necessary statistics and keeping them constantly up to date; that this committee should follow scientific research concerning public health and circulate its discoveries, should coordinate and assist organizations already existing, such as the Red Cross societies, the International Bureau of Public Health, and other like institutions; should organize periodical and international conferences of scholars and health experts, and by systematic propaganda should impress on public opinion the necessity of individual and collective rules and habits of health. He proposed the creation of such a committee and presented a resolution inviting the health commission which the British Government had formed to study the functions of such a committee, together with a small number of international health experts, to submit methods for its formation and operation. The resolution was adopted.

THIRD PUBLIC MEETING OF SECOND SESSION.

The third public meeting of the second session of the council was held in the afternoon of February 13.

SAAR BASIN GOVERNING COMMISSION.

The President, Mr. Balfour, asked Representative Caclamanos, of Greece, to report on the Saar Basin.

Representative Caclamanos stated at the outset that by article 49, treaty of Versailles, Germany had renounced in favor of the League of Nations, as trustee, the government of the territory of the Saar Basin, whose boundaries had been fixed by article 48,

that under part 3, section 4, annex, paragraphs 16 to 19 of the treaty, the government of this territory had been intrusted to a commission of five members to be appointed by the council, one a citizen of France, one a native inhabitant of the Saar Basin not a citizen of France, and three belonging to three countries other than France or Germany—that their salaries were to be fixed by the council and charged to local revenues.

He said that he thought the chairmanship should fall to the French member, that the welfare of the basin was dependent on Frence assistance, that the peace treaty, part 3, section 4, article 45, gave unqualified possession of the mines in the Saar Basin to France, as well as the administration of the customs, thus granting to France rights regarding which the French Government was not required to consult the governing commission. He added that it was important, however, that these rights should be exercised in harmony with the commission as far as the method of their application was concerned. He gave as an example the right to construct and exploit ways of communication for the service of the mines, and the right to use French money for all payments connected with the mines, etc. He reminded the council that the metallurgic industry of the Saar Basin, which had increased considerably during the war, could not exist and develop without the iron ore of Lorraine, and that the railway system of the Saar, which the treaty empowered the commission to administer, could not work effectively without the help of material from the neighboring system of Alsace-Lorraine. He contended that welfare and order in the Saar Basin required close cooperation between the French Government, which under the treaty controlled a very important part of the economic life of the basin, and the commission to which the council under the treaty intrusted its administration.

He briefly reviewed the duties of the commission, stating that within the territory of the Saar Basin it would have all the powers of government theretofore belonging to the German Empire, Prussia, or Bavaria, including the appointment and dismissal of officials, and the creation of such administrative and representative bodies as it might deem necessary; that it would have power to administer and operate the railways, canals, and the different public services; that it would be the duty of the commission to safeguard the foreign interests of the people of the Saar Basin; that it would have the full right of use of all property other than mines belonging either in public or private domain to the Government of the German Empire or any German State in the territory of the Saar Basin; that it would have power to modify the laws and regulations in force on November 11, 1918, subject to stipulations in the treaty; that it would have similar power to establish a civil and criminal court to hear appeals from decisions of existing courts and that justice would be administered in its name; that it would have exclusive power to levy taxes and duties under conditions laid down in the treaty and must apply them exclusively to the needs of the territory; that it would be the duty of the commission to protect persons and property in the Saar Basin and to interpret the provisions of the treaty in case of dispute between France and Germany. The speaker said that the appointment of a governing commission of a State created under the auspices of the League of Nations would be the first characteristic act of the league after leaving its theoretic existence to enter upon its practical life; that it constituted the incarnation of the lofty principles that inspired the League's creation and which were to guide the League's course. Special care should be taken, therefore, to name an effective body.

The speaker then proposed the appointment of the commission, and read a number of directions for its guidance. His proposal and the directions were adopted without dissent. Four members of the commission were named in the resolution, as follows: M. Rault, France; Mr. Alfred von Boch, Saar Basin (Sarrois); Major Lambert, Belgium; the Count de Moltke Huitfeldt (Denmark). The fifth member was to be announced later.

It should be added here that the treaty of Versailles provides that at the end of 15 years from the coming into force of the treaty the inhabitants of the Saar Basin shall be called upon to indicate the sovereignty under which they desire to be placed.

DANZIG.

The presiding officer, Mr. Balfour, next asked Representative Hymans, Belgium, to report on the free city and territory of Danzig.

Representative Hymans quoted article 103 of the treaty of Versailles, which was as follows:

A constitution for the free city of Danzig shall be drawn up by the duly appointed representatives of the free city in agreement with a high commissioner to be appointed by the League of Nations. This constitution shall be placed under the guaranty of the League of Nations.

The high commissioner will also be intrusted with the duty of dealing in the first instance with all differences arising between Poland and the free city of Danzig in regard to this treaty or any arrangements or agreement made thereunder.

The high commissioner shall reside at Danzig.

He referred to article 100 of the treaty by which Germany renounced in favor of the principal allied and associated powers all rights and title over the territory comprised within the limits of the city and territory of Danzig as set out in the article, and to article 102, by which the principal allied and associated powers undertook to establish the city of Danzig, together with the rest of the territory described in article 100, as a free city, which was to be placed under the protection of the league.

Representative Hymans then said that the first duty of the high commissioner would be to reach an agreement with the duly appointed representatives of the free city in regard to its constitution; that inasmuch as the treaty did not specify the method of appointment the high commissioner should make proposals to the council; and that the method selected for securing representatives of the free city should be as democratic as possible. He said that the high commissioner's next duty would be to deal, in the first instance, with all differences arising between Poland and the free city of Danzig as to the matters already mentioned in article 103, and that, thirdly, he should report to the council on all matters within his jurisdiction as high commissioner. He added that the commissioner would carry out any subsequent instructions from the league and would be responsible to the league.

Representative Hymans then pointed out that the treaty placed the constitution of the free city under the guaranty of the league; that it was advisable, therefore, that the commissioner should submit the constitution to the council before formally agreeing to it, and should suggest that the constitution expressly provide that the consent of the league be obtained for subsequent changes. He suggested that the constitution of the free city might have some bearing on the treaty between it and Poland which the principal allied and associated powers undertook in article 104 of the peace treaty to negotiate, and said that until that constitution should come into force the administration of the city and territory of Danzig had been intrusted to Sir Reginald Tower, who, as representative of the principal allied and associated powers, was qualified to preside over the investigations at Danzig with a view to the proposed treaty between Danzig and Poland. He suggested further that the council select Sir Reginald Tower as high commissioner under article 103, leaving to him at the same time the completion of the investigations last mentioned. This would invest Sir Reginald Tower with two functions: The first, which makes him already the representative of the principal allied and associated powers; and the second, which would make him the trustee of the League of Nations. The speaker then proposed a resolution worded as follows:

In view of articles 100 to 108 of the treaty of Versailles of June 28, 1919:

Whereas the city of Danzig shall be established as a free city; and

Whereas a constitution for the free city of Danzig shall be drawn up by the duly appointed representatives of the free city in agreement with the high commissioner to be appointed by the League of Nations; and

Whereas this constitution of the free city of Danzig shall be placed under the guaranty of the League of Nations; and

Whereas the high commissioner of the League of Nations will also be intrusted with the duty of dealing in the first instance with all differences arising between Poland and the free city of Danzig in regard to the treaty of peace with Germany, signed at Versailles 28th June, 1919, or any arrangements or agreements made thereunder:

The council of the League of Nations hereby resolves that—

I. Sir Reginald Tower be appointed high commissioner of the League of Nations at Danzig, as from the date of this resolution; be entrusted with the duties of high commissioner, as mentioned above, and be invited to submit in due time the constitution of the free city of Danzig to the approval of the League of Nations in order that the constitution may be placed under the guaranty thereof, etc.

The resolution was unanimously adopted.

POLISH MINORITIES.

The president next asked Representative Matsui, Japan, to report on the Polish minorities treaty. Representative Matsui said that under that treaty Poland had agreed that its stipulations affecting racial, linguistic, or religious minorities should constitute obligations of international concern and should be placed under the guaranty of the League of Nations, and that it was necessary for the council to decide whether the league should undertake that guaranty. He said that the Polish treaty was the first of quite a number of similar treaties affecting the rights of minorities, and that the guaranty by the league of these rights would strongly contribute to the maintenance of peace. He proposed a resolution to the effect that the stipulations of the treaty between the principal allied and associated

powers and Poland relating to minorities be placed under the guaranty of the League of Nations. The resolution was adopted.

PROCEDURE.

The president stated that the subject of procedure for the council had been referred to a committee for further consideration.

SWITZERLAND'S MEMBERSHIP IN THE LEAGUE.

The president then took up the subject which had been referred to him—the entry of Switzerland into the league. He said it was the opinion of the council that it was the intention of the framers of the covenant and in accordance with the highest interest of the league and its future working that Switzerland should be, what Switzerland desired to be, an original member of the league.

One of the difficulties, he said, was due to the fact that the covenant required nations desiring to be counted as original members of the league to join within two months after the formal signing of the treaty with Germany—that is, by the 10th of March; that the popular vote required by the Swiss constitution in such matters might not be concluded by that time, although the representative body in Switzerland, the Federal Council, had stated that Switzerland desired membership. He said that the other difficulty arose from the fact that the allied and associated powers had stated that the age-long neutrality of Switzerland was in the interest of peace and in conformity with the interests to be guarded by the league, but that on the other hand complete neutrality in everything economic and military was clearly inconsistent with the position of the league. He said that the council considered, however, that Switzerland was prepared to accept conditions bringing her into substantial conformity with the covenant and that the difficulties in the way of the admission should be overruled.

He offered the following declaration in the nature of a resolution:

The council of the League of Nations, while affirming that the conception of neutrality of the members of the league is incompatible with the principle that all members will be obliged to cooperate in enforcing respect for their engagements, recognizes that Switzerland is in a unique situation, based on a tradition of several centuries which has been explicitly incorporated in the law of nations; and that the members of the League of Nations, signatories of the treaty of Versailles, have rightly recognized by article 435 that the guaranties stipulated in favor of Switzerland by the treaties of 1815 and especially by the act of November 20, 1815, constitute international obligations for the maintenance of peace. The members of the League of Nations are entitled to expect that the Swiss people will not stand aside when the high principles of the league have to be defended. It is in this sense that the council of the league has taken note of the declaration made by the Swiss Government in its message to the Federal Assembly of August 4, 1919, and in its memorandum of January 13, 1920, which declarations have been confirmed by the Swiss delegates at the meeting of the council and in accordance with which Switzerland recognizes and proclaims the duties of solidarity which membership of the League of Nations imposes upon her, including therein the duty of cooperating in such economic and financial measures as may be demanded by the League of Nations against a covenant-breaking State, and is prepared to make every sacrifice to defend her own territory under every circumstance, even during operations undertaken by the League of Nations, but will not be obliged to take part in any military action or to allow the passage of foreign troops or the preparation of military operations within her territory.

In accepting these declarations the council recognizes that the perpetual neutrality of Switzerland and the guaranty of the inviolability of her territory as incorporated in the law of nations, particularly in the treaties and in the act of 1815, are justified by the interests of general peace and as such are compatible with the covenant.

In view of the special character of the constitution of the Swiss Confederation the council of the League of Nations is of opinion that the notification of the Swiss declaration of accession to the league, based on the declaration of the Federal assembly and to be carried out within two months from January 10, 1920 (the date of the coming into force of the covenant of the League of Nations), can be accepted by the other members of the league as the declaration required by article 1 for admission as an original member, provided that confirmation of this declaration by the Swiss people and Cantons be effected in the shortest possible time.

The resolution was carried.

INTERNATIONAL FINANCIAL CONFERENCE.

The president then observed that one item remained which had not appeared on the program. He referred to the financial difficulties and the difficulties of exchange in which many constituent nations were involved, and moved, first, that the League of Nations convene an international conference to study the financial crisis and to look for a means of remedying it and of mitigating the dangerous consequences arising from it; second, that a commission composed of members of the council nominated by the president be instructed to summon the States chiefly concerned to the conference and to convene it at the earliest possible date. The motion was agreed to.

CLOSING REMARKS.

The president then stated that the council had agreed to leave the date and agenda for the next session to the president in consultation with the secretary general and to meet next at Rome unless some unforeseen obstacle should occur. He congratulated and thanked his colleagues for the admirable harmony, business spirit, and useful work of the session.

Representative Bourgeois for the council thanked the president for the ability and fairness with which he had presided and, which had aided the council in determining the right principles to be applied and in solving the practical difficulties resulting from the application and execution of the treaty. He said that the unanimous agreement of the council on these points would give the world an idea of the profound accord existing among the members and assurance that right would prevail in the free development of international institutions, thereby constituting a guaranty of peace.

THIRD SESSION, PARIS, MARCH 13, 1920.

At the public meeting of the council's third session at Paris, on March 13, Representative Bourgeois, of France, the presiding officer, said that a letter had been sent to the secretary general of the league, Sir Eric Drummond, on February 24, 1920, by Mr. Lloyd-George, as president of the supreme Council of the Allies, inviting the council of the league to make an inquiry into Russian conditions; that the council of the league at several private sittings had considered the matter, and that Representative Balfour would report thereon at the present meeting.

GROWING VITALITY AND POPULARITY.

Before calling on Mr. Balfour the presiding officer spoke of the progress the league had already made, saying that the league had asserted itself not only in speech but in action; that it had taken in hand the double task of collaborating at once in the execution of the treaty of peace and of creating permanent organizations as a basis for the international life of the future. He reviewed the league's decisions at its first and second sessions, in Paris and London, respectively, and said that the growing vitality of the league was shown by the increasing confidence of the nations. He alluded to the fact that the 13 States invited by the covenant to become members of the league had all signified their adhesion, namely, the Argentine Republic, Chile, Colombia, Paraguay, Persia, Spain, Denmark, Netherlands, Norway, Salvador, Sweden, Switzerland, and Venezuela. He mentioned the fact that the Governments represented on the supreme council of the Allies had asked the league to convene an international financial conference and to arrange for a commission to inquire into Russian conditions. He remarked that whenever Governments were faced with an exceptionally difficult international problem which could not immediately be solved, they seemed disposed to submit it for study and solution to the League of Nations.

THE RUSSIAN INQUIRY.

He then asked Mr. Balfour to report on the Russian inquiry.

Mr. Balfour began by stating that the present session was to have been held in Rome, but that the inquiry of the Russian matter required immediate decision by the council, which had been considering it informally at Paris. The matter originated, he said, in an appeal to the supreme council of the Allies by the international labor office with regard to an inquiry into Russian labor conditions which the labor office desired to undertake. The supreme council thought that the inquiry should be extended to include Russia's relations to the peace of the world and that the inquiry should be undertaken by the council of the league. He said the council of the league had met at Paris the previous day to organize a commission of inquiry; that it was found advisable to arrange for a general inquiry, including labor conditions, under the auspices of the league, and a special inquiry, confined to labor, under the auspices of the international labor office; that the labor office should nominate and the league appoint two members of the league commission to act as a connecting link between the two commissions.

Mr. Balfour then submitted three resolutions embodying the plan he had described, with a telegram to be sent the soviet government inquiring if it was prepared to receive the commission and to afford the necessary immunities and facilities. The resolutions were carrried.

TYPHUS IN POLAND.

President Bourgeois stated that the next question would be that of typhus in Poland. Mr. Balfour said that under a decision of the council at its last meeting an international health conference was to meet in London toward the end of April to prepare proposals for the organization of a permanent body to advise the league on questions affecting the health of nations; that on account of the necessity of protecting Poland and nations to the west of Russia from the spread of epidemic typhus, the council had decided that the health conference should be invited to set to work at once.

A resolution containing this request was then adopted.

FOURTH SESSION, PARIS, APRIL 11—ARMENIA.

At the public meeting of the fourth session of the council, held at Paris on April 11, Representative Fisher, of Great Britain, presented a report on Armenia, referring at the outset to a telegram, on March 12, from Lord Curzon, president of the conference of foreign ministers and ambassadors, sitting in London, inquiring whether the league council would accept for the League of Nations the protection of the future independent State of Armenia. He said the council had examined the questions at special meetings in Paris between April 9 and April 11, and had authorized him to state its conclusions.

He said the council believed that a free and secure Armenia would receive the sympathy and support of the civilized world. He added that the sufferings of Armenia in scale and atrocity were unexampled in history; that it would be an indictment of civilization if the repetition could not be prevented; that in the opinion of the council some civilized state should accept a mandate for Armenia under the League of Nations; that the council would request the assembly of the league to consider a collective guaranty of whatever financial support might be necessary; that inasmuch as the assembly would not meet till autumn, the council of the league was entering into a communication with the supreme council of the allied powers to determine what provisional financial arrangement could be made to aid in the solution of the problem. He said that acceptance of a mandate would depend partly on military measures that might be devised to liberate the territory and protect its frontiers and partly on finance; that the council did not think its province included an examination of the military situation in Armenia or the measures necessary to maintain peace.

MINORITIES IN TURKEY.

The report on the protection of minorities in Turkey was presented by Baron d' Hestroy, representing Belgium. He said the council had been asked by telegram on March 12 from Lord Curzon for the council of ambassadors whether the League of Nations would guarantee the clauses of the treaty of peace relating to minorities in Turkey. Further details were requested and confidentially considered by the council. The speaker said that the fate of 2,000,000 non-Mussulmans was involved, and that the mission of the league and the expectation of the world required that it protect them and do everything possible to prevent the recurrence of massacres and other crimes. He said that no definite step could be taken until the peace treaty with Turkey had been definitely fixed, and suggested that the supreme council of the allied powers be advised that the council of the league would discuss with them the nature of the required guaranties.

REPATRIATION OF PRISONERS.

Count Longare, representing Italy, reported on the repatriation of prisoners of war in Siberia. He said that on February 7 the supreme economic council sitting at Paris had debated whether the council of the league should be asked to take up the matter of helping the prisoners of war in soviet territory, and that the league council had decided to consider it. He said that these prisoners had suffered untold privations, many of them having been in captivity for five years; that during the past year the Red Cross had tried to extend aid but while obtaining remarkable results had been unable to cope with the extent and gravity of the evil; that there still remained large numbers, between 120,000 and 200,000, in Siberia alone, who could not be repatriated immediately for lack of transport. He said that to a person of world-wide reputation for organizing and executive ability and for high moral standing should be intrusted the task of formulating proper measures; that the council had such a person in mind and had invited him to act but that as yet no reply had been received.

DANZIG.

Representative de Leon, Spain, reported on the Danzig elections. He said that the high commissioner selected by the council, Sir Reginald Tower, had submitted preposals regarding these elections which were acceptable. He proposed that Sir Reginald be advised that the present elections could proceed in accordance with these proposals, but that they would not bind the council or the constituent assembly of Danzig in framing election stipulations for the constitution of Danzig.

GOVERNMENT OF SAAR BASIN.

The Official Journal of the League showed that on March 25 the governing commission of the territory of the Saar Basin constituted by the council on February 13 had forwarded its first report to the council.

The report stated that the commission arrived at Saarbruck on February 21, but held several meetings and decided several preliminary questions before official entry into the city. One of these questions was the distribution of duties among the members. This was made as follows: The president, M. Rault, took charge of the interior, foreign affairs, commerce, industry, and labor; Mr. van Boch of finance; Mr. Lambert of public works, railways, postal and telegraph service; Mr. van Moltke-Huitfeldt of public education, ecclesiastical matters, charities, health, and social insurance. The departments of justice, agriculture, and supply were reserved for the fifth member, who had not yet been appointed, being taken over ad interim by the president.

FIRST PUBLIC MEETING, FIFTH SESSION OF COUNCIL, ROME, MAY 15.

At the first public meeting of the fifth session, at Rome, May 15, the presiding officer, Representative Tittoni, of Italy, welcomed the council to Rome, outlined the program of the meeting, and referred to several questions not requiring special reports. He said the council had decided to send a letter to the supreme council of the allied powers on Armenia, that the league council had approved certain financial advances by the secretary general, Sir Eric Drummond, to the international labor organization, and had decided to refer to the assembly the request that Luxemburg be admitted to the league.

WHITE-SLAVE TRAFFIC.

Representative da Cunha, of Brazil, then made a report on the traffic in women and children, saying that under article 23, subdivision (c), of the covenant the league had assumed certain responsibilities in connection with the suppression of this traffic, responsibilities which must not be evaded, though the time had not yet come for a definite discussion as to the best method of action.

He alluded to the international conference which met in Paris in 1902 on call of France to agree on methods of suppressing the white-slave traffic. This conference was attended, he said, by delegates from 16 States, and drafted for approval by the Governments a draft convention and draft agreement, only the latter, however, being signed, and coming into force in 1905.

Central offices were established under this agreement, he added, in all the signatory countries, to wit, Germany, Austria-Hungary, Belgium, Brazil, Denmark, Spain, France, Great Britain, Italy, Norway, the Netherlands, Portugal, Russia, Sweden, Switzerland, for collection of information as to the enticing of women and girls to foreign countries for purposes of prostitution, for identification of procurers, and for repatriation of victims. The speaker said that notable results had followed; that there was interchange of useful information among the offices, including notification of arrival and departure of persons known or suspected to be engaged in the traffic, demands for investigation of the situation of victims of the traffic, and information as to convictions of persons exploiting prostitution. He said that better results could have been secured if the draft convention of 1902 had also been signed, but that it had been criticized by various governments. In order, therefore, to reach a thorough understanding a second conference was held at Paris in 1910 which resulted in a convention acceptable to the respective governments. Under this convention the contracting States undertook to initiate new measures wherever needed, and the penal laws were generally strengthened. The speaker said that his own country, Brazil, had enacted laws especially rigorous, recognizing in the fight against the white-slave traffic a world-wide principle. The signatory States had intended to hold further conferences at stated periods, but the World War put these plans in abeyance.

He pointed out that the traffic was not very active during the war on account of the restrictions imposed on persons leaving the ports; that it seemed now less general than before the war, but that the traffickers were taking fresh precautions and redoubled vigilance was essential. He referred to the International Bureau for the Suppression of the White Slave Traffic, organized in 1913 at a general conference of various national societies, many of which received subsidies from their governments and had government representatives on their committees. He said that the bureau was prepared to call a new conference, and suggested that the league postpone action until after this conference had met and made recommendations. He proposed, first, that the secretary general attach to his office an official specially charged with the duty of keeping himself informed on all questions concerning the white-slave traffic; second, that the league postpone further action until the proposed conference should meet and submit proposals. These suggestions were approved by the council.

EUPEN AND MALMEDY.

Representative Matsui, of Japan, then made a report on Eupen and Malmedy. He said the German chargé d'affaires in London had sent a note, dated April 20, to the league regarding

article 34 of the treaty of Versailles, which article was as follows:

Germany renounces in favor of Belgium all rights and title over the territory comprising the whole of the Kreise of Eupen and Malmedy.

During the six months after the coming into force of this treaty registers will be opened by the Belgian authorities at Eupen and Malmedy, in which the inhabitants of the above territory will be entitled to record in writing a desire to see the whole or part of it remain under German sovereignty.

The results of this public expression of opinion will be communicated by the Belgian Government to the League of Nations and Belgium undertakes to accept the decision of the League.

The note asked that a commission be sent by the league to verify and supervise the vote authorized in article 34, that the league insure a free record, unhampered by threats or by judicial or economic discrimination against the voters.

The speaker said that the German chargé d'affaires had presented a further note, dated May 6, to which was annexed a copy of a note sent to the peace conference at Paris, these notes relating to certain incidents which had occurred in connection with the public expression of opinion—that the chargé d'affaires had sent another note to the league on May 14 relating to expulsions by the Belgian authorities of persons who had come into the districts of Eupen and Malmedy since August 1, 1914.

Representative Matsui then stated that the question to be determined was whether under article 34 the league could at present take any action concerning the public expression provided for in that article. He said the article appeared to intrust arrangements for the public expressions entirely to Belgian authorities, that the registers were to be opened by the Belgian authorities and the results communicated to the league by the Belgian authorities, that these results could not be so communicated until after six months from January 10, 1920, the date of the coming into force of the treaty, and that the league had no right to intervene until the results were transmitted by the Belgian authorities. He suggested that these facts be embodied in the league's reply to the German notes.

The speaker said that the German chargé d'affaires had sent another note on April 20 relating to article 35 of the treaty, which article read as follows:

A commission of seven persons, five of whom will be appointed by the principal allied and associated powers, one by Germany, and one by Belgium, will be set up 15 days after the coming into force of the present treaty to settle on the spot the new frontier line between Belgium and Germany, taking into account the economic factors and the means of communication.

Decisions will be taken by a majority and will be binding on the parties concerned.

The note called attention to a decision by the commission authorized in article 35 on March 27, 1920, whereby, in deference to a demand of the Belgian member, the railway line Raeren-Kalterherberg in the German Kreis Monschau was given to Belgium on certain conditions to be fixed thereafter, stating that the German Government, for reasons set forth in the note, could not recognize the decision, and asking that it be revoked. The note added that if the allied and associated Governments should hesitate to allow this request the German Government would submit the question to an international court of arbitration, and that an identical note had been addressed to the president of the peace conference and the Governments of Great Britain, France, Italy, Japan, and Belgium.

The speaker said it should be observed that the commission, under article 35, is composed of persons appointed by the two interested parties and the principal allied powers; that the article did not mention the League of Nations; that inasmuch as a formal acknowledgment of the note had been sent the German Government by the secretary general, it was hardly necessary for any further reply to be returned.

He said that the Belgian Government had sent the league a note stating its views of the powers of the commission created by article 35 and that copies of this and the other documents had been distributed to members of the council.

DISEASE IN CENTRAL EUROPE.

Representative Balfour reported on prevention of disease in central Europe. He said the matter had been assigned to him because it was started through a letter he had written as temporary president of the council to the general meeting of the League of Red Cross Societies in Switzerland appealing to them to look into the situation that had arisen in connection with typhus and other infectious diseases. He said a very sympathetic reply had been received, announcing that on assurance from the league that food, clothing, and transportation would be supplied by Governments the League of Red Cross Societies would at once formulate plans for the immediate extension of voluntary relief within the affected districts.

Mr. Balfour then stated that the question of supplies in Poland and eastern Europe had been investigated by a committee called the Relief Credits Committee which met in Paris on April 21; that this committee surveyed the resources that might be turned over to the Red Cross under the various headings of food, clothing, transport, and medical stores, and had concluded that at all events until the next harvest there seemed to be an adequate supply of these necessaries if properly used. It was his opinion that these supplies were partly due to credits supplied mainly by the British and American Governments and to supplies given by those two Governments; also to voluntary efforts of people connected with the Red Cross societies and other associations and credits given by traders and individual enterprise.

Mr. Balfour thought the Red Cross societies might be assured that sufficient material would be forthcoming, although the league was without power to provide it, and suggested a letter to the societies to this effect and urging them to go ahead with the relief work. The proposal was approved and carried out.

PERMANENT COURT OF INTERNATIONAL JUSTICE.

The secretary general, Sir Eric Drummond, then reported on the committee of international jurists who were to be invited to draw up plans for a permanent court of international justice. He said that invitations had been sent to Messrs. (1) Akidzuki, (2) Altamira, (3) Bevilaqua, (4) Descamps, (5) Drago, (6) Fadda, (7 Fromageot, (8) Gram, (9) Loder, (10) Lord Phillimore, (11) Mr. Root, (12) Vestnitch. All had accepted except Mr. Akidzuki, who was compelled to return to Japan; Mr. Gram, who pleaded ill health and advanced age; and Mr. Drago, who was prevented by personal circumstances. Mr. Akidzuki suggested that in his stead Mr. Adatci be invited, and this was done, Mr. Adatci accepting.

The secretary general pointed out that the committee would be composed of 10 members, 5 being nationals of great powers and 5 being nationals of smaller powers. He stated that a memorandum on the question of establishing a permanent court of international justice had been prepared by the legal section of the general secretariat of the league and distributed to members of the committee; that drafts for the establishment of a permanent court prepared by various belligerent and neutral Governments or by government commissions had been communicated to the general secretariat and dispatched to the members of the committee.

He announced that the date for the first meeting of the committee on the permanent court had been fixed for June 11, and that the Netherlands Government had invited the committee to meet at The Hague.

PRISONERS OF WAR.

Representative Tittoni, Italy, then submitted a report on prisoners of war in Siberia. He said there were still several hundred thousand prisoners of war in Russia, Siberia, Germany, and so forth, living under terrible conditions; that they were mostly Austrians, Hungarians, Germans, and Russians; that in view of the condition of the territory in which they were located it was very difficult to assist, feed, or repatriate them. He said that there was a scarcity of ships for their transport from Siberia; that the international committee of the Red Cross in Geneva had rendered valuable aid and had been able to repatriate a small number of prisoners from Vladivostok, but that this committee was not able to meet such overwhelming needs, and the League of Nations had considered it was its duty to take up this question. He added that the league had sent the famous explorer, Nansen, to make investigations and proposals for the council; that he was already at work; that it was hoped his report would soon be received; and that it was absolutely necessary to save these unfortunate people from another winter in exile.

SECOND PUBLIC MEETING—FIFTH SESSION—OPENING ADDRESS.

At the second public meeting, fifth session, Representative Tittoni, presiding, opened the meeting with a speech alluding to the historical significance of the fact that the league should have emerged from its period of preparation and established definite rules of procedure. He referred to the historical development by Rome and Italy of the idea of universal peace and arbitration, and, coming to modern times, recalled utterances by Bourgeois in 1900, Balfour in 1917, Destree in 1915, and by himself in 1906 pointing out the need of international action and international guaranties for the preservation of peace. He contended that there was also need for practical cooperation among the nations of the world in dealing with immediate problems. He said that the league must obtain the moral support of public opinion, and referred to the work of the council in Rome and its decision concerning the registration of treaties which was intended to end secret diplomacy. He mentioned the approaching international financial conference

at Brussels and the importance of the international labor organization with its program of social reform.

CONVENING OF ASSEMBLY.

Representative Coromilas, of Greece, then presented a report on the convening of the assembly. He stated at the outset that two classes of States had the right to enter the League of Nations as original members—first, those signing the treaty of Versailles; second, those invited to signify their accession to the covenant within two months from the coming into force of the treaty. He said the latter class included the 13 most important countries remaining neutral during the war, and that by March 10 last all had declared adhesion to the league; that of the signatory States nearly all had ratified the covenant; that, therefore, the following 37 countries and dominions had become members of the League of Nations: Argentine Republic, Belgium, Bolivia, Brazil, British Empire, Canada, Australia, South Africa, New Zealand, India, Chile, Colombia, Czechoslovakia, Denmark, France, Greece, Guatemala, Italy, Japan, Liberia, Netherlands, Norway, Panama, Paraguay, Persia, Peru, Poland, Portugal, Rumania, Salvador, Serb-Croat-Slovene State, Siam, Spain. Sweden, Switzerland, Uruguay, and Venezuela.

He called attention to the fact that under article 2 of the covenant the league operates through an assembly and a council, with a permanent secretariat. He said that the secretariat, and shortly afterwards the council, had been set up, both having been in operation for several months; that the council had decided many questions and had taken preliminary steps in creating certain organizations referred to in the covenant and treaty, organizations essential to the execution of the covenant and treaty; that for the league's work to develop maximum power and usefulness it remained for the assembly to be summoned. He said a number of new States had requested admission, a matter for the assembly to decide. He said the date for the meeting of the assembly should be fixed so that member Governments would have time to receive and consider all documents and information bearing on questions to be discussed and so that delegates would have time to reach the meeting place. The council thought, he said, that the most suitable time would be the first fortnight in November, and had sent to President Wilson, who was authorized under article 5 of the covenant to call the first meeting of the assembly, a telegram asking him to summon the assembly for that time, the meeting to be held at some European place ultimately to be chosen on the council's proposal after further exchange of views.

INTERNATIONAL STATISTICS.

Representative Destree, Belgium, then presented a report on international statistics. He said that international statistics were dealt with by international commissions and bureaus under international conventions, that under article 24 of the covenant any international commission or bureau which may be constituted by treaty to deal with such questions was to be placed under the direction of the League of Nations, as might also be done with existing international commissions and bureaus, if the parties agreed.

He stated that a conference of statistical experts which met at London the previous year through the initiative of the secretary-general of the league had expressed the opinion it would be advisable if all the work in the statistical field whose accomplishment was a necessity in the political life of nations could be organized with a uniform and centralized system. The speaker said that this was an object which required the assistance of experts and persons who make use of statistics and proposed that a commission be appointed. The council adopted the report.

TYPHUS IN POLAND.

Representative da Cunha, Brazil, then submitted a report on typhus in Poland. He recalled the action of the council at a prior meeting requesting the International Medical Conference (convened at the council's request) to study the matter of typhus in Poland, and stated that this international health conference had made an exhaustive report urgently appealing for the cooperation of the league. The speaker said that if the league's efforts in dealing with disease were successful infinite good would be done not only in combating suffering but in developing among the nations a spirit of mutual understanding and cooperation. He said that modern knowledge had made it possible to check typhus and mitigate its terrors, and that this knowledge itself imposed new responsibilities on governments, that henceforth humanity could not hold aloof from a country which, stricken with disease, was unable to check it, that an epidemic in one country threatens all surrounding countries having commercial or other relations with the infected areas, that civilized countries could not in their own interest afford to dissociate themselves from the fate of infected regions.

The speaker stated that health, wealth, prosperity, and peace were closely bound up together; that disease and faulty hygiene were often responsible for inadequate work, or low output, and for suffering of which social and political troubles are the outcome; that it was hard to tell how many world troubles were due to pathological causes that could be eliminated; that money spent in fighting epidemics and overcoming disease would contribute largely to the social equilibrium in many regions of the globe.

The speaker said he understood the president of the council had already tentatively approved the recommendation of the health conference for the appointment of a chief commissioner and a medical commissioner who would take steps to combat typhus in Poland, and that two other officials, already appointed, had taken initial steps to carry out, subject to the council's approval, the further recommendations of the medical conference. He stated that prompt action was necessary to avoid disaster in the coming winter; that while Poland was one of the principal centers of infection the menace of typhus had spread to other countries; that the council, having decided that the unhappy condition of Poland required combined action by all league members, could not enforce nor recommend a definite scale of contribution; that the council felt, however, that the countries of the world, as members of the family of nations, could not forget a sister suffering country and would lend her assistance. He said that the danger threatening the commercial interests of countries in trade relationships with the affected areas must not be overlooked. Resolutions approving the appointment of the commissioners above mentioned and appealing to the nations for aid were then passed.

ARMAMENTS.

The next report was by Representative Bourgeois, France, on an armament commission to deal with military, naval, and air questions. He began by stating that the council at its Paris meetings of April 10 and 12 had decided to take up at this meeting the constitution of the permanent commission, which under article 9 of the covenant is to advise the council on the execution of the provisions of articles 1 and 8 on military, naval, and air questions generally.

He said that article 1 defined the military regulations which must be accepted by States, not included in the list of original members, which are seeking admission to the league, and that the framing of these regulations should be the first and immediate task of the commission described in article 9. He summarized the provisions of article 8, relating to disarmament, interchange of information on military equipment, plans by council for reduction of armament, and so forth, and said that no higher duty confronted the council than to constitute at the earliest possible moment a permanent commission to determine the military, naval, and air situation in the various member States. He said that no action of the league could be of greater value for the maintenance of peace; that no decision of the council in other matters could be really effective if it did not carry out these duties with which it had been specifically intrusted; that the question of armament reduction interested public opinion above all others.

He spoke of the difficulties that would face the commission, saying it would be hard to draw up a practical scheme and to determine the military situation of the world as long as the conditions of the treaty of peace regarding the disarmament of the central empires were unfulfilled; that the troubled condition of Europe made the situation still more obscure; that the present duty of the council, however, was not to make final decisions, but to prepare the work and outline a future policy. He suggested that the technical work of the commission begin at once so that the council would be enabled to take final decision when part of the stipulations of the treaty should have been carried out and European conditions would be such as to permit a solution of the disarmament problem. He proposed that the organization of the commission be determined at once.

He directed attention to the fact that apart from article 8 the council might need the advice of the armament commission as to other terms of the covenant and the treaty. He cited article 16, which stipulates that if any member nation disregards its covenants under articles 12, 13, or 15, relating to arbitration and settlement of disputes, it shall be the duty of the council to recommend to the several Governments what effective military, naval, or air force they should severally contribute to the armed forces to be used to protect the covenants of the league. He referred also to article 23, paragraph (d), which intrusts the league "with the general supervision of the trade in arms and ammunition with the countries in which the control of this traffic is necessary in the common interest."

He called attention to the convention regarding the arms and ammunition trade signed September 10, 1919, at St. Germain, by the allied and associated powers, other powers being invited to adhere thereto, the object being to establish a system of restriction and, in some cases, of prohibition, of export of arms. That convention provided for a central international organ, which was to be placed under the authority of the League of Nations, an office which was to collect information and statistics on the quantity and destination of exported arms and ammunition. That convention, the speaker continued, had not yet been ratified by the signatory powers, but it was declared in the final protocol that "it would be contrary to the intentions of the signatory powers and to the spirit of the convention should one of the powers take measures inconsistent with the terms of the convention pending its coming into force."

The speaker then said that with a view of carrying out article 23, paragraph (d), of the covenant the permanent commission on armaments should obtain from the signatories to the convention and the member nations of the league all relevant information on the external and internal trade in arms and ammunition and submit proposals to the council for a central international office to handle the question.

He reminded the council that under article 213 of the treaty Germany had undertaken to give every facility for any investigation which the council by majority action considered necessary in effecting the military regulations of the treaty.

He suggested, first, that the commission on military, naval, and air questions consist of national representatives responsible to their respective governments and general staffs; that constituted in this manner the commission would be a living organization, qualified, on the one hand, to prepare the way for the decisions of the council without giving offense to the governments concerned, and, on the other, to prepare the way for the decisions of those governments in accordance with the spirit of the league; second, that the commission be permanent, its members not to be too numerous, but all the member nations of the council to be represented pending the final decision of the assembly; third, that other nations be allowed representation when questions of direct interest to them were under discussion; fourth, that as to the number in each delegation, it should be remembered that each delegation must be capable of dealing with naval, military, or air problems alike, that three separate sections therefore should be set up in the commission, that each nation should be entitled to three delegates at most, one for each section, the voting power to remain the same regardless of numbers; fifth, that the secretariat of the armaments commission should be organized by the secretary general of the league. Resolutions embodying these suggestions were carried.

INTERNATIONAL FINANCIAL CONFERENCE.

A report on the international financial conference was submitted by Representative Bourgeois.

He said that it had been decided, first, that the conference be held at Brussells about the middle of May; second, that the following countries be invited to send delegates: Argentina, Australia, Belgium, Brazil, Canada, Chile, Czechoslovakia, Denmark, France, Greece, Holland, India, Italy, Japan, New Zealand, Norway, Poland, Portugal, Rumania, Serb-Croat-Slovene State, South Africa, Spain, Sweden, Switzerland, United Kingdom; third, that the other States members of the league be invited to send as soon as possible any recommendations they might wish to submit to the conference; fourth, that the Government of the United States of America be informed of the step taken by the council of the league and be invited to send representatives to the conference or to take part in the work; fifth, that States not included in the above list might be invited to communicate to the conference all relevant information regarding their financial and economic situation and that the council decide the conditions under which these countries might be heard by the conference; sixth, that letters of invitation in accordance with these suggestions had been issued.

THE RUSSIAN INQUIRY.

Representative Destree, Belgium, then presented a report on the commission of inquiry into Russia. He referred to a former decision of the council to send such a commission to Russia to obtain information as to the internal situation, stating that it was the council's desire to have the inquiry conducted with impartiality and without prejudice, that it might have served as a basis for a just estimate of Russian conditions, that without questioning the right of the Russian people to any form of government they might select it might have led to the resumption of economic relations which were as important to Russia as to the rest of the world. He said that on March 17 a telegram was sent to the soviet authorities stating that the council, having been asked to examine the possibility of sending a commission to Russia, had decided to send an impartial and reliable commission, asking whether the soviet authorities were prepared to give the commission the right of free entry and return, to insure its liberty of movement, communication, and investigation, to guarantee the immunity and dignity of its members and the inviolability of their correspondence, archives, and effects, stating further that the commission would begin its work as soon as these facilities and rights were formally assured.

The speaker stated that on May 14 a reply was received in the shape of a cablegram containing a resolution adopted by the central executive committee of the soviets of Russia on May 7. The resolution stated that the committee welcomed any sign showing that the Governments which to that time had made war on soviet Russia and which had tried to separate it from the other countries by cordons and barbed wire now realized the uselessness of attempts to strangle the Russian people; that the decision of the league to send a commission was a sign that some of the powers belonging to the league had renounced a policy of strife against the Russian people, but that at the same time the committee took notice that the Polish Government, a member of the league, had made war on the Russian people before deigning to negotiate on neutral or allied territory, and had tried to seize territories of Russia or soviet Ukrainia without opposition from the league and with the active support of certain member nations which had invariably supported all movements of the deposed class of exploiters against the soviet power. The resolution recited further that the soviet government had hoped to have the blockade against Russia lifted, was keenly interested in having all nations know the internal situation, that it would therefore admit to Russia all press representatives guaranteeing not to abuse Russian hospitality, and would also admit as guests of the Russian professional unions the delegation of the English Congress of Trade Unions, who would have full liberty to study Russian conditions. The resolution went on to state that with these principles as a basis the committee consented in principle to the visit of the delegation of the League of Nations and would accord them the same liberty for studying the situation as was enjoyed by representatives of other powers within the boundaries of a sovereign State, but considered it evident that the League of Nations, which professed to watch over not only the integrity of international law but also over all principles regulating relations between civilized nations, should not send to Russia as representatives or experts persons associated with plots against the Russian Government. The resolution stated further that since certain league members were actively supporting Poland, which was at war with Russia, the committee, for military reasons, would not admit at that time representatives of nations which had in fact renounced neutrality in the war on Russia; that the committee was convinced the red army would soon prove to Poland the necessity of peace, thus ending the state of war; that the committee had designated a commission composed of Comrades Kamenoff, Lutovinoff, and Kourski, which, together with the people's commissary for foreign affairs, would have the right to authorize, when the proper moment arrived, the entry into Russia of the League of Nations without the necessity for a further convocation of the committee.

Representative Destree proposed that a reply be sent the soviet authorities stating that the council regretted that after long delay the soviet government had exacted conditions amounting practically to refusal, had endeavored to differentiate between the States whose representatives could be sent, whereas the league was a single international organ for the establishment of justice and peace, its delegates representing no particular State but the league itself, that the league still hoped the soviet government would modify its reply, but if it could not accept before June 15 the terms of the request of March 17 the council would lay on the soviet government entire responsibility for defeating a step prompted solely by a desire to improve international relations and the world's economic situation. The reply was authorized by the council.

TECHNICAL ORGANIZATIONS.

The council next adopted a resolution by Representative de Leon, of Spain, on the relations between technical organizations and the council and assembly of the league. It stated that the technical organizations of the league then in process of formation were established to facilitate the work of assembly and council by setting up technical sections, on the one hand, and, on the other, to assist the member nations by establishing direct contact between their technical representatives in the various spheres—that with this double object these organizations must keep enough independence and flexibility to make them useful to member nations and yet must remain sufficiently under control of the league to keep their proposals

in conformity with the principles and spirit of the covenant. The resolution set up two principles of action—first, that the interior working of the various organizations should be independent, they to prepare their own agenda and communicate it to the council before discussion should occur; second, that their relations with the States members of the league should be under control. Before any communication of results or proposals of technical organizations was made to member States, and before they took any action regarding member States, the council must be immediately informed in order that it might exercise its power of control if necessary. In such case the council might decide that the communication or action in question should be postponed, and request the organization concerned to withdraw the question from its agenda or submit it for further consideration. The resolution provided further that the technical organization might request that the decision of the council be discussed at the next meeting of the assembly. The assembly was to be informed of all questions dealt with by the council in the exercise of its power of control, the information to be transmitted by the council on its own initiative, or on the proposal of any one of its members, or at the request of one of the technical organizations.

COMMUNICATIONS AND TRANSIT.

The council then approved a report by Representative de Leon on the subject of communications and transit.

In presenting this report, Representative de Leon referred to the invitation extended by the council at its London meeting on February 13 to the Commission of Inquiry on Freedom of Communications and Transit to present plans for a permanent organization within the League of Nations and under the council's supervision to deal with the subject of communication and transit, and the duties in this connection vested in the league by the covenant and the various peace treaties. He said the commission had completed its work and forwarded its report to the secretary general. He suggested that an interval of about five months should elapse between the date of the invitations to the general conference recommended by the commission and the meeting of the conference in order to give time for study of documents relating to subjects on the agenda, that with this reservation the conference should be held as soon as possible, and that the attendance should be as nearly universal as possible. He moved the adoption of the following resolution, subject to approval by the assembly:

I. That the members of the league be invited to send special representatives to a general conference on freedom of communication and transit, the conference to establish rules to guide the league in fulfilling the duties assigned it by the covenant and the peace treaties in connection with these subjects; to decide whether the rules should take the form of draft conventions to be ratified by the members of the league, or of recommendations for action by the various Governments, or of draft resolutions to be adopted by the assembly; and to make provision for future meetings subject to league approval.

II. That the conference be invited to organize a permanent communication committee as a consulting and technical body to devise measures assuring freedom of inland communication and transit, and to assist the league in carrying out the duties assigned in connection with this subject by the covenant and peace treaties; that this committee or commission should consist of members designated by the permanent members of the council, each member having one delegate, and of eight more delegates designated by the league members in the manner provided by the conference; that this committee should prepare the agenda of the conference, investigate disputes referred to the league under the covenant and peace treaties on communication and transit matters, effect settlement whenever possible, and where such disputes are brought before the permanent court of international justice assist the court.

III. That the secretary general render all possible assistance to the conference and the committee, collaborate with the existing commission of inquiry on freedom of communication and transit in arranging for the first meeting of the conference, and name members of the secretariat to act as secretaries to the conference and permanent committee.

IV. That the general expenses of the conference and the committee, as well as the traveling expenses and visiting expenses of the members of the committee, excluding members of the conference, be paid from the general funds of the league.

REGISTRATION AND PUBLICATION OF TREATIES.

Next the council adopted a memorandum proposed by the secretary general on the registration and publication of treaties.

The memorandum contained 13 paragraphs, which may be summarized as follows:

1. Article 18 of the covenant established an important innovation in international law by requiring every treaty or international engagement entered into thereafter by any member of the league to be forthwith registered with the secretariat and published by it as soon as possible, no such treaty or engagement to be binding until so registered. Publicity strengthens the administration of both national and international law, awakens public interest, removes causes for distrust and conflict. Publicity alone will enable the league to extend a moral sanction to the contractual obligations of its members and will help to form a distinct system of international law.

2. An extensive interpretation of article 18 is necessary to its application in conformity with the objects of the league.

3. Registration of "every treaty or international engagement" means not only every formal treaty and every international convention, but also any other international engagement or act by which nations or their governments intend to establish legal obligations between themselves and another state, nation, or government, including agreements for revision or prolongation of treaties, and denunciations of treaties or agreements.

4. Treaties and engagements are included which become binding, so far as the acts between the parties inter se are concerned, after January 10, 1920, the date of the coming into force of the covenant. Those that became binding at an earlier date are not included but the secretariat is authorized, if this appear desirable to the contracting parties, to extend the registration so as to include earlier dates.

5. The latest date at which treaties or international engagements should be presented for registration is the date when, so far as the parties inter se are concerned, they receive final binding force and are intended to become operative. They may be registered when the text has been agreed upon and before final ratification, if the parties desire, but the secretary general must make this status clear on the record, and will also make note later of final ratification.

6. Registration is accomplished by depositing a textual and complete copy of a treaty or engagement with all appurtenant declarations, protocols, ratifications, etc., at the treaty registration bureau of the international secretariat, and with an authentic statement that this text represents the full contents of the treaty or engagement. In case of necessity a treaty or engagement may be transmitted to the secretariat by other means—by telegram, for example—so long as it is shown that the text is the one agreed upon.

7. A certificate of registration will be delivered to the parties under signature of the secretary general of the league or his deputy, the certificates to be numbered consecutively.

8. Treaties or engagements may be presented for registration by one party only, either in the name of all the parties at the same time or of that party alone, as long as it is shown that the text is the one agreed upon.

9. Publication of a treaty or engagement registered with the secretariat will be secured automatically and as soon as possible by inclusion in the treaty part of the League of Nations journal. Copies of this journal will be regularly forwarded to the Governments of all States members of the league. The treaty part of the journal will have a special form which may be placed separately in law libraries and private studies, and a separate index of this part will be published at stated intervals.

10. A register will be kept in chronological order, giving the contracting parties, the title, date of signature, ratification, presentation for registration, and register number of all treaties, etc. Actual texts presented will be kept as annex to register.

In addition to the chronological register a second register will be kept forming to some extent an etat civil of all treaties and engagements, for each of which a special page will be set apart as in a ledger, where all data will be noted, including not only signatures and ratifications but later adhesions, denunciations, notes relative to preparatory matter, discussions, internal legislation arising out of treaties, etc.

The Secretary may furnish certified copies of all matters registered to States, courts, or persons interested, but assumes no legal liability for contents. An index convenient for consultation will be made to the collection of treaties and engagements.

11. The registers will include a special series of these treaties and engagements which by some special provision or with some special object in view are placed under the care of the secretary general, e. g., the draft labor conventions and labor recommendations required to be so placed by article 405, treaty of Versailles, and similar enactments by analogous organizations.

12. Not only treaties, etc., between members must be registered but those between a member and a State not yet a member.

13. The secretary general proposes that treaties, etc., between States none of which are members may be registered if the parties so desire. This would tend to make complete the registration and the public collection of treaties.

APRIL REPORT, SAAR GOVERNING COMMISSION.

The official journal of the secretary general showed that on May 1 the governing commission for the Saar Basin made its report for April. The report stated that during April many important questions of legislative, administrative, and financial character had to be examined and settled; that public peace had not been disturbed nor work interrupted, although striking metal workers, miners, and railway employees in the adjacent territory of Lorraine had exhorted workers in the Saar Basin to follow their example; that the governing commission rejoiced over its maintenance of peace and order for three months amidst troubled neighbors in loyal fulfillment of its mandate from the league.

PUBLIC MEETING, SIXTH SESSION, LONDON, JUNE 16, 1920.

The presiding officer, Lord Curzon, welcomed the representatives in the name of the British Government to the public meeting of the sixth session. He said that the council had held two private meetings at which the following questions had been discussed: (1) Appeal from Persian Government to league; (2) commission of inquiry to Russia; (3) committee on permanent court of international justice; (4) repatriation of prisoners of war.

THE PERSIA-SOVIET CONTROVERSY.

He then invited Prince Firouz to a seat at the council table as the representative of Persia during the consideration of the Persian appeal. Then, reporting the results of the discussion of the Persian question by the council, he said this was the first appeal to the league under articles 10 and 11 of the covenant.

He then recited the circumstances giving rise to this first appeal under articles 10 and 11 of the covenant of the League of Nations. On May 19, 1920, Prince Firouz, minister for foreign affairs of Persia, addressed a letter to the secretary general of the league, stating that on the morning of May 18 at 8 o'clock 13 bolshevik vessels had opened fire on Engeli at a range of about 2 kilometers; that several shells had struck

the customhouse premises; that sloops had been sent under a flag of truce to ask for an explanation; that the bolshevik admiral said that he had been intrusted by the Moscow Government with the policing of the Caspian Sea; and that as he considered the ships and naval forces of Gen. Denikin, which had taken refuge at Engeli, a source of danger to the Caspian Sea, he had undertaken the bombardment on his own initiative. The letter stated further that the admiral finally demanded the surrender of Denikin's vessels and a temporary occupation of the port of Engeli pending negotiations between the soviet government and the English Government, and that the Persian Government had replied that it protested against the bombardment of a neutral port undertaken without any provocation or act of aggression on the part of Persia and without warning; that Denikin's naval forces, which took refuge at Engeli, a neutral port, had been disarmed and interned in accordance with international law, but that nevertheless the Persian Government was prepared to negotiate with the bolshevik forces on the subject; that the Persian Government could not permit any form of occupation of Engeli.

The letter then stated that the writer in bringing these facts to the notice of the league had the honor to make formal protest against these unjustifiable acts of aggression, and in accordance with article 11 of the covenant of the League of Nations begged to call the attention of the council to the very serious situation in which Persia was placed by these events which threatened to disturb the peace of the Middle East. The writer asked that these matters be brought to the attention of the league, expressing the hope that the members would cooperate to take the steps required by the situation.

On May 29 Prince Firouz addressed another note to the secretary general asking what action had been taken on the request made in the name of the Persian Government, stating that the soviet troops had not yet evacuated Persian territory, despite the assurances by the officer commanding the red fleet. The writer stated that news had been received of a probable bolshevik advance against the northeastern frontier of Persia; that after he had appealed to the league under article 11 of the covenant he had hoped a special meeting of the council would be promptly summoned to consider the situation and take the necessary steps; that he learned, however, from the secretary's answer of May 26 that he had not done more than send a copy of his letter to the members of the league; that in order to remove any uncertainty the secretary might feel as to the intentions of the Persian Government the writer asked the secretary to cause a meeting of the council to be held in order that the matter mentioned in the letter of May 19 might receive proper attention without delay. Again on May 31 Prince Firouz sent a note to the secretary stating that the request of his Government for a special meeting of the council was based on the first paragraph of article 11 of the league covenant.

President Curzon then referred to the negotiations at that time in progress between the Persian Government and the government of the soviets, of which the council had received full information from Prince Firouz, stating that the correspondence had culminated in a telegram sent the soviet government by Prince Firouz on June 12, that this telegram had not yet been answered, and that the council had decided to await the outcome of the negotiations before taking further action. Lord Curzon then presented a resolution on the situation, which was adopted by a unanimous vote, including that of the Persian representative, Prince Firouz. The resolution had previously been shown him and approved by him on behalf of his Government. Prince Firouz addressed the council, stating that he accepted the resolution and thanking the council for its sympathetic consideration of the appeal he had made in behalf of his country.

The resolution stated that the council had met in London on June 16 for the purpose of considering the appeal under articles 10 and 11 of the covenant by the Persian Government to the league on account of acts of aggression committed by the soviet forces against Persian territory, and had heard the report of His Highness Prince Firouz, Persian minister of foreign affairs, sitting as a member of the council. The resolution proceeded in the following tenor:

Whereas Prince Firouz has informed the council of the communications recently exchanged between his Government and the soviet authorities, and has stated the conditions which were presented to the soviet authorities by the Persian Government in particular on 12th of June after receipt of a radio from the soviet; and

Whereas the fulfillment of these conditions would restore the territorial integrity of Persia, the respect for and preservation of which are guaranteed by the members of the league by article 10 of the covenant, and would in this respect give satisfaction to the legitimate requirements of the Persian Government; and

Whereas according to declarations made by them on several occasions and through various channels the soviet authorities have already ordered the evacuation of Persian territory and have asserted their peaceful intention toward Persia:

The council considers that the Persian Government has acted in the best interests of peace, and that it has rightly appealed to the fundamental principle of cooperation laid down in the covenant in asking the League of Nations to declare its willingness to maintain the territorial integrity of Persia in accordance with article 10 of the covenant.

The council decides that before advising upon the means by which the obligations prescribed by the covenant shall be fulfilled it is desirable in order to give every opportunity for the success of the conversations now in progress to await the result of the promises made by the soviet authorities. In the meantime the council requests the Persian representative to keep it informed of the march of events through the secretary general of the League of Nations.

COMMISSION OF INQUIRY TO RUSSIA.

Next, Representative de Fleurian, of France, read a report on the commission of inquiry to Russia, which was adopted. The report stated that the council at its Rome session on May 19 had decided to allow the soviet government until the 15th of June to reply on the question of admitting the commission; that on May 26 the following answer was received from Moscow:

The Russian soviet government has carefully considered your radio telegram of to-day's date and is struck by the character of absolute solidarity attributed by you to the League of Nations in view of the fact that the delegates of the different States which form it do not, according to you, represent the States, but represent the league itself. It is even more to be regretted that the league which, as you assert, has as its aim the establishment of justice and peace has allowed full liberty to one of its members, namely, Poland, to become the disturber of peace by her aggression against Russia and the Ukraine, and the violator of justice by her attempt to transform the Ukraine into a vassal and oppressed country.

The soviet government can not pass over in silence that attitude of the members of the league who are helping Poland by sending war material and instructors, the direct support given at the same time to the white guards of Wrangel in Crimea. The most elementary demands of the security of the Republic make it (admission of commission of inquiry) impossible under these conditions until such time as the military situation created by the Polish offensive has changed sufficiently for considerations of security at the moment imposed on the soviet government to lose their present significance.

The report stated that this was a practical refusal and that the council, which had been guided in the matter solely by high principles of peace and humanity, could do no more than note the declination and leave the entire responsibility with the soviet government.

PERMANENT COURT OF INTERNATIONAL JUSTICE.

The secretary general then presented a report on the committee of international jurists, submitting nominations to fill vacancies. He presented the names of Hagerup, of Norway, and Ricci-Busatti, of Italy.

The council approved the nominations and invited M. Bourgeois to represent it at the opening meeting of the committee, to be held at the Peace Palace at The Hague on Wednesday, June 16, for the purpose of preparing a plan for the permanent court of international justice and to welcome the committee in the name of the council.

REPATRIATION OF WAR PRISONERS.

President Curzon then announced that Dr. Nansen would present a report on the repatriation of war prisoners, emphasizing the difficulties of the problem and lauding the services of Dr. Nansen to the League of Nations and to humanity in undertaking the work.

Dr. Nansen stated that since he was requested by the council on April 11 to investigate the matter of repatriating prisoners of war, especially those in Siberia, he had made every effort to carry out the work. He had conferred with representatives of all the Governments mainly concerned, and with members and agents of the international committee of the Red Cross and of other voluntary organizations. While no exact estimate could be made as to the number of prisoners not yet able to return home, he believed there were still in the territories of the late Russian Empire not less than a quarter million, and that there were not less than that number of Russian and other prisoners in Germany and other European countries; that the number in eastern Siberia was overestimated, the removal of restrictions on their movements by de facto Russian authorities causing them to move about so much that it was not possible to say how many were in any particular place; that it was certain, however, that only a small portion remained in eastern Siberia, while far larger numbers were scattered throughout western Siberia, central and southern Russia.

He said that during the last four or five years the prisoners had suffered greatly, a large number perishing from cold, disease, malnutrition, and other causes; that their material condition was probably better at the moment than for some time theretofore, but that their chief suffering was from mental anguish resulting from loss of touch with home and family; that the bereaved families were also suffering from this separation; that repatriation was not only a matter, therefore, of the highest humanitarian importance but also of great political significance, because it touched the deepest feelings of millions of men, women, and children throughout Russia and central Europe.

Aside from political causes repatriation had been obstructed by three facts: (1) collapse of government and means of communication in many territories where prisoners were in captivity; (2) severance of communication between Russia and the rest of the world; (3) inability of some of the Governments concerned to pay cost of transporting their own citizens. On account of these difficulties no other route than that of sea transport from Vladivostok was proposed for prisoners in Siberia for several months after the armistice. So long and costly was this route that transportation of half a million men to and from Vladivostok was practically impossible. Fortunately Great Britain and the United States would repatriate from Vladivostok before the coming winter all the Czecho-Slovaks and other legionaries in eastern Siberia, and this would leave only about 15,000 prisoners of other nationalities to be taken by this route who, there was good reason to hope, would be moved in the near future.

It was evident, however, that the bulk of the prisoners in Russia could be repatriated with the cooperation of the soviet authorities on the basis of exchange of prisoners in Russia against Russian prisoners in Europe. With the help of the Red Cross and the Governments of Esthonia and Finland an exchange had begun through the port of Narva, and it was expected other ports would be open soon for the same purpose. With necessary shipping and transport facilities at least 60,000 prisoners could be repatriated over these Baltic routes. So far the soviet authorities had furnished better railway facilities than had been anticipated and prisoners were rapidly arriving at Narva. At the speaker's suggestion the Swedish Red Cross had undertaken to help the authorities and the international committee of the Red Cross in caring for the prisoners at Narva.

The speaker thought he could soon find the necessary shipping and other material requirements for these routes, and to this end had begun negotiations with the international committee for relief credits in Paris for loans to be repaid by the Governments whose subjects were to be returned. Other routes must be secured for prisoners in Turkestan and more remote parts of southern Russia, and secured quickly if the prisoners were to be returned before winter. The speaker said the council could greatly assist by lending its moral support to the efforts being made for the prisoners, and he proposed four resolutions, as follows:

The council of the League of Nations hereby resolves:

(1) That a letter of appreciation and thanks be sent to the Governments of Esthonia and Finland for the facilities offered by them for the repatriation of prisoners.

(2) That a letter be dispatched to all the Governments concerned earnestly requesting them to grant transit, subject to reasonable provisions for disinfection and medical observation, to prisoners of war passing through their countries.

(3) That a letter be dispatched to the Governments represented on the international committee on relief credits urging them to allow the credits furnished by them to the committee to be used for repatriation of prisoners.

(4) That a letter be sent to M. Ador, president of the international committee of the Red Cross, thanking him for the great services already rendered by the committee in the repatriation of prisoners of war and expressing the hope that they will continue their work in cooperation with Dr. Nansen.

The report and resolutions were adopted.

President Curzon then stated that the council had been requested to take up the case of Bulgarian prisoners in Greece and Serbia, and had referred it to Dr. Nansen for inquiry and recommendation.

CONVENING OF ASSEMBLY.

The following telegram was sent to President Wilson asking him to issue a call for the first meeting of the assembly as soon as convenient and practicable:

The council of the League of Nations at its meeting in London has the honor to confirm the telegram dated 19th May, 1920, from Rome asking you to convene the first assembly of the league in accordance with article 5 of the covenant.

The council is anxious that the assembly should meet between the 1st and 15th of November, and as not only considerable initial preparations are necessary but documents and agenda must be circulated to all members as soon as practicable, it trusts that you will find it possible to fix the definite date at your earliest convenience.

MEETING OF THE ADVISORY COMMITTEE OF JURISTS TO PREPARE PLANS FOR PERMANENT COURT OF INTERNATIONAL JUSTICE.

The Official Journal of the League of Nations states that the advisory committee of jurists, appointed by the council of the League of Nations at London February 13 to prepare plans for the Permanent Court of International Justice provided for in article 14 of the covenant, assembled at the Peace Palace at The Hague on June 16.

The journal's review of the proceedings may be summarized as follows:

The committee was welcomed by Mr. van Karnebeek, the Dutch foreign minister. After extending a welcome to the committee in general he said he seized the opportunity to greet, first of all, Mr. Leon Bourgeois, who represented the League of Nations at this gathering, referring to the fact that he had presided over The Hague conferences of 1899 and 1907. The speaker said that in joining the league the Netherlands intended to aid to the utmost of their ability in realizing the high moral ideas that led to its formation. He referred to the first conference at The Hague, which had been often underrated, but which went, he said, as far as practicable at the time, and created on the proposal of Lord Pauncefote, the British delegate, ingenious machinery designed to facilitate recourse to arbitration—arbitration being recognized at that time by the powers as the most equitable means of adjusting disputes not soluble by diplomatic agencies. He said that since the first meeting at The Hague a movement had developed in behalf of a permanent international court with a purely judicial basis and empowered to settle by rules of law disputes between States; that this movement gained a new inspiration from a remarkable American initiation, with which was associated the well-known names of Elihu Root and James Brown Scott, both of whom were now present; that this movement took form at the second Hague conference in 1907, and would have finally succeeded could an agreement have been reached on the method of choosing judges and the constitution of the court; that later the fate of the prize court proved too strong for the efforts by certain powers in 1910 to complete the work begun by the conference of 1907.

The speaker stated that the onward march of ideas could not be arrested; that the League of Nations took up the thread which for a long time seemed lost, and intrusted to this committee the completion of the sacred work; that the grandeur of the task was apparent when above the conflicting interests and passions of mankind was seen the guiding star of a noble idea of a future governed by justice; that this work of justice now to be undertaken by the committee appeared like a resurrection in a world which had passed through one of the greatest trials of history, in an international society shaken at its foundation and almost at the end of its resources; that it was like a promise of moral reconstruction, like the message of a better future worthy of the League of Nations.

The speaker quoted the following words uttered in the past by Bourgeois: "The obligation of settling international conflicts by peaceful means is the first law of mankind," and said that it was to this ideal that the Peace Palace at The Hague where the committee was assembled was consecrated.

Mr. Bourgeois then addressed the committee, pronouncing it a great honor to have been delegated by the council of the League of Nations to open this meeting. He welcomed the delegates by name, saying that he particularly welcomed Mr. Root, a great jurist and an eminent American statesman, whose presence meant that the Old World and the New had been blended into one. He spoke of the fittingness of the selection of The Hague for this meeting, alluding to the peace conferences of 1899 and 1907, which had given for the first time concrete form to the principle of international justice in a series of international acts countersigned by the representatives of 40 nations, mentioning as practical results the arbitrations which in the affairs of the Dogger Bank, of Casablanca, of the Carthage, and the Manout had kept several countries out of war. He said it required, however, the horrors of the last World War to give sufficient emphasis to the truth that the foundations of peace could not rest in conflicts of force. Peace was simply the stable existence of right. He said he came in the name of the council of the League of Nations, which had been charged by article 14 of the covenant with the organization of international justice; that a memorandum by the secretary general of the league had set out the principal questions the committee would be called on to solve. He said that the proposed court must be a permanent one; that it was not simply a matter of arbitrators chosen on a particular occasion by interested parties, but a court composed of a small number of judges sitting constantly and receiving a mandate, the duration of which would make possible a real jurisprudence on which public law could be built up, a judgment seat raised in the midst of the nations where judges are always present, to whom the weak and oppressed nations could always appeal, the judges to be chosen not by reason of the State of which they were citizens but by reason of their personal reputation, their past career, of the world-wide respect attaching to their names, and thus representing the genuine international spirit which was by no means, as some people suppose, the negation of the legitimate interests of each nation, but the safeguard of such interests.

He again asserted that the proposed court was to be not a court of arbitration but a court of justice. The court of arbi-

tration already set up by the previous Hague conference would not cease to function in cases to which it was intended to apply. It had a special character, however, and its range of action was already determined. There was an essential difference between a sentence in arbitration and the decree of a tribunal, a difference as profound as that between equity and justice. Arbitration may take into account a thousand elements of fact, a thousand contingencies, and even political necessities.

The decrees of justice take into account only a rule defined and fixed by law. In every State the domain of justice extends step by step, prescribing rights and obligations attaching to human relationships, and the independence of judicial authority becomes more and more an essential safeguard of liberty and order. The same process should apply to relationships between States. They have now uncertain and badly defined relationships and modes of contact, the laws affecting which are equally uncertain and badly defined, as was the case between citizens in primitive ages. The object of the League of Nations is to give men complete definition of the largest possible number of relationships between States, of the rights and obligations pertaining thereto, and thus give wider sway to the supreme power of justice.

He said there were certain eminent jurists who favored the court of justice but who believed the organization of the League of Nations should be postponed. He added that it was the belief of the council of the league that the league and the court were complementary of each other, that of necessity they were organized at the same time and would be unable, as long as they wished to preserve their existence, to live apart. He supported the council's view, referring to the league as the creator of the functions, principles, and organs which the court would interpret and conserve, as well as the sanctions which would give the court's proceedings and decrees the necessary efficacy and authority.

He then discussed the development of organized justice within nations. Justice, he said, necessarily followed the organization of life itself. Within a given country the courts can not properly function until laws have determined relations between individuals, fixing rights and obligations, and providing the representatives of law with the means of reaching the facts with the law and repressing violations of the law. Life precedes law, and so long as it remains unorganized, with the functioning of its different forms of activity, political, social, or economic, undetermined, equity can be exercised between conflicting forces and tendencies, but the true law of action can not be invoked. The same situation obtains as between States. International life is developing with remarkable rapidity, and the political, economic, financial, and social interdependence of nations is being felt throughout the world. The council of the league is creating organs of international life, such as organizations relating to universal statistics, international labor, hygiene, freedom of transit, etc. He referred to the financial conference which was to lay the foundations of international credit. The international judicial organization would assure the proper functioning of these other organizations, which was essential to its task of guaranteeing respect for the rights and execution of obligations between nations.

A strong organization of international institutions was needed to aid the court in the execution of its decisions. For this execution the covenant foresaw several degrees of sanction—juridicial, diplomatic, economic, and as a last resort and within limits very closely defined, military sanction. Recourse to the military sanction was not to be desired but tendencies toward violence would persist a long time, and it would still be necessary to oppose the force of right to the force of violence for a long time.

He referred to the provisions in article 9 of the league for a permanent commission to advise the council on the execution of the armament features of articles 1 and 8, and on military, naval, and air questions generally, stating that the council at its Rome session had outlined the work of this commission and it could now proceed.

Gradually, he said, the cycle of international life will be completed, the various international organizations essential thereto will begin to function, precise obligations on the parts of States will be developed and defined, the fabric of international law will be woven together, and judicial conditions applicable to all will provide an abundant field of operation for the permanent court.

He said he wished to show what a large place the council believed the proposed court must take in the international organization of the world; that the council thought it should be armed with the highest moral power and organized for as deep penetration as possible into international relations; that the council would assure, as far as possible, the extent of its competence and the execution of its judgment; that because of the council's confidence in its beneficent action there must be established between the general powers of the council and the assembly and the special powers of the court the closest solidarity and profoundest harmony.

Mr. Bourgeois said in conclusion that the committee was about to give life to the judicial power of humanity; that philosophers and historians had told of the laws of growth and decadence of empires; that the council looked to the committee for laws assuring the perpetuity of the only empire which could not decay, the empire of justice, which was the expression of eternal truth.

Baron Descamps, president of the committee, replied to these two addresses. He said that the committee's first duty was to ascertain the present state of international law; that three peace conferences, the first two at The Hague and the third at Paris, had dealt with the organization of international justice; that it was important to define what each of these had done.

The honor of having created for the first time an international court of justice based on arbitration belonged to The Hague peace conference of 1899. The report laid before that conference stated that a permanent court of arbitration answered the deepest aspirations of civilized nations, the advance made in relations between States, the modern development of international disputes, the need urging the nations to make justice more accessible and peace less precarious, and would help to establish a strong sense of justice in the world.

That court was organized as follows: First, each signatory power appointed an equal number of arbitrators entered in a general list of members of the court; second, free choice was permitted from this list for arbitrators to form a court for each arbitration case; third, an international office was established at The Hague to serve as registry to the court and provide for administrative services; fourth, a permanent executive council was created to exercise supreme control composed of the diplomatic representatives of the powers accredited to The Hague with the Dutch minister for foreign affairs as president.

The convention creating the court, after dealing with the matters of "good offices," mediation, and commissions of inquiry, defined arbitration in article 15 as the settlement of disputes between States by judges of their own choice, and, on the basis of the respect of right, and in article 16, defined the character of questions within the competence of arbitration. Each signatory State was to decide whether a case should be submitted to arbitration, unless limited by treaty obligations, and reserved the right to conclude new treaties covering cases to be submitted to arbitration under the convention. Many arbitral conventions between States had since resulted.

The convention provided by article 21 that the arbitration court should have jurisdiction in all cases of arbitration except where the parties agree to establish a special jurisdiction.

Prior to this 1899 conference there was no general arbitration procedure. A draft scheme for the purpose had been devised by the institute of international law, had been supplemented by other works of eminent legal authorities, and had been followed in numerous cases. The 1899 conference devised a code of procedure in arbitration, containing governing principles and intended to serve as a standard manual, to fill the gaps of compromises, to furnish rules which the parties could overrule and modify, but which would be of value when the Governments did not make other arrangements.

Such was a broad outline of the work of the 1899 peace conference at The Hague, a work imperfect but nevertheless remarkable.

Complaint had been made as to the small amount of litigation submitted to this court, about 20 cases having been referred to it altogether. This was due in part to the newness of the institution, the lack of response on the part of governments, and the lack of the guaranties of a permanent completely organized tribunal. Manifestly an international tribunal could not have the same features and powers of an internal court. The subject matter was different, the individual interest being subordinated in nations to the sovereign government, while in the international community the sovereign governments enjoy equal rights. However, it was possible to create a more satisfactory and effective tribunal than the first Hague court, and this was one of the questions taken up by the second Hague conference, that of 1907.

This second conference revised in many respects the convention adopted by the first for the peaceful settlement of disputes, devised new regulations governing commissions of inquiry and summary arbitration procedure, and prepared a "draft convention for the institution of a court of arbitration" to act "side

by side" with the existing court, and intended by its principal advocates to supplant the existing court at an early date. The project failed because the principle of equality of States could not be harmonized with the appointment of a limited number of judges. The conference could reach no agreement on the point and passed a resolution recommending to the signatory powers the adoption of the draft convention for a new court of arbitral justice and its coming into force as soon as an agreement could be reached as to the choice of the judges and the constitution of the court. The project ended there.

On the question of compulsory arbitration the second peace conference was not much more successful. After trying to agree in the matter of a world-wide treaty of arbitration, either without exceptions or recognizing exceptions but indicating certain kinds of disputes in which arbitration would always be obligatory, the conference ended by stating the points on which it had agreed, announcing that it was unanimous (1) in recognizing the principle of obligatory arbitration, (2) in declaring that certain disputes, notably those relative to the interpretation and application of international treaty stipulations, are susceptible of unrestricted submission to obligatory arbitration.

Such was the stage which the organization of international justice had reached when the Paris peace conference of 1919, after the close of an unprecedented war, turned its attention to the need of organized institutions for the world's justice, and embodied its ideas in article 14 of the league covenant.

The speaker called attention to the fact that the league covenant made a distinction between disputes which are and those which are not submissible to arbitration, all members agreeing by article 12 in the event of a dispute which might lead to rupture to submit the controversy either to arbitration or to inquiry by the council, that furthermore the members by article 13 agree to submit to arbitration only those questions which the members think should be so settled, declaring disputes as to interpretation of a treaty, as to any question of international law, as to the reality of any fact which if established would constitute a breach of an international engagement, or as to the extent or nature of the reparation due for such a breach to be generally suitable for arbitration. The list of cases declared to be generally suitable for arbitration was identical, the speaker said, with the list mentioned in a letter from Mr. Root to the president (chairman) of the Republican national committee on March 29, 1919, the significance of the two lists being fundamentally different owing to the fact that Mr. Root omitted the word "generally."

It will be observed that Mr. Root went further than the league in the advocacy of powers for the permanent court, one of the principal organs of the League of Nations.

The committee continued its labors until July 24, when it held its official closing session.

Baron Descamps reviewed the work of the committee in an address. He said that the committee had begun its efforts with long exchanges of views, all of which were subjected to severest examination; that while the result was not perfect the committee believed they had formed a general system of international justice which would be a fruitful and happy one. The committee had not locked itself up in a secret chamber inaccessible to the ordinary man, but had been glad to keep the general public in touch with its discussions. While the text of the 62 articles forming the project would be reserved for those from whom the authority for this committee flows, the speaker would give a résumé of its labors.

Three great problems were considered:

First, that of the organization of the Court of International Justice, a court which was to be truly permanent, directly accessible to the parties, composed of independent magistrates, chosen without regard to nationality among persons held in highest moral esteem, possessed of qualifications required in their respective countries for highest judicial positions or being jurists well known for competence in international law. Following the system of the present Hague Court of Arbitration, the nations participating in the establishment of the Permanent Court of International Justice would proceed by national groups to the nomination of a restricted number of persons capable of serving as members of the court, each national group to consult, in order to arrive at the best choice, the highest court of justice in the respective countries, the faculties and schools of law, the national academies, and the national sections of international academies devoted to the study of law; two names to be chosen by each national group regardless of nationality, the final choice to be made by the assembly and council of the League of Nations in such manner that the choice must be made by joint action. Provision had been adopted for representation of the great divisions of civilization and the principal judicial systems so as to give the court a truly world-wide constitution and for modes of action where assembly and council were not in accord. Provision was also made for the annual formation of a chamber of three judges called to sit in cases of summary procedure when demanded by the parties.

Second, the question of the competence of the court. Here two objects were in view—one a system of obligatory adjudication in differences of judicial nature and in those covered by general or special conventions of the parties, the declarations of the second peace conference at The Hague serving as a basis of action; the other, rules of judicial interpretation to be followed by the judges in cases submitted to them.

Third, the matter of procedure, which the committee believed had been satisfactorily handled.

In addition to the creation of the permanent court, the committee recommended the methodical continuation of the work undertaken by the first two Hague conferences for the advancement of international law, the creation of a High Court of International Justice to judge future crimes against public international order and international law, and the early functioning of the academy of international law at The Hague.

Mr. van Karnebeek, the Dutch minister of foreign affairs, delivered the closing speech. He referred to the communiques issued by the committee regularly, indicating its progress and keeping an appreciative public in touch with its work, and congratulated the committee on the unanimous results of its labors. He expressed appreciation of the honor the committee had shown The Hague by recommending it as the seat of the Permanent Court of International Justice.

THE INTERNATIONAL FINANCIAL CONFERENCE.

The Official Journal of the league shows that on June 25, 1920, Mr. Bourgeois, representative of France on the council of the League of Nations, addressed a letter to the president of the supreme council of the allied powers stating that the league council was convinced that negotiations for the economic and financial reconstruction of the world could not be pursued until the obligations of Germany and her allies and the financial position of the Central Empires were clearly defined; that unless these were first determined the Brussels conference would have its difficulties multiplied and might accomplish no result; that the league council hoped the discussions now taking place and those to be held at Spa on the 6th of July would make a speedy and definite settlement possible; that the council had fixed the date of the Brussels conference for July 23; that inasmuch as the financial situation of the world was to be discussed, it would be necessary to invite Germany to attend; that the form of the invitation to be sent her and the conditions of her representation would not be decided until after the Spa meeting; that the league council hoped the supreme council of the Allies would then be in position to notify the league council of the decisions reached.

PUBLIC MEETING, SEVENTH SESSION, LONDON, JULY 11—AALAND ISLANDS.

President Balfour, chosen as presiding officer under the council's rule assigning the position for each session to the country wherein the session was held, opened the public meeting of the seventh session by saying that the council had examined during the past few days the case of the Aaland Islands, which had been brought to its attention by Great Britain exercising its friendly right under article 11 of the covenant as a circumstance affecting international relations and threatening to disturb the good understanding between nations on which peace depends. During the consideration of the case Sweden, a member of the league but not of the council, whose interests were specially affected, had been represented by Mr. Branting, sitting as a member of the council. Finland was not a member of the league, but had an application pending for action by the assembly. The council voted unanimously, including the Swedish representative, that Finland should be represented during the deliberations in a position similar to that of Sweden. Mr. Enckell was seated as representative of Finland. Both Sweden and Finland through their representatives made written statements, supplemented by verbal explanations and other documents. The council ordered these written statements to be published.

The Swedish representative asked that the inhabitants of the Aaland Islands be heard, and to this the Finnish representative consented, provided no prejudice was caused thereby to the Finnish contention.

The council heard two inhabitants of the Aaland Islands.

The council decided to deal with the case under paragraph 4, article 4, of the covenant as a matter affecting the peace of the world, the principles of articles 15, 17, and 12 to be kept in view also.

The principal claim of Sweden was that the Aaland Islands population should be allowed to determine immediately by plebiscite whether the archipelago should remain under Finnish

sovereignty or be incorporated with the Kingdom of Sweden, the Swedish representative assuring the council that Sweden had no desire of annexation but wished solely to support the demands of the inhabitants, and calling attention to criminal prosecutions by Finnish authorities against two leaders of the Aaland population and the recent dispatch of Finnish troops to the islands; all of which he said tended to disturb the good understanding between the two nations.

Finland argued that the Republic of Finland was an independent and sovereign country, its independence having been recognized by several powers, including Sweden, that the Aaland Islands formed part of the republic and had been granted local autonomy by the Finnish Legislature, that Finland desired to live in good relations with Sweden, that the Swedish demands related to matters by international law solely within the domestic jurisdiction of Finland and affected her sovereign rights.

The Swedish representative replied that the recognition of Finnish independence by Sweden on January 4, 1918, did not include frontiers, but was given solely to secure that independence; that the question was not solely within Finland's domestic jurisdiction, but even if it did originate from internal circumstances, which he denied, it might have external consequences and thereby become of international character.

Both parties agreed that all international military, naval, and air obligations concerning the Aaland Islands should be maintained, the Swedish representative adding that a further neutralization might be effected.

The council held that the first question was whether the matter was by international law solely within the domestic jurisdiction of Finland. This question would have been placed before the permanent court of international justice had it been in existence. Desiring a quick solution the council decided to submit the question to a commission of three international jurists, the council reserving further action. The council also decided to ask the commission's opinion on the present status of the international military agreement concerning the Aland Islands.

A resolution embodying these decisions was unanimously adopted, the Swedish and Finnish representatives adhering.

President Balfour said that in the name of the council he had appealed to the parties to do nothing during the pendency of the case which might aggravate the situation or jeopardize the good understanding between nations. Both parties had given assurances to this end. The Swedish representative expressed the hope that Finland would remove possible causes of friction, such as the imprisonment of the two Aland islanders. The Finnish representative reserved the reply of his Government, stating that the matter was in the hands of Finnish courts of justice, which would not allow the political element to enter, and giving formal assurances that Finland desired to live in the best of relations with her western neighbor, Sweden.

The council authorized the president to appoint the commission, charging the secretary general to give it all possible assistance and information, and requested the parties to place their views before the commission through statements to the secretary general within 14 days.

REGISTRATION AND PUBLICATION OF TREATIES.

The official journal of the league shows that on June 9, 1920, the secretary general notified all member Governments that the secretariat was prepared to effect the registration and publication of treaties and other international engagements entered into by the members of the league as prescribed by article 18 of the covenant.

JOINT STATEMENT BY GREAT BRITAIN AND JAPAN.

On July 8, 1920, a joint statement was issued by Great Britain and Japan to the effect that their Governments had concluded that the Anglo-Japanese agreement of July 13, 1911, still existing between the two countries, though in harmony with the spirit of the covenant of the League of Nations, was not entirely consistent with the letter of the covenant, which both Governments earnestly desired to respect; that they accordingly had the honor jointly to inform the league that they recognized the principle that if the said agreement be continued after July 21, 1921, it must be in a form not inconsistent with the covenant.

This statement was formally transmitted to the league through its secretary general on July 8, 1920.

SAAR BASIN GOVERNING COMMISSION.

On June 1, 1920, the Saar Basin Governing Commission made its third regular report, stating that in its efforts to promote the welfare of the inhabitants it had met with disparagement and hostility; that among the inhabitants were many who refused to accept the treaty of peace and the authority of the League of Nations; that these hostile elements were chiefly among the officials, the teachers, clergy, and higher industrial commercial classes, who had placed their influence at the disposal of Germany and attempted to check all measures of the governing commission to institute in the Saar Basin, in accordance with the treaty of peace, an autonomous administration independent of Berlin.

The report stated that there had been discovered in the territory traces of certain German organizations such as the "Heimatschutz" and the "Saarverein," whose purpose was to oppose by all possible means the execution of the treaty of peace in the plebiscite areas; that these organizations commanded the most widely read local newspapers; that the commission had scrupulously respected the liberty of the press; that nothing had been done to prevent certain journalists from casting suspicion on the commission and misrepresenting its intentions; that these attacks created an unfavorable feeling toward the commission among the people.

The report stated further that in several cases the commission had met with resistance hard to explain; that the housing decree, although it improved the situation, had provoked protests hard to justify; that attempts had been made to discredit both the league and the treaty, to prove that the latter could not be put into force, and to create the impression that the effort to administer the Saar Basin was doomed to fail; that these attacks found daily publication in the newspapers of the territory, especially the most important, the Saarbrucker Zeitung; that this systematic opposition was rendering the confident cooperation of the people difficult.

Mr. FLETCHER. Mr. President, would it interrupt the Senator if I were to ask him a question at this point?

Mr. SHEPPARD. Not at all.

Mr. FLETCHER. The Senator may have stated it; I have not been present during all of his discussion of this matter; but I should like to have him state the number of nations that entered into the league at the beginning and the number of governments now parties to the League of Nations.

Mr. SHEPPARD. Twenty-four nations had formally joined when the league began, and to-day 51 nations are members.

Mr. FLETCHER. And there are other applications for admission pending, are there not, from other nations?

Mr. SHEPPARD. There are other applications pending, although nearly all the nations of the civilized world are now in the league except the United States.

Mr. FLETCHER. It would not seem to be such a failure after all.

Mr. SHEPPARD. The report concluded by stating that the commission felt confident of having observed the treaty, and, regardless of attacks, would endeavor to govern the Saar territory impartially and in accordance with the principles of the League of Nations.

RESOLUTIONS FROM INTERNATIONAL WOMAN SUFFRAGE ALLIANCE.

Resolutions were officially transmitted to the secretariat by a deputation from the International Woman Suffrage Alliance at Sunderland House, London, on July 16, 1920, having been adopted by the eighth congress of this alliance which met at Geneva June 6–12, 1920. These resolutions contained an indorsement of the league and a request that it call an international conference of women annually to consider their status and welfare.

The resolution on the league was as follows:

The women of 31 nations assembled in congress at Geneva, convinced that in a strong society of nations, based on the principles of right and justice, lies the only hope of assuring the future peace of the world, call upon the women of the whole world to direct their will, their intelligence, and their influence toward the development and consolidation of the society of nations on such a basis and to assist it in every possible way in its work of securing peace and good will throughout the world.

RELEASE OF AALAND ISLANDERS FROM PRISON.

On July 20 the secretary general received a letter from the Aland islanders who addressed the council on the Aland Island controversy, thanking the league for securing the release from prison of their compatriots who were under criminal prosecution by the Finnish authorities, stating that their release would not have occurred had not the league taken up the question for settlement.

MEMBERSHIP IN LEAGUE OF NATIONS JULY 30, 1920.

The Official Journal showed the membership of the league to be as follows on July 30, 1920:

I. States members of league through the coming into effect of the treaty of Versailles on January 10, 1920:

1. Belgium, January 10, 1920.
2. Bolivia, January 10, 1920.
3. Brazil, January 10, 1920
4. British Empire, January 10, 1920.
5. Canada, January 10, 1920.
6. Australia, January 10, 1920.
7. New Zealand, January 10, 1920.
8. South Africa, January 10, 1920.

9. India, January 10, 1920.
10. Czechoslovakia, January 10, 1920.
11. France, January 10, 1920.
12. Guatemala, January 10, 1920.
13. Hedjaz, January 10, 1920.
14. Italy, January 10, 1920.
15. Japan, January 10, 1920.
16. Peru, January 10, 1920.
17. Poland, January 10, 1920.
18. Siam, January 10, 1920.
19. Uruguay, January 10, 1920.

II. States members through subsequent ratification of the treaty of Versailles, with date of deposit of ratification:

20. Serb-Croat-Slovene State, February 10, 1920.
21. Cuba, March 8, 1920.
22. Greece, March 30, 1920.
23. Portugal, April 8, 1920.
24. Haiti, June 30, 1920.
25. Liberia, June 30, 1920.
26. Panama, ratification announced by telegram but not yet deposited.
27. Rumania, ratification announced by telegram but not yet deposited.

III. States members of the league through accession to the covenant under invitation contained in the annex to the covenant in the treaty of Versailles, with date of accession:

28. Argentine Republic, July 18, 1919.
29. Chile, November 4, 1919.
30. Persia, November 21, 1919.
31. Paraguay, December 26, 1919.
32. Spain, January 10, 1920.
33. Colombia, February 16, 1920.
34. Venezuela, March 3, 1920.
35. Norway, March 5, 1920.
36. Denmark, March 8, 1920.
37. Switzerland, March 8, 1920.
38. Netherlands, March 9, 1920.
39. Sweden, March 9, 1920.
40. Salvador, March 10, 1920.

IV. States members of league through coming into effect of treaty of St. Germain on July 16, 1920:

41. China, July 16, 1920.

ANNEX.

V. States which have filed application for membership to be considered at assembly meeting beginning November 15:

1. San Marino, April 23, 1919.
2. Georgia, May 21, 1919.
3. Iceland, July 2, 1919.
4. Luxemburg, February 23, 1920.
5. Ukraine, February 25, 1920.
6. Esthonia, April 8, 1920.
7. Monaco, May 3, 1920.
8. Finland, May 8, 1920.
9. Armenia, May 13, 1920.
10. Latvia, May 14, 1920.
11. Liechenstein, July 23, 1920.

FIRST PUBLIC MEETING; EIGHTH SESSION OF COUNCIL, SAN SEBASTIAN, SPAIN, AUGUST 3, 1920.

INTERNATIONAL UNIVERSITY AND CODE FOR WORK OF INTERNATIONAL CONGRESSES.

At the first public meeting, eighth session of council, held at San Sebastian, Spain, after the presiding officer, Representative de Leon, of Spain, had welcomed the council in behalf of his country, Representative Bourgeois presented a report on the proposal by the Union of International Associations for an International University. The report set forth that the Union of International Associations at Brussels had written the council requesting its patronage for the international university, which it proposed to create and asking the council for a grant of £1,500 toward the publication of a code containing the chief decisions and resolutions of the congresses composing the union.

The report stated that the union comprised 200 international associations, originated either by national associations or individuals, and having various objects, such as technical science, medicine and health, moral sciences, law and administration, economic life, philosophy, literature, the arts, history, education, and so forth. It was the union's task to group these into logical federations, establishing cooperation and coordination among all. With this aim the union had issued important publications, organized numerous meetings, and maintained an exchange of views and ideas on various matters that might form the subject of international understandings. It had been helped by the Belgian Government which not only gave the union its patronage but had placed at its disposal a place of meeting and an annual grant of 20,000 francs. The union intended at its coming September meeting to propose the establishment at Brussels of an international university, which was to have three main divisions, (1) general studies, (2) comparative national studies, (3) the League of Nations, the sessions to be short so that several might take place within the year. Several universities, including those of Paris and Liverpool, had promised aid, and it was planned that at the first meeting, from September 5 to 20, 1920, a series of lectures would be given on the aims and organization of the League of Nations.

The report stated further that the usefulness of the union was recognized; that it had rendered great service to private international associations; but that the proposed scheme was new and involved certain risks; that it was not known how many universities would participate nor in what way; that it was not known what professors would undertake the various subjects in contemplation; and that it would be premature to grant at this stage the patronage requested. The report proposed, however, an expression of sympathy for the new work, and that the secretariat of the league be authorized to facilitate it in every way within its power.

The code for which the union requested subsidy was to consist of (1) an introduction comprising a brief, general codification; (2) quotation in extenso of the texts of chief decisions and resolutions of the organizations belonging to the union; (3) an index. This code contained data which the league would have had to assemble had not the union undertaken to prepare it, thereby saving the league much time and money. The sum asked for represented less than half the cost of publication, all of which doubtless would have been borne by the union but for the curtailment of its subscriptions by the war, etc. The report recommended that the requested subsidy of £1,500 be granted.

The report was adopted and the subsidy voted.

SAAR BASIN FRONTIER DELIMITATION COMMISSION.

A report on the expenses of the Saar Basin Frontier Delimitation Commission was presented by Representative Scassis, of Greece. He said the president of the Saar Basin governing commission had cited the difficulties growing out of the council's decision that all expenditures connected with delimitation of the territory should be charged to its government, a situation which the president felt the council could remedy, and that the president had asked the council to free the Saar government from payment of the entire expense. The council had expected when it made this decision that the work of delimitation would be quickly completed, without heavy expense, but this was not the case. The delimitation commission had encountered considerable delay and great expense. The ambassador's conference at Paris on July 17, 1920, had advised the commission that only the instructions of the supreme council were binding on it and that delimitation expenses would be divided equally between France and Germany. On July 20 the conference communicated with the league council, expressing the view that the latter's authority was limited to the appointment of the members of the delimitation commission, that the labors of the commission were not to be carried out under the league's direction, and that the league council was without power to control the expenditure involved.

The speaker recommended that in view of the burden on the population of the Saar Basin resulting from the council's order as to payment of expense of delimitation and in view of the council having no responsibility with regard to the origin of the funds needed for such expenditure the council adhere merely to the act of appointment and repeal the said order, and proposed the following resolution:

Whereas by article 3 of the resolution concerning the Saar Basin Frontier Commission adopted by the council of the League of Nations, assembled at Paris on January 16, 1920, it was decided that all expenses arising from the delimitation of the territory of the Saar Basin will be charged to the government of that territory; and

Whereas the governing commission of the Saar Basin has drawn the attention of the council to the unforeseen heavy expenses arising from the delimitation in question; and

Whereas the delimitation commission is not under the instructions of the League of Nations, which, therefore, can not exercise any control over the expenses connected with the work of delimitation.

The council of the League of Nations resolves that—

ARTICLE I. Article 3 of the resolution of January 16, 1920, concerning the Saar Basin Frontier Commission is hereby repealed.

ART. II. The secretary general of the League of Nations shall communicate the present resolution to the president of the conference of ambassadors, to the French and German Governments, to the members of the frontier commission of the territory of the Saar Basin, and to the president of the governing commission of the Saar Basin.

The report and resolution were adopted.

ECONOMIC BLOCKADE.

Mr. Tittoni, representative for Italy, then submitted a report on the preparatory measures necessary to make effective article 16 of the covenant. Article 16, he said, dealt with the application of the economic and financial blockade and other measures against a covenant-breaking State.

He added that this article was a weapon intended to safeguard the peace of the world; that the league might have recourse to the blockade and the boycott without other means of constraint, or it might at the same time employ military force; that as soon as the league decided in principle to apply article 16 the measures decided upon should be taken immediately by all the States; that close coordination should exist for this purpose; and that organizations must be established to insure prompt and perfect cooperation.

As to the prevention of nonmember States from trading with the offending State it was clear that member States declaring the blockade had the right to make it effective against all States, but could not force nonmember States to declare the

blockade themselves. This question would no longer be important when all States belonged to the league, because that would give a moral authority as the league's principal strength and coercive measures would then constitute an auxiliary support.

The speaker said it was obvious that the means of executing article 16 must be considered in advance; that they would be more effective than if adopted only in the moment of emergency; but that inasmuch as these problems were of supreme general interest for all member States he thought the assembly would be better qualified to deal with them than the council; that he therefore proposed the following:

The council decides to place upon the agenda of the first assembly of the League of Nations the consideration of the necessary measures to insure the application of article 16 of the covenant. With this aim in view it will propose to the assembly that as a preliminary measure an international blockade commission should be appointed under the authority of the first assembly for the purpose of studying the problem and settling the general plan of action, the organization of the more permanent machinery required, and the principles on which it should work.

The council proposes that a committee composed of an equal number of members of the council and of the assembly may be set up to examine the question of the constitution of the international commission and its duties.

The report and proposal were approved.

COMMUNICATIONS AND TRANSIT.

A report on the subject of communications and transit was next presented by Mr. de Leon, representative for Spain, who offered a resolution inviting the United States to participate in the forthcoming international transit conference, inviting member nations to attend, and directing that the agenda of the meeting and all relevant documents be sent to all recognized Governments.

The report and resolution were approved.

PERMANENT HEALTH ORGANIZATION.

Representative da Cunha, Brazil, then made a report on the permanent health organization, recalling the fact that at the February meeting in London he proposed that a permanent body be formed within the league to whom the council might refer for advice and if necessary for action on questions of international health; and that it was suggested there that the health commission already appointed by the British Government arrange a conference to prepare for submission to the council a scheme for the formation of this permanent body. That conference was called in April, representatives of Great Britain, France, Belgium, United States, Brazil, Italy, and Japan having been invited to attend. Some of the best-known medical experts of these countries, as well as representatives of the League of Red Cross Societies, the International Office of Public Hygiene, and the International Labor Office, were present, and the conference developed the scheme it was summoned to prepare, that scheme being now before the council.

That scheme proposed the formation of an international health office within the league, with the following functions:

(a) To advise the league in matters affecting health.

(b) To bring administrative health authorities in different countries into closer relationship with each other.

(c) To organize means of more rapid interchange of information on matters where immediate precautions against disease may be required—e. g., epidemics—and to simplify matters for acting rapidly on such information where it affects more than one country.

(d) To provide a ready organization for securing necessary international agreements for administrative action in matters of health, and more particularly for examining those subjects which it is proposed to bring before the executive and general committees with a view to the conclusion of international conventions.

(e) In regard to measures for the protection of the worker against sickness, disease, and injury arising out of his employment which falls within the province of the international labor organization, the international health organization will cooperate with and assist the international labor organization, it being understood that the international labor organization will on its side act in consultation with the international health organization in regard to all health matters.

(f) To confer and cooperate with the League of Red Cross Societies.

(g) To advise, when requested, other authorized voluntary organizations in health matters of international concern.

(h) To organize missions in connection with matters of health at the request of the League of Nations.

The speaker then offered the following for adoption:

That the scheme submitted by the international health conference for the establishment of an international health office within the league (subject to the amendments now embodied in the scheme after due consideration by the council) be adopted; and that the scheme be submitted by the council to the first meeting of the assembly of the League of Nations.

The report and proposal were adopted.

INTERNATIONAL STATISTICS.

The secretary general reported on the subject of the international committee or commission of statisticians, stating that in accordance with the action of the council on May 19, 1920, a commission was being set up.

SECOND PUBLIC MEETING OF COUNCIL'S EIGHTH SESSION, SAN SEBASTIAN, AUGUST 5.

PROGRESS AND SIGNIFICANCE OF LEAGUE.

At the second public meeting, eighth session, the opening speech was delivered by the presiding officer, Señor de Leon, representative of Spain, who said the league had, like all other human institutions, both defenders and detractors; that the latter should consider the extent of the work and the necessity of a long and painful period of organization.

He said that Spain was at the hour of the league's birth among the first to devote herself to its welfare; that the idea of the league was a noble, historical tradition of Spain; that it had been a favored doctrine with many famous Spanish writers; that to speak of international law was to assent by implication to the conception of the league, and that international law had found in Spain some of its greatest exponents; that Grotius, who had been called the creator of international law, mentioned in his monumental work on the law of war and peace several Spanish authors whom he treated as the first authors of that branch of jurisprudence; that Grotius had cited among the historical elements containing the embryo of international law the laws of Toro, the Consulat del Mar, and the Spanish Royal Constitutions; that he omitted the famous code of Alfonso the Wise, which breathed the fundamental principles of the law of nations; that Wheaton, Barthelemy, and other leading historians of international law cited among its founders four Spanish publicists—the Dominican, Francisco Victoria, professor of the University of Salamanca; the theologian, Domingo Soto, of the same university; Francisco Suarez, professor of the University of Alcala; and Baltasar de Ayala, author of the noted work, De Jure et Officio Belli.

He said that with Henry IV and his great minister, Sully, and with the Abbe de St. Pierre and others who were the precursors of the League of Nations should be ranked the Spanish sociologist, Jovellanos, who not only conceived the idea of a league of nations but gave it a name, saying that "the confederation of all the nations of the world is the only general league possible within the human race and the only one which could preserve an inviolable and lasting peace and which could quell, not with armies and guns but by the imperative call of its voice, more powerful and terrible even than they, the foolhardy nation which should dare disturb the peace and happiness of humanity." He said that this idea arose in the Spanish mind with renewed strength when it seemed to be on the verge of realization in the League of Nations at Versailles.

Mr. Balfour responded with expressions of appreciation of the tact, judgment, and ability shown by the presiding officer at the current session, and of the work of Spanish thinkers in behalf of universal peace. He spoke of three classes with which the league had to contend; those whose selfish interests it tended to thwart; those who cynically asserted that war, after all, was not so bad a thing, and that no institution could protect us against this periodical scourge which had darkened history from the beginning; and those ill-judging friends who imagined the league could at will create a new heaven and a new earth, and who did the league infinite harm by predicting and expecting too much within a short time. He said that he regarded faith in the future of the league as one of the most valuable assets of humanity; that so long as it had statesmen like de Leon it would not be tempted to rash or hopeless adventure on the one hand nor leave undone things it could do on the other.

PERMANENT COURT OF INTERNATIONAL JUSTICE.

The first report at this meeting was by Representative Bourgeois, of France, and dealt with the permanent court of international justice.

He began by stating that at the second Hague conference in 1907 it was realized that side by side with the court of arbitration set up by the first Hague conference in 1899 there should be established another tribunal more in the nature of a court of justice consisting not of a list of judges from whence parties could choose, but of a corps of magistrates, few in number—15 to 20 at most—always ready to sit together and whom the parties could neither appeal against nor challenge—that is, a permanent court in which a regular jurisprudence

could develop, a court strictly juridical and rigorously judicial, free from all preoccupations and all political influences; a court of justice in the narrow but exact sense. This court would not mean the suppression of other forms of arbitration which States might choose, nor the disappearance of The Hague arbitration court, whose rôle in matters affecting world peace had been important.

He said that more than 40 States were represented at the second Hague conference, but that while the great powers each claimed the right to have one judge on the proposed court the other States could not agree to have only a judge by turns according to a system of rotation; that this created a hopeless condition; that the League of Nations did not yet exist, and the horrors and sufferings of a world war had not produced that spirit of mutual concession essential to international action, essential to the league, and which had already been so helpful to the council. The result was that when a plan for the court of arbitral justice was inserted in the protocol adopted at the second Hague conference the essential point, that of the method of appointing the judges, was omitted.

The necessity of such an institution continued to be so clear, however, that when the League of Nations was formed its first care was to take up, with a new means of solving it, the problem which in 1907 the nations had failed to solve.

The speaker then alluded in warmest and most grateful terms to the committee of jurists, chosen from the highest authorities in the world, which the council had authorized to frame a permanent court of international justice, to its labors at The Hague, the scene of the great peace conferences of 1899 and 1907, and the draft statute it had devised, adding that their work would constitute one of the most important chapters in the history of law.

He said that a detailed and critical study could not be made of the draft at the moment, but that it was his duty to call attention to the most delicate part of the work, the first point being the appointment of judges.

The solution of this problem which had baffled the second Hague conference was based on the intervention of the council and assembly in the choice of judges. From a list of candidates prepared by the national groups of The Hague court the council and assembly, after consultation with the national experts, would proceed independently of each other to elect, first, 11 regular judges and then 4 deputy judges. Election would require a majority of votes in the assembly and a majority in the council. Thus the principle of national equality would be satisfied to exactly the same degree as in the covenant, said the speaker.

Thus the League of Nations, he continued, had by its very existence made possible the solution of a difficulty which had baffled the world since 1907; a solution consistent with the foundation principle of the league itself.

The next point of difficulty, Representative Bourgeois pointed out, was whether a judge could sit in a case where his own State was a party. Two solutions were suggested, one that the judge in such case resign, the other that the opposing State be allowed a judge from its own nationals. The second alternative had been adopted.

Another point was the right of one State to summon another before the permanent court, which was allowed on the ground that the law creating the court was a convention between the parties permitting the summons. The court could then decide whether the case was within its jurisdiction.

The speaker emphasized the duty of the council to formulate a definite opinion regarding the court, because it had been charged by the covenant with the submission of a plan therefor to the league, stating that while a detailed consideration could not be had immediately the members should reach a decision before the meeting of assembly.

Accordingly Representative de Leon offered the following for adoption:

The council approves the report of M. Bourgeois; decides to send to the Governments of States members of the League of Nations the draft for a permanent court of international justice prepared by the advisory committee of jurists, with the report presented to this committee by its rapporteur, and with a covering letter, text of which is attached; instructs M. Bourgeois to prepare, while keeping in touch with the other members of the council, a preliminary report on the committee's draft to serve as a basis for the final opinion of the council; authorizes the secretary general of the League of Nations to send to the members of the jurists' advisory committee a letter, of which the text is given in the annex, conveying to them the council's appreciation and thanks.

The resolution was adopted.

INTERNATIONAL FINANCIAL CONFERENCE.

Representative Bourgeois presented a report on the international financial conference, stating that the date had been set for July 23, but that the supreme council had requested its postponement to September 15, on account of failure of the conference at Spa to reach any definite disposition as to reparations and indemnities to be paid by the ex-enemy countries. The speaker recommended that the date be postponed until September, at which time the meeting should be held, even if the supreme council should again fail to arrange financial details with Germany. This and the other suggestions of the speaker were embodied in the following resolutions proposed by Representative de Leon:

(1) The date of the international financial conference at Brussels is definitely fixed for 24th September next.

(2) The secretary general is authorized to send invitations to the conference to the Governments of Germany, Austria, Hungary, and Bulgaria. These invitations will specify that only such questions as appear on the agenda can be discussed; that the president has been instructed by the council to exclude from the deliberations of the conference all questions at present under discussion between the Allies and Germany.

(3) The Reparation Commission will be invited to send a representative to take such note of the deliberations of the conference as may be useful.

(4) If before the beginning of the conference any decisions reached by them are reported by the allied powers to the council, such decisions will be communicated to the conference to enable the president and the organizing committee to take them into account in arranging the agenda and procedure of the conference.

(5) In consequence of the postponement of the Brussels financial conference, the council requests M. Ador, president of the conference, to appoint from among the delegates already nominated the technical committee which the council at its Rome meeting invited the Brussels conference to appoint in order to advise the league on the principles to be adopted in apportioning its expenses in future budgets among the various members. The committee would have power to add to its number not more than three experts with special experience in international statistics bearing on the relative wealth of nations.

(6) The council instructs M. Bourgeois to take in the council's name and according to circumstances all necessary measures with regard to the conference.

The report and resolutions were adopted.

MANDATES.

Representative Hymans, Belgium, presented a report on mandates, which was adopted with the resolutions it recommended, and which may be summarized as follows:

The fate and government of German territories outside of Europe are regulated by articles 118 and 119 of the treaty of Versailles and by article 22 of the league covenant. By these treaty articles Germany renounced in favor of the principal allied and associated powers her overseas possessions and agreed to recognize and accept the measures taken by said powers, in an agreement where necessary with third powers, to carry out the consequences of her renunciation.

Article 22 of the covenant lays down certain principles applying to peoples not yet able to stand by themselves who as a result of the late war have ceased to be under the sovereignty of the States formerly governing them, namely, that the well-being and development of such peoples form a sacred trust of civilization; that securities for the performance of the trust should be embodied in this covenant; that the tutelage of such peoples should be intrusted to nations best fitted to undertake it as mandatories on behalf of the league.

Article 22 then divides such peoples into three classes—first, certain communities formerly belonging to the Turkish Empire whose existence as independent nations can be provisionally recognized only on condition that they are guided by the advice of a mandatory; second, other peoples, especially those of central Africa, whose administration should be assumed by the mandatory power under conditions which will prohibit abuses, give certain guaranties to the indigenous populations, and secure equal opportunities for the trade and commerce of all members of the league; third, territories such as Southwest Africa and certain south Pacific islands which can be best administered under the laws of the mandatory as integral portions of its territory, subject to the safeguards above mentioned, in the interests of the indigenous population. The mandates for these three classes should be known as A mandates, B mandates, and C mandates, respectively.

If the degree of authority, control, or administration to be exercised by the mandatory shall not have been agreed upon by the league members, it shall be explicitly defined in each case by the council. Finally, article 22 regulates the control of administration by mandatories, requiring them to render annual reports to the council and providing a permanent commission to examine the annual reports and advise the council on all matters relating to the observance of mandates.

The speaker then said that to insure the proper operation of this system the mandatory powers must be very carefully chosen; the frontiers of territories intrusted to these powers must be delimited; the powers must have effective means of administration, legally binding on the territories to be administered; terms of mandates must be especially defined in distinct charters applicable to each mandatory area.

He said that the principal allied and associated powers had so far taken the following steps as to mandates:

First, by decision published May 5, 1919, they had chosen the mandatory powers to whom they wished to intrust government of territories to be placed under mandate, this decision having been modified by a subsequent one in August, 1919, to the effect that the powers were never in complete agreement as to allocation of mandates, and the territories in question, pending further negotiations, were then placed under the actual administration of the mandatory powers to whom it was intended to intrust them.

Second, in draft treaties between the allied powers principally concerned the mandatory powers came to an understanding as to the delimitation of the frontiers of the territories intrusted to them, these drafts not having yet been published.

Third, in July and August, 1919, a commission appointed by the powers discussed the clauses of the mandates which in its opinion would best apply to territories classified above under "B" mandates and "C" mandates; with two reservations, one by the French Government as to recruitment of native troops on mandated areas; the other by the Japanese Government as to the interpretation of the "C" mandates.

The speaker said the next question was as to measures to be taken by the council as to mandates and as to hastening into force the mandatory system. Three points were to be considered:

First, allocation of mandates and legal title of mandatories. There was no dispute that the right to allocate the mandates, i. e., to appoint the mandatory powers and determine the mandatory territory, belonged to the principal allied and associated powers. The covenant is silent as to this, but article 119 of the treaty of Versailles transfers the sovereignty over German overseas possessions to these powers and article 118 stipulates that measures shall be taken by these powers, in agreement where necessary with third powers, to carry into effect the full consequences of the provision by which Germany renounces her rights outside Europe. These two articles serve as guides in interpreting the covenant, since they and the covenant are strictly contemporary, having been drawn up by the same authors, and since the covenant forms part of the treaty. The allied powers have adopted this interpretation of the covenant by inserting articles in the treaty of St. Germain with Austria and in the draft treaty with Turkey stipulating that the right to appoint mandatory powers shall belong to the principal allied powers.

The mandatory powers, besides being appointed, should also possess a legal title, and while they are appointed by the principal powers, they govern as mandatories and in the name of the League of Nations. The legal title held by the mandatory power is therefore a double one; one conferred by the principal powers, the other by the League of Nations. The procedure is as follows: First, the principal allied and associated powers confer a mandate on one of their number or a third power; second, the principal powers officially notify the council of the league that a certain power has been appointed mandatory for such a certain defined territory; third, the council of the League of Nations takes official cognizance of the appointment of the mandatory power and informs the latter that the council considers it as invested with the mandate, and at the same time notifies it of the terms of the mandate after ascertaining whether they are in accordance with the covenant.

Second, determination of the terms of mandates. Article 22 of the covenant, in providing that if the degree of authority, control, or administration to be exercised by the mandatory was not defined by the members of the league it should be explicitly defined by the council, did not entirely solve the matter. Most mandates would contain many provisions besides those relating to degree of authority. So far as "B" mandates and "C" mandates are concerned, article 22 is conclusive; neither the council nor the principal powers can alter its provisions; amendments can be made only by revision of the covenant. It is the duty of the council to see that these provisions are enforced. Every "B" and "C" mandate must be submitted for the council's approval; the question, therefore, of previous definition of authority is unimportant. As to "A" mandates there was no such specific provision in article 22, and the council's right of control does not attach except in the absence of action by the members of the league. The speaker contended that the expression "members of the league" meant in this connection the principal powers, because it would be manifestly very difficult for so numerous a body as the assembly to arrange the details of mandates, and because the powers had already adopted this construction by drawing up mandates soon after article 22 was drafted. He referred to Lord Curzon's speech on Mesopotamia in the House of Lords as another evidence that the British Government also favored this construction.

Third, extent of the league's right of control. On this point the speaker said he would refrain from controversy as to where the sovereignty actually resided in the matter of mandates, that the responsibility of the league before the public opinion of the civilized world would be in fact a moral one. In what direction was the league's right of control to be exercised? Was the council to content itself with ascertaining that the mandatory power had remained within the limits of the powers conferred upon it, or was it to ascertain also whether the mandatory power had made good use of these powers and whether its administration had conformed to the interests of the native population? The speaker thought the latter course should be followed. Article 22 of the covenant indicated the spirit with which the mandatory territory should be administered, providing that tutelage should be exercised by States as mandatories and in the name of the league. The annual report it required should state the whole moral and material situation of the people under mandate and the council should examine the whole administration, acting, however, with judgment and prudence.

It was not necessary that the council's commission on mandates should be set up until the first reports were rendered; that it would be difficult to appoint the commission until it was known which were the mandatory countries; that in forming the commission it would be desirable to have among its members delegates from each mandatory power; that the objection that this made these powers both judges and parties could be answered by the statement that the commission did not judge but merely made recommendations; that it could be provided that no member could take part in a vote on a report on his own State; that the council could appoint the larger number of members from countries not mandatory powers, and so forth.

The speaker then submitted the following resolutions, which were agreed to:

(1) The council decides to request the principal powers to name the countries to whom they have decided to allocate the mandates provided for in article 22; to inform it as to the frontiers of the territories to come under these mandates; to communicate to it the terms and conditions of the mandates that they propose should be adopted by the council following the prescriptions of article 22.

(2) The council will take cognizance of the mandatory powers appointed and will examine the draft mandates communicated to it in order to ascertain that they conform to the prescriptions of article 22 of covenant.

(3) The council will notify each power appointed that it is invested with the mandate and will at the same time communicate to it the terms and conditions.

(4) The council instructs the secretary general, following the recommendations set forth in this report, to prepare a draft scheme for the organization of the commission of control provided for by article 22, paragraph 9.

COMMISSION FOR MILITARY, NAVAL, AND AIR QUESTIONS.

Representative Bourgeois presented a report on the permanent advisory commission for military, naval, and air questions, referring to the decision at the Rome meeting that each nation represented on the council should have a military representative, a naval representative, and an air representative on the commission; that other States members of the league should be invited, whenever a question directly interesting them was being discussed, to send the same number of representatives to sit temporarily; that each nation should have but one vote on the commission regardless of the number of its representatives.

The secretary general had asked the nations concerned to name their representatives; this they had done, and the list was now before the council.

The speaker said that the commission was at that time holding its first meeting in San Sebastian and arranging for permanent work; that it already had two questions before it, that of asphyxiating gases as a weapon of warfare, submitted by the British Government, and that of the traffic in arms; that the speaker, Señor de Leon, Mr. Balfour, and other members of the council had visited the commission to extend the council's greetings and best wishes; that a welcome had also been extended by the Spanish Government; that all this showed the importance of the part the military commission would have to play in insuring the carrying out of treaties and in fulfilling the tasks assigned it by the covenant; that the commission would apprise the council of the result of its work.

APPEAL OF KING OF HEDJAZ.

Representative Balfour (Great Britain) reported on a communication from the King of Hedjaz appealing to the council with reference to certaian events in Damascus and asking its intervention.

The appeal of the King of Hedjaz was as follows:

To the secretary general of the League of Nations and the representatives of the great allied powers:

The arrest by the French authorities of the members of the Lebanon administiative council, legally elected by the people, and their imprisonment and trial by a court-martial is a violation of all justice

and of international law. Your league is to-day by its constitution the only protector of the rights and liberties of both individuals and nations, and I would therefore ask your honorable league to intervene with the French Government in order to secure the release of the Lebanon deputies who took decisions which were fully within their rights. If the conference thinks it useful to have an investigation, I would ask that the commission holding this investigation should be an interallied one. I can not believe for one moment, as others do, that members who are as honorable and as worthy as M. Sadallah Hoyayek and his companions can be guilty of the offense with which they are charged. The league is morally responsible for this injustice, and I am confident that it will take this just request into consideration.

MECCA,
El Gazza Palace, Hussein.

Mr. Balfour said that the council had given the matter careful consideration, that the King of Hedjaz referred to no particular provision in the covenant, that his appeal was general in character but clearly assumed that the league was now dealing with a world in which the tragedies of the Great War had been followed by a settled peace of which the League of Nations was under the covenant the appointed guardian. He said that this state of things had not yet been reached, that peace with Turkey, though in sight, had not been concluded, that Syria was still a part of the enemy country—that large parts of it were in military occupation, that the mandate under which it was to be governed was not yet in force, that present conditions were essentially transitory and of a kind never contemplated by the framers of the covenant—that the council had therefore informed the King that it was beyond their province to intervene where in international law war still continued, and where the new system to be established at the place was not yet in operation, that they could not take action in a matter wholly outside their jurisdiction, but that they had transmitted the King's telegram to the French Government.

The speaker quoted the telegram sent by the council to the King of Hedjaz, which was as follows:

The council recognizes the importance of maintaining friendly relations between all nations, but it desires to point out to your Majesty that as peace between Turkey and the allied powers has not yet been concluded Syria is still by international law part of an enemy country. In Syria the Great War still continues and the portions of territory where the events happened to which your Majesty has referred are in the military occupation of the French.

This is not the kind of situation contemplated by the covenant from which the League of Nations derives its authority; the league was designed to preserve the peace as established by treaties. It can not be asked to intervene in regions where that peace is not yet secured. The council has therefore decided after careful deliberation that it can only communicate your Majesty's telegram to the French Government.

REPATRIATION OF PRISONERS OF WAR.

The secretary general, reporting on the repatriation of prisoners of war, said that since the London meeting in June Dr. Nansen had been seeking to carry out the measures he then explained to the council, had been in touch with the Governments and agencies concerned, and had made a special journey to Moscow to discuss matters with the soviet authorities; that he was more impressed than ever on both political and humanitarian grounds with the necessity of getting as many prisoners home as possible before winter, otherwise many thousands would die and all endure great hardship. Dr. Nansen's negotiations with the Governments and with the international committee for relief credits had been most successful; he had already secured a part of the funds he required, and he had been given most generous help by various voluntary agencies, such as American Red Cross, Swedish Red Cross, and the American Young Men's Christian Association. He had secured all the ships required for the Baltic routes and they would shortly be in service. He also hoped shortly to begin repatriation from Vladivostok and was studying means of bringing home prisoners in Turkestan and the Black Sea Provinces of Russia.

The secretary hoped that with Dr. Nansen's plans working smoothly the majority of prisoners would be repatriated before winter came in full severity, but that winter would not stop the work, as the port of Libau in the Baltic would be available and as the port of Vladivostok could be used the year through by means of ice breakers.

MEETING PLACE OF TRANSIT CONFERENCE.

Representative da Cunha, Brazil, proposed that the general conference on transit should meet in Barcelona, alluding to the growing industrial activity and maritime commerce of that city. He said he felt sure the conference would receive the same hospitality from the Spanish Government and the Spanish nation which the council had experienced. The proposal was adopted by acclamation, and Representative de Leon announced that the Spanish Government had already expressed its willingness to provide the conference with all necessary facilities.

AALAND ISLANDS.

The secretary general reported that the commission authorized by the council to act on the Aaland Islands had been appointed as follows: M. Larnaude, dean of law faculty, University of Paris, president; Dr. Struycken, councillor of state at The Hague; and Dr. Huber, counselor of political department, Berne. The first meeting would take place August 3 at Paris. The Finnish legation in London had telegraphed the secretary on July 13 that the court had released the Aaland Island prisoners, Mr. Sundblom and Mr. Bjorkman, and that their case had been adjourned till July 23.

CONVENING OF ASSEMBLY.

The Official Journal of the league shows that on July 20, 1920, the secretary general transmitted to the member nations the following call by Woodrow Wilson for the first meeting of the assembly on November 15, 1920, at Geneva, 11 a. m.

"At the request of the council of the League of Nations that I summon a meeting of the assembly of the League of Nations, I have the honor, in accordance with the provisions of article 5 of the covenant of the League of Nations to summon the assembly of the league to convene in the city of Geneva, the seat of the league, on the 15th day of November, 1920, at 11 o'clock."

AMENDMENTS TO COVENANT.

The Official Journal of the league showed that in July the Danish, Norwegian, and Swedish Governments proposed certain amendments to the covenant.

SAAR BASIN GOVERNING COMMISSION.

On July 1 the Saar Basin Governing Commission made another report, stating that the month of June would end the first stage in the government of the Saar Basin by the commission. The commisison would after the end of July have the help of the local assemblies, the machinery for the election of which by universal suffrage the commission had been carefully devising. Assemblies elected under the prewar system were based on restricted suffrage, were not representative, and the commission could not cooperate with them. The election soon to be held would be the first in the Saar Basin since 1914, and the commission would consult the new assemblies in accordance with the Versailles treaty. Beneficent laws could then be enacted and the basis of financial credits established. Thenceforward the commission would take on a new character.

SECOND INTERNATIONAL LABOR CONFERENCE.

The international labor conference held its second meeting at Geneva June 15 to July 10, 1920, made recommendations for limiting the hours of work in the fishing industry, in inland navigation, for the preparation of national seamen's codes, for unemployment insurance for seamen, and adopted draft conventions, fixing the minimum age for child labor at sea, for unemployment indemnity in case of loss or foundering of ships, for facilities for finding employment for seamen. The league was duly advised of the proceedings through the secretary general.

PUBLIC MEETING, NINTH SESSION OF COUNCIL, PARIS, SEPTEMBER 20.

Representative Bourgeois, presiding officer, in his opening speech at the public meeting of the ninth session of the council at Paris on September 20, thanked Representative de Leon for his work as president both at San Sebastian and between the sessions, expressed the council's regret that henceforth Representative Matsui would be unable to sit as the representative of Japan, thanking him for his cordial and devoted service to the league.

AALAND ISLANDS QUESTION.

The Aaland Islands matter was first taken up, and the representatives of Sweden and Finland, Mr. Branting and Mr. Enckel, were invited to sit at the council table.

Representative Fisher, Great Britain, then submitted a report referring to the decision of the council at the London meeting in July, with the assent of Sweden and Finland, to appoint an international commission of jurists to advise (a) whether the case presented by Sweden in regard to the Aaland Islands dealt with a question which should under international law be regarded as falling within the domestic jurisdiction of Finland and therefore outside the competence of the council, and (b) as to the present position of international obligations concerning the demilitarization of the islands. The commission sat at Paris from August 3 to September 5 and made their report which had been sent to all members of the council, a report of great value in the light it threw on the intricate problem involved, prepared with painstaking and thorough care, deserving warmest gratitude and appreciation.

The commission had concluded that the dispute between Sweden and Finland did not refer to a question left by international law to the jurisdiction of Finland, and that consequently the council is competent under paragraph 4 of article 15 of the covenant to make any recommendations it may deem just and proper. The arguments were fully developed in the report and were based largely on considerations affecting the formation of the independent State of Finland and its recog-

nition as a sovereign State. The report stated further that although the populations of Finland and Aaland Islands acted together to separate themselves from Russia they have from the outset moved along lines ever more widely diverging, the former desiring to form an independent State, the latter to be reunited to Sweden, from which they had been separated since 1809.

Another point was Russia's interest, Russia having indicated that she would not be bound by any decision as to the Aaland Islands in which she did not participate. The commission found further that the convention and treaty of 1856 concerning the demilitarization of Aaland Islands was still in force. It was the speaker's conclusion, after thorough consideration, that the fate of the Aaland Islands could not be considered entirely as a domestic question with which Finland and Finland alone was concerned, but that it had an international aspect within the competence of the league. Aside from the legal phase, it was to the public interest of Europe that this question, so long a source of dispute between two neighboring States, should be peaceably adjusted. The council would doubtless accept in full the doctrine that a definitely and legally constituted State may accord or refuse to a part of its population the right of determining its political destiny by plebiscite or otherwise.

The speaker was of the opinion, however, that the doubts expressed by the commission as to whether Finland was such a legally constituted State during the recent period of revolution were justified and that there was at least sufficient uncertainty attaching to the matter, taken in connection with the public interests of Europe, to justify the intervention of the league. He suggested that the council declare itself competent to deal with the matter under paragraph 4, article 15, of the covenant. The next step was to obtain all possible information on all points at issue. The subject was one of exceptional difficulty and would require considerable time, wherefore the Governments concerned should do all in their power to remove or assuage any cause of public irritation while it was under judgment.

He proposed the following resolution:

The council of the League of Nations having been invited by Great Britain to examine the question of the Aaland Islands,

Having considered the advisory report furnished at its request by a commission of international jurists,

Recognizing the duties imposed upon it by articles 4 and 11 of the covenant in the supreme interest of peace between nations—

(a) Declares itself in accordance with the conclusions of the report competent to make any recommendation which it deems just and proper in the case,

(b) And appoints Messrs. (these to be chosen later) to furnish the council, in the shortest time required for the necessary consultations and having regard to the legitimate interests of all parties concerned, with a report which will enable it to frame a final or provisional settlement of the question and to establish conditions favorable to the maintenance of peace in that part of the world.

The report and resolution were agreed to.

DISPUTE BETWEEN POLAND AND LITHUANIA.

Representative Hymans, Belgium, made a report on the dispute between Lithuania and Poland, stating that the council had been requested by telegram of September 5, 1920, from the Polish Government to intervene in order to prevent war between Poland and Lithuania. The Lithuanian Government had consented under article 17 of the covenant to accept for this dispute the obligations of a member of the league and had appointed Prof. Voldemar to represent it. The Polish Government was represented by Mr. Paderewski, ex-president of the council of ministers, who had stated to the council that the danger of war arose from the presence of Lithuanian troops to the west of the frontier provisionally assigned to Poland by the supreme council on December 8, 1919. This assignment, asserted the Lithuanian representative, was not legally binding on the Lithuanian Government. He contended that on July 12, 1920, under a treaty with the soviet government another line had been partially fixed as the frontier of Lithuania and was to have been completed by an agreement between Lithuania and Poland.

The speaker said that the council was not asked for a final settlement of this dispute or of other questions at issue between Poland and Lithuania, that a conference had been opened at Kalwarya between representatives of the two States which would lead, it was hoped, to permanent peace, but that immediate intervention by the council was needed to obtain the provisional acceptance by Lithuania and Poland, reserving all their rights, of a line defining the zones of occupation. In seeking a solution the council was compelled to consider the fact that a state of war existed between Poland and the soviet government. The council had been informed by the representatives of Lithuania and Poland that a part of Lithuania, namely, the zone of Grodna and Lida, was still occupied by soviet troops. This made it difficult to adopt provisional lines of demarcation between Lithuania and Poland and made it hardly possible for Lithuania to refuse Poland permission to use Lithuanian territory for military purposes. It was evident that if the neutrality of Lithuanian territory was not equally respected by soviet Russia and Poland any provisional demarcation between Lithuania and Poland would become impossible. Lithuania desired neutrality, and it was in the interest of the general peace of Europe. It would not prejudice the legitimate interests of the belligerents. The Lithuanian representative had announced receipt of a telegram from the soviet government declaring its readiness to evacuate Lithuania provided that country would guarantee the respect of its neutrality by Poland.

Accordingly Representative Hymans proposed the succeeding resolution:

(a) The council, considering that the immediate cessation of hostilities is an indispensable condition of any useful intervention on the part of the council of the League of Nations, addresses to the Governments of Lithuania and Poland a most urgent appeal to take immediately all measures necessary to prevent any hostile acts between their troops.

(b) The council proposes to the Governments of Lithuania and Poland that they shall bind themselves by mutual undertakings:

(1) The Lithuanian Government adopts as a provisional line of demarcation, reserving all its territorial rights and awaiting the result of its direct negotiations with Poland, the frontier fixed by the supreme council of the Allies in its declaration of December 8, 1919, and undertakes to withdraw its troops from the territory to the west of this line.

(2) The Government of Poland undertakes, reserving all its territorial rights, to respect during the war now in progress between Poland and Russia the neutrality of the territory occupied by Lithuania to the east of the line of demarcation above specified, provided that respect for this neutrality be also secured from the soviet authorities by Lithuania.

(c) The council offers to the Lithuanian and Polish Governments, in the event of their accepting the present provisional agreement, to appoint a commission intrusted with the duty of insuring on the spot the strict observation by the interested parties of the obligations arising from this agreement.

(d) The council instructs its president to appoint representatives to receive the replies of the Governments of Lithuania and Poland, to continue to afford them the support of the council, to proceed, if necessary, to the appointment of the commission mentioned in the preceding resolution, and to report to the council at its next session.

The report and resolutions were agreed to.

Prof. Voldemar, the Lithuanian representative, then addressed the council, thanking it for the great interest taken in the dispute between Lithuania and Poland. He said that when the dispute was placed before the council war seemed inevitable, but that after the council had acted he would leave with the firm hope that the disputing countries would be able to avoid all acts of hostility pending a permanent settlement.

Mr. Paderewski, the Polish representative, next spoke. He said that when Poland found herself in conflict with Lithuania she conceived it her duty not only to avoid war but to set a good example; that she requested that the League of Nations intervene as mediator; that she congratulated herself on the readiness and equity with which the league had acted. He said he felt sure his Government would carry out the league's suggestions, and that Lithuania would do likewise.

I clasp your hand—

He said to Prof. Voldemar, the Lithuanian representative—

as a symbol of the firm and lasting friendship which unite our two countries.

(Paderewski and Voldemar here shook hands amid loud applause.)

Mr. Paderewski added that the confidence and reverence which from the first he had felt for the league had been increased and strengthened.

The presiding officer, Representative Bourgeois, arose with expressions of satisfaction and congratulation. He said, among other things, that he hoped the memory of these two decisions—the one with the help and in the presence of the representatives of Sweden and Finland; the other with the help and in the presence of the representatives of Poland and Lithuania—would make clear to public opinion the nature of the growing moral authority of the League of Nations and how it would become each day more solid, more powerful, and more efficacious for each of the countries presenting themselves before the council and for all the human race.

SAAR BASIN GOVERNING COMMISSION.

A report reviewing the work of the Saar Basin governing commission was made by Representative Caclamanos, of Greece, who suggested the acceptance of the resignation proffered by Mr. de Boch, chairman of the commission, and the appointment of Dr. Hector, of Saarlouis, as his successor.

The report and suggestions were adopted.

EUPEN AND MALMEDY.

Representative da Cunha, Brazil, reporting on Eupen and Malmedy, quoted article 34 of the peace treaty of Versailles, as follows:

Germany renounces in favor of Belgium all rights and title over the territory comprising the whole of the Kreise of Eupen and Malmedy.

During the six months after the coming into force of this treaty registers will be opened by the Belgian authorities at Eupen and Malmedy in which the inhabitants of the above territory will be entitled to record in writing a desire to see the whole or part of it remain under German sovereignty.

The results of this public expression of opinion will be communicated by the Belgian Government to the League of Nations, and Belgium undertakes to accept the decision of the league.

The Belgian Government, said the speaker, had filed a report giving these results and concluding as follows:

In view of the legal considerations and facts which have been detailed in the present report and having regard to the results of the public expression of opinion, the Belgian Government has the honor to beg the council of the League of Nations, in accordance with paragraph 3, article 34, treaty of Versailles of June 28, 1919, to recognize the definite character of the transfer of the districts of Eupen and Malmedy to the sovereignty of Belgium.

Mr. da Cunha called attention to the fact that under the terms of the treaty the right of voting had been given only to those who desired to protest against the transfer of sovereignty; that out of 63,940 inhabitants only 271 inscribed their protests in the registers kept open for six months as required by the treaty. He proposed a resolution as follows:

The council of the League of Nations considering that inasmuch as full effective sovereignty over the districts of Eupen and Malmedy was exercised by Belgium, the establishment of the conditions for the public expression of opinion provided for in article 34 appertained to the Belgian Government, resolves,

That the conditions established by the Belgian authorities are in harmony with the letter and spirit of the treaty;

That the results of the public expression of opinion were brought to the knowledge of the League of Nations on August 19, 1920, by the Belgian Government, together with the registers in which the protests were recorded;

That these protests are 271 in number out of a total population of more than 63,000 inhabitants;

That these results show that among the inhabitants of Eupen and Malmedy the opposition to the cession of these districts is not sufficiently strong to outweigh in the opinion of the league all the considerations which form the basis of the provisions of the treaty;

That under these conditions the cession of the districts to Belgium is, according to the terms of the treaty of Versailles, to remain effective and valid;

That no other decision can be taken unless it is demonstrated by definite and concordant proof that the result of the public expression of opinion had been determined by means of intermediation and pressure, by abuse of authority, and threats of reprisals which had prevented the free expression of the will of the inhabitants;

That the documents brought forward with a view to proving such abuses or maneuvers are not pertinent nor definite;

That finally the circular which forms the subject of a charge against a Belgian official and which threatened reprisals against persons of three communities of the district of Malmedy who protested was immediately disclaimed by the high commissioner of the Belgian Government and was not used;

Recognizes the definitive transfer of the districts of Eupen and Malmedy under the sovereignty of Belgium.

INTERMIGRATION COMMISSION OF GREECE AND BULGARIA.

Representative Bourgeois, France, presented a report on the reciprocal immigration commission of Greece and Bulgaria, stating that these countries signed a convention on this subject on November 27, 1919. By this convention the parties recognized the right of their subjects forming religious and linguistic minorities to emigrate freely into their respective territories. A mixed commission was to be appointed three months before entry into force of the convention composed of one member nominated by each party and of an equal number of members of different nationality, from among whom the president shall be chosen, and who shall be nominated by the council. The commission would be expected to supervise and facilitate the emigration referred to, to take such steps as the convention required, and decide all controversies. The convention would become effective November 9, 1920.

This was not the first time, Representative Bourgeois remarked, that such a question had come before the council. By resolution on February 13, 1920, the council had undertaken to guarantee the provisions for the protection of minorities in the treaty of June 21, 1919, between the great powers and Poland. The council had recognized the fact that protection of minorities was one of the regular duties of the league, but it had taken care clearly to define the limit of its competence. At its Paris meeting in April during the discussion of the protection of minorities in Turkey the following decision was made:

In so far as in particular the nomination of members of mixed commissions is concerned, commissions which are provided for by certain of its clauses, the council readily consents to undertake from the present to nominate persons to these posts who shall seem to it to be the most suitable by reason of their high moral character, their competence, and their recognized impartiality. But it takes the view that its collaboration, except in so far as it may be modified later, shall be limited to the nomination of the members of commissions, and that these shall act under the control and responsibility of the high contracting powers.

The speaker believed, therefore, that if the council should undertake to nominate two members of the emigration commission under discussion it must be clearly understood that they would act under the authority and on behalf of the high contracting powers.

He submitted the resolution which follows:

1. The council of the League of Nations resolves that the conclusions of the report of M. Bourgeois regarding the appointment by the League of Nations of two members of the mixed commission provided for by article 8 of the convention between Greece and Bulgaria signed on November 27, 1919, concerning reciprocal emigration be adopted.

2. The council has decided upon two members of the mixed commission and has requested its acting president, in consultation with the secretary general, to take the steps required to make the appointments final.

The resolution and report were agreed to.

INTERNATIONAL FINANCIAL CONFERENCE.

The official journal of the league contains an account of the international financial conference at Brussels, September 24–October 8, 1920, in the chamber of deputies, a conference summoned by the council of the league under a resolution adopted by the council in February, 1920.

The members of the conference, 86 in number, while appointed by their Governments, attended as private citizens and not as official representatives of their respective countries. Thirty-nine countries were represented, to wit: Argentina, Armenia, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, China, Czechoslovakia, Denmark, Esthonia, Finland, France, Germany, Greece, Guatemala, Holland, Hungary, India, Italy, Japan, Latvia, Lithuania, Luxemburg, New Zealand, Norway, Peru, Poland, Portugal, Rumania, Serb-Croat-Slovene State, South Africa, Spain, Sweden, Switzerland, United Kingdom, United States, Uruguay.

The conference recommended that the league urge certain reforms, as follows:

Unification of laws relating to bills of exchange and bills of lading.

Reciprocal treatment of the branches of foreign banks in different countries.

Publication of financial information in a clear, comparative form.

Examination of claims by holders of bonds interest on which is in arrears.

International understanding on the subject of lost, stolen, or destroyed securities.

Establishment of an international clearing house.

An international understanding which, while insuring due payment by everyone of his full share of taxation, would avoid the imposition of double taxation which is at present an obstacle to the placing of investments abroad.

A permanent organization to continue the studies begun by the conference, with probably another meeting of the conference.

REGISTRATION WITH THE LEAGUE OF GERMAN TREATIES.

The journal contains a communication, dated August 11, 1920, from a representative of the German Government, stating that Germany would inform the secretary general of all international agreements entered into with Germany since the peace treaty came into force, and would adopt a similar course as to any future agreements.

The communication added that in view of the fact that Germany was not a member of the League of Nations, and that the information in question must be regarded as supplied voluntarily, the provision in article 18 of the covenant that legal validity of all international agreements shall date from the day of their registration by the league could not in the nature of things apply to Germany.

INTERNATIONAL UNIVERSITY.

On August 18, 1920, the secretaries general of the International University advised the league that the collaboration of 47 professors had been secured for the inaugural session.

FIRST PUBLIC MEETING, TENTH SESSION OF COUNCIL, BRUSSELS, OCTOBER 27.

President Hymans welcomed the council at the opening of the first public meeting of its tenth session, held at Brussels, stating that this would be the last formal session before the meeting of the assembly and therefore closed the first chapter in the league's history. A report on the work of the council since its first meeting, in January, 1920, would be made to the assembly.

REVIEW OF PROCEEDINGS, PRESENT SESSION.

The president then reviewed the dealings of the council during earlier meetings in the present session with a number of questions.

ARMENIA.

First, he spoke of Armenia, stating that the Armenian delegation to the peace conference had denounced to the council the aggressions which Armenia had suffered from Turkish nationalist troops. The council thought that the signatory powers to the treaty of Sevres should see that it was carried out, and had forwarded the Armenian appeal to the four powers represented on the supreme council, urging them to fix the Armenian frontiers. In transmitting the appeal the league council referred to its resolution of April 11 for cooperation with the supreme council in behalf of Armenia and asked the four powers to consider how this cooperation might be applied.

EUPEN AND MALMEDY.

Second, he referred to Eupen and Malmedy, stating that Germany had criticized the Paris resolution of the council, declaring the transfer to Belgium of these districts to be definitive, questioning the legality of the decision, but that the council had dismissed the objection and upheld the council's action, which was based on the covenant and the peace treaty.

INTERNATIONAL MONOPOLIES.

Third, he took up the matter of international monopolies, calling attention to difficulties experienced by many countries in securing imports of raw materials essential to their welfare and existence. He said Representative Tittoni had made a special study of this situation in connection with paragraph (e), article 23, of the league, relating to equitable treatment for the commerce of member nations, and attributed these difficulties to certain international monopolies. After debate, the council passed a resolution requesting the economic section of the economic and financial committee to study the entire matter and report on it at the earliest possible moment.

PASSPORTS CONFERENCE.

Fourth, he referred to the passports conference convened by the council at Paris to discuss passports, customs, facilities, and through tickets, stating that the council had decided to communicate the proposals of the conference to all the Governments.

INTERNATIONAL STATISTICS.

Fifth, he alluded to the report to the council of the international statistical commission which met at Paris October 10, saying that it was to be regretted that while the commission agreed unanimously on certain principles, differences had arisen as to the means of centralizing and coordinating statistical data for international purposes, saying further that the council had received a majority report signed by nine members and a minority report signed by three, and that the council had decided to transmit both reports to all the Governments, asking for their views. He added that the council tendered thanks to the commission, which was composed of eminent experts.

EXPENSES OF COMMISSIONS.

Sixth, he mentioned the council's decision of the question of payment of expenses of temporary commissions appointed by the league, saying it was decided in principle that when commissions were appointed in the interests of one or more countries they would bear the expense, but where all members of the league were interested the league would bear the cost, and that it was further decided that in the future the question of expenses would be settled when the commissions were appointed.

PRISONERS OF WAR.

Seventh, he adverted to prisoners of war, saying that the council was pleased to note the remarkable results obtained by Dr. Nansen in connection with the International Red Cross in repatriating prisoners of war in Russia and Siberia and in returning Russian prisoners detained elsewhere; that up to September 15, 100,000 prisoners had been returned by the Baltic Sea route; that Dr. Nansen had arranged for the return of 7,000 by way of Vladivostok; that 29,000 remained in Siberia, as well as some 20,000 to be returned by the Black Sea route; that Dr. Nansen still faced great difficulties but had worked with admirable skill and devotion, deserving the deepest gratitude of the league.

TYPHUS.

Eighth, he concluded with a reference to typhus, stating that the secretary general had laid before the council the result of the campaign of the league against the typhus epidemic in Poland and central Europe; that many countries had failed to respond and that the needed funds had not all been collected; that the council had decided on further efforts; that a mission of two eminent health experts and the chief typhus commissioner would leave shortly for Poland to examine the situation and report to the assembly.

MINORITIES CLAUSES OF CERTAIN TREATIES.

Representative Tittoni, Italy, presented a report on the minorities clauses of certain treaties, stating that the council had decided to determine the nature and limits of the league's guaranties for protection of minorities provided for by the different treaties.

These provisions in the treaties read generally that the country concerned agrees that the foregoing stipulations so far as they affect persons belonging to racial, linguistic, or religious minorities constitute obligations of international concern and shall be placed under the guaranty of the League of Nations, and further agrees that any member of the council of the league may bring to the council's attention any infraction, or danger of infraction, of any of these obligations, and that the council may thereupon take such action as it may deem proper. The countries concerned have further agreed, said the speaker, that any differences as to questions of law or fact arising out of these articles between the Government concerned and any one of the powers, a member of the council, shall be considered a dispute of international character under article 14 of the covenant, which dispute, if the other party demands, shall be referred to the permanent court of international justice.

Heretofore, continued Mr. Tittoni, similar provisions have under international law had their guaranties executed by the great powers, but the peace treaties, introducing a new system, have placed such guaranties under protection of the League of Nations, the council and the permanent court of justice being the organs for the execution of such guaranties.

He said that the term "guaranty of the League of Nations" means above all that the provisions for the protection of minorities are inviolable; that is, can not be modified in the sense of violating in any way rights actually recognized; that the league must see that they are observed; that the council must take action in the event of any infraction or danger of infraction; that the treaties are clear as to this, indicating the procedure that should be followed. The right of calling attention to any infraction or danger thereof is reserved to members of the council, who are thereby called upon to take a special interest in the protection of minorities. This right does not preclude minorities themselves or States not members of the council from calling the league's attention to infractions or danger thereof, but in doing so they exercise a right of petition or report, and their action does not have the legal effect of putting the matter before the council and calling on it to intervene. The secretary general must communicate the petition or report to the council, and any member may necessitate action by formally calling attention to it.

The report of Mr. Tittoni was approved and the council by resolution invited members to direct the special attention of their Governments thereto.

PERMANENT COURT OF INTERNATIONAL JUSTICE.

Representative Bourgeois, France, presented a report on the permanent court of international justice, referring to the instruction given him by the council at San Sebastian to forward the plan of the committee of jurists to the Governments and to prepare a preliminary report to serve as a basis for the final opinion of the council. He said the main points to be considered by the council were as follows:

First, the question of obligatory character of jurisdiction was a question of interpreting article 34 of the scheme of the committee of jurists, which provides that:

Between States members of the League of Nations the court will, without special convention, decide disputes of a judicial nature which concern (a) the interpretation of a treaty, (b) any point in international law, (c) any fact which if established would constitute a violation of international agreement, (d) the nature or extent of reparations due for the violation of international agreements, (e) the interpretation of a sentence pronounced by the court. The court will also deal with all disputes of whatever nature submitted to it as the result of a convention whether general or special between the parties. In case of doubt as to whether a dispute comes within the categories mentioned above, the court shall decide.

Commenting on this article, Representative Bourgeois said that no difficulty arose in case there was a general or special convention between the parties declaring the court to be competent, but it remained to be decided whether a court of justice could be set up entitled to consider itself competent to give a decision where no special convention exists. He said that the committee of jurists reasoned that if article 34 should be approved by the league, such action would be in effect a special convention between all members, giving the court the rights conferred under article 34. He doubted, however, whether the member nations would want to go so far. Article 34 in reality amended the covenant, substituting the decision of the permanent court for that which the council may make under the covenant as to whether diplomatic methods have been exhausted

before the dispute reaches the council, and substituting the court's decision for the free choice allowed the parties by the covenant as to whether they shall lay their dispute before the court, before another international tribunal, or before the council. He did not think that such an alteration of the covenant should be countenanced so early in its history. He proposed, therefore, the following resolution as to his first point:

Whereas the text proposed by The Hague jurists tends to modify the principle which gives the parties the right to choose between the two alternatives of judicial procedure or appeal to the council for the settlement of a dispute which has arisen between them;

Whereas this would constitute a modification of article 12 of the covenant;

Whereas at the present time there should be no question of considering modifications to this covenant, but rather of applying it;

The council proposes to substitute in the draft scheme of The Hague in place of articles 33 and 34 the following articles:

"ART. 33. The competence of the court shall be governed by articles 12, 13, and 14 of the covenant.

"ART. 34. Without prejudice to the freedom given by article 12 of the covenant to the parties in a dispute to submit it either to judicial procedure or arbitration or to the consideration of the council, the court shall, without a special agreement, deal with disputes whose settlement is intrusted to it or the court established by the League of Nations under the terms of the treaties now in force.

"It is to be clearly understood that the secretariat shall be intrusted, if need be, to bring the terms of the remainder of the draft scheme into harmony with this new wording of articles 33 and 34. By adopting this wording the council does not in any way wish to declare itself opposed to the actual idea of the compulsory jurisdiction of the court in questions of a judicial nature. This is a development of the authority of the court of justice which may be extremely useful in effecting the general settlement of disputes between nations, and the council would certainly have no objection to the consideration of the problem at some future date. In upholding the wording which we have the honor to submit to it, it will confine itself to declaring that at the present time it can not undertake to propose any modification in the provisions of the covenant, since such modifications whatever may be their particular value can only be introduced without danger when they receive the entirely unanimous approval of the members of the League of Nations."

Second, Mr. Bourgeois took up the question of the court's jurisdiction over disputes already pending at the time the court came into being, saying that this question was no longer important if the parties were to retain the right of choosing their own tribunal, and that this was also true of the third question, namely, that of the court's jurisdiction over prizes.

Fourth, he referred to the question of national judges, saying that the contending parties should be on an equal footing, and that this had been obtained by giving the other party the right to a judge of his own nationality where one party already had his own nationality represented on the court.

The Fifth question was whether the league as such or its organizations should be allowed to appear before the court to present conclusions or stress points of view appearing to them in conformity with the general interest. The essential principle to be safeguarded here was that of the respective independence of the judicial powers represented by the court and of the international power represented by the league, each having its own domain. After the council and assembly had created the court it should be allowed independence in its judgments. Therefore the question should be answered in the negative.

Sixth, the speaker discussed the salaries of the judges, saying that a distinction should be made between the president and clerk of the court and the rest of the judges; that the president and clerk were to reside at the seat of the court, the president, apart from his judicial work at court meetings, directing the general work of the court, preparing the cases to come up for judgment, and supervising the execution of judgments; that the president and clerk should have annual salaries; that the salary of the president should be large, it being essential that the head of the international magistracy should be in a position of undoubted eminence. As to the other judges, a moderate fixed salary should be granted and supplemented by large daily allowances during meetings necessitating their presence at The Hague.

Seventh, was the question of nomination of candidates, the committee's draft proposing that this be done by the national groups of the members of the permanent court. Certain Governments had suggested that this be done by the Governments. This the speaker opposed, saying that the nomination of judges should be freed from political interests of the different countries.

Eighth, the speaker alluded to the right of intervention by nonlitigant countries, saying that it had been pointed out that the court might in a decision unimportant in itself lay down certain principles of international law which if applied to other countries would upset their traditional laws and principles and cause serious consequences; that it had been asked whether in such a case the other countries affected should not be allowed to intervene in the interest of the harmonious development of the law. Mr. Bourgeois stated that the draft scheme for the court had already given nonlitigant States the right to intervene when any interest of a judicial nature concerning them was involved, and had moreover provided that where nonlitigant States had taken part in a question of this kind all the member countries would be notified and each accorded the right to intervene. The inference was that a State which did not intervene was not bound by the interpretation. To make this clear, Mr. Bourgeois proposed the following as an additional article in the draft scheme:

The decision of the court is only binding on the litigant parties and in the case on which judgment has been given.

Continuing, the speaker said that the contention that intervention by nonlitigants would aid in the harmonious development of international law could be answered by the fact that the court would contain representatives of the judicial systems into which the world is divided, and that its judgments would therefore be the result of the cooperation of entirey different thought and systems. He pointed out that the draft scheme of The Hague gave dissenting judges the right to state their opposition or their reservation without recording their reasons; that if they were permitted to state their opinions, together with their reasons, the play of different lines of judicial thought would clearly appear. Accordingly, he proposed an alteration in the text, making it read as follows:

If the judgment does not express wholly or partially the unanimous opinion of the judges those dissenting shall have the right to add an explanation of their views.

Ninth, the question of language, the speaker said, would be handled by Mr. Caclamanos. He added that the questions he had mentioned had been raised by the various Governments to whom The Hague draft for the court had been submitted; that he believed the council should adopt the draft as the committee of jurists had framed it, with the few modifications he had proposed, and submit it in that shape to the assembly. The suggestions of Mr. Bourgeois were approved.

OFFICIAL LANGUAGES OF THE COURT.

Reporting on the matter of official languages of the court, Representative Caclamanos, Greece, said that the committee's draft made French the official language of the court, allowing another language to be authorized by the court at the request of the parties. One of the Governments to whom the draft was submitted had called attention to the importance of English as an international language and the number of peoples and populations speaking English. The great treaties of peace had granted the same authority to the two languages, and they had been adopted by the league as its official languages. It was therefore desirable, said Mr. Caclamanos, to make English and French the languages of the court. Discrepancies and inconsistencies between the texts were to be carefully avoided; the texts of certain parts of the peace treaties had differences that might lead to difficulties.

Accordingly, the council decided—Mr. Bourgeois not voting—to substitute for article 37 of the draft to be presented to the assembly this wording:

The official languages of the court shall be French and English. If the parties are agreed that the whole case shall be conducted in French, the judgment shall be pronounced in this language. If the parties are agreed that the whole case should be conducted in English, the judgment shall be pronounced in that language.

Failing any agreement as to which language shall be used, the parties shall be allowed to use in their pleadings whichever of the two languages they prefer and the decision of the court shall be given in French and English. In this case the court shall at the same time announce which of the two texts shall be official.

At the request of the parties the court may authorize the use of a language other than French or English.

SUPPLEMENTAL SUGGESTIONS OF COMMITTEE OF JURISTS.

The council decided to refer The Hague committee's supplemental suggestion for conferences on international law to meet at fixed intervals, carrying on the work of the peace conferences of 1899 and 1907, fixing and codifying international law, and so forth, to the various Governments through the assembly for recommendation. The same procedure was decided upon for the committee's second recommendation in supplement to the draft scheme, viz, for a high court of justice to try future crimes against the universal law of nations. The third supplemental recommendation concerned the International Law Academy at The Hague, and the council resolved to transmit it to the assembly for information and without comment, inasmuch as it was addressed to the organs of the league.

EXPENSES OF THE LEAGUE.

Representative de Leon, Spain, tendered a report on the expenses of the league, referring to the council's prior decision that the Brussels financial conference be asked to appoint a committee to determine how the league's expenses should be distributed among the members. This committee was appointed and had held several meetings at Paris and Brussels. It had not been able to decide on a definite and general basis for final

apportionment of members' contributions. They proposed as a tentative measure for current expenses to estimate the ability of various members to pay on the basis of public revenue receipts for 1913—that being considered as the last normal year—and population. Schedules based on this method would be submitted to the assembly.

Senor de Leon then proposed this resolution, which was adopted:

The council, having examined the report of the commission of the international financial conference appointed to consider the principles to be adopted in apportioning the expenses of the League of Nations, recommends the assembly to appoint a commission to prepare detailed proposals which may be used as a new basis for the allocation of the expenses of the League of Nations.

INTERNATIONAL FINANCIAL CONFERENCE.

Representative Bourgeois made a report on the international financial conference at Brussels, stating that the world had never before made such an effort for mutual study of financial problems; that in bringing about this conference the league had demonstrated its capacity and possibility for beneficial action to the business world, which had up to the present doubted its usefulness; that the result of the conference was a preliminary diagnosis of a complex problem which would require long and continuous common effort; that the council, in agreement with the conference, considered economic and financial cooperation of all peoples essential in the present crisis; and that it was equally essential that each nation restore its own internal balance. The recommendations of the conference would, if followed, aid all States in restoring normal conditions.

The speaker believed that a permanent economic and financial organization to continue the study of matters considered at the recent conference should be suggested to the assembly. In the meantime the council should have a provisional financial body to aid it in carrying out certain measures proposed by the Brussels conference and to give the council technical advice.

These suggestions were adopted, a provisional financial committee for the council was authorized, and a letter addressed to the Governments transmitting and commending the results of the Brussels conference.

SECOND PUBLIC MEETING, TENTH SESSION, BRUSSELS, OCTOBER 28.

DISPUTE BETWEEN LITHUANIA AND POLAND.

At the second public meeting, tenth session of the council, the president read a report and submitted a resolution on the Poland-Lithuania dispute.

Mr. Askenazy, the Polish representative, thanked the council for its assistance, and expressed the hope that the dispute would soon be composed.

Prof. Voldemar, Lithuania, urged the importance of a complete and final solution, although considerable time might be required.

AALAND ISLANDS.

Representative Balfour, Great Britain, reported on the Aaland Islands, reviewing the proceedings to date, stating that the report of the first commission of jurists had been accepted, and that before proceeding further it had been decided to appoint another commission to study all other points involved, including the interests of all parties to the dispute. The United States had been asked to name a representative on the commission, three members of which had already been appointed and had begun preliminary studies.

A telegram had been received from the Landsting of the Aaland Islands showing a misunderstanding of the first commission's report, in that they thought it recommended the right of self-determination in addition to holding the dispute to be of international character. The commission had in fact been asked for no opinion on self-determination and had given none. The council had decided to advise the Aalanders of this fact, also that until the second commission reported no definite decision could be had, and that in the meantime the Aalanders should refrain from any action of irritation or provocative character.

MANDATES.

Representative Hymans, Belgium, reported on mandates, referring to the resolution adopted at San Sebastian, which in substance embodied two measures for immediate execution—first, the principal powers to be asked to inform the council of the names of the mandatories, the limits of territories subject to mandates, and their draft of proposals for the terms of mandates; second, the secretary general to be instructed to prepare a draft scheme of organization for the advisory commission on mandates mentioned in the last paragraph of article 22 of the league. Carrying out the first measure, Representative de Leon had addressed a letter to the principal allied powers informing them of the council's action, and the prime minister of France had replied, giving certain details as to allocation of mandates and negotiations in relation thereto, stating that he hoped soon to forward the draft on mandate A relating to former Ottoman territories; that negotiations had not been concluded as to mandates B and C, the powers not having reached an entire agreement.

The speaker said that if the powers should not finally agree the covenant authorized intervention by the council with a view to determining the degree of authority, control, or administration to be exercised by the mandatories, that the council would inform the assembly of the situation and that it was hoped the powers would reach complete agreement before the assembly ended on terms of mandates and submit them to the council. The council would reserve final report until the end of the assembly and the powers would be informed of the council's conclusions.

Carrying out the second measure, the secretary general had prepared a draft proposal for the permanent commission authorized by the last paragraph of article 22 of the covenant to receive and consider annual reports of mandatories and advise the council on all questions relating to mandates. The matter was so important, said the speaker, that he suggested delay of final action until the next meeting of council. In the meantime he would propose certain points for consideration, taken principally from the memorandum of the secretary general, to wit:

I. The mandates commission to be composed of 15 members, the mandatory powers—Australia, Belgium, France, Great Britain, Japan, New Zealand, South Africa—each to appoint 1 member, the remaining 8 members to be elected by the council from candidates proposed by nonmandatory States belonging to the league, these members not to be representatives of their Governments and to be chosen by reason of personal standing and qualifications.

II. No member of the commission to vote on reports of the mandatory power he represents.

III. Members to be assisted by not more than two technical advisers and no adviser to vote.

IV. The commission to regulate its own procedure, subject to the approval of council.

V. The commission to sit at Geneva.

VI. Members to receive an allowance of 100 gold francs per day during meetings and traveling expenses to be paid.

VII. Expenses of commission to be borne by league, with exception of sums paid to representatives of mandatory powers, which shall be repaid by the said powers to the secretariat.

The report was adopted and the proposals approved.

PERMANENT ADVISORY COMMISSION ON MILITARY, NAVAL, AND AIR QUESTIONS.

Representative Bourgeois, France, delivered a report on the military commission provided for by article 9 of the covenant, referring to the resolution of the council at Rome for its establishment and operation. This commission now presented through the speaker a report embodying its methods of work and answers to certain questions propounded by the council. One of these questions was as to the use of gases, and was submitted to the council for definite action, in view of certain elements, making it more than a purely technical matter. As to this, Mr. Bourgeois gave it as his opinion that the league could not countenance, even by silence, the use of a weapon solemnly prohibited by the treaties of peace (see article 171, treaty of Versailles). He cited the declaration of The Hague conference of 1907 that belligerents have no unlimited right to choose the method of warfare employed by them and that the use of poisons and poisonous weapons is prohibited. He claimed that these declarations followed international law, which had been recognized by the league covenant as the rule of conduct for Governments. The league should therefore condemn the use of gases in future wars and should submit to the Governments the question of enforcing this principle. He then proposed the following resolutions on the basis of the report of the military commission, known as the permanent advisory commission for military, naval and air questions:

I. The method of organization and operation adopted by the commission is approved.

II. Whereas The Hague conference in 1907 declared in article 22 of the annex to the convention concerning the laws and customs of land warfare that the belligerents have no unlimited right with regard to the methods of war to be employed and that by article 23 certain prohibitions have been laid down, in particular the employment of poison and poisoned weapons;

Whereas these provisions have become a part of international law, which by the terms of the preamble of the covenant has been recognized by the league as an effective rule for Governments;

The council declares that the League of Nations can not without failing in its work for peace and humanity recognize the employment of gas, and inspired by the desire to decrease the evils of future wars decides to propose to the Governments the consideration of the penalties to be imposed, if necessity arises, upon nations who take the first step in infringing in this respect the rules of humanity imposed upon all and decides to seek with the assistance of the most competent scientists efficacious methods to prevent in due time the manufacture of gases.

III. The council instructs each subcommission of the military commission to request through its delegates the opinion of the respective Governments as to the organization to be placed at the disposal of the council of the League of Nations for the exercise of the right of investigation recognized by article 213, treaty of Versailles (reading as follows: "So long as the present treaty remains in force Germany undertakes to give every facility for any investigations which the

council of the League of Nations, acting, if need be, by a majority vote, may consider necessary"); article 159, treaty of St. Germain; article 104, treaty of Neuilly; article 143, treaty of Trianon.

This step to be taken in order that the commission may be perfectly informed on the question when it comes up for discussion at its next meeting at Geneva.

Moreover, and with regard to all investigations into aerial forces—

Whereas the members of the League of Nations may not have air attachés of a military nature in the countries referred to in the above-mentioned articles of the treaties of peace on account of the suppression by these treaties of all military and naval aviation in these countries; and

Whereas it will be necessary to watch with special attention for the possible transformation of commercial aviation into a system adapted for war:

The council decides that in all cases where the right of investigation will be exercised, whatever may be the chosen method, it will be necessary to intrust the inquiries to aeronautic experts and in no cases to persons lacking special competence.

IV. The council does not think that the constitution of a central international bureau for traffic in armaments and munitions can be usefully considered until the convention of St. Germain is in force.

V. The council instructs the permanent advisory commission to examine the practical methods for obtaining rapidly when the council shall decide to do so all information regarding armaments and also the principles on which can be based future schemes for reduction of armaments.

VI. The council, while recognizing that the proposals made by the permanent advisory commission for military, naval, and air questions, as regards the armaments of certain States requesting admission to the League of Nations, can for the moment be accepted, would draw the attention of the assembly to the necessity of a thorough preliminary examination before pronouncing on the admission of States whose geographical and political situation make it impossible to decide the extent of their forces, resources, and requirements.

In conformity with the opinions of the permanent advisory commission these States should in every case agree to submit to a further revision of their military, naval, and air status by the council, either on its own initiative or on a reasoned request from the States themselves.

The report and resolutions were agreed to.

The Official Journal contains at this point the report in full of the permanent advisory commission on which the council acted, as set out above.

INVITATION TO THE UNITED STATES TO JOIN IN DISCUSSIONS OF DISARMAMENT.

Next the journal gives the text of the council's invitation to the United States to participate in the work of the permanent advisory commission on military, naval, and air questions. It was to the effect that the council, on the unanimous recommendation of the commission, invited the United States Government to name representatives to sit on the commission in a consultative capacity during its study of the question of reduction of armaments; that the decisions of the commission were purely advisory, were not in any sense binding, but represented the common technical judgment of the experts of many countries; that it would be understood that the presence of representatives of the United States would not commit that country to opinions finally expressed in the commission's report; that such report would be no more than a basis for consideration by the league; that, as in the case of the Brussels financial conference, the presence of an American representative, whose function was only to give and receive information, was an important factor in the success of the conference, it was felt that similar benefit would result from American representation at the meetings of the permanent advisory commission.

The invitation stated, further, that the problem of reduced armament was one to which public opinion in all countries attached the highest importance; that it was unnecessary to say that reduction of armaments was essential to the world's well-being; that unless some measure of relief could be found by international cooperation for excessive taxation due to armaments the general economic situation would grow worse; that the council hoped, in view of the American attitude toward competition in armaments, that the United States would not refuse to associate itself with the Governments of the members of the league in beginning the preliminary work necessary for ultimate success, and could lend to the present effort an assistance which could in no way encroach on its own perfect liberty of action. This invitation was not accepted.

SAAR BASIN GOVERNING COMMISSION.

Next the journal contains a report of the Saar Basin governing commission, dated October 25, 1920, and covering the period from July to October. The report stated, after reviewing the details of administration, that the newly established municipalities were drawing nearer to the Government, that this would make the commission's task easier, that the local assemblies had not yet begun to function, and that the mission hoped to find in social welfare work common ground for cooperation in the interests of the inhabitants.

AALAND ISLANDS.

The journal notes the appointment of the commission on the Aaland Islands question, and that the United States had been asked to name a representative to serve on the commission.

ARMENIA.

The journal sets forth certain documents and correspondence relating to Armenia.

From these it appears that on March 12, 1920, the supreme council of the allied powers asked the council of the League of Nations if the latter would accept in the name of the league a mandate for the protection of Armenia. On April 11 the council replied that the constitution of an Armenian State in independence and security was an object worthy of the sympathy and effort of the civilized world. The league had not, however, the financial or military means needed for the protection of Armenia. The covenant did not contemplate mandates for the league itself but for States under the supervision of the league. The council expressed the hope that a power would yet be found which would accept a mandate for Armenia. Protection for Armenia would necessitate certain preliminary conditions: (1) Evacuation by regular and irregular Turkish forces of the territory of the ancient Turkish Empire which would be given by the peace treaty to the Armenian Republic; (2) the constitution with the help of the western powers of an army capable of defending Armenia and of securing order; (3) guarantee of free access to the sea at all times through the port of Batoum; (4) establishment of a financial system allowing Armenia to live and to carry out the most indispensable public works, the Armenian loan to be issued under an international guarantee. The council was ready to submit the matter to the assembly, and asked the supreme council if the allied powers would meanwhile furnish a guarantee provisionally.

On April 26 the supreme council informed the league council that it had written President Wilson asking if the United States would accept a mandate for Armenia, and inviting him to define the boundaries of Armenia on the Turkish side.

On May 30, 1920, the United States Senate refused to accept the mandate for Armenia, but the President undertook to delimit the frontier between Armenia and Turkey.

On September 20, 1920, the league council asked the supreme council whether it desired to submit the Armenian question to the assembly, particularly the matter of a financial guarantee.

During its Brussels session in October, 1920, the league council received appeals from the Government of Armenia against acts of aggression by the nationalist Turks, asking the league to intervene to insure respect for the treaty of Sevres. The council replied that this treaty was not yet in force, and that the duty of enforcement belonged to the powers who signed it. The council forwarded the Armenian appeal to these powers (France, Great Britain, Italy, and Japan) reminding them of the prior correspondence, offering to resume consultation, and stating that the Armenian question would probably be raised at the assembly on the occasion of Armenia's request for admission to the league. On November 10, 1920, Mr. Lloyd-George replied that the allied powers were making every possible effort to give military help to Armenia, by providing her with war material and fuel, adding that he did not see that anything could be done to insure execution of the treaty until President Wilson had announced his decision on the Armenian frontier.

On November 25, 1920, the council sent a telegram to the Governments members of the league stating that the assembly had on November 22 adopted the following resolution, the assembly having begun its first session on November 15:

The assembly, anxious to cooperate with the council in order to put an end in the shortest time possible to the horrors of the Armenian tragedy, requests the council to arrive at an understanding with the Governments with a view to intrusting a power with the task of taking necessary measures to stop the hostilities between Armenia and the Kemalists.

That the council had considered this resolution and had decided to communicate it to all league members and to the United States, the President of which had already undertaken to fix the Armenian frontier; that the council begged the Governments to state whether they, either alone or conjointly with others, would undertake on behalf of the league this great humanitarian mission, a mission entailing no obligation of permanent nature; that the council would be grateful for a reply as soon as possible for transmission to the assembly before it adjourned.

A similar telegram was sent to President Wilson, stating that the invitation was to assume the task of stopping hostilities, and did not involve the acceptance of a mandate—that the fate of Armenia had always seemed to be of special interest to the American people.

President Wilson replied on December 1, 1920, that, although the United States Senate had declined the mandate, the United States had repeatedly declared its solicitude for the fate and welfare of the Armenian people in a manner justify-

ing the assumption that America felt a special interest in Armenia; that he was without authority to offer or employ military forces, and any material contributions would depend on Congress, which was not in session and whose action could not be foretold, but that he was willing, on assurances of moral and diplomatic support from the principal powers, to use his good offices and personal services to end hostilities, relying on the league council to suggest the avenues through which his offer might be conveyed and the parties to whom it should be addressed.

The Spanish Government replied (date not given) that it would gladly cooperate in any action of a moral or diplomatic nature to further the plans of the league with reference to Armenia; that although not directly interested in the circumstances connected with the unfortunate position of Armenia, it looked with profoundest sympathy on these unhappy people, victims of so many misfortunes.

The Brazilian Government replied on November 30 that it would assist either alone or in conjunction with other powers in putting an end to Armenia's desperate position.

On December 2 the president of the league council, Mr. Hymans, wired President Wilson thanking him for agreeing to act as mediator between the Armenians and the Kemalists, advising him of the response of Spain and Brazil, which countries the council had asked to cooperate with him, stating that negotiations could be opened at once with the Armenian Government at Erivan, and that the council was taking steps to ascertain the best method of reaching the Kemalists, of which he would be advised later.

On December 3 Australia replied, asking to be advised as to the methods proposed for ending hostilities, and as to the nature of the action desired from Australia.

Haiti replied on December 3, regretting that Haiti was not in position to associate itself otherwise than in spirit in putting down hostilities, stating that it shared the feeling of the assembly and desired that one or more members of the league should undertake this humanitarian task.

Nicaragua replied (date not given), stating that Nicaragua accepted the resolution of the league with a view to ending the Armenian tragedy (here the journal notes that the text was defective).

Panama replied (date not given), consenting to cooperate and to contribute to the costs of any expedition on condition that other States members contributed proportionately to population.

Sweden replied (date not given), expressing sympathetic interest, but stating that on account of the distance of Armenia and the complex nature of the problem Sweden had not the power to undertake the task indicated—that the generous offer of President Wilson seemed to be the best solution.

Norway expressed sympathy, but declined for same reasons as those advanced by Sweden (date not given).

Denmark expressed sympathy (date not given) and said the Danish Government would collaborate if the complexity of the problem and incalculable difficulties of intervening in a country so distant was not beyond its strength, and so forth.

Uruguay wired (date not given) that the Government of Uruguay heard joyfully of the reply of the United States and Brazil for joint moral action to end the situation in Armenia and hoped for its complete success.

On December 7 France replied, expressing sympathy and readiness to second the efforts of the three mediatory powers, United States, Brazil, and Spain.

Honduras replied (date not given), assuring moral support.

Italy replied (date not given), stating that the Italian Government felt the deepest interest in Armenia, to whom Italy was bound by ancient ties, and would communicate a decision in shortest time possible.

On November 29 Peru promised cooperation with all means in its power.

On December 1 Cuba expressed sympathy, agreed to consider the matter, and to send decision through Cuban delegation in assembly.

On December 2 British Government replied that it noted the acceptance by President Wilson of the task of mediation; that it was not in position to accept any independent mission with regard to Armenia if that was contemplated by the council's telegram, but that the President of the United States might rely on it to second his efforts in every way by the moral and diplomatic support for which he appealed.

The Kingdom of Serbs, Croats, and Slovenes replied on December 1 deeply regretting inability to participate in this mission of mercy, because it felt that it must concentrate every effort on its own consolidation, and was not yet in position to sign the treaty of Sevres entered into with Turkey by which the State of Armenia was created.

Bolivia replied—date not given—noting the resolution with pleasure, and cordially agreeing that one of the great powers which possessed the means of making its decisions respected should assume the humanitarian task of putting an end to the unhappy situation of the Armenians.

Venezuela's reply—date not given—deplored events in Armenia, expressed willingness to help as far as possible, but stated that owing to her geographical situation and other circumstances Venezuela was unable either alone or in collaboration to fulfill the proposed mission.

By wire of December 3 San Salvador stated that the Armenian tragedy should end; that a great power should undertake the humane mission proposed; that if the other nations consented to this procedure Salvador would gladly lend moral support.

The Belgian Government replied on December 4 that it had already intervened in favor of Armenia; that it was determined to take all necessary diplomatic action in her behalf; that it noted with joy the decision of President Wilson to lend his good offices; that with a view to facilitating his action it had instructed the Belgian representative at Constantinople to ascertain the best method of transmitting Wilson's offer of mediation.

The Guatemalan Government wired—date not given—its conviction that steps must be taken and its adhesion to the measures decided on by the council.

Chile's reply—date not given—assured all moral and diplomatic assistance possible.

India made the same reply as Great Britain; date not given.

For the sake of continuity this account as to Armenia has been projected beyond the tenth session of the council and into the time of the first session of the assembly, which will be taken up later.

Before describing the first session of the assembly the proceedings of the eleventh session of the council, which began the day before the assembly met and ran along with it, will be given.

ELEVENTH SESSION OF THE COUNCIL, REPRESENTATIVE HYMANS, PRESIDENT, HELD AT GENEVA, NOVEMBER 14 TO DECEMBER 18, 1920.

DISPUTE BETWEEN LITHUANIA AND POLAND.

The council decided at its eleventh session, held at Geneva, to take a plebiscite in the Vilna district, sovereignty over which was the issue between Lithuania and Poland.

The council approved a proposal that States sending troops for the league to keep order during the voting, etc., should advance the sums necessary for transport and maintenance, and that all expenses outside of the normal charge of maintenance in their own territory should be repaid by the league out of its 1922 budget.

INTERNATIONAL FORCE FOR VILNA.

Gen. Clive, Col. Requin, and Col. Benites, of the British, French, and Spanish armies, respectively, comprising the committee on an international force for Vilna, reported that in accordance with instructions from the council of the league on November 21, 1920, they had adopted the following measures in forming the international force which the council proposed to send to the Vilna district for police purposes in connection with the Poland-Lithuania controversy.

1. The force to consist of one company of Belgian troops and one machine gun section, two companies British troops and one machine gun section, two companies Spanish troops and one machine gun section, two companies French troops and one machine gun section.

The dispatch of these troops had already been agreed to by the Governments concerned, and the following contingents would be added, circumstances permitting: One Danish, one Dutch, one Norwegian, and one Swedish, each with one machine gun section, provided the respective Governments consented, each contingent to be of normal strength, with unified command; pay and allowances to be as nearly as possible the same as already granted troops stationed in the district where the plebiscite was to be held.

2. The international force thus composed to be under command of Col. Chardigny.

3. British and French contingents, supplied from Danzig and Nemel, respectively, to go to Vilna simultaneously December 1, by rail without touching German territory and to be arranged by Col. Chardigny in consultation with Polish and Lithuanian authorities; the other contingents, their Governments consenting, to go by sea so as to reach Danzig as soon as possible after December 1, on two transports—one arranged for by Spanish Government, carrying Spanish, Belgian, and Dutch contingents; the other provided by Norwegian, Swedish, and Danish Governments, carrying their own contingents.

4. Two possible solutions as to supplies, according to whether Danzig or Warsaw chosen for base: In the first case, since British base already at Danzig, sufficient if officer commanding base authorized to advance provisions, or to notify Governments concerned if supplies not available. In second case duties of base commandant would have to be intrusted to some authority other than Polish. In any case it would be necessary to ascertain views of British and French Governments.

5. League to be reimbursed by Poland and Lithuania for sums advanced to cover expense of taking a popular expression of opinion on a proportion based on results of that expression.

INSTRUCTIONS FOR MILITARY COMMISSION ON PLEBISCITE IN VILNA DISTRICT, APPROVED BY COUNCIL DECEMBER 1, 1920.

The council on December 1 decided to appoint a military commission on the Vilna plebiscite, the commission to consist of five members, Col. Chardigny to be chairman and at same time commander of the international force.

The commission to ascertain whether Poland and Lithuania could agree as to method of plebiscite and area to be affected.

Commission to notify council by wire as soon as possible and not later than 15 days after arrival, general method of taking plebiscite and area to be covered, having regard as far as possible to agreed wishes of the parties. If commission does not agree, its various proposals with reasons to be sent council which would give a decision.

The commission to devise measures insuring procedure approved by council; to record results of plebiscite after satisfying itself as to their regularity; to draw up report and submit recommendations to council for final allotment of disputed territory.

Commission to decide if any traffic should be allowed in plebiscite area, and if so, under what conditions.

Commission to keep informed as to political situation in that part of Europe. The international force simply to perform police duties. In case of conflict between commission and Polish, Lithuanian, or any other Government making plebiscite impossible, or in case of fighting in plebiscite area having this effect, commission authorized to propose to the council that the military force be withdrawn. In case of emergency commission to take necessary measures and Col. Chardigny to be responsible for their execution.

CIVIL COMMISSION ON VILNA PLEBISCITE.

The council on December 1 named M. von Sydow, of Sweden, and Gen. Burt, of Great Britain, civil commissioners to organize the Vilna plebiscite, and decided to ask the Italian and Spanish Governments to propose commissioners from their countries. The League of Red Cross Societies was requested to make medical arrangements for the international force.

COUNCIL COMMITTEE ON LITHUANIAN-POLISH DISPUTE.

Representatives Bourgeois, Ishii, and de Leon were appointed on December 18 to deal with the Lithuanian-Polish dispute between the meetings of the council.

PROVISIONAL ECONOMIC AND FINANCIAL COMMITTEE.

The council on November 14 approved appointments proposed by Representative Hymans, acting president, for the financial section of the provisional economic and financial committee, and it was agreed that an American should later be requested to become a member of this section. Mr. Ador was appointed president of the provisional economic and financial committee. The council also approved appointments proposed by President Hymans for the economic section of this committee.

ARMENIA.

On November 24 the council considered measures necessary to carry out the assembly resolution of November 22 on Armenia.

The council decided to inform all States members of league of the assembly's resolution, and also that it was communicating with the President of the United States. The council concluded it was essential to appeal to the United States, in view of the special authority conferred on the President of the United States by his acceptance of the task of fixing the Armenian frontier and in view of the moral importance of the intervention requested. The council took into account the refusal of the United States to accept a mandate for Armenia, but did not consider this incompatible with the acceptance of a humanitarian mission which the United States appeared specially qualified to carry out. Then followed the telegram to President Wilson and his reply, both of which have been before noted.

On December 1, 1920, the council decided:

(1) To thank the President of the United States and to acquaint him with the replies from Spain and Brazil.
(2) To thank the Spanish and Brazilian Governments, acquainting them with the reply of the President of the United States and asking them to communicate with him.
(3) To ask these powers to inform the Armenian Government that they consented to mediate.
(4) To inform these powers that the council would endeavor to communicate with the Kemalists.
(5) To communicate for this purpose with the Governments having a high commissioner at Constantinople.
(6) To advise all members of the league of the situation.

MANDATES.

The council, after considering a statement by Mr. Albert Thomas, head of the international labor office, decided on November 26 to attach to the permanent mandates commission an expert chosen by that office, who would have the right to be present in an advisory capacity at all meetings when labor questions in mandated territories were discussed.

DRAFT MANDATES.

On December 14, 1920, Representative Balfour presented the draft mandates prepared by the British Government for the following former German possessions:

Southwest Africa, Samoa, Island of Nauru, possessions in Pacific south of Equator other than Samoa and Nauru.

Mr. Balfour requested that these mandates be submitted to legal advisers, and the council decided that the legal mandate section of the secretariat should consider the mandates, consulting other legal experts on any points deemed necessary.

On December 17 the council confirmed these mandates and defined their terms. They are mandates of type C.

MANDATE FOR GERMAN SOUTHWEST AFRICA.

On the subject of the mandate for German Southwest Africa the council passed the following resolution:

Whereas by article 119 of the treaty of peace with Germany signed at Versailles June 28, 1919, Germany renounced in favor of the principal allied and associated powers all her rights over her overseas possessions, including therein German Southwest Africa; and

Whereas the principal allied and associated powers agreed that in accordance with article 22, part 1 (covenant of the League of Nations), of the said treaty a mandate should be conferred upon His Britannic Majesty to be exercised on his behalf by the Government of the Union of South Africa to administer the territory aforementioned and have proposed that the mandate should be formulated in the following terms; and

Whereas His Britannic Majesty, for and on behalf of the Government of the Union of South Africa, has agreed to accept the mandate in respect of the said territory and has undertaken to exercise it on behalf of the League of Nations in accordance with the following provisions; and

Whereas by the aforementioned article 22, paragraph 8, it is provided that the degree of authority, control, or administration to be exercised by the mandatory not having been previously agreed upon by the members of the league shall be explicitly defined by the council of the League of Nations.

Confirming said mandate defines its terms as follows:

ARTICLE 1. The territory over which a mandate is conferred upon His Britannic Majesty for and on behalf of the Government of the Union of Southwest Africa (hereinafter called the mandatory) comprises the territory which formerly constituted the German protectorate of Southwest Africa.

ART. 2. The mandatory shall have full power of administration and legislation over the territory subject to the present mandate as an integral portion of the Union of South Africa and may apply the laws of the Union of South Africa to the territory, subject to such local modifications as circumstances may require.

The mandatory shall promote to the utmost the material and moral well-being and the social progress of the inhabitants of this territory, subject to the present mandate.

ART. 3. The mandatory shall see that the slave trade is prohibited and that no forced labor is permitted, except for essential public works and services, and then only for adequate remuneration.

The mandatory shall also see that the traffic in arms and ammunition is controlled in accordance with principles analogous to those laid down in the convention relating to the control of the arms traffic, signed on September 10, 1919, or in any convention amending the same.

The supply of intoxicating spirits and beverages to the natives shall be prohibited.

ART. 4. The military training of the natives otherwise than for purposes of internal police and the local defense of the territory shall be prohibited. Furthermore, no military or naval bases shall be established or fortifications erected in the territory.

ART. 5. Subject to the provisions of any local law for the maintenance of public order and public morals, the mandatory shall insure in the territory freedom of conscience and free exercise of all forms of worship, and shall allow all missionaries, nationals of any State member of the League of Nations, to enter into, travel, and reside in the territory for the purpose of prosecuting their calling.

ART. 6. The mandatory shall make to the council of the League of Nations an annual report to the satisfaction of the council containing full information with regard to the territory and indicating the measures taken to carry out the obligations assumed under articles 2, 3, 4, and 5.

ART. 7. The consent of the council of the League of Nations is required for any modification of the terms of the present mandate.

The mandatory agrees that if any dispute whatever should arise between the mandatory and another member of the League of Nations relating to the interpretation or the application of the provisions of the mandate, such dispute, if it can not be settled by negotiation, shall be submitted to the permanent court of international justice provided for by article 14 of the covenant of the League of Nations.

The present declaration shall be deposited in the archives of the League of Nations. Certified copies shall be forwarded by the secretary general of the League of Nations to all powers signatory to the treaty of peace with Germany.

MANDATES FOR GERMAN SAMOA, NAURU, GERMAN PACIFIC POSSESSIONS SOUTH OF EQUATOR, GERMAN PACIFIC POSSESSIONS NORTH OF EQUATOR.

Mandates on similar terms were confirmed and defined for German Samoa, Island of Nauru, German possessions in Pacific Ocean south of Equator, except Samoa and Nauru, all of which were conferred on His Britannic Majesty, the mandate for German Samoa to be exercised in his behalf by New Zealand, that for German possessions south of Equator by Australia.

Japan was confirmed in a similar mandate for the former German possessions in the Pacific north of Equator. Viscount Ishii reiterated for his Government the claim theretofore advanced that a clause should be included in "C" mandates assuring equal opportunities for trade and commerce, saying that

in the spirit of conciliation and cooperation Japan would accept the mandate in its present form. This was not to be considered as an acquiescence in the submission of Japanese subjects to discrimination and disadvantage in mandated territories or as an abandonment of the claim that Japanese rights and interests therein should be fully respected.

I have indicated the terms of these mandates to show that the territories involved were not parceled out like conquered provinces to be owned and exploited in the interest of the victors, but were assigned to certain powers to be governed in the name and under the auspices of a League of Nations by these powers as trustees for civilization and in the interest of the inhabitants. Thus, what was a fruitful source of war in the past will be permanently eliminated when the mandate system is put into practice.

At the council meeting of December 17 the representative of Italy asked in the name of his Government that the mandatory powers be requested to state how they would liquidate ex-enemy property in the mandated territories so that the nationals of the various States could compete as purchasers. The council directed the transmission of this request to the mandatory powers.

DANZIG.

The president announced that Col. Strutt, acting high commissioner for the league at Danzig since the departure of Sir Reginald Tower, would leave December 15, and suggested that Mr. Attolico, director of communications and transit in the secretariat of the league, be appointed provisionally until a permanent commissioner could be selected. Adopted. On December 17 the council, on Mr. Balfour's motion, appointed Gen. Haking high commissioner at Danzig for one year.

COMMISSION ON ARMAMENTS.

The third session of the permanent advisory commission on military, naval, and air questions was held at Geneva November 25–December 4, 1920. The parts of its report adopted by the council related to the council's right to investigate conditions in ex-enemy countries; a specimen questionnaire for exchange of information regarding armaments provided in the covenant and military regulations for States seeking admission to league.

PERMANENT COURT.

On December 14, 1920, the council declared its acceptance of the statute creating and defining the permanent court of international justice, the assembly having unanimously approved it on December 13, 1920.

COMMITTEE ON EXPENSE APPORTIONMENT.

A committee was appointed on December 14 to study the apportionment of the league's expenses.

AMENDMENTS TO COVENANT.

The council decided on December 17 that league members could submit draft amendments to the covenant to the committee appointed to consider them, until March 31, 1921. These were the amendments to be considered by the assembly of 1921, the council having been requested by the assembly of 1920 to take charge of their presentation and fix a time limit for their submission.

SAAR BASIN GOVERNING COMMISSION.

The council in view of the expiration of the terms of four members of the Saar Governing Commission on February 13, 1921, and of the possible failure of the council to meet until after that date, authorized their continuance until it could take up the question of their successors.

PRESIDENCY OF THE COUNCIL.

On motion of Representative Bourgeois, the council decided to keep the rotary system for the presidency, following the alphabetical order, giving first honor to Brazil and Japan, which countries had not yet had the office.

ARMENIA.

On December 16 the President of the United States, through Acting Secretary of State Hon. Norman Davis, wired the president of the council that he had designated Hon. Henry Morgenthau as his personal representative, who was prepared to carry out the proffer of mediation in the Armenian matter as soon as practicable; that he was still awaiting advices from the council as to the avenues through which this proffer should be conveyed and as to the parties with whom his representative should get in contact as well as assurances of diplomatic and moral support from the principal powers on the council.

On December 18 the prime minister of Great Britain, through Lord Curzon, wired the president of the council that after consulting with British representatives at Constantinople and Tiflis he felt President Wilson's best course would be to wire his instructions to the American high commissioner at Constantinople; that it was reported Armenia had made peace with the nationalists and was under control of soviet Russia and the advanced Dashnac party.

The council adjourned December 18.

ARMENIA.

The league journal shows that on January 15, 1921, Siam replied to the council's telegram of November 26, 1920, that owing to the geographical situation Siam could take no military measures, but would join all the league members in a common effort for Armenia.

On January 22, 1921, President Wilson acknowledged receipt of the British suggestion as to Armenia, and replied that he did not deem it practicable; that pending receipt of information and assurances requested in his telegram of November 30, 1920 (received by council December 1, 1920), he deemed it wise to state the problem as he viewed it. The immediate cause of the trouble was the treaty of Sevres, the failure of certain factions to accept it, and of the Allies to enforce it. Over this he had no control, and any measure he might take would require the hearty cooperation and support of the allied powers. The dependence of Armenia on soviet Russia was another matter over which the President was without control, and in curing which he would again require the moral and diplomatic support of the powers. The distressful condition of Armenia was but one detail of the vast Russian problem.

The bolsheviks were in the President's view a violent and tyrannical minority, but the problems their success had raised could not be solved by military action from the outside. The recent tragical events on the Polish front and in the Crimea showed that armed invasion was not the way to bring peace to the Russian people. The Russian revolution, beneficent in its main purposes, must be developed to a satisfactory conclusion by the Russians themselves. Help may come from the outside when voluntarily received, but military coercion would not avail.

Elements in present situation gave hope. The world is war weary, and the conviction grows that the military method will not solve reconstruction problems. At present there was no overt civil war in Russia, the problem being now that of the relations between central Russia and surrounding smaller national groups. Border unrest and instability resulted from bitter and mutual distrust, the struggling new nationalities formerly a part of Russia being slow to disarm for fear of new bolshevik aggression. The soviets claim that fear of new attacks prevents them from disarming. The greatest impediment to reconstruction in these border territories is the utter confusion between offense and defense. Unless this distinction is clearly made and understood there is small hope of peace or of a clear perception of who is responsible for new wars. The present moment offers, therefore, a peculiarly pressing challenge to an attempt which would be the logical development of mediation in Armenia.

These small and struggling border States, continued President Wilson, would not attack Russia unless promised support from the stronger powers. The sine qua non of an attempt at pacification must therefore be a public and solemn engagement among the great powers not to take advantage of Russia's stricken condition, not to violate the territorial integrity of Russia, not to invade Russia nor permit others to do so. Such a public agreement, relieving the dominant Russian party from outside menace, would clearly place on it responsibility for any new war on the Russian border.

President Wilson concluded by saying that if the principal powers represented on the council were in accord with him in this matter and would assure him of their moral and diplomatic support he would instruct his personal representative, Mr. Morgenthau, to proceed at once.

On January 28 Representative da Cunha, acting president of the council, acknowledged President Wilson's communication with thanks, stated that it would be submitted to the council at its next meeting, and had already been sent to the principal allied powers, who had already answered that they would shortly confer on the treaty of Sevres.

THANKS FROM NEW STATES ADMITTED TO LEAGUE.

The Official Journal contains communications of thanks from following States for admission to the league: Austria, Luxemburg, Bulgaria, Costa Rica, Finland, and Albania.

CONTRIBUTIONS TO TYPHUS CAMPAIGN.

The journal shows these contributions in pounds by countries to the campaign against typhus:

Great Britain	50,000
Belgium	1,000
Greece	10,000
Persia	2,000
Bulgaria	27
Siam	1,000
Austria	42
Japan	5,316
Switzerland	2,150
Sweden	3,000

FIRST ASSEMBLY OF THE LEAGUE OF NATIONS, HELD AT GENEVA NOVEMBER 15–DECEMBER 18, 1920.

The initial session of the first assembly of the League of Nations was declared in order by Mr. Hymans, Monday, November 15, 1920, at 11 a. m. The council had decided that its presiding officer at the time, who in this case was Mr. Hymans, should be provisional chairman at the opening of the assembly.

The 41 member States were all represented.

Mr. Motta, president of the Swiss Confederation, welcomed the assembly in behalf of the Swiss people and Government. He expressed gratitude and appreciation for the selection of Geneva as the permanent seat of the league. He uttered the hope that the United States would before long take its rightful place in the league, saying in this connection:

The country which is a world in itself and is blessed with all the riches of earth—the glorious democracy which has absorbed all races and given them a common language and government—the people which is influenced by the highest ideal and is affected by every advance made in material progress—the State which hurled the decisive weight of its resources and armaments into the scales, and thus decided the future of continents and of Europe in particular—the native land of George Washington, father of liberty, and of Abraham Lincoln, champion and martyr in the cause of brotherhood; this country, I say, can not and surely does not intend forever to turn its face against the appeal made to it by nations who while retaining their independence and sovereign rights intend to cooperate for the peace and prosperity of humanity.

He said that the League of Nations would live, that already it was impossible to think of the world without it. Miracles, however, could not be expected from it. He added that the peace treaties would in part be impossible of execution without the league, that while its material sanctions might be of doubtful power, it already possessed the penetrating moral force of international consciousness. The permanent court of international justice would open the door to the solution of disputes between nations. The more universal the league became the greater would be its authority and impartiality.

The first assembly, he asserted, would have the opportunity to aid the league in attaining its ideal of universality, of reconstruction, and final peace. The league was not an alliance of governments but an association of nations. The brotherhood of the trenches had destroyed the fanaticism of opposing habits of thought, had destroyed false pride, had become rooted in the fields and workshops. Switzerland, the oldest democracy in the world, had entered the league by a vote of its people and saluted her brother nations with joy.

Mr. Hymans replied, stating in the course of his remarks that the meeting of the assembly in which 41 States were represented was proof of men's yearning for an equitable, lasting, and peaceful organization of international relations. He said that the league was not a superstate aiming at absorption of national sovereignties or their reduction to bondage; that its aim was to establish friendly intercourse between independent States and frontiers of mutual understanding and sympathy.

Mr. Hymans was elected president of the assembly and returned thanks both for his country, Belgium, and himself. The Brazilian delegation proposed that a wreath of flowers be placed on the statue of Rousseau. Carried.

Mr. G. N. Barnes, delegate from Great Britain, moved that a telegram be sent President Wilson expressing the hope of the assembly that he would soon recover from his illness.

In putting the motion the president said that the members were fulfilling a duty very dear to them in sending this expression of friendship to the illustrious statesman who in Paris spent so much of his time and force in instituting the League of Nations, "whose spiritual father he may be considered to be." The motion was agreed to.

PROCEDURE.

Provisional rules of procedure were adopted with the understanding that they could be modified at any time.

COMMITTEES.

It was moved and carried that six committees be appointed from the assembly to consider questions on the provisional agenda, each State to be represented on each committee.

TUESDAY, NOVEMBER 16.—ORGANIZATION.

Tuesday, November 16, was spent in discussing and determining organization and procedure of the committees already authorized.

WEDNESDAY, NOVEMBER 17.—WORK OF COUNCIL.

Wednesday, November 17, was spent mainly in discussion of the report of the secretary general on the work of the council.

THURSDAY, NOVEMBER 18—VICE PRESIDENTS—WORK OF COUNCIL.

On this day the president and vice presidents of the various committees were announced, the presidents becoming ex officio vice presidents of the assembly. The assembly then elected 6 additional vice presidents, making 12 vice presidents in all for the assembly, who constituted the official bureau of the assembly. Mr. Motta, president of the Swiss Confederation, was elected honorary president of the assembly.

WAR PRISONERS.

Discussion of the work of the council was resumed, Dr. Nansen giving an impressive and detailed account of his labors as the representative of the council in the matter of repatriating prisoners of war. He alluded in warmest terms to the efforts of the international committee of the Red Cross in this regard as well as those of other agencies, including the American Young Men's Christian Association, and of the Governments concerned, and concluded with these striking sentences:

But before I close my remarks I think it would be opportune if I drew the attention of the assembly to one aspect of the question which has struck me with increasing force as I have gone more and more deeply into the problems with which I have been faced. This is the appalling amount of suffering which has been undergone by the hundreds and thousands of men who have been made prisoners during the Great War. It would be difficult for anybody who has not had personal experience of it to understand the despair which settles on the minds and in the hearts of men who have been prisoners, cut off from all communication with their homes and families for periods of four, five, or six years. Never in my life have I been brought into touch with so formidable an amount of suffering as that which I have been called upon to endeavor to alleviate. But this suffering has been only an inevitable result of a war such as that which convulsed the world in 1914. It is right for the league to deal with questions such as that of bringing the prisoners to their homes, but the real lesson which I have learned from the work which I have undertaken is this, that it is vital for the league to prevent forevermore a recurrence of catastrophes from which such incalculable human suffering must inevitably result.

FRIDAY, NOVEMBER 19, 1920.—WILSON'S REPLY—WORK OF COUNCIL.

At the beginning of the day's session a reply from President Wilson to the telegram of the assembly to him was read as follows:

The greeting so graciously sent me by the League of Nations through you has gratified me deeply. I am proud to be considered as having played any part in promoting the concord of nations by the establishment of such an instrumentality as the league, to whose increasing usefulness and success I look forward with absolute confidence. I beg to be permitted to extend to the assembly my personal greetings along with an expression of my hope and belief that their labors will be of enduring value to the whole civilized world.

The remainder of the day was consumed principally in discussing the work of the council.

SATURDAY, NOVEMBER 20, 1920.—REPORT OF COUNCIL.

This day was devoted mainly to discussion of the work of the council as detailed in its report through the secretary general and of the proposal of a special committee on registration of treaties and on the use of Spanish as an official language of the assembly.

MONDAY, NOVEMBER 22, 1920.—ARMENIA.

Discussion of Armenia consumed this day and resulted in the unanimous adoption of a motion by M. Viviani, of France, to request the council to take up the matter of ending hostilities by intrusting the task of negotiation to some country, and of a motion by Lord Robert Cecil, of South Africa, and Mr. La Fontaine, of Belgium, that a committee of six members of the assembly consider the same problem and report to the assembly as to steps necessary to secure peace.

TUESDAY, NOVEMBER 23, 1920.—POLAND—LITHUANIA—MORE PUBLICITY FOR COUNCIL.

The assembly discussed and adopted motions for publication of all documents in the Poland-Lithuania dispute and requesting consideration by the council of greater publicity for its proceedings.

WAR PRISONERS—TREATY REGISTRATION.

The assembly unanimously adopted a motion thanking the international committee of the Red Cross, its president, Mr. Ador, and Dr. Nansen for efforts in behalf of prisoners of war. It also adopted a motion to request the council to examine by special committee the legal scope of article 18 of covenant relating to registration of treaties and report to next assembly.

POLAND—RUSSIA.

The motion of Delegate Barnes to ask the council why it did not interfere to prevent hostilities between Poland and soviet Russia and calling to its attention probable renewal of hostilities during the coming year was deferred for later discussion.

TUESDAY, NOVEMBER 30, 1920.—PERMANENT PROCEDURE.

The time intervening since the last meeting on Tuesday, November 23, had been spent in committee work.

The assembly took up the report of committee No. 1, on permanent rules of procedure.

Delegate Ferraris (Italy) presented the report, stating that it was the work of a subcommittee composed of Delegates Viviani (France), chairman; Blankenberg (South Africa); Menezes (Brazil); Ishii (Japan); Wurtemberg (Sweden); Blanco (Uruguay); Ferraris (Italy), and had been based mainly on (1) the covenant, (2) council's rules of procedure, (3) assembly's provisional rules of procedure, (4) procedure in several par-

liaments, (5) draft amendments from several assembly delegations.

Dr. Ferraris said that one of the objects in the mind of the committee was to define the respective positions and powers of the States members of the league, the delegates representing them, the council, and the secretariat general; that the guiding principle throughout had been that the States members of the league were the origin and source of the whole organization; that the assembly was the sovereign but intermittent power of the league; that the council was the permanent power, and the secretariat general was its permanent executive organ.

Hence, it had been provided in the procedure submitted that a majority of the States members of the league could at any time summon a session of the assembly, settle the place of meeting, propose questions to be placed on the agenda, name their representatives and their substitutes in the assembly; but once the members of the league have exercised this power, the assembly enters into supreme exercise of its functions.

The assembly is to meet by right once a year on the first Monday of September, shall be able to designate its place of meeting, shall choose its president and vice presidents, shall alone be competent to verify the credentials of its representatives, shall draw up its agenda as it wishes, as well as composition and work of committees. To the president is assigned the task and means of expressing and realizing the powers of the assembly.

The rules cover the previous question, closure, voting on amendments, system of voting in cases relating to individuals.

The council is to carry out the results of the assembly's discussions. The council or its president may convene the assembly, summon it, approve agenda prepared by the secretary general, present its reports to assembly, and can always intervene in debate through one of its members to make an explanatory statement.

The secretary general as executive officer is to collect the opinion of members of the league with regard to summoning an extraordinary session of the assembly, to communicate the order convening the session to the different States' members, to prepare the agenda, to register the names of representatives and their substitutes, to present his report to the assembly, and to execute the decisions taken either by the assembly or the council.

In calculating periods of time consideration is always to be given far-away countries and the cables used in matters of urgency and importance.

BUDGET.

The budget for the ensuing fiscal year and the report and accounts for the past fiscal year will be submitted annually, the report provided for the approval of the assembly in September, the assembly to consider them after examination by a special committee, which will exercise the financial supervision normally belonging to a parliamentary body.

SPANISH AS A THIRD OFFICIAL LANGUAGE.

As to the addition of Spanish as the third official language of the league, the report continued, serious difficulty arose. The League of Nations represented the principle of equality among States great and small, and a grant of privilege to any one would undermine this principle. It could not be gainsaid that there are two languages in the world in general use in intellectual and economic intercourse between nations—languages which obtained official recognition from the fact that the covenant and treaty of Versailles were drafted in French and English. The adoption of about 20 languages on equal terms would cause general confusion. The Spanish representatives had, in a spirit of self-sacrifice and devotion to common welfare, agreed not to insist on the addition of Spanish at this session, but would reserve the question for the future.

Inasmuch, however, as one of the most distinguished Spanish-speaking representatives had told the assembly—in purest French—that some of his colleagues could best express themselves in Spanish and as the same possibility might arise as to others, it had been decided to allow every representative to speak in whatever language he preferred, furnishing either a French or English translation, and to allow each country to circulate league documents in its own language at its own expense.

The committee had reserved for further examination the questions of permanent committees and of the selection of the new permanent members of the council.

The committee's report with a few amendments was adopted.

THURSDAY, DECEMBER 2, 1920.—ARMENIA.

The president announced that the council, in compliance with the assembly's action of November 22, had appealed to the governments in respect to Armenia, and also to the President of the United States. He read the replies of President Wilson, agreeing to mediate, and of the Spanish and Brazilian Governments, agreeing to assist. (Text of the telegrams appear in council proceedings.)

AMENDMENTS TO COVENANT.

It was decided not to act on amendments to covenant at the present meeting, but to ask the council to refer these and others submitted within a certain period fixed by the council to a special committee for study and report to next assembly.

SATURDAY, DECEMBER 4, 1920.—RELIEF FOR CHILDREN—ARGENTINE AMENDMENT.

The president read a proposal from the Swiss delegation, that the council be requested to appoint a high commissioner to investigate best means of cooperating with existing international associations in relief of stricken children in war-affected countries, and a proposal from the Argentine delegation that all States in the community of nations be considered members of the league unless they expressly decline. The question of placing these proposals on the agenda was deferred until a subsequent meeting.

POLISH-RUSSIAN CONFLICT.

The assembly took up the motion of Delegate Barnes, asking the council why it had not intervened in the Polish-Russian conflict, and so forth.

Mr. Barnes (Great Britain) in supporting his motion said that even if there had been no specific authority in the covenant the council would have been justified in intervening by the bare facts of the situation—the facts that war was raging in an area where peace was vital to the rest of Europe and that the European peoples were longing for peace—if there had been the slightest chance of success, and he hoped to show that there was. He believed, however, the covenant contained specific authority. Article 11 reads: "Any war, whether immediately affecting any of the members of the league or not, is hereby declared a matter of concern to the whole league, and the league shall take any action that may be deemed wise and effectual to safeguard the peace of nations." The council, he said, was by that article under specific obligation to intervene. He admitted there might be cases where such action was not possible, for instance, the case of war between United States and Mexico, where considerations involving the Monroe doctrine would arise and where intervention might do more harm than good; or, for instance, a war between two small, remote States which might be allowed to run its course without disturbing or threatening general peace, but the Polish-Russian conflict was of different nature. It was occurring on the very edge of European civilization, in an area swept by four years of recent conflict, among a people enfeebled, impoverished, and diseased.

The speaker said that in February the soviet government had declared that it did not wish to fight Poland; that they had recognized the Polish Republic; that any causes of quarrel were capable of adjustment, and that they were willing and anxious to adjust them; that the council met on February 13, when negotiations had been opened between Russia and Poland as a result of this declaration; that those negotiations continued for a month, but the council did nothing, so far as he knew, to take advantage of the opening.

He said that in May the soviet government advised the council that Poland was making war without having given an opportunity of negotiation, and had seized Russian territory; that thus another chance of mediation was afforded regardless of the truth of these statements. He added that a month earlier the soviet government had circularized the allied Governments on this subject and that it was at that time evidently in the interest of Russia that intervention be accepted, but that this opportunity was also ignored.

A month or two later, he continued, the supreme war council intervened when Warsaw was endangered and saved Warsaw. The league council should have done something to create an appearance of impartiality; that the average man knew little of the differences between councils. He asked for an explanation. He said it was very important that there should be no question as to the impartiality of the League of Nations. He had no love for the soviet system, but that was the business of the Russian people.

Mr. Bourgeois replied to Mr. Barnes, stating that he, Bourgeois, was present at the meetings of the council during the events referred to; that the council did not intervene because it was clear that intervention would be of no avail and would be perhaps dangerous, because it might extend the conflict, and because there was no chance of getting the principle of intervention accepted. The league council at that time had at the request of the supreme council of the allies tried to make an inquiry into Russian conditions; that the soviet government did

not reply for two months, and when they did reply questioned the authority of the league; that the council expressed regret that the soviet government had made what was equivalent to refusal stating that if it did not accept the council's offer to make a peaceful inquiry into Russian conditions by June 15 responsibility for the situation would rest with the Russian Government. Under such circumstances there was no use to try further. Moral intervention had been rejected, one of the league's greatest forces. It had been used for members and nonmembers alike. The dispute between Sweden and Finland was an instance, so also that between Poland and Lithuania, the latter a nonmember. In offering mediation the council makes no distinction between members and nonmembers—invites both to its table.

He quoted article 11 in full:

Any war or threat of war, whether immediately affecting any of the members of the league or not, is hereby declared a matter of concern to the whole league, and the league shall take any action that may be deemed wise and effectual to safeguard the peace of nations. In case any such emergency should arise the secretary-general shall on the request of any member of the league forthwith summon a meeting of the council.

Neither Poland nor soviet Russia nor any other country, not even Great Britain, the country Mr. Barnes represented, asked the council to intervene. Economic pressure was out of the question because of the status of economic relations between the soviets and the rest of the world. The reply of the soviets to the invitation to attend a conference at Brussels was in such terms that no satisfactory result could have been expected. Military intervention was impossible because the league was denied a military weapon when it was first perfected. Recently the league council had been compelled to ask the great powers for help in fixing boundaries in Lithuania, but they could not have been asked to intervene between Poland and Russia with any hope that the request would be granted.

When the council first met in January many deprecated the existence of the league and awaited its first act with a spirit of irony. The council had to bring its machinery into existence. First, it proceeded to organize the permanent court of international justice and then it brought into being certain special organizations intimately concerning the life of all the States of the world and which allowed the whole body of the world—even its extremities—to take cognizance of what happened. The council had worked steadily, diligently, and with practical unanimity. It asked for confidence, faith, and time.

Mr. Paderewski, Poland, then addressed the assembly, stating that certain people could not pardon Poland for having retaken her place among the nations and therefore brought accusations against her; that others blamed Poland for the present state of affairs; that a sense of the ills of war led some to condemn a nation for making even a defensive war; that, unfortunately, Poland had been at war since the first day of its resurrection, but not of her own volition; that as hostilities ended in the west a new force rose up against Poland in the east, a force more destructive than the Great War had been; that hardly had Poland risen from the tomb than she had to defend herself against this new force and she did so as best she could; that one could see young children, boys and girls, mutilated and ill, victims of their own patriotism; that all this certainly did not imply imperialism; that he could not discuss the matter as freely as Mr. Barnes, because his country, Poland, had again begun negotiations for definite peace.

He asserted that Poland was not anxious for another war; that it had no imperialistic ambitions; that the Polish people had suffered too much already; that if the war began again the blame would not be on Poland; that if compelled to do so Poland would defend its independence to the end; that otherwise it would be an unworthy member of the league.

Dr. Nansen expressed gratification that this matter had been brought before the assembly, saying that if similar problems could have been discussed in like manner in the past many would have been solved; that in April it seemed the council did have the opportunity to intervene or at least take some step, the soviet government having in that month applied to some important powers, members of the league, for intervention; that these powers failed to intervene and that, as he understood it, the soviet answer to the league in May refused to admit a commission was partly based on the league's failure to intervene; that some step by the council would, in his opinion, have helped Poland; that Poland, as a member of the league, would not have refused the council's request. Mr. Bourgeois had said that no Government asked for intervention, and it might be that the Governments were to blame, not the council; that if such a meeting as the present could have been held in April the world would have been the better for it; that he wished Russia could be represented in the assembly at the present meeting, etc.

The president stated that the motion of Mr. Barnes did not call for a vote, but for an explanation, which had been given. The purpose of his motion had been achieved.

MONDAY, DECEMBER 6, 1920.—WITHDRAWAL OF ARGENTINA.

The president communicated the contents of a letter from the Argentine delegation withdrawing from the league because consideration of its amendments to the covenant had been postponed. These amendments were as follows: Admission of all sovereign States; admission of small States, but without the right to vote; the council to be constituted by election on democratic lines; compulsory jurisdiction for courts of arbitration and justice. Argentina had been the only nation to vote against the motion to postpone until the next assembly action on amendments.

The president also communicated his reply, voicing deep regret on behalf of the assembly.

The Argentine delegation stated in the above letter of withdrawal that the chief aim of the Argentine Government in sending a delegation was to cooperate in the work of drawing up the charter by means of amendments in which it was hoped would be embodied the ideals and principles which Argentina had always upheld in international affairs and from which she could never deviate; that this aim having disappeared, owing to postponement of amendments, Argentina's mission was ended.

AMENDMENTS TO COVENANT.

A covenant amendment by the Argentine delegation that all States be considered members except those expressly declining and one by Mr. C. J. Doherty, delegate from Canada, on behalf of Canada, that article 10 be struck out were referred to the committee on amendments to be set up by the council.

RELATIONS BETWEEN COUNCIL AND ASSEMBLY.

The next question was that of the relations between council and assembly, which had been referred to committee No. I. Mr. Viviani, France, and Mr. Rowell, Canada, submitted the report on this question, which may be summarized as follows:

I. We must look to the covenant in order to find the functions of council and assembly. First, however, we must consider from a constitutional point of view the legal position of the league, and we must at the outset eliminate certain hypotheses. We can not consider the assembly as a chamber of deputies and the council as an upper chamber. While in certain matters their rights are identical, in others they have special rights. They are not called on to discuss and decide exactly the same points. If they were upper and lower parliamentary chambers, the same subjects would come first before one and then before the other body. Neither can we consider the council as invested with the executive and the assembly with legislative powers. The assembly possesses executive prerogatives as well as the council. In truth the league has no analogy in ordinary constitutional law. Article 2 of the covenant provides that the action of the league shall be effected through the instrumentality of an assembly and a council. The league is therefore a single organism having at its disposal two organs, whose distinct and whose similar attributes we now consider.

II. The council alone (1) has the approval of the appointments of the secretary general; (2) may decide that the seat of the league shall be elsewhere than at Geneva; (3) shall formulate its plans for reduction of armaments; (4) must give its consent to armaments exceeding these limitations; (5) shall advise as to the evil effects attendant on manufacture of arms by private enterprise; (6) shall advise in case of aggression; (7) must formulate and submit proposals for establishment of a permanent court of justice; (8) may act as a council of mediation; (9) must make recommendations to the Governments as to military contribution to the armed forces to be used to protect the covenants of the league; (10) will define the conditions of the mandates if they have not been previously agreed upon by the members of the league; (11) may consent to cooperation of the secretariat with international bureaus and committees; (12) derives certain clearly defined functions from the peace treaties (art. 48, art. 50, annex 17, art. 213, treaty of Versailles; art. 150, treaty with Austria; art. 104, treaty with Bulgaria, etc.); (13) may initiate increase of permanent and nonpermanent members of council.

III. The assembly alone (1) admits new members to the league, (2) elects certain representatives on the council, (3) approves additional members of the council, (4) approves council's nomination of secretary general, (5) hears disputes referred from council to assembly, etc. In these matters final decision rests with the assembly, not the council.

IV. The decision of certain matters is left to the league without it being specified as to whether right of decision belongs to council or assembly (arts. 23 and 24 of covenant; arts. 103, 336, 338, 376 treaty of Versailles).

V. Articles 3 and 4 of the covenant are identical in language as to assembly and council, article 3 being as follows:

"The assembly may deal at its meetings with any matter within the sphere of action of the league or affecting the peace of the world," and article 4 reading:

"The council may deal at its meetings with any matters within the sphere of action of the league or affecting the peace of the world."

VI. The committee does not deem it desirable to formulate in explicit language at the present time the precise functions which council and assembly are respectively expected to perform. In a report to the council on this subject, a report approved by the council, Mr. Balfour used these words:

"The moral I would draw from these broad consbierations is that the less we attempt to formulate in explicit language the precise functions of council and assembly, the better for the future of the league. Let us substitute for any such formulation of our respective duties a resolve to deal with any difficulties between assembly and council, not

according to prearranged rules, but according to the dictates of fact and common sense, treating each case as it arises on its merits."

VII. In the Balfour report mixed committees are suggested to settle questions of doubtful competence between council and assembly. Decision of this question is not considered necessary for the present.

VIII. The next question is the nature of the executive effect of decisions of the council and assembly. The committee believes these bodies have complete authority in all matters which the covenant or treaties have committed to them for decision. Other matters require concurrence and action of governments concerned in the form of international conventions, such as those mentioned in article 23, paragraph (a), whereby the members of the league are to endeavor to secure and maintain fair and humane conditions of labor for men, women, and children both in their own countries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organizations; paragraph (b), whereby the members are to undertake to secure just treatment of the native inhabitants of territories under their control; paragraph (c), whereby members are to make provision to secure and maintain freedom of communications and of transit and equitable treatment for the commerce of all members of the league, the special necessities of regions devastated during the war of 1914–1918 to be kept in mind; paragraph (f), whereby members are to endeavor to take steps in matters of international concern for prevention and control of disease. In these last-named matters the responsibility of Governments represented at the assembly, being external to the assembly, can not be engaged. The assembly acts, therefore, by recommendation or invitation leading up to agreements between Governments.

IX. Another question is whether a member of the council, in rendering his decisions on the council, represents the country appointing him or acts in an independent capacity. Representatives on council and assembly are responsible to their own Governments exclusively. The assembly can not interfere with the choice a State member makes of representatives nor prevent a representative from saying what he pleases. It should be thoroughly understood that when a representative votes the vote is that of the member State he represents, whether the vote be cast in council or assembly.

Committees of assembly failing to complete their labors can not continue after assembly adjourns. This ruling is necessary because each State has one representative on each committee, and members of committees could not be kept in Geneva after assembly adjourns.

X. The committee suggests following principles:

(a) The council and the assembly are each invested with particular powers and duties; neither body has jurisdiction to render a decision in a matter which has been expressly committed to the other organ of the league.

(b) The assembly has no power to reverse or modify a decision which falls within the exclusive competence of the council. The same respect must be shown by the council for decisions of the assembly.

(c) Under the covenant representatives sitting on the council and the assembly render their decisions as the representatives of their respective States, and in rendering such decisions they have no standing except as such representatives.

(d) The council will present each year to the assembly a report on the work performed by it.

Report adopted, except as to paragraph (b), article 10. This was reserved for further discussion.

TUESDAY, DECEMBER 7, 1920.—RELATIONS BETWEEN ASSEMBLY AND COUNCIL.

It was agreed to strike out paragraph (b), article 10, of report of committee on relations between council and assembly, and this settled the point reserved on Monday, December 6, for further debate.

RELIEF OF CHILDREN.

The Swiss motion regarding relief of children in war-affected countries was referred to committee No. 2 for report as to whether it should be discussed at present session.

TYPHUS.

The question of typhus in eastern Europe was taken up, and the following resolutions adopted, the first being proposed by a special committee, the second by Dr. Nansen:

The assembly resolves, first, that an urgent and immediate appeal shall be made by the assembly to all the countries of the world for an adequate fund for prosecuting an effective campaign against epidemic disease in eastern Europe, beginning with Poland as a center, and that the International Office of Public Hygiene, International Committee of Red Cross, and League of Red Cross Societies should be earnestly asked to cooperate. The assembly approves of the action taken by the council and the reports submitted by the various committees and subcommittees of the assembly which have considered the subject, and pending the result of the appeal feels that it is imperatively necessary to make at once such a beginning of the campaign as may be possible within the limits of the funds already promised.

Second, that the president be empowered to nominate a committee of not more than three delegates of the assembly to examine the question of the funds necessary for the campaign against typhus, and to take any steps possible before the end of the session of the assembly to secure these funds.

WEDNESDAY, DECEMBER 8, 1920.—TECHNICAL ORGANIZATIONS.

This day was taken up principally with debate on relations between technical organizations and the council and assembly, no vote being reached.

THURSDAY, DECEMBER 9, 1920—TECHNICAL ORGANIZATIONS.

The assembly adopted the resolution of the council on the subject of technical organizations, dated May 19, 1920, and submitted to the assembly by the council. This resolution has already been set out in the council proceedings of the date mentioned.

ADVISORY ECONOMIC AND FINANCIAL COMMITTEE.

After debate a resolution was passed for the creation of an advisory economic and financial committee to aid the league in working out economic and financial measures to be submitted for adoption by members of the league in accordance with the covenant—this committee to replace the provisional technical economic and financial committee appointed by the council. The resolution authorized the council to call a financial and economic conference to consider economic and financial problems with power to constitute the advisory economic and financial committee above referred to. The assembly indorsed the note addressed by the council to the various Governments embodying the results of the Brussels conference.

COMMUNICATIONS AND TRANSIT.

The matter of communications and transit was next considered. A resolution was carried inviting the members of the league to send special representatives to a general conference on freedom of communications and transit to meet at Barcelona as soon as possible after the adjournment of the assembly, the conference to be invited to draw up measures to be taken by the league in discharging its duties under the covenant and treaties in this regard, to hold subsequent meetings as the council might direct, and to establish a standing communications committee with headquarters at Geneva to advise the council and assembly in matters of transit, ports, waterways, communications, etc.

The assembly enacted a resolution submitting all disputes in transit matters coming within its authority under the covenant and treaties to the permanent court of justice, and pending its establishment to a court of arbitration.

FRIDAY, DECEMBER 10, 1920—INTERNATIONAL HEALTH ORGANIZATION.

The question of an international health organization was next considered and the body already set up by the council approved with some amendments.

ECONOMIC BLOCKADE.

The committee to which was assigned the subject of the economic weapon of the league, a matter referred to the assembly by the council, reported to the assembly recommending that the council be asked to appoint an international blockade commission to consider the application of article 16 of the covenant and to report to the council and the council to transmit the report to the assembly at its next annual session.

Pending that report the committee recommended certain steps making immediately effective the economic weapon of the league under article 16 of the covenant against a covenant-breaking State, these steps being subject to review by the international blockade commission when appointed, and calling for the following procedure:

(a) The secretary general to call the attention of the council to any facts which in his opinion show that a member of the league has become a covenant-breaking State under article 16.

(b) On receipt of such information the council to hold a meeting as soon as possible, and to send the minutes of the meeting to all other members.

(c) As soon as a member is satisfied, as a result of this message from the secretary general, that a breach of the covenant within article 16 has occurred, it is his duty to take measures to carry out the first paragraph of article 16, which reads as follows: "Should any member of the league resort to war in disregard of its covenants under articles 12, 13, or 15, it shall ipso facto be deemed to have committed an act of war against all other members of the league, which hereby undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between other nations and the nationals of the covenant-breaking State, and the prevention of all financial, commercial, or personal intercourse between the nationals of the covenant-breaking State and the nationals of any other State, whether a member of the league or not."

(d) These measures to include breaking off of all diplomatic relations. But relations which exist for purely humanitarian purposes may be maintained with the covenant-breaking State.

(e) Prevention of any commercial or other intercourse between the residents within its borders and those residing in the covenant-breaking State; immediate passage of necessary legislation to this end, in accordance with the constitution of each State member.

(f) Where the covenant-breaking State has a seaboard, effective blockade to be instituted, and council to consider forthwith which members could most conveniently be asked to discharge this duty.

Discussing this report, Lord Robert Cecil said that while the economic weapon was of vital importance it must be remembered that the most powerful weapon of the league was not the economic weapon, the military weapon, or any other weapon of material force, but the weapon of public opinion. He believed that the action of the league would depend far more on the efficacy of public opinion than on any other consideration. Almost every nation would yield to public opinion, but just as some individuals in private life are unrestrained by the disapproval of the public so nations will at times disregard international public feeling. By article 16 it is provided that when a member nation, contrary to its covenants, insists on going to war without giving proper opportunity for consideration and discussion, said nation shall be deemed to have committed an act of war against all other members, who are in the first place to put in force against the offender all possible economic pressure. While article 16 calls for economic pressure.

it provides no effective machinery. To supply this defect and make article 16 genuinely effective are the objects of the report now before the assembly, he said.

The report was after discussion adopted in substantially the original form, a few amendments having been added.

SATURDAY, DECEMBER 11, 1920.—ESPERANTO.

The following resolution, signed by a number of delegates, and referring to esperanto, an international language, was presented and referred to a committee:

The League of Nations, well aware of the language difficulties that prevent a direct intercourse between the peoples and of the urgent need of finding some practical means to remove this obstacle and help the good understanding of nations, follows with interest the experiments of official teaching of the international language esperanto in the public schools of some members of the league, hopes to see that teaching made more general in the whole world, so that the children of all countries may know at least two languages, their mother tongue and an easy means of international communication, and asks the secretary general to prepare for the next assembly a report on the results reached in this respect.

NONPERMANENT MEMBERS OF COUNCIL.

In reference to the election of the nonpermanent members of the council it was resolved that the membership of Belgium, Brazil, Spain, and Greece, provisionally conferred by the covenant, would expire December 31, 1920, that their successors be elected at the present meeting one at a time by secret ballot; that if no member obtained a majority on the first ballot a second ballot should be confined to the two highest, and in the event of a tie the chairman to decide between them by lot; that various proposals as to periods of eligibility, geographical distribution, and so forth, be submitted to the council committee on amendments to covenant for report to next assembly; that in the present election it was recommended that three of the nonpermanent members be selected from Europe and the two American continents and one from Asia and the remaining parts of the world.

MONDAY, DECEMBER 13, 1920.—PERMANENT COURT OF INTERNATIONAL JUSTICE.

This day was devoted to discussion of report of committee on the permanent court of international justice.

Delegate Bourgeois said that the constitution of the court was an essential task of the League of Nations; that a complete scheme was now for the first time placed before the world; that all previous difficulties had been overcome, organization, permanence, duration of tenure of judges, procedure, nomination of judges; the result being a tribunal above and outside of political influences; that a permanent court would now be established with absolute independence; that the method of obtaining international justice conceived by the covenant was now open to all; that it would help to establish future peace on the elements of justice.

Dr. Hagerup, Norway, presenting the committee's report, said that the credit of a successful system of nominating judges belonged to the league. The committee had proposed a change in the plan submitted through the council by its committee of jurists—a change in the method of nomination—the committee suggesting that the nominations should be made not by the Governments but by the national groups of The Hague Court of Arbitration already existing, and by other national groups formed by league members who had not signed The Hague arbitration convention, each group to nominate four candidates instead of two. The committee of the assembly makes more comprehensive the provision that judges of the court shall not hold or exercise any political or ministerial function. The assembly committee also suggests that where technical questions come before the court special technical advisers may sit with and advise them, but may not vote in deciding the case. It was not thought best to recommend compulsory jurisdiction at this time, but an amendment had been added making it possible for States to accept a certain measure of compulsion for themselves. The statute creating the court was to be submitted to member nations for ratification after adoption by assembly and the council would be invested with the duty of looking after and expediting ratifications, the court to come into existence with ratification by a majority. It was hoped that the next assembly could proceed with the election of the judges, the necessary ratifications having been secured in the meantime. The statute was open to ratification by all States mentioned in the annex to the covenant, including the United States. A representative of the United States, Mr. Root, had been a member of the committee of jurists which prepared the scheme at The Hague. Even if the United States had not accepted the league, this would not prevent its acceptance of the court. Some had said that the permanent court was little better than The Hague Court of Arbitration, but the fundamental improvement is that the judges of the former are not selected specially by the parties, but constitute a definite and permanent corps for all cases within their jurisdiction, devoting all their activities to the work, a body which will become the nucleus for the development of international law.

After further discussion the committee report and the following resolutions were adopted:

The assembly declares unanimously its approval of the draft statute of the Permanent Court of International Justice, as amended by the assembly, which was prepared by the council under article 14 of the covenant submitted to the assembly for approval.

In view of the special wording of article 14 the statute of the court shall be submitted within the shortest possible time to the members of the League of Nations for adoption in the form of a protocol duly ratified and declaring their recognition of this statute. It shall be the duty of the council to submit this statute to the members.

As soon as this protocol has been ratified by the majority of the members of the league the statute of the court shall come into force, and the court shall be called upon to sit in conformity with the said statute in all disputes between the members or States which have ratified, as well as between the other States to which the court is open under article 35, paragraph 2, of the statute.

The said protocol shall likewise remain open for signature by the States mentioned in the annex to the covenant.

TUESDAY, DECEMBER 14, 1920.—DISARMAMENT.

The question of disarmament was taken up. Delegate Fisher, of Great Britain, introducing the committee report on this matter, said that the League of Nations was framed for the maintenance of peace, for the security and better observance of international obligations; that one of the most important steps to these ends was the reduction of armaments to the minimum, compatible with the maintenance of national security and the discharge of national obligations. The competition of armaments had in the past proved a fruitful source of international unrest, and the covenant laid down clearly and firmly the desirability of taking steps toward the reduction of armaments.

He said that article 8 of the covenant contemplated a full and frank exchange of military information, the reduction of armaments on a systematic and comprehensive plan, the development of measures mitigating the evils incident to private manufacture of armaments. It went even further, and supplied the council with an organization and with machinery for the attainment of these objects.

The speaker realized the difficulties in the way, the fact that Europe was still in a state of unstable equilibrium, that large areas were still disturbed, that many powers of great actual or potential military strength still stood outside the league, the necessity of executing in full the military clauses of the peace treaties, and exacting security for their observation before mutual trust and general stability could be attained.

Much, however, had already been accomplished, drastic measures having been taken, and still being taken, to reduce the armaments of central Europe. The stern force of economy was promoting reductions in many powerful States. The process was of necessity slow and gradual. An arms traffic convention had been concluded at St. Germain on September 10, 1919, with the object of limiting the traffic in arms and of preventing the vast surplus of munitions accumulated in recent years from reaching the disturbed regions and creating fresh embarrassment and trouble. The war had caused great increase in machinery for making arms and munitions, and there was danger that the demand for armaments might be stimulated by the enterprise of firms desirous of disposing of surplus stocks. The committee was deeply impressed with the value of the arms traffic convention, but noted that so far it had not been ratified by a majority of the signatory powers. Among the powers framing this convention were the United States, Belgium, Bolivia, British Empire, China, Cuba, Ecuador, France, Greece, Guatemala, Haiti, Fiji, Italy, Japan, and so forth. Accordingly the committee had in its report recommended the early ratification of this convention. It had also recommended that problems involved in private manufacture of arms be referred to the permanent armaments commission of the council for study and report.

The committee also recommended that a special civilian commission be authorized to advise on economic, social, political, legal, and other nonmilitary aspects of the question of armaments.

The committee suggested further that effective progress in disarmament required (1) complete fulfillment of reduction of armaments imposed by the peace treaties on certain powers; (2) exercise of right of investigation accorded by these treaties to the council of the league in order to maintain that reduction; (3) collaboration of great military powers outside the league.

The report of the committee suggested that the council request the permanent advisory commission on armaments rapidly to complete its technical examination into present condition of armaments; instruct the temporary commission versed in political, social, and economic matters to prepare reports and proposals for reduction of armaments as provided in article 8 of covenant, and form within the secretariat a section to co-

operate with this commission and to serve as a channel for publication and exchange of military information referred to in covenant; consider a mechanism for verifying information thus exchanged in the event verification should be approved by an amendment to covenant; and, pending full execution of article 8, request Governments to keep their military budgets for two years at the level of the coming fiscal year, with exceptions as to military obligations that might arise under the league.

Discussion proceeded with the result that the report and resolutions were adopted, the last instruction to the council having been changed to a recommendation. This was made necessary by the lack of unanimous support for this form of an instruction. The vote on adopting the recommendation was 30 to 7.

WAR PRISONERS—RETURN OF GREEK CHILDREN.

Dr. Nansen reported the need of additional funds to complete the work of repatriating prisoners, and was thanked by the Greek delegation for his activities in returning Greek children from Bulgaria.

WEDNESDAY, DECEMBER 15, 1920.—OPIUM TRAFFIC.

On the subject of the traffic in opium it was resolved that the league should undertake the duties placed on the Netherlands by the opium convention; that for this purpose and to enable the league to fulfill the functions assigned it by the covenant in connection with the opium traffic the secretariat of the league be instructed to ascertain the arrangements of the various countries for carrying out The Hague opium convention of 1911–12, and gather data on production, distribution, and consumption of the drug, and so forth; that to secure fullest possible cooperation and to advise the council an advisory committee be appointed by the council, including representatives of the countries mainly concerned, especially Holland, Great Britain, France, India, Japan, China, Siam, and Portugal, to meet at such times as desirable under general direction of council; that nonmember States be invited to cooperate, especially the United States; that the council be authorized to add not more than three persons with special knowledge to act as assessors to the committee; that the advisory committee shall three months before each assembly present to council for submission to assembly a report on execution of agreements as to traffic in opium and other dangerous drugs.

TRAFFIC IN WOMEN AND CHILDREN (WHITE-SLAVE TRADE).

In the matter of the traffic in women and children it was resolved that the secretariat send a questionnaire to all Governments asking what legislative measures have been taken to combat the traffic and what were contemplated; that the Governments signatory to the 1904 and 1910 international conventions on this subject be immediately urged to put such conventions into operation; that the council be requested to invite the powers signatory or adherent to the international conventions of 1904 and 1910 to send representatives to an international conference to be held before the next assembly, this conference to coordinate replies to the questionnaires received by the secretariat and to endeavor to secure a common understanding between the various Governments with a view to future united action; that the council be invited to constitute a committee of inquiry with a view to informing the council as to present situation in Armenia and Asia Minor and adjoining countries regarding deported women and children, the committee to be composed of three members from the districts in question, one to be a woman.

Among the delegates speaking for this resolution was Miss Forchhammer, of Denmark.

In explaining the resolution Delegate Jonescu, Rumania, chairman of the reporting committee, made it plain that it was beyond the power of the league to send a committee of inquiry into countries not desiring and asking it. The committee had to be limited, therefore, to the countries provided for in the Turkish peace treaty.

NONPERMANENT MEMBERS OF COUNCIL.

Spain, Brazil, Belgium, and China were elected nonpermanent members of the council for one year.

ADMISSION OF NEW STATE.

The report of the committee on admission of new States to the league was presented. The delegate presenting the report, Mr. Huneeus, of Chile, stated that the committee had been imbued with the spirit that all further States offering adequate guaranties and determination to observe international obligations should be admitted, whether applicants were ex-enemy States or otherwise.

Austria was admitted.

THURSDAY, DECEMBER 16, 1920.—ADMISSION OF NEW STATES.

Bulgaria, Costa Rica, Finland, and Luxemburg were admitted.

Armenia was denied admission. It was contended in the discussion that her boundaries had not been determined, that her governmental authority had not been generally or definitely established, and that if admitted a mandate could not be obtained for her. The question of admitting her to membership in the technical organizations was returned to the committee.

The assembly adopted the following in reference to Armenia:

The assembly earnestly hopes that the efforts of the President of the United States, supported by the Governments of Spain and Brazil and by the council of the league, will result in the preservation of the Armenian race and in securing for Armenia a stable government, exercising authority throughout the whole of the Armenian State, as the boundaries thereof may be finally settled under the treaty of Sevres, so that the assembly may be able to admit Armenia into full membership of the league at its next meeting.

Esthonia, Latvia, Lithuania, and Georgia were denied admission. The determining contention in the discussion seemed to be that these countries were not on a sure foundation, and that the league would not be in position to make effective as to them its obligations under article 10. It was decided, however, to admit these States into the technical organizations of the league and the labor office.

FRIDAY, DECEMBER 17, 1920.—ADMISSION OF NEW STATES.

Albania was admitted to the league.

Azerbaidjan, Ukraine, and Lichtenstein were not admitted to membership. The report on the first two favored rejection on account of unstable frontiers and Governments. The objection advanced against Lichtenstein was its size, but a resolution was adopted calling on the council committee on covenant amendments to consider whether and in what manner it would be possible to attach to the League of Nations sovereign States which by reason of small size could not be admitted as ordinary members.

ARMENIA.

The president laid the following proposal of the Rumanian Government before the assembly:

In order to bring about speedy and real assistance to the Armenian people, who are apparently in death's agonies, Rumania proposes to the allied nations assembled at Geneva that an international expeditionary force should be formed, charged with the duty of establishing order and peace in Armenia, and this international body should be placed under the command of an interallied general staff, and might be composed of a force of 40,000 men, made up of detachments of all the countries at present belonging to the League of Nations according to their proportionate populations. Rumania declares herself ready to assist in this work, both in material and men, and her money.

This communication was referred to the special committee on Armenian affairs.

POGROMS.

The president announced that he had received letters from two private organizations inviting the attention of the assembly and the civilized world to the perils of the pogroms and the dangers and sufferings of Jewish populations who had emigrated from the east to western areas. He said these letters would be published and circulated among the delegates.

BUDGET.

Discussion now ensued on the budget of the league.

Sir George Foster, a delegate from Canada, presenting the committee report on this subject, said during his remarks that the financial foundation of the league was a contribution allocated on a certain basis to the different nations who are members of the league; that the contribution was a voluntary one voted under the auspices of the governments by the legislatures to which these governments are responsible; that it was of vital importance that the contributions should be promptly paid and loyally given; that they constituted the only fund the league had at its disposal for its operations. All but three countries had paid their allocations for the first period, which ended March 31, 1920. For the second period, which ended December 31, 1920, 10,000,000 gold francs had been allocated and a little less than half paid to date. The council should establish some rule as to members lax in payments.

The speaker said that the basis of allocation should be just and fair, the existing basis being neither. South Africa, with a million and a half whites, paid as much as Great Britain, France, and other first-class nations. An equitable plan was proposed in the report and every effort would be made to substitute it for the present one. A more systematic method of preparing estimates of expense was also suggested, and also an improved system of controlling expense.

The report recommended, said the speaker, that a small committee of experts should make a thorough examination into the organization, methods of work, efficiency, numbers, salaries and allowances, and general expenses of the secretariat and

labor organization, and report to the council, that report to be in the hands of members by June 1, 1921.

The league should stand for the strictest economy compatible with efficiency. The league had performed notable work. Already it had brought about a fusion of sentiment and a unity of purpose that promised well for the future peace of the world. The speaker concluded with these sentences:

The alternative is a League of Nations or bloody war in the future. Which shall we take? Humanity cries out for the one and reprobates the other. This assembly has its opponents, bitter, some of them. It has its honest critics, its fair critics, and its malicious critics. It has its warm friends, and it has outside yonder the vast mass of humanity, inarticulate in a great degree, but predisposed to peace and praying for the accomplishment of a universal peace. With what watching and anxiety has this assembly been followed since its entrance upon its labors here in Geneva. This ship upon the stocks—would it crumble upon the ways or would it glide peacefully and successfully into the waters? We have seen the operation. The ship is now upon the world's seas. What dangers it may meet with, what perils it may encounter, what storms it may have to pass through before every pirate of war is swept from the seas of the world, and the ship sails successfully at last into the port of universal peace, we do not know, but God rules in heaven and humanity prays on earth, and what humanity prays for such a God will never deny.

The budget report and recommendations were adopted with a few amendments.

SATURDAY, DECEMBER 18, 1920.—MANDATES.

The report of the committee on mandates came up for consideration.

Dr. Nansen said that the league mandates exemplified a new idea in the colonial politics of the world, the idea that colonies were not taken from enemy States as property, but intrusted to different countries under mandates from the league; that enemies of the league called this hypocrisy, another form of annexation; that the exercise of mandates was therefore to some extent a test of the league, and that he was sure the league would stand the test.

After presenting and analyzing the report Lord Robert Cecil said that the league was now entering the most difficult period of its existence; that hitherto it had been occupied mainly with questions of internal organization, most of which were now settled; that the league would now be called upon to meet international problems as they arose and must do its part with courage, not attempting too much, not lapsing into inaction.

Among the league enemies, he asserted, were the militarists, who believed war was the only way of settling international disputes; the bureaucrats, who could not believe that the system in which they had been brought up was unsuitable to modern disputes; the reactionaries, who are alarmed at anything new; and the revolutionaries—in some ways the most formidable of all—who see in the league, and see rightly, a great obstacle to their design, a great barrier against revolution, a great force of stability, and who wish its enfeeblement and destruction. Among the friends of the league were all the great religious forces of mankind, and that great mass of opinion that loves righteousness and hates evil, that loves peace and hates war. Suspicion would be the great weapon against the league; easy to excite amid the vast dangers and difficulties besetting the world.

We are engaged, he continued, in a new and great experiment, a novel thing, and old methods must be discarded. The friends of the league should study the methods of the congress of Vienna and do the opposite. Their one strength was to throw themselves on the support of the peoples of the world. Secure their support by taking them into your confidence, telling them what you have done, what you are doing, and the reasons prompting you.

Discussing the report, Delegate Bourgeois said that not a single point on which differences arise in the league was overlooked by its enemies; that many of them were writers who flooded the world's press and the various countries with gloomy predictions that the league was soon to dissolve. They saw nothing of the unanimity that marked most of the acts of the league but magnified the smallest items of disagreement.

The recommendations of the report were as follows:

(1) Members of the mandates commission should not be dismissed without the assent of the majority of the assembly.

(2) The commission should contain at least one woman.

(3) The mandatories should be asked to present to the commission a report on the recent administration of the territories now confided to their care.

As to mandates A the report recommended:

(4) The mandatory should not be allowed to make use of its position to increase its military strength.

(5) The mandatory should not be allowed to use its power under the mandate to exploit for itself or its friends the natural resources of the mandated territory.

(6) An organic law should be passed in the mandated territories as soon as possible, and before coming into force should be submitted to the league for consideration.

The report made this general recommendation:

(7) Future drafts of mandates should be published before they are decided upon by the council.

During the debate on the mandate report and recommendations Delegate Balfour deprecated what he claimed was an erroneous view pervading the discussion and the report, viz, that the assembly was the responsible body under the covenant for dealing with mandates. He asserted that the whole responsibility lay with the council, and the council alone, and that nothing the assembly did could lessen the responsibilities or hamper the freedom of action the covenant had conferred on the council. He would support the report and recommendations, but they would not modify his freedom of action as a member of the council or control his vote. He would accord them respectful consideration, of course; so should the council. It could not be bound by them, however, and perform its duties under the covenant. This brought forth a spirited and at times rather critical reply from Lord Robert Cecil, who concluded by again calling for more publicity in the transactions of the council. He said the assembly was not trying to take away the council's jurisdiction, but to give it the assembly's judgment for study and consideration.

The report and recommendations were adopted.

ARMENIA.

The committee on Armenia reported and asked that it be continued after the assembly adjourned, so that it might go on with its work. This was opposed by Mr. Viviani, who said the assembly could not afford to have permanent committees; that the council was the permanent committee of the assembly, and he proposed that the Armenian matter be left to the council.

The Rumanian delegate, Mr. Jonescu, reviewed the proposal for a joint military expedition in behalf of Armenia, and Mr. Viviani contended that this, too, should be referred to the council.

Mr. Jonescu agreed to that course, and both Armenian proposals were referred to the council.

TYPHUS AND KINDRED EPIDEMICS IN EASTERN EUROPE.

The committee on typhus and kindred epidemics in eastern Europe reported that the sum of £2,000,000 should be asked for as a contribution to the campaign against the epidemics in eastern Europe in addition to the amounts that might be raised by the League of Red Cross Societies, that the organization of the work should be left with the council, working through the chief medical commissioner of the typhus campaign of the League of Nations and the Red Cross League. The various delegations of the assembly were requested to present the matter to their governments, urging speedy and favorable action. The report was adopted.

RELIEF OF CHILDREN.

As to relief of children in war-affected countries the council decided to deal with the matter in conjunction with existing organizations.

ESPERANTO.

The report from the committee on an international language stated that Esperanto was being officially taught in some of the States members of the assembly and recommended that the secretariat inquire as to results, reporting to the next assembly. M. Hanotaux, French delegate, made the following comment:

May I ask that we should adjourn this question? Here we had to record the other day a decision not to be able to accept a very old and interesting language—the Spanish language. It is now proposed that we should make an inquiry with regard to the study of an entirely new tongue. As a member of the French Academy, and representing a very beautiful and old language which has beautifully developed traditions in the literary world, I ask that our French language should defend its rights against any imposition of new languages and new creations and that we should, therefore, adjourn this question.

The assembly decided not to consider the question further.

INTERNATIONAL ORGANIZATION OF INTELLECTUAL WORKERS.

Delegate La Fontaine, of Belgium, introducing the report of the committee on organization of intellectual work, said that the problem involved was how far it was possible to organize the intellectual work of the world; that great progress had been made during the last 25 years; that the council had already shown marked sympathy with all efforts to unite the thinkers of the world; that while nations had been fighting each other, thinkers had crossed frontiers and conferred together; that since 1840 an extraordinary development of international relations had been apparent; that from 1840 to 1850 only 10 international conferences were called, but between 1900 and 1910 there were no less than 1,600 such conferences, and that during the four years preceding the war there were 500.

These conferences, he stated, dealt with a great variety of matters, delegates coming from all parts of the world. He was

of the opinion that this general movement should be assisted, coordinated, and rendered more effective. Groups of international bodies had already been united into 400 international associations. An international union of 230 associations of different kinds was formed just before the war.

The object of these combinations was to give precision and method to the work of those who labored with their heads and not with their hands. The committee now asked the league to do the same for these workers that it had done for manual workers. An international labor office had been established for manual workers and a budget recently voted it of 7,000,000 gold francs. The committee asked the same treatment for intellectual workers, but not for a similar amount of money. Only a few hundred thousand francs would be required to complete the organization.

The committee suggested the following resolution:

The assembly of the League of Nations, approving the assistance which the council has given to works having for their object the development of international cooperation in the domain of intellectual activity, and especially the moral and material support given to the union of international associations on the occasion of the inaugural session of the international university and of the publication of the list of recommendations and resolutions of the international congresses, recommends that the council should continue its efforts in this direction and should associate itself as closely as possible with all methods tending to bring about the international organization of intellectual work.

The assembly further invites the council to regard favorably the efforts which are already in progress to this end, to place them under its august protection, if it be possible, and to present to the assembly during its next session a detailed report on the educational influences which it is their duty to exert with a view to developing a liberal spirit of good will and world-wide cooperation, and to report on the advisability of giving them shape in a technical organism attached to the League of Nations.

Mr. Barnes, of Great Britain, opposed the resolution, holding that no distinction should be drawn between manual and intellectual labor at all. He said it was quite true that hitherto the mass of mankind had been regarded as mere hewers of wood and drawers of water, but that we were now getting an educated democracy, a democracy not content with that position of subordination; that the line between intellectual and manual labor was tending to disappear; that the resolution tended to perpetuate it.

He contended that the league had a sufficient number of technical organizations; that the international labor office was the proper place for assistance to intellectual labor. Intellectual labor should assert itself, as manual labor had done, and not come begging. Men of letters had begun to stand up for themselves. Journalists had rescued themselves from subservience and dependence, and men of letters were getting away from the old idea of patronage.

Mr. La Fontaine replied that Mr. Barnes misunderstood the proposal; that the object of the proposed intellectual organization was to enable men of learning in every nation to collaborate, to compare, collect, and publish all their works; to give more coordination, force, and power to human thought; that if intellectual workers desired to organize for better physical surroundings, pay, and so forth, the labor office would aid them, but that the organization here sought was for a different purpose and could give manual workers as well as all others the benefit of the widest intellectual and educational development.

Mr. Barnes moved the previous question; motion lost.

The resolution was adopted.

AMENDMENTS TO COVENANT.

The president stated that all communications relating to amendments to the covenant should be submitted to the council committee on amendments not later than March 31, 1921, the council having fixed that date as the limit.

CLOSING ADDRESSES.

All business having been finished, the president, Mr. Hymans, delivered a closing address.

He said in the course of his deliverance that no atmosphere could have been more favorable to the labors of the assembly than that of the Genevese democracy fashioned by centuries of free government.

It had been said five weeks before that the league was making a great experiment; to-day it could be said that the experiment was a success. For five weeks the assembly had been engaged in work and discussion; it had been divided into numerous committees and subcommittees. In the committees, in which all States were represented, and in the subcommittees care had been taken to secure the presence of the most expert and competent men, and the work had been painstaking, thorough, conscientious. Every question had been subjected to searching investigation. The committee on the permanent court had held 22 meetings.

Continuing, Mr. Hymans said that when the assembly met means of action and methods of discussion were uncertain. Promptly the assembly determined its rules of procedure. It determined clearly its relations with the council and fixed its budget. Wisely it decided not to revise the covenant immediately, but to give suggestions of change opportunity to mature, at the same time allowing the covenant to meet the test of actual operation. Wisely it submitted all proposals of amendment to a committee to be nominated by the council for study and report to the next annual session of the assembly.

The assembly had admitted six new States to the league. It had in the endeavor to remedy economic disorder created technical organisms which should become useful factors for human cooperation, examination, criticism, action, among these being the advisory economic and financial committee, the transit committee, the organizations against typhus, opium trade, traffic in women and children, and so forth.

One idea had dominated the assembly, the need of destroying the most terrible scourge of all—war! Slowly and carefully the means of doing this had been examined. A system of economic penalties had been organized, the international blockade commission created. The question of disarmament was under investigation, an ideal which could be entirely realized only in the future. There were still nations who by reason of their political and geographical position, and because the League of Nations had not yet acquired the real authority it would one day possess, were obliged to take indispensable measures to guarantee their security.

The greatest achievement of the league, continued the speaker, was the permanent court of international justice, an idea which had been germinative for so many years. He referred especially to article 36 in the draft scheme for the court, enabling States by a simple declaration, with whatever methods or reservations they prefer, to admit its obligatory jurisdiction for all disputes of juridical nature. This was a remarkable step forward—a step which would leave its mark on history, opening the road to obligatory arbitration.

He spoke of the assembly's efforts to help Armenia. For a long time, he said, the great powers had been dealing with the Armenian problem, but had been unable to solve it. The assembly had not secured a mandatory, but had found a mediator—President Wilson—whom Spain and Brazil had generously promised to help. Every effort would still be made to save this martyred people.

Fraternity and sincerity had marked the proceedings. There were differences of opinion, but not of principle. Men assembled from all corners of the earth were united in the cause of justice and peace.

Another feature of the assembly had been recognition of the equality of States, of the fact that the interest of humanity was a general interest; that small States had the same interest as the large States in the safety of humanity.

He concluded with these words:

In the history of humanity all great works in their beginning have met with the skepticism, the jeers, and the disparagement of the feebler spirits. Let us leave such things on one side and march forward. Let us appeal to the opinion of the peoples. We have given them a great hope. They will never renounce it.

Let us appeal also to youth. I will not say that we are all old, but many of us are already the men of yesterday; some of us can still claim to be the men of to-day; but I appeal to the men of to-morrow. It is upon them that the great burden is laid—on youth—on the youth of all countries in the world, and especially on the youth which has fought and shed its blood, which has garnered the glories of war and witnessed its horrors; it is to youth that I appeal to construct the new moral world which is indispensable to the full growth of the League of Nations.

We must persevere in our task and proceed upon our way. Proud in our hope and the consciousness of our lofty duty, we must persevere in our path to our glorious destiny.

With loud applause the entire assembly rose and acclaimed the speaker.

Mr. Motta, President of the Swiss Republic and honorary president of the assembly, thanked President Hymans for the able, diligent, impartial, and brilliant manner with which he had presided, saying in part:

Mr. President, you are entitled to our gratitude; not in vain has the first assembly of the League of Nations appealed to your experience and to your devotion. The task which we laid upon you was most difficult and most delicate. The rule of unanimity which governs our debates, the diversity in our methods of discussion, the differences in our parliamentary conceptions, all require on the part of the president an infinite amount of tact, courtesy, understanding, and firmness, added to a consummate knowledge of affairs. All these qualities, rare as they are, you have brilliantly displayed. You have labored unremittingly, but, fortunately for us, you are one of those men who never tire. When you return to your beloved Belgium, you will have this comfort, so dear to the patriot's heart, that you have held high the stainless banner of your noble and valiant country.

Mr. Motta then said that confidence in the future had been increased and strengthened, that he had just signed in the name

of the federal council of Switzerland, with Portugal and Rumania, the declaration which, subject to the ratification of the Swiss Parliament, recognized the compulsory jurisdiction of the permanent court of international justice under conditions of reciprocity, and for a period of five years. Switzerland thus proclaimed to the world by that act her idea of peace and her faith in the immortal strength of right which was the principal reason for the existence of the League of Nations.

He concluded in this manner:

The world is still, alas, in a state of crisis; it can not yet awhile attain its true equilibrium. One of the tasks of the League of Nations—its primordial task which is of far more importance than all the others—is to work toward the appeasement of men's spirits, the reconciliation of men's hearts and toward the coming together of the peoples who, whatever may be the errors and the misdeeds of their political and intellectual leaders, are never themselves the real culprits.

The first assembly of the League of Nations has already displayed its spirit and its intentions. In welcoming into its midst Austria and Bulgaria it has not appealed in vain to the generosity of the victors and the loyalty of the vanquished.

Christmas is at hand; that feast which above all others expresses with the highest poetic grandeur and the most infinite tenderness the genius of the Christian faith. Whatever our beliefs may be we all raise high our voices in a supreme appeal to the opinion of the world that it may heed us and help our endeavors and aid us to fulfill that promise which is both human and divine, "Peace on earth, to men good will."

That marked the conclusion of the first assembly of the League of Nations.

TWELFTH SESSION OF COUNCIL, PARIS, FEBRUARY 21–MARCH 3, 1921.

SAAR GOVERNING COMMISSION.

On February 21 the council, meeting in its twelfth session, with Representative da Cunha, of Brazil, president, reappointed the existing members of the Saar governing commission to serve one year from February 13, 1921.

COVENANT AMENDMENTS COMMISSION.

Representative de Leon, of Spain, submitted a report of the commission on amendments to the covenant, stating that the assembly after deciding not to consider covenant amendments at its first session agreed that all amendments theretofore proposed and which might be offered before a date fixed by the council should be submitted for consideration to a commission to be appointed by the council. It was evident that the commission would be purely advisory and could submit amendments of its own as well as those of others.

Accordingly he offered this resolution:

Whereas the assembly in a resolution adopted December 2, 1920, invited the council to appoint a commission to examine the proposed amendments to the covenant,

The council decides that a commission of 11 members shall be appointed to examine the proposed amendments to the covenant and certain relevant questions submitted by the assembly to said commission, as well as any other proposals concerning amendments to the covenant which might be submitted by any member of the league up to March 31, 1921, inclusive, being the date fixed by the council. The commission will also examine on its own initiative such proposed amendments to the covenant as it may think fit to examine and all questions of this kind that the council might submit to it at any future date. Its full report to the council will be submitted June 1, 1921, at the latest. Mr. Balfour, president, Mr. Beichmann, Mr. Benes, Mr. Blanco, Sir Robert Borden, Mr. Hatoyama, Mr. Prida, Mr. Restrepo, Mr. Scialoja, Mr. Viviani, and a Chinese member (to be named later) are invited to be members of the commission.

The report and resolution were adopted.

COMMITTEE ON ARTICLE 18 OF COVENANT, RELATING TO TREATY REGISTRATION.

The council on February 21 resolved to appoint, in compliance with an assembly resolution of November 23, 1920, a committee to study the scope and intentions of article 18 of the covenant from the legal point of view and to submit proposals enabling the council to report to the next assembly. Mr. Scialoja (chairman), Mr. Bourquin, Mr. Fernandes, Mr. Fromageot, Sir Cecil Hurst, and Mr. Struycken were invited to serve.

COMMITTEE TO EXAMINE ORGANIZATION OF PERMANENT SECRETARIAT AND INTERNATIONAL LABOR OFFICE.

On the same day the council resolved to appoint, in compliance with an assembly recommendation of December 17, 1920, a committee to consider organization, method of work, efficiency, number, salaries, and allowances of the staff, and the general expenditure of the whole organization, as well as all other points necessary to enable the assembly to form a fair judgment in respect thereto, both as regards the secretariat and the international labor office, and requested Mr. Noblemaire, Mr. Bellotti, Mr. Villanueva, and Mr. Figueras to serve, report to be made July 1, 1921.

OPIUM TRAFFIC.

A report by Representative Wellington Koo on February 21 recited the action of the assembly on the opium traffic, stating that the secretary general on January 22, 1921, had written the Netherlands Government informing it of the resolutions and requesting its cooperation in the manner indicated therein, and on the same date had written the Governments of Holland, Great Britain, France, India, Japan, China, Siam, and Portugal, calling special attention to the paragraph referring to the appointment by the council of an advisory committee on traffic in opium, and concluding with the proposals of this resolution, to wit:

That in accordance with the resolutions of the assembly, passed on December 25, 1920, an advisory committee on traffic in opium be appointed, consisting of one representative from each of the following eight countries, viz, Holland, Great Britain, France, India, Japan, China, Siam, and Portugal.

That Sir John Jordan, Mr. Henri Brenier, and Mrs. Hamilton Wright be appointed as assessors to the advisory committee for a period of two years from date of appointment.

That the advisory committee be requested to meet, if possible, at the beginning of May and to submit to the council not later than June 1, 1921, a report on the execution of agreements relating to the traffic in opium and other dangerous drugs, in accordance with the resolutions of the assembly.

The report and resolution were adopted.

PUBLICITY.

Representative Hymans reported, February 21, on the subject of publicity, referring to an assembly resolution of November 23, 1920, requesting the council to consider the matter of greater publicity for its discussions and decisions. He said that it did not seem possible to throw all the meetings of the council open to the public; that exchanges of views between members of the council must retain the characteristics of confidence, freedom, and conciliation, rendered necessary by the nature of the questions under discussion and the endeavor to reach the desired agreements; that the public meetings theretofore held had in many cases aroused little interest; that the reading of numerous documents accumulated during a session wearied the attention, while their very number prevented adequate reproduction in the press.

He thought it would be better to throw open to the public those meetings which the council might regard as of a special interest for public opinion, and to give at once to the press as the council proceeds the reports and resolutions and a short summary prepared by the secretariat and approved by the members of the council.

Accordingly he proposed these resolutions, viz:

That the council shall decide that a meeting is to be open to the public whenever it considers that course to be advisable or opportune.

The secretariat will insure the immediate publication of resolutions and reports, and also of a short summary of the discussions which shall have been previously approved by the members of the council.

The report and resolutions were adopted.

INTERNATIONAL BLOCKADE COMMISSION.

The council on February 22 adopted the report and recommendation by Representative Imperiali, Italy, on the question of blockade, the resolution passed being as follows:

In pursuance of the resolution and report adopted by the assembly the council has decided to ask the Governments of Cuba, Spain, Norway, and Switzerland to appoint representatives to form an international blockade commission to examine the application of article 16 of the covenant.

The commission may refer special questions to the provisional economic and financial commission, the permanent advisory commission on naval, military, and air questions, to legal experts, and to any other organization belonging to the League of Nations.

Pending the conclusion of the commission's labors the council instructs the secretary general to ask each member of the league to send him information for the use of the blockade commission as to the means available for fulfillment of obligations arising out of article 16 of the covenant, and also all other information and memoranda likely to be of use in the drawing up and subsequent carrying out of the program adopted by the assembly at Geneva.

The commission shall submit its report to the council before the end of August, 1921.

The secretary general is directed to bring this resolution to the knowledge of all members of the league.

TRAFFIC IN WOMEN AND CHILDREN—WHITE-SLAVE TRAFFIC.

The secretary general stated that pursuant to the resolution of the assembly on December 15, 1920, on the subject of the traffic in women and children he was preparing a questionnaire to be sent without delay to all Governments, and was addressing a letter to the Governments signatory to the 1904 and 1910 conventions, urging them to put these conventions into immediate operation, if this had not already been done. In further pursuance of the resolution the council resolved on February 22, 1921, to request the secretary general to invite, on its behalf, these signatory countries and any other Governments willing to take part to send representatives to an international conference to be held at the seat of the League of Nations during the last week in June.

DEPORTATION OF WOMEN AND CHILDREN.

Representative Imperiali, Italy, submitted a report, February 22, on the deportation of women and children in Turkey and neighboring countries. He said the assembly had been rightly worried by news that barbarous deportations of women and children still continued in Turkey and adjacent countries, and had invited the council to appoint a special commission of inquiry. It was doubtful, however, whether such a commis-

sion could accomplish any useful result. Turkey and adjacent countries, except in areas occupied by allied troops, were at present dominated by governments which had not been recognized, to whom no diplomatic representatives had been accredited, and who were at war with certain members of the league. It was very uncertain whether a visit to these regions would be possible. It would be possible, however, to request a small number of persons, say three, specially interested in this question, and already on the spot, to collect information, make inquiries, exchange views with the view to determining a program to be followed when possible. In addition, members of council might request from their Governments all possible information and assistance. Report adopted.

EXCHANGE OF GREEK CHILDREN AND BULGARIAN PRISONERS.

A memorandum by the secretary general showed that Dr. Nansen had stated to the assembly that about 400 Bulgarian prisoners were held in Greece pending return of all Greek children from Bulgaria; that Greece had agreed to return these prisoners if the council would see that the Greek children were returned. After correspondence the council subsequently gave Greece this assurance.

PROTECTION OF MINORITIES IN FINLAND AND ALBANIA.

Another memorandum by the secretary general showed that pursuant to resolution by assembly the council took up the matter of protection of minorities with Finland and Albania on December 20, 1920; that on February 23 Finland was still preparing a memorandum for submission to council; and that Albania had replied accepting in full the principles of the minorities treaties.

REPATRIATION OF PRISONERS.

The secretary general in a memorandum to the council on February 20, 1921, summarized Dr. Nansen's report on prisoners of war to the assembly, showing that intervening time had not brought the financial assistance so urgently needed to complete the work.

AUDIT OF SECRETARIAT'S ACCOUNTS.

Pursuant to the assembly's resolution of December 17, 1920, the council on February 23, 1921, requested the Swiss Government to permit its audit department to audit the accounts of the secretariat.

EASTERN GALICIA.

Complaints regarding Polish occupation of eastern Galicia were referred on February 22 to the principal powers to whom sovereignty over this region had been transferred by treaty of St. Germain.

CHILDREN IN WAR-AFFECTED COUNTRIES.

Representative Balfour reported on February 23 that the assembly had on December 15 invited the council to consider means of morally assisting relief work among children in war areas—that it had been brought out in the assembly discussion that this work was being admirably performed by voluntary organizations, but recommended that the council express its appreciation of their efforts and the hope that they would continue. Report adopted and resolution passed as suggested.

TYPHUS IN POLAND.

By memorandum the secretary general on February 23 reviewed the work against typhus in Poland pursuant to the assembly resolution of December 7, 1920. It showed the work to be progressing systematically and effectively, the Polish Government having budgeted the large sums required by the league as a condition of its own expenditure, and that the bodies mentioned in the assembly resolution would be coordinated into an advisory board which would meet soon at Warsaw.

MANDATES.

On February 23, 1921, a letter from the Secretary of State of the United States, Hon. Bainbridge Colby, to the council, dated February 21, 1921, was submitted to the council.

The letter stated that the United States Government had been informed that the council at its present meeting would consider at length the subject of mandates, and took this opportunity to deliver to the council a copy of its note of November 20, 1920, to the British Government on this subject.

The attention of the council was invited to the request in that note that the draft-mandate forms be communicated to the United States Government before submission to the council in order that the council might have the opinion of the United States on the form of such mandates and a clear indication of the basis on which the approval of the United States, which was essential to the validity of any determinations that might be reached, might be anticipated and received. The letter referred to a further statement in that note to the effect that the establishment of the mandate principle, a new principle in international relations and one in which the public opinion of the world was taking especial interest, required the frankest discussion, and that suitable publicity should be given the mandate drafts to be submitted to the council in order that the fullest opportunity might be given to consider their terms in relation to the obligations assumed by the mandatory powers and the respective interests of all Governments which deem themselves concerned or affected.

The letter recited that this note had been transmitted to the Governments of France and Italy, requesting an interpretation by each Government of the provisions of the agreement between Great Britain, Italy, and France, signed at Sevres August 10, 1920, relating to the creation of spheres of special interests in Anatolia in the light of the United States note of November 20, 1920, to the British Government; that a reply had thus far been received only from the French Government directing attention to article 10 of the Sevres treaty, which provides in favor of nationals of third powers for all economic purposes free access to the so-called zones of special interest.

The letter stated that the United States Government understood that the council at Geneva, on December 17 last, approved among other mandates a mandate to Japan embracing all the former German islands in the Pacific Ocean north of the Equator and reciting:

Whereas the principal allied and associated powers agreed that in accordance with article 22, Part I (covenant) of said treaty, a mandate should be conferred on the Emperor of Japan to administer said islands, and have proposed that the mandate should be formulated in the following terms.

That this statement was incorrect because the United States, one of the principal allied and associated powers, had not agreed to such terms, nor that a mandate should be conferred on Japan covering the islands above described; that the United States had never consented to the inclusion of the island of Yap in any proposed mandate to Japan, but, on the contrary, when a mandate for these former German islands north of the Equator was being discussed, President Wilson, on behalf of the United States, was particular to stipulate that the disposition of Yap should be reserved for future consideration.

The letter stated further that the United States Government was subsequently informed that certain of the principal allied and associated powers were under the impression that the reported decision of the supreme council, sometimes described as the council of four, taken at its meeting on May 7, 1919, included or inserted the island of Yap in the proposed mandate to Japan; that the United States Government in notes addressed to Great Britain, France, Italy, and Japan had set forth at length its contention that Yap had in fact been excepted from this proposed mandate and was not to be included therein; that furthermore, by direction of President Wilson, these Governments were informed that the United States Government could not concur in the reported decision of May 7, 1919, of the supreme council; that these Governments were advised the reservations as to Yap were based on the view that this island necessarily constituted an indispensable part of any scheme or practicable arrangement of cable communication in the Pacific, and that its free and unhampered use should not be limited or controlled by any one power.

The letter stated further that while the United States Government had never assented to the inclusion of Yap in the proposed mandate to Japan it should be pointed out that even if one or more of the other principal allied and associated powers were under a misapprehension as to the inclusion of this island in the reported decision of May 7, 1919, nevertheless the notes above mentioned made clear the position of the United States; that when these notes were sent to the Governments above mentioned a final agreement had not been reached as to terms and allocation of mandates covering the former German islands in the Pacific; that thus the position of the United States was made clear long before December 17, 1920, the date of the council's meeting at Geneva; that as one of the principal allied and associated powers the United States has an equal concern and an inseparable interest with the other principal allied and associated powers in the overseas possessions of Germany and concededly an equal voice in their disposition, which it is submitted can not be undertaken or effected without its assent; that it can not be bound by the terms and provisions of said mandate and protests against the reported decision of December 17 last of the council, and requests that the council, having obviously acted under a misapprehension of the facts, reopen the question for the further consideration which proper settlement requires.

The following reply was approved by the council on March 1, 1921:

After defining what it took to be the contention of the United States, namely, that her approval was essential to the validity of any decision respecting mandates, the council stated that the

American Government would itself recognize that the situation was complicated by the fact that the United States had so far abstained from ratifying the peace treaty and had not taken her seat in the council of the League of Nations.

The council's reply stated that it would not dwell on the controversial aspect of the American note, but preferred to examine the subject on the broad basis of international cooperation and friendship in the belief that this course would appeal to the spirit of justice of the Government and people of the United States.

The council had made several important decisions regarding mandates which it hoped would commend themselves to the United States. It had already determined on February 21, before the American note was received, to postpone consideration of the "A" mandates for former Turkish possessions, including Mesopotamia, and no conclusion on "A" mandates would be reached until the United States Government had had opportunity to express its views.

The council had expected finally to approve at this session the "B" mandates for the former central African colonies of Germany, but that in view of the desire expressed by the United States the council would defer consideration until the next session in May or June, and that it was hoped the delay would not hamper the administrative progress of these territories.

The reply of the council then invited the United States to take part in the discussions at its forthcoming meeting, when it was hoped final decisions would be taken as to "A" and "B" mandates, stating that a problem so intricate and involved as that of mandates could hardly be handled by the interchange of formal notes, but could be satisfactorily solved only by personal contact and direct exchange of opinion.

As to "C" mandates for former German possessions in South Africa and the Pacific, the council had not the same liberty of action as in the "A" and "B" types. The allocation of mandates was a function of the supreme council and not of the league council, and the league was concerned not with allocation but with administration of territories. The league council having been notified in the name of the principal allied and associated powers that all the German Pacific islands north of the Equator had been allocated to Japan, it merely fulfilled its responsibility of defining the terms of the mandate. Therefore any misunderstanding as to the allocation of Yap was between the United States and the principal allied powers rather than between the United States and the league. However, the council had hastened to forward the American note to the Governments of France, Great Britain, Italy, and Japan.

The council closed its reply with the hope that its explanations would be satisfactory to the United States and that reciprocal good will would find a solution in harmony with the generous spirit which inspired the principle of the mandates.

RESOLUTIONS OF ASSEMBLY ON TRAFFIC IN ARMS.

Pursuant to the various resolutions of the assembly on the subject of armaments, the council on February 25, 1921, directed the secretary general to transmit the assembly resolution urging prompt adhesion to and ratification of the arms traffic convention of September 10, 1919, to both the Governments signatory and nonsignatory to that instrument, adding the council's appeal to that of the assembly for immediate and favorable action; to ask the Belgian Government to permit its "bureau international" to take over the application of the measures relating to the traffic in arms and munitions contemplated in the arms traffic convention and to report every three months to the permanent advisory commission on military, naval, and air questions at Geneva; also directed the permanent advisory commission, in conjunction with the temporary armaments commission to be shortly authorized, to study the question of the private manufacture of munitions and war material as contemplated by article 8 of the covenant and report to the council; also resolved that the temporary armaments commission be requested to study and submit to council in near future all evidence and proposals connected with the question of reduction of armaments, due consideration being paid to the preexisting conditions on which the assembly has made the definite and general limitation of armaments dependent, the commission to include six persons of recognized competence in political, social, and economic matters; six members of the permanent advisory commission for naval, military, and air questions selected by that commission; four members of the provisional economic and financial commission selected by that commission; six members of the governing body of the international labor office, three to be employers and three to be workmen representatives selected by that governing body; also resolved that the permanent advisory commission shall study the policy of mutual verification between members of the league of military information exchanged according to article 8 of the covenant, assuming that such verification is rendered admissible by an amendment to the covenant; also resolved to send to the Governments of States members of the league the recommendation adopted by a majority of the assembly with regard to the limitation of naval, military, and air expenditure during the two fiscal years following the next budget and to ask them to be so good as to inform the council, through the secretary general, before May 1 what action they proposed to take on this recommendation.

AALAND ISLANDS.

The secretary general presented on February 25, 1921, an account of the steps taken to date by the Aaland Islands commission as follows:

In the second half of October Baron Beyens and Mr. Calonder began investigation at Paris, collecting documents and hearing verbal statements, and left on November 3 for Stockholm without waiting for Mr. Elkus, the American member of the commission, who went from the United States to Sweden direct. After his arrival the commission remained at Stockholm until November 25, then went to Helsingfors, remaining until December 8. They visited the Aaland Islands from December 8 to December 12, and returned to Paris via Stockholm and Berlin.

Baron Beyens, president of the commission, was authorized to draft the report which he completed February 5. As it had to be read again and approved by the commissioners, it was necessary to wait for Mr. Elkus, who had returned to the United States as soon as the commissioners came back to Paris. In reply to requests from his colleagues and M. Bourgeois to return by the middle of February, he pleaded ill health and regretted he could not come again before the middle of March. The report when signed by the three commissioners would be sent as promptly as possible to the members of the council.

ARMENIA.

On February 25, 1921, the council heard and adopted a report from the secretary general bringing the Armenian situation to date—a report in substance as follows:

On December 18, 1920, the assembly had requested the council to safeguard the future of Armenia, referring for advice, if necessary, to the members of the league. Since President Wilson and the Spanish and Brazilian Governments offered their services a number of events had occurred and these would now be detailed.

The Armenian Government with which the league had been dealing had ceased to exist, having been replaced near the last of December by a Government more or less dominated by the Russian bolsheviks. According to a prominent Armenian, this change offered the Armenians the only hope of preserving the remnant of their country and their race. It meant, however, the establishment of relations between Armenia and soviet Russia, and made relations between Armenia and the western countries more difficult.

On December 2 the Armenian Government had been forced to sign at Alexandropol a treaty with the Turkish nationalists confining its territory to Russian Armenia less the Province of Kars and certain neighboring areas, the future of which was to be decided by a plebiscite. Turkish Armenia was to remain in the hands of the Turks, and also, at least provisionally, part of what since 1878 formed a portion of Russian Armenia. Information from an Italian source was to the effect that the new Armenian Government had protested against this treaty and appealed to the soviet government for intervention. The latter had called a conference at Moscow, inviting the Turkish nationalists, Azerbaidjan, and Armenia to attend. The nationalists had replied that they intended to maintain the treaty of Alexandropol.

President Wilson had, on January 2, 1921, announced his decision as to the boundary of Armenia, allotting to her an extensive territory, including Trebizond, Erzingan, Erzerum, Mush, Bitlis, and Van to westward of former Russian frontier. Ratification and application of the treaty of Sevres were under negotiation at London at present, but the Turkish nationalists did not recognize that treaty.

President Wilson in his letter of January 22 to the council pointed out the difficulties of the Armenian question due to nonexecution of the treaty of Sevres and emphasized the close relationship between this question and that of the Russian frontiers. He hoped that the powers would issue a declaration to soviet Russia to the effect that she was in no danger of external aggression.

The council could not determine a line of action until it knew the result of the negotiations at London, where not only the allied powers and Turkey but the Turkish nationalists were represented. Future developments must be closely watched.

The council directed that a letter be sent the Governments of Great Britain, France, and Italy, asking an exchange of views on Armenia, and calling attention to the assembly resolution of December 18.

PERMANENT COURT OF INTERNATIONAL JUSTICE.

A report by Commendatore Anzillotti, representative of Italy, considered and adopted by council on February 25, 1921, referred to the fact that the assembly when approving, December 13 last, the statute for the permanent court requested the council to submit the statute to members for adoption in form of a protocol, to be signed and ratified. The protocol for signature was opened at the office of the secretariat on December 16, and certified copies of protocol and statute were sent all members, which they were asked to sign and ratify.

To date 27 had signed, to wit: Brazil, China, Colombia, Costa Rica, Cuba, Denmark, France, Great Britain, Greece, India, Italy, Japan, Luxemburg, Netherlands, New Zealand, Norway, Panama, Paraguay, Poland, Portugal, Salvador, Siam, South Africa, Sweden, Switzerland, Uruguay, Venezuela.

Seven had also exercised the option of accepting the compulsory jurisdiction of article 36—Portugal, Uruguay, and Luxemburg without condition; Costa Rica, Denmark, Salvador, and Switzerland on condition of reciprocity.

Certified copies of protocol of signature, including signatures obtained, were sent February 8 to all members and to the other Governments mentioned in the annex.

Sweden having already signed, ratified on December 31, 1920, but no other country had at this date, February 25, 1921, ratified.

The report pointed out that if the court was to be established by the beginning of 1922 its members must be elected at the September session of the assembly. Under the court statute the secretary general was to write at least three months before the election to the national groups of the arbitration court at The Hague, or the persons specially appointed for the purpose, requesting them to propose candidates for election by assembly and council as judges. Such steps could not be taken, except by special authority, unless it was certain the court would be constituted. An assembly resolution of December 13 made the constitution of the court depend on ratification by a majority of members of the league; that is, at least 24. To date, although 27 had signed, only 1 had signed and ratified. The council, following the suggestion of the report, authorized the secretary general to send out a pressing appeal to the Governments for ratification, and to take steps, if necessary, on or after April 1 for obtaining a conditional nomination of candidates if the court statute had not been ratified by 24 members at that date.

RELIEF WORK IN EASTERN EUROPE.

The council was advised on February 26, 1921, that the League of Red Cross Societies had accepted responsibility for coordination of relief efforts in eastern Europe and would organize a trained personnel.

The council expressed its appreciation and asked that the League of Red Cross Societies and the international committee of the Red Cross cooperate in order to coordinate voluntary relief work in all countries of Europe.

FREE CITY OF DANZIG.

Poland and the free city of Danzig having failed to agree on a president of the Danzig port and waterways board, the council on February 26, 1921, under the Danzig-Poland convention, named a citizen of Switzerland, Col. de Reynier, to serve three years.

The council declined to permit manufacture in the small-arms factory at Danzig of 50,000 military rifles for Peru or to permit general manufacture of arms for three years; existing bona fide contracts, however, to be completed.

It was announced that Poland and the free city of Danzig had agreed each to pay half the expense of the post of high commissioner of Danzig.

The Senate and Popular Assembly of Danzig were asked to express their opinion on the suggestion of the council that a new parliament be called to frame a new constitution providing better guaranties for a stable and peaceful political situation.

PASSAGE OF INTERNATIONAL TROOPS THROUGH SWITZERLAND.

On February 26 the Swiss minister in Paris appeared before the council, having asked to be heard on the question of the passage of international troops through Switzerland to maintain order during the plebiscite of Vilna.

The Swiss Minister, M. Dunaut, said that notwithstanding Switzerland's respect and loyalty toward the league she was in a special position resulting from her perpetual neutrality; that neutrality was the invariable basis of her foreign policy; that the council at its London meeting on February 13, 1920, had recognized this perpetual neutrality as an element of international stability.

He said further that Switzerland was obliged to avoid anything that would produce in the public mind the impression that this neutrality was likely to be prejudiced; that she would fulfill her duty of solidarity in all cases where the principle of neutrality was not involved, but reserved the right, in accordance with the sovereignty enjoyed by all States, to decide in each particular case under what conditions she would offer assistance.

He asserted that before Switzerland could permit the passage of troops through her territory two conditions must be fulfilled; first, an agreement reached definitely and freely between the interested States; second, there must be no danger of an armed conflict. He said that the Federal Council of Switzerland did not question the pacific character of the troops intended to maintain order during the plebiscite of Vilna, but after careful study of the question had decided that the two indispensable conditions had not been fulfilled; that the soviet government was hostile to the intervention of the league and was said to be preparing a military offensive in combination with revolutionary movements in Europe; that if this offensive took place the evacuation of international troops would be difficult and reinforcements might be necessary; that an armed conflict might ensue in spite of the League of Nations, and that this would involve more than mere police operations; that in this event Switzerland would either be obliged to withdraw her cooperation or abandon the neutrality to which the Swiss people were inveterately attached; that rather than risk having to choose between a voluntary encroachment on her neutrality and an attitude that might be construed as disloyal to the league, the Swiss Government had thought well to reply at once in the negative to the request of the league for the passage of international troops through Switzerland to maintain order during the plebiscite of Vilna.

Representative Bourgeois, replying, said he would not enter on a discussion of the legal points involved in the perpetual neutrality of Switzerland; that he would draw attention to the great moral injury which had been caused to the League of Nations by the decision of the Swiss Federal Council; that Swiss public opinion had not grasped the extent of the injury, because it had regarded the matter as one of internal policy.

He said that the Federal Council of Switzerland had made its decision without giving the league council an opportunity to inform it under what condition the transport of troops would be undertaken; that a preliminary exchange of views would have prevented the incident from arising.

He stated that Switzerland had not only been cordially admitted to the league but on conditions determined by herself; that the city of Geneva had been chosen as the seat of the league and the Swiss President made the assembly's honorary president; that, with these events in mind, the Swiss Government might have done the council the honor of requesting an explanation of its policy; that neither the council nor the interested Governments had proposed to send an international contingent without guaranteeing its security; that the request addressed to Switzerland had been merely a preliminary precaution in order that provision might be made well in advance for a study of the technical side of the problem; that the conditions laid down by Switzerland were those the council had always had in view; that these conditions had been secured before the federal council took its decision; that it was hoped that after these observations an agreement might be reached.

Discussion was then suspended and at a public meeting of the council on March 4 resumed.

PUBLIC MEETING OF COUNCIL MARCH 4—SWISS NEUTRALITY.

The Swiss minister said that the Swiss Government had learned with regret that its refusal to allow international troops to pass through Swiss territory had been regarded as causing injury to the league; that the Swiss Government had always desired to associate itself with the efforts of the league for the maintenance of peace; that there had been a misunderstanding and that the real nature of the request now appeared.

He said that the Swiss Government was bound to avoid all possibility of a conflict between the principle of perpetual neutrality of Switzerland and her obligations under the covenant; that apart from these obligations Switzerland fully recognized the moral duty of solidarity incurred by all members of the league; that closer relations would henceforth exist between Switzerland and the league, and any cases which might arise would in future be examined in collaboration and with complete mutual confidence.

Representative Bourgeois replied that the council had heard with satisfaction the declaration of the Swiss delegate; that the misunderstanding had been explained and the incident closed; that the council had been especially happy to hear the Swiss

delegate emphasize the duty of collaboration on the part of all nations and the necessity for mutual confidence.

POLAND-AUSTRIA CONTROVERSY.

Under the auspices of the council an agreement was reached between Poland and Austria on the status of Galician Jews, and announcement thereof made to the council on March 3, 1921.

ORGANIZATION OF INTELLECTUAL LABOR.

After considering the resolution of the assembly on the international organization of intellectual labor the council decided that under present world conditions intellectual cooperation could best be advanced by means of voluntary efforts, and that the league could for the present do better service by helping voluntary exertions than by attempting to organize intellectual labor, and that the league's funds would hardly support a technical intellectual organization in connection with the league on such a scale as its purpose and worth deserved.

HEALTH ORGANIZATION.

Pending the development of the health organization recommended by the assembly the council decided on March 2, 1921, to set up a temporary technical committee to aid the council in performing its duties under the covenant, this committee to have a medical secretary. In the meantime it was decided that negotiations should begin with the States composing the international office of public hygiene, created by the convention of 1907, with a view to merger into the general commission suggested by the assembly.

DISPUTE BETWEEN LITHUANIA AND POLAND.

On March 3, 1921, the council adopted a resolution on Lithuania and Poland to the following effect:

The council, after hearing the report of its committee on the Polish-Lithuanian dispute, the report of the civil commission on the plebiscite, and the observations of representatives of the Polish and Lithuanian Governments, observes—

(1) Both parties, though maintaining acceptance of resolution of October 28, have created obstacles and delays from month to month; Lithuania by repeated reservations and objections, Poland by slowness in reducing Gen. Zeligowski's troops.

(2) These delays have prevented the speedy plebiscite originally contemplated; to avoid suspicion of partiality or injustice a long period of preparation would now be necessary.

(3) Both parties seriously object to boundaries proposed by civil commission and its plans for the plebiscite.

The council believes that a more effective procedure should be devised and suggests direct negotiations between the parties on equal terms at Brussels within one month under the presidency of Mr. Hymans, in order to arrive at an agreement on all questions in dispute.

Pending these negotiations—

(1) Polish Government to undertake to regain control over Gen. Zeligowski and his troops and to reduce his strength at once to one division of 15,000 men at most.

(2) Troops in disputed zone not to be reenforced.

(3) Lithuanian troops to return to their normal station in interior, covering troops on line of demarcation not to exceed two divisions.

(4) Lithuanian Government to contribute toward food supply of civil population and seed supply, distribution of foodstuffs from Lithuania to be supervised by the military commission of the league, which shall make all the necessary arrangements. Provisioning of Polish troops in disputed zone to be undertaken by Poland, which shall make no requisitions or compulsory sales except for meat and forage. Goods from Lithuania not to be requisitioned.

(5) Administration of zone to continue as at present; no fresh election to be held before signature of final agreement unless president of conference consents.

(6) Military commission to remain on the spot to insure that military clauses are carried out and supervise food supplies. Agreement reached at Brussels to be confirmed by council.

The representatives of Poland and Lithuania agreed to transmit these recommendations to their Governments and furnish reply within 10 days.

CLOSING ADDRESS OF PRESIDENT DA CUNHA, BRAZIL—TRIBUTES TO WORK OF ASSEMBLY AND COUNCIL.

The twelfth session of the council was closed March 4, 1921, by an address by the presiding officer, Mr. da Cunha, of Brazil.

He said in part that in the appeals constantly addressed from all sides to the league's pacifying influence could be seen proof that it had started a new era of justice and peace.

The treaty of Versailles had undoubtedly provided the league with an admirable constitution under the inspiration of the American President, whose ideal, described by superficial or reactionary critics as Utopian, was, in the opinion of the speaker, solidly based on the most living realities of our time.

The assembly had given proof of the qualities essential to the perpetuity of the league—of capacity to think and to act in the interest of a common humanity. Without precedents or models it had given evidence of efficiency and vitality. Its work in completing the creation of The Hague court was one of the best illustrations of its success—an institution which The Hague conference of 1907 failed to establish. Its most characteristic and promising feature was identity of aspirations, community of ideas. Its principal aim was to preserve unity and the general point of view. Never before in a meeting of nations was there such concord, such an atmosphere of pacification and cooperation. Relations of mutual respect and deference prevailed among all States, regardless of the natural inequalities of power and wealth. The principle of equal sovereign rights was recognized and consequently that of equal and similar obligations.

The nations composing the assembly represented a population of 1,400,000,000 souls—they showed a clear appreciation of the interdependence of their interests and destinies; they acted on these words of a philosopher:

Nature could not intend to base the prosperity of one people on the ruin of other peoples, for this would be to set in opposition to each other two virtues which are both inspired by nature, the love of country, and the love of humanity.

The speaker also quoted with approval at this point the recent utterance of a distinguished statesman:

If the League of Nations had existed in 1914, the war would have been impossible.

The work of the council at the present meeting showed the increasing confidence of the world in its future.

He said the council still had before it the creation of the commission on mandates and the examination of the draft mandates proposed by the mandatory powers for the Arab countries of the former Ottoman Empire and for certain German colonies in Africa, with a view to putting them in force; that the communication to the council from the United States on this subject showed the growing importance of the work of the league, not only in relation to its own members but to all countries concerned in international affairs.

He referred to the work of Dr. Nansen in behalf of prisoners of war as an instance of the league's humanitarian achievements; to the agreement the league had brought about between Poland and Austria as to the treatment of Jewish immigrants. The council was now considering steps in behalf of Russian refugees from the bolshevik revolution, and would continue its efforts to find help for Armenia. While no solution had been reached in the dispute between Lithuania and Poland, actual hostilities had ceased since the league took up the matter in November, and this in itself was a desirable result.

He said that the council, by daily publications, had kept the public informed of its work.

The activities of the league were aiding humanity in its march toward a nobler future—and it would not be in vain that humanity had risen to the appeal of the numberless victims of the World War to prevent the return of such catastrophes, which are not only the ruin but the shame of the civilized world. After a year of the league's existence it looked certain that the light would dawn in the spirits of all men.

The speaker concluded with an expression of confidence that the United States would yet unite with the league.

SAAR BASIN GOVERNING COMMISSION.

The Official Journal contains the sixth general report of the Saar Basin Governing Commission of date January 25, 1921. It reviewed the work of the commission, stating that it had put into force the terms of the treaty of Versailles concerning the Saar Basin; that out of the small group of German and Bavarian subprefectures it had created an autonomous territory, having its own central administration, officials, law courts, railway organization, and police force; that the work of organization had been carried out under difficult conditions but without disturbance of public order; that it had been demonstrated that an international commission could administer the Saar Basin; and that the mission intrusted to the League of Nations by the treaty of Versailles had been justified.

DISPUTE BETWEEN COSTA RICA AND PANAMA.

The Official Journal shows correspondence on the dispute between Costa Rica and Panama, which may be summarized as follows:

On March 3, 1921, a telegram was received from Narciso Garay, secretary for foreign affairs for Panama, stating that on February 21 a detachment of the Costa Rican Regular Army occupied the villate of Nuevo de Coto in the district of Coto, which belonged to Panama, hoisted the Costa Rican flag, replaced the Panama authorities, took armed possession of the territory which was Panama territory; that this was done without provocation by Panama, without declaration of war by Costa Rica; that on the contrary three months before, Don Ricardo Guardio, special envoy of the Costa Rican Government, had visited the President of Panama on a mission of peace, friendship, and fraternity; that as a result of the indignation of the people of Panama an improvised force of Panama volunteers reenforced the Panama police, attacked the invaders on the morning of February 27, and took them all prisoners; that on February 28 a second detachment of Costa Rican troops disembarked at Coto, and after an hour's fighting was also cap-

tured; that later a similar fate befell a more numerous expedition which had succeeded in landing. That in view of these persistent attacks and the fact that Costa Rica had been a member of the league since last December, Panama voting to admit her, the sender denounced to the council these repeated acts of violence against a friendly and sister State; that he was confident these attacks against the peace of the world and the rights of Panama deserved the punishment prescribed in such cases by the covenant.

That the Government of Panama, defending its rights but amenable to any peaceful and reasonable solution, had accepted the good offices offered by the United States with a view to restoring peace and law in this region of the continent; that details would follow by post.

On March 4, 1921, the council cabled Costa Rica and Panama stating that it had heard of a state of tension between them; that the council deemed it the requirement of duty to bring these reports to the attention of these Governments who were members of the league and had solemnly and publicly subscribed to the high principles and obligations of the covenant and to request information as to the facts.

On the same day the council sent another telegram to Panama acknowledging receipt of telegram from Panama on March 3, stating that it learned with regret the reports of tension were well founded, but was happy to know that the United States Government had offered its good offices and that Panama had accepted them. That the council would be glad to be kept advised of developments.

On March 5 a telegram was received from the Panama Government informing the council that the Costa Rican Government, exasperated at failure to take Coto, had just invaded Panama from the north, occupying Guabito and Almirante and threatening Bocas del Toro, to which the small Panama garrisons had retired. That the aggression attempted at Coto had been repeated on a large scale and under more serious conditions. That Panama protested against acts of arbitrary violence for which Cost Rica was responsible as incompatible with the principles of a State belonging to the league.

On March 8 the secretary general received a cablegram from the Panama Government, saying that the telegram sent by United States Secretary of State Colby to the American legation in Panama with regard to mediation suggested acceptance by Panama of the arbitral award given in 1914 by Hon. Edward D. White, United States Chief Justice, in the frontier dispute growing out of the refusal of Costa Rica to accept the Loubet award. That this award had been given in 1900 by the French president in a frontier dispute between Costa Rica and Colombia, Panama's predecessor in sovereignty over the Isthmus. That the White award had not been accepted by the legislative and executive powers of Panama, who were unanimously sustained by public opinion, the arbitrator having exceeded his powers and completely disregarded the essential condition of the arbitral agreement. That the Panama constitution laid down as the western limits of its national territory those fixed by President Loubet in the Rambouillet award of 1900. That the White award, whose only object was correctly to interpret the Loubet award (but which nevertheless took no account of it), had the disadvantage of [word illegible] and essentially affects the national constitution of Panama. That mediation in this form would encounter moral, legal, and constitutional difficulties and would mean the accomplishment of Costa Rica's object, thus rewarding her for her excesses committed against Panama to the detriment of peace and justice. That Panama would agree [doubtful word] to withdraw her troops from Coto, which lies within the line of the status quo, leaving, however, her civil authorities there, provided Costa Rica withdraws her forces from the Panama territory of Bocas del Toro. That Panama could only suggest to the United States that if the nonacceptance of the White award should offend the American Government and render it unfitting to serve as an impartial and disinterested mediator, Panama would be prepared to submit its disputes with Costa Rica to the permanent court of arbitration at The Hague or to the permanent court of international justice.

On March 8 the Costa Rican Government replied, informing the Secretary General that thanks to the mediation of the United States the dispute was virtually at an end. That Panama had not only refused to accept the arbitral award by Chief Justice White in 1914 but since that date had invaded fresh territory. That Costa Rica, after calling Panama's attention to these incursions, sent a detachment of 25 men to Coto, a spot some 20 kilometers on the Costa Rican side from the frontier line as fixed on the Pacific slope by President Loubet's award of 1900 and confirmed by the treaty of 1910. That this detachment was captured and also another of the same size. That a third detachment of 65 men sent to support the two former was cruelly massacred by Panama forces of much greater strength. That the President of Panama issued a proclamation summoning the nation to arms, that Costa Rican citizens were insulted and attacked in the streets, that the escutcheons of the Costa Rican consulates at Panama and Colon were pulled down by the mob. That Costa Rica thereupon felt obliged to undertake legitimate reprisals, and on March 4 occupied the Panama post of Almirante. That at this juncture the Washington Government offered its mediation which had been accepted. That Costa Rica wished to emphasize the fact that Panama citizens living in Costa Rica had been scrupulously respected and that the conduct of its troops in invaded territory had been exemplary. That all responsibility for the dispute rested on Panama.

On March 11 a telegram was received from the Panama Secretary for Foreign Affairs stating that during the night of March 7 all the Costa Rica troops which had invaded the Panama Province of Bocas del Toro on the Atlantic coast embarked for Costa Rica. That thereupon Panama ordered its troops out of Coto on the Pacific coast, where the first Costa Rican attack occurred, leaving there, however, the civil police authorities of Panama in conformity with conditions of mediation; that hostilities were suspended. That the principal condition of Panama's acceptance of mediation was refusal to accept the White award. That Panama reserves the right in the course of mediation to establish and prove the responsibility of Costa Rica for the attack, and in addition to demand indemnity for expense of defense measures. That Costa Rican prisoners and wounded were being treated in conformity with the international conventions which Panama had signed and to which she adheres in a manner befitting a chivalrous and civilized nation.

On March 12, 1921, the secretary general replied to the Costa Rican message, stating that the council was glad to learn that Costa Rica had accepted the mediation of the United States and considered the dispute was in process of settlement; that the council hoped a final arrangement would be reached in accordance with the spirit of the covenant; that the council would be glad to be kept advised of developments.

The same day the secretary general acknowledged the last Panama message and stated that the council has already expressed to Costa Rica pleasure at the news that honorable settlement in accordance with the spirit of the covenant was in sight; that the council was happy to know that Panama shared these views, and that the troops had been withdrawn by both sides.

PERMANENT MANDATES COMMISSION.

It was noted in the journal of April 26, 1921, that the persons selected for the permanent mandates commission by the council on February 22, had all agreed to serve except W. Cameron Forbes, of the United States.

He had replied on March 31, that when he was approached concerning the place he was willing to assume the responsibility and was well disposed toward the suggestion; that, however, he had since received a request from the President of the United States to proceed to the Philippine Islands and, associated with Gen. Wood, to report on conditions there; that he regretted to state that in view of this new duty the United States Government had advised him that it would be inadvisable for him to assume any responsibility in connection with the commission on mandates.

Those accepting were Mr. Beau, France; Mrs. Anna Bugge-Wicksel, Sweden; Mr. Freire d'Andrade, Portugal; Mr. W. Ormsby Gore, Great Britain; Mr. Pierre Orts, Belgium; Mr. van Rees, Holland; Mr. Theodoli, Italy; Mr. Kunio Yanagida, Japan.

POLAND AND LITHUANIA.

The Official Journal showed that while some of the details of the council's plans for the status quo in the Poland-Lithuania dispute were unacceptable to the parties, both had agreed to negotiate all questions at a meeting under the presidency of Mr. Hymans at Brussels, beginning April 18, 1921.

REESTABLISHMENT OF AUSTRIA'S CREDIT.

The journal contained a notation of date April 11, 1921, that Great Britain, France, Italy, and Japan on the understanding that the Austrian Government desired the application to Austria of the League of Nations international credit scheme had agreed in principle to suspend their liens under the treaty of St. Germain in respect of claims against the Austrian Government for the cost of armies of occupation, for relief credits, and for reparations, provided that the interested Governments would agree to similar postponement.

The finance section of the provisional economic and financial committee of the league had been asked by these Governments to hold a meeting within 15 days to consider the

Austrian position and the services which the finance section could render in restoring Austrian credit.

This committee met at Paris on March 28 and reported a plan for submission to Austria and the Governments concerned.

AUDIT OF LEAGUE'S ACCOUNTS.

The audit of the league's accounts by the Swiss Government showed its financial position as of December 31, 1920, to wit, an excess of income over expenditure of over 3,000,000 gold francs. This was on the assumption that all members had paid their contributions by that date. This was not the case at the time, but practically all were paid during the first months of the year. The audit stated that the books of the league were kept in an irreproachable manner.

COSTA RICA—PANAMA.

On May 2 the secretary general received a cablegram from Panama stating that at the end of March the Panama President had convened the National Assembly, saying in his message thereto that in view of the offered mediation of the United States, troops of both parties had been withdrawn; that The Hague convention of 1907, signed by Panama and the United States, had indicated and offered the latter's rôle as mediator; that notwithstanding this Panama had been surprised to receive on March 16 a note from United States Secretary of State Hughes inviting her to submit to the White arbitration on the frontier dispute; that Panama had declared this arbitration null and void under international law and had declined to submit to it; that Chief Justice White had been asked to fix the Loubet line of 1900; that, going outside of his jurisdiction, he had declared such line and the Loubet ruling itself to be nonexistent and had proceeded to make a decision as if that line had never existed; that he thus violated the conditions of the arbitration agreement and the constitution of Panama, which based her territorial sovereignty on the Loubet line; that the Panama Government immediately notified the arbitrator, Costa Rica, and the United States of its nonacceptance; that Panama's reasons for not accepting the White verdict were the same as those which caused the United States Government to reject the judgment of the King of Holland in 1831 with regard to the frontier dispute with Great Britain; that Panama, anxious to prove her love of peace and to cooperate in the interest of justice in Central America, suggested in a note to the United States, approved by the Panama Assembly and setting forth the Panama view, as a means of settlement a plebiscite in the territories under dispute with the mediation of the American Government.

THIRTEENTH SESSION OF COUNCIL, GENEVA, JUNE 17–28, 1921.

MANDATES.

The opening meeting of the thirteenth session of the council was held in public. The president for the session was Viscount Ishii, of Japan.

Representative da Cunha, Brazil, made a statement calling attention to the fact that at the last session it had been decided to postpone consideration of draft mandates "A" and "B"; that after that decision had been made a note regarding the mandate question had arrived from the United States declaring that in its opinion the future of all the colonies and territorial possessions to be governed under the mandatory system could not be definitely decided without its consent; that in answer to this note the council had invited the United States to send a representative to the next session of the council; that to the great regret of the council no answer to this invitation had been received nor any information which would enable the council to ascertain the exact views of the United States; that as a result a situation most unfavorable to the immediate solution of a problem of the highest importance for the welfare and prosperity of the peoples of the territories to be administered under the mandatory system had arisen.

Mr. da Cunha said that he then addressed a letter to the principal allied powers (sending a copy to the United States) asking them to come to an understanding with the United States with regard to mandates. He expressed the wish that the final decision in this matter, which the council desired to make before the coming session of the assembly, would be based on a complete and cordial understanding among the allied and associated powers.

The letter to which Mr. da Cunha referred was dated June 15, 1921, and called attention to the fact that "A" and "B" mandates were on the agenda for the coming meeting of the council; that they had been on the agenda for the February meeting, but that discussion was adjourned after receipt of a note from the United States to the effect that it could not accept any decision on this question reached without its approval, the note pointing out that since the colonies and territories which as a consequence of the late war had ceased to be under the sovereignty of the States formerly governing them had been ceded by the peace treaty to the allied and associated powers, no allocation of mandates over these colonies and territories could be valid without the formal approval of the United States, and holding that the United States had never given its approval.

The letter went on to say that the question thus raised by the Government of the United States did not directly concern the League of Nations, but should be the subject of negotiations between the principal allied and associated powers, since these colonies and territories had in fact been ceded to these powers and not to the League of Nations; that the action of the council of the League of Nations could only begin, therefore, with its definition of the terms of mandates after the mandates were finally allocated to the mandatory powers.

This letter averred that the council did not doubt that all the allied and associated powers were equally animated by the desire to assure at the earliest possible moment to the populations coming under the mandatory system the conditions of security, prosperity, and regular development to which they are entitled under the covenant; that they would doubtless recognize, therefore, the necessity of substituting as soon as possible the system of mandates under which the rights and duties of the parties are clearly defined for the somewhat strict military occupation and administration which was a natural sequel of the war; that, on the other hand, the council preferred not to exercise the functions conferred upon it by article 22 of the covenant so long as the conditions requisite to their exercise had not been fulfilled, especially since the title of the mandatory powers to execute one mandate had not been accepted and defined as the result of a complete agreement between the principal allied and associated powers.

The letter requested the principal allied powers to be good enough to make every effort to arrive at a solution of the points under discussion between them and the United States, so as to enable the council to settle the whole question of mandates before the next meeting of the assembly, expressing the hope that even if an agreement could not immediately be reached on every point under discussion between the allied Governments and the United States they would nevertheless agree that it was desirable that the council be placed without further delay in a position to fulfill its responsibility for the well-being and prosperity of the populations of the mandated territories.

The letter ended by stating that any indications from the allied and associated powers that the league would be placed in position to perform its duties would be warmly welcomed by the council, and that the council considered it essential that the allied powers should before the next assembly completely agree with the United States, in order that the council might on defining the terms of the mandates fulfill one of its main responsibilities under the covenant.

The council thanked Mr. da Cunha for his work as president, and Viscount Ishii took the chair as his successor.

BUDGET—PUBLICATION OF PROCEEDINGS.

The council then went into private session to consider the budget.

It was decided that the minutes of all meetings should be published daily—no minute dealing with a particular subject to be published until discussion was completed and a decision reached.

The report on the budget for 1922 was adopted and the secretariat congratulated on the fact that there was no marked increase in the estimates.

REPORT OF INVESTIGATION INTO CONDUCT OF SECRETARIAT.

The report of the committee of inquiry into organization, salaries, allowances, methods, efficiency, and so forth, of the secretariat was presented and ordered to be transmitted to the assembly. The chairman in a letter transmitting the report to the secretary general stated that the chairman was pleased to announce how favorable the committee's general impression had been, and to express its entire confidence in the secretarial force of both the league and the international labor office.

LEAGUE EXPENSE.

The committee on allocation of league expenses reported a modified classification of members, based on the plan of the Universal Postal Union, for transmission to each member of the league and the assembly.

APPLICATION OF HUNGARY FOR MEMBERSHIP.

The application of Hungary for admission to the league was announced and the permanent advisory commission on armament requested to advise the council as to the regulations to be prescribed concerning her military, naval, and air forces.

DANZIG.

On Saturday, June 18, a private meeting was held, with Danzig the subject of consideration. Dr. Lahur, representative of the Free City, and Mr. Askenazy, representing Poland, were invited to seats at the council table, as also was Sir Richard Haking, high commissioner of the league in Danzig. The council amended the constitution of Danzig so as to provide for election by the popular assembly of a president and seven other principal senators for terms of four years, and discussed a number of questions connected with the administration of the Free City.

TRANSIT.

Representative de Leon presented a report of the proceedings of the transit conference at Barcelona, most of its recommendations being postponed for further consideration or referred to other bodies. The secretary general announced that the conference had created an advisory and technical committee on communications and transit in accordance with an assembly resolution, a committee representing all geographical divisions and interests. The conference recommended that a similar convocation be held within 10 years.

AALAND ISLANDS.

On Monday, June 20, a public meeting was held on the subject of the Aaland Islands. Mr. Branting and Mr. Enckel, representing Sweden and Finland, respectively, took seats at the council table and discussed before the council the report of the commission. No action was taken at this time.

PUBLICITY.

On Monday afternoon at a private meeting of the council, in order to give more publicity to its transactions, it was decided, first, that the minutes of the session should be published as soon after the close of the session as possible; second, that the secretariat should insure the immediate publication of a summary, previously approved by the members of the council, describing debates and giving decisions reached.

SAAR BASIN GOVERNING COMMISSION.

German protests against alleged French courts-martial and expulsion of certain inhabitants, and so forth, in the Saar Basin were heard, M. Rault, chairman of the Saar Basin Governing Commission, having been summoned to the council table. On the conclusion of the hearing the commission received a vote of confidence and congratulations, the charges not having been sustained.

ADMISSION OF PRESS.

At the beginning of the meeting Tuesday morning, June 21, it was proposed that the press be admitted, as the questions on the agenda were not likely to create much discussion. After debate the council resolved that the object of publicity was to increase the prestige of the league by interesting public opinion—that it would not increase the league's prestige to throw open to the public a meeting at which the agenda was of an administrative order and the questions of little interest, and that the press should be admitted, therefore, to public meetings when important questions were being discussed.

PERSONAL HEALTH ORGANIZATION.

Pending the establishment of the permanent health organization contemplated by the assembly a provisional technical committee was created and its members named.

RESERVE FUNDS FOR SOCIAL INSURANCE.

The council performed the duty assigned it by the treaty of passing upon the report of a commission as to the proper proportion of reserve funds for social or State insurance in Alsace-Lorraine to be transferred from Germany to France.

EPIDEMIC COMMISSION.

A report of the epidemic commission on its work in Poland was approved and decision made to appeal to the nations for continued assistance. The report showed that the help of the league had arrived when the Polish authorities were almost at the end of their resources, and that it would be difficult for Poland to continue the struggle against contagious disease which menaced her and Europe without the league's assistance.

RELIEF WORK IN EUROPE.

A memorandum by the secretary general showed that the joint committee recommended by the council at the February session had been formed by the league of Red Cross societies and the international committee of the Red Cross to coordinate voluntary relief work in all European countries. Accordingly, the council carried out its pledge and decided to appeal to all members asking their assistance and support for the joint committee.

PERMANENT COURT OF INTERNATIONAL JUSTICE.

It was announced by the secretary general that 39 countries had signed the protocol for the permanent court, but that only Sweden, Denmark, Italy, and Switzerland had ratified it also, Switzerland's ratification being subject to referendum till July 19.

National groups for conditional nomination of judges had been formed and the nominations were expected by August 15.

Representatives of Belgium, France, Great Britain, Spain, Japan, and China announced that these countries would soon ratify.

INTERNATIONAL BLOCKADE COMMISSION.

The secretary general reported that the countries asked to appoint representatives to the international blockade commission had done so and that he was in communication with the appointees in an endeavor to secure an early meeting.

Complying with the resolution of the council at the twelfth session he had requested the members to send him for the use of the league information as to the means at their disposal for fulfillment of obligations arising out of article 16 of the covenant, and all other information likely to be of use in effecting the program of the assembly. Nine Governments so far had responded.

The assembly and council had required the commission to report to the council in August in order that the council might report to the assembly in September, but in view of size of the task it was doubtful whether the commission could make more than a preliminary report in August.

REPORTS OF MANDATORY POWERS.

Quoting the assembly recommendation of December 18, 1920, Representative da Cunha proposed that both the powers whose mandates had been defined and those administering territories yet to be placed under mandate be asked to report on their recent administration to the mandates commission.

The representatives of Great Britain, Belgium, and France contended that the league had no right to ask a report from those powers; that they were responsible to their own people and would make reports to their Parliaments, but were not yet responsible to the league, the mandates not yet having been agreed upon. Subject to these reservations, the proposal was adopted.

DANZIG.

The affairs of the free city of Danzig were again considered, with Mr. Askenazy representing Poland; Mr. Sahm, president of the senate of the free city; and Gen. Haking, high commissioner of Danzig for the league, participating. Poland and the free city not yet having reached entire agreement in the matter of the autonomy of Danzig and Poland's right of free access to the sea, both parties under the insistence of the council agreed to end discussions and make final determination by July 31. It was decided that appeals to the council from the decisions of the high commissioner under the Versailles treaty and the Danzig-Poland convention should be made within 40 days from date of decision. A time limit was also fixed for the exercise of the right of veto held by the high commissioner in the name of the league in the matter of treaties and international agreements relating to Danzig.

On Wednesday, June 22, Danzig continued to be the subject of discussion. Measures for the defense of the free city, access of Poland to the sea, manufacture of arms, storage of munitions, and financial provisions were among the topics considered. The high commissioner was instructed to take any necessary measures with the proper local authorities to prevent Danzig from becoming or continuing in any sense a military base or a depot for arms and munitions. Manufacture and sale of war material, arms, ammunition, and so forth, were to be prohibited.

AALAND ISLANDS DECISION.

On Thursday, June 23, the question of the Aaland Islands was again taken up. The representatives of Finland and Sweden both stated specifically that their countries would accept the decision of the council—the Swedish representative saying no matter what the present decision might be, if Sweden should feel in the future that she had any grievance in connection with the islands she would submit it to the league.

On Friday, June 24, a decision of the Aaland Islands controversy was made by the council and embodied in the following resolution:

The council at its meeting of June 24, 1921, having regard to the fact that the two parties interested in the fate of the Aaland Islands have consented that the council of the League of Nations should be called upon to effect a settlement of the difficulties which have arisen and that they have agreed to abide by its decision;

After consideration of the report of the jurists which settled the question of its competence and of the decision of the council of September 20, 1920, which recognized the aforesaid competence;

And after having reviewed all the geographical, ethnical, political, economic, and military considerations set forth in the memorandum of the Rapporteurs who undertook a thorough inquiry upon the request of the League of Nations;

Decides

1. The sovereignty of the Aaland Islands is recognized to belong to Finland.

2. Nevertheless, the interests of the world, the future of cordial relations between Finland and Sweden, the prosperity and happiness of the islands themselves can not be insured unless (a) certain further guarantees are given for the protection of the islanders, and unless (b) arrangements are concluded for the nonfortification and neutralization of the archipelago.

3. The new guarantees to be inserted in the autonomy law should specially aim at the preservation of the Swedish language in the schools, at the maintenance of the landed property in the hands of the islanders, at the restriction, with reasonable limits, of the exercise of the franchise by new comers and at insuring the appointment of a governor who will possess the confidence of the population.

4. The council has recognized that these guaranties will be more likely to achieve their purpose if they are discussed and agreed to by the representatives of Finland with those of Sweden, if necessary with the assistance of the council of the League of Nations, and, in accordance with the council's desire, the two parties have decided to seek out an agreement. Should their efforts fail, the council would itself fix the guaranties which in its opinion should be inserted by means of an amendment in the autonomy law of May 7, 1920. In any case the council of the League of Nations will see to the enforcement of these guaranties.

5. An international agreement in respect of the nonfortification and neutralization of the archipelago should guarantee to the Swedish people and to all the countries concerned that the Aaland Islands will never become a source of danger from the military point of view. With this object the convention of 1856 should be replaced by a broader agreement, placed under the guaranty of all the parties concerned, including Sweden. The council is of the opinion that this agreement should conform in its main lines with the Swedish draft convention for the neutralization of the islands. The council instructs the secretary general to ask the Governments concerned to appoint duly accredited representatives to discuss and conclude the proposed treaty.

ALBANIA.

The meeting of Saturday, June 25, was public and took up the appeal of the Albanian Government to the league in the matter of the frontier dispute with Jugoslavia and Greece. Representatives of Albania, Greece, and the Serb-Croat-Slovene Kingdom, namely, Bishop Noli, Mr. Alexandropoulos, and Mr. Jovanovitch, respectively, were invited to seats at the council table.

After statements from these representatives, Representative Fisher, Great Britain, reported on the matter for the council. He said that all three of the parties were members of the league, that Albania had been admitted with the understanding that its frontiers had not been definitely fixed—that it was agreed that she should be admitted without prejudice to the frontier question.

That question, he said, was at present being considered by the conference of ambassadors who intended to decide it; that he was not prepared to say that the council of ambassadors had exclusive jurisdiction in the matter or that the council would not under certain circumstances be competent to take jurisdiction also, but that there was no doubt of the jurisdiction of the council of ambassadors to fix the frontiers of Albania. He quoted article 89 of the treaty of St. Germain, as follows:

Austria hereby recognizes and accepts the frontiers of Bulgaria, Greece, Hungary, Poland, Rumania, Serb-Croat-Slovene State, and the Czechoslovakian State as those frontiers may be determined by the principal allied and associated powers.

Inasmuch as the frontiers of Greece and the Serb-Croat-Slovene State—Jugoslavia—could not be fixed without at the same time fixing the frontiers of Albania, he did not propose to question the jurisdiction of the conference of ambassadors.

He urged the parties to abstain from all acts of provocation until the question was finally settled.

The council adopted the following resolution:

The council of the League of Nations is informed that the conference of ambassadors has taken up the Albanian question and that it is discussing it at the present moment. In these circumstances the council of the League of Nations considers it inadvisable to take up the question simultaneously.

Pending the solution, which will be communicated to it, the council recommends the three parties, in conformity with the covenant, strictly to abstain from any act calculated to interfere with the procedure in course. The question will be most carefully watched by the council of the League of Nations, which will give to the defense of the people and nation of Albania every possible attention.

The council recommends that in the interests of the general pacification and normal development of Albania the conference of ambassadors should make a decision with the least possible delay.

The representatives of Greece and the Serb-Croat-Slovene State assented to the resolution.

Bishop Noli, representative of Albania, asserted that the conference of ambassadors was without jurisdiction in the matter; that the conference existed only for the purpose of dealing with the affairs of belligerents under the peace treaties. He asked that the question of jurisdiction be referred to a committee of jurists, saying that the decision of the league would be more readily accepted by Albania than that of the conference of ambassadors; that the presence of refugees in Albania and her occupation by foreign troops made the situation dangerous and called for a commission of inquiry.

Mr. Fisher called attention to Article 15 of the covenant, which is as follows:

If a report by the council is unanimously agreed to by the members thereof, other than the representatives of one or more of the parties to the dispute, the members of the league agree that they will not go to war with any party to the dispute which complies with the recommendations of the report.

This debarred the parties from going to war, he contended, adding that it was possible the conference of ambassadors might refer the matter to the council or any question arising out of the present difficulties; that as the conference was examining the question at that moment the council could not intervene, but that this did not prevent an inquiry by the council at a later stage; that for the present the council would forward to the ambassadors the observations of the Albanian representative.

Representative Hanotaux called the attention of the Albanian representative to the fact that the resolution just adopted did not abandon the question.

Bishop Noli, the Albanian representative, replied that the conference of ambassadors had been discussing the question for three years; that the Albanian people had lost patience; that the Albanian Government bowed before the decision of the council, but did not recognize the jurisdiction of the ambassadors; that the Albanian Government reserved the right to appeal to the assembly.

MANDATES.

Mr. Fisher, British representative, asked whether the mandatory powers might communicate the text of their mandates to the Government of the United States without the consent of the council. The council decided it had no objection.

TEMPORARY COMMISSION ON DISARMAMENT.

It was announced at the meeting of Monday, June 27, that the members of the temporary mixed commission on disarmament had been selected and would hold its first meeting on July 16 at Paris.

PRISONERS OF WAR.

Dr. Nansen reported that up to June 1 approximately 323,850 war prisoners had been repatriated by the Baltic routes; that they would continue for a while longer, with an additional steamship service from Petrograd to Stettin; that about 11,000 had been sent home by way of Vladivostok, the great expense of that route leading to a railway arrangement with the soviet authorities by which some 20,000 prisoners in the Omsk district had been transported to Baltic ports; that many in the Black Sea districts were still without means of transport. A steamer had just begun voyages on the Black Sea, however, and had transported about 14,000 prisoners of many nationalities. There were probably 7,000 more to be returned in this area.

He pointed out that he had found large numbers of people, not prisoners of war, who were living as refugees in foreign countries, who were a menace to peaceful conditions and needed help. To repatriate them or to aid them while they were securing a livelihood would contribute much toward restoring normal conditions. He submitted this condition to the serious thought of the council, and the council agreed to take it under consideration.

PROTECTION OF MINORITIES.

Methods of enforcing treaties for the protection of minorities in certain States were discussed, notably in Poland, Czechoslovakia, Finland, the Baltic and Caucasian States. It was decided that whenever a petition relating to this subject was received by the secretary general he would advise all league members, it then being necessary for some member to bring it to the council's attention. This method was adopted as to Czechoslovakia and Poland, final decision as to the other countries being postponed.

ARMAMENT.

The permanent advisory commission on military, naval, and air questions submitted a report of the proceedings of its fifth session. The commission held in the course of its report that the reasons which led the council in December, 1920, to conclude that the favorable moment had not arrived for submission of the questionnaire regarding armaments to the member nations still held good, namely, that all the great powers had not yet been included in the league, and that stable conditions of peace had not yet been restored throughout the world.

Replying to the council's query of June 17 as to the military status of Hungary, the commission held that this was regulated by the treaty of Trianon of June 4, 1920, and did not require consideration by the commission.

AALAND ISLANDS.

It was announced that the guaranties provided for the people of the Aaland Islands in the council's decision were made the subject of a consultation between representatives of Sweden and Finland under the chairmanship and with the assistance

of a member of the council. The text of the agreement reached was as follows:

1. Finland, resolved to assure to and to guarantee to the population of the Aaland Islands the preservation of their language, their culture, and their local Swedish traditions, undertakes to introduce shortly in the law of autonomy of the Aaland Islands of May 7, 1920, the following guaranties:

2. The landsting and the communes of the Aaland Islands shall not in any case be obliged to support or to subsidize any other schools than those in which the language of instruction is Swedish. In the scholastic establishments of the State instruction shall also be given in the Swedish language. The Finnish language may not be taught in the primary schools supported or subsidized by the State or by the commune without the consent of the interested commune.

3. When a landed estate situated in the Aaland Islands is sold to a person who is not legally domiciled in the islands, any person legally domiciled in the islands, or the council of the Province, or the commune in which the estate is situated has the right to buy the estate at a price which, failing agreement, shall be fixed by the court of first instance having regard to current prices.

Detailed regulations will be drawn up in a special law concerning the act of purchase and the priority to be observed between several offers.

This law may not be modified, interpreted, or repealed except under the same conditions as the law of autonomy.

4. Immigrants into the Aaland Archipelago who enjoy the rights of citizenship in Finland shall only acquire the communal and provincial franchise in the islands after five years of legal domicile. Persons who have been five years legally domiciled in the islands shall not be considered immigrants.

5. The governor of the Aaland Islands shall be nominated by the President of the Finnish Republic in agreement with the President of the Landsting of the Aaland Islands. If an agreement can not be reached, the president of the republic shall choose the governor from a list of five candidates nominated by the Landsting possessing the qualifications necessary for the good administration of the islands and the security of the State.

6. The Aaland Islands shall have the right to use for their needs 50 per cent of the revenues of the land tax besides the revenues mentioned in article 21 of the law of autonomy.

7. The council of the League of Nations shall watch over the application of these guaranties. Finland shall forward to the council with its observations any petitions or claims of the Landsting of the Aaland Islands in connection with the application of the guaranties in question, and the council shall in any case where the question is of a judicial character consult the permanent court of international justice.

The council unanimously approved this agreement.

RUSSIAN REFUGEES.

A report on Russian refugees suggested that a high commissioner and staff be appointed to coordinate the action taken in the various countries whether by Governments or private organizations. It appeared from the report that besides large numbers of women and children refugees there were some 200,000 men scattered throughout several countries and concentrated more especially in certain parts of the Near East where work for them could not be found; that these fugitives, unemployed through no fault of their own, constituted a heavy charge on several Governments, and it was recommended that the Governments concerned be approached with a view to determining what they would contribute toward the work of aiding the refugees.

INTERNATIONAL BUREAUX—BUREAU OF INTERNATIONAL RELIEF.

Representative Hanotaux submitted a report on the general principles to be observed in carrying out article 24 of the covenant, which provides that all international bureaux, which have been or shall be subsequently constituted by general treaties, shall be placed under the direction of the league, subject, however, to the consent of the parties in case of bureaux created before the covenant came into existence. He recommended that international bureaux not created by general treaties be placed under direction of the league on their application and after satisfactory examination and compliance with conditions required by the league. He recommended that one of the latter class be admitted at this session—the bureau of international relief, whose principal objects were, first, propaganda for international agreements for reciprocity in charitable relief to indigent foreigners; second, cooperation with the Government in insuring execution of such treaties.

DISPUTE BETWEEN LITHUANIA AND POLAND.

At the meeting in the afternoon of Monday, June 27, which was public, Representative Hymans presented a report of the negotiations at Brussels between Lithuania and Poland under his presidency. He offered a basis for the solution of the dispute and was asked to embody it in a draft resolution.

WORK OF PROVISIONAL ECONOMIC AND FINANCIAL COMMITTEE.

A report was presented at the morning meeting, June 28, which was private, dealing with the work of the provisional economic and financial committee. It had separated into two sections—the economic section and the financial section. It was shown that the economic section was conducting by questionnaire an inquiry into the world's economic situation and that the full committee would recommence in the near future the publication of the statistical bulletin of the supreme economic council. It was shown further that the financial section was making progress in the matter of rehabilitating the credit of Austria and of applying the international credits scheme to her situation.

MEETING PLACE OF COMMITTEES.

It was decided that in principle the committees of the council should meet at Geneva, the seat of the league, but that for special reasons committee meetings might be held elsewhere.

DISPUTE BETWEEN AUSTRIA AND SERB-CROAT-SLOVENE STATE (JUGO-SLAVIA).

The complaint filed with the council by Austria that Jugo-Slavia was threatening to liquidate the property of Austrian nationals if their debts to Jugo-Slav creditors were not paid in Jugo-Slav crowns was referred to the parties themselves in direct negotiation with the understanding that if this failed the league would endeavor to settle the dispute. Pending settlement the council recommended to the Jugo-Slav Government that it refrain from injury to individual interests.

TRAFFIC IN OPIUM.

The report of the advisory committee on the opium traffic formed by the council in compliance with an assembly resolution was presented to the council, approved by it, and the following resolutions were adopted:

1. That States members of the league which have not signed or ratified the international opium convention be invited to do so as soon as possible.

2. That the Netherlands Government be requested to continue its efforts to secure ratification of the international opium convention by those States which are not members of the league.

3. That the provisional health committee of the league, or any other similar organization, be asked to undertake an inquiry to determine approximately the average requirements of the drugs specified in chapter 3 of the international opium convention (medicinal opium, morphine, cocaine, heroin, etc.) for medical and other legitimate purposes in different countries.

4. That in order to carry out the obligations under articles 3 and 5 and under article 13 of the international opium convention the Governments which are parties to the convention be invited to adopt the following procedure:

Every application for export to an importer of a supply of any of the substances to which the convention applies shall be accompanied by a certificate from the Government of the importing country that the import of the consignment in question is approved by that Government and is required for legitimate purposes.

In the case of drugs to which chapter 3 of the convention applies the certificate shall state specifically that they are required solely for medicinal or scientific purposes.

5. That the special attention of the contracting powers having treaties with China be invited to article 15 of the international opium convention so that the most effective steps possible should be taken to prevent the contraband trade in opium and other dangerous drugs.

6. That consideration of the fifth recommendation of the advisory committee, proposing certain measures as to opium in China, be deferred. (This was proposed because it was reported that the Chinese Government was taking active steps to repress production, which had begun again in some provinces.)

7. That in view of the world-wide interest in the attitude of the league toward the opium question, and of the general desire to reduce and restrict the cultivation and production of opium to strictly medicinal and scientific purposes the advisory committee on the traffic in opium be requested to consider and report at its next meeting, approximately the average requirements of raw and prepared opium specified in chapters 1 and 2 of the convention for medicinal and scientific purposes in the different countries. (This was proposed in order to repress production as well as consumption.)

It was reported that the statement desired by the assembly as to the steps taken by the various Governments to carry out the terms of the international opium convention could not be gotten ready until the meeting of the assembly in 1922.

ARMS TRAFFIC.

The proper method of organizing an international office to aid the governments in keeping the arms traffic under control and surveillance in accordance with the convention of St. Germain was submitted to the temporary mixed commission on armaments.

PROTECTION AND WELFARE OF CHILDREN.

The recommendation from the international union for the protection of children, the international committee of the Red Cross and the League of Red Cross Societies that a special department be established in the league secretariat for the protection of children was considered and ordered postponed until after the meeting of the international congress for the protection of children, which the Belgian Government had summoned for July. Mention was made of the work already being done by the league for children, the international labor office having within its duties the protection of children against industrial exploitation, and the council having decided to take up the question of the Russian refugees, including their children.

COUNCIL'S REPORT TO ASSEMBLY.

Pursuant to the assembly resolution of December 7, 1920, requiring the council to present a report on its work each year to the assembly the council instructed the secretary general to prepare such a report for the coming assembly.

NEXT SESSION OF COUNCIL.

It was decided that the council should begin its next session on September 1, 1921.

POLAND AND LITHUANIA.

On Tuesday, June 28, in public meeting the council adopted the draft scheme prepared at its instance by Representative Hymans as a basis for the settlement of the controversy between Poland and Lithuania, the understanding being that the final agreement reached after further negotiations would be submitted to the diets of Poland and Lithuania and to the diet of Vilna, the latter to be constituted thereafter, and the consent of these bodies being essential to the coming into force of the agreement. For the maintenance of order in Vilna pending further negotiations it was provided that the military commission should organize a local police, not exceeding 5,000 men, of whom 600 should be mounted. Poland accepted and the Lithuanian delegation agreed to submit the matter to its Government.

FOURTEENTH SESSION OF COUNCIL, HELD AT GENEVA, BEGINNING SEPTEMBER 1, 1921.

UPPER SILESIA.

On the 1st day of September, 1921, the opening day of the fourteenth session of the council, a resolution was unanimously adopted to the effect that the question of Upper Silesia, which had been submitted to the league council by the supreme council of the allied powers, be referred for preliminary examination to a committee composed of the representatives of Belgium, Brazil, China, and Spain, who had taken no part in previous examinations or deliberations connected therewith, this committee to use not only the documents transmitted on this subject by the supreme council but any other source of information; that the committee have the right to seek such advice as they think serviceable, and call upon the necessary technical advisers, preferably those who had not taken part in previous studies and discussions of the matter and who had already cooperated with the technical organizations of the league; that they might hear the German and Polish inhabitants of Upper Silesia for the purpose of obtaining useful local information; that they make a report to the council, which might assemble at any time to receive it.

SUGGESTIONS OF PROVISIONAL HEALTH COMMISSION.

On September 2 the council decided to submit to the assembly a proposal by the provisional health commission for the creation of a special health section in the international public health office which should remain outside the ordinary organization of the league.

It approved the suggestion of the provisional health commission that the epidemics commission be merged in the general health organization and that a special inquiry be made into the present Russian cholera epidemic.

INTERNATIONAL INTELLECTUAL COOPERATION.

It created a commission to study the questions of education and international intellectual cooperation, to report to the assembly on measures which might be taken by the league to encourage intellectual interchange between the nations, and to work out a scheme for an international education office.

MANDATES.

On the subject of mandates it was announced that no reply having been received to the league's invitation to the United States to send a representative to the council to discuss mandates (the United States having informed the league that it could accept no decision on mandates without its approval), Señor da Cunha, as president of the league council, had asked the allied Governments to try themselves to reach a solution of the disputed points with the United States in order that the council should be able to settle the mandates matter before the next assembly, and that the A and B mandates had therefore been placed on the agenda of the coming assembly.

The representatives of the principal allied powers on the council then stated that their Governments had received a note from the United States on the question of mandates. The council decided that this note showed fresh progress in the negotiations and considered that it was not necessary to intervene, but decided to request the principal allied powers to hasten their negotiations with the United States.

The council continued to meet from time to time while the assembly was in session, and its transactions will be noted in connection with those of the assembly, whose second session began September 5, 1921.

SECOND ASSEMBLY OF THE LEAGUE OF NATIONS.

The first meeting of the second assembly of the league began at Geneva Monday, September 5, 1921, under the provisional chairmanship of Mr. Wellington Koo, China, acting president of the council.

OPENING ADDRESS; ELECTION OF PRESIDENT.

The provisional chairman, in his opening address, welcomed specially the new members of the league. The first assembly had consisted of 41 delegations, he said; the second consisted of 48.

He referred to the achievements of the league in promoting international cooperation, in handling technical and economic problems, and in matters of humanitarian and social concern; to the transit conference at Barcelona, the conference on the traffic in women and children, the advisory committee on opium traffic, the health committee, the economic and financial committee. He said the league had made definite progress in the greatest task assigned it by the covenant—that of maintaining peace and settling international disputes—that since the last assembly four international disputes had been dealt with by the league in accordance with the rules of the covenant.

The second assembly, he continued, would be asked to elect the judges of the permanent court of international justice, and that this was a striking example of the league's progress. It would also be asked to deal with proposed amendments to the covenant, thus demonstrating the adaptability of the league to the changing conditions of the world. It would take up the question of disarmament, a question in which rapid action could not be taken, but in which foundations had already been laid by the league for permanent accomplishments.

His experience as a member of the council had taught him, he added, that the league was not assuming in any way the position of a superstate; that it was a union for the prevention of war and for the promotion of the general welfare of mankind.

Delegate Van Karnebeek, of Netherlands, was then elected president of the second assembly.

TUESDAY, SEPTEMBER 6, 1921.—APPOINTMENT OF COMMITTEES; ELECTION OF VICE PRESIDENTS.

The assembly decided to create six standing committees, the chairmen of these and the six vice presidents to be elected to constitute its general committee. Each delegation was to be represented in each committee and each committee was to elect its chairman, who would become an ex officio vice president of the assembly. The committees were created, members appointed, chairmen elected, and six other vice presidents chosen.

REGISTRATION OF GERMAN TREATIES.

The official journal showed that Germany had submitted 20 more treaties for registration and publication by the league, making 35 altogether. These last submitted included treaties with China for resumption of amicable and commercial relations, with France concerning entry without duty into Germany of goods originating in Alsace and Lorraine, and the administration of justice in those provinces, the Rhine bridges between Alsace and Baden and the restitution of certain sums advanced during the war by Alsace and Lorraine.

WEDNESDAY, SEPTEMBER 7, 1921.—DISPUTE BETWEEN BOLIVIA AND CHILE.

The assembly took up the question of examining and adopting the agenda or program for the present session, and the delegate from Chile, Mr. Edwards, expressed the opposition of his country to examination by the league of the request of Bolivia for a revision of the treaty of 1904 (item 21 of the agenda). He claimed that the league was without jurisdiction to revise treaties, especially treaties of peace; that compliance with Bolivia's request would create a dangerous precedent, striking at the foundations of international law and having serious results throughout the world; that the treaty of peace of 1904 had been in existence for 17 years; that the principle of observance of treaties should be safeguarded; that this was in accordance with the rights of nations, the covenant of the league, even with the opinion of the Bolivian Government, and that it was essential that the assembly should take the same view.

He contended that by the terms of article 19 of the covenant cited by Bolivia the assembly could only advise the consideration by members of the league of treaties which had become inapplicable; that this meant that the league could not of itself revise a treaty; that furthermore article 5 prescribed that the decisions of the assembly must be unanimous and Chile would not consent.

Contentions like those of Bolivia, namely, that the treaty had been imposed on her by force, that certain of its clauses had never been executed, that these conditions raised a threat of war and that Bolivia was deprived of access to the sea might be brought forward, he said, to support a claim for revision of any treaty of peace. He asked what would become of the respect due treaties. He asserted that the treaty of 1904 had been signed in a friendly manner, without duress, the conquerer entering into negotiations with the conquered; that Chile's obligations had been fulfilled or were being fulfilled;

that the nonfulfillment of certain clauses would give Bolivia only the right to demand the fulfillment of all the treaty obligations; that Bolivia had free access to the sea; that she had been importing war material through Chilean ports at the very moment she was claiming Chilean territory.

Mr. Aramayo, of Bolivia, replying, contended that article 19 did not limit the jurisdiction of the assembly. He said that Bolivia desired a general examination of the whole situation, that being the object of her request for revision; that the viewpoints of Chile and Bolivia were irreconcilable; that Bolivian public opinion held that the treaty of 1904 was not only inapplicable but had never been applied; that Bolivia turned toward the league not to ask for an impossible reparation but for a measure of justice which would facilitate peace; that if the league should hold itself without jurisdiction it would deny the principle on which it was founded; that the Bolivian delegation asked that a committee should examine the question and advise the assembly, this proposal being in conformity with the rules of procedure.

Mr. Canelas, of Bolivia, argued in behalf of the league's jurisdiction and reviewed the controversy.

Mr. Edwards replied that the Chilean delegation was prepared to accept any procedure which would allow the assembly to form an opinion, provided the question of jurisdiction was not prejudged and provided the question did not figure on the agenda on the same footing as the others.

The president proposed postponement to a future meeting and that meanwhile the question should figure on the agenda as an item that had been reserved.

Bolivia accepted this proposal and Chile accepted also with the condition that the assembly should make a decision before the close of the present session.

THURSDAY, SEPTEMBER 8.—REPORT OF COUNCIL.

The report of the council was presented and considered.

DECISION OF AMENDMENTS COMMITTEE AS TO ARTICLE 10.

The committee on amendments decided not to propose any amendment to article 10 of the covenant, but to submit an interpretive resolution declaring the object of article 10 not to be the perpetuation of existing territorial and political divisions, because under the covenant they could be modified by various legitimate means, modifications by aggression being the only method excluded.

REPORT OF COUNCIL.

Friday, September 9, was devoted to further consideration of the council's report.

PERMANENT COURT OF INTERNATIONAL JUSTICE.

The Official Journal showed that when the time limit for the nomination of judges of the Permanent Court of International Justice expired on Monday, September 5, about 100 candidates had been put forward by 35 different States for the 11 judgeships and 4 deputy judgeships, and that the American group of The Hague court had failed to make a nomination. It showed also that a sufficient number of States had ratified the statute for the court in due time.

DENIAL OF WITHDRAWAL REPORTS.

Delegates from Colombia, Chile, and Bolivia denied to newspaper interviewers the report that these countries would withdraw from the league because of the rejection of the Argentine amendment to the covenant providing that all sovereign States should be considered members unless they indicated a desire to the contrary. Mr. Restrepo, head of the Colombian delegation, said that if President Harding should see fit to create a new society of nations Colombia would be among the first to apply for membership, but that this did not necessarily mean withdrawal from the present league.

REPORT OF COUNCIL.

At the meeting on Saturday, September 10, discussion of the council's report continued. Delegate Balfour stated that effective measures for disarmament could not be obtained so long as some of the leading nations remained outside of the league, especially those where armament was produced on a large scale. He enumerated the achievements of the league, however, and said in effect it had accomplished great good and was indispensable to the peace and progress of the world.

AUSTRIA'S APPEAL FOR FINANCIAL RELIEF.

For the first time a representative of the Central Powers addressed the league. Count Mensdorff, head of the Austrian delegation, appealed for the financial aid promised his country, which was being blocked, he said, by the failure of the United States to answer the request of the allied Governments to postpone for 20 years its claim against Austria for $20,000,000 advanced for food relief. He said that Austria had complied with all the conditions required by the league's plan for relief, but the promised help had not come; that without aid from the outside the Austrian situation was hopeless and his country in danger of falling to pieces.

ALBANIAN QUESTION.

An attack on Albania by a delegate from Jugoslavia brought forth a rebuke from the presiding officer and an explanation that the league had not permanently surrendered jurisdiction over the Albanian case.

REPORT OF COUNCIL.

On Monday, September 12, consideration of the council's report was resumed. In an extended address Delegate Bourgeois said that the league would go on with its work, confident that the United States would come to see that the league's ideals were its own. He wished the disarmament conference to be held at Washington every success, saying that every confidence should be placed in the Nation that sent so many of her sons across the sea to fight for liberty and justice.

Mr. Sastri, of India, deprecated criticism from countries who would not join the league and thus help it to correct or avoid mistakes.

The Official Journal showed that the United States had not only failed to nominate candidates for judgeships of the Permanent Court of International Justice, but had also failed even to reply to the invitation to ratify the court project. (A belated acknowledgment of the receipt of the invitation in the same envelope with 13 other belated acknowledgments of league communications reached the secretariat from the United States about two weeks later. The explanation was that the delay had been caused by the oversight of a clerk.)

REPORT OF COUNCIL.

On Tuesday, September 13, the council's report was still before the assembly. The addresses dealt largely with the importance of the Permanent Court of International Justice, the judges of which were to be elected the next day. The creation of the court was hailed as the greatest achievement of the league so far.

Capt. S. M. Bruce, a delegate from Australia, said that his country, although 12,000 miles away, was interested in European happenings; that she had sent 400,000 men to fight in the World War, and this had taught her that she was profoundly interested. He said the first object of the league was to make war more difficult and the next to improve social conditions; that he thought proportionately too much attention had been devoted to the latter. Delegate Doherty, of Canada, spoke in the same strain.

ELECTION OF JUDGES FOR PERMANENT COURT OF INTERNATIONAL JUSTICE.

On Wednesday, September 14, the council and assembly elected the 11 judges of the Permanent Court of International Justice and three of the four deputy judges. The judges elected were Viscount Robert Bannatyne Finlay, of Great Britain; Charles Andre Weiss, of France; Dionisio Anzilotti, of Italy; John Bassett Moore, of the United States; Rafael Altamira, of Spain; Senator Ruy Barbosa, of Brazil; Antonio de Bustamente, of Cuba; Max Huber, of Switzerland; B. C. J. Loder, of Holland; Didrik Galtrup Nyholm, of Denmark; Yoruzo Oda, of Japan. The three deputy judges elected were Negulesco, of Rumania; Alvarez, of Chile; Wang, of China. A deadlock ensued between the assembly and council in the election of the fourth deputy judge, and the matter was postponed until the succeeding day, it being announced that a mixed commission would be named to try to find a compromise candidate.

All these judges are men of high reputation as international jurists or experts.

The court is open to all the nations of the world and has jurisdiction over all questions of justiciable nature outlined in the covenant and hereinbefore described.

DISARMAMENT.

On Thursday, September 15, Delegate Lange, of Norway, took issue with the statement of Delegate Balfour of a few days before that the time had not yet come for disarmament, claiming that the league should not pause in its disarmament program because the United States had called a disarmament conference, but should proceed with more energy to carry out the principles of the covenant in this regard. He said he agreed with Woodrow Wilson that the League of Nations was the hope of humanity, and his reference to Wilson was applauded. More prolonged applause greeted the mention of Wilson by Bishop Noli, head of the Albanian delegation, who, in favoring greater publicity for the league's proceedings, said in part:

Speaking of pitiless publicity reminds us of that great citizen of the world who first used this expression and this weapon for promoting his ideals. I mean President Wilson, the spiritual father of the League of Nations. Sternly he fought and fell. But others have taken up the standard he raised and will march on fearlessly. We all hope America will come finally to join the colors raised by one of her noblest sons, because her people love peace and international justice. But in any

case we shall go on fighting the good battle, knowing we represent the hope of humanity, which has one prayer on its lips and one longing in its heart: "Our Father who art in Heaven, Thy Kingdom, brotherhood, and peace come on martyred earth."

ELECTION OF FOURTH DEPUTY JUDGE.

The committee appointed to submit a compromise candidate for the fourth deputy judgeship selected Judge F. V. N. Beichmann, of Norway, for action by the council and assembly. He was chosen.

BOLIVIA-CHILE DISPUTE.

Bolivia withdrew her demand for the placing of her dispute with Chile on the agenda of the present session, and the president appointed a committee of experts to decide the question of the assembly's competency.

ADJOURNMENT FOR COMMITTEE WORK.

On Friday, September 16, the assembly concluded general debate and adjourned till the following Monday to allow the committees to proceed with their work.

PERMANENT COURT OF INTERNATIONAL JUSTICE.

Before adjournment the president congratulated the assembly on the final establishment of the permanent court of international justice, announcing that acceptances had been received from 6 of the 11 judges elected. John Bassett Moore, of the United States, was among the six, wiring as follows:

Telegram received. I accept, with due sense of the honor and responsibility.

The American group of The Hague arbitration court, composed of John Bassett Moore, Elihu Root, Justice George Gray, and Oscar S. Straus, wired an explanation of their failure to nominate any candidate for the permanent court, which was as follows:

Considering that our appointment by the President as members of the tribunal of arbitration was under The Hague convention of 1907 to perform functions contemplated in the convention and that your invitation for judges under the new permanent court of international justice is under another treaty, to which the United States is not a party, and in respect of which no authority has been conferred upon us, we reluctantly have reached the conclusion that we are not entitled to make official nominations for the new court. We regret exceedingly that announcement of this conclusion has been unavoidably delayed.

It should be noted here that all the other national groups of The Hague court offered no such objections, but, on the contrary, made nominations for the permanent court, some of them proposing candidates who lived in the United States, one of whom was elected a judge of the court.

REPORT OF AMENDMENTS COMMITTEE ON ARTICLE 10.

On Saturday, September 18, the committee on amendments to the covenant decided to recommend no change in article 10 of the covenant, saying in its report:

The committee has decided unanimously in favor of maintenance of the principles set out in article 10. Exclusion of acts of aggression as a means of modifying the territorial integrity and political independence of States is the very essence of the League of Nations.

The committee decided to submit the following resolution on article 10:

Article 10 was not intended to perpetuate territorial and political organization as established and as existing at the time of the recent treaties of peace. Changes may be effected in that organization by various means. The covenant admits the possibility.

The intention of article 10 is to enunciate the principle that hereafter the civilized world can not tolerate acts of aggression as a means of modifying the territorial status quo and political independence of States.

To this end the members of the league have pledged themselves, first, to respect the territorial integrity and existing political independence of all States members of the league and, secondly, to maintain this integrity and independence against any external aggression, whether on the part of a State member or State nonmember of the league.

With the view of assuring fulfillment of this second obligation, the council shall advise upon means; it must do so not merely in the case of actual aggression but also in the case of danger or threat of aggression. The council will perform this function by addressing to members such recommendations as are deemed proper in regard thereto, taking into account articles 11, 12, 13, 15, 17, and 19 of the covenant.

The committee decided to recommend changes in articles 12 and 13 so as to bind members to observe the awards of the world court, just as they are bound to observe decisions of the council and assembly.

It also decided to recommend that proposed amendments should thereafter emanate from the assembly.

DISARMAMENT.

On Monday, September 19, the council's commission on disarmament issued its report holding that for the present the coming Washington conference could best deal with the question of disarmament and that disarmament could be more effectively secured by common agreement among the great powers. The commission held, further, that mankind was still too far removed from the ideals of peace to make possible at present the solution of disarmament. The replies received thus far to the assembly's suggestion to limit armament expenditures for the next two years to the amount expended this fiscal year were analyzed by the commission. Only Bolivia, Guatemala, and China accepted without condition. Belgium, Australia, and Canada accepted with the condition accompanying the suggestion that troops supplied in fulfilling the covenant should not be counted in the total. Great Britain, New Zealand, India, and Italy agreed on the condition that all the other powers also accept. Holland agreed provided rising prices be considered. Denmark, Norway, Rumania, and Chile signified no definite course, but stated that in all probability there would be no increase in their budgets. Spain and France declined to accept on the ground that budgets were not a fair criterion, many of them combining general expenses with those for armament. France pointed out that she was beginning to reduce the numbers of men required for compulsory service. Finland and Poland could not agree on account of special geographical and political situations. Greece could not comply on account of a war with nationalist Turkey. Jugoslavia said that international affairs were too unfavorable for compliance. Japan desired to await the outcome of the Washington conference. Austria and Bulgaria replied that their military expenditures were fixed by the peace treaties. Other replies were more or less vague. Of the 27 replies so far received the commission classed 17 as favorable, 7 as unfavorable, and 3 as vague. It considered the absence of United States, Germany, and Russia from the league as one of the greatest obstacles to efforts for disarmament under the covenant.

WHITE-SLAVE TRAFFIC.

The assembly discussed in the course of the day a proposed international convention for the regulation of the white-slave traffic, which had been prepared by the special committee authorized by the first assembly. It was suggested that the delegates wire their respective Governments for authority to sign the convention. This was met by the contention that such a procedure was beyond the power of the league and the intent of the covenant. On motion of the French delegation the question of the constitutionality of the procedure was referred to a committee. The committee reported in favor of the procedure. The convention contained provisions for extradition of offenders, compulsory inquiry by agents into conditions surrounding employment which they were procuring abroad, and stricter control of emigration and immigration.

POLAND-LITHUANIA DISPUTE.

The Lithuanian delegation demanded in open session that the council endeavor to secure the evacuation of Vilna by the irregular forces of Gen. Zeligowski, and advocated changes in the Hymans plan of an autonomous status for Vilna in Federal Lithuania. Mr. Askenazy, Polish delegate, said that these changes could never be accepted.

ALBANIAN QUESTION.

During the meeting of Tuesday, September 20, Bishop Noli, delegate from Albania, read a telegram from his Government stating that the Serbians had begun hostilities against Albania with an artillery bombardment of several frontier towns. Bishop Noli stated that on September 17 the Serbians had demanded the retirement of Albania from several frontier towns within 24 hours, and had begun the bombardment on the next day on the refusal of the Albanians to withdraw. He asked what the league intended to do. A Serbian delegate replied that it was absurd to speak of Albania's frontiers, because they had not been fixed. Lord Robert Cecil stated that this was not a satisfactory answer and that the league must take action. Announcement was then made that the council on the following day would take up the Serb-Albanian conflict. It was also understood that the conference of ambassadors was considering Albania's northern boundary which had been in dispute since the close of the war.

SESSION OF COUNCIL ON POLAND-LITHUANIAN CONTROVERSY.

The council met also on September 20 and took up the Polish-Lithuanian dispute. After hearing the refusal of these countries to accept the settlement proposed by Representative Hymans, the council rebuked them both and accepted unanimously the Hymans plan, which made the Vilna district an autonomous canton in Lithuania, and decided to place this action before the assembly, asking its approval.

MANDATES.

The committee on mandates decided to recommend to the assembly that it ask the council to insist that the powers push the negotiations with the United States and reach an agreement on mandates at the earliest possible moment.

PROGRESS IN UPPER SILESIAN QUESTION.

On Wednesday, September 21, the committee on the Upper Silesian question and the British and French representatives sitting with them made distinct progress toward a settlement.

It is worthy of note that the supreme council of the allied powers agreed, in submitting this question to the league council, to be bound by its decision. The supreme council is authorized by the peace treaty to fix the boundaries of Upper Silesia.

ARMENIA.

The assembly debated the report of one of its committees on the resolution asking the powers to provide in the final peace arrangements between Greece and Turkey a national existence for Armenia. Lord Cecil said that nothing could be done at present, with the Kemalists "in rebellion against the whole world," but that the league must be ready when the time came to see that Armenia be given an independent status.

ADMISSION OF LATVIA, ESTHONIA, AND LITHUANIA.

On Thursday, September 22, the assembly voted to admit Latvia, Esthonia, and Lithuania to the league, bringing the membership to 51 nations.

TRANSIT.

The assembly voted to establish a permanent committee of experts to cooperate with the efforts of the various Governments for better transit conditions. It was explained that the ultimate object was to have transit conditions so perfected that a shipment intrusted to a transportation agency in one country could be taken without unnecessary difficulties and delays to any part of the world.

BOLIVIA-CHILE CONTROVERSY.

The committee of jurists appointed to report on the league's jurisdiction over Bolivia's appeal for a revision of the treaty with Chile of 1904 relating to the Tacna-Arica territory reported that it considered the league without jurisdiction.

COUNCIL COMMITTEE ON ALBANIA-JUGO-SLAVIA MATTER.

The council committee to whom the Albania-Jugo-Slavia controversy was referred decided to take it up the following Monday.

MANDATES.

During the discussions in the assembly on Friday, September 23, several delegates expressed regret that the league could not proceed to fix the terms of mandates, because the United States would not negotiate with it; that the league should be delayed for another period in the hope that the United States and the allied powers would complete their mandate negotiations.

Dr. Nansen, discussing the report of the mandates committee to the effect that nothing could be done at present on account of the claims of the United States and especially the manner in which they were presented, said that the mandate matter was one of the most important before the assembly, because therein was embraced the spirit of the league; that the time would come when conquering powers would not annex acquired territories but administer them for the good of the inhabitants; that the league was being attacked because three years after the war the mandate system was not in effect, but that this was not the league's fault; that the minority of the mandates committee, including himself, wanted to go ahead anyhow, but the majority had decided otherwise.

Lord Robert Cecil said that since the States who were now members of the council had received a note from the United States stating Washington's desires, he thought the league should proceed, but that the allied powers had preferred not to take a step which might wound the sensibilities of the Americans.

Mr. Bourgeois, speaking for the council, said that as much as prompt action was desired, it was useless to ask the council to act until negotiations with the United States had been concluded; that an agreement would come in time, as there were no serious differences on principles; that the assembly need only wait the speedy completion of the negotiations with the United States to see the terms and titles of these mandates confirmed and agreed to by all concerned, including the United States.

DISARMAMENT.

The committee on disarmament debated the proposal of Delegate Jouliaux, head of the French Federation of Labor, that the league call an international conference to limit the private manufacture of arms. The members of the committee favored the idea, but objection was made to fixing the time for next June because of the probable effect on the Washington disarmament conference. Lord Robert Cecil said every effort should be made to secure the cooperation of the United States, because nothing could be accomplished without participation by the world's greatest manufacturer of arms.

Delegate Lange, of Norway, said the greatest obstacle in the way of removing this great cause of war was the failure of the United States to ratify the convention of St. Germain, which, he said, she signed in 1919 and then appeared to forget; that the people of the United States would on consideration find that the traffic in arms was as odious as the traffic in liquor; that the time should be fixed for June, so that it might be brought home to the United States that she was standing in the way of the world's progress toward peace.

Mr. Fisher, of Great Britain, stated that Mr. Lange's speech had much merit, and that he proposed to introduce on the floor of the assembly a resolution recommending that the question of the ratification of the treaty of St. Germain by the United States be brought to the attention of the Washington conference.

Mr. Reynauld, of France, opposed fixing a date, because it might lead the United States to think that the league intended to proceed in this matter without her cooperation.

COUNCIL'S REPORT ON POLAND-LITHUANIA CONTROVERSY.

On Saturday, September 24, the report of the council on the Poland-Lithuania dispute came before the assembly with a request from the council for moral approval and support. In the course of the debate, in which Lithuania and Poland took part, Mr. Bourgeois said that the council's report was not an ultimatum, and that if both sides showed a proper spirit it would be possible to secure amendments; that the report required a settlement and the assembly was asked to concur. The assembly indorsed the report, praising the work of the council and Mr. Hymans.

POSTPONEMENT OF HUNGARY'S APPLICATION FOR MEMBERSHIP.

Hungary requested the assembly to suspend action on her application for a year, stating that this was due to the action of the conference of ambassadors in reference to Burgenland, or West Hungary, the conference having ordered Hungary to withdraw on pain of forcible expulsion.

BLOCKADE.

On Monday, September 26, the report of the committee on blockade was submitted and discussed.

ALBANIA.

The committee on the Albanian question decided to change a resolution appointing a commission to investigate the situation in Albania so as to provide for action by the allied and associated powers.

Another resolution was indorsed recommending that Albania accept the decision of the conference of ambassadors which was at that time engaged in fixing the border. It was decided that further action be withheld pending the decision of this conference.

A resolution was framed providing for a commission in the event of new fights to fix the responsibility.

DISARMAMENT.

On Tuesday, September 27, the committee of the assembly considering disarmament adopted the following resolution, "That the temporary mixed commission be asked to make general proposals for the reduction of armaments, which in order to secure precision should be in the form of a draft treaty or other equally definite plan to be presented to the council if possible before the assembly of next year."

BLOCKADE.

The assembly reserved decision as to whether the council of the league should fix the date to apply the economic blockade against covenant-breaking States or merely recommend a date.

It adopted an interpretive resolution recommended by the blockade committee in substance as follows:

The unilateral action of a defaulting State can not create a state of war. It merely entitles other members of the league to resort to acts of war or to declare themselves in a state of war with the covenant-breaking State. It is the duty of each member of the league to decide for itself whether a breach of the covenant has been committed. Fulfillment of their duties under article 16 is required from the members of the league by the express terms of the covenant. They can not neglect them without a breach of their treaty obligations. All cases of breach of the covenant should be referred to the council of the league, as a matter of urgency, at the request of any member of the league. Should a breach of the covenant be committed or should there arise the danger of such a break being committed the secretary general should immediately give notice to all members of the council, which should summon representatives of the parties to the conflict and representatives of all the States neighbors of the defaulting State. The council of the league is of the opinion that in case of a breach of the covenant all the members of the league should be informed and that all States must be treated alike in the application of economic pressure. (One of the reservations to this interpretation exempting certain States from participation was referred to the covenant amendment committee.) The council holds that in case of prolonged application of economic pressure measures of increasing stringency should be taken; that the cutting off of the food supplies of the civil population of a defaulting State should be regarded as an extremely drastic measure, only applicable if other available measures are clearly inadequate; that efforts should be made to arrive at arrangements insuring cooperation by States not members of the league in the measures to be taken.

RESOLUTIONS ON WASHINGTON DISARMAMENT CONFERENCE.

On Wednesday, September 28, a resolution was favorably reported by the committee of the assembly on disarmament ex-

pressing the gratification of the league that President Harding had called the Washington conference on disarmament.

This resolution was adopted as well as another asking the permanent advisory commission on armament of the council to prepare plans for the control and prevention of the use of poison gas in war, and requesting scientists to announce at once all poison gas discoveries.

It was voted to establish a special branch of the secretariat to carry on propaganda in favor of disarmament.

WITHDRAWAL OF BOLIVIA'S DEMAND FOR INVESTIGATION OF TREATY WITH CHILE.

Bolivia withdrew her demand for the investigation of her treaty with Chile, the committee of jurists to whom the question was referred having reported that the league was without power to revise treaties, that power belonging solely to the nations making them.

FINANCIAL COMMITTEE.

The financial committee reported on general financial conditions, stating that the plan to rehabilitate the finances of Austria was still waiting the decision of the United States as to whether it would postpone its claim against Austria for food supplies and expressing the hope that this consent would be soon forthcoming. It was pointed out during the debate that the economic situation was at present the most alarming and critical problem of the world, and that it was to the commercial interest of the United States that she cooperate in restoring stability to Austria, central Europe, and the world.

INTERNATIONAL CONFERENCE ON FINANCE AND EXCHANGE.

The council was authorized to call an international conference on the economic situation, especially as related to the exchange problem.

At the meeting on Thursday, September 29, the assembly adopted a convention on the white-slave traffic embodying the conclusions of a recent international conference on the traffic in women and children providing greater restrictions in passports, etc.

The right of the league to draft international conventions was questioned during the debate, but the assembly decided that such action was within its province, inasmuch as the conventions were only for submission to the various States and not binding in any way.

RUSSIAN RELIEF.

On Friday, September 30, the assembly debated Dr. Nansen's plan for relief of starvation and distress in Russia, involving a donation by countries in the league of $25,000,000. While expressing sympathy for the unfortunate victims of famine, the assembly concluded that it would be useless to ask for so large a sum, on account of severe financial conditions throughout the world, and did not adopt the plan.

The report of the committee on the opium traffic was then debated. It recited the difficulties still attending all efforts to control the traffic, recommended continuation of investigations now in progress, and that they be extended to an inquiry relative to all drugs with a view to a draft convention for suppression of abuses. The report was adopted and the advisory committee on the opium traffic directed to consider advisability of an international conference.

DISARMAMENT.

The principal debate in the assembly Saturday, October 1, was on the report of the committee on disarmament. The report recommended the preparation of a general plan of disarmament to be presented to the next assembly, the nations to furnish inventories of existing armaments, with a statement of the money being spent upon them. The report also recommended an international conference on restriction of the manufacture of arms, condemnation of the use of poison gas in war, institution of world-wide propaganda for disarmament, and an expression of hope for real progress at the Washington conference.

Representatives of Great Britain, France, Italy, Belgium, Sweden, and Australia heartily supported the report, expressing faith in the success of its proposals and urging their prompt execution. The report and its proposals were adopted without dissent.

On Monday, October 3, the assembly decided to amend article 26 of the covenant so as to permit amendments of the covenant by a three-fourths majority of the assembly instead of the unanimous vote before required.

REVIEW COMPLETED.

This brings the league practically to the present day, October 5, with the council and assembly still in session, but on the eve of adjourning their present meetings.

SUMMARY.

Reviewing this account of the league, what are the points that impress us most?

First. For nearly two years an organization embracing nearly all the civilized nations, comprising a billion four hundred million of the billion seven hundred million people on the globe, has been discharging functions of the highest importance under the treaty which settled the affairs of the earth at the conclusion of a universal war, arranging differences and restraining hostilities, which uncomposed might have imperiled the peace of mankind—interchanging views on subjects essential to world harmony and world progress—establishing technical bodies combining the best thought of the earth on objects of common interest and concern, such as international law, armament, health, finance, labor, relief work, cooperation with Red Cross, proper administration of territories changing hands as a result of war, statistics, conditions of transit and travel, passport facilities, repatriation of prisoners, the white-slave trade, the trade in opium and other dangerous drugs, and so forth.

Clearly it is history's first example of definite and harmonious cooperation among so many nations of the world for so long a time on so large a scale and with such practical and far-reaching results.

Second. The creation by the league of the Permanent Court of International Justice is a step of first magnitude toward the peaceful settlement of international disputes. On the committee which the league designated to frame this court sat some of the foremost jurists of the world, including Elihu Root of the United States. The judges elected by the league to preside in this court are noted experts in international law, including John Bassett Moore of the United States. The Hague peace conferences of 1899 and 1907, which were recognized as the most notable attempts toward permanent peace for mankind that had yet been made, put forth every effort to create a world court to administer matters within the scope of international law as the fundamental, initial step toward the triumph of justice over force in world affairs, but both conferences failed. What they failed to do the league has accomplished.

Third. For nearly two years the league has supervised the government of the territories of the Saar Basin and free city of Danzig, handling problems of the most delicate nature, keeping in view the interests of the inhabitants and the purposes to which these districts were devoted by the treaty of Versailles. It is executing with efficiency various other duties assigned it by the peace treaties, including the supervision of international rivers, protection of minorities in certain countries, and so forth.

Fourth. It has settled the controversy between Sweden and Finland over the Aaland Islands, showing such thoroughness and fairness, and such consideration for all concerned as to enhance its position as peacemaker in the eyes of the world.

Fifth. While it has not as yet reached a final decision in the dispute between Lithuania and Poland, the fact that both countries ceased hostilities when the league was appealed to and refrained from renewing them during the efforts of the league to compose the matter is in itself a remarkable and promising achievement. It is doubtful whether these countries would have submitted to any other tribunal than the league. It is certain that a conflict which might otherwise have rekindled another general war through the involvement of Russia has been kept in abeyance by the moral prestige of the league.

Sixth. It has aided materially in settling an incipient quarrel between Poland and Austria over the disposition of Jewish fugitives and saved these unfortunate people from bitter experiences.

Seventh. It secured the definition of the frontier of Armenia but has been prevented from extending more substantial aid by the fact that the treaty of Sevres has not yet been enforced by the allied powers. The appeals to the league in the Albanian, Austria-Jugoslavia, Panama-Costa Rica, Greece-Bulgaria, Bolivia-Chile, France-Hedjaz, and Persia-Soviet controversies show that the world is looking to the league as a source of international justice.

Eighth. The confirmation of the transfer of the sovereignty of Eupen and Malmedy from Germany to Belgium was another function which it successfully performed.

Ninth. The fact that an organization of 51 nations, comprising more than three-fourths of the earth's population, is pledged to the peaceful settlement of disputes, and may discuss the merits of controversies everywhere has a composing effect on all the world and tends to localize whatever hostilities may from time to time break out. It has organized the public opinion of almost all mankind for peace, and has thus minimized the chances for the spread of a conflict from country to country and alliance to alliance which before the advent of the league was a perpetual threat to humanity.

Tenth. Its technical financial organization has rendered an immense service through the Brussels conference, where the

most comprehensive survey of world finances yet known was made and an international credit system devised with wonderful possibilities. An endeavor to apply this system to Austria, with the allied powers suspending their claims for a period of 20 years, has been balked by the refusal of the United States to take a similar step as to her claims. The Brussels conference warned all countries against any measures of drastic deflation.

Eleventh. Its permanent commission on disarmament is making a profound study of that fundamental question. Mention should here be made of the fact that the absence of the United States from the league has been recognized as one of the greatest obstacles in the way of disarmament. The failure of the United States to ratify the treaty of St. Germain for the regulation of the traffic in arms, although she had previously signed it, is another barrier to the peaceful aims of mankind. It is probable that this matter will be brought to the attention of our Government at the coming conference on limitation of armament.

Twelfth. The league worked out a system of mandate administration under the covenant more than a year ago, but both the league and the allied powers have been halted by the claim of the United States that she must be consulted as to mandates and must approve them before they become operative.

The mandate system of the league is a new and refreshing thing in history. It provides that territories changing control as a result of the war must be administered as a sacred trust for civilization and in the interest of the inhabitants, the mandatory power making a report every year to a league of nations, and thus subjecting its record to the light of a world publicity, the bar of world opinion. In arresting the application of this system for so long a time, with the world in so restless and disturbed a condition, the United States has done more to imperil peace and delay the return of stability than may easily be measured.

Thirteenth. Through its representative, Dr. Nansen, the league has aided in the return of hundreds of thousands of war prisoners to their homes.

Fourteenth. Through its technical bodies and its commissions it is dealing more effectively with the arrest of epidemics, the suppression of the opium traffic, the white-slave trade, and other objects of international concern than has ever been possible before.

Fifteenth. Its technical committee on transit and the great conference at Barcelona held under its direction on this important subject have made marked advances toward the elimination of useless and unnecessary burdens on international shipments. The object is to make possible an uninterrupted shipment on a continuous bill of lading from and to all parts of the world.

Sixteenth. Carrying out the spirit of article 23 of the league covenant whereby the member nations agreed to establish an international organization to secure and maintain fair and humane conditions of labor, both in their territories and in the countries with which they had commercial and industrial relations, part 13 of the Versailles treaty established the International Labor Organization. Membership in the league carries with it membership in this organization; but the latter has an existence entirely distinct from that of the league.

The International Labor Organization was authorized to operate through a general conference and to establish an international labor office to collect and distribute information on all subjects relating to industrial life and labor and perform such other duties as might be assigned it by the conference, as well as certain functions assigned it by the treaty in connection with international disputes.

The general conference meets annually and is composed of four representatives of each member nation. Two of the representatives are selected by the Government, one representing employers, the other employees. The work of the conference is to discuss desirable legislation affecting workers and to embody them in recommendations to member countries for legislative or treaty enactment, as may seem in each case advisable. Its recommendations are in no sense binding on the member nations.

As heretofore indicated, two of these conferences have already been held—the first at Washington in 1919, the second at Geneva in 1920—and their recommendations have been described. It is worthy of note that 36 nations have either enacted legislation or have bills pending in their legislative bodies carrying out one or more of these recommendations. To be more specific, 13 have enacted such legislation and 23 have measures pending.

The International Labor Office has been in operation for more than a year and its activities are of the greatest interest and assistance to the world-wide cause of labor. Investigations by a special commission of experts are being made into the causes of unemployment throughout the world, into conditions surrounding emigration with a view to international understandings for regulation of emigrant traffic and treatment of working-class emigrants. The office is studying from a standpoint of world-wide scope the subjects of cooperation, insurance against sickness, old age, and accident; maternity insurance; help for widows and orphans; industrial relations; agricultural labor; laws affecting labor in all the nations of the earth.

Seventeenth. The recent reference by the supreme council of the allied powers to the league council of the Upper Silesian question with power to act, evidences the rapid advance of the league toward the position the covenant intended it to occupy in the maintenance of world stability.

Eighteenth. The unanimity and the spirit of concession which have marked the league's proceedings for nearly two years are among the chief evidences of its capacity to function under the covenant.

What an array of achievement in the interest of world brotherhood and universal peace! In view of its record is not the league entitled to our support? Is it not clear that the help of the United States is the one thing needful for the complete assurance of its future? Is it not evident that the finger of Almighty God points the United States to the vacant chair at the council table of the earth? Shall we continue to stand apart while the other nations make this greatest effort of all time to set up justice and to tear down force? Is all the horror that gripped the world for four black years to teach us nothing?

The overshadowing object of our entry into the world struggle was the overthrow of war and the gospel of war. That was the purpose for which our soldiers exhibited a valor that will live forever.

A world at peace! Consummation sublime!

Thinkers, philosophers, statesmen, teachers, prophets in all periods have expressed the longing of humanity for peace. This longing was embodied in the visions of Isaiah, who pictured peace as the natural state of all mankind, and all mankind one brotherhood under the one and only God. Its application to all the world was foreshadowed in the league of Grecian States, by which they were federated into a workable whole. It was dimly seen in Plato's dream of an ideal republic. It permeated the doctrines of the Stoics, a system of philosophy based on the concept of every man as friend, not foe. It obtained portrayal in the deliverances of that orator of ancient days, Isocrates. It was suggested in the writings of Virgil and Cicero, of Seneca, of Horace, and of Tacitus. It was the theme of the angels as they sang the advent of the Messiah. It prompted the measures with which the church curbed medieval violence and disorder. It inspired the teachings of Erasmus. It found expression in Queen Elizabeth's "great design" for a European federation and in the proposal of Henry IV and his prime minister, Sully, for a Christian Republic of Christian States. It was illustrated in the treatise of De la Croix, who proposed a world tribunal for the prevention of war. It was reflected in the thought of Locke, who denounced war as inconsistent with morality. It was exemplified in the plan of William Penn for a sovereign State of Europe. It was mirrored in the preachings of Fenelon, the reasoning of Leibnitz. It was imbedded in the celebrated project of the Abbe of Tours, Charles St. Pierre, for a republic of nations. It was defined in the philosophy of Rousseau, the conceptions of Jeremy Bentham and the mysterious Gondard. It found spiritual realization in the theories of Immanuel Kant. But it was crystallized for the first time in an actual human institution when nearly all the civilized countries of the earth ratified the treaty of Versailles and established a league of nations for the preservation of world peace.

Believing that the issue of issues before the United States and all mankind is the League of Nations created by the treaty of Versailles, or another earth-wide crash; that this league, slow though may appear its processes and numerous the difficulties which surround it, offers to this generation and to this century the only hope of the final establishment of organized right and justice among the nations, I can not vote for any enactment in which, once more asserting our isolation from the league, we emphasize our desertion of humanity.

Mr. MOSES obtained the floor.

Mr. ROBINSON. Mr. President, before the Senator from Texas leaves the floor will he yield to me for a very brief statement?

The VICE PRESIDENT. The Senator from New Hampshire has been recognized by the Chair.

Mr. ROBINSON. Will the Senator from New Hampshire yield to me for a very brief statement?

Mr. MOSES. I have been waiting here for six hours and a half in order to make a brief statement while the Senator from Texas has been contributing to the filibuster upon the anti-beer bill, and I think that I should be permitted to go on.

Mr. TOWNSEND. Mr. President, I should like to make a request if the Senator will yield to me.

Mr. MOSES. Mr. President, if I have the floor I must insist upon keeping it.

The VICE PRESIDENT. The Senator from New Hampshire is entitled to the floor.

Mr. MOSES. Mr. President, when the treaty of Versailles was under consideration in the Sixty-sixth Congress I called the attention of the Senate to the mandatory provisions which the instrument would lay upon us, aside from those imposed by membership in the League of Nations. I then expressed the opinion that if we should ratify that treaty we would find ourselves immediately and without recourse forced automatically and by authority into the endless snarls of attempting to set new boundaries for contentious races in Europe, and that there would be imposed upon us a distasteful share in the task of holding Germany in leash, of restricting her commercial and industrial development and even of framing and applying the most essential of her internal statutes. I added that if we should once be drawn into these meshes of international complications it would be difficult for us to extricate ourselves, and that it would mean a complete departure from all the traditions and principles which have governed us from the foundation of the Republic; that it would mean our entrance into and our active participation in all of the numberless broils then existing in troubled Europe and which we would see multiplied in the next few years.

I then said, Mr. President, that I would not vote to ratify the instrument, and I adhered to that determination. My action in that regard was submitted to my constituents in two campaigns last year—one for renomination and one for reelection—and by unprecedented majorities in each instance the people of New Hampshire gave approval to my declaration that I would never vote to place upon my country the obligations or even the implication of obligations which ratification of the treaty of Versailles would bring upon us.

I have not changed my position in the slightest. If I believed, or if I had been led to believe, through any study of the simple text of the treaty now before us that the United States is now in any sense giving its approval or adherence to the treaty of Versailles, I would unhesitatingly vote to reject the pending measure. But I do not so believe. Except for a recognition of the treaty of Versailles as an existing instrument and one which the ratifying powers are honoring equally in the breach and in the observance, I see nothing in the present treaty which even remotely sanctions or indorses the treaty of Versailles, and as an irreconcilable I can not withhold praise from the President, who originated the policy which this treaty carries out, from the Secretary of State, who directed its framing, and from the American commissioner at Berlin, who so successfully conducted the delicate negotiations.

From my point of view, Mr. President—and I speak as I always shall speak upon this and kindred topics, as an irreconcilable—I see in this treaty the consummation of the struggle which was made in this body two years ago to maintain the independence of the United States, to assure to us continued free choice of action with respect to foreign problems, and to "secure the blessings of liberty to ourselves and to our posterity."

There is one point in particular, Mr. President, to which I hope I may refer without giving offense. To my mind the finest achievement of this treaty—and I am not unmindful, sir, of the numerous advantages which our negotiators have so skillfully procured for us in it—to my mind the finest advantage which this treaty provides for us is that, in definite form of words and with unmistakable language, it cuts us loose at once and, I hope, forever, from that body of death known as the League of Nations. Through the ratification of this instrument, with its explicit repudiation of any obligation of the United States to or under the League of Nations, I hope we shall find ourselves freed, Mr. President, from the constant and insidious pressure which the advocates of that impotent organic unit have been applying to us in the hope of persuading us to join their repudiated company. Seven millions of Americans determined last November that this should not be. Reacting to this mandate, a responsive administration, through a solemn international pact, has now declared that this shall not be; and, Mr. President, the opponents of the League of Nations, so far from seeking to pick flaws in this instrument, should hail it with a paeon of joy as affording to them the consummation which they have so devoutly wished.

I can not share the apprehensions voiced by the senior Senator from Missouri, to whose standard of opposition to the League of Nations I repaired as his first recruit; nor do I take counsel of the fears expressed by the sincere and eloquent Senator from Idaho, whose splendid gifts were never more finely or more effectively exercised than in the leadership which he gave to the prolonged contest which was finally taken to the people in "a great and solemn referendum" and was sealed with their approval, seven million strong.

This treaty, Mr. President, secures to us, by the free act of our late belligerent, all of the rights and privileges which would have accrued to the United States had the treaty of Versailles been ratified. It is well known, however, that the rights and privileges which this generous people of ours intended to claim under that instrument were far less in character and volume than those which our associates in the war are now, with so much difficulty, attempting to wring from the vanquished German people. Fine, Mr. President, as was our action in coming, however belatedly, to the side of the allied powers, it was no more fine than the moderation with which we laid our victorious claims upon our defeated opponents. In effecting a settlement with Germany the United States has not sought to recoup itself for expenditures of blood and treasure or to procure anodynes for the anguish which war always produces. We have asked nothing beyond the restoration of certain rights belonging to us by international law and freely accorded to us in the prior days of peace and mere recompense for the actual monetary cost of maintaining our portion of the army of occupation in Germany since the signing of the armistice nearly three years ago. To these should perhaps be added our natural desire to safeguard ourselves against an adverse application of mandatory provisions in lands to which we hold an undivided fifth interest in fee, and the claims not yet formulated for reparation to be accorded to our destroyed or damaged shipping, or to our nationals, who in one way or another directly suffered as a consequence of the operations of the war.

None of these, however, is a problem which necessarily brings us in contact with any of the machinery which the treaty of Versailles sets up; one of them, indeed, has already been provided for by the armistice. None of them may not be settled by direct negotiation and without recourse to any entanglement which one group of opponents of this instrument says we can not avoid and which another group of its opponents says we are cravenly seeking to evade; and none of them has any point of contact with the nebulous jurisdiction of the League of Nations.

We have now in our possession, Mr. President—that is to say, in the hands of the Alien Property Custodian—several hundred millions of property belonging to German nationals. This property we hold in trust, if we are to observe the principles which have hitherto guided our action in such matters; but, under conditions as they exist, this property is in such situation as to afford us ample guaranties for the settlement of any claims which we may be found justly to urge upon our adversary; and we would be lax, indeed, sir, if we had omitted to make use of the provisions of this treaty in giving us the right so to regard it.

In short, Mr. President, having through this treaty secured to ourselves every advantage which would have flowed to us from the treaty of Versailles, if that instrument had been capable of enforcement, and having freed ourselves from the onerous obligations and implications which its involved articles contain, I can see no reason why any irreconcilable should withhold his assent to its ratification.

I am not unmindful of the fact which the Senator from Idaho has brought to our attention that the present Secretary of State believes that this country should take a definite and authoritative place upon the Reparation Commission. Mr. Hughes has made no secret of his opinion. He has stated it to the chairman of the Committee on Foreign Relations and to other Senators, myself included. His conviction upon this point is as genuine and sincere as is my conviction to the contrary. The Reparation Commission, Mr. President, represents to my mind the most sinister of all the instrumentalities which the treaty of Versailles has created. Its tenure, which covers a human generation, may not be shortened, although it may be extended. It is the rallying point for all of that group of international bankers who know that the United States is, and for a generation must continue to be, the chief depository of the free funds of the world, and the chief scene of undisturbed enterprise which will be productive of further moneys. It is not strange, sir, that these forces of greed and selfishness should seek by every means in their power to persuade the United States, through an excess of altruism, to lend our influence, not forgetting our capital, to the opportunities for profit which the reparations terms of the treaty of Versailles so freely offer to those who traffic in international securities.

I have often thought, Mr. President, that those who have urged ratification of the treaty of Versailles might be justly, if roughly, divided into two classes—those who do not know what the instrument contains and those who know its contents

only too well. In this latter class, sir, I have always placed the international bankers, who, through the processes of financial jugglery with which they are only too familiar, and of which the American public has gained hitherto some costly knowledge, saw vast operations in German reparations bonds which would net to themselves in the smallest calculation the tidy sum of at least $6,000,000,000—a sum, Mr. President, sufficient to excite the cupidity of even the richest of the crew and to gain which they would be justified, from their own selfish standpoint, in any expenditure of time, effort, and money to corrupt American public opinion to the extent necessary to secure our official sanction for their nefarious undertaking.

But, Mr. President, neither ratification nor rejection of this treaty will affect the efforts of this group, nor will the ratification or the rejection of this treaty probably change the sincere convictions of those who argue for our participation in the work of the Reparation Commission with no thought of personal gain for themselves. Even now if the administration should choose to ask us for authority to establish representation on the Reparation Commission there is no bar to the petition. Indeed, sir, the rejection of this treaty would probably facilitate such a request, because in the absence of the opportunities which this convention presents to us for the settlement of all our difficulties with Germany and in the absence of an alternative treaty, the form of which no opponent of this instrument has yet presented, it might be argued with great force that our entrance upon the Reparation Commission would be a prime necessity.

But in any event, Mr. President, that question is not now before us. If and when it comes, will be the time to consider it. If or when it comes, I shall stand here to oppose it. But, now, sir, my duty is clear. It is to vote for the ratification of this treaty, because it contains all that the American people sought when the war ended, all that they indorsed in the last election, all that any of us hoped to attain when we took our stand in opposition to the treaty of Versailles, and all that Congress had in mind when adopting the Knox resolution, which was this treaty's forerunner.

Mr. TOWNSEND. Mr. President——

The VICE PRESIDENT. The Senator from Michigan is recognized, and the Senate will resume legislative session.

FEDERAL AID TO GOOD ROADS.

Mr. TOWNSEND. I ask that the senior Senator from Colorado [Mr. PHIPPS] be relieved from service on the conference committee on Senate bill 1072, being the good roads bill, and that the Chair appoint another Senator in his place. Because of his illness the Senator from Colorado will not be able to be present.

The VICE PRESIDENT. Is there objection to the request of the Senator from Michigan? The Chair hears none. The Chair appoints the Senator from Nevada [Mr. ODDIE] as one of the conferees on the part of the Senate, to take the place of the Senator from Colorado.

ADDRESS BY ALBERT D. LASKER.

Mr. CALDER. Mr. President, this afternoon I asked unanimous consent to insert in the RECORD a speech made by Chairman Lasker, of the Shipping Board, which is a comprehensive statement of the present condition of the affairs of the board and its policy for the future. I now renew my request that the speech made by him in New York to-day be printed in the RECORD.

Mr. UNDERWOOD. What is the request? I did not hear it.

Mr. CALDER. That an address delivered in New York to-day by Chairman Lasker, of the Shipping Board, being a comprehensive statement of the present condition of the affairs of the board and its future policy, be printed in the RECORD.

Mr. ROBINSON. Mr. President——

The VICE PRESIDENT. The communication was received and sent to the Committee on Printing. That committee would have to be discharged before the Senator's request would be in order.

Mr. MOSES. Mr. President, the communication was sent to the committee, of which I am chairman, because of my objection, as I understood. I have since had occasion to examine the print of the document which the Senator from New York has in his possession, and, so far as I am concerned, I withdraw the objection which I made at that time.

Mr. ROBINSON. Was not the communication referred to the Committee on Printing?

The VICE PRESIDENT. The Chair so stated.

Mr. ROBINSON. Then I suggest that the committee, in regular procedure, should report upon the matter.

Mr. MOSES. That, Mr. President, would not preclude the Senator from New York from asking unanimous consent——

Mr. ROBINSON. I suggest to the Senator from New York that before his request could properly be granted by the Senate the committee should be discharged from the further consideration of the matter. If he will modify his request in that respect, I shall not object.

Mr. CALDER. I ask unanimous consent that the Committee on Printing be discharged from the further consideration of the matter.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the committee is discharged.

Mr. CALDER. I ask unanimous consent that the address may be printed in the RECORD.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The address is as follows:

SPEECH OF ALBERT D. LASKER, CHAIRMAN UNITED STATES SHIPPING BOARD, AT A MEETING OF THE ADVERTISING CLUB OF NEW YORK CITY, OCTOBER 5, 1921.

Until there is an awakened consciousness on the part of all citizens of America that economic stability is dependent on the disposal of our surplus wares and products in world markets there can never be an American merchant marine.

Until the farmer in Kansas, the industrial worker in Indiana, the miner in Arizona realize that the regularity and volume of their daily wage is in a measure as dependent on the establishment of an American merchant marine as is the continuity of employment and the wage of the dock worker in Baltimore or San Francisco, there can be no assured hope that the flag of the United States will be maintained as it should be on the seven seas. Sound economics accept as fundamental that national prosperity is based on continuity of employment at wages consonant with American standards of living.

When surpluses accumulate, prices are demoralized and employment ends until the excess has been consumed.

As long as America had a virgin empire to explore and develop the need generally for world markets to consume surpluses was not pressing. In our beginning, with 13 States, a narrow strip along the Atlantic, we were a seafaring Nation; and immediately after the War of 1812, under wise protective laws, the American flag floated proudest of all on the seas. Beginning with the period of 1849 the opportunity for wealth in our uncharted and undeveloped central and western empire challenged the imagination of America's youth, and the lure of salt water gave place to the call of the unclaimed riches that awaited the overland emigrant.

But to-day, with 48 States, well populated with over 105,000,000 people, with world conditions changed by the Great War, America, which during the period of the conquering of its empire was a self-consuming and self-sufficient Nation by and large, now finds itself once more, if employment is to be general, with permanent surpluses which can only find outlet on the ocean.

Generally speaking, the last 10 per cent of production makes the market, and it is this last 10 per cent that we must insure disposal of to customers in foreign lands. Except with a merchant marine under our own control, there can be no assurance of these essential markets.

When the Boer War came Britain withdrew her ships from our trade, because she had need of them to carry her own armies and her own supplies to the scene of battle. Had we then the need of world trade which we have to-day, America would have suffered indeed. The lack of ships for American trade in 1915 is too fresh in our memory to need stressing.

Napoleon said, "An army travels on its belly." This, too, is true of the navy. We have to-day the second largest navy in the world. And who can promise that in the next war we can call on allies for the bottoms needed to transport our Army and feed and supply it and our Navy? So from the standpoint of peace or the standpoint of war America's stability calls for the insurance of a merchant marine. Thus an interest in the problem and a sacrifice for its successful fruition becomes as important to the inland dweller as to the coastal population.

* * * * * * *

Sixteen weeks ago to-day the present United States Shipping Board took the oath of office and entered upon the stupendous task assigned it. This child of war's necessity had grown to huge proportions under such conditions as to present to the new board a task so tremendous that no one not directly associated with it can have a remote comprehension of its magnitude.

These 16 weeks of strenuous endeavor have accomplished only a mere beginning, but a real beginning, of the foundation upon which a substantial structure of accomplishment, we hope, may, in good time, be erected. In June last the overhead shore organization of the board and the Emergency Fleet Corporation consisted of some 8,300 people, at an annual salary expense of nearly $16,000,000, but in spite of this huge organization it was necessary for the present board to call into being an entirely new body of executives to handle the work that it found awaiting it.

As the summer passed it became necessary to go to Congress for more funds, no appropriation having been voted for the current fiscal year to the old board. The urgent deficiency bill carried $48,500,000, which was given to the board and the Fleet Corporation for the purpose of meeting current expenses. In addition, the board had already been voted $25,000,000 to finish the last of the ships under construction and was permitted to use $55,000,000 more for its current expenses, providing it could find such sum or any part thereof from the liquidation of its assets. At the moment it would appear impossible, without an unconscionable sacrifice of assets, to realize any material part of this $55,000,000 within the immediate reasonable future.

The new board found no financial statements of the condition of the board, either as to capital expenditures or operating history, which any business or business man could use as a guide. The accounting system that started with the operation of ships had simply collapsed and the new board's immediate problem was to create a system of accounting that would truly mirror the business of the corporation.

To build such an accounting and financial system on the shattered fragments that we found awaiting us was a task in itself to challenge the ingenuity of any organization. After 16 weeks we find ourselves with the framework of our human organization—accounting, operating, financial, legal, and liquidation—practically completed.

With its new and, what is considered in some quarters, high-priced additions, the salary roll of nearly $16,000,000 of June last has decreased to approximately $12,000,000, and the number of employees represented by this pay roll to less than 6,000. Financial reports are beginning to come in. On September 23 we had our cash statement

as of August 31, the second cash statement that it has been possible for the new board to have since it took office.

On the same date our operating account for the month of August was presented, and three weeks ago the result of the inventory of all of the Shipping Board's materials and supplies (not including plants, ships, or accounts) was available for the consideration of the board and for the adoption of a policy for liquidation. The reorganization of the various departments and offices is proceeding apace and it is hoped that results accomplished in months to come will show a satisfactory progress toward a plan of respectable operating efficiency, limited by the handicaps surrounding American shipping in general and Government operation in particular.

The American Nation to-day finds itself in possession of a fleet of 1,450 ocean-going steel ships of approximately 10,500,000 dead-weight tons, not to mention a fleet of 10 ferro-concrete vessels of over 60,000 tons, and a wooden fleet of 285 ships of 1,000,000 dead-weight tons. For practical purposes we need only consider the steel fleet, as the concrete and wooden ships will be eradicated.

Of these nearly 1,500 steel steamers, we may say in round figures that one-third of the number, comprising nearly one-half of the tonnage in dead weight, are excellent commercial vessels, one-third are fair commercial vessels, and the balance, for all practical purposes, are a total loss save for what salvage can be gotten out of them through ultimate sale or conversion, either in this country or abroad.

The reason that half the steel tonnage owned by the Government rates from fair to not usable is that in the stress of war there was necessarily constructed whatever type of ship could be most expeditiously built, regardless of its ultimate commercial value in times of peace. To briefly illuminate why one-third of these ships were classed as not commercially practicable, in order to get the maximum production of war tonnage some 300 ships were built in the yards of the Great Lakes. To bring these vessels to salt water they must pass through the Welland Canal, the size of whose locks determine the size of these lake-built vessels. Most of these can not be used on the Lakes because they were built for sea service and do not meet fresh-water needs. Most of them are too uneconomical for ocean carriers to meet the competition of peace-time trade.

The cost of the construction of this fleet and its operation up to the present time is about $3,500,000,000, the total expenditure for all purposes. If the whole $3,500,000,000 were written off to-day and the fleet carried as a total loss, this greatest of the Government's war operations would not owe the American people one penny. Unfortunately, the billion dollars or more expended in airplanes performed no service at all in the war, but who can say of the major factors which was the determining one in bringing the war to its successful conclusion? Certainly there were several major factors, first of which was our valiant Army itself, but none of the major factors counted more than the Government's fleet.

True, most of this fleet was not finished until after the war's end, but Germany, knowing that the ships were to immediately come out of the yards, realized that she was fighting a losing game. The Allies and America used their ships more profligately because they knew replacement was at hand. So that potentially the vast share of the fleet that was not finished until after the war really played a dominating feature in hastening the final decision.

Nor could our upward of $20,000,000,000 worth of foreign trade have been carried on in the years between the armistice and the present had not this fleet been in existence. It was because of this fleet that we were able to move the enormous volume of American manufactures and raw materials at a time when there was a shortage of world tonnage. It was because of these ships that our factories, farms, and mines were able to operate at top speed when the boys returning from the front were seeking employment. How serious would have been the situation had to-day's liquidation been in process when the country was called on to absorb into its economic life the 4,000,000 men who had so sacrificially borne arms in the world's Great War.

So to-day we are left with this great fleet—many times the largest that has ever responded to the orders of a single owner—and the great question that confronts the Shipping Board, the problem toward which all of its organizing efforts have, so far, been directed, is the problem of the future of its vessels and of America upon the seas. For, in the successful operation of these vessels, lies the immediate hope of the establishment of an American merchant marine, and in an established American merchant marine lies our only assured hope of world trade, which means prosperity and happiness for America.

The fleet, under the control of the Shipping Board, which has been built and operated at a cost to the Government's Treasury of three and one-half billion dollars, will no longer be an irksome burden to the taxpayer. The building program is practically finished. Only such ships are being completed as are cheaper to finish than to scrap. The $25,000,000 appropriation from Congress, with possibly $5,000,000 more, will, by the end of this year, see the last of the Government-owned fleet ready for operation.

The Shipping Board has steadily been tying up tonnage, primarily to stop its own losses, which has incidentally resulted in permitting continued operations by private owners, who could not run in competition with the Government (even were the Government willing) during the present world depression. It is the board's duty to see that the utmost tonnage possible is being carried at this time under the American flag, but it is also its duty to see that private operators are fostered and that the Government's loss is minimized.

We believe we have our losses checked and hope to require not more than $5,000,000 a month for operations from now until the end of the Government's fiscal year, June 30 next. Five million dollars a month is a huge sum, but small compared to keeping alive an organization with $3,500,000,000 invested and operating and developing essential strategic trade routes, which must necessarily be run at a loss under the present trying conditions of world-carrying trade. We can not but believe that if we can produce a constructive policy the taxpayer, hard pressed though he is, will not only approve of the continued operation at the present cost, but applaud same, in comparison to the previous loss entailed.

The liquidation of the $3,500,000,000 of the corporation's assets will, at any time, realize but a fraction of the original cost, because the fleet was built with understandable waste and high expense during war pressure. The money loss in liquidation need not be considered, since it has already been written off in the cost of the war and, as here outlined, served a function in full value.

What remains, though, are the ships—potentially one of the greatest assets America has to insure its economic future, which means to insure the pursuit of happiness by its people.

What then are the problems that must be met to permit these ships to pass into hands of private owners, to be sponsored under the initiative and energy of private ownership? What are the problems that stand in the way of the operations of American ships privately owned? What are the problems that stand in the way of an assured American merchant marine? Permit us to inventory America's future on the seas, at this time when world shipping conditions in general, and America's in particular, are at the lowest ebb, in proportion to existing tonnage, possibly ever known in the history of seafaring man under economic conditions.

When the tonnage of vessels now building throughout the world is completed, there will be afloat an increase of nearly one-third, as compared to the existing prewar tonnage. True, abroad, as well as in this country, many war-built ships are now regarded as useless. This is even true of Britain, considered the foremost of shipbuilding nations. However, the effectiveness of ships to-day has not yet returned to prewar standards. Disarrangement of trade routes, resulting in longer average voyages, is a factor that tends to counteract this excess, which is, however, vastly exceeded by the enormous dropping off in foreign trade.

The best estimate available to-day shows that in 1921, in tons of ocean freight, perhaps 60 per cent as much is moving as in 1913. Granting the premise that the last 10 or 15 per cent of trade makes or demoralizes the market, the possible 40 per cent deficit in ocean trade existing to-day eloquently speaks for itself.

As a result of this decrease in trade and the increase in ships since May, 1920, freights have fallen off and, as cargoes ceased to be available, vessel after vessel has been tied up, until now an amount of tonnage which practically represents the total visible excess of some 20,000,000 dead-weight tons hangs over the ocean-carrying market, which will prevent an increase in freight to a remunerative basis for a longer time after trade improvement sets in. Half of this tonnage will never turn a wheel again, being unfit for profitable peace-time operations.

It is interesting to note that America is not alone stricken, as more than half of the laid-up tonnage fly foreign flags. Obviously, the nations who for centuries have been building trade routes, with generations of good will behind them, will feel the depression in much smaller measures than does our vast new American enterprise.

Because of the existing excess of tonnage the values of bottoms have so dropped that time charters to-day are one-eighth of the going rates in the third quarter of 1919. A 10,000-ton steamer can be had under charter hire for a little over $11,000 per month, as against $100,000 when charter hire was at its height. In the face of these low rates the American owner finds himself confronted by the keenest of foreign competition, with the handicaps of higher wages, expensive victualing, and severe legislative requirements. Who will question that American living standards should be maintained on the seas as on the land, but to be maintained they must be paid for, and the difference between American and foreign standards must somehow be met.

American ships cost more to build than foreign ships, because of higher American standards of living and therefore higher American wages. No American merchant marine can be created with ships operated under the American flag but built in foreign yards. Domestic shipyards are as necessary to a merchant marine as the ships themselves, because, in case of need for tonnage when other nations could not or would not supply us, we might find ourselves with a woefully unbalanced fleet, and in time of war without facilities for replacements and repairs.

Therefore, from the standpoint of operation and original cost, with all it entails, America's new, young merchant marine is under financial handicaps of a major nature. Added to that, the sea routes of the world are controlled by other nations. Wherefore, we must spend, as every new business must spend, the moneys to get our share of the trade enjoyed by others. We are thus face to face with the question: What must be done that the American flag may not only be kept flying on the seven seas, but that America may take the place on the seas that her needs of world commerce and her position demand?

The merchant marine act of 1920, generally known as the Jones bill, has as its preamble a magna charta for America on the seas unsurpassed in the annals of our country's legislation:

"*Be it enacted, etc.*, That it is necessary for the national defense and for the proper growth of its foreign and domestic commerce that the United States shall have a merchant marine of the best equipped and most suitable types of vessels sufficient to carry the greater portion of its commerce and serve as a naval or military auxiliary in time of war or national emergency, ultimately to be owned and operated privately by citizens of the United States; and it is hereby declared to be the policy of the United States to do whatever may be necessary to develop and encourage the maintenance of such a merchant marine, and, in so far as may not be inconsistent with the express provisions of this act, the United States Shipping Board shall, in the disposition of vessels and shipping property as hereinafter provided, in the making of rules and regulations, and in the administration of the shipping laws, keep always in view this purpose and object as the primary end to be obtained."

The Congress that passed this legislation was thoroughly conversant with the handicaps to American ocean trade. President Harding was a member of the committee that framed it and none more inspiringly cooperated than he. And it is my privilege here to announce and confirm that the same inspiration which guided him in his work on this bill as a Senator lives with him as President. His interest in the successful application of the Jones bill and the establishment of the American merchant marine has increased from the time of the framing of the bill until to-day, as his responsibilities have increased from Senator to President. No man living more whole-heartedly and determinedly calls for a permanent policy for American shipping than President Harding. No man living desires more keenly a permanent American merchant marine commensurate with American needs than President Harding. It is the inspiration and determination of President Harding that gives heart to the Shipping Board to carry the great burdens it bears.

Senator Jones, whose name the merchant marine act of 1920 bears, will live immortal in our sea history.

It is unfortunate that because of intervening conditions it is only now, 16 months after the Jones bill became law, that there exists a Shipping Board which, for the first time, is ready to consider the great questions of policy and the mandates contained in that legislation, in the application of which may lie the ultimate life or death of America upon the seas.

The Jones Act was obviously framed with the recognition that, because of conditions surrounding American sea carrying which we have covered, no American merchant marine could be established without extraneous assistance being created for its benefit. The Jones bill provides for the creation of what is hoped will be such extraneous assistance. For instance, it provides that American mail shall be carried

in American ships, thereby giving American tonnage the benefit of revenues accruing from postal service originating in this country; it provides for through preferential rates on railroads, to be allowed only when property or passengers are carried in American vessels; it provides for the abrogation of treaties restricting America's right to impose discriminating customs duties and tonnage dues.

It was the thought and hope of the framers of the Jones bill that the application of these three major and several other minor provisions would render American tonnage such extraneous assistance as to increase their earning capacity, so as to enable our merchant marine to cope with foreign competition, in spite of its higher original cost and subsequent greater cost of operations. The existence of these laws and mandates in the Jones Act are only the forerunner of what must be done to bring their application into being. Until this time there has not existed, as is well known, a fully constituted Shipping Board with the organization to study the applications of the provisions of the Jones Act. A wrong application of these provisions, instead of building an American merchant marine, may destroy it. The right application, it is hoped, will insure the end so much to be desired.

The present Shipping Board has three great responsibilities: First, the operation of the fleet which it inherited, pending its sale to private owners; second, the liquidation of its assets; and third, but far most important of all, the application of the Jones Act.

That it might devote itself intelligently and inspiredly to the Jones Act the first 16 weeks of the existence of the present Shipping Board have been spent in building an organization to operate the fleet and liquidate its materials. This in itself is a stupendous task, but is one which we feel is on the high road to ultimate accomplishment. And thus now, for the first time, a United States Shipping Board finds itself positioned to study and apply the great charter given it by the merchant marine act of 1920.

That study and collateral work necessary to the same must perforce occupy a considerable span of time. But if in the next 16 weeks the Shipping Board can make as much progress in this greater problem of the study and application of the Jones Act as it has made in the past 16 weeks in the operation and liquidation of its physical assets, it will have accomplished what its most ardent well-wishers dared not hope for. Seemingly insurmountable obstacles must be met.

There are those who, for myriad reasons, do not wish the status quo changed. Unfortunately there are possibly American owners who, feeling secure in conditions as they exist and which have inured and can inure to the benefit only of a few, of whom they form part, selfishly can not see unbiasedly the greater picture of a greater American merchant marine and are loath to aid in bringing about any greatly changed conditions.

Obviously, we can not gain trade on the seas without displacing the existing trade enjoyed by foreign ships. And these foreigners are ever at work, silently but surely, in their own national interest, for which we can not blame them, to undermine possibility of an American merchant marine. The Jones bill must be given life by the present board. These hostile forces from within and without, sowing seeds of discord and distrust, must be met and vanquished or America will perish from the oceans and be confined in carrying trade to within its own borders.

Such an accomplishment can not be realized, as President Harding has said, "by the waving of a magic wand." Those who are truly interested in the winning of the seas to America, in their impatience are crying aloud for results faster than they can be brought about, and, unwittingly, are the aiders and abettors to those who would destroy the possibility of an American merchant marine.

The Shipping Board, inheritors of a war-built business with all its consequent weaknesses; the Shipping Board, with all the opportunities for statesmanship which have been put on it by the Jones Act, begs the patient indulgence of the country while it does the foundation work necessary to bring the Jones Act into life. And if that confidence is lacking, or, if impatience from any quarter does not give opportunity to the Shipping Board to build truly and soundly, then is America's economic life on the seas, for the next generation, dark indeed.

For America, self-contained and self-sufficient while it was conquering an empire of magic wealth, finds itself now approaching the time of vast surpluses which must be sent out into the lands of the world beyond the seas if employment at home and maintenance and stabilization of domestic prices are to exist. We can not rely on foreign bottoms to carry this surplus, for the foreign bottoms necessarily are owned by those nations which have the foreign trade, and when they find our competition pressing the most they will also find reasons and conditions not to give us the bottoms necessary to carry our commerce.

The future of the American merchant marine is in the recognition by the farmer of Kansas, the miner of Arizona, the industrial worker of Indiana that his continuous employment is in measure dependent on the carrying of his surplus production to foreign markets, and that can only be insured by the existence of American bottoms. National realization of this fact and national indulgence and patience with the Shipping Board in the unbelievably trying conditions which surround it are the pillars of hope for the future of the American merchant marine.

EXECUTIVE SESSION.

Mr. LODGE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 10 minutes spent in executive session the doors were reopened.

RECESS.

Mr. LODGE. I move that the Senate take a recess until 11 o'clock to-morrow.

The motion was agreed to; and (at 5 o'clock and 40 minutes p. m.) the Senate, as in legislative session, took a recess until to-morrow, Thursday, October 6, 1921, at 11 o'clock a. m.

CONFIRMATIONS.

Executive, nominations confirmed by the Senate October 5 (legislative day of October 4), 1921.

DEPARTMENT OF JUSTICE.

UNITED STATES CIRCUIT JUDGE.

Julius M. Mayer to be United States circuit judge, second circuit.

TREASURY DEPARTMENT.

COLLECTOR OF CUSTOMS.

James W. Roberts, of Great Falls, Mont., to be collector of customs, district No. 33, Great Falls, Mont.

ASSISTANT APPRAISERS OF MERCHANDISE.

Ferdinand M. Becker, of Queens County, N. Y., to be assistant appraiser of merchandise, district No. 10, New York, N. Y.

Herman W. Beyer, of New York, N. Y., to be assistant appraiser of merchandise, district No. 10, New York, N. Y.

John T. Donnelly, of Beacon, N. Y., to be assistant appraiser of merchandise, district No. 10, New York, N. Y.

PROMOTIONS IN THE NAVY.

TO BE CAPTAINS.

Harlan P. Perrill.
Leonard R. Sargent.
Walton R. Sexton.
Clarence S. Kempff.
John Halligan, jr.
William C. Watts.
Zeno E. Briggs.

TO BE COMMANDERS.

Charles C. Moses.
Charles C. Soule, jr.
Forde A. Todd.
Harry A. Stuart.
William F. Halsey, jr.
Allen B. Reed.
Ormond L. Cox.
Royal E. Ingersoll.
Herbert F. Leary.
John N. Ferguson.
Walter B. Woodson.
Herbert E. Kays.
Louis P. Davis.

TO BE LIEUTENANT COMMANDERS.

Edmund W. Strother.
Allan G. Olson.
Abner M. Steckel.
Cleveland McCauley.
Leslie C. Davis.

TO BE LIEUTENANTS.

Oliver O. Kessing.
William D. Sullivan.
John E. Ostrander, jr.
Seabury Cook.
Laurence E. Kelly.
Donald A. Green.
Thaddeus A. Hoppe.
Joseph J. Clark.
J. Warren Quackenbush.
William W. Booth.

TO BE LIEUTENANTS (JUNIOR GRADE).

Laurence E. Kelly.
Thaddeus A. Hoppe.
Joseph J. Clark.
Vaughn Bailey.
William D. Sample.

TO BE PASSED ASSISTANT SURGEONS.

Glen M. Kennedy.
Frank J. Carroll.
Albin L. Lindall.
Francis W. Carll.
Maurice Joses.
Harry J. Noble.
Furman Angel.
James G. Dickson.
Clifford G. Hines.
Frederick L. Schwartz.
Leslie H. Wright.

TO BE ASSISTANT SURGEON.

Lyle J. Millan.

TO BE DENTAL SURGEONS.

Emory A. Bryant.
Harry E. Harvey.
Joseph A. Mahoney.

TO BE PASSED ASSISTANT DENTAL SURGEONS.

Lou C. Montgomery.
James McK. Campbell.
Charles R. Wells.
Francis G. Ulen.
Leslie T. Conditt.
Carl E. Hall.

TO BE PASSED ASSISTANT PAYMASTERS.

Frank C. Dunham.
Edwin F. Barker.
James D. Boyle.
Clifford C. Edwards.
Gerald A. Shattuck.
Melvin F. Talbot.
David W. Mitchell.
Raymond T. Mahon.
Timothy J. Mulcahy.
George Winchester Armstrong.
Arthur D. Turner.
John E. Roberts.
Maurice M. Smith.

TO BE ASSISTANT PAYMASTERS.

Robert W. Wilson.
William T. Ross.
Harold T. Smith.
Worth B. Beacham.

TO BE PAY DIRECTORS.

Edmund W. Bonnaffon.
David Potter.
Samuel Bryan.

TO BE CHIEF PAY CLERKS.

John D. Dearmin.
Roe L. Flowers.

TO BE PAY INSPECTORS.

George W. Pigman, jr.
John S. Higgins.

TO BE ASSISTANT CIVIL ENGINEER.

Clyde A. Coryell.

TO BE CHIEF CARPENTER.

Dorus Nyburg.

MARINE CORPS.

TO BE LIEUTENANT COLONELS.

Charles T. Westcott.
Frederick A. Ramsey.
Chandler Campbell.
Earl H. Ellis.

TO BE CAPTAIN.

George Bower.

TO BE FIRST LIEUTENANT.

William H. Faga.
Herman H. Hanneken.
Daniel R. Fox.
William Ulrich.
Ralph W. Culpepper.
Herbert C. Bluhm.
Lloyd R. Pugh.
David H. Owen.
William W. Scott.
Henry A. Riekers.
Brownlo I. Byrd.
Lemuel A. Haslup.
Floyd W. Bennett.
Harry E. Leland.
John A. McShane.
Edwin U. Hakala.

TO BE ASSISTANT QUARTERMASTER.

Walter E. Noa.

POSTMASTERS.

ALABAMA.

Stella M. Stallworth, Chapman.

FLORIDA.

N. Macon Thornton, Ormond Beach.

KENTUCKY.

Leonas C. Starks, Hardin.
Verda Grimes, Salem.

MAINE.

Lewis H. Lackee, Addison.
David H. Smith, Darkharbor.
Ralph W. Chandler, Machias.
Lewis W. Weston, Rockwood.
William F. Huen, Sabattus.
Everett W. Gamage, South Bristol.
Evelyn W. Dunning, Topsham.

MASSACHUSETTS.

Matthew D. E. Tower, Becket.
Lillian M. Allen, Deerfield.
Benjamin C. Kelley, Harwich Port.
William A. Burnham, Montague City.

MICHIGAN.

George M. Dewey, Owosso.
Minnie E. Morrison, Stevensville.

MISSISSIPPI.

Bessie M. Nickels, Artesia.
James W. Gresham, Ashland.
James C. Bonds, Guntown.
Mary A. Patterson, Pinola.
William P. Gardner, jr., Saltillo.
Emma M. Berry, Silver Creek.

NEW YORK.

Florence H. Bailey, Chappaqua.
Carrie De Revere, Eastview.
George H. Burres, Garnerville.
William H. Mead, Palmer.
James Dimond, Peekskill.
James S. McKee, Waddington.

SENATE.

THURSDAY, *October 6, 1921.*

(Legislative day of Tuesday, October 4, 1921.)

The Senate reassembled at 11 o'clock a. m., on the expiration of the recess.

Mr. PENROSE. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Borah	Dillingham	Hitchcock	McCumber
Brandegee	Edge	Johnson	McKellar
Broussard	Ernst	Kellogg	McLean
Calder	Fletcher	Kendrick	McNary
Cameron	France	Keyes	Moses
Capper	Frelinghuysen	King	Myers
Caraway	Gerry	Ladd	Nelson
Colt	Harreld	La Follette	New
Culberson	Harris	Lenroot	Nicholson
Curtis	Harrison	Lodge	Norbeck
Dial	Heflin	McCormick	Oddie
Overman	Sheppard	Sutherland	Warren
Page	Shields	Swanson	Watson, Ga.
Penrose	Shortridge	Townsend	Watson, Ind.
Poindexter	Simmons	Trammell	Weller
Pomerene	Smith	Underwood	Williams
Ransdell	Smoot	Wadsworth	Willis
Reed	Spencer	Walsh, Mass.	
Robinson	Sterling	Walsh, Mont.	

The VICE PRESIDENT. Seventy-four Senators having answered to their names, a quorum is present.

PETITIONS AND MEMORIALS.

Mr. NELSON presented a telegram in the nature of a petition from the Red Wing (Minn.) Chamber of Commerce, praying for the enactment of legislation reducing express charges in proportion to the reduction in passenger and freight charges, which was ordered to lie on the table.

Mr. WILLIS presented a petition of the Presbytery of Toledo, Ohio, praying for the enactment of House bill 7294, supplemental to the national prohibition act, which was ordered to lie on the table.

Mr. TOWNSEND presented a resolution adopted by the Jackson (Mich.) County Realty Board, favoring an amendment to the Constitution empowering Federal taxation of incomes from future obligations of the States and their political subdivisions and the taxation of future obligations of the United States by the States and their political subdivisions, etc., which was referred to the Committee on the Judiciary.

He also presented a memorial of sundry citizens of Coopersville and Jackson, Mich., remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which was referred to the Committee on the District of Columbia.

Mr. McLEAN presented a petition of the official board, Methodist Episcopal Church, of Bethel, Conn., praying for the adoption of the conference report on House bill 7294, supplemental to the national prohibition act, which was ordered to lie on the table.

He also presented a petition of Wadhams Post, No. 49, Department of Connecticut, Grand Army of the Republic, of Waterbury, Conn., praying for the enactment of legislation granting pensions of $72 per month to Civil War veterans and $50 per month to their widows, and monthly payment of pensions, which was referred to the Committee on Pensions.

He also presented a memorial of Eleanor McCann Branch, Ladies' Auxiliary, Division No. 48, Ancient Order of Hibernians, of Hartford, Conn., remonstrating against the enactment of Senate bill 2135, to enable the refunding of obligations of foreign Governments owing to the United States of America, etc., which was referred to the Committee on Finance.

He also presented a resolution adopted by the directors of the Connecticut Dairymen's Association, September 21, 1921, at Bristol, Conn., favoring the enactment of the so-called Voigt filled-milk bill, which was referred to the Committee on Agriculture and Forestry.

He also presented resolutions adopted by Division No. 1, Ancient Order of Hibernians, of South Manchester, and Eamonn Ceantt Branch, Friends of Irish Freedom, of New Haven, both in the State of Connecticut, favoring the enactment of Senate bill 665, to provide for free tolls for American ships through the Panama Canal, which were ordered to lie on the table.

WILLIAM M. CARROLL.

Mr. CAPPER, from the Committee on Military Affairs, to which was referred the bill (S. 2035) for the relief of William M. Carroll, reported it with an amendment and submitted a report (No. 284) thereon.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. OVERMAN:

A bill (S. 2549) to amend section 24 of chapter 2 of the Judicial Code pertaining to the jurisdiction of United States district courts, and to deprive the district courts of jurisdiction in any suit where the State is a party; to the Committee on the Judiciary.

By Mr. SPENCER:

A bill (S. 2550) granting an increase of pension to George P. Manis (with accompanying papers); to the Committee on Pensions.

AMENDMENTS OF TAX REVISION BILL.

Mr. SPENCER, Mr. WILLIAMS, and Mr. WALSH of Massachusetts submitted amendments intended to be proposed by them to House bill 8245, the tax revision bill, which were ordered to lie on the table and to be printed.

AMENDMENT OF NATIONAL PROHIBITION ACT—PERSONAL EXPLANATION.

Mr. SHEPPARD. Mr. President, I did not hear yesterday afternoon the statement by the Senator from New Hampshire [Mr. MOSES] that my speech on the League of Nations was in connection with a filibuster on the antibeer bill. Of course, that statement is so absurd as hardly to require an answer. I am for the antibeer bill, and I do not think anyone questions my sincerity. How the Senator could find any connection between my speech and the antibeer bill is beyond my comprehension.

FREE TRANSIT THROUGH PANAMA CANAL.

Mr. McCORMICK. I wish to give notice that on Monday next I purpose to speak very briefly upon the bill reported by the Senator from Idaho [Mr. BORAH] which will be voted upon on that day by unanimous consent.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, announced that the House had passed bills of the following titles, in which it requested the concurrence of the Senate:

H. R. 6809. An act to extend the time for the construction of a bridge across the Rio Grande, within or near the city limits of El Paso, Tex.;

H. R. 8209. An act to extend the time for the construction of a bridge across the Cumberland River in Montgomery County, Tenn.; and

H. R. 8297. An act authorizing the Secretary of the Treasury to convey certain lands to the State of Missouri for enlargement of the State capitol grounds of that State.

HOUSE BILLS REFERRED.

The following bills were severally read twice by title and referred as indicated below:

H. R. 6809. An act to extend the time for the construction of a bridge across the Rio Grande, within or near the city limits of El Paso, Tex.; to the Committee on Commerce.

H. R. 8297. An act authorizing the Secretary of the Treasury to convey certain lands to the State of Missouri for enlargement of the State capitol grounds of that State; to the Committee on Public Buildings and Grounds.

FREE TRANSIT THROUGH PANAMA CANAL.

Mr. CURTIS. Mr. President, I understand the Senator from Rhode Island [Mr. COLT] desires to speak on the Panama Canal tolls bill, and I ask that it be laid before the Senate.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 665) to provide for free tolls for American ships through the Panama Canal.

Mr. COLT. Mr. President, I desire, very briefly, to present some considerations on the Panama Canal tolls bill.

Treaties are contracts between sovereign States. They can not be enforced, like private contracts, by the sanction of compulsion. Their enforcement rests alone upon the honor and good faith of the contracting parties.

Where a treaty on its face is open to two interpretations and a dispute arises as to which is the true interpretation, will the United States settle the dispute by either negotiation or arbitration, or will it settle the dispute by passing a statute incorporating its own interpretation into the supreme law of the land? This is the fundamental question raised by the pending tolls bill.

There is no doubt that the Constitution expressly makes both treaties and statutes the supreme law of the land.

There is no doubt that under the decisions of the Supreme Court a later statute supercedes a treaty, since the statute is the latest expression of the lawmaking power.

There is no doubt, therefore, of the power of Congress to amend or repeal a treaty by statute, so far as the United States is concerned, leaving the other party to the treaty quietly to submit to what it regards as a breach of good faith or to declare war. But while Congress has the power to amend or repeal a treaty it can not by this action take the United States out of the international obligations it has assumed by the treaty.

There is no doubt that the Hay-Pauncefote treaty may be interpreted in two different ways, and that under one interpretation the exemption of American coastwise vessels from the payment of tolls is a violation of the treaty, and that under the other interpretation it is not a violation.

There is no doubt, therefore, of our power to make this exemption of tolls the supreme law of the land by the passage of the pending bill, although such action may be a violation of the true interpretation of the treaty, and is so regarded by the other party to the treaty.

The Hay-Pauncefote treaty raises a purely judicial question relating to the true construction of an international contract; and we now propose to prejudge the case in our own favor by substituting legislation for arbitration, and we propose to do this by the reenactment of the same statute which was repealed by Congress after months of debate.

Mr. President, the whole world is interested in this treaty. It relates to a great canal which divides continents and unites oceans; and if this is to be the policy of the United States with respect to treaty obligations we surely ought to notify foreign powers, in order that they may understand our position, before entering into these international contracts.

We have three great treaties now pending before the Senate, and in order that Germany, Austria, and Hungary may understand our position we should ratify each of these treaties with the following reservation: The United States reserves the right, in case this treaty is open to two interpretations, to make its own interpretation the supreme law of the land by statutory enactment without the consent of the other contracting party and against its protest.

In the great international conference which is about to assemble in Washington in the interest of the peace of the world the United States should also announce that it has abandoned the principle of arbitration and that its future policy with respect to the obligations of treaties will be founded on the rule of legislative power and not on the rule of justice. Such an announcement would open up a wide field of discussion and would undoubtedly have a very serious effect upon the ultimate outcome of the conference, which, of course, if successful, will result in some form of a treaty.

Mr. President, the important provision of the Hay-Pauncefote treaty reads as follows:

Rule 1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules, on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect of the conditions or charges of traffic, or otherwise.

There are irreconcilable differences of opinion as to the meaning of the words "all nations" and "vessels of commerce" and "no discrimination" in rule 1, and also as to the meaning of the "general principle of neutralization" which was carried from the Clayton-Bulwer treaty into the Hay-Pauncefote treaty.

Mr. BORAH. Mr. President——

The VICE PRESIDENT. Does the Senator from Rhode Island yield to the Senator from Idaho?

Mr. COLT. I yield.

Mr. BORAH. I observed the Senator stated that there is an irreconcilable difference of opinion as to "vessels of commerce." Is there an irreconcilable difference of opinion as to vessels of war?

Mr. COLT. I am not aware that there is.

Mr. BORAH. Everyone agrees that vessels of war may go through.

Mr. COLT. According to one interpretation "all nations" includes the United States and "vessels of commerce" includes coastwise vessels and the "general principle of neutralization" establishes the basic rule of absolute equality as to all nations.

According to the other interpretation "all nations" does not include the United States, and "vessels of commerce" does not include coastwise vessels, and the "general principle of neutralization," since the canal was built on United States territory, extends no further than to securing equality of treatment for all the customers of the canal, reserving to the owner the entire freedom as to tolls charges for his own vessels; in other words, the Panama Canal presents the case of an artificial waterway built by a nation on its own territory, and rule 1 of the Hay-Pauncefote treaty rightly construed only extends the principle of absolute equality to all other nations.

From the foregoing summary we find that rule 1 is open to two interpretations, and that under the first interpretation the rule of equality includes the United States, and under the second interpretation it does not include the United States.

American public opinion is divided into two schools which may be termed the Elihu Root school and the Richard Olney school, and I can picture to myself a hearing by an impartial tribunal on this question and some of the arguments on both sides.

In support of the principle of absolute equality would be urged the subject matter of the treaty—a great interoceanic canal—the traditional policy of the United States for nearly a century, the "general principle" of article 8 of the Clayton-Bulwer treaty which was carried into the Hay-Pauncefote treaty, the rule of equality governing the Suez Canal, and the literal interpretation of rule 1.

On the other hand, in support of a qualification of the principle of absolute equality in favor of the United States it would be urged that neither our traditional policy, nor the Clayton-Bulwer treaty, nor the first Hay-Pauncefote treaty, nor the sec-

ond Hay-Pauncefote treaty, down to the last moment ever contemplated that the canal would be built on United States territory but on alien territory, and since the canal was actually built on our own territory the principle of equality only extended to the users of the canal and that while a provision was inserted late in the second Hay-Pauncefote treaty now in force to the effect that no change of territorial sovereignty should affect the obligations arising under the treaty, yet rule 1 should not be given such a legal construction as to include the United States if it is capable of any other construction, because a nation never surrenders a sovereign right if the language is capable of any other construction. To my own mind the doubt as to the proper construction of rule 1 arises from the fact that the canal was built on United States territory.

Whether an impartial tribunal would give rule 1 a broad construction based upon the subject matter of the treaty and what it believed was the intent of the parties, or a less liberal construction based upon a more narrow and strictly legal view, it is impossible to forecast. All we do know is that we have here a judicial dispute as to the true construction of rule 1 upon which strong arguments may be advanced on either side; and what I am opposed to is the settling of this dispute at this time in our own favor by statute. Of course, if Great Britain should agree to this tolls exemption that would end the matter and we would need no statute, but if this question is not settled by diplomacy it clearly should be settled by some form of arbitration.

Mr. President, the time for argument is passed. There is no one who can positively assert that "all nations" includes or excludes the United States, or that "vessels of commerce" does or does not include coastwise vessels. This whole subject of tolls exemption has already been discussed from every point of view and every conceivable argument on one side has been met by an equally forcible argument on the other side. Volumes of debate and testimony have been printed only to find that statesmen and publicists, equally able and equally conscientious, disagree. The Senate, after months of debate, by a vote of 50 to 35 repealed the tolls exemption statute, which the present bill seeks to restore. Of those who are now Members of the Senate when the vote was taken on June 11, 1914, 21 voted for the repeal and 14 against it. On the main question, however, of whether the statute was a violation of the treaty, I think an analysis of the debate shows that the Senate was about evenly divided.

While there is such a wide difference of opinion as to the true construction of this treaty, there is a very general unanimity on the question that this matter should be submitted to arbitration. President Roosevelt favored arbitration. President Taft favored arbitration. Elihu Root favored arbitration. Richard Olney favored arbitration, not to mention other prominent Americans; and in the official note of Sir Edward Grey to Ambassador Bryce, Great Britain, the other party to the treaty, favored arbitration. The United States has been the great apostle of arbitration, and as a matter of international policy it has always favored the submission to arbitration of legal disputes arising from different interpretations of treaties.

Under all these circumstances is it wise again to enact a tolls exemption statute which we have once repealed?

Mr. President, the peace of the world rests upon the sanctity of treaties. The limitation of armaments, obligatory conferences, the settlement of judicial disputes by arbitration, the investigation and report of nonjudicial disputes, a world court of justice, all rest upon treaties; and for the United States, when a dispute arises regarding the true interpretation of a treaty, arbitrarily to enact a statute making its own interpretation the supreme law of the land undermines all these efforts to help forward the peace of the world because it is the substitution of the rule of power for the rule of justice and good will among the nations.

For these reasons, Mr. President, I can not support the pending tolls exemption bill.

Mr. CALDER. Mr. President, in May, 1912, when the Panama bill was under consideration, I was one of four members of the Committee on Interstate and Foreign Commerce of the House of Representatives, from which committee this bill was reported, to file with the House a minority report favoring free tolls for American ships engaged in the coastwise trade. At that time I was convinced that under the terms of the Hay-Pauncefote treaty the granting of free tolls to American ships engaged in coastwise trade could not be construed as a discrimination under the terms of the treaty. Coastwise trade is, and was at the time of the negotiation of the treaty, restricted by law to transportation exclusively in American ships, and ships of all other nations were and are prohibited from engaging therein. Therefore it appears that coastwise commerce, in the very nature of things, can not be affected by the terms of the treaty which relate to tolls.

The provision in the treaty relative to the terms of traffic on the canal reads as follows:

> The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic, or otherwise.

It seems plain that the general statement in this clause regarding "terms of equality" is clearly defined; and let me repeat the latter part of the provision again, so that Senators may clearly understand the language:

> That there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic, or otherwise.

I can not conceive how anyone can construe the language of this treaty, and the subsequent developments of our purchase of the Canal Zone and the construction by the United States Government of the canal, in any way except to permit this Government in the matter of our domestic commerce to do just exactly as it sees fit relative to the matter of tolls.

After the Panama bill passed the House of Representatives in 1912 it was so altered in the Senate as to give free tolls to all vessels flying the American flag, whether in the domestic or the foreign trade. At that time I urged that the treaty clearly forbade this being done, and I strongly opposed the action of the Senate. When the conferees finally reported back they had come to an agreement with the Senate permitting free tolls to American ships only when engaged in coastwise trade. The action of the conferees was approved by the Senate and the House, and the bill was signed by President Taft and became the law of the land.

As we all know, subsequently, in 1914, when Congress became Democratic in both Houses, President Wilson urged the repeal of the free toll bill. After a lengthy discussion this action was taken.

The pending measure simply provides, as did the Panama act of 1912, that American vessels in the coastwise trade only shall have free access through the canal without any charge whatever. This question has incited great interest on the part of the American people ever since the canal was first proposed. Some of the most eminent authorities in the country have discussed it; and when I expressed my views on the subject on the floor of the House in 1914 I quoted from an opinion of a distinguished jurist in my State, Justice Samuel Seabury, who was afterwards the Democratic candidate for governor, which was written in 1914, in which he, in part, said:

> The Panama Canal is an American waterway and not an international body of water. In the majority report of the congressional Committee on Interstate and Foreign Commerce it is claimed that the Panama Canal is not an American waterway, but is to be treated as if it were part of the open sea. This claim means that the United States has no more right in the Panama Canal than it has in the ocean, and that it has no proprietary rights in the canal which it has constructed through its own territory. It is settled international law that such artificial waterways as canals are part of the territory through which they pass. Upon this subject I read you a short extract from the work of Mr. Oppenheim, the eminent English authority on international law. He says:
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> "That canals are part of the territories of the respective territorial States is obvious from the fact that they are artificially constructed waterways, and there ought to be no doubt that all the rules regarding rivers must analogously be applied to canals. The matter needs no special mention at all, were it not for the interoceanic canals which have been constructed during the second half of the nineteenth century, or are contemplated in the future. And as regards one of these, the Emperor William Canal, which connects the Baltic with the North Sea, there is nothing to be said but that it is a canal made mainly for strategic purposes by Germany entirely through German territory. Although Germany keeps it open for navigation to vessels of all nations, she exclusively controls the navigation thereof, and can at any moment exclude foreign vessels at discretion, or admit them upon any conditions she likes, apart from special treaty arrangements to the contrary. (International Law, vol. 1, p. 554, sec. 543.)"
>
> It is claimed on behalf of Great Britain that she only asks the United States to act toward Panama as she acts toward Suez. This claim is not true. Notwithstanding the provision of the contention of Constantinople, Great Britain regards the Suez Canal as a proprietary body of water and not as an international waterway. England allowed France to construct the Suez Canal, and when it was finished England secured the control of it. On the Mediterranean side of the canal she had possession of Gibraltar, Malta, and Cyprus, which she fortified. At the Red Sea outlet she acquired the island of Perim, which she also fortified. Having secured and fortified these possessions of advantage, Great Britain then occupied Egypt and excluded the French from any control over their own canal. Notwithstanding these aggressive steps, Great Britain claimed that she would observe the principle of neutrality in regard to the Suez Canal. When she had successfully stripped France of all her right of control in the canal and completed her own control she formally repudiated the principle of neutrality. At the Paris commission in June, 1885, Sir Julian Pauncefote announced that the British delegates felt it their duty to formulate a general reservation as to the application of the treaty, and plainly stated that while the British power continued in Egypt

the principle of neutrality was not binding upon Great Britain. The Suez Canal, therefore, is not internationalized, but is under the exclusive control of Great Britain. It is evident, therefore, that Great Britain proclaims neutrality over the Suez Canal so that that policy may be made binding upon other powers and so that the United States may be regarded as bound to that policy in the Panama Canal. So far as Great Britain herself is concerned, she pays no heed to it. As a rule of conduct for others only she proclaims the necessity for neutrality in Suez and in Panama. She holds herself not bound by the rule that she applies to other nations, but acts always and everywhere consistent with the fundamental principles of her foreign policy, seizes whatever she can, holds all that she has, and proclaims loudly her desire to preserve equal rights and to distribute the benefits of her Christian civilization.

You will recall that when this discussion was pending in 1912 the British chargé d'affaires at Washington, in a communication addressed to Secretary KNOX, distinctly and specifically stated that the provisions of the Hay-Pauncefote treaty did not include coastwise trade. Let me quote from his communication at that time:

> If the trade should be so regulated as to make it certain that only bona fide coastwise traffic, which is reserved for United States vessels, would be benefited by this exemption, it may be that no objection could be taken.

The note containing the above quotation was forwarded to our State Department after the Panama bill exempting coastwise trade had passed the House of Representatives and was pending in the Senate. The amendment to the bill giving free tolls to all ships in the United States had been offered, and the note of this gentleman representing the English Government was unquestionably an effort to offset legislation then contemplated in the Senate; and, as I have indicated, the British Government at that time had not the slightest idea of protesting against what was finally determined—the granting of free tolls to our coastwise trade. It has always seemed to me that we were guilty of lack of courage of the gravest character in 1914 when we permitted ourselves, under the stress of the demand of the President, to enact legislation based upon a subsequent protest of the British Government, without even submitting the question to arbitration.

I recall distinctly, when the subject was under consideration during the period from 1912 to 1914, that some of the greatest English authorities on international law expressed it as their opinion, both privately and publicly, that the American Government had excellent grounds for maintaining its rights to give free tolls to its own ships engaged in coastwise trade.

To-day we are here considering this question, and I hope with a determination to settle it in a way that is in the interest of our own trade.

I recall the statement of Secretary of State KNOX, replying to the English objection against the exemption of American coastwise vessels, in which he used these words:

> American public opinion is so fully convinced that this country is right in the canal-tolls dispute with England, and has such well-grounded suspicion that the whole English contention is in the interest of the English stock and bond holders in the Canadian Pacific and other Pacific railroads, that popular interest in the notes exchanged between the foreign offices of the two countries is not keen. * * * Their will has been expressed by the act of Congress freeing American ships from tolls, and if "diplomacy" tried to veto that decision, "diplomacy" would get a bad upset.

The attitude of the late President Roosevelt, who was President of the United States at the time of the making of the Hay-Pauncefote treaty and of the purchase of the Canal Zone from the Republic of Panama, is interesting, and is indicative of his views on the question. He said:

> I believe the position of the United States is proper as regards coastwise traffic. I think we have the right to free bona fide coastwise traffic from tolls. I think this does not interfere with the rights of any other nation because no ships but our own can engage in coastwise traffic. There is no discrimination against other ships when we relieve the coastwise trade from tolls. I believe the only damage that would be done is the damage to the Canadian Pacific Railway. * * * I do not think it sits well on the representatives of any foreign nation * * * to make any plea in reference to what we do with our own coastwise traffic, because we are benefiting the whole world by our action at Panama, and we are doing this when every dollar of expense is paid by ourselves. In all history I do not believe you can find another instance where as great and expensive a work as the Panama Canal, undertaken not by a private corporation but by a nation, has ever been as generously put at the service of all the nations of mankind.

American brains and American resources brought to conclusion what most people believe to have been one of the most extraordinary engineering projects known to our civilization, either ancient or modern. We have bought and paid for the canal; we own it, and the territory in which it is constructed, subject to the provisions of the treaties relating thereto. It is open to all the world upon terms of entire equality, and so far as we ourselves make international use thereof that equality as to ourselves is and will be maintained. We have the right, and it is our duty, to use it in connection with our local concerns—not international in their character, in which no other country has any legitimate or proper concern—in such manner as in our judgment will best promote the welfare, prosperity, and happiness of the whole American people; and this I hope we will do in the enactment of this measure without the aid or consent of any foreign country.

TAX REVISION.

Mr. CURTIS. Mr. President, Senate bill 665, the unfinished business, is before the Senate. I suggest that it should be temporarily laid aside and that the revenue bill should be laid before the Senate. I ask unanimous consent, therefore, that the unfinished business may be temporarily laid aside and that the revenue bill may be proceeded with.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

Mr. ROBINSON. Mr. President, the attack which came from this side of the Chamber on the revenue bill seems to have justified itself, not only in the opinions of those who are unbiased and unprejudiced respecting the provisions of that measure but also in the conviction of the majority on the other side of the Chamber who are responsible for its presence here.

The Senator from Pennsylvania [Mr. PENROSE], the chairman of the Committee on Finance, and the acting chairman of the committee in the absence of the Senator from Pennsylvania, the Senator from North Dakota [Mr. MCCUMBER], dumped the revenue bill into the Senate practically without explanation. I do not know whether it was because neither of them knew enough about it to explain it, or because both knew so much about it they feared to explain it; but the fact is that this very important and voluminous measure was reported to the Senate, and its passage insisted upon, practically without explanation. Impatience was manifested by the Senator from Pennsylvania at the slight delays which occurred, at the disposition on the part of some Senators to look into the provisions of the bill and ascertain something of their nature and their purposes.

The Senator from North Carolina [Mr. SIMMONS], it will be remembered, assailed the bill on the ground, among others, that it was an incomplete, an imperfect, an ill-considered revision of existing law, that it was a mere tinkering with an important subject rather than a well-considered disposition of it. He pointed out the fact to the satisfaction of everyone here that the so-called program of economy contemplated in large part the reduction of necessary estimates and the refusal to expend sums already appropriated by Congress, and directed to be expended, and that as a result of that policy many internal improvements of great advantage and of material interest to the people of this Nation would not only be retarded but suspended, and that a measure of that character comprehended no wholesome economy.

In his remarks the Senator from North Carolina announced his purpose to suggest amendments in the nature of substitutes for many important provisions of the revenue bill as reported by the Committee on Finance. I shall not attempt to review in detail the suggestions made by the Senator from North Carolina and those who supported him in his proposals, but they comprehended a material increase in the surtaxes on large incomes, the continuance of the excess-profits tax, or the substitution of other taxes for them, including the present tax on the capital stock of corporations, and the reduction of miscellaneous taxes. It was insisted, among other things, in the minority report that the tax on transportation ought to be repealed, to become effective the 1st of January next, and that the present tax on the capital stock of corporations should be retained.

The Senator from Missouri [Mr. REED], in an address following that of the Senator from North Carolina, and one which will be remembered by the Senators who were fortunate enough to hear it as throwing light upon provisions of this bill which are indefensible from every standpoint of fairness and of justice, so strongly supported the fundamental position taken by the Senator from North Carolina that immediately it became known that this revenue bill, which the majority sought to pass practically without consideration, was in danger of defeat.

In this Chamber were heard the mutterings of a coming storm. Groups of Senators of the majority side, which the press of the country has come to designate as blocs—the agricultural bloc, the progressive bloc, the conservative bloc—manifested dissatisfaction with the measure when they understood the principles underlying it.

When that condition arose Senators in charge of the bill were glad to have delay. They were not so anxious that the Senate vote on provisions which it did not understand. They became willing that the treaty should be discussed. They saw a new importance in the issues underlying the canal tolls bill. If

press reports are to be relied on, the pending revenue bill is dead at the hands of its former friends—that is to say, every substantial contention presented from this side by the opponents of the measure is to be recognized and incorporated in the bill by amendments—and the amazing and amusing announcement is made that the bill is to be passed without Democratic votes.

The Washington Post of this morning, in an article from the pen of that very able writer whom we all recognize as in constant, close touch with the majority leader, Mr. George Rothwell Brown, announces the fact that at a conference last night, held at the private residence of the Senator from Kansas [Mr. CAPPER], plans for amendments were adopted which will be submitted to the Finance Committee to-day, and which are expected to result in the passage of the measure without Democratic votes. A clear summary of the amendments agreed to at last night's secret conference is reported by Mr. J. Bart Campbell and published in the Times of to-day.

Mr. REED. Will the Senator yield?

Mr. ROBINSON. I yield to the Senator from Missouri with pleasure.

Mr. REED. The Senator used the language, of course quoting from the article, that these plans were to be submitted to the Finance Committee to-day. I think he meant to say to some of the Republican members of the Finance Committee.

Mr. ROBINSON. The Senator is anticipating the thought that was in my mind. The significant fact in the story is that at a secret conference every material contention made by the Senator from North Carolina [Mr. SIMMONS], the Senator from Missouri [Mr. REED], the Senator from Massachusetts [Mr. WALSH], and other Democrats is to be incorporated in amendments, which are alleged to have been agreed to at the secret conference.

The story of that conference, as reported in the press, is interesting and illuminating. When one considers the reliability of the author referred to, and his recognized intimacy with the doings and activities of the majority leader, the events of last night assume an amusing aspect. We are informed that that great progressive leader in the Senate, the Senator from Illinois [Mr. MCCORMICK], was finally induced to extend to the leader of the majority an invitation to attend the conference, but before the leader of the majority could secure that recognition at the hands of Senator MCCORMICK and his associates, he was required, according to the story, to make it perfectly clear to them that he realized the necessity for the adoption of such amendments to the bill as would make it at least acceptable to those who have some regard for the public interests. Mark you, the leader of the majority attended the conference, and his presence was regarded as the highly significant event of the day.

Other important events of the day are mentioned; among others, a conference at the White House between the President and party leaders in Congress, including the leader of the majority in the Senate, at which the perilous situation of the administrations' legislative program was discussed. This latter conference at the White House is characterized by the writer as a memorable and important event. No doubt there was in the President's consciousness the fact that the extra session of Congress is rapidly drawing to a close by limitation of law and that it has witnessed no performance that may be the subject of boast on the part of the majority, except alone the passage of the bill extending the emergency tariff law, and that extension is expiring by limitation.

But far more important than this conference at the White House about the failure of the President's legislative program was the fact that the leader of the majority attended the conference of the insurrectos, yielded to their demands, and went over to them.

In that connection there is another significant statement in the story:

> Although Senator WATSON of Indiana, who is conducting the tax bill on the floor, and has emerged into a new prominence in the Senate, was not present at the conference at Senator CAPPER'S, and there was nobody there authorized to speak for him, it was represented that Senator WATSON, who is himself a member of the Finance Committee, is favorable to a compromise within the party.

Just what the writer meant by this reference to "new prominence" as the result of the activities of the Senator from Indiana [Mr. WATSON] is not within my comprehension, nor do I believe that any other Senator who has attended the proceedings during the consideration of the revenue bill will be able to explain that, for there has risen in the Senate no one who has attempted even to outline the provisions of the bill save Senators on this side of the Chamber.

But the Senator from Massachusetts, the leader of his party, was at last successful in getting into the conference and an agreement was reached which was to enable the majority to pass the bill without Democratic votes. Of course, it is useless to say that if the bill had not been exposed in its perfidious features by the Senator from North Carolina and the Senator from Missouri, the necessity for such a conference as that of last night probably would not have arisen. But when Senators understood the bill they were unwilling to vote for it in such number that the leader of the majority himself abandoned it and said, "Let us fix it up now so we can get enough votes to pass it."

The story in the Washington Post is not quite specific as to just what amendments were agreed to. It states that:

> The amendments demanded by the agricultural bloc, or the progressive wing of the party, have been pretty generally exploited. The understanding reached last night embodied most of the ideas in this respect, which have been current for some time.
> The group were virtually of one mind with respect to the total repeal of the transportation taxes.

No Senator has uttered one word, since the debate on the revenue bill began, in justification or excuse of the provisions of the bill continuing in force the taxes on transportation. The transportation tax at first could be justified only as an emergency war measure. It ought to have been repealed long ago. In the repeal of that tax principles very different from those recognized in the proposed repeal of the excess-profits tax and the diminution of the surtax on large incomes are embraced.

A transportation tax is a tax on the cost of living. Transportation charges as now in force are so high that they have compelled in some localities the suspension of industry and the cessation of activities which under normal transportation conditions are justified and ought to be continued.

Why did the majority seek to continue this tax and in the same measure repeal the excess-profits tax, the tax on the capital stock of corporations, and to materially reduce the surtaxes on large incomes? What explanation do they give for it now? Answer me! Is there no one in the Senate, is there no member of the Finance Committee who has the courage, in the light of the debates that have occurred on this subject, to vindicate the action of the committee in perpetuating a tax so unjustified, so oppressive, as the public and the Senate at last have come to regard the transportation tax?

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER (Mr. SPENCER in the chair). Does the Senator from Arkansas yield to the Senator from Utah?

Mr. ROBINSON. I yield to the Senator from Utah for the purpose of explaining the justification of the transportation tax.

Mr. SMOOT. As I am the only member of the Finance Committee now present on the majority side, I will simply say that I voted against it in committee, and it never would have come in on the floor if I had had my way about it. I will say that to the Senator, but I will not say anything more.

Mr. ROBINSON. So that the only member of the majority responsible for the bill and for the transportation tax who chooses to reply to the challenge that I have made repudiates the transportation tax in the bill as wholly unjustifiable and declares that he was at the time the bill was reported and is now against it.

I can not understand, sirs, how we have encountered such difficulties in bringing the issue to the point at which we have now arrived. I can not understand how it is that if no Senator is willing to defend this provision in the bill a majority of the Senators on the Finance Committee were willing to force it on the country. The Democratic members of the committee voted solidly against it, as the Senator from North Carolina [Mr. SIMMONS] suggests, and the Senator from Utah [Mr. SMOOT] voted with them, and yet throughout the debates on the revenue bill every Senator who has spoken has denounced the tax as unjustifiable and oppressive and no Senator has risen to defend it.

As a result of last night's conference, which occurred because of the debates in the Senate on the subject and related topics, the transportation tax is to go out of the bill. No one defending it, everybody attacking it, it stayed in the bill until a threatened revolution on the part of Senators who are so disgusted with that provision of the measure that they announce themselves unwilling to support it and thus forced it out. The elimination of the transportation tax is one feature of the program proposed by the Senator from North Carolina as a representative of the minority on the committee. Again it is now proposed to modify the surtax on incomes carried by the bill so as to meet substantially, if not literally, the provision of that Senator's recommendations.

The Senator from Missouri [Mr. REED] in his address made it clear that no Senator affected with a feeling of regard for

the public interest, however slightly, could support that feature of the pending measure and yet increase the taxes to be paid by the poor people of the Nation. So we are now told that the men who make over a half million dollars a year in income may be required, under the amendment proposed by the Senator from North Carolina, and adopted by the conference of majority members last night to pay a very substantial increase over the amount carried in the pending bill. So proposition No. 2, coming from the minority, and vitally affecting this measure and the revenues to be produced under it, is to be accepted.

I could not understand, while the Senator from Missouri [Mr. REED] and the Senator from North Carolina [Mr. SIMMONS] were discussing the repeal of the tax on the capital stock of corporations, and, in conjunction with that subject, the new taxes proposed to be imposed by the provisions of this bill, how it was to be justified in conscience and in reason, and I waited for some Senator who had taken the responsibility of reporting in favor of the repeal of that tax to explain it to the Senate, but no explanation was forthcoming. In the program of the minority that tax was to be continued. The report of last night's secret conference, to which the leader of the majority was finally able to secure admission, justifies the position of the minority and gives assurance that the tax on the capital stock of corporations will be continued.

Mr. SIMMONS. Mr. President, if the Senator from Arkansas will pardon me, I should like to say right here that the committee report which eliminates the corporation stock tax will relieve the corporations of this country of the payment of a tax of $75,000,000 a year, while the decrease in the surtax rates will relieve the payment of $90,000,000 more taxes a year, making $165,000,000 which these items will relieve the corporations and the ultrarich of this country of paying.

Mr. ROBINSON. Yes. I can understand how those who pay the tax should seek relief from it. What I can not comprehend, however, is how we who provide for the imposition of taxes can favor repealing that tax and at the same time continuing the transportation tax and imposing additional taxes which are burdensome to the masses of the people.

In making that remark I neither feel nor express antagonism to those who enjoy great wealth or who receive large incomes. I have no disposition to tax them in order to reduce their profits or to keep their incomes within limits. If the condition of my country permitted, I should be glad to see those taxes repealed; I should be glad to see the business of the country relieved of that burden; but, sir, that condition does not exist. The greatest financial minds of this Nation have been exerting themselves to find additional sources of revenue. It is proposed by one able student of the subject, the Senator from Utah [Mr. SMOOT], to repeal the excess-profits tax and a large number of other taxes which are now levied by law, and to levy in place of those taxes a so-called manufacturers' or producers' tax. No doubt the justification for that proposal in the mind of the Senator from Utah arises out of the fact that we must have an enormous amount of revenue; that the condition of our Treasury, considering its obligations, present and prospective, is such that we must procure sums in revenues in order to meet those obligations.

I tell the Senator from Utah now, however, that the manufacturer's tax will take the same course before this debate is over that the pending revenue bill has taken.

The manufacturer's tax when analyzed is a tax on production; it becomes, in practical effect, a tax on consumption. I should like to see the excess-profits tax repealed; but when I analyze the proposition I can not think of anything that may more fairly be taxed than profit, and particularly an excess or a very large profit; and I would not favor, and, in my opinion, Senators can not justify, shifting the burden which is now borne by the excess-profits tax to a manufacturer's, a producer's, or a sales tax. The manufacturer's or producer's tax is not readily distinguishable in principle from the sales tax, and the latter tax, wherever tested, has proven a failure, has proven oppressive. But so great is the necessity for obtaining revenue that it is proposed now to levy a tax of 3 per cent on substantially everything that is manufactured or produced. Does any Senator present doubt what will be the result of that tax—that it will carry an enormously increased burden to the consumers of the country? We must have revenue, and for the present at least we will continue to tax excess profits, and we will continue to collect high rates of surtax from the large incomes.

In almost every important particular the conference last night justified the attitude of the minority on the pending tax bill.

Something has been said during the course of this debate about not making politics of measures relating to taxation, and yet we all know that every subject that comes before the Senate, including questions affecting our foreign relations, is directly or indirectly the subject of politics. Why are politicians so anxious to escape the injection of politics into the controversies which they must determine?

Mr. REED. Mr. President——

Mr. ROBINSON. I yield to the Senator from Missouri.

Mr. REED. The very gentlemen who raised the cry of criticism because the Senator from North Carolina made some incidental reference to politics, and who protested that this question was entirely above politics, are the same gentlemen who met last night in a partisan, secret conference and determined that they would adopt enough of the Democratic ideas to get their own Members reconciled, and then pass this bill by a strict party vote.

Mr. WILLIAMS. That was merely political strategy.

Mr. REED. Yes.

Mr. ROBINSON. Mr. President, there is no one here who does not know that this bill has taken the course that all other important measures have taken, including, in many, treaties with foreign nations. Why complain that a subject is affected with politics? Is not the Senate a political institution? Are not we politicians? Is not politics concerned with the science of government? I have observed that some Senators, when they doubt whether they have enough votes on their side to pass a measure in which they are greatly interested, immediately tower above petty considerations of politics and appeal to a mysterious and undefinable principle for the vindication of their ideas and for the execution of their plans; but I have also observed that, without exception, in every case, in this as in every other instance that has arisen during my political career, they have made politics of every issue when they thought by doing so they could win the issue. I challenge an instance to the contrary.

You can not escape the fact that the proposal of the majority, led by the Senator from Massachusetts [Mr. LODGE] and the Senator from Pennsylvania [Mr. PENROSE], was to pass this revenue bill without great consideration and practically without amendment, and that when the Senator from North Carolina [Mr. SIMMONS], the Senator from Missouri [Mr. REED], and the Senator from Massachusetts [Mr. WALSH] made their onslaught on the measure and made it so obnoxious to fair-minded men everywhere, the majority abandoned the bill, adopted the ideas of the minority, proposed to write them into the measure almost word for word and letter for letter, and then announced that they were ready to play the game of politics and pass the bill without Democratic votes.

It is the old story told again. If they amend the bill as we have asked them to amend it, if they adopt the program agreed to at last night's secret conference, and which the minority first proposed, the majority will not be in the attitude of having to pass it without Democratic votes. In my judgment, they will have many Democratic votes to help them pass it if those amendments are incorporated in the bill.

Mr. WILLIAMS. Mr. President, I offer an amendment to the pending bill, which I desire to have read and to lie on the table subject to call when the proper subject matter is reached in the consideration of the bill.

The PRESIDING OFFICER. The amendment will be read for the information of the Senate.

The ASSISTANT SECRETARY. On page 153, line 20, it is proposed to strike out the semicolon after the word "members" and to insert a colon and the following proviso:

Provided, That any incorporation chartered solely for burial purposes as a cemetery incorporation, and not permitted by its charter to indulge in any business not necessarily incident to that purpose, shall be exempt from taxation upon its income; but nothing in the foregoing shall exempt shareholders individually in such corporation from taxation upon any dividend or distribution accruing to them from profits made by the corporation. Such incorporations shall be exempt from corporation tax upon their capitalization.

The PRESIDING OFFICER. The amendment will be printed and lie on the table.

Mr. WALSH of Massachusetts. Mr. President, I send to the desk two amendments to the pending revenue bill, and ask that they be printed and lie on the table.

The PRESIDING OFFICER. It will be so ordered.

Mr. REED. Mr. President, I desire to supplement very briefly the remarks made by the Senator from Arkansas [Mr. ROBINSON]. Aside from any compliment he may have paid me, I concur in all he has said. I want to present this matter, if I can, not exactly from a different angle but in my own way.

A good deal has been said about making politics of this measure. The Senators who represent the majority have expressed profound indignation that anyone should dare refer to

so sacred a thing as a revenue measure from a political standpoint.

Mr. President, if there is any question that is fundamentally a political question, it is taxgathering and tax expenditure. That has been the line of cleavage between political parties in this country ever since the formation of our Government, and in England for 500 years. That line of cleavage is as well manifested to-day as in the past. The Republican Party now, as in every period of its history, stands for the lessening of burdens upon great fortunes and great incomes and the imposition of burdens upon the masses of the people who enjoy only small incomes and who possess only a little property. The Democratic Party to-day, as in the past, asserts the principle that those who have great fortunes and great incomes receive the greatest amount of protection from the Government and ought to pay the greater part of the burdens of government. The question, therefore, is political. The debate here will be political. The issue before the people will be political. We will meet our friends on this question before the people. And this is what we will say and this is what we will prove:

We will prove that the Finance Committee, by a strict party vote, reported a measure to this body and sought to pass it without a word of explanation on the floor. That the scheme embraced the following enormities, which will be so plain that while nobody can understand the language of the bill everybody can understand these particular results of the bill, namely: First, that the Finance Committee proposed to reduce the surtaxes upon incomes above $68,000 by $90,000,000, and that the benefit of that reduction inured to 12,000 individuals, every one of whom is a millionaire or enjoys an income upon a fortune equal to $1,000,000 or more. Second, that they proposed to repeal outright the corporate stock tax, which amounts to substantially nothing upon the small corporation, being only $10 upon a corporation having $10,000 of capital stock, $100 upon a corporation having $100,000 of capital stock, and so on, but which does compel corporations with swollen capital to pay very large sums into the Government.

We will illustrate the effect of the bill by showing that it relieves certain corporations of very great burdens. Among others, it relieves the United States Steel Corporation $770,995, and the entire Steel Trust will escape taxes of approximately $2,000,000; the Standard Oil Co. of New Jersey, $806,395; the Pennsylvania Railroad, $443,995; General Motors, $800,795; General Electric, $229,395; the American Tobacco Co., $224,807; City National Bank, $123,595; Texas Oil Co., $243,381; United States Rubber Co., $179,995.

We will show that the aggregate of the corporation stock tax, which inures chiefly to the great corporations, will amount to $75,000,000, the charges upon the smaller corporations being inconsiderable.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from North Carolina?

Mr. REED. I yield.

Mr. SIMMONS. I want to say to the Senator in that connection that the war-time tax upon capital stock was $2 instead of $1. The corporations have already been forgiven $75,000,000, and now it is proposed to forgive them the other $75,000,000.

Mr. REED. I thank the Senator for the suggestion.

Mr. SIMMONS. I want to say to the Senator that I am going to introduce an amendment to restore that to $2, because even then it would still be a very moderate license tax upon corporations.

Mr. REED. Mr. President, we will say to the people of the country that the Republican Finance Committee, by a party vote, recommended the taking off of the $75,000,000 which remained.

We say to the country now and will say to the country then that the present law levies taxes upon corporate profits where the profits exceed 10 per cent, the line in the bill being marked at 8 per cent but the exemptions bringing it approximately to 10 per cent; that that 10 per cent is ascertained after taking out every expense of the corporation, the salaries of its officers, all its overhead charges, the interest which it pays, and the obsolescence of its property, and that the surtax does not begin until the 10 per cent has been realized, when you allow for exemptions.

Mr. SIMMONS. Will the Senator pardon me again to make the statement that in the present fiscal year, if not the last fiscal year, for wear and tear, depreciation, and obsolescence the corporations deducted nearly $2,500,000,000 from their incomes?

Mr. REED. I thank the Senator again. They deducted an amount probably three or four times what the real wear out of the plants justified.

We will say to the people that under these circumstances, however, the Republicans propose to repeal the present excess-profits tax levied upon excess profits at the rate of 20 per cent of the profits above 10 per cent and less than 20 per cent, and 40 per cent on the profits beyond that; that the Republicans propose to wipe the tax entirely out and to relieve these profiteers, who have fattened on the American people and who are bleeding them to-day until they are white; that the aggregate of these taxes upon the profiteers amounts to $450,000,000; that the aggregate of the money the ultrarich, the profiteers, and the great corporations are relieved from paying reaches the staggering total of $615,000,000.

We will say to them that while this same party was in power it pared the Agricultural bill so that the blood fairly oozed, giving agriculture only $36,404,259. We will show that the $615,000,000 by this bill presented to the ultrarich and the great corporations in one year would pay the entire agriculture appropriation for 17 years.

We will say to the American people that in the last Congress we fought to try and obtain a decent appropriation for rivers and harbors. This we did for the benefit of the public. Every river that is improved and restored to commerce means cheaper freight rates, and cheaper freight rates mean cheaper prices to the people of the United States. Every obstruction removed from the harbors of the United States means that the great shipping of the world shall move more easily. Our business shall be thereby increased and its cost reduced. The improvement of rivers means, in the long run, the protection of wonderful and fertile bottom lands, and the restoration to agriculture of those lands. Upon these facts we made that fight and secured only $15,000,000 for all the rivers and all the harbors of this, the mightiest land on earth, with over 6,000 miles of seacoast, containing the most splendid anchorages in the world, were they but improved.

All we obtained was a paltry $15,000,000. The present administration, through the arbitrary action of a gentleman whose respect for Congress and respect for economy was shown when he appeared before a congressional committee and cursed the Congress of the United States in language too profane for print assumed the authority to cut the entire aggregate of all the appropriations by 25 per cent. This means that out of this last appropriation there will be expended probably only $4,000,000. We will say to the people of the country that the aggregate of this appropriation of $15,000,000 would be paid out of the money which they are saving to the great corporations and the great fortunes—that is, $615,000,000—that it would pay the river and harbor appropriations as fixed last year for 41 years.

I do not have the figures before me in detail, but I am informed that we appropriated last year $75,000,000 for building and improving the roads of this country. The plan of that road-building scheme is that the Government shall merely aid the States and the counties, so that for every dollar the Government puts forth there is, broadly speaking, three to four dollars expended by the States. Let us average it at $3. Therefore, the expenditure by the Federal Government of $75,000,000 means the expenditure in toto of $225,000,000. The appropriation originally asked for was $100,000,000, but it was cut to $75,000,000 because we were so poor.

Mr. President, we will say to the people of the country that the Republican Finance Committee, by a party vote, recommended the removal of this $75,000,000 tax.

Mr. President, the amount of money which this bill proposes to save to the ultrarich $615,000,000 per year, would pay for our road-building scheme as carried on now for approximately nine years, but if we expended $100,000,000 a year it would pay for all our road improvements for six years, and it would mean the expenditure in the United States of $1,800,000,000 on roads, counting the appropriations by the States and the counties. It would furnish steady employment for tens of thousands of men at this time, when the workers of the country are walking the streets and looking for jobs.

This saving to the rich would nearly take care of the entire Army appropriation for two years, for the saving is $615,000,000, and we appropriated for the Army last year $328,000,000 in round figures.

This amount of money which we propose to save to the profiteer and the ultrarich would improve every river and harbor of the United States, if used in a lump sum, so that every river of importance would be canalized, every harbor finally improved, every necessary lighthouse erected, and the Mississippi River united with the Great Lakes by a channel that would carry vessels to Europe. That alone would cut freight rates to the interior parts of this country 20 per cent, and the people

would have at hand facilities to carry their shipping when it is necessary to ship, instead of waiting for freight cars, which very frequently come too late.

Mr. SIMMONS. Mr. President, will the Senator let me at that point supplement his argument?

Mr. REED. Certainly.

Mr. SIMMONS. Mr. President, there is not much difference between the net reduction proposed in this bill and the $520,000,000 which the Secretary of the Treasury has eliminated from the estimates. The reductions for the benefit of the rich, which the Senator is now discussing, have been made possible, therefore, by the elimination of this $520,000,000 from the estimates. One of the items eliminated from the estimates is $25,000,000 appropriated for the Agricultural Department.

I want to call the Senator's attention to the significant fact, that while Mr. Dawes furnishes some statement, wholly inadequate, with reference to the various deductions made in the departments, he very strangely omits any reference to this $25,000,000 which it is proposed to cut out of the Agricultural appropriations. When the Secretary of the Treasury was before the committee he was asked how it would be possible for the Secretary of Agriculture to cut $25,000,000 out of the Agricultural appropriations? It could not possibly be cut out of the $37,000,000 the Senator has referred to and leave anything substantial for the Agricultural Department. But it is suggested that the reduction could be made by curtailing the expenditures which had been authorized by Congress in aid of the construction of good roads in this country.

That elimination is for the purpose of cutting out $25,000,000 from the $75,000,000 appropriated for roads, about which the Senator has just spoken, and cut out for the purpose of making it possible to relieve those corporations and the ultrarich from the taxes which have been remitted to them.

Mr. REED. Exactly. When they cut out that $25,000,000 contributed by the Federal Government they at once stopped all work that is being carried on by the States and counties in connection with the Federal Government. As the Federal Government pays on the average about 33 per cent of the cost, withholding $25,000,000 means that at least $75,000,000 worth of road building in the United States is at a standstill.

Mr. SIMMONS. The point I am making in addition to that is that it is cut out for the purpose of reducing the taxes upon the clases of which the Senator has just spoken.

Mr. REED. That is true. Let me call attention to another matter. The corporation stock tax reduction is $75,000,000, exactly the amount we appropriated toward good roads for all the States of the Union. This appropriation requires a road-building program, as I have said, of $225,000,000. That corporation stock tax, I repeat, is not felt by corporations of moderate capital, $10 upon $10,000, $100 upon $100,000, $500 upon $500,000, but it is felt by concerns like the Steel Trust, with their $2,000,000,000 of capital, by concerns like the Standard Oil, the American Tobacco Co., the General Motors Co., and institutions of that kind. The General Motors Co. gets more benefit from good roads than one-third of the farmers of the United States, I believe, in dollars and cents, for only as we build good roads is it able to sell automobiles.

Take out that one tax of $75,000,000 paid without any burden by the small corporations and it would give us $75,000,000 every year to extend the good roads.

Mr. WATSON of Georgia. Mr. President——

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Georgia?

Mr. REED. Certainly.

Mr. WATSON of Georgia. With the permission of the Senator from Missouri I would remind him in connection with the Steel Trust that the $1,500,000,000 of common stock issued when J. P. Morgan formed the Steel Trust represented no money whatever—not a cent. When I was at the St. Louis Fair in 1904 that stock was selling for about $8 a share. It is now about par and paying interest upon the whole $1,500,000,000. Therefore that much money in one place has been taken from the American people by just such bills as this, and the American people have lost that much in that one particular to that one trust.

Mr. REED. I am obliged to the Senator. The whole story of the Steel Trust is a very interesting one, but I shall not digress to go into it in detail. What the Senator has said is sufficient. It illustrates a particular act which was repeated time and again in the organization of that body.

We are going to make that a political issue, if you please, sir; and all the pious unction that oozes from the holy countenances of Senators on the other side who never play politics will not deter us in our effort. It is political, and we take the side of the people. You may take the side of the corporations and the profiteers, even as the dog is turned to his own vomit and the sow that is washed to her wallowing in the mire.

Mr. WALSH of Massachusetts. Mr. President——.

Mr. REED. I yield to the Senator from Massachusetts.

Mr. WALSH of Massachusetts. I think it ought to be pointed out that the capital stock tax reaches corporations which the income corporation tax does not reach. For instance, a holding company may pay an income tax, but the companies under them have to pay a capital stock tax, and if there is any that does not pay any income tax because it is not earning any profits, it has to pay a capital stock tax on the theory that it has a license to do business and it has the protection of the laws of the country and has possession of a valuable franchise given by the Government.

Mr. REED. I thank the Senator.

We will also point out that while you take the excess-profits tax off of the great corporations, corporations that were making profits above 10 per cent, you increased by 50 per cent the tax on the corporation that was making an income of 10 per cent or less. Thereby you shifted the burden from the profiteer, from the corporation making enormous returns, to the corporation charging a fair price and realizing a moderate profit.

In the political issue which will be made we will show that in order to cut your revenues so that you could reduce the profiteers' burden by $615,000,000, you renewed a debt of $170,000,000, which was in fact current expense of the Government and should have been paid out of its current revenues. Such a policy long pursued would bring financial wreckage upon the country, for the country that can not pay current expenses stands bankrupt before the world and bankrupt in fact.

Mr. WALSH of Massachusetts. Suppose every State, city, and town should pursue that financial policy, what would happen?

Mr. REED. Certainly; the answer is obvious.

The amount that you have reduced the taxes upon the ultrarich and the profiteer would have paid that $170,000,000 and then would have enabled us to double the sinking fund, so that we would ultimately have had a fund that would wipe out this enormous burden of debt upon the United States. We put into the sinking fund last year only $265,754,000; I omit the odd figures. The amount of tax that we are saving to the ultrarich would enable us to double that sinking fund and pay our debt in half the time. Aye, it would enable us to double the sinking fund, and then further increase it by nearly 50 per cent of the present amount.

But what difference does such bankrupt juggling make as long as you can leave the money in the pockets of the favorites of the Republican Party, who financed its campaign, who control its destinies, and who pull the strings that run from the Finance Committee back to their various counting houses?

Mr. HITCHCOCK. Mr. President, I wish to suggest to the Senator that he give the particulars of the renewal of $170,000,000. I think that has not been made clear.

Mr. REED. One hundred seventy million dollars of debt that is to be renewed.

Mr. SIMMONS. Mr. President, will the Senator pardon me an interruption?

Mr. REED. Certainly.

Mr. SIMMONS. There is included in the original estimate of the Secretary of the Treasury $100,000,000 for the redemption of war savings stamps. It is estimated that about that amount of savings stamps would be presented under the law for redemption. The law provides for five years' time, with the privilege of the holders of those stamps at any time to demand payment upon 30 days' notice. It was estimated that $100,000,000 of these stamps would be presented for payment during the fiscal year 1922. Then it was also estimated that $70,000,000 would become due under the Pittman Act for the purchase of silver.

Appropriations have been made for both those amounts, the $100,000,000 and the $70,000,000, and those amounts were each included in the original estimates. Secretary Mellon eliminates those in his second estimate for the purpose of making margins for reduction, and frankly confesses his purpose not to pay those obligations out of taxes, but to borrow the money upon certificates of indebtedness with which to pay them.

Mr. REED. There is no difference between the Senator's construction and mine. Money from the savings stamps that we have been selling has been used for current expenses. They were redeemable when presented, and it was estimated that certain of them would be presented. It was considered, therefore, as one of the current expenses to be met by taxation.

Mr. SIMMONS. Both items were current expenses undoubtedly.

Mr. REED. And the same thing is true with reference to the other items. That is to be put upon us in the form of a permanent debt. The Government will not pay it now, but renew it, because you want to remove the burden of $615,000,000 in taxes from corporations with swollen incomes.

We accept that issue. We say that it will be political unless you abandon your scheme, and if you abandon your scheme now you can not escape the fact that you abandoned it because you were driven from it by exposure upon this floor.

Mr. President, a little while ago the soldiers came to this body and asked that a bill be passed which they thought would in some degree make up a small part of the financial loss they had suffered through being absent from their labors. There was much dispute over the amount of money that would be paid, but I think I am warranted in taking the figures of the distinguished Senator from North Dakota [Mr. MCCUMBER], who stood sponsor for the bill. He said:

> The amounts which will be payable, beginning at that time—
>
> That is in 1922—
>
> will be scattered over 20 years. I am certain, under the testimony which has been given, that it is a safe estimate that not more than 20 per cent of the war veterans will adopt the cash plan proposed in the bill, and if that should be the case, and 80 per cent should adopt the insurance plan, then the cost in any one year would not exceed $200,000,000.
>
> If every soldier entitled to receive benefits under this bill, if enacted into law, should select the cash-payment basis, the cost to the Government would be but $1,560,166,330, and would be payable in $50 quarterly installments to each soldier, thereby running over two years and a half; so that, even on the cash-payment basis, the draft upon the Treasury would not be heavy.

According to that the soldiers' bonus, if the soldiers all demanded cash, would be about $520,000,000 a year, and it would all be wiped out in about three years. The amount of money which the majority proposes to relieve the profiteers and the ultrarich from paying is $615,000,000 a year. We could take that amount of money and pay the soldiers' bonus which they are demanding; we could pay it all in about three years and still have more than enough money to appropriate $75,000,000 a year for the construction of good roads. Of course the Republicans may make that a political issue if they wish to do so.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER (Mr. CURTIS in the chair). Does the Senator from Missouri yield to the Senator from North Carolina?

Mr. REED. I do.

Mr. SIMMONS. If the Senator will permit me, I desire to inject right there in his speech that the President of the United States said that it would bankrupt and break the Treasury if we had to pay the soldiers one billion five hundred and odd million dollars a year, but it does not seem that it will bankrupt the Treasury to give it back to the corporations by remitting their taxes.

Mr. REED. Certainly not; not according to the creed of the gentlemen on the other side. They have held to that creed for many years. It is that every dollar which is left in the pockets of the great corporations and of the ultrawealthy enriches the country and that every dollar taken from their pockets and put into the pockets of the masses of the people impoverishes the country; that the relief of great corporations and of people with swollen fortunes from their just tribute to the Government will benefit the Government, but that the payment of a debt, an obligation, or whatever you wish to term it, to those who served the country in time of war will bankrupt the country; that $615,000,000 in the pockets of the ultrarich will preserve the country, but that $615,000,000 in the pockets of the boys who bared their bosoms to the storms of war will bankrupt the country.

How is it that these gentlemen possess their great swollen fortunes to-day? How is it that the profiteer has waxed fat? Surely, because when our country was in peril there were men, men, men who rose in its defense.

They came from every walk of life. I think I can recall the lines of Eugene Ware, which he wrote as a returned Federal soldier at the close of the Civil War:

> Fires smoldered on the hearthstone when my country called to arms;
> My comrades came from forests, from factory, and farm.
> They fought the Nation's battles by land and by the sea;
> Alas! Alas! No millionaires went to the war with me.
>
> The merit of the country marched and filled the Nation's ranks;
> The credit of the country marched and filled the English banks.
> At last the war was over and Johnnie ceased to roam;
> We came with bugles blowing, and the millionaires sneaked home.

That is not exactly just to every millionaire, because it is a fact that the millionaire, when it came to serving in the ranks in the last Great War, nearly always toed the mark the same as everybody else.

How were these great fortunes protected? By the bodies of men. If the boys had not come from the habitations of the poor and the great middle class, if the widow had not sacrificed her son's support, if the weary mother had not given up the child she had cuddled to her bosom, if the poor farmer upon his patch of ground had not yielded the boy whose loss was sorely felt, if all the homes of the country had not sent forth the glorious manhood of the land, Germany would have been collecting taxes from this country and vast profits would not now be in the hands of these gentlemen. When these boys went—these boys who for the most part left homes where their services were needed—they gave all their time and received but $30 a month.

All of them had been making more than $30 a month. They had to make that sacrifice. They sacrificed their own financial welfare, and many of them their lives and their health, while these concerns in the United States continued to profit, to make great fortunes, to increase their capital.

All that is asked to-day is that an institution that makes more than 10 per cent net shall pay a graduated tax upon its profits above that amount. The soldiers have asked that some of that money be taken to recompense them in a slight degree for their actual losses already incurred. Our friends on the other side of the Chamber say that we must take the tax off the profiteer and leave the money in his pocket. We say it would be a good deal better to take that tax and redeem our obligations to the soldiers who saved this country. That is our political issue, if you will have it so.

Mr. SIMMONS. Mr. President, the Senator has referred to the fact that there was but one watchman on the other side of the Chamber. When this bill was first introduced, and the Senators on the other side were eager to pass it as quickly as possible, without any discussion at all, the Chamber was full. Now that they have heard the exposures of the bill, and do not want to hear any more, their time is taken up in trying to patch it up, instead of in being present here and hearing this discussion.

Mr. REED. I say to the American Legion, who have been pressing the adjusted compensation bill, that if they will help us keep the excess-profits tax of $450,000,000 on, as far as I am concerned I shall vote to apply that $450,000,000 on our obligations to these gallant men.

Mr. President, there has been a secret meeting, and the Senator from Arkansas [Mr. ROBINSON] said about all that need be said about it; but I have before me——

Mr. SIMMONS. Mr. President, before the Senator gets into that subject, if he will allow me, I think this is something that ought to be injected into his speech:

The Senator discussed very illuminatingly the proposed reductions from the estimates. The Senator did not say anything about the proposed reduction from the estimates for the Shipping Board. Mr. Dawes furnishes a statement from the gentleman who has been put in charge of the Shipping Board, the chairman, Mr. Lasker, which I think the Senate ought to have and the country ought to have, because it is very illuminating.

It is proposed, as the Senator will recall, of the $200,000,000 included in the Secretary's original estimates for the Shipping Board, to cut out $100,000,000. Mr. Dawes seems to have asked Mr. Lasker to explain how he is going to get rid of that $100,000,000, and here is the letter he writes. The Senator may want to comment on it:

> Hon. CHARLES G. DAWES,
> *Director Bureau of the Budget, Treasury Department,*
> *Washington, D. C.*
>
> MY DEAR GEN. DAWES: Confirming our telephone conversation of to-day, of course we will have to arrange to get within the President's commitment of $100,000,000 for the Shipping Board for the present fiscal year.

His commitment was to get rid of $100,000,000 of the $200,000,000 originally estimated for.

> We have so far been given $48,500,000 for operations and $25,000,000 for construction, making a total of $73,500,000. It is possible that we will need $6,000,000 or more additional for the vessels now being completed, these vessels being the last of the ships to be constructed for the Government.
>
> If we can make collections amounting to $20,000,000, we hope to use the remaining $20,000,000, unaccounted for above, for the settlement of claims if we can get Congress so to vote. If we can not make collections to the amount indicated, we will then have to use the $20,000,000 for operations, but in any event we will keep within the $100,000,000 the President has agreed upon. Of course, should we have to use this amount for operations there will be nothing left for the payment of claims this year.
>
> All of this does not take into consideration the sum of $20,000,000 due from the days of the past from the Navy. When I give the figure of $20,000,000 I want to make clear that the amount involved has never been determined between the Shipping Board and Navy, and at an early date we are going to have a matching of accounts.

I have always gone on the basis that we would not be asked to pay this amount, and, in fact, the Navy has been very indulgent. Should the Navy require this sum for their own appropriations, it will be necessary for us to go to Congress for a special appropriation, because we could not possibly be within the funds fixed and meet the old obligations accrued before the present board ever was brought into being.

I want to emphasize that the Navy has been most considerate in the premises herein referred to.

Sincerely, yours, A. D. LASKER, *Chairman.*

That is the only explanation he gives, and if anybody in this world can understand it I can not. The only point that he does make clear is that the President demanded it, and he was going to try to carry out the President's wishes in the matter, but he did not know how he would do it; and yet that is sent to us as an explanation of how the administration will be able to cut out $100,000,000 estimated for the Shipping Board!

Mr. REED. Mr. President, of course nobody can understand that letter. The man who wrote it did not understand it. Evidently he had his orders, and he said he was going to do it in some way, but he did not know how. That is all that letter amounts to. We are interested in knowing whether he is going to do it, if he ever does do it, by reducing the actual outlay in the form of expenses and carrying on the work at 100 per cent, or whether he is going to reduce the work and make the saving in that way. As I pointed out the other day, we can save all this money, all the expenses of the Government, if we wish to close up the Government's shop.

I have been reminded by the Senator from Ohio [Mr. POMERENE] that this gentleman has appointed 27 new lawyers to advise him; and I suggest to the Senator from North Carolina that he send this letter back to Mr. Lasker's 27 new lawyers, and ask them for their professional opinion as to just what it means. Perhaps we can get at it then.

Mr. SIMMONS. That is a very good suggestion.

Mr. REED. Mr. President, I was about to discuss the proposals which we understand our friends agreed upon in their secret caucus. They are outlined in an article in the Washington Times by Mr. Campbell, and I have always found Mr. Campbell a very accurate writer.

In connection with this article I wish to print an epitome of the recommendations and amendments which have already been offered by the Democratic side, for the purpose of showing that every wholesome proposition agreed upon at this secret conference has already been offered by Democratic Senators.

The PRESIDING OFFICER (Mr. WILLIS in the chair). Without objection, the matter referred to by the Senator from Missouri will be printed in the RECORD.

The matter referred to is as follows:

SENATE LEADERS PERFECT SUBSTITUTE FOR TAX BILL.

(By J. Bart Campbell, International News Service.)

A compromise tax revision plan which is expected to practically solidify the divided Republican majority of the Senate will be submitted to President Harding to-day by Senator LODGE, the Republican leader of the upper Chamber.

The compromise, which will also be presented to the Senate Finance Committee to-day as a substitute for the pending tax bill, was worked out and agreed to at a meeting last night of 10 leading Republican Senators.

Besides Senator LODGE, there were present Senators CAPPER, of Kansas; MCNARY, of Oregon; MCCORMICK, of Illinois; KELLOGG, of Minnesota; LENROOT, of Wisconsin; STERLING, of South Dakota; WILLIS, of Ohio; HARRELD, of Oklahoma; and ODDIE, of Nevada. The meeting was held at Senator CAPPER's residence, and lasted until a late hour.

OUTLINE OF PROVISIONS.

The compromise agreed to embraced the following essential provisions:

1. Retention of the higher income surtaxes from 50 per cent downward, which, with the 8 per cent normal income tax, would impose a maximum tax of 58 per cent on large incomes; the pending bill provides for the abolition of all income surtaxes above 32 per cent.

2. Reduction of the lower surtaxes from 32 per cent downward, with a sliding scale that would permit the greatest reductions to be made in those surtaxes imposed upon small incomes.

3. Repeal of the so-called nuisance taxes, including candy, furs, jewelry, ice cream, eyeglasses, sporting goods, etc.

4. Adoption of the proposal of Senator CALDER, Republican, of New York, for a tax of $6 a barrel on whisky withdrawn from warehouses or bond.

5. Repeal of the excess-profits tax as of January 1, 1922, as provided by the pending bill and the House tax bill.

6. Retention of the capital-stock tax, instead of its repeal as provided by the pending bill.

7. Repeal of the transportation taxes on freight, Pullman, and passenger rates, instead of the retention of 50 per cent of them, as provided by the pending bill.

8. Retention of the 15 per cent tax on corporations, as provided by the pending bill; the House bill fixed this tax at 12½ per cent.

EPITOME OF RECOMMENDATIONS AND AMENDMENTS OFFERED BY DEMOCRATIC SENATORS TO THE PENDING REVENUE BILL.

PROVISION NO. 1.

Amendment by Senator SIMMONS provides increase in taxation on income in excess of $50,000 gradually until the maximum of "52 per cent of the amount by which the net income exceeds $500,000."

PROVISION NO. 2.

The purpose of the Republican majority seems to have been centered upon the exemption of millionaires from the higher surtaxes and the exemption of corporate interests and monopolies from the payment of proper taxes upon inordinate profits. In pursuit of this purpose the committee has divided the income-tax payers of the country into two classes. The first class consists of those persons who have incomes greater than $66,000 a year; the second class consists of those persons who have incomes of less than $66,000 a year. The average income of persons in the first class is more than $150,000 a year. The average income of persons in the second class is but $3,400 per year, which must sustain the cost of living of themselves and millions of their dependents.

* * * * * * *

The minority will propose amendments to the bill increasing the surtax from 32 per cent, as proposed in the bill on incomes of $66,000, largely increasing the rates on incomes up to and above $500,000. (Minority views, Rpt. 275, pt. 2, pp. 8 and 13.)

PROVISION NO. 3.

Miscellaneous taxes.

The miscellaneous taxpayers are to-day paying peak war-time taxes. At the time of the reductions of 1918 it was understood that when another reduction was made miscellaneous taxes would be given especial consideration as to reductions. In these conditions it is to be hoped that the Senate may find some way to further reduce these taxes or substitute for them taxes of a less irritating, nagging, and vexing character. (Minority views, Rpt. 275, pt. 2, p. 12.)

PROVISION NO. 6.

Amendment by Senator SIMMONS provides for the retention of the capital-stock tax: "Every domestic corporation shall pay annually a special excise tax with respect to carrying on or doing business equivalent to $1 for each $1,000 of so much of the fair average value of its capital stock for the preceding year ending June 30 as is in excess of $5,000," etc.

PROVISION NO. 7.

"The present tax upon transportation, estimated to yield for the fiscal year 1922 two hundred and sixty-odd millions of dollars, adds materially to the burden of high rates. * * * Notwithstanding this, the bill proposes to retain one-half of this tax, at least for another calendar year. In the opinion of the minority this tax ought to be repealed immediately. It is difficult to see how anyone can justify the repeal of the capital-stock tax on corporations while refusing to repeal in toto an even heavier tax on transportation." (Minority views, Rpt. 275, pt. 2, p. 12.)

Mr. REED. What is the proposition of these gentlemen who started out here by saying that this bill was above politics and that no man should lay an unholy political finger upon its sacred provisions? They hold a secret meeting and agree to adopt these Democratic recommendations. They bring them in as original Republican propositions, and then say, "This is what the Republicans did." Can they hope to fool anyone by such a miserable, childish subterfuge? Well, they may fool some of their own constituents, but not many.

There is just one further thought I wish to dwell upon; then I shall have finished, and the Republicans can come back into the Chamber and enjoy themselves. In that connection, I am informed that this exodus from the Chamber is occasioned by the fact that they are now holding a clinical examination of this bill. They are trying to decide whether the thing is so dead that it really ought to be embalmed and laid away, or whether there is enough life left in it to make resuscitation and reform worth while. In either case they can be assured nobody will be fooled.

A rather remarkable statement was made on yesterday by the chairman of the Finance Committee [Mr. PENROSE]. It was to the effect that the pending bill is merely a temporary makeshift. In other words, his real appeal for this bill was, "Bear with it; it will not last very long. We are going to do something better after a while."

Three years ago the then President of the United States told Congress that the revenue law had been enacted as a temporary measure, and had been adopted to meet instant needs and unknown expenditures in the prosecution of the war. He called attention then to the fact that peace had come, and that it was our duty to construct a financial measure suitable and permanent as a general system.

The Republican Party was, and has been ever since, in control of both branches of Congress. This Republican majority has been able to do whatever it pleased for three long years. The Republicans told us in the campaign that after the election they were going to adopt a permanent policy. They told us, as I said the other day, that that policy would be plain and simple, that everybody could understand it, that an ordinary man could make out his own tax returns, that the burdens would be placed upon the country equitably, and that business and all the people would praise the Lord that He had given them the blessing of a Republican administration.

As I heard those orators upon the stump portray the vision they had conceived, I had a supplementary vision. I saw all the people of the country assembled upon the hilltops, in the glory of the setting sun, singing a Te Deum Laudamus because the good God had created the Republican Party to lift the tax burden from the people.

Now comes the Senator from Pennsylvania and tells us that this measure is only a temporary makeshift. He is quoted here in the Washington Post of Wednesday, October 5, as follows:

Discussing the sales tax, Senator PENROSE said there was "no use to advance novel or untried suggestions of taxation at a time when promptness of action of some kind is the slogan."

"Promptness of action of some kind!" They brought in a bill which they know is worse than the present tax law, and the only result of the prompt action is to lift the burdens from the profiteer and the ultrarich. That is the condition which makes promptness of action necessary. But I read further from the article, which quotes the senior Senator from Pennsylvania:

Just as soon as the pending bill becomes a law, I hope to submit to the consideration of some tribunal, either a special tax committee or the committees of the House and Senate, a number of suggestions that may be fruitful.

Meantime we have only one thing to do; get the country out of the depths into which it has been plunged and restore business and industrial activities and employment and correct inconvenience as much as possible.

"Get business out of trouble." Let us put the real meaning to that language. It amounts to this: "In the meantime we have only one thing to do—get the burdens of taxes off of the ultrarich and off of the profiteers, taxes which were imposed by a wicked Congress, and restore these institutions the money which the present law will compel them to pay." That is the proposition interpreted and put into plain English, for that is what this bill would do. That is its alpha and its omega; its beginning and its end. It begins by taking the burden from corporations that are prosperous, from profiteers who have sucked the very blood out of the veins of the people, from people who enjoy incomes of $66,000 a year plus. That is all it does. We have to do that so quickly that we can not wait to write a sound measure. We must rush this through and do this speedily.

They can not even repeal the tax on transportation. That is $240,000,000 a year, and is a burden upon everybody in the United States, on all the commerce and business; but if they would keep the $615,000,000 of taxes which are levied now they could take off at once the entire tax on transportation and they could build the roads of the country. Then they would have enough of a fund, according to the estimate made by the Senator from North Dakota [Mr. MCCUMBER], to take care of the adjusted compensation promised the soldiers. But you will not find them taking care of the soldiers until they have taken care of the profiteers. You will not find them taking care of the great public improvements of this country until they have taken care of the great corporations of this country, because every cord that runs from the heart of the Republican Party, its political heart, is held at the other end by some of these interests.

This is only part of the scheme. They started in to devise a tariff law, and the purpose of that tariff law was to further enable these great institutions to plunder the people of the United States. Gentlemen came before the committees as the representatives of concerns which have made 100 per cent profit, 200 per cent profit, 500 per cent profit, the representatives of concerns which refused to disclose their profits, to tell their salaries, to state the amount of money they had made, standing upon their constitutional rights and refusing to testify.

They came before the committees, many of them with their attorneys, and the burden of all their statements could be summed up in this: "This is what we want; this is what we expect to have. The people put you in power, and business wants this tax on this of so much, business wants this tax on something else of so much, and this is what we demand." They were as importunate and as insistent upon their rights as were those who, in the shadow of the cross, parted His raiment among them and for His vestments cast lots.

They intended to put that through before the revenue bill was put through. Then they were struck with a kind of consternation and feared that they dare not; so that has been laid aside. But it will come forward, and when it does come forward it will be a revenue bill written by the interests, for the interests, in the interest of the interests. Every line of it will bear the dollar mark.

We might just as well understand this thing. I repeat what I said the other day, I am no enemy of the man who has money. I am an enemy of the man who would keep other men from an opportunity to make money. I want the highways open, so that every ambitious youth can run with unobstructed feet the course of financial empire, if you please. I want that for the children of to-day and the children of to-morrow. I refuse to levy taxes upon ambition, upon hope, upon enterprise, and take the taxes off the wealth that is protected and that can well afford to bear the burden of government.

I refuse to join with the socialist or the communist who would destroy wealth or divide up property, and I refuse as well to join those who would enable the possessors already of large fortunes to escape their share of the public burden.

So we are not even to have this question settled now; there is to be another promise, and that does not sit well on the stomachs of those who wanted relief for big money right away, and it does not sit well on the stomachs of those who want to know what the taxes will be, so that every man can make his calculations accordingly.

I noticed in the New York Times an editorial. I shall read a part of it. It is not often that I have occasion to commend an editorial in the New York Times, because somehow or other the editorial writers of that paper never seem quite to appreciate the force of my logic or the justice of my contention, but sometimes they are right. However, seriously speaking, it is a great newspaper and one that has been particularly strong in its advocacy of the adoption of some kind of a permanent tax plan. This is what it has to say in the issue of this morning:

POSTPONING TAX REFORM.

As the country becomes more and more impatient at the paltering of Congress with the reform of the tax laws, Senator PENROSE grows more irresolute, more helpless. To be sure, there must be radical changes in our plan of taxation, he says, but not now. This is only an emergency bill to remove the excess-profits tax and "stop unemployment." Later, perhaps next year, there must be a new bill, a thoroughgoing measure of reform. And Mr. PENROSE is indiscreet enough to repeat the old excuses about the "wanton waste, extravagance, and inefficiency of the Wilson régime," which have, it appears, left the Republican Congress very little time for other business. The Republicans have been two years and a half in control of Congress, their pledge to lighten the burden of taxation was given more than a year ago, yet to-day the leaders in both Houses show themselves to be not only absolutely incompetent to deal with the subject but amazingly indifferent about the party promises.

Mr. President, I will tell you what ought to have been done with the tax bill. The only decent thing to do with it, since it is so crippled and so battered, is to send it to the hospital, send it back to the committee.

Mr. BORAH. Does the Senator call that a hospital?

Mr. REED. That is a hospital. It ought to go there and have an operation of the most serious character. The best operation that could be performed on it would be one similar to that which the chairman of that committee performed on the soldiers bonus bill. He cut its throat, or if he did not do that he put it in cold storage where it has been reduced to a condition of death by an entire lack of sympathetic heat. He might embalm it, as we all understand the soldiers bonus bill has been embalmed. My opinion is that if it is ever brought to life it will be through some process like that which romance says occasionally occurs to an Egyptian mummy that has been embalmed for 3,000 years, when somebody finds a magic bug or stone which temporarily restores it to a state of apparent animation.

Go and tell the soldiers you could not pay them approximately $200,000,000 a year to equalize the frightful sacrifices they made because you wanted to take $450,000,000 a year off of the burdens of the profiteers who are still reaping war profits, who are still selling shoes for $12 that they make out of cowhides for which they pay the farmer $1.25 each.

Go and tell the farmers of the country you had to cut the Agricultural appropriation to the very bone and were only able to give them $3,000,000, in order that you might cut $90,000,000 off of the taxes of gentlemen who enjoy incomes in excess of $66,000 a year.

Go and tell those interested in good roads that you first induced Congress to cut down the amount asked from $100,000,000 to $75,000,000, and then cut the $75,000,000 which had actually been appropriated, in order to save money. That was necessary, of course, if you are to take off the corporation tax, and as between good roads and the happiness of the corporations you propose to preserve the corporations' condition of joy.

Go and tell those who see upon the great Mississippi River to-day a boat line put there by the Government during the war, operating in a channel that can be made perfect for $3,000,000, that they must continue to go without the $3,000,000 and operate their crafts half laden, as to-day, although they have been hauling freight at 80 per cent of the railroad prices and making money wherewith to reimburse the Government for every dollar it put in the enterprise. Go and tell them that they can not have that little $3,000,000 because you had to save $615,000,000 to the ultrarich and the profiteer.

Go to the farmers and merchants of all that vast Mississippi Valley, the garden of the world, where we raise the great bulk of the cattle, the corn, the wheat, the oats, the rye, the barley,

and the potatoes that feed the United States, and tell them they can not have the little $3,000,000 necessary to improve the Mississippi River so that boats can ply full laden, because you had to save $615,000,000.

The $615,000,000, I repeat, set aside for one year would complete every internal improvement that has ever been proposed by sensible men in the United States. It would give employment to millions who are out of employment. Think of this stupendous sum, more than equal the cost of the Panama Canal, which was about $400,000,000.

Mr. POMERENE. That is correct.

Mr. REED. I go back again to my proposition about the Mississippi. Let us understand what it is. Three million dollars spent there and seven or eight million dollars spent on the Ohio will complete the navigability of those two rivers and unite them. The Government has already expended $80,000,000 on the Ohio, and not a dollar of it is of any value until it expends the balance of the money necessary to open that river for navigation to the Mississippi. It started upon a plan of 40 dams nearly 40 years ago. It has completed or substantially completed all of them but 7; yet we can not get the money to carry on the work of completing those 7 dams at once and thus have the Ohio River open to commerce.

Sirs, there is more commerce waiting for transportation upon the Ohio River to-day, there is more commerce that originates upon its banks, than passes through the Suez Canal plus the Panama Canal and plus all the rest of the canals. Such a freightage can be hauled on those rivers, as demonstrated by the boat line that in five months has paid its running expenses and set aside an unjust and an enormous sinking fund to amortize the plant, less a profit of $90,000, and it has been obliged to operate over sand bars half loaded.

What does that mean? It means that all the wheat, all the corn, all the oats, all the products of the farm could reach the market over these boat lines at 20 per cent less than is now charged by the railroads. That 20 per cent would be left in the hands of the farmers. Calculate it if you will. It costs to-day one bushel out of every four to transport wheat from the Missouri Valley to New York City. Twenty per cent of that can be saved.

Upon the other hand, goods coming in the other direction, sold to the consumers of that vast territory that lies between the foothills of the Rockies and the foothills of the Alleghenies, for nearly all of it will be reached and all of it will be affected by the freight rates and interchange of rates with the railroads, can be delivered to them at a 20 per cent reduction in rates. We can not get that $3,000,000 that is necessary on the Mississippi and the $7,000,000 on the Ohio to complete those projects, yet we can with one stroke of the pen take $75,000,000 off the revenues by removing the tax of $1 on each $1,000 of the capital stock of the corporations of the country.

We can relieve the Steel Trust of practically $1,000,000 in one year, the Standard Oil Co. of practically $800,000—and that does not include all of its subsidiaries, by any means—and the General Motors Co. of $800,000. These are all concerns with swollen fortunes.

Oh, yes; the issue is "political"; it is political because it is proposed by the Democratic Party. It is true that party has made mistakes, perhaps many mistakes, but, nevertheless, has always adhered to the principle of making the burden of taxation as small as possible upon the people, of distributing its burdens where they are least felt, and of cutting the expenses of the Government to the lowest possible point. That policy can not be belied by the cry, so often heard, that money was wasted during the World War. Such was no part of the policy of any party; it was the result of the mistakes of individuals, and many of those mistakes are to be palliated by the fact that we were acting in the emergency of a titanic struggle.

Here stands the Democratic Party, and here it will stand, to insist that this iniquitous measure shall not pass. Here we stand, as stood the French when the great commander said, "They shall not pass."

If Senators on the other side reform their measure and put the ideas we have advocated into it, it will not be the measure they brought in here. I am not looking for political advantage if that advantage is to be gained at the expense of my country. If this bill is properly rewritten by the majority, by the secret committee, by anybody, and brought in here rectified and purified, it will receive no opposition from me. I know of no more hopeful sign for the country than the fact that Senators on the other side have been holding these meetings. I hope that those who have so met will be successful. I care not then whether Senators on the other side of the Chamber come in and adopt the amendment which has been offered by the Senator from Massachusetts [Mr. WALSH], or the same amendment by some Republican brother; but I protest against a measure which is drawn along the lines of the pending bill. The country will protest; and unless its protest is heeded now it will answer Senators on the other side of the Chamber when once more it speaks.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Senator from Kansas suggests the absence of a quorum. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Harris	McNary	Spencer
Broussard	Harrison	Nelson	Sterling
Calder	Hitchcock	New	Sutherland
Cameron	Johnson	Oddie	Townsend
Capper	Kellogg	Overman	Trammell
Caraway	Kendrick	Page	Underwood
Colt	Kenyon	Poindexter	Walsh, Mass.
Cummins	Keyes	Pomerene	Warren
Curtis	Ladd	Reed	Watson, Ga.
Dial	La Follette	Robinson	Watson, Ind.
Dillingham	Lenroot	Sheppard	Weller
Fletcher	McCormick	Shields	Williams
Frelinghuysen	McCumber	Simmons	Willis
Gerry	McKellar	Smith	
Hale	McLean	Smoot	

The VICE PRESIDENT. Fifty-eight Senators having answered to their names, a quorum is present.

Mr. SIMMONS. Mr. President, I do not rise to make a speech, but simply to read a very brief statement. Before doing so, however, I wish to say that in the framing of this bill by the Finance Committee I never heard any suggestions that the bill we were framing was an emergency measure or a temporary measure; on the contrary, I understood from everything that was said that the majority claimed that they were preparing a permanent revenue system upon a scientific basis. When, therefore, the chairman of the committee, the Senator from Pennsylvania [Mr. PENROSE], on yesterday morning gave out his statement to the effect that this was a temporary measure and that in a very brief period of time we were to have another revision of the revenue law, that statement was made in contradiction of all the understandings that we had during the framing of the pending measure and was not made until it had been shot to pieces on the floor of the Senate. It must be accepted, therefore, as an apology on the part of the Senator from Pennsylvania, on the one hand, for bringing in the bill now before the Senate and, on the other hand, as an admission of its imperfection.

Mr. President, on Friday last I discussed somewhat at length my objections to the pending bill as amended by the Finance Committee, especially with respect to the proposed amendments to existing law or new provisions or changes modifying or reducing or repealing existing rates on profits of individuals and corporations.

In order to make perfectly clear and remove any possible misunderstanding as to the purpose and object of the criticism and proposals then made with respect to the proposed revision, I wish, without attempting to elaborate, to reduce those contentions to a brief and concrete statement, so as to clearly indicate the purpose and objective of these objections and proposals.

First, as to the surtax. I believe, and in that belief I think there is no dissent on the part of my colleagues on this side of the Chamber, that the 50 per cent reduction upon the surtax rates imposed in existing law upon incomes in excess of $66,000, with practically no reduction in the surtax rates imposed in existing law upon incomes below $66,000, is basically unsound in that it tears up by the roots the fundamental theory universally acquiesced in that taxes should be imposed with due regard to the ability of the taxpayer to pay, so that the burdens upon the weak may not be made unduly heavy and those upon the strong be made unduly light.

We believe, if conditions justify a reduction in taxes and it is decided to make a part of that reduction by cutting down the surtax rates upon the incomes of the people, that it is nothing short of a travesty to give the entire benefit of the reductions in such rates to those who are so fortunate as to have incomes in excess of $66,000 a year, while giving practically no reductions to those less fortunate, whose incomes are less than $66,000 a year. If it is thought that the surtax rates of existing law are too high, instead of this one-sided reduction, in which the ultrarich are exclusively favored, there should have been a rewriting and readjustment of the whole income-tax schedule with a view to according to all income-tax payers something like equal participation in the benefits of reduced taxation.

Second. I believe, and I think most, if not all, of my associates on this side of the Chamber concur in that belief, that

under existing law corporations are not paying more than their fair share of taxes to raise revenue to pay the expenses of the Government and to meet its unpaid and maturing obligations and losses incident to the war.

Now it is proposed to repeal both the excess-profits taxes and the capital-stock taxes. Both of these taxes are distinctively and exclusively taxes upon the incomes of corporations. Whatever reduction results from their repeal will, therefore, inure exclusively to the benefit of the corporations paying those taxes under existing law.

These two exemptions from the corporate income tax will be further increased by the reduction of the 50 per cent in surtax rates on corporate dividends. According to estimates the reductions in taxes to corporations resulting from the repeal of the excess-profits and capital-stock taxes and reduction from the surtaxes will amount to $580,000,000. An investigation, I think, will disclose that the net reductions thus allowed corporations will represent something like from three-fourths to four-fifths of the entire net reductions proposed, and will represent between three-fourths and four-fifths of the reductions made possible, and only made possible, by the elimination of $550,000,000 from the estimate of revenues required to support the Government, made by Secretary Mellon on August 4, and in his subsequent recommendations of August 10.

In these circumstances, unless it can be shown that the corporations are now contributing more, and considerably more, than their fair share to the revenues necessary to support the Government, it would seem clear, if it is decided to make these several reductions through the repeal of excess-profits taxes, capital-stock taxes, and surtaxes on corporate dividends, or any of them, that an additional tax, calculated to produce approximately the same amount of revenue, should be imposed upon the incomes of corporations in some other way.

There is difference of opinion on this side of the Chamber, as there is upon the other side of the Chamber, upon the question of repeal of the excess-profits taxes; but I do not believe there is any considerable difference of opinion on this side of the Chamber with reference to the proposed repeal of the capital-stock tax and surtax rates on incomes above $66,000. But, however Senators may feel about the repeal of the excess-profits tax, I think it is clear—and every Senator on this side of the Chamber will agree—that the net savings to the corporations from these profits-tax repeals should, in whole or large part, be reimposed in some other form upon them.

There would seem to be no reason why these organizations, doing fully one-half the business of the country and enjoying, to say the least, an equal, if not greater, share of such prosperity as we have, as the balance of the people engaged in productive enterprise, should be given preferential treatment and shown favoritism by being accorded undue and exceptional exemptions from the common burden.

Mr. President, in saying that I do not mean to inveigh against wealth. I have never done that. I know that national wealth means national greatness, power, and prosperity; but it would be unfair and unjust to this country, because these corporations are great and powerful and rich, that they should be relieved of their fair share of the burden of taxes necessary to raise the money required to pay the obligations and expenses of the Government.

For these reasons I hope if these reductions are made that some amendment along the line of that of the Senator from Massachusetts [Mr. WALSH], proposing a graduated tax on corporate incomes, will be adopted; that the exemption of $2,000 now allowed corporations will be repealed; that the tax on capital stock will be restored; and that the reductions made by the bill on surtaxes and on the dividends of corporation stockholders with incomes in excess of $66,000 will be amended so that the maximum rate will not be less than 52 per cent.

DISPARITY BETWEEN CORPORATIONS AND INDIVIDUALS.

The repeal of these several taxes which are now levied against corporate incomes will not only relieve them of their fair share of taxes, but it will bring about a shocking disparity between the taxes paid out of the incomes of corporations and those paid out of the incomes of individuals and partnerships who are earning not more than $66,000.

In order to bring about approximate parity between these groups of taxpayers when we adopted the present law we relieved individuals and partnerships from the excess-profits tax. If that tax is repealed and the capital-stock tax is repealed, this disparity will be even more shocking than it appeared to us when we made this exemption in order to bring about equality. It seemed unthinkable that corporations should pay from their incomes but little less than one-half what individuals would pay on the same amount of income, and less than two-thirds of what partnerships would pay on the same amount of income.

Again, it would seem clear from this statement that upon the ground of equality of tax burdens, if these taxes against corporations are repealed, compensatory taxes in another form should be imposed, in order that there may be that parity among these three groups of taxpayers which the first principles of justice and which the fundamental principles of our constitutional system of government dictate.

TRANSPORTATION.

If there is any tax in the present law which the conditions of the present time imperatively demand should be removed, it is the tax on transportation.

To retain half of this tax for one year and repeal the tax on capital stock and remit the other taxes on corporations proposed in this bill seems to be indefensible from any standpoint.

The fight on this bill therefore revolves around the following matters:

First. The monstrous injustice of reducing the rate of surtaxes on incomes above $66,000 50 per cent without making practically any reduction on the surtaxes below that limit.

Second. Against a reduction of corporate taxes in a way and to an extent which would relieve them of their fair share of taxes and at the same time cause unbearable inequality and disparity in the amount of taxes they would pay upon incomes as compared with individuals and partnerships.

Third. For the immediate repeal of the entire tax on transportation.

Fourth. Against the proposed repeal of excess-profits taxes on corporations without substituting a tax in some other form on corporations of equal, or if not of equal at least of approximately equal, amount.

Fifth. For some reductions of normal taxes and surtaxes on incomes below $66,000 to somewhat equalize the reductions given to those of high incomes.

Mr. President, I have made this statement, reduced to concrete terms, in order that my position may be clearly understood. I have left out of consideration some questions which doubtless would be more or less mooted, but they are questions upon which I assume that both sides of this Chamber will be divided. I have included only those which indicate the purpose and objective which this side of the Chamber has in its assaults upon this bill, and in its attempts to make a bad bill at least tolerable.

Mr. LENROOT obtained the floor.

Mr. McCUMBER. Mr. President——

The VICE PRESIDENT. Does the Senator from Wisconsin yield to the Senator from North Dakota?

Mr. LENROOT. I will yield.

Mr. McCUMBER. Mr. President, I want most briefly to reply to two observations made just now by the Senator from North Carolina [Mr. SIMMONS]. The first was that the chairman of the Committee on Finance made a statement to the effect that this is a temporary measure, and that that statement was only made after the measure had been shot full of holes.

Replying to the first, Mr. President, no matter how pessimistic any of us may be, I believe there is a soul of optimism in every Senator leading him to the conviction that the present conditions under which we are laboring will not last for many years. We are now compelled to levy taxes to operate the Government, which is running at an expense of more than $5,000,000,000 a year. None of us believes that that extravagant situation is going to continue. There is not one of us who does not believe that the time is coming, and we hope it is coming very soon, when business will be such that we can raise a greater amount of revenue without so large a levy, and when that time comes, and we all pray God that it may come soon, and we hope it will, we then will reduce the present system of taxation, which must be onerous.

Mr. President, so far as this bill being shot full of holes is concerned, let me say most earnestly to the Senator from North Carolina that I think Senators on the other side have been blinded by the smoke and fumes of their own oratory, and when we get through with the argument we shall find that the bill will stand all assaults.

Complaint has been made against this side of the Chamber and the Committee on Finance because we have not taken time to make long speeches in defense of it or in support of it. Mr. President, to obviate that delay, to gain time for the Senate, and inform every Senator we carefully prepared a report of 35 closely printed pages which explains every change in the law and gives the reason for every change, and it would

be better if Senators would read that report before they begin to criticize the committee for not furnishing them with sufficient information.

We have heard speeches, Mr. President, on the opposite side of the Chamber from a purely partisan standpoint, and especially upon the repeal of the excess-profits tax. I shall hope in a very short time to discuss that tax from a nonpartisan standpoint, from an American and a business standpoint, and I think I shall be able to justify the action of the committee.

Mr. SIMMONS. Mr. President——

The VICE PRESIDENT. Does the Senator from Wisconsin yield to the Senator from North Carolina?

Mr. LENROOT. I yield.

Mr. SIMMONS. I wish to say that it is true the Senator from North Dakota and his associates of the majority of the committee have filed a report. Two or three pages of that report deal with a very general statement of the reductions made by the bill without any discussion, without assigning reasons, and in that way these vital things, which we have been discussing here for days, around which the whole fight in this Chamber has revolved, were dismissed.

The balance of the report, which is very voluminous, is taken up likewise with explanation of what they have done about this thing and that thing, of no material importance in connection with this discussion, because there is no controversy about those things. They propose to reenact a great many provisions of the old law, about which there is no controversy, and then there are added I do not know how many amendments of an administrative character, practically all of which, I think, were presented to the committee by the Treasury Department, through its expert, Dr. Adams, explained to the committee and adopted, I think many of them, without an understanding of what they meant.

When those administrative amendments are reached in the report, two-thirds of which is taken up with those amendments, they are discussed with some elaboration, certainly more than the others received. But they are generally amendments about which there was no controversy in committee and about which there is no controversy in the Senate. Dr. Adams prepared them, and, of course, took great pride in them and explained them pretty fully in the report.

So, Mr. President, the committee report did not give the Senate that light and that information to which it was entitled, and the reasons for the action of the committee and the purpose of the committee in its action, with that fullness and that clearness to which we have been heretofore entitled, or to which we at least thought we were entitled, from the proponents of a great fiscal measure like this.

Mr. McCUMBER. Mr. President——

The VICE PRESIDENT. Does the Senator from Wisconsin yield to the Senator from North Dakota?

Mr. LENROOT. I yield.

Mr. McCUMBER. If the Senator from North Carolina will examine pages 23, 24, 25, and 26 of the report, he will find that the committee have very fully reported upon the reasons for the repeal of the excess-profits tax and the change in the estate taxes. The minority report, prepared by the Senator from North Carolina, does not give one-half the consideration to an explanation of those important subjects as is given by the majority report, which has been prepared by the Finance Committee. There is sufficient in the majority report to make it clear to everyone who desires to read it.

Mr. SIMMONS. Mr. President, I am perfectly willing that the two reports shall stand. I think what I have said is substantially true, that there was no sufficient explanation of these vital matters in the report, and that we were entitled to an explanation upon the floor of this Chamber; but instead of that, after the bill had been reported, for three or four days we were driven, under whip and spur, to hurry this bill through the Senate before Senators could get ready to prepare to point out its iniquities and its inequalities, its injustices and its outrages, and if that procedure had not been halted by the exposure upon this floor of the imperfections, the inequalities, and the injustices to the different classes of taxpayers of this country we would probably have gone on to the end under this drive without any understanding of what the bill really meant and what its enactment into law would mean to the taxpayers of this country.

That exposure came, Mr. President. It came from this side of the Chamber, and since that exposure came the drive has stopped. We have had a halt, Mr. President.

The majority members of the Committee on Finance find themselves in a panic. They find a revolt as the result of this exposure in their own ranks, and they are now beggars for time. They are now welcoming the opportunity to get the bill out of this Chamber and to amend it in accordance with the proposals which originated and were suggested by this side of the Chamber, in a way, if possible, to create the impression in the country that their re-formation of the bill, that their rewriting of the bill, so as to make it even tolerable, is the result of a movement originating upon the other side of the Senate. We are told that when this scheme of misleading the country is consummated they do not desire any support from this side of the Chamber; that they can pass it with the votes of the other side of the Chamber.

Mr. LENROOT. Mr. President, those who heard the entire speech of the Senator from Missouri [Mr. REED] will be compelled to conclude that—

> They could not tell by the looks of his track
> Whether he was going or coming back.

In the early part of his speech he made a bitter attack upon some Republicans who, he asserted, met in secret conference, as he termed it, last night, with the endeavor to secure certain amendments to this bill, and he expressed the fear that those amendments would be adopted by the Republican side of the Senate, and that the Democratic Party would be robbed of glory and praise which he thought belonged to them. Then he concluded his speech by wishing Godspeed to those same Republicans, and said that he had no desire for any political advantage arising out of this situation, and that he would be very glad indeed if the Republican side would make this bill a satisfactory measure.

Then he and the Senator from North Carolina have both complained because the chairman of the committee has announced that this is a temporary measure. If the bill is such a measure as they assert it to be, they should be the first to welcome the announcement that it is a temporary measure. I am frank to say; so far as I am concerned, that I am very glad indeed that the chairman of the committee made that announcement, because while there are features relating to the amount of taxes to be imposed which will be remedied by amendment before final action is had upon the bill, in other respects it incorporates altogether too many of the sections, almost verbatim, put into the tax law by the Senator from North Carolina, representing the Democratic Party; and I hope that not too much time will be lost in simplifying these tax laws and removing the complications which originated not with the Republican side but with the Democratic side, under the leadership of the Senator from North Carolina.

Mr. President, Senators on the other side of the aisle must not take themselves too seriously or take too much credit for having recognized or discovered that there are defects in the bill as reported by the committee. Republicans upon this side discovered those defects just as quickly as did Democrats upon the other side, and the members of the committee also from the very beginning, from the day the bill was reported, have said that they favor amendments to the bill.

However, there is this difference with reference to the attitude of Republicans in trying to improve the bill and the attitude of some of the Senators upon the other side, because it is clear from some of their speeches that they do not want to have the bill improved. They hoped it might go to the country with the defects that are in it as reported from the committee, because then they think they would have a political issue in the next campaign, and they would rather have a political issue than serve the people of the United States in legislation.

Mr. President, the Republican side can not be expected, solely for the benefit of our Democratic opponents, to commit mistakes where those mistakes can be and will be corrected, and, however much the Senators on the other side of the aisle may dislike it, I am confident that before final action is had upon the bill it will be so improved that I hope it will command the votes of Democrats as well as Republicans.

But I rose for another purpose, Mr. President. I wish to occupy a few minutes in making some observations upon the manufacturers' and producers' tax proposed by the Senator from Utah [Mr. SMOOT]. I do so at this time because I understand that Senators are being polled upon the subject, and many are expressing themselves in favor of the proposal without, I believe, fully realizing the objections which exist to it.

That it is not based upon any accepted principle of taxation must, I think, be conceded. It utterly ignores the rule that taxes should be imposed according to ability to pay. The proposed tax is laid upon the man whose business is conducted at a loss as well as upon the man who makes a profit. If it is not shifted to the consumer, it is a tax of 3 per cent upon gross income of manufacturers and producers, which in times like the present would run up in many cases to as high as 100 per cent of net income. If the excess profit is wrong, the proposed tax is twice as wrong. In a rising or active market the tax

would be shifted to the consumer, but in a falling or stagnant market it would not be. At this particular time of distress and unemployment it would add enormous burdens to the manufacturers and producers of the country. Very few of them, where there is free competition, are making a profit of 8 per cent upon their gross income. Where they are not, if this tax is imposed, they must close their factories or run at an actual loss, which is not to be expected.

If the tax is shifted to the consumer, it is subject to the same criticism as is the excess-profits tax except in a minor degree. Where passed on the consumer will pay much more than 3 per cent. This can be illustrated by taking the case of a clothing manufacturer selling $10,000 worth of goods. He sells to a wholesaler who pays $10,300 for the same, $300 being the amount of the tax. The wholesaler adds 10 per cent profit, and, as the $300 tax is a part of his investment, he gets a profit of $30 upon that, so up to this point the tax has grown to $330. The retailer's profit runs about 30 per cent, so his profit on the $330 is $99, so that the ultimate consumer pays $429 on account of the $300 tax imposed upon the manufacturer, or an increase of 43 per cent. The Government gets $300 and the wholesaler and retailer $129 commission for collecting it. That is exactly the way the excess-profits tax works and is one of the chief objections to it.

But an even more serious objection is the absolute impossibility of administering such a law. If the present laws are uncertain and confusing, this proposed law would make confusion worse confounded. It would result in absolute chaos in the Treasury Department. It is observed that the tax is to be imposed upon "every commodity manufactured or produced when sold, leased, or licensed for consumption or use without further process of manufacture" and "such tax to be paid by the manufacturer or producer."

The Senator from Utah in his speech explaining his proposal, I think, properly construed his bill when he said, "There will be but one tax. If a commodity is sold for consumption or use in a further process of manufacture, no tax will be imposed." He then gives two illustrations—coal and oil. He says coal sold for consumption in a boiler will be taxable, but coal sold for coke will not be taxable, but "the coke will bear the tax when sold." Let us see, then, where the Treasury would be in administering his law upon coal. Remember, the manufacturer or producer must pay the tax. Much of the coal is sold by the producer to wholesalers of coal. We have heard something of the Wholesale Coal Association of late. The wholesaler buys from the producer. He sells to whoever will purchase. The producer does not know when he makes his sale whether it will be used for boilers or made into coke. The wholesaler does not know. How, then, is the tax to be determined and when is it to be paid? Must producers follow their coal to see what becomes of it after they have sold it, or will the Government have agents to ascertain what becomes of every ton of coal sold by the producer?

But the illustration of oil used by the Senator is even more difficult. Very few producers of oil sell either to a refinery or for consumption as fuel. They usually sell to some oil company having pipe lines connecting many wells. That company may sell a part of its oil for fuel and a part of it may go to a refinery. When the oil gets into the pipe line it is mixed with that of a hundred other producers and loses its identity. How can it be determined what tax the producer is to pay? It is an absolute impossibility.

But now let me give you two or three other illustrations which even more clearly show the impossibility of this plan.

A textile mill in New England manufactures dress goods. I assume that if the cloth so manufactured is sold over the retail counter to the housewife it is subject to the tax to be paid by the New England mill, but if sold to a garment manufacturer it is not so subject. Is the Government going to follow the dress goods from the textile mill in New England through the broker and wholesaler down to the housewife in the home to determine the tax to be paid by the New England mill? The manufacturer can not know what becomes of his product. There is no way on earth for him to determine whether he is subject to a tax or not, or how much.

Let us take sugar. Part of the sugar produced is consumed in the form it leaves the refinery, but a very large part goes into other forms of manufacturing. The refiner sells to the broker, or the wholesaler. He can not know to what use the sugar will be put. The broker does not know, the wholesaler does not know. How then can it be determined what tax the refiner shall pay, because, remember, the proposition is that the manufacturer or producer shall pay the tax.

I might go on with similar illustrations covering almost all necessary commodities, but I will only give one more. Take the case of flour. A considerable part of the flour manufactured is sold direct to the home, and there used for household purposes. That flour, I assume, would be subject to taxation, but the larger part of the flour sold is bought by bakers and manufacturers and made into bread and other food products. This clearly would not be taxable to the miller. How can a miller in Minneapolis know to what use his flour will be put? How can the wholesaler know? How can the Government know? How could the tax upon flour possibly be determined?

Our tax laws are bad enough now. Do not let us make them worse by attempting to levy taxes the amount of which is impossible of determination.

I would remind Senators, too, that even if it could be determined and applied it would add from 40 to 50 cents a ton to the price of hard coal, now controlled by a virtual monopoly, and wherever the tax can be shifted at least 40 per cent will be added to the amount which the Government receives, to be paid by the consumer.

Where the tax can not be passed on it will add to the already heavy burdens of manufacturers now operating without profit in order to give employment to labor, and a 3 per cent tax upon their gross income will mean that many of them must shut down and throw other thousands out of employment.

Mr. President, reference has been made to the Canadian law as an example of the workability of the proposed plan. I have examined the Canadian law, and that law is utterly unlike this proposition. The Canadian law is nothing more nor less than a turnover tax, except the turnover stops before it reaches the retailer. It is a tax upon the manufacturer, and when he sells to the wholesaler another tax, and the wholesaler to the retailer another tax; and so the difficulties of administration that are clearly apparent under the proposition of the Senator from Utah do not exist in the administration of the Canadian law at all.

Lastly, Mr. President, there are inequities enough in our tax law now. Do not let us add to them by departing from every just principle of taxation as the proposed tax does.

Mr. SMOOT. Mr. President, I am not going to take time now to answer the Senator from Wisconsin, but I am dumfounded at some of the statements the Senator has made, both as to figures and as to the inability of administering the proposed tax plan. I expect when the proper time arrives to explain this plan in detail. I do not want any Senator to act without knowledge. I say now without a moment's hesitation that the plan can be administered. To-day the present law as to exports, automobiles and parts and other articles, is administered successfully, and the difficulties in their administration is greater than it would be under the manufacturers' tax.

As far as the Canadian law is concerned——

Mr. McCUMBER. Mr. President, while the matter is fresh in our minds why can not the Senator, who is so conversant with his own measure, explain it, and explain away, if he can, the observations that have just been made with reference to coal and clothing and flour? I think he could find no better time than just now.

Mr. SMOOT. If I had the regulations that are in force to-day in the Treasury Department, I could read them and show how the complaint of the administration of the manufacturers' tax made by the Senator is unfounded. Remember this: That the Government of the United States would hold the manufacturer responsible for the tax on every sale made to a wholesale merchant, but if the goods were to enter into further process of manufacture the wholesaler would give the manufacturer a certificate to that effect and the manufacturer would not be compelled to pay the tax, providing the goods so sold were resold by the wholesaler as stated in the certificate. In the regulations for the administration of the revenue law to-day the wording of such a certificate is given. In the administration of the law such a certificate to the manufacturer would be used as a tax credit for the class of goods sold for use in the further process of manufacture. But if it is not shown, as provided for by the regulations of the department, that the wholesaler disposed of the goods for the purpose named in the certificate, then the manufacturer is held responsible for the tax. I will place in the RECORD the wording of the regulations.

Mr. President, I say now that if the manufacturers' tax or a general turnover sales tax is not embodied in the revenue laws of our country at this session of Congress, it will be in the very near future, just as sure as I live. It is the fairest consumption tax that can be imposed.

I am not going to take the time of the Senate to go into details, because I wish to start at the beginning and explain every detail of the tax proposed. I know that the experts in the Treasury Department to-day are against the sales tax; I

know what I have to confront. I know it was said when the proposal was first made that it would not raise much more than $300,000,000 a year. I also know that that statement is not true. I am aware that the Treasury expert has opposed a sales tax in speeches delivered in different parts of the country. All I desire is that the Senate shall understand exactly what the proposition is and not that it shall be explained merely by its enemies and by the experts of the department. I do not intend to make any statement which I can not prove.

I think I have given as much time to this subject as any other Senator. Therefore I shall be content, Mr. President, to wait until the proper time arrives, and I hope that time may come early next week following the vote on the unanimous-consent agreement on the Panama Canal tolls bill.

Mr. McNARY. Mr. President, I was interested in the speech of the Senator from Wisconsin [Mr. LENROOT], and I intended this afternoon to follow him with a few remarks on the so-called Smoot amendment, but I am not quite sure whether or not the Senator from Utah would prefer to have further argument deferred until he has presented his case.

Mr. SMOOT. It will make no difference to me when the Senator from Oregon addresses the Senate.

Mr. McNARY. I will ask the Senator from Utah how soon he expects to address himself to the subject of his proposed amendment?

Mr. SMOOT. Just as soon as I can get the opportunity after the unfinished business is disposed of.

Mr. McKELLAR. Mr. President, our Republican friends seem to be having a great deal of trouble in reference to their tax revision bill; there have seemed to be so many differences of opinion and so many proposals have been made in reference to that measure that I feel as though we on this side of the Chamber ought to help them out, and if we can present a proposal which I am absolutely sure will meet with the approval of 90 per cent of the Senate and 90 per cent of the people of the country, if it be adopted, I think we ought to do it.

There is nothing more unpopular than taxes, and when we can justly and fairly tax other people a portion of what we have to pay it seems to me to be the simplest and best way. Therefore I think the proposal I am now going to make ought to be accepted by our friends on the other side of the aisle.

On page 79 of the bill there is a provision to impose on corporations a flat 10 per cent tax for this year and after this year to impose a tax of 15 per cent. By the way, I will digress long enough right here to say that I was interested in the statement which was made in the newspapers this morning, and later made on the floor here to-day, that the pending measure was not a permanent bill, but turning to the provision to which I have referred on page 79 I will read what would seem to be very peculiar language there if this is to be a temporary bill. On line 6, page 79, the bill reads:

(b) For each calendar year thereafter—

That means after 1921—

fifteen per cent of such excess amount.

The increase of that tax from 10 per cent to 15 per cent, according to the report of the committee, as I read it, will yield about $260,000,000 of taxes per year. In that way it has been attempted by the committee to reimburse the Government for that much of the loss, at all events, which will be occasioned by the repeal of the excess-profits tax and the higher brackets of the income tax; in other words, the substitution of 15 per cent for 10 per cent is for the purpose of taking the taxes off the individuals with large incomes and corporations with great incomes and putting them on the men of smaller incomes and upon the corporations of smaller incomes, or, in still other words, to take the tax off big business, prosperous business, and put it on the less prosperous individual or corporation, who or which, perhaps, would not make quite so much fuss about it; all of which goes to show that the intent of this bill is to take the taxes off the big concerns of the country, the large income receivers of the country, and put them on those of smaller incomes, both corporations and individuals.

Mr. McCUMBER rose.

Mr. McKELLAR. I will yield to the Senator from North Dakota. I wish to say, however, that while I have not prepared a speech I have a statement mapped out in my own mind which I wish to follow, and if the Senator from North Dakota and other Senators will bear with me a little while until I get through I shall be glad to yield to any afterwards. However, I shall be glad to yield to the Senator from North Dakota now, for he is now in charge of the bill.

Mr. McCUMBER. I thought perhaps the Senator would yield for a correction.

Mr. McKELLAR. Indeed, I shall yield to the Senator, for if I have made a mistake I shall be glad to be corrected.

Mr. McCUMBER. I desire to state to the Senator that the repeal of the excess-profits tax and the imposition of a tax of 15 per cent will compel the great concerns to pay a tax. None of them will pay an excess-profits tax for this year or the next year; but if we impose a flat tax upon them the big concerns will have to pay it. The only concerns which now pay the excess-profits tax are the small concerns which are not over-capitalized. This proposed legislation is to relieve such concerns from the payment of the tax and to compel the larger concerns to pay it, even though they may not earn above an 8 per cent profit.

Mr. McKELLAR. I understand the contention of the Senator from North Dakota and of the committee in reference to that matter; but I am quite sure that it is not well taken and that the effect of this bill, if passed, will not be as the Senator has stated, but will be as I have stated. When I say "this bill" I am talking about the committee bill already reported out; I do not mean the bill which Senators on the other side may get together and prepare. I know that hereafter some other bill may be agreed upon which will change the state of affairs; for instance, if the amendment which is proposed by the Senator from Utah [Mr. SMOOT] were adopted, it would very much change the situation. I, however, am talking about the administration bill as it has been reported from the Committee on Finance and is now pending in the Senate. It is a bill which takes the taxes off the large and prosperous taxpayers of the country and puts them upon the less prosperous and the smaller taxpayers, whether corporations or individuals.

Mr. President, my proposal is to reduce the tax on the income of corporations for next year as provided on page 79 from 15 per cent to 10 per cent and to insert a provision that will not tax the American people at all. As my proposal is very short, I am going to read it and explain it as I go along. After striking out "15 per cent" and inserting "10 per cent," I propose to insert the following:

That the Secretary of the Treasury be, and he is hereby, authorized, directed, and instructed at the earliest practicable moment to secure from the several foreign Governments, namely, Belgium, Cuba, Czechoslovakia, France, Great Britain, Greece, Italy, Liberia, Rumania, Russia, and Serbia, to which Governments moneys were loaned by the United States, under and by virtue of several war emergency acts of Congress, passed in the years 1917 and 1918, long-time interest-bearing bonds of such Governments for the moneys loaned under the said acts, the interest on such bonds to be paid by said Governments semiannually at rates not less than those fixed in said acts.

That in making settlements with the several foreign Governments aforesaid the Secretary of the Treasury is hereby authorized and directed to take interest-bearing bonds for the past-due interest on said loans and the future interest up to January 1, 1922, such bonds to be of like tenor and effect as the bonds for the principal loaned to said Governments, and the interest thereon to be paid semiannually in like manner.

That the Secretary of the Treasury is further authorized and directed to secure from such foreign Governments as may be indebted to the United States, of like tenor and effect and of like rates of interest and payable in like manner, for the following indebtedness: (1) Obligations received from the Secretary of War and from the Secretary of the Navy on account of the sale of surplus war material; (2) obligations held by the United States Grain Corporation; (3) obligations received by the Treasurer from the American relief administration; (4) obligations due the United States on any other account from such foreign nations.

The Secretary of the Treasury is further authorized and directed to secure bonds, of like tenor and effect and like rates of interest for the indebtednesses due us from the following nations: Armenia, Austria, Esthonia, Finland, Hungary, Latvia, Lithuania, and Poland.

That the Secretary of the Treasury is hereby authorized to accept, in addition to said bonds, any securities from such foreign Governments as collateral and as a guaranty of the prompt payment of said bonds and interest thereon.

Mr. President, the purpose of this proposed amendment is to collect the interest on our foreign indebtedness instead of taxing our own people to raise an equal amount of money. The interest on our foreign debt amounts now to about $500,000,000 a year. That is nearly twice as much as the present tariff law produces; it is very much more than the proposed tariff law, as high as the rates proposed in that bill are, will produce; it is more than double the amount derived from all the trying, troublesome sales taxes and other petty taxes that we now have on the statute books and which are sought to be incorporated in this bill. In other words, if the provision I have suggested were inserted in the bill it would obviate the necessity not only of the $260,000,000 increase in the corporation tax for next year, but we could repeal all of the petty sales taxes, such as those on soft drinks, on ice cream, on hosiery, on musical instruments, and other articles of that kind.

It is contended, in the first place, by many that the Secretary of the Treasury now has the power to take bonds from the foreign Governments and to collect the interest on the indebtedness due us. So he has so far as the principal is concerned; but the law under which these sums were loaned, as

embodied in the acts of 1917 and 1918, provides specifically that we were to lend the money to our European allies on exactly the same terms that we borrowed the money from the American people.

We are to take bonds just like the bonds that we gave, with the same rate of interest. We lent them at par the money represented by those bonds when our allies, the best of them, could not sell their bonds probably for over 60 cents on the dollar. We are imposing no hardship on them. The law is exceedingly liberal as it now is; but the Secretary of the Treasury comes forward and says that while under the law he could secure bonds for the principal of the indebtedness, he has no right to take bonds for the past-due interest. This proposal of mine gives power to take bonds for the past-due interest, now amounting to about a billion of dollars. He then says that he can not get along under the present law because we sold certain supplies to European countries—about $400,000,000 of them to France alone—and he says he has no authority to take bonds for those supplies. That may be true, and so by this proposal we are authorizing him to take bonds for that and all other indebtedness. This proposal does not secure cash from any nation, but it merely takes interest-bearing bonds.

Mr. President, talk about important questions! I notice that the President of the United States says that he did not want the question of foreign indebtedness brought up during the armament conference that is to take place on November 11. I think probably he is entirely right about that. Let us settle it now. Let us vote on it now. You Republicans never had a chance to pass such a popular bill as this would be. Ninety per cent of the American people, perhaps 99 per cent of the American people, are in favor of collecting the interest on this foreign indebtedness. So far as I know, I have never spoken to over three men in the last three years who had any other view than that we should collect the interest on this indebtedness.

Nobody wants to collect the principal. We know that our allies are not in a position to pay the principal now, but we know that they are, as I expect to prove in a few moments, able to pay the interest on this money, and it is $500,000,000 a year; and if you Senators over on the other side of the aisle were to adopt this amendment your tax bill would go through and your tax troubles would be crowned with success, in my judgment, because when you accept it what you do is to cause these foreign nations to tax their people for this $500,000,000 rather than to have us tax our people for the $500,000,000.

Mr. President, I ask permission to insert in the RECORD a table found on page 108 of part 4 of the hearings, Exhibit No. 1 of Mr. WADSWORTH, showing the amounts of principal that are due, the amounts of interest that are due, and the amounts of interest that have been paid on these various obligations.

The PRESIDING OFFICER (Mr. MCNARY in the chair). Without objection, it will be so ordered.

The table referred to is as follows:

WADSWORTH EXHIBIT NO. 1.

Statement showing obligations of foreign Governments and so-called governments held by the United States, interest accrued and unpaid thereon, up to and including the last interest period, and interest heretofore paid on such obligations.

Country.	Total obligations.	Interest accrued and unpaid up to and including last interest period.	Total debt to United States.	Interest heretofore paid.
Armenia	$11,960,917.40	$1,009,868.67	$12,969,786.16	
Austria	24,055,708.92	721,671.27	24,777,380.19	
Belgium	375,280,147.37	34,007,409.62	409,287,557.99	$13,014,918.42
Cuba	9,025,500.00		9,025,500.00	1,282,369.54
Czechoslovakia	91,179,528.72	8,125,165.24	99,304,693.96	304,178.09
Esthonia	13,999,145.60	1,389,668.37	15,388,813.97	
Finland	8,281,926.17	598,339.79	8,880,265.96	
France	3,350,762,938.19	284,148,863.64	3,634,911,801.83	139,570,376.13
Great Britain	4,166,318,358.44	407,303,283.93	4,573,621,642.37	245,557,185.50
Greece	15,000,000.00		15,000,000.00	784,153.34
Hungary	1,685,835.61	50,575.07	1,736,410.68	
Italy	1,648,034,050.90	161,078,880.80	1,809,112,931.70	57,598,832.62
Latvia	5,132,287.14	386,962.52	5,519,249.66	126,266.19
Liberia	26,000.00	1,568.85	27,568.85	861.10
Lithuania	4,981,628.03	498,162.80	5,479,790.83	
Poland	135,661,660.58	9,837,443.36	145,499,103.94	1,200,620.78
Rumania	36,128,494.94	3,477,534.09	39,606,029.03	263,313.74
Russia	192,601,297.37	26,120,560.18	218,721,857.55	4,842,534.33
Serbia	51,153,160.21	4,778,797.79	55,931,958.00	636,059.14
Total	10,141,267,585.68	943,534,755.99	11,084,802,341.67	465,271,688.92

Mr. MCKELLAR. Nineteen foreign Governments owe us this money. They owe us in round numbers $11,084,802,341.67. They owe us, as shown by this table, a little less than a billion dollars of interest. This table further shows that only two of our allies have ever paid the interest on their indebtedness—Cuba and Greece. They have paid up their interest as and when it fell due, and they are not liable to be called on to pay any back interest.

The Secretary of the Treasury has put forth a bill, and it has been reported out by the Finance Committee, giving him unlimited and unbridled authority and giving him five years in which to settle this indebtedness. Why, Mr. President, it ought not to take five weeks to settle this indebtedness. Our allies ought to be anxious and willing to give us the bonds. We lent them this money on the most favorable terms on which nations ever borrowed money in time of war. We wrung it from our people, and turned it over in bountiful measure. We lent to Great Britain over four and a quarter billions of dollars in order to protect her Empire. We loaned to France more than $3,000,000,000 to protect her and to make her a great nation. We have lent over $1,600,000,000 to Italy. On these vast sums lent to these great nations they have never even paid the interest.

The Secretary says that it is going to take remarkable financiering to deal with these matters. There has been a world of secrecy about it. Why should there be secrecy about these loans, and the collection of the interest on them, and the taking of bonds for them? We lent them this money freely and openly and voluntarily. We were not niggardly about it. We were not secretive about it. They were delighted to get this money. It saved their kingdoms and empires and republics; and yet for many months—nay, for more than a year—the Members of this body have tried to get the facts in connection with these loans, and it was difficult to get them. When the Treasury officials first came they had to go before the Judiciary Committee. Our executive department officials went before the Judiciary Committee of the Senate, and the testimony was taken down in secret, in confidence.

Why should there be secrecy about the settlement of these loans? Has the United States anything to conceal about the matter? Have our officials anything to conceal about the loans? Have these various Governments anything that they think ought to be considered only in secret? Why the secrecy? If you examine the hearings about these loans, it will be found that any information that any Senator could get he just had to worm out of the officials with a corkscrew, so to speak; and now it is proposed to give just to one man, fine man though he may be—and I concede that—the power to settle $11,000,000,000 of indebtedness and to take anything that he may see fit for that indebtedness—the bonds of other countries, the bonds of corporations, any kind of bonds that he may please, anything that he wants except money.

I do not believe that the American people will ever do it. I do not believe that the Senate will ever give any such authority; and I want to say that before this tax bill is settled I hope and believe that I will get a yea-and-nay vote on the proposition that I make, which is to authorize the taking of bonds for the entire indebtedness and the collection of the interest hereafter.

But it is said that our former allies are not able to pay this interest. Let us see whether they are or not. They say they are ready to pay it. There is a very great sentiment in England that the British Government should pay it, and I want to read short extracts from certain newspapers which state that they are desirous of paying it.

This is an Associated Press dispatch:

Pay debt, press warns—Britain can not think of asking United States to remit, papers say.
London, February 8—

This was last winter—

Newspapers of this city give great prominence to discussions of the address of Austen Chamberlain, chancellor of the exchequer, at Birmingham on Friday, in the course of which he declared the United States had intimated proposals for the remission of the allied debt would not be favorably received in America. The Morning Post, in commenting on the address, said to-day:

"This country, an essential element of whose national policy is maintenance of most cordial relations with America, does not intend to allow them to become imperiled by indefinite postponements of the repayment of its debt to the United States. The nation would regard any suggestion relative to remission of this debt as derogatory to national honor."

I say, all honor to the morning Post for that statement of its position upon these debts:

Referring to recent suggestions regarding the transfer of a British colony to the United States, the newspaper said: "That expedient is out of the question. The British people would never countenance it and the sooner the Government takes the requisite steps to fund the

American debt the better. Regarding the debts owed to Great Britain, their cancellation would confer the greatest possible benefit upon Europe and would prove the highest possible service to civilization."

MUST WIPE OUT OLD SCORES.

The Daily Mail, commenting on Chancellor Chamberlain's utterances, says that more than one overture in this respect has been made.

I stop here long enough to wonder what American official has been making overtures to Great Britain to cancel these debts. It must have been done secretly. We never have known the name of any agent of this Government who has undertaken to make such a proposal. Why can not the facts come out? We ought to know them, and I think the American people would make short work of the man in public life to-day who would make a proposal of that kind. I think it is the duty of the department to give us the names of these men if they know them.

The Daily Mail says:

It declares that in 1919 John M. Keynes, while representing the treasury on the economic council, is understood to have discussed the matter freely with American representatives.

"The existence of the immense war debts," the Daily Mail continues, "means that at any moment somewhere in Europe it may pay the Government of a day to make repudiation a plank in its platform. There is, of course, no such danger in England, but sooner or later the Allies must meet and wipe off old scores."

In its editorial on the subject the London Times asserts that well-informed quarters here have long understood that during the war the British Government suggested to the United States that it should substitute itself for Great Britain as direct creditor of France and Italy with respect to sums Great Britain borrowed from America and lent to the two allies, but that the suggestion was rejected.

That suggestion did not come from the former administration. President Wilson, as shown by his letters, absolutely repudiated the idea that we were not to collect the debts from our allies. He said the American people never would hear to it; and Secretary Glass has said on the floor of the Senate that it never would be tolerated for a moment, and that he had almost reached a conclusion of the matter when the gentlemen on the British side of the controversy came to the conclusion that they could make better terms with the incoming administration and stopped the negotiations.

Reading further from the article it says:

The newspaper recalls that Frank A. Vanderlip, before the Foreign Relations Committee of the Senate, in June, 1919, proposed remission of the loans to France and England, but neither then nor since, says the Times, was the idea favorably received.

"We shall not go back on our word," it continues. "We are a nation of shopkeepers, and commercial interest as well as commercial honor forbids us to discredit our papers. Payments of both the capital and interest ought to have been concluded long ago."

Regarding the Allies' debts to Great Britain, the Times declares there can be no talk of remitting any part of them until full arrangements are made for the repayment of Great Britain's own debt to America.

"We shall pay fully and promptly," it says, "on whatever reasonable terms are proposed to us."

Mr. President, here are three or four of the leading newspapers of Great Britain which not only say that England is able to pay but that England ought to pay these debts.

I read a short time ago an article from the Journal of Commerce, published in Chicago, Ill., under date of July 14, 1921, entitled "Shall the allied debt be canceled by the United States?" That article is allied propaganda pure and simple. I do not know whether Great Britain put it out, whether France put it out, whether Italy put it out, but certain it is, it is propaganda to secure the cancellation of these debts. I read the misleading statements made in this newspaper, on the front page of the paper:

Consider the following figures of what the war cost in money.

Then it gives figures showing that it cost England $39,000,000,000, France $24,000,000,000, Italy $12,000,000,000, Belgium and other allies $3,000,000,000, and the United States, $22,000,000,000.

There never was a more misleading statement made. There is hardly a 10-year old child in America who does not know that the war cost America somewhere between thirty-seven and forty billion dollars. As the score stands now we owe $24,000,000,000 in bonds when we owed only a billion before the war. We owe about two billion or more in floating indebtedness.

We taxed our people somewhere in the neighborhood of $15,000,000,000 while the war was going on to carry it on. In my judgment, it has cost the United States not less than $40,000,000,000. So far as money is concerned, this war, the short time that America was in, if she does not recover these debts, will have cost the United States more money than it cost any nation in the world, not even excepting Great Britain. It has cost us more than it cost Great Britain, nearly twice as much as it cost France, nearly four times as much as it cost Italy, and over ten times as much as it cost all the other allies put together.

Then the article goes on to show what it has cost in lives, and what it might have cost. I ask unanimous consent to insert the entire article in the RECORD as a part of my remarks.

The VICE PRESIDENT. There being no objection, it is so ordered.

The article is as follows:

SHALL THE ALLIED DEBT BE CANCELED BY UNITED STATES?

Should the debts of the Allies to the United States be canceled? Consider the following figures:

WHAT THE WAR COST IN MONEY.

England	$39,827,824,940
France	24,312,782,800
Italy	12,413,998,000
Belgium and other allies	3,963,867,914
United States	22,625,252,843

The $22,625,252,843 expended by the United States includes $10,000,000,000 loaned to the Allies.

WHAT THE WAR COST IN LIVES.

England	839,904
France	1,654,550
Italy	1,180,660
Belgium	272,000
United States	109,704

Following are estimated figures if the United States had entered the war at the beginning, as many think the United States should have done:

COST IN MONEY.

England	$30,000,000,000
France	20,000,000,000
Italy	10,000,000,000
Belgium and other allies	3,000,000,000
United States	30,000,000,000

COST IN LIVES.

England	500,000 to 1,000,000
France	1,000,000
Italy	500,000
Belgium	200,000
United States	500,000 to 1,000,000

Is $10,000,000,000 too much to pay for 400,000 to 900,000 lives of our American boys saved?

How much would it have cost to nurse and pension 1,000,000 wounded soldiers?

If we can not to-day discharge a debt of $3,000,000,000 to $5,000,000,000 asked by discharged soldiers as a bonus and rehabilitation appropriation (and President Harding solemnly warns us that we can not), what would we do with the obligation that would have accrued had we entered the war when the *Lusitania* was sunk?

Can business return to normal relationships before this allied-debt question is settled?

Did we ask Germany, who killed our boys, for any compensation?

Should we ask our allies, who saved our boys and civilization, to pay us?

Was not every dollar of the $10,000,000,000 which our allies owe us spent by them in keeping the common enemy away from our gates?

Mr. McKELLAR. The article contains this statement:

Is $10,000,000,000 too much to pay for 400,000 to 900,000 lives of our American boys saved?

In other words, it is pleading for the cancellation of these debts because if America had gone into the war earlier it might have cost a great many more lives. The article continues:

How much would it have cost to nurse and pension 1,000,000 wounded soldiers?

If we can not to-day discharge a debt of $3,000,000,000 to $5,000,000,000 asked by discharged soldiers as a bonus and rehabilitation appropriation (and President Harding solemnly warns us that we can not), what would we do with the obligation that would have accrued had we entered the war when the *Lusitania* was sunk?

The argument being, Mr. President, that because we did not enter the war then we saved money, and that we should, therefore, remit this indebtedness to the Allies. Then it goes on to say:

Can business return to normal relationships before this allied-debt question is settled?

Did we ask Germany, who killed our boys, for any compensation?

Is not that an argument to produce in propaganda of this kind?

Should we ask our allies, who saved our boys and civilization, to pay us?

Listen to that! Ask our allies? Mr. Balfour, right on that rostrum where the young man sits before me, stated to me that if the United States had not entered the war in April, 1917, the Allies could not have possibly done anything else but capitulate. He told me that; I quote his words—that they would have been obliged to capitulate if the United States had not gone into the war at the time we did.

We all know we went in at the psychological moment, and that the United States saved civilization and brought about the successful result of this greatest of all wars.

Yet this propaganda, published in an American paper probably as an advertisement, says we ought to cancel these debts, money which we loaned to save these nations, which were being overrun by Germany at the time; that we ought to cancel them because those nations saved the civilization of the world! The article concludes:

Was not every dollar of the $10,000,000,000 which our allies owe us spent by them in keeping the common enemy away from our gates?

Mr. President, when we went into the war the Germans were almost at the gates of Paris; they were shelling Paris with their long-range guns. A short time before the British Army had been tremendously defeated in Flanders. That was the condition of affairs when we went into the war, when we turned loose this immense amount of money, the greatest sum that was ever raised by any nation at any time during history as we know it, then we turned this enormous sum of $10,000,000,000 loose to save our allies. We sent 2,000,000 men over there and saved these nations and civilization.

Now, we are met by propaganda, while we did all this for them, that we ought not even to collect the interest on the debts, and ought not to take bonds for the principal. They borrowed it; they made a contract. It saved their kingdoms and their republics and their empires at the time, and here is what is being published in our country. Certain lecturers on the platforms of this country are to-day assiduously circulating propaganda that these debts ought to be remitted, and we here in the Senate speak of them in whispers, as if we ought not to talk about those debts, as if we should be perfectly willing to tax the American people this $500,000,000 rather than to let the foreign nations tax their own people $500,000,000.

I want the Republicans to understand that they are going to be held responsible for the raising by taxation imposed upon our people of that $500,000,000. It is up to you to say whether you will impose that additional burden upon the American people by passing this bill, or collect this interest and let the peoples of foreign Governments, whom we saved during the war, pay that $500,000,000 in interest.

Mr. President, it is said that those nations are not able to pay it. Let us see about it. We will take up Great Britain first. Great Britain has an army to-day of about 700,000 men. It costs a billion dollars a year, perhaps, to keep that army; certainly not less than $700,000,000 and more likely over a billion than under it.

She spent $765,000,000 on her navy last year; and, by the way, what is she spending that money on her navy for? Is she afraid of Japan? Japan is her ally. Is she afraid of France? One of her great dreadnaughts could sink the entire French Navy in 15 minutes. Is she afraid of Germany? Germany has only three or four old hulks left, and she is not allowed to keep any more or build any more. Is she afraid of Italy? One of her armored cruisers could sink the Italian Navy in 15 minutes. Of whom is she afraid? Why is she spending this $765,000,000 a year for her navy? There can be but one answer; there is but one other nation that has a navy comparable to England, and ours is much smaller now, but is rapidly growing larger.

She says we ought to go together, and I think we ought. We are kinsfolk, and I would be delighted to have that done. But is she doing it? Let me see what she is doing about her navy for just a moment. Here is an Associated Press dispatch of August 3 last:

Add to British Navy. Commons votes program for four more warships. Speakers defend increase. Col. Amery emphasizes building plans of United States and Japan.

She is not afraid of Japan, because, unless all the reports are wrong, England has a secret agreement with Japan to-day on all questions pertaining to their mutual inferests.

Says estimates are moderate.

Yes; $765,000,000 for a navy one year is very moderate. Mind you, the same gentlemen who are saying that England can not pay the $225,000,000 interest on her obligations to us, say she has enough money to spend $765,000,000 on her navy and about a billion dollars on her army.

Is it not remarkable? At the same time she enters on an even larger scheme. These battleships cost something like fifty or sixty million dollars apiece, and she proposes to build four of them. If she can build four of those battleships, she could pay her interest to us.

The statement of the secretary for the colonies follows:

Winston Spencer Churchill, secretary for the colonies, replying in the debate for the Government, made reference to the big building programs in both the United States and Japan. He contended there could be no conceivable cause for a quarrel with either of these countries. Still the fact remained that if England delayed another year the construction of necessary vital units she would have to face a position of definite and perhaps final naval inferiority; she would sink to third naval power, and, having sunk there, might never be able to recover.

"We should exist as a great power in the world only on sufference," Mr. Churchill continued. "We have never done that yet. Profound peace might continue to rule in the world for many years, but during that peace every one would know Great Britain's day was done. Everywhere it would be known that the essential foundation of the British Empire had been erased and that this island, depending for four-fifths of its food and the whole of its economic wealth and being as a modern State upon sea-borne commerce, was powerless to keep itself alive, except by good will. That would be a melancholy sequel to the great war.

"High hopes are based on the Washington conference for the benefit of mankind, but unless we can assume that the ships now building in America and Japan will be scrapped, then no disarmament proposal which might be agreed upon at Washington would be relevant to the decision this house must take with respect to the construction of these four ships. The one power standard is the barest minimum England can conceivably adopt, and delay already has occurred which has reduced that minimum to the finest possible margin."

Mr. Churchill concluded by exhorting the house to avoid a path which might lead to disaster and force Great Britain to make compromising or entangling agreements in the desperate hope of supplementing her own resources by the strength of others.

"Let us stand on our own feet," Mr. Churchill exclaimed. "Only in that way at the Washington conference shall we be able to play the part of the real peacemakers, and only in that way shall we be able to walk hand in hand with the United States, not as a suppliant for protection, but as equal partners in a common victory and in the fair future of the world."

That is a proposal to divide the world between the United States and Great Britain. Why, Mr. President, what can we hope from the disarmament conference if Mr. Churchill correctly interprets British opinion? I pray to God that he may not interpret it correctly. I hope that something good will come out of the conference, but I desire to say in all frankness that Great Britain looks after her interests 24 hours in the day, and the United States, both in this conference and in the tax bill and in all matters wherein England is concerned, should look after her own interests in the same way.

It has not been six weeks, perhaps, since in this very Chamber we passed a bill paying to Great Britain many millions of dollars. She owes us something like half a billion dollars of interest, and yet we are paying her money! Talk about her being fair to us! Do you know that she charged us the full rate for every American soldier that crossed on her ships to defend her domain in Europe? She charged us full price for every American soldier transported on her ships to defend her empire. She charged us full price for the very fields on which our boys encamped, and for every damage done by them in her interest, and yet it is claimed here that we ought to remit these debts because we are kin to Great Britain's people. So we are, but this thing should not be all one-sided.

I have nothing but admiration for Great Britain. She is trying her best to serve her own people. It is our duty as American citizens to serve our own country, and to see that in these particulars American interests are protected. Why should we tax our people this $225,000,000 every year that Great Britain owes us as interest on her foreign debt? Why should we not allow Great Britain to pay it? Not able? Can any nation be held to be not able to pay its interest when she is spending these enormous sums on her navy and her army and her air service?

Not only that, but according to the statistics she spent in the neighborhood of $300,000,000 to $500,000,000 last year in buying oil lands throughout the States of the earth wherever she could get them. An independent oil producer in Oklahoma, whom I happen to know, was in Washington some months ago and told me that he had subscribed for $1,000,000 worth of Liberty bonds, and that the money derived from those bonds had been loaned in part to the Government of Great Britain; that last summer a year ago he was in the Republic of Venezuela seeking to buy oil lands, and he found the agents of the British Government there bidding against him on every occasion when he undertook to purchase. In other words, Great Britain, by refusing to pay the interest on this indebtedness, was using the very money that our citizens had loaned to her to protect her empire in competition with our citizens in buying oil lands in foreign countries.

Great Britain has bought oil properties in every country in the world. More than that, there is not a country in any part of the earth where the British flag flies that will permit an American citizen or an American corporation to prospect there for oil. Their published laws prove this. She has monopolized oil everywhere, and monopolized it in part with our money, and yet there are Americans who are urging to-day, as there are men in this Senate, whom I have heard express the opinion that Great Britain is hard up and can not pay these debts and that we ought to remit them. Those in the Senate will not say it out loud, but they will talk about it privately. They would not make such a statement on the floor of the Senate, but they will talk about it privately and say we ought to remit the debts, and especially we ought to remit or postpone the interest.

Great Britain has borrowed money from a great many other nations. She borrowed from Denmark and Norway and other nations that were able to lend it to her, and she has paid every one of them principal and interest, except the United States.

Why has she not paid the United States? Her newspapers say it ought to be paid. Most of her public men say it ought to be paid. Yet we find such propaganda as I have read here being disseminated all through our country appealing to the American people to cancel those debts. Is this good faith? Is this fair dealing?

I desire to say that I do not know whether the cancellation of the debts will come up at the ensuing disarmament conference or not. There are two Members of the Senate who will be members of that conference. Any man who values his political future had better never agree in that conference or anywhere else to the cancellation of those debts. If there is one thing on which the American people are nearly a unit, it is that those debts should not be canceled, and they are nearly a unit on another thing—they are nearly a unit on the subject of collecting the interest. Ask any taxpayer the question whether he prefers to be taxed, whether he prefers to pay a part of this $500,000,000 a year that the American Congress is obliged to collect in order to carry on the Government and to pay its debts, or to collect this money from Great Britain. Ask him, "Do you wish to be taxed additionally or do you want Great Britain and the other nations to pay the interest on their debts?" He will tell you that he would prefer that we collect this interest, and we all know that is the right view to take of it.

It is said that Great Britain is not able to pay. I wish to show just a moment what Great Britain has gotten out of the recent war. Under the Versailles treaty the British territorial gains are as follows:

Kamerun—and I presume there are a great many people who did not know there was such a land in existence—191,000 square miles, with a population of 2,600,000.

German Southwest Africa, a territory of 322,000 square miles, with a population of 80,000.

German East Africa, 384,000 square miles, with a population of 7,700,000.

Kaiser Wilhelm's Land and Pacific Islands south of the Equator, 95,000 square miles, with a population of 600,000.

Egypt, protectorates, with a territory of 400,000 square miles and population of 11,200,000.

Sudan, quasi protectorate, 985,000 square miles and a population of 3,000,000.

Arabia, with a territory of 171,000 square miles and a population of 1,000,000.

Palestine, 10,000 square miles and a population of 700,000.

Syria, one-fourth the total area, 30,000 square miles and 1,000,000 population.

Mesopotamia, with a territory of 140,000 square miles and a population of 2,000,000.

Persia, quasi protectorate, 590,000 square miles and 10,000,000 population.

Thibet, with a territory of 460,000 square miles and a population of 3,000,000.

Cyprus, with a territory of 8,000 square miles and 300,000 population.

Spitzbergen, 15,000 square miles, population not given.

This makes a total of 3,805,000 square miles of territory and 42,180,000 people, transferred to Great Britain as the result of this war, a nation in itself about the size of France and almost as large as Germany; and yet with this vast booty, to use a common expression, it is said that Great Britain is not able to pay the interest on the money that we loaned her in perfect good faith and for the highest of purposes, to aid her in protecting her empire, and it is further said that it ought not to be collected.

I am anxious to see the roll call on that question. When Senators vote against collecting this interest and in favor of further taxing the American people because of its noncollection, I wish to see their names on the list. I do not believe you are going to do it. I do not believe that as American citizens and representatives you can do it. Why, Mr. President, fairness to our own people, it would seem to me, would come first.

We are paying inordinate taxes. Our people are paying taxes as large as those of any people on earth, and yet it is solemnly proposed here to forego this $500,000,000 a year of interest and tax our people additionally under the terms of the bill to make it good. What are you going to do about it? Are you going to let those Governments that owe this money pay it, or are you going to tax the American people additionally? If you Republicans undertake in this way to tax our people, that is your matter, but I believe that if you do it the American people will hold you responsible for it, because I believe the great body of American people, regardless of party, regardless of creed, regardless of sex, or any other difference, think that the interest on these debts should be paid. England will also receive large amounts in reparations.

These are the reasons why England is able to pay. Her people say they are able, her newspapers say they are able, and they say this debt ought to be paid. All her Government officials except one or two say the debts ought to be paid. Some say that the United States, or certain people in the United States, without naming them, have made overtures to them to be allowed to remit these debts to Great Britain. I can not believe any such statement. There is no reason in the world why Great Britain should not pay the interest on her debts to us.

Now, let us take up the case of France. France not able to pay? We made France as the result of the war, and our boys fighting in France brought it about, because we all remember that when we went into the war one of the common phrases of the day was, "Poor France is bled white." They were shelling the city of Paris when we went into the war. It was won after the enormous efforts which America put forth.

What did France get out of it? France was hardly more than a third-rate power before the World War, but since that event she has risen to be one of the great powers, greater even than Germany, greater than any other nation in Europe except Great Britain. She has added enormously to her territory.

She got exclusive rights in the Saar Basin, which are enormously valuable to her, and she received many thousands of square miles of territory elsewhere. She also got Alsace-Lorraine, an area of 5,600 square miles, with a population of 1,874,014. She will also get enormous reparations from Germany, more than will be received by any other nation. France is prosperous to-day; food and other commodities are selling cheaper in France to-day than they are selling in the United States. France has had every advantage. She has not only received reparation from Germany but she has also received damages from the United States itself.

France charged us from the moment our soldiers landed on her shores for every expense that those soldiers put her to. She charged us rent for wharves; she charged us for allowing us to build railroads through her territory in order to protect it. Where her railroads carried our troops through France she charged us for that. She charged us for transporting goods and supplies for our armies over her railroads; she charged us for the use of her engines and her railroad trains; she charged us for all those services; and it has even been claimed that she charged us rent for the very trenches in which our soldiers stood in mud and water and fought to save her territory and to make her great.

I say these things not in enmity to France and not in enmity to Great Britain, but I say them in justice to the Government of the United States and to the citizens of the United States. However much sentiment I may have for France and for England—for my forefathers came from Scotland—I have more sentiment for America. I think we ought to treat our own citizens fairly before we undertake to be generous with those who should come afterwards.

France is to-day prosperous and Belgium is more prosperous than she has ever been in her history. There never was a time in her history when Belgium was more prosperous than she is to-day. She received large accessions of territory. So did Italy. We actually made Czechoslovakia; we actually made Poland. By the way, Poland is one of the greatest bulwarks of France to-day and is more important to the life of France and to the security of France, perhaps, than any other country. We have done all these things for those nations. It is as little as they can now do to pay the interest on their indebtedness, and that is all my proposal carries—simply that that interest shall be paid instead of taxing our own people in order to raise revenue.

Mr. President, I ask at this point unanimous consent to insert in the RECORD the names of the various territories that were assigned to the different nations under the treaty of Versailles for the purpose of showing the large accessions of territory which were given to those countries under that treaty.

The VICE PRESIDENT. Without objection, it will be so ordered.

The matter referred to is as follows:

The territorial cessions made by Germany under the terms of the peace treaty to the allied and associated powers.

BELGIUM.

a. Moresnet: Both "neutral" Moresnet and that part of Prussian Moresnet situated on the west of the road from Liege to Aix-la-Chapelle. Population, 3,000.

ARTICLES 24–37.

b. The kreisen or administrative district of Eupen and of Malmedy, subject to a plebiscite by the inhabitants within six months after the coming into force of the treaty of peace. Population, 19,000.

Total population, 22,000. Area, 382 square miles.

FRANCE.

PART III, SECTION 4, ARTICLES 45–50.

a. The exclusive rights to the exploitation of the coal mines, situated in the Saar Basin for period of 15 years. The government of the Saar Basin during this period of 15 years will be intrusted to a commission representing the League of Nations. At the expiration of this period the population of the Saar Basin will indicate by a plebiscite whether the territory shall be incorporated into either France or Germany. In case the plebiscite favors Germany, the French rights of ownership in the mines situated in the basin will be repurchased by Germany at a fixed price.

Area of the Saar Basin, 738 square miles.

NOTE.—The figures given in this report are taken from the German Official Census, 1910, and from the National Geographic Magazine for June, 1910.

SECTION 5, ARTICLES 51–79.

b. Alsace-Lorraine according to the provisions of the treaties establishing the delimitation of the frontiers before 1871.

Total population (1910), 1,874,014. German-speaking population, 1,630,392, or 87 per cent. Area, 5,600 square miles.

CZECHO-SLOVAK STATE.

SECTION 7, ARTICLES 81–85.

a. Province of Oppeln, generally described as the "German fringe" of Bohemia.

German-speaking population (1910), 2,136,687.

POLAND.

SECTION 8, ARTICLES 87–93.

a. West Prussia: German-speaking population (1910), 563,325.

b. Posen (administrative district): German-speaking population, 427,231.

c. Upper Silesia: German-speaking population, 750,000.

d. East Prussia: German-speaking population, 1,603,066.

Total number of square miles ceded to Poland, 27,636. Total German-speaking population in territory ceded to Poland, 3,343,622.

EAST PRUSSIA.

SECTION IX, ARTICLES 94–98.

e. Allenstein, disputed portion of East Prussia subject to plebiscite which will decide whether this territory shall be incorporated into either Germany or Poland.

Area, 5,785 square miles.

DENMARK.

SECTION XII, ARTICLES 109–114.

a. Schleswig. This disputed territory will be divided into three zones, in the first of which a plebiscite to determine whether it shall be incorporated into Germany or into Denmark will be held within 31 days after the coming into force of the peace treaty. The plebiscite in the second or middle zone is to be held 66 days after the coming into force of the peace treaty; and in the third zone, or that which is contiguous to Germany, the plebiscite is to be held within 88 days after the coming into force of the peace treaty.

The total area of these three zones of Schleswig equals 2,787 square miles.

JAPAN.

SECTION VII, ARTICLES 156–158.

The territory of Kiaochow with all rights, titles, and privileges regarding the railways, mines, and submarine cables which she acquired by the treaty with China March 6, 1898.

White population, exclusive of German garrison, 4,470; colored population (Chinese), 192,000; total population, 196,470. Area, 552 square kilometers.

Besides these direct cessions to certain States the Government of Germany renounces in favor of the allied and associated powers some 910 square miles of East Prussia above the Niemen River (sec. 10, art. 99); the administrative district of Danzig, within limits, comprising some 729 square miles (sec. 11, arts. 100–108); and finally the entire German colonial empire of 1,270,000 square miles.

The area and population of the German colonial empire are given in the following table:

Colonies.	Area in square kilometers.	Population in 1913.			
		White.	Colored.	Total.	Per kilometer.
Togo (33,600 square miles)	87,200	308	1,032,000	1,032,368	11
Cameroons (170,000 square miles)	790,000	1,871	2,751,000	2,752,871	3.2
Africa:					
Southwest (322,440 square miles)	835,100	14,830	83,300	98,130	.1
East (384,000 square miles)	595,000	5,336	7,661,000	7,666,336	7
Africa	2,707,300	22,405	11,587,300	11,549,705	4
New Guinea (234,768 square miles):					
Kaiser Wilhelmsland and Bismarck Archipelago	240,000	968	.....	.....	.....
East Caroline and Marshall Islands	2,476	264	601,700	603,127	2.5
West Caroline and Marianas Islands		195			
Samoa Islands (9,150 square miles)	2,572	557	37,540	38,097	14
Pacific Ocean	245,048	1,984	639,240	641,224	1.8
Territory of Kiaochow	552	4,470	192,000	196,470	350
Total	2,952,900	28,850	12,358,540	12,387,399	4

Until the peace treaty has been ratified by a sufficient number of nations and the government of the League of Nations is in actual operation, no State can exercise mandatory powers over any of the former colonial possessions of Germany. But by article 22 of the league covenant it is expressly provided that the tutelage of these backward peoples should be intrusted "to advanced nations who by reason of their resources, their experience, or their geographical position can best accept this responsibility." The decisions to be made by the government of the League of Nations with reference to this doctrine of territorial propinquity will include mandatory commissions arising out of both the German and the Bulgarian treaties, which have already been published, and out of the treaty with Turkey, the terms of which have not as yet been made public. The following table taken from the Independent of September 27, 1919, page 431, attempts to indicate the probable British war gains through the establishment of protectorates and quasi protectorates, through annexations, and through mandatory commissions.

British territorial gains.

	Area.	Population.
Kamerun	191,000	2,600,000
German Southwest Africa	322,000	80,000
German East Africa	384,000	7,700,000
Kaiser Wilhelm's Land and Pacific Islands south of Equator	95,000	600,000
Egypt (protectorate)	400,000	11,200,000
Sudan (quasi protectorate)	985,000	3,000,000
Arabia	170,000	1,000,000
Palestine	10,000	700,000
Syria (one-quarter of total area)	30,000	1,000,000
Mesopotamia	140,000	2,000,000
Persia (quasi-protectorate)	600,000	10,000,000
Tibet	460,000	3,000,000
Cyprus (annexed November, 1914)	8,000	300,000
Spitzbergen	15,000	.....
Total	3,805,000	42,180,000

The territories involved in the final settlement of these territorial delimitations and mandatory commissions in the Near East include Mesopotamia, Arabia, Palestine, Armenia, Albania, Thrace, three-fourths of Syria, and the administrative district of Constantinople itself.

Mr. McKELLAR. Mr. President, of course, I am not undertaking to speak for anyone but myself, but if I know anything about the sentiment of the people of America I think our allies in the World War might as well make up their minds right now that eventually they have got to pay the debts which they owe us, and that they have got to begin the payment of the interest on those debts presently. The American people are not going to agree to anything less. There was during the war no question as to their paying the necessary taxes; but the situation is different now. Our people are not so prosperous now as they were while the World War was going on, and for a year or two afterwards. They have got down to hardpan. It is an enormous burden upon them to pay the taxes which are bound to be imposed. If the interest on our foreign debts were collected, as I have previously said, it would bring in more money than would come to the Government from our entire customs duties under the proposed Republican tariff law. If this proposal were inserted in the bill and the bill should become a law—and there is no reason on earth why it should not be agreed to except maudlin sentiment, unfair and unjust sentiment, which is just as unjust to our former allies as it is to our own people—$500,000,000 a year in the shape of interest would be added to the revenues of this country.

Suppose we should take $11,000,000,000 of foreign bonds and substitute them for $11,000,000,000 of Liberty or other bonds, which are now outstanding, what an immense relief it would be to the American people. It is said that we can not now collect the interest due. There is no nation in the world which would not give bonds for its indebtedness upon request of this Government. Even Russia would be glad to do it. Any nation will do it. Why not make the effort? Why not put the amendment in the pending bill? It is the only way that Senators on the other side are going to reduce taxation.

Senators can not get away with the idea that has been expressed by so many on the other side of the Chamber, that we may shift the burdens of taxes and the people will believe that those burdens are lessened. There are but two possible ways for the majority to reduce taxation: One is to reduce the ordinary expenses of the Government and the other is to collect the interest that is due from our former allies on the other side of the ocean. Those are the only possible ways we can bring about the much desired result. We talk about shifting the burden from the rich to the poor, from individuals to the corporations; we talk about changing a soda-water tax to a carbonated-water tax; but we are merely shifting it from one American citizen to another; we are not lessening the tax.

Assuming that it would take $3,500,000,000 a year to run this Government under present conditions, if we should add my amendment to the bill we would reduce by one-seventh the taxes upon the American people; we would at one blow get

rid of the additional 5 per cent tax on corporations; and then we could eliminate all of the so-called nuisance taxes.

Talk about a manufacturer's tax! This simple direction to the Secretary of the Treasury to collect the interest on the foreign indebtedness of the United States, beginning January 1 next, would bring in as much as the entire manufacturers' tax which is proposed by the Senator from Utah. It is the biggest proposition that the Senate has before it in connection with the question of taxation. It will afford the only real relief that can be given the American people on the subject of taxation.

Mr. President, it is time to settle the question. I am going to ask for a yea-and-nay vote on the amendment whenever I can get the amendment before the Senate. Those who prefer to tax the American people rather than to collect the interest on the sum which is owing to us will vote nay, and those who believe that our loans to foreign Governments are just, fair, and honest debts on the part of those Governments and that the interest ought to be paid on them, and that the Secretary of the Treasury ought to be told in unequivocal language, openly and frankly, to collect this interest, will vote yea.

I never could understand why there was so much secrecy about this question; I never could understand why our officials when called before committees of this body, as the Treasury officials were called before the Judiciary Committee, to explain the negotiations in connection with our foreign indebtedness should ask that their explanations be taken down secretly and held in confidence. Yet that was done. Why should there be secrecy about such matters? Why should we give to the Secretary of the Treasury the absolute power to settle in any way that he might see fit this $11,000,000,000 of indebtedness, representing probably not less than one-thirtieth in value of all the property in the United States of every kind? Why should we merely turn it over to him and give him carte blanche to accept anything in the world that he wants for it? If he so desired, he could take bonds on the desert of Sahara for it under the terms of the bill which has been reported out by the Finance Committee.

Great Britain could issue bonds on the desert of Sahara, making herself not otherwise liable for the indebtedness, and the Secretary of the Treasury could accept them in payment of her debt to the United States; or, if he wished, he could take railroad bonds on railroads that were not in operation; he could take bonds of any of the little kingdoms of the world; he could single out, if he wanted to, any of the territories made into kingdoms, or he could take the bonds of all the various kingdoms which have been organized, and absolutely exonerate the three great nations of their indebtedness, if he wanted to. Are we going to do anything like that? Is that good business? Is there any Senator here who could justify it?

It is said the President has asked for such power, but even the President, good man as he is, makes mistakes sometimes. I make no complaint of him and I make no charges against him, but there is not a Senator in this body who does not know that it would be the height of folly, that it would be an un-American act, for us to give the Secretary of the Treasury or any one individual the right to take such securities as he desires or no securities at all or to settle in any way he wanted this $11,000,000,000 of indebtedness. I do not believe that such authority will be given.

We ought not to embarrass the approaching conference on the limitation of armaments; we ought not to embarrass our own agents and delegates; but we ought to settle this matter now in this bill before that conference convenes. Senators on the other side should make up their minds whether they want to vote to collect the $500,000,000 of interest owing to us from those who owe it, who are honestly and fairly able to pay it, who say they are able to pay it, whose newspapers say they are able to pay it, and whose public men say they are able to pay it, but offer as an excuse why it has not been paid the statement that some Americans have asked that it be canceled. How are they going to excuse themselves to their constituents when they go back home and they ask them why have they not collected this money; why have they taxed them instead of collecting the money that these nations want to pay and that say they want to pay?

Senators can not defend any such position as that; and I am going to give them the opportunity in this bill, and before the limitation of armament conference meets, to vote squarely on the question whether they want the debts of foreign Governments to the United States funded in the way that the law under which the money was loaned to these foreign countries provided that they should be collected and funded.

The money which we loaned to foreign Governments was borrowed under the same acts which authorized the loans. In those acts we provided that it should be borrowed from our own people at a certain rate of interest on bonds that should extend over a certain period of years; and in the same acts we provided for the lending of that money, to be paid back in exactly the same way and on exactly the same terms that we borrowed it from our own people. If we adopt another plan, if we lend it to them at a less rate of interest, if we remit the interest, if we remit the debt, how are we going to explain the matter to our own people, from whom we borrowed the money? Is there any answer to that question?

Mr. President, it seems to me that we ought to arrange this matter now. It will relieve the Republican Party of a very great embarrassment. You are in the middle of a very bad fix over there on that side of the aisle. I do not know whether you are going to get a tax bill through or not. I have very great doubts about it. I know you are not going to get through the tax bill that you have reported out.

Mr. SHORTRIDGE. Mr. President, will the Senator yield?

Mr. McKELLAR. Yes; I will yield to the Senator in just one moment. I know that you are not going to get this bill through. If you put in a provision to collect the interest on these debts—just the interest, the same rate at which we borrowed the money—it will relieve your party of one of the most undesirable positions in which you ever found yourselves in all your history, because you promised the country tax legislation and tariff legislation, and you now admit that you can not pass the tariff legislation, and unless you change your views you will have to admit in a few days that you can not pass tax legislation at this session of Congress.

I yield to the Senator from California.

Mr. SHORTRIDGE. Mr. President, I can perhaps relieve the Senator by saying that we are suffering no embarrassment whatever. We are making no admission of any inability to pass any legislation. As to the future, and our ability to report to our constituents, we venture to feel a perfect confidence that the returns from California will be along the lines of those from New Mexico and Massachusetts.

I rose, however, in the interest of truth and enlightenment.

Mr. McKELLAR. The Senator does not mean that there was not any truth in the other statement, I am sure. I know he does not mean that. I know the Senator too well to think that. The Senator was just joking before.

Mr. SHORTRIDGE. The Senator has devoted much thought, I perceive, to this more or less perplexing problem; and I heard the Senator say that we should proceed immediately to collect the money which manifestly is due us. I suppose that includes Rumania as well as Armenia.

Mr. McKELLAR. And every other nation that owes us.

Mr. SHORTRIDGE. I infer, from what little I have heard of the Senator's address, that we have no plan which meets with the Senator's approval, nor will it meet with the approval of the American people. May I ask the Senator if he, on the other hand, has a plan whereby we may speedily collect the interest which is due, and perhaps begin to collect the principal, which also is due?

Mr. McKELLAR. Indeed I have. My plan is this: I have offered an amendment which directs the Secretary of the Treasury to take interest-bearing bonds, the interest payable semiannually, under the acts of 1916 and 1917, as he was directed to do, on exactly the same terms on which the Government borrowed this money from our own people. That plan has been put in the form of an amendment and offered, and I hope the Senator will support it.

Mr. SHORTRIDGE. It may be.

Mr. McKELLAR. I hope that he will.

Mr. SHORTRIDGE. It may be.

Mr. McKELLAR. The Senator says that he thinks this interest is due. My amendment does not provide for the collection of the principal, because in the acts under which we loaned it to these foreign countries we agreed to take long-time bonds for it. The United States ought to live up to its agreement to the very letter. It ought not to collect the principal now. It ought merely to collect the interest and to take bonds for the past-due interest and for the other indebtedness due.

Mr. SHORTRIDGE. I understand the Senator to be opposed to conferring this extraordinary plenary power on the Secretary of the Treasury.

Mr. McKELLAR. Why, of course.

Mr. SHORTRIDGE. Now, may I ask the Senator a further question—and this is not to spar with words or to get into any unpleasant contention.

Mr. McKELLAR. Oh, no; the Senator could not with me. I like him too much.

Mr. SHORTRIDGE. How would the Senator set about to negotiate with these several foreign nations? Whom would he select to carry on the negotiations?

Mr. McKELLAR. Oh, the Secretary of the Treasury is instructed by law to do it under the terms of the act, and my proposition is that Congress should instruct him to proceed under the terms of the law now in force on that subject, supplemented by a provision giving him power to take bonds for the past-due interest and for the other indebtednesses. I am sure this plan will meet with the Senator's approval. It is in perfect harmony with the present law and ought to have been done long ago. I will say to the Senator that so far as my position having a partisan bias to it is concerned, I made a speech on the floor of the Senate and introduced a resolution in the Senate during the Wilson administration seeking to do precisely the same thing that I am seeking to do by this amendment.

Mr. SHORTRIDGE. If the Secretary of the Treasury under existing law, pursuing the law to which the Senator refers, should fail to persuade or cause the foreign nations to give the bonds to which the Senator claims we are entitled, what then?

Mr. McKELLAR. Let him report the matter back to Congress. That is the only thing to do. He will not fail if we pass this amendment.

Mr. SHORTRIDGE. I just wanted to get that.

Mr. McKELLAR. I am sure the Senator will agree with me about that. I am sure that unless the Senator is overpersuaded in some other way—knowing the Senator as I do—he will vote for this amendment because it must meet the approval of any conscientious man, in my judgment.

Mr. SHORTRIDGE. Inferentially, I am one.

Mr. McKELLAR. The Senator is one.

Mr. SHORTRIDGE. So as to Armenia, to illustrate the weaker nations.

Mr. McKELLAR. So as to the weaker nations. It provides that bonds shall be taken from them, and no cash is required.

Mr. SHORTRIDGE. Does the Senator understand that there is such an organized government as the Armenian Government?

Mr. McKELLAR. If we should not collect from Armenia it would be inconsequential. The amount that is due from Armenia would hardly pay the Senator's laundry bill.

Mr. SHORTRIDGE. Well, I am very modest. I thank the Senator.

Mr. McKELLAR. Now, I should like to ask the Senator a question. If the Senator is satisfied with the explanation that has been made, is the Senator in favor of taxing the American people for this $500,000,000, or is he in favor of collecting the interest sums from these foreign Governments?

Mr. SHORTRIDGE. I answer the Senator in perfect candor and with perfect frankness. I think that every effort should be made to enforce or bring about by persuasion, argument, or suggestion, but not by threat, the payment of the interest which is due the United States of America.

Mr. McKELLAR. I am glad the Senator has said that, and I indorse absolutely his position about it, and it is my own position. Now I want to ask the Senator one other question. Would not the Senator rather vote for this provision, which directs that to be done, than to vote for a 15 per cent tax on corporations beginning next year, raising the tax on such corporations from 10 per cent to 15 per cent, and thereby raising $260,000,000 difference? Would not the Senator prefer to collect this interest rather than to put this increased burden on the taxpayers of the United States?

Mr. SHORTRIDGE. I answer the Senator with perfect respect that that is entirely a false element in the argument.

Mr. McKELLAR. Oh, no. I offer this amendment in this way: I move to strike out the 15 per cent tax on corporations next year and insert 10 per cent, and that will bring about a deficiency in the tax estimates of $260,000,000, and I propose to make up that deficiency by directing the Secretary of the Treasury to collect the interest on these sums. I have already shown here this afternoon that the leading newspapers of Great Britain have come out openly and said that this debt ought to be funded and the interest ought to be paid, and that even the principal ought to be paid as soon as possible; that it ought to be done now; that England was not a welsher on her debts, and that she believed in standing up to her commercial obligations. Now, as $225,000,000 of this $500,000,000 that is due us each year comes from Great Britain, that would practically take the place of the 15 per cent tax of which I have spoken. Would not the Senator prefer to let these other countries pay these debts, rather than to tax the American people for the amount?

Mr. SHORTRIDGE. If I may answer that question directly, of course I should say yes; and I wish to add, if the Senator will permit me to take up his time to this extent, that I sometimes fear, if I do not think, that some of the European nations forget what Uncle Sam did; and I also sometimes think that we should be a little firmer in insisting upon those nations keeping their promises. The Senator and I may not differ greatly.

Mr. McKELLAR. I agree entirely with the Senator, and that is the object and purpose of the argument I have undertaken to make this afternoon. The Senator was not here all the time. I trust he will look over my speech to-morrow and, entertaining the views that he has expressed, I do not see how he can possibly keep from voting for my amendment, because apparently we are in entire accord on this proposition.

I have nothing against these foreign countries. I have nothing but the best of feeling toward each and every one of them. I was glad to vote these large sums for their protection. I felt that it was largely for the protection of themselves, who, I believed, should win the Great War. I did not feel afraid for America. America never has been in any real jeopardy, and her rights had been trampled on by Germany; and the civilization of the world was in jeopardy and I felt that we could best serve it by going into the war as we did and by lending these sums as we did. In doing so we saved these great nations of Europe. We saved the civilization of Europe, and it is as little as they can do, in common justice and in common equity, to pay the interest upon the money that they have borrowed from us in good faith. They borrowed it under the very laws to which I have referred. There was no secret about it. It was open, and what I object to is any secret settlement with them, and I shall oppose as long as I am in this body any secret settlement of these great debts with any European country. They ought to be settled in the open. There are no negotiations to make. They borrowed the money in the open. We passed the law here under which the money was loaned. Congress should lay down the rules under which it should be returned. We ought to give them every advantage. We are asking nothing in the world but the interest on these debts. They are amply able to pay it. If the Senator will do me the compliment to look into the RECORD to-morrow morning, he will find indubitable evidence that practically all of these nations, possibly with the exception of Russia, are able to pay the interest on their debts, and that is all that this amendment proposes. My amendment simply proposes to let these Governments pay rather than for us to tax the American people.

The Senator says you are in no trouble over there about your tax bill. You may not be. I am not in your confidence, and I can not say, but all I can say is this: The newspapers of Washington City are vying with each other as to which is the better organ of the administration. In the daily press here for the last week we have been told—and it is your press; they are your partisans—that you are in dire straits about your bill. We all know that they are telling the truth about it. We know that there are differences of opinion about these tax matters. We know that you are up against a hard proposition. You can not pass the bill that the majority of your Finance Committee has reported out. You will not pass it. You will have to prepare some other bill, either by amendment on this floor, or you will have to refer it back to the committee to report another bill. You can not pass this bill. It is inequitable. It is unjust. It is unfair to the American people, and in the amendment I have offered I offer you a way out of the difficulty.

You can reduce taxes $500,000,000; you can reduce taxes by one-seventh upon the American people if you will simply adopt this amendment and collect this interest, and apply it to the ordinary expenses of government.

Mr. President, I have taken a great deal longer time than I intended, and I will now leave the subject with the Senate. I ask to be inserted here the bill proposed by the Finance Committee on the subject of a settlement of these debts. A mere perusal of it should guarantee its rejection by the Senate:

APPENDIX A.

A bill (S. 2135) to enable the refunding of obligations of foreign Governments owing to the United States of America, and for other purposes. Introduced by Senator PENROSE June 23, 1921.

Be it enacted, etc., That the Secretary of the Treasury, with the approval of the President, is hereby authorized from time to time to refund or convert, and to extend the time of payment of the principal or the interest, or both, of any obligation of any foreign Government now owing to the United States of America, or any obligation of any foreign Government hereafter received by the United States of America (including obligations held by the United States Grain Corporation), arising out of the European war, into bonds or other obligations of such, or of any other, foreign Government, and from time to time to receive bonds and obligations of any foreign Government in substitution for those now or hereafter held by the United States of America, in such form and of such terms, conditions, date or dates of maturity, and rate or rates of interest, and with such security, if any, as shall be deemed for the best interests of the United States of America, and to adjust and settle any and all claims, not now represented by bonds or obligations,

which the United States of America now has or hereafter may have against any foreign Government and to accept securities therefor. The authority hereby granted shall cease and determine at the end of five years from the date of the approval of this act.

Mr. HEFLIN. Mr. President, I want to say just a word. I am heartily in favor of the position taken by the Senator from Tennessee [Mr. McKELLAR]. I suggested, when the bonus bill was pending, just before it was sent back to its long, last sleep, that it would be well for this Government to collect enough of the money loaned to foreign nations during the war to square the account with the American soldier. These nations owe us more than a billion dollars in interest right now.

Now we find ourselves confronted with a proposition to give authority to an officer of the Federal Government to cancel this indebtedness, for that is what it means, to put it into the power of one man, a member of the Cabinet, to do as he shall see fit about this matter, and I would naturally expect to have submitted later on a proposition to the effect that that officer, the Secretary of the Treasury, had made an arrangement by which those debts were to be canceled.

Mr. President, the Senator from California [Mr. SHORTRIDGE] reminds us that the large majority received in his State, and the majority received in the country, in the last election is an index finger pointing to what the people will do in a future election. Well, I have seen majorities reversed very rapidly in this land of ours. During my service in Congress I have seen the Democratic Party with an unwieldy majority in the House and with a majority of 12 or 15 in the Senate, and it may be that there were Democrats in those days who thought that we would never be in the minority, but we are.

We went out of power largely under the influence of a subsidized press, which misrepresented the facts about the greatest administration that this Government has ever witnessed, a constructive administration of the affairs of the Government in behalf of the masses of the people of this country. There never has been a time in the history of this Republic when the instrumentalities of government were so released and so taken away from special interests and permitted to function in the interest of the people and making it possible for them to have a fair chance in the struggle for existence, as was the case under the administration of Woodrow Wilson up to the time when you captured the House and the Senate in 1918. Then you tied the hands of the President and sinister interests took charge of the National Congress.

Mr. President, on last Saturday I touched briefly upon the awful predicament in which the other side finds itself. The Republican majority has brought in a tax bill, and the very title of that bill is misleading and on its face shows that it was intended to deceive the American people. Listen to this; here is the title:

> An act to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

Ah, Mr. President, to reduce. That part is true in a sense; they are reducing with a vengeance the taxes on the big profiteers, who ought to pay more taxes than they are paying to-day. That much of the title is correct. They are reducing the big profiteer's taxes, but where does the equalizing of taxes come in? There is none of that at all. You take it off of the man most able to pay, and you are putting it on the man least able to pay.

As was pointed out by the Senator from Missouri [Mr. REED], you are exempting some men from taxation whose big business makes millions, and you are increasing the taxes of the man of moderate means whose working capital is small. Is that kind of equalization fair to the American people?

Now we come to simplifying the tax situation. That is what the title of your bill suggests. It is too complicated, too intricate, too hard to understand, when you have to go and inquire into the business of one of these pompous and purse-proud millionaires of Wall Street, so you intend to simplify it by unloading it on the American consumer. Then whenever a man goes up to the counter to buy anything—dry goods, groceries, or what not—he pays the tax, and that is the Republican way of simplifying matters. That is what you mean by stating in the title of your bill that you are going to simplify the tax situation. When you do that, you take the tax off of luxuries and big fortunes and put it on small capital and actual necessities.

Mr. President, they brought this tax bill, this monstrosity, in here and submitted it, as I said Saturday, in a way that is without a parallel in the history of parliamentary procedure of this body. Nobody on that side explained it in detail, nobody on that side in an argument championed the measure. We listened in vain for reasons as to why this monstrous thing should be enacted into law. I have been trying to find out why they did that, and I have come to the conclusion that one of two things is true about it—that they knew that all of these objectionable and obnoxious provisions were in it and they did not want us or the country to get on to them until after they had passed it, or they did not know how to explain this hodgepodge mess, and they thought that if they just submitted it here and left it that constructive statesmen on the Democratic side would point the way and instruct them in the way of drawing a tax bill.

Mr. President, strange things are taking place around here. What happened last night? We find that the sponsors of this awful tax bill had a little conference and decided to abandon the terrible thing; they are going to desert it, we are told, and they are also going to take up and adopt the suggestions laid down by Senator SIMMONS, of that despised Democratic minority, composed of statesmen, ridiculed and criticized by the other side when on dress parade in the last campaign. Now they come to us to get information and instructions as to how to draw a tax bill. They met in secret conclave and remained in session until the wild noon of night, and finally resolved, we are told, that they would take what the Democrats suggested, and now we learn that they are going to rewrite the bill as the Democrats suggested it should be written. I can not believe that the Republican Senators in charge of this bill will be permitted by the big bosses of their party to write a tax bill that will be fair and just to the people of the country.

Mr. President, the Democratic Party is still rendering great service to the country. The crime that the Republicans undertook to perpetrate here was like the crime of '73, when their party passed through the House, under whip and spur, without reading the bill and without explanation of it from anybody, the bill to demonetize silver, when Mr. Garfield, then a Member of the House and chairman of the Appropriations Committee, said that he had not read it and did not know what was in it.

Here is what Mr. Bright, of Tennessee, said of the law:

> It passed by fraud in the House, never having been printed in advance, being a substitute for the printed bill, never having been read at the Clerk's desk, the reading having been dispensed with by an impression that the bill made no material alteration in the coinage laws.

Did they not tell us the other day that this bill made no material alteration in the Democratic tax law? We were told that upon the floor of the Senate. They undertook to lead us to believe that they had practically written our bill over, but we have found to the contrary.

Mr. Bright said:

> It was passed without discussion, debate being cut off by the operation of the previous question.

Mr. President, they threatened us with a cloture rule here last week. They were so anxious to get this bill through, they were so anxious to drive it to a final vote, that they discussed cloture, proposing to cut off debate in this ancient body of deliberation, going to drive it through, and the Republican press of the country, a good portion of it, had editorials saying that it was possible that the time had come to have cloture in order to put the tax bill through.

What do you think those fellows who wrote those editorials will say when they read to-morrow that the Republican majority has decided to abandon this thing, in the interest of which they were going to break a custom of the Senate which is as old as the Government.

Regarding the crime of '73, Mr. Bright said further:

> It was passed, to my certain information, under such circumstances that the fraud escaped the attention of some of the most watchful as well as the ablest statesmen in Congress at that time. (CONGRESSIONAL RECORD, vol. 71, pt. 1, 2d sess., 45th Cong., p. 584.)

Here is what Uncle JOE CANNON, ex-Speaker of the House, said on July 13, 1876:

> This legislation was had in the Forty-second Congress, February 12, 1873, by a bill to regulate the mints of the United States, and practically abolished silver as money by failing to provide for the coinage of the silver dollar. It was not discussed, as shown by the records, and neither Members of Congress nor the people understood the scope of the legislation. (CONGRESSIONAL RECORD, vol. 4, pt. 6, 44th Cong., 1st sess., appendix, p. 197.)

That act was known in history, and is known to-day, as the "crime of '73," and here we have an effort to repeat the process by which that fraudulent thing went through the Congress, an effort to impose upon this body cloture, to cut off debate, to drive through under whip and spur an unexplained, a bastard measure that they themselves now seem to have denounced, repudiated, and wholly abandoned.

Mr. President, I have never seen the poor, old, boss-ridden, time-serving Republican Party as badly at sea as it is to-day, drifting, drifting, hither and thither, a ship without a rudder.

What do you suppose the country will think when you come here again and go to talking for a cloture rule? Even your

partisan press will be inclined to wait until they can see what the Democrats have to say about it.

Mr. President, here is something that will amuse a great many people about here as well as in the country. It is found in an editorial of the Washington Post of to-day. The Washington Post is a strong, enthusiastic, and very zealous friend of the Republican administration. Here is what it says:

The suggestion of an adjournment of the extra session on November 10 was based principally upon the fear that influences unfriendly to the administration would be exerted toward embarrassing the President. There was a suspicion, which still exists, that Democratic Senators would take advantage of the opportunity to deliver speeches casting doubt upon the success of the conference and attempting to spread dissension among the foreign delegates. For that reason it was thought by some that the better plan would be to adjourn Congress for a month while the conference got under way. But President Harding is not concerned over the threat of opposition.

What a strange and startling statement! Who could have inspired it? Why, Mr. President, the Democrats have championed the cause of peace always, and it is the Democrats in both branches of Congress who to-day are the champions of peace, working and praying for universal disarmament. I can not understand why the report should go out in an editorial from the Capital of the Nation that it is feared that the Democrats would make trouble for the peace conference and use influences to embarrass the President and embarrass foreign delegates by speeches in this Chamber in opposition to disarmament.

Think of it, Senators! Here is an editorial stating that the belief prevails that Democrats will make speeches while the peace conference is in session here that may embarrass its members as they strive to bring about an understanding by which war may be prevented in the future.

Senators, in an effort to bring about real disarmament you will not have anybody to embarrass you on this side of the Chamber. I will tell you where your embarrassment is coming from. It is coming from the big battleship builders and the gun and munition makers here and elsewhere. There is no doubt about that. There is where pressure is going to be brought to bear on you. You will find the Democrats on this side, I believe all of them, doing everything in their power to speed the day of universal disarmament. We are not in favor of the profiteers in this country fattening upon the flesh and blood of American boys. We think more of our boys than we do of the fortunes that these men make when war comes with all its tax burdens, its sufferings, its sorrows, horrors, and death.

EXECUTIVE SESSION.

Mr. LODGE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened.

RECESS.

Mr. LODGE. I move that the Senate take a recess until to-morrow at 11 o'clock.

The motion was agreed to; and (at 5 o'clock and 10 minutes p. m.) the Senate took a recess until to-morrow, Friday, October 7, 1921, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate October 6 (legislative day of October 4), 1921.

ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY.

Laurits S. Swenson, of Minnesota, to be envoy extraordinary and minister plenipotentiary of the United States of America to Norway.

UNITED STATES ATTORNEY.

Sawyer A. Smith, of Kentucky, to be United States attorney, eastern district of Kentucky, vice Thomas D. Slattery, removed.

APPOINTMENTS IN THE REGULAR ARMY.

GENERAL OFFICERS.

Brig. Gen. Charles Justin Bailey to be major general from October 6, 1921.

Brig. Gen. Samuel Davis Sturgis to be major general from October 7, 1921.

PROMOTIONS IN THE NAVY.

Lieut. Commander William Ancrum to be a commander in the Navy, from the 8th day of June, 1920.

The following-named lieutenant commanders to be commanders in the Navy, from the 1st day of January, 1921:

Robert W. Kessler.
Halsey Powell.

Lieut. Commander Abram Claude to be a commander in the Navy from the 27th day of May, 1921.

The following named lieutenant commanders to be commanders in the Navy from the 3d day of June, 1921:

Herbert H. Michael.	Max M. Frucht.
Reuben B. Coffey.	Arthur C. Stott.
Robert L. Irvine.	Arthur B. Cook.

Lieut. Stephe B. McKinney to be lieutenant commander in the Navy from the 1st day of July, 1919.

The following-named lieutenants to be lieutenant commanders in the Navy from the 3d day of June, 1921:

Olaf M. Hustvedt.	Radford Moses.
Harold C. Train.	Sherman S. Kennedy.
Alva D. Bernhard.	

Lieut. (Junior Grade) John B. W. Waller to be a lieutenant in the Navy from the 6th day of June, 1920.

The following-named lieutenants (junior grade) to be lieutenants in the Navy from the 1st day of July, 1920:

George R. Fairlamb, jr.
Julian D. Wilson.

The following-named ensigns to be lieutenants (junior grade) in the Navy from the 1st day of July, 1920:

Thomas G. W. Settle.	Walton R. Read.
Everett D. Kern.	Earle H. Kincaid.
Hubert H. Anderson.	

The following-named assistant surgeons to be passed assistant surgeons in the Navy with the rank of lieutenant from the 6th day of June, 1920:

Gerald Selby.
Victor H. Shields.

The following-named assistant dental surgeons to be passed assistant dental surgeons in the Navy with the rank of lieutenant from the 6th day of June, 1920:

John E. Herlihy.
George C. Fowler.
Sidney M. Akerstrom.

The following-named assistant dental surgeons to be passed assistant dental surgeons in the Navy with the rank of lieutenant from the 1st day of July, 1920:

Robert S. Davis.	Louis B. Lippman.
Harold A. Badger.	Walter Rehrauer.
Robert M. Askin.	Francis J. Long.

The following-named pay inspectors to be pay directors in the Navy with the rank of captain from the 7th day of July, 1921:

Joseph Fyffe.	George Brown, jr.
Timothy S. O'Leary.	Robert H. Woods.
John H. Merriam.	

The following-named paymasters to be pay inspectors in the Navy with the rank of commander from the 7th day of July, 1921:

Ignatius T. Hagner.
Emmett C. Gudger.
Chester G. Mayo.

The following-named assistant paymasters to be passed assistant paymasters in the Navy with the rank of lieutenant from the 1st day of July, 1920:

Charles L. Austin.	Samuel B. Deal, jr.
Blaine Hunter.	Horace D. Nuber.
Allen H. White.	John N. Harriman.
Alfred B. Clark.	

Assistant Naval Constructor Thomas B. Richey to be a naval constructor in the Navy with the rank of lieutenant from the 25th day of June, 1920.

Passed Asst. Surg. (for temporary service) Jules Magnette, jr., to be a passed assistant surgeon in the Navy with the rank of lieutenant from the 3d day of August, 1920, in accordance with the act of Congress approved June 4, 1920.

The following-named passed assistant surgeons of the United States Naval Reserve Force to be passed assistant surgeons in the Navy with the rank of lieutenant, from the 3d day of August, 1920, in accordance with the act of Congress approved June 4, 1920:

Edward J. Goodbody.	Howell C. Johnston.
John G. Smith.	Charles G. Terrell.

The following-named assistant paymasters for temporary service to be chief pay clerks in the Navy, to rank with but after ensign, from the 5th day of August, 1920, in accordance with the act of Congress approved June 4, 1920:

Willard B. Hinckley.
Wayne Prather.

Chief pay clerk John T. Alexander for temporary service to be a chief pay clerk in the Navy, to rank with but after ensign, from the 5th day of August, 1920, in accordance with the act of Congress approved June 4, 1920.

The following-named chief pay clerks of the United States Naval Reserve Force to be chief pay clerks in the Navy, to rank with but after ensign, from the 5th day of August, 1920, in accordance with the act of Congress approved June 4, 1920:

Roy L. Davis.
Edward L. Ducker.

Ensign Julian D. Wilson to be a lieutenant (junior grade) in the Navy from the 29th day of June, 1920.

CONFIRMATIONS.

Executive nominations confirmed by the Senate October 6 (legislative day of October 4), 1921.

SURVEYOR GENERAL OF WYOMING.

Clyde W. Atherly to be surveyor general of Wyoming.

SURVEYOR OF CUSTOMS.

Lawrence J. Flaherty to be surveyor of customs, customs collection district No. 28, with headquarters at San Francisco, Calif.

COLLECTOR OF CUSTOMS.

William B. Hamilton to be collector of customs for customs collection district No. 28, with headquarters at San Francisco, Calif.

POSTMASTERS.

ARKANSAS.

Della E. Penick, Lake City.

COLORADO.

John H. Kincaid, La Veta.
Agapito P. Atencio, Walsenburg.

ILLINOIS.

Fred E. Schroeder, Warrensburg.

INDIANA.

Fred J. Merline, Notre Dame.
William A. Holtel, Oldenburg.
Cyrus V. Norman, Sheridan.

MAINE.

George L. Baker, Bingham.
George H. Blethen, Rockland.
Isaac T. Maddocks, Sherman Mills.
Joseph M. Gerrish, Winter Harbor.

MASSACHUSETTS.

Augusta M. Kelley, Centerville.
Frank M. Tripp, Marion.
Samuel L. Wildes, Montague.

MICHIGAN.

Frank J. Eisengruber, Bay Port.
Clarence E. Norton, Dimondale.
Lawrence Tobey, Free Soil.
Louis W. Biegler, Marquette.
Gordon J. Murray, Michigamme.
Grace E. Gibson, Scotts.
William J. Eva, Vulcan.
Henry M. Boll, Channing.

MINNESOTA.

Arthur B. Paul, Big Falls.
Jacob P. Soes, Climax.
Mary J. Anderson, Cyrus.
Edward F. Koehler, Mound.
Charles W. Field, Northome.
Minot J. Brown, Owatonna.
Anna Barnes, Randall.
Amelia M. Rajkowski, Rice.
Frank J. Thielman, St. Cloud.
Harvey Harris, Vesta.

MONTANA.

Frank M. Douglas, Clydepark.
George P. Bartlett, Sumatra.
James T. Bradbury, Willow Creek.

NEBRASKA.

Edith F. Francis, Belden.

NEW HAMPSHIRE.

Ben O. Aldrich, Keene.

NEW YORK.

Bertha M. Burt, Hague.
Arthur N. Christy, Newark.

OREGON.

William H. Weatherson, Florence.
Henry W. Tohl, Nehalem.

PENNSYLVANIA.

Frank C. Fisher, Cheltenham.
Ernest A. Fullerton, Tobyhanna.

RHODE ISLAND.

George W. Burgess, Pawtucket.

WEST VIRGINIA.

John S. Scott, Fairmont.
Columbus A. Murphy, Jenkinjones.
Juniata Amos, Leon.
Calvin Shockey, McComas.
Samuel A. Simmons, Spencer.

WYOMING.

Ennis V. Pointer, Osage.

SENATE.

FRIDAY, *October 7, 1921.*

(Legislative day of Tuesday, October 4, 1921.)

The Senate reassembled at 11 o'clock a. m., on the expiration of the recess.

Mr. PENROSE. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ball	Gerry	McLean	Shields
Borah	Hale	McNary	Shortridge
Brandegee	Harreld	Moses	Simmons
Broussard	Harris	Myers	Smith
Calder	Harrison	Nelson	Smoot
Cameron	Heflin	New	Sterling
Capper	Hitchcock	Newberry	Sutherland
Caraway	Jones, N. Mex.	Nicholson	Townsend
Colt	Kellogg	Norbeck	Trammell
Culberson	Kendrick	Oddie	Underwood
Cummins	Keyes	Overman	Wadsworth
Curtis	King	Page	Walsh, Mass.
Dial	Ladd	Penrose	Walsh, Mont.
Dillingham	La Follette	Pittman	Warren
Elkins	Lenroot	Poindexter	Watson, Ga.
Ernst	Lodge	Pomerene	Watson, Ind.
Fletcher	McCormick	Ransdell	Weller
France	McCumber	Robinson	Williams
Frelinghuysen	McKellar	Sheppard	Willis

Mr. GERRY. I wish to announce that the Senator from Virginia [Mr. GLASS] is detained by illness.

The PRESIDENT pro tempore. Seventy-six Senators have answered to their names. There is a quorum present.

FREE TRANSIT THROUGH PANAMA CANAL.

Mr. McCUMBER. Mr. President, I wish to give notice that, with the permission of the Senate, at the opening of the session to-morrow I shall avail myself of the opportunity to discuss the tolls bill in its relation to the Hay-Pauncefote treaty.

PETITIONS AND MEMORIALS.

Mr. KENDRICK presented a memorial of sundry citizens of Buffalo, Wyo., remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which was referred to the Committee on the District of Columbia.

He also presented a memorial of sundry citizens of Basin, Wyo., remonstrating against the placing of a tax on medicinal and toilet articles, which were ordered to lie on the table.

He also presented a memorial of sundry citizens of Bertha, New Haven, and Moorcroft, all in the State of Wyoming, remonstrating against the inclusion in the pending tariff bill of a duty not exceeding 35 per cent ad valorem on wool, on the ground that it practically removes all protection from the wool and sheep growing industry of Wyoming, which was referred to the Committee on Finance.

Mr. WATSON of Georgia presented a memorial of sundry candy companies of Atlanta, Ga., remonstrating against increasing the excise tax on candy retailing above 40 cents per pound from 5 per cent to 10 per cent, which was ordered to lie on the table.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. McNARY:

A bill (S. 2551) to amend the act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1922, and for other purposes," approved March 4, 1921; to the Committee on the Judiciary.

By Mr. MYERS:
A bill (S. 2552) for the relief of Cecil Pritchard and Monroe Pritchard; and
A bill (S. 2553) for the relief of James Harrington; to the Committee on Claims.
By Mr. SHEPPARD:
A bill (S. 2554) for the relief of J. Block & Co.; to the Committee on Claims.
By Mr. SMITH:
A bill (S. 2555) to construct, maintain, and operate a toll bridge and approaches thereto across Great Peedee River, S. C.; to the Committee on Commerce.
By Mr. KENDRICK:
A bill (S. 2556) for the relief of Edwin Gantner (with accompanying papers); to the Committee on Public Lands and Surveys.

AMENDMENTS OF TAX REVISION BILL.

Mr. CALDER and Mr. McKELLAR submitted amendments intended to be proposed by them to House bill 8245, the tax revision bill, which were ordered to lie on the table and to be printed.

CHANGE OF REFERENCE.

Mr. CURTIS. Mr. President, I move that the Committee on Pensions be discharged from the further consideration of the bill (S. 2537) for the relief of Ellen Oglesby, and that it be referred to the Committee on Military Affairs.
The motion was agreed to.

TAX REVISION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

Mr. McLEAN. Mr. President, Senators on the other side of the Chamber have occupied several days scolding Republicans for not advancing many more and much longer arguments in support of the pending measure, apparently unconscious of the fact that two Senators can not occupy the floor of the Senate at one and the same time. But, outside of the fact that the gentlemen on the other side of the aisle have occupied it to the exclusion of all others, I had assumed, inasmuch as the pending bill reduced existing taxes by hundreds of millions of dollars, that, in so far as the smaller items are concerned, discussion of them could safely be left until they were reached in the reading of the bill for amendments.

With regard to the two outstanding items which eliminate the excess-profits tax in 1922 and reduce the surtax in the same year, I had assumed that the pressing and primary reason for these changes was well understood by every patriotic American. Three Democratic Secretaries of the Treasury have furnished Congress with the reason why the excess-profits tax should be eliminated. The press for two years has daily published the reason why the excess-profits tax should be eliminated and the surtax reduced. The economists of the country have written articles on the subject which have been published in the magazines, giving the reason why surtaxes should be reduced and the excess-profits tax eliminated. I had assumed that everybody understood that the sole reason and the sole need for these proposed reductions is the desire on the part of the American people to see the millions of unemployed returned to profitable employment as soon as possible. Astonishing as it may be, this reason has apparently entirely escaped the attention of the gentlemen on the other side of the Chamber. Judging from the long and somewhat tedious and entirely irrelevant arguments advanced by Democratic Senators, their object in retaining these taxes, and their sole object, is to get even with the very wealthy for its effect in the next political campaign, entirely unmindful of its effect upon the five or six millions of unemployed. I assume, of course, that in their ignorance of the subject of taxation they believe that their attack upon large incomes will benefit the poor, and it is because of this violently erroneous assumption that I desire to occupy the attention of the Senate for a few minutes this morning.

In the first place I want to say that the necessity for taking $3,300,000,000 out of the pockets of the American people in the form of taxes is not the fault of the Sixty-seventh Congress. Moreover, the fact that this money must be raised at a time when everybody is tax sore is not the fault of the Sixty-seventh Congress. And the third consideration to be borne in mind is that these enormous sums must be taken out of the incomes, sales, and other transactions of 1921 which will all be completed by the time this bill passes, thus compelling the retention of many of the provisions of the existing law. Everybody knows why taxes are high. Nobody knows how much lower they would have been had the Republican Party been in power during the years the bills were contracted. Nobody knows how much less the war would have cost had we not been caught in its vortex utterly unprepared. We do know that the Democratic Party was in control of the Treasury from March 4, 1913, to March 4, 1921. We all remember with what confidence the Democratic Party in 1918 assured the American people that the laws which it had written into the statute books represented the last word in wisdom and justice, and if given an opportunity to show their merit would bring great prosperity to the Nation and especially to the laboring man. These same assurances were repeated by the Democratic Party in the autumn of 1920. To-day most everybody is poorer than he was on the 4th of March, 1918, and there are between five and six millions of people looking in vain for an opportunity to earn their daily bread.

Mr. HARRISON. Mr. President——
The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the Senator from Mississippi?
Mr. McLEAN. I yield for a question.
Mr. HARRISON. The Senator has stated that the Democratic Party was in control from 1913 until the 4th of March, 1921. Is it not true that the Republican Party have been in control of both Houses of Congress for nearly three years, and that three years ago they promised a revision of taxes, but not until this time have they given it to us?
Mr. McLEAN. The Senator is wasting his own time and mine. I said that the Democratic Party was in control of the Treasury.
Mr. HARRISON. I know the Senator very adroitly excused and exculpated the Republican Congress for what it has failed to do for three years.
Mr. McLEAN. Of course, the Senator knows that any affirmative action by the Republican Party would have been vetoed by the President of the United States.
Mr. HARRISON. I do not want to interfere if the Senator has a prepared speech and he objects to interruption——
Mr. McLEAN. I do not object.
Mr. HARRISON. But the Senator asked me if I did not know that the Democratic President would have vetoed the measures that the Republican Congress might have passed. If they had passed such a bill, with so many iniquities as that now proposed, of course the Democratic President would have vetoed it.
Mr. McLEAN. While the gentlemen on the other side of the Chamber are at liberty to criticize the Republican Party and the pending measure, there is nothing in the Democratic record to inspire confidence in those criticisms. Inasmuch as the country is now living under or trying to live under Democratic tariff and revenue laws, it would appear to be an inopportune time for Democratic statesmen to criticize the Republican Party in its attempt to lead the American people out of the Democratic Egypt. Certainly, in so far as unwise laws or extravagant expenditures are responsible for existing conditions, the Democratic Party should be willing to bear the blame, and act accordingly. I think it would be better for all concerned to be fair in our discussion of these very important matters.

I am perfectly willing to admit that if the Democratic Party had been as wise as Solomon and as far-seeing as Isaiah it could not have saved the country from the inevitable consequences of the Great War, and Republicans and Democrats are as powerless to lift the burdens imposed by that war as they are powerless to lift the snows of winter. Congress, however, can and should place the burden of taxation where it will bear as lightly as is possible upon the man who must work for his daily bread.

But, Mr. President, my study of this question has convinced me that the tax gun is a remarkable weapon. It is generally as dangerous at the breech as it is at the muzzle. Moreover it will shoot around a corner with deadly effect, and the momentum of the projectile is such that it always goes clear through the man who pays the tax and keeps on going until it finally lands in the stomach of every producer and consumer in the country. I think it truthfully may be said that no matter how small the tax, every man, woman, and child is hit in the final accounting. Throwing a small stone into the Atlantic Ocean halfway between London and New York would not disturb anybody, but dropping the moon into the middle of the Atlantic would drown everybody in both cities, although the moon itself would remain 500 miles away.

The difficulty in solving most economic problems lies in the fact that effect is generally far removed from cause and cause from effect. We think the cause of the Spanish War was not economic; that it was the blowing up of the battleship *Maine*, whereas the primary cause was the placing of bounties on German sugar. When Germany by reason of her sugar subsidies was able to deliver sugar in London for 2½ cents a pound

the sugar planters of Cuba were ruined, and the distress and poverty which followed brought the disturbances that finally called for our intervention. The question is not how can we lay taxes needed for the payment of debts in the manner that will bring the greatest benefit to the greatest number, for all taxes are a burden, but how can we distribute this burden in a way that will bring the least harm to the greatest number?

The gentlemen on the other side of the Chamber have stood upon the theory that high taxes are harmless to the general public as long as the few are called upon to pay them. This is a fallacy easily embraced for many reasons, the principal one being that it is always a popular theory with the largest number of voters. The arguments of the gentlemen on the other side sound well from a party standpoint, but they are utterly without value as a guide to a safe and wise solution of the tax problem. They touch the surface only. They utterly ignore what lies beneath. I think we can all agree that it is important that we should start right, and if we do the first thing to ascertain is the cause or causes of existing industrial conditions in the country and legislate in a way that will help, as far as Congress can help, in the restoration of profitable employment and the purchasing power of the American people. There are 108,000,000 people in the United States to-day, of which 103,000,000, or 96 per cent, are not taxed at all, while of the remaining 4 per cent 75 per cent pay a very small tax. Certainly we must conclude that the present industrial depression is not due to taxes that are directly imposed upon small incomes, because none are so imposed. The question then remains, What, if any, is the effect of the high surtaxes and excess-profits taxes upon the 106,000,000 who now practically escape taxation? Have these taxes any influence beyond that which is felt by the man who pays them in the first instance, and, if so, what is that influence, and if we find that it is bad, that it is largely responsible for the 5,000,000 men who are now walking the streets without employment, the next question is, Why should taxing the rich hurt the poor?

It is this phase of the pending measure that I wish briefly to discuss. Personally I have no sympathy with the man who complains about a surtax. In my opinion he should be exceedingly grateful that his income is large enough to carry a surtax, but so long as capital reserves and individual proprietorship are at the basis of industrial progress it must be clear that high taxes, wherever placed, can not benefit anyone. When the man of small means understands that taxes must be paid before wages, he will be interested to inquire just what effect taxes have upon wages in the final accounting. We may read with supreme satisfaction about the enormous sums of money the rich pay into the Treasury, but if the direct effect of these heavy requisitions upon capital is found in closed factories and abandoned farms our enthusiasm will be less marked. If the American people ever expect to solve the tax problem in a measurably satisfactory manner, they must acknowledge at the outstart that taxes are an unmitigated evil wherever placed. In some instances, to be sure, we get a substantial return, as is the case with taxes raised for schools, highways, or police protection or other instrumentalities which directly contribute to the public welfare, but the confiscation of the property of the citizen to pay war debts contracted at extortionate prices is a bane without a benefit, a curse without a blessing. No matter who is called upon to pay the tax in the first instance, its effects sooner or later must be shared by everybody.

Russia in her anger and ignorance made but one bite of the taxation cherry. In her eagerness to punish the insolence and brutality of inherited wealth she could not wait upon the slower process of high income and inheritance taxes, but in one resentful grab she took all the capital she could lay her hands upon and put it into the public treasury; and she did so in order that the oppressed peasant might have his just share of the national wealth.

And we are now feeding starving Russians.

Mr. President, as I have listened to the arguments that have been advanced on the other side of the Chamber I have been led to the conclusion that the gentlemen who delivered them derived much of their inspiration from the speeches of Lenin and Trotski.

I do not know whether the Russian nobleman who lost his property deserves sympathy or not, but I have a great deal of sympathy for a great people who in an hour of insane passion destroyed their only source of moral and material advancement. If we are doing by degrees what Russia did at one blow, we would best find it out as soon as possible. It is to be hoped that the time is not far distant when the man of small means will give his loyal support to the Congressman who has the wisdom and the courage to place the tax burden where it will retard to the least possible extent the restoration of the producing and purchasing power of the American people.

Mr. HITCHCOCK. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Connecticut yield to the Senator from Nebraska?

Mr. McLEAN. I yield for a question.

Mr. HITCHCOCK. Does the Senator claim that a tax on income is a tax on capital?

Mr. McLEAN. Mr. President, the tax is reflected upon the producers of the country whatever it may be levied upon.

Mr. HITCHCOCK. But the Senator has asserted that the Democrats on this side of the Chamber advocate the same exploitation of property and seizure of capital as Lenin and Trotski do. Now, I ask him again, does he claim that a tax on income is a tax on capital?

Mr. McLEAN. The income at half past 11 to-day may be capital at 12 o'clock; the Senator knows that.

Mr. HITCHCOCK. I ask the Senator the question: Does he claim that a tax on income is a tax on capital?

Mr. McLEAN. It may not be at half past 11, but it may be at 12 o'clock; the effect of the tax is the same.

Mr. HITCHCOCK. That is to say, a man having an income of $500,000, if he is taxed, as he is under the existing law, $308,000, is not taxed on the income that he has derived in one year, but on a part of his capital?

Mr. McLEAN. I do not think that I caught the Senator's question.

Mr. HITCHCOCK. The Senator is charging that existing law, which taxes income, is really a tax on capital. I certainly think the Senator will hardly go that far.

Mr. McLEAN. I have explained to the Senator that if you did not tax the income the income would be invested and would immediately become capital and serve the purposes which I think it should serve. The baneful effect of the tax is the same.

Mr. HITCHCOCK. In other words, these very large so-called incomes are not incomes at all?

Mr. McLEAN. Mr. President, I decline to yield any further.

The first thing to be done is for the State legislatures to prohibit the issuance of nontaxable securities. Congress should lend its aid in this matter in so far as it can. Nontaxable securities not only defeat the purpose for which they are issued by increasing the taxes on the remaining taxable securities, and especially on real estate, but they furnish a means by which the very wealthy can escape taxation and wait for returning prosperity to add greatly to the purchasing power of their incomes.

Mr. President, to return to the question which the Senator from Nebraska asked me, I do not wish to be discourteous. I do not think I said that a tax on income was a tax on capital. I said and all I claim is that the effect of the tax is directly to reduce the amount of the capital surplus which otherwise would be used in the reestablishment of the industries of the country.

Mr. HITCHCOCK. Mr. President, I did not care to interrupt the Senator, but I thought he had made a very serious error.

Mr. McLEAN. I do not think I said that a tax on income is a tax on capital, and if I had used it it would not have been a serious error.

Mr. HITCHCOCK. The Senator did not use that expression; no; but he stated that what we were doing in maintaining these high taxes was to tax capital. I do not want to interrupt the Senator more than a moment, but I want to assure him that when a man with an income of, say, half a million dollars is taxed $308,000 out of the half million which he receives, his capital is not affected at all; merely a part of his income is taken; and it is therefore wrong to charge us with desiring to tax capital.

Mr. McLEAN. Mr. President, the Senator from Nebraska may know more about this subject than I do, but I think his question indicates that he fails to understand that the income which is taken out of the pocket of the gentleman in taxes, had it been left with him, would have been deposited or invested, and so become capital.

Mr. HITCHCOCK. Undoubtedly. Therefore a man might have an income of $10,000,000 a year, and you should not tax it at all, in order that he might increase his capital all the time. That is the thing to which we object. We object to this enormous amassing of capital.

Mr. McLEAN. Mr. President, after I have finished I shall be glad to answer any further questions that the Senator from Nebraska may desire to ask me, but I do not care to go into a further discussion on that point now. I think I have made

my position very clear, and I am absolutely correct, and I think the Senator's last remark indicates that I am correct.

I should like to take the time of the Senate to explain the necessity for getting rid of these tax-exempt securities, but I think that is generally admitted, and for that reason I will not discuss that matter at further length at this time.

After stopping the issuance of nontaxable securities, the next thing to be done is to get rid of the excess-profits tax. It has served its purpose, for good or ill. Theoretically, in some instances it can be fairly assessed, but as a general law applicable to all corporations it is indefensible. It encourages inflation of capital and the payment of enormous salaries. It forbids investments in hazardous undertakings of vital importance, such as mining and the sinking of oil wells. In my judgment, Mr. President, it has been a very expensive tax for the great West. It gives no opportunity for the averaging of losses over a long term of years, and in some instances it punishes without mercy investments of long standing, and it may be brutally unjust to the small stockholder whose income is less than $5,000. It inflicts inequalities which it is beyond the will of man to prevent, owing to varying conditions which it is beyond the power of man to control. All this is admitted by disinterested authorities of the highest standing.

I have here an article written by Prof. Seligman, of Columbia University, criticizing the excess-profits tax, but I shall not take the time to read it.

It is true that the excess-profits tax can not be charged to the cost of production. It can not be added to prices where there is competition and the market is on the decline. In standardized products it would seem that competition would prevent the adding of the tax to the price. But the economists who hold this view fail, as they sometimes do, to consider the ease with which competition is held in abeyance on a rising market; and in all goods of a special character, where the variation in cost and quality is such as to eliminate precise competition, these taxes will be used as an excuse for exacting higher prices than the trade would otherwise bear. The average man is more anxious to make money than he is to sell goods, and when high taxes are the rule he knows that his competitor will feel as he himself does and act as he does, and both are safe in this assumption. Traders and tradesmen fall in line when there is a chance to get even with the tax collector as instinctively and spontaneously as a flock of wild geese fall in line in their autumnal migration to the grain fields of the South. On a falling market excess-profits taxes can not be added to the prices, and it is also true that on a falling market profits are small, if any, so the merchant does not concern himself about taxes, and it so happens that when the Government needs money the most the excess-profits tax is the least reliable. Nevertheless, I should favor its retention if, in addition to its other faults, it did not directly and seriously impede the return of profitable employment. Let us see about this.

Enormous totals of capital must be consumed every year. These totals of consumable capital require in turn enormous sums of saved capital to finance their replacement. The capital consumed every year must be replaced, and more than replaced, or production must cease. Every man who will curb his tongue long enough to let his brain have a chance must admit that when society recognized the necessity of protecting capital savings civilization began, and not until then.

No one can dispute that one of the primary causes of underconsumption, at the bottom of our troubles to-day, is the confiscation by the Government of billions of dollars of capital in taxes which, had it remained free, would have been used in productive enterprises. That credits are becoming cheaper does not indicate an increase in the normal surplus of capital. We must bear in mind that credits are not capital. Credits for some purposes are growing cheaper, but the deposits in the national banks are $2,000,000,000 less than they were a year ago. The credits to be had are as likely to represent a loss as a profit. The Great War cost upward of $5,000,000,000 a month. Much of this was expended in purely destructive processes. It was raised by taxes and the sale of bonds. The destruction of permanent capital assets is of small importance. It is said that England came out of the war better off by $50,000,000,000 than when she entered it. This increase is represented in potential capital assets of real estate, fertile acres, and rich mines which she took from Germany. It is said France came out of the war $25,000,000,000 richer for similar reasons. These enormous capital additions are of no immediate benefit. It is the free capital surplus that is the juice of the industrial orange. The war sucked this orange dry and left enormous debts, which continue the sucking process. Everybody suffers in consequence.

It makes no difference which end of the orange you suck, the result is the same. That is the point which my friends on the other side of the Chamber utterly fail to comprehend. Surplus or saved capital is the lifeblood of the Nation, and every drop of it that can be rescued from the tax collector will add just so much to the forces that are trying to revive the languishing and moribund industries of the country. This is the sole point at issue between Democrats and Republicans in so far as this legislation is concerned. The claim that Republicans want to place the six hundred millions of surplus capital that will be restored to commerce by this bill upon the backs of the poor is astonishing. The bill does precisely the opposite; it puts it into the arteries of trade and industry in order that the millions of unemployed may have something to do. The assertion that if we can keep this burden on the wealthy we could then remove all the excise or so-called nuisance taxes and the taxes on transportation has little if any force. Certainly the annoying, insignificant excise and so-called nuisance taxes have not closed the factories of the country. All of them put together would not amount to fifty millions of dollars outside of the taxes on luxuries. Moreover, these taxes, all of them, are taken from the percentage of business that is still living. It is the business that is now dead or dying, it is the man that is out of work that the Republican Party is interested in, strange as it may seem to my friends upon the other side of the Chamber. I hope these small taxes, many of them, will be removed. I see no reason, however, for the immediate elimination of the taxes on luxuries or transportation in Pullman chairs. I hope we shall be able to lift the tax on the transportation of freight, but that relief would not add a dollar to the reserves of capital available for other industrial purposes. The railroads to-day need half a billion dollars a year more than is available. Every informed man knows that the capital reserves available for industrial purposes are provided by the unexpended surplus of large corporations and large individual incomes, and until you can rescue a portion of these reserves and permit them to be used for the purpose of reviving the great producing industries of the country stagnation will continue.

That is the reason why every laboring man in the United States is just as deeply interested in the restoration of confidence and productive employment as the millionaire. This year the total capital income is estimated at forty billions of dollars, less by from ten to twenty billions than it was last year. Of this forty billions, 88 per cent will be received by persons whose incomes are less than $5,000.

Mr. KING. Mr. President, will the Senator permit me to inquire whether it is the gross or the net that he is referring to? I apprehend he means the gross. Does not the Senator think he has underestimated it when he says forty billions?

Mr. McLEAN. These are the figures which I have procured from the experts of the Treasury Department, and I am sure their judgment is as good as any we can get. Of the remaining 12 per cent, four billions eight hundred millions, three billions two hundred millions only are taxable, and it is out of this that we now take nearly 85 per cent of the total of the income taxes. I am sure that every Member of this body wants the laboring man whose income is small to receive his fair share of the national income, wants him to receive all that he earns in his copartnership with capital. The sole purpose of reducing surtaxes and eliminating excess-profits taxes is to hasten the time when the unemployed can be set to work. It is by maintaining the prosperity and purchasing power of labor that capital can expect to remain productive, and it is only in the increasing productivity of capital that labor can expect to add to the share to which it is entitled.

The interdependence of labor and capital is clear to everyone who brings to the subject an unprejudiced mind. If either infringes on the fair share of the other, both must lose. It would be much pleasanter for me if I could take the popular and superficial view of this subject and join those who would retain the excess-profits tax and the higher surtaxes in the interest of the man of small income, but a conscientious study of the subject has convinced me that these taxes are a serious handicap to production and profitable employment. No one can blame labor for its determination to secure its fair share of the annual output of capital, but it can not do this by reducing the share which goes to capital. Trade-unionism has been engaged in this effort for nearly half a century, and the records show that it has utterly failed to accomplish its purpose, and it has failed because it is impossible. In 1870 the per capita industrial capital in this country was $105. In 1910 it had increased to $412. In 1870 the percentage paid to labor—that is, in wages and salaries—was 48.6 per cent; the percentage represented by interest and profits was 43.9 per cent. In 1910 labor received 46.9 per cent and interest and capital 43.8 per cent.

It will be observed that in 40 years capital's share had dropped 1 per cent and labor's share 1.7 per cent. There were, of course, during these 40 years considerable fluctuations due to rising and falling prices. The laboring man who is advised that he can add to his share of the annual output of capital by reducing the share belonging to capital or a colaborer is being grossly deceived. There is only one way in which either the share of labor or capital can be increased, and that is by an increase in the average per diem unit of output. If capital takes more than its share this year, it will lose it all and more, too, in reduced consumption next year, and if labor takes more than its share it will lose it all in high rents and closed factories next year.

Capital is labor and labor is capital. They stand and fall together. To illustrate, take the farmer who does his own work. He is both capitalist and laborer, employer and employee. He has, we will say, $500 in the bank in March which he has saved from the sales of the preceding years. He needs every dollar of this $500 to purchase his seeds and fertilizers for the coming year. A tax collector comes along and takes 20 per cent of it, leaving but $400, where he sorely needs $500. This farmer must scrimp and save and try to raise enough to enable him to start next year with his full complement of capital. The manufacturer and his 10,000 employees are in precisely the same economic position as the farmer who works for himself. The manufacturer, deprived of 20 per cent of the capital he needs to take care of his enormous pay roll and expense account, can not raise wages, and if he is facing a falling market the only sane thing for him to do is to curtail expenses, and this means lowering wages or a temporary suspension of operations. There is a great shortage of capital reserves in the country to-day. Railroads need large sums, so do the building industry and the agricultural interests. These interests go to the banks for help; the banks are handling other people's money. The banker is charged with a sacred obligation always to be in a position to return that money on demand. It can easily be seen that if we take all of the large incomes in taxes we would be in precisely the same position that Russia is in to-day. Everybody in the United States would have to go to work and get trusted for his board, and every dollar that the Treasury could get would have to be raised by direct taxes upon the poor.

Let me now call attention to the precise effect of the excess-profits tax upon small incomes represented by stock in corporations paying the excess-profits tax. A person who holds a hundred shares of stock in a corporation and has no other income might be subjected to a tax as high as 30 per cent. If the corporation made 28 per cent in a prosperous year, the owner of a hundred shares would have an income of $2,800. If he were at the head of a family, this $2,800 would be free from all tax if received from other sources, but in the case I have stated, where it is invested in the corporation, he would pay a 12 per cent tax, or $336. Hundreds of millions of dollars have been taken from the pockets of people whose incomes have been less than $5,000 by this excess-profits tax.

I do not care how high the surtaxes go so far as they would affect the man who receives them; it is the indirect effect that hurts; but, Mr. President, there is a limit which, if exceeded, will reduce, and rapidly reduce, the amount of taxes which will be gained. We all know that there are a great many men who have incomes ranging, we will say, from twenty to fifty thousand dollars, and the probabilities are that out of those incomes a percentage will be saved every year for investment. If the surtax is so high that it is more profitable to invest in a 5 per cent nontaxable security than it is to hold a 7 per cent preferred stock, we will say, all those savings which were received by the thousands of people whose incomes run from ten to twenty or fifty thousand dollars would seek investment in nontaxable securities, or would seek to evade the tax in some way; but if we put the surtax at 20 per cent, where it would be evident that the person would be better off to hold a 7 per cent preferred stock than a nontaxable 5 per cent stock, all that surplus, instead of being frozen up in these nontaxable securities, would go into industrial investment securities.

Mr. BRANDEGEE. Mr. President, I would like to ask the Senator if he is in possession of the figures which show the total amount of nontaxable securities?

Mr. McLEAN. Mr. President, a publication which emanated, I think, from the National City Bank of New York, estimated the amount to be $16,000,000,000. I have seen various other estimates, but personally I have not followed up that matter. I think the estimate of $16,000,000,000 is rather high, but I believe it is more than $12,000,000,000, and nontaxable securities are being issued every year by the hundreds of millions, by States and subdivisions.

Mr. BRANDEGEE. My inquiry was to ascertain whether the amount, continually replenished as the Senator says it is, is large enough to absorb all the excess profits?

Mr. McLEAN. That I do not know, but they are very large and there are many other ways. We all know that incomes of $50,000 and higher create a temptation for divisions in families, setting apart to the wife or the children a certain portion so as to lower the surtax rate. There are other ways by which people to-day invest in properties that are nonproductive, such as undeveloped mines and timberlands. As long as it is possible to evade these taxes, and it is legal and possible, men and women will do it, but if we make it more profitable to pay the surtax I believe they will do that. In my judgment 30 per cent is the limit. I know the authorities, the highest authorities, put the limit at 25 per cent. Prof. Seligman, in his article to which I have referred, believes we shall get more money under a surtax of 25 per cent than we will under a higher surtax.

The point that I wish to stress now is that the high surtaxes or excess-profits taxes, just or unjust, collectible or not, are at the present time retarding a return to normal conditions and that in the interests of labor they should be reduced as fast as is possible. And that a reduction in surtaxes will increase rather than decrease the amount received from such tax.

REPEAL OF THE EXCESS-PROFITS TAX.

Mr. President, as I stated a moment ago, three successive Democratic Secretaries of the Treasury have pointed out that the excess-profits tax does not in the main reach the profiteer, but in the words of Secretary GLASS "confirms old ventures in their monopolies." The Democrats say nothing about the complete failure of the tax to accomplish the purposes for which it was designed. It exempts just those corporations which it is supposed to tax, and taxes corporations of small and moderate size which have been conservatively financed and whose accounts have been conservatively kept.

The excess-profits tax is a gesture and a misleading gesture. To defend it or attempt to perpetuate it as an effective means of relieving the profiteer of his ill-gotten gains is a capital error. In view of the repeated statements of the Democratic officials charged with the actual enforcement of this tax, that it does not accomplish what it is supposed to accomplish, its retention by Democratic leaders in Congress is for the sole purpose of deceiving the uninformed on election day.

The Democrats who have actually enforced the tax condemn it. Democratic statesmen also condemn it in private. Publicly, for political purposes, they urge its retention.

This tax yielded $2,500,000,000 for the taxable year 1918. It will yield for the taxable year 1921 about $400,000,000. It is becoming a statute of exemptions rather than a heavy producer, particularly as applied to the larger corporations of the country.

The gentlemen who oppose eliminating the excess-profits tax and reducing surtaxes insist that we leave enough for these multimillionaires, and possibly more than they deserve. We take only 65 per cent from individual incomes and 40 per cent from corporate incomes. On a profit of a million dollars subject to both excess profit and surtax we take only $790,000, leaving $210,000. Admitting that this is fair so far as the multimillionaire is concerned, it then recurs, Will he try himself to place this tax upon the backs of the poor, if he can? I think it fair to assume that he will do his best. It will be claimed that this can not be done, but let us take, for instance, one of the Standard Oil magnates whose money is in oil wells. He can not sell his stock because if he tried to do so he would break the market and ruin his credit. We think we have got him where he can not escape. He must hold on and pay the tax and suffer all the consequences unless he can raise the price of oil. Let us see what he has done.

A few years before the excess-profits tax and surtax was imposed oil sold for 10 and 11 cents a gallon. In 1918 when the excess-profit taxes yielded two billions and a half, oil went to 33 cents a gallon. The Standard Oil man drew some very large checks that year and turned them over to the United States Treasury. Democratic statesmen point to this fact as a remarkable instance of getting even with the rich. Who really furnished the money for this tax? We do not have very far to go to find him. A generous portion of it was furnished by the men who run Ford cars or farm tractors and little stationary engines.

It is claimed, to be sure, that there is competition in oil, but I notice the prices of all the distributors of oil went up at about the same pace. Again, I want to be fair, expenses went up, wages, cost of transportation, and so forth. I think it possible that the cost of production might have doubled from 1914 to 1918, but the price of oil was multiplied by three. This leaves the tax which the consumer of oil paid only 11 cents a

gallon, just 50 per cent more than he would otherwise have paid. I do not think I am very far out of the way with my figures. The farmer owning a little 6-horsepower engine paid a 50 per cent consumption tax on his oil.

Mr. KING. Mr. President, will the Senator yield?

Mr. McLEAN. I yield for a question.

Mr. KING. Does not the Senator think it would be a correct statement of the fact to say that the oil vendors—the Standard Oil and other corporations—formed combinations in restraint of trade and for the maintenance of high prices to rob and exploit the public, and that the high prices were in part due to that combination formed by the oil producers?

Mr. McLEAN. They will charge all the trade will bear. There is no doubt about that. My belief is that if there had not been these high taxes they would not have had as good an excuse and the trade would not have borne as high a price as it otherwise did.

Mr. President, I want my agricultural friends to consider the illustration which I have just brought to their attention. I have every sympathy for the farmer, but all is not gold that glitters when you are dealing with taxes. You do not want the surtax reduced. It is an economic mistake from your own point of view in my opinion. In my judgment you are after the cow that tossed the dog, when you should remember that it was the dog that worried the cat and the cat was killing the rat that ate your malt. We can not always judge from appearances.

The farmer owning a little 6-horsepower engine paid close to a 50 per cent consumption tax on his oil. He did not know it at the time, and that is the main reason why he is opposed to a 1 per cent tax on consumption. He can see that tax. The politicians can point it out to him and expatiate upon its injustice.

But the experts, the disinterested experts, who are not seated in this body and do not care what happens next November, estimate that this tax has raised prices 22 per cent all along the line. I think this is rather high. It certainly can not be done on a falling market where there is competition, but there is no doubt in my mind that the increase in prices due to this tax will be in excess of 5 per cent on a fairly stable market such as we hope we shall have in the near future.

When we add to the effect of the excess-profits tax on very large incomes its inexcusable injustice in its application to small incomes invested in stock in small companies, together with the other objections to which I have called attention, there would seem to be little excuse for maintaining it longer. If it imposes a consumption tax of 5 per cent even in a stable market and from 10 to 30 per cent on a small stockholder in certain cases, is it not time that we tried at least to find a substitute that will be more equitable and less onerous?

I put these suggestions into the RECORD this morning in order that it may be understood that those of us who advocate its elimination do so because it is our honest belief that it is one of the major causes of the present lack of confidence in the industrial world, one of the major causes for the shortage in capital without which profitable employment is impossible.

Anyone would gather from the remarks of the gentlemen on the other side of the Chamber that the Republican Party enjoys advocating legislation that will destroy it. I hardly think it necessary to take the time of the Senate in controverting this assumption. Republicans like to take the popular and easier way when it is the wise way. But so far in its history it has had the courage and the wisdom to stand for sound principles against mistaken public opinion. That is one of the main reasons why it has been in power most of the time since its birth, and I sincerely hope that it will now face any temporary sacrifice which may be necessary in order that the Government may lighten as far as it can the burdens placed upon the people by the war and the extravagance and incompetency of the Democratic Party.

There is one other point that I want to put into the RECORD before I close. The older I grow the more firmly I am convinced that it is not the love of money but the lack of knowledge with regard to its source and services that is the root of all evil. The junior Senator from Alabama [Mr. HEFLIN] introduced a bill a few days ago which directs member banks to loan money at 4 per cent. I assume that he did it seriously. I do not know how many votes such a measure would command on the other side of the Chamber or on this side, but it would command a good many on the other side of the Chamber, I assume, for, from the character of legislation which has been introduced and referred to the Committee on Banking and Currency, and judging from the speeches which have been made against the pending bill, I assume that such a bill would be largely supported.

The gentlemen on the other side of the Chamber seem to think that after we have taken 75 per cent of the big incomes in taxes the next thing to do in order to hasten prosperity is to compel them to loan the remaining 25 per cent at 4 per cent. If I should introduce a bill compelling the cotton growers of the South to sell their cotton at 4 cents a pound, the Senator from Alabama would vote against it; yet my bill would be an exact copy of his so far as it involves the principles of economic liberty and individual proprietorship. It is as impossible for the Government to make money as it is for the Government to make wise Congressmen; and Congress has the same right to fix the price charged for the use of money as it has to fix the price of cotton. I fancy a majority of this body is of that opinion up to date, but how long it will remain of that opinion I do not know.

It will not be long before money will be fairly cheap. That will mean but little unless confidence is restored in the business world. It will mean that liquidation and forced sales have resulted in putting into the hands of bankers a considerable total of deposits, but they will be very timid deposits. If you have gilt-edged security which you can put up as collateral, you can get accommodation at a low rate. If you have not such security, you will get no accommodation at all. We look upon a $5,000,000 manufacturing plant as a fine illustration of permanent wealth and we may envy the man who owns it; but if that factory is not producing at a profit it is worth less than nothing to its owner, unless he closes it, and when he has closed it the owner will be unable to borrow money on it, except at high rates of interest, unless there are immediate prospects that it will open soon and be able to operate at a profit. Many great factories are closed and they will remain so until confidence is restored in the business world; and Congress can not bring about that result. Confidence can be restored by the American people and by nobody else. The men and women who receive 88 per cent of the national income must do their share as they did in 1917 and 1918. If the American people would face the war debts with one tithe of the courage with which our boys faced the Germans, those debts would disappear in five years.

Mr. President, I have some statements here showing in detail the effect of this bill. They consist largely of figures, and I ask that they be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The matter referred to is as follows:

II. TAXES REDUCED.

The committee bill reduces taxes in practically every class or title. With two trifling exceptions (taxes on expensive furniture and excessive hotel charges), no new tax has been proposed and no tax rate has been increased, unless the additional 5 per cent on corporations (yielding $260,000,000 annually) which replaces the excess-profits tax (yielding about $400,000,000 annually) is by some perversion of arithmetic to be regarded as an increase. Some of these taxes are as follows:

1. The surtaxes applicable to incomes in excess of $66,000 have been limited to 32 per cent. The immediate loss or reduction will be from $80,000,000 to $90,000,000 a year, but in the end this reduction will increase tax revenue by stimulating sales and profit-taking transactions now blocked by excessive surtax rates.

2. Surtaxes below $66,000 have been reduced so that taxpayers of every class pay a lower tax than under existing law. The reduction of these surtaxes amounts to about $15,000,000 a year. In addition, the personal exemption, now $2,000, has been increased to $2,500 where the aggregate income of a husband and wife is not in excess of $5,000. Moreover, the exemption for children and dependents is increased from $200 to $400. The reduction ascribable to the increase of the specific exemptions amounts to about $70,000,000 a year. As nearly all of this reduction will affect incomes below $66,000 a year, the total reduction of the tax on incomes below $66,000 a year amounts to about $85,000,000. The reduction applicable to incomes below $66,000 is the same as the reduction applicable to incomes above $66,000.

3. The taxes on corporations—for practical purposes, the tax on business—have also been reduced. The excess-profits tax and the capital-stock taxes, together yielding about $475,000,000 a year, are replaced after the close of the calendar year 1922 with a 5 per cent additional income tax, which will yield about $260,000,000 a year. A further discussion of this reduction is given later on.

4. The taxes on transportation, yielding about $260,000,000 a year, will be cut in half on January 1, 1922, and will be wholly repealed at the close of the year 1922. The special premium and other taxes on insurance are repealed as of the close of this year, the reduction amounting to over $19,000,000 a year.

5. The nuisance taxes on soft drinks, ice cream cones, etc. (imposed by sections 628 and 630 of the revenue act of 1918), which have been responsible both for widespread irritation and widespread evasion, have, at greatly reduced rates, been converted into producers' or manufacturers' taxes, which will not irritate retail purchasers nor open the door for general evasion, the reduction amounting to about $23,000,000 a year.

6. The other nuisance taxes imposed upon retail sale, which have given rise to the most widespread complaint, have been in large part repealed. Section 907 imposed a tax upon medicinal articles and toilet goods. The tax upon medicinal articles has been repealed and the tax on perfumes, essences, and other toilet articles has, at a reduced rate, been placed upon the manufacturer, producer, or importer. The same

action has been taken with respect to the so-called luxury taxes imposed by section 904 of existing law. These taxes, so far as they apply to articles of clothing, have been practically repealed; and the remaining articles, such as valises, shopping bags, fans, etc., are taxed to the manufacturer, producer, or importer. The reduction here is about $20,000,000 a year.

7. Taxes on the following miscellaneous products have also been reduced: Sporting goods, from 10 to 5 per cent; chewing gum, from 3 to 2 per cent; candy, from 5 to 3 per cent, but if sold for more than 40 cents per pound, 10 per cent. The admissions' tax is repealed where the amount paid for admission is 10 cents or less.

IV. CAPITAL STOCK TAX.

This tax also is impracticable and irritating in the extreme. It requires the Treasury Department to appraise every year the fair value of the capital stock of every corporation engaged in business in this country. To perform such a task is obviously impossible. Moreover, the tax must be paid whether the corporation is earning any profits or not. It is obviously the part of wisdom to replace this by a simple addition to the rate of taxation applicable to corporations. The abolition of the Capital Stock Tax Bureau in the Treasury Department will save an administrative expense of about $350,000 a year.

V. BALANCING THE TAX BETWEEN CORPORATIONS AND UNINCORPORATED BUSINESS CONCERNS.

The committee bill balances more fairly than any of the other proposed schemes the tax between corporations and unincorporated business concerns. There were in the last year for which we have detailed statistics 958,379 businesses paying a personal income tax. These businesses reported $3,124,355,196 net income. The problem is an important one.

How is it settled? The individual business man or partnership (in effect) pays 4 per cent normal tax on taxable income under $4,000, 8 per cent normal tax on taxable income in excess of $4,000, and surtaxes rising to 32 per cent. The corporation pays 15 per cent, and its stockholders pay surtaxes on all the corporate profits distributed, about two-thirds of the total profits in an average year. In short, the corporation pays 7 per cent more than the normal tax paid by individual business men in lieu of the surtaxes on that part of its profits which is not distributed. The tax upon the corporation is very much higher than the tax upon the average partner or individual business man, because the latter does not have income enough to bring his rate up to 15 per cent. The individual must have income over $40,000 a year to pay as high a rate as 15 per cent. The profits of the average partnership are not much in excess of $10,000 a year and the tax on a $10,000 personal income is less than 6 per cent.

On very wealthy and prosperous partners or sole proprietors the tax is higher than the corresponding tax on the stockholders of corporations, but on the great mass of partners and individual business men the tax is less than that collected from the stockholder of the average corporation, under the committee bill.

VI. SPECIFIC SALES TAX RETAINED.

A number of specific taxes—on automobiles, candy, and the like—are retained in the committee bill for temporary service during this period of abnormal expenditures due to the World War. These special taxes are bad. They should be and will be repealed in the comparatively near future. But it is only necessary to list them in order to see that, bad as they are, they are less obnoxious than the substitutes which it is proposed from some quarters to put in their place. Here are some of these taxes:

Stamp taxes on—
Issue of stocks and bonds.
Sales of stock.
Sales on produce exchanges.
Conveyances.
Passage by vessel to foreign countries.
Playing cards.
Unauthorized (foreign) insurance.
Special license taxes on—
Brokers and pawnbrokers.
Proprietors of theaters, museums, and concert halls.
Circuses, bowling alleys, and billiard rooms.
Shooting galleries, riding academies.
Manufacturers of tobacco.
Use of yachts and pleasure boats.
Dealers' taxes on the sale of—
Jewelry and precious stones.
Sculpture and works of art.
Leasing of motion-picture films.
Admissions to theaters and places of amusement.
Tax upon club dues.
Transportation of oil.
Telephone and telegraph messages.
Express transportation.
(Proposed tax on hotel charges.)

The rates in parentheses are the rates proposed in the committee bill.

Producers' taxes on—
Automobiles (5 per cent).
Musical instruments (5 per cent).
Tennis rackets, pool and billiard balls, and other sporting goods (5 per cent).
Candy (3 per cent to 10 per cent over 40 cents a pound).
Firearms and cartridges (10 per cent).
Hunting and bowie knives (10 per cent).
Dirk knives, sword canes, and brass knuckles (100 per cent).
Cigar holders and pipes (10 per cent).
Livery and livery boots (10 per cent).
Hunting garments (10 per cent).
Articles of fur (10 per cent).
Yachts and pleasure boats (10 per cent).
Perfumes, essences, and toilet articles (4 per cent).

Mr. McLEAN. There is just one point more which I think has some bearing upon this question. I have in my pocket an item which was published in one of the leading Democratic papers of New England, the Hartford Times.

Mr. KING. Mr. President, if I may interrupt the Senator, I am very much interested in the Senator's discussion, and I have been waiting with a great deal of expectant pleasure his presentation of a plan by which he thought we could raise sufficient revenue to meet the legitimate expenses of the Government without unduly oppressing those who have large incomes and without oppressing the laboring classes.

Mr. McLEAN. I think the plan of this bill will substantially do that.

Mr. KING. I was about to ask the Senator as to that.

Mr. McLEAN. I think so. I certainly should not object, however, to the elimination of any of the small irritating taxes. I hope that can be done; but we all hope that the senior Senator from Alabama [Mr. UNDERWOOD] and others within a few months will meet with success in their efforts to reduce the military expenses of the Government to such a degree that we may get along very well under the taxes proposed to be imposed by the pending bill and may continue to reduce them.

It has been suggested that we might increase the taxes on first-class postage from 2 cents to 3 cents and some other suggestions have been made——

Mr. KING. Does the Senator from Connecticut approve of the elimination of the tax upon freight?

Mr. McLEAN. I certainly do; I think that ought to be done. As the Senator from Utah knows, it will be done next year; the tax only continues this year, and I should be glad to see it removed this year. I do not think that it is necessary to remove the tax on transportation in Pullman chairs this year.

Mr. KING. Then the Senator is opposed to increasing the taxes in the upper brackets indicated in the income-tax provisions of the bill?

Mr. McLEAN. Does the Senator refer to the surtaxes?

Mr. KING. I refer to the surtaxes; I used the words "upper brackets" as indicative of surtaxes.

Mr. McLEAN. I would certainly vote to retain the high surtaxes. As I have said, I have no sympathy for the man who objects to paying a high surtax. If it were not for the baneful effect upon business and the unemployed, I think he ought to congratulate himself that he is fortunate enough to be in a position to pay such a tax.

Mr. KING. Would the Senator vote to make that tax as high as 50 per cent?

Mr. McLEAN. My reason for not doing that is that we should not be able to get as much money. We are proposing to tax money not men; it is money we are after.

Mr. KING. That means that the Senator would not be willing to impose a tax as high as I have indicated because of the inability of the Government to collect that amount of tax?

Mr. McLEAN. The Government would be able, of course, to collect the tax on the incomes that were taxable, but my point is—and I have tried to make it clear—that so long as tax-exempt securities are in the market, and for other reasons, any surtax above 25 per cent will show a reduction from year to year in the total revenue which is received.

Mr. KING. If the Senator will pardon me—and then I shall not trespass further upon his time—as I understand, he thinks that the bill as it has been reported with a few amendments, namely, the elimination of the transportaion tax upon freight and possibly the elimination of some of the so-called nuisance taxes, is a perfected measure and would yield all the revenue which the Government would require during the coming year?

Mr. McLEAN. It is a completed measure.

Mr. KING. And it is perfected so far as the genius and the ability of the Senator would permit?

Mr. McLEAN. If the Senator asks if it is a perfected measure, I say, no; but the Senator realizes that inasmuch as the money that is to pay next year's tax bills is to be collected out of this year's income we must necessarily retain a large portion of the framework of the existing law. Otherwise we shall impose taxes that are altogether unanticipated.

Mr. KING. If we impose a billion and a half dollars additional burden because of the soldiers' bonus, has there any provision been made for that in the pending bill as the Senator would have it?

Mr. McLEAN. I do not care to go into that discussion at this time, if the Senator will pardon me. I should like to finish what I have to say.

Mr. KING. I shall not trespass further upon the time of the Senator.

Mr. McLEAN. We have all made our records on that question, and I am not ashamed of mine.

As I was about to state before I was interrupted, I have in my hand an item which I cut from a leading Democratic newspaper in New England, the Hartford Times, which reads as follows:

LONDON, *October 1.*

Customs duties equal to one-third of the value of certain imported goods will be levied beginning to-day under Great Britain's act for safeguarding industry, which becomes operative this morning. These

duties will be applied to 6,000 individual articles, including optical and other scientific instruments and various manufactured metals and chemicals.

Mr. President, I wish to call the attention of the Senate, and especially of my agricultural friends upon this side of the Chamber, to the fact that free-trade England has to-day imposed protective duties upon manufactured products running from 50 to 200 per cent higher than the rates accorded the manufactures of this country under the tariff act framed by the distinguished Senator from North Carolina [Mr. SIMMONS] and the Senator from Alabama [Mr. UNDERWOOD].

Great Britain has taken this action for a purpose. She has taken it in order to save her industrial life, and she knows when her industrial life is at stake. Whether we know when ours is at stake, I do not know, but it is time we did know; and I want to say to my agricultural friends that if they remain blinded any longer to the immediate need of granting additional protection to the other industries of this country, the excess-profits tax and the surtaxes which will be received will not pay the cost of collection. We on this side of the Chamber do not need to be deceived any longer. The gentlemen upon the other side may deceive themselves; whether they can succeed in doing so I do not know, but, Mr. President, I have a strong suspicion that it is not the pending tax bill that is inspiring the long multiloquent vocalizations, inexpressibly tedious, to which we have been compelled to listen. I think I know the bill they are after and its name is not the "internal revenue tax bill"; it is "the customs duties bill." I think it is high time that we on this side of the Chamber understood that this bill is used for no purpose under heaven except as a buffer to delay the giving of reasonable protection to American industries.

I do not blame the gentlemen on the other side of the Chamber; they are performing their duty; we have no right to criticize them, for, in their opinion, a protective tariff is not only injurious and vicious, but it is unconstitutional, and it is their duty to prevent us from continuing protection to American industries. Mr. President, it is the only issue they have left out of the several with which they began their long and somewhat unfortunate career. We can not blame them because they use every instrumentality in their power to prevent us from granting adequate protection to American industry; but it is our duty to understand the situation and act accordingly. If it is going to resolve itself into a test of physical endurance, although I have passed the threescore milestone, I am willing to bear my share of that test. The cloakrooms are convenient; they contain comfortable chairs where I can retire and not be compelled to listen to these gentlemen while they are engaged in their efforts to retain the absolutely nonprotective rates for which they are responsible. I am willing, as I say, to do anything that the leaders upon this side may deem necessary; but I want it distinctly understood that no time should be lost in the passage of the pending bill, if it takes nights and Sundays. I would invoke such cloture as we have, and if that does not work, as I have said, I would insist upon night sessions until the revenue act and the tariff act have been revised and we have redeemed our pledge to the American people.

Mr. TRAMMELL. Mr. President, I am not surprised that the Senator who preceded me [Mr. McLEAN] seems to be somewhat annoyed and provoked on account of the disclosures made by the Democrats in discussing this very important measure. It is quite apparent that there is a disposition on the part of some who are giving their support to the bill not to appreciate the idea of having the searchlight thrown upon its nefarious provisions. There has been no disposition upon the part of those on this side of the Chamber, those who desire to have this bill reformed so as more nearly to meet the requirements and the needs of the country and to do justice by the American people, to have any delay upon its final consideration. The whole policy and trend of the action of those who have been fighting for a reformation of the measure has been to reform it in such a way that its provisions will not operate to transfer the burden of the taxation of the country largely from those who are able to meet those burdens to those of moderate means and the poorer classes of the people of America.

It is all right to talk about the prosperity of the country depending upon guarding zealously the interests of capital. It is all right to say that if you do not permit those who control the wealth of the Nation to continue to enjoy their excess profits, you will bring about calamity and distress. That sounds all right if you do not analyze the entire situation; but, Mr. President, I have not yet reached that frame of mind nor do I entertain those sentiments which will justify me to defend the action of the profiteers of this country. I am surprised that any Senator will take the position that in order to permit him further to carry on his excess-profit enterprises you must exempt him from taxation, because he will have a little more opportunity and a little better and wider scope of operations because he has just a little more money to carry on that kind of questionable operations.

More or less has been said by the Senator from Connecticut [Mr. McLEAN] about the Republican Party and the Democratic Party. Our Republican friends seem to delight in charging inefficiency to Democratic administration. I never have given any great weight to those wild, reckless assertions in regard to the efficiency of this, that, or the other political party. I find that in this great common country of ours the American citizens who compose the great parties of the Nation are endowed with similar intellects, are endowed with similar business sagacity, are alike patriotic and possess the same capacity for the direction of government. It is all folly and silly to talk about your having all the efficiency in America in the Republican Party, and that the Democratic Party is not competent to direct the affairs of government.

I resent any such accusation or indictment against the Democratic Party. History brands the assertion false. Of course, our friends can repeat over and over their charge of inefficiency if they are going to take the position that because the Democrats in the Senate believe that you should not shift the burden of taxation from those who are maintaining the excess profits to the great masses of the country, they are therefore inefficient. If that is what they call inefficiency, then the Democracy of the country may be indicted for inefficiency. If the Republicans call it inefficiency because Democrats stand upon this floor and say that you should not reduce the taxes of the millionaires of the country and increase the taxes of the man who is scarcely earning sufficient for a livelihood, then the Democratic Party and its members represented upon this floor may be indicted for inefficiency.

I think you have good, patriotic men in the Republican Party; you have intelligence in the Republican Party; but it is idle, it is vain and egotistical for any Senator to stand upon this floor and try to make it appear that all the wisdom and statesmanship and patriotism of this Nation are wrapped up in the Republican Party. History sustains no such charge or indictment; but, to the contrary, no greater statesmen ever lived than many of those who have championed the cause of the Democratic Party. Our greatest achievements have been by Democrats. The difference between the two parties is that the predominant element in the Democratic Party has always stood for and stands to-day for a government that first of all endeavors to conserve the prosperity and the happiness of the great American people in general. The Democratic Party stands for the general good, the common good of the American people, and it refuses to become the guardian of those who would first foster the interests of those possessing the swollen fortunes by discrimination against the great mass of the country. Upon the other hand those predominating in the Republican Party seem to think that all prosperity has to come through those who control and dominate the wealth of the Nation.

I appreciate thrift. I appreciate seeing a man accumulate by honest means and methods his competency or his fortune. I am proud to live in a country where he may from honest endeavor reap an honest reward. I possess no antagonistic spirit toward honestly acquired wealth. I realize that the prosperity of the country finds its lodgment in the operation along legitimate lines of both capital and of labor; but I can not subscribe to the doctrine that you must make primary the fostering the interests of the wealth of the country and then trust to the less fortunate to sink or swim, live or die.

My Democratic friends who have preceded me upon this subject have very forcefully called attention to the fact that the Republican committee in reporting this bill, in its solicitude for the wealth of the Nation, proposed to reduce the taxes upon those who have incomes of more than $66,000 per annum. How are you going to justify that?

In the last campaign, our Republican friends went all over the country and tried to make it appear that they were going to reduce taxation. They endeavored to make it appear that they were going to reduce taxation to the average, ordinary citizen of this country. They dared not tell them that, when they came in with their "efficiency" and their "statesmanship," what they proposed to do was to reduce the taxes upon those receiving incomes of over $66,000 per annum, and that the man who received an income of a less amount than that could go on his way and suffer the burdens which might be imposed upon him, or which then existed. They talked about the terrible burdens that then existed. Our friends, as they went out all over this country and talked about Republican "efficiency" and Democratic "inefficiency," dared not tell the

American people that their brand of efficiency meant that when they came into the Senate to write a tax bill they were going to propose to exempt those making excess profits. We heard of no such utterances as that upon the stump, but, on the contrary, in those speeches as they told their story of Republican "efficiency" and Democratic "inefficiency," we heard them telling the people from one end of this land of ours to the other that they were going to do away with this excess-profits business; no longer should the consuming public of this country be bowed down under the extortions imposed upon it by the much despised profiteer.

That was the soothing story and promise brought to the American people in the last campaign by our Republican friends. We have heard of no action looking to doing away with profiteering. The only thing we have heard of coming as the result of this Republican efficiency is the proposed reduction of taxation upon those making excess profits. Our Democratic friends are opposed to the scheme for relieving excess profits from taxation. Take the reduction proposed amounting to $400,000,000, according to the statements made by the committee. What do they propose to substitute for it? Do they propose to substitute any law which will limit or restrict the profits to be made by the corporations of this country? Nay; we hear of nothing of that kind. The mere fact that you reduce your excess-profits tax does not mean that you are going to eliminate any excess profits. You know it will not eliminate excess profits. On the other hand, it is a little encouragement to those who carry on the practices which result in excess profits, because they feel that they are in favor with the party in control of the Government, that they are in favor with the party dominating the United States Senate, and, of course, when you go out to get commendation and approbation of Republican efficiency, you will get them from the excess profiteers, you will get them from those who have swollen fortunes, who make more than $66,000 per annum. Truly, you are the friends of the profiteers. But I think, Mr. President, our Republican friends are going to be woefully disappointed when this comes to the question of getting the commendation of the teeming millions of Americans who have their taxes raised in consequence of your reducing the taxes of the profiteers and those making their net of more than $66,000 per annum.

This question of excess profits did not make its appearance first into this country at the time a tax was imposed upon excess profits. Some people in this country have carried on that kind of practice all down during the history of the Nation. It has, however, become more rampant in recent years. It is also more flourishing and prosperous during Republican administrations than during Democratic administrations, because when the Republicans are in control they find encouragement, just as they find encouragement and solace at this time, in the tax bill reported by the committee.

A very apt illustration was given yesterday by the distinguished Senator from Georgia [Mr. WATSON], when he spoke of fifteen hundred million dollars of the common stock of the Steel Corporation which represented absolutely nothing a few years ago, and which was being offered at $8 per share, and which now brings approximately par. That is an illustration of some of your excess profits which existed before we had an excess-profits tax. We know that under the policy which has been practiced by a great many of those manipulating the wealth of the Nation, the imposition of an excess-profits tax did not mark the advent of excess profits. The profiteer was here long prior.

As illustrated by the Senator from Missouri [Mr. REED], it seems to be the custom and the policy of many of those engaged in business operations in this country, more particularly when they get into a position of power, to exact and require all the profits the purchasing public will stand. You are going to remove $450,000,000 of excess-profits tax, and you are going to transfer that burden to the people of this country who do not make any excess profits, and your profiteers will continue to pursue the even tenor of their way, gouging the American people, in many instances, by excess profits. That is going to be the outcome and the result of it.

It might be that we could make some logical modifications of the excess-profits tax, but a total abolition of it is favoritism pure and simple, as I see it, toward the people of this country who are imposing upon the purchasing public as they make their excess profits.

The Senator from Connecticut [Mr. MCLEAN] said that if you took the farmer's surplus, of course the farmer would have trouble. I say the farmer has no surplus; his is a deficit. And he further says that if you took 20 per cent away from the manufacturer which he wanted to use for extending and enlarging his business operations, necessarily you would impair the magnitude of the manufacturer's business, and that therefore he would leave them to make their excessive profits. I say that the legitimate concern in this country which is satisfied with a reasonable profit is entitled to some consideration. Certainly we should not reward the profiteer and penalize those who are content to let others live. If you have to leave these excess profits to those making them, what are you going to do about the legitimate concerns in this country which are making only reasonable profits? How do they prosper? It is all a mistaken idea that you have to be constantly practicing extortion on those with whom you do business in order to prosper. Some of the greatest and most successful business enterprises in this country have conducted their businesses upon an honest basis and upon reasonable profits, and yet they have prospered. As far as I am concerned, I have no patience with the concern which seems to think that it is necessary always to be making excess profits in order to make the business prosper. But certainly if we are going to permit them to continue to make their exorbitant, excessive profits, it is indefensible to say that you will exempt those excess profits from taxation.

Mr. WATSON of Georgia. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Florida yield to the Senator from Georgia?

Mr. TRAMMELL. With pleasure.

Mr. WATSON of Georgia. I call the Senator's attention to the fact that the very question as to what constitutes reasonable profits was adjudicated in New York in the famous case of the Gas Trust, and the highest court in New York decided that 8 per cent was a reasonable profit. That decision was not appealed to the Supreme Court of the United States, according to my recollection, or, if appealed, it was affirmed.

Mr. TRAMMELL. I thank the Senator for his very appropriate contribution. Of course, we could take the question of the public utilities of the country. It has been repeatedly held that a very low rate of interest compared with these excess profits was a reasonable earning for public utility corporations upon their stock.

Now, Mr President, what do our efficient Republican friends, who are backing this bill, propose as far as the bill is concerned in regard to the question of the tax upon transportation? They say, "We, forsooth, would probably disturb the finances of the country if we should discontinue this tax immediately. We must discontinue the excess-profits tax, we must discontinue the rates upon the surtaxes of people who receive net incomes of more than $66,000, but it will never do to discontinue the transportation tax; the Government needs the money, and we will continue the present rates of taxation upon freight and passenger charges of this country for the remainder of this year, and we will continue half of it for next year."

We hear nothing about continuing half of the levy upon excess profits for next year. We hear nothing from our Republican friends about continuing a half of the levy upon the present basis of rates upon those receiving net incomes of more than $66,000 per annum next year; but when it comes down to the consumers of the country, the toiling masses, the farmers, for whom our Republican friends pretend so much solicitude, they say that we must not release the transportation tax. We will continue that at half rates for the next year, and have it remain in force for the coming year.

Mr. DIAL. Mr. President, will the Senator yield?

Mr. TRAMMELL. Certainly.

Mr. DIAL. I would like to ask the Senator if it shows much economy on the part of the Republicans to pay some officers of the Shipping Board $30,000 a year, as we noticed in the paper yesterday is being done?

Mr. TRAMMELL. Mr. President, of course, the question suggests the answer in the mind of most anybody who believes in economy.

Mr. KING. Mr. President, the Senator ought also to mention the fact that the salaries paid to a large number of officials of the Shipping Board are higher than ever has been paid to officials of any agency of the Government. A number of them are getting $35,000 a year, a number of them $25,000, a great number $11,000, and the Lord only knows the aggregate which is paid in increased salaries by the Shipping Board. Moreover, it has been disclosed upon the floor of the Senate that whereas we attempted to limit the amount to be paid to attorneys, and required that the fees paid them should be approved by the Attorney General, the controlling legal light of the Shipping Board has defied the law and instructed the auditor to pay no attention to it.

Mr. DIAL. Some of the officials drew over four times the amount of salary that a Senator or Representative receives.

Mr. TRAMMELL. I thank the Senators for their contributions. I had expected to reach that a little later.

Of course, that illustrates, we might say, another page in the Republicans' efficiency and in their hearty sympathy with economy and the desire to bring about great economy in the country.

Upon this question of transportation charges we know who pays that tax. It is the producing and consuming people of this country. It is the people of the Nation who are already unduly and excessively taxed by exorbitant and excessive freight rates and passenger rates. Yet our friends, who pretend to maintain such efficiency of Government, not content that the American people are bowed down under the burden of excessive freight rates and passenger rates, would inflict an additional burden and hardship upon them by requiring them to contribute $290,000,000 a year as a tax upon freight and passenger charges.

Great love is that for the common, ordinary American citizen. That is a great performance of your promise to the American people that you would relieve them of taxation. When you said that you meant, of course, that you were going to try to reduce along the lines you have been following—that you were going to try to reduce the taxes of the profiteers, that you were going to try to reduce the taxes of those holding the swollen fortunes of this country; that is what you meant. But you were speaking to the great rank and file, the great hosts of the people of the country, and you were trying to create the impression upon them that you were solicitous for their happiness and future prosperity and contentment. You never expected to do anything for their relief.

As illustrative of Republican efficiency and Democratic inefficiency, about which we hear so much discussion, the present railroad law, which permits the railroads of this country to impose very excessive rates, is a glaring illustration. I have not heard of any of our good Republican friends standing up here and pointing to that as one of the monumental successes and achievements of the Republican administration.

Yet under that legislation the Congress, dominated by an overwhelming Republican majority in both branches, has permitted the railroads to impose freight rates that have in many instances paralyzed business enterprise, almost destroyed communities, almost destroyed industries in particular localities of the country. In my State, acting under this piece of legislation, the railroads increased the transportation charges 67 per cent upon perishable products—citrous fruits, vegetables, and other farm products. The result has been that the transportation charges are in excess of what the industries will stand if the grower and the producer is to have left any of the proceeds of his labor and the investment of his capital.

Yet we have not heard of any of our Republican friends, with their Republican efficiency, coming before the Senate or the House and proposing a measure of relief to the American people who are suffering, and suffering solely, under excess railroad transportation charges. We have, however, witnessed our Republican friends in their control of both branches of Congress following up their solicitude for the great wealth of the country, proposing legislation for the relief of the railroads, and when they do it they say that it is in the interest of the people.

I say, Mr. President, that the people want more direct benefits. They do not care to have the Republican Party directing Congress always seeking to give them some benefits through some invisible source. They want a little direct treatment instead of an application of the absent treatment. There is a good deal of question about the merit of that absent-treatment proposition and the policy of relief through intermediaries.

The Republicans want to use the railroads of the country as an intermediary through which to bring about prosperity in the country. You Republicans expect, when you make these contributions in the way of loans or advances, however they may be made, to raise the money by taxation and not from excess-profits taxes, not upon those who, with their swollen fortunes, are receiving more than $66,000 per annum, but you expect to spread it out in the way of transportation charges, you expect to spread it out in your tax upon incomes of the men who make less than $66,000 net per annum. That is the way you expect to assist the railroads of the country. The question is, Who is to pay the bills?

Mr. President, I realize that the railroads of the country have played an important part in the development of America. I am mindful that they have been great factors in the opening up of the unsettled sections of our country and have contributed to its prosperity. I would deal with them justly and fairly. I believe always that we should deal with every interest in a spirit of fairness and with justice, but that desire on my part can not persuade me into the belief that we should discriminate in their behalf. Nor does the spirit of fairness cause me to forget that the average American citizen is the real backbone of the Nation's prosperity and security.

During the late war, seizing the psychological moment, the transportation lines of the country called upon the Government to steer them safely through the perilous times, and the Government did so. I opposed the measure at the time. What do we find under the bill under which the railroads were taken over? We find that a guaranty was given to the railroads of earnings based upon the three years preceding the war. Three of the most prosperous years in the history of the railroads of the country were selected as a standard upon which the Government guaranteed them earnings.

I do not know of any other business enterprise in the country that the Government came to the rescue of in any such substantial way. It looks as though that would have been sufficient, however. I opposed that legislation. I believed that the railroads of the country and the railroad security holders should take their lot with the rest of the American people and suffer whatever may have been the fortunes of war, as far as earnings are concerned.

Understand, I thoroughly realize that it was necessary for the Government to take them over and operate them for the purpose of successfully carrying on the war and maintaining the transportation system during that perilous time; but as far as the question of earnings was concerned, the security holders of the railroads of the country should have taken their lot during the war just the same as millions and millions of other people of the United States did, whether upon the farm, whether in their stores or maintaining their manufacturing enterprises, or in whatever vocation or business they may have been engaged.

Not intent, however, with this beneficent Government guardianship during wartimes, the clouds of war having rolled away and our Republican friends having, under false pretenses—I say that not disrespectfully, because I do not mean it that way—won both Houses of Congress, we find them turning back the railroads to their owners and guaranteeing to the railroads that same basis of earnings for six months. We find also this efficient Republican Party, in control of Congress, writing into the law controlling transportation charges, for the first time in the history of the railroads, for the first time in the history of the Republic, a provision which provides that they should be entitled to establish or fix rates which would earn for them as much as 5½ per cent upon their investment, when prior to that time, if I am correct in my memory, the railroads based upon their aggregate capital in this country had never earned more than 2¾ per cent.

Under that provision they were encouraged, invited, and authorized to fix excessive transportation charges. Almost everyone who paid any attention to the railroad operations of the country knew then and know now, and a large majority of those who supported that measure knew that the aggregate capital of the railroads of America represented, in considerable part at least, watered stock; yet because the railroads come before Congress and ask it, the Republican Party authorized earnings which would net that amount to the transportation lines. Under the guaranties which the bill provided the American people had to contribute some seven or eight hundred million dollars to the railroads, not for services performed, not for freight moved, not for passengers carried, but because the efficient Republican Party, which is controlling and dominating the affairs of the country and delights to talk about Democratic inefficiency, gave them a guaranty which caused the American people to have to bow down under that burden of seven or eight hundred million dollars of taxes for the purpose of meeting that guaranty. That is some more of your Republican efficiency that the American people are having to pay for.

As I see it, the whole substance of the tax bill was defended about as ably as it could be by the Senator from Connecticut [Mr. McLEAN]. Taking the line of argument made by him in connection with the purport of the bill, he talks about the question of maintaining prosperity in this country, and says that what the laborers of the country want is work; that they do not care so much about the question of taxation. But if you take the bill, as far as its application is concerned, or the burden that it may impose upon the people of the country, the net result will be that its accomplishments will be to make the rich richer and the poor poorer. It can have no other effect in its operations, because you are relieving those who are most able to contribute to the tax burdens or you are reducing their taxes, and on the other hand you are shifting the taxes and

imposing them upon the great common people of the country, so called.

So far as I am concerned, I never distinguish between people as some do. I never did appreciate that proposition of talking about the "common people." I have always felt that its application was erroneous. I think we are all about the same in this country, in a general way; we are made out of the same kind of clay. The question of whether you have wealth or have not makes no difference to the man or the citizen in his patriotism and his loyalty to his country or in his character. What we want to-day is to recognize manhood and character in the country and give less recognition to the dollar.

I do not mean that we should not have just laws and deal justly with capital, but we should get away from the idea that some of our friends entertain of worshipping the almighty dollar, and every time you come to deal with legislation you should represent largely the big interests of the country and forget the great rank and file of the American people.

There is nothing in the idea which has been advocated by the Democratic Senators who have preceded me in the discussion of this question which justifies the criticism made by the Senator from Connecticut [Mr. McLEAN] that it seemed to him that their inspiration had come from Lenin and Trotski. That is the way those who represent the big interests of the country like to talk. It is a matter of dodging the issue. If I should indulge in fancy and conjecture, I might suggest that the Senator from Connecticut expressed himself as though he had gathered his inspiration from some czar or king or from some money baron, who felt that the common, ordinary run of American people had no rights and should not be considered, and that a man should not deign to stand upon the floor of the United States Senate and plead for an equitable and equal adjustment of the burdens of taxation for fear that he would be charged with having gathered his inspiration from Lenin and Trotski.

I feel that the Democratic Senators who have preceded me in discussing the pending measure and bringing to the attention of the Senate and the attention of the American people the provisions of the bill have performed a noteworthy service to the American people. It is now apparently realized that the measure should be reformed; that the policy advocated by Senators upon the Democrafic side who have preceded me should, in a large measure, be written into the bill; and I hope that it will be.

I think that we should not eliminate the excess-profits tax, though we might make some modification of it, as there are some instances where it may operate in a harsh manner. I think that we should not reduce the surtax upon those receiving incomes of more than $66,000 net per annum. I think that we should repeal, and immediately repeal, the tax which is imposed upon transportation charges. I introduced a bill in May last providing for the repeal of the tax on transportation charges, and I have an amendment now pending before the Senate providing for the repeal of such charges. That amendment should be adopted.

I also believe that there should be an effort made to simplify this proposed law. The old measure, of course, is complicated and difficult enough; but, so far as this measure is concerned, the old measure is not comparable to it at all. The pending bill may well be characterized as being a Chinese puzzle that nobody can understand. How are more simplified tax returns to be provided under a bill like this? Therefore there should be some effort made to simplify the proposed law and to make it plainer. I am frank to admit that after having studied the administrative features of the bill for several days I have been unable to comprehend them; yet our Republican friends congratulate themselves upon being business people and giving the people of the country a business administration and an efficient administration; they seem to have overworked the idea of trying to charge the Democrats with inefficiency, and told the American people that they were going to write a simplified law. I wish to read what the Republican Party had to say on this subject in convention assembled:

> But sound policy equally demands the early accomplishment of that real reduction of the tax burden which may be achieved by substituting simple for complex tax laws and procedure, prompt and certain determination of the tax liability for delay and uncertainty, tax laws which do not for tax laws which do excessively mulct the consumer or needlessly repress enterprise and thrift.

That reads all right, but the pending bill does not fulfill the campaign pledges of our Republican friends. They talked about simplifying the law, but they have not simplified it. They talked about reducing taxes, the idea being to impress the American people with the belief that they were going to reduce taxation upon the people, generally speaking, but there is nothing in this bill which proposes to reduce taxation on the people in a general way. So I say that our Republican friends had better fulfill their campaign pledges. Then we shall get a much better bill and one more in harmony with the particular provision in the platform which is intended to convey that idea to the American people.

Mr. HARRISON. Mr. President, will the Senator from Florida yield to me?

The PRESIDING OFFICER (Mr. SUTHERLAND in the chair). Does the Senator from Florida yield to the Senator from Mississippi?

Mr. TRAMMELL. Certainly.

Mr. HARRISON. The Senator from Florida was reading, was he not, from the Republican campaign textbook of last year?

Mr. TRAMMELL. I was reading one of the provisions of the last platform of the Republican Party.

Mr. HARRISON. In their platform, which is found in the campaign textbook two years before, they promised a revision of the tax laws, but they did not fulfill their promise during those two years, even though they controlled both Houses of Congress.

Mr. TRAMMELL. That is true.

Mr. President, I have had very little to say in the Senate, but I sometimes get almost out of patience with Senators talking so much about Democratic inefficiency and Republican efficiency when they themselves do not perform. They talk but do not perform. That has been the conduct of the Republican Party ever since I have been a Member of this body. The Republican Party has been in charge of both Houses of Congress for three years; there is no disputing that fact. The Democratic President came before Congress and not only recommended but urged upon the Congress that the tax law should be reformed to meet peace-time conditions, stating that the then existing law—and it is still in existence—of course, was hurriedly written during war time. Our Republican friends for two years and a half, at least, did not do a thing toward trying to reform the tax laws of the country and have only brought in this bill recently. They can not excuse themselves on the ground that they did not have charge of the Executive office, because the Executive, a Democrat, had recommended the enactment of a law suited to peace-time conditions; yet some, at least, of the Senators on the other side of the Chamber seem to desire to cloak themselves behind that kind of an excuse.

It does not appear that they had such timidity in connection with the enactment of a railroad law; our Republican friends did not feel any apprehension as to what they should do or should not do when it came to the question of enacting a law for the relief of the railroads of the country, because there was a Democrat in the presidential chair. The American people were clamoring for and knocking at the door of Congress asking for revenue tax revision; but our Republican friends turned unto them the deafened ear, and now try to excuse themselves because, they say, there was a Democrat in the White House. When, however, the railroad owners of this country came to them and appealed for relief for the enactment of a law, they wrote a law that suited the railroads; that is what they did. I remember that when the different people representing the railroad interests came here and presented their claims, the bill which was enacted was the bill which they wanted. They were not told "You will have to wait a little while until we have a Republican President; we are afraid that if we now pass a law of the kind desired it will not do, for a Democratic President might veto it."

The Republican Party, I repeat—and I say this because there has been much said on the question of parties and partisan activities—the Republican Party has been long on promises and strong on excuses, but have been decidedly short on performances. That party has not met its campaign pledges, its campaign utterances, nor its national convention platform in the provisions of the bill that is now before the Senate. I hope that the pending bill will be re-formed so as to be a just and equitable measure to all interests and to the entire American people who will have to bear the burden under its provisions.

Mr. CARAWAY obtained the floor.

Mr. HARRISON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum being suggested, the Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Ball	Curtis	Harris	King
Borah	Dial	Harrison	Ladd
Brandegee	Dillingham	Heflin	La Follette
Broussard	Elkins	Hitchcock	Lenroot
Cameron	Fletcher	Jones, N. Mex.	Lodge
Capper	France	Kellogg	McCumber
Caraway	Hale	Kendrick	McKellar
Colt	Harreld	Keyes	McNary

Nelson	Poindexter	Smoot	Watson, Ga.
New	Pomerene	Sterling	Watson, Ind.
Newberry	Ransdell	Sutherland	Weller
Nicholson	Reed	Townsend	Williams
Oddie	Robinson	Trammell	Willis
Overman	Sheppard	Wadsworth	
Page	Simmons	Walsh, Mont.	
Pittman	Smith	Warren	

The PRESIDING OFFICER (Mr. LADD in the chair). Sixty-one Senators having answered to their names, a quorum is present.

Mr. CARAWAY. Mr. President, with amazement I heard the claim advanced, or rather proclaimed, that the pending revenue bill was the product of a nonpartisan committee; that politics had not entered into its making and should not be considered in its discussion.

The Senator from North Dakota [Mr. MCCUMBER], an able and conscientious Senator but one of the most partisan within this Chamber, has twice read the Senate a lecture on the crime of partisanship as applied to the consideration of this revenue measure. Of course, we know that their lectures were not for the Members of the Senate but for the country. I say this because we all know that the Senator never rises above nor falls below partisanship in the consideration of any legislative measures. No vote has he cast on legislative measures since I have been familiar with congressional procedure that has been uninfluenced by partisanship. I am not complaining of these lectures. They are without effect here and I presume everywhere else. It would, however, seem to be in better taste to adopt the frank expression of the Senator from Indiana [Mr. WATSON], who, the other day, declared his unfaltering allegiance to party. He said he believed in party government, in party control, and party responsibility. So do I.

But in passing I shall notice what the Senator from Connecticut [Mr. MCLEAN] has just said, that he thought that the inspiration that had prompted the Democratic Party in its opposition to this measure must come from Trotski and Lenin. Trotski and Lenin, as I understand it, stand for disorganized government, for inefficiency, for chaos; and if our inspiration came from these sources we could have gotten it from much nearer home. We need merely to have looked to the other side of this Chamber.

On the 12th day of July last, after much preparation and with a stage setting meant to be dramatic, the President of these United States came before the Senate and with apologies, not for the violation of the Constitution, of which he seemed to be absolutely unaware, but with apologies for breaking party pledges, asked the Senate to recommit—which he knew meant to kill—the measure designed to give to the ex-service men of this last war adjusted compensation. In his very remarkable speech he expressed the hope—that I know that he knew and that every Member of the Senate knew was not to be fulfilled if his party continued in power—that at some future date this bill would be again reported from the committee and enacted into law. His reasons, however, urged then for the recommitment of that measure, were that the Treasury could not stand the strain; that the financial conditions of this country, in view of legislation which must follow the readjusting of taxation, could not bear the expense of caring for an adjustment of the soldiers' pay.

The very able Senator to whom I referred a minute ago, the Senator from North Dakota [Mr. MCCUMBER], had reported the bill for soldiers' adjusted compensation, and in his report, as I now recall, he set out five plans under which ex-service men might select adjusted compensation; and his figures, if I be not mistaken, disclosed that the annual appropriations to take care of this adjusted compensation never would exceed $200,000,000 a year, and that in a very short time these appropriations would be very much reduced as the total cost was not to exceed $1,400,000,000 and would be paid in five equal parts.

Many Senators on the other side of the Chamber—and I think most of them—had voted to make this bill the unfinished business of the Senate. As I now recall, only four voted against so making it the unfinished business of the Senate. Everybody knew that it was to pass by an overwhelming majority until the President came and urged that it should not pass because the Treasury, in view of legislation that was to follow, could not bear the strain of this $200,000,000 a year. The Republican Senators swallowed their pride, repudiated their votes by which they had made this measure the unfinished business of the Senate, and recommitted that bill, knowing that recommitting it meant to kill it. I know they did not understand the necessity nor did they comprehend the reason why the Treasury could not bear this strain of adjusted compensation for the soldiers at this time. Now, we know, for the same committee has reported out this bill, and I am going to discuss only three items in it and show that these three items furnish the answer why the Treasury could not, as the President said, bear the strain of adjusted compensation for the ex-service men at this time.

In the first item, they undertake by this legislation to amend the provisions of the surtax so as to cut down by 50 per cent the surtax on certain incomes ranging from $68,000 a year up. This amendment affects only 12,000 men. Every one of these men is a millionaire, many of them made so by conditions brought about by the war. These 12,000 men are relieved of $90,000,000 a year in taxes, not for 1 year or 2 years or 20 years, but for always and a day. This item alone if permitted to remain as the existing law now is, and properly funded, would have taken care of the soldiers' adjusted compensation. The party in power, however, believes that it is better to relieve 12,000 millionaires of a surtax ranging from 32 to 65 per cent—men whose fortunes were made by war conditions—it is better to relieve them of these taxes than to keep faith with 4,500,000 men who, at their country's call, gave up their dreams, abandoned their ambitions and their hopes, and offered, if need be, to die for their country, for the mere pittance of $1 a day. It is now apparent that the Republican Party would rather break faith with these 4,500,000 men than to deny a readjustment of income to 12,000 men whose incomes range from $68,000 to that many millions annually.

If, however, they were compelled, as they seem to think they were, to relieve these 12,000 millionaires of this portion of the surtax, should they not have left upon the corporations of this country the insignificant tax of $1 upon each share of their stock of $1,000 cash value. This small sum would cost a corporation of $10,000 but $10 a year and one of $100,000 but $100 a year. I am sure if these had been the kind of corporations really affected by this stock tax that this provision would not have been repealed; but it relieves certain corporations, big corporations, of large sums that amount in the aggregate to $75,000,000 a year. Among the beneficiaries of this will be Woolworth Co., who escape a tax of $120,995; United States Rubber Co., who save $179,995; Standard Oil Co. of California, $79,160; the Standard Oil Co. of New Jersey, $806,395; General Motors Co., $800,795; the American Tobacco Co. would escape a tax of $224,887; the National City Bank of New York escapes a $123,595 tax; the General Electric Co. $229,395; and the International Harvester Co. would save $193,595 in taxes annually.

This $75,000,000 a year would not meet, it is true, each year the annual expense of the adjusted compensation; but when we remember that this tax was to be paid not for one year, nor for 10, but might have been continued on the statute books, and ought to have been, if funded would at last more than have taken care of this expense. However, the Republican Party thought it better to relieve these corporations of this trifling tax of $1 upon shares of $1,000 cash value, even though while doing so it was compelled to break faith with every man who wore his country's uniform during that struggle which we were once pleased to say was for the saving of civilization.

But if by reason of the fact that these corporations had furnished the sinews with which they had won the last election, and they were under the necessity of looking to them in the future for money with which to carry on campaigns to maintain their control of this Government, they were compelled to relieve them of this $75,000,000 a year, there was still one other source from which they could have gotten the money.

Mr. REED. Mr. President——

The PRESIDING OFFICER. Does the Senator from Arkansas yield to the Senator from Missouri?

Mr. CARAWAY. I yield.

Mr. REED. I just wanted to make the suggestion that there was a difference between the soldiers and these great corporations. The great corporations, as the Senator puts it, furnished the sinews to win the election; the 4,500,000 soldiers furnished the sinews to save the country.

Mr. CARAWAY. And as between the two, when a promise was outstanding to both, our Republican friends repudiated their obligations and their promises to the men who had saved the country, and kept them to the corporations who had furnished the sinews to win the election. Granted, however, it seemed to the Republicans necessary to repeal this tax in order to keep faith with the corporations whose contributions had enabled the Republican Party to win the last election. Surely there was another tax which is estimated to raise $450,000,000 annually, which amount would have paid two times over the cost of the soldiers' adjusted compensation each year. Certainly this could have been left upon the statute books for that purpose. I speak of the excess-profits tax, not a penny of which a corporation is required to pay until it, the corporation, has

earned above every cost of operation, including salaries, all other taxes, a fund to take care of depreciation and obsoletion and a 10 per cent net dividend. That is, that every stockholder in the concern would have been guaranteed 10 per cent upon every dollar he had invested in the enterprise with the added assurance that a sufficient sum would be accumulated to take care of depreciation, so that the business would always be preserved.

Ten per cent is the very highest legal rate of interest the law will permit to be collected in 37 States of this Union. There are only 11 States which sanction an interest rate higher than 10 per cent. If one shall ask and receive more than 10 per cent in 37 States of this Union he is declared to be a usurer, and his contract is void. The punishment for having made it is that he shall lose both the interest and his principal.

If it is wrong, if it is against public policy, to permit a man to lend money and collect for its use exceeding 10 per cent, and he is punished by a forfeiture of his interest and his principal if he shall ask and receive more than that, how can the Republicans say it is unfair and unreasonable to compel a corporation, after it shall have earned 10 per cent, to pay a small part of its additional earning to the Government as an excess-profits tax? If the corporation were a money lender, and if it earned more than 10 per cent on its money loaned, it would be declared to be a usurer and outside the pale of the law; and yet, laying this small tax, rising as the income increases, upon the excess earnings of these corporations above 10 per cent would have taken care twice over of the adjusted compensation of the American soldiers, sailors, and marines of this last Great War.

But I take it that we now know what the President meant when he said that in view of legislation to readjust the taxes the Treasury could not stand the strain, and, therefore, protesting as he did, that he held in very high regard the services of the soldiers and sailors and marines, and that the country appreciated their sacrifices, he advised his party confrères to swallow their pride and break their pledges, and relieve these corporations of the excess-profits tax, although in so doing they had to dishonor themselves by dishonoring their pledged word.

Each Senator before he votes to relieve these millionaires, these corporations, and these profiteers of these taxes should answer to himself these questions: What reply can he make to the boys who were forced to enter military service in 1917 and 1918 by a law enacted by this Senate, which gave to them no choice as to whether they would serve; which gave to them and their wishes no consideration in fixing the wage at which they should serve? What answer will you make to them when they remind you that you voted to kill the measure which sought to give them adjusted compensation, under the pretext that the Treasury could not bear the strain, while you now relieve, by this measure, 12,000 millionaires of a portion of their surtax affecting only incomes above $68,000 annually, but in the aggregate amounting to $90,000,000 annually, a sum sufficient to have met this adjusted compensation? What is to be your explanation—that the Treasury could not bear for a few years $200,000,000 a year to pay their adjusted compensation, but can bear to lose $90,000,000 forever in order to relieve these war-made millionaires of a portion of their surtax on incomes above $68,000? What will be your reply when they say to you that you could relieve corporations of $1 on the $1,000 shares, cash value, of their stock, which in the aggregate amounts to $75,000,000 a year, which will deprive the Treasury of this amount, and yet say that the Treasury is in such an imperiled condition that it could not stand the strain of the adjusted compensation? They will know, and you will know, that if you had left this stock tax on the corporations it would have taken care of this adjusted compensation.

Beyond that, what is your answer to be when these ex-soldiers remind you that you voted to recommit, which meant to kill, and which you knew meant to kill, their adjusted compensation, under the pretense that the Treasury could not bear the additional strain of $200,000,000 a year for a few years, yet now you seek to deprive the Treasury of $450,000,000 annually, or two times more than would have been required to take care of this adjusted compensation, and that you did this in order to relieve the profiteers of this country of a tax on their excess profits? Be assured these questions are to be answered and every man who votes for this measure as it now is framed will have to answer them. He will have to admit that he considers that a profiteer, a millionaire, a corporation is entitled to more consideration at the hands of its Government than is the soldier who offered to lay down his life in the defense of its flag. Beautifully expressed sentiment, sympathy tendered, and promises made will not, can not be acceptable. You will be judged by what you have done and not by what you promise. You granted them no consideration at all.

Mr. POMERENE. Mr. President——

The PRESIDING OFFICER. Does the Senator yield to the Senator from Ohio?

Mr. CARAWAY. I yield.

Mr. POMERENE. While the Senator from Arkansas is charging our political friends on the other side with bad faith, I think he should give them credit for the good faith they have exercised.

Mr. CARAWAY. I do. I say they kept faith with the millionaires and profiteers and corporations.

Mr. POMERENE. But I want to call the Senator's attention to another feature. When we were investigating the question of campaign funds, Mr. Dudley S. Blossom, who was the director of public welfare in Cleveland and who was a member of the Republican finance committee which was raising funds, testified in Chicago that he was directed by the committee having in charge the raising of these funds in the State of Ohio that the quota for Cuyahoga County, which is the county in which the city of Cleveland is located, was $400,000—for one county in the State; true, it is the biggest county. Later on, when the chairman of the committee had concluded that he was going to eliminate the large subscriptions and would ask for $1,000 subscriptions, common report had it in the State that when the solicitors called the subscribers were advised that if they paid this fund and the Republicans were elected, these excess-profits taxes would be reduced, and they would get their pay indirectly in that way. So, whether it is a coincidence or not, the relief suggested by the majority of the Finance Committee is in keeping with what common report said was the promise that was made to the subscribers.

Mr. CARAWAY. And that is one time when common report seems to be correct.

You have broken faith with 4,500,000 American soldiers; you have denied them justice. You have denied them the pitiful sum that would have made them earn about 50 per cent of what a common laborer received during the war as a complete recompense for all the sacrifices they endured and the hardships and dangers they suffered. Your party has done more than that. Upon the statute books there is a law written while the Democratic Party was in power and by it observed as long as it had control of this country. That law provided that in public employment ex-soldiers should be given preference. This administration gives preference in its legislation to millionaires, corporations, and profiteers and in employment to politicians and not to ex-service men. I know one instance that came within my personal observation where an ex-service man—a college man, a man who spent many months in France during the war—was driven out of a department here to make place for a favorite of the chief of his bureau. I called the attention of the Secretary to this infamous outrage and did not even receive the courtesy of a reply.

I have upon my desk the records of an appointment of a postmaster in my own State in which two men took the examination, one who had been a soldier during the recent war and had discharged his full obligations to his country in its time of peril and who in the competitive examination for appointment as postmaster made the higher grade. He was displaced, and his competitor, who had never been a soldier, who had performed no public service and who had made the lower grade in the examination but who was the better politician, has his name now pending before this Senate for confirmation as postmaster at Hartman, simply because he was able to command the indorsement of the Republican organization of my State. And permit me to tell you who that organization is. It consists, in fact, of an executive committee of 16 men, 13 of whom recommended themselves for public office, and after having taken for themselves all the better places within the State, now seek to reward their henchmen with the lesser offices. In so doing they are compelling the Postmaster General to violate the law which requires that preference be given to ex-service men and to violate the President's Executive order touching the appointment of those who were best fitted and whose grade disclosed that they possessed superior qualifications. This is the Republican Party. These are the promises it made, and these its performances, from which it may be inferred that it never keeps faith with individuals if these individuals be poor and without powerful influence, and it never dishonors its promises made to the millionaires, to the corporations, to the profiteers, from which it has in the past received contributions and to which it looks in the future for money it needs to keep itself in power.

In passing I can not refrain from noticing that the Secretary of Labor recently said, "When good times return, the first jobs

will go to the first men who accepted the great job of fighting for the safety of civilization. Any employer who ignores this ceases to be an American." I am willing to accept his conclusion, if his party is willing to be judged by his standard.

While this legislation was in incubation the President compelled the majority Members of the Senate to deny to the soldiers adjusted compensation. There were then hundreds of thousands of them—able and willing to work, honest and intelligent men—begging for employment, and at the time the Republican Senators denied them adjusted compensation; but they, on the other hand, sought to repeal every tax that rested upon the millionaire, the corporation, and the profiteers.

The irony of all this appears the more striking that while this Senate, bowing to the dictations of the White House, was killing adjusted compensation legislation for the soldiers and was busy devising the means for relieving the profiteers, corporations, and the millionaires of a large portion of their taxes, that white men, these ex-soldiers, honorable men, honorably discharged, were stripped to the waists and sold like slaves from the auction block on the old historic Commons in Boston. Let these three acts stand as the achievement of the Republican Party: First, its pledges made to the ex-service man, violated by killing the adjusted compensation bill; second, its promises kept to the profiteer, to the corporation, and to the millionaire by relieving them of a large portion of their taxes; and, third, soldiers, white ex-service men, sold like slaves on the auction block.

At least our New England friends by this last act have made good one of their oft-repeated boasts that they were no respectors of person, either as to race or color; that they loved equally well the Negro as did they the whites. I say they have made good this boast, because from this same auction block from which they so recently sold these white ex-service men they had formerly sold as slaves the ancestors of nearly every Negro in America. But will the parallel end here? No sooner had they sold these Negroes to southern planters than they commenced to agitate and to hold up their hands in holy horror and proclaim that their conscience compelled them to set free these Negroes which they had but recently sold. They did this. Now will they endeavor to free these white men whom they so recently sold into economic slavery to profiteers, millionaires, and corporations? They can not if they enact this bill into law, because it takes from the Government the power to liberate these ex-service men by giving to them an adjusted compensation if these 12,000 men are relieved of the $90,000,000 surtax; and if the corporations must be relieved of the $75,000,000 stock tax, and if the profiteers of this country must be relieved of the $450,000,000 excess-profits tax, the Treasury will truly be unable to bear the strain, and the adjusted compensation will have to be denied them forever.

Replying to the tirade—possibly I should not call it that, although it was that—of the Senator from Wisconsin [Mr. LENROOT] yesterday in taking to task the Senator from Missouri [Mr. REED] for having expressed the hope that the Republicans would bring out some kind of a bill that would be for the relief of the people. He said the Senator from Missouri was inconsistent. I wish to say that the Republican Party is inconsistent, if I may be permitted to say it without offense, because I do not want to fall within the class who are accused of getting their inspiration from Trotski and Lenin.

Here is what you are doing: You reported this bill and you would have passed it without the dotting of an "i" or the crossing of a "t" if you had not found that there was opposition on this side of the Chamber that would not let you do it. Now, you admit that you knew of its inequalities and injustices from the beginning. That is what the Senator from Wisconsin said yesterday, that they, the Republicans, knew that all the time. So help me Almighty God, if they knew it they kept that information to themselves, and they were such splendid actors that nobody ever suspected they thought there was anything wrong with the measure. If you knew the bill was wrong, if you knew it had injustices and inequalities in it and were going to vote for it, what answer are you going to make to the people back home? You know these deathbed repentances——

Mr. LENROOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Arkansas yield to the Senator from Wisconsin?

Mr. CARAWAY. Certainly.

Mr. LENROOT. Does not the Senator know that amendments to the surtax provision were introduced on this side of the Chamber before they were introduced upon his own side?

Mr. CARAWAY. I did not know it, and the Senator from Wisconsin, if he introduced them, kept them a secret. I venture the assertion—and I would not be personal for anything—that the Senator would have voted for the bill without having said a word in opposition to it. I believe there was but one vote on the other side of the Chamber which would have been cast against the bill if you had not found out that you could not pass it without these amendments suggested by the Democrats. After your meeting last night you now say, "We are going to take out these inequalities and injustices," and yet your allegiance is owed and paid to the party which reported this measure which you now admit is full of injustices and inequalities.

What confidence do you expect to inspire in the voters in the future when you admit yourselves that you tried to put over a bill that was indefensible, and that you only abandoned your effort after you found you were caught?

Mr. KING. Mr. President, will the Senator yield?

Mr. CARAWAY. Certainly.

Mr. KING. Apropos of the statement made by the Senator from Wisconsin [Mr. LENROOT], if I may be pardoned for a personal reference, an amendment was offered by myself on September 26 increasing the surtaxes up to a minimum of 40 per cent and increasing all of the surtaxes above a certain grade.

Mr. CARAWAY. The surtax would have been reduced to 32 per cent without a protest on the other side of the Chamber if it had not been that this side called the attention of the country to the infamous repeal of taxes upon what President Roosevelt at one time I believe called the malefactors of great wealth.

Mr. MCKELLAR. Mr. President, I wish to call the Senator's attention to the further fact that the administration sought to have this tax reduced to 25 per cent. The Secretary of the Treasury came before a committee of Congress and urged it.

Mr. CARAWAY. I do not doubt that is what they had promised to do and he felt they ought to keep their promise literally. These Senators merely want to keep it in the spirit. They know they are not going to pass the bill as it is written. I am not at all certain, however, what we will get back when it comes from conference. I imagine when this measure goes to conference the same influences that brought the bill out of the Committee on Finance by a strictly party vote will put many of these inequalities back in the bill, and when this shall happen I shall watch those 20 Senators who at the home of a Senator pledged themselves not to stand for the injustices which were written into the bill by their party.

In 1922 your promises and your performances will be presented to the people, and the whole American people, the honest, justice-loving American people, will determine whether you were wiser and more patriotic in denying these 4,500,000 soldiers a readjusted compensation or as you prefer, by relieving these millionaires of their portions of surtax, the corporations of their stock tax, and the profiteers of tax on their excess profits. Nearly 2,000 years ago it was said that a man could not serve two masters, that he would cleave to one and despise the other. All human experiences teach that that is true, and you will have but exemplified it in this legislation. You can not serve the people and the profiteers, and you have chosen to cleave to the profiteers and despise the people.

BURIAL OF UNKNOWN AMERICAN SOLDIER.

Mr. WADSWORTH. Mr. President, I do not intend to discuss the pending bill, and perhaps I should have consulted some Senators before submitting the request I am about to make.

Senators will recollect that on November 11 next there is to be buried at Arlington Cemetery, with appropriate ceremonies, military and civil, the body of an unknown American soldier. The War Department has nearly completed arrangements for that important and impressive event. By direction of the Committee on Military Affairs, I wish to report a joint resolution authorizing the Secretary of War to use the unexpended balance of an appropriation made a year and a half ago for the Graves Registration Service of the Army in paying the expenses of the ceremonies on November 11. I ask unanimous consent, out of order, to report the joint resolution back to the Senate favorably without amendment and I submit a report (No. 285) thereon. I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER (Mr. LADD in the chair). The report will be received in the absence of objection. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. J. Res. 123) authorizing the Secretary of War to expend from the appropriation "Disposition of remains of officers, soldiers, and civilian employees, 1922" (act of Mar. 4, 1921, Public, No. 389,

66th Cong.), such sum as may be necessary to carry out the provisions of public resolution No. 67, Sixty-sixth Congress, which was read, as follows:

Resolved, etc., That the Secretary of War is hereby authorized to use such portion of the unexpended balance of the appropriation "Disposition of remains of officers, soldiers, and civilian employees, 1922" (act of Mar. 4, 1921, Public, No. 389, 66th Cong.), as may be necessary for the carrying out of the provisions of public resolution No. 67, Sixty-sixth Congress, entitled "Joint resolution providing for bringing to the United States the body of an unknown American who was a member of the American Expeditionary Forces, who served in Europe and lost his life during the World War, and for burial of the remains with appropriate ceremonies"; and he is further authorized to expend from the said appropriation such sums as may be necessary to defray all expenses incident to the ceremonies connected with the burial of this unknown American, including the expense of transporting troops, individual officers, warrant officers, enlisted men, and sailors of the Regular Army, Navy, and Marine Corps to and from Washington.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

THE FARMER'S FINANCIAL PROBLEM—ARTICLE BY SENATOR FLETCHER.

Mr. SHEPPARD. Mr. President, I ask to have inserted in the RECORD a very able article on the farmer's financial problem, written by the Senator from Florida [Mr. FLETCHER] and published in the Journal of Commerce and Commercial Bulletin of Monday, September 26, 1921. It is a very interesting article.

There being no objection, the article was ordered to be printed in the RECORD as follows:

SOLVING THE FARMER'S FINANCIAL PROBLEM—REMEDIES THAT ARE WITHIN OUR REACH.

[Written for the Journal of Commerce by Hon. DUNCAN U. FLETCHER, United States Senator.]

Nothing is more important than the production of the Nation's food. To accomplish this on a safe, permanent basis requires a healthy, sound agriculture. Next in importance is a proper, economic distribution of the products of agriculture. Thus, it is clear, production and distribution become the handmaidens of industrial life. It is the Nation's business to have a care for both. It is everyone's business to help the work along. Involved in this production is agriculture. Involved in this distribution is commerce. Therefore agriculture and commerce, in a broad sense, should go hand in hand. Both require capital if they are to be successfully and efficiently conducted. They present distinct problems, and their needs in this respect are different in extent and character.

BEST MEANS OF HELP.

In this discussion, necessarily limited and condensed, we can only deal with the best means, as we conceive, of supplying the necessary capital for the producer. His requirements are very small as compared with commercial business, manufacturing, transportation, and larger enterprises. In the aggregate they amount to six or eight billion dollars, but in individual cases they are almost insignificant. The vital feature in meeting the requirement is that the capital should be provided on terms imposed by the very nature of the business. The producer is under the compulsion of the seasons. His occupation is laborious. He has to contend with the uncertainty of the weather, all the enemies of plant life, high prices for supplies, difficulty of procuring labor, gluts in the market, and a thousand perplexities not necessary to mention. He must, therefore, have ample time in which to repay any loans made him to purchase his farm, improve his property, construct the needed buildings, provide the conveniences and comforts to make his home attractive, and in order to achieve the best results to extend his operations. Inasmuch as his earnings are comparatively small, his financial returns meager, his turnover a matter of months instead of days, it is absolutely necessary that the interest charges he must pay shall be low. He must prosper and be contented that our civilization may survive.

A plan that would supply this capital on easy payments and at low rates of interest must be different from the financial system devised to facilitate commercial business.

WORK OF PAST YEARS.

After sending abroad a commission of two representative men from each State and a cooperative commission of seven appointed by the President (of both which commissions I had the honor to be chairman), for the purpose of investigating for the benefit of agriculture, the systems then (1913) in operation in the older countries of Europe, as well as conditions existing in the United States, Congress passed what is known as the Federal farm loan act, based on their reports and growing out of that work. For the first time in our history we then provided a financial system for supplying the capital needs of those engaged in agriculture separate and distinct from our commercial or banking system.

Under that system $434,362,074.32 has been provided and loaned to farmers in this country at 5½ per cent per annum, with no expense for commissions or other charges, with the privilege of paying off the principal at the rate of 1 per cent per annum and the right to pay any or all the principal at any interest period after five years. In other words, the farmers, if the act can be made fully operative, will be getting their capital accommodations on practically their own terms and at the rate of interest of only 5½ per cent per annum or perhaps less.

OPERATION OF FARM LAND BANKS.

The capital is found by the sale to the public of farm-loan bonds secured by first mortgages on farm lands, valued by appraisers appointed by the Farm Loan Board at 100 per cent more at least than the amount of the loan granted in each case, secured further by the personal obligation of the borrower; further, by the indorsement of the local National Farm Loan Association, of which the borrower is a member, which is chartered by the Farm Loan Board, and further secured by the capital stock of the Federal land bank issuing the bond and also by the guaranty of the other 11 banks of the system. When the mortgages are tendered and approved as first liens on real estate at least double in value the amount of the mortgages the Federal land bank applies to the Farm Loan Board for authority to issue bonds sufficient in amount to supply additional borrowers, pledging these mortgages as collateral security. Being then authorized, the bonds are issued at 5 per cent interest and sold to the public. The proceeds go to farmer borrowers, respectively, in the full amount of the mortgages. It is thus seen that the bonds must be sold before the loans can be continued. The capital is supplied from the proceeds of these bonds. If the bonds can not be sold, the capital can not be found and the loans can not be made. If the bonds must bear a higher rate of interest in order to cause demand and find purchasers, the borrower must pay that higher rate of interest. The law provides the borrower must pay the bank the amount of interest the bonds bear plus the cost of administering the system, which shall not exceed 1 per cent, and provides, further, that the farmer borrower shall not be required to pay more than 6 per cent per annum interest. Thus far the cost of administration has not exceeded one-half of 1 per cent, and when the business reaches the dimensions it ought to, and will reach, this cost should not exceed one-quarter of 1 per cent.

EXEMPTION FROM TAXES.

In order to keep this interest down and thus meet the necessities of the producer these bonds are made exempt from all taxation. While it is estimated there are outstanding some $16,000,000,000 of tax exempt securities, and while these must be diminished and future issues prohibited, even though a constitutional amendment is necessary, these farm-loan bonds must carry that tax exempt feature, because the capital needs of the producers must be supplied on the basis of a low rate of interest. The bonds must be sold in order to get the capital required by the farmer. They must bear a low rate of interest, such as the business of agriculture will justify; otherwise the proceeds can not be utilized advantageously and the purpose of the act has failed. The problem is plainly to create a market for the bonds. In normal times the public and investors would absorb them readily. Now, when large quantities of high-class securities are on the market, bearing rates of interest exceeding 6 per cent, there is not sufficient demand for farm-loan bonds to furnish the money the farmers require. It is perfectly feasible to create that demand.

The bill which I have introduced (S. 620) and which is now with the Committee on Banking and Currency will do it. It simply provides that acceptances or promissory notes of member banks, with farm-loan bonds in the amount of the notes as collateral security, shall be eligible for rediscount by the Federal reserve banks, and that eligible bank acceptances may be given against the deposit of such bonds as security. The moment that is done the banks all over the country will want those bonds. The demand for them will become practically unlimited. These bonds are secured in the way I have mentioned. They are absolutely safe. They bear interest at 5 per cent and are exempt from all taxes. Negotiable paper secured by such bonds is fully protected. Why should such paper not enjoy the rediscount privilege that paper arising from commercial transactions enjoys?

OBJECTION TO REDISCOUNTING.

The objection offered to this proposed amendment to the Federal reserve act is that it would violate the principle of that act, which is that circulating notes shall only be issued when secured by commercial paper of short maturity, "self-liquidating" in character—that is, payable at maturity from the proceeds of the commodity which changed hands when the paper was given.

My answer is, first, the farmer has under the farm loan system been able to make his asset—his real estate—liquid in character by its taking the form of this negotiable bond. This paper, secured by such a bond, is "self-liquidating" just as much as is any commercial paper now eligible for rediscount. In the next place, every banker knows the principle of "self-liquidation" is not correct, either in theory, under the definition given by the Federal Reserve Board of commercial paper, or in practice, by his own experience. The Federal reserve bank looks to the member bank, not to the property sold, and the member bank looks to the maker of the note, not the commodity involved in the original transaction. To illustrate: If A sells B a horse or a bale of cotton or an automobile for $500 and takes B's note at three months for the amount, A can take that note to his bank and discount it, and his bank can forward it to the Federal reserve bank and rediscount it, receiving circulating notes therefor. If in 30 days B sells that same horse to C for $500 and takes his note at three months, that note may take the same course as the first. If 30 days thereafter C sells the same horse to D for $500 and takes in payment D's note at three months, that note C may discount and his bank rediscount with the Federal reserve bank in the same way. The Federal reserve bank will now have $1,500 in commercial paper, three notes due at intervals of 30 days, and there may be a dead horse with which the self-liquidating process is to be effected. Of course, the idea of rediscounted commercial paper being "self-liquidating" is worse than a mere theory—it is a myth.

BASIS FOR PAPER.

Can anyone reasonably contend that the paper I have mentioned in the transactions with the horse stands on a sounder basis, a better principle, than similar paper having attached to it as collateral a farm-loan bond, for which there is a ready market in amount equal to the face of the note in every instance? The former paper is now, under the law, eligible for rediscount, whereas it is claimed the sacred principle of that law would be violated by amending it so as to place paper with farm-loan bonds as collateral on the same footing. It seems to me such a claim is absurd. If this amendment is enacted by Congress, it will give to the farmer some of the indirect benefits of the Federal reserve act. It will, in a way, connect the Federal reserve act with the farm loan act, whereby the benefits of the former, now enjoyed exclusively by the trader, may be shared by the producer, to the advantage of both.

It will create a constant and broad market for farm-loan bonds. I am assured that the city bank or banker, the big insurance and trust companies, indeed, all dealers in securities or traders in debts—and banking is but another name for trading in debts—will find it most convenient to have always available a security which, under any and all circumstances, may readily be converted into cash.

SOURCE OF DEMAND.

Nor will this demand come alone from the banking fraternity, whose business is the buying and selling of debts, but from large and small investors as well. As soon as it is understood that farm loan bonds will also command a banker's acceptance, and that these acceptances under the Federal reserve act entitle the holder to the lowest rate of discount at the Federal reserve banks, such bonds will be sought by the savings banks and by big industrial and mercantile establishments whose business requirements are such that only at certain seasons of

the year must they have ready cash. They will not find it necessary to keep large bank balances idle or bearing a nominal rate of interest, for farm loan bonds will then be a most desirable substitute for such balances, yielding a greater profit.

A small investor will also find those bonds a profitable substitute for time deposits, being in convenient denominations and yielding a better rate of interest, yet always available to produce cash. The privilege or benefit this bill asks for farm loan bonds is now enjoyed by United States bonds, and is no new experiment in finance. Surely it is not asking too much for that industry, on which all others are dependent, in which 45,500,000 of our people are engaged, operating property worth $78,000,000,000, yielding products of the value of $20,000,000,000 annually, to insist that it be afforded facilities equal to those afforded any other industry or business for realizing its needed financial accommodations.

PERSONAL CREDIT NOT REQUIRED.

If this is done, the need for short time personal credit will soon disappear. The farmer will be able to proceed on a cash basis as to his current expenses. He will not be obliged to pay two prices for supplies he now buys on credit. By a proper use of the capital he can obtain under the farm loan act his earnings will be such that he can meet the interest and amortization charges and lay aside sufficient to carry him until his next crop comes in.

Efforts to make it easy to obtain credit for everyday demands will tend to encourage going into debt, and this should be avoided.

Once his farm is acquired and put in thorough order and its full earning power is developed at a charge so low that he can not fail to meet it and on such terms as to relieve him of all care and anxiety his main problem is solved, and his daily current expenses he will soon find, by the exercise of a little foresight, he can readily manage.

TAX REVISION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

Mr. HEFLIN. Mr. President, in his speech a few moments ago the Senator from Connecticut [Mr. McLEAN] made reference to a resolution which was introduced by me sometime ago having for its purpose the reduction of the discount rate of the Federal reserve banks. My resolution provided that the discount rate should be reduced to 4 and 4½ per cent. The Senator is opposed to reducing the discount rate. He said that if he should suggest that the price of cotton be fixed at 4 cents a pound I would seriously oppose such a proposition, but that when I suggest that the discount rate should be fixed by law that is a parallel case with the cotton situation.

I am utterly surprised, Mr. President, at that suggestion coming from the Republican chairman of the Banking and Currency Committee of the Senate. The Senator ought to know, and I suppose does know, I am sure he does, that every State in the Union has a rate of interest which is fixed by law. Every State in the Union, so far as I know, has a law against usury. The people of the various Commonwealths of the country, realizing that the Scriptural saying that, "The love of money is the root of all evil," is literally true, knew that it was necessary to place some metes and bounds about those who have money to loan. So the States have fixed the rates of interest by law.

The Senator from Connecticut contends that the suggestion that the rate of discount shall be fixed by law, a rate of interest on money, the circulating medium of the country, which the Government itself and the Government alone reserves the right to print or coin, is parallel with a suggestion to fix the price of a commodity which is produced by a private citizen on the farm.

Mr. President, that, to my mind, presents a very ridiculous situation. The Senator says that if it should be proposed that we fix the price of cotton at 4 cents a pound, I would oppose a proposition of that sort. I want to tell the Senator that the Federal Reserve Board, which is sitting to-day with his approval and with the sanction of his party and his President, inaugurated a deflation policy which drove the price of cotton down and down until it sold in the markets of the country five times 4 cents a pound under the cost of production. That was a total loss to the farmer of $100 a bale. The Senator from Connecticut is exceedingly sorrowful when it is suggested that a note should be rediscounted in order to aid people in time of distress at a rate of 4 and 4½ per cent. He seems to be of the opinion that the Federal reserve regional bank should be left free to charge any rate that it desires to charge. And, of course, he indorses the discount and rediscount rate inaugurated by the Federal Reserve Board. They raised the rediscount rate from 3 per cent to 7 per cent, and they raised it, Mr. President, at a time when the people had to have money or see their business literally destroyed.

The purpose of the Federal reserve system was to provide the money or credit necessary to carry on the business of the country at all times, and the purpose of the low discount rate was to enable the little banks which are scattered over the country to obtain money from the big reservoir of funds in the Federal reserve banks at a rate that would enable them to do business and meet the requirements of the business of their various localities.

I now charge that the Federal Reserve Board inaugurated a policy that raised or permitted to be raised the rediscount rate from 3 per cent to 7 per cent, and that when it did that it made it impossible for thousands and tens of thousands of borrowers in the South and West to obtain a dollar. For instance, if the legal rate of interest in the State was 6 per cent, as is the case in North Carolina, and the farmer comes to the local bank and wants to borrow some money, the local banker says, "I agree with you that cotton, on account of the low price, should be kept off the market, and I want to help you, but the rediscount rate at the Federal reserve bank is 1 per cent higher than the rate permitted to be charged in the State, and in order to borrow this money I will have to indorse your paper bearing a rediscount rate higher than the amount that I would be permitted to charge if I were in position to make the loan myself." Instead of furnishing the money needed they made it impossible to obtain it. The hands of our local banks were tied.

What happened? Business disaster came.

Mr. President, these people suffered greatly. Yet the Republican Senator from Connecticut, the chairman of the great Banking and Currency Committee of this body, never lifted his voice in protest; not one word of sympathy was ever heard from the lips of the chairman of that great committee for the millions of people in the South and West whose business was being destroyed.

Now I want to draw a picture for the Senator's benefit. I bring to this Chamber a farmer from my State who produced 10 bales of cotton in 1920. When he planted that cotton the price was $200 a bale. Ten bales at that time were worth $2,000.

When he finished cultivating that cotton the price was $200 a bale, but under the deflation policy inaugurated by the Federal Reserve Board, which certainly had the approval of the leaders of the Republican Party, including the Senator from Connecticut, the chairman of the Banking and Currency Committee of this body, the price of cotton broke from $200 a bale down to $60 a bale, and finally down to $50 a bale. So that the cotton farmer who had held out to him the price of $200 a bale as an inducement to plant cotton on a large scale received only $50 a bale for it in the market place. It cost him $150 a bale to produce it, and the price he received was $100 a bale under the cost of production. That is the literal truth, Mr. President. Yet the Senator from Connecticut complains that I, a Senator from a cotton-growing State, should endeavor to bring the rediscount rate down so our people in distress could have aid at the hands of a Government bank, which was established for the purpose of answering the business needs of the people and to prevent panics and business disaster. That was its purpose. The Senator complains that I introduced a resolution to bring the discount rate down from 7 per cent to 4 per cent, when the fact is the discount rate used to be only 3 per cent. I did not propose to go back to the old rate. My bill or resolution permitted the charge of 1 per cent and 1½ per cent higher than used to be charged; I fixed the rate at 4 and 4½ per cent, which I thought would be right and fair. Here is a copy of the joint resolution introduced by me authorizing the Federal Reserve Board to cause rediscount rates charged by Federal reserve banks to be lowered in certain cases. It reads:

Resolved, etc., That the Federal Reserve Board be, and it is hereby, authorized and required to cause the rediscount rates now charged by Federal reserve banks and member banks to be reduced to 4 per cent on paper secured by Liberty bonds and 4½ per cent on loans made on farm paper or agricultural products.

Mr. President, the Senator from Connecticut seems to forget that the Federal reserve banks do not lend money direct to the individual. The individual farmer in the South or in the West who wants to borrow money from a reserve bank first has to go to his local bank, and if that bank is not a member bank it has to go to a member bank in order to borrow the money required. So he has to pay interest at the local bank, a nonmember bank, maybe, in order to get that bank to indorse his paper and obtain the money from the member bank. He would have to pay, perhaps, 8 per cent in order to borrow the money after all, and perhaps 10 per cent. Yet the Senator objects to providing by law that other banks may obtain money from the member banks of the Federal Reserve System at 4 and 4½ per cent. That is what my resolution means. My resolution does not say anything about other interest rates, such as the interest rates paid by the individual who seeks to borrow money through nonmember banks. It deals only with discount and rediscount rates, but the Senator objects to bringing the money rate down within the reach of the common people, who are just as much entitled to it as are the millionaires of Wall Street.

Mr. President, in the old days, under the reign of the Republican Party, the opinion obtained in certain quarters that the Government was instituted for the benefit of a bunch of avaricious bankers in Wall Street. They had control over the money supply and credit of the whole country, and they exercised that control to the detriment and injury of the masses of the people. They could produce a panic in 48 hours whenever they saw fit to do so. I had something to do with bringing about a new system; I helped to create the Federal Reserve Banking System; I think it is the greatest banking system ever constructed, but in the last several months it has been maladministered. I am protesting against that maladministration. It has brought business disaster to the South and West.

The Presiding Officer of this body at this minute [Mr. LADD in the chair] knows that his State has suffered under the Federal Reserve Board's deflation policy. My section of the country has suffered under it, and to-day I am within the facts when I say that it has cost the South and West together several billion dollars. Yet the Senator from Connecticut takes me to task for introducing a bill or resolution which seeks to bring down interest rates within the bounds of reason, so that men struggling in the ruin wrought by this deflation policy, trying to get out of the wreck as much as possible, may not have to pay unreasonable interest rate.

The Senator did not suggest what he thought would be a fair rate. I suppose a fair rate in his mind would be any rate that the bank might decide to charge. The Federal reserve banking system charged one bank in my State last fall as high a rate as 87½ per cent.

Mr. WADSWORTH. Mr. President, will the Senator give the name of that bank? I should like to look that up.

Mr. HEFLIN. I do not know the name of the bank, but it was an Alabama bank.

Mr. WADSWORTH. Do I understand the Senator to say that the Federal reserve bank compelled that bank to pay 87½ per cent on a loan or a rediscount?

Mr. HEFLIN. Yes.

Mr. WADSWORTH. That is very interesting. I am going to look that up.

Mr. HEFLIN. Here is what Mr. Williams said. This is an excerpt from the hearing before the joint commission of agricultural inquiry, Sixty-seventh Congress, August 2–11, 1921, page 38:

> A valiant little country bank in Alabama, striving and straining to help its farmer customers, needed $112,000 to meet the needs of its community in crop-moving time, the latter part of September, 1920, and that little bank was charged for the use of that money for about two weeks by its Federal reserve bank an average rate of about 4 per cent—not 4 per cent per annum, gentlemen, but about 4 per cent per month on an average; in fact, the rate charged for a portion of that money was actually 87½ per cent per annum.

Mr. WADSWORTH. Is Mr. John Skelton Williams the only witness the Senator has?

Mr. HEFLIN. He is enough.

Mr. WADSWORTH. He is enough for some people.

Mr. HEFLIN. I understand that the present Comptroller of the Currency is complaining that they are still gouging the people with high interest rates.

Now, Mr. President, a word in behalf of Mr. John Skelton Williams. I think he is the best Comptroller of the Currency we have had in a quarter of a century. All praise to him. I think that but for him we would not have known about any of this robber scheme that has been employed against legitimate business in America. He disclosed these awful facts. He protested against it when he was a member of the board as Comptroller of the Currency. He told the Federal Reserve Board that if they persisted in that deflation policy they would bring wreck and ruin to the business especially of the South and West, the agricultural sections of the country. He told the governor of that board and the board itself that they could issue money to the extent of $2,000,000,000 more, if necessary, without endangering the gold reserve, and they could not dispute it.

If that was true, if they could have issued money and helped the South and West and prevented the suffering that we have witnessed and prevented the suicides that we have witnessed, and the business disaster that we have seen, would it not have been better to have done it and prevented the losses sustained?

What is the Government banking system for if it is not to serve the needs of the people? It is not intended to make men rich in Wall Street; yet I disclosed a situation here the other day about the Federal reserve bank in New York, where they increased the salaries of men who had been drawing sixteen, eighteen, twenty-two, and twenty-five hundred dollars to $12,000, $16,000, $18,000, and $25,000—just squandering the people's money! That is not their money. That money belongs to the American people, and they have no right to squander it on bank clerks and other officials. Why are they permitted to do it? Why, they raised the salary of the governor of that Federal reserve bank, as I pointed out the other day, from $30,000 to $50,000, and the poor cattleman of the West was forced to drive his breeding cattle in to market because he could not borrow money to buy feed for them. That is what was going on. The grain grower of the West was forced to sell his grain under the cost of production because he could not borrow the money necessary to hold it until the market would yield him a profit. The same thing was true of the cotton producer in the South. We could not get the money necessary to save our business from destruction, but the Federal Reserve Bank of New York could squander the people's money in raising salaries by the thousands and tens of thousands.

And but for John Skelton Williams we would not have known that.

Mr. CARAWAY. Mr. President, with the Senator's permission, I suggest that they ought to catch the fish before they make loans on them.

Mr. HEFLIN. My good friend from Arkansas [Mr. CARAWAY], who has just made a powerful and scathing arraignment of the Republican side, suggests that they ought to catch the fish before they loan money on them, which brings to my mind a situation that I disclosed here in a speech on a former occasion, Mr. President—that this same Federal Reserve Banking System that refused to lend money to your constituents upon cattle and grain, and to my constituents upon cotton, which brings to America its gold supply every year, lent money upon fish swimming wild in the ocean that never had been caught at all! Now, that is true. The Hon. John Skelton Williams, this able and courageous American citizen, recently Comptroller of the Currency, who knows the facts, said that they loaned money up there to a fisherman on fish that never had been caught. Mr. President, they would not lend any money on cotton. They stopped that right off, and what happened? The price went down $100 a bale under the cost of production. What is the situation to-day?

The Senator from Connecticut [Mr. MCLEAN] is complaining that I want the discount rate brought down. The farmer who made 10 bales of cotton last year makes 3 bales this year. That is the situation in the South; and if he got last year for the 10 bales of cotton $50 a bale, or $500, $1,000 under the cost of production, for it cost $150 a bale to produce it, what is he going to do? He lost $1,000 on his 10-bale crop last year—now, suppose he makes 3 bales this year and he gets $100 apiece for these 3 bales.

That is less than the cost of production this year, so he is still behind; and what would the Senator from Connecticut suggest in the way of bringing relief to this farmer? He has permitted a deflation policy to be carried on that has wrought this ruin, and never once has he said one word in protest against it; and that board sits there to-day, with the sanction and entire approval of that Republican Senator, the chairman of the Banking and Currency Committee, and a majority of the Republican side. There are Republicans on the other side who are as much opposed to that deflation policy as I am, because they have told me so; but the Republican President has the right to ask for the resignation of the members of that board just as he did for the resignation of that district attorney in Texas whose term had not expired.

Mr. WATSON of Georgia. Mr. President——

Mr. HEFLIN. I am glad to yield to my friend from Georgia.

Mr. WATSON of Georgia. I beg to remind my friend from Alabama that I introduced resolutions here setting out certain facts concerning the infamous conduct of the Federal Reserve Board, and requesting President Harding to remove them.

I have in my desk letters from the cotton factors of Augusta, Ga., within 37 miles of where I live, and I do not believe those factors are more illiberal than the factors of other cities in which those factors virtually ordered the planters and merchants who have cotton on deposit, and who have drawn upon that cotton, to sell their old cotton before the new cotton comes on the market. I have the evidence that these requirements for a ruinous close-down upon the distressed and desperate farmers come from this infamous Federal Reserve Board; and also, Mr. President, they have influenced the State banking department in my own State. I know this because I am president of a small State bank myself, and they have caused a circular letter to be sent to the State banks in Georgia requiring these State banks to close down on the farmers, and I hope the other bankers have done just what I did—treated those orders with scorn and defiance.

Mr. HEFLIN. Mr. President, I thank my friend from Georgia for his very pertinent observations.

I do not intend to permit those who are responsible for the conspiracy and crime of 1920 to escape the criticism and condemnation deserved. I regard that deflation policy as a crime against legitimate business. It cost my State many millions of dollars.

Now, what are they doing? The Senator from Georgia has pointed out that they have gone into the cotton States and whispered the word to local bankers, "Make them bring their cotton in and sell it." Now, listen: The farmer comes up. He says to the banker, "I have got 10 bales of cotton. The price has advanced a little; it is 20 cents a pound; but I borrowed money from you at 25 cents a pound. Cotton is now $25 a bale under that figure. I would like to hold it until it goes to 25 cents, so that I can get enough to pay the amount I borrowed." The local banker says, "I am willing, but word has come that we must close out these loans." So the farmer is forced to sell when the indications are that he would receive in 40 or 60 days from $25 to $35 more per bale.

Cotton is bound to go to 25 or 30 cents a pound. You can not keep that from happening. The Federal Reserve Board's deflation policy crucified the cotton producers' business last fall, and this year reduced acreage, the nonuse of fertilizers, and the ravages of the boll weevil are responsible for the smallest cotton crop made in 25 years. The crop shortage will be about 7,500,000 bales.

I resent the effort that is being made to force cotton out of the hands of the producer before he can share in the profits of the advanced price which the scarcity of cotton is bound to bring about. The farmer is entitled to get the best price that the market will afford.

Senators, suppose you had a product that was worth a hundred dollars to-day, and you owed a man a hundred dollars, and that man should tell you that he was willing to extend the loan because he thought as you did, that in 60 days your product would be worth $200, and you could pay him a hundred and keep a hundred for yourself and your family; and suppose some one with authority over him should say, "No; you force him to sell that product." You would say, "But he is my customer; he is my friend and neighbor; his children and mine play together; they go to the same school; I am interested in the welfare of this man and his family, and I am willing to take the risk if you will let me, and I am sure that I am not going to lose anything." Suppose they should require you to sell when to do so meant the loss of $100 to you. You would not like it. That is just what is happening to the cotton producer who is forced to sell his cotton now. Let me illustrate for the benefit of the Senator from Connecticut.

The farmer comes up to the bank and says, "Here is the situation: If you force me to sell this cotton now, the bear speculators and spinners will get it at 20 cents a pound, and the spinner will spin the cloth to be made out of it three months from now, when cotton may be 30 cents a pound, and he will sell his goods on the basis of 30 cents a pound, when the fact is he got it for 10 cents a pound, or $50 a bale, less than that price. You take that money away from the producer, and yet the consumer does not get the benefit of a price on goods made out of cotton bought at 20 cents, but he pays for the cloth on the basis of 30 cents a pound for the raw material.

The speculator buys this cotton at 20 cents a pound and holds it until it goes to 30 cents, and he puts in his pocket in 60 or 90 days this additional $50, and you have taken that amount of money away from the man who toiled to produce cotton that the world might have clothes. That is what you are doing, and when you do it you destroy the purchasing power of our farmers who buy your manufactured products.

Mr. President, is the Senator from Connecticut, who is himself a big and prosperous banker, surprised that I would take a step in behalf of the struggling producers who are being pillaged and plundered by this policy? I take it that the Senator has never come very much in contact with the great throbbing heart of humanity. The Senator, I understand, is possessed of a large share of this world's goods, and the consciousness of having it probably affords him the greatest pleasure that he finds in life. Well, if that is true, let the Senator from Connecticut enjoy himself. Mr. President, no impulse, truly noble, ever sprang from pride of purse, and I pray God that the time will never come when the spirit of dollar aristocracy will be permitted to degenerate American statesmen into selfish financiers or make of this Chamber a clearing house for tradesmen.

Mr. President, the Senator sarcastically suggests that Democratic Senators get their inspiration from Lenin and Trotski. Are we to be reflected upon in this fashion because we dare to stand here and plead for a tax law that is fair to the American people?

Mr. WATSON of Georgia. Mr. President——

The PRESIDENT pro tempore. Does the Senator yield to the Senator from Georgia?

Mr. HEFLIN. I gladly yield to my friend from Georgia.

Mr. WATSON of Georgia. I remind my friend from Alabama that the Senator from Connecticut revived the proposition that the $90,000,000 of taxation of which Elbert Gary and the Steel Trust are to be relieved is to be made up by an increase of 1 cent a letter on every letter written by 110,000,000 people—white and black, young and old—every day in the year; and a moderate estimate of that would be 1,000,000 letters a day.

Mr. HEFLIN. That is but another illustration, Mr. President, of what is going on in this country under the reign of the Republican Party.

The Senator from Connecticut scolds this side for daring to speak in the name of the people, and he likens us unto the followers of Lenin and Trotski!

Mr. President, I can not refrain from reminding the Senator of some of the historic landmarks of the Republican Party—Mark Hanna, Matthew Quay, and Boss Addicks, of Delaware. They corrupted elections, made barter of the ballot, and purchased seats in the Senate as you would buy sheep in the market place. Let the Senator remember these great pillars and forbears of the Republican Party. They are typical of its political ideals and immorality.

We have incurred the displeasure of the Senator from Connecticut by advocating a tax bill that will compel great wealth to bear its fair share of the American tax burden. We simply ask that those who have most should pay most and those who have least should pay in accordance with their ability to pay. In the parable of the talents the Master demanded more of the man with 5 talents than He did of the man with 2. But I am not sure that the Senator from Connecticut cares to be bothered with a principle of that kind.

Mr. WATSON of Georgia. Mr. President, I remind my friend again that the Senator from Connecticut said that elections down South were mere formalities; that it was a question of putting a nickel in the slot, and no matter what nickel it was the result was the same. The Senator from Alabama perhaps knows that the record here pending before the Senate shows that a certain Senator on the other side paid $192,000 for his seat.

Mr. CARAWAY. If the Senator from Alabama will permit me, it shows that he could not get much for a nickel up there in his State, does it not?

Mr. HEFLIN. Mr. President, in the first place, that reference to the nickel in the slot shows you how the mind of a certain Republican Senator operates. It thinks in terms of nickels and machines, slots and coins. There is no music half so sweet to some of them as the tingling, jingling rattle of a dollar.

Mr. REED. Mr. President, I do not want to interrupt the eloquent period about the nickel in the slot, because we are all interested in that; but since the statement has been made that elections down South are controlled in the same way as when you put a nickel in the slot, I want to call attention to the fact that the investigation before the Senate committee on pre-campaign contributions and abuses showed that one colored brother in Georgia got $9,000, if not from the Republican committee then the committee of some one of its distinguished candidates—from Mr. Lowden, I am reminded. It seems to me he broke the rule, that he raised the limit to an unreasonable degree. He acquired the title of "the $9,000 Georgia peach," and having acquired that title of distinction, he is brought to Washington and is given a job.

Mr. HEFLIN. Corrupt campaign funds and all.

Mr. REED. Speaking about Lenin and Trotski, let me say to the Senator who uttered that expression, that Lenin and Trotski in their vilest moments have never undertaken anything more corrupt or infamous than the record in this Chamber shows was attempted by some of the candidates for the Presidency who were seeking the Republican nomination. The buying of an election, the going into a room with the capitalists, and the agreement that the little group of capitalists there in that room shall underwrite a half a million dollars and go out and raise two or three million dollars more, is as corrupt, as infamous, as degrading as anything I have ever heard of Lenin and Trotski doing.

Mr. HEFLIN. Mr. President, I thank all three of these able and brilliant Senators for their splendid contributions.

Mr. CARAWAY. Mr. President——

Mr. HEFLIN. But if I should continue much longer I would have this RECORD full of ugly incidents connected with the Re-

publican Party; but I am glad to yield to my friend the Senator from Arkansas.

Mr. CARAWAY. Mr. President, I was just going to suggest to the Senator from Connecticut that they evidently understood what argument was effective with the members of their own party, because they always went with the cash.

Mr. HEFLIN. Yes; and another thing, speaking about that Republican Negro down in Georgia, using the nickel in the slot to secure nominations in primaries in Connecticut may be the practice up there, but we do not have that down with us, and I protest against these fellows coming down into the South trying to corrupt our innocent "niggers." If they are going to corrupt and ruin one big Negro politician, why on earth did they give him just $9,000 instead of $10,000?

Mr. CARAWAY. Why not $2.50?

Mr. HEFLIN. Some slick-fingered artist kept that other thousand dollars as a commission for buying the big, burly, black Georgia peach. That is about what happened. He beat that "nigger" out of a thousand dollars. If you are going to tamper with the political morals of our Negroes, let them have the money in even numbers.

Nickel in the slot! Mr. President, our campaigns in the Southern States are open and aboveboard. We have a fair primary to begin with, and when a Democrat gets the nomination in the primary all Democrats support him and he is elected. Every Democrat participating in the primary comes out and says, "This man has been nominated, and I am for him," and he has no opposition except on a presidential election year, and then the Republicans nominate some fellow they want for United States marshal so that they can bring him up here and present him to the President and say, "This was our nominee for the United States Senate in Alabama," or some other Southern State. His candidacy does not hurt us and if the nomination does him any good we do not care.

Mr. President, we heard last fall a great deal about Republican normalcy. We were promised a speedy return to it. In fact, we reached it so quickly that the average man and woman feels as did the Kansas farmer who said the other day, "To thunder with Republican normalcy. I want to get back to Democratic prosperity." It is a sad scene—5,000,000 men begging for something to do in order that they may feed themselves and families. These men were employed when we were in power. When Woodrow Wilson sat at the head of this Government and the Democrats were in power in both branches of Congress you could not find an idle man or woman in the country. They were all busy. You could ask the average citizen almost anywhere to give you change for a fifty or a hundred dollar bill and he could do it. If you should ask one to do that for you now, he would show you the administration banner—an empty pocket turned wrong side out.

What has become of all this prosperity? Where are the humming wheels that we used to hear in the good old days of Democratic prosperity? Where are they whose skill and industry made America the greatest workshop in all the world? Sad and dejected now they wander about the country unable to find work under a Republican administration.

Senators on the other side, that is the picture you present to the country. Contrast it with the picture when every man was engaged and all the industries of the country were humming, and the country was prosperous and happy. But you asked for a change. Have any of you seen that postal card of the western farmer? They had a picture of him on a card and he said, "I asked for a change," and then with the worst frown that I ever saw on a human countenance, he said: "I got it too much." So did everybody else—they got it too much.

Mr. President, the boy who did not appreciate the comforts, conveniences, and joys of his happy home until he was separated from them expressed the feelings of millions of people who voted the Republican ticket last fall when he said, "I had a good home and I left it. If I hadn't been a fool I'd a kept it."

Mr. President, I objected to the rediscount rate imposed by the Federal Reserve Board which made money so difficult to obtain. I said that the rediscount rate charged made it practically impossible to get money. I wish to read to the Senator from Connecticut [Mr. McLEAN] an editorial from the Manufacturers' Record, the greatest manufacturing periodical probably in the whole country. Listen to what it said about this system in the Manufacturers' Record of June 9, 1921:

> The business of the country has been robbed to enrich the coffers of financial institutions over the protests of many farseeing and honorable bankers. The profits that Gov. Harding has sought to explain can not be explained. They stand as an immutable evidence of the poverty of his financial direction.
>
> The Federal Reserve System financed the war; it could not finance the peace. So is the record written; so is it written in shame. Out of our vast resources flowed in endless streams the means to drive back the Hun. Then almost overnight Gov. Harding and his associates decided that the onslaught of approaching economic disaster should not be financed, that the reservoirs should be closed, and decided on a course of action that facilitated disaster. The law itself provided for extraordinary use of credit in case of just such a situation as the country faced, permitting a lowering of the necessary reserve. Gov. Harding refused to take advantage of that provision. He turned his back on it and faced the other way. What is a reserve for? To be used, of course, when need arises. That is just when Gov. Harding refused to use it. He hoarded the Nation's lifeblood and would not let it circulate.
>
> Last summer, aware of the approaching disaster, John Skelton Williams, then Comptroller of the Currency, pointed out that $2,000,000,000 in additional credit could be extended without imperiling the reserve position.

What has the Senator from Connecticut to say in response to that? This indictment is made by the Manufacturers' Record, based upon facts that no one can dispute.

He hoarded the Nation's lifeblood and would not let it circulate.

What happens to a man's body when the blood fails to circulate through it. He is paralyzed and dies. Whose business was it to see that this money was issued and sent out into the regions that needed it most? The Federal Reserve Board, for it has control over the volume of currency and credit.

What does the law do? It gives that board control over the volume of currency and credits. Did they let this money go where it was most needed to prevent business disaster? No. Did the Senator from Connecticut protest against that infamous policy? No. He spoke to-day as though he indorsed it, and I assume that he does. Did they permit it to go into the ways that might save the cattle industry of the West? No. It forced men to drive their breeding cattle to the market place; they would not let them have money to buy feed to keep those breeding cattle away from the slaughterhouse.

Money is the lifeblood of business. They forced the grain growers of the West to sell their produce below the cost of production. They refused to pump the lifeblood into the body of their business. They permitted the cotton industry of the South to almost die and our people to suffer, and many of them suffered greatly, because they refused to pump this blood through the body of the cotton business. They had the pump in their hands, the members of the Federal Reserve Board, and it was their business to use it and see that that lifeblood was supplied.

I liken that conduct to a situation where a man sits above the surface of the sea charged with the duty and responsibility of pumping air to the bold diver who, clad in his diving equipment, goes down to the bottom of the sea, pumping air constantly in order to keep life in the diver down in the sea. He quits suddenly, and the people around say to him, "Why do you not pump air down to that man? You are the only one who can supply him with air. It is your duty to supply it to him. If you do not keep constantly pumping air to him, he will die." He sits there with folded arms and will not pump the air, and finally they haul up the diver, who died because the man who could but would not pump the fresh air needed caused him to lose his life. So with the cotton growers of the South, the cattlemen and grain growers of the West. The Federal Reserve Board failed and refused to pump the lifeblood needed into the body of the grain industry, the cattle industry, and the cotton industry.

Mr. President, I wish to say another thing in response to the Senator from Connecticut [Mr. McLEAN], chairman of the great Committee on Banking and Currency, who complained that I wanted to reduce the rediscount rate to 4 per cent on paper secured by Liberty bonds. He did not tell you, but that is what my resolution provided. How cruel a thing for the benefit of the people who need money and can not get it because the avenues of currency and credit have been shut against them so they can not obtain the money needed to carry on their business I was seeking to open the way that a ray of light might get through, that a helping hand might be extended, but the Senator from Connecticut gets up and criticizes my efforts to reduce the rediscount rate when under that rate, which had been increased from 3 per cent to 4, 5, to 6, and then to 7 per cent, enormous profits were made. The New York bank, under the high rate, just hauled in money by the armsful from the borrowers, and what did they do with it? Did they bring it down here to help reduce the tax burden? No. They called in the bank clerks and raised their salaries from $1,600, $1,800, and $2,200 to $12,000, $16,000, and $25,000—squandering the people's money by the thousands.

I have shown by that incident that there is no reason for the 7 per cent rediscount rate. It has not served any good purpose. It has kept the people who needed money from getting it. It has caused it to be squandered in the New York Federal Reserve Bank. The Government is not benefited by it. Who is? Nobody but the officials and the clerks of a regional bank of the Federal Reserve System. The Federal Reserve Board has

the power to remove the governor and other officials of that bank, but, of course, they would not do it. You on the other side of this Chamber have the power, because you are in the majority, to pass a resolution demanding an investigation of that bank salary scandal in New York. It has been heralded over the country ever since last Saturday when I brought it to the attention of the Senate and asked the Senator from Utah [Mr. SMOOT], "Have you made any inquiry into it? Are you going to look into it?" He replied that that is the business of the Federal Reserve Board. So far as that is concerned it was the business of the board when it was done, and the board approved it, of course, or it could not have been done. Now, it is the business of the board to correct it, and you on the other side of the Chamber are in power over that board. What are you going to do about it? Since I commenced this fight several months ago the rediscount rate has been reduced some, but not enough.

Mr. President, I read now from a statement of Hon. John Skelton Williams:

> If the "country" banks had been granted accommodations for the same proportion of their total assets (excluding rediscounts) as the national banks in the three big cities, they would have received at least $1,630,000,000 instead of $596,000,000, which was the total amount of all the "rediscounts and bills payable" which all the "country" national banks in the United States owed on September 8, 1920.
>
> If that additional amount of credit, $1,034,000,000, had been supplied to them up to that time, or during the ensuing 12 months, it is a fair assumption that our country might have been saved billions of the losses we have suffered not only from shrinkage of values but from the violent and sudden collapse, resulting in disturbance and disaster, to producers, farmers, and manufacturers without compensation and corresponding advantage to consumers.

Who was benefited by this awful onslaught against business in the agricultural sections of the country? The speculators of Wall Street profited by it, and Wall Street got all the money she needed. There never was a day when those who were speculating in farm products, in order to beat down the price, did not get every dollar they wanted for that purpose.

There is also this strange thing about it. The speculators never had to state what they wanted to do with the money; but listen, Senators, that was not so in the case of the grain grower of the West, the cattle producer of the West, or the cotton planter of the South. When the grain grower came up and said, "I want to borrow a thousand or two thousand dollars," the bankers asked, "What do you want with it?" He replied, "I want to hold my grain; the price has gone down until it is below the cost of production, and I want to hold it until the price advances so that it will yield me a profit, for it is my year's business." They answered, "No; we can not let you have the money; that is for speculative purposes."

When the cattleman came up and said, "I want to borrow some money," they asked him, "What do you want with it?" He said, "To buy feed for my breeding cattle, to keep from having to sacrifice them by throwing them upon the market." They said, "That is for speculative purposes; you hope to keep your cattle and feed them and next year to raise some calves, and that is speculation, and we can not let you have the money."

Then the cotton producer came up and said, "The price of cotton has gone down and down until it is from $50 to $60 a bale below the cost of production; I want to borrow some money to see if we can not steady the market so that the price will come back and enable me to get at least the cost of production. If I can get the money needed I can keep my cotton off the market, and if I can keep my cotton off the market the price will advance." But they said, "You can't get the money; that is speculation, and we can not lend money for speculative purposes." But Wall Street continued to speculate. What did a Republican Congress do to stop this bold thievery? Nothing!

Mr. President, have we come to the point in this country where the average business man has got to be called up and talked to like a little child and asked what he is going to do with the money he wishes to borrow? If he has satisfactory collateral, collateral that the law recognizes as good, it is none of their business what he is going to do with the money, and in the cases to which I have referred he had the necessary collateral.

Up in New York the purse-proud plutocrat went around to the bankers and said, "I want $20,000." They only asked him, "What have you got for collateral?" He said, "I have some collateral here which I offer." They looked it over and said, "Very well, Mr. Johnson," and they counted out $20,000 to him, and he was around there in the exchange speculating against grain or cotton inside of 15 minutes, helping to beat down still lower the price of the poor fellow who, with head down, disheartened, discomfited, and disappointed, walked out of the market place with his produce going down and down and nobody to lend him money or to extend to him a helping hand, while the man who was speculating on his produce and beating it down still lower got every dollar he wanted without a question being asked. That is the indictment that I lay against the Federal Reserve Board and the Republican Party that permitted that thing to be done. You had it in your power to stop it but you did not do it. No Federal reserve bank is permitted to issue a bulletin setting forth its policy—now think of that, its own bulletin fixing the policy of the bank—without the sanction of the Federal Reserve Board. It must approve it. So I charge that if the Federal reserve banks issued orders to put this deadly deflation policy into operation it never would have been permitted to operate until the Federal Reserve Board gave to it its sanction and full approval.

The Federal Reserve Board, as the bulletins issued by that board here in Washington will clearly show, inaugurated the policy of deflation which has cost the country many billions of dollars.

Mr. President, I remember when we were taking testimony before the Agricultural Committee in December, 1920, that we had the governor of the Federal Reserve Board, W. P. G. Harding, before us. Three distinct efforts were then made to get him to say—get this point, Senators—in substance that the board looked with favor upon the extension of loans to help the farmers of the South and West through the distressing time that was upon them. He evaded the question. I finally wrote the question out and put it to him, asking, "Gov. Harding, are we authorized by your position in the matter of lending money on farm products to local banks, backed by regional banks in the Federal reserve system, to give out a statement that you and the Federal Reserve Board do not oppose, but encourage, regional banks in giving the fullest aid possible to farmers in handling their crops, so as to enable them to obtain a living profit for their farm products?" He whirled in his chair and said, "The Federal Reserve Board always prefers to make its own statements;" but he never made the statement. So, of course, he was opposed to making the loans. I had called on him previously. When the rumor got out down there in the cotton States that the board was not going to aid, I was assured over the telephone that the rumor was false, that they were going to aid as they had been doing.

On one occasion a merchant in my home town wired me that a rumor was being circulated there to the effect that Federal reserve banks would cease to back local banks in carrying cotton for a fair price. I called up the Federal Reserve Board; I talked to Gov. Harding himself and told him what the telegram said. I asked him if the rumor was false, and he answered, "Certainly." I then asked, "You are going to continue to back the local banks just as you have done, are you not?" He said, "Yes." I sent a telegram to that effect, which was printed in the newspapers of my State and in some of the other cotton States, saying that the rumor was false and that the Federal reserve banks would continue to back the local banks. I told Gov. Harding that I was going to send out that statement correcting the false rumor and he made no objection. It was agreeable to him then; others had talked to him along the same line. The statement that I sent out then had the effect of correcting the false rumor and of helping the cotton situation considerably. But, strange to say, last December, when local banks all over the cotton belt were complaining that word had come down the line to the effect that Federal reserve banks would not lend any more money on cotton, Gov. Harding refused to give us permission to send out a statement to correct that rumor. Senators, how is it possible for the Federal Reserve Board to escape conviction in a case like that? This is only a part of the testimony.

I can convict the Federal Reserve Board of "the crime of 1920" by its own bulletins, issued during the year 1920, as to what it intended to do in connection with its deadly deflation policy. I can cite you to the market reports in the New York Commercial and to the statement of the editor of that paper, who said that deflation had gone on until commodities had been deflated probably from 30 to 35 per cent, but cotton had suffered most of all, for it had been deflated fully 50 per cent. Yet when I, coming from a cotton-growing State, suggest that the rediscount rate be reduced in order that those who, according to the New York Commercial, suffered most last year might get on their feet again, the Senator from Connecticut, the chairman of the Banking and Currency Committee of the Senate, and one of the leaders of the Republican side, criticizes my effort and protests against the passage of my resolution.

Mr. President, I have talked longer than I had intended; it was not my purpose to say anything until my attention was called to the attack upon my position by the Senator from Connecticut. If a Senator dares to stand here and plead for common right and justice he is to be likened to Lenin and Trotski.

Is the demand for fair treatment a crime in this country? Whose Government is this? Does it belong to the mass of men and women of America, or does it belong to a few money kings, who contribute their thousands and hundreds of thousands to Republican success in campaign times? Do they feel that they have bought the instrumentalities of the Government? Do they feel that those that they have elected here shall do their bidding and put through measures that redound to their good and to the detriment and injury of the American people? Is that the idea? If that is the view the Senator from Connecticut holds, then he is to be excused; but I cite him to a Republican who lived, moved, and had his being once in this Capital City, Abraham Lincoln, our blessed martyred President—peace to his ashes.

He said I favor the doctrine that puts the man above the dollar. I would to God that his spirit could come back and baptize the Senator from Connecticut and some others on that side with the humane doctrine so badly needed in this Chamber. Dollars and dimes! Spurning the cry to return to the rule of the people, our Republican opponents liken us unto Lenin and Trotski, because we dare to stand here and tell them that they have written a tax bill that takes the tax burden off of the pompous profiteer and puts it on the little fellow of small capital, on the wage-earning army of the country and the consuming mass, who when they come to buy the actual necessities of life are to be taxed to pay the war debt while the millionaire class escapes. That is what we witness in this Chamber, Senators; and yet the Senator from Connecticut says that, judging from the speeches he has heard over here, we were inspired by Lenin and Trotski. Why, Mr. President, you can almost see the spirits of Mark Hanna, Quay, Aldrich, and Addicks. They are holding high carnival in this Chamber.

Jefferson said, "I believe in the rule of the people"; Jackson said, "By the eternal the people shall rule"; Wilson said, "I am the servant of the rank and file, the President of all of the people"; but, Mr. President, the Republican statesman from Connecticut complains because we talk about the people. Lincoln immortalized the great expression, "A Government of the people, by the people, and for the people." What would he think if he could look down from the parapets of the sky and see Republican Senators, calling themselves members of the party of Lincoln, bestowing in his name special favors upon the mighty rich and imposing grievous burdens upon the struggling poor. Mr. President, our Republican brethren frequently say, "We are the party of Lincoln"; but they are the party of Lincoln only in name; there is not a vestige of the spirit of Lincoln left in it. Does anybody believe that big-hearted, brave commoner would have denied a fair settlement to the American soldier? Does anybody believe that Roosevelt would have done such a thing?

Mr. President, I am reminded of the time when the sons of Eli went out to battle with the Philistines, and they had become so corrupt they had debauched until they had lost the spirit that animated their father, old Eli, and the Philistines routed them in battle. They met that night in secret conference, just like some of you did night before last, and they said: "Let us get the Ark of the Covenant and take that with us. If we can bear it aloft where the Philistines can see it, they will flee pell-mell." They thought that the ark borne over the heads of the corrupt and degenerate sons of Eli would bring victory. So they carried the Ark of the Covenant next day and marched into battle, holding it high so as to terrorize the Philistines. But the Philistines not only routed the sons of Eli, but they captured the Ark of the Covenant and won the battle.

I want to say to the Senators on the other side when you tell us that you are the party of Lincoln and march around with the banner bearing the name of Lincoln, that that is all you carry. The sons of Eli carried the Ark of the Covenant but the spirit of the Covenant had fled; and the spirit of Lincoln no longer abides in the ark or strong box that you carry above your cohorts in campaign time. Lincoln's spirit has taken up its abode in the unbought and unbuyable democracy of America. His spirit with the spirit of Jefferson and Jackson animate us to battle for the rights of the American people. "Right is right, as God is God."

The Senator from Connecticut may rail all he pleases about the Democrats speaking in the interest of the people. He can make any slurring remarks that he chooses to make, likening us to Lenin and Trotski. But none of these things shall deter us from exposing the infamous provisions that come here from time to time at the instance of those who regard public office as private property.

Mr. President, it is our duty to expose these things. It is certainly the duty of somebody to stand here and plead for the rights of the people. This is their Government. I repeat, with the permission of the Senator from Connecticut, this is the Government of the people of the United States. It is rooted in their virtues and preserved by their patriotism. It is the duty of all of us who have regard for our oaths of office and who love the free institutions of America to see to it, so far as is within our power, that this Government shall not become the tool of sinister interests or the handy and hurtful instrument of predatory wealth.

The PRESIDING OFFICER (Mr. NEW in the chair). The pending amendment will be stated.

Mr. DIAL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from South Carolina suggests the absence of a quorum. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Broussard	Harris	McKellar	Sheppard
Cameron	Harrison	McNary	Shortridge
Capper	Heflin	Moses	Simmons
Caraway	Jones, N. Mex.	Nelson	Smoot
Culberson	Kellogg	New	Sutherland
Cummins	Kendrick	Newberry	Townsend
Curtis	Kenyon	Oddie	Trammell
Dillingham	Keyes	Overman	Wadsworth
Elkins	Ladd	Page	Walsh, Mass.
Ernst	La Follette	Poindexter	Watson, Ga.
Fletcher	Lenroot	Pomerene	Watson, Ind.
Hale	Lodge	Ransdell	Willis

The PRESIDENT pro tempore. Forty-eight Senators have answered to their names. There is not a quorum present. The Secretary will call the names of the absent Members.

The Assistant Secretary called the names of the absent Senators, and Mr. KING and Mr. WARREN answered to their names when called.

Mr. BORAH, Mr. FRANCE, Mr. PITTMAN, and Mr. STERLING entered the Chamber and answered to their names.

The PRESIDENT pro tempore. Fifty-four Senators have answered to their names. A quorum is present. The question is upon agreeing to the committee amendment found on page 83, beginning with section 234.

Mr. SIMMONS. Mr. President, it has been so long since we left that amendment that I am afraid Senators have forgotten what it is. I therefore ask that it may be stated.

The PRESIDENT pro tempore. The pending amendment will be stated.

The ASSISTANT SECRETARY. On page 83, beginning with line 18, with the subhead "Deductions allowed corporations," it is proposed to insert the following:

SEC. 234. (a) That in computing the net income of a corporation subject to the tax imposed by section 230 there shall be allowed as deductions—

(1) All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered, and including rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title or in which it has no equity.

The PRESIDENT pro tempore. The question is upon agreeing to the amendment.

The amendment was agreed to.

The next amendment passed over was, on page 84, to strike out lines 7, 8, and 9, as follows:

SEC. 239. Paragraphs (2), (3), (4), (5), and (6) of subdivision (a) of section 234 of the revenue act of 1918 are amended to read as follows:

The amendment was agreed to.

The next amendment passed over was, on page 84, line 14, to strike out the word "taxpayer" and the semicolon and to insert:

Taxpayer: *Provided*, That in the case of returns made for the taxable year 1921 or 1922 there shall be allowed as a deduction interest paid or accrued during such taxable year and before January 1, 1922, on indebtedness incurred or continued to purchase or carry obligations of the United States issued after September 24, 1917, even though the interest therefrom is so wholly exempt.

Mr. SIMMONS. Mr. President, a similar amendment, applying to individuals, to be found on page 38, was passed over at the request of the Senator from Nebraska [Mr. HITCHCOCK], and as the Senator from Nebraska does not seem to be here I think under the understanding this amendment should go over until he returns to the Chamber.

Mr. SMOOT. As this applies the same principle as the amendment on page 38, this being for corporations and that on 38 for individuals, one discussion may suffice for both, and as the amendment on page 38 has been passed over, I shall not object to this amendment going over at this time.

The PRESIDENT pro tempore. Without objection, the amendment just read will be passed over.

Mr. WADSWORTH. Mr. President, I desire to ask for information if any agreement has been entered into by the Sen-

ate as a whole, or between the managers of the bill and any other Senators, that amendments may be passed over indefinitely?

Mr. SMOOT. There is no agreement, but the same principle is involved in two amendments, and we will have the discussion on the same item exactly on page 38, as applying to individuals.

Mr. WADSWORTH. The unfortunate part about the situation is that when the bill was read—and I think we are now on the second reading——

Mr. SMOOT. Yes.

Mr. WADSWORTH. An amendment on page 38 was passed over at the request of a Senator. Now, we reach a similar amendment on page 84, and the Senator who made the request in the first instance is absent. How long must the Senate wait?

Mr. SMOOT. As far as I am concerned, Mr. President, I will say that if the amendment on page 38 had not been passed over, same principle being involved, I should insist now on going on with the amendment on page 84, but if we took up the time with discussion of this amendment we would have to go back to page 38 and have the same discussion again, and I only wanted to save time. If the Senator objects, of course we can go on with this amendment; but I do not think we shall save any time by such a course.

Mr. WADSWORTH. I am not prepared to discuss this amendment, and do not desire to do so; but the amendment on page 38 has been passed over twice. This will now be the second time this amendment has been passed over, or the third.

Mr. SMOOT. The second time.

Mr. WADSWORTH. That makes twice for each of them, and upon each occasion when the amendment was reached again in the ordinary course of business, the Senator who asked that it be passed over is not present, although he is in town. We are not making progress with the bill under such conditions.

Mr. SMOOT. It will not be passed over again, I will say to the Senator.

Mr. WADSWORTH. How do I know it will not be? How does the Senator know? How long is this practice to continue?

Mr. SMOOT. This amendment would not be passed over at this time if we had not passed over the amendment on page 38, I assure the Senator.

Mr. WADSWORTH. I think it would not be passed over at this time if the Senator who requested that it be passed over in the first instance were in his seat.

Mr. SMOOT. Then we would have insisted on acting upon it, because we would have the same discussion on both amendments, and the action on page 38 would automatically follow whatever was done on this amendment.

Mr. WADSWORTH. Mr. President, I make this futile protest because for two or three days we have been doing scarcely anything in this Chamber except listening to lengthy speeches. I have sat here patiently most of the day waiting for the Senate to get to work, instead of which we have been regaled with political utterances from start to finish. I think it is about time that we proceed to do something with this bill, and the very first thing that is encountered, after a political speech has been finished and the absence of a quorum is suggested and Senators are sent for to come to the Chamber to get to work again, is that the Senator who requested that this amendment be put over is again absent. I think there is some limit; that is all.

Mr. SIMMONS. Mr. President, this is not the very first thing that has been done since we returned to the consideration of the bill. We have just adopted an amendment without any discussion at all. When the question was first raised by myself as to whether it was proposed on the second reading to pass over an amendment in the absence of the Senator who had asked that it be passed over on the first reading, it was stated that the usual rule would be followed; and it was understood and agreed then that the usual rule was that where upon the first reading an amendment was asked to be carried over, when it was reached the second time, if the Senator who had made the request was absent from the Chamber, not that it should be indefinitely postponed but that it should be postponed a reasonable time to allow him to return to the Chamber.

If the Senator from Nebraska does not return to the Chamber in a reasonable time, no one will insist upon its going over longer. If he is not here by the usual time for adjournment or a recess, I shall not insist upon its going over any further. But this is a mere compliance with a rule which has obtained in the Senate for the last 20 years at least. It is a mere matter of courtesy to an absent Senator. I will send for him and see if we can not have him present in the Chamber.

The PRESIDENT pro tempore. The amendment has been passed over by unanimous consent.

The next amendment passed over was, on page 84, line 24, to strike out "States or any of its possessions or of any foreign country and," and to insert "States, (b) so much of the income, war-profits, and excess-profits taxes imposed by the authority of any foreign country or possession of the United States as is."

The amendment was agreed to.

The next amendment passed over was, on page 85, line 4, to strike out "(b)" and insert "(c)."

The amendment was agreed to.

The next amendment passed over was, on page 85, line 5, to strike out "assessed: *Provided*, That in" and insert "assessed. In."

The amendment was agreed to.

The next amendment passed over was, on page 85, line 8, to strike out the word "title" and insert the word "title" and a comma.

The amendment was agreed to.

The next amendment passed over was, on page 85, line 11, to strike out the word "obligee" and the semicolon, and to insert:

obligee. The deduction allowed by this paragraph shall be allowed in the case of taxes imposed upon a shareholder or member of a corporation upon his interest as shareholder or member, which are paid by the corporation without reimbursement from the shareholder or member, but in such cases no deduction shall be allowed the shareholder or member for the amount of such taxes.

The amendment was agreed to.

The next amendment passed over was, on page 85, line 25, to strike out the word "property" and insert "shares of stock or securities."

The amendment was agreed to.

The next amendment passed over was, on page 86, line 1, to strike out the words "the revenue act of 1921" and insert "this act."

The amendment was agreed to.

The next amendment passed over was, on page 86, lines 1 and 2, to strike out the words "at or about" and insert the words "within 30 days after."

The amendment was agreed to.

The next amendment passed over was, on page 86, line 3, to insert "(otherwise than by bequest or inheritance)."

The amendment was agreed to.

The next amendment passed over was, on page 86, line 6, to strike out the word "of" and the period and insert "of, unless such claim is made by a dealer in stock or securities and with respect to a transaction made in the ordinary course of his business."

The amendment was agreed to.

The next amendment passed over was, on page 86, line 13, to strike out "year (or in the discretion of the commissioner, a reasonable addition to a reserve for bad debts); and when satisfied that a debt is recoverable only in part, the commissioner may allow such debt to be charged off in part"; and to insert the word "year" and a semicolon, so as to read:

(5) Debts ascertained to be worthless and charged off within the taxable year.

Mr. WADSWORTH. Mr. President, as I understand it, the committee here proposes to strike out the House language, which would make it possible for the Commissioner of Internal Revenue to permit the deduction of a portion of a bad debt during one calendar year, as carried on the books of a corporation or business concern. I regret exceedingly to see that the Senate committee recommended the striking out of that language. It seems to me that in doing that the committee is not doing anything which will increase the revenue in the slightest degree, but simply compelling a business house, concern, or bank, or corporation to carry for a long time on their books portions of a bad debt until finally some day may come when the whole debt may be declared bad, and at that time, and not until then, may the corporation be allowed to deduct on its income-tax return the amount of the bad debt. It seems to me in the direction of sound bookkeeping on the part of a corporation to permit so much of a debt which is conceded to have gone bad, as it were, within the taxable year to be charged off not only on the books of the corporation but deducted on the income-tax return.

Mr. SMOOT. I fully agree with the Senator from New York.

Mr. WADSWORTH. I think the House was right in the matter.

Mr. SMOOT. The House was right in the matter. When the individual deductions for the same purpose were up for consideration, on page 40 of the bill, the request was made by the Senator from North Carolina that the amendment be disagreed to, and the chairman of the committee consented to the request of the Senator from North Carolina.

Mr. WADSWORTH. If the same disposition is made of this committee amendment, I will have no objection, of course.

Mr. SMOOT. The Senate refused to disagree to the amendment on page 40, which is exactly the same amendment as on page 86, except that it applies to corporations.

Mr. WADSWORTH. May I ask if there was a roll call on the amendment on page 40?

Mr. SMOOT. No; there was not a roll call.

Mr. SIMMONS. The amendment of the Senate committee striking out that language of the House has been agreed to.

Mr. WADSWORTH. Mr. President, I am somewhat confused. The amendment on page 40 is exactly analogous to this one on page 86.

Mr. SMOOT. Exactly; only one applies to individuals and the other to corporations.

Mr. WADSWORTH. Has the Senate agreed to the amendment on page 40?

The PRESIDENT pro tempore. The Senate has agreed to that amendment.

Mr. SMOOT. The Senate has agreed to the committee amendment on page 40.

Mr. WADSWORTH. Mr. President, I do not know how many legislative days have gone by, but would it be in order at this late date to move to reconsider the vote by which the amendment on page 40 was agreed to?

Mr. SMOOT. Unanimous consent could be asked, but if that is going to lead to any discussion——

Mr. SIMMONS. Mr. President, I want to say, so far as I am concerned, if the Senator from New York desires to discuss the matter, I would not object to removing any obstacle in the way of his raising the question.

Mr. WADSWORTH. May I ask the Senator from North Carolina if there is any distinction in principle between the two amendments?

Mr. SIMMONS. None whatever. One applies to individuals and the other applies to corporations; that is all.

Mr. WADSWORTH. I would be perfectly content to let the test be made when this amendment on page 86 is acted on; I am not insisting upon it this afternoon.

Mr. SIMMONS. I have no objection to that at all.

Mr. WADSWORTH. If the Senate prefers, I will not press it at this time; but I think it is an amendment to which we should give real attention, and I believe the committee has made a mistake in striking out the House language.

Mr. SMOOT. That is the position I took, and I think so yet. I believe both amendments ought to have been disagreed to; but the Senate decided otherwise the other day, although the chairman of the committee agreed to the request made by the Senator from North Carolina.

Mr. LA FOLLETTE. I suggest that the Senator from New York permit this amendment to be passed over until the matter can be examined in connection with the amendment on page 40.

Mr. WADSWORTH. That will be satisfactory to me, as the two must go together.

The PRESIDENT pro tempore. Without objection, the amendment will be passed over.

The ASSISTANT SECRETARY. The next amendment passed over is on page 86, where the committee proposes to strike out lines 18 and 19, in the following words: "(6) The amount of dividends included in the gross income;" and to insert the following:

(6) The amount received as dividends (A) from a domestic corporation other than a foreign trade corporation, or (B) from any foreign corporation when it is shown to the satisfaction of the commissioner that more than 50 per cent of the gross income of such foreign corporation for the three-year period ending with the close of its taxable year preceding the declaration of such dividends (or for such part of such period as the foreign corporation has been in existence) was derived from sources within the United States as determined under section 217.

Mr. LA FOLLETTE. Mr. President, I ask to have that amendment go over in connection with the other matter of like character which has been passed over, so that we may dispose of it all at one time.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and the amendment will be passed over.

The ASSISTANT SECRETARY. The next amendment passed over is on page 87, where the committee proposes to insert after line 4 the following:

(7) A reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence. In the case of such property acquired before March 1, 1913, this deduction shall be computed upon the basis of its fair market price or value as of March 1, 1913.

Mr. WALSH of Massachusetts. A similar section, which provoked considerable discussion earlier in the consideration of the bill, was passed over, and if the rule is changed in that particular this section will have to be changed later. So I ask that this amendment be passed over.

The PRESIDENT pro tempore. Without objection, the amendment is passed over.

The ASSISTANT SECRETARY. The next amendment passed over is on page 87, where the committee proposes to strike out the following:

SEC. 240. Paragraph (8) of subdivision (a) of section 234 of the revenue act of 1918 is amended by striking out the words "taxes imposed by this title and by Title III" and inserting in lieu thereof the words "income, war-profits, and excess-profits taxes."

The amendment was agreed to.

The ASSISTANT SECRETARY. The next amendment passed over is on page 87, where the committee proposes to insert after line 16 the following:

(8) In the case of buildings, machinery, equipment, or other facilities, constructed, erected, installed, or acquired, on or after April 6, 1917, for the production of articles contributing to the prosecution of the war against the German Government, and in the case of vessels constructed or acquired on or after such date for the transportation of articles or men contributing to the prosecution of such war, there shall be allowed a reasonable deduction for the amortization of such part of the cost of such facilities or vessels as has been borne by the taxpayer, but not again including any amount otherwise allowed under this title or previous acts of Congress as a deduction in computing net income. At any time before March 3, 1924, the commissioner may, and at the request of the taxpayer shall, reexamine the return, and if he then finds as a result of an appraisal or from other evidence that the deduction originally allowed was incorrect, the income, war-profits, and excess-profits taxes for the year or years affected shall be redetermined and the amount of tax due upon such redetermination, if any, shall be paid upon notice and demand by the collector, or the amount of tax overpaid, if any, shall be credited or refunded to the taxpayer in accordance with the provisions of section 252.

The PRESIDENT pro tempore. Without objection, the amendment is agreed to.

The ASSISTANT SECRETARY. The next amendment passed over is on page 87, after line 16, to insert:

(9) In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case, based upon cost including cost of development not otherwise deducted: *Provided*, That in the case of such properties acquired prior to March 1, 1913, the fair market value of the property (or the taxpayer's interest therein) on that date shall be taken in lieu of cost up to that date: *Provided further*, That in the case of mines, oil and gas wells, discovered by the taxpayer on or after March 1, 1913, and not acquired as the result of purchase of a proven tract or lease, where the fair market value of the property is materially disproportionate to the cost, the depletion allowance shall be based upon the fair market value of the property at the date of the discovery, or within 30 days thereafter: *And provided further*, That such depletion allowance, based on discovery value, shall not exceed the net income, computed without allowance for depletion, from the property upon which the discovery is made, except where such net income so computed is less than the depletion allowance based on cost or fair market value as of March 1, 1913; such reasonable allowance in all the above cases to be made under rules and regulations to be prescribed by the commissioner with the approval of the Secretary. In the case of leases the deductions allowed by this paragraph shall be equitably apportioned between the lessor and lessee.

Mr. SIMMONS. I think that is the same amendment as the one on page 42 relating to individuals which was passed over the other day. My understanding was the committee probably had an amendment.

Mr. SMOOT. No; that amendment was agreed to, I will say to the Senator. Paragraph 10, relating to individual taxes, referring to the case of mines, oil and gas wells; it was agreed to.

Mr. SIMMONS. The first part I thought was passed over.

Mr. SMOOT. We passed that over in this case, too.

Mr. SIMMONS. No; we did not. My understanding was that there was to be an amendment offered by the committee. Am I mistaken about that?

Mr. SMOOT. Yes; I do not know of any such amendment at all.

Mr. SIMMONS. I was advised that one had been prepared.

Mr. SMOOT. If it has, it has not been called to the attention of the committee. There may be such an amendment that I do not know anything about.

Mr. SIMMONS. I think the amortization provision was passed over at the instance of the junior Senator from Utah [Mr. KING].

Mr. KING. Yes; it was.

Mr. SIMMONS. Of course if it was passed over as to the individual it ought to be passed over as to the corporation, and both ought to be taken up together.

Mr. SMOOT. I think my colleague suggested an amendment limiting the time of the amortization, but, as I remember, after an explanation of the provision in the individual section of the bill, he withdrew his objection to the oil part, but left it as to the amortization in the case of buildings, machinery, equipment, and so forth.

Mr. KING. Mr. President, I confess that I am somewhat confused because of the fact that some of these provisions are found under paragraphs and sections dealing with individuals and similar provisions providing for exemptions, deductions, and so forth, are found under paragraphs and provisions of the bill applicable alone to corporations.

Let me say to my colleague that when the Senator from Pennsylvania [Mr. PENROSE] was in the Chamber a few days ago and the provision was reached which related particularly to ships and war plants I made a suggestion then with respect to the amendment which was tendered, and the Senator from Pennsylvania, perhaps influenced in a small degree, at least, by the suggestion which I made, consented to an amendment. The Senator from Michigan [Mr. TOWNSEND] saw the point which was in my mind, and I think he approved of some amendment of that character. The Senator from Pennsylvania said he would submit it; at least I so understood him.

Mr. SMOOT. I have just been informed that there is an amendment covering the point to which my colleague has just referred that is to be offered by the committee. Therefore I shall ask that this paragraph go over.

The PRESIDENT pro tempore. If there is no objection, the amendment beginning on line 18, on page 88, and ending with line 22, on page 89, will be passed over.

Mr. SMOOT. No, Mr. President; it is paragraph 8, beginning on page 87, line 17, and down to and including the end of line 17, on page 88.

Mr. SIMMONS. With reference to paragraph 7, relating to an amendment on page 87——

Mr. SMOOT. That was asked to be passed over by the Senator from Massachusetts [Mr. WALSH].

Mr. SIMMONS. I thought it was passed over at the instance of the Senator from Utah.

Mr. SMOOT. No; the Senator from Massachusetts had it go over and it went over again to-day.

Mr. KING. The other day, when one of these subdivisions was under consideration, I made some observations directed against deductions aggregating two billion four hundred and some odd million dollars, and stated that I would offer an amendment dealing with those deductions. I had in mind not metalliferous mines or coal mines.

The PRESIDENT pro tempore. The Chair may say that paragraph 8, beginning with line 17, page 87, has been agreed to, and if it is to be considered again the vote by which it was agreed to must be reconsidered.

Mr. SMOOT. I ask unanimous consent for the reconsideration of the vote by which paragraph 8 was agreed to.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and the vote by which the amendment was agreed to is reconsidered. The Senator from Utah now asks that it be passed over. Without objection, it will be passed over.

Mr. SMOOT. I would like to know if my colleague is not ready to go on with paragraph 7. I understand the Senator from Massachusetts asked that it go over until the junior Senator from Utah was in the Chamber. If that is the case, I should like now to refer back to paragraph 7, on page 87, and have that disposed of before we proceed further.

Mr. KING. Answering my colleague, I will say frankly that the amendment which I have prepared, after I have had some conference with one of the experts of the Treasury Department, does not, I think, deal with the question in a suitable way. I shall have the amendment ready in perfected form to-morrow, if it may be passed over for the present.

Mr. SMOOT. The Senator refers to paragraph 7 on page 87?

Mr. KING. Yes.

Mr. LA FOLLETTE. That has been passed over the second time.

Mr. SMOOT. I referred back to it now, since my colleague was in the Chamber.

Mr. WALSH of Massachusetts. Has paragraph 9, on page 88, been passed over?

Mr. SMOOT. No; paragraph 9 has not yet been passed over.

Mr. WALSH of Massachusetts. As I recall the discussion upon this paragraph in the committee, it is one of the most intricate and most important paragraphs in the bill relating to deductions. I wish the Senator from Utah would state, by illustrating a concrete case, just how this paragraph would work out in the case, for instance, of the purchase of property at a very low price where a very valuable oil well was discovered.

Mr. SMOOT. This is exactly the same amendment applying to corporations that was agreed to affecting individuals, found on page 42.

Mr. WALSH of Massachusetts. I understood that, and I was surprised that it was agreed to when it was reached on page 42, because I think there is a point involved here that is very questionable. In any event, it is a very complicated question and I should like to hear the explanation of the Senator from Utah as he understands the paragraph.

Mr. SMOOT. Paragraph 9 is the existing law with the exception of the proposed amendment found on page 89, beginning at line 11, reading as follows:

And provided further, That such depletion allowance based on discovery value shall not exceed the net income, computed without allowance for depletion, from the property upon which the discovery is made, except where such net income so computed is less than the depletion allowance based on cost or fair market value as of March 1, 1913.

For instance, certain corporations, such as railroad and gas companies which were also in the oil business, have upon the discovery of new oil wells secured a discovery value on such wells as of the date of the discovery so high that the depletion allowance permits them to not only wipe out the income from the oil well but a part of the income from the railroad or gas business.

Mr. President, we limit the depletion allowance based on discovery value so that such allowance shall not exceed the net income from the oil property upon which the discovery is made. This provision will prevent a corporation engaged in any other business from taking any part of its depletion allowance against its income from other sources. The provision applies the same to the corporation as it does to the individual, and I think it ought to be limited. I will assure Senators that it will benefit the Treasury of the United States in a few cases of which we all know.

Mr. WALSH of Massachusetts. Mr. President, I am glad to learn that the Senator from Utah [Mr. SMOOT] claims to have some knowledge of what the section means. I confess that I have difficulty in interpreting the language of the section.

The PRESIDENT pro tempore. The question is on agreeing to the amendment embodied in paragraph 9.

The amendment was agreed to.

The next amendment passed over was, on page 89, after line 22, to strike out:

SEC. 241. Paragraph (10) of subdivision (a) of section 234 of the revenue act of 1918 is repealed, to take effect January 1, 1922.

SEC. 242. Paragraphs (11), (12), and (13) of subdivision (a) of section 234 of the revenue act of 1918 are repealed, to take effect January 1, 1922.

The amendment was agreed to.

The PRESIDENT pro tempore. The next amendment passed over will be stated.

The ASSISTANT SECRETARY. The next amendment, which was passed over at the instance of the Senator from North Carolina [Mr. SIMMONS], is on page 99, beginning in line 4, where the committee proposes to insert subsection (10), relating to life insurance companies.

Mr. SMOOT. In order to save the reading of the amendment, I desire to say that I am informed that the committee has an amendment not only to this provision, which is relative to insurance, but which will apply to some of the other insurance provisions. The Senator from Connecticut, I am sure, understands what the committee virtually agreed to the other morning. I am now informed that that amendment has been prepared, and I therefore ask that the paragraph 10 go over for the purpose of later incorporating the amendment which is to be proposed, and also that paragraphs 11, 12, and 13 go over, as they all relate to the same subject.

The PRESIDENT pro tempore. In the absence of objection, it is so ordered. The next amendment passed over will be stated.

The ASSISTANT SECRETARY. On page 91, beginning in line 19, the committee proposes to strike out down to and including line 18, on page 92, as follows:

SEC. 243. Subdivision (a) of section 234 of the revenue act of 1918 is amended by adding thereto two new paragraphs to read as follows:

"(15) Contributions or gifts made within the taxable year to or for the use of: (A) The United States, any State, Territory, or any political subdivision thereof, or the District of Columbia, for exclusively public purposes; (B) any corporation or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual; or (C) the special fund for vocational rehabilitation authorized by section 7 of the vocational rehabilitation act; to an amount which in all of the above cases combined does not exceed 5 per cent of the taxpayer's net income as computed without the benefit of this paragraph. In case of a foreign corporation or foreign trade corporation this deduction shall be allowed only as to contributions or gifts made to domestic corporations, or to community chests, funds, or foundations created in the United States, or to such vocational rehabilitation fund. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the commissioner, with the approval of the Secretary.

The PRESIDENT pro tempore. Without objection, the amendment is agreed to.

The next amendment passed over was, on page 92, line 19, to strike out the quotation marks and the numeral "(16)" in parentheses and to insert "(14)" in parentheses.

The amendment was agreed to.

The next amendment passed over was, on page 93, in lines 2 and 3, to strike out "acquisition, directly or through the purchase of stocks," and to insert "acquisition."

The amendment was agreed to.

The next amendment passed over was, on page 93, line 5, after the word "converted," to insert "or in the acquisition of 80 per cent or more of the stock or shares of a corporation owning such other property."

The amendment was agreed to.

The next amendment passed over was, on page 93, line 8, after the word "deduction," to strike out the words "so much" and to insert "such portion."

The amendment was agreed to.

The next amendment passed over was, on page 93, line 10, after the word "entire," to strike out "proceeds, and the property shall be treated as taking the place of a like proportion of the property converted," and to insert:

proceeds. The provisions of this paragraph prescribing the conditions under which a deduction may be taken in respect of the proceeds or gains derived from the compulsory or involuntary conversion of property into cash or its equivalent shall apply so far as may be practicable to the exemption or exclusion of such proceeds or gains from gross income under prior income, war profits and excess profits tax acts.

The amendment was agreed to.

The next amendment passed over was, on page 93, to strike out lines 20 and 21, as follows:

SEC. 244. Subdivision (b) of section 234 of the revenue act of 1918 is amended to read as follows.

The amendment was agreed to.

The next amendment passed over was, on page 94, in line 4, to strike out "Secretary, which determination shall be final," and to insert "Secretary."

The amendment was agreed to.

The next amendment passed over was, on page 94, after line 17, to insert:

(b) In the case of a domestic corporation, $2,000; and.

Mr. SIMMONS. Mr. President, that is a paragraph to which I offered an amendment striking out the $2,000 exemption. A majority of the committee, as I understand, is acting upon a number of amendments, and I do not know whether it has acted upon that one or whether it will later act upon it. I was advised by one of the committee that action had not been taken, but that further consideration would probably be given to it.

Mr. SMOOT. Mr. President, there are other Senators who have asked that the amendment go over, although it is not involved in any proposition of which I know that is now under consideration; but the Senator from Kansas desires that it go over.

The PRESIDENT pro tempore. Without objection, the amendment will be passed over.

Mr. SIMMONS. That is one of the so-called vital amendments which we agreed should go over until the last.

Mr. WALSH of Massachusetts. Mr. President, may I suggest to the Senator from Utah that some arrangement may be made by which each morning there shall be placed on the desks of Senators a memorandum of the amendments which have been passed over from the beginning of the bill? We should then know what amendments are pending.

Mr. SMOOT. Perhaps it would be better to wait until we shall go through the bill a second time, and then, when we come to vital questions which have been passed over, to print the amendments which are to be discussed and the pages of the bill on which they are found. We may not get through with the second reading of the amendments to-day, and there is no object in making the print which the Senator from Massachusetts suggests until we shall have finally gone through the bill the second time.

Mr. WALSH of Massachusetts. I think it would expedite business if some arrangement of the kind suggested could be made.

Mr. KING. Mr. President, I was just called from the Chamber to answer a telephone call, and I should like to inquire whether or not lines 18 and 19 of the bill, on page 94, have been stricken out?

Mr. LA FOLLETTE and Mr. SIMMONS. Those lines were passed over.

Mr. KING. I understood—and I do not say this by way of criticism or irony—that some of the new group on the other side of the Chamber had agreed that those lines should be stricken out, and I thought if that were true we had better strike them out now and then proceed to the discussion of other matters.

Mr. SMOOT. The lines have gone over for the present at the request of a Senator, so we shall take the matter up later.

Mr. KING. I am willing to move to strike them out now.

The next amendment passed over was, on page 95, to insert the heading "Payment of corporation income tax at source" and a new section to be known as section 237.

Mr. SMOOT. Mr. President, in order to save time, I will say that the question of the corporation tax and whether it shall be 10 or 15 per cent is involved in the amendment on page 95, beginning in line 21, and it will be impossible to dispose of it in the few minutes we have remaining of to-day's session. It is one of the vital questions in the bill, and therefore I think that it will have to go over to-night.

The PRESIDENT pro tempore. Without objection, the amendment will be passed over.

Mr. LA FOLLETTE. I inquire how much of the bill will be passed over?

The PRESIDENT pro tempore. The Chair is informed that the request includes that portion of the bill down to line 14 on page 102.

Mr. SMOOT. Mr. President, the next amendment is the insurance provision, to which I referred a few moments ago, in which the Senator from Connecticut is interested. Some amendments will be offered to the insurance provisions, beginning on page 103, as amendments will be offered to the other insurance provisions reached a little while ago. We have just passed the other provisions, and therefore I will have to ask that all that portion of the bill may go over, from page 103 down to page 116.

The PRESIDENT pro tempore. Without objection, the portion of the bill referred to by the Senator from Utah will be passed over.

The ASSISTANT SECRETARY. The next amendment, passed over at the instance of the Senator from Missouri [Mr. REED], is found on page 116, after line 3, to insert the following:

(g) If the commissioner finds that a taxpayer designs quickly to depart from the United States or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect the tax for the taxable year then last past or the taxable year then current unless such proceedings be brought without delay, the commissioner shall declare the taxable period for such taxpayer immediately terminated and shall cause notice of such finding and declaration to be given the taxpayer, together with a demand for immediate payment of the tax for the taxable period so declared terminated and of the tax for the preceding taxable year, or so much of said tax as is unpaid, whether or not the time otherwise allowed by law for filing return and paying the tax has expired; and such taxes shall thereupon become immediately due and payable. In any action or suit brought to enforce payment of taxes made due and payable by virtue of the provisions of this subdivision the finding of the commissioner, made as herein provided, whether made after notice to the taxpayer or not, shall be for all purposes presumptive evidence of the taxpayer's design. A taxpayer who is not in default in making any return or paying income, war-profits, or excess-profits tax under any act of Congress may furnish to the United States, under regulations to be prescribed by the commissioner with the approval of the Secretary, security approved by the commissioner that he will duly make the return next thereafter required to be filed and pay the tax next thereafter required to be paid. The commissioner may approve and accept in like manner security for return and payment of taxes made due and payable by virtue of the provisions of this subdivision, provided the taxpayer has paid in full all other income, war-profits, or excess-profits taxes due from him under any act of Congress. If security is approved and accepted pursuant to the provisions of this subdivision and such further or other security with respect to the tax or taxes covered thereby is given as the commissioner shall from time to time find necessary and require, payment of such taxes shall not be enforced by any proceedings under the provisions of this subdivision prior to the expiration of the time otherwise allowed for paying such respective taxes.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

Mr. REED. Mr. President, the clause just read is a statute in itself and it ought to have very careful consideration. It places in the hands of the tax collector a power which, if always wisely and prudently exercised, would perhaps do no particular harm; but the difficulty is that laws are administered by human beings and by the deputies of the human beings who hold the chief offices, and by the clerks of the deputies, and it is also true that the smaller a man is the more likely he is to abuse the power vested in him. The result is that when great power is placed in the hands of any individual, particularly a very small and indiscreet individual, a good many innocent people are likely to suffer.

What I have said is not intended as a reflection upon anybody, but I call the attention of the Senate to this language:

If the commissioner finds that a taxpayer designs quickly to depart from the United States or to remove his property therefrom or to conceal himself—

In order to avoid payment of taxes, and so forth. That applies to any taxpayer, and the action depends upon the finding of the commissioner.

I had assumed, until I read further in the bill, that that finding could be made only after notice and hearing, in which event it might not be so bad as it otherwise would be; and I think that would be the construction which a court would put upon it if that language stood alone, because courts abhor findings where there is no opportunity given for the party in interest to be heard; but reading the section a little further, after providing that the finding of the commissioner shall result in the prohibition of the citizen leaving the country, we find this language:

In any action or suit brought to enforce payment of taxes made due and payable by virtue of the provisions of this subdivision the finding of the commissioner, made as herein provided, whether made after notice to the taxpayer or not, shall be for all purposes presumptive evidence of the taxpayer's design.

So that the case, put in a nutshell, is this: If any citizen of the United States starts to leave the United States, he can be forbidden to go if the commissioner finds that he is intending to depart for the purpose of avoiding the payment of his taxes. That finding can be made by the commissioner without any notice whatsoever to the taxpayer, and it may be bottomed upon any kind of information the commissioner may have gathered. It may, in fact, be bottomed upon nothing but the commissioner's imagination; and the finding having been once made becomes presumptive evidence in all proceedings against the taxpayer.

Put into practical application, it will work in about this way: Some citizen of the United States will conclude that he wants to go abroad. Some deputy tax collector will conceive the notion that that citizen may be going abroad to avoid his taxes; and accordingly the order will be issued without any hearing, without any opportunity whatever to be heard, without any notice whatsoever, and the citizen will be halted in leaving the country, and in addition to that it will be declared that all his taxes shall become due and payable at once; whereupon, that being the case, all of the penalties of the law will be visited upon him if he does not pay at once.

Mr. President, that sort of power ought not to be lodged in any human being in a white man's country. Of course, it might be all right in Turkey or in China or in some place of that sort. It is un-American, it is contrary to the spirit of the common law, and it is certain to result in gross injustices.

Without any law whatever, this power has been to a certain extent assumed—I think without any law; I know of no law. I had a friend, one of the most distinguished jurists in the United States and one of the great men of this country, who applied for passports to go abroad on a six weeks' business trip, and was informed that he could not go abroad unless he presented his tax receipts. He was indignant, naturally, as he ought to have been. Now, how did that come to be done? Some tax collector concluded that somebody at some time might leave the United States and avoid the payment of taxes, whereupon a rule is established applicable to all the free citizens of the United States that they can not go outside the borders of the United States until they can show their tax receipts. That illustrates how far these gentlemen or some gentlemen may go in exercising arbitrary power when it is conferred upon them.

Mr. President, in its present form this amendment ought to be defeated. I am not quarreling with any reasonable attempt to stop an individual from defrauding the Government. I am saying that any law that gives to any officeholder, great or small, the right to try an American citizen and condemn and affix penalties to him without giving him an opportunity to be heard is an un-American law. It is a law that will deface the statute books if it is enacted.

I am willing that this amendment shall lie over and go to the secret conferences that are now being held for purposes of revision, and be submitted to them for elucidation by them, or I am willing that we shall have a roll call and a vote on this matter. We will not have a vote by the small number of Senators now in the Chamber. I think that on further consideration the committee itself, if the Committee on Finance is still functioning, if it has gained permission to function——

Mr. SIMMONS. Mr. President——

Mr. REED. Let me finish my sentence—perhaps the Committee on Finance would like to consider it further. If it is desired to debate this matter on the floor, I am ready to debate it at some length.

Mr. LODGE. Mr. President, I only desire to say this, because although I am no longer on the Committee on Finance I was on the Committee on Finance when the law was enacted that the Senator is now criticizing:

This is all old law. It is not proposed by this committee. The Senator from North Carolina and the rest of us agreed to this. It is absolutely necessary to have some provision of that kind, or you will have men slipping out of the country to avoid taxation payments all the time. In order to collect the taxes, you must have something of this kind. I do not think it is an inborn right of the American citizen to escape his taxes.

Mr. REED. Why, no; but it is an inborn right of the American citizen to be heard before he is condemned.

Mr. LODGE. He is not condemned. He is simply required to produce his receipts; that is all.

Mr. REED. Oh, yes; he is condemned under the law. Let me call attention to it.

Mr. LODGE. Condemned to what?

Mr. SMOOT. Not if he produces his tax receipts.

Mr. REED. Let me see if he is not condemned. Let me read it:

If the commissioner finds that a taxpayer designs quickly to depart from the United States or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect the tax for the taxable year then last past or the taxable year then current unless such proceedings be brought without delay, the commissioner shall declare—

Let us see if there is a penalty:

The commissioner shall declare the taxable period for such taxpayer immediately terminated—

The word "immediately" is inserted here—

and shall cause notice of such finding and declaration to be given the taxpayer, together with a demand for immediate payment of the tax for the taxable period so declared terminated and of the tax for the preceding taxable year or so much of said tax as is unpaid, whether or not the time otherwise allowed by law for filing return and paying the tax has expired; and such taxes shall thereupon become immediately due and payable.

That finding is made without evidence and without hearing, and that result follows.

The Senator from Massachusetts [Mr. LODGE] says that people are escaping taxation sometimes, and it is necessary to have something like this. I do not object to your having something like this, if that "something like this" provides that an American citizen shall have a right to be heard, and to have this finding and order set aside by a court, and that is why I say this thing needs amendment.

Mr. SMOOT. Mr. President, I think this amendment is absolutely necessary if we are going to collect hundreds of thousands of dollars that would escape taxation without such a law. It was intended to prevent a foreigner or an American citizen who does a seasonal business in the United States, and perhaps in many cases makes an immense profit, from leaving before the taxable year is ended without paying his taxes. The law, as I say, has saved to the Government of the United States hundreds of thousand of dollars.

This is the way the law works:

No foreigner can leave the United States without having his passport viséed by the Department of State. No American citizen can leave without a visé of his passport. If there is a question of a man leaving who has not paid his taxes, then he is required to furnish his tax receipt. If a man has not a tax receipt with him, all he has to do is to write and secure a copy of the tax receipt. There has been very little complaint in the enforcement of the law and the regulations. I will admit to the Senator that it does cause some inconvenience in a good many cases, but no penalty has been inflicted on a person who has paid the tax that was due the Government of the United States. Nobody has ever objected, be he a foreigner or an American, if he were trying to escape, to the prevention of him going under this law.

I can not see how it could be made much easier, Mr. President, than it is, particularly for an American citizen. With a foreign citizen, of course, if he were going to leave, I think the Senator would admit that he should not leave without paying his taxes.

Mr. REED. Certainly he should not leave without paying his taxes, if he is going away for the purpose of avoiding the taxes. This law applies, not to people who are doing that—it applies to whomsoever the commissioner "finds" are doing it, and his finding, as I have said and I repeat, can be based upon evidence or upon imagination. There is not a single provision here to require a showing of facts. Neither is there any opportunity afforded the party in interest to appear and show the evidence. What I want done with this law—and what I am going to insist shall be done, until the Senate determines otherwise—is that there shall be a provision put into the law to the effect that if the commissioner acts summarily, detaining a man, he shall set down a day for hearing, give opportunity to be heard, and he shall decide the case according to the evidence presented.

Mr. SMOOT. May I call the Senator's attention to the authorization of the commissioner to waive, in his discretion, any

requirements placed upon an American citizen—not upon a foreigner, but upon an American citizen. It is found on page 118, following this amendment. Now we make it a part of this section. It reads:

In the case of a citizen of the United States about to depart from the United States the commissioner may, at his discretion, waive any or all of the requirements placed on the taxpayer by this subdivision.

There is no need for an American citizen, or a foreigner, to appear to answer any complaint which may be made against him. All he has to do is to present his tax receipt, and that ends the whole thing.

Mr. REED. He must pay his taxes, whether they are due or not.

Mr. SMOOT. Or, if he has not paid his taxes, he must give a bond that he will pay them, or else pay the taxes.

Mr. REED. The Senator from Utah seems to think that because the commissioner may waive the right to employ this drastic law, that cures it. It does not cure it at all. The commissioner is empowered to waive it, but it does not follow that he will waive it, and even if the commissioners in the past have fairly and justly construed this law, and exercised their powers under it fairly, we do not know at what minute we will have some commissioner who will not act in that way.

Mr. WATSON of Indiana. Let me ask the Senator a question. Is the Senator objecting generally to this amendment on account of the character of it, or does he know of individual interceptions under its provisions that have been obnoxious?

Mr. REED. I know of the one I spoke of. I have not been following what they have been doing at the ports of entry. I am objecting to putting on the statute books any law which gives any man the right to harass and burden and penalize an American citizen, without at the same time giving that citizen an opportunity to present his case, and this law is of the character I have described.

Mr. WATSON of Indiana. The Senator is well aware of the fact that all the man needs to do when he is intercepted is to show his tax receipt or a certificate of the fact that he has paid his taxes. If he is unable to do that, then he must give bond that he will pay the taxes. Is there anything burdensome about that?

Mr. REED. That is not the whole case.

Mr. WADSWORTH. Is that all, I was just going to ask the Senator?

Mr. WATSON of Indiana. That is the whole case.

Mr. WADSWORTH. Hardly. How can I show my tax receipt for the taxes imposed on my business for this year? It can not be done.

Mr. SMOOT. All you would have to do would be to give a bond that the taxes would be paid.

Mr. REED. I was about to ask the same question the Senator from New York asked. I am obliged to him.

Mr. SMOOT. You could give a bond that they would be paid.

Mr. WATSON of Indiana. This is an alternative proposition. If you have not the tax receipt, all you have to do is to give bond that you will pay the taxes. If you are seeking to evade the taxes, should there not be some restrictive measures taken?

Mr. WADSWORTH. I think so. I do not object to being compelled to show the tax receipt or to give a bond. Much has been said here to the effect that all that was necessary was to give the tax receipt, but thousands of persons do not have tax receipts because the tax is not yet due. Although the Senate committee makes it a little more stringent by putting in the word "immediately," what I object to is the language commencing on line 23, page 116, to the effect that in any action or suit, no matter what it is, the mere fact that the commissioner has found this design on the part of the taxpayer in itself is presumptive evidence of the design; in other words, of the guilt. You will notice that in the language preceding that whatever notice the taxpayer gets is given to him after the finding. So from the beginning of the whole thing he has no notice of an official character.

Mr. WATSON of Indiana. Let us assume a man going out of the country, and it is suddenly found that he is going out. What sort of notice are you going to give him? He is trying to evade taxes probably.

Mr. SMOOT. He may be on his way to the boat.

Mr. WATSON of Indiana. Yes; he may be on his way to the boat.

Mr. WADSWORTH. I am not contending that notice should be given him as a part of the administration of the act, but the mere fact that one individual who happens to be an officer of the Government finds a design in the other man's mind should not be presumptive evidence of the guilt of the other man.

Mr. WATSON of Indiana. The suspicion of guilt can be easily dispelled by the man producing his tax receipt, if he has paid his taxes, and if he has not by giving a bond that he will pay his taxes.

Mr. WADSWORTH. He may have departed in ignorance. Thousands of people leave this country to-day without tax receipts and without giving bond.

Mr. WATSON of Indiana. That is quite true; but their motives are not suspected and nobody intercepts them.

Mr. WADSWORTH. But it is within the power of the commissioner to suspect their motives, and the mere fact that he suspects them is presumptive evidence of their guilt. How about the thousands of people who go into Canada every year for a week's vacation?

Mr. WATSON of Indiana. They are never intercepted.

Mr. WADSWORTH. Perhaps not; but under this provision it is presumptive evidence that they are guilty if the commissioner or the collector makes up his mind at some time that they designed to evade the payment of taxes.

Mr. WATSON of Indiana. Suppose one-half of the people who go to Canada every year did go for the purpose of escaping or evading taxes, and suppose they were actually on the border, what would you do about it? You can not go into court and initiate some sort of proceeding. You have not any way of giving a man official notice; he is gone before you get to him. We studied this provision and debated it all, and while in some instances it may work some sort of hardship on some of our fellow citizens, after all, we believe that under all the circumstances this was the better way to handle the situation.

Mr. WADSWORTH. Of course, the Senator does not labor under the impression that everybody who goes to Canada goes for the purpose of evading taxes?

Mr. WATSON of Indiana. No; of course not; in fact, during the Civil War they had other reasons.

Mr. WADSWORTH. There have been more recent reasons.

Mr. WATSON of Indiana. I thought they went to Cuba.

Mr. REED. Mr. President, let us see about this provision. You say you can not give him notice. If you can not give him notice, how are you to do anything under this provision? The section provides that if the commissioner concludes a citizen is going away for the purpose of avoiding his taxes, then his taxes shall all become due, and that he shall cause notice of such finding and declaration to be given to the taxpayer. So you have to find your taxpayer to give him that notice, and if you can find him to give him that notice, I think you could find him to give him another notice, namely, that you were going to proceed. If you can find him to notify him that you have already acted, you can find him to notify him that you are about to act. So much for that argument.

Then it is said that all you have to do is to furnish your tax receipt, and it is pointed out by the Senator from New York that you can not furnish the tax receipt for taxes that are not yet due. Then you say that all you have to do is to furnish a bond. That is true, that is all you have to do before you leave the country, to satisfy a gentleman who has no evidence and no reason in the world to suspect you, but just chooses to do so. You can give a bond, without any hearing or day in court, in any kind of a court, even though we call the commissioner a court. What I contend for can be done, and yet you would leave all the force there is in this law, and take away some of its hardships. If the law is necessary at all, it ought to provide that if the commissioner has reason to suspect or believe that a citizen is about to leave the country for the purpose of avoiding his taxes, the State Department may issue an order refusing him his passports, and that the citizen shall be notified and be given a chance to defend himself, and, as in the case of other proceedings, the question shall not be settled upon a practically conclusive deduction that the commissioner's suspicion was right, but settled in accordance with the record and the evidence. That is all I am contending for. The trouble is that these laws are drawn by men who are interested only on the one side, of getting the taxes. I do not criticize them. The possession of arbitrary power is a very delightful thing when you want to get money out of another man, and they do have trouble with men avoiding taxes. But as a matter of principle, the lodgment of these powers in any one man never ought to be, unless the citizen is given an opportunity to be heard, and an opportunity to defend himself. Now, Mr. President, if we are going to vote on this under these circumstances, I shall raise the point of no quorum.

The PRESIDENT pro tempore. The question is upon agreeing to the amendment.

Mr. REED. I am saying to the President pro tempore and to the Senate through him, that if it is proposed to vote on the

amendment this evening, in its present form, I shall raise the question of a lack of quorum.

Mr. LODGE. Mr. President, I do not propose, as far as I have anything to do with it, to press for a vote this evening. I am not in charge of the bill, but I hope a vote will not be asked for this evening.

Mr. SMOOT. It will not be.

Mr. LODGE. I started a while ago to say something about this clause, because I happened to be concerned in the committee which made the law, this being the existing law, which has been in force for three years. It was placed on the statute books with a view of bringing about the proper collection of the revenue.

The Senator from North Carolina [Mr. SIMMONS], who was then chairman, and other members of the committee who considered it carefully, did not think it an unduly drastic law.

Mr. SIMMONS. Mr. President, may I interrupt the Senator?

Mr. LODGE. Certainly.

Mr. SIMMONS. Does the Senator think the present conditions require such a law as much as the conditions which then existed?

Mr. LODGE. I think people are more likely to go over now than they were then. It was more difficult to get abroad then, because it was war time.

Mr. SIMMONS. The suggestion was made at that time that a good many foreigners were leaving the country, returning to their home governments to join the armies of their nations, and that something ought to be done to prevent their leaving before they had paid their income and excess-profits taxes. I do not think conditions now are such as to require departing aliens or even American citizens to go through this ordeal and inconvenience. But I merely wished to ask the Senator the question I have propounded to him.

Mr. LODGE. It may not be the case as to an American citizen. I do not think it is exclusively the American citizen who is involved. It applies to all taxpayers. We have a great many taxpayers in this country who are aliens and who would very quickly leave the country and leave their taxes unpaid and never return. We must have a summary process, like the old writ of ne exeat that has now gone out, I think. We must have a summary process to stop the very evil that this is desired to stop and that is depriving the United States of taxes which are properly due.

Of course, it is going to inconvenience some good men. All the safeguards that are thrown around the collection of taxes are annoying to men who have no intent except to pay their taxes when they are due or before they are due. They have to put up with a number of inconveniences, because otherwise the taxes will not be collected.

I merely wished to say this because I happened to have been concerned in the preparation of the bill which became the existing law.

Mr. TOWNSEND. Mr. President, may I make a suggestion?

The PRESIDENT pro tempore. Does the Senator from Massachusetts yield to the Senator from Michigan?

Mr. LODGE. Certainly.

Mr. TOWNSEND. I recognize the fact that there will be evasions and attempts at evasions of the law, and every proper provision should be supplied; but here is a situation that has been called to my attention which, it seems to me, results in unwarranted wrong.

For instance, take a port like Detroit, a point where people leave the United States for Canada. On their way abroad they frequently go that way and take a boat to go to their homes abroad. I am informed that it is the custom there for the Government officers to stop everyone of these men, everyone of those families, because men frequently go there with their families and have every arrangement made to go abroad, and they are asked by the officers to show their tax receipts. Of course they have no tax receipts, as they have not been paying any taxes. They make that statement, that they have not been paying any taxes. Then in order to make themselves secure I understand the officers ask them to deposit a certain amount of money, such as they think the gentleman is able to pay.

Mr. LODGE. I have never heard of anybody being stopped who was not a taxpayer. I have heard of some taxpayers who grumbled over it a good deal.

Mr. TOWNSEND. I am informed that it is the fact that people are stopped every day and obliged to put up a certain amount of money. I have not heard about a bond that has been required, but that they put up a certain amount of money. What is done with that money afterwards I have not learned, but that that is the practice I have not much doubt.

So I say that while I believe very thoroughly in throwing every safeguard around the collection of taxes, it is a question whether the abuses are not such as that correction should at least be attempted in the law.

Mr. LODGE. That may be possible. I think the law is very necessary in the cases in which I have heard of its application to the whole body of aliens going out from this country, many of whom are men who never perhaps return. There is no other way of holding them that I know of. But I did not intend to precipitate a discussion of the matter.

Mr. TOWNSEND. Nor did I.

EXECUTIVE SESSION.

Mr. LODGE I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 10 minutes spent in executive session the doors were reopened.

RECESS.

Mr. LODGE. I move that the Senate take a recess until to-morrow at noon.

The motion was agreed to; and (at 5 o'clock and 15 minutes p. m.) the Senate took a recess until to-morrow, Saturday, October 8, 1921, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate October 7 (legislative day of October 4), 1921.

POSTMASTERS.

ALABAMA.

James F. Slone, jr., to be postmaster at Cedar Bluff, Ala. Office became presidential April 1, 1921.

ARKANSAS.

Addie Gilbert to be postmaster at Decatur, Ark. Office became presidential July 1, 1920.

CALIFORNIA.

Percy J. Wilson to be postmaster at Balboa, Calif., in place of S. R. Jumper. Incumbent's commission expired March 16, 1921.

CONNECTICUT.

Ethel B. Sexton to be postmaster at Hazardville, Conn., in place of A. P. Prickett, resigned.

Rollin T. Toms to be postmaster at Springdale, Conn., in place of T. H. Hickey. Incumbent's commission expired March 16, 1921.

FLORIDA.

Dudley H. Morgan to be postmaster at River Junction, Fla. Office became presidential January 1, 1921.

IDAHO.

Francis M. Winters to be postmaster at Montpelier, Idaho, in place of J. S. Robison, resigned.

INDIANA.

Fred Y. Wheeler to be postmaster at Crown Point, Ind., in place of P. F. Hein, resigned.

Cyrus B. Dirrim to be postmaster at Hamilton, Ind., in place of G. W. Stout. Incumbent's commission expired December 20, 1920.

Herbert A. Marsden to be postmaster at Hebron, Ind., in place of Herman Doyle. Incumbent's commission expired July 14, 1920.

IOWA.

Charles P. McCord to be postmaster at Nevada, Iowa, in place of E. S. Armstrong. Incumbent's commission expired September 6, 1920.

Elsie Lowe to be postmaster at Woodburn, Iowa. Office became presidential April 1, 1921.

Oscar M. Green to be postmaster at Prescott, Iowa, in place of Park Homan. Incumbent's commission expired September 6, 1920.

MICHIGAN.

William C. Hacker to be postmaster at Mount Clemens, Mich., in place of Martin Crocker, resigned.

MISSOURI.

Tipton H. Acuff to be postmaster at Salem, Mo., in place of S. T. Jeffries, resigned.

MONTANA.

Thomas Hirst to be postmaster at Deer Lodge, Mont., in place of V. N. Weber, resigned.

NEBRASKA.

Fred C. Armitage to be postmaster at Kenesaw, Nebr., in place of John Cain, resigned.

NEW HAMPSHIRE.

Warren W. McGregor to be postmaster at Bethlehem, N. H., in place of W. W. McGregor. Incumbent's commission expired December 20, 1920.

Reuben S. Moore to be postmaster at Bradford, N. H., in place of L. F. Perkins. Incumbent's commission expired December 20, 1920.

Harry E. Messenger to be postmaster at West Lebanon, N. H., in place of J. L. Fulton, resigned.

NEW JERSEY.

Joseph P. Caccio to be postmaster at Fairview, N. J., in place of Joseph Casso, to correct name.

NEW YORK.

Howard T. Meschutt to be postmaster at Good Ground, N. Y., in place of G. D. Squires. Incumbent's commission expired March 16, 1921.

Emmett J. Goodale to be postmaster at East Williston, N. Y. Office became presidential April 1, 1921.

OHIO.

Edward E. Truesdale to be postmaster at Delphos, Ohio, in place of A. J. Shenk, resigned.

PENNSYLVANIA.

William H. Heeps to be postmaster at Orbisonia, Pa., in place of N. T. Newland, resigned.

Joseph Richards to be postmaster at Slatington, Pa., in place of Josiah Cole. Incumbent's commission expired April 3, 1920.

SOUTH CAROLINA.

Mack C. Holmes to be postmaster at Conway, S. C., in place of P. W. Bethea, resigned.

John E. Heustess to be postmaster at Hartsville, S. C., in place of T. P. McLeod, deceased.

TEXAS.

Mark A. Taylor to be postmaster at Bonham, Tex., in place of R. S. Rodgers. Incumbent's commission expired August 23, 1920.

WASHINGTON.

Harvey C. Freeman to be postmaster at Bridgeport, Wash. Office became presidential July 1, 1920.

WISCONSIN.

Fred L. Sheldon to be postmaster at Hixton, Wis. Office became presidential April 1, 1920.

Bernice M. Gregerson to be postmaster at Wauzeka, Wis. Office became presidential July 1, 1920.

CONFIRMATIONS.

Executive nominations confirmed by the Senate October 7 (legislative day of October 4), 1921.

AGENT AND CONSUL GENERAL AT CAIRO, EGYPT.

J. Morton Howell to be agent and consul general at Cairo, Egypt.

SECRETARY OF HAWAII.

Raymond C. Brown to be secretary of Hawaii.

POSTMASTERS.

FLORIDA.

Walter R. McLeod, Apopka.
John H. McLain, Auburndale.
Lauchlin L. McKinnon, Chattahoochee.
Oakley K. Key, Cocoa.
Elwyn B. C. Nichols, Ellenton.
Marion A. Carrier, Fellsmere.
Vance Ervin, Maitland.
John H. Collins, Milton.
Edna L. Goss, Mulberry.
Nathan J. Lewis, Newberry.
Gerben M. De Vries, New Port Richey.
Charlotte E. Henry, Nocatee.
Robert E. L. Pryor, Oldsmar.
Goldie B. Dillaplane, Oneco.
Lonie M. Watkins, Webster.

GEORGIA.

Joshua R. Wimberly, Jeffersonville.
Edmund R. Mathews, Talbotton.

KANSAS.

Walter A. Briggs, Cherryvale.

MISSOURI.

Frederick M. Harrison, Gallatin.
Henry A. Scott, Gilman City.
John N. Hunter, Holt.
Fred A. Hearn, Lilbourn.
Frank Riemeier, Marthasville.
Fred E. Hart, Norwood.

NORTH CAROLINA.

Edgar E. Lady, Kannapolis.

NORTH DAKOTA.

Clara J. Leet, Brocket.
Ruth L. Gibbons, Lawton.
Josephine J. Luther, Monango.
Fredrich A. Rettke, Niagara.
Bennie M. Burreson, Pekin.
John J. Mullett, Perth.
John H. Gambs, Pettibone.
Cornelius Rowerdink, Strasburg.
Lydia R. Schultz, Tappen.
Henry Walz, Zeeland.

HOUSE OF REPRESENTATIVES.

FRIDAY, *October 7, 1921.*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Our Father in heaven, in Thy providence the beginning of every new day is a point of fresh departure. We beseech Thee to help us to cultivate the knowledge that we have. May we seek anew the highest wisdom, that we may bear faithfully the responsibilities of our calling and share the burdens of our kind. In every situation may we know that Thy arm is sufficient, and our defense is sure. Through Jesus Christ our Lord. Amen.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, one of its clerks, announced that the Senate had ordered that Mr. ODDIE be appointed as one of the conferees on the part of the Senate on S. 1072, to amend the act entitled "An act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes," approved July 11, 1916, as amended and supplemented, and for other purposes, vice Mr. PHIPPS, excused.

ORDER OF BUSINESS.

Mr. GARRETT of Tennessee. Mr. Speaker, there is a gentleman on this side of the Chamber who at some time would like to address the House for a few moments. I understand it to be the view of the Speaker that perhaps the agreement we made would render it improper that a request be made that he do it now, or even that a request be made that he might have that opportunity on another day. I simply wish to make this statement, and to express the hope that nothing will prevent that being done on Monday.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent to address the House for two minutes.

The SPEAKER. The Chair will state that he was appealed to on both sides of the House for recognition by unanimous consent, and the Chair held that it was agreed on Tuesday that no business should be transacted to-day, but that we should meet and immediately adjourn until Monday next. The Chair thought that it was not fair to those absent that any Member should be allowed anything by unanimous consent. The Chair thinks that in such cases any exception to the strict terms of the agreement should not only seem reasonable to the Chair but its reasonableness should be so obvious that everyone would recognize it. The Chair thinks this is such a case. The Chair is disposed to think, however, that a request from the majority floor leader to speak for two minutes is obviously something for the general convenience of the House and not a personal request, and that nobody could possibly object to that, and that it would not violate the understanding of the agreement. Therefore, unless somebody objects, the Chair will recognize the gentleman to make his request.

Mr. BLANTON. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BLANTON. I shall not object to the request, but if the Speaker will look closely at the wording of the request made

by the gentleman from Wyoming the other day with regard to adjourning over from to-day he will note that there was nothing in the request that would indicate that no business would be taken up to-day.

The SPEAKER. No; but it was understood that it was a continuation of the three-day recesses, the Chair thinks.

Mr. BLANTON. There are four times as many Members here now as there were the other day when the request was preferred.

The SPEAKER. Is there objection to the request of the gentleman from Wyoming that he be permitted to address the House for two minutes?

There was no objection.

Mr. MONDELL. Mr. Speaker, my understanding, and I think the general understanding, was that there should be no business transacted to-day. I should not make the request that I have made except for the fact that I desire to make a brief statement for the information of the Members of the House.

Quite a number of Members have asked as to the probable program for next week. So far as we have been able to secure an agreement with regard to the program, it is that the District Committee shall occupy Monday and Tuesday, and my understanding is that they propose to bring up the street car merger bill.

On Calendar Wednesday the call rests with the Committee on Naval Affairs. I am not now informed as to whether that committee desires to bring up any measures for consideration. If they do not, the next committee on call is the Post Office Committee, and one or the other of those committees will occupy the time on Calendar Wednesday.

On Thursday we shall take up the apportionment bill, and that will probably consume the time of the sessions on Thursday and Friday.

At this time I am not prepared to say what the House may desire to do on Saturday. Early in the week we shall probably arrive at an understanding as to whether further business shall be taken up on Saturday, or an adjournment had until the following Monday. The good roads bill is in conference, and if that conference report is ready on Saturday I think it would be well to take it up for consideration at that time.

I move that the House do now adjourn.

ADJOURNMENT.

The motion was agreed to.

Accordingly (at 12 o'clock and 14 minutes p. m.) the House, under the order previously made, adjourned until Monday, October 10, 1921, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

239. A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report on preliminary examination and survey of Wilmington Harbor (Christiana River), Del.; to the Committee on Rivers and Harbors and ordered to be printed with maps.

240. A letter from the Assistant Secretary of Labor, transmitting statement of travel performed by officers and employees of the Department of Labor during the fiscal year ending June 30, 1921, in conformity with section 4 of the act approved May 22, 1908 (35 Stat., 224); to the Committee on Expenditures in the Department of Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. ZIHLMAN, from the Committee on the District of Columbia, to which was referred the bill (S. 1033) regulating the issuance of checks, drafts, and orders for the payment of money within the District of Columbia, reported the same with amendments, accompanied by a report (No. 396), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (H. R. 8520) to further regulate certain public-service corporations operating within the District of Columbia, and for other purposes, reported the same without amendment, accompanied by a report (No. 397), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. STEENERSON, from the Committee on the Post Office and Post Roads, to which was referred the bill (S. 2359) providing for an international aero congress cancellation stamp to be used by the Omaha post office, reported the same without amendment, accompanied by a report (No. 399), which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. McSWAIN, from the Committee on Pensions, to which was referred the bill (H. R. 5597) granting a pension to Nettie May Jernegan, reported the same with amendments, accompanied by a report (No. 398), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 7666) granting an increase of pension to Harry H. Sieg; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 8493) granting a pension to Perry Talbott; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 8494) granting an increase of pension to Flora I. Siggins; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. FOCHT: A bill (H. R. 8520) to further regulate certain public-service corporations operating within the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. BOIES: A bill (H. R. 8521) to aid in the disposal of the arrears of business in the several trial courts of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. ZIHLMAN: A bill (H. R. 8522) to create a board of accountancy for the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. PETERS: A bill (H. R. 8523) to repeal section 315 of article 3 of the war risk insurance act, as amended; to the Committee on Interstate and Foreign Commerce.

By Mr. GENSMAN: A bill (H. R. 8524) to provide for the study and destruction of the cotton-boll weevil; to the Committee on Agriculture.

By Mr. RAKER: A bill (H. R. 8525) to amend an act entitled "An act to limit the immigration of aliens into the United States," approved May 19, 1921; to the Committee on Immigration and Naturalization.

By Mr. PETERSEN: A bill (H. R. 8526) making August 23 a national holiday, to be known as "woman's day"; to the Committee on the Judiciary.

By Mr. PARKS of Arkansas: A bill (H. R. 8527) to amend an act entitled "An act to establish a Veterans' Bureau and to improve the facilities and service of such bureau and further to amend and modify the war risk insurance act," approved August 9, 1921; to the Committee on Interstate and Foreign Commerce.

By Mr. LINEBERGER: Joint resolution (H. J. Res. 200) accepting the invitation of the Republic of Brazil to take part in an international exposition to be held in Rio de Janeiro in 1922; to the Committee on Industrial Arts and Expositions.

By Mr. UPSHAW: Joint resolution (H. J. Res. 201) instructing the Clerk of the House to secure from the secretary of state in each State in the Union certain information about secret organizations; to the Committee on Rules.

By Mr. DOWELL: Joint resolution (H. J. Res. 202) authorizing the Interstate Commerce Commission to make an adjustment of freight rates on agricultural products; to the Committee on Interstate and Foreign Commerce.

By Mr. MADDEN: Joint resolution (H. J. Res. 203) to defray the expenses connected with the burial in the Arlington Memorial Amphitheater of the remains of an unknown American member of the American Expeditionary Forces who served in Europe and lost his life during the World War; to the Committee on Appropriations.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BLAND of Indiana: A bill (H. R. 8528) granting a pension to Eliza A. Grizzle; to the Committee on Invalid Pensions.

By Mr. DALLINGER: A bill (H. R. 8529) for the relief of Preston D. Alden; to the Committee on Military Affairs.

By Mr. DICKINSON: A bill (H. R. 8530) granting a pension to Carl L. Setchell; to the Committee on Pensions.

By Mr. GENSMAN: A bill (H. R. 8531) granting a pension to Pleasy J. Graham; to the Committee on Pensions.

Also, a bill (H. R. 8532) granting a pension to Robert F. Foote; to the Committee on Pensions.

Also, a bill (H. R. 8533) for the relief of Joe T. White; to the Committee on Claims.

By Mr. HAWLEY: A bill (H. R. 8534) granting a pension to Nancy M. Oglesby; to the Committee on Pensions.

Also, a bill (H. R. 8535) granting a pension to William W. Rowan; to the Committee on Pensions.

Also, a bill (H. R. 8536) granting a pension to Helen M. Silsby; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8537) granting an increase of pension to William G. Metzger; to the Committee on Pensions.

Also, a bill (H. R. 8538) granting a pension to John H. Foster; to the Committee on Pensions.

By Mr. HULL: A bill (H. R. 8539) granting a pension to Jacob Shaeffer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8540) granting a pension to Nellie R. Johnson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8541) granting a pension to Anna Wait; to the Committee on Invalid Pensions.

By Mr. JOHNSON of Kentucky: A bill (H. R. 8542) for the relief of Herman C. Davis; to the Committee on War Claims.

By Mr. KNUTSON: A bill (H. R. 8543) granting a pension to Mearl Simon Shockley; to the Committee on Pensions.

By Mr. KRAUS: A bill (H. R. 8544) granting an increase of pension to Paul L. Bahr; to the Committee on Pensions.

By Mr. LANHAM: A bill (H. R. 8545) granting a pension to James Hode Carnes; to the Committee on Pensions.

By Mr. MAPES: A bill (H. R. 8546) granting a pension to Israel Cave; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8547) granting a pension to Oscar A. Badder; to the Committee on Pensions.

Also, a bill (H. R. 8548) granting a pension to Charles A. Halbert; to the Committee on Pensions.

By Mr. MILLSPAUGH: A bill (H. R. 8549) for the relief of David W. Sparrow; to the Committee on Military Affairs.

By Mr. PETERSEN: A bill (H. R. 8550) for the relief of George Livingston; to the Committee on Naval Affairs.

By Mr. RAMSEYER: A bill (H. R. 8551) granting an increase of pension to Betty Lentz; to the Committee on Pensions.

By Mr. SCOTT of Tennessee: A bill (H. R. 8552) granting an increase of pension to Sarah Jane Perkins; to the Committee on Pensions.

By Mr. SPROUL: A bill (H. R. 8553) for the relief of D. V. Bussie; to the Committee on Claims.

By Mr. TAYLOR of Tennessee: A bill (H. R. 8554) granting a pension to Stella Johnson; to the Committee on Pensions.

Also, a bill (H. R. 8555) granting a pension to Chloe Cate; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8556) granting an increase of pension to Teddy Sexton; to the Committee on Pensions.

By Mr. THOMAS: A bill (H. R. 8557) granting an increase of pension to Martha F. Vanzant; to the Committee on Invalid Pensions.

By Mr. TINCHER: A bill (H. R. 8558) granting a pension to Hannah M. Morris; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8559) granting a pension to Charles F. Harrison; to the Committee on Pensions.

Also, a bill (H. R. 8560) granting a pension to Mary Leota McCoy; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8561) to extend the benefits of the employers' liability act of September 7, 1916, to Dudley H. Akin; to the Committee on the Judiciary.

By Mr. WALSH: A bill (H. R. 8562) granting an increase of pension to James Quigley; to the Committee on Pensions.

By Mr. ZIHLMAN: A bill (H. R. 8563) granting an increase of pension to Frederick Kidwiler; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8564) granting an increase of pension to A. M. Duff; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

2654. By the SPEAKER (by request): Resolution from Joseph Chouinard, secretary of the Osseo Commercial Club, of Osseo, Minn., indorsing the "more work—better roads" movement; to the Committee on Roads.

2655. By Mr. BULWINKLE: Petition of S. L. Smith and 251 other residents of North Carolina, praying that House bill 4388 do not pass; to the Committee on the District of Columbia.

2656. By Mr. KISSEL: Petition of the United Association of Masters, Mates, and Pilots, 116 Broad Street, New York City; to the Committee on Military Affairs.

2657. By Mr. LYON: Petition of certain citizens of Wilmington, N. C., protesting against the passage of compulsory Sunday observance bill for the District of Columbia; to the Committee on the District of Columbia,

2658. By Mr. MAPES: Petition of H. Mott and other residents of Coopersville, Mich., against the enactment of compulsory Sunday observance laws; to the Committee on the District of Columbia.

2659. By Mr. RAKER: Letter of J. H. Brady, of San Francisco, Calif., urging support of Hon. Thomas L. Blanton in his movement against labor unionism; to the Committee on Labor.

2660. Also, petition of R. A. Wilde and 16 others, of Crows Landing, Calif., indorsing House bill 4383; to the Committee on Indian Affairs.

2661. Also, petition of the California Citrus League, of Los Angeles, Calif., relative to the rule of rate making prescribed by section 15a of the interstate commerce act; also petition of Hooper & Jennings, of San Francisco, Calif., protesting against House bills 6820, 7079, 7459, and 8086; also petition of the John H. Spohn Co., of San Francisco, Calif., protesting against House bills 6820, 7079, 7459, and 8086; also petition of Haas Bros., of San Francisco, Calif., protesting against House bills 6820, 7079, 7459, and 8086; to the Committee on Interstate and Foreign Commerce.

2662. Also, petition of the California Manufacturers' Association, of Oakland, Calif., protesting against the proposed tax on bath robes, lounging robes, and smoking jackets; to the Committee on Ways and Means.

2663. By Mr. SIEGEL: Petition of citizens of New York City, protesting against the compulsory Sunday observance bill (H. R. 4388); to the Committee on the District of Columbia.

2664. By Mr. WALSH: Petition of R. Eugene Ashley, C. H. Brownell, Dr. Jacob Gennert, and several other residents of Massachusetts, favoring an amendment to the national prohibition law to permit the sale of beer and light wines and opposing further restrictions on work and enjoyment of innocent pastimes on Sunday; to the Committee on the Judiciary.

SENATE.

SATURDAY, *October 8, 1921.*

(Legislative day of Tuesday, October 4, 1921.)

The Senate reassembled at 12 o'clock meridian, on the expiration of the recess.

Mr. McCUMBER. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Heflin	Myers	Simmons
Ball	Hitchcock	Nelson	Smith
Borah	Jones, N. Mex.	New	Stanley
Broussard	Kellogg	Newberry	Sterling
Cameron	Kendrick	Nicholson	Townsend
Capper	Kenyon	Norbeck	Trammell
Caraway	Keyes	Oddie	Underwood
Culberson	King	Overman	Wadsworth
Cummins	Ladd	Page	Walsh, Mass.
Dial	La Follette	Pittman	Walsh, Mont.
Elkins	Lenroot	Poindexter	Warren
Ernst	Lodge	Pomerene	Watson, Ga.
Fletcher	McCumber	Ransdell	Weller
Hale	McKellar	Reed	Williams
Harreld	McLean	Robinson	Willis
Harris	McNary	Sheppard	
Harrison	Moses	Shields	

Mr. LODGE. I wish to announce that the Senator from Kansas [Mr. CURTIS], the Senator from Pennsylvania [Mr. PENROSE], the Senator from Utah [Mr. SMOOT], and the Senator from Indiana [Mr. WATSON] are detained on business of the Senate.

Mr. WALSH of Massachusetts. I desire to announce that the Senator from Virginia [Mr. GLASS] is absent owing to illness, and that the Senator from Rhode Island [Mr. GERRY] is absent on account of illness in his family.

The VICE PRESIDENT. Sixty-six Senators having answered to their names, a quorum is present.

MEMORIALS.

Mr. NORBECK presented 23 memorials of sundry citizens of the counties of Roberts, Kingsbury, Minnehaha, McCook, Charles Mix, Hanson, Day, Lake, Fall River, Stanley, Brown, Lincoln, Faulk, McPherson, Spink, Brookings Union, Grant, and Gregory, all in the State of South Dakota, remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which were referred to the Committee on the District of Columbia.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. KENYON:

A bill (S. 2557) to promote the general welfare by gathering information respecting the ownership, production, distribution, costs, sales, and profits in the coal industry and by publication of same, and to recognize and declare coal and its production and distribution charged with public interest and use, and for other purposes; and

A bill (S. 2558) to define and punish profiteering in dealing in coal; to the Committee on Manufactures.

By Mr. KING:

A bill (S. 2559) authorizing the Secretary of War to permit the use of surplus supplies of the Army for the care of ex-service men; to the Committee on Military Affairs.

A bill (S. 2560) making appropriation for the enlargement of the post office at Salt Lake City, Utah; to the Committee on Public Buildings and Grounds.

By Mr. NORBECK:

A bill (S. 2561) granting an increase of pension to John Gonigam (with accompanying papers); to the Committee on Pensions.

By Mr. HALE:

A bill (S. 2562) for the relief of George W. Lancaster (with an accompanying paper); to the Committee on Military Affairs.

AMENDMENTS OF TAX REVISION BILL.

Mr. KING submitted three amendments intended to be proposed by him to House bill 8245, the tax revision bill, which were ordered to lie on the table and to be printed.

AMENDMENT OF JUDICIAL CODE.

Mr. SHIELDS submitted an amendment intended to be proposed by him to the bill (S. 2228) to amend certain sections of the Judicial Code relating to the Court of Claims, which was ordered to lie on the table and to be printed.

PERSONNEL OF FEDERAL RESERVE BOARD.

Mr. WATSON of Georgia. Mr. President, I move that the joint resolution (S. J. Res. 84) requesting the President to remove from office the present five members of the Federal Reserve Board and to appoint five members who, shall not be bankers, and so forth, be taken from the table and referred to the Committee on Banking and Currency.

The motion was agreed to.

PRINTING OF EDITION OF THE CONSTITUTION.

Mr. SHIELDS submitted the following resolution (S. Res. 151), which was referred to the Committee on the Judiciary:

Resolved, That the Constitution of the United States of America, including all amendments thereto and with citations of the cases of the Supreme Court of the United States, construing its several provisions, collated under each separate provision, to date, be printed, and that 1,500 additional copies be printed for the use of the Senate. The Judiciary Committee is authorized to employ a competent person to prepare the citations provided for, his compensation to be paid out of the contingent fund of the Senate.

FREE TRANSIT THROUGH PANAMA CANAL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 665) to provide for free tolls for American ships through the Panama Canal.

Mr. McCUMBER. Mr. President, I realize that when we are just approaching the lunch hour it is a rather inopportune time to discuss a matter as momentous as that of breaching a solemn treaty entered into with another great nation of the world. I can but present my subject matter as concisely as possible, considering the importance of the question and a clear understanding of the treaty.

Mr. President, the world has branded Germany as a dishonorable nation because, with the exigency of a great war before her in which military necessity was the controlling question, she declared that her treaty with Belgium was but "a scrap of paper."

Without any such exigency before us, and without even an attempt being made to secure a modification of our solemn obligation, we are asked to declare that the Hay-Pauncefote treaty shall be treated as a mere scrap of paper. Our physical power to do this is just as unquestioned as the physical power of the German Empire to break its treaty obligations with Belgium.

Mr. President, struggle as we may, strain our intellect to its limit for excuses, we will never be able to make the words in this treaty "all nations" mean "all other nations," nor the words "any such nation" mean "any other such nation."

It makes little difference to me, Mr. President, what any political party places in a platform if, upon investigation, it is found that national honor forbids following the course pointed out. National honor is not a partisan question to be bartered away at the behest of any political organization.

The question before the Congress to-day is not whether the Clayton-Bulwer treaty should have been made by the United States. It was so made. It is not whether the Hay-Pauncefote treaty in reasserting and pledging this Government to the continuation of the "general principle" of article 8 of the Clayton-Bulwer treaty was a proper engagement on the part of this Government. We did make that engagement. And the only question is whether we shall stand by our solemn engagement or whether if we desire to modify that engagement we shall do it in the only just and proper way, by an amendment of the treaty itself. Even though our purpose be declared as a principle by a political convention it does not carry with it that this purpose should be effectuated in a dishonorable way, and, for a much stronger reason, if it can be effectuated through an honorable proceeding—a modification of our treaty—that should be the party's course.

This simple question presents itself to each individual Senator: If the whole course of national declarations and international communications on the subject of an interoceanic canal show conclusively that the words "all nations" were intended to mean just what the natural, plain interpretation of those words would mean, that "all nations of the world" include the United States, which is one of the nations; or if one party to the negotiations leading up to the final contract was everywhere insistent that its ships and the ships of all other nations of the world should have the same rights as the American ships, and this country reiterated again and again that that was its understanding of the treaty, and that this principle should be maintained; and if the parties who drew this contract on the part of the United States solemnly declared that this was the understanding between them and those who signed on behalf of the other nation, namely, that neither coastwise vessels nor other vessels of the United States should have any rights that were not granted to the vessels of other nations, will you then vote to breach this contract?

I am not unaware of the fact that many Senators have not the time and others will not take the time to fully or even fairly investigate this issue. Imbued with the thought that we built this canal with our own money, that we safeguard it with our own vessels, that we have all but complete sovereign power over the strip of land upon which it is constructed, they attempt to satisfy themselves that this gives the unquestioned right to do with this canal whatever we see fit to do with it. They do not stop to investigate the consideration exacted from us as a condition to our very right to construct a canal across the Isthmus, namely, that if that right were granted us we should forever assure to the shipping of the entire world the same rights that we accorded our own shipping, so that there should be no discrimination "against any such nation or its citizens or subjects in respect of the conditions or charges of traffic or otherwise."

If I purchase a tract of land and in my deed it is declared that as a part of the consideration of this purchase a right of way over any part of this tract shall be open to the public as a highway on terms of absolute equality with my own right to the use thereof, it does not lie in my power to assert that because I purchased this land with my own money, because I own this land in fee, because I built costly structures thereon, I can repudiate my obligation for the free use of a roadway across the tract which I obligated myself to forever assure.

Mr. KING. Mr. President, will the Senator yield to me for a moment?

Mr. McCUMBER. I yield.

Mr. KING. Will the Senator discuss later on the provisions of the treaty between the United States and Panama, which, as I recall its provisions, imposed upon the United States a

recognition of the obligations found in article 8 of the Clayton-Bulwer treaty?

Mr. McCUMBER. It is exactly word for word the same as the Hay-Pauncefote treaty. We not only entered into the obligation with Great Britain, whose consent we must secure or else breach our previous treaty containing this agreement, but we also entered into it with Panama.

Mr. KING. What I meant was, if the Senator will pardon me further, that in discussing the question of the rights of the Government of the United States in virtue of its purchase, the Senator might have said with great force that when Panama had parted with her title to that property, whatever title she did part with—and it was not an indefeasible one—there was an obligation upon her part, presumably exacted by Panama, that we should respect the terms of the treaty which we had made with Great Britain with regard to the limitations of the Hay-Pauncefote treaty, and that the canal to be constructed across the territory of Panama should be open equally to all nations.

Mr. McCUMBER. I am not discussing that phase of the question, for the reason that in discussing the terms of the Hay-Pauncefote treaty I am also discussing the Bunau-Varilla treaty.

Mr. President, the Hay-Pauncefote treaty recognizes article 8 of the old Clayton-Bulwer treaty as continuing in force. It is necessary, therefore, to glance at article 8 of the Clayton-Bulwer treaty. Its context is clear and unequivocal. But to better understand it and properly emphasize its whole purpose we must know what influences were operating upon the minds of the parties to that engagement at the time they entered into it. We must understand the fears which had been governing and influencing each party to that contract just prior thereto. Here were two great commercial nations contesting for commercial supremacy. The population of the United States at that time was about 23,000,000. Our domain reached from the Atlantic to the Pacific. British America, on our north, also had its coast line on both these oceans. Great Britain, in addition, had her West Indian possessions, her Mosquito Coast, and her interests in British Guiana. She had her Asiatic possessions and her Australian colonies.

Her prospective interest in the coast-to-coast traffic and the traffic between her colonies was substantially as great as our own at that time. Each of these countries was suspicious of the other. Neither of them at that time, as shown by all the correspondence, desired to have an advantage over the other in any highway, whether by rail or water, connecting the oceans. But each feared that the other might secure that undue advantage. So each of these nations began making treaties with the countries over which the canal might pass to protect it against an advantage by the other. As each country denied any intent to take advantage of the other, the United States determined to put the question at rest, and we approached Great Britain with a request to make an agreement with us that would conform to our mutual assertions of equal rights without advantage to either. Great Britain acquiesced in our request and the result was the Clayton-Bulwer treaty. We requested just that kind of a treaty and we made that kind of a treaty.

Mr. KING. Mr. President, if I may interrupt the Senator further, has the Senator stated, or will he state later on, that Great Britain had certain rights, possibly not fully recognized by the United States, to the eastern terminus of the prospective canal; that is, she claimed a protectorate over the Mosquito Coast.

Mr. McCUMBER. She claimed a protectorate over Mosquito Coast. I have mentioned that, and I assume that Senators are sufficiently acquainted with the geography of Central and South America to know the location of that territory.

With this brief statement you will understand article 8 of the Clayton-Bulwer treaty, and what was intended by each of the nations as "the general principle" of neutralization.

Article 8 reads:

The Governments of the United States and Great Britain having not only desired, in entering into this convention, to accomplish a particular object, but also to establish a "general principle," they hereby agree to extend their protection, by treaty stipulations, to any other practicable communications, whether by canal or railway, across the Isthmus which connects North and South America, and especially to the interoceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama. In granting, however, their joint protection to any such canals or railways as are by this article specified, it is always understood by the United States and Great Britain that the parties constructing or owning the same—

No matter who those parties might be, whether Governments or private individuals—

shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

Now, note that the convention was entered into, first, to accomplish a "particular object"; second, to establish a "general principle." The "particular object" was to assure that neither the United States nor Great Britain would ever attempt to construct or control a canal or other communication as against the other. The "general principle" was that whatever communication should be constructed between the oceans should be open to the citizens and subjects of all nations on equal terms.

Now, this "general principle" which actuated the United States and Great Britain in bringing about the Clayton-Bulwer treaty was spoken of by both parties to the subsequent treaty in all their communications with each other; and especially did the United States assert again and again that it should be sacredly maintained.

Turning now to the Hay-Pauncefote treaty, the preamble recites that these two countries, the United States and Great Britain—

being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, by whatever route may be considered expedient, and to that end to remove any objection which may arise out of the convention of the 19th of April, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the United States, without impairing the general principle of neutralization established in article 8 of that convention, have for that purpose appointed as their plenipotentiaries—

And so forth.

Remember that article 8 of that convention recites specifically that it should apply to vessels of both the United States and Great Britain. Then read article 3 of the Hay-Pauncefote treaty, which follows:

The United States adopts as the basis of the neutralization of such ship canal the following rules, substantially as embodied in the convention of Constantinople, signed the 28th of October, 1888, for the free navigation of the Suez Canal, that is to say: 1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

Just keep in mind now that, while these two Governments make the contract, the ships which move the commerce of the world are the ships of the citizens and subjects of these nations, and this article 3 recites not only that there shall be no discrimination against any such nation but also that there shall be none against its citizens or subjects. The words "its citizens" mean citizens of the United States; the words "or subjects" mean the subjects of Great Britain.

When we speak of "all nations of the world" we do not mean all other nations, because we are one of the nations of the world. When we speak of citizens and subjects of every nation we include the citizens of the United States, because we are one of the "every nations" of the world. This is the natural intent, and should govern. But we do not need to rest our case upon that general rule of construction. Every declaration made by the United States for 140 years shows that that was what we intended when we used the words "all nations" and the "citizens" or "subjects" of every nation.

Mr. OVERMAN. Mr. President, will the Senator yield to me?

Mr. McCUMBER. Certainly.

Mr. OVERMAN. I do not know whether the Senator is going to discuss the Bard amendment or not.

Mr. McCUMBER. I am.

Mr. OVERMAN. I will not interrupt the Senator, then.

Mr. McCUMBER. I shall discuss it.

The United States has been the leading advocate of that principle of commercial equality during its whole history. It has protested vigorously, and its protest has been recognized, against the abandonment of this rule in a case exactly like the one now under consideration. It is worth our whole, if we are seekers after truth rather than seekers for some possible way of escaping the truth, to give ear to our national declarations.

Away back in 1779, when we were making a treaty with France and Spain, while we were still engaged in our Revolution and sought the help of these two countries, we instructed John Jay, our minister to Spain, to conclude a treaty with France and Spain. Mr. Jay was, however, instructed as follows:

Nevertheless, you will insert on the part of your State a proper article or articles for obtaining free navigation of the Mississippi River.

At that time, you will remember, it was claimed that our territory extended only to the banks of the Mississippi River. We did not ask for a superior right, but we demanded that this international boundary river should be free and equal to all people.

When we made our treaty with Great Britain in closing the Revolution, and in which our independence was acknowledged, in 1783, we were careful to have inserted in the treaty the general principle, as follows:

The navigation of the River Mississippi, from its source to its mouth, shall forever remain free and open to the subjects of Great Britain and to the citizens of the United States.

Mr. WATSON of Georgia. Mr. President——

The VICE PRESIDENT. Does the Senator from North Dakota yield to the Senator from Georgia?

Mr. McCUMBER. I yield.

Mr. WATSON of Georgia. As a matter of historical accuracy, I suggest to the Senator that he should add there that Mr. Jay agreed with the Spanish commissioner that the Mississippi River should be closed, and that his powers had to be withdrawn by this Government to keep him from doing it.

Mr. McCUMBER. Yes; that is correct.

Great Britain did not claim ownership in the River Mississippi, but it was a great highway; and though we had waged a desperate war for independence we never thought for one moment of attempting to deny her, even though we may have had the power to do so, in conjunction with France and Spain, the equal rights in this then international boundary stream.

Nine years afterwards, in 1792, in a report to Congress, Mr. Thomas Jefferson, then Secretary of State, declared the general principle as follows:

When their rivers enter the limits of another society, if the right of the upper inhabitants to descend the stream is in any case obstructed it is an act enforced by a stronger society against a weaker, condemned by the judgment of mankind.

Later the question came up for consideration when Jefferson was President of the United States. He sent a letter to Livingstone and Monroe, our representatives in France, in which he declared:

The United States have a just claim to the use of the rivers which pass from their territory through the Floridas. They found their claims on like principles which support their claims for use of the Mississippi.

The question came up again with reference to the navigation of the St. Lawrence River in 1823, in our negotiations with Great Britain for equal rights in the navigation of the St. Lawrence. President Monroe said:

The right to navigate the St. Lawrence River is one which may be established on the general principle of the law of nature.

Certain portions of the river passed over into Canadian territory, making navigation more easy through that territory; but we did not stop there. We insisted that even if Canada built a canal she must treat us in the same way that she treated her own subjects, even though that canal was in her own territory.

This principle was established in a treaty entered into between the United States and Great Britain on March 17, 1816. This treaty recited:

The right of reciprocal navigation of the St. Lawrence by both nations on terms of equality is established.

And, Mr. President, we pressed that right still further. We insisted that if, for the purpose of navigating the St. Lawrence River and to overcome obstacles to navigation, Canada or its citizens should construct a canal clearly within Canadian territory, we should have the right to use that canal on equal terms with the Canadians; and to make that right certain we entered into a treaty with Great Britain which read as follows:

It is agreed that the citizens and inhabitants of the United States shall have the right to navigate the River St. Lawrence and the canals in Canada used as the means of communicating between the Great Lakes and the Atlantic Ocean, with their vessels, boats, and crafts, as fully and freely as subjects of Her Britannic Majesty, subject only to the same tolls and other assessments as now are or may hereafter be exacted of Her Majesty's said subjects.

Mr. POMERENE. Mr. President——

Mr. McCUMBER. I yield to the Senator from Ohio.

Mr. POMERENE. And, as I understand, there has been no change in that treaty from that time to this.

Mr. McCUMBER. No. Canada attempted to make some changes in the matter of fees and charges that would operate to make a heavier burden upon American ships, and we appealed to the treaty and insisted that she did not have the power to do it, and she backed down.

Mr. BORAH. She did after we retaliated by legislation, but she has never admitted yet that she did not have the right to do it.

Mr. McCUMBER. Well, she backed down squarely, and we insisted—I am taking our standpoint—we insisted that she did not have the right.

Again, in 1871 we made another treaty with Great Britain, assuring the free and equal use of the Welland Canal, and settling any dispute as to the St. Clair Flats Canal—a pretty clear-cut proposition—and that has been the general principle which we have stood by ever since.

Mr. KING. Mr. President, will the Senator yield?

Mr. McCUMBER. I yield.

Mr. KING. Does the Senator think that the broad statement made by the Senator from Idaho [Mr. BORAH] is entirely accurate? As I recall the facts, Canada or Great Britain did not deny the validity of the treaty. Canada sought in a sort of an improper way, as I regard it, to evade its terms.

Mr. McCUMBER. They did not deny the validity of the treaty; they questioned whether they might impose certain restrictions which would operate advantageously to Canadian ships.

Mr. KING. I understand they did not controvert the interpretation placed upon it, but sought to evade that by making remission of a part of the tolls. They charged the full toll, but then remitted to Canadians 18 cents out of 20 which were imposed upon both Americans and Canadians.

Mr. McCUMBER. Mr. President, I would rather not go into a discussion of that matter at this time. It was settled by the cases, and our declarations were clear and explicit.

Mr. BORAH. Mr. President, in view of the fact that the accuracy of my statement has been challenged, permit me to say that Canada did interpret the treaty in accordance with my statement that she had a right to discriminate, and never until we passed retaliatory measures were we able to get any concession; and Great Britain never has conceded to this hour that she had not the right to do it.

Mr. McCUMBER. Well, we have insisted—I am taking our standpoint—we have insisted that she did not have the right.

Mr. FLETCHER. Mr. President, may I interrupt the Senator to say that our insistence went to the extent of including her coastwise trade as well as her vessels engaged in foreign trade?

Mr. McCUMBER. Certainly.

What I have recited here, Mr. President, are the "general principles" which we have advocated in the matter of all waterways established for international commerce. I now want to bring the matter right down to our declarations and understanding with reference to any canal which might be constructed across the Isthmus of Panama.

Since the year 1800, and until we began the construction of the canal under the Hay-Pauncefote treaty, the question of the construction of such canal was at all times a living question. Like Banquo's ghost, it would not down. Henry Clay, who was Secretary of State under President John Quincy Adams, in 1826 prepared instructions to govern any agreement which might be made with reference to the connection of the two oceans. He said:

If the work should ever be executed so as to admit of the passage of sea vessels from ocean to ocean, the benefits of it ought not to be exclusively appropriated to any one nation, but should be extended to all parts of the globe upon the payment of a just compensation or reasonable tolls.

No matter who should build this canal, the benefits of it ought never to be exclusively appropriated to any one nation. Can anyone mistake the meaning of these words? Can anyone claim that the words "the benefits should be extended to all parts of the globe" could or did mean anything but that we regarded that such a highway should be as free as though nature had separated the two Americas?

The matter became so interesting that in 1835 Congress saw fit to make a declaration. Through Congress the Nation speaks. This resolution reads:

Resolved, That the President be requested to consider the expediency of opening negotiations with the Governments of other nations for the purpose of effectually protecting by suitable treaty stipulations with them such companies as may undertake the construction of a ship canal across the Isthmus, and securing for them by such stipulations the free and equal rights of navigating such canal to all such nations on the payment of reasonable tolls.

All the United States claimed in this declaration was the free and equal right of navigating such canal, and in that resolution it declared that this right should be secured "to all nations" on the payment of reasonable tolls.

Four years later a committee of the House of Representatives was appointed to consider this matter, and on March 2, 1839, this committee made its report as follows:

The policy is not less apparent which should prompt the United States to cooperate in this enterprise liberally and efficiently before other disposition may be awakened in the particular State within whose territory it may be ceded or other nations shall seek by negotiation to engross a commerce which is now and should ever continue to be open to all.

Notice the strong language, that no nation should ever have the right, by negotiation or otherwise, to engross a commerce which is now and should ever continue to be open to all.

Seven years afterwards, to prevent other nations securing any special right, we entered into a treaty with New Grenada, consummated September 12, 1846. This treaty declared:

The right of way or transit across the Isthmus upon any modes of communication shall be open and free to the two Governments on equal terms.

When President Polk presented this treaty to the Senate he stated:

The ultimate object (of the resolution of March 3, 1835) is to secure to all nations the free and equal right of passage over the Isthmus.

Our next utterance on this great subject of a neutralized canal connecting the two oceans, and as a preliminary negotiation whose final result was the Clayton-Bulwer treaty, was a communication by our State Department of date September 25, 1849, in which our minister, being duly instructed, communicating with Lord Palmerston, representative of Great Britain, said:

That the United States sought no exclusive privilege or preferential right of any kind in regard to the proposed communication, and their sincere wish, if it should be found practicable, was to see it dedicated to the common use of all nations on the most liberal terms and a footing of perfect equality.

In the same communication our minister further declared:

That the United States would not, if they could, obtain any exclusive right or privilege in a great highway which naturally belonged to all mankind. That while they aimed at no exclusive privilege themselves, they would never consent to see so important a communication fall under the exclusive control of any commercial power.

Could language be more clear and more definite as to the attitude—the unselfish attitude—of the United States in respect to the absolute freedom of any waterway connecting the two oceans, no matter by whom that connection should be made?

Again in 1849 our Secretary of State, Mr. Clayton, communicating instructions to Mr. Lawrence, our representative in Great Britain, which he specially asked to be made known to the British Government, said:

If, however, the British Government shall reject these overtures on our part and shall refuse to cooperate with us in the generous and philanthropic scheme of rendering the interoceanic communication by way of the port and river of San Juan free to all nations upon the same terms, we shall deem ourselves justified in protecting our interests independent of her aid and despite her hostility.

How persistently we held to the doctrine, "free to all nations upon the same terms."

Immediately following this President Taylor in his annual message to Congress, on December 4, 1849, declared:

The territory through which the canal may be opened ought to be freed from the claims of any foreign power. No such power should occupy a position that would enable it hereafter to exercise so controlling an influence over the commerce of the world or to obstruct a highway which ought to be dedicated to the use of mankind.

Here again we assert that such a highway "ought to be dedicated to the use of mankind," just as the open sea is free to the use of mankind.

CLAYTON-BULWER TREATY.

With all of these previous declarations on the part of the United States, we asked Great Britain to meet us and write those principles into an engagement which neither party should ever violate.

On April 19, 1850, the Clayton-Bulwer treaty became not only the highest law of this land but a world law guaranteed by the two then greatest powers of the earth.

Article 8 of this treaty declared:

The United States and Great Britain, having not only desired in entering into this convention to accomplish a particular object but also to establish a general principle, they hereby agree.

As I have already pointed out, the particular object was to set at rest forever the fear, the suspicion, that one country might exercise a control over the connecting waterway which would give that country a special advantage. And so they declared—

The Governments of the United States and Great Britain hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal.

That, Mr. President, was the object to be accomplished. What, then, was the general principle to be established? It was the principle which each of these parties had been declaring for more than half a century. It is set out in these words of article 8:

It is always understood by the United States and Great Britain that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable, and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State.

This, Mr. President, is the "general principle" everywhere referred to in subsequent correspondence and declarations. And this is the article 8 which was adopted and declared to be the very foundation stone upon which was constructed and upon which rests the Hay-Pauncefote treaty.

And if it is clear and definite that Great Britain surrendered her rights under the Clayton-Bulwer treaty, that neither the United States nor Great Britain should own or control such canal, on the specific condition that if she so relinquished her right and agreed that the United States might construct such canal without reserving the equal right to herself, and that solemn agreement and understanding consummated in a treaty, will Senators vote to violate that agreement by any kind of a law without first giving the other party to the agreement at least the opportunity of yielding?

Mr. President, no other possible construction can be given to the Hay-Pauncefote treaty in the light of all our previous declarations and carrying as that treaty does by special reference the "general principle" of article 8 of the Clayton-Bulwer treaty.

Not only do the terms of the treaty irrevocably bind us to that construction but both parties to this compact through their representatives declared that this was the understanding of the terms used in the Hay-Pauncefote treaty.

If I make a contract with the Senator from Utah, and there is a word in that contract which might possibly be susceptible of two meanings, and the Senator from Utah in a written statement to me says that he understands that word to mean so-and-so, and I answer by a written statement that that is what I also understand it to mean, those written declarations become a part of the contract, and that is exactly what did happen in this case.

Mr. KING. Mr. President——

The PRESIDING OFFICER (Mr. ERNST in the chair). Does the Senator from North Dakota yield to the Senator from Utah?

Mr. McCUMBER. I yield.

Mr. KING. An attempt may be made to differentiate the illustration just submitted by the Senator from the case at bar in that the representatives of the Government of the United States, who negotiated the treaty, it is true, might bind their Government to the terms of the treaty, but, after all, the treaty would not be binding until ratified by the Senate. The opponents of the position which is now presented by the Senator may contend that the statements made by the parties to the contract could not in any way bind the Senate in the ratification or be determinative or even persuasive upon any court in placing an interpretation upon the contract.

Mr. McCUMBER. It must be persuasive in the matter of placing an interpretation upon it by any court if the matter should ever go to a court, but I will go further and show that the Senate so understood it.

Mr. KING. I was going to say that I agree with the Senator that it is persuasive, but I am not sure that it does not have a certain implication or meaning.

Mr. McCUMBER. Certainly.

Mr. President, our declarations of this "general principle" do not stop with the Clayton-Bulwer treaty. In 1862, Mr. Seward, Secretary of State under President Lincoln, declared:

This Government has no interest in the matter different from that of any other maritime power. It is willing to interpose its aid in execution of its treaty and further equal benefit of all nations.

Note the declaration of Mr. Lincoln, speaking through Mr. Seward:

This Government has no interest in the matter different from that of any other maritime power.

But, Mr. President, these treaties, while they established the "general principle," did not construct the canal.

Our next step looking to that end was to make a treaty in 1867 with Nicaragua. The purpose of that treaty was to assure that if any company or power should construct a canal this "general principle" should be maintained. And so we wrote into that treaty:

And no higher or other charges or tolls shall be imposed on the conveyance or transit of persons and property of citizens or subjects of the United States or of any other country across the said routes of communication than are or may be imposed on the persons and property of the citizens of Nicaragua.

The very next year we followed that treaty with another with Colombia, whereby the United States was to construct the canal. This treaty, however, was never ratified, but the principle was reestablished, as follows:

Now, mark you, in this treaty the United States was to construct the canal and in the treaty we made a certain statement. The treaty was never ratified by the Senate, but it was written by the Government.

Mr. KING. Was that the Squiers treaty?

Mr. McCUMBER. I think that was the name of it. In that treaty we said:

The Government of the United States of America shall establish a tariff of tolls and freights for the said canal on a basis of perfect equality for all nations whether in time of peace or war.

What did "all nations" mean in this treaty?

In the light of the history of those statements can anyone doubt that "any such nations" there included the United States?

Again, during Grant's administration, speaking through Secretary of State Fish, we declared:

We shall be glad of any movement which shall result in the early decision of the question of the most practical route and the early commencement and speedy completion of an interoceanic communication which shall be guaranteed in its perpetual neutralization and dedication to the commerce of all nations without advantage to one over another of those who guarantee its assured neutrality. * * * The benefit of neutral waters at the ends thereof for all classes of vessels entitled to fly their respective flags with the cargoes on board on equal terms in every respect as between each other.

Is there any mistake about the meaning of that purpose?

We now come down to 1881. The Panama Railway Corporation was an American corporation. It was operating a railway between the two oceans.

On June 24, 1881, speaking through Secretary Blaine, President Garfield, in instructions to our minister in England, declared—and remember all the time now that this was an American owned and operated railway—

Nor in time of peace does the United States seek to have any exclusive privileges accorded to American ships, in respect to precedence or tolls, through any interoceanic canal any more than it has sought like privileges for American goods in transit over the Panama Railway under the exclusive control of an American corporation. * * * It would be our earnest desire and expectation to see the world's peaceful commerce enjoy the same just, liberal, and rational treatment.

Mr. KING. Mr. President——

Mr. McCUMBER. I yield to the Senator.

Mr. KING. I agree with the Senator when he said at the outset of his remarks that this is one of the most momentous questions presented to the Senate——

Mr. McCUMBER. Mr. President, I hope the Senator will not attempt to call a quorum now, because many Senators are at lunch and I think they would simply come in, respond to the roll call, and go back to finish their lunch.

Mr. KING. Will the Senator permit me to say that I shall respect his wishes. For some little time there was not a Senator in the Chamber on the Republican side, except the Senator himself, so I sat on the Republican side to give the appearance of not a complete desertion. However, the measure is so important and the Senator is making such a magnificent argument that I do feel an injustice is being done by Senators by their abstention from the Senate and a great injustice is being done to the Senator from North Dakota.

Mr. McCUMBER. Let me say to the Senator that many of the Senators, especially those connected with the Committee on Finance, are extremely busy at this time, and that it is necessary that they should be absent.

Mr. KING. It seems to me that all Senators should avail themselves of every opportunity to obtain full information upon this very important question. It is very deplorable that they do not accept the opportunities for enlightenment.

Mr. McCUMBER. Many of the Republicans agree entirely with me in the construction of the treaty, notwithstanding the Republican platform spoke of free tolls, and undoubtedly will vote the same as I shall upon the subject. The Senator from Arkansas [Mr. CARAWAY] yesterday took me to task as being an extreme partisan. This will at least indicate to the Senator that upon subjects of great national honor and integrity I shall stand by my own convictions rather than by any party platform, the same as the President of the United States did in 1914.

Mr. KING. May I interpolate into the Senator's speech that, speaking for myself, since I have been in the Senate I think the Senator has exemplified upon many occasions an independence that is entirely admirable and a devotion to the interests of the Republic which surpasses that manifested by some upon the other side of the Chamber.

Mr. McCUMBER. Mr. President, the declaration which I have just recited from Mr. Blaine was made at the very time when we were considering the construction of the canal there through an American corporation or by the United States itself. While we were discussing that very subject with Great Britain we declared that the United States does not—

seek to have any exclusive privileges accorded to American ships in respect to precedence or tolls through an interoceanic canal any more than it has sought like privileges for American goods in transit over the Panama Railway under the exclusive control of an American corporation.

We asserted in that declaration to Great Britain that if, through our instrumentality, either by an American corporation or by the Government itself, a canal should be constructed across the Isthmus—

it would be our earnest desire and expectation to see the world's peaceful commerce enjoying the same just, liberal, and rational treatment.

Remember, now, these are declarations made by us to Great Britain with the very purpose which we finally consummated, of ourselves constructing the Panama Canal.

Still, Great Britain seemed to be more or less fearful that if there should be a change of sovereignty over the section to be traversed—in other words, if the United States should acquire the territory she might treat it as an inland waterway—and again she asked us for a specific declaration to cover that very hypothesis, and in response thereto and on November 19, 1881, President Garfield, through Secretary of State Blaine, declared—

Remember, now, that Great Britain was fearful that we might own the strip of land and then say it was inland territory, and we answered her as follows:

This Government entertains no design in connection with this project for its advantage which is not also for the equal or greater advantage of the country to be directly and immediately affected; nor does the United States seek any exclusive or narrow commercial advantage. It frankly agrees, and will by public proclamation declare at the proper time in conjunction with the Republic on whose soil the canal may be located, that the same rights and privileges, the same tolls and obligations for the use of the canal, shall apply with absolute impartiality to the merchant marine of every nation on the globe, and equally in time of peace the harmless use of the canal shall be freely granted to the war vessels of other nations.

That was in response to the suspicion that we might claim that it was an inland waterway after we obtained the territorial sovereignty, and it answers every declaration of Senators that we own the land and own the canal.

Recall again that this is leading up to the construction of a canal by the United States, and this is a diplomatic declaration of our desire. These matters were before both parties when they consummated the agreement. Great Britain then replied to this specific declaration, through Lord Granville, as follows:

Such communication concerned not merely the United States or the American continent but, as was recognized by article 8 of the Clayton-Bulwer treaty, the whole civilized world, and that she would not oppose or decline any discussion for the purpose of securing on a general international basis its universal and unrestricted use.

That was her reply; the minds of the parties met exactly.

We now come to President Cleveland's time. In his very first annual message to Congress, considering the desirability of providing a canal between the two oceans, he again declares the general principle as follows:

Whatever highway that may be constructed across the barrier dividing the two greatest maritime areas of the world must be for the world's benefit—a trust for mankind.

Could any human being express this unselfish purpose more clearly and more definitely? Could any nation of the world have misunderstood our purpose? And when we write this matter into law in a contract, I confess I fail to understand how any Senator can possibly claim that the contract did not mean what it said.

But it was being contended at that time by some public men that the old Clayton-Bulwer treaty had been abrogated; that its terms had been violated and therefore we were not bound by it. Whatever may be the view of any Senator on that subject, we nevertheless did rewrite article 8 of that Clayton-Bulwer treaty into the Hay-Pauncefote treaty, and the Hay-Pauncefote treaty certainly still lives.

Mr. KING. Mr. President, will the Senator yield to me?

Mr. McCUMBER. I yield.

Mr. KING. The Senator will note that repeatedly during that period when it was claimed by some that there had been an abrogation of the Clayton-Bulwer treaty because of alleged infractions of that instrument by Great Britain the State Department of our Government never did aver a repudiation or abrogation of the treaty.

Mr. McCUMBER. Never once; but we held Great Britain strictly to it.

Mr. KING. We insisted upon her obeying the terms of the treaty.

Mr. McCUMBER. I only quote the second declaration of President Cleveland to show that we insisted that the Clayton-Bulwer treaty was in existence. And so President Cleveland, through Secretary Olney, speaking to Great Britain, declared:

That the interoceanic routes there specified should, under the sovereignty of the States traversed by them, be neutral and free to all nations alike. Under these circumstances, upon every principle which governs the relations to each other, either by nations or of individuals, the United States is completely estopped from denying that the treaty (Clayton-Bulwer treaty) is in full force and vigor.

President McKinley, on December 5, 1898, in his message to Congress, asked that Congress consider means for a more direct

communication between our eastern shore and our Hawaiian possessions.

GENERAL UNDERSTANDING OF PEOPLE OF BOTH COUNTRIES AS TO A MODIFICATION OF THE CLAYTON-BULWER TREATY.

Mr. President, not only did the negotiators of the Hay-Pauncefote treaty understand that the term "all nations" included the United States, but the people generally in Great Britain and in the United States fully understood that those were the conditions upon which the Hay-Pauncefote treaty should supersede the old Clayton-Bulwer treaty.

Concurrently with the message of President McKinley to the American Congress, negotiations on the part of this country with Great Britain were begun for the purpose of securing our release from the terms of the Clayton-Bulwer treaty which prohibited either nation from constructing or controlling an isthmian canal. We approached Great Britain for a modification of that provision which, while it did not relieve Great Britain from her obligation not to construct or control such highway, did relieve us from our obligation not to do so.

No sooner had the message of the President been read by the American and British public than the press of both this country and of Great Britain began the discussion of the subject and the principles which should govern the new treaty. I venture to say that there was not a single great journal in the United States at that time who claimed or insisted on greater rights for the United States than would be granted every other country. Out of the mass of editorials on both sides of the ocean I will select the following:

The London Spectator of December 10, 1898, discussing President McKinley's message, stated:

The Times says most reasonably that if the freedom of the waterway were secured to ships of all nations, as in the case of the Suez Canal, we do not see what object we should have in standing strictly upon claims which originated when the circumstances were altogether different.

This paper, giving the British view, insisted only that the rules governing the use of this canal should be like those governing the Suez Canal. While Great Britain owns the controlling stock in that canal, her ships pay the same tolls as those of any other nation.

A further editorial of the same date says:

All we want is that the canal shall be made, and when it is made it shall be open and available to our merchant ships and ships of war as freely as to those of the United States or other power.

Further on the editorial says:

We would abrogate the treaty on the following terms:
4. That the canal should be open at all times to all nations at peace with the United States.
5. That the duties charged would be the same in the case of American and other vessels.
If the United States were to agree, as we believe they would, to such terms as these, we would have no possible grounds for refusing to give up our rights under the Clayton-Bulwer treaty.

That was the British view. Now, let us come back to the United States. The following was published as the basis of agreement in one of the New York papers—I have not at hand the name of the paper, but I think it was the Tribune—and it was discussing the terms under which the Clayton-Bulwer treaty was to be superseded by a new treaty that would entitle us to construct the canal. The following was published as the basis of agreement in one of the New York papers:

That the Government should be reimbursed for the money which should be expended by it in the construction of the canal, in tolls to be charged all vessels using the canal, as per estimates made upon the tonnage which would probably pass through it, and which estimates included the vessels of the United States as well as all other nations.

On February 6, 1900, the New York World, analyzing the first Hay-Pauncefote treaty, the terms of which had just then become public, declared:

The United States, however, is given the right to protect the canal, and may employ such measures as are needful for the safety of the canal and navigation. The canal being the property of the United States and built with American capital, all the profits from the navigation of the canal will go to the United States, but there will be no discrimination in favor of the American vessels.

That was the American understanding.

Mr. POMERENE. Mr. President, the Senator has given, perhaps as much, if not more, attention to this subject than any other Member of this body, and I should like to ask him if at the time about which he is now speaking he finds that anyone entertained any other view than that there should be no discrimination among the vessels of the various nations?

Mr. McCUMBER. I have stated that a contrary view could not be found anywhere in any of the journals, and I never heard a declaration made by any Senator or anyone else claiming differently.

DIPLOMATIC COMMUNICATIONS BETWEEN THE TWO COUNTRIES RELATIVE TO THE PRESERVATION OF THE "GENERAL PRINCIPLE" OF THE CLAYTON-BULWER TREATY PROVIDING FOR EQUAL TREATMENT OF VESSELS OF BOTH NATIONS.

Mr. President, the Hay-Pauncefote treaty was not agreed to on the spur of the moment. The negotiations leading up to its final draft were very long and very thorough. Every provision had to be explained. Extreme efforts were put forth to the end that each country might construe each vital allegation in the same way. Each country was writing the instrument in the light of all preceding declarations on the part of both this country and Great Britain. And each nation believed that there was a binding contract between them, that not only British vessels but the vessels of all other nations should be treated exactly the same as the vessels of the United States in respect to tolls and other charges, and that the construction of the canal by the United States should never change what these nations had declared to be an inviolable principle—the equal rights of all vessels using the canal.

On February 22, 1901, Lord Lansdowne, then secretary for foreign affairs of Great Britain, wrote to the British minister in the United States, Lord Pauncefote, requesting him to present the British views to Secretary Hay. In his letter Lord Lansdowne said:

So far as Her Majesty's Government were concerned, there was no desire to procure a modification of that convention (the Clayton-Bulwer treaty). Some of its provisions had, however, for a long time past been regarded with disfavor by the Government of the United States, and in the President's message to Congress of December 18, 1898, it was suggested, with reference to a concession granted by the Government of Nicaragua, that some definite action of Congress was urgently required if the labors of the past were to be utilized and the linking of the Atlantic and Pacific Oceans by a practical waterway to be realized. * * * This passage in the message having excited comment, your excellency made inquiries of the Secretary of State in order to elicit some information as to the attitude of the President. In reply the views of the United States Government were very frankly and openly explained. You were also most emphatically assured that the President had no intention whatever of ignoring the Clayton-Bulwer convention, and that he would loyally observe treaty stipulations. But in view of the strong national feeling in favor of the construction of the Nicaraguan Canal and of the improbability of the work being accomplished by private enterprise, the United States Government were prepared to undertake it themselves upon obtaining the necessary powers from Congress. For that purpose, however, they must endeavor by friendly negotiations to obtain the consent of Great Britain to such modification of the Clayton-Bulwer treaty as would, without affecting the general principle therein declared, enable the great object in view to be accomplished for the benefit of the commerce of the world. * * * Her Majesty's Government agreed to this proposal, and the discussions which took place in consequence resulted in the draft of the convention which Mr. Hay handed to your excellency on the 11th of January, 1899.

On February 22, 1901, Lord Lansdowne also presented to this Government, through Mr. Lowther, a further declaration of the British view, as follows:

The proposal to abrogate the Clayton-Bulwer convention is not, I think, inadmissible if it can be shown that sufficient provision is made in the new treaty for such portions of the convention as ought in the interests of this country to remain in force. This aspect of the case may be considered in connection with article 1 of the Clayton-Bulwer convention, which has already been quoted, and article 8, referred to in the preamble of the new treaty. Thus, in view of the permanent character of the treaty to be concluded and of the "general principle" reaffirmed thereby as a perpetual obligation, the high contracting parties should agree that no change of sovereignty or other change of circumstances in the territory through which the canal is now to pass shall affect such "general principle" or release the high contracting parties, or either of them, from their obligations under the treaty, and that the rules adopted as the basis of neutralization shall govern so far as possible.

Again, on August 3, 1900, after receiving a draft of the Hay-Pauncefote treaty as drawn by our State Department, and before they would agree to it, Lord Lansdowne wrote to Secretary Hay as follows:

I would therefore propose an additional article in the following terms on the acceptance of which His Majesty's Government would probably be prepared to withdraw their objections to the formal abrogation of the Clayton-Bulwer convention, to wit—

Remember here that there was an attempt on the part of Great Britain not to abrogate the Clayton-Bulwer treaty, but rather to continue it and to amend it to meet the new purposes.

The additional article which Lord Lansdowne proposed was as follows:

In view of the permanent character of this treaty, whereby the general principle established by article 8 of the Clayton-Bulwer convention is reaffirmed, the high contracting parties hereby declare and agree that the rules laid down in the last preceding article (article 3) shall, so far as they may be applicable, govern all interoceanic communication across the isthmus which connects North and South America, and that no change of territorial sovereignty or other change of circumstance shall affect the "general principle" or the obligations of the high contracting parties under the present treaty.

And in the same communication he stated:

On the other hand, I conclude that with the above exception (which relates to fortifications) there is no intention to derogate from the principles of neutrality laid down by the rules. As to the first of

these propositions, I am not prepared to deny that contingencies may arise when not only from a national point of view but on behalf of the commercial interests of the whole world it might be of supreme importance to the United States that they should be free to adopt measures for the defense of the canal at a moment when they were themselves engaged in hostilities.

Further on in his letter he says:

I suggest the renewal of one of the stipulations of article 8 of the Clayton-Bulwer convention by adding to rule 1 the words "such conditions and charges shall be just and reasonable."

At this time, as Senators will remember, Lord Salisbury was premier of Great Britain. Lord Salisbury instructed our representative, Mr. White, to convey to Secretary Hay the following message:

I think that in due course of time we shall consent to the abrogation of such parts of the Clayton-Bulwer treaty as stand in the way of your building the canal, subject, however, to one condition, on which we lay great stress, namely, that the ships of all nations shall use the canal or go through the canal on equal terms.

Our representatives in Great Britain were Mr. Choate, our minister, and Mr. White, our chargé d'affaires. On September 21, 1901, Mr. Lansdowne, through Mr. Choate, sent the following message to Secretary Hay, and I want Senators to listen to it:

But he (Lansdowne) said they could not give up article 3a altogether; that it was quite obvious that we might in the future acquire all the territory on both sides of the canal; that we might then claim that a treaty providing for the neutrality of a canal running through a neutral country could no longer apply to a canal running through American country only; and he again insisted, as Lord Lansdowne had insisted, that they must have something to satisfy Parliament and the British public that in giving up the Clayton-Bulwer treaty they had retained and reasserted the "general principle" of it; that the canal should be technically neutral and should be free to all nations on terms of equality, and especially that in the contingency supposed—of the territory on both sides of the canal becoming ours—the canal, its neutrality, its being free and open to all nations on equal terms, should not be thereby affected; that without securing this they could not justify the treaty either to Parliament or to the public; that the preamble that had already passed the Senate was not enough, although he recognized the full importance of the circumstance of its having passed.

Is it possible for anyone to misunderstand what Mr. Lansdowne understood by the "general principle"? Is it possible that we could misunderstand his declaration that without securing this pledge he could not justify himself in presenting the treaty either to Parliament or to the public? We had declared that the preamble was sufficient. He insisted that the preamble was hardly sufficient. Then what happened? We assured him, through a letter signed by Secretary Hay, as follows:

The preamble of the draft treaty retained the declaration that the "general principle" of neutralization established in article 8 of the Clayton-Bulwer treaty is not impaired. To reiterate this in still stronger language in a separate article, and to give article 8 of the Clayton-Bulwer convention what seems to be a wider function than it originally had, would, I fear, not meet with acceptance. If, however, it seems indispensable to His Majesty's Government that an article providing for the contingency of a change of sovereignty should be inserted, then it might be stated that "it is agreed that no change of territorial sovereignty or of international relations of the countries traversed by the aforesaid canal shall affect the 'general principle' of neutralization or the obligations of the high contracting parties under the present treaty."

Lansdowne accepted this assurance. Thus closed the communications between these countries on the subject of this great highway. It is well to keep in mind the assertion of Lord Lansdowne that unless the general principle of neutrality contained in article 8 of the Clayton-Bulwer treaty, to wit, that such canal, being "open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State, etc.," should be preserved, and unless it should be further provided that any change of territorial sovereignty should not impair this principle, they could not justify the treaty either to Parliament or to the public.

Then keeping in mind the answer of Secretary Hay that the preamble of the draft treaty retained the declaration that the "general principle" of neutralization, established in article 8 of the Clayton-Bulwer treaty is not impaired, and that it was unnecessary to reiterate it, we now come to the presentation of the second Hay-Pauncefote treaty, revised and amended so as to carry out this understanding. The letter of Secretary Hay, explaining the composing of the differences between the two nations, reiterated in almost exact language what both of the parties contended should be the understanding as follows:

The proposed draft in the new treaty was submitted to Lord Lansdowne, and after mature deliberation he proposed on the part of His Majesty's Government only three substantial amendments. * * * Under this modified aspect of the relation of the two nations to the canal, he was not indisposed to consent to the abrogation of the Clayton-Bulwer treaty if the "general principle" of neutrality which was reaffirmed in the preamble in the new treaty, as well as of the former one, should be preserved and secured against any change of sovereignty or other change of circumstances in the territories through which the canal is intended to pass, and that the rules adopted as the basis of neutralization should govern, as far as possible, all interoceanic communication across the Isthmus. He referred in this connection to articles 1 and 8 of the Clayton-Bulwer treaty. He therefore proposed by way of an amendment the insertion of an additional article.

The article proposed is as follows:

In view of the permanent character of this treaty whereby the general principle established by article 8 of the Clayton-Bulwer convention is reaffirmed, the high contracting parties hereby declare and agree that the rules laid down in the last preceding article shall, so far as they may be applicable, govern all interoceanic communications across the Isthmus which connects North and South America, and that no change of territorial sovereignty or other change of circumstances shall affect such general principle or the obligations of the high contracting parties under the present treaty.

The President, however, was not only willing but desirous that the "general principle" of neutralization referred to in the preamble of this treaty should be applicable to this canal now intended to be built, notwithstanding any change of sovereignty or of international relations of the territory through which it should pass. This "general principle" of the neutralization had always, in fact, been insisted upon by the United States, and he recognized the entire justice of the request of Great Britain that if she should now surrender the material interest which had been secured to her by the first article of the Clayton-Bulwer treaty which might result in the indefinite future, should the territory traversed by the canal undergo a change of sovereignty, this "general principle" should not be thereby affected or impaired. These facts were communicated to His Majesty's Government, and as a substitute for the article proposed by Lord Lansdowne the following was proposed on the part of the United States:

"It is agreed that no change of territorial sovereignty or of the international relations of the country or countries traversed by the above-mentioned canal shall affect the general principle of neutralization or the obligations of the high contracting parties under the present treaty."

THE TREATY.

On December 16, 1901, after this explanation of just what Great Britain asked to be made certain, and just what Secretary Hay declared was made certain, we ratified the treaty.

The preamble of this treaty was the setting of our seal upon this "general principle," stamped with the signet ring of national integrity. This preamble reads:

The United States and Great Britain, "being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans by whichever route may be considered expedient, and to that end remove any objection which may arise out of the convention of the 19th of April, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States without impairing the 'general principle' of neutralization established in article 8 of that convention, have for that purpose appointed as their plenipotentiaries"—

And so forth.

The same principle was reiterated in article 3 in these words:

1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect of conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and reasonable.

If we send a ship from New York to San Francisco, which is a coastwise ship, with freight, giving a release from tolls, and Canada sends one from Montreal to San Francisco and pays tolls, would there not be discrimination?

In the face of all these iterations and reiterations for over a hundred years, in the face of our repeated declarations that the "general principle" included the United States, and that this general principle should be preserved, we are now asked to breach that obligation.

UNDERSTANDING OF SENATE.

Mr. President, it was the Senate of the United States which was compelled to set its seal of approval upon this instrument before it could become the supreme law of the land. It is quite proper, therefore, that we should clearly understand what the view of the Senate was. The speeches were not taken down, but the report of the Committee on Foreign Relations to the Senate, which report was adopted by the adoption of the treaty, leaves no room for doubt.

When the first Hay-Pauncefote treaty was before the Senate Senator C. K. Davis, of Minnesota, was chairman of the Committee on Foreign Relations. He presented the majority report. Senator Morgan, of Alabama, presented the minority report. There was no disagreement between these reports concerning the meaning of the words "all nations." Both asserted that the words "all nations" included the United States as well as all other nations. Every word and every sentence of the report of Senator Davis bears out this construction. In this report he says:

No American statesman speaking with official authority or responsibility has ever intimated that the United States would attempt to control this canal for the exclusive benefit of our Government or people. They have all, with one accord, declared that the canal was to be neutral ground in time of war and always open, on terms of impartial equality, to the ships and commerce of the world.

Again, he says:

Special treaties for the neutrality, impartiality, freedom, and innocent use of the two canals that are to be the eastern and western gateways of commerce between the great oceans are not in keeping

with the magnitude and universality of the blessings they must confer upon mankind. The subject rather belongs to the domain of international law.

Did any man in the Senate attempt to gainsay that? I was here during all of the discussion of all of these treaties, and I know that every Senator acceded to both the majority and the minority reports.

Yet, again, Senator Davis said in his report:

Whatever canal is built in the Isthmus of Darien will be ultimately made subject to the same law of freedom and neutrality as governs the Suez Canal, as a part of the laws of nations, and no single power will be able to resist its control.

The United States can not take an attitude of opposition to the principles of the great act of October 22, 1888—

That is, the act concerning the control of the Suez Canal—

without discrediting the official declarations of our Government for 50 years on the neutrality of an isthmian canal and its equal use by all nations without discrimination.

To set up the selfish motive of gain by establishing a monopoly of a highway that must derive its income from the patronage of all maritime countries would be unworthy of the United States if we owned the country through which the canal is to be built.

CANAL BUILT WITH AMERICAN MONEY.

But, Mr. President, many seem to think that because we built the canal with our own money and have control over its operation, this fact should justify us in breaching our obligation. They either do not know or they forget that the agreement to maintain equality of treatment between the subjects and citizens of all nations was a part of the consideration through and by which we secured our right. We can not recall our consideration without surrendering the right.

On the subject of claiming special privileges because we built the canal with our own money the report says:

That our Government or our people will furnish the money to build the canal presents the single question whether it is profitable to do so. If the canal, as property, is worth more than its cost, we are not called on to divide the profits with other nations. If it is worth less and we are compelled by national necessities to build the canal, we have no right to call on other nations to make up the loss to us. In any view, it is a venture that we will enter upon if it is to our interest, and if it is otherwise we will withdraw from its further consideration.

Proceeding, he said:

The Suez Canal makes no discrimination in its tolls in favor of its stockholders, and, taking its profits or the half of them as our basis of calculation, we will never find it necessary to differentiate our rates of toll in favor of our own people in order to secure a very great profit on the investment.

Senator Morgan, while he did not agree with the majority report with reference to where this canal was constructed, nevertheless reiterated, in possibly even stronger words, the statements of the chairman of the Committee on Foreign Relations. Speaking for the minority, he said:

All that is left of this general treaty is the "general principle" provided in article 8 of the Clayton-Bulwer treaty. That is, that the vessels of all nations using the canal should be treated with exact equality, without discrimination in favor of the vessels of any nation.

Now, mark this:

Nothing is given to the United States in article 2 of the convention now under consideration, nor is anything denied to us that is not given or denied to all other nations.

That was the construction put upon the treaty by the Foreign Relations Committee when it was presented to the Senate for ratification—namely, that nothing was given and nothing denied that was not applicable to all nations.

Thus, Mr. President, we established this understanding by positive words. We established it with equal force, however, by negative action. Senator Bard of California offered an amendment, namely, to strike out all of article 3 and substitute the following:

ART. 3. The United States reserves the right in the regulation and management of the canal to discriminate in respect to the charges of traffic in favor of its own citizens engaged in the coastwise trade.

This was voted down, ayes 27, noes 43.

Do not imagine for a single moment that that was not discussed. It was discussed for hours and days, and it was submitted with the understanding that every vessel of the United States should pay the same toll as a vessel of any other country, but that at least we might except from that rule our coastwise vessels, and after that long discussion the Senate, by a vote of 43 to 27, refused to put it in. They refused to put it in because they understood, from everything that had been done and every word that had been uttered prior to the time it was presented to us, that Great Britain had agreed to it only on condition that no vessel of the United States would have a right superior to those of her own vessels and the vessels of the entire world.

The inviolability of this contract and the understanding of the meaning of its words have, as I have indicated, been explained by written instruments of the parties to the contract. It may be well to note the understanding of the negotiators of the instrument as to what each party understood by this contract.

If I enter into a contract with any Senator and there is any doubt as to the meaning of certain words or phrases, and the Senator informs me that he can not execute this agreement unless it is made definite and clear that the words used mean a certain thing, and I reply that these words do mean that thing and that is the way I understand it, am I not morally bound by every element of honor and principle to refrain at any time in the future from claiming a different meaning? These negotiations are exactly of that character and negative the construction which those would place upon the words who desire to vote for remission of tolls.

As I stated before, Mr. Choate and Mr. White were our negotiators. They were in Great Britain. When this matter came up in 1914 I wrote to both these gentlemen. I asked Mr. Choate, who negotiated the treaty, what his understanding was and what was the understanding of the British negotiators as to the meaning of the words "all nations." Of Mr. White I asked the same question, and also what the understanding of the negotiators on both sides was—whether vessels of "all nations" included or did not include our vessels engaged in coastwise trade.

In my letter to Mr. Choate I asked:

1. Was it understood by the state departments of the two countries that the words "vessels of commerce and war of all nations" included our own vessels?

2. Was it understood that these words also included our own vessels engaged in the coastwise trade?

In Mr. Choate's answer he said:

I answer both of these questions most emphatically in the affirmative. The phrase quoted "vessels of commerce and war of all nations" certainly included our own vessels, and was so understood by our own State Department and by the foreign office of Great Britain. It was understood by the same parties that these words also included our own vessels engaged in the coastwise trade.

By article 2, clause 1, of the first Hay-Pauncefote treaty, that of February 5, 1900, it was provided that "the canal shall be free and open in time of war, as in time of peace, to the vessels of commerce and of war of all nations on terms of entire equality, so that there shall be no discrimination against any nation or its citizens or subjects in respect to the conditions or charges of traffic or otherwise."

And the language used by article 3, clause 1, of the second Hay-Pauncefote treaty of 1901, that now under consideration, is as follows: "The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect to the conditions or charges of traffic."

When we came to the negotiation of this last treaty, that of 1901, there was no question that, as between the United States and Great Britain, the canal should be open to the citizens and subjects of both on equal terms, and that it should also be open on like terms to the citizens and subjects of every other State that brought itself within the category prescribed. On that point there was really nothing to discuss, and in the whole course of the negotiations there was never a suggestion on either side that the words "the vessels of commerce and of war of all nations" meant anything different from the natural and obvious meaning of these words. Such language admitted of the exemption or exception of no particular kind of vessels of commerce and of war of any nation, whether of vessels engaged in foreign trade or coastwise trade, or of steam vessels, or sailing vessels, or of black vessels or white vessels, or of iron vessels or wooden vessels. The parties to the negotiation tried to use terms of the meaning of which there could be no doubt or dispute, and they meant what they said and said what they meant.

He further said—and I would ask Senators to think of this, to think of the ridiculousness of it had we insisted on it—

The exception or exemption of vessels of the United States engaged in the coastwise trade would have excepted or exempted something like five-sixths of the entire shipping of the United States—coastwise, 6,812,532 tons; foreign, 1,017,862 (World Almanac for 1914, p. 176)—and it is inconceivable, as it appears to me, that we should have intended, without saying a word on the subject, to except or exempt what would thus be approximately the entire shipping of the United States. Any such idea would have made the further negotiation of the treaty impossible and would have wrecked the purpose which both parties had in mind.

Of course, I submitted from time to time as the negotiations proceeded the substance of all our negotiations to our Secretary of State in dispatches and private letters, all of which, or copies of which, are, as I believe, on file in the State Department, and are doubtless open to the examination of Senators. And Lord Pauncefote, in like manner, was in frequent communication with Lord Lansdowne or the foreign office of Great Britain, and, of course, submitted all that was said and done between us to them. So when what you refer to in your letter as the State Departments of the countries approved and adopted the result of our work and exchanged ratifications of the treaty as it stands they necessarily intended the words "the vessels of commerce and of war of all nations" included our own vessels as well as those of Great Britain, and also included our own vessels engaged in the coastwise trade. There was no kind of vessel that the words used did not include.

I will give you the answer of Mr. White as one of the negotiators. Mr. White's answer was as follows:

I was in constant touch, as secretary of the embassy, with these negotiations, each phase of which Mr. Choate was good enough to tell me of. Indeed, I was often present during their discussion of the question at issue, which took place for the most part at the embassy.

Under these circumstances there is but one way in which I can answer the inquiry contained in your letter" "as to the understanding of Mr. Hay and Lord Pauncefote on the question of the use of the canal by vessels engaged wholly in the coastwise trade," to wit:

(1) That the exemption of our coastwise shipping from the payment of tolls was never suggested to, nor by, anyone connected with the negotiation of the Hay-Pauncefote treaties in this country or in England.

(2) That from the day on which I opened the negotiations with Lord Salisbury for the abrogation of the Clayton-Bulwer treaty until the ratification of the Hay-Pauncefote treaty the words "all nations" and "equal terms" were understood to refer to the United States as well as to all other nations by every one of those, whether American or British, who had anything to do with the negotiations whereof the treaty last mentioned was the result.

Hay has passed to his reward.

I have also a letter from Mr. F. W. Johnson, who talked with Mr. Hay upon this subject, as follows:

I asked Col. Hay plumply if the treaty meant what it appeared to mean on its face and whether the phrase "vessels of all nations" was intended to include our own shipping or was to be interpreted as meaning "all other nations." He replied:

"All means all. The treaty was not so long that we could not have made room for the word 'other' if we had understood that it belonged there. All nations means all nations, and the United States is certainly a Nation."

Summing up all of these arguments, the policy of this Government from its earliest history has been equality of treatment of all vessels which might use any canal connecting the two oceans.

That this policy should control, no matter who owned the canal or where constructed.

That this policy was enacted into positive legislation in the "general principle" of article 8 of the Clayton-Bulwer treaty; and that treaty specifically mentioned vessels of both the United States and Great Britain.

That when this Government approached Great Britain for the abrogation of the Clayton-Bulwer treaty it gave emphatic assurance of our purpose to maintain that "general principle," equality of treatment of vessels of both countries.

That at that time the Congress, the Senate, and the people of the country understood that the interest on money invested and cost of maintenance should be collected from all the vessels using the same, including our own vessels, as per estimates presented to the committee and published to the country generally.

That at that time the people of Great Britain were willing to abrogate the Clayton-Bulwer treaty if in the new treaty the vessels of that country should be allowed the use of the canal on the same terms as the vessels of the United States.

That upon this mutual understanding of purposes the two countries proceeded to putting the new treaty into form.

That in making the new treaty the one party was insistent that this equality of treatment of all vessels of both countries should be preserved beyond question, and the other country positively asserted that the right was preserved without impairment in the preamble of the new treaty and reasserted in section 1 of article 3 of the new treaty.

That all parties to the negotiation of the new treaty—Hay, Choate, and White on our side, Lansdowne and Pauncefote on the British side—declared most positively that they all understood the treaty to mean equality of treatment to all vessels, including American vessels, and by Choate that if it had not been so understood the treaty would never have been agreed to.

That the report of the Committee on Foreign Relations to the Senate construed the meaning of the words "all vessels" to include vessels of the United States. We never heard a word against that contention.

That upon that report and without questioning its accuracy of construction the Senate confirmed the treaty.

That an amendment to free our coastwise vessels from the operation of the treaty was voted down.

If we thought we had the right without the Bard amendment, then making that right certain could not possibly have done any harm. If we thought we did not have this right and wished to secure it, then it was our duty to have voted for the amendment. If carrying in our mind that at some future time we might take a position that "all" meant "all other," knowing that the other nation had advised us again and again that it was understood between the two that it meant "all nations including our own," then we were guilty, it seems to me, of acting dishonorably in not making it clear one way or the other.

On this question of the understanding of the Senate I am again supported by Senator Bacon, who was a member of the Senate during all of the time the two Hay-Pauncefote treaties were before this body and afterwards chairman of the Committee on Foreign Relations. In 1912, when this same question was before the Senate, and while I was discussing the matter, and when I had declared that not only by the terms of the agreement itself but by our vote against freeing our vessels from the payment of tolls we had forever renounced any claim of right to give favored treatment to our coastwise trade, I was interrupted by Senator Bacon with this statement:

We were then engaged in the making of a new treaty with Great Britain, and, of course, if Great Britain would have agreed to that arrangement it would have been a legitimate contract and covenant between the two. What the Senate of the United States then did was to decline even to make that demand upon Great Britain. We declined to say that we would contend for that. We not only by that action in fact recognized that there was an obligation of that kind under the Clayton-Bulwer treaty, but we declined to contend that that should be surrendered by Great Britain and that a new contract should be made, to which they would not have agreed.

Further, he said:

I wish to say, if the Senator will pardon me a moment, in this connection, as I am one of those recorded as voting in favor of the Bard amendment, that my idea at that time was not that any part of the merchant marine of the United States should have free transportation or free right of passage through the canal, but I was standing simply upon the ground that I thought the United States should have the right to control whatever tolls were imposed and discriminate in favor of our own citizens if we saw fit to do so.

In other words, the position of Senator Bacon all the time was that we should have the right to discriminate in favor of all of our vessels.

Mr. President, I have discussed the question so far from the standpoint of national honor and integrity only. We have no right under the treaty to give our coastwise vessels, directly or indirectly, an advantage over the vessels of any other country, coastwise or otherwise. But it is urged that we have a right to grant subsidies to our vessels, and this would be a subsidy in effect. Such a claim, when analyzed, means simply that we have the right to breach the purpose, the consideration for which we obtained our right to build the canal, if we can adopt some words or some system that will avoid a direct conflict with the clear wording of the treaty. The treaty does not say that we shall not grant subsidies to any of our vessels; and if we can grant a subsidy we can make the subsidy, of course, equivalent to what the tolls would be. But the treaty does declare for the equal treatment of all vessels passing through the canal; and if a subsidy destroys that equality it is just as much a breach of the contract as though we had remitted the tolls themselves.

But on the merits of the proposition, our coastwise vessels are the only vessels that can carry merchandise from an Atlantic to a Pacific port in the United States. There can be no competition in the carrying trade from coast to coast. They can charge whatever the traffic will bear; they have done so and will continue to do so. The railroads can not transport goods as cheaply from ocean to ocean as those goods can be carried by continuous waterway transportation. That competition is only between high-speed and low-speed transportation. Where time is not the principal consideration involved, water transportation will control. The coastwise vessels need no bonus. They need no subsidy.

What would we think of a proposition of taxing the American people to build a railway from New York to San Francisco, taxing them to maintain that railway, and then providing that trains of the Pennsylvania Railway Co. should operate freely, without any expense or any tolls, over that line of railway, but that no other railroad company would have the right to run its trains over this sacred track without the payment of tolls to meet the interest on the investment and the cost of upkeep? What would be thought of such a proposition?

Now, that is exactly what we propose to do with reference to our coastwise vessels. The American people have paid for that canal. They are paying the interest upon the investment. They are paying for the upkeep. And we say to a certain line of vessels, the only American monopoly in existence created by the authority of Congress, "You shall have the use of this route without the payment of a cent." There is no excuse on earth for it. Transportation rates will not go down by reason of the remission. These vessels, having the monopoly, will charge every cent the traffic will bear, and they will do this, tolls or no tolls.

TREATIES WITH GREAT BRITAIN OF APRIL 22, 1908, AND SEPTEMBER 25, 1914.

Have Senators stopped to consider the result of this breach of our treaty? Suppose we pass this bill upon the claim that we have the right to remit the tolls of our coastwise vessels—and, of course, if we have the right to remit the tolls of our coastwise vessels, we have the right to remit the tolls of all of our vessels, because both are in the same category and both are governed by the same language of the treaty—we can exactly as well say that we can exempt from tolls our foreign-trade vessels but not our coastwise vessels as we can say we can exempt from tolls our coastwise vessels but not the vessels engaged in foreign trade. What will Great Britain's rights

be? Will this declaration of Congress extinguish her right? Let us see.

On April 22, 1908, we ratified a treaty with Great Britain known as the Root arbitration treaty. Article 1 of that treaty provides:

Differences which may arise of a legal nature or relating to the interpretation of treaties existing between two contracting parties, and which it may not have been possible to settle by diplomacy, shall be referred to the permanent court of arbitration—

And so forth.

That is, The Hague tribunal.

Here is a difference which will arise relating to the interpretation of a treaty, and we solemnly promise we will arbitrate it. But in a subsequent treaty we went still further. On September 25, 1914, the Senate ratified another treaty with Great Britain. It was of the 31 treaties passed in that year for the advancement of the cause of general peace.

Article 1 of that treaty provides:

The high contracting parties agree that all disputes between them, of every nature whatsoever, other than disputes the settlement of which is provided for and in fact achieved under existing agreements between the high contracting parties, shall, when diplomatic methods of adjustment have failed, be referred for investigation and report to a permanent international commission—

And so forth.

I can not doubt for a single moment that the British Government will claim that this bill, if it becomes a law, violates the treaty and will ask for arbitration. I am supported in this statement by the declaration made in 1912, when the matter was before the Senate, by Earl Grey in a very long letter in which he supported his contention that under the Hay-Pauncefote treaty the United States could not relieve her coastwise vessels from the payment of tolls. In this letter he says—and mark its significance in considering the course that will be pursued—

His Majesty's Government feel no doubt as to the correctness of their interpretation of the treaties of 1850 and 1901 * * *. But they recognize that many persons of note in the United States, whose opinions are entitled to great weight, hold that the provisions of the act do not infringe the conventional obligations by which the United States is bound, and under these circumstances they desire to state their perfect readiness to submit the question to arbitration if the Government of the United States would prefer to take this course.

It has been suggested in prior debates on this question that if Great Britain claims this right we would have to breach another treaty with that country if we refused to submit to arbitration; and that if we grant arbitration, as we must do, the verdict would be against us, because all other countries of the world being interested would take the same position as Great Britain does with reference to this agreement.

I do not for a moment believe that the arbitrators or the court would be influenced in its verdict by the special interest of any nation. That any court of arbitration would hold against our contention I do not for a moment doubt. But the case would be decided on the fair construction of the treaty and not because of a selfish interest. We have had more than one illustration of the action of arbitrators when great questions of this kind have been presented to them and when they have been asked to pass upon purely legal or technical propositions. In our dispute concerning the Alaskan boundary the lord chief justice of Great Britain held with the United States on every contention and against the contention and interest of the greatest of the British Dominions—Canada. I do not believe that a member of The Hague Tribunal would be swayed by national interest where a question of construction of a treaty was before that tribunal. There, Mr. President, is where it is bound to go if we insist on breaching the Hay-Pauncefote treaty, and our dishonor will be written by a world tribunal.

It has been stated very often in the debate that the words "all nations" could not be construed to mean the United States, because we own our own war vessels, and we put our own war vessels through; that if we charged our vessels it would be taking the money out of one pocket and putting it into another, and therefore we could not have intended that it was to apply to the vessels of the United States; but, Mr. President, it will be seen that we state that the rules of neutrality shall be substantially those governing the Suez Canal. The international agreement concerning the Suez Canal, of course, charges all vessels, war vessels and others, alike. Great Britain does not own the Suez Canal. She simply owns the controlling stock in the canal. We used the word "substantially," perhaps with that very idea in view, meaning that it shall apply as far as it is applicable, because that means practically the same thing.

Mr. BORAH. Mr. President, the treaty, however, says:

The canal shall be free and open to the vessels of commerce and of war of all nations * * * on terms of entire equality.

Mr. McCUMBER. Yes.

Mr. BORAH. How can the Senator except vessels of war if he does not except vessels of commerce?

Mr. McCUMBER. I have stated that the word "substantially" is used there, and it is provided that the rules of neutrality shall be substantially those governing the Suez Canal. Of course, the idea was to treat all vessels alike, war vessels the same as any other vessels; but of course we all understand that if the United States owns the war vessels, while technically the treatment would be the same, certainly it would make no difference whether she paid or did not pay, because she would be paying out of the Treasury and into the Treasury by the same act.

Mr. KING. Mr. President, will the Senator permit an observation there? As I recall, the obligation rests upon the United States to protect the canal. It would seem to me that that obligation would involve the utilization of her war vessels and the passage of her war vessels freely through the canal, in order that the execution of that object might be effectuated.

Mr. McCUMBER. Mr. Lansdowne, in discussing this matter with the American negotiators and in presenting it to the State Department, made the same suggestion.

Mr. BORAH. Mr. President, the fact is that Lord Lansdowne and Mr. Bryce and Viscount Grey took the position that by reason of our having acquired the canal and become its owners, that abrogated, as it were, or rendered obsolete the other four rules of the treaty; and that was the ground upon which they placed our right to go through the canal, to wit, ownership.

Mr. McCUMBER. Mr. President, I am going to submit as an appendix to my remarks the entire letter of Earl Grey on that subject, and the entire letter shows that there was no such understanding. It is a very long letter, and I will not read it here; but Earl Grey, in 1912, when this matter came up for consideration, wrote a very lengthy article which he asked the British minister to submit to our Secretary of State, in which he gave the whole history of the negotiations, for the very purpose of determining what the words "all vessels" and "equal treatment" meant. The statement seems to me so fair and so full and complete that I shall ask to have it inserted as a part of my remarks.

Mr. President, our duty is a simple one: Keep our word. We have invited three other great nations of the earth to join us in a solemn compact to check the mad and exhausting race of the nations of the world for naval supremacy. Let us enter the portal of the council chamber without soiled hands.

I ask that the letter of Earl Grey may be printed in the RECORD.

The VICE PRESIDENT. Without objection, it is so ordered.

The letter is as follows:

THE SECRETARY OF STATE FOR FOREIGN AFFAIRS OF GREAT BRITAIN TO AMBASSADOR BRYCE.

[Handed to the Secretary of State by the British Ambassador Dec. 9, 1912.]

FOREIGN OFFICE, *November 14, 1912.*

SIR: Your Excellency will remember that on the 8th July, 1912, Mr. Mitchell Innes communicated to the Secretary of State the objections which His Majesty's Government entertained to the legislation relating to the Panama Canal, which was then under discussion in Congress, and that on the 27th August, after the passing of the Panama Canal act and the issue of the President's memorandum on signing it, he informed Mr. Knox that when His Majesty's Government had had time to consider fully the act and the memorandum a further communication would be made to him.

Since that date the text of the act and the memorandum of the President have received attentive consideration at the hands of His Majesty's Government. A careful study of the President's memorandum has convinced me that he has not fully appreciated the British point of view, and has misunderstood Mr. Mitchell Innes's note of the 8th July. The President argues upon the assumption that it is the intention of His Majesty's Government to place upon the Hay-Pauncefote treaty an interpretation which would prevent the United States from granting subsidies to their own shipping passing through the canal, and which would place them at a disadvantage as compared with other nations. This is not the case; His Majesty's Government regard equality of all nations as the fundamental principle underlying the treaty of 1901 in the same way that it was the basis of the Suez Canal convention of 1888, and they do not seek to deprive the United States of any liberty which is open either to themselves or to any other nation; nor do they find either in the letter or in the spirit of the Hay-Pauncefote treaty any surrender by either of the contracting powers of the right to encourage its shipping or its commerce by such subsidies as it may deem expedient.

The terms of the President's memorandum render it essential that I should explain in some detail the view which His Majesty's Government take as to what is the proper interpretation of the treaty, so as to indicate the limitations which they consider it imposes upon the freedom of action of the United States, and the points in which the Panama Canal act, as enacted, infringes what His Majesty's Government hold to be their treaty rights.

The Hay-Pauncefote treaty does not stand alone; it was the corollary of the Clayton-Bulwer treaty of 1850. The earlier treaty was, no doubt, superseded by it, but its general principle, as embodied in article 8, was not to be impaired. The object of the later treaty is clearly shown by its preamble; it was "to facilitate the construction

of a ship canal to connect the Atlantic and Pacific Oceans by whatever route may be deemed expendient, and to that end to remove any objection which may arise out of the Clayton-Bulwer treaty to the construction of such canal under the auspices of the Government of the United States, without impairing the general principle of neutralization established in article 8 of that convention." It was upon that footing, and upon that footing alone, that the Clayton-Bulwer treaty was superseded.

Under that treaty both parties had agreed not to obtain any exclusive control over the contemplated ship canal, but the importance of the great project was fully recognized, and therefore the construction of the canal by others was to be encouraged, and the canal when completed was to enjoy a special measure of protection on the part of both the contracting parties.

Under article 8 the two powers declared their desire, in entering into the convention, not only to accomplish a particular object but also to establish a general principle, and therefore agreed to extend their protection to any practicable transisthmian communication, either by canal or railway, and either at Tehuantepec or Panama, provided that those who constructed it should impose no other charges or conditions of traffic than the two Governments should consider just and equitable, and that the canal or railway, "being open to the subjects and citizens of Great Britain and the United States on equal terms, should also be open to the subjects of any other State which was willing to join in the guaranty of joint protection."

So long as the Clayton-Bulwer treaty was in force, therefore, the position was that both parties to it had given up their power of independent action, because neither was at liberty itself to construct the canal and thereby obtain the exclusive control which such construction would confer. It is also clear that if the canal had been constructed while the Clayton-Bulwer treaty was in force, it would have been open, in accordance with article 8, to British and United States ships on equal terms, and equally clear, therefore, that the tolls leviable on such ships would have been identical.

The purpose of the United States in negotiating the Hay-Pauncefote treaty was to recover their freedom of action and obtain the right, which they had surrendered, to construct the canal themselves; this is expressed in the preamble to the treaty, but the complete liberty of action consequential upon such construction was to be limited by the maintenance of the general principle embodied in article 8 of the earlier treaty. That principle, as shown above, was one of equal treatment for both British and United States ships, and a study of the language of article 8 shows that the word "neutralization," in the preamble of the later treaty, is not there confined to belligerent operations, but refers to the system of equal rights for which article 8 provides.

If the wording of the article is examined, it will be seen that there is no mention of belligerent action in it at all. Joint protection and equal treatment are the only matters alluded to, and it is to one or both of these that neutralization must refer. Such joint protection has always been understood by His Majesty's Government to be one of the results of the Clayton-Bulwer treaty of which the United States was most anxious to get rid, and they can scarcely, therefore, believe that it was such joint protection that the United States were willing to keep alive, and to which they referred in the preamble of the Hay-Pauncefote treaty. It certainly was not the intention of His Majesty's Government that any responsibility for the protection of the canal should attach to them in the future. Neutralization must therefore refer to the system of equal rights.

It thus appears from the preamble that the intention of the Hay-Pauncefote treaty was that the United States was to recover the right to construct the trans-Isthmian Canal upon the terms that, when constructed, the canal was to be open to British and United States ships on equal terms.

The situation created was, in fact, identical with that resulting from the boundary waters treaty of 1909 between Great Britain and the United States, which provided as follows:

"The high contracting parties agree that the navigation of all navigable boundary waters shall forever continue free and open for the purposes of commerce to the inhabitants and to the ships, vessels, and boats of both countries equally, subject, however, to any laws and regulations of either country, within its own territory, not inconsistent with such privilege of free navigation, and applying equally and without discrimination to the inhabitants, ships, vessels, and boats of both countries.

"It is further agreed that so long as this treaty shall remain in force this same right of navigation shall extend to the waters of Lake Michigan and to all canals connecting boundary waters and now existing, or which may hereafter be constructed on either side of the line. Either of the high contracting parties may adopt rules and regulations governing the use of such canals within its own territory, and may charge tolls for the use thereof; but all such rules and regulations and all tolls charged shall apply alike to the subjects or citizens of the high contracting parties, and they * * * shall be placed on terms of equality in the use thereof."

A similar provision, though more restricted in its scope, appears in article 27 of the treaty of Washington, 1871, and your excellency will no doubt remember how strenuously the United States protested, as a violation of equal rights, against a system which Canada had introduced of a rebate of a large portion of the tolls on certain freight on the Welland Canal, provided that such freight was taken as far as Montreal, and how in the face of that protest the system was abandoned.

The principle of equality is repeated in article 3 of the Hay-Pauncefote treaty, which provides that the United States adopts as the basis of the neutralization of the canal certain rules, substantially as embodied in the Suez Canal convention. The first of these rules is that the canal shall be free and open to the vessels of commerce and war of all nations observing the rules on terms of entire equality, so that there shall be no discrimination against any such nation.

The word "neutralization" is no doubt used in article 3 in the same sense as in the preamble, and implies subjection to the system of equal rights. The effect of the first rule is therefore to establish the provision, foreshadowed by the preamble and consequent on the maintenance of the principle of article 8 of the Clayton-Bulwer treaty, that the canal is to be open to British and United States vessels on terms of entire equality. It also embodies a promise on the part of the United States that the ships of all nations which observe the rules will be admitted to similar privileges.

The President in his memorandum treats the words "all nations" as excluding the United States. He argues that, as the United States in constructing the canal at its own cost on territory ceded to it, it has, unless it has restricted itself, an absolute right of ownership and control, including the right to allow its own commerce the use of the canal upon such terms as it sees fit, and that the only question is whether it has by the Hay-Pauncefote treaty deprived itself of the exercise of the right to pass its own commerce free or remit tolls collected for the use of the canal. He argues that article 3 of the treaty is nothing more than a declaration of policy by the United States that the canal shall be neutral and all nations treated alike and no discrimination made against any one of them observing the rules adopted by the United States. "In other words, it was a conditional favored-nation treatment, the measure of which, in the absence of express stipulations to that effect, is not what the country gives to its own nationals, but the treatment it extends to other nations."

For the reasons they have given above His Majesty's Government believe this statement of the case to be wholly at variance with the real position. They consider that by the Clayton-Bulwer treaty the United States had surrendered the right to construct the canal, and that by the Hay-Pauncefote treaty they recovered that right upon the footing that the canal should be open to British and United States vessels upon terms of equal treatment.

The case can not be put more clearly than it was put by Mr. Hay himself, who, as Secretary of State, negotiated the Hay-Pauncefote treaty, in the full account of the negotiations which he sent to the Senate Committee on Foreign Relations (see S. Doc. No. 746, 61st Cong., 3d sess.):

"These rules are adopted in the treaty with Great Britain as a consideration for getting rid of the Clayton-Bulwer treaty."

If the rules set out in the Hay-Pauncefote treaty secure to Great Britain no more than most-favored-nation treatment, the value of the consideration given for superseding the Clayton-Bulwer treaty is not apparent to His Majesty's Government. Nor is it easy to see in what way the principle of article 8 of the Clayton-Bulwer treaty, which provides for equal treatment of British and United States ships, has been maintained.

I notice that in the course of the debate in the Senate on the Panama Canal bill the argument was used by one of the speakers that the third, fourth, and fifth rules embodied in article 3 of the treaty show that the words "all nations" can not include the United States, because, if the United States were at war, it is impossible to believe that it could be intended to be debarred by the treaty from using its own territory for revictualing its warships or landing troops.

The same point may strike others who read nothing but the text of the Hay-Pauncefote treaty itself, and I think it is therefore worth while that I should briefly show that this argument is not well founded.

The Hay-Pauncefote treaty of 1901 aimed at carrying out the principle of the neutralization of the Panama Canal by subjecting it to the same régime as the Suez Canal. Rules 3, 4, and 5 of article 3 of the treaty are taken almost textually from articles 4, 5, and 6 of the Suez Canal convention of 1888. At the date of the signature of the Hay-Pauncefote treaty the territory on which the Isthmian Canal was to be constructed did not belong to the United States; consequently there was no need to insert in the draft treaty provisions corresponding to those in articles 10 and 13 of the Suez Canal convention, which preserve the sovereign rights of Turkey and of Egypt, and stipulate that articles 4 and 5 shall not affect the right of Turkey, as the local sovereign, and of Egypt, within the measure of her autonomy, to take such measures as may be necessary for securing the defense of Egypt and the maintenance of public order, and, in the case of Turkey, the defense of her possessions on the Red Sea.

Now that the United States has become the practical sovereign of the canal, His Majesty's Government do not question its title to exercise belligerent rights for its protection.

For these reasons His Majesty's Government maintain that the words "all nations" in rule 1 of article 3 of the Hay-Pauncefote treaty include the United States, and that in consequence British vessels using the canal are entitled to equal treatment with those of the United States, and that the same tolls are chargeable on each.

This rule also provides that the tolls should be "just and equitable." The purpose of these words was to limit the tolls to the amount representing the fair value of the services rendered, i. e., to the interest on the capital expended and the cost of the operation and maintenance of the canal. Unless the whole volume of shipping which passes through the canal, which benefits all equally by its services, is taken into account, there are no means of determining whether the tolls chargeable upon a vessel represent that vessel's fair proportion of the current expenditure properly chargeable against the canal; that is to say, interest on the capital expended in construction and the cost of operation and maintenance. If any classes of vessels are exempted from tolls in such a way that no receipts from such ships are taken into account in the income of the canal, there is no guaranty that the vessels upon which tolls are being levied are not being made to bear more than their fair share of the upkeep. Apart altogether, therefore, from the provision in rule 1 about equality of treatment for all nations, the stipulation that the tolls shall be just and equitable, when rightly understood, entitles His Majesty's Government to demand, on behalf of British shipping, that all vessels passing through the canal, whatever their flag or their character, shall be taken into account in fixing the amount of the tolls.

The result is that any system by which particular vessels or classes of vessels were exempted from the payment of tolls would not comply with the stipulations of the treaty that the canal should be open on terms on entire equality, and that the charges should be just and equitable.

The President, in his memorandum, argues that if there is no difference, as stated in Mr. Mitchell Inne's note of the 8th of July, between charging tolls only to refund them and remitting tolls altogether, the effect is to prevent the United States from aiding its own commerce in the way that all other nations may freely do. This is not so. His Majesty's Government have no desire to place upon the Hay-Pauncefote treaty any interpretation which would impose upon the United States any restriction from which other nations are free, or reserve to such other nation any privilege which is denied to the United States. Equal treatment, as specified in the treaty, is all they claim.

His Majesty's Government do not question the right of the United States to grant subsidies to United States shipping generally or to any particular branches of that shipping, but it does not follow, therefore, that the United States may not be debarred by the Hay-Pauncefote treaty from granting a subsidy to certain shipping in a particular way, if the effect of the method chosen for granting such subsidy would be to impose upon British or other foreign shipping an unfair share of the burden of the upkeep of the canal or to create a discrimination in respect of the conditions or charges of traffic or otherwise to prejudice rights secured to British shipping by this treaty.

If the United States exempt certain classes of ships from the payment of tolls, the result would be a form of subsidy to those vessels which His Majesty's Government consider the United States are debarred by the Hay-Pauncefote treaty from making.

It remains to consider whether the Panama Canal act in its present form conflicts with the treaty rights to which His Majesty's Government maintain they are entitled.

Under section 5 of the act the President is given, within certain defined limits, the right to fix the tolls, but no tolls are to be levied upon ships engaged in the coastwise trade of the United States, and the tolls, when based upon net registered tonnage for ships of commerce, are not to exceed $1.25 per net registered ton nor be less, other than for vessels of the United States and its citizens, than the estimated proportionate cost of the actual maintenance and operation of the canal. There is also an exception for the exemptions granted by article 19 of the convention with Panama of 1903.

The effect of these provisions is that vessels engaged in the coastwise trade will contribute nothing to the upkeep of the canal. Similarly vessels belonging to the Government of the Republic of Panama will, in pursuance of the treaty of 1903, contribute nothing to the upkeep of the canal. Again, in the cases where tolls are levied, the tolls in the case of ships belonging to the United States and its citizens may be fixed at a lower rate than in the case of foreign ships, and may be less than the estimated proportionate cost of the actual maintenance and operation of the canal.

These provisions (1) clearly conflict with the rule embodied in the principle established in article 8 of the Clayton-Bulwer treaty of equal treatment for British and United States ships, and (2) would enable tolls to be fixed which would not be just and equitable, and would therefore not comply with rule 1 of article 3 of the Hay-Pauncefote treaty.

It has been argued that as the coastwise trade of the United States is confined by law to United States vessels, the exemption of vessels engaged in it from the payment of tolls can not injure the interests of foreign nations. It is clear, however, that the interests of foreign nations will be seriously injured in two material respects.

In the first place the exemption will result in the cost of the working of the canal being borne wholly by foreign-going vessels, and on such vessels, therefore, will fall the whole burden of raising the revenue necessary to cover the cost of working and maintaining the canal. The possibility, therefore, of fixing the toll on such vessels at a lower figure than $1.25 per ton, or of reducing the rate below that figure at some future time, will be considerably lessened by the exemption.

In the second place, the exemption will, in the opinion of His Majesty's Government, be a violation of the equal treatment secured by the treaty, as it will put the "coastwise trade" in a preferential position as regards other shipping. Coastwise trade can not be circumscribed so completely that benefits conferred upon it will not affect vessels engaged in the foreign trade. To take an example, if cargo intended for a United States port beyond the canal, either from east or west, and shipped on board a foreign ship could be sent to its destination more cheaply, through the operation of the proposed exemption, by being landed at a United States port before reaching the canal, and then sent on as coastwise trade, shippers would benefit by adopting this course in preference to sending the goods direct to their destination through the canal on board the foreign ship.

Again, although certain privileges are granted to vessels engaged in an exclusively coastwise trade, His Majesty's Government are given to understand that there is nothing in the laws of the United States which prevents any United States ship from combining foreign commerce with coastwise trade, and consequently from entering into direct competition with foreign vessels while remaining "prima facie" entitled to the privilege of free passage through the canal. Moreover, any restriction which may be deemed to be now applicable might at any time be removed by legislation or even perhaps by mere changes in the regulations.

In these and in other ways foreign shipping would be seriously handicapped, and any adverse result would fall more severely on British shipping than on that of any other nationality.

The volume of British shipping which will use the canal will in all probability be very large. Its opening will shorten by many thousands of miles the waterways between England and other portions of the British Empire, and if on the one hand it is important to the United States to encourage its mercantile marine and establish competition between coastwise traffic and transcontinental railways, it is equally important to Great Britain to secure to its shipping that just and impartial treatment to which it is entitled by treaty and in return for a promise of which it surrendered the rights which it held under the earlier convention.

There are other provisions of the Panama Canal act to which the attention of His Majesty's Government has been directed. These are contained in section 11, part of which enacts that a railway company, subject to the interstate commerce act of 1887, is prohibited from having any interest in vessels operated through the canal with which such railways may compete, and another part provides that a vessel permitted to engage in the coastwise or foreign trade of the United States is not allowed to use the canal if its owner is guilty of violating the Sherman Antitrust Act.

His Majesty's Government do not read this section of the act as applying to or affecting British ships, and they therefore do not feel justified in making any observations upon it. They assume that it applies only to vessels flying the flag of the United States, and that it is aimed at practices which concern only the internal trade of the United States. If this view is mistaken and the provisions are intended to apply under any circumstances to British ships, they must reserve their right to examine the matter further and to raise such contentions as may seem justified.

His Majesty's Government feel no doubt as to the correctness of their interpretation of the treaties of 1850 and 1901, and as to the validity of the rights they claim under them for British shipping, nor does there seem to them to be any room for doubt that the provisions of the Panama Canal act as to tolls conflict with the rights secured to their shipping by the treaty. But they recognize that many persons of note in the United States, whose opinions are entitled to great weight, hold that the provisions of the act do not infringe the conventional obligations by which the United States is bound, and under these circumstances they desire to state their perfect readiness to submit the question to arbitration if the Government of the United States would prefer to take this course. A reference to arbitration would be rendered unnecessary if the Government of the United States should be prepared to take such steps as would remove the objections to the act which His Majesty's Government have stated.

Knowing, as I do, full well the interest which this great undertaking has aroused in the New World and the emotion with which its opening is looked forward to by United States citizens, I wish to add before closing this dispatch that it is only with great reluctance that His Majesty's Government have felt bound to raise objection on the ground of treaty rights to the provisions of the act. Animated by an earnest desire to avoid points which might in any way prove embarrassing to the United States, His Majesty's Government have confined their objections within the narrowest possible limits and have recognized in the fullest manner the right of the United States to control the canal. They feel convinced that they may look with confidence to the Government of the United States to insure that in promoting the interests of United States shipping nothing will be done to impair the safeguards guaranteed to British shipping by treaty.

Your excellency will read this dispatch to the Secretary of State and will leave with him a copy.

I am, etc.,

E. GREY.

Mr. RANSDELL. Mr. President, it is not my intention to make an elaborate speech on the bill to exempt American vessels engaged solely in coastwise commerce from paying tolls for use of the Panama Canal. The point at issue has been so thoroughly discussed in past years, and is so well understood by the American people, that a lengthy discussion is unnecessary. In view, however, of the able arguments made by the Senator from Florida [Mr. FLETCHER] and the Senator from North Dakota [Mr. MCCUMBER] in opposition to the bill, and the objections urged against it by others, I desire to refer briefly to a few points.

The only question involved is whether or not we have the right to regulate the passage of ships through the canal in so far as our domestic commerce is concerned, entirely free and disconnected from our treaties with Great Britain. In my opinion there is no doubt whatsoever of our right in this matter. The Panama Canal is just as much a part of the territory of the United States as the Mississippi River and the portion of the Great Lakes, including the St. Marie and Detroit Rivers, south of the national boundary line. We have the same right to legislate in regard to it as for the harbors on our coasts, our vast system of internal waterways, especially the Mississippi, which is an arm of the sea, and our mighty system of interstate railways spanning the continent and joining the oceans, just as does the Panama Canal. The question is purely a domestic one, in which no foreign country has any interest or concern.

It may be open to debate whether or not it is wise to pass the pending bill and exempt from tolls all vessels passing through the Panama Canal which are engaged in coastwise commerce while exacting tolls from those engaged in foreign commerce, but as to the right of Congress to legislate on the subject I have not the slightest doubt.

OUR COASTWISE COMMERCE ALWAYS FOSTERED.

Coasting trade in maritime law is defined as—

commerce and navigation between different places along the coast of the United States, as distinguished from commerce with ports in foreign countries—

And—

vessels plying coastwise are those which are engaged in the domestic trade or plying between port and port of the United States, as contradistinguished from those engaged in foreign trade or plying between a port of the United States and a port of a foreign country.

Ever since the close of the Revolutionary War our American coastwise shipping has been especially favored. While for some years after that war foreign vessels were not absolutely excluded from our domestic traffic, this was merely for the sake of convenience, in order to give our own ships time to become naturalized, as it were, and to get out American papers, since before the war they were registered as British vessels. Even at that time, however, heavy duties were exacted from foreign ships that should engage in our coastwise trade, and, practically speaking, it was restricted to American vessels.

In 1817 a law was passed prohibiting any but American ships from engaging in the coastwise trade. The law has been religiously observed since its enactment more than 100 years ago. Under the terms of this statute no foreign vessel has ever been allowed to carry any merchandise or other commodities from one American port to another, and we have developed a splendid fleet of coastwise vessels which ply our rivers and canals, the Great Lakes, the Atlantic, the Gulf, and the Pacific, moving enormous volumes of freight.

Later we enacted section 158 of our navigation laws, which reads, in part, as follows:

No vessel belonging to any citizen of the United States trading from one port within the United States to another port within the United States, or employed in the bank, whale, or other fisheries, shall be subject to tonnage tax or duty if such vessel be licensed, registered, or enrolled.

By this we specifically exempted our coastwise traffic from all tonnage charges in our ports, while our foreign commerce and the commerce of other nations must pay a tonnage tax of 2 or 6 cents per ton.

In 31 treaties of commerce and navigation made with foreign countries between 1825 and 1887 we have made special mention of our coasting trade, since it is a universally prevailing custom among nations to distinguish between vessels of a nation and vessels of a nation engaged in foreign commerce. It will thus be seen that not only have we made special and favorable provisions for our coastwise traffic in our maritime laws but in treaties with foreign nations we have also treated it separately. The presumption is, therefore, that coastwise vessels were not included in the Hay-Pauncefote treaty, because no mention of them was made, and that the expression "vessels of commerce" did not include our domestic vessels.

FAMOUS COURT DECISION.

In proof of this I submit the decision of the Supreme Court in the well-known case of Olsen *v.* Smith (195 U. S., 332).

The second article of the treaty of commerce and navigation of 1815 with Great Britain is as follows:

No higher or other duties or charges shall be imposed in any of the ports of the United States on British vessels than those payable in the same ports by vessels of the United States, nor in the ports of His Britannic Majesty's territories in Europe on the vessels of the United States than shall be payable in the same ports on British vessels.

Surely the expressions "British vessels" and "vessels of the United States" are as comprehensive and sweeping as "vessels of commerce" in the Hay-Pauncefote treaty. It happened that at this time there was a Texas statute, article 3801 of the Revised Statutes, which provided that, among others, "all vessels of 75 tons and under, owned and licensed for the coasting trade in any part of the United States, when arriving from or departing to any port in the State of Texas" should be exempt from compulsory pilotage charges. Article 3800, however, provided that all vessels not exempted, which, of course, included vessels of the United States engaged in foreign commerce and vessels of foreign nations, should be forced to pay a pilotage charge on entering or departing from any port of Texas. In other words, the statute exempted our coasting trade from certain pilotage charges, but imposed these charges upon foreign vessels. It was contended by a British captain that this statute was in direct violation of our treaty of 1815 with Great Britain, and the case went to the Supreme Court of the United States.

There Mr. Justice White, late Chief Justice, delivered in part the following opinion:

Nor is there merit in the contention that as the vessel in question was a British vessel coming from a foreign port, the State laws concerning pilotage are in conflict with a treaty between Great Britain and the United States, providing that no higher or other duties or charges shall be imposed in any of the ports of the United States on British vessels than those payable in the same ports by vessels of the United States. Neither the exemption of coastwise steam vessels from pilotage resulting from the law of the United States, nor any lawful exemption of coastwise vessels created by State law, concerns vessels in the foreign trade, and therefore any such exemption does not operate to produce a discrimination against British vessels engaged in such trade. In substance the proposition but asserts that because by the law of the United States steam vessels in the coastwise trade have been exempt from pilotage regulations, therefore there is no power to subject vessels in foreign trade to pilotage regulations, even although such regulations apply without discrimination to all vessels in such foreign trade, whether domestic or foreign. (Olsen *v.* Smith, 195 U. S., 344.)

This decision was rendered on November 28, 1904, and Great Britain has given tacit consent to this interpretation of "vessels of the United States" and "British vessels," since during the 17 years now elapsed she has not protested against the judgment of the Supreme Court. If, then, coastwise shipping is not included in the expressions "vessels of the United States" and "British vessels," how can it logically be said to be included in the much-disputed phrase "vessels of commerce"?

The essence of the decision of the Supreme Court is the fact that "such exemption does not operate to produce a discrimination against British vessels engaged in such trade."

Since, by law, American vessels are the only vessels that can engage in our coastwise traffic it is hard to see how we are discriminating against anyone in exempting them from tolls. Discrimination necessarily implies some one who is discriminated against, and since none but American vessels can engage in our domestic traffic, who is it that is discriminated against?

By the terms of the statute of the United States that I have already quoted, American coastwise traffic has been exempted from tonnage charges for more than 100 years, while a charge of 2 or 6 cents per ton is imposed upon all other vessels, including English ships. Great Britain has never asserted that this was discrimination or that it violated the treaty of 1815.

ROOSEVELT SAID TOLLS EXEMPTION NOT DISCRIMINATION.

Ex-President Roosevelt said, in a letter to the Outlook under date of January 18, 1913:

I believe that the position of the United States is proper as regards this coastwise traffic. I think that we have the right to free bona fide coastwise traffic from tolls. I think that this does ont interfere with the rights of any other nation, because no ships but our own can engage in coastwise traffic, so that there is no discrimination against other ships when we relieve the coastwise traffic from tolls. I believe that the only damage that would be done is the damage to the Canadian Pacific Railway.

Moreover, I do not think that it sits well on the representatives of any foreign nation, even upon those of a power with which we are, and I hope and believe will always remain, on such good terms as Great Britain, to make any plea in reference to what we do with our own coastwise traffic, because we are benefiting the whole world by our action at Panama, and are doing this where every dollar of expense is paid by ourselves. In all history I do not believe you can find another instance where as great and expensive a work as the Panama Canal, undertaken not by a private corporation but by a nation, has ever been as generously put at the service of all the nations of mankind.

Mr. President, these words are not mine. I quote them from ex-President Roosevelt, who was President at the time the much-debated Hay-Pauncefote treaty was ratified.

To summarize, then: From the universal practice of our Nation as exemplified in our maritime laws for more than 100 years, and in our treaties of commerce with foreign nations, and from the fiat of the Supreme Court of the United States, it is evident that the expressions "vessels of commerce" and "vessels of coastwise trade" do not include each other, that they are not synonymous, and that they each have a distinct meaning of their own. It follows, then, that "vessels of commerce" in the Hay-Pauncefote treaty did not include our coastwise vessels, and that therefore we are at liberty to exempt them from tolls if we so desire. As a clinching argument let me quote the language of Great Britain in her note to our State Department of July 8, 1912:

As to the proposal that exemption shall be given to vessels engaged in the coastwise trade, a more difficult question arises. If the trade should be so regulated as to make it certain that only bona fide coastwise traffic, which is reserved for United States vessels, would be benefited by this exemption, it may be that no objection could be taken.

That is the statement of the representative of Great Britain, and that is almost the identical language used subsequently by ex-Senator Root in discussing this question, as I will show later.

CONSTRUCTION OF SENATORS WHO RATIFIED TREATY.

In order to arrive at the meaning of the language of the treaty as construed by the Senate, one of the necessary parties to it, at the time of its ratification, let us consider the facts in regard to the Bard amendment—and I ask the special attention of the Senator from Florida [Mr. FLETCHER] and the Senator from North Dakota [Mr. MCCUMBER] to this proposition—offered when the first draft of the Hay-Pauncefote treaty was being considered by the Senate in 1900. In order to prevent any doubt on the subject of our coastwise traffic Senator Bard proposed the following:

The United States reserves the right in the regulation and management of the canal to discriminate in respect of the charges of traffic in favor of vessels of its own citizens engaged in the coastwise trade.

This amendment was defeated by a vote of 43 to 27. The opponents of the pending bill insist that this vote favors their construction, as it seems to make square issue on the point in controversy, but an analysis of the opinions of the Senators who participated in the debates on the Hay-Pauncefote treaty shows exactly the contrary. And the views of Mr. Roosevelt and these Senators must be accepted as the correct American construction of the treaty at the time of its ratification—not 15 or 20 years later, Mr. President and Senators, but at the time it was ratified.

What did it mean then to the Members of the Senate who ratified it, for they, sir, were its joint authors and makers?

Senator LODGE, acting chairman of the Foreign Relations Committee, who had charge of the treaty during the illness of the chairman, Senator Davis, said in the Senate on July 17, 1912:

The question of canal tolls has arisen in connection with representations made by the Government of Great Britain in regard to our rights in fixing tolls. It so happened that I was in London when the second Hay-Pauncefote treaty was made, and, although the draft was sent from this country, that treaty was really made in London and should properly be called the Lansdowne-Choate treaty. I mention this merely to show that I had some familiarity with the formulation as well as the ratification of that treaty. When the treaty was submitted by the President to the Senate, it so happened that I had charge of it and reported it to the Senate.

The second Hay-Pauncefote treaty, as Senators will remember, embodied in substance the amendments which the Senate had made to the first Hay-Pauncefote treaty. England had refused to accept those amendments, and then the second treaty was made embodying in principle all for which the Senate had contended.

That is the statement of Senator LODGE, a Member of the Senate when the treaty was ratified, and who is still a Member. He was the man who reported the treaty to the Senate, and he said:

When I reported that treaty, my own impression was that it left the United States in complete control of the tolls upon its own vessels. I did not suppose then that there was any limitation put upon our right to charge such tolls as we pleased upon our own vessels, or that we were included in the phrase "all nations."

And on the 20th of July, 1912, Mr. LODGE continued:

While I am on my feet, if the Senator will allow me, there is one other thing I should like to say. I said in my remarks a few days ago that my personal view was that we had the right to exempt American vessels from tolls. I did not go into the matter. I took a somewhat active part in the two Hay-Pauncefote treaties, as they are called. I voted against the Bard amendment. I voted against it in the belief that it was unnecessary; that the right to fix tolls, if we built the canal or it was built under our auspices, was undoubted.

I know that was the view taken by the then Senator from Minnesota, Mr. Davis, who was at that time chairman of the committee. I certainly so stated on the floor. * * * I had that same view in regard to this treaty. I was familiar with the work that was done upon it in London at the time when it was concluded there and finally agreed to, and I was very familiar with it here. Although, as the Senator from Georgia correctly said, the question was not raised at that time, I personally have never had any doubt that the matter of fixing the tolls must necessarily be within our jurisdiction, and when I referred to our going to The Hague as useless I did not mean because our case was not a good one. I meant because in the nature of things we could by no possibility have a disinterested tribunal at The Hague. It would be for the interest of every other nation involved to prevent our fixing the tolls according to our own wishes.

Mr. POMERENE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from South Carolina yield to the Senator from Ohio?

Mr. SMITH of South Carolina. I yield.

Mr. POMERENE. The Senator from Massachusetts has just expressed a reason for his vote against what was known as the Bard amendment. Can the Senator inform us as to whether that was the general sentiment prevailing at that time among the Senators?

Mr. LODGE. I can only say, Mr. President, that that was the view of the chairman of the Committee on Foreign Relations, and it was my view; and, while I may be mistaken, I think on that vote the majority of the Senate followed the Committee on Foreign Relations.

The same idea expressed by Senator LODGE was affirmed by Senators Foraker, Butler, Perkins, Bard, Scott, Wellington, Clapp, Turner, Dubois, Deboe, Kearns, Towne, Mason, Beveridge, Gallinger, Warren, Dillingham, and Burrows, 19 in all, who were a unit in the support of our right of exemption.

From the CONGRESSIONAL RECORD of July 17, 1912, I quote the following:

Mr. CLAPP. In answer to the suggestions of the Senator from Vermont [Mr. PAGE], I will say that I think it was quite generally understood then that the reason for voting down the proposition to authorize the fortification in express terms was that under the treaty we had the right to fortify without that particular provision. I know I was here at the time, although I do not recall all of the speeches. But while some of us voted insisting in some instances that these things should be explicit and in others voting with the majority upon the ground that they were covered anyhow, I believe, both with reference to the coastwise trade and especially with reference to the question of fortification, that many of the votes cast against those express provisions were cast upon the theory that without them we nevertheless had the right to do them.

Mr. O'GORMAN. That the provisions were unnecessary?

Mr. CLAPP. Yes; that they were unnecessary.

During the debate in 1912 on the Panama Canal act, which, among other provisions, exempted coastwise vessels from the payment of tolls, a number of Senators who voted on the Bard amendment expressed themselves, concerning the construction they placed upon it, as follows:

Hon. Thomas R. Bard (ex-Senator from California):

When my amendment was under consideration, it was generally conceded by Senators that even without that specific provision the rules of the treaty would not prevent our Government from treating the canal as part of our coast line, and consequently could not be construed as a restriction of our interstate commerce, forbidding the discrimination in charges for tolls in favor of our coastwise trade, and this conviction contributed to the defeat of the amendment.

Hon. Albert J. Beveridge (ex-Senator from Indiana):

When the first Hay-Pauncefote treaty was under discussion several Senators gave as reasons for voting against Senator Bard's amendment that it was unnecessary, because under the treaty, even as it then stood, we had a perfect right to exempt our coastwise shipping from payment of tolls.

I voted for Senator Bard's amendment, not because I had any doubt upon the subject, but because the fullest possible American rights over the canal could not be stated too strongly for me.

When the second Hay-Pauncefote treaty came up for consideration so unanimous was the opinion of Senators that under the treaty our right over tolls was undoubted that Senator Bard did not even propose or offer his amendment again. Instead he himself voted for the resolution advising the ratification of the treaty without amendment, which carried almost unanimously. This second Hay-Pauncefote treaty is the one now under consideration.

From my recollection of the matter, I think it certain that the Senate would not have advised ratification if it had been seriously contended that the treaty denied us the right to favor our own coastwise vessels.

Hon. Fred T. Dubois (ex-Senator from Idaho):

I was a Member of the Senate at the time of the ratification of the Hay-Pauncefote treaty and voted for its ratification. I recall the consideration of the treaty and the debate, and I entertained no doubt as to the meaning of the treaty. I did not myself, and I do not believe that my colleagues, generally speaking, understood that this treaty in any way deprived the United States of the right to favor its coastwise trade or deprive it of what I consider the sovereign power to deal with its domestic commerce. In my opinion, had any such view prevailed the treaty would have been rejected.

Hon. Charles A. Towne (ex-Senator from Minnesota):

I remember distinctly my own feeling about the matter at the time, which was that we retained under the treaty full sovereignty over the canal and over the incidents of its ownership and control, including the right to fortify and police it and to regulate its use by vessels of commerce, subject only to the condition that all other nations should be treated alike, and that this was the general understanding.

Hon. Thomas Kearns (ex-Senator from Utah):

I am in thorough accord with the views of Senators LODGE, Bard, Clapp, Perkins, Davis, and others, and was I fortunate enough to be a Member of the Senate at the present time I would certainly support the idea of favoring our coastwise trade. I think it is a piece of imposition on the part of Great Britain to attempt to dictate what, if anything, we should charge for canal tolls to our own war vessels, transports, or coastwise ships. We built the canal with our money. We have a right to protect our own property and to use it for our own convenience, and I do not think we should be bound otherwise by any treaty obligations, except to give all foreign nations fair and just treatment, without discrimination, as one against the other.

PERSONAL LETTERS TO ACTORS IN DRAMA.

I now come to a personal phase of the matter. When the bill to repeal the free-tolls provision of the canal act of 1912 was under consideration in 1914, I wrote personal letters to all the Senators who voted on the Bard amendment who were living and had not expressed themselves, and with the exception of two those who replied said in substance that, as they understood the treaty at the time it was before the Senate for ratification, the United States had a perfect right to regulate its coastwise traffic as it saw fit, and that the idea conveyed by the Bard amendment in express terms was implied in the language of the treaty as finally adopted. Several of them stated in unequivocal language that such was the general understanding, and that the treaty would not have been ratified if it had been understood otherwise. I quote briefly from those letters, as follows:

Ex-Senator Julius C. Burrows, of Michigan:

At the time the Hay-Pauncefote treaty was under consideration in the Senate and as finally ratified it was my understanding and belief that under it the United States would have the right to exempt its coastwise vessels from the imposition of all tolls. Without such exemption, express or implied, the treaty could never have been ratified.

Ex-Senator Marion Butler, of North Carolina:

The treaty would never have been ratified if there had been any doubt about our right, not only to exempt our coastwise vessels from paying tolls but also to do anything and everything with reference to the canal that we see fit, so long as we permitted other nations observing the rules laid down to use it on terms that were equal and fair to all. * * * It was also emphasized that the privilege which we granted to all nations to use the canal was a conditional privilege and limited to their compliance to these conditions, and that therefore we reserved the right to enforce these conditions or rules against other nations, and that there was no one else to enforce them but us, the builder and owner of the canal.

Ex-Senator J. H. Gallinger, of New Hampshire, now departed, but at that time, 1914, an honored Member of this body, said:

When the so-called Bard amendment was before the Senate I voted against it specifically and absolutely on the ground that I believed it to be unnecessary, holding to the view that under the treaty as it stood we had an absolute right to exempt our coastwise trade from the payment of tolls. No other construction could properly be put upon the treaty unless we reached the conclusion that the Panama Canal is not an American waterway.

Senator W. P. DILLINGHAM, of Vermont, who is still an honor to his State in this body, said:

Replying to your note of inquiry as to my attitude toward the amendment offered by Mr. Bard to the Hay-Pauncefote treaty proposing to specifically exempt our coastwise vessels from the payment of tolls, permit me to say that it was urged by most of those who participated in the debates that the proper construction of the treaty rendered the adoption of such an amendment unnecessary. I inclined to that opinion, and as the adoption of the amendment would have resulted in an undesirable postponement of the ratification of the treaty I voted against it.

Ex-Senator George Turner, of Washington:

The spokesman of the Foreign Relations Committee assured the Senators when the Hay-Pauncefote treaty was under consideration that that treaty plainly implied what the Bard amendment explicitly provided, and hence that the Bard amendment was unnecessary. My recollection is that I accepted that view as correct, but voted for the Bard amendment out of excess of caution and to foreclose any possible contention on the subject. * * * Some Senators were more apprehensive than others of specious but untenable contentions to be put forth by Great Britain in the future, and that apprehension was the occasion of the Bard amendment and of the support it received in the Senate.

Ex-Senator William E. Mason, of Illinois:

I voted for the Bard amendment allowing coastwise trade, because when I first took up the question I thought it ought to go into the treaty, but upon examination of the question I became convinced that our coastwise and interstate business was not properly a subject to be managed by treaty, but that under the Constitution Congress alone could make laws regarding interstate commerce. And when, a year later, the matter came up the amendment was not even offered, as I remember it, because it was stated definitely, not once but many times, in executive session, that the question of the management of our coastwise trade was a matter for the people to determine on in the future.

Ex-Senator William J. Deboe, of Kentucky:

I voted against said (Bard) amendment because I believed the United States had the authority and right to fortify and regulate tolls of the canal without the amendment to the treaty. This was the general view

of Senators at that time and even by many who voted for the amendment. It was fully discussed by Senators in secret session. It was stated frequently that if the United States constructed the canal at its own expense, it should have the authority and right to regulate tolls.

Ex-Senator G. L. Wellington, of Maryland:

I voted against the amendment solely for the reason that I considered it entirely superfluous, being firmly of the opinion that the treaty plainly provided for the exemption of our coastwise vessels from the payment of tolls; that the Bard amendment was merely a repetition of what had already been set out in the treaty itself. I could not conceive for a moment that anything else was intended; if I had, I certainly would have voted against the ratification of the treaty. * * * I am convinced that this was the feeling of those who voted for the ratification of the treaty—not only those who voted for it but those at the head of our Government at that time.

Ex-Senator George C. Perkins, of California:

Senator Davis, chairman of the Committee on Foreign Affairs, claimed that the treaty in no way interfered with our vested rights in regard to the coastwise shipping of the United States and that the Bard amendment merely conveyed in explicit language, as you state in your letter, what was already plainly implied. At the time of the ratification of the Hay-Pauncefote treaty it was decided that it was unnecessary to so definitely set forth in regard to the exemption of coastwise vessels, and it was conceded by everyone that we had a perfect right to exempt our coastwise vessels from the payment of tolls if we desired to do so.

Ex-Senator J. B. Foraker, of Ohio:

I remember clearly how I viewed the Bard amendment and why I voted against it. There were two grounds for my objection. The first, that the United States being the owner of the canal, with all the rights of ownership, would have authority to do with respect to her own vessels in the matter of tolls whatever she might see fit to do. Therefore it was unnecessary to amend the treaty to authorize our Government to exempt from tolls any class of our vessels. * * * The second ground was that to specify that coastwise vessels might be exempted was to impliedly stipulate that vessels engaged in foreign commerce could not be exempted. * * * I did not at the time when the treaty was ratified regard the provision found in article 3, to the effect that the vessels of "all nations" should be allowed to use the canal on terms of entire equality, as a limitation on the power of the United States.

Senator FRANCIS E. WARREN, of Wyoming, still an honored Member of our body, said:

The amendment proposed by Mr. Bard * * * was rejected because it was held by a substantial majority of the Senate that the treaty itself did not contravene or restrict the right of the United States to regulate and manage the canal in the matter of charges for traffic in favor of coastwise vessels.

Ex-Senator Nathan B. Scott, of West Virginia:

I voted against this (Bard) amendment because I thought under the terms of this treaty we had the right to exempt our coastwise vessels if we so desired. I thought the Bard amendment superfluous.

Mr. President and Senators, it seems to me the testimony of these actors in that great drama of 21 years ago certainly demonstrates how little force there is in the arguments of those who depend on the defeat of the Bard amendment and attempt to get solace from it. The men who were Senators at the time, who ratified the Hay-Pauncefote treaty, stated in an overwhelming majority that they conceived the Bard amendment superfluous, unnecessary; and that is why they voted against it. They also said that, as they construed the treaty, we had a perfect right to regulate our own coastwise commerce.

NO MORAL QUESTION INVOLVED.

These statesmen certainly must have understood what they were doing when they ratified it, and their opinions show clearly that our coastwise commerce was not included, nor intended to be included, in the words "vessels of commerce." Every one of these men, and especially Senator LODGE, agreed in thinking that the United States has a perfect right to legislate in regard to her coastwise vessels as she sees fit.

The much-mooted proposition that we have no moral right to exempt our coastwise shipping from tolls did not appeal to President Roosevelt and the Senators who helped to make the Hay-Pauncefote treaty, and without whose aid it would never have existed. Moreover, a great many other eminent Americans agree with them and deny most emphatically that there is any moral question involved.

Mr. Taft, then President, and now Chief Justice, in his annual message to Congress, December, 1912, said:

After full examination of the Hay-Pauncefote treaty and the treaty which preceded it, I feel confident that the exemption of the coastwise vessels of the United States from tolls and the imposition of tolls on the vessels of all nations engaged in the foreign trade is not a violation of the Hay-Pauncefote treaty.

It is preposterous to suppose that if the exemption of American coastwise vessels from tolls involved a deliberate violation of our sacred treaty obligations the two great political parties of the country would have committed themselves so decisively and irrevocably in its favor. The Democratic platform of 1912 reads:

We favor the exemption from tolls of American ships engaged in coastwise trade passing through the canal.

The Republican platform of 1920 contains the following provision:

We recommend that all ships engaged in coastwise trade and all vessels of the American merchant marine shall pass through the Panama Canal without payment of tolls.

Surely no one can justly charge either the Democratic or the Republican Party with a deliberate attempt to repudiate an obligation undertaken by this Nation in a treaty with any foreign power, for such repudiation would involve an everlasting stain upon our national honor and prestige, which no patriotic American could sanction, and which should properly condemn us at the great bar of world public opinion.

A TREATY CAN NOT AFFECT COASTWISE COMMERCE.

Mr. President, I now wish to present a phase of this question which has not yet been fully discussed during the debates on this bill. I am glad to see several Members of the House of Representatives present in the Chamber, because I think the House of Representatives is tremendously interested in the question I shall now discuss. It goes to the very root of the question, and I invite the careful attention of the Senate and especially of its constitutional lawyers to my proposition, that a treaty can not affect internal or coastwise commerce.

It is contended by most, though not all, of the opponents of the bill under consideration that we are in honor bound to prevent its passage because we pledged ourselves in the Hay-Pauncefote treaty to treat all commerce through the canal alike, and that if it is a hard bargain we must stand by it; that the laws of good morals and fair dealing between man and man and nation and nation compel us to comply with our solemn contract obligation.

Mr. WATSON of Georgia rose.

Mr. RANSDELL. I yield to the Senator.

Mr. WATSON of Georgia. I am very much interested in what my friend from Louisiana is saying. He in part represents a State that is at the mouth of the Mississippi River and the headwaters of the Gulf of Mexico, a most important point in our navigation system. His views are entitled to great weight and consideration in this Chamber. I waive for the present the question of treaty or contract obligations; but the Senator now presents questions of international law, and I should like for him to explain—and he can do it, if anybody can—how, if we have entered into a legal contract in regard to a certain tract of land, we can escape that contract by buying the land?

Mr. RANSDELL. Mr. President, I will say in answer to the Senator from Georgia that I have never conceded the construction placed upon the Hay-Pauncefote treaty by some of the Members of this body. I have just given the views of a number of Senators who were actors in the ratification of the Hay-Pauncefote treaty, showing that when that treaty was ratified those Senators did not construe it as in any way affecting our rights to control our coastwise commerce. That is a question upon which I realize men differ. I believe that nations, just as individuals, should stand absolutely by their contracts. The contract with Great Britain was made before we purchased the piece of ground from Panama on which we constructed the Panama Canal, but the fact of our purchase, in my judgment, would not alter the situation if we had ever unequivocally and positively bound ourselves to have our coastwise commerce treated as foreign commerce. I stand squarely by that proposition; but I am going on now, I will say to the Senator from Georgia, to show that if the Hay-Pauncefote treaty had in terms carried a prohibition against our right to regulate our coastwise commerce it would have been ultra vires; it would have been beyond the power of the President and of the Senate to negotiate such an instrument, because coastwise commerce is interstate commerce, and interstate commerce must, according to the Constitution and the universal practice in this country, be controlled by Congress. It is necessary for the House of Representatives to be a party to any law, rule, or regulation concerning interstate commerce.

The President and the Senate may adopt rules and regulations governing foreign commerce; that is customary; the President and the Senate regulate our foreign commerce under the terms of the Constitution; but interstate commerce is a matter for the whole Congress—the Senate, the House of Representatives, and the President. I am going to try to demonstrate that by what will follow.

Mr. WATSON of Georgia. Mr. President——

Mr. RANSDELL. I yield further to the Senator from Georgia.

Mr. WATSON of Georgia. Mr. President, the Senator from Louisiana does not quite meet the point I have made. Our

coastwise trade could not go through that strip of land at the time to which I refer; it only gets through there now by reason of the canal; and the question is whether we have not put an obligation over that canal by the treaties to which the Senator has referred.

Mr. RANSDELL. The treaties do not say so. The treaties were negotiated before the canal was dug, before we even acquired the territory through which it is constructed, and none of those treaties in terms say that we shall treat our coastwise vessels as we treat foreign vessels.

Mr. WATSON of Georgia. But the Senator is not meeting the point.

Mr. RANSDELL. I am trying to do so.

Mr. WATSON of Georgia. What were those treaties about if they were not about the contemplated canal? And what is the Panama Canal except the canal that was contemplated?

Mr. RANSDELL. Certainly, the treaties were about the contemplated canal, and I am trying to discuss the canal that was completed. I am willing to concede, for the sake of the present argument, that our foreign commerce may have been included under the terms of the Hay-Pauncefote treaty. I do not concede it except for argument, because I do not believe it was contemplated——

Mr. POMERENE rose.

Mr. RANSDELL. Let me answer this question, please; but for the sake of the argument, even if we concede that our commissioners and the President and the Senate had a right to negotiate a treaty which would preclude us from exempting from tolls our vessels engaged in the foreign trade, I contend that they had no right to negotiate a treaty as to American vessels in the coastwise trade.

As I construe the treaty, I do not believe that it precluded us from regulating our vessels engaged in the foreign trade after we became the owner of the ground on which the canal was built. It certainly does not preclude us from sending our warships through that canal and from sending other vessels of the United States through the canal. A large number of them went through there last year; I have the figures here; they went through free of tolls, and no one who has studied the question contends that we have got to pay tolls for the passage of such ships through the canal.

Mr. FLETCHER. Mr. President——

Mr. RANSDELL. I will ask the Senator to allow me to answer the question which has been asked, and then I will yield to him.

Mr. FLETCHER. Very well.

Mr. RANSDELL. During the fiscal year ending June 30, 1921, 426 vessels of the United States, including war vessels, amounting to 453,769 tons, went through the canal without paying any tolls. If we are going to stand strictly on the terms of the treaty, why do we not collect tolls on our war vessels and other vessels of the United States that go through the canal free? I now yield to the Senator from Florida.

Mr. FLETCHER. Mr. President, I was going to suggest that those vessels were owned by the United States Government——

Mr. RANSDELL. Suppose they were?

Mr. FLETCHER. And they secured the right to go through under other provisions of the treaty which put upon the Government of the United States the obligation of protecting and maintaining the canal.

Mr. RANSDELL. I wish the Senator would point out those provisions of the treaty.

Mr. FLETCHER. Does the Senator deny that the United States is charged with the duty of protecting the canal?

Mr. RANSDELL. It undoubtedly is charged with that duty.

Mr. FLETCHER. That is the point.

Mr. RANSDELL. But the Hay-Pauncefote treaty speaks of the vessels of war and of commerce of all nations.

Mr. FLETCHER. Precisely. There was some question raised as to our permitting Panama to send her vessels through without the payment of tolls; but I am simply mentioning that the vessels to which the Senator has referred which passed through the canal without paying tolls did so under other provisions of the treaty. That is one of the benefits we get for having constructed the canal and undertaking to maintain it, namely, allowing our vessels to go through free, for the tolls on them would have amounted to something in the neighborhood of $1,000,000 for last year if tolls had been charged.

However, the Senator will not deny, I think, that this distinction ought to be kept in view: The canal was constructed not by the United States free and privileged to act in its own way to buy the land and build its own canal, but the Canal Zone, in the first place, was acquired, and the right to build the canal and to maintain and operate it came to the United States under three treaties, the treaty with Colombia, the treaty with Panama, and the treaty with Great Britain. So that we acquired the canal and operated it and maintained it in pursuance of treaties, making it a great international highway and not a part of the coastwise waterways of our own country.

If the Senator will bear with me further, he says that this is a matter that the United States alone can control, and that both Houses of Congress must act upon a question of this character. We did not take that position with reference to the Great Lakes commerce. In the treaty with reference to the Great Lakes we insisted upon a similar provision for equality; that Canada should not give any preference whatever to her vessels engaged in the coastwise trade on the Great Lakes. They yielded to us upon that point. We took that position with reference to the Great Lakes when Canada raised the question; and now how can we say that Great Britain can not take a similar position with reference to the Panama Canal?

Mr. RANSDELL. I have not the facts in that case exactly at my fingers' ends, and I am entirely willing to admit that we had the consent of other nations in acquiring this territory from Panama—at least, their tacit consent—but, if I recollect the facts of the case, we assisted the little Republic of Panama in freeing itself from its former subjection to Colombia, and then we made a very quick trade with it and bought the canal strip of territory. We did not pay much attention to Great Britain or anybody else; and regardless of this Hay-Pauncefote treaty or any other treaty, regardless of the agreement we had made to have vessels of war and vessels of commerce of all nations given equal treatment, you remember very well, Senators, that when we made our treaty with Panama we let her vessels go through free, and we let the vessels of war of Colombia go through free, and we let the commercial vessels of Colombia to a very great extent go through free. We have not been living up strictly to the exact terms of that treaty. If you wish to come to that, why has not Great Britain remonstrated with us for our arrangement with Panama and our arrangement with Colombia?

I can not for the life of me, Mr. President and Senators, see what business it is of Great Britain to come here and talk about our coastwise commerce. As I have shown in my previous remarks, Great Britain can not have a single vessel in our coastwise commerce. I can understand why the transcontinental railways are tremendously interested in this question, but what Great Britain has to do with it is more than I can see.

Mr. POMERENE. Mr. President——

Mr. RANSDELL. I will yield in a moment. She can not have a single vessel coming into any of this trade. Possibly she is averse to having ships sail with lumber from Oregon and Washington and carry cheap lumber through that canal in competition with her vessels from Vancouver and other British Columbia ports.

Perhaps she has that interest; I do not know; but this is a domestic question. It is a question that concerns the people of the United States, and while I do not want to use any harsh terms, it seems to me that it is a matter with which Great Britain has nothing to do. If we were trying to permit foreign vessels to go through there free of tolls, vessels that might come into competition with Great Britain, that would be another question; but we are not doing that. We are simply permitting our own coastwise vessels to go through free of tolls, and that does not discriminate against Great Britain. It does not interfere with a single one of her ships.

Mr. FLETCHER. Mr. President——

Mr. RANSDELL. I yield further to the Senator from Florida.

Mr. FLETCHER. I was just going to say, with reference to Panama, that in the dispatch of Sir Edward Grey to our State Department, presented by Ambassador Bryce, Great Britain did raise that question about our having granted certain rights and privileges to Panama.

Mr. RANSDELL. Did we pay any attention to it?

Mr. FLETCHER. It was not insisted upon very strongly, so far as I am advised, and I do not attach a great deal of importance to that, because what we did with reference to Panama's vessels was done as a part of the trade for the Canal Zone. It was a part of our contract of purchase, and it amounts simply to Panama having paid for all time for the privilege of her vessels going through that canal. So much with reference to Panama. She paid in her contract with us, in giving us the right of way through the Canal Zone and all our rights there; and a part of that consideration was to permit her warships and other vessels to go through without the payment of tolls.

Mr. RANSDELL. Exactly. But according to the strict interpretation of the Hay-Pauncefote treaty urged by the Senator, our agreement with Panama contravened it. I will ask the

Senator whether he does not think that when the United States paid out in round numbers $500,000,000 for that canal—and that is what she has paid up to date—her citizens have some rights in it?

Mr. FLETCHER. Unquestionably.

Mr. RANSDELL. Does not the Senator think she has paid as much as Panama ever paid?

Mr. FLETCHER. But will the Senator answer me why the United States should discriminate? The argument has been made that there is no discrimination, because it is really a domestic question. Why should we discriminate against our vessels engaged in foreign commerce? Why should we give this benefit to our vessels engaged in coastwise trade when the vessels of the United States engaged in foreign commerce are not allowed this same privilege?

Mr. KING. Where they have competition, and need it.

Mr. FLETCHER. They have competition, whereas the coastwise vessels have no competition.

Mr. BORAH. That is a mere question of policy.

Mr. RANSDELL. That, of course, presents a very different question from the one I have been discussing, and I do not intend to get away from my argument; but I can say to the Senator very briefly that anything on earth we can do to build up an American merchant marine ought to be done. The Senator recalls well that when the great World War broke out we had only about 9 per cent of our foreign commerce carried in vessels under the American flag. The Senator recalls well that but for the fleet of coastwise vessels which we had at that time along the Pacific, the Atlantic, and the Great Lakes, we would have been in very sad straits. We never would have made that bridge of ships across the sea to carry our boys to Europe. It was our coastwise trade that caused us to have a splendid fleet, and I think, Senators, that it is necessary to do everything possible now to encourage our coastwise trade. Personally, I believe it is, and I believe the coastwise commerce will be wonderfully benefited by this exemption from tolls. I further believe that it will give cheaper freights to the American people. I think we will get benefit in that way. I have already brought out as clearly as possible the fact that we have always treated our coastwise traffic with great favor, and this bill is in line with that general liberal policy.

Now, I will answer the Senator further. I should like to see the exemption extended to our vessels in foreign commerce, and I think if I had the time I could demonstrate that the vessels engaged in foreign commerce are not precluded from being granted free tolls by anything in the Hay-Pauncefote treaty. Certainly the Republican Party thought they were not, because in their platform of last year they deliberately inserted a plank saying:

> We recommend that all ships engaged in coastwise trade and all vessels of the American merchant marine shall pass through the Panama Canal without payment of tolls.

Mr. BORAH. Mr. President——

Mr. RANSDELL. I yield to the Senator from Idaho.

Mr. BORAH. The Senator ought to include in that also the plank of the Democratic Party.

Mr. RANSDELL. I will say to the Senator that the plank of the Democratic Party "favors the exemption from tolls of American ships engaged in the coastwise trade passing through the canal." I am sorry that it did not favor the full exemption. My recollection is that when the plank was under consideration there was a good deal of objection to putting in the exemption for vessels in the foreign trade, and the matter was finally compromised by making it apply to coastwise trade. I think the Senator will find that that is the way the plank reads.

Mr. KING. Mr. President, will the Senator permit an inquiry?

Mr. RANSDELL. I shall be glad to yield to the Senator from Utah.

Mr. KING. As I came into the Chamber a moment ago I caught this observation from the Senator, as I interpreted it, that if this measure shall pass it will be no discrimination against Great Britain. I apprehend that the Senator meant that the granting of exemption from tolls to our coastwise trade would constitute no discrimination against Great Britain.

Mr. RANSDELL. That is what I meant.

Mr. KING. Let me ask the Senator whether it would not discriminate against Great Britain in this: Great Britain has a coastwise trade. Many vessels from eastern Canada go through the canal to western Canada upon the Pacific coast. If we exempt our vessels engaged in coastwise trade from paying tolls and impose tolls upon English bottoms, is there not discrimination?

Mr. RANSDELL. I can not see it.

Mr. POMERENE. Mr. President, will the Senator allow an interruption?

Mr. RANSDELL. I yield to the Senator from Ohio.

Mr. POMERENE. I have been much interested in the Senator's argument that this was interstate commerce, and therefore Congress had the right to control it, and he sought to distinguish between that and our foreign commerce, indicating, as I understand him, that the Congress or the House would not have any right so far as our foreign commerce was concerned. I think the Senator has overlooked the fact that the constitutional provision is to the effect that the Congress shall have the right to regulate foreign commerce and commerce among the several States and with the Indian tribes. It is true that the Congress has the right to regulate our interstate commerce and our foreign commerce; but it can not do that in contravention of international rights which may have attached, or international obligations.

Let me remind the Senator that under the Clayton-Bulwer treaty the rights of Great Britain and the United States were joint. They were substantially equal rights so far as the building and control of that canal were concerned. Later on, when the question became acute, and the Hay-Pauncefote treaty was prepared, we had this regulation with regard to all nations having equal rights. I will not take the time of the Senator to go into the details of that, but the Hay-Pauncefote treaty was to determine the rights with respect to the building and control of the canal across land that did not belong to the United States. Whatever those conditions were, they were covenants running with the land, and we can not violate those covenants running with the land without incurring some liability. It all resolves itself finally into the question as to what were the rights and obligations under the Hay-Pauncefote treaty; and the Congress of the United States can only legislate with regard to interstate commerce or foreign commerce going through that canal in so far as it does not interfere with the rights of Great Britain, whatever they were. I am not determining that question now.

Mr. RANSDELL. Will the Senator ask me a question, please? I have been very kind in yielding to him. Just let the Senator ask a question, and then I will go on with my speech.

Mr. POMERENE. Mr. President, the Senator has been kind, because it would be impossible for him to be otherwise than kind.

Mr. RANSDELL. I know that. I admit the truth of that allegation, without the Senator having to prove it; but I should like to have him ask a question.

Mr. POMERENE. I was simply seeking to meet the Senator's argument that this was a question of interstate commerce for the Congress to regulate, and that the Senate was acting ultra vires if it attempted to regulate it; that was all.

Mr. RANSDELL. Yes; and the Senator would not permit me to make my argument. Now, I want to go ahead and make the argument as I have very carefully prepared it, because it is a clean-cut legal question, and I have not practiced law for 21 years. I was a country lawyer before I entered Congress 21 years ago.

Mr. POMERENE. Mr. President, the Senator's legal mind has not lost its cunning.

Mr. RANSDELL. I thank the Senator very much. I want to say, before I begin this legal argument, that I think the Senator has correctly stated the proposition that we must to a great extent stand or fall upon the Hay-Pauncefote treaty. What does that mean? I have quoted from 19 or 20 Senators, including the present chairman of the Foreign Relations Committee, the Senator from Massachusetts [Mr. LODGE], who was acting chairman of the Foreign Relations Committee when the Hay-Pauncefote treaty was ratified, and who was in London when it was being considered, to show that as he and his associates understood that treaty it did not interfere in the slightest way with our right to regulate our coastwise commerce. I quoted from a number of the ablest Senators we ever had in this body, men like Foraker, from the Senator's own State, and Beveridge, from Indiana, men like Gallinger, like WARREN and DILLINGHAM in the present Senate, all giving their opinion of the matter at the time it was up, when the question was squarely presented by the Bard amendment.

Senator Bard sought to put in as an amendment to the Hay-Pauncefote treaty a provision stating in terms that we had a right to regulate our coastwise commerce, and it was voted down because, as the Senator said, they did not think it was necessary; they considered that it was absolutely unnecessary to put it in there; and some of them went so far as to say that if they had considered it necessary, and it had not been put in then, they would have voted against the Hay-Pauncefote treaty.

President Roosevelt was a great man, and I think a good man in many ways. He was the President who promulgated that treaty after its ratification, and he is on record, as I have read,

in the plainest manner saying that we had a perfect right under that treaty to regulate our tolls through the Panama Canal. Mr. Taft is a great and good man. He was President of the United States when the Panama Canal act of 1912 was adopted. He now holds the highest judicial office in this country. He is head of the greatest tribunal of justice in the world, and he is on record as saying that the Hay-Pauncefote treaty does not interfere with our right to regulate our coastwise commerce.

The Democratic Party said in its platform of 1912 that it did not. The Republican Party in its platform of 1920 said it did not; and, with all due respect to my eminent and eloquent friend from Ohio, I believe that in a matter of construction like this I would rather follow Theodore Roosevelt, William Howard Taft, HENRY CABOT LODGE, and all the other great men whose opinions I have quoted, and the national platforms of the Republican Party and the Democratic Party, than to follow him, as wise and eloquent as he is.

I now proceed with my argument, if I may be permitted to do so, and I want the lawyers here to listen to this, because it is a legal proposition. I want those who were not in the Chamber when I started to understand my view. My proposition is that coastwise commerce is interstate commerce; that in order to regulate interstate commerce an act of Congress is necessary; that foreign commerce may be regulated by treaty, negotiated by the President and ratified by the Senate, but when it comes to interstate commerce, domestic commerce, commerce between the States, it requires the intervention and consent of the Congress; and I believe I can demonstrate that, Senators, if you will give me a little time.

Granting for the sake of argument that this contention is true; granting that the framers of the Hay-Pauncefote treaty did intend to include the United States in the expression "all nations," which, of course, I do not admit; granting that the purpose of the Hay-Pauncefote treaty was that the vessels of other nations should enjoy perfect equality and identical treatment with the foreign and coastwise vessels of the United States; granting all this, I repeat, for the purpose of argument only, I still contend that this treaty did not bind the United States, in so far as our coastwise commerce is concerned.

Article I, section 8, of the Constitution provides, among other things, that Congress shall have power "to regulate commerce with foreign nations and among the several States and with the Indian tribes." Article II, section 2, provides that the President "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur"—and a treaty is a compact or agreement between the rulers of two or more sovereign and independent nations. It appears from a casual reading of these two sections that the power to regulate commerce between the United States and foreign nations is, at least to some extent, concurrent between Congress and the Executive assisted by the Senate. It also appears that the right to regulate commerce among the several States, commonly designated as interstate commerce, is vested solely in the lawmaking power, composed of the House of Representatives and the Senate. It is unnecessary for the purpose of this argument to discuss fully how far the President can make a treaty with a foreign country to regulate our trade relations and other matters of interest to the United States and the other treaty-making nations, and it will be readily admitted that a treaty between the United States and Great Britain for the regulation of foreign commerce passing through the Panama Canal is within the treaty-making power; that so far as the Hay-Pauncefote treaty sought to regulate the commerce of Great Britain in its use of the canal, and to guarantee that its use should be on terms of exact neutrality and equality with that accorded to all other foreign nations, it was valid, because the President, under the Constitution, with the assistance of the Senate, had the required authority so to contract on those points.

There is not a single word in the Constitution which gives to the President any power whatsoever to affect, control, or regulate commerce between the various States of the Union either by treaty or otherwise, that right being plainly and specifically granted to Congress by the aforesaid section 8. It must be presumed, therefore, that the President and the Senate, well knowing they had no right to contract in relation to domestic commerce, did not attempt to do so when making the Hay-Pauncefote treaty, and that it relates solely to foreign commerce.

ENGLAND HAS NO INTEREST IN OUR INTERSTATE AFFAIRS.

The slightest consideration of this subject will show how illogical it would be for a foreign nation to become a party to our purely domestic affairs. What concern has England with the regulation and control of movements of freight, or police or quarantine regulations, by rail or water or otherwise, between New York and Chicago, for instance, or St. Louis and Memphis, or Birmingham and New Orleans, or Portland and San Francisco, all of which are internal, interstate, and domestic? If the President should attempt by treaty with England to control trade, police, or quarantine relations between any of those interior points, it would at once appear that England was entirely without interest, and it would seem absurd for her to attempt to participate in a contract in which she had not the slightest concern. If that be true as to trade between these points, does not the same reasoning apply to the purely domestic traffic along our coast, as Boston to New York; Philadelphia to Baltimore; Charleston to Savannah; Pensacola to New Orleans; New York to Galveston; Charleston to San Juan, P. R.; Norfolk to San Francisco; Portland to Honolulu; or Seattle to Sitka, Alaska, all of which is just as much a domestic affair, though conducted in ships, as in the case of rail communications cited above, for the coastwise laws prohibit any foreign country from carrying or handling any of our coastwise commerce, and England can no more engage in traffic by ships between those ports than in railroad movements between the interior points.

Mr. WATSON of Georgia. Mr. President——

The VICE PRESIDENT. Does the Senator from Louisiana yield to the Senator from Georgia?

Mr. RANSDELL. I yield for a question.

Mr. WATSON of Georgia. The Senator begs the question there, if he will allow me to say so without offense. We would have had no commerce through the canal, coastwise, national, or international, if we had not ourselves dug the canal under contractual conditions. The question is, Shall we throw away those conditions when we can not make compensation or restore the other party to her original position?

Mr. RANSDELL. The Senator tries to define those conditions in one way, and the actors in the great drama, including two Presidents of the United States, as I have just said, defined them in another way, and your humble servant who is now speaking begs, with all due respect, to differ from the construction which the distinguished Senator from Georgia places upon those contractual obligations. I am trying now to demonstrate that even if we had entered into that kind of a contract, it would have been beyond our power. We had no right to do it under the Constitution. The Senator certainly would not contend that the President and the Senate would have a right to contract with Great Britain in regard to the tariff or in regard to a dozen other things which are purely internal, and I contend that this matter of the coastwise trade is something they have no right to contract about, even if they attempted to; and the actors in the drama say they did not so contract. They probably knew just as much about it as those who take the opposite view at the present time. I think they knew a great deal more.

ROOT'S ATTEMPT TO DIFFERENTIATE BETWEEN KINDS OF COASTWISE TRADE.

The distinguished ex-Senator from New York, Mr. Root, in his very able address to the Senate on May 21, 1914, admitted in substance that the Hay-Pauncefote treaty did not include "real coastwise trade." There is another great man differing from the Senator from Georgia. He said:

> I should not question the right to treat that in a different way from the great overseas trade that goes through that canal.

He drew a distinction. He said it is overseas when you go through the canal. He attempts to draw a distinction between what he designates as coastwise trade and the great overseas commerce. Let me quote his exact words. Mr. Root said:

> Now, sir, I do not doubt that coastwise trade, real coastwise trade, is a special kind of trade, standing by itself, quite unlike the great overseas trade. All countries, as a rule, treat their coastwise trade with special favor; they charge reduced rates for the privileges it has in their ports; and if any such real coastwise trade, any of the trade that has been known to the laws and treaties and navigators and traders time out of mind as coastwise trade, or cabotage, were to pass through the Panama Canal, I should not question the right to treat that in a different way from the great overseas trade that goes through that canal. But, Mr. President, the real gist of this discrimination is not the discrimination between coastwise trade, properly so called, and other trade. No real coastwise trade will go through that canal. It is a thousand miles and more away from our coast. The trade that goes through it will be real overseas trade, carried on by great ships, making long voyages—in its nature the exact antithesis to real coastwise trade.
>
> The trouble with this discrimination is the kind of trade which is included in this statute. The great overseas trade, the trade from New York to San Francisco; from Portland, Me., to Seattle; from Philadelphia to Hawaii; from Baltimore to Alaska, in great ships plowing two oceans, great overseas trade, although beginning and ending in American ports, is included by our statute under the term "coastwise" and has the benefit of this discrimination.

That is Mr. Root's view of it. How he can draw that conclusion I can not see. It takes just as big a ship to run from Boston to Galveston as it does from Boston to San Francisco. The dangers of the Atlantic Ocean are certainly as great as

the dangers of the Pacific Ocean; I have always heard they are greater.

Mr. KING. Mr. President, may I make an inquiry, just for information?

Mr. RANSDELL. I will ask the Senator to pardon me just a moment, until I finish this point, and then I will answer his question.

This statement of Mr. Root when analyzed is found to be about as indefinite as that of Mr. A. Mitchell Innes, chargé d'affaires for Great Britain, who said, in his note of July 8, 1912, addressed to the Secretary of State:

As to the proposal that exemption shall be given to vessels engaged in the coastwise trade, a more difficult question arises. If the trade should be so regulated as to make it certain that only bona fide coastwise traffic which is reserved for United States vessels would be benefited by this exemption, it may be that no objection could be taken.

So Elihu Root and Mr. Innes, of the British foreign office, both say there would be no objection, if it is pure, unadulterated coastwise trade.

COASTWISE COMMERCE MEANS ALL TRADING BETWEEN UNITED STATES PORTS.

I fail to see the force or logic in these statements of ex-Senator Root and Mr. Innes. By admitting that "real coastwise trade" through the canal is entitled to "special favor," Mr. Root acknowledges the crux of the contention, and admits his case out of court. We are either entitled to exempt all of our coastwise traffic or none.

I will venture to say that the Senator from Georgia is a good enough lawyer to admit the truth of that proposition.

When American vessels are chartered and licensed for coasting trade no reservation is made as to what ports they shall enter, except that they be ports of the United States as contemplated by our navigation laws.

By coastwise commerce we mean the movement of freight or passengers by water from one port of the United States to another port of the United States which is by law strictly confined to vessels of the United States. Whether the distance be 500 miles, as from Boston to New York, or 1,900 miles, as from Philadelphia to Galveston, or 4,657 miles, as from New Orleans to San Francisco, it is still coastwise commerce, and the same principle applicable to one attaches to the other.

I now yield to the Senator from Utah.

Mr. KING. I think the last few statements made by the Senator clarify the point I had in mind. I thought the position the Senator first took was that we had no coastwise trade that passed through the Panama Canal that was subjected to the same dangers because of long distance upon the water as if it should cross from New York to Europe. However, I notice the latter part of the Senator's statement is an admission or concession that it is coastwise trade even if it does pass through the Panama Canal.

Mr. RANSDELL. Oh, yes. I have made that perfectly clear. If the Senator had heard all of my remarks, he would have known that I had made that perfectly clear.

COASTING LAWS VERY EXPLICIT.

Section 4347, Revised Statutes of the United States, reads:

No merchandise shall be transported by water, under penalty of forfeiture thereof, from one port of the United States to another port of the United States, either directly or by a foreign port, or for any part of the voyage, in any other vessel than a vessel of the United States.

Black's Law Dictionary defines—

Vessels "plying coastwise," as those which are engaged in the domestic trade, or plying between port and port in the United States, as contradistinguished from those engaged in foreign trade, or plying between a port of the United States and a port of a foreign country.

The leading case on this subject is that of Huus *v.* New York & Porto Rico Steamship Co. (182 U. S., 392), from which I quote:

The words "coasting trade," as distinguishing this class of vessels, seem to have been selected because at that time all the domestic commerce of the country was either interior commerce or coastwise between ports upon the Atlantic or Pacific coasts, or upon islands so near thereto and belonging to the several States as properly to constitute a part of the coast. Strictly speaking, Porto Rico is not such an island, as it is not only situated some hundreds of miles from the nearest port on the Atlantic coast but had never belonged to the United States or any of the States composing the Union. At the same time trade with that island is properly a part of the domestic trade of the country since the treaty of annexation, and is so recognized by the Porto Rican or Foraker Act. By section 9 the commissioner of navigation is required to "make such regulations * * * as he may deem expedient for the nationalization of all vessels owned by the inhabitants of Porto Rico on April 11, 1899 * * * and for the admission of the same to all the benefits of the coasting trade of the United States; and the coasting trade between Porto Rico and the United States shall be regulated in accordance with the provisions of law applicable to such trade between any two great coasting districts of the United States." By this act it was evidently intended not only to nationalize all Porto Rican vessels as vessels of the United States and to admit them to the benefits of their coasting trade but to place Porto Rico substantially upon the coast of the United States, and vessels engaged in trade between that island and the continent as engaged in the coasting trade. This was the view taken by the executive officers of the Government in issuing an enrollment and license to the *Ponce* to be employed in carrying on the coasting trade instead of treating her as a vessel engaged in foreign trade.

That the words "coasting trade" are not intended to be strictly limited to trade between ports in adjoining districts is also evident from Revised Statutes, section 4358, wherein it is enacted that "the coasting trade between the territory ceded to the United States by the Emperor of Russia and any other portion of the United States shall be regulated in accordance with the provision of law applicable to such trade between any two great districts." * * * A provision similar to that for the admission of the Territory of Alaska was also adopted in the act to provide a government for the Territory of Hawaii (31 Stat., 141, sec. 98), which provides that all vessels carrying Hawaiian registers on August 12, 1888, and owned by citizens of the United States or citizens of Hawaii "shall be entitled to be registered as American vessels. * * * and the coasting trade between the islands aforesaid and any other portion of the United States shall be regulated in accordance with the provisions of law applicable to such trade between any two great coasting districts."

COASTWISE SHIPPING IS INTERSTATE COMMERCE.

If it was the intention of the framers of the Hay-Pauncefote treaty to include in its terms our coastwise commerce taken in its broad, general sense of traffic in American vessels from one American port to any other American port, a construction which I do not admit, then it was beyond the power and authority of the President and the Senate to include such a provision, and to that extent the treaty was null and void ab initio.

Interstate commerce is defined by the courts in many cases as "transportation of freight and passengers from one State to another, or through more than one State, either by land or water." The law books and law reports are literally filled with cases in which the courts have settled, beyond question, that Congress is vested with exclusive power over interstate commerce.

Interstate commerce by sea is of a national character within the exclusive power of Congress. (122 U. S., 326.)

The right of intercourse between State and State is not created by the Federal Constitution, but was found to be existing by that instrument, which gave to Congress the power to regulate it. (9 Wheaton, 1.)

Indeed, it may be said that the necessity for proper regulation of interstate commerce was the principal cause which led to the convention which gave us our present immortal Constitution, and the court was entirely correct in saying that the right of interstate commerce preceded the Constitution.

All students of the subject know that it was the troubles between Pennsylvania and Maryland, Maryland and Virginia, and Pennsylvania and New Jersey over their interstate commerce that caused the convention which resulted in the Constitution itself. It was interstate commerce and its many vexatious questions. I correctly stated here that it preceded the Constitution and that it caused the Constitution, because had it not been for the troubles between the States growing out of commerce one with the other we would have had no Constitution.

TREATY-MAKING POWER LIMITED.

Jefferson's Manual of Parliamentary Practice (N. Y., 1876), page 110, says:

To what subject the treaty-making power extends has not been defined in detail by the Constitution, nor are we entirely agreed among ourselves. (1) It is admitted that it must concern the foreign nations party to the contract, or it would be a mere nullity, res inter alias acta. (2) By the general power to make treaties the Constitution must have intended to comprehend only those objects which are usually regulated by treaty and can not be otherwise regulated. (3) It must have meant to except out of those the rights reserved to the States—

Listen to that, Senators—

It must have meant to except out of those the rights reserved to the States, for surely the President and Senate can not do by treaty what the whole Government is interdicted from doing in any way; and (4) also to except those subjects of legislation in which it gave a participation to the House of Representatives.

It was the immortal Jefferson saying that—Thomas Jefferson, whose name is so often mentioned in this Chamber, and properly so, with the highest respect. He said that treaties must also except those objects of legislation in which it gave a participation to the House of Representatives and that the House of Representatives—that is, Congress—has the right and solely the right to regulate commerce between the States.

It is clear and undisputed that the House of Representatives must participate in legislation on interstate commerce, and beyond question matters relating to it come under the exception stated in clause 4.

In construing the Constitution we must consider its provisions collectively and thereby determine if any of its expressed clauses are modified by other clauses or implications. In this instance the power of Congress to regulate foreign commerce is modified by the treaty-making power, but there is no modification of the exclusive power of Congress to regulate interstate commerce.

Story, Cooley, Pomeroy, and others state that the treaty-making power is not supreme in its right to destroy the powers

of Congress. Pomeroy says in his work on Constitutional Law, page 567:

But I think it is equally certain that a treaty would be a mere nullity which should attempt to deprive Congress or the judiciary or the President of any general powers which are granted to them by the Constitution. The President can not by a treaty change the form of government or abridge the general functions created by the organic law.

An excerpt from Wharton's International Law Digest, volume 1, page 46, section 131a, is quoted in John Bassett Moore's Digest of International Law, volume 5, page 170, which reads as follows—and this is intensely interesting and I hope Senators will listen carefully:

That a treaty can not invade the constitutional prerogatives of the legislature is thus illustrated by a German author who has given to the subject a degree of elaborate and extended exposition which it has received from no writer in our tongue.

I quote from this German author on the very point in controversy:

Congress has under the Constitution the right to lay taxes and imposts as well as to regulate foreign trade, but the President and the Senate, if the "treaty-making power" be regarded as absolute, would be able to evade this limitation by adopting treaties which would compel Congress to destroy its whole tariff system. According to the Constitution, Congress has the right to determine questions of naturalization, of patents, and of copyrights. Yet, according to the view here contested, the President and Senate, by a treaty, could on these important questions utterly destroy the legislative capacity of the House of Representatives.

The President and the Senate by the Hay-Pauncefote treaty, if the views of the opponents of the Borah bill are correct, could regulate our coastwise commerce absolutely and destroy the powers of the House of Representatives. That is what this German author says. He continues:

The Constitution gives Congress the control of the Army. Participation in this control would be snatched from the House of Representatives by a treaty with a foreign power by which the United States would bind itself to keep in the field an army of a particular size.

Now that is interesting to the Senator from New York [Mr. WADSWORTH], I know. Strong advocate of the powers of the Senate as he is, he would never advocate a treaty with Great Britain or France or any other country binding our country to keep in the field an army of a certain size. He knows perfectly well that such a matter would be up to Congress itself and not to the treaty-making power.

I continue quoting from this German author:

The Constitution gives Congress the right of declaring war. This right would be illusory if the President and Senate could by a treaty launch the country into a foreign war. The power of borrowing money on the credit of the United States resides in Congress. This power would cease to exist if the President and the Senate could by treaty bind the country to the borrowing of foreign funds. By the Constitution, "no money shall be drawn from the Treasury but in consequence of appropriations made by law"; but this limitation would cease to exist if by a treaty the United States could be bound to pay money to a foreign power. * * * Congress would cease to be a lawmaking power, as is prescribed by the Constitution. The lawmaking power would be the President and the Senate.

That is what I am contending for, Senators, that if the Hay-Pauncefote treaty had intended to preclude our right to regulate coastwise commerce through the Paama Canal it would have been usurping the functions of Congress, and would be null and void.

Such a condition would become the more dangerous from the fact that treaties so adopted, being in this particular hypothesis superior to legislation, would continue in force until superseded by other treaties. Not only, therefore, would a Congress consisting of two Houses be made to give way to an oligarchy of President and Senate but the decrees of this oligarchy when once made could only be changed by concurrence of President and of senatorial majority of two-thirds.

That ends the quotation from this German author.

Mr. WADSWORTH. Mr. President——

Mr. RANSDELL. I yield to the Senator from New York.

Mr. WADSWORTH. Would it interrupt the Senator too much if I asked a question at this point?

Mr. RANSDELL. Not at all.

Mr. WADSWORTH. I do not mean to interrupt the continuity of the Senator's argument, but I have been interested in his comments on the power of the President and the Senate acting jointly to consummate treaties, and especially as he happened to mention me in his observations in connection with our mutual interest in the Army.

The Senator has stated that it is not within the treaty-making power to bind the United States to keep an army of a certain size in the field. I assume, generally speaking, that observation is correct; that is, keeping in the field an army of a certain size in continental United States or in American possessions?

Mr. RANSDELL. That is what I referred to. I did not refer to an army in a foreign land.

Mr. WADSWORTH. Yes; but there is just the point. The Senator would not deny the right of the treaty-making power to enter into a binding contract or agreement to keep a force of troops for a period of time in a certain portion of the world?

Mr. RANSDELL. Not if we had already gone into war, as we did by act of Congress in connection with the recent war.

Mr. WADSWORTH. Or if we were coming out of war.

Mr. RANSDELL. Congress declared that war and provided for it.

Mr. WADSWORTH. I mean in a treaty of peace.

Mr. RANSDELL. The President is Commander in Chief of the Army, and in a treaty of peace made by the President and the Senate I think it would be permissible for the President, in that very exceptional case, to provide for keeping a certain number of troops in a foreign land but not at home.

Mr. WADSWORTH. Of course, not at home.

Mr. RANSDELL. I drew the great distinction, and my whole argument is in regard to our interstate commerce. I have reiterated time and again that coastwise commerce is interstate commerce.

Mr. WADSWORTH. Now, on the point of interstate commerce, the Senator, I understand, contends that the treaty-making power has no right to impinge upon the absolute and entire control of interstate commerce by Congress?

Mr. RANSDELL. That is my contention.

Mr. WADSWORTH. Would the Senator carry that to the point of saying that the treaty-making power has no right to enter into an international agreement affecting indirectly interstate commerce—for instance, interstate commerce which is borne outside the 3-mile limit?

Mr. RANSDELL. After it passed beyond the 3-mile limit I should say it might be subject to treaty stipulations.

Mr. WADSWORTH. That is a very substantial modification of the Senator's views. The Panama Canal is outside of the 3-mile limit of the United States.

Mr. RANSDELL. The Panama Canal is territory of the United States and belongs absolutely to the United States, just as much so as does the State of New York.

Mr. WADSWORTH. Yes; but to get to the Panama Canal our vessels have to leave the territorial jurisdiction of the United States.

Mr. RANSDELL. That is very true; they leave the territorial jurisdiction of the United States; but the Senator from New York surely does not contend that the fact that they go beyond the 3-mile limit would justify the President and the Senate in invading the prerogatives of the House of Representatives and adopting regulations governing commerce conducted by such vessels when they get back into our territory. The commerce certainly is in our territory, as the Senator must admit, when it gets into the Panama Canal; it is certainly in our territory when it leaves New York; and also when it reaches its destination, say San Francisco or Seattle. My contention is that no regulation can be made by the treaty-making power alone to control our own commerce in our own territory.

Mr. WADSWORTH. That is a view that I have not studied very deeply, but I am inclined to disagree with the Senator that the treaty-making power has not the right to bind the United States to charge certain tolls in a canal which was built as the result of an international contract. If that theory were carried out to its logical conclusion, I think we should find that we were claiming a great deal for the Congress of the United States as against a contract legally entered into under the treaty-making power. Not all canals are owned by the United States. There are other canals which might be deemed to affect interstate commerce. If a ship leaves New York bound for San Francisco via the Mediterranean and Suez Canal and does not take cargo during the voyage, according to the theory of the Senator from Louisiana she is engaged in interstate commerce.

Mr. RANSDELL. She certainly is.

Mr. WADSWORTH. Is it without the power of the treaty-making power of this country to join in an agreement with the owners of the Suez Canal to fix the tolls there?

Mr. RANSDELL. Not at all, because when an American ship gets into foreign territory the situation changes. There it becomes a matter of negotiation with the foreign country through which she passes; but if she stays in the broad ocean, which belongs to everybody and is controlled by none, my contention holds. If, however, an American vessel, let us say, stops at Liverpool but does not take on any cargo there, and then proceeds through the Suez Canal, which is foreign territory and belongs to some other Government, we could by treaty join in regulations in regard to tolls for our ships passing through that canal.

Mr. WADSWORTH. If the Senator from Louisiana will be patient with me just a little longer, because I like to get his views on this matter, that leads me to another question.

Mr. RANSDELL. I am glad to yield to the Senator.

Mr. WADSWORTH. The Senator states that the exemption from tolls to our American coastwise vessels is in no event in violation of the treaty, as I understand?

Mr. RANSDELL. That is my contention.

Mr. WADSWORTH. The treaty with Great Britain provides that there shall be no discrimination between the vessels of the various nations, but the treaty which we have ratified with Colombia gives Colombia a right to pass her coastwise vessels through the Panama Canal in most important instances free of tolls.

Mr. RANSDELL. Yes; that is true.

Mr. WADSWORTH. Now, supposing that the Dominion of Canada should ask that her coastwise vessels be permitted to pass through the Panama Canal free of tolls and cited the fact that the Hay-Pauncefote treaty says there shall be no discrimination as between nations, what would be the answer the Senator from Louisiana would make?

Mr. RANSDELL. The Senator from New York might cite the further fact that the Republic of Panama was given that advantage. In reply to the Senator, I will say that I think it would be very hard for our country to answer such a suggestion; I think it would be extremely difficult to do so. I think, if the Hay-Pauncefote treaty is to have the restricted construction which the opponents of the pending bill give it, our hands are tied so hard and fast that we had absolutely no right to make a treaty with Panama and certainly no right to make one with Colombia. In the absence of the Senator from New York the Senator from Florida [Mr. FLETCHER] contended that the concession to Panama to operate her vessels through the canal free of tolls was a part of the purchase price of the strip of land we bought from her, and that it presented a different situation; but the Senator from Florida did not explain at all nor has anyone else attempted to explain why we gave similar rights to Colombia.

Mr. WADSWORTH. I feel a little cautious about amending treaties which have been once entered into by treaties which are subsequently ratified with some other power or by acts of Congress which are passed sometimes in the face of protests of other powers. I voted against the Colombian treaty largely upon the ground that that phase of it was in violation of the Hay-Pauncefote treaty, and I fear we shall live to rue the day when we gave one nation a privilege in the Panama Canal which was discriminatory against all other nations after we had promised not to do that thing.

Mr. RANSDELL. Possibly so; but has the Senator heard of any protest on the part of Great Britain about the privileges we gave Colombia?

Mr. WADSWORTH. Not as yet.

Mr. RANSDELL. Colombia has not ratified that treaty as yet, and I have not heard of any protest.

Mr. WADSWORTH. Perhaps $25,000,000 was not sufficient.

Mr. RANSDELL. Perhaps not. I do not know why she has not ratified it. I myself think she is very foolish in not ratifying it.

Mr. POINDEXTER and Mr. WATSON of Georgia addressed the Chair.

Mr. RANSDELL. I yield first to the Senator from Washington, and then I will yield to the Senator from Georgia.

Mr. POINDEXTER. The Senator asks if there has been any protest on the part of Great Britain. I can inform the Senator that there has been.

Mr. RANSDELL. As to the Colombian treaty?

Mr. POINDEXTER. Yes.

Mr. RANSDELL. I heard that there had been a protest as to the treaty with Panama, but I have not heard that there had been one with reference to the treaty with Colombia.

Mr. POINDEXTER. There was a protest on the part of the representatives of Great Britain when the treaty was first negotiated on that very point, and evidently their position was perfectly tenable. It is true that later on, after some conferences, Great Britain's representatives were induced to withdraw that protest, but they put the protest on record, showing that they have recognized a violation of the treaty, and no man can tell when they will renew their objection at some future time.

Mr. RANSDELL. I am glad to have that information on the part of the Senator. I now yield to the Senator from Georgia.

Mr. WATSON of Georgia. In that connection, Mr. President, I remind my friend from Louisiana that Great Britain has been for the last year or two fighting Irishmen, and whenever John Bull or anybody else is fighting Irishmen he has to postpone other business until that fight is over.

Mr. RANSDELL. Possibly.

Mr. WATSON of Georgia. But to speak more seriously, I can not allow without protest my friend's interpretation of what makes the supreme law in this country, because the Constitution itself says what shall be the supreme law. First comes the Constitution; next acts of Congress; and then, third, treaties made in accordance therewith. There is no treaty-making power anywhere that can place a citizen in the State of Louisiana in conflict with Louisiana law or put American troops on foreign soil and keep them there without an act of Congress.

Mr. RANSDELL. That is all correct, but that does not militate at all against what I have been saying. I am glad, however, to have the Senator's views.

HOUSE OF REPRESENTATIVES MUST PARTICIPATE IN INTERSTATE MATTERS.

Mr. President, this makes a wonderfully clear statement of the proposition I have been urging. If the President and the Senate in concluding the Hay-Pauncefote treaty took control of our coastwise commerce, as is contended by the opponents of the pending measure, then the House of Representatives, whose Members are subject to recall at much shorter intervals than the Executive or the Senate, and to that extent may well be said to recognize with corresponding readiness the demands of the people, was deprived of any participation in one of the most important matters of legislation and statesmanship ever enacted since the birth of our Republic.

I may be a little sensitive, Mr. President, about the House of Representatives. I had the privilege of serving in that body for 14 years, and I am very proud of having had that opportunity. I think we have got to be very careful not to tread upon the toes of the House in our treaty making as in other matters.

The Panama Canal was not built by treaty but by act of Congress. The statute authorizing it originated in the House of Representatives, which has annually for years originated the vast appropriations necessary to carry on the giant work. The House of Representatives may be justly proud of its participation in all canal legislation, and be jealous of its prerogatives; and I am surprised that we have had so little protest against this attempt on the part of the Executive and the Senate to deprive the House of one of its most cherished and important powers, the right to participate, as it has done since the formation of the Government, in all matters relating to our domestic commerce.

The following paragraph is quoted from Mr. Henry St. George Tucker's article in the North American Review of April, 1914, on the treaty-making power:

> In 1814 the treaty of Ghent, carrying provisions as to duties on goods imported from Great Britain, was transmitted by Mr. Madison, as President, to Congress, recommending to them to pass the needed legislation. President Grant followed the same precedent during his term, and in July, 1867, by vote of 113 to 43, the House asserted its prerogatives again. A similar question arose in the Ashburton treaty for the settlement of the northeastern boundaries between Maine and the British possessions, and Mr. Webster deemed it prudent to gain the consent of Maine and Massachusetts to the settlement. These instances—and there have been many others which could be cited—are sufficient to show that the treaty-making power is not supreme in the sense claimed by many of its advocates, but that, like all other powers enumerated in the Constitution, it must not be used for the destruction of others but in mutual cooperation with all powers equally supreme in their spheres. Each must be used for the development of the Constitution in its true spirit and interest; it must work out its own destiny in accordance with the maxim Sic utere tui ut non alienum laedas.

WE HAVE MORAL RIGHT TO EXEMPT OUR COASTWISE SHIPS FROM TOLLS.

Mr. President, I have demonstrated beyond any reasonable doubt that if the makers of the Hay-Pauncefote treaty intended to include our coastwise commerce in its provisions they were exceeding their authority, and hence it is a nullity in that respect; that the proponents of this measure are not violating any solemn contract, as has been alleged so often during this debate, but are standing by their just and legal rights; that the House of Representatives, a coordinate and coequal branch of our legislative system, was not a party to this treaty and is not bound by it; and that until Congress has acted in a constitutional manner we have a perfect right, legal and moral, without the slightest violation of any plighted faith or obligation of any kind, to exempt our coastwise commerce from the payment of tolls through the Panama Canal.

Mr. KING. Mr. President, the Senator has been so courteous that I dislike to interrupt him further——

Mr. RANSDELL. I am glad to have the Senator interrupt me.

Mr. KING. But in order to elucidate the Senator's position clearly, I should like to submit a concrete case. Suppose Germany and the United States had entered into a treaty by the terms of which American vessels had free access to the Rhine or to other German waterways and, as a quid pro quo, Germany's ships should have free access without tolls or without any discrimination whatever to the Mississippi, the Missouri, and other streams, does the Senator say that such a treaty would be unconstitutional because it would be an interference with domestic interstate commerce, and that we would have

to have an act of Congress in order to permit a treaty of that character to be entered into?

Mr. RANSDELL. Offhand, I do not know that I could say as to that. That might be an exception, but my impression is that any interference with port regulations and laws passed by Congress—and there is a regulation to the effect that foreign vessels coming into our harbors must pay from 2 to 6 cents per ton on their tonnage—any attempt to control and nullify or set aside such regulations and laws, in my judgment, would have to be carried out by an act of Congress; I believe that.

Mr. KING. Then let me put the case a little clearer. Suppose that the United States charged for a boat ascending and descending the Mississippi River 10 cents per ton to meet the expenses incident to keeping the channel clear, and that the United States should make a treaty with Germany under the terms of which our vessels would have free access to the Rhine, paying only such charges as Germany should impose upon her own ships for the maintenance of the river, and a similar provision were made that Germany's ships should have free access to the Mississippi River, subject only to the tolls that we charge upon American boats; does the Senator seriously think that we have not the power to make such a treaty, but that such an arrangement must have the approval of the House of Representatives?

Mr. RANSDELL. I think that would depend entirely upon what the German vessels were going to do when they reached the Mississippi River. If they were simply going to unload their German cargoes and take on other cargoes to be carried to Germany, probably we would have the right, but, if they were going to engage in domestic commerce when they got here, we certainly would not have any right to negotiate and ratify such a treaty. That, however, does not meet the question at issue at all, I will say to the Senator; it presents an entirely different case from the one we have before us.

COASTWISE EXEMPTION ECONOMICALLY WISE.

Mr. President, having shown that we have the right on our side, that we can without violating any principle make this exemption, the question arises, Is it wise and proper to do so entirely regardless of the treaty? I contend we should exempt our coastwise ships from tolls, that we should treat our own coastwise commerce through the canal just exactly as we treat that on our internal waters, which is also coastwise commerce. Why should there be one rule for the interior commerce on our canals, rivers, and lakes and another for that on the Atlantic, the Gulf, the canal, and the Pacific?

We have expended on the Panama Canal for its purchase, construction, fortification, maintenance, and so forth, about $500,000,000. As good husbandmen it behooves us, if possible, so to use this costly property as to give a reasonable interest on the amount invested and gradually secure the return of the principal, though it matters little if the principal ever be repaid, provided a fair interest is obtained. In determining our profits from the canal, we must consider two separate and distinct things—military and commercial.

MILITARY VALUE OF CANAL.

The canal would not have been constructed but for the necessity of concentrating our Navy, separated as are our Atlantic and Pacific coasts by 12,000 miles of sea around Cape Horn. It was practically impossible to mobilize the Navy of one ocean into the other, and if we were to become really effective as a naval power it was imperative either to construct a canal at the Isthmus, thereby permitting the passage of our war vessels from ocean to ocean, or to build and maintain two separate and distinct navies at enormous cost, almost double the cost of one effective Navy when the Panama Canal was completed. We had a graphic and most exciting instance of the necessity of this canal during our struggle with Spain in 1898, when the battleship *Oregon* made its wonderful voyage from San Francisco around Cape Horn, passing from the breezes of California through the fiery blasts of the Equator on to the frozen regions to the south, where the decks were covered deep with snow; thence northward, again across the Equator, and on with never-ending speed to participate in the glorious battle of Santiago. For days the people of America held their breath in suspense and deepest anxiety for the fate of this great ship; and though it made the voyage safely and bore a gallant part in the battle everyone felt that the strain was too much, the danger too great ever to be undergone again, and that we must provide for a quick, safe passage for our vessels across the Isthmus.

When men speak of the cold, economic argument in this case they must not forget that one of the most important reasons, if not the controlling one, for constructing the canal was not commercial but military; and in arriving at a just appreciation of the economic benefits to be derived from it we must not forget to credit it with the enormous military advantages as well as the great financial saving resulting from a very much smaller and infinitely less expensive but much more efficient Navy. A single first-class battleship costs about forty millions, and it is said that the destruction of the canal, from a military viewpoint, would be more injurious to us than the loss of 20 battleships, representing $800,000,000 of actual cost. Therefore, it is fair to say that the military advantages of the canal, calculated purely in dollars and cents, are equivalent to the cost of constructing 20 battleships, $800,000,000, plus the cost of maintaining them, which is estimated by the Navy Department at about $2,000,000 per annum for each ship, $40,000,000 for the fleet, without taking into account the amortization fund sufficient to replace them as they become useless. But not alone this advantage! By practically doubling the efficiency of our Navy the canal will be a measure of the most terrific effectiveness in the preservation of peace. The better we are prepared for war, the less chance there is of any nation attacking us. Hence, it is quite possible that in the future the canal may be the means of preventing us from being involved in a costly and bloody war.

FREE ROADWAY MEANS INDEPENDENT COMMERCE.

As a general proposition, it may be asserted that any transportation agency which is open and free to every citizen of the Republic which is conducted over a free roadway, be it land or water, and which gives equal facilities at the terminals to everyone, can not possibly be a monopoly. How can there be a monopoly of freight carrying on a public road, where the peasant with his pushcart can compete with the farmer in his two-horse wagon, who in turn competes with the great auto truck, each on terms of absolute equality so far as the right to use the road is concerned? How can there be a combine on our great rivers, improved at the expense of the National Government, owned and controlled by it, where the poorest man in his little canoe floats as freely as the millionaire in his gilded yacht? How can there be a monopoly on the great Pacific, on our own American canal, on the Gulf, and in the broad Atlantic, where everyone has the same right to compete for trade in a small or large way as his means allow, and to receive fair and equal treatment in the harbors along our coast? It is perfectly clear that on a railroad, where the roadbed is owned by a single corporation, which controls it and can prevent its use by anyone else, a monopoly is entirely feasible, for how can there be any competition if only one person or company is allowed to use the line? But the situation is entirely different with our highways and waterways, where I again say that monopolies are practically impossible.

FREE ROADWAYS AND WATERWAYS NOT A SUBSIDY.

It is said that the exemption from tolls of our coastwise traffic through the canal would be a subsidy. I deny the charge; but if a subsidy, it is a justifiable and proper one. All subsidies are not bad. Subsidy is defined to be "a grant of money made by government in the aid of the promoters of any enterprise, work, or improvement in which the government is to participate or which is considered a proper subject for State aid because likely to be of benefit to the public." It is estimated that the National Government, together with the States, counties, and municipalities, has expended upward of a thousand million dollars in the construction of railroads through boundless forests, over marshy wastes, across vast expanses of desert, over great mountains, with the result that every portion of the Union is connected, a marvelous growth has taken place in many sections inhabited by wild beasts and wilder men that could never have been developed without the aid of the iron horse, and the whole Nation has vastly increased in wealth and population in consequence thereof. Most of this aid was given many years ago, when we were young in years, comparatively few in number, when the necessity for public aid was imperative, and it was dictated by constructive statesmanship of the highest order. My own State of Louisiana was so impressed with the wisdom of increasing its railroad facilities in order to develop its waste places and splendid resources that on two separate occasions during the past 22 years constitutional provisions were adopted which exempted from all forms of taxation for a period of 10 years any new railroad or part thereof constructed within a certain time, and great impetus was given thereby to railroad building. I believe that these expenditures, bonuses, and exemptions for railroads were in the main wise and beneficial. I am convinced that but for this aid and the consequent expansion of railroads our great Republic, the marvel of the world, would still be in its infancy; and while there were some scandals in connection with railroad grants, bond issues, and so forth, the benefits far exceeded the evils that arose therefrom.

FREE USE OF PANAMA CANAL NOT A SUBSIDY.

Continuing the subject of subsidy, let me suggest that the States and Nation expended last year on good roads $600,000,000, and there is a great good-roads movement going on all over the Union, which will probably do more to enhance the value of the Nation's property, to make people more satisfied with farm life, and to lower the cost of living than anything within recent years. It is a relic of past ages to charge tolls on good roads, though I believe it is still done to a slight extent in some localities, and surely no one considers it a subsidy to permit the free use of good roads.

Since the birth of our Republic we have spent $1,000,000,000 to improve all the Nation's waterways, with the idea that it was necessary to facilitate the movement of freight by water and to lower and regulate railroad rates. Most of these expenditures have been very effective, and the wisdom of our waterway policy is generally acknowledged. We have never charged tolls for the use of our harbors, rivers, and canals, and if any Congressman should propose such a thing he would be ridiculed into the shades of private life. There is no better settled and established policy of the Government than that we must improve every worthy watercourse in the Union, the development of which is justified by the needs of commerce; that the expense thereof must be borne by the Nation; and that the waters must be open and free to all. Is this a subsidy? I do not so understand it; but if it be a subsidy, then surely it is a good subsidy.

FREE PANAMA CANAL MEANS DOLLARS TO EVERY CITIZEN.

The same argument applicable to internal waterways generally applies to the Panama Canal. We should receive similar benefits and an enormous saving in our annual freight bill. If traffic on the Great Lakes, on the Columbia, on the Ohio, on the Mississippi, on the Black Warrior, and in great ports like that of Boston can be carried so very cheaply, compared with rail, there is no reason why it can not be carried at like rates through Panama; and beyond question it will be. The companies operating coastwise vessels will not be able to add to their profit the amount of the tolls exemption, because each company will need the advantage of every possible cent of lower freight rates to meet the rates of competing vessels. There is a constant increase of the number of our coastwise vessels, and each ship is anxious to carry freight to its full capacity. The competition between the tramp and the regular lines, between company and company, between ship and ship, will be very keen, for all of them will be anxious to carry more and more freight, and, by seizing every opportunity, to develop and increase their traffic as much as possible. They will, therefore, offer every inducement to draw freight to them, and the best inducement is a low freight rate. Hence the consumers of the country will receive the benefit.

To sum up briefly: Coastwise commerce through the Panama Canal is a domestic question. None but American vessels can engage in it. Great Britain has no interest in whether we charge tolls to coastwise vessels through the canal or whether we permit them to pass free. Our coastwise commerce has always been favored and especially fostered by many acts of Congress. It is interstate commerce, and Congress alone can legislate in regard to it. The President and the Senate can make treaties affecting foreign commerce, but it requires the concurrence of the House of Representatives—in other words, an act of Congress—to affect interstate commerce.

A great majority of the Senators who voted for ratification of the Hay-Pauncefote treaty in February, 1902, have stated that they did not consider that treaty as affecting the right of the United States to regulate its domestic commerce through the Panama Canal. Mr. Roosevelt, who was then President, and Mr. Taft, who was President when the free tolls act of 1912 was passed, have both said in the most unequivocal way that they regard our right to regulate coastwise commerce through the canal as absolute.

Both great political parties—the Democratic Party in its platform of 1912 and the Republican Party in that of 1920—have declared in favor of free tolls for coastwise vessels passing through the Panama Canal.

There is no moral question involved in free tolls. It is merely one of business judgment. In my opinion, the exemption is wise. There are no tolls on our improved harbors, lakes, rivers, and great national highways; and the Panama Canal should be treated in the same way. Free roadways on land and water are not subsidies. The military reasons for constructing the canal were as influential as the commercial ones, and must always be borne in mind in discussions about it.

For these and many other reasons which I might state, if time permitted, I shall gladly vote for the pending bill, and sincerely hope it will become the law.

Mr. President, I ask permission to publish as an appendix to my remarks the referendum taken by Mr. S. A. Thompson on behalf of the National Rivers and Harbors Congress within the last few weeks. He submitted this question to some 18,000 prominent people throughout the country, and the result of their vote on this subject is embodied in a brief statement prepared by him, which I ask to have published as an appendix to my remarks.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The matter referred to is as follows:

NATIONAL RIVERS AND HARBORS CONGRESS REFERENDUM No. 1, 1921.

PANAMA CANAL TOLLS.

The National Rivers and Harbors Congress has always been in favor of exempting vessels engaged in coastwise trade from the payment of tolls at the Panama Canal. A strong campaign was made in favor of this principle when the Panama Canal bill was under consideration in 1912, and the resolutions adopted by the convention held in December of that year said, "We heartily congratulate and commend the Sixty-second Congress upon its grant of immunity, through the recently enacted Panama Canal law, from tolls upon ships engaged in our coastwise trade."

We also made a vigorous campaign when the matter was reconsidered in 1913, but in this we were defeated and the exemption was repealed. Since that time all American ships, whether engaged in coastwise or foreign trade, have paid the same tolls as foreign ships for the use of the canal.

As it was evident that the question was to be considered by Congress, the National Rivers and Harbors Congress sent out a questionnaire in order to learn the state of public opinion on the matter. As will be noted from the complete copy of this questionnaire, no arguments were offered on either side of the question.

The questionnaires were sent not only to the officers and Members of the Congress but to governors of States, mayors of cities, commercial organizations, public libraries, daily and weekly newspapers, and trade journals in every part of the country. More than 18,000 were sent out and less than 700 were returned. A detailed tabulation of the votes returned will be found on another page.

On the first question—the exemption from tolls of American ships engaged in coastwise trade—the vote was 520 for to 158 against, or more than 3 to 1.

On the second question—the exemption from tolls of all American ships, whether engaged in coastwise or foreign trade—the vote was 436 for to 208 against, or more than 2 to 1.

There were 435 who voted for and 157 against both questions, 51 who favored No. 1 and opposed No. 2, 34 who favored No. 1 and left No. 2 unanswered, 1 who opposed No. 1 and favored exemption only for American vessels engaged in foreign trade, and 14 who declared themselves unable to express an opinion on either one. Twelve absent-minded people took the trouble to fill out and return the questionnaires, but forgot to sign them.

"IT IS OUR CANAL."

Among those who voted for exemption of tolls only a few expressed their opinions without adding their reasons. The reasons given were many and varied, but the one that appeared more often than any other was the fact that it is our canal.

"If I owned a moving-picture show," said one, "I would never think of charging myself admission. Why should we charge our ships for using a canal that we own?"

Said another: "We built the canal; we paid for it and must maintain it. Therefore it stands to reason that we, as a nation, have a right to profit by our position. Let foreigners who use it pay their way."

"The Panama Canal," said a third, "if properly further developed, will not be self-supporting for possibly a century to come. American money built the canal and American money must continue to be spent on it. American taxpayers are entitled, if they choose, to give the benefit of no tolls to American vessels."

THE MERCHANT MARINE.

Almost as many voted for "free tolls" on the ground that this would develop and sustain an American merchant marine as voted for the exemption on the ground that we built and own the canal. And it is gratifying to all those who favor a great American merchant marine to note that this reason is given not only by those who live on or near the seacoast but by those whose homes are on the prairies or among the mountains of the West.

(a) "The world owes us in round numbers about $18,000,000,000. This debt will have to be paid in manufactured products or raw material of other nations than our own.

"Consequently the United States, as never before in all history, will be compelled to carry on an international and world-wide distribution of its own products and those it must accept from its debtors. Only by the use of ships can such a service be performed. In all probability the United States will have to establish free ports at each end of the Panama Canal.

"In any event the United States must make use of every advantage possible in order to compete with the lower-priced sea labor of other countries. Thus will an exemption from canal tolls for American ships help American ship operators to pay their officers and men the higher wage which American seamen demand."

(b) "Five years ago hardly an American ship came into our port; they were all foreigners. They came to take our American cargoes and collect our freight money. What did they buy in America? Nothing that could be bought abroad. Repairs? Not if they could wait until they got home.

"To-day American manufacturers, merchants, laborers, and every industry derive a benefit from American ships, and everything possible should be done to keep the flag on the seas."

(c) "It is essential to the further spread of American trade overseas that our vessel operation should be burdened with the least cost whatever. The removal of tolls of any kind on American vessels of all kinds will go some distance in removing the loss incidental to the running of our vessels under the La Follette Act, and, in effect, will place us more nearly on a level with foreign nations in the cost of vessel operation."

(d) "That preference may be given American vessels in all possible ways to overcome, to a degree at least, the handicap under which they are placed competitively by our unfair shipping laws."

(e) "That, aside from any commercial or economic reason, it should be done if only for its value as a military measure, i. e., as a means toward increasing the number of American ships and seamen available for the next war."

OTHER REASONS.

Many other reasons were given, only a few of which can be quoted:

(a) "These tolls are really taxes on the shipper, being represented in the rate he pays, rather than on the steamship company. Abolition of these toll charges, therefore, would permit the steamship lines to quote lower rates, which would be of great benefit to shippers in general."

(b) "It would stimulate water transportation, both coastwise and inland, and relieve our overtaxed railroads and the overtaxed public that pays the present exorbitant freight rates."

(c) "Railroads are unable to handle all the business necessary for our development."

(d) "It will have a tendency to encourage water transportation and the enlargement of coastwise shipping equipment, thus relieving the inadequate shipping facilities of the steam and electric lines."

(e) "It will intensify the competition of intercoastal steamships and rail lines, and therefore result in lowering the cost of foodstuffs."

(f) "Any tax on transportation is bad, and there is no more reason for tolls on waterways than on highways."

(g) "Why should we charge tolls at the Panama Canal any more than at the Ambrose Channel, in New York Harbor, or at the South Pass at the mouth of the Mississippi?"

(h) "It is time we began to function as a nation; we are not a province any longer."

Among those who voted in favor of exempting all American vessels from tolls were the Chambers of Commerce of Winsted, Conn.; Wilmington, Del.; Sharon, Pa.; Rockford, Ill.; Michigan City, Ind.; and Houston, Tex.; the Bronx Board of Trade, New York City; the East Side Business Men's Club, Portland, Oreg.; the West Coast Lumbermen's Association, Seattle, Wash.; the Waterways Division of the Ottawa (Ill.) Chamber of Commerce; and the Young Men's Division of the Houston (Tex.) Chamber of Commerce.

ENTER "THE TREATY."

A few of those who voted for the exemption from tolls added, "Provided it does not conflict with treaty obligations." Many of those who favored No. 1 and opposed No. 2 stated that exemption of vessels in the coastwise trade would not constitute a violation of the Hay-Pauncefote treaty, while the exemption of vessels engaged in foreign trade would do so. Of those who opposed both No. 1 and No. 2, a large number declared that exemption of tolls on any class of vessels would violate that treaty. Some typical expressions are quoted below:

(a) "By exemption of coastwise vessels American shippers alone benefit and it does not conflict with treaties with foreign nations. The canal was built to bring the Pacific and Atlantic coasts closer together and to control high railroad rates, affording an all-water route for American interests.

"Exempting vessels in foreign trade would conflict with Hay-Pauncefote treaty and bring retaliation from Suez Canal. Would benefit American interests little as compared to loss of canal revenue."

(b) "Coast-to-coast trade is purely via American bottoms, and in order to stimulate intercoastal trade the tolls should be removed.

"In foreign trade I do not believe that American ships should be given any advantage over foreign vessels in so far as Panama Canal tolls are concerned. Our treaties stipulate this point, and such foreign trading vessels are not entitled to such differential."

(c) "The United States can regulate its internal commerce as it wishes, but foreign commerce is subject to treaty obligations, and I fear serious complications if we attempt to treat our foreign trade vessels differently from those of other countries."

One who opposed any exemption of tolls declared: "I believe it would be just as much a crime for America to treat her treaty with Great Britain as a 'scrap of paper' as was the act of the Kaiser (the invasion of Belgium) which we condemned. It is unthinkable!"

INJURY TO RAILROADS.

Quite a number opposed remission of tolls on the ground that it would injure the interests of the railroads. This idea is clearly expressed in the following:

"Transcontinental rail lines are a necessity for the whole country and must have traffic both ways at proper and reasonable rates in order to exist. It is not just for the Government to assist in building up an unnatural competition between water carriers and the railroads by granting exemption from absolutely proper charges for the use of the canal.

"Rates by water from coast to coast should be regulated and controlled and not be less than will provide a fair return on invested capital in the vessel property, whether owned by the United States or privately, so as to prevent 'cutthroat' competition with the railroads, which must charge reasonable rates in order to exist.

"The natural advantage possessed by water carriers in having a free ocean highway as compared with the railroads' expense in acquiring right of way, laying of tracks, etc., is sufficient without exempting the water carrier from paying its just share of the expense of building, maintaining, and operating a facility which inures solely to its benefit."

"MANY MEN, MANY MINDS."

So many different reasons were given by those who oppose exemption of tolls that it is impossible to quote them all, but some of them will be found below:

(a) "Such exemption would be a discrimination in favor of the Pacific and Atlantic coast regions and against the entire Middle West region, which, through taxes and otherwise, contributed its liberal share toward the construction of the Panama Canal."

(b) "We fear that the exemption from tolls of all American vessels engaged in coastwise or foreign trade would be one step toward creating a monopoly, which would eventually not prove to the best interests of the country at large."

(c) "The exemption is an indirect subsidy to the Shipping Trust. The same interests control the coastwise ships and the railroads and there would be no competition reducing rates. I am opposed to ship subsidies, but if I favored them I would give the money directly out of the Treasury without any mask or cover to the transaction."

(d) "As an American citizen I am one of the owners of the Panama Canal and have helped to pay the cost of it. A part of the income earned by the canal is mine. I do not own any part of any commercial ship and do not see why I should permit any such ship to pass through my canal without paying toll."

(e) "Exemption from tolls would be a graft for private shipping interests. I am opposed to this graft."

(f) "The whole country is taxed to support the canal, while the exemption of tolls benefits only the two coasts to the detriment of the interior. Further, the exemption of tolls enables coastwise vessels to make lower rates than the railroads can successfully meet, so the interior is further taxed by increased railroad rates, for the railroads are a necessity and must be supported."

(g) "We paid millions for the construction of the canal, and it costs millions each year for its maintenance, for which we are taxed. There is no better or easier way than to let the ship corporations pay it in the way of tolls. Our taxes are heavy enough."

(h) "Why exempt American vessels from tolls and make the American farmer pay tax on his farm? If they do not pay toll, we will have to be taxed to pay their cost of going through the canal."

(i) "Owners of vessels, American or foreign, should pay increased tolls for the use of the waterway built at the expense of the public. There is no more reason for building waterways for steamship operators than for the American people to build roadbeds for railroads."

The Chamber of Commerce of Quincy, Ill., and the New Orleans Association of Commerce favored No. 1 and opposed No. 2.

The Chamber of Commerce of Reno, Nev., the St. Paul Association of Public and Business Affairs, the Merchants and Manufacturers' Association of Baltimore, and the Philadelphia Bourse opposed both No. 1 and No. 2. In support of its position, the Philadelphia Bourse submitted a typewritten argument covering three pages of legal size.

SOME FACTS AND FIGURES.

COST OF THE CANAL.

So far as can be ascertained, no complete statement showing the total amount which the Panama Canal has cost has ever been published or is available. The principal figures, however, are known. Up to July 30, 1920, the total appropriations made by Congress amounted to $467,431,257.41. Of this amount, $40,000,000 was paid for the property rights of the French company; $10,000,000 was paid to the Republic of Panama for the right to construct the canal, and $2,250,000 in annual payments of $250,000 each; $336,355,100.92 is charged to construction, which includes relocation and reequipment of the Panama Railroad; $34,658,400.81 was paid out for fortifications and $43,997,755.68 for maintenance and operation.

Since the date named, $25,000,000 have been voted to the Republic of Colombia and further sums have been paid out for maintenance, fortifications, and other purposes, making a total of approximately $500,000,000, and it should be noted that this does not include any of the cost of the troops manning the fortifications and stationed in the Canal Zone.

Below will be found a table compiled from the Panama Canal Record for September 14, 1921, giving, by nationalities, the total number of commercial vessels which have passed through the canal from its opening to June 30, 1921, with their net tonnage, as measured by Panama Canal rules, and the tons of cargo carried. Panama Canal net tonnage does not refer to weight but to the cubic capacity of ships measured by Panama Canal rules, which differ from those used elsewhere. For instance, for the fiscal year 1921, the commercial ships passing through the canal had a net registered tonnage of 3,984,464 tons, while the Panama Canal net tonnage was 4,874,477 tons. Figures for cargo are given in gross tons of 2,240 pounds each.

Nationality, number, and Panama Canal net tonnage of, and tons of cargo carried by, commercial vessels passing through the Panama Canal from its opening to June 30, 1921.

Nationality.	Number of vessels.	Panama Canal net tonnage.	Tons of cargo carried.[1]
British	4,637	16,658,644	18,226,033
Chilean	498	1,331,220	769,972
Danish	333	1,079,643	1,564,052
Dutch	242	1,008,479	1,099,854
French	273	726,067	762,212
Japanese	497	2,105,581	3,002,519
Norwegian	901	3,113,207	3,704,183
Peruvian	402	1,027,523	719,629
United States	4,766	16,206,857	19,079,814
All other	550	1,410,053	1,535,198
Total	13,099	44,648,274	50,463,493

[1] Gross tons of 2,240 pounds.

In the above table foreign warships are included among the number of vessels because they pay tolls, but their displacement is not included in the statement of Panama Canal net tonnage.

Discrepancies, for which no explanation is visible, occur in the tables of statistics published in different issues of the Panama Canal Record. For instance, the Record of September 14 gives the total number of vessels as 13,099, that of July 20 makes it 13,104, and that of August 10 jumps the total to 13,276.

REVENUES AND EXPENSES.

The number of commercial transits, the amount received from tolls and other collections, and the current expenses of maintenance and operation for the several fiscal years are shown in the following table:

Fiscal year.	Number of commercial transits.	Tolls and other revenues.	Current expenses of operation and maintenance.
1915	1,072	$4,343,383.60	$4,123,128.09
1916	760	2,558,542.38	6,909,750.15
1917	1,806	5,808,398.70	6,788,047.60
1918	2,068	6,411,843.28	5,920,342.94
1919	2,028	6,354,016.98	6,112,194.77
1920	2,478	8,935,871.57	6,548,272.43
1921	2,892	[1] 11,276,889.61	[2]

[1] Tolls only. [2] Not available.

For the same period the number of canal transits by Government vessels exempted from tolls and the total tonnage of cargo carried were as follows for each fiscal year:

Fiscal year.	Number of vessels.	Cargo (tons).
1915	16	43,647
1916	43	76,675
1917	100	147,405
1918	112	36,746
1919	179	93,641
1920	267	351,332
1921	426	453,769

Up to June 30, 1920, the total current expense of operation and maintenance since the opening of the canal in 1914 exceeded the total revenue by $2,231,091.61. This excess has undoubtedly been much more than overcome by the revenues of the fiscal year 1921, but the exact figures are not yet available.

COASTWISE TOLLS.

The figures given below are taken from a statement issued by the Panama Canal office in Washington under date of September 24, 1921.

A note appended to the table says:

"It is difficult to determine exactly the volume of the United States coastwise trade through the Panama Canal. Many of the vessels engaging in this trade also call at one or more foreign ports; for example, at Habana and Kingston on the Atlantic side and at Central American and Mexican ports on the west coast. Freight steamers trading between the Atlantic coast and the Orient commonly make Los Angeles, San Francisco, Portland, or Seattle a port of call. Steamers trading from the Atlantic to the Pacific ports of the United States call also at the foreign port of Vancouver. In other words, the domestic trade through the canal is so inextricably bound up with closely related foreign trade that statistical segregation is almost impossible. The above figures indicate that coastwise trade through the canal during the fiscal year shown as nearly as can be determined from data subject to many possibilities of error."

Fiscal year.	Total number of vessels.	Total British.	Total United States (including coastwise.)	United States coastwise.	Panama Canal net tonnage of United States coastwise.	Tolls collected on United States coastwise.	Total tolls collected.
1915	1,072	465	470	335	1,305,291	$1,536,125.73	$4,343,383.69
1916[1]	760	358	238	93	363,310	372,376.80	2,399,830.42
1917	1,806	780	464	35	109,249	112,409.83	5,631,781.66
1918	2,068	699	628	81	325,911	354,948.98	6,438,855.55
1919	2,028	602	786	212	730,416	815,773.34	6,172,828.59
1920	2,478	753	1,129	248	955,209	1,016,657.78	8,513,933.15
1921	2,892	972	1,212	322	1,451,477	1,434,281.75	11,276,890.61
Total	13,104	4,629	4,927	1,326	5,240,863	5,642,575.21	44,777,502.67

[1] Canal closed 7 months during this year.

THE HAY-PAUNCEFOTE TREATY.

The Hay-Pauncefote treaty, which is given in full below, was concluded and signed by the plenipotentiaries November 18, 1901. The ratifications of the two Governments were exchanged at Washington February 21, 1902, and the treaty was proclaimed by President Roosevelt on the following day:

"The United States of America and His Majesty Edward VII, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the seas, King, and Emperor of India, being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, by whatever route may be considered expedient, and to that end to remove any objection which may arise out of the convention of the 19th April, 1850, commonly called the Clayton-Bulwer treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the 'general principle' of neutralization established in article 8 of that convention, have for that purpose appointed as their plenipotentiaries:

"The President of the United States, John Hay, Secretary of State of the United States of America; and

"His Majesty Edward VII, of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the seas, King, and Emperor of India, the Right Hon. Lord Pauncefote, G. C. B., G. C. M., His Majesty's ambassador extraordinary and plenipotentiary to the United States;

"Who, having communicated to each other their full powers, which were found to be in due and proper form, have agreed upon the following articles:

"ARTICLE I.

"The high contracting parties agree that the present treaty shall supersede the aforementioned convention of the 19th April, 1850.

"ARTICLE II.

"It is agreed that the canal may be constructed under the auspices of the Government of the United States, either directly at its own cost or by gift or loan of money to individuals or corporations or through subscription to or purchase of stock or shares, and that, subject to the provisions of the present treaty, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

"ARTICLE III.

"The United States adopts as the basis of the neutralization of such ship canal the following rules, substantially as embodied in the convention of Constantinople signed the 28th October, 1888, for the free navigation of the Suez Canal, that is to say:

"1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic, or otherwise. Such conditions and charges of traffic shall be just and equitable.

"2. The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it. The United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

"3. Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay in accordance with the regulations in force, and with only such intermission as may result from the necessities of the service.

"Prizes shall be in all respects subject to the same rules as vessels of war of the belligerents.

"4. No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal, except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

"5. The provisions of this article shall apply to waters adjacent to the canal, within 3 marine miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than 24 hours at any one time, except in case of distress, and in such case shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within 24 hours from the departure of a vessel of war of the other belligerent.

"6. The plant, establishments, buildings, and all works necessary to the construction, maintenance, and operation of the canal shall be deemed to be part thereof, for the purposes of this treaty, and in time of war, as in time of peace, shall enjoy complete immunity from attack or injury by belligerents, and from acts calculated to impair their usefulness as part of the canal.

"ARTICLE IV.

"It is agreed that no change of territorial sovereignty or of the international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties under the present treaty.

"ARTICLE V.

"The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by His Britannic Majesty; and the ratifications shall be exchanged at Washington or at London at the earliest possible time within six months from the date hereof.

"In faith whereof, the respective plenipotentiaries have signed this treaty and thereunto affixed their seals.

"Done in duplicate at Washington the 18th day of November, in the year of our Lord 1901.

"JOHN HAY. [SEAL.]
"PAUNCEFOTE. [SEAL.]"

PERTINENT QUESTIONS.

The Hay-Pauncefote treaty provides that—

"The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality, so that there shall be no discrimination against any such nation or its citizens or subjects in respect of the conditions or charges of traffic or otherwise."

The treaty with the Republic of Panama, by which we gained control of the Canal Zone and secured the right to construct the canal, contains the following language:

"The Government of the Republic of Panama shall have the right to transport over the canal its vessels and its troops and munitions of war in such vessels at all times without paying charges of any kind."

The recent treaty with Colombia contains the following words:

"The Republic of Colombia shall be at liberty at all times to transport through the interoceanic canal its troops, materials of war, and ships of war without paying any charges to the United States."

Panama and Colombia are recognized as sovereign nations, and the provisions of the treaties with these nations which have been quoted undoubtedly constitute a violation of the Hay-Pauncefote treaty. Should we not take immediate steps to undo this action?

Much has been said in support of the claim that the words "all nations" in the Hay-Pauncefote treaty include the United States, and that, therefore, it would be a violation of the treaty to exempt our ships engaged in coastwise commerce from the payment of tolls, but the treaty says "ships of commerce and of war." Nevertheless, ever since the canal has been opened the United States has been sending through it not only its ships of war but other ships owned or chartered by the Government, not one of which has ever paid a cent of toll. From its opening to June 30 of the present year no less than 1,143 ships, carrying 1,203,215 tons of cargo for the Government, have passed through the canal. No statement of the number of United States warships using the canal is at hand, but those which passed through in the fiscal year 1921 had a displacement of 898,663 tons. How can this be interpreted in any other way than as a violation of the Hay-Pauncefote treaty?

Some of those who oppose the exemption of coastwise ships from the payment of tolls have insisted that even if the letter of the treaty would allow us to do this we ought to observe its spirit.

It seems evident that the spirit of the treaty would not be observed even if we should collect tolls from warships and ships in the service of our Government, for the money collected in tolls from the Government would immediately be turned into the Treasury. Is it not necessary, in order to completely observe the spirit of the treaty, that it should actually cost the United States just as much to send its ships through the canal as it costs any other nation? Great Britain pays the United States for the passage of her warships through the canal. Would it be a complete observance of the spirit of the treaty if we should pay Great Britain when our warships go through?

Some other things seems to have been overlooked also. The treaty declares that—

"There shall be no discrimination against any such nation or its citizens or subjects in respect of the conditions or charges of traffic or otherwise."

The canal has cost the United States something like $500,000,000. The interest on this would amount to $20,000,000 or $25,000,000 a year, according as the interest is computed at 4 or 5 per cent. Is not the United States discriminating against itself and in favor of other

nations so long as it fails to ask other nations to pay a share of the interest upon this enormous investment in proportion to the use made of the canal by their ships?

(That there may be no misunderstanding, the Secretary desires to state that whatever responsibility there may be in connection with these inquiries belongs entirely to himself.)

The vote in detail.

State.	Favor both.	Favor No. 1, oppose No. 2.	Favor No. 1, no answer No. 2.	Oppose both.	Oppose No. 1, favor No. 2.	Unable to decide.	Total by States.
Alabama	5	2	1	2			10
Arizona	1						1
Arkansas	5						5
California	37	2	2	1			42
Colorado	3			1			4
Connecticut	9		1	1			11
District of Columbia	1						1
Delaware	3	1		1			5
Florida	9			1			10
Georgia	5			4			9
Idaho	3	1		1		1	6
Illinois	34	5		11	1		51
Indiana	15	2		8			25
Iowa	8		1	7			16
Kansas	6	1	2	1			10
Kentucky	4			2		1	7
Louisiana	12	3		2			17
Maine	2	1		1		1	5
Maryland	6			2			8
Massachusetts	10	1	2	8		2	23
Michigan	14			4		1	19
Minnesota	3	2	2	5		1	13
Mississippi	1	1	1	2		1	6
Missouri	6	1		4			11
Montana	1						1
Nebraska			1	1			2
Nevada	1	1		2			4
New Hampshire	4			1			5
New Jersey	16	1	4	5			26
New Mexico	1			3			4
New York	63	1	1	14			79
North Carolina	6	1		1			8
North Dakota	1						1
Ohio	19	3		5		1	28
Oklahoma	4			2		1	7
Oregon	13	2	1	3			19
Pennsylvania	26	2	3	14		1	46
Rhode Island	5			1			6
South Carolina	1						1
South Dakota	1			1			2
Tennessee	1	1		1		1	4
Texas	20	5	4	7			36
Utah				2			2
Vermont				1			1
Virginia	6	2		4			12
Washington	26	7	5	4			42
West Virginia	4			4			8
Wisconsin	10	2		6			18
Wyoming	2			1			3
Unsigned	2		3	5		2	12
Total	435	51	34	157	1	14	692

CUMBERLAND RIVER BRIDGE.

Mr. SHEPPARD. Mr. President, there are two bridge bills indorsed by the Commerce Committee which I should be glad if the Senate would pass this afternoon. The authors of the bills are anxious to have them passed They are both House bills, and one is on the table, received from the House on Thursday, a similar Senate bill having been favorably considered by the Senate Committee on Commerce.

Mr. LODGE. If there is to be no debate, Mr. President, I shall not object.

The VICE PRESIDENT. The Chair lays before the Senate a bill from the House of Representatives.

The bill (H. R. 8209) to extend the time for the construction of a bridge across the Cumberland River in Montgomery County, Tenn., was read twice by its title.

Mr. SHEPPARD. I ask unanimous consent for the immediate consideration of the bill.

The VICE PRESIDENT. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, and it was read, as follows:

Be it enacted, etc., That the times for commencing and completing the construction of a bridge authorized by act of Congress approved August 31, 1919, to be built by the county of Montgomery, State of Tennessee, across the Cumberland River at a point suitable to the interests of navigation and within a distance of 7 miles from Clarksville, in said county and State, are hereby extended one and three years, respectively, from the date of approval hereof.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. SHEPPARD, from the Committee on Commerce, to which was referred the bill (S. 2507) to extend the time for the construction of a bridge across the Cumberland River in Montgomery County, Tenn., reported it without amendment, and submitted a report (No. 287) thereon, and moved that the bill be indefinitely postponed, which was agreed to.

RIO GRANDE BRIDGE.

Mr. SHEPPARD. From the Committee on Commerce I report back favorably without amendment the bill (H. R. 6809) to extend the time for the construction of a bridge across the Rio Grande, within or near the city limits of El Paso, Tex., and I submit a report (No. 286) thereon. I ask unanimous consent for the immediate consideration of the bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That the times for commencing and completing the construction of a bridge, authorized by act of Congress approved October 6, 1917, to be built by the city of El Paso, Tex., across the Rio Grande, within or near the city limits of El Paso, Tex., are hereby extended one and three years, respectively, from the date of approval hereof.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

EXECUTIVE SESSION.

Mr. LODGE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. Aften 10 minutes spent in executive session the doors were reopened.

RECESS.

Mr. LODGE. I move that the Senate take a recess until Monday at 11 o'clock.

The motion was agreed to; and (at 4 o'clock and 48 minutes p. m.) the Senate took a recess until Monday, October 10, 1921, at 11 o'clock a. m.

CONFIRMATIONS.

Executive nominations confirmed by the Senate October 8 (legislative day of October 4), 1921.

ENVOYS EXTRAORDINARY AND MINISTERS PLENIPOTENTIARY.

Lewis Einstein to be envoy extraordinary and minister plenipotentiary to Czechoslovakia.

John E. Ramer to be envoy extraordinary and minister plenipotentiary to Nicaragua.

John Glover South to be envoy extraordinary and minister plenipotentiary to Panama.

Edward E. Brodie to be envoy extraordinary and minister plenipotentiary to Siam.

Roy T. Davis to be envoy extraordinary and minister plenipotentiary to Guatemala.

Charles L. Kagey to be envoy extraordinary and minister plenipotentiary to Finland.

Willis C. Cook to be envoy extraordinary and minister plenipotentiary to Venezuela.

Charles S. Wilson to be envoy extraordinary and minister plenipotentiary to Bulgaria.

Laurits S. Swenson to be envoy extraordinary and minister plenipotentiary to Norway.

UNITED STATES ATTORNEY.

Fred M. Harrison to be United States attorney, second division, District of Alaska.

SURVEYOR GENERAL OF COLORADO.

William H. Clark to be surveyor general of Colorado.

REGISTER OF THE LAND OFFICE.

Walter S. Hunsaker to be register of the land office, Visalia, Calif.

RECEIVER OF PUBLIC MONEYS.

Miss Florence Zumwalt to be receiver of public moneys, Visalia, Calif.

PROMOTIONS IN THE ARMY.

Charles Justin Bailey to be major general.
Samuel Davis Sturgis to be major general.
Frank Long Winn to be brigadier general.
Stanley Dunbar Embick to be colonel, Coast Artillery Corps.
Edward Dworak to be major, Infantry.
Charles Bealle Townsend to be major, Infantry.
Claude Delorum Collins to be first lieutenant, Infantry.
Clarence Matthew Tomlinson to be first lieutenant, Infantry.
Burnett Ralph Olmsted to be captain, Ordnance Department.
Clare Hibbs Armstrong to be captain, Coast Artillery Corps.
Paul Seibert Seabold to be captain, Medical Corps.

Virgil Blackstone Williams to be captain, Medical Corps.
Hamilton Pope Calmes to be captain, Medical Corps.
Donald William Tyrrell to be first lieutenant, Coast Artillery Corps.
Richard Sears to be second lieutenant, Field Artillery.

POSTMASTERS.

ARKANSAS.

Selvin T. Butler, Warren.

CALIFORNIA.

Carrie E. Berry, Brentwood.
Ida M. Fink, Crows Landing.
Walter D. Neilson, Del Monte.
Wilhelm T. Botzbach, Galt.
Fred Swartz, Indio.
John H. Tucker, Kennett.
Ira L. Casey, Loma Linda.
Ralph H. Read, Middletown.
Robert G. Isaacs, Montague.
Oliver W. Miller, Murrietta.
Mattie E. Bole, Newark.
Elizabeth A. Follett, Pixley.
Archie R. Beckes, Wasco.

LOUISIANA.

Lee O. Taylor, Bogalusa.
Enola E. Barrick, Bonami.
Thomas L. Ducrest, Broussard.
Ernest B. Miller, Denham Springs.
Elias F. Kelly, Gilbert.
Mamie S. Kiblinger, Jackson.
Helen W. Allen, Peason.
George S. O'Brien, Rhoda.
Ida H. Boatner, Rochelle.
Ethel S. O'Neal, Trees.

NEW YORK.

Robert H. Johnston, Merrick.

OHIO.

Cyrus S. Daulton, Winchester.

OKLAHOMA.

Ray A. Chapman, Healdton.
A. C. Whitaker, Pershing.
Joseph Hunt, jr., Vinita.

PENNSYLVANIA.

David L. Greenawalt, Chambersburg.
Will F. Cady, Harrison Valley.
Ernest D. Mallinee, Townville.

SENATE.

MONDAY, *October 10, 1921.*

(Legislative day of Tuesday, October 4, 1921.)

The Senate reassembled at 11 o'clock a. m., on the expiration of the recess.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Hale	McKinley	Simmons
Ball	Harris	McNary	Smith
Borah	Harrison	Moses	Smoot
Brandegee	Heflin	Nelson	Spencer
Broussard	Hitchcock	New	Stanley
Calder	Johnson	Newberry	Sterling
Cameron	Jones, N. Mex.	Nicholson	Townsend
Capper	Kellogg	Norbeck	Trammell
Caraway	Kendrick	Oddie	Underwood
Colt	Kenyon	Overman	Wadsworth
Culberson	Keyes	Page	Walsh, Mass.
Cummins	King	Poindexter	Walsh, Mont.
Curtis	Ladd	Pomerene	Warren
Dial	La Follette	Ransdell	Watson, Ga.
Edge	Lenroot	Reed	Williams
Elkins	Lodge	Robinson	Willis
Ernst	McCormick	Sheppard	
France	McKellar	Shortridge	

Mr. CURTIS. I desire to announce that the Senator from Pennsylvania [Mr. PENROSE], the Senator from North Dakota [Mr. MCCUMBER], the Senator from Vermont [Mr. DILLINGHAM], the Senator from Indiana [Mr. WATSON], and the Senator from West Virginia [Mr. SUTHERLAND] are absent on official business.

Mr. WALSH of Massachusetts. I wish to announce that the Senator from Rhode Island [Mr. GERRY] is absent on account of illness in his family. I will let this announcement stand for the day.

The VICE PRESIDENT. Seventy Senators having answered to their names, a quorum is present.

MANUFACTURERS' AND PRODUCERS' SALES TAX.

Mr. SMOOT. Mr. President, on the opening of the session of the Senate to-morrow I expect to address the Senate on the proposed manufacturers' and producers' sales tax.

NINETEENTH CONFERENCE OF INTERPARLIAMENTARY UNION.

Mr. WALSH of Montana. Mr. President, I ask unanimous consent to have printed in the RECORD resolutions adopted by the nineteenth annual conference of the Interparliamentary Union, at Stockholm, at its session, August 16 to 19, 1921. There are but two of these resolutions to which I desire to call specific attention. I shall ask the Secretary first to read at the desk resolution No. 2. I may say in connection with the same that it is a resolution offered by the head of the British group, Lord Weardale, and in its original form committed the members from the various countries to the support of the existing League of Nations. Upon consultation, however, with members of the American group the resolution took the form in which it was finally adopted.

The VICE PRESIDENT. The Secretary will read as requested.

The reading clerk read as follows:

II.

(Submitted by Lord Weardale, of the British group.)

1. The nineteenth interparliamentary conference cordially approves the principle of an association of nations with the aim of organizing the world for the maintenance of peace, which the conference is entitled to consider as an important aspect of the work zealously pursued by the union for a long period of years; and, recognizing that 48 different nations have already joined in the existing League of Nations, registers as its opinion that it is both necessary and urgent that such an association must attain an all-embracing character which will render it able to exercise that high mission with which it must naturally be intrusted.

2. Always concerned to develop its useful and practical work, the conference is of the opinion that the Interparliamentary Union must increase and strengthen its activities in the field of international cooperation, to the end that the burden of armaments may be reduced and the peace of the world may be attained.

Mr. WALSH of Montana. I now wish to call attention particularly to subdivision 4 of resolution No. 5, offered by Mr. Branting, of Sweden. In its original form it commended the Congress of the United States for its action in requesting a conference on naval disarmament. The resolution was drafted before the call for the general conference on disarmament issued by President Harding, and for the resolution in its original form was substituted the following, which I ask the Secretary to read.

The reading clerk read as follows:

4. Submitted by Mr. Walsh, of the United States:

"In view of the forthcoming conference to assemble in the city of Washington, upon the invitation of the President of the United States, to consider the question of the limitation of armaments and related subjects, the members of the Interparliamentary Union are urgently requested to foster, in all ways open to them, in their respective countries a spirit of willingness to make all reasonable concessions necessary to a successful issue of such conference, of any plan it may propose for the limitation of national armaments, being just and equitable, and to labor for the acceptance of the same by the Governments of their respective countries."

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

RESOLUTIONS ADOPTED BY THE NINETEENTH CONFERENCE OF THE INTERPARLIAMENTARY UNION, HELD AT STOCKHOLM, SWEDEN, AUGUST 17, 18, 19, 1921.

I.

(Submitted by Mr. Slayden, of the United States.)

Since there are 22 sovereign States included in North, South, and Central America; since only two of these, the United States of America and Canada, are associated with the Interparliamentary Union; since, in this crisis of the world's affairs, it is extremely important that the union and its influence shall be developed as rapidly and broadly as possible; and since the association of these 20 new groups would advance materially the development of the union: Therefore, and in view of these facts, be it

Resolved, That the secretary general of the Interparliamentary Union be directed to extend, in its name and through their presiding officers, to the members of the national legislatures of the following countries: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, El Salvador, Uruguay, and Venezuela, invitations to form national groups for association with the Interparliamentary Union.

II.

(Submitted by Lord Weardale, of the British group.)

1. The nineteenth interparliamentary conference cordially approves the principle of an association of nations with the aim of organizing the world for the maintenance of peace, which the conference is entitled to consider as an important aspect of the work zealously

pursued by the union for a long period of years; and, recognizing that 48 different nations have already joined in the existing League of Nations, registers as its opinion that it is both necessary and urgent that such an association must attain an all-embracing character which will render it able to exercise that high mission with which it must naturally be intrusted.

2. Always concerned to develop its useful and practical work, the conference is of the opinion that the Interparliamentary Union must increase and strengthen its activities in the field of international cooperation, to the end that the burden of armaments may be reduced and the peace of the world may be attained.

III.

(Submitted by Messrs. Engberg, of Sweden; Sigg, of Switzerland; and Munch, of Denmark.)

The nineteenth conference of the Interparliamentary Union greets with satisfaction the creation of an international labor bureau; it appreciates the services of this bureau, destined to render the greatest assistance in the amelioration of the burdens resting upon the laboring masses of all countries, contributing thus to the establishment of social and world peace. It is pleased also to note that the numerous conventions and recommendations elaborated by the international labor conference have already been ratified by many parliaments affiliated with the union. It expresses its profound conviction that the union will have to continue its efforts within the parliaments in favor of this work of restoration, and promises its aid and that of its groups to the end that there may be a most careful study of the conventions and recommendations above mentioned. It urges the groups to promote within the parliaments the greatest possible constructive legislation looking toward the realization of the conventions and recommendations elaborated by the international conferences at Washington and Gênes, and to support the work of the international labor bureau. It urges further that each of the national groups may see fit to establish a labor committee, which shall be organized to aid such works of the group and which shall look after the promotion of the efforts of the union in accordance with the spirit of this resolution.

IV.

(Submitted by Baron Adelsward, of Sweden.)

The conference provisionally approves the amendments to the constitution submitted by the organization committee, pending the final decision of the next conference, under article 18 of the constitution, with the exception of the amendments proposed in the articles 5, 6, and 10. These amendments, as well as the proposal of the Swedish group, are transmitted for discussion and report to the organization committee, which, after having been completed by the executive committee, is asked to report on them to the next conference.

V.

(Submitted by M. Branting, of Sweden.)

1. The nineteenth interparliamentary conference, having noted the resolutions and the recommendation voted by the first assembly of the League of Nations relative to the problem of armaments, views with satisfaction the resolutions, and especially the recommendation, as a practical development of those efforts looking toward the reduction of armaments. The conference declares, however, that the results obtained ought to be regarded simply as a minimum and as a first step on the part of the League of Nations for the realization of this ideal, and expresses the hope that the second assembly, called for the month of September next, will be able to advance further in the way thus opened, and that it will bend every effort to the end that the resolutions of the first assembly shall be realized, both in letter and in spirit. It notes with satisfaction that the international situation this year is more favorable for such efforts because the disarmament of Germany, according to the demands of the allied statesmen, is progressing rapidly; because Russia, although menaced with a famine which demands imperative aid of all civilized peoples, is entering again into the world's economic life, and because decided reductions of armaments have been accomplished in several countries, notably in those of Belgium, France, Great Britain, and Italy.

2. It further calls the attention of the assembly to the necessity of organizing an exchange of information relative to armaments, definitely provided for in the covenant, an exchange which will assure the publicity of such information and consequently the control of public opinion relative to the action of States in this field—a procedure of prime importance for the promotion of right international relations and the maintenance of peace. It expresses its sincere regrets that apparently so few States have yet replied favorably to the recommendation of the assembly relative to the limitation of military, naval, and air budgets. It hopes that the second assembly will be able to insist more energetically, and this time with unanimity, upon a general plan for a reduction of armaments before it is too late.

3. While the Society of Nations is becoming strong enough to assume the rôle of the court of last resort in the matter of the reduction of armaments throughout the various States, the conference recommends as provisional measures: (a) The creation of an "organ of control and verification" for the examination of information furnished to the league relative to armament, this according to the French amendment to article 8 of the covenant proposed at the conference at Paris; (b) the delegation to the council of the league of the exclusive right to pass upon the existence of an "exceptional situation," with power to approve a derogation from an engagement of a State not to exceed the military, naval, and air expenditures as set forth in the recommendation of the first assembly.

(Paragraph 4 of the resolutions offered by Mr. Branting, referring to the action of the Congress of the United States in recommending the calling of a conference on naval disarmament, having been drafted prior to the call for a general conference on the reduction of armaments, Mr. Walsh, of the United States, offered the following substitute, which, being accepted by Mr. Branting, was adopted.)

4. (*Submitted by Mr. Walsh, of the United States.*) In view of the forthcoming conference to assemble in the city of Washington, upon the invitation of the President of the United States, to consider the question of the limitation of armaments and related subjects, the members of the Interparliamentary Union are urgently requested to foster, in all ways open to them, in their respective countries a spirit of willingness to make all reasonable concessions necessary to a successful issue of such conference, of any plan it may propose for the limitation of national armaments, being just and equitable, and to labor for the acceptance of the same by the Governments of their respective countries.

5. The conference finally most earnestly approves the recommendation passed by the financial conference at Brussels in 1920, which reads "that the council of the League of Nations confer as soon as possible with the different interested Governments with the view of obtaining their agreement to a general reduction of the crushing expense which the armaments in their present condition cause to fall upon the impoverished populations of the world, swallowing up their resources and retarding their restoration after the ravages of the war," and the conference urges all of the groups, before the meeting of the second assembly, to lead their Governments to insist upon this recommendation and to support it with stronger resolutions. It invites them to exercise an unfailing vigilance, to the end that their respective Governments may conform to it.

6. It directs the interparliamentary bureau to transmit these resolutions to the League of Nations with the request that they be communicated to the assembly as well as to all of the Governments there represented.

VI.

The nineteenth interparliamentary conference, after having heard the report of Mr. Treub on the international economic and financial problem and the League of Nations, agrees to institute an interparliamentary economic and financial committee, which shall be intrusted with the study of the problems raised in the report and of related questions, and which shall be asked to submit reports at later conferences. Each group shall be invited to nominate one member of this committee. The executive committee of the union shall nominate a drafting committee of three from among the members of the whole committee in order to prepare its work through the elaboration of questionnaires and the like.

VII.

The nineteenth interparliamentary conference welcomes with satisfaction the fact that the covenant of the League of Nations has recognized the principle of compulsory investigation and mediation in all disputes which are not submitted to judicial decision. It takes leave to call the attention of the council of the assembly of the League of Nations to the importance of a nonpolitical organization being created for this object. Without pronouncing any opinion as to the form to be given to this organization, it directs the bureau to transmit the proposal and the report laid before the present conference by Prof Schücking to the secretariat of the League of Nations.

VIII.

(Submitted by the Right Hon. Thomas Lough, of Great Britain.)

The nineteenth interparliamentary conference expresses the opinion that the present requirements relative to viséing passports ought to be immediately limited to the requirements of the international police, and that all expenses and restrictions with regard to the procuring or exhibiting of passports by travelers should be reduced to the strictest minimum.

CONFERENCE ON LIMITATION OF ARMAMENTS.

Mr. ROBINSON. Mr. President, I ask unanimous consent to have printed in the RECORD a proclamation issued by the governor of the State or Arkansas, Thomas C. McRae, declaring as a legal holiday November 1, 1921, to be known as the day of faith. The proclamation brings to the attention of the public the importance of the disarmament conference soon to assemble in Washington and the necessity for support on the part of the public in the effort to bring about the reduction of armaments.

In connection with the proclamation I ask that there also be printed in the RECORD a brief interview given out by the governor of Arkansas at the time he issued the proclamation.

The VICE PRESIDENT. Without objection, the proclamation and interview will be printed in the RECORD.

The matter referred to is as follows:

STATE OF ARKANSAS,
Executive Department.

Proclamation.

The President has invited the great powers to a disarmament conference, and once more the peoples of the world thrill to an ancient hope. Idealism renews its battle against so-called practicality.

This time idealism must not fail!

Greed and hatred in the daily affairs of man, in his industrial order, and in his international relations have brought about a collapsing civilization which testifies to man's inability to check material maladies with material remedies.

We must have faith!

Shall we travel eternally the vicious circle that, beginning in preparation ends in war, to begin again in new preparation?

We must have faith!

We are taught that man is made in the image of his Maker; yet even as the heart accepts that mighty truth, the brain whispers to the hand the false word, "impractical," and the sword flashes from the ready sheath.

Civilization, warned by experience, must not again challenge hate with only the puny powers of the hand and brain. It must not rely solely upon contracts whose intent is of the mind and whose fulfillment rests upon discredited force.

It must turn to the human heart!

For deep in the human heart is faith!

The churches, preaching their noble message, have not existed in vain. The truth which they have instilled in the heart of man is none the less truth because the difficulties of daily living have seemed insurmountable, nor because the clashing ambitions of nations have erected walls of hatred between man and man.

We must have faith!

But shall we keep faith locked in the heart, as though we were ashamed of it? Shall we not rather, in this frightful crisis of the world's history, release it, and let the heart attempt what the brain and hand have failed to achieve—the rule of peace?

The time has come!

Therefore I, Thomas C. McRae, governor of the State of Arkansas, do hereby declare and set aside Tuesday, the 1st day of November, A. D. 1921, as a legal holiday, to be known as "The Day of Faith"; and mindful of the tragical years behind and of the dreadful potentialities of the future, I do enjoin all good citizens on that day to offer prayer for the success of the disarmament conference; to acknowledge the rights and virtues of their neighbor, whatsoever be his nation, his race, or his creed; and as evidence of that faith which is within them, at the hour of noon on such day of faith, reverently to speak

the allegorical words, "My neighbor is perfect," hoping, without self-righteousness, that where Arkansas dares to lead the world may not fear to follow.

THOMAS C. MCRAE, *Governor.*

OCTOBER 1, 1921.

GOV. M'RAE'S INTERVIEW.

Perfection is a quality as difficult of intelligent comprehension as space or eternity. We only know that it is admirable, and that it is our duty to strive to attain as closely to it as mere man may. But if we endeavor to see perfection in our neighbor, we inevitably lift ourselves above our petty jealousies and hatreds. As we try to serve him, we serve ourselves.

This, all men will agree, is a good philosophy and one to which we should adhere.

Arthur Somers Roche preaches it in his interesting book The Day of Faith, which I have been reading in a magazine this summer.

Youth is hot and ardent. I am, I imagine, somewhat older than Mr. Roche, and life has taught me many harsh, unpalatable truths, which perhaps the author has not yet encountered. Nevertheless, while I do not indorse all of his philosophy, I gladly admit that I was thrilled by the beauty of his description of the day of faith, and that the lesson of his book, that the millenium will come to mankind when all of mankind is ready and eager for it, contains an uplifting and hopeful idea.

I agree with the author that religion holds the hope of the world, and because I believe that anything which will turn the hearts of the people to the churches and to their beautiful religion is worthy and helpful I have declared a day of faith in Arkansas.

Rarely are the ideas of two men in complete accord. Mr. Roche's and my own differ at a great many points. But in his phrase "my neighbor is perfect" Mr. Roche asks us to look at the good which is in the least of men and to ignore so far as we may the evil that may be in him. I can not do otherwise than heartily commend that advice.

In his book Mr. Roche draws a picture of a world regenerated by the utterance of this phrase. He attributes to it a potency that is the privilege of an author. I could hardly be expected to believe that it would be quite as effective as that, but I do believe that the utterance of that phrase can do no harm and may be productive of good. If it had no effect whatsoever upon the coming disarmament conference, if it changed the ways of the great outside world in no degree, yet if it reclaimed one single man, it would have been worth saying, for does not Luke tell us that "joy shall be in heaven over one sinner that repenteth more than over ninety and nine just persons which need no repentance" (Luke 15:7).

THOMAS C. MCRAE, *Governor.*

OCTOBER 1, 1921.

PETITIONS AND MEMORIALS.

Mr. NELSON presented a letter in the nature of a memorial from L. D. Coffman, of Minneapolis, Minn., remonstrating against the enactment of legislation imposing a tariff on books imported into the United States, which was referred to the Committee on Finance.

Mr. TOWNSEND presented a resolution adopted by Local Grange No. 1566, Patrons of Husbandry, of Ann Arbor, Mich., favoring disarmament and open sessions of the conference on limitation of armaments, which was referred to the Committee on Foreign Relations.

Mr. HARRIS presented a resolution adopted by a recent meeting of women, citizens of Albany, Ga., favoring the limitation of armaments, which was referred to the Committee on Foreign Relations.

Mr. LA FOLLETTE presented a petition of sundry citizens of Antigo, Wis., praying for an amendment to the so-called Volstead prohibition enforcement law so as to permit the manufacture and sale of beer and light wines under reasonable restrictions, etc., which was referred to the Committee on the Judiciary.

He also presented four memorials of sundry citizens of Clearwater Lake, Three Lakes, Pardeeville, Marshfield, Curtiss, Milton, and Bethel, all in the State of Wisconsin, remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which were referred to the Committee on the District of Columbia.

Mr. WILLIS presented a resolution adopted by the Associated Engineering Societies of Columbus, Ohio, favoring the enactment of House bill 7541, providing for a commissioned status to sanitary engineers in the Public Health Service of the United States, which was referred to the Committee on Finance.

He also presented a memorial of the Richland (Ohio) County Bankers' Association, remonstrating against inclusion in the pending tax revision bill of a provision exempting from tax $500 of income derived from shares or deposits in building and loan associations, which was ordered to lie on the table.

He also presented resolutions adopted by the council of the city of Cleveland, Ohio, favoring the appropriation of $250,000 by Congress for the establishment of Federal employment bureaus, etc., which were referred to the Committee on Appropriations.

WILLIAM C. BROWN.

Mr. NEW, from the Committee on Military Affairs, to which was referred the bill (S. 1151) for the relief of William C. Brown, submitted an adverse report thereon, which was agreed to, and the bill was indefinitely postponed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. ASHURST:

A bill (S. 2563) to provide for the completion of the bridge across the Little Colorado River near Leupp, Ariz.; to the Committee on Indian Affairs.

By Mr. SPENCER:

A bill (S. 2564) for the relief of Benjamin Ipock; to the Committee on Military Affairs.

A bill (S. 2565) granting a pension to Alfred N. Snuffer (with accompanying papers); and

A bill (S. 2566) granting a pension to John S. Morrow (with accompanying papers); to the Committee on Pensions.

By Mr. LA FOLLETTE:

A bill (S. 2567) granting a pension to Rebecca M. Langley (with accompanying papers); to the Committee on Pensions.

By Mr. BALL:

A bill (S. 2568) to amend section 196 of the Code of Law for the District of Columbia; to the Committee on the District of Columbia.

By Mr. ELKINS:

A bill (S. 2569) for the relief of Henry M. Williams; to the Committee on Military Affairs.

A bill (S. 2570) granting an increase of pension to John H. Feely; to the Committee on Pensions.

By Mr. WADSWORTH:

A bill (S. 2571) for the relief of George Livingston; to the Committee on Naval Affairs.

A bill (S. 2572) granting a pension to Olivia Marie Kindleberger; to the Committee on Pensions.

By Mr. NELSON:

A bill (S. 2573) to amend section 198 of the act of March 4, 1909, entitled "An act to codify, revise, and amend the penal laws of the United States," as amended; to the Committee on the Judiciary.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolutions, and they were thereupon signed by the Vice President:

S. 1718. An act authorizing the distribution of abandoned or forfeited tobacco, snuff, cigars, or cigarettes to hospitals maintained by the United States for the use of present or former members of the military or naval forces of the United States;

S. 1970. An act granting the consent of Congress to the counties of Bowie and Cass, State of Texas, for construction of a bridge across Sulphur River, at or near Pettis Bridge on State highway No. 8, in said counties and State;

S. 2340. An act to authorize the construction of a bridge across the St. Marys River, at or near St. Marys, Ga., and Roses Bluff, Fla.;

S. 2430. An act to authorize the construction of a bridge across the St. Marys River, at or near Wilds Landing Ferry, between Camden County, Ga., and Nassau County, Fla.;

S. J. Res. 115. Joint resolution to authorize the loan by the Secretary of War to the commander in chief of the Grand Army of the Republic of cots for the use of the members of the Grand Army of the Republic during the sessions of the grand encampment of the Grand Army of the Republic at Indianapolis, Ind., from September 24 to October 1, 1921;

S. J. Res. 117. Joint resolution to authorize the loan by the Secretary of War to the commander in chief of the United Confederate Veterans of cots and tents for the use of the members of the United Confederate Veterans during the sessions of the national encampment of the United Confederate Veterans at Chattanooga, Tenn., from October 24 to October 27, 1921; and

S. J. Res. 122. Joint resolution for the bestowal of the congressional medal of honor upon an unknown, unidentified Italian soldier to be buried in the National Monument to Victor Emanuel II, in Rome, Italy.

FREE TRANSIT THROUGH PANAMA CANAL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 665) to provide for free tolls for American ships through the Panama Canal.

Mr. CUMMINS. Mr. President, I desire to submit to the Senate a brief observation upon the bill introduced by the Senator from Idaho [Mr. BORAH] to establish free transit for coastwise shipping through the Panama Canal, a bill which I understand is to be voted upon some time during the day.

Mr. President, I shall vote for this bill. It does not, however, accurately express my views upon the subject. I desire to make a brief comment upon it in order that the RECORD may show

an outline at least of my judgment upon the whole matter. The chief reason which constrains me to vote for the bill is to express again my unchangeable conviction that the United States has the right under the Hay-Pauncefote treaty to discriminate in levying tolls for passage through the canal in favor of American ships, whether engaged in coastwise trade or in foreign trade. When the repealing act of 1914 was upon its passage I argued the question somewhat fully, and nothing has transpired in the meanwhile that has any tendency to change or modify the conclusion I then announced. My vote upon this occasion is not to be considered as indicating that under all conditions and all circumstances coastwise ships should be permitted to pass through the canal without charge. Whether they should or should not ought to depend upon circumstances which we can not foresee or foretell. To give free passage to coastwise ships if it shall turn out that they do not need the subsidy in order to compete successfully for the coast-to-coast trade, and if they do not give to shippers the benefit of the privilege granted to them, but use it simply to increase their profits beyond a reasonable return, would create an intolerable condition.

In this connection I submit the result of the operations of the canal for last year so far as coastwise trade is concerned. During the year ending June 30, 1921, 1,451,477 net registered tons of coastwise shipping passed through the Panama Canal, and the tolls collected amounted to $1,434,281.75. For the months of July and August, 377,578 net registered tons went through the canal, and there was collected in tolls upon that shipping $371,529. If the commerce through the canal increases, as we have every reason to believe it will, exemption from tolls will mean a subsidy during the coming year of not less than $2,000,000.

It is clear to me, therefore, that the authority to adjust tolls should be vested in the President, the Interstate Commerce Commission, or the Shipping Board under such rules and regulations as Congress may prescribe. This is true also of our ships engaged in foreign commerce; and I venture the prediction that in the near future it will be found that granting free passage or reduced tolls to our foreign shipping will be far more necessary than giving the privilege to our coastwise ships. Until recently it was my intention to offer an amendment along these lines, but for reasons which, I think, are fairly apparent and which the author of the bill at least fully understands, I shall not present an amendment.

I think, also, that it is unfortunate that the bill does not repeal the second section of the act of 1914 and restore the corresponding provision in the act of 1912, modified, if the Senate should think it desirable, by fixing a specific minimum as well as a maximum charge upon all ships other than those of the United States. Personally, I do not believe that it is necessary to fix a specific minimum, but I would have no great objection to it. This provision in the original act is as follows:

> Tolls may be based upon gross or net registered tonnage, displacement tonnage, or otherwise, and may be based upon one form of tonnage for warships and another for ships of commerce. The rate of tolls may be lower upon vessels in ballast than upon vessels carrying passengers or cargo. When based upon net registered tonnage for ships of commerce the tolls shall not exceed $1.25 per net registered ton, nor be less, other than for vessels of the United States and its citizens, than the estimated proportionate cost of the actual maintenance and operation of the canal, subject, however, to the provisions of article 19 of the convention between the United States and the Republic of Panama entered into November 18, 1903.

There would also have to be at this time a similar exception made on account of the treaty which we have recently entered into with the Republic of Colombia.

Section 2 of the repealing act of 1914 amended one sentence of the paragraph I have just read as follows:

> When based upon net registered tonnage for ships of commerce the tolls shall not exceed $1.25 per net registered ton, nor be less than 75 cents per net registered ton, subject, however, to the provisions of article 19 of the convention between the United States and the Republic of Panama entered into November 18, 1903.

Then follows a proviso that the repealing act—

> shall not be considered as a waiver or relinquishment of any right the United States may have under the treaty with Great Britain ratified the 21st of February, 1902—

Which is the Hay-Pauncefote treaty—

> or the treaty with the Republic of Panama, ratified February 26, 1904.

It would seem to me that aside from the limitation that section 2 of the repealing act imposes upon the power of the President it would be much better if we were to put into force in a distinct way the declaration contained in the act of 1912.

Mr. President, I have made these observations simply to make plain that the view which I entertained when the original act of 1912 was passed and when the repealing act of 1914 was passed has not been modified or changed in any way. I believe as firmly as I can believe anything that the United States has the right and it may sometimes become its imperative duty to pass American ships through the Panama Canal upon more favored terms than those imposed upon the ships of other nations, but, even though I think the power or authority to fix the tolls for our own shipping should be vested in a tribunal which can from time to time change its orders according to the circumstances which may then exist, I am not willing to cast any vote that will leave any doubt whatsoever of my belief that the United States can, in entire compliance with and in perfect observance of the Hay-Pauncefote treaty, discriminate in favor of American ships.

Mr. LODGE. Mr. President, I do not intend to consume the time of the Senate in regard to the question of freeing coastwise vessels of the United States from the payment of tolls when passing through the canal further than to state briefly the reasons for the vote which I shall cast.

I voted against the act of August 24, 1912, which exempted coastwise vessels of the United States from the payment of tolls for passage through the canal. I voted for the amendatory act approved June 15, 1914, which repealed the exemption of the act of 1912. I need not go into all the details of the argument which I then made as to the legal right of the United States to pass its vessels through the canal without the payment of tolls. It is sufficient for me to say that there are three classes of vessels to be considered: First, vessels engaged exclusively in the coastwise trade; second, vessels engaged in both the coastwise and foreign trade; and, third, vessels engaged exclusively in foreign trade. Personally, I believe we have the legal right to pass vessels of all three classes through the canal without the payment of tolls if we shall so determine, subject, of course, to arbitration, which could be invoked under our general treaties of arbitration with Great Britain, but as to the first class of vessels, those engaged exclusively in coastwise trade of the United States, I never could see that there could be the slightest question of our right. My opposition to exempting our vessels from tolls when passing through the canal rests on different grounds, and not on the question of legal right one way or the other.

Mr. POMERENE. Mr. President, will the Senator yield for a question?

Mr. LODGE. Yes.

Mr. POMERENE. The Senator has just stated that, in his judgment, the United States has the legal right to exempt its vessels from the payment of tolls. Is it his judgment that to the extent we should allow exemption from tolls on American ships we would have the right to increase the tolls which might be charged against the vessels of other nations?

Mr. LODGE. We can fix the tolls; I think there is no doubt about that; and we can fix the tolls at any rate we choose; and if it is conceded that we have the legal right to exempt our own vessels, of course we can exempt them from any tolls we choose to impose.

I can best explain the position, however, which I took in 1912 and 1914 by reading some brief extracts from the speech which I made on April 9, 1914. In that speech I said:

> I also agree with Mr. Olney in the proposition, which he states in a manner beyond improvement, "that it can not reasonably be argued that in fixing the terms for the use of its canal by customers the United States looked upon itself as one of the customers." In construing the language of the first rule, upon which the claim that the United States is to be regarded as one of its own customers rests, it must be remembered that there are five other rules. A mere reading of these five other rules shows at once that they do not apply to the United States but to the citizens or subjects of other nations who shall use the canal. It seems to me difficult, as a general proposition, to argue that five of these six rules adopted by the United States for the use of the canal should not apply to the United States and that one and one only should so apply. It seems to me also that these rules must all be construed together. Admitting, as I think it must be admitted, that the canal passes through a zone which, for canal purposes, practically belongs to the United States, it would seem that the general rule of international law in regard to such cases applies. That rule, as laid down by Moore in his third volume, page 268, citing the case of *The Avon* (18 International Review Record, 165), is as follows:
>
> "While a natural thoroughfare, although wholly within the dominion of a Government, may be passed by commercial ships, of right, yet the nation which constructs an artificial channel may annex such conditions to its use as it pleases."
>
> There is a wide and honest division of opinion as to the correct interpretation of the first rule of article 3 of the treaty and as to the words "all nations." The opinion of foreign nations, with hardly an exception, and that only in the case of some individual, is against the interpretation which I believe to be correct. In the United States opinion is divided and absence of unanimity in the interpretation of the treaty on our side is not to be overlooked in considering what action we shall take. If there were no division of opinion in the United States, or among those in the United States qualified to speak with authority, there would be a much stronger reason for insisting upon our own interpretation and upon the propriety of deciding the question in our own favor than there can be when American opinion is so radically divided. Ex-President Roosevelt, within certain limitations, and ex-President Taft are both of the opinion that we have the right to exempt our coastwise vessels from the payment of tolls on passing through the canal. President Wilson, on the other hand, has just told us and told

the world that he regards the exemption of our coastwise vessels from tolls as a plain violation of the treaty. Mr. Olney, as I have already shown, agrees with the interpretation which I give to the clause—

So, also, I may now add, does Senator KNOX, who made a very able argument on this point—

while the senior Senator from New York holds an opposite opinion, and Mr. Root and Mr. Olney have both been Secretaries of State and are both lawyers of wide learning, great acumen, and the highest ability. These examples sufficiently illustrate the deep and sincere division of opinion upon this point existing in the United States. With such a division of opinion among ourselves I am not willing to expose the United States to the imputation of bad faith among all other nations by insisting on deciding a doubtful point, upon which we ourselves are not agreed, in our own favor simply because we have the power to do so. In the larger consideration of our position among the nations of the earth I think it would be a great mistake, with a divided public opinion at home, to insist upon our own interpretation of the treaty, an interpretation which the rest of the world does not accept.

I now come to another point which weighs very strongly with me in deciding against giving relief from tolls to American ships by the method employed by the canal act. Whatever our opinion may be as to the strict legal interpretation of the rules governing the matter of tolls imposed upon vessels passing through the canal, we can not and we ought not to overlook the understanding of those who negotiated the treaty as to the intent and effect of the rules which they framed. As to the nature of the understanding we have direct testimony. Mr. Henry White, who first laid before the British Government the desire of the United States to enter into negotiations for the supersession of the Clayton-Bulwer treaty, has stated that Lord Salisbury expressed to him the entire willingness of England to remove all obstacles which the Clayton-Bulwer treaty put in the way of the construction of the canal, and desired only to maintain equality of tolls imposed upon all vessels, including those of the United States. Mr. Choate, who, as I have said, completed the negotiations which resulted in the second Hay-Pauncefote treaty, has publicly stated that the understanding at that time of both parties was the same as that given by Mr. White. The only other American concerned in the actual negotiation of the treaty was the late Mr. Hay, at that time Secretary of State. I know that Mr. Hay's view was the same as that of Mr. Choate and Mr. White. It is therefore clear on the testimony of our three negotiators that the negotiations as they were begun and as they were completed in the second Hay-Pauncefote treaty proceeded on the clear understanding that there was to be no discrimination in the tolls imposed as between the vessels of any nation, including the vessels of the United States.

I am well aware that an understanding of this sort, although an aid perhaps to interpretation, does not bind legally. But there is such a thing as honor in agreements and transactions between nations as there is in agreements between individuals. * * * If there was no doubt, no room for question, that under the terms of these treaties we had no right to exempt by law our vessels from the payment of canal tolls, I believe we should unhesitatingly maintain the obligations of the treaties and live up to our bad bargain, if we thought it a bad bargain, no matter how disagreeable it was for us to do so. Where there is a doubt as to the legal interpretation of terms, where opinion in our own country is divided upon that interpretation, it seems to me that the understanding upon which our negotiators framed the treaty should have great weight in our action. I am not willing for one, although I am convinced as to our legal right, to disregard the understanding upon which the treaties were made and insist upon my personal interpretation of the legal effect of the language employed. As a rule of conduct I must apply to my country the same rule which I should try to apply to my own action in the case of a private agreement with a friend.

* * * * * * *

We obtained by the passage of the toll-exemption clause no legal rights which we did not already possess; we waive none by its repeal. All we have we retain, for the law is merely our own statute for the regulation of the terms upon which the canal shall be used. The larger question which is raised by the toll exemption, however, has a purely international character, and that we ought to decide, now and in the future, not on considerations of pecuniary profit or momentary political exigencies but on the broad grounds which I have indicated. We should determine what is right without fear and without favor.

* * * * * * *

For these reasons which I have set forth, although I believe we have the right to exempt our vessels from tolls, I have come to the conclusion that this clause in the canal act, which I have opposed from the outset, ought to be repealed.

I was speaking, of course, on the repeal recommended by President Wilson of the clause exempting our vessels from tolls which was passed in 1912.

* * * I think so because foreign opinion is united against us, while opinion in our own country is divided as to the proper interpretation of the language of the treaty, and I am not willing to have the good faith of the United States impugned on account of action taken upon such a contested ground as this. I think the exemption clause should be repealed, because the understanding upon which the treaty was made is declared by all our negotiators to have been contrary to that which I think a strict legal interpretation of the terms of the rules would warrant. Finally, I think it should be repealed because a decent respect for the opinions of mankind and the high position of the United States among the nations of the world demand it.

I consider this a very important element in any decision which I may reach, and I am encouraged to believe that I am right in so thinking, because I have the warrant and authority of the author of the Declaration of Independence. When Jefferson framed that great instrument, he declared that the impelling reason for making the Declaration was "a decent respect to the opinions of mankind." That decent respect to the opinions of mankind ought never to be forgotten in the decision of any question which involves the relations of our own country with the other nations of the earth.

Those are extracts from the speech I made in 1912, and I have taken the liberty of reading them to the Senate.

The opinions which I held and expressed in 1912 and 1914 were arrived at only after the very best consideration that I could give and very careful study of the question. I believe now, as then, that we have a legal right to exempt our vessels from tolls in the canal, subject, of course, to arbitration, if arbitration is demanded under our arbitration treaties. I also believe now, as then, that the possession of a legal right does not necessitate its exercise if there are compelling reasons against it. Such reasons, I think, exist, and they seem to me at this moment especially potent, because the Panama tolls, although involved strictly only in the treaty with Great Britain, concern every commercial nation in the world. The views and opinions, the convictions I may say, of 1912 and 1914 I can not now change. I still think my previous position was a sound one, and for that reason I do not feel able to vote to free United States vessels from tolls in the canal any more than I did in 1912 and 1914 when the question was before the Senate.

I therefore shall vote against the proposed act freeing coastwise vessels of the United States from tolls in the Panama Canal.

Mr. BORAH. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Idaho?

Mr. LODGE. I do.

Mr. BORAH. I should like to ask the Senator a question before he sits down. I take it that the Senator is of the opinion that the way to settle this matter finally is by arbitration.

Mr. LODGE. I have not any question, unless we are going to break another treaty, that if England invites arbitration we shall have to accept it.

Mr. BORAH. I am not now disagreeing with the Senator on that proposition; but Viscount Bryce, who had been advocating arbitration, stated after we had passed the act of 1914 that there was now nothing to arbitrate.

Mr. LODGE. So far as coastwise vessels were concerned. He limited it to coastwise vessels.

Mr. BORAH. Yes; and there is, therefore, nothing at this time upon which to call into being an arbitration tribunal at all.

Mr. LODGE. It would not come into existence by itself; but if Great Britain should ask to have arbitrated the question of the right of the United States to exempt any vessels from tolls, under the treaty known as the Root treaty of 1907 we should be obliged to go to a foreign arbitration tribunal upon it, because the interpretation of treaties is specifically mentioned in that arbitration treaty, and unless we are prepared to break a treaty and refuse arbitration we should have to accept it, as I hope and believe we should.

Mr. BORAH. I do not debate that with the Senator at all. What I wish to say to him is that the question of arbitration will arise only when this bill shall have been passed. There is nothing to arbitrate now between Great Britain and the United States.

Mr. LODGE. No; not at this moment.

Mr. BORAH. And there never will be until we assert our right and ask for arbitration. This does not prevent arbitration at all.

Mr. LODGE. Of course, we could leave it to arbitration now, if we chose, before acting.

Mr. BORAH. Precisely so; but, as Mr. Bryce said, arbitration was purely superfluous upon the part of Great Britain, and she did not desire to urge it after we had passed the bill relieving our vessels from tolls or charges.

Mr. LODGE. That is Lord Bryce's personal opinion, and no one has greater respect for him than I; but that is not the action of the British Government, it is merely his opinion. If they should ask for arbitration at this moment I think we should promptly concede it.

Mr. BORAH. Mr. Bryce, at the time he made that statement, was speaking as the ambassador for Great Britain.

Mr. WILLIAMS. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts further yield?

Mr. LODGE. I yield.

Mr. WILLIAMS. I wanted to suggest, in consequence of what has just been said by the Senator from Idaho and by the Senator from Massachusetts, that there is a light in which the question might be viewed that has been touched by neither of them. The Senator from Idaho has taken the position that arbitration could not come into play until after we had, in the opinion of the other contracting party, violated a treaty. That, I submit, is not a fair statement of the case, nor is it, from the standpoint of international law, a correct statement of the case.

If you have a treaty whereby you must arbitrate questions of interpretation of treaties with another nation, and you know beforehand that they put one interpretation upon a treaty while you are seeking, by an act of Congress, to put another, and while you are seeking by your own act to cancel the contract

that you have made, then the fair and right thing to do is to pass a resolution asking for arbitration, setting forth your view of the correct interpretation of the treaty, and asking that the other contracting party shall submit its view to arbitration in order that a correct and impartial interpretation of the treaty may be arrived at. That might be done and that can be done.

Mr. LODGE. Certainly; I have just said that.

Mr. WILLIAMS. If the opinion entertained by the Senator from Idaho be correct, that is what we ought to do, and not undertake by our own act, as he is now seeking, to cancel, to nullify, the treaty. This ought not to be the result of our putting one interpretation upon it and the other contracting party putting another.

Mr. BORAH. We are not undertaking to nullify it; we are asserting our interpretation of it. When that assertion takes place Great Britain will ask for arbitration, I have no doubt; but when the 1914 act was before us the question of arbitration was then pending—that is to say, the invitation for arbitration.

Mr. WILLIAMS. Mr. President——

Mr. BORAH. Just a moment until I have finished. As soon as the 1914 act was passed the ambassador for Great Britain stated that arbitration was superfluous and that he did not care to urge it.

Mr. WILLIAMS. Mr. President, if the sole effect of the Borah bill was to "assert our interpretation" of the treaty, what the Senator has just said would be correct; but that is not the sole effect, nor is it the main effect, nor is it even the effect sought after. The effect sought after is to nullify the treaty by an act of Congress. There is no use beating about the bush.

Mr. BORAH. A proposition which the Senator from Mississippi voted for and supported by a speech at one time.

Mr. WILLIAMS. The Senator is mistaken about the speech.

Mr. BORAH. I will show the Senator that he did.

Mr. WILLIAMS. Mr. President, that has nothing to do with this, even if it were true.

Mr. BORAH. It is true.

Mr. WILLIAMS. But here is the point, the effect sought by the Borah bill to nullify, by an act of Congress, a clause in a treaty. Whether in his opinion it be a nullification or not, it is in the opinion of the other contracting party a nullification of it. It was in the opinion of Mr. White, our agent, who negotiated the treaty; it was in the opinion of Mr. Choate, our agent, who concluded the treaty; it was in the opinion of Mr. Hay, who was Secretary of State, a nullification of the treaty. What the Senator has referred to as my own record is of no importance at all. I did at one time vote to exempt the coastwise ships of the United States from tolls, and I did it at a time when nearly this whole body did it, without much thought of treaty obligation.

Later on that question came before this body again, and then for the first time I learned the views of Mr. White, of Mr. Choate, and of Secretary Hay, to which I had prior to that time had no particular access, and to which I had not sought to have any access, and when I found the understanding upon which the treaty was based it gave to my mind an undoubted interpretation of a somewhat ambiguous clause—ambiguous in itself unsupported by any outside testimony as to what was intended by it, but perfectly clear in its meaning as adverse to my first view in the light of their explanation and of the surrounding contemporaneous circumstances. Then I voted for the repeal of the previous act exempting the coastwise ships, and then it was that I made the speech to which the Senator refers on the side of the question which I now hold and not the other side at all. But, Mr. President, all these little ad hominem arguments amount to nothing.

Mr. STERLING. Mr. President——

Mr. WILLIAMS. I would ask to be recognized in my own right for about five minutes, if the Senator will permit me, and then I will yield to him.

Mr. STERLING. I yield to the Senator.

Mr. WILLIAMS. Mr. President, in my opinion there are four very good reasons why this Borah bill should not pass the Congress of the United States. The first one, in my opinion, is that it is a violation of the Hay-Pauncefote treaty, a cancellation of a contract with another international party to it, over the protest of that party, against that party's interpretation of it, and with only a divided support from our own nationalists and governmental authorities. That is one reason.

Mr. President, the second reason is this, that if the interpretation put upon the treaty by the Senator from Idaho were even perfectly correct and plain, and palpably and obviously correct, if there were no dispute about it at all in America, by White, by Choate, by Hay, by Root, by Wilson, by anybody ever connected with the Government of the United States, still there would lie back of it the treaty effected upon April 4, 1908, with Great Britain, and in that treaty we expressly agreed—mark you, not by inference but in express terms—that all questions of "interpretation of treaties" between the two contracting parties shall be submitted to arbitration.

Mr. President, we have no right of our own accord to put our interpretation upon the Hay-Pauncefote treaty by an act of Congress, which, under the decision of our Supreme Court, can repeal a treaty in face of this other treaty, which says that all questions of difference as to the interpretation of treaties shall be submitted to arbitration.

Mr. President, let us bring this down to the individual case, and let us for a moment get the common sense and common ethics of the common man to bear upon it.

Suppose, instead of this being a contract between two sovereign nations upon this subject, that there were a contract between the Senator from Idaho and myself. Would anybody contend for a moment that I had a right to construe that contract to suit myself, regardless of the Senator from Idaho? If I contended for one interpretation of a clause of that contract and the Senator contended for another, we would have to either agree with one another, or else my brutal effort to put my own construction upon the contract to suit myself, to my own advantage, and to his disadvantage—mark that—would shock the moral sense of any gentleman in the world, and our laws have seen to it that when that sort of thing is attempted between individuals then arbitration is forced under the municipal laws of the land. We must go into court, he contending for his interpretation, I contending for my interpretation, and leave it to impartial adjudication.

Mr. President, in my opinion this is in itself, first, a violation of the Hay-Pauncefote treaty; secondly, in the shape in which it now presents itself, not as a mere interpretation of ours—and an offer to arbitrate conflicting interpretations—but as an act of Congress declaring and acting upon that interpretation without reference to the other party to the contract, it is a violation of the treaty of April 4, 1908. The Borah bill clearly violates one of the two treaties anyhow, and, in my opinion, both of them.

In the next place, Mr. President, it is peculiarly inopportune just at this time. Let me say a few words very plainly. If we were a little, weak nation, instead of being what we are, a party to the conference which we have called to Washington to meet very soon for the effectuation of treaty relations by means of which disarmament shall be brought about, and should as a preamble to the conference pass this act, then one would not be astonished to have Great Britain, or even other nations, say, "There is no use in meeting with you. You effectuate a solemn treaty and then you take its interpretation in your own hands and you repeal it by an act of your legislative body, even in the face of another treaty whereby you have agreed to leave questions of just that sort to arbitration. We do not care to sit in council with you. If you regard one treaty or two treaties as scraps of paper you will regard a third one as another scrap of paper. How can we find what sort of international obligation will hold you after you have entered into it?"

That is not going to occur, Mr. President, because, instead of being a weak nation we have 110,000,000 of population and nearly all the money in the world, and we are standing now, as I saw stated in a funny paragraph in some paper, "upon the top of a mountain of gold, passing laws to stop commercial intercourse with the balance of the world for fear they trade us something for some of it." The reference is to the proposed new tariff bill. So nobody is going to dare to say that, but their reason for not daring is not that what they would thereby say would not be true but it is because we have the men, we have the guns, and we have the money, too, and we are very important to them and the balance of the world just at this moment, and while they could afford to say to little Mexico, or some other little country, "Here, you are outside the pale. You keep no international obligations when you make them," they can not afford to say that to us. It might mean all sorts of trouble for them, as well as for us.

Mr. President, I had an old friend in Mississippi once who knew a few French words and he would make English words out of them. He had heard the word "inapropos" once, and he would always speak of things being very "inaproporous." This bill at this time is very exceedingly "inaproporous." Even if it should be opportune at some other time, it is not opportune now. Even if the contention of the Senator were perfectly plain and obvious, and if we wanted to do this thing, and had a right to do it, this is not the time to do it, just before the meeting of this conference.

I invite a gentleman to my house, and then, just before he comes in, I meet him at the front door with a disagreeable observation of some sort, telling him that our future intercourse

is to be predicated upon his doing something that I want him to do, something he does not want to do, something to my advantage and not to his advantage, in my interest and not in his, that is not "nice," to use a schoolgirl's phrase.

I have a fourth reason why I do not like this, and then I shall sit down and yield the floor. I did not intend to make these remarks; I got into them by interruption. The next reason is one almost given, though only hinted, by the Senator from Iowa [Mr. CUMMINS]; that is, to do this thing is still further to subsidize the most heavily subsidized industry in these United States, an interest which is given a monopoly. Great Britain does not give a monopoly of her coastwise trade to her own ships. Many other countries never have done it. We have given ours an absolute monopoly, not only upon the internal streams, rivers, and lakes, which is natural, but upon the ocean itself from port to port all the way around our vast coast line, so that no matter how the American consumers and producers may yearn for cheap freight from New Orleans to New York, from Charleston around, they can not get it because we have given the dictation of those freight rates into the hands of a monopoly which has but one guiding principle in fixing coastwise freight rates, and that is the principle of underbidding the railroads. That is all. They will carry anything in the world from New York to New Orleans cheaper than the railroads will carry it, but when they get to that point then they quit making further concessions to either the consumer or producer who is an American.

It is bad enough to violate one treaty directly; by intimidation to violate a second one; to violate the understandings of all our negotiators; but still worse to do it when the sole effect of doing it is still further to build up the power of a gigantic monopoly which is subsidized to the extent that no other industry in America ever was subsidized, is subsidized to-day, or ever will be subsidized, as I hope.

I thank the Senator from South Dakota very much.

Mr. KING. Mr. President——

The VICE PRESIDENT. Does the Senator from South Dakota yield to the Senator from Utah?

Mr. STERLING. I yield.

Mr. KING. The views expressed by the Senator from Mississippi upon the question of arbitration and the unwisdom of considering this controversial question on the eve of the conference called by the President of the United States are in accord with those which I entertain. I feel that we should submit the question in dispute to arbitration, and I ask the indulgence of the Senator from South Dakota while I submit, and ask that it may be read at the desk, a resolution which at the proper time I shall offer as a substitute for the pending bill.

The VICE PRESIDENT. The Secretary will read as requested.

The Assistant Secretary read as follows:

On page 1, strike out lines 1 to 12, inclusive, and insert in lieu thereof the following:

"Whereas there is a dispute as to whether the exemption from the payment of tolls of vessels passing through the Panama Canal and engaged in the coastwise trade of the United States is in contravention of the provisions of the treaty of November 18, 1901, commonly known as the Hay-Pauncefote treaty; and

"Whereas the treaty of arbitration entered into between the United States and Great Britain on the 4th day of April, 1908, provides that legal questions and questions respecting the interpretation of treaties arising between the contracting parties shall be submitted to arbitration: Now, therefore, be it

"*Resolved, etc.*, That the President of the United States be, and he is hereby, authorized and respectfully requested to negotiate with Great Britain the necessary arrangements to submit said controversy to arbitration in conformity with the provisions of the treaty of April 4, 1908."

Mr. KING. Will the Senator further indulge me a moment? If the resolution is rejected as a substitute, I shall offer the following as a substitute for the so-called Borah bill. May that be read and lie upon the table?

The Assistant Secretary read as follows:

On page 1, strike out all after the enacting clause and insert in lieu thereof the following:

"That there is hereby appropriated for the calendar year 1922, out of any moneys in the Treasury not otherwise appropriated, the sum of $2,000,000, or so much thereof as may be necessary, for the payment of tolls, payable by vessels passing through the Panama Canal and engaged in the coastwise trade of the United States, said moneys to be paid to the Governor of the Canal Zone as required to cover the tolls of vessels passing through the Panama Canal and engaged in the coastwise trade of the United States, payment to be made by the Treasury upon requisition of the Governor of the Canal Zone, the payments to become a part of the general funds of the governor and to be expended in the maintenance of the canal."

Mr. KING. If the Senator will pardon me further, of course I shall ask to amend the title so that it will read that it is a bill to grant a subsidy to the coastwise trade of the United States. If we are going to help the coastwise trade, let us be frank and vote the money out of the Treasury, so that the taxpayers of the United States may know they have to bear the burden. There is no difference in principle, and certainly not in results, in relieving vessels from paying their just share of the expense of maintaining the canal, thereby compelling the United States to meet it, and in voting from the Treasury to be paid to the canal governor the sums which the vessels are relieved from paying.

Mr. BORAH. Mr. President, I wish to ask the Senator a question before he sits down. The Senator has offered the resolution, and, I take it, has offered it in good faith. I assume, therefore, that the Senator stands here as a representative of the subsidy.

Mr. KING. Mr. President, I am utterly opposed to a subsidy or to voting a subsidy for the coastwise monopoly of the United States. The pending bill, offered by the Senator from Idaho, is in the interest of a monopoly and is a subsidy to the shipping interests of the United States. I have offered this proposed substitute not because I support the principle represented therein, but because, in my opinion, if we are to vote subsidies we should be frank, and not do by indirection what should be done by an open and frank course. If we are to grant subsidies to the Shipping Trust of the United States, let us do so by a direct appropriation from the Treasury rather than by an indirect way. That, in my opinion, would be the honest course to pursue.

Mr. BORAH. If the Senator's substitute is adopted, will the Senator vote for it on its final passage?

Mr. KING. No, indeed.

Mr. BORAH. That is what I supposed.

Mr. KING. I shall not vote for it; but it is preferable to the indirect method which is proposed in the pending bill.

Mr. CUMMINS. Mr. President, if the Senator from South Dakota will allow me——

Mr. STERLING. I yield to the Senator from Iowa.

Mr. CUMMINS. I desire to say that Great Britain has made exactly the same objection to a subsidy which is to be paid to the owners of ships which pass through the canal that she has made to a direct reduction of the rates or a direct allowance of free passage. Moreover, Great Britain has never, so far as I know, protested against the interpretation of the treaty which will permit coastwise ships to pass through the canal without tolls.

Mr. STERLING. I am opposed to the bill. Exemption from tolls for the American coastwise trade may be ever so desirable. The owners of ships engaged in such trade may profit greatly thereby, as indeed they would by a subsidy granted outright. Our commerce generally might be benefited as a consequence, the general material welfare of the country might be enhanced, but it would all be, in my humble judgment, at the price of a broken treaty, and the price is too high for any or all material benefit we may receive.

I grant that there is just now, or there is said to be, more than the usual amount of lawlessness, of contempt for authority, of indifference to moral and social obligations, but the American people are not yet ready to adopt the German chancellor's idea that a solemn international treaty is nothing more than a mere scrap of paper.

If it be far from certain that the passage of the bill would be in violation of the Hay-Pauncefote treaty, this is not the way now to go about the business of getting our coastwise trade through the canal free of tolls. There is, at least—and I say this for the sake of the argument only—grave doubt as to the proper interpretation of the treaty in this respect. Great Britain, the other high contracting power, makes vigorous protest against the interpretation which would exempt our coastwise trade ships from payment of tolls. How, then, can we decently and honorably and with any respect for our traditions of international good will and justice—in this summary, not to say offensive way—disregard her claims that the proposed exemption from tolls will be a discrimination contrary to her intention and contrary to the plain and unambiguous terms of the treaty?

My mind revolts against such a procedure. Why, Mr. President, here is the situation as it appeals to me: Great Britain and perhaps every other great commercial nation in the world except our own have but the one interpretation, the interpretation which would require our ships, all of them, to pay tolls, and we ourselves are divided on the question, although but a few years ago the Congress made the terms of the treaty the basis for a law wiping out the exemption which it is now proposed to restore by this bill.

Mr. KELLOGG. Will the Senator yield for a question?

The VICE PRESIDENT. Does the Senator from South Dakota yield to the Senator from Minnesota?

Mr. STERLING. I yield for a question.

Mr. KELLOGG. If that is the proper interpretation, why was there not in the negotiations somewhere some statement by the British Government that the United States could not grant to her ships any preferential rates as against Great Britain, and why did they rely on the general language "all nations"?

Mr. STERLING. There is the equivalent of that in the negotiations, and I think I shall be able to refer to it.

Mr. KELLOGG. I can not find it.

Mr. STERLING. Under these circumstances, Mr. President, the plainest principles of international comity require that all the resources of diplomatic negotiation—followed, perhaps, by arbitration—be exhausted in an effort to secure a different interpretation, or, failing that, a revision of the treaty, before we exercise the power we undoubtedly have of abrogating the treaty by statutory enactment.

Mr. President, for this reason as well as for the more potent one that I believe the proposed law would violate the treaty, I am opposed to the bill.

A word now as to the construction of the treaty. The great Chief Justice John Marshall, in the case of Gibbons against Ogden, laid down a fundamental, now recognized, of course, as a very familiar rule of construction. It is applicable alike to the construction of constitutions, statutes, contracts, and treaties. Is it sought on the one hand to make the meaning narrow or restricted, or on the other hand to make it enlarged or liberal?

The rule is that the words will be neither limited nor extended beyond "their natural and obvious import." It is the rule of reason and common sense; the rule before which every effort to construe the words liberally or strictly to fit some particular theory or exigency must give way and fail; the rule which sets at naught the play upon words and rejects the technical, refined distinctions which would avoid their true meaning, their "natural and obvious import."

These are the vital words of the treaty with Great Britain:

> The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules, on terms of entire equality, so that there shall be no discrimination against any such nation, its citizens or subjects, in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

Mr. POINDEXTER. Mr. President——

The VICE PRESIDENT. Does the Senator from South Dakota yield to the Senator from Washington?

Mr. STERLING. I yield to the Senator.

Mr. POINDEXTER. The Senator holds that the article of the treaty which he has just read includes in the restrictions laid down the ships of the United States as well as the ships of other nations. How does he account for the fact that the ships of war of the United States, which are included in the identical clause of the treaty which covers ships of commerce, pass through the canal without payment of tolls, while the ships of war of other nations are required to pay tolls; and that Great Britain raises no question about that, and does not even claim that the treaty requires the ships of the United States to pay tolls?

Mr. STERLING. Mr. President, I think Great Britain has consented, of course, to our fortification of the canal and to the use of the canal by our own war vessels. I think there is no question but that she concedes that right.

Mr. REED. Mr. President, the Senator from South Dakota says that Great Britain consents to our fortification of the canal. One treaty which we negotiated seemed to limit that right. When the treaty was renegotiated that limitation was expressly left out, and the correspondence of the British statesmen showed that they understood that there was to be no restriction of the right of the United States to fortify the canal and that the clause had been left out in order that that right might remain. So the illustration which the Senator from South Dakota gives will hardly cover the case put by the Senator from Washington [Mr. POINDEXTER].

Mr. STERLING. I think that has but little application to the question at issue.

Mr. McCORMICK. Mr. President——

Mr. STERLING. I yield to the Senator from Illinois.

Mr. McCORMICK. I was going to suggest to the Senator from South Dakota that, as I recall the correspondence, the British Government agreed to our right to fortify as an attribute of sovereignty.

Mr. STERLING. Yes.

Mr. WILLIS. Mr. President——

The VICE PRESIDENT. Does the Senator from South Dakota yield to the Senator from Ohio?

Mr. STERLING. I yield.

Mr. WILLIS. The Senator from South Dakota has just read the first section of article 3 of the treaty. I understand it to be his contention that the expression "all nations" includes the United States. The Senator has before him the treaty. Does he make the same contention with reference to the second section? Does that also apply to the United States?

Mr. STERLING. I have not the treaty before me.

Mr. WILLIS. The language to which I am directing the Senator's attention is as follows:

> The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it.

Does that apply to the United States?

Mr. STERLING. No. One great reason why it does not or should not apply to the United States, Mr. President, is that the right of self-preservation, the first right above every other, would admit our war vessels into the canal and for the purpose of protecting the canal and defending ourselves.

Mr. WILLIS. Then is it the Senator's interpretation that the phrase "all nations" includes the United States only so far as the first section of article 3 is concerned, but that it does not apply to the United States with reference to sections 2, 3, and 4? Is that the Senator's contention?

Mr. STERLING. So far as freedom or no freedom from the payment of tolls is concerned, I contend, of course, that the first rule of article 3 applies to the United States as one of the "all nations."

Mr. POINDEXTER. Mr. President, may I ask the Senator another question?

Mr. STERLING. I yield.

Mr. POINDEXTER. On what theory does the Senator from South Dakota argue that the treaty with Great Britain which contains exactly the same sanctions and obligations as to every article is partly applicable to the United States and partly not applicable? It seems to me that the treaty, in so far as the question we are discussing is concerned, either applies as a whole to the United States or does not apply at all?

Mr. POMERENE. Mr. President, will the Senator from South Dakota yield to me for a moment?

Mr. STERLING. Mr. President, I should like to be permitted to proceed.

Mr. POMERENE. I desire merely to make one observation with respect to the questions which have been asked by my colleague [Mr. WILLIS] and by the Senator from Washington [Mr. POINDEXTER].

Mr. STERLING. Very well; I yield.

Mr. POMERENE. If my colleague will examine the correspondence or the notes which passed between the two Governments, he will find that Sir Edward Grey conceded the right of our war vessels to pass through the canal and our right to fortify the canal, because at the time the notes were exchanged the situation had changed. At the time the Hay-Pauncefote treaty was entered into we were not the owners of the Panama Canal strip. Thereafter we became the owners; and I remember one of the expressions of Sir Edward Grey was to the effect that, now being the owner, we had a belligerent right to protect the property which was our own.

Mr. STERLING. I remember the correspondence and the statement made by Sir Edward Grey as stated by the Senator from Ohio.

Mr. WALSH of Montana and Mr. WILLIS addressed the Chair.

The VICE PRESIDENT. Does the Senator yield; and, if so, to whom?

Mr. STERLING. Mr. President, if I may advert to a statement made on a former occasion on this proposition I will quote it as follows:

> Being a neutral Nation, the United States is bound to prevent an act of hostility within the canal. Being a belligerent Nation, is she prevented by the rules from committing any act of hostility within the canal? Plainly not if that act of hostility is necessary for the preservation of the canal or the approaches to the canal, or to enforce the peace and order of the canal against an enemy, and I see no reason for supposing that international law would not give her the right as a belligerent Nation to prevent by force the passage of any hostile vessel bent on attacking the fortifications at the canal or any port or place on either coast of the United States.
>
> These provisions of the treaty must be construed in connection with the fundamental principle recognized in the law of nations as in the law governing individual conduct—the right of self-preservation.

Mr. WILLIS. Mr. President——

Mr. STERLING. I yield to the Senator.

Mr. WILLIS. I dislike to interrupt the Senator, but I wish to invite his attention and the attention of my colleague to the first note of the British Government on this subject. My colleague has referred to it; I desire to read just a sentence or two in the note of July 8, 1912, in which the British Government said:

As to the proposal that exemption shall be given to vessels engaged in the coastwise trade a more difficult question arises. If that trade could be so regulated as to make it certain that only bona fide coastwise traffic which is reserved for United States vessels would be benefited by this exemption, it may be that no objection could be taken.

So that, as a matter of fact, in the very first note upon this proposition the British Government itself practically conceded that coastwise traffic, inasmuch as that was reserved absolutely for American vessels anyhow, did not come under the provisions of the treaty.

Mr. STERLING. No; I do not understand, Mr. President, that that is practically conceded; I understand that it is a matter for consideration by the British Government, but not that it is practically conceded. What is the date of the note from which the Senator from Ohio has quoted?

Mr. WILLIS. July 8, 1912.

Mr. POMERENE. May I ask whose note that was?

Mr. WILLIS. I do not have the name of the person who wrote the note, but it is the note of the British Government through whoever its accredited representative was.

Mr. POMERENE. I think, if the Senator will investigate the matter, he will find that that was a note written by Mr. Innes, the chargé d'affaires of the British Government, who was temporarily here in Washington, and in the same note he makes the suggestion that they will consider that subject further.

Mr. STERLING. Mr. President, I think I must decline to yield further. There are other Senators who desire to speak, and I do not want to be put in the position of occupying all of the time.

Mr. President, I have read the rules. Those who are in favor of this legislation, I think, read Rule I as though it were a rule apart and that the United States was a nation apart, a supernation as it were, prescribing the terms on which the other nations of the world may use the canal, leaving herself free to discriminate in favor of her own citizens as to conditions and charges of traffic or exempting them from charges altogether. They are not the words of the United States prescribing a rule; they are the words of a rule of a treaty which by the terms of article 1 is to supersede the Clayton-Bulwer treaty between the same powers upon the same subject in 1850. The rule is one of six rules, all of which the United States, according to article 3, "adopts as the basis of the neutralization" of the canal. The undertaking of the United States is not to prescribe rules for the neutralization of the canal, but she "adopts," accepts, receives, and makes them her own for her own observance as well as observance by the other nations of the world. And again, these rules, according to article 3 of the Hay-Pauncefote treaty, are substantially as embodied in the convention at Constantinople of 1888 for the free navigation of the Suez Canal.

Equality of treatment was the basis of the Suez Canal convention. Sir Edward Grey, in his note to Ambassador Bryce of November 14, 1912, says:

His Majesty's Government regard equality of all nations as the fundamental principle underlying the treaty of 1901 in the same way that it was the basis of the Suez Canal of 1888.

And further in the same note he says:

It certainly was not the intention of His Majesty's Government that any responsibility for the protection of the canal should attach to them in the future. Neutralization must, therefore, refer to the system of equal rights.

And this, Mr. President, is the essence of article 8 of the Clayton-Bulwer treaty, which is superseded by the Hay-Pauncefote treaty, in which the principle of neutralization and equality of treatment are set forth in the following language:

That the parties constructing the same (the canal) shall impose no other charges or conditions of traffic than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railroads, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

Mr. John Bassett Moore, whom we recognize as among the greatest, if not at the head of the authorities on international law—I think he certainly is entitled to that position in this country, at least—said, in an article in the New York Times of March 4, 1900:

Equality of tolls has also been treated as a feature, or, perhaps, rather as a condition of neutralization. Little need be said on this subject, since a discriminative policy, even if it did not lead to the building of another canal, would merely provoke retaliation in some other form, and prove in the end to be impracticable.

Mr. President, it was not intended by those who were active in negotiating the treaty on behalf of the United States that there should be any discrimination in the matter of tolls. It is evident that equality of treatment was all they thought of. It is also evident that they knew the understanding on the part of those who negotiated for Great Britain, to be, that the canal was to be free and open to the vessels of all nations on terms of entire equality, without discrimination against any.

Mr. White, secretary of our embassy at London at the time of these negotiations, testified as follows before the Committee on Interoceanic Canals when it had under consideration the tolls exemption act of 1912, and the bill for repeal of that act. He describes Lord Salisbury as saying:

I think in due course of time we shall consent to the abrogation of such parts of the Clayton-Bulwer treaty as stand in the way of your building the canal, subject, however, to one condition on which we lay great stress, namely, that the ships of all nations shall use the canal, "or go through the canal," I think he said, "on equal terms." (P. 131, hearings.)

Again Mr. White says (p. 132 hearings):

During the entire period of those negotiations and in all my conversations with Lord Salisbury or with anyone else on either side of the Atlantic, I never heard the subject of our coastwise traffic mentioned. It was always assumed by those carrying on the negotiations—it certainly was by me in my interview with Lord Salisbury—that he meant that our ships should be considered, or, rather, that the United States should be considered as included in the term "all nations."

Mr. White further testifies that never, from beginning to end, had he any suggestions from any direction that our coastwise ships should be treated differently from other ships; that it was considered by him—and that he knew it was by Mr. Choate and by Lord Salisbury, because that seemed to be the point made by him—that all ships were to be treated in the same way.

Ambassador Choate himself, in his letter of April 13, 1914, transmitting the diplomatic correspondence to the Senator from New York, Mr. O'Gorman, then chairman of the Committee on Interoceanic Canals, the committee engaged in considering the bill then pending to repeal the Panama Canal tolls exemption act, has this to say:

These, if carefully perused, will, I think, be found to confirm my view that the clause in the Panama Canal act exempting our coastwise shipping from tolls is a clear violation of the treaty.

Mr. President, much has been said about the Bard amendment, offered when the Hay-Pauncefote treaty was under discussion in December, 1900. The Senator from Louisiana [Mr. RANSDELL] the other day discussed at length the Bard amendment. It is urged that the views then expressed by certain Senators should have weight in determining the meaning of the treaty finally adopted. That amendment reserving to the United States "the right in the regulation and management of the canal to discriminate in respect of the charges of traffic in favor of vessels of its own citizens engaged in the coastwise trade" was defeated by a vote of 47 to 23. For what was said we are dependent on the recollections of Senators who were present. To what extent Senators were influenced by the argument or explanation of any Senator is altogether uncertain. The admission of such evidence in court for the purpose of determining the disputed meaning of a statute, State or Federal, would not be tolerated. A treaty is a law, the supreme law of the land. I know of no rule which will admit the interpretation of the meaning of a treaty by the statement of a Senator as to what was said in debate upon the treaty and not admit his statement as to what was said by himself or a fellow Member in the discussion upon any bill which later became a law. As applicable to a statute the Supreme Court of the United States in the Trans-Missouri Freight Association case (166 U. S., 290) uses this language:

There is, too, a general acquiescence in the doctrine that the debates in Congress are not appropriate sources of information from which to discover the meaning of the language of a statute passed by that body. The reason is that it is impossible to determine with certainty what construction was put upon an act by the members of a legislative body that passed it by resorting to the speeches of individual members thereof. Those who did not speak may not have agreed with those who did; and those who spoke might differ from each other; the result being that the only proper way to construe a legislative act is from the language used in the act, and, upon occasion, by a resort to the history of the times when it was passed.

As the words spoken in debate are not admissible in a court of justice for the purpose of showing what was intended or meant by an act, so the testimony or opinions of individual Members are not admissible for such purpose.

There can be no better statement of the principle, and the reason for it, all in one, than that by the court in the case of Richmond *v.* Supervisors (83 Va., 204):

The intention of the draftsman of the act or of the individual members who voted for and passed it, if not properly expressed in the act, it is admitted has nothing to do with the construction. The only just rule of construction, especially among a free people, is the meaning of the law as expressed to those to whom it is prescribed and who are to be governed by it.

And so here; although Senators may in all sincerity bring forward for what weight they may have the opinions of Members to show intention other than the words of the treaty import, we must inevitably come back to that just rule of construction, namely, the meaning of the law as expressed to those to whom it is prescribed. The treaty was between the United States and

Great Britain, but the canal will be used by every nation having foreign commerce. It is not improper to say the treaty is prescribed to the nations of the world, and the world is against our construction of the treaty as expressed in the exemption clause of the Panama Canal act.

The reason other nations have not made formal protest may be found in the fact that they are not parties to the treaty. And I may misjudge sentiment, I may not understand it, but let me pause to observe that so far as the treaty is a law prescribed to a free American people I feel satisfied the meaning of the law as expressed to the overwhelming majority is just as the high contracting powers declared:

> The canal shall be free and open to the vessels of commerce and war of all nations * * * on terms of entire equality.

What is the plain and obvious import of the words, going back to our cardinal rule of the construction of language?

They who framed the treaty and all for whom it was framed must, in the language of Marshall—

> be understood to have employed words in their natural sense and to have intended what they have said.

There is for the Bard amendment incident a proper and legitimate use.

The amendment declared for a policy—the very policy enacted into law in 1912, the policy of discrimination in favor of the coastwise trade. The amendment was clear and specific in its terms. The fact that it was offered is proof of the author's interpretation of the treaty without the amendment or proof, at least, of his fear of it without the amendment. It was rejected, and from its rejection comes the presumption that the Senate was not then in favor of a policy of discrimination. This is the legitimate use of the circumstances attending the Bard amendment, and for this purpose and this legitimate conclusion we may consult the only record which the removal of the injunction of secrecy upon the Senate proceedings will give us. In any event, whatever may have been the understanding of some, I know of no evidence which shows that the treaty did not express the understanding of the requisite majority of the Senators at that time, namely, that all nations should, without discrimination, have the right to the free and equal use of the canal.

Mr. President, much more might be said in support of the interpretation of the treaty which I have given it, but because of the time limit on debate and the desire of others to speak, I shall not pursue the subject further except to say that while I think there is little occasion for sympathy for the owners of our coastwise-trade vessels, in which I agree entirely with the Senator from Mississippi, and that the payment of the same tolls by them as is charged to other vessels would not be an undue or an unreasonable burden, yet I would not object that the Senate go on record in an expression of a wish that the President might, in the interests of comity and good will, enter into negotiations with the British Government at the earliest practicable date for the purpose of securing such revision of the terms of the Hay-Pauncefote treaty of 1901 as will permit the passage through the Panama Canal free of tolls of American vessels engaged in such trade.

If there is still to be an insistence upon exemption from tolls, I do not see how we can honorably do less than this. There is the treaty. To abide by it is not to surrender. If its terms are burdensome, we should adopt the course which Mr. Olney advised with reference to the Clayton-Bulwer treaty:

> If changed conditions now make stipulations which were once deemed advantageous either inapplicable or injurious, the true remedy is not in ingenious attempts to deny the existence of the treaty or explain away its provisions, but in a direct and straightforward application to Great Britain for a reconsideration of the whole matter.

Mr. President, I am convinced that such is the only course consistent with international friendship and good will. But, as to the treaty, I think that as time goes on we will never as a people regret that interpretation which appeals to the noblest impulses of men, which is free from selfishness, which involves a national magnanimity as great as the enterprise itself is vast. What we have wrought by our might, our wealth, our genius for engineering and physical achievement, should find a parallel worthy of the work in that equality of treatment sought to be reached by the Hay-Pauncefote treaty and in the burdens as well as the privileges which we should be willing to share.

Mr. REED obtained the floor.

Mr. BORAH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HARRELD in the chair). The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Ashurst	Brandegee	Cameron	Cummins
Ball	Broussard	Capper	Curtis
Borah	Calder	Caraway	Dial
Dillingham	Kellogg	New	Simmons
Edge	Kendrick	Newberry	Smith
Elkins	Kenyon	Nicholson	Smoot
Ernst	Keyes	Norbeck	Spencer
Fernald	King	Oddie	Sterling
Fletcher	Ladd	Overman	Sutherland
France	La Follette	Page	Swanson
Glass	Lenroot	Pittman	Townsend
Hale	Lodge	Poindexter	Trammell
Harreld	McCormick	Pomerene	Underwood
Harris	McKellar	Ransdell	Wadsworth
Harrison	McKinley	Reed	Walsh, Mass.
Heflin	McNary	Sheppard	Watson, Ind.
Johnson	Moses	Shields	Williams
Jones, N. Mex.	Nelson	Shortridge	Willis

The PRESIDING OFFICER. Seventy-two Senators having answered to their names, a quorum is present.

Mr. REED. Mr. President, in the time at my disposal it is impossible to review the history of the treaty involved in the present bill.

Something has been said about breaking faith with Great Britain. I am not in favor of breaking faith with Great Britain or with any other nation, however great or small, but while we are talking about breaking faith we might have a little regard to breaches of faith with the American people.

In 1912 the Democratic Party adopted a platform containing this clause:

> We favor the exemption from toll of American ships engaged in coastwise trade passing through the canal.

That platform concluded with these words:

> Our platform is one of principles which we believe to be essential to our national welfare. Our pledges are made to be kept when in office, as well as relied upon during the campaign, and we invite the cooperation of all citizens, regardless of party, who believe in maintaining unimpaired the institutions and traditions of our country.

In 1920, after all the debates had occurred in regard to the canal tolls, after the question had been discussed for eight years, the Republican Party adopted a platform containing this clause:

> We recommend that all ships engaged in coastwise trade and all vessels of the American merchant marine shall pass through the Panama Canal without payment of tolls.

Mr. President, I owe it to those Senators who will speak on this bill to limit what I have to say. Fortunately, the remarks of the Senator from Arizona [Mr. ASHURST] relieve me from saying some things I had in mind and which he has said excellently well.

Before I state this case as briefly as possible, allow me to call attention to the somewhat remarkable argument of the Senator from South Dakota [Mr. STERLING]. He spent the early part of his argument in construing the treaty in the light of the words of certain statesmen and negotiators. He said that the construction of these gentlemen was binding upon us. In the latter part of his argument, however, he appeared to have run foul of some expressions against his position which had been uttered on the Bard amendment. He then proceeded to read the authorities to show that contemporaneous construction of the treaty amounted to nothing. The whole of his argument was bottomed upon contemporaneous construction when it suited him, but when he found something did not suit him he promptly produced the law to show that contemporaneous construction ought to be utterly disregarded. It is only another illustration of the fact that when a man starts out determined to reach a certain destination he generally is able to push aside all obstacles and go straight ahead.

Now, let me state this case. The United States Government paid the French company which held the Panama Canal concession, and had failed in its undertaking, $40,000,000. It paid Panama $10,000,000, and further agreed to pay Panama $250,000 per annum forever. It paid, or is about to pay, Colombia $25,000,000. It built the canal at an expense of $400,000,000. That is a total of $475,000,000 plus the tribute to be paid to Panama forever.

Having done all this, having bought the concession of the Panama Canal Co., having bought from Panama the right of way and a strip of land over which we exercise substantially every attribute of sovereignty, we were confronted with a claim of the Colombian Government that it had some rights, and we agreed only a few months ago to pay $25,000,000 on that account. Having done all this, and having built the canal, we are boldly told that the United States has not a single right in that canal that is not possessed by every other nation on earth. Moreover, when we present the case in that way we are told that our rights were bartered away in advance by treaty with Great Britain. Whoever undertakes to maintain that proposition, when the result is the practical loss of the use of the canal to the United States, has undertaken a task so grave that he ought to be able to buttress it by very strong arguments and a very great array of facts.

If it be true that the treaty which we entered into with Great Britain, and in which we agreed that the vessels of all nations

shall be treated alike, is to be literally and absolutely construed, then we can not send a single one of our war vessels through the canal without collecting a toll. If we do send one of our war vessels through the canal without charging it a toll, we open the canal free for all the war fleets of all the nations of the world. We can not send a single transport laden with American troops through the canal which we built if the construction contended for is correct; neither can we permit any other nation to send troops through free unless we extend the right to all other nations of the world.

Yet we have already solemnly agreed to do that very thing in our treaty with Panama and our treaty with Colombia. So if the treaty with Great Britain is to be ravished by the pending bill, if it shall become the law, it is already used to the process; we have already broken it. I shall, however, come to that in a moment.

If the expression "that the vessels of all nations shall be treated alike" is to be literally construed and means what its proponents advocate, then if we were engaged in a war with Great Britain itself and our fleet, pursued by British vessels, passed through the canal, we would be obliged to allow the British men-of-war to follow them. Or, if we were ever engaged in war with Japan and if she possessed a mighty fleet, which desired to pass through the Panama Canal for the purpose of sacking and demolishing New York, we would be obliged to open the canal for her, provide the machinery, see that all the locks were full of water, and put her vessels through. I do not know but some of the gentlemen who have grown to love the world more than they love the United States would want us to salute the Japanese flag as it went through the canal.

The trouble with us is that we have been talking internationalism and the brotherhood of man so long that we have forgotten our own Nation, our own family, and our own real blood kin at home. I have heard speeches made on the floor of the Senate that might better have been uttered on the floor of the House of Lords or the House of Commons of England, and every one of them will be cited against the case of the United States if ever this question is submitted to arbitration or the decision of any tribunal. You do not hear any speeches of a corresponding character delivered before the British Parliament upon the other side of this question. England is not playing the game for the benefit of the world. England is playing the game for the benefit of the "tight little island" and her vast possessions.

Mr. President, if these are the deductions necessary from the construction that is being placed upon this treaty by those who oppose the Borah bill, then it must be assumed in advance that those who negotiated this treaty were without any kind of judgment or sense. To agree that we would incur the expense of building a canal and receive no advantage whatsoever from that vast expenditure is to argue that those who put this measure through had no care and no thought for the rights of the United States.

Just a word about settling this question by the opinions of those who negotiated it. Some of these gentlemen may be very distinguished, but let us see who makes a treaty. Is it made by the negotiators? It is not. Although the prime minister of England himself and the President of the United States may sit down and write a treaty agreement, it has no more life or vitality than the dead rocks, and what they say to each other is not known to either of the countries. Those negotiations are secret and confidential. The Congress does not know what they are. The world does not know what they are. Nobody knows what they are except these two men. The instrument they produce may then be laid before the Senate of the United States, and it still has no validity. It is then discussed in the light of its own language, not in the light of these secret negotiations, and the Senate acts upon the treaty accordingly. I do not use the term "secret" offensively. The Senate acts in the light of the language of the treaty, and not in the light of the private and confidential talks. We know nothing about them. The country, which by that time has some knowledge of the proposition, knows nothing of these negotiations. It judges the treaty by its four corners and by its public history.

Hence I care nothing about what these gentlemen may have expressed as their opinions, neither do I care for the opinion of Elihu Root, nor the opinion of Mr. White, nor the opinion of any of these men.

Is this question to be settled by the opinion of three or four men or is it to be settled by argument and debate? If it is to be settled by the opinions of men, then the people of the country have a right to express their opinion, as, indeed, they have expressed it twice—once in 1912, when they approved a party that had pledged itself in its platform to grant free tolls; again in 1920, when, by nearly 8,000,000 majority, they approved the platform of the opposite party, and that platform for the first time had a pledge for free tolls.

Mr. President, when you come to consider any legal document you have the right to consider its history, and you must have regard for the fixed interpretation of words and phrases.

It very frequently happens that the layman, reading a statute passed by a legislative body and undertaking to give to it the ordinary meaning of the words, will arrive at a conclusion which is absolutely wrong, because the words employed in the statute were not employed in their ordinary or colloquial sense but were employed in their legal sense. We had a very fine illustration of that the other day when we were discussing the fourth amendment to the Constitution, which uses the term "unreasonable searches and seizures," and the question came, "What is meant by unreasonable searches and seizures?" and we had to go back to the old common law and to the construction of the rights of Englishmen under the common law to ascertain the meaning of that term. So, when we come to consider the question of what is included in the term "vessels of all nations shall receive the same treatment," we inquire at once what the term "vessels of all nations" means.

First, we find, as was contended by PHILANDER C. KNOX, then Secretary of State, in his controversy with Ambassador Bryce, that when the term "vessels of all nations" is used in ordinary treaties it is held to exclude and not to cover vessels engaged in purely coastwise business. Why? Because coastwise business is domestic, and with the domestic business of any foreign country no other nation has any right to interfere.

A boat laden with wheat at San Francisco, carrying its cargo of wheat through the canal to Boston and there unloading it, is engaged in identically the same kind of carriage and business that a railroad train loaded with wheat in San Francisco and coming to Boston is engaged in. No foreign vessel is permitted under our laws to transport anything from one American port to another American port, because that is coastwise or domestic trade and the foreign company can not engage in it. Nearly every nation has the same regulation with reference to coastwise business that the United States has. Accordingly, when two sovereign nations start to deal with the question of transportation upon the sea they are dealing with that class of shipping and character of ships trading between the nations and not that character of ships trading between ports of the same nation. Therefore, when Ambassador Bryce went to the then Secretary of State, Senator KNOX, and protested against the passage of the act which proposed free tolls through the canal Senator KNOX confronted him with this rule of construction. He further said to him that we were passing a statute, which was no concern of Great Britain; it could only complain when an act had been done.

My understanding is that Ambassador Bryce conceded the point; and a few days after Senator Root rose on the floor of this body, took the part of Great Britain, and said that we were violating a treaty. Ambassador Bryce retorted in substance: "How can I say that my Government has no case when a leading American Senator says you are violating the treaty?"

Andrew Carnegie made a trip to Washington just before that speech was made. The Carnegie Institute printed an enormous number of those speeches and circulated them over the United States. Everyone knows that Andrew Carnegie wrote article after article advocating that America ought to return to her place under the British flag, and those articles are preserved in the proceedings of this body, having been read into the CONGRESSIONAL RECORD by the Senator from Nebraska [Mr. HITCHCOCK] a number of years ago.

Mr. President, since I have gone thus far with that discussion, let me tell you how this controversy arose, according to my understanding.

Some of the American transcontinental carriers owned ships, which they ran in connection with their railroads. The Canadian railroads likewise owned ships. When we proposed to open this canal, we provided that no ships owned by railroad companies could go through the canal, but to all intents and purposes that could only apply to the American ship.

We did deprive the American railroad company of the right to own a ship and put it through the canal, but the Canadian railroads were not so circumscribed. We undertook to offset that difference in part by permitting our vessels to come through free of tolls. If those vessels, having been taken away from the railroads, having lost the advantage of cooperating under the same management, but nevertheless under an independent management could go through the canal free, then they could continue to compete with the Canadian railroads which owned ships.

The railroads of Canada saw the advantage they would have if they could deprive American shipping of the privilege of going through the canal free, and made a complaint to Great

Britain. That Government, through Ambassador Bryce, waited upon our Secretary of State, and Secretary KNOX made the reply I have indicated. Then followed the speech upon the floor of the Senate; next a tremendous propaganda, backed by the Carnegie Institute and every pro-British influence in the United States, and ultimately that series of remarkable negotiations, concerning which we would have remained in complete ignorance except for such of the correspondence of ex-Ambassador Walter H. Page as has been printed in current issues of the magazine, World's Work.

In what I say I do not want to be understood as criticizing President Wilson. I simply state the facts. Just how he was persuaded to his recommendation is not entirely set forth in these letters, but there is much light shed upon it.

I pause now to inquire how it happened that these letters between the President and a diplomat, letters which related to the confidential business of this Government, come to be printed by this publication? Are we to understand that if a man has a newspaper connection and is appointed a diplomat, thereupon the newspaper or magazine with which he is connected has the right to print the confidential communications between himself and the President?

This article which abuses everybody who is not on the British side of this controversy is more pro-British, is more Tory, than any utterance you would ever expect to fall from the lips of the most rabid Britisher. If this World's Work and this abusive and offensive article had been printed in Great Britain, it would have been regarded by the British people as a manifestation of extremely bad taste. Let me read you a clause from the letter of our former ambassador to Great Britain. This is in connection with his appointment, and was before he ever went to Great Britain:

> A little later I went to Washington again to acquaint myself with the business between the United States and Great Britain. About that time the Senate confirmed my appointment, and I spent a number of days reading the recent correspondence between the two Governments. The two documents that stand out in my memory are the wretched lawyer's note of Knox about the Panama tolls—I never read a less sincere, less convincing, more purely artificial argument—and Bryce's brief reply, which did have the ring of sincerity in it.

I know Senator KNOX. He is upon the opposite side from me in politics, and is my opposite in practically every way conceivable, but I say that any man who characterizes his writings as "a wretched lawyer's note," simply has not the mental capacity to follow the reasoning processes of PHILANDER C. KNOX. This gentleman made up his mind before he ever went to Great Britain, before he had ever been confirmed, that the Secretary of State was wrong, and had written a miserable lawyer's argument.

He then states how there were some negotiations about Mexico; we do not know what they were, from this correspondence as printed. But finally Mr. House came over, and he tells how Mr. House was introduced to the British minister, how at that conference it was agreed that Great Britain would quit discussing the question of the Panama tolls in order that there might be no opposition aroused in America, and that the repeal of the canal tolls should be accomplished in that way.

Mr. McCORMICK. "Col." House.

Mr. REED. I am corrected; "Col." House. It is a most astonishing statement of concerted trickery between an American representative, who sits down with a British representative and who says to the British representative, "We will now make a plan that will keep the American people from knowing what is going on." I read from the text:

> The chief reason why Col. House wished to meet the British Foreign Secretary was to bring him a message from President Wilson on the subject of the Panama tolls. The three men—Sir Edward, Col. House, and Mr. Page—met at the suggested luncheon on July 3. Col. House informed the foreign secretary that President Wilson was now convinced that the Panama act violated the Hay-Pauncefote treaty, and that he intended to use all his influence to secure its repeal. The matter, the American urged, was a difficult one, since it would be necessary to persuade Congress to pass a law acknowledging its mistake. The best way in which Great Britain could aid in the process was by taking no public action. If the British should keep protesting or discussing the subject acrimoniously in the press and Parliament, such a course would merely reinforce the elements that would certainly oppose the President. Any protests would give them the opportunity to set up the cry of "British dictation," and a change of the Washington policy would subject it to the criticism of having yielded to British pressure. The inevitable effect would be to defeat the whole proceeding. Col. House therefore suggested that President Wilson be left to handle the matter in his own way and in his own time, and he assured the British statesman that the result would be satisfactory to both countries. Sir Edward Grey at once saw that Col. House's statement of the matter was simply common sense and expressed his willingness to leave the Panama matter in the President's hands.
>
> Thus from July 3, 1913, there was a complete understanding between the British Government and the Washington administration on the question of tolls. Yet neither the British nor the American public knew that President Wilson had pledged himself to a policy of repeal. All during the summer and fall of 1913 this matter was as generally discussed in England as was Mexico—

And so forth.

Mr. WILLIAMS. Mr. President, I would like to ask the Senator what he is reading from.

Mr. REED. I am reading from the World's Work, the letters of Walter H. Page, our former ambassador, and from the text which appears in the article.

Mr. WILLIAMS. What was the Senator reading from a moment ago, from the text?

Mr. REED. I was reading from the statement of the article.

Mr. WILLIAMS. Who is the editor of that publication?

Mr. REED. Burton J. Hendrick is an associate editor, and this article is by him.

Mr. WILLIAMS. That is what I wanted to know.

Mr. McCORMICK. The editor of the World's Work is the son of the late ambassador, Mr. Page.

Mr. WILLIAMS. And his name is Hendrick?

Mr. McCORMICK. No; Hendrick, if I mistake not, is the author of the article; but the editor of the magazine is Page.

Mr. WILLIAMS. I am trying to learn whose words these were the Senator was reading. I do not care who was kin to Page. He probably has grandchildren, for all I know.

Mr. REED. Mr. President, I shall be very glad to hand the Senator the magazine as soon as I am through with it.

Mr. WILLIAMS. I have the information I was seeking. Those are the words of Hendrick, the author of the article?

Mr. REED. Yes; and the Senator will find, if he follows it through, that the same sentiment is expressed in the letters of Mr. Page; so he will get no comfort out of that.

Mr. WILLIAMS. The Senator means that the same statement as regards the repeal of the exemption of tolls, I dare say. You will not find in anything Mr. Page ever said any acknowledgment that they were attempting to conceal it from the American or the British public.

Mr. REED. Mr. President, I shall not pursue that particular theme. Here is the article. I shall be glad to put it all in the CONGRESSIONAL RECORD. It is about the most nauseating correspondence I ever put my eyes upon. This is the man who represented us. These are the comments and it is all to appear in book form. I undertake to say that there is a letter to back every comment made by the author of the article.

I am going to spend a moment on this point since I am challenged on the matter. I shall read from one of Mr. Page's letters to the White House:

> The English Government and the English people without regard to party—I hear it and feel it everywhere—are of one mind about this: They think we have acted dishonorable. They really think so—it isn't any mere political or diplomatic pretense. We made a bargain, they say, and we have repudiated it. If it were a mere bluff or game or party contention—that would be one thing. We could "bull" it through or live it down. But they look upon it as we look upon the repudiation of a debt by a State.

It seems to me we are now looking at something of that kind or something very akin to it.

> Whatever the arguments by which the State may excuse itself, we never feel the same toward it—never quite so safe about it. They say, "you are a wonderful Nation and a wonderful people. We like you. But your Government is not a government of honor. Your honorable men do not seem to get control."

Now, I wish to ask what kind of a representative the United States had in this foreign country who permitted men to tell him he represented a dishonorable Government. I wonder what would be the reception of any man who went to the British ambassador and told him that he represented a dishonorable Government. If he was in the ambassador's house, I am sure he would be invited to take his hat and to go. I am sure he would never gain another audience or opportunity to converse with the British ambassador, and properly so. But all through this letter we find that our ambassador is allowing these insults to be heaped upon his Government, and he seems to have been almost the primal cause in bringing about a condition of mind with the President so that the President recommended the repeal of the tolls. He stated:

> You can't measure the damage that this does us. Whatever the United States may propose till this is fixed and forgotten will be regarded with a certain hesitancy. They will not fully trust the honor of our Government. They say, too, "See, you've preached arbitration and you propose peace agreements, and yet you will not arbitrate this; you know you are wrong, and this attitude proves it." Whatever Mr. Hay might or could have done, he made a bargain. The Senate ratified it. We accepted it. Whether it were a good bargain or a bad one, we ought to keep it. The English feeling was shown just the other week when Senator Root received an honorary degree at Oxford. The thing that gave him fame here was his speech on this treaty. There is no end of ways in which they show their feeling and conviction.

Well, an honorary degree was a very cheap price to pay for that speech. I think they might as well confer a few more honorary degrees, and there could be a more generous distribution.

I read further. So that all may understand what I read it must be known that the letters printed here and the comments are in the nature of an epitome of a book which I understand is to come out, therefore occasionally there is a reference to

something that does not appear in the article but does undoubtedly appear in the book. For instance:

The story of Sir William Tyrrell's visit to the White House in 1913 has already been told.

The footnote states:

Sir William Tyrrell was, in 1913, private secretary to Sir Edward Grey and at present is private secretary to Lord Curzon, the British Foreign Secretary. The reference in the text is to the visit Sir William made to Washington in November, 1913, described in a previous—and so far unpublished—chapter in the biography.

Now I read the text:

The story of Sir William Tyrrell's visit to the White House in November, 1913, has already been told. On this occasion, it will be recalled, an agreement was reached not only on Mexico but also President Wilson repeated the assurances already given by Col. House on the repeal of the tolls legislation. Now that Great Britain had accepted the President's leadership in Mexico, the time was approaching when President Wilson might be expected to take his promised stand on Panama tolls. Yet it must be repeated that there had been no definite diplomatic bargain. But Page was exerting all his efforts to establish the best relations between the two countries on the basis of fair dealing and mutual respect. Great Britain had shown her good faith in the Mexican matter; now the turn of the United States had come.

Now, Mr. President, a little further on this ambassador of ours wrote to the President that Great Britain expected "our Army would go down in a few weeks"; that they "have apologized for Carden"; that they "ordered him home"; that they "took up the dangers that lurked in the Government's contract with Cowdray for oil" and they "pulled Cowdray out of Colombia and Nicaragua, granting the application of the Monroe doctrine to concessions that might imperil a country's autonomy."

Then he makes this suggestion to the President:

If you see your way clear, it would help the Liberal Government (which needs help) and would be much appreciated if, before February 10, when Parliament meets, you could say a public word friendly to our keeping the Hay-Pauncefote treaty—on the tolls. You only, of course, can judge whether you would be justified in doing so. I presume only to assure you of the most excellent effect it would have here. If you will pardon me for taking a personal view of it, too, I will say that such an expression would cap the climax of the enormously heightened esteem and great respect in which recent events and achievements have caused you to be held here. It would put the English of all parties in the happiest possible mood toward you for whatever subsequent dealings may await us. It was as friendly a man as Kipling who said to me the night I spent with him: "You know your great Government, which does many great things greatly, does not lie awake o' nights to keep its promises."

I wonder if he went back and stayed over night with Kipling after that.

This is a recommendation to the President of the United States to take certain action to affect the elections in England and to do it on this tolls question. With that sort of an advisor, a man in whom for some strange reason the President appears to have had confidence, no wonder the President was persuaded that he ought to recommend a repeal of the tolls bill.

The rest of the article is exceedingly illuminating and ought to be read by every Member of the Senate, but I shall not take the time to conclude it, although I would like to follow it in detail.

I desire now to give to the Senate very briefly what I think is a fair construction of the language of the treaty, one which I think would be sustained in any court, provided the people representing America were not handicapped by the statement of Senators and others that the United States has no case. Of course, when we go into court, as we probably will some day, to settle this matter, the first thing that will be filed will be the speeches of Senators. Those made on the side of America will amount to nothing because they are "self-serving declarations." Those made on the other side will be as deadly as the poison of the adder. If they had to be made they ought to have been delivered behind closed doors.

Mr. President, Great Britain's position with reference to the canal was one—I say it with regret, and I do not wish to say it harshly—of extreme selfishness. The United States had set up the Monroe doctrine. The United States was directly interested in the canal. It meant more to this country in its defense than any other one thing. It meant the development of the country. It meant the development of South American countries.

Great Britain for many years did assert some sort of claim to parts of the Mosquito Coast and some claims in Nicaragua. Those claims we always held were unfounded, and it took a negotiation covering many years finally to get them in part adjusted. While the British Empire, however, was asserting those claims, she was not asserting them for territory that was bringing her large revenues; for territory that was of any use to her whatever, except as it might weaken the United States or might afford her an advantage in case of a controversy with the United States.

We desired, upon the other hand, this canal to be built. At that time, 1850 and prior thereto, it was not deemed the business of a Government to construct a work of this kind. Great Britain had these claims and stood in our way, and she exacted from us the Clayton-Bulwer treaty. I grant the proposition that if we have agreed to do a thing we should keep our agreement. The reason I am referring to the provisions of the Clayton-Bulwer treaty is to show that, beginning then and continuing down to the days of the Hay-Pauncefote treaty, our Government had continued to protest. I therefore take the Clayton-Bulwer treaty as a starting point.

Now, let us see what they required us to do in the Clayton-Bulwer treaty. Article 1 of that treaty reads:

ARTICLE I.

The Governments of the United States and Great Britain hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship canal; agreeing that neither will ever erect or maintain any fortifications commanding the same in the vicinity thereof, or occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America; nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have to or with any State or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection, or influence that either may possess with any State or Government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other.

The Clayton-Bulwer treaty contemplated that the Isthmian Canal should be built by some company or companies, and provided that when it was so built, not at the expense of either Government, that both Governments would join in its defense; that it should be strictly neutralized in time of war and in time of peace; that vessels of the United States and Great Britain should in case of war between the contracting parties be exempted from blockade; in other words, if we had a war with Great Britain, that neither Great Britain nor the United States could blockade the canal. It was further provided that all other nations could sign the treaty and could become parties to it. Then it bound the United States and Great Britain jointly to defend the canal.

Observe that this was not a proposition for either Government to spend a dollar of money; it was a proposition that the work should be done by a private company under joint protection of Great Britain and the United States.

Now, I invite attention to a clause in article 8 of the Clayton-Bulwer treaty which I think is controlling in the construction of the Hay-Pauncefote treaty. As I have said, the treaty contemplated that the canal should be built by a private company, and that such private company was to be the proprietor, the owner, of the canal. There was only one limitation placed upon it outside of the matter of neutralization, and that was—

that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which are willing to grant thereto such protection as the United States and Great Britain engage to afford.

Notice the language. Bearing in mind that the canal was to be privately owned, there was only limitation upon the fixation of tolls, and that was that they should be "just and equitable."

It was recognized that the owner of the canal should have the right to fix the tolls and to fix them only so that they would be "just and equitable." Would anybody claim that if the canal had been finished by the French company, and the French company had seen fit to move its own boats back and forth through the canal, that it would have violated this treaty? In its right as proprietor, in its right as owner, it could send its boats through because it owned the canal, and it would then fix a toll for other nations which was just and equitable.

Mr. President, during the making of the Hay-Pauncefote treaty a controversy arose with reference to the language which should be applied. In the meantime the United States had agreed to build the canal itself; in the meantime the United States had bought out the Panama Canal Co., with all of its concessions and rights, and in the meantime we had acquired the very land through which the canal was to be dug. As I have said, we had paid $40,000,000 to the Panama Canal Co.; we had paid $10,000,000 to Panama, and had an unadjusted claim with Colombia, which we have since settled for $25,000,000. We had also agreed with Panama that we would pay her $250,000 a year forever, and we had further agreed to protect the canal. Therefore we had become the proprietor and we occupied the same position that the Panama Canal Co. would have occupied provided it had built the canal.

The Panama Canal Co. under the old treaty would have had a right to send its vessels through free of charge to itself, for it would have been ridiculous to have said that it should charge and pay tolls to itself.

When a controversy arose with regard to the question during the negotiation of the Hay-Pauncefote treaty the negotiators were searching for language upon which they could agree, and they went to article 8 of the Clayton-Bulwer treaty and took out of that treaty the language which had been made applicable to the privately owned concern. From page 92 of the Compilation of Treaties, Senate Document No. 72, I read Lord Lansdowne's letter:

As matters of minor importance, I suggest the renewal of one of the stipulations of article 8 of the Clayton-Bulwer convention by adding to rule 1 the words "such conditions and charges shall be just and equitable."

So they went to the Clayton-Bulwer treaty, which had clearly permitted the proprietor of the canal to charge no tolls to himself, and they adopted the words I have read from article 8 and put them into the treaty that was being negotiated.

Does that not strongly argue that under the Hay-Pauncefote treaty they intended to give the same kind of exemption to the proprietor of the canal that was allowed under the Clayton-Bulwer treaty, for they went to that treaty to get the language which had been applicable to the proprietor, and they put it in the Hay-Pauncefote treaty, knowing that we might become proprietors, as in fact we did?

Mr. President, much as I should like to discuss other features of this question, I shall content myself with one or two further observations. If it be true that we can not send our vessels through the Panama Canal free of tolls, that we can do nothing for ourselves or for others that we do not do for Great Britain and for all the world, then we have already violated the Hay-Pauncefote treaty. I call the attention of the Senate to the language of the treaty with Panama. Let us see whether we have not already done for Panama, without any protest from Great Britain or from any other country, exactly what we are now seeking to do for ourselves. In that treaty we agreed as follows:

The Government of the Republic of Panama shall have the right to transport over the canal its vessels and its troops and munitions of war in such vessels at all times without paying charges of any kind.

If we put the construction upon the Hay-Pauncefote treaty which is contended for by some of our friends, namely, that it means literally that the vessels of all nations must be treated alike, then when we wrote the provision in the treaty with Panama that we would transport their vessels of war and their troops free, we became bound by that act to transport the vessels of war and the troops of every other nation through the canal free of any charge forever, or so long as this treaty should exist. Moreover, we did more than that. I read again from the treaty:

The exemption is to be extended to the auxiliary railway for the transportation of persons in the service of the Republic of Panama, or of the police force charged with the preservation of public order outside of said zone, as well as their baggage, munitions of war, and supplies.

Let the man who claims that we can not send a vessel through the canal except we extend the same terms to Great Britain, that we can do nothing for ourselves we can not do for all the world, undertake to defend the treaty with Panama and he is confronted at once with the fact that we have already agreed that we will pass ships through the canal free.

No protest is made against that, but when we propose to take our own ships through free then there is a great protest. Why could we do that? Because we became the owner of this canal. England stood by and saw us become the owner; so the treaty reads:

The aforesaid rights and property shall be and are free and released from any present or reversionary interest in or claims of Panama, and the title of the United States thereto upon consummation of the contemplated purchase by the United States from the New Panama Canal Co. shall be absolute, so far as concerns the Republic of Panama.

The New Panama Canal Co. having the right to fix tolls and having the right to send its vessels through free, we acquired those proprietary rights and we now appear as a proprietor.

Moreover, we are in still a worse situation, if possible, with Colombia. We have agreed under the Colombian treaty that the Republic of Colombia shall be at liberty at all times to transport through the interoceanic canal its troops, materials of war, and ships of war, even in case of war between Colombia and another country, without paying any charges to the United States. So that here again, if it be true that we can grant no right to one nation without granting the identical right to all nations, in making this grant to Colombia we have bound ourselves to do it with every nation on earth.

Moreover, we have gone further than that with Colombia. We have agreed that the products of the soil and industry of Colombia shall be admitted to entry in the Canal Zone, and likewise in the islands and mainland occupied or which may be occupied by the United States as auxiliary and accessory thereto, without paying other duties or charges than those payable by similar products of the United States. We must carry that benefit on to other countries.

There are other provisions of a similar character which I do not pause to consider.

So, Mr. President, stated baldly, this is the proposition: We entered into an agreement with Great Britain by which she withdrew her objections to our building a canal, and we agreed that the canal should be free and open to the vessels of all nations upon similar terms; but what is meant by those words? Do they mean—are you to write into them—"and we will treat ourselves, though we are the proprietor, as all other nations are treated"? No such language is in the instrument. No such language is found there. We, as a proprietor, say, "We will treat you all alike." Who ever heard of a proprietor agreeing to treat himself, though he is proprietor and owner, exactly as he would treat all others? All that can be claimed under the doctrine of neutralization is that the canal shall be open to the vessels of the world to go through; that they shall go through upon equal terms, each with the other; and that the tolls that are to be exacted shall be fair and just tolls. Beyond that there is not a right that Great Britain has in this canal.

Mr. President, to assume the contrary is to assume that the United States has paid out these vast sums of money in acquiring the rights of the Panama Canal Co., in acquiring the rights of the Panama Government, in acquiring the rights or alleged rights of the Colombian Government, that our people have been burdened with a bonded indebtedness of $400,000,000, and that we have agreed to protect this canal forever without the help of any other nation for no greater right than the right every other nation on this earth has. You reach that conclusion by saying that when we agreed to admit nations upon equal terms we included ourselves, although there are no inclusive words in the instrument; that we included our coastwise business, although it is domestic business. We can agree to haul the products of Colombia and of Panama, but if we haul our own we must give exactly the same terms to every other nation on earth.

Mr. President, we can not brush aside the gravity of this question. Upon the one hand, some of us contend that the United States is the proprietor and master of that canal. Upon the other hand, it is alleged that we have no rights in it which every other country on earth does not possess. That question may involve the life or the death of the United States. It was even contended that we could not fortify the canal, but we did fortify it. It was contended, and the language strictly construed is, that the canal shall be kept open for the vessels of all nations at all times on equal terms; and that construction would mean, as I have said, that if we were at war with Great Britain we would have to open the canal for her vessels to come through. That is where your logic leads you; and if you follow it in one clause and in one respect, why not follow it through to the end? And if you do follow it through to the end you are left in this position:

The United States, having built this canal, may find the day come when it is vital to her that the canal shall be open to her vessels and closed to the vessels of every other nation of the world; when it is vital to her that our guns shall frown down upon any fleet daring to enter that canal, and that they shall send that fleet to the bottom; when it is vital to us that we shall be able to carry our vessels from the Pacific Ocean quickly through the canal to mobilize and meet some great fleet attacking our Atlantic Coast, and yet we can not use the canal for that purpose unless the enemies of our country are given a similar privilege!

That construction, sir, will not do. That construction never would be followed; and we are to vote here to-day upon a proposition which means more than tolls to me. We are to assert our proprietary interest, our absolute ownership, our absolute control over this canal; and I want to do it now more than I ever wanted to do it at any time in history.

It is said the passage of this bill will interfere with the negotiations in regard to disarmament. Viewed rightly, there is nothing that could so much aid the cause of disarmament. Let me tell you why: Because the only great, powerful nation in this world that is not engaging in wars of conquest, that is not trying to gather up the territory of other peoples, is the United States of America. Everything that makes for her security, and that tends to prevent interference with her, is in the cause of peace. The canal under American control never will be used in a war of conquest. The canal open to the enemies of the United States will be merely a menace to the only country in the world that really stands for peace perpetual. If we are

to have disarmament at the expense of exposing our coast—and the canal is now a part of the American coast—then we would be better without it.

Mr. President, I have taken too much time and have only touched the outward edges of this question. In this matter I propose to vote for my country, for my country's preservation. I insist that I can do that and violate no pledge, for the pledge did not include the control of America's domestic commerce, and I think no nation but the British nation ever would have raised that point against us.

Mr. McCORMICK obtained the floor.

Mr. McNARY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. STERLING in the chair). The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hale	McKinley	Shields
Ball	Harris	McNary	Shortridge
Borah	Harrison	Moses	Simmons
Brandegee	Heflin	Myers	Smith
Broussard	Hitchcock	Nelson	Smoot
Calder	Jones, N. Mex.	New	Spencer
Capper	Kellogg	Newberry	Stanley
Caraway	Kendrick	Nicholson	Sterling
Colt	Kenyon	Norbeck	Sutherland
Cummins	Keyes	Oddie	Swanson
Curtis	King	Overman	Trammell
Dial	Ladd	Page	Underwood
Dillingham	La Follette	Pittman	Wadsworth
Edge	Lenroot	Poindexter	Walsh, Mass.
Elkins	Lodge	Pomerene	Walsh, Mont.
Fernald	McCormick	Reed	Watson, Ga.
Fletcher	McCumber	Robinson	Watson, Ind.
France	McKellar	Sheppard	Willis

The PRESIDING OFFICER. Seventy-two Senators having answered to their names, a quorum is present.

Mr. McCORMICK. Mr. President, very evidently we are about to vote, with a sort of frivolous solemnity, a grave and respectful levity, upon a measure of which the importance, if it be inestimable, is certainly great. We are about, I fear, to vote upon the issue of our right, as Senators see that right, to establish at Panama tolls discriminatory in favor of the coastwise shipping of the United States, a measure which touches vitally the economic life of the country, and still more vitally our good relations with two of the powers invited to meet in Washington to consider the limitation of armaments and the liquidation of chronic causes of difference and dissension between us and them.

I hold that we have the right to do what this bill proposes: I hold, too, that it is unwise to do it on the eve of the conference on the limitation of armaments. There has been no adequate discussion of the issue. I daresay it will be said that Senators, engrossed in the consideration of other measures, might have discussed that for the establishment of discriminatory tolls at Panama. I daresay it may be said that the question has been voted upon twice by the Congress of the United States, once with a result like that which is forecast for to-day and once with an exactly contrary result.

I daresay it will be said that the question in 1912, and again in 1914, was debated, considered, and decided. That is true. There was debate. There was consideration. There was decision, once to discriminate, and once to abandon discrimination, against the vessels of friendly foreign powers passing through the canal at Panama. The debate in 1914, when Dr. Wilson was President of the United States, and in defiance of his party platform urged the repeal of the discriminatory tolls and induced on the Democratic side the reversal of a regiment of votes—the debate of 1914, Mr. President, brought forth speeches of so high an order that it would be profitable to this Congress, and the people of the United States, to incorporate many of them in the record of to-day's proceedings, not only for the benefit of the Congress, but of the people of the United States. Men who were usually in agreement, upon that occasion presented conflicting views. Senator Root, of New York, and Senator Sutherland, of Utah, than whom we have no abler lawyers, contended, the one against discrimination and against our right under the treaty to discriminate, and the other, for discrimination and for our right to discriminate.

The Senator from Massachusetts [Mr. LODGE], the present leader of the majority, supported the President in his appeal to Congress to equalize all tolls upon all shipping, American or foreign, while his colleague, the present Secretary of War, in a searching argument of great ability, held to the contrary. Since it is on this side of the Senate that most of the votes in support of the bill of the Senator from Idaho are probably to be found, I have alluded to arguments made on this side in 1914. Let me add that among them there was none more important than that of the senior Senator from Connecticut.

I hope it may be read by every Republican in the Senate who did not sit here seven years ago, not only for the principles laid down with equal clarity and force by the Senator, but for the correspondence of John Hay, Secretary of State, and Joseph Choate, ambassador to Great Britain, setting forth the interpretation of the terms of the treaty by those who made it.

It is fruitless to argue to-day the economic wisdom of the policy embodied in the bill before us, or the question of our right under the treaty to do that which this bill provides we shall do. I do not ask you to consider that if this bill become law, you deal a blow, you strike at the agricultural and the industry of the States in the upper Mississippi Valley between the Alleghenies and the Continental Divide. I accept your answer that in your judgment it is both prudent and just, to do a hurt, probably temporary, to the commerce of Ohio and Indiana, to discriminate injuriously not only against the shipping of other powers, but also against the shipping of products from Michigan, Wisconsin, Minnesota, Iowa, Missouri, and Illinois, in the interest of that of the States which lie nearer the seaboard. There are times when high policy dictates that the interest of the party shall be temporarily sacrificed to the interest of yielding to conviction, will support the subsidy implied in this bill, the vote of the public moneys which this bill indirectly carries in order to further the commerce from coast to coast, as presently, yielding to a like conviction, they will oppose the opening of a true ship canal from the Great Lakes through the St. Lawrence to the sea.

If it would avail anything, Mr. President, still I would not argue the issue of our right under the treaty to discriminate at Panama in favor of our shipping and against that of other powers. Despite my own opinion, I avow that it is a close question of law; that is, of the terms of the contract set forth in article 3 of the Hay-Pauncefote treaty. I invite Senators to consider, not the economic unwisdom of the bill, not the rights of the United States under the treaties with Great Britain and with the Republic of Panama, but the policy of passing the bill of the Senator from Idaho at this time. If there be dispute among us as to American rights under the treaty, there is none abroad. The foreign offices of foreign countries hold with the late Secretary Hay that foreign merchantmen under the treaty must be accorded equal rights with our own; must be permitted to pass through the canal upon terms identical with those fixed for our own shipping, terms violated or threatened by this bill, in their judgment.

The Senate is about to pass a bill which we know can not become law and take effect before the first of the year, much less before the beginning or before the end of the conference on the limitation of armaments, the sole immediate result of which can only be to give offense to certain of the conferees here to assemble by our invitation, and far more serious than that, to rebuff the good will, to chill the friendly and generous feeling of the peoples who perhaps are readier to join their efforts to ours than are the more skeptic statesmen who will assemble at the council table in Washington.

It is only a weak voice which I can raise against that of the Senator from Idaho. I am conscious of the inadequacy of any argument which I can make against that of a Senator whose services to his country I am among the most eager to record as imperishable, and whose ability will give him a place in this Chamber by that of Sumner, Clay, Calhoun, and Webster.

The issues of the international conference to assemble in November hang in a trembling balance. They involve not only the limitation of armament but the resolution of many and long-standing differences, the consummation of true agreement, but above all the establishment of a fair concord which can not be born unless it be begotten by the generous justice of the people of the United States toward others, no less than toward their own. We need not dissemble the truth that the American people believe that the termination of the Anglo-Japanese alliance is a prerequisite to good understanding with Japan and to good fellowship with the British Empire. The alliance was made against imperial Russia and was maintained against imperial Germany. There is a profound belief in this land that if it be continued its result must be to establish economic discriminations against us, if nothing worse, a belief that it will menace our trade if it do not menace our peace. Is it conceivable that anyone here doubts that the unconsidered and fruitless passage of this bill is a poor prelude to that conference, in which the leaders on this side and yonder side of the Senate are to invite British and Japanese statesmen to give up an alliance which they hold is harmless to us, while we hold it inimical to our interest and, perchance, dangerous to our security?

Mr. REED. Mr. President, does the Senator then propose to trade the Panama Canal for a cancellation of the Japanese-British alliance?

Mr. McCORMICK. The Senator will learn before I have concluded if I make such a proposal.

Will they, the British and Japanese, not be justified in saying that we have put our interpretation upon an international treaty; that on the eve of a conference to seek concord we have hurriedly refused to seek negotiation or await arbitration in order to insist on our view? "How can you Americans, in good countenance and good faith," they will say, "ask us to consider any but our interpretation and our own interest in the terms of the Anglo-Japanese treaty or its renewal?"

I know, Mr. President, that it has been asserted that it does not lie in the mouth of the power, which to-day is suzerain in Egypt, despite the sacred pledges to evacuate, given by Gladstone, by Salisbury, by Aberdeen, or in the mouth of that other power which is sovereign in Korea, despite the pledges given by Ito—I know it will be said that it does not lie in their mouths to challenge our consistency or to hold that utter change of policy may not be justified by changed circumstances. That, sir, is an argument which might hold good under other conditions than these.

At this hour, when the hopes of the American people and those of the people of the world hang upon the forthcoming assembly of the delegates to Washington, when the success of the labor of those delegates turns not upon technical negotiation only but is predicated in great part upon generous good will, it does not become the Senate to pass this bill. In my humble opinion, if the terms of the agreement under which we are voting permitted a recommitment of the measure, a score of Senators who are disposed to vote "aye" upon its passage would vote to recommit, in order that consideration might be postponed until after the conference on armament has completed its labors. There is no advantage to be gained by haste. There are no rights to be lost by delay. There are none who will be injured by postponement. I appeal to Senators to vote against this measure to-day, not to assure its final defeat, but in order that its consideration may be put over until the conference of Washington has concluded its labors and until the peoples whose servants, despite all difficulties, wrote the compact under which the canal was built again, through their servants, may by negotiation and mutual consent resolve the difference of interpretation, which this bill would roughly brush aside.

Mr. POINDEXTER. Mr. President, it has been argued to-day, and also on other occasions when this question was before the Senate, that we ought to be very careful to give a liberal construction to the Hay-Pauncefote treaty, so as not to incur the odium of driving a sharp bargain with regard to our treaty obligations. I only wish to occupy the time of the Senate for a moment or two to call attention to the fact that the argument comes with very poor grace and with very poor foundation in the discussion of this particular treaty, for the reason that Great Britain herself has absolutely violated the principal provisions of the Clayton-Bulwer treaty out of which the Hay-Pauncefote treaty grew.

While it is true that the Hay-Pauncefote treaty has supplanted the Clayton-Bulwer treaty, and the Clayton-Bulwer treaty is now no longer binding upon either party, nevertheless the subject matter of the treaty having arisen out of the earlier treaty, it is very proper to take into consideration the conduct of the other party to this controversy in regard to its subject matter.

The principal consideration that Great Britain proposed—the concessions which she was supposed to make to the United States in the negotiation of the Clayton-Bulwer treaty were contained in this language of the Clayton-Bulwer treaty in the first article—that she would never—

> erect or maintain any fortifications commanding the same or in the vicinity thereof, or occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America.

She has utterly failed to keep that agreement. That was the consideration upon which were based the concessions to Great Britain as to the proposed canal that were contained in the Clayton-Bulwer treaty and also in its successor, the Hay-Pauncefote treaty, and the consideration has never been delivered. Great Britain still continues to exercise jurisdiction—sovereignty and dominion—over a very large part of Honduras and the coast of Central America which she agreed, by the express terms to which I have just referred, to relinquish.

I wish to call attention to a construction given by British authorities to the conduct of Great Britain in that respect. I quote from the Cambridge edition of the Encyclopedia Britannica, a British publication, on page 495, volume 6, the following statement:

> It seems to be a just conclusion that when in 1852 the Bay Islands were erected into a British "colony," this was a flagrant infraction of the treaty; that as regards Belize, the American arguments were decidedly stronger and more correct historically.

Great Britain has continued in the possession, in the enjoyment, notwithstanding the agreement which I have just quoted, of a great area, an exceedingly valuable territory in Central America, about 225 miles long and 40 or more miles in width, of great natural resources, which is now called British Honduras or Belize, the colony referred to by the author of the article in the British edition of the Encyclopedia Britannica, to which I have just referred.

As to the construction of the Hay-Pauncefote treaty itself, it is claimed that rule 1, laid down for the government of the canal, is binding upon the United States; that is, that it is applicable to the United States just as it is to other nations. Rule 1 is contained in the same article in which rules 3, 4, and 5 are contained, and it is utterly impossible to justify any principle of construction as to its effect which would not be applicable also to rules 3, 4, and 5. Rules 3, 4, and 5 read as follows:

> 3. Vessels of war of a belligerent shall not revictual or take any stores in the canal except so far as may be strictly necessary—
>
> And so forth.
>
> 4. No belligerent shall embark or disembark munitions of war or warlike materials in the canal except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.
>
> 5. The provisions of this article shall apply to waters adjacent to the canal within 3 marine miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than 24 hours at any one time, except in case of distress, and in such case shall depart as soon as possible—
>
> And so forth.

It is admitted by the diplomatists of Great Britain who represented her in the conduct of the negotiations over this matter that by reason of changed conditions under which the canal was constructed, rules 3, 4, and 5, to which I have just referred, can not be applied to the United States herself as the sovereign of the territory in which the canal was constructed. Therefore it follows as a matter of course that if those changed conditions relieve the United States from the effect of those rules, by the same principle it would relieve her of the effect of rule 1 contained in the same article.

This is what Sir Edward Grey said upon that subject. Quoting from him:

> Rules 3, 4, and 5 of article 3 of the treaty are taken almost textually from articles 4, 5, and 6 of the Suez Canal convention of 1888. At the date of the signature of the Hay-Pauncefote treaty the territory on which the isthmian canal was to be constructed did not belong to the United States, consequently there was no need to insert in the draft treaty provisions corresponding to those in articles 10 and 13 of the Suez Canal convention, which preserve the sovereign rights of Turkey and of Egypt and stipulate that articles 4 and 5 shall not affect the right of Turkey, as the local sovereign, and of Egypt within the measure of her autonomy, to take such measures as may be necessary for securing the defense of Egypt and the maintenance of public order, and in the case of Turkey, the defense of her possessions on the Red Sea.
>
> Now that the United States has become the practical sovereign of the canal, His Majesty's Government do not question its title to exercise belligerent rights for its protection.

So it follows, Mr. President, as a matter of course, that the change of the sovereignty of this territory which relieves the United States from the restrictions of those articles, as stated in the remarks which I have just quoted from Sir Edward Grey, also relieved the United States from the absurd and impossible obligation of collecting tolls from its own ships, as provided in article 1. The United States can not in any proper sense collect tolls from itself, and yet that is what we are asked to do in the construction of this treaty. We do not even attempt to do it in the case of naval vessels. When we do it in the case of merchant vessels that are owned by the United States, or by the agencies of the United States, it is nothing but a form; it comes out of one pocket and goes into another; which illustrates and demonstrates very clearly that the change of sovereignty, the fact that the United States constructed the canal upon its own territory, and that it is not simply a canal consructed under the auspices of the United States and Great Britain upon foreign territory, as the treaty contemplated—that change of condition altogether changes the application of section 1 of article 3, and makes it impossible to apply it to the ships of the United States.

Mr. President, as a part of my remarks I ask to have printed, without reading, an article upon this subject written by myself, which was published in the Forum magazine, in which this question is more fully set out.

The VICE PRESIDENT. Without objection, it is so ordered.

The article referred to is as follows:

[Article by Senator POINDEXTER, Jan. 4, 1921, from Forum Magazine, February, 1921.]

THE PANAMA CANAL AS A FREE WATERWAY FOR THE PASSAGE OF AMERICAN SHIPS.

The Panama Canal was constructed by the American people not as a financial investment on which direct returns were to be received but in pursuance of a great policy of state. The advantages which appealed to the judgment and the imagination of our Government and people were both military and commercial. As a part of military strategy it was to give more direct and quicker access of our fleets and transports to the Pacific, and as an aid to commerce it was to shorten the route and greatly reduce the expense of transportation between the East and the West. It could be readily seen by men of vision that it would solidify the Nation and concentrate its power. By its means the distance, in measure of hours and expense, between our States on the Pacific and those on the Atlantic would be greatly shortened.

Throughout our history it has been the constant tendency of our State policy, both local and national, to make all public highways free to the use and passage of our people. Our roads and streets are now almost entirely free of tolls, and, although we have spent more than half a billion of dollars in the improvement of our rivers and harbors, it has never occurred to our Government nor to any political party to advocate the charging of tolls for their navigation.

But upon the completion of the greatest of our public works, in the union by means of the Panama Canal of the two great oceans encompassing our domain, a different view seems to have taken possession of the minds of those who have been immediately and directly charged with the operation of the canal. It is a very narrow view. Apparently forgetting the prime objects of its construction, without which the necessary popular and governmental support would never have been obtained, they have apparently been inclined to look upon it as an enterprise which should support itself, at least, if not return a profit upon the investment by direct financial returns from the charges to be exacted from those, even our own citizens, who utilize its advantages. The canal should and, as commerce develops, will more than support itself. But it can be readily seen that if the idea of immediate financial income from the operation of the canal is made permanent and our own people compelled to contribute thereto it will diminish to a large extent the real benefits which were expected to accrue from the canal.

To whatever extent a charge is levied upon a ton of freight passing through the canal the passage of this freight is retarded and obstructed. It is as though some physical obstruction, making more difficult the passage of the canal, had been placed in the way in order to reduce its value as a facility of American commerce.

Another factor which has entered into the disposition of this question has been the natural rivalry of competing transportation systems. For more than a generation the influence of transcontinental railroads was used to retard and prevent the construction of this waterway. The Southern Pacific Railway, as a national transportation system, is only half rail, the other half being lines of ships operated by the railway from its eastern terminus at Galveston to New York. It is quite clear that an easy and cheaper means of transportation between the Pacific and the Atlantic coasts would tend to weaken the position of this system, both as to its rail lines and its water-borne commerce. To a greater extent the all-rail lines between the Pacific and the Atlantic would naturally likewise be affected, and the great Canadian Pacific system has a similar interest.

When the Republican Party in 1912 enacted a law for the free passage of the canal by American coastwise ships there was immediately developed a large volume of trade by this route. At that time the railroads had not been congested by the enormous increase of national and international trade which has since taken place and they became alarmed at this diversion of traffic, which they looked upon as their legitimate business.

The whole question has been complicated to some extent by treaties between the United States and Great Britain.

It is quite a triumph of British diplomacy that partly, at least, through its negotiation of the Clayton-Bulwer treaty in 1850 and the Hay-Pauncefote treaty in 1901 she has come to have, at least at the present stage of the controversy, an interest in the Panama Canal equal with that of the United States, although she has never contributed one dollar toward its construction or maintenance nor surrendered, nor ever owned, one foot of soil or water within or contiguous to it. This has come about, in the opinion of the writer, not through the provisions of the treaties themselves requiring such a construction but through the lack of definiteness, on the one hand, in the language of the treaties in the protection of the interest of the United States and wrong construction given to this language upon the other hand.

In the beginning of these negotiations the only basis of interest of Great Britain, upon which the whole subsequent superstructure of her claims has been built, was her so-called protectorate of the Indians of the Mosquito coast. This territory had been settled and conquered by Spain. In the early part of the seventeenth century the buccaneers, largely of British extraction but containing adventurers of various races, established their lawless empire in the Caribbean Sea. When their piratical activities had been largely suppressed some of them, and others attracted by them, went into the lumber trade on the coast of Nicaragua and Honduras. They claimed the protection of Great Britain, and in 1848 that power seized the Atlantic terminus of the proposed Nicaraguan Canal. It was alleged in the United States that this was a distinct violation of the Monroe doctrine, and partly as a result of this agitation and partly through the desire of the United States to secure the proposed route of the canal the Clayton-Bulwer treaty was negotiated. The consideration given by Great Britain in this treaty was the relinquishment of her claims to Greytown, at the mouth of the San Juan River, and this further important and significant agreement, in article 1 in the treaty, that she would never "erect or maintain any fortifications commanding the same or in the vicinity thereof, or occupy or fortify or colonize or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America."

This agreement, of course, if fulfilled by Great Britain would have avoided the violation of the Monroe doctrine, which discountenanced European colonization in America, and at the same time would have freed from British claims the Atlantic terminus of the proposed canal; but Great Britain did not fulfill the agreement, and so the consideration of the treaty failed. Notwithstanding her agreement just quoted, she has colonized and has assumed and exercised dominion over a portion of Central America 225 miles long, 40 or more miles in width, of great natural resources, which is now called British Honduras, or Belize.

The purpose of the Clayton-Bulwer treaty as stated in the prologue, relates specifically to a "ship canal which may be constructed between the Atlantic and Pacific Oceans by way of the River San Juan, and either or both of the lakes of Nicaragua, or Managua, to any port or place on the Pacific Ocean."

Article 8, of the Clayton-Bulwer treaty, however, contains the following: "The Governments of the United States and Great Britain having not only desired, in entering into this convention, to accomplish a particular object, but also to establish a general principle, they hereby agree to extend their protection by treaty stipulations to any other practicable communications, whether by canal or railway, across the Isthmus which connects North and South America, and especially to the interoceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama. In granting, however, their joint protection to any such canals or railways, as are by this article specified, it is always understood by the United States and Great Britain that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engages to afford."

It will be noted in the first place in this article 8, that the powers making the treaty "agreed to extend their protection" to the proposed canal or railway. In article 1 of the treaty it was provided: "Nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection, or influence that either may possess, with any State or Government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one any rights or advantages in regard to commerce or navigation through the said canal, which shall not be offered on the same terms to the citizens or subjects of the other." In other words the situation contemplated by the treaty was that of a protectorate by both nations over the canal, on equal terms, and did not contemplate at all a canal to be constructed by one party or the other on its own territory, and by use of its own funds. Furthermore, the agreement of article 8 was not to fix the status of such canal as it should be constructed, but it was an agreement to provide for such status by further treaties, the language being as follows: "They hereby agree to extend their protection by treaty stipulations to any other practicable communication," etc. In the Hay-Pauncefote treaty of 1901, the Clayton-Bulwer treaty was superseded, and there for the first time is mentioned a canal to be constructed "under the auspices of the Government of the United States," and that "the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive rights of providing for the regulation and management of the canal."

Still the canal which was contemplated was the proposed Nicaragua canal, it being the intention of the United States and of those representing them at the time, to construct a canal by this route and this was so understood. It will be noted also that while the provisions of the Clayton-Bulwer treaty were abrogated, it still was not contemplated, so far as the canal was concerned, nor any mention made in the treaty of such a plan, that the canal should be constructed upon territory which should be under the sovereign control of the Government of the United States; though the Clayton-Bulwer treaty being superseded, there were no treaty obstacles interfering with the United States acquiring such sovereign control.

Instead of the canal being constructed under the auspices of the United States, under such conditions as were referred to in the Hay-Pauncefote treaty, through territory governed by another nation, the United States has acquired full sovereignty over the territory through which the canal was actually constructed. It also acquired the rights of the French canal company in the Panama Canal, which it exercised under the concession granted by the United States of Colombia, known as the Wyse concession, in 1878. At the time we acquired these rights, and long before that, the French canal company was engaged in the actual work of construction of the canal, and its rights, both in the construction and in the government of the canal after it should have been constructed, were not subject in any way whatever to the claims of Great Britain.

On page 495 of volume 6 of the Cambridge edition of the Encyclopedia Britannica, a British publication, in 1910, it is stated: "It seems to be a just conclusion that when in 1852 the Bay Islands were erected into a British "colony" this was a flagrant infraction of the treaty; that as regards Belize, the American arguments were decidedly stronger and more correct historically."

That a treaty made with reference to well-understood conditions, existing at the time of execution of the treaty, is not binding as to entirely different and inconsistent conditions not contemplated by the parties to the treaty is a very well-known rule of international law.

An American authority, Dr. David Jayne Hill, states: "On the other hand, Great Britain, as the greatest of maritime powers, might profit greatly by the construction of such a canal, and there was the possibility that the United States, whose position in the Western Hemisphere had been profoundly modified in the 50 years that had elapsed since the signing of the Clayton-Bulwer treaty, might consider it expedient to denounce that treaty, on the ground that treaties, even when alleged to be perpetual, are morally binding only rebus sic stantibus, and cease to be so when conditions have essentially changed."

On the same subject Dr. Hannis Taylor, a distinguished authority on constitutional law, says: "As treaties stand upon a basis of their own, entirely apart from private contracts, the law of nations has always recognized the fact that all such agreements are necessarily made subject to the general understanding that they shall cease to be obligatory so soon as the conditions upon which they were executed are essentially altered."

The principle that all treaties are concluded upon the tacit condition, rebus sic stantibus, clearly recognized by Grotius (ch. 16, sec. 25 et seq.) and Vattel (book 2, ch. 13, sec. 200), has been denied by no modern authority. Hall, the greatest of the recent English publicists, whose book is the vade mecum of the British foreign office, declares in his work on International Law (sec. 116) that neither party to a treaty "can make its binding effect dependent at will upon conditions other than those contemplated at the moment when the contract was entered into; and, on the other hand, a contract ceases to be binding

as soon as anything which formed an implied condition of its obligatory force at the time of its conclusion is essentially altered." Mr. Oppenheim, now professor of international law in the University of Cambridge, has, in his great work, volume 1, page 550, section 539, said:

"It is an almost universally recognized fact that vital changes of circumstances may be of such a kind as to justify a party in notifying an unnotifiable treaty. The vast majority of publicists, as well as all the Governments of the members of the family of nations, agree that all treaties are concluded under the tacit condition rebus sic stantibus."

"In my own work on International Public Law (sec. 394) I have stated the matter in this way:

"So unstable are the conditions of international existence and so difficult is it to enforce a contract between States after the state of facts upon which it was founded has substantially changed that all such agreements are necessarily made subject to the general understanding that they shall cease to be obligatory so soon as the conditions upon which they were executed are essentially altered.

"Having thus restated the rule, it was not strange, perhaps, that I should have been the first to apply it to the construction of the Hay-Pauncefote treaty of 1901, which contemplated the building of an interoceanic canal by the United States in foreign territory. It seems to me that a radical breach of the tacit condition rebus sic stantibus occurred when, in November, 1903, the Canal Zone became, by purchase, the domestic territory of the United States. It is hard to deny that by that event the tacit condition, rebus sic stantibus, was broken, and yet the subject is a delicate one—it should be approached with great calmness, great caution. The existence of the rule rebus sic stantibus, as applied to the construction of treaties, has never been denied, so far as I know, and it is not at all likely that Great Britain will deny its existence in the present instance."

That the Hay-Pauncefote treaty is not applicable and in the nature of things incapable of application to the actual conditions under which the United States acquired, constructed, and is now controlling the Panama Canal, is admitted by Sir Edward Grey, then foreign minister of Great Britain, who represented her in this controversy.

In the so-called "free tolls" discussion he said:

"Rules 3, 4, and 5 of article 3 of the treaty are taken almost textually from articles 4, 5, and 6 of the Suez Canal convention of 1888. At the date of the signature of the Hay-Pauncefote treaty the territory on which the Isthmian Canal was to be constructed did not belong to the United States; consequently there was no need to insert in the draft treaty provisions corresponding to those in articles 10 and 13 of the Suez Canal convention, which preserves the sovereign rights of Turkey and of Egypt and stipulate that articles 4 and 5 shall not affect the right of Turkey, as the local sovereign, and of Egypt, within the measure of her autonomy, to take such measures as may be necessary for securing the defense of Egypt and the maintenance of public order, and in the case of Turkey, the defense of her possessions on the Red Sea.

"Now that the United States has become the practical sovereign of the canal, His Majesty's Government do not question its title to exercise belligerent rights for its protection."

Rules 3, 4, and 5 of article 3 of the treaty referred to by Sir Edward Grey provide as follows:

"3. Vessels of war of a belligerent shall not revictual or take any stores in the canal except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay in accordance with the regulations in force, and with only such intermission as may result from the necessities of the service.

"Prizes shall be, in all respects, subject to the same rules as vessels of war of belligerents.

"4. No belligerents shall embark or disembark munitions of war or warlike materials in the canal except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

"5. The provisions of this article shall apply to waters adjacent to the canal within 3 marine miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than 24 hours at any one time except in case of distress, and in such case shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within 24 hours from the departure of a vessel of war of the other belligerent."

The paragraphs just quoted were a very substantial part of the Hay-Pauncefote treaty, but Sir Edward Grey admits that they are not applicable to the Panama Canal on account of the fact that it was built under conditions entirely different from those which were contemplated and had in mind by the parties to the treaty at the time the treaty was negotiated.

He takes the inconsistent position, however, that though these provisions of the treaty do not apply, such other provisions of the treaty as it may suit the interests of the British Government to insist upon do apply, notwithstanding the fact that these same changed conditions affect these other provisions of the treaty in a like degree as those just quoted.

Of course, it would be a mere form, even if insisted upon, for the United States to pay to itself toll charges for the passage of its naval vessels through the canal and no such charge is made, and it is not contended, of course, by Great Britain that it should be made. And yet Great Britain, with utter inconsistency, takes the position that the treaty requires the United States to charge tolls for the passage of its merchant ships through the canal.

The provisions of the treaty with reference to the passage of merchant ships and naval vessels are exactly the same, as follows: "The canal shall be free and open to the vessels of commerce and of war of all nations observing these rules on terms of entire equality."

It is not open and can not be open on terms of entire equality as between the vessels of the United States and the vessels of other countries by reason of the fact, which is not in controversy at all, that the United States is the owner of the canal and collects the tolls. Whoever the owner and operator of the canal might be, whether a private corporation, such as that which partly constructed the canal before it was taken over by the United States, or some nation other than the United States, so long as this owner had charge of the canal and the use and benefit of any charges made upon commerce passing through it, its own vessels would necessarily have been in a different position from those of others. As a matter of fact the Hay-Pauncefote treaty was not only not drafted on the assumption that the canal would be constructed through territory owned by the United States as a sovereign power, but it did not contemplate, by its terms, the construction of the canal by the United States directly. On the contrary it expressly refers to a canal to be constructed "under the auspices" of the United States. All of these matters were ably presented to the British Government by President Taft and by Secretary of State Knox, with the result that at the time of the enactment of the so-called free tolls act in 1912 the controversy had been brought to an end and Great Britain had practically ceased to make any contention in regard to it.

The representatives of the United States, Mr. Hay, as Secretary of State, and Mr. Choate, as ambassador to Great Britain, as shown by their official correspondence, seem to have regarded the entire subject in a rather casual way so far as the protection of the interests of the United States was concerned. Mr. Choate wrote: "I have not had time to study this question carefully. * * * These are only my hasty suggestions, after having Lord Lansdowne's papers in my hands for only two busy days. I told him what I thought because he wanted to know, and I give them to you for what they are worth. * * * Upon the whole the prospect of a satisfactory settlement of this troublesome matter seems to me better than it has ever been before."

The principal object here seems to have been to get the "troublesome matter" disposed of, rather than to maintain and establish the rights and interests of this country.

In fact, Mr. Choate, in one of his letters taken from the publication of the official correspondence, made this strange statement: "Lord Lansdowne's object in insisting upon article 3a is to be able to meet the objectors in Parliament by saying that although they have given up the Clayton-Bulwer treaty, they have saved the 'general principle' and have made it immediately effective and binding upon the United States as to all future routes and have dispensed with future 'treaty stipulations'—making it much stronger than it was before. I think his all-sufficient answer is that by giving up the Clayton-Bulwer treaty, which stood in the way of building any canal, he has insured the building of a canal for the benefit of Great Britain at the expense of the United States."

In fact, events, strange as it may seem, have almost justified this remarkable analysis of the American ambassador, of the result of the treaty. In the London Times of December 31, 1913, it is stated: "The canal will be a boon to England. While the United States built it and glories in it, its commercial importance to the United States is a bagatelle as compared to its importance to the world's foreign trade."

Sir Edward Grey, in an official note, declared: "The volume of British ships which will use the canal will, in all probability, be very large. Its opening will shorten by many thousands of miles the waterways between England and other portions of the British Empire, and if, on the one hand, it is important to the United States to encourage its mercantile marine and establish competition between coastwise traffic and transcontinental railways, it is equally important to Great Britain to secure to its shipping that just and impartial treatment to which it is entitled by treaty and in return for a promise of which it surrendered the rights which it held under the earlier convention."

It may be mentioned here that while under the early convention it agreed to surrender certain rights, as a matter of fact it violated those conventions, as pointed out above, and that the entire earlier convention was superseded, as to the surrender of these rights, by the Hay-Pauncefote treaty, which eliminated the entire agreement against British colonization and dominion in the Caribbean.

A further proof of the inapplicability of the Hay-Pauncefote treaty to the Panama Canal is contained in the provision adopting the regulations governing the Suez Canal as the rule of the canal contemplated in the treaty. Of course, these rules, as pointed out by Sir Edward Grey, are inapplicable, in the very nature of things, to the United States as the sovereign of the Panama Canal. The British Government is merely a minority stockholder in the corporation owning the Suez Canal, and the regulations adopted in the convention of Constantinople, October 28, 1888, contained express provisions protecting the sovereign rights of Turkey and of Egypt, "within the measure of her autonomy." The parties to that convention were Great Britain, France, Russia, Germany, Austria, Italy, Spain, and Turkey. As Sir Edward Grey said, similar provision for the protection of the sovereign rights of the United States in the Panama Canal were not inserted in the Hay-Pauncefote treaty because it was not contemplated at that time that the United States was to be in that position.

All of the foregoing has been fully recognized by President Wilson and by the party which he represents. The Democratic platform of 1912 declared: "We favor the exemption from toll of American ships engaged in coastwise trade passing through the canal." President Wilson emphasized that demand in a campaign speech, to which he gave a special point by assuring his auditors that it was not mere "molasses to catch flies," and yet, without explanation or apology, in 1914 he practically demanded of Congress the repeal of "that provision of the Panama Canal act of August 24, 1912, which exempts vessels engaged in the coastwise trade of the United States from the payment of tolls." The message was delivered under peculiar circumstances. As stated above, the "free-tolls" provision had been accepted in effect, and the controversy had been concluded, but suddenly the President appeared in person before Congress and delivered to them a message dealing with this subject alone, and in it he did not mention his previous campaign pledges nor those of his party. He used this unprecedented language:

"We ought to reverse our action without raising the question whether we were right or wrong, and so once more deserve our reputation for generosity."

This, perhaps, was the first time in the history of any important country where it was successfully proposed by the Chief Executive that rights and policies of the most vital character should be disposed of "without raising the question of whether we were right or wrong." It contained, also, the novel idea and doctrine that the American Government, which under our theory of government is merely a trustee for the people, with limited powers and functions fixed in a written Constitution, had a right to surrender the interests of those people as a matter of "generosity."

There was an air of mystery about the entire matter and it was intensified by the President's obscure suggestions and vague references to unexplained international situations. In order to give added and powerful force to his appeal to Congress, the President said: "I ask this of you in support of the foreign policy of the administration. I shall not know how to deal with other matters of even greater delicacy and nearer consequence if you do not grant it to me in ungrudging measure." Notwithstanding the vogue of the administration for open diplomacy, the former President has never yet seen fit to take either Congress or the people into his confidence to the extent of explaining, even in the slightest degree, what these "matters of even greater delicacy or nearer consequence" were; and the question as to what great international emergencies or relations of such "near consequence" and "great delicacy" depended upon the charging of tolls by the United States upon its own vessels passing through the Panama Canal is to this day a subject of curious surmise. It is known that the question was reopened by Great Britain upon the urgent insistence of the Canadian premier. The interests of the Canadian Pacific Railroad in putting

obstructions in the way of the free use of the canal was the same as that of the American transcontinental lines.

The imposition of $1.20 upon each ton of American freight passing through the canal is a serious obstacle to the development of an American merchant marine. The same policy of "generosity" which imposed this burden has been at the bottom of the internationalist movement which has been the chief issue of American politics for the last two years. It is part and parcel with the policy, advocated by a member of the Cabinet, of passive surrender to foreign countries in the struggle for the trade of South America on this same plea of altruism, and of the entire movement for the formation of a world republic, with centralized legislative and executive powers in which there should be no "economic barriers" or discriminations between its several States. The most active instrumentality backing up the demands of Great Britain in this controversy was the Carnegie Peace Foundation. The burden of the argument for Great Britain in the Senate of the United States was borne by Senators who were on the board of directors of this Carnegie Foundation. The fact has often been overlooked that this institution was founded by a Britisher and not by an American, and the further and much more significant circumstance was forgotten that Andrew Carnegie—not an American citizen, although he had achieved great business success in this country, but a registered voter in Scotland and a subject of Great Britain—was a vigorous public advocate of a return of the United States to a union with that empire. He looked at things from the British standpoint, and the money, by which was widely distributed literature and propaganda in favor of giving Great Britain equal rights with America in this American canal, was supplied very largely by this Carnegie institution.

In the effort, which is favored by most of our people, to develop a merchant fleet under the American flag no single advantage would be more conducive to its prosperity and success than the free use by our own ships of this great canal, which the vigorous energy and determination of Theodore Roosevelt and the enterprise and genius of the American people have provided for the Nation without any foreign assistance whatever.

As to the effect of a waterway in cheapening freight rates, it may be noted that when water transportation by the Erie Canal was opened in about 1871 the rail rate on wheat from Chicago to New York was 31 cents a bushel. A water rate of 20.24 cents a bushel was established, and through the operation of this influence in 1912 the rail rate had been reduced to 9.6 cents a bushel, while the water rate had come down to 5.57 cents a bushel.

In 1911 the State of Washington produced 4,064,754,000 feet of lumber; the State of Oregon produced 1,803,698,000 feet; the State of California produced 1,207,561,000 feet, a total of 7,016,013,000 feet of lumber. The Pacific coast continues to be the greatest lumber producing section of the Union. This lumber is used very largely in the Mississippi Valley, which is easily reached from the Gulf and the Mississippi River, and on the Atlantic coast. The trade rival in lumber of the Pacific coast is British Columbia, carrying lumber in British ships more cheaply than in American ships. This inequality of the cost of operation could be largely equalized by giving to our own ships the free use of our own canal. The cost of transportation, of course, enters into the cost to the consumer, or ultimate purchaser, and the owners of the cargo of a ship of 10,000 tons, paying tolls of $12,000 for its passage at Panama, must add this cost to the sale price of the cargo. The total burden to the people in the volume of commodities transported both east and west by rail and by water affected directly and indirectly in multiplied and widening zones is readily to be seen.

The true policy for the United States is to exercise its sovereign rights, which are denied by no one, and establish a policy with reference to the Panama Canal which will produce the greatest possible benefit to the American people, consistent with fair treatment of foreign nations. No foreign country can object to paying a reasonable rate as a toll for the use of this canal in order to compensate the American Nation, at least in part, for the cost of its maintenance. The enormous burden of its construction can only be repaid to them by its free use by our own ships of commerce and the strategic advantage which it gives to our ships of war.

Mr. WADSWORTH. Will the Senator from Idaho yield to me for just a moment, in order that I may ask to have a paper printed in the RECORD?

Mr. BORAH. I will.

Mr. WADSWORTH. I am to-day in receipt of a message signed by a number of prominent people of the city of New York somewhat in the nature of a petition. It has to do with the pending measure, and I therefore ask unanimous consent that it be printed in the RECORD.

The VICE PRESIDENT. Without objection, it is so ordered.

The paper referred to is as follows:

NEW YORK CITY, *October 9, 1921.*

We appeal as American citizens to the President and Congress to defeat the measure now before the Senate relative to the use of the Panama Canal and thus sustain our honor as a nation and avoid every appearance of violating our treaties.

HENRY E. COBB,
Pastor West End Collegiate Reformed Church.
MAURICE H. HARRIS,
Rabbi of the Temple of Israel.
CHARLES E. JEFFERSON,
Pastor of Broadway Tabernacle.
CHARLES S. MACFARLAND,
General Secretary of the Federal Council of the Churches of Christ in America.
WILLIAM T. MANNING,
Bishop of the Diocese of New York.
WILLIAM H. MERRILL,
Pastor of the Brick Presbyterian Church.
JOHN M. MOORE,
Pastor Marcy Avenue Baptist Church, Brooklyn, N. Y.
HOWARD C. ROBBINS,
Dean of the Cathedral of St. John.
RALPH W. SOCKMAN,
Pastor Madison Avenue Methodist Church.
GEORGE U. WENNER,
Pastor Christ Lutheran Church.

Mr. WILLIS. Mr. President——

Mr. BORAH. Mr. President, the Senator from Ohio [Mr. WILLIS] has expressed a desire to speak upon the pending matter. I am therefore going to yield to him in the hope that I may be able to have 20 minutes in which to address the Senate before the debate closes.

Mr. WILLIS. Mr. President, I express my appreciation to the Senator from Idaho for his courtesy, and assure him and the Senate that I shall not very long trespass on the time of the Senate.

Mr. President, I have risen in my place simply for the purpose of keeping the record straight. With other Senators I was present at the Chicago convention in 1920. There was no voice there more potent or eloquent than that of the Senator from Illinois [Mr. MCCORMICK]. I do not now recall whether as a member of the committee on resolutions he participated directly in the writing of the Republican platform, but he participated, as did every delegate to that convention, in the adoption of that platform. However, the Senator from Illinois now engages in discussion that leads us to believe he thinks the passage of the pending bill would be unwise. I want to call attention to what was said in the Republican platform, which was a part of that Senator's handiwork upon the very subject now before us.

Mr. McCORMICK. Mr. President——

Mr. WILLIS. I yield to the Senator.

Mr. McCORMICK. Let me say to the Senator from Ohio that I was on the subcommittee which wrote the platform, and furthermore that I have not urged that we have not the right to do what is proposed to do to-day; but that, in the light of the international conference which has been called, it would be unwise to do it at this time.

Mr. WILLIS. Mr. President, the statement of the platform does not proceed simply upon the question of right, but it proceeds upon the question of policy as well, for here is what the platform says—and I am glad to hear the Senator from Illinois say that he was one of the subcommittee that wrote that plank——

Mr. McCORMICK. No; that wrote the platform. The Senator from Idaho wrote the particular plank to which the Senator from Ohio refers.

Mr. WILLIS. But whether written by the Senator from Idaho or the Senator from Illinois, it was, nevertheless, a plank of the platform for which the whole convention was responsible. It reads:

> We recommend that all ships engaged in coastwise trade and all vessels of the American merchant marine shall pass through the Panama Canal without payment of tolls.

Mr. President, I am not one of those who can make themselves believe that it is wise policy or that it is fair dealing with the American people to say one thing in a platform in June and then say the exact reverse of that thing when we come to legislate in October. I believe that the party to which I have the honor to belong is bound by the plank in its platform which I have read. While I regret that this question is before us just now, I do not think that any circumstances have arisen since the adoption of the platform to excuse the Republican Party from carrying that pledge into effect.

Mr. WATSON of Indiana. Mr. President——

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Indiana?

Mr. WILLIS. I yield to the Senator from Indiana.

Mr. WATSON of Indiana. Mr. President, in the interest of truth and by way of explanation of the real situation so far as the action of the Chicago convention relative to this particular plank of the platform is concerned, I desire to say that, as the chairman of the committee on resolutions and chairman of the committee which wrote the resolutions, this plank was adopted without a dissenting voice. It was prepared by the Senator from Idaho [Mr. BORAH], presented by him to the subcommittee, unanimously adopted by the subcommittee, and unanimously adopted by the full committee. There was no question in either the committee or in the convention itself in regard to this proposition. I desire to make that statement because there has been some question about the authorship of the plank and the manner in which it was inserted in the platform. Some persons have intimated or insinuated that it was done in some clandestine or surreptitious manner. It was not. It was discussed and adopted after discussion.

Mr. WILLIS. Mr. President, the statement of the Senator from Indiana is undoubtedly absolutely correct and is an added reason why the Republican Party is bound by its declaration. There is no element of snap judgment about it at all. The proposition was unanimously agreed to, as I very distinctly recall, on the floor of the convention.

Since quotations have been made from eminent authorities, I wish to read into the RECORD at this time the following:

I am confident that the United States has the power to relieve from the payment of tolls any part of our shipping that Congress deems wise. We own the canal. It was our money that built it. We have the right to charge tolls for its use. Those tolls must be the same to everyone; but when we are dealing with our own ships, the practice of many Governments of subsidizing their own merchant vessels is so well established in general that a subsidy equal to the tolls, as equivalent remission of tolls, can not be held to be a discrimination in the use of the canal. The practice in the Suez Canal makes this clear. * * *

That is not my language; that is the language of a former President of the United States, now the Chief Justice of the United States Supreme Court, and in those words uttered by him he makes it perfectly clear that in his view there is no question about the authority, the power, and the right, legal and moral, of the United States to discriminate in favor of its own vessels.

It can not be said with any show of logic that this Government would not have the power to pay the tolls of its own vessels if it wanted so to do, and if it has the right to pay tolls on its own ships it certainly would have the right to grant free tolls to our coastwise vessels. Senators seem to forget that the Panama Canal is an American canal, conceived by American brains and paid for with American money; and yet we are told that, having done all this, and assumed responsibility for the maintenance of the canal, this country has no more right in this great highway which it built and paid for at a cost of $400,000,000 than other nations which did not spend a cent in its construction and have no obligations for its maintenance and defense. I decline to believe that the men who drew up the agreements under which the canal was built could have been willing so to sign away the rights of the United States, and I do not believe that our rights were signed away or impaired by the Hay-Pauncefote treaty.

Ex-President Taft believed we had full right to control the canal and send our coastwise ships through it free of tolls. Ex-President Roosevelt spoke on this subject clearly and in terms that did not admit of quibble or equivocation. He said:

I believe that the position of the United States is proper as regards this coastwise traffic. I think that we have the right to free bona fide coastwise traffic from tolls. I think that this does not interfere with the rights of any other nation, because no ships but our own can engage in coastwise traffic, so that there is no discrimination against other ships when we relieve the coastwise traffic from tolls. I believe that the only damage that would be done is the damage to the Canadian Pacific Railway. Moreover, I do not think that it sits well on the representatives of any foreign nation, even upon those of a power with which we are, and I hope and believe will always remain, on such good terms as Great Britain, to make any plea in reference to what we do with our own coastwise traffic, because we are benefiting the whole world by our action at Panama, and are doing this where every dollar of expense is paid by ourselves. In all history I do not believe you can find another instance where as great and expensive a work as the Panama Canal, undertaken not by a private corporation but by a nation, has ever been as generously put at the service of all the nations of mankind.

Those words are not mine; those are the words of Theodore Roosevelt. That was the view that he took of this question, and he certainly knew as much about the canal as did any man of his time. Ex-President Taft says unequivocally that we have the right legal and moral to send our coastwise vessels through the canal free of tolls; Theodore Roosevelt held the same view, and former President Wilson once took substantially the same position, as will be seen from the quotation which I now read from him:

One of the great objects in cutting that great ditch across the Isthmus of Panama is to allow the farmers, who are near the Atlantic, to ship to the Pacific by way of the Atlantic ports, to allow all the farmers on what I may—standing here—call this part of the continent to find an outlet at ports of the Gulf or the ports of the Atlantic seaboard, and then have coastwise steamers carry their products down around through the canal and up the Pacific coast or down the coast of South America.

Now, at present there are no ships to do that, and one of the bills pending—passed, I believe, yesterday by the Senate as it had passed the House—provides for free toll for American ships through that canal and prohibits any ship from passing through which is owned by any American railroad company. You see the object of that, don't you? [Applause.] We don't want the railroads to compete with themselves, because we understand that kind of competition. We want water carriage to compete with land carriage, so as to be perfectly sure that you are going to get better rates around the canal than you would across the continent.

* * * * * * *

Our platform is not molasses to catch flies. It means business. It means what it says. It is the utterance of earnest and honest men, who intend to do business along those lines and who are not waiting to see whether they can catch votes with those promises before they determine whether they are going to act upon them or not.

The Democratic platform of 1912 contains the following declaration:

We favor the exemption from tolls of American ships engaged in coastwise trade passing through the Panama Canal.

We also favor legislation forbidding the use of the Panama Canal by ships owned or controlled by railroad carriers engaged in transportation competitive with the canal.

So, Senators, we have the record. Every President that has had anything to do with the tolls question has declared strongly in favor of free tolls. Two great parties have proclaimed to the people their devotion to this proposition; and it is significant that in 1912 when the Democratic Party made its announcement on this subject it swept the country, and in 1920 when the Republican Party wrote a similar pronouncement in its platform that platform was adopted by unanimous consent in the convention and pretty nearly unanimously by the country.

Mr. President, we have now come to the point where we are to determine whether or not the pledge which we have made to the people shall be kept. So far as I am concerned, I feel it my duty to vote in favor of keeping the pledge and translating promise into performance.

Mr. KELLOGG. Mr. President, will the Senator from Idaho yield to me for five minutes?

Mr. BORAH. Yes.

Mr. KELLOGG. I wish to thank the Senator from Idaho for yielding a few moments to me.

I am utterly unable, Mr. President, to bring myself to believe that the British construction of the Hay-Pauncefote treaty is correct. I have examined, I think, all or nearly all of the speeches made in 1912, 1913, and 1914, and have listened to the arguments of distinguished Senators upon this floor. The arguments in favor of the British interpretation of the Hay-Pauncefote treaty are based almost entirely upon the Clayton-Bulwer treaty, which, it is said, is carried forward so far as the neutralization of the canal is concerned into the Hay-Pauncefote treaty. I think the Clayton-Bulwer treaty was an entirely different proposition. In that instrument Great Britain and the United States made an agreement as to a canal that somebody else was to build and own; neither country was to have any dominion over any part of Central America or control over the canal otherwise than that they jointly guaranteed equal facilities to all the nations of the world.

The Hay-Pauncefote treaty sets the Clayton-Bulwer treaty entirely aside. An entirely different condition arose, and the United States was given the right to acquire, as it did acquire, the territory which should be traversed by the canal, the right to own the canal, to construct the canal, to fortify the canal, and it assumed the obligation of paying all of the expenses and of making the guaranties to the other nations of the world and to carry them out.

Under those circumstances, unless there is some clear language to the contrary, I can not believe that we have not a right as the proprietor of that canal to discriminate in favor of our own ships. Suppose the Government owned them all. Are we to charge tolls and take the money out of one pocket and put it into another? How are you going to charge yourself tolls?

Mr. President, I have no time in which to go into the history of the Hay-Pauncefote treaty, but it is a significant fact that in all the correspondence in the negotiation of the treaty there is not a direct statement by any British statesman that the United States has no right, as the owner of the canal, to pass its vessels through free or to charge them what it sees fit.

Mr. STERLING. Mr. President, will the Senator yield for just a minute?

Mr. KELLOGG. Yes.

Mr. STERLING. Does not the Senator know that the negotiations were carred on——

Mr. BORAH. Mr. President, I yielded to the Senator for five minutes, but I do not want to yield for a debate.

Mr. KELLOGG. Then I can not yield to the Senator, because the time is so short.

Mr. President, I am not going to repeat the arguments made, but in the Hay-Pauncefote treaty exactly the same language is used as to our warships that is used as to our commercial ships, and if we are obliged to charge tolls for every ship equal to the tolls we charge Great Britain we are absolutely obliged to charge them as to our warships. There can not be any mistake about it. I say that when the guarantor is using the language "all nations," and especially in connection with those rules which provide for neutralization in time of war and as to the use of the canal and its fortification and its protection, if those provisions do not apply to the United States the other provision does not apply to the United States.

I am not speaking upon the justice of free tolls at all. The trouble is that a vote against this bill will be considered by Great Britain, as it was in 1914, as a concession that her position is correct. I am unwilling to concede that position.

Mr. BORAH. Mr. President——

Mr. SIMMONS. Mr. President, I do not wish to interrupt the Senator, and I am not going to take his time; but I do want

to say, if the Senator will permit me to do it, that I think it is exceedingly unfortunate that practically all the time to-day has been taken up by the friends of the bill. I had hoped that those who opposed it might have an opportunity to devote at least 15 or 20 minutes to a discussion of it this afternoon.

Mr. BORAH. Mr. President, I do not know just how the time has been divided. I have not undertaken myself to interfere with it, but it seems to me as many Senators have spoken against the bill as have spoken for it. It may be that more time has been consumed upon one side than upon another, but the first part of the day was taken up entirely by those who were opposed to the bill. How much time did the Senator want?

Mr. SIMMONS. I shall not interfere with the Senator's time. I merely wished to make that statement.

Mr. POMERENE. Mr. President, will the Senator yield to me to make a statement of about half a minute?

Mr. BORAH. Yes.

Mr. POMERENE. Mr. President, I had expected to address the Senate on this subject. I found that the time was being taken up, and I understood that the Senator from Idaho was going to close the debate, and I yielded for that purpose. I did not suppose that the time would be farmed out to some of the other Senators.

I am not finding fault with that. I simply want to say that at some future time I shall discuss this matter. I do not agree with the legal construction that is placed upon this treaty by the proponents of this bill. I do not agree, although it was in our platform, that that represented the sentiment of the convention; and I think that after this bill is passed it will be said that we have bartered away the honor of the country for a ship subsidy.

At another time I shall speak on this subject.

Mr. BORAH. Mr. President, it is evident that the Senator feels very deeply about this matter, and in that respect he does not differ from some others who are advocating the bill.

Mr. President, let us understand precisely what we are doing to-day. We are, in a legislative way, placing a construction upon this treaty. It may result in a construction favorable to the views of those who are opposed to the bill. I do not know. On the other hand, it may result in a construction in favor of free tolls; but, however it may result, it is the construction which the American Senate is placing upon the treaty, and in doing so the Senate is engaging in no other kind of an enterprise than that which Great Britain is engaging in when she places the opposite construction upon it. She does not legislate on this matter because she can not, but she, through all governmental agencies, is asserting her construction.

We have been criticized to-day for even assuming to debate this side of the question, or to place upon it a construction favorable to free tolls, as if that of itself were a matter of dishonor. I take it that in advocating free tolls every Senator is advocating them because he believes that they are not included in the treaty. We are not contending for the violation of a treaty. I expect each Senator who believes this bill to be in violation of the treaty to vote against it, and I have no doubt he will. I want no vote of any Senator who believes the treaty inhibits this bill, and I know my colleagues well enough to know I would not get it if I did. We are contending for a vital American right and a right which we assert has never been given away or encumbered by treaty.

No Senator is going to vote for free tolls who believes that the treaty does not permit them; and the question of honor or dishonor is not involved in this debate at all. Unquestionably, if free tolls for coastwise vessels are not incorporated in the terms of the treaty, we have a right to provide for free tolls, and it is in the belief that that is true that we are advocating free tolls. In doing so, we are doing nothing different from what the advocates of the other side of the matter are doing or what Great Britain is doing in insisting that they are incorporated in the treaty. It seems that honor consists of remaining mute, although you may feel that important rights are being denied your own people, provided another nation happens to take another view. It is in no sense more dishonorable to sincerely advocate a construction which you believe to be in accordance with the terms of the treaty and which protects our interests than for Great Britain to advocate the opposite.

Mr. COLT. Mr. President, may I ask the Senator if we are not doing something more in the Senate than advocating free tolls? Is not our action the passing of a statute making the free-tolls provision the law of the land?

Mr. BORAH. It is.

Mr. COLT. That is what I object to.

Mr. BORAH. We are putting a construction upon the treaty by the act of Congress.

Mr. COLT. By law.

Mr. BORAH. And if the matter were within the legislative jurisdiction of Great Britain undoubtedly she would reduce her opinion or belief to a statutory form, just as we do. By reason of the fact that we are in control of the canal it is the only method and manner by which we can deal with it and thereby record our convictions in regard to it.

Mr. President, something has been said with reference to the platform. Only a word in regard to that. This plank was not put in the platform surreptitiously. It was brought out before the committee and discussed, and finally adopted after discussion. If there was any opposition to it at that time, it was not recorded nor made known. Furthermore, Mr. President, it was not a concealed proposition during the campaign. I shall not take the time now to read expressions from leading Republicans upon this subject, or from the candidate for the presidency; but the President made his position perfectly clear to the voters of this country during the campaign and stated that he had always favored free tolls, that he was in favor of free tolls at that time, and that he would advocate the proposition. I venture to say, Mr. President, the President has not changed his mind, and at some time or other this matter must come up for settlement in this way.

Just a word in regard to the subsidy.

I realize that the question of a subsidy must come up hereafter to be dealt with. It is for the American people to determine whether or not they desire to grant free tolls to coastwise vessels, ultimately and finally, as an economic proposition. When that question is presented to the American Congress, disentangled from the question of whether or not we have the right under the treaty to do so, I shall myself advocate the control of the matter by a proper tribunal, placing it under the control of the Interstate Commerce Commission or some other tribunal which can deal with the subject in accordance with the economic interests of the American people.

Mr. PITTMAN. Mr. President——

Mr. BORAH. Just a moment. As I view the situation now, Senators, we are engaged, in the only way we can, in bringing the final solution of the treaty question before the tribunals which must finally settle it. When that is settled, and the treaty obligations pro or con are established, and we come to deal with the matter as a domestic question, it will be for us to determine whether or not we want free tolls. Until, however, the question is relieved entirely of the embarrassment of the treaty or the dictation of a foreign power, I am not concerned in the question of a subsidy. I will deal with that when we can deal with it as our own exclusive problem.

I yield to the Senator from Nevada.

Mr. PITTMAN. Mr. President, the question that the Senator from Idaho is now discussing is the only question in this matter that concerns me, and in that I am deeply interested.

In 1914, when this same question was before the Senate, I addressed myself to the questions involved and took the same position that the Senator then took and that the Senator now takes with regard to the right of this Government to pass its coastwise ships through the canal free of toll. I am still of that opinion, but the passage of this bill will enact a law which will mean the passage of coastwise ships through the canal free of toll without other limitations or regulations. The effect will be to increase the railroad discriminations in favor of coast points against interior points, which even at the present time are unbearable. I do not think any section of the interior country will be benefited by the passage of the bill. I am sure that the interior country will be injured further by it.

The suggestion of the Senator that after the granting of free tolls for coastwise ships that we can enact legislation giving the Interstate Commerce Commission control over such shipping offers no hope for the intermountain country and particularly to my State. The Interstate Commerce Commission even now has authority to prevent the unjust discriminations in favor of coast points as against interior points, but they have failed and refused to grant a proper relief upon each and every occasion upon which such relief was demanded. You, of course, are aware of this discrimination. Some Senators and Members of Congress may not understand it.

Our freight rates are from 15 to 30 per cent higher than the freight rates accorded to coast points even where there is a much longer haul to and from the coast points. The Interstate Commerce Commission justifies this discrimination upon the grounds that the railroads at coast points must meet water competition and particularly water competition through the Panama Canal.

Even now the Inerstate Commerce Commission is being urged to reduce the freight rates to and from Pacific coast points without reducing the rates at intermediate points, such as in my

State, on the grounds of competition by water through the Panama Canal. Such reduction will increase the discrimination against my State and the intermediate country.

The State railroad commissions and all the public bodies of all the intermountain States are now bitterly opposing this suggested reduction if not accompanied by proportionate reduction at intermediate points. How much stronger will be the argument of the coast points and of the railroads for the reduction if coastwise ships may pass through the canal without paying tolls? We of the intermountain States know that nothing but a Federal law prohibiting such discriminations will protect us, and when that Federal law is enacted I will then vote for free tolls, but never before that time.

Mr. BORAH. Mr. President, I understand the Senator's question. About that matter, it may be the Senator from Nevada and I will have very little disagreement when we come to deal with it.

Mr. POINDEXTER. Mr. President, may I say just a word in reply to the Senator from Nevada? The Senator from Nevada is well aware of the fact, because he and I have occupied the same position on that question, that the Interstate Commerce Commission permits the railroads to make exceptions to the fourth section of the interstate commerce act and put down their rates at the terminal points and keep them up at the intermediate points, so that it makes no difference whatever whether there are free tolls in the Panama Canal or not; so long as that system prevails, no system of ship lines could be maintained.

Mr. BORAH. Mr. President, before the Senator gets on his feet——

Mr. PITTMAN. I will not take up the time of the Senator.

Mr. BORAH. I wish to say that I should like to be permitted to take 20 minutes without interruption. After that time I will consent to interruption.

Mr. President, the subject of arbitration has been presented, and with some force. It is a matter upon which the Senator from Rhode Island [Mr. COLT] dwelt with his usual earnestness and ability. I have no doubt but that at some time we shall be called upon to determine whether we will arbitrate this question; but I want to submit for the consideration of the Senate this proposition:

Suppose that it were a matter now proceeding to arbitration, and before the arbitral tribunal it should appear that the last and final construction of this treaty by the American Congress or by the American Government was in favor of the British contention. What chance would the American representatives have in contending against a construction which was unchallenged and undisturbed, placed upon the treaty by the American Senate and by the American President? Our case would be decided upon our own construction. I contend, Mr. President, that if we are finally going to arbitration, we ought not to go there as we would to a moot court, with the question already decided alike by both sides, the British contention being that we can not send coastwise vessels through free, and the final construction of the American Government unchallenged that we can not. What would there be to arbitrate? How do you think the arbitrators would look at it?

The question of arbitration was before the representatives of this Government just before we began to discuss the act of 1914. It was being insisted that we should arbitrate. But as soon as the act of 1914 was passed, and the American Congress, the only official body which could speak upon the subject, had declared in accordance with Great Britain's views, the ambassador of Great Britain immediately stated that they regarded the question of arbitration superfluous, and that there was no occasion for Great Britain to arbitrate anything.

I ask the Senator from Rhode Island, if he were presenting our rights under the treaty before an arbitral tribunal as a lawyer, would he not feel considerably handicapped and embarrassed if behind him was an unchallenged construction by the American Senate and the American President that he was wrong in his contention?

Mr. COLT. May I say to the Senator that that is not the question before the Senate. The only question before the Senate is whether we will pass a statute making our own construction the supreme law of the land. I concede the right of the United States to indorse its own construction in the strongest terms before any tribunal, and I concede that there are two sides, and that the question is a doubtful one, but I deny the right of the Senate to pass a bill making its own construction of a contract the supreme law of the United States.

Mr. BORAH. Mr. President, that does not at all detract from the contention which I have made, that the matter as it now stands, unchallenged, presents a construction, thus far final, upon the part of an official body of the United States that we have no right to send coastwise vessels through that canal, and if we were to call for an arbitration, as asked for by the Senator from Utah, we would be going to the arbitral tribunal with our own construction in favor of the opposite party. When we placed a construction upon this treaty in 1914 we left the matter entirely satisfactory to the opposite party, and with both parties in complete agreement as to what the treaty means. Why should Great Britain arbitrate if the record is left in that condition, and why should arbitrators decide in our favor and against our own official construction?

I have never known of an arbitration of that kind. I contend, at least, Mr. President, that when the Government goes before that arbitration tribunal it shall not go there with its case decided, with its mouth closed, and it estopped from contending against its own construction. It seems that opponents of this bill are not content with arbitration, but they want the record such that the United States has no chance whatever.

So when we pass this law, if we do pass it, we will then have arrived at the point, if you please, where arbitration can properly be asked for by Great Britain, and there will be something to arbitrate; there will be a contention on both sides which makes the issue. We do not by this act refuse to arbitrate; we do not decline to arbitrate. We will simply be in a position where we can arbitrate and arbitrate with the contention of our Government supporting us. When she asks for arbitration then we can cross that bridge. If I am here at that time I shall likely have something further to say about it.

Mr. President, it has been said that it is most unfortunate that this bill should come up at the time when the great disarmament conference is just ahead of us. I should count myself most unfortunate indeed if, by reason of poor judgment, I should in any way embarrass the work of that disarmament conference. I have never supposed that the disarmament conference, however, would involve the question of the United States bartering away any substantial right which belongs to her domestic affairs. It was rather a new doctrine to me that we could be considered as offending the situation by contending for the right to deal as we wish with our domestic commerce. I thought the matter over before I urged the bill, and I talked to those who are most responsible at this time for the disarmament conference.

I did not urge the bill nor ask for a day for voting without a full consideration, a full discussion, and a full understanding with those who are now primarily responsible for what that conference shall do so far as this country is concerned. I have not gone into this blindly or stubbornly or in disregard of other people's views. I have endeavored, although some people may seem to think that that is rather a peculiar course for me to pursue, to get the views of those who would be most embarrassed if embarrassment could arise, and I succeeded in getting them.

I desire to say, therefore, that in my judgment the fears which are expressed here are not entertained elsewhere with regard to this matter.

Just a word more, Mr. President, as my time is almost up. This bill relates alone to the question of coastwise trade. The bill has been discussed by a number of Senators as if it involved the entire question of tolls for all vessels carrying both foreign and domestic trade. It deals alone with the one question of our domestic trade. That should be kept in mind.

The Senator from Rhode Island [Mr. COLT] in his discussion dealt with the subject upon the theory that it covered all tolls, and he also dealt with a treaty which has never been written. He made a treaty of his own to suit the exigencies of debate. I call the Senate's attention to the fact that every Senator who has discussed the proposition of charging tolls for coastwise vessels has been compelled, because of the difficulty of dealing with it otherwise, to discuss a treaty which we have never signed. They have deleted and taken from the treaty itself phrases attached to other phrases and divided them and divorced them in order to put a construction upon it which was tenable from their standpoint.

The Senator from Rhode Island said, "There are irreconcilable differences of opinion as to the meaning of the words 'all nations' and 'vessels of commerce' and 'no discrimination'" in rule 1, and also as to the meaning of the general principle of neutralization.

Observe that the Senator states that there has been a difference of opinion as to the meaning of the term "vessels of commerce." We have no treaty dealing with vessels of commerce alone. The same phrase which covers "vessels of commerce" says, "and vessels of war," and in order to relieve vessels of commerce, taking the same phrase, you must relieve vessels of war.

Constantly and throughout his discussion, as well as throughout that of the able Senator from North Dakota [Mr. MCCUM-

BER], whenever they would reach that particular clause, they would refer to "vessels of commerce" alone, and eliminate from the treaty "and vessels of war," because no one can successfully contend that this treaty includes United States vessels of war, and places them upon an equality with the vessels of war of other nations. All this proves to my mind very conclusively that when the writers of the treaty used the language "vessels of commerce and of war" they did not consider that the United States stood upon an equality with the other nations of the world in regard to the use of the canal. Those who contend against free tolls will not contend that the same rule applies to vessels of war, therefore they write a treaty for purposes of discussion and leave out this embarrassing phrase and "vessels of war." That phrase linked with vessels of commerce plainly discloses that the United States as builder of the canal was not included in "all nations."

Furthermore, it has been said that all nations are entitled to the use of this canal upon terms of equality. All nations are not entitled to the use of this canal, but only such nations as observe the rules, and when any nation violates a rule established in this treaty, that nation may be excluded from the use of the canal. Not all nations are entitled to its use, but all nations which come under the rules to be enforced by the United States Government.

Therefore, if you are going to admit all nations which observe these rules, you must necessarily take into consideration rules 3, 4, 5, and 6.

Mr. STERLING. Mr. President, will the Senator just allow a question there?

Mr. BORAH. The Senator observes that I have just five minutes in which to complete my remarks.

Mr. STERLING. The rules referred to are "these rules," the six rules; not the rules the United States shall prescribe.

Mr. BORAH. "These rules" is what I had in mind.

Mr. STERLING. The six rules.

Mr. BORAH. "These rules" are precisely what I have in mind. In other words, the rules are, first, rule 2, which provides:

> The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it. * * *
>
> 3. Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay, in accordance with the regulations in force, and with only such intermission as may result from the necessities of the service.

I have not time to read the other rules. The Senators will remember them.

So, the moment you include vessels of war you must necessarily come to a construction of rules 3, 4, 5, and 6, and if you exclude vessels of commerce, under the same rule you must exclude the vessels of war under rules 3, 4, 5, and 6, and the result is, Mr. President, that according to the construction which is placed upon this treaty by those who are advocating that we can not include vessels of commerce, we may be placed in the position by this construction to-day, or by an arbitration tribunal, in which the United States can not use this canal in war times except as all other nations may use it. The rule of construction which put our vessels of commerce upon a level with the vessels of other nations places our vessels on a level with the vessels of war of other nations; that construction is so utterly untenable that the only way to get around it is to do as the Senator from Rhode Island did—overlook it; forget it.

We can not revictual in the canal; we can not use it for any purpose which gives us an advantage in protecting it during a war; and if we linger in the canal more than 24 hours, the United States must chase itself out of the canal, and if it does not chase itself out of the canal then it has forfeited its right to use the canal.

Mr. COLT. Mr. President, I know the Senator will allow me to say one thing. Those rules were framed with the idea that the canal was to be built in foreign territory. There is not any question about that.

Mr. BORAH. Mr. President, I have only a minute to deny that, but I do deny it; and if you will give me the time, I will read the treaty, which will show it. I think I can quote it:

> No change of territorial sovereignty or other change of circumstances shall affect the obligations of the parties under the present treaty.

Mr. COLT. I beg the Senator's pardon—until the last moment. Then, at the last moment, they inserted a provision with regard to change of sovereignty.

Mr. BORAH. The last moment is just as good as the first moment. We are taught by Scripture that the man who comes at the eleventh hour gets just the same consideration as the man who comes at the ninth hour, and I know of no virtue which obtains for an early clause which does not obtain for a later clause.

It does not make any difference when this was inserted in the treaty, it is a part of the treaty, and it has been construed to mean that those who wrote the treaty contemplated that the United States would become the owner of the canal, and for that reason, as was so well stated by the Senator from Pennsylvania [Mr. KNOX], if you are going to construe this "vessels of commerce," you must also place the United States in the passage of vessels of war and the use of the canal upon the same level with every other nation. We are therefore brought to the unreasonable construction that the canal, which was built as a matter of national security, at a cost of $400,000,000, and which we must maintain, and which, in case it is broken up by earthquake, we must rebuild, we are not permitted to use in case of attack, except upon the same principle that a foreign foe uses the canal. My time I see is up.

Mr. President, I have not had time to cover the legal phase of this matter, but as a part of my speech I ask to have inserted in the RECORD a purely legal discussion of it by the able Senator from Arkansas [Mr. ROBINSON] before the bar association of Michigan.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

SOME INTERNATIONAL COMPLICATIONS CONNECTED WITH THE PANAMA CANAL.

[United States Senator JOSEPH T. ROBINSON, of Arkansas.]

Few current topics are of greater importance or more general interest to lawyers than the controversy between England and the United States involving the right of our Government, in controlling the Panama Canal, to discriminate in favor of American vessels of commerce and of war.

This issue does not derive its chief importance from mere commercial considerations, to which only incidental attention will be devoted in this address, but from the vastly broader standpoint of international policy and comity. Is it imperative, from the viewpoint of American interest, that this Nation, while seeking to preserve and to promote amicable relations with all foreign Governments, must assert before the canal is opened for use the right to control it as a domestic concern under the principles of the Monroe doctrine and free from the interference and domination of other world powers? This is a question which vexes British and American diplomats and indirectly engages in secret sessions the attention of the United States Senate.

The necessity for cautious and temperate consideration of this complication with Great Britain is emphasized by the fact that its determination will fix, in part at least, our policy of canal control for an indefinite period and probably for all the future.

While the subject is not free from doubt, it may be fairly demonstrated that no treaty stipulations, properly construed, sustain the theory that the United States may not justly discriminate in favor of American vessels. Furthermore, if it appears that such a course is of doubtful integrity under the strict letter of any treaty with Great Britain, altered conditions justify a rescission of such treaty.

GREAT BRITAIN'S CONTENTION.

England asserts that the United States has violated and is disregarding our treaty with that Government in three prominent particulars: (1) By permitting vessels engaged in the American coastwise trade free passage through the canal while requiring tolls to be paid by the ships of foreign nations. (2) By denying the use of the canal to railroad-owned ships engaged in commerce. (3) By granting free use of the canal to Panama. Discrimination in favor of American coastwise vessels forms the principal ground of contention, and as the whole subject can not be adequately discussed in one address, these remarks will have particular reference to that.

Great Britain contends that under the provisions of the Clayton-Bulwer treaty and the Hay-Pauncefote treaty the United States is precluded from any discrimination in tolls between American vessels and foreign-owned ships and that the exemption of our vessels from tolls entitles foreign vessels to the free use of the canal. To clearly understand the issue, it becomes necessary to review in part the history and provisions of the treaties invoked by Great Britain.

THE CLAYTON-BULWER TREATY

had no relation whatever to the Panama Canal. Its provisions applied solely to the Nicaraguan route. In 1846, four years before the Clayton-Bulwer treaty, our Government made a treaty with New Grenada, now Colombia, contemplating a ship canal, and guaranteeing the rights of sovereignty exercised by New Grenada, free transit for her vessels from sea to sea, and the neutrality of the Isthmus of Panama. In consideration of these guaranties the United States became entitled to all the privileges to be enjoyed by New Grenada and her citizens. The Clayton-Bulwer treaty in no way modified or impaired our treaty obligations to New Grenada. While it remained nominally in force from 1850 until 1901, 51 years, neither nation took any action under it toward the construction of a canal, and this treaty became a dead letter, little regarded by either Great Britain or the United States.

Moreover, the purposes and terms of the Clayton-Bulwer treaty made it inapplicable to the Panama Canal. The principal mutual stipulations in the Clayton-Bulwer treaty were (1) that both the United States and Great Britain should jointly promote the building of the Nicaragua Canal; (2) that both should jointly protect it and maintain its neutrality; (3) that neither would fortify it or seek to obtain exclusive benefits; (4) that neither would assume or exercise dominion over Nicaragua, Costa Rico, the Mosquito coast, or any part of Central America.

It is not only true that the Clayton-Bulwer treaty applied solely to the Nicaraguan route and could not apply to the Panama Canal by reason of its provisions, which were inconsistent with the subsisting treaty between the United States and New Grenada, but it is also true that the Clayton-Bulwer treaty was expressly rescinded in the first article of the

HAY-PAUNCEFOTE TREATY

in the following language:

"The high contracting parties agree that the present treaty shall supersede the aforementioned convention of the 19th of April, 1850."

What relation therefore has the Clayton-Bulwer treaty to the issue? It has been expressly rescinded, was never applicable to any other than the Nicaraguan route; was never expressly extended to other contemplated routes; and was practically abandoned by both countries before it was rescinded in the Hay-Pauncefote treaty.

It is therefore apparent that whatever rights, if any, Great Britain may possess to the equal enjoyment of the Panama Canal with the United States must be derived from the Hay-Pauncefote treaty in 1901.

Some of its provisions are not entirely free from ambiguity, and it can not be said that Great Britain's claim is without the semblance of foundation if the natural meaning is given the language used.

The Hay-Pauncefote treaty is in striking contrast, however, with the Clayton-Bulwer treaty. The element of mutual undertaking and responsibility, which constitutes the most prominent characteristic of the Clayton-Bulwer treaty, is entirely absent from the Hay-Pauncefote treaty. Under the latter the United States alone assumes construction of the canal with all the rights incident to construction, the language being:

"It is agreed that the canal be constructed under the auspices of the Government of the United States * * * the said Government shall have and enjoy all rights incident to such construction as well as the exclusive right of providing for the regulation and management of the canal."

Great Britain's contention obtains color of validity from proceedings in the Senate of the United States, while the proposed treaty of 1900 and the treaty of 1901 (finally adopted) were under consideration. Amendments asserting the unqualified right of the United States to acquire sovereignty of the canal territory and construct, protect, and operate the same in its own interest were proposed and considered, but finally rejected, either as unnecessary or of doubtful propriety.

This is offset by the refusal of the United States to agree to provisions suggested by Great Britain expressly denying to our country the right to acquire sovereignty, exclusive control, or to enjoy superior benefits in the canal.

Article 4, providing that no change of sovereignty or international relations of the country traversed by the canal shall affect the general principles of neutralization under the "present treaty," has often been distorted as precluding the United States from deriving any advantage by the acquisition of the canal territory.

Revolutions are of frequent occurrence in Central America. There governments have fallen and new ones have arisen in a single night. This provision was directed against the probability of these political changes, and was not in anticipation of the actual ownership of the territory in which the canal is embraced. Right of sovereignty in our Government would have been inconsistent with the Clayton-Bulwer treaty, but was not forbidden by the Hay-Pauncefote treaty, which superseded it. Great Britain surrendered no valuable right and assumed no burden whatever under the treaty. By the Hay-Pauncefote treaty she was relieved of the obligation to assist the United States in promoting the canal and in maintaining its neutrality, and while receiving assurance that the canal would be constructed without cost or responsibility to her, she can fairly insist that the United States is obligated to construct the canal on domestic territory, and while enjoying all the incidents of ownership and exercising absolute control of the canal, must obey the rules for its management as if the canal were on foreign territory and the common property of world powers. The burden is admittedly on Great Britain to prove her claim. It may be confessed, however, that the failure of American diplomats to negotiate a treaty free from such ambiguities as furnish a foundation for Great Britain's position reflects some discredit on the diplomatic service of the United States.

The "general principles of neutralization" referred to in the Hay-Pauncefote treaty are relied on to sustain the theory of "identical tolls."

DO THE "GENERAL PRINCIPLES OF NEUTRALIZATION" SUSTAIN THE BRITISH CONTENTION?

Under the second article of the treaty the United States has the exclusive right to promulgate rules for the regulation and management of the canal.

Six rules adopted by the United States as the "basis of neutralization" of the canal are contained in the treaty. They are substantially the same as those embodied in the convention of Constantinople for the free navigation of the Suez Canal, and, like the latter, relate to the use of the canal in time of war.

These six rules are:

1. That conditions and charges of traffic fixed by the United States shall be just and equitable and on terms of equality as to the vessels of commerce and of war of all nations observing the rules.

2. The canal shall never be blockaded, nor shall acts of hostility be committed within it.

3. Warships of a belligerent are forbidden to take refuge in the canal and are required to effect speedy transit through it.

4. They are also forbidden to embark or disembark troops or munitions of war save in exceptional cases.

5. Warships of a belligerent are forbidden the use of waters adjacent to the canal within 3 miles of either entrance for a longer period than 24 hours, but vessels of one belligerent shall not depart within 24 hours from the departure of a vessel of war of the other belligerent.

6. Everything necessarily connected with the canal is declared to be a part of it and immune from attack.

These rules make no express exception of any nation, and if one of them applies to the United States, all of them should have the same application.

The British Government practically conceded that the United States is under obligation to obey but one of these rules, and that the others are applicable only to foreign powers. It is contended that the language "all nations obeying these rules" in the first rule prevents the United States from exempting American vessels from tolls unless the vessels of all other Governments observing the rules are likewise exempted. It is apparent, then, that the whole issue narrows down to the question: Is the United States embraced within the term "all nations obeying these rules," or does that mean all nations other than the United States? If the United States is included within the term "all nations obeying these rules," it is evident that no discrimination may be made during a state of war in favor of her vessels, either of war or of commerce. The construction makes the right of the use of the canal on terms of equality depend on obedience to all the rules, and if it be correct the United States must obey all of the rules which have been made for the management of the canal. If this construction prevails, the United States, while expressly charged with protecting canal property, is forbidden under any conditions from maintaining within the canal or within 3 miles of either entrance such ships of war as may prove indispensable for protective purposes; forbidden from enjoying any exclusive or superior benefit arising from sovereignty over the territory traversed by the canal.

Let it be remembered that the United States alone adopted these rules. They are therefore subject to change by our Government so long as no rights of Great Britain under the treaty are violated. Any other position would conflict with the clearly expressed right of the United States to construct, regulate, and manage the canal.

On the other hand, it was not in contemplation when the Hay-Pauncefote treaty was agreed to that we should acquire sovereignty over the canal territory. And while this circumstance adds force to the contention of Great Britain that the treaty was designed to carry forward into the Hay-Pauncefote treaty the principles of neutrality set forth in the Clayton-Bulwer treaty, it also introduces into the subject the well-established rule of the treaty construction which seems to find support in all the authorities that treaties stand upon a basis of their own, entirely apart from private contracts, and cease to be obligatory when conditions upon which they are executed are essentially altered.

ALTERED CONDITIONS.

Hall on International Law declares that neither party to a treaty can insist upon performance under conditions other than those contemplated when the treaty was entered into. This rule, Rebus sic stantibus, is clearly asserted by Hall, Oppenheim, Hannis Taylor, and other prominent writers on international law. It is, therefore, certain that even if the British construction of the Hay-Pauncefote treaty is correct the United States is entitled to rescind this treaty because the material circumstances under which the treaty was executed have changed. The United States has become the practical sovereign of the canal territory and can not, unless expressly bound thereto in the treaty, abdicate its sovereignty, but must protect its own property from destruction and its territory from invasion.

The contention by Great Britain that the exemption of Panaman warships from tolls constitutes a violation of the general principles of neutrality contained in the treaty has no practical importance for the reason that Panama has no navy and will probably never have. The exemption of Panaman warships is justified by our treaty with Panama in 1903 under which we acquired the canal territory and in return for this special favor guaranteed the neutrality of the Isthmus and free transit to Panaman warships. Great Britain's objection on this ground, after nine years' acquiescence in the provision, impeaches her good faith and if persisted in affords another ground for the rescission of the treaty. We are bound in good faith to observe the treaty with Panama, and our obligation to her is equal to, if not greater than that due Great Britain because we received a material consideration from Panama and none from Great Britain. This phase of the subject is ridiculously abstract because it will never have practical significance.

THE TERM NEUTRALIZATION

has an accepted meaning in international law. It relates to a state of war. The rules of neutralization in the treaty are therefore applicable only in case of war, and in no wise control the operation of the canal in time of peace. They are designed to secure in spite of conflicts the uninterrupted use of the canal; to preserve it from seizure or destruction. The obligation to maintain neutrality imposed by the treaty on the United States implies the right of our Government to do the very things forbidden by the rules of other nations—to blockade the canal, to embark and disembark troops, and to take munitions of war; to blockade the canal against the warships of any belligerent seeking to occupy the canal for naval purposes; to land and embark troops for defensive purposes, and to take munitions of war necessary in the defense of the canal. The rules of neutralization do not establish the theory of "identical tolls," but they do deny any nation at war with another the right to use the canal for offensive purposes or to the exclusion of others. Their observance is not necessarily inconsistent with the right of the United States as sovereign, proprietor, and operator to defend it with every reasonable means.

ARBITRATION OF CANAL CONTROVERSY.

Great Britain has offered to submit for arbitration to The Hague conference the question whether under the treaty the United States can discriminate in favor of American vessels, or must fix identical tolls for the vessels of all nations including her own. This is clearly an issue which we are under no obligation by virtue of any arbitration treaty to submit. Those treaties all exempt questions of national honor, vital interest, independence, and the interest of third parties. The question at issue is of vital interest to the United States and does not involve the rights of third parties, as well as the independence of our territory. Every other nation possesses the same interest as Great Britain and for the United States to submit the controversy to The Hague would be equivalent to arbitrating a cause before interested judges. Free tolls for Great Britain means free tolls for every other nation observing the rules for the neutralization of the canal.

The question may be, however, arbitrated at the option of the United States before a tribunal composed equally of British and American representatives. The precedents for such arbitration warrant the belief that the results will be satisfactory. The American people will be slow to accept a settlement of this dispute which entails upon them the cost of constructing the canal and forever maintaining it, yet denying to them the ordinary incident of ownership and sovereignty which implies superior rights over nations that have incurred no expense and are exempted from all responsibilities.

To submit all questions to The Hague would probably lead to British domination and certainly to European domination of the world. American political ideals and institutions would be endangered, perhaps destroyed. They would find little recognition or encouragement before a tribunal constituted chiefly of the representatives of monarchial governments. Whatever differences might exist among European nations, the natural community of interests arising from geographical position and similarity of institutions would unite them in controversies of vital interest against the United States and we could therefore never hope to dominate the conference.

The importance of the Panama Canal from an international standpoint may not be easily overstated. It may be said with force and reason that the chief design of the Hay-Pauncefote treaty is to establish by common consent and to maintain forever under the control of the United States the canal as a neutral zone, exempt from any act of hostility by any nation—a neutral zone in whose quiet waters battleships of belligerents must lie side by side and pass in peace; a neutral zone where every instrument of destruction is rendered harmless, where wrath and rage are impotent, and where peace reigns even while war vexes the remainder of the world. He must indeed be insensible to the progress of world-wide peace who would not feel the force of such con-

ceptions. Still, dream as we may, and hope as we will, the day of universal peace has not yet dawned. The obligation to preserve the neutrality of the canal and to protect it must be performed even if force on our part is required. Who can be unmindful of the peril that would menace our national existence should we concede a construction of the treaty which would bind the United States to protect the canal against assault from every source and yet stop it from those precautions made justifiable, if not imperative, by the experience of all the centuries for the preservation of national security? We can not yet abandon defense to the fickle conditions of international good will and depend alone for the future on the amiability of foreign powers.

The military spirit exists throughout the world and is yet strong in the breasts of our own people. Laws and treaties must find indorsement in public opinion to secure observance and enforcement.

Nominating a recent President before a great convention, an American orator said:

"The fate of nations is still decided by their wars. You may talk of orderly tribunals and learned referees. You may sing in your schools the gentle praises of the quiet life. You may strike from your books the last note of every martial anthem; yet out in the smoke and the thunder will always be the tramp of horses and the silent, rigid, upturned face. Men may prophesy and women pray, but peace will come here to abide forever on this earth only when the dreams of childhood have become the accepted charts to guide the destinies of men. Events are numberless and mighty, and no man can tell which wire runs around the world. The nation basking in contentment and repose to-day may still be on the deadly circuit and to-morrow writhing in the toils of war."

This sentiment, condemn it as we may, is responsive to the military spirit which animates more than half the human race. So long as this is true wars will occur and the burden of militarism must be borne. Diplomacy has not kept pace with progress. It seems to cling to the duplicity of bygone ages, when suspicion and mistrust formed the basis of international relations. In spite of every impediment which ignorance and selfishness have offered to the advancement of peace on earth, the nations are beginning to know and to understand one another. Standards of national honor are being elevated. Good will is supplanting rivalry. With the improvement of facilities for communication international controversies will grow less frequent and the amicable adjustment of differences between nations will become more probable. With the spread of liberty and enlightenment throughout the world force will be compelled to yield to reason, and prejudice will be overcome by temperate judgment.

What our Government has already accomplished and is now doing to hasten the coming of universal peace must not be counteracted by the adoption of a canal policy founded on selfishness and unfairness; nevertheless the sober, practical view will prevail. Technical distinctions and trivial contentions are of little weight compared with fundamental or universal principles. The Panama Canal is the crowning achievement, the audacious triumph of American enterprise. It has been constructed under the sovereignty of our flag and paid for by our people. It is a gift of inconceivable value to all nations which recognize its consecration to the common good. Glory and responsibility inseparably attend all great events. The natural result of canal construction, ownership, control, and special benefits are the legitimate rewards which our people may claim in return for the great sacrifice of skill and resource which the Panama Canal has required.

The VICE PRESIDENT. The bill is as in Committee of the Whole and open to amendment.

Mr. KING. Mr. President, I offer the following as a substitute for the bill and move its adoption.

The VICE PRESIDENT. The Secretary will report the proposed substitute.

The Assistant Secretary read as follows:

On page 1, strike out lines 1 to 12, inclusive, and insert in lieu thereof the following:

"Whereas there is a dispute as to whether the exemption from the payment of tolls of vessels passing through the Panama Canal and engaged in the coastwise trade of the United States is in contravention of the provisions of the treaty of November 18, 1901, commonly known as the Hay-Pauncefote treaty; and

"Whereas the treaty of arbitration entered into between the United States and Great Britain on the 4th day of April, 1908, provides that legal questions and questions respecting the interpretation of treaties, arising between the contracting parties, shall be submitted to arbitration: Now, therefore, be it

"*Resolved, etc.*, That the President of the United States be and he is hereby authorized and respectfully requested to negotiate with Great Britain the necessary arrangements to submit said controversy to arbitration in conformity with the provisions of the treaty of April 4, 1908."

The VICE PRESIDENT. The question is on agreeing to the proposed amendment in the nature of a substitute.

The amendment was rejected.

Mr. KING. I offer the following and move its adoption as a substitute for the pending bill.

The VICE PRESIDENT. The Secretary will report the proposed substitute.

The Assistant Secretary. Strike out all after the enacting clause and insert in lieu thereof the following:

On page 1, strike out all after the enacting clause and insert in lieu thereof the following:

That there is hereby appropriated for the calendar year 1922, out of any moneys in the Treasury not otherwise appropriated, the sum of $2,000,000, or so much thereof as may be necessary for the payment of tolls, payable by vessels passing through the Panama Canal and engaged in the coastwise trade of the United States, said moneys to be paid to the Governor of the Canal Zone as required to cover the tolls of vessels passing through the Panama Canal and engaged in the coastwise trade of the United States, payment to be made by the Treasury upon requisition of the Governor of the Canal Zone, the payments to become a part of the general funds of the governor and to be expended in the maintenance of the canal.

The VICE PRESIDENT. The question is on agreeing to the proposed amendment in the nature of a substitute.

The amendment was rejected.

Mr. WADSWORTH. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. WADSWORTH. Is it in order to move to recommit the bill to the committee from which it came?

The VICE PRESIDENT. The unanimous-consent agreement is to vote on the bill at this time.

Mr. WADSWORTH. That is the Chair's interpretation of the phrase "to its final disposition"?

The VICE PRESIDENT. It is.

Mr. WADSWORTH. I regret it.

The VICE PRESIDENT. If there are no further amendments to be offered as in Committee of the Whole, the bill will be reported to the Senate.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time.

The VICE PRESIDENT. The question is, Shall the bill pass?

Mr. LODGE. I demand the yeas and nays.

The yeas and nays were ordered, and the reading clerk proceeded to call the roll.

Mr. DIAL (when his name was called). I am paired with the Senator from Colorado [Mr. PHIPPS]. In his absence I withhold my vote. If allowed to vote I would vote "nay."

Mr. EDGE (when his name was called). I have a general pair with the senior Senator from Oklahoma [Mr. OWEN]. I transfer that pair to the junior Senator from New Mexico [Mr. BURSUM] and vote. I vote "yea."

Mr. KENYON (when his name was called). I am paired with the junior Senator from Pennsylvania [Mr. KNOX]. Were he present he would vote "yea." Were I at liberty to vote I would vote "nay."

Mr. MYERS (when his name was called). I have a pair with the junior Senator from Connecticut [Mr. MCLEAN], who is necessarily absent. I am authorized to announce that if the junior Senator from Connecticut were present he would vote as I shall vote. Therefore I am at liberty to vote. I vote "nay."

Mr. MCNARY (when Mr. STANFIELD's name was called). My colleague [Mr. STANFIELD] is out of the city and is paired with the junior Senator from Delaware [Mr. DU PONT]. If my colleague were present, he would vote "yea." If the junior Senator from Delaware were present, he would vote "nay."

Mr. SWANSON (when his name was called). I have a general pair with the senior Senator from Washington [Mr. JONES]. Not knowing how he would vote, I withhold my vote. If permitted to vote, I would vote "nay."

The roll call was concluded.

Mr. KENYON. I find that I can transfer my pair to the Senator from Connecticut [Mr. MCLEAN]. I therefore do so, and vote "nay."

The result was announced—yeas 47, nays 37, as follows:

YEAS—47.

Ashurst	France	Moses	Shortridge
Ball	Frelinghuysen	Newberry	Smoot
Borah	Gooding	Nicholson	Stanley
Broussard	Harreld	Norbeck	Sutherland
Calder	Harrison	Oddie	Townsend
Cameron	Johnson	Page	Underwood
Capper	Kellogg	Penrose	Walsh, Mass.
Cummins	Kendrick	Poindexter	Walsh, Mont.
Curtis	Ladd	Ransdell	Watson, Ind.
Edge	La Follette	Reed	Weller
Elkins	Lenroot	Robinson	Willis
Fernald	McNary	Shields	

NAYS—37.

Brandegee	Heflin	McKinley	Spencer
Caraway	Hitchcock	Myers	Sterling
Colt	Jones, N. Mex.	Nelson	Trammell
Culberson	Kenyon	New	Wadsworth
Dillingham	Keyes	Overman	Warren
Ernst	King	Pittman	Watson, Ga.
Fletcher	Lodge	Pomerene	Williams
Glass	McCormick	Sheppard	
Hale	McCumber	Simmons	
Harris	McKellar	Smith	

NOT VOTING—12.

Bursum	Gerry	McLean	Phipps
Dial	Jones, Wash.	Norris	Stanfield
du Pont	Knox	Owen	Swanson

So the bill was passed.

SPECIAL OFFICER, OFFICE OF SECRETARY OF THE SENATE.

Mr. CALDER. I report back favorably without amendment from the Committee to Audit and Control the Contingent Expenses of the Senate Senate resolution 150, submitted by the Senator from Wyoming [Mr. WARREN] on the 5th instant, and I ask for its consideration.

The VICE PRESIDENT. The resolution will be read.

The Secretary read the resolution, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to employ a special officer for the office of the Secretary of the Senate at a salary of $1,800 per annum, to be paid out of the miscellaneous items of the contingent fund of the Senate until provided otherwise by law.

The VICE PRESIDENT. The Senator from New York asks unanimous consent for the present consideration of the resolution.

Mr. KING. I think it had better lie over until to-morrow.

Mr. WILLIAMS. This is a request for unanimous consent, I understand. I am not prepared to give unanimous consent at this time. I should like to have the necessity of the proposition explained.

The VICE PRESIDENT. On objection the resolution will go over.

Mr. WILLIAMS. The explanation may be given now or later.

Mr. LODGE. The resolution has gone over.

MARY E. WEST.

Mr. CALDER, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 145, submitted by Mr. LODGE September 21, 1921, reported it favorably without amendment and it was read, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay from the miscellaneous items of the contingent fund of the Senate to Mary E. West, widow of Charlie West, late a laborer in the employ of the Senate, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

Mr. CALDER. The resolution provides six months' pay for the widow of an old employee of the Senate, Charlie West, who was here for 24 years and died recently. I ask for its present consideration.

The resolution was considered by unanimous consent and agreed to.

EXECUTIVE SESSION.

Mr. LODGE. I move that the Senate proceed to the consideration of executive business, and I hope Senators will remain.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After 1 hour and 40 minutes spent in executive session the doors were reopened.

RECESS.

Mr. LODGE. I move that the Senate take a recess until 11 o'clock to-morrow morning.

The motion was agreed to; and (at 5 o'clock and 55 minutes, p. m.) the Senate took a recess until to-morrow, Tuesday, October 11, 1921, at 11 o'clock a. m.

CONFIRMATIONS.

Executive nominations confirmed by the Senate October 10 (legislative day of October 4), 1921.

POSTMASTERS.

OHIO.

Elizabeth L. D. Tritt, North Lewisburg.

SOUTH DAKOTA.

Bessie A. Drips, Gannvalley.
Mary J. Carr, Stratford.

HOUSE OF REPRESENTATIVES.

MONDAY, *October 10, 1921.*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

O God, only Thou art holy and Thou art the Lord of earth, of sky, and of sea. Eternal are Thy mercies and eternal is Thy truth. Give us a sweet, unmurmuring faith in all Thy providences. We thank Thee for Thy condescending mercy. Make it appear unto us that it is divinely wonderful to work and toil for our fellow countrymen. O, instruct us! O, lead us! As we wait at the threshold of duty and destiny, which are inseparable, give each of us the solemn sense of this high and sacred obligation. Only through righteous and conscientious service to our country and obedience to divine authority can our Republic be led in the pathways of truth and right and thus can live in purity and power and be a blessing to the races of earth. Enable us to breathe in the recesses of our deepest being the heaven-born sentiment, "Glory to God in the highest, and on earth peace, good will toward men." Through Jesus Christ, our Lord. Amen.

The Journal of the proceedings of Tuesday, October 4, 1921, was read and approved.

SWEARING IN OF MEMBERS.

Mr. GREENE of Massachusetts. Mr. Speaker, I present the Hon. A. PIATT ANDREW, Member elect from the sixth district of Massachusetts, to take the oath of office prescribed by law.

Mr. FOCHT. Mr. Speaker, I present Col. THOMAS S. CRAGO, a Member elect at large from the State of Pennsylvania. Although the certificate of his election has not been received, the returns indicate that he was elected by a majority of over 400,000.

The SPEAKER. Is there objection to the oath being administered to Col. CRAGO?

Mr. GARRETT of Tennessee. Mr. Speaker, I understand there is no question about his election. I think the gentleman from Pennsylvania stated that his certificate had not been received, but there is no question about his election, as I am informed by his colleagues on this side of the Chamber.

A. PIATT ANDREW and THOMAS S. CRAGO appeared at the bar and took the oath of office prescribed by law.

GRANTING LAND TO THE STATE OF MICHIGAN TO BE USED AS A GAME REFUGE.

Mr. SINNOTT. Mr. Speaker, I ask unanimous consent that the Clerk may be authorized to correct the title to the bill (H. R. 6817) authorizing the Secretary of the Interior to issue patent in fee simple to the State of Michigan of a certain described tract of land to be used as a game refuge.

The SPEAKER. The gentleman from Oregon asks unanimous consent that the Clerk be authorized to correct the title of the bill H. R. 6817. Is there objection?

Mr. GARRETT of Tennessee. The bill has not yet passed the Senate?

Mr. SINNOTT. No; but it has passed the House.

The SPEAKER. Is there objection?

There was no objection.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, one of its clerks, announced that the Senate had passed without amendment bills of the following titles:

H. R. 6809. An act to extend the time for the construction of a bridge across the Rio Grande within or near the city limits of El Paso, Tex.; and

H. R. 8209. An act to extend the time for the construction of a bridge across the Cumberland River in Montgomery County, Tenn.

The message also announced that the Senate had passed joint resolution of the following title, in which the concurrence of the House of Representatives was requested:

S. J. Res. 123. Joint resolution authorizing the Secretary of War to expend from the appropriation "Disposition of remains of officers, soldiers, and civilian employees, 1922" (act of Mar. 4, 1921, Public No. 389, 66th Cong.), such sum as may be necessary to carry out the provisions of public resolution No. 67, Sixty-sixth Congress.

SENATE BILLS AND JOINT RESOLUTIONS SIGNED.

The SPEAKER announced his signature to enrolled bills and joint resolutions of the following titles:

S. 1718. An act authorizing the distribution of abandoned or forfeited tobacco, snuff, cigars, or cigarettes to hospitals maintained by the United States for the use of present or former members of the military or naval forces of the United States;

S. 2340. An act to authorize the construction of a bridge across the St. Marys River, at or near St. Marys, Ga., and Roses Bluff, Fla.;

S. 2430. An act to authorize the construction of a bridge across the St. Marys River, at or near Wilds Landing Ferry, between Camden County, Ga., and Nassau County, Fla.;

S. 1970. An act granting the consent of Congress to the counties of Bowie and Cass, State of Texas, for construction of a bridge across Sulphur River, at or near Pettis Bridge, on State highway No. 8, in said counties and State;

S. J. Res. 122. Joint resolution for the bestowal of the congressional medal of honor upon an unknown, unidentified Italian soldier, to be buried in the national monument to Victor Emanuel II, in Rome, Italy;

S. J. Res. 115. Joint resolution to authorize the loan by the Secretary of War to the commander in chief of the Grand Army of the Republic of cots for the use of the members of the Grand Army of the Republic during the sessions of the grand encampment of the Grand Army of the Republic at Indianapolis, Ind., from September 24 to October 1, 1921; and

S. J. Res. 117. Joint resolution to authorize the loan by the Secretary of War to the commander in chief of the United Confederate Veterans of cots and tents for the use of the mem-

bers of the United Confederate Veterans during the sessions of the national encampment of the United Confederate Veterans at Chattanooga, Tenn., from October 24 to October 27, 1921.

SENATE JOINT RESOLUTION REFERRED.

Under clause 2, Rule XXIV, Senate joint resolution of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. J. Res. 123. Joint resolution authorizing the Secretary of War to expend from the appropriation "Disposition of remains of officers, soldiers, and civilian employees, 1922" (act of Mar. 4, 1921, Public, No. 389, 66th Cong.), such sum as may be necessary to carry out the provisions of public resolution No. 67, Sixty-sixth Congress; to the Committee on Appropriations.

INVITATION FROM THE GOVERNOR AND PEOPLE OF THE STATE OF NEW YORK.

Mr. TEN EYCK. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting an invitation from the governor of New York State and the people of the State of New York to the Senate and House of Representatives to take a trip from New York City to the city of Buffalo, N. Y., through the Hudson River and the Barge Canal as guests of the citizens of the State of New York, which I most heartily urge you to accept by communicating with Mr. John D. Dunlop, chairman committee, 19 Madison Avenue, New York City, N. Y.

The SPEAKER. Is there objection to the gentleman extending his remarks in the RECORD as stated?

There was no objection.

The invitation is as follows:

The governor of the State of New York, the chambers of commerce, the business men of the State, cordially invite you to be their guest on a trip through the Hudson River and Barge Canal from New York to Buffalo, starting from New York Monday morning, October 17, at 9 o'clock, from the Hudson River Day Line Pier, at the foot of West Forty-second Street, North River. The trip will terminate at Buffalo Saturday, October 22.

Invitations are being extended to all Members of Congress, both Senators and Representatives, other Federal officials, governors of States, and prominent shippers.

All expenses of the guests will be covered from New York to Buffalo.

The courtesy of an early reply is requested, as immediate arrangements must be made.

Reply to John D. Dunlop, chairman committee, 19 Madison Avenue, New York City, N. Y.

This invitation will serve as your introduction.

Mr. TEN EYCK. Mr. Speaker, the subject which I am about to discuss is not only of interest to the people of the United States and Canada, but is of international importance.

I wish in the beginning to have it distinctly understood that I am not opposed to the construction by the Canadian Government of a deep waterway canal in the Dominion connecting the Great Lakes with the St. Lawrence River, because that comes within Canada's province and lies wholly within her jurisdiction and should be left for her own judgment and decision.

What I do oppose is the United States entering into a financial agreement with our splendid neighbor on the north to build this canal. During the late war our soldiers and the Canadian soldiers fought together side by side. We have nothing but the most friendly feeling for our Canadian brothers. We have lived at peace with Canada for over 100 years. The two countries—Canada and the United States—are practically one Nation, differing only in forms of government. We have the same environment. We believe in the same thing, and have had a formal understanding that neither Nation will place upon the Great Lakes warships of any magnitude, and this agreement has been faithfully observed by both countries.

In relation to the present subject, my objection is to the United States Government spending money upon transportation facilities without the territory of the United States when our taxes are so high that they are oppressively burdensome. Moreover, we need so many improvements upon our own transportation systems, and we must recognize a most urgent necessity for assisting the farming industry of the United States at this time.

The policy of the Public Service Commission of New York State and of the Interstate Commerce Commission is to oppose the construction of any transportation system paralleling a route already in existence, whether it be railway, waterway, or highway, until the existing route facilities have proven that they are inadequate to take care of traffic needs.

New York State has spent more money on its railways, more money on its highways, and more money on its waterways than any other State in the Union. These transportation facilities which New York State has built single handed and alone, connecting the Great Lakes with the Atlantic Ocean, were not constructed entirely for the traffic of New York State, but were built for the use of the entire Nation.

The Barge Canal has cost the State of New York, including the cost of the Erie Canal, over $200,000,000. It was not completed before the war, and after the war started the United States Government took over the control and operation, and on account of the immense expenditure in conducting the war New York State deferred its completion until after the war had been successfully consummated. It was not until this last spring that the entire channel from the city of Albany to the city of Buffalo was deepened to its full depth of 12 feet.

I understand that several companies have already built boats which are of sufficient size to profitably navigate the canal and have operated them successfully throughout the season just passed. I have been reliably informed that fleets of these boats have traversed the Great Lakes from Duluth, passing through the barge canal and the Hudson River, carrying cargoes direct from Duluth to New York City, and have carried in one cargo more grain than a 75-car train could convey loaded with an average of 18 tons to the car. Some of these boats in carrying cargoes from Buffalo to New York have traveled the entire distance of over 450 miles in approximately four days, and have not only carried grain, steel, steel rails for the railroads themselves, but have carried copper from Atlantic seaports inland to the wire mills located at Rome, N. Y., as well as cement from the many cement works in the Hudson Valley to the cities on the Great Lakes.

For your information I might say that not only has the barge canal a depth of 12 feet throughout its entire length but a minimum channel width of 75 feet. The locks are built large enough to lock through boats 300 feet in length, with over a 40-foot beam, with a capacity of more than 10,000 bushels of wheat, with a tonnage between 3,000 and 4,000 tons. I have been reliably informed that power-driven freighters have been designed which can not only travel on the Great Lakes and through the barge canal and on the Hudson River but will be able to navigate up and down the Atlantic coast, and engage in coastwise trade, bringing the products from the Great Lakes and Middle West to tide water and deliver them all along the Atlantic coast, returning loaded with the products of the South to the manufacturing cities of the North and the Great Lakes region.

At a great expense the State of New York has constructed terminal facilities in large cities bordering on the barge canal and in the large cities on the Hudson River, equipping them with the proper and adequate machinery with the idea of exchange of freight with the railroads in the various localities. The people of the State of New York are now contemplating increasing their terminal facilities, their warehouses, and terminal equipment to handle the various kinds of freight that will surely come to the barge canal as soon as it has been properly equipped with the necessary number of boats to take care of the trade.

For your further information, the average time required in filling and lowering a lock is six minutes, as the canal has been equipped with the newest and latest devices for the efficient handling of boats at lock points. The Hudson River and the barge canal have been buoyaged and lighted by night throughout their entire length to facilitate traffic by making it possible and suitable to travel at night as well as in the daytime.

I can appreciate that the shippers on the Great Lakes during the war were inconvenienced to a certain extent by the lack of sufficient transportation facilities. This condition was not only true of the shippers on the Great Lakes but it was also true of the shippers throughout the entire United States. It was so apparent that the Federal Government took over the railroads and regionalized them so as to take care of the traffic, but this condition does not exist to-day. The barge canal has been placed in operation since the war terminated, and with this additional assistance there will be no chance for a repetition of a like condition in the future.

It has been stated that the harbor of New York is congested, but great improvements are contemplated, and are now actually being carried to completion. An immense grain elevator is being built in Gowanus Bay and the construction of others contemplated in the harbor of New York, and I, for one, would much prefer the present congested condition of the harbor of New York to the natural six months' period of ice-bound congestion of the harbor of Montreal. This same condition is true of any city bordering on the St. Lawrence during the six months' ice-bound season of that locality.

I wish to call your attention to the fact that if we, through the expenditure of this vast sum of money, should create a grain export harbor on the St. Lawrence, it will mean in the time of a possible disagreement with any of the countries in

Europe to whom we are selling our grain that Great Britain would be in a position on account of international law to close that port against the exportation of our food products, and we would be in a position of complete helplessness and stagnation on account of the lack of necessary transportation facilities in the United States, our own facilities having shriveled and died of commercial starvation due to the curtailment of our previous business on account of the flow of grain through this new proposed route.

If an export harbor in Canada, which would naturally be controlled by Great Britain, should become the export city of grain in the United States, as Liverpool is the greatest import city of grain in Europe, naturally the grain would be carried from one of these harbors to the other in English bottoms.

Under these circumstances England would absolutely control the price of the commodity. She being a consuming nation, her control would be downward. The few cents which the farmers expect to save in freight rates—which I do not believe would be accomplished—would be more than absorbed by the heavy additional costs due to local conditions. Nor do I believe that in any event is it possible, under such a proposed plan, to effect any appreciable saving. On the contrary the farmers would lose many thousands of dollars through Great Britain's actual control of the price of their products through her control of the export, import, and transportation of their commodities.

On the other hand, all the boats that carry grain to Europe would naturally have to return loaded with cargoes of other materials, and by so doing it would, therefore, at the same time make this proposed city in Canada a very large and important import city, and, furthermore, inasmuch as the St. Lawrence River is closed to navigation for approximately six months in the year the elevators and terminal facilities which were primarily constructed for and to be used for canal shipments would be turned over to Canadian railroads, and they in turn would carry the newly routed grain in place of our railroads in the United States during the wintertime, or in the closed season of water transportation in that part of the country.

What I want to see is the money that we are now considering spending in Canada used for the benefit of the farmer and for the stimulation of the other industries of the country. I want to see the farmers' marketing conditions improved. I want to see the farmers' transportation facilities improved and the cost judiciously lowered. I want to see the farmers get adequate and efficient banking facilities and the proper extension of credit, all of which are their just due. I should also like to see in the very near future a marked improvement of business in general throughout the entire United States, all of which will require Federal appropriations.

The trinity of transportation systems, which the State of New York has given to the Nation, will carry more freight than the entire freight now existing on the Great Lakes if it is given more boats for the canal, more cars for the railroads, and sufficient joint terminal facilities, together with adequate and efficient equipment such as storage and elevator facilities at the proper terminal points.

I can appreciate how the propaganda for a larger, a bigger transportation waterway may appeal to the shippers on the Great Lakes and to the farmers of the Middle West, particularly in view of its coming so shortly after the congestion which existed during the war, but I want these men to sit in sober thought and ask themselves whether or not to-day there exists more transportation facilities, namely, land, water, and improved railways, than are necessary to take care of all their tonnage.

What they actually need and crave are cheaper transportation rates, and by way of interrogation let me ask how they are going to make this possible by the expenditure of upward of three to four hundreds of millions of dollars in adding another transportation system to those we already have and thereby place an additional burden of taxation upon the public and likewise lessen the revenue on the facilities that are already in existence by dividing their revenues in half through the creation of a paralleling and competing route.

It has also been stated by some that there are great possibilities in the construction of this canal of creating a large amount of electric horsepower. Let me say that while the engineers claim a production of several million horsepower, that only one-fifth of it comes within the borders of the United States, and while we may get our proportionate share, it will be with the pleasure of paying half of the expense.

I might further state in relation to this that in the Adirondack region of the State of New York and in the barge canal located wholly within the territory of the United States we have more latent horsepower which we can develop, and over which we may have entire control for less than one-fifth of the amount it will cost us to build the aforesaid proposed waterway. If we want horsepower, let us create horsepower. If we require waterway transportation, let us utilize and develop that which we already have in the name of the barge canal. What we mostly need at the present time is immediate relief, immediate improvements to our farmers' conditions, and immediate improvements in other industrial and commercial industries, which can not be brought about by additional transportation systems, and surely could not be brought about by such an additional transportation system that will require a period of 10 years to build.

If the present farming conditions are not improved and improved immediately, within the next year the present-day farmers now actively engaged will be out of business and their sons will be working for others.

The logical course to pursue is to utilize that which we have to the fullest extent possible, and if need be, to improve that which we already have to meet present-day conditions, and thus give to the farming communities of the great West and Middle West, together with those lying within the watershed of the Great Lakes, all that they may desire for their present and possible future requirements.

We have many harbors and inland waterways the improvement of which has been delayed on account of our large expenditures due to the war, as well as the shortage of labor during the war period and for some time thereafter. Some of the most important I wish to call to your attention, namely, the harbors at Portsmouth, Boston, New London, New York, Philadelphia, Baltimore, Charleston, Savannah, Jacksonville, Mobile, New Orleans, Panama, Los Angeles, San Francisco, Portland, Seattle, together with their inland tributaries leading into the interior, plus the great Mississippi, as well as the harbors in the cities bordering on the Great Lakes. All of these should be given the necessary financial assistance before attempting to finance such a stupendous project without the territory of the United States.

The policy of the United States should be American money for American waterways in the territory of the United States.

PUBLIC SERVICE CORPORATIONS, DISTRICT OF COLUMBIA.

The SPEAKER. To-day is District of Columbia day.

Mr. FOCHT. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 8520) to further regulate certain public service corporations operating within the District of Columbia, and for other purposes.

Mr. BLANTON. Mr. Speaker, pending that motion, can we have an understanding as to a definite time for general debate?

Mr. FOCHT. As far as the chairman is concerned, we are satisfied that the time shall be unlimited.

Mr. BLANTON. I am opposed to the bill. I am on the committee, and if there is no other gentleman on the committee opposed to the bill I would like to control the time against the bill.

Mr. FOCHT. How much time does the gentleman think we ought to have for general debate?

Mr. BLANTON. I think there should be two and one-half hours on a side; this is a most important bill if the Members of the House knew it.

Mr. FOCHT. We agree as to the importance of the bill but not to the necessity of so much time for general debate.

Mr. BLANTON. Let general debate run until 5 o'clock to-day.

Mr. FOCHT. Three hours of general debate to be confined to the bill, and the gentleman from Texas to control one-half of the time.

Mr. BLANTON. No; not confined to the bill because we will desire to speak on other questions. We ought to have two hours on a side. I think we will save time by giving plenty of time for general debate.

Mr. MONDELL. I think we can give gentlemen who want to discuss other subjects an opportunity to talk very soon, but the District of Columbia has had no time this session, and I think the District is entitled to all of the time.

Mr. BLANTON. Well, say three hours, general debate not to be confined to the bill.

Mr. FOCHT. Mr. Speaker, I ask unanimous consent that there shall be three hours of general debate, one hour and a half to be controlled by the gentleman from Texas and one hour and a half by myself, and debate to be confined to the bill.

Mr. BLANTON. No; not confined to the bill because there are other matters connected with it that we will want to discuss.

Mr. FOCHT. All right, I will withdraw the request to confine general debate to the bill.

Mr. GARRETT of Tennessee. Reserving the right to object, I do not know what the division of the committee is.

Mr. FOCHT. There is no division.

Mr. GARRETT of Tennessee. The gentleman from Texas states that he is against the bill.

Mr. FOCHT. He is the only one against it. By accepting a certain amendment it makes the bill satisfactory to all Members with the possible exception of the gentleman from Texas. I would like to ask the ranking minority Member of the committee what his ideas are about that.

Mr. WOODS of Virginia. I should say an hour and a half on a side.

Mr. FOCHT. It seems to me that the ranking minority member of the committee should handle the question on that side.

Mr. BLANTON. The only difficulty about that is that the gentleman is for the bill. I seem to be the only member of the committee on this side who is against the bill.

Mr. MONDELL. Let me suggest to the gentleman that the usual division is between the chairman and the ranking member of the minority. As the gentleman from Texas is against the bill he ought to have plenty of time to discuss the bill from his standpoint, and I am sure his colleagues will yield him time, and if there is any question about it we will yield him time from this side.

Mr. BLANTON. The rules give me one hour.

Mr. WOODS of Virginia. I propose to divide the time between those for and against the bill if it is left to my disposal.

Mr. BLANTON. Mr. Speaker, under the rules of the House, if there should be no agreement as to the division of time, the Chairman of the Committee of the Whole House on the state of the Union would be forced to recognize anyone on the committee who is opposed to the bill. That is the rule of the House. I seem to be the only member of the committee against the bill, and I am conscientiously and sincerely against it. I expect to show reasons why my colleagues should not vote for this bill as it is, and that being the case I think I should control the time against the bill.

Mr. FOCHT. The ranking member of the committee on the minority side usually controls the time.

Mr. BLANTON. That is the gentleman from Virginia [Mr. WOODS], but this is Mr. Woods's bill, introduced, however, by the chairman of the committee, as is the usual custom. This bill was framed by the gentleman from Virginia. He is the sponsor for it.

Mr. MONDELL. How much time does the gentleman from Texas think he should have?

Mr. BLANTON. At least an hour.

Mr. FOCHT. Leaving only half an hour for the framer of the bill?

Mr. BLANTON. The other hour and a half are for the assistant framers of the bill.

Mr. WOODS of Virginia. Mr. Speaker, if the gentleman will permit, there are gentlemen who are opposed to the bill and who are in favor of the bill. The gentleman from Texas will be granted an equitable portion of the time after I have consulted with the other members of the committee who wish to be heard. I have had no requests for time so far.

Mr. WALSH. Mr. Speaker, reserving the right to object, I should like to ask the gentleman from Pennsylvania [Mr. FOCHT] how this bill happened to be introduced on October 7, referred to his committee, and ordered printed and reported out on the same day?

Mr. FOCHT. That does not happen to be the fact.

Mr. WALSH. That is the fact according to what is printed on the bill.

Mr. FOCHT. That is a mistake. The bill has been on the calendar for three days.

Mr. WALSH. Is this bill substantially the same bill as was formerly introduced under a different number and reintroduced by the gentleman from Pennsylvania?

Mr. FOCHT. Yes; it is, with the exception of typographical errors, which will be corrected in the course of the process of legislation. It is the identical bill; no change has been made in it whatever, so far as the purport of it is concerned.

Mr. BLANTON. Mr. Speaker, will the gentleman yield?

Mr. FOCHT. Yes.

Mr. BLANTON. The gentleman from Massachusetts [Mr. WALSH] is eminently correct. This bill was introduced in the House by the chairman of the Committee on the District on the 7th of October. It was referred to the District Committee on the 7th of October, and on that very same day, with the House meeting only about three or four minutes, the report on the bill was filed by the gentleman from Maryland [Mr. ZIHLMAN], and that report and the bill on the very same day, with the House in session only three or four minutes, were referred to the Union Calendar.

Mr. FOCHT. The chairman of the subcommittee is not responsible for the fact that the House was in session only two or three minutes.

Mr. BLANTON. I mention that all of that occurred in about three minutes.

Mr. DYER. Mr. Speaker, I demand the regular order.

The SPEAKER. Has the gentleman from Pennsylvania a request to submit?

Mr. FOCHT. The only request I have made is that there be three hours of general debate, and that the time be controlled one-half by myself and one-half by the gentleman from Virginia [Mr. WOODS].

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent that general debate be confined to three hours, one-half of that time to be controlled by himself and one-half by the gentleman from Virginia [Mr. WOODS]. Is there objection?

Mr. BLANTON. Mr. Speaker, I object.

The SPEAKER. The gentleman from Texas objects. The question now is, on the motion of the gentleman from Pennsylvania, that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 8520) to further regulate certain public service corporations operating within the District of Columbia, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 8520, with Mr. SINNOTT in the chair.

The Clerk reported the title of the bill.

Mr. FOCHT. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. FOCHT. Mr. Chairman, aside from various questions involving the perfection and expansion of the school facilities of the District of Columbia, this is probably the most important bill that will be brought from the Committee on the District for consideration by the Congress. This measure, or something akin to it or relating to its ultimate purpose, has been considered during a number of sessions by the great industrial bodies of the city, the boards of trade and various associations, by both branches of Congress, and in the committee. The matter has been gone over and over again, but up to the present time there has been a failure to find a solution.

I feel that we owe a great debt to the author of the bill, the gentleman from Virginia, Mr. WOODS, and also to the gentleman from Maryland, Mr. ZIHLMAN, chairman of the subcommittee, for the labor they applied to it, as well as to the other members of the Committtee on the District of Columbia, who during the sweltering and sizzling days and nights of this summer worked on the bill in order that they might bring something before the Congress that would be acceptable.

There are endless features and phases pertaining to the matter of urban and interurban transportation. It has been a science applied to almost every city, large and small, in the country. The trolley system solved the question of transportation for a long time, until now there is threatened the invasion of bus lines. Hence it has seemed to be the wise and advisable, and, in fact, imperative, thing to do to bring into closer operation all traction and transportation facilities by rail in all of the cities of the country, as otherwise bankruptcy stares them in the face. Indeed, bankruptcy has overtaken and overwhelmed hundreds if not thousands of traction lines in the rural sections of the country, and to my mind the salvation of the transportation facilities of the District of Columbia by means of trolley is involved in this very measure now before you for consideration. The outstanding features, the transcendent requirements, involved here were set forth more than three years ago by a body of gentlemen representative of every branch of industry and commerce in the District of Columbia, namely, the board of trade, consisting of approximately 2,300 members; and as indicating their foresight I desire to read a brief excerpt from their report and the resolution adopted by that body on August 28, 1919, following which several bills were introduced but which were never brought to the floor of the House. It seems now absolutely necessary that something should be done. I read from the subcommittee report of that body:

Your committee, after an extensive study of the street traction situation, has come to the conclusion that the only economic solution of the problem, to afford satisfactory service to the people and to accord an

honest return for honest investment, is the merger or consolidation on a basis equitable to both railroad companies and the public of all the traction lines now operating within the District of Columbia. The reasons are so many for this conclusion and so appealing that the compass of a formal report can not embrace them all. In passing it is enough to say, first, overhead charges could be reduced—

And that is clearly manifest when it is realized that the consolidation of the two lines means the elimination of the expense of one complete administration.

More economical management would be assured.

That would be involved in point one.

All existing tracks could be used interchangeably and to their full capacity.

There is one strong point which relates to the congested periods of the morning and evening in the city of Washington when the employees are coming to work and going home from work. By applying the use of the tracks of both lines, a proper dispatcher could probably handle double the number of people who are now handled in this rude, crude, double, and conflicting system.

Cars could be rerouted so as to save car mileage.

That is the point I just mentioned.

Lines could be connected up to use to the full advantage all tracks.

That is the economical administration and operation of railroads.

Every section of the District of Columbia would receive the same quality and grade of service.

In other words, the outlying district would get more prompt service than at the present time.

Additional lines could be added where legitimate demand exists.

The financial credit and stability of a "Capital City Traction Co.," controlling and operating all street railways of the Capital of the United States under the exclusive grant of Congress, would make available desirable securities and needed sums by bond issues for additions and betterments.

These are a few of the benefits to accrue from merger that occur to your committee.

They go on again.

We believe that municipal taxation of street railways should be lessened, not increased.

Give every benefit of that taxation to the car riders is the idea, I believe, and that can be done under this method. Now, I am doubly interested in this question from the fact that in the days of the promotion of electric railroads I had considerable relationship with their development, having engaged in a number of construction enterprises, and I found when the experts were called about the board to go over the question of whether a line from this city to the other city, or this little town or another one, would be profitable, that every time it was the experts' view that you must connect the line with centers of population, and that it is almost hopeless ever to realize any satisfactory returns by running a line from a city out into the country. Now, the result has proven these men had great wisdom, because most of the lines that extended into rural districts during the last few years, with the development of better road building for automobiles and vehicles, have virtually gone out of business, indeed many of the tracks have been torn up.

I speak of that for the reason that there will be offered here arguments that we should not pass legislation to break down the great Capital Traction line which through superior management has been able to make 10½ per cent on a reasonable valuation of its property, whereas the other line was only able to make 5 plus percentage on its reasonable valuation, but the common sense of all that is, my friends, in the light of my experience, in the development and operation of traction lines, that this line, the Capital Traction line, has a rich, fat territory, the short line through the congested part of the city, while the other line reaches far out into the District and must do double the work for the same money and add double to the cost, hence there must be applied some method of equalizing these two conditions in order to bring them together. At first these railroads when we talked to them about the common sense, the business idea of men who are commanders of capital enough to control either one of those lines could not get down to a table and talk it out and bring about their own consolidation on business lines based on business principles—and as you well know, capital has very little sentiment about it unless it gets hurt. Some one said about the most sensitive part of the human anatomy was the nose with its thousands of nerves. To be absolutely sure that a man was dead you put a bottle of ammonia to his nose and if there is a twitching when it comes in contact you may be sure that he is alive, but an old fellow in the corner said, "You do not know what you are talking about, the nose is not the most sensitive thing about the body. The most sensitive thing about the whole human anatomy is the pocketbook." That is the trouble here. If you wait, my friends, until these traction people get ready to consolidate there will be no consolidation; there will be no better service; there will be no reduction in the cost of transportation of the people to and from this Capital. Now, I am proud to say it here, and I would like to say it in the presence of the gentlemen who happen to think of something. Mr. WOOD in his bill did think of something. You know an orderly said when he approached Gen. Foch over in France when they had been lying for six months in the trenches doing nothing, "General, we do not seem to be doing anything. What do you think, with all this modern paraphernalia of war, Napoleon would do if he were here?" Gen. Foch said, "Napoleon would think of something."

The gentleman from Virginia [Mr. WOODS] has thought of something, and we are going to unfold and reveal the discovery before you to-day.

Mr. SANDERS of Indiana. Will the gentleman yield, or does he prefer to continue?

Mr. FOCHT. It would not interrupt me at all.

Mr. SANDERS of Indiana. While the gentleman is discussing the question of consolidation, in order to get it clearly in our minds it may be well to state that the bill is not, of course, a bill which compels consolidation.

Mr. FOCHT. No. But we take away the objection that has stood in the path of consolidation, and that was to the effect that they had no right to do so, and I will show you where they are not put under undue pressure. We do not like to use that word. But we think that by this method of equalizing their returns they will be very glad to consolidate.

Mr. SANDERS of Indiana. Will the gentleman yield further?

Mr. ZIHLMAN. If the gentleman will permit, I will state to the gentleman from Indiana [Mr. SANDERS] that this question has been gone into very thoroughly, and it is the consensus of opinion of men who have given this matter a great deal of thought and study that Congress can not compel a merger of these two companies.

Mr. SANDERS of Indiana. That is my understanding, and that the committee has proceeded on the theory that this bill is not a bill for compulsory consolidation, either because it is unconstitutional to compel a consolidation, or for some other reason, and the bill proceeds on the theory of voluntary consolidation.

Mr. ZIHLMAN. I do not quite agree with the gentleman. The bill by indirection seeks to compel a merger.

Mr. SANDERS of Indiana. The point I was aiming at, in order to have it in mind while the gentleman is discussing the bill, is that what is proposed by this bill is to give inducement to the corporations to lead them to consolidate, either by reduction of taxation or otherwise.

Mr. ZIHLMAN. No. The system of taxation proposed in this bill is not a reduction in taxation. It is to change the existing taxation by seeking to impose a burden of taxation on the stronger company and removing it from the shoulders of the smaller company, on the basis that the taxation was unfair and unjust, and that it is a survival of the old horse-car days, and that in this bill we propose a repeal of those taxes.

Mr. SANDERS of Indiana. What I had in mind was whether there was any provision here making this change of taxation dependent on the consolidation.

Mr. ZIHLMAN. No.

Mr. SANDERS of Indiana. In other words, if the gentleman from Pennsylvania [Mr. FOCHT] will permit just a moment, the provisions with reference to the taxation are not dependent on the consolidation? That would depend on whether or not there was consolidation?

Mr. FOCHT. Yes.

Mr. WALSH. Will the gentleman from Pennsylvania yield?

Mr. FOCHT. Yes.

Mr. WALSH. If the statement of the gentleman from Maryland is correct, that there is going to be a reduction of taxation whether there is going to be a merger or not, what prompted the committee to report a reduction of taxation in a merger bill?

Mr. FOCHT. It is not a reduction. It is an equalization of taxation.

Mr. WALSH. Of course, if this merger goes through, the taxation will be reduced to about one-third of 1 per cent.

Mr. FOCHT. Let us see.

Mr. ZIHLMAN. I will state to the gentleman that the system of taxation in this bill is not a reduction of taxation and not an increase of taxation.

Mr. FOCHT. It is self-evident, by common experience, that there should be a merger. I doubt whether any man here or anywhere would object to the merger. The question is how to

bring it about. As I said, the granting of consent has been asked for, not urged. Certainly, you might wait a long while before either one of these companies would care anything about a merger or any further interference by legislation on the part of Congress while making the money they are now. That would be a contradiction of human nature and the common impulses of humanity, a thing we have been struggling to eclipse for 2,000 years. If anything, it seems to me that that iniquity is growing broader and stronger every day. But this is what we propose, and this is the only solution we have ever found from any deliverances that have ever come from any manager of a railroad or exploiter of consolidation.

Now, the necessity is known; the consent we will give, but how are we going to get together? Now, this is contained in a section of the bill, and in just a few lines of the report of the distinguished chairman of the subcommittee, worked out by him and Mr. WOODS of Virginia, with the cooperation, of course, and the consent of the whole committee:

The committee have changed the tax on gross receipts.

Now, if we get this into our systems, gentlemen, we have all there is about this whole business. There will be a lot of collateral matters here, and I have been told we are going to be carried from one end of the country to another in various discussions of other questions, but when we come to this bill let us have these three things in mind. Now, I will proceed:

The committee have changed the tax on gross receipts, which is now 4 per cent, as provided under the act of July 1, 1902, to 1 per cent on gross receipts, and propose a tax of 50 per cent on all earnings in excess of 7 per cent on the fair value of the property.

Mr. GRAHAM of Illinois. Will the gentleman yield there?

Mr. FOCHT. Yes.

Mr. GRAHAM of Illinois. That means if they run in excess of 7 per cent that 50 per cent will be assessed?

Mr. FOCHT. In taxes.

Mr. GRAHAM of Illinois. That, in effect, then, is the same principle contained in the Esch-Cummins bill, is it not, where if they exceed a certain return certain things will happen?

Mr. FOCHT. It might be that the suggestion came from there.

Mr. GRAHAM of Illinois. Let me ask the gentleman this question: From his experience does he believe that that principle is now working well in the Esch-Cummins bill?

Mr. FOCHT. Well, we have not had the result of the experience of the Esch-Cummins bill yet. It is hardly yet in operation, I will say to the gentleman, as he well knows.

Mr. GRAHAM of Illinois. This is the point I have in my mind: The fact that 7 per cent is fixed there will be taken by the Public Utilities Commission of the District as a sort of congressional diagram to go by in fixing the rate, will it not?

Mr. FOCHT. Yes; 7 per cent.

Mr. GRAHAM of Illinois. And they will figure that they must fix the rate so that the railways will average 7 per cent?

Mr. FOCHT. No. The utilities commission fixes the rate.

Mr. GRAHAM of Illinois. Will not this be taken as a congressional expression of what the earnings should be?

Mr. FOCHT. No more than if you would say 5 or 8. We make it at 7.

Mr. GRAHAM of Illinois. That would be a reasonable return, would it not, on the money invested?

Mr. FOCHT. That is a question. Sometimes companies do not earn anything.

Mr. GRAHAM of Illinois. We say that they should earn a certain per cent as a rule.

Mr. FOCHT. Yes; if they apply them to the benefit of the traveler or passenger, and that they shall get six tickets for a quarter. That certainly means any addition or desire that the public should want. That is what we are trying to do, get better results and reduce the rates, and the whole thing is in the hands of the utilities commission.

Mr. GRAHAM of Illinois. What I was getting at is this: I doubt the wisdom of Congress making any expression of sentiment on the question. Is it not better for us to say to the utilities commission, "You fix a reasonable rate," and let it go at that?

Mr. FOCHT. I contend that they can fix it now, but they do not do it. In considering anything, gentlemen, in connection with the District of Columbia, it must be regarded as separate and apart from any precedent established anywhere else, in any municipality or governmental division in the United States. It is altogether different, entirely different, in this community.

Mr. WINGO. Mr. Chairman, will the gentleman yield?

Mr. FOCHT. Yes.

Mr. WINGO. There has been much confusion in the Hall, and I am frank to say to the gentleman that I have not read the bill. I understand the gentleman to say that you repeal the gross tax now of 4 per cent on the gross receipts and substitute for that a tax on the profits above 7 per cent. Is that 7 per cent on the par value?

Mr. FOCHT. No; on the fair estimated value, not the par value. No; they have cut that par off by millions.

Mr. WINGO. Seven per cent on its fair market value?

Mr. FOCHT. Yes; 7 per cent on its fair market value.

Mr. WINGO. What is the estimated valuation, or has there been one made of its market value as compared with its par stock value?

Mr. FOCHT. That estimation has been made.

Mr. WINGO. How does it compare?

Mr. FOCHT. As I understand, this is what it produces: The one produces 10½ per cent on its fair market value. The other produces 5 per cent plus.

Mr. WINGO. Is the market value greater or less than the book value?

Mr. FOCHT. The book value would be measured by the productivity of stock, to be measured on what it earns net.

Mr. WINGO. I know; but take for illustration the fact that there are so many millions, say one million, of capital stock of a corporation outstanding, and the actual market value of its property is $750,000. Then its actual value would be 75 per cent of the stock value. The point I want to get information on is this: How does its actual value as fixed compare with its stock par value? What per cent is it?

Mr. FOCHT. Do you mean according to what it pays?

Mr. WINGO. No; not what it pays, but its value. Has the property been valued?

Mr. FOCHT. It has been valued on the basis of worth in 1914.

Mr. WINGO. What is that replacement value?

Mr. WOODS of Virginia. The Capital Traction Co.'s capitalization is $18,000,000. The actual value is fixed at $15,000,000.

Mr. WINGO. Does that difference run all the way through?

Mr. WOODS of Virginia. It is much less than its stock and bond issue.

Mr. WINGO. I understand you have no taxes until they have earned a surplus above the fixed charges.

Mr. FOCHT. You have 1 per cent all the way through, and 50 per cent above the 7 per cent.

Mr. WINGO. You have 1 per cent all the way through, and 50 per cent above the 7 per cent of its value net, not on its par value?

Mr. FOCHT. Neither stock nor par value.

Mr. KELLER. Mr. Chairman, will the gentleman yield?

Mr. FOCHT. Certainly.

Mr. KELLER. Is it understood that the valuation of the earnings of the company shall be the valuation made by the utilities commission a few days ago?

Mr. FOCHT. I do not know how long ago the valuation was made.

Mr. KELLER. That is plus what the committee has found. Is that added to it? What method shall be used in the valuation of the property?

Mr. FOCHT. It is shown here on the commission fair valuation.

Mr. DUNBAR. Mr. Chairman, will the gentleman yield?

Mr. WOODS of Virginia. Will the gentleman yield to me an hour?

Mr. FOCHT. Absolutely. The author of the bill and other members of the committee should have time to be heard, just as I have been. They thought they would make a few remarks, and I thought I would make a few remarks in opening up this debate, and I would be delighted beyond measure to respond to any questions that may be asked. But I am afraid I shall have to forego that pleasure in order that the author of the bill, the gentleman from Virginia [Mr. WOODS], may have something to say on it.

Mr. BLANTON. Mr. Chairman, as a member of the committee opposing the bill, I want to claim recognition.

Mr. FOCHT. The gentleman will wait until I am through. I have not quite finished.

Mr. BLANTON. I beg the gentleman's pardon. I thought the gentleman had finished.

Mr. FOCHT. I had not quite finished. I would like to say to the gentlemen of the House that as chairman of the committee I can not add to or emphasize too strongly the earnest, sincere effort on the part of the committee, including some members who are against the bill. Amendments will be offered by them, particularly some that were accepted by the committee. The bill as I regard it is now whipped into excellent shape.

Certainly we all know that when any great piece of legislation is introduced, if it is of general application, no matter how great or wise may be the men who propose it or who correct the proof on it, when it is applied there will be anywhere from 10 to 100 amendments. This shows the absolute imperfection of human wisdom, and that only by cooperation can a reasonable approximation to perfection be attained.

I hope, gentlemen, for your very earnest, kind, and sincere consideration of this bill, and that at the end of the day you will have passed it. My only regret is that you can not do what we ultimately hope to do, ride home to-night on a six-for-a-quarter fare.

The amendments which I got leave to print as a part of my remarks are as follows:

Page 7, section 2, line 23, strike out all after the word "said" down to and including the word "said" on line 24.
Page 8, section 2, line 4, strike out all of line 4, the word "or" on line 5, and the words "as the case may be" on line 5.
Section 2, page 8, line 9, strike out the word "such," and on line 10 the words "filing certified by," and insert in lieu thereof the words "subject to the approval of."
Section 2, page 8, line 20, strike out the words "Washington Railway &," and on line 21 the words "Electric Co. or the said."
Line 1, page 9, strike out all of first line.
Section 2, page 9, lines 10 and 11, strike out the words "Washington Railway & Electric Co. or the said."
Section 2, page 9, lines 21 and 22, strike out the words "Washington Railway & Electric Co. or the said."

Now, Mr. Chairman, I will reserve the balance of my time and ask that the gentleman from Virginia [Mr. WOODS] be recognized.

Mr. BLANTON. Mr. Chairman, as a member of the committee opposed to the bill I ask recognition.

The CHAIRMAN. The gentleman from Texas is recognized.

Mr. LINTHICUM. I should like to ask the gentleman from Pennsylvania a question.

Mr. FOCHT. I reserve my time. I want to yield an hour to the gentleman from Virginia [Mr. WOODS].

The CHAIRMAN. The Chair understood that the gentleman from Pennsylvania yielded the floor.

Mr. FOCHT. Oh, no.

The CHAIRMAN. The gentleman reserved his time?

Mr. BLANTON. The gentleman reserved his time.

Mr. FOCHT. I reserved my time and asked that the gentleman from Virginia be given an hour.

The CHAIRMAN. The gentleman from Texas [Mr. BLANTON] is recognized.

Mr. FOCHT. For how long?

The CHAIRMAN. For one hour, under the rules of the House.

Mr. BLANTON. Mr. Chairman and gentlemen of the House, the committee report on this bill frankly admits that the purpose of the bill is to cause a reduction in the street car fares now charged in the District of Columbia. That would be a worthy purpose if it did not entail additional financial burdens upon the whole people of the United States. This bill, Mr. Chairman, will not force a reduction in street car fares. It merely authorizes the same. It will not force a merger of the competing companies. It merely authorizes them to merge. The committee admit that in 1917 the fare was 5 cents, or 6 tickets for 25 cents, and then until lately the fare was 8 cents, with 4 tickets for 30 cents, while now it sells——

Mr. WOODS of Virginia. Five tickets for 35 cents.

Mr. BLANTON. It has recently been changed to 5 tickets for 35 cents. The committee neglected to state that under their franchises these roads can not charge over 5 cents, but that they have increased their fares by permission merely of the utilities commission. As an excuse for this legislation the report asserts that—

If Congress lowered fares the matter would probably be tested in court and it would be years before we could hope to obtain relief.

Then in the next breath the committee says—

That if the companies do not merge by July 1, 1922, then the utilities commission shall fix the fares.

Well, if the utilities commission can fix the fares on July 1, 1922, why can they not do it now? If they have authority to force the companies to come down on July 1, 1922, why have they not that same authority now?

Mr. ZIHLMAN. Will the gentleman yield for a question?

Mr. BLANTON. In just a minute I will yield to the gentleman from Maryland. The franchises of these companies require them not to charge over 5 cents fare.

Mr. WOODS of Virginia. Will the gentleman yield?

Mr. BLANTON. In a moment. The gentleman from Virginia is going to have plenty of time.

Mr. WOODS of Virginia. I want to correct the gentleman's statement.

Mr. BLANTON. Is not that the fact?

Mr. WOODS of Virginia. A subsequent law has been passed allowing them to charge more than they were allowed by their franchises.

Mr. BLANTON. The subsequent law which the distinguished gentleman speaks about—the gentleman is a great lawyer from Virginia—is the law passed by Congress authorizing the utilities commission to fix the fares. Now, we can change that law if we want to by repealing it. We can change that law, if we please, by taking that power away from this commission; and I again repeat—and I am sure the good lawyer from Virginia will not deny it—that if the utilities commission have the right to fix fares on July 1, 1922, they have the same right to fix fares now. If, as the committee say, they are actuated through fear of court proceedings and do not want the matter delayed in court, what causes them to cease being afraid of court proceedings after July 1, 1922?

Mr. ZIHLMAN. Will the gentleman yield?

Mr. BLANTON. In just a moment. Will not the courts be just as open on the 1st day of next July to these railway companies which have been robbing the poor people of Washington ever since the war began with increased fares? Will not the courts be just as open to them then as they are now?

Mr. ZIHLMAN. Will the gentleman yield now?

Mr. BLANTON. In a moment. I have got the facts here that I want to put before Congress. Thank God we have a lot of our friends here to-day. Our colleagues, after their recess, are here on the job, attending to their business, and there is a chance to keep vicious legislation from passing, because there is a chance of letting our colleagues know just what they are to vote on when this bill comes up for final passage.

Now I want to call attention to the numerous bribes which this bill offers to these companies to try to induce them to merge and to grant some reduction in fares in this District. I will state to my colleagues that the main trouble is that every one of these bribes has to be paid by your constituents and mine—40 per cent at least; and if they succeed in restoring the half-and-half law, which the newspapers say there is a move now on foot to restore, it will be a 50 per cent burden upon the whole people of the United States.

Now, let us see what some of these bribes are. Section 4, on page 11, repeals the law requiring these companies to maintain traffic policemen at railway intersections, and provides that such expense is to be paid by the people, and 40 per cent of it is to be paid by the whole people of the United States.

Now, notice what the traffic crossing expenses were last year and see what we are relieving them from—what we are putting off on the shoulders of the people. Last year for traffic crossing expenses the Capital Traction Co. paid $29,766.94. That is what you are relieving that company of and throwing upon the shoulders of the already tax-burdened people of this country. Last year the Washington Railway & Electric Co. paid $46,662.79. And this bill will relieve it and make the people pay this sum each year. In the bare hope of getting a reduction in fares here in Washington are you gentlemen willing to relieve these corporations of this enormous annual expense of $76,429.73 on this one item and saddle the extra burden upon the people each year? I am not.

Mr. SANDERS of Indiana. Will the gentleman yield?

Mr. BLANTON. In a moment. Now, let us see what the next bribe is. Section 5, on page 12, repeals the law requiring the companies to pay 4 per cent on the gross receipts. The tax paid last year by the Capital Traction Co. was $222,133.82 and that paid by the Washington Railway & Electric Co. $247,416.24, and this bill relieves them of paying this tax in the future.

Mr. LINTHICUM. Will the gentleman yield for a question?

Mr. BLANTON. In a minute.

Mr. HARDY of Texas. Will the gentleman repeat those figures?

Mr. BLANTON. The Capital Traction Co. paid $222 133.82 and the Washington Railway & Electric Co. paid $247,416.24 on this 4 per cent gross-receipt tax.

My friend from Virginia—and there is no man in the whole United States for whom I have a higher regard—framed the bill before it was torn all to pieces, and my other friends on the committee substituted what they thought was a better plan for the taxation of these companies than this 4 per cent on the gross receipts. I want you to study their plan, and I want you to know that the railroad companies are in favor of the change. Whenever a corporation is in favor of a change in the mode of taxation you may be assured it is to the detriment of the people of the country.

Mr. LINTHICUM. Will the gentleman yield?

Mr. BLANTON. I will yield to the gentleman from Maryland.

Mr. LINTHICUM. Suppose we pass this bill and the railroad companies do not consolidate.

Mr. BLANTON. And they are not going to consolidate. It is foolishness for you to believe it. What is there in the act that will cause them to consolidate?

Mr. LINTHICUM. Suppose they do not consolidate, are they not, under the act, relieved of the expense of the traffic policemen?

Mr. BLANTON. Yes; certainly; relieved of all of these burdens and the burdens are put on the people. The people have lost something and have got nothing in exchange on earth, but the railroad corporations have gained it all.

Mr. LINTHICUM. Then this does not depend upon their consolidation, but goes into effect anyway.

Mr. BLANTON. We offer to relieve them of all these obligations in the hope of trying to save something in fares. The committee say, "You ought to merge because we have done something for you."

Mr. LINTHICUM. They would get relieved of these burdens whether they consolidate or not.

Mr. BLANTON. The gentleman has an analytical mind, a discriminating mind, and he can see the point. [Laughter.]

Mr. GRAHAM of Illinois. Will the gentleman yield?

Mr. BLANTON. I will yield to the gentleman.

Mr. GRAHAM of Illinois. I judge that the gentleman from Texas has looked into these figures so that he can tell me. Suppose the Public Utilities Commission allows to this merged company an earning which would bring them 7 per cent on a fair value of their property judging from the earnings of the companies for the last few years, taking both into consideration; would that reduce the present fare any?

Mr. BLANTON. I think not. Nobody on earth knows. My friend, the gentleman from Maryland, who is very adept in framing reports and who conscientiously and honestly believes that his figures and his position are right—and I have confidence in his integrity—does not know what will be the effect of this proposition.

Mr. GRAHAM of Illinois. They are hitting in the dark.

Mr. BLANTON. They are hitting in the dark. They are hoping to get a merger, and to get what I have tried to get ever since I have been here, to get these companies to quit robbing the public.

Mr. ZIHLMAN. Will the gentleman yield for me to give him the figures?

Mr. BLANTON. The gentleman may do that in his own time. I prefer to use mine just now. Now, are you willing on the bare hope of getting a merger, which is a pipe dream, are you willing in the bare hope of getting a reduction in fares, which is improbable, to relieve them of the payment of $469,550.06 that these corporations paid on this 4 per cent taxation plan and saddle it on the people of this country, 40 per cent of which your constituents in your district pay? Are you willing to do that? I am not. And I am not going to sit by and keep my mouth closed when this kind of a bill is up without letting the people in my district know something about it. I hope the people in your district will find out something about it.

Now, what is the next item of bribe—and I say that with all due respect to the chairman of the committee and my good friend from Maryland who wrote the report and who got such speedy action on it, and, gentlemen, that was the speediest action that I ever saw. [Laughter.] The House met on the 7th day of October. It was in session just about three minutes. Do you know what happened in that three minutes? The distinguished chairman of this committee brought this bill in here and introduced it by putting it into the basket. It was marked referred to his committee. Do you know what else happened?

I want to tell you right now that if the colleague of this speedy race horse from Maryland had been riding him instead of that white charger in the antiprohibition parade not long ago it might have amounted to something, for he would have been able to show some class and some speed. [Laughter.] Inside of those three minutes the committee met and considered this bill and reported it out—I presume all this happened in three minutes, because on the face of it it so shows—and my good friend wrote his report giving us all these figures, got the report ordered printed, and had the bill and the committee report referred to the Union Calendar and ordered printed for our consideration to-day. All that happened in three minutes, because all of this is marked done in the House on October 7, 1921. Whenever a piece of legislation comes before this body, introduced, referred, considered, reported, and the report printed, all in three minutes, you better watch it. That is a bit too fast. It is showing too much speed. It reminds me of a little story, which is a true story, which has a moral to it, and the moral came from the junior Senator from Texas. I was riding with him down here to a department one day and our attention was called to the game of tennis. I said, "SHEPPARD, that is the finest game in the world." He told me that he could not agree with me, but he asked me why I thought it the finest game in the world. I said, "Because it teaches you the three great cardinal principles of a good business man. First, it teaches you to see quickly and correctly; second, it teaches you to think quickly and correctly; and third, it teaches you to act quickly and correctly, and those are the three great cardinal principles of a good business man." He said, "But, BLANTON, you have forgotten one of the main cardinal principles, and my game of golf is a better game, because it teaches you to act deliberately." I offer that to my friend, the chairman of the committee, and his colleague from Maryland [Mr. ZIHLMAN]. There should have been more deliberation on this bill. Oh, I know such a bill was considered for weeks, but this is not the chairman's bill. I relieve him of the responsibility. Whatever merit there is in it I relieve him of, for the merit belongs to my friend from Virginia. I will not say that the chairman is not entitled to some of the demerits, because he does not know much about it. If my good friend from Virginia spent days and weeks and months preparing this legislation, and it was the Woods bill that was considered for days and weeks and months, however much it was amended, I want to ask you by what rule of right or justice has the chairman of a committee to come in and take it away from him and introduce it about two or three days before it is to be considered as his bill?

Mr. WOODS of Virginia. Mr. Chairman, will the gentleman permit a suggestion? I suggested that very thing myself.

Mr. BLANTON. Well, the gentleman made an unwise suggestion. The gentleman was in the situation of knowing that it was going to be done anyway, and he was trying to make the best of it—a bad situation—because that is what is done by every committee. Let a man work and slave himself to death here on a piece of legislation, let him work for days and weeks and months on it, let it be splendid legislation, and when it comes into the House for consideration it is introduced always in the name of the chairman of the committee that has been considering it, and I say that it is not right, and that is one practice or custom which we have here which ought to be stopped. You ought to give a man the benefit of what he does. [Applause.]

I am going to show you now another bribe. Section 6, on page 14 of the bill, repeals the law requiring these companies to pave within their tracks and passes that expense on to the people. I ask my good friend from Texas [Mr. HUDSPETH], of El Paso, if El Paso does not require the street railways to pave within their tracks?

Mr. HUDSPETH. And on both sides.

Mr. BLANTON. Baltimore requires it, New York requires it, Pittsburgh requires it, St. Louis, Kansas City, Chicago, San Francisco, and Louisville all require it, and why should not Washington? Why should we pass a law repealing the present law, thereby relieving the railroad companies from paving their part of the tracks? It is but another bribe to try and induce them to merge and reduce fares, when they have no right now to charge over 5 cents under their franchises, if our Public Utilities Commission would but do its duty.

Mr. RAKER. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. Yes; because the gentleman from California can throw light upon almost every kind of subject.

Mr. RAKER. Do the hearings show what it costs the railroads to build up between the tracks and 2 feet on each side, of which they would be relieved by this bill?

Mr. BLANTON. I will show you what it cost them last year, and that is a basis, and you can understand by that what you are relieving them of this year and every other year, and what you are putting on the shoulders of the people each year hereafter.

Mr. OLIVER. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. In just a moment I will yield to the gentleman from Alabama. I want first to answer the question of the gentleman from California, as it is a pertinent question. Taking the amounts paid last year as a basis, this would relieve the Capital Traction Co. of $52,230.50 each year, and it would relieve the Washington Railway & Electric Co., of $94,893.02 expense each year, as such sums were spent by them last year, and it would pass all of this expense on to the people, 40 per cent of which at least must be paid by our constituents at home.

Mr. OLIVER. Mr. Chairman, will the gentleman now yield?

Mr. BLANTON. Yes.

Mr. OLIVER. So that this undertakes to repeal the law which places a just burden upon these companies for contributing to the improvement of the streets?

Mr. BLANTON. It does that very thing.

Mr. OLIVER. It does not undertake to repeal the law which places a like burden upon the property owners for improvements of the streets within the District?

Mr. BLANTON. No; that is to come later from the chairman of the committee, unless I am able to keep him from doing it; but I am going to be on the ground fighting him every time he tries to bring in a bill repealing the Borland Act, which is one of the best laws the District ever had. Why should not the abutting property owner do what our people at home do—pay their pro rata share for improvements in paving streets? And yet the newspapers of Washington, who want to see every million dollars they can expended here, because a portion of it will go into their exchequer, are advocating these very things. That is why you found the Washington Herald conducting a big beauty contest, which got my friend from Oklahoma into such trouble; that is why you find the Washington Times giving away right now $10,000 in cash in a lottery that is just as much against the law as the New Orleans lottery was; and that is why you find the Washington Post, the privileged and protected mouthpiece of the administration, conducting not a beauty contest, not a $10,000 lottery, but in the big-bug class, for it is up in the highbrow class, and it is now conducting a $40,000 lottery here that ought to make the Attorney General of the United States get busy and stop it.

If they can stop the lottery in Louisiana, they ought to be able to stop the lottery in Washington that makes every little boy and girl in this city go out and buy two or three papers in order to get every issue of the afternooon when they do not want the papers, but they are looking for the numbers which constitute prizes. Is that all this bill does?

Mr. SPROUL. Will the gentleman now yield?

Mr. BLANTON. I must yield to my friend.

Mr. SPROUL. I want to state that for every new mile of addition to be made or extension it will cost the taxpayers $25,000 a mile for that improvement.

Mr. BLANTON. And the gentleman knows and is correct, because he is an experienced contractor of many years' standing, and he knows what he is talking about.

Mr. RAKER. Will the gentleman yield right there to make the matter perfectly plain? Does that mean, now, the railroads would be relieved of that $25,000 of newly constructed line?

Mr. BLANTON. Why, of course, and also if you pass the other bill the newspapers are trying to get passed and which they are offering propaganda in behalf of every day, to repeal the Borland law, you will relieve the abutting property owners of the just burden which they should bear. I want to tell you right now if you ever attempt to repeal that Borland law you are going to hear from your constituents in your district. I know it would be lots pleasanter for me to get up here and join my friend from Virginia [Mr. WOODS], my colleague, a member of my party, a Member from the State wherein my father was born, everything would tend to make me want to help him, and I would like to help my good friend FOCHT and my colleague from Maryland pass this bill were it a good measure. I could make friends by sitting here in my seat and not saying anything. I heard not long ago that a man had been in Congress 20 years and had not yet opened his mouth, and that he had more friends here than anybody else. I do not want to obtain friends that way. I would not be performing my duty to my people.

Mr. Chairman, how much longer and in how many other ways are the whole people of the United States to be robbed in order to make Washington, D. C., a greater haven for millionaire tax dodgers, who are daily acquiring residences here to enjoy its privileges and pleasures?

The people of the United States are patient and long-suffering. When until a few years ago they never dreamed of "a billion dollar Congress," but now learn that $5,500,000,000 was spent last year, and have been told by Secretary Mellon that with all proposed economies effected $4,550,000,000 will be spent this fiscal year, not counting existing revolving funds of several hundred million extra, they have begun to wonder where it all goes. They know that all of it comes from them in taxes. And they know that more than one-third is gross waste and extravagance. Mr. Chairman, it must be stopped. Excessive taxes must be reduced. Neither Mr. Dawes nor the Committee on Reorganization can stop expenditures. They can only recommend. It must be stopped by us here in Congress, where the money is daily appropriated. If we do not stop it, it will not be stopped. We have been spending an average of $40,000,000 each day in the year. On May 31, 1921, our total public debt was $23,952,741,592.43. On June 30, 1921, it had increased to $23,977,450,552.54. The interest on this debt is enormous, and our Government has to pay its interest promptly when due.

Amount of cash loaned by the United States to foreign countries.

Great Britain	$4,277,000,000.00
France	2,997,477,800.00
Italy	1,631,388,986.99
Belgium	349,214,467.89
Russia	187,729,750.00
Czechoslovakia	61,256,206.74
Serbia	26,780,465.56
Rumania	25,000,000.00
Greece	15,000,000.00
Cuba	10,000,000.00
Liberia	26,000.00
	9,580,823,677.18

Some of our above debtors have made every kind of a ridiculous claim for credit against our Government imaginable, and some of these claims our Government has allowed and paid in cash, instead of crediting same on interest due. With the exception of a few small payments, past-due interest on the above has been accumulating unpaid in enormous sums. Yet some of our northern and eastern papers are daily carrying on a determined propaganda urging our Government to cancel these debts. Is there any gentleman here who does not know why? If so, I will tell him. Some of the financial kings of Wall Street have been gradually acquiring for a mere pittance the other outstanding obligations owed by these foreign countries, and if they can induce Congress to cancel the debts due our Government they will thereby reap hundreds of millions of dollars profit. When we came to their rescue with soldiers, provisions, arms, equipment, and money Germany had England, France, and Italy practically on their knees ready to beg for mercy. Our Nation gave them life. It is only right and just that they should repay these debts. And they must be repaid, principal and interest. And we should stop all of this infamous propaganda once and for all.

Our Government is now paying as high as 5¾ per cent interest on some of the money it owes, and this enormous interest has to be paid by it every six months. We must refund our war debts and spread them over a period of 50 years so that taxes may be reduced. Under present taxation business is stagnated, for there is no incentive to capital to enter new business enterprises when it is known that should success be achieved the Government will take a large portion of the profits. And when we properly refund our war debts and stop governmental waste and extravagance excessive taxation will automatically adjust itself.

And, Mr. Chairman, there is no better time or opportunity for beginning to stop waste and extravagance than upon this bill. It recites that it was introduced in the House by Mr. FOCHT on October 7, 1921, ordered to be printed and committed to the Committee of the Whole House on the state of the Union at the same time, and also on that same date the committee report was presented and ordered printed, though the House was in session only a few minutes. As a matter of fact, other Members framed this bill, though it is not misnamed when it is called the Focht bill.

BIG REAL ESTATE BANQUET.

It reminds us of the big banquet the real estate princes of Washington gave Chairman FOCHT on the night of May 4, 1921, concerning which the Herald next morning said:

FOCHT WOULD MAKE DISTRICT OF COLUMBIA WORLD'S BEAUTY SPOT—FOCHT PROMISES LIBERAL FUND TO IMPROVE NATION'S CAPITAL.

"With me the sky is the limit to make Washington the greatest city in the world, and I would spend $800,000,000 to make it surpass the olden cities of the Nile, the famous metropoles of Egypt and India, and rival ancient Nineveh."

This was the promise made last night by BENJAMIN K. FOCHT, of Pennsylvania, chairman of the District Committee, when addressing members of the Washington real estate board at a banquet. He declared that the business men here were the only ones of the Nation who were sure of permanent success.

And concerning said banquet the Washington Post for May 5, 1921, said:

FOCHT WOULD GIVE CITY $100,000,000.

"As to schools," Mr. FOCHT continued, "the sky is the limit, so far as I am concerned. I come from Pennsylvania where we are accustomed to spend money. Representatives from Pennsylvania are not in the same position with people who come from the jack-rabbit sections of the South and some parts of the West where there is not much money."

This money Chairman FOCHT was to spend so freely, by hundred millions at a whack, was not his own private money, and neither was it the money of the people of this city, but it was the people's money in the Public Treasury of the United States.

WHAT THE PEOPLE DO NOT KNOW.

The good, trusting people of the United States do not know that the miles and miles of paved streets throughout the District of Columbia have been paid for half with their money.

They do not know that the million-dollar bridge on Connecticut Avenue was paid for half with their money. They do not know that the fine bridge across the Potomac below Lincoln Monument, the bridges across the Potomac above, and the new Key Bridge, which have cost several million dollars, were paid for half with their money. They do not know that the main water conduit that furnishes this city with water was paid for with their money. They do not know that Rock Creek Park, winding for miles along the creek, and constantly enjoyed by the 450,000 residents here, as well as the many other parks, were all paid for and are maintained with their money. They do not know that the thousands upon thousands of electric and gas lights that burn all night upon every street and alley in this District have been paid for and maintained half with their money. They do not know that the expense of acquiring and maintaining the numerous playgrounds, the numerous bathing pools, the splendid Tidal Basin, furnishing skating in the winter and a bathing beach in summer, the municipal golf links and clubhouses, the cricket and polo grounds, the numerous tennis courts, the special drives for horseback riders, have all been paid for half with their money. They do not know that 40 per cent of the expense of the great army of trash gatherers, with their wagons, who call regularly at our back doors, is paid out of the United States Treasury. They do not know that the army of garbage gatherers, with their special garbage wagons, who call at our back doors, are paid for 40 per cent by the people of the United States. They do not know that the horde of laborers who regularly call for our ashes at our back doors are paid for 40 per cent by the people of the United States. They do not know that the army of laborers who regularly trim the thousands of trees along each street in Washington are paid for 40 per cent by the whole people. They do not know that the army of laborers who regularly spray the thousands of trees along each street in Washington are paid for 40 per cent by the whole people. They do not know that the army of tree doctors who are regularly performing surgical operations on the diseased trees here are paid for by the whole people. They do not know that the fine Western High School, the Tech High School, the Business High School, the Dunbar High School, the Central High School, and the Eastern High School now being constructed to rank with the others, and which when finished will cost $1,500,000, and as well the scores of other fine school buildings here, have all been paid for half with the money of the whole people, and that 40 per cent of their expense of maintenance, as well as the salaries of the 2,587 teachers and employees of said schools are paid for by the whole people of the United States. They do not know that the salaries of the host of firemen, the cost and maintenance of the numerous fire stations all over the District of Columbia, the fire engines, apparatus and equipment, have been paid for half with the money of the whole people. They do not know that the great army of city police doing service in the District of Columbia—exclusive of the numerous special police and watchmen in public buildings paid for wholly out of the Treasury—have been paid half by the whole people. They do not know that the great army of street sweepers, sprinklers, and cleaners here are paid for half by the people. They do not know that the great army of laborers who, with sacks on their arms and punch sticks in their hand, each day gather up the papers residents scatter all over the city are paid half by the whole people. They do not know that the Public Health Service, with its army of sanitary officers, are paid for by the whole people. They do not know that 40 per cent of the expense of this rent commission, benefiting only Washington residents, is paid for by the whole people.

RIDICULOUS TAXES IN WASHINGTON.

In other words, Mr. Chairman, the good people of the United States do not know that the only taxes paid by the residents of the District of Columbia is $1.80 per $100 on real estate and personal property and three-tenths of 1 per cent on intangibles, and that all the balance of the expenses of this great city of 450,000 people is borne by the whole people of the United States.

For the residence I am renting at 1929 Kenyon Street NW. my water bill for the last year was only $7.20, which is just 60 cents per month, though I used an unlimited supply. The balance of the expense is paid by the whole people.

In the appropriation bill for the present year, Mr. Chairman, we succeeded in substituting the 60–40 system for the old pernicious half-and-half system which theretofore prevailed, and has so long robbed the people of the United States. So, instead of paying half of the expenses here, which they have done for so long, the whole people this year pay only 40 per cent of same.

Yet the Washington Star on September 21, 1921, asserted that a strenuous effort will be made in the Senate to pass the Jones bill, restoring the half-and-half system, and that also an attempt will be made to relieve the abutting owners from paying any part of the expense of paving.

The Star for last Wednesday stated that the President wants Congress to construct a new bridge across the Potomac opposite the Lincoln Memorial, to cost from $3,000,000 to $10,000,000.

There is already a splendid bridge across the Potomac to Arlington, just a few hundred yards below this proposed site, which cost the people nearly $2,000,000, and the new Key Bridge, now under construction just up the river, is costing the people $2,420,000, and there are several other bridges across the Potomac. There is no necessity for spending this money. The Lincoln Park, on East Capitol Street, is a splendid memorial of itself. The splendid new marble memorial to President Lincoln, just completed, has cost $2,939,720. The new Lincoln Reflecting Pool, now under construction, is to cost $609,000. There are other monuments here to Lincoln's memory. Surely the great President were he alive would not want $10,000,000 additional spent on a bridge in his memory when the bridge is not needed and it would burden his people further.

Thursday's Star advises that a drive will be made in Congress for $100,000 to improve Anacostia Flats. Notwithstanding the fact that Walter Reed Hospital, on Sixteenth Street, is one of the best equipped hospitals maintained by the Government anywhere in the United States, Gen. Sawyer, who was a country doctor in Marion until our President brought him here and overnight created him into a brigadier general, now wants to build another hospital here estimated to cost about $5,000,000. And you will understand how unnecessary this is if you will note the following available vacant beds in hospitals now controlled by the Government on September 1, 1921, to wit:

Beds available in Government-controlled hospitals on Sept. 1, 1921.

Hospital.	Tuberculosis.	Neuropsychiatric.	General and surgical.
No. 2, Boston, Mass			45
No. 36, Boston, Mass			67
No. 16, Portland, Me			5
No. 22, Vineyard Haven, Mass			8
No. 34, East Norfolk, Mass		63	
No. 44, West Roxbury, Mass		9	
No. 71, Sterling Junction, Mass			7
Navy, Chelsea, Mass			297
Navy, Portsmouth, N. H			29
Navy, Newport, R. I			47
Soldiers' Home, Togus, Me	21		155
No. 41, New Haven, Conn	24		
No. 3, Buffalo, N. Y			17
No. 21, Stapleton, N. Y			25
No. 38, New York, N. Y			27
No. 61, Staten Island, N. Y			491
No. 70, New York, N. Y			3
Navy, New York, N. Y			60
No. 15, Pittsburgh, Pa			6
Navy, League Island, Pa			139
No. 42, Perryville, Md		122	
No. 32, Washington, D. C			24
No. 29, Norfolk, Va			58
No. 56, Fort Henry, Md			271
Army, Washington, D. C			88
Navy, Washington, D. C			80
Navy, Norfolk, Va			92
No. 26, Greenville, S. C	29		
No. 10, Key West, Fla			14
No. 12, Memphis, Tenn			25
No. 20, Savannah, Ga			19
No. 45, Biltmore, N. C			37
No. 48, Atlanta, Ga			11
No. 60, Oteen, N. C	40		
No. 62, Augusta, Ga		3	
No. 63, Lake City, Fla			8
Navy, Charleston, S. C			28
Navy, Key West, Fla			25
Navy, Pensacola, Fla			11
Soldiers' Home, Johnson City, Tenn	175		
No. 27, Alexandria, La			103
No. 13, Mobile, Ala			14
No. 14, New Orleans, La			49
No. 58, New Orleans, La			9
No. 66, Carville, La			6
No. 74, Gulfport, Miss		99	
Navy, New Orleans, La			71
No. 8, Evansville, Ind			5
No. 6, Cleveland, Ohio			35
No. 11, Louisville, Ky			22
No. 69, Fort Thomas, Ky			22
Soldiers' Home, Dayton, Ohio			24
Soldiers' Home, Marion, Ind		96	
No. 5, Chicago, Ill			33
No. 30, Chicago, Ill			30
No. 7, Detroit, Mich			2
No. 53, Dwight, Ill			12
No. 37, Waukesha, Wis		7	
No. 73, Jackson Park, Ill		38	
No. 76, Maywood, Ill			434
Navy, Great Lakes, Ill			9
Soldiers' Home, Danville, Ill			2
Soldiers' Home, Milwaukee, Wis			77

Beds available in Government-controlled hospitals, etc.—Continued.

Hospital.	Tuberculosis.	Neuropsychiatric.	General and surgical.
No. 35, St. Louis, Mo.			98
No. 73, Colfax, Iowa			57
Soldiers' Home, Leavenworth, Kans.			67
No. 65, St. Paul, Minn.			39
No. 68, Minneapolis, Minn.			47
No. 72, Helena, Mont.			10
Soldiers' Home, Hot Springs, S. Dak.	5		16
No. 9, Fort Stanton, N. Mex.	50		
Army, Denver, Colo.	76		
Navy, Fort Lyons, Colo.	130		
No. 24, Palo Alto, Calif.			169
No. 50, Prescott, Ariz.	174		
No. 51, Tucson, Ariz.	139		
No. 19, San Francisco, Calif.			42
No. 54, Arrowhead Springs, Calif.			4
No. 64, Camp Kearney, Calif.	338		
Army, San Francisco, Calif.			256
Soldiers' Home, Los Angeles, Calif.			19
No. 17, Port Townsend, Wash.			6
No. 52, Boise, Idaho			59
No. 59, Tacoma, Wash.	13		
No. 25, Houston, Tex.			97
Army, Fort Sam Houston, Tex.	8		
Army, Hot Springs, Ark.			14
Total	1,222	434	4,291

Grand total of available vacant beds in Government-controlled hospitals amounted to 5,947 on September 1, 1921.

And, Mr. Chairman, yesterday's Star stated that Congress will be asked to appropriate money to acquire new parks by purchasing the Klingle Valley, the Piney Branch Valley, and the Patterson tracts. There is always somebody wanting to unload on the Government. And Saturday's Star stated that it is all cut and dried to move the Botanic Garden to the Hamilton tract. Why is it to be hidden over there, where no tourist can ever find it? At present these gardens are adjacent to the Capitol, where every resident and every visitor and tourist gets the benefit of them. But because somebody wants to unload the Hamilton tract upon the Government and somebody else has designs on the present site of these gardens the move is pushed. But the Botanic Gardens are not going to be moved without a fight. I shall oppose every move made in that direction.

Mr. Chairman, the law prevents any Member from voting on measures wherein he has an interest. And every Congressman and Senator who owns fine residences and valuable real estate property here ought not to vote on such measures as the half and half and other bills that enhance the value of all such property. The Good Book says that "Where your treasure is there will your heart be also." And if a Member who owns the million-dollar Willard Hotel is called upon to vote on a measure that will make his taxes one-half of what otherwise they might be, he could be influenced unconsciously. It is not necessary for Members to buy homes here. Real estate men are always anxious to accommodate a Member. The Washington Star for last Thursday, October 6, 1921, on its front page stated that there are 558 desirable vacant houses in the District, 100 of them being for rent in the choice northwest section and marked for rent, such check being made October 4, 1921.

But getting back to this bill, Mr. Chairman, if passed at all, we should strike out of it all of paragraphs (d) and (e) on page 7 and all of sections 4, 5, 6, and 7, and we should amend section 2 to prevent the Washington Railway Electric Co. from gobbling up the Potomac Electric Power Co., unless there is a merger of all the street car companies.

I hope no Member will offer the usual suggestion to pass the bill and let the Senate correct it. We can not always depend on our superior body in the other end of the Capitol. While they spend weeks and even months in carefully considering an anti-beer bill, they handle big supply bills very rapidly. The RECORD shows that within a few hours on February 18, 1921, they passed the Post Office appropriation bill, the Diplomatic and Consular appropriation bill, and the first deficiency appropriation bill, adding numerous amendments involving millions of dollars in private claims, such as that of the McClintic Marshall Construction Co. for $714,007.39, which for years I have fought and kept from passing. And in the RECORD on December 20, 1920, a distinguished Senator claimed that only three Senators were present when an important bill passed, and asserted that five Senators was the usual number in attendance.

It is interesting to note the number of amendments and increases added by the Senate to 11 of the supply bills for the present fiscal year, to wit:

	Total appropriations in bill when it passed the House.	Number of amendments by Senate.	Amount of increases added by Senate.
District of Columbia appropriation bill	$19,807,012.99	256	$2,031,790.00
Sundry civil appropriation bill	265,500,000.00	168	30,828,460.50
Post Office appropriation bill	572,714,721.00	21	1,592,331.00
Legislative, executive, and judicial appropriation bill	109,784,488.75	114	200,702,380.00
Indian appropriation bill	8,575,380.00	130	2,077,442.34
Agricultural appropriation bill	33,608,009.00	119	6,241,265.00
Diplomatic and consular appropriation bill	8,409,492.79	36	1,957,558.00
First deficiency appropriation bill	202,535,676.72	98	73,549,446.14
Army appropriation bill	320,765,818.80	57	13,390,341.00
Naval appropriation bill	396,901,249.23	115	98,018,686.74
Second deficiency appropriation bill	100,891,010.25	120	55,510,357.89
Total	2,155,636,551.94	1,234	485,900,558.61

Thus the Senate added 1,234 amendments and $485,900,558.61. So it is very evident that we can not depend upon our brothers in the Senate end of the Capitol to effect economy and stop waste.

The press here states that another effort is to be made to pass the bill to increase all salaries and the number of employees in the Patent Office, which I have fought for several years, and which several times has come so near becoming a law.

You will remember that on March 5, 1920, the House passed this bill, just as the committee presented it, granting the following salaries:

Commissioner, $6,000; first assistant, $5,500; assistant, $4,500; 5 examiners, $5,000 each; chief clerk, $4,000; 6 examiners, $4,000; 1 examiner, $4,200; 2 examiners, $3,900 each; 1 assistant examiner, $3,000; 1 assistant, $2,700; 1 assistant, $2,500; 1 assistant, $2,200; 1 assistant, $2,050; 2 assistants, $1,800 each; 2 assistants, $1,650 each; 2 assistants, $1,500 each; 47 examiners, $3,900 each; 40 assistants, $3,300 each; 30 assistants, $3,100 each; 30 assistants, $2,900 each; 40 assistants, $2,700 each; 30 assistants, $2,500 each; 30 assistants, $2,350 each; 40 assistants, $2,200 each; 30 assistants, $2,050 each; 30 assistants, $1,925 each; 40 assistants, $1,800 each; 30 assistants, $1,650 each; 30 assistants, $1,500 each; 1 clerk, $2,500; 1 librarian, $2,700; 8 chiefs, $2,500 each; 8 assistants, $2,100 each; 1 secretary, $2,000; 1 translator, $2,400; 1 assistant, $2,000; and 559 other employees too numerous to mention all drawing substantial salaries.

I knew, Mr. Chairman, from personal investigation that there was no necessity whatever for all of this great increase in the number of employees in this office, or the tremendous increase thus proposed for all salaries there, but that it was just another of the many, many unreasonable demands made by the unions of Government employees here in Washington, aided and abetted by the American Federation of Labor. So as soon as the gentleman from California [Mr. NOLAN], who is the mouthpiece of the American Federation of Labor on the floor of the House, called up this bill the following colloquy occurred between us:

Mr. BLANTON. Mr. Chairman, I notice that the salary of the Commissioner of Patents has been raised $1,000, I believe. The First Assistant Commissioner of Patents is raised $1,000, and the five examiners in chief have had their salaries raised $1,000, or how much?

Mr. NOLAN. The Assistant Commissioner of Patents at the present time receives $3,500. By the adoption of the amendment his salary is now increased $1,500 a year. The five examiners in chief receive $3,500, and the increase for them in this bill makes an increase of $1,500 a year.

Mr. BLANTON. Then, beginning with the chief clerk under the next section on down, the raises have been relatively how much?

Mr. NOLAN. The chief clerk at the present time gets $3,000, and he is raised $1,000 to $4,000. The tax examiners get $2,750, and they are raised to $4,000 each, or $1,250. The classification examiner receives at the present time $3,600, and he is raised to $4,200. The examiners in chief, $3,500, and are raised to $5,000. Those are the five examiners in chief provided in section 1. The interference examiner gets $2,700, and he is raised to $2,900.

Mr. BLANTON. So they approximate from $1,000 to $1,500 raise?

Mr. NOLAN. Yes. In some cases $600. I will state to the gentleman from Texas that the original bill provided more of an increase. The commissioner was placed at $7,500, the first assistant at $6,000, the assistant commissioner at $5,000, and so on down the line—chief clerk, $4,200; law examiners, $4,200; etc.

Mr. BLANTON. Mr. Chairman, I would like to know if the chairman of this committee can give me information whether or not the distinguished chairman of the Appropriations Committee indorses these raises?

Mr. NOLAN. I do not know.

Mr. BLANTON. The matter has not been submitted to him? Has not the steering committee had the matter presented to them?

Mr. NOLAN. Well, the Rules Committee has. I do not know if they took it up with the steering committee or not.

Mr. BLANTON. I was just wondering, Mr. Chairman, under the program of economy concerning which we hear so much daily from the majority leader, the distinguished gentleman from Wyoming, and others, how are we going to save this billion dollars that is being heralded to the country is to be saved, if we are going to raise all of these salaries? We have passed through the war, and now that the war is over and we are in the days of reconstruction and economy and retrenchment, with a deficit of $3,000,000,000 staring us in the face, how are we going to meet that emergency when in this bill we raise war-time salaries now during days of peace and when we are increasing them from $1,000 to $1,500 apiece at one clatter, right out of the box?

And, Mr. Chairman, a few minutes later I took the floor and made the following remarks against the bill:

Mr. BLANTON. Mr. Chairman, I desire to be heard on the amendment. I realize that it would be a waste of the time of the committee and of the few Members present—some 25 or 30 of us, who stay here and work and attend to the people's business—it would be a waste of our time to try to change any of these numerous large raises which the Committee on Patents has brought about in this bill. I was in hopes that the steering committee on the other side of the House, which has indicated its lip desire for economy, would step into the breach now before the House and have protected the people of the country against these unreasonable raises.

Now, I am in favor, if there are employees here who are not getting sufficient salary, if they earn by their industry and thrift and efficiency a raise, to give it to them. But to make a blanket raise of from $1,000 to $1,500 for a great many of these employees I think is out of all reason. I realize I would be wasting time by offering the numerous amendments here necessary to change these numerous raises, and I am not going to attempt it, but I want to put this Committee on Patents on notice, and I want to put the Appropriations Committee on notice, and I want to put the steering committee on notice, and I want to put the majority leader, the gentleman from Wyoming [Mr. MONDELL] on notice, that when this bill is finished in the Committee of the Whole, I intend to offer a motion to recommit and have all these salaries changed back to amounts at least approximating their present status. And then I hope that the steering committee will come in here and force a roll call and let the Members of Congress go on record on this question of whether they are going to stand for economy and efficiency in this Government, or whether they are going to blindly follow this committee and make a blanket raise in such large amounts for clerks and employees, whether they deserve it or not. I do think that the time has come, or it is coming soon, when we are going to be put on notice. This matter I put in the RECORD a while ago contains threats of employees as to what they and their organizations are going to do to Congressmen if they do not support their demands. The gentleman from New York [Mr. MACCRATE] says it does not affect us. I wish to God it did not affect us, but if you let water run over a rock, and keep on running over it, after a while it wears a groove. And they are continually coming to us with their threats and these demands.

Mr. MACCRATE. Will the gentleman yield?

Mr. BLANTON. I am sorry I can not yield, because this is an important subject I am discussing, and it is more important than the interruption by the gentleman from New York.

I want to say this: They say that we are going to hear from them and the organizations in the election and on the hustings. Our Government clerks say so. They and their affiliated associate, the American Federation of Labor, have placed the distinguished Speaker and "Uncle Joe" CANNON and myself and others on the black list. God knows I am glad to be on their black list with such men as the distinguished Speaker of this House and "Uncle Joe" CANNON, who has faithfully served his country for 44 years in this body. I want to tell you whom else you are going to hear from besides the organized clerks of this country and the organized unions of this country when election time comes; you are going to hear from the people of the country. They are going to ask you whether you voted for this economy motion of this man BLANTON, of Texas, to recommit this bill and get back to economy. They are going to ask you how you stood on some of these many economy and good-government questions that BLANTON has proposed here. They are going to pin you down as to whether or not you have stood for these things that BLANTON has proposed here in behalf of the people, or whether you have voted for these threats and demands. I am getting many letters from your districts now asking me how you stand and whether you are safe to be returned here. Of course, I answer them to the effect that you are my colleagues and that I like you, and that they will have to get your record from your votes. I am not giving you fellows away, but the people of this country are going to examine your records, as well as the organized Government clerks and the unions of this country.

And, as usual, when any attempt to economize is made, an effort to laugh it off ensues, and so on this occasion the gentleman from New York [Mr. CROWTHER] told one of his funny jokes and sought to sidetrack my efforts for economy with facetiousness, as follows:

Mr. CROWTHER. Mr. Chairman, this patent bill reminds me that one of the most useful inventions we have had during the last few years, particularly in case of motor cars, has been a self-starter, and when I hear the gentleman from Texas day after day in the House shouting that our economy is mere lip economy, I wish to God, as he does so often, that somebody would invent and present to him a self-stopper. [Laughter.]

And when I made the motion to recommit the bill so that it could be properly amended, by reducing said unreasonable raises in salaries to amounts within reason, and which would have saved half a million dollars annually for the people of this Government, the following occurred:

Mr. BLANTON. Mr. Speaker, I make a motion to recommit.

The SPEAKER. The gentleman from Texas makes a motion to recommit, which the Clerk will report.

The Clerk read as follows:

"Mr. BLANTON moves to recommit this bill to the Committee on Patents, with instructions to report the same back to the House forthwith with the following amendments, to wit: On page 1, line 7, strike out '$6,000' and insert '$5,500'; in line 8, strike out '$5,500' and insert '$4,800'; in line 11, strike out '$5,000' and insert '$4,000'; and on page 2, in line 1, strike out '$5,000' and insert '$4,000'; in line 7, strike out the two sums of '$4,000' and insert in lieu of each thereof '$3,500'; in line 8, strike out '$4,200' and insert '$3,700'; in line 9, strike out '$3,900' and insert '$3,300'; in line 10, strike out '$3,900' and insert '$3,300'; in line 11, strike out '$3,000' and insert '$2,600'; in line 12, strike out '$2,700' and insert '$2,300'; in line 12, strike out '$2,500' and insert '$2,000'; in line 13, strike out '$2,200' and insert '$1,800'; in line 14, strike out '$2,050' and insert '$1,850'; in line 15, strike out '$1,800' and insert '$1,600'; in line 15, strike out '$1,650' and insert '$1,500'; in line 16, strike out '$1,500' and insert '$1,400'; in line 17, strike out '$3,900' and insert '$3,300'; in line 18, strike out '$3,300' and insert '$2,800'; in line 18, strike out '$3,100' and insert '$2,600'; in line 19, strike out '$2,900' and insert '$2,500'; in line 20, strike out '$2,800' and insert '$2,250'; in line 20, strike out '$2,500' and insert '$2,000'; in line 21, strike out '$2,350' and insert '$1,800'; in line 21, strike out '$2,200' and insert '$1,600'; in line 22, strike out '$2,050' and insert '$1,500'; in line 22, strike out '$1,925' and insert '$1,400'; in line 23, strike out '$1,800' and insert '$1,400'; in line 24, strike out '$1,650' and insert '$1,350'; in line 24, strike out '$1,500' and insert '$1,300'; and on page 3, in line 2, strike out '$2,700' and insert '$2,500'; in line 3, strike out '$2,500' and insert '$2,200'; in line 4, strike out '$2,100' and insert '$1,750'; in line 6, strike out '$2,400' and insert '$2,250'; in line 8, strike out '$1,800' and insert '$1,600'; in line 9, strike out '$1,600' and insert '$1,500'; in line 9, strike out '$1,400' and insert '$1,300'; in line 11, strike out '$1,100' and insert '$1,000'; in line 13, strike out '$1,100' and insert '$1,000'; in line 13, strike out 'thirty-six' and insert 'six'; and in line 14, strike out the two sums of '$1,080' and insert in lieu of each of such sums '$800.'"

Mr. NOLAN. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER. The question is on the motion of the gentleman from Texas to recommit.

The question was taken, and the Speaker announced the noes seemed to have it.

Mr. BLANTON. Mr. Speaker, I make the point of order of no quorum.

The SPEAKER. The gentleman from Texas makes the point of order that there is no quorum present. It is clear that no quorum is present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The question was taken; and there were—yeas 6, nays 272, not voting 149, as follows:

[Roll No. 85.]

Yeas—6: Blanton, Garner, Jones of Texas, Porter, Quin, Thomas.

Nays—272: Andrews of Nebraska, Anthony, Ashbrook, Aswell, Ayres, Babka, Baer, Barbour, Barkley, Bee, Begg, Bell, Benham, Black, Bland of Indiana, Bland of Missouri, Box, Brand, Briggs, Britten, Brooks of Illinois, Brooks of Pennsylvania, Browning, Buchanan, Burdick, Burke, Byrns, of Tennessee, Campbell of Kansas, Campbell of Pennsylvania, Cannon, Caraway, Carss, Chindblom, Christopherson, Cleary, Coady, Cole, Collier, Connally, Cooper, Crago, Crisp, Crowther, Cullen, Dale, Dallinger, Davey, Davis of Minnesota, Davis of Tennessee, Denison, Dewalt, Dickinson of Missouri, Dickinson of Iowa, Dominick, Donovan, Doremus, Doughton, Dowell, Drane, Dunbar, Dunn, Dupré, Eagan, Echols, Elston, Emerson, Esch, Evans of Montana, Evans of Nebraska, Fairfield, Fess, Fisher, Flood, Focht, Foster, Frear, Freeman, French, Fuller of Illinois, Gallagher, Gandy, Ganly, Gard, Garrett, Glynn, Goodwin of Arkansas, Goodykoontz, Graham of Illinois, Green of Iowa, Greene of Vermont, Griest, Griffin, Hadley, Hardy of Colorado, Hardy of Texas, Harrison, Hastings, Haugen, Hayden, Hays, Hernandez, Hersey, Hersman, Hickey, Hoch, Hoey, Holland, Houghton, Howard, Hull of Iowa, Igoe, Ireland, Jacoway, James, Jefferis, Johnson of Kentucky, Johnson of Mississippi, Kearns, Keller, Kelly of Pennsylvania, Kendall, Kiess, Kincheloe, King, Kinkaid, Knutson, Kreider, Lampert, Lanham, Lankford, Layton, Lazaro, Lea of California, Lee of Georgia, Lehlbach, Lesher, Little, Lonergan, Luce, McArthur, McCulloch, McFadden, McGlennon, McKenzie, McKeown, McKinley, McKinley, McLaughlin of Michigan, McLaughlin of Nebraska, MacCrate, MacGregor, Madden, Magee, Mann of Illinois, Mansfield, Mapes, Martin, Mays, Mead, Merritt, Michener, Miller, Minahan of New Jersey, Monahan of Wisconsin, Mondell, Montague, Moon, Moore of Virginia, Moores of Indiana, Morgan, Morin, Mott, Mudd, Murphy, Neely, Nelson of Missouri, Nelson of Wisconsin, Newton of Minnesota, Newton of Missouri, Nichols of Michigan, Nolan, O'Connor, Ogden, Oldfield, Osborne, Overstreet, Paige, Park, Parker, Parrish, Phelan, Platt, Pou, Radcliffe, J. W. Rainey, Raker, Ramsey, Ramseyer, Randall of California, Randall of Wisconsin, Rayburn, Reavis, Reber, Reed of New York, Rhodes, Ricketts, Rodenberg, Romjue, Rose, Rouse, Rubey, Sanders of New York, Sanford, Scott, Sears, Sherwood, Shreve, Siegel, Sims, Sinclair, Sinnott, Sisson, Small, Smith of Idaho, Smith of Michigan, Smithwick, Snyder, Stedman, Steenerson, Stephens of Mississippi, Stevenson, Stiness, Stoll, Strong of Kansas, Strong of Pennsylvania, Summers of Washington, Sumners of Texas, Sweet, Taylor of Arkansas, Taylor of Colorado, Taylor of Tennessee, Temple, Thompson, Tillman, Timberlake, Tincher, Tinkham, Treadway, Upshaw, Valle, Vestal, Vinson, Voigt, Volstead, Walsh, Wason, Watkins, Weaver, Welling, Welty, Whaley, White of Kansas, White of Maine, Wilson of Illinois, Wilson of Pennsylvania, Wise, Wood of Indiana, Woods of Virginia, Woodyard, Wright, Young of North Dakota, and Zihlman.

But the above overwhelming vote did not stop my fight against this bill. I continued to fight it, although the House thereafter voted twice again to pass the measure into law; we succeeded in getting the Senate to amend the bill decreasing the raises, and when such raises were finally restored by the House and conferees, the bill finally died in conference at the end of the session before final action was taken.

And I want now to warn my colleagues that if you take this bill up and pass it again you are going to hear from the people of this country, who want to get back to normal.

Note the following affidavit that was voluntarily presented to me by a loyal, conscientious lady employee of this Government:

I, Miss Laura Althea Hill, being duly sworn, upon oath, state that I was born and raised in Fayette County, Tex., but am now a resident of San Marcos, Tex. From March, 1920, until August 6, 1921, I was employed in the Census Bureau.

It was no exception to the other numerous bureaus in Washington with regard to surplus clerks. They were simply in each other's way. I heard a section chief admit that 300 clerks could be eliminated from our building and never be missed. I have been idle as many as three days on a stretch. Four million cards like the ones I attach to this affidavit were done wrong three times in order to make the work last.

In his fight against waste and extravagance here, Congressman BLANTON has not exaggerated conditions. While his repeated attacks against the thousands of surplus Government employees here likely caused me to lose my job, I nevertheless indorse his efforts for economy, for if it continues it will bankrupt the Nation. I came voluntarily to

Congressman BLANTON's office to give him this statement, prompted so to do by a sense of duty. The people would not knowingly stand for what goes on here.

LAURA ALTHEA HILL.

Sworn to and subscribed before me, the undersigned notary public, on this the 5th day of October, A. D. 1921, in Washington, D. C.
[SEAL.] M. W. PICKERING,
Notary Public, in and for the District of Columbia.

The great trouble, Mr. Chairman, is that all of you are willing occasionally to make economy speeches to send home, but when the time comes to vote economy, you vote just the other way.

CONGRESSIONAL SALARY RAISES UP AGAIN.

In Mr. Kennedy's two-column article in the Star yesterday he again brought up the subject of raising our own salaries. Let me quote from his article an excerpt or two:

Coupled with this is a growing sentiment among those who watch Congress most closely that the salaries of the present 435 Members of the House and 96 Members of the Senate should be increased, etc. Some day soon several leaders on both sides, Republican and Democratic, are going to be brave enough to stand up on the floor and openly advocate a living wage for themselves.

When on February 7, 1921, I appealed to the press to help stop the proposed salary raise, the gentleman from Texas [Mr. SUMNERS] on February 17, 1921, made a verbal attack upon me from the floor, and later sent a statement to the Texas press indicating that the alleged salary raise was a hoax.

The Associated Press reported that for days the Texan had prepared the attack, but withheld it until Mr. SUMNERS was physically able to direct it; that BLANTON was punished for claiming he had blocked the salary amendment, concluding as follows:

The attack to-day on Mr. BLANTON was the culmination of many made heretofore by Members who charge that he is continually blocking legislation by points of order.

One who can not withstand being "framed" and who can not play the game when the cards are stacked and the dice loaded has no business in Congress.

DID SUMNERS HONOR TEXAS?

What was my effort? To prevent raising salaries. Was it laudable? Officially Mr. SUMNERS proclaimed that a Texas Congressman's letter was false as hell, with no word of truth in it; that Mr. CAMPBELL's effort to raise salaries in the Sixty-fifth Congress was defeated by Mr. BYRNS and that Mr. WOOD's point of order defeated it on January 11; and that I fight only dead things when there is no danger. He knew every paper in the United States would repeat it. He immediately had the Public Printer make copies of his attack to distribute under his frank.

Am I afraid of danger? And do I fight only dead things? Stacks of anonymous letters from New York to Seattle threatening my life, an assassin's rifle bullet crashing through both side doors of my car in nighttime, shattering glass over my family, many packages received that failed to intimidate or stop my activities—all refute his charge. One live thing I fought against has issued its defi. Mr. Samuel Gompers has proclaimed he will disobey injunctions and defy even the mandate of the Supreme Court of the United States. I headed his black list, while his unions gave Mr. SUMNERS a 100 per cent approved record. Mr. SUMNERS's attack brought gladness to Samuel Gompers.

ON THE JOB.

No one will swear that any other Member has been more constantly on the floor than I have, making a vigorous, continuous, uncompromising fight against waste, extravagance, inefficiency, graft, anarchy, and class domination of Government—not merely to answer roll calls, but during all business, for one can respond when the bell rings and answer all roll calls and yet be absent from the floor most of the time. The pleasures of the cloakroom are enticing, but I have had to forego that entertainment. During the last session, just adjourned, I was absent only once—January 19, during debate on the Siegel apportionment bill. I had spoken against it the preceding day and for reducing the number of Members—pages 1697–1698. The hearings of 222 pages before Census Committee show that I was the only person who appeared and testified for a reduction of the number of Congressmen. My bill, H. R. 15158, sought to reduce the number from 435 to 304. The sole question before the House that day was to decide the number of Members. Mr. Bee was strong for increasing, I for decreasing. So we paired. My vote killed his vote—page 1807.

MADE EVERY MINUTE COUNT.

Having arranged to count my vote against the Siegel bill, which was defeated, I addressed a large convention of Americans on the selection of a proper Secretary of Labor, who would not continue the Louis F. Post régime, after which address 250 leading Republicans wired Mr. Harding demanding that a certain reputed selection be not made, and it was not. So what more than I did Mr. SUMNERS do January 19?

SALARY INCREASE.

Posted Members know this has been a live topic for three years. Members who never oppose are popular. Colleagues love them. But a Congressman may be an orator, able, truthful, honorable, dignified, and popular, yet be absolutely worthless to the country if he does not toil, if he is silent when he should speak, if he is passive when he should act, and if he votes "yes" when he should vote "no." All of the 435 Congressmen are honorable. Texas would send no other kind here. Many Members despise the petty graft here, yet are unwilling to brave the unpopularity which always follows any fight to eliminate it. Any Member who denounces such evils is immediately called a demagogue and made the target of machine attacks. If the "once over" does not stop him, he is given the "second degree." If that does not whip him into line, the awful "third degree"—I received it February 17—is administered, which few survive. I have not been a mere salary drawer or a bell hop or a rubber stamp. I have never claimed that I was any smarter or more honorable or had deeper at heart the public welfare than my colleagues, but I have worked when they were asleep, have not followed the path of least resistance, and have dared to do things they have never dreamed of doing. I came here to serve constituents and not Congressmen. My people come first.

1907 JUGGLING.

Let Congressmen CLARK of Florida and LITTAUER of New York tell how 29 proponents for salary increase voted against it on roll call December 15, 1906, yet big men such as Albert Burleson and Judge Moore, of Texas, present Speaker GILLETT, FORDNEY, LONGWORTH, JIM MANN, and present Leader MONDELL then went on record for it. The next day the Herald said:

When yeas and nays were recorded many opposed increase who favored it on rising vote.

When reconsidered January 15, 1907, MANN, GILLETT, and Burleson opposed it because it was amended to take effect March 4, 1907, instead of 1909, but it was so passed by a rising vote of 133 to 92. Roll call was demanded, but only 34 arose, not enough to force a roll call, for when a quorum is present one-fifth must arise to force a record vote, else it is denied. Why did not the 92 who voted against the bill force a record vote? They did not want to. If 45 instead of only 34 had stood up, there would have been a record vote. But it passed and there is no record of how they voted. The Herald said its passage was greeted with a shout of exultation, with the excitement so great it was impossible to transact further business. Contrast this scene with that of SUMNERS's attack.

WHERE IGNORANCE IS BLISS.

Mr. SUMNERS attempted to crucify me because I appealed to the press to stop salary raises and the Langley hotel bill for Congressmen. During his speech Mr. RAYBURN asked him to explain the Langley bill. Mr. SUMNERS said:

This Langley bill, a bill introduced by Mr. LANGLEY to appropriate a certain amount of money, I understand, to borrow a certain amount of money—I do not know much about it. I did not pay much attention to it, because he did not seem to pay much attention to it. I never heard of anybody in favor of it, and I do not know anything about it.

Thus he hit the keynote. He did not know anything about it. Had he known anything about what had been going on, he would not have attacked me. But good comes from everything, as on this February 17, 1921, some old Members learned which was SUMNERS of Texas, and Texas farmers remembered his nine-years-old promise of saving millions by passing an anti-cotton future law when he went to Congress.

IN THE SIXTY-FIFTH CONGRESS.

On January 15, 1919, when the paragraph was read appropriating $3,304,500 for our salaries, Mr. CAMPBELL of Pennsylvania arose and said:

Mr. Chairman, I wish to offer an amendment to increase the pay of Representatives and Senators from $7,500 to $10,000 per annum.

But he did not offer such an amendment. I was seated by him at the time, and had just told him that I was going to block it with a point of order (see RECORD, page 1551); that in an effort to guard the amendment against a point of order Mr. Caldwell unwittingly suggested that he merely increase the amount, upon which Mr. CAMPBELL acted, for the amendment he offered read as follows:

The Clerk read:
Mr. CAMPBELL of Pennsylvania offers an amendment, on page 12, line 5, to strike out the figures $3,304,500 and insert in lieu thereof $4,400,000.

I knew that such amendment was harmless, and that if passed it would not increase salaries, for the law fixed salaries at $7,500, and such proposed increase of the appropriation merely in no way changed the law, hence I did not make the point of order.

CHRONOLOGICALLY.

On January 10, 1921, single handed I fought against extravagant inaugural plans, my amendment to limit expenses to $10,000 receiving only 5 votes, Mr. SUMNERS and other Texans voting against me. I was jibed and ridiculed. Mr. Harding, however, indorsed my fight by ordering a simple ceremony; and the stacks of lumber, piled high in front of the Capitol, was hauled back unused, and the money saved.

[From CONGRESSIONAL RECORD, verbatim, Jan. 11, 1921.]

Mr. CAMPBELL of Pennsylvania. Mr. Chairman, I offer the following amendment as a new paragraph.

The Clerk read as follows:

Amendment by Mr. CAMPBELL of Pennsylvania: Page 9, after line 24, insert a new paragraph to read as follows:

"On and after March 4, 1921, the compensation of Senators, Representatives in Congress, Delegates from Territories, and Resident Commissioners from Porto Rico and the Philippine Islands shall be at the rate of $10,000 per annum each."

Mr. WOOD of Indiana. Mr. Chairman, I make the point of order.

Mr. BLANTON. Mr. Chairman, I make the point of order against the amendment. It is legislation on an appropriation bill, and out of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. BLANTON. If the gentleman desires to talk about it, I will reserve it.

Mr. CAMPBELL of Kansas. Mr. Chairman, I make the point of order.

Mr. BLANTON. Mr. Chairman, I make the point of order.

The CHAIRMAN. The Chair sustains the point of order.

A sustainable point of order is some definite reason pointed out whereby under the rules and law a proposed amendment is shown to be out of order on a pending bill. Look! Who, besides BLANTON, pointed out a reason? Mr. WOOD did not. Mr. CAMPBELL did not. Through usual courtesy, when Mr. CAMPBELL arose, I offered to reserve it pending his discussion. The RECORD clearly shows that it was my point the Chair sustained. I did not claim that no others opposed the increase. But only a few are present sometimes. I did not know but what they might then be absent, hence kept on the watch myself.

PRESS CREDITED BLANTON.

Among the few reporters then in the press gallery was Mr. Leo Sack, my critic many times, who reports for numerous papers. Fort Worth Star-Telegram, page 15, January 12, 1921, carried his dispatch, as follows:

BLANTON BLOCKS SALARY INCREASE.

WASHINGTON, *January 12.*

An effort to increase salaries of Congressmen and Senators from $7,500 to $10,000 was blocked in the House Tuesday by Representative BLANTON. When the item appropriating funds for salaries was reached Representative CAMPBELL of Pennsylvania offered an amendment fixing salaries at $10,000. BLANTON promptly made a point of order. He claimed it was general legislation, having no place on an appropriation bill. Representative LONGWORTH, in the chair, sustained it.

Texans will now understand why, when I borrowed and placed $1,000 in the American Exchange National Bank, of Dallas, to be forfeited to the American Legion, Mr. SUMNERS refused to let five reputable business men of his home city of Dallas, in no way related to me, headed by Sam P. Cochran, and Charles W. Scruggs, adjutant, American Legion of Texas, decide the issue of veracity, fairness, and justice.

WHAT HAPPENED BEFORE I APPEALED TO THE PRESS.

Now, Mr. SUMNERS did not attack me until February 17, 1921, for my appeal to the press to help stop the salary raise, which was dated February 7, 1921. Now, what had happened before this?

GROWTH OF SENTIMENT.

On the front page of the Washington Journal, labor, August 21, 1920, appeared a long article, headed:

Salary grab coming. Members of Congress prepare to boost their pay from $7,500 to $10,000.

In Sweetwater Reporter, always hostile, on November 16, 1920, appeared:

BLANTON WILL FIGHT ANY SALARY RAISE.

WASHINGTON, *November 16.*

Talk of raising the salary of Senators and Congressmen is again being heard here. At present the salary is $7,500. The talk is that this will be raised to $10,000 or $12,500. The first to announce he will fight it is Representative THOMAS L. BLANTON.

At the same time the above item appeared in many newspapers over the United States.

GOVERNMENT HOTEL.

On January 11, 1921, Chairman LANGLEY introduced his resolution, No. 445, seeking to build a Government hotel for Members and their families.

On January 13, 1921, I denounced same and, concerning salaries, said:

I tell you it is the best thing on God's earth for the people of the United States that there are some checks in Congress on some of these committee chairmen and on some Senators. Only day before yesterday we had an amendment offered to come on this bill. To do what? To increase our own salaries right here in reconstruction times from $7,500 to $10,000 a year. This would involve an increase in expenses of $1,337,500 each year. It was offered, and nobody raised a point of order from either side until after I had risen and made a point of order against it, and then the distinguished gentleman from Kansas [Mr. CAMPBELL] also rose and made the point of order, so as to help save the benefit of it going out as a Republican administration affair.

Thus within two days after blocking the salary amendment and nearly a month before sending my appeal of February 7 to the press, from the House floor, face to face with my colleagues, I claimed credit for blocking the increase. No one denied it. No one took offense. But in reply, Mr. CLARK of Florida, former chairman and next ranking Member to Mr. LANGLEY, took the floor and heartily indorsed the Langley hotel plan, receiving applause, and, indorsing salary raises, said:

When the salaries of Members were raised from $5,000 to $7,500 I voted for it and I made a speech for it, and I think what Congress is suffering from to-day is its cowardice, if I may use that word. [Applause.] The salary of a Member of Congress ought to be $10,000 or $15,000 a year. [Applause.] I think I am a $10,000 man. [Applause.] And I am willing to vote for that amount.

What meant the loud applause? Charging cowardice did not offend.

And a few days later, Mr. Chairman, I received the following letter from Mr. G. A. Burgess, of Simmons, Live Oak County, Tex., dated January 14, 1921, inclosing the attached clipping from one of the daily newspapers of Texas, to wit:

SIMMONS, TEX., *January 14, 1921.*

Mr. BLANTON,
Congressman from Texas.

DEAR SIR: Fight any salary increases to the bitter end. The people do not know of the many other advantages a Congressman gets, such as mileage (when he pays no railroad fare), a fine mansion in Washington, free postage (unlimited), a clerk to each man, and other incidentals.

If you can let me know just what a Congressman does get (the items) in addition to $7,500 cash salary, we shall appreciate it.

Stay with it, sure. The people ought not pay for a thing but pure business—no extras for socials and high-toned living.

Very truly, yours,

G. A. BURGESS,
Simmons, Live Oak County, Tex.

Clipping inclosed.

And the following is the clipping attached to his letter:

CONGRESSMEN AGAIN KEEN TO RAISE PAY—$10,000 TO $12,500 IS FIGURE BEING AGITATED FOR—CABINET OFFICERS, TOO, WANT INCREASE.

WASHINGTON.

A movement is on foot to increase the congressional salary, now $7,500, to $10,000 or $12,500 per annum. The latter figure naturally is the most attractive.

When the matter was under discussion in cloakrooms last session one Member said the people might object to such a big jump. He was told they would not "cuss" any more for that sum than for $10,000. Some Members would like an increase to $15,000.

For the 531 Members of the House and Senate combined an increase of $5,000 in salary would reach the total in one year of $2,655,000. The total annual salary would be approximately $7,000,000, or $1,000,000 more than the appropriation for enforcement of prohibition.

Members have complained invariably about the high cost of living in Washington and the failure of the present salary to keep pace.

Cabinet officers, too, have found it difficult to get along on $12,000 a year. Several employees in the Government departments, some of them experts, have found their salaries too small and have resigned.

There is at least one Member who does not want an increase in his salary. He is Representative THOMAS L. BLANTON (Democrat), of Texas. He said to-day he would fight the movement.

The above is a fair sample of many such letters I received from numerous citizens, not only from Texas but over the United States.

In the Washington Morning Herald for January 22, 1921, on page 2, column 4, appeared the following:

There is at the same time developing an increasingly strong sentiment in favor of raising the pay of Members of both the House and Senate. Representative GUY E. CAMPBELL, of Pennsylvania, has attempted three times on the floor of the House to obtain an amendment increasing the pay from $7,500 to $10,000. He is at present drafting a special bill for that purpose. Senator Lawrence Y. Sherman, of Illinois, announced yesterday that he would introduce a bill increasing pay to $12,000.

The Herald, being a morning paper, has but one edition. Therefore all copies should be alike. I not only preserved my regular copy which is delivered at my house every morning, but procured an additional copy for my office files. Both have the above article in them on page 2, column 4, of the issue for January 22, 1921. But to my great surprise, after the Sumners attack, I examined the copy that appears in the bound files of the Herald kept in the Congressional Library, and found that in that copy this particular article did not appear, but there was something else in its place. I then went to the Herald office, asked for a back copy of the issue for January 22, 1921, and was furnished with one, which is just exactly like my other copies, containing this article in column 4 on page 2, and here are the papers. Why the Herald saw fit to reprint the copy it filed in the Congressional Library I do not know, but I have an opinion.

But, Mr. Chairman, did the Herald know what it was talking about when it said on January 22, 1921, that Congressman CAMPBELL of Pennsylvania was drafting a special bill to raise salaries, and that Senator Sherman would introduce a bill increasing salaries to $12,000? Let us see:

On that day, January 22, 1921, Mr. CAMPBELL of Pennsylvania did introduce his bill (H. R. 15856) to increase salaries to $10,000.

On January 24, 1921, from the House floor, I again denounced the Langley hotel plan, and Mr. LANGLEY admitted his intention of building a Members' hotel. With Mr. CLARK of Florida, this made two votes at least announced in favor of it, yet in his attack on me February 17 Mr. SUMNERS said he knew nothing of the Langley plan; that nobody favored it.

On January 26, 1921, Senator Sherman did introduce his bill (S. 4920) to increase our salaries to $12,000.

On February 3, 1921, Senator MOSES, for Senator Sherman, submitted an amendment to the legislative appropriation bill to increase salaries to $12,000.

Now, all of the above happened before I appealed to the press to help stop it, as my appeal was dated February 7, 1921. The session was to close on March 4, 1921, only 25 days distant, and I knew exactly what always happens in the closing hours of Congress. Bills are hurriedly rushed through without debate or consideration.

WHAT WAS MY DUTY?

Was silence my duty? Did I sin in trying to stop it? Texans had never been unanimous before. Not one of them had made a move to stop it. All had voted many times against my efforts for economy. One Texan spoke vigorously against a bill, then voted for it next day. I remembered—

To sin by silence when we should protest
Makes cowards out of men. The human race
Has climbed on protest. Had no voice been raised
Against injustice, ignorance, and lust
The Inquisition yet would serve the law,
And guillotines decide our least disputes.
The few who dare must speak, and speak again,
To right the wrongs of many.

So I dared to speak, and on February 7, 1921, sent my letter to editors and friends, urging that they help stop the proposed salary raise and Members' hotel plan. I have made many such appeals to the public, namely, to help counteract the propaganda for Debs's release and against Mooney's release; to help defeat the Plumb planners; to stop the advertised junket of our two great fleets on a round-the-world cruise; to stop waste in rents; to stop anarchy; to abolish the useless $10,000,000 Employment Service; to help force concentration and proper disposition of liquors stored in 376 scattered warehouses, protected by 1,128 shifts of guards costing millions.

"An ounce of preventative is worth a pound of cure." Salaries once increased are never repealed. I took a stitch in time. What step did Mr. SUMNERS take to stop it?

THE COUNTRY PRESS RESPONDED.

Whether for me or against me, I thank God for the press. My appeal was answered. Press criticisms killed salary increases and will kill the Members' hotel. The Senate decided to increase the salaries only of the Speaker and Vice President. After SUMNERS's attack note action:

[From Washington Star, Feb. 21, 1921.]

The Vice President and Speaker of the House are not to receive salary increases. Senate amendments to increase from $12,000 to $15,000 have been stricken from the bill by the conferees. It was said that Speaker GILLETT opposed the increase because it applied to him alone and not to all other House Members.

Mr. SUMNERS published a signed statement that—

Candor compelled him to assert that there had not been the slightest probability of the salary increase passing.

Either his candor or judgment is defective. Can you harmonize it with the above record? "He doth protest too much, methinks."

MENE, MENE, TEKEL, UPHARSIN.

Ordinarily with many against one, the "one" is to blame. But if the one fights for the things the people want, then what? I have frequently warned that unless we Democrats changed existing evils the people would hold us responsible and disaster would come. And it did.

The political landslide was no accident. It was cumulated growth. Democratic voters punished Democratic officeholders. Democratic Tennessee and Oklahoma went Republican. Even a Texas district rebelled. When Mr. SUMNERS came here in the Sixty-third Congress Democrats had 163 more Members than the Republicans. In the Sixty-fourth Congress Democrats had only 38 more Members. In the Sixty-fifth Congress Republicans had 6 more than we did, but we organized by controlling Independents. In the Sixty-sixth Congress Republicans had 46 more than we did, while in the present—Sixty-seventh Congress—the Republicans have 170 more Members than the Democrats. There has been something wrong. The people held us Democrats responsible for conditions Republicans helped to make.

The present Army law authorizes over 17,000 officers in peace time. On February 8, 1921, I moved to recommit the bill to reduce the number of officers in proper proportion to our Army and save $12,000,000 annually—yeas 58, nays 271—but Leader Clark and most of the Texans voted with me. On February 14, 1921, I moved to recommit the naval bill, to strike from it $83,000,000 that is to be wasted building battleships—yeas 9, nays 282. But Champ Clark on this roll call cast his last record vote with me before he died. The following is the vote:

[Roll No. 82.]

Yeas 9: Blanton, Clark of Missouri, Goodykoontz, Huddleston, Jones of Texas, Keller, Mansfield, Quin, and Sherwood.

Nays 282: Ackerman, Almon, Anderson, Andrews of Nebraska, Anthony, Aswell, Ayres, Bankhead, Barbour, Barkley, Bee, Begg, Benham, Benson, Black, Bland of Indiana, Bland of Virginia, Boies, Bowers, Bowling, Box, Brand, Briggs, Brinson, Britten, Brooks of Illinois, Buchanan, Burdick, Burke, Burroughs, Butler, Byrnes of South Carolina, Byrns of Tennessee, Campbell of Kansas, Campbell of Pennsylvania, Carss, Carter, Christopherson, Cleary, Coady, Cole, Collier, Connally, Cooper, Cramton, Crisp, Crowther, Curry of California, Dallinger, Darrow, Davis of Minnesota, Davis of Tennessee, Denison, Dewalt, Dickinson of Iowa, Dominick, Dowell, Drane, Drewry, Dunbar, Dunn, Dupré, Eagan, Echols, Elliott, Elston, Esch, Evans of Montana, Evans of Nebraska, Fairfield, Fess, Fields, Fish, Fisher, Flood, Focht, Foster, Freeman, French, Fuller, Gallagher, Garrett, Glynn, Good, Goodall, Gould, Graham of Illinois, Green of Iowa, Greene of Massachusetts, Greene of Vermont, Griest, Hadley, Hardy of Colorado, Hardy of Texas, Harreld, Hastings, Hawley, Hayden, Hays, Hernandez, Hersey, Hickey, Hicks, Hill, Hoch, Hoey, Holland, Hudspeth, Humphreys, Ireland, Jacoway, Jefferis, Johnson of Mississippi, Johnson of South Dakota, Johnson of Washington, Jones of Pennsylvania, Kearns, Kelley of Michigan, Kettner, Kiess, King, Kinkaid, Kleczka, Kraus, Lampert, Langley, Lanham, Lankford, Larsen, Layton, Lazaro, Lea of California, Lee of Georgia, Linthicum, Little, Luce, Lufkin, Luhring, McAndrews, McArthur, McClintic, McCulloch, McDuffie, McFadden, McKeown, McKinley, McLane, McLaughlin of Michigan, McLeod, McPherson, MacGregor, Madden, Magee, Major, Mann of Illinois, Mapes, Mays, Merritt, Michener, Minahan of New Jersey, Monahan of Wisconsin, Mondell, Montague, Moore of Ohio, Moore of Virginia, Moores of Indiana, Mott, Murphy, Neely, Nelson of Missouri, Newton of Minnesota, Newton of Missouri, Nolan, O'Connor, Ogden, Oldfield, Oliver, Olney, Osborne, Overstreet, Padgett, Paige, Park, Parker, Parrish, Peters, Porter, Purnell, Radcliffe, Rainey of Alabama, Henry T. Rainey, Raker, Ramsey, Ramseyer, Randall of Wisconsin, Ransley, Rayburn, Reavis, Reber, Reed of New York, Reed of West Virginia, Rhodes, Ricketts, Riddick, Robinson of North Carolina, Robsion of Kentucky, Rodenburg, Rogers, Romjue, Rose, Rouse, Rubey, Sanders of Indiana, Sanders of New York, Schall, Scott, Shreve, Siegel, Sinclair, Sinnott, Sisson, Slemp, Small, Smith of Idaho, Smith of Illinois, Smith of Michigan, Smithwick, Snell, Snyder, Stedman, Steele, Steenerson, Stephens of Mississippi, Stephens of Ohio, Stevenson, Strong of Kansas, Summers of Washington, Sumners of Texas, Sweet, Swindall, Swope, Tague, Taylor of Arkansas, Taylor of Colorado, Temple, Thompson, Tillman, Tilson, Timberlake, Tincher, Tinkham, Towner, Upshaw, Vaile, Venable, Vestal, Vinson, Voigt, Volk, Volstead, Walsh, Walters, Ward, Wason, Watkins, Weaver, Webster, Welling, Welty, White of Kansas, White of Maine, Williams, Wilson of Illinois, Wilson of Louisiana, Wingo, Winslow, Woods of Virginia, Wright, Yates, Young of North Dakota, Young of Texas, and Zihlman.

No matter how much and how often Members preach economy and disarmament, Mr. Chairman, they will never bring it about by voting wrong. If I am voting the way the people at home want me to vote, I am not afraid to stand alone, to vote alone, and to fight alone when it is necessary.

FREELY FORGIVES THEM.

I freely forgive Mr. SUMNERS. Good is sure to follow. Constituents will watch future votes more closely, and will ask what live things with danger we all are fighting. I am still on top smiling at him. Mr. SUMNERS has not even halted me or my work. I shall continue leading the fight here against graft, waste, and extravagance. If he is wise he will fall in and help me. I predict that more will vote with me in the future. Strange things happen. I have seen wild things grow tame enough to eat out of your hand. Mr. SUMNERS has injured me with some strangers, but not with the posted people.

No Member here is more valuable than EUGENE BLACK. Judge Box is the synonym of honor. In no delegation was there a greater orator, a more brilliant mind with keener intellect or a more dependable friend than Joe Eagle. All love FRITZ LANHAM. CLAUDE HUDSPETH has endeared me to him with many kindnesses. Concerning them all I have no malice, but only good will. By exerting proper united effort we Texans could help to clean up and make the Democratic Party in Congress again worthy of the people's confidence and support. In my letter I had but one object—to prevent salary raises. That is accomplished. I meant no offense to or reflection upon anyone.

EVILS VOTERS WANT STOPPED.

Besides his $7,500 salary each year, each Member was allotted for stationery $375 in the Sixty-fifth and $375 in the Sixty-sixth Congress. Since the war Congress—Sixty-fifth—met April 2, 1917, Mr. SUMNERS, a bachelor, has drawn seven mileage checks of $707.20 each, aggregating $4,950.40 mileage, and all of us Texans will get another $700 mileage check in December. If I could get the united support of my Texas colleagues, we could pass my bill—H. R. 298—to reduce mileage to actual expense with maximum limit.

CEDAR, PINE, AND OAK.

Since coming here Mr. SUMNERS has had allotted to him seven cedar chests, seven pine chests, and seven oak chests. Mr. BLACK once tried to stop it, but his amendment to strike out got only a few votes. By tracing the matter back for years I found there was no law authorizing it, so when the amendment to make the usual appropriation for these annual gift boxes was offered January 11, 1921, I stopped it with a point of order, explaining to the Chair that these boxes had been carried on the appropriation bill for years without any law whatever authorizing it, and the Chair sustained my point of order. So, Mr. SUMNERS, we will not get any more free cedar, pine, and oak boxes.

JUNKETING.

Some Texas Members went to Europe on Government transports. I had the same right, but did not go. Each Congressman can go to Panama free, at Government expense, and can take his family by paying $61 for each member to cover their meals en route. Nearly 100 lately went to Panama. During my four years I have not yet gone. Let Mr. SUMNERS, who gloats over my missing one day from the House last session, tell you of his delightful trip to Panama. When last vacation I spent months making a personal investigation of all departments, bureaus, and commissions here to find the leakages, Mr. SUMNERS was enjoying his long Pacific coast trip to Seattle. Now he is on another one of his periodical junkets, going to various cities in the district of my colleague, Mr. HUDSPETH, "to find out whether loans can be made direct to Texas cattlemen," when he ought to know that he is on a wild-goose chase and that if he traveled for the next 50 years he would not know half as much about the cow business and the present conditions in west Texas as my distinguished friend, Congressman HUDSPETH, could have told him in five minutes before he started. Naturally, Mr. SUMNERS does not know much about what goes on here.

CLEANING HOUSE.

It behooves every political party to clean house. I held the floor practically all day on June 5, 1919, until I had gotten the House to pass all my House resolutions, Nos. 65, 66, 67, 68, 69, 70, 71, 73, 74, 75, and 76. All of my Texas colleagues were against me. Not one voted for any of my resolutions, yet they passed by a vote of—yeas 180, nays 109. Notwithstanding predictions to the contrary, these resolutions cost practically nothing and resulted in much good. They reached such cases as Charles L. Parsons, our chief chemist, drawing $4,800 a year, who had housed in the Bureau of Mines, getting its office rent, furniture, carpets, lights, heat, fans, ice water, and janitor service free from the Government, the American Chemical Society, a private corporation, paying Parsons an extra salary of $3,500 a year, and for which corporation he took in that year in membership fees alone $137,000. My resolutions developed such cases as the Graham family, who, violating civil-service rules, had one son drawing $325 per month, another son drawing $250, one daughter drawing $100, the mother drawing $95, and the father drawing $105 per month, from the Government, and the last three each receiving a $240 bonus extra.

CIVILIAN BONUSES.

Since war began Congress has paid to swivel-chair civilian employees of the Government drawing not more than $2,500 a year one bonus of $120 and three other bonuses of $240 each, aggregating $201,600,000, and just before Congress adjourned voted to pay them a fifth bonus of $240 each, involving another $50,000,000. Both this and last year this bonus was stricken out of the bill on my point of order in the House, but the Senate again put it back. On the test vote in the House, February 26, 1921, deciding whether or not this fifth bonus should be paid civilian employees, I forced a roll call, and only two, Mr. QUIN and Mr. WALSH, voted with me against such bonus. On this test vote Mr. SUMNERS voted for this fifth bonus to civilians. Here is the vote:

The SPEAKER. The gentleman demands a division of the question, to which he is entitled. The question is on the motion to recede.

The question being taken, on a division (demanded by Mr. BLANTON) there were—ayes 169, noes 1.

Mr. BLANTON. I make the point of no quorum present.

The SPEAKER. The gentleman from Texas makes the point of no quorum present. The Chair will count. [After counting.] One hundred and seventy-eight Members present; not a quorum. The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 254, nays 3, not voting 171, as follows:

[Roll No. 130.]

Yeas—254: Ackerman, Almon, Anderson, Andrews (Nebr.), Anthony, Ashbrook, Aswell, Babka, Bankhead, Barbour, Barkley, Bee, Begg, Benham, Black, Bland (Mo.), Bland (Va.), Boles, Bowers, Bowling, Box, Brand, Brooks (Ill.), Brooks (Pa.), Buchanan, Burdick, Burke, Burroughs, Byrnes (S. C.), Byrns (Tenn.), Campbell (Kans.), Campbell (Pa.), Candler, Carew, Carss, Carter, Chindblom, Christopherson, Cleary, Coady, Cole, Collier, Connally, Cooper, Crago, Cramton, Crisp, Crowther, Cullen, Currie (Mich), Curry (Calif), Dallinger, Darrow, Davis (Tenn.), Denison, Dickinson (Iowa), Doremus, Dowell, Dunbar, Dyer, Eagan, Echols, Elliott, Emerson, Esch, Evans (Nebr.), Fairfield, Farr, Ferris, Fields, Fisher, Focht, Fordney, Foster, Freeman, French, Fuller, Gallagher, Gallivan, Ganly, Gard, Garrett, Glynn, Goodykoontz, Graham (Ill.), Green (Iowa), Greene (Mass), Greene (Vt.), Griest, Griffin, Hadley, Hardy (Colo.), Harrison, Hastings, Hawley, Hayden, Hays, Hernandez, Hersey, Hickey, Hoch, Hoey, Holland, Huddleston, Hudspeth, Hulings, Hull (Iowa), Humphreys, Hutchinson, Igoe, Jacoway, Johnson (Ky.), Johnson (Miss), Johnson (S. Dak.), Johnson (Wash.), Jones (Tex.), Kearns, Keller, Kelly (Pa.), Kennedy (R. I.), Kiess, Kincheloe, King, Kinkaid, Kleczka, Knutson, Lampert, Lanham, Lankford, Larsen, Layton, Lazaro, Lee (Ga.), Lehlbach, Lesher, Linthicum, Little, Luce, Lufkin, Luhring, McAndrews, McClintic, McFadden, McKeown, McLaughlin (Nebr.), McLeod, MacGregor, Magee, Major, Mansfield, Mapes, Martin, Mays, Mead, Michener, Miller, Milligan, Minahan (N. J.), Monahan (Wis.), Mondell, Moore (Ohio), Moore (Va.), Mudd, Murphy, Nelson (Mo.), Nelson Wis.), Newton (Minn.), Newton (Mo.), Nolan, O'Connell, O'Connor, Ogden, Oldfield, Osborne, Overstreet, Padgett, Park, Parrish, Peters, Phelan, Porter, Purnell, Radcliffe, Raker, Ramseyer, Randall (Wis.), Rayburn, Reed (N. Y.), Reed (W. Va.), Rhodes, Ricketts, Riddick, Riordan, Robsion (Ky.), Rogers, Romjue, Rose, Rouse, Sabath, Scott, Sells, Shreve, Siegel, Sinclair, Sinnott, Sisson, Smith (Idaho), Smith (Mich), Smithwick, Stedman, Steenerson, Stephens (Ohio, Stoll, Strong (Kans.), Strong (Pa.), Summers (Wash.), Sumners (Tex.), Sweet, Swindall, Swope, Tague, Taylor (Ark.), Taylor (Tenn.), Thompson, Tillman, Tilson, Timberlake, Tincher, Towner, Treadway, Vaile, Vestal, Vinson, Voigt, Volstead, Walters, Ward, Wason, Watson, Weaver, Webster, Welling, White (Kans.), Wilson (La.), Wilson (Pa.), Wingo, Winslow, Wood (Ind.), Woods (Va.), Woodyard, Wright, Yates, Young (N. Dak.), Zihlman.

Nays—3: Blanton, Quin, Walsh.

This bonus was demanded by labor leaders whose representatives sat in the gallery. It was therefore dangerous to vote against the bonus.

POLITICAL SEED GRAFT.

None will deny that I led the fight against the Langley $360,000 free-seed appropriation. One Congressman admitted that he needed them to insure reelection. On the record vote, January 26, 1921—page 2098—we first defeated it, 141 votes for seeds and 142 votes against. Then in voting on tabling a motion to reconsider, which would have buried the question, there was a tie vote—yeas 131, nays 131. On the next day there were 169 votes for seeds and only 149 votes against. And $1,000,000 was then voted to buy a lot of worthless mountain tops. (Pages 2124–25.) Mountain-top votes were swapped for garden-seed votes; and so the public money goes.

PRIVATE CLAIMS.

On February 23, 1921, the House passed the following, placed by the Senate as riders on the deficiency bill: To pay Brown and others $142,552.18, to pay Gillespie Loading Co. $285,141.41, to pay Leavenworth Bridge Co. $30,843.45, to pay Roach and others $204,307.98, to pay H. B. Blanks and others $123,569.03, to pay Ramsey and others $15,561.23, and to pay the McClintic-Marshall Construction Co. the sum of $714,007.39. Concerning a group of three of these claims, Chairman Good implored colleagues to defeat them because of no consideration and of Secretary Baker's adverse report that paying same would put a premium on neglect of contractual obligations. Yet Mr. SUMNERS voted for the same.

On the McClintic-Marshall Construction Co. claim, I had fought it four years and blocked it many times. I was denied a record vote, as only Mr. WALSH and Mr. RICKETTS would rise with me against it in demanding yeas and nays. Concerning the above claims Mr. WALSH, our Speaker pro tempore last session, said next day:

Because we took down the bars and removed the hinges from the doors of the Treasury yesterday, here is another effort to go in and take $1,250,000. It is high time this raid upon the Treasury of the United States should cease.

The $1,250,000 was for airplane service between New York and San Francisco. None for Texas. From New York to Cleveland a pouch of mail costs by rail 41 cents, but $56 by airplane.

UNITED STATES EMPLOYMENT SERVICE.

By a point of order I had $225,000 for this useless service stricken from the bill. The Senate put it back. When on February 25, 1921, the House agreed to the Senate's action, I forced a roll call. Only SNELL, GREENE, JONES, RAYBURN and WALSH voted with me against this waste. For this service, on February 28, 1919, by points of order, I had stricken out Mr. Watkins's $10,033,080 amendment, Mr. Gallivan's $10,033,808.10 amendment, Mr. LONDON'S $10,000,000 amendment, and Mr. Decker's $10,000,000 amendment. This was saved. (Pages 4651, 4653, 4664–65, Feb. 28, 1919.)

WASHINGTON, D. C., PUBLIC SCHOOLS.

But, Mr. Chairman, let me get back to this bill and expenses proposed for the District of Columbia.

We are already furnishing to the Washington schools the following teachers and employees, 40 per cent of which expense is paid by the whole people of the United States, the following:

One superintendent at $6,000, 2 assistant superintendents at $3,750 each, 1 directing intermediate instructor at $2,400, 1

superintendent of manual training at $2,400, 1 secretary at $2,000, 1 financial clerk at $2,000, 1 clerk at $1,600, 2 clerks at $1,500 each, 1 clerk at $1,400, 3 clerks at $1,200 each, 3 clerks at $1,000 each, 1 clerk at $900, 2 stenographers at $1,000 each, 1 messenger at $720, 1 attendance officer at $1,080, 1 attendance officer at $960, 7 attendance officers at $900 each, 1 principal of Central High School at $3,500, 2 assistant principals of Central High School at $2,400 each, 10 principals of other high schools and normal schools at $2,700 each, 2 deans of high schools at $2,400 each, 7 directors at $2,000 each, 1 assistant directing primary instructor $1,800, 7 assistant directors at $1,800 each, 1 assistant superintendent manual training at $1,800, 14 heads of departments at $2,200 each, 35 normal high manual training at $2,200 each, 384 teachers in class 6 at $1,440 each, 189 teachers in class 5 at $1,200 each, 518 teachers in class 4 at $1,200 each, 563 teachers in class 3 at $1,200 each, 374 teachers in class 2 at $1,200 each, and 100 teachers in class 1 at $1,200 each—the above being merely the basic salary, increased with each year's service—10 librarians at $1,200 each, 35 clerks of class 4 at $960 each. Janitors: One superintendent at $1,500, 2 engineers at $1,500 each, 2 engineers at $1,200 each, 2 engineers at $1,000 each, 4 assistant engineers at $1,000 each, 2 electricians at $1,200 each, 9 firemen at $720 each, 1 gardener at $840, 5 night watchmen at $720 each, 4 coal passers at $600 each, 2 janitors at $1,100 each, 15 janitors at $1,000 each, 1 janitor at $900, 36 janitors at $840 each, 1 janitor at $800, 73 janitors at $720 each, 14 janitors at $600 each, 3 assistant janitors at $900 each, 3 janitors at $250 each, 11 matrons at $600 each, 5 charwomen at $480 each, 12 skilled laborers at $720 each, 88 laborers at $600 each. And we have already given the Washington schools annually the following appropriations for the following purposes:

Vacation schools	$20,000
Longevity pay	520,000
Allowances to principals	36,000
Night schools	60,000
Americanization work:	
Principal (1)	1,000
Teachers	10,200
Janitors	213,450
Matrons	6,600
Care small buildings	15,000
Night schools	5,000
Americanization, contingent	2,500
Kindergarten supplies	6,000
Dental clinics	2,000
Rent	16,500
Compulsory education	6,000
Repairs to buildings	200,000
Manual training	45,000
Fuel, gas, electric light	165,000
Furniture and equipment	6,540
Contingent expenses	75,000
Paper towels	3,000
Pianos	1,500
Textbooks and supplies	82,000
Flags	900
Playgrounds, maintenance	3,000
School gardens	3,000
Physics equipment	3,000
Chemistry and biology	3,000
Transportation tubercular children	1,000
Community forums	35,000
Remodeling Hamilton	7,600
Medical inspection (16)	500
Chief inspector (1)	2,500
Nurses (10)	1,200
Dental operators (8)	700
Prophylactic operators (4)	900
Textbooks and supplies:	
Labs. (2)	3,600
Cabinetmaker (1)	1,200

When a person inspects the many, many splendid school buildings scattered over Washington, such as the Central High, which cost $1,236,466.98; the Western High, which cost $640,000; the Dunbar High, for colored people, that cost $563,984.44; and the new Eastern High, which is to cost completed $1,500,000, 40 per cent of the last named and 50 per cent of the cost of all the balance is paid by the whole people of the United States, he is forced to the conclusion that there is no necessity for Chairman FOCHT to spend $100,000,000 more on school buildings here at the expense of the people. There were 2,485 children who live in the States of Virginia and Maryland who attended the Washington schools last year absolutely free; there being 82 others from those States who paid some tuition. But schoolbooks were furnished to all free. And the whole people paid 40 per cent of the cost. And though we have a municipal architect here, who has three assistants and eight draftsmen in his office, he has employed the following nine outside architects to plan and construct nine new school buildings for this District:

A. P. Clark, jr., 12-room addition to the Wheatley School, $250,000; Gregg & Leisening, 8-room addition to the Buchanan School, $140,000; Delos H. Smith, 4-room addition to the Monroe School, $75,000; Donn & Wheat, 8-room building to replace the Bell School, $140,000; Upman & Adams, 8-room extensible building in the vicinity of the Mott School, $140,000; Macnaughton & Robinson, Boston, 8-room extensible building in the vicinity and north of Lincoln Park, $140,000; W. H. I. Fleming, 4-room building in the vicinity of the Smothers School, $70,000; Arthur B. Heaton, 8-room addition to the John Eaton School, $140,000; Murphy & Olmstead, 4-room addition to the Deanwood School, $100,000.

And the people will have to pay them 3 per cent of the cost as fees, 40 per cent of which is paid by our constituents. I might have more friends if I never opened my mouth and never fought things and let things go along easy. I have never selected the path of least resistance since I have been here. When I felt it was my duty to speak, I have spoken, and I have lots of friends here. I have friends who are worth something among my colleagues here; men who believe in good, straight, honest government for the people and the stopping of waste and extravagance.

The editor of a little old measly newspaper in my State, who never saw me in my life, said that BLANTON had lost his influence in Congress, that he had turned all the Members against him, and said if he offered any little kind of a bill he could not get it out of committee in the first place, and if he did get it out of the committee he could not get five men to vote for it, everybody would vote against it and keep it down, would not let it come up.

If he had been here in July when I introduced and had pending before the Buildings Committee a bill to permit a memorial to be built on Government property in Abilene, Tex.—my home—he would have seen my good friend from Kentucky [Mr. LANGLEY], as chairman, helping me in every way possible to get my bill reported out, which was done immediately and unanimously; and not a vote was cast against it in the House, for here is the record of what happened on its passage:

AMERICAN LEGION MEMORIAL BUILDING, ABILENE, TEX.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 6514) granting Parramore Post, No. 57, American Legion, permission to construct a memorial building on the Federal site at Abilene, Tex.

The title was read.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. MANN. Mr. Speaker, reserving the right to object, I would like to have an explanation of this bill.

Mr. BLANTON. I will state to the gentleman from Illinois that in Abilene, Tex., the Federal Government owns a whole block of ground, upon the south side of which is the Federal post office and courthouse. On the opposite side of this block the Parramore Post of the American Legion has sought to build a memorial building to commemorate its dead. Some of the men from that city and county were killed during the war, and the post has raised the money to construct a memorial building to their memory. The Committee on Public Buildings and Grounds brought in a unanimous report in favor of the bill granting them this easement. I introduced this bill in the House and Senator SHEPPARD introduced a companion bill to it in the Senate.

Mr. MANN. What kind of a building is to be constructed?

Mr. BLANTON. It is to be a fireproof building. It will not increase the fire hazard at all, and is to be constructed in accordance with plans to be approved by the Treasury Department of the United States.

Mr. MANN. I do not know about that. Does the Government propose to take care of it?

Mr. BLANTON. Oh, no. What I mean is the plans and specifications will be approved by the Treasury Department.

Mr. MANN. What is the purpose of the building?

Mr. BLANTON. It is a memorial building in honor of the ex-service men.

Mr. MANN. What is the purpose of the building? For what is it to be used?

Mr. BLANTON. For American Legion meetings and proper public uses and for no other purpose.

Mr. MANN. There appears to be no restriction as to what the building is to be used for.

Mr. BLANTON. I believe it provides that in case they cease to use it for a memorial building it shall revert immediately back to the United States—the building itself.

Mr. MANN. No; it does not. It provides the easement shall continue as long as the building shall be devoted to the original purpose.

Mr. BLANTON. That is the clause to which I referred, and in effect it provides for the reversion mentioned.

Mr. MANN. What is the original purpose?

Mr. BLANTON. A memorial building. It is for the meetings, of course, of the Parramore Post of the American Legion.

Mr. MANN. There is nothing here about meetings. It says to erect a memorial building to the soldiers and sailors of Taylor County. As long as the building is there it will be a memorial to those soldiers and sailors, whatever it is used for. Apparently it could be leased and rented and a store put in it.

Mr. BLANTON. Oh, no. I will state to the gentleman from Illinois that there will be absolutely no private use of it at all. It is only for this public memorial purpose.

Mr. MANN. That is the present intent, but there is no restriction in there. Is there plenty of room there for this?

Mr. BLANTON. Oh, yes.

Mr. MANN. Did the Government buy this site?

Mr. BLANTON. No; I think it was acquired in the early days when out in western Texas there lands were cheap, and a town would give a block whenever they could get a public building erected. I am almost sure it was donated to the Government—that is my impression.

Mr. MANN. It is strange that information is not furnished, either by the gentleman or by the Treasury Department, so that we might know whether we purchased land several times larger than we had any use for.

Mr. BLANTON. I think that was just simply donated, because most of those sites out there were donated at that time. It is a whole block of ground.

Mr. WINGO. If the gentleman will permit, this site was acquired by the Federal Government back in those days when if you bought a lot out there the grantor would slip in an extra block on the grantee.

Mr. MANN. That, of course, is facetious. Does anybody know about this?

Mr. BLANTON. If I am not mistaken, the question is covered in the hearings, which you can see if you have a copy of them. I am almost sure that this block of land was a donation to the Government; but be that as it may, the Government now owns fee simple title to the property. It is a whole block of ground, and I will state to the gentleman from Illinois that there is a big grass plot there, unused except for public purposes in the way of a park. They have a band stand there on one part of the plot, and the people meet there for public purposes.

Mr. MANN. The Government takes care of that land now, I take it?

Mr. BLANTON. Yes; but the Secretary of the Treasury of the United States shall prescribe the manner in which the American Legion shall take care of this building, and it will be under his direct control, so far as the stipulations he shall make are concerned.

Mr. MANN. The only thing I can see in the bill is that the design and construction of the building shall be approved by the Secretary of the Treasury, and I imagine in course of time—I hope it will be a long way in the future—the Government will have to take care of this building.

Mr. BLANTON. Oh, no. I will state to the gentleman that the money was raised by direct donations.

Mr. MANN. I am very glad indeed that this city, or town, or village, whatever it is, raised the money for this patriotic purpose. While I think the bill is not as carefully drawn as bills of this kind ought to be in the future, I am not going to object.

Mr. BLANTON. It is for a purely patriotic purpose.

Mr. LOWREY. Mr. Speaker, will the gentleman from Texas allow me to ask him a question, please?

Mr. BLANTON. Certainly.

Mr. LOWREY. He speaks of this being in the town of Abilene. I want to know if that town is incorporated, and if it is on a railroad?

Mr. BLANTON. Well, I didn't expect the gentleman who lived in Texas once to be so facetious. He knows that Abilene, Tex., is an enterprising, live, growing city of about 12,000 people, all of whom are wide-awake, and would honor any city in the United States with their citizenship. He lived away up in the panhandle there, where they raise big crops and fine cattle. But if he ever leaves Mississippi again, and comes back to Texas he will be sure to move to Abilene. [Laughter.]

Mr. MONDELL. The gentleman never lived in the cow country of the West or he would have known all about Abilene.

Mr. LOWREY. It seems to me, having lived in Texas, I have heard of Abilene, somewhere. [Laughter.]

Mr. BLANTON. Oh, the gentleman has spoken all over Texas, and he is well acquainted in Abilene. He is just speaking facetiously.

The SPEAKER pro tempore. The Clerk will read.

The Clerk read as follows:

"*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and empowered to grant an easement to the executive committee of Paramore Post, No. 57, American Legion, and its successors in office, for the use, without expense to the United States, of the strip of land off the Federal building site fronting 150 feet on the south side of North Fourth Street and extending southwardly, of that width, along the east side of Pine Street 150 feet, in block 20, Abilene, Tex., for the purpose of erecting thereon a memorial building to the soldiers and sailors of Taylor County who served in the Great War, said easement to continue as long as such building shall be devoted to the original purpose: *Provided, however,* That said easement shall cease and determine, and the custody and control of said parcel of land shall revert to the United States if said memorial building is not erected thereon within five years from the date of this act."

With a committee amendment as follows:

"On page 2, line 9, after the word 'act,' insert '*And provided further,* That the design and construction of the said memorial building shall be approved by the Secretary of the Treasury.'"

The SPEAKER pro tempore. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken, and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MANN. Mr. Speaker, I ask for a division on the passage of the bill.

The SPEAKER pro tempore. The gentleman from Illinois asks for a division.

The committee divided; and there were—ayes 35, nays 0.

So the bill was passed.

On motion of Mr. BLANTON, a motion to reconsider the vote whereby the bill was passed was laid on the table.

Mr. DYER. Mr. Speaker, how many votes were there?

The SPEAKER pro tempore. Thirty-five ayes. The Clerk will report the next bill.

I put that into the RECORD to show that a man can fight against bills, and that it does not cause his colleagues to oppose his just measures. Whenever a man gets up and fights a measure that he thinks ought not to pass there are men who would make him believe he was turning his colleagues against him, and that fear has made cowards out of lots of us.

Mr. RAKER. Will the gentleman yield?

Mr. BLANTON. I do.

Mr. RAKER. The gentleman stated in a very clear way the benefit to the railroads that would be obtained by virtue of the enactment of this bill, and will the gentleman now, in a concise way, state to the committee what benefits would be obtained by this bill to the general public by virtue of this legislation, if any?

Mr. BLANTON. If the gentleman from California wants my honest opinion and judgment——

Mr. RAKER. That is what I want.

Mr. BLANTON. I will tell him that there is not any benefit that will come from it to the people, not one.

Mr. DAVIS of Tennessee. Will the gentleman now yield?

Mr. BLANTON. I will.

Mr. DAVIS of Tennessee. Can the gentleman from Texas tell me whether his colleagues on this committee would be willing to make this concession conditional on the companies consolidating?

Mr. BLANTON. I think my friend from Virginia would. I believe possibly the gentleman from Maryland would, but I do not know that; I am not prepared to speak for them. I know one thing. I know there is not a more diligent man here in Congress on committee work or anything else than my friend from Illinois [Mr. SPROUL], who is an expert, distinguished contractor of his State, and I will tell you to-day that he believes that this bill is a vicious bill. The chairman of the District Committee said I was the only man against it. There are lots of things he does not know——

Mr. WOODS of Virginia. The gentleman said that.

Mr. BLANTON. I said I was the only one I knew on my side of the committee that is against it, but I find that my good friend from North Carolina [Mr. HAMMER] is against it also. There are liable to be others against it when the roll call comes. But the gentleman from Illinois [Mr. SPROUL] has been in the committee room and has heard this bill discussed and has taken part in the hearings and proceedings, and he knows that it is not the kind of a bill that ought to pass.

Now, I yield to the gentleman from Pennsylvania [Mr. ROSE].

Mr. ROSE. It seems to me from a quick reading of portions of the bill it proceeds on the assumption that there is no law providing for a merger, because, beginning in section (a) on page 2, it says, "said corporations may."

That convinces me that the gentlemen in charge of the bill thought that there was no law authorizing the merger. And it seems to me that in section 8, page 15, there is a penalty attached providing for a merger; that is, that the public utilities commission will fix such a rate as will force these companies to merge. What becomes of this Washington Electric Co., that seems to belong to one of the railroad companies, and why is that company allowed to own the electric company that charges such outlandish rates for services rendered?

Mr. BLANTON. I will answer that question by asking the gentleman one. By doing that you can oftentimes answer a question in a better way. If the committee knows what it is talking about, when it says that the utility commission has the authority to fix fares next July, do they not admit that they have got that authority now?

Mr. ROSE. I have not any doubt about it.

Mr. BLANTON. They would never have been permitted to raise their fares from the 5 cents provided for in their franchises except through the gratuitous action of the public utilities commission.

Mr. ROSE. The chairman of the committee made the statement this morning that he thinks, himself, that there is no basic law to force these companies to merge, but he went on further and stated that this bill will remove what difficulties have prevented the merger up to this time. If that is true, does the bill have any merit at that, and does it warrant us taking all the time in doing what seems to me a useless thing?

Mr. BLANTON. The gentleman has reached a conclusion in regard to this question that the distinguished lawyer from Johnstown could not do otherwise than reach by studying the bill. It gives everything and takes nothing. Not a thing does it get for the people of this District; not a thing does it get for the taxpayers of this country, but it gives everything to the railroad companies and takes nothing. It merely says, "We have been extraordinarily good to you. Please do something."

Mr. SPROUL. Will the gentleman yield?

Mr. BLANTON. I will yield.

Mr. SPROUL. Is it not a fact that Col. Kutz, the chairman of the utilities commission, came before the committee at the hearings and stated that the Capital Traction Co. had never made a request to have the affairs extended, so far as they were concerned, and that they carried 75,000,000 people in 1920? Is not that a fact?

Mr. BLANTON. That is the fact.

For the year ending April 30, 1921, the Capital Traction Co. took in $5,626,432.84, and after paying all salaries, taxes, and expenses of every kind, made a net profit of $1,976,319.17, more than 10½ per cent on the value of its whole property. It did not ask for more than 5-cent fares.

Mr. WOODS of Virginia. The gentleman does not mean to make that reference to these tracks that extend over into the State of Virginia?

Mr. BLANTON. Those that go to Arlington.

Mr. WOODS of Virginia. They are not connected with these.

Mr. BLANTON. Are they not a part of the Washington railroad company?

Mr. WOODS of Virginia. The testimony shows not. If the gentleman had attended the committee meetings, he would have known that.

Mr. BLANTON. I have attended almost every one that my friend has attended. I have been there night and day, except when the House met at the same time. When the House was in session I attended it.

I am sure the gentleman from Virginia is correct if he says that those railroads are not included, and I beg his pardon. But how about Maryland? The railroads do run into Maryland. And I do not blame a Congressman for taking care of his own people.

Every well-posted man knows that the Washington Railway & Electric Co. is already overcapitalized. Will any man deny that?

Mr. ZIHLMAN. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. Yes; I yield.

Mr. ZIHLMAN. The gentleman has repeatedly made the statement in the course of his argument and in the committee, of which he and I are members, that any sum of taxation raised to meet the expenses of the District of Columbia must be made up from the whole Treasury. How does it make any difference to the Federal Treasury, which under the law now pays 40 per cent of all the expenses of the District, whether all this sum is raised from the 4 per cent tax or from the real estate?

Mr. BLANTON. I will explain it.

Mr. ZIHLMAN. I would like to understand it.

Mr. BLANTON. If my good friend CLAUDE HUDSPETH, down in El Paso, has a meeting called there to build schoolhouses, a million dollars at a whack, the Federal Government does not pay 40 per cent of it. The people of El Paso have got to raise the money. They have got to pay the men who collect the ash from their back doors. They have got to pay the men who get the garbage out of the cans. They have got to pay the men who call for the trash every morning. They have got to pay the street sprinklers. They have got to pay for the lights that light the city streets. They have got to pay for the paving of their own streets. They have got to pay for the paving of their alleys. They have got to pay for the men who go out every morning and gather up the papers that the people scatter all over the city—gather them up with these little pick sticks and sacks. They have got to pay for their own tennis courts. They have got to pay for their own golf links. They have got to pay for their own municipal club houses and bathing pools and for the tidal basins that furnish skating in the winter and bathing, mixed bathing, in the summer to such an extent that it would make my friend from Oklahoma [Mr. HERRICK] blush to an extreme degree. [Laughter.]

They have to pay for everything they get. But for all of these things here in the District that our District people enjoy the people of Maryland and the people of Texas and the people of Virginia and the people of South Carolina and elsewhere in the United States are paying 40 per cent. They are going to wake up some of these days, and they are going to shake this Capitol from one side of it to the other.

Mr. HERRICK. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. In a moment I will yield.

Mr. HERRICK. I just want to ask the gentleman from Texas how it comes that at this late date in his service he is really and truly beginning to earn his salary? I was under the impression that all the gentleman from Texas was good for up to date was to make points of no quorum. [Laughter.]

Mr. BLANTON. If the gentleman from Oklahoma had quit chasing these Washington beauties around the streets of this Capital, and had stayed here on the floor and had watched my proceedings he would have found that I earned my salary every day that I live. [Laughter.]

Mr. HERRICK. I just want to say in answer to that that the gentleman from Oklahoma has been keeping a pretty close eye upon the gentleman from Texas and did not leave the city of Washington, as did the gentleman from Texas.

Mr. BLANTON. But the gentleman from Oklahoma did not take the gentleman from Texas down to see his lady friends. [Laughter.]

Mr. HERRICK. The gentleman from Texas has been reading the yellow journals instead of the journals of this Congress.

Mr. BLANTON. If he had taken him, the gentleman from Texas would have left those fine ladies in better humor. [Laughter.]

What are you going to do about this bill? This is the start of Chairman FOCHT's $800,000,000 spending program.

Mr. GAHN. Will the gentleman yield?

Mr. BLANTON. I yield to the gentleman from Ohio.

Mr. GAHN. On page 12 of this bill I find the provision about a tax of 50 per cent of the revenues over 7 per cent. Where is there in the bill anything that would control the expenditure of these companies so that there would be anything over 7 per cent?

Mr. BLANTON. I will show it to the gentleman. I started to say a while ago that the Washington Railway & Electric Co. is overcapitalized. It is overbonded. It is overstock issued; it is overmortgaged. It could not borrow a dollar to-day, because it has watered its stock to such an extent that it is an outrageous scandal. Do you know what this bill does? If you will look at subdivisions (d) and (e), they permit this new corporation, when formed, if these companies should merge, to issue new stock and new bonds, to make more loans and more mortgages, and to refund the present securities. The bill allows them to do that without limitation. Do you know what else it does? If you will look at it carefully, you will see that this bill provides that without a merger the Washington Railway & Electric Co. can acquire the Potomac Electric Power Co.—something my friend from Pennsylvania mentioned a moment ago. They do not have to merge in order to allow this company to acquire the electric light company. That is what this corporation has been trying to do for years with an ulterior motive. It wants to acquire the electric light company, and it wants to mix up its stock, to affect its earnings, and it wants to increase the electric light rates here in the District, and it will do it if this bill passes.

Mr. ROSE. Will the gentleman from Texas yield just there?

Mr. BLANTON. I yield to the gentleman from Pennsylvania.

Mr. ROSE. Just a moment ago the gentleman from Ohio [Mr. GAHN] asked if there was any provision of this bill that would give us some idea of the basis upon which this 7 per cent could be taken as earnings. A while ago the gentleman from Texas stated that there was a net income of 10½ per cent. I should like to know upon what valuation that is based. Is that upon the valuation given by the company itself?

Mr. BLANTON. That is the actual valuation fixed by the investigating commission, an actual, just valuation.

Mr. ROSE. Then it is not the valuation of the several companies?

Mr. BLANTON. No.

Mr. ROSE. Of course, it takes more money to pay 7 per cent upon the valuation fixed by the company than upon the valuation fixed by the commission?

Mr. BLANTON. That is the reason I say that if you let them merge, and they mix up their properties and their securities and their obligations, they will come in here with all their watered stock and try to show that they are not making more than 3 or 4 or 5 per cent on their investment, and then they will get this good-natured utilities commission, that ought to have the act which created them repealed, to sympathetically raise the fare to 9 cents, in my judgment.

Now, gentlemen, I have no ax to grind. I am honestly and conscientiously trying to tell you why this bill ought not to pass.

Mr. HARDY of Texas. Will the gentleman yield?

Mr. BLANTON. I yield to my colleague.

Mr. HARDY of Texas. Has any step been taken by any legislative function of the Government to reduce the street car fares to what they ought to be?

Mr. BLANTON. They have had investigation after investigation, and we rolled them over the coals in committee and did everything we could, but they have not done a thing tangible or substantial. We had lots of promises, but that is about all.

Mr. CHINDBLOM. Will the gentleman yield?

Mr. BLANTON. In a minute. I have taken already too much time.

In conclusion, let me state that every time I raise a question to save money I am called a demagogue, and that is what the matter is with us—we have not got the courage to be called that and make a fight. [Applause.]

The CHAIRMAN. The time of the gentleman from Texas has expired.

[Mr. BLANTON asked for and was granted permission to revise and extend his remarks generally.]

Mr. WOODS of Virginia. Mr. Chairman and gentlemen of the committee, I trust that I shall not unduly consume your time or tire your patience with a discussion of this measure. However, I want in brief and simple language to point out to you the conditions that exist and the remedies which have seemed to us should be applied. No doubt I ought to acknowledge the numerous compliments which my friend from Texas [Mr. BLANTON] has paid me, although some of them, I must confess,

remind me somewhat of the condition when a man was knocked down by another about as fast as he could get up, and yet all the time he was being assured that there was nothing personal intended. [Laughter.] My friend from Texas is a good-natured fellow, but I can not keep back from my mind the thought of a description that I read once in an old book of a little scrub animal in France. The description of him was to the effect that he was more to be admired for the dust he pawed and the way he bellowed than he was for the character of his offspring. [Laughter.] I admire the energetic performance of the gentleman from Texas, but I can not always admire his conclusions.

Now, here is the condition that confronts the people of Washington and you gentlemen of the Congress. There are two street railway companies. Some years back in order to find out where we were at, Congress passed a law which did away with the rates fixed in the franchises. It was necessary, as the country generally has recognized it was necessary, to give some relief to the public utilities. That law vested in the Public Utilities Commission, which was created by statute, the right to fix rates regardless of the rates fixed in the franchises. It directed that commission to make an investigation and ascertain, in the first place, the value of these properties. That investigation was made, and that commission took as a basis of the valuation—it was made during the war and a part of it completed after the war—not the war prices, but the value of these properties as of the 1st day of July, 1914, thus eliminating high war prices.

To be brief, the result, using round figures, was to give the Washington Railway & Electric Co. a valuation of about $16,000,000 and the Capital Traction Co. something over $15,000,000 and the Potomac Electric Power Co. something over $16,000,000. The entire capital stock of the Potomac Electric Co. is owned by the Washington Railway & Electric Co., and that company owns therefore in the two properties something like $32,000,000, and the Capital Traction Co. owns nearly $16,000,000. Remarkable as it may seem, the receipts of the two railway companies are approximately the same—about seventy-five or eighty million passengers carried by each company a year—but the net receipts are far different, due to the fact that one company, in order to carry its seventy-five or eighty million passengers, operates 133 miles of track and the other occupies a congested territory in the District and operates only 62 or 63 miles of track.

It can be readily seen that the company operating 62 miles of track and taking in the same revenue as the company operating 132 miles of track will necessarily have more net, although the gross receipts are the same. The result was that when we took hold of this proposition—and this is no one man's bill, it is the bill of the combined judgment of the committee—a committee bill and very properly introduced by the chairman of the committee, notwithstanding the criticism made by the gentleman from Texas. I may say here parenthetically that I personally requested the chairman of the committee to introduce the bill. The committee of which he is chairman is responsible for it, and his side of the House, if it passes, is responsible for it. I understand that is the custom.

Now, we found one company making a year ago about 11 per cent and the other making, as I recall it, less than 4 per cent. That difference has diminished so it is now 10½ per cent and a fraction over 5 per cent to the other on their ascertained value—not capitalization.

The Public Utilities Commission in fixing these rates, due to the fact that the lines to some extent parallel each other, felt that if they imposed a higher rate on one than they did on the other the company they were seeking to benefit, the lean company, by giving it the higher rate would have its traffic diverted to the already profitable company, thereby increasing the density of traffic. Now, street car service is not materially different from other commodities. We measure coal and sugar by the pound—that is the unit. We measure electricity by the kilowatt hour, and street car service by the "car mile." When we looked into this question we found that one company hauled seven and seven-tenths passengers per car mile and the other seven passengers per car mile; the evidence of Col. Kutz before the committee was that the management of one was approximately as efficient as the other, and that the cost per car mile was about the same although he did not give the figures. The evidence was that one company hauled seven passengers and the other seven and seven-tenths per car mile. That extra seven-tenths of a passenger is all profit, and it would astound you to know the difference it would make in the matter of the net receipts. A good deal has been said about Cleveland's cheap street car service under the "Tom Johnson plan," or the "ex-Secretary Baker plan," whoever was responsible for it. Take Cleveland as compared with Cincinnati. In Cleveland they haul eight passengers for each car mile and in Cincinnati five. Cleveland has more than twice the population that Cincinnati has, but the lines cover only 58 square miles while Cincinnati's cover 72. The difference is in the density of traffic.

The unit that is sold to the public is the "car mile." The car mile of these two companies here in Washington costs about the same, but one has more passengers and consequently more revenue per car mile than the other.

The result is the difference which my friend from Texas [Mr. BLANTON] has criticized here. When you impose the same rate for each, you are paying at present to one company some four or five hundred thousand dollars more than it is entitled to, admittedly, but under existing law you have to do that, according to the theory of the Public Utilities Commission, in order to give the other company something like a reasonable return. It never even could do that. In other words, when we want to relieve the weaker company, which is performing essential service and serving the suburban territory, and increase its fare and give it the benefit of a half dollar, you are compelled to tax the car patrons, including among them the Government employees, $1. That is the situation that my friend from Texas and every other man who has studied the situation finds. That is a situation which must continue here and which this bill will relieve. You will continue to charge patrons of the Capital Traction Co. four or five hundred thousand dollars too much in street car fares in order that you may give the other company a proper return. That is what this bill seeks to relieve. How would it relieve it? What would be the sensible thing to do to relieve it? The tax imposed on one is the same as the tax imposed on the other, a gross-receipts tax, and while one is performing a very valuable public service and enjoying a far less valuable franchise, it is not making a fair return, yet it is taxed the same.

Mr. HARDY of Texas. Mr. Chairman, will the gentleman yield?

Mr. WOODS of Virginia. Yes.

Mr. HARDY of Texas. Has the gentleman investigated the question of the power of Congress to force a merger and the consolidation of these roads?

Mr. WOODS of Virginia. I have not especially investigated the matter, but I would say that the gentleman would reach the same conclusion that I have without investigation, and that is that there is no power in Congress to force a merger, in my opinion, except by the power of eminent domain, taking over the properties and issuing bonds to pay for them.

Mr. HARDY of Texas. Does not the gentleman think these two companies ought to be merged and consolidated?

Mr. WOODS of Virginia. That is one object of this bill—to induce a voluntary merger.

Mr. LINTHICUM. Mr. Chairman, will the gentleman yield?

Mr. WOODS of Virginia. Yes.

Mr. LINTHICUM. Why do you give these reliefs without making it dependent upon a merger? Why do you not give the reliefs provided they merge?

Mr. WOODS of Virginia. If you make the relief conditional and disagree upon a merger, then you would have the same condition that you have here now—you would be paying one company $500,000 more than it is entitled to, and as long as it has that benefit why should it merge? The very thought which the gentleman has in his mind appealed to me, and the first bill that I drew included that condition and held out these relief measures as inducements. It occurred to me then that one company could kill the merger by refusing to agree, and we would revert to just the same position we are in at the present time. So the gentleman from Maryland [Mr. ZIHLMAN] proposed a plan—clause 8 of the bill—providing that if they do not merge, then the Public Utilities Commission is directed to fix different fares for the two lines. Heretofore the commission has treated the street railway enterprise as one business and as entitled to a reasonable return on the combined properties of the two companies.

Mr. SANDERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. WOODS of Virginia. Yes.

Mr. SANDERS of Indiana. According to the gentleman's judgment, will these companies consolidate after the bill has passed?

Mr. WOODS of Virginia. I can not answer that. I can only say that any measure that brings them nearer together in their net earnings has a tendency to bring about a merger, and I think that will be the ultimate result. But if it does not, as at the present time they are inhibited by law from merging, this bill removes all legal restrictions to a merger and opens the way, and then if they do not merge we can adopt some method

that will indirectly force a merger if the method provided in the bill by the gentleman from Maryland does not bring it about.

Mr. SANDERS of Indiana. Of course, if there is doubt of their power to consolidate, proper legislation to grant that power would be desirable, but if it is the purpose of this legislation to make provision which will induce them to consolidate I doubt if the bill will bring about that purpose. About the only thing I see is in section 8, and it strikes me, if the gentleman will pardon me for a moment, that you are really not giving the utilities commission any greater power than they already have, and the mere use of the word "shall," that they shall fix separate rates, is not of any particular benefit because it is so qualified by the other provisions that it might conflict entirely with the proposition that they are to have a reasonable return. The rate might be the same.

Mr. WOODS of Virginia. The gentleman can readily see that notwithstanding the express desire of the management of these two companies to merge, and their expressions to the effect that they recognized that a merger must come, yet the management of the profitable company can not go to its stockholders, who are getting a return of 10½ per cent, and say to them, "Surrender your stock and take half of your stock in a company that is making 5 per cent." The object of this bill is to equalize the net earnings of these two companies, based not upon the stock that they have issued but upon the ascertained value of their properties. There is another accomplishment of this bill—the water has been squeezed out. No attention has been paid to the stock. Something like eight or ten millions of one company have been eliminated and three millions of another, according to the findings of the commission.

This bill is drawn upon the only basis we can proceed upon, whether correct or not, and that is the basis fixed by the investigating commission in ascertaining the value. They reached their conclusion and have given us the result of it. That conclusion is being challenged in the courts, and this bill is drawn so that it is still based upon that investigation as it is now or hereafter may be legally determined by the courts, so that we eliminate all questions of overcapitalization.

Another thing I would like to say before I forget it, which many of you gentlemen may not know, although you may be acquainted with the street car situation in your home town, is the fact that this underground construction costs three times as much to install and three times as much to maintain as an ordinary trolley system. This was a surprising thing to me, but there seems to be no dispute about it. The gentleman from Illinois [Mr. SPROUL] tells me that Chicago also upon investigation reached the same conclusion.

Mr. SISSON. Mr. Chairman, will the gentleman yield?

Mr. WOODS of Virginia. Yes.

Mr. SISSON. I have no doubt that the first proposition the gentleman states is correct—that the original construction costs a great deal more than the overhead-trolley system—but I have grave doubts as to whether the maintenance and operation is three times as high. What facts were developed before the gentleman's committee, what concrete facts, what testimony was taken as to the cost of construction and also as to the operation of this underground-trolley system?

Mr. WOODS of Virginia. The testimony was the testimony of Col. Kutz as well as the testimony, I think, of both managers of the roads, but they did not go into detail except that they say that this underground construction is an extremely difficult matter to keep in exact alignment, and if it gets a little out of alignment, why, it has to be repaired.

Mr. SISSON. I am inclined to believe that there is a good deal of exaggeration about that.

Mr. ARENTZ. Will the gentleman yield?

Mr. WOODS of Virginia. I will.

Mr. ARENTZ. I understood from what the gentleman said that the wear and tear of this system would be more than twice that of the ordinary trolley system.

Mr. WOODS of Virginia. Three times.

Mr. ARENTZ. Section 6, page 14, goes on to say:

> That all provisions of law making it incumbent upon any street railway company within the District of Columbia to bear any of the expenses incident to laying new pavement—

and so forth.

Has the gentleman seen the extensive construction that is being carried on all over the city by the railroads such as on Seventh Street and elsewhere?

Mr. WOODS of Virginia. I have seen some.

Mr. ARENTZ. Would that come under the term "ordinary repair" or would that be special repairs? In other words, are you asking the District of Columbia taxpayers to pay the cost of the 8-foot paving on these special repairs which are taking place? That is exactly what it means, that the District will pay for this 8 feet of paving.

Mr. WOODS of Virginia. I do not believe I can go into the technical construction of what is meant by "improvement" and what is meant by "ordinary repairs." It is a subject for engineers——

Mr. ARENTZ. With 192 miles of railroad in the District it seems to me that it is a very important item, and it is one of the several items that attention should be paid to, because 192 miles of street pavement at a cost of about $30,000 a mile for 8-foot paving is what the taxpayers of the District would have to pay, and it seems to me if there was not any other item in the bill to recommend its going back to the committee this one item would.

Mr. WOODS of Virginia. I will say to the gentleman I intended to discuss this section of the bill when I came to it, but since the gentleman has raised it I will say this: This question of rebuilding of streets, whether it be an original improvement or not, is the survival of the old horse-car days. It is in the franchise, doubtless, of your home town; is in mine; is in nearly all of them.

The theory was that the horses in drawing the cars dug up the pavement, and therefore it was necessary and proper that the company should rebuild it. That reason has gone. Another thing about it. No company can anticipate or foresee this expenditure because the city decides to build a mile of new street. The street car company has no method whatever of anticipating that and providing for the financing to take care of it. It has to pave when the city makes the improvement, and when it is paved the car company has not added a dollar to its earning power. Now, gentlemen, I am not taking one man's theory on this. A commission was appointed by President Wilson to investigate this very proposition, and that commission made its report in 1920, and recommended in connection with the electric railways that they ought to be relieved from all the cost of improvement tax. That is the finding of the judicial commission appointed for the purpose. I have not the report here, but that is the result of it.

Mr. ARENTZ. Will the gentleman yield again?

Mr. WOODS of Virginia. Briefly.

Mr. ARENTZ. The ties are 8 feet long, the tracks are possibly 4 feet 8½ inch gauge, and the reason of this cost being placed in all the contracts of the street railways was the fact that should this track get out of alignment or show low joints, and so forth, to bring it up to line and gauge it would be necessary to take out the tie, and the tie would extend 2 feet outside the tracks, and therefore the street railroad should pay for the cost of that paving, and that is the only reason for extending the paving 2 feet outside the tracks.

Mr. WOODS of Virginia. The reason was it was put in by the first franchises, and every city attorney who was appointed——

Mr. ARENTZ. And is it not right and just?

Mr. WOODS of Virginia. Wait until I finish. Every city attorney who was authorized to draw a franchise simply copied what he found in some other. That has been the practice.

Mr. HAMMER. Will the gentleman yield?

Mr. WOODS of Virginia. I will.

Mr. HAMMER. Is not the gentleman mistaken about anyone testifying in any way that it cost three times as much to maintain the underground system as the trolley? Was not that the statement made by the railroad attorneys? I do not think Col. Kutz stated that.

Mr. WOODS of Virginia. The gentleman is probably correct as to the hearings we have had since he has been a Member of Congress.

Mr. HAMMER. Does the gentleman know of a concrete example of any city in the country where there are any statistics to show that it costs three times as much to maintain the underground system as the trolley system?

Mr. WOODS of Virginia. I know this. It was not stated, as I said, in the hearing taken before the present committee, but we had hearings in the preceding Congress on this same bill, or a similar bill, and there it was so stated by Col. Kutz; and the gentleman will recall that the gentleman from Illinois [Mr. SPROUL] stated they had investigated the subject in Chicago and they had reached the same conclusion, that it had cost three times as much to build and three times as much to maintain.

Mr. SISSON. Will the gentleman yield?

Mr. WOODS of Virginia. I will yield.

Mr. SISSON. The gentleman is discussing now a very interesting proposition. In addition to the reason stated by the gentleman for requiring the street railway companies to do their own paving, they have the use of the street almost exclusively within that 8 feet. In addition to that, in the city of Chicago they had a complete investigation of this matter some years ago, and every company agreed that 60 per cent of

the value of the property of the plant was the almost absolute free use of the street, taking it as a square foot valuation with reference to the other property of the city.

And the earnings were apportioned that way in the city of Chicago. Now, the gentleman from Illinois [Mr. MADDEN], who was connected with the city government there, and who is now chairman of the Appropriations Committee of this House, went into that matter on the floor of the House once in the discussion of this very question, and I think the gentleman from Virginia is mistaken when he says that the reason is that the path was dug out by the horse cars in the center of the track. That was one of the very small considerations, but the higher reason assigned now is that they have almost exclusive use of that much valuable space in the streets, and in making their own improvements they tear up the streets, and it is their duty to put the streets back in good condition.

Mr. WOODS of Virginia. The bill does not relieve them from that. The gentleman is confusing "improvements" and "repairs." When the companies tear up the streets they have to put them back, under this bill, at their own expense.

Mr. SISSON. What are they relieved of, then, under this bill?

Mr. WOODS of Virginia. If they "repair" a pavement, under this bill the street car company has to pay entirely for it.

Mr. SISSON. Since the gentleman is a member of the committee and is giving information to Members that desire to get information and is discussing the question, I do not believe the gentleman would hesitate to be as liberal in his information as he can be. On page 14, lines 18, 19, and 20, it says:

All such companies shall be and are hereby required to repay to the Commissioners of the District of Columbia the entire cost of ordinary repairs to the pavements within such spaces within 10 days after presentation of proper bills therefor.

Now, the cost of ordinary repairs——

Mr. WOODS of Virginia. That is right.

Mr. SISSON. Now, do you mean that the street railway company is going to be relieved of the cost of ordinary repairs?

Mr. WOODS of Virginia. I say that this bill does not relieve them from paying the cost of ordinary repairs.

Mr. SISSON. When they lay a street, do they pay?

Mr. WOODS of Virginia. For the original improvement they do not pay under this bill.

Mr. SISSON. Another reason why evidently the street car companies ought to do their own paving is because there are certain technical matters connected with the paving that they would not want ordinary people to fool with. That is especially true with reference to underground construction. Therefore there are many considerations why the street car companies should do their own paving. Of course, I have not time to go into it.

Mr. WOODS of Virginia. It does under this bill.

Mr. BRIGGS. Will the gentleman yield for a question?

Mr. WOODS of Virginia. Very briefly.

Mr. BRIGGS. I want to ask the gentleman whether the replacement cost of restoring tracks and rails and so forth is paid out of the current earnings of the street railway companies or whether they are capital charges in any sense? For instance, I have observed this very extensive construction that looks like replacement of tracks. Is that borne out of bond issues or is it charged out of certain revenue and assessed on the public in fares?

Mr. WOODS of Virginia. That depends whether it is "improvements" or "repairs."

Mr. BRIGGS. The gentleman may have noticed that from the House Office Building all down the line they were tearing up the tracks. Now, I would like to know if that replacement cost is paid out of the car earnings or paid out of the capital?

Mr. WOODS of Virginia. It is my understanding it is a repair item. They may be rebuilding that substructure, though. If so, it is an improvement and goes to capital account.

Mr. BRIGGS. They class that as a repair item and place it against the public in the way of fare?

Mr. WOODS of Virginia. So far as the replacing of this pavement is concerned, that would be borne by the company alone. All of this relates as to whether you pass this on to the car rider or not. I think the general public ought to bear the improvement. That is my judgment. Aside from that, the car company has no way of financing against it.

Mr. SPROUL. Will the gentleman yield?

Mr. WOODS of Virginia. I will.

Mr. SPROUL. Have you not been passing it on to the car riders right along for the last two or three years?

Mr. WOODS of Virginia. Certainly.

Mr. SPROUL. Where are you going to help them in this bill? You do not reduce the rate of fare.

Mr. WOODS of Virginia. This bill will reduce the rate of fare.

Mr. SPROUL. The bill does not provide that they shall do so.

Mr. WOODS of Virginia. I do not think this Congress is in any position to say what is a reasonable rate. But there is a commission especially charged with the duty of fixing the rates, and the relief granted in this bill will justify a substantial reduction.

Mr. SPROUL. But they ran along here for years without a merger, and they carried passengers for 5 cents, did they not?

Mr. WOODS of Virginia. Oh, yes.

Mr. SPROUL. And in September they brought the rate down to 7 cents.

Mr. WOODS of Virginia. So in 57 other cities they are now charging 10 cents and in 118 others they are now charging 7 cents or over.

Mr. SPROUL. They are all coming down to the 5-cent fare, every one of them.

Mr. WOODS of Virginia. Every one of them? I do not think so.

Mr. SPROUL. I do not think it is necessary to have this bill in order to get a 5-cent fare. If you will repeal the act that created the Public Utilities Commission, you will get a 5-cent fare.

Mr. WOODS of Virginia. Does the gentleman want to take the position that we are not going to allow a fair return on the value fixed by the commission appointed by Congress? If so, you can say that you are not limited to a 5-cent fare or a 3-cent fare.

Mr. SPROUL. I believe the companies that entered into a contract with this Government should live up to the contract or get off the street. [Applause.]

Mr. WOODS of Virginia. Whether that be correct or not, a previous Congress did not believe that, and they allowed the companies, by an act of Congress, to charge, if the commission authorized, a higher rate of fare, and if they had not done so your companies would have been in bankruptcy. There is no question about that.

Mr. NORTON. Mr. Chairman, will the gentleman yield?

Mr. WOODS of Virginia. Yes.

Mr. NORTON. I understood you to say that the appraisement was nearly $60,000,000; $54,000,000, or something like that.

Mr. WOODS of Virginia. About $50,000,000 for all three.

Mr. BLANTON. Seventy million dollars.

Mr. WOODS of Virginia. No; it was not. It was about $50,000,000.

Mr. NORTON. Do you think they are worth more in this city than in Cleveland, where they are appraised at $22,000,000 and below?

Mr. WOODS of Virginia. I do not know anything about the Cleveland situation except this, and I will give it to the gentleman for his information. Here is a comparative statement of car-mile cost of operations under Cleveland and Cincinnati: Ways and structures in Cleveland 2.82 cents, in Cincinnati 4.46 cents; equipment 2.46 in Cincinnati, 4.02 cents in Cleveland; power 4.10 cents in Cincinnati, 3.28 cents in Cleveland; conducting transportation 12.86 cents in Cincinnati, 13.87 cents in Cleveland; traffic 2 cents in Cincinnati, blank in Cleveland; general and miscellaneous 2.28 cents in Cincinnati, 4.40 cents in Cleveland; total, 24.54 cents in Cincinnati, 30.05 cents in Cleveland.

Mr. GAHN. What is the rate of fare in Cleveland?

Mr. NORTON. Five cents.

Mr. GAHN. What is the rate of fare in Cincinnati?

Mr. WOODS of Virginia. I do not know. This was in 1920.

Mr. GAHN. Six cents was the highest in Cleveland.

Mr. WOODS of Virginia. This shows that your public operation under city control, where you pay no taxes, as they do in Cincinnati, exceed in every one of these essential items except power. I would not hold up Cleveland in view of that statement.

Now, gentlemen, if the committee will indulge me, very briefly I will take up the various sections of this bill and go over them.

Section 1 allows the merger, and I need not take up the time of the committee on that. Merger is prohibited at present. This bill allows all these companies to merge, except the Washington Railway & Electric Co. is not intended to be merged except upon the condition that the two street railways are merged.

Mr. HAMMER. Mr. Chairman, will the gentleman yield?

Mr. WOODS of Virginia. Yes.

Mr. HAMMER. Somebody has spoken about the electric light company merging under this bill. There is an error in the bill, probably a clerical error. Will the gentleman explain that clerical error, so that we will understand it?

Mr. WOODS of Virginia. I am glad the gentleman called our attention to that. It is an error, due to the clerk, I think. It was clearly understood by the committee that the Washington Railway & Electric Light Co. could not be allowed to merge with its subsidiary company, the Potomac Electric Power Co., except upon the condition that the two street railways merged. That provision was stricken out and made to conform to that idea in the first part of the bill, but not in the subsequent clauses, so that the words "Washington Electric Light Co." will have to be stricken out in several portions to make the bill conform to the other provisions.

Mr. FESS. Mr. Chairman, will the gentleman yield?

Mr. WOODS of Virginia. Yes.

Mr. FESS. I notice six companies are mentioned. Will the bill allow less than the six to merge?

Mr. WOODS of Virginia. I think the bill first allowed any of them to merge.

Mr. FESS. Does this require all?

Mr. WOODS of Virginia. I do not know as to that. These are little subsidiary companies.

Mr. FESS. I wanted to know if one small company could prevent the procedure.

Mr. WOODS of Virginia. I think not.

Mr. RAKER. Mr. Chairman, will the gentleman yield?

Mr. WOODS of Virginia. Yes.

Mr. RAKER. There has been some discussion here as to the power of the Public Utilities Commission of the District of Columbia. Is there any question in the gentleman's mind as to the power of that commission to fix the rates of fares of these various street railways at the present time?

Mr. WOODS of Virginia. I think they have that power, but it is questioned, and the commission has taken the view that they did not have power to fix separate fares for these separate car companies; that they can treat them as one enterprise, and treat the light and power company separately as an enterprise. They treat the whole street car industry as a combined property.

Mr. RAKER. What is the gentleman's opinion on this subject as a lawyer?

Mr. WOODS of Virginia. My opinion is—and I ought not to give it without more careful consideration—that the utilities commission has the right to fix the rate of fare of each of these car companies.

Mr. RAKER. And fix it according to the amount of money each earns?

Mr. WOODS of Virginia. According to the value of each company's property, giving them a reasonable return.

Mr. RAKER. Why do they not do it?

Mr. WOODS of Virginia. I can only say that the policy of the commission was to treat the street car system as one enterprise and provide an aggregate return that was based upon the aggregate value of the two companies. But this bill makes it mandatory that they shall fix separate fares unless these companies merge.

Mr. VAILE. Mr. Chairman, will the gentleman yield?

Mr. WOODS of Virginia. Yes.

Mr. VAILE. Would not that have the same result that the commission feared, that the traffic would be diverted from the less prosperous to the more prosperous line?

Mr. WOODS of Virginia. I think the subject should be considered well by the Congress, even in addition to the study that the members of the committee have given it.

Mr. STAFFORD. Mr. Chairman, will the gentleman yield?

Mr. WOODS of Virginia. I yield to the gentleman from Wisconsin.

Mr. STAFFORD. As I understand, the distress of the Washington Railway & Electric Co. is that they are not making the same amount of return as the Capital Traction Co. because of the suburban lines running out from the District to the country, that their feeders are not paying because their car-mile return lowers the average car-mile return from the passengers within the District. Can the gentleman explain that? Am I right in the premises?

Mr. WOODS of Virginia. I thank the gentleman. I am glad he called attention to that one circumstance which I had not explained. This bill and the findings of the commission take no account whatever of that portion of the lines which extend beyond the District.

Mr. STAFFORD. But am I right in my assertion? Judging from the statements of the gentlemen who have spoken about this bill, that the reason why the Washington Railway & Electric Co. is not on as good a paying basis as the Capital Traction Co. is because of the numerous branch lines, greater in number, of the Washington Railway & Electric Co., running out into the suburban territory in the District?

Mr. WOODS of Virginia. The gentleman means within the District of Columbia?

Mr. STAFFORD. Within the District.

Mr. WOODS of Virginia. The gentleman is entirely correct.

Mr. STAFFORD. Then I wish to direct this query to the gentleman, whether the District Committee or the utilities commission have considered the plan which is in vogue in many cities of the country of establishing a zone system and charging a greater rate for the zone on that part of the line which runs out into the country, which shows a small average per car mile as compared with the car-mile return on the parts of the line within the city?

Mr. WOODS of Virginia. I will say to the gentleman that that question was brought up before the committee, and the statements of the Public Utilities Commission given before the committee were that they had had the zone system under very careful consideration, but that they found an almost unanimous protest against any such method. I will say further, gentlemen of the committee, that that zone system, as many of you know, has been tried in a great many cities, and so far as I am advised in practically every instance it has been abandoned as unsatisfactory.

Mr. STAFFORD. The gentleman is making an assertion. But while there is a protest on the part of the dwellers in the suburbs, who desire to get something for nothing at the expense of the dwellers within the city proper, I can cite to the gentleman my own home city, where the zone system is in effect, and rightly in effect, because it is based upon the economic principle of compelling the dwellers in the country to pay more where they ride on a long haul than the riders in the city who ride on a short haul. Of course, they do not like to pay 2½ cents a mile additional, yet they are getting an added service which the patrons of the city lines are not receiving, and rightly they should be charged for that increased service. There is no protest on the part of the great number of patrons of the city lines. Those who live out in the suburbs would like to get something for nothing, and they protest against the zone system, but the Public Utilities Commission of Wisconsin has put it into effect and it is working satisfactorily.

Mr. WOODS of Virginia. My information is that in New Jersey and in eastern cities generally it has been tried and abandoned. I do not know what the reason is. Theoretically I should say the gentleman from Wisconsin is correct, but the engineers and managers of street railways are practically unanimous in their statement that the zone system makes trouble and is not a success.

Mr. JOHNSON of Washington. The reason being that most of the people who have moved to the suburbs have done so to escape expense, and they are putting up with limited facilities in the way of water, sewers, police service, and everything else.

Mr. WOODS of Virginia. They claim that the zone system of street car fares is an injustice to them, because they moved into the suburbs believing that they would pay a uniform street car fare.

Mr. HAMMER. Will the gentleman yield?

Mr. WOODS of Virginia. I yield to the gentleman from North Carolina.

Mr. HAMMER. Is it not a fact that the chief objection against the zone system, when it was taken up and considered, was that the citizens' associations, consisting of 20,000 people, were so violently opposed to it that the utilities commission did not have the courage to adopt it?

Mr. STAFFORD. Yes; but what about the hundreds of thousands of people in the city who are paying the freight?

Mr. HAMMER. The zone system was urged before the commission, but the 20,000 members of the citizens' associations opposed it.

Mr. WOODS of Virginia. A great deal has been said here about legislation in favor of corporations and against the people. I want to say to the gentleman from Texas [Mr. BLANTON] that every civic organization in the city of Washington and the District Commissioners are behind this bill, and it seems to me they have the right to speak for the people of the District.

Mr. BLANTON. Will the gentleman yield?

Mr. WOODS of Virginia. Certainly.

Mr. BLANTON. Does the gentleman believe that the 450,000 people of the District of Columbia would care to have this extra burden taken off the street car corporations and put on their shoulders.

Mr. WOODS of Virginia. I will come to the burdens that are taken off. The report shows that instead of reducing the tax proper paid by these two companies of 4 per cent you simply take it from the weaker company and put it on the company

that is able to bear it. The only objection I have in my own mind to this 50 per cent tax is that it has a tendency to discourage enterprise and to take from the company that is well managed the reward of its own exertions and enterprise and thrift and good management. That, to my mind, is a disturbing factor. But the men in charge of that company have admitted that when they took this franchise their contract was that they were to render good service to the people of the District and to exact only a reasonable return. What boots it to them if the excess is taken. They have received their reasonable return, and they admit that this bill will give them a reasonable return. I think, gentlemen, that it will give them a liberal return. Why did we not take 75 per cent as the commission recommended? Because we thought it was a good legislative policy to give to the company at least one-half of the return as a reward for its own efforts.

Mr. MAPES. Will the gentleman yield?

Mr. WOODS of Virginia. I yield to the former chairman of the District of Columbia Committee.

Mr. MAPES. Of course, the purpose of the bill, as I understand it, is to bring about a merger of the two street car lines.

Mr. WOODS of Virginia. That is what we hope it will accomplish. I can not guarantee it.

Mr. MAPES. If it accomplishes that result, does the gentleman think that the Public Utilities Commission will allow the merged system to charge a fare which will bring in a return of more than 7 per cent upon the fair value of its property?

Mr. WOODS of Virginia. I do not think so.

Mr. MAPES. If it does not accomplish that result, and if section 8 of the bill is put into effect and the Public Utilities Commission allows a separate fare for the Capital Traction Co. and another separate fare for the Washington Railway & Electric Co., does the gentleman think the Public Utilities Commission will allow the Capital Traction Co. a rate of fare which will permit it to make over 7 per cent on the fair value of its property?

Mr. WOODS of Virginia. I hardly think it will, but I can not speak for the commission; but if it does, the car riders secure the benefit.

Mr. MAPES. In that event there will be no surplus upon which to levy the 50 per cent tax.

Mr. WOODS of Virginia. No; there will not.

Mr. MAPES. The only tax that the District will collect will be the 1 per cent tax on the gross receipts.

Mr. WOODS of Virginia. Yes; and the tax on the real estate.

Mr. MAPES. Has the gentleman figured what per cent on the fair value of the property of the merged companies or the two companies if not merged the 1 per cent tax on the gross receipts would amount to?

Mr. WOODS of Virginia. The figures in the report give that.

Mr. MAPES. Has the gentleman calculated the percentage?

Mr. WOODS of Virginia. I have not.

Mr. MAPES. I will say to the gentleman that I have, and according to my figures it would make the street car companies pay a tax of only one-third of 1 per cent on the fair value of the property as fixed by the Public Utilities Commission. Will the gentleman yield further?

Mr. WOODS of Virginia. I will.

Mr. MAPES. If section 2 of the bill becomes a law and the Potomac Electric Power Co. is merged with the merged corporation, it, too, would be relieved of all taxes except the 1 per cent on its gross receipts, would it not?

Mr. WOODS of Virginia. The Potomac Electric Power Co. would be relieved of all taxes except the 1 per cent—I do not know what the tax imposed on that company now is.

Mr. MAPES. Four per cent on the gross receipts.

Mr. WOODS of Virginia. I am not sure about that, and I do not think the gentleman is.

Mr. MAPES. The inference drawn from the bill is that it is 4 per cent at present. Eliminating the Potomac Electric Power Co. tax from our calculation, the District would be deprived of about $575,000 per year in taxes which it now receives if this bill goes into effect.

Mr. WOODS of Virginia. If the bill goes into effect on the present basis—I have the figures here—the city would be deprived of no taxes; in fact, it would gain some tax on the last year's earnings. It would lose no taxes except the crossing-police tax and a portion of the street-improvement tax. On the other hand, it would gain under the 4 per cent tax.

Mr. MAPES. Will the gentleman yield?

Mr. WOODS of Virginia. Yes.

Mr. MAPES. Does not the gentleman see that he is basing his figures on the present returns and the present status of the two companies?

Mr. WOODS of Virginia. Certainly.

Mr. MAPES. As soon as the companies merge, or as soon, if they do not merge, as the Public Utilities Commission puts in operation separate fares, there will be no surplus to levy a tax on, and the only tax will be 1 per cent on the gross receipts.

Mr. WOODS of Virginia. I will say that it is a question whether we should collect the tax out of the street car riders or out of the property of the District. I think the property of the District is taxed low now. And, mark you this, that whenever you increase the taxes of these companies you increase the cost to Government employees as well as all other citizens in the District; and not only that, but every time you put 60 per cent on them you put 40 per cent on yourselves to match it. Do not forget that. We are proposing to raise revenue, and when you raise it from the street car company the balance of the country has to raise it too.

Mr. STAFFORD. Then why not grant an exemption from taxation to the street car company?

Mr. WOODS of Virginia. The idea prevails in the bill that the company enjoying franchise and enjoying the protection of the law ought to pay some tax. It pays an ad valorem tax on the real estate and a gross-receipts tax of 1 per cent, and then in addition an excess-profits tax.

Now I hope that I may skim over the rest of this bill without interruption. Section 1 allows the merger; and I may say that the reason for that being drawn so much in extenso is due to the fact that we have no general merger bill in the District. We simply provide a practical plan by which the companies can merge and protect the rights of the minority stockholders who do not want to go in. No objection has been made by the companies or anybody else that it is unfair.

Section 2 provides that after the merger by the street car companies, the two main companies, then they can merge with the Potomac Electric Power Co., which is owned and was financed by the Washington Railway Co. Section 3 is a special provision that the expenditures at all times shall be subject to supervision by the Public Utilities Commission and can be curtailed or supervised as they please.

A great deal has been said about the high salaries that have been paid, but even if you eliminate them it is only $88,000 in one company and $126,000 in the other, and it is infinitesimal when it comes to the question of reducing fares. This bill will allow a reduction of fares, in my judgment, to four tickets for a quarter. I believe that is the best you can hope for, but whether the management is good or whether the salaries are reasonable or not, there is a provision in the bill that they can be supervised by the Public Utilities Commission and eliminated if improper.

On page 31 of the hearings you will find the figures in reference to salaries—$88,900 in one company and $126,000 in the other as the total salary charges of the two companies. Eliminating the pay of the crossing policemen will make a reduction of the Washington Railway Co. of $46,000 and the Capital Traction Co. of $29,000, a total reduction of $76,000. I do not think the crossing policemen should be paid entirely by one class of service. Vehicles and pedestrians all use the crossings. It is not done anywhere that I know of in any city in the country, and the committee was unanimous upon its elimination.

Section 5 imposes the 1 per cent tax in lieu of the 4 per cent gross-receipts tax, and also the 50 per cent net-profits tax. Section 6 is the paving tax, which we have discussed. It is estimated that 60 per cent of that tax is for new improvement and 40 per cent for repairs. The companies will still pay for the repairs. The Washington Railway & Electric Co. it is estimated will save by that $94,000 and the Capital Traction Co. $57,000. I shall not detain the committee further if anyone would like to interrupt for a question.

Mr. STAFFORD. Mr. Chairman, I wish to direct an inquiry as to what the committee had in mind in fixing as the basis of determination of a new rate of fare in case of a merger, the provision found in the last clause of the first paragraph on page 10—that the valuation shall be the sum of the fair values of the several companies which may enter into the merged or consolidated corporation.

My query goes to this point, that with the merging of the two companies there may be some plants that may not be longer needed by the merged corporations. There may be barns, car houses, or other establishments that under a combined utility would not be required. Why should the users of the street railway system in this city, and I am one of them, be compelled to pay a return on something that is of no value in the use of the combined facilities?

Mr. WOODS of Virginia. I do not understand that there would be any great duplication of power houses. The Capital

Traction Co. has its own power house. It sells no power to anyone else. The Washington Railway & Electric Co. has, through its subsidiary company, a very excellent power plant, which is producing power efficiently and at a low rate. Both companies will need all their power-house capacity.

Mr. STAFFORD. If the gentleman is acquainted with the situation, then perhaps he is acquainted with the fact that the Washington Railway & Electric Co. is the owner of real estate with improvements upon it, abandoned, no longer of present use, because of the growth of the city, and the committee purposes to place that property in the valuation, although it has become obsolescent.

Mr. WOODS of Virginia. All such property not used or useful is eliminated in the valuation, and on it the people are not required to pay any tax. A great deal of it, some $5,000,000 of the Washington Railway & Electric Co., is eliminated, being property not used or usable and situated in the District. There is an old abandoned tract of land where once stood a power house. Stocks and bonds have been issued against it, but the commission does not allow any return on that, and the street car riders are paying nothing for anything that is not used or usable in the street car service.

Mr. HAMMER. The railways say that this assessment is not fair, and the matter is in the courts. They claim the valuation is $45,000,000 instead of $16,000,000.

Mr. WOODS of Virginia. Oh, yes; that is the claim for both its properties.

Mr. STAFFORD. Then this direct provision which states that the value on which subsequent returns shall be paid shall be the sum of the fair value of the several companies which may enter into the merged or consolidated corporation does not apply to those properties turned over which have become obsolescent.

Mr. WOODS of Virginia. Oh, no.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. WOODS of Virginia. Mr. Chairman, I ask unanimous consent to speak for one minute further.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. WOODS of Virginia. I want to put these figures into the record. The tax now paid by the Washington Railway and Electric Co. on gross receipts amounts to $247,416; on crossing policemen, $46,662; on street improvements, $94,893; a total of $388,920.73. Under the new bill it will pay a tax of $61,854. The Capital Traction Co. pays now a gross-receipt tax of $222,133; a crossing-policemen tax of $29,766; and a street-improvement tax of $57,230; making a total of $309,131. The total tax now paid is $698,103, and the total tax under the new plan of the two companies will be $487,313, the difference being in the crossing-policemen and the street-improvement tax.

Mr. SANDERS of Indiana rose.

The CHAIRMAN. Is the gentleman opposed to the bill?

Mr. SANDERS of Indiana. I am.

The CHAIRMAN. The Chair will recognize the gentleman.

Mr. SANDERS of Indiana. Mr. Chairman, as I understand, the gentleman from Pennsylvania [Mr. FOCHT] has some time remaining. I do not care to take up the time now and precede the gentleman from Maryland [Mr. ZIHLMAN]. I reserve the remainder of my time.

Mr. ZIHLMAN. Mr. Chairman, I agree with the chairman of the District Committee that this is one of the most important matters affecting the people of the District that this committee could place before the House. It is a question that has been engaging the best thought of the people of the District for more than 10 years, and while the committee reporting the bill may not have submitted a bill which will correct all the conditions existing, yet we present it as representing the sentiment of a majority of the committee as to the best method of solving this very complicated problem.

Personally I am very sorry that the distinguished gentleman from Texas [Mr. BLANTON], who demonstrated in his usual masterful way his familiarity with the subject, did not give the committee more of his time and wisdom in formulating the provisions of the bill. The gentleman from Texas complimented me upon my ability, spoke of me as a speedy horse in looking after the welfare or the rights of the people I represent. I want to say that the gentleman from Texas, notwithstanding his protestations upon the floor of the House in the interest of the people of his district and in the interest of economy, has never shown that he was very slow. I happen to be chairman of one of the committees of the House, the Committee on Expenditures in the Post Office Department, and I found that in the last year of the administration of the former Postmaster General, Mr. Burleson, there had been appropriated and spent by the Post Office Department $274,000 to meet unusual expenditures in that department, and that of this quarter of a million dollars $142,000, or half of this, was spent in the State of Texas, $130,000 of that being in the district of the gentleman from Texas [Mr. BLANTON], so that more than 45 per cent of all of the money appropriated in the United States to take care of unusual conditions in the Post Office Department was spent in the district of the gentleman from Texas [Mr. BLANTON].

Mr. BLANTON. Mr. Chairman, will the gentleman yield?

Mr. ZIHLMAN. Yes.

Mr. BLANTON. The gentleman will know, because he has investigated it, that the reason for that was the oil fields that were discovered in Texas.

Mr. ZIHLMAN. I will say, in justice to the gentleman, there was a great influx of people because of the discovery of oil in his district.

Mr. LONDON. It was not because of the unusual Congressman representing that district?

Mr. WINGO. If the gentleman will permit, as I understand it, the gentleman intends to be complimentary?

Mr. ZIHLMAN. I am being complimentary.

Mr. WINGO. I think the gentleman was misunderstood. I thought really that the gentleman was swapping bouquets with the gentleman from Texas.

Mr. ZIHLMAN. Now, we have a very unusual situation existing here in the District of Columbia. One company with a larger number of car miles than the other has been earning less than 6 per cent on its fair value, as ascertained by the Public Utilities Commission, and the other company has been earning more than 10 per cent. A good deal has been said here this morning about relieving these companies of the tax on paving and tax on crossing policemen, and the 4 per cent gross-receipts tax; but, my friends, the Capital Traction Co. does not pay those taxes. They pay them out of the earnings of the company, and they pay their Federal income tax, the excess-profits tax, the crossing-policemen tax, and all this paving between the tracks and pay 4 per cent on gross receipts, and while they pay all this out of the money they receive from the car rider they have been able to earn in the fiscal year ending June 30 of this year 10.7 per cent. What this committee has been trying to do is to take the difference between 6 per cent or 7 per cent, whatever sum Congress in its wisdom allows, which is now going, not in dividends, because they have not paid dividends with this excess earnings, but have put them into improvements, into a depreciation fund, which is now a million dollars, and we are trying to take some of that money, the difference between 6 per cent and 7 per cent, and give it to the car rider. It is the purpose of this bill that the car rider, who ultimately pays, shall be relieved of this 4 per cent gross-receipt tax in the case of the Washington Railway & Electric Co.

The Capital Traction Co., which is a profitable company, should pay on the excess above 7 per cent. I am not committed to the 7 per cent. I think that is possibly too high a rate of return, but Congress ought to determine what is a fair rate of return and ought to fix a rate of return in the law, giving a fair return on the fair value of the property. The District Commissioners stated to our committee they believed they had the authority to fix separate rates of fare, but they do not do it.

Mr. WINGO. Will the gentleman yield right there?

Mr. ZIHLMAN. I will.

Mr. WINGO. I desire to get some information. As I understand, the gentleman thinks one of the benefits of this act will be to reduce the earnings of the Capital Traction Co. from a net of ten something to possibly 7 per cent?

Mr. ZIHLMAN. Yes.

Mr. WINGO. Is there anything in the bill to induce or compel or force this merger? What is in the bill that would induce them, for, as the gentleman says, if they merge they only get 7 per cent where they are now getting 10 per cent?

Mr. ZIHLMAN. That is the reason they do not merge.

Mr. WINGO. What inducement will there be for the Capital Traction Co. to go into this voluntarily? I wish the gentleman would explain that.

Mr. ZIHLMAN. Well, I will explain it briefly, because I had hoped to take it up a little later. The Capital Traction Co. now earns 10.7 per cent on the fair value fixed by the Public Utilities Commission besides paying all of these taxes, which, it is stated here, is to be taken from the shoulders of these corporations and placed on the shoulders of the people. The car rider, the poorest class of people in the District, are paying these taxes. This committee has proposed that this corporation should be relieved of it. They are not going to merge now, because they are earning more than 10 per cent. Under the provisions of this bill they can not make more than 7 per cent net and must

pay an excess profit on all in addition to that sum. If section 8 of the bill, which provides that the Public Utilities Commission shall fix what is a proper rate of fare, is put into effect it may bring about an unsatisfactory and chaotic condition of the street car systems of the District, although at the same time the Capital Traction Co., realizing that this condition can not continue to exist in the face of the opposition which would naturally arise, under the provisions of this bill, being limited to a return of 7 per cent, which rate they could obtain as a part of the merged company, there would be no inducement to them in holding out, as they certainly owe an obligation to the public as a public service corporation. There is nothing to force them in, because I have been told that Congress could not by legislation force a merger of those two companies.

Mr. WINGO. If the gentleman will permit right there. I want to find out about this, because that is the crux of it. What benefits would be held out to them in return for their earning, say, the 7 per cent under this bill? Will we get a merger and a reduction of fares, which, of course, was the object, and what the people want, and we were led to believe this bill will force them not by statutory command but that conditions will be created under this law that will make it attractive to the companies to merge. Now, what is the attraction to the Capital Traction Co. to merge, even if the Public Utilities Commission should under section 8 make separate rates for fares? They would still not have any inducement to go into a merger——

Mr. ZIHLMAN. But if they do not merge the provisions of this bill would take that inducement as to 1 cent fare off of each car rider on the line and the people would get relief in that way.

Mr. WINGO. What assurances has the gentleman? The Public Utilities Commission has the authority to do what you say they can do under this, and that is a repetition of the present authority.

Mr. ZIHLMAN. But they do not exercise it.

Mr. WINGO. What is going to compel them to exercise it? Repeating the authority does not compel them to do so.

Mr. ZIHLMAN. The language of the Public Utilities Commission law is somewhat ambiguous.

Mr. WOODS of Virginia. I want to say to the gentleman that the chief inducement is the ownership of the Potomac Electric Power Co.

Mr. WINGO. I want to know if that is really the inducement.

Mr. ZIHLMAN. The question has been asked and has not been answered as to whether or not a merger of these two corporations would reduce fares. I say it would. I have here a statement which was based on the fair value of these two companies as determined by the Public Utilities Commission and brought up to date, and basing the returns of the present calendar year on the returns for the first three months for the purpose of compensation. They can reduce the fares one-half cent per fare and pay 6.42 on their combined investment, and that is equivalent to a reduction in the gross receipts, which means in the gross amount paid by the street car riders, of three-quarters of a million dollars.

Answering the question asked a while ago by the gentleman from Illinois [Mr. GRAHAM], if these two companies are merged, they can pay 6.42 per cent on the combined value of these properties and still reduce fares another half cent in addition to the half cent reduced at the beginning of September of this year. If you do not reduce this crossing-policeman tax, if you do not take off the paving tax and leave the gross-receipts tax, they can still make a reduction of one-half cent on fares and pay 6.42 on their combined capital.

Now, the gentleman says—and it is true—that the Capital Traction Co. can put in operation to-day a rate of fare of a little over 5½ cents and make a fair return on the fair value of their property as determined by the Public Service Commission. The exemption in this bill, which has been held up as a concession to these corporations, amounts to $700,000 a year, a sum which is paid directly by the street car companies, but collected from the riders. A great many students of municipal affairs are not in favor of the tax. This is a personal property tax, or a franchise tax, on these companies, and it is paid by the car riders. One of the companies, after paying all of these taxes, has been able to earn as high as 12 per cent on the fair value of its property.

It is true that one company is at a disadvantage because they have many more miles of track than the other, but at the same time there has been more frenzied financing this company. The president of the company wrote a letter to me and the other members of the committee calling attention to the fact that my statement in the report which I wrote was in error; that the fair value of these properties was not $10,000,000 less than the outstanding capital. And I talked with him over the phone this morning, and I called his attention to the fact that the Washington Railway & Electric Co. has an outstanding capital in the sum of $15,000,000 and an outstanding bonded indebtedness of $17,000,000, or a total of $32,000,000. The fair value of this property is about $17,000,000, and the outstanding capital, stock, and bonds is $32,000,000. Mr. Ham called attention to the fact that these two companies—the Washington Railway & Electric Co. and the Potomac Electric Power Co.—should be considered as a whole and not as separate corporations, and I want, in justice, to make this correction. The combined capitalization, including stock and bonds of these two companies, should be considered in their entirety at $44,000,000, while the fair value as determined by the Public Utilities Commission is about $34,000,000; but this does not include property owned in the District not needed and useful for street car purposes, nor property outside the District which the president of the company advises has a value of about $5,000,000. The principal fight that has been made before the District Committee since I have been a Member of this Congress is a merger, not of the street car lines, but a merger of the Potomac Electric Power Co., and the Washington Railway & Electric Co., which they state will facilitate their borrowing money.

Section 8 of the bill provides that the Public Utilities Commission shall put in operation separate rates of fare if these two companies do not merge. Competent attorneys appearing before the committee stated that Congress had no authority under existing law to compel a merger of the two companies. I took that for granted and the committee have been endeavoring to incorporate in the bill some sort of a punitive section which would bring about the same result.

I had expected that that section of the bill would be subjected to a great deal of criticism, because it would put any future negotiations of the Washington Railway & Electric Co. at somewhat of a disadvantage. It takes that company, which has a greater operating expense and nearly double the amount of mileage, and puts it on a basis of receiving a fair return on the fair value of its property, and it puts the Capital Traction Co., with less mileage and less operating expenses, on the same basis. In those sections of the city, if this section of the bill were put in operation, in which there is competition between these lines, the bulk of the traffic would, no doubt, be somewhat diverted to the Capital Traction Co., although I believe that the objection that has been raised in relation to this has not been well-founded, because there are certain sections of the city where the people would have to use one line or the other; and I believe if these companies understand that Congress means business in this matter, and that they are going to put a stop to the abnormal profits now received—if they believed that Congress was going to put in operation what many members of the committee feel was the original intent of the Public Utilities Commission act, namely, a separate rate of fare on each line—under those circumstances I think these companies would get together. The weaker company has got to make some concession. If you are conducting a profitable business and I am conducting an unprofitable one, and we have to merge, I have got to make concessions. And the Capital Traction Co. because of its strong financial position has not shown a disposition to make concessions, while the Washington Railway & Electric Co., who have been solely responsible for the gradual increase in the street car fares of the District of Columbia, have also not shown a disposition to make concessions.

We had the chairman of the Public Utilities Commission before our subcommittee, and he stated that one of the principal obstacles in the way of these companies getting together was because they could not agree on the question of management. So because these two corporations can not agree on the question of management the people of the District—every laborer, every charwoman, every school child—during the past year has paid at least 1 cent excess fare every time he or she got on a car, which money goes into the surplus of the one company—of the Capital Traction Co.—which company has never paid over 7 per cent dividends, but has applied the difference between that amount and the earnings they have received to the depreciation fund and to improvements and surplus. Every year in the District of Columbia, if this condition is allowed to continue, three-quarters of a million of dollars will be paid to the stockholders of this company because the commission takes the position that it is not good policy to establish separate rates of fares for these companies.

Mr. JOHNSON of Washington. Mr. Chairman, will the gentleman yield?

Mr. ZIHLMAN. Certainly.

Mr. JOHNSON of Washington. Why is it not then the duty of Congress to bring in a short, sweet provision providing that the commission shall provide separate rates of fare in the city of Washington?

Mr. ZIHLMAN. I will say that it was with some doubt and hesitation that I wrote that section 8 of the bill providing for a separate rate of fare, and I realize that it is going to bring forth a great protest, and it is going to cause inconvenience to the public, so that we brought in an alternative proposition, one shifting the burden of taxation, and the other providing that if they did not merge they should establish separate rates of fare.

Mr. JOHNSON of Washington. The gentleman can not separate the electric company and the street car company which belongs to that electric power company. They claim now that they should be separated, but they do not want the profits of both destroyed. They complain to you that you should not analyze them as one concern.

Mr. ZIHLMAN. No; as separate concerns. The combined capital of the Washington Railway & Electric Co. and the Potomac Electric Power Co. is $44,000,000, and their combined fair value is $33,000,000, so that there is about $11,500,000 in round figures between their capitalization and their outstanding bonded indebtedness and the fair value as determined by the Public Utilities Commission.

Mr. JOHNSON of Washington. If you relieve the street car companies belonging to that railway company of certain burdens of maintaining the tracks, and so on, can not the electric light company go on successfully?

Mr. ZIHLMAN. The electric light company is a separate company except that the street railway company owns every share of stock in the power company. They contend that they should be allowed to merge, and the District Commissioners contend that it would be difficult to separate the earnings of the light and power company and the street car company, and they have refused to concur in legislation that would give them that privilege, so that in their earnings they are treated as entirely separate, although they have the same officials and the bonded indebtedness is carried and their entire stock is owned by the Washington Railway & Electric Co.

Mr. LONDON. Mr. Chairman, will the gentleman yield?

Mr. ZIHLMAN. Certainly.

Mr. LONDON. I understood the gentleman to say that on the basis of the merging of the two companies the estimated dividends would be 6.42. Is that correct?

Mr. ZIHLMAN. Yes.

Mr. LONDON. In other words, less than 7 per cent, which would mean that the only tax they would pay would be 1 per cent of the gross receipts?

Mr. ZIHLMAN. No; the gentleman from New York certainly misunderstood me. I stated that would be the result on the present basis of taxation, including all these taxes that I have enumerated, the gross-receipts tax, the crossing policemen and the paving tax, allowing that to remain as it is.

Mr. LONDON. The two minor elements, the crossing policemen and the paving are trifling elements. They are not an important factor in this problem.

Mr. ZIHLMAN. I hope that is a sufficient explanation. I will say to the gentleman that if I did not clearly state it, I intended to state that under the present method of taxation they could earn this return.

Mr. LONDON. When you speak of the crossing-policemen tax, is it a tax or an expenditure?

Mr. ZIHLMAN. It is a charge that the District submits to them as their part for the charge for the maintenance of crossing policemen, where the street cars cross the street.

Mr. LONDON. That is an expense?

Mr. ZIHLMAN. Yes; that is an expense. Now, while these merged companies would only earn 6.42 per cent with a straight fare of 7 cents, if these concessions were given and if the 4 per cent gross receipt tax were modified then it would be possible to bring about a still further reduction of at least one-half cent per fare. But the figures I have given included the present method of taxation. If the members of this committee adopt the provisions of this bill, first, making it possible to merge, which is prohibited by law; second, the relief from the crossing-policemen tax; and, third, the paving tax—and I will state that the District Commissioners estimate that 40 per cent of the paving charges is for replacement and for improvements; and as contemplated in this bill, and if the language is so worded that it is possible to relieve them of the entire charge, it should be changed. It is not proposed that we relieve them from all the charge, but only the charge for the new pavement. We are not relieving them, but the car-riding public of the District of Columbia.

Mr. STAFFORD. Mr. Chairman, will the gentleman yield in that particular?

Mr. ZIHLMAN. Yes.

Mr. STAFFORD. I have noticed frequently instances where the street car company has been obliged to take up their under iron-frame structure that provides the conduit and replace it with an entire new structure. That is necessary because of the peculiar style of construction, to replace not only the surface rails but the entire substructure. When the street car company finds it necessary to replace the entire structure—to tear up the surface paving and the substructure—then, do you propose to levy that charge for repaving upon the taxpayers of the District caused by the replacement? Yet that is what your provision in the bill will do.

Mr. ZIHLMAN. I will state to the gentleman that the people of the District now pay that. The car companies do not pay that. The people pay that, along with hundreds of other operating charges and expenses; but if the gentleman refers to improvements made by the company, that is, of course, paid for by them, and not by the District government.

Mr. STAFFORD. The gentleman from Virginia [Mr. WOODS] stated in reply to one query that they charged that to expense and not to capitalization.

Mr. WOODS of Virginia. They do charge it to expense except where there is new paving and an entire new replacement, which I understand they charge to capitalization.

Mr. STAFFORD. Why should not that be borne by the company rather than by the taxpayers of the District?

Mr. ZIHLMAN. I think it should be, but it is not.

Mr. WOODS of Virginia. It is not.

Mr. FOCHT. The street car company does not use it.

Mr. STAFFORD. The gentleman from Pennsylvania says the street car company does not use it. I should like to say that I know of no city where the street car company monopolizes the street between the rails more than in the District of Columbia, on account of the peculiar construction of the underground trolley system, with the slot between the rails.

Mr. FOCHT. And that underground trolley system costs them $250,000 a mile, five times as much as the other system.

Mr. ZIHLMAN. When the street car company of its own volition makes repairs and puts down its tracks and a new conduit for the underground trolley, the street car company pays for that. It is where the city goes in and takes a street that is unimproved and orders that that street be paved that this exemption is to apply.

Mr. STAFFORD. Let me put this further query to the gentleman: By reason of this peculiar conduit construction there is a jarring and disintegration of the pavement between the rails, which requires more frequent repairs than is required under ordinary construction with the overhead trolley system.

Mr. ZIHLMAN. Yes.

Mr. STAFFORD. And I have noticed, as the gentleman and all others have, that the Capital Traction Co. is meeting that difficulty by repaving with small so-called Belgian granite blocks.

Mr. ZIHLMAN. They pay for that.

Mr. STAFFORD. That is necessitated by the peculiar construction. It is not like the usual asphalt pavement between the tracks of an overhead-trolley system. Why should the taxpayers of the District of Columbia bear the expense occasioned by the peculiar character of the conduit construction?

Mr. ZIHLMAN. They do not.

Mr. STAFFORD. Not now, but they would under this bill.

Mr. ZIHLMAN. They would where the city goes in and paves an unimproved street. Then the company would be exempted.

Mr. STAFFORD. Under this bill you transfer that burden upon the public whether they merge or not.

Mr. ZIHLMAN. The public are now bearing not only that burden and many others, but they are bearing the burden of an exorbitant rate of return to one of these companies.

Mr. STAFFORD. Is it not a proper burden that should be borne by the company when they utilize the street so exclusively by reason of this peculiar character of conduit construction?

Mr. ZIHLMAN. If the company paid it I should be in agreement with the gentleman. The committee were simply trying to get at some method that would give some relief to the car-riding public.

Mr. STAFFORD. You might just as well vote them a subsidy, so as to let them make a charge of 4 cents, or six tickets for a quarter.

Mr. JOHNSON of Washington. Or furnish the cars.

Mr. STAFFORD. Or, as the gentleman from Washington says, furnish the cars and everything else.

Mr. HAMMER. Will the gentleman yield?

Mr. ZIHLMAN. I yield to the gentleman from North Carolina.

Mr. HAMMER. On page 37 of the hearings Col. Kutz, in answer to a question which I propounded to him, said that the Washington Railway & Electric Co.'s stock was not worth a dollar unless you took into consideration the electric lighting company.

Mr. STAFFORD. The gentleman knows that the value of stock is not determined by the value of the property or the amount of the investment, but by its earning capacity, and if they have in times past taken on suburban properties which are not paying, which drain the return value of the paying property, of course the stock has no value.

Mr. HAMMER. The statement was that the stock was really of no value whatever, but that the various stock issues were considered as real estate exploitations, given in exchange for land, and never of any value.

Mr. STAFFORD. Then what is the inducement to a paying property like the Capital Traction Co. to buy something of an inferior character which is not paying? Where is the inducement? I fail to find it. I take it that you are not proposing that the Washington Railway & Electric Co. shall purchase the Capital Traction Co., but that the stockholders of the Capital Traction Co. are going to purchase the Washington Railway & Electric property. But what is there attractive about the proposition to buy a nonpaying property?

Mr. ZIHLMAN. If the companies do not merge under the provisions of this bill, then the people of the District will still get some relief, because the Capital Traction Co. will be restricted to a fair return on the value of its property.

Mr. STAFFORD. Then bring in a bill right away making it compulsory for them to merge and receive a return only on the basis of fair earnings on their property, and not let it dangle along, and give them everything. You give it all to them now from the beginning.

Mr. VAILE. Will the gentleman yield?

Mr. ZIHLMAN. I yield to the gentleman from Colorado.

Mr. VAILE. The question has been asked several times, What would be the inducement to the Capital Traction Co. to merge? To my mind that question has not been satisfactorily answered. I now ask what will be the penalty if they do not merge? You say the Public Utilities Commission will give them a separate rate. The gentleman says that they could earn a fair return with a 5½-cent fare. Therefore that would be no penalty to them, especially if under the decreased rate of fare they would get a vast increase in the traffic they carried.

Mr. ZIHLMAN. I do not think there is any idea of penalizing anybody. When you speak of a penalty, the only penalty is to take away from them the abnormal profits that they are now receiving. They could charge a 5½-cent fare and still pay more than 6 per cent on the fair value of their property.

Mr. VAILE. But if they got a greatly increased part of the traffic, they would hold no terror over them in taking the traffic away from the other company to give it to them.

Mr. ZIHLMAN. The volume of business would not affect the fair rate of return. If the volume of business increased, the car riders would get the additional reduction in fare.

Mr. VAILE. The gentleman from Virginia [Mr. WOODS] said that the difference was seven-tenths of a passenger, and that made the difference.

Mr. ZIHLMAN. You do not increase the earnings beyond the sum fixed in the limitation.

Mr. VAILE. It would greatly increase the volume of business.

Mr. EVANS. Will the gentleman yield?

Mr. ZIHLMAN. Yes.

Mr. EVANS. If the thing which the gentleman from Maryland suggests should occur, you would have the destruction practically of the other railroad system in its entirety.

Mr. ZIHLMAN. No; the other railroad company can operate now on the rate fixed, namely, 7½ cents. It is true some of the suburban lines would have to pay more. If they imposed a rate of fare which would yield a fair return on some of the subsidiary companies of the Washington Railway & Electric Co. and not the combined properties of the company, some of the car riders in Maryland would have to pay more than they do under the present system.

Mr. EVANS. If you exclude the lines outside of the District, would not this company be able to compete with the Capital Traction Co.?

Mr. ZIHLMAN. No. I will state that the Public Utilities Commission stopped at the District line and excluded all property not in use for street car purposes, and they say the fair value of the property within the District was $17,000,000, and all rates of fare and rates of return are based on that and has nothing to do with property beyond the District line or property in the District not used or useful for street car purposes.

If a separate rate of fare is established for the Capital Traction Co., as I have stated, you would get a 5½-cent fare, and the Washington Electric Co., with the exemptions given in this bill, would give a rate of 6.92. Under the present law, with a tax of 4 per cent on the gross receipts, they are only earning now 5.69 on the fair value of their property here in the District of Columbia.

Mr. MAPES. Will the gentleman yield?

Mr. ZIHLMAN. Yes.

Mr. MAPES. The gentleman from Virginia [Mr. WOODS] made the statement that the difference between the returns of the Washington Railway & Electric Co. and the Capital Traction Co. in percentage was diminishing at the present time. How does the gentleman from Maryland account for that?

Mr. ZIHLMAN. The difference in the present earnings? Well, I have here the combined statement of the companies, and I will give the gross figures that will probably answer it. I do not know why the percentage has changed. The value of the combined property of the two companies is $32,000,000——

Mr. MAPES. I do not care about those figures.

Mr. ZIHLMAN. It will take the operating expenses to answer it.

Mr. MAPES. If that tendency should continue, eventually the per cent of return on the fair value of the properties of the two companies would be the same.

Mr. ZIHLMAN. The gentleman from Michigan, who has given a great deal of thought to this subject, knows that there is no possibility of these two lines equalizing their earnings under present conditions.

Mr. MAPES. I will say frankly that I was not familiar with that fact until the gentleman from Virginia made the statement. The truth remains that until the abnormal condition arising during the war the two lines did charge the same amount of fare and did pay dividends.

Mr. ZIHLMAN. Yes; but one line made more than the other. The only dividends that have been paid by the Washington Electric Co. for the past five years has been 1 per cent dividend, which it is charged they took from the Potomac Electric Light Co. in order to give a fictitious value to the common stock. It is true that under present conditions the common stock is not worth anything.

Mr. MAPES. There is not such a wide difference between the two, measured by the car mile, something less than one passenger for a car mile—seven-tenths, I think the gentleman from Virginia stated.

Mr. ZIHLMAN. There is this difference—the gross revenue of one is $6,000,000 and the other five and a half million dollars, and while the operating expenses of one company is more than $5,000,000 the operating expenses of the other is less than $4,000,000. So there is more than $1,000,000 difference in operating expenses.

Mr. WOODS of Virginia. Will the gentleman yield?

Mr. ZIHLMAN. Yes.

Mr. WOODS of Virginia. Some question has been raised as to the inducement for a merger. Does not the gentleman think that the chief inducement would be in the larger aspect as to obtaining the Potomac Electric Power Co.? That is the only way the Capital Traction Co. could get possession and take over that company. That would be my inducement if I owned anything in the property.

Mr. ZIHLMAN. Now, Mr. Chairman, I want to say in conclusion that it is my earnest hope that out of this agitation there will come some relief to the car-riding public. It is the one thought I have in my mind and the thought of the members of the subcommittee that reported the bill. We hope to bring about a lower rate of fare, and if we do not change the present system of taxation, we ought to be able to devise some way to give the car riders of the District of Columbia a lower rate of fare. A portion of the earnings of the Capital Traction Co. which goes to them in the form of abnormal profits, which are unjust and discriminatory, should go to the car-riding public. It is a tax imposed on the car riders of the District to bolster up the earnings of a weaker company in the District.

Mr. LONDON. Mr. Chairman, will the gentleman yield?

Mr. ZIHLMAN. Yes.

Mr. LONDON. Has the committee considered the question of municipal ownership?

Mr. ZIHLMAN. The committee considered very carefully a bill introduced by the gentleman from Minnesota [Mr. KELLER] upon that subject, providing for the purchase of these roads by the District of Columbia. The subcommittee by a majority of 1 vote reported that bill favorably, but the full committee of the District of Columbia rejected that and substituted the bill which is now before the House.

Mr. MOORES of Indiana. Mr. Chairman, will the gentleman yield?

Mr. ZIHLMAN. Yes.

Mr. MOORES of Indiana. Has the committee any assurance whatever that the two main companies will accept the provisions of this bill and consolidate?

Mr. ZIHLMAN. We have had no assurance whatever.

Mr. MOORES of Indiana. Have you any assurance whatever that the two companies will agree or come to terms on the matter of management?

Mr. ZIHLMAN. We have none. It is our thought that by removing the inducement in the way of abnormal profits they would get together.

Mr. MOORES of Indiana. You are making very serious concessions—large and important and valuable concessions—to the companies by this bill if it passes. You are not getting any assurance whatever that they will accept the conditions of the bill. The concessions that are made become the law, as I understand it, and you have no assurance whatever of consolidation. You relieve them of the policemen tax and from the expense of maintaining the right of way between the tracks.

Mr. ZIHLMAN. Of the construction—not of the maintaining of it.

Mr. MOORES of Indiana. And you relieve them from a large portion of their tax, and that is permanent, and you get nothing except the hope that they may consolidate. Is there any reason in the world why the committee could not have conditioned these concessions upon that consolidation?

Mr. ZIHLMAN. Absolutely none. And the Capital Traction Co. will go on exacting 1 cent extra fare as long as Congress takes that position.

Mr. MOORES of Indiana. Has the committee any good reason to offer why we should make these concessions if we are not going to get any assurance of their acceptance?

Mr. ZIHLMAN. The concessions were put in as an alternative proposition, in that the weaker company would be relieved of these small and "trivial" taxes, as some one speaks of them.

Mr. MOORES of Indiana. What would be the inducement to the stronger company?

Mr. ZIHLMAN. To the stronger company? It was proposed originally by the District Commissioners that we take 50 to 75 per cent of all moneys earned in excess of 6 per cent, but the District Committee increased that to 7 per cent and in the form of excess-profits tax propose to take half of the amount over that.

Mr. MOORES of Indiana. Has the committee considered the proposition of making these concessions conditional upon the acceptance of the bill? Why can not that be done? The gentleman says that it has not been done.

Mr. ZIHLMAN. I thought I had answered that question by saying that, of course, one company which is earning a high rate of interest is not going to merge to get these few concessions, but should do so in the public interest, and will, I believe, when legislation grants them only a nominal return.

Mr. MOORES of Indiana. Why should we give them to the other company?

Mr. ZIHLMAN. While you are imposing them on the other company the people of the District have been forced to pay for them in a gradually increasing rate of fare.

Mr. MOORES of Indiana. We are just giving something away, then, without assurance of getting what we want.

Mr. ZIHLMAN. As I stated a while ago, under the law if you make them conditional on a merger, that is not going to bring about a merger. That is obvious.

Mr. GRAHAM of Illinois. Mr. Chairman, will the gentleman yield?

Mr. ZIHLMAN. Yes.

Mr. GRAHAM of Illinois. Is it the gentleman's idea that by giving these concessions which would operate to the benefit of the weaker company, thereby the Public Utilities Commission might be induced to grant a reduction of fares on both companies?

Mr. ZIHLMAN. Yes; it should bring about a reduction in fare. Under the present system of taxation, allowing all these different tax burdens, if I may call them that, the 4 per cent gross, and so forth, to remain as they are, the merger of these two companies would bring about a reduction of one-half cent, which is equivalent to about $800,000 a year, immediately, and still it would yield 6.42 per cent upon the combined value of these properties, and if these exemptions are granted, it means another reduction of a half cent, so that the total saving to the car riders of the District, if the exemptions be adopted and the merger brought about, would be approximately in the neighborhood of a million and a half dollars.

Mr. GRAHAM of Illinois. I think that is exactly correct. There would be a saving of, say, a million and a quarter.

Mr. ZIHLMAN. About a million and a half.

Mr. GRAHAM of Illinois. But that million and a half that is saved to the car riders will be paid by the people of the country.

Mr. ZIHLMAN. I do not agree with that form of reasoning. The expenses of the District of Columbia are approximately $20,000,000 a year, and the District must raise $12,000,000 of that sum under the present law in various forms of taxation. Take this off the street car companies and it must be raised somewhere else. It has to be raised somewhere else, because the share of the Government is $8,000,000. You shift this burden from one class of people in the District to another and you may do an injustice to the people of the District, but you are not doing an injustice to the Federal Government.

Mr. EVANS of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. ZIHLMAN. I am afraid that I have exhausted all of my time.

The CHAIRMAN. The gentleman has 15 minutes remaining.

Mr. ZIHLMAN. I reserve the remainder of my time.

Mr. SANDERS of Indiana. Mr. Chairman, I regret very much that I can not bring myself to support this measure. I am sorry to oppose a bill which is reported by a committee which has given it careful consideration. The hearings and the discussion of the bill show that it has been given very careful consideration by the District of Columbia Committee. I am sorry to oppose it, because I know that in studying the transportation system of this District the committee has found the real transportation problem that always exists. They have found two transportation companies paralleling each other and competing for traffic, one company being able to earn a reasonable return upon its property value at a certain rate of fare and the other company being unable to earn a reasonable return on the same rate. When you fix the rate for two parallel and competing lines, unless the rate is the same for each company, the transportation company which is given the smaller rate will get all of the traffic and hence the greater revenue, and in undertaking to benefit a particular company by a greater rate of fare you are really injuring the company.

There can be no doubt that it is desirable to bring about a consolidation of the street car lines in Washington City. I think it would accomplish some saving. However, there are some advantages in having competition. I am opposed to this measure, in the first place, because it will not bring about a consolidation of these companies. That is the purpose of the bill. But I think it is absolutely clear that it will not bring about consolidation. In the first place, the bill makes consolidation permissive, because the committee understands that under the Constitution they have not the power to compel a consolidation. Since it is permissive, any one company can prevent a consolidation. Now, there are a number of companies here; but for the purpose of this discussion we have got a company here, the Capital Traction Co., and the other company, which might be called by the short name of the Washington Co. You have those two companies. The Capital Traction Co. is earning an adequate return on property value and the Washington Co. is not earning an adequate return.

Now, it is provided by this measure that they may consolidate. It has been stated by numerous gentlemen who have discussed this bill and who are thoroughly familiar with it that the companies do not want to consolidate; that they will not consolidate if we leave it entirely to their option; and we have a bill here that proposes to induce them to consolidate. Now let us see. How does it propose to induce them to consolidate? There are provisions which relieve them from great burdens of taxation. There is section 4, which relieves them from the burden of keeping special policemen at the crossings, and the amount which they would save by this provision has been stated before. Section 5 changes the method of taxation from 4 per cent on the gross return to 1 per cent on the gross return and adds a taxation of half what they receive over 7 per cent net on their property value. However, it is said if they consolidated they will not make 7 per cent.

Mr. FROTHINGHAM. Will the gentleman yield?

Mr. SANDERS of Indiana. I will.

Mr. FROTHINGHAM. There are similar provisions in Massachusetts now with respect to street railways—that the companies shall divide the surplus over a certain amount—and I presume there are in other States. I have never heard, and I would like to ask the gentleman if he has ever heard, where any such division has taken place?

Mr. SANDERS of Indiana. No; I have not; and I might say that this measure proposes that if there is no consolidation then separate rates shall be fixed, and that they shall only yield a reasonable return, and if that is done they will not get the 7 per cent and the Government will receive nothing from that source as taxes. Section 5, as I say, is a concession from 4 per cent to 1 per cent of their gross return. Section 6 relieves the street car companies of the burden of making pavement between the tracks and for a certain distance on the outside of the tracks.

Now notice this, every one of these provisions which relieve them from this burden, as pointed out by my colleague, the gentleman from Indiana [Mr. MOORES], apply whether they consolidate or not. Therefore, it can not be contended with any great degree of earnestness that the proposed relief is an inducement to consolidate, because they get relief whether they consolidate or not. Now, then, the other consideration is the one which was pressed by the gentleman from Virginia, who has given so much study to this subject. That is the provision of section 8. In other words, the committee concluded that the Constitution forbade compulsory consolidation, and they provided in certain sections an inducement and then provided in section 8 for the burden of an impractical method of rate making if there is no consolidation, in order to compel them to consolidate. Now, let us examine section 8. Remember that this section 8 was devised to get around the constitutional provision that you can not compel a consolidation.

That unless a merger or consolidation hereinbefore authorized and provided for between the Capital Traction Co. and the Washington Railway & Electric Co. and the subsidiary companies held by them shall have been effected by July 1, 1922—

And so forth.

I ask particular attention to section 8 because it is what is proposed to drive them into a consolidation. Now listen—unless they consolidate, then the Public Utilities Commission of the District of Columbia shall fix separate rates of fare for (1) the Capital Traction Co. and (2) the Washington Railway & Electric Co. and its subsidiaries. It is proposed by threatening them with fixing separate rates of fare to drive them into a consolidation. Let us see if that will. In order to drive them into a consolidation, both companies must desire consolidation. Why, they have said that if you fix separate rates and fix a lower rate for the Capital Traction Co.—and that is what it means by this provision for a separate rate, a lower rate for the Capital Traction Co.—that it will drive a great deal of the business from the Washington Railway & Electric Co. to the Capital Traction Co. and bankrupt the other company. Will that induce them to consolidate? It might induce the Washington Co. to desire to consolidate, but there is not anything that will induce the Capital Traction Co. to want to consolidate. If either of the companies desire not to consolidate there will be no consolidation.

Mr. HAMMER. Will the gentleman yield?

Mr. SANDERS of Indiana. I will.

Mr. HAMMER. The electric light company is the profitable part of the investment of the Washington Railway & Electric Co. Does not the gentleman think that the principle of uniting different public utilities of a different character is wholly incorrect as a method of legislation? If we legislate to consolidate an electric company with a railway company, why not consolidate the telephone companies and the gas companies and other profitable companies of the District so as to help hold up this defunct concern?

Mr. SANDERS of Indiana. Of course the gentleman's illustration is applicable, to a certain extent, and to some certain extent it is not. There is some similarity between these two companies.

Mr. HAMMER. There are 45,000 customers to whom the electric light company sells.

Mr. SANDERS of Indiana. I think the gentleman is right, in that we do not want to compel the consolidation so as to compel the public in their light bills to pay loss on transportation.

But, gentlemen, they say by this bill they will be induced to consolidate, because they have the right to consolidate with this light company. Of course, if they consolidate with the light company, that does not mean the individual stockholders will be given the light company's stock at anything except its fair value. It simply means the right to buy that piece of property at a fair value, and if it is more valuable in order to consolidate, they will have to pay more for it, and the terms of the consolidation will be less favorable.

Mr. GRAHAM of Illinois. What prevents the consolidation now? Is it the Sherman Antitrust Act?

Mr. SANDERS of Indiana. I think not. They say they have not the power to consolidate. I have not examined the question myself. I understand in the laws which authorized them, or in some other subsequent amendment, there has been a specific inhibition against consolidation.

Mr. HAMMER. The public utilities commission act.

Mr. MAPES. There is an express provision that requires the two companies to remain separate entities.

Mr. GRAHAM of Illinois. Then all that would be necessary to obviate that difficulty would be the first three or four sections of the act which provides specifically that they may combine, and if that part of the act were passed does the gentleman see anything particularly bad about that? I agree with him, particularly about the latter part of the act. I do not believe it ought to be the law at all, but the right to consolidate I will be glad to hear discussed.

Mr. MAPES. The statement I made applied to the Washington Railway & Electric Co. and the Potomac Electric Power Co. The law creating those companies especially provided they had to remain separate.

Mr. SANDERS of Indiana. It does not apply to consolidation of transportation companies?

Mr. MAPES. No; it does not.

Mr. SANDERS of Indiana. I confess I am not familiar with the state of the legislation creating these different companies to the extent of knowing whether they have the power now to consolidate.

Mr. ZIHLMAN. I will say to the gentleman that any mergers of corporations in the District have been made on specific authority of Congress. The act of Congress authorized it.

Mr. SANDERS of Indiana. That might be, but still they might have the power to consolidate.

Mr. LONDON. As I understand, this act is for the purpose of relieving the car-fare situation?

Mr. SANDERS of Indiana. Yes.

Mr. LONDON. What is to prevent us from directing the Public Service Commission to fix a cheaper rate?

Mr. SANDERS of Indiana. I suppose there is not anything to prevent it, because they say they are going to do this if this consolidation does not occur.

Mr. LONDON. Why should we not pass a law now compelling the commission to fix a certain rate?

Mr. SANDERS of Indiana. I will say to the gentleman from New York that personally I think the fixing of rates is not a legislative function. I think it is an administrative one, which can only be done by people who are executing the laws, and can go into details in the study of the necessities of the particular case. I see nothing to interfere with providing that the commission shall fix rates and shall fix separate rates.

Mr. LONDON. And fix them now within a certain time—in three months, say.

Mr. SANDERS of Indiana. If the gentleman will pardon me, I want to answer the question suggested by the gentleman from Illinois. I do not know that there is any objection—I certainly do not see any—in the consolidation of all these companies, and a proper bill which authorizes the consolidation of the companies would certainly meet no objection from myself. But this bill is not that bill. This bill comes to us as a bill for consolidation, but in my opinion—and I have undertaken to show you upon what that opinion is based—it will not bring about consolidation. Now, then, if I am right on that proposition, that it will not bring about consolidation, do we want to pass the measure? No one who has spoken in favor of this measure has said that he desires that these different sections shall become law unless the companies consolidate. No one has undertaken to support this measure on any other theory than upon the theory that there will be a consolidation which will be beneficial and all these other things.

Holding the opinion, then, as I do, that there is absolutely no chance of consolidation under the provisions of this bill, then the bill stands, as I see it, as a bill to grant these different reliefs from taxation. It is not pretended that the Capital Traction Co. needs any such relief. They have paid 10 per cent upon their stock or upon the property value of their plant—paid 10 per cent—and there is no claim that that company needs relief. So are we going to relieve both of the companies in order to effect some saving for this Washington company?

Mr. BURTNESS. Would the gentleman see any objection to the bill if sections 4, 5, 6, and 8 were eliminated from it?

Mr. SANDERS of Indiana. I would see no objections to the bill if all except the permissive consolidation were eliminated. I have not studied the bill to see if that would accomplish the purpose. But I want the committee to remember that this bill has not been brought in simply as a consolidation measure. If it were, and these other tax features were left out, then we would have that for consideration. We have not that. On the other hand, this bill has not been brought with the idea that the favorable sections with reference to taxation ought to be enacted by themselves. And since I entertain the opinion that the enactment of the bill would simply mean that you would grant these favors to the traction companies by the enactment of these sections, I am opposed to it.

Mr. ZIHLMAN. Will the gentleman yield?

Mr. SANDERS of Indiana. I yield.

Mr. ZIHLMAN. The gentleman realizes that if a separate rate of fare is put into effect, it will immediately result in a reduction of fare to the car riders of the Capital Traction Co. of about a cent and a half, which will be about $720,000 a year to the car riders of the District. That is certainly worthy of consideration.

Mr. SANDERS of Indiana. In what event?

Mr. ZIHLMAN. In case a separate rate of fare is established and they are given a fair return on the value of their property instead of the present value.

Mr. SANDERS of Indiana. I understand it was not advisable to make this——

Mr. ZIHLMAN. I said that the Public Utilities Commission took the position that it was a matter of poor public policy.

Mr. SANDERS of Indiana. Does the gentleman agree with the Public Utilities Commission?

Mr. ZIHLMAN. I do not.

Mr. SANDERS of Indiana. Do you think it would be a good policy to fix a separate rate?

Mr. ZIHLMAN. I think these two companies, unless they show a proper public spirit to get together in a more efficient manner in order to insure greater economy, with the object of bringing about a reduction of fare, there should be a separate rate of fare.

Mr. SANDERS of Indiana. You mean a separate rate for each company?

Mr. ZIHLMAN. Yes.

Mr. SANDERS of Indiana. What do you think would be a proper rate of fare?

Mr. ZIHLMAN. As I stated to the gentleman, the Capital Traction Co. could operate profitably at 6 cents.

Mr. SANDERS of Indiana. And how about the other company?

Mr. ZIHLMAN. The other company, with the present taxation now imposed, requires the present rate of 7½ cents.

Mr. SANDERS of Indiana. If you had a 6-cent rate fixed for the Capital Traction Co. and 7½ cents fixed as the rate for the other company, what would happen to the Washington Co.?

Mr. ZIHLMAN. I stated in my remarks that all of these lines are not competing. That situation is very much exaggerated.

Mr. SANDERS of Indiana. What does the gentleman think? Would it bring them down so that they would not make any earnings, or would it cut down their earnings?

Mr. ZIHLMAN. If they reduced their rate of fare to meet the rate of the Capital Traction Co., their earnings would not be large.

Mr. SANDERS of Indiana. I am assuming the gentleman had brought about a situation where the rate of fare charged by the Capital Traction Co. was 6 cents and the rate charged by the other company was 7½ cents?

Mr. ZIHLMAN. Yes.

Mr. SANDERS of Indiana. If that were done, what would happen to the Washington company?

Mr. ZIHLMAN. They would not necessarily go into bankruptcy.

Mr. SANDERS of Indiana. Would it cut down their earnings or raise their earnings?

Mr. ZIHLMAN. I believe it would cut down their earnings.

Mr. SANDERS of Indiana. What would happen to the Capital Co.?

Mr. ZIHLMAN. It would be restricted.

Mr. SANDERS of Indiana. It would get increased earnings.

Mr. ZIHLMAN. It could not, except with the consent of the Utilities Commission.

Mr. SANDERS of Indiana. That company would be doing business at 6 cents and the other company at 7½ cents. The latter company would lose traffic and it would go to the Capital Co. It would really be of benefit to the Capital Co., would it not?

Mr. ZIHLMAN. No; because the utilities commission would restrict their earnings.

Mr. SANDERS of Indiana. But we fixed the rate of 7½ for the one company and 6 for the other.

Mr. ZIHLMAN. I did not say fix them for all time.

Mr. SANDERS of Indiana. Let us fix them for a little while. What does the gentleman think will happen? It will cut down the earnings of that other company, because they will lose the business, because they are charging 7½ cents and this company is charging 6 cents.

Mr. ZIHLMAN. They will lose business.

Mr. SANDERS of Indiana. And this company will get it, so that the Capital company will have its earnings depreciated and the Washington company will have its earnings increased.

Mr. ZIHLMAN. It will have them increased until such time as the rate is reduced.

Mr. SANDERS of Indiana. The Capital Traction Co. will get more than it got before, and how will that induce the Capital company to consolidate with the other company?

Mr. ZIHLMAN. It will not necessarily, but it will certainly be a lever to impel the Washington Railway & Electric Co. probably to drop some of the technical objections they have made as to management. I do not contend that this is an ideal arrangement, but I do contend this, that it is much more fair to tax every car rider on the Capital Traction Co. an additional cent, which goes to the company and which they do not need in order to receive a fair rate of return than the present system to the people of the District of Columbia.

Mr. SANDERS of Indiana. The trouble with the gentleman's theory is that he assumes that the result of this bill will decrease rates. If fixing separate fares is the proper thing, then that thing should be brought about. But this proposition will not compel consolidation, and the threat of fixing separate fares will not compel consolidation or induce it.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. SANDERS of Indiana. Yes.

Mr. BUTLER. I understand the purpose of this bill, and I have been listening to what the gentleman from Indiana has said. I understand that the purpose of the bill is to bring down these car fares, to obtain a reduction in the car fares to the people of the District of Columbia; to enable these companies to reduce their fares or compel them to do it. Why can we not by law fix these rates?

Mr. SANDERS of Indiana. Of course, Congress originally fixed the rate of 5 cents.

Mr. BUTLER. Can we not do that?

Mr. SANDERS of Indiana. I do not think it is a legislative function. I think it is better to have a commission to fix the rate. I think it is doubtful policy to send them back to 5 cents. If you examine the recent rate history of street car companies, you will find that advances in rates have not brought the results they hoped to bring about.

Mr. SPROUL. Mr. Chairman, will the gentleman yield?

Mr. SANDERS of Indiana. Yes.

Mr. SPROUL. For years Congress has fixed the street railway rates. In 1908 Congress did so, and in 1913 they established the fare of 5 cents.

Mr. SANDERS of Indiana. Yes.

Mr. SPROUL. I do not see why they do not have the right to fix the fare through the Public Utilities Commission.

Mr. SANDERS of Indiana. I do not question the power of Congress, but I do not think it is a wise measure to provide for a legislative body to fix the rate of fare, because it is naturally an administrative function, which requires so many facts to be considered, and the ordinary member of a legislative body can not and will not make the necessary study of the details to do justice to the owners of the property and justice to the public.

Mr. SPROUL. One more question. The utilities commission had a hearing early in August. The Capital Traction Co. came before the commission and said they were willing right then to go back to 6-cent fare. The commission said, "No; we can not put on a 6-cent fare, because you are going to hurt the Washington Railway & Electric Co." We can get the 6-cent rate from the traction company without any bill, and we should establish a 5-cent fare.

Mr. SANDERS of Indiana. I am not familiar with the law, but I understand from the gentleman from Virginia [Mr. WOODS] that they can not fix a separate rate at the present time.

Mr. WOODS of Virginia. I think that was the view that the commission took; not that they could not do it, but that they thought it was inadvisable.

Mr. SANDERS of Indiana. Then I want to correct my statement. The gentleman from Virginia [Mr. WOODS] says they

have the power now. Therefore the gentleman is right in his premise.

Mr. WOODS of Virginia. There is doubt about it.

Mr. HAMMER. There is very serious doubt about it.

Mr. WOODS of Virginia. The gentleman says there is no inducement to the Capital Traction Co. to merge. At present it is paying on its gross receipts a tax of $222,000. Under this bill it will pay on its gross receipts and its excess-profits tax $425,000. Now, would it not like to get rid of some of that tax?

Mr. SANDERS of Indiana. Yes; but it can get rid of some of it anyway.

Mr. WOODS of Virginia. We do not know whether it will or not.

Mr. SANDERS of Indiana. If we pass this bill and the companies are not consolidated, will not the provisions of this law as to the taxing be in effect just the same?

Mr. WOODS of Virginia. They will pay $200,000 more unless they consolidate. That is all there is of it.

Mr. SANDERS of Indiana. That might be, but if they are going to consolidate and buy a less valuable property so they will not make so much money, I do not think it is a very great inducement.

But I should like to call the attention of the gentleman from Virginia to the fact that when he says that the Capital Traction Co. next year would pay more taxes under this scheme, he assumes that they are going to have the same revenue and the same business that they had during the congested condition here immediately after the war. I think he will find that will not be the case.

Mr. HAMMER. Will the gentleman yield for a moment?

Mr. SANDERS of Indiana. I yield to the gentleman from North Carolina.

Mr. HAMMER. In regard to fixing fares by legislation the trouble is that the only way that I can see in which that can be done is to go back to the 5-cent fare as provided in the original contract, by repealing the law providing for the utilities commission.

Mr. SANDERS of Indiana. Yes.

Mr. HAMMER. And the trouble is that we will run up against the decisions of the Supreme Court recently handed down in three cases in Iowa, the decision, I think, being rendered April 11, 1921, in which they state clearly that a public utilities commission can not fix a rate that is not fair, and if it is ascertained to be unfair after it is fixed it can be changed unless there was a contract entered into by the company to carry it out. In that event the company can be compelled to do so whether there is a loss or not.

Mr. SANDERS of Indiana. Yes.

Mr. HAMMER. But in the event that the Public Utilities Commission fix a rate of fare which does not bring a fair return, the courts will compel them to have a fair return. In this bill we undertake to say that 7 per cent will be a fair return, which is an excessive amount under these depressed conditions. That is to say, that 7 per cent shall be guaranteed to them before they pay 50 per cent excess-profit tax.

Mr. SANDERS of Indiana. I do not understand there is any guaranty that they shall receive 7 per cent.

Mr. WOODS of Virginia. No; but we can not get any more taxes out of them unless they earn more than 7 per cent.

Mr. SANDERS of Indiana. After they earn 7 per cent, then they are taxed 50 per cent on their excess profits. Now, the gentleman has raised a question as to whether we could constitutionally fix a rate which would not yield them a fair return. Since the original act provided that they should have a 5-cent fare, it might be that we could. But, personally, I am not in favor of fixing such a rate of fare as will not bring a reasonable return upon property value, even when they have agreed to carry passengers for 5 cents, because in order for a company to do business they must have money for additions, betterments, and improvements; and by and large the public are interested in having a reasonable return upon property value resulting from the investment.

Mr. FOCHT. Will the gentleman yield?

Mr. SANDERS of Indiana. I yield to the gentleman from Pennsylvania.

Mr. FOCHT. I am sure the gentleman would not wish inadvertently to convey a wrong impression even as to his own attitude on this bill. I assume from the gentleman's splendid argument that he agrees not only with the most of the committee, but with the evident sentiment generally in the House and elsewhere that there ought to be a consolidation of these companies. The gentleman's objections are rather to collateral matters. Now, how would it suit the gentleman to have everything contingent and predicated upon consolidation?

Mr. SANDERS of Indiana. I should think that would create a considerably greater likelihood of consolidation, and I think if you are going to have any hope of any consolidation you will have to make all these concessions a payment for consolidation.

Mr. FOCHT. I will say to the gentleman that I have no interest in the bill, and can see no hope for any betterment in the way of improved facilities of transportation or reduction of rates of fare without consolidation and the removal of one overhead or administrative expense. Therefore I can not conceive of this bill going through without having in it that feature of all things being contingent upon consolidation.

Mr. SANDERS of Indiana. I think the gentleman from Pennsylvania [Mr. FOCHT] made it very clear that he had in mind that there is going to be a consolidation, and I will say to him that I agree with him fully in his argument. I think he made a fine speech. The only trouble is, I thought, and still think, that the provisions of this bill will not bring about the results which the gentleman has in mind.

Mr. MOORES of Indiana. Will the gentleman state if the committee will consent to an amendment to that effect?

Mr. SANDERS of Indiana. The gentleman from Indiana [Mr. MOORES] suggests to me that I inquire of the chairman of the committee whether he knows if the District Committee would be willing to have the bill so amended as to make these tax features contingent upon consolidation?

Mr. FOCHT. Oh, absolutely. I will say in all candor that such amendments were already provided for, but by some inadvertence were omitted. The fact is we have them here ready. If that is all the contention about the bill we might as well close debate because that is the full intention of the committee.

Mr. STAFFORD. Will the gentleman permit me to make an inquiry of the gentleman from Pennsylvania?

Mr. SANDERS of Indiana. Certainly.

Mr. STAFFORD. In the general debate amendments have been referred to from time to time that the committee is intending to propose. Will the gentleman from Pennsylvania insert those amendments in the RECORD so that the Members of the House may have an opportunity to examine them before the bill is taken up to-morrow under the five-minute rule?

Mr. FOCHT. I have no objection to that. I will offer them as a part of my remarks. Mr. Chairman, I ask unanimous consent to incorporate in my remarks certain proposed amendments to the bill H. R. 8520.

Mr. SANDERS of Indiana. Mr. Chairman, I yield for that purpose if I may, with the understanding that I do not lose the floor.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent that he may insert as a part of his remarks certain amendments he proposes to offer. Is there objection?

There was no objection.

Mr. SANDERS of Indiana. Mr. Chairman, I reserve the balance of my time.

Mr. FOCHT. Mr. Chairman, of my remaining half hour I will yield 10 minutes to the gentleman from Minnesota [Mr. KELLER].

Mr. KELLER. Mr. Chairman, I am a member of the District Committee, and we have had many hearings on this bill. I want to say, Mr. Chairman, that I am opposed to the bill because it is not going to bring about a merger of these railroad companies. The gentleman from Indiana [Mr. SANDERS] brought out some facts showing that it will not, and therefore I can not vote for the bill, because you are only delaying the real proposition which is to bring about a relief to the people of the District in lower fares and better service. We have been waiting for this several years. You have a very peculiar condition here. You have two railway companies, and both of them are operated by two high-class men, very ambitious men, who pride themselves on the institutions that they have built up, and neither one will give in. They have shown their attitude before the committee that they want to keep the separate companies by themselves. This bill will make it more easy for them to do that, because it is a favorable bill to one company which earns the most money, and therefore there is no reason why they should take over the other company, which is not earning a fair rate on its investment. There is no possible way that I see under this bill for a merger.

The only way to get a reduction in rates as far as the people of the District are concerned is a merger, where you cut out the overhead and consolidate the companies and save the money in operating and by rerouting cars.

There have been a number of ideas suggested. One was that the District of Columbia buy the right of way and lease the property to some one to operate. A plan was suggested for a reduction of taxes, in order to lessen the burdens on certain companies, so that they can make a fair return on their investment.

Another plan, which was offered by myself, was to take over the lines and operate them by the District, and therefore say to

the people of the District. Here are your lines, take them and operate them, and take whatever service you want to pay for. Eliminate forever the National Government having anything to do with them. I have the figures showing that by taking the valuation of the companies made by the commission that they can immediately take over the plant, pay a fair value, and still have a surplus of $594,000. The people can immediately get the benefit of this service. Under this bill it is only a delay, and therefore I shall not vote for the bill.

Mr. Chairman, I ask unanimous consent to extend my remarks and bring out such figures that I have, so that the Members of the House may analyze them.

The CHAIRMAN. The gentleman from Minnesota asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. FOCHT. Mr. Chairman, I yield 10 minutes to the gentleman from South Dakota [Mr. CHRISTOPHERSON].

Mr. CHRISTOPHERSON. Mr. Chairman, there is no doubt but that the people of the District of Columbia are entitled to a reduction of street car fares, but of more importance is the question of transportation charges now in effect throughout our land. This question of freight rates is a vital one out West, and especially so to the people of South Dakota, and let me say that the State of South Dakota commenced a consistent and determined warfare some 30 years ago on freight, passenger, and express rates. It was a long and somewhat expensive contest, necessitating many legislative acts and ran its course through all the courts, State and Federal, but the people of South Dakota were determined to have reasonable rates and at no time faltered in this determination. As a result they were successful and finally obtained reasonable freight and passenger rates, and just before the outbreak of the late war South Dakota enjoyed lower express rates than any State in the Union. These reductions in the transportation rates were of material benefit to the people of my State, who prospered thereunder and the business of the transportation companies materially increased from year to year and they likewise prospered.

Then the war broke out; the Government took over all the transportation facilities, rates were increased, and when the roads were returned to the private owners, under the transportation act of 1920, the Interstate Commerce Commission granted another large increase, and as a result the people of South Dakota are to-day paying higher freight rates than they have ever paid since statehood, both on commodities shipped out and on those shipped into the State.

During the war the people of South Dakota were ready and willing to bear any burden that might be necessary and to abide by any rule or regulation of the Government without complaint, but now, nearly three years after the war, they do not take kindly to the present exorbitant and confiscatory railroad rates—rates so high that it takes one-third to one-half the value of the produce to pay the transportation charges, and in many cases even more. Likewise on commodities carried into the State, as for instance,

COAL.

Some years ago anthracite coal sold in our State for less than $10 per ton, while now it is retailing at $21 per ton, and the increase in the price of bituminous is equally as great if not more. The people of South Dakota, being keenly interested in the cost of this commodity, my colleague, Mr. WILLIAMSON, and I took this up with the Coal Association, and were advised that the mine cost of anthracite in Pennsylvania is approximately $7 per ton and of bituminous in Illinois and Indiana from $3 to $3.50 per ton. We then looked into the matter of rates and find that the greater part of the cost of coal comes from the transportation charges, as, for instance, the charges on anthracite from the Pennsylvania fields to Buffalo are $3.92 per ton and from Duluth to Sioux Falls, S. Dak., $3.71½, and to Mitchell, S. Dak., $4.18½, making the rail charges on this coal to Sioux Falls $7.63 and to Mitchell $8.10½ per ton. In addition thereto we must add the water transportation from Buffalo to Duluth, which rates I do not have. The rail rates on bituminous from Indiana and Illinois fields to Sioux Falls are approximately $5 per ton, varying somewhat as to the location of the mine, but from this it is apparent that the principal element in the cost of coal to us in South Dakota is the transporation charge. I submit here a statement showing in detail the rail transportation charges on coal between the points mentioned:

Statement of present rates on coal.

From—	To—	Kind of coal.	Rate in cents.	Per—	Tariff I. C. C. number—
Hazleton, Pa..	Buffalo, N. Y., f. o. b. vessel.	Anthracite—			
Wilkes-Barre, Pa.		Prepared sizes.	392	2,240	L. V., D-1293.
		Pea and smaller.	364	2,240	
Mt. Carmel, Pa.					
Duluth, Minn.	Mitchell, S. Dak..	Anthracite....	418½	2,000	C., St. M. & O., 4424.
Do.....	Sioux Falls, S. Dak.	.....do.....	371½	2,000	Do.
Terre Haute, Ind.	Mitchell, S. Dak..	Bituminous...	513	2,000	P., C., C. & St. L., P-1544.
Do.....	Sioux Falls, S. Dak.	.....do.....	493	2,000	Do.
Princeton, Ind.	Mitchell, S. Dak..	.....do.....	536	2,000	C. & E. I., 3070.
Do.....	Sioux Falls, S. Dak.	.....do.....	515½	2,000	Do.
Danville, Ill..	Mitchell, S. Dak..	.....do.....	509	2,000	Do.
Do.....	Sioux Falls, S. Dak.	.....do.....	488½	2,000	Do.
De Pue, Ill....	Mitchell, S. Dak..	.....do.....	433	2,000	C., M. & St. P., B-4331.
Do.....	Sioux Falls, S. Dak.	.....do.....	412	2,000	Do.
Springfield, Ill.	Mitchell, S. Dak..	.....do.....	486	2,000	Ill. Cent., E-1550.
Do.....	Sioux Falls, S. Dak.	.....do.....	466	2,000	Do.

AGRICULTURE.

On grain and farm products shipped to market rates are equally exorbitant, and when the producer has paid his transportation charges, with the present low prices prevailing, he has little left for his own efforts and expense, and absolutely nothing for interest on his investment or to meet the interest on any encumbrance against the land.

The following table illustrates the outrageous increase in rates from representative South Dakota stations to representative terminal markets since 1910 on grains and live stock. Also showing the increase in class rates to representative South Dakota towns from representative interstate points:

Statement showing increases made in rates in grain from representative South Dakota stations to representative terminal markets since 1910.

TO CHICAGO.

From—	1910		1918		June 25, 1918, all grain.	Feb. 21, 1920, all grain.	Aug. 23, 1920, all grain.	Per cent increase.	
	Wheat.	Coarse grain.	Wheat.	Coarse grain.				Wheat.	Coarse grain.
Huron, S. Dak	$0.19	$0.19	$0.21	$0.21	$0.275	$0.29	$0.395	107.8	107.8
Aberdeen, S. Dak	.20	.19	.22	.21	.275	.29	.395	97.5	107.8
Brookings, S. Dak	.185	.175	.19	.18	.245	.25	.355	91.8	102.8
Yankton, S. Dak	.185	.185	.205	.205	.265	.265	.36	94.5	94.5

TO MINNEAPOLIS.

Huron, S. Dak	$0.125	$0.125	$0.145	$0.145	$0.18	$0.18	$0.245	96	96
Aberdeen, S. Dak	.125	.125	.145	.145	.18	18	.245	96	96
Brookings, S. Dak	.115	.115	.12	.12	.15	.15	.205	78.2	78.2
Yankton, S. Dak	.125	.125	.145	.145	.18	.18	.245	96	96

TO OMAHA.

Huron, S. Dak	$0.17	$0.155	$0.175	$0.155	$0.215	.....	$0.29	70.5	87
Aberdeen, S. Dak	.195	.19	.195	.19	.245	.....	33	69.2	73.6
Brookings, S. Dak	.185	.18	.185	.18	.23	.....	31	67.5	72.2
Yankton, S. Dak	.145	.145	.145	.145	.17	.....	23	58.6	58.6

Statement showing increases made in rates on live stock from representative South Dakota stations to the markets of Chicago, Sioux City, and Omaha since 1910.

TO CHICAGO.

From—	1910.			June 25, 1918.			Aug. 26, 1920.			Sept. 20, 1921.			Increases.		
	Cattle.	Hogs.	Sheep.	Cattle.	Hogs.	Sheep.	Cattle.	Hogs.	Sheep.	Cattle.	Hogs.	Sheep.	Cattle.	Hogs.	Sheep.
	Cwt.	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*	*Cwt.*	*Per ct.*	*Per ct.*	*Per ct.*
Pierre	$0.425	$0.48	$0.48	$0.495	$0.55	$0.55		$0.745	$0.745	$0.595	$0.595	$0.595	25.8	23.9	23.9
Bellefourche	.48	.65	.55	.55	.72	.62	$0.745	.97	.835	.595	.775	.67	23.9	19.2	21.8
Salem	.29	.32	.34	.36	.39	.41	.485	.525	.555	.485	.50	.50	67.2	56.2	47
Aberdeen	.38	.425	.44	.45	.495	.51	.61	.67	.69	.50	.535	.55	31.5	25.8	25
TO SIOUX CITY.															
Pierre	$0.25	$0.30	$0.285	$0.315	$0.37	$0.355	$0.425	$0.50	$0.485	$0.425	$0.50	$0.485	70	66.6	70.1
Bellefourche	.36	.46	.39	.43	.53	.46	.58	.715	.62	.50	.57	.50	38.8	23.9	28.2
Salem	.16	.18	.18	.20	.225	.225	.27	.305	.305	.27	.305	.305	68.7	69.4	69.4
Aberdeen	.25	.28	.25	.315	.35	.315	.425	.475	.425	.425	.475	.425	70	69.6	70
TO OMAHA.															
Pierre	$0.32	$0.365	$0.33	$0.39	$0.435	$0.40	$0.525	$0.585	$0.54	$0.50	$0.50	$0.50	56.2	36.9	51.5
Bellefourche	.36	.46	.39	.43	.53	.46	.58	.715	.62	.50	.57	.50	38.8	23.9	28.2
Salem	.285	.235	.25	.295	.295	.30	.40	.40	.405	.40	.40	.405	70.2	70.2	62
Aberdeen	.31	.34	.31	.38	.41	.38	.515	.555	.515	.50	.50	.50	61.2	47	61.2

Statement showing increases made in class rates to Huron and Sioux Falls, representative South Dakota stations from representative interstate points, Chicago, St. Paul, and Sioux City, since 1910.

CLASS RATES TO HURON.

From—	One.	Two.	Three.	Four.	Five.
Chicago:					
Jan. 1, 1910	$1.14	$0.95	$0.67	$0.47	$0.37
June 25, 1918	1.425	1.19	.84	.625	.465
Aug. 26, 1920	1.925	1.605	1.135	.845	.63
Increase in cents	.785	.655	.465	.375	.26
Increase in per cent	68.8	68.9	69.4	79.7	70.2
St. Paul:					
Jan. 1, 1910	.76	.65	.50	.38	.30
June 25, 1918	.95	.815	.625	.475	.375
Aug. 26, 1920	1.285	1.10	.845	.64	.505
Increase in cents	.525	.45	.345	.26	.205
Increase in per cent	69.0	69.2	69.0	68.4	68.3
Sioux City:					
Jan. 1, 1910	.57	.475	.38	.265	.205
June 25, 1918	.715	.595	.475	.33	.255
Aug. 26, 1920	.965	.805	.64	.445	.345
Increase in cents	.395	.33	.26	.18	.14
Increase in per cent	69.2	69.4	68.4	67.9	68.2

CLASS RATES TO SIOUX FALLS.

Chicago:					
Jan. 1, 1910	$0.83	$0.675	$0.47	$0.335	$0.26
June 25, 1918	1.04	.845	.59	.42	.35
Aug. 26, 1920	1.405	1.14	.795	.565	.475
Increase in cents	.575	.465	.325	.23	.195
Increase in per cent	69.2	68.8	69.1	68.6	69.6
St. Paul:					
Jan. 1, 1910	.57	.475	.34	.255	.20
June 25, 1918	.715	.595	.425	.32	.25
Aug. 26, 1920	.965	.805	.575	.43	.34
Increase in cents	.395	.33	.235	.175	.14
Increase in per cent	69.2	69.4	69.0	68.6	70.0
Sioux City:					
Jan. 1, 1910	.40	.34	.26	.20	.16
June 25, 1918	.50	.425	.325	.25	.20
Aug. 26, 1920	.675	.75	.44	.34	.27
Increase in cents	.275	.235	.18	.14	.11
Increase in per cent	68.7	69.0	69.2	70.0	68.7

In years gone by railroad executives adhered to the maxim, "Charge all that the traffic will bear," but now, by reason of the generous and liberal rates given by the Interstate Commerce Commission, it is well known that the rates are far beyond what the traffic will bear. As a result we see along the highways of commerce idle freight cars and idle engines, while the products of one part of the country are rotting for the simple reason that carrying charges are so high the commodities in question can not move to other parts of the country where there is a market for them.

In the transportation act of 1920, and for some of the provisions of that act many of us voted with considerable reluctance, we increased the powers of the Interstate Commerce Commission, and we provided for a labor board, with jurisdiction to settle and adjust labor controversies then existing and which may arise between the employees and the operators. This Railway Labor Board in the first few months of its existence added greatly to the expense of the operation of the railroads; and while I believe a later decision of this board provides for a reduction in the operating expenses, it seems to me the labor board has given too much attention to technicalities in its procedure, thereby delaying final action, and that the many unjustifiable expenses that crept into the railway operation at the time of Government control are, by reason of these delays, still in vogue.

As for the Interstate Commerce Commission, following the action of the labor board increasing the cost of operation of the roads, it granted a very generous and substantial increase in all rates—freight, passenger, sleeping car, and express. Now, I do not know which of these boards, the Interstate Commerce Commission or the United States Railway Labor Board, is the more to blame for the present high rates, but I do know the rates are prohibitive of progress and prosperity in my State, and, so far as I know, the transportation act of 1920 grants full authority to these two boards to regulate and adjust all these differences, fix such rates as will be reasonable and just to all parties concerned. If these boards do not take action, and prompt action, to bring about this change in our transportation service, then I for one am ready to vote for a bill to abolish both boards and return to the State railway commissions the power that we took from them in 1920. It was the local State railway boards in the West and Northwest that brought results in the regulation of transportation costs, improvement in the service, and reduction in the rates, and in reflecting on the work and results obtained by the two national boards mentioned I am ready to and believe we should promptly restore to the State railway boards full and supreme authority over all intrastate rates.

The people, not only of South Dakota but of the entire country, are incensed and disgusted with the present transportation charges, and they will lay the blame at the door of Congress. You know and I know that we gave full and complete authority to the Interstate Commerce Commission and the United States Railway Labor Board to settle, adjust, and regulate these matters. A year and a half has elapsed and still we are paying the highest rates ever known, rates that are a burden and a damper on business and enterprise, and if these boards, with the full authority given them, can not bring about relief let us create a board or commission that will. I say to you that to-day railroad and transportation charges are a vital problem with the people, and they are looking to Congress for relief.

Yes; I understand the Interstate Commerce Commission has granted a reduction in rates on grain from Chicago east for export, on live stock a reduction of 20 per cent, and the rates on grain are now being reviewed with a view to a reduction in all those rates. I commend the commission for this activity, hope it will continue consideration of the transportation question, and at an early date grant a general reduction of all rates—freight, passenger, sleeping car, express, telephone, and telegraph. They are all inordinately high, and not only too

high, but also let the commission promptly eliminate many of the absurd charges adopted during the war period and still adhered to by the companies, as, for instance, the charge made for the attempt to find a party called for over long-distance telephone. As well may the merchant make a charge for looking on his shelf for an article which he fails to find as for the phone company to charge for its efforts to locate the person called for. This is only one of the many hang overs from the war, and I am confident if we will return to the State railway commissions the authority they once had we will get prompt relief from these unfair exactions.

STABILIZATION OF PRICES OF FARM PRODUCTS.

On this occasion I also wish to say just a word with regard to agriculture, and in that connection let me say I come from a district almost wholly agricultural, and I know of no industry that has suffered so severely in the readjustment as the farming industry. Last year's crop was produced under the high costs then prevailing, but before it was ready for market prices had gone down and transportation charges up, and there are instances on record in my State where the receipts barely paid the cost of transportation, and in one instance brought to my attention, a shipment of hides, there was a deficit which the shipper was called upon to pay.

This Congress has been very prompt and generous in the passage of legislation for the benefit of the farmers during this session, and I look for material benefit from the measure recently enacted that revives the War Finance Corporation and provides for large sums to be used in the exportation of farm products, to stimulate our foreign business and create a market for our surplus grain, and also a fund of a billion dollars for loans to the farmers on chattel security.

In my State another plan has been suggested for the relief of the farmer, that of stabilization of the price of the principal farm commodities. This plan is sponsored by Hon. W. H. Lyon, of Sioux Falls, who has given the subject careful study and consideration. Last December he appeared before the Agricultural Committees of both the House and Senate, outlining his plan in detail. Briefly, it is based on the proposition that it is the export surplus of our commodities that fixes the price of the entire crop, and, as he illustrated from the reports in the Yearbook and the statement of Mr. Julius Barnes, in the four prewar years less than 4 per cent of our total crop was exported; during the war 8½ per cent, and the last year 6½ per cent. The Government, by agreeing to purchase this surplus at a certain time of the year at a fixed price, would thereby establish a minimum price for that product, and that minimum would be a figure that would insure a fair profit for the product.

I realize that the objection of expense will be promptly made, but, as illustrated by Mr. Lyon, the Government would not necessarily have to advance any great sum, for this price would be fixed by a commission and they would fix the prices so as to encourage the production of articles that we import, such as flax, sugar, and so forth, while on the commodities that we export, such as wheat, oats, corn, and so forth, the margin of profit would be somewhat lower, so that there would not be a large overproduction of those commodities. It would seem by a judicious administration of this plan it could be handled so as not to incur a great expense and at the same time insure the farmers a reasonable profit above the cost of production, and the benefits derived from the stabilization of this, the basic industry of our country, would be sufficient to more than overbalance any expense involved.

Agriculture represents the greatest investment of any single industry, and the past reveals to us that whenever this industry is prosperous, then prosperity prevails in all lines. When the farmer receives a fair return for his commodities he buys liberally, the business of the merchant in town increases, the factory operates to its full capacity, transportation lines are crowded with traffic, the laborer finds ready employment. In other words and in brief, when the farmer is prosperous the entire community is prosperous, and vice versa, as was so apparent in 1920, when the price of farm products fell below the cost of production, the farmer felt the pinch of the coming hard times, ceased buying anything but absolute necessities, then very quickly there was a general lull in business and a depression that was soon felt over the entire country.

Yes; the objection may also be advanced that this is class legislation, but as to that let me say we have frequently legislated upon subjects that favored some particular line of business and industry, and if we can stabilize the price of our food products and thereby insure prosperity to our agricultural resources, which I claim is the basic and all-important industry of our land, we thereby also insure prosperity to the entire Nation. The cost of such a plan to the Government would not in any year be more than a fraction of what the Nation suffers by a wave of depression such as we are now experiencing; and then, Mr. Chairman, we can not expect the farmer to continue to produce at a loss, so with the present tendency of the market we may in the future face a shortage of crops and food instead of a surplus.

This plan has the indorsement of the South Dakota Legislature in a resolution, which reads as follows:

The House of Representatives of the State of South Dakota respectfully represents to the Congress of the United States that—

Whereas it is self-evident that a civilized Nation should no longer permit the price of wool, cotton, and food products to be fixed or manipulated by speculation and without regard to the cost of production; and

Whereas all other producers know in advance the approximate prices they can obtain for their products, but the farmer, when he plants his crop or begins preparing his stock for market, has no assurance that his products, the most important of all, being absolutely necessary for the existence of humanity, will even repay the actual cost of production, and frequently these producers suffer immense losses, millions of dollars having been lost during the past year by our farmers in the preparation of cattle, hogs, and sheep for market; and

Whereas if the prices of staple farm products were stabilized by the General Government it would add immensely to the stability and security of agriculture, and be equally beneficial to the ultimate consumer; and

Whereas it is our belief that the stabilization of such prices could be accomplished in such a manner as would require the National Government to finance only the surplus, which is usually small compared with the entire crop, and if any surplus should prove too large for profitable disposition by the Government the prices for the following year could be reduced and the prices of other products increased, thereby resulting in the increase of any crop in which a shortage may exist; and

Whereas under the present system gambling and speculation are deemed necessary to make a market, but the fluctuations are so great that frquently from 50 per cent to 100 per cent is added thereby to the price of such products after leaving the farmer's hands and before preparation for use, all of which is lost to the producer and paid for by the ultimate consumer; and

Whereas the stabilization of the prices of certain agricultural products will automatically assist to a great extent in stabilizing the cost of meat production:

Now, therefore, on behalf of the farmers and stock raisers of South Dakota and of the entire Nation, we urgently request the Congress of the United States to enact a law requiring the President of the United States, through a commission of experts fairly representing both the producing and consuming public, to fix and guarantee the prices of such farm products, thus assuring the producer a fair and reasonable price for his products and automatically eliminating gambling and speculation therein.

On July 12, 1921, I introduced in this House H. R. 7735, which embodies this plan of stabilization of the prices on farm commodities by the Government. I hope the Members of the House, and especially the members of the Committee on Agriculture, will give it earnest and careful attention, and that in the near future we may be able to afford some practical relief to the farmer. I know that a great many of the farmers out West are, by reason of the expansion and increase in cost, followed by the sudden slump in the price of all they had to sell to a point far below the cost of production, heading toward bankruptcy. They are looking to Congress for remedial legislation.

The bill in its present form includes only such grains as may properly be termed "food," but authorizes the commission in charge of its administration to investigate and, if deemed advisable, to include also cotton and other commodities. Cotton is the staple crop of the South, and many million bales are exported; hence it might at first appear that if the Government should fix a price on this product and agree to buy the surplus, it might be called upon for a very large outlay, but in this connection let us remember we have a practical monopoly on the standard cotton for the manufacture of cloth. The foreign countries must have this cotton. It is essential to their manufacturing industries and they can not get it elsewhere. Therefore it is a simple fact that whatever price our Government would set upon this commodity, such price would be the minimum price at which it would sell, and the foreign purchaser would have to pay the market price. His need for the cotton would be the same. The amount exported would be the amount necessary to supply the foreign demand; hence all the Government would, in any event, have to buy under this plan would be the surplus remaining, if any, over the consumption at home and abroad. I hope the gentlemen of the House from the cotton-growing States will give this plan consideration and believe you will find it of equal interest and benefit to you as to the grain-growing States.

In conclusion, my belief is a substantial reduction in transportation charges and the stabilization of the price of farm products, through some such plan as outlined in the bill mentioned, will solve the problem and bring an early return of prosperity to our land.

Mr. FOCHT. Mr. Chairman, I yield five minutes to the gentleman from Wisconsin [Mr. LAMPERT].

Mr. LAMPERT. Mr. Chairman, as a member of the District Committee that has had this matter of street car merger before it for a good while, I want to say that we have all been actuated by the same motive of bringing about lower rates of fare and better service. We have not exactly agreed as to how they should be brought about, but I think that is the motive of all of us.

I want to give a short history of this bill as it was presented to the committee. First, all bills pertaining to the street car situation were referred to a subcommittee. That subcommittee after various hearings reported, recommending a solution of the proposition by the adoption of the Keller bill, which was a municipal ownership bill. That matter was voted down in the Committee of the Whole, and when the so-called Woods bill was presented I made the statement that unless the bill were amended in several other ways I would be opposed to it.

Some of the amendments that I suggested were adopted. As originally presented the Woods bill authorized the Washington Railway & Electric Co. to merge with the Potomac Electric Light & Power Co. That was changed so that there has to be a merger between the two street railway companies before they can take over the electric light plant.

One amendment that I submitted to the committee which was adopted is section 9, which provides for the keeping of the books, records, accounts, costs, expenses, and so forth, of the power plant separate from the other institution.

One provision which is in the bill that I am not in favor of is the matter of relieving the street railway companies from paving between the tracks. For that reason I shall have to vote against the bill in its present form.

This is not a new question by any means. I believe that Congress long before my time debated and struggled with the problems of providing cheaper fares and better street car service for the residents of the District of Columbia. A dual system of street railway operation is wrong in principle, and it has proven itself to be a failure in its operation. When I became a member of the District of Columbia Committee I made the discovery that for a number of years the question of cheaper fares, single transfers, and better service had been discussed and debated and no relief afforded. I came to the conclusion at that time, and my convictions are stronger now, that Government ownership is the only real solution.

I have great respect and affection for my colleagues on the District of Columbia Committee. They are sincere, honest, and able men, and I have no criticism to make. My only regret is that I can not follow their lead and vote for this bill.

The residents of the District of Columbia are in effect wards of this Government. They are without a voice in its affairs. We owe it to ourselves and to them to see that they get a square deal and get that square deal very soon.

Mr. SANDERS of Indiana. Mr. Chairman, I yield 10 minutes to the gentleman from Massachusetts [Mr. WALSH].

Mr. WALSH. Mr. Chairman, I think it is agreed that there is vast room for improvement in the service rendered the traveling public by the street railway companies of the District of Columbia. It is rather remarkable that these companies during the years when they carried more passengers probably in 12 months than they ever carried in 36 preceding should have made radical increases in their rates of fare. Of course, wages went up somewhat, but I would like to have some competent expert examine the accounts of these companies and ascertain why, when their revenues from passengers almost tripled, it was necessary for them to make such radical increases in their rates of fare.

If I understand the intention of the committee, it is to pass legislation which will result in a merger of the two companies. I do not know whether they are authorized to legislate the Washington & Rockville Railway Co., of Montgomery County, apparently of Maryland, into a merger or not. That might depend somewhat upon the laws of the State of Maryland, but the curious feature of this proposed piece of legislation, which has already been so very well and clearly pointed out by the gentleman from Indiana [Mr. SANDERS] and one or two others, is that the benefits which are to be held out by way of inducement to the companies to merge their interests into one corporation are to attach, whether they merge or not. They are to be relieved of the 4 per cent tax, and the gentleman from Michigan [Mr. MAPES], who was formerly chairman of this great committee, has made an investigation and has ascertained that this change of 4 per cent tax to 1 per cent on the gross receipts will amount to about one-third of 1 per cent. It seems to me that any such inducement as that ought to be very carefully considered before we write it into legislation.

Furthermore, it is proposed to relieve the street railway companies from the cost of paving the streets, permanent improvements, I believe the gentleman from Virginia [Mr. WOODS] called them. Of course, a street railway company has a pretty valuable franchise. It is permitted to occupy the streets almost exclusively, although, of course, other vehicles can travel over the streets, but the street railway cars have the right of way, and in most municipalities if their right of way or the portion of the street set apart for their use is obstructed or occupied by other vehicles, the owner or the operator of those vehicles must give way or he is penalized. I think the street railway companies ought to bear this burden of paving the street as a part of the improvement. They are given a very valuable privilege.

But we hold out further the inducement that they are relieved from the cost of paying for these traffic policemen. Well, I think possibly that is a wise precaution, because in this day the automobile traffic and the necessity for traffic officers at crossings is not based solely upon the occupancy of the streets by street cars, but it is because of their use by other vehicles. But, as I stated before, even with all these inducements written into the law by this bill and these companies say they will not merge, still they get all of these benefits. Now, these benefits should be made dependent upon the merger. This relief and change in the method of taxation should be made conditional upon the merger. I notice one curious feature of subdivision (a) to the effect that the corporation may by agreement in writing by at least three-fourths of the owners of record, and so forth. That means three-fourths of the owners of record might agree on this merger, but it might not be the same three-fourths of the capital stock. There might be three-fourths in number which would represent a minority of the stock held, whereas in subdivision (b) it says "the approval of the stockholders herein provided for may be given by the consent, in writing, of the owners of record of three-fourths of the capital stock."

Mr. GRAHAM of Illinois. Will the gentleman yield?

Mr. WALSH. I will.

Mr. GRAHAM of Illinois. Has the gentleman learned from any source whether there is both common and preferred stock in these companies?

Mr. WALSH. I understand in one of these companies there is both common and preferred stock.

Mr. GRAHAM of Illinois. It would only be the preferred stock which would be registered or of record?

Mr. WALSH. I assume that is so.

Mr. GRAHAM of Illinois. Then the whole mass of the common stock would not be included in this. How would you record common stock that is transferred from person to person?

Mr. STAFFORD. The names are always carried on the certificates and in the stock transfer book.

Mr. GRAHAM of Illinois. Is that done in this particular case? I can see it can be done, but is it done?

Mr. MADDEN. I would like to ask the gentleman from Massachusetts if there is any limit to the amount of bonds that could be issued if this bill is passed?

Mr. WALSH. Only that the application must be approved by the Public Utilities Commission.

Mr. MADDEN. For the bonds?

Mr. WALSH. Bonds and stocks.

Mr. MADDEN. And if they should make a very large issue of bonds of course it would not be possible to make anything on the stock and then they would come back for higher rates.

Mr. WALSH. Certainly.

Mr. GRAHAM of Illinois. If the gentleman from Illinois will yield, what does "of record" mean? I would like to ask somebody—a member of the committee or somebody else—to tell me what it means.

Mr. ZIHLMAN. I will say——

Mr. WOODS of Virginia. That means of record on the stock book of the company. This stock floats around on the market and is sold generally. In order to make a record of the transfer it has to be recorded.

Mr. ZIHLMAN. The stock books of the company show the owners. You buy a certificate and you go back to the man in whose name it stands. That is the only way.

Mr. WOODS of Virginia. That is, three-fourths of the capital stock in value—not numbers. It may be necessary, as the gentleman from Massachusetts pointed out, to transpose that language.

Mr. WALSH. I would like to ask in my time if the gentleman from Pennsylvania would be willing to read the proposed amendment which he stated will make these benefits or inducements conditional upon the roads consolidating?

Mr. FOCHT. I am perfectly willing to do that.

On page 15, line 2, after the word "jurisdiction," insert a new paragraph, as follows:

Provided, however, That all the preceding paragraphs of both sections 5 and 6 hereof, and all rights and immunities granted by this act, shall be void and of no effect unless and until said companies and all of them and their subsidiaries shall have been merged in accordance with the provisions of this act.

Page 10, line 23, after the word "for" strike out "is hereby authorized to" and insert "shall"; and in line 23, page 10, after the word "upon" insert the words "and control."

Those are offered by Mr. FITZGERALD, a member of the committee.

Instead of "authorize" it "shall." The Supreme Court has interpreted that "may" can mean "shall" and "shall" can mean "may" when it suits. So we give you "may" in preference.

Mr. SANDERS of Indiana. Will the gentleman from Massachusetts yield?

Mr. WALSH. I yield.

Mr. SANDERS of Indiana. I understand the gentleman from Virginia to say such a provision as that would bring about a situation where the Capital Traction Co. would never agree to the consolidation. Am I correct in that?

Mr. WOODS of Virginia. I said either company might not agree.

Mr. SANDERS of Indiana. Do I understand that the gentleman is in favor of the merger?

Mr. WOODS of Virginia. I had it in my original bill, and the last section was substituted by the gentleman from Maryland [Mr. ZIHLMAN] for it. I think it is better than the amendment suggested by the chairman. I have no objection to it if the chairman thinks it is advisable, but I think it will practically kill the bill.

Mr. WALSH. You mean that nothing will be accomplished if that is included in the bill?

Mr. WOODS of Virginia. I think if I was one of the stockholders of a company that made 10 per cent I would refuse to merge.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. SANDERS of Indiana. I yield five minutes more to the gentleman from Massachusetts.

Mr. FOCHT. We have been constantly told by these railroad people when we appeal to the financiers who are supposed to control this road and ask them why they do not get together and sit down and pool their interests and pay more wages and get better rates and be satisfied and contented and fix themselves here instead of being kicked out one of these days, that they want the right to merge. "Do not complain," they say, "if we fail to merge, however, after you give us the right." This will give them that right.

Mr. FESS. Will the gentleman from Massachusetts yield?

Mr. WALSH. I yield.

Mr. FESS. The benefit to the public is the proposed merger, and the benefit to the companies is the remission of taxes, and you say that they are not likely to merge even if we pass the bill, but will get the benefit of the remission of taxes; so I think if that is entirely carried out by the gentleman from Virginia, when we take care of them they will not merge.

Mr. WALSH. I think the gentleman from Ohio is correct. If the public is not to get some benefit from this legislation, it ought to be dropped. We ought not to legislate here solely in the interest of the stockholders and directors of these street railway companies. We ought to be legislating for the people who travel upon those lines and for the people of the District of Columbia who are interested in seeing that we have on the streets of the Capital of the Nation adequate transportation facilities for the public. [Applause.]

Mr. CHINDBLOM. I would like to ask the gentleman from Massachusetts whether in his time he would ascertain from the chairman of the committee if the committee proposes any amendment whatever which is going to change the provisions of the bill as proposed with reference to this remission of taxes in the event that the companies refuse to merge?

Mr. FOCHT. I have gone over all that. And furthermore——

Mr. CHINDBLOM. Is there anything is your amendments that will change the present bill in that regard?

Mr. FOCHT. Force them to merge?

Mr. CHINDBLOM. No. Make the remission of taxes conditional upon the merger.

Mr. FOCHT. Certainly. That is part of the program.

Mr. WALSH. That is what the gentleman's amendment provides, as I understood it.

Mr. CHINDBLOM. I could not hear the reading of it.

Mr. FOCHT. Furthermore, we must not forget this one thing: We have erected what we conceive to be a safeguard against these corporations and highway robbery and thievery and blue-sky business, in the shape of the Public Utilities Commission. It is the supreme court and the final appeal for it all, and we must trust some one. You want to go, some of you, on and on and on and have it come back to you absolutely certified and clarified. That is beyond all human hope.

Mr. WALSH. I agree with the gentleman, but in this profiteer's paradise, the Capital of the Nation [applause], for which not only we who attempt to represent different sections of the country but the people who reside here ought to feel a sense of shame, we ought to see to it that in any legislation dealing with as vital a matter as this, one which affects the daily life of the people here, we shall not permit further profiteering or grafting upon the public. [Applause.]

Now, they say that one of these street railways serves a very much larger territory than the other. If that is so, I believe that an equitable method of taxation could be evolved whose operations should be based upon the miles of track that are operated and owned, and that there should be a descending scale, if need be, beyond a certain limit of trackage.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. SANDERS of Indiana. Mr. Chairman, I yield to the gentleman from Massachusetts 10 minutes more.

The CHAIRMAN. The gentleman from Massachusetts is recognized for 10 minutes more.

Mr. WALSH. The gentleman from Wisconsin [Mr. STAFFORD] made a suggestion which I think might be equitable, namely, that of a certain zone. I notice that apparently one or two of these street railways operate beyond the District of Columbia, beyond a certain zone. In that case another fare could be charged. But I think we should not permit further opportunity for undue profits and returns in a corporation that is supposed to be performing a public service, and I think we should be very careful to guard against it.

Mr. DENISON. Mr. Chairman, will the gentleman yield?

Mr. WALSH. I yield.

Mr. DENISON. If we should make the tax 4 per cent, or if we should make it 5 per cent, and make it on the net earnings instead of on the gross earnings, would not that tend to equalize the conditions between the two companies?

Mr. WALSH. It probably would tend to equalize the matter of taxation, although I am not familiar with the statistics that are contained in the hearings upon that question.

But, Mr. Chairman, I have some doubt as to whether or not, even with the amendment proposed by the gentleman from Pennsylvania [Mr. FOCHT], we ought to make such a radical change by legislation in reference to laws applicable to street railways. As I understand the law now, it is that they are prohibited by law from merging. Now, if that law were repealed and they have an opportunity for voluntary merger, they would be subject to all the restrictions of existing law. The Public Utilities Commission would still operate, I assume, upon the merged corporation that resulted from their voluntary efforts, and the situation might improve from such action.

But here we make some rather important changes in the law respecting these corporations when they shall have been merged into one. In some municipalities it has been found a good thing to have competition between traction lines, street railway lines. In other words, it has been found that poor service results from both.

I hope, as a result of whatever legislation is passed, that we shall see to it that the tendency which I think prevails in most of the larger cities of the country to-day toward a drop in street railway fares will prevail here; that we will find that the fares which went up during the period of the highest travel, when the largest number of passengers were carried, will begin to drop.

Mr. HAMMER. Mr. Chairman, will the gentleman yield?

Mr. WALSH. Yes.

Mr. HAMMER. Do I understand the gentleman to say that he understood the law now to be to prohibit the merger of street railways?

Mr. WALSH. I so understood.

Mr. HAMMER. I do not understand that to be the law. The only merger prohibited is that of the electric company with the street railway companies. The street railway companies can merge. As I understand, the purpose of this bill is to authorize the merger of the electric light company with the street railways after they have merged. Is not that the fact?

Mr. WOODS of Virginia. I am not sure that the street railways have the right to merge.

Mr. GARRETT of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. WALSH. Yes.

Mr. GARRETT of Tennessee. That is quite an important statement, and it has quite an important bearing on the bill. I have heard the statement made several times to-day that under the present law the companies would not have the right to merge.

Mr. HAMMER. There is no pretense on the part of the street railway attorneys and their representatives that they do not have the right to merge, so far as the right to merge street railways is concerned. They have the voluntary right to merge, but they can not merge by reason of the La Follette amendment.

Mr. FOCHT. They are absolutely prohibited from merging.

Mr. GARRETT of Tennessee. If the gentleman from Massachusetts [Mr. WALSH] will permit further, I tried to follow the debate closely to-day, and I understood some gentleman—I do not know who it was, and I may have it confused in my mind—I understood him to state that an inhibition was made in the original grant of the franchise against merger.

Mr. WALSH. I will state to the gentleman from Tennessee that that statement was made, I think, by the gentleman from Virginia [Mr. WOODS] and by one or two other members of the committee, and it was on that statement that I based my assertion. I think even the chairman of the committee, the gentleman from Pennsylvania [Mr. FOCHT], made that statement.

Mr. MAPES. Mr. Chairman, will the gentleman yield?

Mr. WALSH. Yes.

Mr. MAPES. My understanding is that it is a mooted question among lawyers as to whether these street railway systems have the right to merge or not. Some contend that they have the right and others contend that they have not. I think I am right in that statement, am I not?

Mr. WOODS of Virginia. I think so. The attorneys are not satisfied that they have the right to merge, but there is no question about there being a specific provision as to the power company not having the right to merge with its parent company, which owns all its stock.

Now, if the gentleman from Massachusetts [Mr. WALSH] will permit me, his criticisms are always helpful, but he has expressed the view that there is no benefit to be derived from the passage of this bill. It may not fulfill all the hopes that are desired. I will not say that it will bring about a merger. I hope it will. I rather think it will, but I do say, as I said this morning, that I am satisfied it will bring about a reduction of fares, and that is the object of the merger, to give the people of the District of Columbia a better service and lower fares. It will bring about a fare of four tickets for a quarter, or six and one-quarter cents, and we can not do better than that under present labor and material costs. And no harm can come from the passage of this bill, in my opinion. If this bill does not pass, then you will have to go on under the present method of paying one of these companies $400,000 or $500,000, which it admits it is not entitled to, in order to keep the other company on its feet.

Mr. WALSH. I understand if this merger does not result, that can be taken care of.

Mr. WOODS of Virginia. What can be taken care of?

Mr. WALSH. We can stop paying this great excess to one of these companies by the imposition of a separate fare.

Mr. WOODS of Virginia. I think you would have to give specific authority or mandatory instructions to the Public Utilities Commission to impose a different fare, as the Zihlman amendment does propose.

Mr. WALSH. While the gentleman is on his feet will he answer an inquiry?

Mr. WOODS of Virginia. Yes; I will if I can.

Mr. WALSH. Does not one or more of these railway systems operate outside of the limits of the District of Columbia?

Mr. WOODS of Virginia. Both of them do.

Mr. WALSH. They go into Maryland and Virginia?

Mr. WOODS of Virginia. They do not go into Virginia, but they go into Maryland. My understanding is that the Capital Traction Co. has two lines that run across the District line. The Washington Railway & Electric Co. has 8 or 10 lines that cross the District line; but all this valuation and all this legislation is directed to the lines within the District of Columbia and the property within the District of Columbia.

Mr. WALSH. Is there a separate fare charged after they cross the District line?

Mr. WOODS of Virginia. The gentleman from Maryland can possibly answer that.

Mr. ZIHLMAN. Yes; there is a separate fare in the State of Maryland.

Mr. WALSH. Now, I should like to know if the gross receipts which are mentioned in the report contemplate only the receipts arising from the fares collected within the District of Columbia?

Mr. WOODS of Virginia. That is correct.

Mr. ZIHLMAN. Within the District.

Mr. WALSH. How about the receipts outside of the District? Why should not they be taken into consideration?

Mr. WOODS of Virginia. We did not think that we had the right to legislate outside of the District.

Mr. WALSH. We may not have the right to legislate, but it is one company, and part of its receipts come from within the District of Columbia and part of its receipts come from outside of the District of Columbia. Now, it seems to be material, even though we are legislating simply upon matters solely within the District of Columbia, to know what the receipts of the company are which may have been received for services rendered outside of the District.

Mr. ZIHLMAN. I will state that I have those figures here.

Mr. WALSH. The gentleman may have the figures, but the report that has been made on the bill says that it is based on receipts within the District. It may make some difference if we knew what the receipts and expenditures are for services rendered outside of the District. I assume from the language in the first section, lines 7 and 8, that the Washington & Rockville Railway Co., of Montgomery County, is a Maryland corporation.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. ZIHLMAN. Mr. Chairman, I have some time remaining and I yield to the gentleman five minutes. I ask him to yield to me.

Mr. WALSH. I will yield to the gentleman from Maryland.

Mr. ZIHLMAN. I will state for the information of the gentleman that in 1900 Congress by an act authorized a merger of the companies extending into Maryland; so that provision is made for authorizing that merger. Now, if the gentleman from Massachusetts will permit me, in answer to his inquiry I will say that one of these lines running into Maryland shows a deficit and the other shows no earnings under the present rate of fare, and the other shows a necessity of a 10-cent fare in order to earn anything. That is the unprofitable part of the business.

Mr. HAMMER. Will the gentleman yield?

Mr. WALSH. Yes.

Mr. HAMMER. Did I understand the gentleman from Virginia to say that the Public Utilities Commission did not have authority to fix the rates of fare?

Mr. WALSH. No; I did not so understand the gentleman.

Mr. HAMMER. I would like to ask the gentleman from Virginia if we did not continue our hearings on different occasions for two or three weeks in order that they might enter into a voluntary merger? The whole question of a voluntary merger was not questioned.

Mr. WOODS of Virginia. That was with the understanding that if they agreed upon it Congress would pass an enabling act.

Mr. WALSH. The gentleman from Maryland stated at the outset that Congress had no constitutional authority to enact legislation to compel a merger. Now, there are two ways, I assume, that a merger can be secured—either by passing legislation which will hold out certain benefits or inducements to the corporations sought to be merged which they will receive if they take advantage of the legislation and consolidate their interests. That is one way. I assume that another way would be by imposing additional burdens on the corporation, either by changing the tax rate or making the regulations more stringent, so that they may be relieved of additional burdens and harsh regulations and find it for their own interests to combine and consolidate into one corporation.

I see that the gentleman from Maryland, in the hearings, upon page 2, stated that the best legal experts in the District state that it is impossible to force a merger, and that it seemed to be purely a waste of time to ask it, and that all the commission has to do is simply to regulate the fare and reduce it to a 5-cent fare.

Mr. COOPER of Wisconsin. Will the gentleman yield?

Mr. WALSH. Yes.

Mr. COOPER of Wisconsin. Did the gentleman give the names of the best legal experts?

Mr. WALSH. No; there are no names mentioned.

Mr. BANKHEAD. Will the gentleman yield?

Mr. WALSH. Yes.

Mr. BANKHEAD. There was some controversy whether or not under existing law the two companies had a right to merge.

Does the gentleman from Massachusetts understand that that question has been answered by the chairman of the committee or the gentleman from Virginia?

Mr. WALSH. No; I do not.

Mr. BANKHEAD. If not it seems to me the whole question ought to be referred back to the committee for determination.

Mr. FOCHT. We have heard nothing else from the time the question has been discussed. The only thing desirable was a merger and the answer was that we have not the authority to do it and in fact that there was an inhibition against it.

Mr. BANKHEAD. Did the committee examine into the law?

Mr. FOCHT. No; but we had the authority of the District commissions under two administrations, some of the brightest minds in the legal fraternity in the whole United States, and it was their opinion. I do not know how much further the committee could go.

Mr. WALSH. Who are these gentlemen?

Mr. FOCHT. They were Mr. Kutz and Mr. Brownlow and other gentlemen there who had their experts.

Mr. WALSH. Mr. Kutz is an Army officer.

Mr. FOCHT. He has given his word that he has consulted distinguished experts and that is their opinion. I do not know how much further we could go.

Mr. BLANTON. Mr. Chairman, I think we should have a quorum present to finish the bill.

Mr. FOCHT. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose, and the Speaker having resumed the chair, Mr. SINNOTT, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 8520, the so-called merger bill, and had come to no resolution thereon.

ORDER OF BUSINESS.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent that the bill H. R. 8520, which we have just been considering, shall be the unfinished business for to-morrow.

The SPEAKER. Is there objection?

Mr. GARRETT of Tennessee. Mr. Speaker, reserving the right to object, does the gentleman desire to confine it to this bill or to District business generally?

Mr. MONDELL. I should be very willing to include District business generally.

Mr. BLANTON. Oh, no; just this bill.

Mr. MONDELL. I think, under the circumstances, perhaps we better confine it to this bill.

The SPEAKER. Is there objection?

There was no objection.

LEAVES OF ABSENCE.

By unanimous consent leave of absence was granted as follows:

To Mr. BRAND, at the request of Mr. LARSEN, until Thursday, October 13, on account of important business.

To Mr. KNUTSON, at the request of Mr. NEWTON of Minnesota, indefinitely, on account of illness.

ADJOURNMENT.

Mr. FOCHT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 5 o'clock and 3 minutes p. m.) the House adjourned until to-morrow, Tuesday, October 11, 1921, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

241. A letter from the Secretary of War, transmitting list of publications to be discontinued by the War Department and a list of reports to be issued, limiting the amount to be printed; to the Committee on Printing.

242. A letter from the Secretary of War, transmitting annual report of United States Disciplinary Barracks at Fort Leavenworth, Kans., and Alcatraz Island, Calif., for the fiscal year ending June 30, 1921; to the Committee on Expenditures in the War Department.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. FOCHT, from the Committee on the District of Columbia, to which was referred the bill (H. R. 6309) to regulate pawnbrokers and their business in the District of Columbia, reported the same without amendment, accompanied by a report (No. 401), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. ROBSION, from the Committee on Pensions, to which was referred sundry bills of the House, reported in lieu thereof the bill (H. R. 8569) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, accompanied by a report (No. 400), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Pensions was discharged from the consideration of the bill (H. R. 8090) granting a pension to Emma Hibbard, and the same was referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. STOLL: A bill (H. R. 8565) to authorize the building of a bridge across the Great Peedee River in South Carolina; to the Committee on Interstate and Foreign Commerce.

By Mr. DYER: A bill (H. R. 8566) to recognize and promote the efficiency of the United States Public Health Service; to the Committee on Interstate and Foreign Commerce.

By Mr. FORDNEY: A bill (H. R. 8567) to amend an act entitled "An act to promote the safety of employees and travelers on railroads," etc., approved March 2, 1893, as amended April 1, 1896; to the Committee on Interstate and Foreign Commerce.

By Mr. DYER: A bill (H. R. 8568) making appropriation for the construction and completion of an addition to the central post office building at St. Louis, Mo.; to the Committee on Public Buildings and Grounds.

By Mr. ROBSION: A bill (H. R. 8569) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors; committed to the Committee of the Whole House and ordered to be printed.

By Mr. DYER: A bill (H. R. 8570) providing for the garnishment of and levy of execution on wages and salaries of civil employees of the United States; to the Committee on the Judiciary.

By Mr. MOORE of Illinois: A bill (H. R. 8571) to aid in securing employment for veterans of the World War and relatives of deceased veterans of said war; to the Committee on the Post Office and Post Roads.

By Mr. VOLSTEAD: A bill (H. R. 8572) to amend section 198 of the act of March 4, 1909, as amended by the acts of May 18, 1916, and July 28, 1916; to the Committee on the Judiciary.

By Mr. HICKEY: A bill (H. R. 8573) to create two judicial districts within the State of Indiana, the establishment of judicial divisions therein, and for other purposes; to the Committee on the Judiciary.

By Mr. FITZGERALD: Resolution (H. Res. 195) for the appointment of a special committee of five Members of the House of Representatives to investigate the selection and purchasing of sites for hospitals for disabled soldiers, sailors, and marines; to the Committee on Rules.

By Mr. GALLIVAN: Concurrent resolution (H. Con. Res. 29) for the appointment of a joint committee of the House and Senate to investigate whether any Members of the Congress are members of the Ku-Klux Klan, and for other purposes; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BUTLER: A bill (H. R. 8574) granting an increase of pension to Oscar Ernst; to the Committee on Pensions.

By Mr. BURROUGHS: A bill (H. R. 8575) granting a pension to Anna J. Gove; to the Committee on Invalid Pensions.

By Mr. CABLE: A bill (H. R. 8576) granting a pension to George W. Studebaker; to the Committee on Invalid Pensions.

By Mr. CAMPBELL of Kansas: A bill (H. R. 8577) granting a pension to Louis Berner; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8578) granting a pension to Mary E. Means; to the Committee on Invalid Pensions.

By Mr. FAUST: A bill (H. R. 8579) granting a pension to Sarah A. George; to the Committee on Invalid Pensions.

By Mr. FESS: A bill (H. R. 8580) granting a pension to Edmond L. Smith; to the Committee on Pensions.

Also, a bill (H. R. 8581) granting a pension to Thurman L. Wilson; to the Committee on Pensions.

Also, a bill (H. R. 8582) granting a pension to Lily Foughty; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8583) granting a pension to George B. Bennett; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8584) granting a pension to Everett Coulson; to the Committee on Invalid Pensions.

By Mr. FISH: A bill (H. R. 8585) granting a pension to Emma M. Gottwald; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8586) granting an increase of pension to Earl B. Durham; to the Committee on Pensions.

By Mr. FRENCH: A bill (H. R. 8587) granting a pension to Barbara Oglesby; to the Committee on Pensions.

By Mr. GALLIVAN: A bill (H. R. 8588) for the relief of Thomas E. Kelley; to the Committee on Claims.

By Mr. HULL: A bill (H. R. 8589) for the relief of Margaret Zetler; to the Committee on Invalid Pensions.

By Mr. IRELAND: A bill (H. R. 8590) for the relief of Emma Wilson; to the Committee on Invalid Pensions.

By Mr. KELLEY of Michigan: A bill (H. R. 8591) granting a pension to Prudence A. Hempstead; to the Committee on Invalid Pensions.

By Mr. KINCHELOE: A bill (H. R. 8592) to make a preliminary survey of Pond River in Kentucky, with a view to the control of its floods; to the Committee on Flood Control.

By Mr. LANGLEY: A bill (H. R. 8593) granting an increase of pension to William Casteel; to the Committee on Pensions.

Also, a bill (H. R. 8594) granting a pension to Joseph Burton; to the Committee on Pensions.

Also, a bill (H. R. 8595) granting an increase of pension to John S. Cisco; to the Committee on Pensions.

Also, a bill (H. R. 8596) granting an increase of pension to Lizzie Butler; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8597) granting an increase of pension to Mourning Sizemore; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8598) for the relief of Mart See; to the Committee on Military Affairs.

By Mr. McCLINTIC: A bill (H. R. 8599) granting a pension to Capt. L. L. Tackett; to the Committee on Pensions.

By Mr. MORGAN: A bill (H. R. 8600) granting an increase of pension to Thomas V. Deary; to the Committee on Pensions.

By Mr. MUDD: A bill (H. R. 8601) granting a pension to Matilda S. Brewer; to the Committee on Invalid Pensions.

By Mr. OSBORNE: A bill (H. R. 8602) granting a pension to Hannah C. Hayes; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8603) granting a pension to Catherine Ann Bartley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8604) granting a pension to Frances A. Sapp; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8605) granting a pension to Thomas D. Powell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8606) granting a pension to James Scott Kelly; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8607) granting a pension to Remigia J. Meacham; to the Committee on Pensions.

Also, a bill (H. R. 8608) granting a pension to Emma R. Morrison; to the Committee on Pensions.

Also, a bill (H. R. 8609) granting a pension to Catherine A. Long; to the Committee on Pensions.

Also, a bill (H. R. 8610) granting a pension to John D. Gardenhire; to the Committee on Pensions.

Also, a bill (H. R. 8611) granting a pension to George E. West; to the Committee on Pensions.

Also, a bill (H. R. 8612) for the relief of the Joe Andrews Co.; to the Committee on Claims.

Also, a bill (H. R. 8613) for the relief of George W. Akins; to the Committee on Military Affairs.

By Mr. PATTERSON of New Jersey: A bill (H. R. 8614) granting an increase of pension to Georgia A. Ludwick; to the Committee on Invalid Pensions.

By Mr. REBER: A bill (H. R. 8615) granting an increase of pension to Michael F. Gaygan; to the Committee on Pensions.

By Mr. REED of West Virginia: A bill (H. R. 8616) granting an increase of pension to William T. Marshall; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8617) granting an increase of pension to Henry A. King; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8618) granting a pension to Rebecca T. Alexander; to the Committee on Invalid Pensions.

By Mr. SHELTON: A bill (H. R. 8619) granting an increase of pension to Stella Joplin; to the Committee on Invalid Pensions.

By Mr. STRONG of Pennsylvania: A bill (H. R. 8620) granting a pension to Margaret J. Rowe; to the Committee on Invalid Pensions.

By Mr. VESTAL: A bill (H. R. 8621) granting an increase of pension to Edwin Fager; to the Committee on Pensions.

By Mr. WOOD of Indiana: A bill (H. R. 8622) granting a pension to William E. Heglin; to the Committee on Pensions.

Also, a bill (H. R. 8623) granting an increase of pension to Ernestine Baxter; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

2665. By the SPEAKER (by request): Resolutions from the second division, Ancient Order of Hibernians, of Montgomery County, Pa., urging the collection of the money owed this country by the foreign Governments; to the Committee on Ways and Means.

2666. Also (by request), resolutions from the Col. Charles Lynch Council, American Association for the Recognition of the Irish Republic, protesting against the passage of Senate bill 2135; to the Committee on Ways and Means.

2667. Also (by request), resolutions from Col. Charles Lynch Branch, American Association for the Recognition of the Irish Republic, urging the passage of Senate bills 665 and 2099; to the Committee on Interstate and Foreign Commerce.

2668. By Mr. BEGG: Petition of citizens of Erie County, Ohio, protesting against the enactment of so-called blue laws for the District of Columbia; to the Committee on the District of Columbia.

2669. By Mr. FENN: Petition of Commodore Barry Council, American Association for the Recognition of the Irish Republic, of New Britain, Conn., asking that no settlement of England's debt be considered until the Irish republic be recognized; to the Committee on Foreign Affairs.

2670. Also, petition of Padriac Council, American Association for the Recognition of the Irish Republic, asking for legislation compelling British merchants to mark or stamp their goods "Made in England" before such goods can be imported into the United States; to the Committee on Foreign Affairs.

2671. Also, petition of State Camp of Connecticut, Patriotic Order Sons of America, New Britain, Conn., praying that the immigration law be made permanent; to the Committee on Immigration and Naturalization.

2672. Also, resolution of Robert O. Tyler Post, No. 50, Grand Army of the Republic, Department of Connecticut, asking for the passage of House bill 7213, granting increased pensions to certain soldiers, sailors, and marines of the Civil War and to their widows; to the Committee on Invalid Pensions.

2673. Also, petition of the Robert Emmett Club, of New Britain, Conn., asking that no tolls be levied on United States coastwise trade in the Panama Canal; to the Committee on Interstate and Foreign Commerce.

2674. Also, petition of Division No. 1, Ancient Order of Hibernians, of South Manchester, Conn., urging that Senate bills 665 and 2099, providing that no tolls be levied on United States coastwise shipping through the Panama Canal, be passed; to the Committee on Interstate and Foreign Commerce.

2675. Also, petition of Michal Mallon Branch, Friends of Irish Freedom, favoring the Borah bill, providing against the levy of tolls upon vessels passing through the Panama Canal engaged in coastwise trade of the United States; to the Committee on Interstate and Foreign Commerce.

2676. By Mr. FRENCH: Resolution by public meeting at Wallace, Idaho, protesting against any funding of the British war debt; to the Committee on Ways and Means.

2677. By Mr. FROTHINGHAM: Petition of citizens of Holbrook, Mass., protesting against the passage of the compulsory Sunday observance bill (H. R. 4388); to the Committee on the District of Columbia.

2678. By Mr. GALLIVAN: Resolutions adopted by the Mattapan Citizens' Association, of Mattapan, Mass., urging the passage of Senate bills 665 and 2099; to the Committee on Interstate and Foreign Commerce.

2679. Also, petition of F. P. Clis and others, urging the passage of Senate bill 1565, relating to the retirement of Army officers; to the Committee on Military Affairs.

2680. Also, letter from Patrick F. Hastings, president of Michael Davitt Council, American Association for the Recognition of the Irish Republic, representing 2,761 members, protest-

ing against the passage of Senate bill 2135; to the Committee on Ways and Means.

2681. By Mr. HERRICK (by request): Resolutions from the Tulsa (Okla.) Bar Association, urging the passage of House bill 8398, providing for an additional Federal judge in Oklahoma; to the Committee on the Judiciary.

2682. By Mr. KELLY of Pennsylvania: Memorial of Allegheny Conference of the United Brethren Church, asking for disarmament; to the Committee on Military Affairs.

2683. Also, petition of Homewood (Pa.) Commandery, Knights of Malta, opposing Winslow-Townsend bill; to the Committee on Interstate and Foreign Commerce.

2684. By Mr. KISSEL: Petition of the Municipal Civic League of the Borough of Brooklyn (Inc.), of Brooklyn, N. Y.; to the Committee on the Judiciary.

2685. By Mr. NEWTON of Minnesota: Petition by sundry citizens of Minneapolis, that the Congress take the necessary action to bring about the recognition of the republic of Ireland; to the Committee on Foreign Affairs.

2686. By Mr. SNYDER: Resolution adopted by the New York Association of Congregational Churches, in opposition to the enactment of legislation providing for the manufacture of beer of 2.75 alcoholic content and the imposition of a tax thereon of $5 per barrel; to the Committee on Ways and Means.

2687. Also, resolution adopted by the Central Association of Congregational Churches of New York, favoring all disarmament consistent with the policing of the world; to the Committee on Foreign Affairs.

2688. By Mr. STEENERSON: Resolutions of the city council of the city of Fergus Falls, Minn., favoring the Great Lakes-St. Lawrence waterway; to the Committee on Rivers and Harbors.

2689. Also, resolution of the Woman's Club of Middle River, Minn., favoring disarmament; to the Committee on Foreign Affairs.

2690. By Mr. YOUNG: Resolution of the North Dakota Farm Bureau Federation, of Fargo, N. Dak., remonstrating against the removal of the excess-profits tax and the lowering of the higher surtax on net incomes; also urging an amendment to the Constitution of the United States to prohibit the issuance of tax-free bonds; to the Committee on Ways and Means.

2691. Also, petition of the North Dakota Farm Bureau Federation, of Fargo, N. Dak., favoring a tariff of 30 cents per clean pound of wool; to the Committee on Ways and Means.

2692. Also, resolution of the North Dakota Farm Bureau Federation, of Fargo, N. Dak., favoring a tariff of 50 cents per bushel on flax and a tariff of 40 cents per gallon on linseed oil; to the Committee on Ways and Means.

2693. Also, resolution of the Women's Christian Temperance Union of North Dakota, condemning the practice of exporting intoxicating liquors to Canada under the guise of being for nonbeverage purposes, when positive evidence shows that it is being smuggled back to the United States for beverage purposes; to the Committee on the Judiciary.

SENATE.

TUESDAY, *October 11, 1921.*

(Legislative day of Tuesday, October 4, 1921.)

The Senate reassembled at 11 o'clock a. m., on the expiration of the recess.

Mr. PENROSE. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The reading clerk called the roll and the following Senators answered to their names:

Ashurst	Frelinghuysen	McCormick	Robinson
Ball	Hale	McCumber	Sheppard
Borah	Harris	McKellar	Simmons
Brandegee	Harrison	McKinley	Smith
Cameron	Heflin	McNary	Smoot
Capper	Hitchcock	Moses	Spencer
Caraway	Johnson	Nelson	Sterling
Colt	Jones, N. Mex.	New	Sutherland
Culberson	Kellogg	Newberry	Townsend
Cummins	Kendrick	Nicholson	Trammell
Curtis	Kenyon	Norbeck	Underwood
Dial	Keyes	Oddie	Wadsworth
Dillingham	King	Overman	Walsh, Mass.
Edge	Knox	Page	Walsh, Mont.
Ernst	Ladd	Penrose	Warren
Fernald	La Follette	Poindexter	Watson, Ga.
Fletcher	Lenroot	Pomerene	Willis
France	Lodge	Reed	

Mr. WALSH of Massachusetts. I wish to announce that the Senator from Rhode Island [Mr. GERRY] is absent on account of illness in his family. I will let this announcement stand for the day.

The PRESIDENT pro tempore. Seventy-one Senators have answered to their names. There is a quorum present.

TREATY OF PEACE WITH GERMANY.

Mr. WALSH of Montana. Mr. President, I wish to announce that to-morrow, at the close of morning business, if there shall be an adjournment this evening, or at the opening of the session to-morrow morning if there shall be a recess, I shall address the Senate on the subject of the pending German treaty.

PETITIONS AND MEMORIALS.

Mr. LADD presented a resolution of the Bismarck (N. Dak.) Commercial Club, favoring the enactment of the so-called French-Capper truth in fabric bill, which was referred to the Committee on Interstate Commerce.

He also presented a memorial of sundry citizens of Nome, Kathryn, and Fingal, all in the State of North Dakota, remonstrating against the enactment of legislation imposing a tax on medicines, which was ordered to lie on the table.

He also presented a concurrent resolution of the Legislature of North Dakota, which was referred to the Committee on Public Lands and Surveys, as follows:

Concurrent resolution, introduced by Mr. Carl B. Olsen, of Billings County.

To the Senate and House of Representatives of the United States of America in Congress assembled:

We, the Seventeenth Legislative Assembly of the State of North Dakota, beg leave to represent to your honorable bodies:

"First. That there is in the western part of this State lying within the boundaries of Billings County, near the town of Medora, a wonderful petrified forest, consisting of thousands of petrified stumps ranging in size up to 8 and 10 feet high and as much as 14 feet in diameter. This prehistoric forest, appearing in a certain stratum of soil, is apparently in its original position. A large number of the stumps being erect, while others are prostrate, due to the action of the elements in wearing away the soil on which this forest grew, while others appear as huge mushrooms on pedestals of firmer soil; that there is to be found among these petrified stumps the fossil leaves of these once giant trees. These fossils or petrified trees are found in the greatest profusion on four sections of land.

"Second. That the surrounding country is a wonderful and picturesque section of Bad Lands along the Little Missouri River, being a distinct type of country, very interesting and alluring to tourists and sightseers, and of great scientific value.

"Third. That there are groves of pines and quaking aspens which are found almost nowhere else within the State of North Dakota. Cedars, ash, cottonwood, boxelders, cherries, plums, and berry trees abound in the hills and in the draws and canyons, and along the Little Missouri River.

"Fourth. That our late President Theodore Roosevelt loved this country and made it his home, and that his cattle ranged over every section of this country while he was engaged in the stock business in Billings County, N. Dak.

"Fifth. That this is the natural home of deer, elk, antelope, and buffalo, and that there is now a considerable number of deer living on this tract of land. Bald and golden eagles are plentiful.

"Sixth. That the above-mentioned features and points of interest, including Roosevelt's Range, are all contained in 33 sections of land, involving 21,945.04 acres, being sections 5, 6, 7, 8, 17, 18, 19, and 20, township 140, range 101; sections 1, 2, 3, 4, 5, 9, 10, 11, 12, 13, 14, 15, 16, 23, and 24, township 140, range 102; sections 31, 32, 33, 34, and 35, township 141, range 101; and sections 26, 27, 34, 35, and 36, township 141, range 102, all west of the fifth principal meridian. Less than 5 per cent of this land is susceptible to cultivation.

"Seventh. That, even though the southern border of this proposed park is but one-half mile from the town of Medora, which is located on the Northern Pacific Railroad and the Red Trail or National Park Highway, it is nearly all inaccessible under the more convenient modes of travel and a large part is only accessible with saddle horses. Due to this fact the scenic and scientific wonders of this region are almost wholly unknown except locally.

"Eighth. That there are artesian wells and natural fresh-water springs at various points on this tract which make possible the most delightful and ideal camping grounds: Now, therefore,

"We, the Seventeenth Legislative Assembly of the State of North Dakota, believing that this wonderful fossil forest and this beautiful and fantastic section of Bad Lands, with its grotesque formation and its wonderfully colored buttes, should be made accessible to scientists and sightseers and preserved inviolate for future generations, do hereby most respectfully petition your honorable bodies to take steps for the purchase of the above-described tract of land and as much more as your honorable bodies may deem fit, and the establishment of a national park and game preserve. And we further respectfully request that the same shall be called Roosevelt Park as a lasting memorial to our beloved late President; and be it

"*Resolved by the Seventeenth Legislative Assembly of the State of North Dakota*, That our Senators and Representatives in Congress be, and are hereby, authorized and instructed to use all honorable means to induce the Congress of the United States to make the proposed Roosevelt Park a reality in the near future, under the care and supervision of the Federal Government. Also that the secretary of state of North Dakota be, and is hereby, requested and instructed to transmit a copy of this memorial to the President of the United States, the Secretary of the Interior, and to each House of Congress, to each of our National Senators and Representatives, and also a copy of this memorial, together with a blue print of this proposed park, to the chairman of National Park Commission."

This is to certify that the foregoing concurrent resolution originated in the House of Representatives of the Seventeenth Legislative Assembly of the State of North Dakota, the Senate concurring therein, and was adopted.

L. L. TURCHELL,
Speaker of the House of Representatives.
C. L. DAWSON,
Chief Clerk of the House of Representatives.
[illegible] WOOD,
President of the Senate.
W. J. PRATER,
Secretary of the Senate.

Mr. BALL presented 22 memorials of sundry citizens of Washington, D. C., and Alexandria, Va., remonstrating against the enactment of legislation providing for compulsory Sunday observance in the District of Columbia, which were referred to the Committee on the District of Columbia.

Mr. TOWNSEND presented a resolution adopted by Division No. 3, Ancient Order of Hibernians, of Wyandotte, Mich., favoring the enactment of legislation providing free tolls for American ships through the Panama Canal, which was referred to the Committee on Interoceanic Canals.

He also presented 13 memorials of sundry citizens of Rothbury, Cedar Lake, Shelby, Fruitport, Reed City, Twining, Standish, Edmore, Mount Pleasant, Midland, Muskegon, Stanton, Pierson, Sand Lake, West Olive, Greenville, Grant, Elm Hall, Mesick, Sixlakes, Lakeview, Orleans, Carson City, Fenwick, Butternut, Howard City, Palo, Vestaburg, McBrides, St. Louis, Cutcheon, Fremont, Alma, Ludington, Weidman, Cheboygan, Rose City, Beaverton, Shepherd, Mears, Honor, Winn, Onaway, Gladwin, Cadillac, Berrien Springs, Grandville, Otsego, Ashley, Ithaca, and Ravenna, all in the State of Michigan, remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which were referred to the Committee on the District of Columbia.

DISPOSITION OF USELESS PAPERS.

Mr. BRANDEGEE, from the Joint Select Committee on Disposition of Useless Papers in the Executive Departments, submitted a report (No. 289) relative to the disposition of useless executive papers in the Smithsonian Institution, which was agreed to.

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED.

Mr. SUTHERLAND, from the Committee on Enrolled Bills, reported that on the 10th instant they presented to the President of the United States enrolled bills and joint resolutions of the following titles:

S. 1718. An act authorizing the distribution of abandoned or forfeited tobacco, snuff, cigars, or cigarettes to hospitals maintained by the United States for the use of present or former members of the military or naval forces of the United States;

S. 1970. An act granting the consent of Congress to the counties of Bowie and Cass, State of Texas, for construction of a bridge across Sulphur River at or near Pettis Bridge, on State highway No. 8, in said counties and State;

S. 2340. An act to authorize the construction of a bridge across the St. Marys River at or near St. Marys, Ga., and Roses Bluff, Fla.;

S. 2430. An act to authorize the construction of a bridge across the St. Marys River at or near Wilds Landing Ferry, between Camden County, Ga., and Nassau County, Fla.;

S. J. Res. 115. Joint resolution to authorize the loan by the Secretary of War to the commander in chief of the Grand Army of the Republic of cots for the use of the members of the Grand Army of the Republic during the sessions of the grand encampment of the Grand Army of the Republic at Indianapolis, Ind., from September 24 to October 1, 1921;

S. J. Res. 117. Joint resolution to authorize the loan by the Secretary of War to the commander in chief of the United Confederate Veterans of cots and tents for the use of the members of the United Confederate Veterans during the sessions of the national encampment of the United Confederate Veterans at Chattanooga, Tenn., from October 24 to October 27, 1921; and

S. J. Res. 122. Joint resolution for the bestowal of the congressional medal of honor upon an unknown, unidentified Italian soldier to be buried in the National Monument to Victor Emmanuel II, in Rome, Italy.

JOHN SULLIVAN—CHANGE OF REFERENECE.

Mr. WADSWORTH. I move that the Committee on Military Affairs be discharged from the further consideration of the bill (S. 1690) to correct the military record of John Sullivan, and that it be referred to the Committee on Naval Affairs.

The motion was agreed to.

AMENDMENTS OF TAX REVISION BILL.

Mr. TRAMMELL submitted two amendments intended to be proposed by him to House bill 8245, the tax revision bill, which were ordered to lie on the table and to be printed.

TAX REVISION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

Mr. SMOOT. Mr. President, sound policy demands the early accomplishment of a real reduction in the tax burdens, and that can be achieved by substituting simple for complex tax laws and procedure.

The tax burden is not really reduced by the repeal of the taxes on such things as chewing gum and cosmetics. The general situation in business, the unemployment, the depression, and the widepread dissatisfaction as to our tax system are not due to the 3 per cent tax on freight charges. That is a mere "drop in the bucket."

Excess-profits tax payments, high surtaxes, the miscellaneous taxes, capital-stock tax, and others will continue right through the year 1922. Payment for all those taxes must be made out of the current receipts of 1922. No real relief will come until 1923, but that relief will be confined only to corporations which have paid excess-profits taxes in the past. Corporations which pay merely the 10 per cent tax in 1922 will face during 1923, not relief but an increased tax which is 50 per cent higher than the one in 1922, and that additional burden will fall on the bulk of business in the country. Is it any wonder that business, from one end of this land to the other, is discouraged if that is the best revision and simplification of the tax laws which Congress can supply—no relief until 1923, and then problematical?

If a temporary measure is necessary at this session, it should clearly deal with immediate relief for 1922, as otherwise it will be temporary only with reference to 1923 and will leave business more doubtful than at present as to what it can do during the coming year.

I believe that Congress at this session can work out a real relief, a real simplification and revision, viewed from every angle of the various considerations involved, a measure which will meet the situation and be generally acceptable to the country at large. Producing enterprise, the revival of which alone makes jobs and spreads its benefits among all the people, demands relief now, not some time in the future.

I have presented a bill embodying one form of a sales tax. There are many other forms covering a system of taxation based upon sales. I have prepared for later submission, if desired, bills which deal with a sales tax in a more extensive way than the manufacturers' tax, of which I will speak to-day. One relates to a manufacturers' and wholesalers' tax and is similar to the Canadian law. The other goes a step beyond the Canadian law, as it applies also to retailers. Through a simple system of credits, the accumulative effect of such taxes is avoided.

The chief features of a sales tax are the simplicity in the determination of the amount due and its payment monthly out of current receipts. It is a businesslike tax system for business. The form which it should take is solely a matter of selection.

I shall confine my remarks to my amendment embodying the manufacturers' and producers' tax.

When I first drafted my bill I specifically exempted from taxation agricultural products, and the exemption provision was removed by me at the request of the representative of one of the large farm organizations, who stated that the farmers desire no special consideration, but are willing to stand in the same situation as manufacturers and others and to receive equal exemption to the extent of the $6,000 provision only. If my intention would be clarified, I am entirely willing to reinstate the exemption provision as to agricultural products, notwithstanding the request of the representative of the farmers. Such a provision will result in no reduction in the estimated revenue to be obtained under my amendment for reasons which I will state when considering the total revenue to be derived from my proposal.

The amendments which I have proposed to H. R. 8245 provide in brief for the repeal of all war taxes; the retention of corporate and personal income taxes at the present rate; the surtaxes reduced to the point of demonstrated efficiency; the retention of tobacco and inheritance taxes; the levy of import duties in pending terms and the remainder of Federal revenue secured by the levy of a 3 per cent tax on all articles produced or manufactured at the point where they are sold for final consumption or use without further process of manufacture.

By the repeal of all war taxes I mean the repeal of the excess-profits tax to be effective as of January 1, 1921, and the repeal of the taxes on transportation, telegraph and

telephone, express, oil pipe line, beverages, cosmetics, admissions and dues, and all of the excise taxes provided for under Title IX of the revenue act of 1918; the stamp taxes under Title XI, and all of the special taxes provided for under Title X except those on narcotics, the repeal of all of these taxes to be effective January 1, 1922.

The repeal of these various taxes will mean a loss of revenue according to the Treasury Department estimates of $549,650,000 for the fiscal year 1922 and $789,878,000 for the fiscal year 1923. The deficiency in revenue for the fiscal years 1922 and 1923 will be more than offset by the revenue to be obtained under the manufacturers' and producers' tax which I propose. For the fiscal year 1923 an ample margin of safety will be provided by the retention of the capital stock tax and the imposition of this tax would in part offset the reduction in the taxation of corporations through the repeal of the excess-profits tax. It is hardly necessary to advance arguments as to why all of these war taxes should be repealed. They were adopted purely as temporary war measures to provide immediate revenue to meet the emergency. It was understood by everybody that they would be repealed reasonably after the termination of the war. They have been borne patiently for almost three years by practically every individual in the country. They are petty, annoying, discriminatory, and unfair. The millions of people who attend our theaters daily are still confronted with the addition of a 10 per cent war tax. The millions of people who ride upon trains are daily faced with an 8 per cent tax. Likewise as to those who send packages by express, messages over the wire, and the millions of farmers who transport their goods by railroad. In addition the three million farmers who own automobiles have had to bear a 5 per cent tax on any purchase of an automobile, tires, or accessories. In fact, there is hardly a person who does not meet with some form of war taxes in his daily life, whether it be in the matters referred to or on the purchase or sale of real estate, musical instruments, jewelry, proprietary medicines, soft drinks, and beverages, and the many other forms of special taxation.

Nor is it necessary to enlarge upon the reasons why the excess-profits tax should be repealed, but every reason which justifies its repeal on January 1, 1922, as recommended in the committee report, applies to its repeal as of January 1, 1921.

I do desire, however, to call your attention to the table on page 4 of the committee report, dealing with the 1919 taxes on corporations. The fact is, the corporations which mainly bear large taxes to-day are not the big companies, the so-called trusts, because they are heavily capitalized. It will be noted that the 10,689 companies whose average invested capital was $1,319,511 had net income of less than 5 per cent on their invested capital and their total taxes averaged less than 11 per cent of their net income. But the 2,194 companies which earned 100 per cent and over upon their invested capital paid taxes averaging 67.40 per cent of their income and had an average invested capital of but $61,009.

The burden of the excess-profits tax has fallen heavily on the moderate-sized business, which depends not so much on its capital for its profits as upon the personal efforts of the owners in directing the business. That the percentage of profit does not depend upon the amount of capital invested in a business is clearly evident from that table.

The moderate-sized business is conservatively capitalized, the owners of the stock actively participate in the management, and the profits depend upon their individual efficiency rather than the amount of capital stock and surplus. Under the excess-profits tax their individual initiative and efficiency are penalized, their conservatism in capitalization is a burden to them, and they bear heavy taxes while a highly capitalized competitor, having capitalized good will, inflated capital through a reorganization with excessive property values, or adopted other expedients, bears a much lower tax burden. I want to see such conservatism encouraged rather than penalized.

The situation should be remedied immediately by the repeal of the excess-profits tax effective January 1, 1921.

Mr. HITCHCOCK. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Utah yield to the Senator from Nebraska?

Mr. SMOOT. I should very much prefer to go on, because I think that during the course of my remarks I will answer every question that may arise in the minds of Senators. If I fail to do so, I shall be glad to endeavor to answer any question at the close of my remarks.

Mr. HITCHCOCK. Very well.

Mr. SMOOT. Mr. President, in proposing the substitute measure provided for in my amendments I have endeavored to submit a single method of taxation which will provide comparatively few collection points as compared with the various forms of taxation which I propose to have repealed. Through the substitution of my proposal for all of these miscellaneous taxes the Treasury Department will be supplied with six main sources of revenue:

1. Individual income tax.
2. Corporation tax.
3. Customs duties.
4. Inheritance or estate tax.
5. Tobacco tax.
6. Manufacturers' and producers' tax.

The manufacturers' and producers' tax is a sales tax, but of a limited form, applying as it does only to articles when sold for consumption or use without further process of manufacture. Defining the tax in this way eliminates any cumulative effect which has been one of the principal objections to a gross turnover sales tax, though that objection readily can be met. It affords no advantage to an integrated or many-processed business over the nonintegrated competing business. It is a single tax to be paid once only and then upon the sale of the article, when sold for consumption or use without further process of manufacture. My amendment provides for a similar tax upon imported articles so that there will be no disadvantage to American manufacturers or producers in competition with foreign goods. It also provides for the exemption of sales of less than $6,000 per year, thereby eliminating the necessity of auditing small-sized accounts.

Many inquiries have been made as to the application of this tax to agricultural products. The average value of the products of farms for the year 1921 has been estimated by the Department of Agriculture as between $1,000 and $2,000, so that the $6,000 exemption will practically exempt farm products; but they, for the most part, would be exempt anyway under the definition of the tax since practically no agricultural products are sold for consumption or use without further process of manufacture. Any tax to be imposed would apply only to the article in its finished state, such as cotton in cotton goods or clothing, potatoes in starch, wheat in flour or bread, etc.

The bill provides for certain other exemptions such as sales by public utilities, States, hospitals, the United States, foreign Governments, Army and Navy commissaries and canteens, and charitable, religious, and scientific organizations. The amendments also exempt sales for export.

Whenever a sales tax has been proposed the opponents, who have their own particular reasons for opposing, have raised a regular series of objections which are popularly described as sales-tax ghosts, every one of which has been fully discredited. It is quite common for the first objection to be that the proposal will not raise the necessary revenue. Then, when it has been conclusively proved that more than sufficient revenue will be raised, the objection is submitted that the proposal will raise too much revenue and greatly encourage the Government to extravagance. That objection is immediately met by suggesting that the rate be reduced. Then jumps up the objection that even though it will raise the revenue the measure can not be administered. Upon proof that it can be administered the objection is made that it will be an unpopular measure. When this objection is disposed of by showing the spontaneous approval of the measure by practically every newspaper in the country and thousands of letters from individuals in all walks of life and from the manufacturers themselves who, in many cases, will bear a greater tax than under the measure proposed to be repealed, then the usual sequence of objections is started all over again and continue within an argumentative circle, or else some new ghost is phantomed up from the ever-ready imagination and as readily disposed of.

The fact of the matter is that there is no real, fundamental objection to a sales tax. It is bound to come. Under the present law we have raised during the fiscal year just passed close to one billion dollars through various forms of sales taxes and special taxes which have been passed on to the consumer, of which about $200,000,000 has been upon sales by manufacturers. In other words, we have collected during the fiscal year just passed under a manufacturers' sales tax an amount of money greater than was obtained in the year 1916 through the income tax on corporations. So, when the objection is raised that the proposed amendment is impracticable and can not be administered, it would hardly seem necessary to do more than to point to the experience under the existing laws. The department has had the experience under the present excise taxes for almost three years, and through its cooperation with representatives from the various businesses taxed has evolved workable regulations which have proved satisfactory both to the department and to the taxpayers. It is a further fact that the excise taxes being collected under the present law have been

audited practically to date, while the same corporations have been waiting for three years and over to find out what their 1917 income and excess-profits taxes really are, and they will continue to wait for an indefinite period.

I would not suggest a form of taxation having as its predominating feature simplicity if I was not convinced that there would be no administrative difficulties which would add complications in excess of those under existing law.

Many inquiries have been made as to the application of the tax to the sale of specific articles. I have been asked how it could be administered, for example, in the case of the sale of ribbon or millinery material by a manufacturer to a jobber where the jobber might sell part to a retailer of ribbon and millinery material for use by the consumer in making a hat; or in case where the same jobber might sell the material to a department store which might use the material in its own millinery department for the manufacturing of hats and might sell part of the material over the counter to the consumer. Another inquiry has had reference to a wholesaler who purchases sugar from a refinery and later sells part of the sugar to a candy manufacturer and part to a wholesale grocer or retailer. In probably nine hundred and ninety-nine out of one thousand cases the manufacturer will know at the time of sale whether the article is sold for consumption or use without further process of manufacture, or will be resold for further manufacture. These phantoms are really exceptional cases, but so far as any administrative difficulties are concerned, we have merely to turn to the experience under our present excise taxes and also to that under the administration of the Canadian law. Section 900 of Title IX of the revenue act of 1918 provides for a 5 per cent tax on tires, tubes, parts, and accessories when sold to any person other than a manufacturer or producer of automobile trucks, automobile wagons, other automobiles and motor cycles. And Regulations No. 47, article 14, issued by the Treasury Department have fully provided for the situation covered by the law.

If a manufacturer sells any such articles to another manufacturer and if the second manufacturer intends to use the articles purchased in connection with another article which he intends to manufacture and sell, the second manufacturer, if he desires to free the first manufacturer must give a certificate in the form prescribed by the regulations whereby he certifies that he is a manufacturer, that the goods are purchased as such a manufacturer for resale, and agrees that if the articles are sold by him exempt from tax to another manufacturer he will require a similar certificate from such manufacturer. He also agrees that unless the articles are sold by him to another manufacturer he will pay the tax on such articles as he sells direct to the internal-revenue collector. The regulations provide that the certificate shall be given in connection with each order, but it is also provided that if it is impracticable to furnish such a certificate, that a certificate covering all orders between given dates, not to exceed one month, will be accepted. Under articles 42 and 43 of regulations 47, provision is made as to obtaining exemption for goods sold for export. In those cases an affidavit is required from the exporter to the manufacturer. This gives the manufacturer temporary exemption for a period of 12 months, within which time the manufacturer must obtain proof of exportation which includes a statement covering eight matters prescribed by the Treasury Department. Some method of administration along the lines referred to in regulations 47 as to sales to manufacturers and sales for export can clearly be worked out in the cases referred to of sales by manufacturer to a wholesaler or jobber.

Under my amendment the only question is one of fact as to whether certain goods sold by a manufacturer were at the time of sale sold by him for consumption or use without further process of manufacture, and I can perceive no difficulty in working out regulations to cover every possibility under my amendments along the lines of the regulations covering the present excise taxes and in view of the experience gained through the administration of those taxes.

I know that the proposed tax can be administered. This tax is not a new idea or a mere theory. We had a manufacturers' tax just after the Civil War and raised a substantial amount of revenue under its provisions. That tax, however, was at a high rate, averaging at least 5 per cent, and was cumulative in effect, so that it worked such hardships that the idea was abandoned; but from the Treasury standpoint that tax was administered and raised all of the revenue which it was estimated to raise.

It will be of interest for the Senators to read regulations 47 published by the Treasury Department and covering the administration of the present manufacturers' sales tax. Reminding you that under the law tires, tubes, parts, and accessories sold to any person who is a manufacturer or producer of automobiles are not taxed, I will read article 14 of the regulations demonstrating how the department has successfully covered the administration in this respect:

ART. 14. Tires, inner tubes, parts, and accessories sold to manufacturers.—The words "tires, inner tubes, parts, or accessories" shall be understood to embrace only such tires, inner tubes, parts, or accessories as have reached such a stage of manufacture that they constitute articles commonly or commercially known as "tires, inner tubes, parts, or accessories," and shall not be understood to embrace raw materials used in the manufacture of such articles.

Unvulcanized sheet rubber, liquid rubber vulcanizing cement, and friction fabrics are considered raw materials, and are exempt from tax.

Any article which has reached a state of manufacture wherein it is in itself a component part or accessory, and is of such a nature that it may be used or attached by an ordinary repair man or individual user as distinguished from a manufacturer or producer, is subject to tax as a "part or accessory."

Subdivision (3) exempts from tax sales of tires, inner tubes, parts, or accessories to a manufacturer or producer of automobile trucks, automobile wagons, other automobiles, motor cycles, tires, inner tubes, parts, or accessories.

In order to come within the exemption of the statute, the sale must be made by a manufacturer and such manufacturer must, at the time the goods are shipped or sold (whichever is prior), have in his possession an order or contract of sale, with certificate of the purchaser printed thereon or in writing, permanently attached thereto, to the effect that the purchaser is a manufacturer of automobile trucks, automobile wagons, other automobiles, motor cycles, tires, inner tubes, parts, or accessories; that he is purchasing the article in question as such manufacturer for resale in some form or manner, or for free replacement under contract or guaranty; and that he will account to the internal-revenue collector and pay the tax on the sale of such articles, unless such sales by him are exempted as provided in article 16 on account of being purchased for other uses or are made to another manufacturer of automobile trucks, automobile wagons, other automobiles, motor cycles, tires, inner tubes, parts, or accessories for resale by him in some form or manner or for free replacement, in which case he will require the same form of certificate from such manufacturer; that when such tires, inner tubes, parts, or accessories are sold other than on or in connection with the sale of new automobile trucks, wagons, automobiles, or motor cycles he will pay the tax on such sales (unless exempted in accordance with the regulations); that when such articles are sold on or in connection with the sale of such new vehicles he will pay the tax on the selling price of such vehicles, including such articles.

Manufacturers furnishing such certificate will be deemed manufacturers within the meaning of the law and subject to the tax imposed on sales of such articles by manufacturers, unless the sales are made to another manufacturer or producer of automobile trucks, automobile wagons, other automobiles, motor cycles, tires, inner tubes, parts, or accessories for resale by him in some form or manner or for free replacement under a contract or guaranty, who furnishes a certificate so stating.

Jobbers or dealers, who are not manufacturers, and users who are not manufacturing for resale, are not entitled to purchase tax free under certificate.

Following is a form of the certificate or statement which will be accepted and in substance must be strictly adhered to:

FORM OF CERTIFICATE.

The undersigned hereby certifies that he is a manufacturer or producer of automobile trucks, automobile wagons, other automobiles, motor cycles, tires, inner tubes, parts, or accessories, and that the tires, inner tubes, parts, or accessories purchased hereunder are purchased by him as such a manufacturer or producer for resale in some form or manner or if for free replacement under contract or guaranty and agrees if any of the tires, inner tubes, parts, or accessories are sold by him exempt from tax to another manufacturer or producer of automobile trucks, automobile wagons, other automobiles, motor cycles, tires, inner tubes, parts, or accessories for like purposes he will require a similar certificate from such manufacturer or producer. The undersigned further agrees that in respect to all tires, inner tubes, parts, or accessories sold by him, unless such sale is made to such a manufacturer or producer, he will pay the tax on such sale direct to the internal-revenue collector, including it in his tax return covering the month in which such sale is made; said tax to be paid on the basis of the taxpayer's selling price of such articles when sold other than on or in connection with the sale of new automobile trucks, automobile wagons, other automobiles, motor cycles, tires, inner tubes, parts, or accessories, and on the selling price of such vehicles or articles when the same includes such articles.

If it is impracticable to furnish a certificate for each order, a certificate covering all orders between given dates (such period not to exceed a month) will be accepted. If in any case such an order and certificate can not be produced on demand of any authorized agent of the department, the tax in respect to the sale will be considered in default.

Where the form of certificate outlined in this article is used, it must be in the exact form specified, except that when such form is used to cover orders for a period of one month the language may be altered to indicate that fact.

It will also be interesting to see how the department has covered sales for export, and I will read articles 42 and 43 of the regulations:

ART. 42. *Sales for export.*—The tax does not attach to the sale of an article which is sold for export by the manufacturer, and in due course so exported.

An article may be sold for export but never exported, or not exported in due course. Also, an article may be exported in due course by the purchaser, although not sold for export.

In order to be exempt from tax, however, it is necessary that the article be both sold for export by the manufacturer and in due course so exported.

An article will be regarded as having been sold for export if the manufacturer has in his possession at the time that title passes or of shipment, whichever is prior, (a) an order or contract of sale or document incidental thereto showing in writing that the manufacturer is to ship the article direct to a foreign destination; or (b) where the delivery is to be made to the purchaser or agent, as the case may be,

showing (1) that the article is purchased either to fill a firm order then held by such purchaser requiring shipment to a foreign destination, or for shipment (or transportation) by him in due course to himself or to his agent or to his principal in a foreign country, or that the article is purchased to fill future orders calling for shipment thereof by the purchaser direct to a foreign destination in due course prior to use, resale, or further manufacture within the United States.

In these cases the manufacturer, for a period of twelve months from the date when title passes or of shipment (whichever is prior) is excused from filing returns for the articles so sold. This temporary exemption becomes permanent upon the manufacturer's attaching to such order, contract, or certificate before the expiration of such period of twelve months due proof of exportation (see art. 43). On the other hand, if within such period of twelve months the manufacturer has not received and attached to such order or contract such "proof of exportation," then the temporary exemption ceases and the manufacturer shall include a tax on the sale of such article in his return for the month in which such period of twelve months expires. The order or contract of sale and certificate and the "proof of exportation" must be preserved by the manufacturer in such a way as to be readily accessible for inspection by internal-revenue officers. No sale shall be considered to be exempt from tax under section 1310 (c) of the act unless its character as an export sale has been established in accordance with the above provisions.

ART. 43. *Proof of exportation.*—By the term "proof of exportation" is meant an affidavit of the exporter (who, if not the manufacturer, must be the purchaser from the manufacturer or an agent of one or the other) containing the following information: (1) The name and address of manufacturer; (2) the name and address of the exporter; (3) whether exporter is acting in his own behalf or as agent, and if agent name of principal; (4) a brief description of the article; (5) the date upon which the article was delivered to a carrier for transportation beyond the limits of the United States (or if not transported by carrier the actual date and manner of transportation out of the United States); (6) the name of carrier issuing export bill of lading, and if a carrier by sea, the name of vessel carrying the article and date of departure from United States; (7) destination of article; (8) statement that the article was in fact exported in due course prior to use, resale, or further manufacture within the United States.

Where the manufacturer is the exporter there may be attached to the original contract or order as proof of exportation, in lieu of the affidavit provided for in the preceding paragraph, (1) a copy of export bill of lading, or (2) a certificate by the agent or representative of the export carrier showing exportation of the article, or (3) certificate of mailing, where the article was shipped by parcel post. Where the exportation is accomplished by a person other than the manufacturer, the exporter must carefully preserve in his own files a copy of export bill of lading or other shipping document and all other papers bearing on the transaction, readily accessible for inspection by any authorized official of the United States.

Where the exportation is accomplished by a person other than the manufacturer, the affidavit above required may cover all the articles received from the manufacturer upon any one contract or shipment, whether exported on different dates or shipped to different consignees.

In any case where the manufacturer does not have in his possession within the 12-month period proof of exportation as outlined herein, the manufacturer must pay the tax. Whenever proper proof of exportation is available, claim for refund of the amounts so paid may be filed. (T. D. 3192, signed by Commissioner D. H. Blair, and dated July 1, 1921.)

The suggestion that my proposal can not be administered is, I repeat, merely another one of those phantoms—those ghosts which do not exist except in the fertile imagination of opponents. I do not take seriously any such objection. The Treasury Department have administered some thirty or more separate and distinct forms of taxation and I know that if Congress says they must, they will administer successfully the substitute tax which I propose, especially since my proposal is merely an extension of one of the present forms of taxation which they have administered—that is, the present manufacturers' excise taxes.

In fairness to the persons in the sales tax unit of the Treasury Department, who have so capably performed the duties placed upon them by the present law, it should be noted and emphasized that the objections which have been made to my proposal emanate, for the most part, from the Treasury Department experts who have been responsible for the administration of the income and excess-profits tax.

As evidence of the real ability and opinion of the persons in the Treasury Department who would have charge of the administration of this tax I will read a letter addressed to me by Mr. C. P. Smith, Assistant Commissioner of Internal Revenue:

WASHINGTON, D. C., *October 7, 1921.*

HON. REED SMOOT,
United States Senate, Washington, D. C.

MY DEAR SENATOR: I am the assistant to the Commissioner of Internal Revenue. Prior to June, 1921, I was for a number of years in the office of the Solicitor of Internal Revenue and during the last year and a half in that office I was the assistant solicitor in charge of Interpretative Division No. 2. While I was the assistant solicitor I supervised and was largely responsible for the publication and revision of regulations relating to the sales taxes imposed by the revenue act of 1918 and also personally wrote many opinions in the solicitor's office dealing with the sales tax.

The manufacturers' sales tax imposed by Title IX of the revenue act of 1918 and by Title VI of the revenue act of 1917 raised many problems of interpretation, but these were all successfully solved. In my opinion, the problems presented by the manufacturers' sales tax imposed by the 1917 and 1918 laws are as complicated as any problems that would be met with in a more extended manufacturers' sales tax. The sales tax relating to the manufacture of automobiles, accessories, and parts has been successfully administered. There have been but few suits brought by taxpayers who have paid the sales tax. I think that the sales tax has been successfully administered and that the Government has collected 100 per cent of the tax due.

I am conversant with the scope of the manufacturers' sales tax proposed by you. In my opinion, it is no more difficult of administration than the sales taxes imposed by the 1917 and 1918 laws. In my opinion, it can be economically and satisfactorily administered. Many of the problems which would rise under the proposed tax have already been solved in connection with similar questions arising under the 1917 and 1918 laws. Personally, I can see no serious administrative difficulties connected with a general manufacturers' sales tax.

Yours, sincerely,

C. P. SMITH,
Assistant Commissioner.

Another objection which is raised relates to the amount of auditing which will be required under my proposal. The present sales taxes on manufactures have been audited practically to date. The large number of auditors who are now engaged in checking up the returns of the hundred of thousands—probably millions—of theaters, moving-picture shows, cabarets, dance halls, railroad companies, telephone, telegraph, and express companies, ice cream parlors, insurance companies, drug stores, sellers of soft drinks, motor trucking companies, department stores, and all the others—the brokers, pawnbrokers, ship brokers, customhouse brokers, proprietors of theaters, museums, concert halls, circuses, other public exhibitions, bowling alleys, billiard rooms, shooting galleries, riding academies, persons renting automobiles, cigars, cigarettes, and tobacco manufacturers, those who issue bonds, capital stock issues and transfers, sales on produce exchanges, all the persons responsible for stamp taxes on certain drafts, checks, and promissory notes, entry of goods at customs, withdrawal of goods from bonded warehouses, passage tickets, proxies, power of attorney, playing cards, parcel-post packages, insurance policies, and any others which I have omitted—when it is realized that my proposal at one sweep wipes out all of these things and the excess-profits tax and capital-stock tax as well it is difficult to understand how such an objection can be seriously made.

When it is realized that about 90 per cent of the manufacturing in the country is done under the corporate form of organization and every one of those corporations must make an income-tax return and must be audited whether or not the return discloses a net income, the additional necessity of auditing the taxable sales does not suggest any real difficulties, especially when it is realized that thousands of auditors will be released from the auditing of the taxes repealed and a part of them could be used, if found necessary, for the purpose of auditing the taxes provided for in my amendments.

When it is further realized that in 1918—the latest year of published statistics—67 per cent of the taxes paid by corporations came from manufacturing corporations, I believe it will be admitted that my proposal affords the opportunity for considerable facility in the auditing of income-tax returns of the large majority of corporations in the country and will, I am sure, be an important factor in recovering the back taxes of about $300,000,000 a year. Properly trained and instructed auditors of the Treasury Department will have a wonderful opportunity to further the efficient administration of the entire tax system if my amendments are favorably acted upon.

Now, I desire to comment briefly upon the fundamental advantages of this plan. It is a "pay-as-you-go" proposition and for that reason favored by manufacturers, though they may pay more in taxes than under an income and excess-profits tax system. But they will know to a certainty just what the tax is; they will pay it monthly out of current receipts. It can be immediately charged into costs as a definite amount and without the inflation which has existed under the excess-profits tax; and all taxes are charged into costs just as rent, wages, materials purchased, interest, and all other expenses.

It has been argued that this is true only under a rising market. It is also true under a stable market. Under a falling market, costs may not be met in the price obtained, but the loss applies to all costs and not merely to taxes. In such a case the loss, for the time being, must be met out of capital, surplus, or borrowed money. Business will attempt to retrieve the loss in a subsequent year of a rising market. Business is seldom conducted on the basis of one year alone. The year is a convenient basis for accounting and financial purposes, but whether a business is prosperous or not depends upon the showing which it can make over a period of several years, usually about five years in the case of manufacturing. Under a falling market, however, the 3 per cent tax would affect all competitors equally. If one business could add the 3 per cent tax to its selling price every competitor could do the same. If he could not, it would mean that his price with the tax was higher than the price with the tax of the competitor. Then the real reason for the inability to sell would not be the tax, but the difference in the ability to produce and distribute in an efficient, economical, and businesslike way, and that condition would exist whether there was a 3 per cent tax or not. That whole question involves business efficiency and has no

relation to the tax since that would be equal as to all competitors.

It is an equal tax as between competing manufacturers, being always upon the manufacturers' wholesale price of the finished article which will not go into remanufacture. It is therefore equitable and fair as well as certain.

Everyone to whom it applied would be able to ascertain the amount of his liability at a glance, and the process of working out a tax return would lose all its terrors. It will give the Treasury Department a constant inflow of revenue during monthly periods—current expenses can be met out of current receipts to that extent. It amounts to an adjusting of taxes to business instead of trying to compel business to adjust itself to taxes. Now note, Senators, what the result has been in the past. In this respect I desire to point out some startling figures from the 1917 Statistics of Income. In 1916 the net income of all corporations was $8,765,908,984. In 1917, the first year of our participation in the war, the net income rose to $10,730,360,211, or an increase of $1,964,451,227, but the increased taxes on corporations which Congress imposed in 1917 amounted to $1,970,640,619, or $6,000,000 more than the increase in net income. From just prior to April, 1917, when we entered the war, through the entire spring and summer, Congress was considering a new revenue law, finally enacting the same in the fall. Publicity was given to all sorts of drastic taxes on corporations. Prices rose, wages rose, attempts were made by corporations to make profits in the face of such constantly rising prices and wages and threats of the most drastic forms of taxation. The final outcome is shown on page 17 of the Statistics of Income for 1917, where it appears that the gross income for 1917 for all corporations was 140 per cent greater than in 1916, but with increased expenses 174 per cent greater than in 1916, the net income increased but 22 per cent over 1916, and that entire increase with $6,000,000 in addition was taken by the Government in taxes. Who paid them? The ultimate consumer. That, I believe, is a fair illustration of the attempt to make business adjust itself to taxes. Congress did it in that war year of rising prices and business obtained a net income after taxes almost equal to that in 1916, but the result was accomplished only through a 140 per cent increase in prices, in the face of a 174 per cent increase in expenses, and that increase in gross income amounted to $49,365,608,188, whereas the total gross income in 1916 was but $35,327,631,615. Of course, I do not blame the economic situation entirely on the tax legislation in the delay in enactment or the uncertainty as to what the law would be. The fact is that the corporations were earning their net income for taxation purposes and the result was accomplished by taking the entire increase by way of increased taxes.

The other day the Senator from Arkansas [Mr. ROBINSON] made the statement that "the manufacturers' tax when analyzed is a tax on production; it becomes in practical effect a tax on consumption."

I admit that the tax which I propose is a tax on production, and as it will be passed on to the consumer, just as every other tax must be passed on, that it becomes in practical effect a consumption tax. But every tax upon the income of business must be a consumption tax in the sense that the tax is passed on and included in the price to be paid by the consumer. The excess-profits tax, the income tax, local property taxes, State franchises, and every other form of taxation on business must be included in the cost of doing business and goes into prices as part of that cost. The tax which I propose would not be an additional tax but a substitute for other taxes which are now greatly inflated in costs and passed on in that inflated form. The repeal of the excess-profits tax and retention of the income tax on corporations at 10 per cent would, through the effect of competition, bring about a reduction in retail prices which would be offset only to the extent of 3 per cent upon the manufacturer's selling price, instead of the price at retail being inflated by an excess-profits tax on the manufacturer, the wholesaler, and retailer, each accumulating the tax upon the tax which in each case would be greatly inflated on account of the uncertainty as to the amount which would be ultimately paid to the Treasury Department. Those are all taxes on consumption in the sense of being ultimately paid by the consumer. My proposed tax is no different in that respect from other forms of taxation but it is certain in amount and will be paid but once, without accumulation.

In his address to the Senate on Thursday last the Senator from Wisconsin [Mr. LENROOT] commented upon my proposal. He made a point that the 3 per cent tax would be laid upon the man whose business is conducted at a loss as well as upon the man who makes a profit; that if it was not shifted to the consumer it would be a tax upon gross income; that in a rising or active market the tax would be shifted to the consumer, but in a falling or stagnant market it would not be. I desire to repeat that in this respect my proposed tax is no different from the taxes imposed under the present law, whether business is done through the form of a corporation, a partnership, or as an individual. No business can ascertain its first payment of income taxes in any year until some time after the close of the preceding year. The net income disclosed upon making out a return is found to be cash only to a very limited extent in the large majority of cases. Practically that income has gone into inventory, or debts or credits which appear in surplus as a matter of accounting, but is not available as a cash reserve which can be used for the payment of the taxes in the four installments during the succeeding year. The practical effect is that business is obliged to pay taxes in the year out of the current income or borrowed money with reference to the net income of the preceding year.

They may be selling goods at a loss during the year in which they are paying taxes to the Federal Government, and so we today have the exact situation that might exist under my proposed tax. However, I have yet to hear from any champion of business who will attempt to remedy the situation under existing law. To the contrary, we still retain in our tax system a provision of not allowing a deduction by business whether done through a corporation, partnership, or individual for Federal income and excess-profits taxes paid. The apparent effect of this inequity is that business is obliged to pay not only a tax upon a tax, but in addition may pay that double tax in the year following when goods are being sold at a loss. The suggestion that my proposed tax would be unfair is merely evidence of the lack of understanding of the present tax system and the greater inequities which that system includes. This criticism of my proposal is also unanswerable proof that the present laws require a consideration which has as yet not been received, and a real simplification and revision. The excess-profits tax has been stated to have added about 23 per cent to the price of articles. My proposal will repeal the excess-profits tax and substitute a 3 per cent tax based on the manufacturer's price.

The Senator from Wisconsin also suggests that the wholesaler and retailer would make an extra profit upon the tax paid by the manufacturer and passed on. Such a statement assumes that the tax would be passed on as part of the price paid by the wholesaler and retailer. If the manufacturer did not invoice the tax as a separate item to the wholesaler that result would be possible right down the line, but I remind you again that the same situation exists under the present law. It is probably true that the wholesaler would not disclose the tax to the retailer as the latter would then be informed as to the discounts which the wholesaler had received and the retailer might make a small profit upon the tax, but the situation would be no different than that under the existing law even as "revised and simplified." If the objection is considered a serious one it can be adequately cared for by a provision in the law compelling the invoicing of the tax paid by the manufacturer as a separate item right through the line from manufacturer to consumer.

In order to prove how difficult of administration my proposal would be the Senator from Wisconsin cites several illustrations covering coal, oil, dress goods, sugar, and flour. He expresses fear that a wholesale dealer in coal would not know whether he was purchasing coal to be sold for the manufacturing of coke as distinguished from a sale for consumption. That case can be taken care of by regulation similar to those existing under the present manufacturers' sales tax covering automobiles, parts, and accessories. If the wholesaler believed that any part of the coal purchased would be resold by him for the production of coke, he would give to the coal producer an exemption certificate stating that if he sold any of the specific coal purchased for consumption rather than to a producer of coke, that he would account to the Treasury Department for a 3 per cent tax on such coal. Like treatment would be made by the department in its regulations as to all sales to wholesalers where they were unable to specify at the time of purchase whether the article purchased would be sold for consumption or for use in a further process of manufacture. The department itself does not anticipate any administrative difficulties either in regulations or administration in the comparatively few cases of such wholesalers.

The Senator also presents the case where oil is transported by pipe lines being mixed with oil of 100 other producers and losing its identity. The obvious answer to that case is, that, when the oil of many producers starts on its journey of transportation, the ownership is not to specific oil but to a certain quantity, and that ownership would be the same at the terminus of the pipe line, where each producer would claim a certain quantity of oil. The case would be determined as a question of fact and similarly to the case of the wholesaler. Similar

treatment would be made of the case of dress goods, sugar, and flour.

The Senator also seems to be solicitous about increasing the price of hard coal to the consumer and suggests that the 3 per cent tax would add from 40 cents to 50 cents a ton. I can not understand his line of reasoning. His argument seems to be that the sale of hard coal is now controlled by a virtual monopoly and that therefore the monopoly can add much more than a 3 per cent tax. If his premise is true it would seem to follow that the monopoly could charge any price that it saw fit, tax or no tax. In this connection I refer the Senator to Senate Document No. 259, giving the invested capital and ratio of profits of various corporations, including many cases of coal mining. If he will examine these ratios he will find that the 3 per cent tax is infinitesimal in comparison with the excess profits taxes on coal mining companies.

Apparently the difficulty which the Senator has refers to the drafting of regulations, because he refers to the Canadian law which has proved workable. As the Canadian law is a turnover tax upon manufacturer to retailer, perhaps he would prefer the adoption of the principles of the Canadian law, notwithstanding its addition of all wholesalers and retailers to the manufacturers in the administrative features. If the Senator can prove the amount of revenue to be raised under such a system as applied to the sale of goods, wares, and merchandise in this country, I will welcome his support, as I believe that the Canadian system can be administered if adopted in this country; but I approve the manufacturers' tax as more simple in its application.

An attempt has been made to discredit this proposal on the ground that it will not raise sufficient revenue. I at one time expressed the estimate of $1,200,000,000. That estimate was very roughly and hurriedly made. It was arrived at by taking the 1919 census of manufactures, which gave a total value of product in 1919 as $62,500,000,000. From that amount 36 per cent deduction was made to cover goods which would go into further processes of manufacture. I therefore used $40,000,000,000 as the amount upon which to figure the 3 per cent tax. No consideration was then given to the amount of taxable imported articles, a deduction for exports, or a tax upon products such as coal and crude oil which are sold for consumption. Nor was any deduction made for the $6,000 exemption or for the difference in price levels between 1919 and the present time; nor for the difference in production. If that previous figure of $40,000,000,000 were used and properly discounted for the difference in prices and the other computations made, it would be found that the result would agree with the amount which I now estimate would be obtained through this 3 per cent tax. In other words, a careful analysis of manufactured products, about which I will now speak, shows that 36 per cent was very close to the proper deduction to make for goods going into remanufacture. Upon more careful consideration of the matter in its various phases I have come to the conclusion that this bill will raise at least $759,000,000.

ESTIMATE OF THE REVENUE THAT WOULD BE DERIVED FROM THE PROPOSED TAX AT THE RATE OF 3 PER CENT UPON COMMODITIES MANUFACTURED, PRODUCED, OR IMPORTED, WHEN SOLD, LEASED, OR LICENSED FOR CONSUMPTION OR USE WITHOUT FURTHER PROCESS OF MANUFACTURE.

Since the bill provides for exemption of goods sold for further process of manufacture and also exempts sales that do not exceed $6,000, it does not apply to agricultural production, except in the case of agricultural products ready for consumption when they leave the farm produced by farmers whose sales exceed $6,000 per annum. The amount of the tax that would be derived from this small proportion of the production of agriculture can not be computed and is not included in the following estimate. The total omission of this item gives the first of a number of factors of safety in my estimates of the probable yield of the bill.

2. The mineral industry of the country will for the most part be exempted from the proposed tax, because most mineral products are sold for further process of manufacture and so would be exempt under the bill. There are, however, certain mineral products which would be taxed to some extent, and an estimate of these can be made with approximate accuracy, care being taken to err on the side of conservatism.

A. ANTHRACITE COAL.

The production of anthracite coal in 1920 was 78,763,000 tons and the imports were negligible in quantity. It is safe to assume that the production in the calendar year 1922 will be at least 70,000,000 tons. The value of this production may be estimated at $5 per ton, which gives a total value of $350,000,000 for the 1922 production of anthracite coal. Practically all of this goes into consumption and would be taxed at the rate of 3 per cent. Three per cent of $350,000,000 is $10,500,000. For the sake of safety in the estimate, this figure may be shrunk to $9,000,000, which is a minimum estimate of the amount of tax that would be collected under this bill from anthracite coal.

B. BITUMINOUS COAL.

The production of bituminous coal in 1920 was 408,000,000 tons and imports were negligible. I assume for 1922 a production of 400,000,000 tons, which is less than the production for 1913. The value of this at the mine may be placed very conservatively at $2.25 per ton, which makes the value of the 1922 production of bituminous coal $900,000,000. The amount of bituminous coal used in the process of producing coke is estimated at 60,000,000 tons. Deducting this, we get 340,000,000 tons, which at a price of $2.25 per ton would give us $765,000,000 as the value of the bituminous coal which would be taxed under this bill. At the rate of 3 per cent this would yield $22,950,000. To allow for possible error this figure would be shrunk 10 per cent, which would leave $20,655,000 as the tax that would be derived from bituminous coal. Hereafter for the sake of convenience this figure will be placed at the round sum of $20,000,000 in this estimate.

C. CRUDE OIL.

Another mineral product that would be taxed is crude oil used for the purposes of fuel, or for other purposes that may be described as consumption. The total value of mineral oil produced in 1920 was $1,360,000,000. How much this figure should be decreased in order to arrive at the approximate value of the crude oil that would be taxed under the proposed bill in the calendar year 1922 is impossible to determine. The item is a small one of not much importance. We may assume that 80 per cent of the crude oil is refined and that only 20 per cent is used for purposes that would make it taxable. Twenty per cent of the 1920 production would be about 88,000,000 barrels. At the 1920 price of crude oil this would have had a value of $272,000,000 and would have yielded at the rate of 3 per cent a revenue of $8,166,000. In order to allow for a lower price of crude oil and for possible error in the estimate of the amount used for taxable purposes, I reduce this figure to $4,000,000 for the year 1922, again erring on the side of conservatism.

D. OTHER MINERAL PRODUCTS.

Of the other mineral products of the United States as reported by the Geological Survey, some part probably finds its way into consumption in agriculture and in the building trades and would be taxable under this bill. This amount is probably small and is impossible to determine, therefore it will be omitted from the estimate and will give another factor of safety. The total tax that would be collected in 1922 from anthracite coal, bituminous coal, and mineral oil as above estimated would be $33,000,000.

3. The bulk of the revenue derived from the proposed bill will come from manufactured goods, and as a basis for an estimate of such revenue I take the census estimate of the value of the products of all our manufacturing industries in the latest available year, which happens to be 1919. The census gives a total value for that year of $62,588,000,000 for all manufactured products, and these are listed in several hundred classes of industries. I first estimate what this tax would have yielded in the year 1919 if it had been in operation in that year and then decrease this estimate to allow for the changes that have resulted from the industrial depression of 1921.

The industries listed in the census statement need to be divided into three classes for the purpose of making this estimate. In the first class are placed such industries as the production of agricultural implements, the manufacture of boots and shoes, carpets, automobiles, billiard tables, and the like, all of the products of which go into consumption and would therefore be taxable under the proposed bill at 3 per cent of their value. The second class includes industries the products of which are in part finished goods which go into consumption and are therefore taxed and in part are goods that are only partially finished and are used in subsequent processes of manufacture, so that they would not be taxable under the proposed bill. The third class includes those industries the products of which may be assumed to be wholly or almost wholly unfinished products which are used in subsequent processes of manufacture and would therefore be exempt under this bill.

There is still a fourth class that may be mentioned, namely, industries like the manufacture of tobacco and other articles which will continue to be taxed under the provisions of House bill 8245, now under consideration, and gold and silver refining industries, which will be exempted under my proposed substitute.

The division of industries into these several classes is comparatively easy. It was made after conference with Mr. Briggs of the Division of Manufactures of the Census Bureau; Prof.

Bullock, of Harvard University; and other well-known American statisticians, and in every case where the specification could admit of any doubt the census description of the products turned out by the industry was referred to with the result that there was in no case any difference of opinion as to the classification of the different items. Since there were 351 different items to be classified it is probable that if any mistakes were made some of them would compensate for others, so that my estimate is believed to be a very safe estimate of the productivity of such a tax as is here proposed if it were applied to the product of the manufacturing industries of the United States in the year 1919.

It is obvious that the product of industries that belong to the first class would be subject to the rate of 3 per cent, except in so far as it came from establishments producing less than $6,000 worth of products per annum.

For the second class of industries it was assumed that one-half of the production would consist of manufactured goods paying the 3 per cent tax and that one-half would consist of partially manufactured goods that would be exempt under the bill. Since the classification was made on a very conservative basis many industries were put in here which evidently produced only a small proportion of products that would be used in further processes of manufacture and would therefore be exempt; for example, the manufacture of butter was put in class 2, and the industry of canning and preserving fruits and vegetables was put in this class. Again, in cases where the census included under a given manufacture the manufacture of parts or supplies, this branch of manufacture was put in group 2, even though it was evident that the production of supplies was an insignificant part of the total. An example of such a case is that of "typewriters and supplies." Another is "sewing machines and attachments." Another is "baskets and rattan and willow ware."

In a similar way great conservatism was used in determining what industries should be assumed to produce goods that were wholly exempt; for example, the entire product of the cement industry was assumed to be exempt, whereas it is known that enormous amounts of cement are used in the building trades and the construction of roads, in which uses it would be taxable. Again, the entire production of buttons was put in the exempt class, although it is perfectly well known that large quantities of buttons are sold in retail stores for ordinary use and consumption, in which use and consumption they would be taxed. It is believed, therefore, that the classification made tends to result in making a smaller proportion of the total product of American manufacturers subject to the tax than would actually be found to be the case.

The product of the industries so classified from the census summary was tabulated at the Census Office and it was found that the product of the industries subject to the 3 per cent tax was $25,964,000,000 in 1919.

It was also found that the product of industries in the second class, of which it was assumed that one half of such product was taxable and the other half exempt from taxation, amounted to $26,663,000,000. It was further found that the product of the third group of industries, which, it was believed, produced nothing but goods used in further process of manufacture and therefore exempt, amounted to $5,752,000,000. And finally it was determined that the product of the industries such as tobacco, liquors, and the like, which would be totally exempted, amounted to $4,231,000,000. The table giving these groups is as follows:

Groups.	Value of product in 1919.	Value of product upon which tax will be levied.
1. All product taxable at 3 per cent	$25, 964, 406, 000	$25, 964, 406, 000
2. Half product taxable at 3 per cent	26, 663, 385, 000	13, 331, 693, 000
3. None of product taxable because used in further process of manufacture	5, 752, 652, 000	
4. None of product taxable because industry is exempt	4, 231, 989, 000	
Total	62, 612, 432, 000	39, 296, 099, 000

The next step is to reduce the value of the taxable product as shown in the third column of this total in order to allow for changes in prices since 1919. The value of the product upon which a tax would have been levied under the proposed bill at the rate of 3 per cent in 1919 was there stated at $39,296,900,000. In 1919, in order to determine the allowance to be made for the decline of prices, I used the index numbers of wholesale prices prepared by the United States Bureau of Labor. Taking the year 1913 as a basis the bureau reports that the level of prices in different years was as follows:

Year.	Index number showing level of prices.
1913	100
1919	212
1920	243
1921 (June)	148
1921 (August)	152

It will be seen that during the recent decline of prices the low point appears to have been reached in June, 1921, and that prices in August were slightly higher than in June. All the other index numbers of prices show the same result. It will be seen that in the census year the index number was 212, and that in August, 1921, it was 152. It is evident, therefore, that the change in prices may be allowed for by estimating that the value of the manufactured products produced in 1919 would be at the present time one hundred and fifty-two two-hundred-and-twelfths, or 71.7 per cent, of the value for 1919. The future movement of prices is of course difficult to predict, but all the evidence indicates that the low-water mark was reached last summer and that in 1922 prices will not be lower than they are at the present time and that they may be higher. I shall assume in this estimate that prices in 1922 will be at the same level as they were in August, 1921. If they increase, as they may not improbably do, the revenue from the proposed bill will be larger than is here estimated. If they decline the revenue will be smaller, but the same will be true of the revenue from other taxes compared with present estimates.

As shown above, the value of the taxable manufactured products in the year 1919 was $39,296,000,000. Seventy-one and seven-tenths per cent of this figure amounts to $28,175,000,000, which represents the taxable basis to which the tax of 3 per cent would be applied. Three per cent of this figure is $845,256,000.

The estimate given in the previous paragraph assumes that the physical volume of production in 1922 will be equal to that for 1919. Obviously if it is less the revenue would be less than the sum above stated. Concerning the physical volume of production in 1919, the best available index, which is that issued by the Harvard University committee on economic research, indicates that between January and June of that year production was below normal on account of the check to business activity which followed the conclusion of the armistice in November, 1918. From July to December the manufacturing activity of the country as shown by this index was above normal, but not greatly so. The first half of 1920 was the period that saw the highest point of manufacturing activity and 1919 production as a whole appears to have been on the average only normal.

The last half of 1920 saw a rapid decline of manufactured production which during the first half of 1921 brought the physical volume of production down to a point some 20 or 25 per cent below normal. This represents the extreme of business depression. Since June of 1921 the downward trend has been arrested and a slow recovery has been begun which will probably continue during the fall. There is every indication that by the opening of 1922 production will be back to something like 90 per cent of normal and will not average less than that during 1920. There is, furthermore, a good prospect of some improvement of conditions in 1922 which may carry the average volume of manufactured production above the 90 per cent figure. We may estimate conservatively that the volume of production of manufacturing industries in 1922 can not be less than 90 per cent of the volume for 1919. And if, therefore, I decrease by 10 per cent the estimate of the yield of the proposed tax I shall make ample allowance for any possible difference in the activity of manufacturing industries in 1922 as compared with 1919. Ten per cent of $845,000,000 is $84,500,000; and subtracting this figure from the estimate of the yield of the tax which I have previously stated, I get $760,756,000 as the amount that would be collected from the products of manufacturing industry in the calendar year 1922. If wholesale prices in 1922 are higher than they were in August, 1921, the yield will be larger than I estimate, and it seems likely that prices will be somewhat higher in 1922, so that the estimate on this point is on the side of conservatism. If manufacturing activity in 1922 averages more than 90 per cent of normal the yield of the tax will be larger than I estimate, so that here again the estimate is most conservative.

One other factor of slight importance remains to be allowed for. A very small part of the production of manufacturing industry comes from establishments producing goods selling for less than $6,000 per year. The abstract of the census of manufactures for 1914, page 390, states that the manufactures pro-

duced in establishments producing less than $5,000 per year amounted to a little less than 1 per cent of the total product of manufacturing industries. I shall therefore subtract from the yield of the tax, as previously estimated, something more than 1 per cent of such yield, or $9,000,000, to allow for the effect of exempting the product of establishments having an output of less than $6,000 per year. This makes the final estimate $751,756,000.

5. From the estimate of the yield of the proposed tax given above I make a deduction for the amount of drawbacks which will have to be allowed for the export of manufactured goods in excess of the amount received from the tax imposed by the proposed bill at the rate of 3 per cent upon imported manufactures. This deduction is difficult to determine because of the very violent changes in total exports and imports of the United States in recent years and the still wider variations in the exports and imports of the groups of commodities with which we have to deal. Only a very rough conclusion is possible, but the total amount involved is not large, so that no serious error can result.

A. Exported merchandise upon which drawbacks would have to be granted at the rate of 3 per cent on wholly manufactured goods falls almost wholly in two of the six "great groups" in which exports of domestic merchandise are classified by the Bureau of Foreign Commerce. These two groups are foodstuffs, partly or wholly prepared, and manufactures ready for consumption. The only other domestic exports on which drawbacks might have to be paid are found in the very small group of miscellaneous exports, which amounted in 1920 to only fifteen one-hundredths of 1 per cent of the total and may therefore be ignored in this estimate, and exports of coal and mineral oil in crude condition. All exports of coal were valued at $3,862,000 in the calendar year 1913, while in the fiscal year ending June 30, 1921, they were valued at $351,000,000. The later figure was very exceptional and will not continue if conditions in Europe return to normal, yet coal exports will doubtless be larger than they were in 1913. If we place the export of coal at $100,000,000 for the calendar year 1922, and estimate that the drawback on this will be $3,000,000, we shall probably overstate the amount of such drawback.

The foodstuffs partly or wholly prepared were, of course, valued at enormous figures during the war and the two years immediately following the armistice. But they have greatly shrunk in recent months. The figures from 1915 to 1920 give us no basis for an estimate for 1922. Neither do the prewar figures give us a safe estimate unless allowance is made for higher prices and some possible increase in the quantity of such exports. In this estimate we may take the figure for 1914, which was not far from the prewar average, and increase it by 50 per cent. The figure for 1913 was $308,000,000. Increasing this by 50 per cent we get $462,000,000 for the year 1922. What proportion of these foodstuffs is partly prepared and therefore would not involve a drawback and what proportion is fully manufactured and therefore would require such a drawback is impossible to estimate with accuracy.

I assume, however, that one-third of these foodstuffs are only partly manufactured and two-thirds manufactured. Two-thirds of $462,000,000 is $308,000,000, and a drawback of 3 per cent of this amount would be $9,240,000. The other class of exports, namely, manufactures ready for consumption, also rose to enormous proportions during the war and has slumped to much lower figures in recent months. Neither present figures nor prewar figures, without making considerable allowance for changed conditions, give us any basis for a safe estimate. Manufactures ready for consumption were exported at the rate of $200,000,000 per month in such years as 1919 and 1920, and in June, 1920, stood at $268,438,000. By June of 1921, however, they had fallen to $113,167,000. The decrease has been due to changes in export prices to a larger extent than to changes in the volume of such exports, but the change in volume has been very considerable. It is not safe to assume that such exports will return to the prewar amounts. I shall therefore in this estimate take the 1913 figures and increase them by 50 per cent to allow for changes produced by the war. In 1913 the figure was $779,972,000, and increasing this by 50 per cent we get $1,169,958,000. At 3 per cent of this amount the drawback in 1922 would amount to $35,098,000. The total drawbacks on both classes of exported merchandise as here estimated would amount to $44,338,000, and the addition of $3,000,000 for drawbacks on coal brings the total drawback to $47,338,000.

B. The tax collected upon imported merchandise would similarly be collected upon imports falling within the same two of the "great groups." Foodstuffs, partly or wholly manufactured, imported into the United States rose to tremendous figures in 1920 on account of the enormous sugar importations. Going back to 1913 we find that such foodstuffs amounted to $206,134,000. Increasing this by 50 per cent we get a total of $309,201,000 as a reasonable estimate for 1922. We may further estimate that one-third of these imports consist of foodstuffs wholly manufactured and subject to taxation at 3 per cent and that two-thirds consist of foodstuffs only partly manufactured and therefore exempt from taxation under the proposed bill. Imports, taxable, would therefore amount to approximately $103,000,000, and the tax collected thereon at 3 per cent would amount to $3,090,000. The other great group of imports, namely, manufactures ready for consumption, amounted in 1913 to $413,439,000. Increasing this by 50 per cent in order to allow for changes in prices and other conditions we get the figure of $620,158,000 as a reasonable estimate for the year 1922.

At the rate of 3 per cent the tax collected on such imports would amount to $18,604,000. The total of the taxes collected on these two classes of imports—$3,090,000 plus $18,604,000—is $21,694,000.

C. The above estimates of the drawbacks and the duties collected give us a total of $47,338,000 of drawbacks and $21,694,000 of duties or taxes collected. The difference between these figures is $25,644,000, which may be taken as a fair estimate for the year 1922 of the amount by which the drawbacks on exported manufactured merchandise will exceed the tax collected upon imports of manufactured merchandise. I will reduce this figure to the round number of $25,000,000, at which sum it will figure in the final estimate of the revenue collected under the bill.

6. The final estimate therefore of the revenue to be derived from the manufacturers' and producers' tax is:

(a) Taxes on coal and mineral oil	$33,000,000
(b) Taxes on manufactured products	751,756,000
Total	784,756,000
Less excess drawbacks over taxes on imported manufactures	25,000,000
Estimated net yield of tax	759,756,000

This is undoubtedly an underestimate, since at every doubtful point care has been taken to err on the side of conservatism. Taxes collected from agricultural industries are wholly omitted; the proportion of the products of manufacturing industries which would be taxed under the bill is understated; allowances made for changes in price levels and business activity have been more than ample, so that if there is any increase in prices in 1922 above the level that prevailed in August, 1921, and if there is even a slow improvement in business activity, the revenue derived from the bill will considerably exceed the estimates.

Estimated revenue collections during fiscal year 1922 under H. R. 8245 (as reported to the Senate) as compared with Senator Smoot's bill.

	H. R. 8245.	Smoot bill.
Income tax:		
Individual	$850,000,000	$850,000,000
Corporation	430,000,000	450,000,000
Profits tax	600,000,000	350,000,000
Back taxes	230,000,000	300,000,000
Total income tax	2,110,000,000	1,950,000,000
Miscellaneous internal revenue	1,214,000,000	1,304,228,000
Customs	275,000,000	300,600,000
Sale of surplus war supplies	200,000,000	200,000,000
Other miscellaneous revenue	287,000,000	287,643,000
Total	4,086,000,000	4,041,871,000
Estimated expenditures	4,034,000,000	4,034,000,000
Excess	52,000,000	7,871,000

Analysis of "miscellaneous internal revenue."

	H. R. 8245.	Smoot bill.
Estate tax	$150,000,000	$155,000,000
Transportation:		
Railroads	170,000,000	110,000,000
Express, etc.	25,000,000	12,500,000
Telephone and telegraph	27,000,000	13,500,000
Insurance	10,000,000	10,000,000
Alcoholic spirits, etc.	75,000,000	75,000,000
Beverages (grouped)	40,000,000	20,000,000
Carbonic-acid gas	1,000,000	500,000
Tobacco	250,000,000	255,000,000
Admissions and dues	95,000,000	47,500,000
Automobiles, etc.	110,000,000	55,000,000
Musical instruments, etc.	12,000,000	6,000,000
Sporting goods, etc.	3,000,000	2,000,000
Chewing gum	1,900,000	600,000
Cameras, etc.	800,000	400,000
Photographic films, etc.	6,000,000	3,000,000
Candy	18,000,000	10,000,000
Firearms, knives, etc.	3,500,000	1,750,000
Electric fans	300,000	150,000

Analysis of "miscellaneous internal revenue"—Continued.

	H. R. 8245.	Smoot bill.
Thermos bottles, etc.	$800,000	$400,000
Fur articles	6,500,000	3,250,000
Yachts, etc	400,000	200,000
Toilet soaps, etc	2,000,000	1,000,000
Art works	1,000,000	500,000
Luxuries	10,000,000	5,000,000
Jewelry, etc	24,000,000	12,000,000
Perfumes, cosmetics	4,500,000	2,250,000
Medicines	1,500,000	1,500,000
Corporation capital stock	75,000,000	75,000,000
Stamp taxes	70,500,000	35,250,000
Miscellaneous	20,200,000	10,100,000
Manufacturers and producers tax		379,878,000
Total	1,214,000,000	1,304,228,000

I believe that we should install as part of our tax system a method of taxation along these lines, considering the matter solely from the standpoint of the Treasury Department. During the fiscal year 1921 the total income tax collections were about $3,226,000,000, while the collections from all other forms of taxation were $1,369,000,000; that is, the income tax collections constituted about 70 per cent of the total income, while all other forms were about 30 per cent. I call to your attention that the Treasury Department estimates, as set forth in the committee report, page 6, show that under the identical law as enforced during the year 1921 there would be received in the fiscal year 1922 through income taxation $2,160,000,000, or 33 per cent less than the collections of last year from the same source, whereas the same report shows that the miscellaneous collections during the fiscal year 1922 under the identical law will be but 5 per cent less than they were in 1921. This appears a conclusive admission by the Treasury Department that the miscellaneous forms of taxation are far more stable as revenue producers than is the income tax, and I believe that this alone should convince us that we should adopt into our system a more stable method to obtain the necessary revenue than the income tax has proved.

I therefore submit this substitute, because I believe that (1) it assures an abundant and reliable source of revenue collected at a single point, the burden of which is equitably distributed over a large body of producers, is definitely ascertainable, and at once provides the Government with current revenue and may be currently charged off the taxpayer's books.

(2) It is simple of understanding and administration. It involves no new principle or practice of administration, but is defined in terms of existing excise taxation and pursues its forms in rule and exception. It can be efficiently administered under existing experience, and, by limiting the sources of revenue, simplifies the excise policy of the Government.

(3) Without lessening the amount of revenue, it removes the burden of invidiously discriminating war taxation from selected industries upon which it was imposed for the purpose of limiting particular production as well as raising revenue. The reason for such limitation having expired, the policy should die with it, or it should be a popular tax because its amount is definite and certain and its relation to costs easily calculated by the mass of buyers of average intelligence. It can not therefore be made an excuse for unduly enhancing prices or a mask for inexcusable extortion.

(4) It keeps the promise of both political parties by affording the means without loss of indispensable revenue of reforming the excise system, abandoning the taxation of arbitrarily selected groups, and repealing immediately the whole system of war taxation, hurriedly concentrated where it would obtain a return with little regard for the injustice inflicted upon individuals or industries, and substituting therefor the beginnings of an equitable system spreading its burdens over the great body of taxpayers. It can neither cumulate nor pyramid. It is a single tax, definite in amount and applied at a specific point, the determination of which point is a question of fact and not of law.

My amendments contemplate the retention of the tax on income of corporations at 10 per cent. Emerging from the conditions under which corporations have borne war taxes running as high as 80 per cent during 1918, it is natural to suggest criticism for such a reduction. It should be noted, however, that even a 10 per cent tax is about ten times the rate of taxation upon corporations in the prewar period. It should also be observed that any reduction in the taxation of corporations results in a larger amount of money being available for distribution as dividends and therefore falling under the surtax rates of individuals. So much has been said recently in this Chamber inferring that corporations have enjoyed excessive profits that it would seem opportune to point out a few facts which appear from an examination of the Statistics of Income as published by the Treasury Department. It is true that in the year 1916 the earnings of corporations were quite large, mainly on account of business which was created with European countries on account of the war, but it should be remembered that our participation in the war did not begin until April, 1917.

The net income of all corporations in the country in 1917 after the payment of Federal taxes and dividends out of that income was $1,200,000,000 less than it had been in 1916, while in 1918 the net income after the payment of Federal taxes and dividends amounted to $4,500,000,000 less than in 1916 and $3,700,000,000 less than in 1917, and in fact was less than in 1915, 1914, or 1913. Statistics for 1919 are not available as yet, but I believe that it is only fair at this time to point out what the available records disclose. The present net income of corporations in the aggregate is now running very close to the net income disclosed in the 1912 and 1913 returns. This is evident from the estimates of the Treasury Department as shown in the committee report on page 7, where it is stated that the present 10 per cent tax will yield $430,000,000.

If it is our intention to return conditions to those existing in the prewar years, then clearly a 10 per cent tax is hardly justified, but I have no intention of advocating a reduction in that rate, since through the exemption of dividends from the normal tax the 10 per cent tax fairly equalizes the 8 per cent normal tax on individuals who are competing with corporations. However, I can perceive no justification whatsoever for increasing the corporation tax to 15 per cent. The repeal of the excess-profits tax, whether it be in 1921 or 1922, will relieve the burden from corporations earning more than 8 per cent upon their invested capital; but a 15 per cent tax means a 50 per cent increase in taxes for corporations which have not borne the excess-profits tax; in other words, which have earned less than 8 per cent upon their invested capital. The adoption of the 15 per cent tax, therefore, means relieving one set of corporations from the war tax and imposing that war tax in the form of a 50 per cent increase upon corporations whose profits do not exceed 8 per cent. I absolutely can see no justification for the imposition of such an unfair and inequitable transposition of war taxes.

People seem to overlook the fact that a corporation is merely a form by which individuals do business; they seem to forget that the individual stockholders are interested in receiving as dividends every cent which can properly be withdrawn from the business. They seem to forget that the more the individuals receive as dividends the greater will be the revenue of the Government through the surtaxes and the greater will be the amount of money available for investment by the individuals in productive enterprises which will afford employment for more people and generally further the prosperity of the country. Our individual citizens can be prosperous only as business is prosperous, and when the situation is as it exists to-day, that practically 90 per cent of the manufacturing business is done under the form of corporate organizations, we must help the corporation form to be prosperous, thereby adding to the general welfare of the people.

Let me quote from the remarks of the Senator from Missouri [Mr. REED] made several days ago:

> We might just as well understand this thing. I repeat what I said the other day, I am no enemy of the man who has money. I am an enemy of the man who would keep other men from an opportunity to make money. I want the highways open, so that every ambitious youth can run with unobstructed feet the course of financial empire, if you please. I want that for the children of to-day and the children of to-morrow. I refuse to levy taxes upon ambition, upon hope, upon enterprise, and take the taxes off the wealth that is protected and that can well afford to bear the burden of government.

In connection with those remarks, let me read a letter from the Assistant Commissioner of Internal Revenue, received by me only the other day:

> MY DEAR SENATOR: I desire to call your attention to a few examples of the hardships worked by the present income tax law.
>
> 1. A manufacturer in New England started business a few years ago with a paid-up capital stock of $25,000. It cuts out and deals in soles for boots and shoes. In 1917 it deducted from its gross income salaries paid to three officers of $16,000. In 1918 it deducted salaries paid of $30,000. The concern did a very profitable business in each of these years and paid the Government for the year 1918 income and profits taxes in excess of $40,000. Upon an audit of its 1918 return a portion of the salaries paid for 1918 was disallowed, the position of the bureau being that the company was not entitled to deduct a larger amount for salaries in 1918 than was deducted in 1917, and there were good reasons for the disallowance. An additional tax of $8,000 has been assessed against the company. It, however, is not able to pay this additional assessment. As a result of the decline in prices of leather in 1920, approximately $250,000 of orders were canceled by customers. The company could not, however, cancel its orders for sole leather. The result has been that it has on hand enormous quantities of soles which cost the company 80 cents per pair and which it would be glad to sell

at the present time for 25 to 30 cents per pair. The company is absolutely insolvent. All of the profits which it made in 1917 and 1918 have vanished in thin air.

2. A woolen merchant in the Middle Atlantic States was doing a reasonably profitable business from 1910 to 1915. The merchant was trading as a sole proprietor. He was unlearned in accounts and rapidly extended his business during the years 1917 and 1918. The profits which he made in 1916, 1917, and 1918 were invested in wool. He took a certain amount from the business in each of those years and also in 1919, but only a very small amount for salary. In 1920 the bottom fell out of the wool market and he sustained a loss in excess of $500,000. A revenue agent, making an examination of his books of account for 1918, found that he had not computed his profits properly by not taking into account at the close of the year the wool which he had on hand. The result is that he has been assessed an additional tax for 1917 of $107,000. There is a prospect that he will be assessed as much more for the year 1918. It is absolutely impossible to collect these taxes from him for he hasn't the wherewithal to pay the taxes. The loss which he sustained in 1920 has more than wiped out all of his profits for the years 1916, 1917, and 1918, as well as all the property that he has in the world.

3. A merchant in one of the Southern States started in business a few years ago with a small capital. He showed a remarkable genius for merchandising. His books were accurately kept. All of the profits which he made were used in extending his business. He ran a general department store and had large stocks of women's ready-to-wear clothing. In taking his inventories at the close of each calendar year he marked down the cost of the goods from 15 per cent to 20 per cent. He later was advised by an attorney that this was not allowable under the law and regulations. Accurate returns were then made up by certified public accountants, which showed additional taxes due for the high-tax years of more than $100,000. The man has merchandise on hand with which these taxes could be paid but the merchandise could be purchased at the present time at far less than the actual cost to the merchant of the merchandise. If the Government is to collect the total additional taxes due from him, it will take all of his property.

4. Certain individuals purchased all of the shares of stock of a corporation in Chicago. It has been found that the corporation erroneously computed its taxes for 1917 and 1918. Additional taxes have been assessed against the corporation of approximately $100,000. This assessment is more than the net worth of the corporation. The present owners of the corporation have lost every cent they put into it.

5. Nearly all of the fertilizer companies in the country are unable to pay their taxes for the year 1920. They generally did a profitable business for that year. Their profits were computed upon sales made during fiscal years ending in June, July, or August, 1920. The corporations did not receive cash from goods sold, but sold their goods on credit. Owing to the slump in the prices of agricultural products the farmers have been unable to pay for the fertilizer purchased, and the corporations have not the wherewithal to pay their taxes for 1920.

This is the situation with respect to the corporations in a whole industry. The present revenue bill will not give these corporations or the taxpayers cited in the above examples any relief, because the net losses which they sustained fell in the year 1920, and the net loss provision of the present bill does not give relief to such corporations.

Examples of the character above given might be continued indefinitely.

Yours, very truly,

C. P. SMITH,
Assistant Commissioner.

Those are just a few of the examples of injustice which have come to the attention of the Treasury Department. Hundreds of others never come to their attention because the suffering is borne in silence. If Congress knew as much as the Treasury Department does about the inequities existing under the system which the experts are so zealous to retain, I am certain that a true simplification and revision could be worked out by Congress, itself.

This brings me to the matter of surtaxes. There seems to be a desire to in some way tax the rich and to accomplish it under the form of surtaxes. The internal-revenue statistics show conclusively that it is impossible to tax the rich under the form of an income tax. There are so many perfectly legitimate ways open under a proper interpretation of the law which can be availed of to reduce taxation that the only effect of high rates upon high incomes is to force people to reduce their own taxes when Congress does not voluntarily do so. We have had brought to our attention the great reduction during the past three years of incomes in excess of $300,000, the reduction being from $993,000,000 in 1916 to $440,000,000 in 1919. The Treasury Department believes that a large part of this reduction has been forced on account of the high surtaxes; in other words, that people that have large incomes have changed their form of investment so that their income would be nontaxable instead of taxable. Also the income itself is seeking investment in these tax exempts. But there is another side to the story; that is merely one method which has been adopted in order to afford a larger yield upon investments. Another common method has been to divide up securities among several members of a family so that an estate becomes distributed before the death of the owner and the two results accomplished of bringing the income into the lower brackets of the surtaxes and also reducing the amount payable upon the death of the original owner.

If anyone doubts that people are forced to reduce their taxes and adopt means for doing so, let me point out the situation under the present surtax rates. Take the case of an 8 per cent preferred stock and the effect of surtaxes upon the dividends. Note also that a man can obtain a return of 5.75 per cent on an investment in tax-exempt securities. For illustration I will take merely a few figures based on the table found at page 8 of the committee report:

Total wealth of individual.	Income if all invested in tax-exempts at 5.75 per cent.	Income if all invested in preferred stock at 8 per cent.	Surtaxes on dividends from preferred stock.	Net income after surtaxes.	Per cent net return on investment in preferred stock.
$12,500,000	$718,750.00	$1,000,000	$583,510	$416,490	3.3
6,250,000	359,375.00	500,000	263,510	236,490	3.7
2,500,000	143,750.00	200,000	77,510	122,490	4.8
1,875,000	107,812.50	150,000	49,510	100,490	5.3
1,250,000	71,875.00	100,000	23,510	76,490	6.1
937,500	53,906.25	75,000	12,950	62,050	6.6
625,000	35,937.50	50,000	5,510	44,490	7.1
312,500	17,968.75	25,000	1,200	23,800	7.6

In other words, if an individual whose total wealth amounted to $1,875,000 invested it all in tax-exempts at 5.75 per cent, his income would be $107,812.50; if his wealth were all invested in preferred stock at 8 per cent, his income would be $150,000; his surtaxes on dividends from preferred stock would be $49,510; his net income after surtaxes would be $100,490, and his net return on the investment, instead of being 8 per cent, would be only 5.3 per cent.

Are you going to keep men in a position where they will be forced to buy tax-exempt securities and not put a dollar into business? Senators, whenever that step is taken it will be a mistake, and making the rate 50 per cent will not change the condition as it is to-day.

The persons with such incomes over $100,000 have merely to elect whether they will invest in tax-exempt securities or will divide their fortune with wife, children, and relatives. If, for example, the man having $2,500,000 keeps it by changing his investment to tax-exempts he will save $21,000. If he divides equally with his wife and retains the industrial securities, they will have a combined net income of $152,980, or a saving of $30,000 over what the income would be if the man alone retained the industrial investment. If he divided equally with his wife and two adult children, the combined income would be $177,960, or a saving of $55,000 over what the income would be after taxes if the man alone retained the industrial investment. And so on.

Division of property and investment in tax-exempts have been generally used as the means of avoiding high taxes. These illustrations, taken at random, are given merely to show the actual figures and the resulting saving. The greater the wealth the greater will be the saving. The present law merely invites persons to determine their own taxes. The ignorant are caught but once only. They learn the method by experience.

Another favorite method is the taking of losses at the close of each year. It is true that H. R. 8245 attempts to prevent this latter situation. There are numerous other methods adopted, such as investing money in nonproductive property in this country and abroad and being satisfied to await some future time when the tax rates will be reduced, or a person can change his residence and enjoy the gain without bearing heavy taxes. The truth of the matter is that the more zealous Congress is to tax heavily large incomes, the more certain it is to compel the individuals to devise means of reducing their taxes.

The burden of our present taxation system as applied to individuals is falling upon the persons who are really responsible for the prosperity of the country in general. In the year 1918 two-thirds of the taxes collected from individuals were borne by those having incomes between $5,000 and $300,000. Those over $300,000 bore about 21 per cent, while those under $5,000 bore about 13 per cent. Examining the statistics in another way, it is a fact that the 627 people having incomes of over $300,000 paid a little more in taxes than the 4,226,000 having incomes below $10,000, so I criticize our present income tax system as really taxing the individuals who are actively engaged in business, employing their time and money in productive enterprises, while it forces out of taxation the individuals having great wealth either into tax-exempt securities or a division of property among their heirs, with the resulting loss of revenue in the latter cases and excessive taxation in the former. We have endeavored in the House bill to reduce the taxes on persons having incomes below $5,000. We have also reduced the taxes on incomes in excess of $66,000, but the reduction is merely nominal on incomes between those two figures, and I believe that a serious endeavor should be made to evolve a more fair and equitable system of taxation on all individuals and not merely upon a few selected classes.

I am informed that Treasury officials have made the statement that there are at least 31 ways by which individuals can pay lower or no taxes under the income tax law. An illuminating article along this line will be found in the issue of the Saturday Evening Post for October 8, 1921, entitled "Capital on strike," by Albert W. Atwood.

The American people justly expect that this Congress will enact a real taxation law which is a simplification in fact and not in name, a revision which is a revision and not merely by way of administrative amendments to the existing system in the form of a "temporary measure."

So, I submit, it is the patriotic duty of all Members of Congress to join together and enact, for peace times, a proper tax system in view of existing conditions, just as we patriotically did during the war, a system which will carry out our respective party pledges by the elimination of all war taxes, the substitution of simplicity for complexity, and a real reduction in the burden of taxation so that the people may enjoy a greater degree of prosperity through the release of capital for productive enterprises and the consequent relief for the unemployment situation.

Mr. LODGE. Mr. President, I make the point of no quorum.

The PRESIDING OFFICER (Mr. FRANCE in the chair). The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Borah	Hale	McKellar	Shortridge
Brandegee	Harris	McKinley	Simmons
Broussard	Harrison	McNary	Smith
Calder	Heflin	Moses	Smoot
Cameron	Hitchcock	New	Spencer
Capper	Kellogg	Newberry	Sterling
Caraway	Kendrick	Nicholson	Sutherland
Cummins	Kenyon	Norbeck	Swanson
Curtis	Keyes	Oddie	Townsend
Dial	King	Overman	Underwood
Dillingham	Knox	Page	Wadsworth
Edge	Ladd	Pittman	Walsh, Mont.
Fletcher	La Follette	Poindexter	Warren
France	Lenroot	Pomerene	Watson, Ga.
Frelinghuysen	Lodge	Sheppard	Williams
Glass	McCumber	Shields	

The PRESIDING OFFICER. Sixty-three Senators have answered to their names. There is a quorum present.

Mr. LENROOT. Mr. President, I do not desire to occupy the time of the Senate now except for a moment in reply to the speech of the Senator from Utah [Mr. SMOOT]. I do, however, wish to say at this time just a few words.

With reference to the administration of his plan, he has built his argument almost wholly upon the successful administration of the manufacturers' tax imposed by title 9 of the present law. He read a letter of Mr. Smith, the Assistant Commissioner of Internal Revenue, expressing the opinion that the plan which he has discussed so extensively is a workable plan. At this time I wish merely to call attention to the difference between the present law as to its workability and the Senator's proposed plan.

The present manufacturers' tax to which the Senator has referred is a tax upon certain articles, parts, and accessories connected with automobiles and trucks, and the tax is imposed upon every manufacturer and producer selling them except when sold to another manufacturer or producer. Therefore in administering the law there is but one simple fact for the Treasury Department to determine, a fact that is in existence and easily to be determined by both the seller and the Treasurer, and that is, Is the party to whom the sale is made a manufacturer or producer? If he is, it is exempt. If he is not, it is taxable.

Now compare that simple situation with the plan proposed by the Senator from Utah. For the manufacturer and producer to determine whether he is subject to a tax under the plan of the Senator from Utah there must be a fact determined which is not in existence at the time of the sale. He can not know, as he can know under the present law, whether the commodity sold is subject to a tax. He must follow it down and see what becomes of the article or commodity, and only when that is ascertained can it be determined whether it is subject to a tax. So there is no parallel whatever between the present law and the plan proposed by the Senator from Utah.

As for the letter written by Mr. Smith, the Assistant Commissioner of Internal Revenue, I wish to make the assertion that if Mr. Smith would subject himself to cross-examination for 15 minutes as to the workability of the plan proposed by the Senator from Utah, I undertake to say he would not repeat the statements made in the letter which he addressed to the Senator from Utah.

Mr. SMOOT. Mr. President, I will simply say in reply to the Senator from Wisconsin that Mr. Smith is not privileged to come upon the floor of the Senate as the other experts directing the framing of the pending bill. He has not been asked by the committee for suggestions. I am quite sure the Senator has made an error in the statement that under his cross-examination or some one else's cross-examination he would change his views as expressed in his letter to me. There is no question in my mind that the plan which has been submitted in my amendment could be administered without any difficulty. I presume there is no need for me to say anything further at this time.

Mr. KING. Mr. President, may I inquire of the Senator from North Dakota [Mr. MCCUMBER] if I may have his attention for a moment, if the Committee on Finance is ready to submit what we have all been told would be submitted soon, a new bill or at least a bill very greatly modified from the one which we are now considering? It seems to me, if the Senator will pardon me, that if we are to have another bill, or amendments to the pending bill so radical as to make it a new bill, there is no necessity for us to proceed with the consideration of this bill. Let us have before us for consideration the bill that our Republican friends are to give to us, and not waste our time with an obsolete and, to use the phrase which has been used so often, an obsolescent one.

Mr. McCUMBER. The bill which is before the Senate is House bill 8245. That will remain the bill. The chairman of the committee is not present just now and I was asked for a few moments to take charge of the measure until he returns. I understand amendments will be offered as we come to the several phases of the bill to which amendments are thought necessary, and that the proposed amendments will probably be distributed in a very short time.

Mr. KING. By that does the Senator mean that they will be distributed to-day?

Mr. McCUMBER. Certainly, I think so.

Mr. KING. They will be printed, then, and put into the possession of Senators to-day?

Mr. McCUMBER. Yes; they are already printed, and I think they will be distributed in a very short time. I know of no reason why they should not be distributed immediately. The Senator understands that they are not committee amendments.

Mr. KING. I understood that the amendments had been adopted by the committee; that the committee had accepted practically a new program—I do not use that word offensively—which has been forced upon them by a number of revolutionary Senators on the other side.

Mr. McCUMBER. I will say that the chairman of the committee, in conjunction with the revolutionary Senators of whom the Senator from Utah speaks, has agreed to make certain modifications in certain sections of the bill. That is not, however, a committee proposition. Every Senator on the committee is perfectly free to express his support or his opposition to every one of them. There are certain ones to which I certainly can not agree.

Mr. KING. I am sure from what the newspapers state that the amendments which will be suggested will be a very great improvement, in the main, over the pending bill; they can not be any worse; and I take the, perhaps, premature opportunity to congratulate the Republican Party upon their confession of the inadequacy of the pending bill and upon the improvement which it is suggested will be made.

Mr. McCUMBER. My opinion is that the principal alleged improvements are not improvements at all, although the Senator from Utah may think they are. I think they are detrimental, and I shall myself vote against them, but the chairman of the committee and some of the other members of the committee thought it was best to accede to a compromise on some of these amendments.

Mr. KING. The Senator means, then, if I understand him, that there is yet no harmony in the Republican committee nor is there any harmony upon the Republican side with respect to these proposed amendments?

Mr. McCUMBER. I suppose that some Senators may feel very harmonious toward the amendments, but I am one of those who do not.

Mr. SIMMONS. May I ask the Senator from North Dakota a question?

Mr. McCUMBER. Certainly.

Mr. SIMMONS. Will the amendments which are now agreed upon by the committee be offered this afternoon?

Mr. McCUMBER. I have just asked that they shall be distributed. The committee has not met nor has it agreed upon any amendments.

Mr. LODGE. But the proposed amendments are here.

Mr. McCUMBER. The amendments are here and are now being distributed.

Mr. SIMMONS. But they will not be offered to-day?

Mr. McCUMBER. Yes; they will be offered as we reach the part of the bill where they are appropriate. My idea was to go right ahead with the bill where we last left off, and then any of these amendments will be offered as we reach the place in the consideration of the bill where they will be appropriate.

Mr. SIMMONS. So that the amendments embodied in the statement which I now hold in my hand are to be offered?

Mr. McCUMBER. They will all be offered to the bill.

Mr. SIMMONS. Does this statement embody all the amendments that you now propose to offer in addition to those already indicated in the bill?

Mr. McCUMBER. That the chairman of the committee proposes to offer.

Mr. SIMMONS. I mean the committee. I suppose the chairman speaks for the committee.

Mr. McCUMBER. I do not like the word "you."

Mr. SIMMONS. The chairman speaks for the majority, at least, of the committee; and my understanding is that the document which has been placed on our tables embraces the amendments that will be offered by the committee in addition to the amendments that are now embodied in the bill?

Mr. McCUMBER. I want to correct the Senator. The amendments will not be offered by the committee. The chairman of the committee will offer certain amendments, and every Senator, whether he is on the committee or off the committee, can vote them in or vote them out.

Mr. SIMMONS. But will they not be offered by the chairman on behalf of the majority of the committee? Unfortunately they did not ask the minority to meet with them.

Mr. McCUMBER. The amendments will be offered as we reach them in the proper place in the bill; and if the chairman of the committee is not present, I shall offer them on behalf of the chairman.

Mr. SIMMONS. But the Senator from North Dakota said they would be offered by the chairman.

Mr. McCUMBER. If the chairman of the committee is present, he will offer them.

Mr. SIMMONS. The question I asked was by what authority will the chairman offer the amendments? Will he offer them as individual amendments or as the amendments of the majority of the committee, for the minority were not asked to be present?

Mr. McCUMBER. They are not amendments of the majority of the committee, because the committee has not been in session. I do not know what the majority might do with reference to any one of these amendments. I simply know that the chairman of the committee and certain other Senators have been considering harmonizing some of the provisions of the bill, and, as has been suggested, there has been an agreement that these amendments, which are printed and which are now before the Senator from North Carolina, will be offered to the bill at the appropriate places as we reach them.

Mr. SIMMONS. All I wished to draw out was the fact that these amendments that are on our table will be offered by the chairman of the Finance Committee on behalf of himself and the majority membership of that committee.

Mr. TRAMMELL. Mr. President, I send to the desk certain amendments to the pending bill, which I ask to have printed and lie on the table.

The PRESIDING OFFICER. Without objection, it is so ordered. The next amendment passed over will be stated.

The READING CLERK. The next amendment, which was passed over at the request of the senior Senator from Missouri [Mr. REED], is, on page 116, to strike out lines 1, 2, and 3, as follows:

SEC. 254. Subdivision (g) of section 250 of the revenue act of 1918 is amended by adding at the end thereof the following sentences:

And in lieu thereof to insert:

(g) If the commissioner finds that a taxpayer designs quickly to depart from the United States or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect the tax for the taxable year then last past or the taxable year then current, unless such proceedings be brought without delay, the commissioner shall declare the taxable period for such taxpayer immediately terminated and shall cause notice of such finding and declaration to be given the taxpayer, together with a demand for immediate payment of the tax for the taxable period so declared terminated and of the tax for the preceding taxable year, or so much of said tax as is unpaid, whether or not the time otherwise allowed by law for filing return and paying the tax has expired; and such taxes shall thereupon become immediately due and payable. In any action or suit brought to enforce payment of taxes made due and payable by virtue of the provisions of this subdivision the finding of the commissioner, made as herein provided, whether made after notice to the taxpayer or not, shall be for all purposes presumptive evidence of the taxpayer's design. A taxpayer who is not in default in making any return or paying income, war-profits, or excess-profits tax under any act of Congress may furnish to the United States, under regulations to be prescribed by the commissioner with the approval of the Secretary, security approved by the commissioner that he will duly make the return next thereafter required to be filed and pay the tax next thereafter required to be paid. The commissioner may approve and accept in like manner security for return and payment of taxes made due and payable by virtue of the provisions of this subdivision, provided the taxpayer has paid in full all other income, war-profits, or excess-profits taxes due from him under any act of Congress. If security is approved and accepted pursuant to the provisions of this subdivision and such further or other security with respect to the tax or taxes covered thereby is given as the commissioner shall from time to time find necessary and require, payment of such taxes shall not be enforced by any proceedings under the provisions of this subdivision prior to the expiration of the time otherwise allowed for paying such respective taxes.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the committee.

Mr. KING. Mr. President, may I inquire of the Senator from North Carolina if he is advised whether the Senator from Missouri [Mr. REED] has concluded his discussion upon that amendment?

Mr. SIMMONS. No; I was going to state that the Senator from Missouri, I assume, has no objection at all to the elimination of the three lines, for they do not in any way connect themselves with the point that he made. The discussion in which he indulged had reference to subsection (g), which follows line 3. I have no objection, therefore, to the amendment covered by lines 1, 2, and 3 being agreed to.

The PRESIDING OFFICER. Without objection, the committee amendment embraced in lines 1, 2, and 3 is agreed to.

Mr. SIMMONS. Subdivision (g) of that section was objected to very strenuously, as Senators will recall, by the Senator from Missouri. Is it the desire of the Senator from North Dakota to proceed in his absence? He has been sent for, and I presume he will be here in a few moments.

Mr. LODGE. I understand the Senator refers to subdivision (g)?

Mr. SIMMONS. Yes.

Mr. LODGE. Subdivision (g) is not an amendment; that is the present law.

Mr. SIMMONS. Perhaps I have the wrong section.

Mr. KING. No; subdivision (g) is the one to which the Senator from Missouri had reference.

Mr. LODGE. After the committee amendment on page 116, striking out the first three lines, what follows is the existing law, I understand.

Mr. SIMMONS. Subdivision (g) is the one to which the Senator from Missouri objected.

Mr. LODGE. That is the one we were discussing for some time. I recall that I participated in the discussion.

Mr. SIMMONS. Mr. President, if it is desired to take up the amendment now in the absence of the Senator from Missouri, I will present his point as well as I can for the consideration of the Senate, although I would prefer that he be present.

His objection grows out of the provision of that subdivision beginning at the end of line 2, on page 118, which reads:

In case of a citizen of the United States about to depart from the United States the commissioner may——

Mr. LODGE. That is the text of the House bill, is it not?

Mr. SIMMONS. Yes; it is the text of the House bill. I repeat:

In the case of a citizen of the United States about to depart from the United States the commissioner may, at his discretion, waive any or all of the requirements placed on the taxpayer by this subdivision. No alien shall depart from the United States unless he first secures from the collector or agent in charge a certificate that he has complied with all the obligations imposed upon him by the income, war-profits, and excess-profits tax laws.

The same provision which applies to aliens applies in its general effect to citizens of the United States; but the commissioner is given authority to waive these requirements in the case of citizens of the United States. I think the provision is rather drastic. I know myself of no objection whatever to continuing this provision with reference to aliens departing from this country, but I do not believe, as the Senator from Missouri said he did not believe, that a citizen of the United States in times of peace before he leaves this country even for a temporary purpose, before he crosses the border which separates the United States from some foreign country, should be required either to produce a certificate that he has paid all of his taxes which are due or a waiver of that requirement by the Commissioner of Internal Revenue. We have never heretofore in times of peace made any such requirement as to a citizen. I think it is an extremely drastic wartime prohibition that ought to be eliminated.

Senators will remember that the Senator from New York [Mr. WADSWORTH] made the same contention as did the Senator from Missouri [Mr. REED].

Mr. LODGE. If I may ask the Senator a question, his idea is, as I understand, that there should be no power at all in the Government in regard to the matter covered by the provision

as to native-born American citizens who are about to depart from the country?

Mr. SIMMONS. If any at all, I would limit it; I would not have it apply to every citizen who may leave the country.

Mr. LODGE. I understand the Senator has no objection to the provision so far as the alien is concerned.

Mr. SIMMONS. None at all.

Mr. LODGE. I think that is necessary; but how would the Senator modify the provision in so far as it affects American citizens?

Mr. SIMMONS. Mr. President, I am not now prepared to suggest how far it should be modified with reference to citizens of the United States. I will only say that before the war and up to the time of the war, so far as I am advised, we never found it necessary, or at least we never thought it necessary, to incorporate any such provision in the law.

Mr. CURTIS. Mr. President, may I suggest that the department now are relieving American citizens about to depart from the United States from the requirement of producing certificates of compliance, and they are also excused from submitting evidence of compliance with the income tax obligations. As I understand, it is the intention of the department to continue that practice.

Mr. SIMMONS. Then, do I understand the Senator to say that the department, by its regulations, has practically abrogated that provision?

Mr. CURTIS. No; it is simply the practice they are following of not requiring these certificates.

Mr. LODGE. They have the right under the law to waive them, as the Senator knows.

Mr. CURTIS. They have a right to waive them, and they are waiving them.

Mr. SIMMONS. If they have a right to waive them as to one citizen, I suppose they would have a right to waive them, if they saw fit, as to all citizens of the United States. Does the Senator mean that they have waived them as to all citizens of the United States?

Mr. CURTIS. I understand that they are doing it now as to virtually all citizens of the United States.

Mr. SIMMONS. If that be true, Mr. President, if under this discretion reposed in the commissioner by law he has by regulation waived the requirement as to substantially all the citizenship of the United States, what is the necessity of continuing it in the law? Of course, he might make a general waiver, and yet some officious officer might embarrass an American citizen very much by asking him whether he had paid these taxes or whether he had any evidence that the requirements of the law as to him had been waived. If it is a general waiver, so that no citizen of the United States is required to provide himself with any evidence that he is exempt by reason of having paid his tax or by reason of the regulation issued by the department, why do you want it in this bill?

Mr. CURTIS. I might state to the Senator that this is existing law, and the amendments that were put in by the committee were to permit the Secretary to do just what he is now doing.

Mr. SIMMONS. I understand that it is the existing law.

Mr. CURTIS. If the Senator wants to prepare an amendment relieving them of this requirement entirely there is no objection to it; but with these amendments put in by the committee they believe the department would continue the practice that they are now following, which is, as I stated a moment ago, relieving them from furnishing the certificate.

Mr. SIMMONS. It is very probable that the Senator from Missouri [Mr. REED] has prepared some amendment which he will offer. That is the reason why I prefer that this matter should go over until he returns.

Mr. CURTIS. Then I suggest that we pass it over.

Mr. SIMMONS. Yes.

Mr. LODGE. Mr. President, before that is done I want to ask the Senator from North Carolina to consider this point: With the power of full waiver which is now vested in the commissioner it may be of some importance for the proper collection of taxes that he should have some authority to stop a man who he believed was leaving the country and who he had good reason to believe was leaving the country to escape taxation.

Mr. SIMMONS. I would not disagree with the Senator about that if he had evidence.

Mr. LODGE. I mean if he had evidence. That is, to strike out the whole provision and take from him all power to stop anybody but an alien immigrant seems to me rather risky.

Mr. CURTIS. I understand that there are some naturalized citizens who have tried to take advantage of the law and get away and cheat the Government out of a great deal of taxes; but while that has not occurred often the department feels that it ought to have the power.

Mr. SIMMONS. I ask the Senator to let the amendment go over until the Senator from Missouri comes in.

Mr. LODGE. The commissioner ought to have some power in the matter.

Mr. SIMMONS. If the Senator from Missouri does not come in, I will offer some such qualification as that.

Mr. LODGE. Let it go over for the present.

The PRESIDING OFFICER. Without objection, the amendment will be again passed over. The Secretary will state the next amendment passed over.

The READING CLERK. The next amendment passed over is on page 118, lines 14 to 17, inclusive, passed over at the request of the Senator from Tennessee [Mr. MCKELLAR]. The committee amendment proposes to strike out the following words: "provided by this section in the case of the filing of a false or fraudulent return," and to insert "of 1 per cent per month from the time the tax became due."

Mr. SIMMONS. Mr. President, evidently we ought not to proceed with the consideration of this bill with so few Members of the Senate present. I think they do not know generally that the bill is up. Therefore I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Brandegee	Harris	McNary	Smith
Broussard	Harrison	Myers	Smoot
Cameron	Heflin	Nelson	Spencer
Capper	Jones, N. Mex.	New	Sutherland
Colt	Kellogg	Newberry	Swanson
Curtis	Kendrick	Nicholson	Townsend
Dial	Kenyon	Oddie	Trammell
Dillingham	Keyes	Overman	Underwood
Edge	King	Page	Wadsworth
Fernald	La Follette	Pittman	Walsh, Mass.
Fletcher	Lenroot	Poindexter	Walsh, Mont.
France	Lodge	Pomerene	Watson, Ga.
Frelinghuysen	McCormick	Ransdell	Watson, Ind.
Glass	McCumber	Reed	Williams
Hale	McKellar	Sheppard	Willis
Harreld	McKinley	Simmons	

The PRESIDING OFFICER. Sixty-three Senators have answered to their names. There is a quorum present.

Mr. MCKELLAR. Mr. President, in reference to the amendment on page 118 that I asked might go over until I could look into it, I have looked into it and have come to the conclusion that the distinction which is made by the amendment is a proper one, and that the penalty ought not to be the same as it is in the case of filing a false or fraudulent report. Therefore I have no objection to the amendment.

The PRESIDING OFFICER. Then, without objection, the amendment will be agreed to.

Mr. MCCUMBER. Mr. President, on behalf of the Senator in charge of the bill, the Senator from Pennsylvania [Mr. PENROSE], I desire to offer an amendment, to insert on page 118, after line 17, the following paragraph:

(h) The provisions of subdivisions (e), (f), and (g) of this section shall apply to the assessment and collection of taxes which have accrued or may accrue under the revenue act of 1917, the revenue act of 1918, or this act.

Mr. SIMMONS. Mr. President, as I understand, we are now considering committee amendments.

The PRESIDING OFFICER. The Senator is correct.

Mr. SIMMONS. As I understood the Senator from North Dakota a little earlier in the day, he stated that these amendments are not committee amendments at all.

Mr. MCCUMBER. That is right; but it was suggested that we take them up, as I understood, so that we would know just what the amendments were that would be offered. I have no objection to going right on through with the bill, and would even prefer it, and taking up those amendments which were reported by the committee. The Senator is absolutely right. These are not committee amendments.

Mr. SIMMONS. I think that is probably the better way. Let us get rid of these things as we pass them.

Mr. MCCUMBER. That is very satisfactory; and I will withdraw the proposed amendment at the present time.

The READING CLERK. The next amendment passed over is, on page 125, beginning at the top of the page, down to and including line 20, page 126.

Mr. LA FOLLETTE. I ask that that may go over again to line 21, on page 126.

The PRESIDING OFFICER. Without objection, it will be passed over.

Mr. POMERENE. Mr. President, if I may have the attention of the Senator in charge of the bill, some days ago my colleague and myself asked to have the amendment with respect to building and loan associations, on page 79, go over. I think if my colleague were here, he would agree that we are practically in

accord that the Senate committee amendment as proposed may be adopted. I thought my colleague was in the Chamber. He may be sent for, perhaps, and the amendment can be disposed of.

Mr. McCUMBER. I will say to the Senator that we had better leave it as it is, and we can come back to it again.

Mr. POMERENE. Very well.

The READING CLERK. The next amendment passed over is, on page 126, after line 20, passed over on the request of the junior Senator from Utah [Mr. KING], to insert a new section, as follows:

SEC. 259. That all individuals, corporations, or partnerships undertaking as a matter of business or for profit the collection of foreign payments of interest or dividends by means of coupons, checks, or bills of exchange shall obtain a license from the commissioner and shall be subject to such regulations enabling the Government to obtain the information required under this title as the commissioner, with the approval of the Secretary, shall prescribe; and whoever knowingly undertakes to collect such payments without having obtained a license therefor, or without complying with such regulations, shall be guilty of a misdemeanor and shall be fined not more than $5,000, or imprisoned for not more than one year, or both.

Mr. KING. Mr. President, I rise for information respecting this matter. I confess to not knowing sufficient of the modus operandi of these organizations to determine whether they should obtain licenses. My primary objection to the proposition arises from my objection to Federal licenses to conduct business. The Senator knows that there is a persistent effort upon the part of some to subject all business, whether it is interstate, foreign, or domestic, to Federal licensing, and this seems to be in line with the spirit of that sentiment, that we must subject those who engage in business to Federal control, Federal licenses. If this is merely an administrative measure, for the purpose of reaching the tax, probably there can be no objection to it, and it may be possible that this is the only way by which the tax may be reached. I shall be glad to hear from the Senator.

Mr. McCUMBER. This was given very little consideration by the committee, because it is the old law.

Mr. KING. I appreciate that.

Mr. McCUMBER. It is a law which has been in existence since the 1913 revenue act. I have heard no complaint. It was thought at that time to be necessary in order to have some source of information and check in order to make the collections, and I am informed that no complaint has come to the department.

The PRESIDING OFFICER (Mr. CURTIS in the chair). The question is on agreeing to the amendment.

The amendment was agreed to.

The READING CLERK. The next amendment passed over is, on page 128, after line 15, to insert the matter under the subhead "Retroactive exemption of income from sources within the possessions of the United States," passed over at the request of the senior Senator from Wisconsin [Mr. LA FOLLETTE], down to and including line 25, page 129.

Mr. LA FOLLETTE. Mr. President, that is a part of the plan for taxing corporations which are transacting business in foreign countries. There are several places in the bill where that matter is dealt with. The very first amendment that was passed over, on pages 4 and 5, is part of that same plan, and that went over, together with every other provision which deals with this same subject, and I would like to have them taken up all together, and therefore I suggest that this, with the others which have been passed over the second time, may go over, and that when the bill is considered they may be taken up and voted for, perhaps, en bloc.

The PRESIDING OFFICER. Without objection, the item will be passed over.

Mr. WILLIS. Mr. President, I understand that in my temporary absence from the Chamber an amendment on page 79, touching domestic building and loan associations, was temporarily passed over.

The PRESIDING OFFICER. That has not been reached today. It was referred to but has not been read by the Secretary.

Mr. WILLIS. Very well.

The READING CLERK. The next amendment passed over is, on page 130, Title III, war-profits and excess-profits tax for 1921, passed over at the request of the senior Senator from North Carolina [Mr. SIMMONS], down to and including line 24, page 145.

Mr. SIMMONS. Mr. President, that relates to the excess-profits tax. The Senator from Missouri [Mr. REED] desires to offer an amendment to the section, but on account of illness in his family has been compelled to leave the Chamber, after coming into the Chamber this morning.

Mr. KENYON. How far does the amendment extend?

Mr. SIMMONS. To the bottom of page 145. It is the excess-profits tax provision. I ask that it may go over.

The PRESIDING OFFICER. Without objection, it will be passed over.

The READING CLERK. The next amendment passed over is, on page 146, Title IV, estate tax, passed over at the request of the senior Senator from Wisconsin [Mr. LA FOLLETTE], down to and including line 12, page 149.

Mr. McCUMBER. Do I understand that the Senator from Wisconsin would like to have that go over?

Mr. LA FOLLETTE. I understand it is involved in the amendment which it is proposed to offer as a part of the plan which has been considered by members of the Committee on Finance, and I thought it might as well go over until the amendments were offered, when whatever I have to say on it can be submitted, or any amendment I have to offer with respect to it can be considered.

Mr. McCUMBER. Very well; it can be passed over for the present.

The PRESIDING OFFICER. It will be passed over.

Mr. KING. May I say to the Senator having the bill in charge that I have been advised that there has been some talk of the majority members of the committee recommending that a conference be called of the executives of the various States for the purpose of agreeing upon some plan, so far as possible, by which estate taxes should be levied in the future, and proper apportionment made to the States and to the Federal Government? Is there any such plan as that incubating and to be offered?

Mr. McCUMBER. I am informed that that was referred to a couple of years ago, but I do not understand that it has been considered by the executive department since.

The READING CLERK. The next amendment passed over is, on page 154, beginning with line 1, down to and including line 8, on page 155, passed over at the request of the senior Senator from North Carolina [Mr. SIMMONS]. The amendment is to insert the following:

(3) The amount of all bequests, legacies, devises, or transfers, except bona fide sales for a fair consideration in money or money's worth, in contemplation of or intended to take effect in possession or enjoyment at or after the decedent's death, to or for the use of the United States, and State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, or to a trustee or trustees exclusively for such religious, charitable, scientific, literary, or educational purposes. This deduction shall be made in case of the estates of all decedents who have died since December 31, 1917; and

(4) An exemption of $50,000;

(b) In the case of a nonresident, by deducting from the value of that part of his gross estate which at the time of his death is situated in the United States—

(1) That proportion of the deductions specified in paragraph (1) of subdivision (a) of this section which the value of such part bears to the value of his entire gross estate, wherever situated, but in no case shall the amount so deducted exceed 10 per cent of the value of that part of his gross estate which at the time of his death is situated in the United States.

Mr. SIMMONS. Mr. President, I withdraw the request that that be passed over.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The READING CLERK. The next amendment passed over is, on page 155, to strike out lines 9, 10, and 11, in the following words:

SEC. 403. Paragraphs (2) and (3) of subdivision (b) of section 403 of the revenue act of 1918 are amended to read as follows:

The amendment was agreed to.

The READING CLERK. The next amendment passed over is, on page 166, on request of the senior Senator from North Dakota [Mr. MCCUMBER], where the committee propose to insert a new section, as follows:

SEC. 411. That if it appears upon the examination of any return made pursuant to this title or to Title IV of the revenue act of 1918 that an amount of tax has been paid in excess of that properly due, the commissioner is authorized to refund such excess amount notwithstanding the provisions of section 3228 of the Revised Statutes: *Provided*, That no such refund shall be made after three years from the payment of such excess amount unless before the expiration of such three years a claim for refund thereof is filed by the executor or by such other person or persons as may be legally entitled to receive payment thereof.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. McCUMBER. Mr. President, the entire bill has been changed so as to give the same right to the taxpayer in the matter of claiming a refund in case he overpays that is given the Government in demanding an additional payment in case the Government thinks the amount that has been paid has not been sufficient, or that the returns are improper, and they are

both four years. There will be some amendments offered along that line, and I ask that this amendment may be disagreed to.

Mr. SMOOT. Does the Senator desire that this whole amendment be disagreed to and go out of the bill, or does he want to offer a substitute for it?

Mr. McCUMBER. Section 411 is to go out entirely, and there will be a substitute on line 14. We will strike out section 411. It is taken care of in other sections of the bill, and the proviso that no such refund shall be made after three years has been changed by general provision making it four years. Therefore it is unnecessary.

Mr. KING. Mr. President, I would like to inquire of the acting chairman of the committee whether he thinks it is wise or necessary to extend the opportunity to four years within which a claimant who has paid the tax may ask for a refund? The claimant is in possession of all the facts, he has his books, and to give him the same privilege and the same length of time to prefer a claim as you give to the Government does not, I will say frankly, strike me as just and proper. If he did not have within his own possession the facilities to discover the correctness or incorrectness of the tax levied, if he had to resort to third persons or to the Government itself for information in order that he might make the demand for a refund, then I concede that perhaps giving him the additional time would be proper; but to extend the time to four years will make it almost impossible for the Government ever to determine just when it is through.

Mr. McCUMBER. I think the Senator will agree with me when he stops to consider the matter a moment. The trouble generally arises from cases in which the department itself may change its ruling or the Supreme Court may pass upon that subject. The Senator fully realizes how complex the law has been in the past, and, to my mind, it is very complex now. The Treasury Department is better able to understand that tax, a great deal better able, than the ordinary taxpayer, and it very often happens that there will be a ruling made by the department and under that ruling a certain amount of tax would be required. It may be that at the end of nearly four years the department may make a ruling to the contrary, under which a lower tax would have been collected. It may happen that the taxpayer believes that he should not pay as great a tax as is demanded by the department, but he does not wish to take the chance of paying a big penalty, and perhaps some other citizen better able to conduct litigation takes the matter into court, and after a decision it is ascertained that there is a less amount that should have been paid.

So, it seems to me, the individual should be given just as great a right, at least to recover back excess in reference to the time, as is given the department itself to make the collection, and that was the decision of the majority of the committee.

Mr. KING. Mr. President, I can appreciate the propriety and perhaps the justice of a provision of that character in the bill if the refund is based upon subsequent rulings or modifications of rulings by the department. If the department has ruled in a certain way under which the taxpayer would not be entitled to a refund and then later changes that ruling so that it is obvious he has been taxed too much, I can see that it would be just that there should be a refund.

But in the absence of any such ruling and if a person sits down supinely for three years and makes no claim and there is no change in the situation, no change in the law, no change in the ruling, for him to be permitted to have an additional one year or two years to prefer a claim and to rib up a lawsuit, to use the language of the street, it seems to me might work very great hardship upon the Government. In that period many of the files might be dissipated, much of the information which might be available for the Government would be lost, so it would be very difficult to check back and discover the actual facts as a basis for readjustment of any claim made. However, I shall make no objection to the amendment.

Mr. POMERENE. Mr. President, may I ask the Senator a question, as this bears indirectly upon a matter that has been in my mind for some time. The committee is providing for a refund where there has been an overpayment. Does it allow the taxpayer interest on the refund during the time he has been deprived of it?

Mr. McCUMBER. There is an amendment which will allow it. If the Government charges the individual interest on anything that he fails to pay, then it seems to me perfectly fair that the Government should return interest on what the Government collected more than was due. There is an amendment to cover that.

Mr. POMERENE. I am very much gratified to hear the Senator make that statement. If he will permit me in just a moment to give a concrete case, I think it will elucidate the necessity for the amendment.

Some years ago the Senate will remember stock dividends by corporations were held by the department to be taxable. I have in mind one estate in which the trustee had to pay a tax of this kind amounting to $32,000. It was paid under protest. The Government had this money for about two years. The trustee did not have the ready money and was obliged to go to the bank and borrow the money, and he paid interest on it. After the Supreme Court had held that stock dividends were not taxable it was more than a year before the trustee was able to get the Treasury Department to refund that money, and then it was refunded without any interest. As a result, the trustee had to pay two years' interest on that tax which he could not have been legally compelled to pay, and yet received no interest on the money which was in fact paid, and only had the principal refunded.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was rejected.

The READING CLERK. The next amendment passed over is, on page 167, to strike out line 20 and insert after line 20, "Title 5, tax on transportation and other facilities," passed over at the request of the senior Senator from Oregon [Mr. McNARY].

Mr. SIMMONS. Mr. President, I have an amendment pending in reference to this provision, and I think the Senator from Oregon [Mr. McNARY] has introduced an amendment. I understand the chairman of the committee will introduce another amendment. I suppose under these circumstances this title ought to go over.

Mr. McNARY. Mr. President, I think it was at my request that the consideration of this title was passed until a future time. I think the Senator from North Carolina seconded my request that it go over. In looking at the proposed amendments which I understand are to be offered in behalf of the committee I find one which covers about the same ground as my proposed amendment. In view of that situation I think it might be well and proper to pass it over at this time until the committee makes a report, which will perhaps be to-morrow.

Mr. McCUMBER. I do not think the committee will be called upon to make a further report at all. There will be no committee amendments presented, but the amendments which are printed will be offered as we reach the proper places for introducing them. The committee has not considered them as a committee, though members of the committee have considered them.

Mr. McNARY. I did not know, but it is not important which form it takes. The amendment I offered proposes to strike out all items appertaining to taxes on transportation. If that failed it was my intention to offer another amendment to have express rates placed on a parity with passenger and freight rates. I think the report, meager as it is—that when the proper time comes the committee will suggest an amendment which will remove the tax on all forms of transportation—will justify us in passing it over for the present.

Mr. McCUMBER. That is provided in an amendment which will be offered. It removes the taxes on all transportation except telegraph and telephone messages. Those are still included.

Mr. KING. I wish to inquire of the Senator from North Dakota whether the proposed amendment of which he has just been speaking eliminates all transportation taxes, not only taxes on freight but on Pullman and passenger traffic?

Mr. McCUMBER. They are all excluded.

Mr. KING. I am very glad. I offered an amendment on the 26th day of last month to eliminate the whole of the taxes on transportation.

Mr. SIMMONS. So far as I am concerned I have no objection to acting on the amendment right now, but I understood it was agreed between the Senator from North Dakota and myself that the amendment to be offered by the chairman of the committee should be offered hereafter and that to-day the amendment would go over.

Mr. McCUMBER. We will either have to pass over the particular part that is to be amended or amend it as we reach it, and either way is satisfactory to me.

Mr. SIMMONS. It is satisfactory to me to proceed with it now, because the amendment which the Senator proposes to offer is entirely satisfactory to me, and I shall vote for it. It is the kind of an amendment I offered myself, extended a little further.

Mr. McCUMBER. That being the case, why not, then, vote upon it and dispose of it?

Mr. KING. I shall be very glad to do so. Let the record show that the Senator from North Carolina [Mr. SIMMONS] and the Senator from Oregon [Mr. MCNARY], and, I humbly state, the junior Senator from Utah, have offered amendments of the same character as that tendered now by the Senator from North Dakota. I congratulate the Senator and those who have tendered the amendment that they have accepted the views which we expressed last September.

Mr. McCUMBER. Those Senators will be given due political credit.

Mr. WALSH of Massachusetts. The record should also set forth the fact that the minority report of the Finance Committee makes the same recommendation.

Mr. SIMMONS. Mr. President, I merely wish to observe, in passing, that there seems to be enough glory to go around.

The PRESIDING OFFICER. If everyone is agreed to the amendment, will the Senator in charge of the bill send it to the desk that it may be stated?

Mr. McCUMBER. The proposed amendment is on page 168, beginning at line 12, to strike out all down to and including line 11 on page 170, being all of subdivisions (a), (b), (c), (d), and (e) of section 500.

The READING CLERK. On page 168, strike out lines 12 to 25, inclusive, all of page 169, and down to and including the words "pipe line," in line 11 on page 170.

Mr. SIMMONS. I am rather inclined to think, as this is such an important amendment, that we ought to have a yea-and-nay vote on it.

Mr. McCUMBER. Why does the Senator desire a yea-and-nay vote if there is no one who is going to vote against it?

Mr. SIMMONS. I think it better to have a roll call.

Mr. TRAMMELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ball	Hale	McKellar	Smoot
Borah	Harris	McKinley	Spencer
Brandegee	Harrison	McNary	Sterling
Broussard	Heflin	Moses	Sutherland
Calder	Johnson	Nelson	Swanson
Cameron	Jones, N. Mex.	New	Townsend
Capper	Kellogg	Newberry	Trammell
Caraway	Kendrick	Nicholson	Underwood
Culberson	Kenyon	Oddie	Wadsworth
Curtis	Keyes	Overman	Walsh, Mass.
Dial	King	Page	Walsh, Mont.
Dillingham	Knox	Poindexter	Warren
Edge	Ladd	Pomerene	Watson, Ga.
Ernst	La Follette	Ransdell	Watson, Ind.
Fernald	Lenroot	Sheppard	Williams
Fletcher	Lodge	Simmons	Willis
France	McCumber	Smith	

The PRESIDING OFFICER. Sixty-seven Senators have answered to their names. A quorum is present. The question is on agreeing to the amendment to the amendment of the committee suggested by the Senator from North Dakota [Mr. MCCUMBER].

Mr. SIMMONS. Mr. President, I withdraw my request for a yea-and-nay vote upon the amendment. There seems to be such harmony and unanimity of sentiment, I do not think it is necessary.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the amendment.

Mr. TRAMMELL. I desire to offer an amendment as a substitute for the amendment proposed by the committee. I think I am entitled to that privilege.

Mr. KING. Let the amendment to the amendment be first read.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The reading clerk proceeded to read the amendment, beginning in line 12, on page 168, to strike out certain subdivisions, and read as follows:

(a) A tax equivalent to 1½ per cent of the amount paid for the transportation on or after such date, by rail or water or by any form of mechanical motor power when in competition with carriers by rail or water, of property by freight transported from one point in the United States to another; and a like tax on the amount paid for such transportation within the United States of property transported from a point without the United States to a point within the United States.

(b) A tax of 1 cent for each 20 cents or fraction thereof of the amount paid to any person for the transportation on or after such date, by rail or water or by any form of mechanical motor power when in competition with express by rail or water, of any package, parcel, or shipment, by express, transported from one point in the United States to another; and a like tax on the amount paid for such transportation within the United States of property transported from a point without the United States to a point within the United States.

Mr. McCUMBER. Mr. President, a point of order. Of course, each one of these subsections is a separate and divisible amendment, and the amendment of the Senator from Florida is simply to strike out the matter which my amendment proposes to strike out and which we are now to vote upon.

The PRESIDING OFFICER. The Chair will call the attention of the Senator from North Dakota to the fact that the Secretary is reading the amendment offered by the Senator from North Dakota and not the amendment offered by the Senator from Florida, because there was a demand for the reading of the original amendment made by the Senator from Utah [Mr. KING]. That is being first read.

Mr. FLETCHER. Does that mean the whole of section 500 shall be read? What is the use of reading it all?

The PRESIDING OFFICER. That it shall be read down to line 11, on page 170.

Mr. SIMMONS. The amendment proposes to strike out everything except the tax on telephones, and so forth.

Mr. FLETCHER. As I understand, the Senator from North Dakota has moved to strike out the whole of section 500?

Mr. McCUMBER. To strike out the whole of the section down from line 12, page 168, to line 11, on page 170.

Mr. FLETCHER. Why not state the amendment in that shape without reading it? It is not necessary to read the entire amendment.

The PRESIDING OFFICER. Does the Senator from Utah insist on the reading of the amendment?

Mr. KING. No.

The PRESIDING OFFICER. The request for the reading of the amendment to the amendment is withdrawn. The Secretary will state the amendment offered by the Senator from Florida [Mr. TRAMMELL].

The READING CLERK. On pages 168, 169, and 170, it is proposed to strike out subdivisions (a), (b), (c), and (d) and insert in lieu thereof:

Subdivisions (a), (b), (c), and (d) of section 500 of an act entitled "An act to provide revenue, and for other purposes," approved February 24, 1919, be, and the same are hereby, repealed.

The PRESIDING OFFICER. The Chair will suggest to the Senator from Florida that, as the Chair understands it, his amendment is exactly the same as that offered by the Senator from North Dakota.

Mr. TRAMMELL. I beg to differ with the Chair.

The PRESIDING OFFICER. The Senator's amendment, the Chair now notices, differs from that of the Senator from North Dakota in that it does not strike out subdivision (e).

Mr. TRAMMELL. If I can get an opportunity I will explain my amendment.

Mr. President, I desire to state the object of the amendment. The amendment proposes that the law, so far as it relates to the tax on transportation charges, shall be repealed instanter upon the enactment and approval of the pending bill. The amendment proposed by the acting chairman of the committee is designed to revert back to the provisions of the House bill, which provide for the repeal of the tax on transportation charges upon January 1, 1922. That is the difference between the two amendments.

I believe that in view of the present excessive and exorbitantly high freight and passenger rates which prevail in this country we should not further impose upon the people a tax upon transportation charges. That tax should be repealed, and should be repealed as soon as possible, instead of deferring the day for its discontinuance to January 1, 1922. As to every other form of taxation which it is proposed to modify or change under the provisions of the pending bill, the changes and modifications become effective as of January 1, 1921; that is, the income received for the year 1921 will be subjected only to the amended rate or burden imposed upon that income, whereas already those who have to bear the burden of the taxation imposed upon transportation charges have been forced to pay the tax and to undergo this obligation for more than nine months of the year 1921. It is my view that we should not further discriminate against those contributing to the revenues of the Government through the transportation tax, but that the tax should be repealed upon the passage and approval of the act. That is all there is to my amendment; that is what it proposes instead of deferring the repeal until January 1, 1922.

Mr. President, I take the position that the Congress of the United States has been recreant in the performance of its duty to the American people in not attempting to rectify the conditions which exist to-day in the matter of excessive transportation charges, and that the least we can do at this time is to extend the relief that may come by the enactment of a provision which repeals the tax upon transportation charges without further delay.

Mr. KENYON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Florida yield to the Senator from Iowa?

Mr. TRAMMELL. I will yield in a moment. Mr. President, as to the Chair's interpretation of my amendment, my amendment does not bear the interpretation placed upon it by the Chair. While it does not provide for striking out certain lines, it does propose that certain subdivisions shall be stricken out and states that the subdivisions of the present law "are hereby repealed." That does not mean that they shall be repealed as of January 1 next; that means that they shall be repealed upon the enactment and approval of the pending bill. That is my idea and my purpose. I now yield to the Senator from Iowa.

Mr. KENYON. Mr. President, I had in mind asking the Senator concerning that very matter. I will say to the Senator that, so far as I am concerned, I am with him in his proposition, and I hope he will urge it and secure a vote on it; but will it not be necessary to change the language of section 500, in line 8, so as to make it read, "that from and after the passage of this act," and so forth? I merely want the Senator to be certain that his amendment will accomplish his purpose, so that there may be no question about it.

Mr. TRAMMELL. I do not think that that is necessary. If we strike out those paragraphs mentioned in my amendment and insert in lieu thereof a repealing clause of the particular paragraphs in the existing law, the repeal will become effective as of the date of the passage and approval of the act. I will state that the reason I did not move to strike out the other lines was that there are other paragraphs in the amendment proposed by the committee that remain intact and that I do not seek to have stricken from the bill.

Mr. SIMMONS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Florida yield to the Senator from North Carolina?

Mr. TRAMMELL. I yield.

Mr. SIMMONS. If the Senator will pardon me, I think if his amendment were adopted it would take effect only after January 1, 1922, and that is what the Senator wants to avoid. If the Senator wants to avoid that, he ought to strike out "after January 1, 1922," in section 500, and insert "from and after the passage of this act," or he ought to have it read "hereafter there shall be levied," one of the two.

Mr. POMERENE. Mr. President——

Mr. TRAMMELL. Of course, I desire to be absolutely sure upon that question. I think, since the question has been raised, that my amendment might be strengthened by saying, "is hereby repealed, to be effective upon the approval of this act." Would that cover it?

Mr. SIMMONS. If the Senator leaves that language there and then makes the repeals here, the repeals would not be effective, I think, until January, 1922. If the Senator wants to accomplish the purpose that I think he has in mind, he ought to strike out the words "January 1, 1922," and put in the place of those words "after the passage of this act."

Mr. POMERENE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Florida yield to the Senator from Ohio?

Mr. TRAMMELL. I yield.

Mr. POMERENE. While we are considering this matter, let me call the attention of both the Senator from Florida and the Senator from North Carolina to section 1403, page 294, which provides:

> That, except as otherwise provided, this act shall take effect upon its passage.

I think that would meet the question as presented.

Mr. SIMMONS. The trouble about that is that it would be "otherwise provided" if you leave "January 1, 1922," in there.

Mr. TRAMMELL. Mr. President, of course I think the amendment covers the situation just as I have written it, but we might add there:

> Be, and the same are hereby, repealed upon the passage and approval of this act, and that the taxes imposed under said subdivisions shall be discontinued from the date of the approval of this act.

That makes it perfectly plain.

Mr. JONES of New Mexico. Mr. President——

The PRESIDING OFFICER. Does the Senator from Florida yield to the Senator from New Mexico?

Mr. TRAMMELL. I do.

Mr. JONES of New Mexico. I simply want to suggest that the amendment has not been printed, and we have not copies of it before us. I should, therefore, like to have the amendment restated.

Mr. TRAMMELL. It has been printed, but of course there may not be a copy of it available. I introduced this amendment a week or 10 days ago, long before a great many of our friends were willing to have the transportation charges discontinued.

Mr. JONES of New Mexico. Then I will get a copy of it.

Mr. TRAMMELL. With that amendment, Mr. President, it seems to me there would be no question as to the effective date of the repeal. Of course I think the amendment is rather longer than is necessary, and there is probably some repetition. It makes it very plain, however.

Mr. LENROOT. Mr. President, will the Senator yield?

Mr. TRAMMELL. Certainly.

Mr. LENROOT. Unless there is some time fixed between the enactment of this law and the time at which it takes effect, will it not be impossible to put it into immediate operation? Will there not be a great deal of money collected in the next several days that never will be returned to the shippers?

Mr. TRAMMELL. Mr. President, of course, under those circumstances they would have to notify the railroads immediately of the repeal.

Mr. LENROOT. Suppose the law were signed to-night. Does the Senator think there would be no taxes collected to-morrow from the shippers?

Mr. TRAMMELL. There might possibly be some collected, but the proper authorities should immediately notify the transportation companies of the country to cease collecting them. That is what they should do.

Mr. President, I think we should repeal the transportation taxes immediately. That is the purpose and object of my amendment—to repeal them immediately, instead of deferring the repeal until January 1. I hope the amendment will be adopted, and I desire to have a yea-and-nay vote upon it.

Mr. TOWNSEND. May we have the amendment stated?

Mr. McCUMBER. Mr. President, I see no necessity of adding complexity to a bill that is already sufficiently complex. I can see a great many difficulties in the way of providing that a law which relates to transportation shall take effect when the bill passes. It may be signed at a certain hour of the day. No one knows when that hour will be. During that time 100,000 tickets will be sold for different places throughout the United States. Some of them will be sold from New York to San Francisco. Those passengers may travel 10 miles before the new law goes into effect and the tax burden is repealed. If a person bought a ticket to San Francisco and had a stop-over privilege at Chicago, and traveled on that ticket the rest of the way after the repeal, I do not know whether he would not be entitled to recover back from the Government the excess charges for that portion of his journey.

We probably shall not pass this bill for two or three weeks yet. I do not know just how long it is going to take; but if we fix a definite and certain time, to begin upon the 1st day of January, 1922, there probably will be less, at most, than two months of this year that the law will still be in effect. Furthermore, as this matter is one of compromise, and as all of these figures have been based upon new estimates, you can see that if we make a change in this respect we shall have to make changes in a great many others.

Senators forget that the moment you make a change in the transportation tax which would amount to $130,000,000 or $140,000,000 a year you have to change almost every portion of the bill to make up for that deficit. In arriving at what should be done in the bill those who have been in charge of the matter have attempted to do so and have done so upon the assumption that the tax now levied would be continued until the 1st day of January, 1922. We now have a bill, if we follow that line, that will be symmetrical, and it will not be necessary to go into other features of the bill and make other changes or new levies or change rates that have been practically agreed upon in order that the bill may bring in the proper revenue. So I hope the Senate will not insist on making the change in the transportation tax at the present time, for the sake of simplicity and for the sake of settling the many questions that we have tried to settle in bringing in these amendments.

Mr. TRAMMELL. Mr. President, I suggest that the amendment be modified as it is now being prepared by the clerks at the desk.

The PRESIDING OFFICER. The Senator from Florida offers the following modified amendment, which will be stated by the Secretary.

The READING CLERK. On pages 168, 169, and 170, it is proposed to strike out subdivisions (a), (b), (c), and (d) and to insert in lieu thereof the following:

> Subdivisions (a), (b), (c), and (d) of section 500 of an act entitled "An act to provide revenue, and for other purposes," approved February 24, 1919, be, and the same are hereby, repealed to take effect 10 days after the approval of this act, and that the taxes imposed under these subdivisions shall be discontinued at the end of the tenth day after the approval of this act.

Mr. LENROOT. Mr. President, I have just a word to say with reference to this amendment.

I have been one of a number of Senators who have been very active in attempting to secure the repeal of the transportation tax. I believe that it is perhaps the most important tax that should be repealed at the earliest possible moment. The bill as reported out by the committee carried a continuation of this tax at one-half of the present rate during the calendar year 1922, and I want to say frankly that there were some of us on this side who made a proposition to the majority Members that included the repeal of the transportation tax beginning on the 1st day of next January. That understanding was reached. I am a party to that understanding, and I feel bound by it, and I shall vote with the committee to have the repeal effective on the 1st day of next January.

In addition to that, Mr. President, I should like to ask the Senator from Florida how he would supply the revenue that would be lost by the immediate repeal of the transportation tax?

Mr. TRAMMELL. Mr. President, my suggestion would be that we get the revenue from some of the sources which the committee in its original bill proposed to have discontinued, and discontinued as of January 1, 1921; in other words, to let those who were to be the beneficiaries of that entire discontinuance of the tax continue to pay it for this year.

Mr. LENROOT. Let me ask the Senator if he would favor the continuance of the tax, for instance, upon toilet soaps and matters of that kind?

Mr. TRAMMELL. Mr. President, I should like to ask the Senator if he would favor the continuance of the present surtax upon incomes of over $66,000 per annum? I would favor that, although the committee sought to cut it down and relieve them from a large part of the taxation to which they are subjected under the present law. Why, certainly, if you are going to reduce taxation, I would say cut it off of toilet soaps, or something of that kind, instead of taking it off of the people who are paying taxes upon incomes of very large amounts.

Mr. LENROOT. But those taxes are on them now. What would the Senator propose to supply the revenue between now and the 1st day of next January?

Mr. TRAMMELL. I think, with all this great reduction in expenses that we hear of, running into the millions and millions, they will get along very well without this. Let them cut down expenses, as suggested by another Senator.

Mr. LENROOT. Mr. President, with reference to the surtax, the Senator from Florida must not shake his gory locks at me upon that proposition. If the Senator from Florida has been following recent events at all, he knows that I have been very active in securing an increase in the surtax rates proposed by the committee up to 50 per cent, and his side of the aisle has only proposed to increase them to 52 per cent, a difference of only 2 per cent. Furthermore, with reference to this surtax, I am informed that the revenue that will be produced by a continuation up to this point over that which is now proposed will amount to $16,000,000, to offset something like $40,000,000 that will be lost by the Senator's amendment. But, more than that, Mr. President, I wish I could believe that this bill will become a law within the next two or three weeks.

I doubt very much whether it will become a law and become effective until about the middle of November, which would leave only about six weeks for the Senator's amendment to apply; and there certainly should be some time—not six weeks, necessarily, but some time—between the going into effect of this revenue law and the repeal of the tax, so that it will not be collected from the shippers and not paid into the Government Treasury.

Mr. FLETCHER. Mr. President, will not the Senator from Wisconsin state how much revenue would be derived from this transportation tax for a month and two weeks, or six weeks?

Mr. LENROOT. About $265,000,000 for the year, which would be twenty or twenty-five million dollars a month.

Mr. POMERENE. Mr. President, I think one of the burdens on business which has been felt by the rich and poor alike has been this tax on transportation. I am afraid Senators do not realize what this means to the traveler, or to the shipper, or to the producer, or to the consumer, and it all comes out of the consumer eventually.

The tax amounts to from twenty to twenty-five million dollars a month. The country is looking for relief, and looking for relief that will be widespread, and I do not know of any relief that would be more encouraging to the producing public than to have it known that these taxes were to be repealed, and now.

Mr. President, the Senator from Wisconsin has referred to the fact that he was one of the committee that has entered into agreements with the Finance Committee. I am not a member of the Finance Committee, so I am not responsible for this bill, and I am not a member of the temporary Finance Committee, which has displaced the Finance Committee, and I do not know that I am bound by any of their acts at all. I would like to know pretty soon who constitute the Finance Committee in the Senate.

But if this is a good thing to take effect on January 1, if the Finance Committee itself has surrendered a tax of 1½ per cent on all transportation to take effect on that date, I am willing to go a step further and join with the Senator from Florida to have it repealed, the repeal to take effect 10 days after the approval of the bill.

I recognize the fact that we must have revenues, but we will hope that the country is not going to suffer seriously because the revenues on transportation may be decreased a matter of $20,000,000 a month for perhaps a period of six weeks. I say six weeks because I do not think this measure can pass through the Senate, and then through a conference, much before the middle of November.

I hope the amendment of the Senator from Florida will prevail.

The PRESIDING OFFICER. The question is on the amendment to the amendment, and the Senator from Florida has demanded the yeas and nays.

Mr. McCUMBER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Ball	Glass	McCormick	Simmons
Borah	Hale	McCumber	Smith
Brandegee	Harreld	McKellar	Smoot
Broussard	Harris	McKinley	Spencer
Calder	Harrison	McNary	Sterling
Cameron	Heflin	Nelson	Sutherland
Capper	Johnson	New	Swanson
Caraway	Jones, N. Mex.	Newberry	Townsend
Colt	Kellogg	Nicholson	Trammell
Cummins	Kendrick	Oddie	Underwood
Curtis	Kenyon	Overman	Walsh, Mass.
Dial	Keyes	Page	Walsh, Mont.
Dillingham	King	Poindexter	Warren
Ernst	Ladd	Pomerene	Watson, Ga.
Fernald	La Follette	Ransdell	Watson, Ind.
Fletcher	Lenroot	Sheppard	Williams
Frelinghuysen	Lodge	Shields	Willis

The PRESIDING OFFICER. Sixty-eight Senators have answered to their names. A quorum is present. The yeas and nays have been demanded on the amendment offered by the Senator from Florida to the committee amendment.

The yeas and nays were ordered, and the Assistant Secretary proceeded to call the roll.

Mr. CARAWAY (when Mr. ROBINSON's name was called). My colleague [Mr. ROBINSON] is unavoidably absent. I would like to have this announcement stand for the day.

Mr. SUTHERLAND (when his name was called). I have a general pair with the senior Senator from Arkansas [Mr. ROBINSON]. I transfer that pair to the junior Senator from Idaho [Mr. GOODING] and vote "nay."

Mr. SWANSON (when his name was called). I have a pair with the senior Senator from Washington [Mr. JONES]. I transfer my pair to the junior Senator from Rhode Island [Mr. GERRY] and vote "aye."

The roll call was concluded.

Mr. RANSDELL (after having voted in the affirmative). I have a pair with the Senator from New Mexico [Mr. BURSUM]. I transfer that pair to the Senator from Nebraska [Mr. HITCHCOCK] and let my vote stand.

Mr. DIAL. I have a pair with the senior Senator from Colorado [Mr. PHIPPS]. I transfer that pair to the senior Senator from Missouri [Mr. REED] and vote "yea."

Mr. HARRISON (after having voted in the affirmative). I have a general pair with the junior Senator from West Virginia [Mr. ELKINS]. I transfer my pair to the senior Senator from Arizona [Mr. ASHURST] and allow my vote to stand.

Mr. ERNST. I have a general pair with the senior Senator from Kentucky [Mr. STANLEY]. I transfer that pair to the junior Senator from Oregon [Mr. STANFIELD] and vote "nay."

Mr. CURTIS. Mr. President, I wish to announce the following pairs:

The Senator from Connecticut [Mr. McLEAN] with the Senator from Montana [Mr. MYERS];

The Senator from Pennsylvania [Mr. PENROSE] with the Senator from Mississippi [Mr. WILLIAMS]; and

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN].

The result was announced—yeas 30, nays 38, as follows:

YEAS—30.

Broussard	Johnson	Nicholson	Swanson
Caraway	Jones, N. Mex.	Overman	Trammell
Dial	Kendrick	Pomerene	Underwood
Fletcher	Kenyon	Ransdell	Walsh, Mass.
Glass	King	Sheppard	Walsh, Mont.
Harris	Ladd	Shields	Watson, Ga.
Harrison	La Follette	Simmons	
Heflin	McKellar	Smith	

NAYS—38.

Ball	Ernst	McCormick	Smoot
Borah	Fernald	McCumber	Spencer
Brandegee	France	McKinley	Sterling
Calder	Frelinghuysen	McNary	Sutherland
Cameron	Hale	Nelson	Townsend
Capper	Harreld	New	Warren
Colt	Kellogg	Newberry	Watson, Ind.
Cummins	Keyes	Oddie	Willis
Curtis	Lenroot	Page	
Dillingham	Lodge	Poindexter	

NOT VOTING—28.

Ashurst	Gooding	Norbeck	Robinson
Bursum	Hitchcock	Norris	Shortridge
Culberson	Jones, Wash.	Owen	Stanfield
du Pont	Knox	Penrose	Stanley
Edge	McLean	Phipps	Wadsworth
Elkins	Moses	Pittman	Weller
Gerry	Myers	Reed	Williams

So Mr. TRAMMELL'S amendment to the committee amendment was rejected.

The PRESIDENT pro tempore. The question now is upon agreeing to the committee amendment beginning at line 12, on page 168, and ending with line 11, on page 170.

Mr. McCUMBER. I move to strike out from the committee amendment all after line 11, on page 168, down to and including line 11, on page 170.

The PRESIDENT pro tempore. The amendment to the amendment will be stated.

The ASSISTANT SECRETARY. The Senator from North Dakota moves to strike out, beginning with subsection (A), line 12, and all down to and including line 11, on page 170, or subsections (A), (B), (C), (D), and (E).

The amendment to the amendment was agreed to.

Mr. HARRISON. Mr. President, am I to understand that the amendment offered as a committee amendment has been agreed to, or was an amendment to the amendment adopted?

The PRESIDENT pro tempore. It is an amendment to the committee amendment that was agreed to.

Mr. McCUMBER. Mr. President, at this point may I suggest that there are a number of amendments which are purely clerical, changing numbers, and so forth, and I wish that they could be passed en bloc, if there is no objection. I will state that they merely change the letters, numerals, and so forth. This is an administrative provision, and the letters of the subsections stricken out, of course, go out with them.

Mr. HARRISON. I desire to address the Senate very briefly, but I do not wish to do so until the transportation amendment has been agreed to in its final form.

Mr. McCUMBER. That has been agreed to.

Mr. LODGE. These are merely minor perfecting amendments.

Mr. FLETCHER. Mr. President, may I interrupt the Senator a moment?

Mr. HARRISON. I yield to the Senator from Florida.

Mr. FLETCHER. The way the matter stands now there is nothing inserted by the committee and there is nothing to take the place of what has been stricken out, so that the bill now reads that—

From and after January 1, 1922, there shall be levied, assessed, and collected and paid, in lieu of the taxes imposed by section 500 of the revenue act of 1918—

What?

Mr. McCUMBER. If the Senator will turn to page 170, he will find subdivision (F), which reads:

In the case of each telegraph, telephone, cable, or radio, dispatch, message, or conversation—

And so forth.

It follows right along there, except that we shall have to change the numerals, and that is all I was about to do.

Mr. HARRISON. Mr. President, it was not expected that the Senator from North Dakota [Mr. McCUMBER] would know just what was in his amendment, and it was perfectly natural a few moments ago, when he offered the amendment touching transportation and the amendment was read from the desk, that he should inquire what was being read, because I have no doubt that the Senator had never read it before. It had been handed to him by the so-called agricultural bloc or perhaps the alleged progressive coterie on the other side of the aisle.

Mr. McCUMBER. Mr. President, if the Senator will allow me, I am, of course, rather indifferent to slurs——

Mr. HARRISON. I was complimenting the Senator.

Mr. McCUMBER. But the Senator from Mississippi sees fit to indulge in them. I, however, did not ask any questions concerning the amendment. It was not my amendment to start with. The clerk was reading the law as it now stands, which had been agreed to as a part of the committee amendment. I made no inquiry as to what was being read. I raised the point of order at that time, which I, of course, had the right to do, I assume, as to whether the amendment of the Senator from Florida [Mr. TRAMMELL] was not in effect the same, word for word, as had already been offered.

Mr. HARRISON. It was not expected that the Senator was to know anything about the amendment, because we had gathered from the papers every day that the amendments that are now proposed, not as committee amendments, as I understand, but by individuals, are either the amendments substantially prepared by the Senator from North Carolina [Mr. SIMMONS], ranking Democratic member of the Finance Committee, or by the agricultural bloc, led by the distinguished Senator from Boston [Mr. LODGE], aided and abetted by the distinguished Senator from Chicago, Mr. MEDILL McCORMICK. So I can understand thoroughly why the Senator from North Dakota should have inquired "what it was" when it was being read. It was the amendment that was handed to the Secretary at the desk, as I understand it, sent there by the distinguished Senator from North Dakota. If the Senator from North Dakota will permit, I may say I sympathize with the Senator.

Mr. McCUMBER. I state to the Senator from Mississippi that nothing of the kind was sent to me, and if the Senator would first correct his own errors he would be in a much better position to criticize anything that I have stated. I know the Senator would not do it from that entirely erroneous standpoint. If the Senator did not understand what was going on and simply thought I had asked for something, I think he ought to acknowledge, inasmuch as I asked for nothing of the kind, that he was in error.

Mr. HARRISON. The Senator from Mississippi understood exactly as he stated he understood it, and other Senators present understood it as I understood it. But I can understand why the Senator from North Dakota should feel as he does right now, because he is not in sympathy with the bill as it is about to be framed by the Senate. He has said that it is "sufficiently complex" in its original form as brought out of the committee, and he has stated further that he is not in sympathy with the amendments which have been forced upon the majority members of the Finance Committee by the so-called agricultural bloc.

Mr. McCUMBER. Will the Senator pardon me right here to correct him again——

Mr. HARRISON. I am very glad to be interrupted.

Mr. McCUMBER. Simply because I am in sympathy with this particular amendment; and I voted for the same thing in the committee, to relieve from all taxation transportation beginning upon the 1st day of January next. Therefore it was entirely in harmony with my views and my previous vote.

Mr. HARRISON. I am glad the Senator is able to find one provision in the bill which is forced upon the committee that meets his approval, because I have understood from his remarks that all of the suggested amendments which the committee had been compelled to accept did not meet his approval.

Now, I commiserate with the distinguished members of the majority party on the Finance Committee. I have a very deep sympathy for them in the treatment that has been accorded to the so-called old guard that makes up the majority membership on that committee. When this session of Congress first started there was a great deal of talk on the part of so-called progressives that they would reform certain committees in the Senate so that they could obtain some progressive legislation therefrom. But under some mysterious wand you harmonized your differences and the looked-for opposition to that committee at that time did not arise.

You are getting exactly what is due you. That committee was stacked from the beginning. It was stacked with the reactionary element of the majority party in the Senate, and because of that not a ray of hope was left in it for the progressive element within your own party in the country. It was natural that you should bring from it a bill that would meet not only the condemnation of Democrats but of the progressive element in the Republican Party.

Of course, we have been offered no explanation of the bill. It has been before the Senate now for weeks and your sphinx-like silence has continued. I ask now if it was not the policy

of the majority members of the Finance Committee when they voted out the bill to withhold any explanation of it so that they might rush it through the Senate. That was the policy, and you have adhered to it up to this good hour.

The distinguished chairman of that great committee [Mr. PENROSE] has talked to newspaper reporters outside of the Senate about the bill, but he has made no speech upon the floor of the Senate explaining the iniquitous provisions of the bill. The only speech of any length that has come from the other side was that made by the distinguished Senator from Utah [Mr. SMOOT] this morning, and he criticized the bill more than he praised it.

We expected some explanation. It was due us. The provisions of the bill should have been explained. I wish to say to the so-called progressive element in your party that you are responsible, too, for the procedure and the policy that was laid down by the steering committee on the other side of the Chamber and the majority members of the Finance Committee. Why did you not force some of them to explain it? If it had not been for the splendid and logical speeches made by Senators on this side of the aisle, especially by the distinguished Senator from North Carolina, the ranking member of the minority on that committee, who by his merciless analysis and exposures of the defects in the bill aroused public sentiment against it and brought the influence to work upon the so-called progressives on that side. He and the distinguished Senator from Missouri [Mr. REED] and other members of the minority on that committee, especially Mr. GERRY and Mr. WALSH of Massachusetts, aided by the press, have explained the provisions of the bill—because the country was thus informed of the bad features in the bill and a backfire was started. You heard from your constituents, and then for the first time you so-called progressives put on your spurs and buckled on your armor and began to fight the old guard on the Finance Committee.

The so-called progressive Senators on the other side of the Chamber were "asleep at the switch" though, and they would never have awakened had it not been for the aggressive fight which was waged by the minority in this Chamber. So I sympathize very much with the distingushed Senator from Pensylvania [Mr. PENROSE], and my good friend from North Dakota [Mr. MCCUMBER], who to-day appears a little nervous and somewhat irritable. That is not natural with him, for I saw him sit here for weeks championing the cause of the soldiers of his country, sponsoring a bill that was brought out and voted for by the great Finance Committee of the Senate; I saw him then submarined, but he did not become worried nor irritable a bit; he took his medicine like a man, and said, "In the interest of the party, and to abide by the will of the President, we withdraw the soldiers' adjusted compensation bill." Of course it humiliated the committee. But your committee of the Committee on Finance has wabbled so and traveled without a program so long you have lost the respect of the country.

Speaking of the old guard members of the Finance Committee, I wish the distinguished Senator from Pennsylvania were in his seat. I know he loves all of the progressives and of course feels kindly toward everybody on the other side of the Chamber. But their present action is so unlike the "old guard" of yesterday; the "old guard," I mean, that truly represents the principles of the Republican Party; that has always, in this Chamber and the other, sponsored Republican theories, and no matter what kind of opposition arose were courageous enough to put their measures through. I admire the "old guard," because they are generally frank and have plenty of courage. They know whom they are here to serve, and they have always served them, unvarying to the end. However, in all the history of the Republican Party in this Chamber and the other I have never before known the "old guard" to be put to such rout and surrender without giving battle. It is so unlike the distinguished Senator from North Dakota [Mr. MCCUMBER], the distinguished Senator from Pennsylvania [Mr. PENROSE], and the Senator from Connecticut [Mr. MCLEAN], who the other day, on his birthday, sang his "swan song" trying to defend the iniquities of the pending measure. It is so unlike the distinguished Senator from Vermont [Mr. DILLINGHAM] and my friend from New York [Mr. CALDER] and the other members of the reactionary element of the Republican Party on the committee.

Oh, I would not forget my friend the distinguished Senator from Indiana [Mr. WATSON]; I could not. He is there; but smart as he is, he perhaps knew that it would not do to give battle on this occasion, and so the Republican Senators on the committee immediately surrendered.

Of course, it is peculiarly strange that the distinguished Senator from Massachusetts [Mr. LODGE], the leader of the majority in this body, should attend one of the meetings of the progressives, should join the "bloc," and help to submarine the "old guard" of the Finance Committee. I suppose the distinguished Senator from Massachusetts believes that it is best for him to follow that old adage, "If you see they are going to beat you, then 'jine' 'em." So he "jined" them.

I wonder how the Senator from Indiana and the Senator from North Dakota and the Senator from Pennsylvania felt when they picked up the newspaper the next morning and read of the meeting at the house of the Senator from Kansas [Mr. CAPPER], where the alleged progressives and agriculturists of that party had met with the leader of your party in the Senate to serve notice upon the Finance Committee that the bill which they had brought out was all wrong and that the Democratic theories as announced in the speech of the Senator from North Carolina [Mr. SIMMONS] must be accepted.

I am also wondering who was chosen to be the emissary of that agricultural "bloc" which met that night to carry the message upon their part to the distinguished Senator from Pennsylvania, the chairman of the Finance Committee. They would never have been able to obtain the consent of the junior Senator from Illinois [Mr. MCCORMICK] to go to the Senator from Pennsylvania. They may have worked it in such a way, because of his affability and his sweet personality, as to get the distinguished senior Senator from Kansas [Mr. CURTIS] to break the news to the chairman of the Finance Committee, or it may have been that they thought the best way to proceed—because the avenue of approach to the chairman of the committee to some was dark and dubious—was to approach the distinguished Senator from Kansas, who in turn might go to the future leader of the majority in this Chamber, the distinguished Senator from Indiana. They may have figured it out that the Senator from Indiana was closer to the chairman of the committee than was anyone else, and, with his suave and diplomatic manner, could have patted the Senator from Pennsylvania on the back and soothed his ruffled feelings. At any rate, however, the news was broken to the Senator from Pennsylvania; and finally there came forth from the Finance Committee—not with the consent of the Senator from Utah [Mr. SMOOT], because his mind is fixed and his efforts are concentrated to obtain the sales tax or manufactures tax and so he was not in sympathy with them—some amendments which we have here now and which are about to be offered, but which the Senator from North Dakota says are not committee amendments.

I do not know whether he is going to offer them or whether some other Senator is, but the amendments are the strongest indictment yet made against the bill.

You who have been talking about efficiency in Government service, you who but a few months ago made the people believe that you could cut expenses and write a tax bill and a tariff bill that would cure all our economic ills, you who have striven so hard for three years—for it was over three years ago when a Democratic President, whose heart was with the people, came to the Congress controlled by you and asked you to revise the tax laws—have you done anything to lift the tax burdens from the people? No; but you have been working three years to do it, and to show the marvelous efficiency and great ability of the "best minds"—I believe they are called "best"—of the Republican Party, over night the deliberations of three years are set at naught and their handiwork is destroyed. How can you imagine that the people can possibly have any confidence in you when you fight among yourselves in that way? So it is natural that one with a big heart should sympathize with the distinguished chairman of the Finance Committee with all the cross currents of thought working upon him and remembering the promises which have been made.

One element of the Republican Party promised to take the taxes from the people and revise the tax laws downward, while the other element were trying to arrive at an agreement, though not in an open way by "open covenants openly arrived at," with a gang up in New York. I am not saying that the Senator from Utah was within that last element, but he knows that there were certain promises made in the last campaign to the interests of this country that have been concerned in the question as to how much taxes they were to pay, and that those interests were promised certain things in the tax laws.

That crowd came here and had a meeting on the 25th of May. I do not know whether they met in the room of the Senator from Pennsylvania in the Capitol or not; I do not know whether they visited the Senator from Utah or the Senator from North Dakota, but they were here; they traveled all the way from New York and they met in conference on the 25th of May. In that conference there were J. Pierpont Morgan, of the "House of Morgan"; Charles A. Sabin, of the Guaranty Trust Co.; C. E. Mitchell, of the National City Bank; William Kemp, of the Bankers' Trust Co.; Paul Warburg, of Kuhn, Loeb & Co.;

H. C. McEldowney, of the United States Trust Co. of Pittsburgh; Benjamin Strong, of the New York Federal Reserve Bank; and Secretary Mellon, the second largest income taxpayer in America to-day. They held their conference in the White House with President Harding, who was nominated at Chicago by the same reactionary bunch that wrote this bill and brought it out in its original and objectionable form.

Do Senators know what the New York Journal of Commerce said about that meeting at the White House on the following morning? Here is what they said—and they knew; they were speaking by the card—

A new era in the relationship of the United States Government and the Nation's financial and business leaders is believed to have been inaugurated in the conference to which President Harding summoned several New York bankers on Wednesday night. These bankers returning yesterday from the meeting, which was participated in by representatives of the Cabinet, observed the customary reticence in discussing what had taken place. They did not, however, hesitate to show their gratification at the development.

The next day this same Journal of Commerce said:

One thing which Wall Street took extreme satisfaction in yesterday was the evident willingness of President Harding to learn. He admittedly is not an expert in financial affairs, but he is ready to accept advice and willing to be set right where he is wrong.

Those were the views entertained on Wall Street after that meeting; but yesterday a new light broke in that part of the great metropolis. How does the Wall Street crowd now feel since the old guard that promised them relief has surrendered without giving battle? Here is what they say. This is from the Wall Street Journal of yesterday. Oh, they have changed their views now. Let me read. It is headed:

HOLDUP OF THE REVENUE BILL.

Compromise is justifiable when desirable ends can be achieved in no other way and no principle is sacrificed. The House and Senate revenue bills were examples of compromise that accomplished at least an installment of tax amelioration. The pusillanimous surrender of Republican leaders is in no sense a compromise.

They were talking about you then—

It is a cowardly retreat—

Listen to it, may I ask the Senator from Indiana. I am afraid he did not catch that last expression—

The pusillanimous surrender of Republican leaders is in no sense a compromise.

Mr. WATSON of Indiana. Mr. President, who wrote it?

Mr. HARRISON. This is from the Wall Street Journal. This is the organ controlled by the same interests that said, the day following the conference at the White House between Morgan and Sabin and President Harding, that a new day was dawning in America. So I read further, to the delight, I am sure, of my friend from Indiana, and I am glad the Senator from Utah [Mr. SMOOT] is listening:

It is a cowardly retreat before a gang of demagogues, euphemistically called an agricultural bloc.

I am sorry that the leader of the majority party in the Chamber is not now in his seat, because he has gone over to the agricultural bloc. He has taken the reins from the Senator from Iowa [Mr. KENYON], who led in this movement. Oh, how these progressives of old have been supplanted by the progressives of to-day! LA FOLLETTE, who sat on the Finance Committee for weeks and fought by the side of the Democratic members of that committee in the interest of the people to reduce taxes—yes, he was in favor of retaining as a maximum a large surtax; but when this progressive element meets up at Senator CAPPER'S house this former leader of progressivism is forgotten. This man who helped to make the fight in the committee is ostracized. The Senator from Idaho [Mr. BORAH] and the Senator from far-away California [Mr. JOHNSON], who were once known in this country as real progressives, have been supplanted by the Senator from Massachusetts [Mr. LODGE] and the Senator from Minnesota [Mr. KELLOGG] and the Senator from Colorado [Mr. NICHOLSON] and the Senator from Nevada [Mr. ODDIE] and those others who formerly belonged to the reactionary group. That is the way the world runs; and my friend the Senator from Wisconsin [Mr. LENROOT] is now called a demagogue, and the Senator from Kansas [Mr. CAPPER], who opened his doors and filled high the festive board to receive these distinguished new progressives and agriculturists from Boston and Chicago, is called in this article a demagogue.

It is a cowardly retreat before a gang of demagogues.

I do not know in which class this paper has placed my friend the distinguished Senator from Indiana [Mr. WATSON], because he has been on both sides of the proposition, and I do not know whether he was charging or retreating; but, anyway, they say in one instance that he was pusillanimous, and in the other that he was a demagogue. So this great paper, the organ of the moneyed interest, goes further, and talks about your bill in this way:

Ordinarily a fight over a revenue measure involves at least some degree of self-interest on the part of the contestants. The fights between protection and free trade have always frankly contained elements of direct benefit to one side or the other. In the present fight, House and Senate bills contain elements of benefit to all. The Senate bill is slightly of greater quality; but the amendments forced by the agricultural bloc—

Here is what they say about your amendments, and I speak to the distinguished Senator from Kansas [Mr. CAPPER]:

But the amendments forced by the agricultural bloc contain not one germ of benefit to anyone, and destroy every benefit conferred by the original bill.

And the editorial further says:

Barring the possibility at present of a sales tax, the general welfare found some promise of betterment in the House and the Senate bills. The Senate bill was better than the House bill, because it abolished the capital-stock tax and retained in part at least the transportation taxes, which tell the taxpayer what he is paying. The present surrender gives up everything that was of any practical benefit in either bill.

And then this editorial closes by saying:

Better far would be retention of the present law, with repudiation of all promises—

There is where you made your promises, and here is your organ which says that you are repudiating your promises when you accept the suggestions of the agricultural bloc—

than a cowardly surrender of every principle, with no resulting benefit to anyone, anywhere.

Mr. President, it is enough to make the country disgusted with them. One moment they offer an amendment carrying out certain ideas, and the next day there is a revolt, and another suggestion is made. There is no harmony anywhere.

You have lost the respect of the country. You have so many blocs over there now—the manufacturers' bloc, the tariff bloc, the agricultural bloc, and so on—that some one has said you have too many blocks, and you ought to get down to business and stop playing with your blocks so much, and that is the way the country feels about it.

You deserve no credit, you so-called progressive Republicans. You did not open your mouths until you saw that the country would condemn you, and condemn the reactionary crowd also, if you did not wake up. If it had not been for the speech that was made by the distinguished Senator from North Carolina [Mr. SIMMONS], making the suggestions that he did, offering the amendments that he did, backed up by a united and militant Democratic minority in this Chamber, I doubt if a single voice from the other side would have been lifted in opposition to the bill; and then the old guard would have just slipped it through, and again the promises to the people, not to the special interests, would have been broken. But you were frightened at the situation, and you took the bits in your mouth and you forced the old guard then to surrender.

Oh, it is a new day! I saw in the paper where the western progressives now are controlling the Republican Party. That is what they say in the eastern papers. No doubt the Senator from New Hampshire and the Senator from Rhode Island and the Senator from New York have told them that a progressive Republican is worse than a Democrat; but the papers are carrying it, and in the West the work of the so-called progressives has been heralded in big headlines: That you have saved the day, that you have given battle to the old guard, that you have put them to rout, that confusion is holding sway here, that they ran up the white flag of surrender immediately when assaulted. That is what the papers of the West are saying, and it is about true, is it not?

The way the old guard once worked and carried out their policies and executed their plans was very much like that gallant and brave and courageous body that fought upon the battle field of Waterloo. The old imperial guard, although the term was applied to them, "Brave Frenchmen, surrender," chose not to surrender but to give battle; but no longer can it be said of the stalwart crowd within the ranks of the Republican Party that has dominated it so long that it is a powerful element within its ranks. Why? They can snapshot at you now, and you will run; you are so afraid that a small, independent minority will be able to put something over on you.

Why, of course a coalition was formed. Of course, the progressive Republicans over there were brought into line with the solid Democratic minority and forced these reforms in this new tax bill; and whatever relief may come from it—and it is much—is due largely to the efforts of the senior Senator from Wisconsin [Mr. LA FOLLETTE], who labored in the committee while other Republicans were around the festive board in some agricultural bloc or somewhere else, conspiring against such distinguished leaders as the Senator from Utah [Mr. SMOOT]

and the Senator from Indiana [Mr. WATSON] and the Senator from Pennsylvania [Mr. PENROSE], working in the darkness of the night, submarining them; and they made a good job of it. But they did not do it until they had procured the services of the distinguished senior Senator from Massachusetts [Mr. LODGE], who has become an adept in using the torpedo.

What were the proposals that were made by the distinguished senior Senator from North Carolina in his speech, the first speech that was made regarding this bill? The Senator from Wisconsin [Mr. LENROOT], for whom I have great respect and admiration, always a good, hard fighter, the other day became very angry because of the statement which was made by some Democratic Senator claiming credit for bringing about this coalition and these reforms. He said, "I offered an amendment to this bill September 29," I believe it was. Oh, yes; he offered his amendment.

The Senator from Oregon offered an amendment—many amendments were offered—but we know what amendments are sometimes offered for. We know that it enables a Senator to go back to his people and say, "Look here what I did. I tried to serve you and offered an amendment."

Mr. President, the best way to serve is not only to offer amendments but to take the floor and point out the reforms that are carried in your amendments, speak out in meeting, fight for what you believe in, and bring about the results. The Senator from Wisconsin never opened his mouth to oppose the provisions of this bill, except through his amendment and except on the occasion when he spoke in answer to the speech of the Senator from Utah touching the sales tax. It was the Senator from North Carolina who laid bare the iniquities of this bill. He was giving the Democratic viewpoint, and the same was true of the report he filed, signed by the other Democratic members of the committee and indorsed by the distinguished senior Senator from Wisconsin.

In his speech and in his report the Senator from North Carolina proposed to increase the surtax on incomes from a maximum of 32 per cent, as provided in the bill, to a maximum of 52 per cent. I understand now that the Republican surrender program carries with it the suggestion that you will adopt a 50 per cent surtax as a maximum.

The Senator from North Carolina, both in his report, in his speech, and through amendment, proposed to restore the capital-stock tax on corporations, estimated to raise $75,000,000 of revenue. That is repealed in the bill. Now we understand that as a part of the Republican program of surrender an amendment will be offered to restore the tax in full. Thus again you come and accept a suggestion made from this side.

In the speech of the Senator from North Carolina and in his report and in amendments he proposes to strike out the exemption of $2,000 allowed in the bill on corporate incomes. We understand that as a part of the Republican surrender program that will be done, except as to incomes below $20,000, and the views of the Senator from North Carolina were sought, and it met his approval before the amendment, which will be offered shortly or is now pending, was agreed upon by the old guard and the agricultural bloc, as I understand, had come to pass.

Senator SIMMONS, in his speech and in his report and through amendment, proposes to repeal immediately the entire tax on passenger, freight, and Pullman transportation. That we did just a few moments ago through a committee amendment carrying out the surrender program of the old guard and the would-be progressives.

It was proposed by Senator SIMMONS in his speech and in his report that a greater reduction should be made in the miscellaneous taxes. Originally the reduction amounted to something like $70,000,000. You have in the surrender program, as I understand, offered amendments which will decrease it still further to $37,000,000. Thus it is, Mr. President, that the suggestions made by the Democratic minority are about to be written into the law and become a part of this revenue legislation.

But the fight has not been won. We have just begun. We know what elements are at work. We know the adroit hands of some of the leaders in this body, as well as other places in this city, leaders who could go before the people and fool the people as your leaders last October made one-half of the people believe that by voting the Republican ticket we would get into the League of Nations, and the other half believe that by voting for the Republican ticket we would stay out of the League of Nations. You fooled both sides. I know you are likely to put something over before this fight is finished. I know and you know how they work in conferences. Oh, the reactionary old guard will be in the conference room. I do not think the Senator from Utah will be among them, although I applied the compliment correctly when I said the old guard and the reactionary element would be there.

But the conferees upon the part of the Senate have been a part and parcel of the reactionary element of the Republican Party for a long time. The same is true of another body in this Capitol, and when they get into that conference to work out the details of this bill let me appeal to you of the agricultural bloc; oh, I wish the farmer Senator from Chicago, the distinguished Senator from Illinois, was in his seat, the new leader of the agricultural bloc in the Senate. Let me appeal to you of that bloc, and the so-called progressives, do not be "quarter horses." Stay with us until the fight is finished and the race is won. As these men sit in conference, do not give up, do not allow yourselves to be moved by the influence that is sure to come. From Wall Street? Yes. Will it stop at the White House? Yes. And stop at the Treasury? Yes. And then it will find its way into the subterranean passageway of the conference room. Stay by the guns, agriculturists and progressives on the other side. If you do, we over here will line up solidly with you, and unless they recommend the kind of report that will meet the approval, in part at least, of the American people, we will defeat the conference report. So we will see in just a little while whether your efforts and the speeches that were made around the festive board at Senator CAPPER'S house will hold good in the end, or if it is gross hypocrisy that you have been practicing; whether you are willing now to surrender, after you have won with us the fight temporarily.

Mr. WATSON of Indiana obtained the floor.

Mr. SMOOT. Does the Senator from Indiana desire to answer the Senator from Mississippi?

Mr. WATSON of Indiana. I do not desire to answer, because nothing has been said that needs to be answered.

Mr. SMOOT. That is what I thought, and I was going to ask that we now proceed with the bill.

Mr. WATSON of Indiana. I would like to make a few observations, however.

Mr. SMOOT. Very well.

Mr. WATSON of Indiana. Mr. President, I have a very great fondness for the Senator from Mississippi [Mr. HARRISON]. Our personal relations are most cordial, and, so far as I am concerned, shall so continue. He is usually eloquent and always willing to talk, and when not interesting is amusing, and because of our personal relations I like to listen to him.

But he has been more inconsistent on this occasion than I have ever known him to be before in public speech on the floor of the Senate. The main charge he makes against the Republican side is that we have surrendered to a progressive, or agricultural, bloc, and that because of that surrender the bill we are about to pass is not popular in Wall Street; and he read from the Wall Street Journal to show that the measure upon which we have tentatively agreed is not favored in that quarter. I am wondering if the Senator would be for a tax bill that was popular in Wall Street, and I am wondering if the Senator from Alabama [Mr. HEFLIN], who faces me, and who in every speech he makes, here or elsewhere, attacks Wall Street, is going to be against this bill and out of patience with the majority because the measure we enact here is not popular in Wall Street; and I am wondering whether or not my genial friend from Mississippi, who has just entertained the galleries to their great delight, will support this bill that is not popular in Wall Street.

My friend started his attack upon us by saying that we had deliberately "set up" the Finance Committee, that we had stacked it with reactionaries, that no name appeared on the list that was in favor of anything along the line of progressive legislation.

The all-sufficient answer to that charge is that not a single new Member on the Republican side was placed on that committee in this Congress. Every man was put on in the last Congress, when nobody had any conception of a change in tax or revenue legislation; put on before the election of 1920, when we did not know to a certainty, though we had good reason to believe in the wisdom and the judgment of the American people, as to just what the result might be. Therefore the charge that we stacked this committee in the interest of reactionary legislation, along either tariff or tax lines, is without foundation.

In the next place, the Senator said that the honorable Senator from North Carolina was the first man to suggest the new things which are to be placed in this bill. Senators, the real truth about it is that we have gone back practically to the House measure, and in all of this legislation there was constantly kept in view by what he calls both the reactionary and the progressive elements in the party here, if such there be, that the repeal of the excess-profits tax was the one great thing we promised the people of the United States in the last election, the one which our President promised, the one which our plat-

forms promised, and the one which Republican candidates for Congress all over the Union promised, and that was the one tax we intended to repeal at all hazard and at any cost. That goes out of the bill by practically unanimous consent on this side. It was for that thing that we made some compromises and some concessions, which is always done in legislation of this character.

My friend from Mississippi, like the honorable Senator from Missouri [Mr. REED], criticizes us because we did not know all the ins and outs and the intricacies and involvements of this legislation and were compelled to have experts on the floor to guide us in our deliberations. When was any great bill ever passed here that experts did not come and sit by the chairman of the committee who had the bill in charge and other experts who understood the situation, which is a perfectly legitimate proposition? What a great reason for criticizing a bill like this.

But I wish to call the attention of my friends on the Democratic side to this proposition. During the war, from the night the declaration was voted on the 6th of April, 1917, until armistice day, not one single political speech was ever made on the floor of the Senate. The lamented Senator from Missouri, Mr. Stone, on one occasion rose to make some observations of a political nature, but it was frowned upon by every Senator on the other side and on this side of the Chamber alike. No one else had the temerity to make a political speech during the continuance of the war. On the Republican side, both in the House and in the Senate, we supported your measures with greater unanimity than you supported them yourselves, because 72 per cent of all our votes were cast in favor of the great war measures, while but 67 per cent of the Democratic votes were cast in their favor. All over this Republic, in hamlet, in village, in town, in city, everywhere, Republicans united behind the proposition to win the war. We gave your party and we gave your President such unanimous support as no minority ever gave to the majority in all the recorded history of the world.

How do you return that kindness and that generosity and that patriotic endeavor? You answer by taunts, you respond by partisan appeals. We are now wrestling with the results of the war, the results entailed upon us by that mighty, that titanic conflict of the world's history. How do you assist us in solving the problems that confront us as the aftermath of that conflict? You criticize and you find fault, you backbite and you throw monkey wrenches in the machinery, and you do everything within your power to impede the progress of the country back to sound conditions and back to normalcy in the United States.

The time has come for the people to know that your side is playing politics with the situation while we are wrestling with the conditions which your administration left upon our hands.

It is as if one who stood amid the wreckage of a city caused by a mighty cyclone which had swept almost every house from its moorings, it is as if one who was trying to protect those buildings still remaining standing were to be criticized because seeking yet to protect something that still had form and substance, while you are going about seeking to add to the general wreckage and to the universal destruction.

The Senator from Mississippi criticizes us because we have not agreed, and he says there is no harmony anywhere. No, no! What troubles the heart of my friend from Mississippi is the fact that there is too much harmony over here, and that we are all together, and that in spite of his delay, in spite of his filibustering, and in spite of his tactics we propose to pass the bill as it comes from the Republican members of the committee, and we propose by this legislation to redeem the pledges made to the people by the Republican Party and to revive industry and rehabilitate the commerce of the United States.

My honored friend from North Carolina [Mr. SIMMONS], a splendid man, who gave unremitting efforts to the formulation of the bill, will not claim the credit for these things. Bless your soul, the transportation tax was stricken out in the House bill, and when the Republican members of the Senate Finance Committee came together to consider the general policy of the measure we unanimously voted to acquiesce in that action. The only reason why we put it back was because our experts said to us, "We are going to run out of revenue," and in our search for sufficient money to pay the expenses of government we thought it best to put it back—one-half of it for next year. Then when our members again came together and said they were not entirely satisfied with that action and wanted it stricken out entirely, we were anxious to strike it out, as our vote showed, and when we found we could get sufficient revenue without it we very willingly acquiesced in eliminating it from the measure.

The capital-stock tax that my genial friend the Senator from Mississippi said was put in the bill because the Senator from North Carolina [Mr. SIMMONS] had asked that it should be, was already in the law. It is in the law now. It is in the existing statute, and not one line of it has been changed by any proposition made by the Senator from North Carolina or made by anybody upon this side. That is all there is to that, although the Senate Finance Committee voted to strike it out.

Mr. SIMMONS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Indiana yield to the Senator from North Carolina?

Mr. WATSON of Indiana. I yield to the Senator.

Mr. SIMMONS. I merely desire to state that when the bill came from the Finance Committee that provision was stricken from the bill as it passed the House.

Mr. WATSON of Indiana. That is exactly true, but my friend the Senator from Mississippi has attempted to get the public to believe that the Senator from North Carolina originated the thought of the capital-stock tax and that nobody ever heard of it until he made his speech the other day, when the fact is that it is the existing law and there is nothing new about it. It is as old as this tax legislation.

Mr. SIMMONS. What I did, if the Senator will pardon me, was to object to the action of the committee in striking it out, and insisted that it should be restored, and I offered an amendment to that effect.

Mr. WATSON of Indiana. I understand that, just as every Senator objected to any feature he did not like, just as other Senators objected to other features of the bill. There is nothing new or original about it. That is done every day by Senators in this Chamber and upon this floor with reference to all bills and all propositions for new legislation.

The Senator from North Carolina has had experience and has great ability. He and other members of the minority sat in the committee every day, and my friend from Mississippi has tried to induce the country to believe that they just had their sleeves rolled up and were fighting day after day for these propositions. The fact is the Senator from North Carolina—and I violate no secret in making the statement—did not offer an amendment in the committee to put the capital-stock tax back, and I leave it to him now whether he did or not.

Mr. SIMMONS. I did not offer any amendments at all in the committee.

Mr. WATSON of Indiana. Precisely. The Senator sat there day after day, scarcely missing an hour of the meetings of the committee, and at no time offered any amendment or made any original suggestion, and then comes out on the floor of the Senate to criticize everything we did; and other Senators have done the same thing. The Senator is a very able man, and I honor him for his ability and his courage, and yet no single affirmative suggestion ever came from him in behalf of this legislation or in the interest of the enactment of a wise bill.

Mr. SIMMONS. That is hardly fair. I did repeatedly object and criticize, but I said that I would offer my amendments upon the floor of the Senate.

Mr. WATSON of Indiana. If the Senator repeatedly objected and criticized, I do not remember it. All I know is we engaged in general discussion in the committee on every one of the propositions that came up. The Senator may have objected to some of them. I do not know. It would have been all right if he had. There is nothing wrong about that because that is what committee meetings are held for. We do counsel and we do take into consideration all the facts and we do argue out the questions. That is the reason why committee meetings are held. Yet the Senator from North Carolina, according to his own statement, offered no amendment to correct any of the evils which they now say almost destroy the character of this measure. That is all there is to that.

Now, Senators, I have no desire to make a political speech——

Mr. SIMMONS. Will the Senator not finish that statement by saying that when the consideration of the bill was concluded I very vigorously opposed it and very vigorously voted against it, as did every other Democrat upon the committee?

Mr. WATSON of Indiana. Very vigorously voted against it? When the roll was called the Senator said "no," and that was the vigor the Senator manifested and that was the vigor we all manifested. When I voted for it I said "yea," and when he voted against it he said "nay."

Mr. HARRISON. The Senator voted both ways, did he not, in making the bill?

Mr. WATSON of Indiana. I did not. The Senator from Indiana believes that this is a political Government and that our

country is governed by and through the agency of political parties. I intend to hold my party together by making any concession I can up to the point of surrendering a principle, and I never intend to so vote as to throw the leadership of this body into the hands of the Democratic Party.

We talk about agricultural blocs and manufacturers' blocs and mining blocs. What I want is a Republican bloc in the United States Senate, and when they organize it I shall stay with it, because while the Republican Party may be wrong in some instances it is almost universally right and, thank God, it is more nearly right all the time than the Democratic Party ever is.

Mr. SIMMONS. If the Senator will pardon me, I would like to call his attention to the fact that the Senator from Wisconsin [Mr. LA FOLLETTE], who is as vigorously opposed to the bill as I am and who has joined in the minority report, is strong in his denunciation and criticism of the bill as reported by the committee. He offered no amendment in the committee, as I recall, but like myself he indulged in criticism now and then. I do not know whether he finally voted against it or not. I did.

Mr. WATSON of Indiana. The Senator from Wisconsin is able to speak for himself. I hold no brief for him. He has not asked me to say anything in his defense and, so far as I know, his conduct needs no defense. When the time comes for the Senator to speak for himself he has ample vocabulary and eloquence to state his own views in his own way to the people of the United States. Until he shall have so expressed himself I do not know whether, on the fundamental propositions of the bill, I shall agree with him or not.

There are many men of many minds in these great fundamental propositions, and it is the business of every man to express himself seriously and earnestly as he feels to be right in the committee. But I have never believed that a man should sit day after day in committee and see propositions put in a bill and make no effort to prevent the action, and then come out on the floor and undertake to denounce his associates and colleagues on the committee. But I am not setting up my own conduct as a standard for others to follow.

Senators, I know as well as I know I am living that there is a well-defined movement here to filibuster unostentatiously on this bill and on the railroad funding bill and on the foreign funding bill in order to throw the protective tariff measure over into the next year and just as nearly to the approaching campaign as is possible. I know these political speeches are going to be made in the Senate day after day and week after week for that express purpose and with that end in view. I have no sympathy with that. We on this side have the majority and after consulting with our Democratic friends we are entitled to action. The majority must act or government based upon the will of the majority, as is ours, will fail and fall and be destroyed. There are many matters of mutual interest and right in questions of this character.

In the first place, each individual is entitled to have his own words expressed in his own fashion and is entitled to the right of free speech on the floor of the United States Senate, and no one will attempt to interfere with that right. In the next place, it is the business of everybody jealously to safeguard the rights of the minority, and we intend to do that; but after those rights have been cared for then the sovereign right of the majority to legislate rises supreme and must and shall be respected in this body. I propose for one to promise our leader, the Senator from Massachusetts [Mr. LODGE], to rally enough people around him to sit here by day, and by night if necessary, in order to enable the majority to legislate upon the proposition as to which we have promised the people of the United States we would legislate. In that way we shall redeem our promises to the people; in that way we shall give assurance of the future prosperity of the United States; and in that way we shall again demonstrate that, while the Republican Party may not always be right, yet, after all, when we do carry our policies into execution, it inevitably results in the greatest good to the greatest number of the greatest people in the world.

Mr. SMOOT. Mr. President, there are a few clerical amendments which I should like to have acted upon in order to clean up this one subject matter.

Mr. SIMMONS. Mr. President, I understand the Senator from Utah proposes to offer quite a number of amendments which he says are made necessary by the changes which have been made. I have not had an opportunity to go over those amendments. I should be glad if the Senator would allow them to go over until the morning.

Mr. SMOOT. Then, I shall not ask to have the amendments acted on to-night.

Mr. SIMMONS. I wish to say, if the Senator will pardon me, that I have just received the notes as taken down of the proceedings before the majority members of the committee when these amendments were acted upon. I should like to have an opportunity to examine them and see if I have any objection to them. The probabilities are that I will have no earthly objection, but I prefer to examine them before acceding to them.

Mr. SMOOT. Very well.

The PRESIDENT pro tempore. If the Senator from Utah will suspend for a moment, the Chair calls attention to the fact that by oversight there has been one formal amendment passed over on page 167. If there be no objection, the Secretary will state the amendment.

The ASSISTANT SECRETARY. On page 167 the committee proposes to change the title, in line 20, by striking out that line and inserting:

Title V. Tax on transportation and other facilities.

The PRESIDENT pro tempore. Without objection, the amendment is agreed to.

MISSOURI STATE CAPITOL GROUNDS.

Mr. LODGE obtained the floor.

Mr. FERNALD. Will the Senator yield to me for a moment in order that I may submit a report from the Committee on Public Buildings and Grounds?

Mr. LODGE. I yield to the Senator.

Mr. FERNALD. From the Committee on Public Buildings and Grounds, I report back favorably without amendment the bill (H. R. 8297) authorizing the Secretary of the Treasury to convey certain lands to the State of Missouri for enlargement of the State capitol grounds of that State.

The PRESIDENT pro tempore. Without objection, the report will be received.

Mr. SPENCER. Mr. President, will the Senator from Massachusetts yield to me for a moment?

Mr. LODGE. I yield.

Mr. SPENCER. Mr. President, the State of Missouri has just erected a great capitol building. In order to round out the capitol grounds it is necessary that there be acquired a few feet of a street which the Government owns. The bill just reported by the Senator from Maine, which has passed the House of Representatives and which the Secretary of the Treasury indorses, proposes to quitclaim to the State of Missouri, without compensation, a few feet of a public street, in order to complete the capitol grounds. I therefore ask unanimous consent for the consideration of the bill at this time.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Missouri?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 8297) authorizing the Secretary of the Treasury to convey certain lands to the State of Missouri for enlargement of the State capitol grounds of that State. It authorizes the Secretary of the Treasury to convey by quitclaim deed to the State of Missouri, for enlargement of the State capitol grounds, and for no other purpose, all the right, title, and interest of the United States of America in and to that portion of Stewart Street, in the rear of the Federal building site, Jefferson City, Mo., which is particularly described as follows: Beginning at a point at the intersection of the southerly line of Main Street and the concrete curb on the westerly side of Stewart Street, said point being distant north 46° 24′ west, 50 feet from the northwesterly corner of the foundation of the two-story brick residence situate at the southeasterly corner of Main and Stewart Streets, running thence south 43° and 38′ west along said curb line 151$\frac{4}{10}$ feet to a point on said curb; thence on a curve to the right, the radius of which is 10 feet, 15$\frac{1}{4}$ feet to a point of reverse curve to the left; thence along said reverse curve, the radius of which is 38 feet, 59$\frac{1}{2}$ feet to the point of tangent to said curve; thence south 43° and 38′ west, 23 feet to the northerly line of inlot numbered 328, which is also the southerly line of Stewart Street; thence north 46° and 24′ west along the northerly line of said inlot, 76$\frac{7}{10}$ feet to the northwesterly corner of said inlot; thence north 43° and 38′ east, 80 feet to the northerly line of Stewart Street; thence south 46° and 24′ east and along the northerly line of said Stewart Street 104$\frac{7}{10}$ feet to the intersection of the westerly line of the north angle of Stewart Street; thence north 43° and 38′ east and along the westerly line of said Stewart Street 141$\frac{1}{10}$ feet to the southerly line of Main Street; thence south 46° and 24′ east and along the southerly line of Main Street 20 feet to the place of beginning; but the State of Missouri shall not have the right to sell or convey the described premises, nor to devote them to any other purpose than as described, and shall not erect thereon any structures or

improvements except such as are incidental to boundaries and ornamentation as part of the State capitol grounds; and in the event that the premises shall not be used as above provided and as part of the said State capitol grounds and cared for and maintained as such, the right, title, and interest hereby authorized to be conveyed shall revert to the United States.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

EXECUTIVE SESSION.

Mr. LODGE. Mr. President, in accordance with the understanding that was reached yesterday, as I believe and as I comprehend it, we were at a comparatively early hour to-day to go into executive session. I therefore make the motion that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After two hours spent in executive session the doors were reopened.

READMISSION TO NAVAL ACADEMY.

Mr. PAGE. From the Committee on Naval Affairs, I report back favorably without amendment the bill (S. 2504) providing for the readmission of certain deficient midshipmen to the United States Naval Academy, and I submit a report (No. 288) thereon. I ask unanimous consent for the present consideration of the bill.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That the Secretary of the Navy is authorized, upon application, to admit to and reinstate in the United States Naval Academy, subject to examination as to physical qualifications, as provided by law, but waiving the provisions of law as to age requirements, all former midshipmen at the United States Naval Academy found deficient at the end of the first term of the academic year 1920–21 whose resignations were asked for and received by the Superintendent of the Naval Academy: *Provided*, That they shall upon admission be placed in the class one year behind their former class in each case: *Provided further*, That said midshipmen affected by this act must signify their acceptance of the benefits thereof by presenting themselves for physical examination within one month of the date of its approval, and if found qualified will enter the Naval Academy immediately.

SEC. 2. That the clause in the act approved June 5, 1920 (41 Stats., p. 1028), entitled "An act making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1920, and for other purposes," which reads as follows: "That until otherwise provided by law no midshipman found deficient at the close of the last and succeeding academic terms shall be involuntarily discontinued at the Naval Academy or in the service unless he shall fail upon reexamination in the subjects in which found deficient at an examination to be held at the beginning of the next and succeeding academic terms, and the Secretary of the Navy shall provide for the special instruction of such midshipmen in the subjects in which found deficient during the period between academic terms," be, and the same hereby is, repealed, and section 1519 of the Revised Statutes restored to its full force and effect.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

RECESS.

Mr. LODGE. I move that the Senate take a recess until to-morrow at 11 o'clock.

The motion was agreed to, and (at 6 o'clock and 20 minutes p. m.) the Senate took a recess until to-morrow, Wednesday, October 12, 1921, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate October 11 (legislative day of October 4), 1921.

ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY.

Jesse S. Cottrell, of Tennessee, to be envoy extraordinary and minister plenipotentiary of the United States of America to Bolivia.

MEMBER OF THE FEDERAL TRADE COMMISSION.

George W. Upton, of Ohio, to be a member of the Federal Trade Commission for a term of seven years, vice John Garland Pollard, term expired.

COMMISSIONER OF IMMIGRATION, PORT OF NEW YORK.

Robert E. Tod, of New York, to be commissioner of immigration at the port of New York, N. Y.

COLLECTOR OF INTERNAL REVENUE.

J. Walter Jones, of Honolulu, Hawaii, to be collector of internal revenue for the district of Hawaii in place of Howard Hathaway, resigned.

HYDROGRAPHIC AND GEODETIC ENGINEER.

Lowell O. Stewart, of Michigan, to be hydrographic and geodetic engineer, with relative rank of lieutenant in the Navy, by promotion from junior hydrographic and geodetic engineer, with relative rank of lieutenant (junior grade) in the Navy, in the United States Coast and Geodetic Survey, in the Department of Commerce, vice Clem L. Garner, promoted.

APPOINTMENTS, BY TRANSFER, IN THE REGULAR ARMY.

QUARTERMASTER CORPS.

Lieut. Col. William Richie Gibson, Infantry, with rank from July 1, 1920.

SIGNAL CORPS.

Capt. William Samuel Rumbough, Infantry, with rank from February 26, 1920.

FIELD ARTILLERY.

Capt. William Sawtelle Kilmer, Corps of Engineers, with rank from July 1, 1920.

INFANTRY.

Lieut. Col. Walter Bogardus McCaskey, Quartermaster Corps, with rank from July 1, 1920.

PROMOTIONS IN THE REGULAR ARMY.

MEDICAL CORPS.

To be captain.

First Lieut. Howard Moore Williamson, Medical Corps, from April 10, 1921.

VETERINARY CORPS.

To be first lieutenant.

Second Lieut. John Richard Ludwigs, Veterinary Corps, from September 26, 1921.

CONFIRMATIONS.

Executive nominations confirmed by the Senate October 11 (legislative day of October 4), 1921.

COLLECTOR OF INTERNAL REVENUE.

Gilliam Grissom to be collector of internal revenue, district of North Carolina.

UNITED STATES ATTORNEYS.

Hugh C. Fisher to be United States attorney, western district of Louisiana.

Thomas P. Revelle to be United States attorney, western district of Washington.

UNITED STATES MARSHALS.

George A. Stauffer to be United States marshal, northern district of Ohio.

E. B. Benn to be United States marshal, western district of Washington.

POSTMASTERS.

ARIZONA.

Charles W. Hicks, Bisbee.
Ross H. Cunningham, Jerome.
Harry B. Magill, Oatman.
Harry B. Riggs, Patagonia.
Harry M. Wright, Somerton.

CALIFORNIA.

John N. Bennetts, Broderick.
Clara J. Firmstone, Portola.
Emelia R. Ross, Veterans Home.

CONNECTICUT.

Edgar W. Lewis, Chester.
Ethel B. Sexton, Hazardville.
Edna M. Jenkins, Middlefield.
Claude M. Chester, Noank.
Harvey Ackart, Rowayton.
Dexter S. Case, Soundview.
Louis M. Phillips, South Coventry.
Willis Hodge, South Glastonbury.
Rollin T. Toms, Springdale.
Robert A. Dunning, Thompson.
Edward F. Schmidt, Westbrook.

IDAHO.

Paul Bulfinch, American Falls.
Alta E. Bowen, Ririe.

ILLINOIS.

Ruth J. Hodge, Area.
Nancy Jamison, Biggsville.
Mercy Thornton, Elkville.
Benjamin A. Miller, Geneva.
Leslie K. Valentine, Hinckley.
Nellie S. Cowing, Homewood.
James M. Pace, Macomb.

Lewis S. Shrum, Orient.
Frank Gandy, Ulin.
Isaac A. Foster, Zeigler.

IOWA.

Frank L. Wuamett, Alvord.
Robert N. Seydel, Ladora.
Charles F. Brobeil, Lytton.
John E. Mieras, Maurice.

MICHIGAN.

William C. Hacker, Mount Clemens.
Charles J. Schmidlin, Rockland.

NEW HAMPSHIRE.

Warren W. McGregor, Bethlehem.
Reuben S. Moore, Bradford.
Harry E. Messenger, West Lebanon.

NEW JERSEY.

Joseph P. Caccio, Fairview.

OHIO.

Edward E. Truesdale, Delphos.

PENNSYLVANIA.

Louis Wiest, Aspers.
Howard S. Crownover, Curwensville.
Fred Goodman, Galeton.

SOUTH DAKOTA.

Hulda C. Roth, Columbia.

UTAH.

Rufus A. Garner, Ogden.

HOUSE OF REPRESENTATIVES.

TUESDAY, *October 11, 1921.*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty God, our everlasting Father, continue to feed our minds with understanding and our hearts with cheer and gladness. May we never count ourselves unworthy of burden bearing or suffering. Give vision that we may always pierce the clouds of perplexity and trouble with the bright gleams of faith and hope. Prepare us for the labors of the day, the events of to-morrow, and for eternity at the last. O may jealousies continue to cease among the nations and mad passions die out of the human breast wherever found. May there be born soon, O very soon, here upon our own soil, a great divine dispensation of mercy and education to the glory of God and for the peace of the world and the richest blessing of mankind. In the name of the Divine Teacher of men. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 665. An act to provide for free tolls for American ships through the Panama Canal.

SENATE BILL REFERRED.

Under clause 2, Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 665. An act to provide for free tolls for American ships through the Panama Canal; to the Committee on Interstate and Foreign Commerce.

MERGER OF STREET CAR LINES, DISTRICT OF COLUMBIA.

Mr. FOCHT. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 8520, and, pending the motion, I move that general debate on the bill do now close.

The SPEAKER. The gentleman from Pennsylvania moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill referred to, and, pending that, moves that general debate be now closed.

The question was taken, and the motion was agreed to.

The SPEAKER. The question is on the motion that the House resolve itself into the Committee of the Whole House on the state of the Union.

The question was taken, and the motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 8520, with Mr. SINNOTT in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 8520, which the Clerk will report by title.

The Clerk read as follows:

A bill (H. R. 8520) to further regulate certain public service corporations operating within the District of Columbia, and for other purposes.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted, etc., That the Capital Traction Co., the Washington Railway & Electric Co., the Georgetown & Tennallytown Railway Co., the Washington Interurban Railroad Co., the City & Suburban Railway of Washington, and the Washington & Rockville Railway Co. of Montgomery County are hereby authorized to merge or consolidate all and singular their respective corporate rights, privileges, and franchises and all their respective works and properties, real and personal, tangible and intangible, into one corporation and property for the ownership, management, control, and operation of all their said works, properties, rights, privileges, and franchises under such corporate name as may be adopted under the following conditions:

(a) The said corporations may, by agreement in writing assented to by at least three-fourths of the owners of record of the capital stock of each of them, agree to merge and consolidate into a single corporation and to own and operate all the rights, estates, works, properties, and franchises aforesaid owned by them under such corporate name as may be adopted and stated in said agreement and upon such terms and conditions not contrary to the provisions hereof as they may agree upon, but subject to the approval in writing of the Public Utilities Commission of the District of Columbia. Upon the execution of the said agreement in writing and its approval by the Public Utilities Commission and the lodging thereof in the office of the recorder of deeds for the District of Columbia for record as hereinafter provided, the said merger and consolidation shall be complete and the merged or consolidated corporation shall be and become a body politic and corporate under the name so agreed on. It may sue and be sued thereby; may adopt and have a common seal and may change the same at pleasure, and shall have, own, and possess all and singular the rights, privileges, and franchises of each of said corporations parties to said agreement, their works, and properties, and may own, operate, control, and mortgage all the said estates, works, properties, rights, and franchises of the several corporations merged, and shall be subject to all the duties, restrictions, and obligations imposed by law upon the several corporations whose estates, rights, and franchises it acquires pursuant to the provisions of this act except as the same may be modified by this act.

(b) The approval of the stockholders herein provided for may be given by the consent in writing of the owners of record of three-fourths of the capital stock of each company parties to said agreement or by the vote of the owners of three-fourths of the capital stock of each of such companies represented at a special meeting called and held as prescribed by the by-laws of the several companies or by law. When a certificate shall be filed with the Public Utilities Commission of the District of Columbia, signed and acknowledged by a majority of the board of directors of each of the corporations to be affected thereby and certified under the seals of each of said corporations showing the agreement for consolidation and merger and all of the terms thereof and its conformity with the provisions of this section, such certificate shall be presumptive evidence of the facts therein set forth and thereupon the Public Utilities Commission shall approve or disapprove the same and certify its action thereon by certificate to be attached thereto under its seal, and if approved it shall forward the same with the certificate of its approval thereon to the recorder of deeds of the District of Columbia, who shall indorse thereon the day and hour of its receipt and record the same in his office. If the commission shall disapprove the same, its action thereon and a statement of its reasons therefor shall be forwarded to each of the corporations parties to said agreement.

(c) Within 15 days after the filing of such certificate with the recorder of deeds of the District of Columbia a notice shall be mailed to each stockholder of record in each of such corporations by the merged or consolidated corporation, setting forth the time when and the place where such certificate was filed; and if within 30 days after the mailing of such notice any stockholder or any of the companies affected thereby shall give notice in writing to the merged or consolidated corporation that he dissents from such contract, it shall be the duty of the merged or consolidated corporations within 60 days after the filing of such certificate to institute a proceeding for the appraisement of the shares of all of such dissenting stockholders. If any stockholder shall omit to give such notice of dissent within the period herein limited, he shall be deemed and taken to have assented to such contract. The said proceedings for appraisement may be begun by filing with the Supreme Court of the District of Columbia a petition setting out the names and addresses of record of each of the dissenting stockholders, with the number of shares, the name of the company in which they were held, and the par value thereof, and any other pertinent facts, and praying for proper process against said dissenting parties and the appointment of three persons to appraise the value of all such stock.

The court shall thereupon direct such process to issue, by order of publication or otherwise, and upon its return duly executed shall appoint three such appraisers and designate the time and place for their first meeting. The court may fill any vacancy in the board of appraisers occurring by the refusal or neglect to serve or otherwise. The appraisers shall meet at a time and place designated, and after being sworn honestly and faithfully to discharge their duties they shall appraise the stock of each dissenting stockholder at its fair value without any regard to any appreciation or depreciation thereof as a consequence of such merger and consolidation, and said award when confirmed by the court shall be final and conclusive on all parties. The charges and expenses of the appraisers shall be paid by the merged or consolidated corporation. If anyone entitled shall refuse to accept the amount awarded him, or if for any reason it shall be impossible to make payment of the amount of the award to such person entitled to receive the same without unreasonable delay, the court may direct the same to be deposited in court. When the said company shall have paid or deposited in court the amount fixed by the appraisers as the value of the shares of the dissenting stockholder or stockholders, such stockholder or stockholders shall cease to have any interest in the

said appraised stock or in the property or franchises represented thereby and the merged or consolidated corporation shall receive back from the proper corporation whose estate, rights, property, and franchises it has acquired that portion of the consideration for such merger and consolidation or the proceeds thereof which otherwise would have been distributed to such dissenting stockholder.

If such payment or deposit is not made within 30 days after the confirmation of the appraisal, the amount of the award with interest from the date of confirmation shall be a judgment against the said merged or consolidated corporation and may be entered, docketed, and collected as other judgments in said court are by law entered, docketed, and collected. If the said company shall omit to institute the proceedings hereinbefore required within the time hereby limited, any stockholder giving such notice may institute such proceeding by a proper petition on his own behalf or at the election of such stockholder the estate, rights, property, and franchises of the corporation in which he was a stockholder shall revest in such corporation and the consideration received therefor shall be repaid to the said merged or consolidated corporation.

(d) Such merged or consolidated corporation is hereby authorized, subject to the approval of the Public Utilities Commission, to issue such stocks and bonds or other evidences of indebtedness and to execute such mortgages, deeds of trust, trust agreements, or other securities as may be necessary for the purposes.

(e) Such merged or consolidated corporation is hereby authorized to finance needed additions and improvements to its property and equipment or to retire outstanding bonds or other indebtedness by the issuance and sale or exchange therefor of additional stocks and bonds or other evidences of indebtedness under the same limitations as are provided by existing law for the issuance of additional bonds: *Provided*, That the certificate of the Public Utilities Commission showing authority for such issue shall first be obtained.

Mr. LAMPERT. Mr. Chairman, I have an amendment which I desire to offer.

Mr. BLANTON. Mr. Chairman, I have a privileged motion to make.

The CHAIRMAN. The gentleman from Texas will state it.

Mr. BLANTON. I move, Mr. Chairman, as a privileged motion, that the enacting clause of this bill be stricken out.

The CHAIRMAN. The gentleman is recognized on his motion.

Mr. BLANTON. I made that motion, Mr. Chairman, that the enacting clause of the bill be stricken out, and before I am recognized the rules require that the Clerk report the motion.

The CHAIRMAN. The gentleman is recognized.

Mr. BLANTON. I think the motion should be reported first, Mr. Chairman, under the rules.

The CHAIRMAN. The Clerk will report the motion.

The Clerk read as follows:

Mr. BLANTON moves to strike out the enacting clause, lines 1 and 2, page 1.

Mr. BLANTON. Mr. Chairman, I do not care to discuss the motion further than to say that even with the amendments offered as proposed by the chairman of the committee on yesterday it would not cure the defects of this bill. The mere fact that we make these immunities which this bill grants to the roads applicable only in the case of merger does not stop the effect of the concessions and immunities that they receive which are improper. Very few Members of the House will contend that any railroad under any circumstances ought to be relieved from the liability of paving within its own tracks along the streets of a city which it occupies. And few Members will grant the other concessions. I do not care to discuss it further; it is a self-evident proposition.

Mr. RAKER. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman from California rise?

Mr. RAKER. I would like to be heard on this motion.

The CHAIRMAN. The gentleman is recognized.

Mr. RAKER. Mr. Chairman and gentlemen of the committee——

Mr. DYER. Mr. Chairman, if the gentleman will yield I would like to know if he is going to speak for the amendment or against the amendment?

Mr. RAKER. I do not yield for that purpose.

Mr. DYER. Then I make a point of order.

The CHAIRMAN. Does the gentleman from California desire to speak in opposition to the amendment?

Mr. RAKER. What I have to say will cover the entire bill.

The CHAIRMAN. No gentleman desiring to be heard in opposition to the amendment, the Chair will recognize the gentleman from California.

Mr. RAKER. Mr. Chairman, I have read and reread the bill. I have gone over the bill with some care. I tried to get as much information as I could from the hearings which were had before the subcommittee, not on this bill but on the merger or consolidation, as it is called. There is nothing in the hearings with regard to the matter before the committee at this time. There was a very remarkable statement made by Col. Kutz, that is the general effect of the whole bill, which I think if I have time I will call attention to, found in the hearings when Col. Kutz first appeared, on pages 25, 26, and 27, and it is worth while, I think, for the Members of the House to be familiar with the position of the expert officer of the District of Columbia on the bill. It is a peculiar bill in many ways. I am satisfied the committee has given a great deal of thought to it, but what strikes me is—and I have listened to the arguments yesterday—my inability to understand the purpose of the bill, and I have wondered whether or not I am so entirely obtuse that I have been unable to get the object of the bill while possibly all the rest of the members of the committee have understood its direct purpose. Undoubtedly, the intention of the committee is to treat these electric railroad companies right, and they ought to be, and to give proper service to the public at a reasonable fare so that they may travel. But the peculiar thing of the bill, as presented by the Times in an article last night—I have the statement here—is that it repeals the law in regard to the keeping up of the tracks between the outer rails and 2 feet on either side, which means an expense, as presented here, of about $150,000 a year, which is but a guess. It then repeals the law now on the statute books requiring the railroad companies to maintain traffic policemen, which, so far as the two companies are concerned, is from $80,000 to $100,000. Now, that is to be repealed by this bill. There is no penalty for want of merger or consolidation. There is no statement before the House by the committee—I have asked for it and others have asked for it—as to what will be the result even after the consolidation to the traveling public and what will be the charge and what will be the fare, because there is no doubt there will be no dividend coming to the city on a 50 per cent basis after the company has paid all the expenses and then paid a dividend on the fair value of the property at the rate of 7 per cent, because one company already is getting less than 7 per cent and the other is getting a little more.

And the testimony of Col. Kutz in these hearings, in fact, all the testimony—and it was not reverted to yesterday—shows that the Washington Traction Co. claims that its property is worth twice the value now fixed upon it by the Public Utilities Commission, and that that matter is now in court. So you repeal the law as to the collection of the tax, which is a franchise tax, in effect, instead of a property tax; you repeal the law in regard to the crossing policemen; you repeal the law as to the upkeep, maintenance, and construction of the streets between the outer rails and 2 feet on either side, and it becomes effective when the bill is signed, without any penalty, without any provision that will affect in any way either of the companies whether they merge or consolidate or not. So if the bill is enacted and becomes effective they are relieved of all the responsibilities that now exist and ought to continue, and they can simply snap their fingers and say, "We refuse to merge or consolidate." Is not that true?

Mr. BLANTON. Will the gentleman yield?

Mr. RAKER. For a question.

Mr. BLANTON. Suppose they should merge as the committee hopes they will, is the gentleman willing even then to grant them all these concessions and immunities?

Mr. RAKER. I have not gotten to that yet. I am just trying to show what is in the bill.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. RAKER. Mr. Chairman, I ask unanimous consent that I may have five minutes more.

The CHAIRMAN. The gentleman from California asks unanimous consent that he may continue for five minutes more. Is there objection?

Mr. WALSH. Reserving the right to object, Mr. Chairman, this motion comes rather early in the discussion of this bill under the five-minute rule. There are quite a few gentlemen who intended to say a few things in general debate. I am sure that they would like an opportunity to discuss some of the provisions of this measure, for or against it, and I wondered if it would not be well to extend the time for debate on this motion by unanimous consent? It may terminate the discussion of the bill before the vote is had.

Mr. BLANTON. I ask unanimous consent, if I may, that the time for debate on this motion be limited to 40 minutes, one half to be controlled by the gentleman from Pennsylvania [Mr. FOCHT] and the other half by the gentleman from Virginia [Mr. WOODS].

The CHAIRMAN. The Chair will state that there is already one unanimous request pending.

Mr. GRAHAM of Illinois. Mr. Chairman, reserving the right to object, I concur in all the gentleman from Massachusetts [Mr. WALSH] has said. Now, personally I wanted to say something in general debate on this bill, but on account of the lateness of the hour last evening I refrained from doing so, hoping to get in under the 5-minute rule, and now is the time I would like to get in. I hope the gentleman in charge of this matter

will permit debate to proceed on this matter for a while, and I trust it will end the matter quickly.

Mr. HARDY of Texas. Mr. Chairman, I wanted to get five minutes myself on the bill, and I think there are a number of others in the same position.

Mr. RAYBURN. Mr. Chairman, I ask for the regular order.

The CHAIRMAN. The regular order is, Is there objection to the request of the gentleman from California for five minutes? [After a pause.] The Chair hears none.

Mr. RAKER. There is no provision in the bill, no law in the District of Columbia, that fixes the amount of expense that may be occasioned by these companies now or after they consolidate. So it must be taken for granted, I think, under the record that has been presented, that they will utilize all of the income save and except 7 per cent upon the actual fair value of the property. I think that is what appears from the record. That being the case, what are the people of the District going to get?

There are other features of this consolidation or merger that I want to call to the committee's attention. All of the rights now granted to these various companies are to be granted to the consolidated company. There are some advantages that minor companies have that will go to the large company, and where there is a burden on the large company it will be relieved of it, and, of course, they will use that right now exercised by the minor companies, less favorable to the District and favorable to the small organization, which by this bill goes to the large concern. They are bound to take it to court to insist on the less onerous burdens on the railroad and the greater on the city when the larger merger is affected. Outside of the merger, no one has argued or presented the fact that in this bill you can use the process of eminent domain to confiscate, if you please, the stock of the stockholders who refuse to join in the consolidation. I wonder whether the committee have gone into that to determine whether or not under the law now in existence in the District of Columbia, and even under this bill, they can take the private stock of these minority stockholders and dispose of it against their will and use the same process that is in effect in eminent domain as to real estate. It is a serious question. But the most important question involved is that you pass a bill that is operative immediately upon the bill becoming effective. And I want to repeat that it is a repeal of the duty now imposed on street car companies to maintain crossing policemen; second, a repeal of the method of collecting the franchise tax that is imposed upon them; and, third, there is already a just and equitable and righteous law upon the statute books to the effect that the street car companies should improve and pave the streets between their tracks and 2 feet on the outside. You are going to repeal that immediately.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WOODS of Virginia, Mr. MAPES, and Mr. GRAHAM of Illinois rose.

The CHAIRMAN. The Chair recognizes the gentleman from Virginia [Mr. WOODS].

Mr. WOODS of Virginia. Mr. Chairman, I have already consumed, I think, a sufficient amount of the time.

The CHAIRMAN. Does the gentleman from Virginia ask unanimous consent to proceed for five minutes?

Mr. WOODS of Virginia. I do.

Mr. WALSH. Mr. Chairman, reserving the right to object, does not the gentleman from Virginia think it would be better to fix the time for closing this debate now, so it will not be necessary for each Member who desires to speak to ask unanimous consent?

Mr. BLANTON. Mr. Chairman, if the gentleman will permit me, I ask unanimous consent that the time for debate on this motion be limited to one hour—one half to be controlled by the gentleman from Pennsylvania [Mr. FOCHT] and the other half by the gentleman from Virginia [Mr. WOODS].

Mr. FOCHT. I hope there will be no objection to that.

Mr. GRAHAM of Illinois. Reserving the right to object, Mr. Chairman, I would like to appeal to the gentleman——

The CHAIRMAN. The Chair will state the request of the gentleman from Texas [Mr. BLANTON], that unanimous consent be given for an hour's debate upon this motion, one half of the time to be controlled by the chairman of the committee, the gentleman from Pennsylvania [Mr. FOCHT], and the other half to be controlled by the gentleman from Virginia [Mr. WOODS]. Is there objection?

Mr. HARDY of Texas. Reserving the right to object, Mr. Chairman, I would just like to be assured of five minutes during that one hour's time.

Mr. MADDEN. And I would like to get five minutes. I will say that I am against the bill.

The CHAIRMAN. Is there objection?

Mr. PARKER of New Jersey. Mr. Chairman, is either of these gentlemen against the bill? Half of the time ought to be given to those in favor and half against the motion.

Mr. BLANTON. Both of these gentlemen are for the bill.

Mr. FOCHT. Certainly. That is the understanding.

The CHAIRMAN. Is there objection?

There was no objection.

The CHAIRMAN. The gentleman from Virginia [Mr. WOODS] is recognized.

Mr. WOODS of Virginia. Mr. Chairman, on yesterday evening several gentlemen asked the question as to whether or not there is any legal inhibition to the merger of these two companies at present. It was assumed in all the hearings and was assumed by the presidents of both the street car companies that there was a legal inhibition, and I think if you gentlemen will turn to section 11 of the act of 1913, creating the Public Utilities Commission, you will find that there is certainly by plain intendment a prohibition against any two utilities consolidating. In other words, it prohibits any company of that character from owning the stock of another company. And whether that be true or not in its last analysis, certainly it is true to the extent that doubt is created as to the validity of any securities that may be issued by either of these companies or by any merged company, and, therefore, it would prevent their proper financing.

Mr. HAMMER. Mr. Chairman, will the gentleman yield?

Mr. WOODS of Virginia. Certainly.

Mr. HAMMER. I was misled, as some others of us were, by that language in section 15. It appears to authorize a contract or agreement to operate different traction companies and to imply that they could combine by getting the authority from the Utilities Commission. But I think there is an express prohibition to the merger of street railways of any kind except by act of Congress.

Mr. WOODS of Virginia. That is in section 11?

Mr. HAMMER. Yes. It is true we were misled by the last section of this bill, section 15, in that regard.

Mr. WOODS of Virginia. The gentleman from North Carolina is an excellent lawyer, and he has studied this act, and I am glad to have the benefit of his views on it.

Mr. QUIN. Mr. Chairman, will the gentleman yield?

Mr. WOODS of Virginia. I will yield to the gentleman in a few minutes.

Now, as to this bill, no man in this House who has studied this bill—and I know the former chairman of the committee has studied the question thoroughly—has heretofore proposed any relief from the conditions that now maintain in the District, and one of these conditions is that you are paying one of these companies at least $500,000 more than it is justly entitled to. That excess ought to be given, gentlemen, to the street-car riders. It is not just to tax the rider on the Capital Traction Co. more money than is justified by the service in order to give the other company a fair return. That injustice is remedied by this bill.

In the first place, the object of this bill is to clearly authorize the merger of the two street car lines. As an inducement to the Capital Traction Co. to merge this bill provides that after the merger the consolidated company, embracing the two main street car companies, can take over the power company, and that is the most valuable asset in all this property. That is the inducement to the Capital Traction Co. We have tried to frame this bill so as to give no undue advantage to either of these companies, or to place either in a position where it would be too independent. At the present time, with one company making 10½ per cent, unless you warn that company that you are going to take away that unjustifiable return it will never merge. This bill takes away a part but not all of its excess profits.

Now, in the second place, this bill does what ought to be done. It eliminates all watered stock, and bases the return that these companies are to have upon a valuation fixed by a commission authorized, gentlemen, by act of Congress. These companies are entitled to a return on the valuation which you yourselves through your agency have fixed, and that is what the bill does.

Mr. QUIN. Mr. Chairman, I want to ask the gentleman a question for information. Will the gentleman yield?

Mr. WOODS of Virginia. Certainly.

Mr. QUIN. Do you lawyers on this committee think that these street car companies shall come within the purview of the Clayton Antitrust Act?

Mr. WOODS of Virginia. We have not proceeded on that theory. They may do it. But regardless of that, they can not merge, in my opinion, without legislative authority.

Mr. QUIN. Is there any other law for the District of Columbia that would prevent them from merging?

Mr. WOODS of Virginia. I just cited to the gentleman from North Carolina [Mr. HAMMER] section 11 of the public utilities

bill, passed in 1913. The gentleman from Mississippi was not in the Chamber when I read it. He can read it in his time. You have no general enabling merger act in the District as you have in the States.

Some one suggested something about taking care of the minority stockholders and asked whether it was constitutional. The gentleman from California [Mr. RAKER] raised that question. You have a general merger statute in practically every one of the States providing that a few minority stockholders can not prevent a merger, and providing a method by which the value of their stock can be ascertained and the money paid to them. This bill is drawn along the line of most of the State statutes.

Mr. HARDY of Texas. Mr. Chairman, will the gentleman yield?

Mr. WOODS of Virginia. Yes.

Mr. HARDY of Texas. Would the striking out from this bill of all after the first section permit the merging of these companies without any especial inducements that are later contained in it?

Mr. WOODS of Virginia. I think so. And I think you can pass an independent statute. And, gentlemen, this bill is the only method that has been proposed for a reduction of the car fares.

Now, it is easy for you to calculate. Take 80,000,000 fares, the number collected annually by each company. Reduce each fare 1 cent and it means a reduction of $800,000 to each company, or $1,600,000 to the two companies. A reduction of half a cent in fare makes a total reduction of $750,000 to $800,000. Now, this bill will allow a reduction of approximately one-half cent in the fare. That is very small in each case, but it is a total of that much to the street car riders. That can be done without doing any injustice to the profitable company. That company will still get its fair return, and, I think, a liberal return.

Gentlemen, I will not further consume your time. This bill has been studied not only by the present committee but by the former committee. It arrived at substantially the conclusion set forth in this bill—the subcommittee that was appointed, headed by the gentleman from New York [Mr. GOULD]. The able chairman of the committee in the last Congress—I say that in no spirit of flattery—did not agree with the finding of that subcommittee. Consequently near the end of the last Congress the bill was simply introduced and not pushed. This bill is indorsed not only by the former committee that investigated this subject—and many of these hearings took place before this present committee was formed—but it is indorsed in principle by the Utilities Commission which is composed of the Commissioners of the District. It is not only indorsed by them but it is indorsed by the Chamber of Commerce, the Retail Merchants' Association, and large associations representing the street car riders and the Government employees, headed by Mr. Clayton, who appeared before our committee. Every civic organization that I know of that has expressed itself on the question has indorsed the features and main principles of this bill. There may be some differences as to the improvement tax and the crossing policemen, and minor matters, but they can be amended or stricken out if desired in this Committee of the Whole. The main feature is to shift this gross-receipts tax into an excess-profits tax. It finds its analogy in the Esch bill, for which most of us voted. It finds its analogy in the excess-profits tax. Whether we agree with that or not, it is the principle of the bill.

Now, gentlemen, I hope this motion will not prevail. As I say, if any man can put forward a better method, if any man can put forward any method that gives any relief, I will gladly consider any such method. But no such method has been proposed by any of the adverse critics of this bill. This bill does give relief to the street car riders, and I say without any fear of contradiction that it does it without doing injustice to either of these companies.

Now, will these companies merge? I can not say, but I say it puts their earning capacity more on a par. It opens the way for a merger. It removes the legal inhibition to a merger, and I think the management of the two companies are sincere in their statement that they recognize that a merger must come and that personally they would like to see it come about.

Now, as to this last amendment that was proposed, the suggestion made by the able gentleman from Massachusetts [Mr. WALSH] and perhaps by the gentleman from Illinois [Mr. MADDEN] that we ought to withhold these relief measures provided in this bill, or hold a club over these companies until they merge, let us consider that. What is the object of the merger? There are some advantages in the matter of service, and so forth, but the chief object of the merger is to reduce the fare. This bill will reduce the fares regardless of a merger. Let somebody propose something else that will reduce fares without doing injustice to one of these companies. That is the ultimate object of the merger. Now, if you say that this change of taxes shall be withheld, that these relief measures shall be withheld until they do merge, then the company that is enjoying an unreasonably high return will simply in self-interest refuse to merge. You will have killed the very object and purpose of your bill and denied the remedy it seeks to give. I hope that no such amendment will be agreed to.

This bill will give some relief. It may not be perfect. If you disagree as to the crossing policemen and the improvement tax as distinguished from the repair of streets, you can eliminate those provisions, but the main portion of the bill certainly ought to be enacted into law.

Mr. FOCHT. I yield five minutes to the gentleman from Illinois [Mr. MADDEN].

Mr. MADDEN. Mr. Chairman, this bill authorizes a merger of the street car lines in the District, but it does more than that. It relieves them from the payment of the 4 per cent gross tax on their receipts. I do not know how much that amounts to annually, but it is a very large sum. It relieves them also of the cost of paving the streets on which their car lines run. I do not know how much that amounts to, but it is a very large sum. And it relieves them from the responsibility of paying the crossing policemen. I do not know how much that amounts to, but it is quite a sum. And taking these burdens from the backs of the street car companies, it imposes them upon the Treasury of the United States. [Applause.] Now, the question is, Are we willing to do that?

For the purpose of giving the car lines an opportunity to merge, are we ready to relieve them of all responsibility? Oh, it does more than that, they do not have to merge. Gentlemen on the committee say that if this bill is passed you reduce the fares. Well, do you? I doubt it. It provides that if this bill is passed and a merger does not take place within a given time the Public Utilities Commission, which is composed of the District Commissioners, may reduce the fares. It does not even compel them to do it. Now, I do not believe it is wise to saddle new burdens on the Treasury in order to accommodate those who own the street car lines of the District. [Applause.] They are already well paid for the privileges they enjoy.

But you say we relieve the car rider. Well, do we? We could do that to-day. If we would, we could pass a bill saying that the car fare in the District should be 5 cents. That is enough. In the city of Chicago, with 200 square miles of territory, you can ride on a street car for 30 miles, and before the war it only cost 5 cents; since the war it has been costing all the way from 6 to 8 cents, with the possibility of an early reduction. I do not know the maximum mileage that you can ride in the District, but it can not be over 7 or 8 miles, and the traffic is dense in most cases. They can afford to run the transportation facilities for 5 cents, merger or no merger, and they can pay the obligations imposed upon them by law without the passage of this bill.

This bill if passed will simply prove that it is easy to get anything through Congress. The people of the United States are demanding a reduction of the tax burden. This will only add to that burden; it will not relieve it.

Mr. ZIHLMAN. Will the gentleman yield?

Mr. MADDEN. I will.

Mr. ZIHLMAN. I may be a little dull about the fiscal relations between the District of Columbia and the Federal Government——

Mr. MADDEN. The Government pays 40 per cent of all the cost, and whether the District pays 60 per cent or 100, nevertheless they are Americans and they pay the bill, and we are supposed to speak for them. I do not believe we ought to impose a burden on the people of the District because they live in the District. I think they should be treated like every other inhabitant and relieved of every unnecessary dollar of tax burden, and this bill will impose more instead of less. [Applause.]

Mr. WOODS of Virginia. Mr. Chairman, I yield five minutes to the gentleman from Texas [Mr. HARDY].

Mr. HARDY of Texas. Mr. Chairman, there is at least one feature in the pending bill that commends it to my sense of right. It is the attempt to get away from the gross-receipts tax and fix the tax on net income. If these properties are to continue, separately and privately owned as they are, they ought to be taxed ratably and equitably. The 1 per cent retained in the bill may not be a serious handicap to even the weaker company, and neither has a right to complain if the larger part of the net profits over 7 per cent is taken by the Government.

I presume that this gross-receipts tax and this excess-profits tax goes into the Federal Treasury and not into the city treas-

ury, otherwise it would require that the United States should put up an equal sum, or two-thirds of that sum, for the city expenditures under the partnership between the city and the Federal Government.

But I shall vote against the bill, because it is fundamentally wrong in recognizing the right of two public service companies to coexist in the District, to meet a single service that can not be economically or equably supplied by a divided agency; and there is, in my judgment, grave danger that by passing this bill or one like it at any time we would create and bestow rights which we could not later withdraw without violating vested rights, and which would entail unjust burdens upon the public. If necessary, and I think it is, we should resort to the right of eminent domain, and that right may have to be enlarged and extended beyond its recognized scope heretofore to meet conditions which modern society and industry have brought about, which did not exist when the doctrine of eminent domain was defined by ancient jurisprudence.

Congress has been struggling in a feeble and futile way at least ever since I have been here to relieve the people of the District from at least an unjust street car burden, that of double fares, if a ride, however short, should be over two lines. It is time to take the evil out by the roots and substitute for the present vicious dual system a just single system. I can hardly express my opinion better than it is expressed in to-day's Washington Herald, so I will read the Herald's suggestion:

> There is, however, a way to force merger that is simple, direct, and effective. It is the only way which is sure to bring the result and be fair to all interests. This is for Congress to direct the Public Utilities Commission to condemn both street railway corporations and take them over, holding them until a corporation is privately organized to relieve the District at the actual cost, the capitalization representing that actual cost on a ratio of stock equal to double the bonds, as is the fact as to the present Capital Traction Co. This condemnation action should not include the Potomac Electric Power Co., which should be left with the Washington Railway & Electric stockholders. Or, if it is included, it should afterwards be turned over to a separate corporation.
>
> It has been suggested that the Congress should force merger by repealing the franchises and fixing fares on the Capital Traction lines on the basis of its earnings of valuation, without regard to the Washington Railway & Electric. We doubt if this would have the desired result as long as the Washington Railway & Electric owns the electric utility which, all things considered, is the most valuable in the District. Condemnation is the way adopted in New York City. It is the final and complete answer.

The people in this city have labored long under oppressive and unjust conditions. For 15 years we have tried to get universal transfers, but somehow the legislative department of this Government has failed to do it. There is an ancient and necessary maxim of law that there is no wrong without a remedy. There is a remedy by which the railway companies of the city of Washington should be made to give single fares and universal transfers. I am of the opinion that the only way to do that is by a process of condemnation, and that process should be resorted to rather than this bill, which may destroy vested rights which we are not able to estimate. Therefore I shall vote against the bill. [Applause.]

Mr. FOCHT. Mr. Chairman, I yield 10 minutes to the gentleman from Michigan [Mr. MAPES].

Mr. MAPES. Mr. Chairman, I have hesitated to discuss this bill, but the fact that similar legislation has been pending for some time before the District Committee, not only in this Congress but in the preceding Congress, is my justification for discussing it for a few minutes. I have great respect for the members of the District Committee, and especially those who are the principal proponents of this legislation, and I regret that I am not able to follow them in this particular legislation.

In my opinion if this bill is ever enacted into law, no matter how much it is amended in its passage through the two Houses, or whatever else it may contain, there will be when it is finally enacted into law two outstanding provisions in it, either one of which it seems to me is a sufficient justification for opposing it. One of these provisions will be the authorization for the Washington Railway & Electric Co. to absorb the Potomac Electric Power Co., something which has been desired by the people interested in those two companies for a great many years. The other will be the relief of the Capital Traction Co., the Washington Railway & Electric Co., and the Potomac Electric Power Co. from virtually all taxation, as pointed out a few minutes ago by the gentleman from Illinois [Mr. MADDEN].

In order to make myself clear it may be necessary to review a little what has already been stated. This bill proposes to relieve the street car companies, whether a merger takes place or not, of the charge for crossing policemen; it proposes to relieve them of the charge of paving between the tracks and 2 feet on each side; and it proposes to reduce the tax on gross receipts from 4 per cent to 1 per cent of all street railway and electric corporations within the District of Columbia. It not only does that for the street car companies but for the Potomac Electric Power Co. as well, whether there is a merger or not. Those three companies now pay in taxes on the basis of 4 per cent on their gross receipts, including the charge for paving and crossing policemen, $871,000 per year.

If this bill goes into effect with the 1 per cent gross-receipts tax, those three companies will pay only $160,000 per year, and we would relieve them by the passage of the bill of $710,000 a year in taxation. For this there is no corresponding benefit accruing to the public.

Mr. WOODS of Virginia. Mr. Chairman, will the gentleman yield?

Mr. MAPES. I yield to the gentleman from Virginia.

Mr. WOODS of Virginia. Look at the report and see how much tax will be collected.

Mr. MAPES. The gentleman argues that on the basis of the present returns of the two companies, and with the provision for taxing 50 per cent of the net returns over 7 per cent on a fair valuation of the property there will be about as much collected in taxation as is now collected; but the gentleman yesterday in a colloquy which he and I had admitted that if the bill went into effect the Public Utilities Commission, if the merger were accomplished, would not allow the merged company a fare that would net them more than 7 per cent return, so that there would be no surplus above 7 per cent to tax, and if the bill is passed and the street car companies do not merge and section 8 goes into effect, which requires the Public Utilities Commission to give separate fares to these two companies on the 1st of July, 1922, the gentleman admitted that the Public Utilities Commission would not allow the Capital Traction Co. a fare which would allow it a net return of over 7 per cent as the bill provides, so that in that event there would be no surplus above 7 per cent to tax. Not only that, but the Potomac Electric Light & Power Co. under this bill instead of being charged 4 per cent tax on its gross receipts will have to pay but 1 per cent, no matter whether there is a merger of the street car companies or not, and no matter whether the Potomac Electric Power Co. is taken over by one or both the street car companies or not, so that the three companies combined, by the mere passage of this bill, without the accomplishment of a merger, and without accomplishing anything, will have donated to them in the form of taxation exemption the sum of $710,000 per year, and the public gets nothing except the paltry sum of $160,000 per year in taxes from these companies, which, on a fair valuation, the Public Utilities Commission has stated are worth something like $50,000,000.

Mr. WHEELER. Mr. Chairman, will the gentleman yield?

Mr. MAPES. Yes.

Mr. WHEELER. Does the gentleman believe, if this bill passes and they merge, that the Washington Railway & Electric Co. would be more benefited perhaps than the street car riders in the District?

Mr. MAPES. That argument carried to its extreme, as was stated here yesterday, would relieve the companies of all taxes and all charges. We had as a member of the District Committee a few years ago a gentleman who, if I understood him correctly, believed that there should be no charge made to the car riders, and that the public by taxation should take care of the street car systems. If these gentlemen to-day believe in that, then this legislation is a step in that direction.

Mr. WOODS of Virginia. Mr. Chairman, will the gentleman yield?

Mr. MAPES. Yes.

Mr. WOODS of Virginia. The gentleman has given great study to these matters. Does the gentleman admit that we are paying one company now $500,000 more, or that the street car riders of the District are, than it is entitled to?

Mr. MAPES. I think the Capital Traction Co. is making more money than it ought to be allowed to make; but that could be relieved by action on the part of the Public Utilities Commission in lowering the fares to the riders on the Capital Traction Co. or by putting into operation a zone system. At any rate, I do not believe that this bill will bring any relief to the car riders or the public in general.

Mr. WOODS of Virginia. That is something that has continued for several years?

Mr. MAPES. Yes.

Mr. WOODS of Virginia. During the time when the gentleman was chairman of the District Committee, and yet no relief has come. What relief does the gentleman propose?

Mr. MAPES. I do not propose a donation to the companies in addition to what they are already making.

Mr. BEGG. Mr. Chairman, will the gentleman yield?

Mr. MAPES. Yes.

Mr. BEGG. If this bill should become a law the street car companies would be relieved from the cost of paving between the tracks. Suppose they were to tear up the streets, from one end to the other, as they are coptinuously doing, who would then pay for the repaving?

Mr. MAPES. That depends upon whether it is a permanent improvement or repairs. That question was gone into yesterday, and I have not the time to take up that feature now.

The Washington Railway & Electric Co. and the Potomac Electric Light & Power Co. have been endeavoring for years to get legislation enacted which would allow them to do away with the two entities. They want to charge the consumers of light and power in the District enough to make up the deficit for running the Washington Railway & Electric Co.

Mr. HARDY of Texas. Mr. Chairman, will the gentleman yield?

Mr. MAPES. I do not believe that the consumers of light want that to be done. I yield to the gentleman from Texas.

Mr. HARDY of Texas. Is not the gentleman of opinion that these two railways ought to be forced into one by the process of eminent domain, if necessary?

Mr. MAPES. I believe that should be done, and I would be glad to have the House pass some such legislation as that, but I do not think it will. For myself I do not think we need to shed too many tears for the street car systems in the District of Columbia.

The poor company, the Washington Railway & Electric Co., which, it is claimed, is so hard up, is making between 5 and 6 per cent return on a fair valuation of its property, and I submit here to you gentlemen who come from cities all over the country that there is not a street car system in your cities or anywhere in the United States, outside of the city of Washington, that has made that return during the last few years.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. WOODS of Virginia. Mr. Chairman, I yield five minutes to the gentleman from Alabama [Mr. OLIVER].

Mr. OLIVER. Mr. Chairman, I am in hearty sympathy with the views just expressed by the gentleman from Michigan [Mr. MAPES], the former chairman of the District Committee. I have the highest regard for the members of the present committee, but can but feel, in the preparation of this bill, they have been unduly solicitous of the interests of the Washington Railway & Electric Co. The history of that company does not justify the sympathy or solicitude of Congress. The franchise granted it expressly provided that no charge in excess of 5 cents should be made. This same provision is found in the charter to the Capital Traction Co. The act later passed by Congress, conferring authority on the Utilities Commission to increase the car fare, was not a perpetual grant, nor can it be considered as a contractual agreement with the traction companies of the District. Congress has the undoubted right to repeal, modify, or change the law conferring this authority on the Utilities Commission at any time it may desire, and I am quite sure that my good friend from Virginia [Mr. WOODS], who is a distinguished lawyer and has given much study to this subject, will not deny the right of Congress to fix the transportation charge by legislation, and that the only possible limitation on the power of Congress in this regard will be found in the charter originally granted to the companies, which limits the fare to 5 cents. Mr. WOODS, in discussing this bill on yesterday, stated that in his opinion it would result in a merger of the two companies, and that the companies, if merged, could well afford to have a fare fixed at not exceeding 7 cents and four fares for 25 cents. If this statement is accepted by members of the committee, and no one seems to question it, then Congress should now affirmatively provide that no fare after January next should be charged by either of the transportation companies in excess of 7 cents, and that four tickets should be sold for not more than 25 cents. In other words, Congress should now limit the discretion heretofore vested in the Utilities Commission to fixing the fares for the traction companies at not exceeding 7 cents for one fare and four for 25 cents.

This action by Congress, effective January next, will very promptly lead the Washington Railway & Electric Co. to make fair proposals to the Capital Traction Co. for a merger, and the stockholders will no longer suffer the matter of a merger to be held up on account of differences as to management, as the gentleman from Maryland [Mr. ZIHLMAN] indicated had probably been the reasons why a merger has not been proposed in the past. Section 1 of the bill, which gives to the Utilities Commission the right to allow and approve a merger of the two companies, can well be retained with some amendments.

No one will deny in the first place the right of Congress to fix the rates for these two companies, and I contend that since all are now agreed that the rates charged are excessive, yea, largely excessive, for one of the companies, to wit, the Capital Traction Co., it is the clear duty of Congress to immediately take action, fixing a maximum rate at not to exceed 7 cents and allowing four tickets to be purchased for 25 cents. I wish to call the attention of the House to a series of articles relative to the two traction companies, which appeared in the Washington Herald during the months of May and June last. These articles are most informing and were prepared with great labor and thoroughness. Every Member of Congress should be provided with a copy of the same before the bill, looking to a merger of these companies, is finally passed. I think copies of the articles I refer to can be secured by request of the editor of the Washington Herald, and I wish to say that the Herald has performed a distinct public service in presenting these facts through the columns of the paper. When you read these articles you will understand just when, how, and why the Washington Railway & Electric Co. was organized, and to what extent its stock has been watered from time to time and overcapitalized.

I again repeat that no one acquainted with the facts can feel that the company deserves the sympathy and solicitude of Congress as to its future, so long as it insists on demanding a fare that will pay a return on its overcapitalization.

The Members of the House will find an excellent editorial in this morning's issue of the Washington Herald, in which strong objections to the pending bill are stated and which I earnestly invite Members of the House to carefully read. This editorial very forcibly points out that, even should the pending bill pass and a merger of the two traction companies follow, no assurance is given the public that it will secure reduced fares. The bill, however, as stated by the gentleman from Illinois [Mr. MADDEN] and the gentleman from Michigan [Mr. MAPES], undertakes to relieve the two companies from the payment of something like $700,000 in taxes and other charges now properly imposed, a part of which amount must of necessity be met by an appropriation out of the National Treasury. Surely there is nothing in the history of the Washington Railway & Electric Co. to justify a subsidy at this time in order to entice it to merge with the Capital Traction Co.

The members of the committee who favored this bill, and who have discussed it, have expressed doubt as to the authority of Congress to force a merger, which they state is all important. Now, I think I can point out two ways whereby Congress can and Congress should force a merger, if the House shares the opinion of some members of the District Committee that this is desired and is important.

If you will provide what Mr. WOODS considers to be a reasonable maximum fare which these companies can in future charge, to wit, 7 cents for one fare, 25 cents for four, you will, at least, cause the officials and stockholders of the Washington Railway & Electric Co. to seriously consider making overtures to the Capital Traction Co. for a merger. The House, however, can expressly provide for a repeal of the charters of both the Capital Traction Co. and the Washington Railway & Electric Co. if the companies do not merge along lines which the House considers reasonable on or before a date to be fixed by the act.

The House reserved the right when it granted charters to these companies to at any time repeal the charters so granted, and the decisions of the highest court uphold this reserved right. Congress in the exercise of such right, according to the decisions of the courts of last resort, will in no way infringe on the constitutional inhibition against impairing the obligation of contracts. Certainly no lawyer on the District Committee will question either of these statements.

The CHAIRMAN. The time of the gentleman has expired.

Mr. OLIVER. May I ask for an additional minute?

Mr. WOODS of Virginia. I yield the gentleman an additional minute.

Mr. OLIVER. Congress, I am sure, will not consider for a moment passing this bill without amending it in many important particulars and fixing a maximum charge as to fares from and after some near date in the future. We are legislating for more than 400,000 people who reside in the District, and who all admit are now being charged and have been for some time an excessive transportation rate on the two traction lines in order that the Washington Railway & Electric Co. may pay interest on overbonded and watered stock. The time has come when some definite action must be taken by Congress. The same question that has confronted the Utilities Commission in the past and which now confronts Congress with reference to these two companies will be presented in a larger way to every Member of Congress when the great railway trunk lines con-

sider the invitation to consolidate which the newspapers recently announced had been extended by the Interstate Commerce Commission. It will involve good-paying roads taking over many roads that are overcapitalized, overbonded, and no Member of the House could for a moment defend granting a subsidy in order to secure a merger of such roads along the lines outlined by the Interstate Commerce Commission. I am not prepared to say whether the commission is right in its insistence that the few central trunk lines which it has selected should become the owners or operators of all the other roads or not, but when that matter is considered, as it will be, we can not overlook the importance of refusing to burden the public with overcapitalized and overbonded railroads on which unreasonable freight schedules and passenger fares can be predicated.

In conclusion, I feel that this bill should be recommitted to the District Committee in order that they may perfect it and report it back to the House for action at an early day. It is a matter of supreme importance to the citizens of the District, and Congress owes it to the District to pass positive and effective legislation, correcting the admitted wrongs which the people are now subjected to. No bill that Congress passes should fail to include a provision fixing a reasonable maximum rate for the two companies. [Applause.]

The CHAIRMAN. The time of the gentleman has again expired.

Mr. OLIVER. Mr. Chairman, I ask permission to revise and extend my remarks in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama? [After a pause.] The Chair hears none.

Mr. OLIVER. Under permission granted to extend my remarks in the RECORD I herewith set out the able editorial appearing in this morning's issue of the Washington Herald, and in this connection again invite the Members of the House to secure and read the series of articles appearing in May and June issues of this paper:

STREET RAILWAY MERGER.

In discussing the so-called street railway merger bill now before the House, the Herald hopes the Members will keep in mind a few simple facts. The first of these is that the Washington Railway & Electric Co., a street railway utility, is the sole owner of the Potomac Electric Power Co., an electric power and lighting utility. It holds all the stock of this electric utility in bulk, but in trust, of course, for its stockholders. But this stock is also partial security, it is understood, for all or a part of the street railway bonds.

The sole effort of the Washington Railway & Electric Co. in all the merger bills at any time before the House has been to permit that railway utility to completely absorb the electric utility, retiring its stock and having but the one railway electric corporation. This would make the services indistinguishable, with a single capitalization, one set of books and accounts and the fixing of rates of either one, based upon its own earning valuation and earnings, impossible. This was the purpose of the Focht bill and of the original Woods bill.

This a minority of the House committee led by Representatives LAMPERT, HAMMER, KUNZ, and KELLER have persistently opposed. They defeated it in committee, but it is again found in the modified Woods bill as reported to the House. None of these bills has been a merger bill in fact. None of them has been aimed to effect a merger. They were all in behalf of this one purpose of the Washington Railway & Electric Co., and even when defeated in committee it now reappears in the reported bill, necessitating amendments. None of them was expected to effect a street railway merger, nor is the bill now under consideration expected to do this.

It is far better than any other ever submitted or introduced for the sole reason that it would be comparatively harmless if so amended that the tax provisions should not take effect until after merger, a something which would never occur. But these same tax provisions are travesties on anything in the nature of scientific or honest taxation. They are calculated to mulct the Capital Traction Co. and to admit of overcapitalization of the Washington Railway & Electric Co. in case a merger should occur. Simply this and nothing else.

According to the committee report these tax provisions would relieve the Washington Railway & Electric Co. of $175,500 earning tax, $46,600 traffic-police tax, and an estimated $94,800 in paving assessments, or a total of $327,000, without providing for any reduction whatever in fares. On the other hand, it would increase the Capital Traction Co.'s taxes about $116,400 without any resulting benefit to its patrons or to anyone but the Washington Railway & Electric Co. There is no inducement in this to economy of management and operation, but quite the contrary. So far as the Capital Traction Co. is concerned, the inducement would be to higher costs.

Two things as to public utilities are axiomatic. First, no two utilities providing distinct kinds of service should ever be owned, controlled, managed, and operated by the same corporation, let alone merged into one. They should be separate and distinct in every way to avoid a shuffling of earnings, a preference, and favors by the weaker to the stronger. Second, any favors in taxation or public burdens extended to any public utility should have the sole purpose and result of lowering the cost of the service to the users. Such favor should not go to reduce general taxation by being credited to the general tax fund.

The best result for a city, for all its people, for its property owners and all interests comes through the lowest possible service rates. This is especially true of transportation, as cheap transportation within the city is its very life blood, necessary to its uniform growth, to home owning, health, the even flow of labor and trade, the evening of real estate values and all that is wholesome and good in urban life. Nothing else is so harmful to a city as high transportation fares, and this has been and is the sole interest of the Herald in street car merger. Unless it should result in lower fares it would be worse than useless.

Many ways have been suggested to force a merger. Those from the companies have not had reduced fares in view. The Washington Railway & Electric Co. has frankly said that this was a dream and impossible of realization. From its point of interest this is true. If it is to make ends meet as a street railway it could not reduce fares. It must not be forgotten that the Washington Railway & Electric Co. has never paid a dividend with other than Potomac Electric Power Co. earnings, except in the few years of stock exploitation when it sacrificed everything to put a fictitious value into its common stock. It is bonded at $17,500,000, which is $1,250,000 above the value fixed by the Utilities Commission as that on which it can earn dividends. Its bonds and stock just double that earning value.

There is, however, a way to force merger that is simple, direct, and effective. It is the only way which is sure to bring the result and be fair to all interests. This is for Congress to direct the Public Utilities Commission to condemn both street railway corporations and take them over, holding them until a corporation was privately organized to relieve the District at the actual cost, the capitalization representing that actual cost on a ratio of stock equal to double the bonds, as is the fact as to the present Capital Traction Co. This condemnation action should not include the Potomac Electric Power Co., which should be left with the Washington Railway & Electric Co. stockholders. Or, if it is included, it should afterwards be turned over to a separate corporation.

It has been suggested that the Congress should force merger by repealing the franchises and fixing fares on the Capital Traction lines on the basis of its earnings of valuation, without regard to the Washington Railway & Electric Co. We doubt if this would have the desired result, as long as the Washington Railway & Electric Co. owns the electric utility, which, all things considered, is the most valuable in the District. Condemnation is the way adopted in New York City. It is the final and complete answer.

No one need have any false sympathy for the Washington Railway & Electric Co. stockholders. So long as they get the Potomac Electric Power Co. they will not be hurt. They are responsible, also, for their own situation and for that of the "widows and orphans" among them. The public has some rights and so has this District. It is time they were regarded, which is something no Congress, save this one, has ever shown any disposition to do as to street car merger.

Mr. FOCHT. Mr. Chairman, how much time remains?

The CHAIRMAN. The gentleman from Pennsylvania has used 15 minutes and the gentleman from Virginia has used 24 minutes.

Mr. FOCHT. Mr. Chairman, I yield five minutes to the gentleman from Illinois [Mr. GRAHAM].

Mr. GRAHAM of Illinois. Mr. Chairman, I dislike very much to vote in support of a motion to strike out the enacting clause of the bill which has been brought in here by a committee of the House. I wish this bill could be taken back to the committee and a simple bill brought in here such as we passed during this session of Congress giving these companies the same right to merge that we did to telephone companies. If such a bill could be brought in here, if this could be sent to the committee and brought back with such directions, I would vote for it, but in view of the fact that no such suggestion has been made, and entertaining the view that I do, I shall have to vote for this motion to strike out the enacting clause.

I do not believe this bill ought to be passed. There are several good reasons in my mind for it, most of which have been mentioned here, but I will touch on them briefly.

In the first place, I do not believe it is good policy for the Congress or any other legislative body to authorize a consolidation of two public utilities that are engaged in different kinds of business. If you pass this bill, you will authorize this Washington Railway & Electric Co. to amalgamate itself with the Potomac Electric Power Co., which is a good paying proposition, and immediately the effect will be to raise the rates for light and power in this District. After such consolidation the accounts will be so commingled that in rate hearings before the Public Utilities Commission the earnings of the profitable electric power company will be used to bolster up the insufficient earnings of the Washington Railway Co., and the rates of the electric power company will go up.

Mr. HARDY of Texas. Has the gentleman examined section 1 with a view to ascertaining whether there is any objection to it alone? As I understand, that simply authorizes the merger of the railways.

Mr. GRAHAM of Illinois. Personally, I would not object to that section.

Mr. HAMMER. That would be amended, too, by having it come under the utilities commission.

Mr. GRAHAM of Illinois. I am not going to take any chances on that. The committee has not told us that they are going to adopt that proposition. They are standing on their bill. They say they are going to make these things conditional by amendment, but that does not get away from the amalgamation proposition between the power company and the railway company. I do not propose to say to the power users of this District that they are going to pay more for light and heat to keep up the earnings of this overcapitalized corporation, which seems to be tottering on its financial feet. Secondly, it remits the expense of paving these streets. That is an enormous item. It ought not to be done. I do not know why anybody on earth should suggest such a proposition. Those street car companies have franchises on certain streets and can extend their tracks, and the very moment they extend these car lines the

public, your constituents and mine, must help pay the bill. I do not propose, so far as I am concerned, to tax my constituents for the purpose of paying street car fare for somebody who rides on the street cars in the District of Columbia. I am not justified in doing it. I insist that it is the business of the people who use the street cars to pay the reasonable expense of it. If it comes to a question of assessing my constituents to do it, I am not prepared to do so, and I do not think anybody else should be.

I want to call attention to the fact that on several streets of this District on which there are street car lines the street between the tracks is not paved. I call attention particularly to Georgia Avenue beyond a certain distance. It stretches to and beyond the Walter Reed Hospital. For a long distance it is not paved between the street car lines except with gravel. In case a bill of this kind should pass they will start an agitation and a pavement will be put in there and the public will pay for it. This will be true of many other streets. Under this bill what amount are they to pay for the use of the streets? Nothing except 1 per cent. No other taxes and no other impositions. The idea of this bill is to reduce fares, everybody says, and it has been said here the fare might be reduced to 6 cents. If you did it, you would reduce them 20 per cent from what the fare is now, and that would be taken off of the net returns of the company; and you will find that the net returns of the company consolidated, if reduced 20 per cent, would be about 7.2 per cent. The Government will get 50 per cent of two-tenths per cent over and above the 1 per cent gross. The fact is that the consolidation of these companies under this bill would result in wiping out every kind of taxation of these companies except 1 per cent of the gross returns. Do you know what the city of Chicago gets out of its street car system? It gets 55 per cent of the net operating returns of the company, and up to to-day there has been paid into the treasury of that city $60,000,000 that came from that source. Do you remember the notorious Allen bill? It was not a circumstance to what this is. Under that bill the companies would get 7 per cent of the gross returns; but the passage of that bill was held by the people of my State to be a high crime.

One thing more. The bill provides that 50 per cent of the net operating income over 7 per cent of the value of the property shall be taken and put in the Public Treasury. This is a plain intimation of congressional opinion that the Public Utilities Commission should make rates that will yield 7 per cent to the stockholders. Of course, if we pass this bill the commission will make that its guidepost and fix rates accordingly. Why should we say they should earn 7 per cent or any other per cent? The principle is wrong. It destroys initiative and kills the desire for efficiency and economy in operation. This principle is the same as that contained in the Esch-Cummins law and, I am sure, is not correct. It is the greatest bid for slipshod management and careless operation that could be made, and I can not support any such plan.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FOCHT. Mr. Chairman, I yield five minutes to the gentleman from Maryland [Mr. ZIHLMAN].

Mr. ZIHLMAN. Mr. Chairman, I certainly hope that the motion of the gentleman from Texas [Mr. BLANTON] will not prevail. The committee has not acted hastily in this matter. This question of the street car merger has been before the District Committee for a number of years. During the last session extensive hearings were held by the District Committee under the able chairmanship of the gentleman from Michigan [Mr. MAPES], but no bill was agreed upon and no bill reported to the House. The District Committee of the Senate have been giving serious thought to this subject, and the only bill they have reported is a bill permitting a merger of the street car lines, or a merger of the Potomac Electric Power Co. and the Washington Railway & Electric Co. And I will say for the information of the gentleman who has just spoken, the gentleman from Illinois [Mr. GRAHAM], that the chairman of this committee stated on the floor of this House and incorporated into his remarks an amendment which would take from the bill the privilege of the Washington Railway & Electric Co. merging with the Potomac Electric Power Co., which action was taken in the District Committee.

Now, the principal fight against this bill has been directed at what? At the paving charge and at the crossing policemen charge, and I just want to call your attention in the few moments I have to the method of computation under which the Public Utilities Commission give a return to these companies on the fair value of their property. The original charter of all the street car lines in the District of Columbia provided for a straight 5-cent fare, and in 1913 Congress passed a law, which was supported by the citizens' associations of the District, giving the power of rate making to the Public Utilities Commission, composed of the three District Commissioners, and providing that they should make an investigation which would ascertain the fair value of the property and should give to these companies a fair rate of return on the fair value as ascertained.

Now, the gentleman from Alabama [Mr. OLIVER] stated here that there was nothing in this bill which would bring about a reduction in fares. I contend that if section 8 of the bill, putting in operation a separate rate of fare on these two lines, was adopted and became a law, there would be an immediate reduction in the fare of the Capital Traction Co., and nobody has contradicted that statement. Gentlemen arise on this floor and state that the Public Utilities Commission has the power now to put in operation separate rates of fare, and I agree with that statement. But notwithstanding that fact, ever since these fares have been increased from 5 cents straight up to 8 cents straight, and the Capital Traction Co. has thereby been earning dividends as high as 12 per cent, the Public Utilities Commission have not put in operation a separate rate of fare. The Capital Traction Co. or the Washington Railway & Electric Co. do not pay these paving charges; they do not pay this crossing policeman tax. I want to read you here a statement from the Public Utilities Commission showing the method by which they arrive at a fair rate of return for these companies. The fair value of the Capital Traction Co. is, in round figures, $15,500,000. Their capitalization, including outstanding stocks and bonds, is $18,000,000. The gross revenue for the 12 months ending April 30 this year was $5,500,000 in round figures. From that the Public Utilities Commission deduct the operating expenses of the company.

Now, what are the operating expenses of the company? They include their real estate tax. They include their 4 per cent gross-receipts tax. They include their capital-stock tax. They include their Federal income tax, including the excess-profits tax, although the Public Utilities Commission states that they do not consider that an operating charge. The operating expense of the company also includes their coupon interest and miscellaneous expense. It includes the crossing policemen tax. It includes the paving charge. Their total operating expenses are $3,996,000, or a little less than $4,000,000, which leaves them——

The CHAIRMAN. The time of the gentleman from Maryland has expired.

Mr. WOODS of Virginia. Mr. Chairman, I yield to the gentleman five minutes.

The CHAIRMAN. The gentleman is yielded five minutes further.

Mr. ZIHLMAN. It leaves the Capital Traction Co., after paying all these charges that have been referred to here on the floor of this House, an available net income for return of $1,659,000, or 10½ per cent on the fair value of the property.

Now, I think it is immaterial whether you repeal these items of taxation or not. The District Commissioners propose a bill providing that they shall be relieved of the 4 per cent gross receipt tax and substituting an excess-profits tax, as is provided in this bill, known as the Focht bill, but they provide in the last paragraph of their bill that when the companies merge the 4 per cent gross receipt tax should be restored. And now if Congress in its wisdom decides to impose this tax again after the merger, well and good. But the gentlemen who have been attacking these provisions of this bill have not pointed out any method by which the Congress could under the law put an end to the exorbitant profit or return that is now being received by the one company.

Mr. HARDY of Texas rose.

Mr. STAFFORD. Mr. Chairman, will the gentleman yield?

Mr. ZIHLMAN. I yield first to the gentleman from Texas. Then I will yield to the gentleman from Wisconsin.

Mr. HARDY of Texas. If the gentleman's suggestion were put into operation by the Public Utilities Commission, would not that starve out the road that was made to charge or allowed to charge a higher rate, which would put that road to a serious disadvantage?

Mr. ZIHLMAN. The gentleman from Alabama [Mr. OLIVER], who made a very able statement on this floor, stated that the committee was too solicitous about the Washington Railway & Electric Co., and he questioned the methods by which that company was financed. Now, the gentleman from Texas suggests that it would put the Washington Railway & Electric Co. to a serious disadvantage, and I agree with him. I do believe it would put the Washington Railway & Electric Co. at a serious disadvantage.

Mr. HARDY of Texas. Is not that the reason why the Public Utilities Commission have not done so?

Mr. ZIHLMAN. They contend that it would be against public policy. Now I yield to the gentleman from Wisconsin.

Mr. STAFFORD. It was stated yesterday by the proponents of this measure that the reason why the Washington Railway & Electric Co. was not on the same profitable basis as the Capital Traction Co. was because they have lines running out into the District beyond the city, in sparsely settled communities, which are nonpaying. What prevents the Public Utilities Commission under existing law from doing what is done in other cities, that which I suggested yesterday as the proper remedy, namely, to impose an added rate under a zone system on the lines of the Washington Railway & Electric Co., as, for example, that part of their line running from Georgetown up to the Chain Bridge? That is the reason why there is a loss. Why not establish a zone system such as is enforced in Milwaukee for service to the suburbs, rather than compel the dwellers in the city to pay the penalty for increasing real estate values in the suburbs?

Mr. ZIHLMAN. I can answer by stating that the mileage of the Washington Railway & Electric Co. within the District is about 130 miles, while the mileage of the Capital Traction Co. within the District is only 64 miles, so that that would not bring about any relief to impose a tax of that kind.

Mr. STAFFORD. Perhaps I have not made my question clear. The gentleman does not grasp the reason why the Washington Railway & Electric Co. is not paying. It is because of the number of their lines within the District running out into the suburbs. Now, if they were to apply the zone system of charges on those lines beyond the city proper in the District it would bring their revenues up to the standard of the Capital Traction Co., because no one contends that the Washington Railway & Electric Co. is not operated as efficiently as is the Capital Traction Co.

Mr. ZIHLMAN. I can answer that briefly by saying that the Public Utilities Commission have stated that the entire people of Washington, including the people of the inner zones of the city, have been vigorously opposing the establishment of a zone system here in the District. The protest does not come from the surburban territory adjacent, but it comes from all sections of the city. The civic organizations and the people living in the central portion of the city who would be within the inner zone all oppose the establishment of the zone system.

Mr. OLIVER. Mr. Chairman, will the gentleman yield?

Mr. ZIHLMAN. Certainly.

Mr. OLIVER. In reading the gentleman's speech in the RECORD yesterday, which is a clear statement, I find the gentleman is impressed with the great importance of a merger. I understand the gentleman thinks that Congress has no authority to compel a merger?

Mr. ZIHLMAN. Yes.

Mr. OLIVER. Unquestionably there are two rights resident in Congress which I do not think could be disputed. One is the undisputed right of Congress to now fix a maximum charge, so long as it is not less than 5 cents.

Mr. ZIHLMAN. I agree with the gentleman; but to do that you must repeal the existing utilities law.

Mr. OLIVER. But they have the right to do it.

Mr. ZIHLMAN. Yes; surely.

Mr. OLIVER. Then further the Congress reserves the right in granting its franchises to repeal the franchise.

Mr. ZIHLMAN. Yes.

Mr. OLIVER. You can fix a time in the future when they must merge, and you can provide that if they do not merge at that time their franchise will be repealed.

Mr. ZIHLMAN. Certainly.

Mr. OLIVER. Either one of these remedies if put into a bill would force the merger with such conditions as are thought to be just and right.

Mr. ZIHLMAN. I agree with that if Congress is willing to take such drastic action.

Mr. WOODS of Virginia. I will say, in response to the argument of the gentleman from Alabama, that in my opinion the only alternative that presents itself to me or has been presented to the committee is either the adoption of the principle of this bill or Government ownership. You can eliminate the separate clauses if you wish which relate to the crossing policemen and the improvement cost, but you must adopt in the main the principle of this bill or Government ownership or operation. I do not think this country and this Congress are in any frame of mind to issue any more bonds to buy these properties; and when you come to Government ownership, then the question comes, How would you select your employees?

Mr. OLIVER. Will the gentleman yield?

Mr. WOODS of Virginia. I yield to the gentleman from Alabama.

Mr. OLIVER. I do not share the gentleman's apprehension. I think if you will exercise the authority of Congress you will find that there will be a merger.

Mr. WOODS of Virginia. Congress can pass an act fixing fares, but I question whether it is wise to do that rather than to delegate that authority to some commission which can inquire into it more carefully than we can. The other limitation is that when we fix fares, whether we are legally bound or not, we certainly ought in good conscience to fix a rate of fare that is reasonable, and a 5-cent fare would not be reasonable but would be confiscatory.

Mr. FOCHT. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman has four and one-half minutes remaining.

Mr. FOCHT. Mr. Chairman and gentlemen, if you had all been members of the Committee on the District of Columbia, you would have a clear grasp on this one phase of this question—that human nature has not changed much in 5,000 years. There would be no difficulty whatever about the adjustment of this whole matter of a merger but for that old menace to humanity, avarice and cupidity on the part of both these railroad companies. As business men, commanding the capital they can control, they would long ago have responded to the demand of the people and to the demand of common sense, for the good of themselves and of their stockholders and of the community, by merging their interests. Now, they have not done it. We come here presenting a great principle. I do not wish to go into minor details in regard to the administration of this law. The gentleman from Virginia [Mr. WOODS] has presented a bill in which are embodied some great principles, and the presumption is that if the Utilities Commission can function at all it will put them into operation. Can it be that we will deny both the intelligence and the integrity of a commission functioning in the great Capital of the greatest country in the world?

We have also heard the arguments that are made against corporations. Yet we must have them. We must have combined wealth or we will not have any transportation in this city or anywhere.

I would not criticize any Member for his opinion, because he has the right to express it. He has a right to cast his vote as he feels he ought to. But after all, is it fair for men to vote against this bill after we have incorporated into it every amendment they ask? Is it fair for you men to challenge the wisdom of this measure when no one has offered a suggestion as to its improvement?

And now the gentleman from Texas [Mr. BLANTON], after occupying the floor a full hour yesterday, and after having made a speech from which no man has yet deduced anything of argument or of sense, or anything except blackguardism against the chairman of the committee, now proposes the most humiliating and abject surrender that was ever contemplated on the floor of this House. To admit that this Congress does not have the intelligence to perfect this bill, and that it will not make it as it should be if it is not as you would have it, is a craven surrender. I certainly would contemplate with the greatest humiliation such a thing as striking out the enacting clause of this bill.

I hope we will prove to the country that this Congress can enact legislation no matter how it may be brought here. We all know that there is no such thing as perfection. I do not care how many laws the gentleman from California [Mr. RAKER] may have interpreted on the bench, there was always a Supreme Court to reverse him, and they reversed him more than once. He will admit that, as must every judge. I hope this motion may be voted down overwhelmingly, and that we will proceed in an orderly way to the consideration of this legislation.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired. All time has expired. The question is on the motion of the gentleman from Texas [Mr. BLANTON] that the enacting clause of this bill be stricken out.

The question was taken; and on a division (demanded by Mr. FOCHT) there were—ayes 70, noes 50.

Mr. FOCHT. Mr. Chairman, I believe under the rule I can ask for tellers, and I demand tellers.

Tellers were ordered, and the Chairman appointed Mr. BLANTON and Mr. FOCHT.

The committee again divided; and the tellers reported—ayes 68, noes 60.

Accordingly, the motion of Mr. BLANTON was agreed to.

Mr. FOCHT. Mr. Chairman——

Mr. BLANTON. Mr. Chairman, I move that the committee do now rise and report the bill to the House with the recommendation that the enacting clause be stricken out.

Mr. LONGWORTH. Mr. Chairman——

Mr. FOCHT. Mr. Chairman, I insist on my rights——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. FOCHT. I rise to make a motion.

The CHAIRMAN. The gentleman from Texas is recognized.

Mr. BLANTON. I move that the committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

Mr. LONGWORTH. Mr. Chairman, I insist that under the ordinary procedure of this House it is the duty of the Chair to recognize the gentleman in charge of the bill and not the gentleman from Texas.

Mr. CRISP. Mr. Chairman, when a preferential motion like this one is carried the maker of the motion is entitled to recognition.

The CHAIRMAN. In the opinion of the Chair when an essential motion is decided adversely, or a decisive one, like the motion of the gentleman from Texas to strike out the enacting clause, has been carried, the Member in charge of the bill loses control of the bill in the committee, and the right to prior recognition passes to the opposition. (House Manual, par. 738.) The Chair will put the motion of the gentleman from Texas, which is that the committee rise and report the bill to the House with the recommendation that the enacting clause be stricken out.

The question being taken, the motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. SINNOTT, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 8520, to further regulate certain public-service corporations operating within the District of Columbia, and for other purposes, and that committee had directed him to report the same back with the recommendation that the enacting clause be stricken out.

Mr. BLANTON. Mr. Speaker, I move the previous question.

Mr. SANDERS of Indiana rose.

The SPEAKER. For what purpose does the gentleman rise?

Mr. SANDERS of Indiana. To offer a preferential motion.

The SPEAKER. The gentleman will state it.

Mr. SANDERS of Indiana. Mr. Speaker, I desire to recommit the bill to the Committee on the District of Columbia with specific instructions to report the same back to the House——

Mr. BLANTON. Mr. Speaker, I make the point of order that that is not in order now.

The SPEAKER. The gentleman from Texas has the right to move the previous question, and after the previous question is ordered the gentleman's motion will have preference. The question is on the motion of the gentleman from Texas for the previous question.

Mr. FOCHT. And on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 83, nays 179, answered "present" 2, not voting 167, as follows:

YEAS—83.

Almon	Davis, Tenn.	Kincheloe	Rayburn
Aswell	Dominick	Lanham	Riordan
Barkley	Doughton	Lankford	Robsion
Begg	Dupré	Lazaro	Rodenberg
Bell	Echols	Logan	Rouse
Black	Favrot	London	Rucker
Blanton	Fisher	Lowrey	Sanders, Tex.
Boies	Gallivan	Lyon	Sandlin
Bowling	Garrett, Tex.	McLaughlin, Mich.	Sisson
Box	Gilbert	Mapes	Smithwick
Briggs	Hardy, Tex.	Martin	Stedman
Brinson	Hayden	Norton	Stevenson
Buchanan	Herrick	Ogden	Stoll
Bulwinkle	Hersey	Oliver	Swank
Byrnes, S. C.	Huddleston	Overstreet	Ten Eyck
Byrns, Tenn.	Hudspeth	Parks, Ark.	Tillman
Clague	Jacoway	Parrish	Tyson
Codd	James	Pou	Vinson
Collins	Jefferis, Nebr.	Quin	Weaver
Connally, Tex.	Jeffers, Ala.	Raker	Wilson
Crisp	Jones, Tex.	Rankin	

NAYS—179.

Anderson	Chandler, N. Y.	Fenn	Hoch
Andrew, Mass.	Chindblom	Fess	Hogan
Andrews, Nebr.	Christopherson	Fitzgerald	Hukriede
Appleby	Classon	Focht	Husted
Arentz	Cole, Iowa	Fordney	Ireland
Barbour	Cole, Ohio	Foster	Johnson, S. Dak.
Beck	Colton	Frear	Johnson, Wash.
Beedy	Cooper, Wis.	Frothingham	Keller
Benham	Coughlin	Funk	Kelley, Mich.
Bird	Crago	Gahn	Kelly, Pa.
Bland, Ind.	Curry	Gensman	Kendall
Bland, Va.	Dale	Gernerd	Ketcham
Bowers	Darrow	Glynn	Kinkaid
Brooks, Ill.	Deal	Goodykoontz	Kirkpatrick
Brown, Tenn.	Denison	Graham, Ill.	Kissel
Browne, Wis.	Dickinson	Green, Iowa	Kline, N. Y.
Burdick	Dowell	Greene, Mass.	Kline, Pa.
Burtness	Drane	Hammer	Kopp
Burton	Dunbar	Hardy, Colo.	Kraus
Butler	Dyer	Harrison	Lampert
Cable	Edmonds	Haugen	Lawrence
Campbell, Kans.	Elliott	Hawley	Layton
Campbell, Pa.	Evans	Hickey	Lehlbach
Chalmers	Fairchild	Himes	Lineberger
Longworth	Parker, N. J.	Scott, Mich.	Vaile
McCormick	Parker, N. Y.	Scott, Tenn.	Vestal
McLaughlin, Nebr.	Patterson, Mo.	Shelton	Voigt
McPherson	Patterson, N. J.	Sinnott	Volstead
MacGregor	Perkins	Smith, Idaho	Walsh
Magee	Petersen	Snell	Walters
Maloney	Pringey	Snyder	Watson
Michener	Purnell	Speaks	Wheeler
Miller	Radcliffe	Sproul	White, Kans.
Millspaugh	Ramseyer	Stafford	Williams
Mondell	Ransley	Steagall	Williamson
Montague	Reavis	Stephens	Wingo
Moores, Ind.	Reece	Strong, Kans.	Winslow
Morgan	Reed, W. Va.	Strong, Pa.	Woods, Va.
Nelson, A. P.	Ricketts	Swing	Woodyard
Nelson, J. M.	Riddick	Tague	Wurzbach
Newton, Minn.	Roach	Temple	Wyant
Newton, Mo.	Robertson	Timberlake	Yates
Olpp	Rose	Tincher	Young
Osborne	Sanders, Ind.	Tinkham	Zihlman
Padgett	Sanders, N. Y.	Towner	

ANSWERED "PRESENT"—2.

Collier Fuller

NOT VOTING—167.

Ackerman	Fish	Lea, Calif.	Reed, N. Y.
Ansorge	Flood	Leatherwood	Rhodes
Anthony	Free	Lee, Ga.	Rogers
Atkeson	Freeman	Lee, N. Y.	Rosenbloom
Bacharach	French	Linthicum	Rossdale
Bankhead	Fulmer	Little	Ryan
Bixler	Garner	Luce	Sabath
Blakeney	Garrett, Tenn.	Luhring	Schall
Bond	Goldsborough	McArthur	Sears
Brand	Gorman	McClintic	Shaw
Brennan	Gould	McDuffie	Shreve
Britten	Graham, Pa.	McFadden	Siegel
Brooks, Pa.	Greene, Vt.	McKenzie	Sinclair
Burke	Griest	McLaughlin, Pa.	Slemp
Burroughs	Griffin	McSwain	Smith, Mich.
Cannon	Hadley	Madden	Steenerson
Cantrill	Hawes	Mann	Stiness
Carew	Hays	Mansfield	Sullivan
Carter	Hicks	Mead	Summers, Wash.
Chandler, Okla.	Hill	Merritt	Sumners, Tex.
Clark, Fla.	Houghton	Michaelson	Sweet
Clarke, N. Y.	Hull	Mills	Taylor, Colo.
Clouse	Humphreys	Montoya	Taylor, N. J.
Cockran	Hutchinson	Moore, Ill.	Taylor, Tenn.
Connell	Johnson, Ky.	Moore, Ohio	Thomas
Connolly, Pa.	Johnson, Miss.	Moore, Va.	Thompson
Cooper, Ohio	Jones, Pa.	Morin	Tilson
Copley	Kahn	Mott	Treadway
Cramton	Kearns	Mudd	Underhill
Crowther	Kennedy	Murphy	Upshaw
Cullen	Kiess	Nolan	Vare
Dallinger	Kindred	O'Brien	Volk
Davis, Minn.	King	O'Conner	Ward, N. Y.
Dempsey	Kitchin	Oldfield	Ward, N. C.
Drewry	Kleczka	Paige	Wason
Driver	Knight	Park, Ga.	Webster
Dunn	Knutson	Perlman	White, Me.
Ellis	Kreider	Peters	Wise
Elston	Kunz	Porter	Wood, Ind.
Fairfield	Langley	Rainey, Ala.	Woodruff
Faust	Larsen, Ga.	Rainey, Ill.	Wright
Fields	Larson, Minn.	Reber	

So the previous question was rejected.

The Clerk announced the following pairs:

Mr. OLDFIELD (for) with Mr. MUDD (against).

General pairs:

Mr. HAYS with Mr. HAWES.

Mr. FULLER with Mr. KUNZ.

Mr. TREADWAY with Mr. COLLIER.

Mr. ROGERS with Mr. LINTHICUM.

Mr. DAVIS of Minnesota with Mr. DRIVER.

Mr. SHREVE with Mr. BANKHEAD.

Mr. PERLMAN with Mr. MCDUFFIE.

Mr. LANGLEY with Mr. CLARK of Florida.

Mr. MORIN with Mr. RAINEY of Illinois.

Mr. FRENCH with Mr. GOLDSBOROUGH.

Mr. ATKESON with Mr. O'BRIEN.

Mr. CONNELL with Mr. TAYLOR of Colorado.

Mr. ELLIS with Mr. UPSHAW.

Mr. BROOKS of Pennsylvania with Mr. JOHNSON of Kentucky.

Mr. GRIEST with Mr. CAREW.

Mr. ANTHONY with Mr. SEARS.

Mr. BACHARACH with Mr. MEAD.

Mr. GORMAN with Mr. BRAND.

Mr. VOLK with Mr. CANTRILL.

Mr. ACKERMAN with Mr. PARK of Georgia.

Mr. FREE with Mr. MANSFIELD.

Mr. GRAHAM of Pennsylvania with Mr. SABATH.

Mr. HUTCHINSON with Mr. FIELDS.

Mr. BLAKENEY with Mr. FULMER.

Mr. BIXLER with Mr. WARD of North Carolina.

Mr. KAHN with Mr. COCKRAN.

Mr. REBER with Mr. FLOOD.

Mr. KREIDER with Mr. MCSWAIN.

Mr. REED of New York with Mr. CULLEN.

Mr. SIEGEL with Mr. GRIFFIN.

Mr. BRENNAN with Mr. MOORE of Virginia.

Mr. FAUST with Mr. GARNER.

Mr. CRAMTON with Mr. GARRETT of Tennessee.
Mr. ROSENBLOOM with Mr. DREWRY.
Mr. STINESS with Mr. O'CONNOR.
Mr. TAYLOR of New Jersey with Mr. CARTER.
Mr. THOMPSON with Mr. RAINEY of Alabama.
Mr. MURPHY with Mr. KINDRED.
Mr. NOLAN with Mr. KITCHIN.
Mr. PAIGE with Mr. LEA of California.
Mr. DUNN with Mr. LARSEN of Georgia.
Mr. CONNOLLY of Pennsylvania with Mr. WISE.
Mr. MOORE of Ohio with Mr. THOMAS.
Mr. KNUTSON with Mr. MCCLINTIC.
Mr. RHODES with Mr. HUMPHREYS.
Mr. CHANDLER of Oklahoma with Mr. JOHNSON of Mississippi.
Mr. VARE with Mr. SUMNERS of Texas.
Mr. MCARTHUR with Mr. LEE of Georgia.

Mr. COLLIER. Mr. Speaker, has the gentleman from Massachusetts, Mr. TREADWAY, voted?

The SPEAKER. No.

Mr. COLLIER. I have a session pair with him. I voted "yea." I desire to withdraw my vote of "yea" and answer "present."

The name of Mr. COLLIER was called, and he answered "present."

The result of the vote was announced as above recorded.

The SPEAKER. The question before the House is concurring in the vote of the Committee of the Whole House on the state of the Union whereby the enacting clause of the bill was stricken out.

Mr. SANDERS of Indiana. Mr. Speaker, I offer a preferential motion to recommit the bill to the Committee on the District of Columbia, and upon that motion I desire recognition.

Mr. BLANTON. Mr. Speaker, I desire to make a point of order on the motion.

The SPEAKER. The Chair will hear the gentleman from Texas.

Mr. BLANTON. Mr. Speaker, I make the point of order that such a motion is inconsistent and not permissible when a motion to strike out the enacting clause comes from the Committee of the Whole House on the state of the Union under the circumstances in which we find this bill, and I call the Chair's attention to those circumstances. This bill was introduced on October 7 in the House and referred to the Committee on the District of Columbia. On that same day that committee by its report, prepared and signed by the gentleman from Maryland [Mr. ZIHLMAN], reported the bill favorably to the House and at the same time the House referred the bill to the Committee of the Whole House on the state of the Union, and it was placed on the Union Calendar. That was the situation when the House resolved itself into the Committee of the Whole House on the state of the Union yesterday for the purpose of considering the bill. If the Committee of the Whole House on the state of the Union had recommended the passage of the bill, then such a motion as that made by the gentleman from Indiana to recommit the bill to the Committee on the District of Columbia, either with or without instructions, would have been in order, as it would not be inconsistent with the action of the Committee of the Whole House. In other words, it would be consistent with the action of the Committee of the Whole House on the state of the Union, if it had agreed to pass the bill, to send it back to the committee which reported it; but by a vote of 68 to 60 the Committee of the Whole House on the state of the Union rejected the bill by striking out its enacting clause.

The SPEAKER. Is the gentleman familiar with the clause of the rule about striking out the enacting clause of a bill? If the gentleman will permit the Chair to read the rule, I think he will agree that there is no question about the motion of the gentleman from Indiana being in order. That rule provides as follows:

A motion to strike out the enacting words of a bill shall have precedence of a motion to amend, and, if carried, shall be considered equivalent to its rejection. Whenever a bill is reported from a Committee of the Whole with an adverse recommendation, and such recommendation is disagreed to by the House, the bill shall stand recommitted to the said committee without further action by the House, but before the question of concurrence is submitted it is in order to entertain a motion to refer the bill to any committee, with or without instructions, and when the same is again reported to the House it shall be referred to the Committee of the Whole without debate.

Mr. BLANTON. Mr. Speaker, I do not care to argue the matter further.

The SPEAKER. The gentleman from Indiana is recognized.

Mr. SANDERS of Indiana rose.

Mr. BLANTON. Mr. Speaker, I move the previous question on the motion of the gentleman from Indiana. Argument has not yet begun.

Mr. WALSH. But the gentleman from Indiana has been recognized.

The SPEAKER. The Chair thinks it is too late.

Mr. BLANTON. There has been no argument.

Mr. SANDERS of Indiana. That may be true when I have talked for 15 minutes.

Mr. WINGO. Mr. Speaker, the gentleman from Indiana has been recognized, and having been recognized no one can take him from the floor.

The SPEAKER. The Chair thinks so.

Mr. SANDERS of Indiana. Mr. Speaker, I think this bill should be recommitted to the Committee on the District of Columbia in order that it may give further consideration to the very perplexing problem which is presented by the legislation. I think no more difficult proposition has come before the House than the proposition dealing with these two transportation companies, one of which is able, because of its location and its short mileage and heavy passenger traffic, to make large returns, while the other company paralleling and competing with it makes small returns. The question of whether there should be a consolidation, and how to bring it about, is a difficult one. I think the debate by the distinguished chairman of the committee [Mr. FOCHT] and by the gentleman from Maryland [Mr. ZIHLMAN] and the gentleman from Virginia [Mr. WOODS] shows that they have given careful thought to the question.

I think that they have undertaken in a way to deal with it and have gone along in the right direction in some particulars. However, I think it is also clear that the bill which has been reported by the committee ought not to pass and that it would be difficult in the Committee of the Whole to so amend it as to exactly meet the situation. On the other hand it seems clear to all the Members of the House that there is a real problem presented by the bill and that this committee should take the bill and the problem and work it out and bring the matter back again to the House. The action of the House in recommitting the bill to the committee, if the House acts favorably upon my motion, will simply be an expression from the House that it appreciates that there is a problem and that the bill deals with it in the proper direction, but that the House thinks the matter ought to be given further detailed consideration.

Mr. Speaker, I do not think a great amount of debate is needed upon the motion and I move the previous question.

Mr. BLANTON. Mr. Speaker, will the gentleman permit me to have two minutes to answer him?

The SPEAKER. The gentleman from Indiana moves the previous question.

The question was taken and the previous question was ordered.

The SPEAKER. The question is on the motion of the gentleman from Indiana to recommit the bill to the Committee on the District of Columbia.

The motion was agreed to.

EXTENSION OF REMARKS.

Mr. GRAHAM of Illinois. Mr. Speaker, I ask unanimous consent to extend and revise my remarks upon this bill.

The SPEAKER. Is there objection?

There was no objection.

Mr. FOCHT. Mr. Speaker, I ask unanimous consent that all Members who spoke on the bill may have five legislative days within which to revise and extend their remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

LEAVES OF ABSENCE.

By unanimous consent leave of absence was granted to—

Mr. RAINEY of Alabama indefinitely, at the request of Mr. ALMON.

Mr. ACKERMAN, for 10 days.

ADJOURNMENT.

Mr. FOCHT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 2 o'clock and 26 minutes p. m.) the House adjourned until to-morrow, Wednesday, October 12, 1921, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. FULLER, from the Committee on Invalid Pensions, to which was referred sundry bills of the House, reported in lieu thereof the bill (H. R. 8624) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, accompanied by a report (No. 402), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Pensions was discharged from the consideration of the bill (H. R. 8575) granting a pension to Anna J. Gove, and the same was referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. FULLER: A bill (H. R. 8624) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war; committed to the Committee of the Whole House and ordered to be printed.

By Mr. JAMES: A bill (H. R. 8625) to provide for the cession to the State of Michigan of certain public lands in the county of Isle Royal, State of Michigan; to the Committee on the Public Lands.

By Mr. BLAND of Indiana: A bill (H. R. 8626) to regulate the shipment in interstate and foreign commerce of immoral motion-picture films; to the Committee on the Judiciary.

By Mr. FITZGERALD: Resolution (H. Res. 196) for the appointment of a committee of five Members of the House of Representatives to investigate the conditions of the police department of the District of Columbia; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. COLE: A bill (H. R. 8627) granting a pension to Rose Frost; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8628) granting an increase of pension to Lester H. Greer; to the Committee on Pensions.

By Mr. CRAMTON: A bill (H. R. 8629) granting a pension to Mary A. McKay; to the Committee on Pensions.

Also, a bill (H. R. 8630) granting a pension to William Adamson; to the Committee on Pensions.

By Mr. CURRY: A bill (H. R. 8631) granting a pension to Thomas Robert Farewell; to the Committee on Pensions.

By Mr. GARRETT of Texas: A bill (H. R. 8632) for the relief of the heirs of Frank Boddeker; to the Committee on Claims.

By Mr. HUDSPETH: A bill (H. R. 8633) for the relief of Anna M. Tobin, independent executrix of the estate of Frank R. Tobin, deceased; to the Committee on Claims.

By Mr. LINEBERGER: A bill (H. R. 8634) granting a pension to Martha C. Davis; to the Committee on Pensions.

By Mr. MEAD: A bill (H. R. 8635) granting a pension to Janett Goslin; to the Committee on Invalid Pensions.

By Mr. MOORE of Virginia: A bill (H. R. 8636) for the relief of Walter S. Warner; to the Committee on Claims.

By Mr. MUDD: A bill (H. R. 8637) for the relief of John Jakes; to the Committee on Military Affairs.

Also, a bill (H. R. 8638) granting an increase of pension to Dominic Roach; to the Committee on Pensions.

By Mr. SNELL: A bill (H. R. 8639) to authorize appropriations for the relief of certain officers of the Army of the United States, and for other purposes; to the Committee on War Claims.

Also, a bill (H. R. 8640) granting a pension to Henry C. Selleck; to the Committee on Invalid Pensions.

By Mr. THOMPSON: A bill (H. R. 8641) granting a pension to Mollie A. Bradford; to the Committee on Invalid Pensions.

By Mr. BOWERS: Resolution (H. Res. 197) authorizing payment of six months' salary and funeral expenses to Rose V. Elliott, on account of death of Alex Elliott, late an employee of the House of Representatives; to the Committee on Accounts.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

2694. By the SPEAKER (by request): Resolutions Nos. 55954 and 55955 adopted by the council of the city of Cleveland, Ohio, and approved by the mayor, relative to labor conditions; to the Committee on Labor.

2695. Also (by request), resolutions adopted at the third annual convention of the Department of Massachusetts of the American Legion, relative to adjusted compensation for ex-service men; to the Committee on Ways and Means.

2696. Also (by request), resolutions adopted by Springfield Council of the American Association for the Recognition of the Irish Republic, relating to free tolls for American coastwise vessels passing through the Panama Canal; to the Committee on Interstate and Foreign Commerce.

2697. Also (by request), resolution from the Robbinsdale Commercial Club of Robbinsdale, Minn., indorsing the "more work—better roads" movement; to the Committee on Roads.

2698. Also (by request), telegram from Rev. Henry C. Cobb and other ministers of Boonton, N. J., protesting against a bill before the Senate relative to the use of the Panama Canal; to the Committee on Interstate and Foreign Commerce.

2699. Also (by request), resolutions from the Portsmouth (N. H.) Central Labor Union, protesting against the policy of the Government relative to navy yard employees; to the Committee on Expenditures in the Navy Department.

2700. By Mr. BECK: Resolution adopted by the common council of the city of Milwaukee, relative to the construction of a breakwater to protect lake terminals designed to be located at Milwaukee, Wis.; to the Committee on Rivers and Harbors.

2701. By Mr. CRAMTON: Resolutions of Division No. 1, Ancient Order of Hibernians, of St. Clair County, Mich., asking that the name of Commodore John Barry be inscribed on the memorial arch at Arlington Cemetery; to the Committee on the Library.

2702. By Mr. FISH: Papers in support of House bill 8586, granting an increase of pension to Earl B. Durham; to the Committee on Pensions.

2703. Also, papers in support of House bill 8585, granting a pension to Emma M. Gottwald; to the Committee on Invalid Pensions.

2704. By Mr. GILLETT: Petition of Arthur O. Nuttelman and other citizens of Florence, Mass., urging aid for the enforcement of prohibition and the thwarting of all efforts at weakening enforcement laws; to the Committee on the Judiciary.

2705. By Mr. KISSEL: Petition of Sterling P. Bond, of St. Louis, Mo.; to the Committee on Agriculture.

2706. By Mr. MICHENER: Resolutions in reference to conference on limitation of armaments passed by Ann Arbor Grange, No. 1566, Ann Arbor, Mich.; to the Committee on Foreign Affairs.

2707. By Mr. MOORE of Virginia: Petition of Hanover Baptist Church, of King George County, Va., relative to constitutional amendment to prohibit sectarian appropriations; to the Committee on the Judiciary.

2708. By Mr. RAKER: Petition of the Long Beach Realty Board, of Long Beach, Calif., urging adoption of an amendment to the Constitution of the United States allowing taxation of income from tax-exempt securities; to the Committee on the Judiciary.

2709. Also, petition of the Southern California School Librarians' Association, of Los Angeles, Calif., urging support of House bill 7, providing for the establishment of a department of education under the direction of a secretary who shall belong to the President's Cabinet; to the Committee on Education.

2710. By Mr. SWING: Petition of sundry citizens and residents of Orange and San Diego Counties, Calif., protesting against a compulsory Sunday observance law; to the Committee on the District of Columbia.

SENATE.

WEDNESDAY, *October 12, 1921.*

(Legislative day of Tuesday, October 4, 1921.)

The Senate reassembled at 11 o'clock a. m., on the expiration of the recess.

Mr. PENROSE. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Frelinghuysen	McCormick	Robinson
Ball	Harreld	McKellar	Sheppard
Borah	Harris	McKinley	Shields
Brandegee	Harrison	McNary	Shortridge
Calder	Heflin	Moses	Simmons
Cameron	Hitchcock	Myers	Smith
Capper	Johnson	Nelson	Smoot
Caraway	Jones, N. Mex.	New	Spencer
Culberson	Kellogg	Newberry	Sutherland
Cummins	Kendrick	Nicholson	Swanson
Curtis	Kenyon	Oddie	Townsend
Dial	Keyes	Overman	Trammell
Dillingham	King	Page	Wadsworth
Edge	Knox	Penrose	Walsh, Mont.
Ernst	Ladd	Poindexter	Watson, Ga.
Fernald	La Follette	Pomerene	Watson, Ind.
France	Lenroot	Reed	Willis

Mr. KING. I wish to announce that the Senator from Rhode Island [Mr. GERRY] is absent on account of illness in his family. I will let this announcement stand for the day.

Mr. HARRISON. I desire to announce that the Senator from Kentucky [Mr. STANLEY] is unavoidably absent.

The PRESIDENT pro tempore. Sixty-eight Senators have answered to their names. There is a quorum present.

REINTERMENT OF AMERICAN SOLDIER DEAD.

The PRESIDENT pro tempore laid before the Senate a communication from Brig. Gen. C. R. Krauthoff, Quartermaster Corps, Acting Quartermaster General of the Army, which was read, and, with the accompanying papers, ordered to lie on the table for inspection by Senators, as follows:

WAR DEPARTMENT,
OFFICE OF THE QUARTERMASTER GENERAL OF THE ARMY,
Washington, October 11, 1921.

The PRESIDENT OF THE SENATE,
Washington, D. C.

MY DEAR SIR: The inclosed copies of lists of American soldier dead returned from overseas, consisting of 1 officer and 69 enlisted men, to be reinterred in the Arlington National Cemetery Thursday, October 13, 1921, at 2.30 p. m., are furnished for consultation by Members of the House. It is requested that they be posted or displayed in a suitable place for the purpose desired.

Very truly, yours,
C. R. KRAUTHOFF,
Brigadier General, Quartermaster Corps,
Acting Quartermaster General.

PETITIONS AND MEMORIALS.

Mr. ODDIE presented a resolution adopted by the Nevada Hotel Association, praying for the elimination of war taxes on railroad transportation and Pullman accommodations, which was ordered to lie on the table.

Mr. PAGE presented two memorials of sundry citizens of Hartland, Vt., remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which were referred to the Committee on the District of Columbia.

Mr. KNOX presented 24 memorials signed by 6,000 citizens of Philadelphia and sundry citizens of Susquehanna County, Luzerne County, Kingston, Wilkes-Barre, Pittston, Harrisburg, Shillington, Honesdale, Bristol, White Mills, Prompton, Canton, Colmar, Hatboro, North Wales, Leolyn, Fallbrook, Barto, Reading, Pipersville, Souderton, Sellersville, and Perkasie, all in the State of Pennsylvania, remonstrating against the enactment of legislation providing for compulsory Sunday observance in the District of Columbia, which were referred to the Committee on the District of Columbia.

On request of Mr. KNOX the heading of one of the memorials was ordered to be printed in the RECORD, as follows:

PROTEST AGAINST SUNDAY BLUE LAWS.

To the honorable the Senate and House of Representatives of the United States:

Believing (1) in the separation of church and state;

(2) That Congress is prohibited by the first amendment to the Constitution from enacting any law enforcing the observance of any religious institution or looking toward a union of church and state or of religion and civil government;

(3) That any such legislation is opposed to the best interests of both church and state; and

(4) That the first step in this direction is a dangerous step and should be opposed by every lover of liberty;

We, the undersigned, adult residents of Philadelphia, State of Pennsylvania, earnestly petition your honorable body not to pass the compulsory Sunday observance bills (S. 1948 and H. R. 4388) which aim to regulate Sunday observance by civil force under penalty for the District of Columbia.

Mr. CAPPER presented a resolution adopted by Beattie Council, American Association for the Recognition of the Irish Republic, of Beattie, Kans., protesting against the enactment of Senate bill 2135, to enable the refunding of obligations of foreign Governments owing to the United States, etc., and favoring the payment of overdue interest and the reduction of the principal by installments on such foreign debts, which was ordered to lie on the table.

Mr. WILLIS presented a petition of sundry citizens of Toledo, Ohio, praying for the enactment of legislation creating a department of education, which was referred to the Committee on Education and Labor.

He also presented a petition of sundry coal mining companies of Nelsonville, Ohio, praying that amendment be made to the pending tax revision bill so as to provide that the net losses of any one year may be deducted from the net earnings of the previous year and the taxes for the previous year be redetermined and the balance due the taxpayer as so ascertained be refunded, etc., which was ordered to lie on the table.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CARAWAY:

A bill (S. 2574) granting an increase of pension to John H. Cook; to the Committee on Pensions.

A bill (S. 2575) for the relief of James Rowland;

A bill (S. 2576) for the relief of Mrs. H. J. Munda;

A bill (S. 2577) for the relief of the estate of John R. Williams, deceased; and

A bill (S. 2578) for the relief of the Interstate Grocer Co.; to the Committee on Claims.

By Mr. HARRIS:

A bill (S. 2579) to provide for the publication of estimates of unginned cotton; to the Committee on Agriculture and Forestry.

By Mr. SHORTRIDGE:

A bill (S. 2580) for the relief of Michael Sweeney; to the Committee on Military Affairs.

AMENDMENTS OF TAX REVISION BILL.

Mr. LODGE, Mr. KELLOGG, and Mr. TRAMMELL submitted amendments, intended to be proposed by them to House bill 8245, the tax revision bill, which were ordered to lie on the table and to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, announced that the House had passed a bill (H. R. 6817) to authorize the Secretary of the Interior to issue patent to the State of Michigan, in trust, of a certain described tract of land to be used as a game refuge, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed enrolled bills of the following titles, and they were thereupon signed by the President pro tempore:

H. R. 6809. An act to extend the time for the construction of a bridge across the Rio Grande within or near the city limits of El Paso, Tex.; and

H. R. 8209. An act to extend the time for the construction of a bridge across the Cumberland River in Montgomery County, Tenn.

HOUSE BILL REFERRED.

The bill (H. R. 6817) to authorize the Secretary of the Interior to issue patent to the State of Michigan, in trust, of a certain described tract of land to be used as a game refuge was read twice by its title and referred to the Committee on Public Lands and Surveys.

The Senate, as in Committee of the Whole and in open executive session, resumed the consideration of the treaty of peace with Germany.

Mr. WALSH of Montana. Mr. President, I have approached the consideration of the treaty with Germany now before us with the most earnest desire to support it, and to give it my vote, impatient for the restoration of a state of peace in even the most technical sense with that country, so long delayed. I hoped that however much it might disappointingly leave for future adjustment, the treaty would otherwise be unobjectionable and would be promptly ratified. Indeed, speaking upon such meager information concerning it as was conveyed by the press reports announcing that it had been signed, I expressed the opinion that favorable action by the Senate at an early date might be expected. Upon a careful study of its provisions, however, I find it impossible to give it my approval in the form in which it is presented.

I proceed at once to the feature of the treaty which impels me to the conclusion that it ought to be rejected.

Article 1 refers to the Knox resolution of July 2, 1921, and declares that the United States "shall have and enjoy all the rights, privileges, indemnities, reparations, or advantages specified therein." By that resolution there was expressly reserved to the United States—

any and all rights, privileges, indemnities, reparations, or advantages, together with the right to enforce the same, to which it or they have become entitled under the terms of the armistice signed November 11, 1918, or any extensions or modifications thereof; or which were acquired by or are in the possession of the United States of America by reason of its participation in the war or to which its nationals have thereby become rightfully entitled; *or which, under the treaty of Versailles, have been stipulated for its or their benefit;* or to which it is entitled as one of the principal allied and associated powers; or to which it is entitled by virtue of any act or acts of Congress or otherwise.

Article 2 of the treaty is introduced with the following:

With a view to defining more particularly the obligations of Germany under the foregoing article with respect to certain provisions in the treaty of Versailles, it is understood and agreed between the high contracting parties:

(1) That the rights and advantages stipulated in that treaty for the benefit of the United States, which it is intended the United States shall have and enjoy, are those defined in section 1, of part 4, and parts 5, 6, 8, 9, 10, 11, 12, 14, and 15.

Part 5 of the treaty of Versailles deals with the disarmament of Germany. Its provisions are intended to make and to keep her militarily impotent. There is therein no reference to any "rights" or "advantages" or "privileges" accruing to

the United States except the "right" or "privilege" to have Germany no longer a menace to the peace of the world. The subject of indemnities or reparations is dealt with in an entirely separate part of the treaty of Versailles, and there is nothing in part 5 referring either generally to that subject, or according to the United States, either indemnity or reparation.

Unlike some other divisions of the treaty which deal with many matters in which the United States has no interest, at least no appreciable interest, but which contain some stipulations out of which some right, privilege, or advantage accrues or may accrue to the United States, part 5 is devoted exclusively to the disarmament of Germany and to the means of preventing her recrudescence as a military power.

It will be unnecessary to the present purpose to dwell upon the provisions of the treaty under which Germany was required to disarm, inasmuch as our intelligence officers and other military observers in Germany apprise us that they had, in substance, been complied with before the treaty now under consideration was signed, and that the more or less important provisions lacking fulfillment are being carried out as speedily as conditions would permit. It will be of interest, however, and be helpful to a proper understanding of the significance of the treaty before us, touching the future conduct of Germany, to recall that she was by part 5 of the treaty of Versailles, now incorporated in this treaty, required, among other things, to reduce her army to 100,000 men, to surrender her fleet, perfidiously scuttled at Scapa Flow, to disarm and dismantle her fortifications in the Rhineland, to demolish those on Heligoland, to deliver up to be destroyed and rendered useless all her arms, munitions, and war material in excess of a limited quantity specified in the treaty deemed necessary for internal police purposes.

In accordance with the obligation last above enumerated, Germany has turned over to the Allies a vast store of materials, listed in a schedule supplied to me by the War Department, which I ask to be made an appendix to my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WALSH of Montana. It is accompanied by a memorandum from which I read:

2. Quoting from three reports from the military observer at Berlin, September 6, 1921, disarmament of the army, navy, and air service is well summed up:

"Germany has disarmed on land, with the exception of her 100,000 army, as contemplated by the Versailles treaty, taking into consideration the fact that the discovery of absolutely all munitions and arms is an impossibility. The above is the carefully considered opinion of the military attaché and it is also the opinion of Gen. Nollet, president of the interallied military control commission.

"Germany has disarmed and eliminated her air service as provided in the Versailles treaty. This is a fact, although it is necessarily admitted that possibly a few hundred planes or parts of planes have not yet been discovered. It is obvious that these are out of date and of no real consequence.

"Germany has disarmed as a naval power under the provisions of the Versailles treaty. This is obvious and is the measured judgment of all foreign military and naval officers in Germany."

For the future the treaty provides that the German Army shall not exceed 100,000 men; that the great German general staff shall not be reconstructed in any form; that the number of employees or officials of the German States, such as customs officers, forest guards, and coast guards shall not exceed those so functioning in 1913, and that the number of gendarmes and employees and officials of the local or municipal police shall not be increased except in the proportion in which the population increases; that there should be no accumulation of guns, munitions, or military equipment beyond a specified limit; that the manufacture of all such should be restricted to the national factories or works; that the importation of such into Germany or the exportation of the same therefrom, should be prohibited, as well as the manufacture or importation of lethal gases or liquids, suited for military uses; that universal compulsory military training and conscription should be abolished; that no educational establishments or associations of any kind should occupy themselves with military matters, and particularly should not instruct or exercise their members or to allow them to be instructed or exercised in the profession or use of arms or to construct any fortifications in the area within which those existing at the time of the armistice were to be disarmed or demolished; that the armed forces of Germany should not include any naval or air forces, and that its navy be limited to a small specified number of vessels of inferior grade, not including any submarines.

The treaty provisions descend into particulars not noted here, but the foregoing recital will suffice to convey a sufficiently accurate idea of their character, the purpose of all being to leave Germany with forces and accessories sufficient to maintain order within her border, but useless for the purpose of aggressive foreign war.

To all intents and purposes part 5 of the Versailles treaty is read into the Berlin treaty and constitutes as much a portion of it as though set out therein at length. Germany agrees with us in a treaty to which only she and our country are parties to observe the stipulations intended to forbid her rehabilitation as a military power. We exact of her, obviously, that she so stipulate. This we do because Germany armed kept the world in awe, and we guard against her return to that state, not so much that we fear she would succeed in a contest which might involve the greater part of it as that she might be tempted, as she was, to try the issue and precipitate another such unspeakable calamity as that from which we are still painfully and slowly emerging.

It is evidently the theory of this treaty that the United States is concerned in maintaining the peace of Europe, not alone because we might again be involved, a contingency not at all unlikely should another war break out between Germany and any of the great powers, particularly if it became general, nor yet because of the impulse of humanity and the promptings of religion, natural or revealed, but because we recognize our present situation industrially makes us painfully aware, that we must suffer with those more directly affected from the impoverishment which such a struggle necessarily portends, if, indeed, civilization itself, in view of the appalling advance in fiendish inventions for purposes of war, not to speak of the mounting cost of prosecuting it, could survive. Against the repetition of her folly by Germany it is intended, as recited, to guard.

But is the country prepared to assume the responsibility of such a treaty with Germany? Let us not deceive ourselves into the belief that we burden ourselves with none in entering into this agreement.

Suppose that Germany should flagrantly disregard the covenants she will have entered into with us should this treaty become effective; that she upon one pretense or another, or without even a pretense, is proceeding to reestablish her incomparable military organization, reconstruct the defenses of Heligoland, rebuild her navy, and generally to regain the eminence as a world power from which she fell when our sword was raised against her, are the people of the United States prepared to undertake to coerce her into abandonment of such a policy? It is quite true that we do not obligate ourselves in terms by this treaty to do so. But it would be absurd so to stipulate. We would not propose in a treaty to which only we and Germany are parties thus to bind ourselves and for obvious reasons Germany would not ask it; that is, she would not ask that we obligate ourselves to restrain her. But there arises, of necessity, a moral obligation of the most impelling force from such an agreement. We could not, or should not, rather, calmly endure that Germany should openly flout us by plain and repeated violations of a solemn treaty into which she had entered with us in respect to provisions deemed by us as vital to our national peace and welfare as well as to the peace of Europe and the world. Would we be under no manner of constraint in that event by reason of the treaty before us? What answer would we make to the other self-respecting nations of the earth, to which Germany is similarly bound, should they call upon us to join them in an effort to repress the warlike purposes of a rejuvenated Germany? It would be no answer to say that we have no apprehensions so far as our own safety at home or abroad or our interests are concerned, inconsiderate as such an attitude might be in the plight in which those with whom we fought the good fight might be. We should be met with the retort that the treaty we made with Germany discloses the insincerity of such a reply; we should be asked why we ever exacted such a covenant of her, and we should be charged with attempting, the richest and most powerful Nation on earth, to shirk our just share of responsibility in the crisis and to impose it on feebler nations still staggering under the burden borne by them in the former conflict.

It will not do to say we take only such advantages as accrue to us under the Versailles treaty; we assume none of the responsibilities it imposes. In this instance, at least, we can not escape the responsibility. Are we prepared to say to the other nations interested that we are ready to join them in keeping Germany in military impotence in accordance with the provisions of the treaties entered into by her, the one signed at Versailles and the other at Berlin? Is it the purpose of those who stand sponsor for this treaty to commit the country to the renewal of the war with Germany should she disregard the provisions of the treaty under consideration, and less drastic procedure should prove unavailing, or is it expected, in the light of recent history, that she will hereafter scrupulously and conscientiously adhere to her treaty obligations, whatever course her view of her interest may dictate or suggest, so that neither complaint nor compulsion will be necessary?

How can such a covenant as this be harmonized with what has been quite generally understood to be the policy of this administration, at least the policy that has been so often and so eloquently extolled by influential Senators on the Republican side of this Chamber and their political associates of more or less eminence, namely, that the United States ought not to interfere at all in European quarrels nor involve itself in European entanglements? I am in entire accord with the view understood by me to have been expressed from across the aisle that the main argument leveled against the treaty of Versailles and particularly against the League of Nations, of noninterference in European affairs, may be directed with equal force against this treaty. How can it be said that we any longer adhere to such a policy when we make a treaty with Germany by which we require her to reduce her army to 100,000 men and to keep it at or below that figure, to avoid fortifying the Rhineland, to abandon all military instruction or military exercises in her institutions of learning, and to maintain no air force nor armed craft except some ships internationally insignificant?

Whatever remote or highly contingent interest we may have in the observance of those provisions of the treaty before us, they are primarily intended not for our protection but for the protection of the immediate neighbors of Germany, including the infant Republics of Poland and Czechoslovakia, but particularly of France. A treaty was negotiated during a former administration contemporaneously with the treaty of Versailles, by the terms of which the United States and Great Britain obligated themselves to go to the aid of France should she be again invaded by Germany. Its counterpart failing, the two treaties being in a measure interdependent, the special treaty never even received the consideration of the Senate, then, as now, controlled by a Republican majority. We declined to agree to go to the aid of France should the soil in which there slept 75,000 of our dead again be violated by the enemy against whom we contended with her in the most awful war in history, but we are now called upon by those who then forbade the alliance to obligate ourselves morally, at least, as I have explained, to a policy of keeping that enemy powerless, so that he will be unequal to the task of another invasion of France. If there is in the essentials of the two treaties any vital distinction, it must be that the one was negotiated by President Wilson and the other under the direction of President Harding.

I repeat that the Senator who taunted his Republican colleagues with abandoning their contention of the wisdom of noninterference in European affairs is correct in the view he takes. The only difference between us is that he contends that we should not go in at all; I, that we do not go far enough. We ought either to enter far enough to be of service or we ought to stay out altogether. I maintain that to go in only as far as is proposed by this treaty is not only not helpful toward the preservation of peace in Europe, to be desired from every point of view, but is provocative of war and contributory to that turbulence and unrest which arrest industrial rehabilitation there and constitute the most potent factor in the scarcely paralleled business depression from which our own country suffers. The mines of Butte are shut down because the European market for copper has collapsed, and there is no prospect of their being reopened until political conditions in Europe are quieted and stabilized.

The trouble is that it is well-nigh, if not quite, impossible to import a portion of the Versailles treaty into another, such as that before us, making it fit the occasion. As in most important documents, the different portions are to a degree, at least, interdependent. By the Versailles treaty Germany obligated herself, as provided in part 5, to disarm and to remain so, and each of the nations with which she so covenanted became, in a manner, bound to see that her covenants in that regard were observed. But by another portion of the treaty, the much-discussed article 10, those same nations all bound themselves that upon Germany becoming a member of the league, as it was contemplated she would become, they would respect and preserve her territorial integrity and political independence as against external aggression; that is to say, that although they proposed to make her helpless for attack, they would come to her aid if her soil should be invaded by an enemy.

Mr. WATSON of Georgia. Mr. President——

Mr. WALSH of Montana. I yield to the Senator.

Mr. WATSON of Georgia. I not only fully agree with what the Senator is so ably saying about the provocative nature of this treaty, but I call his attention to the fact that that provision in which we undertake against all sorts of laws, national and international, to limit the German army, is absolutely childish and futile, because all that she will have to do under this treaty is what she did under the terms that Napoleon imposed on her—train her troops alternately in just such bodies as she pleases and she can still maintain an armed military camp.

Mr. WALSH of Montana. I was calling attention to the fact that under the Versailles treaty the European nations charged themselves with seeing that Germany remained disarmed, but at the same time they charged themselves with the obligation to see that, disarmed as she was, she should not become a prey to any other nation that might care to invade her borders. They assured her that like a prisoner disarmed by a sheriff she would be protected from harm, and her enemy bent on making war upon her required to take his cause before the tribunal set up by the treaty for the composition or disposition of international controversies.

So by article 16 of the covenant of the league the signatories to the treaty other than Germany agreed to set up the economic boycott against any member which should make war on her, instead of submitting the controversy, whatever it might be, leading to the acts of war, to the council for its action. And even during the penitential period before she should be admitted to the league the nation thus to be disarmed and rendered helpless against any invader was not left without protection, for by article 11 of the covenant it was provided that any war or threat of war, whether immediately affecting the members of the league or not, should be a matter of concern to the whole league, which should take any action that might be deemed wise and effectual to safeguard the peace of nations. But the United States has repudiated all these provisions, and still it insists that Germany shall disarm and remain disarmed, leaving her a prey to any ambitious or covetous neighbor that may care to despoil her.

A recent press report credits Poland, for instance, with having an army of 450,000 men. From information of an entirely reliable character I am led to believe that the militaristic spirit is rampant among those who control the destinies of that country and that imperialistic designs run riot. It is asserted that she is even now arming in anticipation of a possibly unfavorable decision by the arbitrators appointed by the council of the league on the upper Silesian imbroglio, guns, equipment, and munitions, with which Germany is by this treaty and by the Versailles treaty forbidden to provide herself, being supplied abundantly to Poland from the arsenals and factories of France.

I do not vouch for the accuracy of the representations touching the matter above referred to, save to say that they come to me from Americans who, being in the region involved in an official or semiofficial character, had exceptional opportunities to know.

Let us speak plainly about France, between which country and ours the old ties have been strengthened by new associations of the most sacred character. On May 1 of the present year her army numbered at least 800,000 men, of which more were in the occupied German territory than the total force permitted to her late enemy by the Versailles treaty. This enormous army is maintained in expectation of an overnight invasion by Germany. It is idle to tell the French people that Germany is impotent in a military sense, as our official observers report, the harsh terms of the treaty to that end having been substantially complied with. They attribute to their late enemies powers of deception that defy the ingenuity of the most skilled intelligence officers of the allied and associated powers. They appear to be possessed of the unreasoning fear of a man struck by lightning when a thunderstorm comes on. Whether those who control the public policy of France share in approximately full measure in such apprehensions is a matter of speculation; but their existence constitutes an excellent foundation upon which ambitious statesmen may be tempted to launch a policy of restoring France to the dominant position in European affairs which she occupied under Napoleon or Louis XIV. However that may be, it is openly proclaimed in France that her safety depends upon the Balkanizing of Germany, by which is meant the breaking up of the union of the German States, that France may not be required again to meet their combined strength. The French acrimoniously blame President Wilson for preventing them from annexing the Rhineland, notwithstanding the plain implications of the exchanges resulting in the armistice that they were to have Alsace and Lorraine only; and the Germans are confident that the French have no purpose to abandon the occupied territory when the 15-year period stipulated in the treaty shall have run. Some cause is given for the German fear that sooner or later they will occupy the Ruhr Valley, the most highly developed industrial section of Germany, upon the claim that essential provisions of the Versailles treaty have not been complied with, or that default in the payment of the reparations installments has occurred. It will be recalled that Frankfort was some time ago occupied by French troops, which were subsequently withdrawn.

I do not blame the French people for the course they are pursuing. Having twice within 50 years endured the horror of a German invasion, they are to be excused if they do not reason as calmly as we over the matter. I am trying to depict the situation as some study reveals it to me, in the light of which it is moderate to say that it is a horrible thing we are asked to do—to insist on the adoption of that part of the Versailles treaty which requires Germany to disarm and to stay disarmed, while we repudiate those portions of the treaty which were intended to give her some measure of protection in her unarmed state. We are asked to bind her hand and foot, and leave her naked to her enemies. The hatreds that possess these neighboring people, and the fear that goes with them, pass the comprehension of the ordinary American mind. It is doubtful if such bitterness was engendered by our Civil War, and, as in the case of that unfortunate strife, the events following the cessation of hostilities appear to have intensified rather than to have allayed the fierce passions aroused by the armed conflict. It is not improbable that some serious clash would have occurred in the occupied territory long since but for the conciliatory influence of our troops on the Rhine, and the confidence reposed by both sides in the judgment and discretion of their officers in connection with the multitudinous controversies which arise between the civilian population and the army of occupation other than the Americans.

It will be said, I appreciate, that the feature of the treaty to which attention has been directed is of no consequence, because Germany is obligated to the other nations, parties to the Versailles treaty, to disarm and to remain disarmed; but it is a sufficient answer to say that we are making another treaty with Germany alone. If the result to be desired will be accomplished, why burden ourselves with any responsibility in the matter?

But whether the issue may be in any particular whatever different in consequence of this feature of the treaty being canvassed, my objection to it is that it is not consistent with the fair fame of my country to insist that a defeated and helpless enemy shall remain defenseless, while at the same time we decline to join the other victors in assuring the people so left against aggression and invasion.

I am not to be put in the attitude of opposing the disarmament of Germany. That policy meets my unqualified approval. I wish it could be applied to all nations. I entertain the most ardent hope that, notwithstanding what may seem insuperable difficulties, the conference to assemble in this city soon will find a way to make it so. But I do insist that, unless we are prepared to join with other nations in giving Germany some assurance of protection against unprovoked invasion, we should leave to such other nations the obligation to see that she remains disarmed. If the particular provision of the treaty under consideration were supplemented by some kind of a guaranty, or even of a pledge, to interpose diplomatically in case of a threatened attack, I should have less hesitancy in giving it my concurrence. As it is, my sense of justice rebels against it.

I appreciate perfectly well the risk incurred by me in assuming this attitude of being charged with pleading the cause of Germany, recognizing that through that mild form of malice that springs from partisan bias, not personal ill will, pains will be taken to see that my position is misunderstood. When, in speaking on the Knox resolution, I called attention to the obvious obligation under which the United States labors in consequence of the exchanges leading up to the armistice not to exact of Germany reparation for damages suffered by our people in consequence of her acts of war, except such as befell the civilian population, and referred to that provision of the resolution which announces our purpose to retain the property of its nationals seized during the war until all damages suffered by ours should be paid, including those suffered by our armed forces as well as by civilians, the author of the resolution interrupted to inquire whether I did not think that Germany ought to pay for injuries done our soldiers at the front, the evident purpose of the inquiry being to brand a political opponent as unduly considerate of our late enemy and indifferent to the losses endured even by those who dared death for us in the war. It was a matter of no consequence, considering the line of argument I was pursuing, what were my views on the subject of the inquiry. I was reared to believe that "a good name is rather to be chosen than great riches," and I never was able to discover why the lesson is not equally applicable to a nation as to an individual.

I have no interest in Germany. My country is America. The number of people in my State of German ancestry, near or remote, at least the number of such as would be influenced in any degree by any vote I might cast on the pending treaty, is negligible. The considerations which impel me to oppose its ratification have been stated. It is not only to the honor of our country that we should refrain from thus rendering Germany helpless and exposed, but a just regard for our material interests would lead us to pursue the same path.

Our country is going through a period of industrial depression perhaps without a parallel in our history. No line of business activity escapes its blight. But for the perfection of our banking and currency system the conditions would be appalling. The agriculturist and stock raiser, as a rule, can not realize for his product his actual outlay necessarily expended to place it on the market. The army of the unemployed has reached the stupendous figure of 5,000,000. Our foreign commerce is falling off at the rate of $100,000,000 a month. And every investigator, even the man in the street, realizes that the human factor in the deplorable condition is the collapse of the European market for our surplus products, because industry does not revive there, and that industry does not revive in Europe because of the wars and rumors of wars that continue to harass its people. So the special committee of the United States Chamber of Commerce just returned from an extended trip through Europe reports. Every traveler brings home the same story. Among all the countries of continental Europe Germany led before the war in the quantity of our products absorbed, taking in 1902, $101,997,523 and gradually increasing until the gross sum mounted up to $331,684,212 in 1913, 13.45 per cent of our total exports. Of our cotton she took in 1910, 1,847,295 bales, and 2,350,375 in 1913. In 1920 she bought but 727,937 bales, less than one-third of her prewar normal.

Of copper she took from us in 1909, 138,268,896 pounds, and an increasing amount annually thereafter until 1913, when we sent her 249,876,514 pounds. In 1920 her purchases were but 89,194,588 pounds, just a little more than one-third of her demands prior to the war.

It is unquestionably prudent and wise on the part of the rest of the world to prevent by all possible means the revival of Germany as a military power, but it is no less obviously the part of wisdom, so far as this country is concerned, to refrain from inviting her spoliation.

Mr. REED. Mr. President, I would like to ask the Senator if in the last few months our exports to Germany have not been again increasing, or has the Senator followed that up?

Mr. WALSH of Montana. I have the figures for 1921 as well as 1920. They show a slight increase in exportations of copper to Germany. My recollection is that they increased from $89,000,000 in 1920 to $111,000,000 in 1921, a rather inconsequential amount. I might say that in 1913 she absorbed more than the entire copper product of the State of Montana.

Mr. REED. I was only interested in knowing whether the situation was looking a little more promising.

Mr. WALSH of Montana. The exports have increased some, but the increase is relatively small.

It is perfectly evident that the factories of eastern Germany, dependent upon Silesian coal, are not going to open up or be fitted for capacity operation with an imminent prospect of a war with Poland, by which their supply of fuel would be shut off. Money will go sparingly into the revival of manufacturing in the Ruhr Valley, with an ever-constant apprehension in the German mind that France may occupy that territory any day and appropriate its vast industrial establishments in satisfaction for reparation payments due or claimed to be due.

There has been much said and more written in this country about extending credit to European, and particularly German, manufacturers, and yielding to persistent importunity and in an earnest desire to help, Congress has enacted legislation offering Government aid toward financing export trade, with a view to affording the foreign manufacturer utilizing our raw material credit until he can put his product on the market. But the trouble is that it is highly speculative in the disturbed political situation to extend any credit. The individual or corporation with the idle mill appreciates that more than the ordinary business risk must be run, because of conditions to which reference has been made. Moreover, he must take chances on a decline in the exchange value of the currency of the country, due largely to the same political uncertainties. German marks are to-day quoted at 0.89 of a cent, a fall of 25 per cent in 60 days. The question of the capacity of Germany to meet the reparation payments is a large factor in the general disturbed condition that paralyzes industry. I do not profess to know as to this. I am disposed to assume that the amount fixed is within her ability, considering the industry, frugality, and resourcefulness of her people, particularly in view of the fact that her military establishment will in the future cost her but a fraction of what it required to maintain it under the Kaiser. The next generation of the German people will shower blessings on the heads of the states-

men who at Versailles decreed that her army should be limited to 100,000 men, assuming, of course, that she is otherwise left free to work out her own salvation. They have been doomed, deservedly, to labor in the sweat of their brows for a century, at least, to make up only a small part of the devastation wrought by their madcap attempt at world conquest. In their case certainly the sins of the fathers will be visited upon the children, even to the third and fourth generation. Huge as the reparations sum is, it is only a small part of the money loss, not to speak of the misery they occasioned. Neither ceased with the armistice. The famine conditions in Russia and Armenia, the prevailing paralysis of business throughout the world, are the bitter fruit of their transgressions. We have no cause to be considerate of them, but we ought not, out of unreasoning resentment, to invite their conquest and subjugation, by which their ability to pay would be destroyed and we would suffer incalculable loss by the destruction of a market the existence of which events have shown is so essential to our own prosperity.

We may well postpone entering into any engagement looking to keeping her in a state of inferiority in a military sense, even to Poland or Czechoslovakia, until the issue of the forthcoming conference on disarmament is known. If through our effort, directly or indirectly, in that connection, the immunity of a disarmed Germany from unprovoked attack is assured, we might properly enough, to my mind, join in constraining her to keep the peace. On that conference hangs the hope of the world. There is involved the possibility of effecting a saving in our annual expenditures of at least a half billion annually. Our appropriations for the current year for the Army and Navy exceed $800,000,000. Given any reasonable agreement as the result of the conference for a general reduction of armaments and our expenditures for military purposes need not, should not, exceed $300,000,000. But we should be advantaged in even a much greater sum by the revival of industry the world over that might be expected reasonably to follow disarmament. France, with a population of 40,000,000 people as against our 110,000,000 and a national debt of approximately $50,000,000,000, is, as stated, maintaining an army of 800,000 men—1,034,000 according to some figures recently made public. Her interest charge, averaging perhaps 5 per cent, is little less than $2,000,000,000 annually. Burdened as she is, the substance of her people is being consumed in keeping up her huge army; their income is swallowed and their credit exhausted by the insatiable demands it makes instead of being utilized to rebuild their business and resuscitate their ruined industries. Italy, whose national debt is said to equal almost, if not quite, her national wealth, is staggering under the load of supporting 350,000 men in her army, while the people of our vigorous nation are restive at what it costs to keep 150,000 men under arms. Six million men are enrolled in the armies of 14 of the leading nations, consuming needlessly at least $5,000,000,000 annually, a stupendous sum, measured in terms of human toil. Consider what toll past wars are taking, as shown by the national debt of the leading powers. Great Britain's per capita debt is $814.08, bearing an annual interest charge of $36.45, equivalent to $182.25 a year upon the head of a family of five. France's per capita is $1,218.10, on which the interest is $47.76, or $238.80 for the ordinary family. Belgium's burden is $614.52 per person, the interest charge being $38.65, or $193.25 for each family. Bear in mind the amounts stated the breadwinner must contribute over and beyond the sums necessary to make up the current expenses of government, including the cost of the huge military establishments to which reference has been made. In our favored land the per capita indebtedness assumes relatively insignificant proportions, being but $224.81, carrying an interest charge of $8.65. Japan pays as she goes, carrying a debt amounting only to $27.79 per capita, on which the interest is but $1.10. Considering that the reparation demands on Germany amount to no more than $500 per capita, she would seem to be no worse off than the victor nations of Europe. Turn the problem over as one may, the conclusion is inescapable that the success of the conference and perhaps the peace of the world requires that France be assured against another invasion by Germany. "Twice in 50 years," the French say, "our country has been ravaged. The Germans number 60,000,000 and we but 40,000,000. They multiply more rapidly than we. For generations they have been schooled to become conquering warriors, until the spirit thus engendered has become a national trait." Thus they reason to the conclusion that their safety requires the annexation of the Rhineland and possibly the Ruhr Valley, the Balkanization of Germany, and to that end the maintenance of the great army they now have.

The irreconcilables of Germany continually give occasion for their fears. In an address recently presented to Ludendorff by a municipality of East Prussia his admiring and adulatory friends assured him that Germany would patiently await the day of the avenger. This may have been the vaporings of blind reactionaries, the representatives of a feudal aristocracy, but the effect upon the overwrought French mind is none the less disquieting.

Col. Emery, commander of the American Legion, on his return to this country recently remarked that it is unreasonable to expect France to disarm without giving her a guaranty against invasion by Germany. I am disposed to agree with him. France could be induced to reduce her army to, say, 200,000 men if the United States and Great Britain would agree to come to her aid should she be again invaded by the Germans, as was provided in the separate treaty with her as a counterpart of the Versailles treaty, but which never became effective.

A recent Paris dispatch says:

> The French attitude will be to show just how far France can go toward disarmament in the face of information received from Germany concerning that country's power for prompt mobilization and in the absence of other guaranties than France's own troops. It will be the viewpoint of the French delegation that unless there are guaranties along the lines of those contained in the American, British, and French defensive agreement against unwarranted aggression, as elaborated by President Wilson and Premiers Lloyd-George and Clemenceau, but never ratified, a standing army of from 400,000 to 450,000 men, with a like number subject to immediate call to mobilization, will be required.

Are we willing to pay the price of world disarmament? We would never be called upon to redeem the obligation, because it is inconceivable that Germany would become the aggressor under such circumstances. But if she did rehabilitate herself in a military sense and was able to form such alliances as to warrant her in challenging the three great powers, we might as well prepare to meet her as we did in 1917. Will we enter into the necessary undertaking? Are we sufficiently in earnest about disarmament to observe the formality essential to secure it? The Senator from Idaho [Mr. BORAH] has been foremost in the agitation for disarmament. It was his persistent efforts, his impelling eloquence, which forced the calling of the forthcoming conference. Will he subscribe to the condition upon which alone his zeal may be rewarded and his labors crowned with success? What reason can be assigned by anyone who votes to impose upon us the obligation to see that Germany remains disarmed that France may be safe for declining to agree to go to her aid should Germany nullify our precautions and again let slip the dogs of war? Whatever reason may be assigned, the one overpowering reason will be that two years ago and more Woodrow Wilson recognized the necessity and pledged our country, as far as he could, to do so. Were such an agreement made, France would have no purpose in intriguing for the dismemberment of Germany. She would have no excuse for the annexation of the Rhineland or the Ruhr Valley. She would have no occasion for contributing to the development of a militant Poland.

Another feature of this treaty, likewise involving the honor of the Nation, is open to the most serious objection.

When the Knox resolution was before the Senate for consideration I pointed out that in so far as it announced the policy of the United States, or was to be regarded as in the nature of instructions to our negotiators who should attempt to effect a treaty with Germany, it was a repudiation of the obligation under which our country labored in consequence of the exchanges leading to the armistice not to exact of Germany reparation for damage done to our Nation by her acts of war, except such as inured to the civilian population. At the risk of being wearisome, I remind the Senate of the pertinent, salient features of the historic documents evidencing the course of the negotiations pursuant to which Germany laid down her arms. On October 6, 1918, the chargé d'affaires of the Swiss Legation at Washington transmitted to the President of the United States the following brief note from the German Government:

> The German Government requests the President of the United States of America to take steps for the restoration of peace, to notify all belligerents of this request, and to invite them to delegate plenipotentiaries for the purpose of taking up negotiations. The German Government accepts as a basis for the peace negotiations the program laid down by the President of the United States in his message to Congress of January 8, 1918, and in his subsequent pronouncements, particularly in his address of September 27, 1918. In order to avoid further bloodshed, the German Government requests to bring about the immediate conclusion of a general armistice on land, on water, and in the air.
>
> MAX,
> *Prince of Baden, Imperial Chancellor.*

Before replying directly to the invitation thus conveyed the Secretary of State, acting under direction from the President, addressed a communication to the Swiss chargé, in the course of which he said:

> Before making reply to the request of the Imperial Government, and in order that that reply shall be as candid and straightforward as the momentous interests involved require, the President of the United States deems it necessary to assure himself of the exact meaning of the note of

the imperial chancellor. Does the imperial chancellor mean that the Imperial German Government accepts the terms laid down by the President in his address to the Congress of the United States on the 8th of January last and in subsequent addresses, and that its object in entering into discussions would be only to agree upon the practical details of their application?

This brought a reply which included the following statement:

The German Government has accepted the terms laid down by President Wilson in his address of January 8 and in his subsequent addresses on the foundation of a permanent peace of justice. Consequently its object in entering into discussions would be only to agree upon practical details of the application of these terms.

The tenor of the exchanges was, of course, communicated forthwith to the Governments of the nations allied with us, by whom they were approved, with a reservation on the part of Great Britain touching one of the 14 points of President Wilson's address of January 8, 1918, in relation to the freedom of the seas, and the further qualification evidenced by the concluding paragraph of her reply to the communication transmitting the proposal of the German Government, signifying her assent thereto and speaking as well on behalf of her allies. This document, so important in this connection, read as follows:

The allied Governments have given careful consideration to the correspondence which has passed between the President of the United States and the German Government.

Subject to the qualifications which follow, they declare their willingness to make peace with the Government of Germany on the terms of peace laid down in the address of the President to Congress on January 8, 1918, and the principles of settlement enunciated in his subsequent address.

They must point out, however, that clause 2, relating to what is usually described as the "Freedom of the seas," is open to various interpretations, some of which they could not accept. They must therefore reserve to themselves complete freedom on this subject when they enter the peace conference.

Furthermore, in the conditions of peace laid down in his address to Congress on January 8, 1918, the President declared that the invaded territories must be restored as well as evacuated and freed and the allied Governments feel that no doubt ought to be allowed to exist as to what this provision implies. By it they understand that compensations will be made by Germany for all damage done to the civilian population of the Allies and their property by the aggression of Germany by land, by sea, and from the air.

Attention is called to the last paragraph thereof just read.

This was a perfectly obvious enlargement of the only mention of the subject in the address of the President, which is as follows:

8. All French territory should be freed and the invaded portions restored, and the wrong done to France by Prussia in 1871, in the matter of Alsace-Lorraine, which has unsettled the peace of the world by nearly 50 years, should be righted in order that peace may once more be made secure in the interest of all.

However, as the interpretation thus put upon the President's language was communicated to Germany, who without dissent entered into the armistice by which she expressly obligated herself to make "reparation for damage done," she became justly chargeable in the account with "all damage done to the civilian population" of the Allies.

It may have been unwise to accept Germany's capitulation on such terms. While the negotiations were pending telegrams poured in upon the Senate insisting upon an unconditional surrender. Bitter speeches were made on this floor arraigning the President for even entertaining the proposal submitted by our enemy, and there was no little sentiment in favor of an "On to Berlin" policy. It is scarcely conceivable that the responsible officials of the various Governments did not take counsel with their military commanders in the field, and we have it upon indisputable authority that they did. According to Andre Tardieu, Marshal Foch summoned to meet at Senlis Gen. Pétain, Marshal Haig, Gen. Pershing, and Gen. Gillain, chief of staff of the Belgian Army, to consider two questions addressed by President Wilson to our allies, who, in transmitting them, expressed his desire that the views of the military authorities be secured. These questions were:

1. Regarding the peace, and in view of the assurances given by the chancellor, are the associated Governments ready to conclude peace on the terms and according to the principles already made public?

2. Regarding the armistice, and if the reply to the previous question is in the affirmative, are the associated Governments ready to ask their military advisers and the military advisers of the United States to submit to them the necessary conditions which must be fulfilled by an armistice such as will protect absolutely the interests of the peoples concerned and to assure to the associated Governments unlimited power to safeguard and impose the details of the peace to which the German Government has consented, provided always that the military advisers consider such an armistice possible from a military point of view?

The historian tells concerning the proceedings of this momentous meeting that "the commander in chief reads the correspondence to them and asks their advice. None of them proposes to refuse the armistice. Field Marshal Sir Douglas Haig speaks first. In his view the armistice should be concluded, and concluded on very moderate terms. The victorious allied armies are extenuated. The units need to be reorganized. Germany is not broken in the military sense. During the last weeks her armies have withdrawn, fighting very bravely and in excellent order. Therefore, if it is really desired to conclude an armistice—and this in his view is very desirable—it is necessary to grant Germany conditions which she can accept." Gen. Foch promptly transmitted to his Government the conclusion arrived at, thus expressed by him:

I have the honor to make known to you the military conditions under which can be granted an armistice "capable" of protecting absolutely the interests of the nations concerned and assuring to the associated Governments unlimited power to safeguard and impose the conditions of peace to which the German Government has consented.

The considerations which impelled the great military genius who guided the allied armies to victory, soon to be the honored guest of this Nation, and who put aside the temptation to lead a triumphal army into Berlin, do so much honor to him, they exhibit a character so exalted, that I quote his words:

The only aim of war is to obtain results. If the Germans sign an armistice on the general lines we have just determined we shall have obtained the result we seek. *Our aims being accomplished, no one has the right to shed another drop of blood.*

It would serve no good purpose to set these noble words over against the rancorous speeches to which reference has been made, denouncing President Wilson for entertaining the proposition for an armistice and, in effect, demanding the sacrifice of the lives of thousands of American soldiers in a fruitless march on Berlin. The historian will perform that task and point to them in connection with the story of how his every effort to serve his country in that all-important crisis and in the critical months which followed was met by a chorus of cavilling that is perhaps without a parallel in the stormy political history of the Nation and which went far to nullify the influence it ought to have exercised in establishing a peace founded on justice and in restraining the fierce passions, inflamed by hereditary hatreds, that so largely defeated the hopes of those who looked for such.

The armistice was signed and, agreeably to its terms, the Germans evacuated the foreign territory still occupied by them, as well as the Rhineland, surrendered their arms as required by it, and otherwise so complied that the President was able to say to the Congress, "The war thus comes to an end; for, having accepted the armistice, it will be impossible for the German command to renew it."

I remind you that, by specific reference in the exchanges, it was agreed that by the treaty which was to follow Germany should agree to make reparation for damages done to the civilian population. Further than that no one of the Allies asked that reparation be made.

Casuists may indulge in speculation as to how far the Commander in Chief of the Army and Navy may go in pledging an enemy in the field in negotiations for a cessation of hostilities and to induce him to lay down his arms that the lives of prisoners will be spared, that property of the vanquished taken in the war shall be yielded up, that indemnity beyond a limit specified shall not be exacted, or to offer any like concessions. It may be that Gen. Grant transcended his authority when he assured the veterans of Lee that they would be unmolested so long as they observed their parole and obeyed the laws and that they might take home with them their horses and mules. But since man emerged from the barbaric state conventions of that character have been regarded as peculiarly sacred. To disregard any such has been universally stigmatized as the depth of dishonor. Punic faith assumes the character of a mild virtue by comparison with such an offense.

Popular clamor and the compelling exigencies of political campaigns in England and France following the armistice induced the representatives of those countries on the assembling of the Versailles conference to demand the payment by Germany of all war costs, but the American delegates, setting their faces like steel against that view, it was abandoned by all. It appeared at one time to have some chance of prevailing while President Wilson was at sea on a trip home. Being apprised of the imminence of action, he wired the delegation to dissent, and if necessary to dissent publicly, from a procedure which "is clearly inconsistent with what we deliberately led the enemy to expect and can not now honorably alter simply because we have the power." It was agreed by all eventually that reparation should be limited to damages to the civilian population, not to the armed forces in the field, but to those who remained at home; not to the Government itself, but to the noncombatant citizens thereof. Owing to the illicit warfare conducted by Germany, the sum, even so limited, would be vast. It would include compensation for the ravaged fields and ruined cities, the spoliated mines, factories, and homes of France and Belgium, the ships and cargoes that fell victims of the submarine warfare, the lives taken and property destroyed in the air raids directed against unfortified cities and communities remote from the fighting front.

The general principle being settled in the conference the fight then raged around the question of the elements which

should enter into the determination of the amount of damages done to the civilian population. Here again the American delegation stood almost alone, against a persistent demand for the expansion in construction of the expression "damage done to the civilian population" until the limitation implied in it would be to a large extent obliterated. The protracted controversy was fought out before the financial experts constituting the commission on reparations, before the supreme council and before the Big Four. It eventuated in article 232 of the treaty, the second paragraph of which article is as follows:

The allied and associated Governments, however, require, and Germany undertakes, that she will make compensation for all damage done to the civilian population of the allied and associated powers and to their property during the period of the belligerency of each as an allied or associated power against Germany by such aggression by land, by sea, and from the air, and in general all damage as defined in Annex I hereto.

ANNEX I.

Compensation may be claimed from Germany under article 232 above in respect to the total damage under the following categories:

(1) Damage to injured persons and to surviving dependents by personal injury to or death of civilians caused by acts of war, including bombardments or other attacks on land, on sea, or from the air, and all the direct consequences thereof, and of all operations of war by the two groups of belligerents wherever arising.

(2) Damage caused by Germany or her allies to civilian victims of acts of cruelty, violence or maltreatment (including injuries to life or health as a consequence of imprisonment, deportation, internment, or evacuation, of exposure at sea, or of being forced to labor, wherever arising, and to the surviving dependents of such victims.

(3) Damage caused by Germany or her allies in their own territory or in occupied or invaded territory to civilian victims of all acts injurious to health or capacity to work or to honor, as well as to the surviving dependents of such victims.

(4) Damage caused by any kind of maltreatment of prisoners of war.

(5) As damage caused to the peoples of the allied and associated powers, all pensions and compensation in the nature of pensions to naval and military victims of war (including members of the air force), whether mutilated, wounded, sick, or invalided, and to the dependents of such victims, the amount due to the allied and associated Governments being calculated for each of them as being the capitalized cost of such pensions and compensation at the date of the coming into force of the present treaty on the basis of the scales in force in France at such date.

(6) The cost of assistance by the Governments of the allied and associated powers to prisoners of war and to their families and dependents.

(7) Allowances by the Governments of the allied and associated powers to the families and dependents of mobilized persons or persons serving with the forces, the amount due to them for each calendar year in which hostilities occurred being calculated for each Government on the basis of the average scale for such payments in force in France during that year.

(8) Damage caused to civilians by being forced by Germany or her allies to labor without just remuneration.

(9) Damage in respect of all property, wherever situated, belonging to any of the allied or associated States or their nationals, with the exception of naval and military works or materials, which has been carried off, seized, injured, or destroyed by the acts of Germany or her allies on land, on sea, or from the air, or damage directly in consequence of hostilities or of any operations of war.

(10) Damage in the form of levies, fines, and other similar exactions imposed by Germany or her allies upon the civilian population.

Whatever may be said touching any other of the elements thus defined, those numbered (4), (5), (6), and (7), the last three being referred to as "pensions and separation allowances," fall plainly without the category of "damage done to the civilian population"; so plainly that I spend no time in canvassing the proposition. The ingenious but specious argument of Gen. Smuts, which is said finally to have persuaded Mr. Wilson to yield on "pensions and separation allowances," I ask be printed as an appendix to my remarks. I am constrained to believe that his better judgment rebelled at this provision, as it must have rebelled at other portions open to objection to which his opposition was weakened by the malignant fire to which he was continually subjected from this side of the water, quite like that which was directed against him in connection with the armistice negotiations.

If he had remained steadfast touching any such, and a dissolution of the conference for failure to agree had ensued, an avalanche of criticism might have been expected from the very men who so roundly denounced the treaty because of the features to which he must have yielded a grudging assent.

Notwithstanding the refined argument of Gen. Smuts, the framers of the treaty apparently recognized that pensions and separation allowances could not reasonably fall within the class to which they admitted they were limited in respect to reparations, for by the second paragraph of article 232, they provided that Germany should pay "all damage done to the civilian population of the allied and associated powers" by Germany during the war, "*and*, in general, all damage as defined in Annex I hereto."

When the Knox resolution was before the Senate I pointed out how plainly it contravenes our undertaking arising, as indicated, to confine our demand for reparation to such injuries as were done by Germany to the civilian population. No attempt was made to justify it in that regard. It plainly declares our purpose to hold the property of German nationals seized by the Alien Property Custodian until provision is made, not alone for the payment by Germany and Austria-Hungary of all damage done to the civilian population of the United States, but—and I now quote from the Knox resolution—"for the satisfaction of all claims against said Governments," respectively, of American nationals "who suffered through the acts of the Imperial German Government or its agents, or the Imperial Royal Austro-Hungarian Government, or its agents, since July 31, 1914, loss, damage, or injury to their persons or property."

No distinction is made between losses suffered by the soldier in the field and those falling upon the civilian. The wildest jingoes who gathered at Paris to pluck the fallen foe would not go so far. Straining at the bounds set about them by their solemn covenant resulting in the armistice, the peace commissioners made no such demand of Germany, for it need not be said that a pension allowed to a soldier wounded at the front or to the dependents of one killed is no measure of the damage suffered by him or by those drawing it. No nation ever undertook by a pension system fully to compensate for the losses endured in consequence of the casualty for which it is allowed.

The addresses of the President referred to in the German offer of an armistice scarcely gave color to a claim for indemnity or reparation. The allied note accepting the proposal enlarged upon, if it did not introduce, that element. The Versailles treaty expanded the scope of the armistice agreement. The Knox resolution frankly goes the limit, unrestrained by any consideration whatever, and article 1 of the treaty before us declares that:

Germany undertakes to accord to the United States, and the United States shall have and enjoy, all the rights, privileges, indemnities, reparations, or advantages specified in the aforesaid joint resolution of the Congress of the United States of July 2, 1921 (the Knox resolution).

The article to which reference has just been made concludes as follows:

Including all the rights and advantages stipulated for the benefit of the United States in the treaty of Versailles which the United States shall fully enjoy notwithstanding the fact that such treaty has not been ratified by the United States.

Then comes article 2, reading:

With a view to defining more particularly the obligations of Germany under the foregoing article with respect to certain provisions in the treaty of Versailles, it is understood and agreed between the high contracting parties:

(1) That the rights and advantages stipulated in that treaty for the benefit of the United States, which it is intended the United States shall have and enjoy, are those defined in section 1, of part 4, and parts 5, 6, 8, 9, 10, 11, 12, 14, and 15.

Part 8 of the Versailles treaty so enumerated deals with the subject of "Reparation," and includes article 232 thereof and Annex I, heretofore referred to.

We have, accordingly, by article 1 of the pending treaty, saved to ourselves all rights specified in the Knox resolution, by which one measure of the amount coming to us from Germany is fixed, and by article 2 all rights accruing to us by virtue of article 232 and Annex I of the Versailles treaty, by which a wholly different measure is established.

Let me make this perfectly plain. Under article 1 of the treaty we reserve to ourselves the rights coming to us under the Knox resolution, and one of the rights coming to us is the right to have compensation from Germany for all damage either to the civilian population or to the armed forces in the field. By article 2 of the treaty we reserve to ourselves the rights given to us by article 232 of the Versailles treaty and Annex I, by which the amount coming to us is limited to the damage done to the civilian population and to pensions and separation allowances. Under article 1 we are asking a certain amount of Germany, and under article 2 an entirely different amount.

Mr. KING. Will the Senator permit an inquiry?

Mr. WALSH of Montana. Certainly.

Mr. KING. Have the allied nations considered the treaty with respect to reparations in harmony with the view which the Senator has just expressed, or have they transcended the limits of the provisions of the treaty and sought to include within their demands those contemplated by the Knox resolution?

Mr. WALSH of Montana. No; they have not.

Mr. KING. That was my understanding.

Mr. WALSH of Montana. What they have done is this: They have simply disregarded the rule of measurement laid down by the treaty of Versailles and have fixed arbitrarily a sum which they call upon Germany to pay; and they claim that that sum is within the measure of damages prescribed by the treaty. So the question as to whether it does transcend that amount or does not has not arisen.

Mr. KING. May I ask the Senator a further question?

Mr. WALSH of Montana. Yes.

Mr. KING. In fixing that amount, which the Senator has denominated as having been arbitrarily fixed, they placed an interpretation upon that treaty, as I recall, the same as the Senator has placed upon it, and did not go beyond that and contemplate those elements of damage which seem to be embraced in the Knox resolution?

Mr. WALSH of Montana. As I have said, I do not understand that they give any construction or interpretation of it at all; they were supposed to proceed in accordance with the terms of the treaty; and, proceeding in accordance with the terms of the treaty, they found that Germany ought to pay the amount fixed.

Mr. SHIELDS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from Tennessee?

Mr. WALSH of Montana. I yield to the Senator from Tennessee.

Mr. SHIELDS. I think the Senator is somewhat mistaken in that. The first section of the schedule agreed upon by the Reparation Commission and the representatives of Germany reads:

> The following is the schedule of payments prescribing the time and manner for securing and discharging the entire obligation of Germany for reparations under articles 231, 232, and 233 of the treaty of Versailles.

I shall not read the balance; but the Reparation Commission and Germany both considered all of these matters, including the provision as to compensation for pensions, in the construction of which I entirely agree with the Senator—it is not a damage to civilians, and went beyond the original agreement—but they lumped them together and considered them all and agreed upon the lump sum of 132,000,000,000 gold marks as compensation for the entire demand. I will ask the Senator if it is not a well-known fact that the gross sum which they thus agreed upon to be divided among the European nations—we get nothing out of it—is not really sufficient to pay for the civilian damages done, which properly come within the terms of the armistice; and is it not a fact that in the settlement of this matter the provision for paying pensions was eliminated and is wholly harmless to the German nation?

Mr. WALSH of Montana. I am not finding fault with that at all. The Reparation Commission, of course, proceeded upon the rule of the treaty as their basis. They scaled down the amount because they felt that Germany would be unable to pay, and they wanted an amount fixed so that the Germans would go to work and would pay, instead of simply surrendering and going into bankruptcy. Whether the amount which they fixed was the full amount which might have been exacted under the treaty or was a less amount, they did not intend to ask of Germany all damages which were suffered, but only such damages as were suffered by the civilian population, together with pensions and separation allowances. That is the point I am making; but we go beyond that. In one part of the treaty, in article 1, we demand everything that we have reserved by the Knox resolution—that is to say, all damages—and by article 2 we reserve only those which come to us under article 232 of the Versailles treaty, namely, the damage done to the civilian population and pensions and allowances, the two articles being utterly inconsistent.

Mr. FLETCHER. Mr. President——

Mr. WALSH of Montana. I yield to the Senator from Florida.

Mr. FLETCHER. May I ask the Senator, as to the payment of this gross sum of 132,000,000,000 gold marks, how much of that is paid annually? I have seen the statement somewhere that it amounts to only about $800,000,000 a year.

Mr. WALSH of Montana. My understanding is that our American financiers have figured the amount as equivalent, at the present worth, to a payment of $31,000,000,000.

Mr. FLETCHER. How much a year?

Mr. WALSH of Montana. I have forgotten what the amount is; but the next payment, I think of a billion marks, is due the 1st of May.

Mr. WATSON of Georgia. Mr. President——

Mr. WALSH of Montana. I yield to the Senator from Georgia.

Mr. WATSON of Georgia. As the Senator well knows, one of the reserved clauses or parts of this treaty goes upon the assumption that Germany may join the League of Nations, and then the supreme council may take such action as it sees fit as to relieving her, in part or in whole, of any of these provisions.

Mr. WALSH of Montana. Yes.

Mr. WATSON of Georgia. In case Germany does join the League of Nations, and we do not, where does that leave us as to this treaty?

Mr. WALSH of Montana. I will say to the Senator that the treaty before us expressly provides that the United States shall not be bound by any action taken by the League of Nations unless it expressly assents thereto.

Mr. WATSON of Georgia. I understand that.

Mr. WALSH of Montana. So that any action taken by the League of Nations in relieving Germany from any portion of the amount fixed would not be in any way binding upon us, if it affected us in any way.

Mr. WATSON of Georgia. This is the thought I had in mind: Suppose Germany should convince the supreme council that she ought to have more troops or ought to have a better use of her inland waterways, and suppose we did not think so; what could we do about it?

Mr. WALSH of Montana. We could be in controversy with the members of the League of Nations.

Mr. WATSON of Georgia. In other words, at variance with them?

Mr. WALSH of Montana. Yes. If the council should authorize Germany to have an army of, we will say, 200,000 men, and the United States protested, Germany, if she raised her army to 200,000 men, would be in violation of her treaty with us.

Mr. JONES of New Mexico. Mr. President——

Mr. WALSH of Montana. I yield to the Senator.

Mr. JONES of New Mexico. May I inquire of the Senator whether or not the reparations provided for the United States are to constitute a part of the amount agreed upon by our allies and Germany through the Reparation Commission?

Mr. WALSH of Montana. No. I am coming to that directly. Our treaty with Germany does not say anything at all about how the amount which Germany is to pay us is to be determined, either under the rule fixed by article 1 of the treaty or by article 2 of the treaty. That is up in the air.

Mr. SHIELDS. Mr. President——

Mr. WALSH of Montana. I yield to the Senator from Tennessee.

Mr. SHIELDS. Along with the suggestion I made, I should like to read article 231, to which the Senator refers, under the head of "Reparation" in the Versailles treaty, which is:

> The allied and associated governments affirm and Germany accepts the responsibility of Germany and her allies for causing all the loss and damage to which the allied and associated governments and their nationals have been subjected as a consequence of the war imposed upon them by the aggression of Germany and her allies.
>
> ART. 232. The allied and associated governments recognize that the resources of Germany are not adequate, after taking into account permanent diminutions of such resources which will result from other provisions of the present treaty, to make complete reparation for all such loss and damage.

And notwithstanding the reference to pensions, it was contemplated and agreed in the beginning that Germany would not make full reparation for all the damages that had occurred.

Mr. WALSH of Montana. Exactly.

Mr. SHIELDS. And then it follows from the agreement and the schedule I have that they did not undertake to do that.

Mr. WALSH of Montana. Exactly.

Mr. SHIELDS. I do not exactly see how this is pertinent to the present controversy; but I think the facts do fully appear that no compensation or reparation for pensions or liabilities of that kind, incurred by the several allied and associated nations, is embraced in the final settlement, which is already made before our treaty is made and before we possibly can become a member of the Reparation Commission. It is already concluded and settled. I do not see how it is possible that the elements now objected to, and which did not come within the terms of the armistice, were ever considered and Germany ever suffered by that violation of the armistice agreement.

Mr. WALSH of Montana. The remarks of the Senator from Tennessee simply enforce the argument which I am making. Under the Knox resolution we reserved the right to claim of Germany all damage that had been caused us. The makers of the treaty would not go that far. They insisted upon Germany paying only damage done to the civilian population, together with pensions and allowances; and then, in fixing the amount, they could not, as the Senator asserts, conclude to exact even that much of Germany. That is the situation as developed by the inquiry of the Senator from Tennessee.

Mr. KELLOGG. Mr. President, do I understand that the Senator's objection to this treaty is solely on the ground that the Knox resolution goes further than the Versailles treaty?

Mr. WALSH of Montana. No; not solely. I discussed my main objection to the treaty at some considerable length.

Mr. KELLOGG. The Senator's main objection is that the treaty is too severe upon Germany?

Mr. WALSH of Montana. My main objection, as I say, is that we insist upon Germany being disarmed, and then we decline to join the other nations in giving her any protection against an enemy. I trust I make my position clear to the Senator.

Mr. KELLOGG. That does not place any greater burden upon Germany than the original Versailles treaty, for which the Senator voted.

Mr. WALSH of Montana. I am not trying to take care of Germany. I am taking care of the United States.

Mr. KELLOGG. Then the Senator objects to it because it does not place further obligations upon this country?

Mr. WALSH of Montana. Exactly—that we should not assume the responsibility of disarming Germany unless we also assume a part of the responsibility of protecting Germany from unprovoked invasion.

Mr. SHIELDS. Mr. President, does not the argument of the Senator involve a charge of bad faith upon all our allies who did become members of the League of Nations, who did ratify the treaty?

Mr. WALSH of Montana. I did not understand the Senator's question.

Mr. SHIELDS. The Senator says that we are abandoning Germany now by our not becoming a party to the Versailles treaty.

Mr. WALSH of Montana. No; I have made no suggestion touching the abandonment of Germany.

Mr. SHIELDS. That treaty and the league have been put into operation and are in full effect, and the Senator from Texas [Mr. SHEPPARD] delivered nearly a seven-hour speech the other day, in which he asserted that it was a great and complete success and was accomplishing all of its objects and purposes, and all that was expected of it. For the Senator from Montana now to come and say that Germany is left without protection merely because we did not become a party to the treaty of Versailles is directly contradicting what the Senator from Texas said——

Mr. WALSH of Montana. Oh, well, I am not responsible for what the Senator from Texas says.

Mr. SHIELDS. And is it not a direct charge that all our allies who entered into that treaty will enventually be guilty of bad faith, and will not carry out its provisions and protect Germany as they made their contract to do in article 10 of the League of Nations and other provisions of it? In other words, according to the Senator, the whole thing depended on whether we would do it or not.

Mr. WALSH of Montana. With all due deference to the Senator, it does not seem to me that that has a thing on earth to do with the matter. All the nations agreed by the Versailles treaty to see that Germany was disarmed. All the nations agreed by the Versailles treaty to see that disarmed Germany was protected from invasion. All the nations now agree to see that Germany is disarmed—the other nations by the Versailles treaty, we by this one. All the other nations agree to see that disarmed Germany is protected, and we refuse to do so. That is the situation.

Mr. SHIELDS. If they are all agreed to it, I do not see how Germany is going to be hurt. Who is going to hurt her, if they are all keeping good faith with the treaty and complying with its terms?

Mr. WALSH of Montana. And to-morrow they, or any of them, may make war on her.

Mr. JONES of New Mexico. Mr. President——

Mr. WALSH of Montana. I yield to the Senator from New Mexico.

Mr. JONES of New Mexico. I am not perfectly clear as to what has been done; but if I have understood the remarks of the Senator, the other nations, our allies, in finally agreeing upon a lump sum as the amount which Germany should pay, scaled down their actual damages to which they might have been entitled under the treaty of Versailles.

Mr. WALSH of Montana. Let me remark to the Senator that my understanding is that no one of these countries ever filed a detailed statement of what its damages were, and so they agreed on this lump sum; and while it is impossible for us to tell, the general understanding is that the amount fell easily within the limitations prescribed by article 232.

Mr. JONES of New Mexico. So I understood; but now, by this treaty which we are making with Germany, we are insisting upon full reparation so far as the claims of the United States are concerned.

Mr. WALSH of Montana. Exactly.

Mr. JONES of New Mexico. And that this full reparation which we are to get will not be a part or parcel of the lump sum agreed by Germany to be paid in reparation to our allies.

Mr. WALSH of Montana. Not at all.

Mr. JONES of New Mexico. And inasmuch as the Reparation Commission, under the treaty of Versailles, has the administration of the resources of Germany until after the terms of the treaty have been complied with, how are we to be paid the amount of the reparations which we will claim under this treaty with Germany?

How can we enforce or insist upon the payment of full reparations to us, aside from the treaty of Versailles?

Mr. WALSH of Montana. We can not. The treaty before us says we may or we may not send a delegated member to the meetings of the Reparation Commission.

Mr. JONES of New Mexico. Although we should delegate a member to attend those meetings under this treaty, we would not be claiming our indemnity by virtue of the treaty of Versailles but by virtue of this treaty, and the administration of this treaty would be a thing separate and apart from the administration of the treaty of Versailles.

Mr. WALSH of Montana. Yes.

Mr. JONES of New Mexico. Would it not necessarily bring us into conflict with our allies, enforcing the provisions of the treaty of Versailles?

Mr. WALSH of Montana. I think so. It would be difficult, if not impossible, to harmonize the two provisions. But if I may recall to the minds of those who have been following the discussion of the matter under consideration, I was pointing out that under article 1 of the treaty before us one measure of the damage for which we shall demand compensation from Germany is fixed, and by article 2 an entirely different measure of damage is prescribed, the two provisions being entirely inconsistent with each other.

The two provisions of the treaty are in obvious and irreconcilable conflict. When we come to settle with Germany, what is she obliged to pay, the sum fixed by the Knox resolution, namely, all damages suffered by our nationals, or only those specified in Annex I to article 232; that is to say, damage done to the civilian population and pensions and separation allowances? We accumulate controversies with Germany by this treaty instead of settling those which now exist.

Moreover, who is to determine what the actual sum to be paid is, whether measured by the standard of the Knox resolution or by that of article 232 and the annex thereto? It is quite usual in controversies of this character to set up a tribunal before which those claiming to be damaged may through their government be heard as to the validity of the claim they assert and the amount of damage they have suffered. The framers of this treaty may have labored under an impression that authority in that regard was vested in the Reparation Commission, but a careful study of the Versailles treaty will disclose that such a belief is without foundation. Another treaty must be negotiated before we can make any progress toward the settlement of our differences with Germany. This one leaves undetermined the one major matter of dispute between the two countries, namely, the disposition of the enemy property seized by our Government during the war of two classes, as I have heretofore pointed out, namely, the ships interned in our ports, which have passed into the hands of the Shipping Board, and the other, the property held or disposed of by the alien property custodian.

Considerations which might require the surrender of the former class or that credit be given for it in the balancing of the account apply only feebly, if they apply at all, to property of the other class.

There is another provision of the Versailles treaty with reference to that subject to which attention should be invited. It is paragraph 4 of the annex to article 298, being a portion of Part 9, made a part of the Berlin treaty, reading as follows:

> All property, rights, and interests of German nationals within the territory of any allied or associated power, and the net proceeds of their sale, liquidation, or other dealing therewith, may be charged by that allied or associated power in the first place with payment of amounts due in respect of claims by the nationals of that allied or associated power with regard to their property rights, and interests, including companies and associations in which they are interested, in German territory, or debts owing to them by German nationals, and with payment of claims growing out of acts committed by the German Government or by any German authorities since July 31, 1914, and before that allied or associated power entered into the war. The amount of such claims may be assessed by an arbitrator appointed by Mr. Gustave Ador, if he is willing, or if no such appointment is made by him, by an arbitrator appointed by the mixed arbitral tribunal provided for in section 6. They may be charged in the second place with payment of the amounts due in respect of claims by the nationals of such allied or associated power with regard to their property, rights, and interests in the territory of other enemy powers, in so far as those claims are otherwise unsatisfied.

It will be noted that provision is here made for the determination of claims for such damages only as were suffered before we entered the war, and the very reasonable contention may be made that it is only such claims we are entitled to credit against the seized property, the implication being that we are to sur-

render the remainder or make compensation for its value over and above the amount of such claims, another plain inconsistency in the treaty before us, since by article 1 we are entitled to hold the property we took until all claims of our nationals accruing either before or after we entered the war, as recited in the Knox resolution, are satisfied.

I trust Senators will understand that by this provision of the treaty of Versailles, which is now incorporated in the Berlin treaty, we are entitled to hold the German property as a pledge for the satisfaction of all claims suffered by our nationals after July 31, 1914, and before we entered the war, so that for ships which were sunk by the submarine warfare before we entered the war we can recover and we can hold this property as a pledge for the satisfaction of claims arising from such sinkings, but we can not hold that property for the satisfaction of claims accruing after we went into the war, as, for instance, for ships sunk after that time.

Mr. POMERENE. Mr. President, I suggest to the Senator that his statement is perhaps subject to further qualification as to what the rights of Germany and this Nation may or may not be under the treaty with Prussia of 1828.

Mr. WALSH of Montana. Of course. I assume that if it is held that the treaty of 1828 does not apply, and likewise that under international law we are under no obligation to return the property, then we can keep it freed from any charge; but if from considerations arising out of the treaty of 1828 or from considerations arising out of general international law or from any other consideration, such as the desire to be upon friendly relations with Germany rather than to keep the property which we took, we do not desire to hold it, except so far as we may have any just claims against her, by this provision of the treaty we can offset against that property only such claims as arise by reason of damages suffered before we went into the war, while by the Knox resolution and by Article 1 of this treaty we reserve the right to hold that property for the satisfaction of all claims, not only for damages done to the civilian population but done as well to the armed forces in the field, and, of course, done after we entered the war as well as before we entered the war. No one, I undertake to say, can controvert the proposition that those two propositions are utterly and irreconcilably inconsistent with each other.

Mr. FLETCHER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from Florida?

Mr. WALSH of Montana. I yield.

Mr. FLETCHER. Is not the Senator's argument subject also to the further modification that part 15 of the Versailles treaty is carried forward into this treaty, and under article 439, page 122, of this print the provision is made that—

> Without prejudice to the provisions of the present treaty, Germany undertakes not to put forward, directly or indirectly, against any allied or associated power signatory of the present treaty, including those which, without having declared war, have broken off diplomatic relations with the German Empire, any pecuniary claim based on events which occurred at any time before the coming into force of the present treaty.
>
> The present stipulation will bar completely and finally all claims of this nature, which will be thenceforward extinguished, whoever may be the parties in interest.

Mr. WALSH of Montana. My understanding of that is that it simply relieves our Alien Property Custodian from personal liability and confirms in those to whom he sold the property the title to the same; but it in no wise whatever affects the right of Germany to make claim from the Government of the United States on account of the property.

Mr. FLETCHER. I should think so. It says specifically that—

> The present stipulation will bar completely and finally all claims of this nature, which will be thenceforward extinguished, whatever may be the parties in interest.

In other words, they can set up no claim for any of this property.

Mr. WALSH of Montana. The Senator may be right about it; but that was not the construction I gave to that provision of the treaty.

Mr. HITCHCOCK. I am unable to see the inconsistency which the Senator urges exists. It seems to me the two provisions are not inconsistent but cumulative. Germany not only agrees to give us the rights which were stipulated in the Versailles treaty but she also agrees to accord to us the rights specified in the resolution. There is nothing inconsistent there. It is simply cumulative; it is additional.

Mr. WALSH of Montana. It is not additional. One establishes one rule and the other establishes another rule.

Mr. HITCHCOCK. No; not at all.

Mr. WALSH of Montana. One says we are going to keep this property until all claims are satisfied, whether arising before or after we went into the war, and the other says we will keep the property until those claims are satisfied which accrued before we went into the war.

Mr. HITCHCOCK. Yes.

Mr. WALSH of Montana. I will agree with the Senator that the one embraces the other, but they are inconsistent just the same, so that the lesser claim is absorbed in the greater in a sense. But even so, we go back to the proposition whether we may in honor keep the German property, if we are otherwise obliged to surrender it upon any consideration, as satisfaction for the damage done to the armed forces in the field.

For the reasons discussed I am unable to give my approval to this treaty. If it should be ratified, social Washington will enjoy the presence in its midst of a German ambassador and his entourage and the United States will again be officially represented in Wilhelmstrasse. That is all. Every controversy between the two countries now pending will remain rife and a number of others will spring into being. It is useless as well as vicious.

It is of no consequence to me that Germany has acceded to conditions which we have no right to exact of her, which we bound ourselves in the most solemn manner not to exact. I say "exacted" of Germany, because the language of the treaty, its very make-up, discloses that it was dictated by us. What considerations impelled Germany to yield willingly or unwillingly does not concern me. I am firm in the conviction that it does not comport with the honor of this country; that it is contrary to its interests and perilous to the peace of the world that it go into effect.

APPENDIX A.

SUMMARY OF REPORTS ON GERMAN DISARMAMENT.

1. Attached herewith is a memorandum on German disarmament as of May 19, 1921. No complete tabulation has been received since that date. Two minor reports are here quoted as affecting certain totals in this tabulation.

Totals to August 11, 1921.

Material.	Surrendered.	Destroyed.	Remaining to be destroyed.
Guns and barrels of all kinds	32,843	32,749	94
Shells loaded	[1] 35,017,029	[2] 33,564,193	[3] 1,452,836
Minenwerfer [4]	11,518	11,067	451
Machine guns [5]	87,489	79,808	7,630
Small arms (rifles and carbines)	4,229,721	3,972,988	256,733
Small arms ammunition	445,071,700	325,596,500	119,475,200

[1] 11,226 tons.
[2] 10,107.8 tons.
[3] 1,118.2 tons.
[4] Does not include 3,000 surrendered at armistice.
[5] Does not include 23,000 surrendered at armistice.

Air material surrendered to August 20, 1921.

Material.	Surrendered.	Destroyed.	Remaining to be destroyed.
Airplanes	14,673	14,149	514
Seaplanes	58	.....	58
Airships	8	3	5
Balloons	58	37	21
Engines	28,877	24,821	4,056
Sheds and hangars	312	196	116
Machine guns	6,120	5,512	608
Bombs	135,874	123,901	11,973

2. Quoting from three reports from the military observer at Berlin, September 6, 1921, disarmament of the army, navy, and air service is well summed up:

"Germany has disarmed on land, with the exception of her 100,000 army, as contemplated by the Versailles treaty, taking into consideration the fact that the discovery of absolutely all munitions and arms is an impossibility. The above is the carefully considered opinion of the military attaché, and it is also the opinion of Gen. Nollet, president of the interallied military control commission.

"Germany has disarmed and eliminated her Air Service as provided in the Versailles treaty. This is a fact, although it is necessarily admitted that possibly a few hundred planes or parts of planes have not yet been discovered. It is obvious that these are out of date and of no real consequence.

"Germany has disarmed as a naval power under the provisions of the Versailles treaty. This is obvious and is the measured judgment of all foreign military and naval officers in Germany."

APPENDIX B.

NOTE ON REPARATION.

The extent to which reparation can be claimed from Germany depends in the main on the meaning of the last reservation made by the Allies in their note to President Wilson, November, 1918. That reservation was agreed to by President Wilson and accepted by the German Government in the armistice negotiations and was in the following terms:

"Further, in the conditions of peace laid down in his address to Congress on January 8, 1918, the President declared that invaded territories must be restored, as well as evacuated and made free. The allied Governments feel that no doubt ought to be allowed to exist as

to what this provision implies. By it they understand that compensation will be made by Germany for all damage done to the civilian population of the Allies and to their property by the aggression of Germany by land, by sea, and from the air."

In this reservation a careful distinction must be made between the quotation from the President, which refers to the evacuation and restoration of the invaded territories, and the implication which the Allies find in that quotation and which they proceed to enunciate as a principle of general applicability. The Allies found in the President's provision for restoration of the invaded territories a general principle implied of far-reaching scope. This principle is that of compensation for all damage to the civilian population of the Allies in their persons or property, which resulted from the German aggression, and whether done on land or sea or from the air. By accepting this comprehensive principle (as the German Government did), they acknowledged their liability to compensation for all damage to the civilian population or their property wherever and however arising, so long as it was the result of German aggression. The President's limitation to restoration of the invaded territories only of some of the Allies was clearly abandoned.

The next question is how to understand the phrase "civilian population" in the above reservation, and it can be most conveniently answered by an illustration. A shopkeeper in a village in northern France lost his shop through enemy bombardment, and was himself badly wounded. He would be entitled as one of the civilian population to compensation for the loss of his property and for his personal disablement. He subsequently recovered completely, was called up for military service, and after being badly wounded and spending some time in the hospitals was discharged as permanently unfit.

The expense he was to the French Government during this period as a soldier (his pay and maintenance, his uniform, rifle, ammunition, his keep in the hospital, etc.) was not damage to a civilian, but military loss to his Government, and it is therefore arguable that the French Government can not recover compensation for such expense under the above reservation. His wife, however, was, during this period, deprived of her breadwinner, and she therefore suffered damage as a member of the civilian population, for which she would be entitled to compensation. In other words, the separation allowances paid to her and her children during this period by the French Government would have to be made good by the German Government, as the compensation which the allowances represent was their liability. After the soldier's discharge as unfit, he rejoins the civilian population, and as for the future he can not (in whole or in part) earn his own livelihood, he is suffering damage as a member of the civilian population, for which the German Government are again liable to make compensation. In other words, the pension for disablement which he draws from the French Government is really a liability of the German Government, which they must under the above reservation make good to the French Government. It could not be argued that as he was disabled while a soldier he does not suffer damage as a civilian after his discharge if he is unfit to do his ordinary work. He does literally suffer as civilian after his discharge, and his pension is intended to make good this damage, and is therefore a liability of the German Government. If he had been killed in active service, his wife as a civilian would have been totally deprived of her breadwinner, and would be entitled to compensation. In other words, the pension she would draw from the French Government would really be a liability of the German Government under the above reservation, and would have to be made good by them to the French Government.

The plain, common-sense construction of the reservation therefore leads to the conclusion that, while direct war expenditures (such as the pay and equipment of soldiers, the cost of rifles, guns, and ordnance and all similar expenditures) could perhaps not be recovered from the Germans, yet disablement pensions to discharged soldiers, or pensions to widows and orphans, or separation allowances paid to their wives and children during the period of their military service are all items representing compensation to members of the civilian population for damage sustained by them, for which the German Government are liable. What was spent by the allied governments on the soldier himself, or on the mechanical appliances of war, might perhaps not be recoverable from the German Government under the reservation, as not being in any plain and direct sense damage to the civilian population. But what was, or is, spent on the citizen before he became a soldier or after he has ceased to be a soldier or at any time on his family, represents compensation for damage done to civilians and must be made good by the German Government under any fair interpretation of the above reservation. This includes all war pensions and separation allowances, which the German Government are liable to make good, in addition to reparation or compensation for all damage done to property of the allied peoples.

J. C. SMUTS.

PARIS, *March 31, 1919.*

Mr. PENROSE. Mr. President, if there is no other Senator desiring to address himself at this time to the treaties, under the unanimous-consent arrangement I will ask to have the revenue bill proceeded with.

The PRESIDENT pro tempore. The Chair understands that the revenue bill is before the Senate.

Mr. PENROSE. It is before the Senate subject to interruption by anyone who wants to speak on the treaty.

Mr. BRANDEGEE. It will be necessary to return to legislative session.

Mr. PENROSE. Certainly.

The PRESIDENT pro tempore. The Senate resumes legislative business.

TAX REVISION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

Mr. KING. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Ashurst	Glass	McCormick	Reed
Borah	Gooding	McKellar	Sheppard
Brandegee	Harris	McNary	Shortridge
Broussard	Harrison	Moses	Simmons
Calder	Heflin	Myers	Smith
Capper	Hitchcock	Nelson	Smoot
Caraway	Johnson	New	Spencer
Colt	Jones, N. Mex.	Newberry	Sutherland
Cummins	Kellogg	Nicholson	Townsend
Curtis	Kendrick	Norbeck	Trammell
Dial	Kenyon	Oddie	Wadsworth
Edge	King	Overman	Walsh, Mont.
Elkins	Ladd	Penrose	Warren
Ernst	La Follette	Poindexter	Watson, Ga.
Fletcher	Lenroot	Pomerene	Weller
France	Lodge	Ransdell	Willis

The PRESIDENT pro tempore. Sixty-four Senators have answered to their names. There is a quorum present.

The question is upon agreeing to the committee amendment, paragraph (F), page 170, which amendment will be stated.

The ASSISTANT SECRETARY. On page 170, beginning with line 12, the committee proposes to insert:

(F) In the case of each telegraph, telephone, cable, or radio dispatch, message, or conversation, which originates on or after such date within the United States, and for the transmission of which the charge is more than 14 cents and not more than 50 cents, a tax of 5 cents; and if the charge is more than 50 cents, a tax of 10 cents: *Provided*, That only one payment of such tax shall be required, notwithstanding the lines or stations of one or more persons are used for the transmission of such dispatch, message, or conversation; and

(G) A tax equivalent to 10 per cent of the amount paid after such date to any telegraph or telephone company for any leased wire or talking circuit special service furnished after such date. This subdivision shall not apply to the amount paid for so much of such service as is utilized (1) in the collection and dissemination of news through the public press, or (2) in the conduct, by a common carrier or telegraph or telephone company, of its business as such;

(H) No tax shall be imposed under this section upon any payment received for services rendered to the United States or to any State or Territory or the District of Columbia. The right to exemption under this subdivision shall be evidenced in such manner as the commissioner, with the approval of the Secretary, may by regulation prescribe.

Mr. KING. Mr. President, may I inquire of the Senator from Pennsylvania whether the committee took into consideration the wisdom and propriety of eliminating from existing law the provision taxing telegraph and telephone companies. I have an amendment here which I had intended to present, which had for its object the striking out of that provision of existing law. Yesterday we agreed to relieve the transportation companies of the tax provided by law. It occurred to me that we could with propriety, in the interest of business, relieve the telegraph and telephone companies, because in so doing we are relieving the business people and the people themselves of a rather onerous burden.

Mr. PENROSE. All these burdens are disagreeable, to say the least. The committee very carefully considered this matter and after not only debating it in committee but making a careful canvass in the Senate concluded that it would be sufficient at this time to eliminate the tax on transportation. We have still to have some revenue.

Mr. KING. I appreciate that we must have a great deal of revenue.

Mr. PENROSE. It was thought that the revenue requirements of the Government would permit the retention of this tax for the present. The tolls are not very heavy, and there is no very great complaint about the tax. The Government must have some money. That is the whole situation. It was very carefully considered.

Mr. KING. It is a tax which is borne by business and by individuals rather than by the corporations, and I should have been very glad if the committee had felt from the situation that business and the individuals could have been relieved of this additional tax.

Mr. PENROSE. The committee did not feel that business felt it materially. I know we all get thousands of telegrams every day. The tax does not seem to be much of an impediment.

Mr. KING. Perhaps the Senator might wish to increase the tax if the purpose is to prevent the people from bothering Senators with multitudinous appeals for reduction of taxes or for other reasons. However, as the committee have considered it, and in view of the very generous excisions which have heretofore been made, I shall not press my amendment.

Mr. SIMMONS. Mr. President, I have examined with some care the various formal amendments that are made to the several sections referring to the transportation, telegraph, and telephone companies. If the object of the committee is what I understand it to be—namely, to eliminate the tax on passenger, freight, Pullman, express, and parcel post, I think the amendments accomplish that purpose and I have no objection to them.

The PRESIDENT pro tempore. The question is on agreeing to the amendment. Those who favor agreeing to the amendment will say "aye"; contrary, "no."

Mr. REED. Mr. President——

Mr. PENROSE. On page 170, line 12, or in the little pamphlet of proposed amendments on page 9, No. 41, there are several amendments going down to and including the amendment on page 175 of the bill, correcting punctuation and of a purely technical character, that I ask the unanimous consent of the Senate to agree to en bloc.

Mr. SMOOT. They are merely clerical corrections?

Mr. PENROSE. Yes. If there is no objection, I ask that the amendments to which I have referred be agreed to en bloc.

There being no objection, the amendments were agreed to en bloc, as follows:

Page 170, line 12, strike out "(f)" and insert in lieu thereof "(a)."
Page 170, line 23, strike out "(g)" and insert in lieu thereof "(b)."
Page 171, line 8, strike out "(h)" and insert in lieu thereof "(c)."
Page 171, beginning with line 15, strike out down to and including line 25, being all of subdivision (i) of section 500, and insert in lieu thereof the following:

"(d) Under regulations prescribed by the commissioner, with the approval of the Secretary, refund shall be made of the proportionate part of the tax collected under subdivision (c) or (d) of section 500 of the revenue act of 1918 on tickets or mileage books purchased and only partially used before the passage of this act."

Page 172, line 1, strike out "(a)."
Page 172, beginning with line 4, strike out down to and including line 17, on page 174, being all of subdivisions (b), (c), and (d) of section 501.
Page 174, lines 23 and 24, strike out "and the taxes imposed upon it under subdivision (c) or (d) of section 501."
Page 175, beginning with line 1, strike out down to and including line 6, being all of subdivision (b) of section 502.
Page 175, line 7, strike out "(c)" and insert in lieu thereof "(b)."
Page 175, line 13, strike out "(d)" and insert in lieu thereof "(c)."
Page 175, line 18, strike out "(e)" and insert in lieu thereof "(d)."

Mr. REED. Mr. President, I wish it understood that the last amendment under discussion, relating to the tax on telegraph and telephone companies, has not yet been agreed to. The situation was that the Chair started to take the vote and I rose and addressed the Chair. At the same instant the Senator from Pennsylvania rose and addressed the Chair to make his request. I have no objection to his request, but I want it understood that we have not agreed to the amendment relating to the tax upon telegraph and telephone companies.

Mr. PENROSE. The fact of the matter is there has been so much confusion all around the Chamber that the matter has gotten a little mixed up.

Mr. SIMMONS. My understanding is that we have agreed to all the amendments, but we have not voted upon the proposition to retain the tax on telegraph and telephone companies.

Mr. PENROSE. That is the understanding I share.

Mr. TRAMMELL. Mr. President, if the Senator will yield to me——

Mr. PENROSE. I yield.

Mr. TRAMMELL. I desire to give notice that I shall call for a vote in the Senate on the amendment which I proposed to make the repeal of the transportation tax charges effective 10 days after the passage of the bill instead of January 1 next. I desire to reserve the right to offer that amendment in the Senate, and for that purpose I wish to have the amendment of the committee reserved for a separate vote when the bill is reported out of Committee of the Whole.

Mr. PENROSE. Connected with the transportation amendment, to which the Senate has agreed, I ask unanimous consent to turn back to page 247 to the provision relating to the tax on parcel post, which the committee recommends shall be abolished in view of the elimination of the tax on express transportation.

Mr. SIMMONS. I thought we had just agreed to that.

Mr. PENROSE. It appears that it was agreed to and it should have been disagreed to. It apparently was passed without objection.

The PRESIDING OFFICER (Mr. CAPPER in the chair). Is there objection to reconsidering the vote by which the amendment on page 247 was agreed to? The Chair hears none, and it is so ordered. The question is now on agreeing to the amendment, which will be stated.

The ASSISTANT SECRETARY. On page 247, subsection 14, the committee proposed to insert:

14. Parcel-post packages: Upon every parcel or package transported from one point in the United States to another by parcel post on which the postage amounts to 25 cents or more, a tax of 1 cent for each 25 cents or fractional part thereof charged for such transportation, to be paid by the consignor.

No such parcel or package shall be transported until a stamp or stamps representing the tax due shall have been affixed thereto.

Mr. REED. What is the motion—to disagree?

Mr. PENROSE. It is to eliminate the tax on parcel-post packages, which was inadvertently agreed to by the Senate when going through the bill and considering amendments which were unobjected to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. REED. What was the decision of the Chair? Do the "noes" or the "ayes" have it?

The PRESIDING OFFICER. The amendment was rejected.

Mr. PENROSE. Mr. President, as I understand the "ayes" have it. It is difficult to tell, but I concluded that that would be the decision.

Mr. REED. That is just what is not wanted, as I understand.

Mr. SMOOT. That is not what is desired.

Mr. REED. The committee brings in an amendment; it is accepted, and a motion is made to reconsider, which again brings the amendment before the Senate. The Senator from Pennsylvania wishes that amendment defeated. Therefore the vote would be "no," unless it is put in the form that the Senate disagree to the amendment; but it was not put in that form. I merely want the record to be clear; that is all; and I assume that the Senator from Pennsylvania also wants the record to be clear.

Mr. PENROSE. I assume that the Secretary will keep the record clear.

Mr. REED. Under the circumstances the vote, therefore, is "no." The committee amendment being before the Senate, the question was, Shall the Senate approve it?

Mr. PENROSE. That is correct?

Mr. REED. And the Chair decided that the Senate did not approve it and that the vote in the negative prevailed.

The PRESIDING OFFICER. The amendment goes out of the bill.

Mr. PENROSE. That is correct.

Mr. LA FOLLETTE. Mr. President, I very much doubt if Senators understood the purport of that amendment. I do not believe that it would have been rejected by the Senate if it had been understood.

Mr. PENROSE. What is there to understand about it?

Mr. LA FOLLETTE. I have not been able to follow the decisions that have been announced by the Chair.

Mr. PENROSE. I will state, if I may, for the information of the Senator from Wisconsin that the Senate has eliminated the tax on transportation of all kinds, and now proceeds to eliminate the tax on parcel-post packages, the express tax having been already eliminated. The tax on parcel-post packages was inadvertently agreed to.

Mr. LA FOLLETTE. That was the suggestion of the committee?

Mr. PENROSE. Yes.

Mr. SMOOT. That goes out.

Mr. LA FOLLETTE. I understood that the suggestion of the committee was defeated.

Mr. PENROSE. Does the Senator mean relative to the elimination of the tax on parcel post?

Mr. LA FOLLETTE. This refers to the original suggestion, I understand. That is all right.

Mr. SIMMONS. As I understand this provision, the Senate committee brought in an amendment imposing taxes upon parcel-post packages. Now the Senate disagrees to that amendment.

The PRESIDING OFFICER. That is correct.

Mr. PENROSE. Mr. President, I understand the question now before the Senate is on the retention of the tax on telegraph and telephone messages. As I recollect, a motion was pending in regard to that provision. Am I right?

Mr. REED. There was a motion pending which was put but not decided. Then we took up other business.

Mr. PENROSE. That is my understanding. Now, I suggest that we consider the pending question regarding the tax on telegraph and telephone messages.

Mr. REED. Very well. Mr. President, if we are to consider that question, I suggest the absence of a quorum, for I think we ought to have a full Senate.

The PRESIDING OFFICER. The absence of a quorum is suggested. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Glass	Moses	Smith
Borah	Gooding	Myers	Smoot
Brandegee	Harris	Nelson	Spencer
Broussard	Heflin	New	Sutherland
Calder	Hitchcock	Newberry	Swanson
Capper	Johnson	Nicholson	Townsend
Caraway	Jones, N. Mex.	Norbeck	Trammell
Curtis	Kellogg	Oddie	Wadsworth
Dial	Kendrick	Overman	Walsh, Mont.
Dillingham	Kenyon	Penrose	Warren
Edge	Keyes	Poindexter	Watson, Ga.
Elkins	Ladd	Pomerene	Watson, Ind.
Ernst	La Follette	Ransdell	Williams
Fernald	Lenroot	Reed	Willis
Fletcher	McKellar	Sheppard	
France	McKinley	Shields	
Frelinghuysen	McNary	Simmons	

The PRESIDING OFFICER (Mr. CURTIS in the chair). Sixty-five Senators have answered to their names. A quorum is present.

Mr. REED. Mr. President, I move to strike out the paragraph (f) in section 500, beginning in line 12, on page 170 of the bill. This question I hope will receive the consideration of the Senate, because it applies to the important question of the tax on telegraph and telephone messages. I wish to inquire if I am correct in the estimate which I have that from this source the Government receives about $28,500,000 annually?

Mr. PENROSE. The Senator is correct in his statement; the amount of revenue derived is about the sum he has stated.

Mr. REED. We have started here, Mr. President, upon the theory of eliminating the taxes upon transportation. Telegraph and telephone messages come distinctly within that principle; they involve the transportation of information. The tax is paid by the senders of the messages or the receivers, dependent upon who pays for the messages. It is not a tax upon the companies.

The provision is that for the transmission of a message by telegraph or telephone, cable or radio, where the charge for transmission is more than 14 cents and not more than 50 cents a tax of 5 cents shall be levied, and if the charge is more than 50 cents a tax of 10 cents. So that if a man sends a message that costs less than 50 cents he pays 5 cents tax, and if it costs more than 50 cents he pays 10 cents tax. A message that costs 51 cents for the regular tolls immediately costs the sender 61 cents, because the 10 cents is added.

Mr. LA FOLLETTE. And there is no doubt about the sender paying the tax.

Mr. REED. There is no question, of course, that this is a tax paid by the citizen and not by the company. That fact is recognized in the exemptions, since paragraph (g) reads:

(g) A tax equivalent to 10 per cent of the amount paid after such date to any telegraph or telephone company for any leased wire or talking circuit special service furnished after such date. This subdivision shall not apply to the amount paid for so much of such service as is utilized (1) in the collection and dissemination of news through the public press, or (2) in the conduct, by a common carrier or telegraph or telephone company, of its business as such.

It will be observed that the public press, press associations, and so forth, recognized the fact that they would have to pay these tolls. They sought an exemption, and obtained it, upon the theory that they were sending news of service to the public and that there ought not to be a tax upon news. I make no complaint because they secured the exemption. I simply call attention to it as showing that it is recognized in the bill that the tax is paid by the sender of the message, or by the receiver if it is a "collect" message.

I recognize the fact, Mr. President, that we must have revenue to run the Government. The question is, From what sources are we to get that revenue? We received a large revenue from the tax on freight and passengers. We struck that clause out of this bill because it was recognized that a tax of that sort was of an exceedingly burdensome character. It was a tax which fell upon all classes of people, and multiplied itself as it was added to the cost of the things that were shipped. We had already reduced the postage charge on first-class matter from 3 cents to 2 cents, because it was recognized that the transmission of news, letters, information from one part of the country to the other was of vital importance, and that the people ought to be allowed to transact business and carry on personal communication as cheaply as possible. The recommendation of the Secretary of the Treasury that we put first-class postage back to 3 cents did not receive very serious consideration by the committee; I mean it did not receive serious friendly consideration. Here is a tax upon telegraph messages and upon telephone communications, instrumentalities that are in common use by all the people of the country. I am opposed to continuing that sort of tax.

There may be other Senators who desire to speak in this empty Chamber. I do not; but I ask for the yeas and nays upon this question, and I hope I can get a sufficient seconding to have a vote. My motion is to strike out this clause, paragraph (f).

The PRESIDING OFFICER (Mr. LADD in the chair). The question is upon the motion of the Senator from Missouri, on which the yeas and nays are demanded.

The yeas and nays were ordered, and the reading clerk proceeded to call the roll.

Mr. SWANSON (when his name was called). I have a pair with the senior Senator from Washington [Mr. JONES]. I transfer that pair to the junior Senator from Rhode Island [Mr. GERRY], and will vote. I vote "yea." I will let this announcement stand for the day.

The roll call was concluded.

Mr. DIAL. I have a pair with the Senator from Colorado [Mr. PHIPPS]. I transfer that pair to the Senator from Massachusetts [Mr. WALSH], and will vote. I vote "yea."

Mr. MYERS. I have a pair with the Senator from Connecticut [Mr. MCLEAN], who is necessarily absent. I transfer that pair to the Senator from Texas [Mr. CULBERSON], and will vote. I vote "yea."

Mr. EDGE. I transfer my pair with the senior Senator from Oklahoma [Mr. OWEN] to the junior Senator from Delaware [Mr. DU PONT], and will vote. I vote "nay."

Mr. PENROSE (after having voted in the negative). I have a general pair with the senior Senator from Mississippi [Mr. WILLIAMS]. As I observe that he has not voted, I transfer that pair to the junior Senator from Maryland [Mr. WELLER], and will allow my vote to stand.

Mr. SMITH. I inquire whether the Senator from South Dakota [Mr. STERLING] has voted.

The PRESIDING OFFICER. He has not.

Mr. SMITH. I have a general pair with that Senator. I transfer that pair to the Senator from Nevada [Mr. PITTMAN], and will vote. I vote "yea."

Mr. SUTHERLAND (after having voted in the negative). I have a general pair with the senior Senator from Arkansas [Mr. ROBINSON]. I transfer that pair to the junior Senator from Oklahoma [Mr. HARREL], and will let my vote stand.

Mr. ELKINS. I am paired with the Senator from Mississippi [Mr. HARRISON]. I transfer that pair to the Senator from Oregon [Mr. STANFIELD], and will vote. I vote "nay."

Mr. CURTIS. I have been requested to announce the following pairs:

The Senator from Massachusetts [Mr. LODGE] with the Senator from Alabama [Mr. UNDERWOOD];

The Senator from Kentucky [Mr. ERNST] with the Senator from Kentucky [Mr. STANLEY];

The Senator from Maine [Mr. HALE] with the Senator from Tennessee [Mr. SHIELDS]; and

The Senator from New Mexico [Mr. BURSUM] with the Senator from Louisiana [Mr. RANSDELL].

The result was announced—yeas 27, nays 32, as follows:

YEAS—27.

Ashurst	Gooding	Moses	Smith
Borah	Harris	Myers	Smoot
Broussard	Harrison	Overman	Swanson
Caraway	Heflin	Pomerene	Trammell
Dial	Kendrick	Reed	Walsh, Mont.
Fletcher	La Follette	Sheppard	Watson, Ga.
Glass	McKellar	Simmons	

NAYS—32.

Brandegee	Fernald	McKinley	Poindexter
Calder	France	McNary	Spencer
Capper	Frelinghuysen	New	Sutherland
Colt	Kellogg	Newberry	Townsend
Curtis	Kenyon	Nicholson	Wadsworth
Dillingham	Keyes	Oddie	Warren
Edge	Ladd	Page	Watson, Ind.
Elkins	Lenroot	Penrose	Willis

NOT VOTING—37.

Ball	Hitchcock	Nelson	Stanfield
Bursum	Johnson	Norbeck	Stanley
Cameron	Jones, N. Mex.	Norris	Sterling
Culberson	Jones, Wash.	Owen	Underwood
Cummins	King	Phipps	Walsh, Mass.
du Pont	Knox	Pittman	Weller
Ernst	Lodge	Ransdell	Williams
Gerry	McCormick	Robinson	
Hale	McCumber	Shields	
Harreld	McLean	Shortridge	

So Mr. REED's amendment to the amendment of the committee was rejected.

Mr. REED. I do not know whether it is necessary, under the practice, to specifically reserve this question for a separate vote in the Senate, but in order to save the point I make that reservation.

The PRESIDING OFFICER. The question is now on agreeing to the amendment.

The amendment was agreed to.

Mr. REED. I reserve that question for a separate vote in the Senate, because I think I must do so in order to save my rights fully under the question which I just raised.

Mr. PENROSE. I would like to make an inquiry. Does not the Senator have that right without making a formal reservation?

Mr. REED. It seems to be a disputed question here, and it is so much easier to make a reservation than it is to debate it that I just make it.

Mr. PENROSE. Of course, it is all right.

The READING CLERK. The next amendment passed over is, on page 171, after line 14, the amendment just agreed to, to insert lines 15 to 25, inclusive, in the following words:

(1) Subdivisions (a), (c), and (d) shall not be in effect after December 31, 1922. Under regulations prescribed by the commissioner, with the approval of the Secretary, refund shall be made (1) of the proportionate part of the difference between the tax collected under subdivisions (c) or (d) of the revenue act of 1918 on tickets or mileage books purchased and only partially used before January 1, 1922, and the tax imposed on and after such date by subdivisions (c) or (d) of this act; and (2) of the proportionate part of tax collected on tickets or mileage books purchased and only partially used before January 1, 1923.

Mr. PENROSE. That has already been stricken out by one of the amendments agreed to en bloc. We should begin on page 176, Title VI, tax on soft drinks and constituent parts thereof.

Mr. REED. Has subdivision (1) been agreed to in its present form, with some clerical amendment?

Mr. PENROSE. It has been agreed to, Mr. President.

Mr. LENROOT. Mr. President, if subdivision (1) has been agreed to, it should be reconsidered now. There is an amendment in these proposed amendments, found on page 10, which takes the place of (1), namely, subdivision (d).

Mr. PENROSE. Subdivision (d), I am informed, has been agreed to.

Mr. LENROOT. If that has been agreed to, that takes care of it.

Mr. PENROSE. Let the Secretary proceed with the reading.

The PRESIDING OFFICER. The Secretary will proceed to read the next amendment passed over.

The READING CLERK. The next amendment passed over is on page 176, line 1, where the committee proposes to strike out "Title VI. Beverage tax amendments," and to insert "Title VI. Tax on soft drinks and constituent parts thereof."

The amendment was agreed to.

The READING CLERK. The next amendment passed over is on page 176, passed over on the request of the senior Senator from North Carolina [Mr. SIMMONS], where the committee proposes to strike out lines 4 to 25, both inclusive.

Mr. KING. May I inquire of the chairman of the committee whether the plan is now to strike out all of the items found under the head "Tax on soft drinks and constituent parts thereof"?

Mr. PENROSE. The obvious purpose is to strike out the language as it came over to the Senate from the House and insert the amendments proposed by the Finance Committee, recommended to the Senate and printed in the bill.

Mr. KING. I had in mind that this new revolutionary movement over there had resulted in a determination to eliminate all of this title, and I was asking for information, and not by way of criticism.

Mr. PENROSE. I do not know what the Senator refers to as the "revolutionary movement."

Mr. KING. The movement which it is alleged was sponsored by the distinguished Senator from Iowa [Mr. KENYON] and the Senator from Kansas [Mr. CAPPER], and which eventuated in a meeting which was held at Senator CAPPER'S house. I am merely identifying it, not for the purpose of criticism, but for the purpose of ascertaining whether or not, pursuant to that meeting, or any meeting, the Finance Committee now is about to recommend the elimination of all these items.

Mr. PENROSE. I do not think this soft-drink schedule has been changed in any particular since the bill was reported from the Finance Committee.

Mr. CALDER. Mr. President, I rise to suggest that this matter may go over temporarily.

Mr. PENROSE. Does the Senator mean the whole schedule?

Mr. CALDER. No; I mean only the language on page 176.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York?

Mr. PENROSE. Of course, if the Senator from New York asks to have the whole matter go over I shall not object, but I do not see the necessity of it.

Mr. CALDER. I will not insist, if the chairman of the committee insists on it going in.

Mr. PENROSE. I will do all I can to meet the Senator's wishes.

Mr. CALDER. The committee, I understand, is offering suggestions in lieu of the language on page 176.

Mr. PENROSE. The committee has made no recommendation along that line, as far as I know. Does the Senator desire to submit an amendment?

Mr. CALDER. I do not, Mr. President. It seemed to me that if there was to be an amendment offered for that provision, it should go over.

Mr. PENROSE. Then let it go over.

Mr. SIMMONS. Mr. President, let me see if I understand the situation. The Finance Committee did not, as I understand it, originally change the rates upon liquors and spirits withdrawn from bond for medicinal or mechanical purposes. They left that as it is in the present law. A controversy arose about that, and it was suggested in the subsequent meetings by the majority members of the committee that they were going to change that tax and increase it from $2.20 to $6.40 per proof gallon, but no amendment to that effect has been offered; and I understand the Senator from Pennsylvania to say that there is no purpose to offer an amendment of that kind.

Mr. SMOOT. The Senator from Pennsylvania referred to soft drinks, I understand.

Mr. SIMMONS. But the section stricken out here refers to the liquor tax.

Mr. PENROSE. I referred to the tax in part 6, printed in the bill as it was reported from the committee. The amendments in the list of proposed amendments I have not discussed or referred to, and I do not intend to do so at the present time.

Mr. SIMMONS. I was calling the Senator's attention to this fact, that section 601, which the Senate Finance Committee has amended by striking out, does provide for a tax on spirits.

Mr. PENROSE. I ask to have it go over.

Mr. SIMMONS. Very well; I have no objection, if the Senator wants it to go over.

Mr. PENROSE. I did not hear the Senator object when I made the request.

The PRESIDING OFFICER. The Secretary will state the next amendment passed over.

The READING CLERK. The next amendment passed over is on page 177, line 1, where the committee proposes to strike out "Sec. 628" and the period, and to insert "Sec. 600" and a period.

The amendment was agreed to.

The READING CLERK. The next amendment passed over is, on page 177, line 1, after the word "That," to insert "from and after January 1, 1922."

The amendment was agreed to.

The READING CLERK. The next amendment passed over is, on page 177, line 3, to insert the words "in lieu of the taxes imposed by sections 628 and 630 of the revenue act of 1918," so as to make the paragraph read:

SEC. 600. That from and after January 1, 1922, there shall be levied, assessed, collected, and paid, in lieu of the taxes imposed by sections 628 and 630 of the revenue act of 1918——

Mr. KING. Mr. President, I want to make a few inquiries of the committee, if they will pardon me for interrupting the proceedings for a moment with respect to the tax on soft drinks and constituent parts thereof. It seems to me that there ought to be a distinction in the imposition of taxes upon those drinks that are the products of fruit juices, innocent beverages of that character, and the synthetic drinks, those resulting from chemical compounds. I fancy that under the latter characterization would come Coca-Cola and kindred drinks. It seems to me that the tax imposed upon those beverages ought to be high and the tax imposed upon cereal juices and upon fruit juices ought to be comparatively light. May I inquire of some member of the committee whether there has been any distinction made between these synthetic and drug compounds or extracts which are the basis of many soft drinks and the unfermented juices and cereal beverages; and if there is not such a distinction, if the matter was suggested to the committee for consideration?

Mr. WATSON of Indiana. I will say to the Senator that there was quite a bit of discussion of that whole proposition before the Senate committee, that the Senator from Missouri [Mr. REED], who sits by the Senator's side, made many suggestions in regard to that particular tax; and that the Senate committee, after hearing the discussion not only once but several times, thought it best to put all these various drinks on a par, because the cereal-beverage people were not making any money, as was clearly shown, and from the testimony which was adduced before our committee we thought it was the wise thing to do to put them all on a par. I know of no reason why it should not be done at this time. I think it is good legislation; and besides they are all competitive products.

Mr. SMOOT. I wish to say to the Senator that, as far as I was personally concerned, I voted for the 2 cents instead of 4 because I knew more revenue would flow into the Treasury of the United States under a 2-cent tax than under a 4-cent tax. If the tax is left at 4 cents, near beer can not be produced in sufficient quantity to raise the amount of revenue that will be raised if the tax is made 2 cents. There was also an intention to equalize them. It costs more to make near beer than it did to make regular beer when we were licensing the making of beer. Near beer has to pass through exactly the same process that regular beer passed through, and then an additional proc-

ess, the extracting of the alcohol from it, and in order to equalize the tax, as the Senator from Indiana has said, it was reduced to 2 cents a gallon.

Mr. REED. I do not understand the Senator from Utah [Mr. KING] to be objecting to that. He is inquiring about such drinks as Coca-Cola, and thinks they ought to be distinguished from juices of either fruits or grains, and I myself have forgotten what we did with the class of drinks under which Coca-Cola falls.

Mr. KING. I had in mind, if the Senator will pardon me, what might be denominated synthetic or drug compounds. We speak of synthetic drugs, and I thought there could be logically a distinction between synthetic compounds, such as Coca-Cola and cereal beverages and the unfermented juices.

Mr. SMOOT. I call my colleague's attention to the fact that paragraph (b) is where Coca-Cola is virtually taxed, because the drink from Coca-Cola is the concentrate or essence or extract, and the tax is upon all imitations of any such fruit juices. As far as Coca-Cola itself is concerned, it is taxed under paragraph (b) and not under (a).

Mr. SMITH. Mr. President, while this question is under discussion, may I say that quite a bit of complaint is coming from the vendors of soft drinks to the effect that the tax is unusually discriminatory against them. I should like to ask the Senator from Utah [Mr. SMOOT] or the Senator from Indiana [Mr. WATSON] this question: As I said, there is quite a bit of complaint coming from vendors of the so-called soft drinks to the effect that the old tax was discriminatory. I did not know the matter was coming up at this time, and had intended to prepare myself on it. My impression now is that they were taxed on the sirup and the compounds that entered into the making of the soft drinks, and then on the finished product as well. I do not know exactly the basis of their complaint at this time except that they claim it is discriminatory. I would like to know if the committee in considering it have imposed rather an unusual discriminatory tax?

Mr. SMOOT. I will say to the Senator that whoever makes that statement is mistaken. It is not a double tax under the existing law. There is objection from the same source to paragraph (e), where there is imposed 10 cents per gallon. Paragraph (e) reads:

> Upon all finished or fountain sirups of the kinds used in manufacturing, compounding, or mixing drinks commonly known as soft drinks, sold by the manufacturer, producer, or importer, a tax of 10 cents per gallon.

The committee reduced that 10 cents a gallon to 7½ cents a gallon to equalize it with the other fountain beverages of this type in the section.

It is true that when the complaints were first lodged against the 10 cents per gallon on these sirups it was a discriminatory tax, but the committee reduced it to 7½ cents, which equalizes the other rate imposed under the section upon beverages wholly or partly from cereals or substitutes therefor or bottled beverages and the other beverages named in the section.

Mr. SMITH. My impression was that they were complaining of the fact that they had a tax to pay upon the ingredients that went in and then a tax upon the compound after it was mixed.

Mr. SMOOT. I will say to the Senator that is not true under the provisions of this bill. There is no such provision as that.

Mr. SMITH. The old law has been amended in regard to this particular class of beverages?

Mr. SMOOT. We have reduced the tax as provided in the old law. The old law provided for 15 per cent. We had a specific change, at the request of the bottlers themselves. They thought the 4 cents on near beer and soft drinks was equal to the 15 per cent under the old law, but in figuring it out very closely, after the testimony was given, it was found that 4 cents was too high and the committee reduced it to 2 cents. In the items under paragraph (e), the fountain sirups, we figured that 10 cents was equal to the old tax imposed, but 7½ cents makes it equal with the 2 cents that is imposed on the beverages.

Mr. SMITH. On those containing a per cent of alcohol the tax is reduced to 2 cents?

Mr. SMOOT. Yes; that is, where there is one-half of 1 per cent alcohol.

Mr. SMITH. That has been reduced to 2 cents, and then to equalize it the other was reduced to 7½ cents?

Mr. SMOOT. Yes.

Mr. KING. Mr. President, I am not entirely satisfied with some of the provisions of this section. I am not opposing the action of the committee in dealing with unfermented fruit juices, and beverages derived wholly or in part from cereals or substitutes therefor containing less than one-half of 1 per cent of alcohol by volume. I have no complaint as at present advised with respect to subdivision (c), but I would like some information as to the reason of the action of the committee in not differentiating between what might be called drug or synthetic drinks and compounds and extracts, and unfermented and cereal beverages. It has occurred to me that the tax upon Coca-Cola and extracts and drinks of that character and of drinks formed in part from drugs should be heavier than upon unfermented fruit juices or upon the other beverages provided for in subdivisions (a), (b), and (c).

Mr. SMOOT. I would like to ask the Senator how a line could be drawn. In what way can we pass a bill that would provide a discrimination between the two? They all come from a concentrate or essence and the only way that it could be done in my opinion would be specifically to take out Coca-Cola and have a special law for Coca-Cola.

Mr. KING. If that was the only extract or drink embraced within the category to which I have referred, the matter might be easily dealt wtih, but I confess that there may be some administration difficulties in dealing with the subject if different rates are established.

Mr. SMOOT. Then if we pass a bill specifically naming Coca-Cola, unless it could be specifically pointed out just what Coca-Cola was, they would change the name of it. The committee thought of that matter many times and thought that perhaps we could reach it in some other way, but really I do not know how to do it.

Mr. KING. It does seem to me there ought to be a clear line of distinction between cereal beverages and unfermented fruit juices, and these synthetic and drug compounds in which class, as I understand, Coca-Cola belongs.

Mr. SMOOT. That is what we tried to do.

Mr. KING. There are a number of drinks of that character, I am advised, upon the market, the profits from which are enormous as we all know, drug-made drinks in contradistinction to cereal beverages. I think that where there are drug-made drinks—synthetic compounds and extracts and bases of drinks—they ought to bear a heavier tax than is imposed upon fruit juices and cereal beverages. I am looking at my friend the junior Senator from Ohio [Mr. WILLIS], because I know his intense interest in unfermented beverages. I hope he will aid in drawing some amendment that will distinguish between the two classes.

Mr. SHIELDS. Has the Senator investigated the attacks upon Coca-Cola?

Mr. KING. I am not making an attack upon it. I am only pointing out the difference between Coca-Cola and other extracts and bases used for soft drinks, and I refer to the enormous profits reported to have been made upon the sale of Coca-Cola, and also suggested that it and similar extracts should bear a heavier tax.

Mr. SHIELDS. The Senator is not against any business because it is profitable?

Mr. KING. Oh, no; but I think this business ought to pay a heavier tax than these innocent cereal beverages.

Mr. SHIELDS. I thought from the manner in which the Senator was speaking that he wanted the tax because the drink was hurtful to the public or something of that kind. I would call his attention to the fact that the United States Government fully investigated it, brought a suit under the pure food law, as I remember, to enjoin the making and selling of it, and that the Government lost that suit. According to the evidence developed in that case there is nothing in it harmful to the health of the people. I hold no brief for the Coca-Cola people, but I think they ought to be fairly treated. After the beverage had been fully investigated and vindicated there ought to be no discrimination against it on a mere rumor that may prevail in the country.

Mr. FLETCHER. Mr. President, I have some telegrams and communications with reference to this matter. In one of the telegrams it is said:

> New tax bill merely shifts taxes on our business. Must have complete elimination from excise tax if bottled carbonated beverages can retail for a nickel.

That is their proposition. They retail these drinks for a nickel, but if this tax is added it will be very doubtful if their business can proceed.

Mr. SHIELDS. I do not think there is any doubt about that. I have heard from a number of the gentlemen engaged in that business.

Mr. SMOOT. I will say to the Senator that we had that same question up when we were considering the present law before the committee. I suppose I received two or three hundred telegrams, or perhaps more than that, from the same source. We have reduced the tax on these items all the way along the line.

Mr. FLETCHER. I think that is proper.

Mr. SMOOT. I think myself that paragraph (b), where we have imposed a tax of 2 cents per gallon on unfermented fruit juices, in which concentrates are also included, is a higher tax than in any other bracket in the beverage section. I can not see why we should undertake to reduce the taxes we have provided for now.

Mr. FLETCHER. There is quite an industry in my State where they are extracting the juice from the grapefruit. They take the juice out of the grapefruit, bottle it, and preserve it, and it is a very healthful drink. I do not see why the producer of the grapefruit juice, if he is the grower of the fruit, should be taxed at all.

Mr. WATSON of Georgia. Mr. President, I was out of the Chamber when the question of Coca-Cola was brought up. I heard, however, the remarks of my friend the Senator from Tennessee [Mr. SHIELDS]. I am quite familiar with the test case to which he refers. I know how that test case was brought about. I think it might be interesting to the Senate to hear a few simple facts about Coca-Cola.

The recipe for that drink was bought by Asa Candler, of the city of Atlanta, Ga., from an old countrywoman for $25. I do not know how she got it, but she had it. He realized the value of it. He began to manufacture it in a small way. His business grew and grew and grew until his advertising agent, even 20 years ago, spent $100,000 annually advertising this delicious and refreshing drink. This advertising agent got rich on it. His father was a personal friend of mine and he himself is. I mean no disrespect to him.

Mr. President, Asa Candler a few months ago sold that recipe to a national syndicate for $25,000,000. That syndicate has pushed that drink into the place of near beer, or beer, or of light wines, and everything else of that character. At that time near beer was paying the State of Georgia a revenue of $800,000 annually, but they ran it out; they substitute Coca-Cola, which pays the State of Georgia nothing, or has not been paying it heretofore a single cent. Every time a proposition is made in the Georgia Legislature to put a tax on the drink there is a powerful lobby there to resist it; and they defeat the proposition by methods which are well known here in Congress.

As to the drink itself, the Senator from Minnesota [Mr. NELSON], after I had made some reference to it here on the floor of the Senate, brought me out in the corridor the decision of the Supreme Court and showed me where it was proved in the test case at Chattanooga, Tenn., that the main ingredients of the drink are water and sugar. I laughed the decision aside and told him that they had fabricated that carload of Coca-Cola for the very purpose of deceiving Uncle Sam and Uncle Sam's courts, which they did.

Mr. President, I have a personal knowledge of what is the effect of Coca-Cola. I never drank a bottle of it in my life, and I had rather drink a bottle of moonshine whisky right now than to drink a bottle of Coca-Cola. [Laughter.]

Mr. SHIELDS. That is entirely a matter of taste.

Mr. WATSON of Georgia. I know it is, and it shows that my taste is better than that of anybody who drinks Coca-Cola. Mr. President, a man who drinks a bottle of Coca-Cola to-day at 2 o'clock will to-morrow want another, at the same time day after to-morrow he will want another, and in less than a week it will take two bottles to produce the same effect that the one bottle had produced a week before. Whether sugar and water will do that I leave to the strong common sense of my friend the Senator from Tennessee [Mr. SHIELDS]. There are thousands and tens of thousands of boy clerks and girl clerks, of men wage earners and women wage earners in the State of Georgia, who never begin their day's work without a "pick-me-up" of Coca-Cola, and they periodically send out during the day or go out during the day for another bottle. An addict who consumes from 14 to 20 bottles of the stuff every day is no uncommon case. I have had the best doctors in the State of Georgia tell me that Coca-Cola destroys—gradually, of course—the brain power and the digestive power and the moral fabric and that a woman who becomes an addict to it loses her divine right to bring children into the world. Whether sugar and water will do that I again leave to the judgment of my friend from Tennessee.

There is not a more deleterious drink on the face of God's earth than the real article of Coca-Cola. A Public Health Service official, Dr. Wiley, listed it as such, and in a short while he was removed from office. Why he was removed I leave to the imagination of Members of the Senate. He got in the way of one of the most powerful syndicates on earth, and that syndicate now is represented right here, not only in this Capital City but in this Capitol building, by some of the highest paid lobbyists in this Union. If there is anything on this earth that could bear a tax as being not only a luxury but destructive to American womanhood and manhood it is Coca-Cola.

Mr. SHIELDS obtained the floor.

Mr. KING. Will the Senator yield to me for a moment?

Mr. SHIELDS. I yield.

Mr. KING. I recall that some months ago a case was argued in the Supreme Court involving a controversy between the Coca-Cola Co. and another corporation which was, I understand, charged either with infringing the plaintiff's trade-mark or using the same ingredients in the manufacture of a product which was competing with Coca-Cola. I heard but a few words of the argument by one of the attorneys, but my recollection is that he stated that at one time the manufacturers of Coca-Cola were charged with vending a product which contained a drug having the characteristics of morphine.

Mr. WATSON of Georgia. Caffeine.

Mr. KING. No; a narcotic akin to morphine or cocaine.

Mr. WATSON of Georgia. It is the South American cola plant, as it is well known.

Mr. KING. The statement proceeded, as I recall, that upon complaint being made to the Government some change was made in the formula for manufacturing Coca-Cola, and that while the cola leaves were still used the morphine or the drug similar to it was eliminated and caffeine introduced.

I am not attacking Coca-Cola nor indicating a purpose to prevent its manufacture and sale. My information is too limited to warrant me in condemning its use. But I am only raising the point for the consideration of the Senate, that there could be in all fairness a difference in the tax imposed upon cereal beverages and fruit juices and extracts or compounds containing drugs.

The history of Coca-Cola would seem to present it in a different category at least for taxation from that in which we place the unfermented grape juice and cereal beverages containing a negligible alcoholic content. A former law, as I understand, dealt with Coca-Cola for tax purposes in a different manner, and I think we could with propriety impose a higher tax upon it than that provided in the pending bill.

Mr. SHIELDS. Mr. President, as a matter of course, if Coca-Cola is a poisonous drink, as Senators have asserted, it ought not merely to be taxed but it is worse than liquor and the sale of it ought to be absolutely prohibited. It should not be a mere question of taxation. I do not know any of the people interested in the manufacture and distribution of this drink. I do not know Mr. Candler or the Chattanooga people who were stockholders in the corporation owning Coca-Cola. I had heard that they had parted with their interest or that some corporation had bought from them, but I did not know the details of the transaction. The Senator from Georgia in the statement he has made has given me more information upon the subject than I had before. I did not know that the company was owned in New York. I did know that some Chattanooga people were deeply interested; that some of the largest stockholders lived there and that they had made a great deal of money out of it. I do not know any of them; but I do know they are citizens of the highest reputation for integrity and fair dealing and that they are fine business men.

I do not know what has occurred in Georgia. The Senator says that Mr. Candler or somebody else has corrupted the legislature there and prevented them from taxing Coca-Cola. I do not care to go into that question or to wash the dirty linen of Georgia. The Georgia Legislature may be corrupt; it may be that it could be bribed to defeat a meritorious tax. I have never heard that charge made before. I have always had a very high opinion of the Empire State of the South and her Representatives here; but I may be mistaken as to her legislature. So far as the general assembly of my State is concerned, I have never heard of such charge.

I do not agree with his estimate of the comparative merits of Coca-Cola or moonshine whisky. I would not want the thousands and hundreds of thousands of people who drink this refreshing beverage at soda fountains to change from it to moonshine whisky. I am opposed to moonshine whisky, which prohibition or the drastic laws for its enforcement has caused to be sold throughout the country. It is poisoning and killing so many people, and the men who are making and selling it ought to be punished and their business suppressed.

It is a pretty severe reflection upon Coca-Cola for the Senator to say he prefers moonshine whisky to it. Such a statement, if it be correct, would kill almost any drink; but I think he is mistaken. He says he has never taken a glass of Coca-Cola, and, further, that the man who takes one glass wants another one, and that the habit grows with cumulative force. I have been drinking it for 20 years, now and then, and I have never found any harm in it. It is a very pleasant, cooling, refreshing

drink; and I have never heard that any particular trouble grew out of its consumption on the part of the hundreds who drink it in my State or who drink it elsewhere in the United States, and it is now drunk all over the United States.

I did not know until I came into the Chamber a moment ago that any discrimination was intended to be made against Coca-Cola. I understood the Senator from Utah to charge that Coca-Cola was a deleterious or poisonous drink, and I wanted to call his attention in all fairness to the facts. I still thought the people of Chattanooga were interested in it, although that would not have made any difference to me, because I believe in doing the fair thing, and I knew that the matter had been fully and thoroughly investigated by the United States, with all of its power and with all of the money necessary behind it. The case was brought in the Federal court at Chattanooga. The lawyers engaged in the case representing the United States were as able as any lawyers in the United States, and could not be hoodwinked and could not be deceived by water and sugar or a special carload of the drink made for a special or fraudulent purpose. The trial consumed several weeks, if not months. I really have forgotten the exact outcome of the case, but I rather think it was in the nature of what might be called a "dog fall." The case was brought to the Supreme Court of the United States, which rendered a decision in which some of the rulings of the Chattanooga court were reversed and the case remanded to the district court at Chattanooga for further proceedings. The Attorney General, however, dismissed and abandoned the case, which was an admission that Coca-Cola contained nothing in it prohibited by the pure food law or hurtful to the consumer.

I am not speaking of rumors as to what occurred; I am speaking about what the courts and the Attorney General held and what is contained in the record upon which the court decided the case.

I have never had any sympathy with attacks upon the judgments of courts based on rumors. Such rumors are generally circulated by some one who has never read the record, but who nevertheless undertakes to tell what the facts are. After a matter has been thoroughly investigated by a court of competent jurisdiction, the case being conducted by able lawyers on both sides, as was true in this particular litigation, and decided by an able court whose integrity is beyond any suspicion, it is to be presumed that the truth was arrived at, the law properly applied, and justice done.

I hold no brief for the Coca-Cola people, but I believe there should be no discrimination against this popular, universal drink. The plain people of the United States have been deprived of almost every sort of a drink; the use of light wines and beers in their households has been prohibited, and it looks to me like this is going a little further in this attempt to control the appetites, habits, and the morals of the people in their most intimate relations. I think they have a right to such drinks as Coca-Cola, and I think they ought not to be taxed out of existence. It is the plain people of the country who drink Coca-Cola, and they are mostly interested in this tax, for it will fall upon them.

Mr. WATSON of Georgia. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Tennessee yield to the Senator from Georgia?

Mr. SHIELDS. I am through.

Mr. WATSON of Georgia. I desire to take the floor in my own right, Mr. President.

The PRESIDENT pro tempore. The Senator from Georgia is recognized.

Mr. WATSON of Georgia. I am sure the Senator from Tennessee did not understand me, as the country might understand him, to say that the whole State of Georgia was corrupt.

Mr. SHIELDS. I did not make that statement.

Mr. WATSON of Georgia. I say I am sure the Senator did not wish to be so understood.

Mr. SHIELDS. I said nothing which could be construed in that way; far from it. I only had reference to the statement that legislatures there had been corrupted so that they would not tax this drink.

Mr. WATSON of Georgia. Mr. President, if the Senator can mention the legislature of any State in this Union that is free from the influence of powerful lobbyists, I invite him to name that State.

Mr. SHIELDS. I have no facts in my mind showing that the general assembly of any State of the Union was ever corrupted. There have been rumors of that kind, and it may be so. I know that there are lobbyists, and, as the Senator says, they were here, and I had occasion the other day to say that I thought they ought to be gotten out—scourged out, if necessary—and let the Congress legislate for itself.

Mr. WATSON of Georgia. Mr. President, the State of Georgia, like all other States, has been afflicted by lobbyists. They are not all native Georgians. Some of them come from other States; but even the native Georgians who are lobbyists do not represent the great mass of our people. They are, so to speak, the black sheep of the flock. The Senator from Tennessee would not claim that his State is immune from that trouble.

Mr. SHIELDS. I certainly say that the General Assembly of Tennessee, while there may be bad men in it, as I suppose there are in every community and every place, is an honorable body. It is not corrupt——

Mr. WATSON of Georgia. Nobody said it was corrupt.

Mr. SHIELDS. And our government is not corrupt in Tennessee. We have a great State and a great people. While we may have some bad people, the great majority of our people are honest and intelligent, and administer our laws rightly and properly.

Mr. WATSON of Georgia. I do not doubt that for a moment; but neither do I doubt that there are men in the State of Tennessee who are not saints, but sinners.

Mr. WATSON of Indiana. Mr. President, may I ask the Senator a question, or the two Senators, if you please? This is not a proposition to tax anything out of existence. This is purely a revenue measure.

Mr. WATSON of Georgia. So I understood.

Mr. WATSON of Indiana. Does the Senator think it is wise to take up the question of the merits of Coca-Cola, as to whether it is a deleterious drink or a dangerous beverage, and undertake to tax it out of existence in a bill of this kind? I agree with very much that the Senator has said about it; but the committee, after giving consideration to this proposition many times, finally came to the conclusion that the best thing to do was to place all of these things on one common level, and that is why we did it. Is it not better just to let it go along, and if the Senator wants to come in afterwards with some other proposition that will dispose of Coca-Cola well and good, and let it go on its merits?

Mr. WATSON of Georgia. Then the Senator from Indiana wants to take me off the floor?

Mr. WATSON of Indiana. Oh, not at all. I have not any such desire. I am just asking the Senator whether he does not think that is a good thing to do.

Mr. WATSON of Georgia. I think it is always a good thing for the Senate to have the facts about any subject matter of legislation, and I was proposing to give it the facts, and I was challenging anybody to deny them or refute them.

Mr. WATSON of Indiana. My object, of course, was to have this bill considered purely as a tax proposition, as a revenue-producing measure. Of course, I agree with very much that the Senator has said so far as the effects of Coca-Cola are concerned, and all that sort of thing; but, after all, does the Senator think that in a measure of this kind we ought to impose a tax for the purpose of taxing it out of existence?

Mr. WATSON of Georgia. Mr. President, I do not think that is our province at all, but I do think this: When a corporation has a market value of $25,000,000 based upon an investment of $25, the Senate ought to know that; and when that corporation declares as large dividends in proportion as the United States Steel Corporation does, and deals in a product far more destructive to the American people than anything the United States Steel Corporation has ever manufactured, these legislators ought to know the facts, and Coca-Cola should not be classed here with harmless drinks, but should bear its full share of the burden of legislation and the expenses of this Government.

Mr. TRAMMELL. Mr. President, I desire to offer an amendment to the particular paragraph under discussion. It is pertinent to the suggestion heretofore made by the Senator from Utah [Mr. KING].

The PRESIDENT pro tempore. The Secretary will state the amendment.

Mr. SMOOT. Mr. President, committee amendments were to be agreed to first, and unless this is an amendment to a committee amendment it would not be in order.

The PRESIDENT pro tempore. The Chair is advised that the amendment offered by the Senator from Florida does not relate to the amendment now pending.

Mr. TRAMMELL. I understood that we were considering the subdivision that applies to the proposed tax on soft drinks manufactured from cereals or substitutes therefor, unfermented fruit juices, and imitations of fruit juices. Am I in error in regard to that? The amendment I propose is to come in on page 177, after the word "gallon," on line 20.

Mr. SMOOT. Mr. President, that amendment is not in order at this time.

The PRESIDENT pro tempore. Will the Senate allow the Chair to state that the amendment now before the Senate is the committee amendment on lines 3 and 4 on page 177? The amendment proposed by the Senator from Florida relates to the House text, and is, in the opinion of the Chair, not in order at this time.

Mr. LODGE. Mr. President, if I may ask the Chair a question, is it an individual amendment? If so, of course, under the agreement it is not in order now.

Mr. TRAMMELL. Mr. President, I send the amendment to the desk, and request that it be printed and lie on the table.

The PRESIDENT pro tempore. The amendment will be printed and lie on the table.

Mr. LODGE. I make the same request as to an amendment that I desire to offer when the time for individual amendments is reached.

The PRESIDENT pro tempore. It will be so ordered.

Mr. KING. Mr. President, I shall offer at a later time—I have had no opportunity to prepare the amendment, in view of this discussion coming on in an impromptu way—an amendment to paragraph (b), page 177, to deal with certain extracts, within which will be included Coca-Cola and like drinks or beverages. I have no objection to the adoption of the other amendments; but if the chairman of the committee or the acting chairman will consent, I shall be very glad if paragraph (b) may be passed over.

Mr. SMOOT. Mr. President, there are no committee amendments at all in paragraph (b). After we get through with the committee amendments the Senator can offer any amendment to that paragraph that he desires to offer.

Mr. KING. I supposed that we were dealing with committee amendments, and that there were some to this paragraph.

Mr. SMOOT. There is no committee amendment in paragraph (b).

Mr. KING. With that understanding, I shall just indicate now that I shall offer an amendment to this section.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

Mr. WATSON of Indiana. Mr. President, I am advised by the clerks at the desk that after agreeing to certain amendments to sections 500, 501, and 502, the sections were not afterwards adopted as amended. Therefore, at the suggestion of the clerks, I desire to move that the Senate agree to section 500 as amended.

The PRESIDENT pro tempore. The question is upon agreeing to section 500 as amended.

The section as amended was agreed to.

Mr. WATSON of Indiana. I make the same motion now with reference to section 501, that we agree to that section as amended.

The section as amended was agreed to.

Mr. WATSON of Indiana. Now, in order to complete this arrangement, I move that the Senate agree to section 502 as amended.

Mr. REED. Mr. President——

Mr. SMOOT. This is just for the record.

Mr. REED. Very well.

The section as amended was agreed to.

The PRESIDENT pro tempore. The Secretary will state the next amendment passed over.

The READING CLERK. On page 177, line 8, it is proposed to strike out "of 4" and insert "of 2."

The amendment was agreed to.

The READING CLERK. On the same page, line 24, after the word "waters," it is proposed to insert "and imitations thereof."

The amendment was agreed to.

The READING CLERK. On page 178, after line 2, it is proposed to insert the following:

(d) Upon all natural or artificial mineral waters or table waters, whether carbonated or not, and all imitations thereof, sold by the producer, bottler, or importer thereof, in bottles or other closed containers, at over 10 cents per gallon, a tax of 2 cents per gallon.

Mr. SMOOT. Mr. President, may I ask whether the amendment on line 2, page 178, has been agreed to?

The PRESIDENT pro tempore. It has been agreed to.

Mr. SMOOT. At the first reading of the bill?

The PRESIDENT pro tempore. Yes. The question is on agreeing to the amendment proposed by the committee in lines 3 to 7, inclusive, on page 178.

The amendment was agreed to.

The READING CLERK. On page 178, line 8, it is proposed to strike out "(d)" and insert "(e)".

The amendment was agreed to.

The READING CLERK. On the same page, line 11, it is proposed to strike out "of 10" and insert "of 7½."

The amendment was agreed to.

The READING CLERK. On line 17 the same amendment is proposed.

The amendment was agreed to.

The READING CLERK. On the same page, line 22, it is proposed to strike out "(e)" and insert "(f)".

The amendment was agreed to.

The READING CLERK. On page 179, line 4, it is proposed to strike out "Sec. 629" and insert "Sec. 601."

The amendment was agreed to.

Mr. REED. Mr. President, were not all the amendments of that character agreed to in advance?

The PRESIDENT pro tempore. They were not.

Mr. REED. Then I do not want to prolong the debate.

Mr. SMOOT. I was going to ask unanimous consent to cover such cases as this, but there seemed to be some objection to it on the ground that the clerks might take some advantage of it, so I did not ask it; that is all. We will therefore simply take the time of the Senate to do it. I agree with the Senator from Missouri that it ought to be done.

The PRESIDENT pro tempore. The Secretary will state the next amendment passed over.

The READING CLERK. On page 179, line 6, it is proposed to strike out "628" and insert "600."

The amendment was agreed to.

The READING CLERK. In line 11 the same amendment.

The amendment was agreed to.

The READING CLERK. In line 24 the same amendment.

The amendment was agreed to.

The READING CLERK. On page 191, section 800 was passed over at the request of the senior Senator from North Carolina [Mr. SIMMONS].

Mr. SIMMONS. Mr. President, upon consideration of the matter, I withdraw the objection.

The PRESIDENT pro tempore. The objection is withdrawn. The question is upon agreeing to the amendment of the committee.

The amendment was agreed to.

The READING CLERK. On page 192, line 1, it is proposed to strike out "(4)" and insert "(3)".

The amendment was agreed to.

Mr. SMOOT. I understood that the tax on admissions and dues was passed over at the request of the senior Senator from North Carolina, as the whole title was passed over.

Mr. SIMMONS. Mr. President, I am not asking that it be passed over now.

Mr. SMOOT. It was passed over, and I want the record to be straight. If we have not agreed to subdivisions 1, 2, and 3, we ought to agree to them now. Has the amendment on page 191, lines 1 to 10, been agreed to?

The PRESIDENT pro tempore. That amendment has been agreed to.

Mr. SMOOT. I had it marked "over" at the request of the senior Senator from North Carolina.

The PRESIDENT pro tempore. The Chair is advised that it was passed over after it was agreed to, and the Senator from North Carolina has now withdrawn his objection and the agreement stands.

Mr. SMOOT. My record may be wrong, but my record shows that when we reached page 191 the Senator from North Carolina [Mr. SIMMONS] asked that section 800 go over. Now he withdraws his objection, and it seems to me that it ought to be agreed to.

The PRESIDENT pro tempore. The Chair may have been misinformed and will put the question again.

The amendment was agreed to.

The READING CLERK. The next amendment passed over is on page 192, line 8, to strike out "tickets" and the semicolon, quotation marks, and period and insert the word "tickets" and a semicolon.

The amendment was agreed to.

The READING CLERK. The next amendment passed over is on page 192, after line 8, to insert:

(4) In the case of persons having the permanent use of boxes or seats in an opera house or any place of amusement or a lease for the use of such box or seat in such opera house or place of amusement (in lieu of the tax imposed by paragraph (1)), a tax equivalent to 10 per cent of the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by or for the lessee or holder, such tax to be paid by the lessee or holder; and

(5) A tax of 1½ cents for each 10 cents or fraction thereof of the amount paid for admission to any public performance for profit at any roof garden, cabaret, or other similar entertainment, to which the charge for admission is wholly or in part included in the price paid

for refreshment, service, or merchandise; the amount paid for such admission to be deemed to be 20 per cent of the amount paid for refreshment, service, and merchandise; such tax to be paid by the person paying for such refreshment, service, or merchandise.

The amendment was agreed to.

The READING CLERK. The next amendment passed over is on page 193, to strike out lines 5 and 6, as follows:

SEC. 703. Subdivision (b) of section 800 of the revenue act of 1918 is amended to read as follows:

The amendment was agreed to.

The READING CLERK. The next amendment passed over is on page 193, line 21, after the word "fairs," to strike out "none of the profits of which are distributed to" and to insert "if no part of the net earnings thereof inures to the benefit of any," so as to make the paragraph read:

(b) No tax shall be levied under this title in respect to (1) any admissions all the proceeds of which inure (A) exclusively to the benefit of religious, educational, or charitable institutions, societies, or organizations, societies for the prevention of cruelty to children or animals, or societies or organizations conducted for the sole purpose of maintaining symphony orchestras and receiving substantial support from voluntary contributions, or of improving any city, town, village, or other municipality—if no part of the net earnings thereof inures to the benefit of any private stockholder or individual; or (B) exclusively to the benefit of persons in the military or naval forces of the United States; or (C) exclusively to the benefit of persons who have served in such forces and are in need; or (2) any admissions to agricultural fairs if no part of the net earnings thereof inures to the benefit of any stockholders or members of the association conducting the same, or admissions to any exhibit, entertainment, or other pay feature conducted by such association as part of any such fair—if the proceeds therefrom are used exclusively for the maintenance and operation of such agricultural fairs.

The amendment was agreed to.

The READING CLERK. The next amendment passed over is on page 194, after line 2, to insert:

(c) The term "admission" as used in this title includes seats and tables, reserved or otherwise, and other similar accommodations, and the charges made therefor.

This amendment was passed over on the request of the Senator from North Carolina [Mr. SIMMONS].

Mr. SIMMONS. I withdraw my objection, Mr. President.

The amendment was agreed to.

Mr. KELLOGG. Mr. President, I suppose individual amendments are not now in order, but I desire to ask the committee if they will not accept an amendment to subdivision (b), pages 193 and 194, to place the word "improvements" before the word "maintenance," on line 2 of page 194? The object is to cover county fairs or State fairs, where no part of the earnings are distributed to stockholders, but the proceeds are used exclusively for improvements, maintenance, and operation.

Mr. SMOOT. Will the Senator not let that go over, because we have refused all other individual amendments, and it will be hardly proper to take up one amendment at this time? I have no objection to the amendment, I will say to the Senator.

Mr. KELLOGG. I shall offer the amendment later.

The PRESIDENT pro tempore. The Secretary will state the next amendment passed over.

The READING CLERK. The next amendment passed over is, on page 194, after line 6, to strike out:

SEC. 704. Subdivision (d) of section 800 of the revenue act of 1918 is amended to read as follows:

The amendment was agreed to.

The READING CLERK. The next amendment passed over is, on page 194, after line 21, to insert:

SEC. 801. That from and after January 1, 1922, there shall be levied, assessed, collected, and paid, in lieu of the taxes imposed by section 801 of the revenue act of 1918, a tax equivalent to 10 per cent of any amount paid on or after such date, for any period after such date, (a) as dues or membership fees (where the dues or fees of an active resident annual member are in excess of $10 per year) to any social, athletic, or sporting club or organization; or (b) as initiation fees to such a club or organization, if such fees amount to more than $10, or if the dues or membership fees (not including initiation fees) of an active resident annual member are in excess of $10 per year; such taxes to be paid by the person paying such dues or fees: *Provided*, That there shall be exempted from the provisions of this section all amounts paid as dues or fees to a fraternal society, order, or association operating under the lodge system. In the case of life memberships a life member shall pay annually, at the time for the payment of dues by active resident annual members, a tax equivalent to the tax upon the amount paid by such a member, but shall pay no tax upon the amount paid for life membership.

The amendment was agreed to.

The READING CLERK. The next amendment passed over is, on page 195, after line 20, to strike out:

SEC. 705. Section 802 of the revenue act of 1918 is amended to read as follows:

The amendment was agreed to.

The READING CLERK. The next amendment passed over is, on page 196, after line 7, to strike out line 8, "Title VIII.—Excise tax amendments," passed over at the request of the Senator from North Carolina.

Mr. SIMMONS. I have no objection to having that amendment considered now.

Mr. TRAMMELL. Mr. President, relative to this particular subdivision, is it intended that the tax upon trucks and automobiles and other vehicles which are here taxed shall apply only upon the sale made by the manufacturer, or is the tax to be duplicated every time the article is sold?

Mr. SMOOT. If the Senator will read the provision, he will see that it is "upon the following articles sold or leased by the manufacturer, producer, or importer." In other words, the manufacturers' tax is only upon the manufacturer, producer, or importer.

Mr. TRAMMELL. That is the information I desired. I read the paragraph, but I was not quite sure that it made certain the policy of applying the tax only once, and I merely wanted to be sure that it was only to be applied as a payment by the producer or manufacturer.

Mr. SMOOT. That is the existing law.

Mr. ROBINSON. May I ask the Senator from Utah, who seems to be familiar with the paragraph, what the justification is for levying the sales tax on these particular products or commodities?

Mr. SMOOT. There is no justification beyond what there would be for imposing a tax upon all commodities, except that they reach out here and get automobile accessories and reach out there and get something else; in other words, it is in order to get the revenue.

Mr. ROBINSON. Will the Senator state in this connection approximately the number of different commodities which are taxed on coming from the manufacturer? What is the extent to which the alleged manufacturers' tax is imposed by the provisions of this bill or by the provisions of the amendment reported by the committee?

Mr. SMOOT. Under the sales tax imposed last year, which is the existing law, we collected about $200,000,000. I am not going into the details now as to what we will collect from these taxes, but the changes that are made have eliminated something. I think we take off between thirty-five and thirty-eight million dollars by the bill as it was reported to the Senate.

Mr. ROBINSON. Does the item under consideration carry a new tax?

Mr. SMOOT. No; that is the tax to-day.

Mr. ROBINSON. It is identical with the present law?

Mr. SMOOT. Yes; it is identical with the present law.

The PRESIDENT pro tempore. The question is upon agreeing to the amendment.

The amendment was agreed to.

The READING CLERK. The next amendment passed over is, on page 196, after line 8, to insert:

TITLE IX.—EXCISE TAXES.

SEC. 900. That from and after January 1, 1922, there shall be levied, assessed, collected, and paid upon the following articles sold or leased by the manufacturer, producer, or importer a tax equivalent to the following percentages of the price for which so sold or leased:

(1) Automobile trucks and automobile wagons (including tires, inner tubes, parts, and accessories therefor, sold on or in connection therewith or with the sale thereof), 3 per cent;

(2) Other automobiles and motor cycles (including tires, inner tubes, parts, and accessories therefor, sold on or in connection therewith or with the sale thereof), except tractors, 5 per cent.

Mr. WADSWORTH. May I ask a question as to that? Does the present law contain the words "except tractors"?

Mr. SMOOT. Yes; this is exactly the same as the existing law. Tractors are exempt.

Mr. WADSWORTH. No matter for what purpose used?

Mr. SMOOT. Yes, no matter for what purpose used; but most of them are used by farmers.

Mr. WADSWORTH. I know; I use one myself. But tractors are also used by contractors in road building. We have heard a good deal about that on the floor of the Senate in the debates, and I am wondering why they should be exempt. Motor trucks, as I understand it, which are used right alongside of them, are taxed.

Mr. SMOOT. That is true.

Mr. WADSWORTH. Why should not a tractor be taxed?

Mr. SMOOT. I guess the Senator knows why. I can say that it is because of the fact that they are used by farmers. That is the reason why they are not taxed.

Mr. WADSWORTH. I am not particularly in love with this tax at all, anyway; but there is an inconsistency there that I have difficulty in understanding.

Mr. SMOOT. It is true there is an inconsistency.

Mr. WADSWORTH. I will confess, before I make this observation, that I have not studied this thing, but it seems to me we might better confine our tax on motor-propelled vehicles to those kinds of vehicles which are used mostly for pleasure. We are taxing the motor truck, which has become just as neces-

sary in the conduct of a large number of businesses as the farm wagon, and we tax all kinds of wagons and moving drays in the city, yet for some reason or other we leave the tractors out. It would require a good deal of revision, and I shall not press it now; it is not a point of vast importance; but I do not see why contractors who are using motor trucks should pay taxes on them and should not pay taxes on the tractors which are working right alongside of them.

Mr. SMOOT. I will say to the Senator from New York that this tax is not raised because of the fact that the automobile is a luxury. We tax the fire engine; we tax all motor-propelled vehicles, and I think I stated frankly just why the tractors were exempted.

Mr. WATSON of Indiana. Trucks are taxed at a much less rate than automobiles, and not all automobiles are used for pleasure.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The READING CLERK. The next amendment passed over is, on page 196, to strike out lines 24 and 25, as follows:

SEC. 801. Subdivisions (3) and (4) of section 900 of the revenue act of 1918 are amended to read as follows:

The amendment was agreed to.

The READING CLERK. The next amendment passed over is, on page 197, line 1, after the word "accessories," to strike out "for automobile trucks, automobile wagons, other automobiles, or motor cycles," and to insert "for any of the articles enumerated in subdivision (1) or (2)"; and, in line 6, after "or (2)," to strike out "or in this subdivision," so as to make the paragraph read:

(3) Tires, inner tubes, parts, or accessories for any of the articles enumerated in subdivision (1) or (2), sold to any person other than a manufacturer or producer of any of the articles enumerated in subdivision (1) or (2), 5 per cent.

The amendment was agreed to.

The READING CLERK. The next amendment passed over is on page 197, line 11, to strike out "centum," the semicolon, and the quotation mark, and to insert the word "centum" and a semicolon.

The amendment was agreed to.

Mr. FRELINGHUYSEN. Mr. President, I should like to ask the chairman of the committee if any estimate has been made as to the return on the articles taxed in section 900, subdivision (5). Was any estimate made of the return on skates, snowshoes, skis, and toboggans, as well as baseball bats, gloves, and so forth?

Mr. SMOOT. I think the agreement is that they all go out, and when these sections are reached I shall ask that they go over, where there is to be an amendment, virtually agreed to, to take their place.

Mr. FRELINGHUYSEN. I feel that a tax on the baseball bats and the toboggans of the boys is unnecessary.

The PRESIDENT pro tempore. The Secretary will state the next amendment passed over.

The READING CLERK. The next amendment passed over is on page 197, to strike out lines 13 and 14, as follows:

SEC. 802. Subdivision (5) of section 900 of the revenue act of 1918 is amended to read as follows:

The amendment was agreed to.

Mr. SMOOT. Mr. President, I now ask that, beginning with line 15, on page 197, down to and including line 5, on page 198, be passed over.

Mr. WADSWORTH. Do I understand that an amendment has been prepared, or is being prepared, to take the place of that?

Mr. SMOOT. Yes; the amendment is to strike it out.

Mr. CALDER. The whole thing.

Mr. WADSWORTH. Why not do it now?

Mr. ROBINSON. Mr. President, why can we not dispose of it now?

Mr. FRELINGHUYSEN. I move that that all be stricken out.

Mr. SMOOT. That can only be done by unanimous consent.

Mr. WATSON of Indiana. I trust that my friend from New Jersey will not press that amendment, because if he does we are going to become involved and tangled here interminably; some will propose amendments to the House text and others will propose amendments to the bill as reported by the Senate committee, and we will become interminably involved. My own thought was that when we reached the excise-tax section we ought to have started to read it from the beginning and let every Senator offer all the amendments he wanted to, and clean up the whole thing; but my friend from Utah, who has had much wider experience than I have, thought otherwise, and, of course, I deferred to him.

Mr. FRELINGHUYSEN. I do not want to interfere with the program of the committee, but I simply want to be sure that the tax on these sporting goods which boys use is to be eliminated from the bill.

Mr. SMOOT. I have asked that it go over and I will assure the Senator there will be an amendment moved to strike it out; but that is not a committee amendment.

Mr. FRELINGHUYSEN. Then I withdraw the motion to strike it out at this time.

The PRESIDENT pro tempore. At the request of the Senator from Utah the amendment will be passed over.

The READING CLERK. The next amendment passed over is, on page 198, after line 5, to insert the following:

(6) Chewing gum or substitutes therefor, 2 per cent.

Mr. SMOOT. Mr. President, I ask that that amendment be disagreed to.

Mr. LENROOT. I think we should pass this title over.

Mr. SMOOT. The next time we reach it, if we pass the title over, we will be just exactly where we are now. What we ought to do is to pass over those items that we are going to change, and then the bill is open to amendment by anyone from the floor of the Senate. Then we will begin again with the reading of the bill and amendments can be offered. That is the only way the clerks can keep track of it and the only way Senators can keep track of it.

Mr. ROBINSON. Mr. President, will the Senator from Utah inform the Senate at this time how much are the revenues received from this item?

Mr. SMOOT. About a million dollars, in round numbers.

Mr. ROBINSON. What is the object of removing this tax?

Mr. SMOOT. Because it has been agreed to.

Mr. ROBINSON. Who has agreed to it?

Mr. SMOOT. It was agreed to in conference.

Mr. ROBINSON. Is not this a committee amendment?

Mr. SMOOT. It is a committee amendment.

Mr. ROBINSON. And somebody has mysteriously agreed that the committee amendment shall not be agreed to?

Mr. SMOOT. Of course that has been discussed many times.

Mr. ROBINSON. I do not think it has been discussed at all.

Mr. SMOOT. I am trying to keep the record straight; that is all I am trying to do; and when the question comes up for action we will have a full discussion of it.

Mr. ROBINSON. It is up for action right now. The question is on agreeing to the committee amendment. The Senator has asked that the committee amendment be not agreed to. What I am trying to find out is how it is that a member of the committee makes a motion of that sort. The committee proposed the amendment, and the question occurs on agreeing to the committee amendment and the Senator insists upon its going over, but is not frank enough to tell us why he repudiates the action of the committee and insists on defeating an amendment which the committee reported.

Mr. SMOOT. No; I am not repudiating the action of the committee.

Mr. ROBINSON. The Senator says he does not know why it should be rejected, except upon the theory that it has been agreed that it should be disagreed to, and now I am asking by whom that agreement was made.

Mr. SMOOT. I do not know about it, because if I had my way all of these taxes would go out, every one of them.

Mr. REED. And the sales tax come in?

Mr. SMOOT. Yes; and the sales tax come in.

Mr. LENROOT. I would suggest to the Senator that the entire title should go over, including the present amendment, because unless revenue is found to take the place of the revenue that was produced by these sections, which must be determined by the Senate later, these amendments undoubtedly will stay in. Therefore I do not think the committee amendments should be acted upon at this time unless it is determined by the Senate whether additional revenue will be provided from other sources, like the excess-profits tax, capital-stock tax, and so forth.

Mr. SMOOT. I think we will save time right now by letting the entire title go over, beginning on page 198, after line 5, down to which point it has been agreed to, but letting the balance of it go over.

The PRESIDENT pro tempore. An order has already been entered that the amendment ended with line 5, page 198, shall go over. The question now is upon the amendment in lines 6 and 7, on page 198.

Mr. SMOOT. I ask that it go over, together with the balance of the title.

The PRESIDENT pro tempore. If there be no objection, it will be passed over.

Mr. REED. Mr. President, I want to know what became of the chewing-gum question. [Laughter.]

Mr. SMOOT. It is to be passed over if the request I have made is acceded to.

Mr. REED. I am not willing to have it passed over. [Laughter.]

The PRESIDENT pro tempore. Then it will not be passed over. The question is on agreeing to the amendment.

Mr. REED. Now, Mr. President, I wish to say something about that. The committee sat many days in solemn session trying to find sources of revenue. It was the plan of the majority that they would reduce the aggregate of the excess-profits tax by $450,000,000, the corporation stock tax by $75,000,000, and the surtax upon incomes above $68,000 by $90,000,000. In order to have sufficient revenue left, they raked every part of the universe with a fine-tooth comb. It was impossible to reduce a tax on anything unless some expert would agree that by reducing the rate of the tax a much larger amount of revenue could be had.

The last action of the committee was to reaffirm the tax on chewing gum. Now, the very genial and lovable representative of the committee, the senior Senator from Utah [Mr. SMOOT], rises and tells us it has been agreed that the committee's amendment should be disagreed to. We are not told who made this agreement, when it was made, why it was made, or what was the consideration for the making.

At any rate, the Chewing Gum Trust is to be benefited to the extent of $1,000,000 a year. I say the Chewing Gum Trust advisedly, because I have been given to understand that Mr. Wrigley has wriggled around until he has advertised all the other varieties of chewing gum practically out of existence. We have Wrigley's tutti-fruiti, Wrigley's California fruit, Wrigley's pepsin, Wrigley's chiclets, Wrigley's spearmint, and, perhaps, Wrigley's wriggles. He has defaced the entire landscape of this and other countries with abominable advertisements of his abominable product. [Laughter.] If we take $1,000,000 tax off of chewing gum, the greater part of it will go into the pockets of Mr. Wrigley and pay for more signs to deface the mountainside and the valley, the hilltop and the plain. Indeed, I wonder that he has not descended into the Canyon of the Colorado and plastered it all over with Wrigley advertisements.

I want to know why we are about to relieve this concern of its burden of taxation. How did he wriggle in and obtain this mysterious agreement from unknown people at unknown hours, presumably behind locked doors? Is it offered here as a solace to agriculture? Did the agricultural bloc demand it in the interests of the downtrodden, hard-handed farmer? [Laughter.] Did that bloc insist upon it in the interest of the square-jawed chewing-gum girl who has developed her facial muscles by the constant use of this miserable stuff? Or was it done by the dentists of the country? Have they sunk to so low an estate that they want the molars and incisors of all the growing population of the country to be ground down by constant chewing in order that they may put in gold crowns or fill teeth at unnecessary and unnatural periods in children's lives? [Laughter.]

What I would particularly like to inquire of some representative of the agricultural bloc is whether the agricultural bloc absolutely demanded it. Did the concession on chewing gum have anything to do with the agricultural bloc agreeing that it would waive its objections to the excess-profits tax? Did they swap a million dollars of revenue on chewing gum for $450,000,000 on profiteers? Or was it because our friend Wrigley was very much interested in the last Republican campaign? [Laughter.]

But the Senator from Utah, who is not a member of the agricultural bloc and whose integrity and patriotism no man can challenge, has been reached by some process of seduction which he refuses to disclose and which apparently he himself does not understand.

Mr. SMOOT. Oh, no; the Senator does me wrong there. That last statement of the Senator, that I "do not understand," does me wrong.

Mr. REED. If the Senator does understand, he is not willing that anybody else should understand. What is the bargain that has been made? Are you paying an old campaign debt to Wrigley et al., or have you made a trade with the agriculturists? If so, have the agriculturists demanded the reduction of the tax on gum or did Wrigley demand it? How does this work into the general equation? [Laughter.]

Mr. President, speaking seriously for a moment, if there is anything utterly useless made and consumed by the human family it is chewing gum. It has not the virtues of tobacco, whether used in the long green or in more refined products. Chewing gum is made from—God and Wrigley know what. It is indigestible, because the very thing that makes it gum is the fact that you can chew it for a week and it still remains. Its only real use is that it will stick by us when we come in contact with a wad of it on the sidewalk and carry it away. Its wadded mass is found in street cars, along the public highways, under chairs in restaurants or homes; in fine, wherever modern youth or maiden has "chawed." [Laughter.]

By all means let the car of moral progress and reform go on. Let us lift the burdens from the taxpayers of this country; let us wipe out all the great mountain of debt that the wicked Democratic Party by its waste and extravagance put on the country; but let it be done by taking the tax off the profiteer and taking it off the chewing-gum people and putting it on somebody else.

Chewing gum! I presume it is now included among the prime necessities of life. Perhaps it is for this reason that our friends propose that it shall go tax free.

I may be wrong; perhaps it is not excluded from taxation or exempted on the ground of necessity, but is classed among works of art, and therefore it is proposed that it shall not bear any burden and shall be brought within the reach of the humblest of our citizens, so that the child of poverty and want can at least find tax-free solace anywhere chewing gum is for sale. [Laughter.]

Who made this bargain to overturn the action of the committee? When was it made? When was it agreed to? I am very serious about it. It demands an explanation when a gentleman escapes substantially $1,000,000 of taxes on a thing that is utterly worthless, or worse than worthless, and that constitutes a traveling nuisance. Let us know about it. We may laugh and remain silent, but the country will ask how it happened that such a thing as chewing gum was by a secret agreement taken off the tax list and a million dollars lost in revenue. The country will inquire whether it was done in the interest of Mr. Wrigley or in the interest of agriculture by the agricultural "bloc." [Laughter.]

Mr. President, I should like to have a roll call and a record vote on this question.

Mr. SMOOT. Mr. President, if the Senator from Missouri has concluded——

Mr. REED. Yes; I am through for the present.

Mr. SMOOT. Then I move that the Senate pass over title 9, beginning with line 6, on page 198.

The PRESIDENT pro tempore. The question is on the motion of the Senator from Utah.

Mr. WATSON of Indiana. Pending that, if the Senator will permit me to make a statement as to the information which the committee had in reference to the chewing-gum item, which involves a revenue of about $1,200,000, I will state that the kinds of chewing gum to which the Senator from Missouri has so feelingly referred as having been made by Mr. Wrigley are not made by the Wrigley people at all. The Wrigley people make three kinds of gum, so we are told, and the other kinds of gum are made by the American Chicle Co. Our information is that the factories of the American Chicle Co. are substantially closed down, and that they are the establishments who desire this tax taken off. The Wrigley people, so far as we know or have any information, do not care whether the tax is taken off or not, because it taxes their competitors out of existence.

Mr. REED. Was it not Mr. Wrigley who hired the baseball teams to go to Marion during the last campaign and paid their expenses there?

Mr. WATSON of Indiana. As to that I am not informed, because I was so busy——

Mr. REED. But on information and belief, what would the Senator say?

Mr. WATSON of Indiana. I was so busy in Indiana that I did not have time to visit Marion.

Mr. SMOOT. Mr. Wrigley was not in the committee room. I have not seen Mr. Wrigley for over a year, and I do not think he ever had a representative there.

Mr. REED. This was not done in the committee room.

Mr. SMOOT. I want a tax of 3 per cent instead of 2 per cent.

Mr. REED. I repeat this was not done in the committee room. This was done at some unknown place which the Senator's delicate sensibilities prevent him from mentioning?

The PRESIDENT pro tempore. The Senator from Utah moves that that part of Title IX which has not been passed over by unanimous consent shall now be passed over.

Mr. REED. Mr. President, I think this is a good time to settle the chewing-gum proposition, and I ask that we proceed with it. If there were any Senator who wished to speak on it

who has been absent or if there were any other good reason, I would not insist, but why not act now? I am opposed to passing it over.

Mr. SMOOT. If the Senator from Missouri desires to prolong his remarks, I will temporarily withdraw my request.

Mr. REED. No, I do not desire to prolong my remarks now; but I think this is a good time to vote. I have just made a very powerful speech on this question. [Laughter.]

Mr. SMOOT. The Senator will have another chance.

The PRESIDENT pro tempore. The question is on the motion of the Senator from Utah to pass over the portion of the bill referred to by him.

Mr. WATSON of Indiana. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Ashurst	Harris	McNary	Simmons
Broussard	Harrison	Moses	Smith
Calder	Heflin	Nelson	Smoot
Capper	Hitchcock	New	Spencer
Caraway	Jones, N. Mex.	Newberry	Sutherland
Colt	Kellogg	Oddie	Swanson
Cummins	Kendrick	Overman	Townsend
Curtis	Kenyon	Page	Trammell
Dial	Keyes	Poindexter	Underwood
Dillingham	King	Pomerene	Wadsworth
Edge	Ladd	Ransdell	Walsh, Mont.
Elkins	La Follette	Reed	Watson, Ga.
Ernst	Lenroot	Robinson	Watson, Ind.
Fernald	Lodge	Sheppard	Weller
Fletcher	McCormick	Shields	Williams
Frelinghuysen	McKellar	Shortridge	Willis

Mr. TOWNSEND. I desire to announce the absence of the senior Senator from South Dakota [Mr. STERLING] on account of illness.

The PRESIDING OFFICER. Sixty-four Senators have answered to their names. There is a quorum present. The question is on the motion of the Senator from Utah.

Mr. EDGE. Mr. President, I desire to ask the acting chairman of the committee a question before voting on the proposal of the Senator from Utah.

As I understand, the motion carries with it passing over all of the excise taxes not already acted on during this session. Personally, I should like to see all of the excise taxes repealed and taken out of the bill; but if passing over the entire section at this time means that there is a possibility of the committee still further offering amendments, as they have already offered a number not acted upon which will eliminate more of the excise taxes, I shall be very glad indeed to support the motion to delay action. If, however, it is simply a question of procedure, I can not see where we are gaining anything. As the excise taxes come up, section by section, those that there seems to be a desire to postpone can be temporarily postponed. There are some of the excise taxes that I think Senators are entirely ready to dispose of now. Unless the request for delay means that there will be further reports or suggestions from the committee, it seems to me that we shall be simply making progress backward and not acting on the parts of the excise section which we could readily act on to-day and there would be no request to pass them over.

Mr. SMOOT. Mr. President, the amendments to which the Senator refers are not committee amendments; and it was unanimously agreed that the committee amendments were to be considered first, before any other amendments were offered. There are a great many amendments to this title, and it has been asked that it go over and be considered at a time when those amendments can be offered, and that the committee amendments be not agreed to because there are some of them that if we agree to them will have to be reconsidered. There are some of them here that are stricken out entirely, to which no amendment is offered at all at the present time. It is very much better to pass over this title until we can offer those amendments, or any other amendments that we may decide upon, and it will save time—and time is all that I desire to save at this moment—and keep the record straight.

Mr. EDGE. Do I understand that the amendments entitled "Proposed amendments to H. R. 8245," supposedly, as I understood, coming from the majority of the Committee on Finance, have not yet been offered as amendments?

Mr. SMOOT. They have not been offered, and can not be offered, unless by unanimous consent, until after the committee amendments are disposed of.

Mr. EDGE. Then they are not considered committee amendments?

Mr. SMOOT. They are not considered committee amendments.

Mr. REED. Mr. President, if the Senator from Utah will indulge me, the Senator from Utah a moment ago, in his colloquy with the Senator from New Jersey [Mr. EDGE], spoke about other amendments that had been agreed upon. Does he mean agreed upon by the committee?

Mr. SMOOT. Oh, no. I said there may be other amendments offered that were not agreed upon as shown in the printed suggested amendments.

Mr. REED. Who agreed on those that are in the suggested amendments?

Mr. SMOOT. Of course, as far as the committee was concerned, a majority of the Republican members of the committee agreed that they would support these amendments.

Mr. REED. But not at a committee meeting?

Mr. SMOOT. Not at a full committee meeting.

Mr. REED. Now, may I inquire who else was present at the meeting?

Mr. SMOOT. Nobody but the committee.

Mr. REED. Who submitted the proposition to the committee to agree to?

Mr. SMOOT. I think the Senator from Kansas [Mr. CURTIS] suggested them.

Mr. REED. Whom did he suggest them as representing?

Mr. SMOOT. I do not know that that question came up. The Senator is here, and can answer for himself.

Mr. REED. Whom did the Senator understand he represented—himself, as a member of the committee, or some conference or body?

Mr. SMOOT. The Senator from Kansas is a member of the Finance Committee, and he is present.

Mr. CURTIS. Mr. President, the suggestion of the Senator from Kansas did not specify any one of these specific items, chewing gum or anything else, except perhaps baseballs, baseball bats, and things of that kind. The Senator from Kansas suggested, and his suggestion was followed, that we get rid of as many of the nuisance taxes as possible, and this item and the others were included in that category.

Mr. REED. May I ask why the Senator did not make that suggestion at the committee meetings when the committee was regularly called?

Mr. CURTIS. The Senator will recall, if he was there, that the Senator from Kansas made several efforts, and I think the Democratic members voted with the Senator from Kansas, to get rid of a number of these nuisance taxes.

Mr. REED. Yes.

Mr. CURTIS. I might go on and state that upon the motion of the Senator from Kansas all of the transportation tax was eliminated, and the next day it was discovered that too much revenue was taken away, and the vote was reconsidered, and the tax was put back. Afterwards it was discovered that by increasing certain taxes we could get rid of certain other taxes. The object of the Republican members of the committee who voted for this proposition was to get rid of as many as possible of the annoying taxes, and that is what some of us are going to vote for when we get a chance.

Mr. REED. What I am asking about is this, and we need not at all avoid direction: The Finance Committee held many meetings. The Senator from Kansas, I think I can say, as far as I know, was against what are called these nuisance taxes. He wanted them out of the way. The Democrats supported him in that, but he was unable to prevail. Subsequently, not at a meeting of the committee, some of the Republican members of the Finance Committee got together, and the Senator from Kansas then had no difficulty, apparently, in getting them to agree that the "nuisance taxes," as we term them, should be wiped out.

Now, certainly, the Senator had some new argument, some new power or leverage, which enabled him to loosen the standpatter from his long occupied position and get some action. I want to ask the Senator frankly now, and we ought to know it, if it is not true that he came there stating to the members of the Finance Committee who were present, in substance and effect, that he represented a group of Senators who had determined upon a certain course of action?

Mr. CURTIS. No; I did not state that I represented a group. I did state that there was a group of Senators who favored the repeal of certain taxes——

Mr. REED. These taxes?

Mr. CURTIS. These taxes; and that they also favored increases in the rates of certain other taxes; and after presenting the matter and considering it for two days, a majority of the Republicans voted for the motion.

Mr. REED. May I not ask, then, if the statement was not made, in substance and effect, that the group of Senators who demanded these changes proposed to carry their fight to the floor if their wishes were not accorded with by the managers on behalf of the party?

Mr. CURTIS. I do not think such a statement was made.

Mr. REED. I do not mean that statement; I mean, was not that the understanding? Of course, I can not quote the language. I could not quote the language the Senator used two minutes ago, but we know what we have been talking about.

Mr. CURTIS. Of course, it was stated that these Senators were in favor of these changes, and likely there were enough of them to put them over, and so the committee put them in; and I am glad they did.

Mr. REED. Exactly. So the members of the committee that had refused, upon the request of the Senator from Kansas, supported by the Democratic members, to cut out these taxes, which we commonly call nuisance taxes, yielded when they understood that there was a group of Senators powerful enough, by joining with the Democratic Senators, to cut them out on the floor of the Senate. In other words, they made a virtue of necessity, which I agree is a kind of virtue sometimes manifested by the Republican Party.

Mr. SMOOT. I hope the Senator will not leave out our friends on the other side.

Mr. REED. In that connection, since I am presenting this matter rather importunately, may I not inquire whether there were not some Democrats who were in this group that insisted upon this action; and may I not also inquire whether this was what is commonly known as the agricultural bloc?

Mr. CURTIS. I beg the Senator's pardon. I did not hear the Senator's question.

Mr. REED. I do not want to inquire into anything that is highly personal, but I was inquiring whether there were some Democratic Senators, according to the Senator's understanding, who were in this group of Senators who arrived at this agreement that they would beat this bill unless these nuisance taxes were taken out, or, if not beat it, that they would strike them out on the floor?

Mr. CURTIS. Not that I know of.

Mr. REED. Then may I make a further inquiry, in the interest of history—and I think we should be very careful about the truth of history. The newspapers have stated that this was done at the instance of what is known as the agricultural bloc. Now, the agricultural bloc is known to be composed partly of Democrats and partly of Republicans.

Mr. McCORMICK. Is the Senator a member of it?

Mr. REED. No, sir.

Mr. MOSES. May I ask the Senator if there are any farmers in it?

Mr. REED. I do not know. I simply know that there is such a thing, according to the papers, as the agricultural bloc, which is said to be composed partly of Democrats and partly of Republicans.

Mr. MOSES. Does the Senator know its membership?

Mr. REED. The Senator states that he does not know of any Democrat having been in the conference to which he has referred. I take it, then, that it was not the agricultural bloc that came to the rescue of the Senator in his conference.

Mr. CURTIS. As I understood, it was a number of Republicans who were very anxious to pass this bill. I thought it was a very good thing on their part to call us together and see if we could not get together and pass it, and I hope it will be passed.

Mr. REED. Yes. Now let me ask, because I am interested in this thing——

Mr. MOSES. May I ask the Senator from Kansas, when he says "call us together," whom he has in mind?

Mr. CURTIS. When I say "us," I was referring to a number of Republicans who conferred on the matter.

Mr. REED. May I ask, now, if it was agreed as a part of this deal that the excess-profits tax was going to be repealed?

Mr. CURTIS. There was no "deal" about it.

Mr. REED. Well, this arrangement. I do not want to use an offensive term. I am hunting for the mildest term I can think of—this arrangement or understanding. Was there an arrangement made, or was it a part of the understanding, that the excess-profits taxes were to stay out?

Mr. CURTIS. There was no arrangement of any kind made. Certain amendments were offered in the committee, just as they were offered in the full committee, and they were voted on by the members of the committee.

Mr. REED. Was there an understanding that if they were accepted this group of men would cease their opposition and would join in passing the bill?

Mr. CURTIS. There was not.

Mr. REED. There was nothing of that kind?

Mr. CURTIS. No, sir.

Mr. REED. Then there was an agreement made without a consideration.

Mr. CURTIS. The Senator from Kansas made no agreement. The Senator from Kansas had certain amendments he wanted adopted. The Senator from Kansas offered them to the full committee. They were voted down. The Senator from Kansas offered them and others to the Republican members of the committee, and they were agreed to.

Mr. REED. At a meeting that was not a committee meeting?

Mr. CURTIS. It was not a regular committee meeting; but a majority of the committee was there.

Mr. REED. Now, may I ask, before the Senator leaves the floor—and then I think I shall be through with this—whether this committee took any action with reference to chewing gum specifically?

Mr. CURTIS. They did not, and I stated that to the Senator a moment ago—that we included all of the items that were known as nuisance taxes.

Mr. REED. Chewing gum went in on the doctrine, then, that "the greater includes the less"?

Mr. CURTIS. I suppose so.

Mr. ASHURST. Mr. President, some Senators have derisively spoken of the "agricultural bloc." I am not an agriculturist. I am not a farmer.

Mr. McCORMICK. The Senator makes a distinction.

Mr. ASHURST. Yes. I am neither a farmer nor an agriculturist; but the derision and jocose satire with which the agricultural bloc is treated will soon cease when it is learned that 10 bold and determined Democrats and 10 bold and determined Republicans who are Members of this body are going to stand on this floor and see to it that the tillers of the soil shall have justice from this Government.

During the recent campaign the Republicans made promises and let the country believe they were for a protective tariff. They promised protection to American manufactories, but just as soon as humble Members of the Senate demanded that the farmer and the live-stock producer should share in the benefits of a protective tariff your zeal for a tariff evaporated and you dropped the bill. You are for a protective tariff for the benefit of the manufacturer only. When we suggest that the ranchman and the farmer should share in the benefits of that tariff, if any there be, you become cold and distant toward a tariff bill, and you throw up your hands in horror at the suggestion that a farmer should share in a protective tariff. Remember that your tariff bill must see to it that the producer on the farm and the field and the ranch, as well as the manufacturer, shall be considered or you will have no tariff bill. Do I make myself clear?

This agricultural bloc is determined that the minions of Wall Street shall no longer control the Federal Reserve Board. This agricultural bloc is determined that at least one farmer shall be placed upon the Federal Reserve Board. Do I make myself clear there?

This agricultural bloc is determined that that reform, for which the people have wished and hoped for the past 21 years, the "truth-in-fabric bill," shall become a law, so that shoddy shall be marked as shoddy and that some of those criminal manufacturers who palm off shoddy as woolens shall no longer be allowed to exploit the people. Do I make myself clear upon that point to you who so derisively and so sarcastically talk about the agricultural bloc? It is better to belong to the agricultural bloc than to the blockheads of the Senate. Do I make myself clear there?

Mr. MOSES. Mr. President——

Mr. ASHURST. They are blockheads who do not perceive that we are confronted by a gigantic cataclysm in this country if we longer discriminate against and oppress agriculture; they are blockheads who do not perceive the danger that is coming to the country if the farmer stops producing. Fifty-two per cent of the people now live in the cities. If you want to be subsisted, do not further crush the farmer. Allow him an opportunity to subsist and to produce.

You complain about the high price of a beefsteak, you complain about the high price of a mutton chop, you complain about the price of what the farmer produces, and yet you require him to make bricks without straw, you refuse to pass bills opening new lands to settlement. You pass tariff bills solely for the benefit of the manufacturers, and when we suggest that the tariff bills should consider the farmer and live-stock growers you are lofty and sour.

The Federal Farm Loan Board is not functioning except after the fashion of official red-tape Washington. It seems as if the Federal Farm Loan Board is using every means eligible to human ingenuity to prevent making loans to farmers. It is the intention of the agricultural bloc to see to it that loans shall be made to farmers with all the celerity with which men can act.

The Federal Farm Loan Board is now giving a demonstration to the people of "how not to do it." We intend that they shall give a demonstration to the people of how to do it.

A bill was brought in here in the hot days of last July to give the War Finance Corporation power to assist the farmer. You recall the shameful history of what happened. You recall what happened on this floor. A coterie of Senators went into a room and so emasculated that bill and changed the bill that it has been of very little benefit to real farmers; and the other night, before the agricultural bloc, when a report was made as to what was being done for the farmers under that bill, we had the report of the number of banks and bankers helped by the War Finance Corporation, and the presiding officer at the agricultural bloc meeting finally said, "Did you have any farmers at your meeting?" The answer was, "Oh, we had bankers there representing the farmers."

Mr. MOSES. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Arizona yield to the Senator from New Hampshire?

Mr. ASHURST. I decline to yield to the agile Senator from New Hampshire. Let him rise in his own time, if he wants to talk.

Mr. MOSES. I do not want to talk.

Mr. ASHURST. Then why are you interrupting me, if you do not want to talk?

Mr. MOSES. I want to answer the Senator's question.

Mr. ASHURST. When I get through, answer it if you can. Join the blockheads, where you belong, if you fail to treat agriculture as it should be treated.

Mr. President, it is said that I am vehement. Quite true. I am vehement; with 5,000,000 men out of work, with millions of acres of idle land in the West arable and soon turned to farms if you would only pass the McNary bill, that would place water upon those lands, you could give employment to a million men. I have urged, in season and out of season, that this McNary bill be passed, opening idle lands in the West for irrigation and reclamation, and I shall continue to urge that that measure be passed.

Senators should not forget that we are sitting on a volcano which may erupt at any moment. Senators must not forget that just before the French Revolution Foulon and the others laughed and made sport of those who dared talk for agriculture; but later the peasantry of France, ground to the dust by the tyranny of the scoffers, stuffed Foulon's mouth with grass because of the derisive laughter with which he greeted the agricultural blocs in France who asked nothing but justice.

We think because we sit in these soft seats and pass a little palliative measure now and then that we have done something. We think we will pass a tax bill; we will do this and we will do that; and we will relieve the situation. There must be a getting down to fundamentals in such perilous times as now confront us.

Mr. President [the President pro tempore], you are a man of some experience and some years. I will ask you, sir, humane man that you are, to picture the conditions coming in this country. Possibly a frigid winter, with inclement winds soon whistling through the streets and trees. Think of a man with a family, with a wife, no money, no position, no job, no prospects of a job. Then ask that man to be patriotic. The people of this country have been taxed until they are desperate, and, if you will pardon me, only a fool will close his eyes to the conditions now confronting us.

The most urgent means must be adopted. Democrats must lay aside their partisanship, Republicans must lay aside their partisanship. There must be no further derisive, scornful laughter at the agricultural bloc. I repeat, Mr. President, I am speaking for bold and determined men; and if the idle rich are to be relieved from just taxation and are to enjoy their unearned increments, we intend to say and to see to it that along with that the tiller of the soil, who is at the bottom of the structure of politics, as it were, shall at least have a measure of justice. Do I make myself clear on that point?

Now I yield to the Senator from New Hampshire for any question.

Mr. MOSES. I merely wished to say, in answer to the Senator's question, "Do I make myself clear?" that he probably would if he spoke a little louder.

Mr. ASHURST. Mr. President, I have not that soft, sweet, parlor voice which the Senator from New Hampshire has. I do not happen to possess his grace, a grace and charm so complete and so suave that he can say one thing and mean another.

Mr. REED. Mr. President, I would like to ask the Senator a question.

Mr. ASHURST. I yield.

Mr. REED. The Senator has complained here bitterly about nothing being done for the farmer. Does he not recognize the fact that an effort is now being made to take the tax off chewing gum? [Laughter.]

But I would like to ask the Senator a serious question: Whether this agricultural bloc of which he has spoken met and took any action with reference to the particular amendments which are now printed here and which we are told have been agreed upon, if he is at liberty to speak of it?

Mr. ASHURST. I am at liberty to repeat anything that took place in that meeting of the agricultural bloc. I will not join or be a member of any bloc where everything that takes place may not be told to the world.

The agricultural bloc, if I remember it correctly—and other men will correct me if I make a mistake—did not take any action whatever with reference to taxes on chewing gum.

Mr. REED. I am speaking seriously.

Mr. ASHURST. They did not go into the question of taxation.

Mr. REED. Did not go into it at all?

Mr. ASHURST. Not at that particular time.

Mr. REED. Did they at any time?

Mr. ASHURST. I think not.

Mr. REED. Then these recommendations which have been agreed upon, which were conveyed from the Senator from Kansas to the Republican members of the Finance Committee at a private meeting at some time, are not the recommendations of the farmers' bloc, but they are the recommendation of some other group of men?

Mr. ASHURST. I do not know about that.

Mr. REED. It would be interesting to know who they are who made this agreement.

Mr. PENROSE. To what agreement does the Senator refer?

Mr. REED. The one the Senator from Utah referred to when he said that it had been agreed that the committee amendments, which included that affecting chewing gum, should go out.

Mr. SMOOT. That is not a correct statement of the Senator. The Senator from Utah said that the amendments which had been printed were not committee amendments, and the Senator from Pennsylvania has also made that statement on the floor two or three times, as have also other members of the committee. The printed amendments, I understood, had been agreed to by certain Members of the Senate. I told the Senator just exactly the facts.

Mr. REED. I either misunderstood the Senator before——

The PRESIDENT pro tempore. Does the Senator from Arizona yield for this dialogue?

Mr. ASHURST. I yield to the Senator from Missouri, then to the Senator from Utah. I want to finish in a very few minutes. I hope Senators will make their questions as brief as possible.

Mr. REED. I understood when the question came up on the adoption of a clause in this bill that the Senator said that it had been agreed that that would be disagreed to. Thereupon the Senator from Arkansas asked the Senator by whom it had been agreed, and that started all the controversy.

Mr. SMOOT. Yes; that is true.

Mr. REED. That is what I referred to a moment ago.

Mr. SMOOT. The discussion went far afield from the pending amendment.

Mr. REED. Certainly.

Mr. SMOOT. I stated and I say now that the printed amendments referred to by the Senator from Missouri are not committee amendments, and therefore I said that they could not be acted on until the committee amendments had been acted on, as that had been agreed to by unanimous consent.

Mr. ASHURST. Mr. President, I regret in a measure the necessity that requires this speech. But, Senators, I repeat we are on the eve of a cataclysm, the gigantic proportions of which no man can foretell. The most vivid hypochondriac does not dare envisage or attempt to limn what is going to happen this winter with 5,000,000 men out of employment, with railroad rates so high that you can not ship a beef steer from the West to the East, with the coal situation most desperate.

Mr. President, it is time to lay aside partisanship. It is time to be patriotic, because, as I see it, the peril in front of the country is just as great now as it was during the World War. I have it from reliable sources that England will be asking for bread within 60 days if the situation there does not improve. Does that not strike Senators with seriousness? Is the situation here much better?

I appeal to the Republican Party and I appeal to my colleagues to stay in session, hold night sessions, pass the tax bill,

and then pass a tariff bill for the farmer. I need not speak of the agricultural products of my own State. I have done that until I have tired the Senate. Pass a tariff bill not for the benefit of the manufacturers alone, but for the benefit of the farmers as well, and rich encomiums and just praise will be your portion.

But if you do as you have done too often in the past—pass a tariff bill simply, solely, and only for the manufacturer—then a merciless flail of indignation and punishment will be visited upon you, and justly visited upon you.

The farmer, discouraged, disconsolate, is unable to pay taxes in half the States.

I wish to say to my southern brethren here who are always against the tariff on cotton, that even now in Uganda, Nigeria, and Mesopotamia barbarous labor by the millions is soon to be employed, and is now being employed, by the British Government producing cotton at one-sixth the cost at which you can produce it. While you are against a protective tariff on raw material, the day will come when the South will be the leaders and the chief exponents of a protective tariff on cotton, because you can not compete with the barbarous labor of Africa and Mesopotamia, and you will be obliged to go out of the cotton business or have a protective tariff on cotton.

These things call not for levity. They call not for jibes about the agricultural bloc, nor for sarcastic references and whizzing javelines of fun toward those who believe in the prime necessity of agriculture, the base of all the industries. These reasons that I have given, because I perceive the necessity of paying some attention to the agricultural interests of our country, prompted us to organize the agricultural bloc, prompted us to meet when we felt we ought to meet, and those reasons ought to be persuasive upon all who love their country and want it to prosper.

If you Republicans pass wise and just laws, your party will prosper, and I want you to pass wise and just laws. My party can not win an election if you pass wise and just laws, but I would rather have you pass wise and just laws than to have my party win, much as I love my party and desire its triumph. However, it seems that in the hour of your victory, one of the greatest victories in national history, you have taken it for granted that you have a perpetual lease on power.

It is well to have a giant's strength, but your perpetuity in power depends on how you use that giant's strength with which you have been trusted. If you fail to do something for agriculture, the Democratic Party, chastened by the punishment inflicted upon it in the last election, will topple you from your high seats.

Mr. HITCHCOCK. Mr. President, I regret that my friend who has just taken his seat should boldly advocate that gold brick known as the protective tariff for agriculturists. He should be aware that this Republican Congress has already passed since we have been in session a so-called protective tariff for agricultural products. He should be aware that the price of practically every one of the agricultural products named in that bill for alleged and pretended protection has, if we take all the time since the tariff bill was passed, been falling lower and lower. During the last three weeks the price of wheat has gone down about 15 cents per bushel and the price of corn is lower now in the West in our cornfields, far lower than it was when the alleged protective tariff was provided in the pretended protective tariff bill for agricultural products.

I have not any doubt that legislation may be devised that would be of assistance to the agricultural class, but I assure my friend, Senator ASHURST, that the idea of a protective tariff on the products of the farm and the field which this country produces in quantity larger than our people can consume and which we must export to other countries is nonsense, rank nonsense. This country produces more than twice the amount of cotton it can consume, and to put a protective tariff on cotton strikes me as about as ridiculous a proposition as can be conceived. We are exporters of cotton, the greatest exporters of cotton in the world. The idea of trying to get southern votes for a protective theory by bringing out cotton as an industry that can be aided by protection is nonsense. You can not talk that sort of nonsense to any intelligent farmer in the West.

The men who raise corn, the men who raise wheat, and the men who raise the meat products in the West knew long before this last experience that to put a protective tariff on the goods which they produce and which they sell largely to Europe was nothing but a delusion and a snare, an insult to their intelligence by offering them a gold brick.

When the emergency tariff bill was passed for the pretended benefit of agriculture wheat was selling in Chicago at $1.48 a bushel. On August 20, after the act had been in effect for several months, I called attention to the fact that the price of wheat had fallen to $1.25 a bushel, and now I call attention to the fact that wheat sells in Chicago for $1.09 a bushel.

In the case of corn, when the bill passed the price in Chicago was 61 cents. August 20 I called attention to the fact that it was 57½ cents and now I call attention to the fact that it is 46 cents.

The figures speak for themselves. They show that a tariff on farm products has no benefits to farmers.

Mr. ASHURST. Mr. President, of course, I expected some such speech from this side of the Chamber, and I suspected that my learned friend from Nebraska would make the speech. I am not surprised. Those who urge something that they believe to be correct and those who have the nerve to depart from traditions and depart from "theories" always are accused of being "nonsensical." It would be a poor compliment to my speech to-day if nobody rose and called it nonsensical. It would be no tribute to my courage if I felt that nobody would call it nonsene.

My learned friend has a strange habit. When he is not attracted by an argument, when he has no sound basis for answer to it, he merely says that it is "nonsense" or a gold brick. That is a dogmatic way of replying to arguments to which I myself have resorted when I could not answer the other fellow's facts.

We do import a little wheat and we import a little corn, and I assume that the Senator knew that I knew we imported comparatively little wheat and corn. When I spoke of cotton, I said in the future, when in the African and other countries where barbarous labor is fully exploited, at that time, not now but at that time, the southern cotton planter will be crying for a protective tariff against cotton raised at one-sixth of what it costs the American planter.

This Egyptian or Sakellaridis cotton grows somewhat extensively in that part of Egypt where Joseph's remarkable dreams came true. The labor employed in raising such cotton there is what is called "barbarous labor" and is paid from 45 or 50 cents a day, whereas we, of course, pay from three to five dollars per day.

If the Egyptian cotton industry were destroyed in the United States, the result would be that this particular cotton, upon which the country must depend in time of war, if war should unhappily come again, and upon which we must depend for our luxurious cloth and our automobile tires of great strength and endurance, must be obtained in Egypt.

I insist that if we are to have a protective tariff on the manufactured product we should also have a tariff on the raw material.

Mr. DIAL. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Arizona yield to the Senator from South Carolina?

Mr. ASHURST. I yield for a question.

Mr. DIAL. I wish to state that what hurts the South most now is the dishonest and unjust future contract law. If that were corrected, then we would improve considerably.

Mr. ASHURST. I hope the agricultural bloc may do that. As to cotton, of course the Senator from Nebraska knows that I know we raise annually about 14,000,000 bales of upland or short-staple cotton. We do not import any short-staple cotton, except by accident or as ballast or a little from Mexico. I think some 25,000 or 30,000 bales last year.

But has the Senator from Nebraska been absent on those numerous occasions when I have talked about the importation of Egyptian cotton? Does the Senator know what I mean when I talk of Egyptian, Pima, or Sakellaridis cotton? I doubt it. Although he is one of the most learned men of the Senate, one of the most scholarly Senators, and a conversation with him on ordinary events of the day is refreshing at all times, he does not know what I am talking about when I speak of Egyptian, Pima, or Sakellaridis cotton. One of my friends behind me suggests that he doubts if I know myself, but I think I do.

I am talking about a sort of cotton that has a staple about 1⅜ inches in length or 1½ inches in length, which has a remarkable tensile strength, which has a gloss that is beautiful, which during the war was employed in the manufacture of airplane wings and in the manufacture of balloon fabrics, and which to-day is made into the most luxurious cloth. All of that comes from Egypt, save and except the 100,000 bales produced in California and the 100,000 bales produced in Arizona.

Mr. President, I hope the Senator will not put me in the attitude of being so ignorant of public affairs as to assume that a protective tariff now would be of any particular value to the short-staple growers or to the wheat or to the corn growers. I wish to ask the Senator this question. I want

the Senator to hear me on this and let him make answer. The protective tariff is good or it is bad. Will he agree to that?

Mr. HITCHCOCK. Some of it is indifferent.

Mr. ASHURST. It is indifferent when? I want the Senator to answer me now whether a protective tariff is a good thing or a bad thing for the United States of America.

Mr. HITCHCOCK. I will wait until the Senator tells me what it is.

Mr. ASHURST. On anything; let the Senator select his own object—on anything.

Mr. HITCHCOCK. On chewing gum I should think it was bad.

Mr. ASHURST. The Senator will not even answer me. He is a Democrat. He is worthy of the Presidency. He is worthy of leadership in any body of Democrats. Let him like a worthy Democrat stand up and say that a protective tariff is a good thing or a bad thing for the country. [After a pause.] He will not do it. He will not answer me. I say that a protective tariff is good or it is bad. I do not care which horn of the dilemma you take. Let us for the sake of the argument say that it is a bad thing. If it is a bad thing and if a tariff for revenue only is a proper thing, then I insist that revenue should be raised from products of the farm as well as the factory.

If you say the protective tariff is a good thing, then all persons should share in its benefits, and no sinuosity can escape John C. Calhoun's great declaration that the burdens and benefits of government must fall equally and alike upon all the people.

When did it become a heresy to demand that the laws of my country fall alike upon all people? It is the essence of democracy that all must participate in the benefits and burdens of government. No man, in the name of morality and justice, can say "I am for a protective tariff on the products of the factory and not on the products of the ranch and farm."

I will ask my friend—and I am proud to call him my friend—the Senator from Nebraska, whose leadership editorially and politically is a shining star throughout the West, and when the great Commoner left the State of Nebraska one equally his peer in statesmanship and in courage remained there—the Senator from Nebraska—I want him to tell me if he believes it is right to lay a tariff on the products of the factory and not lay it on the products of the farm? [Applause.] I would wait a little while for the answer to that question, but I do not want to embarrass any Democrat.

I was led into the discussion of the cotton question inadvertently. I had no intention of taking up the time of the Senate, but the hard and seamy side of life is the side the farmer must endure. I am not ashamed to stand in the Senate or stand elsewhere and say that, while the manufacturers should have justice, at the same time no discrimination should be made against the farmer.

Before I conclude, I see from the stern, square face of the Senator from New Hampshire [Mr. MOSES] that he feels offended; I assure him that I meant no offense in my rather sharp and impulsive reply, and, if I have wounded his feelings, I cheerfully apologize.

Mr. MOSES. O, Mr. President, that is entirely unnecessary I feel no resentment whatever toward the honorable Senator from Arizona.

Mr. HEFLIN. Mr. President, the time consumed in delaying the passage of the pending tax bill is time well spent. The Senator from Indiana [Mr. WATSON] complained yesterday that there seemed to be an effort to delay the passage of the bill. There ought to be enough Senators on the other side to join with us on this side to defeat outright the unfair and unjust provisions of this bill.

Mr. President, a few moments ago the Senator from Missouri [Mr. REED] called attention to a chewing-gum tax which was about to be bowed and smiled out of this bill by the Senator from Utah [Mr. SMOOT] and a million and more dollars of taxes coming in from that source about to be lost to the Government.

Mr. SMOOT. Mr. President, the Senator from Alabama certainly does not claim that I wanted chewing gum to go untaxed, does he?

Mr. HEFLIN. I understood the Senator to make that motion, and the Presiding Officer was about to put the motion that the amendment be disagreed to, which meant that it be stricken out.

Mr. SMOOT. If the Senator had heard what I said in relation to that matter, I do not think he would have made that statement; but I suppose that would have made no difference. So far as I am concerned, I had rather have a tax of 3 per cent imposed on that article than a tax of 2 per cent.

Mr. HEFLIN. I do not want to do the Senator from Utah any injustice, but the Senator from Missouri pointed out here that a tax of $1,000,000 was about to be taken off the Chewing Gum Trust. When that was going on I thought of a tax which had just been imposed a few minutes before on autotrucks in which the farmers of the West must haul their grain and which the farmers of the South must use in hauling cotton. These autotrucks, as the Senator from New York [Mr. WADSWORTH] pointed out, are being used, many of them, as farm wagons. They are to be taxed; you settled that this afternoon by your votes; but Mr. Wrigley, head of the Wrigley Chewing Gum Trust, who was a shining light in the last Republican campaign, who directed great numbers of people to Marion when speeches were being delivered there from the front porch last fall, is now about to be rewarded by having $1,000,000 passed over to him while the "buck" is being "passed" to the less favored taxpayers of the country.

I protest against the favoritism that we see practiced here. This bill ought not to be made a vehicle for carrying out preelection promises made to those who contributed to the campaign fund of the Republican Party.

We have heard a great deal here about a combination of Senators on the other side of the Chamber. It is now said that the progressive western Senators and the stand-pat, hidebound eastern Republicans are going to meet upon the plain of common agreement and that the lion and the lamb are going to lie down together. I predict, Mr. President, that when they do the lamb will be in the lion. [Laughter.]

My progressive friends, beware! The "old guard" of the Republican Party is exceedingly cunning. He is a smooth artist. "Come into my parlor," said the spider to the fly. These old-guard fellows will stand up and fan a progressive and speak honeyed words to him until they get him well greased and then they will swallow him.

I saw some of the progressive Republicans balk at the suggestion of making the Senator from Pennsylvania [Mr. PENROSE] chairman of the great Finance Committee. It was heralded over the country that they would not vote for him; that no condition could arise that would cause them to support the Senator from Pennsylvania, the chief of standpatters, for chairman of the Finance Committee; but when they were brought up to the final test, when the "old guard" stood back and commanded that the boys all fall in line standpatters and so-called progressives were seen standing all huddled up together. Then the Democrats went over to them in the hope that they could save some of them from the ruin that threatened, and touching them on the shoulder said come ye out from among them and be ye separate from them. The Democrats even wanted to offer a resolution to vote on the election of committee chairman separately in order to give the progressive Republicans a "chance for their white alley," but they said, "No; we guess the thing has gone so far we can hardly get out of it now." You real progressive Republicans know what happened then, so take care and beware of the old guard who "took you in" before. There are a few real clever progressive Republicans over there, and I don't want to see you silenced and put out of commission. I am operating and cooperating with some of you. I have been in some of the conferences of what has been called the "agricultural bloc." I want to say here to-day that we put two measures through this body that would not have been passed except for the Democrats on this side and the progressive Republicans on the other side of the Chamber. That is the truth, and I want history to record the truth of the matter. I do not want these friends of the measures that were enacted by our joint labors to be hamstrung and hogtied by the old guard of the Republican Party. Our united action grew out of our desire to obtain relief for the distressed people of the South and West. There was no politics in it.

The revival of the War Finance Board and the passage of the farm aid and farm export bill would never have been passed but for united action on the part of Democrats, and mainly southern Democrats, and progressive Republicans from the West.

Just as we united then for the purpose of securing just and fair legislation for our people, we must unite now to defeat unjust and unfair tax legislation. By uniting our strength we can defeat this bill which exempts certain special interests and unloads the tax burden upon the people least able to bear it.

Mr. President, the Republican Party has had control of the House and Senate for nearly three years, and it is therefore responsible for many of the ills that afflict us. A western sheep

raiser testified here some weeks ago that under the deflation policy inaugurated and prosecuted by the Federal Reserve Board he was forced to sell his sheep, and that the price received barely covered the feed and freight charges. After paying the feed and freight charges he received the sum of 35 cents per head for his sheep.

A few days ago I ordered a lamb chop with a meal, and the charge for that chop was exactly 35 cents. It did not have as much meat on it as you could put in the shell of one egg, and yet it sold for as much as the western sheep raiser got for a whole sheep.

The other morning at breakfast I paid 15 cents for a little saucerful of corn flakes. That is more than half as much money as the farmer can get for a bushel of corn, and a bushel of corn at 15 cents a saucer made into corn flakes will sell for from $12 to $15 a bushel.

Under a deflation policy, which has been carried out by the Federal Reserve Board and which the Republican Congress has permitted, the cotton farmer was forced to sell his cotton below the cost of production. He was forced to sell his cotton for 10 and 12 cents a pound and then compelled to pay $1 for a pound of cotton rope.

These are the fruits of the Republican deflation policy, and again I say by their fruits ye shall know them. The purchasing power of our farmers was destroyed. The people of the South buy grain and mules and meat from the West and when the Republican Party permits our purchasing power to be destroyed you destroy our ability to buy your products. So in hurting us you are hurting yourselves in the West. We were forced to reduce our cotton acreage; we cut it nearly in half. We reduced the supply of fertilizer; we cut that more than half. We are coming into the market with less than half of a crop, and we are selling it to-day for 6 cents, or $30 a bale under the cost of production.

Senators, how much longer do you think the cotton producer can stand that sort of thing? When I was at home a few weeks ago I found farmers who produced cotton last year who declined to produce any at all this year. The explanation was: "Well, I lost $100 a bale on it last year. It cost me $150 to produce it, and I got only $50 for it. I lacked $100 of getting the cost of production. Don't you think it time to quit?" Do the powers that be want to force us to reduce cotton acreage again next year? Mr. President, we have a small crop, a very small crop this year. Our cotton mills in the United States will consume within 1,000,000 bales of the total crop that we will make this year. The spindles of the United States will consume 5,500,000 bales, and we will have only 1,000,000 bales to export where we have exported already since last year 7,000,000 bales of cotton, and yet the price is being held down, and the farmer is not permitted to get the cost of production even when a cotton famine threatens. I have just received a letter from the commissioner of agriculture of the largest cotton-growing State in the Union, the State of Texas, in which he says that it will cost 25 cents a pound to produce the crop this year, and yet cotton is now selling for 18 and 19 cents a pound, 6 and 7 cents under the cost of production.

Senators, the Senator from Arizona [Mr. ASHURST] told you some truths this afternoon. Portions of our population are in a serious condition. Why does not the President clean out this Federal Reserve Board and put somebody in there who will see to it that the money necessary to carry on the business of the country is supplied, and especially to those who must have it to prevent the destruction of their business?

Here we are to-day, Mr. President, with three-fourths of the gold supply of the whole world, and yet the agricultural industry is unable to obtain the money necessary to market its products at a profit. You have 22 majority in the Senate and more than 150 majority in the House. You have the President in the White House. Why do you not act?

Again I say that honest business men in the South and West have lost confidence in your Federal Reserve Board. There are places in the South and West where they would be hooted at and hissed upon the streets. There are thousands of people who feel that their business was destroyed by the deflation policy of that board. Judge Armstrong, of Fort Worth, Tex., is writing a book called "The Crime of Twenty," dealing with this very situation; and yet the Federal Reserve Board is still doing business, with your approval, up at the Treasury Department.

Mr. President, just a few moments ago the Senator from South Carolina [Mr. DIAL] made a remark about the cotton-futures contract. There is certainly something wrong about it, and I am ready to join in asking for a conference of Senators from the cotton-growing States one night this week and let us see if we can not agree on some amendment to the cotton-futures act, and then call on our western Republican friends to help us put it through, as we helped them with the grain-exchange amendment.

I want a contract that will enable the spinner to get the cotton contracted for and one that will require the seller to call on the producer for cotton with which to fill the contract.

I want such a contract that when a grade of cotton is named you can ask for that grade of cotton and compel them to deliver it. I want such a contract that when cotton is sold upon it, and you buy it, the seller has to go out in the market and get cotton from the producer to fill that contract. I do not want these contracts under which they can keep a room full of cotton samples that they have had for 10 years, and bring them out and tender them on the contract, and when the buyer says, "Why, that is not what I bought," they can say, "Very well, we will settle the difference in money," and no cotton ever changes hands. If the producer is not called upon for cotton with which to fill the contract, the futures transaction hurts the producer. We passed here the other day a farm aid bill, giving the War Finance Board the right to lend money on cotton in order to hold it off the market until the producer could get a price that would cover the cost of production and yield a profit. A few days ago Mr. Ketting, a gentleman of Birmingham, Ala., a member of the Federal reserve bank board at Atlanta, gave out a statement to the effect that they would lend money to the farmer up to 80 per cent of the value of his cotton for a period of 12 months. Why is it, in the face of these facts, that cotton is selling 6 cents a pound below the cost of production?

Mr. WATSON of Georgia. Mr. President——

Mr. HEFLIN. I am glad to yield to my friend from Georgia.

Mr. WATSON of Georgia. The Senator from Alabama appears to be about to pass over the important point that the Supreme Court of the United States, in a decision handed down by Mr. Justice Holmes, declared in so many words in a case brought up from Nebraska, as I remember, where the agents of the Federal Reserve Board sent on gunmen with repeating rifles to present for immediate payment a large accumulation of checks, demanding that they be paid at once or the bank closed, that the Federal Reserve Board was waging war upon the business of this country. Now, I put it to the Senator from Alabama and to other Senators and to the country whether our President ought to retain in power these men, who have been virtually adjudged criminals by the highest court in the world?

Mr. SHIELDS. Mr. President, may I ask the Senator from Georgia a question for information?

Mr. HEFLIN. I yield.

Mr. SHIELDS. What was the style of the case in which that remarkable statement is made in the opinion?

Mr. WATSON of Georgia. Mr. President, replying to my friend the Senator from Tennessee, I beg to say that I can not at this moment name the case, but it appeared in the "Manufacturers' Record."

Published in Baltimore, as the Senator knows.

Mr. SHIELDS. A very reputable publication.

Mr. WATSON of Georgia. Indeed it is, a standard publication.

Mr. SHIELDS. But I should like to see that opinion before I give my assent that it is a fact.

Mr. WATSON of Georgia. I think it was the April number. I will not be sure, but I think it was the April number; and they quote from the words of Mr. Justice Holmes, who was handing down what appeared to be a unanimous opinion of that court. The facts showed that the Federal reserve bank had collected during several weeks every outstanding check that they could collect against this little State bank and sent an automobile with four or five armed men in it, who went into that bank and presented that vast accumulation of checks and demanded that each be immediately cashed or they would close that bank.

Mr. SHIELDS. Did they go armed for the purpose of demanding the money from the bank or for the purpose of protecting it while transporting it?

Mr. WATSON of Georgia. They went there, as appeared from this case, for the purpose of requiring of the bank something which no bank can do under the same circumstances.

Mr. SHIELDS. That was a branch of the reserve bank in that State?

Mr. WATSON of Georgia. Yes.

Mr. SHIELDS. Of course, it had nothing to do with the governors—I believe that is what they are styled—of the Federal reserve bank here in Washington.

That is their style. Mr. President, the Senator from Georgia has stated, I believe, that the President should turn them out,

or should clean them out. There are seven of those governors, I believe.

Mr. WATSON of Georgia. Five, is it not?

Mr. SHIELDS. I think there are seven.

Mr. HEFLIN. There are seven members of the board, and one of them is governor.

Mr. SHIELDS. The majority of those now in office were appointed by President Wilson, I believe.

Mr. HEFLIN. Yes. Some of them are Republicans and some of them were Democrats.

Mr. SHIELDS. Under the statute requiring a division. I have heard a great deal of criticism of the policy pursued by these officers, but I have never heard any facts which attacked their integrity; and I believe that as to this great instrumentality of the Government for stabilizing and preserving the financial condition of the country, before any assault is made upon them personally some specific charge should be made. I know only one of them personally—Gov. Harding—a gentleman whom I have always understood to be a man of integrity and ability, an able banker, from the Senator's own State.

Mr. HEFLIN. He was a banker in my State.

Mr. SHIELDS. Before I give any credence to any effort to remove him, I should like to hear some specifications, something to overcome the presumption of integrity and fair dealing and ability of such a man as that.

Mr. WATSON of Georgia. Mr. President, if the Senator will allow me, I will answer the Senator from Tennessee?

Mr. HEFLIN. Yes; go ahead.

Mr. WATSON of Georgia. I thought perhaps the Senator was aware of the decision to which I referred, and, of course, that is a matter of the very highest authority.

Mr. SHIELDS. I was not aware of it, but I will look it up.

Mr. WATSON of Georgia. I hope the Senator will.

Mr. SHIELDS. I am anxious to see such a remarkable opinion.

Mr. WATSON of Georgia. I will remind the Senator of what was testified by Gov. Strong, of the New York Federal Reserve Bank. He testified under oath, here in this Capitol, that they had loaned $165,000,000 to one man, and that the members of the bank had themselves borrowed from one another $16,000,000; and when John Skelton Williams, under oath, unimpeached, was testifying to the facts which showed that they ought to be removed, Gov. Harding, instead of making the answer of a consciously innocent man, attempted to make a physical assault upon John Skelton Williams. Perhaps the Senator did not know that.

Mr. SHIELDS. No; I did not know it.

Mr. WATSON of Georgia. It is in the record.

Mr. SHIELDS. But from my knowledge of Gov. Harding I think if he attempted it there was something justifying it. I should like to know who it was that borrowed this money. The Senator said it was the members of the bank. Does he mean the governors?

Mr. WATSON of Georgia. The directors of the bank.

Mr. SHIELDS. Oh, of the bank in New York?

Mr. WATSON of Georgia. Of the bank in New York.

Mr. SHIELDS. Not the governors here, upon whom this assault is being made.

Mr. WATSON of Georgia. Mr. President, the testimony shows that Gov. Harding had adopted a policy of deflation without any warning at all, when after the Civil War 13 years' warning was given for the country to prepare for it, and that Gov. Harding said that even if ruin came to these State banks and to individual farmers and merchants and other borrowers, it was better to be done with it at once, and clean out.

Mr. HEFLIN. Mr. President, the Senator from Georgia is right about the Supreme Court decision. I remember the reference he made to it here several weeks ago. I will get it and print in the RECORD excerpts from the Manufacturers' Record and also from the Supreme Court's decision in the case cited by Senator WATSON of Georgia.

The Senator from Tennessee refers to the fact that Gov. Harding is from my State. I would very much rather be able to stand here and defend him. But the facts of his record in connection with the cruel and destructive deflation policy convict him of a grave offense against the life of honest business in America. I do not know what the motive back of it was, but if a man commits murder and I see it, I am convinced that he is guilty, but I may not be able to explain why he did it.

This Federal Reserve Board's deflation policy cost my State nearly a hundred million dollars on cotton alone. It cost the South, as it cost the West, several billions of dollars. Mr. President, let me remind my friend the Senator from Tennessee what Gov. Bickett, of North Carolina, said about Gov. Harding and the deflation policy. Here is what he said last December:

One thing we call attention to is the present policy to call loans. I happen to know that down in my State of North Carolina there is a disposition—and the bankers say it is because of instructions approved by the Federal Reserve Board—to call loans.

This statement was made by the governor of a large cotton-growing State. He says that the bankers said last fall that the word had gone out to call loans. Further, he said:

Gentlemen of the committee, the situation with us in the South is more than distressing—it is tragic. It would be impossible for me to use words that would overstate the alarming condition that confronts the cotton farmer of the South.

We think the man who made the cotton ought to be given assistance and enabled to hold the cotton until the market opens up and the world is ready to take the cotton that it needs.

Mr. President last fall when deflation was destroying the business of cotton producers Senator OVERMAN, of North Carolina, came here with a delegation to present the petition of distressed farmers to the Federal Reserve Board, and what do you suppose happened? Gov. Harding told him that he would not hear him and his delegation; but Senator OVERMAN insisted, and finally got the board to assemble and hear them.

Senator SIMMONS was here at another time last fall, and so outraged did he feel at the conduct of the governor of the Federal Reserve Board in refusing to do something to prevent the ruin of the cotton industry that he said that Gov. Harding ought to be removed.

Western delegations were here protesting against those wrongs and outrages just as we were doing. The West suffered just as the South did. Thousands of men lost everything they had in that Wall Street deflation policy carried on by the Federal Reserve Board. Scores of mistreated, outraged American citizens committed suicide.

No, Mr. President; the fact that the governor of the Federal Reserve Board hails from my State will not keep me from doing my duty, it will not prevent me from criticizing and condemning him. Now, Mr. President, I have the excerpts from the Manufacturers' Record and the Supreme Court decision in the Federal reserve bank case cited a little while ago by Senator WATSON of Georgia, and I will insert them at this point in my speech:

[From pages 111–113, Manufacturers' Record, June 2, 1921.]

The Supreme Court of the United States, in a decision against the actions of the Federal Reserve Board, uses probably the most scathing words ever uttered by that tribunal.

A high-powered automobile containing four people drove into the town of Pierce, Nebr., and stopped in front of the Cones State Bank. The engine was kept running. Two men, armed with revolvers, got out of the car and entered the institution. As agents of the Federal reserve bank, they presented checks to the value of $31,900, for which they demanded cash, declining to accept drafts. These checks represented an accumulation of items which had been brought together over a period of more than three weeks. One of these Federal reserve agents stated to the officers of the bank that the other agent "was a United States marshal, hard-boiled and armed; that he had cleaned up the State of Kansas and would get us anyway" unless the Cones State Bank signed an agreement to follow the orders of the Federal reserve bank. These agents also stated that where a State bank declined to obey orders, it was certain to be driven to the wall by the power o fthe Federal Reserve System, which was really the Government of the United States. The case is not an isolated one. It is typical of what was done in hundreds of cases by the gunmen of the Federal reserve bank. The methods of coercion used and threatened were:

1. The Federal Reserve Board would accumulate checks on a State institution until the gross amount of such checks exceeded the amount of currency said State bank was required to carry in its vaults or was likely to have on hand. It would then send men armed with guns to demand payment. If payment could not be made in cash, the checks were protested and the news spread about town that the bank was being questioned by the Government, the result of which would be to cause a run on the bank. But if the bank, threatened with such disaster, signed an agreement to obey the illegal orders of the Federal reserve bank, then cash for checks was not required, but drafts were accepted at par.

2. If the first method of coercion failed, the State banks in small towns were notified that a competing national bank would be organized to drive them out of business; that such national bank would be supported with the full power of the Federal reserve bank, against which no small State bank could hope to wage a successful fight.

3. If both of these methods of coercion failed, the State bank was warned that its correspondents in the cities would be prevented thereafter from extending it any accommodations, would call its loans, and would drive it into bankruptcy.

The above facts are taken from the sworn testimony of witnesses before the Committee on Rules of the House of Representatives May 4, 5, and 6, 1920. They give a mere inkling of the truth as revealed by the full testimony, copies of which can be procured from the Government Printing Office, under the title "Hearings before the Committee on Rules on House resolution 476, Sixty-sixth Congress."

The American Bank & Trust Co. appealed to the courts to prevent the Federal Reserve Bank of Atlanta, Ga., from continuing lawless assaults of the sort outlined above. The case finally reached the Supreme Court of the United States, which had before it much of the evidence which was brought out at the hearing to which we have referred. The opinion of the court was delivered by Mr. Justice Holmes, and never before, perhaps, in the history of that august tribunal has such a scathing denunciation of official lawlessness been delivered as the following:

* * * * * * *

"A man has a right to give advice, but advice given for the sole purpose of injuring another's business and effective on a large scale might create a cause of action. Banks as we know them could not

exist if they could not rely upon averages and lead a large part of the money that they receive from their depositors on the assumption that not more than a certain fraction of it will be demanded on any one day. If without a word of falsehood, but acting from what we have called disinterested malevolence, a man by persuasion should organize and carry into effect a run upon a bank and ruin it, we can not doubt that an action would lie. A similar result, even if less complete in its effect, is to be expected from the course that the defendants are alleged to intend, and to determine whether they are authorized to follow that course it is not enough to refer to the general right of a holder of checks to present them, but it is necessary to consider whether the collection of checks and presenting them in a body for the purpose of breaking down the petitioner's business as now conducted is justified by the ulterior purpose in view.

"If this were a case of competition in private business, it would be hard to admit the justification of self-interest, considering the now current opinion as to public policy expressed in statutes and decisions. But this is not private business. The policy of the Federal reserve banks is governed by the policy of the United States with regard to them and to these relatively feeble competitors. We do not need aid from the debates upon the statute under which the reserve banks exist to assume that the United States did not intend by that statute to sanction this sort of warfare upon legitimate creations of the States."

Warfare! Warfare by the Federal Reserve Board against creatures of the State over whom the board had been warned by a definite opinion of the Attorney General of the United States, addressed to the President on March 21, 1918, in response to his request, that the Federal reserve act "does not command or compel these State banks to forego any right they may have under the State laws to make charges in connection with the payment of checks drawn upon them."

* * * Gov. W. P. G. Harding, as usual, pleaded ignorance in some cases and in some others evaded the issue. He has the reputation of being what professional men call a "clever witness." But he could not quite get away from the persistence of Congressman REAVIS, of Nebraska, who finally forced these admissions:

"Mr. REAVIS. What I want to get into this record is the fact that whenever these nonmember banks will sign the agreement to do that thing, which in law you can not force them to do, you accept exchange from them?

"Gov. HARDING. Yes, sir.

"Mr. REAVIS. And when they refuse, you demand cash and refuse to accept exchange?

"Gov. HARDING. It appears in some cases that that has been done."

It was habitually done, not one time but thousands of times. Indeed, so indignant were some gentlemen at the seeming lack of definite knowledge on the part of Gov. Harding that the following day Mr. Alexander Smith, of Atlanta, attorney for the assaulted banks, said:

"In view of the statement yesterday by the governor of the Federal Reserve Board that these things were not being done with his knowledge and consent, I wish to introduce an original letter from Mr. E. P. Tyner, assistant cashier of the Federal reserve bank of Kansas City, dated December 3, 1919, containing this paragraph:

"'Our action in adding the entire State of Missouri to the par list was taken at the request and with the approval of the Federal Reserve Board at Washington,' etc."

Moreover, it was testified by Mr. Clairborne, of the Whitney Central National Bank of New Orleans:

"You (Congress) then refused to create a central bank in Washington, but what you have to-day is really a central bank in Washington. They are attempting to make out of these local boards, boards which must submit absolutely to what Washington says. Those boards are not permitted to act for themselves; they get their instructions and advices from Washington."

* * * It is even worse than that, for this man has not only overruled the Congress of the United States by forcing on the country a central bank in defiance of orders not to; he has not only set himself up as an arbiter of prices and by deliberate intent broken the markets and pursued a policy which Abraham Lincoln denounced aforetime as dishonest and criminal.

Gov. Harding must get out! No man against whose actions the Supreme Court has rendered a decision couched in language probably never before used by that august tribunal can remain at the head of our Nation's banking system.

The Supreme Court of the United States has rendered a decision against certain acts of the Federal Reserve Board in language so strong that we doubt whether any decision ever uttered by that august body has been couched in words so vigorous.

The full significance of the language used by the Supreme Court does not seem to have been appreciated by the country at large. This was merely a decision against certain acts of the Federal Reserve Board, but it was so worded that every thoughtful man who reads the decision will see in it that the judges of the court must have restrained themselves very greatly from voicing what was doubtless their sentiment based on the evidence developed.

The language used far exceeds anything which the Manufacturers' Record has ever said in regard to any acts of the Federal Reserve Board; but as the true meaning of this decision forces its way into the public mind there will come a recognition of the fact that the agents of the Federal Reserve Board have been officially guilty of acts which make it incumbent upon the administration to instantly dismiss from the Government's service every man whose work has been responsible for the language used by the Supreme Court, or else tacitly ignore that final tribunal of the affairs of this Nation.

We can not believe that President Harding and his advisers will permit the agents of the board, including the official head, to continue in power one moment after the decision of the Supreme Court has been studied by the President and the members of the Cabinet.

Some phases of this situation are discussed in this issue, and to them we invite the thoughtful study of every reader of the Manufacturers' Record.

Mr. PENROSE. Mr. President, if the Senator from Alabama wants more time for such performances, he will find it in evening sessions, which I shall call at an early date.

Mr. HEFLIN. I shall be glad to join the Senator in having evening sessions. I have a lot to say against these nefarious measures which I would like to say at some time, and I do not have enough opportunity to say it.

Mr. PENROSE. Now, Mr. President, we will return to the consideration of the bill. I hope the Senate will vote on the motion made by the Senator from Utah, and that the motion will prevail. I ask that the question be put.

Mr. REED. Mr. President, let the question be stated.

Mr. PENROSE. Certainly.

The PRESIDENT pro tempore. By unanimous consent the Senate has passed over the part of Title IX which precedes line 5 on page 198. The Senator from Utah moves that the remaining part of Title IX be passed over.

Mr. REED. Mr. President, I see no reason why we can not vote upon the amendment at this time.

Mr. PENROSE. The Senator may not see any reason, but the majority of the Senate does see a reason. We want to have it postponed. I hope it will be postponed in deference to certain gentlemen on the majority side who desire that that be done.

Mr. REED. If there are gentlemen on the majority side who want to present this question in argument, and are absent and not ready to speak, as I stated a while ago, under those circumstances I would never interpose an objection to a matter going over.

Mr. WATSON of Indiana. Mr. President, the whole question if the Senator from Missouri will permit me, is simply this: Until the Senate shall have decided what is going to be done with the excess-profits tax and the higher surtaxes, it is not possible to say whether or not, in the ultimate consideration of the bill, these taxes should or should not be levied and these sections should or should not be stricken out. I think this matter ought to be passed over until after those questions have been passed on.

Mr. REED. That is an explanation; and if that is the reason, I make no objection.

Mr. SMOOT. I so stated.

Mr. REED. I was unfortunate in not understanding the Senator if he gave that reason; I do not think he did.

Mr. SMOOT. I do not know whether the Senator was in the Chamber when I stated it.

Mr. REED. I do not consider it a very good reason to say that a majority are going to have it. The Senator from Indiana has given a reason, and a good reason, and I make no objection to its going over.

The PRESIDENT pro tempore. The question is on the motion of the Senator from Utah.

The motion was agreed to.

The ASSISTANT SECRETARY. The next amendment passed over is on page 213, beginning with line 5.

Mr. REED. Mr. President, I desire to make an inquiry of the Senator from Massachusetts [Mr. LODGE] as to whether we are to have an executive session to-night to resume the consideration of the so-called Peck case. If so, I think we ought to have it now.

Mr. LODGE. Mr. President, it is now so late that I think we could hardly finish the executive business. There may be some routine executive business to be disposed of, but we could hardly finish that case, and I think we should continue with this bill for the present.

Mr. UNDERWOOD. I would like to ask the Senator from Massachusetts if it would not be possible, when the case that is under debate in the executive session comes up, to let it go over until some time when we could go into executive session, say at 2 or 3 o'clock, because undoubtedly if we do not we will have to sit into the night and may not be able to hold a quorum.

Mr. LODGE. I will say very frankly that I object to doing that under the present circumstances. Going into executive session for routine business, and then taking as much time on a case as it has been necessary to take on that case, is really a violation of the unanimous-consent agreement under which we are proceeding. I think the terms of that consent provide that other business shall be set aside. On Friday we will begin consideration of the treaties under the agreement limiting debate, and it seems to me it would be the part of wisdom to let the case we have been considering go over until we have disposed of the treaties and the unanimous consent comes to an end.

Mr. UNDERWOOD. That certainly would be satisfactory to me, at least, and I think it would be satisfactory to most who are involved. There is no reason why the case can not go over until after we dispose of the treaties. My only suggestion was that we should not take it up at 5 o'clock in the evening and debate it, when Senators who want to take part in the debate will have gone to dinner before it can come to a vote; and as it is a contested case, and one that has to be determined, I think it could be determined better if we go into executive session some time when we can finish the case in the course of a day.

Mr. LODGE. I think it is better for the case and better for the Senate to let it go over to a time when we can take a day, if necessary, and dispose of it finally, and let everyone have an opportunity to say what he desires.

Mr. UNDERWOOD. The Senator is the majority leader, in control of his party, and in control of the situation, and if that is his viewpoint, I think it is wise that we should have an understanding that the case will go over and be taken up in that way.

Mr. LODGE. I have attempted to state no understanding. I have only stated what seems to me to be the best way of doing it under present conditions. We have only one more day before the unanimous-consent agreement on the treaties goes into effect.

Mr. UNDERWOOD. I understand from the Senator that he does not propose to move an executive session this afternoon or to-morrow for the consideration of the case?

Mr. LODGE. Not for the consideration of that case. I may move an executive session for a few minutes to dispose of unopposed nominations.

The PRESIDENT pro tempore. The next amendment passed over will be stated.

The ASSISTANT SECRETARY. The next amendment passed over is found on page 213, beginning with line 5, paragraph No. 2, where the committee proposes to insert the following:

(2) Pawnbrokers shall pay $100. Every person whose business or occupation it is to take or receive, by way of pledge, pawn, or exchange, any goods, wares, or merchandise, or any kind of personal property whatever, as security for the repayment of money loaned thereon, shall be regarded as a pawnbroker.

The amendment was agreed to.

The ASSISTANT SECRETARY. The next amendment passed over is found on page 213, paragraph numbered 3, after line 11, where the committee proposes to insert the following:

(3) Ship brokers shall pay $50. Every person whose business it is as a broker to negotiate freights and other business for the owners of vessels or for the shippers or consignors or consignees of freight carried by vessels shall be regarded as a ship broker.

Mr. LA FOLLETTE. I withdraw my objection to that paragraph. I am content that it shall be voted upon.

The amendment was agreed to.

Mr. REED. Mr. President, I wish to make an inquiry. I understand that a few moments ago we passed over the matter contained on page 198 on the ground that it was an excise tax and that we could not tell whether we wanted to levy that character of a tax until we had considered the question of excess profits. Now we are passing on taxes of the same character. If the statement made by the Senator from Indiana is sound, namely, that we ought to pass over the matter contained on page 198 because of the character of tax until we settle the question of excess profits, I do not see why we should not pass over the matter on page 213.

Mr. LODGE. They are two entirely different taxes. These are license taxes—special taxes—and I have not heard anybody suggest that they should be stricken out.

Mr. REED. I am not suggesting it, but I am saying they are what are generally termed "nuisance taxes."

Mr. LODGE. These are not nuisance taxes. These are wholly different. These are license taxes for the doing of certain kinds of business.

Mr. REED. I would include them in the nuisance taxes.

The ASSISTANT SECRETARY. The next amendment passed over is found at the top of page 214, passed over at the instance of the Senator from Wisconsin [Mr. LA FOLLETTE], and reading as follows:

(5) Proprietors of theaters, museums, and concert halls, where a charge for admission is made, having a seating capacity of not more than 250, shall pay $50; having a seating capacity of more than 250 and not exceeding 500, shall pay $100; having a seating capacity exceeding 500 and not exceeding 800, shall pay $150; having a seating capacity of more than 800, shall pay $200. Every edifice used for the purpose of dramatic or operatic or other representations, plays, or performances, for admission to which entrance money is received, not including halls or armories rented or used occasionally for concerts or theatrical representations, and not including edifices owned by religious, educational or charitable institutions, societies or organizations where all the proceeds from admissions inure exclusively to the benefit of such institutions, societies or organizations, or exclusively to the benefit of persons in the military or naval forces of the United States, shall be regarded as a theater: *Provided*, That in cities, towns, or villages of 5,000 inhabitants or less the amount of such payment shall be one-half of that above stated: *Provided further*, That whenever any such edifice is under lease at the time the tax is due the tax shall be paid by the lessee, unless otherwise stipulated between the parties to the lease.

Mr. LA FOLLETTE. I withdraw my objection to the consideration of that amendment.

The amendment was agreed to.

The ASSISTANT SECRETARY. The next amendment passed over is on page 216, paragraph 10, where the committee proposes to insert the following after line 18:

(10) Proprietors of riding academies shall pay $100. Every building, space, tent, or area where a charge is made for instruction in horsemanship or for facilities for the practice of horsemanship, shall be regarded as a riding academy.

Mr. PENROSE. As the Senate is considering committee amendments, as I understand, and the amendment pending to this paragraph is merely a recommendation through the Senator from New York [Mr. WADSWORTH] made by the majority members of the Finance Committee, I would ask that the amendment go over until we reach it in due order, when the amendment regarding riding academies can be offered.

Mr. WADSWORTH. May I say to the Senator from Pennsylvania that I had prepared an amendment to paragraph 10, now under consideration, which has exactly the same effect as the amendment which I understand it was intended to propose later.

Mr. PENROSE. Very well.

Mr. WADSWORTH. I will ask the Secretary to read it, with the Senator's permission, and if it is satisfactory it might be agreed to now.

The PRESIDENT pro tempore. The Secretary will report the amendment proposed by the Senator from New York.

Mr. SIMMONS. Mr. President, I think we had better proceed in order. This is not a committee amendment.

Mr. PENROSE. It is not a committee amendment.

The PRESIDENT pro tempore. The amendment proposed by the Senator from New York is an amendment to the committee amendment. It is therefore in order. The Secretary will report the amendment proposed by the Senator from New York.

The ASSISTANT SECRETARY. On page 216, at the end of line 23, after the word "academy," insert the following proviso:

Provided, That this tax shall not be collected from associations composed exclusively of members of units of the federalized National Guard or the Organized Reserve, and whose receipts are used exclusively for the benefit of such units.

Mr. PENROSE. This is an amendment to the committee amendment. It has been carefully considered by the majority members of the committee and has been recommended, and I am prepared to accept it now as submitted by the Senator from New York.

The PRESIDENT pro tempore. The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The ASSISTANT SECRETARY. The next amendment passed over is on page 233, paragraph (a), beginning on line 8, passed over at the instance of the junior Senator from Utah [Mr. KING]. The preceding line reads "That whoever," and the committee proposes to insert the following:

SEC. 1102. That whoever—

(a) Makes, signs, issues, or accepts, or causes to be made, signed, issued, or accepted, any instrument, document, or paper of any kind or description whatsoever without the full amount of tax thereon being duly paid;

(b) Consigns or ships, or causes to be consigned or shipped, by parcel post any parcel, package, or article without the full amount of tax being duly paid;

(c) Manufactures or imports and sells, or offers for sale, or causes to be manufactured or imported and sold, or offered for sale, any playing cards, package, or other article without the full amount of tax being duly paid;

(d) Makes use of any adhesive stamp to denote any tax imposed by this title without canceling or obliterating such stamp as prescribed in section 1104;

Is guilty of a misdemeanor and upon conviction thereof shall pay a fine of not more than $100 for each offense.

Mr. SIMMONS. Mr. President, that was passed over at the request of the junior Senator from Utah [Mr. KING]. I myself do not know what his objection is to the amendment, but I would be glad if the chairman of the committee would let it go over until the Senator from Utah can come into the Chamber.

Mr. PENROSE. I suppose the Senator from North Carolina is fully aware of the fact that this is the existing law.

Mr. SIMMONS. I am.

Mr. PENROSE. Why the Senator from Utah should object to it, if he understood it, I am at a loss to say. If the Senator from North Carolina desires to make the request on behalf of the Senator from Utah——

Mr. SIMMONS. That is what I am doing. I am not making it on my own behalf.

Mr. PENROSE. I suppose we will have to accede, but I confess I do not feel disposed to lay a great amount of stress upon an objection to the existing law on the part of a Senator who is absent.

Mr. SIMMONS. If I knew what is the objection of the Senator from Utah to this section I would probably present it to the Senate the best I could, but I do not know upon what ground the Senator wishes to lodge his objection. He is absent, It is true this is the existing law, but there are a great many of us who think sometimes existing law ought to be changed. The Senator from Utah may have that belief with reference to this provision of the bill.

We have been following the rule here that when a Senator is not present he should be allowed some reasonable opportunity to enter the Chamber. I shall send for the Senator to see if we can have him present.

Mr. PENROSE. I wish the Senator from North Carolina would do so.

Mr. SIMMONS. I have no desire to delay consideration of the bill. On the contrary, I should like to help facilitate its passage.

Mr. REED. Mr. President, I do not know what the Senator from Utah had as an objection to this paragraph, but I wish to suggest an amendment, which I think ought to be agreed to, and I think the Senator from Pennsylvania will agree to it. I think the words "shall willfully" ought to follow the words "that whoever," so it will read, "That whoever shall willfully," and so forth. The penalty in this provision is severe, or it may not be considered quite severe. I see it reads "not more than $100." I thought that it read "not less than $100." However, there ought to be no penalty if a man simply makes an inadvertent mistake and puts one stamp too few on something; at least not so severe a penalty as this. I have no desire to argue it, but I think that sort of law is rather too drastic.

Mr. PENROSE. Does the Senator desire to offer the amendment?

Mr. REED. If it is going over for the Senator from Utah to come, I do not desire to do so, but if it is to be acted upon, then I would offer that amendment.

Mr. PENROSE. Let it go over.

The PRESIDENT pro tempore. The Chair understands the Senator from North Carolina has asked that the amendment be passed over. Without objection, it will be passed over.

The ASSISTANT SECRETARY. The next amendment passed over is, on page 239, where the committee proposes to insert, in line 12, after the words "50 cents," the following proviso——

Mr. PENROSE. Mr. President, I ask that that paragraph go over, because a majority of the committee expect to submit an important amendment to it.

The PRESIDENT pro tempore. If there be no objection, it will be passed over.

The ASSISTANT SECRETARY. The next amendment passed over is, on page 242, subsection 5, beginning at line 13, where the committee proposes to insert the following.

Mr. PENROSE. Before that is read I desire to offer an amendment, on page 244, after line 17, to insert the following.

The PRESIDENT pro tempore. The Secretary will report the amendment proposed by the Senator from Pennsylvania.

The ASSISTANT SECRETARY. On page 244, after line 17, insert the following paragraph:

This subdivision shall not affect but shall be in addition to the provisions of the "United States cotton futures act," approved August 11, 1916, as amended, and "the future trading act," approved August 24, 1921.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The amendment as amended and agreed to is as follows:

5. Produce, sales of, on exchange: Upon each sale, agreement of sale, or agreement to sell (not including so-called transferred or scratch sales), any products or merchandise at, or under the rules or usages of, any exchange or board of trade or other similar place, for future delivery, for each $100 in value of the merchandise covered by said sale or agreement of sale or agreement to sell, 2 cents, and for each additional $100 or fractional part thereof in excess of $100, 2 cents: *Provided*, That on every sale or agreement of sale or agreement to sell as aforesaid there shall be made and delivered by the seller to the buyer a bill, memorandum, agreement, or other evidence of such sale, agreement of sale, or agreement to sell, to which there shall be affixed a lawful stamp or stamps in value equal to the amount of the tax on such sale: *Provided further*, That sellers of commodities described herein, having paid the tax provided by this subdivision, may transfer such contracts to a clearing-house corporation or association, and such transfer shall not be deemed to be a sale, or agreement of sale, or an agreement to sell within the provisions of this act, provided that such transfer shall not vest any beneficial interest in such clearing-house association but shall be made for the sole purpose of enabling such clearing-house association to adjust and balance the accounts of the members of such clearing-house association on their several contracts. Every such bill, memorandum, or other evidence of sale or agreement to sell shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers; and any person liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person, who makes any such sale or agreement of sale, or agreement to sell, or who, in pursuance of any such sale, agreement of sale, or agreement to sell, delivers any such products or merchandise without a bill, memorandum, or other evidence thereof as herein required, or who delivers such bill, memorandum, or other evidence of sale, or agreement to sell, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding $1,000 or be imprisoned not more than six months, or both.

No bill, memorandum, agreement, or other evidence of such sale, or agreement of sale, or agreement to sell, in case of cash sales of products or merchandise for immediate or prompt delivery which in good faith are actually intended to be delivered shall be subject to this tax.

This subdivision shall not affect but shall be in addition to the provisions of the "United States cotton futures act," approved August 11, 1916, as amended, and "the future trading act," approved August 24, 1921.

Mr. PENROSE. Mr. President, I am informed that this completes what might be termed the second reading of the bill for committee amendments and that all amendments have been completed with the exception of a few which were passed over. There still remain those amendments to be disposed of and certain amendments proposed and to be offered coming from the majority of the committee. It would, therefore, be in order to turn back to the beginning of the bill and proceed to go through the bill regularly, having in view the final disposition of the committee amendments and later the consideration of the majority amendments. I would ask the Secretary to begin to read the bill again from the beginning for amendments passed over.

The ASSISTANT SECRETARY. The first amendment passed over upon the second reading is on page 5, where the amendment in the first paragraph on that page was passed over at the instance of the Senator from Wisconsin [Mr. LA FOLLETTE].

Mr. SIMMONS. The Senator from Wisconsin, not expecting the amendments to be finished so quickly as has been the case, asked me if I would not request that this matter be passed over until he could go to his room and get some data respecting this particular amendment. If the Senator from Pennsylvania is willing that it shall go over until he can return from his committee room, I shall be very glad.

Mr. PENROSE. Will the Senator return this evening?

Mr. SIMMONS. He has merely left the Chamber to go after the data which he has in his room.

Mr. PENROSE. What is the next paragraph, Mr. President?

The PRESIDENT pro tempore. Without objection, the amendment on page 5 is passed over. The Chair understands that there is no objection to passing over that amendment.

Mr. SIMMONS. Temporarily.

Mr. PENROSE. As that amendment depends on another part of the bill, I suggest that it go over. Now, I ask that the Secretary proceed and state the next passed-over amendment.

The PRESIDENT pro tempore. The Secretary will state the next amendment which was passed over.

The ASSISTANT SECRETARY. The next amendment, which was passed over at the request of the Senator from Pennsylvania [Mr. PENROSE], is on page 6, beginning in line 23 with the heading "Dividends," and going down to line 4, on page 15.

Mr. PENROSE. I am willing to go on with that portion of the bill.

The PRESIDENT pro tempore. The first amendment in the portion of the bill indicated will be stated.

The ASSISTANT SECRETARY. The first amendment is, on page 6, line 24, where it is proposed to strike out the word "dividend" in single quotation marks and to insert "dividend" in double quotation marks.

The PRESIDENT pro tempore. Without objection, the amendment is agreed to. The next amendment will be stated.

The ASSISTANT SECRETARY. On page 7, line 8, after the date "January 1," it is proposed to strike out "1922" and the semicolon and to insert "1922," followed by a period.

Mr. REED. Mr. President, just one moment. I should like to understand what this amendment is.

Mr. KELLOGG. Mr. President——

Mr. REED. I yield to the Senator from Minnesota.

Mr. KELLOGG. I understood that the Senator from Pennsylvania [Mr. PENROSE] intended to offer some amendments to subdivisions (b) and (c) on page 7. Does the Senator wish to offer those amendments to-night?

Mr. PENROSE. Yes; I will offer them now. The point at which those amendments should be proposed has not been reached, but I will offer them.

The PRESIDENT pro tempore. Paragraph (b) has not yet been reached.

Mr. KELLOGG. I beg the Senator's pardon. I thought that paragraph had been reached.

The PRESIDENT pro tempore. Without objection, the amendment which has been stated is agreed to. The next amendment passed over will be stated.

The ASSISTANT SECRETARY. On page 7, in paragraph (b), line 9, after the word "every," it is proposed to strike out the word "distribution" and to insert "distribution, except on a bona fide liquidation of the corporation."

The amendment was agreed to.

The next amendment passed over was, on page 7, line 15, after the numerals "1913," to strike out "may" and to insert "may, except as provided in subdivision (c)."

Mr. PENROSE. I now ask that the Senate disagree to that amendment.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

Mr. KELLOGG. Is not the question on disagreeing to the amendment?

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

Mr. PENROSE. I ask that the amendment may be disagreed to.

The PRESIDENT pro tempore. The Chair is of the opinion that that is simply another way of putting the motion to agree. If the Senate disagrees to the amendment, it is rejected.

Mr. LODGE. The Senator from Pennsylvania desires that the amendment shall be voted down.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was rejected.

The next amendment passed over was, on page 7, after line 18, to strike out "(c) Amounts distributed in the liquidation of a corporation shall be treated as in part or in full payment in exchange for stock or shares, and any gain or profit realized thereby shall be taxed to the distributee as other gains or profits," and in lieu thereof to insert:

(c) Any distribution (whether in cash or other property) made by a corporation to its shareholders or members (1) otherwise than out of earnings or profits accumulated since February 28, 1913, or (2) on a bona fide liquidation of the corporation, shall be treated as a partial or full return of the cost to the distributee of his stock or shares. Any gain or loss realized from such distribution or from the sale or other disposition of such stock or shares shall be treated in the same manner as other gains or losses under the provisions of section 202.

Mr. PENROSE. I ask that that amendment may be rejected.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. REED. Are we disagreeing to the matter which is in italics in subdivision (c) of the amendment which has just been rejected? I merely ask the question in order that we may get the record straight.

Mr. PENROSE. The amendment is to strike out and insert.

Mr. REED. Then the text as it came from the other House remains and the new matter reported here by the committee is rejected?

Mr. PENROSE. That is correct.

The PRESIDENT pro tempore. The effect of the action of the Senate is to reject the committee amendment and the House text remains.

Mr. REED. Very well.

The next amendment passed over was, on page 8, after line 13, to strike out lines 14 and 15, as follows:

(b) Subdivision (c) of section 201 of the revenue act of 1918 is repealed, to take effect January 1, 1922.

The PRESIDENT pro tempore. The question is on agreeing to the amendment just stated.

Mr. LODGE. What has become of the amendment which was to be offered by the Senator from Pennsylvania before the period and after the word "distributed," on line 18, page 7, to insert a comma and certain words?

Mr. KELLOGG. That has not yet been reached.

Mr. LODGE. It certainly has been reached, for we have rejected the amendment which follows.

Mr. SIMMONS. I understand that we have disagreed to the committee amendment. I had understood that there was later to be an amendment offered, but not by the committee.

Mr. LODGE. The Senator from Pennsylvania has been offering the amendments which are proposed by a majority of the committee.

Mr. SIMMONS. But he has not offered an amendment at the place indicated by the Senator.

Mr. LODGE. He has offered three or four amendments which have been adopted.

Mr. SIMMONS. But, I repeat, he has not offered an amendment on page 7, line 18. We have simply rejected the amendment which was reported by the committee.

Mr. LODGE. We disagreed to the committee amendments on page 7, in line 15, and on page 7, from line 19, to line 8, on page 8. Then on page 7, line 18, after the word "distributed," the Senator from Pennsylvania has an amendment to offer which has not yet been proposed.

Mr. SIMMONS. The Senate has voted down the committee amendment on page 7, beginning at line 19 and going down to the end of line 23, and also the committee amendment beginning in line 24, on page 7, and going down to line 8, on page 8, so that we have simply by our action restored the House provision.

Mr. LODGE. We have. Now, the Senator from Pennsylvania offers an amendment, according to the printed pamphlet which I have, to come in after the word "distributed," on page 7, line 18, which reads—

but shall be applied against and reduce the basis provided in section 202 for the purpose of ascertaining the gain derived or the loss sustained from the sale or other disposition of the stock or shares by the distributee.

Mr. SIMMONS. I make the point that that amendment is not now in order.

Mr. PENROSE. Why not?

Mr. SIMMONS. That is an amendment to the House text, and is not offered by the committee. We have not finished the committee amendments.

Mr. PENROSE. It is not offered by the committee, but is offered by the majority of the committee; and the bill is open, as I understand, to the consideration of committee amendments and amendments submitted by the majority of the committee.

Mr. SIMMONS. An amendment submitted by the majority of the committee is not a committee amendment, and therefore has no priority over any other amendment offered by any Senator in this body.

The PRESIDENT pro tempore. Under the order already made proposed amendments to the text of the House bill offered by individual Senators are not in order.

Mr. SIMMONS. That is the point I make. I will not object, however, if the Senator desires to offer the amendment now.

Mr. PENROSE. I offer the amendment because I think it is in order.

Mr. SIMMONS. I am sure it is not in order.

Mr. PENROSE. Then, if there be no objection, I will offer the amendment.

The PRESIDENT pro tempore. The Secretary will state the amendment offered by the Senator from Pennsylvania.

The ASSISTANT SECRETARY. On page 7, line 18, after the word "distributed" it is proposed to strike out the period and insert a comma and the following words:

but shall be applied against and reduce the basis provided in section 202 for the purpose of ascertaining the gain derived or the loss sustained from the sale or other disposition of the stock or shares by the distributee.

Mr. KELLOGG. Mr. President, I hope the Senate will disagree to the amendment. I simply desire to say a few words to explain what it means. As the bill now stands——

Mr. REED. If the Senator will pardon me has the amendment he has just offered been printed?

Mr. KELLOGG. The amendment has been offered by the Senator from Pennsylvania and is printed on the sheet which I have.

Mr. LODGE. It is a proposed amendment to the House text.

Mr. KELLOGG. It is marked No. 1 in the pamphlet headed "Proposed amendments."

Mr. President, as the law now stands and as the bill now stands in the Senate, which retains the House provision, it is not proposed to tax any earnings which were made before the constitutional amendment went into effect on March 1, 1913, whenever they were distributed. The Senate committee amendment which has just been disagreed to proposed to tax such profits made prior to March 1, 1913.

The amendment now proposed would practically tax such a distribution to the stockholder who is obliged to sell his stock, but to a stockholder who is able to keep his stock there would be no tax on such distribution. I do not think we ought to go back and tax such earnings in any way, nor ought those earnings to be used to increase the tax of the unfortunate stockholder who must sell his stock. The situation would be this: If a stockholder who owned stock on March 1, 1913, should sell that stock in 1920 and make a profit on the transaction, he would have to pay a tax on the difference between the value of his stock on March 1, 1913, and what he received for it in 1920, which is proper, and there is no objection to that; but under this amendment if the stock was worth par on March 1, 1913, and he sold it for $120 in 1920 and in the meantime had received $20 dividends from earnings made away back prior to 1913, he would pay a tax on $40, including the increase in the value of his stock and the dividends which he had received from prior earnings. Of course, if he receives any dividends from accumulated earnings prior to that time it would be charged on his books as a decrease of capital and surplus, as it should be, and if it had any effect on the value of his stock it would be taken into account; but to say that because he is obliged to sell his stock the dividends which have been paid to him out of the earnings made years and years ago, when, perhaps, he was receiving no dividends at all, should be taxed I think is wrong in principle. I trust, therefore, that the amendment may be disagreed to.

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Pennsylvania.

Mr. SMOOT. Mr. President, do I understand the Senator from Minnesota to offer an amendment or is he just asking that the amendment offered by the Senator from Pennsylvania be rejected?

Mr. KELLOGG. The Senator from Pennsylvania offered an amendment, and I stated that I should like to have that amendment disagreed to; that is all.

Mr. SMOOT. Mr. President, I think the Senator from Minnesota does not desire the whole thing to be disagreed to.

Mr. KELLOGG. Certainly not. We have already disagreed to the Senate committee amendments, which restores the bill to the House bill, and I think it should be left on the House bill. Of course, I will say, if the Senator will permit me, that this amendment leaves the bill very much better than the original Senate bill. I admit that.

Mr. SMOOT. Mr. President, it was understood by the committee that unless the amendment offered by the Senator from Pennsylvania was agreed to we would insist upon the amendment just as it was reported to the Senate.

Mr. KELLOGG. I had not so understood it. I had a conference with the committee about it.

Mr. TOWNSEND. Mr. President, will the Senator please explain why the amendment offered by the Senator from Pennsylvania should be adopted?

Mr. SMOOT. Yes; I will explain that in just a few words. I think it should be adopted for this reason: It gives relief to a certain extent to men who organized a company perhaps in the eighties or nineties, and from the time of the organization up to March 1, 1913, perhaps had made 100 per cent or 1,000 per cent during those numerous years that they were in business when the income-tax law could not apply to earnings. Up to March 1, 1913, whatever the institution or corporation had was in substance capital and not gains, and you could not impose a tax upon the profits of corporations up to that time. As the Senator from Minnesota says, it is true that under the amendment offered by the Senator from Pennsylvania if the profits after March 1, 1913, were not distributed by way of dividends the tax would be imposed, but if they were distributed by way of dividends after that time the tax would not be imposed.

The amendment that was offered by the Senator from Pennsylvania will probably lose to the Treasury of the United States about $15,000,000 a year.

Mr. KELLOGG. Mr. President, will the Senator yield?

Mr. SMOOT. Yes.

Mr. KELLOGG. I should like to know how the Senator knows that, because that is the law now. We never have had any such law as this on the statute books.

Mr. SMOOT. I mean in comparison with the amendment as suggested here by the committee.

Mr. KELLOGG. There is no estimate by the committee or by the Treasury Department.

Mr. SMOOT. An estimate has been made by the Treasury Department.

Mr. KELLOGG. Not at all.

Mr. SMOOT. The Treasury Department says that if this House provision prevails, without any further amendment to it, it will result in a loss to the Treasury of the United States of $100,000,000 a year.

Mr. KELLOGG. I never heard any such statement.

Mr. SMOOT. I can get the testimony of the experts before the committee, and I think the chairman will bear me out in the statement that that was the testimony.

Mr. PENROSE. Mr. President, that statement was made very emphatically to the committee by the Treasury experts, in whom the committee has the highest confidence.

Mr. LA FOLLETTE. Mr. President, if the Senator from Utah will yield to me, I have before me Dr. Adams's testimony.

Mr. SMOOT. Yes; I yield to the Senator.

Mr. LA FOLLETTE. If the Senator would care to have it read, I will read it.

Mr. PENROSE. I wish the Senator would.

Mr. SMOOT. The Senator can read it now.

Mr. LA FOLLETTE. While this amendment was under discussion before the committee, with Dr. Adams present, he was asked to state what the loss was to the Treasury under existing law, and I think I propounded the question to him. I read from the record, page 371:

Senator LA FOLLETTE. I would like to have Dr. Adams explain what loss of revenue will be occasioned if we adopt this amendment as compared with what it would have been if we had maintained this just as it was written. I want to know whether that is another leak or not.

Dr. ADAMS. The point is you start with an enormous leak in the existing law.

Senator LA FOLLETTE. I understand that.

Dr. ADAMS. I have already proposed what seemed to me to be a fair and equitable way of stopping that leak. There is objection to that?

That objection has been made, I will interpolate here, by the Senator from Minnesota [Mr. KELLOGG], who had appeared before the committee and urged upon the committee in the presence of Dr. Adams the amendment which he would seek to have adopted here if he was successful in defeating the amendment reported by the committee.

I continue the reading:

There is objection to that?

Senator LA FOLLETTE. Yes; because it would be effective, I take it.

Dr. ADAMS. I would not like to ascribe motives, but there is very strong opposition to it. The proposed amendment does not satisfy me thoroughly—

He refers now to the amendment which the Senate committee has reported here. He says it does not satisfy him thoroughly. The amendment that did satisfy Dr. Adams as completely stopping this leak of $100,000,000 is the amendment that is printed in the bill as reported and which had been adopted by the committee. It will be found on page 7, beginning at line 24, at the bottom of the page, and running over on page 8 to and including line 8 of that page.

I dislike to interrupt the Senator from Utah.

Mr. SMOOT. Go ahead.

Mr. LA FOLLETTE. That is, in order to stop the leak which Dr. Adams says a little later in his testimony was unfair to the Government and amounted to $100,000,000 a year, he had drafted the amendment which is written in the bill here as it was reported by the committee to the Senate; but he says:

There is objection to that?

Senator LA FOLLETTE. Yes; because it would be effective, I take it.

Dr. ADAMS. I would not like to ascribe motives, but there is very strong opposition to it. The proposed amendment does not satisfy me thoroughly—

That is the one which the committee is now reporting here as a substitute for the one which the committee reported when they reported this bill to the Senate.

The proposed amendment does not satisfy me thoroughly, but it will stop 85 per cent of the present leak, I should say.

Senator LA FOLLETTE. The modified amendment you are now suggesting to meet Senator KELLOGG's statement?

Dr. ADAMS. The amendment as adopted by the Senate committee in the first instance represented my view of what was thoroughly fair to the taxpayer and thoroughly fair to the Government; in other words, the right solution. There has been the deepest sort of opposition to it. It began with the chairman of the Ways and Means Committee, at which time a similar amendment was defeated. The opposition has continued in the Senate, with men such as Senator KELLOGG and Senator UNDERWOOD deeply opposed to it. The Secretary of the Treasury, since he presented the original recommendation, has been inclined to change his mind, thinking there was something in the position of Senator KELLOGG and Senator UNDERWOOD.

Now, then, I have suggested another amendment, which, as I say, will stop—I can not describe it more accurately—85 or 90 per cent of the leak, and rather than lose the whole thing I much prefer to take the 90 per cent. That is the situation, and my judgment is that I will lose it all if I do not take the 90 per cent. If you want a frank statement of it, that is it.

Senator LA FOLLETTE. I think that is what we are entitled to, to know the effect of these amendments.

Senator REED. I do not want to interrupt Senator LA FOLLETTE, but I hope you will ask Dr. Adams to explain that situation and just how it will operate.

Senator LA FOLLETTE. Yes; I will do that.

I will read just a little further, with the permission of the Senator from Utah:

Dr. ADAMS. Let us dismiss the statute, and I will go on in plain words.

Senator DILLINGHAM. Would it not be well to read the statute and the amendment, so we will have them before us?

Dr. ADAMS. I will do that. The proposed amendment is as follows:

"Page 7, line 15, strike out the words 'may, except as provided in subsection (c),' disagree to the amendment as shown on line 15, restoring the language of the House amendment and the language of the present law.

"Page 7, line 18, insert the following after the word 'distributed.'"

Senator LA FOLLETTE. You retain subdivision (c), as I understand you?

Dr. ADAMS. No. I am coming to that later. I have stricken out all the italicized language in line 15, and I will put in the 85 per cent clause now.

Senator LA FOLLETTE. That, you think, will stop 85 per cent of the leak?

Dr. ADAMS. Yes; insert these words, after the word "distributed," on page 7, line 18:

"And shall be applied against and reduce the basis provided in section 202 for the purpose of ascertaining the gain derived or loss sustained from the sale or other disposition of the stock or shares by the distributee."

In other words, it is suggested that the distributee shall take that distribution of accrued profits into account in case he sells.

Senator LA FOLLETTE. Where is that to be inserted?

Dr. ADAMS. After the word "distributed," in line 18, page 7.

Senator SIMMONS. To take the place of what is cut out, or is it supplementary?

Dr. ADAMS. It is supplementary. It states that if the stock is subsequently sold the basis for computing the gain or loss shall be reduced by the amount of the distribution of profits accumulated before March 1, 1913.

Now, then, on page 7, lines 19 to 23, move to disagree with committee amendment by retaining paragraph (c) of the House bill. That would be to reinsert subdivision (c) there, Senator LA FOLLETTE.

On page 7, lines 24 and 25, and lines 1 to 8, on page 8, are stricken out.

Senator REED. In other words, Doctor, we take the bill as it comes to us from the House, inserting after the word "distributed," in line 18, page 7, the language which you just read?

Dr. ADAMS. Yes.

Senator LA FOLLETTE. One further question, if I may ask it.

Can you approximate the loss which has been sustained under the existing law and which you aim by the substitute (c) which you have drafted and the italicized words in line 15 to save to the Government?

After I have read this paragraph I shall not further interrupt the Senator from Utah:

Dr. ADAMS. Senator, I really do not know how it could be done. If I thought over it a long while, I might be able to give you some approximation. At this time I shall have to answer the question in rather general terms.

There is, in the case of the mining companies and lumber companies, many of them close corporations, and timber companies and companies of that kind, a considerable amount of stock still held by persons who were in the company during the period while surplus was being accumulated prior to March 1, 1913. There is a considerable amount of stock owned now by people who have inherited it, or have bought into such companies, who have bought in later and whose cost basis is likely to be quite high. They paid a good price for their stock. So that when the surplus accumulated prior to March 1, 1913, is distributed it is not likely to give them a taxable gain, because their cost basis is so high they would not get into the taxable gain class.

The first class mentioned, people who bought in early at a low price, would pay tax on their gain, under the amendment as I originally recommended it and as it was originally adopted. I think this is a class of real size and consequence. I do not think it is a matter of extraordinary size and consequence. My best guess now would be that the proposed amendment, what is represented by the 15 per cent not covered, would probably mean at most $15,000,000 a year. The 100 per cent leak would amount to possibly $100,000,000 a year, and I am trying to save 85 per cent of that.

I thank the Senator.

Mr. SMOOT. Mr. President, it was upon that statement of Dr. Adams that the committee acted; and when the amendment offered by the Senator from Pennsylvania is agreed to, if it is agreed to—and I have no doubt that it will be—it will give relief in certain cases to the extent of about $15,000,000 a year.

If we leave it the way it is now, there would be relief to the extent of $100,000,000 a year, as estimated by Dr. Adams. If this amendment of the Senator is agreed to, of course paragraph (c), on page 7, down to and including line 8 on page 8, will be disagreed to, and then it will be the bill as it passed the House with the amendment offered by the Senator from Pennsylvania.

Mr. PENROSE. It has been disagreed to.

Mr. SMOOT. This has not been agreed to.

Mr. PENROSE. No.

Mr. SMOOT. With the amendment offered by the Senator from Pennsylvania as a measure of relief for the conditions existing under present law, it will be the bill as it passed the House. That is the whole matter in a nutshell.

Mr. BROUSSARD. Mr. President, may I inquire of the Senator from Utah whether or not the language in this amendment offered by the Senator from Pennsylvania will in any manner reach back of March 1, 1913?

Mr. SMOOT. It will on distributed dividends.

Mr. BROUSSARD. Are there any exceptions to the application of this law?

Mr. SMOOT. Only in case a man sells his stock. If he sells it, then it is counted in against his capital stock as of March 1, 1913.

Mr. BROUSSARD. Suppose that stock was sold last year, and the purchaser of the stock paid book value for it. Do you propose to tax him when the dividends are distributed?

Mr. SMOOT. Do you mean the purchaser purchased it at book value?

Mr. BROUSSARD. Yes. Suppose a man bought stock last year for $500 a share, and it was worth $400 on March 1, 1913. To illustrate better, let us say it was worth $500 on March 1, 1913, but since that time they have distributed all the earnings. In what position would that owner of the stock who acquired it last year be under this provision?

Mr. SMOOT. Did I understand the Senator to say that the book value on March 1, 1913, was $500?

Mr. BROUSSARD. Yes. It is now worth $500, and the company wants to distribute $400.

Mr. SMOOT. What did he pay for the stock?

Mr. BROUSSARD. Suppose he paid $500 for it.

Mr. SMOOT. And there has been no increase?

Mr. BROUSSARD. No increase.

Mr. SMOOT. He would not pay any tax.

Mr. BROUSSARD. In what case would he pay a tax? That is what I am trying to find out.

Mr. SMOOT. For instance, suppose there was a dividend of $200 declared.

Mr. TOWNSEND. When?

Mr. SMOOT. After March 1, 1913; and suppose the book value of the stock, or the market value, was $500, and he received the $200 after March 1, 1913. That was tax free because of the fact that it was a part of what he had paid for his stock. Then he sells that same stock for $500. He has only, then, a credit of $300, and must pay the tax upon the $200 that he has received in dividends. In other words, all he would be taxed upon would be the amount he received over and above the book value of the stock on March 1, 1913.

Mr. BROUSSARD. Then, how could this corporation pay the $200——

Mr. SMOOT. If it does not do that, then there is no tax.

Mr. BROUSSARD. The Senator did not let me finish. How could this corporation pay $200 and then meet the requirements of the existing law and still the stock be worth $500, and be liable to a tax for that which first was exempt, and which under the law, taking $500 as in my illustration, there would be nothing to pay on?

Mr. SMOOT. I think there are cases of that kind, where there is a sudden rise, in the case of timberlands, or oil wells, or mining companies, where the stock, after the dividend has been paid out of the original $500 value, has increased until the stock itself is worth $500 again.

Mr. BROUSSARD. If it has increased since March 1, 1913, a yearly settlement has been made.

Mr. SMOOT. But the owner was not taxed upon the $200 which he received as a dividend that was paid before March 1, 1913. He paid no tax upon that. But in the meantime, after March 1, 1913, his property has advanced until it is worth as much as he paid for it before the dividend was declared. All this provides is that he has to pay on the amount over and above the value of the stock March 1, 1913, only upon the gains that occurred after March 1, 1913.

Mr. BROUSSARD. Suppose this party does not sell his stock, would he be liable to any tax?

Mr. SMOOT. Then he is not taxed. That is the only real circumstance that anyone could possibly criticize.

Mr. BROUSSARD. I do not see, even when the stock is transferred, that there is any equity in the Government going back of March 1, 1913, in any case, but if you are going to make a distinction it seems to me this one you are makng is a most inequitable one, for this reason, that the man who holds stock in this corporation has had a reasonable dividend, we will assume, and the surplus has been reinvested, and you are permitting this man to go free; his original investment is $100 and he has received a reasonable dividend yearly on the stock; but the man who bought the stock last year, say for $500, has had to put up this $400 which the other man has had accrued to his credit simply by permitting his $100 to remain there. You exempt this man and the other fellow is not exempt.

Mr. SMOOT. The same criticism that is offered by the Senator now could be offered upon any profit that may be made by the company and not taxed. This does not tax the man until he receives his profit; in other words, suppose this stock, to which the Senator has referred, which has advanced in two or three years, had declined in value and was not worth as much as the value on March 1, 1913. He could sell all the stock and pay no tax whatever. But if on March 1, 1913, the stock was worth $100 a share, and a month afterwards, or two years afterwards, or five years afterwards, something happened so that the stock increased to $200, assuming that that increase occurred after March 1, 1913, if he sells his stock he must pay a tax upon the profit. If he does not sell his stock, even under ordinary conditions, he is not taxed until he realizes the profit. We are treating them all just the same, just as we are treating business generally; and I do not see how we can do anything else unless we simply leave the thing open and lose our $100,000,000.

Mr. KELLOGG. The law has always been the other way. Congress has twice determined that it would not go back of 1913 and tax profits.

Mr. SMOOT. I will say this, that there has been a question in the department as to whether they should be taxed ever since the question was first brought to the department.

Mr. KELLOGG. There has been no question in Congress.

Mr. SMOOT. That is true. The Senator is correct in his statement of the existing law; but we want an amendment to at least put that class of people, investing in that class of business, upon the same footing with the ordinary business of the United States.

Mr. SIMMONS. Mr. President, I feel so deeply that this amendment is fundamentally wrong, and that it is just one of those schemes, not intentionally proposed but sure to have the effect of taxing the undisturbed earnings acquired before 1913 and defeating the exemption from income tax which the Supreme Court has said that every business in this country is

entitled to, that I desire to discuss it. It will take me some little while to discuss the matter this afternoon, and it is only 5 minutes to 6 o'clock. I would not like to begin the discussion now unless the Senator from Pennsylvania insists upon holding the session beyond 6 o'clock. I suggest to him that it is so near 6 o'clock, the hour when I presume he intended to have the Senate adjourn, that we now adjourn, and we can take the matter up in the morning.

Mr. PENROSE. Mr. President, of course I want to accommodate the Senator from North Carolina and all other Senators, and I recognize that the hour is getting late; but why are we in session so late and with so little progress made? Simply because a lot of speeches, bottomless in character, having no relation to this bill, have consumed several hours of the afternoon, all emanating from the minority party, of which the Senator from North Carolina is one of the leaders.

Mr. SIMMONS. The Senator is very gracious in offering to accommodate me, but he never offers to accommodate me without proceeding to lecture me.

Mr. PENROSE. Mr. President, I can not but have a feeling of protest——

Mr. SIMMONS. I ask no favors. I will go on with the matter, if the Senator from Pennsylvania insists.

Mr. PENROSE. I know the Senator does not want to go on and I am not anxious to go on, but I do hope there will be some disposition on the part of the minority to curtail and, if possible, stop such performances as we witnessed this afternoon.

Mr. SIMMONS. If the Senator wants to go on, it is all right with me. I shall not make any objection to it.

Mr. PENROSE. If the Senator wants to speak——

Mr. SIMMONS. If the Senator wants to adjourn at 6 o'clock, it is nearly 6 o'clock now. If he does not want to adjourn, I will call for a quorum.

Mr. PENROSE. Then, suppose the Senator calls for a quorum.

Mr. SIMMONS. I shall do whatever the Senator desires to have done.

Mr. PENROSE. Of course, Mr. President, everyone at present in the Chamber knows that that will force an adjournment, and under the circumstances and having made this protest, I move that the Senate take a recess until 11 o'clock to-morrow.

The motion was agreed to; and (at 6 o'clock p. m.) the Senate took a recess until to-morrow, Thursday, October 13, 1921, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *October 12, 1921.*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Our Father in heaven, Thou art gracious; Thy mercy is without beginning and without end and Thy truth endureth from generation to generation. Incline our hearts with godly fear to seek Thy face and to own Thee as our Lord and our God. For Thy scepter is an everlasting scepter and Thy throne is forever and ever. Now let Thy whisper come into the secret places of every breast. Bless us with the mystery of Thy peace and clothe us with the garments sufficient unto the duties of the day, but high over all may we know that the supreme satisfaction to God is a great soul. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, one of its clerks, announced that the Senate had passed without amendment bill of the following title:

H. R. 8297. An act authorizing the Secretary of the Treasury to convey certain lands to the State of Missouri for enlargement of the State capitol grounds of that State.

ENROLLED BILLS SIGNED.

Mr. RICKETTS, from the Committee on Enrolled Bills, reported that they examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 6809. An act to extend the time for the construction of a bridge across the Rio Grande, within or near the city limits of El Paso, Tex.; and

H. R. 8209. An act to extend the time for the construction of a bridge across the Cumberland River in Montgomery County, Tenn.

CALENDAR WEDNESDAY.

The SPEAKER. To-day is Calendar Wednesday. The Clerk will call the list of committees.

When the Committee on Naval Affairs was called,

Mr. BUTLER. Mr. Speaker, with the permission of the House we will ask to pass the privilege we have to-day of calling up a bill on the calendar and have been so instructed by the committee.

When the Committee on the Post Office and Post Roads was called,

OFFENSES AGAINST THE POSTAL SERVICE.

Mr. STEENERSON. Mr. Speaker, I call up the bill (H. R. 6508) to amend sections 213 and 215 of the Criminal Code.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 6508) to amend sections 213 and 215, act of March 4, 1909 (Criminal Code), relating to offenses against the Postal Service, and sections 3929 and 4041, Revised Statutes, relating to the exclusion of fraudulent devices and lottery paraphernalia from the mails.

Be it enacted, etc., That section 213, act of March 4, 1909 (Criminal Code), is hereby amended to read as follows:

"SEC. 213. No letter, package, postal card, or circular concerning any lottery, gift enterprise, or scheme of any kind offering prizes dependent in whole or in part upon lot or chance, or concerning any article, device, or thing designed or intended for the conduct of such lottery, gift enterprise, or scheme; and no lottery ticket or part thereof, or paper, certificate, or instrument purporting to be or to represent a ticket, chance, share, or interest in or dependent upon the event of a lottery, gift enterprise, or scheme of any kind offering prizes dependent in whole or in part upon lot or chance; and no article, device, or thing designed or intended for the conduct of such lottery, gift enterprise, or scheme, or matter relating thereto; and no check, draft, bill, money, postal note, or money order, for the purchase of any ticket or part thereof, or of any share or chance in any such lottery, gift enterprise, or scheme; and no newspaper, circular, pamphlet, or publication of any kind containing any advertisement of any lottery, gift enterprise, or scheme of any kind offering prizes dependent in whole or in part upon lot or chance, or containing any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes, or containing any advertisement of any article, device, or thing designed or intended for the conduct of such lottery, gift enterprise, or scheme, shall be deposited in or carried by the mails of the United States or be delivered by any postmaster or letter carrier. Whoever shall knowingly deposit or cause to be deposited, or shall knowingly send or cause to be sent, anything to be conveyed or delivered by mail in violation of the provisions of this section, or shall knowingly deliver or cause to be delivered by mail anything herein forbidden to be carried by mail, shall be fined not more than $1,000, or imprisoned not more than two years, or both; and for any subsequent offense shall be imprisoned not more than five years. Any person violating any provision of this section may be tried and punished either in the district in which the unlawful matter or publication was mailed, or to which it was carried by mail for delivery according to the direction thereon, or in which it was caused to be delivered by mail to the person to whom it was addressed."

SEC. 2. That section 215, act of March 4, 1909 (Criminal Code), is hereby amended to read as follows:

"SEC. 215. Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, bank note, paper money, or any obligation or security of the United States, or of any State, Territory, municipality, company, corporation, or person, or anything represented to be or intimated or held out to be such counterfeit or spurious article, or to sell, dispose of, loan, distribute, supply, or furnish or procure for unlawful use any unfair, dishonest, or cheating gambling article, device, or thing, or any scheme or artifice to obtain money by or through correspondence, by what is commonly called the 'sawdust swindle,' or 'counterfeit-money fraud,' or by dealing or pretending to deal in what is commonly called 'green articles,' 'green coin,' 'green goods,' 'bills,' 'paper goods,' 'spurious Treasury notes,' 'United States goods,' 'green cigars,' or any other names or terms intended to be understood as relating to such counterfeit or spurious articles, shall, for the purpose of executing such scheme or artifice, or attempting so to do, place, or cause to be placed, any letter, postal card, package, writing, circular, pamphlet, or advertisement, whether addressed to any person residing within or outside the United States, in any post office, or station thereof, or street or other letter box of the United States, or authorized depository for mail matter, to be sent or delivered by the post-office establishment of the United States, or shall take or receive any such therefrom, whether mailed within or without the United States, or shall knowingly cause to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such letter, postal card, package, writing, circular, pamphlet, or advertisement, shall be fined not more than $1,000, or imprisoned not more than five years, or both.

"All matter the deposit of which in the mails is by this section made punishable is hereby declared nonmailable."

SEC. 3. That section 3929, Revised Statutes, is hereby amended to read as follows:

"SEC. 3929. That the Postmaster General may, upon evidence satisfactory to him that any person or company is engaged in conducting any lottery, gift enterprise, or scheme of any kind offering prizes dependent in whole or in part upon lot or chance, or that any person or company is conducting any scheme or device for obtaining money or property of any kind through the mails by means of false or fraudulent pretenses, representations, or promises, or that any person or company is selling, offering for sale, or sending through the mails any article, device, or thing designed or intended for the conduct of a lottery, gift enterprise, or scheme of any kind offering prizes dependent in whole or in part upon lot or chance, or any unfair, dishonest, or cheating gambling article, device, or thing, instruct postmasters at any post office at which letters or other matter arrive directed to any such person or company, or to the agent or representative of any such person or company, whether such agent or representative is acting as an

individual or as a firm, bank, corporation, or association of any kind, to return all such letters or other matter to the postmaster at the office at which they were originally mailed, with the word 'Fraudulent' plainly written or stamped upon the outside thereof, and all such letters so returned to such postmasters shall be by them returned to the writers thereof, under such regulations as the Postmaster General may prescribe. But nothing contained in this section shall be so construed as to authorize any postmaster or other person to open any letter not addressed to himself. The public advertisement by such person or company so conducting such lottery, gift enterprise, scheme, or device, that remittances for the same may be made by letters to any other person, firm, bank, corporation, or association named therein shall be held to be prima facie evidence of the existence of said agency by all the parties named therein; but the Postmaster General shall not be precluded from ascertaining the existence of such agency in any other legal way satisfactory to himself."

SEC. 4. That section 4041, Revised Statutes, is hereby amended to read as follows:

"SEC. 4041. The Postmaster General may, upon evidence satisfactory to him that any person or company is engaged in conducting any lottery, gift enterprise, or scheme of any kind offering prizes dependent in whole or in part upon lot or chance, or that any person or company is conducting any scheme for obtaining money or property of any kind through the mails by means of false or fraudulent pretenses, representations, or promises, or that any person or company is selling, offering for sale, or sending through the mails any article, device, or thing designed or intended for the conduct of a lottery, gift enterprise, or scheme of any kind offering prizes dependent in whole or in part upon lot or chance, or any unfair, dishonest, or cheating gambling article, device, or thing, forbid the payment by any postmaster to said person or company of any postal money orders drawn to his or its order, or in his or its favor, or to the agent of any such person or company, whether such agent is acting as an individual or as a firm, bank, corporation, or association of any kind, and may provide by regulation for the return to the remitters of the sums named in such money orders. But this shall not authorize any person to open any letter not addressed to himself. The public advertisement by such person or company so conducting any such lottery, gift enterprise, scheme, or device that remittances for the same may be made by means of postal money orders to any other person, firm, bank, corporation, or association named therein shall be held to be prima facie evidence of the existence of said agency by all the parties named therein; but the Postmaster General shall not be precluded from ascertaining the existence of such agency in any other legal way."

Mr. STEENERSON. Mr. Speaker, this amends three or four sections of the penal code in regard to fraud in the mails. The provisions were originally in four separate bills which originated in the Post Office Department, and I had them referred to a subcommittee and they, after holding hearings and considering the matter, consolidated them into one bill which is the bill now before you, and inasmuch as the gentleman from Iowa [Mr. RAMSEYER] was chairman of the subcommittee and has given the matter special attention, I will yield 30 minutes to the gentleman from Iowa.

Mr. RAMSEYER. Mr. Speaker, as the gentleman from Minnesota, the chairman of this committee, has already indicated to you, these amendments proposed to four sections, two to the criminal code and two to the Revised Statutes, were originally proposed in four separate bills. Those four bills were referred to the Subcommittee on Postal Offenses, of which I happen to be chairman. The other members are the gentleman from Missouri [Mr. PATTERSON] and the gentleman from Texas [Mr. PARRISH]. It was deemed advisable in order to expedite matters to consolidate them, and therefore the bill is before you with four amendments proposed in one bill. The Post Office Department under the last administration recommended the amendments in this bill. The Postmaster General now in office also recommends the passage of the amendments in the bill. There is not much to be said for this bill, except to explain the effect of the amendments. I call the attention of gentlemen who are interested in this bill to the report filed in connection with the bill which explains it, and on pages 2 and 3 the sections are set out, and in the report are clearly indicated the proposed changes.

The words that are left out from the original sections are crossed out by lines, and the words that are proposed to be added to the existing sections are shown in italics, so that by reading over the report on pages 2 and 3 Members can get exactly the changes that are proposed to existing law. As I proceed I shall indicate where the changes will appear in the bill H. R. 6508 and give you the reasons why the Post Office Department, both under the last administration and under this, are asking for these changes. Section 213 of the Criminal Code, section 1 of the bill, is known as the lottery section, making it a violation of law to use the mails to conduct lotteries, and so forth. The conduct of lottery enterprises has been in violation of the law for many years. On page 1 of the bill, beginning with line 8, the second word "or," the first change in the law appears by adding these words, "or concerning any article, device, or thing designed or intended for the conduct of such lottery, gift enterprise, or scheme." At the present time any person undertaking to conduct a lottery through the mails and using the mails for that purpose either in the conduct of the lottery or in advertising the lottery, violates the postal law, this section of the Criminal Code. Now, what is proposed by the amendment is this: That the concerns that are manufacturing the schemes for conducting these lotteries and gift enterprises should also come under the inhibition of the law. For instance, now, the concerns which manufacture the scheme to conduct the lotteries can advertise those schemes, can send those schemes through the mails without violating the law, but as soon as a person who buys them gets those schemes, sets them up, conducts the lottery, he at once violates the law, and in order better to enforce the law against the lottery enterprises it is proposed to bring in the persons, companies, and corporations that are engaged in manufacturing these schemes, like punch boards, raffle boards, and other things along that line, and make it punishable for them to use the mails for that purpose. Now, that is the substance of the change proposed in section 1.

Mr. RAKER. Will the gentleman yield right there?

Mr. RAMSEYER. I will.

Mr. RAKER. I see in the amendment the following words, "gift enterprise." Now, does that mean where a concern publishes and advertises that anyone purchasing a certain amount of goods from that store will be given a certain amount of credit or value in other articles purchased?

Mr. RAMSEYER. I do not think so. The gentleman must read the proposed addition to the section in connection with the first part of the section.

It says:

No letter, package, postal card, or circular concerning any lottery, gift enterprise, or scheme of any kind offering prizes dependent in whole or in part upon lot or chance.

Now, that "dependent in whole or in part upon lot or chance" is the thing that determines whether it is a gift enterprise or lottery in violation of law.

Mr. RAKER. And it says:

or concerning any article, device, or thing designed or intended for the conduct of such lottery.

Mr. RAMSEYER. Such lottery.

Mr. RAKER. Such lottery, such gift enterprise, or scheme. Now, go back to the qualifying phrase there of "dependent in whole or part upon lot or chance." Suppose a man buys a certain amount of goods and gets a ticket; by dropping that ticket in the wheel, if the ticket comes out, he gets a prize. Does this bill include that kind of a scheme?

Mr. RAMSEYER. That is prohibited by the law now.

Mr. RAKER. Since when?

Mr. RAMSEYER. For years.

Mr. RAKER. Then, how does it happen that all these stores have been running these kinds of schemes?

Mr. RAMSEYER. Because the law has not been enforced. The gentleman doubtless found when he first came to Washington they had all kinds of punch boards and other kinds of schemes running in violation of law, and without changing the law the prosecuting attorney a few years ago put them all out of business. He simply enforced existing law. There is no change proposed in existing law along that line.

Mr. STAFFORD. Will the gentleman yield?

Mr. RAMSEYER. Yes, sir.

Mr. STAFFORD. Does the gentleman intend during the course of his remarks to explain the import of the first amendment of the committee, striking out the word "similar" found in line 6, page 1, before the word "scheme," and inserting in lieu thereof the words "of any kind"?

Mr. RAMSEYER. That makes the language uniform throughout the section. Lower down in the section, instead of "similar schemes," the words "schemes of any kind" are used in existing law.

Mr. STAFFORD. If the gentleman will permit, nowhere in existing law do you find the language "schemes of any kind." In the existing law the word is a word of limitation, describing similar schemes relating to lottery and gift enterprises. Now, you propose a phrase of much broader scope, making it a "scheme of any kind." I wish to direct the serious attention of the House to this fact, that this amendment would exclude from the mails letters sent by women's clubs, sent by any woman, where there might be some chance prizes in a game of bridge.

Certainly the Committee on the Post Office and Post Roads does not intend to exclude the sending through the mails of a notice of a meeting where women would congregate and some little prizes will be distributed, and yet the language of the committee would cover that very instance. And, more than that, there are men's social clubs also where they offer prizes.

Mr. BLANTON. They are less important.

Mr. STAFFORD. As the gentleman from Texas says, they are less important; now that women have full rights men's clubs are put under a cloud. They are not in the limelight

as they used to be, and particularly since they do not get any wet goods.

Mr. RAMSEYER. If the gentleman will pause right there, I will call his attention to existing law where that phraseology is used. There is absolutely no purpose on the part of the Post Office Department to ask that change in line 6, page 1, except to make it uniform with other language in the same section. I call the attention of the gentleman to page 2, line 13. That is existing law. That says:

Or scheme of any kind offering prizes dependent in whole or in part upon lot or chance.

Mr. STAFFORD. I call the gentleman's attention, however, to the language in line 4, which reads "scheme of any kind," where the word is now "similar."

Mr. RAMSEYER. Those two changes are proposed in order to make the language uniform with the language further down in the section of existing law. Mind you, now——

Mr. STAFFORD. I do not wish to take up too much of the gentleman's time.

Mr. RAMSEYER. Now, it ought to be uniform. Either we ought to change it—that is, in the two places the gentleman from Wisconsin indicated—from the words "similar schemes" to the words "scheme of any kind," or further down—that is, on page 2, line 13—you ought to change that to "similar schemes" and cut out "of any kind."

Mr. STAFFORD. I think the word "similar" should be retained, because I know of cases where the Post Office Department has sought to restrain the use of the mails where prizes were offered in games of cards. I do not know whether this House is willing to go to that extreme of forbidding the use of mails where there happen to be some prizes offered in a game of cards, and yet I know where the Post Office Department has attempted to prevent that practice, and under the suggested phraseology of the amendment of the committee that practice would be forbidden.

Mr. RAMSEYER. That is, the offering of prizes dependent in whole or in part upon lot or chance, whether conducted by women's clubs or men's clubs, is prohibited by law right now.

Mr. STAFFORD. Does the gentleman mean to say it is prohibited by law now to send letters through the mail where prizes will be awarded as the result of games of cards?

Mr. RAMSEYER. If it is not a lottery scheme, no. The department is not attempting to reach conditions where prizes are offered but not based upon lot or chance.

Mr. SINNOTT. Will the gentleman yield?

Mr. RAMSEYER. I will.

Mr. SINNOTT. I notice this bill proposes to amend certain sections of the Criminal Code.

Mr. RAMSEYER. Yes, sir.

Mr. SINNOTT. Has the committee taken into consideration the effect of those amendments upon any pending cases, charges, or indictments, as to whether or not this amendment may release any of the persons charged under indictment?

Mr. RAMSEYER. It could not release, because the amendments proposed extend and expand the law. It does not reduce existing offenses, but it adds to them by prohibiting the use of mails to advertisements and sending through the mails of lottery schemes.

Mr. SINNOTT. There is no change in the penalty, then?

Mr. RAMSEYER. No.

Mr. SINNOTT. It is not necessary to have a saving clause?

Mr. RAMSEYER. Absolutely none.

Mr. BLANTON. Mr. Speaker, will the gentleman yield?

Mr. RAMSEYER. Let me explain further this section, and then I will yield. In section 1 of the bill, being section 213 of the Criminal Code, is further added to existing law on page 2, line 5, beginning with the word "and" and reading "no article, device, or thing designed or intended for the conduct of such lottery, gift enterprise, or scheme, or matter relating thereto," and then similar language used in line 17, beginning with the second word "or," and all of lines 18 and 19, which makes it a violation of law to advertise those matters through the mail.

Mr. BLANTON. Now, will the gentleman yield?

Mr. RAMSEYER. Yes; I do.

Mr. BLANTON. The gentleman called the attention of the staid and dignified and nonsporting gentleman from California to the fact that since he had been in Congress various gift enterprises had been done away with, even unto the present law. Down in Ranger, Tex., the editor of the Ranger Times had a complaint filed against him for giving away a few hundred dollars in prizes in a so-called lottery scheme. Under the present antilottery law what is there that makes it an offense in Ranger, Tex., and yet permits a $40,000 lottery to be carried on here by the Washington Post every day? What is the use of having further laws if the present laws that we have now are not enforced in the United States Capital?

Mr. RAMSEYER. I do not know to what the gentleman refers.

Mr. BLANTON. Well, the Washington Post is giving away $40,000 worth of prizes right now through a lottery scheme, and its papers go through the mails. The Washington Times is giving away $10,000 in cash in prizes right now in a lottery scheme, and these papers go through the mails.

Mr. RAMSEYER. You must read the section of existing law.

Mr. BLANTON. I know that a section of existing law does prohibit that, and yet it is carried on here every day.

Mr. RAMSEYER. We are not here concerned with the enforcement of the law. We are concerned with the making of laws. It is the enforcement officers that ought to enforce the law. I have not followed the gift enterprises in which these papers give things away, so that I can not pass judgment on the question as to whether or not they are violating existing law.

Mr. BLANTON. And yet the gentleman knows that it is futile for Congress to waste its time in passing laws when the primary object of passing laws is to have law enforcement, when there is no enforcement here in the District of Columbia in this regard.

Mr. RAMSEYER. Certainly; and the Post Office Department is very vigilant in the enforcement of the law. On the average there are as many as 2,000 cases under this section in a year.

Mr. BLANTON. I am of the opinion that there are more laws winked at in Washington than in any other part of the country.

Mr. RAMSEYER. This is not for Washington alone. If anybody in Washington violates the law that is now in effect, of course he ought to be punished.

Mr. SMITH of Idaho. The gentleman from Iowa might suggest to the gentleman from Texas that he go down and interview the United States district attorney for the District of Columbia in relation to the violation of the laws.

Mr. BLANTON. Well, this is in the nature of an interview that I am having with him through the RECORD at long distance.

Mr. RAMSEYER. The district attorney should enforce any law that is being violated.

Mr. WALSH. Mr. Chairman, I would like to ask the gentleman a question. I did not hear the gentleman's opening statement in the beginning. Does the Postmaster General ask for this legislation?

Mr. RAMSEYER. Yes.

Mr. WALSH. How has he done it—by hearing or by letter?

Mr. RAMSEYER. Well, by both. First he sent the proposed amendment to the chairman of the committee and asked him to introduce it, and when the bill was put into its present form it was again submitted to him, and I have a letter here from him in which he indorses this bill.

Mr. WALSH. I did not see anything in the report by way of letter. Does he state why these changes should be made in the law?

Mr. RAMSEYER. Both he and also his predecessor state the reasons. I will be very glad to give the gentlemen here a letter from the solicitor.

Mr. WALSH. If the gentleman is going to put it in the RECORD, I will not ask him to have it read now.

Mr. RAMSEYER. I do not care to encumber the RECORD with this.

Mr. WALSH. I was just interested to know how this legislation got started, what the necessity for it was, and why it did not go a little further.

Mr. RAMSEYER. The necessity for it is this: The gentleman well knows that all kinds of lotteries and gift enterprises depending upon lot and chance are now in violation of the law—that is, the use of the mails for that purpose. Now there are persons engaged in the business of making the paraphernalia to conduct lotteries. They advertise these paraphernalia, and many innocent people read these advertisements, merchants, and so on, and, thinking it is a good thing to enhance their business, they become interested in these schemes. They are sent through the mail, and it is not now any violation of the law to advertise those schemes through the mails or to send them through the mails. But the minute those schemes get into the hands of the merchant and are set up, he violates not only the postal laws—that is, if he advertises it in the papers or through the mails—but he violates other statutes. In every State of the Union there are statutes now prohibiting lotteries of this kind, and in order to protect these innocent merchants—because the Post Office Department people claim that fellows of that kind are among the violators of the law and are induced to get these things from the manufacturer who advertises them, whose advertisements are carried through

the mail—the present statute ought to be amended. These innocent people who get these things from the manufacturers think that because they go through the mail and are carried in the papers as advertisements they are not in violation of the law.

Mr. WALSH. Does the law now prohibit the sending of information relative to lotteries through the mail?

Mr. RAMSEYER. Not lottery schemes.

Mr. WALSH. Does this bill do it?

Mr. RAMSEYER. Yes; if it in any way advertises lottery schemes.

Mr. WALSH. After the lottery has taken place?

Mr. RAMSEYER. After the lottery has started, the existing law prohibits the sending of any kind of information through the mail, even the result of the drawings from day to day.

Mr. WALSH. What is the difference, as far as the mail is concerned, between sending advertisments concerning lotteries or the sale of paraphernalia or equipment and the information relative to the lottery, and its result, and sending through the mail advance information of tickets, certificates, or slips, or whatever else they may use, for the purpose of placing bets or wagers on horse racing and the result of the races? That is a gambling scheme.

Mr. RAMSEYER. Those schemes if mailed are in violation of law if they offer prizes dependent in whole or in part upon lot or chance.

Mr. WALSH. Is the racing column in the Washington Post every morning, telling you how to place your money on the races, a violation of law?

Mr. RAMSEYER. I have not examined it.

Mr. BLANTON. Was not that stopped by the so-called Tincher antigambling bill? [Laughter.]

Mr. STEENERSON. That does not take effect until the 24th of December.

Mr. RAMSEYER. The gentleman from Massachusetts is a good lawyer and can construe existing law as well as the gentleman who now happens to have the floor. The existing law is:

No letter, package, postal card, or circular concerning any lottery enterprise or similar scheme offering prizes dependent in whole or in part upon lot or chance.

Many hypothetical cases might be brought up, and the gentleman can form his own hypothetical case and apply the law to it. The thing that concerns us to-day is the effect of the amendment asked for by the Post Office Department. Now, in addition to making a violation of the law, the language I have just read—lines 5, 6, 7, and 8 down to the word "chance"—the amendment proposes to add to the existing law the words:

Or concerning any article, device, or thing designed or intended for the conduct of such lottery, gift enterprise, or scheme.

Mr. WALSH. The gentleman from Oklahoma is now present; and I would like to ask if this includes beauty contests. [Laughter.]

Mr. HERRICK. I will say to the gentleman from Massachusetts that those things will be taken up in their proper order. [Laughter.]

Mr. WALSH. This does not include newspapers?

Mr. RAMSEYER. Yes; farther down you will see that it includes advertisements.

Mr. WALSH. Advertisements; but it does not include newspapers.

Mr. RAMSEYER. I think it is covered on page 2, lines 11 to 14:

And no newspaper, circular, pamphlet, or publication of any kind containing any advertisement or any lottery, gift enterprise, or scheme of any kind offering prizes dependent in whole or in part upon lot or chance.

I think everything is covered.

Mr. WALSH. It would have to be an advertisement in a newspaper in order to be excluded. Why should not a news item not in the way of an advertisement be inhibited?

Mr. RAMSEYER. The gentleman will see that, on page 2, beginning on line 11, this language is used: "and no check, draft, bill, money, postal note, or money order for the purchase of any ticket or part thereof, or any share in any such lottery, gift enterprise, or scheme." I think it covers nearly everything conceivable.

Mr. STAFFORD. Will the gentleman yield?

Mr. RAMSEYER. Yes.

Mr. STAFFORD. I want to call the attention of the gentleman to the fact when he said that the clause limiting the word "scheme" in existing law, as found on line 13, page 2, "or scheme of any kind," merely refers to the exclusion of newspaper advertisement; it did not apply to letters to which I am directing the gentleman's attention, letters which will be inhibited by the change in the first part of section 213.

Mr. RAMSEYER. Let me make it plain to the gentleman from Wisconsin that the things prohibited are lotteries, gift enterprises, or schemes of any kind offering prizes dependent in whole or in part upon lot or chance.

Mr. STAFFORD. In a game of cards where they offer prizes the officials of the department, not being card players, say it is dependent on chance, and they forbid sending such letters through the mail.

Mr. RAMSEYER. That is existing law.

Mr. STAFFORD. It is not existing law.

Mr. RAMSEYER. But the gentleman says they are prohibiting sending the letters through the mails for that purpose. If they are, it is under existing law.

Mr. STAFFORD. They are attempting to, but they have no authority for it. They are trying to get the authority here surreptitiously.

Mr. RAMSEYER. I understood the gentleman to say that the department was doing it.

Mr. STAFFORD. They are attempting to do it.

Mr. RAMSEYER. The gentleman agrees that the language should be uniform in the bill, and I can not see much difference between a similar scheme and a scheme of any kind dependent upon lot or chance. The gentleman says that the games by the women who play cards and offer prizes are not dependent upon chance.

Mr. STAFFORD. But the narrow department officials do not take that view of it.

Mr. RAKER. Will the gentleman yield?

Mr. RAMSEYER. Yes.

Mr. RAKER. I see in the original law it refers to lottery, gift enterprise, or scheme of any kind. Now, you amend the first part of the section to read as the law was enforced relating to newspapers. It says lottery, gift enterprise, or scheme of any kind; what do you mean by "scheme"? Will the gentleman give an illustration as to what would be unmailable matter under that word?

Mr. RAMSEYER. If I were rewriting these sections, I might use different phraseology from what is used here; but these sections have been in force for some time and decisions made by the department and the courts are based on the language used here. There is no doubt in my mind but that the phrase "scheme of any kind or similar scheme" is intended to be broader than "lotteries" or "gift enterprise," so as to comprehend things that are not comprehended in "lotteries" or "gift enterprise." At present I can not give the gentleman a concrete illustration, as none comes to my mind. I am not an expert on various gambling schemes.

Mr. STAFFORD. The gentleman comes from Iowa.

Mr. RAMSEYER. Probably the gentleman from Milwaukee will be able to enlighten the gentleman later.

Mr. STAFFORD. I am glad to qualify as an expert on cards.

Mr. RAMSEYER. I wish now to call attention to the amendment to the next section. Section 215 of the Criminal Code is known as the fraud section, and if gentlemen will read it they will notice that it is aimed to exclude from the mails all kinds of fraudulent schemes, swindles of various kinds, counterfeit, spurious coins, counterfeited money of all kinds. The amendment proposed to this section is found on page 3, the change in existing law, beginning on line 23, with the word "or"—

or to sell, dispose of, loan, distribute, supply, or furnish or procure for unlawful use any unfair, dishonest, or cheating gambling article, device, or thing.

What the Post Office Department wants to do is to exclude by this addition to existing law, among other things, marked cards and loaded dice.

If there is to be any gambling, they want honest gambling with honest cards and dice. This does not prohibit the sending of honest gambling devices, if there be such. This aims at dishonest and cheating gambling devices.

Mr. BLANTON. Mr. Speaker, will the gentleman yield?

Mr. RAMSEYER. I yield to the distinguished gentleman from Texas.

Mr. BLANTON. In other words, a la TINCHER, they want to do away with nighttime puts and calls but still permit daylight gambling.

Mr. RAMSEYER. The gentleman from Kansas [Mr. TINCHER] is not here to take care of the thrust that the gentleman from Texas is hurling at him.

Mr. BLANTON. Oh, he is back here. He is always present.

Mr. RAMSEYER. Very well. If there are no questions in respect to section 215, I desire now to pass to section 3929 of existing law and the changes there proposed. This section empowers the Postmaster General to issue so-called fraud orders against a person conducting a lottery enterprise. Under section 3929 he can issue an order prohibiting the delivery of

mail to such a person. The amendment proposed to the section is to enlarge this power so as to prohibit the delivery of mail to persons that are engaged in the business of advertising and sending through the mail schemes for lotteries, gift enterprises, and so forth, and also to persons engaged in the business of sending through the mails these cheating gambling devices. Of course, if the amendments to sections 213 and 215 are adopted, it goes as a matter of course that section 3929 should be amended, as asked for by the Post Office Department.

Mr. HUDSPETH. Mr. Speaker, will the gentleman yield?

Mr. RAMSEYER. Yes.

Mr. HUDSPETH. I did not hear the gentleman's opening statement, but would this bill prohibit the kind of contests being now carried on by the Washington Times and the Washington Post in this city?

Mr. RAMSEYER. I have not followed those contests at all, and all I know about them I got from the headlines. How they are conducting them I do not know.

Mr. HUDSPETH. They are doing it by sending out numbers. It is a lottery. If you get the lucky number, you get so much money from the Washington Times.

Mr. RAMSEYER. These sections only seek to exclude from the mails. If the Washington Times or the Washington Post are not using the mails——

Mr. HUDSPETH. But they are sending out their papers through the mail.

Mr. RAMSEYER. Assuming that they are conducting a lottery enterprise dependent in whole or in part on lot or chance and they are not using the mail, then they are not in violation of the postal laws. If they are conducting such enterprises through the mails, then it is in violation of existing law and the amendments or additions suggested to these four sections do not cover the case referred to.

Take the last section of the bill now. In cases where a person conducts a lottery enterprise or a fraudulent scheme such as are defined in sections 213 and 215 of the Criminal Code the Postmaster General is empowered to stop the payment of money orders to such a person. The changes in that section as asked for by the Post Office Department will empower the Postmaster General not only to stop payment of the money orders which are in violation of sections 213 and 215 of existing law but also the payment of money orders to persons that conduct enterprises in violation of the proposed amendments to sections 213 and 215 of the Criminal Code.

Mr. Speaker, how much time have I used?

The SPEAKER. The gentleman has used 40 minutes.

Mr. WALSH. Mr. Speaker, will the gentleman yield?

Mr. STEENERSON. If the gentleman from Missouri [Mr. PATTERSON] is not here, I am glad to yield five minutes more to the gentleman from Iowa.

Mr. RAMSEYER. I yield to the gentleman from Massachusetts.

Mr. WALSH. Is the gentleman going to insert the letter from the Postmaster General in his remarks?

Mr. RAMSEYER. Yes.

Mr. WALSH. If not I would like to know what he has to say about these proposed changes and why he limits his request for legislation to these particular instances?

Mr. RAMSEYER. I think existing law covers every scheme that the gentleman has suggested in his queries to me. If the gentleman will look at the report——

Mr. WALSH. I have done that.

Mr. RAMSEYER. He will see that the italics show the additions to existing law, and I think everything that the gentleman has suggested—that is, if it goes through the mails—is in violation of existing law.

Mr. WALSH. What is there in the bill here that prohibits the sending through the mail of what is known as the racing sheet, which gives the odds upon races to be run to-morrow? I do not know how far these races are being run from the Capital, but they are carried on not very far away apparently, and the betting that is going on in Washington is bordering upon a public scandal.

Mr. BLANTON. And is not so very far away.

Mr. WALSH. It has assumed proportions much worse than what they were in the State of New York when the State of New York by legislation prohibited it. But a lot of this is being carried on through the mails, through newspapers, advance information. I do not know but what they send tickets or slips or whatever they use to place their wagers, or what it is that is being sent through the mails, if it is, while we are tinkering with this law and attempting to strengthen it with respect to lottery. Why not try to shut out some of these other matters which in many of the States are illegal, these contests upon which wagers are made, rather than have the Post Office Department and the mails lend encouragement to these schemes and assist them by transporting information through the mails and delivering it to people? Why not just amend the law so as to make it impossible and unlawful, not confine it to horse racing but include other matters?

Mr. RAMSEYER. Right there let me call the attention of the gentleman to this, and I will begin reading in line 10 after the semicolon on page 2, and I am wondering whether this language does not cover what the gentleman has in mind. Of course, this is existing law I am reading:

> And no newspaper, circular, pamphlet, or publication of any kind containing any advertisement of any lottery, gift enterprise, or scheme of any kind offering prizes dependent in whole or in part upon lot or chance——

Mr. WALSH. No.

Mr. RAMSEYER. Wait a minute—

> Or containing any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, or containing any advertisement of any article, device, or thing designed or intended for the conduct of such lottery, gift enterprise, or scheme.

Mr. WALSH. No; it does not. In the first place, the first part relates solely to advertising. The second part simply refers to the list of prizes or awards that have been made. Now, as I understand, the information that has been conveyed is not an advertisement. It is carried as a part of the paper's make-up—information, news; that they have a department apparently of which a man has charge who gives advance information or tips or dope, or whatever it is called in the vernacular, about a certain contest that is about to take place, and he advises people how to place their money and how much of a wager to make, and then the following day it contains as a news item the result of that contest and what the odds were, and so forth. Now, that is not comprehended in the language the gentleman has read, according to my interpretation of it.

Mr. RAMSEYER. The gentleman may be right, but would not that be a scheme of some kind offering prizes dependent wholly or in part upon lot or chance?

Mr. WALSH. Yes; it would be a scheme, but it would not be a prize that was awarded.

The SPEAKER. The time of the gentleman has again expired.

Mr. STEENERSON. Mr. Speaker, how much time have I left?

The SPEAKER. Fifteen minutes.

Mr. STEENERSON. I yield 10 minutes to the gentleman from Wisconsin [Mr. STAFFORD].

Mr. STAFFORD. Mr. Speaker, I wish to direct the attention of the House to the changes that have been made in existing law in the amendments proposed by the committee, which I directed casual attention to in the queries propounded to the gentleman from Iowa. Under existing law, and I now read section 213, there is excluded from the mails and made a crime only those letters and packages which relate to lotteries, gift enterprise, or some other similar schemes. The committee offers an amendment striking out the word "similar," which would appear before the word "scheme" in line 6, and inserting the clause, "of any kind." I wish to direct the attention of the House to the fact that the original amendment in the law was merely to forbid the sending of letters relating to a lottery or gift enterprise as such. Now, it is proposed to extend to the Post Office Department that absolute authority to exclude from the mails any letter that relates to any kind of scheme, whether it relates to a lottery or gift enterprise or not, any kind of a scheme that offers a prize dependent in whole or in part upon lot or chance. Under the proposed amendment there is no question but what it is broad enough to permit the postal authorities—and that is the question before the House, whether you wish to grant them such authority—to exclude letters that may be sent out by a woman's club informing about a meeting to be had at a certain person's home for a game of bridge. This language would permit the censor of the Post Office Department to exclude that character of letters and make it an offense. It goes further, I suppose in every district of every Member here there are social clubs; certainly in my district we have a number, where we have bowling contests around Thanksgiving and Christmas. We have those bowling contests where they award prizes, such as turkeys or geese. This would prohibit the sending through the mails of any notice by the club that there was to be a meeting of the club at which there would be prizes of turkeys or geese.

Mr. RAKER. Will the gentleman yield?

Mr. STAFFORD. Not at present; my time is limited. If I have time later I shall be glad to do so—because that would be a scheme of any kind where prizes would be offered dependent in whole or in part upon lot or chance. There are other cases where organizations of men play skat, a game of cards, a very

interesting game, which awards prizes as a result of the games played.

And the postal authorities have attempted to interfere with that practice of those organizations by the exclusion from the mail of letters notifying the members that there was going to be a meeting at a certain time where certain prizes were to be awarded to the one receiving the highest number of points. I do not believe that the Members on either side of the House believe in vesting this drastic and absolute authority in the Post Office Department to determine the police regulations of the State. When this law was originally framed it was for the purpose of correcting a national evil. One or two States permitted lotteries, and yet they were able to thrive by using the Postal Service. It became a national evil, but it was never the purpose of Congress—and I do not believe it is to-day—to grant absolute and drastic power to a censor down here in the Post Office Department to say that the mails shall not be used where the practices are lawful under the laws of the States.

Mr. RAMSEYER. I fear the gentleman does not differentiate between the schemes or games that depend upon skill and the schemes or games that depend upon lot or chance. Now, among the games that are dependent upon skill are baseball and football, and certain rewards go to the players, but those games are not prohibited by the legislation of the States.

Mr. STAFFORD. They are not prohibited to-day, but under the language proposed by the amendment of the committee such practices would be forbidden; for instance, in this language, "or scheme of any kind" and "prizes dependent in whole or in part on lot or chance."

Mr. RAMSEYER. How would you apply that to a baseball game?

Mr. STAFFORD. In the case of a game of cards—bridge, for instance—there is some chance dependent on the cards that a person receives. And the department, to my certain knowledge, has attempted to restrict the use of the mails for the purpose of sending letters to persons who are members of an association where prizes were to be awarded based upon skill in a game of cards, because, they contended, in those instances it is partly by chance also.

Mr. WALSH. Suppose this woman's club is playing poker. Does the gentleman desire to have that come within the inhibition of the law?

Mr. STAFFORD. I take the ground that we should not attempt here in the Congress to determine the legislative policy of the States. If the States prohibit it, let the State authorities reach those conditions; but it is not for us, as a national polity, to attempt to determine what shall be the internal policy and relations existing in the different localities in the States.

Mr. WALSH. The gentleman is acquainted with bridge whist——

Mr. STAFFORD. I will be very glad to accept the gentleman's statement as to the American game of poker if he thinks this reaches that game also.

Mr. RAMSEYER. If the gentleman's argument is correct, then he ought to strike out the entire section.

Mr. STAFFORD. By no means.

Mr. RAMSEYER. You argued here a while ago as to "lot or chance, whole or in part," and not only that, but "schemes of any kind"; but it refers to a gift enterprise dependent in whole or in part on lot or chance.

Mr. STAFFORD. The prime purpose of a game of cards when men get together is to spend a sociable evening. It is not a gift enterprise, and the department has been restricted by the present phraseology, "or similar schemes." But they have attempted to extend the law to games of cards. True, we have only one instance in existing law, which was called to the attention of the gentleman from Iowa, by the use of the words "of any kind." That relates, however, to newspapers. In other instances the word "similar" is used.

Mr. RAMSEYER. In two places.

Mr. STAFFORD. Where you strike out the word "similar" and substitute "of any kind," there can not be any question but that you are extending by far the original statute. It is clear to me that you are granting authority to cover practices which were never intended. Are we in the Congress going to say that men and women connected with social clubs are not going to have the right to use the mails in order to get together in an afternoon or evening in a social game where prizes are to be offered? I think the department is going too far in attempting to determine a policy of conduct for the people of the States. Let the States determine the policy.

The SPEAKER. The time of the gentleman has expired.

Mr. STEENERSON. Mr. Speaker, as I stated in the opening, the propositions contained in this bill were originally in four separate bills which originated in the Post Office Department. I introduced them separately and sent them to the department for their views. With regard to this particular part of the bill under consideration to which the gentleman from Wisconsin [Mr. STAFFORD[refers, it is contained in H. R. 2327, and the Postmaster General wrote the following in regard to it; that is, in regard to the extension of the scope of the law by striking out one word and inserting "schemes of any kind":

OFFICE OF THE POSTMASTER GENERAL,
Washington, D. C., April 29, 1921.

Hon. HALVOR STEENERSON,
Chairman Committee on the Post Offices and Post Roads,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: With reference to your letter of April 14, inclosing copy of bill H. R. 2327, to amend section 213 of the act of March 4, 1909 (Criminal Code), I wish to state that the bill broadens the statute and in my judgment is in the public interest. For that reason I wish to urge that favorable action be taken thereon.

With my kindest regards, I am,
Sincerely, yours,

WILL H. HAYS,
Postmaster General.

I mention this because the question was raised about his approval of the bill.

Mr. RAKER. Mr. Speaker, will the gentleman yield?

Mr. STEENERSON. Certainly.

Mr. RAKER. The gentleman from Wisconsin [Mr. STAFFORD] has just made an argument against the amendment because he thinks it might prohibit women's clubs from sending out notices that there will be a game in which a prize will be offered. If there is a gentlemen's club and it sent out a notice that $50 is up and the one who receives the most points would get the $50, that is against the law now, is it not?

Mr. STEENERSON. I do not know about that. I remember hearing the story of a juror who sat on a case dealing with gambling, where they were charged with gambling because of playing poker, and the judge instructed the jury that they should find the defendants guilty if it was a game of chance. The jury came in next morning and acquitted the defendants on the ground that a man who played that game had no chance. [Laughter.] So I can not say whether these card games are within the scope of this law or not.

Mr. RAKER. In other words, whether they are women or men?

Mr. STEENERSON. It does not make any difference what the sex is.

Mr. RAKER. Whether they are entitled to vote or not, men or women, or both, who enter a lottery game or a game of chance are subject to this law alike. Is that right?

Mr. STEENERSON If it is a game of lot or chance.

Mr. RAKER. In other words, there is no difference because of sex?

Mr. STEENERSON. Oh, not at all.

Mr. RAKER. And there should not be.

Mr. STEENERSON. No. I do not think that was suggested here.

Mr. RAKER. That is what I understood was referred to by the gentleman from Wisconsin [Mr STAFFORD].

Mr. STAFFORD. I was not referring to the women alone. The gentleman would have known that if he had paid attention to what I was saying.

Mr. RAKER. I was paying attention to what the gentleman said, because he is always instructive.

Mr. STEENERSON. As to this provision in relation to the stoppage of money orders for these purposes, of course, the main section having been amended by including additional things, the section stopping the delivery of money orders through the mails in connection with these acts should be amended so as to be as broad as the remainder of the section. That was contained in this bill, H. R. 3233, and the Postmaster General wrote a letter on that subject, in which the conclusion is:

For that reason I wish to urge that favorable action be taken.

I simply read it to show that this matter has originated in the department, and they have urged favorable action on the part of the committee. The same thing may be said of these others. There is a letter concerning each bill. These bills were all before the subcommittee when the bills were consolidated into one.

Mr. STAFFORD. Mr. Speaker, will the gentleman yield?

Mr. STEENERSON. Yes.

Mr. STAFFORD. The gentleman has called the attention of the House to the letter from the Postmaster General recommending the enactment of the bill H. R. 2327, which is substantially the same as section 213 of the bill?

Mr. STEENERSON. Yes.

Mr. STAFFORD. Does the Postmaster General give any reason other than the general statement that in his judgment it would be for the public interest?

Mr. STEENERSON. No; not in that letter; but he did send down the solicitor of the department, the legal officer of the department, and the hearing of the subcommittee was held in the room of the Committee on the Post Office and Post Roads, and I listened to the proceedings, and he indorsed this specifically.

Mr. STAFFORD. Did he give any reason why it was recommended by the Postmaster General?

Mr. STEENERSON. Yes. I am sorry the hearings are not printed. He cited instance after instance.

The SPEAKER. The time of the gentleman from Minnesota has expired.

Mr. STEENERSON. Mr. Speaker, I ask unanimous consent that I may proceed for five minutes more.

The SPEAKER. The gentleman from Minnesota asks unanimous consent to proceed for five minutes more. Is there objection?

There was no objection.

Mr. STEENERSON. He cited instances, but the record was not printed. I did not think it was necessary to print the whole record, and I have not got those instances in my mind. But he made it very plain that this extension of the scope of the law was in the public interest and that it would reach offenders who now escape the penalty of the law and swindle the public. I am satisfied that the fears of the gentleman from Wisconsin [Mr. STAFFORD] as to the effect of this amendment are not well grounded.

Mr. CHINDBLOM. Mr. Speaker, will the gentleman yield for a question?

Mr. STEENERSON. Yes.

Mr. CHINDBLOM. Suppose a church advertises a fair or a bazar at which money is collected by the sale of chances. I am not advocating that sort of thing, but I know that that occurs. A church sending out that kind of mail, of course, would be subject to the penalties of this law, would it not?

Mr. STEENERSON. Well, each scheme is generally framed by some person skilled in the law and they may be able to so frame it as not to come within the penalty. But if it depended upon lot or chance, it would come within the provisions of the law, of course, as originally written, without reference to this amendment.

Now I yield the floor.

Mr. PARRISH. Mr. Speaker and gentlemen of the House, I am in favor of the legislation that is presented by the committee. In fact, I was a member of the subcommittee that considered this legislation. If I were to express my own views about it, I believe I would go further than the recommendation of the department has and would cease the use of the mails to publications giving accounts of the odds laid on horse racing, prize fighting, and such gambling schemes as directly lead the young men of our Nation into gambling.

I wish to say a few words touching the bill in order that I might, if possible, throw some light on the legislation that we are considering. Section 213 of the Criminal Code prohibits the sending through the mails of all kinds of gambling devices or plans and provides a penalty for sending such through the mails. The committee has undertaken to amend this section by excluding from the mails and bringing within the inhibition laid down in the Criminal Code all kinds of gambling paraphernalia, such as slot machines, punch boards, and any other article, device, or thing designed or intended for the conduct of a lottery, gift enterprise, or scheme.

The reason for that is very obvious. For instance, in the rural sections of the country the people who sell this gambling paraphernalia go to the merchants and induce them to buy this gambling paraphernalia. The merchant buys, and because it comes through the mail he believes that he has a right to use the plan in selling merchandise. So he puts the advertisement of his plan in the country newspaper. Both the merchant and the owner of the paper feel that they are doing what is right, but the advertisement of the device in operation is prohibited by law under the statute already existing, and the country newspaper man finds that the Government denies him the right to send his paper through the mail, thus causing considerable loss and much inconvenience. The paraphernalia came to his merchant through the mail, and naturally he thought he could advertise it and send his papers through the same channels.

For example, here is one of the punch boards the sending through the mails of which is sought to be prohibited. The merchant sells the goods and sells a ticket with it, and at a set date he punches this board and a certain number awards the prize out of the large number of tickets the merchant has sold with his goods.

The amendment seeks to prohibit this device going through the mail.

Here is another scheme of practically the same kind. There are many others which the Post Office Department feels it is proper to be excluded from the mail, and this is the purpose of the amendment to section 213.

Mr. RAMSEYER. Will the gentleman yield?

Mr. PARRISH. I will.

Mr. RAMSEYER. As soon as that scheme is set up and they start to conduct the lottery or gift enterprise, it is in violation of law. All that the amendment proposes to do is to prohibit the using of the mails to get these schemes from the manufacturer to the fellow who is going to set them up and use them as a lottery or gift enterprise.

Mr. PARRISH. Yes.

Mr. WALSH. Will the gentleman yield?

Mr. PARRISH. Yes.

Mr. WALSH. What difference is there between sending that pasteboard contraption, or whatever it is manufactured of, through the mails for use in gambling, and sending newspapers or circulars through the mails devoted exclusively to stating the odds at which bids or wagers may be laid and telling where they can be made, naming the contest between horses upon which bids can be placed, and the horses that won yesterday, and how much the person won. If you are going to exclude one, why not the other?

Mr. PARRISH. I agree most heartily with the gentleman from Massachusetts, and would like to see both of them excluded from the mail. I am sorry the department did not go far enough to recommend an amendment that would exclude that kind of matter from the mail.

Mr. BLANTON. Will the gentleman yield?

Mr. PARRISH. I will yield to my colleague.

Mr. BLANTON. While my colleague was protecting people from the punching board gambling scheme which involves all of the United States, I am sorry that my colleague did not go into the question far enough to fully protect the Cape Cod cranberry farmers in Massachusetts, who seem to have been imposed upon so much lately by horse racing. [Laughter.]

Mr. PARRISH. I said in my opening statement that I would go further than the bill goes; that I would exclude the very matter which the gentleman from Massachusetts and my colleague has mentioned.

Mr. BLANTON. From the numerous inquiries made by the gentleman from Massachusetts [Mr. WALSH] I took it for granted that his Cape Cod cranberry farmers had been imposed upon to a large extent by horse racing.

Mr. PARRISH. I do not know about that.

Mr. RAKER. Does the bill prohibit sending through the mail newspaper advertisements of a lottery or chance whereby if you guess the make of a particular automobile you get a prize?

Mr. PARRISH. I do not know the extent to which existing law would go in that direction, because I have not made a study of that, but all in the world that this amendment does is to prohibit sending through the mail gambling paraphernalia such as that which is manufactured and has been sent out to the people in the different sections of the country, and by reason of the fact that they go through the mail induce the people to believe that they can operate them and advertise them in the newspapers, whereas the very moment they are put into operation and advertised in the papers the Government excludes the papers from the mail.

Mr. WALSH. Will the gentleman yield?

Mr. PARRISH. Certainly.

Mr. WALSH. I would like to state, in response to the suggestion of the gentleman's colleague, the Member from the jack-rabbit district, that the Cape Cod cranberry farmers have not been imposed upon by betting on horse racing, but they have lost a lot of money in fake oil schemes, some of them located not far from the gentleman's district. [Laughter.]

Mr. BLANTON. Mr. Chairman, I am astounded, and have been surprised all the morning, that the distinguished gentleman from Massachusetts, who knows so much about every other subject in the world, should know so little about horse racing display ignorance by which it is conducted, and that he should display ignorance of the distance that one would have to go to find where bets are made. That led me to make the remark that brought forth his "Focht" jack-rabbit reference.

Mr. PARRISH. Mr. Chairman, I would like to say further that the purpose of the amendment to section 215 is simply to stop sending through the mails loaded dice, marked cards, and other unfair, dishonest, or cheating articles, devices, or things. That is the only change that is made to section 215—section 3929 in the civil statute—and we simply amend that so as to give the Postmaster General power to issue so-called fraud orders against any company, manufacturing concern, or indi-

vidual who undertakes to send not only the things inhibited in original sections 213 and 215 but in the amended acts. In other words, if a manufacturing concern violates the original acts or amendatory acts proposed by this bill, then the Postmaster General may issue fraud orders against such concerns and close the mails against them.

Mr. VAILE. Mr. Speaker, will the gentleman yield?

Mr. PARRISH. Yes.

Mr. VAILE. Under existing law, if that punch board is sent in a package through the mail, why is it not a package concerning a lottery or gift enterprise offering prizes dependent in whole or in part upon lot or chance, in the words of the present statute?

Mr. PARRISH. The solicitor says that the courts have held that the present statute is not broad enough to cover this particular case, and it is because the courts have held that the law to which the gentleman referred is not broad enough that the department has asked that this amendment be added so as to make it broad enough to remove beyond doubt this objectionable practice.

Mr. VAILE. In making the amendment broad enough to cure the difficulty, have you not included a great many other things, such as card games, with which these gentlemen here seem to be so familiar, and church lotteries, or other enterprises?

Mr. PARRISH. I do not believe that we have extended the law with reference to cards one bit, but we have simply included this amendment so as to prohibit the sending of gambling paraphernalia without touching the other law at all.

Mr. RAKER. Mr. Speaker, will the gentleman yield?

Mr. PARRISH. Yes.

Mr. RAKER. As a matter of fact, if it is not the law to exclude the notices in newspapers or written letters respecting a lottery by a church or a game of cards by a woman's club, then those letters ought to be excluded.

Mr. PARRISH. I think the law is already broad enough to cover that, if it is an advertisement to the effect indicated. As I started to say when I yielded to the gentleman from Colorado [Mr. VAILE], section 3929 is amended so as to give the Postmaster General authority to place fraud orders against any concern that ships not only the thing prohibited by the original act but by the amended act.

Section 4041 of the civil statute is also amended so as to give the Postmaster General authority to refuse to pay post office money orders that have been purchased and sent through the mail if he learns that the money orders are to pay for the things that are prohibited by sections 213 and 215 of the criminal code, and also if he learns they are to pay for the gambling paraphernalia inhibited by the amendment to section 213, and also if they be to pay for loaded dice or marked cards or other fraudulent schemes prohibited by the amendment to section 215.

That, gentlemen, covers these amendments fully. In other words, to sum up we have simply asked to amend section 213 by cutting out of the mail gambling paraphernalia, and have amended section 215 by cutting out of the mail loaded dice and marked cards. We also ask to amend section 3929 of the civil statute by allowing the Postmaster General to issue fraud orders against all those things inhibited by sections 213 and 215 and by the two amendments proposed, and to amend section 4041 by allowing the Postmaster General authority to refuse the payment of money orders coming through the mail if they are to pay for the things inhibited by the original act in sections 213 and 215 and by amendatory act proposed here to-day. We have not undertaken to change existing law, except in the particulars suggested. I wish we had gone far enough to make it cover cases such as have been discussed here, with reference to horse racing and things of that kind.

Mr. HAMMER. Why can we not go far enough by amendment here to-day? Is there any rule requiring us to confine ourselves to the suggestions of the Postmaster General?

Mr. PARRISH. Certainly not. As far as I am concerned I have not an amendment of the character suggested prepared, and I would hesitate to offer on the floor any amendment of that kind until we had had an opportunity to analyze the effect of it and to obtain the opinion of the solicitor and the Attorney General.

Mr. HAMMER. I am advised that such an amendment is being prepared and will be offered.

Mr. VAILE. Mr. Speaker, will the gentleman yield again?

Mr. PARRISH. Yes.

Mr. VAILE. The present law forbids the mailing of packages, among other things, concerning lotteries or similar schemes offering prizes dependent wholly or in part upon chance. That is, if there be a package concerning those things. Does the gentleman mean to say that the department has ruled that a package containing a punch board is not a package concerning those things?

Mr. PARRISH. I do not know what the department says with reference to the particular question that the gentleman asks.

Mr. VAILE. Or any other gambling device.

Mr. PARRISH. I can say that the department, through its solicitor, came before our committee and said that the present law under the decisions of the court would not prohibit the sending through the mail of the gambling paraphernalia such as I have exhibited here.

Mr. VAILE. It seems to me a very surprising result.

Mr. PARRISH. So far as my own views are concerned, I entertained the view the gentleman has expressed when the matter was brought up, but I was convinced by the repeated statements of the solicitor that the law was not broad enough to prohibit the sending through the mail of such devices.

Mr. HUDSPETH. Mr. Speaker, will the gentleman yield?

Mr. PARRISH. Yes.

Mr. HUDSPETH. I asked the gentleman from Iowa [Mr. RAMSEYER] whether he thought this amendment would cover such contests as the Washington Post and the Washington Times are conducting at the present time. He stated that he did. Does my colleague agree with his conclusion in that respect? Does he think that this bill prohibits that sort of contest? Evidently the present law does not, because they have inaugurated them.

Mr. PARRISH. I will say to the gentleman that the amendments which we have offered will not reach that.

Mr. HUDSPETH. The gentleman from Iowa stated that if they were transmitted through the mail it did reach them. I just wanted to get the judgment of my colleague.

Mr. PARRISH. Evidently he meant it would be reached under the old law, because the gentleman from Iowa knows as well as I do that the present amendments do not touch any part of the old law except that which I have specifically mentioned.

Mr. HUDSPETH. Evidently that law does not prohibit, as they are sending them out now.

Mr. PARRISH. Either it does not prohibit it or it is not enforced.

Mr. HUDSPETH. Or they are not enforcing it against them.

Mr. JONES of Texas. Will the gentleman yield?

Mr. PARRISH. I will.

Mr. JONES of Texas. This provision on page 2, "no newspaper, circular, pamphlet, or publication of any kind containing any advertisement of any lottery, gift enterprise, or scheme of any kind offering prizes dependent in whole or in part upon lot or chance, or containing any list of the prizes drawn or awarded by means of such lottery, gift enterprise, or scheme"—would not that cover prizes given by a newspaper dependent upon lot or chance?

Mr. PARRISH. It seems to me to be a very broad provision, and it seems to me that it is broad enough to cover the case, but I have not investigated in detail as to just what is going on, and how these contests are being carried on, so I could not answer the question.

Mr. JONES of Texas. Would not that language cover any system of gifts which the paper might be advertising as being given by being drawn or by numbers or any other scheme of chance they might devise?

Mr. PARRISH. I think there is no question it would cover that kind of a case.

Mr. HAMMER. Will the gentleman permit——

Mr. PARRISH. I will.

Mr. HAMMER. I take it, it is only the carrier that contains the gift enterprise. I do not think it refers to newspapers that do not go through the mails. I think it refers to those that go through the mails.

A MEMBER. The edition that shows the prizes does go in the mails.

Mr. HAMMER. I do not think the Post Office Department permits the distributing of the newspaper through the mails containing the character of the advertisement referred to. I think it must be confined entirely to the city carriers.

Mr. RAKER. Will the gentleman yield?

Mr. PARRISH. I will.

Mr. RAKER. The gentleman from Ohio was asked a number of questions as to the amendment, which is in the second part of section 213, striking out the word "similar" and then adding after the word "scheme" the words "of any kind." Now, really that does not substantially change the meaning of that section, does it?

Mr. PARRISH. I do not think that changes the meaning in the least, but it simply strikes out the word "similar" and puts in the words "of any kind" in order to make it correspond to another phase of the bill, which is exactly the same thing.

Mr. RAKER. The word "similar" is intended to refer back to lottery or gift enterprise. Scheme of any kind refers back to the fact that it must be of a character of lottery or gift enterprise?

Mr. PARRISH. Yes.

Mr. RAKER. So if it is a lottery or gift enterprise, whatever you might name it, it would be caught by the provisions of this statute?

Mr. PARRISH. Yes; and it is intended to coincide with the sentence on page 2, line 13 of the bill, where it says "or scheme of any kind," in order to make it harmonize. I do not think it changes the context or meaning of the existing law.

Mr. STAFFORD. Will the gentleman yield?

Mr. PARRISH. I will.

Mr. STAFFORD. The gentleman believes, then, from the statement just made, that the phrase "of any kind" has not a broader significance than the word "similar"?

Mr. PARRISH. I do not think so, I will say to the gentleman.

Mr. STAFFORD. I would like to ask this question of the gentleman, who is a good lawyer: Would not the courts construe the word "similar" as being related to the preceding words, "lottery or gift enterprises"?

Mr. PARRISH. Yes.

Mr. STAFFORD. Whereas "scheme of any kind," the clause "of any kind," would be so general that it would not have any relation whatsoever to the related words "lottery or gift enterprise"?

Mr. PARRISH. But following that with the statement that does follow it, "dependent in whole or in part upon lot or chance."

Mr. STAFFORD. In the case instanced by me—and there are others instanced, one by the gentleman from Illinois [Mr. CHINDBLOM]—of churches having bazaars and sending advertisements through the mails of prizes or awards to be given, that would be a scheme under the suggested phraseology where prizes would be offered dependent upon a chance; but under existing law it could not be construed as a gift enterprise or lottery and would not be excluded.

Mr. PARRISH. I think it would be dependent upon whether it was in whole or in part dependent upon lot or chance as to its being prohibited.

Mr. BLANTON. Will the gentleman yield?

Mr. PARRISH I will.

Mr. BLANTON. Mr. Speaker, practically all of the old-line life insurance companies have not claimed the war as an excuse for in any way changing their prewar premiums, but there are some fraternal organizations which have used the war as an excuse for fraud on the policyholders. On that subject, Mr. Speaker, I ask unanimous consent, if my colleagues will permit, to extend my remarks in the RECORD on the effect of the war on certain insurance policyholders.

The SPEAKER pro tempore. The gentleman from Texas asks unanimous consent to extend his remarks in the manner indicated. Is there objection? [After a pause.] The Chair hears none.

Mr. PARRISH. Unless there are other questions, I do not care to use further time. I ask unanimous consent to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas? [After a pause.] The Chair hears none.

Mr. PARRISH. I reserve the remainder of my time.

Mr. STAFFORD. Mr. Speaker, I offer the following amendment.

The SPEAKER pro tempore. The Clerk will report the amendment.

Mr. RAKER. Mr. Speaker, a parliamentary inquiry. The bill has not been read for amendment.

Mr. STAFFORD. This is a House bill, and after the bill has been read it is open for amendment.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. STAFFORD: Page 1, line 6, after the word "scheme," strike out the words "of any kind" and insert in lieu thereof the word "similar" after the word "or"; and also, on page 2, line 4, after the word "scheme," strike out "of any kind" and insert in lieu thereof the word "similar" before the word "scheme."

Mr. STAFFORD. Mr. Speaker, the proposed amendments will restore the language of existing law. They will not in any wise affect the main purpose of the amendments proposed by the committee and that are sought for by the Post Office Department. The cases instanced by the gentleman from Texas [Mr. PARRISH] as to what was being sought after by the department here is covered by phraseology that is in no wise affected by these two amendments. The amendments proposed restore the word "similar" before the word "scheme," and strike out the words "of any kind."

In general debate I pointed out how the whole original purpose of the law would be changed by this proposed amendment of the committee. I do not intend to take up much time, but briefly will review by reading and calling attention to the changed phraseology. Under existing law the language is as follows, and you will find it on page 2 of the report:

No letter, package, postal card, or circular concerning lottery, gift enterprise, or similar scheme offering prizes dependent in whole or in part upon lot or chance—

shall be sent through the mails. The proposed amendment of the committee, which I am seeking to defeat, strikes out the word "similar" and it substitutes "of any kind" after the word "scheme," so that the language would read:

No letter, package, postal card, or circular concerning any lottery, gift enterprise or scheme of any kind—

shall be sent in the mail. The original intendment was to only forbid the use of the mails to that character of mail which related to lottery or gift enterprise. It is proposed now to restrict the mails to the use of mail matter which relates to any kind of a scheme that is dependent in whole or in part upon lot or chance.

Mr. RAMSEYER. The gentleman should not omit the words "offering prizes."

Mr. STAFFORD. I did not intend to omit them. I am glad the gentleman called that to the attention of the House. Excluding mailable matter of any scheme offering prizes dependent in whole or in part upon lot or chance. The gentleman from Texas [Mr. PARRISH], who has just addressed the House, says there is no difference in the construction that would be given these two terms. And yet I think the majority of the Members of the House will see the vast difference between the words "similar scheme," relating to that which is mentioned before, namely, lottery or gift enterprise, and the broad language which is now proposed by the amendment, "scheme of any kind offering prizes dependent in whole or in part upon lot or chance."

Mr. JONES of Texas. Does the gentleman have in mind any kind of a scheme that would be excluded by his amendment and be included by the others?

Mr. STAFFORD. Oh, yes. In general debate I cited two or three instances. Perhaps the gentleman was not on the floor or was otherwise engaged. I will state them briefly. This matter was called to my attention long before this bill was brought up for consideration. For instance, a social organization of card players has weekly meetings, at which prizes are offered. They use the mails in notifying the members that on such and such an afternoon or evening prizes will be offered to those making the best scores. That practice of sending letters through the mails the Post Office Department has attempted to stop. They claim that in offering prizes on a card game, which the members play with more or less skill, that it is a prize dependent in whole or in part upon lot or chance. And perhaps you might argue it is dependent in whole or in part on lot or chance, because it depends somewhat on what cards you receive. I also instanced the case where this broad phraseology would exclude the sending through the mails of notices on the part of women's clubs of an afternoon of auction bridge or bridge whist where some prizes would be offered. There is another instance of a scheme of offering prizes depending wholly or in part on lot or chance. Another case is general in my home city, where the Wisconsin Club, for instance, of which I am a member, sends out notices that there will be a tournament at which some turkeys will be passed on to those receiving the highest scores.

Mr. JONES of Texas. Would that be a gift enterprise?

Mr. STAFFORD. Oh, no. It is not a gift enterprise. The purpose is to have the members of the club congregate there and bowl, and whoever receives the highest score will receive a turkey or a goose. It is not a gift enterprise. I think that would be too broad a construction to say it was a gift enterprise. The purpose of the club is not to engage in an enterprise of making gifts. The purpose is to furnish some little amusement and diversion for the members in the harmless pastime of bowling.

Mr. McLAUGHLIN of Michigan. Do I understand the gentleman to say that the Post Office Department has tried to reach that kind of a case?

Mr. STAFFORD. The Post Office Department, to my certain knowledge, in the case of a card game called skat, de-

pendent on the most expert knowledge of playing cards, more intricate in its character than even whist, where a voluntary association get together weekly and play cards for a little prize that will be offered—all voluntary; no money-making in it at all—has tried to prevent sending notices through the mails. Under the construction of existing law they would not be able to prevent such notices being mailed, because it is not a gift enterprise or similar scheme offering prizes dependent in whole or in part on lot or chance. But now you are going very far in the attempt to correct that character of practice, which is a harmless one, as I contend.

Mr. McLAUGHLIN of Michigan. This is the situation, then: The department has tried to reach schemes of various kinds, and the department has found that the old law is not drastic enough to reach them, and these amendments are offered for the purpose of enabling the department to reach them?

Mr. STAFFORD. Yes; but I do not believe the gentleman from Michigan is in favor of granting to any subordinate official or the head of the department the right to exclude from the mails letters sent out by women's clubs advising the members of the women's clubs that there is going to be a meeting at a certain woman's home where prizes will be offered in a game of bridge whist; and yet no one here has disputed that under this broad phraseology, "a scheme of any kind," dependent in whole or in part on lot or chance, that very practice would not be included.

Mr. RAMSEYER. Oh, I dispute it, if the gentleman please. The gentleman from Michigan asked the gentleman from Wisconsin whether the amendment would include those cases that the gentleman referred to, and the gentleman with authority said yes. Now, I do not doubt at all that that is the opinion of the gentleman from Wisconsin, but I do not think the gentleman from Wisconsin reads the language carefully when he says, for instance, that prizes are offered for the most skillful pool player, and if you change the language from "similar schemes" to "schemes of any kind" it would cover cases like that in cases of a pool-playing contest. That is purely a contest of skill, and not dependent upon lot or chance. The gentleman should read the first part of the section.

Mr. STAFFORD. I have read it not only to-day, but before it was brought up for consideration.

Mr. RAMSEYER. But it applies to all cases where prizes are dependent upon a lot or chance. Now, if the gentleman will yield further——

Mr. STAFFORD. I will always be courteous to yield to the gentleman all the time he desires.

Mr. RAMSEYER. The department, or the Postmaster General, in furnishing the subcommittee with information relative to his attitude on these various amendments, sent me the opinion of the Solicitor of the Post Office Department under Mr. Burleson on this very language that the gentleman is discussing, and I wish to read a paragraph from the letter of the solicitor, which was adopted by the previous Postmaster General. The sending of it to me indicates to me that it is the present attitude of the Post Office Department. He says:

> In order to make the language uniform throughout, the words "scheme of any kind" have been added in the earlier part of the section in place of the words "similar scheme," which would also serve to remove doubt that the statutes in relation to letters and tickets are as broad as that part which relates to newspaper advertisements.

Now, I am not wedded to this particular language, I am very frank to tell the gentleman, but as I told the gentleman and the House when I had the floor, in answer to the inquiry directed to me by the gentleman from Wisconsin, I do not think that this amendment enlarges the scope of the law. But if you change line 6 there back to "similar schemes" instead of "schemes of any kind," and also on page 2, line 4, then the gentleman will agree, I presume, it ought to be changed to "similar schemes" in line 13, page 2.

Mr. STAFFORD. I do, but I do not wish to change existing law in that particular.

Mr. RAMSEYER. The object that the Postmaster General has in mind is simply to have the same language in the law as to letters and tickets as it is to newspaper advertisements.

Mr. STAFFORD. Can we agree, then, that if my amendment is broadened so as to strike out of existing law the clause "of any kind," after the word "scheme," in line 13, page 2, and insert the word "similar" before it, which latter clause relates only to newspapers, it will have the support of the committee?

Mr. RAMSEYER. I can only speak for myself, and I am for the language of the bill as it stands. I will say to the gentleman this, that if the gentleman's amendment carries—which I hope it will not—then, of course, in order to be consistent, I would want to have the language made uniform throughout the statute.

Mr. STAFFORD. I am testing the sentiment of the House on this one question, whether they wish to go to the extent of trying to determine the internal policy of States, where it is permissive, and the lawful authorities recognize it as permissive, to have little card games with prizes offered, and for us to adopt a law which will forbid it and leave it to an inspector or the post-office authorities to exclude from the mails letters of that character which in the States are regarded as lawful and proper.

Mr. WATSON. Mr. Speaker, will the gentleman yield?

Mr. STAFFORD. I yield.

Mr. WATSON. Do the terms of this bill reach horse races and agricultural fairs?

Mr. STAFFORD. The main purpose of the Post Office Department, if the gentleman will take the report, will be found to forbid the sending through the mails of articles and devices and things designed and intended for the advancement of lotteries and gift enterprises.

Mr. WATSON. And letters also?

Mr. STAFFORD. The original law restricted the use of the mails to letters that related to lotteries and gift enterprises or similar schemes. They are attempting here to broaden the scope of the original statute and include not only lotteries and gift enterprises but schemes of any kind. I have pointed out, and the gentleman from Illinois [Mr. CHINDBLOM] has pointed out, instances where this broad phraseology would exclude harmless pastimes and permit the post-office authorities to bar the use of the mails for such letters.

Mr. WATSON. The gentleman is not willing to broaden the language to admit the conditions which he suggests?

Mr. STAFFORD. I am positively unwilling to vest authority in any department official to ban from the mail letters referring to practices which are regarded as lawful and proper in my home city and my home State, and I think the gentleman from Pennsylvania is favorable to the same policy that we should not lodge with the subordinate post-office officials the right to exclude from the mails letters relating to harmless pastimes and amusements. That is what is attempted to be done by the amendment which I am seeking to strike out, and my amendment is to restore the language to its present form. I can not agree to the contention made by the gentleman from Iowa [Mr. RAMSEYER] and the gentleman from Texas [Mr. PARRISH] that the words "scheme of any kind" are of the same limitation and import as the phraseology in the present law.

Mr. WATSON. The gentleman thinks it opens the door to the exclusion of matters which should not be excluded?

Mr. STAFFORD. It opens the door and allows the opinion of some post-office official who may have narrow and restricted views to say that practices which in your community and my community are regarded as harmless shall not be carried on. It is going altogether too far.

Mr. WATSON. I am of the same opinion as the gentleman from Wisconsin.

Mr. STAFFORD. I am in sympathy with the main purpose of this bill seeking to exclude from the mails letters, packages, circulars, or information concerning any lottery, gift enterprise, or similar scheme dependent in whole or in part on lot or chance. But when they seek to vest autocratic power in a subordinate official, I say it is time to call a halt. Mr. Speaker, I reserve the balance of my time.

Mr. STEENERSON. Mr. Speaker, the fears of the gentleman from Wisconsin [Mr. STAFFORD], in my opinion, are unfounded. This provision relates simply to things that are dependent on lot or chance, and the answer to his argument is that the things to which he refers are things that depend upon skill. The department has asked for this legislation, because they have found that there are numerous schemes invented by shrewd men—I suppose after consultation with able lawyers—to do an illegitimate business of this kind of practice, to the detriment of the public, without being liable under existing law. They vary it sufficiently so that existing law does not cover it, and still the moral effect of the act that they seek to do is just as injurious as these actual lottery schemes. If this amendment offered by the gentleman from Wisconsin is adopted, it will dislocate and make inconsistent the subsequent sections. For instance, in section 4041, in regard to transmitting money for the payment of these things, it says:

> SEC. 4041. The Postmaster General may, upon evidence satisfactory to him that any person or company is engaged in conducting any lottery, gift enterprise, or scheme of any kind offering prizes dependent in whole or in part upon lot or chance, or that any person or company is conducting any scheme for obtaining money or property of any kind through the mails by means of false or fraudulent pretenses, representations, or promises, or that any person or company is selling, offering for sale, or sending through the mails any article, device, or thing designed or intended for the conduct of a lottery, gift enterprise, or scheme of any kind offering prizes dependent in whole or in part upon lot or chance—

So you see that we have changed that section so as to cover the new matter which the first section would contain. If you strike out the new matter in the first section and retain it in this section, it will be inconsistent.

Mr. STAFFORD. I am testing the sense of the House on the main proposition. If my amendment carries, I purpose to offer amendments to the following sections.

Mr. STEENERSON. That shows, in my mind, that the gentleman is not concerned so much over church fairs and whist clubs as he thinks he is, because they would not come within the prohibition as to sending money in payment for these things. This section deals with those who are the victims of the fraud, and the Postmaster General is authorized to do the same with reference to them that he is with those who send money for lottery tickets, authorizing him not to deliver the money to the addressees. As much as I rely on the wisdom and good judgment of the gentleman from Wisconsin, I disagree with him and believe that his amendment would make the bill nugatory.

The SPEAKER. The question is on the amendment offered by the gentleman from Wisconsin.

The question was taken; and on a division (demanded by Mr. STAFFORD) there were—ayes 11, noes 25.

So the amendment was rejected.

Mr. WALSH. Mr. Speaker, I offer the following amendment.

The Clerk read as follows:

Page 3, line 10, after the word "addressed," insert:

"No newspaper, post card, letter, circular, or other written or printed matter containing information or statements by way of advice or suggestions purporting to give the odds at which bets or wagers are being made or waged upon the outcome or result of any horse race, prize fight, or other contest of speed, strength, or skill, or setting forth the bets or wagers made or offered to be made, or the sums of money won or lost upon the outcome or result of said contests by reason of such bets or wagers, or which sets forth suggestions as to the odds at which bets or wagers should or may be made or laid, shall be deposited in or carried by the mails of the United States or be delivered by any postmaster or letter carrier, and such matter is hereby declared to be nonmailable, and any person who deposits or causes to be deposited or shall send or cause to be sent any such thing to be conveyed or delivered by mail shall be fined not more than $5,000 or imprisoned not more than five years, or both such fine and imprisonment."

Mr. STEENERSON. Mr. Speaker, I make the point of order against the amendment that it is not germane to the subject of the bill. The subject of the bill is events determined by lot or chance. This relates to horse racing, which is not determined by lot or chance, but by the endurance and speed of the horse. It has nothing to do with the subject of this bill, and it is not included in the same category.

Mr. SANDERS of Indiana. Does the gentleman mean to say that you do not have any chance when you bet on a horse race?

Mr. STEENERSON. No; I do not say that. I think that is true of some card games that I have heard of.

Mr. WALSH. Mr. Speaker, this bill is an amendment to the criminal code, one section of which deals with nonmailable matter and which prohibits the mailing or causing to be mailed of matter set forth in the bill which the committee has offered. I simply amend the provisions relating to nonmailable matter by adding to them. There are a number of matters in this section declared to be nonmailable. The gentleman from Minnesota contends that this bill is confined to matters of lot or chance. The language of the bill is not so restricted; and, in fact, the gentleman from Texas [Mr. PARRISH], a member of the committee, in his discussion of the measure, clearly shows that it relates to gambling devices, because he exhibited two devices which were prohibited from being sent through the mail. If we can stop the sending of gambling devices through the mail——

Mr. RAMSEYER. Mr. Speaker, if the gentleman will permit, I suggest that gambling devices are under the next section. This refers to lottery paraphernalia.

Mr. WALSH. If we can prohibit the sending of gambling devices and declare them to be nonmailable, certainly we can declare any circular containing information upon which the use of these gambling devices might be controlled or encouraged to be nonmailable. Certainly sending information of the character contained in the amendment proposed by me is germane to a bill dealing strictly with nonmailable matter.

Mr. STEENERSON. Mr. Speaker, the next section which is relied on does not justify this amendment.

The SPEAKER. What does the gentleman from Minnesota say to the language—

scheme of any kind offering prizes dependent in whole or in part upon lot or chance.

Why is not an amendment pertaining to horse races germane to that?

Mr. STEENERSON. Because a horse race is not dependent upon lot or chance.

Mr. WALSH. Of course the loser has no chance.

Mr. STEENERSON. The gentleman admits that having no chance it is not dependent upon lot or chance.

Mr. WALSH. The winner is the man who has the chance. He depends upon chance.

Mr. STEENERSON. But the event must be dependent upon lot or chance.

The SPEAKER. Does the gentleman contend that the element of chance does not enter into a horse race?

Mr. STEENERSON. The context of that law—that is, the whole section taken together—must be plain that it relates to lotteries and schemes of that kind.

Mr. WALSH. Mr. Speaker, will the gentleman yield?

Mr. STEENERSON. It does not include horse races nor prize fights.

Mr. WALSH. Will the gentleman yield for an inquiry which may illuminate the discussion?

Mr. STEENERSON. Yes.

Mr. WALSH. The distinguished gentleman went fishing up in the waters of Massachusetts several months ago, and he took a chance of catching some fish. Was not that a game of chance?

Mr. STEENERSON. No; it was not a game of chance. It was a matter of skill. It was as certain as any fishing I ever had.

Mr. WALSH. Because the fish were there.

Mr. STEENERSON. I pulled in tautogs that weighed 7 pounds with a light rod, and I could not have done that unless it had been handled skillfully. I shall always remember that with pleasure.

Mr. WALSH. The fish did not have much chance while the gentleman was operating that rod.

Mr. STEENERSON. Not much; but they had some. The first section of the bill certainly does not cover horse races, because that specifically requires it to be dependent upon lot or chance; and the second section of the bill relates to unfair gambling devices, such as marked cards. If you have these cards, you can cheat your fellow man at will. The same applies to loaded dice. This refers simply to the advertisement of swindling devices, and that has no analogy to a horse race.

Mr. WALSH. Horse races are fixed sometimes.

Mr. STEENERSON. I do not know about that.

Mr. WALSH. Neither do I.

The SPEAKER. The Chair thinks that, on the whole, this bill is intended to refer to lotteries and things of that specific kind, and that the amendment of the gentleman from Massachusetts is not germane.

Mr. RAMSEYER. Mr. Speaker, I have a correcting amendment. On page 5, line 3, I think the first word "that" should be dropped, and I offer that as an amendment.

The SPEAKER. The gentleman from Iowa offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. RAMSEYER: Page 5, line 3, strike out the first word "that."

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. STEENERSON. Mr. Speaker, I move the previous question on the bill.

Mr. SANDERS of Indiana. Mr. Speaker, I desire to strike out the last word, if the gentleman will withhold his motion for a few moments.

Mr. STEENERSON. Very well.

Mr. SANDERS of Indiana. For the purpose of making a suggestion or two about the phraseology. On page 5, section 3, reference is made to section 3929 of the Revised Statutes. Section 3929 of the Revised Statutes has been amended, but is really section 2 of another act. It was amended in 1890. The bill recognizes the amended statute, but it does not refer to it in the proper way. I think that should be amended to read that section 3929 of the Revised Statutes as amended is hereby further amended to read as follows, and so forth.

Mr. STEENERSON. Mr. Speaker, I have no objection to that.

Mr. SANDERS of Indiana. Mr. Speaker, I offer that as an amendment.

The SPEAKER. The gentleman from Indiana offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. SANDERS of Indiana: Page 5, line 1, after the word "Statutes," insert the words "as amended," and after the word "hereby" insert the word "further."

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SANDERS of Indiana. Now, Mr. Speaker, I would like to make this further inquiry of the distinguished chairman of the committee. On March 2, 1895, there was an act passed which contained this language in section 2:

That the provisions of sections 3929 and 4041 of the Revised Statutes of the United States, as amended, respectively, and all other provisions of law for the suppression of traffic in or circulation of any such tickets, chances, shares, or interests in or other matter relating to lotteries, or for the suppression of traffic in or circulation of obscene books or articles of any kind, shall apply in support, aid, and furtherance of the enforcement of this act.

Would any reference to that statute be necessary in this bill in order to make the amended section applicable?

Mr. STEENERSON. I do not think so.

Mr. RAMSEYER. This is an amendment to the Criminal Code. The Criminal Code has been codified by act of Congress.

Mr. SANDERS of Indiana. Well, I understand that.

Mr. RAMSEYER. And the reference is to the Criminal Code; to a certain section.

Mr. SANDERS of Indiana. But the part I am referring to does not refer to the Criminal Code. Part of the bill refers to a certain section of the Criminal Code and part refers to certain sections of the Revised Statutes, without reference to the Criminal Code.

Mr. RAMSEYER. I understood the gentleman to refer to section 2 of the bill—to section 215.

Mr. SANDERS of Indiana. I am talking about section 2 of another bill.

Mr. RAMSEYER. The bill before the House?

Mr. SANDERS of Indiana. No; the gentleman does not get the point I was making.

Mr. RAMSEYER. Evidently not.

Mr. STEENERSON. I will ask the gentleman again to read that reference.

Mr. SANDERS of Indiana. What I am referring to is this, that in section 2 of the bill passed March 2, 1895, these two sections which are hereby amended are referred to, and there is a provision that those sections shall be applicable in connection with the statute passed in 1895. Now, my inquiry is whether it is necessary in this act to make the amendatory act applicable in this case?

Mr. STEENERSON. No; I do not think so; because it is extraneous matter. That relates to obscene matter and the other things mentioned there, and could not relate to this identical matter. We do not need it to enforce this law.

Mr. RAMSEYER. Will the gentleman yield further? The gentleman offered an amendment to section 3. Why is it not necessary, if the gentleman's amendment really was necessary, to make a similar amendment to section 4 of the bill?

Mr. SANDERS of Indiana. Well, I do not know whether section 4041 has been amended or not. If it is, there should be that reference, and in the hasty examination I made of section 3929 I found it had been amended.

Mr. STEENERSON. It has been amended so as to include the acts that are described in section 1.

Mr. SANDERS of Indiana. I do not know whether section 4041 of the Revised Statutes has been heretofore amended. If this section has been heretofore amended, of course, reference should be made to the section of the Revised Statutes as amended, but I have not had time to examine it to see whether it has been amended or not.

Mr. STEENERSON. I do not think it is necessary.

Mr. WALSH. Mr. Speaker, I desire to ask if the point of order which the Chair sustained to the amendment previously offered by myself was based upon the ground that it was not germane to the bill or germane to the section?

The SPEAKER. To the section.

Mr. WALSH. I desire to reoffer the amendment to follow the word "both," at the end of line 23.

Mr. STEENERSON. Well, I make the point of order it is not germane.

The SPEAKER. The Chair is not so familiar with the section, but he will be glad to have the gentleman from Massachusetts explain the difference between this and the first section.

Mr. WALSH. Mr. Speaker, this section, as the gentleman from Minnesota stated during the discussion of the point of order previously made, relates to a scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, or to give away, and so forth, counterfeit or spurious coin, or to procure for unlawful use any unfair, dishonest, or cheating gambling article, device, or thing, or any scheme or artifice to obtain money by or through correspondence by what is commonly called the "sawdust swindle" or "counterfeit money fraud," and various other devices which are named. Now, that includes "green cigars." In this section there is prohibited the sending through the mails of certain gambling devices, two of which were shown by the gentleman from Texas [Mr. PARRISH], because they were used for the procuring of money unlawfully. Now, the laying of bets or wagers is unlawful in most jurisdictions. This section winds up by saying:

All matter the deposit of which in the mails is by this section made punishable is hereby declared nonmailable.

And it includes a number of different matters, and the amendment suggested by me simply adds to that matter. It is of the same general class. It states that newspapers, circulars, letters, post cards, and so forth, which contain information upon the subject of wagers or bets which are being laid, or which may be laid, or which are recommended to be laid upon horse races or prize fights, or other such contests, and which publishes a list of the odds and a list of the winnings, and recommends a particular horse or fighter or other participant to be bet upon or wagered upon, is declared to be nonmailable matter. And therefore it simply enlarges the class which was comprehended in this section.

The SPEAKER. If it was germane to this section, would it not be necessary to show that such a race was of the same class as these propositions in the section; was fraudulent and an attempt to gain money by unfair and dishonest means?

Mr. WALSH. No, Mr. Speaker; no more than it would be necessary, in respect to the lottery or gift or prize, to say that it was fraudulent. In the subsequent section they may bestow a prize upon the winner at a card game, there being no fraud about it. The statute does not have in that case to state that it is fraudulent; neither does it have to state in this particular that it is fraudulent. It is a declaration of certain matter to be nonmailable. We simply add to that class, whether it is fraudulent or not, the same as included in the class of nonmailable matter, I think, some years ago, of newspaper publications by way of news items or advertisements relating to impure foods. Now, there was nothing fraudulent set forth in the section containing that——

Mr. RAMSEYER. Will the gentleman yield for a suggestion there?

Mr. WALSH. Yes.

Mr. RAMSEYER. The first section of the bill—that is, section 213 of the Criminal Code—is based on lottery, gift enterprises, and schemes of any kind offering prizes dependent, in whole or in part, on lot or chance. Now, that horse racing amendment of the gentleman's does not come under that. The question before the Speaker to determine is whether the amendment now is germane to this section 2 of the bill or section 215 of the Criminal Code. That section is known as the fraud section, and the suggestion made by the Speaker a moment ago is warranted, because everything in this section 215 is based on fraud. If the gentleman will read that section closely, he will notice that everything revolves about fraud or things fraudulent. It says:

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses.

And then further down it is simply more specific. It names certain artifices or schemes that were well known to the people 15 or 20 years ago, but are not so well known to the present generation. That is on page 4. It specifically names, for instance, the "sawdust swindle." What is that? It is a fraud. It mentions "counterfeit-money fraud." Then it goes on and names "green articles," "green coin," "green goods," "bills," "paper goods," "spurious Treasury notes," "United States goods," "green cigars," and then says:

or any other names or terms intended to be understood as relating to such counterfeit or spurious articles, shall, for the purpose of executing such schemes or artifice, or attempting to do so, place, or cause to be placed, any letter, postal card, package, writing, circular, pamphlet, or advertisement—

And then it goes on and prohibits all that and provides the penalty.

Mr. WALSH. This is not prohibiting the green-goods swindle or the green-cigar swindle. It is prohibiting the mailing of matter. It refers to that.

Mr. RAMSEYER. Exactly. But it is prohibited by excluding from the mails all these various fraudulent schemes and artifices. Every one specifically referred to is bottomed on fraud. It is the fraud section. I do not think the gentleman's amendment is germane for that reason.

Mr. WALSH. It is not only bottomed on fraud, but it is bottomed on gambling as well. It specifically refers to that.

Mr. RAMSEYER. The gambling referred to here is on the things or articles that are cheating gambling devices. It does not exclude gambling devices, but cheating gambling devices.

Mr. WALSH. Well, the gentleman says "cheating gambling devices." What is there of cheating about the devices which the gentleman's colleague on the committee held up here?

Mr. RAMSEYER. Marked cards?

Mr. WALSH. There was not any marking on that. He did not shake any out.

Mr. RAMSEYER. The devices referred to by my colleague come under section 213. Those are known as lottery paraphernalia.

Mr. WALSH. You said it came under this section.

Mr. RAMSEYER. The gentleman misunderstood.

Mr. WALSH. And it was gambling devices which you could not ship through the mail. This section relates to sending these other matters through the mail. Now, there is a class there made up of a number of different subjects, so to speak—green goods and all those other things—spurious coins and securities held to be counterfeit when, as a matter of fact, they might not be counterfeit, and you could not send any circulars relating to those through the mail. Now, my amendment simply adds to that class. If you can not amend a section dealing with a certain class by enlarging the class except by putting in a new section or bringing in a separate bill, the Chair, of course, will realize our opportunity for legislation is going to be pretty severely restricted and circumscribed here. There is a large class mentioned in this section, and I am seeking to add to that class in the sending of newspaper circulars, letters, and postal cards, or other printed matter, the same as this section does, prohibiting their being sent through the mails, where they contain information about gambling. Now, it is not a device necessarily, but it is information about gambling upon a horse race or upon a prize fight. And they do not use any device that I know of which they send through the mail, unless they send tickets or things of that sort.

Mr. LONGWORTH. I have not heard the gentleman's amendment yet, but I think I gather the purport of it. Would it go to the extent, for instance, of barring the transmission through the mail of any newspaper in which there was an article giving the opinion of a writer of an article as to who would probably win a fight or a horse race?

Mr. WALSH. It would not, unless it contained information or a suggestion or advice upon the laying of a bet or a wager, such as we find in the columns of some of the newspapers. I think one of the Washington papers has a column devoted exclusively to horse racing, calling upon people to bet their money at certain odds upon certain animals.

Mr. LONGWORTH. But the gentleman is mistaken as to betting, as to certain odds. I think I know the article the gentleman refers to. It gives the opinion of the writer on a certain horse. It does not add to the odds.

Mr. WALSH. If the gentleman will read the columns——

Mr. LONGWORTH. I have not read it carefully. I do not follow it.

Mr. WALSH. And I do not follow it; but I have seen it in the last day or two. I did not know that this bill would come up, otherwise I would perhaps have had the amendment a little better prepared. But I do think, Mr. Speaker, that the language of the amendment brings it within the rule applied to this section.

The SPEAKER. The Chair would make the same ruling. The Chair thinks it prohibits the carrying through the mail of matter relating to lotteries and kindred games and cheating gambling. It would be hard to hold that a horse race is necessarily a cheating form of gambling. The Chair thinks if this would be in order at all it would be in order as a separate section. It might be in order as an amendment to a subsequent section of the bill, and not be in order upon any language under that section.

Mr. WALSH. Mr. Speaker, I offer it to section 5 of the bill.

Mr. STEENERSON. Mr. Speaker, I make the point of order on that also.

The SPEAKER. Will the gentleman from Minnesota state the point of order?

Mr. STEENERSON. Here is a bill which rewrites certain sections of the Penal Code. It first relates to lotteries and events depending upon lot or chance, and their character is indicated. The second is the familiar fraud statute, which is inhibitory of any person devising or conceiving a scheme to cheat and defraud. That is all there is to that section, except that it enumerates the ways in which this fraud might be perpetrated; that is, by advertising counterfeit money or counterfeit municipal bonds and seeking to obtain money by selling counterfeit bonds. That is complete in itself. Then follow cases where there is no property sold, but simply a swindle, where they would make you believe they are going to sell you counterfeit money. This amendment was framed to cover the sawdust swindle. Now, the sawdust swindle, in the opinion of the various courts, is a swindle where a man does not get any counterfeit money, as under the first section, but the sender simply makes the man believe that he is going to get it. A man sends his money to the man who says he is going to send this sawdust or green goods, and so on. The section describes different frauds.

Now, the proposition offered by the gentleman from Massachusetts [Mr. WALSH] relates to an entirely different matter. It might be germane to the Penal Code, but it is not germane to this bill, because this bill is confined to certain sections of the Criminal Code, and it could not be included in any of those sections, because it is of a different nature, as the Speaker has already remarked. No one would suggest that a horse race was a scheme to defraud; that is, it might be in fact so, but as an ordinary thing it is a scheme of another kind.

Mr. WALSH. What other kind?

Mr. STEENERSON. Oh, there are honest horse races, just as well as there are honest lawyers sometimes, and it can not be said that all this class of events are schemes to defraud. Therefore the amendment is not germane to this bill, because this bill covers only those things that are controlled by the element of chance, whether the advertising——

Mr. JONES of Texas. This copy of the bill that I have does not say it shall be controlled by lot or chance, but even if in part by lot or chance. In two or three places it says "dependent in whole or in part upon lot or chance." Does the gentleman contend that horse racing is not controlled in part by lot or chance, or affected in part by lot or chance?

Mr. STEENERSON. The principal element in the case is the skill and speed of the horse.

Mr. JONES of Texas. But, in addition to that, does not the element of chance contribute in part to it?

Mr. LONGWORTH. Would the gentleman contend that in the recent boxing match there was any element of chance?

Mr. JONES of Texas. There was precious little chance in that.

The SPEAKER. The Chair thinks that this bill——

Mr. RAMSEYER. Mr. Speaker, will the Chair indulge me for a moment?

The SPEAKER. Certainly.

Mr. RAMSEYER. I am unable to find the precedent that I relied upon in order to present some new sections to the war risk insurance act when that bill was up. But there is a precedent where a bill is up for consideration, as in the case of the bankruptcy act, for example, to amend a number of sections, and in that case I think there were something like 20 or 25 sections brought on the floor of the House for amendment. The Chair there held that because of the number of amendments that were within the scope of the bill amendments to other sections of the bankruptcy act were in order. Of course the title of the bill there was "An act to amend the bankruptcy act"—that is, roughly speaking. Now the title of this bill here is very specific, and there are two sections of the Criminal Code and two sections of the Revised Statutes before the House for consideration. The title specifically limits the scope of the bill, and if the title has any meaning at all, it ought to have weight with the Speaker.

The SPEAKER. The title does not have any weight with the Chair.

Mr. RAMSEYER. Well, this is an honest title. [Laughter.]

Mr. LONGWORTH. It is not a fraudulent device. [Laughter.]

Mr. RAMSEYER. And it indicates the scope of the bill.

The SPEAKER. The bill says, "lottery paraphernalia." The first section is not confined to lottery paraphernalia at all. It is very much broader than that.

Mr. RAMSEYER. The Chair read the last part of the title which refers to the latter two sections, but the whole title reads:

To amend sections 213 and 215, act of March 4, 1909 (Criminal Code), relating to offenses against the Postal Service, and sections 3929 and 4041, Revised Statutes, relating to the exclusion of fraudulent devices and lottery paraphernalia from the mails.

That is the actual fact. Of course it does not define the scope of sections 213 and 215. Unless the Chair can find that this amendment comes in under the scope of that precedent which I cited a moment ago where 20 or 30 sections of the bankruptcy act were in a bill to be amended, therefore that brought in the whole bankrupt law, and the House could amend any section in the bill or repeal any section in the bankruptcy act. Unless the Chair should find that this amendment comes under that precedent I do not think the Chair can hold that the amendment offered by the gentleman from Massachusetts is germane to the bill.

The Chair has already held that it is not germane to section 213 or to section 215. Now, if it is germane to neither of those two sections, how can the Chair hold that it is germane to the subject matter of both unless the Chair finds that because we brought in two sections of the Criminal Code for consideration that makes in order an amendment to any section of the Criminal Code? Surely where there are only two sections dealing with two specific subjects of the Criminal Code before the House it ought not to be legitimate to bring in any amendment to any section of the Criminal Code. I can not see how the Chair can hold this amendment is in order when the Chair has already held that it was not in order either to section 213 or to section 215.

The SPEAKER. It seems to the Chair that this bill covers gambling—in the first section gambling by lottery and in the second section gambling by unfair and cheating devices. While it seems to the Chair, and it was so ruled, that this amendment did not specifically belong either to sections 213 or 215, it seems to the Chair that it is germane to the general subject treated by the bill, gambling, and is therefore in order on the bill, which is to prevent the use of the mails for gambling.

Mr. STEENERSON. I would like to call the attention of the Chair to the fact that the subject of the bill is lotteries and fraud. Those are the main subjects of these two sections—obtaining property by false pretenses.

The SPEAKER. The Chair overrules the point of order.

Mr. STAFFORD. Mr. Speaker, may we have the amendment reported again?

The Clerk again read the amendment offered by Mr. WALSH, as follows:

Page 7, after line 22, insert a new section, as follows:

"SEC. 5. No newspaper, post card, letter, circular, or other written or printed matter containing information or statements by way of advice or suggestions, purporting to give the odds at which bets or wagers are being made or waged upon the outcome or result of any horse race, prize fight, or other contest of speed, strength, or skill, or setting forth the bets or wagers made, or offered to be made, or the sums of money won or lost upon the outcome or result of said contests by reason of such bets or wagers, or which sets forth suggestions as to the odds at which bets or wagers should or may be made or laid, shall be deposited in or carried by the mails of the United States or be delivered by any postmaster or letter carrier, and such matter is hereby declared to be nonmailable, and any person who deposits or causes to be deposited, or shall send or cause to be sent, any such thing to be conveyed or delivered by mail shall be fined not more than $5,000 or imprisoned not more than five years, or both such fine and imprisonment."

Mr. WALSH. Mr. Speaker, I am not familiar with the method of placing wagers or bets on horse racing or prize fights or any other contests or events upon which wagers are ordinarily made. But I have noticed of late when I have been passing the bulletin board of a certain newspaper published here, as well as the bulletin boards of papers published elsewhere, that during the latter part of the afternoon a vast crowd is usually waiting for the results of the horse races to be posted. It is only a few years ago that the State of New York passed legislation in an attempt to wipe out this evil, because they had in an amazingly short length of time a great number of embezzlements—cases where clerks and young men, and even young women, working in places of responsibility, had embezzled the money of their employers, and on investigation it was found that they had been betting on horse races held at Saratoga and other places.

The horse-racing season seems to be here, and you do not have to have very keen eyes to notice evidence of bets being placed on horse races which are held not far from the Capital City, and it may be betting occurs within the jurisdiction of the Capitol police. You will find that there is more and more space being given in the daily press to horse racing and other events upon which betting and wagers are being placed. They are encouraging the spirit of gambling; and while we have gone helter-skelter headlong as the result of the war, and have been somewhat lowering our moral standards, possibly inspired artificially by the means taken to increase our patriotism during the war, I believe that we might well say that these publications shall be excluded from the mail. I saw one of these publications a short time ago in the hands of a gentleman, and it appeared to be devoted exclusively to horse races, and it apparently contained information solely for the purpose of inducing the people to bet their money on these contests, as no other information of any particular nature was set forth.

It is a very easy thing to hold out an inducement to people who are not ordinarily thrifty, who are not careful of their money, that if they will wager their money upon a horse or a certain event they will win so much money. But upon doing it they lose, but are encouraged to try again and again until desperate means sometimes result. Sometimes it is a very easy thing to attempt to make up those losses by committing a serious crime. I recall that when this statute was passed in New York State it became somewhat of a political issue. The present honored Secretary of State, who was then a candidate for governor in the election following the enactment of that statute, I believe had to meet the assaults of the gamblers and followers of these race tracks; and I remember attending a meeting in the great city of New York when his picture was thrown upon the screen, and it almost precipitated a riot because certain of the gambling element hissed and hooted the reproduction of his picture and his champions resented it. It seems to me, where we are careful to exclude from the mails matter relating to lotteries and cheating devices and unlawful prize schemes, such as are included in the bill, it might be well if we said to these publications who are holding out encouragement to bet upon horse racing and these various other contests upon which betting is very general, that the United States mail is not open to them. This would not exclude the information going over the wire, but it would prevent its being published or printed in any newspaper to be sent through the mail, and while this language possibly does not include every contingency that ought to be specified, I believe it is sufficiently broad to accomplish the purpose.

I think the time has come, in view of the situation which can be seen here, and which anyone can see by simply taking a walk down Pennsylvania Avenue this afternoon around 4.30 when the departments are out and observing the people checking up the winners placed on the blackboards, and by listening to some of the conversation and casting one's eye over the class to be seen there, when we should see to it that this rampant spirit of gaming and wagering, especially on horse racing as exhibited by these crowds, ought to be curbed. It seems to have taken possession of some young men and young women who can ill afford to lose, and who can scarcely afford to win, for that would but encourage the gaming instinct which we all possess but which becomes mighty dangerous if carried to excess.

As I stated before, I did not know that there would be an opportunity to-day to consider this matter, assuming that the Committee on Naval Affairs would have the call, and, therefore, I have not been prepared to submit a more carefully drawn amendment or to set forth my reasons more clearly, but I believe the amendment will be easy of interpretation. I have just been handed a publication containing a racing chart with the names of the horses and the odds that are suggested to be paid upon the horses. That can be found, I think, in the columns of many newspapers and in certain of the local newspapers.

Mr. STEVENSON. Mr. Speaker, will the gentleman yield?

Mr. WALSH. Yes.

Mr. STEVENSON. Mr. Speaker, would the gentleman object to also including in his proposed amendment a provision making it a criminal offense for people to go about through the departments in this city soliciting bets, as they do every day in the week?

Mr. WALSH. That ought to be prohibited by the departments, but I doubt if such an amendment as that can be included in this measure, because this bill deals with nonmailable matter. The matter the gentleman refers to ought to be prohibited by the chiefs of the various departments. I know that we Members here who do not indulge in such games of chance may not think that this is very important, but I recall how important it became in the great State of New York, and I know how strict and rigid some of the statutes of other States are with reference to placing bets and wagers. For that reason, while we may not be able to pass a statute saying that it shall be a criminal offense under the Federal Penal Code to make a bet or wager, we can restrict the operations of these professionals who are behind the scenes in this vicious work, who seldom, if ever, do an honest day's work from the time they first begin to follow the fortunes of the race track until they are laid beneath the sod. We can restrict their preying upon other people by means of the United States mails. I trust the amendment will be included in this measure. [Applause.]

Mr. STEENERSON. Mr. Speaker, this amendment offered as a separate section is not as objectionable as when offered to the other parts of the bill, for then it would have practically destroyed and confused the bill. While I have been very much edified by the very able and eloquent remarks of the gentleman from Massachusetts [Mr. WALSH] upon the subject of gambling, yet I hope gentlemen will not be entirely led away from the principal subject. The subject of gambling is one thing and the circulation of matter in the mail is another.

Mr. BLACK. Mr. Speaker, will the gentleman yield?

Mr. STEENERSON. Yes.

Mr. BLACK. If I understand the purpose of the bill, it is to deal with the circulation of mail matter which encourages and induces gambling. That is what we are trying to do. It occurs to me that the gentleman from Massachusetts has offered

a very excellent amendment to what is also a very good bill, and I should think the gentleman from Minnesota would be glad to accept it.

Mr. STEENERSON. Mr. Speaker, I wish to explain the reasons why I can not accept the amendment. It is not because I am not as much opposed to gambling as is the gentleman from Massachusetts. I think his contribution to the discussion of the subject of gambling is a very great one. Gambling is a very grave evil. My objection to tacking this provision on the bill now is this: As the gentleman himself has twice stated in this debate, he did not have time to prepare this amendment. He stated that he expected that another committee would take up the time of the House to-day, and he prepared the amendment in a hurry. Therefore, he regrets that he did not have a chance to take the time to compare it with existing law. This is an amendment to the penal code. Orderly legislation would require that a proposition of this kind should go to a committee and be considered, and the department whose duty it is to enforce the law should be heard and their view should be considered. Those who might be affected by the legislation and made criminals by it ought to be given a chance to be heard. While gambling and betting on horse racing is very objectionable, yet I am not so sure that this might not bring very good men, who do not intend to do anything wrong, before the bar as criminals. It is not very carefully drawn. It is admitted to be hastily drawn, and we might bring publishers and those who have to do with correspondence concerning these matters up as criminals when they have no intention of violating any law or of promoting gambling or betting on horse racing. There has been no consideration of this amendment. It is offered upon the spur of the moment, while this bill comes up on the floor of the House. It seems to me that the conservative sentiment of the House would require that a measure of this kind, which can be brought up at any time, which can be referred in a separate bill to the Judiciary or the Post Office Committee, should be given careful consideration. That is my objection to it.

On principle I should be very glad to have legislation which would stop the advertisement of this betting on horse racing. It is a remarkable thing, however, that this newspaper which has been offered here is a New York newspaper, the New York Herald of October 12. The races referred to seem to occur in the State of New York, where the gentleman says they have been prohibited. This newspaper refers to what is called the New York Herald Racing Chart, and the races seem to be held at Jamaica. It says that the weather is clear and the track fine, so the racing must be in the State of New York, and still the gentleman says that they fought a political campaign upon the question of prohibiting horse racing and betting on horse racing in that State and won.

Mr. LONGWORTH. Does not that refer to races that have already taken place?

Mr. STEENERSON. No; this is a chart of races that are to occur. That must mean that they are going to run these races.

Mr. LONGWORTH. How do they know a day in advance that the weather is clear and the track fine?

Mr. STEENERSON. Well, that is the condition this morning. The races are going to be run the latter part of the day.

Mr. LONGWORTH. That was published last night, was it not?

Mr. STEENERSON. I do not see that it makes——

Mr. LONGWORTH. I should think a great prophet can not tell a day in advance, although I do not know anything about it, whether the weather will be clear or not.

Mr. STEENERSON. They say the track is fast in Jamaica, N. Y., and that means that these races occurred in New York. That is a fair conclusion, and I therefore——

Mr. WALSH. Mr. Speaker, I move the previous question on the amendment.

Mr. SNYDER. Mr. Speaker, I move to strike out the last word.

The SPEAKER. The Chair thinks the Chair ought to recognize the gentleman from Massachusetts first.

Mr. WALSH. Mr. Speaker, I move the previous question on the amendment.

Mr. SNYDER. Mr. Speaker, will the gentleman from Massachusetts yield for a short statement? The gentleman mentioned the question of racing in the State of New York, which, I think, I know something about.

Mr. WALSH. I will yield to the gentleman.

Mr. SNYDER. All that the gentleman says about the distinguished Secretary of State having passed the Hughes antirace track law some years ago is a fact. He had to face that when he came up for reelection, and, notwithstanding that fact, he was reelected, and notwithstanding this, there is no diminution in the amount of racing in the State of New York, neither has there been diminution in betting on the races in that State, and all that the gentleman from Minnesota [Mr. STEENERSON] has just read is a fact. In the State of New York the races are advertised every day in the newspapers, and there is just as much betting, and the only thing that the Hughes antirace track bill did was to do away with the posting of the odds on a blackboard.

Mr. WALSH. Will the gentleman yield?

Mr. SNYDER. I will.

Mr. WALSH. I assume there is a law against burglary and also one against murder in the State of New York?

Mr. SNYDER. I am not speaking against the gentleman's amendment by any means. I am stating facts. The fact is, I take very great pleasure, myself, in going to Saratoga several times every year, and have for the last 35 years, and the only difficulty I have to-day in betting over that which I used to have before the Hughes law was put into effect is that I now go to a bookmaker and tell him what I want to bet on, and I can not see it on a blackboard or elsewhere at the track. That is the only difference. Now, let us be perfectly frank. This is an era of gambling. We are talking about restricting people who desire to bet on horse racing and we are doing altogether too much of that sort of thing. There may be men in this House now with a couple of "bones" in their pockets with spots on them. This is an era of gambling the country over, and if you want to be fair and square, there is scarcely a man in this House who does not sometimes bet on a horse race and scarcely a man who does not like to pick up a newspaper and see what the odds are. So let us go a little bit slowly about this.

Mr. SUMMERS of Washington. The gentleman must realize that there are some of us here who do not indulge.

Mr. SNYDER. Do not think that by passing this law you will keep the newspapers from advertising these things or that we are going to diminish the desire, at least, to bet on horse races.

Mr. WALSH. Mr. Speaker, I congratulate the distinguished gentleman from New York, and I am sure if I were perhaps so situated that I could visit Saratoga I might not have offered this amendment and might have more sympathy with this class of gambling; but if this country keeps on with the gambling instinct we will wake up some fine morning and find that we have wiped out the moral law and lost regard for the Ten Commandments and will be next door to the situation that is facing unhappy Russia.

Mr. SNYDER. There is one thing more I would like to mention, if the gentleman will kindly permit me for a second. The two things that have been most unsatisfactory and distasteful to the people of the State of New York which have taken place in the last 10 years were the passage of the Hughes Antirace-track Act and the Mullin-Gage Act, which passed the legislature last year, to assist in the enforcement of the Volstead Act. Those were the two most unsatisfactory and distasteful acts which I recall.

Mr. WALSH. It is pretty hard work to satisfy the people of the city of New York when you attempt national legislation. The people who live up State are a little more reasonable and sometimes more law-abiding. I move the previous question on the amendment.

Mr. WINGO. Will the gentleman yield for a question?

Mr. WALSH. I will yield to the gentleman from Arkansas to ask a question.

Mr. WINGO. The gentleman said something about the papers publishing the results of races recently. This debate has aroused my curiosity. Will the gentleman tell me where in the results of the races of the last few days I could find where some favorite has fallen down?

Mr. WALSH. Of course, I could not tell the gentleman until I knew what the gentleman's favorite was.

Mr. WINGO. I have no favorite, but from this debate it appears that some gentleman had a favorite that did not win.

Mr. WALSH. Mr. Speaker, I move the previous question on the amendment.

The question was taken, and the previous question was ordered.

The question was taken, and the amendment was agreed to.

Mr. STEENERSON. I move the previous question on the bill and amendments to final passage.

Mr. SANDERS of Indiana. Will the gentleman withhold that for a moment for the purpose of offering an amendment which I suggested a moment ago in reference to the Revised Statutes, 4041?

Mr. STEENERSON. I will withhold it.

Mr. SANDERS of Indiana. Mr. Speaker, on further examination I find that section 4041 was amended after it was passed,

and I ask unanimous consent that, on page 6, line 15, after the word "Statutes," there may be added "as amended," and after the word "hereby" the word "further."

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. SANDERS of Indiana: Page 6, line 15, after the word "Statutes," insert the words "as amended"; and after the word "hereby" insert the word "further."

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. STEENERSON. Mr. Speaker, I move the previous question on the bill to final passage.

The previous question was ordered.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended by inserting the words "and for other purposes."

On motion of Mr. STEENERSON, a motion to reconsider the vote by which the bill was passed was laid on the table.

INTERNATIONAL AERO CONGRESS CANCELLATION STAMP.

Mr. STEENERSON. Mr. Speaker, I call up the bill S. 2359.

The CHAIRMAN. The gentleman from Minnesota calls up a bill, which the Clerk will report.

The Clerk read as follows:

An act (S. 2359) providing for an International Aero Congress cancellation stamp to be used by the Omaha post office.

Be it enacted, etc., That the Postmaster General be, and he is hereby, authorized and directed to permit the use in the Omaha post office of special canceling stamps bearing the following words and figures: "International Aero Congress, Omaha, November 3 to 5, 1921."

Mr. STEENERSON. Mr. Speaker, this bill is in the usual form. It has passed the Senate. This event is going to happen next month, and so there is some urgency for its passage. It is in the usual form and does not impose any obligation whatever on the United States. The stamp is provided by those interested in the International Aero Congress at Omaha, November 3 to 5, 1921. This is an international affair, and there are several countries to be represented. It is not a matter for any private profit or anything of that kind. It is a public matter. The committee unanimously reported the bill, and I hope it will pass.

INHERITANCE TAXATION.

Mr. RAMSEYER. Mr. Speaker——

Mr. STEENERSON. If the gentleman wishes some time, I will give it to him.

Mr. RAMSEYER. I would like to have 10 minutes to explain an extension of remarks I am trying to get.

Mr. STEENERSON. I yield 10 minutes.

Mr. RAMSEYER. Mr. Speaker, I ask unanimous consent that I may proceed out of order.

The SPEAKER. The gentleman asks unanimous consent to proceed out of order. Is there objection? [After a pause.] The Chair hears none.

Mr. RAMSEYER. Mr. Speaker, I have asked for the time so generously allotted to me by the distinguished gentleman from Minnesota [Mr. STEENERSON] in order to get certain extensions into the RECORD, and I do not think it would be fair to the Members to insert them without some explanation.

On the 25th of July last I introduced a bill to increase the tax rates in our estate tax law, or what is commonly known as the "inheritance tax law." I appeared before the Ways and Means Committee and made an argument in support of my bill, and I also explained the provisions of that bill to the membership of this House when the tax bill was up for consideration under general debate in the Committee of the Whole. Owing to the "gag rule" under which that bill was considered I was not privileged to offer any amendments to the tax bill in order to increase the inheritance-tax rates. At the time the tax bill was under consideration I called the attention of Members of this House to the fact that our national inheritance-tax rates were very much less than they were in either France or Great Britain. I also called attention to the fact that our National Government collected taxes on estates during the last fiscal year in the sum of $154,043,260.39, while France collected $179,160,743 and England collected $231,962,940.

In this connection I further called attention to the fact that the national wealth of the United States was more than three and one-half times greater than that of France and from three to five times greater than that of Great Britain, and that if we had imposed in this country the same tax rates on estates as were imposed in France or in Great Britain we would have collected from $600,000,000 to $1,000,000,000.

At the time the tax bill was under discussion a number of Members of this House asked me for the inheritance tax rates imposed by Great Britain and France, and also for the amounts collected by the several States of the Union under their inheritance tax laws. As I did not then have the latest available information, I could not give definite answers to those inquiries. Therefore the latter part of August I addressed a letter to every State treasurer in the United States asking him for the amount of inheritance taxes collected in his State for the last fiscal year, and I received answers from each one of them. All but three States in the Union have inheritance tax laws. I could not get the inheritance-tax receipts from the State treasurers of Nebraska and Wyoming for the reasons that in Nebraska the inheritance taxes are collected by the county probate courts and no report thereof is made to the State treasurer, and in Wyoming the inheritance taxes are collected by the county treasurers and no report thereof is made to the State treasurer. The inheritance-tax receipts in the 43 States which reported their collections for the last fiscal year total $57,351,592.99. Adding the amount collected by the States to the amount collected by the Federal Government the total is $211,394,853.38. The amount collected from estates by both our National and State Governments is less than the amount collected by Great Britain. To get the significance of this comparison you must bear in mind that the national wealth of the United States is from three to five times greater than is the national wealth of Great Britain. If we should impose comparatively the same burdens of taxation on estates and inheritances in this country as are imposed in Great Britain, we would collect into the Treasury of the United States from this source between $600,000,000 and $1,000,000,000 annually.

I shall insert in the RECORD the inheritance tax receipts as reported by the State treasurers of the several States for the last fiscal year. The inheritance tax rates in the several States vary, depending in nearly all the States on the degree of relationship of the beneficiary. It would unnecessarily burden the RECORD to print the inheritance tax laws or even the inheritance tax rates of the several States. Members who are interested in the inheritance tax rates of the several States I refer to Newcomb's Inheritance Tax Charts, which can be procured from the Library of Congress.

I shall also make part of the record the inheritance tax rates of Great Britain and the tax rates on inheritances and on gifts inter vivos in France. The rates which I shall insert in the RECORD were prepared by the legislative reference service of the Library of Congress, and I think Members will find them accurate.

Mr. STAFFORD. Will the gentleman yield?

Mr. RAMSEYER. I will yield.

Mr. STAFFORD. Has the gentleman given any consideration to an amendment that has been proposed by some Members of the Senate as to increasing the inheritance taxes above a certain amount, and if he has will he inform the House or include in his remarks the amounts that are likely to be derived from those higher inheritance taxes as proposed?

Mr. RAMSEYER. In answer to the gentleman from Wisconsin I wish to state that on yesterday I first came into possession of the amendments proposed by the Finance Committee of the Senate to the tax bill that was reported by that committee some time ago and is now pending in the Senate. I have before me the proposed amendments. Under existing law we start with an exemption of $50,000 and then tax the next $50,000 1 per cent and increase the percentage rates until we reach $10,000,000, where the rate is 25 per cent. The amendments proposed by the Senate Finance Committee do not increase those rates but makes the 25 per cent rate applicable on net estates between $10,000,000 and $15,000,000. In order that Members may understand I shall insert at this place in my remarks the rates under existing law. They are as follows:

One per cent of the amount of the net estate not in excess of $50,000;

Two per cent of the amount by which the net estate exceeds $50,000 and does not exceed $150,000;

Three per cent of the amount by which the net estate exceeds $150,000 and does not exceed $250,000;

Four per cent of the amount by which the net estate exceeds $250,000 and does not exceed $450,000;

Six per cent of the amount by which the net estate exceeds $450,000 and does not exceed $750,000;

Eight per cent of the amount by which the net estate exceeds $750,000 and does not exceed $1,000,000;

Ten per cent of the amount by which the net estate exceeds $1,000,000 and does not exceed $1,500,000;

Twelve per cent of the amount by which the net estate exceeds $1,500,000 and does not exceed $2,000,000;

Fourteen per cent of the amount by which the net estate exceeds $2,000,000 and does not exceed $3,000,000;

Sixteen per cent of the amount by which the net estate exceeds $3,000,000 and does not exceed $4,000,000;

Eighteen per cent of the amount by which the net estate exceeds $4,000,000 and does not exceed $5,000,000;
Twenty per cent of the amount by which the net estate exceeds $5,000,000 and does not exceed $8,000,000;
Twenty-two per cent of the amount by which the net estate exceeds $8,000,000 and does not exceed $10,000,000; and
Twenty-five per cent of the amount by which the net estate exceeds $10,000,000.

The proposal of the Senate Finance Committee applies to estates from $15,000,000 up and is as follows:

Thirty per cent of the amount by which the net estate exceeds $15,000,000 and does not exceed $25,000,000;
Thirty-five per cent of the amount by which the net estate exceeds $25,000,000 and does not exceed $50,000,000;
Forty per cent of the amount by which the net estate exceeds $50,000,000 and does not exceed $100,000,000; and
Fifty per cent of the amount by which the net estate exceeds $100,000,000.

The taking of 50 per cent of all estates over $100,000,000 may sound big to some. The minute I saw this proposal I grew somewhat suspicious, and I immediately called up the officer in the Treasury Department having charge of the estate-tax division to ascertain, first, how many estates bordering on $50,000,000 to $100,000,000 and above had gone through the Treasury Department since the estate tax or inheritance tax law had been enacted and to ascertain how much additional revenue would likely be realized from the proposed Senate amendment.

The Treasury official was unable to make any estimate in the time at his disposal of the amount of revenue that the proposed Senate amendment would likely yield. I did, however, receive some interesting information, to wit: That since the estate tax law went into effect in 1916 the 15 largest estates on which estate taxes were levied ranged from $38,000,000 to $110,000,000; that is, gross estates. The net estate of the $110,000,000 gross estate was $89,000,000, and on that amount the tax was levied. The net estates of the three highest estates that have gone through the Treasury Department and on which the estate tax was levied were $89,000,000, $79,000,000, and $53,000,000, respectively, while the remaining 12 estates of those 15 largest estates that have gone through the Treasury Department were from $30,000,000 to $40,000,000 net estates. Up to date not a cent has been collected on any net estate amounting to over $100,000,000. There have been only three estates over $50,000,000. In my opinion, the amendment called to my attention by the gentleman from Wisconsin will add very little to the revenues of the Government. A rate of 50 per cent on net estates above $100,000,000 may look good in print, but it will not bring any revenues into the Treasury.

Estates of that kind have not existed, and they are less likely to exist in the future, as men of great wealth will be more disposed to distribute their wealth before they die. We might as well impose a rate of 100 per cent on all net estates above $100,000,000, because that, judging the future by the past, will yield as much of nothing as the rate of 50 per cent on all net estates above $100,000,000. If you want to increase the revenue from estates, you must increase the tax rates on lower amounts. The bill I introduced and for which I argued in the House doubled the existing rates—that is, instead of having progressive tax rates from 1 per cent to 25 per cent on net estates from $50,000 to $10,000,000, the progressive tax rates ranged from 2 per cent to 50 per cent on net estates from $50,000 to $10,000,000. That proposed change in existing law, together with the other changes in my bill, would have yielded an annual income to our Government of over $400,000,000.

I wish to call the attention of Members of this House to the fact that in France taxes are imposed on gifts inter vivos as well as on inheritances. The taxation of gifts is a matter that ought to be considered by Congress at once, because men of large fortunes are beating the Government out of estate taxes by disposing of their holdings during their lifetime.

Mr. Speaker, I did not ask for time to make an argument in favor of estate or inheritance taxes, and I would not have consumed this much time but for the question of the gentleman from Wisconsin. I simply wished to explain to the Members the data I propose to place in the RECORD, and I ask unanimous consent, Mr. Speaker, to extend my remarks along the line indicated on inheritance taxes.

The SPEAKER. The gentleman from Iowa asks for unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Inheritance tax receipts as reported by the State treasurers of the several States for the last fiscal year.

Alabama. (No inheritance tax law.)	
Arizona	$17,109.49
Arkansas	85,376.11
California	6,804,732.08
Colorado	409,269.70
Connecticut	1,855,856.34
Delaware	37,249.36
Florida. (No inheritance tax law.)	
Georgia	210,482.21
Idaho	$21,220.86
Illinois	3,368,905.16
Indiana	660,000.00
Iowa	657,227.06
Kansas	536,118.18
Kentucky	435,562.32
Louisiana	224,891.77
Maine	594,100.03
Maryland	656,027.93
Massachusetts	4,296,507.63
Michigan	1,391,677.58
Minnesota	1,074,038.82
Mississippi	88,370.18
Missouri	1,472,000.00
Montana	86,680.26
Nebraska. (Inheritance taxes collected by the county probate courts and no report thereof made to the State treasurer.)	
Nevada	14,863.06
New Hampshire (for 10 months prior to June 30, 1921)	251,312.83
New Jersey	4,709,433.74
New Mexico	1,181.33
New York	18,135,506.73
North Carolina	605,077.13
North Dakota	99,340.56
Ohio	1,184,805.64
Oklahoma	155,067.82
Oregon	214,215.34
Pennsylvania	10,198,718.06
Rhode Island	1,403,306.20
South Carolina. (No inheritance tax law.)	
South Dakota	202,271.66
Tennessee	375,878.00
Texas	547,227.30
Utah	525,038.08
Vermont	140,502.99
Virginia	199,538.00
Washington	520,899.75
West Virginia	700,864.76
Wisconsin	1,265,456.73
Wyoming. (Inheritance taxes collected by the county treasurers and no report thereof made to the State treasurer.)	
Total	57,351,592.99

INHERITANCE TAX LAWS.

[Covering estate, legacy, and succession duties.]

GREAT BRITAIN AND IRELAND.

LIBRARY OF CONGRESS,
LEGISLATIVE REFERENCE SERVICE.

(Manuscript supplementary to manuscript No. 41626, prepared by T. H. Thiesing, 29 Apr., 1916, on the basis of United States, Sixty-first Congress, first session, Senate Doc. No. 114, "Inheritance tax laws"; revising manuscript to 31 Dec., 1920. Mangum Weeks, 16 Sept., 1921.)

NOTE: Since 1915 there has been little legislation of primary importance affecting the law upon inheritance taxes, the revised schedule for estate duty in the finance act, 1919, being the only full revision of any existing schedule. Most of the amendments to these laws within this period have dealt with the remission of "death duty" (estate duty) in respect of persons killed in the military or naval service, changes obviously necessitated by the Great War; in this connection attention should be called to clause 31 in the present finance bill, 1921, which extends the benefit of section 14, 63 and 64 Vict., c. 7, to the case of persons killed while engaged in the military or naval service during the present rebellion in Ireland by remission of death duties within certain prescribed limits.

FINANCE ACT (NO. 2), 1915.

[5 and 6 Geo. V, c. 89, s. 46.]

Section 2 of death duties (killed in war) act, 1914, providing for remission of estate duty in respect of property passing more than once owing to deaths caused by the war, extended to succession and legacy duty as well as estate duty.

FINANCE ACT, 1917.

[7 and 8 Geo. V, c. 31, s. 29.]

Section 14, finance act, 1900, as extended by death duties (killed in war) act, 1914, and section 46 of finance act (No. 2), 1915, "applied to master or member of crew of ship or fishing boat dying * * * from causes arising out of operations of the present war * * *."

(An extension of the law in respect of the remission of death duty.)

FINANCE ACT, 1918.

[8 and 9 Geo. V, c. 15, s. 44.]

Death duties (killed in war) act, 1914, "shall have effect, and shall be deemed always to have had effect as though references therein to lineal ancestors included references to brothers and sisters and descendants of brothers and sisters of deceased."

FINANCE ACT, 1919, PART III.

[9 Geo. V, c. 6, s. 29–31.]

29. The scale set out in the third schedule to this act shall, in the case of persons dying after the commencement of this act, be substituted for the scale set out in the first schedule to the finance act, 1914, as the scale of rates of estate duty:

Provided, That where an interest in expectancy within the meaning of Part I of the finance act, 1894, in any property has, before the 30th day of April, 1919, been bona fide sold or mortgaged for full consideration in money or money's worth, then no other duty on that property shall be payable by the purchaser or mortgagee when the interest falls into possession than would have been payable if this part of this act had not passed, and in the case of a mortgagee any higher duty payable by the mortgagor shall rank as a charge subsequent to that of the mortgagee.

30. Section 18 of the finance act, 1896 (which determines the rate of interest on death duties, shall, in its application to interest accruing due after the commencement of this act, have effect as though 4 per cent were substituted for 3 per cent as the rate of interest per annum.

31. Section 14 of the finance act, 1900 (which relates to the remission of death duties in case of persons killed in war), and any enact-

ment amending or extending that section, shall, in their application to the present war, have effect and be deemed always to have had effect as though—

(a) Three years were substituted for 12 months wherever that expression occurs; and

(b) In the said section 14 the expression "wounds inflicted, accident occurring, or disease contracted while on active service against an enemy" included wounds inflicted, accident occurring, or disease contracted in the course of operations arising directly out of the present war but after its termination.

GREAT BRITAIN FINANCE ACT, 1919.

THIRD SCHEDULE.

Scale of rates of estate duty.

Where the principal value of the estate exceeds—	Duty payable at rate of (per cent)—
£100 and does not exceed £500	1
£500 and does not exceed £1,000	2
£1,000 and does not exceed £5,000	3
£5,000 and does not exceed £10,000	4
£10,000 and does not exceed £15,000	5
£15,000 and does not exceed £20,000	6
£20,000 and does not exceed £25,000	7
£25,000 and does not exceed £30,000	8
£30,000 and does not exceed £40,000	9
£40,000 and does not exceed £50,000	10
£50,000 and does not exceed £60,000	11
£60,000 and does not exceed £70,000	12
£70,000 and does not exceed £90,000	13
£90,000 and does not exceed £110,000	14
£110,000 and does not exceed £130,000	15
£130,000 and does not exceed £150,000	16
£150,000 and does not exceed £175,000	17
£175,000 and does not exceed £200,000	18
£200,000 and does not exceed £225,000	19
£225,000 and does not exceed £250,000	20
£250,000 and does not exceed £300,000	21
£300,000 and does not exceed £350,000	22
£350,000 and does not exceed £400,000	23
£400,000 and does not exceed £450,000	24
£450,000 and does not exceed £500,000	25
£500,000 and does not exceed £600,000	26
£600,000 and does not exceed £800,000	27
£800,000 and does not exceed £1,000,000	28
£1,000,000 and does not exceed £1,250,000	30
£1,250,000 and does not exceed £1,500,000	32
£1,500,000 and does not exceed £2,000,000	35
£2,000,000	40

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TAXES ON INHERITANCE AND ON GIFTS INTER VIVOS IN FRANCE IMPOSED BETWEEN JANUARY 1, 1918, AND JULY 1, 1921.

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(This manuscript is supplementary to a manuscript prepared by Mr. Bernard, June, 1916, and revised by Mr. Hirsch, August, 1918. Mangum Weeks, Oct. 1, 1921.)

NOTE: Since the enactment of the law of December 31, 1917, there has been no legislation of importance affecting inheritances ("domaine") and gifts inter vivos save the law of June 25, 1920. In regard to the subsidiary laws on registration duties and stamp taxes, which affect all legal transfers of property and therefore indirectly the taking of property by succession and by gift, there have been certain minor changes (law of June 25, 1920, Title II, Duvergier-Lois, Décrets, 1920, pp. 615 et seq., pp. 619 et séq.) The subsidiary tax law, known as the mortmain tax ("taxe de mainmorte"), was revised and is to be calculated on the basis of 260 centimes per franc of the principal of the land tax on property improved and unimproved (law of June 29, 1918, art. 6, having effect from Jan. 1, 1918).

The law on inheritances and gifts inter vivos has, however, been completely revised in its schedules, of rates. The schedules of the revising law of June 25, 1920, with their governing provisions, are therefore given infra (translated by the present compiler) as set forth in the text of that act.

[From Duvergier-Lois, Décrets, 1920, pp. 616 et seq.]

Law June 25, 1920, Title II. Translation:

ART. 29. Article 10 of the law of December 31, 1917, is modified as follows:

"In every succession where the deceased does not leave at least four living children or representatives there is to be collected, independently of the duties to which the transfers of property, either real or personal, are subjected by decrease, a progressive and graduated duty on the net round sum of the inheritance.

"This duty is fixed as follows, without addition of any decimal surtax ('décime'). (See Schedule I.)

"There are applicable to the duty established by the present article the provisions which govern the settlement, the payment, and the recovery of the duties of succession by decrease, as well as the penalties for default of declaration in the period allowed, omission, or false valuation. The payment of the whole of the duty is an obligation on the heirs, donees, residuary legatees, or those taking by general right, who should make payment within the same periods as the duties of succession by decease."

ART. 30. The duties of succession by decrease established by articles 2 of the law of February 25, 1901; 10 of the law of March 30, 1902; 10 of the law of April 8, 1910; and 11 of the law of December 31, 1917, are fixed by the following rates, without addition of any decimal surtax, for the net part received (by inheritance) by each one owing duty. (See Schedule II.)

In every succession where the decedent leaves more than four living children or representatives there is deducted from the net round sum of the assets for the settlement of the duties of transfer by decease 10 per cent for each child in excess of the fourth, provided this deduction shall not exceed 15,000 francs per child.

Whenever any succession shall pass from the grandparents to the grandchildren in consequence of the predecease of the father or of the mother, killed by the enemy or having died a victim of the war, under the conditions fixed by Nos. 1 and 2 of the second paragraph of article 34 of the present law, the rate applicable shall be that of the lineal descendant of the first degree, saving to the heirs the right to produce the proofs provided for by the last paragraph of article 34.

The total of the fraction of inheritance duty enacted by article 20 falling on an heir, donee, or legatee by virtue of the present article, can not exceed 80 per cent of the net part which has descended to him, calculated on the net inherited assets without deduction of inheritance duty. The reduction will continue on the duties of succession by decease.

ART. 31. When an heir, donee, or legatee shall have four children or more living at the moment of the beginning of his succession duties the duties to be collected by virtue of the above article shall be diminished by 10 per cent for each child in excess of the third, without the reduction exceeding 2,000 francs for each child and the total reduction exceeding 50 per cent.

ART. 32. The registration duties on gifts inter vivos of real and personal property, such as were established in article 18 of the law of February 25, 1901, article 11 of the law of April 8, 1910, and article 14 of the law of December 31, 1917, shall be collected in accordance with the following quotas, without addition of any decimal surtax. (See Schedule III.)

ART. 33. The net shares not exceeding 10,000 francs, received in successions, of which the sum total does not exceed 25,000 francs, just as gifts and legacies made to the departments, communes, and public establishments, or those of public utility, shall continue, conformably to article 12 and to article 16, second paragraph, of the law of December 31, 1917, to be subject, in what concerns the succession duties by decrease and donation duties, to the rates enacted by the laws precedent to the said law, reserving application to successions between spouses of the rate fixed by these laws for successions in direct line to the second degree.

The individual gifts and legacies made to those maimed by war by the loss of at least 50 per cent of their working ability shall benefit to the extent of the first 100,000 francs by the reduced rate of 9 per cent enacted by article 19 of the law of February 25, 1901, and retained by this present article.

ART. 34. Article 15 of the law of December 31, 1917, is abrogated and replaced by the following provisions:

For the application of the rates enacted by articles 29 and 32 preceding, and of the provisions of the second paragraph of article 30, there should be added to the number of living children or representatives of the decedent or of the donor any child who—

1. Has died after having attained the age of 16 years.

2. Being at an age less than 16 years, has been killed by the enemy in the course of hostilities or has died from the consequences of war, whether during hostilities or within a year from their cessation.

The benefit of this provision is conditioned upon the prompt production in the first case of a certificate of death of the child, and in the second case of a certificate of general knowledge delivered without charge by the justice of the peace of the deceased's domicile and establishing the circumstances of the wound or of death.

For the application of article 31 preceding there will be assimilated to the living children of the heir, donee, or legatee, every child, of whatever age of the heir, donee, or legatee who—

1. Being in military service, is killed with the colors during the period of the war, or who, whether in active service or after his return home, has died within a year from the cessation of hostilities from a wound or an illness contracted during the war.

2. Not being in military service has been killed by the enemy in the course of hostilities or has died from consequences of the war, whether during hostilities or within a year from their cessation.

The benefit of this provision is conditioned upon the production—

1. If it is a question of a soldier, of a certificate from the military authority certifying that his death was caused by a wound received or an illness contracted during the period of the war.

2. If it is a question of a civilian, of certificate of general knowledge delivered without charge by a justice of the peace of the domicile of the deceased and establishing the circumstances of the wound or of his death.

ART. 35. The semiannual payments provided for by article 7 of the law of July 13, 1911, are fixed at the number of two, when the exigible duties of succession by decease do not exceed 5 per cent of the net shares inherited, whether by all the coheirs together or by each of the legatees or donees; at four payments when the duties do not exceed 10 per cent of the same shares, and so on, increasing the number of payments from two in proportion as the duties exceed a new multiple of 5 per cent, but without the number of payments becoming greater than 10.

The number of the successive payments may be reduced by half, without becoming less than two, when cash, claims fallen due, and negotiable paper are included in the inheritance. The legacy or gift representing a sum at least equal in amount to the exigible duties.

The duties of which the payment has been deferred become exigible immediately when it is established that the heirs, donees, or legatees who owe such duty have realized from the property of the inheritance, gift, or legacy a net value at least equal to the sum of the duties remaining due.

Inheritance tax rates in France.

SCHEDULE I.

Rate applicable to the fraction included between—	Number of children left by the decedent.			
	3 living children or representatives.	2 living children or representatives.	1 living child or representative.	No living child or representative.
	Per cent.	*Per cent.*	*Per cent.*	*Per cent.*
	Fr. c.	*Fr. c.*	*Fr. c.*	*Fr.*
1 and 2,000 francs	25	50	1 0	3
2,001 and 10,000 francs	50	1 0	2 0	6
10,001 and 50,000 francs	75	1 50	3 0	9
50,001 and 100,000 francs	1 0	2 0	4 0	12
100,001 and 250,000 francs	1 25	2 50	5 0	15
250,001 and 500,000 francs	1 50	3 50	6 50	18
500,001 and 1,000,000 francs	2 25	4 25	8 0	21
1,000,001 and 2,000,000 francs	3 20	6 0	12 0	24
2,000,001 and 5,000,000 francs	3 60	6 75	13 50	27
5,000,001 and 10,000,000 francs	4 0	7 50	15 0	30
10,000,001 and 50,000,000 francs	4 40	8 25	16 50	33
50,000,001 and 100,000,000 francs	4 80	9 0	18 0	36
100,000,001 and 500,000,000 francs	5 50	10 0	20 0	37
All over 500,000,000 francs	7 50	12 0	21 0	39

French duty according to degree of relationship.

SCHEDULE II.

Indicating the degree of relationship.	Rate applicable to the fraction of the net part taken between—											
	1 and 2,000 francs.	2,001 and 10,000 francs.	10,001 and 50,000 francs.	50,001 and 100,000 francs.	100,001 and 250,000 francs.	250,001 and 500,000 francs.	500,001 and 1,000,000 francs.	1,000,001 and 2,000,000 francs.	2,000,001 and 5,000,000 francs.	5,000,001 and 10,000,000 francs.	10,000,001 and 50,000,000 francs.	All over 50,000,000 francs.
	Per cent. Fr. c.	Per cent. Fr. c.	Per cent. Fr. c.	Per cent. Fr. c.	Per cent. Fr. c.	Per cent. Fr. c.	Per cent. Fr. c.	Per cent. Fr. c.	Per cent. Fr. c.	Per cent. Fr. c.	Per cent. Fr. c.	Per cent. Fr. c.
Lineal descendant to first degree	1 0	2 0	3 0	4 0	5 0	6 0	7 0	9 0	11 0	13 0	15 0	17 0
Lineal descendant to second degree and between spouses	1 50	2 50	3 50	4 50	5 50	6 50	7 50	9 50	11 50	13 50	15 50	17 50
Lineal descendant beyond second degree	2 0	3 0	4 0	5 0	6 0	7 0	8 0	10 0	12 0	14 0	16 0	18 0
Lineal ascendant to first degree	2 50	3 50	4 50	5 50	6 50	7 50	8 50	10 50	12 50	14 50	16 50	18 50
Lineal ascendant to second degree	3 0	4 0	5 0	6 0	7 0	8 0	9 0	11 0	13 0	15 0	17 0	19 0
Lineal ascendant beyond second degree	3 50	4 50	5 50	6 50	7 50	8 50	9 50	11 50	13 50	15 50	17 50	19 50
Between brothers and sisters	10 0	12 0	14 0	16 0	19 0	22 0	25 0	28 0	32 0	36 0	40 0	44 0
Between uncles or aunts, nephews or nieces	15 0	17 0	19 0	21 0	24 0	27 0	30 0	33 0	37 0	41 0	45 0	49 0
Between granduncles or grandaunts and grandnephews or grandnieces and between cousins-german	20 0	22 0	24 0	26 0	29 0	32 0	35 0	38 0	42 0	46 0	50 0	51 0
Between relatives beyond the fourth degree and between persons not related	25 0	27 0	29 0	31 0	34 0	37 0	40 0	43 0	47 0	51 0	55 0	59 0

Donations and gifts.

SCHEDULE III.

Indicating the degrees of relationship.			Rate.
			Per ct. Fr. c.
Lineal descendant.	Gift distributions were made in accordance with articles 1075 and 1076 of the Civil Code by the father and mother and other descendants.	Among more than two living children or representatives.	2 50
		Among two living children or representatives	4 50
		Among the descendants of an only child	6 50
	Gifts by marriage contract to the children of the marriage	More than two living children or representatives	3 50
		Two living children or representatives	4 50
		One living child or representative	5 50
	Other donations	More than two living children or representatives	5 50
		Two living children or representatives	7 50
		One living child or representative	9 50
Lineal ascendant			9 50
Between spouses.	By marriage contract		4 50
	Without marriage contract	More than two living children or representatives of issue by the marriage	5 50
		Two living children or representatives of issue by the marriage	7 50
		One child or representative of issue by the marriage	9 50
		Without living child or representative of issue by the marriage	11 50
Between brothers and sisters	By contract of intended marriage		15
	Without marriage contract		25
Between uncles or aunts and nephews or nieces	By contract of intended marriage		20
	Without marriage contract		30
Between granduncles or grandaunts and grandnephews or grandnieces and between cousins-german	By contract of intended marriage		25
	Without marriage contract		35
Between relatives beyond the fourth degree and between persons not related	By contract of intended marriage		30
	Without marriage contract		40

INTERNATIONAL AERO CONGRESS CANCELLATION STAMP.

The SPEAKER. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. STEENELSON, a motion to reconsider the vote whereby the bill was passed was laid on the table.

Mr. BLANTON. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Texas makes the point of order that there is no quorum present.

Mr. STEENERSON. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. Will the gentleman from Texas withhold his point for a moment?

Mr. BLANTON. I withhold it.

LEAVES OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. GAHN, for two weeks, on account of important business;

To Mr. BRAND (at the request of Mr. LARSEN of Georgia), indefinitely, on account of sickness.

ADJOURNMENT.

The SPEAKER. The gentleman from Minnesota moves that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 30 minutes p. m.) the House adjourned until to-morrow, Thursday, October 13, 1921, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. MOORES of Indiana, from the Joint Select Committee on the Disposition of Useless Executive Papers, submitted a report (No. 403) concerning disposition of useless papers in the Smithsonian Institution, which said report was ordered to be printed.

Mr. MADDEN, from the Committee on Appropriations, to which was referred the joint resolution (S. J. Res. 123) authorizing the Secretary of War to expend from the appropriation "Disposition of remains of officers, soldiers, and civilian employees, 1922" (act of Mar. 4, 1921, Public, No. 389, 66th Cong.), such sum as may be necessary to carry out the provisions of public resolution 67, Sixty-sixth Congress, reported the same with an amendment, accompanied by a report (No. 404), which said joint resolution and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. OSBORNE: A bill (H. R. 8642) to enlarge, extend, and remodel the post-office building at Los Angeles, Calif., and authorizing the purchase of additional land adjoining the present site sufficient in area to permit of the extension, erection, and completion of a building thereon, in the discretion of the Secretary of the Treasury; to the Committee on Public Buildings and Grounds.

By Mr. GREEN of Iowa: A bill (H. R. 8643) to extend the tariff act approved May 27, 1921; to the Committee on Ways and Means.

By Mr. PARKER of New York: A bill (H. R. 8644) to make a survey of the Saratoga battle field and to provide for the compilation and preservation of data showing the various positions and movements of troops at that battle illustrated by diagrams, and for other purposes; to the Committee on Military Affairs.

By Mr. OSBORNE: A bill (H. R. 8645) to provide for the incorporation of Federal home building corporations, for the appointment of a commissioner of such corporations, and for other purposes; to the Committee on the Judiciary.

By Mr. TAGUE: A bill (H. R. 8646) providing that the Attorney General of the United States shall have power to determine that any society, organization, or association within the United States or its territorial limits is a menace to the welfare of the citizens thereof, and for other purposes; to the Committee on the Judiciary.

By Mr. VINSON: A bill (H. R. 8647) to amend the war risk insurance act as amended; to the Committee on Interstate and Foreign Commerce.

By Mr. RAINEY of Illinois: A bill (H. R. 8648) authorizing and declaring a portion of the west arm of the South Fork of the South Branch of the Chicago River to be nonnavigable; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BEGG: A bill (H. R. 8649) granting an increase of pension to Thomas Mahan; to the Committee on Pensions.

Also, a bill (H. R. 8650) granting a pension to Harriet A. Wood; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8651) granting a pension to Ellen Clendenin; to the Committee on Invalid Pensions.

By Mr. CANTRILL: A bill (H. R. 8652) granting a pension to Lizzie Cragg; to the Committee on Invalid Pensions.

By Mr. KIESS: A bill (H. R. 8653) granting a pension to Mary T. Schmidt; to the Committee on Pensions.

By Mr. KLINE of New York: A bill (H. R. 8654) for the relief of the Mechanics and Metals National Bank, successor to the New York Produce Exchange Bank; to the Committee on Claims.

By Mr. LANHAM: A bill (H. R. 8655) granting a pension to Mary E. Shadle; to the Committee on Pensions.

By Mr. LAYTON: A bill (H. R. 8656) for the relief of Horace G. Knowles; to the Committee on Claims.

By Mr. LONGWORTH: A bill (H. R. 8657) granting a pension to Anthony Welmer; to the Committee on Pensions.

Also, a bill (H. R. 8658) authorizing the Secretary of War to donate to the Madisonville Memorial Association, of Cincinnati, Ohio, one captured cannon of the World War; to the Committee on Military Affairs.

Also, a bill (H. R. 8659) authorizing the Secretary of War to donate to the city of Cincinnati, Ohio, two 10-inch howitzers and eight 77-millimeter guns captured during the World War; to the Committee on Military Affairs.

By Mr. McLAUGHLIN of Michigan: A bill (H. R. 8660) for the relief of Benjamin F. Brown; to the Committee on Military Affairs.

By Mr. MOORE of Illinois: A bill (H. R. 8661) granting an increase of pension to John M. Beck; to the Committee on Invalid Pensions.

By Mr. RAINEY of Illinois: A bill (H. R. 8662) for the relief of William Knourek; to the Committee on Claims.

Also, a bill (H. R. 8663) for the relief of John Marks; to the Committee on Naval Affairs.

Also, a bill (H. R. 8664) granting a pension to Ann Casey; to the Committee on Pensions.

Also, a bill (H. R. 8665) granting a pension to Michael Quinlan; to the Committee on Pensions.

Also, a bill (H. R. 8666) granting a pension to Joseph Mikota; to the Committee on Pensions.

By Mr. REAVIS: A bill (H. R. 8667) granting a pension to Cyrus W. Northup; to the Committee on Invalid Pensions.

By Mr. REBER: A bill (H. R. 8668) granting an increase of pension to Mary E. Rose; to the Committee on Invalid Pensions.

By Mr. RIDDICK: A bill (H. R. 8669) authorizing the issuance of a patent in fee to Jerome Kennerly for land allotted to him on the Blackfeet Reservation, Mont.; to the Committee on Indian Affairs.

By Mr. ROSE: A bill (H. R. 8670) granting an increase of pension to Elizabeth Corl; to the Committee on Invalid Pensions.

By Mr. ROUSE: A bill (H. R. 8671) granting a pension to Anna W. Nixon; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8672) authorizing the Secretary of War to donate to Evergreen Cemetery, Newport, Ky., four German cannons or fieldpieces; to the Committee on Military Affairs.

By Mr. RYAN: A bill (H. R. 8673) for the relief of Joseph W. Martin; to the Committee on Claims.

Also, a bill (H. R. 8674) for the relief of Katherine Cronhardt; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

2711. By Mr. BEEDY: Resolutions adopted by the Portsmouth (N. H.) Metal Trades Council, protesting against the policy of the Government regarding wages of navy-yard employees and urging the adoption of a wage schedule consistent with living conditions; to the Committee on Expenditures in the Navy Department.

2712. By Mr. BURTON: Resolution from the Laymen's Association of the Northeast Ohio Conference of the Methodist Episcopal Church, in session at Massillon, Ohio, September 30, 1921, praying for world peace and the reduction of armaments; to the Committee on Foreign Affairs.

2713. Also, resolution from the Baptist Church of North Royalton, Ohio, favoring the passage of House joint resolution 159, to prohibit sectarian appropriations; to the Committee on Appropriations.

2714. By Mr. FULLER: Petition of the Federated Engineering Society, favoring the Lampert Patent Office bill (H. R. 7077); to the Committee on Patents.

2715. By Mr. KISSEL: Petition of Frederick B. Chandler, of New York City; to the Committee on Ways and Means.

2716. By Mr. KNUTSON: Resolution adopted by St. Peter's Methodist Church of Long Prairie, Minn., signed by Charles H. Blake, pastor, and W. G. Anderson, secretary, urging the immediate passage of the proposed constitutional amendment to prohibit sectarian appropriations (H. J. Res. 159); to the Committee on the Judiciary.

2717. By Mr. MAGEE: Resolution of the First Baptist Church of Homer, N. Y., indorsing House joint resolution 159; to the Committee on the Judiciary.

2718. By Mr. SMITH of Michigan: Memorial of the Culture Club of Jonesville, Mich., protesting against tax on musical instruments; to the Committee on Ways and Means.

2719. By Mr. YOUNG: Resolution of the North Dakota Farm Bureau Federation, at an annual convention at Fargo, N. Dak., favoring the retention of the excess-profits tax in the tax laws of the country; to the Committee on Ways and Means.

2720. Also, telegram in the nature of a petition of the League of Women Voters of Fargo, N. Dak., praying for the passage of the so-called Sheppard-Towner bill and that it be administered by the Children's Bureau; to the Committee on Education.

SENATE.

THURSDAY, *October 13, 1921.*

(*Legislative day of Tuesday, October 4, 1921.*)

The Senate reassembled at 11 o'clock a. m., on the expiration of the recess.

DEATH OF SENATOR KNOX.

Mr. PENROSE. Mr. President, it becomes my sad duty to announce to the Senate the sudden and unexpected death of my colleague and our associate, Senator PHILANDER C. KNOX. His taking off is so unexpected, so sudden, and so shocking, so soon after he left the Senate Chamber last evening, apparently in good health and vigor and ready for the great tasks ahead of him, that I have difficulty at this time in adequately expressing my personal grief for the great loss which the Senate and the country have sustained.

He was an illustrious son of Pennsylvania, a man of sterling Americanism, a statesman whose loss at this trying crisis will be irreparable. At a later time I shall hope more fully and adequately to express the sentiments which I feel and the views which I hold as to his standing and record in the annals of America.

I now offer the following resolutions for adoption.

The VICE PRESIDENT. The resolutions will be read.

The resolutions (S. Res. 152) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with deep regret and profound sorrow the announcement of the death of the Hon. PHILANDER CHASE KNOX, late a Senator from the State of Pennsylvania.

Resolved, That a committee of 17 Senators be appointed by the Vice President to take order for superintending the funeral of the late Senator.

Resolved, That as a further mark of respect the remains of the dead Senator be removed from Washington to Valley Forge, Pa., for burial in charge of the Sergeant at Arms, attended by the committee, who shall have full power to carry these resolutions into effect.

Resolved, That the Secretary communicate these resolutions to the House of Representatives, and transmit a copy thereof to the family of the deceased Senator.

The VICE PRESIDENT appointed as the committee under the second resolution Mr. PENROSE, Mr. LODGE, Mr. MCCUMBER, Mr. BORAH, Mr. BRANDEGEE, Mr. JOHNSON, Mr. NEW, Mr. MOSES, Mr. KELLOGG, Mr. MCCORMICK, Mr. UNDERWOOD, Mr. HITCHCOCK, Mr. WILLIAMS, Mr. SWANSON, Mr. POMERENE, Mr. PITTMAN, and Mr. SHIELDS.

Mr. PENROSE. Mr. President, as a further mark of respect to the memory of the deceased Senator, I move that the Senate do now adjourn until 11 o'clock a. m. to-morrow.

The motion was unanimously agreed to, and the Senate (at 11 o'clock and 5 minutes a. m.) adjourned until to-morrow, Friday, October 14, 1921, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

THURSDAY, *October 13, 1921.*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Blessed Lord, we would say Holy, Holy, Holy! Yet these words are not worthy of Thee. Our lives are one long necessity and Thou dost give them the joy of security. No applicant has ever been turned aside and to the contrite heart no harsh word has ever been spoken. So we come and ask the forgiveness of our sins, and make us strong to resist evil, and wherein we have done wrong pity us. Let Thy blessing go forth to our homes. Be with those loved ones who have gone away and establish them in love, confidence, and happiness. Come to us through our sorrow and give unto all new hope and new opportunities, and as we bow under its discipline help us to begin with a new heart. May we live well, and continue Thy wondrous goodness toward us until we reach the end. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. RICKETTS, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bills:

H. R. 6809. An act to extend the time for the construction of a bridge across the Rio Grande within or near the city limits of El Paso, Tex.; and

H. R. 8209. An act to extend the time for the construction of a bridge across the Cumberland River in Montgomery County, Tenn.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 2504. An act providing for the readmission of certain deficient midshipmen to the United States Naval Academy.

The message also announced that the Senate had passed the following resolution:

Senate resolution 152.

Resolved, That the Senate has heard with deep regret and profound sorrow the announcement of the death of Hon. PHILANDER CHASE KNOX, late a Senator from the State of Pennsylvania.

Resolved, That a committee of 17 Senators be appointed by the Vice President to take order for superintending the funeral of the late Senator.

Resolved, That as a further mark of respect the remains of the dead Senator be removed from Washington to Valley Forge, Pa., for burial in charge of the Sergeant at Arms, attended by the committee, who shall have full power to carry these resolutions into effect.

Resolved That the Secretary communicate these resolutions to the House of Representatives, and transmit a copy thereof to the family of the deceased Senator.

Resolved, That as a further mark of respect to the memory of the deceased the Senate do now adjourn until 11 o'clock a. m. to-morrow.

The message further announced that the Vice President, pursuant to the provisions of the second resolution, had appointed as members of the committee Mr. PENROSE, Mr. LODGE, Mr. MCCUMBER, Mr. BORAH, Mr. BRANDEGEE, Mr. JOHNSON, Mr. NEW, Mr. MOSES, Mr. KELLOGG, Mr. MCCORMICK, Mr. UNDERWOOD, Mr. HITCHCOCK, Mr. WILLIAMS, Mr. SWANSON, Mr. POMERENE, Mr. PITTMAN, and Mr. SHIELDS.

SENATE BILL REFERRED.

Under clause 2, Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee as indicated below:

S. 2504. An act providing for the readmission of certain deficient midshipmen to the United States Naval Academy; to the Committee on Naval Affairs.

DEATH OF SENATOR PHILANDER C. KNOX.

Mr. BUTLER. Mr. Speaker, sad and forlorn is the duty imposed upon me to move that this House out of respect for the late Senator KNOX shall adjourn. He died last night, as nearly as we can learn, about 6 o'clock and 15 minutes without any indication to us that his life was so near at an end.

He was a great American, one of the greatest. His deeds in this life made him known to the whole world. He was the leading citizen of Pennsylvania, which contributed its best when it furnished him for the service of our Union. It is the wish of the delegation from Pennsylvania, as, I have no doubt, it is the wish of the House, that out of respect to him we shall adjourn. Some day we will speak of his worthiness as a statesman and man.

Mr. Speaker, I offer the following resolutions:

The Clerk read as follows:

Resolved, That the House has heard with profound sorrow of the death of Hon. PHILANDER C. KNOX, a Senator of the United States from the State of Pennsylvania.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased Senator.

Resolved, That a committee of 18 Members be appointed on the part of the House to join the committee appointed on the part of the Senate to attend the funeral.

Resolved, That as a further mark of respect the House do now adjourn.

The resolutions were agreed to.

Accordingly (at 12 o'clock and 12 minutes p. m.) the House adjourned until to-morrow, Friday, October 14, 1921, at 12 o'clock noon.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. TIMBERLAKE: A bill (H. R. 8675) to authorize the Secretary of the Interior to accept a certain tract of land donated as a site for an administration building for the Rocky Mountain National Park; to the Committee on the Public Lands.

By Mr. KAHN: A bill (H. R. 8676) making an appropriation for the purpose of fostering athletic sports in the United States Army; to the Committee on Appropriations.

Also, a bill (H. R. 8677) to authorize the acquisition of lands for military purposes in certain cases and authorizing appropriations therefor, and for other purposes; to the Committee on Military Affairs.

By Mr. OLPP: Joint resolution (H. J. Res. 204) authorizing the sale of stock of the Hoboken Manufacturers' Railroad Co. and of certain piers and other real property acquired for war purposes; to the Committee on the Merchant Marine and Fisheries.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. LAWRENCE: A bill (H. R. 8678) granting an increase of pension to Susan Tolbert; to the Committee on Invalid Pensions.

By Mr. STAFFORD: A bill (H. R. 8679) for the relief of the Milwaukee Bridge Co.; to the Committee on Claims.

By Mr. TINKHAM: A bill (H. R. 8680) for the relief of Frank R. McCullagh; to the Committee on Claims.

Also, a bill (H. R. 8681) for the relief of George M. Goldsmith, A. M. Collins, Samuel F. Flanzbaum, and Joseph Freedberg; to the Committee on Claims.

By Mr. UNDERHILL: A bill (H. R. 8682) for the relief of H. P. Converse & Co.; to the Committee on Claims.

Also, a bill (H. R. 8683) for the relief of John F. O'Neil; to the Committee on Naval Affairs.

By Mr. WHITE of Maine: A bill (H. R. 8684) granting a pension to Mary F. May; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8685) granting a pension to Helen D. Hobart; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8686) granting a pension to Alwilda E. Williamson; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

2721. By the SPEAKER (by request): Petition of Henry E. Cobb and certain other clergymen of New York City, urging the defeat of a bill before the Senate relative to the Panama Canal; to the Committee on Interstate and Foreign Commerce.

2722. By Mr. FULLER: Petition of the Western Clock Co., of La Salle, Ill., favoring the Watson and Kahn bills (S. 848 and H. R. 2894) for interchangeable mileage books; to the Committee on Interstate and Foreign Commerce.

2723. By Mr. JOHNSON of Washington: Petition of G. B. B. Collett and other citizens of Washington State, protesting

against the bills making the observance of Sunday compulsory (S. 1948 and H. R. 4388); to the Committee on the District of Columbia.

2724. By Mr. KISSEL: Petition of Earle B. Browne, of Brooklyn, N. Y.; to the Committee on Naval Affairs.

2725. By Mr. KLINE of New York: Papers to accompany House bill 8654 for the relief of the Mechanics & Metals National Exchange Bank, successor to the New York Produce Exchange Bank; to the Committee on Claims.

2726. By Mr. LAWRENCE: Papers in support of House bill 8678, granting an increase of pension to Susan Tolbert; to the Committee on Invalid Pensions.

2727. By Mr. PARKS of Arkansas: Resolution of First Baptist Church of Stamps, Ark., relative to constitutional amendment to prohibit sectarian appropriations; to the Committee on the Judiciary.

2728. By Mr. WHITE of Maine: Resolution of the Baptist Church of Appleton, Me., urging submission of a constitutional amendment to prohibit sectarian appropriations; to the Committee on the Judiciary.

SENATE.

FRIDAY, *October 14, 1921.*

The Senate met at 11 o'clock a. m.

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

Our Father and our God, we meet to-day under the shadow of a great sorrow and our hearts turn instinctively to Thee, the God of all comfort. We thank Thee for the illustrious life, for the splendid devotion, and for the high patriotism that distinguished the deceased, who was such an honor in this assembly, such a benediction in the great political interests of his country, and exerting such an influence that he was a prince among statesmen. While we bow before Thy will this morning we do ask for wisdom so to fulfill the tasks committed to us that when the hour comes for our parting with the things of time and sense we may have the approval of Thy good will.

May the Lord remember the sorrowing household. Be the widow's God and the Father of the fatherless, and all through the shadows may Thy face shine forth and the will of the Lord be recognized. We ask through Jesus Christ our Lord. Amen.

The reading clerk proceeded to read the Journal of the proceedings of the legislative day of Tuesday, October 4, 1921, when, on request of Mr. CURTIS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

CONSIDERATION OF THE PEACE TREATIES.

Mr. CURTIS. Mr. President, I offer the following unanimous-consent order. I may state to Senators that it is simply an agreement to put over the special order for to-day until next Monday.

The PRESIDENT pro tempore. The proposed order asked by the Senator from Kansas will be read by the Secretary.

The Assistant Secretary read as follows:

It is agreed by unanimous consent that the unanimous-consent agreement entered into on the calendar day of September 30, 1921, with reference to the consideration and final disposition of the treaties with Germany, Austria, and Hungary, be amended by striking out, in the first line of the second paragraph, as printed on the Senate Calendar, the words "Friday, October 14, 1921," and inserting in lieu "Monday, October 17, 1921."

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and the unanimous-consent agreement is modified accordingly.

RECESS.

Mr. CURTIS. I ask unanimous consent that the Senate stand in recess until 2 o'clock this afternoon.

The PRESIDENT pro tempore. The Senator from Kansas asks unanimous consent that the Senate stand in recess until 2 o'clock this afternoon. Is there objection? The Chair hears none, and it is so ordered.

The Senate thereupon (at 11 o'clock and 5 minutes a. m.) took a recess until 2 o'clock p. m., at which hour it reassembled.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, transmitted to the Senate the resolutions of the House, unanimously adopted as a tribute to the memory of Hon. PHILANDER C. KNOX, late a Senator from the State of Pennsylvania.

The message also announced that the House had passed, without amendment, the bill (S. 2359) providing for an International Aero Congress cancellation stamp to be used by the Omaha post office.

The message further announced that the House had passed a bill (H. R. 6508) to amend sections 213 and 215, act of March 4, 1909 (Criminal Code), relating to offenses against the Postal Service, and sections 3929 and 4041, Revised Statutes, relating to the exclusion of fraudulent devices and lottery paraphernalia from the mails, and for other purposes, in which it requested the concurrence of the Senate.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. 8297) authorizing the Secretary of the Treasury to convey certain lands to the State of Missouri for enlargement of the State capitol grounds of that State, and it was thereupon signed by the Vice President.

ORDER FOR RECESS UNTIL MONDAY.

Mr. LODGE. I ask unanimous consent that when the Senate recesses to-day it be until 11 o'clock on Monday morning.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. UNDERWOOD. Does the order for a recess carry over until Monday the special order for to-day, or is it necessary to have a unanimous-consent agreement to carry it over?

Mr. LODGE. I understand that agreement has already been made.

Mr. CURTIS. It has been made.

Mr. UNDERWOOD. I was not in the Chamber this morning and did not know it.

ROUTINE MORNING BUSINESS.

Mr. LODGE. A good deal of routine business has probably collected, and I think it would be desirable to give Senators an opportunity to dispose of it.

The VICE PRESIDENT. The Chair is of opinion that only by unanimous consent can morning business be transacted at this time.

Mr. LODGE. I ask unanimous consent that an opportunity may be given for the transaction of routine morning business.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered. Petitions and memorials are in order.

PETITIONS AND MEMORIALS.

Mr. WATSON of Georgia. Mr. President, I beg to present a resolution adopted by the Georgia State Board of Forestry approving the plans of the State Federation of Women's Clubs in regard to the establishment of a national park in the Appalachian Mountain region of Georgia, which I request may be printed in the RECORD and appropriately referred.

There being no objection, the resolution was referred to the Committee on Public Lands and Surveys and ordered to be printed in the RECORD, as follows:

A resolution.

Whereas a farm, for census purposes, is all the land which is directly farmed by one person, either by his own labor alone or with the assistance of members of his household or hired employees; and

Whereas the State of Georgia, according to the census of 1920, contains 45,753 more farms than the States of Arizona, Colorado, Idaho, Montana, Nevada, Oregon, Utah, and Wyoming; and

Whereas the State of Georgia contains 154,213 more farms than are contained in the States of Maine, Massachusetts, Vermont, New Hampshire, Rhode Island, and Connecticut; and

Whereas the majority of her 310,000 farms is found in the coastal plain of Georgia, which has an average elevation above the sea of from 300 to 400 feet; the Piedmont Plateau, having an elevation of from 500 to 1,500 feet; and the Appalachian Mountain region an elevation of from 1,500 to 4,768 feet; and

Whereas the United States has acquired over 150,000 acres in the Appalachian Mountain region, and is acquiring very much larger areas for forest reserves; and

Whereas the State Federation of Women's Clubs has taken the initiative in the matter of the establishment of a national park and recreation grounds in these forest reserves, and a national park specially designed as a health resort during the summer months for the owners of southern farms: Therefore be it

Resolved by the Georgia State Board of Forestry, That this board gives its earnest approval to the plans of the State Federation of Women's Clubs, and on their behalf, and the behalf of the families of the producers of Georgia and the South, respectfully and earnestly urge the Congress of the United States as speedily as possible to provide a national park in this Appalachian Mountain region of Georgia, and the secretary of state is requested to furnish a copy of this resolution to Georgia Senators and Representatives in the Congress of the United States.

Mr. WADSWORTH presented a memorial of sundry citizens of Elmira, Pine City, Horseheads, and Wellsburg, all in the State of New York, remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which was referred to the Committee on the District of Columbia.

Mr. ELKINS presented a resolution adopted by the United Veterans of the Republic at its annual encampment held in Chicago, Ill., September 16–18, 1921, favoring the enactment

of Senate bill 742, providing for the equalization of pensions to former soldiers, sailors, marines, and Army nurses of the Mexican, Indian, Civil, Spanish, and World Wars, their widows and dependents, which was referred to the Committee on Pensions.

Mr. TOWNSEND presented 17 memorials of sundry citizens of Detroit, Lansing, Prattville, Tekonsha, Homer, Clarendon, Waldron, Halfway, Hillsdale, Osseo, Shaftsburg, Morrice, Oakley, Ypsilanti, Ann Arbor, Willis, Memphis, Armada, North Branch, Kings Mill, Brown City, St. Johns, Eureka, Elsie, Holly, Blissfield, and Adrian, all in the State of Michigan, remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which were referred to the Committee on the District of Columbia.

Mr. NEWBERRY presented a resolution adopted by Fenton Grange, No. 1597, Patrons of Husbandry, of Fenton, Mich., favoring the enactment of the so-called French-Capper truth in fabric bill, which was referred to the Committee on Interstate Commerce.

He also presented resolutions adopted by Monroe Council, No. 1266, Knights of Columbus, of Monroe; and the American Association for the Recognition of the Irish Republic of Bay City, both in the State of Michigan, favoring the recognition of the republic of Ireland by the Government of the United States, which were referred to the Committee on Foreign Relations.

He also presented a resolution adopted by the League of Women Voters of Ypsilanti, Mich., favoring the limitation of armaments, which was referred to the Committee on Foreign Relations.

He also presented memorials of sundry citizens of Jackson and Parma, both in the State of Michigan, remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which were referred to the Committee on the District of Columbia.

He also presented a resolution adopted by Division No. 3, Ancient Order of Hibernians, of Wyandotte, Mich., favoring the enactment of legislation providing for free transit for American ships through the Panama Canal, which was referred to the Committee on Interoceanic Canals.

REPORTS OF COMMITTEE ON INDIAN AFFAIRS.

Mr. CURTIS, from the Committee on Indian Affairs, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

A bill (S. 2210) for the relief of Lucy Paradis (Rept. No. 290);

A bill (S. 2211) authorizing the Secretary of the Interior to issue patents in certain cases to missionary or religious organizations (Rept. No. 291);

A bill (S. 2532) for extending the time within which allotments may be made in the Crow Reservation, Mont. (Rept. No. 292);

A bill (H. R. 7051) to authorize the Secretary of the Interior to execute deeds of reconveyance for certain lands in the city of Mount Pleasant, Isabella County, Mich. (Rept. No. 293); and

A bill (H. R. 7848) authorizing appropriations and expenditures for the administration of Indian affairs, and for other purposes (Rept. No. 294).

He also, from the same committee, to which were referred the following bills, reported them each with an amendment and submitted reports thereon:

A bill (S. 2312) to authorize the leasing for mining purposes of unallotted lands on the Fort Peck and Blackfeet Indian Reservations, in the State of Montana (Rept. No. 295);

A bill (S. 2439) for the relief of the West Okanogan irrigation district, in the State of Washington (Rept. No. 296); and

A bill (H. R. 7108) authorizing a per capita payment to the Chippewa Indians, of Minnesota, from their tribal funds held in trust by the United States (Rept. No. 297).

He also, from the same committee, to which was referred the bill (S. 2474) to appropriate money to Swan Johnson, due him from the United States on account of a completed contract for cutting and delivering logs, reported it with amendments and submitted a report (No. 298) thereon.

GREAT PEEDEE RIVER BRIDGE.

Mr. SHEPPARD. I report back favorably with amendments from the Committee on Commerce the bill (S. 2555) to construct, maintain, and operate a toll bridge and approaches thereto across Great Peedee River, S. C., and I submit a report (No. 289) thereon. I ask unanimous consent for the present consideration of the bill.

There being no objection, the Senate as in Committee of the Whole proceeded to consider the bill.

The amendments were, on page 1, line 5, before the word "bridge," to strike out the word "toll"; in line 6, after the word "River," to insert "at a point suitable to the interests of navigation, and"; in line 9, before the word "act," to strike out "an" and insert "the"; and in line 11, after the numerals "1906," to strike out the semicolon and the words:

Provided, That said counties of Marion and Florence, of the State of South Carolina, shall first submit plans and specifications of the proposed bridge to the Secretary of War and Chief of Engineers for their approval.

So as to make the bill read:

Be it enacted, etc., That the counties of Marion and Florence of the State of South Carolina be, and they are hereby, authorized to construct, maintain, and operate a bridge and approaches thereto across Great Peedee River at a point suitable to the interests of navigation and at or near a point known as Mars Bluff Ferry, between the counties of Marion and Florence, in the State of South Carolina, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The amendments were agreed to.

The bill was reported to the Senate as amended and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to construct, maintain, and operate a bridge and approaches thereto across Great Peedee River, S. C."

BILLS AND JOINT RESOLUTIONS INTRODUCED.

Bills and joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CURTIS:

A bill (S. 2581) for the relief of James Blakeman (with accompanying papers); to the Committee on Claims.

By Mr. DILLINGHAM:

A bill (S. 2582) for the relief of George Hewitt Myers; to the Committee on Claims.

By Mr. NICHOLSON:

A bill (S. 2583) to authorize the Secretary of the Interior to accept a certain tract of land donated as a site for an administration building for the Rocky Mountain National Park; to the Committee on Public Lands and Surveys.

By Mr. JONES of New Mexico:

A bill (S. 2584) for the relief of John H. Walker; to the Committee on Claims.

By Mr. McNARY:

A bill (S. 2585) for the relief of Bert J. Bates; to the Committee on Claims.

By Mr. MYERS:

A bill (S. 2586) to permit holdings of other lands by owners of units of land within and part of a Federal reclamation project; to the Committee on Public Lands and Surveys.

A bill (S. 2587) for the relief of Charles H. Callender; to the Committee on Military Affairs.

By Mr. NELSON:

A bill (S. 2588) extending the time for the construction of a bridge by the Chicago, Milwaukee & St. Paul Railway Co. across the Missouri River at Chamberlain, S. Dak.; to the Committee on Commerce.

By Mr. ELKINS:

A bill (S. 2589) to amend section 11 of the act entitled "An act for the retirement of public-school teachers in the District of Columbia," approved January 15, 1920; to the Committee on the District of Columbia.

By Mr. LODGE:

A joint resolution (S. J. Res. 124) to amend Senate joint resolution 89, approved March 14, 1912, amending the joint resolution to prohibit the exports of coal and other material used in war from any seaport of the United States, approved April 22, 1898; to the Committee on Foreign Relations.

By Mr. WADSWORTH:

A joint resolution (S. J. Res. 125) to continue the military status of persons deserting the military or naval service during the World War, and the amenability to trial of those persons who failed to comply with the terms of section 5 of the selective service law; to the Committee on Military Affairs.

By Mr. MYERS:

A joint resolution (S. J. Res. 126) to extend the time for payment of interest on obligations to the United States on account of purchase of lands of the Crow Indian Reservation; to the Committee on Public Lands and Surveys.

AMENDMENTS TO TAX REVISION BILL.

Mr. LODGE and Mr. CAPPER submitted amendments intended to be proposed by them to House bill 8245, the tax revision bill, which were ordered to lie on the table and to be printed.

INCREASE OF SALARIES BY FEDERAL RESERVE BOARD.

Mr. OVERMAN. Mr. President, I offer the following resolution and ask for its present consideration.

The resolution (S. Res. 153) was read, as follows:

Whereas it is charged in the public press of the country and upon the floor of the Senate that the Federal Reserve Board has been guilty of an amazing waste of public money in increase of salaries to officers and employees of the New York Federal Reserve Bank; and

Whereas since 1918 in the New York branch alone they have increased the number of officers and employees 279, or about 10 per cent, while they have increased the salaries about 50 per cent, paying its officers and employees all the way from $10,000, $12,000, $25,000, $30,000, and one as high as $50,000, and that prior to 1918 60 per cent of these officers never received over $1,500 to $2,500, but are now drawing salaries as high as $10,000; and

Whereas the official reports of the Federal Reserve Board show that in the calendar year of 1920 the Federal Reserve Bank of New York's pay roll amounted to $4,639,273, and for the calendar year 1918 the pay roll was $3,104,830, showing an actual increase in pay roll since the close of the war of $1,534,443; and

Whereas it is charged that the Governor of the Federal Reserve Board has stated that the employees of the Federal reserve banks are not paid by the Government nor paid out of revenue derived from taxation but are private business men and in the banking business to make money; and

Whereas under the provisions of section 7 of the Federal reserve act a large per cent of the net receipts made and saved by the Federal Reserve Board shall be paid into the Federal Treasury, and if the allegations herein made are true the Treasury of the United States has been deprived of a vast sum of money: Therefore be it

Resolved, That the Federal Reserve Board, as early as practicable, be, and it is hereby, directed to furnish to the Senate the number of employees, together with their respective salaries, employed by the Federal reserve bank in New York, as well as in the other Federal reserve banks in the country, and the expenditures made by each branch bank in the erection of public buildings and the general expenses in the administration of each Federal reserve bank, and how much of the net earnings have been paid to the United States as a franchise tax.

The VICE PRESIDENT. The Senator from North Carolina asks unanimous consent for the immediate consideration of the resolution.

Mr. SMOOT. I did not catch from the reading at the desk the exact import of the resolution. I think I will ask that it go over until Monday.

Mr. OVERMAN. It only asks for information.

Mr. SMOOT. What information?

Mr. OVERMAN. The charge has been made on the floor of the Senate, and it has been made in the public press, that 207 more employees are now in their service than were employed during the war, and that they have spent $1,000,000 more for expenses than they spent during the war. We want to get the truth about the matter, and the resolution asks them to furnish the information. I hope the Senator will not object.

Mr. KING. I regret that the Senator has not asked that the proper committee be instructed to report a bill placing a reasonable limit upon the compensation of these officials.

Mr. OVERMAN. I think we had better get the information and then legislate. All I am seeking is information from the board itself.

Mr. SMOOT. That is all right. There is nothing in the resolution, I see from an examination of it, that can be objected to.

The resolution was considered by unanimous consent and agreed to.

EFFECT ON BUSINESS OF PROPOSED TARIFF CHANGES.

Mr. WALSH of Massachusetts. Mr. President, I have a communication in the nature of a petition which I desire to offer and have printed in the RECORD and referred to the Finance Committee. It is a communication very similar to many others that are being sent throughout the country. It is mailed from a business house in New York to the dry goods trade of the country, condemning the proposed American valuation plan. Such a communication as this, showing the difference in present prices of linen handkerchiefs and other dry goods, can not assist in reviving business. Falling wages and notice of increased prices is not the tonic business needs at the present time. A communication of this character is bound to hold back the purchasing market, to disturb any business-revival movement. Unsettled prices make for unsettled business.

I wish to say that in view of the large number of communications of this kind that are now being distributed it seems to me we have a very serious and imperative duty to try to end our deliberations on the tariff measure, which passed the House months ago and is now before the Finance Committee of the Senate, with no immediate hope of being reported to the Senate.

So long as we hold in abeyance our decision on what tariffs and taxes business is to be burdened with we must expect unemployment and business stagnation. The country is holding back, waiting to see what prices are to be fixed by reason of changed tariff schedules.

This communication is a mere sample of many in circulation, and ought to spur us on to action. We should delay no longer. Let us give to the country a tariff policy in some form, whatever it may be, and then tell business to proceed to adjust itself to the new law. Business needs to-day, more than anything else, the stabilizing effect of having our tax and tariff laws settled.

Mr. FLETCHER. The communication is to be printed in the RECORD?

Mr. WALSH of Massachusetts. That is my request.

There being no objection, the communication was referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

GLENDINNING, McLEISH & CO. (INC.),
13–21 EAST TWENTY-SECOND STREET,
New York, August 3, 1921.

GENTLEMEN: Your customers demand and expect a downward trend of prices. We have been making sacrifices to meet these demands, and now we find that the tariff bill before the Senate will nullify all efforts to bring prices within the expectations of the consumer, who ultimately pays the tariff charges. We show you below how serious a change upward has been planned in the new tariff bill, now already passed by the House of Representatives.

In column 3 the percentage of tariff on foreign cost is arrived at by using a theoretical 25 per cent gross profit, and indicates the tremendous increase of duty rates over the present scale:

Handkerchiefs.	1 Present tariff on foreign valuation.	2 Proposed tariff on American selling price, which is—	3 Equivalent to percentage as below on foreign valuation.
	Per cent.	*Per cent.*	*Per cent.*
Embroidered	60	37½	105
Plain hemstitched linen	40	36	97
Linen cambrics	30	28	62½
Cotton printed	30	[1]43	141

[1]Probable.

Thus, embroidered handkerchiefs must bear an increased tariff of 45 per cent, plain hemstitched linen 57 per cent, linen cambrics 32½ per cent, and cotton printed handkerchiefs 111 per cent; and these increases, too, are effected under the guise of what are seemingly lower rates, as in column 2.

We put these figures before you hoping that you will use your full influence with your Representatives and Senators to avert what will dispel all hope for lower prices to the consumer should this bill be passed by the Senate.

We are doing our best now, and we are sure your customers will appreciate your efforts to keep prices down. Don't fail them. We urge the complete rejection of the American valuation plan and the continuation of the present scale of tariff as applied to handkerchiefs and linens.

Yours, truly,

GLENDINNING, McLEISH & CO. (INC.),
A. G. RITCHIE, *Vice President.*

STATEMENT BY THE WOODROW WILSON DEMOCRACY.

Mr. HARRISON. Mr. President, I ask unanimous consent to have inserted in the RECORD a statement which has just been issued by the Woodrow Wilson Democracy of New York City, of which Hamilton Holt, the great independent, is president. The statement is entitled "Preelection promises and platform pledges."

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The statement referred to is as follows:

PREELECTION PROMISES AND PLATFORM PLEDGES.

It is expected that the Members of the Senate of the United States will, on October 15, 1921, indicate by their votes whether the treaty of peace with Germany, negotiated by the President through the Secretary of State, should be ratified.

In view of this fact the Woodrow Wilson Democracy deem it their duty to call to the attention of the United States Senate the following:

On October 15, 1920, there appeared in the public press throughout the United States, over the signatures of Charles E. Hughes, Herbert Hoover, Elihu Root, Henry L. Stimson, George W. Wickersham, and 26 other representative and distinguished Republicans the following:

"The question accordingly is not between a league and no league, but is whether certain provisions in the proposed league agreement shall be accepted unchanged or shall be changed.

"The conditions of Europe make it essential that the stabilizing effect of the treaty already made between the European powers shall not be lost by them and that the necessary changes be made by changing the terms of that treaty rather than beginning entirely anew.

"The Republican Party is bound by every consideration of good faith to pursue such a course until the desired object is attained.

"That course Mr. Harding is willing to follow."

The Democratic platform adopted at San Francisco July 2, 1920, contained the following:

"We can not make peace except in company with our allies. It would brand us with everlasting dishonor and bring ruin to us also if we undertook to make a separate peace.

"We commend the Democrats in Congress for voting against resolutions for separate peace which would disgrace the Nation."

At a meeting held October 7, 1921, the executive committee of the Woodrow Wilson Democracy unanimously placed itself on record as being opposed to the ratification of a separate treaty of peace with Germany and directed the president of the Woodrow Wilson Democracy to forward to each of the Members of the Senate of the United States a copy of this statement.

TREATY WITH GERMANY—"WHY RATIFY IT?"

Mr. HARRISON. Mr. President, I also ask to have inserted in the RECORD an editorial which appeared in the New York World of to-day entitled, "Why ratify it?"—referring to the treaty with Germany.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WHY RATIFY IT?

Had Mr. Wilson, after the final refusal of the Senate to ratify the treaty of Versailles, negotiated such a separate treaty of peace with Germany as that which is now before the Senate, it is safe to say that not a Republican Senator would have voted for it. It is equally safe to say that the administration would have been hard pressed to muster any Democratic support for it.

The Senate would not have divided on partisan lines. There would have been practically a unanimous opinion that, while an honorable separate peace could have been negotiated with Germany, the treaty submitted to the Senate was not a treaty in proper form, that it was not a treaty in any sense in which that term has hitherto been employed in the foreign affairs of the United States.

The Senators, Republicans and Democrats alike, would have called Mr. Wilson's attention to the fact that the text of the treaty that he had presented to them was unintelligible in itself. Nobody who read it could tell what concessions Germany had made to the United States or what it was all about. To find a key it would be necessary to turn to the text of a treaty to which the United States was not a party and which the Senate had twice refused to ratify. Even with this key there would still remain much doubt and confusion as to the meaning of this new treaty which the President asked the Senate to make a part of "the supreme law of the land." The Senators would have said, and said rightly, that they did not purpose to help enact a supreme law of the land unless they understood exactly what this supreme law purported to be—that to describe it as a treaty of peace without making clear and precise definitions of the terms of that peace was farcical and an insult to a coordinate branch of the treaty-making power.

All this and more the Senate would have said if Mr. Wilson had submitted the treaty with Germany that Mr. Harding asks the Senate to ratify, and no adequate answer could have been made to these objections. We can not see how the case is changed by the change in the political complexion of the administration. A treaty that would have been universally condemned as a bad treaty if negotiated by Mr. Wilson is still a bad treaty when it is negotiated by Mr. Harding.

The only argument thus far made in favor of the Harding treaty of Berlin is that it establishes peace with Germany. But what kind of peace does it establish? It is apparent that the administration has sought to grab everything that was awarded to the United States under the treaty of Versailles and to repudiate all the obligations and responsibilities that the United States assumed as one of the signers of the armistice, but even this is more or less conjectural. Thus far not a single responsible person, neither Mr. Harding nor Mr. Hughes nor Mr. LODGE nor any representative of the administration has ventured to say in simple, straightforward fashion, what this treaty means and what the definite legal relations between the United States and Germany will be in the event of ratification.

What is equally important, nobody has dealt with the complications with the Allies which must inevitably result from any attempt to arrive at an interpretation. Is there a single Senator who is prepared to say that under the terms of this treaty the United States and Germany will be free agents in the execution of the treaty?

The relations between the United States and Germany are not critical. The two countries have gone along for nearly three years without a treaty of peace, and it is admitted by the administration that this treaty must be supplemented by commercial treaties in order to reestablish the economic relationship. The duty of the Senate in the circumstances is to send the treaty back to Mr. Harding with a polite request to negotiate an intelligible treaty in proper form in order that the Senate may know what it is ratifying.

DISTRICT BUILDING AND LOAN ASSOCIATIONS.

Mr. CALDER. Mr. President, I am in receipt of a letter from the president of the Building Association Council of the District of Columbia, in which reference is made to an extract from some remarks delivered by the senior Senator from Minnesota [Mr. NELSON] during the debate several days ago in the Senate on the question of allowing an additional exemption of $500 to investors in building and loan associations. I send the letter to the Secretary's desk and ask to have it read.

The VICE PRESIDENT. In the absence of objection, the Secretary will read the communication.

The reading clerk read as follows:

BUILDING ASSOCIATION COUNCIL OF THE DISTRICT OF COLUMBIA,
Washington, D. C., October 8, 1921.

Senator WILLIAM M. CALDER,
United States Capitol, Washington, D. C.

DEAR SENATOR: In the debate on the amendments to the revenue bill on October 1 in the Senate Senator NELSON made the following statement:

"I wish to say that some years ago, in connection with the appointment of a judge in the District of Columbia, I had occasion to look up what the building and loan associations here were charging the poor borrower who went in there for a loan. I found in the case of that particular company here in the District—and the man had the papers, having made the loan and finally redeemed it—that he had been paying over 36 per cent interest to that building and loan association."

There are 22 local building and loan associations now doing business in the District of Columbia, and when my attention was called to this statement I made an investigation and found that for the last 20 years no local association had charged over 6 per cent interest. The association that Senator NELSON referred to must have been a national association which did business all over the country and had an office in Washington. All of these associations have long since been put out of business. The Senator further says: "It is the most expensive and burdensome way to borrow." Again the Senator is in error, as a building association loan in the District of Columbia is the least expensive and the least burdensome way to borrow. The only expense the borrower is required to pay is the examination of title, conveyancing, and a small fee of about $4 to the appraisers who value his property. If he borrows from other sources than a building association, he will have to pay a broker's commission to renew the loan when it comes due. During the war period, when Congress raised the rate of interest in the District of Columbia from 6 per cent to 8 per cent, the building associations all agreed that they would not charge more than 6 per cent interest. On loans made other than through building associations the prevailing rate is 7 per cent and 8 per cent.

The building associations of the District of Columbia feel proud of the record they have made, and it is the only financial institution that I know of that a man can borrow money from as cheap now as he could before the war. If you will kindly read this letter on the floor of the Senate and correct the erroneous impression that must have been created as to local building and loan associations by Senator NELSON'S speech, we would greatly appreciate it.

Very truly, yours,

C. CLINTON JAMES,
President Building Association Council of the District of Columbia.

HOUSE BILL REFERRED.

The bill (H. R. 6508) to amend sections 213 and 215, act of March 4, 1909 (Criminal Code), relating to offenses against the Postal Service, and sections 3929 and 4041, Revised Statutes, relating to the exclusion of fraudulent devices and lottery paraphernalia from the mails, and for other purposes, was read twice by its title and referred to the Committee on the Judiciary.

The VICE PRESIDENT. Morning business is closed.

RECESS UNTIL MONDAY.

Mr. LODGE. The routine morning business having been concluded, I move that the Senate take a recess until Monday next at 11 o'clock a. m.

The motion was agreed to; and (at 2 o'clock and 20 minutes p. m.) the Senate took a recess until Monday, October 17, 1921, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

FRIDAY, *October 14, 1921.*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty God, give us a happy sense of all our blessings and help us to look upon the bright side of our circumstances. May we not forget Thy benefits, but may we yield our grateful hearts to Thee. In all our labors and in all our ways may we acknowledge Thee as our Sovereign, and bring to Thee the offerings that we owe. Enable us day by day to be deeply conscious of the truth that unto the upright there ariseth a light in the darkness and the path of the just is as a shining light that shineth more and more unto the perfect day.

Grant that the richest blessings of our most holy faith and the consolidation of Divine Providence may abide with those who are to-day in the shadows of their honored and sacred dead. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

THE LATE SENATOR KNOX.

The SPEAKER appointed the following committee to attend the funeral of the late Senator PHILANDER C. KNOX: Messrs. THOMAS S. BUTLER, BENJAMIN K. FOCHT, GEORGE S. GRAHAM, WILLIAM S. VARE, GEORGE W. EDMONDS, HENRY W. WATSON, LOUIS T. MCFADDEN, HENRY W. TEMPLE, STEPHEN G. PORTER, JOHN M. MORIN, GUY E. CAMPBELL, THOMAS S. CRAGO, GEORGE P. DARROW, EDGAR R. KIESS, H. D. FLOOD, HATTON W. SUMNERS, W. BOURKE COCKRAN, JAMES W. WISE.

Mr. MCFADDEN. Mr. Speaker, at a meeting of the delegation in Congress from the State of Pennsylvania, held yesterday afternoon, a committee was appointed to draft a suitable statement concerning the life and work of our late colleague, Senator PHILANDER C. KNOX. As chairman of that committee, I was requested to ask unanimous consent that there be read from the Clerk's desk this morning the statement which was

prepared, and that it be made a part of the record. I make that request now.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read as follows:

The members of the Pennsylvania delegation in the House of Representatives of the United States feel a deep sense of personal loss and sorrow in the sudden separation from them of their distinguished colleague and friend, PHILANDER CHASE KNOX, and they in common with the people of the State of Pennsylvania, whose native son he was, and with the people of the whole United States, in whose service and for whose welfare he was an outstanding figure of unselfish devotion to duty, mourn the passing of this great and good man. Indeed, the whole civilized world loses a constructive statesman, whose profound knowledge and abundant experience in the realm of international adjustments will be an irreparable loss to the American representatives in the forthcoming conference for the limitation of armaments, in whose participation he was destined to be a wise and conspicuous counselor. PHILANDER C. KNOX would have brought to that symposium of statesmen through our representatives contributions of a pure life and righteous purpose, of a mind refined and trained in the complex and vast domain of statecraft, of a developed and intelligent Americanism that understood and applied practically the genius of republican institutions and constitutional liberty, and qualities of heart that reflected the hopes and aspirations of Americans and of peace-loving peoples, as evidenced by his invaluable service on the Senate Committee on Foreign Relations.

To his intellectual attainments this great public servant added modesty and industry. Whatever the task, little or great, he performed it well and thoroughly. Whether as counsel to the humblest client or representing the Nation as its chief law officer in the Cabinets of McKinley and Roosevelt, he brought to bear his profound learning in the law in like degree and with that pertinacity of devotion to duty which characterized and molded his life. It was PHILANDER CHASE KNOX, whose unerring judgment, sound reasoning, and clear logic vitalized and brought into operation the provisions of the so-called Sherman antitrust law, innocuous for a decade, and opened the door to its application by subsequent judicial interpretation.

From the Senate, to which the people of Pennsylvania were proud to send him in 1904, he was called to be the premier in President Taft's Cabinet, where the display of his ability and talents distinguished him in the world's judgment as a dignified exemplar, as a worthy type of American citizenship, and a statesman of erudition, taking rank with the best of his illustrious predecessors in that exalted office. Ripe in experience, rich in talents, profoundly learned, lofty in purpose, unselfish in motive, retiring in disposition, an unusual combination of attributes in one man, recognizing his ability and delighted to honor him, the State of Pennsylvania again sent him to the United States Senate in 1916, in which great forum he was a foremost figure, influential in its deliberations, wise in his counsel, patriotic in every act and word, respected alike by political friend and foe, the author there of constructive legislation of broad national and international import, possessed of a reservoir of information of world conditions, ready and eager to apply his bountiful store of gifts in the discussion of a most momentous and vexed international question, upon the right solution of which the future civilization and the happiness of mankind may depend, he passes out from us.

The busy, useful earthly career of KNOX is ended. He has entered "the gray eve between two shining days," the day of mortal past and the day of immortal future—what we call death, which a pagan philosopher centuries ago thus illustrated:

"As in many groups they were busied in diverse occupations, some in games and others in work, the master opened the door and with a smile beckoned to the leader of the busiest group, who, laying down his tools, went within and the door was shut behind him. His comrades waited for him, and finding that he came not realized that that was death."

We have seen it occur in our midst that the leader of the busiest group was beckoned into the open door. And as men we sorrow, but not without hope, for his deeds and his example will abide with us.

REAPPORTIONMENT.

Mr. SIEGEL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 7882, a bill providing for reapportionment. Pending that, I ask unanimous consent that debate be limited to four hours——

Mr. BLANTON. Mr. Speaker, I make the point of order that this bill is not a privileged bill.

The SPEAKER. The Chair overrules the point of order.

Mr. BLANTON. Then I raise the question of consideration.

The SPEAKER. The motion to go into the Committee of the Whole raises the question of consideration.

Mr. WINGO. This is a privileged bill, Mr. Speaker.

The SPEAKER. The Chair so ruled. Will the gentleman state his request for unanimous consent?

Mr. SIEGEL. That debate be limited to four hours, to be divided into four parts—one hour to be controlled by the ranking Member of the minority, the gentleman from Georgia [Mr. LARSEN], one hour by the gentleman from Indiana [Mr. FAIRFIELD], one hour by the gentleman from Mississippi [Mr. RANKIN], and one hour by myself.

The SPEAKER. The gentleman from New York asks unanimous consent that general debate upon the reapportionment bill be limited to four hours, one hour of which shall be controlled by himself, one hour by the gentleman from Georgia [Mr. LARSEN], one hour by the gentleman from Indiana [Mr. FAIRFIELD], and one hour by the gentleman from Mississippi [Mr. RANKIN]. Is there objection?

Mr. COOPER of Wisconsin. Mr. Speaker, I object.

The SPEAKER. The question is on the motion of the gentleman from New York that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the reapportionment bill.

The question was taken; and on a division (demanded by Mr. BLANTON) there were—ayes 139, noes 8.

Mr. BLANTON. Mr. Speaker, I object to the vote, because it shows the absence of a quorum, and I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Texas makes the point of order that there is no quorum present. The Chair will count. [After counting.] One hundred and sixty-one Members present, not a quorum. The Doorkeeper will close the doors, the Sergeant at Arms will notify absentees, and the Clerk will call the roll. The question is on the House resolving itself into the Committee of the Whole House on the state of the Union for the consideration of the reapportionment bill.

The question was taken; and there were—yeas 301, nays 3, answered "present" 3, not voting 124, as follows:

YEAS—301.

Ackerman	Doughton	Layton	Rose
Almon	Dowell	Lazaro	Rosenbloom
Andrew, Mass.	Drane	Leatherwood	Rossdale
Andrews, Nebr.	Drewry	Lee, Ga.	Rouse
Appleby	Dunbar	Lehlbach	Rucker
Arentz	Dupré	Lineberger	Sanders, Ind.
Aswell	Dyer	Linthicum	Sanders, N. Y.
Atkeson	Echols	Logan	Sanders, Tex.
Bacharach	Elliott	London	Sandlin
Bankhead	Ellis	Lowrey	Scott, Mich.
Barbour	Evans	Luce	Scott, Tenn.
Barkley	Fairchild	Lyon	Shelton
Beck	Fairfield	McFadden	Shreve
Beedy	Faust	McLaughlin, Mich	Siegel
Begg	Favrot	McLaughlin, Nebr.	Sinnott
Bell	Fenn	McLaughlin, Pa.	Sisson
Benham	Fields	McPherson	Smith, Idaho
Bird	Fisher	McSwain	Smithwick
Bixler	Flood	MacGregor	Snell
Black	Foster	Madden	Snyder
Blakeney	Frear	Magee	Speaks
Bland, Ind.	Free	Maloney	Sproul
Bland, Va.	Frothingham	Mapes	Stafford
Boies	Funk	Martin	Steagall
Bowling	Garrett, Tenn.	Michaelson	Stedman
Box	Garrett, Tex.	Michener	Steenerson
Brennan	Gensman	Miller	Stephens
Briggs	Gernerd	Millspaugh	Stevenson
Brinson	Gilbert	Mondell	Strong, Kans.
Brooks, Ill.	Glynn	Montague	Summers, Wash.
Brown, Tenn.	Goldsborough	Montoya	Swank
Buchanan	Graham, Ill.	Moore, Ill.	Sweet
Bulwinkle	Green, Iowa	Moore, Ohio	Swing
Burdick	Greene, Mass.	Moore, Va.	Tague
Burroughs	Greene, Vt.	Morgan	Taylor, N. J.
Burtness	Hardy, Colo.	Nelson, A. P.	Temple
Burton	Hardy, Tex.	Nelson, J. M.	Ten Eyck
Butler	Harrison	Newton, Minn.	Thompson
Byrnes, S. C.	Haugen	Newton, Mo.	Tillman
Byrns, Tenn.	Hawley	Norton	Tilson
Cable	Hayden	O'Connor	Timberlake
Campbell, Kans.	Herrick	Ogden	Tincher
Campbell, Pa.	Hersey	Oldfield	Tinkham
Cannon	Hickey	Olpp	Towner
Carew	Himes	Osborne	Treadway
Chalmers	Hoch	Overstreet	Tyson
Chandler, N. Y.	Hogan	Padgett	Upshaw
Chandler, Okla.	Huddleston	Paige	Vaile
Chindblom	Hudspeth	Parker, N. J.	Vare
Christopherson	Hukriede	Parker, N. Y.	Vestal
Clague	Hull	Parrish	Vinson
Clark, Fla.	Husted	Patterson, Mo.	Volstead
Clarke, N. Y.	Hutchinson	Patterson, N. J.	Walsh
Classon	Ireland	Perkins	Walters
Codd	Jacoway	Peters	Watson
Cole, Iowa	James	Petersen	Weaver
Cole, Ohio	Jefferis, Nebr.	Pou	Wheeler
Collier	Jeffers, Ala.	Pringey	White, Kans.
Collins	Johnson, Wash.	Purnell	White, Me.
Colton	Jones, Tex.	Quin	Williams
Connally, Tex.	Kelly, Pa.	Radcliffe	Williamson
Connell	Kendall	Rainey, Ill.	Wilson
Connolly, Pa.	Kennedy	Raker	Wingo
Cooper, Wis.	Ketcham	Ramseyer	Winslow
Coughlin	Kinkaid	Rankin	Wood, Ind.
Crisp	Kirkpatrick	Rayburn	Woodruff
Crowther	Kissel	Reavis	Woods, Va.
Curry	Kline, N. Y.	Reber	Woodyard
Dale	Kline, Pa.	Reece	Wright
Darrow	Kopp	Reed, N. Y.	Wurzbach
Davis, Minn.	Kraus	Reed, W. Va.	Wyant
Davis, Tenn.	Langley	Ricketts	Yates
Deal	Lanham	Riddick	Young
Denison	Lankford	Roach	
Dickinson	Larsen, Ga.	Robertson	
Dominick	Lawrence	Rodenberg	

NAYS—3.

Blanton	Kincheloe	Parks, Ark.

ANSWERED "PRESENT"—3.

Cockran	Fuller	McClintic

NOT VOTING—124.

Anderson	Bowers	Browne, Wis.	Clouse
Ansorge	Brand	Burke	Cooper, Ohio
Anthony	Britten	Cantrill	Copley
Bond	Brooks, Pa.	Carter	Crago

Cramton	Hawes	Little	Robsion
Cullen	Hays	Longworth	Rogers
Dallinger	Hicks	Luhring	Ryan
Dempsey	Hill	McArthur	Sabath
Driver	Houghton	McCormick	Schall
Dunn	Humphreys	McDuffie	Sears
Edmonds	Johnson, Ky.	McKenzie	Shaw
Elston	Johnson, Miss.	Mann	Sinclair
Fess	Johnson, S. Dak.	Mansfield	Slemp
Fish	Jones, Pa.	Mead	Smith, Mich.
Fitzgerald	Kahn	Merritt	Stiness
Focht	Kearns	Mills	Stoll
Fordney	Keller	Moores, Ind.	Strong, Pa.
Freeman	Kelley, Mich.	Morin	Sullivan
French	Kiess	Mott	Sumners, Tex.
Fulmer	Kindred	Mudd	Taylor, Colo.
Gahn	King	Murphy	Taylor, Tenn.
Gallivan	Kitchin	Nolan	Thomas
Garner	Kleczka	O'Brien	Underhill
Goodykoontz	Knight	Oliver	Voigt
Gorman	Knutson	Park, Ga.	Volk
Gould	Kreider	Perlman	Ward, N. Y.
Graham, Pa.	Kunz	Porter	Ward, N. C.
Griest	Lampert	Rainey, Ala.	Wason
Griffin	Larson, Minn.	Ransley	Webster
Hadley	Lea, Calif.	Rhodes	Wise
Hammer	Lee, N. Y.	Riordan	Zihlman

So the motion was agreed to.

The Clerk announced the following pairs:

Until further notice:

Mr. LONGWORTH with Mr. COCKRAN.

Mr. JOHNSON of South Dakota with Mr. MCCLINTIC.

Mr. FULLER with Mr. KUNZ.

Mr. CRAGO with Mr. DRIVER.

Mr. RHODES with Mr. HAWES.

Mr. ROGERS with Mr. PARK of Georgia.

Mr. ANTHONY with Mr. OLIVER.

Mr. MUDD with Mr. RIORDAN.

Mr. KREIDER with Mr. KINDRED.

Mr. GRIEST with Mr. SULLIVAN.

Mr. VOLK with Mr. THOMAS.

Mr. MORIN with Mr. SABATH.

Mr. HILL with Mr. KITCHIN.

Mr. GORMAN with Mr. SEARS.

Mr. KAHN with Mr. MCDUFFIE.

Mr. MCARTHUR with Mr. WARD of North Carolina.

Mr. COOPER of Ohio with Mr. GARNER.

Mr. BROOKS of Pennsylvania with Mr. O'BRIEN.

Mr. PERLMAN with Mr. HUMPHREYS.

Mr. MURPHY with Mr. SUMNERS of Texas.

Mr. DALLINGER with Mr. LEA of California.

Mr. STINESS with Mr. WISE.

Mr. FRENCH with Mr. CANTRILL.

Mr. HAYS with Mr. RAINEY of Alabama.

Mr. ANDERSON with Mr. CARTER.

Mr. KNUTSON with Mr. BRAND.

Mr. DUNN with Mr. GRIFFIN.

Mr. GAHN with Mr. TAYLOR of Colorado.

Mr. EDMONDS with Mr. CULLEN.

Mr. CRAMTON with Mr. HAMMER.

Mr. SINCLAIR with Mr. GALLIVAN.

Mr. KIESS with Mr. JOHNSON of Kentucky.

Mr. LEE of New York with Mr. JOHNSON of Mississippi.

Mr. BOND with Mr. MEAD.

Mr. GRAHAM of Pennsylvania with Mr. STOLL.

Mr. ROACH. Mr. Speaker, I voted aye when the name of my colleague from Missouri [Mr. RHODES] was called. I have no doubt he would so vote if he were here, but I ask that the roll call be corrected accordingly.

The result of the vote was announced as above recorded.

The SPEAKER. A quorum is present; the Doorkeeper will open the doors.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 7882) with Mr. WALSH in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 7882), which the Clerk will report.

APPORTIONMENT OF REPRESENTATIVES.

The Clerk read as follows:

A bill (H. R. 7882) for the apportionment of Representatives in Congress amongst the several States under the Fourteenth Census.

Be it enacted, etc., That after the 3d day of March, 1923, the House of Representatives shall be composed of 460 Members, to be apportioned among the several States as follows:

Alabama	10	Florida	4
Arizona	1	Georgia	13
Arkansas	8	Idaho	2
California	15	Illinois	28
Colorado	4	Indiana	13
Connecticut	6	Iowa	11
Delaware	1	Kansas	8
Kentucky	11	North Dakota	3
Louisiana	8	Ohio	25
Maine	3	Oklahoma	9
Maryland	6	Oregon	3
Massachusetts	17	Pennsylvania	38
Michigan	16	Rhode Island	3
Minnesota	10	South Carolina	7
Mississippi	8	South Dakota	3
Missouri	15	Tennessee	10
Montana	2	Texas	20
Nebraska	6	Utah	3
Nevada	1	Vermont	2
New Hampshire	2	Virginia	10
New Jersey	14	Washington	6
New Mexico	2	West Virginia	6
New York	45	Wisconsin	11
North Carolina	11	Wyoming	1

SEC. 2. That in each State entitled under this apportionment to more than one Representative, the Representatives to the Sixty-eighth and each subsequent Congress shall be elected by districts composed of a contiguous and compact territory and containing as nearly as practicable an equal number of inhabitants. The said districts shall be equal to the number of Representatives to which such State may be entitled in Congress, no district electing more than one Representative.

SEC. 3. That in case of an increase in the number of Representatives in any State under this apportionment such additional Representative or Representatives shall be elected by the State at large and the other Representatives by the district now prescribed by law until such State shall be redistricted in the manner prescribed by the law thereof and in accordance with the rules enumerated in section 2 of this act; and if there be no change in the number of Representatives from a State, the Representatives thereof shall be elected from the districts now prescribed by law until such State shall be redistricted as herein prescribed; and if there be a decrease in the number of Representatives from a State and the legislature thereof in session after the passage of this act and before the ensuing election at which Members of Congress are elected fails to redistrict such State, or if the legislature of such State be not in session before the next biennial election, then and in either event the governor, secretary of state, and attorney general of such State are hereby empowered to redistrict such State according to the terms and provisions of section 2 herein.

SEC. 4. That candidates for Representative or Representatives to be elected at large in any State shall be nominated in the same manner as candidates or governor, unless otherwise provided by the laws of such State.

The CHAIRMAN. The gentleman from New York is recognized for one hour.

Mr. SIEGEL. Mr. Chairman, the country's population at the present time is 105,710,620. We have at the present time 435 Members based upon an average ratio of 211,877 inhabitants. Under this bill the House would be increased to 460 based on an average of 228,882 persons for each congressional district. No State loses any representation except the States of Maine and Missouri. The States which would have an increase would be Arkansas, 1; California, 4; Connecticut, 1; Georgia, 1; Illinois, 1; Massachusetts, 1; Michigan, 3; New Jersey, 2; New Mexico, 1; New York, 2; North Carolina, 1; Ohio, 3; Oklahoma, 1; Pennsylvania, 2; Texas, 2; and Washington, 1. The proposition has been advanced to use as a basis the Harvard system of calculation which is known as a proportional system, and others have urged the old system known as the majority fraction system. The committee did not spend much time on that question because when we fixed the ratio at 228,822, and fixing the number of membership of the House at 460, both systems agree. Now, there has been considerable discussion here in the House and throughout the country as to whether there was required an increase of the House. I call your attention to the fact that new conditions have arisen since the last act was passed by Congress providing there shall be one Representative for every 211,857 inhabitants. We find in the recent war 4,764,670 men were called into the service of the country, and each congressional district on the average gave 11,000 men. The State of New York, for example, gave 493,892 men to the late war. That means each Member of this House will under the 460 number have to look after the wants of at least 11,000 ex-service men.

Now, the minority report calls attention to the fact that we can obtain additional secretaries in order to attend to the wants of these men. If we take one additional secretary or clerk for each of the 435 Representatives here, it will entail an expense of at least $500,000 per annum, because the average clerk or secretary who can be of any real, practical use must be given at least $1,400 or $1,500 per annum. Under the provisions of the bill as reported, making the House 460, the total amount of the increased expenditure would be $287,000. That includes salaries of Members, salaries of secretaries, telegraph expense, and mileage allowances. I say to you frankly that the soldier boys, the marines, and those who served in the Navy in this late war are entitled to have their individual cases handled by the Members of the House individually and not by additional secretaries. When they were called out into the service, they were called out by a selective draft law passed by us. Now, when they come back to us, as they are coming back to us and will continue to come back to us for at least another

seven years, they are entitled to receive the personal attention of the individual Members of the House and not the attention of secretaries.

I want to say to you here to-day that every expert in the medical and surgical world agrees that the crux of the number of men who have been wounded and required attention will arrive seven years from now. From now on these cases will increase by thousands and thousands until seven years from now; the number of insane and those who will have become sick from diseases like consumption will be more than trebled. Now, the country is not asking for such economy in the amount of money which we are going to expend for Members of the House and their secretaries. What the Nation demands of the House is efficiency and prompt service, and I for one feel that this House has rendered prompt and efficient service, regardless of what others may say or think.

Now, Mr. Chairman, in view of my time being limited, I ask unanimous consent to revise and extend my remarks.

The CHAIRMAN. The gentleman from New York asks unanimous consent to revise and extend his remarks. Is there objection? [After a pause.] The Chair hears none.

Mr. SIEGEL. The majority report contains the following as part of its reasons for increasing the House to 460:

This bill provides that after the 3d day of March, 1923, the House of Representatives shall be composed of 460 Members, to be assigned to the States as follows:

Alabama	10	Nebraska	6
Arizona	1	Nevada	1
Arkansas	8	New Hampshire	2
California	15	New Jersey	14
Colorado	4	New Mexico	2
Connecticut	6	New York	45
Delaware	1	North Carolina	11
Florida	4	North Dakota	3
Georgia	13	Ohio	25
Idaho	2	Oklahoma	9
Illinois	28	Oregon	3
Indiana	13	Pennsylvania	38
Iowa	11	Rhode Island	3
Kansas	8	South Carolina	7
Kentucky	11	South Dakota	3
Louisiana	8	Tennessee	10
Maine	3	Texas	20
Maryland	6	Utah	2
Massachusetts	17	Vermont	2
Michigan	16	Virginia	10
Minnesota	10	Washington	6
Mississippi	8	West Virginia	6
Missouri	15	Wisconsin	11
Montana	2	Wyoming	1

Under this apportionment 30 States will retain their present number of Representatives, as follows:

Alabama	10	Nebraska	6
Arizona	1	Nevada	1
Colorado	4	New Hampshire	2
Delaware	1	North Dakota	3
Florida	4	Oregon	3
Idaho	2	Rhode Island	3
Indiana	13	South Carolina	7
Kansas	8	South Dakota	3
Iowa	11	Tennessee	10
Kentucky	11	Utah	2
Louisiana	8	Vermont	2
Maryland	6	Virginia	10
Minnesota	10	West Virginia	6
Mississippi	8	Wisconsin	11
Montana	2	Wyoming	1

The States in which there are gains in the number of Representatives are as follows:

Arkansas	1	New Mexico	1
California	4	New York	2
Connecticut	1	North Carolina	1
Georgia	1	Ohio	3
Illinois	1	Oklahoma	1
Massachusetts	1	Pennsylvania	2
Michigan	3	Texas	2
New Jersey	2	Washington	1

The States which lose Representatives are as follows:

Maine	1
Missouri	1

The committee adopted a ratio of 228,882 for each Representative.

By fixing the ratio of population to each Representative at 228,882 the average congressional district under this bill will contain 17,005 more inhabitants than the average district under the last apportionment act.

Three States, namely, Delaware, Nevada, and Wyoming, have a population less than 228,882. Each of these States gets a Member under the Constitution, which provides that every State shall have at least one Representative.

Under the bill there will be an increase of 25 Members more than the present House.

In considering the question of the size of the House we must remember that we now have a population in continental United States of 105,708,771. We should approach the question of fixing the size of the House by bearing in mind that in no decade of the Nation's history has Congress faced more great problems than those which will have to be solved in the next 10 years.

Not merely will Congress have to determine how billions of dollars can be raised by tariff and taxation laws, but the big problem as to how the railroads are to be operated in order to produce a profit to the stockholders and at the same time satisfy those who are employed by such railroads, bearing in mind that the rights of the public must be carefully considered and protected.

The question of maintaining peaceful relationship with the world at large will constantly remain at the forefront.

As long as the wireless was unknown and when it took from 10 days to 2 weeks to cross the ocean we could be isolated from European and Asiatic problems, for they were not of our direct concern. With the coming of the airplane, however, and the successful termination of the Great War in our favor, new conditions have arisen requiring America to take her place in the world to lead it along the lines of peace. How to do this will require the greatest statesmanship in Congress.

Those of us who have studied the census of 1920 know that the majority of our people are now living in the cities. How to encourage the rising generation to actively engage in agriculture is one of the big problems which must be faced.

To take proper care of those who donned the uniform for the Nation in the recent conflict and to bring about contentment and prosperity in this country are two of the subjects which will constantly come up before the next five Congresses.

Woman suffrage is now a reality.

The war called into actual service approximately 4,600,000 men. Under the provisions of this bill each Member of Congress will be looking after the interests and welfare of approximately 10,000 men who saw service. Doctors tell us that the number of cases of serious disease amongst these men will grow by leaps and bounds for at least 10 years. This being a fact, the work of looking after these individual cases will require the personal attention of each and every Member of the House.

It is true that some of those presenting the minority views take the stand "that additional clerks when necessary will undoubtedly care for any increase in the work required of Members." We feel, however, that the man who entered the service and as a result is suffering from handicaps and disease, is entitled to receive the personal attention of the individual Member of the House and not merely that of an additional clerk.

Few thinking people will deny that Congress is being called upon to legislate upon numerous questions which have heretofore been handled by the respective States. Also that slowly but surely, under a broad construction of the Constitution, the number of such problems brought to Congress for a solution has been growing.

In the public press and in other places we find a growing demand that the people be brought closer and nearer to their Representatives in Congress.

As a result of the demand to which we have referred, Congress has been in session during the past few years for a longer time than ever before. In view of the requests by the people for different kinds of laws, it is becoming self-evident that the Members will soon find themselves in a position that they will only be able to serve on one committee in order to become experts of the particular subject which the committee is handling. We all know that most of the legislation passed by Congress is enacted after the most careful and thorough consideration by its committees. In order to become thoroughly familiar with the work before such committees, it is highly advisable that Members serve only upon one committee.

We deny the proposition advanced by some of the minority that both in the Capitol and the House Office Building conditions are such that additional Members can not be provided for in both buildings.

Some of the minority have alluded to the expense which it is claimed the people of the United States will be put to if 25 additional Members are added to the House. It is not the amount of money which is spent for salaries of legislators, but the efficiency and kind of service which is received by the people which is most vitally important to them.

It would, indeed, be false economy were we to adopt the theory of the minority to provide additional clerks when we all know that what the people are seeking is representation through their Representatives and not through clerks. The expenditure for additional clerks, if the theory of the minority was to be followed, would be at least $500,000, because each clerk would have to receive, if he is in any way competent, at least the sum of $1,400.

The total amount which 25 additional Members of the House will cost the people of the United States is as follows:

For stationery	$3,125.00
For telegraph frank	1,875.00
For mileage	12,885.64
For clerk and secretarial hire	91,000.00
For salaries, 25 Members	187,500.00
Total	296,385.64

For the information of the House we will state that an examination of the Statesman's Yearbook for 1920 shows that the popular branches of legislative bodies of the chief countries are larger in relation to their respective populations than is our House. They are as follows:

Countries.	Census year.	Number of members in lower house.	Ratio of members to population.	Population on which ratio is based.
United Kingdom	1911	707		45,516,259
England and Wales	1911	528	70,000	
Scotland	1911	74	70,000	
Ireland	1911	105	43,000	
Belgium	1918	189	40,000	7,555,573
Denmark	1916	140	21,000	2,940,000
France	1919	626	66,255	41,475,523
Germany	1919	423	130,227	55,086,000
Greece	1913	316	16,000	4,744,725
Italy	1911	508	71,000	35,740,000
Jugo-Slavia (Serbia)	1919	165	86,238	14,316,459
Netherlands	1918	100	66,787	6,678,699
Norway	1910	126	18,983	2,391,782
Portugal	1911	164	36,329	5,957,985
Rumania	1919	347	50,124	17,393,149
Spain	1910	417	47,844	19,950,817
Sweden	1918	230	25,278	5,813,850
Switzerland	1916	189	26,127	3,937,000

The membership and ratio of the different apportionments heretofore had and when enacted is as follows:

Census.	Date of apportionment act.	States.	Members.	Ratio.
	1789	13	65	30,000
1790	Apr. 14, 1792	15	105	33,000
1800	Jan. 14, 1802	16	141	33,000
1810	Dec. 21, 1911	17	181	35,000
1820	Mar. 7, 1822	24	213	40,000
1830	May 22, 1832	24	240	47,700
1840	June 25, 1842	26	223	70,680
1850	May 23, 1850	32	234	93,423
1860	May 23, 1860	34	243	127,381
1870	Feb. 2, 1872	37	293	131,425
1880	Feb. 25, 1882	38	325	151,911
1890	Feb. 7, 1891	44	356	173,901
1900	Jan. 16, 1901	45	386	194,182
1910	Aug. 8, 1911	46	433	211,877

One of the minority is opposed to the adoption of a provision in the bill which provides that in those States where there is a decrease in the membership, if the legislature does not act, that the governor, secretary of state, and attorney general should be empowered to redistrict such State.

We are all familiar with the rule that the House has repeatedly declined to interfere with the act of a State in changing the boundaries of a congressional district, but this is the first time that it has been seriously contended that where a State declines, fails, or refuses to redistrict such State after the passage of a reapportionment act by Congress that Congress does not possess the power to direct such redistricting to be done by three officials of such State.

We can not assent to the proposition that Congress does not possess such power and that it is helpless in a case of that kind.

In conclusion, let us state that there has been no reduction in the membership of the House since the act of 1843. This is not a question of benefiting any particular district or State. Members of Congress take an oath to uphold the Constitution of the United States and to serve the entire country to the best of their ability. We feel that the best interests of the Nation at large will be served by increasing the size of the House to 460, as provided in this bill. We feel that careful consideration of the facts stated herein must convince every thinking American citizen who has no personal ax to grind and no hobby to uphold that what the Nation needs most in the next 10 years is real efficient service in Congress, and that he is prepared to stand the small additional expense which this bill calls for in order to obtain it.

The tables are as follows:

Population, number of Indians not taxed, and population exclusive of Indians not taxed, by States, 1920.

State.	Total population, 1920.	Indians not taxed, 1920.	Population, exclusive of Indians not taxed, 1920.
Alabama	2,348,174		2,348,174
Arizona	334,162	24,408	309,754
Arkansas	1,752,204		1,752,204
California	3,426,861	830	3,426,031
Colorado	939,629	468	939,161
Connecticut	1,380,631		1,380,631
Delaware	223,003		223,003
Florida	968,470		968,470
Georgia	2,895,832		2,895,832
Idaho	431,866	1,424	430,442
Illinois	6,485,280		6,485,280
Indiana	2,930,390		2,930,390
Iowa	2,404,021		2,404,021
Kansas	1,769,257		1,769,257
Kentucky	2,416,630		2,416,630
Louisiana	1,798,509		1,798,509
Maine	768,014		768,014
Maryland	1,449,661		1,449,661
Massachusetts	3,852,356		3,852,356
Michigan	3,668,412		3,668,412
Minnesota	2,387,125	1,469	2,385,656
Mississippi	1,790,618		1,790,618
Missouri	3,404,055		3,404,055
Montana	548,889	7,378	541,511
Nebraska	1,296,372		1,296,372
Nevada	77,407	1,587	75,820
New Hampshire	443,083		443,083
New Jersey	3,155,900		3,155,900
New Mexico	360,350	6,922	353,428
New York	10,385,227	4,240	10,380,987
North Carolina	2,559,123		2,559,123
North Dakota	645,872	2,125	644,743
Ohio	5,759,394		5,759,394
Oklahoma	2,028,283		2,028,283
Oregon	783,389		783,389
Pennsylvania	8,720,017		8,720,017
Rhode Island	604,397		604,397
South Carolina	1,683,724		1,683,724
South Dakota	636,547	5,308	631,239
Tennessee	2,337,885		2,337,885
Texas	4,663,228		4,663,228
Utah	449,396	1,008	448,388
Vermont	352,428		352,428
Virginia	2,309,187		2,309,187
Washington	1,356,621	2,025	1,354,596
West Virginia	1,463,701		1,463,701
Wisconsin	2,632,067	762	2,631,305
Wyoming	194,402	915	193,487
Total for 48 States	105,278,049	60,870	105,212,179
District of Columbia	437,571		
Total, United States	105,710,620	60,870	105,212,179

In November, 1920, the Review of Reviews contained an article discussing the question of the census, and in view of its importance I deem it advisable to insert same:

IS THE NATION GROWING IN RIGHT WAYS?

The chief business of the United States hitherto—looking to the country's future—has been the creation of an American nationality. Far more desirable than mere growth in numbers are evidences of the right kind of development. When the Census Bureau and other agencies for obtaining accurate information show us that, in one way or in another, the Nation's development is proceeding wrongly, we have before us the duty of correcting harmful tendencies. It is well on the announcement of the main facts that are ascertained every 10 years by the Census Bureau to study thoroughly the tendencies that are indicated and to help the public to grasp the lessons that should be learned. Up to a certain point sheer growth makes for strength. Beyond that, uneven or discordant growth may make for weakness. It is worth many times what the census taking costs to have the figures as an aid to intelligent statesmanship.

THIRTY MILLIONS GAIN SINCE 1900.

The total population of the 48 States making up the contiguous territory of this country, as listed early in the present year and announced in October, is 105,683,108. (Now reported to Congressman SIEGEL, chairman of the House of Representatives Census Committee, as 105,710,620.) There are also about 12,000,000 people living under the American flag outside of the continental area of the Union, but we are not here concerned with these additional populations in Alaska, Porto Rico, Hawaii, and the Philippines, the final figures not having been announced for these Territories. Within the area of the 48 States there are 13,710,842 more people than in 1910. The gain in the previous decade had been larger, both in percentage and in absolute numbers, having been 15,977,691. In 20 years this continental stretch of the United States from the Atlantic to the Pacific and from the Canadian line to the Rio Grande and the Gulf of Mexico, has added, in round figures, 30,000,000 people to the number found in 1900. Using approximate rather than exact figures, we had 76,000,000 people 20 years ago and we have 106,000,000 now.

NATIONAL GROWTH BROUGHT UNITY.

The total population of the country in 1840, after more than two centuries of settlement, was only 17,000,000. Thus we have added as many new people to our population in the past dozen years as our total population amounted to in 1840. When the census was taken in 1850 we had rounded out our continental possessions by the acquisition of Texas and California. Our total number at that time amounted to 23,000,000—considerably less than the surplus added in the two decades since we entered upon the twentieth century. We had a total population, North and South together, of 31,500,000 in 1860, just before the outbreak of the Civil War. We still have veterans of the Civil War serving us in Congress, and we have millions of people living who were old enough in 1865 to remember vividly to-day the rejoicing over the peace that came with Lee's surrender at Appomattox and the sorrow that shook the Nation with the assassination of Lincoln. Yet we have more than three times as many people in the United States now as there were in 1865.

That war involved, indeed, the slavery issue, and it had relation to the doctrine of State rights. But it was won by reason of the growth and shifting of population in the decade or two preceding 1860. In building up the new States of the Mississippi Valley we were creating the dominant forces of American nationality. If this westward development had not taken place, the secession movement would have been successful.

FURTHER GROWTH AND EXPANSION.

After the Civil War and the reconstruction days the further westward growth of the Nation was accelerated. In that generation up to the end of the century—a period of 30 years—we added 100 per cent to our population. Our resources had been largely developed; our present railroad system had been for the most part constructed, and the Nation was beginning to feel some sense of maturity. It was under these circumstances that we began to assert a broader international influence. We intervened to end the deadlock between the insurgents and the Spanish forces in Cuba, and the result has been a new era for the West Indies. We assumed a leading place in the regulation of the affairs of the Pacific, annexing the Hawaiian Islands; acquiring control of the Philippines; helping to settle the war between Japan and Russia; waiving the Chinese indemnity; confirming the Alaska boundary and beginning to develop that great Territory; and as a crowning step creating the Panama Canal as a national enterprise and a token of our permanent policy to safeguard and secure development of the Western Hemisphere.

INFLUENCE FOR ORDER AND PEACE.

Since we used our Navy to liberate Cuba and establish peace in the Caribbean region there have been no wars by land or by sea between nations in the Western Hemisphere, nor armed strife of any magnitude except the factional domestic contests in Mexico. Furthermore, since we became sponsor for the international well-being of Hawaii and the Philippines and helped to end the inevitable conflict between the Japanese and the encroaching Russian czardom, there has been unprecedented security for commerce and for human progress in all the lands that face the Pacific Ocean. Thus there was undoubtedly an advantage of great historical moment in our rapid national growth from 1850 to 1900. That growth moved the center of gravity away from the original States of the North and South, and the result was our own permanent national stability. Our further growth from Atlantic to Pacific gave us such intrinsic strength in sheer numbers of capable people and in the material as well as moral resources of efficiency that we were able to exert a new kind of influence for peace and order in the world. Our powerful influence was producing harmony throughout the Western Hemisphere and pointing the way toward security and peace on the Pacific and in the Far East.

Mr. SIEGEL. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. WALSH, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having had under consideration the bill H. R. 7882, had come to no resolution thereon.

Mr. SIEGEL. Mr. Speaker, I ask unanimous consent that all debate upon this bill may be limited to four hours, to be equally divided between the gentleman from Georgia [Mr. LARSEN], the gentleman from Indiana [Mr. FAIRFIELD], the gentleman from Mississippi [Mr. RANKIN], and myself.

The SPEAKER. The gentleman from New York asks unanimous consent that general debate be limited to four hours, one hour to be controlled by himself, one hour by the gentleman from Georgia [Mr. LARSEN], one hour by the gentleman from Indiana [Mr. FAIRFIELD], and one hour by the gentleman from Mississippi [Mr. RANKIN]. Is there objection?

Mr. COOPER of Wisconsin. Reserving the right to object, does the gentleman think that four hours of general debate is a long enough time to discuss a question that goes to the working efficiency of one branch of the legislative department of this Government?

Mr. SIEGEL. I do.

Mr. COOPER of Wisconsin. I do not; and I object.

Mr. SIEGEL. Then, Mr. Speaker, I move that debate be limited to four hours, and be divided amongst the four gentlemen just named by me.

Mr. GARRETT of Tennessee. You can not divide the time.

Mr. SIEGEL. Mr. Speaker, I move that the debate be limited to four hours, to be equally divided——

Mr. GARRETT of Tennessee. Will the gentleman yield to me before that question is put?

Mr. SIEGEL. Yes.

Mr. GARRETT of Tennessee. May I ask the gentleman from New York, for the benefit of Members on both sides of the Chamber, if it is the purpose to attempt to carry this bill to final passage during to-day's session?

Mr. SIEGEL. It is.

Mr. GARRETT of Tennessee. That may or may not necessitate an evening session, but whatever the condition may be, it is the purpose of the gentleman to press this matter to final passage before the House finally adjourns to-day?

Mr. SIEGEL. Yes.

Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 7882, and pending that I move that general debate be limited to four hours.

The SPEAKER. The gentleman from New York moves that general debate be limited to four hours.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. BANKHEAD. Division, Mr. Speaker.

The House divided; and there were—ayes 169, noes 19.

So the motion was agreed to.

The SPEAKER. The question is on the motion of the gentleman from New York that the House resolve itself into the Committee of the Whole House on the state of the Union.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 7882, with Mr. WALSH in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 7882, which the Clerk will report by title.

The Clerk read as follows:

A bill (H. R. 7882) for the apportionment of Representatives in Congress amongst the several States under the Fourteenth Census.

Mr. RAKER. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. RAKER. I desire to be heard on the bill.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. SIEGEL].

Mr. SIEGEL. Mr. Chairman, I ask unanimous consent——

Mr. BLANTON. Mr. Chairman, I make the point of order, if I may be permitted to state it, that under the rules of the House regulating general debate in the Committee of the Whole, where there has been debate upon the question by the chairman of the committee having in charge the bill, and there has been no agreement as to division of time, which there has not been in this case, and a gentleman arises and gets recognition of the Chair to ask unanimous consent to be recognized on the bill, the gentleman from California [Mr. RAKER] is entitled to recognition.

The CHAIRMAN. The Chair overrules the point of order.

Mr. SIEGEL. Mr. Chairman, I ask unanimous consent that the time be equally divided as follows: To the gentleman from Indiana [Mr. FAIRFIELD] one hour, to the gentleman from Georgia [Mr. LARSEN] one hour, to the gentleman from Mississippi [Mr. RANKIN] one hour, and to myself one hour.

The CHAIRMAN. The gentleman from New York asks unanimous consent that general debate may be equally divided, one hour to be controlled by himself, one hour by the gentleman from Georgia [Mr. LARSEN], one hour by the gentleman from Indiana [Mr. FAIRFIELD], and one hour by the gentleman from Mississippi [Mr. RANKIN]. Is there objection?

Mr. GARRETT of Tennessee. Mr. Chairman, I have no objection, but I would like to submit an inquiry. Is it in order to do that in the Committee of the Whole?

The CHAIRMAN. The Chair thinks where the time for general debate has been fixed at a certain limit the committee can then by unanimous consent arrange as to how that time may be distributed. Is there objection?

Mr. RAKER. Mr. Chairman, reserving the right to object, I wonder if there would be any chance to get 10 minutes on this bill?

Mr. SIEGEL. I think the gentleman can ask both gentlemen on the other side, who have two hours between them, or would have two hours under this unanimous-consent request, even though the——

Mr. RAKER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. RAKER. If the time is not fixed by unanimous consent in the House, the Chair would recognize four men for an hour each and no one can occupy the floor for four hours; can he?

The CHAIRMAN. The Chair will state that the time fixed for general debate by the House is four hours, and if the gentlemen have no agreement in committee as to how that time shall be distributed, any gentleman recognized by the Chair will be entitled to consume an hour. If each gentleman recognized by the Chairman consumes an hour, the debate having been fixed at four hours, it would necessarily follow that four gentlemen would be recognized.

Mr. RAKER. Another parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. RAKER. It would depend, then, of course, on whom the Chairman saw in asking recognition?

The CHAIRMAN. It all depends on the Chairman seeing a Member. [Laughter.]

Mr. BLANTON. Mr. Chairman, further reserving the right to object, it is understood, of course, that the time already consumed by the gentleman from New York [Mr. SIEGEL] is to be taken out of his hour? Otherwise there would be an overplus of time in the hands of the gentleman from New York. Unless that is understood, I shall object; otherwise I shall not.

Mr. SIEGEL. I will say to the gentleman that every effort is going to be made to close debate as quickly as possible.

Mr. BLANTON. The gentleman does not want any unfair division of the time?

Mr. SIEGEL. The gentleman knows I do not want that.

Mr. BLANTON. If the gentleman will agree that the time already consumed is to be taken out of his hour, I will not object; otherwise I will.

The CHAIRMAN. Is there objection?

Mr. BLANTON. I object.

The CHAIRMAN. The gentleman from Texas [Mr. BLANTON] objects. The gentleman from New York [Mr. SIEGEL] is recognized for one hour.

Mr. SIEGEL. Mr. Chairman, in view of the fact that the gentleman from Massachusetts [Mr. TINKHAM] has a subject which he desires to discuss but which is not related to this bill, I yield to him 10 minutes.

The CHAIRMAN. The gentleman from Massachusetts [Mr. TINKHAM] is recognized for 10 minutes.

Mr. HUDDLESTON. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. Does the gentleman from Massachusetts yield to the gentleman from Alabama for a parliamentary inquiry?

Mr. TINKHAM. I yield to a parliamentary inquiry.

Mr. HUDDLESTON. Mr. Chairman, is it understood that gentlemen to whom time is yielded by those in control of the time will be recognized by the Chair?

The CHAIRMAN. The Chair will state that the gentleman having an hour at his disposal can consume it or yield of it such time as he may desire under the rule.

Mr. SIEGEL. Mr. Chairman, I reserve the balance of my time.

Mr. TINKHAM. Mr. Chairman, I desire to repudiate and deny categorically the statement of the chairman of the committee, the honorable Representative from New York [Mr. SIEGEL], when he asserts that I desire to talk upon a subject not related nor germane to this bill.

I will read section 2, Article XIV, of the Constitution of the United States, which every Representative has sworn to obey and uphold. It reads as follows:

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the

right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being 21 years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such State.

[Applause.]

This is the section of the Constitution which we are proceeding to execute. The language is explicit and provides for the apportionment of Representatives. It provides as part of the apportionment of Representatives that representation shall be reduced in accordance with disfranchisement and says this "shall" be done. The language concerning reductions of representation in accordance with disfranchisement relates neither to race nor color, but is general and national in its scope and should have national application. As part of the Constitution it must be applied as written and to modern conditions and circumstances—not nullified for any reason whatsoever. The section is mandatory both in language and character and directs Congress to reduce representation where disfranchisement exists in the manner prescribed. It directs and commands Congress to do this unconditionally.

There are only four mandatory sections of the Constitution in which the word "shall" is directly employed, and one mandatory section which by implication requires that apportionment shall be made every 10 years. The four mandatory sections direct and command Congress to count the electoral ballots, reconsider a veto of a President, have a census made once in 10 years, and reduce representation in accordance with disfranchisement.

These mandatory sections of the Constitution are of the very essence of our Government and of our national being. No greater violence can be done to our Constitution than refusal by Congress to obey these mandates. All other sections of the Constitution where the word "shall" is used either create a prohibition or limitation or devolve a power.

The eighteenth amendment to the Constitution merely forbids the manufacture of intoxicating liquors for beverage purposes, and then provides that "the Congress and the several States shall have concurrent power to enforce this article by appropriate legislation." This is not a mandate that Congress *shall* pass appropriate legislation.

If Congress refuses to reduce representation in proportion to disfranchisement, as it has under this general apportionment bill, it has profoundly and fatally nullified the Constitution in one of its great and vital parts.

The question of reduction of representation in the Federal Government in proportion to disfranchisement involves the most important fundamental issue which can be raised in this equal union of States and our so-called Republic or democracy. It involves equal political power and equal political rights among the several States, equal political power among the citizens of the several States, and the great question of constitutional enforcement.

Article IV, section 2, of the Constitution of the United States says, "The citizens of each State shall be entitled to all the privileges and immunities of the citizens in the several States," and the fourteenth amendment to the Constitution says, "No State shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States."

It is true, however, that the States may make what restrictive laws they wish respecting the franchise, subject only to the inhibitions of the fifteenth amendment and the nineteenth amendment, but always subject to the fourteenth amendment, which controls in this union of States the principle of equality among the several States and equality among the citizens of the United States.

Franchise equality is fundamental and profound.

A republic can not exist and a democracy does not exist unless there is franchise equality.

The enforcement of the fourteenth amendment, always of profound importance both because it is mandatory upon Congress and because it corrects the great scandal now existing of disproportionate political power among the enfranchising and the disfranchising States and the citizens thereof, is given additional importance because of the recent passage of the eighteenth and nineteenth amendments to the Constitution. The eighteenth amendment, which forbids the manufacture of intoxicating liquors and under which Congress has taken action, has made constitutional enforcement a great national issue. And the nineteenth amendment, which has enfranchised all women, has nearly doubled the disfranchisement in those States which disfranchise and has made the disproportion in political power between the disfranchising States and their citizens and the enfranchising States and their citizens nearly double.

Disfranchisement can be caused by laws which disfranchise, the administration of laws regulating elections, by fraud, violence, and intimidation. The laws in the several States which disfranchise—and those are what we must deal with here in our present situation without evidence concerning the administration of laws, concerning fraud, violence, and intimidation—are laws relating to the payment of poll taxes, the possession of property, and laws concerning certain literacy qualifications.

The poll-tax law exists only in a group of 11 States. Apart from this group of 11 States no other State requires property to be owned in order to vote at a Federal election, and there are not many States apart from this group of 11 States which require literacy qualifications.

I shall offer an amendment to the bill, carefully prepared by the Census Bureau, using as far as possible such evidence as it has, to reduce representation in accordance with disfranchisement. This I consider my sworn and bounden duty.

Without reduction of representation in accordance with disfranchisement this bill is unconstitutional, unlawful, and unjust. I have proceeded on the best evidence obtainable; that is all which the Constitution, in my opinion, requires.

The proper method of procedure to obtain full evidence of disfranchisement would be an investigation by a committee of this House. This has been denied by the leaders of the majority party, of which I am a member. Such an investigation has been pressed upon them both upon this floor and at other times and places. For this refusal by the leaders of the majority party I do not possess a command of language strong enough to use in denunciation and reprobation. By their action they have refused to enforce this mandatory section of the Constitution, violated their oaths in so doing, and committed the highest moral and constitutional offense.

The real anarchists in the United States, the real leaders of lawlessness, are the Members of this House of Representatives who refuse obedience to the Constitution which they have sworn to obey. Let them first purge themselves of their anarchy before they denounce anarchism. Let them purge themselves of their lawlessness before they attempt to pass laws to control lawlessness. If the Constitution is not obeyed by Members of the House of Representatives, there is the beginning of anarchy—and may not this example of repudiation and nullification seriously contribute to make the United States the most lawless of all civilized nations? If Congress shall violate the Constitution there is no moral sanction behind the acts of Congress and the people can not be called upon to obey its enactments.

National elections can no longer be half constitutional and half unconstitutional. There can be no double standard of constitutional enforcement. The Federal political morality of one State of the Union must be the Federal political morality of all States of the Union. The very essence of law and order is the enforcement of the fundamental law of the land, which in the United States is the Constitution. The Congress of the United States has no right to ask the citizens of the United States to obey laws which it itself passes when it has refused to obey the plain commands of the Constitution in relation to its own election and how it shall be constituted. For America to pose before the world as dictator of international morality and sponsor of international ethics, with her national Representatives elected in flagrant and defiant violation of her own Constitution, is the height of national hypocrisy.

Will you stand with the Constitution, or will you stand against it? Will you stand with a bill which is unconstitutional, defiantly so, or will you obey the injunctions which are plain, direct, mandatory, which you have sworn solemnly to obey?

Mr. Chairman, I yield back the remainder of my time, with the request that I may extend and revise my remarks.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired. The gentleman asks unanimous consent to revise and extend his remarks. Is there objection?

Mr. STEVENSON. I object.

The CHAIRMAN. The gentleman from South Carolina objects. The gentleman from Georgia [Mr. LARSEN] is recognized for one hour.

REAPPORTIONMENT POSITION OF COMMITTEE, GENERAL.

Mr. LARSEN of Georgia. Mr. Chairman, there are three views regarding the number of Representatives for membership of the House, as follows:

1. That the membership is too small and should be increased.
2. That the membership is sufficient and should be retained.
3. That the membership is too large and should be reduced.

The membership of the committee present and ordering the bill reported was a tie on the first and second propositions; that is, the number voting to increase the membership to 460 and the number voting to retain it at 435 were equal. Therefore, in order to get the bill before the House, so as to settle

the question of reapportionment and to apportion membership among the various States as is contemplated by the Constitution, two Members opposed to the suggested increase on the second call voted to report the bill.

The report contains two dissenting views, one being signed by six Members and the other by one Member. Both dissenting views oppose increased membership and favor a retention of the present number, 435.

The dissenting members of the committee take the same position to-day that was maintained in the last Congress, when it was proposed to increase the membership, and by a vote of 267 to 76 the House decided it should remain at 435.

An examination will disclose that with few exceptions those who favor increased membership come from States that will be directly affected by a loss or gain of representation. Apparently a dread of loss on the one hand and the hope of gain on the other materially affects the judgment of the individual and engenders a conflict of opinion regarding the question of membership which the House must settle.

As my own State will not lose if the present membership be retained, I may not be in position to fully appreciate the position of the Representative whose State will lose. Should the proposition of increase prevail, my State would gain a Member, and hence I know something of the unholy temptation which comes to those who are lured by the hope of gain.

That the present membership of the House is so large that it has impaired its deliberative capacity and at times makes it unwieldy and cumbersome no experienced and impartial mind will doubt, but as a practical legislative proposition it is thought by those who signed the minority report that, all things considered, it would be well to retain the present membership, and that it should be apportioned among the States in accordance with the last census. Hence we ask and shall expect the conservative judgment of the House to vindicate our position. There are those who say this will not be done because the membership of the House has changed. So it has, but there are still in the House 208 Members who as recently as January last voted that the membership of this House should remain at 435. Why should they change their votes at this time? Has the financial condition of the country so improved that a useless and unnecessary expense of this proportion would not be felt by the taxpaying public?

Does not the same pledge which bound them to rigid economy at that time bind them now? No man will change so radically for slight provocation. I assume no one will endanger the respect of the House or jeopardize his own good standing among constituents by changing his vote unless he be in a position to advance some legitimate reason for so doing. As for myself, I am unable to assign any reason why I should not cast the same vote upon the question to-day that I did in the last Congress.

Some one has suggested that he would go back home and tell his constituents that the last census showed that during the war the population had shifted from the agricultural States into the great industrial centers, and that in order to protect the agricultural interests of the country had voted for increased membership. Ah, gentlemen, you will have a hard proposition of convincing the people of any community that the great States of New York and Pennsylvania are not industrial centers. You may try it. Go back home and tell your consituents that you voted to increase the membership of the House. That you protected the agricultural interests by giving to New York and to Pennsylvania two additional Representatives each. You may convince them of your sincerity and satisfy them, but I fear you will not.

The report of the committee, page 5, contains an extract from the Statesman's Year Book, 1920, showing the size of the popular branches of the various legislative bodies of the world's chief countries and claims they are larger in proportion to population than that of the United States. It states that Great Britain has 707 members, that France has 626, Italy 508, and Germany 423, and says the population of each country is less than that of the United States.

Mr. SIEGEL. Will the gentleman yield?

Mr. LARSEN of Georgia. I yield to the gentleman from New York.

Mr. SIEGEL. There is no statement made that the populations of those countries are greater than those of the United States. The gentleman is mistaken about that. The gentleman means to say that the population is less than the United States.

Mr. LARSEN of Georgia. I accept the correction. Gentlemen should not be misled by the statement, as made, nevertheless. The inference is that the 707 representatives of Great Britain, which has a population, according to the statement, of 45,000,000 people, are only charged with the responsibility and representation of those people. The fact is quite the contrary. Everyone knows that those members, in addition to legislating for Great Britain, legislate for all the possessions of the British Empire, including India, Australia, Canada, Ireland, the Sudan, Egypt, South Africa, and many insular possessions, with a total population of 435,000,000 instead of 45,000,000, as they would have you believe. I concede, of course, that the dominions have local legislation, but for all the people throughout the wide-flung British Empire the House of Commons speaks and exercises ministerial as well as legislative functions.

Belgium, including its Kongo possessions, has a population of 14,500,000 instead of 7,000,000, as the report would have you believe. France, including Indo-China, Asia Minor, and its African, American, and Oceanic possessions, has a population of not less than 66,650,000 instead of about 41,000,000, as the report shows.

Mr. REAVIS. Will the gentleman yield?

Mr. LARSEN of Georgia. Yes.

Mr. REAVIS. If the gentleman proceeds upon that theory ought there not to be added to the population of the United States that of the Philippine Islands?

Mr. LARSEN of Georgia. Yes.

Mr. REAVIS. And Hawaii.

Mr. LARSEN of Georgia. Yes.

Mr. REAVIS. Making how many?

Mr. LARSEN of Georgia. Not exceeding 120,000,000. The same I have stated as to Great Britain, France, and Belgium is true, in a somewhat less degree, of all other countries mentioned.

Mr. MONTAGUE. Will the gentleman yield?

Mr. LARSEN of Georgia. I really regret, Governor, that I have not the time.

Another difference must be noted. Not one of the countries mentioned, with the exception of Germany, has a state form of government like the United States.

The representatives of these Governments are intrusted with both local and national legislation. The Congress of the United States deals only with national questions, and each State of the Union looks after its individual affairs. If we consider the various State legislatures as a part of the Nation's Legislative Assembly, the people of the United States, so far as representation in matters of legislation is concerned, are already better provided for than any other country in the world. Take the case of Germany, to which attention is called, and you will see that she has 423 members and a population of 60,000,000. There is no material difference in actual ratio of members to population of the two countries. As before stated, Germany has a state form of government like the United States, and hence constitutes the only parallel for comparison.

Regardless of difference in form of government, I am no more prepared to accept the theory or to follow the example of either France, Italy, or Belgium in fixing number of representatives for legislative assemblies than I would be to adopt their ideas as to the size of an army or form of government. If we should follow them in one instance why not in both? If we do we will have an army of more than a million men. We recently fixed it at 150,000.

Another difference may be noted. In most of the European countries, especially the leading ones, government legislation is introduced and provided for by the ministry, the cabinet, as we call it. It has a special right of way over other legislation. Legislation not introduced by the ministry has little or no chance of passing, unless it receives the approval of the Government. Thus, you see most of the legislation not planned and promoted by the Government is of a local character. It is such as is dealt with here by the legislatures of the various States.

Gentlemen, the political life of a Member should be a matter of little concern as compared with the preservation of efficiency for the House. The people must look to the House for many reliefs from unjust burdens. If you destroy its efficiency you destroy the rights of the people.

You may depend upon the people, through the process of political elimination, to preserve the most useful Members for the good of the Nation, but if you destroy the efficiency of the House you not only endanger the rights of the people but you impose a useless burden upon them. Increased membership can not result in benefit to the House or to the public. As we increase membership we lessen responsibility, destroy efficiency, and render the House unwieldy and its membership abject tools in the hands of the chairmen of committees. [Applause.] The proponents of the proposition for increase attempt to justify it upon the theory that the demands of the public upon the individual Member are such that he can not properly discharge them. If such instances exist I am sure they are rare and would not be relieved by the proposed measure.

Within the past five years we have increased clerical force and assistants $2,180 for each Member, a total of $948,300 per annum, or more than 100 per cent. This sum is quite sufficient to take care of any increased work in this House. Now you want an increase of half a million dollars or more per year, for what? Oh, you talk about overworked Members. We have made ample provision for every Member in this House. Everyone is now prepared to do the work that is legitimately expected of him. I pause now in order that any overworked Member of the House who works two clerks regularly and can not finish his work without extra help may identify himself.

Mr. DALE. Will the gentleman yield?

Mr. LARSEN of Georgia. Yes.

Mr. DALE. Does the gentleman ask if any man in this House has paid for work from his private funds?

Mr. LARSEN of Georgia. I say, Has any Member used his two clerks regularly and in addition paid out of his own pocket money to support his office?

Mr. DALE. Let me get the gentleman's question. Does the gentleman ask if any Member of the House has paid out of his own pocket money for clerical help?

Mr. LARSEN of Georgia. If he has worked his two clerks all the time and worked himself and not been able to do the work that is legitimately a part of his duty, let him stand up.

Mr. DALE. The gentleman now is putting in several restrictions——

Mr. STRONG of Kansas. Here you are. [Laughter.]

Mr. LARSEN of Georgia. I knew the gentleman from Kansas would identify himself at a late hour, as usual.

Mr. STRONG of Kansas. I supposed the gentleman was asking his question in good faith.

Mr. LARSEN of Georgia. How much has the gentleman from Kansas paid out per month?

Mr. STRONG of Kansas. I do not know that I have got it by the month, but probably $260.

Mr. LARSEN of Georgia. In all, $260. Oh, well, the gentleman has not been burdened sufficiently so that the House should put upon the country an additional expense of half a million dollars per annum.

Mr. STRONG of Kansas. I am not crying about it; I was glad to do it. The gentleman asked a question and I simply answered it.

Mr. DALE. Will the gentleman yield?

Mr. LARSEN of Georgia. Not now. Heretofore increased membership may have been justified upon the theory of increased territory for representation, but territory has not increased since the last apportionment. Highway extensions, automobile development, and telegraph and telephone communications have more than compensated for any increase in population. The mimeograph, the multigraph, and other labor-saving devices have all very greatly multiplied our capacity for labor and communication. The tax burden upon the people of the United States to-day is more than four and one-half billion dollars per year. This is more than $40 per capita, or $200 per family; and yet, gentlemen, you are not satisfied with this enormous burden on the taxpayers of the country.

Mr. GREENE of Vermont. Mr. Chairman, will the gentleman yield?

Mr. LARSEN of Georgia. I am sorry that I have not the time. Have gentlemen favoring the increase counted the costs of the steps which they propose to take? Do they realize how much greater burden they propose to place upon the already overtaxed citizen? It amounts to at least $500,000 per year.

Mr. ASWELL. How does the gentleman account for that?

Mr. LARSEN of Georgia. I shall account for it, if the gentleman will permit. On the 18th of January of this year the Washington Post said that if we increased the House by 48 Members we would increase the cost by more than one million and a half dollars per annum.

Mr. ASWELL. Does the gentleman accept that as an authority?

Mr. LARSEN of Georgia. We propose now to increase it by 25. According to the Post, this would be $750,000 per year.

Mr. ASWELL. Mr. Chairman, will the gentleman yield?

Mr. LARSEN of Georgia. If the gentleman will give me time, I will try to explain. Yes; I yield. What is it?

Mr. ASWELL. I wondered how the gentleman calculated $500,000, when anyone who can multiply and add would make it $300,000.

Mr. LARSEN of Georgia. Perhaps the gentleman can multiply and add. I do not know. We will give him an opportunity to do so. There is increased salary for Members amounting to $187,500 a year; there is increased clerk hire for Members, amounting to $92,000 a year; increased mileage for Members, $15,000; increased stationery allowance, $6,250; increased cost of CONGRESSIONAL RECORD, $12,500; increased cost of the telegraph franks, $2,757; rent for Members' quarters, $25,000 per year. In addition to this there would be much additional assistance in the House, in the departments, and elsewhere. We should also require erection of new building for office, equipment, and so forth.

Mr. SIEGEL. Mr. Chairman, will the gentleman yield?

Mr. LARSEN of Georgia. I can not yield.

There is no popular demand for increase, even among the States whose representation is to be reduced. During the present year 3 of the 8 Members from Mississippi voted to retain the membership at 435. One man of the Mississippi delegation signed the minority report. Gentlemen will say that he is not here. No; he was not a candidate for reelection, and he could vote, therefore, according to his convictions. Only as recently as January of this year the Legislature of the State of Indiana met, if I am correctly informed, and passed a resolution condemning the increase, and yet the great State of Indiana would lose under the apportionment of 435.

Mr. REAVIS. Mr. Chairman, will the gentleman yield?

Mr. LARSEN of Georgia. Yes.

Mr. REAVIS. Does the gentleman think the personnel of the delegation inspired the legislature of that State to favor a decrease of 1?

Mr. LARSEN of Georgia. Oh, it is a very good delegation. This is an age of sacrifice. The man who is not willing to sacrifice is neither a good citizen nor worthy of representing the people. We have just reached the end of the greatest war in history, a war in which 4,500,000 men surrendered their opportunities, abandoned their ambitious dreams, and without a thought of selfish gain offered their lives in defense of the country. Six hundred thousand of those men to-day walk the streets without employment or the means of subsistence. They seek employment, but find none. They ask for a bonus, adjusted compensation, if you please, but the Republican Party pleads poverty and declines.

Yet you are willing to increase the burdens of taxation and thereby add further to industrial depression in this country. Oh, how consistent you are! You disregarded the army of the unemployed merely that you, or some friend, may retain a seat in the House of Representatives. God forbid that such selfish spirit should possess any American citizen.

Mr. TINCHER. Mr. Chairman, will the gentleman yield?

Mr. LARSEN of Georgia. I have not the time. The platforms of both the Democratic and the Republican Parties last year pledged an economical administration of national affairs. The Republican Party was intrusted and will be held responsible for such an administration. This does not relieve the individual Member of either party from responsibility. [Applause.] We were all intrusted by the constituency of our districts, and not one of us would have been here if they had not been satisfied that we would impose no useless or unnecessary burdens upon the people.

Your vote to-day, brother Democrats, will show your respect for the pledge of your party and your sympathy for the taxpaying public which you represent. Your vote, Mr. Republican, will be considered as an index to your party loyalty, and will demonstrate whether you desire to nullify the solemn pledges of your party in its last campaign. It will determine whether you desire to serve the selfish interests of the few who fear they may lose their seats in this House, or whether you will serve the public interest. Your vote will be construed as your preference to saving a few Members and destroying the efficiency of the House. If you vote for this increase everyone must know your motive; there can be but one. Choose ye this day whom ye will serve. Shall it be the selfish interests or the public whom you were elected to represent? [Applause.]

Mr. Chairman, it would perhaps be easier for me to yield to the solicitations of my friends and support the measure; but I am here to represent the American people, and the American people need more sympathy in the lessening of taxes than any man in this country needs to retain a seat in Congress. [Applause.]

Mr. WHEELER. Mr. Chairman, will the gentleman yield?

Mr. LARSEN of Georgia. Mr. Chairman, I reserve the remainder of my time.

The CHAIRMAN. The gentleman from Georgia reserves 32 minutes.

Mr. FAIRFIELD. Mr. Chairman——

The CHAIRMAN. The gentleman from Indiana is recognized for one hour.

Mr. FAIRFIELD. Mr. Chairman, will the Chair kindly notify me when I have used eight minutes? Mr. Chairman and members of the committee, there is no need for an increase in

the membership of this House. The Sixty-sixth Congress, by a vote of 267 to 76, repudiated any increase. No changed condition in the necessities of the country would justify a change. The same men who are now advocating an increase of 25 were just as earnest in their advocacy of an increase of 48. When the House by an overwhelming majority voted and determined that it was unwise, throughout the country there came back the word of approval. No man has undertaken to say that there is any real need of another Member of Congress. The present body can take care of every public duty efficiently. The House is large enough. What is the reason that men are urged and have been willing to block legislation for months? What is the reason that underlies this strenuous effort?

Mr. DALE. Will the gentleman yield?

Mr. FAIRFIELD. I can not yield.

Mr. DALE. I will tell the gentleman one reason.

Mr. FAIRFIELD. I have but a few minutes. Men have been blocking it at every step when the judgment of a majority of the House not only was with us but is with us in this contention if it were not for the considerations of State pride, of personal interest, or of political expediency. And, gentlemen, when we legislate upon a problem of constitutional mandates on the ground of political expediency and personal interest we are falling short of the character and dignity which should become Members of the House of Representatives. [Applause.] Another thing. While if it were needful, the amount of money involved is insignificant, but when unnecessary, when wasteful, when there is no need, to say for the country we make it possible to elect 25 more Members of Congress and carry with its personnel expenses of over $11,000 each, making on the personnel expense side more than a quarter of a million dollars, and that in face of the fact——

Mr. ASWELL. Will the gentleman yield?

Mr. FAIRFIELD. I do not yield. And that in the face of the fact just the other day the Secretary of the Treasury informed us that we would have to increase the appropriations by $360,000,000. But that is not all. That quarter of a million is expense for all time. The present office building will not house the membership. [Applause.] There will have to be quarters provided outside, and you know and I know that there will be pressure for a new building, so that a perfectly useless addition to the membership of the House will entail before we are through with it an additional half million dollars yearly at a time when we are pledging ourselves to economy. If it were necessary to make the House more efficient——

Mr. ASWELL. Now, will the gentleman yield?

Mr. FAIRFIELD. If it were necessary—I do not yield—because the quality of the membership is not high enough that we need to go outside and bring in some more in the hope that the dragnet will get men of greater ability; if that were true, I would not oppose the increase. But the men here are strong and virile. I respect the membership of this House. I have no word of reflection. This House expressed its deep conviction on that fact when it said by a majority of three and a half to one——

Mr. ASWELL. Now will the gentleman yield for one question?

Mr. FAIRFIELD. No; I will not yield.

The CHAIRMAN. The gentleman declines to yield.

Mr. ASWELL. Just one simple question.

Mr. FAIRFIELD. I do not yield—and the House having thus expressed itself I can not understand how men who not only voted to keep it down, but who talked, and talked wisely, are said to be changing; changing because it is said that another body will not be willing within the limited time to pass an apportionment bill. Gentlemen, I am unwilling to believe——

The CHAIRMAN. The gentleman has used eight minutes.

Mr. FAIRFIELD. That any other body will take the responsibility of saying to the House, "You can not fix the size of your own membership." Mr. Chairman, I reserve the remainder of my time.

The CHAIRMAN. The gentleman reserves 52 minutes.

Mr. RANKIN. Mr. Chairman——

The CHAIRMAN. The gentleman from Mississippi is recognized for one hour. [Applause.]

Mr. RANKIN. Mr. Chairman, I presume it is violating no rules of the Census Committee, of which I am a member, for me to tell you that I was opposed to reporting any bill at all providing for the reapportionment of the membership of this House under the census of 1920. I was opposed to it because of the fact that the census was taken at a time when we were just emerging from the World War and when so many thousands of people had left the farms and the small towns temporarily and gone to the large cities of the North and East, that a reapportionment under that census would necessarily take from Mississippi and other agricultural States their just representation and place it to the credit of the congested centers.

If the census could be taken to-day, since our boys have returned from the service and those who were engaged in the various manufacturing industries and war activities have gone back to their homes, I dare say that an apportionment under such a census would justify little or no shifting of representation with the House remaining at its present membership.

Mr. GRAHAM of Illinois. Will the gentleman yield?

Mr. RANKIN. Not now; excuse me.

The CHAIRMAN. The gentleman declines to yield.

Mr. RANKIN. Mr. Chairman, there has been one other issue raised in the course of this debate by a Member from Massachusetts [Mr. TINKHAM] to which I trust the House will pardon me for referring briefly, and that is the race question. He wants this House to cut down the representation of the Southern States because the Negroes in those States as a rule do not vote, and bases his indictment of the South on the second section of the fourteenth amendment to the Federal Constitution. His iniquitous scheme, if carried out according to his tabulation, would reduce Mississippi's representation in this House from eight to four and would affect other Southern States accordingly. But, Mr. Chairman, I am glad to call the attention of the House to the fact that Congress has no more right to interfere with the representation of a southern State under the fourteenth and fifteenth amendments to the Constitution than it has to revise the school laws of Indiana or the tax laws of Pennsylvania or to regulate the internal affairs of any other State. The second section of the fourteenth amendment to the Constitution to which he [Mr. TINKHAM] referred provides that—

> Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being 21 years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such State.

That clause of the Constitution was directed at the State, and not at the individual citizen, and contemplated that whenever a State passed a law depriving any people of the right to vote the representation of that State should be reduced accordingly. But the fifteenth amendment, which was soon after adopted, provides that—

> the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Under the fifteenth amendment any law passed abridging the right of people to vote, as contemplated by the second section of the fourteenth amendment, would be null and void and therefore held for naught. In other words, the fifteenth amendment superseded and rendered nugatory, if not null and void, the second section of the fourteenth amendment, so far as regulating representation is concerned.

Mr. Bryant, of Wisconsin, in his treatise on the Constitution of the United States, at page 333, says:

> The fourteenth amendment is prohibitory upon the States only, and the legislation authorized to be adopted by Congress is not direct legislation on the matters respecting which the States are prohibited from making or enforcing certain laws, or doing certain acts, but is corrective legislation, such as may be necessary or proper for counteracting or redressing such laws.

Also, a notation in the Eleventh Federal Statutes, annotated, page 1096, says that—

> the prohibitions of the fourteenth amendment are directed to the State and they are to a degree restrictive of State power.

In other words, up until the passage of the fifteenth amendment, if a State had passed a law that deprived the Negroes of the right to vote, the representation of that State could have been reduced in proportion as the male population of the Negroes numbered to that of the male population of the entire State, but when the fifteenth amendment was adopted, providing that no such law should be passed, it by implication repealed that part of the fourteenth amendment or rendered it nugatory. The Supreme Court of the United States in the Civil Rights cases, in 1883, reported on page 3 (109 U. S.), uses this language:

> Until some State law has been passed, or some State action through its officers or agents has been taken, adverse to the rights of citizens sought to be protected by the fourteenth amendment, no legislation of the United States under said amendment, nor any proceeding under such legislation can be called into activity, for the prohibitions of the amendment are against State laws and acts done under State authority.

Hon. James G. Blaine, the Republican leader for years, and who was Speaker of the House of Representatives at the time the fifteenth amendment was adopted, and was a leader in the House when the fourteenth amendment was passed, in his Twenty Years in Congress, volume 2, page 418, in speaking of this second section of the fourteenth amendment and the reduction of southern representation thereunder, said:

Its prime object was to correct the wrongs which might be enacted in the South, and the correction proposed was direct and unmistakable, viz, that the Nation would exclude the Negro from the basis of apportionment wherever the State should exclude him from the right of suffrage.

When, therefore, the Nation by subsequent change in its Constitution declared that the State shall not exclude the Negro from the right of suffrage, it neutralized and surrendered the contingent right before held, to exclude him from the basis of apportionment. Congress is thus plainly deprived by the fifteenth amendment of certain powers over the representation in the South, which it previously possessed under the provisions of the fourteenth amendment. Before the adoption of the fifteenth amendment if a State should exclude the Negro from suffrage the next step would be for Congress to exclude the Negro from the basis of apportionment. After the adoption of the fifteenth amendment if a State should exclude the Negro from suffrage the next step would be for the Supreme Court to declare that the act was unconstitutional and therefore null and void.

So it will be seen that the fifteenth amendment superseded the second section of the fourteenth amendment, which referred to action taken by the State and not by individual citizens.

Mr. Chairman, I make this statement, and cite these eminent authorities to counteract any argument in this Congress or elsewhere, to the effect that Congress has any right under the Constitution to interfere with the representation of the Southern States on account of their elections or their election laws. Every election clause in the constitutions of those States has been contested before the Supreme Court of the United States time and again and has been found to meet the rigid test of constitutionality.

No, Mr. Chairman, this Congress has no right to interfere with southern representation on account of our elections. That question has been settled, and I trust settled for all time to come. [Applause.]

While we are on that subject, permit me to say to you in all frankness and in all sincerity that the time has passed when a man or a party can successfully make political capital by holding out to the Negro the hope or promise of social or political equality. By a recent amendment of the Constitution the white women of this country were enfranchised; and mark my words, they are going to set the seal of eternal condemnation upon those individuals who attempt or propose to force upon them the curse of Negro equality. The white women of America have paid the awful penalty for the political mistakes of the carping demagogues who are continuously raising this question and abusing the South for pursuing the only possible course by which its white civilization could have been maintained. They have had to suffer, and are still suffering, as a result of this nefarious practice on the part of a few misguided or unscrupulous politicians. There has not been a week since I have been in this Congress, it seems to me, that the local papers have not carried the news of some white woman being outraged by some brutal Negro within a radius of a few hundred miles around Washington.

The time has come when the white women of America are going to protect themselves at the ballot box against those irresponsible individuals who are willing to sacrifice them and their children by pandering to the baser passions of an inferior race.

As an illustration, there was a movement said to be on foot some time ago to have a Negro appointed Register of the Treasury, over the signed protest of 837 white girls, who would have been compelled to work under him or else give up their positions. It looked as if this appointment would be made, in spite of all these poor girls could do, until the various women's organizations throughout the country began to bombard this Capitol with their protests, individually and collectively. Then the situation began to take on a different phase and the appointment was "indefinitely postponed."

One noble, intelligent, courageous woman from Indianapolis, Ind., wrote her protest to Senator NEW, of that State. A copy of her letter fell into my hands and I have secured her permission to insert it into the RECORD. It reads as follows:

INDIANAPOLIS, IND., *April 5, 1921.*

Hon. HARRY S. NEW,
United States Senate, Washington, D. C.

HONORABLE SIR: A few days ago I noticed an article written by a Washington correspondent in regard to the appointment of a Negro to the position of Register of the Treasury and a petition signed by six Hoosier white girls against the appointment.

As a Republican, I wish to present the protest of myself and every white woman of Indianapolis against any further Negro appointments to public office or placing them in any position of authority over white people. You are a white man with a white father and mother. How would you like to have a Negro boss over you. What effect does it have on every Negro in the United States for some of the misguided "Negro lovers" to place a Negro in an official position such as contemplated?

We are not against the Negro enjoying his freedom, so long as he does not disregard the rights of those who gave him his freedom.

Unfortunately, when you give some possibly deserving Negro certain privileges you let down the bars for the vast multitude of undesirable, untrustworthy, incompetent Negroes to overrun the earth and make life unbearable for the white people.

You know that it is not any love for the Negro that prompts the Republican Party to place him in an official position, but it is merely playing politics, pure and simple. You are playing it unwisely now, since the women have come into power, as we universally abhor the Negro, having had sad occasion to know him. We will not support any party who longer tolerates and affiliates with this irresponsible element.

The Negro occupies a well-defined place in our world; i. e., position of servitude. The Lord marked him thus, and there never was any intention of placing him in a position of authority. Merely dirty politics and dirty dollars have attempted to foist this benign evil on a thoughtless public.

However, for your information I would call your attention to the formation of civic associations in all the larger cities—there are a dozen such associations in this city. These associations are formed for the purpose of protecting the rights of our white citizens; necessary because the law, as interpreted by some misguided lawmaker, has seen fit to give the Negro equal State rights; and by the use of the word "equal" has given the Negro the impression of racial and social equality, perpetuated by the handclasp of the thoughtless white "Negro lover" possibly shaking his hand while covering the dollar bill given him for his vote.

We are not averse to the Negro acquiring an education and uplifting himself; in fact, we do much to aid him; but it is entirely unnecessary to bring him into your own home to do it. Let him develop himself to be "somebody" among his own race. We do not need the Negro in politics, and we do not intend to support any party who longer continues the nefarious practice of catering to him.

Do you know that our northern cities are overrun with Negroes from the South, and that they are moving into the white residential sections of our cities, greatly depreciating property values, making themselves obnoxious, and inviting race prejudice by such actions?

Look at the statistics, at the increase of the Negro population in our northern cities, and realize what this means. There has been approximately 60 per cent increase in the Negro population of Indianapolis during the past 10 years. What would it mean to you to have a Negro buy property adjoining yours on one of the most beautiful thoroughfares of your city? Just remember that it is the white man's dollars that enable the Negro to do this. You must realize that we are compelled to fight for our own protection.

We believe in segregation in our schools, and we believe in segregation in business and politics. Recently during our last State assemblage State Senator English was approached in regard to the segregation problem, and was asked how he would like for his daughter to be compelled to associate with a Negro child in school, and to show you how narrow-minded he was, he answered, "Well, my daughter does not attend the public school"; in other words, "What do I care about the white children who are compelled to attend the public schools; my child's father is financially able to provide a private tutor, thereby eliminating the Negro contamination." Thus you may see that it depends upon whose toes are stepped on as to whether this merits attention.

Our chamber of commerce, manufacturers' association, and real estate board all urge a man to own his home and become a useful citizen, but I beg you, where is the incentive for a man to invest a lifetime savings in a home when a despicable Negro may be permitted to buy adjoining property, depreciating it to less than half its normal value, yet it is taxed full value the same as if it were not depreciated by this Negro contamination. What recourse have you?

Do you think that we are just going to grin and bear it and continue to uphold in power the politician who artificially gives the Negro the wrong conception of racial and social equality which causes him to invade the white residence sections where he is distinctly not wanted? No; a thousand times no! We have had enough. It is time for the deluded white man to wake up and protect his own.

In this respect we ask you to help us, and help yourself, by expending all your power to prevent the appointment or election of any Negro to any office or public trust that gives him authority over white people.

Now, my dear Senator, we ask you in the name of your mother, your wife, your daughter, in the name of everything that is holy to you, to help stop this Negro curse that is ruining our cities and destroying the sacredness of our homes.

May we beg of you, not your sympathy but your assistance?

Yours, sincerely,

MRS. O. J. DEEDS,
248 West Maple Road, Indianapolis, Ind.

That letter, Mr. Chairman, speaks the sentiments of practically the entire white womanhood of America, and it sounds a warning that no political party can afford to disregard.

So much for that phase of the case; let us now return to the question of reapportionment based upon the census of 1920.

I have heard men regale this House by declaring that those who favor this bill want to increase the size of this body. I do not want to increase it; I want to leave it just as it stands. But we brought this bill out of the committee as a compromise, in order that justice, as nearly as possible, might be done to every State in the Union.

This census was taken at a time, as I said, when America was just emerging from the World War, and when thousands, possibly millions, of people had been drawn from the agricultural sections of the country into the congested centers to engage in various manufacturing enterprises and other activities. If we depend upon that census, and reapportion on a basis of our present membership, the agricultural sections will, as a rule, lose their quota of representation, and it will be credited to those centers to which these people temporarily moved during or just after the war, even though they have now returned to

their homes, and those manufacturing centers have been reduced to their normal populations.

Rather than see the agricultural States of Mississippi, Louisiana, Kentucky, Missouri, Nebraska, Iowa, Kansas, and so on, lose their just proportion of representation on the floor of this House, the Census Committee arrived at this compromise in order that, as nearly as possible, exact justice might be done to all concerned. [Applause.]

Mr. Chairman, I reserve the balance of my time.

Mr. FAIRFIELD. Mr. Chairman, I yield four minutes to the gentleman from Iowa [Mr. COLE].

Mr. COLE of Iowa. Mr. Chairman and gentlemen, this is my first appearance as a speaker in this House. My election is so recent that I ask with some trepidation your indulgence for even the brief time that has been allotted me. I sit here as the successor of a man who was so potent in your debates and transactions that a year of silence on my part might not be unbecoming. But as I recall sacred history, after the burial of Moses, Joshua was constrained to cross the Jordan. And the question which we have under consideration to-day is one of such historic and vital importance to the State of which I represent one district here that in justice to her and to myself I can not do otherwise than speak.

The gentleman who has preceded me, Mr. RANKIN, of Mississippi, has expressed many of the things which are uppermost in my own mind in connection with this question. The States of Iowa and Mississippi were somewhat similarly situated during and after the Great War. Neither State was favored with war industries, except the somewhat unrecognized and yet essential industry of producing foods out of the soil. Young men, and older men also, left these States by the thousands, not only to serve under arms but to serve in the factories where the implements of war were made. Both classes were moved by the desire to help win the war.

It has been said that in 1920, when the last census was taken, the men who had been thus drawn away from the agricultural States into the industrial centers had returned to their homes. Gentlemen, that is not true. At that time we were still suffering from the industrial and financial debaucheries that followed the war. It was not until near the end of that year that the final and terrible disillusionment was under way. In January, 1920, when the census was taken, the State of Iowa was still largely depleted of its men. In the spring of that year old men and even women had to help put in the crops while the younger men still loitered in silk shirts in the cities on the proceeds of high wages. To take the census in midwinter under such conditions was one of the many grotesque blunders that accompanied and followed the war. Since that time, I am glad to say, the return tide has set in, and I believe that a census taken to-day would make an entirely different showing for Iowa and for other States similarly situated.

On behalf of my State I ask, gentlemen, that you shall not take away from us a due part of our representation in this historic House, and that on the basis of an enumeration manifestly unjust. It was patriotism at first and later the infatuation of extravagant wages that drew and lured away so much of our man power. Do not punish us for our patriotism and do not penalize us for even our folly.

I need not say to you that the representation of the so-called agricultural States is vital to this Nation. A home on the farm stands for something more than a tenement in a city. From the time when the poet's embattled farmers fired the shot heard around the world the toilers on the land have been a large part of the safety and security of American institutions.

To transfer more of the power in this House from the farms to the cities is so serious a thing, so fraught with meaning, if not mischief, that it should not be undertaken on the basis of a census taken under the conditions that existed in January, 1920. For one, I think it would be better if no reapportionment were made on that showing, but this bill, while it adds some Members to the cities, at least does not deprive the great agricultural States of any part of their representation.

In this we are asking no special favors for the agricultural States. We are only asking that you shall do us no injustice in the proposed reapportionment. We are here asking no favors, seeking no privileges for ourselves. For one, I am not even in favor of so-called "blocs," whether agricultural or not. Those who are inclined to think in "blocs" should study carefully the effect of such organizations in European assemblies before helping to crystallize them in American legislation. I do not believe that we who represent so-called agricultural States should band ourselves together to get special favors. I am in favor of legislation for and by and of the whole Nation, and upon appeals made to the whole Nation and not to any mere section or interest of it. [Applause.]

I am glad that the beneficial farm legislation which has been passed by this House has been passed not by "blocs," not by sections, and not by coteries, but by the whole membership of this House, representing the whole Nation. And on behalf of a State whose premiership in agriculture is known by all, I want to thank you for that remedial legislation which ranges from enactments to regulate packing houses and grain exchanges to making $2,000,000,000 available for loans to tide over the great basic industry which has been so severely stricken following the war.

The men on the farm have borne the first and, I believe, the greatest brunt of the demobilization of prices, and this burden is still being borne by them. The farmer's dollar is worth only 50 cents in the purchase of urban goods. I make this statement on the authority of so eminent a statistician as George E. Roberts, formerly director of the United States Mint. A bushel of corn or oats to-day is worth less than the charge for hauling it from the farm to the seaboard markets. I think the sufferings of my constituents have been aggravated by the fact that others have not been willing to accept their share of the total suffering which was bound to come upon the world following the madness and destruction of the World War.

But with it all the farmers have not been quitters, and they have gone on no strikes to restrict production. Last spring, with their bins and cribs filled to overflowing, they did not withhold their hands from the plow. They went forth in the glad sunshine like good husbandmen and faithful ones, like good patriots and true ones, and planted their accustomed acres. They planted in the hope and in the faith that the earth might continue to bring forth the sustenance for the world, even if they should themselves be poorly paid in money for their labors. I point to this fact with pride. May Heaven help all other men in America to do likewise, and to continue to do so.

The farmers have not yet lost the faith that is American. I think that most of them are accepting their present condition as something inevitable. They are paying for the folly and the crime of those who instigated the World War. They look to the Congress to do what it can to alleviate their distress, but they ask from the Congress nothing that is either unreasonable or impossible. They know that we can not re-create markets nor legislate moneys into the pockets of the people by mere enactments. They know that we are all engulfed in the trough of a troubled sea and that we must wait and work for the waters to regain their equilibrium. A man writing to me the other day out of the distress of the West said:

> Things will come back in good time, and we will be patient. And when they do come back we are going to have the best times in the history of the world right here in these United States.

He underscored the words "we will be patient." I may call attention to the fact that the man who wrote in that sublime faith is not a member of my political party, but is a Democrat of the ancestry of the pioneering Hendersons of Kentucky and Tennessee. I am proud of him, and I am proud of the fine sentiment which he expressed. His is the faith that we need in America to-day. On the farms of the Nation I think we still have that faith left, and that somewhat abundantly.

But at this critical time I ask that you shall not disappoint nor discourage the men on the farms by taking away from States like Iowa any part of their representation in the Congress of the United States. And do not, I beg of you, deprive them of such power on the basis of a census whose defects I have tried to point out. The Nation needs these men on the farms and it needs their Representatives in the halls of legislation. [Applause.]

The CHAIRMAN. The gentleman from Georgia [Mr. LARSEN] is recognized.

Mr. LARSEN of Georgia. I would rather that some more debate should proceed on the other side.

The CHAIRMAN. The gentleman from Indiana [Mr. FAIRFIELD] is recognized.

Mr. BARBOUR. The gentleman from Indiana [Mr. FAIRFIELD] has stepped out. If gentlemen on the other side desire to use time, all right.

Mr. LARSEN of Georgia. Mr. Chairman, I yield five minutes to the gentleman from Texas [Mr. SANDERS].

The CHAIRMAN. The gentleman from Texas is recognized for five minutes.

Mr. SANDERS of Texas. Mr. Chairman and gentlemen of the committee, we are now about to perform a service which presents itself every 10 years, and that is to pass a bill which will fix the number which shall constitute this House for the next 10 years. In seeking to discharge this duty, I take it that our one controlling purpose should be to enact such a law as will redound to the best interest of the people of the United States,

keeping in mind solely the public welfare. For that reason I shall vote against the bill which places the membership of the House at 460, thereby increasing the membership 25, and support an amendment placing the membership at 435 as now constituted. Coming here at this term of Congress, as I did, a new Member, my first impression of the House was that it is too large and unwieldy, and my service here during this short time has confirmed that first impression. I think the membership is already too large and would gladly vote to fix the membership at even a smaller number than as now constituted, but I realize that we will do well under the circumstances to even prevent an increase. While I realize that if the number is again placed at 435, as it is now, that some few States will lose a Congressman, yet I can not see wherein that is unfair, for the reason that the Constitution requires that the apportionment shall be made according to population, and each State will be represented according to its population, whether it gains or loses a Member. This is not a question as to which States will gain and which will lose. In the Senate the representation is by the States, while in the House it is according to population, and each State will therefore have representation in accordance with its population, which is all that can be fairly and legitimately demanded.

As one of the reasons for an increase in membership it may be suggested that the House of Commons has a membership of 707; that the French Chamber of Deputies consists of 626; and that perhaps the law-making bodies of some of the other countries are larger than ours; but I submit that that is no argument in favor of an increased membership here. Rather the argument for an increase of membership suffers by the comparison, for those Governments are less efficient than ours, and those who are familiar with their history know that they are dominated and controlled by a few, and that in them the prominence of the individual member is diminished. Moreover, they have a different system to what we have. In the House of Commons, for instance, 40 members constitute a quorum for the transaction of general business and 20 for the consideration of private bills. Here it takes a majority of our membership to constitute a quorum and 100 when in the Committee of the Whole. Everybody must know, it seems to me, that this House is too large and unwieldy. It is not a deliberative body as it is, and its efficiency will be impaired rather than strengthened by an increase. In considering this question it might be well to give heed to some of the suggestions of the early patriots whose wisdom assisted in the forming of this great Republic and who have contributed so much to our past glory and present greatness. In writing on this subject Mr. Madison said:

> One observation, however, I must be permitted to make, as claiming in my judgment very serious attention. It is that in all legislative bodies, the greater the number comprising them may be, the fewer will be the men who in fact will direct their proceedings. In the first place the more numerous any assembly may be, of whatsoever character composed, the greater is known to be the ascendancy of passion over reason. The people can never err more than in supposing that by multiplying their representatives beyond a given point they strengthen the barriers against a government of a few. Experience will ever admonish them on the contrary that after securing a sufficient number for the purposes of safety, of local information and diffusive sympathy with the whole society, they contract their own views by every addition to their representatives. The countenance of the Government will become more democratic but the soul which animates it will become more oligarchic. The machine will be enlarged, but the fewer and often the more secret will be the springs by which its motions are directed.

These words, to my mind, almost bespeak political inspiration, and I offer no apology for quoting from Madison. Edmund Burke once said "that those who never look back to their ancestors will never look forward to posterity," and that is true. Show me a nation that is ready to go back on the faith of the forefathers, to forget or disregard the teachings of its early patriots, to abandon those fundamental and wholesome principles which were established at its beginning, and I will show you a nation on its way to decay. But the wisdom of the statement by Madison is confirmed by our own experience and observation. In the hearings in the subcommittee considering this bill at the present session of Congress the gentleman from Ohio [Mr. BURTON], who has served several terms in this House and also in the Senate, and who is so rich in legislative experience and observation, expressed the opinion that the House is now too large and unwieldy, and that to increase its membership is to further impair its efficiency and to diminish the opportunity and influence of the individual Member and put the House, even more than now, in the control of a few. I have said that this House is not a deliberative body now. To deliberate means to take counsel with one another. What counsel can be taken with one another with our present membership and under the rules and procedure of this House? Is not the legislation now done by committees, and have we not seen and heard the chairman of the most important committee of this House come in at this session of Congress and tell the House that a certain measure had to be passed without the dotting of an "i" or the crossing of a "t"? And did not the Republican membership pass it exactly as they were told? Did not the gentleman from New York [Mr. COCKRAN], in arguing against the passage of an arbitrary rule, forcibly and eloquently call attention to the fact that the reason Congress is losing its prestige and power is because there is not sufficient time afforded for discussion? Webster, Clay, Calhoun, and many others flamed like meteors across the intellectual sky and demonstrated their ability and statesmanship to the ages. Were they alive to-day and Members of this House, just beginning their careers, do you think they could set the world afire under the 5-minute rule? What chance would they have and what chance does anyone have with the membership as large as it is now, to say nothing about increasing it? We may not have any supermen in this body, but if, perchance, we have, how is it to become known?

No man is able to measure the power of his own strength or to test his own capabilities until given an opportunity to try them out upon the battle field of the world's endeavor. Not an argument put forth in the majority report on this bill will stand in the light of reason. This House can transact any business and as much business as a House of 460 Members can transact. This is not a party question, and both of the great political parties had pledges of economy in their last platforms. We can not economize if we go on creating more offices. We have too many offices already, and we already have too many Congressmen. The only way the expenses of this Government can be paid is out of the pockets of the people. The people are hard pressed financially and overburdened with taxation. Why provide more jobs and heap more taxes upon them? There is no public demand for an increase in the membership of the House, and if we are to register the public will by our votes, which is our duty to do, we will not vote to increase the membership. Say what you please, but there is no denying the fact that there is one thing the people of this Nation, regardless of politics, are agreed upon, and that is that they are sick and tired of paying taxes and want the tax burden reduced as much as it can possibly be done consistent with efficient administration. If the House membership is increased to 460, as provided in this bill, it means 25 more Congressmen, and that means that it will require about $500,000 annually to pay their salaries and the salaries of the secretaries, mileage, and stationery. This will be disputed by some, as it is in the majority report, but it is a matter which each Member can satisfy himself about by making the calculations. But it means more than that. It means that another House Office Building would be erected at an enormous cost. This Congress has already appropriated too much money, and considering the enormous war debt of approximately $24,000,000,000 hanging over us and the estimated cost of Government, amounting to five or six billion dollars annually, it is high time that we curtail expenditures as much as possible. Our taxes are so high now that it is estimated that it takes for the expenses of this Government one-third of all every man in the United States produces each year; that every family pays an average of $550 per year in Federal, State, and local taxes; and that every billion dollars to be raised adds $45 per family to this sum. We should not forget that every useless appropriation and every useless job, office, and position must be paid out of the pockets of an already overtax-burdened people. High cost of Government contributes to the high cost of living, and from every nook and corner of the United States comes the agonizing cries of a patient and long-suffering people. The war has been over since November 11, 1918; yet war taxes have not been reduced. The party in power seems impotent to function in the interest of the people, and to vote an increase of the membership of this House at this time will justly invoke the practically unanimous disapproval of the people. [Applause.]

The CHAIRMAN. The time of the gentleman from Texas has expired. The gentleman from Indiana [Mr. FAIRFIELD] is recognized.

Mr. FAIRFIELD. Mr. Chairman, I yield eight minutes to the gentleman from California [Mr. BARBOUR].

The CHAIRMAN. The gentleman from California is recognized for eight minutes.

Mr. BARBOUR. Mr. Chairman and gentlemen of the committee, in opposing this bill, which provides for an increase of the House to 460 Members, I know that I am voicing the sentiment of the district which I have the honor to represent. I believe it is my duty to represent the sentiment of my district rather than to be bound by any conference of my party, particularly when it has been understood that the action of no conference held since I have been a Member of this House has in any way been binding upon the Members. In this case it

was distinctly understood before we went into conference that the action there had would not be binding. Had it not been so understood I would not have attended that conference.

When the Committee on the Census by a very narrow majority voted to report this bill increasing the membership of the House to 460, I awaited the report of the majority of the committee in order to see what reason they would give for increasing the membership of the House. I have read that report with care. I find that it states that in recent years additional duties have been imposed upon the House and that from now on it will have to meet and solve many important problems. I concede all that. Yet no argument is made and no reason is given why those duties can be better performed by 460 Members than by 435. There is no argument that will sustain such contention.

For that statement I have the highest authority, and for such authority I do not need to go back to the fathers of our country or to the men who laid the foundations of the Republic. I have only to refer to the speech delivered in this House on the 18th day of January of this year by the present majority leader [Mr. MONDELL]. It is well known that the gentleman from Wyoming [Mr. MONDELL] opposed an increase in the membership of this House on January 18, 1921, and is now in favor of increasing that membership from 435 to 460.

Mr. ASWELL. Will the gentleman yield?

Mr. BARBOUR. I am sorry I can not yield. If I can finish my remarks before the expiration of my time I will be glad to yield. In the speech delivered by the gentleman from Wyoming [Mr. MONDELL] on January 18 we find this statement:

> As the debate has gone on I have been surprised at the lack of real argument in behalf of an increase in the size of the House. Of appeal that has aroused our sympathy without convincing our judgment there has been much, but of logical argument but little.

He also said:

> It is our duty to continue the House of Representatives what it was intended to be, a body truly representative, a body small enough that each and every Member may hope and expect that on proper occasions he shall have full opportunity to present the views of his constituency. If we increase the size of the House we shall diminish the stature of the Representatives. If we increase the size of the House greatly beyond its present number, we shall reach a condition under which the individual will count for little, under which the committees will be all powerful and under which a small, compact organization can absolutely control the destinies of the House. We should do nothing calculated to bring about that condition.

And then I find the word "applause." In conclusion the gentleman from Wyoming spoke as follows:

> We have already imperiled that ideal of the founders of the Republic; we can afford to imperil it no longer, much as we may desire to meet the wishes and serve the convenience of our colleagues. The interest of the Republic should be paramount, and that interest can be best served by retaining the House at its present membership. It would be well if the membership of the House could be somewhat decreased. As that is not practical, let us at least not increase it.

Gentlemen, the argument of the majority leader was good on January 18, 1921, and it is good to-day. I have referred to it so that some of the Members who were not here at that time, and some of those who were here but may have forgotten what the majority leader said at that time and who are now in doubt as to whether they should follow their leader, may have the opportunity of choosing whether they will follow him in the position that he occupied on January 18, 1921, or whether they will follow him in his present attitude toward this bill. You can not follow him both ways, because it is impossible for most people to travel in opposite directions at the same time.

Mr. ASWELL. Will the gentleman yield?

Mr. BARBOUR. No; I can not yield. I have only a few moments left. I propose to follow the majority leader in the position that he occupied on January 18, 1921. He was right then and he is wrong now; and I want to say that I can not understand why some of the leaders on our side of the House should have at that time made convincing arguments why the membership of the House should not be increased, and now come before this House and urge that the membership be increased by 25. There is only one way that I can account for it, and that is that my friend, the gentleman from Kansas [Mr. TINCHER] has been talking to some of our leaders and has them bluffed. [Laughter.]

In passing, I want to say that there are only two reasons, and can be only two reasons, for increasing the membership of the House. One is for the sake of expediency and politics and the other is because more members are necessary. If we are going to increase the size of the House for the purpose of expediency or for political purposes, then why not go the limit and take care of the State of Maine?

If a large membership is necessary in order to have proper representation, then why stop at 460? Why not increase the membership to 500 or 1,000? If the membership is retained at 435, each Member will represent only 13,533 persons more than he would if it is increased to 460. It is ridiculous to contend that the small amount of additional work that will be entailed by representing these 13,533 persons justifies the added expense of 25 new Members of the House. The fact is that to-day there are Members representing districts the population of which far exceeds the present ratio. The district that I represent has a population 140,000 in excess of the ratio, and I know of another district that has population enough for two districts. In my opinion it would be inexcusable to incur the permanent additional expense of 25 new members, particularly at a time when the people are demanding economy in public expenditures. To incur this expense would be inconsistent with our pledges.

There is no public demand for an increased membership in the House of Representatives. The last Congress by a vote of 267 to 76 declared that the membership of this House should not be increased. That action received the approval of practically every newspaper and magazine in the country that discussed the question and met with the universal commendation of the people. Even in States that would have lost members the public and the press approved our action. Why then should we now take the back track?

This is not a matter of expediency. It is not a matter of politics. The last time this matter came before the House there was a principle involved. That principle is still involved. It has not changed. It is the same to-day. [Applause.]

The CHAIRMAN. The gentleman from California has used eight minutes.

Mr. RANKIN. Will the gentleman from New York use some of his time?

Mr. SIEGEL. I yield five minutes to the gentleman from California [Mr. LINEBERGER]. [Applause.]

Mr. LINEBERGER. Mr. Chairman and gentlemen of the committee, I did not anticipate that I was so soon to follow my distinguished colleague from California [Mr. BARBOUR] on the other side of this question; but inasmuch as it has fallen to me to do so I am very glad that I shall have the opportunity of answering at least some of his arguments.

The principal thing, as I see it, in this bill is whether or not the individual Member of Congress will or will not be able more efficiently to voice and give interpretation to the desires and feelings of his constituents back home. The very fact that with post-war problems we now have a multitude of unprecedented and all-important questions before us, the awakened conscience of the American people making them all the more interested in the vital affairs of this Nation and more desirous, therefore, of keeping in close personal contact with their Representatives, is of itself sufficient to prove to me the necessity of the increase carried in this bill. The further fact that each Representative in the House to-day has 10,000 veterans of the late war, whose welfare and interests in Washington are intrusted to his care and attention, has practically doubled the work that falls upon the individual Member. As every Member well knows, many phases of this work is of such a character that it can not and should not be delegated to clerks and assistants, as has been suggested by Members of the House, because it is preeminently deserving of the personal attention of the Representative himself. [Applause.]

Many new problems have arisen of great national and international import which have stirred the conscience of this Nation. The individual constituent at home to-day, and no doubt as many older Members of the House will tell you, is in more direct touch with and imposes greater demands on his Representative than ever before. This condition of affairs will not decrease but will increase as the years go by; nor do I desire that it should, for greater interest in national affairs is indicative of better citizenship. We are informed to-day that the increase in the number of war-risk cases has practically doubled within the last year. There is not a Member here who would for one instant desire to neglect or delegate the authority and power to deal with these cases, but he would very likely have to do so if the membership is not increased and 17,000 constituents are added, 2½ per cent of which would be ex-service men.

I have not been greatly interested in the political phase of this question, because I believe it is bigger than politics. However, the founders and builders of the Nation themselves down through the years have certainly seen fit from time to time to increase the membership of the House, and I for one do not now question their wisdom, patriotism, or motives.

It has been stated further that a Member loses prestige and is dwarfed in influence by the passage of this bill. Short though my experience has been on the floor of this House, I have been convinced that in this House, as in all other walks of life, every man rises or falls, as the case may be, in direct proportion to his own ability; true, not as he may appraise it himself but

as he is appraised by the House, his constituents, and the country. [Applause.]

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. RANKIN. Mr. Chairman, I yield 10 minutes to the gentleman from Louisiana [Mr. ASWELL].

Mr. ASWELL. Mr. Chairman and gentlemen of the committee, the fundamental question in this bill is one of representation and service to the people at home. A Member of this House has the largest constituency—two to five times larger than any other House of Representatives in all the world. The fundamental question is to reduce the number of people so that a Member may represent them efficiently. My earnest desire to see a 460 membership become a law is based upon the fact that the losses under 435 are entirely from the agricultural States. Gentlemen of the committee know why. The soldiers were away from home, had not come back to the farms, and every gentleman in the House knows now that if the census were taken to-day the relative distribution of Members in this House would be exactly what it is now. The men have come back to the farms. I am very earnest in my desire to see the agricultural sections of this country protected and not take away their Representatives in the Congress.

There has been a lot said this morning about economy. There have been enormous exaggerations. It has been said that the cost is a million dollars, when anyone who can multiply knows that it will be only $300,000. And yet these gentlemen this morning shed crocodile tears on the floor in behalf of economy. The gentleman from Indiana, my good friend, Mr. FAIRFIELD, almost wept in his effort to save $300,000 to the American people, and yet if you will turn to the RECORD of a few months ago you will find that he supported by his vote and earnestly worked for the appropriation of $500,000,000 to the railroads of this country. Economy! What about this pitiable sum?

The gentleman from Georgia [Mr. LARSEN]—oh, he was so touched and moved that he wept almost on the subject of economy. How he raved over the people this morning, and yet he voted for the $10,000,000 appropriation for Muscle Shoals. [Laughter.] If you are going to economize now on this proposition, it would be well for us to face the truth and be sincere in all matters.

The gentleman from Maine, my good friend Mr. HERSEY, believes that public opinion, as he told me, is opposed to increasing the membership of the House, and yet Brother HERSEY a little while ago, when the State of Maine was protected in its membership, worked and spoke for a membership of 483. What about public opinion then and now?

Mr. HERSEY. Will the gentleman yield?

Mr. ASWELL. In a minute. The gentleman from Maine, when the bill appropriating $500,000,000 to the railroads was up, was paired in favor of that appropriation.

Mr. HERSEY. Will the gentleman yield?

Mr. ASWELL. I yield.

Mr. HERSEY. When I stood for a membership of 483 there had been no public opinion expressed upon it. Since that there has been expressed everywhere an opposition to increasing the membership of the House. [Applause.]

Mr. ASWELL. My reply, in all kindness, is that the gentleman from Maine represented his people when he voted for a membership of 483, and it is supposed that he knew about it then.

Mr. LANGLEY. Will the gentleman yield?

Mr. ASWELL. Yes.

Mr. LANGLEY. I desire to say in answer to the gentleman from Maine that the people in all sections of the country are not against the increase. I have just returned from Kentucky, and Kentucky is in favor of the increase.

Mr. HERSEY. Will the gentleman yield?

Mr. ASWELL. Yes.

Mr. HERSEY. I have just come from Maine, and I have been all over that State and I know how my people feel; and they are against the increase, and I am with them. [Applause.]

Mr. ASWELL. Unless the State of Maine gets its four Representatives. I can say that the public sentiment in my State is universal against not losing a Member from the agricultural sections of the country. That is the whole proposition. It is a question whether you take the Representatives away from the agricultural centers and put them in the factory centers. That is all that is involved. I think that is fair and just and economical. I think it is statesmanlike to follow the history of this Government from its foundation, that the Members of Congress shall respond to the increase of the population of the country. It is democratic, it is the only form of government for which we stand, and I believe in the principle that representation in the House shall respond to the increase in the population.

Mr. DALE. Mr. Chairman, will the gentleman yield?

Mr. ASWELL. Yes.

Mr. RANKIN. Mr. Chairman, I yield five minutes more to the gentleman, if his time has expired.

The CHAIRMAN. The Chair will state that the time of the gentleman has not expired.

Mr. ASWELL. I yield.

Mr. DALE. I just wanted to say that a few days ago I came through Portland, Me. I dropped into the Portland National Bank and into several other banks while there, and into several law offices. I found the whole city of Portland, as far as I could learn from its business men, its lawyers, and bankers, very much agitated because this House was not going to increase its membership, so that my information from the city of Portland is quite at variance with what the gentleman from Maine [Mr. HERSEY] says.

Mr. ASWELL. That will be very valuable information for my friend Mr. HERSEY. I yield back the remainder of my time.

Mr. FAIRFIELD. Mr. Chairman, I yield five minutes to the gentleman from Maine [Mr. BEEDY].

Mr. SIEGEL. Mr. Chairman, I yield two minutes to the gentleman from Maine [Mr. BEEDY].

Mr. LARSEN. Mr. Chairman, I yield seven minutes to the gentleman from Maine [Mr. BEEDY].

The CHAIRMAN. The gentleman from Maine is recognized for 14 minutes.

Mr. BEEDY. Mr. Chairman, I am opposed to this bill. I submit that there are but two views which the committee and Congress could logically take with respect to reapportionment:

First. The House is not too large, indeed is not large enough, and an increase in its membership will operate to the well-being of the country.

Second. The House is large enough, is, indeed, too large, and in the interest of the American people should not be increased in size.

The committee in reporting this bill does not stand squarely on the one proposition or the other. If the committee believed there was no danger in increasing the size of the House, why did they not report a bill permitting a normal increase and give us a House of 483 Members? Clearly they saw the evil of such a course; saw danger in increasing the size of the House. Principle was therefore abandoned, and policy was the motive force. Moved solely by political expediency the committee at length reported this bill calling for a membership of 460.

In its report, which seeks to justify the bill, the committee states that the House in the near future must deal with large problems incident to the tariff, taxation laws, and the operation of our railroads. It calls attention to the multiplied complexity of, and our vital concern in, international problems. It finally declares that there is a growing demand that the people be brought closer to their Representatives in Congress.

With these statements of the committee I am in hearty accord, but why the need of the people to be brought in closer touch with their Representatives? Why, except that they may be able to secure through their Representatives the enactment of those laws and the adoption of those Federal policies which they deem essential to the general welfare.

It is my personal judgment that this pressing demand for closer contact of the people with Congress is the direct outcome of the inability of Congressmen to get results for their constituents under rules and procedure rendered necessary in a large representative body. But this great need is to be met not by making more Congressmen to whom constituents may appeal for Government positions and relief under pension laws. It is to be met rather by limiting the size of Congress, so that a Representative when approached for enactment of new laws or the modification of proposed laws may not find himself powerless, because the size of the House forbids deliberation. My position is that the House is already too large for the most effective representation of the body politic.

Long since the House should have taken a bold stand and limited its membership. But then as now there were those who declared that when the House attained a membership exceeding 300 the addition of 25 Members, more or less, made little difference. Consequently they allowed the matter to drift and to-day with 435 Members it is again said that the addition of 25 Members makes little difference.

It is a sad truth that this House has already lost the most essential characteristics of a deliberative body. Here upon this floor were once effectively debated those issues vital to the

future of this Republic. Here was the forum of the people where Federal policies were in truth susceptible of modification. Here Federal laws were once molded under the influence of thoughtful discussion and their enactment, in due course, bespoke the crystallized thought and conscience of a Nation.

To-day, let me ask, what is the effective avenue of approach for the average citizen who, when informed of a proposed bill, desires that it be modified in essential respects? You say the citizen has his day in court before the committee. Yes; but comparatively few can journey to the Capital and appear before legislative committees. The majority look solely to their Congressman, who is not informed of his constituent's desires until some bill is reported which, though inspired by a few, vitally affects the many. Then it is indeed that there is an essential need for the people to come close to Congress.

But what can the Congressman do for his constituents? The bill is reported by a committee. Amendment upon the floor of the House is well-nigh impossible. The average man has no opportunity to touch the pulse of Congress. This body, with a membership of 435, has now become a machine. Bills introduced by committees, unless glaringly defective, are practically insured a passage. Members all too often support the committee not, alas, because they understand the bill in its various ramifications, but because it is assumed that the committee, like the king, can do no wrong. There is but one answer for our constituents when appealing for relief from the provisions of reported bills, "We shall be glad to do everything in our power, but we must confess that amendment in the House under rules essential to expeditious business is well-nigh impossible."

All too frequently the law in its enactment does not bespeak the desires of the great majority. This, the popular body of the legislative branch, the bulwark of the people's rights, with no limitation imposed upon membership, has failed in large measure to fulfill the great mission of its conception.

The committee admits this need of a closer touch with Congress, but recommends an increase of 25 Members, a step which renders this House more incapable of bespeaking the public will. For the average citizen there can be no relief until larger possibilities for amendments on the floor of the House obtain. Sane adoption of amendments is impossible without proper opportunity for debate. Restraints and limitations now imposed by necessity—and doubtless properly so, considering the size of this body—forbid thoughtful discussion. The very atmosphere of this Chamber discourages attempts to induce the Members of the House to action through debate.

The time has indeed arrived when for the good of the Nation we must take a firm stand upon this most important issue and put a stop to a further increase in the House membership. [Applause.] Gentlemen, there is only one way to solve a problem, and that is not to dodge the issue, but to meet it squarely, to solve it on principle.

The Census Committee has had a wonderful opportunity for service to the country. How has it met the situation?

The former Census Committee of the Sixty-sixth Congress recommended a House of 483 Members. The present committee, consisting in part of Members of the former, perceives fallacy in the conclusions of the old committee. It reports this bill for 460 Members, which, if adopted, works an injury to the country and results in the grossest injustice. It can not be successfully contended that a House whose membership is arbitrarily fixed at 460, and such a House alone, will be most conducive to the country's well-being. Nor will it be contended that, disregarding the dignity and efficiency of the House, aye the well-being of the country itself, the bill aims only to save a few States a Congressman. This and this alone is, however, the real purpose of the bill.

Under the provisions of this bill one Congressman is saved to each of the States of Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, Rhode Island, and Virginia. It would accomplish a saving of 10 Congressmen at the cost, however, of adding 25 new Members to the House and necessitating an annual expenditure of nearly three hundred to five hundred thousand dollars, or three to five million dollars in the next 10 years. The expenditure of this vast sum incident to the new program is declared by some to be a minor consideration. Personally, I feel that before this Congress arranges to add 25 to its membership the country should first find itself in a position to pay living salaries to the Congressmen already here. [Applause.]

As for Maine, she also loses a Congressman. But she was not considered by the committee, and perhaps we need not consider her at this point. Permit me to say, however, that if the good of the country demands that further increases in the membership of this House cease, she does not ask this Congress to save her a Member. [Applause.]

I quote from an editorial in the Daily Herald, of Portland, Me.:

> Decision to make another attempt to increase the membership of the National House of Representatives, this time to 460 Members instead of 483, the figure previously planned, the scheme to enact which was defeated, is based more largely on political than practical or economic lines. As a matter of fact, it is acknowledged in all but political circles that the membership of the House is too large for practical purposes at the present time, so any adidtion to the membership, no matter how small that addition may be, is to make harder of accomplishment the work of this branch of Congress.
>
> Naturally, the people of Maine are anxious to have as large a representation in the National House of Representatives as possible and are not pleased with the prospect of losing one Representative, but we doubt if there are many in Maine who would prefer to see the business of the Nation retarded by a House of unwieldy membership simply for the purpose of retaining our present four Members—that is, except the politician, who measures all affairs, both national, State, and municipal, by the yardstick of political opportunity.

Maine is ready to pay the price. She trusts, however, that the hour has not yet come when this House, moved not by the welfare of the whole but actuated for the accommodation of a few, will support any bill which in essence commits foul murder upon Maine, while administering a sedative to Kansas, Iowa, Nebraska, Louisiana, Mississippi, and Texas. [Applause.]

By what process of ratiocination did the committee conclude to increase the membership of the House but to put on the brakes at 460? Why not stop at 450? Of course, it would have been suicidal to stop at 437. In that event Texas would only gain one new Congressman. The committee must pass to 438 and give Texas two new Congressmen. It would be equally poor policy to stop at 439. In that event Mississippi would lose a Congressman. Surely the committee must save Mississippi. Nor could a stop be made at 440. It must take two steps further. A House of 441 would never have satisfied the gentleman from Oklahoma. He wears his honors lightly and frequently enters the lists with the gentleman from Texas to the great edification of the House and added renown of both distinguished Members. Surely the committee must yield to Mr. HERRICK, and with a House of 442 Members present Oklahoma with a new Congressman.

Nor will Kansas be ignored. The contention of Kansas is that with a House of 444 Members the fate of the Republican Party is doomed, but that her salvation lies in a House of 445 Members. Thus the committee heeds the voice of Kansas. This great State renders a lasting service to our great party, incidentally saving herself one Congressman. But having once embarked upon this perilous excursion for the saving of Congressmen, the end of the journey is indeed difficult of accomplishment. From the viewpoint of Nebraska the country is safe only with a House of 447 Members. But, again, why not stop at 450? Missouri insists upon saving one of her Congressmen, and else a membership of at least 451 be conceded she balks at the whole program.

Mr. ANDREWS of Nebraska. Will the gentleman yield?

Mr. BEEDY. No; I can not. I have not the time. But how, after all, did the committee so easily accomplish this ascending grade from 435 to 452?

Mr. ASWELL. Will the gentleman yield?

Mr. BEEDY. I should like to do so, but I can not at this time. Time forbids it. Now the great discovery. It so happens that the urbane chairman of the Committee on Public Buildings and Grounds, the distinguished Member from Kentucky, is also a member of the Committee on the Census. Likewise the genial Member from Iowa, chairman of the Committee on Insular Affairs, is also a member of the Committee on the Census. The first long since discovered that a House of 459 would save Kentucky a Congressman. Likewise the other discovered that a House of 460 would save Iowa a Congressman. The problem is solved, hands are joined, the compact is sealed, and this bill, conceived in a spirit of petty politics and wrapped about with a cloak of party service, is dedicated to the proposition that else we save a Congressman for both Kentucky and Iowa our great party and the Nation itself is eternally damned. [Prolonged applause.]

Mr. LANGLEY. Will the gentleman yield?

Mr. BEEDY. I refuse to yield. [Applause.] But a chairman of yet another committee has, after the fashion of the angels in Dante's Divine Comedy, fallen from high to low estate. Ten years ago the now distinguished chairman of the Rules Committee [Mr. CAMPBELL of Kansas] arose in opposition to a bill then pending which provided for increasing the House to its present size. From his place in this Chamber he solemnly declared:

> Mr. Chairman, at the proper time I shall offer an amendment in the nature of a substitute for the pending bill, with a view of retaining the membership of the House at 391. I should be glad, indeed, if it were possible to do so, to see that number very materially reduced.

He continues:

The House of Representatives has grown from 65 Members up to 391. That growth of the House has not been the result of argument in favor of a more representative body. It is safe to say that every increase made in the House of Representatives has been made to gratify the ambition of a State or of Members of the House rather than keeping in view the fundamental principle of a representative body in this body.

Surely the need seen by the gentleman from Kansas to have existed in February, 1911, still obtains in exaggerated measure. But of late a new star has arisen on the mental horizon of the gentleman from Kansas. Beneath its effulgent light he has discovered that a Congress of 460 which will save Kansas one Member will preserve the power of the Republican Party and save the Nation from destruction.

Even the mind and conscience of our beloved leader has succumbed to the soporific spell of the beaming conspirators from Kentucky and Iowa. [Applause.] In January of this very year our distinguished leader, standing upon this floor, spoke as follows:

When I came here there were 365 Members in the House. After I had served here a short time there was a proposal to increase the size of the House. The sentiment then, as now, was against the increase, but through political trading the best judgment of the House was not carried out and the House was increased in size. I believed that increase unwise. * * * We have already imperiled that ideal of the founders of the Republic; we can afford to imperil it no longer, much as we may desire to meet the wishes and serve the convenience of our colleagues. The interest of the Republic should be paramount, and that interest can be best served by retaining the House at its present membership.

The only sentiment we can allow to affect our action to-day is that of lively regard for the welfare of this House and of the Republic.

He meant what he said then. But he abandons the high ground which he then occupied and now advocates an increase in the membership of this House, thus lending his support to a bill steeped in that political trading which he formerly condemned. [Applause.]

And to think that any man, leader or plain Member, should fall so far short of his duty to this House as to reverse his position completely within a year and be heard even to intimate that an attempt by this House to pass a bill maintaining the present membership is well-nigh impossible, because the United States Senate would strangle it in committee. And so the day has come that the Senate would forbid this imbecile House to fix its own membership in its own way.

If, indeed, under the Constitution it be the duty of the party in power to apportion the country decennially, then I dare the United States Senate to throttle any bill in committee and assume responsibility before the American people for thwarting this Congress in the fulfillment of its constitutional obligations.

But do I hear it said that this bill should pass in order that the Republican Party may increase its membership on this floor? Such a suggestion is improper and iniquitous. The Democratic membership of this House know full well that the American people will never sanction such tactics. This legislation should in no way savor of party politics. If the leadership of this House wishes to place the Republican membership of this body in the position of making this a party matter, then be the price upon his own head. The day of petty politics is gone. The country backs the party as it does the man who is not moved by petty motives, but stands upon the solid rock of disinterested service.

I appeal to you men of the extreme and middle West; to you gentleman from the New England States and the whole Atlantic seaboard. Let us foil this insidious program. Let us throttle this bill, and true to our oaths of office, likewise may we be true to this motto, "Loyalty to our firesides; loyalty to our States; but, first and always first, loyalty to our country."

Maine carries on her coat of arms the Latin word "Dirigo." Her history is that of the best blood from the Irish, the Scotch, the Huguenot, and the English races. From her hills and lakes have gone the sturdy men and women who have helped to people the Middle West and develop the Pacific slope. In these very Halls her words of wisdom have fallen from the lips of a Dingley, a Hale, a Frye, the incomparable Reed, and the magnetic Blaine. Hers are a plain people. Hers is the simple, frugal life so essential to the present-day stability and prosperity of the Nation. Quadrennially hers has been to point the way to sound politics and a safe national régime. She has met the trust. Like Massachusetts, "there she stands and there she will stand," shear her of such Congressmen as you may. But shame be upon him who by his vote on this pending bill becomes accessory to that blow, whose consummation would leave the Pine Tree State a stunned and bleeding sacrifice upon the altar of petty partisan politics. [Applause.]

Mr. SIEGEL. Mr. Chairman, in view of the fact that Kentucky has been mentioned so much, I yield five minutes to the gentleman from Kentucky [Mr. LANGLEY]. [Applause.]

Mr. LANGLEY. Mr. Chairman, according to the distinguished gentleman from Maine [Mr. BEEDY] the committee had already taken a number of steps when it reached 460, and being a rather stout man, and having several colleagues on the committee in the same condition, we were naturally a bit tired when we reached 460, and it looked like it would require too many steps to reach the State of Maine, which had fallen so far in the rear in the march of progress and population that we just decided to stop at 460. [Laughter.]

Mr. ASWELL. Is it not a fact that the gentleman from Maine who just spoke voted for 483 in committee and tried to bring it to that point?

Mr. LANGLEY. The whole Maine delegation was for 483 in the last Congress, and the Member from Maine, who was on the committee then, strongly urged 483. I want to say that, in my judgment, if this bill carried 483, so as to save Maine from losing a Member, the gentleman from Maine [Mr. BEEDY] would join readily and gladly the compact to which he has just referred. [Applause.]

Mr. BEEDY. Will the gentleman yield?

Mr. LANGLEY. I can not. The gentleman from Maine declined to yield to me, and, quoting his own language, "I would like to talk to him, but I can not hear." [Laughter.] If you will approach those gentlemen who are wanting to reduce the size of the House and talk to them privately, you will find that whatever reduction they propose in the membership they always have a mental reservation that they are to be one of the reduced number, whatever that number may be. [Laughter.]

Mr. KENNEDY. Will the gentleman yield for a single question?

Mr. LANGLEY. Yes.

Mr. KENNEDY. Is it not true that in the last Congress every Member from the State of Maine voted for 483?

Mr. LANGLEY. That is my recollection; yes, I know they did.

Mr. KENNEDY. And one Member made an eloquent speech in favor of 483?

Mr. LANGLEY. Yes; but I do not blame them for that. We are all human beings, gentlemen, and we do not forget the interests of number one. [Laughter.]

As to this argument of the House being unwieldy, it is all a fake in my estimation. Even though everybody knew that the Member from Maine, who is an eloquent and interesting talker, was going to make a speech, the Hall of the House is not half full of Members now. Whenever we have a point of no quorum made there are 75 to 100 Members who come from their offices or committee rooms to answer the call, and they are usually asking between cuss words whether the distinguished gentleman from Texas [Mr. BLANTON] or some other pestiferous statesman has caused all the trouble and taken them away from their work.

As a matter of fact, gentlemen, there has been an enormous increase in our work since the adoption of woman suffrage. No one will contend that the work of the membership of this House is not very considerably increased as a result. I know mine has been and I know that the work of every other Member has. [Laughter.] Of course, that does not apply to the distinguished gentleman from Indiana [Mr. FAIRFIELD], who was already doing the best he could. [Laughter.] He says that we who favor an increase are actuated by one of three motives—either political advantage, State pride, or personal interest. I confess that I am influenced by political advantage to my own party. I am also willing to admit that I have some State pride, and that I do not want to see the great Commonwealth of Kentucky lose a Member of Congress. I am not actuated by personal interest, because there are only a few Democrats who live within the range of a Big Bertha of where I do, and if I should run again and have a contest I think I could get a part of them to vote for me.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SIEGEL. I yield one more minute to the gentleman.

Mr. RANKIN. I yield four additional minutes to the gentleman.

The CHAIRMAN. The gentleman from Kentucky is recognized for five minutes.

Mr. LANGLEY. I thank the gentleman from Mississippi [Mr. RANKIN] for his courtesy, but I do not think I shall want that much time. The population of the congressional district which I represent in this body has increased over 100,000 in the last decade, so that my political fortunes are not at stake if Kentucky does lose a Member. Some of this increase came from the Democratic sections of the State. I do not mean to say to my Democratic friends from Kentucky that they come to the mountains to escape from the Democracy of the sections where they formerly lived. They came rather to take advan-

tage of the great natural resources that are now being developed in the mountains of eastern Kentucky. I want to say to you that I do not know whether I shall be a candidate for the next House or not—I rather think I shall. [Laughter and applause.] This is only an inferential and informal announcement; but if I am, I venture the prediction that I will be with 459 other Members of the Sixty-eighth Congress if we pass an apportionment bill.

As a parting admonition to my party friends I beg to suggest, as the distinguished gentleman from Indiana [Mr. BLAND] said in substance recently, we had better cut out some of this high-brow stuff and get a little closer to the people if we expect to retain their confidence and remain in power. This can be best accomplished, in my opinion, by increasing the number of Members, and thus accomplish more promptly and more effectively the things they want us to do. They do not care so much about the number of Representatives as they do about the expeditious transaction of the public business and prompt responses to their requests. [Applause.] I might add that our leaders would enjoy a greater degree of the real working, worthy Republicans of the country if they would stop so much of this civil-service business and fire more Democrats and put good Republicans in their places. [Applause on the Republican side.]

I believe in action rather than talk, and if I had had my way about it we would have had two hours of general debate on this proposition instead of four. I am ready to vote on this proposition right now, because everybody has his mind made up and debate is useless. So far as I personally am concerned, I feel that I have already inflicted myself upon the committee as far as I should. I thank you for your patience, and I yield back the balance of my time. [Applause.]

The CHAIRMAN. The gentleman yields back the balance of his time.

Mr. FAIRFIELD. Mr. Chairman, I yield eight minutes to the gentleman from Indiana [Mr. WOOD].

Mr. WOOD of Indiana. Mr. Chairman and gentlemen of the committee, I have listened attentively to the arguments made upon this proposition, and up to this moment I have heard no argument produced in favor of a representation of 460 except that based solely upon expediency. There is no man within the sound of my voice or, I think, a Member of this House who at some time or other when a measure of this character was not up for consideration but has expressed his opinion that this House is too large and unwieldy. If it were expediency that actuated me upon this occasion, I would be in favor of 460 Members. If 435 Members should be the number fixed, the State of Indiana will lose one Member. I do not know who that would be. I would regret to see any Member of the present membership of Indiana fail to be returned if it is his desire to come back. But I care not even if it be myself that would be excluded; I would still vote in favor of not increasing this membership. [Applause.] Long before I became a Member of this body I was convinced that its membership is too large and there has scarcely been a day pass since I came here but what I have seen and heard convincing evidence to confirm that opinion.

I think the time will come—I am sure some time it will come—when this body will speak its mind and vote its conviction on this question and not continue to yield to expediency. It has been said during this debate that this body will never increase beyond a membership of 500. What assurance have we that that will be true? From the time when the increases first commenced men have been predicting the limit beyond which this membership would never go. From 1860 down to this good hour with each decennial apportionment some one has fixed the limit. At one time it was fixed at 300, beyond which they predicted it would not extend. Then it was made 375, which would be the largest possible number that would ever assemble here. Then it was made 400. Now it has reached the figure of 435, and it is proposed to extend it to 460.

Ten years from now there will be but few of us who are here to-day to participate in the reapportionment that will then be made, but with the same specious arguments, based upon the same character of expediency, Members will then be predicting the figure beyond which the future will not dare go in their endeavor to again increase this membership, each one of them, as each one of us now, knowing in his heart and in his own conscience that he is not doing that which is best for his country, but is serving solely the interests of expediency.

We had a beautiful example here this morning illustrating what will be the result in the march of time if this proposal obtains. At the very threshold of our proceedings to-day it was announced that we had no quorum. Half an hour was taken up for the purpose of getting a quorum here in order that business might be transacted. With an increase in the membership of this body you will decrease the possibilities of a quorum, and you will make it that much harder to obtain a quorum. More time will be taken then than now in calling the roll in order that there may be a quorum.

It has been stated frequently, and it is apparent to every one who has observed the transaction of business in this House, that with each increase in number the influence of the House has been lessened. It is not the great mass of the people that constitute a representative form of government. It is those chosen for the purpose of representing the mass. If the logic of these gentlemen who are asking for this increase were carried to the ultimate extent, we would go back to the ancient system and have all the people serve as Members of Congress. It was the idea of the fathers of the Republic that this representative form of government should be truly representative, not only in character but in form, and it was never intended by them that this House should ever become the unwieldy body that it is at this time.

Now, argument has been urged here, coming from some of the Representatives of my own State, to the effect that it would necessitate extra sessions of some 30 State legislatures throughout the Union if the unit is not fixed at 460, entailing an extra expense upon those several States. That expense would not be a drop in the bucket if we were counting this thing in terms of money. It would require, if you please, for the additional salaries alone that would be paid here for one year the amount of more than $280,000, and that expense would be fixed upon the people of this country each year and for all time. Yet we are preaching economy here, and still we are saying to the people who sent us here to retrench and reform the expenditures that we are now going to levy a burden upon them of more than $280,000 yearly for additional salaries, and how much incidental expense will be entailed by this addition of 25 Members it is almost impossible to calculate. Some have estimated the entire additional expense as $500,000.

Mr. GRAHAM of Illinois. Mr. Chairman, will the gentleman yield?

Mr. WOOD of Indiana. Certainly.

Mr. GRAHAM of Illinois. It has been stated here on numerous occasions that the Constitution makes it mandatory upon us to pass an apportionment act. Does the gentleman believe that is true, or that there is any legal warrant for such a statement?

Mr. WOOD of Indiana. I think it was the intention under the Constitution with the taking of each census to make a reapportionment.

Mr. GRAHAM of Illinois. Well, is there any law of that kind, or any decision of any court to that effect?

Mr. WOOD of Indiana. I do not know of any, but it has been the practice since the beginning, and I dare say never has it even been prolonged beyond the earliest session convening after that census has been taken. It has become so fixed that it has become a law, if you please, or a custom or a practice, and we should not depart from it.

It has been suggested here that we should do nothing at this time. I would rather do something and make a mistake than to be cowardly and do nothing. I believe, gentlemen, that we should just take and arouse ourselves to do the duty that we owe our country. Every one of us in his heart knows that the size of this body should not be increased, and that if you increase this body now to 460 you will hear in the next 10 years every Member of this House from time to time proclaiming that it is too large, as every Member has proclaimed it to be in the past. Why not serve the best interests of the people now? In my opinion, I am free to say, the people of Indiana are overwhelmingly in favor of not increasing this body in the interest of better legislation and better government. [Applause.]

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. RANKIN. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman has consumed 39 minutes.

Mr. RANKIN. I yield 20 minutes to the gentleman from New York [Mr. COCKRAN].

The CHAIRMAN. The gentleman from New York is recognized for 20 minutes.

Mr. COCKRAN. Mr. Chairman, as usual, I have been highly edified by the ability and force displayed by Members of this House in the course of the debate. It leaves me more regretful than ever that talents so brilliant should be obscured and rendered practically valueless by ridiculous methods of procedure.

The gentleman who has just concluded [Mr. WOOD of Indiana], and I think all the gentlemen who have spoken on that

side of the question, claims to be peculiarly concerned about the efficiency of this House, and by some strange process of ratiocination they have convinced themselves that its efficiency will be promoted by keeping it as it is. It is impossible to keep this House as it is, and I think it would be about the worst thing that could happen if it were possible. Either the membership of the House must be increased or each constituency must be enlarged. And to enlarge each constituency is to change very materially the character of the House. I know of nothing more deplorable than the condition of this House to-day. It has virtually ceased to exist as a legislative body. It is allowed to do nothing but vote yes or no upon proposals formulated by the Committee on Rules under conditions which preclude the offering of an amendment by any Member, with the result that legislation of momentous importance is forced through this body by methods that savor more of comic opera than of serious governmental procedure. The natural, indeed the inevitable, consequence is that the entire business of legislation is carried on at the other side of this Capitol.

This House as at present constituted has abdicated as a legislative body, and gentlemen are now urging that it be preserved just as it is in the name of efficiency and patriotism.

I am in favor of this enlargement proposed by the committee. It is not so extensive as I should like to see it. I should like to meet the views of the gentlemen from Maine and enlarge the membership to 384, or even more, because I think anything that changes the condition of this House must be for the better. It can not possibly be worse. [Laughter.]

Mr. LANGLEY. Would it interrupt the gentleman if I asked him a question there?

Mr. COCKRAN. Not at all.

Mr. LANGLEY. The gentleman is recognized as one of the distinguished exponents of true American democracy. Does not the gentleman think that an enlargement of the representation in the House, especially in view of the tremendous increase in the electorate, would be in the direction of true democracy and popular representation?

Mr. COCKRAN. I think it is absolutely essential to preservation of anything like a representative character to this body.

Now, I wish gentlemen to remember that the alternative before them is not decreasing or increasing the present membership. Were it proposed to change the character of the House by a radical reduction of its present membership that would be matter deserving very serious consideration. But there is no such proposal. It is not proposed by anyone to reduce the membership. The alternative is increasing it or preserving this House as it is. That is impossible. There must be, as we have already seen, an enlargement either of the membership of the House or of each constituency. You can not escape one or the other. The question for the House to consider is whether its representative character will be better improved by enlarging the size of each constituency than by increasing the membership. I think gentlemen must realize that the constituencies are now too large. It is quite impossible, even before adoption of the last amendment to the Constitution, for any Member to be acquainted with his constituency or with any large proportion of them. Now, the choice of a Representative should involve two elements. He should be chosen by his constituents, first, on the ground of what is known about him personally—that is to say, by neighborly knowledge of him—and, secondly, by his public character. It must be obvious that a beginner instituting a campaign against an incumbent is at a tremendous disadvantage, so far as his public record is concerned. If he can not be in a position where he can make some proportion of his constituency familiar enough with his personal qualities to exercise a judgment on them and by that judgment decide between the two, then he can have no chance of success whatever. A Congress chosen under such conditions is not a representative body at all.

Now, it might be well for the House to recall that originally representative bodies were not chosen to represent men. They were chosen to represent property. Certain corporate bodies owning property which could not be reached by methods of taxation existing under the feudal system were invited and, indeed, required to send representatives to Parliament not to frame laws but to consent to taxation. And when, as I pointed out a few weeks ago, these representatives of guilds, corporations, or cities adopted the plan of imposing conditions upon grants of money, they established the legislative feature of the representative body. In the evolution of Democratic institutions the function of legislation became the decisively important feature of representative action, with the result that instead of property the representative body came to represent not property but men.

To-day we are the representative body, the successors of those original representatives of the taxpayers who voted the subsidies which they themselves should pay; and that character of our office is recognized and confirmed by the Constitution, which declares that we alone must initiate measures affecting revenue. That is to say we alone must make appropriations, prescribe the sources from which the means to furnish these appropriations are to be drawn, and to regulate distribution of them between the different departments of the Government. And yet here in this very extra session we have passed through this House two measures affecting vitally and in most momentous degree the whole revenues of the country, one revising the entire tariff system of the country—the system of imposing taxation at the customhouses—and the other changing completely the scope of internal taxes, and those bills were driven through here without allowing a single Member power to offer an amendment. Everything that we did or said with respect to this phase of the main purpose for which a representative body is organized, has been treated with absolute contempt, as if it were entirely negligible—and properly so—by the body at the other end of the Capitol, which to-day is in fact the sole legislative body. We are practically a single-chamber Government now, because the farcical performances we go through here with respect to the most important proposals can not be dignified with the name of legislative procedure.

Now, what is the remedy? I do not know whether there is any, Mr. Chairman. My study of history leads me to conclude that a political institution which is moribund can never be revived. It may be quickened into a semblance of activity for a while, but once the vigor of life is lost it never can be recalled.

And so I doubt very much whether any system of representation that we should establish here could arrest the process of decay which has already overtaken us.

There is but one way in which that could be done, and that is by an awakening on the part of Members to a knowledge and perception of their duty; I will not say to an assertion of power for the sake of regaining importance, because I utterly repudiate the idea that political power is conferred on any body or man to advance their own dignity. Wherever it is conferred under our system it involves the performance of a duty. And when we who are charged by the Constitution with the duty of initiating revenue legislation—that is, of deciding and prescribing the amount that shall be levied, the persons who shall pay it, and the method of its distribution—proceed to pass a bill levying enormous taxes through the House under rules that precludes anything like fair consideration or even understanding of its provisions, and that absolutely excludes Members from all power to offer an amendment, I say, we are not merely derelict to our duty but we are forsworn, we are perjured, we violate the oath we have taken.

But even though the task may seem hopeless, we should not shrink from doing everything in our power that we think likely to restore the consequence of this body.

Mr. RAKER. Will the gentleman yield for a question?

Mr. COCKRAN. I yield to the gentleman from California.

Mr. RAKER. Under this bill——

Mr. COCKRAN. I hope the gentleman will ask his question without making a speech. I have but little time.

Mr. RAKER. If the gentleman's position is correct, why is it that the House should now yield after having once passed an apportionment bill in the last session by a vote of 269 to 76, and why should we now raise the number of Representatives because word has been sent from the Senate that unless we do raise it they will not pass the bill?

Mr. COCKRAN. I have never heard any such word from the Senate or the faintest suggestion of it. As far as changing a former attitude of the House is concerned, I should not at all regret it. If it would only change its attitude in other respects, I would welcome that change as a most salutary symptom of a probable constitutional recovery of its powers.

Mr. COOPER of Wisconsin. Will the gentleman permit a question?

Mr. COCKRAN. Yes.

Mr. COOPER of Wisconsin. The gentleman says he never heard that word from the Senate. A very distinguished former Member of the United States Senate told the Republican conference last night that a United States Senator of prominence had said to him that the Senate wanted the House increased in membership because it gave all the power to the Committee on Rules, and that is what the Senate wanted.

Mr. COCKRAN. That is a very interesting statement, but with all respect to my friend, the gentleman from Wisconsin,

it is of no import whatever. I do not care what any Senator said, no matter what his prominence; I do not care what that Senator thinks; and I do not care what all the Senators put together think or say. I am concerned solely with the action of this House. [Applause.]

Now, Mr. Chairman, the gentleman from Wisconsin has suggested a matter with which I was about to deal. He asked me how this particular increase of membership may affect the capacity of the House to recover its lost importance. I admit that it is in the nature of an experiment. I do not know what its results will be. But we do know how the present membership has resulted. We do know that it has resulted in absolute paralysis of the House in abdication of its power as a legislative body—abdication so complete and so generally acknowledged that the President of the United States, when he wants to discuss matters of legislation with the Congress, does not any longer invite the House to listen. That is the low estate to which the present organization of the House has brought its dignity and consequence. I say that no condition could be worse. It is therefore certain that any change must be for the better, because it could not be for the worse. [Laughter.]

Now, with reference to the argument that the House has been steadily increasing in size and that it must continue to increase unless the constituencies are enlarged, I admit that it presents some awkwardness, but it is an awkwardness inseparable from rapid and excessive growth. The growth of a child at the knee of its mother is a source of awkwardness. It is awkward as children grow in size that the mother must spend more money for clothing and to provide them with more sustenance. So it is conceivable that when the country grows to double or treble its present population it will become a very serious matter how we are to preserve the representative character of this House without causing it to be swamped by excessive numbers. But that condition is not now before us. When it actually arises there will be wisdom enough to deal with it. The question now confronting us is to enlarge the House by a very small number in order to avoid increasing the size of each constituency to a point where one man can not properly represent it. Since the last apportionment the voting population has been doubled through the suffrage amendment. It is absolutely ridiculous to assume that a constituency of eighty or ninety thousand can be represented effectively by a single Member in this House. The increase proposed by this measure is small. I would gladly see it much larger. I would not object to seeing the House composed of 500 or 600 Members. What difference would it make in the proceedings? It might lengthen the time required for a call of the roll. But the method of calling the roll might be improved so that this difference would be comparatively slight. An increase in the size of the membership of the House, as the gentleman from Wisconsin would probably realize, might afford opportunity for a revolt against the tyranny exercised by the steering committee and the Committee on Rules. The House with its present membership does not know how to revolt. The idea of "revolt" is not within the range of its concept. Through even this slightly increased membership we may hope that some independent Members will find their way into the body brave enough to rise and challenge the right of any committee to throttle the House by prescribing the matters with which they think we are competent to deal and in a manner which shows with cynically contemptuous candor how deeply they distrust our capacity to deal with anything.

Mr. Chairman, I confess that increase of membership does not insure recovery by the House of its powers. But, as it happens, there is no other way open to us. It does afford a chance of relief, and I am willing to take any chance that will afford the slightest prospect of this House becoming once more what it was when I knew it first—when I knew it during all the different periods of my service down to this last—the period of McKinley, of Reed, of the Breckinridges, of Randall, of Mills, and men who on both sides informed the public mind and directed the public conscience in this country.

Mr. FAIRCHILD. Will the gentleman yield?

Mr. COCKRAN. I will.

Mr. FAIRCHILD. What was the size of the House when the gentleman first served as a Member?

Mr. COCKRAN. With a population of 70,000,000 I think the House had a membership of 360 or 370, as well as I can remember. But it is not the size of the House that determines its capacity for effective service. This House now has ability and size enough to establish its control over its own legislation, if it had the will to do it.

There is no one who will dispute that. The House is now by its own sufferance organized to suppress utterance of his views by any Member, no matter what may be the importance of the subject under consideration or the value of the suggestion that he might have to offer. Every time it adopts a rule prohibiting amendments it writes down its own belief, its own confession, that it is incapable of dealing with the very questions it has been established to decide, yet you gentlemen here say that this is a condition which you want to preserve. God help us all if that be your conception of the duty imposed upon you by the American people.

I admit, Mr. Chairman, that some objections of considerable force have been advanced against the increase of membership. They are weighty, but not sufficient, in my judgment, to outweigh its advantages. It has been said that it will increase the difficulty of obtaining a quorum. I do not believe that presents a feature of awkwardness. But it was just as hard to find a quorum when the membership of the House was much less.

Mr. Chairman, the important, capital fact which should determine us in dealing with this proposal is the present condition of the House. We are the most highly paid legislative body in the world and the least efficient. In no other country is there a popular body that is not the dominant feature of its political system.

In England the House of Commons, which for a long time forbade amendment but allowed rejection of a revenue measure by the House of Lords, now does not even permit such a measure to be rejected by that body. In France the vote of the chamber determines the existence of a ministry. So it does in Italy. And in every country on the face of the earth except this country the representative body is the all-important legislative chamber. And this not by any specific grant of supreme power but by the force with which its control of the purse is exercised. But here, where the Constitution bestows upon us in specific terms the power through which other chambers have established their authority, we allow ourselves to be gagged, manacled, made contemptible by one of our own committees, and the authority with which we are clothed is by our own act literally thrown under the footsteps of the Senate to be trampled upon and disregarded. And while our consequence shrinks our compensation expands. We receive $7,500 a year. The very highest-paid member of a foreign body gets $2,000 a year. We have each two clerks paid from the Treasury. When I first came here Members had none. Then this was an all-competent body. Now it is a negligible gathering. Besides the clerk who is assumed to be close to us, we have another clerk to be close to the first. Then I suppose that as our real importance in the political system declines still further, approaches the vanishing point still more closely, we will have a third to look after those two. I have no objection to the size of our salaries or to the number of clerks provided for us if these exclusive provisions for our comfort were fruitful of better public service. But I can not help feeling that every addition to our comfort has resulted in decreased, not increased, efficiency. I would like to see the Office Building closed, locked up, when this House is in session.

While business is to be done Members should be here attending to it on this floor. If the Office Building is to be conserved at all, it should be conserved not as a temptation to forsake the legislative task but as a place to which Members may have recourse when the House is not in session to discharge those other functions of their office about which so much has been said in the course of this debate.

Mr. Chairman, we are here now face to face in a concrete form with the grave difficulty which affects the very life of this body. Gentlemen on the other side speak about efficiency. There is nothing else to consider. If the efficiency of this House is to remain as it is now, then it will remain a laughing stock; its operations suggesting, as I have said, opéra bouffe rather than serious legislative labor. Everyone concedes that a change is desirable. No one pretends to be satisfied with the present condition. There is but one way in which we can change it, and that is to expand it. There is no possibility of reducing it. If not increased, it must remain as it is, and that would be condemning it to hopeless decay. I would rather see 500, yes, 600, Members here, with the chance under that increased membership of bringing to it independents enough to restore the House to what it should be and what it has been, than to see it condemned to permanent uselessness by preserving its present membership. There is no fetish about this membership. Everyone admits it has not produced results of which anyone of us is proud. Weighed in the balance, it has been found wanting. Why, then, should we hesitate to take the only step open to us which affords even a possible chance of improvement—that of increasing the membership? [Applause.]

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. BARBOUR. Mr. Chairman, I yield 10 minutes to the gentleman from Ohio [Mr. BURTON].

Mr. BURTON. Mr. Chairman, friends, and colleagues, I sincerely hope that the Members of this House will vote on this measure according to their convictions and not according to considerations of personal or local interest. This is the fourth time that I have taken part in the consideration of an apportionment act, and I make the statement without any fear of contradiction that if at any time the question of the enlargement of the House had been left to the real judgment of Members, every proposition to that effect would have been defeated by an overwhelming majority. [Applause.] But the appeal of friends, the statement, "Shall you allow the State of Maine or Virginia, or other Commonwealths that have played so important a part in the building up of this great Republic, to be deprived of their Members?" These are the influences which have prevailed. Another point I wish to make here is this: We are in danger in this Government of minority rule. An assertive body of men, compact, sure of what they desire, when confronted with the inertia of the far larger number which looks to the interest of the whole Nation, can often succeed. What are the reasons why this House should not increase its size? The argument of expenditure is something, but to me that is a bagatelle. Of course, it would mean added expense, some $300,000 in salaries, an enlargement of the House Office Building, an increase in the facilities, danger that this audience room is not large enough. The mere physical fact that some find it hard to be heard should be emphasized. Increased expense is the first reason, and that at a time when the people are demanding of us the utmost economy. The next reason is that the larger this body is the more clumsy it becomes, the more it becomes an inefficient agent for the transaction of business, and the more unwieldy it becomes.

I listened with great respect to the argument of my friend from New York [Mr. COCKRAN], but I think his argument is the very strongest one that could possibly be made against the increase. He says that we have abdicated to the Senate. No; we have not. This House is still powerful, but what has diminished the relative power of the House as compared to the Senate? It is the enlarged membership of this House, which many now are asking to increase. [Applause.] When you compare two Houses, in one of which an individual Member can move an amendment to a tariff or revenue bill or any other measure, with one where, as in this House, he can only vote on certain specific amendments selected by the Committee on Rules, then of course there is a certain shifting of power to the other body.

What is the necessity for the rules that we have here, against which the gentleman from New York [Mr. COCKRAN] declaims? Either we must have a confused mass of Members here who do no business or we must have strict rules so as to know how to proceed, so as to limit debate, limiting debate of Members oftentimes to five minutes, when they could speak with the earnest attention of the House for a much longer time. What is the reason for that? It is because of the increase in the membership of this House. Why is it that 30 years ago the newspaper correspondents and visitors who came to Washington said that the House was of equal interest with the Senate? It was because of the smaller number of Members. I can remember when there were 325 Members here, and when an important question arose for discussion the interest was so intense that both sides were crowded; it was like a football rush; the Members were present, eager, waiting, and listening to the arguments presented. To-day the ability is not one tithe less, and I would say that the average standing of the Member is higher, especially in readiness of speech and in touch with affairs, but there is the diminished opportunity; there is the diminished prestige of the individual Member.

There is a diminishing of the standing of the House itself because the individual Member does not stand out so prominently but is more nearly lost in the mass. I beg of you, my colleagues, do not add to these features which, as the gentleman from New York says, have tended toward decay, that it can not be worse than it is, that bills are driven through. Stay this increase. In every one of the three bills passed in 1890, 1900, and 1910 the statement was made by advocates of the increase that it was the last. They admitted their cowardice, but passed it on to the later Congress, which was to fix the next apportionment. Now is the time—in 1921—for us to show courage to do what our predecessors, who increased the size of the House, said should be done by a later Congress. In the bill of 1910–11, passed by this House but lost in the Senate, there was a definite provision that the size of the House should be permanently fixed at 435, and that future adjustments should be made by the Secretary of Commerce and Labor. In effect they said, We will increase the size of the House to 435, but as far as we can we will bind any future House from enlarging the size of this body.

Then, another thing I wish to say, but I can not say all I would say in the time that I have, the argument is made that a larger House will be more democratic. I want to read from language partly quoted by the gentleman from Texas [Mr. SANDERS] from the words of a statesman for whom I give unstinted reverence, James Madison. Here is what he says in regard to the size of a legislative body:

> In the ancient republics, where the whole body of the people assembled in person, a single orator or an artful statesman was generally seen to rule with as complete a sway as if a scepter had been placed in his single hand. On the same principle, the more multitudinous a representative assembly may be rendered, the more it will partake of the infirmities incident to collective meetings of the people. Ignorance will be the dupe of the cunning and passion the slave of sophistry and declamation. The people can never err more than in supposing that by multiplying their representatives beyond a certain limit they strengthen the barrier against the government of a few. Experience will forever admonish them that, on the contrary, after securing a sufficient number for the purposes of safety, of local information, and a diffusive sympathy with the whole society they will counteract their own views by every addition to their representatives. The countenance of the government may become more democratic, but the soul that animates it will be more oligarchic. The machine will be enlarged, but the fewer, and often the more secret, will be the springs by which its motions are directed.

In the discussion of this subject in 1842 in the Senate, Mr. James Buchanan, then at the zenith of his mental powers, said of the size of the House:

> The Senators from Kentucky and Missouri [Messrs. Crittenden and Benton] have both urged strongly that a House of 400 Members would be more free from Executive influence than a House of 200, because, say they, it would be more difficult to influence or corrupt a large body than a small one. * * * Whenever the body shall become so numerous that it will be impossible for all the Members individually to represent their own constituents, then the power of the House will necessarily devolve upon those who conduct the business, and the remainder must become comparatively ciphers. * * * Although the House may be numerous, the influence will then be confined to a few Members, and the very number will shield these few from a just responsibility. It is therefore my opinion that a House composed of 200 Members, in which each will feel his individual responsibility and each be able to represent his own constituents independently, without being compelled to follow in the wake of some party leader, will present a more powerful barrier against Executive influence than would be presented by a House of 400 Members.

These opinions are applicable to-day. There is one thing upon which I would like to lay emphasis. If there is any question which has been before this body and upon which the people of the United States have expressed themselves it is against the enlargement of the size of this House. [Applause.] From every part of the country, from the very States where there is a decrease their voice is well-nigh unanimous. I think the gentleman from Vermont in his visit to Portland and in his association with a few bankers and a few lawyers probably did not reach the real thought and the real heart of the people, for from all sections of the country, by press, by public utterances, by the opinion of the more judicious everywhere there is a demand that this House shall not be enlarged but shall remain at the figures now prevailing, 435. [Applause.]

I wish to review briefly some of the arguments which have been made in favor of increased membership:

Reference has been made to the size of the House of Commons, consisting of 707 members, and of other legislative bodies in Europe. It may be remarked in passing that the room for the House of Commons at Westminster affords space for not more than two-thirds of the members. The vital difference from this House is that there is a responsible ministry in the House of Commons and similar bodies, members of which sit with these legislators. Opposite them are found the leaders of the opposition; these control their respective sides except in cases of party revulsion. An examination of the index of the debates will show that very few comparatively of the large number of members in the House of Commons take part in the debates—they are mere voting members.

As regards touch with their constituents, which has been so much emphasized to-day, it is stated by an English publicist that the history of the past 200 years shows that those who have exerted the greatest influence in the House of Commons have been elected from localities outside of those they represent. In our own country the selection of candidates from the locality is firmly fixed; in fact, by constitutional provision the Member must come from the State in which he is elected. The argument has been made here that this bill will not pass the Senate unless the number is fixed at 460. Can those who have said so much about the predominating power of the other Chamber conceive of a more potent method to increase that power than to interject here an argument of this kind? The determining of the size of the House is of especial interest to us. Shall we be controlled or even influenced in our vote by the threat—for it is nothing less—that if the measure be passed

it will not be enacted into law unless a certain number is chosen? If it be the case that we must shape our action according to probable conclusions in the Senate, why not abdicate all our workings as a legislative body, abandon independence, and determine the vote by the probable result in the Senate?

In this connection I must say that so far as I have interviewed Members of the Senate a decided majority has been found in favor of retaining the present number, and I do not believe there is any such threatened action there. If there is it is from a minority.

Another argument was made that there are some 11,000 ex-soldiers on the average in each congressional district, and that the size of the House should be enlarged so that the Members can more readily respond to the requests of those who have rendered service in the war. That there should be the most earnest attention to the demands of those who fought for their country will be the undivided opinion of everyone here. We owe to them undying gratitude, but will the difference between 11,000 and 10,300 in each district materially increase the efforts of Congressmen in aiding this class of their constituents? What is needed more than this personal touch is the passage of helpful legislation for their good, which shall be general in its nature, which will provide proper organization of the activities for the ex-soldier. This, more than anything else, will aid the soldiers of the late war, and that can best be accomplished in a smaller House rather than in a larger one. One point which should not be overlooked is that the larger the House the more a Member becomes a mere agent of a locality; his vision is not so broad; his spirit of loyalty to the whole country is diminished; his efforts for a pork barrel are materially increased rather than his interest in legislation which would be of general benefit.

It has been said that the agricultural communities will lose if the smaller number is accepted. This is a fallacious argument. The proportion will continue the same between country and city, whatever the apportionment, and in the larger number of Members the cities will be more likely to gain than the rural districts with 460 than under the smaller number of 435.

It is said that the census was taken at a time when many of the soldiers and young men from the country were still in the cities. Just what is meant by this statement? It would seem to signify that no apportionment should be made on the census of 1920. The census as taken must be effective whatever the number chosen. I am inclined to think the importance of this alleged absence from the country has been much exaggerated because in the taking of the census the enumerators would assign inhabitants to their permanent localities rather than to temporary domciles when the census was taken.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. LINEBERGER. Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

Mr. RANKIN. Mr. Chairman, I make the same request.

Mr. SANDERS of Texas. I make the same request.

Mr. BARBOUR. I make the same request.

Mr. COLE of Iowa. I make the same request.

The CHAIRMAN. Is there objection to these requests? [After a pause.] The Chair hears none.

Mr. TOWNER. Mr. Chairman, by direction of the chairman, I yield four minutes to the gentleman from Illinois [Mr. WILLIAMS]. [Applause.]

Mr. WILLIAMS. Mr. Chairman, when this proposition was before the last Congress I voted against the increase proposed at that time. I expect to vote to-day for the bill as reported at 460. I have been led to take this position in the first place because of the manifest injustice to the great agricultural sections of this country which an apportionment of 435 would now bring to those States. We all know the conditions under which the last census was taken. After the close of the Great War throughout the farming sections of the country not only young men who were taken away from home into the Army but almost every able-bodied man who could leave their homes had gone to the cities and industrial centers and found employment in war work, munition factories, automobile factories. When the census was taken every State that is largely agricultural showed a large decline in population. That was true of the agricultural sections of Illinois. They are now drifting back to the country and more of them will drift back as the months go by, and if a census were taken to-day you would find conditions very much changed from what they were when the census of 1920 was taken.

If it were possible not to have an apportionment and to allow this matter to go over until the next census, I think I would favor that, but manifestly it will not be possible for that to be done. I do not agree to the proposition that has been asserted here that this great legislative body has ceased to function or that it has forfeited the confidence and respect of the American people. My observation has been throughout that the people are not complaining about the work or the actions of this body, but whatever there may be of delay, which is a disappointment to the country, the criticism is directed at another body, and not at the House of Representatives. [Applause.] One of the greatest legislative bodies in the world is the British House of Commons. Perhaps no legislative body is as responsive to the public sentiment and the public pulse in any country as is the House of Commons to the British public sentiment in a country with a population of 50,000,000, where they have more than 700 members. Gentlemen complain about the large size of the House at 460. Why, gentlemen, this is becoming a very large country. More than 100,000,000 people are represented here, and during the eight years I have served here, and I take it it is the experience of every Member, the work that has come to be has more than doubled.

I think it is just as essential that we preserve the proper size of our constituencies in this country, in order that they may be properly represented, as that we conserve the size of this body. And the time will come—I may not see it; you may not—when this body will number more than 500 men and women, and when it will be necessary, for a proper performance of the duties that come to a representative of the people, that the size of the House be increased to that number. [Applause.]

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. TOWNER. Mr. Chairman, the chairman of the committee yields four minutes to the gentleman from New York [Mr. MAGEE].

Mr. MAGEE. Mr. Chairman, I do not like to hear the House of Representatives condemned. I believe, as I once heard the Hon. Champ Clark say, that the House of Representatives is the greatest legislative body on earth. [Applause.] I believe, as the distinguished majority leader of the House said at the last session, that the House of Representatives is the hope of the Republic. I am proud to be a Member of the House. During all the time that I have been a Member the House has proved itself efficient and has functioned in an efficient manner. I believe that the Members of this House in intelligence, in efficiency, and in ability fully sustain the splendid traditions of the House of Representatives. [Applause.] If I felt otherwise I would resign and go home. That is the way I feel about the House.

So far as this pending bill is concerned, it is a compromise between 483 and 435 Members. We passed a bill during the last Congress for 435. It failed in the Senate. I do not know that there is any reason to believe that if we should pass a bill now for 435 it would not fail in the Senate. We are assured, I think, that if we pass this bill it probably will be promptly passed by the Senate. I think it is generally conceded that we must have an apportionment bill. I have been against an increase in membership of the House, but I attended the Republican conference and voted there. I feel bound by the determination of that conference. I think that my people expect me to be a good sport, to act like a man when licked, and to be regular. That is my idea about it. [Applause.]

We have a representative Government, the best form of government in the world, but one of the fundamental principles of a representative government is the rule of the majority. We can not all have our way. We have to pay the price of representative government, and a part of that price is compromise. I do not think that any man is greater than his party. I am willing to bow to my colleagues when they outvote me, and to do it graciously. Under existing circumstances I feel that it is my duty to support this bill. [Applause.]

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. FAIRFIELD. Mr. Chairman, I yield five minutes to the gentleman from Wisconsin [Mr. J. M. NELSON].

Mr. RANKIN. And I yield to the gentleman one minute.

Mr. LARSEN of Georgia. And I yield three additional minutes to the gentleman.

The CHAIRMAN. The gentleman from Wisconsin is recognized for nine minutes.

Mr. J. M. NELSON. Mr. Chairman, the gentleman from New York [Mr. MAGEE], who has just spoken, presents a splendid illustration of the misuse and evil effect of party action on questions which are not party measures in any sense whatever. The gentleman from New York, who is as able and eloquent as he is active, says, "I have been against an increase of the membership of the House." So he has. At my request he sounded out the New York delegation on this question. At

a meeting of his delegation about a month ago he moved it to be the sense of the delegation that the House be not increased. It was adopted, so he reported to me, by a vote of 21 to 2. Only a few days ago he again consented to check up his delegation and to do what he could to prevent an increase.

I can certify to the fact that he "has been against the increase," as he has stated. But says he, "I attended the Republican conference." "I feel bound by the determination." "My people expect me to be a good sport" and "to be regular." So he now thinks that it is his "duty to support this bill." Here we have a specific illustration of the evil effect of the conference. Before the conference, to my certain knowledge, the House would have voted overwhelmingly against the increase, but after the conference men who deem it the thing "to be regular" and "go with the organization" now intend to support the bill by their votes against their better judgment.

Let us see how the conference came to decide by a small majority in favor of the increase; and I speak here from personal experience and accurate knowledge. My keen interest in this measure is due to the fact that 10 years ago when this subject of reapportionment was before Congress I had been a Member of this House several terms. I then spoke against the increase. I offered the motion to refer the bill, but a combination of Members actuated by self-interest and appealing to party expediency had so effectually organized their forces that no set of Members appealing to the common good could possibly prevent the sacrifice of the best interests of the House. I therefore then resolved that if I was again a Member of this body when another apportionment bill should come up I would do my utmost to head off this selfish propaganda if such a thing was possible.

Now, it so happens that after a vacation of one term I find myself a Member of this body when another apportionment bill is up for consideration. At once upon my return to the House I went to the majority and minority leaders and asked them, "How do you stand on the increase of the membership of the House?" Without exception they answered, "We are against an increase." I particularly had an understanding with the majority leader [Mr. MONDELL]. At the previous session he had spoken strongly against an increase. I told him of my interest and of my resolution. He expressed a hearty approval of my suggestion that everything be done to head off a movement of self-interested Members at the earliest possible moment. I secured one Member, sometimes two, to canvass each Republican delegation. Reports were made to me, and as a result I found the House on the Republican side about 2 to 1 against an increase. Months ago I so reported to Mr. MONDELL.

About 10 days ago, after it was announced that the apportionment bill would come up, some of us again checked over the membership. This time we included the Democrats. We found that the House was still strongly opposed to an increase, but we discovered, too, that the combination of personally interested Members had been formed and was exceedingly active.

While making the first canvass of Members I conferred with Mr. MONDELL frequently. Judge, then, of my surprise when, after receiving the call of a party conference, I went to him for an explanation, only to find out that he had gone over to the other side. In the Republican conference Mr. MONDELL led the fight for an increase of the House, assigning as his sole reason political expediency; and, as more than a hundred Members were absent, the combination of personally interested Members from 12 States approved of the proposed increase by a vote of 94 to 76. In securing this small majority Mr. MONDELL was the decisive factor. It was due to his leadership, his astute and persuasive play upon the motive of political expediency that did the trick. In short, Mr. MONDELL, the majority leader, had changed his mind and thereupon changed the minds of enough other Members to make this legislative proposition a party measure. Members who desire "to be regular," "to go with the organization," like my friend Mr. MAGEE, must vote contrary to their real convictions.

But does this change of mind by Mr. MONDELL make an increase of the House right? Does his switching against principle for political expediency suddenly make right wrong? Mr. MONDELL, after all, is only one Member. It does not follow that because he changes his mind suddenly the rest of us are all suddenly in the wrong. The conference decided nothing. It only afforded self-interest the opportunity to ally itself with political expediency so as to magnify its harmful power, and that was the object of the party conference.

Having replied to the conference argument presented by the gentleman from New York [Mr. MAGEE], I now wish to address the House on principle. I wish to address myself to the conscience of Members. I take it this is not Mexico. This is the House of Representatives of the people of America. What has made this Nation great? Is it not loyalty to the great principles which are embodied in the Constitution?

I shall prove by logical argument and by appeal to self-evident facts that this apportionment bill is an unjustifiable evasion of the Constitution. If it is an evasion, it is an abuse of legislative power; and if an abuse of legislative power, it is violative of the solemn obligation we assumed before the Speaker, before the country, and in the name of God.

My first proposition is that to evade the Constitution is the chief purpose of this apportionment bill. Article I, section 2, provides for an "apportionment according to number" and a "census every 10 years." It is to evade this section that the House membership is increased. The mischief behind this evasion consists first of self-interest. This self-interest arises because of the change of population. Thus at the present time the States of Indiana, Iowa, Kansas, Kentucky, Maine, Mississippi, Missouri, Nebraska, Rhode Island, and Vermont, having failed to keep pace in population, will each lose one Member—Missouri two—to other States that have moved ahead in population. The Members from these States are keenly affected by anticipated loss of their seats. No one knows beforehand who will be the victim. These generally group themselves together, therefore, to evade the Constitution by increasing the membership. Self-interest appeals to fellow Members for sympathy and aid. Usually this sympathy is successfully worked, and always self-interest seeks the aid of political expediency. The claim is put forward that by the increase of membership party success in various forms will be promoted; so that a most powerful group is thus organized with self-interest at the center, supported by the evils of partiality and of political expediency. It is thus that section 2, Article I, providing for apportionment according to number, is nullified by an increase of the membership of the House.

My next proposition is that this increase is unjustifiable. Obviously, it is not justifiable to evade a provision of the Constitution for the sake of self-interest, favoritism, or political expediency. These are vices—dangerous and destructive vices. All authorities on the principles of morality as well as on the history of constitutional government, recognize that these are three forms of destructive motives that bring ruin to representative government as their ripe fruitage. On this point I quote Mr. James Madison, afterwards President, who in one of his letters published in the Federalist—see page 54—discusses in much detail the harmful effects of such groups, which he terms "factions":

> United and actuated by some common interest or passion or of an interest adverse to the rights of other citizens as to the permanent and aggregate interests of the community.

Likewise Judge Story, who was afterwards Chief Justice of the Supreme Court, discusses in detail these dangerous evils in a free government. He quotes approvingly these words of John Adams:

> Of all possible forms of government a sovereignty in one assembly, successfully chosen by the people, is perhaps the best calculated to facilitate the gratification of self-love and the pursuit of the private interests of a few individuals.

He then discusses the remedy—the necessity of two legislative bodies, the one to act as a check on the other. It operates indirectly, he says—

> as a preventive to attempt to carry private, personal, and party objects, not connected with the common good. (Story on Constitution. The Legislature, Chap. VIII.)

Yet at the conference these passions of self-love were boldly appealed to, and successfully, to make a party matter of a bill to increase the membership of this House. In plain terms, an appeal was made to the evil motives, specifically pointed out by our ablest writers as the most dangerous because the most destructive of the House of Representatives, the main ground and support of our republican form of government.

There is one way to justify an increase of the House—only one—in accordance with the letter and spirit of the Constitution, and that is to bring the proposition to increase the membership into harmony with the specific objects stated in the preamble of the Constitution itself—the general welfare, justice, and the common defense. Manifestly and self-evidently, it can be shown—it was shown over and over again in debate—indeed, it is admitted privately and frequently publicly by Members who, notwithstanding this admission, permit themselves to be actuated by self-interest, partiality, or political considerations, that the proposed increase would involve a great expense to the taxpayers, would be harmful to the House, and still further greatly decrease the opportunities of individual Members for service in this body.

The matter of expense to the people should be considered, but is not the most serious feature of this bill. The resulting

tax burden should, however, in itself have due weight with Members. It is estimated by the minority report that this expense will equal $500,000 a year. I have checked up this estimate; it is my belief that, considering the difficulty of furnishing office rooms to these 25 extra members, the expense will more than equal a half million dollars. Consider what that means in a period of 10 years alone. It will amount to $5,000,000. Dividing that sum by the number of States we get an average tax upon each State for the next decade of not less than $100,000. It would be far cheaper to the taxpayers if we would vote pensions to these 12 Members of their salaries for life. We would save to the taxpayers at least $250,000 annually, and the expense would end with their death. But the successors of these beneficiaries of abused legislative power will make the expense perpetual. The evil of this bill from the point of view of taxation may be thus stated: To show partiality to 12 Members, whose names are unknown to us, we are to force by taxation and annual contribution from our constituents of over $5,000,000 in 10 years. Clearly this is not in any material sense in harmony with the general welfare.

But a far worse feature of this matter is the harm to the House of Representatives itself. As the House functions for all the people, the evil is an assault upon the general welfare. Old Members know that every increase of the membership of this body tends directly and proportionately to magnify and intensify every evil by which this legislative body has been long afflicted. Not one good thing, within my observation and experience, has come to the House by reason of its enlargement 10 years ago. It is self-evident that increasing the membership increases the evil of the filibuster. Every Member added makes it more difficult in the committee or in the House to keep a quorum, or to make a quorum. Increase of membership tends directly to increase the legislative power in the hands of a few Members—chairmen of committees, members of the Committee on Rules, members of the steering committee, and the so-called majority leader. Increase of membership makes it an easy matter for a steering committee and the party leader to manage a party conference at will. Increase of membership of the House, as has been demonstrated time and again, tends to transfer debate and proper consideration of legislation from the House to the Senate. Of this there is abundance of proof at the present moment. The Senate has become the forum of real debate, the place where legislation is observed with the keenest interest by the American people. Increased membership, centralizing power in the hands of the chairman of a committee, party leader, party conference, and in a steering committee, made it possible to rush a tariff bill and a tax bill through the House this session without permitting the right of amendment to the membership generally.

I will not discuss the less important evils greatly aggravated, such as the loss of time, more noise, more crowding, and more waste. I will but point to the principal evil, as I see it, that results to the House of Representatives as the paladium of the rights and liberties of a free people, and that is the decreased interest and increased loss to the individual Member—about 6 per cent of his representative capacity.

Axiomatically, as the House increases the individual Member decreases. He decreases in dignity and worth. He loses a part of his legislative power. He loses a part of his legislative opportunities. He loses a part of his privileges, and especially does he lose respect—that of others and that of himself. He comes to feel that he is only one of a mob, that he has little power in actual legislation; and he, therefore, loses interest in a detailed study of the principles and facts concerned in the mass of legislation before Congress. In brief, he finds himself reduced in the main to three functions: To vote with his party—that is, the party leader; to draw his salary fixed by the Constitution; and, finally, by the courtesy of unanimous consent, to extend his remarks in the RECORD for circulation among his constituents. The exact loss to each Member by reason of this proposed increase, figured on the basis of percentage of Members, is very nearly 6 per cent of his representative standing, power, and opportunity of service.

That these evil effects upon the House as a whole or the membership individually can not be consistent with the general-welfare clause of the preamble of the Constitution is perfectly clear. No less are they inconsistent with the ideas of justice and of the common defense. My time will not permit me to demonstrate this in detail, but obviously justice can not be harmonized with injustice to the individual membership of this body, nor can the destruction of the House be compatible with the preservation of it as the head that formulates both the ways and the means of providing for the common defense.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. J. M. NELSON. Mr. Chairman, may I have a minute more?

Mr. FAIRFIELD. Mr. Chairman, I yield one minute more to the gentleman.

The CHAIRMAN. The gentleman is recognized for one minute more.

Mr. J. M. NELSON. In the minute remaining let me sum up. I have shown that self-interest allied with political expediency seeks to evade section 2 of Article I of the Constitution. I have shown that this evasion is not justifiable, certainly not negatively, by an appeal to vices that disintegrate free governments, nor is there any serious attempt to justify this evasion or nullification of both the letter and the spirit of the Constitution by an appeal to the general welfare, to justice, or to the safety of the House as the center and bulwark of our common defense of the rights and liberties of the American people.

If, therefore, this is an unjustifiable evasion of this provision of the Constitution, as I have shown, it follows inevitably that it is a gross abuse of legislative power, and being an abuse of legislative power support of this measure is a violation of the spirit generally and the specific language of our oath of office. Did we not solemnly swear with hand uplifted before the Speaker, before the country, and in the name of God that we would "support and defend the Constitution," "faithfully discharge the duties of our office," "without mental reservation" or "purpose of evasion"? I unhesitatingly affirm that any Member who votes on this matter, which touches the Constitution directly—for the House of Representatives is the backbone of our form of government—every Member who considers self-interest, partially to fellow Members or party success, and, therefore, who disregards the general welfare, the demands of justice, or the sanctity of this House as the forum of the people of this country, when he votes on this question makes of the Constitution on this subject a thing without purpose, meaning, or restraining power and of our solemn oath of office a mockery and a sham. Mr. Speaker, a vote against this increase is a vote to save the House of Representatives from suicide. [Applause.]

The CHAIRMAN. The time of the gentleman from Wisconsin has again expired.

Mr. J. M. NELSON. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. RANKIN. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman from Mississippi has 18 minutes remaining. The gentleman from Indiana [Mr. FAIRFIELD] has 15 minutes. The gentleman from Georgia [Mr. LARSEN] has 14 minutes, and the gentleman from New York [Mr. SIEGEL] has 24 minutes.

Mr. RANKIN. Mr. Chairman, I desire to yield over to the gentleman from New York [Mr. SIEGEL] four minutes of my time, and I desire now to yield to the gentleman from Kansas [Mr. WHITE] four minutes.

The CHAIRMAN. The gentleman from Mississippi yields four minutes to the gentleman from New York and four minutes to the gentleman from Kansas [Mr. WHITE]. The gentleman from Kansas is recognized for four minutes.

Mr. LARSEN. Mr. Chairman, will the gentleman yield for a moment while I make a correction?

The CHAIRMAN. Does the gentleman from Kansas yield to the gentleman from Georgia?

Mr. LARSEN. I do not want the gentleman to yield to me.

Mr. SIEGEL. I yield to the gentleman from Kansas one minute.

The CHAIRMAN. The gentleman from New York yields one minute to the gentleman from Kansas. The gentleman from Kansas is recognized for five minutes.

Mr. WHITE of Kansas. Mr. Chairman, Thomas Gray, in his beautiful elegy, said:

> For who, to dumb forgetfulness a prey,
> This pleasing anxious being e'er resigned,
> Left the warm precincts of the cheerful day,
> Nor cast one longing, lingering look behind?

The opponents of this bill have insisted persistently that it was founded upon considerations of expediency, but they must concede that the gentlemen from States whose representation will be increased as the result of the provisions of this bill must at least be consistent. I think there is a striking analogy between physical life and political life, and I have wondered, while freely according sincerity of motive to gentlemen in opposition who are so persistent in charging the supporters of this bill with acting from considerations of expediency, if in case they were

not sitting tight through geographical situations or safe conditions in their States, and whether, if they were in danger of losing a place in this legislative body, would they be more generous than ourselves, they, too, might "cast one longing, lingering look behind."

Mr. Chairman and gentlemen, I might say consistently that I am not actuated by any considerations of expediency. So far as the legislature of my State is concerned, I believe that my position is absolutely secure. But, Mr. Chairman and gentlemen of this House, when did it become a fundamental proposition that gentlemen should stand and proclaim that this House is unwieldy; that the representation of the people of this great Republic for the first time but one in our experience under the Constitution should be restricted? With one exception the precedent has been followed for 137 years which we are asked to follow in this bill. Where is the leadership in this great legislative body recruited from? Are Congressmen of influence and leadership developed in a single day? Certainly not. The leaders of to-day were the modest beginners of a few sessions back in our history.

Whether—

There shall come a mightier blast,
There shall be a darker day,
When the stars from heaven down cast
Like leaves shall be swept away—

I do not know. That is somewhat problematical, but here in the forum of time the leaves are falling, solemnly and slow. Within a few months the great Champ Clark, that mighty leader on the minority side, and our beloved Mason, from the ranks of our own side, have gone. And their places must be recruited from the ranks of the men of shorter service.

I say this House functions and has always functioned. If I may make a comparison without offense, it functions with more promptness and at least with as much efficiency and wisdom as does the other legislative body of the American Congress, composed of less than one-fourth the number of Members contained in the House.

The position of gentlemen opposing this bill appears to me inconsistent with the spirit of progress and perverts the original and fundamental conception of representative government. I said their position is inconsistent with the spirit of progress, and is not this apparent when we reflect that population is rapidly increasing and will continue to do so? We are now 105,000,000 souls; before the end of this decade we shall doubtless be 125,000,000.

Our wealth is increasing at a rate of billions each year. Our world influence is paramount; and yet gentlemen say that all this increase in population, in national wealth, in world influence shall have no additional representation. These stupendous facts carry no weight with gentlemen who, being patriotic Americans, must perforce contemplate this advancement with pride and satisfaction, and yet evidently they hold the view that however great our progress in all other lines we should remain stationary in our legislative facilities.

In our first experience under the Constitution it was not thought one Representative for each 30,000 of population was too large a number, nor did experience so prove. I said, and I repeat, that restriction of representation is perversive of the very fundamental idea of representative government.

The proposition to restrict representation is a dangerous step and if carried too far may lead to fatal results for the security of our civil liberties.

History abounds in examples of the abuse of power when reposed in the hands of relatively small numbers of individuals.

There is little of the atmosphere of suppression in this Chamber. I came here with a large number of new Members. I have heard no complaint from any one of them that they have not found full opportunity for expression of their respective views.

I have observed and experienced a splendid spirit of magnanimity and helpfulness toward new Members on the part of the older Members of the House. In this, the greatest legislative forum in the world, I care not what may have been a Member's previous training or opportunities—it is here alone by most diligent and unremitting application to his work and examination of the questions of public interest and policy constantly being presented for action that a Member acquires efficiency in legislative work. It shall be wiser legislation, safer for the Republic, if we increase the number of Representatives proposed in this bill rather than to reduce that number even by a single Member. [Applause on both sides.]

Mr. LARSEN of Georgia. I yield three minutes to the gentleman from Texas [Mr. BLANTON].

Mr. BLANTON. Mr. Chairman, I am against this bill, and favor reducing the membership to 304. The gentleman from Illinois [Mr. WILLIAMS] remarked that he was led to change his former position, when he voted against the other Siegel bill, because the agricultural districts need more Representatives. The agricultural districts do not get them under this bill. Boston gets its extra Representative, New York City gets its two, Pittsburgh and Philadelphia get their two, Cincinnati and Cleveland get their three, Detroit gets its three, Chicago gets its one, San Francisco gets its four, and yet gentlemen talk about agricultural districts. The big cities gobble up the new Members, and it will be the big cities in Texas that will gobble up all new Members.

Mr. LINEBERGER. Will the gentleman yield?

Mr. BLANTON. No; I am sorry I can not, as I have only three minutes.

We each of us can not escape individual responsibility in our vote on this bill, and you Republicans can not escape party responsibility. On the 19th day of January last this House turned down a proposed increase in membership by a vote of 267 to 76, an overwhelming majority of 191. Yet you say you are going to change enough votes to pass this bill. You have got to change 191 men. Will the Republican steam roller do it? Yesterday's press stated that you Republicans night before last, in a Republican caucus, as a party measure, by a vote of 94 to 76, which makes just 170 Republicans attending that caucus, approved this bill increasing membership as a party measure. If you pass it, the country will hold you Republicans responsible, as you have a majority of 170 Members in this House. Are you going to do this awful thing? This morning's Post says, on the front page, that Secretary Mellon is calling on Chairman Madden to raise for him immediately $370,000,000 to cover an existing deficit, and there is no revenue for it, not even provided in the new revenue bill that went to the Senate. What are you Republicans going to do about it? You can not escape your party responsibility on this measure. Are you Republicans who do not want to do this thing going to be whipped into line? Are you going to be "led" to change your vote and former position?

But you say, "We can not perform the work for our present districts." In the Sixty-fifth Congress I represented the old Jumbo district of Texas that extended 556 miles east and west from Mineral Wells to El Paso and had 59 counties in it.

There are 3 of those 59 counties now in the district of my colleague [Mr. HUDSPETH] that are a hundred miles across, each one of them—Brewster, Presidio, and El Paso Counties. It contained 360,000 people. I went into every county. I spoke to the people of every county. I attended to every call made on me. In the last two Congresses—the Sixty-sixth and Sixty-seventh—I represented 315,000 people in my present district. I have answered every letter and call made on me. No Member here has attended to more cases for disabled soldiers than I have. I am as close to my people as any man in this House, if I do say it. I can attend to the work of my district. This bill should not pass.

Mr. LARSEN of Georgia. I yield to the gentleman from Texas [Mr. BLACK].

Mr. BLACK. Mr. Chairman, at the last session of Congress I introduced a bill providing that the membership of the House under the new apportionment should be 437. That would have been an increase of two over the present membership. I did not introduce the bill in that form, however, because I favored increasing the size of the House, but because I used the even figures of 240,000 population for each Member as the basis for computation, and the result was 437 Members.

So when the Siegel bill proposing a membership of 483 came up for consideration in the House at the last session and the Barbour amendment was proposed, fixing the membership at 435, I gladly supported it and will do so this time when a similar amendment is proposed.

HOUSE CAN NOT GO ON INCREASING ITS MEMBERSHIP INDEFINITELY.

I believe it is quite generally agreed that the House can not afford to continue increasing its membership every 10 years, as has been the case for the last 40 or 50 years, merely to save some State from a slight reduction in the number of its Representatives. Now, at a time when the country is very properly demanding economy in Government expenditures, when there is a general and widespread sentiment against the creation of more new offices, and when Congress itself has a committee at work on the reorganization of Government departments, with one of the principal ends in view of reducing the number of employees, it would be a mighty good time to start the precedent of refusing to increase the House membership.

Of course, there is no Member who votes to retain the membership at 435 but will regret that States like Mississippi and Missouri, Louisiana and Kansas and Iowa and others, will lose in membership; but that is unavoidable, unless we are to

continue the practice indefinitely of increasing the membership of the House. And it is no new thing for a State to have the unpleasant experience of seeing the number of its Representatives cut down under a new apportionment. It may be surprising to some to know that at one time the State of Virginia had 23 Representatives in the House, whereas it now has only 10. Suppose in the earlier days of apportionment the size of the membership had been fixed with a view of preventing Virginia from losing a Representative? Where would the size of the membership of the House now be?

So, after all, in voting upon this question, we should not be influenced by our regret that any particular State will lose or gain. But the real question should be, Is there a necessity for an increase in the membership of the House? If a Member really believes there is such necessity, then, of course, his vote for a membership of 460 is perfectly proper and consistent. But if he does not believe there is any such necessity then the mere fact that he regrets to see any particular State lose one or more Representatives will not be sufficient to justify his vote for the larger membership.

ARGUMENT THAT AGRICULTURAL STATES WILL LOSE UNLESS 460 MEMBERS ARE PROVIDED IS NOT SOUND.

Another argument upon which considerable stress is made is that if the present membership of 435 is retained the agricultural States will be the principal losers in membership, and therefore to the detriment of agriculture. In the first place, it is hardly proper to refer to any of our States as agricultural States or manufacturing States, as the case may be. Most of our States have varied industries. For example, there is the State of New York, in which is located the largest center of population in the United States.

It contains more manufacturing establishments than any other State—49,374 of them, with an invested capital in the enterprises of more than $6,000,000,000. And yet this State of New York, with its great center of population and numerous manufacturing plants, stands fifth in the value of agricultural crops produced in 1920. Only four States are ahead of her—Texas, Iowa, Illinois, and California. And there is Illinois, with the second largest center of population in the country, which has 18,595 manufacturing establishments, with three and one-half billions of dollars invested in them, and ranks third as a manufacturing State, being outranked in that respect only by Pennsylvania and New York. And yet it also stands third in agricultural production in 1920, and was only outranked in value of production by Texas and Iowa. So it is rather misleading to refer to any State as a manufacturing State or an agricultural State; and I may say here, in passing, that not all men who represent city constituencies are unmindful of the welfare of agriculture. For example, there is the gentleman from Illinois [Mr. MANN]. He represents a district situated, I think, almost wholly in the city of Chicago, and yet I believe it will be freely admitted by both sides of the House that he has been a stanch friend to agriculture and has rendered valuable service in connection with numerous matters of legislation which have passed the House since he has been a Member having for their object the improvement and advancement of the welfare of agriculture. There are other Members of the House on both sides of the aisle about whom I could say the same thing.

WE DO NOT NEED ANY AGRICULTURAL BLOCS OR LABOR BLOCS OR MANUFACTURING BLOCS IN CONGRESS.

As a matter of fact, we are hearing a good deal these days about the so-called agricultural blocs and the labor blocs and the manufacturers' blocs. These things do not appeal to me. I am only interested in the people's bloc—all of the people, and not any one particular class or group of them. I have never had any admiration for the special pleader in politics, for the candidate for public office who appeals for his support to particular classes or groups. I would hate to think, for example, that in order to convince the business men of my district that I was fair and just to the rights of business and invested capital I would have to get an indorsement from some such organization of business men as the United States Chamber of Commerce or the American Bankers' Association.

I would hate to think that in order to convince the laboring men of my district that I was fair and just to the rights of labor that I would have to submit my record in Congress for review and rating by the so-called nonpartisan committee of the American Federation of Labor. I would regret to believe that in order to convince the farmers of my district that I was fair and just to the rights of agriculture that I would have to get the approval of such organizations as the National Grange or the Farmers' Union or the American Farm Bureau Federation or any other similar organization. These various organizations are all right in their proper sphere, and I have no fight to make upon them; but I have always told their representatives that I will only support legislation which they favor when I believe such legislation is for the public good and not merely for one class or group. I have no ambition to be termed a member of the agricultural bloc or the labor bloc or the manufacturers' bloc or any other sort of bloc. I will be quite well satisfied if I am able to make a record which will justify its being said of me "that he is fair enough and just enough and courageous enough to be the public servant of all."

So the argument that to leave the membership at the present figure would cause a loss in membership to certain of the agricultural States does not appeal to me as being a sound argument. But even if one believes in the soundness of the argument, just a little inspection will show that increasing the membership to 460 would not change the relative proportion in the least. The Constitution says:

> Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed.

We are, of course, following that rule in the bill which we are about to enact, and we will follow it whether the membership is left at 435 or whether it is fixed at 460, as proposed in the committee bill, or whether we make it 483, as was proposed in the Siegel bill of the last session. True, if we leave the membership at 435 some States, like Mississippi, Louisiana, Iowa, Indiana, and others, will lose one Member each, but States like Pennsylvania and New York and Massachusetts will not make any increase.

On the other hand, if we increase the membership to 460 in order to save Louisiana and Mississippi and Indiana and Iowa from losing a Member each, we will increase Pennsylvania 2, New York 2, Massachusetts 1, New Jersey 1, which have been referred to as manufacturing States. So, after all, what is the difference? The whole proposition when boiled down is reduced simply to this: If there is an increase in representation from the urban centers in larger proportion than the increase from the rural communities, it is because the drift of population is that way, and it can not be corrected by a mere change in the size of the membership of the House. Such fault, if there is one, would have to be corrected by a constitutional amendment, giving the agrarian sections a larger proportional representation than the urban centers. I hardly think anyone would go so far as to advocate a plan of that sort in this country, for a while at least.

So, in making the new apportionment, we simply have to follow the rule laid down in the Constitution of apportioning the number of Representatives according to the whole number of people in each State, and when that rule is followed I fail to see where any State has any just cause to complain.

TOO LARGE A MEMBERSHIP HAS A TENDENCY TO RETARD RATHER THAN TO HELP THE HOUSE IN DISCHARGING ITS FUNCTIONS AS A REPRESENTATIVE LEGISLATIVE BODY.

There is one more argument which advocates of the plan for 460 membership have used in support of their proposition which I want to notice briefly and then I am through, and it is this: These proponents of the 460 membership say that the House of Representatives in a peculiar sense is the legislative voice of the people, is closest to them, and that in order to preserve this close and intimate relation it is necessary to further increase the size of the House membership. I agree that the House of Representatives is in a peculiar sense the legislative voice of the people and that it is closer to them than any other branch of the Government, and I am just as anxious to keep it that way as any man in the House, but I believe that it can best be done by keeping the size of the House at such a figure as will enable it to function as a deliberative and representative body, without arbitrary and irritating restrictions.

We know very well that by reason of the size of the present membership of the House it has been found necessary to adopt rules that more or less interfere with and circumscribe the freedom of debate. I am not contending for rules which permit such reckless abandon to talk and speech making as prevail at the other end of the Capitol, but I would like at times to see more time given to the discussion of important amendments than we frequently have in the House. Too restrictive rules have a tendency to concentrate all of the legislative power in the hands of committees rather than on the floor of the House itself. There is already too great a tendency among Members to say, "Oh, well, this proposition has received the approval of the committee, and while the proposed amendment reads all right and sounds all right I will just follow the committee."

Committees are important, and I would not seek to minimize the value of their work, but committees should not become the legislative voice of Congress. If we operated under a system of government like the British Parliament operates, or as the

French Deputies operate, where they have a responsible ministry and the majority have only to ratify the bills which are presented by the responsible ministry, then I will agree that my objection would not be so important. But here in our country we have a very different system, and our theory of the Government is that committees do not legislate, but that Congress itself exercises that important function. Therefore, the more restricted the rules and the more we hedge about the freedom of the individual Member in debate and in the power of voicing his convictions on the floor of the House the more we interfere with a truly representative Government.

So if we want to maintain the power and prestige of the House in public esteem, if we want to prevent its becoming so large and unwieldly as to make it difficult for it to function as a deliberative body; if we want to have legislation by Congress, rather than legislation by committees, we will put our foot down irrevocably on any further increase in membership and see to it that the present number of 435 is maintained.

Mr. LARSEN of Georgia. How much time does that leave our side?

The CHAIRMAN. The gentleman has 12 minutes remaining.

Mr. LARSEN of Georgia. I yield to the gentleman from Ohio [Mr. CABLE] two minutes.

Mr. CABLE. Mr. Chairman, the issue before this House to-day is national, not State. The question to decide is whether or not 25 additional Members to the lower House of Congress is absolutely necessary for the more efficient transaction of public business. Before the increase is granted there must exist a justifiable cause.

To-day at roll call one-third of the members failed to answer when their names were called. The records show that on an average one of three Members fail to attend sessions of Congress. The absence, especially during the consideration of this reapportionment bill, is significant. It indicates to me that the larger this House grows, the more unwieldy it becomes and the less opportunity do the Members have for participating in debates and to permit their colleagues and country to obtain their views on proposed legislation.

The framers of our Constitution deemed the attendance of all Members important for the transaction of official business, because a provision was made in the Constitution that they may be compelled to attend "under such penalties as each House may provide"; and again this attendance was so imperative that Members, during their attendance at sessions and in going to and returning from the same, are under the Constitution privileged from arrest, except in case of treason, felony, and breach of the peace. How can these provisions be given full force and effect if the membership is increased to so large a number that all Members, if present, can not participate or aid in the consideration of legislation?

Before an increase from 435 to 460 membership in this House should be granted we should first show that each Member is attending to his respective duties and that the present membership is unable to carry on all its official work.

This administration was elected on a platform of economy. The economy program has worked hardship in all departments. Work has been stopped. There has been a reduction of thousands from the Government pay roll. Economy has been preached by many of the Members seeking the increase of 25. They have spoken for a reduction in the expense of our Government. Economy should begin at home. This Congress should, by its example, act as well as urge economy. Unless we cut down expenses in that which is near to us, we can not conscientiously and efficiently ask others to reduce their expenses. Twenty-five new Members in the lower House of Congress means additional expenditure of money collected from the taxpayer of $296,385.64 annually for a period of 10 years for the salary and expenses of these proposed Members. In addition there must be builded either a new House office building or another story on the present one, in order to provide offices for these Members. An increase in the population of the United States from 91,972,266 in 1910 to 105,710,620 in 1920 imposes a duty upon Congress—that of passing a new apportionment bill. The United States Constitution provides for the taking of a Federal census every 10 years. As soon as the population is determined by this census it is made mandatory by the Constitution for Congress to make a new apportionment of Members among the several States. The number of Representatives to be apportioned among the several States according to the population rests in the sound discretion of Congress. The present apportionment was fixed in August, 1911, when the number of Representatives was increased 57 under the 1910 census. The present basis of apportionment is one Representative to each 211,877. With an increase of 25 it would be 228,882. and without an increase, under the 1920 census, the apportionment would be 242,415 persons for each Representative in Congress.

The duty of Congress is primarily to legislate, and the number of Representatives apportioned to the several States should be sufficient to carefully consider pending legislation and pass needed laws. The present membership of 435 is sufficient. It is so large and cumbersome at the present time that special rules are required to expedite business and pass laws.

An important part of the legislative work of a Member is done in the committee room in the consideration of bills referred to that committee. Membership is so large now in the House that some minor, unimportant committees exist to-day in order that all Members may be elected to committees. The average number of Members to a committee is 21. If 25 new Members were added to the House, so large a number of committees now exist that it would not mean one new Member to even half of the existing committees. Can those advocating the increase in membership conscientiously say that one additional Member is necessary or needed in any committee for the proper consideration of bills referred to such committee?

A gentleman who has preceded me this afternoon has asked that we be consistent. I will ask him if it is consistent for this House to vote itself an increase of 25 new Members and during the same session of Congress by refusing appropriations cause to be stricken from the rolls of the executive Civil Service Commission in the District of Columbia over 8,000 employees and from this same roll for the balance of the United States over 35,000 employees? Is it consistent to cut down appropriations of the Navy and cause a reduction in the enlisted men of more than 26,000 and by that same method cause a reduction of almost 100,000 of enlisted men in the Army, many of whom may now be numbered among those 5,000,000 of unemployed throughout the United States?

Who can rise here on the floor of this House to-day and declare that any State will be less well represented by continuing the present membership? Who will contend that the present membership is unable to properly consider all bills introduced? The records show that an average of at least 20,000 bills have been introduced into the House each year for the last 14 sessions; that an average of almost 2,000 have been reported out, with many more bills considered and killed in the committees; that an average of more than 700 of these bills introduced have become laws. It certainly can not be contended that it is imperative that more laws be enacted by this Congress. The country is suffering to-day by too much legislation.

We should first be consistent with ourselves and by our example of conserving the Public Treasury refrain from enacting any unnecessary law that will be an added expense to the already overburdened taxpayers of this country. Let us be consistent with ourselves and each continue to do our share of the duties imposed upon the office and not seek to add heavier duties to others of the United States Government and at the same time lighten our own burden. Let us by our own example rather than by our power seek to advance the cause of the American people.

When will this decennial increase in the number of Representatives cease? No more auspicious time exists than the present.

For the sake of economy and efficient transaction of public business let us vote against an increase.

Mr. SIEGEL. Mr. Chairman, I ask unanimous consent that all Members who have spoken on the bill or who may speak may extend their remarks in the RECORD.

Mr. RAKER. Reserving the right to object, Mr. Chairman, will not the gentleman make it all Members, and give them five legislative days in which to extend their remarks? There are a number of us who have been trying to get time.

Mr. SIEGEL. We can not do that in committee.

Mr. WINGO. What is the gentleman's request?

The CHAIRMAN. The gentleman from New York asks unanimous consent that all gentlemen who have spoken on the bill and those who may speak on the bill may have leave to extend their remarks in the RECORD. Is there objection?

Mr. WINGO. I object.

Mr. SIEGEL. Mr. Chairman, I yield five minutes to the gentleman from Indiana [Mr. SANDERS].

Mr. SANDERS of Indiana. Mr. Chairman and gentlemen of the committee, there have been so many arguments made on either side of the proposition before the committee that it is somewhat difficult at this late hour to advance any new argument. If I may, I would like to call the attention of the committee to the question that is really presented. The question is whether or not this bill, which provides that the population to be represented by each Member of Congress shall be changed

from 211,000 to 228,000, is a wise measure, or whether the representation of the constituency should be increased to a greater degree. If this measure is passed every Member of this House will represent a constituency increased 17,000 from that fixed when the last bill was passed.

It is said that the body which is smaller in number is greater in wisdom. It is contended that this House 50 or 60 years ago was a House of great wisdom. If that is true, let us see. When the House was composed of 234 Members, if that House was judicious and wise, then it must be remembered that that House increased the membership to 243. That House composed of 243 increased the membership at the end of that decade to a House of 293. That must have been a wise body, because it is smaller than the House now. That body increased it then to 325. The House composed of 325 increased it in the next decade to 356, and that body increased it in the next decade to 386, and the next to 435. Now, this committee has in its wisdom proposed an increase in number of 25, which is not a great increase compared with the increases made before. Those of us who propose to support the measure are charged with selfishness and being governed by expediency or being guided by the interest of our particular States. It is said that if 435 Members are to be in the Congress the next decade 10 States will lose some membership, and therefore we are selfish in looking out for that interest.

Gentlemen, I confess that I think we ought to look to the fact that to leave this membership at 435, changing it as it would be changed, would deprive State delegations to the number of 10 of one Member each in this House, which would be lost to this House. I do not know what Member will be lost from Indiana, I do not know what Member will be lost from Kentucky and Iowa and a number of other States, but I know if you take 10 States and rob each one of a Member, you are going to lose some valuable Members of this House. Why, gentlemen, this body represents people and not territory. The minority report says "there has been no increase in territory since the last apportionment." This House does not represent territory; the Senate represents the States, the territory, but this House represents the people. [Applause.]

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. FAIRFIELD. Mr. Chairman, I yield five minutes to the gentleman from Massachusetts [Mr. TREADWAY].

Mr. TREADWAY. Mr. Chairman, I represent in part one of the States which would be a beneficiary under this bill in increasing the membership. At the same time I feel confident that I am voicing the views of the people of Massachusetts when I say that we prefer not to have an additional Member. [Applause.] If there is some other State that wants a contribution of one Member which is assigned to Massachusetts it is welcome to it, because we do not believe in increasing the membership of the House nor the State delegation.

There has been a good deal said in reference to the additional people we are representing through woman suffrage. I realize that the gentleman from Kentucky undoubtedly has additional duties to perform to those which he performed before we had woman suffrage, but let me ask him if the apportionment has not always been made on the basis of population and not on the basis of how many voters there may or may not be in a State at a particular time.

Mr. LANGLEY. Will the gentleman yield?

Mr. TREADWAY. I will.

Mr. LANGLEY. I want to say that I hope the gentleman from Massachusetts will perform his duties as faithfully as I do mine. [Laughter.]

Mr. TREADWAY. Well, we might get into a little discussion if we continued in that line, and I think we had better stick to the text. [Laughter.] The gentleman from Ohio [Mr. BURTON] made a very eloquent plea for the continuation of the present membership of the House. There was one argument he made which he said was not of great importance, namely, the additional expense the new membership would add. I think myself that that is a very serious question, even if the sum does not exceed $300,000 or $500,000 for the 25 new Members. Every little item counts in the great budget that we must raise from the taxpayers of the country for the support of the Government. If $300,000 can be saved by keeping the membership of the House at the present number, I am for the saving of that sum and every other saving of a like character. [Applause.]

Mr. TINCHER. Will the gentleman yield?

Mr. TREADWAY. Yes.

Mr. TINCHER. Massachusetts does not lose any Member if the membership is kept at 435.

Mr. TREADWAY. That is true; but it is immaterial whether we win or lose. It is the principle involved; and if we stood to lose one I would be as strongly for the retention of the present membership of the House as I am at this time.

Mr. PADGETT. Mr. Chairman, will the gentleman yield?

Mr. TREADWAY. Yes.

Mr. PADGETT. The statement has been made that it would involve $500,000 additional expense on account of the increased membership. That does not nearly tell the tale. We have not room in the Office Building to accommodate the additional Members, and it will force the building of a new office building.

Mr. TREADWAY. I realize that the point is very well taken by my friend; but, as I understand it, there would be one large expenditure at the original increase and then the yearly additional expenditure would be about $300,000.

Mr. LANGLEY. Mr. Chairman, will the gentleman yield?

Mr. TREADWAY. Yes.

Mr. LANGLEY. Does not the gentleman think we ought to have another office building so that each Member could have two rooms?

Mr. TREADWAY. No. I answer that most emphatically. I think that we have excellent quarters as it is for the transaction of our business and that we ought to be satisfied with them.

The gentleman from New York [Mr. COCKRAN] said that we had stopped functioning as a legislative body. I do not agree with him. Has Congress ever put greater items on the statute books than this House has assisted in doing during the Sixty-seventh Congress? We have cut millions of dollars off the expenditures of the country. We have passed the Sweet bill, one of the best pieces of legislation ever placed on the statute books. We have adopted the budget system. Those bills originated in this body, and I think this House ought to take to itself great credit for the class of legislation that has originated in it and that is now on the statute books. [Applause.]

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. FAIRFIELD. Mr. Chairman, I yield the gentleman two minutes more.

Mr. TREADWAY. Mr. Chairman, we have not abdicated our functions, and simply because a rule is occasionally required to make legislation effective is no argument against the manner in which we legislate. We are functioning and functioning well and as fast as we can consistent with good legislation.

The matter of the number of people whom we represent has been touched upon. It does not seem to me to make a great deal of difference whether we have one or two or five or ten thousand people more or less added. It is the character and quality of the men who come to this body which count. Whether or not 10 good men would be lost out of this body is a very weak line of argument according to my idea. Congress will continue to function after you and I and all of the rest of us have gone. Ten men out of this body are not going to stop Congress from performing its proper work. Twenty or 30 years ago, before any of us were here, Congress got along all right. This is not an individual body; it is a collective body, representing the people, and certainly with 435 Members, whether they come from one State or from another State, one here or one there more or less will make practically no difference either in the character of men or in the class of legislation. We have not abdicated our powers, and the work of the House during this Congress is ample proof. I think we should continue to save the taxpayer's money. Here is a chance to save not less than $300,000 per annum. I am for a continuation of the present membership. [Applause.]

[By unanimous consent Mr. TREADWAY was granted leave to extend his remarks in the RECORD.]

Mr. SIEGEL. Mr. Chairman, I yield four minutes to the gentleman from Nebraska [Mr. JEFFERIS].

Mr. JEFFERIS of Nebraska. Mr. Chairman and gentlemen of the House, I think we are losing sight of the important principle upon which this Government is founded. This Government was founded as a representative government. I believe in a representative government. At the time that this Nation started on its course, then composed of 13 contiguous States along the Atlantic coast, 30,000 people, by our forefathers, were deemed as sufficient in number to have a voice in the Halls of the House of Representatives. If 30,000 people were entitled to a spokesman here, it would seem to me now with 105,000,000 people that 228,000 people should be entitled to a voice in this House. Gentlemen say that the efficiency of the House will be destroyed if we increase the membership. Just the converse is

true. If we had 600 Members in this House and we should pass a measure by a vote of 400 to 200, and that measure should go to the other end of the Capitol, gentlemen there would look at that vote and say, "There are 400 Representatives from the people, closer to the people than we are, who have spoken for that measure, and we can not hope to override the voice of the people as expressed by their Representatives." It seems to me that when we undertake to think of representative government we should realize that if these institutions are to continue, all classes of people, whether from the city or the farm, whatever may be their ideals and theories of government, shall have a voice in the Halls of Congress. When they have had their voice here and have met in debate and discussion, when they have perhaps suffered defeat, they will be satisfied because they have had a voice, but if we curtail the number of Representatives of the people, then there is bound to exist in the country and in the cities great numbers of people who perhaps have little acquaintance with their Representative and who may feel that they have no voice in the House of Representatives; and what would follow? They would then want legislation by direct vote of the people, the worst form of legislation that has ever been submitted to a free and enlightened people. Therefore I appeal to you to-day, if you believe in representative government, to vote for one Representative for every 228,000 people; to vote and enact this measure establishing 460 as the number of the next House. [Applause.]

Mr. RANKIN. Mr. Chairman, I yield seven minutes to the gentleman from Texas [Mr. HARDY].

Mr. HARDY of Texas. Mr. Chairman, there is a principle involved in this measure in addition to the question of expediency, and I ask Members to consider that question of principle. When I listened to the gentleman from Maine [Mr. BEEDY] and also later to the gentleman from New York [Mr. COCKRAN], I felt that perhaps it might be said of them that much learning had made them mad. The real fact of the business is that this is a simple proposition, and the last gentleman who spoke on this floor has sounded the keynote of the principle upon which my conclusion has been reached. This is a representative Government, and the fathers when they founded it thought that 30,000 people were enough to entitle them to a Member of Congress. The census of 1800 showed that we had something over 5,000,000 population, and the Congress raised its Representatives to 105, making one Member to about every 37,000 of population. To-day we have a Member to every 211,000 or thereabout; that is, a Member of Congress now represents between five and six times as many people as in 1801.

In addition to that, it may be egotism, but I believe our people to-day are as virile and intelligent as were our fathers, and they demand or need as much service and representation as did the people of 1801. Not only that, but, gentlemen, there is another suggestion. There is not a State in this Union that does not have a legislative body to take care of the people's business in their State—that is, to legislate in matters over which the States still retain jurisdiction—and every State has in its State legislature a far greater proportional representation than we have here, and State representatives no more look after the interests of their people than to-day Members of Congress are doing. The Federal Government has gone down into intimate relation with the citizens, and the Member of Congress here deals as directly with his people in his State and district and their interests as does a representative in the State legislature. But what State is there that would think of having only one representative to even 100,000 of its population in its house of representatives? That is not all, gentlemen.

One great principle that has been seeking to find its way in the democracies of the world has been minority representation. Do you know if you get an aggregation of people of 230,000 with only one Representative in Congress, that if the race is close in the election of that Member of Congress a large minority of his district is unrepresented here, and the larger you have your congressional aggregation the larger the minorities that will have no voice in the legislation of your country? I say that it is ridiculous to talk about this body being too large, and under the change proposed by this bill there will still be 228,000 people to every Member of Congress here. Even if he were their unanimous choice, that number of people is all that he can represent and do justice to. Gentlemen, suppose you have a condition under which an election to membership in this House in some States is thrown into the State at large and you have 2,000,000 people to be represented by the Members chosen by the aggregate vote, and 900,000 of them vote one way and 1,100,000 vote another, then you have a minority of 900,000 in that State unrepresented here in the Halls of the Congress. When districts are smaller there is more chance for every shade of political opinion to have a voice and hearing here, and to present its theories and philosophies of government. The gentleman from New York laments the decay of the power of the House. The gentleman from Maine laments the decay intellectually of the individual membership. Do you know a long time ago Prof. Blair, of Edinburgh University, author of one of the most remarkable books on rhetoric in the English language, in that book lamented at that moment the decay in eloquence and oratory in the Parliament of Great Britain, and while he was lamenting Burke and Chatham were thundering in the House of Commons? It is a common thing for us to look back on the days gone by and call them the golden days. In my humble judgment we have to-day as much integrity, virility, manhood, and intellect in this country as in the days that are past. [Applause.] But I know we do things we ought not to do. I know there are wrongs we ought to right, but as American citizens let us right them, and as American Members of Congress let us stand here for a full representation of our constituencies. I know there is not a man in this House who ought to represent more than 228,000 inhabitants. Oh, it is not a question of woman suffrage giving more votes and not more people to represent. But it may be that since the women vote they give you more interests and issues to investigate and look after, and you have got more work to do for the women and men seeking by every means to uplift and upbuild this good country of ours. I know that since those golden days of yore Congress sits twice as long and its work is never ended. You get letters; how many of you do not read if not answer an average of 50 letters and documents a day from your people? Then think of this representation or lack of representation of the minority. As you increase the aggregate size of the population represented by a Member here you increase the number of the minority that must be unrepresented here. If I come from a district wherein I get a slight majority, all the people who vote against me are unrepresented.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RANKIN. I yield the gentleman the remainder of my time.

The CHAIRMAN. The gentleman is recognized for three additional minutes.

Mr. HARDY of Texas. I thank the gentleman. Gentlemen, that is the question. I am frank to say I would vote for 483 Members if I could get a chance, not specially for Maine's benefit, and yet I would hate to see Maine lose the flower and brilliancy of the gentleman who addressed us to-day [Mr. BEEDY]. I would vote for it because I believe that every one of 483 Members would have as many people in his district as one Member should represent, and even then there would be enough minorities unrepresented whose voice was not heard in our legislation. You take a State that is part of it Republican and part Democratic and suppose you have in one vast congressional district 500,000 votes and you elect a Republican by a majority of 5,000 votes, or a Democrat. Who represents those others? When if we could divide it into two districts and give one a Democrat and one a Republican here both sides would be represented, the voice would be here, and democracy says that we should have representation in this House really representing our people.

Oh, you can say what you please, the real bug under the chip—the real thing that is influencing our position on this question, consciously or unconsciously—is that too many of us are going to be afraid that our people will tax us with being extravagant. They say this increase will cost $500,000. What is $500,000 to this Government of ours if that much is added to the budget for the very just representation needed? It is nothing. Five hundred thousand dollars will go into our annual budget of $5,000,000,000 ten thousand times. We save at the spigot and lose at the bunghole. We are petty savers to go before our people and tell them we save this little amount. Shut off the big things. Shut one battleship off and we save a lump sum of $40,000,000, and it will pay this $500,000 for 80 years. The original cost of one battleship will pay the cost of these added Members for 80 years, even if you do not have to pay anything to keep up the battleship; but it will cost $2,000,000 a year to maintain one of these ships, which is four times the cost of these added Members. Save something big. Save something that ought to be saved. Do not be parsimoniously economical where there ought to be statesmanship and wisdom and preservation. Let us preserve the principles upon which our fathers founded this Government, the principle of adequate representation here. Every man, woman, and child in it ought to have some representation upon the floor of this House. This House need not be afraid of losing its standing, because we have men here of ability, both among the Democrats and Republicans.

Mr. PADGETT. Does the gentleman think that he represents every man, woman, and child in his district?

Mr. HARDY of Texas. I might not represent some of them as they would have me represent them. I can not represent their views on great political issues if they voted against me on account of those views, and I certainly do not give voice to those views here on this floor.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. FAIRFIELD. Mr. Chairman, I yield four minutes to the gentleman from Ohio [Mr. COLE].

Mr. COLE of Ohio. Mr. Chairman, the only considerations that would induce me to vote for this bill are the pressure that is brought to bear by the Members from States that will lose a Member if the present membership be retained and that of political expediency. As to the first proposition I feel that my duty is to serve as best I can the entire country rather than an individual Member or State.

The Members that will be lost to Congress if this bill be defeated are, indeed, honest, capable men, who are representing their several constituencies in an able and worthy manner; but why will some States lose while some will gain in representation in this body? It must be because the population during the last decade has decreased in some States and increased in others. In other words, people have seen fit to move out of some States into others. Why should they not take their Congressman with them? If they have decided that they prefer the effulgent sunshine and balmy breezes of the Pacific coast to the torrid rays and hot winds of the Great Plains it occurs to me that the Congressman that represents them here should be from their new home. Why should a Member from Kansas or Indiana or Iowa or any of the States continue to represent citizens who have moved to other States? Of course, this is all based on the proposition that the membership of the House of Representatives ought not to be increased.

It has been argued here, and ably, that the House of Representatives has lost a good deal of the power and prestige it formerly enjoyed. There is no doubt but that the average mentality and ability of the present personnel is as strong as it ever has been, but the membership has grown to such proportions as to lessen the opportunities for individual effort that obtained in a smaller House. In former years the House was considered the stronger body of the two legislative branches, but now the Senate seems to hold that distinction. I am persuaded that it is due to the fact that the Senate is the smaller body. The Members of this House, coming direct from the people and therefore in closer touch with their needs and desires, should exercise a greater influence than any other branch of the Government, and I am constrained to think they would assume that position were it not for the unwieldiness occasioned by excessive membership.

One other consideration is the item of expense. Everybody knows and feels the great burden of taxation that is now being borne by our people on account of the tremendous cost of the Great War. They are crying for the burden to be lessened. The administration and the membership of both branches of Congress, bound by duty and pledge, have been strenuously making every effort to secure economy in governmental expenditures. Now, in the face of all this, are we going to add to that burden and disregard our promises to that people by increasing the membership of this House, thus entailing the additional expenditure of hundreds of thousands of dollars. The benefits to be derived through such an increase, if any, will not justify, in my opinion, any such action. The people are satisfied with the size of this House. What they are criticizing is the size of its accomplishments. If the Members now here will continue their activity, the exercise of their own judgments and consciences in matters of legislation, there never need be any fear about what is likely to happen in another branch of Congress, and the lost prestige would soon be regained and this House take its place, where it ought to be, the greatest legislative body in the world. Political expediency at a time like this ought not to enter into our considerations.

The whole world, and especially our own country, is in the greatest turmoil in all history. Every faculty, every power, every agency of everybody should now be brought into full requisition, not for petty political prestige but that all the people, without regard to political affiliations, might be lifted out of the "slough of despond" into the clear atmosphere of renewed prosperity.

The passage of this bill would increase the membership of the House by 25. Will anyone here say, except for political expediency, that such an increase is necessary? I have the honor to represent a district the main industry of which is agriculture, and I certainly would neither say nor do aught that would in any way have a tendency to interfere with that greatest of all industries; attempts have been made here to persuade us that if the membership be not increased the agriculture districts will not be properly represented. It is a well-known, though regrettable, fact that for a number of years the population in our farming sections has been decreasing, while the population of the cities has been rapidly increasing, so if the membership here were to be made larger the rural communities would gain nothing thereby, and the more thickly populated communities would have all the advantages that might accrue.

Finally, Mr. Chairman, considerations of efficiency, considerations of opportunity, considerations of economy all lead to the inevitable conclusion that the membership of this House, if anything, is too large now, and in justice to the will of the people and the mandates of reason it ought not, at least, to be increased.

Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. FAIRFIELD. Mr. Chairman, I yield three minutes to the gentleman from New York [Mr. FAIRCHILD].

Mr. FAIRCHILD. Mr. Chairman, I realize that on a question as important as this there is no opportunity for debate when the time is necessarily limited, with many desiring to speak, and when therefore only three minutes, or four minutes, or five or ten minutes can be allowed to each speaker. In a House of smaller membership there would be a fewer number requesting time, and therefore more opportunity for real debate by those who do speak.

I would not take any of the time of the committee except for my desire to state why, as briefly as possible, I feel compelled to vote against the increase of membership of the House, in a large degree against my personal feelings when listening to the persuasive talk of my friends who say they are going to lose representation.

I realize how persuasive those appeals are. I should like very much to respond favorably to the appeal from my genial friend from Kentucky [Mr. LANGLEY], and I should like very much to be able in my vote to follow the leadership of my colleague from New York [Mr. SIEGEL], the chairman of the committee. To do so, however, would do violence to very deep, long-standing convictions.

I was a Member of the Fifty-fourth Congress when the membership of this House was 357. I was not a Member as long ago as my colleague from New York [Mr. COCKRAN], when the membership was 325, less than the number he gave in his answer to my question.

But I recall that in the Fifty-fourth Congress, when the membership of the House was 357, it was even then apparent that the membership of the House was too large. It was even then realized that there would be greater efficiency if the membership of the House were smaller, and it was then stated that we would never increase again. The very arguments that were used here to-day by those who favor the present proposed increase were used then. The House has been increased to its present membership of 435, and now a further increase is proposed to 460.

I agree with the argument of my colleague from Ohio [Mr. BURTON] in opposition to a further increase in the membership of the House. [Applause.]

[At this point the gavel fell.]

Mr. FAIRCHILD. Mr. Chairman, my time is up. I have been granted leave to print, but I shall allow my fragmentary remarks to remain at the point where the gavel fell, with the exception of this brief statement calling attention to the real condition of debate in the House caused principally by much too large a membership. Other undelivered speeches will be printed in full in the RECORD presenting the appearance of a full debate that has never in fact occurred. I am not criticizing the custom of printing undelivered or unfinished speeches occasioned by the very large membership of the House. I am merely calling attention to the fact in a protest against another large increase, another step in the wrong direction, away from a deliberative body where opportunity is offered for real debate. Anyone who has witnessed the one, two, three, four, and five minute allowances of time upon every important measure coming before the House of Representatives in recent times will understand.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. FAIRCHILD. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from New York asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

The CHAIRMAN. The gentleman from Georgia [Mr. LARSEN] is recognized.

Mr. LARSEN of Georgia. There is only one more speech on this side.

Mr. BEEDY. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. HARDY of Texas. Mr. Chairman, I make the same request.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. HUDSPETH. Mr. Chairman, I make the same request.

The CHAIRMAN. Is there objection to the gentleman's request?

There was no objection.

Mr. LANGLEY. Mr. Chairman, I make the same request.

The CHAIRMAN. The gentleman from Kentucky makes the same request. Is there objection?

There was no objection.

Mr. JOHNSON of Washington. Mr. Chairman, I make the same request.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. SIEGEL. Mr. Chairman, how does the time stand for each of the three parties?

The CHAIRMAN. The gentleman from New York has 13 minutes, the gentleman from Indiana [Mr. FAIRFIELD] has 4 minutes, and the gentleman from Georgia [Mr. LARSEN] has 10 minutes.

Mr. SIEGEL. Mr. Chairman, I yield half a minute to the gentleman from California [Mr. OSBORNE].

The CHAIRMAN. The gentleman from California is recognized for half a minute.

Mr. OSBORNE. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from California asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. TINKHAM. Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent to extend and revise his remarks. Is there objection?

Mr. STEVENSON. I object.

The CHAIRMAN. The gentleman from South Carolina objects.

Mr. SIEGEL. Mr. Chairman, will the gentleman from Georgia use some of his time? There is only one speech at this end; that is all.

Mr. LARSEN of Georgia. Mr. Chairman, I yield 10 minutes to the gentleman from North Carolina [Mr. BRINSON].

The CHAIRMAN. The gentleman from North Carolina is recognized for 10 minutes.

Mr. BRINSON. Mr. Chairman, the debate has been truly interesting, instructive, and entertaining. In company with all present, I am sure I enjoyed the eloquence as it flowed from the lips of the distinguished gentleman from New York [Mr. COCKRAN], who is always eloquent. But I think if you will analyze the remarks of the gentleman you will find that that speech affords as much ground for amusement, when we consider the logic of it, as it does of entertainment and inspiration when we consider it as an eloquent production. The gentleman on this occasion as well as in the past discussed the growing weakness of the House, its lack of power and dignity compared with the other branch of the legislative body. He has told us on former occasions, as he told us to-day, how the House had become unwieldy, how initiative had been lost, how committees were taking all power into their hands, and as a remedy for this he proposed a further increase of the membership.

Now, my friends, the distinguished gentleman offered one sole argument in support of that proposition, and that was the fact that you could not make matters worse, and therefore he insisted that we should increase the membership. Naturally, the same argument could be used 10 years from now, and upon the same ground and on the same argument we should then increase the membership.

My genial friend from Louisiana [Mr. ASWELL] favored the increase because he said that by holding to the present membership the agricultural portions would lose in the apportionment, and his zeal for the agricultural portions of the country inspired him to make this vigorous protest against holding to the old membership. A study of the tables furnished to the Census Committee, printed here and lying upon your tables, shows that while certain agricultural States lose in the new apportionment, that loss accrues to other agricultural States, and the agricultural sections of our country do not lose in the apportionment as proposed by the minority of this Committee on the Census.

Now, my friends, this decennial discussion of the census, it seems to me, has proven to be about the most vexatious problem that Congress has to deal with. I have been looking over the discussions of the last 40 or 50 years that have been had in the House over this matter of reapportionment. I studied with particular care the speeches made 10 years ago, and I find, Mr. Chairman, that practically all the proponents of an increase of membership during these discussions have declared against further increases beyond the increase proposed in the bill then pending, and on one occasion, as referred to this morning by the distinguished gentleman from Ohio [Mr. BURTON], they accompanied the bill by a provision which provided that the number fixed then, 433, as I recall, 10 years ago, should be the permanent number at which the membership of the House should be held. Let me say that was a vain effort; that it would amount to nothing and could not bind succeeding Congresses. That is true, except for its moral effect. That measure passed the House, showing, my friends, that the House itself feared that the danger line had been reached—the danger line that meant inefficiency if the House should be increased—and therefore they proposed to fix in that statute law that there should be no further increase. Judge Crumpacker, the ranking minority member of the committee 10 years ago, while he advocated an increase at that time to 433, stated that he favored some permanent statute of that sort for its moral effect, that the House was then too unwieldy, and he disliked to see it increased, but that there was a majority in the House in favor of an increase, and he yielded to that majority.

My friends, one of the most distinguished men in this Nation, a gentleman whom we are all glad to have with us on this floor, ex-Speaker CANNON, used this language in that debate:

> Now, I believe that 433 is as large as this House ought ever to be.

We have had no wiser statesmen than the distinguished ex-Speaker, and I quote his exact language on that occasion.

We are all sorry, Mr. Chairman, to lose any of our friends from the floor. Naturally we deplore the loss of any of our colleagues and associates. But, Mr. Chairman and gentlemen, this ought not to be considered from a personal aspect at all. It is a broad national question, and we ought to deal with it from a national standpoint and not as a personal matter.

Again, it has been urged before in the debates and urged here to-day that other great legislative bodies of the world are much larger than the House of Representatives and that therefore we should increase our membership. The membership of the British Parliament is 670, according to the figures which I have here. But, my friends, the British Parliament legislates for a constituency of something like 300,000,000 people, and also legislates in local matters as well as in national matters. The British Parliament answers in a measure to our State legislatures, and therefore it is wise—and they are a wise people—that over there they should have general representation coming from the various communities of that great nation. And yet, as has been suggested, they have a small quorum of 40, and they tell me that it is frequent to find very few more than that quorum present transacting the business of the great British Empire. France has a Chamber of Deputies of 584, with a similar situation. Spain has 406.

Then, too, Mr. Chairman, they have in many of these countries what they call the bloc system, one man controlling a bloc of votes. They practically delegate to that man the voting power, and it is not necessary that they should be there, because they know that somebody holds a proxy to vote for them.

My friends, reference has been made to the expense. I can not understand how gentlemen favoring this increase of membership can justify their attitude here upon this question when we consider how clamorous they are to reduce the expenses of this Government. We have all sorts of measures instituted to cut down expenses. We have a Budget Commission to pare expenses where we can.

And yet, my friends, while we are making much ado about this matter of cutting down expenses, we Congressmen here, in a matter that concerns ourselves personally, increase our num-

ber and increase the expense approximately $500,000 a year. How can we justify that inconsistency?

Mr. Chairman, there are many other reasons I urge why we should make no further increase. But to me the most serious objection lies in the fact that we are continuing a policy which in the end will be disastrous to our country. The membership is now unwieldy. We know that. It has been repeated, and repetition gives emphasis, that we are unwieldy. The distinguished gentleman from New York [Mr. COCKRAN] did not overemphasize that matter. Everybody here knows we are now too large for efficient work. A new Member has to wait here for years before he has advantageous committee assignments, and until he can get those assignments his influence is practically nil in the great legislative body of this country. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. SIEGEL. I yield to the gentleman from Wyoming [Mr. MONDELL] the balance of my time.

The CHAIRMAN. The gentleman from Wyoming is recognized for 12½ minutes. [Applause.]

Mr. MONDELL. Mr. Chairman, may I ask the gentleman from New York [Mr. SIEGEL] if it is his purpose to continue the sitting until this bill is disposed of?

Mr. SIEGEL. It is my purpose to do so.

Mr. MONDELL. Mr. Chairman, the final decision on all legislative questions, the final decision on all great questions in this world of ours, is almost invariably a matter of compromise. Very few men are fortunate enough to be able to have their view and opinion without change or alteration written into statute law. There are wide differences of opinion on the question of the proper size of this, the greatest legislative body in the world. Some gentlemen would have the number 300, or even less, if they had their way, and as the matter is now presented to us, differences of opinion range all the way from a House of 435 to a House of 483. In the course of the debate some gentlemen have complimented me by referring to the opinions that I have expressed on the floor of the House in former times relative to the size of this body. I think I can properly say this in regard to my attitude on the question. I am not sure that some of the gentlemen who have referred to my former utterances could honestly say that whatever shall occur, whether the House shall be 435, 460, or 483, it will in no wise affect the interests of my State, and could not in any way affect my personal or political fortune. If any man stands free from all local, political, or personal pressure in this matter, I am the man. I am quite certain that the gentlemen who have criticized my position can hardly say as much.

I have changed my opinion as to the practical thing to do on this subject, and while some may criticize me for so doing, I have the consolation of knowing that the old saying, crystallizing the philosophy of the ages, prefers those who sometimes change their minds above those who do not. I am delighted that Maine has finally reached the pedestal of high, exalted, and wholly disinterested opinion in this matter, for I well recollect the time in the early days of my service here when Maine and her great influence forced an increase of over 30 Members in the House. I remember that when later the House was increased, as I recollect it, by over 40 Members, it was very largely the influence of the Pine Tree State that brought that increase. I did not criticize Maine then and I do not criticize Maine for that action now. But Maine's representatives only reached the acme of virtue after they voted for 483 in the committee and in the House. It becoming certain that the House would not stand for 483, and Maine not being able to hold her full membership, does not want any other State situated as she is to do so. [Applause.] It may be an entirely proper attitude to take, but from certain viewpoints it may be held to be a subject of some criticism.

There is no question of principle involved here. It is a question of opinion, and while it was my opinion in former times, and I am still somewhat inclined to the opinion, that a comparatively small House is preferable to a large one, it is merely a matter of opinion, and I have no rule by which I can determine whether that opinion is sound or no. This I do know, and I say it without fear of successful contradiction, that this House, larger to-day by 70 Members than when I first came here, is a more powerful influence in legislation and the affairs of the Government than it has been at any time in the last 25 years. [Applause.] That may not be due to the increase. Gentlemen may believe that it is in spite of the increase, but this Congress, this session of Congress, has and will impress its view, will, and opinion on the legislation of this Congress more than any House has in many years. [Applause.]

They say there were giants in other days, and giants there were; and yet this House, man for man, never was finer or stronger than it is to-day. Statesmen are men who have departed this life. I expect that in the days when the gentlemen now here have passed to the great beyond men will point to many of them as we point now to the men of the past as master minds and men who were statesmen in the truest sense.

Gentlemen, whatever your opinion may be as to the size which this body ought ultimately to have, from the foundation of the Government at each decennial period save one, this House has been increased, and after having given much study to the subject in the last few months I have arrived at the conclusion that the House will continue to increase as the population grows until and unless there shall be a constitutional prohibition against such increase.

And there are many arguments for it. Some gentlemen say there is not enough time as it is for oratory, and if the number is increased gentlemen will not have as considerable an opportunity to speak as they now have. I do not think the country will necessarily suffer from that. Gentlemen all know that in every legislative body in the world legislation is largely framed in committee, that the changes on the floor are few and generally not important. We all of us know that with the increase of the number and importance of questions which Congress may be called upon to consider, we are brought face to face more and more with the necessity of having a wide geographical distribution of the representation on the committees of the House.

That is one of the problems we have constantly to meet. It can not be met if you reduce the House or hold it at its present number. There is much in the argument that increased population brings increased business, sufficient to warrant increased membership, and this is certain, that if the committees of this House dealing with the great problems that come before them are to fairly represent the various sections and interests of the country, there must be large enough representation upon the committees to give every variety of opinion an opportunity to be heard in committee. That can not be done with a small House. That can best be done by a House even of larger size than we have now. Who is he that shall say to the Representatives of 12 States of the Union, threatened here by what I hope is a minority with a reduction of their representation, that the number 435 is sacred and shall stand always as the size of this House? [Applause.]

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

The Clerk will read the bill for amendment under the five-minute rule.

The Clerk read as follows:

Be it enacted, etc., That after the 3d day of March, 1923, the House of Representatives shall be composed of 460 Members, to be apportioned among the several States as follows:

Alabama	10	Nebraska	6
Arizona	1	Nevada	1
Arkansas	8	New Hampshire	2
California	15	New Jersey	14
Colorado	4	New Mexico	2
Connecticut	6	New York	45
Delaware	1	North Carolina	11
Florida	4	North Dakota	3
Georgia	13	Ohio	25
Idaho	2	Oklahoma	9
Illinois	28	Oregon	3
Indiana	13	Pennsylvania	38
Iowa	11	Rhode Island	3
Kansas	8	South Carolina	7
Kentucky	11	South Dakota	3
Louisiana	8	Tennessee	10
Maine	3	Texas	20
Maryland	6	Utah	2
Massachusetts	17	Vermont	2
Michigan	16	Virginia	10
Minnesota	10	Washington	6
Mississippi	8	West Virginia	6
Missouri	15	Wisconsin	11
Montana	2	Wyoming	1

Mr. BARBOUR. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amendment offered by Mr. BARBOUR: Strike out from and including line 3, on page 1, to and including line 18, on page 3, and insert in lieu thereof the following:

"That after the 3d day of March, 1923, the House of Representatives shall be composed of 435 Members, to be apportioned among the several States as follows:

Alabama	10	Illinois	27
Arizona	1	Indiana	12
Arkansas	7	Iowa	10
California	14	Kansas	7
Colorado	4	Kentucky	10
Connecticut	6	Louisiana	7
Delaware	1	Maine	3
Florida	4	Maryland	6
Georgia	12	Massachusetts	16
Idaho	2	Michigan	15

Minnesota	10	Oregon	3
Mississippi	7	Pennsylvania	36
Missouri	14	Rhode Island	2
Montana	2	South Carolina	7
Nebraska	5	South Dakota	3
Nevada	1	Tennessee	10
New Hampshire	2	Texas	19
New Jersey	13	Utah	2
New Mexico	1	Vermont	1
New York	43	Virginia	10
North Carolina	11	Washington	6
North Dakota	3	West Virginia	6
Ohio	24	Wisconsin	11
Oklahoma	8	Wyoming	1

Mr. BARBOUR. Mr. Chairman, I merely wish to state that if this amendment is adopted it maintains the membership of the House at its present number. It is the one question that has been discussed during the general debate, and I do not think it is necessary to take any further time. [Cries of "Vote!"]

Mr. COOPER of Wisconsin. Mr. Chairman and gentlemen of the House, I was very much interested—I may say entertained and amused and also surprised—by the speech of the gentleman from Wyoming, the distinguished Republican floor leader. I do not know that I ever heard statements here that more astonished me than did some of those in his speech. The speech was an impassioned plea for a larger House. He insisted upon the great necessity of having an increased membership. He even asserted that there are important things which ought to be done and which could be better done by a House with more Members than by one with the present number. He also, with great vehemence, demanded to know who had the right to say to certain States that they shall have fewer Members on this floor than they now have. Throughout all this speech the gentleman was very much in earnest.

Now, I was entertained and astonished because he absolutely, flatly, completely, from beginning to end, contradicted sentiments he uttered in a speech upon the reapportionment bill on January 18, 1921, on this floor. I desire gentlemen to listen to what he then said:

As the debate has gone on I have been surprised at the lack of real argument on behalf of the increase in the size of the House. Of appeal that has aroused our sympathy without convincing our judgment there has been much, but of logical argument but little.

And yet no different arguments have been advanced by any gentleman to-day, nor has the gentleman from Wyoming himself advanced a single argument that can not be found in the RECORD I hold in my hand of the debate last January. Mr. Chairman, the famous conversion of Saul was nothing compared to the amazing conversion of the gentleman from Wyoming.

Mr. HERRICK. Mr. Chairman, will the gentleman yield?

Mr. COOPER of Wisconsin. I yield to the gentleman from Oklahoma.

Mr. HERRICK. Did the gentleman who is now occupying the floor ever hear of that old adage, which I believe is very apt and very true, that wise men frequently change their minds, but fools never? [Laughter.]

Mr. HUSTED. Mr. Chairman, will the gentleman yield?

Mr. COOPER of Wisconsin. Yes.

Mr. HUSTED. In that connection, Mr. Chairman, I would call the gentleman's attention to the fact that the distinguished gentleman from Wyoming [Mr. MONDELL] in the course of his remarks this afternoon said that he changed his opinion, but was still of opinion that the smaller House was the better.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. COOPER of Wisconsin. Mr. Chairman, I ask unanimous consent for an additional five minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. ASWELL. Mr. Chairman, will the gentleman yield?

Mr. COOPER of Wisconsin. I must decline to yield at this time. I was amused by the joke of the gentleman from Oklahoma [Mr. HERRICK]. It is an ancient thing which we all have heard many times since last April on this floor.

The gentleman from Wyoming said in debate last January:

At the request of gentlemen who desire to increase the size of the House, gentlemen who are supporting the bill as reported, the Republican conference did not take up the question of the size of the House.

It seems that the gentlemen who last January wanted to increase the membership of the House were opposed to having a conference called to consider the bill. And now, in view of what is happening here to-day, I ask attention to what the gentleman said last January:

I then stated to gentlemen, as I have at various times, that personally I should feel that I could not support any bill proposing to increase the size of the House.

When I came here there were 365 Members in the House. After I had served here a short time there was a proposal to increase the size of the House. The sentiment then, as now, was against the increase; but, through political trading, the best judgment of the House was not carried out, and the House was increased in size.

It is our duty to continue the House of Representatives what it was intended to be, a body truly representative, a body small enough that each and every Member may hope and expect that on proper occasions he shall have full opportunity to present the views of his constituency. If we increase the size of the House, we shall diminish the stature of the Representatives. If we increase the size of the House greatly beyond its number, we shall reach a condition in which the individual will count for little, under which the committees will be all powerful, and under which a small, compact organization can absolutely control the destinies of the House. We should do nothing calculated to bring about that condition. [Applause.]

And yet to-day the gentleman seeks to do what he then condemned.

Much has been said during this debate about legislative bodies in England, France, and Italy. But listen to what the gentleman from Wyoming said last January about these foreign legislatures.

As distinguished from these foreign legislative bodies, the House of Representatives was, as I have said, intended to be a deliberative assembly, in which each Member should have important duties and important responsibilities in representing the views and wishes of his constituency.

And yet here to-day the gentleman is supporting a bill which vitally concerns the work of one of the Houses of the legislative department and he voted to give 435 Members only four hours in which to discuss it, or in other words, only a little more than half a minute to each Member to express the views of his constituents.

Then the gentleman continued:

We have already imperiled that ideal of the founders of the Republic; we can afford to imperil it no longer, much as we may desire to meet the wishes and serve the convenience of our colleagues. The interest of the Republic should be paramount, and that interest can be best served by retaining the House at its present membership. It would be well if the membership of the House could be somewhat decreased. As that is not practical, let us, at least, not increase it.

Remember those words of last January, and remember also that a few minutes ago the gentleman said that this bill presents no question of principle. Is there no question of principle presented by a bill which proposes to increase the membership of the House, and thus, as the gentleman declared last January, injuriously to affect the best interests of the Republic and further to imperil the ideals of its founders?

Earlier in the January speech the gentleman said:

We are not moved by appeals on behalf of States, for their relative strength in the House remains the same whatever the size of the House. The appeal on the ground of political expediency is not convincing.

And yet an appeal on the ground of political expediency was the only appeal in the speech he has just made.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. COOPER of Wisconsin. I ask leave, Mr. Chairman, to insert in the record as a part of my remarks all of the speech of the distinguished gentleman from Wyoming, made on January 18, last.

The CHAIRMAN. The gentleman from Wisconsin asks unanimous consent to extend his remarks in the record in the manner indicated. Is there objection?

Mr. LANGLEY. Reserving the right to object, that is already in the RECORD, and what is the use of putting it in again?

Mr. ARENTZ. Mr. Chairman, I object.

Mr. LANGLEY. I object, too.

Mr. COOPER of Wisconsin. I did not have time to read all of it.

Mr. LANGLEY. That is already in the RECORD.

Mr. BLACK rose.

The CHAIRMAN. The gentleman from Texas is recognized.

Mr. BLACK. Mr. Chairman, I think we all agree that the principal argument that has been made for the increased membership of the House from 435 to 460 is to save certain States from a loss in membership, and at this point it is well that we remember that it would not be the first time in the history of apportionment legislation that States have lost in membership. In 1810 the State of Virginia had 23 Members of the House of Representatives. It now has only 10. Suppose that Congress in the early years of apportionment legislation had adopted the policy of increasing the membership of the House every 10 years in order to save the State of Virginia from losing membership. If that had been the policy, the membership of the House would to-day be more than 1,000 Members.

Why, in 1841, when the membership of the House, after taking the decennial census in 1840, was again apportioned, the State of New York lost six Members and the State of Virginia lost six Members. I might enumerate some other States that lost a smaller number. So it is nothing new in apportionment legislation for some State to lose one or more Members.

Now, what other argument is made? Principally that which was just made by the gentleman from Iowa [Mr. TOWNER] and by the gentleman from Louisiana [Mr. ASWELL] and some others—that the loss will fall upon certain agricultural States. Well, I do not think it is exactly correct to refer to any of our States as agricultural States, because most of the States have diversified interests. But suppose we do. The State of Louisiana will lose one Member, Mississippi will lose one, Iowa will lose another, Kansas another, and Nebraska another. But in order to save those States from a loss in membership we increase the membership from the State of New York by two, and increase it from the State of Pennsylvania by two, and increase the membership from the State of Massachusetts by one, and the membership from the State of New Jersey by two. If we are to designate States by groups, these States which I have last named might well be designated as manufacturing States. And so, after all, it does not make any difference whether the membership is fixed at 435, as provided in the Barbour amendment, or 460, as provided in the committee bill, or even 483, as was provided in the Siegel bill at the last session.

The proportion, of course, still remains the same. We are following the constitutional mandate to fix the membership in accordance with the whole number of people in the several States, excluding Indians not taxed. And so I do not think there is any virtue in that argument, even if you do designate some States as agricultural States and others as manufacturing States.

But I say it is not exact to call a State a "manufacturing State" or "an agricultural State." The State of New York it is true leads in manufactures, with something like 39,000 or 40,000 establishments. But on the other hand it stands fifth in the value of its agricultural productions, being outranked only by Texas and Iowa and Illinois and California. Then there is the great State of Illinois, which contains the next largest center of population in the country. It is the third in manufacturing, being outranked only by Pennsylvania and New York; and yet in agricultural productions it also ranks third, being outranked only by Texas and the State of Iowa. So after all it is not a question whether agriculture predominates in a certain State or whether manufacturing predominates. These things have nothing to do with it at all. The whole question of the size of representation depends upon the relative size in population, and to change that rule we would have to change the Federal Constitution.

So I submit that the arguments made by gentlemen along that line is without merit and should influence no one to vote for an increase in membership. [Applause.]

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. VAILE rose.

The CHAIRMAN. The gentleman from Colorado is recognized.

Mr. SIEGEL. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Colorado yield to the gentleman from New York?

Mr. VAILE. Yes.

Mr. SIEGEL. Mr. Chairman, I ask unanimous consent that the debate on this section and all amendments thereto close in five minutes.

The CHAIRMAN. The gentleman from New York asks unanimous consent that the debate on this section and all amendments thereto be closed in five minutes. Is there objection?

Mr. TINKHAM. I object.

Mr. SIEGEL. Mr. Chairman, will the gentleman again yield?

The CHAIRMAN. Does the gentleman from Colorado yield?

Mr. VAILE. I will yield to the gentleman from New York to make a motion.

Mr. SIEGEL. Mr. Chairman, I move that the debate on this section and all amendments thereto close in five minutes.

Mr. TINKHAM. I object.

The CHAIRMAN. The gentleman from New York moves that the debate on this section and all amendments thereto close in five minutes. The question is on agreeing to that motion.

The motion was agreed to.

Mr. VAILE. Mr. Chairman and gentlemen, I would not take even these few minutes of your time at this late hour if I did not think that I could refer to one point which alone should defeat this amendment, which would amply justify the passage of this bill, and which has not been developed in all the debate to-day, though the material for it is provided in the report. That point is that the proportions are not the same at all, but are in fact entirely different, with a membership of 435 in the next Congress, from what they are in the present Congress because of the increased proportion of the total representation which would be given in such next Congress to districts of largely foreign make-up and the decreased proportion which will accrue to districts of more distinctly American population.

Our fathers provided in the original Constitution, and also in the fourteenth amendment, for representation on the basis of population and not on the basis of citizenship. Doubtless they thought it was fair and liberal—certainly it was the latter—to give to all the people who might live in a State, whether they had the right to vote or not, some sort of representation in Congress, Representatives to whom, though aliens, they might present their petitions and grievances. Representatives who would listen to their voice, not because they were voters but because they were neighbors.

But at the time of the making of our original Constitution and at the time of the framing of the fourteenth amendment the concentration of great numbers of unnaturalized aliens in particular localities had not become sufficiently noticeable to be recognized as a danger or an evil. If the framers of our Constitution could have foreseen that many States would have a materially larger representation in Congress because that representation was based on many hundreds of thousands of people who had not acquired the right to vote; if they could have anticipated that some congressional districts would be overwhelmingly alien in thought and habits, it is probable that they would have based representation on number of citizens instead of number of people, or that they would at least have placed important limitations on the right of aliens to be represented in the Congress of the United States.

You will find in the report of the committee which is in charge of this bill a lot of material for thought on this subject, and the conclusion will be unavoidable that those of you who vote for a membership of 435 in the next House, by voting for the pending amendment, will be voting for an increase in the proportional weight of these alien elements.

There are 8 States which will lose Representatives if the next House consists of 435 Members, but which will not lose if the next House consists of 460 Members. These States are Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Nebraska, and Rhode Island. There are 38 States which will lose no representation in a House of 435 Members. The advantages of a smaller House appear so much more clearly to the Representatives of the 38 States than they do to the Representatives of the 8 States that I know it will be a hard task, indeed, to convince them. If I am to undertake that task it must be by an appeal not to cut down the proportionate representation of communities which are almost entirely American.

Those 8 States have a population of 15,010,194, of which 893,781 are foreign born. Those 38 States have a population of 86,088,941, of which 12,781,658 are foreign born. In other words, the 8 States named which would lose representation by a membership of 435 in the next House have a foreign-born population of 5.9 per cent, while the 38 States which would lose no seats on this basis have a foreign-born population of 14.8 per cent, or about two and a half times as many foreign born in proportion to their total population.

I do not wish to be understood as making or implying the slightest criticism of the Americanism of the great majority of our foreign-born citizens, and I see gentlemen rising to their feet to suggest that many of these foreign born have become good citizens of the United States. Granted most cheerfully, but the proportion of those who have become citizens is no greater in those States which have the larger total number of foreign born than in those States which have the smaller number.

In fact, I believe the statistics, when they are all available with the completion of the current census, will show that the proportion is less, because, in the first place, these eight States have attracted a larger percentage of agricultural immigrants, who have anchored themselves to the soil, reared their families, and become identified with the communities in which they live, while in the large cities of the East the immigrants have been largely laborers, without the same personal interest in the country and in the soil of the country which would make them desire naturalization. In the second place, the very presence of larger numbers of their own kind tends to separate the immigrant to a greater degree from the people who are already here, to make him less dependent upon them, and to increase his association with and dependence upon the people of his own foreign speech and habit.

However, it is needless to speculate upon the subject now, because we have a guide in the report in its tables of citizenship of aliens in different States. The tables do not perhaps furnish a perfect comparison, because the total number of unnaturalized aliens is not given, but only the number of unnaturalized male white aliens over the age of 21 years. This number will, how-

ever, be a reasonably accurate, even if not a perfect, basis of comparison.

These tables divide the country into divisions or groups of States. The group which gains most proportionately in a House of 435 members is the Pacific Division, comprising the States of Washington, Oregon, and California. It gains four seats in the next House of the same membership as the present. Next comes the East North Central Division, comprising the States of Ohio, Indiana, Illinois, Michigan, and Wisconsin, which gains three seats. The group which loses most is West North Central, comprising the States of Minnesota, Iowa, Missouri, North Dakota, South Dakota, Nebraska, and Kansas, which loses a total of five seats; and the East South Central Division, which comprises Kentucky, Tennessee, Alabama, and Mississippi, and loses two.

Please note the following interesting deductions based upon the figures of citizenship given in these tables. The Pacific division, which will gain the most seats in the new House, has, in proportion to its population, four times as many unnaturalized white aliens over the age of 21 as has the west north central division, which loses the most seats. It has thirty times as many such inhabitants, in proportion to its population, as the east south central division. The east north central division has more than one and a half times as many as the west north central and more than ten times as many as the east south central.

The State of New York, with its teeming urban millions, loses no seats in the next House under this proposition to leave the total number unchanged. New York City's foreign-born population exceeds its population born here of native parents by two to one. Kansas, with a deep-rooted American population, loses one seat.

What is the reason for the enormous difference in the votes of congressional districts in Kansas and some of those in New York City? The total vote in the last congressional campaign in the district of Hon. DANIEL J. RIORDAN (eleventh New York) was 37,690, in the district of Hon. MEYER LONDON (twelfth New York) was 18,866, and in the district of Hon. C. D. SULLIVAN (thirteenth New York) was only 13,904. These are, I believe, among the most populous, as they are the most compact, districts in the country. The highest vote in any of them is only about half the total vote in any Kansas district. The total vote of the district which furnishes us with our only Socialist Member was 4,600 short of the majority of Mr. TINCHER, of Kansas, and 8,000 short of the vote of his nearest opponent. As against Mr. SULLIVAN'S district of less than 14,000 votes, Mr. LITTLE, of Kansas, polled a majority of nearly twice that many in a total vote which was only 2 less than 82,000.

The difference is not in the population of these districts. They are of approximately equal population. The difference is in the number of Americans there. Mr. RIORDAN, Mr. LONDON, and Mr. SULLIVAN are good men and good Americans, but it is merely our good fortune that they are. They represent districts in which a majority—in two cases a very great majority—of the people are unnaturalized aliens.

By voting against this bill or for this amendment you vote to increase the representation from that kind of districts.

And remember, please, that these alien elements will control the election of their Congressmen even if they do not vote. They will control it through the corner grocer, the tradesman, the members of their families who are voters, through the entire sentiment of the community.

Of course, the remedy is to amend the Constitution, but our inability to do that at this time is no reason for increasing the disadvantage which we must ultimately cure by such an amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. BARBOUR].

The question being taken, on a division (demanded by Mr. STAFFORD and Mr. BLANTON) there were—ayes 126, noes 126.

Mr. BLANTON and Mr. BARBOUR demanded tellers.

Tellers were ordered, and the Chairman appointed Mr. BARBOUR and Mr. SIEGEL.

The committee again divided; and the tellers reported—ayes 123, noes 140.

Accordingly the amendment was rejected.

Mr. TINKHAM. Mr. Chairman, I desire to offer an amendment without debate.

The CHAIRMAN. The gentleman from Massachusetts offers an amendment without debate. The Clerk will report the amendment.

The Clerk read as follows:

Mr. TINKHAM offers the following amendment: Strike out section 1 and insert in lieu thereof the following:

"That after the 3d day of March the House of Representatives shall be composed of 425 Members, to be apportioned among the several States as follows:

Alabama	6	Nebraska	6
Arizona	1	Nevada	1
Arkansas	6	New Hampshire	2
California	14	New Jersey	14
Colorado	4	New Mexico	2
Connecticut	6	New York	45
Delaware	1	North Carolina	8
Florida	3	North Dakota	3
Georgia	8	Ohio	25
Idaho	2	Oklahoma	9
Illinois	28	Oregon	3
Indiana	13	Pennsylvania	38
Iowa	11	Rhode Island	3
Kansas	8	South Carolina	4
Kentucky	11	South Dakota	3
Louisiana	5	Tennessee	8
Maine	3	Texas	17
Maryland	6	Utah	2
Massachusetts	16	Vermont	2
Michigan	16	Virginia	7
Minnesota	10	Washington	6
Mississippi	4	West Virginia	6
Missouri	15	Wisconsin	11
Montana	2	Wyoming	1

The CHAIRMAN. The question is upon the amendment of the gentleman from Massachusetts.

Mr. TINKHAM. With unanimous consent, I desire to address the House for five minutes.

Mr. STEVENSON. I object.

Mr. HERRICK. The gentleman submitted his amendment without debate, therefore I object.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent to address the House for five minutes. Is there objection?

Mr. SIEGEL. I object, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. TINKHAM].

The question being taken, the amendment was rejected.

The Clerk read as follows:

SEC. 3. That in case of an increase in the number of Representatives in any State under this apportionment such additional Representative or Representatives shall be elected by the State at large and the other Representatives by the district now prescribed by law until such State shall be redistricted in the manner prescribed by the law thereof and in accordance with the rules enumerated in section 2 of this act; and if there be no change in the number of Representatives from a State, the Representatives thereof shall be elected from the districts now prescribed by law until such State shall be redistricted as herein prescribed; and if there be a decrease in the number of Representatives from a State and the legislature thereof in session after the passage of this act and before the ensuing election at which Members of Congress are elected fails to redistrict such State, or if the legislature of such State be not in session before the next biennial election, then and in either event the governor, secretary of state, and attorney general of such State are hereby empowered to redistrict such State according to the terms and provisions of section 2 herein.

Mr. COCKRAN. Mr. Chairman, I voted on the last amendment, quite forgetting that I am paired with the gentleman from Ohio [Mr. LONGWORTH]. I ask leave to withdraw that vote.

The CHAIRMAN. The Chair thinks not on a teller vote.

Mr. FIELDS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Kentucky.

The Clerk read as follows:

Amendment offered by Mr. FIELDS: Page 4, line 19, after the word "the," strike out the remainder of the section and insert in lieu thereof the following: "Representatives from such State shall be elected by the State at large."

Mr. FIELDS. Mr. Chairman, the first part of the section provides that where there is an increase in the membership of any State and the legislature does not provide for the election of such Members before the next congressional election, the increased number shall be elected by the State at large. My amendment proposes to strike out the language which vests in the governor, the secretary of state, and the attorney general the authority to redistrict and provides for the election of the Members by the State at large where there is an increase in the membership. The provision that undertakes to confer on the governor, the secretary of state, and attorney general of a State power to redistrict their State is in my opinion unconstitutional in that it undertakes to confer upon them powers not conferred upon them by the constitution of their respective States. Second, there is no reason why the membership of this House should desire to delegate to the governors of the several States, the attorneys general, and the secretaries of state the right to lay out congressional districts in the absence of legislative enactment.

Mr. SIEGEL. That only applies when there is an increase, and under the action of the House will only apply to two States.

Mr. FIELDS. Why not provide for the election of the Members in States that lose membership in the same way that you provide here for States that gain membership?

Mr. SIEGEL. We give the power to the State legislature to determine the question first.

Mr. FIELDS. I say it is too much power to place in the hands of the governor.

Mr. SIEGEL. It is not in the governor alone.

Mr. FIELDS. It may fairly be assumed that the governor and the secretary of state and the attorney general will act in harmony, and the governor will be the chairman, so to speak. As I said, it is too much power to place in the hands of the governor of any State. If the legislature shall not meet before another congressional election, let the people of the State, the electorate of the State, elect their Representatives at large so that the people may vote for them without having to go to the governor, a one-man power, and have him determine the district lines within the State. I can see grave possibilities of fraud and danger in this provision. I am not charging that I know a single governor in any State that will play politics, but suppose there should be, what powers are you giving to him? Why, if he desires to put through a bill in accordance with his own special liking, a bill that might not pass on its merits, he could select a number of State senators and representatives and say to them, "Support this measure and I will make it possible for you to be a Member of the United States Congress by making a district in which you can be elected."

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. NEWTON of Missouri. Mr. Chairman, the gentleman from Kentucky [Mr. FIELDS] has attacked that provision of this bill which provides that in case any State shall lose representation the governor, secretary of state, and attorney general shall have power to lay off such State into congressional districts in the event the legislature of such State fails so to do. It is provided in this bill (sec. 3) that in case of an increase in the number of Representatives from any State under this apportionment, such additional Representative or Representatives shall be elected by the State at large and the other Representatives from the districts now prescribed by law until such State shall be redistricted in the manner described by the laws thereof and in accordance with the rules enumerated in section 2 of this act; and if there be no change in the number of Representatives from a State the Representatives thereof shall be elected from the districts now prescribed by law until such State shall be redistricted according to law.

The provision which the gentleman from Kentucky moves to strike out reads as follows:

> And if there be a decrease in the number of Representatives from a State, and the legislature thereof in session after the passage of this act and before the ensuing election at which Members of Congress are elected fails to redistrict such State, or if the legislature of such State be not in session before the next biennial election, then and in either event the governor, secretary of state, and attorney general of such State are hereby empowered to redistrict such State according to the provisions of section 2 herein.

The gentleman from Kentucky purposes to strike out the foregoing language providing for the redistricting of a State whose representation is reduced and its legislature fails to act, and to insert in lieu thereof the following:

> Representatives from such State shall be elected by the State at large.

The gentleman from Kentucky insists that Congress has no authority to authorize the governor, the secretary of State, and the attorney general of a State to redistrict such State even if the legislature thereof shall fail or refuse to perform that function. He asserts that if Congress should undertake to do so it would violate the provisions of the Federal Constitution. But let us see whether or not his position is tenable. Article I, section 4, of the Constitution of the United States is the only provision of that document which deals with this subject, and constitutes the authority from which the legislatures of the various States are empowered to act. That section of the Constitution reads as follows:

> The times, places, and manner of holding election for Senators and Representatives shall be prescribed in each State by the legislature thereof, but the Congress may at any time by law make or alter such regulations.

Can there be any question from the foregoing language but what the framers of the Constitution intended to vest in Congress not only the power to alter any regulation which the legislature of any State might make pertaining to the time, the place, or the manner of electing Members of Congress, but that they intended to empower Congress with full authority to make its own regulations governing this subject?

If you will paraphrase the foregoing language of Article I, section 4, of the Constitution, in order to ascertain the power which Congress actually possesses in dealing with this subject, you will find that it will read as follows:

> The Congress may at any time by law make or alter any regulation which the legislature of any State may prescribe pertaining to the time, the place, or manner of holding elections for Representatives in Congress.

Can it be contended that the election of Congressmen from a State at large is the same manner of election as electing them from congressional districts? Certainly such a contention would not stand, and if not, then clearly Congress has full power to deal with this subject. It has the power not only to designate officials of a State government to perform this function but it has the power to select its own instrumentality, or to select a committee of its own Members to perform this duty. Furthermore, it is a principle long recognized in law that in construing the meaning of a provision contained in an instrument it should be construed in the light of the instrument as a whole. Section 5, Article I, of the Federal Constitution provides:

> Each House shall be the judge of the elections, returns, and qualifications of its own Members.

Hence the framers of the Constitution conferred upon Congress the power to be the sole and exclusive judges of the election and qualifications of its Members. It has the power to seat or unseat any person claiming to be entitled to a seat in this body, and from the decision of this House there is no appeal. This shows conclusively, aside from the language set forth in section 4, Article I, of the Constitution, that the framers of that document intended to give Congress the full power to safeguard the integrity and representative character of the membership of this body.

When the two sections above referred to by the Federal Constitution are construed together, can there be any question but what the framers of the Constitution intended to vest in Congress full power to safeguard the election of its Members and to enact any law which, in their judgment, may become necessary to insure a popular government, fairly representative in form?

I think I may be pardoned in saying that I submitted this amendment to the splendid Senator who passed away on yesterday and called his attention to Article I, section 4, of our Constitution, which I have quoted. He read and reread that section, and then examined carefully the proposed amendment, and after thoughtful consideration he declared that there could be no doubt about the right of Congress to enact such a provision into law, and that Congress had the power not only to alter any regulation made by a State pertaining to the election of Members of Congress but that it was clothed with full power to make its own regulations dealing with that subject.

Mr. LANGLEY. Mr. Chairman, will the gentleman yield?

Mr. NEWTON of Missouri. Yes.

Mr. LANGLEY. I simply desire to say that I was present at that conference and that, furthermore, the distinguished gentleman from Ohio, the former Senator [Mr. BURTON], appeared before our committee and stated that he had no doubt as to the constitutionality of this provision. His statement may be found in the committee hearings.

Mr. NEWTON of Missouri. Under the provisions of this bill in its present form, fixing the membership of this House at 460, no State will lose in representation except Missouri and Maine, each of which will lose one Member. Suppose, however, that the Senate during its consideration of the bill should see fit to reduce the membership of this House to 435. In that event Kentucky, which now has 11 Members in this House, would have but 10. Kentucky has normally been a Democratic State. President Harding lost that State at the last election by approximately 5,000 votes, and yet Kentucky has three Republican Members of this House representing districts strongly Republican in their faith.

The Legislature of Kentucky is now made up of a Republican house and a Democratic senate. I am advised that a conference has been held among the Democratic senators of Kentucky and that it has been decided that if Kentucky should lose one Member in this House and a provision authorizing the governor, secretary of state, and attorney general to redistrict that State is not included in this bill, then they will prevent any reapportionment bill being enacted. This would insure to the Democrats a solid delegation from Kentucky and would make it impossible for the three strongly Republican districts of that State to have a Representative of their own faith in this House. I suspect that it was a situation such as this which the framers of the Constitution intended to make impossible when they inserted in the fundamental law of the land a provision that Congress should at all times be the exclusive judges of the election of its own Members, and that it could at any time alter any regulation which the legislature of any State might make pertaining to the election of Members of Congress, or that, in the event it deemed it necessary, it could make its own regulations in order to guarantee to the people of any State fair and impartial representation in this House. In view of the situation which I have just described as existing in Kentucky, it seems a

remarkable coincident that it should so happen that it should be the gentlemen from Kentucky who should offer this amendment.

It has been contended that to authorize the governor, secretary of state, and attorney general to lay our congressional districts is to interfere with the right of the States. Who is there more representative of the people of the State than the governor, secretary of state, and attorney general, each of whom are nominated and elected, separately, by the same people who elect the legislatures of the various States? The fundamental principle which underlies this bill is the election of Members of Congress from congressional districts, and is it not a far greater Federal interference for this Congress to say that in the event a legislature should fail to act the Representatives of a State must be elected at large than it is to merely authorize three dependable State officials, who are instruments, purely and solely, of the State, to lay off congressional districts for such State?

Furthermore, is there any reason to assume that the governor, secretary of state, and attorney general, with a responsibility fixed upon them would be more tempted by any personal interest in the performance of this work than the Senators and Representatives of such State. There are gerrymanders in this country which legislatures with responsibility divided among a great number of men have perpetrated which I do not believe that any governor, secretary of state, or attorney general, with the responsibility fixed solely upon them—a responsiblity which they could not escape—would ever have been undertaken.

This provision ought to remain in the bill, because it will insure fair districts and will guarantee representation to the interests of the various sections of the State instead of permitting the strongest and best organized interests of the State to monopolize the entire representation of that State. Furthermore, it will cause no surprise and create no thrill among the people of Missouri who are mostly affected by this provision. This provision is modeled after a provision of the Missouri constitution, which reads as follows:

> Senators shall be chosen according to the rule of apportionment established in this constitution until the next decennial census by the United States shall have been taken and the result thereof as to this State ascertained, when the apportionment shall be revised and adjusted on the basis of that census, and every 10 years thereafter upon the basis of the United States census; * * * such apportionment to be made at the first session of the general assembly after each such census: *Provided*, That if at any time, or from any cause, the general assembly shall fail or refuse to district the State for senators as required in this section, it shall be the duty of the governor, secretary of state, and attorney general, within 30 days after the adjournment of the general assembly on which such duty devolved, to perform said duty and to file in the office of the secretary of state a full statement of the districts formed by them, including the names of the counties embraced in each district and the numbers thereof, said statement to be signed by them and attested by the great seal of the State, and upon the proclamation of the governor the same shall be as binding and effectual as if done by the general assembly. (Art. 4, sec. 7, constitution of Missouri.)

The Missouri Legislature at its last session, it being the first session after the census of last year, imposing implicit faith in the high character and impartiality of the governor, secretary of state, and attorney general of our State, refused to redistrict that State for State senators, whereupon the governor, secretary of state, and attorney general, under the provision of our constitution which I have just quoted, laid out our State into senatorial districts. Their work was so impartial and the districts so fair that no criticism has been heard from even the most partisan press of that State. All that we are asking of you is that you empower our State officials, in the event that the legislature should fail to meet, or meeting, should fail to act, to do for our congressional districts what they have done for our senatorial districts.

It has been contended that this provision would give too much power to the governor and the other State officials designated. What advantage could this provision enable them to appropriate to themselves? They have each been recently elected for a term of four years. They are not candidates for Congress. They have no interest except to be fair, and with the responsibility definitely fixed upon them, and with no opportunity to shift such responsibility, they could not afford to do otherwise than to lay out districts that are fair and just in accordance with the terms and provisions of this bill. In every reapportionment bill which Congress has enacted in the last 80 years congressional districts have been provided for, and this bill provides for congressional districts for all States whose representation will be increased and the legislatures of such States fail to act. It likewise provides districts for all States whose representation shall remain the same. Then, why should less fortunate States like Missouri and Maine be penalized? If the representation of Missouri is to be reduced, then surely the right of each community in that State to have its interests protected by a Representative of its choice will not be disregarded.

Mr. GARRETT of Tennessee. Mr. Chairman, I shall certainly not vote for any bill, no matter what number it may carry, which carries the language that is in section 3 of this bill now under consideration. In the last Congress when this question was up the gentleman from California offered an amendment providing for a redistricting according to the plan contained in this bill. It was challenged. After discussion here, participated in by the gentleman from Wyoming [Mr. MONDELL], among others, the Committee of the Whole by a vote of two to one defeated this monstrous, unreasonable, centralizing proposition. I hesitate to put my opinion against the distinguished authority which the gentleman from Missouri [Mr. NEWTON] has quoted, but in my opinion that provision in this bill is not worth the paper it is written on. If it is, it is a power that ought not to be exercised by this body. Never before, so far as I am aware, in the history of this country, even during the most trying days of the war of secession, when States were arrayed against States and brothers against brothers, was there ever a proposition to undertake to take from the States the right that this undertakes to take from them. With three-fourths of the governors of the States of this country belonging to a single political party, with three-fourths of the legislatures, if I am correctly informed, belonging to a single party, it is now proposed to make this great change, for the accommodation of certain politicians of Missouri, according to the statement made by the gentleman, to make this encroachment upon the rights which the States have always enjoyed under the Constitution of this country and in accordance with it.

You gentlemen in the madness of your power surely do not propose to go beyond anything that was ever done in the days of fratricidal passion. Surely we may appeal that this great centralizing step shall not be taken. Why, the gentleman from Missouri quotes a provision of law of his State which authorizes the governor and others to do redistricting. Quite satisfactory, but that is the law of his State. The law of my State is different. It would not suffer under this bill at this time; but what does the future hold for all the States of this Union? The constitution of my State provides how the congressional districts of my State shall be established. That is the law of my State. My State has the right under the Federal Constitution—and it is its duty under its own constitution to fix these districts—to determine if they shall be elected by districts or over the State at large. The proposition contained in this bill is an enroachment for which surely even that side of the House will not stand. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. McSWAIN. Mr. Chairman and gentlemen of the committee, as a member of the Committee on the Census I filed a minority opinion, signed by myself alone, that you will observe printed with this report, in which I have attacked that very question that is raised by the amendment proposed by the gentleman from Kentucky. Gentlemen, in the first place the Constitution does not contemplate conferring on Congress the power to subdivide the States at all. That clause of the Constitution that is invoked here merely provides this: That the State shall prescribe the times, places, and manner of holding election for Senators and Members of the House of Representatives, but that Congress may by law make or alter such regulations.

Now, "the times, places, and manner of holding elections" has nothing to do with the subdivision of the States into districts that are to be represented at the election. In the next place, to say that the governor and the secretary of state and the attorney general shall have the power to subdivide a State is to confer upon certain individuals a power that is legislative in its nature, because the Constitution says that if the State fails to act in effect that the Congress may act by law. Now, is there any lawyer living or dead who says you can confer upon a commission the power to enact a law? The Congress may by law prescribe the times, places, and manner of holding elections, and to say a man, two men, or three men may prescribe the times, places, and manner of holding elections is not enacting law.

In the next place, and third place, I appeal to every man who recognizes the binding force of those constitutional principles laid down by John Marshall in the case of McCullough against Maryland, when it was clearly acknowledged and defined forever that the functions of the Federal Government are separate and distinct from the functions of the State governments, and this Congress can not say to the governor of a State, "You shall do this." It can not put one bit of power upon him or lay upon his conscience one bit of obligation. If so, he would cease to be the governor of the State.

Mr. STEVENSON. Will the gentleman yield?

Mr. McSWAIN. I will.

Mr. STEVENSON. Could this Congress redistrict a State?

Mr. McSWAIN. I do not think so.

Mr. STEVENSON. Then, could it confer it upon any other agency?

Mr. McSWAIN. Of course not. But even if it has the power—concede it for the sake of argument—if it has the power to do so by law but not by the appointment of a committee to do it, because the fundamental proposition of constitutional law is that legislative power can not be delegated, you can not confer this power upon one man, whether he be governor or not. If you say the governor could do it, then you could say any citizen could do it. You could say in this bill that John Brown could do it. You can not do it, gentlemen. We stood up here and took an oath to obey and defend the Constitution. A man can not pass that obligation on to somebody else. He must pass upon such questions on his own conscience here. If he says it is unconstitutional, he must knock this provision out. It seems to me as clear as that two and two make four.

Mr. BURTON. Mr. Chairman, I am unalterably opposed to the increase in the size of the House from 435 to 460, but I favor this proposition. I am unable to become so excited about it as several speakers have become.

The provision of the Constitution is a clear one. It says:

The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof.

Bear in mind that the only right that the State has to district, the only right the State has to make regulations, is derived from that section. Except for this section, the right does not exist in a State.

Then it goes on and in perfectly plain language——

Mr. GARRETT of Tennessee. Will the gentleman yield?

Mr. BURTON. Let me complete my argument first.

It says:

But the Congress may at any time by law make—

That is, frame the law originally—

or alter such regulations, except as to the places of choosing Senators.

I repeat—and you can not repeat it too often—the right is conferred in this article alike on the States and on the Congress.

Some years ago I framed a bill providing for an entirely different method of dividing States into districts. Under that bill the division was not to be made by the legislature but by a nonpartisan board of four members, two from each of the leading parties, to be chosen by the governor. If those boards did not agree, there was to be an appeal to a national board of five members. That bill was subjected to scrutiny and examination by some of the ablest lawyers in the country and it was pronounced entirely valid. It will be noted that that proposed statute went much further than this.

Now, let us notice some things that Congress has done. Until the year 1842 there was no provision for dividing the States into districts, although some of the States did make the division.

It might have been argued at that time that Congress had no right to say that the States shall be divided into districts and the Members elected from separate constituencies, but Congress did pass a law to that effect. It has passed laws to the effect that the districts shall be composed of territory contiguous, also that the population shall be approximately equal, as I recall. This provision here goes no further than those which I have mentioned. Since the year 1842 every presumption has been against the election of Members at large from any State. The question of hardship is a very serious one if the legislature should fail to elect. I understand that if the Legislature of Missouri should meet, it is probable the members would become involved in a wrangle and reach no action. It would be in contravention of the whole spirit of our legislation by the Congress and by the States to compel the election of 15 Members at large. I suggest that the policy of the Congress and the policy of the States has been altogether against that.

Mr. RUCKER. Mr. Chairman, will the gentleman yield?

Mr. BURTON. Certainly.

Mr. RUCKER. From what source has the gentleman derived the information that the harmonious gentlemen of Missouri would be unable to agree?

Mr. BURTON. That is my information.

Mr. RUCKER. The legislature is largely of one political party in both branches.

Mr. BURTON. Is not one branch under one political party and the other branch under another?

Mr. RUCKER. Oh, no. It is all largely of one. I am glad to give the gentleman that information.

Mr. BURTON. I should be in favor of the convening of the legislature. But this statute is distinct on that. "If the legislature is not in session," as I recall, "or, being in session, fails to act." That is the provision, is it not?

Mr. RUCKER. No. This bill says if it does not meet before that time.

Mr. BURTON. In some of the States it may be difficult to call the legislature in special session after this bill passes. There would be no legislation in that case.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. SIEGEL. Mr. Chairman, I yield to the gentleman five minutes more.

The CHAIRMAN. The gentleman from Ohio is recognized for five minutes more.

Mr. BURTON. I shall hardly need that much, Mr. Chairman. I do not want to detain the House unduly. This is the provision:

If there be a decrease in the number of Representatives from a State and the legislature thereof in session after the passage of this act and before the ensuing election at which Members of Congress are elected fails to redistrict such State, or if the legislature of such State be not in session before the next biennial election, then and in either event the governor, the secretary of state, and attorney general of such State are hereby empowered to redistrict such State according to the terms and provisions of section 2 herein.

Mr. BARKLEY. Mr. Chairman, will the gentleman yield there?

Mr. BURTON. Yes.

Mr. BARKLEY. What is the gentleman's view as to whether that language would preclude the governor of the State from calling the legislature together?

Mr. BURTON. It would not by any means preclude him. My conjecture is that in some States a special session would not be called if the legislature of such State be not in session. And I recall that in several States there is barely a constitutional right to call a session of the legislature except biennially. Most of them met last winter, and the reluctance of governors and executive officers to call extra sessions of the legislature is very well known to the gentleman.

Mr. BARKLEY. That language apparently means, or might be construed to mean, that the session of the legislature referred to must be the regular session of the legislature which ensues before the next election.

Mr. BURTON. I think it would leave it discretionary with the governor whether he would call a session of the legislature or not.

Mr. RUCKER. Mr. Chairman, will the gentleman yield again?

Mr. BURTON. Yes.

Mr. RUCKER. The Legislature of the State of Missouri last winter, or a year ago, submitted a constitutional amendment providing for selling bonds to pay bonus to the soldiers of the World War, which carried largely, and I understand the governor has announced his purpose to convene the Legislature of Missouri in the near future for the purpose of enacting a law for the distribution of those collections.

Mr. BURTON. I do not know what the provisions in the constitution are in going outside of the subjects enumerated by the governor in calling the special session, but he would naturally include in his call the redistricting of the State.

Mr. RUCKER. I think he would mention it in his call.

Mr. BURTON. This provision means that if they meet and do not act or if they do not meet.

Mr. RUCKER. That is what I understood.

Mr. BURTON. There is some misunderstanding on the part of some of the Members, I notice, to the effect that this includes a considerable number of the States. It would increase the number of such States to keep the representation at 435. On the number for which the House has just voted, namely, 460—which I sincerely hope they will yet reverse, and make the number 435—under 460 there would be but two States, namely, Missouri and Maine.

Mr. GARRETT of Tennessee. Will the gentleman yield?

Mr. BURTON. Certainly.

Mr. GARRETT of Tennessee. Does not the gentleman feel that this language under certain circumstances must be quite an incentive to a governor to veto a State reapportionment bill?

Mr. BURTON. I think it is going a little too far to question the motives of a governor of a sovereign State. I take it that this provision would, however, leave it optional with the governor whether he would call a special session or not. I do not think it affords anything in the nature of an intimation or a hint to him as to what he should do, however. It is a question whether the clause would apply in case the governor should veto a bill.

Mr. GARRETT of Tennessee. Will the gentleman yield for one other question?

Mr. BURTON. Certainly.

Mr. GARRETT of Tennessee. The gentleman said in the beginning of his remarks, as I understood him, that it was only from the provisions contained in the Constitution that the States themselves derived the authority to fix the times, places, and manner of holding elections.

Mr. BURTON. I so understand it.

Mr. GARRETT of Tennessee. It has been my impression always heretofore that the Constitution was derived from the States and not the State powers from the Constitution.

Mr. BURTON. But this is a provision for the election of Members of Congress; not of a State legislature, but of the National Legislature.

Mr. KELLEY of Michigan. Which had no prior existence.

Mr. BURTON. There was no National Legislature. There was the Confederation before that time, but the Congress is the creature of these provisions of the Constitution. Congress does not exist and can not exist without them.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. WINGO. Mr. Chairman, I move to strike out the last word. I have a great deal of respect for the opinion of the gentleman from Ohio [Mr. BURTON], but I was somewhat surprised to hear his declaration that the only power that the States had to control the question of even the times, places, and manner of holding the elections of Senators and Representatives was that power given them by section 4 of Article I of the Constitution covering this question. As a matter of fact, those of you who are familiar with the discussions at the time of the framing of the Constitution know that this question arose then, and especially during discussions by gentlemen in some of the States who opposed the adoption of the Constitution. It was contended then by some gentlemen—especially was that position urged by a certain Virginian—that the contention might be raised that membership in this National Legislature was something that was created by the Constitution, and therefore the States would not have any control over it. And in order to meet that very contention that is made here to-day by the gentleman from Ohio [Mr. BURTON] and expressed in the fears of that Virginian, and for other reasons, the tenth amendment to the Constitution was adopted to cover the principle that is involved in that very contention and other contentions that arose upon it. Why, section 4 does not give power to a State. Section 4 was a grant of power to Congress upon this question, and the Constitution was careful to limit it by declaring the recognized right of the States to fix manner, time, and place of holding elections, but providing that the Congress might alter such regulations. So instead of the States having only a certain power covered by section 4, Congress by special limitation in the Constitution has power only to alter the regulations as to times, places, and manner of holding the elections. Why, the States or the people thereof created the Federal Constitution. Congress gets nothing except by the enumeration of powers in the Constitution or by necessary implication, and Article X specifically provides, as gentlemen will recollect, that the powers not delegated to the United States by the Constitution or prohibited to the States are reserved to the States respectively and to the people. Where in the Constitution is Congress given authority on the question of redistricting, or where does it prohibit the States from controlling such matter? Is there anything that takes away from them the inherent right to control this matter or to restrict them in any way other than the provision that we might alter the regulations that are made by State legislatures with reference to the times, places, and manner of holding elections?

Mr. BURTON. Will the gentleman yield for a question?

Mr. WINGO. With pleasure.

Mr. BURTON. I do not wish to go into any extended discussion as to the boundaries between the powers of the States and the Federal Government; but what right has any State to elect a Member of the House of Representatives except as given by the Constitution?

Mr. WINGO. The gentleman presupposes that the States are dependent upon the Federal Government for powers when, as a matter of fact, the Federal Government and the Federal Constitution were created for the benefit of the States and the people for specific purposes enumerated under a restricted delegation of powers.

Mr. BURTON. They use the term "the people." "The people of the United States." That does not really answer my question, because this Congress was created by the Federal Constitution. Now, is there anything pertaining to the method, time, place, and manner of holding election except by section 4 of Article I?

Mr. WINGO. That is all I recall; does the gentleman recall any other?

Mr. BURTON. I called attention to the fact that this section does not merely say that Congress may at any time alter such regulations; it says that Congress may at any time make or alter such regulations.

Mr. WINGO. If the gentleman is familiar with the contentions that were made at the time——

Mr. BURTON. I do not think the discussions in the convention should prevail over the plain language of the document or the Constitution itself, upon which Congress has acted for more than a hundred years.

Mr. WINGO. The plain language of the Constitution sought to safeguard what I believe, according to my contention, was the rights not yielded by the States; they specifically provided that the times, manner, and places of holding elections should be prescribed by the legislatures of the States subject to the right of Congress by law to alter the regulations. The gentleman from Ohio proceeds upon one theory, and I upon the other. I proceed on the theory that the people of the United States wished to frame a government for certain specific purposes, delegating to that central government certain powers, and no other, reserving to the people and the States all powers not delegated.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SIEGEL. Mr. Chairman, I ask unanimous consent that all debate on this section and all amendments thereto close in six minutes.

The CHAIRMAN. The gentleman from New York asks unanimous consent that all debate close in six minutes on the section and all amendments thereto. Is there objection?

There was no objection.

Mr. WHITE of Maine. Mr. Chairman, as I understand this section of the bill and the particular provision to which the gentleman from Tennessee raises objection, it applies to only two States as the bill now stands—Maine and Missouri. I have no desire to discuss the constitutional phases of the matter, but, speaking as a Representative of one of the States involved, I want to express my individual opinion that it is unwise legislation. [Applause.] This power ought not to be delegated to any three officers in any State. In my opinion it is a proper function of the legislative body of the State.

[Mr. WHITE of Maine was granted leave to extend his remarks in the RECORD.]

Mr. McPHERSON. Mr. Chairman and gentlemen of the committee, the pending amendment by the gentleman from Kentucky proposes to strike out of the bill the provision that makes it the duty of the governor, secretary of state, and attorney general to mark out the congressional districts in those States whose represenation will be reduced in the House by the pending bill, and compels the election of Members of the House from such States at large.

The States whose representation is reduced are Missouri and Maine. The provision therefore applies to those States alone.

It is my desire to call attention to what appears to me to be very cogent reasons why the amendment should be rejected and the provision in question retained.

The American system of government has no counterpart anywhere. By our scheme the American people are represented here equally. In the other body there is no pretense of equality of citizenship. There the equality in representation is equality of the States. New York and Rhode Island are equals in the Senate as citizens of New York and Rhode Island are equals in this body.

The principle underlying the reasons for equality of American citizenship in this body is that the laws to be made here create burdens that must be equally borne by American citizens everywhere, and it was not thought just that American citizens should be bound by obligations equally with other citizens unless they had an equal voice in determining what those burdens and obligations should be.

So by the Constitution it was provided that Representatives in Congress should be based upon population, and in this bill that idea is sought to be carried out by the provision that each 228,000 American citizens should have a Representative in this House.

For more than 50 years all the Members of this House were elected from the States at large and there was no such thing as congressional districts.

What was the reason for the change from electing Members of this House from the States at large to the present plan of selecting them from congressional districts?

Everyone who has taken the trouble to examine the debates has learned that the change was resorted to on account of the immense growth of great cities.

It was seen that if the Members were to be elected at large the entire delegation from States where there were great cities would come from the cities, and that portion of the people living

outside the great centers of population would have no representation here, and the fundamental idea upon which the Republic was founded would be destroyed.

It was then necessary, as it is now, to the stability of our institutions that every citizen of the Republic should have an equal voice in the making of laws by which each was equally bound. A Member of this House could vote a declaration of war, under which every man can be taken from his home to the battle line and every dollar of the wealth of the country can be pledged to pay the expenses of that war.

A Member of this House belongs to a body that must initiate revenue laws under which billions of the people's savings may be taken in the form of taxes to pay for wars past and present.

It is just as necessary now as it ever was that every great resolve for war or peace arrived at here shall have back of it the whole people.

In my opinion the American citizen will always support our United States in either peace or war if he has the right to a voice in determining the policy to be followed by the Government. I believe if he is denied an equal power in the decision of the Government's policies it is doubtful whether he will be willing to sacrifice either life or fortune in its behalf.

The provision of the bill it is proposed to strike out and the amendment it is proposed to substitute apply to Missouri and Maine alone. What reason in justice can be urged why the Representatives in this House from Missouri and Maine shall be chosen at large while the delegations from all the other States are to be elected from congressional districts?

What is the situation of Missouri? Missouri has two great cities—St. Louis, situated on the extreme eastern border, and Kansas City, on the extreme western border—and lying between those great cities, with over a million and a quarter of inhabitants, is the rich and populous country districts of Missouri.

If the amendment offered by the gentleman from Kentucky is adopted nothing is more certain than that the entire delegation from Missouri in the next Congress will be elected from the great cities, and the great interior of Missouri, with its rich agricultural and mining interest, will be without representation in this body. If that amendment is agreed to the very principle upon which our Government is founded will be undermined and destroyed so far as Missouri is concerned.

The provisions of the bill under consideration do not take from the States of Missouri and Maine any power or right. The bill provides that if the legislature of such States for any reason fails to lay out the number of congressional districts to which it is entitled then the governor, secretary of state, and attorney general of such State may mark out the districts as provided in the bill.

It is not a delegation of legislative power to those officers. The marking out of the boundaries of congressional districts is not legislative action.

It is not a delegation of legislative power for us to command some ministerial act to be done by some man or board or body. We do that every day. If we command the legislature of a State to lay that State out into a certain number of congressional districts, we are calling on them to perform a mere ministerial act. If, therefore, as here, we call on the Missouri Legislature to lay that State off into 15 congressional districts, to be composed of contiguous and compact territory each with 228,000 inhabitants, we require of that body no legislative action.

Congress has recognized that marking off congressional districts is not legislation. In one of the apportionment bills Congress required all the districts in all the States to be laid out by persons named by it, and they were so laid out in all the States.

Missouri does not recognize the marking off of legislative districts as legislative action.

The constitution of our State has been read here by my colleague [Mr. NEWTON] providing for the marking out of senatorial districts. The provision of the Missouri constitution is the exact language of the pending bill. It requires the same officers we name for laying out the new congressional districts that are named in our fundamental law for laying out districts for State Senators.

Under the provisions of the constitution of Missouri the legislature of that State has not laid out senatorial districts in more than 50 years. For all that time our senatorial districts have been made by the same officers that are required by this bill to lay the State out into congressional districts.

I sincerely hope the amendment of the gentleman from Kentucky to compel the election of the entire delegation from Missouri to the next House at large will be defeated and that Missouri will be allowed the same privilege accorded the other States of electing its Representatives to this body from such congressional districts as its legislature shall lay off, and if the legislature fails to act, that then we may have districts laid out in the manner with which the people of Missouri are familiar, by its governor, secretary of state, and attorney general.

If this bill becomes a law, let us provide that the people of the great farming communities and country districts of Missouri, who, with the people of the great cities of that State, send their sons together to the trenches and contribute their taxes to support the Government, shall have an equal voice in the making of our laws. That will be good for Missouri and for the other States as well.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. FIELDS. Mr. Chairman, in order to avoid any misunderstanding, I ask unanimous consent to withdraw my amendment and to substitute therefor another one which I send to the desk.

The CHAIRMAN. The gentleman from Kentucky asks unanimous consent to withdraw his amendment and to offer a substitute. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment of the gentleman from Kentucky.

The Clerk read as follows:

Amendment offered by Mr. FIELDS: Page 4, line 13, after the word "prescribed" strike out the remainder of the section.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Kentucky.

The question was taken, and on a division, demanded by Mr. FIELDS, there were—ayes 75, noes 160.

So the amendment was rejected.

The Clerk read as follows:

SEC. 4. That candidates for Representative or Representatives to be elected at large in any State shall be nominated in the same manner as candidates for governor, unless otherwise provided by the laws of such State.

Mr. GARRETT of Tennessee. Mr. Chairman, I move to strike out the section. I suppose, in view of the decision of the Supreme Court of the United States in the Newberry case, that the Congress has no authority whatever over the nominations, the gentleman from New York will accept the amendment which I have offered. If not, I shall submit it to the House without argument.

Mr. SIEGEL. Mr. Chairman, section 4 simply provides that candidates for Representative or Representatives to be elected at large shall be nominated in the same manner as candidates for governor unless the law of the State provides otherwise. The decision of the Supreme Court in the Newberry case did not determine the question, but held that there was no power to determine the question as to the amount to be expended in primaries.

Mr. GARRETT of Tennessee. Mr. Chairman, I say that I shall submit it without argument. If gentlemen wish to put an unconstitutional provision in the bill, very well.

Mr. BURTON. Mr. Chairman, I trust that that motion will not prevail. I think there is grave doubt as to its validity. I know the history of that clause. It was put in as an amendment to the apportionment act under the census of 1910, as I recall it, in the Senate.

I think I had some part in drawing it myself, because in certain States there was no provision for the nomination or election of candidates for Congressmen at large. Now, it can do no harm, and I think it better remain. It may have some vitality. There was a discussion at that time about the question of the right of Congress to legislate in regard to nominations and those who framed the amendment took the ground that they were so intimately associated with elections that Congress could provide for them. [Cries of "Vote!"]

The CHAIRMAN. The question is upon the motion of the gentleman from Tennessee to strike out section 4.

The question was taken, and the Chair announced the noes appeared to have it.

On a division (demanded by Mr. GARRETT of Tennessee) there were—ayes 81, noes 157.

So the amendment was rejected.

Mr. SIEGEL. Mr. Chairman, I move that the committee do now rise and report the bill to the House with the recommendation that it do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. WALSH, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having had under consideration the bill H. R. 7882,

had directed him to report the same back with the recommendation that the same do pass.

Mr. SIEGEL. Mr. Speaker, I move the previous question on the bill to final passage.

The previous question was ordered.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read the third time.

Mr. BLANTON. Mr. Speaker, I demand a reading of the engrossed copy of the bill.

The SPEAKER. The gentleman from Texas demands a reading of the engrossed copy.

Mr. MONDELL. Mr. Speaker——

The SPEAKER. The engrossed copy is not here, but it will be here within an hour undoubtedly. Does the gentleman insist on his point?

Mr. BLANTON. I do so; I do not think the bill ought to pass to-night.

BURIAL OF AN UNKNOWN AMERICAN SOLDIER AT ARLINGTON, VA.

Mr. STAFFORD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of Senate joint resolution 123.

Mr. BLANTON. Mr. Speaker, I make the point of order——

Mr. STAFFORD. Mr. Speaker, for the information of the House, this is a resolution that was reported by the Committee on Appropriations day before yesterday to provide an appropriation for defraying the expenses——

Mr. BLANTON. A point of order, Mr. Speaker.

Mr. STAFFORD. For burying an unknown American soldier.

Mr. BLANTON. Mr. Speaker, I make the point of order this motion is not in order at this time. It is not a privileged motion or a privileged resolution, and it has no place on the calendar at this time.

Mr. STAFFORD. I would like to be heard on the point of order.

Mr. BLANTON. I make the point of order it is not privileged and it is out of order at this time, except by unanimous consent.

The SPEAKER. The Chair will consult the Senate joint resolution.

Mr. STAFFORD. Mr. Speaker, as this matter is presented suddenly to the attention of the House so as to inform the membership of the House in full of the purport and also as to whether it is privileged under the rules to be brought up at the present time——

Mr. BLANTON. I make the point of order that this discussion is out of order.

The SPEAKER. The gentleman has the right to discuss the point of order. The gentleman from Texas has already discussed it.

Mr. BLANTON. But the gentleman was addressing his remarks to his colleagues and not to the Speaker.

Mr. STAFFORD. I beg the gentleman's pardon; the gentleman was not listening, but the other Members of the House were. As I started to say when I was interrupted by the remarks of the gentleman from Texas, I wish to acquaint the House of the purport of the bill and answer more generally the query propounded to me by the gentleman from Tennessee, and also to inform the Chair as to whether this bill is a privileged bill.

Mr. WALSH. Will the gentleman yield for a question?

Mr. STAFFORD. Not at the present time. I wish to make a connected argument, Mr. Speaker, so that the Chair will be fully advised and the Members of the House. I wish to direct the attention of the Speaker and Members of the House further as to what this bill is.

The title of this joint resolution is as follows:

Authorizing the Secretary of War to expend from the appropriation "Disposition of remains of officers, soldiers, and civilian employees, 1922" (act of Mar. 4, 1921, Public, No. 389, 66th Cong.), such sum as may be necessary to carry out the provisions of public resolution No. 67, Sixty-sixth Congress.

Now, Mr. Speaker, that is not very informing, and it will be necessary for me, so as to acquaint the Speaker and the rest of the Members of this House as to the real purport of this resolution, to read it. If the Chair will indulge me I will read the bill, so that there will be no question that the Speaker will have full knowledge, in ruling on this important question, of whether it is in order or not.

Mr. MONDELL. Will the gentleman yield?

Mr. STAFFORD. I always yield to the leader of the House.

Mr. MONDELL. This may or may not be privileged, but is there anyone in the Congress of the United States that does not want the Congress to make provision for the burial of the unknown soldier who is to be brought here as the representative of the unknown heroes of this country? [Loud and long-continued applause.]

Mr. BLANTON. Will the gentleman yield. [Applause.] I know my rights. I make the point of order, Mr. Speaker, that the gentleman is merely killing time, and the Chair knows it, and that the resolution is not in order on its face. And I ask for the regular order, Mr. Speaker.

Mr. STAFFORD. That is not a point of order, Mr. Speaker. I have the right to inform the Speaker by directing attention to the provisions of the bill.

The SPEAKER. The Chair has already read the bill.

Mr. BLANTON. The Chair knows what is in the bill as well as you do.

The SPEAKER. The Chair thinks the bill is not privileged.

Mr. BLANTON. Mr. Speaker, I move that the House do now adjourn.

The question was taken, and the Speaker announced that the noes seemed to have it.

Mr. BLANTON. Division, Mr. Speaker.

The House divided; and there were—ayes 14, noes 180.

Mr. STAFFORD. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 9, nays 276, answered "present" 3, not voting 143, as follows:

YEAS—9.

Blanton	O'Connor	Steagall	Upshaw
Clark, Fla.	Sisson	Stevenson	Weaver
London			

NAYS—276.

Almon	Doughton	Kraus	Roach
Andrew, Mass.	Dowell	Lampert	Robertson
Andrews, Nebr.	Drane	Langley	Robsion
Appleby	Dunbar	Lanham	Rodenberg
Arentz	Dupré	Lankford	Rose
Aswell	Dyer	Larsen, Ga.	Rossdale
Atkeson	Echols	Lawrence	Rouse
Bacharach	Edmonds	Layton	Sanders, Ind.
Bankhead	Elliott	Lazaro	Sanders, N. Y.
Barbour	Ellis	Leatherwood	Sanders, Tex.
Barkley	Evans	Lee, Ga.	Sandlin
Beck	Fairchild	Lehlbach	Scott, Tenn.
Beedy	Fairfield	Lineberger	Shelton
Bell	Faust	Linthicum	Shreve
Benham	Favrot	Lowrey	Siegel
Bird	Fenn	Luce	Sinnott
Black	Fields	Lyon	Smith, Idaho
Bland, Ind.	Fisher	McCormick	Smithwick
Bland, Va.	Fitzgerald	McLaughlin, Mich.	Snell
Boies	Flood	McLaughlin, Nebr.	Snyder
Bowling	Focht	McLaughlin, Pa.	Speaks
Box	Foster	McPherson	Sproul
Brennan	Frear	McSwain	Stafford
Briggs	Free	MacGregor	Stedman
Brinson	Frothingham	Magee	Stephens
Brooks, Ill.	Funk	Maloney	Strong, Kans.
Brown, Tenn.	Garrett, Tenn.	Mapes	Strong, Pa.
Browne, Wis.	Garrett, Tex.	Martin	Summers, Wash.
Buchanan	Gensman	Michener	Swank
Bulwinkle	Gernerd	Miller	Sweet
Burdick	Gilbert	Millspaugh	Swing
Burroughs	Glynn	Mondell	Tague
Burtness	Graham, Ill.	Montoya	Taylor, N. J.
Burton	Green, Iowa	Moore, Ill.	Temple
Butler	Greene, Mass.	Moore, Ohio	Thompson
Byrnes, S. C.	Greene, Vt.	Moore, Va.	Tillman
Byrns, Tenn.	Hammer	Moores, Ind.	Tilson
Cable	Hardy, Colo.	Nelson, A. P.	Timberlake
Campbell, Kans.	Harrison	Nelson, J. M.	Tincher
Campbell, Pa.	Haugen	Newton, Minn.	Tinkham
Cannon	Hawley	Newton, Mo.	Towner
Carew	Herrick	Norton	Treadway
Chalmers	Hersey	Ogden	Tyson
Chandler, N. Y.	Hickey	Oliver	Valle
Chandler, Okla.	Himes	Osborne	Vare
Chindblom	Hoch	Overstreet	Vestal
Christopherson	Hogan	Padgett	Voigt
Clague	Huddleston	Paige	Volk
Clarke, N. Y.	Hudspeth	Parker, N. Y.	Volstead
Codd	Hukriede	Parks, Ark.	Walsh
Cole, Iowa	Hull	Parrish	Walters
Cole, Ohio	Hutchinson	Patterson, Mo.	Watson
Collier	Ireland	Perkins	Webster
Collins	Jacoway	Peters	Wheeler
Colton	James	Pou	White, Kans.
Connally, Tex.	Jefferis, Nebr.	Pringey	White, Me.
Connell	Jeffers, Ala.	Purnell	Williams
Connolly, Pa.	Johnson, Wash.	Quin	Williamson
Cooper, Wis.	Keller	Radcliffe	Wilson
Coughlin	Kelley, Mich.	Rainey, Ill.	Wingo
Crowther	Kelly, Pa.	Raker	Winslow
Curry	Kennedy	Ramseyer	Wood, Ind.
Dale	Ketcham	Rankin	Woodruff
Darrow	Kincheloe	Reavis	Woods, Va.
Davis, Tenn.	Kinkaid	Reber	Woodyard
Deal	Kirkpatrick	Reece	Wurzbach
Denison	Kissel	Reed, W. Va.	Wyant
Dickinson	Kline, Pa.	Ricketts	Yates
Dominick	Kopp	Riddick	Young

ANSWERED "PRESENT"—3.

Hardy, Tex.	McClintic	Vinson

NOT VOTING—143.

Ackerman	Fuller	Knutson	Porter
Anderson	Fulmer	Kreider	Rainey, Ala.
Ansorge	Gahn	Kunz	Ransley
Anthony	Gallivan	Larson, Minn.	Rayburn
Begg	Garner	Lea, Calif.	Reed, N. Y.
Bixler	Goldsborough	Lee, N. Y.	Rhodes
Blakeney	Goodykoontz	Little	Riordan
Bond	Gorman	Logan	Rogers
Bowers	Gould	Longworth	Rosenbloom
Brand	Graham, Pa.	Lubring	Rucker
Britten	Griest	McArthur	Ryan
Brooks, Pa.	Griffin	McDuffie	Sabath
Burke	Hadley	McFadden	Schall
Cantrill	Hawes	McKenzie	Scott, Mich.
Carter	Hayden	Madden	Sears
Classon	Hays	Mann	Shaw
Clouse	Hicks	Mansfield	Sinclair
Cockran	Hill	Mead	Slemp
Cooper, Ohio	Houghton	Merritt	Smith, Mich.
Copley	Humphreys	Michaelson	Steenerson
Crago	Husted	Mills	Stiness
Cramton	Johnson, Ky.	Montague	Stoll
Crisp	Johnson, Miss.	Morgan	Sullivan
Cullen	Johnson, S. Dak.	Morin	Sumners, Tex.
Dallinger	Jones, Pa.	Mott	Taylor, Colo.
Davis, Minn.	Jones, Tex.	Mudd	Taylor, Tenn.
Dempsey	Kahn	Murphy	Ten Eyck
Drewry	Kearns	Nolan	Thomas
Driver	Kendall	O'Brien	Underhill
Dunn	Kiess	Oldfield	Ward, N. Y.
Elston	Kindred	Olpp	Ward, N. C.
Fess	King	Park, Ga.	Wason
Fish	Kitchin	Parker, N. J.	Wise
Fordney	Kleczka	Patterson, N. J.	Wright
Freeman	Kline, N. Y.	Perlman	Zihlman
French	Knight	Petersen	

So the motion was rejected.

The Clerk announced the following additional pairs:

Until further notice:

Mr. FORDNEY with Mr. CRISP.

Mr. RYAN with Mr. OLDFIELD.

Mr. MADDEN with Mr. HAYDEN.

Mr. ANTHONY with Mr. CULLEN.

Mr. BEGG with Mr. RUCKER.

Mr. BLAKENEY with Mr. DREWRY.

Mr. DAVIS of Minnesota with Mr. TEN EYCK.

Mr. KENDALL with Mr. WRIGHT.

Mr. JOHNSON of South Dakota with Mr. MCCLINTIC.

Mr. OLPP with Mr. FULMER.

Mr. PATTERSON of New Jersey with Mr. MONTAGUE.

Mr. ROSENBLOOM with Mr. LOGAN.

Mr. SCOTT of Michigan with Mr. RAYBURN.

Mr. STEENERSON with Mr. MANSFIELD.

Mr. BIXLER with Mr. JONES of Texas.

Mr. REED of New York with Mr. THOMAS.

Mr. MERRITT with Mr. GOLDSBOROUGH.

Mr. MCCLINTIC. Mr. Speaker, I wish to withdraw my vote of "no" and vote "present." I am paired with the gentleman from South Dakota [Mr. JOHNSON].

The result of the vote was announced as above recorded.

MEMORIAL OF JOHN P. BRACKEN.

Mr. LUCE. Mr. Speaker, I call up a privileged report from the Committee on Elections No. 2, being the matter of the memorial of John P. Bracken, No. 55 on the House Calendar.

The SPEAKER. The gentleman from Massachusetts calls up an election case, which the Clerk will report.

The Clerk read as follows:

Report of the Committee on Elections No. 2, to which was referred the memorial of John P. Bracken, a citizen of Pennsylvania, claiming to have been elected to the House of Representatives of the Sixty-seventh Congress.

Mr. BLANTON. Mr. Speaker, I raise the question of consideration.

The SPEAKER. The gentleman from Texas raises the question of consideration. The question is, Will the House consider the report?

The question was taken, and the Speaker announced that the ayes appeared to have it.

Mr. MONDELL. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER. On that question the gentleman from Wyoming demands the yeas and nays. Those in favor of taking the vote by yeas and nays will rise and stand until they are counted.

Mr. WALSH. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WALSH. If the House votes on the roll call to consider this measure, can it then be withdrawn before final action is taken?

The SPEAKER. Not except by a vote of the House. It could not be withdrawn by the gentleman from Massachusetts if the House had once expressed its desire to consider it.

Mr. SANDERS of Indiana. Mr. Speaker, will the gentleman from Massachusetts yield?

Mr. WALSH. Yes.

Mr. SANDERS of Indiana. Then unless we desire to consider this report to-night, the vote would be nay.

Mr. BLANTON. That would be a question of expediency for the Republican Party to decide.

The SPEAKER. The gentleman from Wyoming [Mr. MONDELL] demands the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. As many as are in favor of the consideration of this report will answer "yea" when their names are called; those opposed will answer "nay."

The question was taken, and there were—yeas 8, nays 262, answered "present" 4, not voting 157, as follows:

YEAS—8.

Blanton	Fields	Ramseyer	Stevenson
Campbell, Pa.	Jones, Tex.	Robsion	Walters

NAYS—270.

Almon	Dyer	Lankford	Rossdale
Andrew, Mass.	Echols	Larsen, Ga.	Rouse
Andrews, Nebr.	Edmonds	Lawrence	Rucker
Appleby	Elliott	Layton	Sanders, Tex.
Arentz	Ellis	Lazaro	Sandlin
Aswell	Evans	Leatherwood	Scott, Tenn.
Atkeson	Fairchild	Lee, Ga.	Shelton
Bacharach	Fairfield	Lehlbach	Shreve
Bankhead	Faust	Lineberger	Siegel
Barbour	Favrot	Linthicum	Sinnott
Barkley	Fenn	London	Sisson
Beedy	Fish	Lowrey	Smith, Idaho
Bell	Fisher	Lyon	Smithwick
Benham	Fitzgerald	McCormick	Snell
Bird	Focht	McLaughlin, Mich.	Snyder
Black	Foster	McLaughlin, Nebr.	Speaks
Bland, Ind.	Frear	McLaughlin, Pa.	Sproul
Boies	Free	McSwain	Stafford
Bowling	Frothingham	MacGregor	Steagall
Box	Garrett, Tenn.	Magee	Stedman
Brennan	Garrett, Tex.	Maloney	Stephens
Briggs	Gensman	Mapes	Strong, Kans.
Brinson	Gernerd	Martin	Strong, Pa.
Brooks, Ill.	Gilbert	Michener	Summers, Wash.
Browne, Wis.	Glynn	Miller	Swank
Buchanan	Goodykoontz	Millspaugh	Sweet
Bulwinkle	Graham, Ill.	Mondell	Swing
Burdick	Green, Iowa	Montoya	Tague
Burtness	Greene, Mass.	Moore, Ohio	Taylor, N. J.
Burton	Greene, Vt.	Moore, Va.	Temple
Butler	Hammer	Moores, Ind.	Tillman
Byrnes, S. C.	Hardy, Colo.	Morgan	Tilson
Byrns, Tenn.	Hawley	Nelson, A. P.	Timberlake
Cable	Hayden	Nelson, J. M.	Tincher
Carew	Herrick	Newton, Minn.	Tinkham
Chalmers	Hersey	Norton	Treadway
Chandler, N. Y.	Hickey	O'Connor	Tyson
Chandler, Okla.	Himes	Ogden	Vaile
Chindblom	Hoch	Oliver	Vare
Christopherson	Hogan	Osborne	Vestal
Clague	Huddleston	Overstreet	Vinson
Clarke, N. Y.	Hudspeth	Padgett	Voigt
Classon	Hukriede	Paige	Volk
Codd	Hull	Parker, N. J.	Volstead
Cole, Iowa	Husted	Parker, N. Y.	Walsh
Cole, Ohio	Hutchinson	Parks, Ark.	Watson
Collier	Ireland	Parrish	Weaver
Collins	Jacoway	Patterson, Mo.	Webster
Colton	James	Perkins	Wheeler
Connally, Tex.	Jefferis, Nebr.	Peters	White, Kans.
Connell	Jeffers, Ala.	Pou	White, Me.
Connolly, Pa.	Keller	Pringey	Williamson
Cooper, Wis.	Kelley, Mich.	Purnell	Wilson
Coughlin	Kelly, Pa.	Quin	Wingo
Crowther	Kennedy	Radcliffe	Wise
Curry	Ketcham	Rainey, Ill.	Wood, Ind.
Dale	Kincheloe	Raker	Woodruff
Darrow	Kinkaid	Rankin	Woods, Va.
Davis, Tenn.	Kirkpatrick	Reber	Woodyard
Dickinson	Kissel	Reece	Wright
Dominick	Kleczka	Reed, W. Va.	Wurzbach
Doughton	Kline, Pa.	Ricketts	Wyant
Dowell	Kopp	Riddick	Yates
Drane	Lampert	Robertson	Young
Dunbar	Langley	Rodenberg	
Dupré	Lanham	Rose	

ANSWERED "PRESENT"—4.

Beck	Crisp	Hardy, Tex.	McClintic

NOT VOTING—157.

Ackerman	Campbell, Kans.	Denison	Goldsborough
Anderson	Cannon	Drewry	Gorman
Ansorge	Cantrill	Driver	Gould
Anthony	Carter	Dunn	Graham, Pa.
Begg	Clark, Fla.	Elston	Griest
Bixler	Clouse	Fess	Griffin
Blakeney	Cockran	Flood	Hadley
Bland, Va.	Cooper, Ohio	Fordney	Harrison
Bond	Copley	Freeman	Haugen
Bowers	Crago	French	Hawes
Brand	Cramton	Fuller	Hays
Britten	Cullen	Fulmer	Hicks
Brooks, Pa.	Dallinger	Funk	Hill
Brown, Tenn.	Davis, Minn.	Gahn	Houghton
Burke	Deal	Gallivan	Humphreys
Burroughs	Dempsey	Garner	Johnson, Ky.

Johnson, Miss.	Luhring	Park, Ga.	Slemp
Johnson, S. Dak.	McArthur	Patterson, N. J.	Smith, Mich.
Johnson, Wash.	McDuffie	Perlman	Steenerson
Jones, Pa.	McFadden	Petersen	Stiness
Kahn	McKenzie	Porter	Stoll
Kearns	McPherson	Rainey, Ala.	Sullivan
Kendall	Madden	Ransley	Sumners, Tex.
Kiess	Mann	Rayburn	Taylor, Colo.
Kindred	Mansfield	Reavis	Taylor, Tenn.
King	Mead	Reed, N. Y.	Ten Eyck
Kitchin	Merritt	Rhodes	Thomas
Kline, N. Y.	Michaelson	Riordan	Thompson
Knight	Mills	Roach	Towner
Knutson	Montague	Rogers	Underhill
Kraus	Moore, Ill.	Rosenbloom	Upshaw
Kreider	Morin	Ryan	Ward, N. Y.
Kunz	Mott	Sabath	Ward, N. C.
Larson, Minn.	Mudd	Sanders, Ind.	Wason
Lea, Calif.	Murphy	Sanders, N. Y.	Williams
Lee, N. Y.	Newton, Mo.	Schall	Winslow
Little	Nolan	Scott, Mich.	Zihlman
Logan	O'Brien	Sears	
Longworth	Oldfield	Shaw	
Luce	Olpp	Sinclair	

So the House refused to consider the memorial.

The Clerk announced the following additional pairs:

Until further notice:

Mr. FORDNEY with Mr. CRISP.

Mr. CANNON with Mr. FLOOD.

Mr. JOHNSON of Washington with Mr. HARRISON.

Mr. MOORE of Illinois with Mr. DEAL.

Mr. NEWTON of Missouri with Mr. UPSHAW.

Mr. ROACH with Mr. CLARK of Florida.

Mr. JOHNSON of South Dakota with Mr. MCCLINTIC.

Mr. REAVIS with Mr. BLAND of Virginia.

Mr. LITTLE. Mr. Speaker, I desire to vote.

The SPEAKER. Was the gentleman present and listening when his name was called?

Mr. LITTLE. No; I was not, when I come to think about it.

The SPEAKER. The gentleman does not qualify.

Mr. THOMPSON. Mr. Speaker, I desire to be recorded.

The SPEAKER. Was the gentleman present and listening when his name was called?

Mr. THOMPSON. No; I was not in the room at that time.

The SPEAKER. The gentleman does not qualify under the rule.

The result of the vote was announced as above recorded.

APPORTIONMENT OF REPRESENTATIVES.

The SPEAKER. The engrossment and third reading of the apportionment bill has been ordered. The Clerk will read the engrossed bill.

The bill was read a third time.

The SPEAKER. The question is on the passage.

Mr. FAIRFIELD. Mr. Speaker, I move to recommit the bill to the Committee on the Census, and on that motion I move the previous question.

The SPEAKER. The gentleman from Indiana moves to recommit the bill to the Committee on the Census, and on that motion he moves the previous question.

The previous question was ordered.

The SPEAKER. The question is on the motion to recommit the bill to the Committee on the Census.

Mr. FAIRFIELD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 146, nays 142, answered "present" 3, not voting 140, as follows:

YEAS—146.

Andrew, Mass.	Classon	Hersey	McLaughlin, Mich.
Appleby	Cole, Ohio	Himes	McSwain
Arentz	Connally, Tex.	Hoch	MacGregor
Bankhead	Cooper, Wis.	Huddleston	Mapes
Barbour	Coughlin	Hudspeth	Michener
Beck	Davis, Tenn.	Husted	Moore, Ohio
Beedy	Deal	Hutchinson	Moore, Va.
Bell	Dominick	Jacoway	Nelson, A. P.
Black	Drane	James	Nelson, J. M.
Bland, Va.	Echols	Jeffers, Ala.	Newton, Minn.
Blanton	Fairchild	Jones, Tex.	Oliver
Bowling	Fairfield	Keller	Overstreet
Box	Fenn	Kelly, Pa.	Padgett
Brennan	Fish	Ketcham	Paige
Briggs	Fisher	Kirkpatrick	Parker, N. J.
Brinson	Fitzgerald	Kissel	Parks, Ark.
Browne, Wis.	Flood	Kleczka	Parrish
Buchanan	Foster	Lampert	Perkins
Bulwinkle	Frear	Lanham	Peters
Burtness	Frothingham	Lankford	Pou
Burton	Garrett, Tenn.	Larsen, Ga.	Radcliffe
Byrnes, S. C.	Garrett, Tex.	Layton	Raker
Byrns, Tenn	Gernerd	Lee, Ga.	Rayburn
Cable	Goodykoontz	Lehlbach	Ricketts
Chalmers	Hammer	Linthicum	Rouse
Chindblom	Hardy, Colo.	London	Rucker
Christopherson	Hardy, Tex.	Luce	Sanders, Tex.
Clague	Hawley	Lyon	Sinnott
Clarke, N. Y.	Hayden	McCormick	Sisson
Smithwick	Swing	Voigt	Wood, Ind.
Speaks	Taylor, N. J.	Walsh	Woodruff
Sproul	Tillman	Weaver	Woods, Va.
Stafford	Tilson	Webster	Woodyard
Steagall	Tinkham	White, Me.	Wright
Stedman	Treadway	Williamson	Young
Summers, Wash.	Tyson	Wingo	
Swank	Vinson	Winslow	

NAYS—142.

Almon	Edmonds	Leatherwood	Rose
Andrews, Nebr.	Elliott	Lineberger	Rossdale
Aswell	Ellis	Little	Sanders, Ind.
Atkeson	Evans	Lowrey	Sandlin
Barkley	Faust	McLaughlin, Nebr.	Scott, Tenn.
Benham	Favrot	McLaughlin, Pa.	Shelton
Bird	Fields	McPherson	Shreve
Bland, Ind.	Focht	Magee	Siegel
Boles	Free	Maloney	Smith, Idaho
Brooks, Ill.	Funk	Martin	Snell
Burdick	Gensman	Miller	Snyder
Burroughs	Gilbert	Millspaugh	Stephens
Butler	Glynn	Mondell	Strong, Kans.
Campbell, Kans.	Graham, Ill.	Montoya	Strong, Pa.
Campbell, Pa.	Green, Iowa	Moores, Ind.	Sweet
Carew	Greene, Mass.	Morgan	Tague
Chandler, N. Y.	Greene, Vt.	Newton, Mo.	Temple
Chandler, Okla.	Harrison	Norton	Thompson
Codd	Haugen	O'Connor	Timberlake
Cole, Iowa	Herrick	Ogden	Tincher
Collier	Hickey	Osborne	Towner
Collins	Hogan	Parker, N. Y.	Valle
Colton	Hukriede	Patterson, Mo.	Vare
Connell	Hull	Pringey	Vestal
Connolly, Pa.	Ireland	Purnell	Volk
Crowther	Jefferis, Nebr.	Quin	Walters
Curry	Kelley, Mich.	Rainey, Ill.	Watson
Dale	Kennedy	Ramseyer	Wheeler
Darrow	Kincheloe	Rankin	White, Kans.
Denison	Kinkaid	Reber	Williams
Dickinson	Kline, Pa.	Reece	Wilson
Doughton	Kopp	Riddick	Wurzbach
Dowell	Kraus	Roach	Wyant
Dunbar	Langley	Robertson	Yates
Dupré	Lawrence	Robsion	
Dyer	Lazaro	Rodenberg	

ANSWERED "PRESENT"—3.

Bacharach	Crisp	McClintic

NOT VOTING—140.

Ackerman	French	Kunz	Reavis
Anderson	Fuller	Larson, Minn.	Reed, N. Y.
Ansorge	Fulmer	Lea, Calif.	Reed, W. Va.
Anthony	Gahn	Lee, N. Y.	Rhodes
Begg	Gallivan	Logan	Riordan
Bixler	Garner	Longworth	Rogers
Blakeney	Goldsborough	Luhring	Rosenbloom
Bond	Gorman	McArthur	Ryan
Bowers	Gould	McDuffie	Sabath
Brand	Graham, Pa.	McFadden	Sanders, N. Y.
Britten	Griest	McKenzie	Schall
Brooks, Pa.	Griffin	Madden	Scott, Mich.
Brown, Tenn.	Hadley	Mann	Sears
Burke	Hawes	Mansfield	Shaw
Cannon	Hays	Mead	Sinclair
Cantrill	Hicks	Merritt	Slemp
Carter	Hill	Michaelson	Smith, Mich.
Clark, Fla.	Houghton	Mills	Steenerson
Clouse	Humphreys	Montague	Stevenson
Cockran	Johnson, Ky.	Moore, Ill.	Stiness
Cooper, Ohio	Johnson, Miss.	Morin	Stoll
Copley	Johnson, S. Dak.	Mott	Sullivan
Crago	Johnson, Wash.	Mudd	Sumners, Tex.
Cramton	Jones, Pa.	Murphey	Taylor, Colo.
Cullen	Kahn	Nolan	Taylor, Tenn.
Dallinger	Kearns	O'Brien	Ten Eyck
Davis, Minn.	Kendall	Oldfield	Thomas
Dempsey	Kiess	Olpp	Underhill
Drewry	Kindred	Park, Ga.	Upshaw
Driver	King	Patterson, N. J.	Volstead
Dunn	Kitchin	Perlman	Ward, N. Y.
Elston	Kline, N. Y.	Petersen	Ward, N. C.
Fess	Knight	Porter	Wason
Fordney	Knutson	Rainey, Ala.	Wise
Freeman	Kreider	Ransley	Zihlman

So the motion to recommit was agreed to.

The Clerk announced the following additional pairs:

On the vote:

Mr. CRISP (for) with Mr. FORDNEY (against).

Mr. SCOTT of Michigan (for) with Mr. MOORE of Illinois (against).

Mr. MCARTHUR (for) with Mr. GALLIVAN (against).

Mr. FRENCH (for) with Mr. CRAGO (against).

Mr. ROGERS (for) with Mr. PARK of Georgia (against).

Mr. ANTHONY (for) with Mr. MEAD (against).

Mr. DALLINGER (for) with Mr. THOMAS (against).

Mr. MCCLINTIC (for) with Mr. JOHNSON of South Dakota (against).

Mr. MURPHY (for) with Mr. STINESS (against).

Mr. HILL (for) with Mr. KINDRED (against).

Mr. PATTERSON of New Jersey (for) with Mr. RIORDAN (against).

Mr. DREWRY (for) with Mr. RHODES (against).

Mr. GRIFFIN (for) with Mr. BLAKENEY (against).

Mr. CARTER (for) with Mr. ANSORGE (against).

Mr. MONTAGUE (for) with Mr. CULLEN (against).
Mr. MCDUFFIE (for) with Mr. PERLMAN (against).
Mr. WISE (for) with Mr. SULLIVAN (against).
Mr. OLDFIELD (for) with Mr. RYAN (against).
Mr. STEVENSON (for) with Mr. REED of West Virginia (against).
Mr. DAVIS of Minnesota (for) with Mr. LUHRING (against).
Mr. JOHNSON of Washington (for) with Mr. REAVIS (against).
Mr. CLARK of Florida (for) with Mr. BACHARACH (against).
Mr. CRAMTON (for) with Mr. STEENERSON (against).
Mr. BEGG (for) with Mr. CANNON (against).
Mr. WARD of North Carolina (for) with Mr. TEN EYCK (against).
Mr. LOGAN (for) with Mr. COCKRAN (against).
Until further notice:
Mr. GRAHAM of Pennsylvania with Mr. KITCHIN.
Mr. DUNN with Mr. STOLL.
Mr. OLPP with Mr. TAYLOR of Colorado.
Mr. LONGWORTH with Mr. UPSHAW.
Mr. SINCLAIR with Mr. GARNER.
Mr. KREIDER with Mr. BRAND.
Mr. KNUTSON with Mr. DRIVER.
Mr. HAYS with Mr. HAWES.
Mr. NOLAN with Mr. JOHNSON of Kentucky.
Mr. MADDEN with Mr. LEA of California.
Mr. VOLSTEAD with Mr. SUMNERS of Texas.
Mr. MORIN with Mr. O'BRIEN.
Mr. GRIEST with Mr. CANTRILL.
Mr. MUDD with Mr. FULLMER.
Mr. REED of New York with Mr. JOHNSON of Mississippi.
Mr. ROSENBLOOM with Mr. MANSFIELD.
Mr. KENDALL with Mr. SEARS.
Mr. KAHN with Mr. HUMPHREYS.
Mr. GORMAN with Mr. SABATH.
Mr. ACKERMAN with Mr. GOLDSBOROUGH.
Mr. FULLER with Mr. KUNZ.
Mr. KIESS with Mr. RAINEY of Alabama.

Mr. MCPHERSON. Mr. Speaker, I am authorized to say that my colleague, Mr. RHODES, who is absent on a mining committee, if present would have voted no.

The SPEAKER. On this vote the yeas are 146, and the nays 142.

Mr. MONDELL. Mr. Speaker, I ask for a recapitulation.

Mr. COOPER of Wisconsin. Mr. Speaker, before that is done, I want to say that I inadvertently, when the name of Mr. BROWNE of Wisconsin was called, answered. I heard the word "Wisconsin" and thought it was my name.

Mr. MONDELL. That can be corrected during the recapitulation.

Mr. STAFFORD. Mr. BROWNE of Wisconsin is here and voted.

Mr. BLANTON. Mr. Speaker, I move that the House do now adjourn.

The question was taken, and the motion was rejected.

The SPEAKER. The gentleman from Wyoming asks for a recapitulation. The Chair thinks this is a proper vote to be recapitulated.

The Clerk recapitulated the vote.

Mr. STEAGALL. Mr. Speaker, I observe that the Clerk failed to call my name. I was present and answered "yea."

The SPEAKER. The gentleman from Alabama states that he voted and that it was not recorded. The Clerk will make the correction.

On motion of Mr. FAIRFIELD, a motion to reconsider the vote whereby the motion to recommit was agreed to was laid on the table.

By unanimous consent Mr. LARSEN of Georgia and Mr. GOODYKOONTZ were given leave to extend their remarks in the RECORD.

ENROLLED BILL SIGNED.

Mr. RICKETTS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 8297. An act authorizing the Secretary of the Treasury to convey certain lands to the State of Missouri for enlargement of the State capitol grounds of that State.

ADJOURNMENT.

Mr. MONDELL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock p. m.) the House adjourned until to-morrow, Saturday, October 15, 1921, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. CURRY, from the Committee on the Territories, to which was referred the bill (H. R. 8442) to amend an act entitled "An act to authorize the President of the United States to locate, construct, and operate railroads in the Territory of Alaska, and for other purposes," approved March 12, 1914, as amended, reported the same with an amendment, accompanied by a report (No. 405), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. GREEN of Iowa, from the Committee on Ways and Means, to which was referred the bill (H. R. 8643) to extend the tariff act approved May 27, 1921, reported the same without amendment, accompanied by a report (No. 406), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. STEPHENS, from the Committee on Naval Affairs, to which was referred the bill (S. 2504) providing for the readmission of certain deficient midshipmen to the United States Naval Academy, reported the same without amendment, accompanied by a report (No. 407), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 8542) for the relief of Herman C. Davis; Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 8493) granting a pension to Perry Talbott; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. COLLIER: A bill (H. R. 8687) providing for a "Visit Vicksburg's National Military Park" cancellation stamp to be used by the Vicksburg post office; to the Committee on the Post Office and Post Roads.

By Mr. OVERSTREET: A bill (H. R. 8688) authorizing the counties of Allendale, S. C., and Screven, Ga., to construct a bridge across the Savannah River between said counties at or near Burtons Ferry; to the Committee on Interstate and Foreign Commerce.

By Mr. JEFFERIS of Nebraska: A bill (H. R. 8689) to amend paragraph 3 of section 6 of an act entitled "Interstate commerce act," being the act to regulate commerce, approved February 4, 1887, as amended; to the Committee on Interstate and Foreign Commerce.

By Mr. CURRY: A bill (H. R. 8690) to add a certain tract of land on the island of Hawaii to the Hawaii National Park; to the Committee on the Territories.

By Mr. JOHNSON of Washington: Joint resolution (H. J. Res. 205) authorizing and directing the Secretary of the Navy to enter into an agreement with the Secretary of War respecting the occupation and use of the Camp Lewis Military Reservation, in the State of Washington; to the Committee on Naval Affairs.

By Mr. YOUNG: Joint resolution (H. J. Res. 206) to authorize the adjustment, settlement, and winding up of all matters connected with the loaning of money by the Government for seed purposes; to the Committee on Appropriations.

By Mr. COCKRAN: Resolution (H. Res. 200) respecting the right of the President to address either House of Congress in the absence of the other on a matter affecting legislation; to the Committee on Rules.

By Mr. GRAHAM of Illinois: Resolution (H. Res. 201) for the immediate consideration of House bill 8298; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BIRD: A bill (H. R. 8691) granting a pension to Anna R. Ballard; to the Committee on Pensions.

By Mr. BLAND of Virginia: A bill (H. R. 8692) to provide for an examination and survey of Onancock River, Accomac County, Va., and of the channel connecting said river with Chesapeake Bay, Va.; to the Committee on Rivers and Harbors.

Also, a bill (H. R. 8693) for the examination and survey of Mulberry Creek, Lancaster County, Va.; to the Committee on Rivers and Harbors.

By Mr. BROOKS of Illinois: A bill (H. R. 8694) granting a pension to William E. Kerbaugh; to the Committee on Invalid Pensions.

By Mr. CLARKE of New York: A bill (H. R. 8695) authorizing the Secretary of War to donate to the city of Oxford, State of New York, one German cannon or fieldpiece; to the Committee on Military Affairs.

By Mr. DAVIS of Tennessee: A bill (H. R. 8696) granting a pension to H'g Melton; to the Committee on Invalid Pensions.

By Mr. ELLIOTT: A bill (H. R. 8697) granting a pension to Cynthia C. Jones; to the Committee on Invalid Pensions.

By Mr. FESS: A bill (H. R. 8698) authorizing the Secretary of War to donate to the American Legion Post of Xenia, State of Ohio, one German cannon or fieldpiece; to the Committee on Military Affairs.

By Mr. FUNK: A bill (H. R. 8699) granting a pension to Charles C. Sterling; to the Committee on Pensions.

By Mr. GALLIVAN: A bill (H. R. 8700) granting an increase of pension to Patrick J. O'Brien; to the Committee on Pensions.

By Mr. JOHNSON of Kentucky: A bill (H. R. 8701) granting a pension to Sarah R. McGrew; to the Committee on Pensions.

By Mr. JOHNSON of Washington: A bill (H. R. 8702) granting an increase of pension to Catherine Hoover; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8703) granting an increase of pension to Willard M. Girton; to the Committee on Pensions.

Also, a bill (H. R. 8704) granting a pension to Nicholaos P. Zopolos; to the Committee on Pensions.

By Mr. KEARNS: A bill (H. R. 8705) granting an increase of pension to Hannah Bell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8706) granting an increase of pension to Benjamin C. Maham; to the Committee on Pensions.

By Mr. LAMPERT: A bill (H. R. 8707) granting a pension to Lena E. Deming; to the Committee on Invalid Pensions.

By Mr. LINTHICUM: A bill (H. R. 8708) for the relief of Mary C. Blandin; to the Committee on Claims.

By Mr. McLAUGHLIN of Nebraska: A bill (H. R. 8709) granting a pension to Mary J. Johnson; to the Committee on Invalid Pensions.

By Mr. PURNELL: A bill (H. R. 8710) granting an increase of pension to Stephen T. Barnes; to the Committee on Pensions.

By Mr. RAMSEYER: A bill (H. R. 8711) granting a pension to Anna Coleman; to the Committee on Invalid Pensions.

By Mr. TINKHAM: A bill (H. R. 8712) granting a pension to John F. Norton; to the Committee on Pensions.

By Mr. WILLIAMS: A bill (H. R. 8713) granting a pension to Mary Barnwell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8714) granting a pension to Lucinda E. Jones; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8715) granting an increase of pension to Emma Koontz; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8716) granting a pension to Dean Lewis; to the Committee on Invalid Pensions.

By Mr. WOODYARD: A bill (H. R. 8717) granting a pension to Drusilla Bush; to the Committee on Invalid Pensions.

By Mr. GILLETT: Resolution (H. Res. 199) for the relief of the widow of Henry Neal, late an employee of the House of Representatives; to the Committee on Accounts.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

2729. By Mr. CRAMTON: Petition of George S. Whidden and other citizens of Vassar, Mich., protesting against the passage of the compulsory Sunday observance bill (H. R. 4388); to the Committee on the District of Columbia.

2730. By Mr. CULLEN: Resolution adopted at a meeting of the Greeters, of New York City, charter No. 2, protesting against the proposed tax of 10 per cent on all hotel rooms where the charge per day is above $5; to the Committee on Ways and Means.

2731. Also, resolutions adopted by the members of Branch No. 2, United National Association of Post Office Clerks, relative to the nonobservance of Lincoln's Birthday by postal employees; to the Committee on the Post Office and Post Roads.

2732. By Mr. FULLER: Petition of G. D. Bennett and sundry other citizens of Rockford, Ill., opposing the Sunday observance bill (H. R. 4388); to the Committee on the District of Columbia.

2733. By Mr. GALLIVAN: Resolutions from W. A. McDonald, president, and M. F. Erickson, secretary, of Charlestown Metal Trades Council, Boston Navy Yard, regarding the present and future building program of naval ships; to the Committee on Naval Affairs.

2734. Also, copy of resolutions adopted by the American Legion, Department of Massachusetts, urging the passage of the adjusted compensation and other bills for soldier relief; to the Committee on Ways and Means.

2735. By Mr. KETCHAM: Petition of residents of Niles, Mich., protesting against House bill 3716; to the Committee on the Merchant Marine and Fisheries.

2736. Also, petition of residents of Michigan, protesting against the Sunday observance bill (H. R. 4388); to the Committee on the District of Columbia.

2737. Also, petition of residents of Bangor, Mich., protesting against the Sunday observance bill (H. R. 4388); to the Committee on the District of Columbia.

2738. By Mr. KIESS: Evidence in support of House bill 8653, granting a pension to Mary T. Schmidt; to the Committee on Pensions.

2739. By Mr. KISSEL: Petition of Janet and Mary Clements, E. P. Doyle, M. Lyons, P. H. McCarthy, W. Redmond, W. Rogan, and W. Slavin, all of Brooklyn, N. Y.; to the Committee on Ways and Means

2740. Also, petition of Herman Grossman, of Chicago, Ill.; to the Committee on Ways and Means.

2741. By Mr. LINTHICUM: Petition of Michael Fitzgerald Council, of Baltimore, Md., urging enactment of Senate bills 665 and 2099; to the Committee on Interstate and Foreign Commerce.

2742. By Mr. PATTERSON of New Jersey: Petition of Taylor Memorial Baptist Church, of Paulsboro, N. J., indorsing House joint resolution 159, prohibiting sectarian appropriations; to the Committee on the Judiciary.

2743. By Mr. SNYDER: Resolution of Utica, N. Y., lodge, No. 33, Benevolent and Protective Order of Elks, favoring the sale of light wines and beer under suitable restrictions; to the Committee on the Judiciary.

2744. By Mr. TAYLOR of New Jersey: Petition of sundry citizens of Newark, N. J., and vicinity, urging the recognition of the Irish republic; to the Committee on Foreign Affairs.

2745. Also, petition of sundry citizens of Newark, N. J., and vicinity, protesting against House bill 4388; to the Committee on the District of Columbia.

2746. By Mr. WOODYARD: Petition of the Rotary Club of Parkersburg, Parkersburg, W. Va., relative to Government aid in road building; to the Committee on Roads.

HOUSE OF REPRESENTATIVES.

SATURDAY, *October 15, 1921.*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

O Thou blessed Heavenly Father, we are ever in Thy arms of care; draw us more closely to Thy heart and hear the unuttered voices of our breasts and bless us with the peace that follows divine forgiveness. Bear with our infirmities and fortify us against error. Grant us strength to dismiss the anxiety of to-morrow and make us strong, urgent men of to-day. Give us the life that conquers over bitter cups, sore loneliness, and disappointment, and prosper the good everywhere. In the name of Jesus. Amen.

The Journal of the proceedings of yesterday was read and approved.

CORRECTION.

Mr. SPEAKS. Mr. Speaker, with the enthusiasm of a new Member I have taken a great deal of pride in the fact that I have never missed a session or a roll call. In checking the matter up this morning I find that on the sixth roll call this session, the House being in Committee of the Whole, I am recorded as not present on a call of the committee. I was present, and I ask unanimous consent that the RECORD be corrected.

The SPEAKER. Is there objection?

Mr. GARRETT of Tennessee. Mr. Speaker, reserving the right to object, I suppose the permanent RECORD containing roll call No. 6 of this session has already been printed. Would not

that necessitate the reprinting of the RECORD if permission is given to correct it?

The SPEAKER. The Chair will ask the gentleman when that was?

Mr. SPEAKS. That was the sixth roll call. I admit it is going back quite a distance.

The SPEAKER. The Chair thinks that now it would not be practical to correct the RECORD. The Journal of that date could be corrected.

Mr. GARRETT of Tennessee. The permanent RECORD of that date has been printed. Of course the gentleman would not want to have a reprinting of the RECORD.

Mr. SPEAKS. If it involves any expenditure of money, I am not going to ask it. This is a matter of pride only, and I do take a great deal of pleasure in boasting that I have never missed a session of the House nor a roll call, and I have never voted present. I always vote either "yes" or "no."

The SPEAKER. The Chair thinks it would be too late to correct the RECORD.

EXTENSION OF REMARKS.

Mr. NEWTON of Missouri. Mr. Speaker, I ask unanimous consent to extend and revise my remarks in the RECORD upon the reapportionment bill.

The SPEAKER. Is there objection?

There was no objection.

Mr. BLANTON. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the farm and live-stock problem.

The SPEAKER. Is there objection?

There was no objection.

BURIAL OF AN UNKNOWN AMERICAN SOLDIER.

Mr. MADDEN. Mr. Speaker, I ask unanimous consent to call up for present consideration Senate joint resolution 123, authorizing the Secretary of War to expend from the appropriation "Disposition of remains of officers, soldiers, and civilian employees, 1922" (act of Mar. 4, 1921, Public, No. 389, 66th Cong.), such sum as may be necessary to carry out the provisions of public resolution No. 67, Sixty-sixth Congress, which I send to the desk.

The Clerk reported the title of the Senate joint resolution.

The SPEAKER. Is there objection to the present consideration of the resolution? [After a pause.] The Chair hears none. The Clerk will report the resolution.

The Clerk read as follows:

Senate joint resolution 123.

Resolved, etc., That the Secretary of War is hereby authorized to use such portion of the unexpended balance of the appropriation "Disposition of remains of officers, soldiers, and civilian employees, 1922" (act of Mar. 4, 1921, Public, No. 389, 66th Cong.), as may be necessary for the carrying out of the provisions of public resolution No. 67, Sixty-sixth Congress, entitled "Joint resolution providing for bringing to the United States the body of an unknown American who was a member of the American Expeditionary Forces who served in Europe and lost his life during the World War, and for burial of the remains with appropriate ceremonies"; and he is further authorized to expend from the said appropriation such sums as may be necessary to defray all expenses incident to the ceremonies connected with the burial of this unknown American, including the expense of transporting troops, individual officers, warrant officers, enlisted men, and sailors of the Regular Army, Navy, and Marine Corps to and from Washington.

With the following committee amendments:

Page 2, lines 7 and 8, strike out the words "including the."

Line 10, page 2, after the word "Washington," insert: "*Provided*, That the amount to be used for the expenses incident to ceremonies connected with such burial shall not exceed $50,000."

Mr. MADDEN. Mr. Speaker, the following resolution, which was approved March 4, 1921, was passed by Congress, being House joint resolution 426:

Resolved, etc., That the Secretary of War be, and he is hereby, authorized and directed, under regulations to be prescribed by him, to cause to be brought to the United States the body of an American, who was a member of the American Expeditionary Forces who served in Europe, who lost his life during the World War and whose identity has not been established, for burial in the Memorial Amphitheater of the National Cemetery at Arlington, Va.

Such sum as may be necessary to carry out the provisions of the joint resolution is hereby authorized to be expended by the Secretary of War.

Under an act approved August 24, 1921, the President is authorized to bestow with appropriate ceremonies, military and civil, the congressional medal of honor and the distinguished service cross upon the unknown, unidentified American to be buried in the Memorial Amphitheater of the National Cemetery at Arlington, Va., on November 11, 1921.

In pursuance of the authority and direction embodied in this resolution and in this act, the President issued a proclamation setting apart the 11th day of November for the ceremonies connected with the burial of this unknown dead soldier who lost his life in France. The Secretary of War has proceeded under the direction of the legislation to make such arrangements as he deems necessary to complete the ceremonies on that occasion. It is proposed under the plan outlined by the Secretary of War to have the body of this unknown dead soldier brought to Washington on November 9. The body of this particular soldier was selected by taking the bodies of four unknown soldiers from where they were buried in France, by a sergeant in the Army, and having an officer of the Army later place his hand upon one of the caskets containing these remains. The one which he selected contains the remains of the soldier to be buried under the resolution. The body of this unknown dead soldier will arrive at the navy yard in this city at 4 o'clock upon the afternoon of November 9. It will be escorted with simple ceremonies to the Capitol and there will lie in state in the rotunda from the hour of its arrival until 8.30 o'clock on the morning of the 11th of November. During the time that it lies in state civic societies and individuals may come and pay such tribute as they may think proper to the body of this unknown dead soldier.

It will be guarded by soldiers representing all arms of the Military Establishment, including the Navy and the Marine Corps, during the period that it lies in state. At 8.30 on the morning of the 11th the body will be removed from the Rotunda, and the President of the United States, with the Cabinet, and, as I understand, the Members of both Houses, if they choose to participate, will form a procession, which will lead the cortege up Pennsylvania Avenue as far as the White House. About 2,000 members of the Regular Army, Navy, and Marine Corps will be assembled here, and one battalion of the National Guard are to be brought here from New York and Pennsylvania. The plan contemplates the selection of not to exceed three members of the Legion from every State in the Union, according to the number of troops sent from the various States, to be selected by the governors of the States, who are to take part in the ceremony. It also contemplates the bringing here of all medal of honor men representing every war in which America has been engaged. There are said to be 300 of these medal of honor men living in the United States to-day; many of them are old, and it is not understood they will all come, but the calculation is that 200 will be here. The President will leave the procession at the White House and then proceed by automobile to the cemetery, where he will meet the cortege and deliver the oration of the occasion. The body will be buried under the steps of the amphitheater, as contemplated by the resolution. The amount of money asked to pay the expenses of the ceremony was $129,650. That involves the expenditure of $50,000 for a sarcophagus, but the committee believed that ought not to be a part of the expenses of this ceremony, and there were other expenses recommended which the committee thought might well be eliminated. The committee cut down the recommendation of the amount that ought to be necessary to $50,000, as you will see by the resolution. It seemed to the committee that this ceremony was of such importance that there ought to be no question whatever about the attitude of the Congress. The mothers of those who fell upon the battle field and were unidentified at the close of their career undoubtedly have wept many bitter tears of regret at the thought that their boys were lying in unknown graves, and it is a happy thought, it seems to me, that originated the idea of this ceremony. While every unknown soldier can not be buried under this resolution, yet every mother whose son has been unidentified may hope, pray, and think that maybe this is her boy. There is no reason to believe she may not rejoice to think, although she is not certain, it is her boy and that he is buried with honors such as have never before been accorded to the soldier dead. This is the ceremony of the Nation, a tribute to be paid by every citizen who lives under the flag to the unidentified soldier who laid down his life that liberty under American institutions might be preserved. [Applause.]

I yield to the gentleman from Tennessee [Mr. BYRNS].

Mr. BYRNS of Tennessee. Mr. Speaker, as has been explained by the gentleman from Illinois [Mr. MADDEN], this resolution provides the funds necessary to defray the expenses incident to the interment of the unknown American soldier, whose remains are now en route from France under and in pursuance of a resolution adopted by the Congress. It does not provide the full amount which was asked for by the War Department, but, in the judgment of the committee, it does provide a sufficient amount which will enable proper tribute to be paid to this soldier and to provide for the transportation of the guests who have been invited by the department to attend and participate in the ceremony, these guests being selected from men who wear the medal of honor and also from among those who served in the late war. It makes no direct appropriation, but it authorizes the expenditure of not exceeding $50,000 from the fund of $10,000,000 which has been appropriated to

defray the expenses of bringing back our soldier dead to this country, and to provide suitable and proper cemeteries for those whose parents or next of kin prefer shall permanently be interred in France. Both France and England have already buried an unknown soldier with elaborate ceremonies. Several months ago, without objection upon the part of any Member of Congress, but on the contrary, as I understand, with the hearty approval of every Member, it was directed that the congressional medal of honor be laid upon the tomb of each of these unknown soldiers of France and England. The administration did not intrust this solemn and sacred duty to our ambassadors, but in order to show especial tribute to the unknown dead of France and England chose to send a special representative in the person of Gen. Pershing, who, with at least one member of his staff, has been in Europe for several weeks for that purpose, and American soldiers were brought from Coblenz to Paris for the purpose of taking part in the exercises incident to the decoration of the tomb of the unknown French soldier. We are told through the press that similar exercises will take place next week with respect to the unknown English soldier. I mention this simply to call your attention to the tribute which our country has paid to the soldier dead of France and England and to say that surely everyone will approve whatever sum may be necessary to pay a tribute to the unknown American soldier now en route to this country, not for the purpose of exploiting anyone who may take part in the ceremonies, but as an expression of the gratitude of this Nation to this unknown soldier and to all his comrades who made the supreme sacrifice in behalf of their country. And I may say, Mr. Speaker, that the splendid monument which is to be erected over the remains of this soldier in the Nation's cemetery at Arlington will tell succeeding generations of the gratitude of our Republic to all of the soldiers, not only to those who died but to every one who responded to the call of their country in the hour of its great need, and the story of this act of gratitude upon the part of our Nation will prove an inspiration for patriotism, an inspiration for courage and for love of country to all the youth who may come after us.

Personally, I would have preferred to see the remains of this soldier interred according to the precedent set by France. I understand that France interred the remains of her unknown soldier under the Arc de Triomphe, in a busy section or part of Paris where thousands of persons pass each day. A good friend of mine, and a prominent citizen of Nashville, Mr. William E. Ward, who with Mrs. Ward and their children spent several months in Europe during the past summer, told me while I was at home recently that he was never more impressed in his life than he was when he stood on one side and saw each one of the busy, hurrying thousands who passed by the last resting place of this unknown soldier pause for a moment and lift his hat and utter a silent prayer for the repose of the soul of the soldier, and the repose of the souls of all the soldiers who died for their country. And so I agree with him that it would have been a most excellent thing if the body of our unknown soldier had been interred immediately in front of the main steps of the Capitol, with simple and appropriate ceremonies, covered with a slab marking it as a place sacred to this and all succeeding generations, and where everyone who visits the National Capital might pay reverential tribute. But Congress has by resolution directed that the remains of this soldier shall be interred at Arlington, where so many of the Nation's heroic dead lie buried, and in close proximity to many of his comrades who have been brought back for the purpose of being interred in American soil.

Some have said that the suggestion that was made to bring back the remains of an unknown American soldier for public interment was influenced by mere sentiment, and that the Government and Congress yielded to a mere sentiment in making the appropriation necessary. That is true. It is a sentiment, but it is a most commendable and a most beautiful one. Life, after all, is full of sentiment. It would not be worth the living if that were not true. The person who is wholly devoid of sentiment, or the Government which is not, at least, to some extent influenced by proper sentiment, can not expect to accomplish very much for the real and lasting benefit of mankind. But there is something more, as the gentleman from Illinois has said, than sentiment in this, because, I repeat, it is the expression of a Nation's gratitude for the sacrifice made by this soldier. He was selected for this great honor, not because of his family or of any influence, for his family and his friends are not known. Nevertheless, the entire Nation will do him honor upon November 11, and through him will do honor to the thousands of his comrades for the sacrifices they have made. No man ever made a greater sacrifice than this unknown soldier, because he not only gave his life for his country but he lost his identity and the record of what he did for his country will never appear upon its muster rolls. In the United States there are many sad mothers and fathers who mourn the loss of a devoted son, not so much because in the performance of his duty he gave his life for his country, because they can take patriotic pride in that fact, but rather because they do not know and never will know just where and when and how their boy died and where his remains now lie. They will take comfort in the realization that whether this soldier be their boy or not, nevertheless the tribute which will be paid him, and the splendid monument, commemorative of a Nation's gratitude, which will be erected over his remains, is a tribute and an expression of gratitude to their boy and to all of the brave soldiers who died that their country might remain independent in the fullest and truest sense, and that the cause of humanity, of freedom, and of civilization, in the truest and highest sense, might not perish from the earth. I am quite sure, Mr. Speaker, that the entire American public will rejoice in the fact that this great honor is being paid to this unknown American soldier. [Applause.]

Mr. MADDEN. Mr. Speaker, I yield 15 minutes to the gentleman from Texas [Mr. BLANTON].

Mr. BLANTON. Mr. Speaker, in quality and extent of same, I yield to no man in this Nation in my sincere, heartfelt appreciation of, regard, and reverence for, and gratitude to the heroes of our country who made patriotic sacrifices in France, many to the extent of giving their lives there. It is proper that we should show this tribute and do this reverence. No one would object to it. I agree with the gentleman from Tennessee [Mr. BYRNS] that without sentiment life would not be worth living. It is full of sentiment. It is the thing about life that makes it worth while. I am glad that by the act of August 24, 1921, we have authorized the President to bestow with appropriate ceremonies, military and civil, the congressional medal of honor and the distinguished service cross upon this unknown, unidentified American at Arlington November 11, 1921. We have already authorized that. It does not require this resolution. And I am glad we are going to do this respect and show this reverence to our dead. And I am glad we are to place a splendid monument over his grave.

But to do all this does not require this resolution. We have already passed adequate legislation authorizing the War Department to bring not only the body of this unidentified dead back from France, but to bring the body of every American soldier who fell upon foreign soil. I was one of those who insisted upon that being done. It was something we owed to their people and their families. We should bring them back, all of them, identified and unidentified, and bury them with honor, without cost to their relatives, and place monuments upon their graves, and all of this is already authorized without this resolution, as the War Department has authority now to bring them back, and has brought many of them back and buried them.

I am mindful of the fact that down in my district, in Callahan County, Tex., there is a splendid, loyal, patriotic man who had one son in the Navy, a son-in-law in the service, both of whom did valiant service for their country, and another son in the Army who lost his life in France. His body was delivered just a few days ago at Abilene, Tex., without an escort, and the father of that son, who is a poor farmer in my district, had to meet it alone, and he has paid out over $100; that meant much to him, in order to get his son properly buried in the home community, and not a cent of it has he been able to get back from the War Department.

It does not take this resolution. The Secretary of War has had ample funds furnished him to bring all of the bodies back that he has already brought back, and yet he has $7,000,000 cash left in his hands now unexpended to spend to bring the other bodies back from Europe, and not one dollar of this resolution money will be spent to bring this body back. The money is already in his hands for that purpose. He has the money to disinter that body properly and put it in a proper casket to bring it back here and inter it with proper ceremonies. He has the money already, freely given by this Congress, and a $7,000,000 fund left from which he can draw. Does it take this resolution for him to bring units of soldiers and sailors and marines here? No; it does not. He will bring them here with other appropriations already authorized by legislation that has become law. Do you know what the War Department wants with this $50,000? I will tell you. It is to provide a special junket trip here to Washington for a number of special civilian pets and favorities. Not a dollar of it will be spent in doing honor at this funeral. All of the honor possible for a Nation to do will be done in this tribute of gratitude our Republic will pay our dead, even if this resolution does not pass. Why should the War Department spend this $50,000, which is a con-

siderable sum of money just now when our Government does not know where to get the $370,000,000 Secretary Mellon said yesterday must be raised at once, when all of it is to buy transportation, pullman berths, dining car meals, and hotel bills here in Washington for favorite civilians? I am ready and willing to appropriate and spend any sum, however large, that is necessary to pay for honor to this dead soldier, but I am not willing to appropriate another dollar for private junketing trips.

It is proper that there should be units of soldiers, sailors, and marines here to attend the funeral. I am in favor of it. I would not stop it if I could. But they are to be brought here without this resolution. They are brought under another appropriation already made. But what is this resolution for? To bring a special battalion from New York and a special battalion from Pennsylvania. Why should we not bring a battalion from Illinois as well? Did not American soldiers from Illinois contribute their part to that great victory and to the sacrifices in Europe? Why should you not bring a battalion from Colorado, I will ask my friend from that State [Mr. VAILE]? Why should you not bring a battalion from Delaware and one from Connecticut and one from New Jersey and one from Michigan? Why should you just pick out two States—New York and Pennsylvania?

And we are to bring one American Legion man from each State and as many as four from some. Which one is to be selected? Every American Legion man will want to come, and only one can come.

This, I say, is not to make a proper expenditure with regard to doing the honor that we should do our dead. I have attended expensive, ostentatious funerals, and I have attended simple ones, inexpensive, and I have seen more sincere grief at the simple ones than I have seen at the expensive, ostentatious ones. It does not require ostentation and expense to express proper gratitude that the Nation owes to its dead.

I know I am speaking upon an unpopular theme. Whenever you bring a resolution in here to spend just $50,000 in the name of our soldiery it is almost dangerous for a Member to speak against it. Everybody wants to do that to appease the men to whom our Government owes an everlasting debt of gratitude and whose appeals have been denied.

I can not forget only a few weeks ago when the Sweet bill was before this House from the Committee on Interstate and Foreign Commerce, wherein the soldiery of this country, through the American Legion, asked for the pitiful little sum of $50 to provide a nurse for a man afflicted, say, with tuberculosis in its last stage, on his back, bedridden, unable to help himself, unable to fan the flies away from his face, unable to feed himself. The American Legion of this country asked this Congress, asked the chairman of this great Committee on Appropriations, asked this membership, to allow $50 to pay a nurse for such a man in such a helpless condition, and do you know what you gave them? You cut it down to $20. Can you get a nurse for $20? Show me where you can get one. You had the sordid dollar in mind then. When you cut down that request from $50 to $20 you denied the poor man on his back proper attention, because you denied him a needed nurse, and you will be the first ones to walk out here under a $50,000 resolution and drop a clod on the poor unknown soldier's coffin in Arlington and say you are doing an honor because you are spending an extra $50,000 for junketing transportation.

I can not forget that it has been only a few months since the American Legion, representing the American soldiery of this country, asked at your hands bread, not a stone. They have lost their business. They can not get employment. They have wives and little children that have not the necessities of life. They asked not altogether for a bonus, but for help in loans to buy homes. And you told them that you could not help them because the country was not financially able. Yet the very men who voted not to do that are preparing to give millions more to the great railroad corporations of this country, and by the votes of most of you there has already been paid to the swivel-chair civilian employees of this Government, who suffered no hardships during the war, five different bonuses—one for $120 and four subsequent bonuses of $240 each to each of said employees.

I want to say that for a whole month the distinguished gentleman from New York, HAMILTON FISH, who here represents his comrades in the Army, has had a bill pending before your Committee on Interstate and Foreign Commerce to allow that $50 to provide a nurse for a helpless soldier who is absolutely bedridden and can not help himself, and he can not get the committee to meet. He can not get a hearing. The committee has promised him, but has not yet given him a hearing. It depends upon you, colleagues here, to get that bill out and report it and pass it. It ought to be passed before this bill can be passed, because everything that can be done to do our unknown soldier honor can be done without this resolution.

Can you depend upon the War Department to properly spend this money? They first asked for $129,650 for this purpose. The committee did not give it to them. The committee first cut off $50,000 at a whack. Then the War Department asked for $79,650 for this junket transportation, and the committee would not give them that, but cut them down to $50,000, all for junket transportation. Keep that in mind. And remember what the War Department did during the war. Admitted facts, disclosed through congressional investigations, convince us that we can not depend on either the General Staff or the War Department for sane action in money spending. They recently led Congress to provide for peace-time future that the number of our commissioned officers should not exceed 17,000, over double the number needed, while to control the maximum Congress provided for only 14,000 in appropriations, and immediately all officers were promoted, so that there was not a second lieutenant in our entire Army, thus forcing Congress to increase the number.

After the armistice the War Department sold $1,722,000,000 worth of goods in Europe for only $400,000,000, and the buyers shipped the goods back here making hundreds of millions profit.

When the war closed we had 148,000 horses. We had 975,000 saddles, with an order out for 500,000 additional saddles. Thus, while having on hand six and one-half times as many saddles as we had horses, they ordered 500,000 additional. They decided they would change the way of branding our horses with U. S. on the shoulder, and junked the adequate supply of branding irons we had on hand, and then ordered and had on hand when the armistice was signed 195,000 new model copper and steel branding irons to brand our 148,000 horses on the hoof, such irons costing $14 each, or $2,730,000, yet did not use one of them, and did not brand a horse. They also had on hand 66,130 cases of horseshoes and 14,543 cases of horseshoe nails, with only 148,000 horses.

After the armistice the War Department shipped 40,000 fine automobile trucks and automobiles from the United States to France and almost gave them away, merely to protect the automobile manufacturers in this country, and they left thousands of them in our camps throughout the country, new Cadillac cars never used, allowing them to stay out in the wet and the rain and the weather in the mud several years until ruined, because they wanted to protect your automobile manufacturers and would not give the people of this country the benefit of them at low prices.

The ex-service men who are needy have asked you to give them bread and not a stone. I am one who is not afraid to get up here in front of you and speak frankly. I am paying an extra private stenographer, Miss Elizabeth Johnson, her salary right out of my own pocket now to answer the letters of soldiers in hospitals who are living in other States, trying to get their compensation adjusted, because when they appeal to me I do not stop and ask them where they live; I answer them. I sit up until 11 and 12 o'clock at night dictating and signing letters to them. I have shown my friendship for the soldiers, not by voting to pass a resolution that frivolously spends $50,000 for junket transportation unnecessarily, when there is plenty of other money available to use, and will be used, in carrying out the purposes of the former burial resolution. The ex-service men know that I am their true, loyal friend. I have voted for every measure on their great relief, rehabilitation program. I have never yet turned down one of them who appealed to me for assistance, white or black, living north, south, east, or west; I have responded promptly and have done everything in my power to help them.

Mr. MADDEN. Mr. Speaker, I yield three minutes to the gentleman from Texas [Mr. CONNALLY].

The SPEAKER. This bill is being considered in the House as in Committee of the Whole, and each gentleman who takes the floor is entitled to five minutes. The gentleman from Texas is recognized for five minutes.

Mr. CONNALLY of Texas. Mr. Speaker, I am in favor of this resolution. If I opposed it I would vote against it. The money is already appropriated and in the Treasury, and, as I understand, this resolution simply makes it available for the purposes outlined in the resolution.

Mr. MADDEN. That is correct.

Mr. CONNALLY of Texas. So after all this resolution simply provides a way by which $50,000 already appropriated, and which will probably be spent anyway, shall be utilized in pro-

viding fitting ceremonies in honoring the interment of the body of "the unknown soldier" of the American forces who fell with his face toward the enemy of his country.

The gentleman who just preceded me [Mr. BLANTON] stated that he was opposed to appropriating $50,000 for a "frivolous purpose."

Gentlemen of the House, I do not conceive it to be a frivolous purpose for a great Nation like our own, the richest in resources, the most nearly unimpaired in its wealth by the ravages of war and the expenditure of money, to spend the comparatively paltry sum of $50,000, even though the critical may call the purpose one of ostentation, to do appropriate honor to one whose identity is unknown, who, as suggested by the gentleman from Tennessee [Mr. BYRNS] and the gentleman from Illinois [Mr. MADDEN], is being honored neither because of his family nor because of his influential connections, not for pride of birth or earthly power, but whose torn, unidentified body is being honored as the representative, as the emblem, you may say, of all the thousands of "unknown" American soldiers who to-day in nameless graves sleep beneath the soil of France. The Republic is not paying this tribute to him to build up his own individual greatness or pay tribute to his name; but the Nation through these ceremonies will do honor to all the heroic unknown who slumber on distant and cheerless battle fields with no stone above them to guide the searcher for their names, no legend to mark the honored file they filled, no line to trace them back to the homes they loved.

Two years ago I visited the battle fields of France where American troops added fadeless renown to American arms. I came back on the same ship with the gentleman from Illinois [Mr. MADDEN] who offers this resolution, and I know that he saw there scenes similar to those that I had the honor of witnessing. We walked over the fields torns and scarred and seared by battle. I remember that at Belleau Wood we clambered down the hillside where our soldiers fought so gloriously; even then representatives of the Army were gathering the unknown dead who had fallen there. We could see here and there portions of limbs protruding from the earth. Just a little further along was a clump of graves of the enemy, unknown, unwept, and unhonored by their Emperor, who had fled his realm. We found on that hillside the remains of many soldiers whose identity had been lost by explosion of shell or by other engines of war. We have brought back the living, and the gentleman who just spoke is willing to open the Treasury to those who came back from the war with health and whole bodies; and that boy who is buried yonder in France, with no stone above his head, with no insignia to identify even his organization, is entitled to at least some tribute from this great Republic. [Applause.] We stood by the little mounds above them as they lay cold and silent in the embrace of death, lonely except for their comrades sleeping by their sides; and as we contemplated those graves and the sacrifice made by those whose honored bones lay within, I as a citizen of this Republic felt an utter scorn and contempt for any American who could associate with the solemn thoughts that crowded our minds the idea of a sordid dollar. [Applause.]

I trust that this resolution may be adopted without a dissenting voice, so that the whole country everywhere may know that this Republic is not fitly described by Europeans when they speak of the dollar idea in American life, but that the Republic of the United States can feel the sentiment of pride and appreciation; there was no emblem of the dollar on their uniform nor upon the flag they followed; there was no thought of the dollar in their minds as they dared and died. Let not the dollar stand between us and fitting honor to their sacred memory. Let the world know that not only will we hold this exercise with befitting memorial ceremonies, but will inter this soldier yonder in Arlington and erect above his grave a tomb that neither time nor circumstance can destroy, and that the whole Republic will enshrine his memory as emblematic of all of the unknown dead forever in our hearts and consciences. [Applause.]

Mr. MADDEN. Mr. Speaker, I move the previous question on the joint resolution to its passage.

The previous question was ordered.

The SPEAKER. The question is on the committee amendments.

The committee amendments were agreed to.

The joint resolution was ordered to a third reading, and was accordingly read the third time.

The SPEAKER. The question is on the passage of the joint resolution.

The question was taken, and the Speaker announced that the "ayes" appeared to have it.

Mr. BLANTON. I ask for a division.

The SPEAKER. The gentleman from Texas demands a division.

The House divided; and there were—ayes 95, noes 1.

Accordingly the joint resolution was passed.

On motion of Mr. MADDEN, a motion to reconsider the vote by which the joint resolution was passed was laid on the table.

Mr. MADDEN. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. The Chair will first submit some personal requests.

LEAVE OF ABSENCE.

By unanimous consent leave of absence was granted—

To Mr. OSBORNE, for one week, on account of official business.

To Mr. SHAW (at the request of Mr. BROOKS of Illinois), for 10 days, on account of important business.

To Mr. MCLAUGHLIN of Nebraska, for one week, on account of important business.

To Mr. COCKRAN, for 10 days, on account of important business.

To Mr. KING, indefinitely, on account of important business.

To Mr. CHALMERS, for one week, on account of official business.

Mr. LANKFORD. Mr. Speaker, I ask unanimous consent to extend my remarks on the farmers' relief bill.

The SPEAKER. The Chair does not think he ought to submit that request after the motion to adjourn has been made. He will submit the gentleman's request on Monday.

ADJOURNMENT.

Mr. MADDEN. Mr. Speaker, I renew my motion.

The motion was agreed to.

Accordingly (at 12 o'clock and 56 minutes p. m.) the House adjourned until Monday, October 17, 1921, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII,

Mr. ANDERSON, from the Joint Commission of Agricultural Inquiry, submitted a report (No. 408, pts. 1 and 2) on "Credit," which said report was ordered to be printed, with illustrations.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 8452) granting an increase of pension to Francis M. Coats; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 8581) granting a pension to Thurman L. Wilson; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 8634) granting a pension to Martha C. Davis; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. MCSWAIN: A bill (H. R. 8718) to mark the places where military organizations trained for the World War; to the Committee on the Library.

By Mr. SMITH of Idaho: A bill (H. R. 8719) providing for advances to the reclamation fund; to the Committee on Irrigation of Arid Lands.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROOKS of Pennsylvania: A bill (H. R. 8720) granting an increase of pension to Louisa A. Gemmill; to the Committee on Invalid Pensions.

By Mr. HAYS: A bill (H. R. 8721) granting a pension to Elizabeth A. Peacock; to the Committee on Invalid Pensions.

By Mr. MOORE of Illinois: A bill (H. R. 8722) granting a pension to Lizzie E. Johnson; to the Committee on Invalid Pensions.

By Mr. PERKINS: A bill (H. R. 8723) authorizing the Secretary of War to donate to the borough of Wallington, N. J., one German cannon or fieldpiece; to the Committee on Military Affairs.

By Mr. TILSON: A bill (H. R. 8724) granting a pension to Alonzo Derrick; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8725) for the relief of Robert E. A. Landauer; to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

2747. By Mr. FULLER: Petition of sundry citizens of Sheridan, Ill., opposing the passage of the Sunday observance bill (H. R. 4388); to the Committee on the District of Columbia.

2748. By Mr. HAYS: Petition of L. C. Taylor and 48 other citizens of Howell County, Mo., protesting against the passage of House bill 4388; to the Committee on the District of Columbia.

SENATE.

MONDAY, *October 17, 1921.*

(Legislative day of Friday, October 14, 1921.)

The Senate reassembled at 11 o'clock a. m., on the expiration of the recess.

Mr. LODGE. Mr. President, I make the point of no quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	France	McCumber	Simmons
Ball	Frelinghuysen	McKellar	Smoot
Borah	Gerry	McKinley	Spencer
Brandegee	Hale	McLean	Stanley
Broussard	Harreld	McNary	Sterling
Bursum	Harris	Moses	Sutherland
Calder	Harrison	Nelson	Swanson
Cameron	Heflin	Newberry	Townsend
Capper	Hitchcock	Nicholson	Trammell
Colt	Johnson	Norbeck	Underwood
Culberson	Jones, N. Mex.	Oddie	Walsh, Mass.
Cummins	Kellogg	Overman	Walsh, Mont.
Curtis	Kendrick	Page	Warren
Dial	Kenyon	Pittman	Watson, Ga.
Dillingham	Keyes	Poindexter	Watson, Ind.
du Pont	La Follette	Pomerene	Willis
Elkins	Lenroot	Ransdell	
Ernst	Lodge	Reed	
Fernald	McCormick	Sheppard	

Mr. CURTIS. I wish to announce that the Senator from Maryland [Mr. WELLER], the Senator from California [Mr. SHORTRIDGE], the Senator from Virginia [Mr. GLASS], and the Senator from Florida [Mr. FLETCHER] are absent in attendance at a meeting of a subcommittee of the Committee on Banking and Currency.

The VICE PRESIDENT. Seventy-three Senators having answered to their names, a quorum is present.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, announced that the House had passed the joint resolution (S. J. Res. 123) authorizing the Secretary of War to expend from the appropriation "Disposition of remains of officers, soldiers, and civilian employees, 1922" (act of Mar. 4, 1921, Public, No. 389, 66th Cong.), such sum as may be necessary to carry out the provisions of public resolution No. 67, Sixty-sixth Congress, with amendments, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (S. 2359) providing for an international aero congress cancellation stamp to be used by the Omaha post office, and it was thereupon signed by the Vice President.

SENATOR FROM NEW MEXICO.

The VICE PRESIDENT. The Chair lays before the Senate the credentials of Hon. HOLM O. BURSUM, Senator elect from the State of New Mexico, which the Secretary will read.

The reading clerk read the credentials, as follows:

STATE OF NEW MEXICO.

To the President of the Senate of the United States:

This is to certify that on the 20th day of September, A. D. 1921, Hon. HOLM O. BURSUM was duly chosen by the qualified electors of the State of New Mexico a Senator from said State to represent said State in the Senate of the United States for the unexpired term of six years, beginning on the 4th day of March, 1919.

Witness his excellency, our governor, and the great seal of the State of New Mexico, at the city of Santa Fe, the capital, on this 10th day of October, A. D. 1921.

MERRITT P. MECHEM,
Governor of New Mexico.
MANUEL MARTINEZ,
Secretary of State.

[SEAL.]

THE CANVASSING BOARD OF THE STATE OF NEW MEXICO.

To all to whom these presents shall come, greeting:

This is to certify that HOLM O. BURSUM was duly and regularly elected in accordance with law to the office of United States Senator from New Mexico at the general election held in the said State of New Mexico on the 20th day of September, A. D. 1921, as shown by the returns of said election on file in the office of the secretary of state and as declared and determined by the State canvassing board, consisting of the governor, the secretary of state, and the chief justice of the State of New Mexico.

In testimony whereof we have hereunto set our hands and caused to be affixed the great seal of the State of New Mexico this 10th day of October, A. D. 1921, and of the independence of the United States the one hundred and forty-fifth.

MERRITT P. MECHEM,
Governor of New Mexico.
CLARENCE J. ROBERTS,
Chief Justice.
MANUEL MARTINEZ,
Secretary of State.

[SEAL.]

The VICE PRESIDENT. The credentials will be placed on file, if there be no objection. The Chair hears none, and it is so ordered. The Senator elect will please come forward and be sworn.

Mr. BURSUM was escorted to the Vice President's desk by Mr. JONES of New Mexico, and the oath prescribed by law having been administered to him he took his seat in the Senate.

HON. JOSÉ CELSO BARBOSA.

The VICE PRESIDENT laid before the Senate a communication from the secretary of the Executive Council of Porto Rico, transmitting resolutions adopted at a special meeting of the council as a tribute to the memory of the late Hon. José Celso Barbosa, a distinguished Porto Rican statesman and patriot, and testifying to their highest appreciation of the services rendered by him to the people of Porto Rico and to their government as well as to the Government of the United States, which was ordered to lie on the table with the accompanying resolutions.

MEMORIALS.

Mr. WILLIS presented a memorial of the Progress Club, of Chardon, Ohio, remonstrating against the placing of a proposed discriminative tax on musical instruments, which was ordered to lie on the table.

Mr. BALL presented 16 memorials of sundry citizens of Mobile and vicinity, Prichard, Whistler, Spring Hill, and Crichton, all in the State of Alabama, remonstrating against the enactment of Senate bill 1948, providing for compulsory Sunday observance in the District of Columbia, which were referred to the Committee on the District of Columbia.

EXPORT OF COAL.

Mr. LODGE, from the Committee on Foreign Relations, to which was referred the joint resolution (S. J. Res. 124) to amend Senate joint resolution 89, approved March 14, 1912, amending the joint resolution to prohibit the export of coal and other material used in war from any seaport of the United States, approved April 22, 1898, reported it with an amendment and submitted a report (No. 299) thereon.

BILLS AND JOINT RESOLUTION INTRODUCED.

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. McNARY:

A bill (S. 2590) granting a pension to Adelia M. Porter; to the Committee on Pensions.

By Mr. CALDER:

A bill (S. 2591) to provide for the construction of a public bridge across the Niagara River; to the Committee on Commerce.

By Mr. SPENCER:

A bill (S. 2592) granting an increase of pension to George Smith; to the Committee on Pensions.

By Mr. McKELLAR:

A bill (S. 2593) to amend the act entitled "An act to pension soldiers and sailors of the War with Spain, the Philippine insurrection, and the China relief expedition," approved June 5, 1920; to the Committee on Pensions.

By Mr. HARRIS:

A bill (S. 2594) authorizing the counties of Allendale, S. C., and Screven, Ga., to construct a bridge across the Savannah River, between said counties, at or near Burtons Ferry; to the Committee on Commerce.

A joint resolution (S. J. Res. 127) to stop the immigration of aliens into the United States; to the Committee on Immigration.

AMENDMENTS OF TAX REVISION BILL.

Mr. CALDER and Mr. McKELLAR submitted amendments intended to be proposed by them to House bill 8245, the tax revision bill, which were ordered to lie on the table and to be printed.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. Latta, one of his secretaries, announced that the President had approved and signed joint resolutions and bills of the following titles:

On October 12, 1921:

S. J. Res. 115. Joint resolution to authorize the loan by the Secretary of War to the commander in chief of the Grand Army of the Republic of cots for the use of the members of the Grand Army of the Republic during the sessions of the grand encampment of the Grand Army of the Republic at Indianapolis, Ind., from September 24 to October 1, 1921;

S. J. Res. 117. Joint resolution to authorize the loan by the Secretary of War to the commander in chief of the United Confederate Veterans of cots and tents for the use of the members of the United Confederate Veterans during the sessions of the national encampment of the United Confederate Veterans at Chattanooga, Tenn., from October 24 to October 27, 1921; and

S. J. Res. 122. Joint resolution for the bestowal of the congressional medal of honor upon an unknown, unidentified Italian soldier to be buried in the National Monument to Victor Emmanuel II, in Rome, Italy.

On October 13, 1921:

S. 1970. An act granting the consent of Congress to the counties of Bowie and Cass, State of Texas, for construction of a bridge across Sulphur River, at or near Pettis Bridge on State Highway No. 8, in said counties and State;

S. 2340. An act to authorize the construction of a bridge across the St. Marys River, at or near St. Marys, Ga., and Roses Bluff, Fla.; and

S. 2430. An act to authorize the construction of a bridge across the St. Marys River, at or near Wilds Landing Ferry, between Camden County, Ga., and Nassau County, Fla.

On October 14, 1921:

S. 1718. An act authorizing the distribution of abandoned or forfeited tobacco, snuff, cigars, or cigarettes to hospitals maintained by the United States for the use of present or former members of the military or naval forces of the United States.

TREATY OF PEACE WITH GERMANY.

Mr. LODGE. Mr. President, I move that the Senate proceed in open executive session to the consideration of the treaty of peace with Germany.

The motion was agreed to, and the Senate as in Committee of the Whole and in open executive session resumed the consideration of the treaty of peace with Germany.

Mr. McKINLEY. Mr. President, I have heard or read a number of speeches made in the interest of bringing our "homesick" soldiers home from Germany. In April, 1919, two and one-half years ago, I spent several days in the vicinity of Coblenz, the American bridgehead in Germany. At that time the American Army of occupation was composed of perhaps 200,000 men—200,000 citizen soldiers who gladly entered the Army for the purpose of putting down the war, but, as the war had been over for five months, they wanted to come home and they wanted to come tout de suite.

A general commanding a division of 25,000 men told me that in a poll of his division he found just one man out of the 25,000 that was willing to stay. I am wondering whether the recent move to bring all our men from the Rhine is not based upon that impression.

Seven weeks since, in the latter part of August, I was one of a party composed of three Senators and three Representatives who spent several days in Coblenz and vicinity in touch with our Army of occupation, and especially with the private, the "dough boy."

I think my companions will bear me out in the statement I am about to make concerning the condition which we found to exist. First, let me say that, as we all know, our original army of occupation was about 300,000 men. This number was reduced to 30,000 by the summer of 1919, since which time it has been further reduced, so that now it is made up of about 12,000 men. One transport, the *Contigny*, which plies between New York and Antwerp, making a round trip every six weeks, brings back about 1,000 soldiers each trip, and no new men are taken over to replace them. But this is what we learned in talking to the privates: Question—"Last spring and summer when it became necessary to reduce the size of the Army and 35 per cent of the men in the States indicated their desire to be discharged, how many men left the service from over here?" Answer—"None." Question—"Do you mean to say when the men had an opportunity to be discharged from the Army and a third of them in the States did secure discharges that none left from the Coblenz bridgehead?" Answer—"Yes; practically none." Question—"How do you explain that? Over in America we are under the impression you boys are very homesick and want to get back to the United States." Answer—"Homesick, shucks. I suppose they think we want to get back to eat sand down on the Mexican border or be rained on and frozen to death in the temporary camps where the buildings were built four years ago with the expectation they would last two years. The men who now compose the Regular Army, which has been reduced from 4,000,000 to 150,000 men, are like myself; the Army is our profession; it is the life we like. I have been in the Army for 12 years, and I expect to spend my life in it.

"Every five years we get a 10 per cent increase in pay, so that my pay is 20 per cent more than at first enlistment. In addition, we get 10 per cent additional for foreign service. If we were in America, we would be living in some God-forsaken camp. As Coblenz was a German military headquarters, here the barracks are fine; better than anything in the United States. Our quarters and the officers' houses are paid for by the German Government, as is all our fresh food. As part of our pay the Government furnishes us clothes, food, and lodging, and pays us at our option in American gold or in German marks. A shave costs us 1½ cents in our money, and everything else that we buy is in the same proportion, because in American money the German mark is only worth to-day about one-thirtieth of what it was worth in 1914, when the war started."

This, Mr. President, is a composite statement of what the privates told us.

The officers to a man, from Gen. Allen down, told us that the men were contented and that the presence of the troops in Germany afforded the finest opportunity to train any army that they, as officers, had ever experienced. They gave our party an exhibition for a day of the work of training an army and convinced us—but that is too long a story. So much for the poor "homesick" boy's side.

I now wish to state the vital reason why I think we should have some military representation at Coblenz. I say "Coblenz" because under the armistice of November 11, 1918, to which we agreed, the bridgehead there was assigned to us. Our party spent two days in Berlin. There, among others, we were in touch with our military commission and our civil commission. The former is headed by Col. Davis, who, by the way, is an Illinois man. I might remark in passing that Illinois has also furnished Gen. Harbord, the present Chief of Staff. The civil commission, which is practically the embassy staff, has as its head a Boston lawyer, Mr. Ellis Loring Dresel. No mistake has been made in the selection of Col. Davis and Commissioner Dresel. Col. Davis was sent to Berlin over two years ago and has an organization of about a dozen men under him. His duty is to keep in military touch with the developments in Germany. Commissioner Dresel, I am informed, was the Red Cross manager in Germany before we entered the war, and after April, 1917, until November, 1919, managed the Red Cross from Switzerland, being sent back to Berlin as the United States representative as soon as it was feasible to send one there. Mr. Dresel has an able staff of men under him. The American newspapers are well represented in Berlin. The Chicago Tribune and Chicago Daily News both have special correspondents there. All with whom we talked in Berlin impressed upon us the necessity of our having some military representation in Germany. The same thought was conveyed to us on the Rhine and in Brussels, Belgium; and when we arrived in Paris our ambassador there made the same plea that we use our influence with the administration to maintain military representation on the Rhine bridgehead.

The following, Mr. President, represents the substance of what they all said: The present German Government, which is not the Kaiser government, recognizes that the United States went into the war with no hate and with no desire for gain, but was animated solely by the desire to wipe Kaiserism from the earth and, so far as possible, to put a stop to all war. The Germans feel that, while the United States expects them to pay to the limit and keep on paying, they will, on the other hand, treat them fairly. Under the armistice the Rhine Valley is to be occupied for 15 years, and the Germans want the United States to be represented in that occupation.

Another reason the Germans want us to remain is that if we stay we will perhaps keep 5,000 men there at our bridgehead, while the French have 100,000 at their bridgehead, and the Germans know that if we withdraw the French will at once occupy our bridgehead. As the Germans are now paying a portion and ultimately must pay all the cost of occupation, they estimate it will be cheaper to pay for 5,000 American soldiers than for 100,000 more French soldiers. Further, Gen. Allen and our other officers who come in contact with the German

Government's representatives treat them firmly but friendly, and there are no hitches, while at the French bridgehead there is continual friction. The impression made upon me was that there is a more bitter feeling now than there was during the war. The French remember that during the past 90 days German officers who were charged with killing captured French prisoners have been acquitted, despite the charge that the French prisoners were killed in cold blood in groups after capture upon orders of German officers. Such a situation is not very conducive to friendly feeling.

The French, the British, the Belgians—in fact, all the allied nations—want us to be represented, because, so long as there is one American soldier on the Rhine, it is notice to the world that the American people will stand for no more wars of ambition or aggression, and that one soldier will be backed by 4,000,000 more or 10,000,000 more, if necessary, to maintain the peace of the world.

I have visited Europe three times during the past 36 months and have formed this impression: Leaving out entirely the moral side, if you please, the world interests of the United States are too great, the world itself too small, and the means of communication too quick and easy for us to stand by and say to Europe, "Go to it and fight it out; it is none of our affair."

I was in Illinois 10 days ago and found that the price of new corn to the farmer was 28 cents, and might go to 25 cents, although the corn cost him 58 cents to raise. I myself think that 2 cents or 3 cents or 5 cents of the price reduction has resulted from the so-called "farmer legislation" we passed last summer, but the price of a crop is fixed by the surplus we have to sell. In normal times Europe bought our surplus. To-day Europe is underfed and needs our grain, but Europe has neither credit nor money, so they starve while we burn our corn for fuel. This condition will prevail until peace can be assured in Europe.

Doubtless, until the millennium arrives, we will have wars in the Near East, for warfare is their normal condition; but that condition is more remote as affecting our immediate situation.

Right now the trouble is nearer us. France is in a panic of fear—fear of Germany. To express the condition in American slang, they have the "jumps." France has a population of 39,000,000, which is decreasing, while Germany has 70,000,000, which is increasing. France now maintains an army of 800,000 men, recruited from her 39,000,000 of people. The United States, with three times that population, are groaning under an army of 150,000 men, or one-fifth of the army of France. France is keeping up her army through fear of Germany, and so long as she maintains an army of 800,000 men she can hardly be expected to pay her debts, and certainly will be in poor condition to buy our products. The business situation in Europe can not become normal—it can not begin to become normal—until this French-German situation is cleared up.

German business must be permitted to live or Germany will not be able to pay the indemnity. So long as France is in mortal fear that if Germany revives she will turn and crush France, that long France will maintain her army of 800,000 men and endeavor to keep German business down, and just that long will the world's business and the United States business be demoralized. If keeping 5,000 American soldiers on the Rhine will tend to restore the equilibrium in Europe and bring back a market for the excess products of the United States, it seems to me to be a good business investment to keep that American representation over there.

Mr. KENYON. Mr. President, I should like to ask the Senator from Illinois a question concerning a statement made by him in his most interesting address. What was it the Senator said as to the price of corn in Illinois?

Mr. McKINLEY. In Illinois to-day the price of corn is 28 cents per bushel. As to the price in Iowa, I have a report from a man in the town where I live who owns 600 acres of land in Iowa who stated that it would not pay him to husk and ship his corn.

Mr. KENYON. That is why I asked the Senator the question. I have a letter here from a farmer in my State in which he says:

Bids for the 1921 crop of corn have just been made public. It is 18 cents a bushel at the local elevator. The above has cast additional gloom all over the Middle West.

Out of that 18 cents a bushel husking costs 4 cents a bushel shelling 3 cents a bushel, delivery 6 cents a bushel, leaving about 5 cents a bushel for producing a bushel of corn. It cost the farmers of the Middle West from 50 to 60 cents a bushel to produce it. In that condition of agriculture, Mr. President, I submit it is a very poor time for a railroad strike.

The VICE PRESIDENT. The question is on agreeing to article 1 of the German treaty.

Mr. HARRISON. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Ashurst	Gerry	McKellar	Spencer
Borah	Hale	McKinley	Stanley
Brandegee	Harreld	McLean	Sterling
Broussard	Harrison	Moses	Sutherland
Bursum	Heflin	Newberry	Swanson
Calder	Hitchcock	Norbeck	Townsend
Cameron	Johnson	Oddie	Trammell
Capper	Jones, N. Mex.	Overman	Underwood
Colt	Kellogg	Page	Walsh, Mass.
Culberson	Kenyon	Poindexter	Walsh, Mont.
Dial	Keyes	Pomerene	Warren
du Pont	La Follette	Ransdell	Watson, Ind.
Elkins	Lenroot	Reed	Willis
Ernst	Lodge	Sheppard	
Fernald	McCormick	Simmons	
France	McCumber	Smoot	

The VICE PRESIDENT. Sixty-one Senators have answered to their names. A quorum is present.

JUDGE KENESAW M. LANDIS.

Mr. DIAL. Mr. President, at the last meeting of the American Bar Association a resolution was passed in reference to Judge Landis. I understand that a resolution was also passed directing that copies of that resolution be sent to the President of the Senate and to the Speaker of the House. I do not know whether the resolution has been received or not. At any rate, I have a copy of it, and I ask that it be read and referred to the Judiciary Committee.

The VICE PRESIDENT. The Secretary will read the resolution.

The Assistant Secretary read as follows:

Resolved, That the conduct of Kenesaw M. Landis in engaging in private employment and accepting private emoluments while holding the position of a Federal judge and receiving a salary from the Federal Government meets with our unqualified condemnation as conduct unworthy of the office of judge, derogatory of the dignity of the bench, and undermining public confidence in the independence of the judiciary.

Resolved, That the president and secretary of this association send a copy of this resolution to the Vice President of the United States and to the Speaker of the House of Representatives.

Mr. DIAL. I ask that the resolution be referred to the Judiciary Committee.

The VICE PRESIDENT. It will be so referred.

APPOINTMENT OF PRESIDENTIAL POSTMASTERS.

Mr. DIAL. Mr. President, I noticed in the papers a day or two since that the Senator from West Virginia [Mr. ELKINS] had made a request upon the President that more Democrats be turned out and more Republicans put in office—a pretty sweeping request. I have just noticed an Executive order that the President has made on this subject dated October 14:

EXECUTIVE ORDER.

While the appointment of presidential postmasters is not within the legal scope of the civil service law, and, therefore, as a matter of law no "preference" is applicable thereto, yet in order that these young men and women who served in the World War, having their scholastic and business experience intercepted and interrupted thereby, may not suffer any disadvantage in the competition for such postmasterships, I direct the Civil Service Commission, in rating the examination papers of such candidates to add to their earned ratings five points and to make certification to the Postmaster General in accordance with their relative positions thus acquired.

I further direct that the time such candidates were in the service during the World War may be reckoned by the commission in making up the required length of business experience and that all age limitations be waived.

WARREN G. HARDING.

THE WHITE HOUSE, *October 14, 1921.*

Mr. President, as I see it, I fear this order is misleading. It only reiterates what the law is at present, and I ask to have the law inserted as a part of my remarks. I refer to Statutes at Large, volume 41, page 37.

The VICE PRESIDENT. Without objection, it will be so ordered.

The matter referred to is as follows:

That hereafter in making appointments to clerical and to other positions in the executive branch of the Government in the District of Columbia or elsewhere preference shall be given to honorably discharged soldiers, sailors, and marines, and widows of such, and to the wives of injured soldiers, sailors, and marines who themselves are not qualified, but whose wives are qualified to hold such positions.

Mr. DIAL. Furthermore, this order is erroneous, in that it states that the age limit is removed. Under existing law and rules that age limit could not be removed, and it would be impossible for any soldier in the war to have been beyond the age limit for these examinations of 65.

I further ask to have inserted in my remarks the order of August, 1921, the rules of the Civil Service Commission on this point, and also the order of June, 1921.

The VICE PRESIDENT. Without objection, it will be so ordered.

The matter referred to is as follows:

(Form 2223. August, 1921.)

UNITED STATES CIVIL SERVICE COMMISSION,
Washington, D. C.

INFORMATION REGARDING POSTMASTER POSITIONS FILLED THROUGH NOMINATIONS BY THE PRESIDENT FOR CONFIRMATION BY THE SENATE.

Executive order requiring examinations: Under the civil-service law, positions which are filled through nomination by the President for confirmation by the Senate are not included in the competitive classified service. Positions of postmaster at first, second, and third class post offices are filled in this manner. For such positions, however, examinations are held by the Civil Service Commission, at the request of the Postmaster General, under an Executive order issued May 10, 1921, revised July 27, 1921, which provides as follows:

"When a vacancy exists or hereafter occurs in the position of postmaster at an office of the first, second, or third class, if such vacancy is not filled by nomination of some person within the competitive classified civil service who has the required qualifications, then the Postmaster General shall certify the fact to the Civil Service Commission, which shall forthwith hold an open competitive examination to test the fitness of applicants to fill such vacancy, and when such examination has been held and the papers in connection therewith have been rated, the said commission shall certify the results thereof to the Postmaster General, who shall submit to the President the name of one of the highest three qualified eligibles for appointment to fill such vacancy unless it is established that the character or residence of any such applicant disqualifies him for appointment. *Provided*, That at the expiration of the term of any person appointed to such position through examination before the Civil Service Commission, the Postmaster General may, in his discretion, submit the name of such person to the President for renomination without further examination.

"No person who has passed his sixty-fifth birthday, or who has not actually resided within the delivery of such office for two years next preceding the date of examination, shall be given the examination herein provided for.

"If, under this order, it is desired to make nomination for any office of a person in the competitive classified service, such person must first be found by the Civil Service Commission to meet the minimum requirements for the office."

Status: Persons appointed as a result of an examination held in accordance with the foregoing Executive order will not thereby attain a competitive civil-service status, and will not thereby become eligible for a position in the competitive classified service; but a person already in the competitive classified service who is appointed or promoted to one of these positions will not thereby lose the privilege of retransfer to a competitive classified position provided his service is continuous and satisfactory.

GENERAL REQUIREMENTS.

General qualifications: To be eligible for examination for a position as postmaster at an office of the first, second, or third class, a candidate must be a citizen of the United States; must actually reside within the delivery of the office for which the application is made; must have so resided for at least two years next preceding the date of examination; must be in good physical condition; and must meet the age requirement hereinafter specified.

Photographs: In examinations in which the candidates are assembled in an examination room for a written examination as hereinafter specified candidates must submit to the examiner on the day of the examination their photographs, taken within two years, securely pasted in the space provided on the admission cards sent them after their applications are filed. In examinations in which the candidates are not assembled for a written examination the photographs must be forwarded with the applications. Group photographs, proofs, or indistinct prints will not be accepted.

Applications: Applications will not be accepted until an examination is announced for the office at which employment is sought. Persons who meet the requirements and desire examination may obtain the necessary application form (No. 2241) from the office where the vacancy exists or from the United States Civil Service Commission, Washington, D. C., after the examination has been announced. Applications must be properly executed and filed with the commission in Washington in time to arrange for the examination.

Date of vacancy: The date of any vacancy as referred to in any of these regulations shall be the date of the death, resignation, removal, or the date of the expiration of the term of the last postmaster.

EXAMINATIONS FOR OFFICES OF THE THIRD CLASS (COMPENSATION $1,000 TO $2,200).

Candidates for offices having annual compensation from $1,000 to $2,200, inclusive, will be assembled for a written examination and will be examined in the following subjects, which will have the relative weights indicated:

Subjects.	Weights.
1. Business training, experience, and fitness (under this subject full and careful consideration is given to the candidate's business training and experience. The rating is based upon the candidate's sworn statement of his personal history, as verified after inquiry by the commission. It must be clearly shown that the candidate has demonstrated ability in meeting and dealing satisfactorily with the public)	50
2. Accounts and arithmetic (this test includes a simple statement of a postmaster's monthly money-order account in a prepared form, furnished the candidate in the examination, and a few problems comprising addition, subtraction, multiplication, division, percentage, and their business applications)	30
3. Penmanship (a test of ability to write legibly, rated on the specimen shown in the subject of letter writing)	10
4. Letter writing (this subject is intended to test the candidate's ability to express himself intelligently in a business letter on a practical subject)	10
Total	100

Age: Candidates in competitive examinations for the position of postmaster at an office of the third class must have reached their twenty-first birthday on the date of the examination and must not have passed their sixty-fifth birthday on the date of the occurrence of the vacancy.

SPECIMEN QUESTIONS FOR OFFICES OF THE THIRD CLASS.

The following questions and tests, which have been used, indicate the general character of the examination given for offices having annual compensation from $1,000 to $2,200:

First subject—Business training, experience, and fitness: This subject is rated on the candidate's statements and corroborative evidence. Statements as to training and experience are subject to verification. All information will be treated as confidential. Candidates will be required to give full and detailed information concerning their education, training, and business experience, on blanks furnished.

[Form 2223, June, 1921.]

Changed vacancy to examination.

UNITED STATES CIVIL SERVICE COMMISSION,
Washington, D. C.

INFORMATION REGARDING POSTMASTER POSITIONS FILLED THROUGH NOMINATION BY THE PRESIDENT FOR CONFIRMATION BY THE SENATE.

Executive order requiring examination: Under the civil service law, positions which are filled through nomination by the President for confirmation by the Senate are not included in the competitive classified service. Positions of postmaster at first, second, and third class post offices are filled in this manner. For such positions, however, examinations are held by the Civil Service Commission, at the request of the Postmaster General, under an Executive order issued May 10, 1921, which provides as follows:

"When a vacancy exists or hereafter occurs in the position of postmaster at an office of the first, second, or third class, if such vacancy is not filled by nomination of some person within the competitive classified civil service who has the required qualifications, then the Postmaster General shall certify the fact to the Civil Service Commission, which shall forthwith hold an open competitive examination to test the fitness of applicants to fill such vacancy, and when such examination has been held and the papers in connection therewith have been rated, the said commission shall certify the results thereof to the Postmaster General, who shall submit to the President the name of one of the highest three qualified eligibles for appointment to fill such vacancy unless it is established that the character or residence of any such applicant disqualifies him for appointment: *Provided*, That at the expiration of the term of any person appointed to such position through examination before the Civil Service Commission, the Postmaster General may, in his discretion, submit the name of such person to the President for renomination without further examination.

"No person who has passed his sixty-fifth birthday, or who has not actually resided within the delivery of such office for two years next preceding such vacancy, shall be given the examination herein provided for.

"If, under this order, it is desired to make nomination for any office of a person in the competitive classified service, such person must first be found by the Civil Service Commission to meet the minimum requirements of the office."

Status: Persons appointed as a result of an examination held in accordance with the foregoing Executive order will not thereby attain a competitive civil-service status, and will not thereby become eligible for a position in the competitive classified service; but a person already in the competitive classified service who is appointed or promoted to one of these positions will not thereby lose the privilege of retransfer to a competitive classified position provided his service is continuous and satisfactory.

GENERAL REQUIREMENTS.

General qualifications: To be eligible for examination for a position as postmaster at an office of the first, second, or third class a candidate must be a citizen of the United States; must actually reside within the delivery of the office for which the application is made; must have so resided for at least two years next preceding the date the vacancy occurred; must be in good physical condition; and must meet the age requirement hereinafter specified.

Photographs: In examinations in which the candidates are assembled in an examination room for a written examination as hereinafter specified candidates must submit to the examiner on the day of the examination their photographs, taken within two years, securely pasted in the space provided on the admission cards sent them after their applications are filed. In examinations in which the candidates are not assembled for a written examination the photographs must be forwarded with the applications. Group photographs, proofs, or indistinct prints will not be accepted.

Applications: Persons who meet the requirements and desire examination may obtain the necessary application forms (No. 2241) from the office where the vacancy exists or from the United States Civil Service Commission, Washington, D. C., after the examination has been announced. Applications must be properly executed and filed with the commission in Washington in time to arrange for the examination.

Date of vacancy: The date of any vacancy as referred to in any of these regulations shall be the date of the death, resignation, removal, or the date of the expiration of the term of the last postmaster.

EXAMINATIONS FOR OFFICES OF THE THIRD CLASS (COMPENSATION $1,000 TO $2,200).

Candidates for offices having annual compensation from $1,000 to $2,200, inclusive, will be assembled for a written examination and will be examined in the following subjects, which will have the relative weights indicated:

Subjects.	Weights.
1. Business training, experience, and fitness (under this subject full and careful consideration is given to the candidate's business training and experience. The rating is based upon the candidate's sworn statements of his personal history, as verified after inquiry by the commission. It must be clearly shown that the candidate has demonstrated ability in meeting and dealing satisfactorily with the public)	50
2. Accounts and arithmetic (this test includes a simple statement of a postmaster's monthly money-order account in a prepared form, furnished the candidate in the examination, and a few problems comprising addition, subtraction, multiplication, division, percentage, and their business applications)	30
3. Penmanship (a test of ability to write legibly, rated on the specimen shown in the subject of letter writing)	10
4. Letter writing (this subject is intended to test the candidate's ability to express himself intelligently in a business letter on a practical subject)	10
Total	100

Age: Candidates for this examination must have reached their twenty-first birthday on the date of the examination, and must not have passed their sixty-fifth birthday on the date of the occurrence of the vacancy.

SPECIMEN QUESTIONS FOR OFFICES OF THE THIRD CLASS.

The following questions and tests, which have been used, indicate the general character of the examination given for offices having annual compensation from $1,000 to $2,200:

First subject—Business training, experience, and fitness: This subject is rated on the candidate's statements and corroborative evidence. Statements as to training and experience are subject to verification. All information will be treated as confidential. Candidates will be required to give full and detailed information concerning their education, training, and business experience on blank furnished.

Mr. DIAL. Mr. President, this former order of June refers to examinations where vacancies existed. The latter order refers to the time of examination. In other words, under the latter order the two years' time has been extended to make applicants eligible for appointment to these offices who were not eligible before.

I also ask to have inserted as part of my remarks the Executive order of March 31, 1917, as amended on October 8, 1920, found on page 97 of the Thirty-seventh Annual Report of the Civil Service Commission.

The VICE PRESIDENT. Without objection, it will be so ordered.

The matter referred to is as follows:

The Executive order of March 31, 1917, relating to post offices of the first, second, and third classes is hereby amended to read as follows:

"Hereafter when a vacancy occurs in the position of postmaster of any office of the first, second, or third class as the result of death, resignation, removal, or, on the recommendation of the First Assistant Postmaster General, approved by the Postmaster General, to the effect that the efficiency or need of the service requires that a change shall be made, if such vacancy is not filled by nomination of some person within the competitive classified civil service who has the required qualifications, then the Postmaster General shall certify the fact to the Civil Service Commission, which shall forthwith hold an open competitive examination to test the fitness of applicants to fill such vacancy, and when such examination has been held and the papers in connection therewith have been rated, the said commission shall certify the result thereof to the Postmaster General, who shall submit to the President the name of the highest qualified eligible for appointment to fill such vacancy, unless it is established that the character or residence of such applicant disqualifies him for appointment. No person who has passed his sixty-fifth birthday or who has not actually resided within the delivery of such office for two years next preceding such vacancy shall be given the examination herein provided for."

Mr. DIAL. Further, I beg to say that South Carolina's quota in the civil service—the number we are entitled to under the civil service—is 652 persons, whereas on October 8, 1921, we had only 301 on the rolls.

Mr. President, the difference in these orders is this: Under the present administration they have a civil-service examination for postmasters, or at least they claim to have a kind of an examination, and they certify the three highest names, and they select one from that number. I respectfully submit that that is no civil-service examination at all; it is misleading and is a mere farce. There is nothing fair about it. If you are going to invite people to go into an examination, the office should be awarded to the one making the highest mark, provided he is qualified in every other way. Otherwise it is a travesty upon justice, and it is a farce and misleading, and does not satisfy anybody. It does not decide anything. If the present powers want to select the postmasters, let them go and do so like men; but let them not try to deceive the people by this ridiculous kind of an examination. Contrast this with the order of President Wilson of March 31, 1917. Under the former order the one making the highest mark received the appointment.

Furthermore, the present operation of this thing is practically a nullity in South Carolina. Some time ago I knew of a case where there was a vacancy; an examination had been ordered, and it was not long until that examination was canceled and an acting postmaster was appointed. They did not follow the spirit of the rules requiring some one to be selected from the classified service, but that order was canceled, and no examination has been fixed since that time, and an outsider or practically an outsider from another State was appointed to the office. So I very much suspect that the object of the cancellation of the examination was to wait until that man had resided in South Carolina a sufficient time to qualify himself for that position—two years.

Mr. President, I must enter my protest to any such procedure as that. It is not fair, it is not just, and it violates all rules of business and fair play, to my mind. We are very glad down South to have good people move amongst us; we are glad to welcome them there; but we think they should come for some other purpose than to fill the offices. I am not one to speak for the Republican Party, but they have some men there capable of filling office, and if they are not going to fill them on merit then perhaps those who have been there longer should be given these positions. Anyway, I want to say that the present method is simply a delusion and it ought not to be tolerated.

Mr. JOHNSON. Mr. President, the Senator from South Carolina [Mr. DIAL] has had read some resolution of the bar association respecting Judge Landis and reflecting upon him. I want to express the opinion that the indignation of the bar association arises not from the baseball employment of Judge Landis, but because of Judge Landis's judicial acts. I venture the assertion, Mr. President, that if Judge Landis's court had ever been a refuge for privilege, its commendation by those lawyers who teach great corporations to skate upon thin ice would have been certain and enthusiastic.

The VICE PRESIDENT. The question is on agreeing to the first article of the treaty.

Mr. SPENCER. Mr. President, I happened to be present at the meeting of the American Bar Association when the action with regard to Judge Landis, to which the Senator from California has referred, was taken. I wish the Senator from California might also have been there, for he has entirely mistaken both the motive and the purpose which actuated the bar association. It had nothing whatever to do with Judge Landis's judicial decisions nor with his attitude upon the bench. It was the feeling of the bar association, which was very general, that a man who occupies the high position of judge of a United States district court should not at the same time take employment as an arbitrator in regard to baseball matters while he was continuing his judicial functions. They felt that it not only showed a lack of appreciation of the dignity of the office but that it was an unwise thing to do and an unfortunate precedent to establish. It was that basis and that alone upon which the resolution stood which the bar association passed.

Mr. LODGE. Mr. President, I am aware that it has been the ruling in the Senate that a Senator is at liberty to discuss any subject he pleases, whether it is relevant to the subject before the Senate or not; but I feel that under this unanimous-consent agreement it is the part of good faith to confine the discussion to the treaties. The agreement is that these treaties shall be considered "to the exclusion of any other bill or resolution upon the calendar or that may be reported from a committee, or the consideration of other business that is not unanimously recognized as urgent, and will dispose of such treaties in the order named."

That order began at 11.30 o'clock to-day, it having been postponed from Friday. I hope Senators will confine themselves to the treaties which are before the Senate. Of course, the time they use, whether it is in the distribution of offices or anything else, must, under this order, be counted against them as part of their time in the discussion of the treaties.

Mr. KENYON. Mr. President, I would like to inquire what the resolution the Senator from South Carolina introduced was? Was it another resolution as to Judge Landis?

Mr. DIAL. It was a resolution passed by the American Bar Association last April.

Mr. LODGE. Of course, the resolution is not in order at this time.

The VICE PRESIDENT. It was referred to the Committee on the Judiciary.

Mr. KENYON. I would like to have go along with that resolution an editorial which appeared in the Chicago Tribune——

Mr. LODGE. Mr. President, I ask for the regular order. Under the unanimous-consent agreement it is perfectly clear that nothing is to be considered except the treaties, "to the exclusion of any other bill or resolution." I do not think the resolution introduced ought to have been received or referred under the consent agreement.

Mr. KENYON. Mr. President, I am not asking to have any particular action taken. I supposed that each Senator had so much time on the treaties, and I will have this taken out of my time.

Mr. LODGE. Certainly, if the Senator is going to discuss it, he can use his time in any way he pleases. What I am objecting to is the introduction of business not covered by the agreement.

Mr. KENYON. This may bear on the treaties in some indefinite way, and it can be taken out of my time.

I ask to have inserted in the RECORD this editorial on Judge Landis, showing that there are two sides to the Landis controversy. I am not defending for one moment a Federal judge having other employment, but no man in this country has done a greater service to the country in the strike troubles at Chicago and other matters than Judge Landis, and this editorial bears on that subject. He is probably regarded as highly by the country as some members of the association now condemning him.

The VICE PRESIDENT. Is there objection?

Mr. LODGE. Mr. President, I object to the introduction of any business not covered by the unanimous-consent agreement.

Mr. KENYON. Mr. President, I will take the time later, then, to read this editorial, to be taken out of my time on the treaty discussion.

The VICE PRESIDENT. The Senator has the right to do that. The question is on agreeing to article 1 of the pending treaty.

TREATY OF PEACE WITH GERMANY.

Mr. REED. A parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator will state his inquiry.

Mr. REED. Is not the first question to be decided the reservations?

The VICE PRESIDENT. Any reservation which may be offered will come under the resolution of ratification. Under the rule the treaty is being considered article by article as in Committee of the Whole.

Mr. REED. I think it is an unfortunate way to handle this matter, to ratify the treaty article by article, and then put a reservation in at the end, because no one will know in advance whether the reservation is to go in or not. A reservation is in the nature of an amendment.

Mr. LODGE. Mr. President, if the Senator will allow me——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Massachusetts?

Mr. REED. This is a parliamentary inquiry. I am not debating the question. I do not want this taken out of my time.

Mr. LODGE. The general practice has been that a treaty should be read, and if there are amendments they can be offered. If there are no amendments, of course, the ratification takes place on the resolution, not on the treaty itself, and the resolution is open to reservations.

Mr. REED. When we had the league or the German treaty under consideration before, we first discussed and voted upon reservations.

Mr. LODGE. I beg the Senator's pardon; the first thing was the consideration of amendments.

Mr. REED. The reservations were offered in the nature of amendments.

Mr. LODGE. No; I mean the real amendments to the treaty. There were a number of them. The Senator from New Mexico offered 40. We disposed of the amendments first, and the reservations were not taken up until we came to the place for the reservations, which is when the resolution of ratification is under consideration.

Mr. BORAH. No amendments to this treaty have been offered.

Mr. LODGE. None have been offered or suggested that I know of.

Mr. BORAH. The Senator from Missouri is objecting to our proceeding to vote upon article 1 of the treaty before determining what shall be the form of the resolution with reference to ratification. For instance, the resolution of ratification has a reservation in it. It would not have any effect on me, but I can imagine that some one might not desire to vote for this treaty if that reservation to the resolution were not adopted.

Mr. LODGE. Mr. President, both systems of dealing with treaties have been used in the Senate at different times. The earlier practice of the Senate was to put the question on each article. For many years, certainly, it has been the custom, if there are no amendments, to read the whole treaty, and then take up the ratification resolution, which, of course, carries whatever reservations there may be. That is the system which it always seemed to me was the proper system, if there were no amendments to the treaty.

Mr. WALSH of Montana. Mr. President, I did not catch the last statement of the Senator.

Mr. LODGE. I said I thought that the proper system is to read the treaty if there are no amendments, and then go to the resolution, which is open to reservations, we being still in Committee of the Whole, of course.

Mr. WALSH of Montana. Mr. President, I have some amendments which I desire to tender to the treaty.

Mr. LODGE. An amendment, not a reservation?

Mr. WALSH of Montana. An amendment.

Mr. LODGE. I think that ought to be presented now.

Mr. WALSH of Montana. Those amendments are of a general character. I apprehend that the adoption of article 1 would not embarrass the consideration of the amendments which I propose to offer. I take it that the amendments can be tendered at the conclusion of the disposition of the various articles of the treaty, inasmuch as they are in the nature of additional provisions.

Mr. LODGE. As I understand the situation, the body of the treaty is now before the Senate as in Committee of the Whole and open to amendment, and any article is open to amendment. We can not take up the resolution until we have finished perfecting the text of the treaty. Then the resolution will be taken up as in Committee of the Whole and will be open to reservations.

Mr. WALSH of Montana. The difficulty which presented itself to me was this: The Vice President said the question was upon the adoption of article 1, and that would be followed by the putting of the question on the adoption of article 2. What I wanted to know, if I may address a parliamentary inquiry to the Chair, was whether, after those two articles have been adopted as they stand, an opportunity will then be given to offer amendments to the treaty?

Mr. LODGE. Not as in Committee of the Whole. That is the trouble with dealing with it article by article. I think the treaty is before us as a whole and open to amendment now at any point.

Mr. WALSH of Montana. If that is the case, I have some amendments which I desire to tender.

Mr. LENROOT. Mr. President——

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Wisconsin?

Mr. LODGE. Certainly.

Mr. LENROOT. I would like to ask the Senator if it has not been the practice, while we proceed article by article, never to vote upon each article, but to treat it exactly as we would a bill, each article being considered by itself for the purpose of amendment?

Mr. LODGE. Certainly.

Mr. LENROOT. And if no amendment is proposed, we proceed to the next article without a vote upon the article?

Mr. LODGE. Certainly; but not voting upon each article separately. The body of the treaty, I repeat, is now before the Senate as in Committee of the Whole and open to amendment, and any amendment to any part of the text of the treaty is now in order, in my judgment.

Mr. HITCHCOCK. Mr. President, it is also true that after this treaty has been read article by article, as in Committee of the Whole, and after it has been reported to the Senate, amendments to any particular article are still in order.

Mr. LODGE. Certainly; after it has been reported to the Senate.

Mr. HITCHCOCK. It seems to me that the Senator from Wisconsin has stated the practice correctly—that we should read the treaty article by article but not put each article to a vote.

Mr. LODGE. We have to deal with the resolution in Committee of the Whole also.

Mr. HITCHCOCK. Of course; that will come up later. It seems to me we should read the treaty article by article, and if no amendment is offered to any article we should proceed to the next article, but without any vote.

Mr. LODGE. Certainly; without a vote on each article as it comes up. The whole treaty is open to amendment. It has been read, as a matter of fact, and the whole body of the treaty is now open to amendment as in Committee of the Whole.

Mr. BRANDEGEE. Mr. President, can the Senator inform me also on this point: After the reservations or amendments have been agreed upon and incorporated in the resolution of ratification, and the resolution of ratification containing reservations and amendments is itself before the Senate, then that is still open to further amendment, is it not?

Mr. LODGE. It is still open to amendment when it comes into the Senate, of course, under our rules.

Mr. BRANDEGEE. So that at the last minute, after certain reservations have been incorporated in the resolution of ratification, can a Senator then offer a further reservation?

Mr. LODGE. In the Senate?

Mr. BRANDEGEE. Yes; that is what I am asking.

Mr. LODGE. Certainly.

Mr. BRANDEGEE. I thought it was rather important to have an understanding about that—to know when the process of proposing reservations and amendments shall cease.

Mr. LODGE. The Senate considers the treaty and the resolution in Committee of the Whole, and when it has completed that consideration it is reported to the Senate. Then an amendment which has failed in the committee can be offered in the Senate. In the same way you can then offer additional reservations in the Senate. It is exactly like a bill.

Mr. BRANDEGEE. That answers my question.

Mr. LENROOT. Will the Senator yield?

Mr. LODGE. Certainly.

Mr. LENROOT. Is not this the practice: While it is true that when it is reported to the Senate any amendment or reservation may be offered, it must be offered during the stage when the treaty proper is under consideration? Then, when the Senate has completed its consideration of that, the resolution, incorporating such amendments or reservations as have been agreed upon in Committee of the Whole or in the Senate, is then before the Senate; but I do not understand that at that stage it is open to further reservations.

Mr. BRANDEGEE. I am frank to say I have not examined the rule since we were considering the old treaty of Versailles a year or two ago, but my impression was that the rule states in substance that when we come to the resolution of ratification, advising, and consenting, then the reservations as agreed upon shall be incorporated in the resolution of ratification and it did not seem to me that after that it ought to be open to further reservations.

Mr. LODGE. Not after they have been agreed to in Committee of the Whole and in the Senate.

Mr. BRANDEGEE. That is right.

Mr. LODGE. I repeat that I think the position now is that the text of the treaty is as in Committee of the Whole, and open to amendment.

Mr. WALSH of Montana. Mr. President, I have drafted some amendments and they are now being transcribed by the stenographer. I shall be ready to offer them in a few moments.

The VICE PRESIDENT. Article 1 is before the Senate as in Committee of the Whole and open to amendment.

Mr. HARRISON. Mr. President, I desire to have read at the Secretary's desk the part which I have indicated of the Democratic platform.

Mr. LODGE. Mr. President, before that is done, I understand we are simply to read the articles, but not vote upon each article, and that the whole treaty is open to amendment.

Mr. HARRISON. If no action is to be taken at this time, I will withhold my request.

Mr. HITCHCOCK. Mr. President, I think there can be no doubt that the proper proceeding now, is to read article 1, and if no amendment is offered thereto, then read article 2 and so proceed with the treaty.

Mr. LODGE. Precisely, but not vote on it article by article.

Mr. HARRISON. Mr. President, it seems to me that with such an important matter as this before the Senate there should be a quorum present, and with only about one-fourth of the Republican membership here, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Ernst	La Follette	Poindexter
Ball	Fernald	Lenroot	Pomerene
Borah	Gooding	Lodge	Ransdell
Brandegee	Hale	McCormick	Sheppard
Broussard	Harreld	McCumber	Simmons
Calder	Harris	McKellar	Spencer
Cameron	Harrison	McKinley	Stanley
Capper	Heflin	McLean	Sterling
Caraway	Hitchcock	McNary	Sutherland
Colt	Johnson	Nelson	Swanson
Culberson	Jones, N. Mex.	Newberry	Townsend
Curtis	Kellogg	Nicholson	Underwood
Dial	Kendrick	Norbeck	Walsh, Mass.
Dillingham	Kenyon	Oddie	Walsh, Mont.
du Pont	Keyes	Overman	Watson, Ind.
Elkins	King	Page	Willis.

The VICE PRESIDENT. Sixty-four Senators having answered to their names, a quorum is present. Are there any amendments to be offered to the first article?

Mr. WALSH of Montana. Mr. President, on Wednesday last I called attention to the fact that part 5 of the Versailles treaty is made a part of the treaty now before us. Under the treaty before us Germany agrees with us, as she agreed with the signatories to the Versailles treaty in part 5 thereof, that she would disarm and that she would remain disarmed for all time; that she would not have an army of more than 100,000 men; that she would have no naval force whatever except a few ships of no particular significance; that she would have no air force; that she would not tolerate within her borders any manufacture of munitions or army equipment of any character whatsoever except such as were conducted by the Government itself; that she would not permit in her institutions of learning any instruction in military tactics nor permit students there to practice them; and that she would destroy all the fortifications on the Rhine and Heligoland and she would not restore them. All these things she agreed that she would do.

I pointed out that under the treaty of Versailles there were reciprocal provisions under which the other nations undertake, to some extent at least, to see that Germany thus disarmed should not be invaded by any of her neighbors unprovokedly for the purpose of conquest, but that we had repudiated the other provisions intended to safeguard an unarmed Germany, while we still insisted that she shall remain unarmed. I pointed out that Poland on the east has now an army, according to reports of our own War Department, of 450,000 men, with a war impending between that country and Germany at the present time; that France, on the other side, has an army of 800,000 men; that Czechoslovakia, on the south, has an army of 150,000 men, and that these countries can be amply supplied with munitions from other countries, which Germany is prevented from importing, much less from producing herself.

I insisted that either the provision by which part 5 of the Versailles treaty is incorporated into this treaty ought to go out, or else we ought to stand with the other nations to prevent Germany, thus disarmed, from being unprovokedly invaded by any of her enemies.

Mr. McCORMICK. To stand with those other nations, the size of whose armies the Senator has just enumerated, in preventing her invasion by them?

Mr. WALSH of Montana. With any other nations that would undertake to discharge the duties they obligated themselves to discharge. Of course, if one of those nations invaded Germany in violation of the treaty, it would scarcely be expected that we would stand with them in the invasion.

It is a matter of no consequence to me whether part 5 goes out of the treaty or some reciprocal provision is put in to safeguard that situation.

Mr. LODGE. I simply desire to ask the Senator if he has an amendment that has been printed?

Mr. WALSH of Montana. It has not been printed. I had no idea that we would reach the question of a vote on any of these matters this morning, and that must be my excuse for not having it printed, but I have the following to tender:

In view of the undertaking of the Government of Germany, recited in part 5 of the treaty of Versailles, to disarm and to remain disarmed, except as therein set forth, the right and advantage accruing from which undertaking is by this treaty specifically reserved to the United States, it agrees that so long as Germany shall observe the obligations of the said part 5 the United States will join with the signatories of the said treaty of Versailles in any steps that may be mutually agreed upon to protect from invasion the territory of Germany as by the said treaty of Versailles defined or as delimited thereunder.

Thus Germany has this guaranty from the United States so long as she observes the provisions of part 5. If she ever violates them and proceeds to arm, our obligations under this amendment would be nullified, but so long as she observes the provisions of the treaty and remains disarmed, as we insist she shall, so long we undertake to do whatever the other nations, which similarly obligated themselves, do to see that she is not invaded.

Mr. President, I conceive that nothing less comports with the dignity of the United States, nothing less comports with the spirit of justice which ought to animate us in this matter. Moreover, I pointed out that our material interests would be disastrously affected if Germany were overrun by some enemy—overrun in the disarmed condition in which we insist by this treaty she shall remain.

Mr. BORAH. Mr. President, the Senator from Massachusetts [Mr. LODGE] has asked that the amendment be read and I also should like to have it read.

The VICE PRESIDENT. The Secretary will state the amendment.

The ASSISTANT SECRETARY. It is proposed to insert:

In view of the undertaking of the Government of Germany, recited in part 5 of the treaty of Versailles, to disarm and to remain disarmed, except as therein set forth, the right and advantage accruing from which undertaking is by this treaty specifically reserved to the United States, it agrees that so long as Germany shall observe the obligations of the said part 5 the United States will join with the signatories of the said treaty of Versailles in any steps that may be mutually agreed upon to protect from invasion the territory of Germany as by the said treaty of Versailles defined or as delimited thereunder.

Mr. LODGE. That amendment, I take it, should come in at the end of paragraph 5 of article 2. Is not that the right place?

Mr. WALSH of Montana. Yes.

Mr. KING. I should like to ask the Senator from Montana a question. Suppose that Germany should conform to the disarmament provisions set forth in the treaty of Versailles, but should violate some other provisions of the treaty which should result in an invasion from one of the signatories of the treaty or otherwise, would the amendment now tendered by the Senator from Montana compel the United States then to join with the allied nations in defending Germany from any aggressive movement?

Mr. BORAH. Mr. President, in view of the fact that the discussion arising from the question of the Senator from Utah

[Mr. KING] may take the 10 minutes which I have at my disposal, I yield the floor until the discussion may be concluded.

Mr. KING. I beg the Senator's pardon. I did not know he had taken the floor.

Mr. WALSH of Montana. Replying to the question of the Senator from Utah [Mr. KING] as to the duty of the United States to join with the allied nations in defending Germany from any aggressive movement under the circumstances which he has stated, I answer that the United States undoubtedly would be compelled to join the allied nations. The purpose of the amendment was to require the nation claiming the violation to submit the question of the violation to the tribunal provided by the Versailles treaty for the disposition of such a controversy.

Mr. BORAH. Mr. President, I can well understand the position of the Senator from Montana [Mr. WALSH]. It would seem to be entirely equitable, entirely just and honorable, if we are to disarm Germany and to insist upon her remaining disarmed, that we should protect Germany against invasion or interference on the part of other powers. I have no doubt, for the evidence accumulates every day—it comes to us not only from the press but from everyone who visits Europe and returns—that the fundamental foreign policy of certain of the great nations of Europe is to disarm Germany and then to dismember Germany. It is perfectly apparent that they will not feel at ease until Germany is Balkanized and restored to the position which she held prior to the time when Bismarck united Germany in one great empire. I entertain no doubt that that is the policy, well grounded and intelligently conceived, and that it will be determinedly executed. Such a policy means economic ruin to Europe and turmoil and strife without end. So, Mr. President, believing that, naturally, entertaining the views I do with reference to staying out of the broils and turmoils and disturbances of Europe, I should see myself plunged into the heart of them if I undertook to vote for a proposition which puts the United States in the position of guaranteeing the territorial integrity of Germany. Therefore I am unable to support the amendment proposed by the Senator from Montana. I would, however, very readily support an amendment to eliminate from the pending treaty the references to part 5 of the treaty of Versailles.

Mr. WALSH of Montana. I will say to the Senator that if this or some other similar amendment is not adopted I shall move to strike out the references to part 5 in the treaty.

Mr. BORAH. That would suit me precisely.

I wanted to say this much, Mr. President, because I am trying to stay out of these matters, not to get into them, and the Senator from Montana has struck at the very heart of this controversy—that is, the dismemberment and the destruction of Germany. It is no longer a question of reparation but of breaking up Germany.

Mr. KING. Mr. President, I do not agree with the position just taken by the Senator from Idaho [Mr. BORAH] that there is a purpose upon the part of the allied nations to dismember Germany.

Mr. BORAH. Mr. President, I did not say that was the purpose of the allied nations; I said it was the purpose of certain great nations of Europe.

Mr. KING. Mr. President, I accept the Senator's statement; but, obviously, the Senator contemplates within that general statement some of the allied nations; and I have no doubt that if the Senator were to answer categorically what particular nation he had in mind he would say France. He certainly could not say that Great Britain has evidenced a purpose to dismember Germany. Upon the contrary, Great Britain from the outset has evinced a strong determination that the territorial integrity of Germany should be preserved. This statement, however, is subject to the qualification that Great Britain believed that an independent Poland should be erected and that a part of the new State should consist of territory formerly belonging to Poland, but which had been annexed by Germany. I think it is entirely accurate to say that Great Britain, while she was desirous that France should be protected against any recrudescence of Germany's military power, was not agreeable to the permanent occupation by France of German territory west of the Rhine.

Undoubtedly France greatly desired that Poland should be erected into a strong and powerful State. It was the belief of many Frenchmen that a strong Poland would be a protection to France. It is obvious that the erection of a powerful State between Germany and Russia would prove of advantage to France against a revival of a military Germany. It was the opinion, not only of the allied nations but of the people of the United States, that one of the fruits of the war should be an independent Poland.

The destruction of Poland by Russia, Austria, and Germany was a crime against which the conscience of the civilized world revolted. Undoubtedly there are serious problems to be solved in the construction and maintenance of a Polish State. The tripartite division of Poland and the subjection of her people to three different nations for such a long period of time has created enstrangements and dissimilarities even among the Poles themselves, so that it will require time and patience for the inhabitants of the new Poland to be welded together and to assume that solidarity so essential to a vigorous and progressive State.

If the peace conference at Versailles had not made provision for an independent Poland, and the people of that great race had been left as subjects of other nations, the seeds of war would have remained, and the settlement of the problems of Europe would have been further greatly postponed.

Undoubtedly France has insisted upon certain guaranties for her protection. The sword has been at the throat of France for many years. She was invaded by the military hosts of Germany in 1871 and lived in a state of terror even after the terms of peace had been signed, fearing further invasion by Germany, whose continued military preparations and militaristic attitude toward France, as well as other nations, were a continuing admonition that the independence and integrity of the French nation were still menaced.

In my opinion there has been an undeserved propaganda, not only in the United States but in Europe, against France. She has been charged with imperialistic ambitions and has been bitterly assailed because of the maintenance of a large military force since the armistice. The people of France are pacific. They have suffered from invasion and know the horrors and the evils of war. They desire to live their lives in peace and to develop their resources and to continue to be an intellectual and moral force in the world.

France emerges from the war with 2,000,000 of her heroic sons lying upon a hundred battle fields and with 5,000,000 suffering from wounds and disabilities. Millions of her citizens were driven from their homes and hundreds of her cities and towns and villages were destroyed. She is staggering under a stupendous debt, greater than the entire cash indemnity levied upon Germany to be shared by the allied nations.

She looks beyond the western boundaries of Germany and sees therein no cities in ruins, no forests and fields laid waste, no devastated lands, no ruined factories; but she perceives 67,000,000 people, compact, animated by a common purpose, organized industrially and otherwise, and determined to assume at an early period a proud position—indeed, a preeminent position—in Europe. Moreover, she discovers increasing evidence of a determination upon the part of the German people to rend asunder the Versailles treaty and to escape from many of its obligations. Daily she learns of movements by monarchists and reactionaries to overthrow the present Government of Germany and to place the control of Germany in the hands of the militarists and the Prussian junkers, who constantly avow their purpose to assail France and to bring her people under the heel of a revived and militant Germany. The evidence is overwhelming that, except for military pressure—for which France is largely responsible—Germany would have evaded many of the provisions of the treaty and would have refused to agree to the payment of the indemnity fixed under the terms and by the authority of the Versailles treaty.

Germany defeated is in many ways stronger than France victorious. Whatever is recovered by France by way of reparation will but poorly compensate her for the great losses which she has sustained. In these observations I am not assailing Germany. I entertain no hatred of the German people. They will emerge from the war perhaps the most powerful force in Europe. Their genius, their ability, their capacity for organization, and, indeed, their many fine and splendid qualities, will lead them out of their present difficulties and place them upon the pathway of progress and development. If Germany will act justly and live up to the standard of international righteousness, if she will seek the paths of peace rather than the paths of war, nothing can prevent her from wearing the crown of industrial, if not political, primacy in continental Europe. The world needs a rejuvenated Germany; and it rests with the German people to win the confidence and esteem of the world and to assume a position of leadership among the nations of the world.

The treaty before us and the discussions which are taking place bring emphasis to the fact that our Nation committed a blunder when it failed to ratify the Versailles treaty and take its place in the League of Nations. If we had ratified that treaty, we would not have before us this weak, impotent, and

illogical instrument which has received the approval of the present administration. If we had ratified the Versailles treaty, as we should have done in August or September of 1919, the condition of the world would have been vastly different to-day. Undoubtedly Germany would now have been a member of the League of Nations. France, with the protection which the league would have afforded her, would have long before this demobilized most of her military forces, and Europe would have been far advanced along the pathway of pacification and stabilization. Our course has been a stumbling block in the pathway of world peace. It would seem as though there had been a concerted effort on the part of many in our land not only to discredit but to destroy the League of Nations and to prevent it from accomplishing the beneficent purpose for which it was organized.

Mr. President, I can not approve of this treaty. I can not approve of a plan which contemplates the abandonment of our allies, the placing upon them alone the responsibilities incident to the execution of the Versailles treaty. I am unwilling, having joined with them in the World War, to desert them in their efforts to secure world peace and to meet the great problems which the results of the war placed upon the victorious nations. I believe that duty and honor alike require that we stand with our allies, sharing with them the burdens and responsibilities, great or unimportant, which the war laid upon all the allied and associated nations.

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Montana.

Mr. POMERENE. Mr. President, I am a little at loss to understand why the United States Senate should insist upon the amendment which has been proposed. The treaty as it stands has been ratified by Germany; Germany is not asking for any such amendment; and I do not quite understand why we should insist, as we do by this amendment, if it is adopted, upon going to the relief of Germany under certain contingencies and not go to the relief of other European nations if similar contingencies should arise.

Mr. WALSH of Montana. Mr. President, will the Senator pardon an interruption?

Mr. POMERENE. I yield.

Mr. WALSH of Montana. Let me say to the Senator that similar conditions can not arise, for there is no other nation on earth with whom we have a treaty compelling that nation to disarm. If there were, the conditions would be similar.

Mr. POMERENE. But this situation can arise: Poland may be invaded, and there is no provision to go to her relief; France may be invaded——

Mr. WALSH of Montana. Let me say, Mr. President, that we have not compelled either of those countries to disarm.

Mr. POMERENE. I understand that, but we have not compelled Germany to enter into this treaty; she has done so voluntarily. If the amendment was to adopt the Versailles treaty, I would vote for that. I am willing to go in for the benefit of all nations; but I do not see quite why, when we are not asked by Germany, we should go in under this amendment for the sole benefit of Germany. At the same time, I wish to say that I would regret exceedingly if there was any attempt on the part of any of the European powers to invade Germany. I want to see the war end. For the reasons thus briefly stated, I shall vote against the amendment.

Mr. WALSH of Montana. Mr. President, the Senator from Ohio must have missed altogether the reasons which prompt me to offer this amendment. I offer it simply because we are insisting by this treaty that Germany shall disarm and remain disarmed. Then she is exposed to any enemy that may care to invade her borders in her unarmed condition.

Mr. POMERENE. Will the Senator yield?

Mr. WALSH of Montana. In just a moment. If we had a treaty with Poland by which we should insist that Poland be disarmed, I should say that we should enter into the same kind of an agreement with Poland. If we had an agreement with France to the effect that France should remain disarmed while her neighbors were armed to the teeth, I should say that we should give the same kind of protection to France.

Mr. POMERENE. Has not the Senator overlooked the fact that these other nations are all in the league, and if disputes arise, and so forth, the council and the assembly have jurisdiction?

Mr. WALSH of Montana. That is the point I made. The Senator has forgotten, because he attended to what I was saying about the matter the other day. The other nations are in the league, and under that some kind of protection is given to Germany; but we are not. If Germany's disarmament is assured by the obligations of the other nations, why do we insist upon it at all? Or, if we do insist upon it, why should we not assume exactly the same obligation that they have assumed looking to the preservation of Germany, so that she shall not be overrun?

The Senator has entirely overlooked the real motive that impels me in offering this amendment. I regard it not as a matter of looking after the interests of Germany at all, but as a mere matter of doing justice ourselves. We can not afford to say that Germany is making no complaint about this. Germany made no complaint at Paris; but, notwithstanding that fact, the President of the United States stood up there and insisted that the Saar Valley, for instance, should not be annexed to France, and that Alsace-Lorraine was the only territory that France should get as a consequence of the war. He did so because it was believed by him, as it ought to be, I think, by every Member of the Senate, that we were bound to see that Germany got such a treaty as that by reason of the negotiations resulting in the armistice. So here, Mr. President, it ought to be a matter of no consequence to us what considerations induced Germany to yield to such a demand; we never ought to make the demand. It is not consistent with the spirit of justice that we should.

Mr. HITCHCOCK. Mr. President, I rise to suggest to the Senator from Montana the insertion of the word "unjustified" before the word "invasion."

Mr. WALSH of Montana. That would meet the idea suggested by the inquiry of the Senator from Utah [Mr. KING], and it will be entirely agreeable to me to have that done.

The VICE PRESIDENT. The question is on the adoption of the amendment as modified.

Mr. KING. Mr. President, let me make one observation, if I may.

I can not comprehend how we can support a proposition that strips Germany bare and subjects her to certain responsibilities and the imposition of certain obligations; we disarm her; we compel her to submit to the provisions of the Versailles treaty; we prevent her through those provisions from defending herself against any aggression, justified or unjustified; we take the advantage of all the provisions of the Versailles treaty; and yet through this treaty we take the ignominious and pusillanimous course that we are unwilling to protect a foe that we have disarmed and that we propose to compel to be disarmed.

It does seem to me that the position taken by this treaty can not be defended, and that the amendment offered by the Senator from Montana cures it in a respect that ought to commend it to the judgment of those who believe in fair play and in international honesty.

The VICE PRESIDENT. The question is on the adoption of the amendment offered by the Senator from Montana [Mr. WALSH], as modified.

Mr. WALSH of Montana. I call for the yeas and nays.

The yeas and nays were ordered, and the Assistant Secretary proceeded to call the roll.

Mr. DIAL (when his name was called). I am paired with the Senator from Colorado [Mr. PHIPPS], and therefore withhold my vote.

Mr. STERLING (when his name was called). I transfer my pair with the Senator from South Carolina [Mr. SMITH] to the Senator from Oregon [Mr. STANFIELD], and will vote. I vote "nay."

Mr. SUTHERLAND (when his name was called). I transfer my pair with the senior Senator from Arkansas [Mr. ROBINSON] to the junior Senator from Indiana [Mr. NEW], and will vote. I vote "nay."

Mr. WILLIAMS (when his name was called). I have a pair with the Senator from Pennsylvania [Mr. PENROSE], but I am informed by the Senator from Massachusetts [Mr. LODGE] that if the Senator from Pennsylvania were present he would vote "nay" upon the pending proposition. As I desire to vote the same way, I take the liberty of voting, and do vote, "nay."

The roll call was concluded.

Mr. HALE. I transfer my pair with the senior Senator from Tennessee [Mr. SHIELDS] to the junior Senator from North Dakota [Mr. LADD], and will vote. I vote "nay."

Mr. CARAWAY. I desire to announce the unavoidable absence of my colleague [Mr. ROBINSON]. I will let this announcement stand for the day.

Mr. SWANSON (after having voted in the negative). I have a pair with the senior Senator from Washington [Mr. JONES], but I understand that if present he would vote the same way that I have voted; so I will let my vote stand.

Mr. CURTIS. I have been requested to announce that the Senator from New Jersey [Mr. EDGE] is paired with the Senator from Oklahoma [Mr. OWEN].

Mr. BALL (after having voted in the negative). I transfer my pair with the Senator from Florida [Mr. FLETCHER] to the

Senator from Maryland [Mr. WELLER], and will let my vote stand.

The result was announced—yeas 6, nays 71, as follows:

YEAS—6.

Glass	King	Simmons	Walsh, Mont.
Hitchcock	Overman		

NAYS—71.

Ashurst	France	McCormick	Shortridge
Ball	Frelinghuysen	McCumber	Smoot
Borah	Gerry	McKellar	Spencer
Brandegee	Gooding	McKinley	Stanley
Broussard	Hale	McLean	Sterling
Calder	Harreld	McNary	Sutherland
Cameron	Harris	Moses	Swanson
Capper	Harrison	Nelson	Townsend
Caraway	Heflin	Newberry	Trammell
Colt	Johnson	Nicholson	Underwood
Culberson	Jones, N. Mex.	Norbeck	Wadsworth
Cummins	Kellogg	Oddie	Walsh, Mass.
Curtis	Kendrick	Page	Warren
Dillingham	Kenyon	Poindexter	Watson, Ga.
du Pont	Keyes	Pomerene	Watson, Ind.
Elkins	La Follette	Ransdell	Williams
Ernst	Lenroot	Reed	Willis
Fernald	Lodge	Sheppard	

NOT VOTING—18.

Bursum	Ladd	Penrose	Smith
Dial	Myers	Phipps	Stanfield
Edge	New	Pittman	Weller
Fletcher	Norris	Robinson	
Jones, Wash.	Owen	Shields	

So the amendment of Mr. WALSH of Montana, as modified, was rejected.

Mr. WALSH of Montana. Mr. President, in view of the rejection of that amendment, I offer the amendment which I send to the desk.

The VICE PRESIDENT. The Secretary will state the amendment.

The Assistant Secretary read as follows:

In view of the undertaking of the Government of Germany, recited in part 5 of the treaty of Versailles, to disarm and to remain disarmed, except as therein set forth, the right and advantages accruing from which undertaking is by this treaty specifically reserved to the United States, it agrees that so long as Germany shall observe the obligations of the said part 5, the United States will use its good offices to prevent the unjustifiable invasion of the territory of Germany as by the said treaty of Versailles defined or as delimited thereunder.

The VICE PRESIDENT. The question is on the adoption of the amendment.

Mr. WALSH of Montana. I ask for the yeas and nays.

Mr. BORAH. Mr. President, is this a second amendment offered by the Senator from Montana?

Mr. WALSH of Montana. It is.

Mr. BORAH. I beg the Senator's pardon, but I was out of the Chamber at the time he offered the amendment, and I would like to know the difference between the two.

Mr. WALSH of Montana. The difference between the two is simply this: By this the United States simply obligates itself to use its good offices to prevent the unjustifiable invasion of Germany. The other amendment obligated the United States to join with any of the signatories to the Versailles treaty in any steps they might take to prevent the unjustifiable invasion of Germany.

Mr. BORAH. Mr. President, we use this term "good offices" a great deal, and the expression has come to have a far-reaching effect, it seems to me. I think this is as good a time as any other to ask the Senator what he would understand by the term "good offices" and how far it would take us, in his opinion?

Mr. WALSH of Montana. I think the term is fairly well understood in diplomatic usage. It signifies the use in a diplomatic way of such influence as we possess. The good offices of one nation are frequently tendered in case of war threatened between two other nations with which it is at peace, with a view to compose the differences. It does not go any further than a diplomatic intervention, according to my understanding.

Mr. BORAH. Would it include an economic boycott?

Mr. WALSH of Montana. I should say not.

Mr. BORAH. Or financial pressure?

Mr. WALSH of Montana. I should think not. That is not my understanding of the use of the term.

Mr. BORAH. I ask these questions in good faith, because within the last few days I have read a very interesting article by a writer who seemed to think that "good offices" under present conditions included both those propositions. He referred, in other words, to financial pressure as a beneficent method of bringing matters to a conclusion without war. I think he was wholly mistaken. It generally results in war. But I simply wanted to get the Senator's view of it.

Mr. WALSH of Montana. Of course, my view may not be correct, because I do not profess to be particularly expert in these matters, but I should think that anything in the nature of pressure or duress upon either of the parties would fall without the domain of "good offices." "Good offices" are such as a mutual friend would exercise as between two friends who were having a controversy.

Mr. WATSON of Georgia. Mr. President——

Mr. WALSH of Montana. But it occurred to me, Mr. President, if the Senator from Georgia will pardon me for a moment, that if we do insist upon part 5 remaining in this treaty, we ought, at least, to go so far as to say that we will interpose, diplomatically at least, to protect the foe whom we have insisted shall be disarmed. Indeed, I think the simile to which I referred the other day was quite appropriate—the case of a sheriff who has taken a prisoner and disarmed him so that he is not able to protect himself at all. Justice demands that the sheriff shall protect that man against anyone who would attempt to injure him.

Now I yield to the Senator from Georgia.

Mr. WATSON of Georgia. Can the Senator cite an instance where any nation has bound itself beforehand, by law, to interpose its good offices?

Mr. WALSH of Montana. I have no specific case in mind.

Mr. BORAH. That was the substance of the Korean treaty, was it not, that in case the independence of Korea were attacked we would interpose our good offices to protect it?

Mr. WALSH of Montana. We did not do it.

Mr. BORAH. Not that I recall.

Mr. WALSH of Montana. It was not effective, then.

Mr. BORAH. No. That is the case with most agreements of that kind.

Mr. WILLIAMS. Mr. President, I think the amendment now pending, like the amendment just acted on, offered by the Senator from Montana, proceeds upon an absolutely wrong footing. It seems to regard Germany as a sort of helpless lamb surrounded by ravening wolves getting ready to pounce upon her at any moment, and he seems to think that the way to prevent a world war is to prevent somebody from pouncing upon Germany.

That happens not to be the situation. Germany is herself the wolf, who has just had her tusks partially extracted, and who has otherwise been admonished to quit playing the part of wolf. You can not reach a situation of international security which shall result in a just and abiding world peace by sympathizing with the wolf and regretting that the wolf's tusks have been extracted.

There is but one way, Mr. President, whereby we can secure an international consent to a general disarmament on land as well as on sea, and that is for the United States of America to become a party to the defensive treaty offered by Clemenceau, recommended by Lloyd-George to the British Parliament, and adopted by it, sent to this body, recommended by the President of the United States, and now lying on the shelf in the Foreign Relations Committee, the treaty to protect 40,000,000 French against any unprovoked and aggressive attack by Germany, with her 60,000,000 within the German Empire, and her 7,000,000 outside of it, lying in readiness and in crouch to spring whenever the opportunity shall be furnished.

So far as I have been able to learn, I have been the only Member of this body who was in favor of the United States entering into that treaty. There have doubtless been others, but they have not stated their opinions publicly.

You can not have disarmament and peace in Europe until the French people feel secure, and the French people will never feel secure unless they can either control the left bank of the Rhine—which is a thing unthinkable in justice and in right, because its population consists of Germans, in traditions, in ideals, in language, and in every other way; or unless these two great Anglo-Saxon powers, Great Britain and the United States—or, to speak more correctly, these two English-speaking powers, because neither of them is much of an Anglo-Saxon nation—shall agree that they will by force prevent a future unprovoked attack by the German peoples in Europe upon the French people there.

You may talk all you please, you may sentimentalize all you wish, but one of those two things is the alternative; or there may be a third alternative, another world war, out of which we will try to keep, and into which we shall unavoidably be plunged. There is no way around it.

The time has passed when any great country can in any great war remain neutral, because its neutral rights will be attacked by both combatant parties, and it must sooner or later take the side of one or the other in protest of the violation of its neutral rights by the one who has violated them most, or most intolerably violated them. You can not keep out of it.

So you must try to keep peace upon the Continent of Europe among our kinsmen—the other Europeans there. I say now, that when the French come here to this conference on disarma-

ment, one of the first things they will say, because it is one of the first things they must say, is, "France wants to disarm. Her people are being taxed to death. Taxation is so burdensome that it may even breed revolution. But France can not disarm as long as her forty millions of people are threatened by from sixty to seventy millions across the Rhine, unless there is some sort of security furnished her by her late allies and associates, and the only security that we can think of is that you shall agree to help protect us against any future unprovoked act by these German millions, in front of whom we are helpless whenever they are united to attack us."

If Germany had been the victor in the war, the French people would have been on a level with Portugal and with Spain, and would have remained so for the balance of the existence of the human race.

The French people stand as a people who are not breeding very rapidly, while their opponents are breeding like Negroes or guinea pigs; so the future holds out worse odds against them than the past or the present has held out or is holding out. Whatever happens, you have to make up your minds to bear your part in the responsibility of the world's situation or else to bear your part in the next world war.

The only question is in which you prefer to bear a part. There is no way of disarming Europe except by having France take the initiative, and there is no way of persuading the French people under a free government—a Republic where the people rule—to take the initiative except by the psychological assurance to them of security for the future, and we alone can give it. The British Parliament has agreed to do it, but the treaty was predicated upon the idea that neither Great Britain nor the United States was to be bound unless both were bound, so France can not even get the assistance of the British Empire against unprovoked German attack until we agree that we also shall render assistance. The amendments of the Senator from Montana are hitting at an imaginary danger just precisely the opposite of the real danger that confronts Europe.

Mr. LENROOT. Mr. President——

The VICE PRESIDENT. The Senator from Wisconsin.

Mr. WALSH of Montana. Mr. President, will the Senator yield to me a moment?

Mr. LENROOT. Certainly.

Mr. WALSH of Montana. I trust the Senator from Mississippi [Mr. WILLIAMS] will not leave the Chamber until I have said a word or two to him. I wish to say to the Senator from Mississippi that if he had done me the honor to listen to my address on Wednesday last he would recognize that I tried to make, in my poor, ineffective way, the very excellent speech he has just made. I am in entire accord with him in his views.

Mr. WILLIAMS. If the Senator is alive to the real danger, why put up the bars against this imaginary danger?

I was so unfortunate as not to hear the speech of the Senator from Montana. I regret the fact, as I regret any failure on my part to hear his counsel.

Mr. WALSH of Montana. That is not the question at all. We are now endeavoring to make a treaty with Germany. We have to accept the other situation just exactly as it is. The question is, Shall we make a treaty with Germany by which we insist upon Germany being disarmed and then leave her open to any enemy that may attack her? I agree with the Senator entirely that if we expect to accomplish anything by the conference which is soon to assemble here, we must accept at once the proposition that we are under obligation to make some kind of guaranty to France against invasion by Germany.

Mr. WILLIAMS. I am glad to hear the Senator say that.

Mr. WALSH of Montana. That is entirely separate from this question, however.

The PRESIDING OFFICER (Mr. WADSWORTH in the chair). The present occupant of the chair has just taken the chair, but is informed that the time of both Senators has expired under the 10-minute rule. The Senator from Wisconsin has the floor.

Mr. LENROOT. Mr. President, just a word, because I do not think the statement made and repeated by the Senator from Montana should go unchallenged. He has twice stated that part 5 of the Versailles treaty is made a part of the pending treaty. That, of course, is not so. The Senator from Montana must concede that that is not so. What is done is that we are given the rights that we would be permitted to enjoy under part 5 had we entered into the Versailles treaty, but nothing more. We may or may not exercise any of those rights granted to us. If we do exercise any of the rights it is provided in the treaty that we must do so consistent with the rights that Germany has under the treaty of Versailles. We can not do otherwise. So Germany is fully protected under the treaty as it stands, and surely the Senator from Montana would not go further in protecting the rights of Germany than the German people themselves have gone in this treaty voluntarily entered into and ratified by them.

Mr. KING. Mr. President——

Mr. LENROOT. Just a word further, and then I will yield. I wish to complete this statement, because my time is limited. If the amendment of the Senator from Montana should be agreed to, what would be involved? Whenever a controversy arose this Government would be compelled to pass upon the merits of that controversy and render a decision thereon and to find out and answer whether the obligation imposed by the amendment of the Senator from Montana was in force. It could not be otherwise. That would involve the United States Government acting, passing upon, and making a decision in any controversy which might arise covering the scope of the amendment offered by the Senator from Montana.

I now yield to the Senator from Utah.

Mr. KING. Perhaps I did not understand the attitude of the Senator from Wisconsin, but article 2 of the pending treaty specifically provides that the rights and advantages stipulated in part 5 of the Versailles treaty inure to the advantage of the United States.

Mr. LENROOT. Exactly.

Mr. KING. We get all the benefits of part 5, just as is contended by the Senator from Montana, and we deny any of the responsibilities or liabilities that the Versailles treaty imposes upon us.

Mr. LENROOT. Let us see. If the Senator from Utah will read the next paragraph following the one conferring the rights upon us, he will find that it provides that if we do exercise those rights we obligate ourselves to do so in a manner consistent with the rights accorded to Germany under the treaty of Versailles.

Mr. KING. May I inquire of the Senator what obligation would rest upon us under the treaty to defend Germany if she was wantonly attacked after we had stripped her?

Mr. LENROOT. The same rights that exist under the Versailles treaty, if any. But I doubt if we would undertake to exercise the right covered by part 5. If we do nothing with reference to that, of course there would be no obligation, but our obligation would be just as strong; in other words, we could not exercise the right or the rights which part 5 conferred upon us unless we did so consistently with the rights that Germany had under the treaty of Versailles.

Mr. KING. Does the Senator mean to use the word "consistently" in the sense that it is an obligation, moral or legal, that we shall go to the defense of Germany if she is wantonly attacked?

Mr. LENROOT. If there was an obligation to defend her, if wantonly attacked, under the provisions of the Versailles treaty, and if not to defend her would be inconsistent with the assertion of our rights, then we should be bound to defend her. But there is no such obligation.

Mr. KING. If the Senator's attitude is correct, then I am sure he will not get 10 votes for the treaty upon the other side of the Chamber, because the position of the Republicans has been that they would not assume any responsibilities under the Versailles treaty, and one of the responsibilities is that we and all signatories to the treaty should protect Germany if she was unprovokedly attacked by any one of the allied powers or any other power.

Mr. LENROOT. No responsibility is assumed here. All I say is that a right is granted which we may exercise or not. If we do exercise it, we must do so consistently with Germany's rights under the treaty.

Mr. LODGE. We are not bound to assume any of those rights or privileges. We are left entirely free.

Mr. KING. Mr. President, I am not quite sure that I understand the attitude of the Senator from Wisconsin [Mr. LENROOT], but it seems to me it is too clear for controversy that we, by the treaty now before us, are claiming the advantages of part 5 as well as the other parts of the treaty and that we decline in advance to assume any of the liabilities or obligations or responsibilities that flow from the treaty and which attach to the other signatories to the treaty known as the allied nations. We seek advantages, but we refuse to assume responsibilities. We insist upon the disarming of Germany, and that is right. We strip her bare, and yet we refuse, if she is wantonly attacked, to defend her or to join with our former allies in so doing, and now you are about to vote against the suggestion of the Senator from Montana that we tender our good offices to protect her if she shall be unjustly assailed. The present treaty obtains all of the benefits of the Versailles

treaty; it approves of the subjection of Germany to the allied dictated peace, but refuses to aid in carrying out the terms of the treaty or to protect Germany if she shall be assailed.

Mr. LENROOT. Will the Senator yield?

Mr. KING. I yield to the Senator.

Mr. LENROOT. Does the Senator desire the United States to enter into an obligation to defend Germany or any other European country if attacked, however wantonly?

Mr. KING. Mr. President, I am willing to now support a proposition to ratify the Versailles treaty and to enter the League of Nations. We could with propriety ratify the treaty with reservations deemed necessary for the protection of the United States with reference to her domestic affairs, or any other matter deemed important and necessary. As indicated by the Senator from Mississippi [Mr. WILLIAMS] a few moments ago, I believe that where we claim benefits we should be willing to assume responsibilities. If Germany should be unjustly attacked, and we are the beneficiaries of a treaty which compels her disarmament, then we should be willing to join with those nations who enjoy like benefits, in the protection of Germany.

If we claim the advantages of the Versailles treaty, where can we find justification in any law of morals for a repudiation of the provisions of the treaty, which have made possible the enjoyment of its benefits? Those supporting this treaty seem to be willing to use the allied nations to guarantee to the United States certain indemnities and advantages, but perceive nothing ignoble in deserting the Allies when they carry burdens made necessary in enforcing the treaty. And the attitude of many Senators seems to be that, having compelled Germany to disarm, we shall afford her no protection, if she should be unjustly assailed.

Mr. President, the honorable, the decent thing, is for the United States to unite with the allied nations in executing the Versailles treaty. We can not with honor desert Europe, turn our backs upon the allied nations, and leave unsettled the world problems which the victory which we helped to win gave birth to.

Mr. LODGE. Mr. President, just a word. We are not guaranteeing anybody's boundaries, either our allies or the associated powers or anyone else's. Of course, we are not undertaking to guarantee Germany our good offices which we offer to no one else. The German Government and the German Reichstag have ratified this treaty without amendment and with but little dissent. I think they can be trusted to do what they think is for their own interest and to look after their interests without having them looked after here.

Mr. HITCHCOCK. Mr. President, I favor the amendment offered by the Senator from Montana pledging the United States to use its good offices in case Germany is unjustifiably attacked or her territorial integrity endangered. I favor that as a natural supplement to the treaty which we are negotiating with Germany, in which we reserve to ourselves whatever rights we have under part 5 of the Versailles treaty. Part 5 requires Germany to disarm. That promise we exacted of Germany for the reasons stated in this paragraph of the original Versailles treaty:

> In order to render possible the initiation of a general limitation of the armaments of all nations, Germany undertakes strictly to observe the military, naval, and air clauses which follow.

In our pending treaty we have practically become a party to that clause. We have reserved whatever rights we have under it. That means that if Germany undertakes to violate that promise she would be violating a promise made to us. Having exacted that promise from Germany, I think we should also, on our part, take the position that if any nation undertakes unjustifiably to invade Germany we will at least use our good offices to prevent such a wrong.

Mr. President, that is not simply for the benefit of Germany; it is for the benefit of the world. We know that Germany is not the only country in which there is a military party. We know that at the present time there is a very active and threatening military party in France, and it is well for France or any other country to know that we assume here to use our good offices and serve notice in advance that we will use our good offices against the unjustifiable invasion of helpless Germany.

I am for it not only because it is justice to Germany but because it is in the interest of peace and may help prevent any unjustifiable attack on Germany.

Mr. SHORTRIDGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from California?

Mr. HITCHCOCK. I yield.

Mr. SHORTRIDGE. In view of the Senator's remark that there is a military party still in France, does the Senator think that France meditates any wanton attack upon Germany?

Mr. HITCHCOCK. I have not said that. I have said, and I repeat, that there is a military party in France. Woodrow Wilson called attention to that fact, and the fact that France is to-day not only maintaining an unnecessarily large army, far more than she needs on the Rhine, but she has 200,000 men in Asia Minor at this time. That is sufficient indication to the world that the military party of France may become an active danger to the world. I realize that fear of Germany is a large part of the military preparations of France, and I agree with those who say that we should have entered into the treaty of Versailles and the League of Nations for the purpose of guaranteeing France against such a danger.

But we did not do so. Now we are maintaining our rights under this treaty and requiring Germany to disarm. Doing that, we should at the same time serve notice on every other nation in the world that an unjustifiable attack upon Germany will be considered by us at least a cause for exercise of our good offices to prevent it.

Mr. SHORTRIDGE. Mr. President, I rose merely to ask the Senator from Nebraska the direct question as to whether or not he thought France meditated or had in remote contemplation any wanton or other attack upon Germany, and he has made his reply.

Of course, personally, I think that France is justified in what she is now doing to protect her present and to safeguard her future, and, not to multiply words, I think if we were similarly circumstanced, if the nation to the north of us were twice our size in population and had within half a century twice invaded us we would be well justified in the exercise of due caution and love of country in making substantially the same defensive preparations that France has made or is making.

Mr. JONES of New Mexico. Mr. President, I should like to inquire of the Senator from Wisconsin how he would construe that part of article 2 of the treaty which reads:

> The United States, in availing itself of the rights and advantages stipulated in the provisions of that treaty mentioned in this paragraph, will do so in a manner consistent with the rights accorded to Germany under such provisions.

Turning to part 5 of the treaty of Versailles, I do not discover there any provision which at all limits the obligation of Germany to disarm or that there is anything in part 5 of that treaty which accords to Germany any rights in the premises whatever. There is a complete obligation upon Germany to disarm in the manner provided, and unconditionally, as I construe it. Therefore I should like to inquire of the Senator from Wisconsin how Germany will have a right under our treaty with her to insist upon any modification of that in pursuance of part 5 of the treaty of Versailles?

Mr. LENROOT. Mr. President, the language, as the Senator will see, does not refer merely to any obligation flowing to Germany under part 5, but to any obligation flowing to Germany under any part of the treaty of Versailles. We could not exercise any right we may have under part 5 inconsistent with any rights that Germany might have under any part of the treaty.

Mr. JONES of New Mexico. Then, may I inquire of the Senator, what right would Germany have under any part of the treaty of Versailles to invade in any respect the obligations of part 5 which we incorporate in our treaty with Germany?

Mr. LENROOT. We do not incorporate that in our treaty at all.

Mr. JONES of New Mexico. The treaty so states.

Mr. LENROOT. If we exercise a right granted to us, we can not exercise it inconsistently with any rights Germany may have growing out of the rights conferred upon her.

Mr. JONES of New Mexico. Let me call the attention of the Senator more specifically to the language. It reads:

> The United States, in availing itself of the rights and advantages stipulated in the provisions of that treaty mentioned in this paragraph, will do so in a manner consistent with the rights accorded to Germany under such provisions.

There is no modification under the provisions of part 5 which I have been able to discover. I must confess that just for the moment I have only read part 5 hastily, and I may have failed to discover something which is in it, but I do not recall any provision of part 5 which permits any limitation at all upon the obligation of Germany to disarm.

Mr. LENROOT. If the Senator desires to confine it to part 5, then, if we have no obligation to Germany, the Senator from New Mexico and the Senator from Montana ought not to ask us to assume one that does not exist under the treaty of Versailles.

Mr. JONES of New Mexico. The point which the Senator from Montana made was that under this provision of the treaty we are entering into such an understanding with Germany that Germany is bound to us to disarm in accordance with part 5, and the Senator from Montana is insisting that there should

be something reciprocal in the matter; that if we are insisting that Germany shall disarm absolutely, as specified in part 5, then we ought at least to go so far as to say to Germany that in the event this provision in our treaty should invite any attack upon Germany we ought at least use our good offices to prevent that thing being done.

As I understood the reply of the Senator from Wisconsin to that question, he stated that this obligation, now embodied, as it is, in our treaty, carries with it the provisions of the Versailles treaty, including the various provisions for the protection of Germany; but I do not so read this part of our treaty.

Mr. LENROOT. If the Senator does not read it, then he is asking the Government to assume an obligation that does not exist anywhere in the Versailles treaty. The Senator from New Mexico did not ask when the Versailles treaty was up for consideration to assume an obligation that was not found in the Versailles treaty. Why is he asking it now?

Mr. JONES of New Mexico. Mr. President, I think the difficulty arises over what I construe to be a misunderstanding of the Senator from Wisconsin [Mr. LENROOT] in replying to the Senator from Montana [Mr. WALSH]. The Senator from Wisconsin assumed that the point now suggested by the Senator from Montana was already covered.

Mr. LENROOT. It is covered if there is any obligation in the treaty; but if there is no obligation in the treaty, of course, it is not covered.

Mr. JONES of New Mexico. Mr. President, the Senator now uses the term "treaty," referring to the whole of the Versailles treaty, whereas the language of the present treaty does not include all of that language, but simply includes the rights accorded to Germany under "such provisions"—that is, the provisions of specific parts of the Versailles treaty only.

Mr. LENROOT. Oh, no. It is the provisions of the Versailles treaty that are referred to there.

Mr. JONES of New Mexico. If the Senator will read the language, I think he will construe it differently. I will read it again:

> The United States, in availing itself of the rights and advantages stipulated in the provisions of that treaty mentioned in this paragraph, will do so in a manner consistent with the rights accorded to Germany under such provisions.

It is specifically limited to the provisions of those paragraphs, those parts of the Versailles treaty embodied in article 2 of the German treaty.

Mr. LENROOT. Then, if there is no obligation in any of those paragraphs we are not under obligation, but the Senator now desires to assume one.

Mr. JONES of New Mexico. The Senator from Wisconsin, then, is willing to have the statement go that under this treaty we are requiring Germany to disarm, and that there is no provision in the treaty whereby we can do anything, even use our good offices, in the protection of Germany in the event that she is invaded by reason of our own treaty insisting upon that disarmament.

The PRESIDING OFFICER. The question recurs on the amendment offered by the Senator from Montana.

Mr. WALSH of Montana. I ask for the yeas and nays.

The yeas and nays were ordered and the reading clerk proceeded to call the roll.

Mr. DIAL (when his name was called). I have a pair with the Senator from Colorado [Mr. PHIPPS] and therefore withhold my vote.

Mr. SUTHERLAND (when his name was called). I transfer my pair with the senior Senator from Arkansas [Mr. ROBINSON] to the junior Senator from Maryland [Mr. WELLER] and will vote. I vote "nay."

Mr. SWANSON (when his name was called). I have a pair with the senior Senator from Washington [Mr. JONES], which I transfer to the senior Senator from Texas [Mr. CULBERSON] and vote "nay."

Mr. WILLIAMS (when his name was called). Repeating the announcement made upon the previous vote concerning my pair and my reason for considering myself for the nonce liberated from it, I vote "nay."

The roll call was concluded.

Mr. OVERMAN. I inquire if the Senator from Wyoming [Mr. WARREN] has voted?

The PRESIDING OFFICER. The Chair is informed that that Senator has not voted.

Mr. OVERMAN. I have a general pair with that Senator and therefore withhold my vote.

Mr. HALE. I transfer my pair with the senior Senator from Tennessee [Mr. SHIELDS] to the junior Senator from North Dakota [Mr. LADD] and vote "nay."

Mr. CURTIS. I desire to announce the following pairs:

The Senator from West Virginia [Mr. ELKINS] with the Senator from Mississippi [Mr. HARRISON];

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN]; and

The Senator from South Dakota [Mr. STERLING] with the Senator from South Carolina [Mr. SMITH].

The result was announced—yeas 6, nays 62, as follows:

YEAS—6.

Glass	King	Simmons	Walsh, Mont.
Hitchcock	McKellar		

NAYS—62.

Ashurst	Gerry	McLean	Shortridge
Ball	Gooding	McNary	Smoot
Borah	Hale	Moses	Spencer
Brandegee	Harreld	Myers	Stanley
Broussard	Harris	Nelson	Sutherland
Calder	Johnson	New	Swanson
Cameron	Jones, N. Mex.	Newberry	Townsend
Capper	Kellogg	Nicholson	Trammell
Caraway	Kenyon	Norbeck	Underwood
Colt	Keyes	Oddie	Wadsworth
Curtis	La Follette	Page	Watson, Ga.
Dillingham	Lenroot	Poindexter	Watson, Ind.
du Pont	Lodge	Pomerene	Williams
Fletcher	McCormick	Ransdell	Willis
France	McCumber	Reed	
Frelinghuysen	McKinley	Sheppard	

NOT VOTING—27.

Bursum	Fernald	Overman	Smith
Culberson	Harrison	Owens	Stanfield
Cummins	Heflin	Penrose	Sterling
Dial	Jones, Wash.	Phipps	Walsh, Mass.
Edge	Kendrick	Pittman	Warren
Elkins	Ladd	Robinson	Weller
Ernst	Norris	Shields	

So the amendment of Mr. WALSH of Montana was rejected.

Mr. WALSH of Montana. Mr. President, in some remarks I made on the treaty last week I called attention to the provisions of article 1, under which all rights, privileges, and advantages reserved under what is known as the Knox resolution are guaranteed to the United States. Included in those, as recited in that resolution, are—

> all rights, privileges, indemnities, reparations, or advantages, together with the right to enforce the same, to which it or they have become entitled under the terms of the armistice signed November 11, 1918, or any extensions or modifications thereof; or which were acquired by or are in the possession of the United States of America by reason of its participation in the war or to which its nationals have thereby become rightfully entitled; or which, under the treaty of Versailles, have been stipulated for its or their benefits; or to which it is entitled as one of the principal allied and associated powers; or to which it is entitled by virtue of any act or acts of Congress; or otherwise.

Under the Knox resolution the right is reserved to the United States to hold the property seized by the Alien Property Custodian until all claims of any of the nationals of the United States for damage suffered by any acts of the German Government or any of its agents since the 31st day of August, 1914, are satisfied or until provision is made for the payment thereof.

I then called attention to the obligation under which the United States rested, by virtue of the exchanges resulting in the armistice, not to exact of Germany compensation for any damages done to any of its nationals except such as were suffered by the civilian population. I called attention to the fact that at the conference of Versailles an insistent demand was made by certain of the Allies to exact compensation of Germany for all damages occasioned by the war; and I disclosed how, after the debate progressed before the Versailles conference, the contention was finally abandoned by every one of them, and it was agreed that the compensation to be exacted of Germany should be limited to the damage which was done to the civilian population; that thereafter the controversy raged around the question of the elements which should enter into the question of the damages done to the civilian population; and that that controversy finally resulted in annex No. 1 to article 232 of the treaty, which specified 10 elements entering into those damages, including pensions and separation allowances. I challenged anyone to attempt to defend pensions and separation allowances as damages done to the civilian population, and no one has attempted so to defend them.

Mr. SHORTRIDGE. Mr. President, may I ask the Senator a question?

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from California?

Mr. WALSH of Montana. I yield to the Senator from California.

Mr. SHORTRIDGE. Does the Senator fear or think that the United States ever will make such a demand upon Germany under the reparation rights? If he does, then of course it is a matter for careful thought.

Mr. WALSH of Montana. It is not a matter of fearing at all. We are reserving by this treaty the right to demand compensation for all these damages.

Mr. SHORTRIDGE. Precisely; but, with respect, the Senator does not answer my question. Does he think that this Nation, by whomsoever guided or directed, will ever make such a demand?

Mr. WALSH of Montana. I have no idea about the matter. I could not pretend to say what somebody, two, three, four or five years hence, may do. That is not the question. It is not a question with me as to whether we are going to insist upon all the rights that we have under this treaty. We are expressly reserving in this treaty the right to demand payment for all those obligations.

Mr. SHORTRIDGE. Why should we not?

Mr. WALSH of Montana. Because we have bound ourselves not to do so.

Mr. SHORTRIDGE. That is debatable.

Mr. WALSH of Montana. That is the question. Up to the present time Senators upon the other side have studiously refrained from saying one word in regard to the matter. They have refused to discuss even the question as to whether we are or are not bound by the exchanges resulting in the armistice to restrict our demands to the civilian population. I shall listen very attentively to any discussion by the Senator from California or anyone else controverting that proposition.

Mr. SHORTRIDGE. If given an opportunity, I may make a few remarks, addressing myself to that immediate point; but, so that the Senator may perhaps anticipate, the fact that we have a legal right to make a given demand, of course, does not necessarily imply that we shall enforce that right or make that demand. It occurs to me that it may be prudent for us to reserve that right; not to hold its exercise over Germany in terrorem, but prudently, in the nature of self-defense, if you please, to reserve the right to make the demand if the occasion should require. Whether we have that right under the armistice may be a matter of interpretation or discussion.

Mr. WALSH of Montana. Mr. President, if it were not for the fact that we are bound by the armistice negotiations to restrict our claims to damages done to the civilian population, I should entirely agree with the Senator from California that it would be advisable for us to reserve all of our rights, to be exercised, if we saw fit to do so, or not; but the argument I am making is that we are not at liberty to reserve these rights, having expressly agreed that we shall never exact anything more than reparation for damages done to the civilian population. That is the burden of my claim. Moreover, Mr. President, I called attention to the fact that under one provision of the treaty we reserve the rights to demand all of these damages, and under the other we limit ourselves to the damages done before we went into the war.

Mr. WILLIS. Mr. President——

Mr. WALSH of Montana. I yield to the Senator from Ohio.

Mr. WILLIS. I want to be sure that I understand the Senator's position, for I value his opinion very highly. What is his idea about this case? I happen to have in mind this instance:

In the years 1917 and 1918 a large plant in Belgium, worth perhaps $2,000,000, located clear outside of what you might call the war zone—of course, it was under German control, but there was no actual fighting there—was demolished by the Germans. That plant was owned entirely by Americans. It was destroyed obviously for the purpose of crippling that industry. Is it the opinion of the Senator that under the armistice agreement we would have no recourse for that, but that under the terms of the treaty now pending we would have?

Mr. WALSH of Montana. No; the opinion of the Senator is that we would undoubtedly have the right to have compensation for that under the armistice agreement. That is obviously a damage done to the civilian population. The owners of that property were not injured at the front at all. That was damage done to the civilian population.

Mr. WILLIS. But the Senator will note that it was not in Germany; it was in Belgium.

Mr. WALSH of Montana. It does not make any difference. For the damage done by the Germans to the civilian population of the United States, no matter where they were, they are entitled to recover. For instance, when they were on the high seas a ship was submarined. They would be entitled to recover damages for that.

Mr. WILLIS. Then, as a matter of fact, it is the opinion of the Senator that both under the armistice and under the pending treaty we would have our remedy for that wrong?

Mr. WALSH of Montana. Undoubtedly, sir; undoubtedly. We would have the remedy if the amendments I propose to tender were adopted.

Mr. WILLIS. And if such an outrage as I have described had occurred, as it did occur in other instances prior to the time we went into the war, we would have our remedy under the armistice also?

Mr. WALSH of Montana. Undoubtedly. If it occurred prior to the time we went into the war, we would have a remedy under the treaty; but the amendment which I tender contemplates that we should recover for damages done to the civilian population, whether they were done before we went into the war or after we went into the war, but that the recovery should be restricted to the damages done to the civilian population—such a case as the Senator from Ohio propounds.

Mr. WILLIS. Has the Senator offered his amendment?

Mr. WALSH of Montana. No; I offer it now, Mr. President.

The PRESIDING OFFICER. Does the Senator from Montana desire to have his remarks credited to his time on the treaty or on this amendment?

Mr. WALSH of Montana. On the amendment.

The PRESIDING OFFICER. The Secretary will state the amendment offered by the Senator from Montana.

The reading clerk read as follows:

Notwithstanding anything herein, Germany shall be under no obligation to make compensation to the United States for any damage sustained by any of its nationals in consequence of any acts of the Government of Germany or any of its agents since August 31, 1914, except for damage done to the civilian population of the United States; nor shall it, by reason of anything in this treaty, be entitled to retain any property coming into its possession since April 6, 1917, as the property of the nationals of Germany for the satisfaction of any claims asserted by the nationals of the United States except claims for damages done to the civilian population thereof.

Mr. WALSH of Montana. Mr. President, I should like to inquire of the Senator from Ohio whether the case to which he refers occurred prior or subsequent to the time we went into the war.

Mr. WILLIS. The particular case I stated in the first instance, the case of the glass plant in Belgium, as a matter of fact occurred after we went into the war.

Mr. WALSH of Montana. Then I want to suggest to the Senator from Ohio that there is some doubt whether under the treaty a recovery could be had in that case. It is a case which certainly should be taken care of. I refer the Senator to paragraph 4 of the annex to article 298, which reads as follows:

All property, rights, and interests of German nationals within the territory of any allied or associated power and the net proceeds of their sale, liquidation, or other dealing therewith may be charged by that allied or associated power in the first place with payment of amounts due in respect of claims by the nationals of that allied or associated power with regard to their property, rights, and interests, including companies and associations in which they are interested, in German territory, or debts owing to them by German nationals, and with payment of claims growing out of acts committed by the German Government or by any German authorities since July 31, 1914, and before that allied or associated power entered into the war.

So if that provision of the treaty controls, recovery could not be had in the case to which the Senator refers.

Mr. WILLIS. But the Senator admits that under the terms of the pending treaty, if it shall be ratified, the case I have stated would very clearly be covered, would it not?

Mr. WALSH of Montana. It would not necessarily be covered. The question would arise as to whether the case would be controlled by article 1 of the treaty or by paragraph 4 of the annex to article 298 of the Versailles treaty. I called attention the other day to the fact that the two provisions are entirely inconsistent, and it is a question as to which of the two would prevail.

The rule of law, as the Senator well knows, is that if an inconsistency exists between two portions of a pact or treaty, other things being equal, the later provision will prevail, and this is found in article 2 of the treaty, and would probably prevail over article 1 of the treaty.

The PRESIDING OFFICER. Will the Senator indicate in what portion of the treaty he desires this amendment to be inserted?

Mr. WALSH of Montana. Immediately after subdivision 4 of article 2.

Mr. McCORMICK. Will the Chair state where it is to be inserted? I could not hear the Senator.

The PRESIDING OFFICER. Immediately after subdivision 4 of article 2.

Mr. WILLIS. Mr. President, I desire to be heard on the amendment. I have not had time to carefully examine the amendment, and I am not quite certain of its effect. I want to develop further the thought that was brought out in the colloquy between the Senator from Montana and myself. I want to find out whether in the pending treaty, or in the Versailles treaty, there is satisfactory provision to cover cases such as I have referred to. I have taken pains to collect some facts with reference to those claims. There are some 77 of them.

The claim to which I referred a moment ago was that of a glass plant in Belgium, located far from the war zone, never in

the line of battle, which was left substantially untouched until the American declaration of war, when it was destroyed, not for any possible military object, but deliberately, for the evident purpose of crippling an American-owned industry for some time after the war.

That is significant, because this was an American plant owned entirely by American capital. There were half a dozen other plants in that same territory which were owned by Belgians, carried on by Belgian capital, which were not interfered with at all. It was the evident purpose to cripple that particular industry.

Personally, I have not any doubt that the terms of the pending treaty cover that absolutely. I think it is perfectly clear, and I refer to section 5 of the Knox resolution, which is embodied in the pending treaty and which reads as follows:

SEC. 5. All property of the Imperial German Government, or its successor or successors, and of all German nationals which was on April 6, 1917, in, or has since that date come into, the possession or under control of, or has been the subject of a demand by the United States of America or of any of its officers, agents, or employees, from any source or by any agency whatsoever, and all property of the Imperial and Royal Austro-Hungarian Government, or its successor or successors, and of all Austro-Hungarian nationals which was on December 7, 1917, in, or has since that date come into, the possession or under control of, or has been the subject of a demand by the United States of America or any of its officers, agents, or employees, from any source or by any agency whatsoever, shall be retained by the United States of America and no disposition thereof made, except as shall have been heretofore or specifically hereafter shall be provided by law, until such time as the Imperial German Government and the Imperial and Royal Austro-Hungarian Government or their successor or successors shall have respectively made suitable provision for the satisfaction of all claims against said Governments, respectively, of all persons, wheresoever domiciled, who owe permanent allegiance to the United States of America and who have suffered, through the acts of the Imperial German Government or its agents or the Imperial and Royal Austro-Hungarian Government or its agents since July 31, 1914, loss, damage, or injury to their persons or property, directly or indirectly, whether through the ownership of shares of stock in German, Austro-Hungarian, American, or other corporations, or in consequence of hostilities or of any operations of war, or otherwise, and also shall have granted to persons owing permanent allegiance to the United States of America most-favored-nation treatment, whether the same be national or otherwise, in all matters affecting residence, business, profession, trade, navigation, commerce, and industrial-property rights, and until the Imperial German Government and the Imperial and Royal Austro-Hungarian Government, or their successor or successors, shall have respectively confirmed to the United States of America all fines, forfeitures, penalties, and seizures imposed or made by the United States of America during the war, whether in respect to the property of the Imperial German Government or German nationals or the Imperial and Royal Austro-Hungarian Government or Austro-Hungarian nationals, and shall have waived any and all pecuniary claims against the United States of America.

That obviously covers the case I have stated. I doubt somewhat whether it is covered in the annex to article 298, to which the Senator calls my attention, which I have read rather carefully.

Mr. FLETCHER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Florida?

Mr. WILLIS. I yield.

Mr. FLETCHER. I was going to inquire whether or not this property would come within the exception mentioned under paragraph 9 of annex 1 to article 244 of the treaty of Versailles, which provides that—

Damage in respect of all property wherever situated belonging to any of the allied or associated States or their nationals, with the exception of naval and military works or materials which has been carried off, seized, injured, or destroyed by the acts of Germany or her allies on land, on sea, or from the air, or damage directly in consequence of hostilities or of any operations of war.

That would seem to cover this case.

Mr. WILLIS. From what is the Senator reading?

Mr. FLETCHER. It is annex 1, paragraph 9, page 37, of this printed pamphlet. The first paragraph of that annex is as follows:

Compensation may be claimed from Germany under article 232 above in respect of the total damage under the following categories.

That is one of the categories under which you could claim this damage, unless this property was used for naval or military works or materials.

Mr. KING. Or unless the destruction occurred before our belligerency. If it occurred after our belligerency, unquestionably recovery could be had.

Mr. FLETCHER. I think really the time would be immaterial. There is no limit fixed there, and the only exception is in case it is used for military or naval works or material. I do not know whether this plant was used in that connection or not.

Mr. LODGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Ohio yield to the Senator from Massachusetts?

Mr. WILLIS. I yield.

Mr. LODGE. Of course, the peace resolution, passed by Congress and embodied in this treaty, covers all claims of the United States from 1914. It draws no distinction between prewar and subsequent claims; it covers them all, as the Senator has said. But there is a provision in the treaty of Versailles by which special arrangements are made for covering prewar claims—that is, giving a choice to each of the powers as to whether they will take German property in their possession and turn it into the reparation fund or use it in settling the prewar claims. So the prewar claims are doubly covered. But this treaty, which was drawn very carefully, as the Senator has said, covers everything, all private claims.

Mr. WILLIS. That is my opinion. I think the treaty covers it absolutely. I would like to have the opinion of the Senator from Massachusetts on this point: In the pending treaty section 5 of the Knox resolution is embodied verbatim——

Mr. LODGE. Yes; it is.

Mr. WILLIS. In the opinion of the Senator, if there were a conflict between that clear and concise language and such an article as that referred to by the Senator from Montana [Mr. WALSH], for example, the annex to article 298, the one being stated clearly and in so many words, the other incorporated only by reference, which one of those does the Senator think would control?

Mr. LODGE. Of course, this one. We are not signatories to the treaty of Versailles. This is all that governs as between Germany and the United States.

Mr. WILLIS. The mere fact that we refer to an article in a treaty somebody else has made could not make that supersede in authority our own precise, definite language in our own treaty?

Mr. LODGE. No; because under the paragraph of the treaty of Versailles referred to in this treaty we are left perfectly free to do what we choose to do.

Mr. KING. Will the Senator from Massachusetts permit me an inquiry? I did not hear his first statement. Will the Senator from Ohio yield for that purpose?

Mr. WILLIS. I yield.

Mr. KING. I would like to ask the Senator from Massachusetts for information, whether, under the treaty now before us and the terms of the Knox resolution, we would be able to recover damages from Germany for losses sustained prior to our belligerency, if the fund which we have in our possession, namely, property received from German nationals, were inadequate for that purpose?

Mr. WILLIS. Mr. President, I desire to hear the Senator's answer to that, but I do not want it taken out of my time. I yield the floor.

Mr. LODGE. We should have the claim, of course. The German property we have is simply our security for the claim; and we are very fortunate to have it.

Mr. KING. If that were inadequate——

Mr. LODGE. We should still have the claim.

Mr. KING. We would have the claim. The Senator thinks we could then make demand upon Germany for further compensation?

Mr. LODGE. We would be free to make a demand, I should think.

Mr. WILLIS. Now, I desire to make some further observations concerning this class of claims. The first example I gave was one that developed after we entered the war. There is another one similar to that, except as to time. This occurred, as I recall it now, in October, 1914, and was the case of the confiscation and practical destruction of a great plant in Antwerp manufacturing supplies for telephone companies. That plant was practically dismantled and destroyed, entailing a tremendous loss. There have been very great losses to other companies, to shipping companies, and so on.

All of these claims have been duly filed in the State Department and are included among the 77 claims of this nature aggregating in excess of $10,000,000, listed by the State Department in document No. 419 of the third session of the Sixty-sixth Congress, which was prepared at the request of the Senate.

Under the Belgian law none of the above-described claims filed by said companies can be collected from or through the Belgian Government. The Belgian Government has, however, established a war-damage tribunal with power to investigate and certify the facts and the amount of loss in relation to such claims as prima facie evidence for the use of the claimants in the proving and collection of their claims through their own Governments.

Of course, all of these losses occurred after the great World War began, but some of them occurred before we entered the war and some of them after we entered the war. In my own

opinion, there may be some question about the one or the other class of those claims under the paragraph which has been referred to by the Senator from Montana, but it seems to me that the language of section 5 of the Knox resolution, which is incorporated in this treaty, is absolutely clear. It covers all of those cases which arose after 1914, whether they occurred before we entered the war or after, and consequently it seems to me that the safe thing to do is to adopt section 5 as it was taken from the Knox resolution. Then we will conserve every American right.

Following the line of thought suggested by the Senator from California [Mr. SHORTRIDGE], it seems to me it is perfectly right that that should be done. We have certain property in this country in the control of the Alien Property Custodian. This plant I have discussed was American property, owned by American citizens, who, unless they can be compensated in this fashion, will be absolutely without remedy. Therefore, it seems to me the safe thing to do is to embody section 5 of the Knox resolution, just as it was adopted, in this treaty. I think the amendment should not be agreed to.

Mr. KING. May I inquire of the Senator, in my time, if he believes in an international morality which would seize the property of German nationals invested in the United States, under treaty provisions which permitted them to make investment, and take their property away and apply it to the liquidation of claims of American nationals resulting from wrongs committed by the German Government?

Mr. WILLIS. I might wish with the Senator that there were a better way to afford a remedy, but let me say to him that in my judgment we have a good deal better right to retain the property which is now in the custody of the Alien Property Custodian and apply it to the satisfaction of these claims than the German Government had, for example, to go into Belgium, clear outside the field of war, and take American property and destroy it. Now, if the German Government does not like the way that we adopt of treating its nationals it can compensate its own people, but it is the only remedy we have whereby we can compensate our people. Unless we are willing to adopt that remedy we are totally without a remedy. If the Senator asks my opinion about it, I think it is a fair remedy to adopt and I am in favor of adopting it, and therefore I am in favor of section 5 of the Knox resolution for which I voted.

Mr. KING. I may address myself to that question a little later, but I must confess that I can not approve of a policy which visits the sins of a government at war upon its nationals who, under the protection of peace treaties, have made investments in other lands.

Mr. WILLIS. Mr. President——

Mr. KING. Let me complete my thought. I should insist that Mexico, if she should confiscate the property of American nationals invested there under treaty rights, was committing an international crime if when she was at war with us she should seize that property and confiscate it. I can not see much difference between that suppositious case and the action of the United States seizing the property of the German nationals invested in the United States in peace times under the sanction and protection of sacred, solemn, treaties and applying that property to the liquidation of claims of American nationals because of the wrongs of the German Government.

I yield now to the Senator from Ohio.

Mr. WILLIS. I wish to suggest, if my friend will permit me, two answers to the proposition. In the first place, a considerable proportion of the property to which he alluded just now as being the property of German nationals was indirectly the property of the German Government, invested in this country for the purpose of undermining the industries and institutions of the country. In the second place——

Mr. KING. If there is any property of the German Government invested here, that is one thing. I am not talking about property of the German Government. I am talking about the property of the 40,000 or more German people invested in the United States for our benefit, for the benefit of our industries, as well as for the benefit, of course, of the German investors. It is concerning that property I am speaking and not the property of the German Government itself.

May I ask the Senator in my time what property seized by the Alien Property Custodian and now in his possession belongs to the German Government?

Mr. WILLIS. I can not answer that question now, and neither can the Senator, but he knows that the policy of the Imperial German Government was to encourage its nationals by camouflage loans, and so forth, to get hold of the industries of this and other countries. So that is one thing to be taken into consideration. I wish to ask the Senator, since he is so very generous and kind——

Mr. KING. Is this in my time?

Mr. WILLIS. What remedy would he suggest? Here is the case to which I have referred: Good American citizens, just as good as he or I, have gone into Belgium and established plants and invested millions of dollars in property which was ruthlessly taken by the German Government and destroyed as an act of vandalism, because it was clear outside the zone of war.

Mr. KING. I would make the German Government pay for it, and I would negotiate no treaty and would receive here in Washington no diplomats from Germany until payment had been made, or the processes of settlement had been set in operation.

Mr. WILLIS. We have the cash now. Why not pay it over to our own people and let Germany settle with her people?

Mr. KING. That is another question which we will discuss later. The Senator seems to be willing to breach international covenants. We have a solemn agreement with Germany under the terms of which her nationals had the right to invest in the United States, as our nationals had the right to invest in Germany, and their property by treaty stipulation is sacred here as under treaty provisions the property of American nationals is sacred in Germany. Let me say to the Senator that Germany has manifested a devotion to international law and treaty obligations and has restored to American nationals substantially all the property which she sequestrated during the war.

Mr. WILLIS. She has manifested no disposition to afford a remedy in the case to which I have referred, and the Senator knows that unless we avail ourselves of the remedy which we now have in our own hands we will be absolutely without a remedy. If Germany does not like that remedy she can compensate her own people.

Mr. KING. I am sure that if those engaged in negotiating the treaty now before us had presented the matter to Germany and said to Germany, "You have destroyed this property, and we ask that provision be incorporated in the treaty which we shall negotiate making provision for payment," Germany would have acceded to it, and if Germany had not acceded then Mr. Dresel, or whoever negotiated the treaty, ought not to have approved it, and it ought not to have been submitted to the Senate of the United States for ratification.

Mr. WILLIS. The best answer to that is the fact that our negotiators did provide a way in which this could be paid. Here it is: We had outlined it in the Knox resolution and Germany agreed to incorporate section 5 of the Knox resolution in the treaty. That is the method they were willing to have used in the settlement of that claim, and if the Senate now rejects it we are absolutely without remedy.

Mr. KING. I do not agree with the Senator that we are absolutely without a remedy. I have no doubt, referring to what he said a moment ago, that if our representatives had presented a demand for payment for the destroyed property Germany would have acceded to it. But doubtless our representatives insisted that we retain the property now in the possession of the United States, seized from German nationals, and that we confiscate it, and Germany, perhaps feeling that she was under duress, signed the treaty. Yet I protest against the violation of our solemn treaty with Germany which gave Germany's nationals protection for their property situate within the United States. I can not support a policy which calls for the confiscation of the investments made in our country in peace times by German nationals.

I protest against the contravention of a policy which the United States has contended for ever since the Jay treaty—that we shall not seize the property of nationals for the purpose of meeting the obligations resulting from war. The property of nationals should be immune, should be sacred, and the United States, now being a creditor nation and the American people investing millions, as they are doing, in all the countries of the world, ought to be the foremost nation in insisting upon the immunity of private property from seizure in order to meet the claims of belligerent nations.

Mr. WILLIS. Mr. President——

Mr. KING. My time has expired, so the Senator will have to speak in his own time.

Mr. WILLIS. I believe my own time has expired.

Mr. WALSH of Montana. Mr. President, I wish to say just a word to the Senator from Ohio. I am perfectly satisfied that the claim to which he refers is one that is in every way meritorious and one that Germany ought to satisfy. I have no doubt that it comes easily under the classification of damages done to civilian population, as contemplated in the exchanges leading to the armistice. I wish to call the attention of the Senator from Ohio to the fact that it is doubtful, to say the least, whether under the treaty we are now asked to ratify recovery

can be had. There is no doubt he is correct that it is covered by the article reserving to us all rights reserved by the Knox resolution, but he must not overlook the fact——

The VICE PRESIDENT. The time of the Senator to discuss an amendment has expired. He has further time in which to discuss the treaty.

Mr. WALSH of Montana. I will speak for a moment on the treaty.

The Senator from Ohio must not overlook the fact that the other provision is in the treaty. If he wants to protect the interests of the claimants to whom he refers, and they ought to be protected, he ought not to put in a provision making all of this property subject to all manner of claims, whether they arose by reason of damages done to civilian population or otherwise. The way to reach that would be just to add to the amendment tendered by me the simple clause, "whether arising before or after April 6, 1917." Then there would be no question in the world about it, notwithstanding any provision that may be there.

What I am calling to the attention of the Senator from Ohio is that the treaty as we propose it imperils to some extent the claimant to whose claims he refers and which are certainly entirely meritorious and ought to be taken care of.

But that is neither here nor there. If we are going to take care of these claims, the question is whether we should disregard the solemn obligations resting upon us by reason of the exchanges leading to the armistice under which this Government, through its commander in chief in the field, agreed that if Germany would lay down her arms, as she did, we would not exact any claim of her except for damages done to the civilian population, such as the instance to which the Senator from Ohio refers.

The VICE PRESIDENT. The question is on the amendment.

Mr. KELLOGG. Mr. President, I would like to have the pending amendment reported.

The ASSISTANT SECRETARY. The pending amendment is as follows:

Notwithstanding anything herein, Germany shall be under no obligation to make compensation to the United States for any damage sustained by any of its nationals in consequence of any act of the Government of Germany or any agents since October 31, 1914, except for damage done to the civilian population of the United States, nor shall she by reason of anything in this treaty be entitled to retain any property coming into its possession since April 6, 1917, as the property of the nationals of Germany for the satisfaction of any claim asserted by the nationals of the United States except claims for damages done to the civilian population thereof.

Mr. KELLOGG. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Ashurst	Fletcher	Lenroot	Shields
Ball	France	Lodge	Shortridge
Borah	Frelinghuysen	McCumber	Simmons
Brandegee	Gerry	McKellar	Smoot
Broussard	Gooding	McKinley	Spencer
Calder	Hale	McNary	Sterling
Cameron	Harreld	Moses	Sutherland
Capper	Harris	Myers	Swanson
Caraway	Harrison	Nelson	Townsend
Colt	Heflin	New	Trammell
Culberson	Hitchcock	Newberry	Underwood
Curtis	Johnson	Nicholson	Wadsworth
Dial	Jones, N. Mex.	Oddie	Walsh, Mass.
Dillingham	Kellogg	Overman	Walsh, Mont.
du Pont	Kendrick	Page	Watson, Ga.
Edge	Kenyon	Poindexter	Watson, Ind.
Elkins	Keyes	Pomerene	Williams
Ernst	King	Reed	Willis
Fernald	La Follette	Sheppard	

The VICE PRESIDENT. Seventy-five Senators have answered to their names. A quorum is present. The question is on the amendment offered by the Senator from Montana [Mr. WALSH].

Mr. WALSH of Montana. I ask for the yeas and nays.

The yeas and nays were not ordered.

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Montana.

The amendment was rejected.

Mr. WALSH of Montana. Mr. President, the Senator from Ohio [Mr. WILLIS] a few moments ago called our attention to what appeared to be some very just demands and claims of citizens of the United States against the German Government for which that Government ought to make reparation. While I am not wholly in accord with my esteemed friend the Senator from Ohio, I believe that we may very properly insist that the German property which we have in our hands shall be held as a pledge for the satisfaction of those claims. They amount in the aggregate, as I am informed, to at least $50,000,000, and possibly to very much more than that. As against those claims, we hold the property in the hands of the Alien Property Custodian to the amount of some $750,000,000.

The citizens to whom the Senator from Ohio refers ought to have the right to go before some body, some tribunal, some board, some commission for the purpose of establishing their claims; to establish that they had their property in Belgium; to establish that it was, in fact, destroyed by the Germans; and then to establish the value as a basis upon which they could assert their claims.

What I desire to know from the Senator from Massachusetts [Mr. LODGE], the chairman of the Committee on Foreign Relations, is before what body, commission, or tribunal will the citizens of the United States, to whom the Senator from Ohio refers, go for the purpose of establishing their claims against the German Government? In other words, by what body, tribunal, or commission is the amount which Germany shall pay under this treaty to be determined?

Mr. LODGE. Mr. President, if such claims should be taken to a tribunal it would be such a tribunal as we have had again and again for the settlement of claims against other countries. I take it, it would either be to The Hague tribunal or to a special tribunal agreed to in a treaty settling the terms of the reference.

Mr. WALSH of Montana. Yes; that is to say, if we do not agree——

Mr. LODGE. If we do not agree, we shall take the controversy to a tribunal on which the two countries shall agree.

Mr. WALSH of Montana. Exactly; in other words, Mr. President, we have got to make another treaty with Germany with respect to these claims, and in that treaty the amount of the claim will be settled. I invite the attention of the Senator from Ohio [Mr. WILLIS] to this discussion. How will the citizens of the United States who are referred to by the Senator from Ohio now proceed to establish their claims and where will they go?

Mr. LODGE. At this moment?

Mr. WALSH of Montana. No; but whenever they get ready to present their claims.

Mr. LODGE. They will not proceed right now because we have not yet ratified the treaty.

Mr. WALSH of Montana. No; but I mean after we have ratified the treaty?

Mr. LODGE. Mr. President, I suppose the situation would be about this: We have certain claims; we hold a large amount of German property; and we could, if we chose, I suppose, simply assert our claims and take that property which we have to cover them, so far as it would cover them, or we could do what seems to be the reasonable thing to do in regard to claims of any kind take them before a tribunal to be agreed upon by the two powers. I see nothing very remarkable in the fact that we should make a treaty of arbitration with Germany for the settlement of pecuniary claims.

Mr. WALSH of Montana. There is nothing remarkable about it at all, but I was simply asking the question for information, and I think I now have the information given by the Senator, namely, that it will be necessary to make another treaty with Germany.

Mr. LODGE. I think it is probable that we shall have to make several other treaties with Germany.

Mr. WALSH of Montana. We shall have to make another treaty with Germany setting up a tribunal or a commission, which tribunal or commission shall determine the amount of the claims which Germany shall pay.

Mr. LODGE. Of course, our treaties with Germany were abrogated by the World War, but we have treaties with all the other powers for the settlement of claims, and I suppose we may make settlement with Germany in the same way, unless we choose to assert our right to hold the German property which we have.

Mr. WALSH of Montana. Of course, we assert the right to hold the property for the satisfaction of such claims as we have against Germany; but, now, how are we going to determine what the amount of those claims is?

Mr. LODGE. How does the Senator from Montana propose to determine it?

Mr. WALSH of Montana. I am not proposing to determine it. I am asking how the pending treaty provides for the determination.

Mr. LODGE. It is usual when treaties between nations are made to leave many subjects for subsequent dealings, as was the case after the treaty of Ghent, after the treaty of peace in Paris, after the Mexican treaty, and after the treaty with Spain. Very frequently such subsequent treaties include the settlement of pecuniary claims. There is nothing remarkable about it.

Mr. WALSH of Montana. The answer, then, to the Senator from Ohio is that it will be necessary for the citizens to whom he refers to await the negotiation and ratification of another treaty with Germany which shall establish or create some commission which will settle the amount of those claims.

Mr. WILLIS. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Ohio?

Mr. WALSH of Montana. I yield.

Mr. WILLIS. Mr. President, I desire to say, supplementing the statement made by the Senator from Massachusetts [Mr. LODGE], that I happen to know that the Belgian Government has already provided a tribunal where cases are being finally settled, in which 50 per cent or more of the stock of the companies involved is owned by Belgian citizens. Those cases to which I have referred, since they involve companies that are 100 per cent American, all their stock being owned by American citizens, have only a preliminary hearing; but the tribunal operates to preserve the evidence. I happen to know a number of those who have presented their cases to that tribunal and have made out their cases. That tribunal will make a finding of fact, and the cases, of course, will subsequently have to go for final adjudication before some other tribunal, as explained by the Senator from Massachusetts, the hearing in the first place being simply for the purpose of preserving the evidence, as it were.

Mr. LENROOT. Mr. President, will the Senator yield to me for a moment?

Mr. LODGE. I yield.

Mr. LENROOT. I should like to ask the Senator if this would not be the procedure: If the treaty is ratified the claims may be presented to the State Department and then through diplomatic channels to Germany, and if she allows them she may take her own means; so that it is only when it comes to a dispute that any question will arise?

Mr. LODGE. That is a preliminary in connection with the assertion of all claims. I suppose, of course, the Senator from Montana was aware of that.

Mr. WALSH of Montana. The Senator has referred to our experience to show that we would not find it difficult to make another treaty, but I can not understand why provision was not made in this treaty as was done in the treaty of Washington for the ascertainment of the sum Germany is to pay, that some progress might be made toward the adjustment of the differences between the two countries. Do we make any progress at all in that direction by this treaty?

The idea that Germany is going to admit for one single moment every claim that any American sets up, of course, is idle. It is not conceivable that such a thing should happen, for undoubtedly the claims are going to give rise to controversy. The treaty before us says that Germany shall pay all of these claims, but it makes no provision whatever for the ascertainment of the amount of the claims. In other words, we get nowhere so far as this treaty is concerned toward the settlement or adjustment of these claims. Why should not this treaty have provided for the appointment of three arbitrators to settle these matters?

Mr. LODGE. That can be done perfectly easy at any time. The important thing was to make sure of the great security that we now hold.

I inquire if there is not an amendment pending?

The VICE PRESIDENT. No.

Mr. LODGE. Then the treaty, I suppose, is before the Senate?

The VICE PRESIDENT. The treaty is before the Senate as in Committee of the Whole and open to amendment. If there be no further amendment to be proposed, it will be reported to the Senate.

Mr. LODGE. Mr. President, under the practice pursued with the treaty of Versailles, the resolution of ratification was laid before the Senate as in Committee of the Whole. I think that was the ruling of the Chair, as I recall it, and I think that was the practice adopted by the Senate.

Mr. REED. Mr. President, what is before the Senate now?

The VICE PRESIDENT. The treaty is before the Senate as in Committee of the Whole and open to amendment.

Mr. REED. Mr. President——

Mr. LODGE. Mr. President, if the Senator will pardon me, the reservations are to be added, of course, to the resolution of ratification. That is in a form that does not need to be amended, but when we were considering the treaty of Versailles the reservations were put in Committee of the Whole after the amendments had been concluded.

Mr. REED. Mr. President, I want to get right on the parliamentary situation. The treaty is still in Committee of the Whole and open to amendment?

The VICE PRESIDENT. It is.

Mr. REED. I understood the position of the Senator from Massachusetts to be that the reservations would come up after the treaty had been adopted.

Mr. LODGE. No. If there are no amendments to be offered to the text of the treaty, the next thing in order, following the procedure adopted with the treaty of Versailles, is to consider the reservations reported from the committee, which the former Vice President, Mr. Marshall, held would be dealt with like amendments; that is, they would be considered after the amendments to the text had been disposed of.

Mr. REED. That is what I was contending for this morning, and I thought the understanding we arrived at was that we would be obliged to vote upon the resolution of ratification without any opportunity whatever to deal with the reservations separately. I may have been in error about my understanding, but that was my understanding, and I think the RECORD will show that I was correct.

Mr. LODGE. I certainly said nothing of that sort. I said the treaty was in Committee of the Whole and open to amendment, and under the practice adopted with the treaty of Versailles Vice President Marshall held that the reservations were to be treated just the same as amendments. When the amendments to the text were disposed of, and there were no more offered, then we should consider the reservations proposed by the committee. I do not see any way in which I can make it any clearer.

Mr. REED. I think I understand the Senator now. I did not understand him that way this morning. It is not an essential matter; I just wanted to understand the situation.

Mr. LODGE. It was due to my unfortunate way of expressing myself.

Mr. REED. The Senator has a very happy way of expressing himself, and I have a very unhappy way of being unable to comprehend sometimes.

Mr. LODGE. I do not think the Senator is ever lacking in quickness of comprehension.

Mr. REED. Mr. President, I desire to offer an amendment.

Mr. LODGE. To the text?

Mr. REED. To the text. At the end of paragraph (3) I move to insert the words "or any other part of the treaty."

Mr. LODGE. What article is that?

Mr. REED. Paragraph (3).

The VICE PRESIDENT. The amendment will be stated.

The ASSISTANT SECRETARY. Paragraph (3) of article 2 reads as follows:

(3) That the United States assumes no obligations under or with respect to the provisions of part 2, part 3, sections 2 to 8, inclusive, of part 4, and part 13 of that treaty.

After the word "treaty" it is proposed to insert a comma and the words——

Mr. REED. I desire to insert, after the words "and part 13," the words "or any other part." Then it would read "of that treaty."

The ASSISTANT SECRETARY. After the numerals "XIII" it is proposed to insert "or any other part," so that, if amended, it will read:

And part 13 or any other part of that treaty.

Mr. LODGE. Mr. President, if the Senator will allow me, this is a proposal to take out all those parts which are mentioned in the first section, in which it is provided that if the United States considers that there are any rights or advantages accruing to it in any of the parts enumerated it can assert those rights if it sees fit.

Mr. REED. Mr. President, I want to say just a word on this amendment.

Mr. JOHNSON. Mr. President, will the Senator yield for just a moment? It is difficult to hear, and I did not get very plainly the amendment that was suggested by the Senator. Will he restate it?

Mr. REED. I will ask the Secretary to restate it.

The VICE PRESIDENT. The amendment will be restated.

The ASSISTANT SECRETARY. In subdivision (3) of article 2, after the Roman numerals "XIII," it is proposed to insert the words "or any other part," so that, if amended, it will read:

(3) That the United States assumes no obligations under or with respect to the provisions of part 2, part 3, sections 2 to 8, inclusive, of part 14, and part 13, or any other part of that treaty.

Mr. JOHNSON. I thank the Senator.

Mr. REED. Mr. President, we are proceeding to the final vote on this, the most important treaty the United States has ever made, under very adverse circumstances. The treaty has been in one sense before the Senate for some time. A unanimous-consent agreement to vote on a given day was entered into, with the result that while the treaty might be dis-

cussed at any time, other business under the same agreement was allowed to intervene. The result has been that we have had before the Senate almost continuously a revenue bill which has absorbed the attention of the Senate to the practical exclusion of the consideration of this treaty.

I venture the assertion now that not 25 per cent of the Senators in this body have ever read this treaty. By that I mean that not 25 per cent of them have read the treaty along with the documents which it incorporates. The treaty itself is very short and can be read in a few minutes; but the treaty by express reference incorporates into it a large portion of the provisions of the Versailles treaty, and in my judgment unless we insert this language we may become bound by certain provisions of the treaty of Versailles to which our attention has not even been directed.

There was manifestly in the minds of the authors of this treaty the thought that unless we by express words of some kind relieved ourselves from obligations under the Versailles treaty so far as they were set forth in certain portions of that treaty, we would by implication be bound by the conditions of the treaty of Versailles, and accordingly we find this language here inserted——

Mr. BORAH. Mr. President, may I interrupt the Senator a moment?

Mr. REED. Yes. My time is very limited, however.

Mr. BORAH. Is the Senator speaking on his amendment.

Mr. REED. On my amendment.

Mr. BORAH. I should simply like to suggest to the Senator that instead of amending paragraph (3), he offer as a substitute the following amendment:

The United States assumes no obligations under or with respect to any of the provisions of that treaty.

Mr. REED. Mr. President, the amendment is a very sound one, and much shorter than mine. I was simply allowing the language to stand; but for the present let me proceed.

It is recognized by the very language employed in this treaty that unless we put into the treaty words of express exclusion we may find ourselves bound by conditions written in the Versailles treaty. Accordingly, it is here provided "that the United States assumes no obligations under"—the treaty? No; but "under or with respect to the provisions of part 2, part 3, sections 2 to 8, inclusive, of part 4, and part 13 of that treaty." If it is necessary to put in words of exclusion with reference to those particular provisions, which are incorporated, if incorporated at all, only by implication, then it is necessary to do exactly the same thing with reference to all parts of the treaty; for if these particular provisions are incorporated by implication, then all of the treaty is incorporated by implication.

So, with the permission of the Senator from Idaho, I will adopt his suggestion, and move to strike out the words "part 2, part 3, sections 2 to 8, inclusive, of part 4, and part 13 of," so that the section, as amended, will read:

That the United States assumes no obligations under or with respect to the provisions of that treaty.

Mr. BORAH. "Any of the provisions of that treaty."

Mr. REED. When you say "the provisions of that treaty," you have covered it all.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Missouri.

Mr. BORAH. Mr. President, one of the peculiarities of this treaty is that while it is being contended that we assume no obligations under the treaty of Versailles, those who drew the treaty seemed to think that it was necessary to exempt us from certain provisions of the treaty of Versailles. If part 3 of article 2 were not here at all, then the question arises, Would we assume the obligations of part 2, part 3, sections 2 to 8, inclusive, of part 4, and part 13? Evidently the Secretary of State was of the opinion that if we did not specifically exempt ourselves from those provisions of the treaty we would assume some obligations under the treaty. If his reasoning was good with reference to those particular parts of the treaty, then it must necessarily follow that those portions of the treaty from which we have not exempted ourselves hold us by their obligations.

If, therefore, we desire to be exempt from all obligations of the treaty, we must follow the rule which the Secretary of State laid down in paragraph 3; that is, exempt ourselves from all the obligations. Certainly if it was necessary to exempt ourselves from those particular provisions of the treaty because if we did not do so then we would be bound by their obligations, it must necessarily follow that we must exempt ourselves from the other provisions of the treaty or we will be bound by the obligations therein contained. Especially would that be true, Mr. President, if we should reject the proposition not to be bound by the obligations of the treaty. It would be a construction of the Senate to the effect that we deemed ourselves bound by the other portions of the treaty.

Mr. LENROOT. Mr. President, I was at first inclined to agree with the view which has just been expressed by the Senator from Idaho; but I think a closer analysis will demonstrate that that view is not correct.

In the first place, article 1 of the treaty might have stood alone, and it would have conferred upon us all of the rights that are intended to be conferred by the treaty. Article 1 contains no obligation of any kind upon the part of the United States. Article 1 is complete in itself.

Article 22 is added for the express purpose, as stated in the first paragraph of the article, "With a view to defining more particularly"—what? Any obligations of the United States? No. "With a view to defining more particularly the obligations of Germany under the foregoing article with respect to certain provisions in the treaty of Versailles."

The language is:

With a view to defining more particularly the obligations of Germany under the foregoing article with respect to certain provisions in the treaty of Versailles, it is understood and agreed between the high contracting parties—

And so forth.

Several articles follow, every one of them for the purpose of defining the obligations of Germany.

If there are no obligations imposed upon the United States anywhere it is difficult to see why this particular exemption should be incorporated in paragraph 3. But, Mr. President, in the second part of the first paragraph, the one which the Senator from Montana sought to amend, there is a contingent obligation. What is it? The obligation is that if the United States avails itself of its rights and advantages under these particularly enumerated articles, then the United States assumes the obligation not to assert those rights in a manner inconsistent with the rights accorded to Germany under such provisions. That is an obligation which the United States will assume if it ever chooses to avail itself of the rights that are granted by the treaty.

Paragraph (3) expressly disclaims any obligation under the particular parts of the treaty referred to. Whether it is a wise thing or not, Senators may disagree, but that clearly is the effect of the treaty, and of this article now in question, which the Senator from Missouri seeks to amend. There is a contingent obligation, not created by the treaty, which rests with us. If we choose to assert rights hereafter under the first paragraph of this article, we are under obligation to assert them in such a manner as is consistent with the rights of Germany; but under paragraph (3) we are not even under that obligation with reference to part 2, part 3, sections 2 to 8, inclusive, of part 4, and part 13 of that treaty.

It seems to me that clearly must be the construction. Otherwise, certainly, with our great Secretary of State there could have been no purpose in putting in this paragraph (3), because nowhere else in the treaty, except in the one instance I have given, which is a contingent obligation, is there any attempt to have the United States assume any obligation whatever under the treaty.

Mr. BRANDEGEE. Mr. President, I want to ask the Senator a question, if he will allow me, before he takes his seat. If the Senator will turn to page 6 of the treaty, the second paragraph, if you may call it so, the paragraph labeled (2), he will find it reads:

That the United States shall not be bound by the provisions of part 1 of that treaty, nor by any provisions of that treaty.

Mr. LENROOT. "Which relate to the covenant of the League of Nations."

Mr. BRANDEGEE. "Including those mentioned in paragraph (1) of this article."

I am not sure whether that means what it apparently says, and I am not perfectly clear as to whether that is consistent with the idea of accepting or repudiating any obligations under certain articles of the treaty, but it looks to me like a point-blank and complete declaration that we are not bound by any provisions of that treaty.

Mr. REED. Oh, no, Mr. President; if the Senator will read the next succeeding words he will see——

Mr. BRANDEGEE. I did read them. It says:

That the United States shall not be bound by the provisions of part 1 of that treaty, nor by any provisions of that treaty including those mentioned in paragraph (1) of this article.

Then it goes on.

Mr. REED. "Which relate to the covenant of the League of Nations."

Mr. BRANDEGEE. I know it includes those, but it is a broad declaration, it seems to me, that we are not bound by any provisions of that treaty. I will read the whole of it:

Including those mentioned in paragraph (1) of this article, which relate to the covenant of the League of Nations, nor shall the United States be bound by any action taken by the League of Nations, or by the council, or by the assembly thereof, unless the United States shall expressly give its assent to such action.

Why is that not a declaration that we are not bound by any of the provisions of the treaty of Versailles?

Mr. REED. If the Senator from Wisconsin, who has the floor, and on whose time we are encroaching, will permit me to ask the Senator from Connecticut a question, I would like to propound this inquiry to him. If the Senator's construction is true, that is to say, that the language employed in paragraph (1) takes us out of any obligation under any of the provisions of the treaty, then why was paragraph (1) mentioned at all, because paragraph (1) is a part of the treaty, and if we are out of the treaty, we would not need to mention paragraph (1). Again, why is it necessary in paragraph (2) to specifically mention certain other provisions of the treaty, and take the United States from under their obligations?

Mr. BRANDEGEE. I think I intimated that I was not sure that it was consistent, for I myself do not know that I perceive clearly, if we are not bound by any of the provisions of the treaty of Versailles, why we should refer to "including certain provisions."

Mr. REED. The Senator will certainly concede that if my amendment is agreed to the difficulty will be cleared up.

Mr. BRANDEGEE. I must say to the Senator, in order to put myself square with him, that I came on the floor just as the latter part of his amendment was being read, and I am not familiar with the effect of it.

Mr. LENROOT. I think paragraph (2) is clearly confined to the League of Nations. My judgment does not go beyond that, otherwise there could be no purpose in paragraph (3) at all. But it does seem to me that the construction I have given, that there is a conditional obligation, it being optional with the United States as to whether it shall ever arise, is the only rational construction of this language.

Mr. BRANDEGEE. Will the Senator permit me there to remark that I would hardly call that an obligation? It seems to me if we shall exercise the rights which Germany gave to the grantees under the treaty of Versailles, to which this refers, it shall be done consistently with the provisions of the treaty. But they are hardly to be called obligations. They are limitations upon our rights. We have those rights provided we do certain things.

Mr. LENROOT. That is true; yet there is an obligation that we will recognize those rights of Germany, to the extent that we will assert our rights only in accord with them.

Mr. BRANDEGEE. It is a kind of an obligation. If you make a free contract that somebody will sell you some coal for $7, or $15, or whatever the present rate may be, there is an obligation that you will perform your part of the contract.

The VICE PRESIDENT. The question is on agreeing to the amendment.

Mr. BORAH. Mr. President, I think I have a moment or two left. I am unable to follow the able Senator from Wisconsin in his argument on this matter. No part of the treaty, except sections 2 to 8, inclusive, of part 4 is referred to in paragraph (3) that has not heretofore been referred to in article 1. Take, for instance, part 13, which deals alone with the question of the labor organization. The Secretary of State was so uneasy lest we be bound by that labor organization that he specifically exempted us from it, although there is no obligation in that at all with reference to Germany which does not relate to everybody else.

So, I undertake to say, Mr. President, that the construction which any court would put upon a contract where we had exempted ourselves from the obligations of certain clauses would be that there was an implied obligation upon our part that we would abide by the obligations of the other portions of the contract from which we had not exempted ourselves.

Mr. KING. May I ask the Senator if the doctrine of expressio unius exclusio alterius does not have some application to that matter?

Mr. BORAH. Yes; I think so.

Mr. REED and Mr. LODGE rose.

Mr. REED. Does the Senator from Massachusetts desire to speak?

Mr. LODGE. If I had any time left, I would like to take a few moments, but on an amendment we have only 10 minutes, and I have used some of my time.

Mr. SHIELDS. Mr. President, I have not been here during all the session to-day, and I want to ask what obligations it is supposed may be assumed by the United States if this amendment is not agreed to?

Mr. LODGE. I do not understand that the United States assumes any obligations under this treaty at all. It is explicitly stated that the United States will not be bound by certain provisions of the treaty of Versailles. They mention certain other cases where the United States can assert its claim to rights and advantages if it thinks rights and advantages exist.

Mr. SHIELDS. I understand what is in the treaty, but I came in about the time this amendment was offered, and I did not know what discussion had been had on it, and whether it had been pointed out what obligations the United States would assume if this amendment were not agreed to.

Mr. LODGE. We assume no obligation under this treaty at all.

Mr. SHIELDS. I supposed that the proponents of the amendments had stated there were certain obligations we would assume unless this amendment were agreed to. What is the object of the amendment?

Mr. LODGE. The object of the amendment is to provide that we must not assert our claim to any rights and advantages under certain clauses of the Versailles treaty, enumerating them.

Mr. SHIELDS. I do not understand it that way; not that we must not assert our claim to any rights and advantages, but that we must not assume any obligations. Am I not right as to the amendment?

Mr. LODGE. The Senator means that we must not assume any unless we assert our claim to rights and advantages.

Mr. SHIELDS. What obligations are there set out in those sections which it is intended to guard against?

Mr. LODGE. There can not be any obligations until we assert some rights under them.

Mr. SHIELDS. I am not certain whether there are any, then.

Mr. LODGE. I doubt if there are any, then.

Mr. LENROOT. The obligation would only be to exercise our rights consistent with the rights of Germany.

Mr. LODGE. The only obligation is to only assert rights which are consistent with the rights of Germany. Owing to the Senator's interruption, I have said all I care to say.

Mr. BORAH. I wish merely to answer the question of the Senator from Tennessee as I understood it. There seems to be a difference of opinion between the Senator from Massachusetts [Mr. LODGE] and myself with reference to what the object of this is. Section 3 provides—

That the United States assumes no obligations under or with respect to the provision of part 2, part 3, sections 2 to 8, inclusive, of part 4, and part 13 of that treaty.

Now, then, we having excepted ourselves from the obligations of specific provisions of the treaty and not excepted ourselves from other provisions of the treaty, the assumption is that we have assumed the obligations which are contained in the other provisions of the treaty.

Mr. SHIELDS. What are the obligations contained in the other provisions of the treaty? That is the question I asked.

Mr. BORAH. I could not tell the Senator. They are too numerous.

Mr. SHIELDS. I supposed they had been pointed out.

Mr. BORAH. No; they have not, and the 10-minute rule would not permit us to point them out.

Mr. REED. If the Senator from Tennessee will pardon me in his time, if he has the floor—I do not know who has the floor.

Mr. SHIELDS. I believe I have the floor now.

Mr. REED. I would like to say to the Senator, if he will permit me to encroach upon him to that extent, that either we assume obligations under the treaty of Versailles by making this treaty or we do not.

Mr. LODGE. We do not.

Mr. REED. If we do not, then in the name of common sense why not say we do not and say it in just that many words?

Mr. SHIELDS. I understand that perfectly; but I want to know what are the obligations against which we are guarding?

Mr. REED. I said in my opening remarks here—and they had to be very limited—that nobody, as far as I know, has gone through the Versailles treaty and compared it so we can pick out every obligation that may rest upon us, but in general there is an obligation that every one of our rights—not all of our rights, not our rights with reference to the claims of our nationals, and so forth, but our great international rights—shall be settled through the Reparation Commission. They are rights that are as far-reaching as time and as broad as the world. If we assume the obligations of the Versailles treaty in any respect

we will be bound to submit some of our questions to that body, whether we want to or not.

The claim is made that we are not bound by any of the terms of the Versailles treaty, yet we find in this instance that it is specifically provided that we are not bound by part 1, it is specifically provided we are not bound by part 13, and it is specifically provided that we are not bound by certain other sections of the treaty.

Mr. SHIELDS. I understood that part of it.

Mr. REED. It leaves then open, by implication at least, situations where we may be bound by other provisions of the treaty. If it is not intended to bind us as to any of the provisions of the treaty of Versailles, then let us say so in plain language.

Mr. SHIELDS. Using the balance of my time on the pending amendment, I have read the provisions of the Versailles treaty referred to here, and I called upon the Senator from Idaho and the Senator from Missouri to state the obligations which the United States was under or assumed by adopting this. The Senator from Missouri stated that we would become a member of the Reparation Commission. It is a question whether we will or not.

I have read the Versailles treaty very carefully and the obligations that I have always opposed and which the Senator has mentioned and has always opposed are entangling military or political alliances, and there is absolutely nothing in these provisions that amounts to a military or political alliance between the United States and any other country in the world, in my opinion.

Mr. LODGE. Mr. President, if I have any time left——

The VICE PRESIDENT. The Senator has time.

Mr. LODGE. I wish to say on the question of reparations, which is specifically provided for, that the Senator from Missouri is drawing a dark picture of the obligations which we would have to bear as a member of that commission. The provision is that the United States is privileged to participate in the Reparation Commission, but is not bound to participate in any such commission unless it shall elect to do so. Therefore, there is no obligation carried in the treaty, because we have not joined the Reparation Commission or expressed any desire to join it. That must be determined subsequently if it is to be determined at all. We are just as likely and it is just as possible to take up the question of membership in the Reparation Commission now without the treaty as it would be after the treaty is made. The situation is not altered at all in that respect.

The treaty deals only with Germany and with no one else, and all the treaty does is to say that we reserve as to certain articles in the treaty of Versailles, used purely for descriptive purposes, the right to claim advantages and rights if we care to, and as to the others, no matter what happens, we are not bound by them. It seems to me that is the very plain purpose of the negotiators.

Mr. BORAH. May I ask the Senator a question? If we do not put in section 3 of article 2, would we be bound by the obligations of the Versailles treaty in part 13?

Mr. LODGE. No.

Mr. BORAH. Then why do we put that in?

Mr. LODGE. Because we wish to define precisely those parts by which we would not be bound under any circumstances.

Mr. BORAH. And the Senator just said if they had not been included we would not have been bound by them.

Mr. LODGE. I do not think we are bound by anything in the treaty of Versailles.

Mr. BORAH. What was the object of the very able lawyer who presides over the State Department in exempting us from the obligations of article 13 if we would not have been bound by them without the exemption?

Mr. LODGE. Because he thought it was wise instead of leaving it in general terms, and I believe it was the desire of Germany also, that we should enumerate those articles under which we might desire to assert a claim for rights and advantages and to exclude those with which we desired to have nothing to do and by which we decided we did not desire to be bound under any circumstances. It seems to me a simple and proper way of arranging it.

Mr. KING. In other words, if I understand the Senator's explanation, as to certain articles we are not only not bound but we never would be bound, but as to other articles we reserve the right to be bound if we choose to assert rights thereunder.

Mr. LODGE. We reserve the right to claim anything we consider right and advantageous under those articles if we choose to do so.

Mr. KING. But as to part 13, as illustrative, we expressly declare ourselves now as not willing to be bound now or hereafter, but as to other articles——

Mr. LODGE. We notify Germany, who is one party, of course, to the treaty of Versailles, and only one on the one side, that we shall not be bound under the provisions of part 1 as to the league and the others enumerated in part 3.

Mr. SPENCER. Mr. President, I must not take time from the Senator from Massachusetts.

Mr. LODGE. I yield the floor.

Mr. SPENCER. If the amendment proposed by my distinguished colleague were to be adopted, which provides that in paragraph (3) of article 2 it should be amended so as to read that the United States assumes no obligations under or with respect to the provisions of that treaty, it would necessarily follow that all of paragraph (1) of article 2 would have to be eliminated, because paragraph (1) of article 2 provides "that the rights and advantages stipulated in that treaty for the benefit of the United States, which it is intended the United States shall have and enjoy are those defined" under certain sections, and when we come to look at those sections under whose provisions we are to have certain rights or privileges we find that there are things which the United States must do in order to avail herself of those rights.

Therefore, if we come to the conclusion that the United States is not to be bound by any provision of that treaty we must eliminate paragraph (1) of article 2. For example, we bind ourselves in article 226 of the treaty that we will furnish to Germany the names of the German dead in order to carry out that provision of the treaty that has to do with graves. If we are not bound by any of the provisions of the treaty we cancel that.

Mr. REED. Then the Senator contends, if he will pardon me, and I will take a moment of his time, that wherever there is written in this instrument a provision that any of the allied powers shall do any particular thing, that is binding upon us unless we expressly repudiate any such obligation at this time?

Mr. SPENCER. If we adopt paragraph (1) of article 2, by which we take for ourselves the rights and advantages stipulated in that treaty for the benefit of the United States which it is intended the United States shall have and enjoy, then we are bound as of right to impose upon ourselves those conditions which are inseparably connected with the rights of which we seek to avail ourselves. That is my point. In other words, if the Senator's amendment is agreed to and we come to the conclusion that we must not be bound by a single provision of the treaty, to my mind it follows inevitably that we have to cancel out of this treaty paragraph (1) of article 2, for if we adopt that and take to ourselves the rights that are mentioned in that paragraph we are bound to impose upon ourselves the obligations which are incident to those rights. I cited one in regard to graves, and there are others in regard to prisoners of war; there are others in regard to notice in connection with article 6 that has to do with prisoners of war.

Mr. REED. I thought we would get to that. That is a frank statement. I am obliged to the Senator for having made it. It amounts to this, that wherever in this treaty there is a right asserted by the United States and a corresponding obligation of any kind, we must comply with that obligation in order to enjoy the right. That is very different from the doctrine that has been talked here on this floor that the United States by this treaty simply secures to itself certain rights and assumes no obligations. It has been the contention of the Senator from Idaho that when we sign the present treaty and take over rights under it we thereby, by implication, may become involved in the whole question of the settlement and determination of all of these questions.

Mr. BORAH. For instance, we claim rights and obligations which are provided for under part 14, and one of the specific provisions of part 14 is that the allied and associated powers will maintain their troops upon the Rhine for 14 years.

Mr. REED. Mr. President, what has been said merely illustrates again the terrible risk we are taking by ratifying this document unless we make it perfectly plain that we are to assume no risk. If the United States, in order to enjoy the rights which are here reserved, must take with them the obligations of the treaty that relate to those rights, then no finite mind can tell what obligations may not be imposed upon us before we get through with this controversy. The Senator from Missouri, my distinguished colleague [Mr. SPENCER], with his usual frankness and directness, has cut the ground out from under his own feet and out from under the feet of all those who stand upon the other side of the Chamber who declare to the American people that we are securing these rights by this treaty but assuming no obligations.

The VICE PRESIDENT. The Senator's time has expired.

Mr. REED. Mr. President, I will now proceed to speak in my time on the treaty, because what I shall have to say now in regard to the treaty has to do with the pending amendment.

Lest I forget it later on, let me say just a word with reference to my position upon this question. No one more than myself desires to see peace established between the United States and all of those nations with which we have been at war. I have mentioned for many months that we should have made a direct peace with Germany, settled our differences with that country, with Austria, and with Hungary, withdrawn our troops from the Rhine come home, attended to our own business, and permanently kept out of—and I use the expression with apology—the hell pot of European politics and embroilment, that witches' cauldron, into which every poisonous and noxious thing is being dropped daily and hourly. Peace, however, was not made, and now a treaty is brought to us which, in my judgment, has many of the vices of the League of Nations compact and is lacking some of the virtues which its adherents ascribed to that document.

We are not obliged to accept this treaty; we can amend it to suit ourselves; and we shall escape no responsibility by saying that we must accept this treaty or have no treaty of peace. Sir, we ought to be at peace with Germany and with the countries with which we have been at war. Trade and free intercourse should be opened with those countries. Likewise, we ought to be dealing with the great Russian nation, with which we have never been at war except as our troops were illegally sent into that country. Trade with that country has been refused by the arbitrary action of the State Department and other executive departments of the Government. We ought long ago to have established diplomatic relations with Mexico. We ought to be trading with that country.

The business of the United States, the labor of the United States, the money of the United States all demand that these foolish embargoes, artificially created against trade with nearly one-third of the world, should be immediately broken down; but it is not necessary, in order to accomplish that, that we shall continue to embroil ourselves in the affairs of Europe.

How far some Senators would go is illustrated by the fact that there have been offered upon this floor to-day—and I must assume in good faith—amendments providing that the United States shall stand guarantor and sponsor for the German Empire and protect it against assault. Similarly we are asked to guarantee that France shall never be attacked. Thus far have we wandered from the old doctrine that the United States should remain at home, conduct her own affairs, and recognize the great truth uttered by Washington, that Europe has a set of interests in which the United States has little or no concern.

Mr. President, long ago it was written, "Verily, verily, I say unto you, he that entereth not by the door into the sheepfold, but climbeth up some other way, the same is a thief and a robber."

It was once proposed that we should enter through the League of Nations open door; that frankly we should take our seat at the council table of the world, and that there, in concert with other powers, we should undertake to control and regulate the affairs of all mankind. It is a doctrine with which I had no patience and against which, as everyone knows, I labored with all the power I possessed. The American people decided that issue. No human being can deny the fact that the great potential thing in the last campaign was the League of Nations controversy. We were told by the leader of the Republican Party, in language somewhat delphic but which the people understood to mean, that the United States would never enter the League of Nations; that we were to withdraw ourselves from the controversies of the Old World. Now, however, we have presented here a document which, I assert, seeks again to make us a party to those controversies.

This alleged treaty does absolutely and unqualifiedly nothing except to further embroil us with Europe. It is not a treaty which settles our controversies with Germany. Reluctantly, I think, the chairman of the Foreign Relations Committee a few moments ago, in answer to questions by the distinguished Senator from Montana [Mr. WALSH], admitted that every one of our controversies with Germany was left open; that the treaty had not even provided a tribunal to settle those controversies; that all we have done so far as settling our differences with Germany is concerned is simply to agree that we are now at peace; in other words, to seal officially a fact which already exists.

Every controversy that exists between Germany and the United States is left in dispute. We have not settled the amount of our claims for vessels sunk upon the high seas; we have not determined the amount of claims of our nationals for the death of their beloved before the war began; we have not settled the question of whether Germany is to continue submarine warfare in the future, so far as we are concerned. We now propose to do nothing except to agree with Germany that we will be at peace and will hereafter settle our controversies in some way. We have not set up a tribunal to determine the controversies. So the advantages of this treaty materialize in nothing and it brings us no real peace we do not now possess.

In a controversy of this kind we would have a very simple proposition if what Germany was to do and what the United States was to do had been written out on this piece of paper; but that is not what is given to us. We are told that we shall have reserved to us the rights specified in section 1 of part 4, and parts 5, 6, 8, 9, 10, 11, 12, 14, and 15 of the treaty of Versailles. Do those rights carry corresponding obligations, as was stated by my colleague [Mr. SPENCER]? If so, then we would better very carefully consider what those obligations are.

May I be permitted for just a moment to call attention to some of the language of the treaty of Versailles, the rights and advantages of which we are to enjoy? Let us read section 1 of part 4 of the Versailles treaty:

ART. 119. Germany renounces in favor of the principal allied and associated powers all of her rights and titles over her oversea possessions.

What have we got to do with the oversea possessions of Germany? Are we claiming any of them? We never did claim any of them except the Island of Yap, and we have not got that.

ART. 120. All movable and immovable property in such territories belonging to the German Empire or to any German State shall pass to the Government exercising authority over such territories.

We do not exercise any such authority.

ART. 121. The provisions of sections 1 and 4 of part 10 (economic clauses) of the present treaty shall apply in the case of these territories, whatever be the form of government adopted for them.

There again are incorporated a multitude of things.

ART. 122. The Government exercising authority over such territories may make such provisions as it thinks fit with reference to the repatriation from them of German nationals and to the conditions upon which German subjects of European origin shall, or shall not, be allowed to reside, hold property, trade or exercise a profession in them.

Then follows article 123, having reference to the financial clauses; and then comes article 124, which reads:

Germany hereby undertakes to pay, in accordance with the estimate to be presented by the French Government and approved by the Reparation Commission, reparation for damage suffered by French nationals in the Cameroons—

And so forth.

The next article, article 125, reads:

Germany renounces all rights under the conventions and agreements with France of November 4, 1911, and September 28, 1912, relating to equatorial Africa.

Then follows article 126, by which—

Germany undertakes to accept and observe the agreements made or to be made by the allied and associated powers or some of them with any other power with regard to the trade in arms and spirits, and to the matters dealt with in the general act of Berlin of February 26, 1885, the general act of Brussels of July 2, 1890, and the conventions completing or modifying the same.

And finally comes—

ART. 127. The native inhabitants of the former German oversea possessions shall be entitled to the diplomatic protection of the governments exercising authority over those territories.

The only one of those clauses in which we have any direct interest must be the one in regard to trading in arms.

Mr. FRANCE. Mr. President——

The VICE PRESIDENT. Does the Senator from Missouri yield to the Senator from Maryland?

Mr. REED. I will yield in a moment. If that is true, then, according to the doctrine that has been laid down by my colleague, we accept the responsibility, and the responsibility is that Germany shall be compelled not to have arms; that Germany shall be compelled to observe every one of the clauses and conditions of this section. If we accept the benefits, according to the argument, we must accept the responsibility, and the Army of the United States must be back of that responsibility. I now yield to the Senator from Maryland for a question, as my time is limited.

Mr. FRANCE. Mr. President, the Senator asked a question, and as no one else has seen fit to answer it I shall be very glad to answer the Senator's question if he will permit me to do so. The Senator asked whether we were asserting any claim to the former German colonies. I will say to the Senator that through the doctrine enunciated by the last Secretary of State and by the present Secretary of State we have very definitely announced that we did not relinquish and had not relinquished any claim to our share in the former German possessions.

I will add, however, that the Senator has assumed that that doctrine applied only to the island of Yap. That is a general assumption which, I think, is a very erroneous one, because the same doctrine which would apply to the island of Yap would apply to all of the other former German possessions.

Mr. REED. That is true; but we well understand that the United States will not participate in a division of these German possessions. If anybody wants to attempt that, he should make the proposition to Congress and see how far it would get. Not that we have any sympathy for Germany, but the people of the United States do not propose to engage in a buccaneering expedition of that kind. It is not a part of our national policy.

Let us pass to the next obligation. We agree to the repatriation of German prisoners and to a commission of the representatives of the allied and associated powers to settle it. That is one of the rights we have; but, according to the doctrine that is now announced, we assume the responsibility also, and we bind ourselves by that responsibility.

Mr. President, as I proceed I shall call attention to other clauses which are incorporated in these parts under which it is expressly said that we are to have benefits and assume responsibilities; but let me now make this announcement to those who pay me the compliment of their attention:

I undertake to say that as we proceed through this document we will find that throughout two things exist. First, we may claim certain rights; second, attached to those rights is a condition as to the way in which they can be determined. We can not take the rights without taking the condition. The method of determining our rights is through a reparation commission, on which we will have one member.

There will be four other members, and each of the four other members will be engaged in the business of determining our rights and determining the rights of his own and other Governments. Certainly, every time our rights can be cut down, if it is a matter of dollars and cents, there will be that much more money left for his country to put into its pocket and walk away with. We do not have the benefit even of a disinterested tribunal. Every man sitting on such a commission sits in judgment on a case to which he is a party, and he can not decide it without affecting the interests of his own country.

Need I insist that if it is stated that we are to have certain rights under certain clauses of this treaty we must read those clauses? When we read them we find that the only way in which we can secure those rights is by the decision by a particular tribunal, to wit, the Reparation Commission. It is not a right that we can assert in any way. We must go to that particular tribunal and abide by the judgment of that particular tribunal. If we do not do so, we have no right whatsoever. Thus, we will be forced into this tribunal whether or not we desire to go to it.

Let me illustrate: If A agrees with B that he will pay to B a certain sum of money and does not pay it, then B is, of course, at liberty to go into any court and sue on that debt. But if A also agrees with B that he shall have whatsoever rights are determined by a particular court or tribunal, then unless A shall go to that tribunal he has no place or remedy, and when he undertakes to enforce his claim B can say to him: "You have no claim against me. There has been nothing ascertained as due from me. You have a promise from me that I will abide by the decision of a certain tribunal. Go to that tribunal; unless you do you have no rights."

In other words, Senators, this is an attempt to proceed in a certain tribunal to an adjudication, and you have no other right than that. Consequently this treaty forces us in substantially every interest to the Reparation Commission.

Now, let us see whether any rights of the United States are concerned. Bear in mind as we approach this question that when the treaty of Versailles was written its authors contemplated that they had set up a machinery by which every controversy arising between the various Governments and Germany could be settled. They had laid down the method of procedure. They had determined the particular tribunals, and had fixed their jurisdiction. Obviously when you go to claim rights under an instrument of that kind it is a certainty in advance that you will have to follow the modus operandi laid down in that document to secure those rights, because all of these matters were questions of controversy, the method had been prescribed and the tribunal set up. If you will follow it, you will see that that is true at every page.

Section 1 of article 2 also provides that we shall enjoy the privileges of part 5 of the Versailles treaty. Let me refer to that in a word. It is the chapter that deals with the disarmament of Germany. It specifies the amount of their cavalry, their infantry, and their cannon. It provides that they shall not use poison gas. In other words, it ties them hand and foot in a military sense for an indefinite period.

If Germany violates these requirements, and the allied Governments propose to force Germany to keep faith, how can the United States withhold her hand? She can not claim the right and not accept the responsibility in the face of the world. How will the world look upon us?

We had certainly no obligation as a result of the operations of international law to interfere in the last European war. We had the right to stay out. We had no obligation to any other country in the world; yet because we entered the war late we are still taunted by France and by England and by Canada, who tell us that we did not enter in time. But if we take over to ourselves the benefits of this proposition for the disarmament of Germany, how can we escape just criticism if Germany fails in that agreement and we do not attempt to enforce it?

Mr. President, I call your attention now to part 4 of the treaty of Versailles. It relates to prisoners of war, and there is a mutual agreement, to which the Senator from Missouri, my colleague [Mr. SPENCER], called attention, that each of the countries shall repatriate prisoners. It but serves to illustrate how the obligation in the treaty is a mutual obligation.

I come now to part 8. Here is a question of reparation, and an express contract made for the benefit of the United States:

The allied and associated Governments recognize that the resources of Germany are not adequate, after taking into account permanent diminutions of such resources which will result from other provisions of the present treaty, to make complete reparation for all such loss and damage.

When we accept the benefits of that we accept that limitation.

I read further:

The allied and associated Governments, however, require, and Germany undertakes, that she will make compensation for all damage done to the civilian population of the allied and associated powers and to their property.

We claim under that. It is asserted that that is to be the basis of our claim now.

I read on the next page, and omit a little:

In accordance with Germany's pledges, already given——

Mr. McCORMICK. Mr. President——

The PRESIDING OFFICER (Mr. NEWBERRY in the chair). Does the Senator from Missouri yield to the Senator from Illinois?

Mr. REED. I do.

Mr. McCORMICK. From what page is the Senator reading?

Mr. REED. I am reading now from page 92, the first paragraph:

In accordance with Germany's pledges, already given, as to complete restoration for Belgium, Germany undertakes, in addition to the compensation for damage elsewhere in this part provided for, as a consequence of the violation of the treaty of 1839, to make reimbursement of all sums which Belgium has borrowed from the allied and associated Governments up to November 11, 1918.

There is a contract made for our benefit. As the situation stands, in the absence of this treaty we would be obliged to hold Belgium alone for the money which Belgium borrowed from us. It was a direct debt. Now comes in Germany, by the terms of this treaty, the benefits of which we propose to take over to ourselves, and agrees to pay. So that under the terms of the treaty as it stands now we would have two debtors, one of them Belgium, the other Germany, and a good claim against both of them. How can you claim the advantage of that, under the language which I have just read, unless you accept the responsibilities?

By reading a little further, let us see just how this debt will be paid:

This amount shall be determined by the Reparation Commission, and the German Government undertakes thereupon forthwith to make a special issue of bearer bonds to an equivalent amount payable in marks gold, on May 1, 1926, or, at the option of the German Government, on the 1st of May in any year up to 1926. Subject to the foregoing, the form of such bonds shall be determined by the Reparation Commission. Such bonds shall be handed over to the Reparation Commission, which has authority to take and acknowledge receipt thereof on behalf of Belgium.

What does that all mean? Clearly it means that Germany is to assume the Belgian debt, that the amount of the injury to Belgium shall be determined by the Reparation Commission, and by no other tribunal on earth than the Reparation Commission. That commission, and that commission alone, can determine the question. Then, when that is determined, Germany agrees that she will issue her gold-bearing bonds, those bonds go into the hands of the Reparation Commission, and then they go to the benefit of the United States in such proportion as they may be allotted to us. Moreover, we have agreed in advance, by a recitation, that we understand that Germany will not be able to pay everybody in full, hence we agree to take the scaling of our claim which may be made upon our claim. It can not be escaped.

Mr. KELLOGG. Mr. President——

The PRESIDING OFFICER. Does the Senator yield to the Senator from Minnesota?

Mr. REED. I yield very briefly.

Mr. KELLOGG. Where is there any statement that we agree to release Belgium from any part of her debt?

Mr. REED. Very well; let us say there is no statement. I have not said there was such a statement, although it is a matter of public record that the then President of the United States said that we were to do that thing.

Mr. WADSWORTH. Not the present President.

Mr. REED. No; not the present one. I do not know what the present one is going to do.

Mr. WADSWORTH. We are living under him now.

Mr. REED. But the argument is constantly being made here that whatsoever our representatives abroad agreed to we ought to carry out, that understandings arrived at between these parties are to be controlled. We had that point made the other day in an eloquent argument made by some Senator, who held that because Mr. Choate and some other people who negotiated the Hay-Pauncefote treaty put a certain construction on it, we were bound by that construction. But I have not time to discuss that.

Here, then, is the agreement that this Reparation Commission shall receipt to Belgium, that the Reparation Commission shall take the German bonds, and, in my judgment, while there is no express agreement that we shall release Belgium, I have not the slightest doubt that any disinterested tribunal would say that that was part of the plan. How else could it be worked out? Will not somebody tell me how we could take these German bonds?

Let us assume we loaned Belgium $10,000,000, and that she owes us that money. Let us assume, then, that it is found by the Reparation Commission that Germany injured Belgium to the extent of $100,000,000, and Germany's bonds for $100,000,000 are taken; thereupon a receipt is made by Belgium, handed over to Germany for Belgium by the Reparation Commission, releasing Germany from further liability, and then $10,000,000 of those German bonds are handed over to us, and we accept them. Having the benefit of the claim of Belgium against Germany, and having taken that money, how could we then claim that Belgium still owned us? Could we make Belgium pay us?

Mr. McCORMICK. Will the Senator explain how those German bonds are to be handed over to us, and how we are to be compelled to accept them?

Mr. REED. The Senator now is making the plea that we may not accept them.

Mr. McCORMICK. I am making no plea at all; I have asked for an explanation.

Mr. REED. The Senator asked me how it is to be done. Here is the way it is to be done laid down. You are voting for a treaty which demands in express terms that we shall have the benefits of that particular section. How are you going to escape the liability?

Let me put it again. If the Reparation Commission determines that Belgium has a good claim against Germany for a hundred million dollars and it determines that we are entitled to one-tenth of it, and we take that one-tenth, we have taken that much of Belgium's claim against Germany. We can not make a claim for a single dollar against Belgium afterward, unless there is a difference between the amount we get from Germany and the Belgium debt. We can not take money twice. That is my answer to the Senator from Minnesota.

This treaty provides:

> The amount of the above damage for which compensation is to be made by Germany shall be determined by an interallied commission.

Again:

> The commission shall concurrently draw up a schedule of payments prescribing the time and manner for securing and discharging the entire obligation within a period of 30 years from May 1, 1921. If, however, within the period mentioned Germany fails to discharge her obligations, any balance remaining unpaid may, within the discretion of the commission, be postponed for settlement in subsequent years, or may be handled otherwise in such manner as the allied and associated Governments, acting in accordance with the procedure laid down in this part of the present treaty, shall determine.

Again:

> The Reparation Commission shall after May 1, 1921, from time to time consider the resources and capacity of Germany, and after giving her representatives a just opportunity to be heard shall have discretion to extend the date and to modify the form of payments.

And again:

> In order to enable the allied and associated powers to proceed at once to the restoration of their industrial and economic life, pending the full determination of their claims, Germany shall pay in such installments and in such manner (whether in gold, commodities, ships, securities, or otherwise) as the Reparation Commission may fix, during 1919, 1920, and the first four months of 1921, the equivalent of 20,000,000,000 gold marks. Out of this sum the expenses of the armies of occupation subsequent to the armistice of November 11, 1918, shall first be met.

There is the method provided by which Germany is to pay for the armies of occupation. There is the method provided by which Germany is to pay us our part of that money, which now amounts to over $280,000,000. When we accept the benefits of that section we bind ourselves to the stipulated method of their adjustment.

We do not say to Germany, "You owe us a certain amount for our soldiers, and you must pay that amount." Instead we say, "We agree with you that we will take the benefits under this particular section." Therefore, we have either to be a party to this reparation board and there try to protect ourselves or stay out. However, even if we stay out, our agreement is that Germany shall pay for the occupation of our troops such sum as the reparation commission shall settle.

If I am talking with too much earnestness, it is because I have not time to drag this argument out. I am trying to drive it home to you. We have, in this one item, $280,000,000 or more at stake, and we agree with Germany that we are to get only such sum of money as the Reparation Commission shall determine and shall distribute. Yet you say we are not bound in any way to go into the Reparation Commission and that we have no obligations.

Mr. President, it is further provided in another clause of this treaty, of which we are to have the benefit, that Germany shall not arm until she is permitted to do so by the League of Nations. Thus we bind ourselves that Germany may arm at any time that a tribunal, of which we are not a member and do not propose to become a member, shall say to Germany that she may arm. I do not imagine it as possible, although in these latter days almost anything appears at times to be possible, but the condition might easily enough arise when Germany, offended at the United States, should conclude she wanted to arm, when other great European powers, conspiring against us, would conclude they wanted Germany for an ally.

It might be that other powers, Asiatic or European, desiring to attack the United States, would be willing to give to Germany the right to arm as the price of Germany's cooperation with them against the United States. It might well be that in order once more to have arms in her hands Germany would agree to that sort of an alliance, and the two or three countries that controlled the League of Nations, under those circumstances, might find it the instrumentality of putting back into German hands the arms with which to destroy us.

I have only a few minutes left; I can not argue this question; I can only state it. I want the United States to keep out of the wars and turmoils of Europe. There is just one way and that is for the United States to sit down with Germany and agree upon what Germany must pay. We are no more compelled to submit to the treaties of other nations than they are compelled to submit to our treaties.

What ought to be done is this, in my opinion: We ought to say to Germany, "We have a large amount of property of your nationals. It does not equal our claims against you, but we will be very generous in asserting our claims against you if you will agree to assume the obligations which your nationals think they have against the United States for the property that is taken. We will wipe out and cancel our obligations to you."

If there is a balance left over, which we can not waive because it is too large, let us take Germany's obligations for it; that is all we will ever get in the end. And finally, let us bring our troops home.

Senators, when we went into this war we thought we would be there for six or eight months. There were great and wise Senators who voted for our entrance into the war who did not believe that an American soldier would ever cross the seas. But we had to cross the seas. We had to stay in the war. We stayed in the war for only a short period, after all, but three years have passed since the war, and our Army is still in Europe. We have expended over $280,000,000 keeping an army of occupation in Germany. If we are to continue an army of occupation there until these debts are paid, the army will eat up the debts a hundred times over. It is true that Germany agrees to pay, but if Germany is in the bankrupt condition everybody claims she is, she never will be able to pay.

We had better waive part of our claim. We had better settle this business. We had better bring our soldiers home to their own soil. We had better make our peace with Germany, and not be a party to the long, bitter controversy of the next 20 or 30 years between Germany and the other nations over there.

Where will it end? The morning paper tells us that there are three or four new wars ready to start. We know that Greece and Turkey are at death grips, and we know that one great European nation is backing Greece, and that her ally in the last war is backing Turkey. We know that France intends that Silesia shall be wrested from Germany contrary to the terms of the treaty. We know England is resisting it. We

know that Poland proposes to have her part of it if she can get it. We know that out of these conditions there are bound to grow future controversies and probably future wars.

Either one of two things should be done—the United States should assert its dominance and its control in the world and raise armies and navies sufficient to back her world-wide pretensions, go over to Europe and demand peace at the muzzle of the gun if necessary, or else, as common sense and the magnificent wisdom of Washington dictate, we ought to bring our troops home and be free from the entanglements of that continent.

The pending treaty settles nothing. We are still a party to the affairs of Europe. It will force us into European tribunals to settle controversies that are inseparable from the rights we assert, if we assert them in the manner and form that is now proposed. There is a plain course and it ought to be pursued. We should make peace with Germany, and I say make it soon, because the war is over. Germany will still exist, and her trade and her friendship will possibly be of great value to us in the future. The old German Government has been driven out. It seems to me that the principal part of the cancer has been cut forever from the body politic of Germany. I hope that is true. So if we are going to have peace, let us make it. Let us bring our troops home. Let us be through with this thing.

Will Senators vote for this treaty, this miserable makeshift, this thing that accomplishes nothing, except to put us in through the back door of the League of Nations? It ought to be rejected by the Senate as it will be rejected by the American people when they understand it, even as the League of Nations covenant was rejected. For the people of this country can not be fooled by the soft sophistry of Senators who say we are in for the purpose of benefits, out for the purpose of responsibilities, and who, in the next breath, when I offer an amendment that takes us out, refuse to vote for it, because they say we can not have the benefits without the responsibilities.

Mr. President, I would like to have a vote upon my amendment.

Mr. WATSON of Georgia. Mr. President, if there is one undisputed fact about our war with Germany, it is that we said to the whole world that we had no enmity against the German people, that we were not making war against the German population; that the object of the war was to overthrow the Kaiser and the militarism which had grown up around the Kaiser.

The Kaiser is now overthrown, the militarism which we combated is prostrate, but we are now making war upon the German people. Nothing we have done here can hurt the Kaiser in his bombproof in Holland, protected by the great order of Teutonic knights. Nothing that we do here can hurt Ludendorf or Hindenberg or Von Tirpitz or any of those criminals. We are hurting the German people.

There was a time when we thought the ordinary Germans, men or women, were good people. I have been out in the West. I have ridden in private conveyances through Nebraska and Kansas, and have seen the beautiful farms which the Germans had made there after they had laid down their muskets following the surrender of Lee at Appomattox. They fought on the Union side. They fought against my own people. They fought bravely. They fought for your flag; they helped you to win victory for it. So now, knowing those people as I do and knowing the promises which were made and the assurances put forth, it seems to me extremely inconsistent that the Senate of the United States should be making war not upon the Kaiser or upon his military staff but upon the helpless, unarmed, and struggling German people.

Mr. President, it is an instinct of common humanity not to strike a man when he is down. Lloyd-George in England was reelected to Parliament upon the slogan of hanging the Kaiser, but he has not yet hanged him. The military criminals were to be punished; carried to England for that purpose. They have not yet been carried there, and they have not yet been punished, and they are not going to be punished. We all know that.

Let us briefly recount the events that led us into the war. An act of war, of the most atrocious sort, was committed against us when a German U-boat torpedoed and sank the *Lusitania* and murdered 119 American citizens, some of them women with babes in their arms. Did we then declare war? We did not. It was held to be not a cause of war. Other ships were sunk. An American consul on his way to his post was drowned as the result of the sinking of a neutral ship. Still we were too proud and too right to fight.

On January 28, 1917, Ambassador Gerard made an official speech at an official banquet in Berlin. That speech was delivered after Gerard had had a personal and confidential interview with the then President at the summer White House in New Jersey. Mr. Gerard was talking to Von Tirpitz, the U-boat monster; he was talking to Hindenburg, he was talking to Ludendorf, he was talking to the men whose hands were dripping with Belgian and French blood. What did he say to them? He said, "The friendship which has so long existed between your country and mine now exists; and our relations were never better, and as long as the present régime remains in power in the United States there will be no conflict between our Governments."

Mr. POMERENE. What was the date of that speech?

Mr. WATSON of Georgia. January 28, 1917. The *Lusitania* had been sunk on May 7, 1915. When we finally became sufficiently provoked to declare war, the bones of the victims of the *Lusitania* had long been resting on the bottom of the sea off the Irish coast.

What had happened between the time that Gerard made his speech and the time we declared war in April, 1917? The German Empire had declared that, on account of the nature of the U-boat, a new weapon in warfare, it could not give the usual notice that had been given before sinking a ship that was violating the blockade. We used that order as a basis for declaring war when not one single passenger vessel had been sunk under that order; not one. The question arose, what is the law of blockade? Does the pending treaty settle that question? Does it say what shall hereafter be the law of blockade for U-boats? We are building U-boats. We are proposing to use them upon whom? What will be our policy as to notice on the high seas after blockade is declared? What will be our rule as to aircraft? The very question which was the ostensible cause of going to war with Germany is left unsettled and untouched in this so-called treaty of peace.

I do not think there have been many treaties which were not sufficient in themselves to explain their meaning. This is the only treaty that I ever studied that referred back to two others; and we have to study them both to know to what extent they affect the American people. They carry us right into the treaty of Versailles in some of its most important parts. They carry us back to the treaty of Vienna, made more than 100 years ago. Those clauses may not affect us, but we never can tell. Nobody knows. But those clauses in this treaty, including parts of the Versailles treaty, most assuredly affect us.

I say here and now that Germany had no more intention of keeping that treaty than we had of keeping ours when we made a treaty with Aguinaldo in 1898. We made a treaty with him. Admiral Dewey and President McKinley got the benefit of his services, got the benefit of the prowess of the Filipino troops; and the moment the treaty of Paris was agreed on and we paid Spain $20,000,000 for the islands which our soldiers and our marines had conquered, we immediately made war upon Aguinaldo and upon the Filipinos; and our promises, made by both parties, to give those people independence, have been treated with a cynicism that is enough to shock any honorable man.

In this treaty, by section 1 of article 2, we take to ourselves all the benefits accruing to the United States under the following provisions of the treaty of Versailles: Section 1 of part 4 and part 5, part 6, part 8, part 9, part 10, part 11, part 12, part 14, and part 15. How many of the American people will ever know what those portions of the treaty of Versailles contain? What means will they have of knowing? Why should they not have been embodied in this treaty? Those who negotiated it took time enough. What were they doing all the while that they could not copy, or have copied by some typewriter, those clauses of the treaty of Versailles and let the American people see to what they were being bound? What right have we to ratify a treaty here which veils its face from the gaze of the American voter?

Talk about wearing disguises and masks! It seems a queer thing that a great state paper like this should come into the Senate Chamber wearing a mask, disguised, with enough dragon's teeth in it, properly sown, as they will be, to cause a dozen great wars. Does any human being believe that the German people, who at the beginning were the same stock as ourselves, and therefore a fighting people, will stand that humiliation for many years—the humiliation of our saying how many troops they shall have and for how long they shall be enlisted? I do not. Germany can bide her time, as France bided hers; and she will do it. France to-day is giving her every provocation that one nation can give another, including the domiciling of black troops from the jungles of Africa in the houses of white people in Germany, where the German wife and the German daughter have to cook and wash for and wait on and make beds for these black men from Africa. How would our white people like that? How would any white people like that? Does anybody believe that Germany will not find a way to

evade the limitation of her army and the length of its enlistment?

Mr. President, this military spirit, which has been fostered at such great expense to the American taxpayer, will pass away; peace will come again; the rainbow will span the heavens once more; and then when Germany says, "I need an army of a million men," where is the Government that will take the responsibility—which will dare to take it—of again enlisting by conscription 4,000,000 American young men and sending them across the sea? Whenever that thing is again tried we are going to have an insurrection in this country that will sweep from the Lakes to the Gulf and from the Atlantic to the Pacific.

Mr. KING. Mr. President, will the Senator from Georgia yield for a question?

Mr. WATSON of Georgia. With pleasure.

Mr. KING. I am sure the Senator does not want to take the position that Germany should be exempted from paying just reparation for the war which she has waged. The Senator certainly does not want to take the position that 130,000,000,000 gold marks was too much as a reparation to be paid by Germany. Germany admitted at the outset that she could pay $25,000,000,000 as a reparation. One hundred and thirty billion gold marks exceeds that amount only by five or six billion dollars. Germany, as the Senator has indicated, has exhibited from the beginning a determination to evade the payment of the obligations imposed by the Versailles treaty. This morning's newspapers show that the Germans are organizing in various parts of Germany for the purpose of evading the payment of the reparation. Does the Senator from Georgia think that if France and the other allies shall not maintain troops, for a while at least, on the Rhine any part of the German reparation will be paid? Is it not necessary to exhibit force so long as Germany exhibits the spirit of opposition to the enforcement of the terms of the treaty which now characterizes her?

Mr. WATSON of Georgia. Mr. President, I have not touched upon the subject of reparations. I realize the fact that whoever is to blame for a war must compensate the injured nation for the damage inflicted upon it; but I remind the Senator from Utah that the United States Government was never established by our forefathers to be a debt collector for France, for Great Britain, or for any other country, and that our soldiers can not be legally conscripted, sent abroad, and kept there as debt collectors for France or for any other country. France has 5,000,000 black troops on the Niger River right now, and she has about 1,000,000 of them in Europe. She can bring the others when she needs them.

I agree with the Senator from Missouri [Mr. REED] that our troops ought to come home. We put ourselves in an attitude that is humiliating when we become a bill collector, at the end of a rifle, for any other nation on earth.

Mr. KING. May I say to the Senator, if he will pardon me further——

Mr. WATSON of Georgia. Always.

Mr. KING. That we have not yet collected our own obligations from Germany, and we have not yet negotiated a treaty with Germany. We have bills to collect against Germany. It is hoped by the proponents of the pending treaty that when it shall have been ratified we then may collect from Germany that which is due to us.

Let me make this further observation: May I say to the Senator that it is very clear that Germany would not have consented to sign the reparation agreement if it had not been for the display of military force, in which we in part participated by the maintenance of troops upon the Rhine.

Mr. WATSON of Georgia. At that time, of course, we were an associated power, engaged in a common enterprise, but we dissociated ourselves; we cut loose. We, however, left our troops over there; they are yet there; and the Senator from Massachusetts [Mr. LODGE] has not told us when those troops are coming home.

I wish to say in that connection that, as I understand the Associated Press dispatches, Germany has made a satisfactory adjustment with France of her indebtedness and her settlement is proceeding in accordance with that agreement. There was a dispute between Lloyd George and Briand as to whether further force should be used upon Germany, but they finally decided not to use it.

Not only will Germany after a while enlarge her army to suit herself, but she will do it in defiance of this Government, because this Government can not send another army across the seas without revolution. Our boys are not going any more; just put that in your pipe and smoke it. They are not going across the ocean any more to fight for France or Great Britain or any other nation. They will stand on their own soil and fight any and all nations until the last one of them dies, but they are not going through the hell that they went through in France and Belgium any more.

Another thing, Mr. President: This treaty by reference to the treaty of Versailles takes away from Germany the control of her domestic waterways, her inland and natural lines of communication for the transport of persons and of freight. How long will Germany stand that? Suppose that two years from now Germany says, "I will not stand for that any longer," just as Russia, after she was forced, as a consequence of the Crimean War, to keep her ships off the Black Sea, said, "I will put my ships back there; now, let us see what you are going to do about it." Neither England nor France were in a position to do anything about it. Nations do not yield to force any longer than they have to. In that respect they are simply individuals in their collective capacity.

The time will come when Germany will say, "I have as much right to control the Rhine as you have to control the Ohio and Mississippi," and the conscience of the world will back her up in it. How can she pay the reparations when she can not use her own waterways except under the control of foreigners? What sort of folk would we be if we would permit such a thing? The pending treaty does not make peace.

The Senator from Massachusetts [Mr. LODGE], answering a query, said that we could form some sort of tribunal and would try these cases that we have against Germany. Suppose Germany refuses to be represented on that tribunal, which must necessarily be made up of her enemies, how can we force her into court? I will tell the Senator from Utah another thing. If this Government can find a way to cause the custodian of German private property and his accomplices to disgorge what they took in violation of treaties and of international law, we will have enough money on this side in our own hands to have a peaceable settlement with Germany. The first thing is to make those men disgorge. I should like to have a front seat when Mitchell Palmer begins to "shell out." I would pay a considerable sum to have a front seat when his accomplices, some of whom live in my State and represented it at the last national convention of the Democratic Party—I say I would give a considerable sum to be present when those rascals are made to disgorge.

So I say, Mr. President, the American people will never understand this treaty. It does not get us any nearer to peace. It does not get us anywhere beyond the point we reached when we passed the Knox peace resolution. It involves us in all kinds of complications, every one of which may become a cause of war; and if it becomes a cause of war, there is a question again of conscripting troops, taking them from their work, taking them from civilian life, throwing them across the seas, bringing them back here, dumping them down on the ground, and then neglecting them.

We pay great honors to the dead. We are not stingy with our money if the soldier was killed. The unknown dead must be honored with elaborate ceremonies in Paris, in London, and at Arlington. That is all right; but what of our living soldier who has no work and can not get any, who has no property, and to-morrow is a day that threatens him with hunger and the hunger of wife and children?

Mr. President, England paid her soldiers a bonus out of our money, and now Great Britain will not even pay us the interest on the money that was her salvation so that we can use it in part to pay a bonus to our soldiers; and we are proposing to let that debt run on just as long as Secretary Mellon and possibly three or four or five other just such melons decide it shall go.

That is a beautiful state of affairs—lending Great Britain the money to pay a bonus to her troops and our own ex-soldiers swelling the army of the unemployed, which carries anxiety to the mind of our President and no doubt plants thorns upon his pillow at night. Give us a treaty that makes peace. Let us know where we stand.

The war is at an end. When two men fight and one whips the other and go off and go to trading with one another again, the fight is over. There is not any war, but this treaty may make a lot of wars.

Senators, let us have this treaty rewritten so that the plainest citizen, reading it, will know just exactly what its terms are. It takes a lawyer or a publicist or a student to read three treaties to find out what this one means, and that is not good policy.

Mr. TOWNSEND. Mr. President, I desire to speak briefly to the pending amendment.

We are now engaged in an effort to make a treaty with Germany three years after the close of the war, and following the declaration of peace known as the Knox resolution, which was passed last July. I have no doubt, Mr. President, that if the Versailles treaty had not been complicated with the League of Nations covenant and if it had not contained the provisions

which are eliminated by paragraph (3) of the treaty, which we are now discussing, it would have been ratified by the Senate of the United States. The people, of course, in a measure, did pass upon that treaty last November, but they passed on it as they understood it, and they understood it from the speeches that were made on the floor of the Senate; and practically every opposition speech that was made, every strong objection presented was against either the league covenant or part 2, part 3, sections 2 to 8, inclusive, of part 4 or part 13 of that treaty.

I can recall no other argument that was made that reached the people. We objected to the league covenant, and for reasons well remembered and which I will not enumerate now. The reservations to the Versailles treaty were principally made to the parts mentioned in subdivision (3) of the pending treaty. The league covenant was purposely complicated with the Versailles treaty itself, so that a separation of them could not be made. It had so many objectionable features that a two-thirds majority of the Senate could not be obtained for it. It contained part 2, which obligated the United States to maintain the new enlarged boundaries of the Allies for all time. The Senate refused to be so obligated. Part 3 divided the spoils of war—the islands and territorial possessions of Germany and Austria—among the victorious nations, and asked the United States to use its military and naval powers to perpetuate the division. Senators waxed eloquent over this proposition and the country was properly aroused and indignant. They were against it, and the Senate adopted a reservation protecting the United States against part 3 of the treaty. It contained other provisions relating to Shantung and China, in which the United States could not in good conscience participate. It contained the unwise labor provisions which the Senate guarded against.

These, sir, are the provisions of the Versailles treaty which are exempted in paragraph (3) of part 2 of the treaty now under discussion. The other parts that are named in section (1) of article 2 are all of the balance of that treaty, and each of them contains matters in which the United States is interested or may become interested; and this pending treaty reserves whatever rights belonging to the United States may be included in them. It does not mean that the United States will participate in the Versailles treaty. Reference is made to parts of that treaty for convenience in designating rights which the United States may claim in addition to those which were enumerated in the Knox resolution.

We say that if the United States takes advantage of the treaty to obtain those rights it will assume whatever responsibilities attach to those particular rights; but that is something which Congress is to determine. We do not in any way enter into that treaty. We simply reserve whatever rights of the United States that are covered by it.

The distinguished Senator from Georgia [Mr. WATSON] said that the people will not understand what section 1 of part 4 and parts 5, 6, 8, and the other items may mean. Will they not understand them as well as they understood these same parts which were referred to in the same way in the Versailles treaty? Do they not understand it as well as they did when it was discussed before them during the last campaign? I repeat, those are the sections or paragraphs of this treaty which may contain rights belonging to the United States and which this or future Senates may desire to take advantage of and claim.

This treaty is for the purpose of determining what rights the United States has. It does not enumerate them in detail any more than any other treaty I have ever read enumerates in detail the particular, specified rights which go to the victorious nation. Every treaty of peace requires special subsequent agreements for carrying out its provisions.

Mr. REED. Mr. President——

The VICE PRESIDENT. Does the Senator from Michigan yield to the Senator from Missouri?

Mr. TOWNSEND. I have only 10 minutes.

Mr. REED. I will ask a very short question.

Mr. TOWNSEND. Very well.

Mr. REED. The Senator states that we have rights of which future Congresses may take advantage. Does not this treaty provide in praesenti that we do reserve to ourselves all of the rights named in the specified paragraphs?

Mr. TOWNSEND. Yes.

Mr. REED. If we reserve them in praesenti, how can we escape the obligation in praesenti?

Mr. TOWNSEND. Mr. President, that depends upon what the Congress proposes to do when the question arises—as each particular question arises, whether or not it will take the right with its attendant conditions. The present enumeration of rights to be had subject to conditions does not mean that they are presently demanded. The Congress may think best to have a member on the Reparation Commission to protect our rights, but we do not at this time appoint such a member, although we provide for the right to do it.

I rose, however, principally to answer, if I could, the argument of the Senator from Missouri when he proposes to exclude by paragraph (3) all that we include in paragraph (1)—that is, paragraph (1) would be absolutely useless if he inserts his amendment, because it says that nothing in the treaty shall impose any obligations upon the United States. We specify in section (1) of article 2 that whatever rights we have under the Versailles treaty are those that may be found in the particular sections enumerated.

Mr. REED. Mr. President, will the Senator be so kind as to call my attention to the language of section 1 which says that we assume no obligations? The Senator has just stated that section 1 provides that we assume no obligations.

Mr. TOWNSEND. No; I do not say that the section provides in so many words that we assume no obligations, but we certainly do not. It does not have to provide that. We do not assume any obligations under that. We use that to enumerate the rights we claim.

Mr. REED. Very well. The Senator then thinks we do not assume any obligations.

Mr. TOWNSEND. Not by the ratification of this treaty.

Mr. REED. Then why not say so, and put my soul at rest? That is all that my amendment does. I simply want to say on paper what the Senator has just said with his mouth.

Mr. TOWNSEND. I fear that the soul rest of the Senator would require the defeat of the very purpose that the framers of this treaty had in mind; his amendment would not permit the United States to obtain any of its rights contained in the Versailles treaty if it had to comply with conditions according rights to Germany. The Senator objects to the United States assuming any obligations and responsibilities under the Versailles treaty, even to obtain just and legal rights for our country. I, too, object to assuming any responsibility under parts 2, 3, 13, and sections 2 to 8 under part 4, of the Versailles treaty, and subdivision 3 is acceptable to me as it is.

Mr. REED. Oh, no.

The VICE PRESIDENT. The Senator's 10 minutes has expired.

Mr. REED. I am simply asking that we say now that we do not assume any obligation under this treaty. If hereafter we want to assume it, of course we can do so. The Senator says that is what the treaty means, and I say I want to say it in good, plain English, so that everybody will understand it.

Mr. TOWNSEND. I do not think the Senators misunderstand what I have in mind or what the Senator from Missouri has in mind.

Mr. WALSH of Montana. Mr. President, in the course of the interesting remarks made by the Senator from Georgia [Mr. WATSON], I think he must have inadvertently stated that, notwithstanding the declaration of the German Government issued January 31, 1917, that it proposed to sink all ships within the proscribed area, the policy was not carried out so far as the United States was concerned, and that no change ensued between that time and the time the declaration of war was made, April 6, 1917.

Just so that the record shall be perfectly straight, it will be recalled that two American ships—the *Housatonic* and the *Lyman F. Law*—were sunk during the interim, and the declaration of war followed not alone because of the announcement of that policy upon the part of Germany but because it had actually entered upon the carrying out of that policy by sinking those two American ships. I should not like to have the statement even at this late date go unchallenged that no change had ensued between the 1st of February and the 6th of April.

Mr. WATSON of Georgia. Will the Senator state what sort of vessels they were, whether they carried passengers or not?

Mr. WALSH of Montana. I have not that in mind now.

Mr. WATSON of Georgia. I do not doubt the Senator's recollection is correct. I did not remember myself.

Mr. WALSH of Montana. My recollection is that they were two freighters.

Mr. REED. Three vessels were sunk in one day.

Mr. WATSON of Georgia. The real point is, Mr. President, that the declaration of war did not set out anything of that kind at all. The causes of war antedated this declaration and put the ground away back to the sinking of the *Lusitania*, in May, 1915, including everything that Germany had done to our ships since May, 1915; and the Supreme Court decision in the test case which I myself brought as to the conscription law declared that the cause of the war was not the sinking of

those three freighters, but that it was declared for the vindication of the rights and the honor of the United States Government.

Mr. WALSH of Montana. Mr. President, an inquiry was submitted by the Senator from Tennessee [Mr. SHIELDS] as to what obligations were impliedly assumed by the United States under the parts of the Versailles treaty other than those specified in subdivision (3) of article 2. By a cursory examination of the treaty it will be found that certain obligations were assumed by article 203, reading as follows:

All the military, naval, and air clauses contained in the present treaty, for the execution of which a time limit is prescribed, shall be executed by Germany under the control of the interallied commissions specially appointed for this purpose by the principal allied and associated powers.

That would seem to be one of the obligations which we do not repudiate and accordingly impliedly assume, namely, to appoint a member of the military interallied commission. That commission is constituted for the purpose of carrying out the disarmament provisions.

By article 233 it is provided that—

The amount of the above damage for which compensation is to be made by Germany shall be determined by an interallied commission, to be called the Reparation Commission, and constituted in the form and with the powers set forth hereunder and in Annexes II to VII, inclusive, hereto.

Then Annex I provides that—

1. The commission referred to in article 233 shall be called the Reparation Commission, and is hereinafter referred to as "the commission."
2. Delegates to this commission shall be nominated by the United States of America, Great Britain, France, Italy, Japan, Belgium, and the Serb-Croat-Slovene State. Each of these powers will appoint one delegate and also one assistant delegate, who will take his place in case of illness or necessary absence, but at other times will only have the right to be present at proceedings without taking any part therein.

The treaty stipulates, however, of course, that the United States may or may not appoint a member of that commission. But that commission is vested with very large powers touching the reparation to be accorded by Germany.

Then by article 296 it is provided that—

There shall be settled through the intervention of clearing offices to be established by each of the high contracting parties within three months of the notification referred to in paragraph (e) hereafter the following classes of pecuniary obligations.

Then is created what is known as the debtor clearing offices, which are invested with very large powers, one of which is as follows. It settles—

(1) Debts payable before the war and due by a national of one of the contracting powers, residing within its territory, to a national of an opposing power, residing within its territory.

That is to say, any controversy arising between a German domiciled in the United States and an American domiciled in the United States would be settled by this clearing office, and the United States obligates itself to appoint a member of that office, as it is expressed in the first paragraph of the annex hereto, as follows:

Each of the high contracting parties will, within three months from the notification provided for in article 296, paragraph (e), establish a clearing office for the collection and payment of enemy debts.

I think the Senator from Georgia is quite right in stating that the United States had not very clearly apprehended just exactly what large powers that clearing office had, and I doubt whether the matter has received very much consideration from Senators upon the other side of the Chamber.

Article 304 provides that—

Within three months from the date of the coming into force of the present treaty, a mixed arbitral tribunal shall be established between each of the allied and associated powers on the one hand and Germany on the other hand. Each such tribunal shall consist of three members. Each of the Governments concerned shall appoint one of these members. The President shall be chosen by agreement between the two Governments concerned.

That is also an article carrying obligations not excluded by paragraph 3 of article 2 of the treaty, and, therefore, impliedly the Government of the United States has assumed that obligation. The powers of this mixed arbitral tribunal are very extensive, indeed, and just exactly what the limits of them are I have not myself been able to quite understand, notwithstanding the study I gave the matter at the time the Versailles treaty was before us and such examination as I have given it now.

But I think that in fairness those who are urging the adoption of this treaty ought to say whether the United States has or has not obligated itself to appoint members of these various commissions, and to define in some understandable way just exactly what powers these tribunals and commissions will exercise, particularly, Mr. President, because it is expressly provided that so far as the Reparation Commission is concerned the United States may or may not, as it sees fit, decline to appoint a member of that commission. Therefore, Mr. President, impliedly it agrees that it will appoint members of the other commissions to which I have invited your attention. The same rule, expressio unius est exclusio alterius, applies as well to this. It is expressly provided that we may or may not, as we see fit, appoint a member of the Reparation Commission; therefore, for every reason, we impliedly agree that we will appoint members of these other tribunals.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Missouri [Mr. REED].

Mr. LODGE. Mr. President, I hope we may be able to have a vote on the amendment, and after that I will move to take a recess.

Mr. REED. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered, and the reading clerk proceeded to call the roll.

Mr. DIAL (when his name was called). I have a pair with the senior Senator from Colorado [Mr. PHIPPS], and in his absence I withhold my vote.

Mr. SWANSON (when his name was called). I have a general pair with the senior Senator from Washington [Mr. JONES], and in his absence I am not permitted to vote. If privileged to vote, I would vote "nay."

Mr. WALSH of Montana (when his name was called). I have a general pair with the senior Senator from New Jersey [Mr. FRELINGHUYSEN], and in his absence, and being unable to secure a transfer, I withhold my vote. If I were at liberty to vote, I would vote "nay."

The roll call was concluded.

Mr. ELKINS (after having voted in the negative). I transfer my pair with the Senator from Mississippi [Mr. HARRISON], who is absent on official business, to the Senator from Missouri [Mr. SPENCER] and allow my vote to stand.

Mr. SUTHERLAND. Making the same announcement as before with reference to my pair and its transfer to the junior Senator from Maryland [Mr. WELLER], I vote "nay."

Mr. EDGE. I transfer my pair with the senior Senator from Oklahoma [Mr. OWEN] to the junior Senator from North Dakota [Mr. LADD] and vote "nay."

Mr. HALE. I transfer my pair with the Senator from Tennessee [Mr. SHIELDS] to the junior Senator from Oregon [Mr. STANFIELD] and vote "nay."

Mr. WILLIAMS. I have a pair with the Senator from Pennsylvania [Mr. PENROSE], who is unavoidably absent. If I were at liberty to vote, I would vote "nay." [After a pause.] I have just been informed by what I deem very reliable authority that if the Senator from Pennsylvania were present he would vote "nay." I therefore ask to be recorded in the negative.

Mr. CURTIS. I desire to announce that the Senator from South Dakota [Mr. STERLING] is paired with the Senator from South Carolina [Mr. SMITH].

The result was announced—yeas 7, nays 66, as follows:

YEAS—7.

Ashurst	Johnson	Reed	Watson, Ga.
Borah	La Follette	Walsh, Mass.	

NAYS—66.

Ball	Fernald	McCormick	Ransdell
Brandegee	Fletcher	McCumber	Sheppard
Broussard	France	McKellar	Shortridge
Bursum	Gerry	McKinley	Simmons
Calder	Glass	McLean	Smoot
Cameron	Gooding	McNary	Stanley
Capper	Hale	Moses	Sutherland
Caraway	Harris	Myers	Townsend
Colt	Hitchcock	Nelson	Trammell
Culberson	Jones, N. Mex.	New	Underwood
Cummins	Kellogg	Newberry	Wadsworth
Curtis	Kendrick	Nicholson	Warren
Dillingham	Kenyon	Norbeck	Watson, Ind.
du Pont	Keyes	Oddie	Williams
Edge	King	Overman	Willis
Elkins	Lenroot	Poindexter	
Ernst	Lodge	Pomerene	

NOT VOTING—22.

Dial	Ladd	Pittman	Sterling
Frelinghuysen	Norris	Robinson	Swanson
Harreld	Owen	Shields	Walsh, Mont.
Harrison	Page	Smith	Weller
Heflin	Penrose	Spencer	
Jones, Wash.	Phipps	Stanfield	

So Mr. REED's amendment was rejected.

Mr. REED. Mr. President, I understand the Senator from Massachusetts [Mr. LODGE] desires to move a secret executive session, but before he does so I wish to offer the following amendment which I ask to have read and printed.

The VICE PRESIDENT. The amendment will be read as requested.

The reading clerk read as follows:

Strike out subdivision 3 of article 2 and insert in lieu thereof:

"The United States shall not be bound to submit any of its claims or rights to said Reparation Commission or any other body or agency created by the treaty of Versailles or be bound by any decision of such

agencies rendered. And if the United States shall not become a member of such commissions then, although the treaty provides that the question shall be determined by such agencies, it shall be decided between the United States and Germany in such manner as may be hereafter by them agreed upon."

The VICE PRESIDENT. The question is on the adoption of the amendment just offered by the Senator from Missouri.

Mr. REED. I am offering the amendment with the idea that it may be printed. I understand the Senator from Massachusetts desires to move a secret executive session. I also desire to say that if that amendment is defeated I shall offer the following amendment, which I ask to have read and printed.

The VICE PRESIDENT. The proposed amendment will be read.

The reading clerk read as follows:

Strike out subdivision 3 of article 2 and insert in lieu thereof:

"Except such obligations as may be assumed by virtue of part 1 of article 1 of this treaty the United States assumes no obligations under or with respect to any of the provisions of that—the Versailles—treaty."

Mr. REED. I do not desire to address the Senate at this time. I wish to know whether the Senator from Massachusetts desires to proceed further this afternoon.

Mr. LODGE. I do not suppose strictly under the unanimous-consent agreement I have a right to move to go into secret executive session. I wish to make the motion if there is not objection, but I shall ask unanimous consent for that purpose.

I desire to say that I am willing to take a recess immediately after a short executive session; but to-morrow night I shall ask the Senate to remain in session. I wish to give notice of that, and that is the reason why I do not make the motion to-night. However, we ought to dispose of the treaties one way or the other as soon as possible. If there is no objection——

Mr. UNDERWOOD. Mr. President——

Mr. LODGE. I yield to the Senator from Alabama.

Mr. UNDERWOOD. I have no objection to the plan proposed by the Senator, but I wish to make the suggestion that when we take a recess we take it until 12 o'clock to-morrow instead of 11. I think we can get through to-morrow; I am perfectly willing to stay here in session, but there are a number of Senators who have been here every morning, and I think it would accommodate some on our side who have other business that they want to attend to in the morning if the Senate could meet at 12 o'clock.

Mr. LODGE. I have no objection to making the hour 12 o'clock, but I wish it understood that I shall ask the Senate to remain in session to-morrow night and try to dispose of the treaties before we adjourn to-morrow. I wish to give that notice. If there is no objection, I will make the motion now——

Mr. WADSWORTH. Mr. President——

Mr. LODGE. I yield to the Senator from New York.

BURIAL OF UNKNOWN AMERICAN SOLDIER AT ARLINGTON.

Mr. WADSWORTH. I am about to make a request for unanimous consent that the Senate take action upon another matter, and in three or four sentences I can explain it.

A few days ago the Senate passed Senate joint resolution 123, making provision for payment of the expenses incident to the ceremonies connected with the burial of an unknown American soldier at Arlington on November 11. The House has passed the Senate joint resolution with amendments. If I may obtain unanimous consent, I shall ask that the message be handed down, and I intend also to move that the Senate concur in the House amendments, thereby making it possible for the War Department to proceed promptly with the arrangement; otherwise the War Department can not do so.

The VICE PRESIDENT. Is there objection to the Senate resuming legislative session and the Chair laying before the Senate the amendments of the House to the joint resolution?

Mr. LODGE. As I said, I shall make no objection. I think this comes under the provision in the unanimous-consent agreement relative to measures of urgent necessity and that this action is proper.

The VICE PRESIDENT. The Chair hears no objection, and the Senate resumes legislative session for this purpose.

Mr. WADSWORTH. I thank the Senator from Massachusetts.

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the joint resolution (S. J. Res. 123) authorizing the Secretary of War to expend from the appropriation "Disposition of remains of officers, soldiers, and civilian employees, 1922" (act of Mar. 4, 1921, Public No. 389, 66th Cong.), such sum as may be necessary to carry out the provisions of public resolution No. 67, Sixty-sixth Congress.

The amendments were, on page 2, lines 6 and 7, to strike out "including the," and, on page 2, line 9, after the name "Washington," to insert "*Provided*, That the amount to be used for the expenses incident to ceremonies connected with such burial shall not exceed $50,000."

The VICE PRESIDENT. The Senator from New York asks unanimous consent for immediate consideration. Is there objection? The Chair hears none.

Mr. WADSWORTH. I move that the Senate concur in the House amendments.

The motion was agreed to.

EXECUTIVE SESSION WITH CLOSED DOORS.

Mr. LODGE. I move that the Senate proceed to the consideration of executive business with closed doors.

The motion was agreed to, and the doors were closed. After 5 minutes spent in secret executive session the doors were reopened.

RECESS.

Mr. LODGE. I move that the Senate take a recess until to-morrow at noon.

The motion was agreed to, and (at 5 o'clock and 17 minutes p. m.) the Senate as in open executive session took a recess until to-morrow, Tuesday, October 18, 1921, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate October 17 (legislative day of October 14), 1921.

COLLECTORS OF INTERNAL REVENUE.

John P. McLaughlin, of San Francisco, Calif., to be collector of internal revenue for the first district of California in place of Justus S. Wardell, resigned.

Josiah T. Rose, of Atlanta, Ga., to be collector of internal revenue for the district of Georgia in place of Aaron O. Blalock, resigned.

UNITED STATES DISTRICT JUDGE.

Thomas Blake Kennedy, of Wyoming, to be United States district judge, district of Wyoming, vice John A. Riner, resigned.

UNITED STATES ATTORNEY.

Clint W. Hager, of Georgia, to be United States attorney, northern district of Georgia, vice Hooper Alexander, resigned.

UNITED STATES MARSHALS.

Jacob D. Walter, of Connecticut, to be United States marshal, district of Connecticut, vice William R. Palmer, resigned.

Daniel F. Breitenstein, of New York, to be United States marshal, northern district of New York, vice Clayton L. Wheeler, resigned, effective January 1, 1922.

I. K. Parshall, of Missouri, to be United States marshal, western district of Missouri, vice William A. Shelton, term expired.

MEMBER OF UNITED STATES EMPLOYEES' COMPENSATION COMMISSION.

Mrs. Bessie Parker Brueggeman, of St. Louis, Mo., to be a member of the United States Employees' Compensation Commission, vice Mrs. Frances C. Axtell, term expired.

RECEIVER OF PUBLIC MONEYS.

James Allen Fulwider, of Gregory, S. Dak., to be receiver of public moneys at Gregory, S. Dak., vice Daniel F. Burkholder, term expired.

PUBLIC HEALTH SERVICE.

The following-named passed assistant surgeons to be surgeons in the United States Public Health Service, to rank as such from the dates set opposite their names:

James G. Townsend, from December 6, 1921.
William H. Slaughter, from December 29, 1921.
Walter M. Jones, from December 11, 1921.

These officers have passed the examination required by law.

APPOINTMENTS IN THE REGULAR ARMY.

GENERAL OFFICERS.

Col. Charles Henry Martin, Infantry, to be brigadier general from October 10, 1921.

Col. Edgar Russel, Signal Corps, to be brigadier general from October 11, 1921.

POSTMASTERS.

ARIZONA.

Charles L. Beatty to be postmaster at Nogales, Ariz., in place of William Schuckman, deceased.

ARKANSAS.

Addie Morgan to be postmaster at Winthrop, Ark. Office became presidential January 1, 1921.

William J. Adams to be postmaster at Star City, Ark. Office became presidential April 1, 1921.

Bruce T. Wilgus to be postmaster at Madison, Ark. Office became presidential January 1, 1921.

Samuel D. Thomasson to be postmaster at Leachville, Ark. Office became presidential July 1, 1920.

Frederick M. Youmans to be postmaster at Lewisville, Ark., in place of J. H. Landes, resigned.

Flavel G. Briggs to be postmaster at Judsonia, Ark., in place of G. M. Walter, resigned.

Edwin E. Blackman to be postmaster at Augusta, Ark., in place of Pearl Berkheimer, resigned.

Marie O. Pitts to be postmaster at Cherry Valley, Ark. Office became presidential April 1, 1921.

CALIFORNIA.

C. Lester Covalt to be postmaster at San Aurelmo, Calif., in place of M. C. Hamilton, resigned.

Augustus H. Johnston to be postmaster at Anderson, Calif., in place of E. L. Story, resigned.

Robert O. Dickson to be postmaster at Loleta, Calif. Office became presidential January 1, 1921.

COLORADO.

John H. McDevitt, jr., to be postmaster at Durango, Colo., in place of O. F. Frary. Incumbent's commission expired June 27, 1920.

Chester L. Snyder to be postmaster at New Raymer, Colo., in place of F. C. Tighe, resigned.

William D. Woodward to be postmaster at Grover, Colo., in place of R. E. Jordan, resigned.

Edgar O. Buckley to be postmaster at Crook, Colo. Office became presidential April 1, 1921.

GEORGIA.

Lois A. Roberts to be postmaster at Bowman, Ga., in place of Scott Berryman. Incumbent's commission expired March 21, 1921.

IDAHO.

Owen D. Wilson to be postmaster at Hansen, Idaho. Office became presidential January 1, 1921.

ILLINOIS.

Anna M. Wyatt to be postmaster at Virden, Ill., in place of E. P. Kimball, resigned.

Fred Harmon Wood to be postmaster at Sidney, Ill., in place of C. W. Witt. Incumbent's commission expired January 29, 1921.

Harvie D. Harris to be postmaster at New Boston, Ill., in place of J. C. Rolander, resigned.

Tena S. Ecklund to be postmaster at Lamoille, Ill., in place of J. W. Payne, resigned.

Edzard Johnson to be postmaster at Oglesby, Ill., in place of T. P. McCann, reappointed June 5, 1920; not commissioned.

James E. Voorhees to be postmaster at Bushnell, Ill., in place of J. H. Spiker. Incumbent's commission expired January 3, 1921.

Jay L. Cushing to be postmaster at Assumption, Ill., in place of E. J. Cushing, resigned.

Charles G. Brainard to be postmaster at Round Lake, Ill. Office became presidential January 1, 1921.

John O. Miller to be postmaster at Industry, Ill. Office became presidential April 1, 1920.

John E. Sheary to be postmaster at New Holland, Ill. Office became presidential January 1, 1921.

George W. Doctorman to be postmaster at Buckner, Ill. Office became presidential April 1, 1921.

INDIANA.

Charles A. Burgess to be postmaster at Yorktown, Ind. Office became presidential April 1, 1921.

Homer E. Hostettler to be postmaster at Henryville, Ind. Office became presidential April 1, 1921.

Roscoe N. Shroyer to be postmaster at Daleville, Ind. Office became presidential April 1, 1921.

Russell C. Wood to be postmaster at West Lebanon, Ind., in place of M. M. Wood. Incumbent's commission expired July 3, 1920.

Andrew S. Blaine to be postmaster at Walkerton, Ind., in place of G. C. Spahr. Incumbent's commission expired July 24, 1920.

Ira F. Poling to be postmaster at Nashville, Ind., in place of J. F. Bond, resigned.

Edward W. Krause to be postmaster at Crotherville, Ind., in place of G. M. Mount, resigned.

Fred G. Armick to be postmaster at Camden, Ind., in place of H. R. Mills. Incumbent's commission expired December 20, 1920.

Ivan C. Morgan to be postmaster at Austin, Ind., in place of J. R. Winkelmann. Incumbent's commission expired December 20, 1920.

Hollice C. Brown to be postmaster at Silverlake, Ind., in place of M. D. Yotter. Incumbent's commission expired January 9, 1921.

Roscoe N. Shroyer to be postmaster at Daleville, Ind. Office became presidential April 1, 1921.

IOWA.

B. Frank Jones to be postmaster at Waukee, Iowa. Office became presidential October 1, 1920.

Edward W. Teale to be postmaster at Davis City, Iowa. Office became presidential January 1, 1920.

Jessaline M. Weinberger to be postmaster at Ledyard, Iowa. Office became presidential July 1, 1921.

Walter W. Aitken to be postmaster at Sidney, Iowa, in place of G. M. Waterman, resigned.

Hugh L. Smith to be postmaster at Montezuma, Iowa, in place of R. A. Mortland. Incumbent's commission expired September 7, 1920.

Roy L. Day to be postmaster at Melrose, Iowa, in place of James Duggan. Incumbent's commission expired January 27, 1920.

Harry C. Graves to be postmaster at Madrid, Iowa, in place of H. C. Graves. Incumbent's commission expired June 29, 1920.

George P. Reeves to be postmaster at Harris, Iowa, in place of E. O. Wellemeyer. Incumbent's commission expired January 13, 1921.

Harold I. Kelly to be postmaster at Early, Iowa, in place of H. I. Kelley. Incumbent's commission expired January 13, 1921.

Edwin T. Davidson to be postmaster at Duncombe, Iowa, in place of C. A. Bohnenkamp, resigned.

Henry W. Pitstick to be postmaster at Boyden, Iowa, in place of H. W. Pitstick. Incumbent's commission expired January 13, 1921.

Arthur A. Dingman to be postmaster at Aurelia, Iowa, in place of A. A. Dingman. Incumbent's commission expired June 29, 1920.

William H. Moore to be postmaster at Shelby, Iowa, in place of W. H. Moore. Incumbent's commission expired January 19, 1920.

George A. Bennett to be postmaster at Redfield, Iowa, in place of H. F. Chance. Incumbent's commission expired August 7, 1921.

Bruce C. Mason to be postmaster at New Market, Iowa, in place of T. J. Snodgrass. Incumbent's commission expired June 29, 1920.

John P. Fischbach to be postmaster at Granville, Iowa, in place of J. P. Fischbach. Incumbent's commission expired January 30, 1921.

William A. Stevenson to be postmaster at McCallsburg, Iowa. Office became presidential January 1, 1921.

Fred H. Seabury to be postmaster at Pisgah, Iowa. Office became presidential January 1, 1921.

KANSAS.

Fred W. Arnold to be postmaster at Vermillion, Kans., in place of E. W. Nelson, resigned.

Cora L. McMurry to be postmaster at Turon, Kans., in place of I. J. Collopy. Incumbent's commission expired April 24, 1920.

Ola G. Canfield to be postmaster at Scranton, Kans., in place of M. W. Ryan. Incumbent's commission expired December 20, 1920.

Ralph L. Coburn to be postmaster at Preston, Kans., in place of J. B. Lewis. Incumbent's commission expired August 26, 1920.

John C. Braden to be postmaster at Meade, Kans., in place of M. E. Godfrey, resigned.

William S. Lyman to be postmaster at Lewis, Kans., in place of E. S. Craft. Incumbent's commission expired June 27, 1920.

Mana M. McKinney to be postmaster at Hoxie, Kans., in place of M. D. Gallogly, resigned.

Benjamin F. Liebst to be postmaster at Greeley, Kans., in place of D. E. Pease, resigned.

John A. Radford to be postmaster at Dighton, Kans., in place of Bessie Young, resigned.

Stewart M. Young to be postmaster at Wichita, Kans., in place of J. B. Riddle. Incumbent's commission expired December 20, 1920.

KENTUCKY.

Taylor P. Sewell to be postmaster at Campton, Ky. Office became presidential April 1, 1921.

LOUISIANA.

John A. Burleigh to be postmaster at Port Barre, La. Office became presidential January 1, 1921.

MAINE.

Edgar J. Brown to be postmaster at Waterville, Me., in place of C. M. Richardson, resigned.

Ned I. Swan to be postmaster at Bryant Pond, Me., in place of C. E. Cole. Incumbent's commission expired December 20, 1920.

MARYLAND.

Charles W. Miles to be postmaster at Forest Glen, Md., in place of J. T. Culver. Incumbent's commission expired April 24, 1921.

Robert M. Garner to be postmaster at La Plata, Md., in place of W. T. McPherson, appointee declined.

MASSACHUSETTS.

Thomas F. Lyons to be postmaster at Billerica, Mass., in place of T. F. Lyons. Incumbent's commission expired August 26, 1920.

Frederick L. Smith to be postmaster at Haydenville, Mass., in place of J. R. Mansfield. Incumbent's commission expired July 25, 1920.

James B. Logan to be postmaster at North Wilbraham, Mass., in place of J. B. Logan. Incumbent's commission expired September 7, 1920.

MICHIGAN.

Hazel M. Tripp to be postmaster at Kibbie, Mich. Office became presidential April 1, 1921.

Roy A. McDonald to be postmaster at Douglas, Mich. Office became presidential April 1, 1921.

Mathew A. Brami to be postmaster at Ramsay, Mich. Office became presidential January 1, 1921.

Edward O. Webb to be postmaster at Casnovia, Mich. Office became presidential January 1, 1921.

MINNESOTA.

Ella S. Engelsen to be postmaster at Storden, Minn. Office became presidential April 1, 1920.

Lydia Hansel to be postmaster at Palisade, Minn. Office became presidential July 1, 1921.

Edward J. Soland to be postmaster at Oklee, Minn. Office became presidential January 1, 1921.

George W. Fried to be postmaster at Luverne, Minn., in place of M. N. Swedberg, resigned.

Harry S. Gillespie to be postmaster at Virginia, Minn., in place of G. I. Williams, resigned.

MISSISSIPPI.

Lee Bankston to be postmaster at Dundee, Miss. Office became presidential April 1, 1920.

MISSOURI.

Charles F. Boon to be postmaster at Greentop, Mo. Office became presidential April 1, 1921.

MONTANA.

Philip Daniels to be postmaster at Anaconda, Mont., in place of Edward Burke. Incumbent's commission expired April 24, 1918.

NEBRASKA.

Mary E. Krisl to be postmaster at Milligan, Nebr. Office became presidential January 1, 1921.

NEVADA.

Albert R. Cave to be postmaster at Montello, Nev. Office became presidential July 1, 1920.

NEW HAMPSHIRE.

Anna B. Clyde to be postmaster at Hudson, N. H. Office became presidential April 1, 1920.

Arthur W. Sawyer to be postmaster at Franconia, N. H. Office became presidential April 1. 1920.

Reginald C. Stevenson to be postmaster at Exeter, N. H., in place of Thomas Smith. Incumbent's commission expired March 9, 1920.

Waldo C. Varney to be postmaster at Alton, N. H., in place of Oscar Duncan. Incumbent's commission expired August 3, 1920.

NEW JERSEY.

Abbie Tonjes to be postmaster at Palisade, N. J., in place of G. F. Stabel, resigned.

Bertha A. Chittick to be postmaster at Old Bridge, N. J., in place of Maida Jolly. Incumbent's commission expired June 27, 1920.

NEW YORK.

Edwin B. Higby to be postmaster at Turin, N. Y. Office became presidential April 1, 1921.

Annie S. Prince to be postmaster at Peconic, N. Y. Office became presidential January 1, 1921.

Alfred Cox to be postmaster at Hawthorne, N. Y., in place of Alfred Cox. Incumbent's commission expired August 8, 1920.

Reuben H. Gulvin to be postmaster at Geneva, N. Y., in place of T. J. Gallagher. Incumbent's commission expired January 26, 1920.

Edwin P. Gardner to be postmaster at Canandaigua, N. Y., in place of J. J. Mattison. Incumbent's commission expired July 25, 1920.

NORTH CAROLINA.

Neill C. McFadyen to be postmaster at Cameron, N. C. Office became presidential April 1, 1920.

NORTH DAKOTA.

Elmer H. Myhra to be postmaster at Wahpeton, N. Dak., in place of C. D. Rittenhouse. Incumbent's commission expired February 7, 1920.

Florence D. Powell to be postmaster at Brinsmade, N. Dak. Office became presidential January 1, 1921.

OHIO.

John P. Lauer to be postmaster at Ottoville, Ohio. Office became presidential April 1, 1921.

Walter Fletcher to be postmaster at Lucas, Ohio. Office became presidential July 1, 1921.

Frank G. Winterringer to be postmaster at Hilliards, Ohio. Office became presidential July 1, 1920.

Frank A. Gamble to be postmaster at Van Wert, Ohio, in place of I. H. Malick, removed.

Frank R. Jackson to be postmaster at Nelsonville, Ohio, in place of James Sharp, resigned.

Roy S. Clark to be postmaster at Middletown, Ohio, in place of J. Q. Baker. Incumbent's commission expired July 21, 1921.

James A. Barr to be postmaster at Dover, Ohio, in place of H. W. Streb, deceased.

Charles N. Sparks to be postmaster at Akron, Ohio, in place of F. P. Allen, declined.

Faye W. Helmick to be postmaster at Baltimore, Ohio, in place of C. J. Betz, resigned.

OKLAHOMA.

William B. Carroll to be postmaster at Okemah, Okla., in place of W. M. Davis, resigned.

PENNSYLVANIA.

Thomas J. Langfitt to be postmaster at Washington, Pa., in place of John Foster. Incumbent's commission expired March 16, 1921.

Edwin F. Miller to be postmaster at Mohnton, Pa., in place of F. W. Matz. Incumbent's commission expired March 16, 1921.

Jimmy R. Bethune to be postmaster at Langeloth, Pa., in place of M. C. Brown, resigned.

RHODE ISLAND.

Ernest P. Shippee to be postmaster at North Scituate, R. I., in place of E. M. Spencer, resigned.

PORTO RICO.

Julio Ramos to be postmaster at Cayey, P. R., in place of Julio Ramos. Incumbent's commission expired December 20, 1920.

Francisco Valldejuli to be postmaster at Yabucoa, P. R. Office became presidential January 1, 1921.

Cesar Baez Cabrera to be postmaster at Sabana Grande, P. R. Office became presidential January 1, 1921.

Jose L. Ortiz to be postmaster at Lajas, P. R. Office became presidential April 1, 1921.

Angel Fernandez Colon to be postmaster at Juana Diaz, P. R. Office became presidential July 1, 1920.

Eduvigis de la Rosa to be postmaster at Isabela, P. R. Office became presidential July 1, 1920.

Ramona Quinones to be postmaster at Catano, P. R. Office became presidential April 1, 1921.

Alfredo Font Irizarry to be postmaster at Cabo Rojo, P. R. Office became presidential July 1, 1920.

Florencio Salinas to be postmaster at Arroyo, P. R. Office became presidential January 1, 1921.

C. Torrens de Arriliaga to be postmaster at Anasco, P. R. Office became presidential January 1, 1921.

Juan Aparicio Rivera to be postmaster at Adjuntas, P. R. Office became presidential January 1, 1921.

SOUTH DAKOTA.

Frank L. Gorman to be postmaster at Wagner, S. Dak., in place of C. H. Bonnin. Incumbent's commission expired August 15, 1920.

Harriet Pope to be postmaster at Delmont, S. Dak., in place of Harriet Pope. Incumbent's commission expired September 24, 1921.

TENNESSEE.

Charles S. Harrison to be postmaster at Benton, Tenn. Office became presidential April 1, 1921.

TEXAS.

Joseph W. Davis to be postmaster at Teague, Tex., in place of J. E. Woods, resigned.

UTAH.

Roland A. Madsen to be postmaster at Brigham, Utah, in place of E. M. Tyson. Incumbent's commission expired February 15, 1920.

VERMONT.

Carl W. Cameron to be postmaster at White River Junction, Vt., in place of M. J. Walshe, removed.

VIRGINIA.

Thomas C. Coleman to be postmaster at Ridgeway, Va. Office became presidential April 1, 1921.

Bernard R. Powell to be postmaster at Franklin City, Va. Office became presidential July 1, 1920.

WASHINGTON.

Richard H. Lee to be postmaster at Wilsoncreek, Wash. Office became presidential October 1, 1920.

John A. White to be postmaster at Toppenish, Wash., in place of L. B. Bryan, declined.

WEST VIRGINIA.

Leonard H. Jones to be postmaster at Sabraton, W. Va. Office became presidential April 1, 1921.

Guy A. Shuttleworth to be postmaster at Nutter Fort, W. Va. Office became presidential April 1, 1921.

William W. Beddow to be postmaster at Lundale, W. Va. Office became presidential April 1, 1920.

WYOMING.

Oscar W. Stringer to be postmaster at Dubois, Wyo. Office became presidential July 1, 1921.

CONFIRMATIONS.

Executive nominations confirmed by the Senate October 17 (legislative day of October 14), 1921.

UNITED STATES ATTORNEY.

Sawyer A. Smith to be United States attorney, eastern district of Kentucky.

POSTMASTERS.

IDAHO.

Francis M. Winters, Montpelier.

INDIANA.

Fred Y. Wheeler, Crown Point.
Cyrus B. Dirrim, Hamilton.
Herbert A. Marsden, Hebron.

MINNESOTA.

Ina Jarvi, Kinney.
Anton Malmberg, Lafayette.
Ole N. Aamot, Watson.

MISSOURI.

Patrick S. Woods, Columbia.
John R. Wiles, Jamesport.
Edward E. Whitworth, Poplar Bluff.
W. M. Johns, Sedalia.

NEBRASKA.

Astor B. Enborg, Bristow.
Harry H. Woolard, McCook.
Harry C. Rogers, Upland.

PENNSYLVANIA.

Harry H. Potter, Bushkill.
Ervin F. Moyer, Shenandoah.

TEXAS.

Mary A. Taylor, Bonham.
George W. L. Smith, Henderson.
Charles A. Tiner, Lavernia.
William P. Harris, Sulphur Springs.

WEST VIRGINIA.

George Lafferty, Glen Jean.
Eli Lusk, Herndon.
George L. Carlisle, Hillsboro.
William C. Bishop, Scarbro.

HOUSE OF REPRESENTATIVES.

MONDAY, *October 17, 1921.*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Our blessed Lord and Father of mankind, again Thou hast shown us how large is Thy pity and how infinite is Thy love; it therefore becomes us to bless and thank Thee. Help us to do justice, love mercy, and to walk humbly with our God. O soothe and subdue the feelings in our breasts which are not right, and may we grow in confidence, in trust, and in comradeship toward all men. O may we know that a mighty fortress is our God, a refuge never failing. We beseech Thee that the breath of the Almighty may sweep over our dear homeland, and may we bow down in this hour and then fall back into Thy everlasting arms for guidance and wisdom. Be with our President in these arduous and even solemn days. Help him to meet his obligations and bear his burdens. Throughout our country may all strife and depression cease and in our Nation's sky, from border to border, may there soon be seen the bow of promise, good will, and brotherhood. Then shall we be Thine in that day when the jewels of the world are made up. In the name of the Prince of Peace. Amen.

The Journal of the proceedings of Saturday last was read and approved.

REQUEST TO ADDRESS THE HOUSE.

Mr. BLANTON. Mr. Speaker, I desire to prefer a unanimous-consent request. I ask unanimous consent that I may be permitted to proceed for five minutes on the subject of the recent declaration of war against the people of the United States, which is to begin on October 30.

The SPEAKER. The gentleman from Texas asks unanimous consent to address the House for five minutes. Is there objection?

Mr. MONDELL. Mr. Speaker, this is unanimous-consent day, and I think we ought to proceed to the consideration of bills on that calendar.

Mr. BLANTON. The gentleman from Wyoming will appreciate that this is a very serious question.

Mr. MONDELL. I do not know what particular question the gentleman wants to address the House upon.

Mr. BLANTON. It involves the welfare of the millions of poor women and little children in the big cities of this country, who will freeze and starve if this war comes.

Mr. MONDELL. There will be plenty of opportunity to address the House.

Mr. BLANTON. Mr. Speaker, I think that inasmuch as the chicken-feed legislation which the gentleman from Wyoming alludes to is to be taken up we ought to have a quorum, and I make the point that there is no quorum present.

Mr. MONDELL. Mr. Speaker, I move a call of the House.

The question was taken; and on a division (demanded by Mr. BLANTON) there were 59 ayes and 1 no.

So the motion was agreed to.

The Clerk called the roll and the following Members failed to answer to their names:

Ackerman	Butler	Cooper, Ohio	Fess
Anderson	Byrns, Tenn.	Copley	Fish
Ansorge	Campbell, Kans.	Coughlin	Fitzgerald
Anthony	Cantrill	Cramton	Flood
Beedy	Carew	Cullen	Focht
Begg	Carter	Curry	Fordney
Benham	Chalmers	Dale	Freeman
Bird	Chandler, N. Y.	Deal	French
Bland, Ind.	Chandler, Okla.	Dempsey	Fulmer
Bond	Clark, Fla.	Denison	Funk
Bowers	Cockran	Drewry	Gahn
Brand	Codd	Dunn	Gallivan
Brennan	Collins	Edmonds	Garner
Britten	Connell	Elston	Garrett, Tenn.
Brown, Tenn.	Connolly, Pa.	Fairfield	Goldsborough

Goodykoontz	Kleczka	Mudd	Siegel
Gorman	Kline, N. Y.	Murphy	Sinclair
Gould	Knight	Nolan	Sisson
Graham, Pa.	Knutson	O'Brien	Slemp
Green, Iowa	Kreider	Ogden	Smith, Mich.
Griest	Larson, Minn.	Oliver	Snell
Griffin	Lee, Ga.	Olpp	Snyder
Hadley	Lee, N. Y.	Osborne	Stevenson
Hays	Logan	Paige	Stiness
Herrick	London	Park, Ga.	Stoll
Hicks	Longworth	Perkins	Strong, Pa.
Himes	Luhring	Perlman	Sullivan
Hogan	McArthur	Petersen	Taylor, Colo.
Houghton	McClintic	Pou	Ten Eyck
Humphreys	McCormick	Radcliffe	Thomas
Husted	McFadden	Rainey, Ala.	Tilson
Hutchinson	McKenzie	Rainey, Ill.	Tinkham
Jacoway	McLaughlin, Nebr.	Rhodes	Underhill
James	McLaughlin, Pa.	Riordan	Vare
Johnson, Ky.	Mann	Rodenberg	Volk
Johnson, Miss.	Mansfield	Rogers	Ward, N. Y.
Johnson, S. Dak.	Mead	Rose	Wason
Jones, Pa.	Merritt	Rossdale	Watson
Kahn	Michaelson	Ryan	White, Me.
Kelley, Mich.	Mills	Sabath	Williamson
Kendall	Montague	Sanders, N. Y.	Winslow
Kiess	Moore, Ill.	Schall	Wise
Kindred	Moore, Va.	Scott, Mich.	Woods, Va.
King	Moores, Ind.	Sears	Wurzbach
Kirkpatrick	Morin	Shaw	Zihlman
Kitchin	Mott	Shreve	

The SPEAKER. On this call 248 Members have answered to their names, a quorum.

Mr. STAFFORD. Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

The SPEAKER. To-day is the day for consideration of bills on the Unanimous Consent Calendar, and the Clerk will call the first bill.

The first bill on the Unanimous Consent Calendar was the bill (H. R. 1578) to provide a preliminary survey of the Puyallup River, Wash., with a view to the control of its floods.

The SPEAKER. Is there objection?

Mr. JOHNSON of Washington. Mr. Speaker, I ask unanimous consent that that bill and the one following be passed without prejudice.

The SPEAKER. The gentleman from Washington asks unanimous consent that this bill and the one following be passed without prejudice. Is there objection?

Mr. WALSH. Reserving the right to object, these bills have been on the calendar for some little time.

Mr. JOHNSON of Washington. Mr. Speaker, I feel that there is good reason for these bills remaining on the calendar. If members of the coroner's jury who sit at the table in the center of the Republican side of this House and, to paraphrase Robert Burns's "Holy Willie's Prayer"—

> Wha, as it pleases best Thysel,
> Sends ane to Heaven an' ten to Hell,
> And nane for onie guid or ill
> They've done before Thee!—

will hear me, I will state the reason that these bills—one for a survey of the Puyallup River with a view to flood control; the other for the survey of the Cowlitz River for the same purpose—should at least remain on the calendar.

These bills came on from the Committee on Flood Control along with two other bills of similar import; one for the survey of a stream in the county which Mark Twain made famous, Calaveras County, Calif.; another for a flood survey of the Yazoo River in Mississippi. Four bills came out of the Committee on Flood Control, and all of these flood-control survey bills went on the Unanimous Consent Calendar, but at different places. My two were the unfortunate ones; they were put on the calendar a few numbers below the others. Then on one unanimous-consent day two of them, the Yazoo River bill and the Calaveras flood-control bill, passed the House by unanimous consent. They happened to be in position where they could be reached. And the House adjourned.

A little later some Member—some leader—conceived the idea that there should be no flood-survey legislation this year, and when my two bills were reached, both of them important, they were objected to. I asked and secured the privilege of keeping them on the calendar. I have again made that request, in the hope the leaders will some day see the unfairness of passing two and killing two. I can not believe that leaden buckshot has been put into the stomach of my measures, while the Yazoo bill and the Calaveras bill do just as Mark Twain's "Jumping Frog of Calaveras" did—jump clear over into the next county—or to the Senate, to be exact.

Gentlemen, understand, a survey does not mean an appropriation of money. It is not guaranteed that they will be flood-control projects. Even if the report is favorable, Congress has then to act. In both of these cases there is an Army engineer within 50 miles of the area where the survey is to take place. So the cost to the Government is very little, and I feel that as a matter of equity both bills should be considered in the House and passed.

Mr. WALSH. Why does not the gentleman try to pass the first bill now?

Mr. JOHNSON of Washington. If there is no objection, I shall be very glad to accept that suggestion. Mr. Speaker, I withdraw my request that the bill be passed over without prejudice, and ask for its present consideration.

The SPEAKER. Is there objection?

Mr. STAFFORD. Mr. Speaker, reserving the right to object, I do not believe a change in the policy of flood control should be determined under unanimous consent. I have no objection to the gentleman's asking unanimous consent to have the bills passed over without prejudice.

Mr. JOHNSON of Washington. Does not the gentleman agree with me that inasmuch as unanimous consent has been given previously for the Yazoo River proposition, and for the Calaveras County, Calif., proposition, there can be no harm in finishing up the only other two bills reported by the Flood Control Committee?

Mr. STAFFORD. I am frank to say to the gentleman that these bills were granted unanimous consent before the potent objection of the gentleman from Illinois [Mr. MANN] was raised—considered when he was absent—that is, that we should not change the policy of flood control even though two bills have been passed by this House providing for surveys of rivers not included under the general flood control act. I was given assurance at that time, when the bills were passed under unanimous consent, that it did not change the policy.

Mr. JOHNSON of Washington. Of course, if the gentleman objects, I shall have recourse on some Calendar Wednesday in endeavoring to have the chairman of the Committee on Flood Control call these bills up on the next call of the committees, but in the meantime I would like to have them remain on the Calendar for Unanimous Consent.

The SPEAKER. The Chair thinks they should go to the foot of the calendar.

Mr. JOHNSON of Washington. I shall not object to that, Mr. Speaker.

The SPEAKER. Is there objection to the request of the gentleman from Washington that the bills be passed over without prejudice and go to the foot of the calendar?

There was no objection.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, one of its clerks, announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 2555. An act to construct, maintain, and operate a bridge and approaches thereto across Great Peedee River, S. C.

SENATE BILL REFERRED.

Under clause 2, Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 2555. An act to construct, maintain, and operate a bridge and approaches thereto across Great Peedee River, S. C.; to the Committee on Interstate and Foreign Commerce.

ENROLLED BILL SIGNED.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 2359. An act providing for an International Aero Congress cancellation stamp to be used by the Omaha post office.

PROCEEDINGS IN CONTESTED-ELECTION CASES.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 7761) to amend the Revised Statutes of the United States relative to proceedings in contested-election cases.

The SPEAKER. Is there objection to the present consideration of the bill? The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That sections 105 and 106, title 2, chapter 8, of the Revised Statutes of the United States are hereby amended so as to read as follows:

"SEC. 105. Whenever any person intends to contest an election of any Member of the House of Representatives of the United States he shall, within 30 days after the result of such election shall have been determined by the officer or board of canvassers authorized by law to determine the same, give notice in writing to the Member whose seat he designs to contest of his intention to contest the same, and in such notice shall specify particularly the grounds upon which he relies in the contest. He shall also, within the said 30 days, forward a copy of said notice by registered mail to the Clerk of the House of Representatives.

"SEC. 106. Any Member upon whom the notice mentioned in the preceding section may be served shall, within 30 days after the service thereof, answer such notice, admitting or denying the facts alleged therein, and stating specifically any other grounds upon which he rests

the validity of his election; and shall serve a copy of his answer upon the contestant; and shall forward a copy of the same by registered mail to the Clerk of the House of Representatives."

SEC. 2. That section 127 of title 2, chapter 8, of the Revised Statutes, as amended by the act of March 2, 1887 (U. S. Stat. L., 49th Cong., 2d sess., vol. 24, ch. 318), is hereby further amended so as to read as follows:

"SEC. 127. All officers taking testimony to be used in a contested-election case, whether by deposition or otherwise, shall, within 30 days after the taking of the same is completed, certify and carefully seal and immediately forward the same, by mail or by express, addressed to the Clerk of the House of Representatives of the United States, Washington, D. C.; and shall also indorse upon the envelope containing such deposition or testimony the name of the case in which it is taken, together with the name of the party in whose behalf it is taken, and shall subscribe such indorsement.

"The officer or officers before whom such testimony is taken shall notify the Clerk of the House in writing, immediately upon the conclusion of the taking of the testimony, that the taking thereof has been completed and that each and every package of testimony has been forwarded to said Clerk as required by law.

"The Clerk of the House of Representatives, upon the receipt of such deposition or testimony, shall notify the contestant and the contestee, by registered letter through the mails, to appear before him at the Capitol, in person or by attorney, at a reasonable time to be named, not exceeding 20 days from the mailing of such letter, for the purpose of being present at the opening of the sealed packages of testimony and of agreeing upon the parts thereof to be printed. Upon the day appointed for such meeting the said Clerk shall proceed to open all the packages of testimony in the case in the presence of the parties or their attorneys, and such portions of the testimony as the parties may agree to have printed shall be printed by the Public Printer under the direction of the said Clerk; and in case of disagreement between the parties as to the printing of any portion of the testimony, the said Clerk shall determine whether such portion of the testimony shall be printed, and the said Clerk shall prepare a suitable index to be printed with the record. And the notice of contest and the answer of the sitting Member shall also be printed with the record.

"If either party, after having been duly notified, should fail to attend, by himself or by an attorney, the Clerk shall proceed to open the packages and shall cause such portions of the testimony to be printed as he shall determine.

"He shall carefully seal up and preserve the portions of the testimony not printed, as well as the other portions when returned from the Public Printer, and transmit the same to the Speaker of the House of Representatives for reference to one of the Committees on Elections at the earliest opportunity. As soon as the testimony in any case is printed the Clerk shall forward, by registered mail, two copies thereof to the contestant and the same number to the contestee; and shall notify the contestant to file with the Clerk, within 30 days, a brief of the facts upon which he relies, which shall in every instance cite the page or pages of the printed testimony referred to, and shall also cite the authorities relied on to establish his case. The Clerk shall forward, by registered mail, two copies of the contestant's brief to the contestee.

"If the contestee questions the correctness of the contestant's brief of the facts or authorities cited, he may, within 30 days of the time the contestant's brief is mailed to him by the Clerk, file a brief specifying the particulars in which he takes issue with the contestant's brief, citing the page or pages of the printed testimony involved and setting forth a correct brief of the facts, together with the authorities relied on to establish his right to retain his seat.

"Upon receipt of the contestee's brief the Clerk shall forward two copies thereof to the contestant, who may, if he desires, reply to new matter in the contestee's brief within like time. All briefs shall be printed at the expense of the parties, respectively, and shall be of like folio as the printed record, and 60 copies thereof shall be filed with the Clerk for the use of the Committees on Elections to which the case has been referred."

Mr. DALLINGER. Mr. Speaker, the purpose of this bill is to expedite the consideration and disposition of contested-election cases. With this same object in view, the three committees on elections, at the commencement of the present session of Congress, adopted a new set of rules, and the language of those rules is substantially incorporated in the pending bill.

As the Members of the House know, there has been a very strong feeling that contested-election cases should be speedily disposed of; and not only in this House but in the country at large there has been a growing belief that the final decision of cases where the contestant is seated and the contestee is unseated should not be delayed until the closing days of a Congress, which results in two men drawing the entire congressional salary, mileage, and stationery to which Members of the House of Representatives are entitled by law. While we have authority to make rules, yet those rules do not have the force of law; and, therefore, after consultation with the chairmen of the other committees on elections, I prepared this bill, which was referred to the Committee on Elections No. 1, and has been unanimously reported by that committee and is now before you for consideration.

Mr. BLANTON. Mr. Speaker, will the gentleman yield?

Mr. DALLINGER. Yes.

Mr. BLANTON. The fact that these cases remain on the docket and in the committee rooms and are not called up and disposed of until the end of the term is due to the fact that the committee permits it. In other words, if the committee so desires, without any extra law, it could push these cases and bring them to a focus and into the House and dispose of them at a much earlier date. Is not that the fact?

Mr. DALLINGER. No; it is not the fact.

Mr. BLANTON. What is to prevent those committees from doing that?

Mr. DALLINGER. It has not been the fact in the past. I do not think that any Committee on Elections has purposely delayed a contested-election case.

Mr. BLANTON. The gentleman does not understand me. I do not mean that they purposely delay them, but I mean that they could purposely bring them to pass more quickly than they do.

Mr. DALLINGER. The gentleman from Texas is entirely unfamiliar with the work which devolves upon members of Election Committees. Any gentleman of this House who has served on one of these committees knows the work involved. The case comes to us in the form of printed testimony, usually very voluminous, and because of the fact that the briefs which the law requires the contestant and the contestee to file have been of such a character as to be of little or no aid to the committee, the committees have been obliged to go through a voluminous record of testimony, and much of which is irrelevant, which has resulted in much unnecessary delay. In order to give the cases the consideration to which they are entitled, and to be fair to both sides, it is necessary to go into the record at length.

Mr. JONES of Texas. Mr. Speaker, will the gentleman yield?

Mr. DALLINGER. Yes.

Mr. JONES of Texas. Does not the gentleman think it would have a tendency to hasten action on these matters if we adopted a provision whereby the losing party should receive only two months' salary and after that time should not draw his salary, rather than adopt a system here of making them file their views before they know all of the facts?

Mr. DALLINGER. Oh, there is nothing of that kind in the bill.

Mr. JONES of Texas. The contestant must file his brief within 30 days and the answer must be filed by the contestee within 30 days, as I read the bill. There is no provision for amending or further filing of pleadings or facts, if I read the bill correctly.

Mr. DALLINGER. Mr. Speaker, I suggest that the gentleman from Texas read the report of the committee and he will see then just what the bill provides. It makes no change in the requirement that the contestant's brief must be filed within 30 days of the receipt of the printed testimony, and that the contestee's brief must be filed within 30 days of the receipt of the contestant's brief. It merely fills up certain loopholes in the existing law.

Mr. JONES of Texas. Does not the gentleman think it would have a tendency to hasten consideration of these matters if both men did not draw all of the salary during all of the time the contest is pending?

Mr. DALLINGER. Mr. Speaker, I think the method suggested by the gentleman from Texas might be very unfair. As I understand it, the theory of the double salary is that pending the decision of the committees the district ought to be represented by some one—that some one ought to be here to attend to the correspondence and to represent the people of the district on the floor of the House—and, of course, the contestee, who is usually sworn in, having a certificate from the governor, is the man who is the Congressman until the House decides otherwise. And he certainly ought to be entitled to his salary, to his mileage, and all the other perquisites of the office as long as he is performing his duties as a Member of the House of Representatives.

The SPEAKER. The time of the gentleman has expired.

Mr. STAFFORD. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. STAFFORD. This being a bill considered in the House and the gentleman being recognized as chairman of the committee reporting the bill, is he not entitled to an hour?

The SPEAKER. It is being considered in the Committee of the Whole House on the state of the Union—a Union Calendar bill.

Mr. DALLINGER. Mr. Speaker, I ask unanimous consent to proceed for 10 additional minutes.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent to proceed for 10 additional minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. DALLINGER. Now, Mr. Speaker, in further answer to the gentleman from Texas [Mr. JONES] I would say that the theory of the prevailing custom is that a man who is performing his duties as a Representative should receive the salary, and that it should continue until such time as the House sees fit to unseat him on the ground that he was not legally elected a Member of the House.

Mr. JONES of Texas. There is the point. Frequently, if a man has a doubtful case, he might be inclined not to press

the consideration of his case, but let it drag along for as long as possible, whereas if his salary stops at the end of two or three months, or whatever was considered a reasonable time to dispose of the case, he might be more likely to press the matter. Does it not largely depend upon whether the contestant or contestee presses the case?

Mr. DALLINGER. Not at all. The contestee usually is a Member of the House, performing the duties of his office, and he has nothing whatever to do with determining the time when the contest against him shall be decided by this House.

Mr. JONES of Texas. It has been my experience in reference to many bills that if some one is not behind them pressing them for consideration there is not much likelihood of the bill being rushed through, whereas if there is some inducement for some one to press it the consideration will be hastened. That was the thought I had in mind.

Mr. DALLINGER. Mr. Speaker, the whole object of this bill is to endeavor to expedite the consideration and determination of contested-election cases by making certain perfecting amendments to the existing law.

Mr. LAYTON. Will the gentleman yield?

Mr. DALLINGER. I will.

Mr. LAYTON. In reference to the matters of salary, why would it not be a good thing for the Treasury and a good thing all around, if you allowed the man who was seated originally to have that part of the salary which he had earned by service on the floor of the House and then to allow the contestant, if he was seated, to have the balance of that annual salary?

Mr. DALLINGER. Mr. Speaker, I understand the theory of giving the salary to the man who is seated is that he was originally entitled to have the seat at the beginning of the session; that he is the man whom the people of his district really elected; and that therefore he is entitled to all the prerogatives and perquisites of the office. Of course, the question that has been raised by the gentleman from Texas involves a matter that is not germane to the bill before the House. As a matter of fact it is really a question for the Committee on Appropriations, which recommends that the money be appropriated whenever the matter of double salaries comes up, and that is the time when the gentleman from Texas should offer an amendment cutting down the appropriation, if he thinks that the double salary should not be paid.

Mr. JONES of Texas. If the gentleman will yield, and they will make the change of law in the case?

Mr. DALLINGER. I will say to the gentleman from Texas that this bill has nothing whatever to do with the payment or nonpayment of congressional salary.

Mr. JONES of Texas. Would it not be better rather than to pass this bill to pass a bill along the line suggested, and would it not come nearer accomplishing the purpose of this bill?

Mr. DALLINGER. I think not.

Mr. NEWTON of Missouri. If the gentleman will yield. In what particular respect does this change the present law? I do not quite get it.

Mr. DALLINGER. In the report on this bill, our committee adopted a new method of showing the changes by inserting in italics the new language added to the bill. If the gentleman will send for a copy of the committee's report he will see exactly what changes are made in the existing law; the parts of the existing law which are repealed being indicated by a black line drawn through the words eliminated, and the new matter added by the bill being printed in italics.

Mr. LARSEN of Georgia. Will the gentleman state briefly just what the changes are that are made?

Mr. DALLINGER. Section 1 simply makes two perfecting amendments. At the present time there is no provision of law requiring the contestant to send a copy of the notice to the Clerk of the House, and there is no requirement that the contestee shall send a copy of his answer to the Clerk of the House. Section 1 simply adds the requirement that a copy of the contestant's notice and a copy of the contestee's answer shall be sent to the Clerk of the House so that he may have a record of the contests that are brought here in the House of Representatives.

Mr. LARSEN. Under the rules and regulations governing at the present time do not they have to go with the testimony?

Mr. DALLINGER. Yes. At the present time the Clerk of the House may not know whether there is actually to be a contest until months afterwards. The object of section 1 of the bill is that the Clerk may know what contests are pending.

Mr. LARSEN. How will that facilitate the hearing and consideration, the fact that the Clerk knows about that—how will that facilitate the expedition of the hearing on the contest?

Mr. DALLINGER. If the Clerk knows that there is to be a contest, then he can see if the other requirements of the law as set forth in section 2 of the bill are carried out.

Mr. LAYTON. Do I understand at any time within two years a man can make a contest?

Mr. DALLINGER. No. Under existing law the contestant must serve notice of his intention to contest on the contestee within 30 days of the final determination of the result of the election by the State authorities that are designated for that purpose. In other words, it is not 30 days from the election but 30 days from the final report of the decision of the official canvassing board.

Mr. OLDFIELD. Mr. Speaker, will the gentleman yield?

Mr. DALLINGER. Certainly.

Mr. OLDFIELD. Will this amendment have a tendency to hurry these cases along and get rid of them?

Mr. DALLINGER. That is the object.

Mr. OLDFIELD. That is the object of the amendment?

Mr. DALLINGER. Yes.

Mr. ELLIS. Mr. Speaker, will the gentleman yield?

The SPEAKER. Does the gentleman from Massachusetts yield to the gentleman from Missouri?

Mr. DALLINGER. Certainly.

Mr. ELLIS. I notice there is no change in the requirement of service of notice on the contestee.

Mr. DALLINGER. No.

Mr. ELLIS. What kind of service would that be? Would it be personal service? For instance, if the contestee is not in his district, must they find him in order to make service on him? I ask the question because I understand in a recent instance before the 30 days were up given the contestant to decide whether or not to contest the contestee disappeared. Before he could be located the 30 days had expired. The contestee was absent from the district, and under the law service could not be made upon him at his residence. So it was impossible to serve notice on him at all. That suggests a way to escape a contest—simply by the contestee absenting himself from the district.

Mr. DALLINGER. A notice of contest must be served on the contestee. If he eludes service, of course the committee would take cognizance of that fact. The committee would welcome any suggestion that the gentleman may make.

Mr. ELLIS. I think service at his usual place of residence or at his voting residence or by registered mail ought to be sufficient.

Mr. LAYTON. Mr. Speaker, will the gentleman yield?

Mr. DALLINGER. Certainly.

Mr. LAYTON. From the time the canvassing board makes its return, how much time will it be before the Committee on Contested Elections, whichever committee it may be, shall be able to go forward under this bill with their investigation?

Mr. DALLINGER. Under the law as amended the contestant has 30 days in which to file his notice of contest on the contestee. Then the contestee has 30 days in which to file his answer. Then under the law the contestant has 40 days and the contestee has 40 days for the taking of testimony, after which the contestee has 10 days for rebuttal, making 90 days in all. Then the testimony comes here to the Clerk of the House under seal, and the decision is made in the last instance by the Clerk as to what portion of the testimony shall be printed. The testimony is then printed by the Clerk of the House and copies sent to each of the parties.

Mr. LAYTON. How long will that take?

Mr. DALLINGER. That all depends upon the speed with which it is sent to the printer and the speed of the printer. It is usually a comparatively short time.

The SPEAKER. The time of the gentleman from Massachusetts has expired.

Mr. DALLINGER. Mr. Speaker, I ask unanimous consent to proceed for 10 minutes more.

The SPEAKER. Is there objection?

There was no objection.

Mr. DALLINGER. Then after the testimony is printed and received by the contestant he has 30 days in which to file his brief, then the contestee has 30 days in which to file his brief, and finally the contestant, if he desires, has 30 days more in which to file a reply brief, and then the matter is ready for hearing by the Committee on Elections.

Mr. LAYTON. Have you counted up just exactly how many days that makes, making due allowance, an average allowance, for the action of the Clerk? It is not far short of a year, is it?

Mr. DALLINGER. I should say 9 or 10 months. But, of course, I will say to the gentleman from Delaware, under ordinary normal circumstances, where there is no special session of

Congress, we ought to be able to have all contested-election cases in shape to be referred to the Committees on Elections by the beginning of the regular session in December.

Mr. HUDSPETH. Mr. Speaker, will the gentleman yield?

Mr. DALLINGER. Yes.

Mr. HUDSPETH. I am a member of the committee, but I was not present when the bill was considered. Have you made any changes in the bill relative to the time of taking testimony?

Mr. DALLINGER. None.

Mr. HUDSPETH. Do you make any changes relative to the filing of the brief? The contestant is allowed 40 days. Some of them take 30.

Mr. DALLINGER. Both the contestant and contestee are allowed 30 days in which to file their respective briefs.

Mr. HUDSPETH. My understanding is 30 days.

Mr. DALLINGER. That is correct.

Mr. DAVIS of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. DALLINGER. Yes.

Mr. DAVIS of Tennessee. I am interested in the expediting of these cases, but I wish to call attention to the provision at the bottom of page 3 and the top of page 4 to the effect that the contestant and contestee shall leave to the Clerk to determine which portions of the testimony shall be printed, and if they fail to agree the Clerk shall determine. Now, it occurs to me that it would be much better to follow the policy that is ordinarily pursued in making out bills of exception in order that the parties may agree upon eliminating any portions of the testimony that they deem immaterial or irrelevant, but that each can file or incorporate any portion that he insists is important.

In the first place, the Clerk might not be a lawyer. In the second place, he might believe that certain evidence was not relevant or important, but the contestant or contestee, as the case might be, might insist that it was important. It occurs to me that they could agree upon the elimination of testimony rather than upon the question of what should go in the record. For instance, the contestant is interested only in the incorporation of testimony in his favor, and the same is true in regard to the contestee, and neither is interested in or inclined to agree to the incorporation of testimony that is against him. Consequently it occurs to me that either one should have printed the testimony that he considers important.

Mr. DALLINGER. Mr. Speaker, I have only this to say: The present law takes care of the whole matter. Some one has got to decide. Both parties or their counsel come here and they talk the matter over, and the Clerk is the final arbiter. They practically do come to an agreement now in most cases, and in those cases the testimony as agreed upon by the parties is printed by the Clerk. The only cases where there is any trouble is where the parties do not agree, in which cases the Clerk, after hearing both parties, decides what testimony, if any, does not need to be printed.

You understand, gentlemen, that the testimony is all before the committee. The original exhibits come here; all the testimony that has been taken, and all the exhibits filed, come here in original package form under seal.

This discretion given to the Clerk of the House is simply a question of the expense to the Public Treasury, and, as I understand it, the object of having the Clerk given this power is to guard the Public Treasury. Frequently one party or the other desires to have a large amount of material printed which really does not need to be printed in order to have a proper presentation of the case.

Mr. CHINDBLOM. Mr. Speaker, will the gentleman yield?

Mr. DALLINGER. Yes.

Mr. CHINDBLOM. I do not find in the recommendation of the committee or in the present law any provision under which the contestant and contestee might agree in writing upon the printing of the testimony. Would it not be practicable to have such a provision? Here you require the parties to come to Washington. Suppose the election contest comes from California, or even from Alaska? We had such a case in the last Congress. Is it not a little unreasonable to require them to travel from home here? If they do not do so, or agree about the testimony, we leave it to the Clerk of the House to determine what is going to be printed. Could not some provision be inserted here by which the parties by stipulation could designate the testimony to be printed?

Mr. DALLINGER. I will say in answer to the gentleman from Illinois that of course that is possible, and the committee will gladly agree to any proper amendment along that line. There never has been any complaint, however, in regard to this matter. Of course, it is not necessary for the contestant and contestee to come here in person.

Mr. CHINDBLOM. Then they must hire counsel here if they do not come personally.

Mr. DALLINGER. They could be represented by some Member here, who could act for them.

Mr. CHINDBLOM. But it is a very important thing to determine what testimony is going to be printed, because that which is printed is what the case will be determined on, not on what is on file elsewhere.

Mr. RAKER. Will the gentleman yield for a question?

Mr. DALLINGER. Yes; I yield to the gentleman from California.

Mr. RAKER. I understand from the chairman of the committee that in the contests that have been presented to him up to the present time in the last six years there has been but little difficulty except in the matters that are proposed to be changed by this legislation. Is that about correct?

Mr. DALLINGER. Yes.

Mr. RAKER. Now, there are only five changes in the bill, in substance. First, the contestant must notify the clerk when he files his contest. Second, the contestee must notify the clerk. Third, the party who takes the testimony must forward it within 30 days, instead of forwarding it "without unreasonable delay," as at present, and must notify the Clerk of the House that the testimony is completed; and instead of sending the testimony to the committee it goes to the Speaker. Then the party in filing his brief must note in that brief the page and volume of the record which he relies upon to support each statement of fact, and the other party has the right to file a brief. Those are all the changes in this bill, are they not?

Mr. DALLINGER. I will state that I have a committee amendment which makes the intention of the committee more explicit in requiring the parties to file an abstract of the testimony with their briefs. Since the bill was reported I have become satisfied that stronger language should be used on that point.

Starting with the first section of the bill we have the Clerk notified, so that he can know what is going on.

The next change we make is that just as soon as the testimony is completed the Clerk must be notified. That has been one of the chief causes of delay, coupled with the fact that the law simply provided that the testimony should be forwarded to the Clerk "without unnecessary delay," a very vague term, which sometimes meant months of time. Now we have definitely said that within 30 days of the completion of the testimony it must be forwarded here, and in order that the Clerk may know when the period of 30 days begins to run the parties are required to inform him just as soon as the testimony is completed. I know of several cases where, if this had been the law, there would have been a saving of four or five months of time in getting the testimony here.

Mr. RAKER. Then the only other change in this bill is that the contestant designates in the record the page of the matter referred to?

Mr. DALLINGER. The contestant is required to furnish with his brief an abstract of the testimony on which he relies.

Mr. RAKER. And that is to expedite the matter before the committee?

Mr. DALLINGER. That is to relieve the committee of the enormous amount of time required in going through a whole lot of immaterial and irrelevant testimony.

Mr. RAKER. One other question and then I am through. In other words these are practically the only changes made, for the purpose of expediting these contests. Is that right?

Mr. DALLINGER. That is correct.

Mr. LAYTON. Will the gentleman yield for a question?

Mr. DALLINGER. Yes.

Mr. LAYTON. I assume that the gentleman has had long experience in these matters. Did he ever know of a case where a contestant has drawn more than one year's salary?

Mr. TREADWAY. Oh, yes.

Mr. DALLINGER. There was the North Carolina case of Britt against Weaver, which was decided by the House, as I recall it the day before the final adjournment of the Congress.

Mr. LAYTON. In other words, at the expiration of two years.

Mr. DALLINGER. Yes.

The SPEAKER. The time of the gentleman from Massachusetts has again expired.

Mr. DALLINGER. Mr. Speaker, I ask an extension of two minutes.

The SPEAKER. The gentleman asks an extension of two minutes. Is there objection?

There was no objection.

Mr. DALLINGER. Mr. Speaker, as I have stated, I propose to offer a perfecting amendment to section 2, and I wish to explain to the House the effect of it, because Members often get little idea from the reading by the Clerk. If the Members will take their copies of the bill I will explain the changes in detail. The substitute which I propose to offer for section 2 makes no change in the bill as reported and printed until you get down to line 18 on page 4. Right after the word "contestant," in the eighteenth line on page 4, I propose to insert the words "by registered mail." After the word "days," on line 19, I propose to insert the words "from the receipt of the testimony." After the word "facts," in the same line, I propose to insert the words "together with a complete abstract of the testimony."

The other changes which follow are simply perfecting changes made necessary by the changes already indicated.

Mr. COOPER of Wisconsin. Mr. Speaker, will the gentleman permit a question?

Mr. DALLINGER. Certainly.

Mr. COOPER of Wisconsin. I notice that the bill provides, in line 8, page 2, for a notice to be sent by registered mail.

Mr. DALLINGER. Yes.

Mr. COOPER of Wisconsin. Also on page 3, line 13, by registered mail.

Mr. DALLINGER. Yes.

Mr. COOPER of Wisconsin. And also in line 22, on page 4, by registered mail; but I notice that on page 2, in line 23, the provision makes no mention of registered mail.

Mr. DALLINGER. In answer to the gentleman from Wisconsin I desire to say that this substitute which I propose to offer was the result of matters called to the attention of the committee two weeks ago by the gentleman's colleague, Mr. STAFFORD, and my substitute makes all of these changes.

Mr. BRIGGS. Will the gentleman yield?

Mr. DALLINGER. Yes.

Mr. BRIGGS. What penalty is attached to the failure of the contestant to give 30 days' notice—suppose he does not do it?

Mr. DALLINGER. Then he has no contest.

Mr. BRIGGS. Does the act say so?

Mr. DALLINGER. If the contestant fails to serve the notice required by law he has no case, and Committees on Elections have so held.

Mr. BRIGGS. Why not so provide in the bill?

Mr. DALLINGER. That is something for the House to decide. The Committee on Elections has no right to say that the House will not seat a man or unseat him.

Mr. BRIGGS. That is what I am talking about; this is presented to Congress, presented to the House, you are dealing with the question and the provision is without any penalty. If a man does not comply there is no penalty.

Mr. DALLINGER. I fail to see how you can punish a man for failing to serve notice in a contested-election case.

Mr. BRIGGS. You can have a penalty provided if he does not give notice that the contest shall not be considered.

Mr. DALLINGER. The committee did not think that was necessary.

Mr. SANDERS of Indiana. Will the gentleman yield?

Mr. DALLINGER. Certainly.

Mr. SANDERS of Indiana. How could a law of Congress provide that in the future some other House shall not consider a case by reason of a penalty provided by a former Congress? In the matter of seating a Member, that has to be considered by that particular House after it is organized, each Congress by itself.

Mr. DALLINGER. The gentleman is entirely correct.

The SPEAKER. The time of the gentleman from Massachusetts has expired. Is there a member of the committee who desires to be recognized?

Mr. BOWLING. Mr. Speaker, I am not a member of the committee now, but I was at the time the bill was considered and reported.

The SPEAKER. The Chair will recognize the gentleman.

Mr. BOWLING. Mr. Speaker and gentlemen, if you will indulge me for a few minutes, I will tell you what I think about this bill. The necessity of it was shown by the consideration of repeated election cases. The purpose of it, as has been stated by the chairman, is to expedite the consideration of these cases. The main object is to get the case into court just as soon as possible, for that is what the committee really is—a court occupying a judicial attitude toward the case.

Now, if you will take the trouble to read the report of the committee you will see that every change in there is made with that purpose in view. The law as it now is written has five changes made in it, and all of them are intended to secure quicker action than has heretofore been had. Heretofore, as was pointed out, there has been no provision made to secure notice given to the Clerk that there is such a thing as a contested-election case. That is the first amendment—that when notice is given by contestant to contestee it shall also be given to the Clerk of the House of Representatives in order that he may inform the Speaker of the House and be informed himself that such action has been taken. He will within 30 days forward a copy of the notice to the Clerk of the House of Representatives. After that notice is filed, 30 days are given to the contestee to set up his case. There are the two pleadings, 30 days for each one. That appeared to the committee to be time sufficient and has been the law heretofore—thirty days for the contestant to make out his case and 30 days for the contestee to answer it. When the pleadings are completed, then, as the law already provides, the testimony is to be taken.

Mr. LAYTON. Will the gentleman yield?

Mr. BOWLING. I will.

Mr. LAYTON. I want to get this into the record and get it clear in my own mind. As the law now stands, how long would it be before a contestant could file testimony?

Mr. BOWLING. Thirty days after the result is declared; not after the day of the election, but 30 days after the result is declared. The next amendment is that within 30 days after the testimony is taken it shall be forwarded to the Clerk of the House. You observe that the amendment takes the place of the phrase "without unnecessary delay." It simply puts a limit of time when the notary who takes the testimony shall present it to the House. "Without unnecessary delay" would mean one thing to one man and another thing to another man. Thirty days was considered by the committee to be entirely sufficient for the notary to assemble all the testimony and to get it in a proper condition for submission to the Clerk of the House.

Now, the next is simply this: That the officer or officers before whom such testimony is taken shall notify the Clerk of the House in writing immediately on conclusion of the taking of the testimony that the taking has been completed and that each and every package has been forwarded. The necessity for that provision, as was stated by this committee, was a later provision in the bill that 20 days afterwards the testimony shall be opened.

Now, when does the 20 days begin to run? This amendment is put in to fix the date when the Clerk may begin to count the 20 days, and that is all there is to that.

Mr. COOPER of Wisconsin. Will the gentleman yield?

Mr. BOWLING. Yes.

Mr. COOPER of Wisconsin. I notice in the original law and also in the pending bill a provision that the testimony shall be printed in accordance with the agreement of the contestant and the contestee, and in the event of their disagreement that the Clerk shall determine what shall be printed. Suppose the Clerk determines to omit testimony which either the contestee or the contestant may deem of great importance to his case. In that event how will the House have access to that testimony which one party deems of importance but the printing of which has been refused?

Mr. BOWLING. I shall try to answer the question. In the first place, in many contested-election cases there is a large number of exhibits offered, pictures, for instance, photographs of scenes about the polling place, many ballots, and in many instances they have run into thousands—all a part of the testimony in the case. It would be inconvenient and very expensive and impracticable to reproduce the pictures or to reprint the ballots, for instance.

Mr. COOPER of Wisconsin. Suppose, however, that the evidence about which the two parties disagree was not of that character, but related to the conduct of the election officers themselves. Remember, the Clerk of this House is either a Republican or a Democrat. Suppose there is a majority of but two or three either way. One of the parties to the contest is a Republican and the other a Democrat. The contestant knows that the Clerk is of his own party faith, and, therefore, he refuses to have certain testimony printed, relying, possibly, upon the partisanship of the Clerk. Such things might be. How will the House in that event ever get access to the testimony which has been refused printing but which relates directly to the conduct of the election officers? I have known testimony of that kind of very great importance.

Mr. BOWLING. What I had to say before was just a partial answer to the gentleman's question. In addition to that all of the testimony of whatever kind goes before the committee, whether it is printed or not, and the committee has access to it, and being a bipartisan committee, of course it will investigate.

The SPEAKER. The time of the gentleman from Alabama has expired.

Mr. BOWLING. Mr. Speaker, I ask unanimous consent to proceed for five minutes more.

The SPEAKER. Is there objection?

There was no objection.

Mr. BOWLING. The fact that the testimony is not printed does not mean that the House shall not have access to it or that the committee fails to consider it. However, personally, as far as I am concerned, I am quite willing to support an amendment seeking to correct that by any proper phraseology.

Mr. COOPER of Wisconsin. Permit me to direct the gentleman's attention to the language of the bill and to the original act. It compels all briefs and all printed arguments to refer to the printed testimony. It does not say that the party can cite testimony which is not printed, and which ought to be printed, but it confines the party exclusively in his brief to the printed testimony.

Mr. BOWLING. If that phraseology is susceptible of that construction, I think the committee entirely overlooked it.

Mr. DALLINGER. Mr. Speaker, will the gentleman yield to me?

Mr. BOWLING. Yes.

Mr. DALLINGER. I think the gentleman from Wisconsin is in error. It simply provides that it must cite pages of the printed testimony referred to. The party can make an abstract, and he is ordered by law to make an abstract, to all of the testimony on which he relies.

Mr. BOWLING. There was a good purpose in amending the law to that effect, because if the gentleman will take the opportunity to read the testimony in nearly every contested-election case he will find that there are very many pages of the ordinary testimony that are wholly irrelevant, which just simply cumber the record. When the contestant or the contestee relies on certain testimony in a voluminous record it is of great value to the committee that the citations should be accurate in order that the committee may turn immediately to the page and find whether or not the testimony has been quoted correctly, or if it is there at all.

Mr. DAVIS of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. BOWLING. Yes.

Mr. DAVIS of Tennessee. Right in that connection, it is frequently a matter of controversy between lawyers as to whether evidence is relevant or material, and it occurs to me that it lodges very great authority in the clerk, who may not even be a lawyer. Does not the gentleman think it would be better to expressly provide that illustrations and photographs, and so forth, should not be printed and then provide that any other portions in the record may be eliminated by agreement between the contestant and the contestee?

Mr. BOWLING. Personally, I would have no objection to that, yet the fact remains that in any proceeding anywhere you have to trust somebody. You have to impose discretion in some officer, and in this particular instance the Clerk is given authority which is imposed by law, the idea being in the writing of the bill that everybody seeks to do right about it.

Mr. RAKER. Mr. Speaker, will the gentleman yield?

Mr. BOWLING. Yes.

Mr. RAKER. Is the gentleman on one of the election committees?

Mr. BOWLING. Not now. I was.

Mr. RAKER. The bill provides that the contestant and the contestee should print their briefs and cite their case by the testimony, and the amendment that the chairman of the committee proposes is that in addition to that they shall print a complete abstract of the testimony. That will compel the contestant to print an abstract of testimony in addition to the regular printing. I am wondering whether the committee had thought of this manner of procedure. In many of the courts today you appeal your case and do not print a transcript of the record. A certified copy of the entire trial in typewriting is presented to the appellate or the Supreme Court. Then an abstract of testimony is required to be printed or filed. That does away with the printing of the record, as has been the custom for so many years in so many of the courts.

The SPEAKER. The time of the gentleman from Alabama has again expired.

Mr. BOWLING. Mr. Speaker, may I have one minute more.

The SPEAKER. Is there objection?

There was no objection.

Mr. BOWLING. If I understand the gentleman, the law as it now stands requires that this abstract shall be filed. This goes further and requires that it shall be filed in a certain way by citing in every instance the page or pages of the printed testimony referred to and the authorities are relied on to establish the case.

Mr. RAKER. Then with a complete abstract of testimony. That is the amendment the gentleman suggested this morning. If that is done, and it ought to be done, then the Congress can eliminate all of this printing of the record, because there is one copy already on file for the benefit of the House and the committee, just as in a majority of the courts.

The SPEAKER. The time of the gentleman from Alabama has again expired.

Mr. TAGUE. Mr. Speaker, while I agree with the members of the committee in redrafting a law so as to bring in these provisions, I think they have lost sight of the most important element that has come up in relation to the taking of testimony in contested-election cases.

Mr. Speaker, the law provides that when you are taking testimony in a contested-election case you shall secure the services of a notary public, justice of the peace, or a judge of the court; but there is absolutely no provision in the law for a penalty in helping him to take the testimony. For instance, you summon a witness to come and testify before the committee. You pay your constable for serving that witness with the summons, and that witness can accept the fee, tear up the summons, and refuse to come into court, and you have no authority to make him come. There is absolutely no law on the statute books to-day that will allow a United States district attorney, or any other officer of the law, to prosecute a man who refuses to come into court when summoned in a contested-election case. In other words, the officer who takes the testimony is absolutely powerless, and any extraneous matter may come into your contest, no matter what it is, so long as the man who testifies wishes to express it. Now, what else? Before your officer in authority—and I contend that the expense of an election case generally comes in the taking of the testimony—you may contest an election and go forward and put in the testimony as rapidly as you can while the party whom you are contesting with can bring you into court every single morning during his 30 days, with your stenographers, your witnesses, and as soon as he gets into court can adjourn the court immediately. There is no law at all, so that it makes the taking of testimony in contested-election cases merely farcical. There is no provision of any law or United States authority on the statute books for compelling anything to be done in an election case.

Mr. SANDERS of Indiana. Will the gentleman yield?

Mr. TAGUE. I will.

Mr. SANDERS of Indiana. The results under the present law, however, are fairly successful, are they not?

Mr. TAGUE. They are successful, but mighty expensive—and I am talking from experience. Now, Mr. Speaker, I believe the committee should have gone further when they were redrafting this law. During the last session of Congress with the distinguished Senator from Pennsylvania, who has just passed away, I had this matter up, and he was drafting a law to put teeth in the contested-election law so as to give to the man on either side, whether contestee or contestant, an opportunity for a speedy trial and the elimination of all matters that did not pertain to the case. There is no judge sitting on any bench or any authority who would allow one-tenth of the matter that goes into a contested-election case that comes before him if he had authority to eliminate it, and every election case could be heard inside of 30 days and finished if the law were so constructed that there were some authority as to the proper evidence to take in the regular way.

Mr. SANDERS of Indiana. Will the gentleman be in favor of restricting these depositions so that they could not be taken before a notary public?

Mr. TAGUE. No; I would not do that. If I were to take them before a notary public I would give him the authority to summon a man to come and testify and have the witness come into court and answer to the summons and not come into court and snap his fingers in his face, and he can do nothing to him when he refuses to testify.

Mr. SANDERS of Indiana. The gentleman is referring to the question of testimony, and the gentleman was advancing the argument that the officer who conducts the examination ought to have the power to exclude testimony. Would not that be dangerous power to put in the hands of a notary public?

Mr. TAGUE. I do not think so.

Mr. SANDERS of Indiana. Would it not be one that he does not ordinarily have when testimony is taken in a case in any other court?

Mr. TAGUE. I am not a lawyer, I will say to the gentleman.

Mr. SANDERS of Indiana. I will say to the gentleman that when you take a deposition pending in a court before a notary public the notary public does not have the power to pass on what is admissible in testimony.

Mr. JONES of Texas. And usually is not a lawyer.

Mr. SANDERS of Indiana. It would be dangerous in the case he is not a lawyer.

Mr. TAGUE. It may be a dangerous thing to give exclusive power to a notary public to permit testimony in the light, but give them some authority in the taking of testimony so that the testimony could be legal and would amount to something.

Mr. BLANTON. Will the gentleman yield?

Mr. TAGUE. Yes, sir.

Mr. BLANTON. The House itself is in the position of the court and passes on the testimony had here and here considered. The committee taking the testimony is in the same position as a grand jury. The grand jury hears lots of testimony which a court would not admit. They admit a whole lot of testimony and a lot of things which in court afterwards would be excluded. I call the attention of the gentleman to that.

Mr. TAGUE. The court or grand jury hears this evidence and endeavors to get all the evidence. He is entitled to summon the witness to appear in court under penalty of the law, and the witness is obliged to go there and testify if he is summoned as a witness, and it is not proper even in a grand jury, so far as I know in any court, for him to say to the grand jury or court, "I refuse to come before you and refuse to give the evidence which the Congress of the United States asks." It seems to me, Mr. Speaker, there should be teeth in the law that will compel men to be fair and square as citizens and give the testimony as it is desired, so that a man, whether he is contestee or contestant, shall have accurate testimony before the body when he comes here.

Mr. BLANTON. Mr. Speaker, will the gentleman yield?

Mr. TAGUE. Yes.

Mr. BLANTON. There could be testimony where, if the Supreme Court heard oral testimony before the court and asked a question and the witness said, "I refuse to answer," the court in some instances would sustain him, because there are some questions that even the law of the land does not make the witness answer.

Mr. TAGUE. That may be so, but there is not a law of the land where the Supreme Court puts a summons in a man's hand in the regular way and tells him to come before the court and permits him to ignore that summons and lets him say, "I will not go and testify."

The SPEAKER. The time of the gentleman from Masssachusetts has expired.

Mr. STAFFORD. Mr. Speaker, I demand the regular order.

Mr. JONES of Texas. Mr. Speaker, I offer an amendment.

Mr. STAFFORD. The bill has not been read for amendment yet.

Mr. JONES of Texas. I understand it has been read.

Mr. SANDERS of Indiana. I understand that it has been read for amendment.

Mr. BLANTON. Mr. Speaker, I make the point of order that the point of order made by the gentleman from Wisconsin [Mr. STAFFORD] is out of order, because the bill is being considered under the five-minute rule and it gives every man interested in the discussion five minutes.

Mr. STAFFORD. I would rather leave it to the decision of the Chair than submit it to the judgment of the gentleman from Texas.

Mr. BLANTON. The bill has been considered in the House under the five-minute rule.

Mr. STAFFORD. I understand the bill should be read for amendment. The bill has not been read by the Clerk for amendment. In the way of orderly procedure the Clerk should read the first section for amendment.

Mr. JONES of Texas. Mr. Speaker, the bill having been read, it is now open for amendment.

Mr. STAFFORD. The bill has not been read for amendment. We should consider it in an orderly way, and the orderly way is to have the first section read for amendment.

The SPEAKER pro tempore (Mr. DOWELL). The Chair suggests that the bill should be read for amendment, and with the consent of the House, the Clerk will read the bill for amendment.

Mr. JONES of Texas. The rules require only when a bill is being considered in the House as in Committee of the Whole that it shall be read for amendment.

Mr. STAFFORD. Let me call attention of the Chair to the following, which appears under section 30 of Jefferson's Manual, which is directly in point in this case, where a bill on the Union Calendar is being considered in the House as in Committee of the Whole:

> In the House an order for this procedure means merely that the bill will be read for amendment and debate under the five-minute rule without general debate.

At the present moment, Mr. Speaker, there has been no amendment offered. The bill was read and general debate has proceeded as under unanimous consent. Now the procedure is to have the bill read section by section for amendment.

Mr. BLANTON. There has been general debate, and we have passed beyond the stage of general debate, and have now come to debate under the five-minute rule.

The SPEAKER pro tempore. The Clerk will read.

The Clerk read as follows:

Be it enacted, etc., That sections 105 and 106, title 2, chapter 8, of the Revised Statutes of the United States are hereby amended so as to read as follows:

Mr. BLANTON. Mr. Speaker, I move to strike out the paragraph.

The SPEAKER pro tempore. The Clerk has not finished reading the section. The Clerk will continue the reading of the section.

The Clerk read as follows:

"SEC. 105. Whenever any person intends to contest an election of any Member of the House of Representatives of the United States he shall, within 30 days after the result of such election shall have been determined by the officer or board of canvassers authorized by law to determine the same, give notice in writing to the Member whose seat he designs to contest of his intention to contest the same, and in such notice shall specify particularly the grounds upon which he relies in the contest. He shall also, within the said 30 days, forward a copy of said notice by registered mail to the Clerk of the House of Representatives.

Mr. BLANTON. The Clerk has finished the reading of the section.

Mr. STAFFORD. No; he has not. The gentleman from Texas ought to know what section 1 of this bill is; he has been here long enough.

The SPEAKER pro tempore. The Clerk will proceed with the reading of the section.

The Clerk read as follows:

"SEC. 106. Any Member upon whom the notice mentioned in the preceding section may be served shall, within 30 days after the service thereof, answer such notice, admitting or denying the facts alleged therein, and stating specifically any other grounds upon which he rests the validity of his election; and shall serve a copy of his answer upon the contestant; and shall forward a copy of the same by registered mail to the Clerk of the House of Representatives."

Mr. ELLIS. Mr. Speaker, I offer the following amendment.

The SPEAKER pro tempore. The gentleman from Missouri offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. ELLIS: Page 1, line 11, after the word "Member," insert the words "in person or by registered mail."

Mr. JOHNSON of Washington. Mr. Speaker, will the gentleman yield for a moment?

Mr. ELLIS. Yes.

Mr. JOHNSON of Washington. Mr. Speaker, I ask unanimous consent to extend in the RECORD the remarks that I made this morning.

The SPEAKER pro tempore. The gentleman from Washington asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. DALLINGER. I accept the amendment.

Mr. ELLIS. Mr. Speaker, I understand the committee accepts the amendment.

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ELLIS. Mr. Speaker, I submit another amendment.

The SPEAKER pro tempore. The gentleman from Missouri offers another amendment, which the Clerk will report.

The Clerk read as follows:

Second amendment offered by Mr. ELLIS: Page 2, line 11, after the word "contestant," insert the words "person or by registered mail."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

Mr. DALLINGER. Mr. Speaker, the committee accepts the amendment.

The question was taken, and the amendment was agreed to.

Mr. BLANTON. Mr. Speaker, I offer an amendment to strike out the section.

The SPEAKER pro tempore. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment submitted by Mr. BLANTON: Strike out all of section 1.

Mr. BLANTON. Mr. Speaker, I am in favor of this bill. But it does not go far enough, as was suggested by my colleague [Mr. JONES of Texas].

The chairman of the committee seemed to indicate that we who do not belong to this committee can therefore know, ipso facto, nothing about what goes on before the committee in a contested-election case. I want to call his attention to what went on in regard to one contested-election case about which

the gentleman from Texas knows a few facts. Take the case of Weaver against Britt, from North Carolina. There was a case where the election board decided in favor of Democrat Weaver—that he had won by nine votes. There was an appeal by Republican Britt to the court, and the court decided against him.

It went to the Supreme Court of North Carolina, and that court issued its mandate that Democrat Weaver had been elected by 9 votes. The certificate of election was given to Democrat Weaver. He brought it here and was seated in the House, and he served two long years lacking two days. The session would have ended on Monday. Late on Saturday evening that question was up before the House on a report signed by a majority of the Elections Committee stating that after reviewing all the evidence they found that Weaver, a Democrat, from North Carolina, if you please, had been elected by 12 majority, not 9. It was argued here before the House on the Saturday evening before final adjournment, in a House in which the Democrats did not have a majority.

Mr. STAFFORD. Was not Mr. Clark of Missouri Speaker?

Mr. BLANTON. Yes; but we organized the House and elected Mr. Clark when you Republicans had as many Members as we Democrats had; and we did it by controlling the independents and the Socialist and the mugwumps, and otherwise. But what was the result of that election contest? In the face of all those facts, two days before the final adjournment of the session and of the Congress, by a vote of 184 Republicans to 183 Democrats you Republicans seated Mr. Britt. It was strictly a partisan vote. You paid him $15,000 salary when he had not served a day in the House. You paid him three mileage checks amounting to nearly $800 in money when he had not been a Member of this House. You allowed him a stationery account of two or three times $125. You allowed him his clerk and secretary hire when he had not been a Member of Congress, and you put it off until late Saturday night before the final adjournment on Monday to decide it. Ought you not to stop that, Mr. Speaker? How long are you going to let this farce go on? Why not stop it in this bill? My colleague from Texas [Mr. JONES] made a wise suggestion and the chairman laughed it off.

Mr. DALLINGER. Will the gentleman yield?

Mr. BLANTON. I yield to the gentleman from Massachusetts.

Mr. DALLINGER. Does the gentleman from Texas really think, from his knowledge of the rules of this House, that any such amendment as that suggested by the gentleman from Texas [Mr. JONES] would be in order on this bill?

Mr. BLANTON. It would be in order if the chairman or some one else did not make a point of order against it. It could be inserted into this bill and passed in two minutes if the Members themselves were willing, and it would have been in order, and properly, in this bill if the chairman had seen fit to have his committee incorporate such an amendment into this bill when reporting it.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired. The question is on the amendment.

Mr. BLANTON. It was a pro forma amendment, and I ask to withdraw it.

The SPEAKER pro tempore. The gentleman from Texas asks unanimous consent to withdraw his amendment. Is there objection?

There was no objection.

The Clerk read as follows:

SEC. 2. That section 127 of title 2, chapter 8, of the Revised Statutes as amended by the act of March 2, 1887 (U. S. Stat. L., 49th Cong., 2d sess., v. 24, ch. 318), is hereby further amended so as to read as follows:

"SEC. 127. All officers taking testimony to be used in a contested-election case, whether by deposition or otherwise, shall, within 30 days after the taking of the same is completed, certify and carefully seal and immediately forward the same, by mail or by express, addressed to the Clerk of the House of Representatives of the United States, Washington, D. C.; and shall also indorse upon the envelope containing such deposition or testimony the name of the case in which it is taken, together with the name of the party in whose behalf it is taken, and shall subscribe such indorsement.

"The officer or officers before whom such testimony is taken shall notify the Clerk of the House in writing, immediately upon the conclusion of the taking of the testimony that the taking thereof has been completed and that each and every package of testimony has been forwarded to said Clerk as required by law.

"The Clerk of the House of Representatives, upon the receipt of such deposition or testimony, shall notify the contestant and the contestee, by registered letter through the mails, to appear before him at the Capitol, in person or by attorney, at a reasonable time to be named, not exceeding 20 days from the mailing of such letter, for the purpose of being present at the opening of the sealed packages of testimony and of agreeing upon the parts thereof to be printed. Upon the day appointed for such meeting the said Clerk shall proceed to open all the packages of testimony in the case in the presence of the parties or their attorneys, and such portions of the testimony as the parties may agree to have printed shall be printed by the Public Printer under the direction of the said Clerk; and in case of disagreement between the parties as to the printing of any portion of the testimony, the said Clerk shall determine whether such portion of the testimony shall be printed, and the said Clerk shall prepare a suitable index to be printed with the record. And the notice of contest and the answer of the sitting Member shall also be printed with the record.

"If either party after having been duly notified, should fail to attend, by himself or by an attorney, the Clerk shall proceed to open the packages and shall cause such portions of the testimony to be printed as he shall determine.

"He shall carefully seal up and preserve the portions of the testimony not printed, as well as the other portions when returned from the Public Printer, and transmit the same to the Speaker of the House of Representatives for reference to one of the Committees on Elections at the earliest opportunity. As soon as the testimony in any case is printed the Clerk shall forward, by registered mail, two copies thereof to the contestant and the same number to the contestee; and shall notify the contestant to file with the Clerk, within 30 days, a brief of the facts upon which he relies, which shall in every instance cite the page or pages of the printed testimony referred to, and shall also cite the authorities relied on to establish his case. The Clerk shall forward, by registered mail, two copies of the contestant's brief to the contestee.

"If the contestee questions the correctness of the contestant's brief of the facts or authorities cited, he may, within 30 days of the time the contestant's brief is mailed to him by the Clerk, file a brief specifying the particulars in which he takes issue with the contestant's brief, citing the page or pages of the printed testimony involved and setting forth a correct brief of the facts, together with the authorities relied on to establish his right to retain his seat.

"Upon receipt of the contestee's brief the Clerk shall forward two copies thereof to the contestant, who may, if he desires, reply to new matter in the contestee's brief within like time. All briefs shall be printed at the expense of the parties, respectively, and shall be of like folio as the printed record, and 60 copies thereof shall be filed with the Clerk for the use of the Committees on Elections to which the case has been referred."

Mr. DALLINGER. Mr. Speaker, I offer a committee amendment.

The SPEAKER pro tempore. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

The Clerk read as follows:

Mr. DALLINGER moves to amend by striking out section 2 and inserting in place thereof the following:

"SEC. 2. That section 127 of the title 2, chapter 8, of the Revised Statutes as amended by the act of March 2, 1887 (U. S. Stat. L., 49th Cong., 2d sess., vol. 24, chap. 318), is hereby further amended so as to read as follows:

"'SEC. 127. All officers taking testimony to be used in a contested-election case, whether by deposition or otherwise, shall, within 30 days after the taking of the same is completed, certify and carefully seal and immediately forward the same, by registered mail or by express, addressed to the Clerk of the House of Representatives of the United States, Washington, D. C.; and shall also indorse upon the envelope containing such deposition or testimony the name of the case in which it is taken, together with the name of the party in whose behalf it is taken, and shall subscribe such indorsement.

"'The officer or officers before whom such testimony is taken shall notify the Clerk of the House in writing, immediately upon the conclusion of the taking of the testimony that the taking thereof has been completed and that each and every package of testimony has been forwarded to said Clerk as required by law.

"'The Clerk of the House of Representatives, upon the receipt of such deposition or testimony, shall notify the contestant and the contestee, by registered letter through the mails, to appear before him at the Capitol, in person or by attorney, at a reasonable time to be named, not exceeding 20 days from the mailing of such letter, for the purpose of being present at the opening of the sealed packages of testimony and of agreeing upon the parts thereof to be printed. Upon the day appointed for such meeting the said Clerk shall proceed to open all the packages of testimony in the case in the presence of the parties or their attorneys, and such portions of the testimony as the parties may agree to have printed shall be printed by the Public Printer under the direction of the said Clerk; and in case of disagreement between the parties as to the printing of any portion of the testimony, the said Clerk shall determine whether such portion of the testimony shall be printed, and the said Clerk shall prepare a suitable index to be printed with the record. And the notice of contest and the answer of the sitting Member shall also be printed with the record.

"'If either party, after having been duly notified, should fail to attend, by himself or by an attorney, the Clerk shall proceed to open the packages and shall cause such portions of the testimony to be printed as he shall determine.

"'He shall carefully seal up and preserve the portions of the testimony not printed, as well as the other portions when returned from the Public Printer, and transmit the same to the Speaker of the House of Representatives for reference to one of the committees on elections at the earliest opportunity. As soon as the testimony in any case is printed the Clerk shall forward, by registered mail, two copies thereof to the contestant and the same number to the contestee; and shall notify the contestant by registered mail to file with the Clerk, within 30 days from the receipt of the same a brief of the facts, together with a complete abstract of the testimony, upon which he relies, which shall, in every instance, cite the page or pages of the printed testimony referred to, and shall cite the authorities relied on to establish his case. The Clerk shall forward, by registered mail, two copies of the contestant's brief and abstract to the contestee.

"'If the contestee questions the correctness of the contestant's brief of the facts, abstract of the testimony, or authorities cited, he may, within 30 days of the time the contestant's brief is received by him, file a brief specifying the particulars in which he takes issue with the contestant's brief or abstract of the testimony, or authorities cited, citing the page or pages of the printed testimony involved and setting forth a correct brief of the facts and a correct abstract of the testimony, together with the authorities relied on to establish his right to retain his seat.

"'Upon receipt of the contestee's brief and abstract, the Clerk shall forward, by registered mail, two copies thereof to the contestant, who may, if he desires, reply to new matter in the contestee's brief within like time. All briefs and abstracts of testimony shall be printed at

the expense of the parties, respectively, and shall be of like folio as the printed record, and 60 copies thereof shall be filed with the Clerk for the use of the committees on elections to which the case has been referred.'"

Mr. DALLINGER. Mr. Speaker, if Members will take their copies of the bill I will point out just what changes have been proposed in this substitute.

On page 2, line 23, the word "registered" is inserted before the word "mail."

On page 4, line 18, after the word "contestant" the words "by registered mail" are inserted.

In line 19, on the same page, the words "from the receipt of the same" are inserted. That fixes the time when the 30 days shall begin.

In the same line, 19, after the word "facts" the words "together with a complete abstract of the testimony" are inserted.

In line 23, after the word "brief," the words "and abstract" are inserted.

In line 25 of page 4, after the word "facts," the words "abstract of the testimony" are inserted, so that it will read:

If the contestee questions the correctness of the contestant's brief of the facts, abstract of the testimony, or authority cited, etc.

I want to state right here, Mr. Speaker, that with these provisions it is very easy for any contested election case to come to the House on an agreed statement of facts. We have tried to relieve the Committees on Elections of the unnecessary work, which sometimes takes months, of going through a mass of irrelevant testimony. So we require an abstract.

I also wish to state that in one of the contested-election cases before the committee at the present time, with our rule and with no force of law, one of the parties has complied with our rule and given us a very complete abstract of the testimony on which he relies.

On page 5, in the first line, the words "mailed to him by the clerk" are stricken out and the words "received by him" are inserted, so that it will read:

Within 30 days of the time the contestant's brief is received by him.

That time, of course, is fixed, because we have provided in every case that these papers shall be sent by registered mail.

Then in line 3, after the word "brief" the words "or abstract of the testimony or authorities cited" are inserted.

In line 5, after the word "facts," the words "and a correct abstract of the testimony" are inserted.

In line 7, after the word "brief," insert the words "and abstract."

In line 8, after the word "forward," insert the words "by registered mail."

Mr. JONES of Texas. Will the gentleman yield?

Mr. DALLINGER. Certainly.

Mr. JONES of Texas. I think these suggestions are all good, except the one with reference to an abstract of the testimony. You have a provision in here providing for a brief statement of the facts. Now, when you let one party make an abstract of testimony, I have never seen one made up that would be worth much to a court trying to decide the case. You are putting them to considerable trouble and expense for a thing that will not be of much use. I have not been a member of any election committee, and I may be wrong. Then you provide that a party shall make a brief, and the other party may contest any facts that are in it. Why is not that sufficient without an abstract of the testimony which would be a duplication?

Mr. DALLINGER. A brief of the facts is already provided for by existing law, and that can mean almost anything. It is simply what is commonly called a lawyer's brief. As a rule it has been of very little value to committees on elections.

Mr. JONES of Texas. Let me suggest that the trouble you put the parties to in making an abstract of testimony will be of little value; but you also provide in effect that if the other party does not deny every fact in this abstract it is taken as admitted. It has been my experience that that will entail a great deal of detailed work which will amount to nothing.

The SPEAKER pro tempore. The time of the gentleman from Massachusetts has expired.

Mr. DALLINGER. I ask for five minutes more.

The SPEAKER pro tempore. The gentleman from Massachusetts asks that his time be extended five minutes. Is there objection?

There was no objection.

Mr. DALLINGER. Mr. Speaker, the whole object of this bill is to put upon the contestant and contestee this work which is now put upon the Committees on Elections. The contestant and contestee can easily do it when the case is pending during the nine months provided for. They ought to do the work. In the past they have filed briefs to comply with the letter of the law, but the committees have received no benefit from it, and the result is that the committee in each case has been compelled to take the testimony—perhaps 2,000 printed pages—and wade through a mass of irrelevant matter. The object of this provision in the bill is to compel the man who contests the seat of a Member of the House to file an abstract of the testimony upon which he relies; and experience shows that in one case this was done in the last Congress. It was of immense assistance to the committee.

Mr. BRIGGS. Will the gentleman yield?

Mr. DALLINGER. Yes.

Mr. BRIGGS. Is it the intention of the committee that the cost of printing the abstract as well as the brief shall be on the parties?

Mr. DALLINGER. Certainly.

Mr. BRIGGS. In line 10, page 5, you leave out the words abstract of testimony. It seems to me the words "abstracts of testimony" ought to be put in there.

Mr. DALLINGER. The committee will be glad to accept that amendment. Mr. Speaker, I ask unanimous consent to modify the substitute by inserting on line 10, page 5, the words "and abstracts of the testimony."

Mr. SANDERS of Indiana. Reserving the right to object——

The SPEAKER. The gentleman has a right to modify his amendment.

Mr. STAFFORD. Let us have the amendment reported.

The Clerk read as follows:

Insert "all briefs and abstracts of testimony shall be printed at the expense of the parties, respectively."

Mr. SANDERS of Indiana. Mr. Speaker, will the gentleman from Massachusetts yield?

Mr. DALLINGER. I will.

Mr. SANDERS of Indiana. I should like to ask the gentleman if he will not withdraw the amendment and put these minor amendments separately. I will state why I think he ought to do that. The gentleman from Massachusetts has proposed to amend section 2, which covers about four pages, by substituting another amendment which covers a like number of pages. The purpose of the gentleman is a laudable one to make it a clear-cut amendment; but, unfortunately, when amendments are made in that way we have no opportunity to suggest minor amendments to the section so that the committee can understand what we are talking about. The gentleman from Illinois [Mr. CHINDBLOM] had a valuable suggestion to make, and if this substitute is adopted it will be too late to amend it under the rule. If we undertake to amend it while pending, we have no way in which we may address our amendments in an intelligent manner to the committee. I wonder if the gentleman from Massachusetts will not withdraw the amendment and offer his amendments separately; they are minor in character.

Mr. DALLINGER. Ordinarily I would be glad to ac[cept] suggestion of the gentleman from Indiana, but I think I have asked Members to follow the bill as I indicated what changes are made, and I think most of them did follow it.

Mr. SANDERS of Indiana. I followed the gentleman.

Mr. DALLINGER. I do not see the necessity of prolonging the matter; there are other matters pending on the Unanimous Consent Calendar that ought to be disposed of.

Mr. SANDERS of Indiana. Mr. Speaker, I move to strike out from the amendment offered by the gentleman from Massachusetts the following expression: On page 4, line 19, "together with a complete abstract of the testimony," and on page 5, line 5, "and a correct abstract of the testimony." Page 4, line 25, at the bottom of the page, strike out "abstract of testimony."

Mr. STAFFORD. Why not strike out "abstract of testimony" wherever it appears?

Mr. SANDERS of Indiana. Because it is not in the same language each time. Mr. Speaker, the gentleman from Texas [Mr. JONES] made the same comment on it as I had in mind. I want the committee to seriously consider it, because while it is a matter that does not mean so much as legislation, it will mean a great deal to the contestant and contestee in the future, and this House will be dis "cussed" a good many times if we passed it as proposed by the gentleman from Massachusetts.

I am in entire accord with the purpose of the bill. The reason I know just how much of a burden you are putting on litigants is because in the State of Indiana we have a rule of the appellate and the supreme courts which is practically the same which is purposed to be adopted in this bill. That rule requires an abstract of the testimony to be set out in the brief. I have labored sometimes as much as two weeks to put in a brief in the Supreme Court of the State of Indiana an abstract of the testimony, which was absolutely useless, which would never be used by the courts, and which was put in there simply to

comply with the rule of the court, because if you did not comply with the rule of the court in Indiana, as in practically all States, your brief would be stricken from the files, or the case dismissed. Think what is required: First, they come in with the testimony, and then they agree as to the printing of the testimony, and, on failure to agree, it is all printed. There are a number of printed copies, so that all of the members of the committee can have printed copies of the testimony.

Mr. COOPER of Wisconsin. The gentleman said that if they disagreed as to what is to be printed, it is all printed. As a matter of fact, it is left to the Clerk.

Mr. SANDERS of Indiana. I meant to say that; if I said the other it was inadvertently said. If they disagree, the whole matter is left to the Clerk, and as a matter of practice the Clerk will usually print most of the testimony, but you have the printed testimony there, and this rule requires an abstract of testimony. Anyone who ever did that knows how many tedious days and nights it requires to put in an abstract of testimony. It may not be necessary. It may be that the whole case turns on one precinct, yet the rule requires that the contestant shall bring in the testimony of all of the other precincts. The contestee may rely for his defense on all of the testimony because it requires it all, and yet there may be no dispute about any of the testimony except one precinct. He must necessarily have the testimony in there; it must be in the record. It may be that when you get before the committee the lawyers on either side will say that they agree practically that there is no difference except on the one precinct, and yet the testimony on which they rely is all of the testimony. This would require that the contestant would have to set out an abstract of all of the testimony. I do not think that will be helpful to the committee. Notice what is required of the contestee. If he questions the correctness of the contestant's brief of the facts or the abstract of testimony, he may within 30 days after the brief is filed, file a brief specifying the particulars in which he takes issue with the contestant's brief.

The SPEAKER. The time of the gentleman from Indiana has expired.

Mr. SANDERS of Indiana. Mr. Speaker, I ask unanimous consent to proceed for three minutes.

The SPEAKER. Is there objection?

There was no objection.

Mr. SANDERS of Indiana. He must cite the page or pages of the printed testimony involved and set forth a correct brief of the facts and a correct abstract of the testimony. He can not say that he objects to the statement made on pages 43, 235, and 456, but he must set out an abstract of the entire testimony.

Mr. DALLINGER. Mr. Speaker, will the gentleman yield?

Mr. SANDERS of Indiana. Yes.

Mr. DALLINGER. That was not the intention of the committee at all. It simply is a correct abstract of the testimony which he takes issue with.

Mr. SANDERS of Indiana. But that is not so stated.

Mr. BOWLING. Mr. Speaker, will the gentleman yield?

Mr. SANDERS of Indiana. Yes.

Mr. BOWLING. It seems to me that the provision was that the abstract must contain the testimony on which the contestant relies.

Mr. SANDERS of Indiana. That is correct. Suppose the contestant relies upon the evidence of the votes in all of the precincts, and there is a dispute upon only one precinct. He relies upon all of the testimony, does he not? They may not agree to the record. It is very likely they do not, because when people are adversaries they frequently do not agree when they ought to, but relying on that testimony, it has not only to be printed, but it must be abstracted—John Jones said so and so at such and such a time. That is an endless task. I say that in the passage of this bill we are putting unnecessary burdens on the contestant and the contestee.

I want to say just a word upon the subject of contested elections. I do not think the passage of this measure will bring a situation about where the contested election cases will be decided in the first two or three months. If anyone is voting for this bill with that in mind, he is misguided. I served on an elections committee during my first term here. It was in the Britt-Weaver case. There were 1,100 pages of fine printed record in that case, and the parties relied upon it all—and, by the way, under this they would have had to abstract the whole record. The members on the committee had to sift through that testimony, and it might be that by more diligent work we could have reported it out a month or two earlier than we did. We reported it out during the last of the Congress, but I can say to the House that it required practically all of the time the committee had to get that case ready to present to this House. A contested-election case covers such a wide variety of testimony and it is such an endless task for the attorneys representing the contestant and the contestee, it is such an endless task for the committee which investigates it conscientiously, that the very nature of it will work to bring it in during the last of the term of Congress.

Mr. LUCE. The members of Committee on Elections No. 2, of which I have the honor to be the chairman, on returning from a joyous vacation found themselves depressed by the aspect of a volume of about 1,600 pages of fine print which we are expected to peruse assiduously, diligently, and conscientiously—every single page of it, if our new rule calling for an abstract is not honored. If the House would pay my oculist's bill after I get through with that task, perhaps I should withdraw opposition to the position taken by the gentleman from Indiana [Mr. SANDERS].

It seems to me that he makes a mistake in drawing a parallel between what he had to do in Indiana and what we desire to have done here. The counsel in this particular election case, as in all other election cases, have undoubtedly admitted a great mass of irrelevant testimony, which never would have confronted an Indiana lawyer required to make an abstract. It is an imposition on human nature, a needless task of the strength of Members of Congress, to require them to peruse this irrelevant testimony.

Your three Committees on Elections have already observed the advantages coming from compliance with the rules we issued at the beginning of the session, which it is now proposed to enact into law. Mind you, this law can not prevent future election committees from proceeding as they choose in the matter. All such rules and laws, by reason of the constitutional direction to the House to judge of the qualifications of its Members, are merely declaratory, not mandatory. Given the formality of a statute, the rules are more likely to secure compliance and so help the committees in the carrying out of their work. The experience of the committees that have joined in presenting for your consideration these changes in the law leads them to believe that without hardship to anybody the time of the members of the committees will be conserved by their adoption and that more expeditious handling of election cases will result. If you are willing to rely upon the judgment of those whom you ask to handle these cases, based upon their experience in handling them, you will accept the proposal of the gentleman, my colleague from Massachusetts [Mr. DALLINGER]. Neither here nor anywhere else do his statements need corroboration, but it may be fitting that, as chairman of one of the other election committees, I should put upon record the fact that they also considered these proposed changes and felt that they should meet with the approval of the House.

Mr. SANDERS of Indiana. Will the gentleman yield?

Mr. LUCE. I will.

Mr. SANDERS of Indiana. The gentleman from Massachusetts understands that what I have sought to strike out is the part that is added by the proposed amendment offered this morning by his colleague from Massachusetts, and that with that part stricken out there would still be a requirement here that the contestant file a brief of facts the same as he has always done.

Mr. LUCE. I think the gentleman from Indiana does not understand that what it is proposed here to be enacted into law we had already put into rules at the opening of this session, and the working of those rules so far in securing to us abstracts has proved of advantage.

Mr. CHINDBLOM. Will the gentleman yield?

Mr. LUCE. I will.

Mr. CHINDBLOM. May I suggest to the distinguished gentleman from Massachusetts that the testimony which comes to those Committees on Election is taken before notaries public, where no objection to the testimony is noted, where anything bearing, relevant or irrelevant, whether competent or incompetent, is always admitted, and frequently in reading the testimony in a case you will run over a half dozen pages before you will find one iota of essential testimony.

Mr. LUCE. The gentleman from Illinois is absolutely correct. The point to be made is that counsel can not complain of the necessity of making an abstract after they themselves have inserted this vast amount of irrelevant testimony that they themselves might easily have excluded.

Mr. RAKER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RAKER. Would a substitute by way of amendment be in order to the amendment offered by the gentleman from Massachusetts?

The SPEAKER. The gentleman from Massachusetts offered an amendment by way of a substitute. The gentleman from Indiana has offered an amendment to this.

Mr. RAKER. Is that amendment now pending?

The SPEAKER. That amendment is pending. After that is voted upon, then it would be in order to offer an amendment.

Mr. RAKER. I ask to be recognized for five minutes.

The SPEAKER. The Chair thinks the gentleman from Iowa [Mr. DOWELL], being the chairman of one of the Committees on Elections, is entitled to recognition.

Mr. DOWELL. Mr. Speaker, in the first place, I would favor the taking of this testimony before a court or before a referee appointed by the court to pass upon the admissibility of this testimony. I think two-thirds of the testimony in all these cases would be entirely eliminated if a Federal court would appoint a referee to take testimony for both contestant and contestee and determine the admissibility of the testimony. I would very much prefer that, but under the present system, as has been stated here, a very large part of the testimony is irrelevant and immaterial. Both sides present all kinds of testimony, and it is necessary for the committee to go into it in detail before it is able to determine what is relevant and what is not. Now, there is no one, at least there should be no one, more familiar with the record and what the testimony actually shows than counsel who represent the parties before the committee, and they are the ones, it seems to me, who should abstract this record in order to present the testimony that bears directly upon the case.

I think this amendment suggested by the gentleman from Massachusetts is along the right lines to expedite the disposition of these contested-election cases. I want to say from my experience that since the present rule has been adopted providing for an abstract of the record very much of this testimony has been eliminated which does not bear directly upon the case, and much time has been saved, by counsel coming directly to the questions involved. This amendment ought to be adopted as suggested by the gentleman from Massachusetts, and I think the gentleman from Indiana [Mr. SANDERS] is finding a great deal of trouble that will not exist when it comes to the practical operation of this legislation.

Mr. JONES of Texas and Mr. WINGO rose.

Mr. WINGO. Mr. Speaker——

Mr. JONES of Texas. I will yield to the gentleman from Arkansas.

Mr. WINGO. I yield to the gentleman from Texas, who is the older man. [Laughter.]

Mr. JONES of Texas. No.

Mr. WINGO. Mr. Speaker, I have not had an opportunity of hearing the debate on this question, but as I understand the proposition the gentleman from Indiana protests against the requiring of the printing of the abstract. I do not know what has been the custom heretofore in reference to the printing of the record or in reference to the officer before whom the testimony is taken undertaking to pass upon the admissibility of the testimony——

Mr. CHINDBLOM. Will the gentleman yield?

Mr. WINGO. I will.

Mr. CHINDBLOM. The officer does not pass upon the admissibility of the testimony at all. It is taken before a notary public, and counsel fill up the record with anything they have a mind to fill in.

Mr. WINGO. Now, from the nature of things, that has to be true. The suggestion was made by one gentleman that he would prefer a referee or a commissioner to be appointed by the Federal court to pass upon the testimony. In the very nature of things that would be unwise, because the man before whom the testimony was taken might have only that one case that he considered and necessarily would have to study the precedents of the Congress and undertake to determine and know what the policy of the Congress was, and he would have to learn a new field of law.

The most practical way would be to leave it to each counsel as to what should be offered, and let the opposing counsel note objections to the relevancy or admissibility of it, and whatever part of the record is printed, let them submit it to the committee, and strike out what is not admissible. It would be better if you required each party to print only an abstract of the real record; that is, the facts upon which they rely, citing the pages of the typewritten testimony. Then if the opposing counsel should contend that the abstract was not correct, we could do as we do in the appellate courts in my own State. It may be so in other States. My appellate practice has been confined principally to my own State. There, if we think the appellant has not fairly abstracted the record, we can present our abstract and present such part of the record as we contend is not fairly presented, and by that method there will be a clear-cut presentation of the facts for the committee to consider, without wading through a great mass of irrelevant testimony. That would be an advantage to the Members of the House when we come to consider a case. I know that has been my experience when you go to wading through a vast record. In that record there may be four or five pages here and there of matter that you care nothing about, although it might, in the mind of the counsel at the time it was offered, have a possible bearing on the case, but with the subsequent closing of the issues it would be irrelevant and a waste of time for one to read it.

But if you have proper counsel to abstract the facts, and if he is intelligent enough and wise enough to fairly and wisely abstract the testimony, even if it is against him, then the committee and the House, when they come to consider an election case, can save time and avoid confusion in the minds of the Members of the House as to what the record really is.

Mr. DOWELL. Mr. Speaker, will the gentleman yield?

Mr. WINGO. I yield to the gentleman.

Mr. DOWELL. Permit me to say that the suggestion of the gentleman from Arkansas [Mr. WINGO] is absolutely correct, and if we should authorize the abstract to be printed by the Clerk at the expense of the House it would be found very much more satisfactory and cheaper in the end.

Mr. WINGO. I should favor a provision that would require the parties to prepare their abstract of the testimony and make it the contestant's duty to submit that abstract and furnish a copy of it to the contestee. If the contestee insists that it is not fairly abstracted, let him file his contention on that point in the way of a supplemental abstract, and then let the Clerk of the House print the abstract as prepared by the contestant and the supplementary contention of the contestee, setting out new matter in the abstract, and let both be printed.

That would expedite the work of the members of the committee, and would shorten the procedure in the House, where usually we want to refer quickly to the record on some particular point.

The SPEAKER. The time of the gentleman from Arkansas has expired.

Mr. JONES of Texas. Mr. Speaker, I dislike very much to take issue with the very young gentleman from Arkansas, but it seems to me that under the guise of what is intended to be accomplished you are putting a great burden of work on both parties which will be absolutely useless and an added expense that will ultimately be shifted to the Government. You have already a provision in the law to the effect that the party filing a contest shall file a brief statement of the facts upon which he relies. The other man is supposed to deny those facts. Now, in that brief statement he is permitted to file all of the facts upon which he relies, and the other man is permitted to contest those facts.

If you adopt this amendment you require the man filing the contest to file, in addition to the above, a complete summary of all the facts in the case upon which he relies, and consequently, in order to be sure that he leaves nothing out, he will file a great, long abstract of testimony. You know sometimes what an attorney or one who is representing another party or the man himself considers of little importance turns out to be of great importance when brought before the final tribunal. Therefore, in order to have everything in, he will print a great, long abstract of the testimony and most generally from a partisan viewpoint.

I appreciate the suggestion of my friend from Massachusetts [Mr. LUCE] who wants some ocular relief, but as a matter of fact he will find that after he reads that abstract of testimony he must eventually go down to the details of the case as shown by the sworn testimony. No court on earth can rely on an abstract of testimony made by one of the parties. If it should be made by a distinterested party it might be worth something, but the abstract of one man may contain statements which another man will deny and controvert, and after reading the two briefs you will have to go back ultimately to the record testimony in order to find the real facts.

Mr. DOWELL. Is there any court in the land that does not absolutely do that?

Mr. JONES of Texas. At one time the courts in my State required that in reference to pleadings, but we found that while on its face it seemed to grant relief, yet in the end it simply burdened the case and encumbered the record, and finally the court had to go back to the original facts. Let the brief refer to the parts of the record on which the parties rely, and then all you have to do is to read those parts in order to render an intelligent decision. You must do that in order to render a de-

cision which you can rely on, because you can not rely on abstracts of testimony made by the parties to a contest.

You are simply putting a great expense on both the contestant and the contestee, and the result will be worthless. And, finally, the Government pays for all this. If the committee wishes to establish a rule to the effect that an abstract shall be prepared by either party, in addition a brief statement of facts, they can make a rule which will require that to be done. A great many courts do that, but the legislatures do not put it in the law that they shall do such a thing. We depend upon the courts to establish certain rules. Now, if the committee wants an abstract of the testimony in any case or the abstract of the testimony of a witness, they can establish rules requiring that, but when you put it in the law requiring the contestant to file an abstract, if there are 2,000 or 3,000 pages of it we would have to go to the expense of printing it, and it would be worthless when we get through. I believe the amendment of the gentleman from Indiana should be adopted.

Mr. RAKER. Mr. Speaker, I am not going to take any extra time on this matter, but in order that I may present my viewpoint in a consecutive way I ask unanimous consent that I may proceed for 10 minutes.

The SPEAKER. The gentleman from California asks unanimous consent that he may proceed for 10 minutes. Is there objection?

Mr. STAFFORD. Mr. Speaker, reserving the right to object, does the gentleman intend to speak on this bill?

Mr. RAKER. On nothing else except the bill that is before the House.

The SPEAKER. The Chair hears no objection.

Mr. WINGO. Before the gentleman begins may I ask him a question?

Mr. RAKER. I prefer not to yield at this time, because I do not want my thought to be diverted from the purpose of it, but I will yield to the gentleman notwithstanding.

Mr. WINGO. I think the gentleman will be interested in it. Some suggestion is made by my elderly friend from Texas that you could not rely on a partisan abstract. I do not know how it is in the gentleman's State, but in my State if counsel for the appellant should file an abstract of the testimony that was plainly and deliberately incorrect and unfair that gentleman would be in very serious trouble with the court. Not only would he have his abstract stricken from the files of the court and lose the entire expense of the printing thereof but he would be in serious trouble with that court with regard to his continuing his practice.

Mr. JONES of Texas. The gentleman's State is an exception to all rules.

Mr. RAKER. The statement of the gentleman from Arkansas is very likely correct. Now, gentlemen, having had some little experience in the matter of preparing records for the supreme court in my own State, as well as Oregon and Nevada—my friend from Oregon will correct me if I am mistaken—I think this could be simplified, and save the House and the litigants many thousands of dollars and expedite the trial of the case.

I have a proposed substitute here, and if I can find any way to offer it I think the House will agree to it. It is, in substance, this: There is no amendment to the proposed section down to line 18. Then I propose to strike out after line 18 to line 5 on page 4, and then not allow the Clerk to print the record, but let the Clerk deliver the record as it comes in to the Speaker and the Speaker deliver it to the Committee on Elections. Then notify the contestant, and he must within 30 days file his brief and his abstract of the testimony, serving it upon the contestee, the contestee then having 30 days in which to file his reply to the testimony and his brief. The contestant is then to have 10 days in which to reply, the case to be submitted, and the brief and abstract of the record to be printed by the respective parties.

For many years the State of Oregon in the trial of its civil cases has prepared a bill of exceptions or statement, but in the trial of an equity case the original testimony is taken down and an abstract of the record is sent to the supreme court of the State. The court tries the case upon that abstract, or upon the original record and the abstract. For many years in our State and in other States we prepared bills of exceptions or statements of the case, which in substance are the same, one requiring a little more technicality than the other; but some 10 or 12 years ago we adopted an alternate rule whereby a party could request that the original record, with a certified copy of the exhibits, be sent to the supreme court. Then there was no printing of the record. That saved the litigants thousands and tens of thousands of dollars. The party appealing was compelled to print an abstract of the record and testimony. The party contesting can answer it if he desires, or print his brief, and I will guarantee you that, with the exception of possibly one or two cases in which the record has been stricken out, the party appealing and making the abstract of the record has stated the facts correctly and fairly as they exist in the record. In that way you are saved from this enormous expense of printing these voluminous records. The House and the Committee on Elections have the original record. It is all before the committee, with an abstract of the testimony, and you will find in looking over these cases that it requires only from 15 to 40 pages to present the case clearly, and all that is in it.

Mr. JONES of Texas. But under your rules the party is not knocked out and does not lose his appeal if he fails to present all the essential facts.

Mr. RAKER. He would not be here.

Mr. JONES of Texas. This requires him to state a complete abstract of the testimony on which he relies. You are not making it a rule, but are putting it into statute law.

Mr. RAKER. My amendment would simply require a brief of the facts together with an abstract of the record and the testimony.

Mr. JONES of Texas. That is all right.

Mr. RAKER. Let us be frank. We all know that in the trial of a case sometimes it may take 20 pages of questions and answers to divulge one fact, namely, did the man go between Washington and Baltimore on the 3d of September, 1921? That can be stated in an abstract of 1 line, although it may have taken 20 pages to develop it in the testimony.

Mr. JONES of Texas. If it was a contested issue, would you not finally go to the testimony itself before you made up your mind?

Mr. RAKER. No, my dear sir; honor between men——

Mr. JONES of Texas. What would you rely on then?

Mr. RAKER. Listen. The gentleman overlooks the point involved in the case, namely, the entire sworn record certified by the officers on file with the Committee on Elections.

Mr. JONES of Texas. Yes; but suppose the point you make is one of the questions in issue, and the contestant sees it one way and the contestee sees it the other way. Then you have to go to the testimony to determine it.

Mr. RAKER. Why, certainly.

Mr. JONES of Texas. So, finally, you have got to go to the record to determine the essential facts in the case.

Mr. RAKER. Surely you do, in any case. Now, listen. Here it may take a hundred pages to develop a fact, but you can state it on half a page of the abstract. The contestant will set it out in the abstract, and if he leaves out anything the contestee will add it by another two or three lines.

If there is any difference in opinion between the counsel representing the respective parties who are seeking seats in Congress they can go to the original record on file with the committee, and the committee finally, of necessity, even now, must look to the original record to see what the testimony is, and will decide accordingly.

Mr. JONES of Texas. Would it not be simpler to have the man that prepares the brief refer to the page of the record where the essential fact is found?

Mr. RAKER. No. You look over the records and you will see in some cases 5,000 pages of printed matter, and I will guarantee that the brief and argument have been summed up in 150 pages upon which the House and the committee pass. Now, answering the gentleman's question, an abstract of the record and testimony is simply an abstract, and you can go over one in five minutes and cover a complicated case that may have taken a month in taking the testimony. There is the petition and the answer filed with the Clerk, and that constitutes the record. Now, the testimony says so and so, and it can be put out and you refer to it with the record. Then you put your brief in referring to these matters, and if there is any contest, any difference between the contestant and the contestee, the committee, as of necessity, will have to look at the original record which is on file.

Now, let me call the attention of the House to the fact that here are 1,000 pages. There is a question of fact that requires the reviewing, perhaps, of 100 pages of testimony. Can not the committee turn to the typewritten testimony as it was taken just as easily as it could turn to the printed volume which has cost this House perhaps $5,000? In the same way it brings the case on to trial from a month to six months earlier, and that is the method followed now in two-thirds of the States in the matter of preparing the record for the purpose of adjudicating matters of this kind.

Mr. SANDERS of Indiana. Is it not the opinion of the gentleman that if the plan of the committee is followed it requires the printing of the abstract and the testimony and the brief at the cost of the Government?

Mr. RAKER. If you made the Government print it they would put it all in, because the fellow would be afraid that the other one would put it all in. If you require the litigants to print it, then you put an extra burden on them of printing the entire testimony in effect, because it says "a complete abstract of the testimony."

The SPEAKER. The time of the gentleman from California has expired.

Mr. RAKER. Mr. Speaker, I would like to have this amendment pending. Can it be read as an amendment to the substitute?

The SPEAKER. Does the gentleman offer the amendment as a substitute to the amendment of the gentleman from Massachusetts?

Mr. RAKER. Yes.

Mr. SANDERS of Indiana. Can the gentleman offer a substitute for a substitute?

The SPEAKER. The gentleman has offered an amendment in the nature of a substitute for the amendment offered by the gentleman from Massachusetts.

Mr. SANDERS of Indiana. I understood it was offered as a substitute for the original substitute.

The SPEAKER. Every substitute is an amendment.

Mr. STAFFORD. Mr. Speaker, I direct the attention of the Chair to the fact that the gentleman from Massachusetts moved to strike out section 2, and offered an amendment in the nature of a substitute. Then the gentleman from Indiana offered an amendment to that substitute. The only question before the House is the amendment to the substitute offered by the gentleman from Indiana. The gentleman from California may have the right to offer a preferential motion to amend the text of the bill before the substitute is voted upon. But that is not the purpose of the gentleman from California.

The SPEAKER. The Chair understood the gentleman from California that that is his purpose.

Mr. STAFFORD. No; he proposes to offer a substitute for the substitute.

The SPEAKER. An amendment in the nature of a substitute.

Mr. STAFFORD. There is no amendment in the nature of a substitute allowed to an amendment in the nature of a substitute. If the gentleman from California may now offer an amendment in the nature of a substitute to the amendment in the nature of a substitute offered by the gentleman from Massachusetts, then there may be an amendment offered to that amendment in the nature of a substitute of the gentleman from California.

The SPEAKER. Certainly.

Mr. STAFFORD. And then if an amendment perfecting the text as a preferential amendment and an amendment to that perfecting amendment is offered, we would have five amendments pending. You can never have more than four amendments pending. What is before the House? Section 2 and an amendment in the nature of a substitute and an amendment to that amendment. I have the right to offer an amendment to the text as a preferential amendment, and some person may offer an amendment to that. That is the limit.

Mr. RAKER. The amendment of the gentleman from Indiana is an amendment to perfect the text.

Mr. SANDERS of Indiana. My amendment is directed to the amendment of the gentleman from Massachusetts.

Mr. STAFFORD. Some gentleman may want to perfect the text and some Member may offer an amendment to that.

I wish to direct the attention of the Chair to the rule which says that a motion to strike out——

The SPEAKER. The Chair will hear the gentleman. The Chair will be glad to have the gentleman cite any authorities.

Mr. STAFFORD. There is a rule, Mr. Speaker, which provides that a motion to strike out and insert does not prevent——

The SPEAKER. The gentleman did not understand the Chair. The Chair has no doubt that a motion to perfect the original text would be in order. That sets aside all pending amendments. That is always in order. The gentleman need not cite authority for that.

Mr. STAFFORD. I take this position because it will be a leading case, and I think one that will be cited more times than once if it is adhered to. It was within the province of any Member after the gentleman from Massachusetts offered his amendment in the nature of a substitute, and the gentleman from Indiana offered his amendment to the amendment of the gentleman from Massachusetts, to offer an amendment to perfect the text.

The SPEAKER. There is no doubt about that.

Mr. STAFFORD. Before a vote was had on either of the two pending amendments.

The SPEAKER. Certainly.

Mr. STAFFORD. Then an amendment to that amendment, and they are the only four amendments that can be pending at any time—an amendment perfecting the text, an amendment to that amendment, an amendment in the nature of a substitute, and an amendment to that amendment.

The SPEAKER. When a gentleman offers an amendment in the nature of a substitute, then the Chair thinks another amendment can be offered to that as a substitute for it. Why can it not be?

Mr. STAFFORD. If that is the case, then another Member can offer an amendment.

The SPEAKER. Oh, no; that ends it.

Mr. STAFFORD. Because the gentleman from Indiana has offered an amendment to the amendment in the nature of a substitute.

The SPEAKER. Certainly.

Mr. STAFFORD. And that precludes any amendment to the substitute until the House votes upon the amendment of the gentleman from Indiana; then you get a test of the House as to whether they wish the substitute amended or not. The only thing before the House at this moment is an amendment in the nature of a substitute.

The SPEAKER. Certainly.

Mr. STAFFORD. It is within the province of gentlemen to amend it.

The SPEAKER. Certainly.

Mr. STAFFORD. The House can vote it up or down.

The SPEAKER. Certainly.

Mr. STAFFORD. If it is voted up or down, another Member may offer an amendment to the amendment in the nature of a substitute, but while pending any amendment to the amendment in the nature of a substitute can not be offered.

The SPEAKER. That is the point that the Chair will be glad to have the gentleman cite authority upon.

Mr. SANDERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. STAFFORD. Yes.

Mr. SANDERS of Indiana. I have always understood the rule to be this, that there were four motions possible to be pending at the same time. If you start out with a substitute, you can call it an amendment or a substitute, but when you take a section and put something else in its place it is a substitute——

The SPEAKER. Yes; but that is an amendment.

Mr. SANDERS of Indiana. Call it by whatever name you wish, the short name for it is a substitute. Then you have a right to amend that substitute. Another Member has the right to offer a substitute for the amendment to the substitute. Then another Member has a right to offer an amendment to that substitute, and there you have the four. If the Speaker should rule that you had a right to offer a substitute for the original substitute, you could not limit it to the four amendments.

The SPEAKER. Certainly you could. You could stop right there. The question the Chair would like to hear authority on is this: When there is an amendment—call it an amendment or a substitute—pending, which is an amendment in the nature of a substitute, and then there is an amendment to that, the Chair will be glad to hear cited any authority that you can not offer an amendment in the nature of a substitute to that.

Mr. STAFFORD. Perhaps the rule I had in mind to which I now direct the attention of the Chair, clause 7 of Rule XVI, impliedly embodies that principle of inhibition:

> A motion to strike out and insert is indivisible, but a motion to strike out being lost shall neither preclude amendment nor a motion to strike out and insert.

I read now from the notes:

> When it is proposed to strike out and insert not one but several connected matters, it is not in order to demand a separate vote on each of these matters, as when a substitute containing several resolutions is proposed.

The SPEAKER. The Chair has read that through.

Mr. STAFFORD. To continue—

> but after this substitute has been agreed to it is in order to demand a division of the original resolution as amended.

The SPEAKER. The Chair does not think that is relevant to this question.

Mr. STAFFORD. With all due deference to the Chair, I think it shows that it is intended to bring it to a vote in the House, to bring the matter to a vote on the substitute; otherwise you will be getting far afield. There is pending before the House an amendment in the nature of a substitute to strike out and insert. It embodies various substantive propositions. This rule says that you can not even ask for a division of those substantive propositions until the House acts on the substitute to determine the will of the House, whether the substantive text before the House shall be amended or whether the substitute shall be acted upon. There is the implied author-

ity that you should not go ramifying extraneously, as I consider you are doing here, when a substitute is before the House and an amendment to that substitute is before the House—that you can then modify the substitute by leaving out some of the substantive provisions—because if it is in order to entertain a motion in the nature of a substitute to an amendment in the nature of a substitute, a gentleman can accomplish indirectly that which he can not directly by failing to include in his motion some of the substantive provisions that are included in the substitute under consideration.

Mr. WALSH. Mr. Speaker, will the gentleman yield?

Mr. STAFFORD. Yes.

Mr. WALSH. Does the gentleman contend that if the gentleman from Massachusetts offers a motion to strike out section 3 and insert other matter, that his motion can not be amended by striking out the matter he proposes to insert and inserting something else?

Mr. STAFFORD. Oh, an amendment——

Mr. WALSH. That is this case exactly. Does the gentleman contend that that can not be done?

Mr. STAFFORD. An amendment to his amendment is in order; yes. It can be done, but only as an amendment to his amendment, and only when an amendment to his amendment is in order.

Mr. WALSH. Who says what kind of an amendment it must be?

Mr. STAFFORD. There is one amendment pending. Until that is acted upon another amendment can not be entertained to that substitute.

Mr. SANDERS of Indiana. Nobody says what kind of an amendment it is. The amendment speaks for itself. If it is a substitute it is a substitute.

Mr. WINGO. Will the gentleman yield?

Mr. STAFFORD. I will.

Mr. WINGO. Would not the language of the original substitute to the substitute show whether or not it was actually an amendment or whether it was totally and wholly a substitute?

Mr. WALSH. There is no difference.

Mr. STAFFORD. There is an amendment pending in the nature of a substitute.

Mr. WINGO. Illustrate it this way: Suppose there is a motion pending—I am not familiar with the particular details of this—to strike out the whole section, to use the illustration of the gentleman from Massachusetts. Then, say that an amendment should be offered in the way of a substitute. That would be an amendment by way of a substitute. Then, suppose some one should offer an amendment, whether you call it an amendment or a substitute, intended to strike out the whole section and insert some other new matter. Would that be a substitute or an amendment to a substitute?

Mr. STAFFORD. We have here pending an amendment to strike out a portion of the substitute, and that should be acted upon before any other amendment is in order on the substitute, so that the attention of the House will not be distracted from the question before the House.

Mr. WINGO. If the gentleman will yield right there, as I understand, there is an amendment pending to strike out certain parts of the substitute?

Mr. STAFFORD. There is. That is the amendment offered by the gentleman from Indiana.

Mr. WINGO. Does the gentleman contend that is not in order?

Mr. STAFFORD. It is in order. With that pending before the House, the gentleman from California [Mr. RAKER] now asks the privilege of offering an amendment in the nature of a substitute to an amendment in the nature of a substitute to the original amendment.

Mr. WINGO. I do not think he can do it.

Mr. STAFFORD. That is the position I am taking, but the Chair has decided offhand that he could have the privilege.

Mr. WINGO. The gentleman has convinced me; he had better convince the Chair.

Mr. STAFFORD. I have been struggling for 15 minutes to convince the Chair, and I need some help, I believe.

Mr. SANDERS of Indiana. Rule XIX says—of course, the Speaker is familiar with that——

The SPEAKER. The Chair will hear the citation if the gentleman desires.

Mr. SANDERS of Indiana. I have no citation except that as pointed out in Rule XIX.

Mr. JONES of Texas. Mr. Speaker, in a little rule book here, Cannon's Book of Rules, page 7, it seems to me is illustrated the position taken by the gentleman from Wisconsin, and I think his position is correct. The gentleman from Massachusetts offered an amendment by way of a substitute. Now, that substitute is subject to amendment as shown in the second part by a diagram. An amendment could be offered to the amendment of the gentleman from Indiana, also an amendment could be offered to the substitute, but a substitute could not be offered to the substitute. The offering of a substitute to a substitute is not in order. The term "substitute" includes the term "amendment," but an amendment does not include a substitute. A substitute is always an amendment, but an amendment is not always a substitute, and there is a distinction. A substitute is broader than an ordinary amendment. The substitute which has been offered by the gentleman from Indiana may be amended. Now it is in order to offer an amendment to the amendment of the gentleman from Indiana. It is also in order to offer an amendment to the substitute offered by the gentleman from Massachusetts [Mr. DALLINGER], but it is not in order to offer a substitute to a substitute.

The SPEAKER. It seems to the Chair the gentleman from Massachusetts has offered an amendment, whether you call it a substitute or not, and the gentleman from Indiana offered an amendment to that. Now, the gentleman from California offers an amendment in the nature of a substitute, and there can be an amendment to that. The Chair does not see any difference. Because the amendment of the gentleman from Massachusetts is a substitute to the section it makes no difference in the ordinary rule that you could have an amendment, an amendment to the amendment in the way of a substitute for the amendment, and an amendment to that.

Mr. JONES of Texas. If the Chair makes no distinction between a substitute, the position the Chair takes is undoubtedly correct. I have always understood that a substitute was different from an amendment; that a substitute is an amendment, but an amendment is not always a substitute; that a substitute must be something to take the place of the entire matter, whereas an amendment may simply change a word or a small portion of the text.

Mr. SANDERS of Indiana. Rule XIX says:

> And it shall also be in order to offer a further amendment by way of substitute, to which one amendment may be offered.

The SPEAKER. That means a substitute for the amendment.

Mr. WALSH. There is no such thing as an amendment by way of a substitute for the original text. A substitute is always offered in place of an amendment which has been offered and not for the original text. The original amendment was a motion to strike out and insert. Now, to that amendment one substitute can be offered, and there can be an amendment to that substitute. But gentlemen get confused by calling the amendment of the gentleman from Massachusetts a substitute, which it is not. It is an amendment. A substitute can only be offered when an amendment has been offered.

Mr. JONES of Texas. Does the gentleman claim that you can not offer a substitute for a paragraph of the original text by striking out the entire paragraph and inserting a new paragraph? Would not that be a substitute for the original text?

Mr. WALSH. No. It is not an amendment by way of substitute. That is to strike out and insert. It makes no difference whether you take the entire paragraph or only a part of it.

Mr. JONES of Texas. That would be only another name for it.

Mr. WALSH. The word "substitute" as used in the rule, as the gentleman will see by a careful reading, applies to an amendment that has already been offered. If you read the language read by the gentleman from Indiana [Mr. SANDERS] you will see from what he read that when an amendment is offered only one substitute to that amendment can be offered.

Mr. JONES of Texas. That is all true, but that does not necessarily mean that you can not offer a substitute to an original text.

Mr. WALSH. I do not see how you can offer a substitute when an amendment has not been offered.

Mr. JONES of Texas. That at least is the way it was offered here, and the way it was accepted.

The SPEAKER. The gentleman from Massachusetts [Mr. WALSH] has stated substantially what the Chair has been attempting to state.

Mr. WINGO. Mr. Speaker, I do not know whether the Chair has before him a note under section 805 of the Manual under Rule XIX, but certain precedents are there cited. I think possibly it carries out the contention of the gentleman from Massachusetts. I read:

> An amendment in the third degree is not specified by the rule and is not permissible, even when the third degree is in the nature of a substitute for an amendment to a substitute. But a substitute amendment may be amended by striking out all after its first word and inserting a new text.

That is what is proposed here, and it has been ruled that that would be permissible. I read further:

As this, while in effect a substitute, is not technically so, for the substitute always proposes to strike out all after the enacting or resolving words in order to insert a new text.

I think that settles it.

The SPEAKER. The Chair overrules the point of order. The Clerk will report the amendment.

The Clerk read as follows:

Mr. RAKER moves to strike out all of section 2 and insert the following in lieu thereof:

"SEC. 2. That section 127 of title 2, chapter 8, of the Revised Statutes as amended by the act of March 2, 1887 (U. S. Stats. L., 49th Cong., 2d sess., vol. 24, ch. 318), is hereby further amended so as to read as follows:

"'SEC. 127. All officers taking testimony to be used in a contested-election case, whether by deposition or otherwise, shall, within 30 days after the taking of the same is completed, certify and carefully seal and immediately forward the same, by mail or by express, addressed to the Clerk of the House of Representatives of the United States, Washington, D. C.; and shall also indorse upon the envelope containing such deposition or testimony the name of the case in which it is taken, together with the name of the party in whose behalf it is taken, and shall subscribe such indorsement.

"'The officer or officers before whom such testimony is taken shall notify the Clerk of the House, in writing, immediately upon the conclusion of the taking of the testimony that the taking thereof has been completed and that each and every package of testimony has been forwarded to said Clerk as required by law.

"'The Clerk of the House of Representatives upon the receipt of such deposition or testimony shall notify the contestant and the contestee, by registered letter through the mails, to appear before him at the Capitol, in person or by attorney, at a reasonable time to be named, not exceeding 20 days from the mailing of such letter, for the purpose of being present at the opening of the sealed packages of testimony.

"'If either party, after having been duly notified, should fail to attend, by himself or by an attorney, the Clerk shall proceed to open the packages.

"'He shall transmit the same to the Speaker of the House of Representatives for reference to one of the committees on elections at the earliest opportunity. As soon as the testimony in any case is forwarded by the Speaker to one of the commmittes on elections, the Clerk of the House shall notify the contestant to file with the Clerk, within 30 days, a brief of the facts, together with an abstract of the record and testimony upon which he relies, which shall in every instance cite the page or pages of the testimony referred to, and shall also cite the authorities relied on to establish his case. The Clerk shall forward, by registered mail, two copies of the contestant's brief and abstract of record and testimony to the contestee.

"'If the contestee questions the correctness of the contestant's brief of the facts, abstract of record and testimony, or authorities cited, he may, within 30 days of the time the contestant's brief and abstract of record and testimony is mailed to him by the Clerk, file a brief specifying the particulars in which he takes issue with the contestant's brief or abstract of record and testimony, and citing the page or pages of the testimony involved and setting forth a correct brief of the facts, together with the authorities relied on to establish his right to retain his seat.

"'Upon receipt of the contestee's brief and abstract of record and testimony the Clerk shall forward two copies thereof to the contestant, who may, if he desires, reply to new matter in the contestee's brief within like time. All briefs and abstracts of record and testimony shall be printed at the expense of the parties, respectively, and 60 copies thereof shall be filed with the Clerk for the use of the Committee on Elections to which the case has been referred.'"

Mr. DALLINGER. Mr. Speaker, I move the previous question on the amendment.

Mr. WALSH. Will the gentleman agree that the amendment of the gentleman from Indiana may be reported before he moves the previous question?

Mr. DALLINGER. I only move the previous question on the amendment of the gentleman from California.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the amendment offered by the gentleman from California [Mr. RAKER].

The question was taken, and the amendment was rejected.

The SPEAKER. The question is on agreeing to the motion of the gentleman from Indiana.

Mr. HOCH. Mr. Speaker, I move to strike out the last word.

The SPEAKER. The gentleman from Kansas moves to strike out the last word.

Mr. HOCH. If I may have the attention of the chairman before we vote on that, I want to get a little information in reference to a provision. I direct the gentleman's attention to the last paragraph on page 2, where it seems to be provided that the officer before whom the testimony is taken shall forward the testimony to the Clerk of the House within 30 days after the completion of the testimony, and then in the second paragraph on page 3 it is provided that this officer before whom the testimony is taken shall notify the Clerk of the House in writing immediately upon the conclusion of the taking of the testimony that the taking thereof has been completed and that each and every package of testimony has been forwarded to said Clerk, as required by law.

It seems there is a plain inconsistency there. You require him in one paragraph to send this testimony in within 30 days and then in another paragraph you require him to notify the Clerk immediately after completion of the taking of the testimony not only that the testimony has been completed but that the testimony has been sent in. What becomes of your 30-day provision? Do I make it clear? If he has 30 days, how can he immediately notify the Clerk that he has done it?

Mr. DALLINGER. The intention of the change, as the committee understands it, is that he shall notify the Clerk in both cases; that he shall notify the Clerk immediately upon the conclusion of the taking of the testimony, so that the Clerk can have some method of determining when the 30 days shall begin, and also that he shall notify the Clerk whenever he sends in each package of testimony.

Mr. HOCH. I understand the purpose, but that is not what is provided. It is provided that he shall make both notifications immediately upon the conclusion of the testimony. I suggest that you insert after the word "and" on line 8 the words "within 30 days thereafter," or some such language as will make it clear.

Mr. JONES of Texas. I think it is perfectly clear there. He must send it not later than 30 days; but, in any event, as soon as it is printed. It might be 10 days or 15 days; but, in any event, not later than 30 days.

Mr. SANDERS of Indiana. Will the gentleman yield?

Mr. HOCH. Yes.

Mr. SANDERS of Indiana. The taking of the testimony ends, and some time must be allowed to make a transcript of it. That is to be done within a period of 30 days. How can he comply with the second paragraph when he must state that the taking thereof has been completed and that each and every package of testimony has been forwarded? It occurred to me that that might mean the exhibits.

Mr. HOCH. Of course, he can not do it immediately upon the conclusion of the testimony. He can not certify that he has sent each and every package in, when the taking of the oral testimony has just been completed. He has 30 days for that.

Mr. DALLINGER. Possibly a semicolon after the word "completed" in the eighth line would meet any possible construction such as the gentleman puts upon it.

Mr. COOPER of Wisconsin. Will the gentleman yield?

Mr. DALLINGER. I yield to the gentleman from Wisconsin.

Mr. COOPER of Wisconsin. It seems to me very clear that the point raised by the gentleman from Kansas [Mr. HOCH] is a good one. Lines 7 and 8, on page 3, provide that "immediately" after the conclusion of the taking of testimony the official shall certify that the taking thereof has been completed and immediately certify also that each and every package thereof has been forwarded. Plainly that is in absolute contradiction of lines 21 and 22, on page 2, which allow 20 days after the taking of testimony is completed within which to forward the testimony. One says a certain act must be done "immediately," the other says within 30 days.

Let me ask the gentleman from Massachusetts [Mr. DALLINGER], in charge of the bill, if his intention would not be carried out by putting a semicolon after the words "completed," in line 8, as the gentleman himself has just suggested, and then amend the next line so that it will read:

and that each and every package of testimony will be forwarded to said Clerk as required by law.

Mr. SANDERS of Indiana. Would it not be better to let the period of 30 days run, and then state that it had been done? Would it not be better to state what had been done rather than what will be done?

Mr. COOPER of Wisconsin. Except that the notice will prepare the Clerk for the receipt of the testimony. It would lead to preparation by the Clerk if he knew an election case was to come before him, and were to have sufficient notice that it was coming. Mr. Speaker, is an amendment in order?

The SPEAKER. Not until after the amendment of the gentleman from Indiana [Mr. SANDERS] has been acted upon. The question is on the amendment of the gentleman from Indiana [Mr. SANDERS].

Mr. SANDERS of Indiana. Mr. Speaker, may that amendment be again reported?

The SPEAKER. Without objection it will be again reported.

The Clerk read as follows:

Amendment offered by Mr. SANDERS of Indiana: On page 3 of the amendment offered by Mr. DALLINGER, in lines 4 and 5, strike out the words "together with a complete abstract of the testimony." On page 3 of the amendment, in line 12, strike out the words "abstract of the testimony." On page 3 of the amendment, in line 18, strike out the words "and a correct abstract of the testimony."

The SPEAKER. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. CHINDBLOM. Mr. Speaker, I desire to offer another amendment.

The SPEAKER. The gentleman from Illinois offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. CHINDBLOM: After the word "determined" at the end of the fifth paragraph in the amendment of the gentleman from Massachusetts [Mr. DALLINGER] insert:

"*Provided*, That the parties may, prior to the opening of said packages of testimony, file a written stipulation as to the portions of the testimony they desire to have printed, and such portions shall then be printed, as hereinbefore provided."

Mr. CHINDBLOM. Mr. Speaker, this amendment will occur on page 4, at the end of line 9 of the bill as printed and in our hands. It is the subject to which reference was made a little while ago. It provides for a case where parties to a contested-election case or their attorneys for some reason do not wish to present themselves in person at the Capitol, at the office of the Clerk of the House, to witness the opening of the packages of testimony, and then determine what portions of the testimony they want printed. The parties may have examined the testimony beforehand. They may have copies of the testimony, as lawyers very frequently do after the conclusion of the hearing of a case, and they may be ready to stipulate in writing just what portions of the testimony they want printed. This amendment will make it possible for the parties or their counsel to make such written stipulation, and make it unnecessary for them to present themselves in person at the office of the Clerk of the House. I understand that the committee has no objection to the amendment.

Mr. DALLINGER. Mr. Speaker, the committee do not think this is absolutely necessary, but we have no objection to it.

Mr. DOWELL. Is it necessary to print what the parties agree to?

Mr. DALLINGER. Yes.

Mr. DOWELL. May I ask that the amendment be read again?

The SPEAKER. Without objection, the amendment will be again reported.

The Clerk read again the amendment offered by Mr. CHINDBLOM.

Mr. DOWELL. Mr. Speaker, I am not in favor of this amendment. It takes from the Clerk any power whatever to refrain from printing the entire record that these attorneys may agree upon. It seems to me the record will be worse by adding to it what each one of them may want placed in the record.

Mr. CHINDBLOM. Will the gentleman show me in the present law or in the amendment offered by the gentleman from Massachusetts [Mr. DALLINGER] any place where the Clerk has any discretion in printing the record if the parties agree as to what they want printed?

Mr. DOWELL. It leaves it with the Clerk to print the record.

Mr. CHINDBLOM. Only in the case of disagreement.

Mr. DOWELL. I think not. I think the Clerk has the right to print the record. Of course, he would not under the law be justified in not printing any part of the record, but it is up to him to determine what the record is and then to print it.

Mr. DALLINGER. Only in case of disagreement.

Mr. DOWELL. But under this amendment he has no discretion. The attorneys will agree upon what shall be placed in the record. It seems to me we are getting a great way off from where we are now when we leave it to counsel to print the record, which ought to be left with the Clerk.

Mr. CHINDBLOM. The language in my amendment means that "such portions shall be printed as hereinbefore provided," in the same manner as though they were present and orally agreed to it.

Mr. DOWELL. The amendment leaves no discretion. It provides that the Clerk shall print the record as agreed upon. If the gentleman will offer an amendment which will permit the parties to agree and then submit their agreement to the Clerk, I will have no objection to such an amendment; but we ought to finally leave it to the Clerk of the House to determine what shall be printed in the record.

Mr. CHINDBLOM. I call the attention of the gentleman to the words on line 22, page 3 of the printed bill, which read:

And such portions of the testimony as the parties may agree to have printed shall be printed by the Public Printer under the direction of said Clerk.

That is the language of the present provision, where they appear and agree orally.

Mr. DOWELL. That is hardly correct; the Clerk has authority to print the record, and it should be left to the discretion of the Clerk. This amendment takes it away from the Clerk. I am not in favor of leaving it to counsel to determine what should be printed by the Clerk of the House. Usually there is an agreement. Counsel come before the Clerk and agree as to what shall be printed, and there is no trouble about it. But if it is left to counsel to agree what the record shall be, without consultation with the Clerk, and compel the Clerk to print it, we may be printing matters which ought not to go in the record.

Mr. CHINDBLOM. Does not the present provision compel the Clerk to print it?

Mr. DOWELL. But they are present before the Clerk. They come and consult with the Clerk, and if they are unable to agree upon what shall be printed the Clerk decides. I think that is much better than to adopt the amendment suggested by the gentleman and leave it to counsel outside without consultation with the Clerk.

Mr. DALLINGER. Will the gentleman from Illinois consent to add to his amendment the words "with the approval of the Clerk"?

Mr. CHINDBLOM. Yes. Mr. Speaker, I ask unanimous consent to modify my amendment in the manner indicated, by adding at the end the words "subject to the approval of the Clerk of the House."

The SPEAKER. Without objection, the modification will be made.

There was no objection.

The SPEAKER. The question is on the amendment of the gentleman from Illinois.

The question was taken, and the amendment was agreed to.

Mr. JONES of Texas. Mr. Speaker, I offer the following amendment:

The Clerk read as follows:

Amendment by Mr. JONES of Texas: Page 5, line 14, after the end of the amendment offered by the gentleman from Massachusetts [Mr. DALLINGER], insert a new paragraph, as follows:

"SEC. 3. The party against whom the contest is finally decided shall be entitled to the regular pay and emoluments only for the period actually served, but in no event shall he draw the same for a period of more than six months."

Mr. STAFFORD. Mr. Speaker, I reserve a point of order. I believe the gentleman from Kansas wishes to offer an amendment to section 2. Should he not be allowed to offer that amendment before considering another section?

The SPEAKER. The House has not acted yet upon the amendment offered by the gentleman from Massachusetts. The gentleman from Texas offers a new section. Section 2 ought to be completed before offering a new section.

Mr. HOCH. Mr. Speaker, I offer an amendment to page 3, line 8, after the word "and," insert "at the end of said 30 days."

The Clerk read as follows:

Amendment by Mr. HOCH to the amendment offered by Mr. DALLINGER: Page 3 of the bill, line 8, after the word "and" where it occurs the first time, insert the words "at the end of said 30 days."

Mr. LUCE. Will the gentleman yield?

Mr. HOCH. Yes.

Mr. LUCE. Would it not be better if this is adopted to say "within 30 days"? If gentlemen are willing to hurry up, why compel them to wait the full period?

Mr. HOCH. The trouble is you have given the officer 30 days to file the testimony. That being the case, he should not be required to notify that he has sent it in until the 30 days has expired.

Mr. LUCE. You might say "within 30 days of the conclusion of the taking of the testimony."

Mr. HOCH. I do not think so. He has 30 days to act, and you should not compel him to notify until the full period has expired.

Mr. LUCE. My suggestion is that he notify as soon as he completes the act. Your provision would prevent that.

Mr. HOCH. If it can be so worded, I think it would be all right.

Mr. CHINDBLOM. Would it not meet the gentleman's purpose to say after the word "and" "and when so done"?

Mr. HOCH. That would seem a little clumsy to me.

Mr. COOPER of Wisconsin. Suppose you strike out the words "has been," in line 9, and insert "will be."

Mr. HOCH. That would change the provision entirely. I was not attempting to change the substance of what the committee wants to do; I am trying to make this a consistent provision.

Mr. COOPER of Wisconsin. That would be a consistent provision.

Mr. HOCH. If the committee is satisfied to have the officer certify that he is going to send it in, that is very well.

Mr. DALLINGER. Mr. Speaker, will the gentleman yield?

Mr. HOCH. Yes.

Mr. DALLINGER. I ask the gentleman again if a semicolon after the word "completed" will not accomplish the very thing that he has in mind and make perfectly clear the intention of the committee?

Mr. HOCH. Not at all, in my judgment.

Mr. DALLINGER. Which intention was twofold—one that the Clerk shall be notified immediately after the taking of the testimony was completed, so that he could know when the 30 days began to run, and, second, that the Clerk should be notified by the officer whenever the testimony was sent in.

Mr. HOCH. I do not think so. I am simply trying to make this what the committee wanted to do, but I think they have provided an utterly impossible thing. They first provide that he have 30 days within which to send in the testimony, and then they say that immediately on the conclusion of the testimony he shall certify that the testimony has been completed, and that he has sent the testimony, which is utterly impossible for him to do.

Mr. DALLINGER. Mr. Speaker, to meet the construction of the gentleman from Kansas, I am willing to accept the amendment.

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. DALLINGER. Mr. Speaker, I move the previous question on the bill and all amendments to final passage.

Mr. JONES of Texas. Mr. Speaker, is the amendment that I offered a moment ago pending?

Mr. BLANTON. It will not be if the previous question is ordered.

Mr. JONES of Texas. I do not think the previous question should be voted when a perfectly bona fide amendment has been offered.

Mr. DALLINGER. The Chair ruled that that amendment would not be offered until this amendment pending was finished.

Mr. JONES of Texas. The Chair did not rule it must not be offered until then, but that it could not be voted on.

The SPEAKER. The Chair does not think that it could technically be offered until the section is finished, but the Chair thinks there ought to be some arrangement made between the gentleman from Texas and the gentleman from Massachusetts.

Mr. DALLINGER. Mr. Speaker, I ask unanimous consent that the Jones amendment may be considered as having been offered, and I renew my motion for the previous question.

The SPEAKER. Without objection the amendment of the gentleman from Texas will be considered as pending.

There was no objection.

The SPEAKER. The question is on ordering the previous question on the bill and all amendments to final passage.

The previous question was ordered.

The SPEAKER. The question now is on the amendment offered by the gentleman from Massachusetts.

The amendment was agreed to.

The SPEAKER. The question now is on the amendment offered by the gentleman from Texas, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. JONES of Texas: Page 5, line 14, after the word "referred," insert a new paragraph as follows:

"SEC. 3. The party against whom the contest is finally decided shall be entitled to the regular pay and emoluments only for the period actually served, but in no event shall he draw same for a period of more than six months."

Mr. DALLINGER. Mr. Speaker, I make the point of order that that amendment is not germane to the bill.

The SPEAKER. The Chair thinks it is very clear it is not germane to the bill. The bill is to amend the procedure in contested-election cases, and this is to determine the pay and emoluments of the contestant. The Chair sustains the point of order.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

DISABLED AMERICAN VETERANS OF THE WORLD WAR.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 216) to incorporate the disabled American veterans of the World War.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER. The Clerk will report the bill.

The Clerk read the bill, as follows:

Be it enacted, etc., That the following persons, to wit: Robert S. Marx, of Ohio; William H. Meyers, of New York; Peter E. Traub, of Kentucky; Herbert James, of Indiana; Cedric M. McKenzie, of Oregon; Frank J. Hilla, of Minnesota; Frank M. Claus, of Louisiana; Oscar R. Johnson, of Washington; John B. Bingham, of California; William G. Scott, of Michigan; H. J. Betty, of Illinois; Charles W. Sutcliffe, of Alabama; Robert S. Rosenhauer, of Arizona; Thomas B. Blaine, of Arkansas; William B. Hedrick, of Colorado; Henry Spadola, of Connecticut; John H. Dykes, District of Columbia; Robert L. Long, of Florida; John E. White, of Georgia; B. W. Patsey, of Iowa; L. R. Stebbins, of Idaho; Harold McAleer, of Maine; Clarence L. Juergens, of Massachusetts; Charles E. Hummel, of Maryland; J. Fay Minnis, of Missouri; Charles L. Sheridan, of Montana; Paul L. Bolin, of Nevada; Thomas C. Lockrem, of North Dakota; Lee B. Atwood, of New Mexico; C. S. Rogers, of Nebraska; Frank M. McDougall, of North Carolina; C. M. Hawes, of Oregon; Frank Smith, of Pennsylvania; Frank S. Coskey, of Rhode Island; H. F. Potter, of South Carolina; Harry N. Schooler, of South Dakota; H. H. Raege, of Texas; Israel Abbott, of Utah; Malvern S. Ellis, of Vermont; Fairfield H. Hodges, of Virginia; R. Kenneth Plumb, of West Virginia; Samuel M. Pfrimmer, of Wyoming; John Salsac, of New Jersey; and such persons as may be chosen who are members of "The Disabled American Veterans of the World War," an unincorporated patriotic society of the soldiers, sailors, and marines of the Great War of 1917–18, known as "The Disabled American Veterans of the World War," and their successors, are hereby created and declared to be a body corporate. The name of this corporation shall be "The Disabled American Veterans of the World War."

SEC. 2. That said persons named in section 1, and such other persons as may be selected from among the membership of "The Disabled American Veterans of the World War," an unincorporated patriotic society of the soldiers, sailors, and marines of the Great War of 1917–18, are hereby authorized to meet to complete the organization of said corporation by the selection of officers, the adoption of a constitution and by-laws, and to do all other things necessary to carry into effect the provisions of this act, at which meeting any person duly accredited as a delegate from any local or State organization of the existing unincorporated organization known as "The Disabled American Veterans of the World War," shall be permitted to participate in the proceedings thereof.

SEC. 3. That the purposes of this corporation shall be: To uphold and maintain the Constitution and the laws of the United States; to advance the interests and work for the betterment of all wounded, injured, and disabled veterans of the Great War of 1917–18; to cooperate with the Federal Board for Vocational Education, the United States Bureau of War Risk Insurance, the United States Public Health Service, the American Red Cross, and all public and private agencies devoted to the cause of improving and advancing the condition, health, and welfare of wounded, injured, or disabled veterans of the Great War of 1917–18; and to stimulate a feeling of mutual devotion, helpfulness, and comradeship among all wounded, sick, injured, or disabled veterans of the Great War of 1917–18.

SEC. 4. That the corporation created by this act shall have the following powers: To have perpetual succession with power to sue and be sued in courts of law and equity; to receive, hold, own, use, and dispose of such real estate and personal property as shall be necessary for its corporate purposes; to adopt a corporate seal and alter the same at pleasure; to adopt a constitution, by-laws, and regulations to carry out its purposes, not inconsistent with the laws of the United States or any State; to use in carrying out the purposes of the corporation such emblems and badges as it may adopt; to establish and maintain offices for the conduct of its business; to establish State and Territorial organizations and local chapter or post organizations; to publish a magazine or other publications; and generally to do any and all such acts and things as may be necessary and proper in carrying into effect the purposes of the corporation.

SEC. 5. That no person shall be a member of this corporation unless he served in the military or naval service of the United States at some time during the period between April 6, 1917, and November 11, 1918, both dates inclusive, or who, being a citizen of the United States at the time of enlistment, served in the military or naval service of any of the Governments associated with the United States during the Great War of 1917–18, and was wounded, injured, or disabled by reason of such service during the period of the Great War of 1917–18, and was discharged under honorable conditions, or is still in the military or naval service.

SEC. 6. That the organization shall be nonpolitical, and, as an organization, shall not promote the candidacy of any person seeking public office.

SEC. 7. That said corporation may acquire any or all of the assets of the existing unincorporated national organization known as "The Disabled American Veterans of the World War," upon discharging or satisfactorily providing for the payment and discharge of all its liabilities.

SEC. 8. That said corporation and its State and local subdivisions shall have the sole and exclusive right to have and to use in carrying out its purposes the name "The Disabled American Veterans of the World War."

SEC. 9. That the said corporation shall, on or before the 1st day of January in each year, make and transmit to the Congress a report of its proceedings for the preceding calendar year, including a full and complete report of its receipts and expenditures: *Provided, however,* That said report shall not be printed as a public document.

SEC. 10. That as a condition precedent to the exercise of any power or privilege herein granted or conferred "The Disabled American Veterans of the World War" shall file in the office of the secretary of each State in which posts, chapters, or subdivisions thereof may be organized, the name and post-office address of an authorized agent in such State upon whom legal process or demands against "The Disabled American Veterans of the World War" may be served.

SEC. 11. That the right to repeal, alter, or amend this act at any time is hereby expressly reserved.

Mr. VOLSTEAD. Mr. Speaker, I offer the following amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLSTEAD: Page 2, line 15, after the word "chosen," strike out the balance of the line and line 16 and the words "patriotic society of the" in line 17 and insert in lieu thereof the following: "by them from among the disabled."

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. VOLSTEAD. Mr. Speaker, I offer the following amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLSTEAD: Page 2, lines 18 and 19, strike out "known as the Disabled American Veterans of the World War."

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. VOLSTEAD. Mr. Speaker, I offer the following amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLSTEAD: Page 3, strike out lines 17 and 18 and the words "Health Service," in line 19, and insert in lieu thereof the words "United States Veterans' Bureau."

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

GRAND ARMY OF THE REPUBLIC.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 2908) for the incorporation of the Grand Army of the Republic.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. WALSH. Mr. Speaker, I ask unanimous consent that the bill may be passed over without prejudice.

The SPEAKER. Is there objection?

There was no objection.

AGRICULTURAL ENTRIES ON COAL LANDS IN ALASKA.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 7948) to provide for agricultural entries on coal lands in Alaska.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. STAFFORD. Mr. Speaker, this is too important a bill to consider at this late hour under unanimous-consent day. Therefore I object.

Mr. SINNOTT. Mr. Speaker, will the gentleman withhold that objection for a moment? I would say that this bill has been on the calendar for some time.

Mr. STAFFORD. I am mindful of the fact that the Public Lands Committee is going to have a Calendar Wednesday shortly. This is an important bill, and it may be brought up on either of those days.

Mr. SINNOTT. Well, it is very questionable whether or not this bill can be brought up on Calendar Wednesday, and I have gone into the matter very fully with the department, have had a number of conferences with the Secretary of the Interior or the Assistant Secretary, and I have one or two amendments to offer.

Mr. STAFFORD. At this late hour I suggest to the gentleman, because we wish to clear the calendar, that the gentleman ask unanimous consent to have the bill passed over without prejudice.

Mr. SINNOTT. If the gentleman insists, of course, there is nothing else to do; but I think we could act on it within 10 minutes.

Mr. WALSH. No; not to-day.

Mr. STAFFORD. We have taken three hours on one bill, and it is only fair to the other side to give them a chance for their alley.

Mr. SINNOTT. Mr. Speaker, yielding to superior force, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman. [After a pause.] The Chair hears none.

MINIDOKA NATIONAL FOREST.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 2914) to add certain lands to Minidoka National Forest.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of this bill?

Mr. BLANTON. I object.

Mr. SMITH of Idaho. Mr. Speaker——

The SPEAKER. Objection has been made.

Mr. SMITH of Idaho. I desire to ask the gentleman to withhold his objection.

Mr. BLANTON. Well, if the gentleman wants to make a speech I think we ought to have a quorum here to hear him, and I make the point of order that there is no quorum present.

Mr. SMITH of Idaho. I do not care to make a speech, but I would like to make a statement for the information of the gentleman.

[Cries of "Regular order!"]

The SPEAKER. Is there objection?

Mr. BLANTON. I have objected to the bill, but I do not object to the gentleman making a speech.

[Cries of "Regular order!"]

Mr. SMITH of Idaho. I do not care to make a speech, but I desire an opportunity to explain the importance of the proposed legislation to the gentleman from Texas and to the Members of the House.

Mr. BLANTON. I reserve the right to object.

Mr. SMITH of Idaho. Does the gentleman know anything concerning the merits of this bill——

Mr. WINGO. Mr. Speaker, I also reserve the right to object.

Mr. SMITH of Idaho. Do the gentlemen understand that this bill simply adds to a national forest some public lands and will increase the receipts to the national forests for the benefit of the Government?

Mr. BLANTON. Yes; I understand, and the gentleman has already been checking up the amount of money we are spending every year in taking care of these national forests over the United States, and it is not to the interest of the people but to the detriment of the Government.

Mr. SMITH of Idaho. If this bill is enacted, additional money will come in to the Government, as it will not cost the Government any more to administer this forest with this additional land attached to it than at the present time.

Mr. BLANTON. I know the gentleman really believes that, but I do not.

Mr. SMITH of Idaho. That is the actual fact.

Mr. BLANTON. Because I know that every single section of additional land requires additional employees to look after it and attend to it.

Mr. SMITH of Idaho. The gentleman is badly mistaken.

Mr. BLANTON. I may be, and if the gentleman could convince me of that some time I would not object.

Mr. SMITH of Idaho. I supposed that I had convinced the gentleman the other day when I explained this bill to him.

Mr. BLANTON. The gentleman merely called my attention to the fact that I had objected and——

Mr. SMITH of Idaho. We have passed numerous such bills——

Mr. LAYTON. Mr. Speaker, I object.

The SPEAKER. Objection is made.

COINAGE OF GEN. GRANT GOLD DOLLAR.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 6119) for the coinage of a Grant souvenir gold dollar in commemoration of the centenary of the birth of Gen. Ulysses S. Grant, late President of the United States.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the consideration of this bill? [After a pause.] The Chair hears none.

The Clerk read as follows:

Be it enacted, etc., That for the purpose of aiding in defraying the cost of erecting a community building in the village of Georgetown, Brown County, Ohio, and a like building in the village of Bethel, Clermont County, Ohio, as a memorial to Ulysses S. Grant, late a President of the United States, and for the further purpose of constructing a highway 5 miles in length from New Richmond, Ohio, to Point Pleasant, Clermont County, Ohio, the place of the birth of Ulysses S. Grant, to be known as the Grant Memorial Road, the Secretary of the Treasury is hereby authorized and directed to purchase in the market so much gold bullion as may be necessary for the purpose herein provided for, from which there shall be coined at the United States mint in Philadelphia standard gold dollars of the legal weight and fineness to the number of not exceeding 200,000 pieces, to be known as the Grant memorial dollar, struck in commemoration of the centenary of the birth of Ulysses S. Grant, late President of the United States of America, which occurs April 27, 1922. The devices and designs upon which coins shall be prescribed by the Secretary of the Treasury and all provisions of law relative to the coinage and legal-tender quality of the standard gold dollar shall be applicable to the coins issued under this act, and when so coined said memorial dollars shall be delivered in suitable parcels at par, and without cost to the U. S. Grant Memorial Centenary Association of Ohio, and the dies shall be destroyed.

The committee amendments were read, as follows:

Page 2, line 11, after "1922," strike out the period and the word "The" and insert in lieu thereof a semicolon and the word "the"; page 2, line 13, after the word "the," insert the words "Director of the Mint, with the approval of the"; page 2, line 16, after the word "shall," strike out the words "be applicable" and insert "so far as applicable apply"; page 2, line 19, after the word "the," insert the words "United States, to the"; page 2, line 20, after the word

"Ohio," strike out the comma and the words "and the dies shall be destroyed" and insert a colon and the following: "*Provided*, That the United States shall not be subject to the expense of making the necessary dies and other preparations for this coinage."

The question was taken, and the committee amendments were agreed to.

Mr. PARKER of New Jersey. Mr. Speaker, I desire to ask the gentleman in charge of the bill what the words "at par and without cost" mean. Does it mean they will be shipped without cost or the dollars shall not be paid for?

Mr. KEARNS. What is the question the gentleman desires to ask?

Mr. PARKER of New Jersey. Is it they are to be delivered at par without cost?

Mr. KEARNS. Without cost to the United States Government.

Mr. PARKER of New Jersey. Without cost for the delivery. Are they to get par for the gold dollars?

Mr. KEARNS. The United States Government is.

Mr. PARKER of New Jersey. It is to be paid 100. It says here, "is to be delivered at par," which is a very vague statement, it seems to me.

Of course, they are at par, but if they are to be delivered for $100,000, there ought to be a provision to the effect that they should be paid for.

Mr. BLANTON. It means that the United States shall not charge a premium, but will let this organization charge it.

Mr. PARKER of New Jersey. I so understand, but it ought to be so stated.

Mr. WINGO. I understand that the Government will simply coin these dollars out of gold that it has on hand?

Mr. KEARNS. Yes; and charge them 100 cents on the dollar. The bill states that the association shall pay for the dollars and all the expense connected with the coins.

Mr. WINGO. In other words, the idea is that in addition to each dollar issued they shall also pay the expense, to be ascertained, of the dies and minting? That is what is intended?

Mr. KEARNS. Yes, sir; that is what is intended, and that is what the bill says.

Mr. WINGO. The Government will not pay out anything at all?

Mr. KEARNS. No.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

Mr. MONTOYA rose.

On motion of Mr. KEARNS, a motion to reconsider the vote whereby the bill was passed was laid on the table.

The SPEAKER. The Clerk will report the next bill.

CONSOLIDATION OF FOREST LANDS IN NEW MEXICO.

The next business on the Calendar for Unanimous Consent was the bill (S. 920) for the consolidation of forest lands in or near national forests, New Mexico, and for other purposes.

The title of the bill was read.

The SPEAKER. Is there objection to the consideration of this bill?

Mr. BLANTON. I object.

The SPEAKER. Objection is made. The Clerk will report the next bill.

READMISSION OF MIDSHIPMEN, UNITED STATES NAVAL ACADEMY.

The next business on the Calendar for Unanimous Consent was the bill (S. 2504) an act providing for the readmission of certain deficient midshipmen to the United States Naval Academy.

The title of the bill was read.

CONSOLIDATION OF FOREST LANDS IN NEW MEXICO.

Mr. SINNOTT. Mr. Speaker, the gentleman from New Mexico [Mr. MONTOYA] was on his feet when he was interrupted by the gentleman from Ohio [Mr. KEARNS] on the coinage bill.

The SPEAKER. The gentleman from Texas [Mr. BLANTON] objected.

Mr. MONTOYA. I will ask the gentleman from Texas to reserve his objection.

Mr. BLANTON. I will reserve it if the gentleman wishes to speak on the bill.

Mr. MONTOYA. Mr. Speaker and gentlemen, this is Senate bill 920, passed by the Senate, an act for the consolidation of forest lands in or near national forests, New Mexico, and for other purposes. It applies to all national forests in New Mexico, and only to those in the State of New Mexico; no more.

We know the needs of the people there. The settlers within the national forest reserves, and only those in national forest reserves, have been asking for the passage of this bill, for the purpose of enabling them to get out of the reserves and getting lands near the same. The administration of the bill will be under the charge of the Secretary of Agriculture and the Secretary of the Interior, under rules and regulations which they will frame as to the disposition of these lands, so that I do not think there will be complaint from any source. It will be beneficial to the Government and beneficial to the settlers. The bill has been recommended by our State land commissioners and by our State engineer and by our State government.

Mr. BLANTON. Mr. Speaker, will the gentleman yield?

Mr. MONTOYA. I yield.

Mr. BLANTON. Has the gentleman ever looked into the extent of the expense that our Government has gone to now in connection with our national forest reserves, and looked into that question as to what our policy should be in the future?

Mr. MONTOYA. I do not know about that.

Mr. BLANTON. The gentleman has a bill that benefits his State, and he wants it to be passed regardless of other considerations?

Mr. MONTOYA. The point is simply that it affects the people within the forests that are there now and who want to get out.

Mr. BLANTON. The gentleman's chances of coming back here next year do not depend on the passage of this bill?

Mr. MONTOYA. No. My chances are the best in the world.

Mr. BLANTON. If they did depend on it I probably would not object.

Mr. SINNOTT. Mr. Speaker, this bill is not similar to the one that was objected to a moment ago. This bill will enable the Secretary of the Interior and the Secretary of Agriculture to eliminate from the boundaries of the national forests in New Mexico privately owned lands, and will thus lessen the present expense of administering those forests.

Mr. BLANTON. And could cost how much?

Mr. VAILE. Not a cent.

Mr. BLANTON. There are no lands to be purchased?

Mr. SINNOTT. No.

Mr. BLANTON. But if some section of land in New Mexico in a forest reserve that may be worth $1,000 is owned by somebody who succeeds in trading it off to the Government for some other section in New Mexico outside of the reserves, that is possibly worth two or three million dollars on account of the oil or mineral under it, it then would be of some cost to the Government?

Mr. SINNOTT. That kind of land will not be exchanged.

Mr. BLANTON. Who is to determine what is under the ground?

Mr. SINNOTT. The Secretary of the Interior.

Mr. BLANTON. Oh, there are companies up in Massachusetts and in New York who are paying out to geologists thousands of dollars now in order to determine that question for them, and they can not do it.

Mr. SINNOTT. If at any time in the future oil or minerals may be discovered under the land, the Government may reserve it.

Mr. BLANTON. An oil well came into existence last week in Texas that is now flowing to the extent of 13,500 barrels a day from the ground, in a place where no man dreamed there was oil.

Mr. TINCHER. Somebody must have bored for it. It costs money to bore for oil.

Mr. SINNOTT. That may be true, but we can attach to this bill an amendment reserving for all time all oil and minerals.

Mr. BLANTON. Then I would not object.

Mr. WINGO. Mr. Speaker, that will not remove all serious objections to the bill. I do not think a bill of this character at this time should be passed by unanimous consent when certain things are going on in connection with reference to additions to forest reserves. It seems impossible to reach the Secretary of Agriculture in regard to the matter. He simply sends letters in which Members make complaints to the men who are complained about. I am not going to permit the Forestry Service, by my vote or with my consent, to have one single dollar to expend in making one single exchange or purchase of lands under the present processes until the Secretary of Agriculture wakes up and recognizes that he can not treat with silent contempt matters that are brought to his attention by Members of Congress. Therefore I object, Mr. Speaker.

Mr. SINNOTT. Mr. Speaker, I ask unanimous consent that the bill retain its place on the calendar.

The SPEAKER. The gentleman from Oregon asks unanimous consent that the bill retain its place on the calendar. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the next bill.

READMISSION OF MIDSHIPMEN, UNITED STATES NAVAL ACADEMY.

The next business on the Calendar for Unanimous Consent was the bill (S. 2504) providing for the readmission of certain deficient midshipmen to the United States Naval Academy.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of this bill?

There was no objection.

The SPEAKER. The Clerk will report the bill.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of the Navy is authorized, upon application, to admit to and reinstate in the United States Naval Academy, subject to examination as to physical qualifications, as provided by law, but waiving the provisions of law as to age requirements, all former midshipmen at the United States Naval Academy found deficient at the end of the first term of the academic year 1920–21 whose resignations were asked for and received by the Superintendent of the Naval Academy: *Provided*, That they shall upon admission be placed in the class one year behind their former class in each case: *Provided further*, That said midshipmen affected by this act must signify their acceptance of the benefits thereof by presenting themselves for physical examination within one month of the date of its approval, and if found qualified will enter the Naval Academy immediately.

SEC. 2. That the clause in the act approved June 5, 1920 (41 Stats., p. 1028), entitled "An act making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1920, and for other purposes," which reads as follows: "That until otherwise provided by law no midshipman found deficient at the close of the last and succeeding academic terms shall be involuntarily discontinued at the Naval Academy or in the service unless he shall fail upon reexamination in the subjects in which found deficient at an examination to be held at the beginning of the next and succeeding academic terms, and the Secretary of the Navy shall provide for the special instruction of such midshipmen in the subjects in which found deficient during the period between academic terms," be, and the same hereby is repealed, and section 1519 of the revised Statutes restored to its full force and effect.

Mr. MADDEN. Mr. Speaker, I should like to ask the gentleman from Ohio [Mr. STEPHENS] a question, if I may. Does this bill delegate to the academic board the power to dismiss boys from the Naval Academy without restrictions, or without the approval of the Secretary of the Navy, or anybody higher up? It seems to me it delegates to this board a power which they ought not to have. They are an autocratic board anyway, and there ought to be some supervisory power somewhere to restrict them in the exercise of arbitrary action. This bill places unlimited power in their hands, to dismiss anybody from the Naval Academy without rhyme or reason, and they do not have to account to anybody in the world for their action. That is a power they do not now have, and I hope the bill will be amended so as to eliminate that feature.

Mr. STEPHENS. Mr. Speaker, this bill returns to the original law that has governed the Naval Academy for the last 50 or 60 years.

Mr. MADDEN. Until what time?

Mr. STEPHENS. Until June, 1920. On June 5 there was a provision placed in the appropriation bill, which passed without consideration of the Senate Naval Affairs Committee and without their knowledge and without the knowledge or consideration of the members of the Naval Affairs Committee of the House. That provision is the one that this bill repeals. It repeals this provision because the act of June 5, 1920, provided for an examination between terms in the Naval Academy. One term begins the 1st of October and ends the Saturday before the last of January, and the next term begins on the following Monday. Under that provision the boys who failed to pass in January were to be given a reexamination between terms, but there was only one day between the terms and no time for preparation for reexamination.

Mr. WALSH. Will the gentleman yield?

Mr. STEPHENS. Yes.

Mr. WALSH. How long have those terms been fixed in that way?

Mr. STEPHENS. Those terms have been fixed in that way, I presume, ever since the establishment of the academy.

Mr. YOUNG. Fifty-nine years.

Mr. WALSH. One term ending on a Saturday and the next term beginning on the following Monday?

Mr. STEPHENS. Yes. The academic year is divided into two terms. The first term ends January 29, or thereabouts, and the new term begins January 31.

The boys who failed to pass did not have time to prepare themselves for reexamination, because there was no intermediate vacation. Therefore, they were dropped under the act of June 5, 1920.

Mr. YOUNG. Will the gentleman yield?

Mr. STEPHENS. I yield to the gentleman from North Dakota.

Mr. YOUNG. Is it not a fact that after Congress had passed the rider on the deficiency appropriation bill to which reference has been made, the academic board had no power to demote or to put back into a class below? When we passed that rider we tied the hands of the academic board so that they had power only to advance, let the boys go on with the class with which they were if they passed their examinations, or to dismiss them from the Naval Academy entirely? There was no discretion left to allow these boys to go back to a lower class, as had been done for 59 years. It came out in the hearings before the House committee that Admiral Wilson, who had a brilliant record during the war, himself while in the academy had failed to pass, and at that time the academic board, using its ordinary, regular discretion, had put him back to a lower class.

Mr. MADDEN. This would not permit him to do that?

Mr. YOUNG. The rider on the deficiency bill that we passed last year took away that discretion, so that they had either to advance them or drop them.

Mr. MADDEN. They could give them a reexamination?

Mr. YOUNG. They could give them a reexamination and they did it, but there was no time for the boys to prepare between the academic terms. There has been nowhere, before either Senate or House committees, any criticism of the academic board for arbitrary action on their part, because the Attorney General of the United States and the Judge Advocate of the Navy both rendered opinions saying that they did the only thing they could do. In other words, the injustice was done to these boys, not by the academic board but by Congress, in passing an amendment that was not properly drafted and that went a thousand times further than anybody understood or expected it would. Congress ought now to correct its own wrong. By passing this bill we shall be doing only simple justice to these splendid young men. Admiral Wilson says they were given a raw deal. Secretary Denby, whose heart is in the right place, has urged us to do justice to the boys and at the same time repeal the rider, thus preventing a recurrence. The course recommended is sound and should be followed.

Mr. PARRISH. Will the gentleman yield further?

Mr. STEPHENS. I yield to the gentleman from Texas.

Mr. PARRISH. What would be the effect upon a Member's quota in case a midshipman were reappointed and reentered the academy? Suppose a Member had appointed another boy to take his place?

Mr. STEPHENS. It would have no effect whatever.

Mr. PADGETT. These boys will simply be reinstated and not charged to anybody.

Mr. STEPHENS. They will not be charged to any Member's quota.

Mr. PARRISH. If they should be so charged, I can see where there would be an injustice done.

Mr. PADGETT. This simply provides for their reinstatement by the Secretary to correct an injustice that was done to these boys by the passage of that amendment.

Mr. WALSH. Is the gentleman from Tennessee [Mr. PADGETT] in favor of this provision?

Mr. PADGETT. Yes.

Mr. WALSH. I understood he held views in opposition to the wisdom of it.

Mr. PADGETT. I did at first. I was under the impression when the bill was first introduced that it would simply override the discipline of the academy and reinstate these boys by congressional action, but upon investigation I found that such was not the case. It was not overriding the discipline. The academy superintendent came up and recommended it very strongly, and the Secretary of the Navy recommends it for the reason that on account of the passage of this provision a year ago, on an appropriation bill, it made it impossible for the boys to be kept in as had been the custom. Where boys heretofore had failed in the midwinter examination they would be dropped back into a class behind and go on. In this case there was no opportunity to do that and they were forced out of the academy. The injustice was done the boys by congressional action. To remedy the congressional action we propose to reinstate them in the academy and not charge them to any congressional district, because we found that could not be worked out. They come in at large and take the class behind, as would have been done in these cases had it not been for this rider which was put on an appropriation bill. Thereupon I changed my mind, and I think the bill should pass on its merits.

Mr. PARRISH. How many young men are involved here?

Mr. STEPHENS. One hundred and thirteen. There are now 57 that will return to the academy. One is a fourth year man, 24 are three year men, 6 of them two year men, and 25 one year men.

Mr. CHINDBLOM. In a case where a Member of Congress has reappointed one of these men for a new admission this year, will that Member get credit so that he can make another appointment?

Mr. PADGETT. No; not where he has appointed. This applies to those who can not get in by appointment. The age limit is 16 to 20, and those who were under 20 can be reappointed and have been reappointed, and those who are over 20 are being provided for here.

Mr. CHINDBLOM. Then Members of Congress who had midshipmen who happen to be under the age limit are in bad luck.

Mr. PADGETT. Yes; like the rest of us, there are 24 in that condition.

The SPEAKER. The question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

On motion of Mr. STEPHENS, the motion to reconsider the vote whereby the bill was passed was laid on the table.

CONSOLIDATION OF FOREST LANDS.

The next business on the Calendar for Unanimous Consent was the bill (H. R. 6429) to provide for the consolidation of forest lands within the San Juan National Forest, State of Colorado, and for other purposes.

The SPEAKER. Is there objection?

Mr. WALSH. Reserving the right to object, have these bills been on the calendar a sufficient length of time?

The SPEAKER. They have not, and at the same time the gentleman in charge of the bill can ask unanimous consent for its consideration.

Mr. HAYDEN. Mr. Speaker, I ask unanimous consent for the present consideration of the bill.

Mr. WALSH. I object.

Mr. BLANTON. Mr. Speaker, I make the point of no quorum.

Mr. STAFFORD. Mr. Speaker, I move that the House do now adjourn.

Mr. BLANTON. Then I will withdraw my point of no quorum.

The SPEAKER. Will the gentleman from Wisconsin withhold his motion?

Mr. STAFFORD. I will.

LEAVE OF ABSENCE.

By unanimous consent, the following leave of absence was granted:

To Mr. STEVENSON, at the request of Mr. DOMINICK, for two days, on account of important business.

To Mr. WHITE of Maine, indefinitely, on account of illness.

To Mr. RADCLIFFE, for the week of October 17, on account of visitation of Committee on Rivers and Harbors to New York State.

ADJOURNMENT.

The SPEAKER. The gentleman from Wisconsin moves that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 22 minutes p. m.) the House adjourned until to-morrow, Tuesday, October 18, 1921, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

243. A letter from the Postmaster General, transmitting claims of Edward T. Williams, acting postmaster at Niagara Falls, N. Y., for losses by burglary on June 2, 1920; to the Committee on Claims.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. SINNOTT, from the Committee on the Public Lands, to which was referred the bill (S. 71) for the consolidation of the offices of register and receiver in district land offices in certain cases, and for other purposes, reported the same with amendments, accompanied by a report (No. 409), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

He also, from the same committee, to which was referred the bill (H. R. 8119) for the relief of certain persons, their heirs or assigns, who heretofore relinquished lands inside national forests to the United States, reported the same with an amendment, accompanied by a report (No. 410), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. BLAND of Indiana, from the Committee on Industrial Arts and Expositions, to which was referred the joint resolution (H. J. Res. 200) accepting the invitation of the Republic of Brazil to take part in an international exposition to be held at Rio de Janeiro in 1922, reported the same with amendments, accompanied by a report (No. 411), which said joint resolution and report were referred to the Committee of the Whole House on the state of the Union.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 8619) granting an increase of pension to Stella Joplin; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 8491) granting an increase of pension to D. Casto Nutter; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. DYER: A bill (H. R. 8726) to provide half fare for children riding on the street railways operating within the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. JOHNSON of Washington: A bill (H. R. 8727) to provide for the guidance and protection, the better economic distribution, and the better adjustment of the foreign-born residents of the United States; to repeal all laws heretofore enacted relating to the naturalization of aliens; to establish a uniform system for the naturalization of aliens throughout the United States; and to create a bureau of citizenship in the Department of Labor, and for other purposes; to the Committee on Immigration and Naturalization.

By Mr. WOODYARD: A bill (H. R. 8728) to enlarge, extend, and remodel the post-office building at Parkersburg, W. Va.; to the Committee on Public Buildings and Grounds.

By Mr. MILLSPAUGH: A bill (H. R. 8729) to provide for the erection of a public building on ground already acquired at Unionville, in the State of Missouri; to the Committee on Public Buildings and Grounds.

By Mr. BLAND of Virginia: A bill (H. R. 8730) to amend section 13 of the river and harbor act of March 3, 1899; to the Committee on Rivers and Harbors.

By Mr. WOODS of Virginia: A bill (H. R. 8742) to further regulate certain public-service corporations operating within the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CANNON: A bill (H. R. 8731) granting a pension to Eliza J. Adams; to the Committee on Invalid Pensions.

By Mr. FIELDS: A bill (H. R. 8732) granting a pension to Nancy Mastin; to the Committee on Invalid Pensions.

By Mr. HAUGEN: A bill (H. R. 8733) for the relief of Harold L. McKinley; to the Committee on War Claims.

By Mr. HUDDLESTON: A bill (H. R. 8734) granting a pension to Roy Thomas Sharitt, Lillian Maybelle Sharitt, Alice Inez Sharitt, and Amos L. Sharitt; to the Committee on Pensions.

By Mr. McCLINTIC: A bill (H. R. 8735) granting an increase of pension to Malvern H. Miller; to the Committee on Pensions.

By Mr. PARKS of Arkansas: A bill (H. R. 8736) to survey the Red River in Arkansas and Louisiana with a view to the control of its floods; to the Committee on Flood Control.

By Mr. SANDERS of Indiana: A bill (H. R. 8737) granting a pension to Eliza F. Moran; to the Committee on Invalid Pensions.

By Mr. SANDERS of New York: A bill (H. R. 8738) granting a pension to Charles R. Burnett; to the Committee on Invalid Pensions.

By Mr. TAYLOR of Tennessee: A bill (H. R. 8739) granting a pension to Eliza J. Vandergriff; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8740) granting a pension to America Franks; to the Committee on Invalid Pensions.

By Mr. WOODYARD: A bill (H. R. 8741) granting a pension to Rosalie Vincent; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

2749. By Mr. BURROUGHS: Petition of Judson Bible Class of Men, of the First Baptist Church of Nashua, N. H., indorsing the constitutional amendment to prohibit sectarian appropriations; to the Committee on the Judiciary.

2750. By Mr. KELLEY of Michigan: Petition of Wesley D. Smith, commander, and the members of Dewey Post, Grand Army of the Republic, of Leslie, Mich., in favor of the passage of legislation granting an increased rate of pension for Civil War veterans and their widows; to the Committee on Invalid Pensions.

2751. By Mr. KISSEL: Petition of James M. Motley, of New York City; to the Committee on Ways and Means.

2752. Also, petition of the Charles A. Schieren Co., of New York City; to the Committee on Ways and Means.

2753. By Mr. MICHENER: Petition of divers citizens of Michigan, protesting against passing the compulsory Sunday observance bill (H. R. 4388); to the Committee on the District of Columbia.

2754. Also, petition of Dewey Post, Grand Army of the Republic, of Leslie, Mich., relative to a Civil War pension bill; to the Committee on Invalid Pensions.

2755. By Mr. SANDERS of New York: Petition of the Yates Baptist Church, of Lyndonville, N. Y., indorsing House joint resolution 159, proposing to amend the Constitution so as to prohibit sectarian appropriations; to the Committee on the Judiciary.

2756. By Mr. SNELL: Petition of Plattsburg Chamber of Commerce, of Plattsburg, N. Y., uring support of the Smoot tax plan; to the Committee on Ways and Means.

2757. By Mr. SNYDER: Petition of Baraca class of the Baptist Church of Herkimer, N. Y., against the bill providing for the licensing of the manufacture of beer of 2.25 per cent alcoholic content and the imposition of a tax of $25 per barrel upon such beer; to the Committee on the Judiciary.

SENATE.

TUESDAY, *October 18, 1921.*

(Legislative day of Friday, October 14, 1921.)

The Senate reassembled at 12 o'clock meridian, on the expiration of the recess.

Mr. LODGE. Mr. President, I make the point of no quorum.

The PRESIDENT pro tempore. The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Ashurst	Fletcher	McCormick	Reed
Ball	Frelinghuysen	McCumber	Sheppard
Borah	Gerry	McKellar	Shortridge
Brandegee	Glass	McKinley	Simmons
Broussard	Gooding	McLean	Smoot
Bursum	Hale	McNary	Spencer
Calder	Harreld	Moses	Stanley
Cameron	Harris	Nelson	Sterling
Capper	Harrison	New	Sutherland
Caraway	Heflin	Newberry	Swanson
Colt	Hitchcock	Nicholson	Trammell
Culberson	Johnson	Norbeck	Underwood
Cummins	Jones, N. Mex.	Oddie	Wadsworth
Curtis	Kellogg	Overman	Walsh, Mass.
Dial	Kendrick	Owen	Walsh, Mont.
Dillingham	Kenyon	Page	Warren
du Pont	Keyes	Penrose	Watson, Ga.
Edge	King	Pittman	Watson, Ind.
Elkins	La Follette	Poindexter	Weller
Ernst	Lenroot	Pomerene	Williams
Fernald	Lodge	Ransdell	Willis

The PRESIDENT pro tempore. Eighty-four Senators have answered to their names. There is a quorum present. The Senate, as in legislative session, will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, announced that the House had passed without amendment the bill (S. 2504) providing for the readmission of certain deficient midshipmen to the United States Naval Academy.

The message also announced that the House had passed bills of the following titles, in which it requested the concurrence of the Senate:

H. R. 216. An act to incorporate the Disabled American Veterans of the World War;

H. R. 6119. An act for the coinage of a Grant souvenir gold dollar in commemoration of the centenary of the birth of Gen. Ulysses S. Grant, late President of the United States; and

H. R. 7761. An act to amend the Revised Statutes of the United States relative to proceedings in contested-election cases.

FUNERAL OF THE LATE SENATOR KNOX.

Mr. PENROSE. Mr. President, I ask unanimous consent, as in legislative session, to submit a resolution, and I ask to have it read.

There being no objection, the resolution (S. Res. 154), as in legislative session, was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate, as follows:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay, from the miscellaneous items of the contingent fund of the Senate, the actual and necessary expenses incurred by the committee appointed by the President of the Senate in arranging for and attending the funeral of the Hon. PHILANDER CHASE KNOX, late a Senator from the State of Pennsylvania, upon vouchers to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

TREATY OF PEACE WITH GERMANY.

The Senate, as in Committee of the Whole and in open executive session, resumed the consideration of the treaty of peace with Germany.

Mr. JOHNSON. Mr. President, yesterday I voted for the amendment of the Senator from Missouri [Mr. REED] because it expressed in words what the leader upon the Republican side has iterated and reiterated was the fact, and because I could see no reason why the fact that we assumed no obligations under the Versailles treaty, so emphatically and authoritatively declared by the Senator from Massachusetts [Mr. LODGE], should not in the present treaty be stated in language plain and explicit, rather than in the equivocal terms employed.

Because of the views I have entertained, which I have never hesitated to express, concerning the League of Nations and the Versailles treaty I favor the ratification of the pending treaty with Germany. The debate in and out of the Senate upon the treaty with Germany has been peculiar, presenting many paradoxical situations. It has served, in the main, to illustrate the infinite variety of the human mind. The treaty is opposed on the one hand as a betrayal of our allies, and on the other hand as a betrayal of our own people. The League of Nations press declaims against ratification because thus we will desert those with whom we fought and will pursue the policy of aloofness and isolation which they have never ceased to denounce. Some of the opponents of the League of Nations with equal emphasis insist that ratification of the treaty means the very partnership and embroilment which they have consistently opposed and which the pro-league press has so ardently desired.

In my humble way I have done whatever lay in my power to prevent entanglements with Europe or departure from the policy which this country has ever followed. No less earnestly in the future than in the past will I pursue this course. If I believed the ratification of the German treaty would take us into the maelstrom of European controversies and wars I would not, of course, vote for it. I do not believe ratification is subject either to the objection made by those who favor the League of Nations or by some of those who opposed the League of Nations. By the ratification of this treaty we do not desert our allies; we abandon certain international bankers, and whatever odium might attach to this I am perfectly willing to accept. The charge that there is a base betrayal by our country in this treaty is a fulmination as unfounded and futile as the economic formula of a respectable intellectual.

On the other hand, it is claimed that by the ratification of this treaty we do, as a matter of fact, become a part of Europe's difficulties and a factor in every future European controversy. As I understand the arguments, this conclusion is reached because it is claimed that the treaty is a recognition of the Versailles treaty, which, under no circumstances, should be recognized by the United States, and is the initial step to membership in the Reparation Commission, which by that treaty is created the receiver or supergovernment of the Central European powers. It is conceded that the terms of this treaty do not take us into the Reparation Commission, but that the Secretary of State has asserted his desire to have the United States a part of the Reparation Commission, and that ratification will afford him ample excuse for carrying out his purpose.

The Colombian treaty and the soldiers' bonus leave no illusions as to what might be done here if the administration insists upon a particular course. I recognize, I think, the possibilities and the dangers of the future to the policy that is so

near and so dear to the men who, in this body, formed the thin ranks of the "irreconcilables." In my judgment, the reparations provisions of the Versailles treaty are revolting to every advocate of future peace and every lover of liberty. I concede the sincerity of view that may be otherwise held, and I would not, of course, question the good intent of the Secretary of State. From what has been said, it is apparent he desires to take us into this Reparation Commission; but I remember very vividly that Mr. Hughes desired to take us into the League of Nations, and the restraining hand of the President withheld him. I recall that Mr. Hughes desired to send back to us the Versailles treaty, which now is so roundly denounced upon this floor, and again it was the power of the President which prevented it. I speak thus plainly of the situation, not only because of the arguments here made but because the importance of the occasion demands it. I do not speak in criticism of the Secretary of State. In the brief period that he has held office he has risen to great heights, and he ranks now with the Secretaries of State of whom we have been most proud. But I recognize, too, that he has been one of those who, mistakenly, would have taken us into the maelstrom of Europe. His views constitute the danger of the future. The hope is with the President. If the endeavor is made hereafter to take us into the Reparation Commission and make us a part of all that which so narrowly we have escaped; if again it is sought to make us a partner in boundary line disputes and in controversies and wars with which we have no concern; indeed, if under one guise or another the destruction of the settled policy of this Nation, settled not only by all those who have gone before but by 8,000,000 majority of the present generation at the last election, is attempted, I shall be no less active or irreconcilable than in the contest which was finally won before the American people themselves.

Mr. President, I am unable to see that we are guilty of any wrong in claiming whatever may be our rights under the Versailles treaty. It is vigorously asserted that under no circumstances should we mention, and thus, even inferentially, give our sanction to that treaty. We do not sanction it by accepting what is our own. Were this so, long since our sanction has been given and the wrong has been done, for our sole right to the island of Yap, which has become so important strategically, is based upon the Versailles treaty. The position which we assume concerning Yap and all the islands embraced within the mandate provisions, and I think the position has been acquiesced in by everybody, has been that our rights are granted by the Versailles treaty and our title is founded upon it. Moreover, historically recall the successive steps leading to the present German treaty. The Foreign Relations Committee, with absolute unanimity on the Republican side, reported the first Knox resolution. The Senate adopted this resolution. After the passage of the first resolution President Wilson vetoed it, but there was substantial unanimity on the Republican side for the first of the peace resolutions. We passed the second Knox resolution, again with absolute unanimity on the Republican side of the Foreign Relations Committee and with substantial unanimity upon the Republican side in this Chamber. This second resolution passed by us President Harding subscribed to. In both resolutions not only did we refer to the Versailles treaty but we specifically provided that our rights under it should be reserved in any treaty with Germany. We stated in our peace resolution—

> That in making this declaration, and as a part of it, there are expressly reserved to the United States of America and its nationals any and all rights, privileges, indemnities, reparations, and advantages * * * which, under the treaty of Versailles, have been stipulated for its or their benefit.

Thus twice Congress, and more particularly the Senate, and more particularly still the Republican members of the Foreign Relations Committee, have directed that in the making of a peace our rights under the treaty of Versailles should be reserved. This is exactly what the treaty does. If we had not desired the President to mention in any fashion the treaty of Versailles in our treaty with Germany, if we felt we ought not to accept what is our due under this iniquitous instrument, the time for us to have said so was when we adopted the peace resolutions. But when twice in these peace resolutions we solemnly commanded that our rights under the Versailles treaty should be reserved to us in any peace made, we can not complain now when our express command has been explicitly followed. If the doctrine of estoppel could ever be applied to matters of this sort, here it would be peculiarly apt.

That we must enter the Reparation Commission to obtain our due by no means follows from the ratification of this treaty. It is asserted that the Reparation Commission is the receiver of Germany; that it constitutes the controlling power in Germany's future economic life and, indeed, in Germany's future existence. From this premise, with which I agree, it is argued that we can only obtain our rights under the Versailles treaty by action of the Reparation Commission. The fallacy of this, I think, has been demonstrated. But the argument proves too much. If it be sound concerning the claims that are embraced within this treaty, it must be so with all claims. Any treaty or no treaty, therefore, would be subject to exactly the same objection. If no admitted claim against Germany can be liquidated without the intervention of the Reparation Commission, the fact that we reserve by this treaty our rights under the Versailles treaty puts us in no different situation than we would be in with our claims under any kind of treaty or without any treaty at all. We have endeavored to protect our country against entry into the Reparation Commission or any other commission by providing in the resolution of ratification that we shall not be represented in any way upon the bodies created by the Versailles treaty until Congress shall decree it. This in the light of our disillusionment may be but a slender barrier, but it is the only one we can interpose. If Congress is no longer responsive to the people, we may despair of democracy. Remember, too, the recent emphatic expression of our people still reechoes throughout the land.

We have here, therefore, a treaty made in accordance with the expressed will of the Senate and of Congress. Admittedly it does none of the things which are feared by its opponents. According to them it only makes possible the wrongs they fear. With them I am trying to visualize the future. The menace which has been so valiantly and ably fought by the Senator from Missouri and the Senator from Idaho lies not in this treaty but may be near at hand. May we have the same strength, the same unity of purpose, the same courage for the preservation of America's heritage in the days to come that in the immediate past preserved it.

REMARKS OF THE SECRETARY OF STATE MADE TO THE NEW CLASS OF DIPLOMATIC SECRETARIES AT A LUNCHEON GIVEN ON OCTOBER 13, 1921, BY THIRD ASSISTANT SECRETARY BLISS.

Well, Mr. Bliss, I don't feel like saying anything that is formal in the slightest degree on an occasion of this sort. I find myself as one who has been chosen to be president of a university of which he is not a graduate! That has always struck me as a situation of some embarrassment. But, of course, I do congratulate you very heartily on your entrance into this career. While I have not had the advantage of training in diplomatic work and have been associated with a very different sort of life, there is no one who cherishes more deeply the ideals of the diplomatic career than do I; and all that I can say is by way of emphasis upon the vast importance of representing the country at this time.

Of course, I assume that you have had, as I have had, moments when you were inclined to despair of the future of the Diplomatic Service because of the apparent lack of appreciation on the part of so many of our good American people of the vital importance of the maintenance of that service. Whenever I hear anyone, in or out of public office, who decries the quality of the work that is done by those who are members of our diplomatic staffs, I feel as though the country has received a wound. I always dislike to hear any words of disparagement, because they are words that reveal utter misunderstanding of the relation of this Government to other governments and the only way in which a friendly cooperation can be maintained and the rights of our own people secured.

Now, I hope that all that has been done to improve the Diplomatic Service—to establish and maintain the best standards of work in the service—is only a beginning of what we shall accomplish as we are forced into more and more important relations with other countries as the intimacy of relation is increased, and I feel that the American people are so keen, so intelligent, so observant of their interests, that it is only a question of time when the full dignity, worth, and necessity of the Diplomatic Service, as those appreciate it who are intimately connected with it, will be recognized generally.

In the meantime, you have the satisfaction that comes from a knowledge that those who know anything about what you are doing, and whose opinion really counts, are fully aware of the importance of the career and of the splendid work that is being done by the men who are in it.

Now, I belong to the profession of lawyers, for whom a good word is never spoken by anyone outside the profession. I have yet to hear of anyone, however intelligent, who does not in his confidences berate that great and noble profession to which I have given my life. But that is never disturbing at all, because all these people who indulge in these gibes, slams, tirades about lawyers, when they get even within speaking distance of trouble will at once put their complete trust and confidence in some lawyer and reckon his friendship and support as the most valuable of all their possessions.

And so it is with our good American people, as you will find abroad in connection with your work. You will observe that the moment there is a hint of trouble that the Diplomatic Service is appreciated and its necessity recognized.

I think we are entering on a new phase of the world's history. I was just saying to my neighbor here that nobody at any crisis in history, however well informed, had apparently ever been able to predict what was coming with any degree of exactitude. I don't suppose we are any better off than those who preceded us at critical periods, but we do know that with the unsettled condition in which the whole world is found at this time, and in many respects with situations to which there has been nothing analogous in the past, with our country, embarrassed by its relative wealth, never stronger than it is to-day, and, despite all the differences exhibited in our political contests, never better united in sentiment than it is to-day, our country has a rôle to play in the world of which it is not fully conscious and for which none of its previous activities have properly prepared it. The corollary, of course, to that is that the country will have to rely upon such experi-

ence and ability as it can command, and in this service men of training and men who make a special study of conditions as affecting the relations between countries will be in great demand.

You are entering upon a service which is richer in its promise today than it has ever been—I speak from the vantage ground of one who does not admit being old, but has had a number of years—and I don't think that young men realize—I never did—how rapidly the generation ahead of them passes away and how rapidly the opportunities are developing for the young men that are coming along.

When I was admitted to the bar 37 years ago it seemed to me that all the places ahead were jammed full and that no man of effort could ever establish a place in the front ranks of the profession. All the men that I knew then and looked up to, all passed away, and the younger men of ability and strength found themselves in positions of leadership in a few years. No young man of health has any reason whatever to have misgivings about his future if he is intelligent and industrious. His real gauge is his relation to what is being done by his own generation. His generation will have its day and rule the world, and his object should be that with his own generation, by his industry and the use of the ability he has he will always be in the place that he was intended to occupy and that when his generation rules the world he will be there as one of its chief rulers because of his helpful work and influence, and I hope you will all be in that class.

Mr. REED. Mr. President——

The PRESIDENT pro tempore. Does the Senator from California yield to the Senator from Missouri?

Mr. JOHNSON. I yield.

Mr. REED. The Senator from California, whom I hold in the highest esteem and respect, has stated that the Secretary of State desired to resubmit to the Senate the Versailles treaty and that he was kept from so doing by the President. I think the Senator stated that the Secretary of State is also desirous of submitting our claims for reparation to the Reparation Commission, but he did not state whether the President would stop that or would not stop it. The casual listener might have been led to think that perhaps the Senator meant that the President would stop it.

Mr. JOHNSON. Mr. President, was the Senator about to ask me a question?

Mr. REED. I am proceeding to ask a question now.

Mr. JOHNSON. I will be delighted to have the Senator ask me a question.

Mr. REED. I shall make my question short, but I have to make a brief statement in order that my question may be plain. The casual listener might have thought that the Senator intended to say that the President would keep the Secretary of State from putting us into the Reparation Commission. I simply wanted to ask the Senator if he meant to say that the President would do that?

Mr. JOHNSON. Mr. President, what I said was that the danger lies with the views of the Secretary of State; the hope rests with the President. More than that I can not say. I am not speaking either for the Secretary of State or the President; I have no authority to speak for either of them; but what I have said concerning the activities of the Secretary of State has been said from what has been stated upon the floor of this body during the debate in the days gone by.

Mr. REED. Then I should like to ask the Senator one further question. Is it not the Senator's understanding that the President has already indicated that he believes that the United States ought to enter the Reparation Commission?

Mr. JOHNSON. Mr. President, I have no such understanding.

Mr. REED. It has been so stated on the floor of the Senate.

Mr. JOHNSON. I wish to say to the Senator from Missouri, however, that unfortunately on the one occasion when matters of this sort were discussed and the Secretary of State expressed his views, and possibly the President may have expressed his, I was not present at the meeting of the Foreign Relations Committee; I was absent from the city.

Mr. HITCHCOCK. Mr. President, the first conclusion which I reached in considering the pending treaty was that I ought to approach it from a nonpartisan standpoint and not as a party question. It is not and it ought not to be a partisan issue.

I am well aware, Mr. President, that some Democratic Senators may be tempted to kill this treaty because, if killed, it would throw into confusion the foreign policy of President Harding. I appreciate fully that some Senators feel that they would be justified in wrecking President Harding's foreign policy in the same way that Republican Senators, by partisan action, wrecked in the last year of his administration the foreign policy of Woodrow Wilson.

But, Mr. President, when my Republican friends took the responsibility of wrecking the foreign policy of Woodrow Wilson, they wrecked something else. When they put the United States in the position of refusing to join in the great work of rehabilitating the world, they brought upon the United States, then the most prosperous Nation in the world, the beginnings of a long depression that we have now suffered from for more than a year. I am not willing to be responsible for doing anything that will prolong this disastrous and dangerous condition.

When the foreign policy of Woodrow Wilson was wrecked, business began its decline, and changed gradually from a condition of prosperity to one of loss. When that foreign policy was wrecked, there began a condition which threw labor into idleness. When that foreign policy was wrecked and the greatest Nation in the world became an uncertain factor in world affairs, the surplus products of the United States began to pile up on our hands, factories began to close, and prices began to fall.

Mr. BORAH. Mr. President——

Mr. HITCHCOCK. For a brief interruption, I yield.

Mr. BORAH. I simply want to make a very brief interruption.

The Senator has described a cataclysm which was brought upon the world by defeating the League of Nations. Does he think that the ratification of this treaty will restore conditions?

Mr. HITCHCOCK. No.

Mr. BORAH. That is what I thought.

Mr. HITCHCOCK. We never again will have the opportunity that we had when the Versailles treaty was before us to rehabilitate the world, stabilize governmental conditions, and continue the business prosperity that we then enjoyed.

Mr. BORAH. If I may interrupt the Senator once more, does he claim that the ratification of this treaty will restore business prosperity in the United States?

Mr. HITCHCOCK. I claim that to defeat the treaty will absolutely prolong the present condition of doubt and uncertainty, and that to ratify this treaty and resume diplomatic and consular and friendly relations with Germany will be the first and absolutely necessary step in the direction of restoring normal conditions in the international world.

Mr. BORAH. Does the Senator take the view that it will restore conditions?

Mr. HITCHCOCK. I think it will help. It is the first absolutely necessary step that must be taken before conditions can improve.

Mr. WATSON of Georgia. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Nebraska yield to the Senator from Georgia?

Mr. HITCHCOCK. Very briefly. I will ask the Senator not to interrupt me unless he can make the interruption very brief.

Mr. WATSON of Georgia. I will make it very brief.

Mr. HITCHCOCK. Not a speech, but a question, if the Senator pleases.

Mr. WATSON of Georgia. I am going to make it a question. To what extent does the Senator think that Woodrow Wilson's illegal blockade of Russia injured our trade, in cotton and wheat, for instance?

Mr. HITCHCOCK. I can only treat that as an irrelevant question.

Mr. WATSON of Georgia. Because the Senator can not answer it.

Mr. HITCHCOCK. If I wanted to answer it I should want to take the time to answer it, and I am not going into the past. I am dealing with the present and the future.

Mr. President, people differ, and they always will differ, on the question of whether, in the last election, the people of the United States decided in favor of going into the league or against it. Some say the decision was one way, and some say the decision was the other. I say we can not tell; but one thing is certain, and that is that by a painfully large majority the people of the United States elected a Chief Executive whose constitutional right and constitutional duty it is to mark out the foreign policy of the United States, and he has taken the responsibility of deciding that for the present we are not going into the league, and he has decided upon a separate treaty of peace with Germany.

The issue is not whether or not we are going into the league; it is not between the Versailles treaty and the pending treaty. The issue is between this treaty and no treaty; between this treaty and a condition of uncertainty. To defeat this treaty can not possibly revive the Versailles treaty. It simply leaves us in the slough of despond and of doubt that we have been wallowing in now for a year and more.

Mr. REED and Mr. POINDEXTER addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from Nebraska yield; and if so, to whom?

Mr. HITCHCOCK. I yield to the Senator from Missouri.

Mr. REED. What clause of the Constitution declares that the President shall mark out and direct the foreign policy of the country?

Mr. HITCHCOCK. The clause of the Constitution which gives to the President the initiative in negotiating treaties, and places upon the Senate the power and the authority to ratify, if it pleases, the treaties when they are made.

Mr. REED. Yes; and to reject if it pleases.

Mr. HITCHCOCK. And to reject if it pleases; but the President is the one who is endowed with the power to negotiate treaties. It is for the President to decide, and he has decided what he would do.

Mr. POINDEXTER. Mr. President, I agree with the Senator's position on this particular matter; but I was just going to suggest that when he says that the Constitution gives into the hands of the President the authority to mark out the foreign policy of the Nation, that is entirely subject to the law, subject to action that may be taken by Congress, and it is particularly subject to the advice and consent of the Senate.

Mr. HITCHCOCK. Oh, of course; but my point is that whether or not the people in the last election decided in favor of going into the league or staying out of the league, President Harding, with the sole and only power, has decided to stay out of it for the present, at least. The issue, therefore, at this moment is not league or no league; it is not this treaty or the Versailles treaty; it is this treaty or no treaty; and those who vote in the negative on this question need not delude themselves with the idea that they are voting in favor of going into the Versailles treaty. They are voting in favor of continued doubt and uncertainty.

Mr. REED. Of course, Mr. President, if the Senator will pardon me, he does not mean to say that if this treaty is rejected another one can not be negotiated; neither does he mean to say that the Senate can not amend this treaty in any manner it sees fit and send it back to the President, and that in that event Germany might not accept it at once.

Mr. HITCHCOCK. Mr. President, it would be a delightful sight to see some of the Senators who are opposing the ratification of this treaty, in case of its rejection, sit down together to agree upon a treaty to take its place.

Can you imagine, for instance, the Senator from Missouri, Mr. REED, with his well-known views against internationalism which lead him to vote against the ratification of this treaty, sitting down with the Senator from Virginia, Mr. CARTER GLASS, who is devoted to internationalism and who is also going to vote against the ratification, to frame a new treaty? How long would it be before they could agree upon a treaty to take its place?

Or can you imagine in your wildest dreams the Senator from Idaho, Mr. BORAH, who is opposed to all forms of internationalism whatever, who is opposed to going into this treaty because it takes us too far into European affairs and who is going to vote against the treaty on that account, sitting down with the Senator from Mississippi, Mr. WILLIAMS, who is going to vote against this treaty for exactly the opposite reasons?

So, I say, if you reject this treaty and leave it to the people who are voting against it, there is no possibility of knowing what the product of their combined and contradictory opinions would be.

The issue is a choice between this treaty and no settlement indefinitely; and a vote against this treaty is, in my opinion, a vote against a settlement when we need a settlement above all other things.

Mr. President, our troubles are international. They are not domestic. They must have an international cure. A domestic cure will not affect the result.

We have in this country the same assets that we had during the eight prosperous years of Woodrow Wilson's administration, before the war, during the war, and after the war for a year and a half or more. We have all those assets still—tremendous capital, unlimited labor, vast natural resources, enormous crops, tremendous manufacturing facilities, a magnificent transportation system—and yet to-day the country is in distress. Why is it? It is in distress because it is not able to sell its surplus products to the rest of the world. It can not sell its cotton, it can not profitably sell its agricultural products, it can not sell its great products of the copper mines of the West, it can not sell its $2,000,000,000 of manufactured products which the factories of this country can make over and above our own power to consume. The result is that we have from 3,000,000 to 5,000,000 men out of work, and distress in every possible industry in the United States, and from ocean to ocean. So I say the depression is international, and it can be remedied only by such an international act as will bring back the relations that formerly existed and that made us prosperous.

Mr. REED. Mr. President, will the Senator yield to me just for a question?

Mr. HITCHCOCK. I yield.

Mr. REED. The Senator said that our troubles are purely international; that we have everything we had before the war. We have a debt of $28,000,000,000 which we did not have before the war. We have a burden upon us in caring for soldiers who were injured amounting to about $600,000,000 a year which we did not have before the war.

Mr. HITCHCOCK. I hope the Senator will not undertake to answer me in my own time.

Mr. REED. We have taxes——

Mr. HITCHCOCK. I realize all the Senator says. I recognize the debt and I recognize the taxes.

Mr. REED. That has not anything to do with our prosperity.

Mr. HITCHCOCK. This debt is made intolerably hard, and these taxes are made intolerably high because the business that was prosperous two years ago and could pay its taxes readily is now reduced to hard times, and it is those hard times which makes the taxes hard to pay, not the amount of the taxes. Reduce the taxes 50 per cent below what they were two years ago, and they will still be hard on the American business man, harder than they were at that time. It is because his business has been destroyed by these conditions.

I have been asked, Mr. President, how I could vote for the ratification of a separate treaty with Germany when the Democratic platform of 1920 declared against a separate treaty with Germany.

Mr. President, that Democratic platform presented that declaration to the people of the United States as one of the issues of the campaign, the people decided against it, and they elected President Harding, and if he presents a separate treaty he presents it upon one of the decided issues of the campaign, settled as much as issues of the Civil War were settled.

Mr. CARAWAY. Does the Senator also think that the election settled the tariff question and the revenue question?

Mr. HITCHCOCK. Those are continuing issues that last from generation to generation, that change with the Congress; but you can not change treaties in that way; you can not change international relations in that way. The foreign policy of the United States was the great, dominant issue of the campaign.

Mr. JONES of New Mexico and Mr. BRANDEGEE addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from Nebraska yield, and, if so, to whom?

Mr. HITCHCOCK. I yield to the Senator from New Mexico.

Mr. JONES of New Mexico. I would like to get some enlightenment, if I can, regarding the statement the Senator has just made. He said that the people of this country in the last election decided against the platform of the Democratic Party, and declared in favor of a separate treaty with Germany. I should like to get some enlightenment, if I can, as to how the Senator reaches that conclusion; how he is able to say that the people at the last election decided in favor of a separate treaty with Germany.

Mr. HITCHCOCK. I will answer the Senator briefly. If Cox had been elected President of the United States, he would have returned the Versailles treaty to the Senate for ratification; but Harding was elected, and he, under the powers entrusted to him by the people, and under the authority of the Constitution, elects to send this treaty to the Senate, and it is for us to decide between this treaty and nothing. I want to call the Senator's attention to another thing. The Democratic Senators of this body met in conference, and the only thing they could definitely decide was that this should not be made a party question. Senators who were opposed to the treaty, and Senators who were for the treaty, concurred in the view that this should be left to the individual conscience and judgment of each Senator. So that we stand here now with that conference of the Democratic Senators behind that position.

Mr. FLETCHER. Mr. President, is it not also true that the question of a separate peace with Germany was determined when the Knox resolution was adopted?

Mr. HITCHCOCK. It was.

Mr. FLETCHER. The Democrats voted against that resolution pretty universally.

Mr. HITCHCOCK. The Knox resolution became the law of the land.

Mr. FLETCHER. Exactly.

Mr. HITCHCOCK. We bow to the law of the land when it is enacted.

Mr. BRANDEGEE. Mr. President——

Mr. HITCHCOCK. I yield to the Senator.

Mr. BRANDEGEE. I want for my own information to understand, if I can, the attitude of the Senator. I understood him to say in the opening of his speech that he was in doubt as to what the people had decided in the last election. Now, I understand he says that they definitely rejected the policy of Mr. Wilson.

Mr. HITCHCOCK. The Senator is mistaken in quoting me. I said doubt existed, some claiming one thing and some claim-

ing another. My feeling is that the people of the United States believed that when Harding was elected President he would find some way to take us into the league. Many Democrats who voted against him hoped so, and a large proportion of the Republicans who voted for him thought so; but I admit that it may be called a question of doubt, because no one can decide it.

Mr. President, I think it is high time, after we have been through with this war for three years, that we should come to a settlement. Certainly if three years are not enough there is no way of deciding what length of time might be sufficeint.

I want to call the attention of my friends to this fact, that Germany is now one of the democracies of the world. The present Government of Germany is in danger. It is confronted by the bolshevists on the one side, and by the determined, revenge-seeking program of the military party on the other. The present German Government, however, is a democracy; it depends upon the will of the people. It is developing into a republic as France has developed into a republic, and it will be for the welfare of the world if Germany can remain a democracy and not by a retrograde movement fall again into the hands of the imperialists.

The present German Government has ratified this treaty not only willingly but eagerly. The ratification of this treaty is important to the German Government. It brings the United States and Germany into close diplomatic, consular, and friendly relations. Should the United States reject this treaty it will be a blow to the present government in Germany, which might threaten its overthrow and thus result in the reinstatement of the military party. The United States, as the greatest Republic of the world, is interested in preserving democracy in Germany, and there is a very good reason why the American people, in the interest of the future, in the interest of democracy all over the world, should by the prompt ratification of this treaty enter into the friendly relations with Germany which the United States ought to have with all democracies in the world.

Mr. REED. Mr. President, will the Senator enlighten us on the proposition he has just made, that the present German Government is likely to fall if we do not ratify this treaty? What evidence is there to base that statement on?

Mr. HITCHCOCK. It is a part of the policy of the present German Government to make this treaty, and it is opposed almost exclusively by the military party, and to refuse the ratification of this treaty, to refuse to hold out the hand of friendship to the new democracy in Europe, would undoubtedly enormously strengthen the influence of the military party of Germany. Thus with the other difficulties and the other dangers which confront the present democracy of Germany it might result in its overthrow.

Mr. BRANDEGEE. Mr. President——

The PRESIDENT pro tempore. Does the Senator yield to the Senator from Connecticut?

Mr. HITCHCOCK. I yield.

Mr. BRANDEGEE. I simply wanted to reinforce what the Senator said about the ratification of the treaty by the German Government. It was ratified by an overwhelming majority of the members of both branches of the German legislative assembly.

Mr. HITCHCOCK. Yes; that is my understanding.

Mr. REED. Mr. President, I want to ask the Senator now upon what evidence he bases the statement that the military party in Germany sought to have this treaty rejected. I have read all the literature I could get, and I never found any intimation of that kind.

Mr. HITCHCOCK. The military party in Germany is bent on revenge. The military party in Germany is bent on the reinstatement of Germany as a military and imperialistic power. The military party in Germany was opposed to the Versailles treaty, and to entering into any treaty that might be offered. It is a party of opposition. It is the party of defiance. It hopes yet to resort to the sword to reinstate Germany in power.

Mr. REED. What has this treaty to do with it?

Mr. HITCHCOCK. Just that much, as I have stated.

Mr. GLASS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Nebraska yield to the Senator from Virginia?

Mr. HITCHCOCK. I yield.

Mr. GLASS. Is it not a fact that the only comprehensive reason given in the Reichstag for the ratification of this treaty was that it was so full of holes it soon could be torn to pieces?

Mr. HITCHCOCK. I saw some newspaper statement to that effect; but I think that if this treaty is entered into, it will never be torn to pieces. It is a treaty in general terms.

Mr. GLASS. It is not a question of what the Senator thinks; it is a question of what the German Reichstag thinks, and the definite official statement was, in explanation of the treaty, that aside from the compulsion incident to its ratification, it was so full of holes that it might be torn to pieces.

Mr. HITCHCOCK. It is a mistake to say that this treaty was ratified by the Reichstag because of compulsion. This is one of the treaties that Germany has ratified voluntarily, because the German people realize that they are to get benefits out of it; they are to have the privilege of sending their consuls here, we are to have the privilege of sending our consuls there, and instead of business being carried on, as it is now, through Spanish representatives on the part of the United States, and through Swiss representatives on the part of Germany, business relations will be resumed directly between the German representatives and the American representatives.

That means that Germany will be able to export to us much more of her products than she can now, and under more favorable conditions. It means that we will be able to export to Germany much more of our surplus than we can now under the present embarrassed conditions. It means that Germans will know what their rights are in the United States, and Americans will know what their rights are in Germany. It means the resumption of close, friendly relations between these two great peoples, now each under a democratic form of government. It means an early settlement of claims of our citizens against Germany and thereupon the return to German citizens in America of several hundred million dollars' worth of property which our Government seized.

Mr. REED. Let me ask the Senator this question: How will Germans know what their rights are in the United States when this treaty expressly impounds German private property, seized in the United States, and holds it subject to the action which may be taken, in 1 or in 10 years from now, between this Government and Germany?

Mr. HITCHCOCK. There are two views of that question. Some claim that the United States has not adequately protected its own rights and the interests of its nationals, and others, as the Senator now indicates, hold that we have gone too far in protecting our own rights.

Mr. REED. Oh, no; I do not contend that.

Mr. HITCHCOCK. I believe that the happy medium has been reached. It is stipulated by this treaty that we shall have all of the rights provided for us in the Knox resolution and all of the rights, privileges, and advantages set forth in the Versaille treaty, and it is specifically declared that we shall hold the hundreds of millions of dollars of German property which we have seized until Germany has made full restitution to the civilians of the United States for damage suffered before and during the war, and I can not conceive that we want anything more than that, and I am confident that the United States Government, after these relations are resumed, will be just as anxious as Germany to settle those claims, and the German Government will be just as anxious for a quick settlement as we will be, because her nationals can not recover their property until that time.

Mr. President, there is something more than Germany and the United States involved in this situation. The rehabilitation of Germany is the great need of Europe to-day. It is the great need of the world to-day. Until Germany has been rehabilitated a start toward progress can not be made. Until Germany has been rehabilitated Germany can not pay the reparations which she has undertaken to pay to France. Until Germany can in the easiest and fullest way get raw materials from the United States, Germany can not, with all her great productive energy, meet the engagements which she has made.

I do not know, Mr. President, whether Germany will be able to pay her reparations or not. Many of the most disinterested and best-informed minds in Europe believe that it will be necessary, for the welfare of Europe, for France as well as for Germany, that some abatement in reparation requirements shall be made in the future. I do not know how that is; but I know this: That after the United States has resumed relations with Germany and is in close and friendly intercourse with Germany, the influence of the United States, the great moral influence of the United States, will be a factor to be reckoned with in favor of restoring good will and better conditions in Europe.

Whether the United States takes its place upon the Reparation Commission or not, the United States will not be in a position to wield its proper influence in European affairs as long as it is technically at war with Germany or as long as it is withholding the right of intercourse from Germany. We have to enter into relations with Germany before we can become the full power for good in Europe which we should be.

The people have commissioned President Harding to act. He has acted, and because I have no choice between this treaty and

prolonged confusion, doubt, and disorder, I am for the ratification of this treaty.

Germany has already twice ratified a treaty made with the United States.

Mr. GLASS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Nebraska yield to the Senator from Virginia?

Mr. HITCHCOCK. I yield.

Mr. GLASS. I wish to ask the Senator from Nebraska what prevents Germany from buying our raw material now? Trade has been resumed with Germany, I have understood, and the State Department has officially announced that nothing prevents the resumption of trade directly with Germany.

Mr. HITCHCOCK. Germany does much business already, but under many difficulties. The first difficulty is that there is not a single German consul in the United States and there can not be. There is not a single American consul in Germany and there can not be. The Consular Service of the two countries is for the purpose of looking after and aiding exports and imports between the two countries. We can not have free intercourse until we have those consular relations. Germans have no right to sue and be sued in American courts. Americans have no right to sue and be sued in German courts. We can not have complete trade relations under those circumstances.

Mr. GLASS. Is it not a fact that consular relations have no appreciable effect upon the direct trade between the two countries? It is unquestionably a fact that trade has been resumed between Germany and the United States and is being carried on every day. That I know of my personal knowledge.

Mr. McKELLAR. Mr. President, will the Senator yield to me?

Mr. HITCHCOCK. I yield.

Mr. McKELLAR. Did we not several months ago pass a joint resolution providing for peace between the United States and Germany and, that having been passed, why are not consuls appointed, why are not representatives exchanged? How do we know that the ratification of the pending treaty will accomplish any more than that joint resolution did? It is substantially the same.

Mr. HITCHCOCK. They said peace, peace, but there was no peace as far as business revival was concerned.

Mr. McKELLAR. Will not this treaty be exactly in the same category with that joint resolution?

Mr. HITCHCOCK. No.

Mr. McKELLAR. How is it going to bring about peace?

Mr. HITCHCOCK. It will be exactly the opposite of the resolution. When that resolution was before the Senate I declared it was an absolute nullity and would have no effect whatever on international conditions and would have no effect on business; that it would not promote peace between the two countries one bit. What I said then was that when this administration came into office, in March, it should immediately have taken up the question of a peace settlement of the issues of war. Now that settlement has been taken up, while it is not in the form I would like to see it, because I would like to see the Versailles treaty ratified with the League of Nations, still it is a peace settlement, just as there was a peace settlement when we signed the treaty of Paris with the Spaniards.

My chief criticism is that too much time has already been lost in taking action. This treaty having been framed, I see nothing for the Senate of the United States to do except to ratify it, and ratify it quickly. We shall thus take the first necessary step to bring us into those relations with Germany which will not only promote our own business with Germany and Germany's business with us but will put us into a condition where we will become again a factor in the great international questions that must be adjusted before the terrible evils of the last war are finally disposed of.

Mr. WALSH of Montana. Mr. President, I should like to suggest to the Senator that probably the statement is not correct that Germans can not sue in our courts. I think in all probability the one thing that the Knox resolution did accomplish was to lift the bar against the prosecution of suits by Germans in our courts. I fully agree with the Senator that the Knox resolution was practically nugatory, but I think it did accomplish that one thing, so that so far as that was an obstacle to commercial intercourse with Germany it was removed some time ago.

Mr. WILLIAMS. Mr. President, I just wish to say a word about one subject which was touched upon by the Senator from Nebraska [Mr. HITCHCOCK]. I somewhat doubt the good taste of referring to it, but still I am going to do it. He said that the utmost that could be done in a conference of Democrats was to declare that this should not be treated as a party question. There was no doubt about the fact that a majority of those at that conference and a majority of the Democrats upon this floor are opposed to entering into this separate treaty with Germany. But I think it was I myself who took the position that no international question ought ever to be made a partisan question in the United States except sometimes pendente bello, when party action might have the effect of intimidating or coercing disloyalty. This is true only when the Nation was actually under arms.

I am still of the opinion and shall hope always to remain of the opinion that party dissensions stop at the coast line and that under no circumstances should an international question ever be made a partisan question. I wanted the record to show that that was the reason for the nonaction and not any fear of the result if the whole question had been merely a question of submitting to a majority vote, whether in that conference or among the Democrats who are Senators.

One other thing, Mr. President. I do not believe that ratifying this treaty could enable Germany to buy another bale of cotton or another ton of foodstuffs from the United States. She is already buying all the raw materials that she has the cash or the credit wherewith to purchase. The trouble with her is the exchange situation and the lack of cash and the lack of credit under the exchange situation, and nothing that will happen to this treaty, either its rejection or adoption, is going to change the exchange situation. Just as long as America has a mountain of gold and is standing up on top of it and is threatening to close all commercial intercourse with the balance of the world and construct a still higher protective tariff for fear somebody else may get a little part of our gold, and therefore enable the exchange situation to be checked, modified, or even reversed—as long as that situation exists nothing in the shape of a treaty between us and Germany would have any effect upon the economic situation. Germany is already buying our raw material to the extent of her cash and credit resources and has helped the South out very much, incidentally, by what purchases of cotton she has been able to make.

I merely wanted to mention those two things in connection with what the Senator from Nebraska has said. I would like to have the Chair note the amount of time that I have consumed, because I do not want to lose the balance of it. I may want some of it later on.

The VICE PRESIDENT. The treaty is before the Senate as in Committee of the Whole and open to amendment.

Mr. OVERMAN. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Ashurst	Fletcher	McCormick	Shortridge
Ball	France	McCumber	Simmons
Borah	Frelinghuysen	McKellar	Spencer
Brandegee	Gerry	McKinley	Stanley
Broussard	Glass	McNary	Sterling
Bursum	Hale	Moses	Sutherland
Calder	Harris	Nelson	Swanson
Cameron	Harrison	New	Townsend
Capper	Heflin	Newberry	Trammell
Caraway	Hitchcock	Nicholson	Wadsworth
Culberson	Johnson	Norbeck	Walsh, Mass.
Cummins	Jones, N. Mex.	Oddie	Walsh, Mont.
Curtis	Kellogg	Overman	Warren
Dial	Kenyon	Pittman	Watson, Ga.
Dillingham	Keyes	Poindexter	Watson, Ind.
du Pont	King	Pomerene	Weller
Edge	La Follette	Ransdell	Williams
Elkins	Lenroot	Reed	Willis
Ernst	Lodge	Sheppard	

The VICE PRESIDENT. Seventy-five Senators having answered to their names, a quorum is present.

Mr. McKELLAR. I should like to ask the chairman of the Committee on Foreign Relations a question. Article 231 of the Versailles treaty provides as follows:

> The allied and associated governments affirm and Germany accepts the responsibility of Germany and her allies for causing all the loss and damage to which the allied and associated governments and their nationals have been subjected as a consequence of the war imposed upon them by the aggression of Germany and her allies.

The question I wish to ask the Senator from Massachusetts is whether in the evidence which was adduced before the committee there was any showing that the negotiator for the United States sought to change that article in any way? The Senator will probably recall that the newspapers at the time the treaty was being negotiated stated that the American commissioner was insistent that Germany should assume full responsibility for the World War and that article 231 was not supposed fully to cover that matter. My question is, Was there any evidence touching that point brought out before the committee or is there anything that has been transmitted by the State Department in reference to the subject?

Mr. LODGE. Does the Senator from Tennessee mean in the negotiations leading to the pending treaty?

Mr. McKELLAR. Yes, sir; I refer to negotiations leading to the pending treaty.

Mr. LODGE. So far as I am informed, the question was never before raised.

Mr. McKELLAR. Does the Senator think that the article which I have quoted is a full assumption by Germany of the responsibility for having begun the war?

Mr. LODGE. Does the Senator mean the provision in the treaty of Versailles?

Mr. McKELLAR. I refer to article 231 of the treaty of Versailles.

Mr. LODGE. I always thought that was an acknowledgment that Germany had brought on the war and was responsible for the war.

Mr. McKELLAR. And that is a part of the pending treaty?

Mr. LODGE. I have not lately read the article to which the Senator from Tennessee refers.

Mr. McKELLAR. The Senator from Massachusetts, then, is of the opinion that that article is a part of the pending treaty? In other words, that in the pending treaty Germany assumes the responsibility for having caused the war?

Mr. LODGE. The pending treaty says nothing about it. The reparation clause is not a part of the pending treaty. The treaty contains nothing in reference to that matter except the statement that the United States may assert its right under the reparation clauses if it so chooses.

Mr. McKELLAR. I probably have a misunderstanding in reference to the matter. Reading from the treaty with Germany which is now under consideration, on page 32 of the document which has been placed before us, I find article 231 of the Versailles treaty included. If the Senator from Massachusetts says that is not a part of the pending treaty, I am wondering why it appears as a part of it?

Mr. LODGE. It is not a part of the pending treaty. The statement is made—

(4) That while the United States is privileged to participate in the Reparation Commission, according to the terms of part 8 of that treaty, and in any other commission established under the treaty or under any agreement supplemental thereto, the United States is not bound to participate in any such commission unless it shall elect to do so.

Mr. McKELLAR. If we so elect by appointing a reparation commissioner, as I am rather inclined to assume will be done, then article 231 of the Versailles treaty would become a part of the pending treaty. In other words, it depends upon whether a reparation commissioner is appointed and confirmed as to whether or not the article which I have cited becomes a part of the pending treaty?

Mr. LODGE. Of course, if Congress creates the office of commissioner on the part of the United States of the Reparation Commission and the Senate confirms the appointee, we shall then certainly be a member of the Reparation Commission.

Mr. McKELLAR. Then article 231 of the treaty of Versailles would become a part of the pending treaty?

Mr. LODGE. No; it can not be a part of this treaty at any time unless we should recognize it by congressional action.

Mr. McKELLAR. Does not the Senator from Massachusetts think that in whatever treaty is finally ratified with Germany there ought to be a statement by Germany that she assumes responsibility for having begun the World War?

Mr. LODGE. Certainly, that question does not arise in the pending treaty at all.

Mr. McKELLAR. As I look at it, it arises conditionally. If we under article 2 of the pending treaty elect to send a reparation commissioner over there and take part under part 8, then surely such action by us would make article 231 a part of the pending treaty.

Mr. LODGE. It would not be a part of the pending treaty.

Mr. McKELLAR. It seems to me that it would be conditionally.

Mr. LODGE. No; such action would not make that article a part of the pending treaty at all. All the pending treaty does is to reserve the option on our part. If we exercise the option and become a member of the Reparation Commission, if by act of Congress we establish a membership on the Reparation Commission, of course, then, we accept that clause; but it has nothing to do with this treaty. The pending treaty merely gives the option. We can not make it a part of the pending treaty.

Mr. McKELLAR. The Senator from Massachusetts and I do not differ about the fact, for the language means that if the option is exercised by the United States, then part 8 is just as much a part of the pending treaty as is any other part of it.

Mr. LODGE. I do not think it would become a part of this treaty under any circumstances.

Mr. McKELLAR. I must differ from the Senator from Massachusetts.

Mr. WALSH of Montana. I should like to make an inquiry of the Senator from Massachusetts, occupying but a moment.

Mr. LODGE. I yield to the Senator.

Mr. WALSH of Montana. By article 2 of the pending treaty the United States reserves the rights and privileges which may accrue to it under part 8 of the Versailles treaty. Not by that clause of the treaty which refers specifically to the Reparation Commission, but by that clause which refers to part 8 which covers the entire subject of reparation, we reserve all rights which may have accrued to us.

Mr. LODGE. If we choose to assert them.

Mr. WALSH of Montana. Exactly; so that if any controversy between this country and Germany should ever arise, and we should appeal to article 231, as giving us some right, we could assert that right under article 231.

Mr. LODGE. One right is the right of membership that we shall assert, I take it.

Mr. WALSH of Montana. It is not a question of membership at all; membership is covered by an entirely different portion of part 8. Article 231 has nothing whatever to do with membership in the Reparation Commission.

Mr. LODGE. The Senator from Montana means that if we assert our claim, for instance, for the payment of shipping losses which are covered there——

Mr. WALSH of Montana. Whatever it might be, if we claimed any right under article 231 we would be entitled to do so by virtue of article 2 of the pending treaty.

Mr. LODGE. We should be entitled undoubtedly to assert such a right under this treaty; that is the whole purpose of the treaty.

Mr. WALSH of Montana. So that in any controversy whatever with Germany, if the question arose whether she was or was not responsible for the war, we could refer to article 231 of the treaty of Versailles made a part of the pending treaty; at least, we could claim it as a part of the treaty, and assert our rights under it.

Mr. LODGE. I do not think it is made a part until we so elect.

Mr. WALSH of Montana. I am assuming that we elect to claim some rights from Germany which will depend upon article 231 of the treaty of Versailles. Then we might appeal to article 231.

Mr. LODGE. This treaty gives us the right to make claim of rights or advantages under part 8 and several other parts of the Versailles treaty. Until that option is exercised I do not see that that has anything to do with this treaty.

Mr. WALSH of Montana. Exactly.

Mr. LODGE. All the treaty gives is the option.

Mr. WALSH of Montana. That is what I am assuming. If some controversy should arise and we should exercise our option to claim something under article 231, Germany would be obliged to admit under article 2 of the pending treaty that we were entitled to claim whatever article 231 of the Versailles treaty gives.

Mr. LODGE. Undoubtedly, Germany would be obliged to admit it, for she is the other party to the treaty.

Mr. WALSH of Montana. So that in that sense article 231 has become a part of this treaty.

Mr. LODGE. It becomes a part of this treaty in an uncertain future.

Mr. LENROOT. Mr. President, will the Senator yield to me?

Mr. LODGE. I yield.

Mr. LENROOT. It could not and would not become a part of the treaty at any time; it would be merely a reference to another source for the admission of a right which Germany is bound by.

Mr. REED. I desire to offer at this time the amendment which I had printed last night and which I now send to the desk to be read, in order that it may be the pending amendment.

The PRESIDING OFFICER (Mr. SHORTRIDGE in the chair). The amendment will be stated.

The ASSISTANT SECRETARY. It is proposed to strike out subdivision 3 of article 2 of the treaty and insert in lieu thereof the following words:

(3) Except such obligations as may be assumed by virtue of part 1, article 1, of this treaty the United States assumes no obligations under or with respect to any of the provisions of that (the Versailles) treaty.

Mr. ASHURST. Mr. President, I ask for the yeas and nays.

Mr. BORAH. Mr. President, as I understand the amendment of the Senator from Missouri is pending.

The PRESIDING OFFICER. It is.

Mr. BORAH. Before the vote is taken I wish to say a few words with reference to the able speech of the Senator from California [Mr. JOHNSON] upon one particular proposition.

As it seems to me, the main argument of the Senator in favor of this particular treaty, so far as one situated as I am might

be interested, is that we have already recognized the Versailles treaty; that we are bound in a measure by it in a moral way at least because we have already taken advantage of it; and, secondly, that we had placed ourselves in a position where if we were ever going to raise any objection to the Versailles treaty it was but fair to the President and fair to the situation to have raised it at the specific time, to wit, when the Knox resolution was passed.

I make these remarks, Mr. President, because I understand the record to be different from that which appears apparently according to the understanding of the Senator from California. For instance, he called attention to the fact that we claimed certain rights in the island of Yap by reason of the Versailles treaty. It is my understanding—and I have sent for the letter of Mr. Hughes—that instead of claiming such rights by virtue of the terms of the Versailles treaty, we distinctly disclaim them by virtue of the Versailles treaty and claim them by reason of the fact, first, that we had entered the war, and, second, that our rights accrued to us by virtue of the victorious termination of the war and the terms of the armistice.

Mr. KING. Mr. President, may I inquire of the Senator whether there is anything in the armistice that would transfer title by the defeated nations to the allied and associated powers?

Mr. BORAH. I have not the armistice before me, but I am saying now—and I have no doubt that I am correct—that Secretary Hughes based our claim upon two propositions—first, our right in the acquired territory which came to the allied and associated powers by reason of victory, which he said we helped to win, and, secondly, by reason of the terms of the armistice. Just how we could claim under the Versailles treaty, which we had rejected, was not made clear by the Senator from California. Mr. President, so far as that question is concerned, I have always understood it in that light; but even if it had not been so, there was no opportunity given to a Senator to object to any claim made to Yap by virtue of the Versailles treaty; the question never reached the Senate.

There is another proposition, Mr. President, in which I am more particularly interested, as I am one of only two or three irreconcilables on this side of the Chamber who are not satisfied with the treaty, and I feel that the record ought to be made clear. I am a little bit sensitive about being accused of having ever in any moment of forgetfulness or of vigilance recognized the Versailles treaty either as a moral factor or as a legal proposition. If there has ever been a time when it was before the Senate of the United States when I have not expressed my views that we ought not not only to enter it but that we ought not to recognize it, I can not recall that instance. I know that when the Knox resolution was before the Senate I specifically stated my position, insisting that the Knox resolution received my support for two reasons—first, because it established a technical state of pence, and, secondly, because it impounded the property which we had taken under the alien property custodian law until such time as it could be disposed of.

The other proposition I stated at the time in my opinion had no place in the resolution, because it was not a matter upon which the Congress of the United States could legislate. In other words, the Congress could not pass a resolution which would bind the executive department in any way as to the kind of a treaty which he should make, or as to the initiatory steps which he should take with reference to it.

I said:

As I view the joint resolution it does two things in which I am primarily concerned. First, it establishes a technical state of peace, and, secondly, it undertakes to compound and hold the property which we have gathered under the alien custodian law for future disposition, which disposition shall be made by treaty with Germany.

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The joint resolution is designed to establish a technical state of peace until we can by treaty settle the matters which are yet to be settled by treaty between this Government and Germany.

Then, Mr. President, I asserted at some length my view that we ought not to have anything to do with the Versailles treaty, that we ought not to enter into it nor to recognize it, and my remarks will be found in the CONGRESSIONAL RECORD of April 30, 1921. Among other things, I said:

I have always thought that the League of Nations was a very bad instrument, menacing in every respect to this country; but I have not a particle of doubt that as between the two instruments it would be infinitely better for us to be in the League of Nations than to be a party to the Versailles treaty, assuming that the instruments could be separated.

The Versailles treaty has reduced Europe to a state of chaos and chronic revolution. Hundreds and thousands and millions of people have been hungered and made destitute or turned upon the streets to die by reason of the impossible terms of the Versailles treaty; and Europe will never regain its equilibrium or its poise or its economic composure until the Versailles treaty is either abandoned completely and absolutely, or else is revised to such an extent as to make it a new instrument based upon new principles.

And after citing a number of conditions which then existed, I said:

This is the Versailles treaty, Mr. President, which we are asked to become a member of, disregarded by France and disregarded by England because they say it is unworkable, impossible of execution, pauperizing Hungary, pauperizing Austria, and reducing Europe to a state of chronic revolution. It rests like a blight upon all Europe. Millions of people to-night pray for its utter abandonment. It is enforced only where it helps and disregarded where it hurts. In this way it is forcing all Europe into helpless barbarism. If the United States enters that simoon of misery and ruin, we will share in its disastrous effects.

Mr. President, of course those words bound no one except myself. I felt that at the time the Knox resolution was passed it was worth while to say what I thought about the Versailles treaty, because I had no doubt at all about the direction in which the administration was going, any more than I have now. I could not foresee just what form the procedure would take, but I knew, or thought I knew, that we were headed for the Versailles treaty as the President clearly indicated in his address to Congress. I regarded the Versailles treaty then not only as unfortunate as a legal instrument, but as an instrument which ought not to have the moral sanction of the people of the United States. It is not alone because we tie into the Versailles treaty as a legal proposition, but it is because we recognize and sanction it and give support to it as a moral proposition, that I opposed it then, and I oppose it now. I did not keep silence. I held the same position I hold now.

I ask unanimous consent to insert as a part of my remarks the letter of Mr. Hughes, dated April 2, 1921, on the Yap situation.

The PRESIDING OFFICER. If there be no objection, the letter will be inserted in the RECORD.

The letter is as follows:

[Telegram.]

THE SECRETARY OF STATE TO THE AMERICAN CHARGÉ D'AFFAIRES, TOKYO, APRIL 2, 1921.

[Note communicated to Japanese Foreign Office April 5, 1921.]

You are instructed to deliver the following note to the minister for foreign affairs, referring to his note of February 26, in answer to note of this Government of December 10, in regard to the status of the island of Yap, stating:

"The Government of the United States finds itself unable to agree with the contention of the Japanese Government that in order to maintain the position of the Government of the United States with respect to the island of Yap it is necessary for this Government 'to prove not merely the fact that the particular line of views was stated at the meetings' of the supreme council, but also that the supreme council 'decided in favor of those views.' If it is meant that the United States could be bound without its consent by the action of the supreme council, the contention is deemed by this Government to be inadmissible, and, on the other hand, the United States has never assented to the mandate purporting to embrace the island of Yap.

"In view of the frequent references in the note of the Japanese Government to what is termed the decision of the supreme council, this Government deems it appropriate to state the fundamental basis of its representations and the principles which in its view are determinative. It will not be questioned that the right to dispose of the overseas possessions of Germany was acquired only through the victory of the allied and associated powers, and it is also believed that there is no disposition on the part of the Japanese Government to deny the participation of the United States in that victory. It would seem to follow necessarily that the right accruing to the allied and associated powers through the common victory is shared by the United States, and that there could be no valid or effective disposition of the overseas possessions of Germany, now under consideration, without the assent of the United States. This Government must, therefore, point out that as the United States has never vested either the supreme council or the League of Nations with any authority to bind the United States or to act on its behalf there has been no opportunity for any decision which could be deemed to effect the rights of the United States. It may also be observed that the right accruing to the United States through the victory in which it has participated could not be regarded as in any way ceded or surrendered to Japan, or to other nations, except by treaty, and that no such treaty has been made.

"The fact that the United States has not ratified the treaty of Versailles can not detract from rights which the United States had already acquired, and it is hardly necessary to suggest that a treaty to which the United States is not a party could not affect these rights. But it should be noted that the treaty of Versailles did not purport to secure to Japan or to any other nations any right in the overseas possessions of Germany save as an equal right therein should be secured to the United States. On the contrary, article 119 of the treaty of Versailles provides: 'Germany renounces in favor of the principal allied and associated powers all her rights and titles over her oversea possessions.' It will not be questioned that one of the 'principal allied and associated powers' in whose favor Germany renounces her rights and titles is the United States. Thus, not only could the position of the Government of Japan derive no strength from the treaty of Versailles or from any discussions preliminary thereto, but the terms of that treaty confirm the position of the Government of the United States.

"Further, the draft convention relating to the mandate for the German concessions in the Pacific Ocean, north of the Equator, which was subsequently proposed, proceeded in the same view, purporting on behalf of the United States as one of the grantors to confer the mandate upon Japan, thus recognizing the right and interest of the United States and the fact that the proposed action could not be effective without the agreement of the United States as one of the principal allied and associated powers.

"As the United States did not enter into this convention, or into any treaty relating to the subject, this Government is unable to understand upon what grounds it was thereafter attempted to confer the mandate without the agreement of the United States. It is manifest that the

League of Nations was without any authority to bind the United States, and that the confirmation of the mandate in question, and the definition of its terms by the council of the League of Nations in December, 1920, can not be regarded as having efficacy with respect to the United States.

"It should be noted that this mandate not only recites article 119 of the treaty of Versailles, to the effect that 'Germany renounced in favor of the principal allied and associated powers all her rights over her oversea possessions, including therein the groups of islands in the Pacific Ocean lying north of the Equator, but also recites that 'the principal allied and associated powers agreed that in accordance with article 22, part 1 (covenant of the League of Nations), of the said treaty, a mandate should be conferred upon His Majesty the Emperor of Japan to administer the said islands and have proposed that the mandate should be formulated, as set forth. While this last quoted recital, as has already been pointed out in previous communications by this Government, is inaccurate in its terms, inasmuch as the United States as one of the principal allied and associated powers had not so agreed and proposed, the recital again recognizes the necessity of the participation of the United States in order to make the proposed disposition effective.

"As, in the absence of any treaty with the United States relating to the matter, there was no decision on May 7, 1919, binding the United States, it is deemed to be unnecessary again to examine the brief minute of the meeting of the supreme council on that date. It may, however, be proper to say that the minute of this meeting, although obviously without any finality, could not properly be construed without due regard to the other proceedings of the supreme council, and without taking account of the reservations which President Wilson had already made in the previous meeting of the supreme council on April 21, April 30, and May 1, 1919. The attitude of President Wilson is sufficiently shown by the following statement which he made to the Department of State on March 3, 1921:

"'I beg to return the note received yesterday from the Japanese Government, which I have read, in relation to the proposed mandate covering the island of Yap.

"'My first information of a contention that the so-called decision of May 7, 1919, by the council of four assigned to Japan a mandate for the island of Yap was conveyed to me by Mr. Norman Davis in October last. I then informed him that I had never consented to the assignment of the island of Yap to Japan.

"'I had not previously given particular attention to the wording of the council's minutes of May 7, 1919, which were only recently called to my attention. I had on several occasions prior to the date mentioned made specific reservations regarding the island of Yap and had taken the position that it should not be assigned under mandate to any one power, but should be internationalized for cable purposes. I assumed that this position would be duly considered in connection with the settlement of the cable question and that it therefore was no longer a matter for consideration in connection with the peace negotiations. I never abandoned or modified this position in respect to the island of Yap, and I did not agree on May 7, 1919, or at any other time, that the island of Yap should be included in the assignment of mandates to Japan.

"'As a matter of fact, all agreements arrived at regarding the assignment of mandates were conditional upon a subsequent agreement being reached as to the specific terms of the mandates, and further, upon their acceptance by each of the principal allied and associated powers. The consent of the United States is essential both as to assignments of mandates and the terms and provisions of the mandates, after agreement as to their assignment or allocation.

"'The consent of the United States, as you know, has never been given on either point as to the Island of Yap.'

"Apart from the expressed purpose of President Wilson in relation to the Island of Yap, inasmuch as the proceedings of the supreme council on May 7, 1919, did not, and in the nature of things could not, have finality, this Government is unable to perceive any ground for the contention that it was the duty of this Government to make immediate protest with respect to the so-called decision of May 7, 1919, and certainly it can not be said that an omission to do so operated as a cession of its rights. It may be added, however, that when the matter was brought to the attention of this Government in connection with the conference on communications in October last this Government informed the Government of Japan and other Governments—by notes of November 9, 1920—that it was the understanding of this Government that the Island of Yap was not included in the action of May 7, 1919. Its position was subsequently stated at length.

"It is a cause of regret to this Government that after and despite this protest there should have been any attempt to pass upon drafts of mandates purporting to deal with the Pacific Islands, including Yap, and that a mandate should have been approved or attempted to be put into effect, which, while purporting to be made in the name of the United States, was without the assent of the United States. This Government trusts that this action, which it must assume was taken under a misapprehension, will be reconsidered.

"In particular, as no treaty has ever been concluded with the United States relating to the Island of Yap, and as no one has ever been authorized to cede or surrender the right or interest of the United States in the island, this Government must insist that it has not lost its right or interest as it existed prior to any action of the supreme council or of the League of Nations, and can not recognize the allocation of the island or the validity of the mandate to Japan.

"In this view this Government deems it to be unnecessary at this time to consider the terms of the so-called 'C' mandates or the discussion with respect thereto.

"This Government, as has been clearly stated in previous communications, seeks no exclusive interest in the Island of Yap and has no desire to secure any privileges without having similar privileges accorded to other powers, including, of course, Japan, and relying upon the sense of justice of the Government of Japan and of the Governments of the other allied and associated powers, this Government looks with confidence to a disposition of the matter whereby the just interests of all may be properly conserved."

Mr. KING. Mr. President, reference has been made by the Senator from Idaho [Mr. BORAH] to the terms of the armistice; and he takes the position, as I understand him, that the present Secretary of State claims title, if title is claimed at all for the United States, not under the terms of the treaty, but under the terms of the armistice.

I have the armistice before me, and I find nothing therein upon which we might predicate a title. There is no grant in the armistice of any territory, as I read it. There are clauses with reference to the western front, and with respect to the eastern frontiers of Germany. There is a clause concerning East Africa, but it only states as follows:

Unconditional capitulation of all German forces operating in East Africa within one month.

There are general clauses respecting repatriation, and certain financial clauses respecting reparation for damages, but under that head reference is made only to the fact that during the armistice no public securities shall be removed by the enemy which can serve as a pledge to the Allies for the recovery or repatriation for war losses.

Then there are clauses affecting naval conditions. Those are very numerous.

Under the sixth head the duration of the armistice is prescribed, and under the next head the time limit for replying.

So, Mr. President, there is no transfer of title under or by the terms of the armistice; and if the United States claims any interest whatever in the possessions formerly held by Germany, it must seek some other muniment of title than the terms of the armistice.

Mr. BORAH. Mr. President——

Mr. KING. I yield.

Mr. BORAH. Does the Senator contend that Secretary Hughes could have claimed anything by virtue of the Versailles treaty at a time when we were not a party to it?

Mr. KING. I think I must answer that question in the negative, although I am not so sure but that as a legal proposition, where a grant has been made to a number of grantees designated, if all of the grantees but one deny that they claim the interest of that one grantee, and he has not signified his willingness to accept the grant, he might assert a sort of an inchoate right to the property pending an agreement under which objections, which might be interposed, might be eliminated.

Mr. BORAH. I do not want to interrupt the Senator too much, but the very opposite of the situation of which the Senator speaks existed. Japan claimed that Yap had been disposed of by the Versailles treaty; that it had been concluded, and was disposed of in her favor; but Mr. Hughes contended that we are not bound by the Versailles treaty; we claim our rights by virtue of the fact that we entered the war and helped to win the war, and by virtue of the armistice.

Mr. KING. I think the Senator states the situation accurately; but the mere fact that the Secretary of State avers that our title is derived from the conquest of Germany may not be recognized in international law as a basis for title. As a matter of fact, the treaty itself prescribes that—

Germany renounces in favor of the principal allied and associated powers all her rights and titles over her oversea possessions.

There might be an opportunity for casuistry and for a display of legalistic lore in determining the source of title if we have any title whatever in the overseas possessions of Germany. However, the Versailles treaty does make a specific grant of all of Germany's overseas possessions in favor of the United States and other tenants in common.

Of course, we may repudiate the grant. Perhaps when we rejected the Versailles treaty we did repudiate the grant. If we repudiated the grant, then it would seem to me, from a legal standpoint, that we have no title.

However, we are now by the treaty before us attempting to recover property which we declared some time ago we would not have. That is to say, we refused to take title under the deed. Now we come back and say we will adopt that part of the deed which transfers to us an interest in the overseas possessions of Germany. So it seems now, under the treaty before us, that the State Department and the administration are going back to the Versailles treaty as the basis of their title. I think the Senator from Idaho must concede that. The treaty which is before us imports into it those terms of the Versailles treaty which grant to the United States and the allied nations the overseas possessions of Germany.

Mr. BORAH. The Senator may be correct as to what they are doing now. I was speaking, of course, of the situation at the time the Knox resolution was passed.

Mr. KING. I merely called attention to the treaty and to the armistice to indicate that there was no grant under the armistice, and that the source of our title, if we have any title at all, would seem to be the Versailles treaty.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Missouri [Mr. REED].

Mr. REED. Mr. President, on yesterday I submitted an amendment. As we are going to have a vote on the amendment, and as I hope to have a roll call, I think we might as well raise the question of a quorum right now, and, if possible, discuss the amendment in the presence of the Senators.

The PRESIDING OFFICER. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Ashurst	Ernst	La Follette	Ransdell
Ball	Fletcher	Lenroot	Reed
Borah	France	Lodge	Sheppard
Brandegee	Frelinghuysen	McCormick	Shields
Broussard	Gerry	McCumber	Shortridge
Bursum	Glass	McKellar	Spencer
Calder	Gooding	McKinley	Sterling
Cameron	Hale	McNary	Sutherland
Capper	Harris	Moses	Swanson
Caraway	Harrison	Nelson	Townsend
Colt	Heflin	New	Trammell
Culberson	Hitchcock	Newberry	Underwood
Cummins	Johnson	Nicholson	Wadsworth
Curtis	Jones, N. Mex.	Oddie	Walsh, Mass.
Dial	Kellogg	Overman	Walsh, Mont.
Dillingham	Kendrick	Owen	Watson, Ga.
du Pont	Kenyon	Page	Watson, Ind.
Edge	Keyes	Poindexter	Williams
Elkins	King	Pomerene	Willis

The PRESIDING OFFICER. Seventy-six Senators have answered to their names. A quorum is present.

Mr. REED. Mr. President, some Senators argue that by entering into the pending treaty we can obtain the benefits of the Versailles treaty without assuming any of the obligations imposed by it. It is contended, on the other hand, that as the treaty is now drawn, in order to obtain any of the benefits of the Versailles treaty we will be obliged to assume all of the obligations of that treaty except where it is otherwise specifically provided.

The majority view appears to be, however, that by entering into this treaty there is no intention on the part of our Government to assume the obligations, or any of the obligations, of the Versailles treaty, even though we claim the benefits of that treaty. Such a question as that ought to be set at rest. We are now engaged on this treaty, and we can safeguard ourselves against future dissention and dispute and a contrariety of construction. If differences of views have already arisen in this body with reference to construction, it is certain that they will arise between our Government and Germany as soon as the treaty is signed.

In order to remove that doubt, I offered an amendment yesterday which made section 3 expressly provide that "the United States assumes no obligations under or with respect to the provisions of the treaty of Versailles."

I urged then, and I repeat now, although the repetition may possibly not change a single vote, first, that the pending treaty does not settle a single question of dispute between the United States and Germany. All that it does is to make Germany agree that the United States shall continue to hold German property until Germany has made reparation. That property we already hold, and its status is in no respect changed by virtue of this treaty.

As to every other question except that, open disputes between ourselves and Germany remain. Are we to have any reparation from Germany whatsoever? Germany does not agree by this treaty that she will give us reparation or payment. She simply agrees that we shall hold this property until the disputes are settled. There is no tribunal provided for the settlement of those disputes nor any method by which they may be measured or limited. So that when we come to settle them we must have recourse to direct negotiation with Germany or we must obtain them under and by virtue of the clause in the pending treaty which I now come to discuss.

That clause provides that the United States may avail itself of the rights provided in the Versailles treaty, but the rights provided in the Versailles treaty are coupled with conditions of ascertainment. Germany does not agree to give us anything under the Versailles treaty. She agrees under the Versailles treaty to give to us such sum of money or such property as the Reparation Commission shall determine we are entitled to. Therefore, in order to enjoy a single right under the Versailles treaty, we must proceed in the manner laid down in that treaty for the adjudication of that right.

Therefore the pending treaty leaves us in this situation: The question of dispute is left open and no method of ascertainment of any right is provided except that we shall enter the Reparation Commission and abide by its judgment.

Mr. President, if we enter the Reparation Commission, and accept the benefits reserved in the treaty of Versailles, then we are confronted with this proposition, that we have specifically provided that we are to have the benefits of parts 4, 5, 6, 8, 9, 10, 11, 12, 14, and 15. Naturally, one would say that if we take the benefits we must accept the responsibilities. In order to avoid that inevitable conclusion with reference to certain of the provisions of the Versailles treaty the framers of this treaty provided, first, that the United States should not be bound by part 1 of the treaty, to wit, the League of Nations covenant; and, second, that it should not be bound by part 2 and part 3, sections 2 to 8, inclusive, of part 4, and part 13 of the treaty.

In my judgment, no candid court will ever say that we can enter into this treaty, take its benefits, and not be bound by its obligations and burdens, except in the instances where we have specifically provided that we shall not be so bound, and the stipulation that we shall not be bound by certain particular articles forces the conclusion and the construction that we are to be bound by all articles not so excepted.

Gentlemen may try to hide this question as much as they please, cover it in verbiage as they can; nevertheless, it will remain true that if we get a single thing under this treaty, or under the treaty of Versailles, which the pending treaty mentions, we must accept the corresponding burdens. When we come to consider those burdens, if Senators will only refer to the part in regard to reparations, they will, I think, be forced to the conclusion that we will be compelled to admit the principle that our claims are to be scaled down as are the claims of other Governments, in order that Germany may make settlement under certain other terms of the treaty, and that the decision as to how much the claims shall be scaled is vested in the Reparation Commission.

The PRESIDING OFFICER. The Chair calls the attention of the Senator to the fact that his time upon the amendment has expired.

Mr. REED. I will take about three minutes out of my other time. I have 15 minutes left, I believe.

Senators will find in section 232 that exactly what I have said is laid down. Therefore, if we enter into this treaty and if we get a single thing under the treaty of Versailles we must enter the Reparation Commission and abide by its judgment, and judgment will not be found in a particular amount due to the United States, but its judgment will find that there is a particular sum due from Germany and that will be apportioned. It will become our duty then to stand with the other countries who are parties to that judgment and to compel Germany to disgorge. It follows that the United States will be made the collecting agency and force for Germany.

Mr. President, Senators may try to obscure it, but that is the direction in which we are headed, and against it I protest. In order to crystallize that issue I offer the amendment which is now pending, and upon that amendment I ask for the yeas and nays when the vote comes.

Mr. LENROOT. Mr. President, the pending amendment now submitted by the Senator from Missouri [Mr. REED] seems to me to be so clear that it does not change in any way the existing articles of the treaty that I can not understand the object the Senator from Missouri has in offering it. But the Senator from Missouri argues for the most amazing doctrine that I have ever heard fall from the lips of a lawyer. He argues that if we accept a right conferred by an instrument we are under obligations to compel the enforcement of that right. In other words, if A makes a contract with B and it is provided in that contract that A shall have the right at his option to make certain demands of B, according to the doctrine of the Senator from Missouri A is compelled to make those demands of B and enforce them. Surely the Senator from Missouri would never venture to argue such a proposition before any court, even before a justice of the peace, anywhere in the United States.

Applied to the particular proposition, that is exactly the Senator's contention. For instance, yesterday in his colloquy with his colleague he said:

> If that is true, then, according to the doctrine that has been laid down by my colleague, we accept the responsibility, and the responsibility is that Germany shall be compelled not to have arms; that Germany shall be compelled to observe every one of the clauses and conditions of this section. If we accept the benefits, according to the argument, we must accept the responsibility, and the Army of the United States must be back of that responsibility.

So the Senator would contend that if we accept under part 5 the right to insist upon the disarmament of Germany, we are compelled to enforce disarmament by Germany, a most preposterous doctrine, of course.

With reference to the Reparation Commission, concerning which he has just spoken, the Senator from Missouri said yesterday:

> Need I insist that if it is stated that we are to have certain rights under certain clauses of this treaty we must read those clauses? When we read them we find that the only way in which we can secure those rights is by the decision by a particular tribunal, to wit, the Reparation Commission. It is not a right that we can assert in any way. We must go to that particular tribunal and abide by the judgment of

that particular tribunal. If we do not do so, we have no right whatsoever. Thus, we will be forced into this tribunal whether or not we desire to go to it.

Then, a little later he said:

In other words, Senators, this is an attempt to proceed in a certain tribunal to an adjudication, and you have no other right than that. Consequently this treaty forces us in substantially every interest to the Reparation Commission.

Why, Mr. President, if Congress shall hereafter elect to pursue our remedy for compensation against Germany through the Reparation Commission, of course we would be bound by the decisions of that commission, although in the amendment which the Senator has presented and which I suppose will be formally offered following this, he proposes that even though we voluntarily go into the Reparation Commission we shall not be bound by its decision.

But we have the option of going to the Reparation Commission under the treaty or we have the option of dealing directly with Germany with reference to every dollar of compensation claimed by us upon our own behalf and upon behalf of our nationals. There is not a line in the treaty that commits us to the Reparation Commission or any other tribunal created by the treaty of Versailles. Indeed, there is, as the Senator well knows, a particular exception. It was not necessary, but it is here that while permitted to participate in the Reparation Commission we are not bound to do so nor in any other commission created by the treaty of Versailles. All that this treaty does is to give us certain rights, and the only obligations that are imposed anywhere in the treaty are that in the enforcement of those rights we shall enforce them only in such way as is consistent with the rights of Germany under the treaty.

Then there are others who try to argue to the Senate that if we enter the treaty we assume all the obligations of the treaty. If there were any general assumption of obligation, which there is not, it would not be an obligation to our associates in the war to enforce the treaty, because they are not parties to it, and we are not parties to the treaty of Versailles. England could not call upon the United States, under the treaty that we make with Germany, to enforce any obligation against Germany that is found in the treaty of Versailles. She is not a party to it. The only one that can ever make a claim against the United States will be Germany, and the only obligation that she would ever claim would be, not an obligation to keep our Army over on the Rhine, not an obligation that we shall compel her to disarm, but an obligation for the benefit of Germany, not an obligation for her injury.

So when Senators talk about the obligations assumed by the treaty, will some one point out an obligation for the benefit of Germany to be found in this treaty? Why, I have understood the chief objection of the Senator from Idaho [Mr. BORAH] and of the Senator from Missouri [Mr. REED] to the treaty of Versailles has been from the very beginning that it was all obligation against Germany and none in her favor.

Mr. REED. Mr. President, I shall have to correct the Senator on that.

Mr. LENROOT. I am glad to be corrected.

Mr. REED. The Senator can make any statement he chooses about the views of the Senator from Idaho, but he never heard fall from my lips a criticism of the Versailles treaty because it demanded too much from Germany.

Mr. LENROOT. I, of course, accept the Senator's statement, but I certainly gathered the impression from the many speeches of the Senator from Missouri that he, as well as some other Senators, considered that treaty was so harsh and so oppressive upon Germany that it would never be a success.

Mr. REED. The Senator may have drawn that impression. If he says he drew that impression, I have to take his word for it; but he drew an impression out of the air or out of his own inner consciousness. He did not get it from what I said or what I wrote. I challenge him to find a statement of mine in the CONGRESSIONAL RECORD that will bear out his imagination.

Mr. LENROOT. Then let me ask the Senator, because I certainly would be the last to wish to do him an injustice, whether it is the Senator's impression or view that the treaty of Versailles is not an unconscionable treaty or an oppressive treaty so far as Germany is concerned?

Mr. REED. My position to-day is that the dealings between Germany and France and England were dealings between those nations. I have always held to the doctrine that Germany brought on this terrible war and that she must expect to pay the consequences, and I say so now.

Mr. LENROOT. Does the Senator say she is called upon to pay too much under the treaty of Versailles?

Mr. REED. I do not think she ever can pay too much, and I have so said many times.

Mr. LENROOT. Mr. President, as I said, I wish to do the Senator from Missouri entire justice, and in order to fully do so I am glad to say that I understand the position now of the Senator from Missouri is that the treaty of Versailles, so far as Germany is concerned, is entirely just, not unconscionable and not oppressive to her in any way.

However, Mr. President, what I have said with reference to obligations I am sure the Senator from Missouri must admit to be true, that any obligation that may be found in the treaty of Versailles against Germany, under no circumstances under his own construction, could be invoked against the United States if the pending treaty shall be ratified.

Mr. REED. I took no such position.

Mr. LENROOT. I did not say the Senator did.

Mr. REED. Very well.

Mr. LENROOT. So we get down to this one proposition——

The PRESIDING OFFICER. The Chair calls the Senator's attention to the fact that his time on the amendment has expired.

Mr. LENROOT. I will take five minutes of my hour.

We get down to this proposition: In the first place, the amendment of the Senator from Missouri does exactly what the present treaty does, only in a different way. Were it otherwise, there is no obligation in the treaty of Versailles against Germany that could be invoked or that the United States under any possible construction of this treaty could be called upon to perform if ratified in the form presented to the Senate.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Missouri [Mr. REED].

Mr. KING. Mr. President, I think we should have a quorum present to vote upon the amendment.

Mr. REED. I have demanded the yeas and nays, and if they are ordered that will be sufficient.

Mr. KING. Very well.

The yeas and nays were ordered, and the Assistant Secretary proceeded to call the roll.

Mr. DIAL (when his name was called). I am paired with the Senator from Colorado [Mr. PHIPPS] and therefore refrain from voting.

Mr. STERLING (when his name was called). I transfer my pair with the Senator from South Carolina [Mr. SMITH] to the Senator from Oregon [Mr. STANFIELD] and will vote. I vote "nay."

Mr. SUTHERLAND (when his name was called). I have a general pair with the senior Senator from Arkansas [Mr. ROBINSON]. I transfer that pair to the junior Senator from North Dakota [Mr. LADD] and will vote. I vote "nay."

Mr. SWANSON (when his name was called). I have a pair with the senior Senator from Washington [Mr. JONES]. Not knowing how he would vote if present, I withhold my vote. If permitted to vote, I should vote "nay."

Mr. WILLIAMS (when his name was called). I understand that the Senator from Pennsylvania [Mr. PENROSE], with whom I have a pair, if present, would vote upon the pending amendment as I am about to vote. I therefore vote "nay."

The roll call was concluded.

Mr. CURTIS. I am requested to announce that the Senator from New Jersey [Mr. FRELINGHUYSEN] is paired with the Senator from Montana [Mr. WALSH].

The result was announced—yeas 7, nays 71, as follows:

YEAS—7.

Ashurst	Johnson	Reed	Watson, Ga.
Borah	La Follette	Walsh, Mass.	

NAYS—71.

Ball	Fletcher	McCormick	Shortridge
Brandegee	France	McCumber	Simmons
Broussard	Gerry	McKellar	Smoot
Bursum	Glass	McKinley	Spencer
Calder	Gooding	McLean	Stanley
Cameron	Hale	McNary	Sterling
Capper	Harreld	Moses	Sutherland
Caraway	Harris	Myers	Townsend
Colt	Harrison	Nelson	Trammell
Culberson	Heflin	New	Underwood
Cummins	Hitchcock	Newberry	Wadsworth
Curtis	Jones, N. Mex.	Nicholson	Walsh, Mont.
Dillingham	Kellogg	Oddie	Warren
du Pont	Kendrick	Overman	Watson, Ind.
Edge	Keyes	Page	Weller
Elkins	King	Poindexter	Williams
Ernst	Lenroot	Pomerene	Willis
Fernald	Lodge	Sheppard	

NOT VOTING—17.

Dial	Norbeck	Pittman	Stanfield
Frelinghuysen	Norris	Ransdell	Swanson
Jones, Wash.	Owen	Robinson	
Kenyon	Penrose	Shields	
Ladd	Phipps	Smith	

So Mr. REED's amendment was rejected.

Mr. REED. Mr. President, I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The Secretary will state the amendment proposed by the Senator from Missouri.

The ASSISTANT SECRETARY. It is proposed to add at the end of paragraph 4 of article 2 the following:

If the United States shall not become a member of such commission, then, although the treaty provides that the question shall be determined by such agency, the rights reserved herein shall be decided between the United States and Germany in such manner as may be hereafter by them agreed upon.

Mr. REED. Mr. President, a legal proposition which I advanced to the effect that we could not accept the benefits of a treaty and not accept its obligations unless we specifically said so having been denounced as preposterous, I hesitate to offer an amendment. Differences of opinion with reference to legal propositions often depend upon differences of education and experience.

The amendment which I have offered is intended to reach this proposition: We propose in the pending treaty to reserve certain rights under the Versailles treaty, but when we come to read the Versailles treaty we find it is provided that we can secure those rights only through the decision of the Reparation Commission; in other words, the remedy is coupled with the declaration of the right itself. I simply want to provide that those rights shall be preserved to us and that even if we do not become a party to the Versailles treaty they shall continue to exist as rights, dissociated from the particular method of ascertainment, and that we shall settle them by direct negotiation with Germany.

If I have not made that plain in the statement just uttered, possibly I may make my viewpoint clearer by an illustration. If it were asserted in a certain instrument that an indefinite debt was due to five people and that the amount should be determined by a certain court, if the matter stood in that way the only manner in which a claim could be asserted would be through that court; but it would be entirely possible to modify that instrument so that the right would be preserved even though one did not go into that particular court if he saw fit to say so. I have tried by this amendment to preserve to the United States whatever rights it may have under the Versailles treaty without obligating the United States to have those rights determined in a particular tribunal. That is the whole import of the amendment; and upon the amendment I ask for the yeas and nays.

Mr. LENROOT. Mr. President, if the pending treaty were one conferring only rights that we might choose to claim which are found in the Versailles treaty, the argument of the Senator from Missouri would be well taken and his amendment ought to be adopted; but a complete answer is afforded by the reading of article 1 of the treaty. What are the rights that we get under the treaty? They are not only rights for our benefit which are contained in the treaty of Versailles, should we choose to exercise them, but all the rights which are reserved in the Knox resolution. The pending treaty recites:

ARTICLE 1.

Germany undertakes to accord to the United States, and the United States shall have and enjoy, all the rights, privileges, indemnities, reparations, or advantages specified in the aforesaid joint resolution of the Congress of the United States of July 2, 1921, including all the rights and advantages stipulated for the benefit of the United States in the treaty of Versailles which the United States shall fully enjoy notwithstanding the fact that such treaty has not been ratified by the United States.

So, as a matter of fact, in the pending treaty itself the rights accorded by the treaty of Versailles are subordinate to the other rights that are granted, and they are merely referred to as being included in the rights reserved to the United States.

Mr. KING. Mr. President——

The VICE PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Utah?

Mr. LENROOT. I yield.

Mr. KING. May I inquire of the Senator whether there are any rights obtained by the United States outside of the Versailles treaty except to confiscate the property of German nationals in the United States in liquidation of the claims of American nationals?

Mr. LENROOT. I think perhaps that is the case; and I assume that the rights we have and the controversies that will come up so far as the United States and Germany are concerned will be confined to that subject so far as the war is concerned.

Mr. REED. Mr. President, I am unable to follow the logic of the Senator.

Let us take the case as it is. It is provided that the United States shall have all the rights under the Versailles treaty which are reserved to her. That is true; but it is also provided that those rights shall be ascertained by a particular tribunal. Suppose that we execute this treaty. Suppose, then, that we present a claim to Germany for certain things which we assert we are entitled to under the Versailles treaty; and suppose that Germany turns to us and says, "Very well; it is provided that that shall be ascertained through the Reparation Commission"; but we reply, "We refuse to go into the Reparation Commission." Thereupon Germany says to us, "You stipulated that you would adjudicate these rights in that commission, and we refuse to go elsewhere." The answer is absolutely complete and final, and we have no escape from it unless we here stipulate that these rights, whatever they may be, shall be preserved intact even though we do not go into that commission.

That is my view of the matter. I may be wrong, but I think you will all find out that that is the way the case will finally eventuate.

Mr. LENROOT. Mr. President, I think the Senator from Missouri must have forgotten one provision of the Knox resolution, which provides, after citing these reservations, that this property shall be held—

And no disposition thereof made, except as shall have been heretofore or specifically hereafter shall be provided by law, until such time as the Imperial German Government and the Imperial and Royal Austro-Hungarian Government, or their successor or successors, shall have, respectively, made suitable provision for the satisfaction of all claims—

And so forth.

This is not "suitable provision" in this treaty. It is not anywhere contended that it is, unless we exercise the right granted by the treaty to secure our reparation through the Reparation Commission of the treaty of Versailles. If we do not choose so to exercise it, we make our claims directly against the German Government, and some means must be found, by treaty or otherwise, of disposing of these claims.

Mr. REED. Then, if that is the Senator's contention, he agrees absolutely to the principle laid down in my amendment. My amendment removes all doubt, and the Senator's only objection is that it is unnecessary; that it is already in there. Why not put it in, then, and actually take out the doubt?

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Missouri [Mr. REED].

Mr. REED. I ask for the yeas and nays.

The yeas and nays were ordered, and the Assistant Secretary proceeded to call the roll.

Mr. STERLING (when his name was called). Making the same announcement as on the previous vote as to my pair and its transfer, I will vote. I vote "nay."

Mr. WALSH of Montana (when his name was called). I inquire if the Senator from New Jersey [Mr. FRELINGHUYSEN] has voted?

The VICE PRESIDENT. He has not voted.

Mr. WALSH of Montana. I have a pair with that Senator. In his absence, I will refrain from voting.

Mr. WILLIAMS (when his name was called). I have a standing pair with the Senator from Pennsylvania [Mr. PENROSE], who is unfortunately unable to be present; but I understand that if he were present he would vote "nay" upon the pending amendment. I consider myself, therefore, at liberty to vote the same way. I vote "nay."

The roll call was concluded.

Mr. DIAL. I make the same announcement as to my pair as on the former roll call, and withhold my vote.

Mr. OVERMAN (after having voted in the negative). I inquire whether the Senator from Wyoming [Mr. WARREN] has voted?

The VICE PRESIDENT. He has not.

Mr. OVERMAN. Having a general pair with that Senator, and he being absent, I withdraw my vote.

Mr. EDGE (after having voted in the negative). Has the Senator from Oklahoma [Mr. OWEN] voted?

The VICE PRESIDENT. He has not voted.

Mr. EDGE. I have a general pair with that Senator. I transfer it to the Senator from Pennsylvania [Mr. PENROSE], and will allow my vote to stand.

Mr. SWANSON. I have a general pair with the senior Senator from Washington [Mr. JONES]. Not knowing how he would vote on this question, I withhold my vote. If at liberty to vote, I should vote "nay."

Mr. SUTHERLAND. Making the same announcement as before with reference to my pair and its transfer, I vote "nay."

The result was announced—yeas 5, nays 69, as follows:

YEAS—5.

Ashurst	La Follette	Reed	Walsh, Mass.
Borah			

NAYS—69.

Ball	Calder	Colt	Dillingham
Brandegee	Cameron	Culberson	du Pont
Broussard	Capper	Cummins	Edge
Bursum	Caraway	Curtis	Elkins

Ernst	Kellogg	Myers	Stanley
Fernald	Kendrick	Nelson	Sterling
Fletcher	Kenyon	New	Sutherland
France	Keyes	Newberry	Townsend
Gerry	King	Nicholson	Trammell
Glass	Lenroot	Oddie	Underwood
Gooding	Lodge	Page	Wadsworth
Hale	McCormick	Poindexter	Watson, Ind.
Harreld	McCumber	Pomerene	Weller
Harris	McKellar	Ransdell	Williams
Harrison	McKinley	Sheppard	Willis
Heflin	McLean	Shortridge	
Hitchcock	McNary	Smoot	
Jones, N. Mex.	Moses	Spencer	

NOT VOTING—21.

Dial	Norris	Robinson	Walsh, Mont.
Frelinghuysen	Overman	Shields	Warren
Johnson	Owen	Simmons	Watson, Ga.
Jones, Wash.	Penrose	Smith	
Ladd	Phipps	Stanfield	
Norbeck	Pittman	Swanson	

So Mr. REED'S amendment was rejected.

Mr. POMERENE obtained the floor.

Mr. REED. A parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator will state his parliamentary inquiry.

Mr. REED. I have no more amendments to offer to the treaty, because it is perfectly manifest that it is useless to offer amendments, and, of course, I must accept the judgment of the overwhelming majority of the Senate; but I desire to make a parliamentary inquiry. When will the resolution of ratification be subject to amendment? Will it be while the treaty is in Committee of the Whole or after it goes into the Senate?

The VICE PRESIDENT. It will be presented to the Senate as in Committee of the Whole.

Mr. REED. After the treaty has been adopted, article by article, will the question come on the general approval, or will it come as an initial proposition upon the resolution?

Mr. LODGE. Mr. President, I think we are following, and wisely following, the procedure adopted during the consideration of the Versailles treaty. The treaty will be before the Senate and open to amendment, and so will the resolving clause be. Vice President Marshall held that reservations must be treated as amendments, and they must all be discussed and voted on in Committee of the Whole and then reported to the Senate, when the treaty will be still open to amendment. The final vote, of course, on the ratifying resolution will not come until the treaty is completed in the Senate, and it will not then be open to amendment.

Mr. REED. It will not be open to amendment in the Senate?

Mr. LODGE. Not after the treaty is agreed to in the Senate, for the obvious reason that the ratifying resolution must embody all the amendments and reservations adopted.

Mr. BORAH. The resolution of ratification is subject to amendment in the Senate?

Mr. LODGE. Certainly.

Mr. KING. If the Senator from Ohio [Mr. POMERENE] will pardon me, I desire to offer as an amendment to the treaty——

Mr. LODGE. To the text of the treaty?

Mr. KING. To the text of the treaty, to strike out the pending treaty entirely and substitute in lieu thereof the Versailles treaty with the Lodge reservations. May I inquire of the Senator whether, under his construction of the rules, that will be permissible in the Senate or in Committee of the Whole?

Mr. LODGE. It will be permissible in Committee of the Whole, after the Senate has concluded in Committee of the Whole all the amendments to the text and all the reservations to the ratifying resolution. Then the Senator can offer the substitute he desires.

Mr. KING. May it not be offered as a substitute in the Senate, may I not inquire of the Senator, after we have gone from Committee of the Whole?

Mr. LODGE. Certainly it can. It can be offered twice; it can be offered in Committee of the Whole and in the Senate.

Mr. POMERENE. Mr. President, as my time is limited under the rule, I would prefer not to be interrupted until after the conclusion of my argument. I shall then be happy to answer any question which may be submitted, if I can do so.

It is to me a matter of deepest regret that the Versailles treaty was not promptly ratified either without reservations or with such reservations as would meet the concurrence of the constitutional two-thirds of the Senate. Almost three years have expired since armistice day, when shortly afterwards in an address to the Congress President Wilson declared "thus the war comes to an end."

There were some things in the Versailles treaty which I did not like. I do not like them now, but I believed then, as I believe now, that it was impossible to draft any treaty in settlement of the world's greatest war without mutual concessions by all the representatives of the several nations who sat about the peace table and later by those who were charged under our Constitution with the duty of ratifying the treaty.

During the early deliberations of the Senate on the Versailles treaty, I voted to ratify it without reservations. Later I voted in favor of such reservations as I thought might enable Senators to adjust their differences. I voted against the Lodge reservations in the earlier part of the proceedings, but later, after having failed to ratify the treaty with such reservations as I thought proper and the treaty with these reservations having failed to secure the necessary two-thirds vote, I then voted for the Lodge reservations. In its then parliamentary status the treaty either had to fail of ratification or the Lodge reservations had to be adopted.

I felt then as I feel now that even with the Lodge reservations it would have been better to have submitted the treaty to our allies for their approval or their rejection. In my humble judgment they would have approved rather than to leave the United States outside of the League of Nations. And if we had been in the league, with or without reservations, I can not doubt the stabilizing influence which the United States would have exerted toward the peace of the world.

But, Senators, these votes were cast in 1919 and in 1920. The final vote on the resolution of ratification was on March 19, 1920.

I believed then as I believe now that while there were some of the provisions of the Versailles treaty which did not meet the approval of Senators or of a large part of the American people, any reasonable amendments which might have been proposed by the United States as one of the allied and associated powers to the council and assembly of the League of Nations would have been promptly and eagerly accepted; and if the worst had come, they could do no more than reject them and we could have then served our notice under the treaty to withdraw, and within two years from the time of the service of this notice we could have severed our membership in the League of Nations. But can anyone doubt that with our presence in the league we would have saved much of the turmoil and confusion which has distressed the world since the actual fighting ended?

I was not able to support the joint resolution approved July 2, 1921, which was presented by the great Senator from Pennsylvania, whose untimely taking off we so deeply mourn. I shall only pause to briefly refer to the reasons for the faith which prompted the minority report.

We did not believe then, and I do not believe now, that the ex parte action of the Congress of the United States was the right way to bring about an adjustment of international disputes or to end the state of war which was forced upon us by the aggressions of Germany, and it has seemed to me, though I am not in the confidence of the administration, that the President and his Cabinet came to the conclusion finally that this joint resolution was not the constitutional way to end the war and that it did not have that effect, because we have been waiting in vain for the proclamation which was to be issued by the President based upon the joint resolution declaring that the state of war was at an end. Instead of issuing the proclamation the President and his Secretary of State opened up negotiations with Germany, which resulted in the peace treaty now pending before the Senate.

This was, in my judgment, a proper course to take if the President and his Secretary of State were not willing to recommend the ratification of the Versailles treaty or some modification of it. Their course of action, at least, had the merit of harmonizing with the precedents which have grown up under the exercise of the treaty-making power defined in the Constitution.

But it is not now the ex parte peace resolution that is before the Senate. It is a treaty that comes to us from the treaty-making power of the Constitution, and it is for the Senate to advise and consent to it or refuse so to do. We are approaching the end of the year of our Lord 1921. It is not the year '18 or '19 or '20. Plans for the adjustment of war conditions which heretofore had been proposed by the Chief Executive have not met the approval of the Senate. Will those who differ with me on this subject be able to assure me that there is any way by which we can have the Versailles treaty brought before the United States Senate with any hope of its ratification? And if not, can anyone bring assurance to the Senate that the President will negotiate any other treaty with the allied and associated powers which will meet with the approval of the Senate? If the pending treaty is to be rejected, what then shall be the next step? Will a refusal to ratify the treaty bring peace nearer or speed the settlement of our differences

with the enemy or our allies? True, if this treaty does not receive the necessary two-thirds vote, it will be rejected, but what then shall be the course for Senators to take?

It seems to me that for those of us who favored the Versailles treaty the question is, "What can we do?" Not "What do we want to do?" For one I can not under my solemn obligation as a United States Senator see my way clear either to play party or personal politics with our international affairs. If this treaty is rejected, shall we await the result of another presidential election before proceeding?

Whether rightly or wrongly, the Republicans now have the Presidency, the Cabinet, and an overwhelming majority in both the Senate and the House of Representatives. True, it is urged by some Senators that the campaign of 1920 resolved itself into a contest for or against our becoming allied with the other nations of the world in the preservation of its peace. I can not so construe the result.

The Democratic platform advocated "the immediate ratification of the treaty without reservations which would impair its essential integrity," but "did not oppose the acceptance of any reservations making clearer the obligations of the United States to the league associates."

The Republican platform declared that "the Republican Party stands for agreement among the nations to preserve the peace of the world. We believe that such an international association must be based upon international justice."

President Harding, in his speech at Marion on August 28, 1920, declared that he favored "a society of free nations or an association of free nations or a league of free nations animated by considerations of right and justice instead of might and self-interest, and not merely proclaimed as an agency in pursuit of peace, but so organized and so participated in as to make the actual attainment of peace a reasonable possibility." And then he adds, "Such an association I favor with all my heart, and I would make no fine distinction as to whom credit is due."

In an address issued to the voters of the United States, October 15, 1920, Mr. Hughes, the present Secretary of State, and other distinguished leaders of his party, said:

> The question, accordingly, is not between a league and no league, but is whether certain provisions in the proposed league agreement shall be accepted unchanged or shall be changed.
>
> We have reached the conclusion that the true course to bring America into an effective league to preserve peace is not by insisting with Mr. Cox upon the acceptance of such a provision as article 10, thus prolonging the unfortunate situation created by Mr. Wilson's insistence upon that article, but by frankly calling upon the other nations to agree to changes in the proposed agreement which will obviate this vital objection and other objections less the subject of dispute. The Republican Party is bound by every consideration of good faith to pursue such a course until the declared object is attained.

They added further:

> The conditions of Europe make it essential that the stabilizing effect of the treaty already made between the European powers shall not be lost by them and that the necessary changes be made by changing the terms of the treaty rather than by beginning entirely anew.

The issue, therefore, was, Shall we have a League of Nations as described by the Democratic platform, or shall we have an association of nations such as was contemplated by the Republican platform, and which was approved by the presidential candidate himself and by the present Secretary of State? I see little consolation in the result of that election for those who are opposed to any and all alliances or leagues or associations.

I can understand how those who are opposed to any league, association, or alliance with the other nations of the world can consistently oppose the ratification of this treaty, but I can not understand how those who were in favor of the ratification of the Versailles treaty with reservations can oppose the pending treaty, in view of the fact that it is utterly impossible for them to obtain that which they want. For myself, believing as I do in this League of Nations, if I can not get that which I want under present conditions, then it seems to me that I ought to aid in getting what we can if it approaches what we want. It is either take this treaty or let the world unrest and our troubled international relations continue as they now are without any assurance that they can be remedied in the near future in any other way. These are the only paths lying open to us.

ARTICLE 1 OF THE TREATY OF PEACE WITH GERMANY.

Under article 1 of the pending treaty Germany accords to the United States and her nationals, if the pending reservation in their behalf is approved, all the rights, privileges, indemnities, reparations, or advantages specified in the Knox resolution, and all the rights and advantages stipulated for the benefit of the United States in the treaty of Versailles, notwithstanding the fact that the Versailles treaty has not been ratified by the United States.

While considering this article of the treaty, let us bear in mind that the United States has an interest in two classes of property as security for the claims of the United States and her nationals.

The first is the property of alien enemies seized by our Government, its military, naval, and civilian officers, and now in the possession of the Alien Property Custodian. Its value has been variously estimated at from $400,000,000 to $700,000,000. It represents 32,296 trusts, and it is held subject to the direction of Congress.

Secondly, our interest in the colonies and the property formerly belonging to Germany, and which were seized by the armies and navies of the allied and associated powers or which has since been turned over to them in settlement of loss and damage occasioned by the aggressions of Germany and her allies.

Let us consider our relations to these two classes of property in the order named.

Without this treaty what is our title to the property in the possession of the Alien Property Custodian? It is said that Germany has already turned back to our nationals at least a part of the property which was seized by her during the war, and some Senators share in the belief that we ought to turn back to the owners thereof the property which we seized and which is now in the possession of the Alien Property Custodian. I am not prepared to say now what should be done ultimately, but I am very clearly of the opinion that if this treaty is not ratified there may be grave doubt as to whether or not we have the legal right to retain this property thus seized even for the purpose of satisfying the claims of this country and our nationals growing out of the aggressions of the German Army and Navy.

Let us remember that in 1799 we entered into a "treaty of amity and commerce" with Prussia, which was revived by the "treaty of commerce and navigation" of 1828. Article 23 of the treaty of 1799 is continued by the treaty of 1828. It reads as follows:

> If war should arise between the two contracting parties, the merchants of either country then residing in the other shall be allowed to remain nine months to collect their debts and settle their affairs, and may depart freely, carrying off all their effects without molestation or hindrance; and all women and children, scholars of every faculty, cultivators of the earth, artisans, manufacturers, and fishermen, unarmed and inhabiting unfortified towns, villages, or places, and in general all others whose occupations are for the common subsistence and benefit of mankind, shall be allowed to continue their respective employments, and shall not be molested in their persons, nor shall their houses or goods be burnt or otherwise destroyed, nor their fields wasted by the armed force of the enemy, into whose power by the events of war they may happen to fall; but if anything is necessary to be taken from them for the use of such armed force, the same shall be paid for at a reasonable price.

Of course, the question naturally arises as to whether this treaty was abrogated by the war or merely suspended. I shall not attempt to decide that question now, but in the treaty of 1828 the signing powers gave voice to their desire to maintain relations of good understanding and of extending and consolidating commercial intercourse between them, and declare that this object "can not better be accomplished than by adopting the system of entire freedom of navigation and a perfect reciprocity based upon principles of equity equally beneficial to both countries," and then add these significant words "applicable in time of peace as well as in time of war."

Such are the stipulations of our solemn treaties. After we were driven into this war we seized the property of these aliens. It is now in our custody.

WHAT THE KNOX RESOLUTION DOES.

> The Knox joint resolution declaring the state of war to be at an end "reserved to the United States and its nationals any and all rights, privileges, indemnities, reparations, or advantages, together with the right to enforce the same, to which it or they have become entitled under the terms of the armistice signed November 11, 1918, or any extensions or modifications thereof; or which were acquired by or are in the possession of the United States of America by reason of its participation in the war or to which its nationals have thereby become rightfully entitled; or which, under the treaty of Versailles, have been stipulated for its or their benefit; or to which it is entitled as one of the principal allied and associated powers; or to which it is entitled by virtue of any act or acts of Congress; or otherwise."

True, under the Knox resolution the United States asserted such rights or claims as it had under the terms of the armistice, under the Versailles treaty, or by virtue of the seizures made by our military, naval, or civilian authorities. Germany never waived any of her rights under the treaties of 1799 and 1828. They remain to this day a mooted question. Ex parte action never can determine conclusively rights between belligerents unless they are concurred in by both, and I dare say that the present administration has come to that conclusion, otherwise the peace proclamation would have been issued after the adoption of the Knox resolution.

Under article 1 of the pending treaty Germany for the first time consents to our holding this property until the claims of the United States and its nationals are adjusted. If it is our intention to hold this property, and it seems to be, then clearly we are interested in having Germany consent to our retaining it, and this she does by the pending treaty.

Mr. STANLEY. Mr. President——

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Kentucky?

Mr. POMERENE. I yield for a question.

Mr. STANLEY. The Senator speaks of a treaty between Prussia and the United States. How does a treaty between Prussia and the United States affect a native of Bavaria or Saxony?

Mr. POMERENE. Mr. President, I can not go into these depths. Suffice it to say that this is the treaty under which we have acted ever since, and that my understanding is that the German Empire succeeded to the rights and the obligations of the King of Prussia.

Mr. STANLEY. Does the Senator as a legal proposition believe that an understanding between Saxony or Bavaria or Wurttemberg and Prussia prior to the Franco-Prussian War could bind other parties to the contract without some concessions or other?

Mr. POMERENE. No; I think the Senator will find on investigation of that subject that the proper steps were taken whereby the obligations of Prussia were continued later by the German Empire.

Mr. STANLEY. That is the point I wished to bring out.

STATUS OF PROPERTY IN THE POSSESSION OR CONTROL OF THE ALLIED AND ASSOCIATED POWERS.

Mr. POMERENE. What is our status with respect to the property which was seized by the military and naval forces of the allied and associated powers or which came into their possession or control either before or since the signing of the armistice? How shall we assert and determine our rights in this joint property? This property is no longer in the possession or control of Germany. The purpose for which it was turned over to the allied and associated powers is fully set forth in the treaty. The final disposition of much of it, including the money that is to be paid over by way of indemnity or reparation, is yet to be determined.

It has been urged in the Senate that Germany's burdens under this treaty are too heavy, and its terms too harsh for her people. If this be so, can justice be tempered with mercy better by our absence from the Reparation Commission or by our participating in its proceedings? Can we better protect the interests of the United States and its nationals without having a representative on this commission or by having some one there who can share in all its deliberations? In order that we may have the subject more clearly in mind, let me refer to some of the more important provisions of article 8 of the Versailles treaty.

Under the pending treaty the United States is permitted to have and enjoy the rights and privileges stipulated in that treaty for the benefit of the United States which are set forth in section 1 of part 4, and parts 5, 6, 8, 9, 10, 11, 12, 14, and 15.

I shall only take the time to point out the substance of these rights and privileges.

Under section 1 of part 4, Germany renounces all her rights, titles, and privileges whatever in and over all her territory outside of the European frontiers. She agrees to conform to any measures which the principal allied and associated powers may determine are necessary with third powers in order to carry out these stipulations. She particularly renounces in favor of the principal allied and associated powers all her rights and titles over her oversea possessions. All movable and immovable property in such territories belonging to the German Empire or to any German State shall pass to the Government exercising authority over such territories.

Part 5 contains the military clauses. Under these provisions the German military forces are required to be demobilized and reduced to not exceeding 100,000. Armaments are limited. The manufacture of arms, munitions, and war material is restricted. The importation of arms, munitions, and war material is strictly prohibited. The use of asphyxiating, poisonous, or other gases, their manufacture and importation are strictly forbidden in Germany.

Are we not interested in these stipulations?

Universal compulsory military service is abolished in Germany. The army can be constituted and recruited only by voluntary enlistments. All the fortified works, fortresses, and field works situated in German territory to a line 50 kilometers east of the Rhine must be disarmed and dismantled. The naval forces, too, are very much curtailed. Her navy is almost destroyed.

Are we not interested in disarming a great military power which brought death and devastation to the entire civilized world?

Neither military nor naval air forces can be included in the armed force of Germany. (Interallied Commission of Control, article 203.) Are we not interested in this provision?

REPARATIONS.

The portions of the Versailles treaty which are of particular importance are contained in part 8, under the subject of reparations.

Under article 231 the allied and associated Governments affirm and Germany accepts the responsibility of herself and her allies for causing all the loss and damage to the allied and associated Governments and their nationals as a consequence of the war imposed upon them by her aggressions.

The allied and associated Governments recognize that the resources of Germany are not adequate to make complete reparation for such loss and damage. Germany does undertake, however, to make compensation for all damage done to the civilian population of the allied and associated powers and to their property during the period of the belligerency of each as an allied or associated power against Germany by aggressions whether by land, sea, or air. Germany has pledged the complete restoration of Belgium. These damages are to be determined by the Reparation Commission.

Under article 233 the amount of the damage for which compensation is to be made by Germany is to be determined by the Reparation Commission.

Under article 236 Germany agrees to the direct application of her economic resources to reparation as specified in annexes 3, 4, 5, and 6, relating respectively to merchant shipping, to physical restoration, to coal and derivatives of coal, and to dyestuffs and other chemical products.

Article 237 provides for the division by the allied and associated Governments in such proportions as they may determine upon in advance on the basis of general equity and the rights of each of all of the installments which may be paid over by the German Government in satisfaction of claims.

Under article 241 Germany undertakes to pass and enforce any legislation, orders, or decrees that may be necessary to give complete effect to the reparation provisions of the treaty.

Annex 1 relates to the compensation to be paid by Germany for damages to injured persons and to surviving dependents by personal injury to or death of civilians.

Annex 2 provides for the appointment of delegates to the Reparation Commission. They are to be nominated by the United States of America, Great Britain, France, Italy, Japan, Belgium, and the Serb-Croat-Slovene State. The delegates of the United States, Great Britain, France, and Italy have the right to take part in the proceedings of the commission on all occasions.

Paragraph 13 of this annex gives the rules for voting by the commission. I hope Senators will pay special attention to these rules. On the following questions unanimity is necessary:

(a) Questions involving the sovereignty of any of the allied and associated powers or the cancellation of the whole or any part of the debt or obligations of Germany.

Those who are interested particularly lest the sovereignty of the German Government over her territory shall be trespassed upon, it seems to me, should be interested in protecting Germany by having a representative on the Reparation Commission.

(b) Questions of determining the amount and conditions of bonds or other obligations to be issued by the German Government and of fixing the time and manner for selling, negotiating, or distributing such bonds;

(c) Any postponement, total or partial, beyond the end of 1930, of the payment of installments falling due between May 1, 1921, and the end of 1926, inclusive;

(d) Any postponement, total or partial, of any installment falling due after 1926 for a period exceeding three years;

(e) Questions of applying in any particular case a method of measuring damages different from that which has been previously applied in a similar case;

(f) Questions of the interpretation of the provisions of this part of the present treaty; that is, the reparation provisions.

All other questions are to be decided by a vote of the majority.

Under paragraph 17 of this annex, in case of default by Germany in the performance of any obligation under this part of the present treaty, the commission will forthwith give notice of such default to each of the interested powers and may make such recommendations as to the action to be taken in consequence of such default as it may think necessary. We do not go further than that; we simply make recommendations as to what shall be done in the event that Germany defaults.

FINANCIAL CLAUSES.

By article 248 it is declared that:

Subject to such exceptions as the Reparation Commission may approve, a first charge upon all assets and revenues of the German Empire and its constituent States shall be the cost of reparation and all other costs arising under the present treaty or any treaties or agreements supplementary thereto, or under arrangements concluded between Germany and the allied and associated powers during the armistice or its extensions.

Article 249 requires the German Government to pay the total cost of all armies of the allied and associated powers in occupied German territory from the date of the signature of the armistice, November 11, 1918.

There are many other detailed provisions in the Versailles treaty defining the obligations of Germany and the duties of the Reparation Commission.

For the purpose of my argument I desire to point out with emphasis the following facts:

First. All of the property which has been seized by the military and naval forces of our allies, or which was turned over to them by the terms of the armistice or the Versailles treaty, is held by the allied and associated powers in trust for the purposes defined by the Versailles treaty. I except, of course, such property as has been or is under the control of our Alien Property Custodian, or which has already been disposed of through the Reparation Commission.

Second. The damages done to the civilian population of the allied and associated powers and their property are to be determined by the Reparation Commission.

Are we not interested in that?

Third. The assets held in trust by the allied and associated powers, or which they shall hereafter receive from Germany, are to be used to pay the cost of occupation and to satisfy the claims of civilians for damages within the limits defined by the treaty.

Are we not interested in that?

Fourth. All of these duties are to be performed by the Reparation Commission.

Should we not have a representative there?

Fifth. Questions of sovereignty, determination of amounts and conditions of bonds or other obligations to be issued by the German Government, postponement of the payment of installments to be made, changes in the method of measuring damages, and all questions of the interpretation of the provisions of this part of the treaty are to be determined by the unanimous vote of the commissioners. All other questions are to be decided by a majority vote.

Can we not better protect our rights and the rights of our nationals if we are represented on the Reparation Commission than we can if we are not represented there at all?

Mr. BORAH. Mr. President——

Mr. POMERENE. I yield for a question.

Mr. BORAH. I wish to ask the Senator a question or two before he sits down, but I do not desire to interrupt him in the midst of his argument.

Mr. POMERENE. I will be very glad to yield later.

Sixth. The cost of reparation and all other costs arising under the present treaty or treaties and agreements supplemental thereto are a first charge upon the assets and revenues of the German Empire.

Seventh. Germany undertakes to pass and enforce any legislation, orders, or decrees that may be necessary to give complete effect to the reparation provisions of the treaty.

It has been said that Germany has not by taxation raised the necessary funds to meet the various installments. It seems to me that, as one of the allied and associated powers, we are interested in having Germany make good to the extent that she can reasonably be required to make good.

With all due respect to those who may differ with me, it is my judgment if the United States has a member of this commission sitting with it, clothed with such powers as the Congress in its wisdom may see fit to confer upon him, we can better serve the interests of the United States and its nationals than if we are not represented upon it.

The advantages accruing to the United States and our nationals under the pending treaty, if ratified, are:

First and principally, the actual and legal restoration of peace, "a consummation devoutly to be wished." With peace restored we can resume our trade relations with Germany on a basis of entire equality with our allies.

Second. We have made certain our right to retain all the property of the Imperial German Government and of German nationals which may be in our custody pending the adjustment of the claims of our nationals.

Third. Germany concedes our interest in the property held by the allied and associated powers in trust, notwithstanding the fact that we have not ratified the treaty of Versailles.

REPARATION COMMISSION.

Under paragraph 4 of the second article of the pending treaty the United States is privileged to participate in the Reparation Commission, according to the terms of part 8 of that treaty, or in any other commission established under the treaty or any agreement supplemental thereto, but the United States is not bound to participate in any such commission unless it shall elect to do so.

To make perfectly clear the position of the United States, the Committee on Foreign Relations inserted in the resolution of ratification a reservation which reads:

That the United States shall not be represented or participate in any body, agency, or commission, nor shall any person represent the United States as a member of any body, agency, or commission in which the United States is authorized to participate by this treaty unless and until an act of the Congress of the United States shall provide for such representation or participation.

Some Senators oppose this treaty because they feel that we may become entangled in the affairs of Europe if we participate in the proceedings of this commission. Suffice it to say that as an incident of the war we, in common with our allies, have certain claims against Germany, and under the armistice and the Versailles treaty we have an interest in the property which is now held by the allied and associated powers in trust. If it is the desire of the United States to surrender all interest in this property, then, of course, we may keep our distance. For one, I am not yet ready to surrender the interest which we may have in any of this property now, and I do not quite understand how we can protect our interest unless we do participate in the deliberations of the commission.

The distinguished Senator from Idaho opposes the treaty in part because he contends it will involve us in European affairs. To quote a sentence from his very able address:

So we must go at last to the conference, to the meeting of these powers, to determine what our rights are. If that does not constitute an alliance, a combination tied together by these several interests, all concerned in taking care of their own rights and privileges under the Versailles treaty, I do not know what would constitute an alliance. When you take into consideration the nature and terms of the Versailles treaty you will quickly conclude that it makes an alliance of those powers which seek to execute its provisions.

From the Senator's standpoint he is right and entirely consistent in his opposition to this treaty. Of course, if we send a delegate to participate in the work of the Reparation Commission necessarily we will be aiding in the administration of the trust fund and the determination of the claims. That is a part of the aftermath of the war. In my judgment, a delegate must be selected. I think that was the purpose of the distinguished Secretary of State when this part of the treaty was drafted. I do not understand how these various claims can be adjusted, or our interest in the trust fund determined, unless we do participate in these proceedings.

On the other hand, I was in favor of going into the league. That can not be done; but if I was in favor of going into the league, I can not understand why I should refuse to participate with our former allies in the settlement of these claims and the distribution of this property. To participate in the Reparation Commission, broadly speaking, is necessary in the defense of our own rights growing out of the past war. It is as much our duty to aid in their settlement at the council table as it was our duty to participate in the actual fighting. To refuse to participate is in a sense to surrender the rights of our own nationals growing out of the war either to the protection of our former allies or we will be left where we must deal with Germany alone, knowing that any relief which we may get will out of necessity be subordinated to the asserted rights of our allies. We can not expect the delegates on the commission from Great Britain, France, and Italy to look after our nationals in our absence with the same careful discernment that would be exercised if we were present. I shall vote for this treaty knowing that we need not participate in the proceedings of the Reparation Commission unless Congress shall so direct, but at the same time believing that for the protection of our own nationals we must later send a delegate.

The decisions of the commission will either be by unanimous vote or by a majority vote, as I have heretofore stated. If Germany defaults in the performance of any obligation under the reparation provisions of the treaty, then the commission is authorized forthwith to give notice of such default to each of the interested parties, and "may make such recommendations as to the action to be taken in consequence of such default as it may think necessary." (Annex 2, par. 17.)

I see no cause for alarm if Congress shall send a delegate to represent the United States in its proceedings, and much may be lost to our people if he is not sent.

Mr. WALSH of Montana. Mr. President——

Mr. POMERENE. I yield.

Mr. WALSH of Montana. I am led to believe, from the remarks the Senator has just made, that it is his view that American claimants would be heard to establish their claims before the Reparation Commission. Is that the view of the Senator?

Mr. POMERENE. Mr. President, I am not entirely clear about that. I am satisfied that our claims to the property must be determined before the commission which is established. I was of the opinion that these claims would have to be determined by the Reparation Commission, and I still think that under the reparation provisions that is necessary. It has been suggested to me, however, that that matter will have to be taken up by some other commission. That may or may not be so. I am not entirely sure about it.

Mr. WALSH of Montana. I must confess that I had the same kind of impression, but upon investigation I am satisfied that that is not the case at all. Indeed, it seems altogether clear. Article 233 provides:

> The amount of the above damage for which compensation is to be made by Germany shall be determined by an interallied commission, to be called the Reparation Commission, and constituted in the form and with the powers set forth hereunder and in Annexes II to VII, inclusive, hereto.

The commission itself has construed that as simply giving it power to determine the aggregate amount which Germany is required to pay to all of the parties to the treaty, and it has so acted. I have before me the proceedings of the Reparation Commission under date of May 5, 1921, in which the amount thus to be paid by Germany is determined; and it goes without saying that individual claimants had no hearing whatever, nor was the amount determined by summarizing the claims of the nationals of the various individual States. I dare say it would be quite interesting to have this record of the proceedings of the commission made a part of the record. I want to say to the Senator, however, that in view of that, it occurs to me that there can be no question that American nationals, so far as their claims are concerned, have no interest whatever in any proceedings of this Reparation Commission, but that so far as their claims are concerned we must await another treaty with Germany by which some commission shall be created and established before which they may go and prove their claims; in other words, that so far as American claimants are concerned, we have not made any progress whatever by this treaty.

Mr. POMERENE. Mr. President, I am not certain that I am ready to accept that position in its entirety. I realize that there has been some holding to the effect indicated by the Senator; but if the Senator will refer to sections 231 and 232 and then refer to Annex I, which gives the various classes of damages which are to be passed upon and determined, it seems to me that the Reparation Commission have that power. It may be that they will refuse to exercise it; and if they should thus refuse to exercise it, then it might be necessary to have a further commission appointed.

Mr. WALSH of Montana. The point to which I am calling the Senator's attention is that they themselves have construed their powers under this article in a different way.

Mr. POMERENE. I know, and they have done that in our absence and without our representation; but there still remains a further question to be determined, and that is as to how this property which is being held in trust shall be applied.

Mr. McKELLAR. Mr. President——

Mr. HITCHCOCK. Mr. President, if the Senator will permit me to interrupt him——

Mr. POMERENE. Yes.

Mr. HITCHCOCK. It is a very reasonable expectation that American claimants, under the method proposed in this treaty, will be paid long before French claimants and other European claimants will be paid, because Germany will be in a position and will have the desire to have them paid promptly, in order that this great amount of property may be released. I will venture the prediction that after this treaty is ratified the American claimants will be paid long before the claimants of other countries will be paid.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. POMERENE. I yield to the Senator from Tennessee.

Mr. McKELLAR. I merely want to say that in behalf of certain Tennessee constituents of mine who have claims against Germany for having taken over property under their alien property custodian act, or similar measures under which the Government took it over, I was advised by the State Department that there was no provision in this treaty or otherwise at present for looking after those matters, but that they would have to depend upon a further treaty.

Mr. HITCHCOCK. Of course not. Nobody expected such a provision to be put in here. Such provisions are never made in the preliminary treaty of peace.

Mr. McKELLAR. There ought to be some method of looking after American interests when a treaty is made with Germany. Some provision ought to be made for it. It is a very serious objection to this treaty with me.

Mr. HITCHCOCK. There is in this treaty the provision that Germany assumes full responsibility for the payment of the claims of our nationals and agrees that until they are paid the United States shall hold these hundreds of millions of dollars' worth of property which she now holds; and the German Government will be just as anxious as we are to have those claims paid, because until they are paid the German nationals can not get back their property.

Mr. POMERENE. Mr. President, allow me to suggest, so that my position may be made entirely clear with regard to this matter, that the suggestion which the Senator from Montana very properly made had been made to me some time ago, and in what I have said here I have spoken of the claims of our nationals. I intended to make it clear, though I perhaps did not, that that referred to the claims as a total—a lump sum. I did not intend to go into the question of how that total might ultimately be distributed. It may be that when it comes to that part of the question there must be some other commission.

Mr. McKELLAR. Mr. President, if the Senator will permit me, I merely wish to state that, so far as this treaty is concerned, in the view of the State Department, as imparted to me by a letter of the Secretary, there is no court or commission created by this treaty by which such a claim as that my constituents are interested in can be settled or determined, and it seems to me that Americans should be principally interested in finding out how they can have determined the claims which they have against a foreign country, especially when we are making a treaty with them.

Mr. HITCHCOCK. I will say to the Senator that if this treaty should be defeated, the day of settling those claims would be postponed indefinitely. You have to have this treaty first before you can set up your machinery to settle them.

Mr. McKELLAR. I do not agree with that view. We will have a treaty with Germany, and one under which American rights will be protected if this treaty is defeated.

Mr. JONES of New Mexico and Mr. SHIELDS addressed the Chair.

Mr. SHIELDS. Will the Senator from New Mexico yield to me for a moment?

Mr. JONES of New Mexico. I desire to ask a question of the Senator from Ohio.

Mr. SHIELDS. I thought the Senator was about to take the floor.

Mr. JONES of New Mexico. The Senator from Ohio has referred to our becoming a member of the Reparation Commission. I should like to inquire of the Senator if he believes that we would have a right to appoint a member of the Reparation Commission without the consent of the other parties who have ratified the treaty of Versailles?

Mr. POMERENE. The Senator from New Mexico has raised a very serious question. If he bases it upon the ground of an abstract right, I reply that I do not know. I have not any doubt, however, that our allies, notwithstanding our treatment of them, would welcome an American delegate to sit on that commission, and I think it is very necessary to have one.

Mr. JONES of New Mexico. If the United States does appoint a member of the Reparation Commission, will not our delegate necessarily have to participate in all the business of the Reparation Commission, including the settlement of accounts between our various allies and Germany?

Mr. POMERENE. There is provision in the pending treaty whereby after a certain time we could withdraw.

Mr. JONES of New Mexico. I understand that either one of these nations may withdraw its membership from the Reparation Commission after a year.

Mr. POMERENE. I think so.

Mr. JONES of New Mexico. But during the time that any nation has a representative upon the Reparation Commission can that commission function as to anything which comes before it without the unanimous voice of all the members of the Reparation Commission?

Mr. POMERENE. Mr. President, I do not care to repeat the argument which I have heretofore made. The jurisdiction of that commission is defined in article 8, and I think the financial provision has some reference to the Reparation Commission, as I now recall, though I am not clear about it. Outside of that I do not think they would have any jurisdiction. If any question comes up which is embraced within the powers given to it under article 8, then I should take the opposite view.

Mr. JONES of New Mexico. The Senator will recall that under the provisions of article 8 the Reparation Commission can not act with respect to any question except by the unanimous voice of all the members of that commission, and if the United States were to have a representative upon that commission would not our representative necessarily have to carry out all the provisions regarding reparation whether pertaining to the United States or any other nation?

Mr. POMERENE. The Senator is asking a very general question, and I do not know what especially he has in mind. Paragraph 13 of annex 2 to article 244 of the Versailles treaty tells us when the action of the commission must be by unanimous voice and when it shall be by a majority voice, and if Germany defaults in carrying out the performance of any obligation then section 17 of this annex defines what the commission's duties shall be, which are simply to give notice and make recommendation.

Mr. SHIELDS. Mr. President, I want to ask the Senator from Ohio a question before he takes his seat. I understood the question of the Senator from New Mexico as rather indicating that the United States would get into trouble on the Reparation Commission by being required to take part in settling questions between other nations and Germany. Was that the purport of the Senator's question?

Mr. JONES of New Mexico. I was asking the Senator from Ohio for information regarding that point.

Mr. SHIELDS. The reparation clause as it is bodily adopted in this treaty is the very same that was in the Versailles treaty when it was first presented to the Senate about two years ago, and we are not incurring any further liabilities or obligations than we incurred then, are we?

Mr. POMERENE. None at all.

Mr. SHIELDS. In regard to the advantages of the clauses from the Versailles treaty which are bodily incorporated in this treaty, I wanted to call the attention of the Senator from Ohio to this, appearing on page 3 of the views of the minority presented when the majority report was made containing reservations on the Versailles treaty on September 11, 1919. In speaking of the advantages of the treaty in that report, and what the United States would lose if the treaty was rejected by amendments, including that striking out the clause containing the League of Nations, that report, made by the minority of the Foreign Relations Committee who opposed the reservations, said:

Among the concessions which the United States would sacrifice by the adoption of any amendment or the rejection of the treaty may be included the following:

First. Germany's acknowledgment of responsibility for the war and her promise to make restitution for damages resulting from it.

Of course, we shall get those benefits if we ratify the pending treaty.

Second. Germany's promise to us in the treaty that she will not impose higher or other customs duties or charges on our goods than those charged to the most favored nation and will not prohibit or restrict or discriminate against imports directly or indirectly from our country.

Of course, we get those under this treaty.

Third. Germany's promise to us in the treaty that she will make no discrimination in German ports on shipping bearing our flag and that our shipping in German ports will be given as favorable treatment as German ships receive.

We also get that.

Fourth. That for six months after the treaty goes into effect no customs duty will be levied against imports from the United States except the lowest duties that were in force for the first six months of 1914.

Fifth. Germany's agreement with us that the United States shall have the privilege of reviving such of the treaties with Germany as were in existence prior to the war as we may alone desire.

Sixth. Germany's promise to us to restore the property of our citizens seized in Germany or to compensate the owners.

Seventh. Germany's very important agreement validating all acts by the United States and by the Alien Property Custodian by which we seized and proceeded to liquidate $800,000,000 worth of property in the United States belonging to German citizens.

Eighth. Germany's agreement that the proceeds of the sale of these properties may be used to compensate our citizens in Germany if Germany fails to do so, or to pay debts which Germany or Germans owe to American citizens, or to pay American prewar claims against Germany for property destroyed and lives taken similar to the losses because of the destruction of the *Lusitania*.

Ninth. Germany's agreement that she will compensate her own citizens for property, patents, and other things belonging to them in the United States seized during the war by our Government.

Tenth. Germany's agreement that no claim can be made against the United States in respect to the use or sale during the war by our Government, or by persons acting for our Government, of any rights in industrial, literary, or artistic property, including patents.

Eleventh. Germany's agreement that the United States shall retain over 500,000 tons of German shipping seized in American ports which much more than compensate us for shipping lost during the war.

Twelfth. We would lose our membership on the Reparation Commission, which will be the most powerful international body ever created and which will have enormous control over the trade and commerce of Germany with the rest of the world for years to come. It not only supervises the use of German economic resources and the payment of reparations, but it can restrict or expand Germany's imports and distribute much of her desirable exports, including dyes. In no way can the United States assure itself against discrimination in German imports and financial policies unless we have a member upon this great Reparation Commission.

These are some, but by no means all, of the valuable concessions which the United States would inevitably sacrifice by failing to ratify the treaty.

I think it is true, and the Senator can correct me if it is not—and that is why I wanted to ask the question—we get all of these advantages under the pending treaty, do we not?

Mr. POMERENE. I think so; that is, so far as they relate to the Reparation Commission.

Mr. SHIELDS. They entirely relate to the clauses which are bodily incorporated in this treaty.

Mr. POMERENE. I have not changed my view since that report was made.

Mr. SHIELDS. We still will get them?

Mr. POMERENE. That is my understanding of it.

Mr. SHIELDS. That report was signed by all the members of the committee opposing the reservations?

Mr. POMERENE. I think so.

Mr. SHIELDS. I believe it was signed by all the Democratic members of the committee except myself, and it was generally approved by all those favoring the treaty at that time.

Mr. POMERENE. I assume the Senator is right as to those who signed the report. It has been some time ago, and I have forgotten about it.

Mr. SHIELDS. That is true; I have the report. Now, I desire to ask another question. What effect does the mixed arbitral tribunal have, in the Senator's opinion, upon the question of there being no commission to settle the controversies between the United States and its nationals and Germany and its nationals? The Senator remembers it provides for such a commission to be established between each of the allied and associated nations on the one side and Germany upon the other, and it gives them jurisdiction practically over every matter that can come up as a controversy between those nations.

Mr. POMERENE. If I may answer the Senator in a very general way, I have not gone into it in my argument for the purpose of drawing fine distinctions as to what shall be the jurisdiction of one commission or another commission to be created. Taking the view of this treaty which I do at present, I am not concerned about that. I am concerned that the treaty shall be ratified, and I am further concerned that we shall enter upon the performance of the duties of this Reparation Commission, and I think that is going to be the next step to be taken.

Mr. SHIELDS. The Senator's position is entirely consistent with his former one. He thought these rights would be acquired and preserved by the treaty?

Mr. POMERENE. I did.

Mr. SHIELDS. And he is now agreeing to this treaty and still believes it.

Mr. WALSH of Montana. I want to inquire of the Senator from Tennessee if he contends that the mixed arbitral tribunal, for the appointment of which provision is made by article 296, has any power to hear the matter of claims of American nationals for damages done to their property by acts of the German Government, such acts, for instance, as those referred to the other day by the Senator from Ohio [Mr. WILLIS], when he told us of property in Belgium destroyed by the German Army in a spirit of wantonness, or for the purpose of destroying the industrial capacity of a plant belonging to American citizens. Has the arbitral tribunal the power to hear and determine the amount of damages which they are entitled to recover?

Mr. SHIELDS. I do not quite grasp the Senator's inquiry. What class of claims does he think the mixed arbitral tribunal would have jurisdiction of?

Mr. WALSH of Montana. Let me put it more simply. An American citizen was drowned by the sinking of the *Lusitania*. Is it the contention of the Senator that the mixed arbitral tribunal has the right to hear and determine the question of damages which his dependents would be entitled to recover?

Mr. SHIELDS. I do not think it does, but for all of the controversies of a financial nature, you might say, not those sounding in damages, but matters growing out of commerce and contracts, for those prewar damages we have the property in our hands, and Germany consents that we retain it and use it to pay all those claims.

Mr. WALSH of Montana. I do not wish to enter into a controversy with the Senator about that, but I understood the concluding remarks of his colloquy with the Senator from Ohio [Mr. WILLIS] to be that the mixed arbitral tribunal had some authority; that there was a tribunal provided by the treaty for the settlement of the amount of the various claims by American

nationals against the German Government for property destroyed or for lives taken.

Mr. SHIELDS. It does not cover them all, but covers an immense number of them.

Mr. WALSH of Montana. How many of them?

Mr. SHIELDS. It covers several sections. It applies to various sections, probably several pages of the treaty.

Mr. WALSH of Montana. It covers obligations arising out of contracts; that is to say, if prior to the war a German national entered into a contract with an American national under which the American national claims that he is entitled to recover of the German national on that contract, that would be determined by this mixed arbitral tribunal undoubtedly; but the claims for damages referred to in the Knox resolution are for injuries done to personal property, and the question is what provision is made for the determination of the amount of those claims. I inquire of the Senator whether the mixed arbitral tribunal has any jurisdiction in the premises at all?

Mr. SHIELDS. I think that it covers contracts and property rights. They are very broad. So far as damages of our nationals for injuries sustained, there are ample provisions that we retain the money now in our hands—money and property largely in excess of those claims—and if the United States is not able in the execution of this treaty and in the usual way to settle such matters, and it is not necessary that Congress pass on them, the statesmen of this country certainly have not the ability that I think they have. I have never been in any wise troubled about our nationals being secured and paid for wrongs they suffered when we had in our Treasury money belonging to Germany with which to pay them, and which Germany concedes at least three times in this treaty we shall apply in that way.

Mr. WALSH of Montana. I had no hesitancy in my belief about that, too. I am entirely satisfied that they are amply protected. The only question is how are we going to determine the amount. That is aside from the question as to whether the amount is going to be determined by the mixed arbitral tribunal. I read the powers of the mixed arbitral tribunal, found in section 296, where the tribunal is empowered to determine the amount of the following classes of pecuniary obligations:

(1) Debts payable before the war and due by a national of one of the contracting powers residing within its territory to a national of an opposing power residing within its territory;

(2) Debts which became payable during the war to nationals of one contracting power residing within its territory and arose out of transactions or contracts with the nationals of an opposing power resident within its territory of which the total or partial execution was suspended on account of the declaration of war;

(3) Interest which has accrued due before and during the war to a national of one of the contracting powers in respect of securities issued by an opposing power provided that the payment of interest on such securities to the nationals of that power or to neutrals has not been suspended during the war;

(4) Capital sums which have become payable before and during the war to nationals of one of the contracting powers in respect of securities issued by one of the opposing powers provided that the payment of such capital sums to nationals of that power or to neutrals has not been suspended during the war.

While I think that those of our nationals who have claims on account of damages done to their property or because of lives taken by acts of the German Government are protected all right by reason of our holding the money and property, none of them can have any adjudication before the mixed arbitral tribunal.

Mr. SHIELDS. The Senator, of course, has not implied and does not mean to imply that what he has read covers all the jurisdiction of the mixed arbitral tribunal.

There is a very great variety of things, and I do not see any difference between the Senator and myself. I stated in answer to his inquiry, and I repeat, that practically the mixed arbitral commission had jurisdiction covering all contracts and claims growing out of property rights and not those which might technically be said to be sound in damages. For the latter we have the property in our hands which Germany agrees we shall dispose of in that way. We can settle it ourselves. We can appoint a commission under this treaty to ascertain and pay those claims. The fact is, Germany has very little to say under this treaty as to what shall be done with the property and as to the amount of our prewar claims against her.

Mr. DIAL. Mr. President, I desire to state very briefly my position on the treaty. In this country we necessarily have a Government by party, and the party in power is charged in a great measure with fixing our foreign policies. I feel that in international questions there should be no politics, but that politics should cease at the water's edge.

Last year and year before last I did all within my power to have the Versailles treaty ratified. I felt at that time, and I still feel, that it was the duty of the Senate to pay the greatest respect to the executive department of our Government. That department had negotiated a treaty, and I felt it was our duty to ratify that treaty. The Republicans saw proper to defeat it, and I feel that on account of their obstinacy they almost bankrupted the world. They have certainly impoverished the section from which I come.

Mr. President, there are many things about the treaty that I do not like. My feeling would be that we ought to treat our friends on the other side of the aisle in the same way they treated us. If I were to vote according to my feelings, that would be the way I would cast my ballot. But, Mr. President, I feel that I have a higher duty to perform to the people of the United States. There is no question that the American people want peace established legally, and, taking a broad view of the subject, I can not shift that responsibility, and shall therefore vote for the ratification of this treaty, notwithstanding the fact that I think there are many objectionable features in it. If we were to defeat the ratification of the treaty, we would make no progress toward a final settlement of the various pending questions. I can not see any good to be accomplished by defeating it except that we would treat our friends the enemy in the same manner that they treated us, and while that would be some consolation, it would be poor consolation to our constituents.

I recognize that if we were to defeat it the President of the United States would hardly send for me to write a treaty, and I do not think he would send for my colleagues on this side of the aisle to write one; neither would be send for my constituents down home for that purpose. All legislation, or most, so far as I have been able to discover, is the result of compromise. We can not have our own way in everything nor our entire way in scarcely anything. Therefore I feel that we should go ahead and do the best we can for our constituents. Some progress can be made, because Germany has already ratified the treaty.

My particular constituents are a great exporting people. We raise large quantities of cotton, last year having produced in my little State 1,600,000 bales. We only consume in manufacturing in that State about 700,000 bales, and therefore have approximately a million bales to sell to other parts of the United States or to foreign countries. Even in the entire United States we only consume about 6,500,000 bales of cotton a year, whereas we raised last year in the United States over 13,000,000 bales. Therefore it is a vital question to my people that world conditions be restored and become normal again, so that they will have a market for their surplus products.

Of course, all these matters will not be settled by ratification of the pending treaty, but it certainly seems to me to be a step in the right direction. I feel, after we have argued here for three years, that the people of the United States are becoming very tired of our dilatory tactics and are demanding that we proceed to make progress. By ratifying the treaty we will have taken a step that will bring about settled conditions in the world and help us restore normal conditions and get back to the old trade relations and help our people become settled once more. It is our moral duty, as well as to our financial interest, that we get this matter settled.

If we are in earnest and hope for beneficial results from the disarmament conference, for which we unanimously voted, we should clear the way to accomplish results.

To my mind if the Germans had their representatives in this country and we had our representatives in Germany, that would aid in our business relations in the settlement of the numerous claims that we have and would be a great step in getting all these matters cleared up.

For these reasons, Mr. President, I shall vote for the ratification of the treaty.

Mr. SHORTRIDGE. Mr. President, we are asked by the President of the United States to consent to a treaty of peace between our country and Germany, a treaty which he has negotiated and a treaty which as of this moment has been ratified by the German Government. I think it timely to inquire what is the outstanding purpose of the treaty.

The one great purpose of the proposed treaty manifestly is to restore friendly relations long existing between the two nations prior to the late great tragic war. The proposed treaty is indeed a covenant of peace which, if faithfully observed in all of its terms, as we must assume it will be by the two nations, not only restores friendly relations between them but imposes just and righteous punishment on the guilty, provides for reparations for injuries suffered, and guards against a repetition of wrongs done.

In entering into a treaty of peace the victor nation does not forget crimes committed, injuries wantonly inflicted, sins unattoned; but the victor nation should not enslave the vanquished. Let it be understood that the proposed treaty does not under-

take to enslave nor does it enslave the fallen, vanquished foe. It is a just, a righteous treaty. If unjust, it is so toward our own people, but in so indicating I am not admitting that it is unjust.

Mr. KING. Will the Senator permit an inquiry?

The PRESIDING OFFICER (Mr. EDGE in the chair). Does the Senator from California yield to the Senator from Utah?

Mr. SHORTRIDGE. Certainly.

Mr. KING. The Senator from California has referred to the treaty as just. He is referring of course to those provisions of the Versailles treaty which inure to the benefit of American nationals. To that extent the Senator approves of the Versailles treaty?

Mr. SHORTRIDGE. When I say a treaty is just it is rather a broad statement and it would seem to include all of the document. I say the treaty is just. If unjust—which I am not asserting—it would be toward our own people, and, humble as I am and claim to be, I venture to say that if I had drafted this document it at least would be in somewhat different form though, perhaps, in essence and in substance substantially the same.

I venture to repeat, Mr. President, that this treaty does not enslave Germany nor, to put at rest the perturbed spirits of some who have spoken, does it leave or is it intended to leave Germany naked to her enemies. Certainly the United States of America meditates no attack upon Germany, and it ought to be understood by all the nations that America meditates no attack upon any nation upon the face of the earth, whether that nation be to the east of us or to the west of us. All the nations of the earth, however, ought to take notice that, while we contemplate and meditate no attack upon them, we hold ourselves ready to defend this Nation if we are wantonly and unjustly attacked. But in this hour, and, perhaps, through all the long weary years to come, Germany and all nations guilty of like offenses against man and God may well hearken to the warning from on high—"Vengeance is mine, saith the Lord. I will repay."

This Nation, however, is not acting in a spirit of vengeance toward Germany, nor has it ever acted in that spirit as against any nation from the foundation of our Government to this hour.

The question I put to myself, and which I assume every other Senator has put to himself, is, Will this treaty achieve its purposes? What are its purposes? Briefly stated, they are justice and peace. Of course, in this world we can never have mathematically exact justice between man and man or between nation and nation, but we can have an approximate justice, a substantial justice, a justice which satisfies the conscience.

Perhaps we may never have perpetual peace on this earth, but our hope is that we may have permanent peace among all nations. Obviously, the entering into this treaty will be helpful in that direction, for it is earnestly believed that substantial justice will be done to us and to Germany, and it is sincerely hoped that it will insure permanent peace between these two great peoples, and by that means contribute to the peace of the world.

Mr. President, we are charged with a very grave duty at this hour, and it seems to me that our first thought, our first concern, should be for America. However much we may sympathize with other nations, however much we may desire now to enrich all peoples, however much devoted we are to the uplifting of mankind at large, our first thoughts are here; our first duty is to America. I impute no wrong motive, I do not by indirection intend to do so, when I inquire, Why the concern manifested here over Germany? Why the solicitude which seems to be manifested lest Germany be left naked to her enemies, stripped of power and inviting thereby invasion from nations round about her? Let me not be misunderstood. I say that, inasmuch as Germany, not under coercive pressure, has already ratified and approved the pending treaty, we might well dismiss any fear as to her future and dismiss all thoughts as to what she now thinks of this treaty or its effect upon her individually or collectively as a nation under her present form of government or any other which she may adopt.

So far as I am concerned, Mr. President—and the revolving hand of the clock is staring me in the face and I remember some of the wise maxims of Polonius—I think it well this day, in order that our motives in waging war and in entering into this treaty may not be recorded as unrighteous, unworthy, or unjust, that a few truths in candor be spoken, and as for me spoken without malice toward any man or any nation. It seems to me appropriate, as collateral to the discussion here, that it be said we did not make war on Germany. I have heard intimation that our country was at fault at the beginning or during the late Great War. We were not the aggressors. We saw Serbia invaded; we saw Belgium outraged; we saw France assaulted; we saw the *Lusitania* sink—did we not?—and feeble age and hopeful youth and wondering infancy go to their death—a crime unspeakable and a sin which has never been punished.

Mr. McKELLAR. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from California yield to the Senator from Tennessee?

Mr. SHORTRIDGE. Certainly.

Mr. McKELLAR. Entertaining the views that the Senator has just expressed, would not the Senator prefer that there should be some provision in the pending treaty by which Germany accepts the responsibility for having begun the war in 1914?

Mr. SHORTRIDGE. We shall settle that in all good time; she shall pay——

Mr. McKELLAR. Is not this the time to settle it?

Mr. SHORTRIDGE. Germany shall, so far as money can pay, make reparation for her crimes.

Mr. McKELLAR. I understand that, but what I am asking the Senator is, entertaining the views that he has just expressed, which I think are the views of every patriotic American, does he not think there ought to be some provision in this treaty by which Germany acknowledges that she is responsible for bringing on the war?

Mr. SHORTRIDGE. Not to be too much diverted, I will answer the Senator that if I had drawn this instrument I might have incorporated in it something more than we find.

Mr. McKELLAR. The Senator is drafting it, if he will permit me to say so. The Senator when he takes part in the ratification of the treaty is one of the drafters of the treaty.

Mr. SHORTRIDGE. I appreciate the importance of my act and have a sort of vague notion as to the power of the Senate in the matter before us.

Mr. McKELLAR. If the Senator will excuse me for just a moment further, and then I will not interrupt him any more, the Senator has not answered the question. Does not the Senator agree with me that there ought to be some provision in this treaty by which Germany accepts the responsibility for having brought on this very unjust war?

Mr. TOWNSEND. Mr. President, may I interrupt the Senator for just a moment?

Mr. SHORTRIDGE. Certainly.

Mr. TOWNSEND. What is the theory of this treaty by which we impose so many obligations and costs upon Germany if it is not that she is to blame for the war?

Mr. SHORTRIDGE. Certainly.

Mr. McKELLAR. Then, why not make her say so.

Mr. SHORTRIDGE. She does say so; she does admit it.

Mr. McKELLAR. Not by this treaty.

Mr. SHORTRIDGE. Such an admission is found in the treaty, and if the learned Senator from Tennessee would adjust his glasses he would see it.

Mr. McKELLAR. I thought it was there, and I asked the Senator from Massachusetts this morning if it was not found in article 231 of part 8, on page 32 of the document which has been furnished to us. The Senator from Massachusetts informed me that it was not there; that part 8 of the Versailles treaty was not a part of this treaty. The provision to which I refer is article 231 of the Versailles treaty, which is as follows:

> The allied and associated Governments affirm and Germany accepts the responsibility of Germany and her allies for causing all the loss and damage to which the allied and associated Governments and their nationals have been subjected as a consequence of the war imposed upon them by the aggression of Germany and her allies.

Mr. SHORTRIDGE. Mr. President, highly provoked, we saw all these things. We saw more, first with amazement and finally with just wrath and indignation, each and every and all the rules and principles of modern warfare which had been mitigated by time trampled on, scoffed at, violated. We saw this; we suffered by it, and yet we remained neutral. We were urged to remain neutral. The world was told that we were "too proud to fight." I do not wish to provoke a controversial spirit by the reference. And he who told the world this was returned to power because he "kept us out of war." I allude to it merely to say that it was the utterance of a mistaken statesman, and that the people in that respect perhaps were deluded. But finally the pent-up, long-restrained wrath of this outraged Nation burst forth, and on April 6, 1917, we declared that a state of war existed between us and Germany.

It did exist and it had long existed, and Germany created that state of war. Then the war was fought. We put forth the full strength of the Nation; and partisanship was silenced, as it should be silent now. We joined in opposing and in defeating the common enemy of each and all; and right here I want to say to Senators who have thrown out a contrary thought

that we never deserted our associates and we are not deserting them now. Moreover, we never have been isolated, and this Nation never will be isolated. You might as well reach out your puny hand and try to extinguish the sun in heaven as to undertake to put out the light of this Republic. We are not going alone in the sense of wandering far from the world. We never have done so. We never shall. But I do not wish by that to be understood as saying that we must entangle ourselves, shackle ourselves, tie our hands and feet, with European or Asiatic nations. We have stood alone, unafraid, and we can now, and if I measure the spirit of this Nation correctly we do now stand unafraid of earth and unashamed to look Heaven in the face. Our diplomacy in the past has been righteous, kind, merciful, and I hope it may always continue to be so.

We are now asked, however, to enter into this solemn agreement with Germany. We are not extorting more than we are entitled to; perhaps not as much as in justice we are entitled to; but the President, having due regard to local, national, and international relations and facts, has submitted to us this document. True, we have a right to tear it to pieces. We have a right to reject it in toto. We have a right to amend it, to add to, or to take from it; for I love to think that the Senate has not abdicated. I once thought perhaps it was being asked to abdicate, but it has not abdicated. Those far away who may criticize the Senate and say that it is slow in its deliberations might well remember what it has done for the liberties of this Nation, and that it is, after all, the great conservative, deliberative branch of this great Government.

When I have said in response to my friend from Tennessee that this document might not have been in its exact phraseology or form had I had aught to do with drafting it, I would have him understand that being here as it is, even though I objected to some of its provisions, under the circumstances I deem it my duty to approve the document—which is but an agreement—as it is submitted to us.

Recurring, though, for a moment, the war was fought. The war was won. Naturally, one is tempted to pay tribute to those who engaged in that victorious war; but other time and other place may be given to that eulogy. But this I venture to say, Mr. President, that when victory came, and particularly when the armistice was signed, then, if ever, for a second time "the morning stars sang together, and all the sons of God shouted for joy."

Here is the sad and pathetic fact: Would you not all have supposed, did not America think, that every nation in Europe would fall upon its knees and give thanks to God that peace had come? Would you not have supposed that every one of them would have turned to break every sword and dismantle every gun and build nests in the mouths of cannon? No! What have we seen, and, gracious God, what danger we have avoided and escaped from because brave men sitting in this Senate Chamber—the great Senator from Massachusetts [Mr. LODGE], the great Senator from Idaho [Mr. BORAH], the great Senator from Connecticut [Mr. BRANDEGEE], the great Senator from my own State of California [Mr. JOHNSON]—stood here in this place and saved the United States from being engulfed in the European wars which are raging to-day, even as my poor words are spoken.

We thought that peace had come; that humanity was sick of war. No! The smoke had hardly blown from the field of battle, the tears in women's eyes were not dried, the wailing of children was not stilled, the earth was still wet with tears and blood, when these nations again leaped at one another's throats. The pathos of it all! The tragedy of it all! And here we are in America, and there be those among us who wail and deplore the condition we are in. What I want is peace with all nations, and I want peace among our own people—rich man and poor man, learned and illiterate, white and black. I want peace here, in my own dear land, from Gulf to Lakes, from Plymouth Rock to Golden Gate.

Mr. McKELLAR. Mr. President, does that include Russia?

Mr. SHORTRIDGE. Yes; I want peace with the Russian people, but I want the Russian people to be under a civilized, regulated government which shall protect the strong and the weak. I want orderly government. I want regulated government. I want liberty regulated by law. I want the liberty which Washington achieved and which your forefathers and mine fought to preserve. That is the kind of government I want for Russia. I do not want a brutal, tyrannical, bolshevistic form of government which crushes the innocent and which is abhorrent, I venture to say, to every righteously thinking and unprejudiced mind.

Mr. McKELLAR. Then I understand that the Senator is not in favor of peace with Russia as long as she has a bolshevistic government or her present government?

Mr. SHORTRIDGE. The Senator anticipates my answer correctly. I want the form of government which is the subject of such eulogy by my eloquent friends from Georgia [Mr. WATSON] and from Alabama [Mr. HEFLIN] and from Tennessee [Mr. McKELLAR].

I want the form of government that our fathers designed, fashioned as it was into symmetry and strength by the master minds of the early days of this Republic; and right now I say—Senators will pardon me, and you, Mr. President, for the digression—I think we should all occasionally go down to Mount Vernon and hearken to the voice that comes from that holy sepulchre. I think—and I undertook to do so last week—we should go down to Richmond and stand by the tomb of James Monroe and hearken to the voice that comes from his holy grave. In other words, I think that we as Senators and that the American people should remember that in 1793 George Washington warned America to keep out of Europe, and that in 1823 James Monroe warned Europe to keep out of America. That is my doctrine; that is the Washington doctrine; that is the Monroe doctrine—America to stand upon her soil, and Europe, and I add Asia, to stand upon theirs. And it might be well also for some of my friends to go over and stand by old Andrew Jackson's grave and hearken to some lessons that come from there.

Mr. McKELLAR. Those of us from Tennessee always do.

Mr. SHORTRIDGE. I know it.

Mr. HEFLIN. Mr. President, will the Senator yield?

Mr. SHORTRIDGE. Yes.

Mr. HEFLIN. The Senator from California tells us that Washington advised us to keep out of Europe.

Mr. SHORTRIDGE. Yes, sir.

Mr. HEFLIN. What does the Senator think Washington would have done if he had been President in 1917, as Wilson was?

Mr. SHORTRIDGE. If he had been President a little earlier than 1917, we would have had no war with Germany; or if Andrew Jackson had been President from 1912 we would have had no war with Germany. In other words—if the Senator wishes to put another question, I shall be glad to yield for that purpose.

Mr. HEFLIN. I will wait. I want to say a word myself when the Senator is through.

Mr. SHORTRIDGE. For the record's sake, Mr. President, long months ago, far removed from here, unknown, not hearkened to, with a courage born of the valor of ignorance, I ventured to engage in controversy with the president of the Leland Stanford Junior University. I happen to hold in my hand a book which I prize, but to which the world has not yet attached any value, which contains a sentence that embraces the whole doctrine of George Washington. Not for the benefit of our friends over yonder, but to do myself a pleasure, I wish to read the sentence. It is an interrogative question put by George Washington; sums up, is the triple quintessence of the whole doctrine of the Father of our Country. Washington asked in his Farwell Address, "Why quit our own to stand on foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, humor, or caprice?"

The American people have always hearkened to that question and answered it.

Mr. CARAWAY. Mr. President, the Senator said that if Washington had been President in 1917 we would have had no war with Germany, did he not?

Mr. SHORTRIDGE. I venture to so think.

Mr. CARAWAY. Is the Senator then disapproving of the fact that we entered the war?

Mr. SHORTRIDGE. Far from it.

Mr. CARAWAY. Would he rather have let France go down to defeat, and Germany become master of the world?

Mr. SHORTRIDGE. Far from that conclusion.

Mr. CARAWAY. How could we have prevented them if we had not gone into the war?

Mr. SHORTRIDGE. If we had had George Washington, if we had had Andrew Jackson, if we had had Theodore Roosevelt in the presidential chair from 1912 on, it is my thought—and, of course, it is a mere thought born of some knowledge of the past, little, it may be—that Germany would not have invaded Belgium, she would not have turned her armies toward France, that there would have been no such war. When Austria-Hungary, with no more right than I would have at this minute, sent her ultimatum to Serbia, I do not believe that if any one of those great men had been President of the United States, Austria-Hungary, first, would have followed up her ultimatum, or if she did, Germany would have violated trea-

ties with this country and with all the nations, practically, and invaded Belgium. In a word, I do not believe that greatest tragedy of all time would have been played upon the earth.

Mr. CARAWAY. If the Senator will pardon me further, did we have any treaty with Germany against her invading Belgium?

Mr. SHORTRIDGE. I think there were covenants under the Hague convention which bound her, though she had, I believe, failed to join in some of them.

Mr. CARAWAY. If the Senator will pardon me again, Roosevelt was President when Japan and Russia fought, and he was not able, by his mere name, to prevent that war, and a good many foreign wars were fought during Washington's administration and during Andrew Jackson's administration. Why does the Senator think that in this day just the mere name of one of those men would have commanded the peace of the world and made the Kaiser observe his treaties?

Mr. SHORTRIDGE. When old Andrew Jackson spoke, his words were a power in themselves, and the same I might say of Washington and of Roosevelt. But the Senator has mentioned Russia and Japan. The sympathy of the people of America was with Japan. There were at least two men in California—perhaps not more—my friend Oulahan, of Stockton, and your humble servant, who declared it was a mistaken or misplaced sympathy. But undoubtedly the sympathy of America went out for Japan in the Russo-Japanese War. It never should have done so.

Mr. CARAWAY. May I remind the Senator that Roosevelt was the man who suggested the bringing together of the envoys of Japan and Russia and almost forced Russia into the treaty of peace with Japan; and he is the man whose name the Senator says would have commanded the respect of all the world, and would have prevented the Kaiser from devastating Belgium.

Mr. SHORTRIDGE. I do not gather the force of the Senator's observation. The Russo-Japanese War was a break in the march of progress. Russia had builded that great railroad across Siberia, so that any gentleman could leave Washington, we will say, speed across the continent, take a steamer at San Francisco, land at Port Arthur, get into a car, practically a Pullman palace car, and in a few days arrive in Paris. Russia had turned eastward, the only great modern nation which has ever done so. Russia could not expand to the west or the south for reasons which you learned men know. She had turned east to develop Siberia, and what she did was in the interest of civilization. My friend from the Southland [Mr. WATSON of Georgia] shakes his head.

Mr. CARAWAY. May I suggest, then, that what Roosevelt did was against civilization, because he stopped the Japanese-Russian War and destroyed Russia, did he not?

Mr. STANLEY. Mr. President, I have listened with interest to the address of the Senator, and I am surprised to find, if I understand, that for once he is apparently inconsistent, and that is surprising in the Senator from California.

Mr. SHORTRIDGE. That is a privilege which Sir Robert Peel reserved to himself on the repeal of the corn laws.

Mr. STANLEY. I understand the Senator to commend the attitude of Washington, and then to assert that if Washington or Roosevelt had been President at the beginning of these troubles he would have prevented the recent war by proceeding immediately after the Austrian ultimatum to Serbia. If I am correctly informed, we had no semblance of any treaty rights, or any stipulations or agreements, except as to the neutrality of Belgium. This country was in no way involved in the Slavonic alliance between Russia and Serbia.

Mr. LODGE. Mr. President, if the Senator from California will allow me a moment, under The Hague convention, of which we were a signatory, we have the explicit right reserved to us to offer our good offices on any such occasion; and we had also the good ground of the guaranteed neutrality of Belgium on which to interfere.

Mr. STANLEY. I am not contending we were not free to offer our good offices. We could do that with or without The Hague convention; but what I stated was that there were no treaty obligations that would justify intervention.

Mr. LODGE. No; but the point is, if the Senator will pardon me one moment, that if we had had Washington or Jackson or Roosevelt we should have intervened and checked the war, as we had a right to do. That is the point.

Mr. STANLEY. If we had had Washington or Jackson, we never would have had a self-constituted censor exercising the power of the Army and Navy of the United States to prevent the sending of an ultimatum to Serbia by Austria simply because we thought Austria was in the wrong. The whole life of Washington, and his Farewell Address, and the fact that he did not participate in European troubles, especially in the case of this country and France, when France was, as we thought, clearly in the right, are to my mind indicative that Washington meant what he said when he said that we were to keep out of foreign alliances and entanglements and wars, without regard to who was in the right or who was in the wrong.

Mr. SHORTRIDGE. I venture to think that if George Washington had been alive—and though dead he speaketh—he would not have implored us to remain neutral in fact as well as neutral in thought. I grant you it was our duty to remain neutral up to a certain point, and we enforced our laws of neutrality by prosecuting men because they had interfered, as it was thought, with other nations in violation of our law.

Mr. McKELLAR. If the Senator will permit me, if George Washington had done a thing of that sort, he would have been violating the very advice which the Senator has just read. Of course, if he had intervened in European affairs at the beginning of a war, that would have been taking part in their internal affairs, concerning which he advised us to the contrary.

Mr. SHORTRIDGE. They knew the difference between Washington, Jackson, Roosevelt, and—but I will not finish the sentence.

Mr. WATSON of Georgia rose.

Mr. SHORTRIDGE. May I not conclude my remarks? But I do want to hear from my friend, the Senator from Georgia.

Mr. WATSON of Georgia. The Senator referred to me a while ago, did he not?

Mr. SHORTRIDGE. I did.

Mr. WATSON of Georgia. I remind the Senator that I shook my head because he had fallen into an error, which he very seldom does. He said that no other nation had turned east. I beg to remind him that Great Britain has turned east, that France has turned east, that the United States has turned east.

Mr. SHORTRIDGE. The United States has turned east? It has never turned turtle, though, has it?

Mr. OWEN. Mr. President——

The VICE PRESIDENT. Does the Senator from California yield to the Senator from Oklahoma?

Mr. SHORTRIDGE. For a question.

Mr. OWEN. Mr. President, did not Theodore Roosevelt, when the Belgians prayed for the United States to intervene and protect them against the German invasion, take the position that it was not any business of ours?

Mr. SHORTRIDGE. I do not so understand the record.

Mr. OWEN. If I am not very much mistaken, that is the record.

Mr. ASHURST. Mr. President, I dislike to interrupt the Senator's really beautiful address, but I do think, in the interest of accurate history, we should remember that Theodore Roosevelt wrote a letter, which was widely published, in which he advised our country that the overrunning of Belgium by Germany was no concern of the United States. That will be found, of course, in the Outlook and various other publications of that kind.

Mr. SHORTRIDGE. Let me reply to the Senator from Georgia. I do not want to be inaccurate in a statement. I made the direct statement that no great people as a nation had turned eastward to develop. I had in mind that civilization has pursued a westward course; that the great nations, from the coming down of the peoples from the Himalaya, seemed to go toward the west. Such has been the development of Christian civilization, with the possible exception of the late Empire of Russia. I have in mind the Roman growth and development, but I think upon reflection the Senator will do me the credit to agree with me in this general observation touching the westward march of civilization.

Mr. President, after the armistice was signed, which imposed certain obligations and gave certain rights, the nations lately at war met for the purpose of drafting a treaty of peace. They met, they considered, and the output was the treaty of Versailles. I merely mention that now to say that we do not become a party to the treaty of Versailles by ratifying the pending treaty between us and Germany.

I respect the Senator from Idaho very much. I admire his Americanism, and I read from afar off his eloquent, noble utterances when dealing with the Versailles treaty, and I say the same touching others who were of the same mind, respecting always those who differed; but I say to the Senator from Idaho that his fear is baseless, his fear is that of childhood—always meaning that in respect—that the fact that we sign this agreement, which in its terms refers to another document, does not make us a party to that other document or agreement or treaty.

There are learned lawyers here who do me the honor to give me their attention. I have in mind the suggestion of my friend yonder [Mr. WATSON of Georgia], who said this treaty came here in disguise; that it was a strangely framed document. He suggested—and it might well have been—that all the matters in-

corporated into the document by way of reference should have been set out in hec verbae in the document itself. But, Mr. President, there is nothing unusual, there is nothing novel, there is nothing strange in incorporating one document into another by way of reference. It is merely a form. It neither adds to nor takes from. By the express reference in this proposed treaty certain portions of a treaty known as the Versailles treaty are incorporated.

But the agreement which we are this day entering into, if we ratify this treaty, is an agreement between us, the United States of America, and the German Government. We are the only two parties to that agreement. There are none other.

There are many advantages coming to us by entering into this treaty. Not in the way of offensive challenge, but I would intellectually challenge any Senator to point out any disadvantages that are to come to us from entering into the treaty. I suppose it is proper to balance advantages with disadvantages, and whereas there are many advantages, as have been pointed out, I have not heard of any disadvantages which will come to us by entering into this agreement.

Nor is there anything in the proposition that by accepting a benefit we undertake to perform any affirmative obligation. I can be the recipient of a benefit in a contract without being obligated to perform something in return. If this treaty gives us benefits, as have been pointed out, it does not follow that we are obligated to do anything in return, unless under that one section which says that if we elect to take under certain provisions of the so-called Versailles treaty, then we shall exercise our rights consistent with the rights of Germany, which would be morally proper, decent, and which I am sure this Nation would observe.

Once more I say—and this may not affect any vote; of course, I could not hope for that; it may not even persuade, certainly it will not convince, but for my own sake I wish once more to say that we should consider this document from an American standpoint; that we should not express or feel any great concern or solicitude over Germany or what she may think about it. Even if we had had that solicitude, there is no great occasion for it now, because Germany has already ratified the treaty.

The learned Senator from Idaho [Mr. BORAH] opposes ratification, because he says it is the first step, the first fatal step; for he claims that having taken that step we will have to take an additional step and enter the League of Nations. Knowing his position as we all do, we can understand why he hesitates to take the first step. But to take this first step, if it be that, is not necessarily to take the second. For myself I thought and think that the so-called League of Nations came into "this breathing world deformed, unfinished, scarce half made up." Whatever the motives lying back of it, the aspirations of those who framed it, I think it would have been fatal to the liberties of the world; and yet there sits before me the classically learned Senator from the South [Mr. WILLIAMS], who would argue otherwise, and would argue otherwise with great learning and with whose utterances I am not altogether unfamiliar. He opposes the treaty because he says we have not gone far enough. He thinks we should go further and even now, if we could, enter into the League of Nations. As he had occasion to say some time ago, it but illustrates how curiously the minds of men operate. Quot homines tot sententiae.

The Senator from Idaho opposes the treaty because it goes too far, and the learned Senator from Mississippi is opposed to it because it does not go far enough. I am not concerned with that controversy between them, but with respect for them both I say that by ratifying this treaty we neither enter nor refuse to enter the so-called League of Nations. We are simply entering into an agreement with Germany in the hope that she will observe its terms, in the knowledge that we shall observe its terms. If hereafter there shall be any effort made to enter the League of Nations as framed or another league or association of nations, then and not till then will it be time to discuss the proposition.

I must beg the pardon of Senators for having trespassed upon their time. I had set down some few thoughts, and I had hoped to confine myself to them, but I was tempted and I fell. I have been diverted from the line of thought I had intended to advance.

Mr. President, I think the position of the Senator from Idaho is unsound. I might say that of the position of the Senator from Mississippi. As for the position of the learned Senator from Montana [Mr. WALSH], to whom I listened with great interest, I think he is utterly in error when he suggests that we should reject this treaty because we are leaving Germany naked, making no provision for her defense in the event that she shall be invaded. I trust she will be able to take care of herself. I hope that Poland will remember something. I want all those nations to keep within their own borders, and for them to quench, drown, strangle their anger and their hatred, and turn to their fields and their farms and their factories and quit fighting, in order that they may pay us what they owe us a little sooner, and they can not pay it too soon to suit me.

Now, Mr. President, a final thought. This treaty is between us and Germany. By reference we incorporate certain parts of another document, but it is one single document ratified already by Germany, to be I hope ratified by us. Its terms are quite simple. There is nothing ambiguous or uncertain about it. The cunning mind or the technical lawyer may see or affect to see obscurity or uncertainty, perhaps unintelligibility in it, but looked at candidly it is plain and simple. It protects the rights of America, and those are the rights we should guard.

I apologize to the Senate and earnestly hope we shall go to a vote this night and ratify this document.

Mr. McKELLAR. Mr. President, until this morning I was rather of the opinion that article 231 of part 8 of the treaty of Versailles was a part of this treaty. That article provides as follows:

> The allied and associated Governments affirm and Germany accepts the responsibility of Germany and her allies for causing all the loss and damage to which the allied and associated Governments and their nationals have been subjected as a consequence of the war imposed upon them by the aggression of Germany and her allies.

I called the attention of the Senator from Massachusetts [Mr. LODGE] to article 231 and asked him if that was a part of the pending treaty. He replied in the negative and said that it was excluded under subsection 4 of article 2 of the pending treaty, which provides as follows:

> That, while the United States is privileged to participate in the Reparation Commission, according to the terms of part 8 of that treaty, and in any other commission established under the treaty or under any agreement supplemental thereto, the United States is not bound to participate in any such commission unless it shall elect to do so.

It seems to me that this matter ought not to be left in that situation. I believe that there should be an admission by Germany of her wrong in bringing on this war, and for that reason I propose the following reservation to the resolution of ratification. I propose to strike out the period at the end of the resolution of ratification, to insert a semicolon, and the following:

> And subject to the further understanding, which is made a part of this resolution of ratification, that Germany acknowledges and accepts full responsibility for having begun the World War in the summer of 1914.

I send the proposed amendment to the desk and if we are to vote this afternoon I should like to have a yea-and-nay vote on the amendment.

Mr. LENROOT. Mr. President——

Mr. McKELLAR. I yield to the Senator from Wisconsin.

Mr. LENROOT. The Senator from Massachusetts [Mr. LODGE] is not now on the floor, but I am very sure the Senator from Tennessee misunderstood him. Certainly he did not make any statement to the effect that article 231 was excluded by subdivision 4 of the pending treaty.

Mr. McKELLAR. I am sure if the Senator from Wisconsin had been here and listened——

Mr. LENROOT. I was here and heard the Senator's statement.

Mr. McKELLAR. I regret very much that the Senator from Massachusetts is not now on the floor.

Mr. LODGE entered the Chamber.

Mr. LENROOT. The Senator from Massachusetts has just come in. I shall be very glad if the Senator will now state again to the Senator from Massachusetts what he just said.

Mr. McKELLAR. This morning, the Senator from Massachusetts will recall, I called his attention to article 231 of part 8 of the treaty of Versailles, and at that time the Senator in answer to my question said that it was not a part of the present treaty.

Mr. LODGE. I did.

Mr. McKELLAR. That is all I desired.

Mr. LENROOT. But the Senator from Tennessee stated a moment ago that the Senator from Massachusetts said it was excluded from the present treaty.

Mr. McKELLAR. Oh, no; I said that he stated it was not a part of this treaty, and that is all. The Senator from Massachusetts has just confirmed that statement; and all that the proposed amendment of mine intends is to affirm the statement in substance that is made in article 231. I think we all believe, regardless of any other differences we may have, that Germany is responsible for starting the war, and that ought to be included in this treaty.

Mr. LENROOT. I am very sure the Senator from Massachusetts will admit we are entitled to the benefit of the admission

under article 231, but, of course, article 231 is not a part of the pending treaty.

Mr. McKELLAR. Of course I can not understand what the Senator meant except by what he said.

Mr. LODGE. I made it as plain as I could, but I will repeat it if necessary. I said it was not a part of the treaty; and obviously it is not. I also stated that all this treaty did was to give us an option; and that is all it does.

Mr. McKELLAR. That is my understanding of what the Senator from Massachusetts said; there is no difference at all between us as to that.

Mr. LENROOT. Among the rights accorded to us is the right to claim the admission of Germany, which is found in article 231.

Mr. McKELLAR. If the Senator so looks upon it, I have no objection, but I ask for the yeas and nays upon my amendment.

Mr. FLETCHER. How can the Senator from Massachusetts say that article 231 of the Versailles treaty is not a part of the pending treaty when part 8 of the Versailles treaty is made a part of the pending treaty and article 231 is found in part 8?

Mr. LODGE. Yes; it is a part of part 8.

Mr. FLETCHER. And part 8 is made a part of the pending treaty.

Mr. LODGE. I do not think that it is. All that the pending treaty gives us is an option to claim rights and advantages under part 8 if we choose to do so.

Mr. FLETCHER. Clause 1 of article 2 of the pending treaty sets forth the rights and advantages which we should have.

Mr. LODGE. If we choose to claim them.

Mr. FLETCHER. The clause reads:

(1) That the rights and advantages stipulated in that treaty for the benefit of the United States which it is intended the United States shall have and enjoy are those defined in section 1 of part 4, and parts 5, 6, and 8.

And so forth.

I can not see but that that language makes part 8 of the Versailles treaty a portion of the pending treaty.

Mr. KING. Mr. President, may I make an inquiry of the Senator from Massachusetts?

Mr. HEFLIN. Mr. President——

Mr. KING. Will the Senator from Tennessee yield to me in his time?

Mr. McKELLAR. If I have the floor, I will yield.

Mr. KING. I should like to inquire of the Senator from Massachusetts whether he claims that the administration will insist that Germany did cause the war and that we shall have the advantage of the provisions to which reference has been made in the concession that Germany is responsible for the war?

Mr. LODGE. If we choose to claim such advantage.

Mr. KING. I ask the Senator do we claim it? Does the Republican administration claim that Germany was at fault?

Mr. LODGE. Of course, we have not as yet made any claims at all.

Mr. KING. Exactly; and that is one of the infirmities of the pending treaty. No one knows what it means; and the Senator from Massachusetts now refuses, as I understand him, to declare whether or not the administration avers that Germany was responsible for the war.

Mr. McKELLAR. But we can vote on it.

Mr. LODGE. Mr. President, I will take the floor in my own time.

Mr. McKELLAR. I am perfectly willing to yield to the Senator from Massachusetts.

Mr. LODGE. I have 10 minutes, I presume.

Mr. McKELLAR. Regardless of that, I take great pleasure in yielding to the Senator from Massachusetts. I have no objection at all to doing so.

Mr. LODGE. I only wanted to say, Mr. President, in this connection, that the German Reichstag has ratified the pending treaty as it stands and as I hope and believe the Senate is about to do. I believe that Germany is the best guardian of her own interests; and if she is content with this treaty, I can not see why Senators of the United States should be so worried about Germany suffering from its effect.

Mr. HEFLIN. Mr. President——

The VICE PRESIDENT. The Senator from Alabama.

Mr. HEFLIN. Has the Senator from Massachusetts concluded?

Mr. LODGE. I have said all I care to say for the present.

Mr. HEFLIN. Mr. President, I listened with a great deal of interest to the speech of the junior Senator from California [Mr. SHORTRIDGE]. He did not make himself exactly clear with regard to what Washington would have done if he had been President in 1917. He suggested, however, that if Jackson had been President from 1912 on we should not have had any trouble with Germany, and I take it that the World War would not have occurred. I infer from that statement that the Senator means that Jackson would have interfered or intervened and would have told Germany that if she did start the war he would go over there. If Jackson had done that, that would have been doing precisely what the Senator said Washington advised against doing.

The Senator intimates that Washington would have prevented the war. Well, if Washington had stayed out of Europe—and under the Senator's construction of what Washington said, he would have had to remain out of Europe—how could Washington have prevented the war? He certainly could not have said, "You had better not start that war; I do not want you to do it." If he had said that, the Kaiser would have read to Washington his advice to stay out of Europe, and then the Kaiser would have asked Washington "Are you going to abandon the position which you have taken heretofore or are you merely bluffing when you tell me you do not want the war to begin? If we should begin it, what will you do? Will you come over and violate the principle that you enunciated or will you remain over there and continue to holler through a trumpet across the waters "You must not go to war"? Do you suppose that Germany would have paid any attention to such a performance?

Mr. President, the Senator from California invited us to stay out of Europe; but I remember a time when this great Government pledged every dollar of its wealth and every drop of its blood to the allied powers to fight that war to a finish. We went over to Europe then; we did not stay out of Europe at that time, but we went over there with 2,000,000 men. Thousands of them died in France and thousands more of them were wounded. We were not here then; we were over in Europe; we were spending our money and spilling our blood to put down the bloodiest war of the ages; but it is wrong now simply to sit down in a quiet peace conference for fear that we might get entangled with foreign affairs. We were entangled then to the extent that we were giving up the most precious treasure of the Republic, the lifeblood of the flower of its manhood; we were entangled to the extent that we were pouring money like water into the allied ranks and bearing very largely the expenses of the bloody war then raging in Europe. However, the Senator from California says that statesmen on the other side of the Chamber saved the United States and kept us out of entangling alliances.

It was all right to entangle us in the affairs of Europe when it took lifeblood to be there; it was all right to be entangled when it took the gold of the Government to prosecute the war to a successful conclusion; but it is all wrong to be there in time of peace, when the world is staggering under a tax burden growing out of the war and the whole earth is rent and torn because of the sons that she has lost in battle and the lame and halt stalking around the country and the poverty seen upon every hand. It is all wrong to go and sit down with those with whom we fought and now work together for the good of mankind for all the years to come. The Senator says, "Stay out of Europe." I suppose the Senator would have us stand aloof, afar off, and permit another bloody war to come, and then take up our arms, load our ships down again, and go over and become entangled again in the affairs of Europe when it takes the lifeblood of the Nation and money to put down a thing that we could keep down in the halls of peace.

I am not going now to detain the Senate, Mr. President, for it is growing late and I hope we may begin to vote on this proposition inside of the next 10 minutes; but the Senator invites us to go down to Mount Vernon and stand at the tomb of Washington; he invites us to visit the grave of James Monroe and listen to the voice out of that solemn sanctuary where repose his mortal remains. I wish to invite the Senator to words that came from Jehovah himself, through the inspired writer, when he said:

And they shall beat their swords into plowshares, and their spears into pruning hooks; nation shall not lift up sword against nation, neither shall they learn war any more.

Mr. President, I am hoping that out of the peace conference which shall soon assemble in Washington there will come an understanding, and that the nations of the earth will be banded together when that convention shall adjourn for the purpose of working for peace universal. I hope and I pray that the gun and munition makers of the United States, who made their millions out of the late World War, and the battleship builders of the Republic will not have their way. I trust that the voice of the overburdened taxpayers of the Government will be heard, and I pray that the voice of the fathers and mothers of the boys who fought in that struggle, aye and the voice of the

living and the dead of that terrible war, will be heard and heeded by the disarmament conference.

But, Mr. President, already we see influences at work suggesting that we can not do much, telling us not to expect too much, although as a result of a war that ended inside of three years 10,000,000 men are dead in the flower of their young manhood, millions of people are in distress, and the world is burdened with debt, more than half of the wealth of the human race having been expended in one war. Following that conflict there comes an effort to set up peace in the world, and it is proposed to go to the very roots of the evil in war, and that is to prevent armament, to destroy this thing in its infancy, just as yellow fever was destroyed in New Orleans by going to the hotbed and breeding place of the mosquitoes and ditching out the lagoons and cesspools and flooding them with kerosene oil. So the mosquitoes' breeding place was destroyed, and yellow fever is no more in New Orleans.

How was that accomplished? By going to the root of the evil and destroying the hotbed, the breeding place of the insect pest that carried the deadly germ into the blood of human beings.

How are we going to stop war? What is it that causes war? When two nations are armed to the teeth and each arms a little more every year, if a dispute arises between them one says to the other, "Well, that is all right; go ahead; I am not afraid of you; I have a good army and I will meet you out on the battle field and we will settle it." And when they attempt to settle it in that way the gun and munition makers find their opportunity; we can hear the whistles blow; we can hear the shekels falling and see their look of content as they sit back and clip their coupons in ghoulish glee over the money that they make in a time like that, in a time of war.

But human beings are paying the toll with their blood; and yet we are told, Senators, that we must not expect too much of the peace conference, when the earth to-day is staggering beneath the debt that it owes and mankind shudders when it thinks of the lives sacrificed in that bloody war. Not expect much? Let us expect a great deal of the peace conference. That is the way to accomplish things. Let it be known that the American people are one in demanding disarmament. We do expect much.

Let me tell you what I witnessed the other day. I picked up an Alabama paper, the Age-Herald, and read an editorial about the battleship *Alabama*. I was there when she was christened. I was at Mobile when the silver service was presented to her in a masterful oration by Maj. Edward M. Robinson, of Mobile.

I saw that ship, in all of her pride and glory, float away, and the other day she was shot to death as a target out here by an airplane! Just that little time back this new ship was launched, costing some millions of dollars, and just the other day she was blown to pieces as a target! Are the people of America going to continue to stand for that sort of thing? Are the people to be taxed to death in order to give somebody a chance to build and destroy in order that they may build and destroy again something to make money out of? Human life is more precious than the dollar. God Almighty Himself said through the inspired writer—

> I will make a man more precious than gold.

While they are making ready to sell their wares they are getting ready to pour out in battle the blood of your boy and mine. The time has come to call a halt on this cruel, brutal, and barbarous game, and I want the American people to wake up and to focus their attention upon this Capital while the peace conference is here. I trust that our delegation will do all that they can to bring about real disarmament. I know that the minority leader on this side will do everything in his power to bring about disarmament, and we are going to expect much to be accomplished. So let us all then pray fervently—

> Sow Thou the seeds of happy peace
> All evil drive from us afar,
> And bid the rage and tumult cease
> Of hateful war.

Mr. JONES of New Mexico. Mr. President, do I understand that there is an amendment pending?

The VICE PRESIDENT. There is a committee amendment pending to the resolution of ratification. Is there objection to the consideration of the resolution of ratification as in Committee of the Whole?

Mr. KING. Mr. President, as I understand, an amendment was offered by the Senator from Tennessee [Mr. McKELLAR] which is pending.

The VICE PRESIDENT. Under the rule committee amendments have precedence.

Mr. McKELLAR. Mr. President, a parliamentary inquiry. As I understand, the amendment proposed by me will follow the committee amendments.

The VICE PRESIDENT. It will be in order after the committee amendments are disposed of.

Mr. REED. Is the Vice President referring to the resolution of ratification?

The VICE PRESIDENT. Yes.

Mr. REED. Mr. President, we must perfect the resolution of ratification before we can have a final vote, and after we have had a vote on it we can not add to it. It has precedence in one sense, but an amendment to it has precedence over anything else, so that the amendment offered by the Senator from Tennessee is now in order.

Mr. LODGE. If it is an amendment, of course, it takes precedence of the reservations.

Mr. REED. If I may be permitted, I want to inquire at this time of the chairman who is in charge of this treaty whether it is proposed to go on to-night. I understand that the Senator from New Mexico [Mr. JONES] desires to address himself at length to this treaty, and I think the Senator from Idaho [Mr. BORAH] intends to speak on the treaty. I think the Senator from Wisconsin [Mr. LA FOLLETTE] expects to speak on the treaty. There may be others—a large number of them, so far as I know—and it seems to me that to force these Senators to go on at this hour is wholly unnecessary. I should like to know what the intention is, if we can ascertain.

Mr. LODGE. Mr. President, I gave notice last evening that I should ask the Senate to remain and endeavor to finish these treaties. I think I was entitled to do so. I gave everybody notice. We must get the treaties out of the way. Of course, now they are stopping all other business; and I intend to ask the Senate to remain here and endeavor to finish the treaties.

Mr. JONES of New Mexico. Mr. President, I think it wise for me to state that just a few moments ago the Senator from Delaware [Mr. BALL] came to me and wanted to know if I intended to speak upon this question. I said to him that I thought I probably would, but not for any great length of time. The Senator had an engagement that he desired to keep, and he has gone to keep his engagement, and I presume he will not return for some little time.

I think it only justice to the Senator from Delaware for me to make that statement. I do not know how long the speeches will continue, but I do not intend to consume any great length of time in discussing the measure.

Mr. LODGE. Mr. President, I understand that the Senator from Delaware is to be absent for only a very short time, and will be back.

Mr. REED. Mr. President, I should like to say this: Of course, the protest will do no good; but this custom that we are growing into, that any Senator in charge of a bill can hold the Senate in session at night, I think is being carried to an extreme. Several Senators want to speak on this measure. No great length of time has been consumed in its discussion. In fact, probably not over two days of time have been taken in discussing the treaty, or three at the outside. They are treaties of the greatest importance. No effort has been made to delay them; and to compel Senators to break engagements they have made for the evening and to remain here in this atmosphere for 10 or 12 hours is a hardship. There is no emergency requiring it; absolutely nothing in the nature of an emergency. The revenue bill was reported here, and it was not ready when it came in, and they have had to revise it a half dozen times since.

Mr. LODGE. Mr. President, I make the point of order that under this agreement we are to exclude all other business. Now we are engaged in discussing a question of adjournment. If Senators desire to adjourn, it is open to them to make the motion. That motion is always in order. I shall oppose it. I think we ought to remain.

Mr. REED. Mr. President, if we have made a unanimous-consent agreement that precludes the Senate from discussing the question of adjournment, it is the first agreement of that kind that I have ever known to be made in the Senate.

Mr. TOWNSEND. The Senator is talking now on the treaty.

Mr. LODGE. Absolutely.

Mr. REED. Well, charge it up to my time. That is perfectly satisfactory to me; but I shall sit down when my time expires or when I get ready. We may have some masters here who are to control us——

Mr. LODGE. We have no masters here except the agreement that we all made, which was that Senators should be limited to an hour in the aggregate on the treaties and 10 minutes on each reservation. I do not know what time the Senator has used.

Mr. REED. Exactly; and that no other business should be transacted or no other matter should come before the Senate, but certainly that does not include the question of adjournment. I am not going to object if you want to charge these few minutes to my time. It would be quite agreeable to me; however,

if you do that, if you charge up the other minutes that have been occupied by other Senators in the same way to them.

I simply make my protest against this sort of proceeding; and, having made it, I am content to sit down in my own time.

The VICE PRESIDENT. Without objection, the Senate as in Committee of the Whole will proceed to the consideration of the reservations.

Mr. LODGE. There is an amendment pending, is there not?

Mr. KING. Mr. President, a parliamentary inquiry. I desire to inquire whether the amendment offered by the Senator from Tennessee [Mr. McKELLAR] is to be treated as an amendment to the treaty under consideration, or as an amendment to the resolution of ratification?

The VICE PRESIDENT. As an amendment to the resolution of ratification. It says so on its face.

Mr. LODGE. If it is an amendment to the resolution of ratification, of course the amendments reported from the committee must be considered first, and then it will be open to individual amendments.

The VICE PRESIDENT. That is the rule.

Mr. KING. Mr. President, another parliamentary inquiry. If the reservations are now disposed of, does that preclude further amendments to the treaty or substitutes for the treaty?

The VICE PRESIDENT. Amendments can be offered at any time when they are in order.

Mr. KING. Mr. President, before proceeding to the consideration of the reservations of the committee, I offer the following——

Mr. LODGE. As an amendment to the text of the treaty?

Mr. KING. Yes—well, let me say that it would be construed, perhaps, as a reservation.

The VICE PRESIDENT. The Secretary will read the amendment.

The Assistant Secretary read as follows:

Nothing herein shall be construed as indicating a purpose upon the part of the United States to confiscate the property of German nationals now held by the United States in order to compensate the United States or its nationals for any claim it or they may have against the German Government.

Mr. LODGE. Does the Senator offer that as an amendment to the text, or does he offer it as a reservation?

Mr. KING. I think perhaps it could be more appropriately regarded as a reservation.

The VICE PRESIDENT. It is not, then, in order at this time.

Mr. KING. I will offer it as an amendment to the treaty.

Mr. REED. To come in at the end of the treaty?

Mr. KING. Yes; following subdivision (5) of article 2, and I will ask that it be called subdivision (6).

The VICE PRESIDENT. The Secretary will state the amendment.

The ASSISTANT SECRETARY. The Senator from Utah proposes to add at the end of article 2 a new subdivision, to be known as subdivision (6), and to read as stated.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Utah [Mr. KING].

The amendment was rejected.

The VICE PRESIDENT. The question now recurs on the first reservation, which the Secretary will report.

The ASSISTANT SECRETARY. The first reservation in the resolution of the committee is as follows, first reciting the preliminary words:

Resolved (*two-thirds of the Senators present concurring therein*), That the Senate advise and consent to the ratification of the treaty between the United States and Germany, signed at Berlin August 25, 1921, to restore the friendly relations existing between the two nations prior to the outbreak of war, subject to the understanding, which is hereby made a part of this resolution of ratification, that the United States shall not be represented or participate in any body, agency, or commission, nor shall any person represent the United States as a member of any body, agency, or commission in which the United States is authorized to participate by this treaty, unless and until an act of the Congress of the United States shall provide for such representation or participation.

Mr. KING. I desire to offer an amendment to the pending treaty.

Mr. BORAH. Before the Senator offers his amendment, may I ask a question in regard to this reservation?

Mr. KING. I yield.

Mr. BORAH. I would like to ask if it is the understanding of the Senator from Massachusetts and others who are urging the treaty that it will be necessary, before a party becomes a member of the Reparation Commission, that he shall be confirmed by the Senate?

Mr. LODGE. Of course, the office has to be created by Congress. This took the exact form of the reservation to the Versailles treaty.

Mr. BORAH. I was under that impression when we were in the committee, but I supposed that an act of Congress could provide that it would not be necessary for him to be confirmed.

Mr. LODGE. Of course, it is in the power of Congress to make any provision it pleases.

Mr. BORAH. No; I understand the Congress is bound by the Constitution of the United States.

Mr. LODGE. Of course; I did not think it necessary to repeat commonplaces.

Mr. BORAH. Very well.

The VICE PRESIDENT. The question is on the adoption of the reservation.

Mr. KING. Mr. President, I yielded to the Senator from Idaho to propound an inquiry, and I now resume the floor. I take the floor for the purpose of offering an amendment.

Mr. LODGE. An amendment to the reservation now proposed?

Mr. KING. No.

Mr. LODGE. Will not the Senator allow us to dispose of the reservation already proposed?

Mr. KING. I have no objection to that.

The VICE PRESIDENT. The question is on agreeing to the reservation.

The reservation was agreed to.

The VICE PRESIDENT. The Secretary will state the next reservation.

The ASSISTANT SECRETARY. The committee also proposes the following reservation:

and subject to the further understanding, which is hereby made a part of this resolution of ratification, that the rights and advantages which the United States is entitled to have and enjoy under this treaty embrace the rights and advantages of nationals of the United States specified in the joint resolution or in the provisions of the treaty of Versailles, to which this treaty refers.

The reservation was agreed to.

Mr. McKELLAR. I now ask that the reservation offered by me be submitted, and upon it I call for the yeas and nays.

The yeas and nays were ordered.

The VICE PRESIDENT. The Secretary will state the reservation proposed by the Senator from Tennessee.

The ASSISTANT SECRETARY. The Senator from Tennessee offers the following reservation:

Add at the end of the resolution reported by the committee a semicolon and the following words:

And subject to the further understanding, which is made a part of this resolution of ratification, that Germany acknowledges and accepts full responsibility for having begun, in conjunction with her allies, the World War in the summer of 1914.

Mr. LENROOT. Mr. President, I want to say just one word. If there is any right conveyed to the United States by this treaty, it is the right to claim, under article 231, that so far as the United States is concerned, Germany does assume responsibility. There can be no possible accomplishment by the adoption of the proposed reservation.

Mr. McKELLAR. Mr. President, there seems to be a difference of opinion about that matter. I submitted it to the Senator from Massachusetts, who does not think that part 8, containing article 231, under which Germany does assume responsibility for beginning the war, is a part of this treaty, and therefore there can be no objection to putting in this reservation.

Mr. WILLIAMS. Mr. President, there is in my mind no doubt about the fact that Germany was responsible for the last war, and that the ruling element in Germany trained and educated their people for 40 years to get them in tune for the war. At the same time I do not believe that the German people—the carpenters, and blacksmiths, and lawyers and schoolteachers of Germany—ever consciously attempted to bring on a war. They were merely misled and miseducated into it. I always agreed with the former President of the United States, Mr. Wilson, that we were not making war upon the German people so much as upon the ruling element in Germany, which misled and miseducated those people.

In a certain sense there is no doubt about the fact that Germany was responsible for the war and that Germany brought the war on either by the incompetency of submitting to miseducation or by miseducating herself. At the same time it is not a nice thing, after you have knocked a man down and he is at your mercy, to insist that you shall not quit until he confesses it is all his fault. I never much believed in that. Even when it is a people's fault they do not like to say it. It is human nature that they should not like to say it, and their saying it or their not saying it does not affect the historical fact in the slightest degree.

The one thing I did not like about the Versailles treaty was the subjection of the people of Germany to the humiliation of admitting that they were wrong. It was a minor thing, and it was swallowed up by very many other things of much more importance, and I was very radically and fundamentally and enthusiastically in favor of the Versailles treaty, and especially the League of Nations in connection with it.

But when it comes to a treaty like this, to which I am opposed on the ground that it is a desertion of our former associates and allies, especially France, when we do not say one word about Alsace and Lorraine, and especially Belgium, when we say nothing about her little military frontier, I do not think it is worth while to quarrel about making the fellow whom you have knocked down agree that you had a right to knock him down. In my opinion we had a right to knock him down, and in history's opinion I think it will be said we had the right to knock him down; but making him say so is another thing. If I had been negotiating either the Versailles treaty or this treaty I would not have insisted that he should say it. It is one thing to whip a fellow, it is one thing to have him know he is whipped, and it is another thing to make him plead peccavi. As a southerner, if there were not any other reason for it, I know that there are a whole lot of people who are perfectly willing to submit to the decrees of fate who are not willing to say that they were on the wrong side of fate.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Tennessee [Mr. McKELLAR]. The yeas and nays have been ordered, and the Secretary will call the roll.

The Assistant Secretary proceeded to call the roll.

Mr. STERLING (when his name was called). Making the same announcement as on the previous vote with reference to my pair and its transfer, I vote "nay."

Mr. SUTHERLAND (when his name was called). Making the same announcement as before with reference to my pair and transfer, I vote "nay."

Mr. SWANSON (when his name was called). I am paired with the senior Senator from Washington [Mr. JONES]. Not knowing how he would vote on this question, I withhold my vote. If permitted to vote, I would vote "yea."

The roll call was concluded.

Mr. DIAL. I am paired with the Senator from Colorado [Mr. PHIPPS], and in his absence withhold my vote.

The result was announced—yeas 12, nays 66, as follows:

YEAS—12.

Ashurst	Harris	Jones, N. Mex.	Myers
Caraway	Harrison	King	Sheppard
Glass	Heflin	McKellar	Trammell

NAYS—66.

Ball	Fletcher	McCumber	Shortridge
Borah	France	McKinley	Spencer
Brandegee	Frelinghuysen	McLean	Sterling
Broussard	Gerry	McNary	Sutherland
Bursum	Gooding	Moses	Townsend
Calder	Hale	Nelson	Underwood
Cameron	Harreld	New	Wadsworth
Capper	Hitchcock	Newberry	Walsh, Mass.
Colt	Johnson	Nicholson	Walsh, Mont.
Cummins	Kellogg	Oddie	Warren
Curtis	Kendrick	Overman	Watson, Ga.
Dillingham	Kenyon	Page	Watson, Ind.
du Pont	Keyes	Penrose	Weller
Edge	La Follette	Poindexter	Williams
Elkins	Lenroot	Pomerene	Willis
Ernst	Lodge	Ransdell	
Fernald	McCormick	Reed	

NOT VOTING—17.

Culberson	Norris	Shields	Stanley
Dial	Owen	Simmons	Swanson
Jones, Wash.	Phipps	Smith	
Ladd	Pittman	Smoot	
Norbeck	Robinson	Stanfield	

So Mr. McKELLAR's amendment was rejected.

Mr. KING. Mr. President, I offer the following amendment: On page 5 of the printed copy of the treaty, after the words "have agreed as follows," I move to strike out all of article 1 and article 2 and insert in lieu thereof the Versailles treaty, with the exception of the last two paragraphs, on page 192, of the Versailles treaty, beginning "In faith whereof the above-named plenipotentiaries have signed the present treaty. Done at Versailles," and so forth; and, following that, I move to insert the reservations tendered by the Senator from Massachusetts and known as the Lodge reservations and adopted by the Senate, being numbered from 1 to 14, inclusive. I shall not ask that the Versailles treaty be read.

Mr. LENROOT. Mr. President, may we have the amendment stated?

The VICE PRESIDENT. The Secretary will state the amendment proposed by the Senator from Utah.

The ASSISTANT SECRETARY. Strike out all of articles 1 and 2 and in lieu thereof insert the Versailles treaty as sent to the Senate, with the exception of the last two paragraphs of that treaty, and also amend the resolution of ratification so as to include the resolution to the Versailles treaty with the so-called Lodge reservations.

Mr. LODGE. Mr. President, I make the point of order against the amendment that it is an attempt to substitute for a treaty before the Senate, which the rules require shall be before the Senate, with another treaty not before the Senate. In my opinion, it is clearly out of order.

Mr. KING. Certainly any amendment which is germane to the treaty under consideration would be proper. That the amendment is germane can not be denied. It relates to the same subject and covers much of the same ground presented in the pending treaty. We might strike out, if we choose, article 1 or any part of it, or article 2 or any part of it, or add to article 1 or add to article 2 any additional terms which we might conclude to be necessary to impose upon Germany or any provisions which might deal with the questions involved in the settlement of existing controversies. The mere fact that those terms find expression in a treaty heretofore negotiated is wholly immaterial. We are adopting, by the treaty before us, a large part of the Versailles treaty, and that treaty is not formally before us, but by intendment, by reference to the treaty, we incorporate many of its terms in the present treaty. Obviously anything that is pertinent, relevant, or germane to the question which is before us or the treaty which is before us would be proper as an amendment whether found in the Versailles treaty or derived from any other source.

Mr. WILLIAMS. Mr. President, I listened very attentively to the amendment offered by the Senator from Utah [Mr. KING] and down to a certain point my conscience permitted me to follow it, but when he included the Lodge reservations, to use an ordinary American slang phrase, that "got my goat." I do not know anything, not even the Lord's Prayer or the Apostle's Creed, that the Lodge reservations could not poison, and poison to my mind beyond the stomach of my sense. I would very gladly hope that some of these days we shall enter into something like the Versailles treaty, if not identical with it, but I hope to God we shall never enter into any treaty with a lot of reservations that nullify the treaty while entering into it.

Mr. LENROOT. Mr. President, just a word upon the point of order. I do not doubt that it would be possible for the Senator from Utah [Mr. KING] to present the text of the Versailles treaty in such form that it would be in order, but he presents the treaty from beginning to end, with the exception which he has indicated, embracing the last two articles, as I recollect. It shows upon its face that he is presenting as an amendment a treaty that is not before the Senate; that the Senate has no jurisdiction over, and under the rules of the Senate can not act upon, either by amendment or otherwise. That is all I have to say.

Mr. HEFLIN and Mr. BORAH addressed the Chair.

The VICE PRESIDENT. The Senator from Alabama first addressed the Chair and is recognized.

Mr. HEFLIN. Mr. President, I can not agree to the contention of the Senator from Wisconsin [Mr. LENROOT]. The fact that the Versailles treaty is not before the Senate does not enter into the question of its germaneness at this time, because the treaty that is before the Senate refers to provisions of the other treaty which the Senator from Utah offers as an amendment, and the pending treaty is going to operate, if it is ratified, under those provisions. The Senator from Utah takes other provisions of the previous treaty that are not referred to in the pending treaty and offers them; and I submit that the proposed amendment is germane. Let the Senate decide whether or not it will accept it; but I think it is clearly germane under the rules of the Senate.

Mr. KING. Before the ruling is made by the Chair I should like to perfect my amendment to this extent: I will eliminate from the Versailles treaty all of the pages down to and including page 7. The amendment which I tender begins on page 8; it starts at part 1 of the covenant of the League of Nations and includes all of the pages from page 8 down to and including page 192, inclusive, except the last two paragraphs, to which I have invited attention. I offer that amendment. Let me say that there is nothing upon the face of the amendment as now tendered which indicates that it is a different treaty or another treaty or a separate treaty, and it is as much before the Senate as any other amendment which might be tendered.

Mr. LODGE. Mr. President, I move to lay the amendment on the table.

Mr. PENROSE. I second the motion.

Mr. BRANDEGEE. I ask for the yeas and nays.

Mr. KING. A parliamentary inquiry. I understand, then, that the Senator from Massachusetts is not pressing the point of order, but moves to lay the amendment upon the table?

Mr. LODGE. I desire to save time.

Mr. KING. Very well.

Mr. HEFLIN. What is the ruling of the Chair?

The VICE PRESIDENT. The question is on the motion of the Senator from Massachusetts to lay the amendment of the Senator from Utah on the table.

Mr. HARRISON, Mr. HEFLIN, and Mr. KING called for the yeas and nays, and they were ordered.

The Assistant Secretary proceeded to call the roll, and Mr. ASHURST answered in the negative.

Mr. HARRISON. A parliamentary inquiry, Mr. President.

Mr. LODGE. Debate is not in order. The name of a Senator has been called and an answer has been given.

The VICE PRESIDENT. A roll call can not be interrupted.

Mr. HARRISON. Not even by a parliamentary inquiry?

Mr. LODGE. Nothing can interrupt the roll call after an answer has been given.

The calling of the roll was resumed.

Mr. DIAL (when his name was called). I make the same announcement as before with reference to my pair, and withhold my vote.

Mr. STERLING (when his name was called). Making the same announcement as to my pair and its transfer as on the last vote, I vote "yea."

Mr. SUTHERLAND (when his name was called). Making the same announcement as heretofore with reference to my pair and its transfer, I vote "yea."

Mr. SWANSON (when his name was called). Making the same announcement as to my pair as on the last vote, I withhold my vote. I desire to say that if permitted to vote I should vote "nay."

The roll call was concluded.

Mr. EDGE. I transfer my pair with the senior Senator from Oklahoma [Mr. OWEN] to the junior Senator from South Dakota [Mr. NORBECK], and vote "yea."

The result was announced—yeas 59, nays 25, as follows:

YEAS—59.

Ball	Ernst	McCumber	Shortridge
Borah	Fernald	McKinley	Smoot
Brandegee	France	McLean	Spencer
Broussard	Frelinghuysen	McNary	Sterling
Bursum	Gooding	Moses	Sutherland
Calder	Hale	Nelson	Townsend
Cameron	Harreld	New	Wadsworth
Capper	Johnson	Newberry	Walsh, Mass.
Colt	Kellogg	Nicholson	Warren
Cummins	Kenyon	Oddie	Watson, Ga.
Curtis	Keyes	Page	Watson, Ind.
Dillingham	La Follette	Penrose	Weller
du Pont	Lenroot	Poindexter	Williams
Edge	Lodge	Reed	Willis
Elkins	McCormick	Shields	

NAYS—25.

Ashurst	Harrison	Myers	Stanley
Caraway	Heflin	Overman	Trammell
Culberson	Hitchcock	Pittman	Underwood
Fletcher	Jones, N. Mex.	Pomerene	Walsh, Mont.
Gerry	Kendrick	Ransdell	
Glass	King	Sheppard	
Harris	McKellar	Simmons	

NOT VOTING—11.

Dial	Norbeck	Phipps	Stanfield
Jones, Wash.	Norris	Robinson	Swanson
Ladd	Owen	Smith	

So Mr. KING's amendment was laid on the table.

Mr. REED. I simply wish to remark, Mr. President, that if the Democratic Party as represented in the Senate had voted when the treaty of Versailles was under consideration as they have voted to-day we would have been in the Versailles treaty many months ago. As for myself, I am glad we did not go in then, and I am glad we are not going in now.

Mr. HEFLIN. Mr. President, if the Republican Senators had voted to-day as they did then, we could have entered the League of Nations with what they then said were necessary reservations.

The VICE PRESIDENT. If there are no further amendments to be offered as in Committee of the Whole the treaty will be reported to the Senate.

The treaty was reported to the Senate with the resolution of ratification and the reservations thereto.

The VICE PRESIDENT. The question is on concurring in the reservations to the resolution of ratification made as in Committee of the Whole.

Mr. LA FOLLETTE. Mr. President, for a period of more than seven years, since August, 1914, questions of foreign policy have been the paramount concern of the Government of the United States. In every national election held in this country from that time until now the foreign policy of the existing Government has been the overshadowing issue.

In November, 1916, the people of this country had presented to them an issue as distinct as any proposition upon which they have been permitted to vote in a quarter of a century. By a decisive majority the American people voted for the maintenance of our traditional policy—freedom from the imperialistic schemes and conflicts of Europe—and gave their representatives in Congress and in the White House a mandate to keep this country out of the European war. Before the newly elected Congress convened, however, this Government had prepared to enter the war; and in April, 1917, less than six months after the people had declared for peace, the Congress, upon the recommendation of the President, passed a declaration of war against the Central Powers.

Upon the signing of the armistice, November 11, 1918, by the terms of which complete victory had been achieved by this country and the Allies, President Wilson negotiated the treaty of Versailles. The Senate of the United States, after a debate extending over a period of something more than a year, refused to ratify the treaty which the President had signed; and in November, 1920, the American people emphatically indorsed the position of those who opposed the treaty in the Senate, and at the polls rejected the treaty of Versailles, and again spoke for the maintenance of the traditional American policy of friendship toward all nations and entangling alliances with none.

THE AMERICAN PEOPLE DEMAND THE SOLUTION OF OUR DOMESTIC PROBLEMS.

Mr. President, the man who believes that the American people have no fixed and deep-rooted convictions upon this issue, and that they may be induced to accept a new doctrine at this time, I believe mistakes the public sentiment of this country. The American people at two successive elections have demanded that their Government keep this country free from European quarrels and dissensions, and directed their agents to turn their attention to the domestic conditions which, allowed to grow unchecked, now menace the stability of American democracy.

Mr. REED. Mr. President——

The PRESIDING OFFICER (Mr. POMERENE in the chair). Does the Senator from Wisconsin yield to the Senator from Missouri?

Mr. LA FOLLETTE. I yield.

Mr. REED. If that was not the issue in the last campaign, and the determining element, then of what act had the party in power been guilty which resulted in a majority of nearly 8,000,000 against it? What was the other act?

Mr. LA FOLLETTE. Mr. President, I believe that President Wilson had been guilty of betraying the American people upon the issue upon which he was elected in 1912. In that election there was a single issue. He himself lifted it out of the body of the Democratic platform and emblazoned it upon the banners of the Democratic Party—a single issue; and I say to the Senator from Missouri that upon that issue alone Mr. Wilson, as I read the history of that campaign, was elected President of the United States. That issue was expressed on every page of "The New Freedom"—that this Government was in the hands of a business oligarchy which controlled industry, transportation, credits, and prices of the necessaries of life, and that it should be the business of the Democratic Party to restore the Government to the people and break up this control.

Mr. President, I believe that but for the fact that the action of the administration in ignoring the issue upon which it had been elected was submerged by the European war, it would have been overwhelmingly defeated in 1916, because it had not kept faith with the people.

But, sir, the European war broke on the world in 1914, and the fact that Mr. Wilson had not redeemed the pledges made in "The New Freedom" was submerged. He led the Democratic Party to victory in 1916 on the issue that he had kept us out of the European war, and, as the American people believed, would keep us out of the European war. I believe that will be the record of history. I say again that the American people at two successive elections have demanded that their Government keep this country free from European quarrels and dissensions, and directed their agents in Congress to turn their attention to domestic conditions, which have become a menace, as I believe, to the stability of American democracy.

For more than seven years, sir, the people have seen their own proper interests slighted and ignored, while questions of foreign policy, in which the international bankers and imperialists of Wall Street have billions at stake, held the center of the stage. They have seen the old fight against monopoly and special privilege, upon which Woodrow Wilson won the

campaign of 1912, halted, sidetracked, and by recent decisions of the Supreme Court and laws enacted by Congress brought to ignominious defeat. They have seen corporate greed, grown to such proportions that it eats up the substance of the people, increasing railroad rates since 1914 until the products of many lines of production can not reach the markets at all, because of the prohibitive cost of transportation. They have seen the doubling and the trebling of the cost of the necessaries of life, and to-day they behold the organized power of wealth seeking to depress the wages of labor to starvation levels by destroying the organizations of labor.

I stand in this presence to assert that in 30 years there has been no real advance in the wages of labor; that, in fact—and it can be proven indisputably, and I will assume the burden of proving it on this floor—whatever advances there may have been in nominal wages, for 30 years actual wages have declined in the United States, measured in the purchasing power of the wage.

Issues are pressing upon the attention of the American people that will make that problem one that we must face. Either what I have said is true or it is false. If it is true there are domestic questions at issue of the greatest moment, vital to the life, the good order, and the stability of society and government, that press for recognition at the hands of this Congress.

Mr. President, the American people, after sacrificing and saving and skimping in the hour of the Nation's peril, find themselves to-day staggering under a tax burden of $4,500,000,000 a year, with 5,000,000 breadwinners unable to find employment, and with the foreign markets in central Europe and Russia closed to the manufactured and agricultural products of the land by the stupidity of our intriguing statesmen and diplomats. In this situation it is proposed that we ratify the treaty with Germany now before us.

RATIFICATION OF TREATY WILL EMBROIL US IN EUROPEAN CONCERNS FOR GENERATIONS TO COME.

I assert that ratifying this document in its present form will involve this country in the quarrels and dissensions of Europe for a period of at least 40 years to come.

Until this treaty is abrogated, once it is ratified, it will prevent this Government from devoting its efforts and the best intelligence of its statesmanship to the solution of its domestic problems without reference to the bewildering cross-currents of European imperialism and diplomacy.

Sir, while this treaty remains in force, binding this country to aid in enforcing its main provisions, American soldiers and American money will remain on draft to compel Germany to submit to conditions which violate the conscience and repudiate the specific pledges of President Wilson and the American people and impose impossible economic conditions which no nation in history has peaceably borne.

I know there are men in this body, men whose patriotism and whose intelligence I would in no wise impugn, who believe that our embroilment in European politics is inevitable, and who oppose this treaty on the ground that it does not take us by one full step into participation in these concerns. I will say to these gentlemen what I believe has been truthfully asserted in this debate, that the American people will not send their sons across the Atlantic a second time to win the fruits of victory for other nations. The man in public life who urges further participation in European affairs may do so with sincerity; I accord to him the same sincerity which I claim for myself; but he will get no encouragement in the future from the American people. The last election was carried by the Republican Party because its leaders were wise enough to promise the people a prompt return to our traditional policy.

If that promise should now be forgotten, and if an entering wedge should be made at this point, by which we are to pursue with successive steps the course President Wilson advocated we should take with one single leap, the Senators in this Chamber responsible for that course will, I believe, find that the American people will repudiate that which is about to be done by this body.

PENDING DOCUMENT BASED ON TREATY OF VERSAILLES WHICH WAS REJECTED BY THE PEOPLE.

Mr. President, the treaty before us is based upon the original treaty of Versailles as that document was drafted by President Wilson, Lloyd-George, Clemenceau, and their associates at Paris. The present treaty refers back to the original treaty of Versailles. It purports to free us from certain obligations to which we would be bound by ratification of the original treaty of Versailles, and reserves to this Government certain rights expressed in the treaty in its original form.

I take the broad ground that when we ratify the pending treaty, reserving to ourselves rights set forth in the terms of the original treaty of Versailles, we thereby accept the corresponding obligations to which these rights are inseparably bound.

The Senator from Idaho [Mr. BORAH] and the Senator from Missouri [Mr. REED], by close analysis of the two documents, have demonstrated that the United States will be morally bound to accept these obligations and to aid the Allies in enforcing the principal terms of the original treaty. No satisfactory answer has been made to the argument of these Senators. I venture to say that none will be made.

When the country understands the extent of the obligations to which we are committed under the pending treaty, I predict that the opposition of the Senator from Idaho [Mr. BORAH] and the Senator from Missouri [Mr. REED] to its terms will be indorsed as decisively as was the position of these two Senators and others to the original pact in the recent election; and when the leaders of the majority in this body repudiate that position I venture to warn them that they are alienating from this administration the support of the great mass of the voters to whom they owe their success in the election of November, 1920.

The Senator from Missouri [Mr. REED] very clearly demonstrated that the rights specified in section 1 of part 4 and parts 5, 6, 8, 9, 10, 11, 12, 14, and 15 of the treaty of Versailles, all reserved to us by the pending treaty, carry with them corresponding obligations. Section 1 of part 4 of the Versailles treaty is as follows:

ART. 119. Germany renounces in favor of the principal allied and associated powers all of her rights and titles over her overseas possessions.

That was one of the principal provisions of the original treaty of Versailles. By that single clause a vast empire changed hands, and under it Great Britain, France, Italy, and Japan have extended their sovereignty over millions of subject peoples and thousands of square miles of territory. The share of this country in the spoils of victory taken under this article was confined to the island of Yap. Yet we reserve to ourselves all rights in this article, and by recognizing and giving countenance to that article, as I see it, we bind ourselves, as I think has been shown conclusively, to enforce and maintain its provisions against Germany, even though it should require military force to divest her permanently of her overseas possessions.

Of hardly secondary importance is part 5 of the Versailles treaty, the "rights" of which accruing to this country are specifically reserved by section 1 of article 2 of the pending treaty.

Part 5 of the Versailles treaty has reference to the disarmament of Germany. It is the instrumentality by which Germany's army is to be kept within narrow limits, her navy practically dismantled, and the use of submarines, poison gas, and other instruments of warfare prohibited. It is this section upon which the Allies rely to keep Germany in a helpless condition while they enjoy the revenue from the territory, natural resources, and indemnities wrung from their conquered foe by the terms of the original treaty.

It is the rights accruing to us under part 5 which the pending treaty reserves to the United States. What are those rights? Excepting only the island of Yap, we gained no territory during the late war. We are enjoying no indemnities. Not only have we no interest in the elimination of Germany as a commercial rival, as had England, but her continued prostration will permanently destroy a foreign market for the surplus products of our manufacturers and farmers, the temporary loss of which has already worked frightful hardship in this country.

Yet suppose Germany follows the example of every other country suffering under an unjust peace and should refuse to abide by the terms of this section. This country having given its assent to this specific section, will not our Government be bound to aid France, Great Britain, Italy, and Japan to enforce their rights under the treaty?

Mr. President, when we ratify this treaty, and assent to part 5 of the original pact, we bind this country to an alliance with Great Britain, France, Italy, and Japan to keep Germany prostrate while the imperialists of those countries bleed their victim white. When the American people understand the import of that commitment they will overthrow it.

ADMINISTRATION PREPARING TO PLACE AMERICAN DELEGATE ON REPARATION COMMISSION.

The Senator from Idaho [Mr. BORAH] is a member of the Foreign Relations Committee of the Senate. He has had the benefit of the deliberations of that committee and is advised of the intentions of the Executive and the State Department touching the enforcement of the provisions of this treaty.

In his speech of September 26 he said:

I do not think it is improper to say that as a member of the Foreign Relations Committee I have information that the President now thinks that the practical way for us to deal with this question is for the

United States to become a member of the Reparation Commission. * * * I venture to say, Mr. President, that the well-settled policy of the State Department at this time is to have the United States become a member of the Reparation Commission. If that were not true, we would have a statement to that effect from some source.

Under the pending treaty, the United States will have the power to appoint a representative to sit on the Reparation Commission and, as the Senator from Idaho [Mr. BORAH] points out, the President is already preparing to appoint such a representative.

This commission is now engaged in enforcing the terms of the original treaty of Versailles. It is vested with autocratic powers over the political, economic, and social life of central Europe beyond any authority vested in any other sovereign power in the history of the world. It holds in its hands the fate of the millions in central Europe. It is charged with the collection of the indemnity, the payment of which is to be stretched out over a period of 40 years. It is empowered to levy taxes. It can control the waterways of Germany, and in it, as the Senator from Idaho [Mr. BORAH] has stated, are combined legislative, quasi-judicial, and executive power. If, under the pending treaty, the President sends a representative to sit on this commission, and if Germany, goaded to desperation, refuses to abide by its decrees, does anyone seriously doubt that this country will be again compelled to lend its aid to crush central Europe by armed force?

WHAT THE ORIGINAL TREATY DID.

When we are preparing to involve our country in the activities of this commission, we can not escape consideration of the terms of the treaty which the commission is bound to enforce.

In one of the ablest speeches made in this body on the terms of the treaty proper, having no reference to the league covenant, the late Senator Knox declared that the terms imposed upon Germany constituted "the hardest peace of modern times." (Speech in Senate, Aug. 29, 1919.) On the same occasion the lamented Senator from Pennsylvania said:

Mr. President, the more I consider this treaty, the more I am convinced that the only safe way for us to deal with it is to decline to be a party to it at all. * * *

In a word, the treaty which the Reparation Commission is now enforcing against Germany represents the secret treaties negotiated during the war by the Allies in violation of the solemn statements of war aims upon which the armistice was based. I have time to touch but briefly on exactly what the terms of this treaty did.

It took Germany's territory, European and foreign, without compensation; it took all of her ocean shipping and a large portion of her inland vessels. It internationalized her great river system and made her rivers a part of the high seas. It closed out all of her interests in foreign lands and abrogated all treaties which had given her commercial privileges and concessions before the war. It appropriated her natural resources, her coal, her iron, her phosphate. Finally, after robbing her of the means by which to restore her economic health, it gave the Reparation Commission control of her commercial and industrial life, and provided for quartering an army of taxgatherers and soldiers upon the German people indefinitely at Germany's expense to collect a crushing indemnity of $24,000,000,000 in gold.

Senators may do as they will. They may write their names in approval of the conditions of that abomination of all the treaties of civilized time. Mine shall never be written to it.

I read just a few more words from the speech of our late colleague. That was a memorable speech he made to the Senate, and I recall the occasion as it comes to me in memory here to-night. The Senate sat, every seat filled, Senators impressed more deeply than I saw them impressed by, I think, any speech in all that debate, with the words that fell from the lips of the man who had been Secretary of State, Attorney General, twice chosen to the Senate after an interval of service in the Cabinets of two different Presidents, a man whose statesmanship had been attested in ways that we were all bound to recognize.

Sir, I recall something that he said to me personally shortly before he delivered this address, when he declared that he spoke those words impelled to it by a sense of obligation to his country and to mankind, knowing that he would be subjected to execration and denunciation. He said to me:

When I have delivered this speech on the morrow I will be denounced as a pro-German.

I read his words additional to those which I have quoted:

I am convinced after the most painstaking consideration that I can give that this treaty does not spell peace, but war, war more woeful and devastating than the one but now closed. The instrument before us is not the treaty but the truce of Versailles.

And he added these frank words:

The treaty as it stands can not be enforced. This is admitted by its proponents. The treaty as it stands is but a harbinger of other and greater wars.

Let Senators who are to subscribe their names to the enforcement of those provisions have the words of the late Senator Knox burned into their memories here to-night.

Again in that same address he said:

The more I consider this treaty the more I am convinced that the only safe way for us to deal with it is to decline to be a party to it at all. I think we should renounce in favor of Germany any and all claims for indemnity because of the war and see that she gets credit for what we renounce, as indeed she should for the value of all she gives up as against a fixed and ample indemnity.

It will be said that subsequently the Senator from Pennsylvania was the author of the Knox resolution which is embodied as a part of the treaty that is pending here before us. That is true, Mr. President, in so far as its provisions refer to the property of German nationals, but in so far as its provisions relate to the different parts and sections of the treaty of Versailles they were not a part of the Knox resolution.

TREATY OF VERSAILLES PUNISHES GERMAN PEOPLE, NOT THE MILITARISTS OR IMPERIALISTS OF GERMANY.

Mr. President, the punishment meted out by the commission under the treaty of Versailles will never reach the junkers and militarists of Germany, those who were responsible in so far as responsibility belongs to Germany for inaugurating the war of 1914. The masses of Germany are bearing the whole burden of this treaty. We can never reconcile its terms with the speech in which President Wilson on April, 1917, asked for a declaration of war, in which he said:

We have no quarrel with the German people. We have no feeling toward them but one of sympathy and friendship. It was not upon their impulse that their Government acted in entering the war. It was not with their previous knowledge and approval.

And yet, Mr. President, it is upon the German people that all of the burden, all of the oppression, all of the generations of economic slavery carried in the terms of the treaty of Versailles are to be imposed, and we are asked to commit ourselves to its terms and to its enforcement by the provisions of the treaty which are to be voted upon shortly in this body.

ECONOMIC FORCES RESPONSIBLE FOR THE WAR.

I have never been able to give my assent to the proposition that Germany alone was responsible for the inauguration of the war. President Wilson at St. Louis in his last speaking trip over the country stated that the European war originated in commercial rivalry. He said:

Why, my fellow citizens, is there any man here or any woman, let me say is there any child here, who does not know that the seed of war in the modern world is industrial and commercial rivalry? The real reason that the war that we have just finished took place was that Germany was afraid her commercial rivals were going to get the better of her, and the reason why some nations went into the war against Germany was that they thought Germany would get the commercial advantage of them. The seed of the jealousy, the seed of the deep-seated hatred was hot, successful commercial and industrial rivalry. * * * This war, in its inception, was a commercial and industrial war. It was not a political war.

I do not know whether Senators have been following the publication that has recently been made in one periodical in the country of the diplomatic correspondence of the Belgian Government, but it is tremendously enlightening as to the causes that for six or eight years prior to the breaking out of the war were operating in Europe to bring about that event.

We may make our declarations here, we may offer our resolutions and our motions, and record our votes this way and that upon the subject, but the finger of God writes the history of mankind. We can not control in these matters. The record one day will be written in truth, and our trivial, empty declarations made here will have no lasting place in that record. The truth will eventually be vindicated.

Mr. President, whatever may have been the commercial ambitions of the Kaiser, and the military ambitions of the junkers, certain it is, as President Wilson said in so many of his addresses to the Congress, that the German people were not responsible for the war. Again and again the President said as our spokesman that the German people should not be punished in any peace that was made; and yet the Versailles treaty, to which, by some strange contradiction of truth and fact, he came to subscribe, did subject the German people, as the late Senator Knox has said, to the most crushing, the most cruel treaty that was ever written in the history of time.

TREATY OF VERSAILLES DOOMED TO COLLAPSE.

Mr. President, I venture to predict that in one or two years of time, as it is ticked off by the clock of the centuries, whatever may be our action now, and in spite of our efforts to inject vitality into the treaty of Versailles, we shall see it acknowledged as the most collossal failure of all the compacts that have ever been made between the nations of the earth. It imposes upon the German people conditions with which it is not possible, in the working out of the economic laws of the life of the human race, to comply. It must break down and

something else must take its place; and yet we are called in at this time to underwrite this miserable document.

UNITED STATES SHOULD REFUSE TO ASSENT TO TREATY OF VERSAILLES IN WHOLE OR IN PART.

Mr. President, if we chose to honor the specific pledges made on behalf of this Government by its responsible spokesman during the war, we would never give our assent to any portion of the treaty of Versailles. When we accept it, in whole or in part, we violate the contract assented to by all our allies on which the armistice was based. When we attempt to reap what benefits we can from its harsh provisions—and it will be to our everlasting shame that we seek to extract anything to our benefit from this infamous document—and give it our actual assent, to the exactions of those nations whose selfish interests were served by the treaty, we take from every American soldier and his family the consciousness that their sacrifices were given for the high ideals of an unselfish cause; we belittle the sacrifice that every soldier made who sleeps in France to-night.

The honorable way out of our present situation would be for this Government, by a simple declaration drawn by the Executive and ratified by this body, to establish the status quo ante of April, 1917, with proper guaranties for the indemnity of American citizens with just claims against the German Empire.

The people of this country, who voted in the last election for a return to our traditional policy of freedom from the intrigue and imperialism of European diplomacy, will exact such a settlement from this administration or they will in the future elect new representatives more faithful to their solemn pledges to their constituents.

The PRESIDING OFFICER (Mr. STERLING in the chair). The treaty, with the resolution of ratification, is in the Senate and the treaty is open to amendment. If there be no amendment proposed, the question is upon concurring in the reservations to the resolution of ratification made as in Committee of the Whole. Without objection the reservations are concurred in. If there are no further reservations proposed to the resolution of ratification, the question is, "Shall the treaty be read a third time?" Without objection the treaty will be read a third time.

The treaty was read the third time by title.

The PRESIDING OFFICER. The treaty having been read the third time, the question is upon agreeing to the resolution of ratification with the reservations already agreed to as in Committee of the Whole and in the Senate, which the Secretary will read.

The Assistant Secretary read as follows:

Resolved (*two-thirds of the Senators present concurring therein*), That the Senate advise and consent to the ratification of the treaty between the United States and Germany, signed at Berlin August 25, 1921, to restore the friendly relations existing between the two nations prior to the outbreak of war, subject to the understanding, which is hereby made a part of this resolution of ratification, that the United States shall not be represented or participate in any body, agency, or commission, nor shall any person represent the United States as a member of any body, agency, or commission in which the United States is authorized to participate by this treaty, unless and until an act of the Congress of the United States shall provide for such representation or participation; and subject to the further understanding, which is hereby made a part of this resolution of ratification, that the rights and advantages which the United States is entitled to have and enjoy under this treaty embrace the rights and advantages of nationals of the United States specified in the joint resolution or in the provisions of the treaty of Versailles, to which this treaty refers.

The PRESIDING OFFICER. The question is upon agreeing to the resolution of ratification.

Mr. REED. I ask for the yeas and nays.

The VICE PRESIDENT. The Secretary will call the roll.

The Assistant Secretary proceeded to call the roll.

Mr. SWANSON (when his name was called). On the vote to ratify the treaty I am paired with the Senator from Washington [Mr. JONES] and the Senator from Colorado [Mr. PHIPPS], both of whom, if present, would vote for its ratification. I am opposed to the ratification of the treaty. I have been unable to secure a transfer and consequently I can not vote. If permitted to vote, I should vote "nay."

The roll call was concluded.

Mr. GERRY. I desire to announce that the Senator from Arkansas [Mr. ROBINSON] is paired against the treaty with the Senator from South Carolina [Mr. SMITH] and the Senator from Oregon [Mr. STANFIELD], who are for it.

I desire further to announce the Senator from Nebraska [Mr. NORRIS] is paired against the treaty with the Senator from Nebraska [Mr. HITCHCOCK] and the Senator from North Dakota [Mr. LADD], who are for it.

Mr. BORAH. I desire to state that the Senator from Nebraska [Mr. NORRIS] is absent on account of sickness. If he were present, he would vote "nay." I am informed that a pair has been arranged so that the Senator from Nebraska, who is opposed to the treaty, stands paired with the Senator from Nebraska [Mr. HITCHCOCK] and the Senator from North Dakota [Mr. LADD], who are in favor of it.

The result was announced—yeas 66, nays 20, as follows:

YEAS—66.

Ashurst	Fernald	McKinley	Shields
Ball	Fletcher	McLean	Shortridge
Brandegee	France	McNary	Smoot
Broussard	Frelinghuysen	Moses	Spencer
Bursum	Gerry	Myers	Sterling
Calder	Gooding	Nelson	Sutherland
Cameron	Hale	New	Townsend
Capper	Harreld	Newberry	Trammell
Colt	Johnson	Nicholson	Underwood
Cummins	Kellogg	Norbeck	Wadsworth
Curtis	Kendrick	Oddie	Walsh, Mass.
Dial	Kenyon	Owen	Warren
Dillingham	Keyes	Page	Watson, Ind.
du Pont	Lenroot	Penrose	Weller
Edge	Lodge	Poindexter	Willis
Elkins	McCormick	Pomerene	
Ernst	McCumber	Ransdell	

NAYS—20.

Borah	Harrison	McKellar	Simmons
Caraway	Heflin	Overman	Stanley
Culberson	Jones, N. Mex.	Pittman	Walsh, Mont.
Glass	King	Reed	Watson, Ga.
Harris	La Follette	Sheppard	Williams

NOT VOTING—9.

Hitchcock	Norris	Robinson	Stanfield
Jones, Wash.	Phipps	Smith	Swanson
Ladd			

The VICE PRESIDENT. On the question of concurring in the resolution of ratification the yeas are 66 and the nays 20. Two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

Without objection, the preamble to the treaty is agreed to.

TREATY OF PEACE WITH AUSTRIA.

Mr. LODGE. Mr. President, I now move to take up the Austrian treaty.

The motion was agreed to; and the Senate, as in Committee of the Whole and in open executive session, proceeded to consider the treaty of peace with Austria.

The VICE PRESIDENT. The treaty is before the Senate as in Committee of the Whole and open to amendment. If there be no amendment proposed, the question is on agreeing to the reservations offered by the committee. Without objection, the reservations will be agreed to.

Mr. WILLIAMS. Mr. President, do I understand that the Chair is announcing that the reservations of the committee are agreed to without a vote?

The VICE PRESIDENT. In Committee of the Whole. The treaty will be reported to the Senate.

The treaty was reported to the Senate with the resolution of ratification and the reservations thereto.

The VICE PRESIDENT. The treaty, with the resolution of ratification, is in the Senate, and the treaty is open to amendment. If there be no amendment proposed, the question is upon concurring in the reservations to the resolution of ratification as agreed to in Committee of the Whole. Without objection, the reservations are concurred in. If there be no further reservations proposed to the resolution of ratification, the question is, Shall the treaty be read a third time?

The treaty was ordered to be read a third time and was read the third time.

The VICE PRESIDENT. The treaty having been read three times, the question is upon agreeing to the resolution of ratification with the reservations already agreed to as in Committee of the Whole and in the Senate.

Mr. LODGE. Upon that I ask for the yeas and nays. The treaties are substantially the same, but I think they are of such importance that we ought to take the vote by yeas and nays.

The yeas and nays were ordered, and the Assistant Secretary proceeded to call the roll.

Mr. SWANSON (when his name was called). I desire to make the same announcement as to my pair that I made before. If I were not paired, I should vote "nay."

Mr. GERRY. I desire to announce the following pairs:

The Senator from Arkansas [Mr. ROBINSON], against the treaty, is paired with the Senator from South Carolina [Mr. SMITH] and the Senator from Oregon [Mr. STANFIELD], for it.

The Senator from Nebraska [Mr. NORRIS], against the treaty, is paired with the Senator from Nebraska [Mr. HITCHCOCK] and the Senator from North Dakota [Mr. LADD], for it.

The roll call having been concluded, it resulted, yeas 66, nays 20, not voting 9, as follows:

YEAS—66.

Ashurst	Bursum	Colt	Dillingham
Ball	Calder	Cummins	du Pont
Brandegee	Cameron	Curtis	Edge
Broussard	Capper	Dial	Elkins

Ernst	Keyes	Nicholson	Sterling
Fernald	Lenroot	Norbeck	Sutherland
Fletcher	Lodge	Oddie	Townsend
France	McCormick	Owen	Trammell
Frelinghuysen	McCumber	Page	Underwood
Gerry	McKinley	Penrose	Wadsworth
Gooding	McLean	Poindexter	Walsh, Mass.
Hale	McNary	Pomerene	Warren
Harreld	Moses	Ransdell	Watson, Ind.
Johnson	Myers	Shields	Weller
Kellogg	Nelson	Shortridge	Willis
Kendrick	New	Smoot	
Kenyon	Newberry	Spencer	

NAYS—20.

Borah	Harrison	McKellar	Simmons
Caraway	Heflin	Overman	Stanley
Culberson	Jones, N. Mex.	Pittman	Walsh, Mont.
Glass	King	Reed	Watson, Ga.
Harris	La Follette	Sheppard	Williams

NOT VOTING—9.

Hitchcock	Norris	Robinson	Stanfield
Jones, Wash.	Phipps	Smith	Swanson
Ladd			

The VICE PRESIDENT. Two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to. Without objection, the preamble to the treaty is agreed to.

TREATY OF PEACE WITH HUNGARY.

Mr. LODGE. I move that the Senate now take up the treaty with Hungary.

The motion was agreed to; and the Senate, as in Committee of the Whole and in open executive session, proceeded to consider the treaty of peace with Hungary.

The VICE PRESIDENT. The treaty is before the Senate as in Committee of the Whole and open to amendment. If there be no amendment proposed, the question is on agreeing to the reservations offered by the committee. Without objection, they will be agreed to, and the treaty will be reported to the Senate.

The treaty was reported to the Senate with the resolution of ratification and the reservations thereto.

The VICE PRESIDENT. The treaty, with the resolution of ratification, is in the Senate, and the treaty is open to amendment. If there be no amendment proposed, the question is upon concurring in the reservations to the resolution of ratification as agreed to in Committee of the Whole. Without objection, the reservations are concurred in. If there be no further reservations proposed to the resolution of ratification, the question is, Shall the treaty be read a third time?

The treaty was ordered to be read a third time, and it was read the third time.

The VICE PRESIDENT. The treaty having been read three times, the question is on agreeing to the resolution of ratification, with the reservations already agreed to in Committee of the Whole and in the Senate, which the Secretary will read.

Mr. LODGE. I ask that the reading be dispensed with.

The VICE PRESIDENT. Without objection, the reading will be dispensed with and the reservations will be agreed to. The question now is on agreeing to the resolution.

Mr. LODGE. On that I ask for the yeas and nays.

The yeas and nays were ordered, and the Assistant Secretary proceeded to call the roll.

Mr. SWANSON (when his name was called). Making the same announcement on this vote as I did on the previous vote with reference to my pair and its transfer, I desire to state that if permitted to vote I would vote "nay."

The roll call was concluded.

Mr. GERRY. I desire to announce that the Senator from Arkansas [Mr. ROBINSON] is paired against the treaty with the Senator from South Carolina [Mr. SMITH], and the Senator from Oregon [Mr. STANFIELD] for the treaty.

Mr. CURTIS. I wish to announce that the Senator from Nebraska [Mr. NORRIS] is paired against the treaty with the Senator from California [Mr. JOHNSON], and the Senator from North Dakota [Mr. LADD] for the treaty.

The result was announced—yeas 66, nays 17—as follows:

YEAS—66.

Ashurst	Fernald	McKinley	Shields
Ball	Fletcher	McLean	Shortridge
Brandegee	France	McNary	Smoot
Broussard	Frelinghuysen	Moses	Spencer
Bursum	Gerry	Myers	Sterling
Calder	Gooding	Nelson	Sutherland
Cameron	Hale	New	Townsend
Capper	Harreld	Newberry	Trammell
Colt	Hitchcock	Nicholson	Underwood
Cummins	Kellogg	Norbeck	Wadsworth
Curtis	Kendrick	Oddie	Walsh, Mass.
Dial	Kenyon	Owen	Warren
Dillingham	Keyes	Page	Watson, Ind.
du Pont	Lenroot	Penrose	Weller
Edge	Lodge	Poindexter	Willis
Elkins	McCormick	Pomerene	
Ernst	McCumber	Ransdell	

NAYS—17.

Culberson	Jones, N. Mex.	Reed	Watson, Ga.
Glass	King	Sheppard	Williams
Harris	La Follette	Simmons	
Harrison	McKellar	Stanley	
Heflin	Overman	Walsh, Mont.	

NOT VOTING—12.

Borah	Jones, Wash.	Phipps	Smith
Caraway	Ladd	Pittman	Stanfield
Johnson	Norris	Robinson	Swanson

The VICE PRESIDENT. On the resolution of ratification the yeas are 66, the nays are 17. Two-thirds of the Senators present having voted in favor of the resolution it is agreed to. Without objection, the preamble of the treaty is agreed to.

LEGISLATIVE SESSION.

Mr. LODGE. I move that the Senate resume legislative business.

The motion was agreed to.

REINTERMENT OF AMERICAN SOLDIER DEAD.

The VICE PRESIDENT laid before the Senate a communication from Brig. Gen. C. R. Krauthoff, Quartermaster Corps, Acting Quartermaster General of the Army, which was read, and, with the accompanying papers, ordered to lie on the table for inspection by Senators, as follows:

WAR DEPARTMENT,
OFFICE OF THE QUARTERMASTER GENERAL OF THE ARMY,
October 17, 1921.

The PRESIDENT OF THE SENATE,
Washington, D. C.

MY DEAR SIR: The inclosed copies of lists of American soldier dead returned from overseas, consisting of 2 officers and 108 enlisted men, to be reinterred in the Arlington National Cemetery, Thursday, October 20, 1921, at 2.30 p. m., and 10 enlisted men, checked in blue, to be reinterred in that cemetery on Thursday, October 27, 1921, at 2.30 p. m., are furnished for consultation by Senators. It is requested that they be posted or displayed in a suitable place for the purpose desired.

Very truly, yours,

C. R. KRAUTHOFF,
Brigadier General, Q. M. C.,
Acting Quartermaster General.

PETITION.

Mr. NELSON presented a resolution adopted October 10, 1921, by the city council of Red Lake Falls, Minn., favoring the doubling of Federal appropriations for the construction of post roads, etc., which was referred to the Committee on Post Offices and Post Roads.

ENROLLED BILL PRESENTED.

Mr. SUTHERLAND, from the Committee on Enrolled Bills, reported that on October 17, 1921, they had presented to the President of the United States the enrolled bill (S. 2339) providing for an International Aero Congress cancellation stamp to be used by the Omaha post office.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. HALE:

A bill (S. 2595) for the relief of Lewis Myshrall; to the Committee on Military Affairs.

By Mr. CAPPER:

A bill (S. 2596) granting an increase of pension to John J. Osborne (with accompanying papers); to the Committee on Pensions.

By Mr. BALL:

A bill (S. 2597) to amend an act entitled "An act to provide, in the interest of public health, comfort, morals, and safety, for the discontinuance of the use as dwellings of buildings situated in the alleys of the District of Columbia," approved September 25, 1914; to the Committee on the District of Columbia.

HOUSE BILLS REFERRED.

The following bills were severally read twice by title and referred as indicated below:

H. R. 216. An act to incorporate the Disabled American Veterans of the World War; to the Committee on the Judiciary.

H. R. 6119. An act for the coinage of a Grant souvenir gold dollar in commemoration of the centenary of the birth of Gen. Ulysses S. Grant, late President of the United States; to the Committee on Banking and Currency.

H. R. 7761. An act to amend the Revised Statutes of the United States relative to proceedings in contested-election cases; to the Committee on Privileges and Elections.

RECESS.

Mr. LODGE. I move that the Senate, as in legislative session, take a recess until 11 o'clock to-morrow morning.

The motion was agreed to; and (at 7 o'clock and 55 minutes p. m.) the Senate took a recess until to-morrow, Wednesday, October 19, 1921, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

TUESDAY, *October 18, 1921.*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

O Thou Infinite God, what a rest comes to us in the consciousness that there is a Guide who never falters and One who leads us on our way. To Thee we would yield ourselves and make known our loving obedience. Come to any who are in the lowland of discouragement; bestow great comfort upon any who suffer alone; give the blessing of quiet trust to the doubting heart, and unto all of us let come the assurance of Thy tender care until the volume of this earthly life is closed. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

EXTENSION OF REMARKS.

Mr. LANKFORD. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD upon the subject of the farmers' relief legislation.

The SPEAKER. Is there objection?

There was no objection.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Craven, one of its clerks, announced that the Senate had concurred in the amendments of the House of Representatives to the joint resolution (S. J. Res. 123) authorizing the Secretary of War to expend from the appropriation, "Disposition of remains of officers, soldiers, and civilian employees, 1922" (act of Mar. 4, 1921, Public, No. 389, 66th Cong.), such sum as may be necessary to carry out the provisions of public resolution No. 67, Sixty-sixth Congress.

ORDER OF BUSINESS.

Mr. BLANTON. Mr. Speaker, I ask unanimous consent that I may be permitted to proceed for three minutes upon the subject of the war that has been declared against the people of the United States, to take effect October 30 next.

The SPEAKER. The gentleman from Texas asks unanimous consent to address the House for three minutes. Is there objection?

Mr. LONDON. Mr. Speaker, I object.

Mr. MONDELL. Mr. Speaker, we are to have several hours of general debate, and I am sure the gentleman from Texas will be able to get time if he wishes it.

Mr. BLANTON. Of course, that may not be a very important subject to the majority side of the House, and I suppose I shall have to bow to their will.

Mr. MONDELL. Mr. Speaker, I shall have to object.

Mr. BLANTON. Mr. Speaker, I bow to the will of the majority.

EMERGENCY TARIFF LEGISLATION.

Mr. GREEN of Iowa. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 8643) to extend the tariff act approved May 27, 1921. Pending that I desire to make some arrangement in respect to the time for general debate. I have had enough requests upon this side to take at least two hours. Will the gentleman from Mississippi need that much time on his side?

Mr. COLLIER. I have not had requests for that much time. Does the gentleman expect to have that time confined to debate upon the bill?

Mr. GREEN of Iowa. No; I do not intend to make that request. Does the gentleman desire an equal amount of time?

Mr. COLLIER. Yes.

Mr. GARRETT of Tennessee. Mr. Speaker, reserving the right to object, will the gentleman yield?

Mr. GREEN of Iowa. Certainly.

Mr. GARRETT of Tennessee. Four hours of general debate upon this bill, I assume, would mean that that would take the entire day. Is it the expectation to do anything else to-day?

Mr. GREEN of Iowa. I do not know about that. It is the expectation to reach a vote upon this bill probably about 5 o'clock—4 or 5 o'clock.

Mr. GARRETT of Tennessee. There is a matter pending here, a privileged matter, that I had very much hoped we might dispose of to-day. It is a contested-election case, on which there is a unanimous report.

Mr. GREEN of Iowa. How much time would that require?

Mr. GARRETT of Tennessee. I would not think it would require any more than a few minutes, but I do not know how much discussion gentlemen may want.

Mr. MONDELL. Mr. Speaker, will the gentleman yield to me?

Mr. GREEN of Iowa. Certainly.

Mr. MONDELL. Mr. Speaker, I talked with the gentleman from Tennessee this morning in regard to the matter which he has spoken about. He and I are both very anxious to dispose of this contested-election case. At the time that I talked with him about it this morning I was under the impression that there would not be over two hours of general debate requested upon the tariff bill. If the discussion under general debate continues for four hours, however, I doubt if we can take up the contested-election case to-day, but we will dispose of it very soon—some time during the week.

Mr. COLLIER. Mr. Speaker, I would ask the gentleman from Iowa if he could not get along with an hour and a half on that side.

Mr. GREEN of Iowa. I do not see how I could. Would the gentleman agree to have his time limited to an hour and a half?

Mr. COLLIER. If the gentleman from Iowa agrees to that time, certainly.

Mr. GREEN of Iowa. I could not do that, in view of the fact that I have promised gentlemen that if I could obtain this time I would yield to them. Mr. Speaker, I ask unanimous consent that the time for general debate upon this bill be limited to four hours, two hours to be controlled by the gentleman from Mississippi [Mr. COLLIER] and two hours by myself.

The SPEAKER. The gentleman from Iowa asks unanimous consent that general debate be limited to four hours, two hours to be controlled by himself and two hours by the gentleman from Mississippi [Mr. COLLIER]. Is there objection?

Mr. GARRETT of Tennessee. Mr. Speaker, reserving the right to object, of course I do not want to interfere with the program of the majority and I realize that I ought not to do that, but I do wish we could get to the matter in the mind of the gentleman from Wyoming.

Mr. MONDELL. Mr. Speaker, I share the desire of the gentleman from Tennessee to dispose of the contested-election case, and I feel that it will be disposed of very soon.

Mr. GARRETT of Tennessee. I suggest to the gentleman from Iowa that he make the general debate upon this bill three hours, and then perhaps we can take care of the other matter.

Mr. GREEN of Iowa. I doubt whether my friend from Mississippi will consume all of his time. We may get through a little earlier. I will ask the Chair to put my request.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The SPEAKER. The question now is on the motion of the gentleman from Iowa that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 8643.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 8643, with Mr. BURTON in the chair.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read the bill, as follows:

Be it enacted, etc., That Titles I and V of the act entitled "An act imposing temporary duties upon certain agricultural products to meet present emergencies and to provide revenue; to regulate commerce with foreign countries; to prevent dumping of foreign merchandise on the markets of the United States; to regulate the value of foreign money; and for other purposes," approved May 27, 1921, shall continue in force until February 1, 1922, unless otherwise provided by law.

Mr. GREEN of Iowa. Mr. Chairman, I yield to the gentleman from Michigan [Mr. FORDNEY] such time as he may desire.

Mr. FORDNEY. Mr. Chairman and gentlemen of the committee [applause], I regret that we find it necessary to extend the time for the operation of the so-called emergency tariff bill. I had hoped that the Senate might act upon the general tariff revision bill and that it might be enacted into law before the 27th of November. I further regret exceedingly that the Senate thought it wise to cast aside the tariff bill and took up for consideration the internal-revenue tax bill, and enact that into law before considering the tariff bill. But such has been done by the Senate, and all we can do is to say that we regret the action on their part. This bill, let me say to the gentlemen of the House, has already had a most favorable effect upon the importation of goods from foreign countries in the amount of revenue collected by the Treasury Department on the volume of imports. If gentlemen of the House will examine the statistics and records they will find that during the life of the present tariff law, the Underwood tariff law, since 1913, that very close to 70 per cent of all imports, dutiable and free, are imported as free from the payment of duty, and that the ad valorem rate of duty collected on all imports average around 6 per cent ad valorem very closely. As a comparison of the ad valorem rate

under many tariff laws I wish to call the attention of the House to this fact, that the ad valorem rates under the Wilson bill, which was in operation 36 months or thereabouts, during the years of 1894, 1895, 1896, and 1897, the rates under that law averaged around 21 per cent ad valorem. That bill was succeeded by the Dingley tariff law and the ad valorem rate during the life of that law was in round numbers 26½ per cent. That bill was succeeded by the Payne bill—a very much-abused law, very much misrepresented in this country and the world over—and the ad valorem rate under that law was 18.55 per cent during the life of the law. That bill was succeeded by the Underwood tariff law under which, as I have said, the rates range very close to 6 per cent ad valorem.

If you gentlemen will take the report of the Department of Commerce, you will find for the month of August of this year the ad valorem rate on all imports was, in round numbers, 13¾ per cent, while during August of last year it was exactly 6 per cent ad valorem. Therefore, because of the enactment of the emergency tariff law imports since the enactment of that law coming under the operations of this emergency tariff bill have been increased very greatly and make a total average of ad valorem duties on all imports of more than double that for the last year under the Underwood tariff law.

Mr. COLLIER. Will the gentleman yield?

Mr. FORDNEY. I will.

Mr. COLLIER. Will the gentleman tell me the ad valorem rate under the Fordney bill which was recently passed? We did not have that rate when the bill was passed, and I suppose it has been determined now.

Mr. FORDNEY. It is most difficult to tell what rates will be collected——

Mr. COLLIER. As it passed the House I want to know.

Mr. FORDNEY. As it passed the House, for the reason that it depends upon the volume of imports and the kind of imports, but it was estimated by experts, it is estimated by me——

Mr. COLLIER. Who is an expert.

Mr. FORDNEY. That the ad valorem rates under the new tariff law will hover closely around the ad valorem rates under the Payne tariff law. It may be a little above or a little below those rates, but not very far from 16 to 20 per cent ad valorem.

Mr. COLLIER. Is that including the American valuation?

Mr. FORDNEY. Let me conclude, for this reason, my friend, that in the adoption of the American valuation, if imports continue to come in in great volume from countries that have a low cost of production, then the revenues collected will greatly increase, for the reason that under the American valuation we collect the same amount of duty on the same kind and quantity of goods from every country in the world, and we are dealing with 111 nations in the world now on imports, while under the existing law each and every country in the world that has a different cost of production pay a different amount of duty on the same kind of goods.

Mr. ANDREWS of Nebraska. Will the gentleman yield?

Mr. FORDNEY. I will.

Mr. ANDREWS of Nebraska. Are the rates of duty as quoted in these various tariff laws related to the total volume of the import, including dutiable and free, or are they dutiable alone?

Mr. FORDNEY. Dutiable and free. I stated that; and perhaps the gentleman did not catch that point. The ad valorem rates as given in the statistics always average upon the total importation, whether the goods are dutiable or free. My friend, the exchange of goods in this country and the world over is not most economically and scientifically carried on. Why in the world should we import large quantities of wheat and flour from foreign countries when we have a large amount of wheat and flour for export?

Mr. BLANTON. Will the gentleman yield?

Mr. FORDNEY. I will.

Mr. BLANTON. Why on earth should we continue to import from cheap South American countries hundreds of thousands of pounds of hides—all kinds of hides, cattle and calves' and other kinds—and our stock raisers of this country can not get enough for their own local hides here to pay for skinning the cattle?

Mr. FORDNEY. In reply to the question, I will ask the gentleman to examine the vote in this House when the tariff bill was before the House and that will answer his question.

Mr. BLANTON. Some misguided Republicans and some misguided Democrats are responsible——

Mr. FORDNEY. Oh, yes; I think the gentleman is correct. This House voted by a majority, sir, to put hides on the free list, against my protest. [Applause.]

Let me go further: Why should we import from Argentina corn when we have hundreds of millions of bushels of corn raised by American farmers for export? Why should we import large quantities of meat when we export meat? Why should we from the Southern States export large quantities of cotton produced in the United States, sent to Europe and Japan, when at the same time we have spindles in our cotton mills in this country sufficient to produce all the cotton goods that the American people need? Why should we at the same time import from $75,000,000 to $100,000,000 worth of cotton manufactured and produced in a foreign country from raw cotton grown in the States of Mississippi and Texas and other Southern States?

Mr. COLLIER and Mr. BLACK rose.

The CHAIRMAN. Does the gentleman yield; and if so, to whom?

Mr. FORDNEY. I will yield first to the gentleman from Mississippi, and then I will yield to the gentleman from Texas.

Mr. COLLIER. I will ask the gentleman why it is that cotton, being the only agricultural product upon which a tax was not placed, is the only agricultural product that has been materially advanced in price, while all the other agricultural products upon which a tax has been placed have gone down in price?

Mr. FORDNEY. I can not otherwise answer the question, my friend, than by saying that during the war, in producing material to destroy human life and property, the production of those articles, and especially of cotton, was neglected, and now Europe is demanding our cotton. You and President Wilson have always contended that a violation of the Sherman anti-trust law should be punished, and yet the President of the United States was the first man to buy a bale of cotton to create a monopoly on cotton in the South. The policy of buying a bale of cotton was advocated by the President.

Now, I yield to the gentleman from Texas [Mr. BLACK].

Mr. BLACK. The question I wanted to ask the gentleman was this: The gentleman stated that we of the South exported cotton from the South to Great Britain and Japan.

Mr. FORDNEY. I said Europe and Japan.

Mr. BLACK. Very well; Europe and Japan. Now, I will ask the gentleman to explain to us how we can continue to export that cotton and receive our pay unless we people in the United States buy from them?

Mr. FORDNEY. That is not contended by any sensible man. It never has been contended by any sensible man that we should place an embargo upon importations from the outside countries of the world. It has never been done and never will be done, because the American people have too much sense to do a thing of that kind.

Mr. BLACK. But now the gentleman——

Mr. FORDNEY. No; I decline to yield further than to answer the gentleman and to answer one question at a time.

I was in the State of Mississippi, in the city of Laurel, and had been requested to make some remarks in the courthouse in that town on the question of the tariff. The people down there do not get a chance to hear tariff speeches except when some man from the North goes down there and is permitted to speak. They hear only one side of the question. I went through a cotton mill in Laurel, Miss., the principal town in Jones County, Miss., one day. My good wife was with me. That mill had 22,000 spindles, a mill of ordinary size. There I saw bales of raw cotton brought in by farmers and sold to that mill. There I saw American labor employed in converting that cotton into finished products and sold to the American people.

I went from the mill to the depot and arranged for a reservation to go up North a couple of days later, and at the depot, on the platform, perhaps 50 feet wide and 400 feet long, were bales of cotton in great numbers that were being loaded upon cars. I asked the men loading that cotton where the cotton was going to. It was going to New Orleans, to be shipped to Belgium.

Mr. McPHERSON. Mr. Chairman, will the gentleman yield?

Mr. FORDNEY. In a minute.

I asked my good wife to go with me up town, and we went into a dry-goods store in Laurel, Miss. She asked for a certain grade of cotton at my request. She asked the salesman if he had any imported cotton. "Oh, yes." He reached upon a shelf and pulled down a roll of cotton. I said to him, "Where was that cotton made, abroad?" He took from the end of the bolt a card and said, "In Belgium."

Under our laws there was raw cotton raised in Jones County, Miss., going to Belgium, to find labor that at that time received an average of 18 cents a day in the cotton mills of Belgium, and brought right back to Laurel, Miss., and sold to the man who raised the raw cotton, where you had a cotton mill employing American capital and American labor, and that American labor spending its earnings in the American grocery stores right in

their own town. A law that will permit such conditions to exist is wrong. It does not protect your people who voted for you and sent you here to represent them.

Mr. BLACK. Mr. Chairman, will the gentleman yield?

Mr. FORDNEY. I yield to the gentleman.

Mr. BLACK. Does the gentleman regard that—the statement he has just made—as an answer to my question as to how we can receive payment for our surplus cotton unless we in turn import goods from foreign nations?

Mr. FORDNEY. I will tell you how, my friend. Europe to-day owes us from $10,000,000,000 to $11,000,000,000 of money loaned and money due from the sale of surplus war supplies. Europe owes that to us, and if we are to take the products of their labor in payment and let American laboring men walk the streets in idleness instead of producing those things at home that we can produce, for God's sake join with me and cancel the debt; make a present of it to them.

Mr. WINGO. Mr. Chairman, will the gentleman yield?

Mr. FORDNEY. Certainly.

Mr. WINGO. I understand, as to the gentleman's illustration of that cotton being shipped to Belgium and there made into the finished product and brought back here to be sold, that he considers that law which permited the cotton to come in here to be a bad law?

Mr. FORDNEY. I will say that a law that permits the product of your labor in Arkansas to be exported to Belgium to be made into finished product and shipped back to your home town to be sold to you while your American labor is going in idleness is a bad law; do you agree with me?

Mr. WINGO. My question is, Would the gentleman shut out those goods—bar them out?

Mr. FORDNEY. Was the gentleman on the floor of the House when I made the statement a few minutes ago that no man with common sense would ever suggest such a thing—ever did or ever will?

Mr. WINGO. That is the reason I asked the gentleman, because I think he is a very intelligent man. Would the gentleman bar those goods out?

Mr. FORDNEY. What conclusion would the gentleman reach from the statement I just made?

Mr. WINGO. I am trying to find out.

Mr. FORDNEY. Does not the gentleman think I have more business judgment than to favor such legislation?

Mr. WINGO. I think the gentleman is a very intelligent man, and that is the reason I am asking him.

Mr. FORDNEY. I never will vote for a law to create an embargo on importations against the whole world.

Mr. OLDFIELD and Mr. CRISP rose.

Mr. OLDFIELD. Will the gentleman yield?

Mr. FORDNEY. I yield, first, to the gentleman from Arkansas.

Mr. OLDFIELD. I trust I misunderstood the gentleman when I came in at the door a minute ago. Is the gentleman in favor of canceling our foreign debt of $10,000,000,000?

Mr. FORDNEY. Rather than take products from Europe, their products, that our own people can produce and at the same time let our American laboring men go in idleness I would cancel it in a minute, but that is not necessary. We constitute but one-eighteenth of the population of the world, and Europe has the whole world to deal with in exchanging goods for money to pay what she owes us.

Now I yield to the gentleman from Georgia.

Mr. CRISP. I will say to my distinguished friend from Michigan that my colleague from Arkansas [Mr. OLDFIELD] asked the question which I rose to ask. I wanted to know if the beloved chairman of the Committee on Ways and Means favored canceling the debt that the European nations owe us.

Mr. FORDNEY. Not at all; not a dollar of it. I think they will pay every nickel of it, and it would be my purpose to have them do so.

Mr. BLANTON. Right there will the gentleman yield?

Mr. FORDNEY. In just a minute. Then I will yield to the gentleman.

Mr. BLANTON. It was just on that point I wanted to ask the gentleman a question.

Mr. FORDNEY. The point I am trying to make is this, gentlemen, that every time we send raw material abroad to be manufactured and then bring back the manufactured product from the foreign country because it is produced by cheaper labor than is found here, when that same article can be produced here by American labor, it is a waste of time and money in the transportation; a waste of energy; a waste of labor. A farmer who has a market within a mile of his farm has a decided advantage over a farmer whose farm is 10 miles away from the market, because his marketing cost is decidedly less than that of his more distant neighbor, and what is true of the farmer is true of the Nation.

My friends, I am in favor of protecting our own markets at home for this great surplus of goods that we produce both upon the farm and in the factory. I am in favor of protecting them against the great volume of imports from foreign countries, simply because those goods are furnished to our consumers for less money than we can produce them for. As an illustration suppose you and I are men whose income is only that which we receive in exchange for the sweat of our brows. Suppose you and I have no other income and we have no employment and no money and bread is only a penny a loaf. If we do not have the employment to earn the penny and do not have the penny, how far from us is that bread even at a penny a loaf? Now I yield to the gentleman from Texas [Mr. BLANTON].

Mr. BLANTON. That being true, does not the gentleman think the time has come when it ought to be a life sentence in a Federal penitentiary for a man even to mention the idea of canceling the debt that the European countries owe our Nation?

Mr. FORDNEY. Oh, I would not go that far, because some men lose their heads occasionally, but they will correct their mistake if you give them a little time. [Applause.]

Mr. BANKHEAD. Will the gentleman yield for a brief question?

Mr. FORDNEY. I yield to the gentleman from Alabama.

Mr. BANKHEAD. As I understood the arguments of the proponents of this emergency tariff bill when it was passed and approved on May 27, 1921, it was announced that the object of that legislation was to afford protection against the importation of the articles that we were seeking to protect, namely, agricultural products. I will ask the chairman of the committee if that emergency legislation has met the object for which it was passed?

Mr. FORDNEY. Certainly; as to the things provided for in that measure. I have just shown you that the effect of that bill has increased the ad valorem duty from 6 to 18¾ per cent.

Mr. BANKHEAD. But has it kept out the competition from foreign countries on those agricultural products that were sought to be protected?

Mr. FORDNEY. Yes; a great deal of the competition on a great many of the articles. If you will examine the papers, and especially the items prepared by importers, you will find great complaint because our imports and our exports are falling off. What in the name of goodness does an exporter care about imports? And what does an importer care about our exports? There are two classes of merchants. The people who complain about the American valuation and about our higher rates of duty than those provided for in the Underwood tariff bill are the men who want to import cheaply purchased articles from a foreign country and sell them to American citizens, who are out of employment at present very largely because of such imports. That is wholly inconsistent on the part of the importer to purchase abroad goods that can be produced in this country, and then to expect our unemployed to take these imported goods off their hands.

Mr. RUCKER. Will the gentleman yield?

Mr. FORDNEY. I yield to my friend from Missouri.

Mr. RUCKER. The original emergency tariff bill was passed May 27.

Mr. FORDNEY. Yes.

Mr. RUCKER. It was put into effect immediately upon being signed by the President.

Mr. FORDNEY. Yes.

Mr. RUCKER. The farmers in my district are suffering from the blight of low prices, and are pretty nearly on the verge of ruin.

Mr. FORDNEY. Yes.

Mr. RUCKER. A good Republican constituent of mine said that when this emergency tariff bill went into effect the farmers would realize great benefit from it. I want to ask the gentleman if that Republican was not wrong?

Mr. FORDNEY. No; he was not wrong. That is correct, and for this reason: The gentleman knows, as I know, that the very minute the Republican Party was placed in power the whole world knew that we were going to wipe from the statute books this unjust Underwood tariff law and put in its place a protective tariff law. The whole world that was exporting goods to the United States and the importers in the United States began to flood this country with imports, and they filled our warehouses to overflow in order to get them in under lower rates of duty before this bill took effect. We have a large amount of imported articles in this country, and until that surplus has been worked off the farmer and the producer of

every description will not get the full benefit and effect of this law.

Mr. RUCKER. Are they getting any benefit whatever?

Mr. FORDNEY. Yes. The farmer is not receiving his full share of the benefits of this law as yet, but he will, as before stated, as soon as these surplus imports are disposed of.

Mr. SNELL. Will the gentleman yield?

Mr. FORDNEY. I will.

Mr. SNELL. Is there anything in the emergency tariff act, or in any tariff law on the books at the present time, that will take care of the wood-pulp situation where the Scandinavian countries are dumping wood pulp into this country at a cost less than the wood costs here at home?

Mr. FORDNEY. There is nothing except the provision that puts power into the hands of the President to act when he thinks it is beneficial to any American industry.

Mr. SNELL. Is there anything that we can do in that line?

Mr. FORDNEY. To my regret there is none except to go to the President. I believe the pulp industry should have been protected the same as any other industry. There are $400,000,000 invested in paper and pulp mills in the United States, and there is no reason why that capital and labor should not receive the same consideration in the tariff law that capital and labor receive in other lines of industry.

Mr. SNELL. Can the gentleman suggest any way that we can help them at the present time?

Mr. FORDNEY. I do not know of any way except through the law and to induce the Senate to put a provision in the tariff bill that we can hold when the bill is brought back and in the House.

Mr. KINCHELOE. Will the gentleman yield?

Mr. FORDNEY. I will yield to the gentleman.

Mr. KINCHELOE. The advocates of a high protective tariff say that it is for the benefit of American labor. My observation has been that they are interested in benefiting American labor when enacting a tariff bill, but not so when enacting a revenue bill. The question I want to ask the gentleman is, Is it not a fact that the highly protected industries in this country have been, under every Republican tariff bill, paying a less price for American labor than any other, and why it is if American manufacturers can not compete with the cheap labor of Europe, American binders and mowers shipped 3,000 miles across the seas are sold in competition with that cheap labor of Europe?

Mr. FORDNEY. The reason is they do not do it. That is the answer.

Mr. KINCHELOE. The gentleman and the statistics do not agree on that.

Mr. CROWTHER. Will the gentleman yield?

Mr. FORDNEY. I will.

Mr. CROWTHER. The gentleman states that the nations of the world knew that very soon we were going to have a protective tariff bill. Does not the gentleman believe that they are as much overjoyed at the delay in it as the manufacturers or the people of the country are disappointed that it is not enacted; with three or four million men out of work in 1913–14 under the iniquitous Underwood tariff bill, and we are working under that nine months after the Republican administration began?

Mr. FORDNEY. There are only two classes of men in this country enjoying the delay in enacting the tariff bill. One is the free traders and the other is the importers, who are generally free traders. They are praying to God that the tariff bill may never be enacted into law, but their prayers will not be answered.

Now, let me go a little further. I have in my possession some statistics wherein representatives of the Cuban Government are here criticizing the rates provided for in our new tariff bill, and complaining of the unjust treatment of the Government of the United States, especially on sugar. Oh, how quickly they forget that the Government of the United States spent $400,000,000 in a war to gain independence from Spain for the people of Cuba. They forget that in 1903 we gave them by reciprocal trade treaty an advantage in our markets over any other country in the world of 20 per cent on the rates of duty in exchange for like privileges in their market. They forget that last year, 1920, when our Government took its hands off the control of the markets of the world in sugar—and our Government has no control over prices except articles produced in this country—they forget, gentlemen, that they run amuck in the sugar markets of the country, and you and I paid through their agencies and of the sugar refiners from 27 to 30 cents a pound for granulated sugar when our Government fixed the price the domestic sugar could be sold for in this country when produced from sugar beets at 12 cents a pound, and no manufacturer of beet sugar sold at a price above 12 cents a pound. They forget all that, and now come back and say we have a surplus of 1,710,000 tons of sugar on hand, and we will be bankrupt unless you purchase it and permit us to pay a low rate of duty.

They forget that they boosted the price sky-high, and the refiners of this country went into the markets of the world, outside of Cuba, and broke the market and compelled Cuba to sell at a lower price. They forget all of that. They forget that for 17 years prior to the adoption of Cuban reciprocity the balance of trade against the United States with Cuba was $538,000,000, and that for the succeeding 17 years it was $1,313,000,000 against the United States, which was after the adoption of Cuban reciprocity. All that is forgotten. They are here, not in the interest of Cuba altogether, because 82 per cent of all of the sugar plantations in Cuba are owned by American capital—owned by men who are chiefly residents of the States of New York and Massachusetts.

I know one man—Mr. E. F. Atkins, of Boston—now having under lease a sugar factory over here at Philadelphia, I believe, and this man Lowry—the slipperiest thing on earth except an eel in hot lard—is his sales agent. Atkins admitted to the Committee on Ways and Means that he had a farm of moderate size down in Cuba—a sugar plantation. When I questioned him as to how many acres he would call a farm of moderate size he declined to say, but we compelled him to admit that he had 45,000 acres of sugar plantation in Cuba, with 90 miles of railroad on his farm. He is interested in free sugar between this country and Cuba. He undoubtedly, with other gentlemen of like interest, are paying this lobby that is here in Washington to-day to appeal to Senators and Representatives to put sugar on the free list and, for God's sake, to help poor Cuba—poor, suffering Cuba!

My friends, we produce in the United States 25 per cent of our consumption of sugar, of a total of about 4,400,000 tons per year. We produce in round numbers 900,000 tons of sugar from sugar beets, with 101 sugar factories in the United States, with more than $100,000,000 of capital invested. With 400 such factories we could supply all of the sugar that all of the people of the United States consume, and at a price far below that which we are obliged to pay when we place ourselves in the hands of a foreign producer, as was the case last year with Cuba. Oh, Cuba has no reason to complain.

I want now to speak plainly of another matter. Our tariff bill as it passed the House provides that all ad valorem duties shall be imposed upon an American valuation, not upon the foreign valuation, as under existing law. There is a propaganda going broadcast now—and they are very industrious, appealing to the Senate and to Members of the House—to oppose the American valuation plan. Where does this come from? It comes from the importers—nowhere else.

No man who understands the difference between levying an ad valorem duty on a foreign valuation and on the American valuation will oppose this provision being written into the law, which will be written into the law, and which will be a law within a few months, if the good Lord only lets the American people live. This is what it will do: It will compel every country in the world with which we do business, every country in the world that sends her goods to our markets, to pay the same amount of duty, one country with the other, on exactly the same article and the same quantity of goods, where now under existing law that is not the case. To-day on a thousand dollars' worth of goods from Canada the duty is double in amount what would be collected on the same goods in quantity and quality from the Orient. The American valuation plan, when put into effect, will compel Japan to pay exactly the same amount of duty on the same kind and quantity of goods that Canada pays, regardless of their cost of production. [Applause on the Republican side.]

There are but few men who understand the American valuation plan in that way. Last evening a very brilliant newspaper man came to me who was opposed to the American valuation. When I explained it to him he threw up his hands and said, "I am with you heart and soul; I did not understand that feature of the law." It is said by men who oppose the American valuation plan that we can not determine the value here. Let me show you just what Great Britain is doing right now. On the 19th day of August, 1921, she passed a tariff law, and I read from one of the provisions of that law:

> The value of any imported goods for the purpose of this act shall be taken to be the price which an importer would give for the goods if the goods were delivered to him, freight and insurance paid, in bond at the port of importation.

Great Britain has not only a higher rate of duty than we have but a much higher rate of duty on imports than we provided for in this new tariff law now before the Senate, and, in

addition, this law which I have read from, passed by Great Britain in August last, provides that if the commission which has been created by that law decides that the importation of an article from any country in the world is detrimental to her institutions or to her labor, then there shall be added to their regular duties provided by law an additional duty of 33⅓ per cent on the value of the goods. That is what Great Britain has provided—Great Britain, the great free-trade country of the world, but really one of the most protected of all countries.

I wish to repeat again a statement which I have made heretofore, because there may be some gentlemen here who have not heard it, and I give this as a reason why no principal country in the world when our new tariff law becomes effective will have any occasion or just reason for retaliation. Last year Canada collected $19.50 per capita upon her imports—$19.50 for every man, woman, and child in Canada. Last year Great Britain collected $728,000,000 of import duties—$16.50 for every man, woman, and child in Great Britain. Last year we collected $3.15 per capita. Last year and now Japan had rates of duty that yield 19 per cent ad valorem on all imports dutiable and free—three times as high as our rates under existing law and higher than our rates will be under the new tariff law. Great goodness, my friends, has Great Britain, Canada, Japan, or any other country in the world any good reason to retaliate because of our increased rates of duty provided for in this new tariff law over and above the rates under existing law?

Mr. WILLIAMSON. Mr. Chairman, will the gentleman yield?

Mr. FORDNEY. Yes.

Mr. WILLIAMSON. There has been considerable discussion in some of the newspapers as to whether or not the American valuation as fixed under the tariff bill passed by the House is to be the valuation at the port of entry, as, for instance, at Chicago or at some other place. Suppose an importer lived in Chicago, would the valuation be a valuation to be estimated at the port of entry or in the city of Chicago?

Mr. FORDNEY. The law provides that the duty shall be collected upon the value of the goods the day they are exported and put on board for shipment in any foreign country, the value of those goods to be fixed in our markets upon the average wholesale selling price in the markets of this country. That shall be the American valuation, and under wise management at the present time we are collecting statistics upon which to base the imposition of import duties on the American valuation.

Mr. CHINDBLOM. Mr. Chairman, will the gentleman yield?

Mr. FORDNEY. Yes.

Mr. CHINDBLOM. I understood the question of the gentleman from South Dakota to be directed to the point of whether it would be the valuation of the first original port of importation or at some subsequent place.

Mr. FORDNEY. No; the value is fixed upon its American valuation the day the goods are exported from the country of origin.

Mr. CHINDBLOM. But the American valuation might not be the same in San Francisco as in New York.

Mr. FORDNEY. The average wholesale selling value is to be determined by the commission, the wholesale selling value in our principal markets. There is some margin there to operate in, and to the very best of their judgment these values will be fixed after determining what is the average wholesale selling value of the article here. Now, other countries are doing the same thing, and this plan works very satisfactorily. Let me say this: Marshall Field & Co., of Chicago, have sent out recently 35,000 to 50,000 circulars, so I am informed, protesting against the American valuation. Why? I ask you why; I will tell you why. If my information is correct, and I believe it is, because the information has come to me for many years, Marshall Field & Co. go to Chemnitz, Germany, and purchase the entire product of knit goods and hosiery of a factory one year after another; not one but several factories.

Chemnitz, Germany, is one of the great centers for the manufacture of that class of knit goods. Marshall Field & Co. go also to Japan, so I am informed by an ex-Member of Congress who was in Japan and there visited the factory—he is now dead, poor fellow—Duncan McKinley. He was there, and he told me they bought sometimes the products of several factories, I think, at Tokyo, Japan, that they purchased the entire product of knit goods, underwear, brought the goods to this country, and sold them to American citizens. Marshall Field & Co. are good citizens. I have no quarrel with them more than any other importer, but I am singling them out because they are openly opposing the American valuation plan, and I have a right to answer them as one of the authors of the American valuation plan. I am not the author of that plan, but I am one of the men who helped to write it into the new tariff bill. All the other men who took part in it are entitled to as much credit as I am. Why should Marshall Field & Co. spend their millions in Chemnitz, Germany, and in Japan, employ foreign labor, and bring the products of that foreign labor over here and sell it to American citizens when these goods can be purchased at home? Why not employ the people at home and pay out their money here? And many of these great importing houses buy abroad goods they could purchase at home—those goods are as good in quality as anything made abroad—and bring them over here and make a great profit out of such imported goods and then send their families abroad to sojourn in Europe and live on the fat of the land out of profits made off our own people. Marshall Field & Co. know better when they say that American valuation is unjust and unfair to the American people. They know better. They have common sense or they would not be in business. They want to go to Chemnitz, Germany, and they want to go to Japan and buy these goods that are produced by cheap labor with raw material sent from the United States over there and then bring back the product of foreign labor and make a greater profit by disposing of those goods to our American citizens. I was taught by my blessed mother at her knee that charity begins at home, and I wish these importers would remember what their mothers said to them at their knees. [Applause.]

Mr. SABATH. Will the gentleman yield?

Mr. FORDNEY. For a moment.

Mr. SABATH. I believe that what the gentleman states is true, that they do contract with many factories abroad, but is it not a fact they also contract with many factories for their output right here in the United States?

Mr. FORDNEY. Oh, yes; but why in the world should they not buy here instead of sending American money abroad? [Applause.]

Mr. SABATH. Perhaps they can not get the particular goods here or all they desire.

Mr. FORDNEY. No; all these goods are made in the United States. I do not want to buy foreign-made goods when I can purchase them at home. I will not. I am too patriotic, public-spirited, and too good an American to do so. [Applause.]

Mr. GREEN of Iowa. Mr. Chairman, by arrangement with the gentleman from Mississippi, I now yield 15 minutes to the gentleman from Massachusetts [Mr. TREADWAY].

Mr. TREADWAY. Mr. Chairman, it would seem to me after the very explicit definition of conditions that our distinguished chairman has given us there need be very little more said. His final reply to the gentleman from Illinois covered the entire situation in reference to the tariff. But we are to-day called upon for a specific purpose to vote upon this bill which will extend to February 1, 1922, the so-called emergency tariff bill which, unless this bill is passed, will become inoperative November 27. When the emergency tariff bill was first before the House I was not very enthusiastic in its support, and I think we would have continued to proceed in a proper governmental manner had that law never been enacted. But in view of the fact that it was a temporary measure in anticipation of the passage of the permanent tariff it would now be grossly unfair to those in whose interest the emergency tariff was imposed to allow it to lapse because the so-called agricultural sections of our country have become accustomed to its operation and should be given a continuance of the benefits they derive from it until such time as a permanent tariff bill is enacted into law. We can not, in other words, leave the interests which were affected by the emergency tariff to fall into the chaotic conditions they would be if we allowed this bill to lapse. But, my friends, I want very distinctly to bring before the House the fact that it is no fault of the House that the permanent tariff bill is not nearly ready for passage at the present time. The House has been very diligent in its action upon the two great subjects which were proposed when President Harding called this special session, namely, the passage of the new revenue bill and the revision of the tariff act. Unfortunately I think the people of the country have the impression that the Congress as a whole, including the House in that description, has been negligent to the interest of the people, or dilatory in passing that legislation which we were called upon to enact.

I have taken pains, as I met my friends at home during the past month during our recess, to show to them that the House is not the party that has been neglectful of the passage of the two kinds of legislation to which I have referred. And so I think that it is perfectly right and proper that to-day we give this extension until February 1 to the emergency tariff act. I think, however, that if giving that extension is to be a means of dilatoriness on the part of Congress as a whole in the passage of the permanent bills in which we are so much interested, we

must practically go on record now as saying that there will be no further extension after February 1 next. We do not want to keep this sort of thing up indefinitely, awaiting action on the tariff and the revenue bills.

I am glad to see that some progress is being made in the probable passage in the near future of the revenue bill. It is very necessary for the welfare of the country that the manufacturing and the business interests, all interests and all citizens, should have a very definite idea of where they stand on the question of taxation and on the question of tariff. We are in a very uncertain condition at the present time, and part of the depression in business conditions—which I am glad to see are not as serious as they were some months past—part of that condition, I think, results from this very fact, that the people do not know "where they are at," either on the question of taxes or on the question of tariff. Let us overcome that uncertainty, and let this House insist, so far as lies within our power, that Congress should proceed diligently to place those two great acts on the statute books at the very earliest moment possible. That is my attitude in this extension of the emergency tariff to-day.

Now, our chairman has very well covered the point of the American valuation. To my mind the American valuation is one of the most desirable factors that was contained in the bill as we passed it three months ago. If there is a general propaganda, no matter where it may originate, looking to delay in order to create a sentiment against American valuation, I say that is an additional reason why we want to check any delay. There is such an effort being made—a very strong effort being made—to delay the enactment of the tariff bill, and I think very largely on the part of importers and people directly interested in seeing that the American valuation does not become operative. It is one of the best things, in my opinion, in the whole tariff bill as we passed it; perhaps not in the exact phraseology in which we passed it, but the principle involved is for American industry and American interests, and that is what we want to stand for.

Now, as showing the attitude of the manufacturing industry of our section on this very point, let me read a brief letter that I received a couple of days ago, dated Pittsfield, October 12, 1921, and addressed to me. I read:

PITTSFIELD, MASS., *October 12, 1921.*

Hon. ALLEN T. TREADWAY,
House of Representatives, Washington, D. C.

DEAR MR. TREADWAY: We read in the public prints to-day that the importers have appeared before Congress in protest against the American valuation feature of the pending tariff bill, and no wonder!

The importer's interests are diametrically opposed to that of American industries. In his opinion they have no right to exist. All manufacturing should be done abroad by foreign labor in order that he may collect his toll. For many years he has exercised his best efforts to evade the laws enacted for the protection of American industries, and in many cases successfully. He now views with alarm this American valuation clause because he sees in it an attempt to stop the leaks in the old schedules, which permitted him to defeat the intent of the law through devious methods, which would not bear investigation. He doesn't want to be deprived of these opportunities. Why should he?

Yours, very truly, ——— ———.

That letter is signed by the senior member of one of the biggest manufacturing concerns in my district.

Now, that is the attitude of the importer, as the chairman said, directly opposed to the interests of the manufacturer here at home. Our people want the American valuation put into effect, and the sooner, therefore, the general tariff bill is enacted the better it will be for all interests. I think business conditions are rapidly improving. I am not one of those so optimistic as to think that the passage of these two great bills will actually restore normal business conditions. The great upheaval of the World War was too big a blow to recover from so quickly. Simply by passing two pieces of very important legislation that condition can not be entirely overcome. But nevertheless they will be a very strong factor toward restoring the confidence of the American public. Confidence is a great asset in our commercial life, and this feeling of uncertainty can not longer continue and our business affairs prosper.

So it seems to me that in giving authority for the extension of this emergency bill, directly affecting the agricultural interests and dye importations, we ought to be on record so far as we can, as I have already said, in an effort to crowd the other legislation which is now pending elsewhere. It is with that view that we ought to pass this bill to-day, not in anticipation that a little while before the 1st of February we will do it again. If it were possible I should like to see some form of record made that that was the end of it, and therefore there would be more stimulus and more effort to meet the wishes of the people in passing the permanent tariff bill and the amendment to the taxation bill. They go hand in hand. We can not pass one, in a sense, without the other. They are coordinate in establishing proper relations between the great industries of our country. Unless a man knows what he must pay in the way of taxes and what he must pay in the importation of raw materials, he is not going to push his business to any very great extent, and therefore it seems to me the welfare of the industries of our country is very dependent on as prompt action as Congress can give, and, at the request and behest of the people, let us hurry to the limit those two pieces of very necessary legislation. [Applause.]

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from Massachusetts yields back the balance of his time. The gentleman from Mississippi [Mr. COLLIER] is recognized.

Mr. GREEN of Iowa. Will the gentlemen on the other side please use some of their time?

Mr. COLLIER. I am going to do that right now.

Mr. Chairman and gentlemen of the House, as this bill has been before the House on four different occasions, this being the fourth time, I do not believe much time is required for general debate. Certainly the Members ought to be familiar with the provisions of a bill which has been debated before the House as often as this has and been before the House as many times as this bill has been.

I think this emergency tariff law has been upon the statute books long enough to demonstrate what an absurdity it has proved to be and what a rank failure it is.

I want first to pay my tribute to the gentleman from Michigan [Mr. FORDNEY] as the greatest optimist of whom I know. For any man to stand on this floor, as the gentleman from Michigan did a few moments ago, and say that this emergency tariff bill has been a great success and has met the expectations of those who brought it out is to my mind one of the most ridiculous statements I ever heard on the floor of this House.

It was contended that this bill would raise the price of wheat to the wheat farmer, and to-day the price of wheat is materially less than it was when this bill was placed upon the statute books. It was contended that this bill would raise the price of corn to the corn grower, and the gentleman from Michigan asked us this morning, "When we raise so much corn here in the United States, how can any man be willing to permit the Argentine to flood this country with corn?" Why, my friends, during the last 50 years for every thousand bushels of corn that have been raised in the United States less than one bushel has been imported from the Argentine or anywhere else, and for any sane man to seriously contend that a tax on corn, with less than one bushel imported to every thousand bushels that we raise at home, will raise the price of corn is a tax on our credulity.

Last May the corn growers of Iowa and Nebraska and other Western States read the ingenious arguments of my friend the gentleman from Iowa [Mr. GREEN] and the gentleman from North Dakota [Mr. YOUNG] and other Members that this tax was going to raise the price of corn. I wonder how they feel now, when I see by the press of the country that those same farmers are seriously considering burning that great product in their furnaces in the place of coal to protect them from the chilling blasts of winter during the coming season. It was contended that this bill would raise the price of cattle, and to-day, after months of operation under this bill, not only has the price of cattle declined but there is absolutely no market for cattle, and in the great cattle-growing sections of the country the cattle owners will be forced to carry their immense herds through the coming winter at great expense.

It was contended that this bill would increase the price of flaxseed. The other day the gentleman from Minnesota [Mr. NEWTON] appeared before the Ways and Means Committee and stated that the tax on flaxseed in the emergency tariff bill was such that there was absolutely no market for the flaxseed raised by the American farmers. I want to be fair to the gentleman, who is not on the floor at this time. He advocated, first, an increased tax on linseed oil, a high protective tax in addition to that now imposed upon that product; that is what he preferred, or, failing in that, then he asked that the tax on flaxseed in this emergency tariff bill be taken off. He advocated that, speaking for the farmers who raise flaxseed. My friends, this bill has proved to be a failure from beginning to end. But it is well for you Republicans to pass this emergency tariff bill, because during the four years of your administration you certainly wish to have it said that you passed one tariff bill. The gentleman from Michigan stated a few moments ago that all the world knows that in a short time the Underwood tariff bill will be laid upon the shelf.

My friends, the Underwood tariff bill is no nearer being laid on the shelf now than it was some months ago. The protest against the Fordney tariff bill, which he tried to answer on

this floor, coming from all parts of this country, has been reflected at the other end of the Capitol, and the Fordney tariff bill now lies securely placed away on some shelf, with only one clause enacted by the House that the gentleman from Michigan [Mr. FORDNEY] and other members of the committee have any hope of being adopted, and that is the enacting clause. I understand that the first motion made at the other end of the Capitol was to strike out everything in the bill except the enacting clause. My friends, I believe, as the gentleman from Massachusetts [Mr. TREADWAY] said, we are on the verge of a great industrial and commercial awakening. I believe that if the business affairs of our country could be conducted with some kind of common sense we would stand on the very threshold of perhaps the greatest industrial and commercial prosperity of our entire history; but there are three things which must be done before that prosperity can come to America. It is with great regret that thinking men see that instead of assisting in the solution of those three great problems which must be solved before we can return to prosperous conditions, the administration is now placing every obstacle in the way of the solution of those problems. The first thing that must be done before we can return to prosperity is for us to destroy the restrictions thrown around international trade. We raise millions of dollars worth of cotton, of corn, of wheat, of meat, of oats, and dozens of other agricultural products, and we manufacture millions of dollars more of manufactured articles than can be used here in the United States. The prosperity of our country depends upon a foreign market to get rid of the great surplus products and manufactured articles that we have here at home.

I want to read you a few lines from a high administration authority. I want to read you a few words spoken by one of the prominent administrative officers in the present administration, Mr. Lasker, chairman of the Shipping Board, which are directly on the line on which I have been talking, and I crave your indulgence for a moment while I read them.

On October 5 Chairman Albert D. Lasker, of the United States Shipping Board, at a luncheon given by the associated advertising clubs of the world at New York, gave a brief résumé of the Shipping Board. He said in part:

> Until there is an awakened consciousness on the part of all citizens of America that economic stability is dependent on the disposal of our surplus wares and products in world markets there can never be an American merchant marine.

Listen—

> When surpluses accumulate prices are demoralized and employment ends until the excess has been consumed.
>
> As long as America had a virgin empire to explore and develop, the need generally for world markets to consume surpluses was not pressing.
>
> But to-day, with 48 States well populated with over 105,000,000 people; with world conditions changed by the Great War; America, which, during the period of the conquering of its empire, was a self-consuming and self-sufficient Nation by and large, now finds itself once more, if employment is to be general, with permanent surpluses which can only find outlet on the ocean.

He also said:

> Generally speaking, the last 10 per cent of production makes the market, and it is this last 10 per cent that we must insure disposal of to customers in foreign lands.

We must have an outlet for our surplus products and surplus manufactured articles. The next in order is to have the enormous freight rates on transportation reduced which are now an embargo on business. The Interstate Commerce Commission tells us that present freight rates can not be lowered under present conditions of the railroad, but this House in a tariff bill already sent over to the other body has increased the tax on steel rails and on all steel which goes into the building of a car. Over 5,000,000,000 pounds of steel rails were used by the railroads last year. The House has taken steel rails from the free list and placed them on the taxable list; it has increased the tax on structural steel and steel axles which go into the manufacture of cars, all of which increase will have to be added to existing rates by the Interstate Commerce Commission because the commission is charged with the duty of fixing these rates based upon the necessary expenditures of the railroads and everything which adds to the cost of the railroads will be reflected in advanced rates.

Again, Congress has been in session months and months, and the tax on transportation is still on the statute books. Nobody knows when or how the revenue bill will finally emerge from the Senate.

The third thing necessary to be done is to have the burdens of taxation relieved. What has this Congress done on that line? It has decreased the surtaxes on incomes over $66,000 and repealed the excess-profits tax, but practically nothing has been done to relieve the burdens which are now falling so heavily upon the mass of the American people.

Now, my friends, until we have these restrictions on international trade so removed that the surplus products and manufactured articles can freely move to our customers abroad; until the exorbitant railroad rates now an embargo on business shall come down, and until the heavy taxes shall be reduced, we can not look forward to any material prosperity of commercial and financial development in this country. [Applause.]

Mr. Chairman, I reserve the balance of my time. How much time have I used?

The CHAIRMAN (Mr. MICHENER). The gentleman has used 16 minutes.

Mr. GREEN of Iowa. Mr. Chairman, I yield 15 minutes to the gentleman from New York [Mr. CROWTHER].

Mr. CROWTHER. Mr. Chairman and gentlemen of the committee, I intend to support this measure, although it does grievous damage in two individual instances in my congressional district.

I have just been home for three or four weeks, as has the gentleman from Massachusetts [Mr. TREADWAY], and I found the same condition prevailing in my home that he suggests, that the general opinion of the people is that Congress has been dilatory in regard to tariff measures.

Mr. OLDFIELD. What does the gentleman think about it?

Mr. CROWTHER. What I think does not make so much difference; it is what the great body politic think who do not differentiate between Congress as a whole and the two separate bodies. Why, even the newspapers run headlines about the President censuring Congress. I think you will all agree that the House of Representatives has been absolutely true to its principles and faithful in its performance of duty. The gentleman from Michigan [Mr. FORDNEY] and all the members of the Ways and Means Committee are entitled to a great deal of credit in presenting so excellent a tariff bill to this House. [Applause.] When the special session was called the consensus of opinion was that the tariff legislation should be taken up and quickly followed by the tax revision. That was the program of the House, but somehow or other that program has been lost. We all know where the delay is located, but the rules of the House forbid us making reference to the fact.

As a result of this unpardonable delay we have no tariff legislation of Republican origin on the books except this emergency tariff bill, and our manufacturers are struggling to keep mills open and give American men and women employment; but the Underwood bill is still in effect and has the same stranglehold on industry that it had in 1913 and 1914 before the World War came to the rescue.

There are two instances I desire to speak of in my own district where this emergency bill has done a great deal of damage. One is the glove-leather industry, which has been almost paralyzed because the emergency tariff bill carried a duty on wool. Under the Underwood bill the glove leather had a 10 per cent and free wool. The director of customs in the Treasury Department said as the emergency act was not amendatory of the Underwood bill wool was wool wherever found, and, though it did not mention wool on skins in this bill, the descriptive classification upon which the duty on wool had been collected would stand, and so the men importing French and Spanish lambskins found themselves confronted with a bill of three or four thousand dollars' duty on each consignment for wool on the skin, which had heretofore been on the free list. That is what comes of mixing up a hasty-pudding measure and putting it in the oven, expecting to get a first-class cake; it can not be done.

The tariff of 30 cents a bushel on flax and no compensatory duty on the manufactured product has done considerable damage to the linseed-oil industry in my district. We have a large factory there. I have a letter here, and I beg your indulgence just a moment while I read it. This letter is from the Kelloggs & Miller Co., in my district, who are manufacturers of linseed oil. The letter is as follows:

AMSTERDAM, N. Y., *October 6, 1921.*

Hon. FRANK CROWTHER,
Washington, D. C.

DEAR CONGRESSMAN CROWTHER: Relative to the correspondence we have had regarding the tariff bills, we beg to advise that the importation of foreign linseed oil under the emergency bill is steadily but surely putting the linseed industry out of business.

Last week 9,652 barrels of linseed oil were imported, and the quantity is increasing each week. This oil is being sold at 10 cents per gallon cheaper than it is possible for the American manufacturers to produce it. These conditions have resulted in closing partly or entirely all of the American mills.

We earnestly hope that speedy action will be taken on the permanent bill as introduced, to give necessary relief to this line of business, which is in a serious condition at the present time.

Anything you can do to expedite the passage of the permanent bill will be fully appreciated.

Sincerely, yours,

KELLOGGS & MILLER,
By J. P. MCELWAIN.

Mr. NEWTON of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. CROWTHER. Certainly.

Mr. NEWTON of Minnesota. I wish to say to the gentleman that the situation of the linseed-oil mills in my district in Minnesota is just as the gentleman has described.

Mr. CROWTHER. However, these people have been very loyal, as have the glove-leather people, and they say that if we will give them a permanent tariff law they are willing to pay the taxes for a year or two if we will only allow them to do business. It is high time that something was done for them.

I have also another letter here which I desire to read, from the Wood & Hyde Co., who are manufacturers of glove leather in Gloversville, N. Y. This letter in a sense is respecting the American valuation plan, something not immediately connected with this bill, but I desire to read it for the general information of the House. The letter is as follows:

WOOD & HYDE CO.,
Gloversville, N. Y., October 14, 1921.

Hon. FRANK L. CROWTHER,
Washington, D. C.

DEAR SIR: Washington asks, "Why this unemployment?"

First. Undervaluation estimated to cost the United States $100,000,000 a year. What is the cause? We are importers. We do not have to swear to the invoice price of the goods we import. If we buy a dozen gloves for 180 francs in France, our agent can invoice at 120 francs and we pay the duty on same, and the Government loses the difference. It is simple. Pay cash in Europe; have an agent ship the goods at any price. The dishonest importer knows that the appraisers can not keep informed from day to day as to the wholesale prices in 110 countries, and it has always been absolutely impossible for them so to do.

Both Democratic and Republican appraisers are in favor of American valuation, because it is so much easier to administer a tariff founded on wholesale prices of commodities in the United States. This means to the appraisers that the present difficulties and discriminations arising from the fluctuation in foreign exchange will be eliminated. It also means that it will secure an equal amount of duty on the same commodities from whatever country imported. It will put Japan, who pays 15 cents a day for general labor, on an equal basis with Canada at $2 a day and Germany at $5 a week. For example: If Japan makes a ton of steel costing $10, Canada $18, and Germany $12, they would all pay the duty on an American valuation of say $20. Whatever the rate on the tariff bill, say 10 per cent, each country would pay $2 duty a ton.

American valuation is only administrative, and has nothing to do with tariff rates, and does not make things cost more, but makes all pay their honest and equal duty, and will mean $1 less in taxes to every man and woman in the United States. The dishonest importer does not want an American valuation.

One hundred and eight million pairs of gloves have been imported in the last year. The effect is that we, for the first time in 20 years, are closing our factory until we know what the new tariff is going to be. We can not work under the emergency tariff. It puts a duty on hair on Spanish raw skins of 15 cents per pound, or about $3 a dozen, but charges the German leather dresser only $1.35 a dozen duty on finished leather, or $1.65 less than we have to pay. German wages per week are $5; our wages for less work are $25 per week. Germany pays from 30 cents to 60 cents for anilines; we pay from $1 to $1.45 under the tariff.

Under this tariff we are helpless and are forced to close our mills. Why? Because Congress has not passed an adequate tariff, and at the Chicago convention of manufacturers of all the States, which I attended recently, they were unanimous in opinion that we can not go on or start up our factories until an adequate tariff bill, founded on American values, is passed, and with its passage 1,500,000 men will be put to work in our factories, and this will also furnish employment to the railroad men, clerks, miners, and laborers of all industries.

We as a nation consume over 90 per cent of our products. We want a tariff that will protect the 90 per cent quickly.

If Secretary Hoover really wants to put the unemployed to work, let him insist on an immediate passage of a tariff bill founded on American valuation.

Very truly, yours, JOSEPH E. WOOD.

Our great glove industry has been dormant for more than a year. We never have been able to get a sufficient tariff on women's gloves, and it is through the same influence that is holding up the tariff bill and American valuation now, the influence of the importer. That influence has always been against us. I have no use for the importer or for his methods. He is always a free trader and arrays himself against protective tariff, which means so much to the industrial development of this country. I tell you that the importer is nothing more nor less than a silk-stocking bolshevist. A considerable percentage of them are not citizens of the country. They build no mills, they pay no wages, they constantly offend by undervaluation, they have desk room in some office and do a business out of all proportion in dollars and cents to the amount of money that they contribute to the country. Their sinister influence is very manifest at this time. We have finally tried to relieve the industrial depression by calling unemployment conferences and congresses, but the endeavor will be fruitless.

Your people at home can not live on hope or faith. The hope that something is going to be done will not buy them a ton of coal. If you give us a tariff, we will put 10,000 men to work in my district in the glove and leather business, and they will keep 10,000 or more people working somewhere else in the district by what they eat, wear, and consume. [Applause on the Republican side.]

Just let me read from the President's inaugural address:

It has been proven again and again that we can not, while throwing our markets open to the world, maintain American standards of living and opportunity and hold our industrial eminence in such unequal competition. There is a luring fallacy in the theory of banished barriers of trade, but preserved American standards require our higher production costs to be reflected in our tariffs on imports. To-day as never before, when peoples are seeking trade, restoration and expansion, we must adjust our tariffs to the new order.

In line with that sentiment I introduced a bill calling for the reenactment of the Payne-Aldrich tariff bill. That is what we should have done. We should have reenacted that bill; we could have done it in an hour and a half—a half hour for the House, a half hour for the Senate, and 30 minutes in which to take it over to the President to have him sign it. Then we would have had a basis on which the business men of the country could have gone forward with some confidence and transacted business. Then the Committee on Ways and Means could have had all the time they needed in the production of a new tariff bill. Men say that this is no time, in this time of economic disturbance, to frame a tariff bill. There are a lot of highbrow utterances along that line. Why, at a time of economic disturbance, such as we are suffering from, is the very time that we need a tariff bill. We need protection from the depression of currency. We need protection from the unusual low wages paid in Europe and against the countries on the other side who are trying to reestablish themselves to their great commercial advantage.

This is just the time that we need the tariff bill. We should have had that bill by October 1. This House passed an antidumping bill in the last session that prevented European nations from foisting upon us their cheap-labor products, but that bill lies sleeping somewhere. Then we had a bill that called for 300 per cent ad valorem duty on goods manufactured in this country and sold to other countries which are being brought back here. I refer to goods that were sold to France. This affects several concerns in my district and State who manufacture cotton shirts and drawers. They notified me last week that there were 276,000 dozen then coming into New York during that week. These are goods that we sold to France, a billion dollars worth for $400,000,000, 40 cents on a dollar, and gave them 10 years in which to pay for them, and our importers and brokers have gone over and bought them and are bringing them in here paying no duty and selling them over the counters for a price lower than the people of this country can make them. If the burden of that fell upon the shoulders and the backs of men who made great war profits, I would say that it was nothing but just retribution, but it falls alike on everyone; it falls on men who had no opportunity to make such contracts, and their mills are closed.

I wish I had the time to discuss the question of the wool tariff and the production of carpet wools, the necessity almost of going to the end of the world for them, because the Director of Customs in the Treasury and his officials are constantly devising new rules whereby they can place what have always been known as carpet wools into new classifications that render them dutiable. It is getting almost impossible to conduct the carpet business profitably. I wonder if you men know that in our carpet mills of New York we do not use a pound of wool that is grown upon the backs of the sheep raised in this country. Every ounce of wool that is in a carpet is imported. The wool must be of a special character and have special characteristics before it can be made use of in carpet.

The emergency tariff, as I say, was tremendously disastrous to our glove-leather business and to the linseed-oil men, and for that reason I am hoping that, as the gentleman from Massachusetts [Mr. TREADWAY] said, this is the last time we will have to extend it, and that ere long we may be able to have a permanent tariff bill on the books. It seems to me that if the President of the United States had power and strength and influence to go down and tell another august body belonging to this Congress that they must not pass a soldiers' bonus bill, that he might urge some degree of celerity and inform them that we must have and shall have a tariff bill according to the dictates of his first message, then will the great army of toilers in this country rejoice and renew their faith in Republican doctrines.

I think that is the best thing we can do for the country. It is time we kept faith with the American people, and it would be worse than folly to postpone this matter any longer.

Mr. Chairman, I just want to quote from this letter from the Broadalbin Knitting Co.:

BROADALBIN, N. Y., *September 29, 1921.*

Hon. FRANK CROWTHER,
House of Representatives, Washington, D. C.

MY DEAR DOCTOR: It has just come to our attention that large quantities of shirts and drawers that were sold abroad at the close of the war are now being brought back into this country to be sold to our people;

in fact, we understand that 160,000 dozen were brought in in one shipment and that they were purchased at a price which would represent less than one-half of the actual cost of making these goods here even under present conditions. The knit goods industry, as you probably fully understand, has only been operating the past year on short time, with not only a big loss to those who own the plant but also with a big loss to the men and women who work in the mill, due to the fact that they have been out of work more than half of the time.

You can readily understand what the importation of these goods would do to our industry in its present condition, and we sincerely hope that you will use your very best efforts to further the passage of the bill which we understand has already been introduced, placing a tariff of 300 per cent on all reimportations of Army goods. In a case like this, quick action is necessary if anything is to be accomplished, and we sincerely hope that the matter will receive your very prompt and considerate attention.

Thanking you in advance for the favor, we are,

Very truly, yours,

THE BROADALBIN KNITTING CO.
B. C. SMITH.

I ask consent of the House to insert these letters as a part of my remarks.

The CHAIRMAN. The gentleman from New York asks unanimous consent to extend his remarks by inserting the letters indicated. Is there objection? [After a pause.] The Chair hears none.

Mr. CROWTHER. I desire to say, Mr. Chairman, that the House passed H. J. Res. 183, imposing a duty of 90 per cent ad valorem on Army supplies and Navy supplies reimported into the United States. The resolution was reported unanimously by the Finance Committee of the body at the other end of the Capitol, and if it had become a law would have stopped these importations that have closed so many doors to labor. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. COLLIER. Mr. Chairman, I ask unanimous consent to revise and extend the remarks I just made.

The CHAIRMAN. The gentleman from Mississippi asks unanimous consent to revise and extend his remarks. Is there objection? [After a pause.] The Chair hears none.

Mr. COLLIER. Mr. Chairman, I yield 30 minutes to the gentleman from Arkansas [Mr. OLDFIELD]. [Applause.]

Mr. OLDFIELD. Mr. Chairman and gentlemen of the committee, I am inclined to agree with my friend from New York [Mr. CROWTHER] that the present Congress has not been diligent in its duty. I want to say to him also here——

Mr. GREEN of Iowa. Will the gentleman yield?

Mr. OLDFIELD. Yes.

Mr. GREEN of Iowa. I think the gentleman from New York highly commended the Committee on Ways and Means and this branch of the Congress——

Mr. OLDFIELD. I am speaking of the entire Congress, and of course the entire Congress is a Republican Congress. [Applause on the Republican side.] I would like to suggest to my friend from New York [Mr. CROWTHER] that if he wants a permanent tariff bill at an early date he will vote to defeat the extension of this bill, because the statement was made by a gentleman very high in authority in this House only a few days ago that if this law were extended to February 15, as has been suggested, a permanent tariff bill would not be passed before February 15.

Mr. CROWTHER. I want to say to my friend that I am a strong partisan, strict party man, and I support my party even if it hurts me.

Mr. OLDFIELD. Well, that is fair enough, and that is about the best reason I have heard the gentleman offer.

Mr. CROWTHER. Just the same as the gentleman does who is now speaking.

Mr. OLDFIELD. Now, gentlemen, my friend the gentleman from New York [Mr. CROWTHER] also referred to the kid-glove industry in his district. Of course under present conditions it is not possible to have very much of a kid-glove industry, because people are not able to wear kid gloves under the present administration. How can the wheat farmer, whose wheat has gone down from $1.65 when this bill passed originally on May 27 to $1.23, afford to wear kid gloves?

Mr. BLACK. Will the gentleman yield?

Mr. OLDFIELD. I will.

Mr. BLACK. I note that cash grain was quoted in Chicago at $1.12.

Mr. OLDFIELD. October 15 it was $1.23 and to-day it is $1.12. If it has gone down from $1.45 to $1.12, of course the wheat farmers are going to have to be very economical. Now, I do not understand why any man who represents or is supposed to represent the wheat farmer of this country, and gentlemen on that side of the House, several of them I know, claim to represent the wheat farmers of this country, why you want to place a tariff bill on the statute books that you know will not keep up the price of their wheat. That is the purpose of this bill; that is what you told this House. The gentleman from Michigan said when we passed this bill, Mr. GREEN of Iowa said when we passed this bill, that the purpose of the bill was to help the producer of wheat, and you have not helped the producer of wheat, because wheat has gone down, corn has gone down. Practically every product in the emergency tariff law has fallen in price since the law was placed on the statute books. Gentlemen from California, on both sides of the aisle, have been in favor of a duty on lemons. Lemons have gone down from $12 a box to $5 a box, and yet you are going to help lemon growers of California and Florida. Choice lambs on May 27, when this bill was passed, were worth $11.50 per hundred pounds, and to-day they are worth $8.50 a hundred, and yet you want to help the sheep grower of this country you say. It seems to me, gentlemen, you are trying to fool the sheep growers of America, the wheat grower, the lemon producer. Corn is the same way. Corn was worth 61 cents a bushel May 27, and to-day it is worth only 44 cents.

Mr. HUDSPETH. Will the gentleman quote that lamb proposition again?

Mr. OLDFIELD. This was gotten from the Agricultural Department. On May 27 choice lamb was worth 11½ cents a pound and to-day it is worth 8½ cents a pound.

Mr. BLANTON. My colleague here is one of the big sheep raisers of the South and West, and he will tell you that notwithstanding that fact he prefers this emergency tariff.

Mr. OLDFIELD. I can not help that.

Mr. HUDSPETH. I desire to say to the gentleman that when the bill was passed and signed on May 27 the gentleman from Louisiana shipped a shipment from Fort Worth, Tex., and netted 5 cents a head, not a pound.

Mr. OLDFIELD. Yes. I do not know where the Agricultural Department got those figures.

Mr. HUDSPETH. And I do not know, either.

Mr. OLDFIELD. But I thought the best thing to do was to go to the Agricultural Department to get them. I do not know anything about the conditions in Texas, but I suppose the conditions in Texas are the same as elsewhere throughout this country.

It is not a protective tariff that we need on sheep or on cattle or on wool, but it is a market for these products that we need. It is not protection. We have given those articles protection, and it has done no good. Everybody knows it. The farmers know it, and everyone in this House knows it, and everyone connected with this administration knows that the emergency tariff bill has not put a dollar into the pockets of the American farmers, or of the American hog growers, or the American sheep growers, or the American cattle growers, or the American cotton growers, or the American growers of anything else.

On May 27 cattle were worth $7.75 per hundred pounds, and on October 15 they were worth $5.40 per hundred pounds. Yet you want to extend this fool proposition! I can not understand it. Of course, I shall not vote for this thing. I do not see how any Democrat can do it, or how any person that represents a farming district can do it.

There is only one good thing about the passage of this bill, and that is that it will stave off and postpone this Fordney general tariff bill iniquity. We all know that. Mr. FORDNEY knows that. He knows very well that this agricultural bloc in the Senate and elsewhere that the papers are speaking about is not going to be very enthusiastic about a general tariff bill so long as this act is on the statute books.

Now, my friends, I was very much interested in looking at the results that have come from the enactment of this bill. You can take this bill from one end of it to the other, the whole bill, and you will see what has happened. Take the case of peanuts. Some of my friends were disturbed, when this bill originally passed, about peanuts. I will tell you what the Department of Agriculture told me to-day about peanuts. Of course, sugar has gone down in price also. This bill, however, has not kept it up. But I want to talk about peanuts for just a moment, because I have two or three friends who are disturbed about peanuts. The farm price on peanuts on May 27 was 6½ to 7 cents a pound. The market price at that time—not the farm price, but the market price—was 11½ cents to 12 cents a pound. On October 18, to-day, the farm price of peanuts is 6½ to 7 cents, just the same as it was on May 27, and the market price is from 12½ cents to 12¾ cents. So that if anybody is being benefited by the high price of peanuts, it is not the farmers but the middle men and the market men who are getting the benefit. But we are not supposed here to be acting in the interest of the market men or the middle men. We are supposed to be acting for the peanut producer, the wool producer, the sugar producer, the cattle producer, the corn producer, and the wheat producer. All those things have gone down.

Mr. HUDSPETH. Can my friend give me the market price on wool on the 27th day of May this year and the present price, or the price within 15 days?

Mr. OLDFIELD. I have here what the Department of Agriculture gave me.

Mr. HUDSPETH. Yes; but I know what I got for mine. I do not care what the figures of the Department of Agriculture are.

Mr. OLDFIELD. On May 27, choice merino wool——

Mr. HUDSPETH. That is choice medium. Do you mean Spanish merino or other grades?

Mr. OLDFIELD. Choice medium on May 27 was from 18 cents to 19 cents a pound.

Mr. HUDSPETH. Every sheepman knows that he could not sell it at all. There was no market for it. It was not selling. Within 15 days after the bill was signed, though, it was moving.

Mr. OLDFIELD. What is it worth to-day?

Mr. HUDSPETH. From 20 to 22. It was selling from 10 to 12 the day that bill was signed.

Mr. OLDFIELD. All I have are the figures of the Department of Agriculture. If the gentleman wants to dispute the figures of the Department of Agriculture, he can.

Mr. HUDSPETH. Yes; I do dispute them.

Mr. MICHENER. Mr. Chairman, will the gentleman yield?

Mr. OLDFIELD. Yes.

Mr. MICHENER. You have given figures in the United States for those respective dates?

Mr. OLDFIELD. Yes.

Mr. MICHENER. Have you the world's market figures?

Mr. OLDFIELD. No; I have not.

Mr. MICHENER. Would not this be controlled by the world's market? Might it not be that in the world's market the price was much less, and is much less to-day in the world's market?

Mr. OLDFIELD. I have not looked up the figures on lambs, but at various times I have looked up the world's market price on wool and wheat and corn and cotton, the great staple products in this country, and you almost invariably find that there is no more difference in the markets of Chicago and New York and that of Liverpool than the freight, or something like that. It is always that way.

Mr. MICHENER. Must we not determine first what the world's market prices are before the value can be ascertained?

Mr. OLDFIELD. I am perfectly willing to do that if the Republicans when they are writing a tariff bill will take into consideration the world's condition and the world's market; but the trouble is they do not do that.

Mr. GENSMAN. Mr. Chairman, will the gentleman yield?

Mr. OLDFIELD. Yes.

Mr. GENSMAN. Have you a price there of butter on the 27th of May?

Mr. OLDFIELD. Yes.

Mr. GENSMAN. What is that?

Mr. OLDFIELD. On the 27th of May it was 27 cents, and to-day it is 45. It has gone up from 16 to 19 cents.

Mr. GENSMAN. Have you the price of cotton?

Mr. OLDFIELD. Cotton is not on the protected list.

Mr. GENSMAN. Oh, yes; it is.

Mr. OLDFIELD. That is long-staple cotton. The short-staple cotton in this country has gone up in greater proportion than the long staple. There is no duty on short-staple cotton, but you have placed a duty on long-staple cotton.

Mr. GENSMAN. We protected long staple in the emergency tariff act.

Mr. OLDFIELD. Yes.

Mr. GENSMAN. And did not the price double in 60 days on cotton?

Mr. OLDFIELD. The price of cotton has gone up, but not due to any protection on the kind that was selling abroad, because some Democrats, as well as the gentleman himself, I think, wanted to put a duty on short staple as well as on long staple.

Mr. GENSMAN. The gentleman did not understand why wheat went down, but he does know now why cotton did not go up.

Mr. QUIN. Cotton did go up—short staple as well as long staple.

Mr. OLDFIELD. Short-staple cotton went up without any protection and wheat went down with protection.

Mr. QUIN. Short-staple cotton went up from 8 cents a pound to 21 cents a pound, and you Republicans would not put a cent of duty on short-staple cotton.

Mr. LAZARO. Will the gentleman yield?

Mr. OLDFIELD. I yield to the gentleman from Louisiana.

Mr. LAZARO. I want to know the price of rice at the time the bill went into effect and the price of rice now, just for information.

Mr. OLDFIELD. I have not the figures as to rice. Rice has gone up some, I do not know how much.

Mr. LAZARO. We had no market at all for rice before the bill was passed.

Mr. OLDFIELD. I know, and you would have had the same market for rice without protection that you have now with it, because we export twenty times as much as we import, and we are exporting it to-day.

Mr. LAZARO. I know, but as the gentleman is giving the prices of agricultural products, I wanted to have him quote the price of rice at the time the bill went into effect and quote the price of rice now.

Mr. OLDFIELD. I have not the figures on rice.

Mr. SANDERS of Indiana. Will the gentleman yield?

Mr. OLDFIELD. I yield to the gentleman from Indiana.

Mr. SANDERS of Indiana. I understand from the gentleman's argument that a protective tariff which tends to exclude the importation of articles to this country has the effect of reducing the price in the market.

Mr. OLDFIELD. I will be glad to state my position. I say that any article, whether it is a manufactured article or a farm product, that we produce in this country in sufficient amount for great quantities to be exported is not affected either way. It is impossible to do it. That is my position.

Now, my friends, I want to discuss just for a few moments what the chairman of the committee, the gentleman from Michigan [Mr. FORDNEY] said. It is the first time I have heard him make this statement, and I was dumbfounded when he did make it. He made a statement here that indicates that he is in favor of the cancellation of the $10,000,000,000 or $11,000,000,000 that the foreign Governments owe us. You can not construe his statement any other way, because he says that before he would destroy any market in this country, as he puts it, by imports from abroad he would be willing to cancel the $10,000,000,000 or $11,000,000,000 that foreign Governments owe us. Gentlemen, I made the statement here when the permanent tariff bill was under discussion, and told the House at that time that that is the position that the big rich of this country—the multimillionaires of this country, the great corporations—were going to take sooner or later, and I fear they are going to take it right soon. What does that mean, gentlemen? These big manufacturing institutions will gladly give away $10,000,000,000 of the people's money that was collected in taxes and loaned to our allies, provided they can hold the markets for the things they produce. In other words, they will give away $10,000,000,000 of the people's money and then they will turn around and have control of the home markets, so that they can charge exorbitant prices and make another $10,000,000,000 for themselves. International bankers will take the same position. You are going to see a great deal of propaganda right soon upon this proposition. The great international bankers, who are buying up these foreign bonds to-day, when the proper time comes are going to call on the Congress of the United States to cancel these foreign obligations, give away $10,000,000,000 of the people's money, so that they can make extra millions and billions on the price of the bonds—on the bonds which they now hold and are buying to-day. I was sorry when the gentleman from Michigan [Mr. FORDNEY] made that statement, because I did not believe he felt that way about it. Nothing that ever occurred in the Ways and Means Committee, as I can prove by every member of that committee present, I believe, nothing that occurred when we were sitting around the table there indicated that the gentleman from Michigan [Mr. FORDNEY] had that in his mind or believed anything like that.

Mr. LONGWORTH made the same statement here, I think, when this emergency tariff bill was here. I knew that he took that position, but I did not think Mr. FORDNEY had taken that position, and I hope he will not keep it on this question. The gentleman from Ohio [Mr. LONGWORTH] said here when the emergency tariff bill was under consideration that rather than surrender our own markets he would forgive those debts. That is what he said, and the gentleman from Michigan [Mr. FORDNEY] said the same thing, except that he made it a little stronger to-day than the gentleman from Ohio [Mr. LONGWORTH] made it. He did not talk about surrendering markets, but he did not want any considerable degree of competition. That is what the gentleman from Michigan [Mr. FORDNEY] meant in his statement. He said that Great Britain collects more per capita through her import taxes than we do. Why, certainly. And yet if I should boost the British tariff laws to-day the gentle-

man from Michigan [Mr. FORDNEY] would jump on me and say, "Why, they have free trade over there." Of course, they collect more than we do, but they collect it in such a way that the money collected goes into the treasury of Great Britain, while in this country, the way we collect it, probably $4 or $5 go into the pockets of some special interest for every dollar that goes into the Treasury.

The gentleman from Michigan [Mr. FORDNEY] seemed to be offended at Cuba because Cuba was threatening to trade with somebody else. Well, why not; if we are not to permit her to trade with us, why should not she have the right to trade with anyone else.

Mr. LONGWORTH. Will the gentleman yield?

Mr. OLDFIELD. Certainly.

Mr. LONGWORTH. Do I understand that the gentleman favors the British system of tariff?

Mr. OLDFIELD. It is infinitely better, because they place the duty on things not produced in Great Britain.

Mr. LONGWORTH. Does the gentleman favor a duty on tea and coffee?

Mr. OLDFIELD. Yes; the same as I would be in favor of a duty on anything else not produced in this country. The gentleman from Ohio would not be in favor of a tax on tea and coffee, because he would say that that was taxing the breakfast table. But the gentleman is in favor of taxing flour, and they use flour on the breakfast table. The gentleman would tax everything used on the table at all times of day that was produced in this country. I had rather put the duty on something that is not produced in this country for the reason that the money goes into the Treasury.

Now, Mr. FORDNEY talks about Cuba. Do you know what I think about Cuba? With her consent I would be glad to see Cuba one of the States of this Union. Why? Then we would produce enough sugar in this country to keep the sugar producers in Louisiana and Michigan from robbing the people of hundreds of thousands of dollars every year buying it from a State in the Union where it is produced. It would be a great thing for the sugar consumers of America if Cuba was a State of the Union.

Mr. LAZARO. Will the gentleman yield?

Mr. OLDFIELD. I will.

Mr. LAZARO. In view of the fact that Cuba is not a State, and in view of the fact that the last war has demonstrated the necessity of having our vital industries at home, would not the gentleman think it was necessary to keep up the vital industries at home, sugar being one of them?

Mr. OLDFIELD. The gentleman from Louisiana and I might disagree about what a vital industry was. Cutting it down to sugar, I would say, "No; I think we had better buy our sugar from Cuba, only a few hours distant from us."

Mr. LAZARO. Did not the last war demonstrate that it was vital to the people to have all our industries at home?

Mr. OLDFIELD. Yes; if we have another war.

Mr. LAZARO. We have had a war every 40 or 50 years, and the practical thing is to take care of that. The gentleman recollects that when we went into the war we had no merchant marine; and what happened? The cotton producer suffered, for cotton dropped from 14 cents to 6 cents a pound, and we lost millions of dollars. Sugar is a vital industry, and Cuba is not yet a State of the Union.

Mr. OLDFIELD. Well, I do not agree with the gentleman. Now, gentlemen, I noticed in the paper a few days ago this statement: It looks like the Republican Party finds it impossible to get together on anything except something that will help the rich. It can not get together on the revenue bill, because the powers that be want to untax the rich and place the burden on the masses. Everybody here knows that, and the newspapers ought to tell the country about it. You can get together on a tariff bill, because that is helping some special interest in the various districts and communities in this country. I saw a statement the other day from the official pulse feeler of the administration that rather disturbed me, and I wondered what the leaders of the Republican Party think about it. David Lawrence writes every day in the papers—in the Washington Star, I believe—and the other day he made this very significant statement: He said that the President was going to call the Cabinet together shortly to determine whether or not it is necessary to pass a ship subsidy bill. Now, I do not know whether you gentlemen know anything about that or not. I am a little bit fearful, because I know that if certain interests want a ship subsidy bill certain big Republicans also are going to want it. I have not seen anything about it except the statement by David Lawrence. I notice that Mr. Lasker was going to sell the merchant marine, to sell these ships for $2,100 apiece. Everything indicates that they are going to sell the Shipping Board's ships at dirt cheap prices. When they do that, I trust you gentlemen will not permit them to go into the Treasury of the United States and take the people's money and give it to the shipowners to enable them to run these ships at a profit. I want you to begin to think about it, because I think Lawrence speaks by the cards. I think he knows what he is talking about, and I think he knows Cabinet members and others high in this administration are considering seriously selling these ships, and considering seriously taking money out of the Treasury to subsidize these ships for the benefit of great shipping concerns throughout the country. You are going to have here in a few days the refunding bill of the foreign indebtedness.

The Democrats will not have much to do with it. We have merely a handful over here. We can not prevent you from passing any refunding bill that you want to pass, but you had better be very careful, for if you do not you will place all the bond markets of the earth in the hands of one man, who will be able to make millionaires and multimillionaires overnight in the bond markets of the world. That is what you are preparing to do, I am afraid, and I think if you understood the situation as members of our committee understand it, you would be very fearful and very careful before you vote for the refunding bill, as I think it is going to come to you on this floor. And you had better be careful also about voting for a rule that will hogtie you and prevent you from voting as you want to vote when the time comes. I dare say that if you had not had a rule you would never have passed this revenue bill through here. There was not 5 per cent of the Members in this House who wanted to relieve the big corporations of taxes of $450,000,000 a year. There was not 10 per cent of you who wanted to cut the surtaxes from 65 per cent to 32 per cent, and I do not think you are going to ever cut them to 32 per cent, because it looks as though the Senate was going to fix it at 50 per cent, and I would like to see anybody hogtie you at that time so that you will disagree to that Senate amendment. I yield back the remainder of my time. [Applause.]

Mr. GREEN of Iowa. Mr. Chairman, I yield five minutes to the gentleman from Kansas [Mr. TINCHER].

Mr. TINCHER. Mr. Chairman and gentlemen of the committee, the two arguments just preceding my taking the floor are amusing, if not interesting. It was amusing for me to hear the gentleman from Arkansas [Mr. OLDFIELD] worry about the Republican Party favoring the rich. I wonder if that is a matter of jealously on the part of the Democrats? It is a well-known fact to all of the people of the United States, regardless of all of the oratory that may occur in this Chamber, that the Democratic Party has the record for creating more multimillionaires without any special effort on their part, in a short time than any other party, and at the same time more paupers than any other administration ever created. I hope that there is not going to be any jealousy as between the two parties in that respect.

I do not mind talking tariff with men like the two distinguished gentlemen who have preceded me, because they are against the law, against the tariff. They believe in free trade, and it is not hard to get along with a man if he takes a definite position like that.

The gentleman says that the emergency tariff did not do the wheat farmer any good. What foundation is there for that statement? We had the Underwood tariff law for one year without the war. The Underwood tariff law was in effect under normal conditions in the summer of 1914, up to the time of the starting of the great World War. I raised wheat in 1914 on the same land that I have raised wheat this year, and I sold that wheat early and to an advantage, contracting for 64 cents a bushel at the elevator and delivering it. I contracted for a little more than I produced, and I bought wheat to fill that contract for 58 cents a bushel. No one said that the emergency tariff law would raise the price of wheat, but we did say that the emergency tariff law would protect us against the conditions that existed by reason of the importation of wheat from Canada to the United States, and anyone who would take the figures and follow them immediately after the passage of the emergency tariff law knows that while wheat went down in Canada and in Kansas and all over the world, as it was natural it would go down under the depressed financial conditions of that time, yet we had an advantage in that depression of some 35 to 38 cents a bushel because of the emergency tariff law. [Applause on the Republican side.]

Mr. BLACK. Mr. Chairman, will the gentleman yield?

Mr. TINCHER. Oh, I know that the gentleman is going to make a speech upon this, and I have only five minutes, and I

ant going to let him make his own speech in his own time. Unlike some of the Texas Congressmen, the gentleman has not yet seen the light of day upon the tariff question. There are men who believe that a tariff is responsible where the price of the commodity goes down and that it has nothing to do with it when the price of the commodity goes up, just like the distinguished gentleman who preceded me. I do not know whether you want to go back to the normal conditions under the Underwood tariff law or not. We had that in the summer of 1914 up to until prices were affected by the great World War, and those of us who have good memories do not want that condition ever to exist again in this country.

I said once before on this floor that the Underwood tariff law never had a fair trial, that the war came along and prevented the people of America from destroying an infamous law for several years because it did not get a chance to operate under normal conditions. You say that the emergency tariff law did not help because the price of cattle and meat has not gone up. No one ever advocated an emergency tariff law to raise the price of those products, but simply to protect the American farmer against the importation of those products to meet the unfair price as compared with the world's markets. I think that the law has been fairly effective.

I ask the gentleman from Texas [Mr. BLACK], who will follow me—and I know he will because there is a certain number of gentlemen on the Democratic side who can not resist speaking when they have a chance to say a word for free trade—to explain to this committee why it was that the price of wheat in 1914 under the Underwood tariff law was less than 70 cents a bushel as against $1.08 this year in my community in Kansas? What caused that? In 1914 you had possession of both branches of Congress, and your laws were in effect, and now we are in a depressed condition, not only as to wheat, but as to every other product—depressed because of your eight years of rule.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. GREEN of Iowa. Mr. Chairman, I yield three minutes more to the gentleman from Kansas.

Mr. TINCHER. Mr. Chairman, I would like to know what explanation there is for that.

The gentleman from Mississippi [Mr. COLLIER], in making his talk here about a tariff on corn, asked us to take a 50-year period to show that the importations of corn are not sufficient to affect the price of corn. Oh, do not take 50 years, do not take 50 years, because you have no right to do that. During the major portion of those 50 years the people of this great Government of ours were safe and sane and we had a tariff law. Why take 50 years? Take the time while the Underwood tariff law was operating in normal times, and take the importations of corn from the Argentine, take the time when it had a fair chance unaffected by the World War, for your comparison. They are going to ask you Democratic gentlemen to vote against the emergency tariff law and then against the general tariff law; you men coming from a section of the country where your products were without a market until we came back here and finally last spring passed the emergency tariff law. You have a market for your products now. I say to you that there never will be another national campaign in the United States when the Democratic Party will follow the two grand leaders who just preceded me, who stand for free and open markets to the world.

Oh, you gentlemen say that Mr. LONGWORTH and Mr. FORDNEY have said that rather than have certain conditions exist they would cancel the war debt. Neither said that he favored canceling the war debt. What were those conditions? Those conditions were that rather than have idle labor in America who earn their bread by the sweat of their brow, rather than have the ex-service men of America by their power and labor pay into the Treasury that war debt by reason of preferential laws in favor of foreign countries, it would be better to tear up the indebtedness. What American will deny that sentiment? No man says he favors canceling the debts, but the Republican Party takes the stand that they are opposed to making American labor, American industry, and American production pay the foreign war debt. [Applause on the Republican side.]

Mr. COLLIER. Mr. Chairman, I yield 10 minutes to the gentleman from Texas [Mr. BLACK]. [Applause.]

Mr. BLACK. Mr. Chairman, on yesterday I received a letter from a prominent cottonseed-oil man of Texas asking me to vote for the extension of this emergency tariff law, giving as a reason why the law should be extended that the price of cottonseed oil had advanced considerably since its enactment. When I read the letter it called to mind an incident which occurred a few years ago when the Sioux Indians on one of the reservations got troublesome and the Secretary of the Interior sent one of his representatives out there to deal with them, sent a man of experience, a rather old man, and when he got out there and called the Indian chiefs together he decided he would make them a speech and that he had better deal in the picturesque language of the Indians, and so he addressed them about like this: "The heat of many summers has beat upon my brow and the winds of many winters have blown upon my head," and so forth. After he got through with his picturesque eloquence one old Indian chief got up and replied, "Yes, the heat of many summers has beat upon my brow and the winds of many winters has blown upon my head, but they haven't blown my brains away." I would remind these gentlemen who speak so eloquently of the benefits of the emergency tariff law that their sophistry does not blow our brains away. When my good friend from Texas who wrote this letter of which I speak attributing the advance in the price of cottonseed oil to the enactment of the emergency tariff bill he advanced what according to my judgment was a very unreasonable claim. When I read it I recalled immediately that about three months ago a firm in my own home town of Clarksville sold a list of 35 bales of cotton for 7½ cents a pound. I was recently back there during the brief recess of Congress and that same grade of cotton was selling freely for 17 to 20 cents a pound, and the 1921 production was selling freely at 21 to 25 cents a pound, and yet there is no tariff whatever upon that length of staple cotton. The advance in the price of this cotton has been fully as great if not greater than the advance in the price of cottonseed oil. Now, if these gentlemen are to credit up to the emergency tariff law the one or two advances which have taken place in the list of commodities included in that law why not charge it up with the declines that have taken place in the numerous other articles covered by it. Now, a good deal has been said in the debate about wheat. You know the emergency tariff law carried a duty of 35 cents a bushel on wheat.

The propaganda put out to the farmer at the time the bill was passed was that the price of wheat would advance 35 cents a bushel. Wheat at that time, if I recall correctly, was selling at $1.48 on the Chicago market. According to the Republican theory it should have advanced 35 cents a bushel, and therefore now should be selling at $1.83, and yet I quote from the grain market of yesterday in Chicago: Wheat, No. 1, hard, $1.13; No. 3, hard, $1.10¼ cash grain. So instead of an advance of 35 cents per bushel we have had a decline of 35 cents. The pendulum seems to have swung the wrong way. But the gentleman from Kansas [Mr. TINCHER], in that persuasive, eloquent way of his, a moment ago said he did not contend at the time of the enactment of this law that it was going to raise the price of these products, but that what he and his party associates did argue to the farmer was that the farmers would not suffer as great a decline on their products as would take place in other countries which did not have a tariff law. And then the gentleman from Kansas—and I think you will all bear me out that I am quoting him correctly—proceeded further and said that as a result of this emergency tariff law the American farmer had a benefit of from 35 to 38 cents a bushel on his wheat. Such argument would lead us to infer that foreign wheat had declined 35 to 38 cents more per bushel than in the United States. Is that true? It is not. If it were true there would be some basis for his argument. If it were true he would have made out a case for the emergency tariff law. But what are the facts? Since this debate opened I went over to the Library of Congress and got a copy of the Montreal Daily Star of Saturday, October 15, 1921, and let us see whether Canadian wheat is selling for 35 to 38 cents a bushel less than American wheat. Here is what it says: "Winnipeg, Manitoba, October 14"—now, you know Manitoba is the great Canadian grain market—"opening, futures, October, $1.20¼ to $1.19½; November, $1.19¾ to $1.20; December, $1.17 to $1.16."

Mr. GREEN of Iowa rose.

Mr. BLACK. Just a moment, and I will yield to the gentleman. These quotations are a few cents higher than the ones I read from the Chicago market of yesterday; but, to be perfectly frank, the market has declined some 5 or 6 cents a bushel since Saturday, and if you will compare the Winnipeg quotations with the Chicago quotations on last Saturday you will find them almost identical. Now I will yield to the gentleman.

Mr. GREEN of Iowa. Nobody contended the tariff would make that amount of difference between the Canadian price and the American price.

Mr. BLACK. I think the advocates of the bill did so contend; at least that was my understanding of their arguments.

Mr. GREEN of Iowa. The figures the gentleman is just stating do not convey a fair and proper impression upon the real

facts. The gentleman is certainly aware that Canadian money is at quite a discount as compared with ours.

Mr. BLACK. Oh, not in Canada.

Mr. GREEN of Iowa. I beg to differ with the gentleman there. Not only that, but there is another difference, so that the real state of affairs is not shown. Canadian wheat is the finest wheat in the world. It is a higher grade than what we produce. You are giving the quotation on one grade in a depreciated currency in comparison with a quotation on another grade in a higher currency.

Mr. BLACK. I want to be perfectly fair in my argument, and I leave it to any man on the Republican side of the House to judge if the gentleman from Iowa himself is not the one who is seeking to draw an unfair comparison. Canadian currency is not depreciated in Canada. A Canadian dollar is still worth 100 cents on the dollar in Canada. Canadian exchange, it is true, is depreciated in the United States, for the reason that the balance of trade is too great against the Dominion of Canada. But it is unfair to say that you should judge wheat sold in Canada at a Canadian price and payable in Canadian money and try to charge it up with the difference in the rate of exchange between the two countries. Merely because a country's exchange is not at par with some other country does not necessarily signify that its currency is depreciated. For example, there was a time during the recent World War when the exchange situation was against us in Spain, and it took, if I recollect correctly, about $1.30 in American money to pay for $1 worth of goods purchased in Spain. Was that because American money was depreciated in America? Oh, no; there has been no time when you could not take a dollar in currency and get a dollar in gold. The reason Spanish exchange was against us was simply because there was a while during the war that we had to buy from Spain so much more than we were able to sell her people that it upset the exchange situation.

So it is with Canada. True, the exchange situation is against Canada, but her currency is not depreciated in her own borders, and I submit that the comparison which I have just made of the domestic price of wheat in the two countries is a fair one and illustrates the utter absurdity of our Republican friends' claim, that the emergency tariff law raised the price of wheat to the farmers.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. BLACK. Mr. Chairman, can the gentleman yield me about three minutes more?

Mr. COLLIER. Mr. Chairman, I yield to the gentleman three minutes more.

The CHAIRMAN. The gentleman from Texas is recognized for three minutes more.

Mr. GREEN of Iowa. Mr. Chairman, will the gentleman yield again?

Mr. BLACK. Yes; I will, briefly. Then I must go ahead.

Mr. GREEN of Iowa. Does the gentleman contend that an American dollar right in Canada will not buy more than a Canadian dollar?

Mr. BLACK. I still contend that when you state market prices in one country for goods sold in that country and compare them with market prices in another country it is artificial to undertake to figure up the exchange price that might be charged if those goods were sold in the other country. What I am contending is that wheat prices are governed by world conditions, and that the world market on wheat is just about what it is in the United States, and that the emergency tariff law has had no beneficial effect to the farmer.

The greatest impediment to the resumption of our foreign trade is this exchange situation; and nowhere is there a better illustration than as to Canada. Did the enactment of the emergency tariff law contribute anything toward helpfully readjusting this exchange situation? It did not. Its effect is to hinder. This harmful effect was well stated in a speech a few days ago at Greenville, S. C., by Mr. R. P. Sparks, president of the Canadian Association of Garment Manufacturers. Here is what he said about the enactment of this emergency tariff law, and what it is doing to upset the trade relations with the best customer that we have in the world—the Dominion of Canada. Discussing the trade relationships in 1921, Mr. Sparks said:

> During the three months of June, July, and August that your emergency tariff bill has been in operation our exports to you have fallen to about 50 per cent less than in the same months in 1920, and your exports to us have decreased a like amount.

He predicted that the trade for the remaining three months between the two countries is likely to total about one-third of what it was last year. Mr. Sparks said he was strongly of the opinion that our tariff legislation should be based upon a recognition of the economic oneness of the American continent, and that its object should be to increase rather than to lessen the volume of trade.

Mr. Sparks concluded his speech with the following statement:

> There are only two ways in which to right the exchange situation. One is to sell you more and the other is to buy less from you. You have made it impossible for us to sell to you. You will therefore have no cause to complain if we reduce our purchases from you to the lowest possible point.

Now, what kind of a panacea is it that you gentlemen offer to the country as a relief for unemployment? You offer us a law that has decreased the exports from Canada into this country 50 per cent and has decreased our exports to Canada 50 per cent, thus proving the soundness of the theory which I had in mind in the question that I addressed to the gentleman from Michigan [Mr. FORDNEY], and that is, you can not sell goods to a nation unless you in turn buy from them. If you gentlemen want to kill American commerce, just keep on erecting tariff barriers against our best customers and your foolish and stupid work will be done. [Applause.]

The CHAIRMAN. The time of the gentleman from Texas has again expired.

Mr. COLLIER. Mr. Chairman, I yield five minutes to the gentleman from Mississippi [Mr. QUIN].

The CHAIRMAN. The gentleman from Mississippi is recognized for five minutes.

Mr. QUIN. Mr. Chairman, it occurs to me that our Republican friends who brought this old Trojan Horse out last May would be satisfied by now that the people of the United States realize that it is merely a stalking-horse. The gentleman from New York [Mr. CROWTHER] seemed to complain because the Senate of the United States would not pass the Fordney tariff bill and would not pass this "great tax bill," as he called it.

My goodness! Don't you think that the United States Senate is performing the most wonderful service in behalf of the American people that it could possibly do by blocking such legislation as that? [Applause on the Democratic side.] Instead of the gentleman here complaining against the great Senate of the United States, he ought to hold up his hands and thank them for the wonderful work they are doing to keep such iniquitous matters from becoming law to oppress the people. [Applause on the Democratic side.]

Does he believe that the United States Senate should run over itself and pass the Fordney tariff bill, which every single unprejudiced man in this Republic realizes would oppress the great mass of the American people? Does he believe that the American Senate should yield to any influence that might be brought upon it by the President of the United States? As he expressed it, he was of opinion that the President of the United States should get a great big shillalah and go over there and force the Senate to pass that measure, as well as this "great tax bill," as he calls it.

My friend from New York, you know not whereof you speak. The American people will rise up in their wrath when they feel the oppressive hand of the Fordney tariff bill, if it should ever become a law, and worse than that, the measure that you call the "great tax bill." Do you not believe that the American Senate, composed of great and wise men from all over this Republic—and the big majority of them are stand-pat Republicans—realize that the American people would not stand for the two measures as they were passed by this House?

The Democrats were not overweening in their criticism of those two measures, but they simply told the truth, and the Senate knows it. When you imagine that the American Senate will pass the Fordney tariff bill as it passed this House, you reckon without your host. When you say that the American Senate will pass that enormous, that outrageous, that iniquitous tax bill in the form in which it passed this House, you know not whereof you speak. Those men are not going willfully to oppress the people of this country. They have had time to find out what the public sentiment is. This recess of 30 days was more for the purpose of enabling you gentlemen to go home to your districts and make report to the other end of this Capitol than for anything else. The folks back in your districts know that the Senate will never pass the Fordney tariff bill.

When Senator REED made that great speech against the tax bill it was laid on the shelf, and it is going to stay there. The great body of the people of the United States have waked up. The Republican Senators have found out a few things. Big

business can not grab everything in sight, even if both branches of Congress are overwhelmingly Republican. The leaders seem to fear quicksand.

My friend, the gentleman from Mississippi [Mr. COLLIER], told you the truth when he said that you had to lower railroad freight rates. It is ridiculous to talk about unemployment, as some of you gentlemen have done here, and to propose this little panacea of a tariff bill that is nothing but a fraud and a sham and a hypocritical pretense that you are trying to ram down the throats of the people of this country, extending it up to the 1st of February to pretend to protect the farmers of the United States, when you are allowing the railroad transportation and shipping rates of this country to stay up, in some cases classified rates 250 per cent. Why, you talk about the farmer getting protection. Yes; you have protected him by charging him more than his produce will bring, in the freights that the railroads of this country are charging to-day. Take perishable fruits, take your corn from Iowa that the farmers are going to have to burn instead of selling it to feed the starving world.

The CHAIRMAN. The time of the gentleman has expired.

Mr. QUIN. Give me five minutes more.

Mr. COLLIER. I yield to the gentleman three minutes more.

Mr. QUIN. They are doing that because the freight rates on that corn are eating them up. Corn is selling for 17 cents a bushel, when it costs 50 cents a bushel to make it. Those same farmers can not get coal brought to them to keep themselves and their families warm, because the railroad companies and the coal operators are charging them five times what that coal is worth. The Iowa farmer can put coal in his furnace for $11 a ton and he can put his corn in his furnace for $4 a ton, and it will make as good or better fuel. Yet you are talking about helping the farmer. You are taking away from him all that he can make. You are doing it by this so-called tax bill that Republican gentlemen complain because the Senate will not pass. You are doing it by keeping up the freight rates on the stuff that the farmer sells, as well as the stuff that he has to buy. You can not expect the farmers of the West and the South and the East and the North to prosper as long as you are going to lay upon them a great burden of taxation in transportation charges. You can not expect them to live so long as you place upon them the further burden of taxation that is bound to come under the bill that this House passed, if the Senate is ever wild enough to make a law of it. My friends, you can not protect the people on the farm or anywhere else by this so-called protective tariff for farm products.

The gentleman talked about cotton. Every man who kept informed about cotton knows that it was down to 7 cents a pound last May. That was the price of short-staple cotton at that time. You did not put a dime of tariff on it, yet to-day it is selling for 21 to 25 cents a pound without anybody's tariff. It is the demand that has raised the price. That is what all these farmers need, a market, and they need a way to get their produce to the market without being overcharged.

You can help the farmer by reducing freight rates, but you can not help him with any such nonsense as this proposed protection of his products. You are bound to give him a place to sell his crops, and that market is the entire world. You can not consume it all in the United States. It must go abroad, and that is what fixes your price. Cut down your transportation charges and keep a good merchant marine on the high seas under the American flag and quit talking so much about helping the farmer with a tariff. You are eating him up with a tariff, that is what you are doing. [Laughter and applause.]

Mr. GREEN of Iowa. Mr. Chairman, I yield five minutes to the gentleman from California [Mr. BARBOUR].

Mr. BARBOUR. Mr. Chairman and gentlemen, this is not the first time in the consideration of emergency tariff legislation that some gentleman on the other side has arisen and said that such legislation is a fraud and a sham. We heard it at the time the emergency tariff bill was first before the House, and we hear it now when this measure comes up to extend the time of the emergency act.

I am not going to talk about theories in connection with this legislation, but I do want to devote a few minutes to discussing facts.

Last month I went home to the district in California which I represent. While I was there a meeting was held in my home town of live-stock men, gathered from the counties in the central part of California. The men in that meeting sent a committee to my office to see me and to urge that this very legislation be enacted. They stated to me that the emergency tariff had been of real benefit to them. They declared that it had enabled them to market the products which before its enactment they could not dispose of. It had prevented the prices of those products from being further decreased, and they wanted to impress upon me, as their Representative, the advisability and the necessity of enacting just such legislation as this so that there will be no period of time between the expiration of the emergency law and the enactment of the permanent tariff bill.

Mr. GREEN of Iowa. Will the gentleman yield?

Mr. BARBOUR. I yield to the gentleman from Iowa.

Mr. GREEN of Iowa. Did not some of these same gentlemen say that prior to the enactment of the emergency tariff law they simply could not sell their products at all?

Mr. BARBOUR. Absolutely.

Mr. GREEN of Iowa. And that as soon as this bill was passed there came a market for their products?

Mr. BARBOUR. That was the very way in which they were benefited. Now, this was not a political meeting. It was a gathering of men who range their sheep and cattle over the valleys, hills, and mountains of California, and in their behalf I bring their message to this House.

There is another way in which the district that I represent has been benefited by this emergency tariff legislation. Before it was enacted the tariff on lemons was one-half cent per pound. The emergency bill provided a tariff of 2 cents per pound. Prior to the enactment of this bill California lemons were rotting in the dump. They could not be sold for any price whatever. There was absolutely no market. A Member of this House from Pennsylvania told me that during the recess between the sessions in March last he visited the State of California. At that time he saw signs posted in front of lemon orchards which read, "Help yourselves to lemons." I am told that those signs were quite plentiful at that time. With the beginning of summer there came a demand, a heavy demand for lemons. California lemons commenced to move. Previous to that time lemons that we were buying in the retail market were European lemons and we were paying for them from 80 cents to $1 a dozen. The demand created by warm weather was supplied by California lemons, protected by a duty of 2 cents per pound provided in the emergency tariff act, and not by European lemons. The consumer bought those California lemons in the market for 50 and 60 cents a dozen.

The figures quoted by the gentleman from Arkansas [Mr. OLDFIELD] a few moments ago in his argument against this legislation were, I assume, correct. He said that since the emergency act went into effect the price of lemons had dropped from $12 to $5 a box. That is undoubtedly true, but the $12 lemons were European lemons and the $5 lemons were grown in our own country. The producers of this country, under the protection granted by the emergency act, have been able to sell their product at a profit and the consumer has paid less for that product than he did for the imported article. The lemon growers of California told me that they were not able to sell their lemons at a price which paid them for harvesting until the emergency tariff bill was enacted and that when it was enacted, giving them a 2-cent duty, they were able to sell their lemons in the markets at a profit. I have been told by a banker of the citrus district of California that the emergency tariff bill has absolutely saved many lemon growers in that State from bankruptcy. [Applause.]

Mr. GREEN of Iowa. Mr. Chairman, I yield five minutes to the gentleman from Texas [Mr. BLANTON].

Mr. COLLIER. And, Mr. Chairman, I yield the gentleman from Texas 10 minutes.

The CHAIRMAN. The gentleman from Texas is recognized for 15 minutes.

Mr. BLANTON. Mr. Chairman, my present duty is no pleasant one to perform. It is one which has rested upon Congress for several days, yet no other Member has volunteered to do it. It is a duty which must be performed by some one, and, in the service of my country, I am willing to do it and take the consequences.

SHALL DOMESTIC ENEMIES COMMAND ALL AMERICANS TO WALK?

The four great brotherhoods, embracing 450,000 railroad employees, in disobedience of the lawful rulings of the Railroad Labor Board, created for their benefit, have issued orders that on October 30, 1921, all railroad employees shall obey union orders, quit their work when commanded, and march out on a general strike, and that within two weeks every great railroad system in the United States will be tied up, so that not a train may run from the Atlantic to the Pacific.

Mr. B. M. Jewell, president of the railway employees' department of the American Federation of Labor, boastingly stated in last Sunday's press that—

Not a train shall be operated in the United States; mail trains will be stopped the same as passenger and freight trains; and the public had better get its walking shoes on, as it is to be an absolute tie-up.

THAT IS WAR AGAINST THE PEOPLE.

When Mr. Jewell and his confederating chiefs of railroad brotherhoods issue such mandates they know all of the resulting consequences; that there is now great industrial unrest; that we are in the crucial days of reconstruction; that between 3,000,000 and 5,000,000 men are now idle, walking the streets hungry without jobs, many of them being ex-service men who fought in the trenches of France; that winter is approaching; that thousands of families have improper shelter; that with a tie-up all mills and factories must shut down; that no large city has more than two weeks' food supply; that fuel supplies are absolutely dependent upon active and unrestricted transportation; that such a tie-up as threatened means that several million helpless women and innocent little children in the large cities will starve and freeze; that there will be a block in all commerce and all business will stagnate and result in ruin to countless thousands, and that the expense of it all must be paid by the people. They know all this, Mr. Chairman, yet cruelly issue their strike orders and command all Americans to walk or stay at home. This is war against the whole people, Mr. Chairman, and nothing else but war.

GERMANY WOULD NOT LET SOME AMERICANS RIDE ON THE SEA—WAR!

When I came to Congress and took the oath of a Representative I swore that I would defend this country against all enemies, foreign and domestic. When a foreign enemy, Germany, told us that our few Americans who travel abroad could not travel on the sea, I voted for a resolution declaring a state of war.

UNIONS SAY NO AMERICAN SHALL RIDE ON LAND—WAR!

And now, Mr. Chairman, union railroad employees tell all Americans that none of them shall ride trains on their native land. Are they not just as much domestic enemies as Germany was a foreign enemy? Are they not denying to Americans their inalienable rights? Does not my oath require me to defend this country against such domestic enemies?

CHRONOLOGICAL HISTORY OF IT ALL.

In 1916, with foreign war impending, these same four great brotherhoods made threats that unless Congress bowed its knee to them and passed the present infamous Adamson law they would tie up every railroad in the United States. They forced President Wilson to recommend the legislation. They forced Congress to pass it. And now they want us to truckle and bend our Nation's knee. Under this Adamson law if they run a train into their division 31 minutes late they get paid for a whole extra hour. It put a premium upon inefficiency, slothfulness, and time killing. It increased the expenses of railroads enormously, and has resulted in poor service to the public. The employees have forced union rules and regulations into effect whereby their jobs depend not upon faithful, efficient service rendered, but upon their union card carried in their pockets. Their position and seniority are guaranteed by their union. No employee can be discharged except when decided by their own union brothers. They clamor for the highest possible pay and work the fewest number of hours possible, refusing to do only a certain particular kind of work in only a certain particular kind of a way, controlled by union rules. They did not strike in 1916, and did not tie up the United States, because the Nation truckled and gave them all they demanded.

RECORD DURING THE WAR.

Shortly after we entered the war in April, 1917, Mr. Samuel Gompers and the brotherhoods succeeded in having all railroad employees exempted from the draft. Despite this many brave, loyal, patriotic railroad men enlisted in the service and valiantly defended their country in France. And 75 per cent of the entire membership are high-principled men who want to do the right thing, and who would do the right thing if their union leaders and organizers would let them. But they have little voice in management, and have little to do about the union except to pay dues, receive the benefit of holdups, and vote to strike when it is expected of them, for their leaders have recently asserted publicly in the press that over 90 per cent always vote to strike whenever such an issue is submitted to them by their leaders.

One is deemed disloyal who votes against striking. Thus, after we entered the war Mr. Jewell and other chiefs demanded of the railroads that their salaries be increased, besides other numerous demands. The alternative was a threatened nation-wide tie-up. The railroads convinced the Government that such demands would cripple and bankrupt them, so that they could not function. And then the brotherhoods demanded that the Government take over the railroads. They knew that the Government could replenish its Treasury by taxing the people and issuing bonds, and they had just as soon hold up the Government as the railroads. Under such a tie-up threat there were only two alternatives—either Congress had to pass a law preventing the brotherhoods from blocking all transportation or the Government must take over the roads. To pass such an antistrike law meant a union fight against Congressmen who voted for it and who wanted to be reelected. The roads were taken over.

And I want to say right here, Mr. Chairman, that we should not have taken the roads over. It was a sad mistake. Congress truckled when it did it. If we had just passed the measure such as I have had pending before this Congress since the first day we met, it would have solved the railroad problem. Consider this measure:

[Sixty-seventh Congress, first session.]

IN THE HOUSE OF REPRESENTATIVES,
April 11, 1921.

Mr. BLANTON introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce and ordered to be printed.

A bill (H. R. 223) to safeguard the transmission of interstate traffic and United States mails, to punish unlawful conspiracies, to protect citizens in their right to labor, and to punish unlawful interference therewith, and to prohibit and punish certain seditious acts against the Government of the United States, and to prohibit the use of mails in furtherance of such acts, and for other purposes.

Be it enacted, etc., That it shall be unlawful for two or more persons to enter into any combination or agreement (1) to prevent, hinder, or restrain any other person from seeking and engaging in work of any kind for railroads or boats carrying United States mails or engaged in interstate traffic; or (2) to prevent, hinder, or restrain the movement of United States mail, or of persons or commodities in boats or over lines of railroad engaged in interstate traffic; or (3) to prevent, hinder, or restrain the movement of trains or boats carrying United States mails or trains on railroads engaged in interstate traffic. Persons so combining and agreeing shall be deemed guilty of a conspiracy and shall be punished by a fine not exceeding $5,000 and by imprisonment not exceeding two years: *Provided*, That nothing herein shall be construed to deny to employees the right to quit work at their option, after giving 30 days' notice of such intention.

SEC. 2. That it shall be unlawful for two or more persons to enter into any combination or agreement (1) to prevent, hinder, or restrain any other person from seeking and engaging in work connected with the mining of coal, upon which the public or railroads and boats engaged in carrying the United States mail rely for fuel; or (2) to prevent, hinder, or restrain the movement of such coal. Persons so combining and agreeing shall be deemed guilty of a conspiracy, and shall be punished by a fine not exceeding $5,000 and by imprisonment not exceeding two years: *Provided*, That nothing herein shall be construed to deny employees the right to quit work at their option after giving 30 days' notice of such intention.

SEC. 3. That it shall be unlawful for any person (1) to advocate or advise the overthrow, or to write, or knowingly to print, publish, utter, sell, or distribute any document, book, or circular, paper, journal, or other written or printed communication, in or by which there is advised the overthrow, by force or violence, of the Government of the United States; or (2) to advocate resistance by force or violence to the Constitution and Government of the United States, or by force or violence to prevent, hinder, or delay or attempt to prevent, hinder, or delay the execution of any law of the United States; (3) to display or exhibit any flag, banner, or emblem intended to promote or incite the overthrow, by force or violence, the Government of the United States, or resistance to its laws; (4) to transmit or attempt to transmit through the United States mails any of the seditious communications mentioned herein, all of which are declared to be nonmailable; (5) to import or cause to be imported into the United States any matter declared to be nonmailable. That any person who shall violate any of the provisions of section 3 of this act shall be deemed guilty of sedition and punished by a fine not exceeding $10,000 and by imprisonment not exceeding 20 years, and if an alien, shall be upon the expiration of sentence, deported from and forever barred from reentering the United States.

All laws or parts of laws in conflict with this act are, to the extent of such conflict, hereby repealed, this act being cumulative.

What is there wrong with the above proposed law? It would stabilize business, and factories and mills now kept in a panic would begin to function again. The passage of this bill would have made unnecessary the taking over of railroads, and its passage now would solve the present situation.

In a special effort to get this bill reported I wrote the following letter to the committee chairman:

WASHINGTON, D. C., *September 27, 1921.*

Hon. SAMUEL E. WINSLOW,
Chairman, Committee on Interstate and Foreign Commerce,
Room 228 House Office Building.

MY DEAR COLLEAGUE: Since April 11, 1921, when this session convened, I have had pending before your committee, my bill, H. R. 223, to safeguard the transmission of interstate traffic and United States mails. Now, that we are resting on our oars, so to speak, waiting for the Senate to catch up, I would highly appreciate it if you will kindly arrange to give me a hearing on this bill next Monday, October 3, 1921.

Without any occasion or reason whatever therefor, the railroad brotherhoods are now planning a general tie-up of every railroad and steamship in the United States. This will paralyze industry, will disrupt our United States Mail Service, and will starve to death millions of helpless women and little children in our large cities. Congress owes it to the people of the United States, whom we represent, to act quickly and decisively. This hellish program must be stopped. If for any reason you can not grant me a hearing Monday, kindly arrange it for another date as early as possible.

Very sincerely, yours, THOMAS L. BLANTON.

And the following is the reply:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D. C., September 27, 1921.

Hon. THOMAS L. BLANTON,
House of Representatives.

DEAR SIR: In the absence of Mr. WINSLOW, please permit me to acknowledge receipt of your communication of even date in respect of your bill, H. R. 223.

It is expected that Mr. WINSLOW will return to Washington during the first part of next week, and I shall be pleased to place your letter before him at that time.

Very truly, yours,

A. H. CLARK,
Assistant Clerk.

I hope Chairman WINSLOW will soon give me a hearing and report this bill.

DEMANDED $754,000,000 FROM M'ADOO.

Just as soon as the Government took over the railroads the brotherhoods demanded that Director McAdoo immediately pay over to them out of the Public Treasury $754,000,000 annual increase in wages and date it back on their salaries six months. He told them the Government could not afford it. They threatened the Government with a nation-wide tie-up during war, with the whole civilized world depending on our armies, supplies, and transportation. Mr. Jewell said not a single train should run. It was the threat of a highwayman with his deadly weapon leveled at our Nation's heart. Director McAdoo threw up the hands of our Government, took the $754,000,000 in cash out of the Public Treasury, and handed it over. And then he resigned.

WERE THEY SATISFIED?

Director Hines had hardly taken McAdoo's seat before the brotherhoods waylaid him and, with the usual death threat of tying up every railroad as the alternative, demanded that he pay over to them out of the Public Treasury $67,000,000 more in annual increases and date it back six months on their wages. Director Hines threw up the Nation's hands, took the $67,000,000 out of the Public Treasury, and handed it over.

WHAT SALARIES WERE THEY DRAWING?

During the Sixty-sixth Congress I placed in the RECORD a statement from Director Hines showing that in 1917, when we entered the war, passenger conductors received the basic pay of $135 to $165 per month, exclusive of any overtime. Soldiers fighting in the trenches of France received only $33 per month. And I then placed in the RECORD the following statements from Government officials of the United States Railroad Administration in charge of the Baltimore & Ohio and Pennsylvania lines, to wit:

UNITED STATES RAILROAD ADMINISTRATION,
PENNSYLVANIA RAILROAD, EASTERN LINES,
OFFICE OF GENERAL MANAGER,
Philadelphia, August 16, 1919.

Hon. THOMAS L. BLANTON,
House of Representatives,
Committee on Education, Washington, D. C.

DEAR SIR: In accordance with your request of the 14th instant, we show below the highest maximum wages paid to any freight engineer, passenger engineer, passenger conductor, and freight conductor during the month of July, 1919, in the service of the Pennsylvania Railroad, eastern lines:

Freight engineer	$392.35
Passenger engineer	376.85
Passenger conductor	313.90
Freight conductor	308.55

Yours, very truly,

R. L. O'DONNEL, *General Manager.*

(Baltimore & Ohio Railroad (Eastern Lines). Coal & Coke Railroad, Morgantown & Kingwood Railroad, Western Maryland Railroad, Cumberland Valley Railroad, Cumberland & Pennsylvania Railroad, C. W. Galloway, Federal manager.)

BALTIMORE, MD., *August 28, 1919.*

Hon. THOMAS L. BLANTON,
House of Representatives, Washington, D. C.

MY DEAR SIR: In answer to yours of August 14, addressed to the general manager of Baltimore & Ohio Railroad, I give below, as requested, the highest maximum wages paid to each freight engineer, passenger engineer, freight conductor, and passenger conductor for month of July in the Baltimore & Ohio service:

Passenger engineer	$349.85
Passenger conductor	345.60
Freight engineer	334.60
Freight conductor	305.05

Yours, very truly,

C. W. GALLOWAY.

Note that a passenger conductor was drawing from the Government in war time $345.60 per month, secured by threats of tie-ups. That is more than the governors of nine States draw. Are his duties trying? He rides in a comfortable coach eight hours or less a day, protected from the weather, eats his meals in diners at half of the price we pay, in many cases has an auditor to take up tickets for him, and as he struts through the aisle if you ask him a civil inquiry he almost insults you. Now, the above are not my figures. They are the figures given by our Government officials who were running the railroads. So it is not going to profit union men in this House to get up here and say my figures are not correct. It is the report of Government railroad officials they must attack.

CONTINUED TO HOLD UP THE GOVERNMENT.

And through like threats, Mr. Chairman, by the time we succeeded in turning the railroads back to their owners, and thus escaped national bankruptcy, the brotherhoods had forced the Government to grant them annual increases in wages of over $1,000,000,000, and when doing this the Government, because of other waste, had to increase freight and passenger rates paid by the people to the extent of $1,350,000,000 annually. The result was that many people stopped riding on the trains. They began hauling freight by trucks. Merchants bought less. Business became stagnated. Men lost jobs. Factories and mills worked undertime or closed down.

BROTHERHOODS THREATENED CONGRESS.

The railroad brotherhoods demanded that the Government should not turn the roads back, but should retain and run them, and threatened to defeat every Congressman who voted for the Esch bill. They had discovered that it was easy to bleed the Government. This measure at the same time created the Railroad Labor Board, composed of three members selected by the railroads, three members selected by the employees, and three members selected by the President on behalf of the public. These nine men were given salaries of $10,000 a year each, to decide disputes. The bill had teeth in it against the railroads but none against the employees. Congressman WEBSTER, of Washington, offered an amendment making the decision of the board final also as to employees. Unions fought it and defeated it. And all that portion of the Esch Act creating the labor board, as finally passed, was drawn by representatives of the brotherhoods, and known as the Sweet substitute.

And as soon as this board was organized, through like threats to tie up all railroads the brotherhoods obtained from it an additional annual increase of wages of $600,000,000. And recently, when the railroads demonstrated to the board that paying same was bankrupting the roads, the board ordered that 12 per cent of the above increase be rescinded, and this action is what has brought on the present strike threat. Besides the brotherhoods' three representatives on the board, it is well known that one of the three representing the public, Mr. Hanger, is a strong union sympathizer, and yet with four sympathizing friends on the board, the brotherhoods refuse to obey its orders.

TALK ABOUT A LIVING WAGE.

Are these men underpaid for the quality and quantity of their labor? Note what their chiefs get. Mr. Warren S. Stone, one of these brotherhood chiefs, had his salary raised last June from $13,500 to $25,000, and he is now paid $10,000 a year more than William Howard Taft, an ex-President of the United States, now receives as Chief Justice of the Supreme Court.

Mr. BANKHEAD. Mr. Chairman, will the gentleman yield?

Mr. BLANTON. In just a moment, and then I will be very glad to yield to the gentleman. If the gentleman will be seated, I will call his attention to it. [Laughter.] Oh, this is a laughing matter to some men on the floor of this House—a laughing matter, when it ties up the arteries of commerce when from three to five million men are out of jobs, with winter approaching. Mr. Chairman, it is no laughing matter to me. Let me read from the Washington Star of September 2, 1921, with heading in big letters:

[From the Washington Star, Sept. 2, 1921.]

RAILWAY EMPLOYEES' PAY EXCEEDS PROFESSORS'.

NASHVILLE, TENN., *September 2.*

Professors at Vanderbilt University get $3,750 per year; at Georgia Tech, $3,600 a year; and at the University of Tennessee, $2,684, while passenger engineers on the Nashville, Chattanooga & St. Louis Railroad get $4,104.72; passenger train firemen, $3,173.83; and yardmasters, $3,140.43, according to W. P. Bruce, general manager of the road, in a statement submitted to the Tennessee Railroad Commission at a hearing.

The statement also said that high-school principals in seven cities received from $225 to $250 per month, while passenger engineers received $342.06 and firemen $264.49 per month.

Mr. BANKHEAD. Now will the gentleman yield?

Mr. BLANTON. In just a moment. Let me get these facts before my colleagues. This is something that affects the whole country. I have been trying here for two days to call attention to these facts, but chicken-feed legislation seems to have been more important. Has it come to pass that the Congress of the United States in such an emergency has quit functioning? What keeps you gentlemen from talking about it? Have you not the same right to discuss this question from the standpoint of the public that I have? What keeps you from doing it? I spoke to one of my friends this morning, or tried to speak to him, about it, and he took me off and wanted to try to whisper to me about it. Was he afraid that somebody might hear him

discussing the railroad situation that promises a war to the death?

AUTOCRATIC STRIKE ORDER.

You talk about industrial slavery. I will show you some of it gone to seed. Note the following autocratic strike orders given by the brotherhood chiefs:

No man will perform any service after the hour set to strike.
Every man must understand that the laws of the organization must be obeyed.
Strikers must answer two roll calls in hall daily.
Strikers must accept information only from their officers.
Any disloyalty should be reported at once.
No striker will return to work until the strike is officially declared off, when all will return together and be restored to all former rights.

And, Mr. Chairman, Government mail trains are to be treated by them just the same as all others, while arrogant chiefs through the press publicly notify all Americans that they must get their walking clothes on and walk, if they want to travel in the United States. And public property by the millions is to be destroyed, and law is to be ignored, and anarchy and chaos is to reign supreme, while we Congressmen sit here inactive. I wish this Congress had courage enough to tell these 2,000,000 union strikers: "Walk out if you want to in this crucial, trying crisis, when our Nation needs the maximum possibilities from every man, but when you come skulking back you will not have any job. Out of the 3,000,000 idle men railroads are going to pick deserving ex-service men and other loyal men willing to work, and put them in your places and keep them permanently."

These men think they can walk out when they get ready, bring ruin and devastation upon this country, and then at will walk back, resume their positions, with full seniority restored. Our railroads must teach them a lasting lesson. And we Members of Congress must stand behind the railroads and protect them. Mr. Chairman, I am one Congressman who is not afraid to stand here and tell them that if I could have my way, if they strike, they will not have any job, and they need not come back when it is over.

INTERNATIONAL & GREAT NORTHERN SLAVES.

Now, what is the situation on the International & Great Northern Railway in Texas? Have they any reason for striking? Read the following from the general manager of said railroad:

INTERNATIONAL & GREAT NORTHERN OFFICE,
Palestine, Tex.

Hon. THOMAS L. BLANTON,
Congressman, Washington, D. C.

DEAR SIR: Complying with your request I am sending you the names of certain employees, amounts received, and hours worked during the month of August, 1921, in the employ of the International & Great Northern Railway Co. in Texas. Your recommendation will be followed in the event strike actually takes place.

E. G. GOFORTH,
General Manager I. & G. N. Ry.

Salaries received and hours worked by certain employees of the International & Great Northern Railway during month of August, 1921.

PASSENGER ENGINEERS.

Name.	Amount received.	Hours worked.
E. B. Garess	$301.05	199
E. P. Ayres	293.65	199
E. D. Wilcox	291.50	221
A. E. Aikman	287.95	220
B. F. Ackerman	287.90	192
L. H. Tarbutton	273.75	176
H. M. Jones	284.45	155
E. Noble	286.35	300
J. R. Dickerson	275.45	185
John Johnson	292.00	224

FREIGHT ENGINEERS.

J. E. Herring	$312.10	298
W. P. Parsons	301.65	282
L. E. Delhome	298.75	291
W. S. Goff	295.60	269
W. W. Duncan	286.30	286
Osger Lawrence	248.90	241
F. W. James	237.15	255
J. R. Garner	235.10	216
G. E. Worley	231.00	224
W. M. Eaton	283.15	269

PASSENGER CONDUCTORS.

T. H. Fitts	$268.45	280
J. M. Henry	268.80	202
J. V. Boyer	260.80	201
Sam Myers	256.50	283
E. L. Turner	244.45	195
J. P. Frank	242.85	185
W. G. Moynahan	233.50	207
A. D. Evans	233.30	209
A. K. McKeithan	230.85	192

***Salaries received and hours worked by certain employees of the International & Great Northern Railway during month of August, 1921*—Con.**

YARDMEN.

Name.	Amount received.	Hours worked.
T. B. Harris	$268.65	368
E. Nelson	229.10	276
E. Harson	211.70	276
H. C. Roberts	211.70	276
W. L. Johnson	208.30	248
J. E. Mulvehill	205.35	243
J. G. Patrick	201.60	240
E. Horrocks	197.50	249
Paul Kitcher	196.50	248
V. A. Stuart	196.30	248

Now, Mr. Chairman, the foregoing service was performed during the month of August, 1921, by International & Great Northern Railway employees in my own State of Texas. There were 744 hours in the month of August, yet you will note that Mr. J. P. Frank, a passenger conductor, worked only 185 hours out of said 744 hours in said month and received for same $242.85; and he was idle 559 hours that month. You will note that Mr. H. M. Jones, a passenger engineer, worked only 155 hours out of said 744 hours in that month, yet received $284.45; and he was idle 568 hours in that month. Were these men overworked and underpaid? Are they industrial slaves? And yet next Saturday at noon, October 22, 1921, all of these men named above are ordered to quit their work and help tie up all the railroads of this country.

NEW YORK CENTRAL'S INDUSTRIAL SLAVES.

Now, let us see what certain employees on the New York Central Railroad earned in August, 1921, and the number of hours they worked that month. Read the following from General Manager Fripp:

NEW YORK CENTRAL RAILROAD, *New York.*

Hon. THOMAS L. BLANTON,
Washington, D. C.

MY DEAR CONGRESSMAN: In compliance with your request, I am inclosing herewith statements showing amounts paid certain passenger conductors, passenger engineers, freight engineers, and firemen during the month of August, 1921, and hours worked.

Yours, very truly,

W. J. FRIPP, *General Manager.*

Earnings of certain employees of the New York Central Railroad during the month of August, 1921.

PASSENGER CONDUCTORS.

Name.	Total amount earned during August, 1921.	Total time worked during August, 1921.
		Hrs. mins.
T. Connolly	$345.60	277 ..
D. Powelson	324.32	239 25
H. A. Hulburt	314.86	222 ..
C. S. Sperry	314.48	242 24
J. H. Lent	312.05	278 46
W. C. Gehring	305.64	163 36
M. J. Rowland	300.70	261 31
J. Ellard	299.74	218 ..
O. Monohan	299.24	171 22
F. H. Hagen	299.24	173 42

PASSENGER ENGINEERS.

		Hrs. mins.
E. Mahan	$354.29	253 ..
B. H. Green	350.74	278 25
J. F. Hughes	313.54	331 41
G. N. Pettis	326.32	325 40
J. McKenna	322.11	210 45
W. M. Renner	321.60	276 07
J. B. Elmore	320.99	301 26
N. Ballou	318.51	228 ..
W. S. Bryant	312.55	231 45
F. Taylor	311.31	243 50

FREIGHT ENGINEERS.

		Hrs. mins.
F. Hogan	$396.46	353 ..
W. P. Watley	377.55	333 30
H. Lenstruth	369.19	341 35
P. C. Cline	365.21	359 10
G. V. Bauer	354.70	303 56
E. Thorne	348.17	291 15
W. Bartholomay	346.92	316 ..
F. Bills	344.88	326 54
M. J. Cronin	344.76	329 ..
S. J. Delaney	344.68	232 09

Earnings of certain employees of the New York Central Railroad during the month of August, 1921—Continued.

FIREMEN.

Name.	Total amount earned during August, 1921.	Total time worked during August, 1921.
		Hrs. mins.
A. C. Catlen	$295.71	389 05
W. M. Allen	284.43	316 39
M. Dermandy	275.71	291 35
B. H. Allen	272.77	197 18
F. T. Millard	263.70	307 ..
E. P. Goldthwait	258.12	313 ..
C. O. Tuell	257.38	249 ..
M. Downs	252.33	304 25
R. McEwan	246.30	324 16
J. E. Manning	245.50	233 06

Now you will note, Mr. Chairman, that with 744 hours in the month of August, 1921, Passenger Conductor W. C. Gehring worked only 163 hours and 36 minutes, yet received $305.64, though idle over 580 hours in that month. Is he an industrial slave? And all of the above men are ordered to leave their posts and help tie up all the railroads of this country. They had better not try it. The people are not going to stand for it.

NEW YORK, NEW HAVEN & HARTFORD'S SLAVES.

NEW YORK, NEW HAVEN & HARTFORD RAILROAD CO.,
New Haven, Conn.

Hon. THOMAS L. BLANTON,
Congressman, Washington, D. C.

DEAR SIR: Referring to your favor requesting information as to the names each of 10 passenger engineers, 10 freight engineers, 10 passenger conductors, 10 firemen, and 10 yardmasters drawing the highest salaries on this system during the month of August, 1921, the amount drawn by each, respectively, and the number of hours per week worked by each, respectively.

I am showing below names of the men and the amounts drawn, as requested, but have shown hours worked during the month, which hours represent the money which each individual was paid:

PASSENGER ENGINEERS.

Name.	Division.	Amount.	Hours worked.
A. R. Boles	Boston	$307.99	270
D. M. Bree	New York	320.22	210
J. H. Kinney	do	341.82	192
J. Murphy	do	336.30	222
G. R. Stephen	do	316.95	200
P. F. Steinway	do	303.71	191
G. H. Taylor	do	301.50	154
J. F. Wiggins	Waterbury	307.84	197
W. C. Rogers	Old Colony	309.24	288
A. W. Strang	New York	297.01	190

FREIGHT ENGINEERS.

Name.	Division.	Amount.	Hours worked.
E. Glynn	Danbury	$304.29	301
Thomas Reall	Central N. E.	310.40	214
L. L. Bonney	Midland	319.67	253
W. H. Smith	New Haven	315.54	292
W. H. Rowe	Providence	318.25	279
E. J. Enos	do	305.80	324
J. F. Nagle	New York	331.97	313
E. E. Lacey	do	339.59	349
O. N. Alexander	do	312.86	294
C. J. Armitage	Hartford	353.98	326

FIREMEN.

D. P. Flahive	Danbury	$257.05	327
J. H. Prance	Boston	249.49	246
W. D. McCarron	Midland	264.29	215
P. V. Madison	New Haven	232.22	292
K. L. Kushman	Old Colony	239.96	284
F. J. Patron	Providence	233.95	250
W. H. Barnes	Waterbury	237.24	333
E. C. Tatro	New London	240.93	302
William Mileski	do	239.64	287
Fletcher Hart	New York	235.86	321

PASSENGER CONDUCTORS.

J. A. Davis	Providence	$309.98	272
C. R. Densmore	New York	284.82	269
C. W. Keene	Boston	295.88	227
H. E. Chase	New Haven	266.29	214
J. R. Hughes	Waterbury	274.55	257

PASSENGER CONDUCTORS—continued.

Name.	Division.	Amount.	Hours wokred.
C. Taber	New London	$284.50	237
P. B. Chase	do	275.58	197
B. H. Whaley	Providence	273.28	216
A. C. Roberts	Boston	275.00	213
B. A. Flanders	do	287.19	161

FREIGHT CONDUCTORS.

John Mason	New York	$306.22	347
W. C. McGill	Hartford	302.60	320
A. L. Lincoln	Providence	274.17	304
Thomas Meehan	New York	328.99	386
M. J. Donovan	New Haven	299.88	328
G. J. Prince	Danbury	317.08	309
J. L. Callaghan	do	312.18	334
Theodore Lake	Central N. E.	328.25	326
J. M. Landry	do	326.47	331
E. E. Erickson	Danbury	283.00	300

It should be understood that, in so far as engineers and firemen are concerned, the opportunity to work overtime in the month and increase their earnings thereby has been somewhat restricted by the application of what is known as the Chicago joint agreement, entered into between the engineers' and firemen's organizations, respectively. This agreement limits passenger engineers and firemen to a maximum mileage equivalent of 4,800 miles per month, freight engineers and firemen to a maximum mileage equivalent of 3,800 miles per month, and other mileage limits fixed for other classes of service. This agreement was ordered incorporated in the various wage schedules covering engineers and firemen by the Director General during the period of Federal control and still remains therein. One of the announced intentions of the purpose of this agreement, in addition to providing work for a greater number of men, was to limit the earning possibilities of the men in order that they might not be permitted to work and earn excessive amounts which could be used against them in arbitration hearings regarding wages or other wage proceedings.

YARDMASTERS.

The rates of our yardmasters are fixed on the monthly basis and are not susceptible to changes on account of overtime, etc. The yardmasters receive two days off per month with pay, and two weeks' vacation per annum with pay. They are also paid for reasonable amount of time when absent on account of illness or for other personal reasons. I am showing the rates as applicable at various points:

Name	Location.	Rate.	Hours per day.
O. McMann	Waterbury	$265.00	12
R. W. Russell	Danbury	265.00	12
J. P. Sherman	South Norwalk	250.00	12
J. J. Dorsey	Woonsocket	260.00	12
F. P. Paten	Roxbury	265.00	12
H. I. Cunningham	Framingham	260.00	12
D. V. Goodwin	Readville	260.00	12
C. F. Sunderland	Taunton	260.00	12
C. L. Shaw	New Bedford	250.00	12
F. A. Glines	Mansfield	250.00	12

All assistant yardmasters work eight hours per day and receive $193.68 per month. They enjoy vacations and relief days the same as yardmasters.

ADDITIONAL ENGINEERS.

Under the heading of passenger engineers we have shown, as requested, the names of the men earning the greater compensation. I am showing below the names of additional men who, while not among the 10 receiving the greatest compensation in the month of August, did receive for the time actually worked much higher average compensation per hour for the time actually worked, these men being employed on our through runs between New Haven and Boston:

Name.	Division.	Amount.	Hours worked.
E. S. Alling	New Haven	$285.52	152
I. F. Hile	do	276.54	138
T. E. Kane	do	273.49	139
M. F. Carver	do	281.00	155
F. A. Bushnell	Boston	264.22	156
W. S. Darmedy	do	285.53	156
F. L. Lowden	do	298.74	183
O. W. McQuade	do	274.89	156

Yours, very truly,

C. L. BARDO, *General Manager.*

Now, Mr. Chairman, you will note that Passenger Conductor B. A. Flanders worked only 161 hours out of the 744 in August, yet received $287.19, though idle 583 hours that month. Is he an industrial slave? Has he balls and chains on his feet, as indicated by the cartoons in the railroad magazine, Labor? Have the above men any right to be ordered out on a strike and help to tie up every railroad in the United States? They had better not try it, as the people will not stand for it.

BALTIMORE & OHIO RAILROAD'S SLAVES.

BALTIMORE & OHIO RAILROAD,
OFFICE OF GENERAL MANAGER, *Baltimore.*

Hon. THOMAS L. BLANTON,
House of Representatives, Washington, D. C.

DEAR SIR: As requested, I inclose statement showing salaries received and hours worked during month of August, 1921, by certain employees of this system.

Yours, very truly,

E. W. SCHEER,
General Manager.

Statement showing earnings of the classes of employees designated during the month of August, 1921.

PASSENGER ENGINEERS.

Name.	Division.	Hours actually worked.	Total earnings.
G. W. Light	Cumberland	268	$345.25
E. M. Dawson	do	281	339.85
C. H. Barger	Baltimore	186	320.50
C. E. Beltz	Pittsburgh	229	314.10
G. W. Hobbs	Baltimore	203	313.00
John Lemon	Wheeling	266	305.90
A. F. Tierney	Charleston	255	302.75
F. W. Murray	Baltimore	227	302.45
H. H. Heffner	Monongah	234	300.25
J. Wardley	Connellsville	245	298.95

PASSENGER FIREMEN.

C. P. Burns	Cumberland	262	$248.95
J. C. Z. Spring	do	237	234.85
C. L. Stillwell	Wheeling	266	233.10
H. F. Livingston	Pittsburgh	213	231.15
W. R. Brown	Baltimore	199	227.50
E. Dean	Pittsburgh	215	225.15
G. Berger	Baltimore	176	224.90
S. H. Haymond	Charleston	254	224.80
W. A. Lief	Pittsburgh	204	223.70
R. W. Young	do	183	223.70

PASSENGER CONDUCTORS.

P. J. Condry	Charleston	365	$309.90
D. L. Grimes	Baltimore	210	297.80
J. Hanley	Monongah	247	290.60
J. E. Crill	Pittsburgh	173	283.60
M. H. Connoughton	Baltimore	176	281.25
C. H. Thompson	Pittsburgh	190	277.00
T. B. Robertson	Baltimore	186	276.75
G. Guthrie	Pittsburgh	173	274.65
D. L. White	Baltimore	131	272.85
C. E. McDougall	Pittsburgh	185	272.70

PASSENGER TRAINMEN.

F. R. Meyers	Monongah	172	$238.35
E. McFadden	Pittsburgh	165	235.20
P. Kelley	Monongah	300	230.45
J. E. Kimmell	Cumberland	265	230.45
A. W. Waller	Monongah	277	228.20
J. L. Haberkorn	Baltimore	225	224.35
G. T. Robinson	do	199	219.25
C. L. Kinsey	Monongah	189	218.45
A. N. Green	Baltimore	201	217.15
N. S. Handy	do	177	214.30

FREIGHT ENGINEERS.

C. Ross	Pittsburgh	328	$364.90
C. U. Skiles	Charleston	323	351.20
C. J. Blades	Connellsville	314	348.40
W. T. Irwin	Pittsburgh	324	342.05
J. F. Tierney	Monongah	329	339.80
R. E. Fazenbaker	Cumberland	346	338.80
V. E. Lynch	do	258	338.25
J. H. Morseberger	Baltimore	284	334.55
W. Boar	Connellsville	302	332.95
E. Beacht	Baltimore	273	332.60

FREIGHT FIREMEN.

E. R. Koontz	Connellsville	331	$279.60
M. E. Berkley	do	325	270.20
C. Beachem	do	310	266.05
E. W. Griffith	Monongah	313	257.05
T. D. McMarlin	Pittsburgh	302	249.20
S. Atkins	Wheeling	298	245.80
B. F. Matthews	Connellsville	318	244.10
B. F. Gravely	Pittsburgh	314	243.00
A. C. Bowlin	Connellsville	285	239.85
J. W. Murphy	Baltimore	287	239.75

FREIGHT CONDUCTORS.

C. E. Uhler	Baltimore	373	$344.60
C. W. Berry	Charleston	379	316.75
M. L. Hickman	Monongah	331	314.80
J. McElwin	Pittsburgh	339	308.45
J. H. Bash	do	326	301.00

Statement showing earnings of the classes of employees designated during the month of August, 1921—Continued.

FREIGHT CONDUCTORS—continued.

Name.	Division.	Hours actually worked.	Total earnings.
F. Hunter	Charleston	324	$298.75
J. W. Powers	Monongah	316	292.85
F. B. Blaine	Pittsburgh	313	288.70
J. F. Homer	do	295	277.20
W. T. Bogart	do	304	274.90

FREIGHT TRAINMEN.

N. G. Huber	Monongah	349	$255.95
H. Pierce	Baltimore	321	235.35
E. R. Gutheridge	do	321	235.20
W. Fletcher	Pittsburgh	221	232.90
E. H. Gross	do	326	232.40
T. A. Mullin	do	326	232.40
E. F. Gonghler	do	219	231.35
H. N. Trimble	Monongah	319	229.55
E. M. Reed	do	317	226.10
R. Hennen	Pittsburgh	312	222.80

YARDMASTERS.

J. W. Hall	Philadelphia, Pa.	224	$235.00
W. P. Davis	Baltimore, Md.	224	230.00
G. M. Williams	Wilmington, Del.	224	230.00
J. E. Mather	Brunswick, Md.	224	230.00
C. E. Hause	Cumberland, Md.	224	230.00
W. A. Poling	Grafton, W. Va.	224	225.00
L. H. Dugan	Wheeling, W. Va.	224	235.00
H. N. Harris	Parkersburg, W. Va.	224	230.00
W. S. Strevitt	Connellsville, Pa.	224	230.00
J. F. Boyle	Pittsburgh, Pa.	224	235.00

You will note, Mr. Chairman, that Passenger Conductor D. L. White, of Baltimore, during the 744 hours in August worked only 131 hours, yet received $272.85, though idle 613 hours in that month. Is he an industrial slave? Has he any grounds for striking and tying up all the railroads of the country? The above men had better not try it, for the people are not going to stand for it.

AMERICAN OPEN SHOP THE ONLY SOLUTION.

Mr. Chairman, there is but one solution to all this turmoil. We must get back to fundamentals. We must get back to normal. And that means the American open shop, where every person is permitted to work whether they belong to a union or not. And it is the leaders of union organizations that prevent the universal reestablishment of the open shop. For the closed shop is not the normal condition. It is the abnormal.

DUES AND INITIATION FEES THE TROUBLE.

Some building trade unions in Boston and New England charge an initiation fee of as much as $100, which is the initial price paid for the privilege to work there. The building trades and other crafts in other places charge less, the initiation fee ranging from $50, $25, on down as low as $5 in some places. But whatever it is, the initial fee must be paid or arranged for as condition precedent before the union will authorize and license the American citizen to work in his native land.

REGULAR DUES PAID UNIONS.

The American Federation of Labor at its Atlantic City convention in 1919 claimed 3,300,000-odd paid memberships. At its convention in Montreal last year it claimed 4,078,000 paid memberships. Most of them pay dues to their local unions of $1 per month, which is thereafter subdivided between the local, State, and national organizations. I am advised that none of the members pay less than 50 cents per month. These dues are paid monthly whether it rains or snows, and whether the members are idle or employed. Placing the average union dues at the very conservative average of 75 cents per capita per month, totals $9 per year each, and for the 4,078,000 members last year aggregates the enormous sum of $36,702,000 paid to unions in dues in 1920.

But in Montreal Mr. Gompers reported 800,000 new recruits, and placing their initial fee at the lowest average minimum of $15 makes an additional income for that year of $12,000,000 more, bringing the total up to $48,702,000. Now, what has Mr. Gompers's unions done with all this $48,702,000 collected from his affiliated union members during the one year of 1920? You fail to get a satisfactory answer from the reports. It is therefore no wonder that in his speech, recently published by the Federal Employee, he admonished the employees of this Government that "Organize" is the watchword. "Organize, organize,

organize!" Why, of course, for whenever they organize, it increases this enormous annual spending fund of $48,702,000.

OTHER ANNUAL INCOME FOR UNIONS.

Through Mr. Jewell, the railroad brotherhoods are affiliated with the American Federation of Labor, and their chiefs compete with Mr. Gompers in directing the annual spending of union dues. The four great brotherhoods claim 450,000 members, while the other railroad brotherhoods bring the membership up to 2,000,000 union employees in railroad work. They average $1 per month in dues, or $12 per year each. This furnishes unionism an additional income annually of $24,000,000, which brings the grand total of the annual income of combined unionism to the enormous sum of $72,702,000 paid out of their salaries each year by union laborers. Now, I want our splendid body of American union laborers, whose coworker I am, to pause long enough to inquire what goes each year with this $72,702,000 of their hard-earned money? Do they get value received? Do unions benefit them that much each year?

At Atlantic City Mr. Gompers reported that for the year ending April 30, 1919, all of his affiliated unions had paid out:

For death, sickness, and union benefits	$6,705,287
For costs of strikes	1,391,833
Total	8,097,120

Thus out of $48,702,000 paid the unions that year, the union men received back $8,097,120. What became of the remaining $40,604,880 for that year?

And the chiefs of the railroad brotherhoods who boast that they have never had a general strike now report that, although their annual receipts are $24,000,000, they now have on hand in cash only $2,000,000 to take care of their 2,000,000 strikers they have ordered to quit work on October 30. That is a total of only $1 for each striker. Mr. Warren Stone and Mr. Samuel Gompers have each doubtless paid that much as a tip to fashionable dining-room waiters. But Mr. Gompers claims that it takes a lot of money to run his unions. Granted. But if it costs $48,702,000 to run his unions, and $24,000,000 to run the railroad unions, and the members get very little of it back each year, how long is it going to take for them to realize that paying dues and initiation fees is a losing proposition?

BUT ARE STRIKES BENEFICIAL AFTER ALL?

Statistics show that during the 40 years from 1881 to 1921 Mr. Samuel Gompers has been the leader of organized labor it has engaged in over 70,000 strikes, and lost in actual wages to its striking members the astounding sum of $1,227,000,000, at the lowest possible estimate. When this is considered in connection with the tremendous property and business loss to employers, and the expense of cities, States, and Nation to preserve order and enforce the law, we can then partially understand the whys and wherefores of the present staggering burdens now resting on the shoulders of the whole people, for all of the above has been passed on to the public. During the year for which at Atlantic City Mr. Gompers reported that his unions had paid out $1,391,833 in benefits to striking members during their idleness, his members lost that year in wages stopped during such strikes the enormous sum of $60,000,000. This is a net loss of $58,608,167 in one year on wages alone, not considering the extra burdens heaped upon them in common with all other citizens through loss of production and civic expenses in maintaining law and order.

STEEL STRIKE IN 1919.

You will recall the steel strike in 1919. The men were satisfied and did not want to strike. Mr. Gompers did not like to see them get along so peacefully with their employers.

So he attempted to unionize them, and to put them all on his initiation fees and dues-paying pay roll. He selected as leader the renowned anarchist, William Z. Foster, who through printed book had advised railroad strikers to run engines into turntables, to falsely reroute cars of perishable food to distant points across the United States to lose and ruin them, to demolish trackage and machinery, to be not afraid of shedding human blood to cause intimidations, to indulge in every kind of sabotage thinkable, to terrorize the Nation and force compliance with demands—it was such a leader Mr. Gompers placed in charge of the steel strike in that crucial period. Through threats, intimidations, assaults, and even murder, 100,000 of the employees were forced to strike and remain out of work for over 90 days, and these men lost in wages alone during such strike $37,500,000. Unions collected in benefits for them and actually paid them only $600,000, so that these men had a net loss in wages alone of $36,900,000 for that experience.

BUT WHOM DOES IT BENEFIT?

It benefits Mr. Warren S. Stone, who last June had his salary raised from $13,500 to $25,000. It benefits his other brother chiefs, who superintend the expending each year of the $24,000,000 dues taken in from railroad employees. It benefits Mr. Samuel Gompers, who besides drawing his princely salary is permitted to live in the most expensive suite at the palatial Ambassador Hotel in Atlantic City during the recent conference there and who when leaving uses the reserved drawing room in a Pullman, besides two seats in the parlor car; to attend fashionable theaters, diked in his evening clothes and high silk hat, and to live like a king. And it benefits his army of organizers and walking delegates; and his 4,000,000 subjects must obey his every order. He tells them what hour they may go to work, what minute they may quit, exactly what they must do while at work and how they must perform it, and how much they may do in a day; and when he orders them not to work they can not work, and they must have his license to obtain and hold a job in the United States of America.

Mr. Gompers has well said that there is industrial slavery, for there is slavery; but he is the master and monarch. A slave is one who takes orders against his will. A union bricklayer who can easily lay 2,000 brick a day, for instance, in Indiana is permitted by his union's rules to lay only 350 per day, and thus such an expert is through union rules brought down to the level of the most ordinary and inefficient.

WE MUST GET BACK TO NORMAL.

I want union laborers to consider present open-shop conditions. There is no slavery in the open shop. It is the American normal. The employer and the employee contract to their mutual advantage and satisfaction, and the employee takes no orders from walking delegates, pays none of his salary to unions unless he wishes to do so, and receives full pay according to his full earning capacity.

HENRY FORD.

This great business man advises me as follows:

Hon. THOMAS L. BLANTON,
House of Representatives:

Our total number of employees are approximately 63,500, and our minimum wage is $6 per day.

E. G. LIEBOLD,
General Secretary to Henry Ford.

Concerning conditions on Henry Ford's railroad, this is what the Literary Digest has to say:

Passenger engineers, who with overtime formerly received $300 a month under the national agreement "rules," now receive $375 a month. But to earn this they must put in 208 hours of actual service in a month. This may mean 16 hours the first day, 4 hours the second, or any combination within the law, but only actual service is paid for.

An engineer on the Ford road may cover three or four times as many miles for the same amount of pay as an engineer on, say, the Michigan Central or the Wabash. Assume a passenger run of 75 miles. The "rules" regard this a day's work of eight hours and prescribe $6.08 as the pay, notwithstanding that the trip takes two hours' actual running time.

Under the Ford plan the engineer would receive $3.60 and Ford may order him to turn around and start back. Ford could also order another round trip within eight hours, but under the "rules" the Michigan Central or the Wabash would have to call four engineers for the same amount of service, giving each a day's pay for about two hours' work and one hour getting ready. Collectively the four engineers would cover 286 miles for $24.32. The Ford engineer would cover an equal distance for $14.40.

"Rules" prevent cutting down the number of crews on the second terminal without reducing service a proportionate amount. Hence, most roads are denied the opportunity of realizing any return for the five or six hours' pay unearned by the men after reaching the terminal.

GARY STEEL COMPANIES.

I am reliably advised that Mr. Gary has in his employ 264,000 open-shop employees, and pays to them an average wage of $1,904 annually. I do not agree with his working hours, but I am advised that he does not change them because his employees want to work the extra time to earn the additional money. These employees bought on the open market 255,322 shares of stock and thus have an interest in their employer's business. Suppose the employees of Mr. Gompers's unions and the brotherhoods would use their $72,702,000 they pay in dues each year in buying stock? They would soon own a controlling interest in the business.

OPEN-SHOP PACKERS.

Armour & Co. advise me that they now have in their employ 22,000 open-shop employees, and pay their skilled men a basic wage of $6.56 for eight hours with time and a half for all overtime. They have some common labor, unskilled, whom they pay as low as 45 cents per hour, with time and a half for all time over eight hours.

Cudahy Packing Co. advise that they have 7,000 open-shop employees, and Wilson & Co. advise that they have 9,000. Morris & Co. advise that they have 8,500 open-shop employees. They pay the same wages Armour is paying. All of these packers pay their women less than their men, and if their women do the same work I would advise that they make no discrimination.

The open-shop organizations in my own State advise me from Dallas, Austin, and San Antonio, and other places, that all open-shop employees are drawing as much and in many cases more than the union scale of wages.

Yet with contractors everywhere wanting men in the building trades to work there are 3,000,000 idle men. But remember that at Laredo, Tex., Mr. Gompers asserted that there should be no reduction whatever from war-time wages, and while many of these men could work at $5, $6, $7, and $8 per day they are prohibited from disobeying Mr. Gompers's orders.

The San Angelo Standard for October 14, 1921, in reporting the speech there of Mr. G. H. Slator, president of the Texas Federation of Labor, quotes him as saying:

So long as the wageworker permits an enemy instead of a friend to go to Austin (capital) you can expect such things as the open port bill.

Pay your poll tax, also your wife's. Then see that she votes so that the friend to labor is elected to office.

The speaker said that he was a member of the Typographical Union and that some of its members are paying as high as $58 and $59 per month, or 10 per cent on their earnings, to raise $1,500,000 a month, fighting for the 44-hour week for printers.

Mr. Chairman, I am done. This country must not truckle. We must protect railroad property. We must show these 2,000,000 men that their union mandates are not greater than the rights of the whole 107,000,000 people. We must have a show-down once for all. The supremacy of this Government must be demonstrated beyond peradventure of a doubt. I hope the good judgment of these men will prevail. They are courting their ruin. The accomplishments of labor for 100 years are about to be sacrificed. We must put down this strike in a lawful way. There is no danger of railroads now overreaching employees. The public will protect all interests concerned.

Mr. Chairman, I ask leave to revise and extend my remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas? [After a pause.] The Chair hears none.

Mr. COLLIER. Mr. Chairman, I yield 10 minutes to the gentleman from Pennsylvania [Mr. BURKE].

Mr. BURKE. Mr. Chairman and gentlemen of the committee, the Representative from Texas is absolutely right when he says the threatened railroad strike is no laughing matter. It is most emphatically not a laughing matter, but I swear to the heavens his statement and the figures and rates of pay he gives to this Congress are both ridiculous and laughable. And he wants this Congress and the country at large to believe that the rates of pay he cites are the rates of pay paid by the railroad companies to the men. For the benefit of the Representative from Texas, and also to refresh his memory, I am going to state what the rates really are that are paid, and I am going to take one of the railroads that he calls your particular attention to, namely, the Pennsylvania Railroad, and I am quoting from their recent schedule and the rates which became effective in August, 1921. Remember, this is the Pennsylvania system: Through freight conductor, $5.80 a day. Now, if the through freight conductor receives but $5.80 a day, how can he make $345 a month, as stated by Mr. BLANTON? If you even counted in the Sundays in figuring up his time, you can not in any conceivable way obtain the amount given by the Representative from Texas. Now, then, from the same schedule of the Pennsylvania Railroad I quote: A passenger conductor running 150 miles receives $6.40 a day. On the $6.40 a day basis, how does he get his claim of $345 a month paid the railroad men? On the Baltimore & Ohio Railroad engineers in through freight service are paid at the rate of $6.48 per day. The largest type of engine is the Mallet, 275,000 pounds and over, but there are only a few of these, running on mountain divisions, and the engineers on this type of engine are paid $8.40 per day.

A yard conductor is paid $6.12 per day; a yard brakeman receives $5.70, a through freight fireman receives $4.65 per day, and a fireman on the Mallet type of engine receives $5.98. Through-freight brakemen receive $4.51 per day. Where does Mr. BLANTON get his $345, and what is his patent for manipulating figures. What are you trying to do at this critical moment, mislead this Congress and the country?

Let me say here that this is no time for a man whose hatred and prejudice against labor is so well and widely known and so evident as Mr. BLANTON's to arise before this body and through his insane hatred and prejudice spread further the flames of discontent, dissatisfaction, and unrest. This is a time that calls for sound judgment, unbiased minds, and the spirit of fair play.

The railroad men have a grievance. They feel they have not had justice, and the Representative from Texas [Mr. BLANTON] or any other man can not stamp out or kill that feeling by abuse. You might get some place through the spirit of fairness, but no one ever accomplished anything worth while through the spirit of hate.

There are two sides to every question, and so there are two sides to the railroad question. I have watched things closely, have kept in touch with the situation, and am going to give you real facts.

The railroad men find no fault with this great Government; they recognize it, they believe in it, and they uphold it as the greatest and best Government on the face of the earth; they would shed their heart's blood before they would let harm come to it. I make this statement because of the fact that railroad officials and also Mr. BLANTON, the Representative from Texas, are trying to create the impression that if the railroad men strike it will be a strike against the Government, when they know that statement is both false and misleading. The railroad managers know the men have been forced to take the step they have as a last resort in order to protect their American manhood and protect their rights.

The railroad managers can not shift over onto the Government the burden and brunt of their own folly; they can not get from under their foolish blunders by trying to make it appear that it is a strike against the Government. The railroad men are not in Government service; the roads are under private control, and the questions at issue have arisen between private owners and their employees. All during the period of the war the railroad men stood faithfully and loyally at their posts, giving their country and their Government the best that was in them. When all other crafts of labor received increases in wages to help keep pace with the profiteering prices in the necessities of life the railroad men stood still; and further, the chief executives of the brotherhood organizations, on behalf of the men, gave assurance to the Government that during the period of war there would be no strikes or lockouts. The men kept that pledge. They made good. They labored with but one thought in mind—the success of their country's cause. After the record they made, after the loyalty and patriotism they manifested, railroad officials can not at this time besmirch that record or mislead the public.

Another thing. The railroad men of the country are not withdrawing from the service because of the 12 per cent reduction handed down by the board. Many railroads had served notice on the men that their schedules would be revised and rules for which they had long struggled would be taken from them. The railroad managements went too far; the decision of the board carrying the 12 per cent wage reduction was hardly handed down when the railroads wanted a further reduction and declared for another 10 per cent decrease. When the executives of the organizations, in an effort to prevent a strike, sought to secure assurance from the managers that if the 12 per cent reduction was accepted they would not attempt a further reduction, they were handed the ultimatum of a further decrease and taking away from the men rules and conditions that they had obtained after long years of endeavor. There was a spirit of conciliation, a spirit of friendliness on the part of the men and their representatives, but there was nothing but cold-blooded animosity on the part of the officials.

It has always been customary when a decision was handed down by a board to the managements and the men, that it was abided by, and the schedules were fixed for at least a year, but with the wage reduction of 12 per cent handed down by the board, there was no thought on the part of the railroads of contented acceptance. They wanted their pound of flesh; they began to plan for still more; they thought the time was ripe to take from the men all that they possibly could, regardless of right or justice, and it was this attitude on the part of the railroads which fanned the flames of discontent; and it is going to take bigger men, abler men, and better men than either Mr. BLANTON or the Foster to whom he refers to settle and adjust this situation.

The railroads say that future wage reductions will be passed on to the public in the way of reduced freight rates. No one will deny that the present high freight rates are a curse to the country and are largely responsible for the present business stagnation. The farmers of the country are helpless under them, and the railroads of the country holding on to war-time passenger and freight rates are not on tenable ground. In the first place, if the railroads were sincere in wanting to bring freight rates down, what a splendid opportunity they had to show their sincerity by lowering freight rates when the reduction in wages was handed down by the board. The railroad men want freight rates lowered; they know that business will be better when rates are lower, and they believe that the in-

creased volume of business under legitimate and reasonable freight rates would more than make up for any amount lost in the reduction of rates.

The people of this country are not going to be deceived as to the real issue involved. In to-day's Washington Post, Mr. Underwood, of the Erie Railroad, is reported as expressing the hope that a strike will actually occur; that this is the time and the place for it. This strikes the keynote of the whole situation. It is some of the railroad officials who desire the strike, and who exerted every effort to force one, in the hope that the organizations will be crushed.

Also the president of the Chamber of Commerce of the United States is quoted in the press as denouncing the threatened railroad strike as a cruel and unjustifiable attack upon the Government and the people. We would take this gentleman much more seriously if he had been as consistent in denouncing the railroad managements that refused to abide by the findings of the board or put into effect its decisions. We do not find him denouncing the Arkansas & Missouri Railroad, the Atlanta, Birmingham & Atlantic Railroad, the Erie, or the Pennsylvania, all of which refused to abide by the decision of the board. If the board is only to be used to operate against the men and compel them to accept its rulings and the railroads are in position to accept or reject them as may best suit their interest, then the board has outlived its usefulness and has proved a failure.

Just one thing more and I am done. I believe now that the limelight of publicity has been turned upon the railroads; now that the public realizes and understands that the railroad corporations are holding on to war-time freight and passenger rates, to the increases given by the Interstate Commerce Commission to take care of the increase in wages granted the men, that the demand and the hue and the cry for a reduction in freight rates will force a reduction. The railroads have gone too far, not only with their employees but with a patient public. They have come to the end of the lane. If a reduction in freight rates is brought about the credit will be due the railroad men who have forced it, and who have brought the matter to public attention and to a crisis. If their vote to strike brings this about they will have rendered a public service. [Applause.]

Mr. COLLIER. Mr. Chairman, how does the division of time stand?

The CHAIRMAN. The gentleman from Mississippi has at his disposal 26 minutes, and the gentleman from Iowa [Mr. GREEN] has 24 minutes.

Mr. COLLIER. Does the gentleman from Iowa wish to use some of his time?

Mr. GREEN of Iowa. I yield 10 minutes to the gentleman from Wisconsin [Mr. FREAR].

Mr. FREAR. Mr. Chairman, I am in favor of the extension of time that is granted to the emergency tariff bill. I do not care to discuss that further, but suggest to the House that it carries with it what is known as the dye embargo; and the reason for that extension is no reasonable protective tariff will be in existence until the passage of the Fordney tariff bill in whatever form it passes Congress. Ample protection will then be granted, based on evidence that is now being accumulated on the subject.

But I wish to discuss another matter connected with the dye embargo, and I ask the indulgence of the House for a moment, because it reflects upon the integrity of the House, upon the character of practically every Member, as I view it, no matter what his vote may have been when the bill was before the House. The Senate and House are both slandered, if a slander can be uttered by an individual.

To-day there was handed to me an article from a Boston paper under date of September 8. The headline is "Warn Congress of German plot. Garvan denounces foreign monopoly."

Let me say that I had never seen or heard of this article prior to its being handed to me. Mr. Garvan is quoted as saying—

After Francis P. Garvan, former Alien Property Custodian, had charged in an address that the German dye monopoly controlled certain Members of Congress and that German agents were once more plotting against America's security—

This article is nearly a column in length. Among other things, Mr. Garvan is reported to have said—

Their voices—

That is of Members of Congress—

are the voices of the elected Representatives and Senators in the American Congress, but the hands that manipulate them are the hands of the German Dye Trust, the most powerful monopoly ever formed by man.

In this category are included eminent Senators, ex-soldiers of the House, like Capts. FISH, FITZGERALD, WOODRUFF, and others, and men whose reputation will stand against the world, who were opposed to the dye embargo.

Mr. Chairman, rarely do I feel called upon to present to the attention of the House anything of this character, but every man here is under indictment because of the suggested weakness of this membership, particularly the 209 Members who voted against the iniquitous dye embargo, of whom 113 were Democrats and 96 were Republicans. The article does not name anyone, only make a contemptible charge, so far as I can find, but what Mr. Garvan says is just an echo of what has been said throughout the country by men who have been sent out by the dye interests as lobbyists, who have been speaking in every State, as they have in my own, and in my own district, arguing for this iniquitous dye embargo.

Mr. Chairman, every man knows that practically every interest wants an exclusive home market to-day. That argument has been urged upon the committee by every man who has a financial interest involved, but the dye embargo people are the only ones who have been able to hold up the American people and retain an exclusive monopoly of the home market.

I am not going to discuss this man Garvan. I could properly apply terms to him a good deal worse than he has applied to the Members of Congress, because he is known by his own testimony to be a public official who sold to himself at about 2 per cent of their actual value the 4,300 alien patents. This matter is to be investigated by the Senate, according to report, within a week or so. Let Mr. Garvan then name the men whom he charges with being in the employ of the German interests or any man who has been influenced by dye importers. I could charge men on this floor with being interested the other way, according to statements made me, but I never thought of so doing, because I believe Members try to act under their oath of office irrespective of personal interest. But here is a man defending the dye interests of this country and assailing those who venture to disagree with him. I have been opposed to the dye embargo for the same reasons as have the other 208 Members who aided in its defeat. Anyone can import textiles dyed from abroad, but they are not allowed to import the dyes into this market. No textile man ever approached me. No importer ever discussed the matter prior to the House vote. I was influenced by the fact that the American public were paying four prices for their dyes, and poor dyes at that, as was disclosed to the House, and I refused to be a party to that proposition.

Two of the companies that largely monopolize the dye business have aggregate assets of $560,000,000. When the bill was before the House these dye interests were swarming all around the corridors. Practically every Member of the House was importuned by them to vote for the dye embargo. What man asked you to vote against it? None I am sure. Every Member I believe acted in good conscience in voting against the embargo, and on his own judgment. It was a plain effort to stop the robbery and extortion committed by these dye people against the American public. This man Garvan is the chairman or president of the Chemical Foundation Co., and the Attorney General ought to prosecute the company and cancel their alien patent contracts. The facts have been made public and the thing smells to heaven to-day. Abundant testimony has been presented here in Congress to show it. I assume from what I have heard that hundreds of thousands of dollars have been spent in order to secure this dye embargo legislation. We know that over $100,000 was spent to procure the last dye embargo laws put upon the statute books. That fact was presented here to this House when you voted for it—over $100,000, as given in detail by a Senator. I ask this man to name to the Senate committee any man whom he designates as being under the control of the German dye interests, because when he does so he is a man of wealth, and then can be held responsible legally. We can not reach him otherwise. Any man can traduce public men for performing their duty, but if he is honest and believes in his charge he will make a statement specifically before the committee.

Now, I have nothing to say about this except that it is a contemptible subterfuge for such men to claim they are acting on behalf of the American people. They have wrapped the cloak of patriotism around themselves, hypocrites as they all are, and they demand in the name of patriotism you vote for their dye embargo that gives them an exclusive right to fleece the American public.

It is a wicked proposition, and when opposed they abuse Congress individually and collectively. When the investigation is started, as I trust it will be soon, Mr. Garvan's own testimony will place him where he properly belongs. For one, I do not believe a single Member of this House has been affected or importuned by a single importer, German or otherwise. I believe all acted on their own conscience honestly and fairly, and I repudiate the statement of Mr. Garvan and his associates who echo his statements, and I feel that every Member

of the House in justice to himself, whatever his vote may have been, will take the same position. [Applause.]

Mr. BURKE. Mr. Chairman, I ask unanimous consent to revise and extend my remarks in the RECORD.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. BARBOUR. Mr. Chairman, I make the same request.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. TREADWAY. Mr. Chairman, I make the same request.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. COLLIER. Mr. Chairman, how much time did the gentleman from Texas yield back?

The CHAIRMAN. The gentleman from Texas [Mr. HUDSPETH] yielded back one minute.

Mr. COLLIER. Mr. Chairman, the gentleman from Texas [Mr. HUDSPETH] agreed to yield a portion of his time to his colleague [Mr. BLANTON], and I now yield one minute to the gentleman from Texas [Mr. BLANTON].

Mr. BLANTON. Mr. Chairman, in my minute let me say that during the war, with our soldiers in the trenches of France, the railroad brotherhoods, by threats to tie up all railroads, forced Director McAdoo to pay them $754,000,000 annual increases and date it back six months on their salaries. And after he resigned, by the same death threat to tie up all railroads, they forced Director Hines to pay them first an additional $67,000,000 in annual raises and to date same back, and forced additional sums thereafter until the total annual increases they had forced from their Government during war time totaled a billion dollars. It was their Government they then threatened. And it was in war time. And it was their Government they forced to pay each time these enormous sums. That is the kind of loyalty they gave the Government during the war. And when the Railroad Labor Board was created, through like threats of a nation-wide tie-up, they forced from it $600,000,000 more.

Mr. COLLIER. Mr. Chairman, I yield 12 minutes to the gentleman from New York [Mr. LONDON].

Mr. LONDON. Mr. Chairman, I would have taken up the railroad situation if I could get myself to take the gentleman from Texas [Mr. BLANTON] seriously. When I asked for time I intended to talk on unemployment. There is no sadder tragedy than to be unemployed. For society to permit millions of men to be searching in vain for an opportunity to apply their energies to the creation of useful wealth and to deny to these millions the opportunity to live is nothing short of a crime.

If there is one thing certain about the accomplishment of the Republican Congress in the special session, it is this: When Congress met in special session there were 3,000,000 of unemployed and to-day there are nearly 6,000,000 of unemployed. The number has doubled. The statesmanship of the Republican Party is bankrupt, and as far as the Democrats are concerned they content themselves with criticizing the Republicans, but they offer nothing constructive. We hear again the same old nonsense about protection and free trade. It is sickening.

It is 100 years old, this discussion of yours. You seem to ascribe spots on the sun to protection and free trade. You attribute the eclipse of the moon to protection and free trade, and explain every phenomenon by protection and free trade; while the truth is—a truth which is known to every student of economics—that we have unemployment in countries with a high protective tariff and unemployment in countries with free trade.

During the war I asked for the appointment of a commission to study the problem of unemployment. I wanted the country to prepare for the contingency, which would come with the demobilization of the Army, to prepare for the day when 4,000,000 men would be brought back from the trenches and the camps who would need employment when the industries that had adapted themselves to the carrying on of war activities would necessarily collapse.

But I was the only one who urged that. I happen to be a Socialist, and the voice of the Socialist is a voice in the wilderness. What I said was true. All my arguments were based upon incontrovertible facts, and everything that has occurred since has justified my warning. In this Congress we do not hear a word about unemployment.

Gentlemen, just take the case of one individual. He is here, he lives, he looks for work. All doors are shut to him. A few days ago we appropriated $50,000 to honor the unknown dead. It was a matter of profound sentiment, and one can not quarrel with sentiment.

Ten days or two weeks ago a New York paper reported the death of a war hero, who had been decorated half a dozen times by the American Government and the allied Governments, whose body was taken to the morgue. There was no one to give him a decent burial. Only a few days after the body had been taken to the morgue a local post of the American Legion discovered the fact and interred the body with military honors. A few days ago we had the first case in New York of a death officially reported as due to starvation.

We have millions of men out of employment, and the old methods would not do. The soup-kitchen method would not work; the putting in jail would not work; there are too many out of work. We would have to construct too many jails.

The President's unemployment conference, at which he got together the leaders of industry and of helpless labor, under the clever management of that great diplomat, Hoover, has brought no results. His diplomacy consisted in reaching a unanimous agreement on unessential things and adjourning the conference when important and vital matters came up. All decisions were unanimous. They all agreed that this was the year 1921; they all agreed that it was the month of October, 1921; they all agreed that the weather was rather fine, and then adjourned. Not a thing of value has been done for the great mass of the workers. Where is Congress?

I have heard during the last four hours of this tariff debate talk about 12 cents, 18 cents, 87 cents for cattle, wheat, for peanuts, money, dollars, cents. You are evidently discussing economic problems of the country, evidently discussing questions of dollars and cents. You are evidently occupying your minds with developing trade and getting certain prices for certain articles for certain of your constituents.

What about the problem of getting a living wage for millions who work; what about that? What about helping to increase the opportunities of employment for the jobless? Oh, Congress has not been accustomed to dealing with these problems.

But, gentlemen, we live in extraordinary times. The world to-day is not what it was 10 or 15 years ago, and it can not continue to live as it lived 10 or 15 years ago. With the assertion by the great industrial masses of the right to live, with the assertion by the worker of his inherent right to live by work, a new interpretation of the principle of liberty has come into vogue. All freedom is worth nothing; all liberty is meaningless unless it means the liberty to earn a livelihood by honest toil, and where there is a denial of the right to work there is no liberty. Where millions of men are not allowed to work there is no democracy. I asked the Congress to apply itself to a solution of that problem——

Mr. BLACK. Will the gentleman yield for just one question?

Mr. LONDON. I wish I had more time, but I will yield to the gentleman for a short question.

Mr. BLACK. Probably the gentleman's time is so nearly consumed——

Mr. LONDON. What is the gentleman's question?

Mr. BLACK. The question I want to ask the gentleman is this: Does not the gentleman think that the amount of employment would be greatly aided by a real adjustment of prices, for instance, in the building trades? Does not the gentleman think a real adjustment taken on the part of members of the unions belonging to the building trades would start up building and relieve unemployment?

Mr. LONDON. That takes me away from the subject I was discussing. But I want to say in reply to the gentleman from Texas that his question is based upon the wrong assumption that wages are too high. In connection with this I commend to the gentleman an article in the American Economic Review, the September issue—last September—and the reading of an address delivered by Irving Fisher before our Committee on the Reclassification of the Civil Service. From those two articles the gentleman will see that in spite of an increase of money wages during the last decade the worker is behind, so far as real wages are concerned. By real wages I mean the purchasing power of the worker's earnings.

Of course, there are many palliatives; but I want you to take up the center of the trouble. I want you to address yourselves to the subject itself. I want you to get away from the idea that Congress is not called upon to tackle the problem of nonemployment. We can and we must take it up—whether by reducing the hours of labor, whether it be by loans to cooperative societies, or loans to municipalities, or loans to labor organizations, or loans to the individual—as somebody has suggested—or whether it be by the Government forming corporations in which the employer, the worker, and the Government shall have a voice, by organizing industries to be run by the Government so as to train and develop the workers to run their own industries and prepare the world for real democracy.

I am suggesting no panacea. I do not claim to be the source of all wisdom. I ask you to help solve the problem. I protest

against the indifference of Congress. I have suggested remedies in my previous addresses and resolutions dealing with this subject. Have you anything better to offer? Come out with it. The protective tariff is no longer an issue that divides your parties. There is no such issue. A good Democrat from Texas wants a tariff on cattle. On the other hand, a good Republican from New England, who is interested in free trade in certain articles, demands free trade. Do not tell me that the tariff divides the Democratic and Republican parties. As I said some time ago, a kindly Providence has distributed stupidity equitably between the two parties. The Almighty has been fair to both. [Laughter.]

What I protest against is the state of indifference to a problem of life and death to the people. [Applause.]

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. LONDON. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from New York asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. COLLIER. Mr. Chairman, I yield to the gentleman from Tennessee [Mr. GARRETT] the remainder of my time.

The CHAIRMAN. The gentleman from Tennessee is recognized for five minutes.

Mr. GARRETT of Tennessee. Mr. Chairman, for almost three years now the Republican Party has been in complete control of both the legislative branches of the Government. For eight months, practically, that party has been in control of both the executive and the legislative branches, and this measure this afternoon is the substance of its three years of effort and labor, to wit, a measure to extend the life of a measure which even when it was passed was a joke and which has since become the universal laughingstock of the Republic.

It is no wonder that that distinguished philosopher, Abe Martin, gives us this:

> At th' big git-t'-gether meetin' at Melodeon Hall last night Hon. ex-Editor Cale Fluhart spoke for almost a minute, confining himself closely t' th' wonderful record o' th' present Congress.

[Laughter.]

With a world in turmoil, confronted by conditions the most serious that ever confronted the human race; with our own Nation torn by dissension and threatened by economic ills, the most serious perhaps in the Nation's history, we find this party, this party of proud traditions, this party that has had its great leaders, this party which has been wont to boast that it possessed the only ability along the line of statecraft to be found in any party, stumbles and staggers through almost three years of legislative power and through eight months of complete power without a single measure designed to meet the aftermath of conditions growing out of the World War, without a single measure holding forth an idea of relief to a starving, suffering world and to a panic-stricken, frightened Nation, except this continuance of a poor, pitiful joke that was a travesty upon statesmanship and a shame upon any legislative body. [Applause on the Democratic side.]

Mr. GREEN of Iowa. Mr. Chairman, it is peculiarly refreshing, after the Democratic Party has been in power so long and has loaded upon this Nation a mountain of debt, a large portion of which was caused by the extravagance, waste, and incompetency of its administration, after it has wrecked our transportation system, after it has sown the seed of discontent and cultivated socialism all over the land, to have its leaders come in here when we are experiencing the aftermath of the greatest war the world has ever known and complain because we have not righted in eight short months the conditions that resulted from this world-wide conflict and their own misconduct. After eight years of ruin it is too much to expect that we will restore conditions in eight months. [Applause on the Republican side.]

The gentleman from Tennessee [Mr. GARRETT] says that this bill is a joke. It is a joke on the leaders of the Democratic side, that with all their denunciations of this bill they never have been able to keep about one-third of their Members from voting for it. If we on the Republican side play a few more such jokes on them there will be only leaders without any followers on that side.

Unfortunately the gentleman from Tennessee, like so many of the gentlemen on his side, is unable to follow with perfect accuracy what has occurred, and the difficulty, possibly, is accentuated because of the fact that if they narrated the proceedings just as they were they would not be so much in accord with their arguments. I do not know how many gentlemen in the course of this debate have asserted here that I said at the time of the original passage of this bill that prices of farm products would be advanced thereby. I said nothing of the kind, and I do not know of any other gentleman on this side who used any such expression. What I did say, and I think I know something about the bill, as being the one who originally introduced it, was that the purpose of the bill was to preserve for the American farmer the American market.

I said also that the gentlemen on the other side who wanted to take the responsibility of saying to the American farmer that he could not have the American market were welcome to vote against this bill if they choose to do so, but they would have the American farmer to reckon with. The American farmer produces more of the articles named in the act, which this bill extends, than is necessary to supply the American market. Why should he not have it? He belongs to no trust or combination. Indeed, it is not possible for the farmers to form one. Yet in this hour of distress for the farmer, when it appears that the evil effects of the war strike the farming population first and hardest of all, our Democratic friends are not willing even to grant the farmer the advantage of the American market.

Mr. BANKHEAD. Will the gentleman yield for a question?

Mr. GREEN of Iowa. I yield to the gentleman from Alabama.

Mr. BANKHEAD. The gentleman has not quoted himself to the full extent of the promises he made about this bill when he was advocating it. In his remarks upon the original passage of the bill he said the purpose of it was not only to preserve the American market for the American farmer, but to prevent the ruinous decline in the value of farm products, which had been and is still going on.

Mr. GREEN of Iowa. Yes; to prevent wheat going down to 65 cents a bushel, as it was just before the war in my own district under a Democratic administration. [Applause.] That was the purpose of the original act and the purpose of this bill.

Mr. BANKHEAD. Did it prevent the price of wheat from going down after the passage of the bill?

Mr. GREEN of Iowa. It has not prevented the decline of wheat, and I did not say it would. I said the object was to prevent the absolutely ruinous effect of the then existing conditions. Here were the conditions at the time when this bill was enacted: Millions upon millions of pounds of wool had accumulated during the war and were seeking a market in this country. The woolgrower absolutely could not get a bid on his wool; could not get an offer of any kind. Millions upon millions of pounds of meat had actually come from abroad and was stored in this country and sold for almost any price, while the American farmer sent trainload after trainload of sheep into Chicago and got returns so insignificant that it was said he might better have fed them to his hogs. That was the situation which existed at the time this bill was enacted. Has it been bettered? Ask any cattleman of the West. Ask any sheepman of the West. Ask any woolman whether the same conditions prevail to-day. There is a wool market now; there was none then.

We have not been able to prevent the decline of corn, owing to the fact that there have been raised three enormous nation-wide crops one after another; three in succession each amounting to over 3,000,000,000 bushels. But do gentlemen upon the other side say that because corn is down to its present price they want to take away what market the American farmer has, or to take away any portion of it? We on this side do not. We say that the conditions which have been forced by this extraordinary recurrence of three-billion bushel crops of corn are such that the American farmer needs all the demand and every market that there is here. The gentleman from Arkansas [Mr. OLDFIELD] never spoke a truer word than when he said that the whole test was the market; that the question of price was determined by the condition and extent of the market. Then why not give the American farmer the American market in its entirety? What answer has the gentleman from Arkansas to make to that? Why should we take away from the farmer any of the home market that by right belongs to him and give it to some one in foreign countries who raises his product on cheaper land by cheaper labor?

Mr. Chairman, the attacks on this bill are on a plane with those that have been made against the proceedings of the present administration. Time and time again we have heard on this floor the statements that the Republicans promised that if they got in there would be good times at once, and that business would immediately flourish. On the contrary, the Republican platform stated expressly that nothing of that kind could be expected. It warned the country that "there is no short way out" of the difficulties into which the war and Democratic incompetence had plunged us. We have heard talk about Republican orators going through the land promising better con-

ditions immediately upon the Republican Party taking charge. No such issue was raised and no such promises were made. We did say that we would stop the waste that was going on, and we have stopped it. We did say that we would reduce expenditures, and we have reduced. We could reduce them still more if we were not every day encountering some enormous charge created by the Democratic Party like the railroad indebtedness or the Shipping Board deficit.

Mr. BLACK. Will the gentleman yield?

Mr. GREEN of Iowa. I yield to the gentleman from Texas.

Mr. BLACK. I recall one specific promise that the gentleman made and that Republican orators made, that taxes would be reduced. I suppose the gentleman contends that that promise has been kept, does he?

Mr. GREEN of Iowa. It has been kept so far as this House is concerned, and the gentleman knows that, or ought to know it.

Mr. BLACK. Republicans are in control of the other end of the Capitol also, are they not?

Mr. GREEN of Iowa. Oh, well, is the gentleman going to give the Senate no time for that purpose? We have heard the attacks on the tax bill here to-day. The fact of the matter is that the bill that we put through the House increased nobody's taxes, and reduced the taxes of practically every man in the whole country. Does the gentleman from Texas object to the bill for that reason? Does he claim that the Republican Party, so far as this House is concerned, did not pass that bill with reasonable dispatch, or does he claim even that the Senate has not had its time occupied with important business? The revenue bill will be passed in due time. The gentleman need not trouble himself about that; and this bill will pass by an overwhelming majority. [Applause.]

Mr. Chairman, the original farmers' emergency tariff act, which this bill extends, not only saved from sacrifice and destruction the herds of cattle and sheep of the West and Southwest, but also saved their banks from insolvency. It prevented the wheat growers of the Northwest being overwhelmed by the flood of wheat that was coming, it benefited the potato growers of Maine and Colorado, the lemon producers of California. It saved the beet-sugar factories from bankruptcy. It has everywhere been a help to the farmer by giving him a broader market for his products.

These are no empty assertions. A cloud of witnesses—bankers and business men, as well as farmers—can be brought to prove them. To let this act lapse before the complete tariff bill is passed would be a crime against the farmer. The Republican Party will never be guilty of such an injustice and folly.

The CHAIRMAN. The time for general debate under control of the gentleman from Iowa [Mr. GREEN] has expired. The Clerk will proceed with the reading of the bill.

The Clerk read as follows:

Be it enacted, etc., That Titles I and V of the act entitled "An act imposing temporary duties upon certain agricultural products to meet present emergencies and to provide revenue; to regulate commerce with foreign countries; to prevent dumping of foreign merchandise on the markets of the United States; to regulate the value of foreign money; and for other purposes," approved May 27, 1921, shall continue in force until February 1, 1922, unless otherwise provided by law.

Mr. NEWTON of Minnesota. Mr. Chairman, I have an amendment which I desire to offer.

The CHAIRMAN. The gentleman from Minnesota [Mr. NEWTON] desires to present an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. NEWTON of Minnesota: Page 1, line 10, after the word "law," strike out the period and insert a semicolon and the following: "*Provided*, That this shall not apply to item 3 of title 1, reading as follows:

"3. Flaxseed, 30 cents per bushel of 56 pounds."

Mr. LONGWORTH. I make the point of order that the amendment is not in order, being in violation of paragraph 3 of Rule XXI.

Mr. NEWTON of Minnesota. Mr. Chairman, I should like to be heard on the point of order.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. NEWTON of Minnesota. Mr. Chairman, if I understand the measure correctly, the bill before us seeks to continue the terms and provisions of the emergency tariff act—not all of those terms and provisions, but a portion of them. The emergency tariff act passed May 27, and Titles I and V are set forth therein and are referred to specifically by the bill. Now, the bill before us refers to the emergency act as far as Titles I and V are concerned, and provides that Titles I and V shall continue in force until February 1, 1922, unless otherwise provided by law.

If this bill becomes a law, it continues in full force and effect each and every provision of the schedule set forth in Title I and it continues the provisions in Title V. It does not disturb or change other portions of the bill. The amendment I offer takes away the continuing force and effect of a portion of Title I, to wit, item 3, which is the flaxseed schedule.

I submit to the Chair that this is a revenue measure that is now before the House. It is an attempt to extend the provisions of a portion of a revenue measure. My amendment seeks to restrict the continuing force of one of those items. It seems to me that this amendment is in order. To rule otherwise is to rule that as to a measure extending the terms of a tariff bill that the House is prohibited from making any change therein.

The CHAIRMAN. Does the gentleman's amendment refer back to the tariff act that is in force?

Mr. NEWTON of Minnesota. It does. My amendment, if the Chair will notice, refers to item 3 of Title I in the emergency tariff act, which is continued in force in the bill before the House. Now, if we have the right to continue in force Title I and not to continue in force other portions of the bill, certainly a Member of the House has the right to move to strike from its continuing provisions one item of that title. That is all that my amendment seeks to do. It is not the insertion of a new item. It is not placing a new item on the dutiable list. It acts as a repeal, so to speak, of the item in question under the terms of the emergency tariff law after November 27, when that act ceases to exist by limitation of time.

I submit, Mr. Chairman, the amendment is in order.

Mr. LONGWORTH. Mr. Chairman, paragraph 3, Rule XXI, with which the Chair is familiar, provides:

No amendment shall be in order to any bill affecting revenue which is not germane to the subject matter in the bill, nor shall any amendment to any item of such bill be in order which does not directly relate to the item to which the amendment is proposed.

That rule was adopted in 1911. The construction of it has been uniform by all occupants of the chair, all going in the direction of strengthening the provisions of the rule. I take it that the amendment, if it were germane to the bill, would be an actual change in the text of the existing law, but clearly in a bill which simply provides for the lengthening of the term from November 27 to the 1st of February of the next year—clearly to that provision an amendment which takes the duty off of flaxseed is not germane. If it were germane to the provisions of the bill at all, it would not be germane to this paragraph, which simply extends the limit of time.

The CHAIRMAN. What does the gentleman from Ohio say to the argument that this is a bill which provides for the extension of the duties on certain articles and fixing the time when those duties shall cease? This proposed amendment selects out one of those articles, giving it an exceptional position; is not that according to the ruling made by the gentleman from Kansas [Mr. CAMPBELL] on the 12th of April last? That ruling was that a general subject may be amended by a specific proposition of the same class. An amendment taking away from a general subject a specific item is germane.

This brings to an end at a certain date one of the duties specified in the amendment.

Mr. LONGWORTH. To me there is a clear distinction. I recall the case which the Chair has cited, because I think I made the argument to uphold the point of order and was overruled. But in that case it was a general tariff bill and it was simply a limitation on a rate of duty affecting a certain class of wheat. But here the practical effect of the amendment offered by the gentleman from Minnesota would be to add to the existing free list another item, to take away from the tariff bill which places a duty on a specific article one item and add it to the free list. It has been repeatedly held in cases which deal with articles on the free list that it is not in order to move that another article be added to it.

Mr. WALSH. Will the gentleman yield?

Mr. LONGWORTH. Yes.

Mr. WALSH. If, instead of reporting this resolution, the Ways and Means Committee had reported the original emergency tariff act by paragraphs and schedules, would the gentleman contend that an amendment to strike out schedule 3 would not be in order?

Mr. LONGWORTH. No. It would be in such a case in order to strike out the text.

Mr. WALSH. But the gentleman's motion does not involve adding anything to the free list.

Mr. LONGWORTH. It is adding a provision, simply prolonging the time of the existing law, that it shall not apply to a certain specific article named in the law the effect of which is to change the law in regard to this particular item. It does not seem to me that it is germane to the bill, and certainly not to this item which the House is now considering.

Mr. STAFFORD. Is the bill under consideration any different whatsoever than if the committee had reported Titles I

and V in extenso, as just suggested by the gentleman from Massachusetts? What is the purpose of this bill? It is to extend Titles I and V, and by reference to the original act Title I is found to include flaxseed at 30 cents per bushel of 56 pounds. Suppose the committee, and it is merely a matter of form, had reported this bill providing that Title I, consisting of such and such—wheat at 35 cents per bushel; wheat flour, seminola, 20 per cent ad valorem; flaxseed 30 cents per bushel of 56 pounds, and so forth—and Title V, describing it at length as embodied in the emergency tariff bill, would the gentleman contend that this committee would not then have the right to strike out any of the items?

Mr. LONGWORTH. I would not contend that where a general tariff bill is before the House it is out of order——

Mr. STAFFORD. But this is not a general tariff bill.

Mr. LONGWORTH. Of course it is.

Mr. STAFFORD. This is a bill extending the time of certain titles of the emergency tariff act, which includes certain specific duties on certain subjects, and instead of stating them in extenso, as a matter of convenience, because it can be referred to readily by getting the original act, the framer of the bill says that Title I, describing it definitely, shall be extended. What is Title I? The Chair would always have the right to refer to Title I. We find that Title I contains, in paragraph 3, flaxseed at 30 cents per bushel of 56 pounds. It is within the power of any member of the committee to except some portion of Title I. We are not broadening it, as contended by the gentleman, but we are excepting it, striking it out. It is within my power to eliminate Title I. I may be recognized to move to strike out Title I, and it would be in order, and why not? Has it ever been held in the history of legislation in this House that a motion to strike out a certain part of a bill is not in order? If it is in order to strike out the whole, it follows that it is in order to strike out a part.

Mr. KELLEY of Michigan. Mr. Chairman, it seems to me that the only purpose of this bill is to change the date when the emergency tariff law ceases to be operative. There is nothing else involved in this bill, and any other proposition such as that presented by the gentleman from Minnesota [Mr. NEWTON] would not be germane. The only proposition before the House is one of time.

The CHAIRMAN. The Chair would suggest to the gentleman from Michigan that there may be a different time at which the provisions of the bill would become inoperative.

Mr. KELLEY of Michigan. This bill changes the date of the expiration of an existing law. It does not change the existing law in any other particular than as to the time when it shall cease to operate. The gentleman from Minnesota [Mr. NEWTON] seeks to change the text of the existing law in an entirely different particular, namely, by changing an item from the dutiable to the free list. Therefore, it would not be germane to this bill.

Mr. STAFFORD. Mr. Chairman, will the gentleman yield?

Mr. KELLEY of Michigan. Yes.

Mr. STAFFORD. Does the gentleman contend that we are not privileged to make a motion to strike out Title I if we see fit?

Mr KELLEY of Michigan. A motion to strike out any language in this bill would, of course, be in order, but——

Mr. STAFFORD. Oh, I put the question to the gentleman. Does the gentleman contend it is not within the power of any Member to move to strike out Title I?

Mr. KELLEY of Michigan. If the gentleman will permit, I shall answer in my own way, that this bill has a definite, specific purpose, namely, to change the date when a certain act shall cease to operate. Any proposition involving considerations other than the time when that act shall cease to operate can not be incorporated in the bill. The effect of the amendment of the gentleman from Minnesota is to change the duty on a certain item in the emergency tariff act.

Mr. STAFFORD. Does the gentleman mean to say that it is not germane to strike out Title I?

Mr. KELLEY of Michigan. Any language contained in this bill may, of course, be stricken out, but new language can not be incorporated if it relates to anything except the time when the emergency tariff act ceases to be effective.

Mr. STAFFORD. Oh, the gentleman forgets that we are operating under the general rules of the House and not under a special rule reported by the Committee on Rules.

Mr. WINGO. Mr. Chairman, my friend from Michigan is usually a pretty clear thinker, but in this instance he is confused. He says the only thing this bill does is to extend the time and that an amendment proposing a change in the law is not in order. That is true, but the amendment does not change the law either in substance or time. The change proposed in the law is not the proposed amendment, but the pending bill. The existing law provides for expiration at a specific date. The pending bill seeks to amend the law by an amendment with reference to the date, and instead of undertaking to set out in extenso the whole bill, it refers to it in a proper way and en bloc. Now, it is conceded that if you had introduced the original bill in extenso, with the only proposed change an expiration date different from the original, then it would have been in order to move to strike out the title, which is affected by the amendment challenged by the point of order. The amendment offered does not change existing law. It seeks to prevent a change in existing law as to one item. It says that the present law shall stand as to a certain item, and that the change proposed in the law by the pending bill shall not apply to that item.

Mr. KELLEY of Michigan. Does the gentleman think that in this bill it would be germane to change the rate of duty on any item in the law?

Mr. WINGO. No.

Mr. KELLEY of Michigan. That is the effect of this proposition. The effect of it is to change the rate of duty on a certain item by putting on the free list an item now on the dutiable list.

Mr. WINGO. Oh, no. If the amendment is adopted, the law now existing will stand as to the item in question until the date of expiration fixed by existing law itself. The effect contended by the gentleman from Michigan [Mr. KELLEY] results from the operation of existing law, if unchanged, and not from the amendment offered to the pending bill to amend the law by changing the date of its expiration.

The gentleman's amendment is not to change the rate. The only proposal pending is the time; that is the thing proposed in this bill, and by this amendment to the bill it is proposed that this extension of time shall not cover one specific item. The bill changes the law. The proffered amendment exempts a certain item from that proposed change, leaving existing law intact in that particular respect.

The CHAIRMAN. While the Chair does not consider this question free from doubt, he overrules the point of order.

Mr. NEWTON of Minnesota. Mr. Chairman and gentlemen, I have offered this amendment for the purpose of correcting a manifest mistake and undoing a grievous wrong to two great American industries—the growing of flaxseed and the manufacturing of linseed oil, its principal product.

On May 27 the emergency tariff bill became a law. Its provisions expire November 27. This bill seeks to extend the time of its operation to February 1 next. Among its provisions is item (3) of Title I, placing a duty of 30 cents per bushel on flaxseed. This involves an increase of 10 cents per bushel over existing rates. No compensatory duty was made upon linseed oil. This was a mistake and was freely admitted as such when the bill passed the House. I do not think that there was an appreciation of the consequences on the part of either side of the House, notwithstanding my efforts to place those consequences before you.

It is an axiom of sound protective tariff making that a duty on a raw product should be accompanied by a compensatory duty upon the manufactured article from that raw material. Otherwise of what benefit is it to the producer of the raw material to be protected from the imports of raw materials if the material, instead of arriving in the raw state, comes in in the form of the manufactured article? Protection upon the raw material is to afford to the producer thereof an opportunity to sell his product in the home market to the user of that material.

This axiom was grossly violated in the flaxseed schedule. We increased the duty upon flaxseed 50 per cent and made no increase in the duty upon linseed oil. The effect has been to close our linseed-oil mills and to thereby close the home market to American flax growers.

For years the flax grower of this country has enjoyed protection. One bushel of seed will yield 2½ gallons of oil. A duty of 30 cents per bushel, therefore, should carry at least 12 cents per gallon duty.

Then there is the difference in foreign and American labor. As to this difference I submit the following figures.

The following comparative rates of wages per hour are computed on a gold basis of exchange as of May 14, 1921:

	United States.	England.	Holland.	Germany.
	Cents.	*Cents.*	*Cents.*	*Cents.*
Pressmen and molders	50	31.289	24.8	9
Unskilled labor	40	29.795	22.8	7
Dock labor at entry ports	80	41.458	34.4	.....

For years it has been the practice to accompany flaxseed duties with compensatory duties on oil. Note the following:

McKinley bill, 1890: 30 cents per bushel on seed; 32 cents per gallon on oil.

Wilson bill, 1894: 20 cents per bushel on seed; 20 cents per gallon on oil.

Dingley bill, 1897: 25 cents per bushel on seed; 20 cents per gallon on oil.

Payne bill, 1909: 25 cents per bushel on seed; 15 cents per gallon on oil.

Underwood bill, 1913: 20 cents per bushel on seed; 10 cents per gallon on oil.

It will be observed that the duty upon oil has been gradually decreased. With what effect? These figures, anyway, will be interesting. The average flaxseed acreage in this country has been as follows:

	Acres.
1902–1909, inclusive	2,750,000
1910–1913, inclusive	2,591,000
1914–1920, inclusive	1,684,000

Every reduction in the compensatory duty has been accompanied by a reduction in acreage. An increasing number of farmers have apparently found it more profitable to sow less flax. The average decline in 20 years is 38 per cent.

During this same period the requirements of this country for oil has increased from about 40,000,000 gallons annually to about 70,000,000 gallons, or 75 per cent.

In 20 years we have changed from an exporter of flaxseed to an importer. With further decrease in flax acreage we will do more and more importing.

In the face of this situation this Congress passed the emergency tariff bill, and it is now being asked to perpetuate the wrong. Wrong and mistake? Yes. The new tariff provides for 25 cents per bushel on the seed and 2½ cents per pound, which equals 18¾ cents per gallon on the oil.

Then why not correct it? Let me cite the history of this legislation. The emergency tariff bill passed the House during the Sixty-sixth Congress. The duties on flaxseed and linseed oil remained unchanged. It was reported out in the Senate with that schedule unchanged.

On the floor of the Senate flaxseed was inserted with this 50 per cent increase in the duty. Apparently no thought was given to linseed oil. The conferees on the part of the House could not induce the Senate conferees to recede, and the House conferees were prohibited by the rules of the House from inserting a new item, to wit, linseed oil, in the bill. The bill therefore went to the President in the closing days of the last Congress in that form and was vetoed. It was reintroduced in this Congress, mistake and all. We were told in the House that the bill must go through as prepared; that the Senate would not stand for a single amendment.

Mr. GREEN of Iowa. Will the gentleman yield? It was impossible to change this, because there was no duty on oil in either bill.

Mr. NEWTON of Minnesota. The House, after argument, passed the bill as it had been reported. The Senate took its time to debate it and amended one portion of the bill by striking out the House provision and rewriting it. The bill then became a law, mistake and all. In July the House passed the new Fordney tariff bill with flaxseed at 25 cents per bushel and 18¾ cents per gallon for oil, thereby acknowledging the error. This new tariff measure can not become a law until next spring. It is proposed to continue the emergency tariff law. This can be done and without continuing the mistake as to linseed oil and flaxseed.

What has been the effect of this mistake? I made certain predictions at the time, quoting from a telegram from one of our large linseed mills in Minneapolis. It was claimed that this discrimination against the manufacturers would result in closing down the mills. That has happened. Let me read from several wires and letters setting forth the situation:

MINNEAPOLIS, MINN., *October 6, 1921.*

WALTER H. NEWTON,
House of Representatives, Washington, D. C.:

It is admitted that an error was made in the passage of the emergency tariff bill, as the tariff on linseed oil was not made commensurate with the tariff on flaxseed. This has placed foreign manufacturers in a position to sell linseed oil in the United States for 10 cents per gallon below the cost of American manufacture. Foreign crushers are taking advantage of the situation by selling enormous quantities of oil in this country, and the volume of such sales is increasing constantly. Our mill is closed down and we see no hope of resuming operations until this defect in the emergency tariff is remedied. Prompt action on pending tariff bill necessary to prevent annihilation of linseed crushing industry with consequent addition to the large number of unemployed and immense loss to farmers raising flax.

MINNESOTA LINSEED OIL CO.

—

MINNEAPOLIS, MINN., *October 6, 1921.*

Hon. WALTER H. NEWTON,
Washington, D. C.

DEAR SIR: The duty on linseed for many years has been 20 cents per bushel to encourage the home production in our Northwest, where a variety of crops can not mature. A duty of 10 cents per gallon was placed on linseed oil to further protect the farmer and manufacturer. The emergency tariff bill advanced the duty on linseed to 30 cents per bushel and no advance in the duty on linseed oil. This condition enables the European manufacturer to lay down oil in our seaports at from 10 to 15 cents per gallon less than American cost, closing our oil mills and discharge of workmen.

Within 60 days our seed markets have declined 40 to 50 cents per bushel. Last week's importation of foreign oil was about 10,000 barrels, causing reduced demand on our farmers of 200,000 bushels of seed.

Can anything be done promptly to improve this unfortunate condition?

Very truly, yours, ARCHER-DANIELS LINSEED CO.

—

MINNEAPOLIS, MINN., *October 15, 1921.*

Hon. WALTER H. NEWTON, M. C.,
Washington, D. C.

DEAR SIR: A copy of your telegram to the Midland Linseed Products Co., Minneapolis, has been mailed to us.

Our plant located in Minneapolis has not been in operation for the past five months, due to the fact that foreign oil can be shipped into the United States on a 10-cent-a-gallon duty and sold here for about 10 cents per gallon less than we can figure cost based on the Minneapolis market price for cash flaxseed.

This oil, principally from England and Holland, is made with cheaper labor cost, has been sold to trade which we have had for years. Several thousand barrels each week, according to the trade journals, have been landed in New York, and we have also been obliged to abandon our trade at California coast points, where foreign oil has been received in large quantities.

The present market price of bulk raw linseed oil is 64 cents per gallon f. o. b. Minneapolis or Chicago, and is lower than any price quoted since 1917. In the year 1919 sales were very large and the price reached $2.15 per gallon, so that the present comparatively low price can not be construed as affecting building operations.

The price of linseed oil is based on the price we have to pay for the flaxseed and what we receive from the by-product—oil meal. The lower the price of oil the cheaper flaxseed must necessarily be, and farmers in this country who formerly raised our requirements of 20,000,000 to 30,000,000 bushels have only, according to the opinion of crushers, a crop this year of 6,000,000 or 7,000,000 bushels. They are fast coming to the opinion that if they are not to be protected by a tariff on oil high enough to offset the 30 cents per bushel duty which American crushers are obliged to pay that the price of flaxseed which they raise in the United States will necessarily decline, and much lower prices on the seed will cause American farmers to discontinue entirely the sowing of flaxseed.

With the American crusher obliged to pay a duty of 30 cents per bushel on flaxseed and no duty on seed shipped into England and Holland you can readily see how foreign oil can be shipped into the United States where there is only a duty of 10 cents per gallon on oil.

Crushers have invested millions of dollars in the linseed-oil industry, and unless speedy action is taken on the pending tariff bill to relieve this deplorable condition it will mean the destruction of the industry, the discontinuance of the flax crop, and the unemployment of thousands of men.

Yours, very truly,

NORTHERN LINSEED OIL CO.,
By L. M. LEFFINGWELL, *President.*

Before this bill was passed these mills were operating and were buying hundreds of thousands of bushels of American-grown flaxseed. Now they are closed and are buying nothing. In this way we have "protected" the home market for the farmer with a vengeance.

The price of flaxseed is practically the same in Minneapolis that it was in January. I quote from figures furnished by the Bureau of Markets. In January it was $1.96 per bushel. The average for September was $2.03, and the average for June, July, August, and September—the period of the emergency tariff—was $1.95.

The receipts in Minneapolis during this same period for 1921 and 1920 are as follows:

	Bushels.
1920:	
June	522,000
July	554,000
August	297,000
September	580,000
	1,953,000
1921:	
June	571,000
July	380,000
August	289,000
September	502,000
	1,742,000

The decrease averages 50,000 bushels per month.

The average price for the 10-year period 1910–1920 was $2.67, as against an average of $1.95 per bushel under the emergency tariff act.

Now as to the country at large. During the period June, July, and August, 1920, we imported 5,805,200 bushels of flaxseed. During those same months in 1921 we imported but 3,553,209 bushels. During the same months of 1920 we imported 1,239,503 gallons of linseed oil. During the same period of 1921 we permitted to enter 1,556,063 gallons, an increase of over 325,000 gallons, or over 100,000 gallons per month.

The CHAIRMAN. The time of the gentleman has expired.

Mr. NEWTON of Minnesota. I ask to proceed for three more minutes.

The CHAIRMAN. The gentleman from Minnesota asks unanimous consent to proceed for three additional minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. NEWTON of Minnesota. Surely this is a poor way to aid the farmer. What he needs is a market. We have deprived him of one, and we are being asked to continue it.

What a situation! Nobody defends this schedule. All condemn it. We are told that "we can not help ourselves." Think of it! We, the Representatives of the people, charged with the responsibility of initiating tariff legislation, not being able to correct a mistake, to rectify a wrong made in the first instance inadvertently by another legislative body. We can correct it. This amendment will correct it. By doing so we will open up our mills, decrease unemployment, and give to the farmer of the Northwest the home market of which we deprived him. I urge you not to perpetuate this wrong and injustice, but gladly acknowledge our mistake.

Mr. FORDNEY. Mr. Chairman and gentlemen of the House, this is the second effort that has been made by my good friend from Minneapolis [Mr. NEWTON] to have inserted in the emergency tariff bill a duty on flaxseed oil.

Mr. GREEN of Iowa. He has got it just the reverse now. He now asks you to strike it out.

Mr. FORDNEY. No. He asks you to have flaxseed placed on the free list.

Mr. NEWTON of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. FORDNEY. The Underwood tariff law puts 20 cents duty on flax and 10 cents a gallon duty on flaxseed oil. My friend from Minneapolis is willing to go the Democrats one better and put flax on the free list. I am not willing to go with him that far.

Mr. NEWTON of Minnesota. The gentleman has entirely misquoted me, although the error is made not through design. My amendment struck out the item of flaxseed, and I said I would not offer that if the rules of the House would permit me to add a compensatory duty on the oil. I still stand by that.

Mr. FORDNEY. In the Underwood law there is a duty of 20 per cent on flaxseed and a duty of 10 cents a gallon on flaxseed oil. If we change the duty on flaxseed oil we should have to change the duty on every article that contains flaxseed oil, paints and other items all down the line. We have corrected this error in the regular tariff bill.

Mr. NEWTON of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. FORDNEY. I yield.

Mr. NEWTON of Minnesota. The gentleman says he would have to correct the item of paints. But if I remember correctly, paints and other products of that kind are not involved in the emergency tariff bill.

Mr. FORDNEY. Well, but if you changed the duty on the product out of which those things are made you should also change the duty on the finished article.

Now, you say we have destroyed the market for the farmer's flaxseed. How have we done it? We have not done it at all. In the emergency tariff bill the Senate put on a provision to increase the duty on flaxseed above the rates in the Underwood tariff law, but failed to change the rates of duty on flaxseed oil. We have not at all impaired the market for flaxseed in this country to the farmer.

The gentleman from Minnesota speaks of the flaxseed oil producers being out of business. There are many other industries in the country that are out of business, but not because of the emergency tariff bill. There are 2½ gallons of flaxseed oil produced from 56 pounds of flaxseed, and under the existing law the duty of 10 cents a gallon or 25 cents a gallon for the oil produced from a bushel of flaxseed, with a duty of 20 cents in the Underwood law and 30 cents a bushel in the emergency tariff bill.

Now, gentlemen, if you have any hopes of extending this emergency tariff bill until the regular tariff bill is enacted into law we want to send it out of here just as it has been written and is now on the statute books. It is unfair to change the duty on one item just to please the people up in Minneapolis, Minn., without taking care of everybody else all down along the line.

This amendment must fail, or we are going to put this bill out of joint, and God knows whether or not we will get it into law before the 27th day of November next. I hope the amendment will not prevail. [Applause.]

Mr. WINGO. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Arkansas moves to strike out the last word.

Mr. WINGO. I desire first to submit a few observations to my Democratic friends. We have here a practical illustration of the confusion that results when the distribution of special tax favors gets out of joint and one of the beneficiaries gets left out.

Our genial friend from Minnesota [Mr. NEWTON] got caught in a parliamentary "squeeze" in the passage of the emergency tariff bill, which is now sought to be extended. You have heard the Republicans admit, as they admitted then, that the gentleman was correct in his contention, but your excuse was that because linseed oil was not included in the bill as it passed the House, or as it came from the Senate, therefore the conferees had no jurisdiction over it, and they could not give the gentleman the compensatory duty on oil to match the increased rate on flaxseed, the raw material. In other words, whenever you seek to help the farmer in a tariff bill and attempt to give the farmer a little pap, they always reserve the right to pile up a little bit higher on the tax-burdened shoulder of the farmer pap given to the manufacturer in the form of a compensatory duty on his finished product. Now, for the reason given they could not give the manufacturer in Minneapolis this pap in the form of a compensatory duty; he contends he is ruined and put out of business and can not employ American labor, and so on, ad infinitum, ad nauseum, with the whole plaintive song that is usually sung to soothe the consumer and make him believe that a tariff tax so as to enable the manufacturer to charge him, the gullible consumer, a higher price is for his, the consumer's benefit, and that a tax burden is a benefit and not a burden. But the gentleman from Michigan says it will not do to put flaxseed on the free list, as he accused the gentleman from Minnesota with doing by his amendment, because it would reduce the price received by the producer; and, according to Brother FORDNEY, the foreigner pays the tax and why should the manufacturer of linseed oil complain; but the manufacturer knows better and howls that he and not the foreigner pays it, and by not giving him a compensatory duty on oil equal to the duty he, not the foreigner, pays on flaxseed, out of which the oil is made, he is unable to pass the tax on to the consumer who buys oil to mix into paint to apply to his barns and houses.

That is the sin of the gentleman from Minnesota—he refuses to be deceived by the assurance that the foreigner pays the tax. His constituent knows better and refuses to accept that "bunc," and insists that inasmuch as he was not by law given the usual device, a compensatory duty, by which he can pass the tax on to the consumer that he be relieved from further payments. Of course, if you had not blundered, but had given him the right to pass it on to the farmers in increased cost of linseed oil, he would have never worried his Congressman, but have swelled the chorus of acclaim that the way to help the farmer is to increase the tariff tax, even though it increases the cost of things he buys.

There is some logic, although it is a false logic that deceives the consumer, in this question of compensatory duties; but if you adopt the amendment of the gentleman from Minnesota the question of a compensatory duty does not come in, because you are decreasing the rate on the raw material, thus making possible a reduction, not an increase in costs of production; and at this time, when you promised that you would increase or hold up the high wages for the American workingman and at the same time decrease the cost of building homes—here you have a practical opportunity to decrease costs to the American laborer and the American farmer, if you want to, by giving them cheaper ingredients for the paints with which they paint the farmer's barn and the laborer's cottage. But my genial friend from Michigan [Mr. FORDNEY] protests against it because it would "disrupt" and "get out of line" this intricate, nice, "scientific" structure called the American tariff, designed in one breath, he says, for the benefit of the American manufacturer, and in the next he says for the benefit of the consumer, and in the next he says for the benefit of the laborer; and now, when the farmer is in terrible shape, it is designed for his particular benefit, because he says it will "broaden his market." It is their happy cure-all prescription for every ill with which any class or any man may be afflicted at the passing moment. Cure every economic ill by increasing taxes. That is the prescription of Dr. FORDNEY.

Now, if the Republicans are sincere in wanting to decrease the cost of construction and the cost of repairs, and want the opportunity to let the poor old farmer get a little cheaper paint for his barn, for God's sake help your colleague out of the hole here. He got caught in the mesh of the incompetency of the Republican leaders he trusted. You Republicans did not treat him right.

I am ashamed to see any young, unsophisticated Member take the word of the Republican leaders and get "raped in the house of his friends," as did my young friend from Minne-

sota. He must come up for election again next fall. This is a political bill, and for God's sake do not leave him out. [Laughter.] Take care of our genial friend from Minnesota. Do not leave him out in the cold. Do not kick him out.

Mr. FORDNEY. Is the farmer complaining?

Mr. WINGO. The truth of the business is the farmer was hoodwinked last fall into taking your promise that you would pass a tariff bill that would cure everything at once and also reduce taxes at once. You have done neither. You passed a "bunc" political fraud called an emergency tariff bill to relieve the farmers' "emergency," but the emergency having failed to emerge and the Republican leaders facing a political "emergency," are bringing forth another dose of the original "emergency" prescription, again assuring the farmer it will cure him of all his economic ills. He is still taking the promise, and is led by the hope that is held out to him to-day by the gentleman from Iowa that "We Republicans can not do everything in eight months. Give us more time." But you had better accept the gentleman's amendment and let the farmer get a little cheaper paint for his barn, because he may not be inclined to wait until the next election. You have fooled him so far, but you have had control of Congress for three years, and by that time you will have had it for four years. You can not possibly excuse yourselves for the raping of this young man in the house of his friends by the Republican Ways and Means Committee. I am simply appealing here for fair play among you Republicans. I can not argue the merits of this, because I can not conceive how there can be any merit in a proposition that is based upon the principle, "You tickle me, and I will tickle you." I can not conceive how you can benefit the American consumer by taxing him. I can not understand that or debate it; but, my Republican friends, in this game of political "blind man's buff" you are playing you ought to take care of one of your own gang, the young gentleman from Minnesota, and not leave him out in the cold, with the winter coming on, and strip him of his political overcoat and leave him unprotected. You Republicans ought to play the game fair with all your Members and be just to this misguided young man who belongs to your political fold. [Laughter and applause.]

Mr. GREEN of Iowa. Mr. Chairman, just one word on this subject. I should be very glad indeed if a complete tariff bill could be passed at this time, but that is impossible. I want to see this bill extended, and there is only one way in which that can be done, and that is to let it go through as it stands. Otherwise there will be nothing done with it. If we permit amendments for one, we must for others, and so on, until we have a complete bill. If we let the bill be amended in the House, the Senate will exercise the same privilege, and the result will be no bill at all.

The CHAIRMAN. The gentleman from Arkansas withdraws his pro forma amendment. The question is on the adoption of the amendment offered by the gentleman from Minnesota [Mr. NEWTON].

The question being taken, the Chairman announced that the noes appeared to have it.

Mr. NEWTON of Minnesota. Division, Mr. Chairman.

The committee divided; and there were 49 ayes and 96 noes.

So the amendment was rejected.

Mr. GREEN of Iowa. Mr. Chairman, I move that the committee do now rise and report the bill back to the House with the recommendation that it do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. BURTON, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 8643) to extend the tariff act, approved May 27, 1921, and had directed him to report the same back without amendment, with the recommendation that the bill do pass.

Mr. GREEN of Iowa. Mr. Speaker, I move the previous question on the bill to final passage.

The motion was agreed to.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. GREEN of Iowa. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 200, nays 74, not voting 157, as follows:

YEAS—200.

Anderson	Atkeson	Begg	Blanton
Andrew, Mass.	Bacharach	Bird	Boies
Andrews, Nebr.	Barbour	Bixler	Bowers
Arentz	Beck	Bland, Ind.	Brooks, Ill.
Browne, Wis.	Foster	Lankford	Riddick
Burdick	Frear	Layton	Roach
Burke	Free	Lazaro	Robertson
Burroughs	Frothingham	Lea, Calif.	Rodenberg
Burtness	Fuller	Leatherwood	Rogers
Burton	Gensman	Lehlbach	Sanders, Ind.
Butler	Gernerd	Lineberger	Scott, Tenn.
Cable	Gorman	Little	Shelton
Campbell, Kans.	Graham, Ill.	Longworth	Sinnott
Campbell, Pa.	Green, Iowa	McFadden	Smith, Idaho
Cannon	Greene, Mass.	McLaughlin, Mich.	Smithwick
Chandler, Okla.	Greene, Vt.	McPherson	Snell
Chindblom	Hardy, Colo.	Madden	Speaks
Christopherson	Haugen	Magee	Sproul
Clague	Hawley	Maloney	Steenerson
Clark, Fla.	Hersey	Mapes	Stephens
Classon	Hickey	Martin	Strong, Kans.
Cole, Iowa	Hill	Merritt	Summers, Wash.
Cole, Ohio	Himes	Michener	Sweet
Colton	Hoch	Miller	Swing
Cooper, Ohio	Hudspeth	Millspaugh	Taylor, N. J.
Cooper, Wis.	Hukriede	Mondell	Temple
Coughlin	Hull	Montoya	Thompson
Crago	Husted	Moore, Ohio	Timberlake
Crowther	Hutchinson	Morgan	Tincher
Curry	Ireland	Nelson, A. P.	Tinkham
Dallinger	James	Nelson, J. M.	Towner
Deal	Jefferis, Nebr.	Norton	Treadway
Denison	Johnson, S. Dak.	Olpp	Vaile
Dickinson	Johnson, Wash.	Parker, N. J.	Vestal
Dowell	Kearns	Parker, N. Y.	Voigt
Dunbar	Kelley, Mich.	Parrish	Volstead
Dupré	Kelly, Pa.	Patterson, Mo.	Walsh
Dyer	Kennedy	Patterson, N. J.	Walters
Echols	Ketcham	Perkins	Ward, N. Y.
Elliott	Kiess	Peters	Watson
Ellis	Kinkaid	Porter	Wheeler
Evans	Kirkpatrick	Pringey	White, Kans.
Fairchild	Kissel	Raker	Williams
Faust	Kleczka	Ramseyer	Williamson
Favrot	Kline, Pa.	Ransley	Winslow
Fenn	Knight	Reber	Wood, Ind.
Fess	Kopp	Reece	Woodruff
Fish	Kraus	Reed, N. Y.	Woodyard
Focht	Lampert	Reed, W. Va.	Wurzbach
Fordney	Langley	Ricketts	Young

NAYS—74.

Almon	Doughton	London	Sabath
Aswell	Drane	Lowrey	Sanders, Tex.
Bankhead	Driver	Luce	Sandlin
Barkley	Fields	Lyon	Stafford
Bell	Fisher	McDuffie	Stedman
Black	Garrett, Tenn.	McSwain	Sumners, Tex.
Bland, Va.	Garrett, Tex.	Newton, Minn.	Swank
Bowling	Gilbert	O'Brien	Tague
Box	Hammer	O'Connor	Tillman
Briggs	Hardy, Tex.	Oldfield	Upshaw
Brinson	Harrison	Oliver	Vinson
Buchanan	Hawes	Overstreet	Ward, N. C.
Bulwinkle	Hayden	Padgett	Weaver
Byrnes, S. C.	Huddleston	Parks, Ark.	Wilson
Byrns, Tenn.	Jeffers, Ala.	Pou	Wingo
Collier	Keller	Quin	Woods, Va.
Connally, Tex.	Kincheloe	Rankin	Wright
Davis, Tenn.	Lanham	Rayburn	
Dominick	Larsen, Ga.	Rouse	

NOT VOTING—157.

Ackerman	Freeman	Logan	Rossdale
Ansorge	French	Luhring	Rucker
Anthony	Fulmer	McArthur	Ryan
Appleby	Funk	McClintic	Sanders, N. Y.
Beedy	Gahn	McCormick	Schall
Benham	Gallivan	McKenzie	Scott, Mich.
Blakeney	Garner	McLaughlin, Nebr.	Sears
Bond	Glynn	McLaughlin, Pa.	Shaw
Brand	Goldsborough	MacGregor	Shreve
Brennan	Goodykoontz	Mann	Siegel
Britten	Gould	Mansfield	Sinclair
Brooks, Pa.	Graham, Pa.	Mead	Sisson
Brown, Tenn.	Griest	Michaelson	Slemp
Cantrill	Griffin	Mills	Smith, Mich.
Carew	Hadley	Montague	Snyder
Carter	Hays	Moore, Ill.	Steagall
Chalmers	Herrick	Moore, Va.	Stevenson
Chandler, N. Y.	Hicks	Moores, Ind.	Stiness
Clarke, N. Y.	Hogan	Morin	Stoll
Clouse	Houghton	Mott	Strong, Pa.
Cockran	Humphreys	Mudd	Sullivan
Codd	Jacoway	Murphy	Taylor, Colo.
Collins	Johnson, Ky.	Newton, Mo.	Taylor, Tenn.
Connell	Johnson, Miss.	Nolan	Ten Eyck
Connolly, Pa.	Jones, Pa.	Ogden	Thomas
Copley	Jones, Tex.	Osborne	Tilson
Cramton	Kahn	Paige	Tyson
Crisp	Kendall	Park, Ga.	Underhill
Cullen	Kindred	Perlman	Vare
Dale	King	Petersen	Volk
Darrow	Kitchin	Purnell	Wason
Davis, Minn.	Kline, N. Y.	Radcliffe	Webster
Dempsey	Knutson	Rainey, Ala.	White, Me.
Drewry	Kreider	Rainey, Ill.	Wise
Dunn	Kunz	Reavis	Wyant
Edmonds	Larson, Minn.	Rhodes	Yates
Elston	Lawrence	Riordan	Zihlman
Fairfield	Lee, Ga.	Robsion	
Fitzgerald	Lee, N. Y.	Rose	
Flood	Linthicum	Rosenbloom	

So the bill was passed.

The Clerk announced the following pairs:

Mr. RHODES (for) with Mr. KITCHIN (against).

Mr. APPLEBY (for) with Mr. MONTAGUE (against).

Mr. NEWTON of Missouri (for) with Mr. COCKRAN (against).
Mr. BRENNAN (for) with Mr. FLOOD (against).
Mr. KAHN (for) with Mr. CAREW (against).
Mr. MCARTHUR (for) with Mr. RAINEY of Illinois (against).
Mr. ROSENBLOOM (for) with Mr. THOMAS (against).
Mr. SCOTT of Michigan (for) with Mr. LOGAN (against).
Mr. MUDD (for) with Mr. JOHNSON of Kentucky (against).
Mr. HAYS (for) with Mr. GARNER (against).
Mr. FRENCH (for) with Mr. COLLINS (against).
Mr. ANTHONY (for) with Mr. PARK of Georgia (against).
Mr. DUNN (for) with Mr. MANSFIELD (against).
Mr. KREIDER (for) with Mr. STEVENSON (against).
Mr. PAIGE (for) with Mr. WISE (against).
Mr. NOLAN (for) with Mr. LINTHICUM (against).
Mr. SNYDER (for) with Mr. JOHNSON of Mississippi (against).
Mr. STINESS (for) with Mr. BRAND (against).
Mr. MURPHY (for) with Mr. RIORDAN (against).
Mr. GRIEST (for) with Mr. SEARS (against).
Mr. PURNELL (for) with Mr. RUCKER (against).
Mr. RADCLIFFE (for) with Mr. SULLIVAN (against).
Mr. BLAKENEY (for) with Mr. TYSON (against).
Mr. ACKERMAN (for) with Mr. KUNZ (against).
Mr. LAWRENCE (for) with Mr. GALLIVAN (against).
Mr. GRAHAM of Pennsylvania (for) with Mr. CRISP (against).
Mr. OSBORNE (for) with Mr. SISSON (against).
Mr. KENDALL (for) with Mr. STEAGALL (against).
Mr. KNUTSON (for) with Mr. CANTRILL (against).
Mr. EDMONDS (for) with Mr. DREWRY (against).
Mr. SINCLAIR (for) with Mr. STOLL (against).
Mr. MORIN (for) with Mr. KINDRED (against).
Mr. MCLAUGHLIN of Nebraska (for) with Mr. FULMER (against).
Mr. LUHRING (for) with Mr. GOLDSBOROUGH (against).
Mr. REAVIS (for) with Mr. CARTER (against).
Mr. WHITE of Maine (for) with Mr. GRIFFIN (against).
Mr. DAVIS of Minnesota (for) with Mr. JACOWAY (against).
Mr. HERRICK (for) with Mr. LEE of Georgia (against).
Mr. GAHN (for) with Mr. CULLEN (against).
Mr. CONNOLLY of Pennsylvania (for) with Mr. HUMPHREYS (against).
Mr. BROOKS of Pennsylvania (for) with Mr. UNDERHILL (against).

General pairs:

Mr. ZIHLMAN with Mr. MCCLINTIC.
Mr. VOLK with Mr. TEN EYCK.
Mr. HOGAN with Mr. RAINEY of Alabama.
Mr. PERLMAN with Mr. MOORE of Virginia.
Mr. CRAMTON with Mr. TAYLOR of Colorado.
Mr. SIEGEL with Mr. MEAD.
Mr. HICKS with Mr. JONES of Texas.

The result of the vote was announced as above recorded.

SENATE JOINT RESOLUTION SIGNED.

The SPEAKER announced his signature to enrolled joint resolution of the following title:

S. J. Res. 123. Joint resolution authorizing the Secretary of War to expend from the appropriation "Disposition of remains of officers, soldiers, and civilian employees, 1922" (act of Mar. 4, 1921, Public, No. 389, 66th Cong.), such sum as may be necessary to carry out the provisions of public resolution No. 67, Sixty-sixth Congress.

ENROLLED BILL PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. RICKETTS, from the Committee on Enrolled Bills, reported that October 15 they had presented to the President of the United States for his approval the following bill:

H. R. 8297. An act authorizing the Secretary of the Treasury to convey certain lands to the State of Missouri for enlargement of the State capitol grounds of that State.

LEAVES OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. WYANT, for four days, on account of important business.

To Mr. BRENNAN, for five days, on account of official business.

EXTENSION OF REMARKS.

Mr. NEWTON of Minnesota. Mr. Speaker, I ask unanimous consent to extend and revise my remarks on the bill passed this afternoon.

The SPEAKER. Is there objection?

There was no objection.

CORRECTION.

Mr. WOODS of Virginia. Mr. Speaker, I ask unanimous consent that the RECORD be corrected. Roll call 145 of yesterday shows that I was absent. I was present both times when my name was called. I may not have answered.

The SPEAKER. If the gentleman did not answer to his name, of course the RECORD and the Journal are correct.

Mr. WOODS of Virginia. I intended to answer, but my attention may have been diverted. I was present.

The SPEAKER. The only question is whether the gentleman answered to his name. If he did not answer, it is too late now to correct the RECORD.

Mr. WOODS of Virginia. It was a call of the House on a point of no quorum. It is not highly important.

ADJOURNMENT.

Mr. GREEN of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 5 o'clock and 25 minutes p. m.) the House adjourned until to-morrow, Wednesday, October 19, 1921, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. WINSLOW, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 6152) to authorize the construction of drawless bridges across a certain portion of the Charles River in the State of Massachusetts, reported the same without amendment, accompanied by a report (No. 412), which said bill and report were referred to the House Calendar.

Mr. HAWES, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 8476) to authorize the construction of a bridge across the White River in Prairie County, Ark., reported the same without amendment, accompanied by a report (No. 413), which said bill and report were referred to the House Calendar.

Mr. GRAHAM of Illinois, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 8346) granting the consent of Congress to the board of supervisors of Whiteside County, Ill., to construct a bridge across Rock River, reported the same without amendment, accompanied by a report (No. 414), which said bill and report were referred to the House Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Pensions was discharged from the consideration of the bill (H. R. 8691) granting a pension to Anna R. Ballard, and the same was referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. JOHNSON of Washington: A bill (H. R. 8743) to amend chapter 3 of the act approved March 3, 1911, entitled "An act to codify, revise, and amend the laws relating to the judiciary"; to the Committee on the Judiciary.

By Mr. BURTNESS: A bill (H. R. 8744) granting the consent of Congress to the State of North Dakota, the county of Cass, and the city of Fargo, N. Dak., and the State of Minnesota, the county of Clay, and the city of Moorhead, Minn., or any of them, and their successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the Red River of the North, at a point suitable to the interests of navigation between the cities of Fargo, N. Dak., and Moorhead, Minn.; to the Committee on Interstate and Foreign Commerce.

By Mr. FOCHT (by request of the District Commissioners): A bill (H. R. 8745) to change the name of Thirty-seventh Street, between Chevy Chase Circle and Reno Road; to the Committee on the District of Columbia.

Also (by request of the District Commissioners), a bill (H. R. 8746) to amend the license laws of the District of Columbia; to the Committee on the District of Columbia.

By Mr. COUGHLIN: A bill (H. R. 8747) providing and authorizing the transfer of judgments in any district court of the United States to any other district court in the United States, and proceedings thereon; to the Committee on the Judiciary.

By Mr. KAHN: Joint resolution (H. J. Res. 207) to continue the military status of persons deserting the military or naval service during the World War and the amenability to trial of those persons who failed to comply with the terms of

section 5 of the selective service law; to the Committee on Military Affairs.

By Mr. BLAND of Indiana: Resolution (H. Res. 202) for the immediate consideration of House joint resolution 200; to the Committee on Rules.

By the SPEAKER: Memorial of the Legislature of the State of Louisiana relative to the establishment of clinics for the rehabilitation of disabled soldiers in the sixth district of the Veterans' Bureau; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ASWELL: A bill (H. R. 8748) authorizing the sale of certain Government property in the District of Columbia to Jeremiah O'Connor; to the Committee on the District of Columbia.

By Mr. CHALMERS: A bill (H. R. 8749) granting a pension to Margaret Lafayette; to the Committee on Invalid Pensions.

By Mr. COOPER of Wisconsin: A bill (H. R. 8750) granting a pension to Eliza Kinney; to the Committee on Invalid Pensions.

By Mr. DRANE: A bill (H. R. 8751) granting a pension to Robert P. Cato; to the Committee on Pensions.

Also, a bill (H. R. 8752) making additional appropriation for improvement of the channel from Clearwater Harbor through Boca Ceiga Bay to Tampa Bay, Fla.; to the Committee on Rivers and Harbors.

By Mr. KEARNS: A bill (H. R. 8753) granting a pension to Ida F. Thoroman; to the Committee on Invalid Pensions.

By Mr. MORGAN: A bill (H. R. 8754) granting a pension to Emma Stiter; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8755) granting a pension to Margaret Gunther; to the Committee on Invalid Pensions.

By Mr. PARRISH: A bill (H. R. 8756) granting a pension to Joseph W. De Wees; to the Committee on Pensions.

By Mr. PURNELL: A bill (H. R. 8757) granting a pension to Phoebe Sutherland; to the Committee on Invalid Pensions.

By Mr. THOMPSON: A bill (H. R. 8758) granting a pension to Anna M. Owen; to the Committee on Invalid Pensions.

By Mr. VESTAL: A bill (H. R. 8759) granting an increase of pension to William A. Downs; to the Committee on Pensions.

By Mr. WARD of North Carolina: A bill (H. R. 8760) to authorize survey of Wanchese Harbor, on Roanoke Island, N. C.; to the Committee on Rivers and Harbors.

By Mr. WARD of New York: A bill (H. R. 8761) granting a pension to Clara Michelson; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

2758. By the SPEAKER (by request): Resolution recently adopted by the executive committee of the American Geophysical Union, urging the passage of the Temple bill (H. R. 5230) providing for the completion of the topographic map of the United States within 20 years from the date of the passage of the act; to the Committee on Interstate and Foreign Commerce.

2759. By Mr. BARBOUR: Petition of residents of Dinuba, Calif., and others, protesting against House bill 4388, the Sunday observance bill; to the Committee on the District of Columbia.

2760. By Mr. DOWELL (by request): Resolution of the pastors' conference of the Des Moines Baptist Association, indorsing House joint resolution 159; to the Committee on the Judiciary.

2761. By Mr. DRANE: Resolution from Board of Trade of Tampa, Fla., relative to an issue of bonds by the Republic of Cuba; to the Committee on Insular Affairs.

2762. Also, resolutions from certain Baptist churches in Pasco County, Fla., relative to a constitutional amendment; to the Committee on the Judiciary.

2763. Also, resolutions by Rotary Club of Tampa, Fla., relative to tariff on sugar and the effect of said tariff on the Island of Cuba, and praying for relief from sugar tariff as fixed by emergency tariff act; to the Committee on Ways and Means.

2764. By Mr. FULLER: Petition of National Manufacturers of Soda Water Flavors, protesting against increase of tax on alcohol used in manufacture of flavoring extracts; to the Committee on Ways and Means.

2765. By Mr. KISSEL: Petition of Guild & Garrison (Inc.), of Brooklyn, N. Y.; to the Committee on Ways and Means.

SENATE.

WEDNESDAY, *October 19, 1921.*

(Legislative day of Friday, October 14, 1921.)

The Senate reassembled at 11 o'clock a. m., on the expiration of the recess.

Mr. SMOOT. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Gerry	McLean	Spencer
Ball	Gooding	McNary	Stanley
Broussard	Hale	Moses	Sterling
Bursum	Harreld	Myers	Sutherland
Calder	Harris	Nelson	Swanson
Cameron	Heflin	New	Townsend
Capper	Hitchcock	Newberry	Trammell
Caraway	Jones, N. Mex.	Oddie	Underwood
Colt	Kellogg	Overman	Wadsworth
Culberson	Kenyon	Page	Walsh, Mass.
Curtis	Keyes	Poindexter	Walsh, Mont.
Dillingham	La Follette	Pomerene	Warren
du Pont	Lenroot	Reed	Watson, Ga.
Elkins	Lodge	Sheppard	Watson, Ind.
Ernst	McCormick	Shields	Weller
Fernald	McCumber	Shortridge	Willis
Fletcher	McKellar	Simmons	
Frelinghuysen	McKinley	Smoot	

Mr. WALSH of Montana. I wish to announce that the Senator from Wyoming [Mr. KENDRICK] is absent on official business.

The VICE PRESIDENT. Seventy Senators having answered to their names, a quorum is present.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, announced that the House had passed a bill (H. R. 8643) to extend the tariff act approved May 27, 1921, in which it requested the concurrence of the Senate.

ENROLLED JOINT RESOLUTION SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (S. J. Res. 123) authorizing the Secretary of War to expend from the appropriation "Disposition of remains of officers, soldiers, and civilian employees, 1922" (act of Mar. 4, 1921, Public, No. 389, 66th Cong.), such sum as may be necessary to carry out the provisions of public resolution No. 67, Sixty-sixth Congress, and it was thereupon signed by the Vice President.

PETITIONS AND MEMORIALS.

Mr. TOWNSEND presented resolutions of Lafayette Grange, No. 92, Patrons of Husbandry, of Chelsea, Mich., favoring sessions of the conference on limitation of armaments open to public knowledge and criticism and the striving for disarmament above all else in that conference, which were referred to the Committee on Foreign Relations.

Mr. FLETCHER presented resolutions of the Rotary Club of Tampa, Fla., protesting against an increase in the duty on sugar as provided by existing law so as to permit the importation of sugar from Cuba into the United States upon payment of a rate of duty not higher than that provided by the so-called Underwood Tariff Act of 1913, which were referred to the Committee on Finance.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. LA FOLLETTE:

A bill (S. 2598) for the relief of Franklin Gum (with accompanying papers); to the Committee on Military Affairs.

By Mr. FLETCHER:

A bill (S. 2599) for the relief of the receiver of the Gulf, Florida & Alabama Railway Co. (with accompanying papers); to the Committee on Claims.

By Mr. McNARY:

A bill (S. 2600) providing for advances to the reclamation fund; to the Committee on Irrigation and Reclamation.

By Mr. MYERS:

A bill (S. 2601) to repeal the act of Congress approved September 25, 1914, known as the act to prohibit the use of alleys in the District of Columbia for residential purposes; to the Committee on the District of Columbia.

By Mr. CAMERON:

A bill (S. 2602) for the relief of Sarah Anna Miller; to the Committee on Claims.

By Mr. SHEPPARD:

A bill (S. 2603) permitting actions on claims against the United States in connection with its operation of telegraph, telephone, marine cable, or radio companies under the joint reso-

lution of July 16, 1918; to the Committee on Interstate Commerce.

By Mr. McCUMBER (for Mr. LADD):

A bill (S. 2004) to establish an honest money system where the medium of exchange will give equal benefits to every American citizen and wherein the credit of the Government shall be used for the benefit of all the people instead of banking corporations; to reduce the rate of interest of loans, encourage agriculture, the ownership of homes, and for other purposes; to the Committee on Banking and Currency.

AMENDMENTS OF TAX REVISION BILL.

Mr. KING submitted two amendments intended to be proposed by him to House bill 8245, the tax revision bill, which were ordered to lie on the table and to be printed.

HOUSE BILL REFERRED.

The bill (H. R. 8643) to extend the tariff act approved May 27, 1921, was read twice by its title and referred to the Committee on Finance.

TAX REVISION.

Mr. McCUMBER. I ask that the revenue bill—House bill 8245—be laid before the Senate and proceeded with.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

The VICE PRESIDENT. The pending amendment will be stated.

The ASSISTANT SECRETARY. The pending amendment is on page 7 of the bill, line 18, after the word "distributed," where it is proposed by the Senator from Pennsylvania [Mr. PENROSE] to insert:

But shall be applied against and reduce the basis provided in section 202 for the purpose of ascertaining the gain derived or the loss sustained from the sale or other disposition of the stock or shares by the distributee.

Mr. MOSES. Mr. President—

The burden of taxation imposed upon the American people is staggering; but * * * the character of the taxes can and should be changed. * * * Sound policy equally demands the early accomplishment of that real reduction of the tax burden which may be achieved by substituting simple for complex tax laws; * * * tax laws which do not for tax laws which do excessively mulct the consumer or needlessly repress enterprise and thrift.

These words, Mr. President, are taken from that archaic document, the Republican national platform of 1920.

The continuance in force in peace times of taxes devised under pressure of imperative necessity to produce revenue for war purposes is indefensible. * * * We advocate tax reform and a searching revision of the war revenue acts to fit peace conditions so that the wealth of the Nation may not be withdrawn from productive enterprise.

These words, sir, are from that other ancient script, the Democratic national platform of 1920.

The most substantial relief from the tax burden must come for the present from the readjustment of internal taxes, and the revision or repeal of those taxes which have become unproductive and are so artificial and burdensome as to defeat their own purpose. * * * We are committed to * * * the abolition of inequities and unjustifiable exasperations in the present system.

These words, Mr. President, are from another document more recent, but still so far in the past as to have been apparently forgotten. They are from President Harding's first message to the Sixty-seventh Congress.

The reaction to these declarations, these demands, these promises, is now before us in a multiplex form. First, that of the revenue bill as it came from the House; second, that of the bill as it came from the Finance Committee here; and, third, that of the amendments forced upon committee recognition by that division of the invisible empire, which now seems to be ruling us and which may be styled, I hope without irreverence, as the Ken-Cap-Klan. And in this latter connection, Mr. President, I wish to record myself as standing with the Senator from Indiana [Mr. WATSON] as a member of the Republican bloc, which meets so seldom and whose opinions are apparently of little consequence. In this connection also, Mr. President, I trust I shall arouse no resentment in saying that those Senators who comprise the so-called agricultural bloc have shown scant consistency in withholding their solicitations from the only real dirt farmers on this side of the Chamber. And I doubt not, sir, that when any of the promoters of this bloc shall be seeking renomination, as they will, one, three, or five years hence, they will not seek it as a nominee of a bloc but of the Republican Party, whose votes also they will pursue on election day.

The genesis of the bill before us is not difficult to trace. Its germ is to be found in the tax law of 1918, a measure fathered by the so-called experts, who now should take to themselves credit not only for the fathering and mothering of this child but also for its midwifing and wet-nursing. I hope I shall not be understood, Mr. President, as inveighing against the value of expert knowledge. I freely recognize its proper place, especially in the cryptic fields of financial legislation. But, sir, I can not escape the conclusion so well set forth in a queer little book from India entitled "The Mental Limitations of an Expert" that "the opinion of an expert should never be taken outside his own little sphere (and even there only with caution), for his mind is so overloaded with remembered details that he is almost as incapable of judgment as of action." And the author still further reminds us that Babbage, the inventor of the famous calculating machine, when reading in Tennyson's Vision of Sin the following quatrain—

Fill the cup and fill the can;
Have a rouse before the morn;
Every moment dies a man,
Every moment one is born—

forthwith wrote to the poet the following expert criticism:

It must be manifest that were this true the population of the world would be at a standstill. In truth, the rate of birth is slightly in excess of that of death. I would suggest that in the next edition of your poem you have it read:

"For every moment dies a man,
"Every moment one and one-sixteenth is born."

Strictly speaking—

The virtuoso added—

this is not accurate. The actual figure is a decimal so long that I can not get it in a line, but I believe one and one-sixteenth will be sufficiently accurate for poetry.

I would not have anyone think for a moment, Mr. President, that I am seeking to ridicule the experts who have so largely contributed to this measure. But, sir, when I view the result of their handiwork as presented to us in this bill I can not but feel that we have before us the tattered rags of a tax measure 3 years old, long since out of style and faded, but which now has been patched and embroidered in a vain attempt to bring it up to the mode of 1922. This was not the promise of last year; this can not be the fulfillment of that promise if those responsible for it seriously expect to seek the judgment of their fellow countrymen in 1922.

This measure, Mr. President, is plainly drawn under the inspiration of the alluring slogan, "Soak the rich." I hold no brief for the rich, sir; neither I nor any of my kin have ever stood within their circle. But I can not help thinking that the rich may learn from much buffeting, even as Peter the Great learned from the repeated assaults of Charles XII, how to fight. Indeed, sir, they have already begun. Capital has gone on strike.

There is a point, Mr. President, at which taxation of the rich reaches its saturation point. This point is variously estimated by both expert and by general intelligent opinion to stand somewhere between 25 and 35 per cent. If it is increased the rich—that is to say, those possessing capital—betake themselves and their accumulations from the field of active enterprise and enter into cloistered retirement, where tax-exempt securities afford a more ample income and complete surcease from the importunities of the taxgatherer.

These observations, Mr. President, refer particularly to the surtaxes which this bill carries and which, as I view them, can find no justification for their form either as sent to us by our own committee or as now attempted to be forced upon us by an agricultural bloc. The committee's recommendations and equally those of the agricultural bloc transcend the saturation point of taxation. They are equally open to the demagogic assault that they take taxes off the rich, because, sir, if the committee has erred in setting its proposed surtax at 32 per cent of an amount of income exceeding $66,000, it is certain that the friends of the people who gather around what the Senator from Mississippi describes as a "well-filled board"—and I hope he did not mean bowl, Mr. President—have shown scant sense of values in reducing this taxation only a meager 1 per cent.

And I hope, sir, that I may again crave forgiveness if I point out that the solicitude of the agricultural bloc for the people finds accurate expression in their proposed amendment decreasing from 2 per cent to 1 per cent the taxation on incomes ranging from $8,000 to $10,000, a figure, sir, which with great exactitude brings relief to a senatorial salary plus mileage and stationery allowance.

It has been said, sir, that whatever tax law we now enact will be only a temporary measure. It may be, Mr. President, that this statement will prove true in a manner which some of us little wish, for I am convinced that the dominant party in this country, although swept into power less than a year ago by a majority vote of 7,000,000 of their countrymen, can not hope again to ride the flood of popular approval if we continue to cling to the fragments of a taxation system which even those who sponsored it only three years ago now declare to be out-

worn and unsuitable and under which the enterprise of the country must remain paralyzed and stifled.

Where, Mr. President, in this bill in any of its forms do we find the promised simplification of the form of tax return which the taxpayer must confront? It is indeed true, sir, that in title 13, section 1327, there is provided a "tax simplification board." But since its tenure of life is to extend to the end of the calendar year 1924, it is reasonable to suppose that the fruits of its labors will not be available before that date, and in the meantime, Senators, we shall have passed through two general elections in which the people will have an opportunity to scrutinize our labors.

The finest commentary upon the cryptic form of taxation from which the country now suffers and which this measure continues is to be found, Mr. President, in the fact that the men who have framed the laws find themselves unable to act under them. Every winter for a period of several weeks an expert from the Treasury Department is given desk room in our office buildings where his sole duty is to aid Senators and Representatives in filling out their income-tax returns. And to emphasize this anomalous situation, Mr. President, I need only to refer to the numberless accountants and tax experts who, having served the Government long enough to learn something of the intricacies of the tax law as it is administered, have separated themselves from the Government pay roll and are making use of their Government-acquired knowledge to earn huge fees in helping individuals and corporations fill out their tax returns so as to evade taxation. Mr. President, the American people do not shrink from taxation. They regard it as inevitable as death. They ask only that their tax laws shall be drawn in such wise as to be "understanded of the people;" that the tithes may be taken from them without undue harassment, and that the resultant proceeds shall be prudently expended.

And here, Mr. President, we find the real storm center of all the fiscal disturbance which the tax law of 1918 has created and which the pending proposals sponsored by our committee will continue. If Congress should devote itself with diligence not to the seeking out of new sources of income or to the tapping still more greedily of the springs already uncovered, but should devote itself to an earnest effort to reduce governmental expenditures, a great percentage of the evils from which we now suffer would promptly disappear. But so long, sir, as the country staggers along under a tax system whereby the four States of Illinois, Massachusetts, New York, and Pennsylvania pay more than half of all the taxes poured into the Federal Treasury, so long Congress will find itself beset by those who wish to destroy the independence of the States under the specious guise of Federal aid to all sorts of projects which are alien to the spirit of the American Republic.

This situation, Mr. President, has been strikingly called to the attention of Congress and the country by the present Secretary of the Treasury who, in the first days of his office, in a circular letter addressed to the bankers of the country said:

> The situation calls for the utmost economy. The Nation can not afford extravagance. * * * The people generally must become more interested in saving the Government's money than in spending it. * * *

And before this extra session of Congress was summoned and while the Ways and Means Committee of the House was engaged in formulating this very bill, Mr. Mellon addressed the chairman of that committee in these words:

> The Nation can not continue to spend at this shocking rate. * * * The burden is unbearable. This is no time for extravagance or for entering upon new fields of expenditure. The Nation can not afford wasteful or reckless expenditure. * * * Expenditures should not even be permitted to continue at the present rate.

I have so much wondered, I have stood so amazed, Mr. President, before the length to which these demands have been made upon the Federal Treasury that I have seriously reflected why, in the course of the debate upon this measure, it has not happened that some of those who have clamored so loudly for Federal money to relieve individual distress or to lighten the evils flowing from individual failure have not proposed that all these taxes shall be paid out of the Federal Treasury, either in full or upon a plan of dollar for dollar; and they could argue properly under the latter proposal, Mr. President, that such a plan would render the Treasury bookkeeping so simple that we could dismiss the army of employees now at work in the various boards of our tax department and could conduct the whole of our Government operations with one bookkeeper, keeping a single ledger and working for a hundred dollars a month, plus the bonus.

It must not be thought, Mr. President, that we are confronted simply with a choice of evils. We are not compelled to take either the House bill or the bill which our own committee originally reported or the amendments which the agricultural bloc has presented to us. They are not the only alternatives before us. There remains a fourth, the proposal of the senior Senator from Utah, to which, Mr. President, I give my unqualified support. That proposal wipes out the nuisance taxes which have burdened all our people from the child with his baseball to the aged with his medicine bottle. It places taxation upon incomes at a point where accumulated resources will not go into the cave of hiding afforded by tax-exempt securities, but will once more march boldly into the field of expanding commercial enterprise. And, as best of all its provisions, it provides in the sales tax which the Senator proposes a fruitful source of revenue, easily collectible, payable at frequent stated intervals, and bearing with equality upon all the people. It is based, sir, upon what I regard as one of the safest indications of a man's ability to pay, namely, his ability to buy. It strikes at the vicious principle of graduated taxation which appears in this bill and in its prototype, and which, as I view it, is but a modern legislative adaptation of the communistic doctrine of Karl Marx, who based his radical philosophy upon the doctrine of equalization of incomes, and who, having failed in his lifetime, should find posthumous glee in this generation, which, under Democratic and Republican auspices, seems to be embracing his cardinal theory. The system of graduated taxation, Mr. President, is to my mind both unique and vicious. It is vicious in that it penalizes both industry and thrift, for nowhere as it is applied in this measure or any measure like it do we find any exemption for those incomes which are accumulated by great mental or physical exertion. It is unique in that it appears in no form of taxation which touches other classes of possessions. Two men owning adjoining land, the one with 100 acres and the other with a thousand, are not taxed upon any graduated scale. The larger proprietor pays no higher bracket of taxation upon his added 900 acres. Each pays alike. And so, Mr. President, I think it should be everywhere. Taxation should be uniform and just, and every man should contribute to the support of the Government. Uniformity, justice, and a personal contribution to governmental support are found in the sales tax.

It is further significant, Mr. President, that private comment upon the Senator's proposal is almost universally favorable. During the debate upon the so-called beer bill a witty Senator in the cloakroom remarked that the country might be surprised if Senators should vote as they drink. Such action, I suppose, is not to be dreamed of; but, Mr. President, is it too much to ask when a great measure like this is pending, a measure affecting the welfare, prosperity, and happiness of all the people, that Senators should vote as they think?

Mr. JONES of New Mexico. Mr. President, I did not interrupt the Senator from New Hampshire while he was delivering his prepared address, but I wish now, if the Senator will give me his attention, to make an inquiry regarding some of the statements which he has just made. He has referred to a subject which has often been mentioned in the press of the country and on the floor of this Chamber, and that is the question of taxation being so high as to drive incomes into tax-exempt securities. I should like to inquire of the Senator where is the reservoir from which these tax-exempt securities are obtained?

Mr. MOSES. Mr. President, they are being issued every month by municipalities and States. Then there are the farm loan bonds; there are also numerous issues of private enterprise securities, which under local statutes or ordinances are exempt from taxation, together with State bonds, school bonds, sewer bonds, and all that class of securities. The Senator well knows that there are some $16,000,000,000 of tax-exempt securities held in this country now.

Mr. JONES of New Mexico. Then, I will inquire of the Senator, what would become of those securities if the taxes were not high?

Mr. MOSES. Those securities would find a certain form of investment in trust funds, just as they formerly did; but, Mr. President, when the question arises in a particular case, and a man by taking some venture can secure a higher rate of income from his investment, as is always the case when one embarks in a manufacturing or commercial enterprise and can have the fruits of his enterprise and not have them taken away from him by the taxgatherer, the money goes into that channel.

Mr. JONES of New Mexico. But the point upon which I should like to get information is this: Does the Senator believe that the issuance of these securities will cease if the taxes are lowered?

Mr. MOSES. It may not cease, Mr. President, because some necessity for issuing them may continue; but they will find a much more limited market than they now do, because they will be restricted to trust funds and to such funds as are hedged about by statute. The individual investor will not take them

at their lower rate of interest, and the money which now seeks these tax-exempt securities, and which is one enticement for the issue of all these tax-exempt securities, will once more flow into commercial enterprise.

Mr. JONES of New Mexico. Does the Senator contend that the lowering of these taxes is going to reduce the quantity of those securities which are issued?

Mr. MOSES. I think it will make the competition that they meet in the money market of the world much more intense, and to that extent will reduce their issue.

Mr. JONES of New Mexico. Has the Senator any idea as to what extent they will be issued?

Mr. MOSES. Why, Mr. President, I am no prophet. I am simply stating facts as they exist—that here are these tax-exempt securities; that they offer this temptation to accumulated income, which is nothing but capital in its potential form; and the Senator well knows that what he is saying has absolutely no bearing upon the question of inequality and injustice and exasperation as they exist in the tax laws to-day and as they will exist if we adopt this measure.

Mr. JONES of New Mexico. The question of inequality is another question entirely. What I had in mind was to get at the particular point of the driving of these incomes into tax-free or tax-exempt securities.

Mr. MOSES. Does not the Senator know that during the period of the existing tax laws, with their administration as we have seen it, municipalities, precincts, and all sorts of public corporations of that nature have been tempted into the issue of bonds for public purposes far beyond their natural ability to pay, simply because this reservoir of money was waiting for them to tap? The Senator must know that if he reads any financial column in any newspaper.

Mr. JONES of New Mexico. Then the Senator's criticism goes to the municipalities of the country for issuing the securities, does it not?

Mr. MOSES. That is part of my criticism, but I am not seeking to interfere with them. I am seeking to remove the temptation from them, and I am seeking further to remove the temptation from accumulated income to seek such a form of investment. I want accumulated income left once more in a position where it will go into the productive enterprise of the country.

Mr. JONES of New Mexico. The thought that occurred to me was that these so-called tax-exempt securities are in the hands of people of some means, at least, and when you put the higher incomes into them you are simply changing from one form of income investment to another—that is, changing the income from one class of people to another. Would not that leave the income in the hands of those who have smaller incomes available for the purpose of investment in productive enterprise?

Mr. MOSES. I can not follow the involved form of the Senator's question; but this we do know, and it can be proven by the dealer in any kind of securities—this we do know, Mr. President, that at present the possessors of large accumulated income are not investing their money in the securities of industrial enterprises, because, as has been testified to in my presence, they say, "Why should we take an industrial bond at 8 per cent, with all the chances of having the income taken away; why should we buy new stock in an enterprise which wishes to extend itself, when we can put our money into these tax-exempt securities and get, with all the security which they offer, 20 per cent? That, Mr. President, is the root of the evil of this form of taxation—that the accumulated income which formerly was used to extend enterprises is no longer so used, and because this money is available communities are tempted, oftentimes, as I believe, beyond their ability to pay, to issue these tax-exempt securities.

Mr. JONES of New Mexico. Will not the Senator agree that the current issue of tax-exempt securities is not the one which is generally criticized, but there is supposed to be a very large amount of tax-exempt securities which have been issued during all the past years—I have seen the amount of tax-exempt securities outstanding estimated by some people as high as eighteen or twenty billions of dollars—and that it is that large amount of tax-exempt securities into which it is claimed that these higher incomes are going? Is it not a further fact that those tax-exempt securities are held to-day by some people who have taxable incomes, and that they are held almost in their entirety by people who have taxable incomes under the existing law and under the proposed law?

If you put the higher incomes into these tax-exempt securities, by doing that you create a demand for those securities which will raise their price to a point where the present holders will be willing to part with their ownership, and that will give them an income which they will put into productive enterprise. You are simply bringing about a situation which results in the man of large income getting a less rate of interest upon his investments and the man of smaller income putting his money where he can get more for it, and I ask what the objection to that situation is?

Mr. MOSES. Mr. President, the Senator sets up a prolonged hypothesis and ask me if it is not a fact. I do not know whether it is a fact or not. He does not know whether it is a fact or not; but this fact I do know, Mr. President—that men are not going to put their accumulated income into the stock of new industrial enterprises if they know, as they must know from this tax measure, that the greater amount of the fruit of their enterprise and adventure is to be taken from them, and that is the sole question at issue. It is the sole question that I raise, and I have no intention to be diverted into any thicket of hypothesis by the Senator from New Mexico. He knows that there are sixteen billions of tax-exempt securities issued in a free market to-day, because the other markets for investment have been practically closed.

Mr. JONES of New Mexico. I will ask the Senator to what point he believes taxation should be reduced in order to prevent the calamity to which he has been referring?

Mr. MOSES. That is another hypothetical question. It is believed on all hands, as I think experience shows, that, as I stated—I hope the Senator did me the honor to listen to me—somewhere between 25 and 35 per cent is the saturation point of taxation.

Mr. JONES of New Mexico. Upon what state of facts does the Senator base that conclusion?

Mr. MOSES. Mr. President, I can not rehearse all my education for the benefit of the Senator from New Mexico.

Mr. NELSON. Mr. President, will the Senator yield to me? I think the Senator from New Hampshire has overlooked the great fact of how the stockholders of these wealthy corporations got relief under the decision of the Supreme Court holding stock dividends to be immune from taxation. Where these big companies now have big earnings, instead of distributing dividends in the shape of cash they can issue more stock, and under the decision of the Supreme Court, a 5 to 4 decision, they can escape taxation on that stock. If a dividend is paid in cash, it is taxable. If additional stock is issued—and we have cases here where they have issued eight, nine, and ten hundred per cent of stock dividends—they are immune from taxation.

I want to call attention in this connection to another matter, if the Senator from New Hampshire will allow me.

Mr. MOSES. I yielded the floor long since. The Senator may take it.

The VICE PRESIDENT. The Senator from Minnesota is recognized.

Mr. NELSON. The decisions of the Supreme Court holding that State and municipal bonds are exempt from taxation are all based upon a decision of the Supreme Court in the case of United States *v.* Railroad Co., found in 17 Wallace, page 322. What was that case? The city of Baltimore years ago was authorized to issue bonds to aid in the construction of the Baltimore & Ohio Railroad. It issued bonds, sold them, and took a bond from the railroad company that the railroad company was to pay it, year by year, the interest that it had to pay on its bonds. Under the internal revenue law of 1864 the company was required to pay an internal-revenue tax of 5 per cent on this interest and withhold the amount from the city, and the Supreme Court held that that tax was not collectible from the city and that the company could not, therefore, withhold the same; that the interest due the city from the company belonged to the city and because of that fact was not taxable. Based on this decision and evolved therefrom is the doctrine that State and municipal bonds in the hands of third parties are not taxable on the ground that such taxation involves the power to destroy, and so forth. But that power is involved in all taxing of the people of a State, for the Federal taxes might be so high as to disable the people to pay their State taxes.

Senators can see at once that that Baltimore case was a different question. It was simply a question of whether the money of the city of Baltimore could be taxed; but, as a matter of fact, from that decision, and based on it, the Supreme Court subsequently went a great step further, and held that the men who bought the bonds of a State or a municipality were immune from taxation on those bonds. That is an entirely different case from the case I have cited in Seventeenth Wallace, and yet all their decisions go back to that case. Referring again to the stock-dividend case, I wish Senators would read the dissenting opinion of Justice Brandeis in the case to which I referred at the outset with reference to stock dividends.

I am admonished to make these remarks when I hear this sympathetic cry for the men who have accumulated fortunes

and in order to evade taxation invest them in State bonds. They are not very patriotic; but it is not that that is retarding the prosperity of the country. It is not because these men are not ready to put their money into industrial enterprises. There is plenty of money available for those purposes. It is the labor situation in this country that is holding back industrial enterprises in the United States. There is abundant capital. We are the richest country in the world. We have the gold of the world here. There is plenty of money for industrial enterprises, and men are not holding back their money for that reason. They are not engaging in industrial enterprises because they are handicapped by the labor situation. That is the great drawback, and not this other drawback to which the Senator from New Hampshire refers.

Mr. JONES of New Mexico. Mr. President, the Senator from Minnesota has made some very interesting and very cogent observations, and has called attention to a factor in our taxation laws which ought to be considered by everybody in the country, and especially by the Members of Congress. The Senator called attention to the fact that under a decision of the Supreme Court of the United States stock dividends are not taxable. May I inquire of the Senator from Minnesota if he does not believe that that situation can be met by taxing the incomes of those corporations which are undistributed and as they accrue? In that way those very incomes which are now escaping taxation can be taxed and made to pay their just share of the burdens of the Government. May I ask the Senator from Minnesota if he does not believe that in view of that decision of the Supreme Court of the United States we should now put a tax upon the undistributed incomes of corporations which would at least be equivalent to the tax which the stockholders would pay if those incomes were distributed?

Mr. NELSON. Mr. President, I certainly think we ought to have legislation that would put stock dividends on a par with cash dividends. There is no reason why a man who receives a dividend in cash should pay a tax on it while another man who receives some stock as a dividend is immune from taxation. I have been in hopes that there would be something in this bill which would cover that question. I think it can be covered by proper legislation.

I have inquired of the members of the committee, and I have inquired of some of the experts we have here, whether there is any provision made for it in the bill, and I am told that there is not. I think one of the great lapses and oversights in the bill is that it does not seek to overcome the vice of that decision of the Supreme Court of the United States about stock dividends.

Mr. McCUMBER. Mr. President, will the Senator from New Mexico yield to me that I may give an explanation of it?

Mr. JONES of New Mexico. Certainly.

Mr. McCUMBER. If the Senator will read the Supreme Court decision carefully, he will find that the reason given for holding that you could not levy a tax upon the undistributed profits of a corporation, even though they were in the form of dividend certificates, was that the taxpayer was not in possession and control of the funds, and he could not be taxed upon funds which were not his, and over which he had no control. That was the basis of the decision, and that being the basis of the decision, you could not by any character of language tax those funds while they were still in the hands of the corporation. You could not tax them as against the holder of the certificates. That, I think, was the reason which actuated every member of the committee, so far as I know. The Senator from New Mexico, perhaps, was not present when that was passed upon.

Mr. WATSON of Georgia. Mr. President——

The VICE PRESIDENT. Does the Senator from New Mexico yield to the Senator from Georgia.

Mr. JONES of New Mexico. I yield to the Senator from Georgia.

Mr. WATSON of Georgia. The decision to which the Senator from North Dakota refers is, in the opinion of every lawyer, a perfectly rotten decision, and the Senator from North Dakota is evidently not familiar with it. In that decision the court said that if cash dividends were issued they could be taxed, but that if stock dividends, representing so much cash, were issued they could not be taxed. I suggest to my friend from New Mexico that it is entirely within the power of Congress to annul that decision, and to compel those dividends to pay their taxes, and we will not be doing our duty to our tax-burdened people unless we do it.

Mr. McCUMBER. Mr. President, we annulled it in the last tax bill, but the Supreme Court, having the final say, annulled our action.

Mr. WATSON of Georgia. Mr. President, the Senator again is wrong in his legal position. The Supreme Court has no authority to set aside an act of Congress, passed within its constitutional power by both Houses and approved by the President of the United States. I refer him to the Madison Minutes of the Constitutional Convention, which were not made public until 1842. According to those minutes, kept by James Madison, sometimes called the Father of the Constitution, and who carried for it the deciding vote of Virginia, the Constitutional Convention twice refused to confer upon the Supreme Court the right to annul an act of Congress, passed by both Houses and approved by the President.

Mr. JONES of New Mexico. The Senator from Georgia has raised an interesting question; and it seems to me that the Congress would be justified in recognizing in this legislation the decision of the Supreme Court in regard to the taxation of stock certificates, or so-called stock dividends. Nevertheless, there is a way by which the situation can be reached. If I understand the decision of the Supreme Court correctly, it was substantially as stated by the Senator from North Dakota—that the reason why you could not tax a stock dividend was because a certificate of stock really, by its issue, transferred no value; that the stockholder of a corporation, through his previously acquired certificate of stock, had precisely the same interest in the assets of the corporation that he had after the issuance of the new stock certificate.

The Senator from Minnesota [Mr. NELSON] has called attention to a situation which does require the attention of the Senate. We should in some manner put a tax upon the undistributed dividends of corporations. If the corporation seeks to retain its net income in its treasury, there is no reason, it seems to me, why the corporation should not be required to pay a tax upon that undistributed income as it comes in, and at a rate equivalent to the tax which would be put upon it in the hands of the stockholders.

I submit that there is no argument against the imposition of a tax of that kind, and it would avoid the very thing to which the Senator from Minnesota has directed attention. It would prevent the escape from taxation of the accumulated dividends of corporations. I will state to the Senate that I have prepared an amendment to the pending bill which will cover that precise point, which I expect to present to the Senate within the next day or two.

Mr. McCUMBER. Mr. President, the Senator, of course, does not wish the Senate to understand that the earnings of a corporation are not taxed when they are not distributed. All net earnings are taxed, and taxed under the bill as it was reported 15 per cent; but it was impossible to come to any kind of a conclusion as to how much each corporation should hold and should put to its own credit to carry on its business. Therefore a tax was levied covering the entire earnings of the corporation, and none of them are free.

Mr. JONES of New Mexico. Mr. President, I expect to demonstrate to the Senate that the tax which this bill imposes upon corporate earnings is unfair to the stockholders of the corporations themselves; that it discriminates as between the corporations of various degrees of prosperity; that it discriminates between the individual and the partnership in business; and is not founded upon that fundamental principle of taxation which should breathe in every paragraph of the bill, that taxes should be imposed upon those who are best able to pay. The tax as it is put in this bill upon corporations does not recognize that fundamental principle of taxation, and these matters I hope to present to the Senate, as I said, in the next day or two.

Mr. SIMMONS. Mr. President, I do not purpose to discuss this amendment at any length, but I do wish to present to the Senate some views I have in respect to it. I am sorry that I am not able to bring myself to the conclusion that the original amendment proposed by the committee, or the new amendment proposed by the majority of the committee, is just.

Mr. WATSON of Indiana. To what amendment does the Senator refer?

Mr. SIMMONS. I am referring to the amendment with reference to the taxation of gains in the sale of stock.

Mr. WATSON of Indiana. The so-called Kellogg amendment?

Mr. SIMMONS. Yes.

Mr. WALSH of Massachusetts. Will the Senator from North Carolina permit the amendment to be reported before he begins his address?

Mr. SIMMONS. Certainly.

Mr. WALSH of Massachusetts. Mr. President, may we have the amendment stated by the Secretary?

The VICE PRESIDENT. The Secretary will state the amendment.

The ASSISTANT SECRETARY. On page 7, line 18, after the word "distributed," it is proposed by the Senator from Pennsylvania to strike out the period, insert a comma, and the following words:

but shall be applied against and reduce the basis provided in section 202 for the purpose of ascertaining the gain derived or the loss sustained from the sale or other disposition of the stock or shares by the distributee.

Mr. SIMMONS. Mr. President, this amendment is really aimed almost entirely at dividends covering earnings which accumulated before 1913, and it is with respect to its treatment of those earnings that I complain.

Senators will understand that it will be necessary for me to make some general statements in order that they may see the point of the objection I am making to the amendment. Under the law with reference to gain a vendor who sells his property, whether it be stock or other property, is entitled ordinarily in determining what are his taxable gains to deduct the original cost of that property, or, if he acquired it before 1913, then its fair market value on the 1st of March, 1913.

I think the amendment of the committee is so drafted that it will take the earnings that were accumulated before 1913 and which, under the decisions of the court, are exempt from taxation if they were distributed after 1913, and deduct them from the value of the property in 1913 or the cost of the property if after March, 1913.

In that way they will use this tax-free fund, a fund which the Supreme Court has said the Congress has no right to lay its hand upon for the purpose of raising revenue for the Government, to wipe out the taxpayer's deduction in whole or in part and leave him only the balance, if any be left, as the deduction from the price which he receives when he sells the property outright and make the total price or so much of the price as exceeds the deduction subject to taxation.

Mr. President, I have had an expert prepare for me a table on this matter from which I present this instance: Suppose that on the 1st day of March, 1913, a certain stock was valued at $200 a share. In 1920 a dividend of $200 was declared out of the earnings of the corporation accrued before 1913. Now, the effect of the amendment is to wipe out the basis of deduction provided in the bill, which would be $200, and leave the taxpayer, in case he subsequently sells his stock, without any deduction to represent the original cost to him or the value of that property on the 1st day of March, 1913.

While that is the effect of the amendment with reference to the distributions out of earnings before 1913, earnings that were made and retained in the business instead of annually being taken out of the business, and who thereby lost the interest upon these annual earnings, the effect upon the man who acquired stock issued after 1913 and who each year drew out the entire earnings of his stock is altogether different, because in the first case the amount of the earnings is deducted from the base of deduction—namely, the cost of the stock—and in the other case the amount of the earnings is not deducted from the base of the deduction.

For the purpose of this discussion I wish to make only one illustration. If that illustration does not sustain my position, then I can not make it clearer to the Senate. Here is a man who acquired stock in a corporation, we will say, in 1905. It cost him $200 a share. Between 1905 and 1913 he did not draw a dollar out of that corporation. Every dollar was put back for the purpose of expansion, for the purchase of machinery. In 1913 that stock was worth no more upon the market that it was when he bought it, notwithstanding he had probably added another $200 per share in the way of retained earnings during that time. Stocks were low at that time. Possibly the business had not been prosperous a part of the time or was not prosperous in 1913 or was losing money, and therefore the market value of the stock was worth only $200, the amount he paid for it originally, notwithstanding the accumulated earnings equaled the original value of the stock.

In 1920 a dividend is declared, not out of the earnings since 1913, because no dividend could under the law be declared out of the earnings accumulated before 1913 until all the earnings made since 1913 had been distributed. Therefore if there is a distribution out of the earnings before 1913 it must have been made out of those earnings and not out of the earnings of subsequent years, because, as I said, the law does not permit any distribution of earnings before 1913 as long as there is undistributed a dollar of earnings since 1913.

In 1920 there is a distribution from the earnings before 1913, tax-free earnings under the decision of the Supreme Court of $200 per share. Now it is claimed that that distribution of earnings made before 1913 was paid out of the accumulations before 1913. The effect of this amendment is to provide that this $200 distributed out of the earnings before 1913 wipes out the 1913 value of $200 of his stock, and that if he sells that stock thereafter for $200—stock which represents nothing but the assets of the concern that remained after this distribution of earnings before 1913 had been made—the total sales price represents profits and denies him any deduction on account of original cost or value of the property sold.

Mr. HITCHCOCK. Will the Senator permit me to ask whether this condition which he is now describing is under the present law or under the pending amendment?

Mr. SIMMONS. Under the pending amendment.

Mr. HITCHCOCK. The amendment offered by the Senator from Minnesota?

Mr. SIMMONS. No; under the committee amendment. The same thing is true of the new amendment that is to be offered by the chairman of the committee as a substitute for the committee amendment. That is the treatment that a man receives who left his earnings in a corporation before 1913 and took them out afterwards.

Now, let us see what is the situation with reference to the purchaser of stock issued after 1913. He buys $200 worth of stock in a new corporation, if you please, or an old one, as far as that is concerned, after 1913.

Mr. TOWNSEND. Or it might be in the same corporation.

Mr. SIMMONS. Yes; the same corporation. Every year that corporation distributes its earnings under the law. When it distributes them the stockholder puts the money in his pocket and at once it begins to earn interest for him. Five years hence when he has drawn out of the corporation in earnings $200 they do not subtract that from the original cost of that share of stock and wipe out the original cost upon the theory, as in the first case I put, namely, that he had received in earnings as much as the cost of the stock or as the stock was originally worth, and therefore he ought not to be allowed any claim for deduction of the $200, which he paid for the stock, in case he should sell thereafter.

On the contrary, Mr. President, this amendment provides that in that case, although he has drawn out of earnings in the shape of dividends the full cost of his stock, if he sells that stock for $200, just as in the other case, he is permitted to deduct the original cost of that stock from that $200, the sale price, leaving nothing to be taxed in the way of gain.

Mr. HITCHCOCK. Mr. President, in such a case the man from whom he purchased the stock did have to pay that tax, did he not, because he was the one who made the profit?

Mr. SIMMONS. I am not considering a case now of accumulated earnings. I have already discussed the distribution of accumulated earnings.

Mr. HITCHCOCK. I thought the Senator was applying the illustration to the same corporation.

Mr. SIMMONS. If the Senator will pardon me, I have already discussed the case of the stockholder who acquired his stock before 1913, and left the earnings in the company until they amounted to $200, the original value of a share of his stock, and after 1913 drew out the $200 earnings that were not taxable under the law and then sold his stock for $200. This amendment provides that in determining the amount of his gain in the sale he may subtract the $200 of earnings accumulated before 1913 from the basic value of his stock in 1913, leaving him nothing to deduct in determining whether he has gained or lost by the transaction.

Mr. President, the line of my argument has been broken, but I take the case of a stockholder who acquired stock in a corporation after 1913.

He draws the earnings of his stock and puts the money in his pocket annually. If he had left his earnings in the corporation, as in the case of the first stockholder that I discussed, at the end of a certain period, we will say 1920, his earnings would have amounted to as much as the value of the stock when he bought it; and yet if he sells that stock for $200 the accumulated earnings that he has put in his pocket will not be deducted from the original cost of his stock in determining his gain, whereas in the case of the man who bought before 1913, and left the earnings in the corporation, and although they were free from taxes, his earnings will be deducted. In other words, Mr. President, my position is this: If the accumulated earnings before 1913 in the one case are subtracted for the purpose of wiping out the basis of deductions, which is the original cost or value of the stock, and the stockholder is required to pay a tax upon the total price he receives when he sells the stock later for $200, while under the law the earnings made before 1913 and afterwards distributed are tax free, under this amendment he is required to pay a tax upon that $200 as net gain resulting from the final sale of his stock. He has no income tax to pay, but he has to pay the same amount of tax on his alleged gains or profits.

Mr. SMOOT. The Senator from North Carolina forgets the fact that the man who has received his dividends after 1913——

Mr. SIMMONS. I have not forgotten it; neither am I going to forget it; I am going to discuss that right now. The Senator from Utah anticipates me.

Mr. SMOOT. Then, I will wait.

Mr. SIMMONS. The man who has sold his property for $200, after he had drawn out $200 in earnings before 1913, by this arrangement, by this manipulation, while he has to pay no tax upon his earnings before 1913, will have to pay a tax upon the $200 of gains.

Now, what does the amendment require as to the stockholder who buys his stock after 1913 and receives $200 in earnings, the same amount he paid for it, which he puts in his pocket? Is any such deduction made in his case? No. He is allowed a deduction of the full amount of the original cost of his stock from the sales price.

Mr. SMOOT. But he has paid his taxes all the time.

Mr. SIMMONS. If the Senator from Utah will be patient I am going to get to that.

The man to whom I refer has put the entire amount of the earnings in his pocket, and has paid an income tax on it, but his earnings were taxable under the law, the other man's earnings were not taxable under the law. He then sells his stock for $200, having drawn out in actual earnings $200, and it is claimed that he has had no gain at all, because when he sells the stock for $200, although he has received all the earnings in the meantime, he is given credit to the full extent of the $200 that he paid for the stock by way of deductions from the sales price, leaving no gains to be taxed.

Now, what have we got? We have this situation: The man who collected annually his earnings aggregating $200 and put them in his pocket and thereafter sold his stock for the same amount he paid for it has paid no tax on the gains, but has paid a tax on the earnings. The other man who bought before 1913 has paid no tax upon his income, but he pays what the other man does not pay, namely, a tax upon the whole $200 for which he sold his stock. Therefore both of these men under that scheme will pay a tax on $200, one on income received and the other on profit or gains on the sale of his stock, although one of them was exempt from any tax at all and the other was not. I do not think that is fair. I think that the final outcome is that the man who has no exemption from taxation has a little advantage over the man who has an exemption, because he drew the earnings out and he put the money in his pocket, while the other man let his earnings remain in the corporation for 10 years without interest. Yet, in the final result, while the man who bought his stock before 1913 escapes the income tax on $200 there is a gain tax of $200 levied against him.

The other man gets his earnings annually and pays the income tax, but he does not have to pay any gains tax on the sales price which he obtained for his stock. So that both of them are escaping taxation. One of them was entitled to escape it under the law, while the other was not.

This proposition has been put to me: Here is a corporation organized before 1913, in a period when we had great prosperity in this country. The stock cost $200, and earnings were accrued for a number of years, but no earnings were withdrawn from the corporation, so that the accumulated earnings in 1913 amounted to $250,000, which earnings were absolutely free from taxation. That corporation becomes prosperous, probably by reason of the fact that it was better and more efficiently managed than some other corporation, and while the market value of its stock in March, 1913, was only $200, the amount originally paid, there are $250,000 accumulated earnings which had not been withdrawn, and in 1920 a dividend is declared out of these earnings of the full amount of the earned profits undistributed during that period. I would say that $250,000 was free from taxation. I think the courts have said it was free from taxation; but under this bill $200,000 of that money is applied to extinguish the $200,000 of original investment of the corporation, and by that process the conclusion is reached that the corporation has nothing, and its capitalization is all wiped out by this distribution of its earnings. But, Mr. President, even after they have used $200,000 of the prewar earnings to wipe out the $200,000 original cost of stock there are $50,000 left, and this amendment taxes that $50,000 as gains. If that is not converting a tax-free earning into a taxable earning by indirection I do not know what it is. Yet that thing could happen all over this country to-day in the case of many corporations whose stock was not worth in 1913 more than it was at the time of its organization, notwithstanding there have been vast accumulations which have been put back into the business. In the case of those corporations, if subsequently they distribute the earnings before 1913, if they are able to raise enough money to distribute to the stockholders the earnings that they have left in the business, if the distributed earnings happen to exceed the original capital they tax to that extent, although the Supreme Court of the United States has said it was not taxable.

Mr. KELLOGG. That amendment has been disallowed. The only amendment pending is the one the committee proposes as a substitute. The other amendment has been disallowed.

Mr. SMOOT. Those figures were made on the old amendment.

Mr. SIMMONS. The Senator means the new amendment? Very well; leave that out. But that was undoubtedly the original proposition of the committee, and that is the amendment before the committee now, as I understand. I have not understood that anybody has withdrawn the original amendment made by the committee.

Mr. KELLOGG. Yes; the original amendment made by the committee the chairman of the committee asked to have disallowed, and it was disallowed by the Senate.

Mr. SIMMONS. Very well; I was not aware of that.

Mr. HITCHCOCK. Mr. President, is that the amendment printed in the bill?

Mr. KELLOGG. Yes; that is the amendment printed in the bill. The committee disallowed it.

Mr. SIMMONS. That applies to the original amendment, then, and not to the present amendment; but the point I was making about the $200,000 of stock in the hands of a man who had received earnings to that amount before 1913, and comparing it with a man who bought after 1913 and had received earnings of $200,000, certainly is covered by the new amendment offered by the committee; and I mean by "the new amendment" the amendment offered by the chairman for the majority of the committee.

Mr. President, I have prolonged this discussion a little more than I expected. Some of my colleagues tell me I am wrong about this matter. I do not think I am. I think the case that I gave with reference to the 200 shares of stock makes it clear that in many cases, if not in all cases, the result which I have described would undoubtedly occur. If that is a sound illustration, I take it that it would apply to the majority of cases that might arise. We have no right to make a law that will work a hardship in any case or violate the rights of a citizen in any case. Wherever that does occur, I maintain that it will amount, it will be tantamount by indirection, by legerdemain, if you will pardon that word, to taxing the man whose earnings accumulated before 1913 on his gains to practically the same extent as we tax the man who is entitled to no such exemption under the law as he was entitled to. The tax exacted in that case is not nominally upon the income, but it is actually upon the income, because in arriving at and levying this tax they had to use the nontaxable income to wipe out the legitimate deduction which the law allowed the man in case of a sale of his property. In the end that man pays the same tax as the other man, notwithstanding his whole income was exempt from taxation, while the whole income of the other man was liable to taxation. By this manipulation he is made to pay practically as much tax upon the gains as the man who had no tax exemption pays upon the annual earnings from his stock; and in the end one pays as much tax as the other, although the income figures in both cases, and in one case the income was not taxable and in the other case it is taxable.

Mr. UNDERWOOD. Mr. President, I desire to discuss for a few moments the amendment to which the senior Senator from North Carolina has just referred. My views are largely in accord with the views he has just expressed, but before expressing them I want to take advantage of this opportunity, because I may not have another, of saying a few words with reference to this bill.

The bill does not meet my approval at all. That probably is not unnatural. Along some lines of legislative endeavor there is not much political cleavage. Along other lines of political endeavor there is a very great cleavage, due to the fact that the great contending political parties have been trained in different schools of finance and view the question from different standpoints.

As to the actual taxing features of this bill, I shall not attempt to review them. The Republican Party went to the country in the last campaign and promised a reduction of taxation. Prior to the last election, when they were first intrusted with power by the people of the United States in the last two years of the Wilson administration, the then President of the United States called the attention of Congress to the fact that the tremendous taxation levied during the period of the war was unnecessary from a peace standpoint and should be reduced. No effort was made during those two years by the party in charge of the legislative branch of the Government to reduce taxation.

Now, we have reached a period in our legislative history when those who control both the House of Representatives and the Senate of the United States by a very large party majority are responsible to the American people for complying with the request of the war President that war taxes should be reduced, and for complying with the pledge of their own party that if they were returned to power there would be a real reduction of taxation and not a simulated one.

I know and I realize fully that the task of any party when it enters the domain of an entire change of a fiscal system is a very great one and a very difficult one, but that is the responsibility that you assumed when you were returned to power. Up to this hour, I think, it is only a fair criticism to say that you have done nothing to redeem your pledges; that up to this hour, after you have been in power in every branch of the Government for six months, your pledges remain unredeemed. You propose to redeem them in this bill. I shall not go into a discussion of all the items in this bill. It is unnecessary. It may be changed a hundredfold before it comes out of conference and becomes the law of the land, and the details for which in the end you will be responsible are the details of the bill that is finally enacted into law and that your President signs. But I say this: So far as I know, there is not a man in the Senate, there is not a man in the House, and so far as I know there is not a man in the country who has given unqualified approval to the taxing features of this bill.

You can find men who will say, "This is the best we can do"; you can find men who will say, "Under the circumstances this is all we can do"; but here is a great party going to the country to redeem its pledges with an apology for the legislation it presents.

Of course, I think I understand where your difficulty lies. Without intending to cast any reflection on anybody, I think your real difficulty in writing this bill lies in the fact that you are not sincere with yourselves.

There are two methods of raising the taxes which are necessary to run the Government. One is a tax on wealth, and the other is a tax on consumption. When I had the honor to present the first bill since the Civil War that was declared constitutional, proposing a tax on wealth, as the representative of the committee of which I was chairman I said, "We will levy so much of these taxes on consumption and we will levy so much on wealth." Then we left it to the Congress and the country to determine whether our apportionment at that time was equitable. Of course, what might have been an equitable apportionment then would not relate to the present situation, I realize, because we have gone through a great war. But if you are prepared to bring your bill before the Congress and say, "We intend to distribute a certain amount of the burden of this taxation on consumption—that is, distribute the burden according to numbers—then we will put the balance of the taxes we have to levy on wealth," we will have a concrete idea of what is going to be done, and the Congress can face that issue.

You are responsible for the way in which you are going to distribute this burden. If you will just come out candidly and say to the country, "We stand for a certain distribution," it will clear away many of the clouds and we can then come down to details as to how it is best to levy that portion of the burden which falls on wealth and how it is best to distribute that portion which falls on consumption. But, as far as I can read your bill, you are not willing to be candid with the country and admit that you want to put a portion of this burden on the consumption of the country. I believe, and I have believed all the time, that the wealth of the country should bear a fair share of the burden of government, and I contended for that proposition when the party on the other side of the aisle opposed the enactment of an income-tax law and desired at that time to keep the entire burden of government on consumption.

I am also free to admit that there is a limit beyond which you can not put the tax on wealth without destroying industry. There is a limit beyond which you can not put the tax on wealth without confiscating wealth and through taxation adopt the principles of socialism and the distribution of the assets of the country.

I am not criticizing the Republican Party because in a backhanded way it proposes to put some taxes on consumption. I am free to admit you have to. I am criticizing the Republican Party for lack of candor in not assuming its duties before the American public and taking the responsibility which belongs to that party and no one else. You will never write a satisfactory bill until you are willing to assume your own responsibility.

Unless the bill is very greatly changed in its taxing features I shall not vote for it; but that responsibility does not rest with me, it rests with you.

I rose more particularly, however, not to discuss the taxing features of this bill but to discuss these features of the bill which are designed to carry the law into effect, the machinery of the bill. I think you have about as bad a bill as was ever presented to the Congress of the United States, just about as bad a bill. I am not saying this with any attempt to be unfairly critical, but I am saying it because I really believe it, and I would not say it unless I did. I say that in the administrative clauses of this bill you have presented about the worst tax bill that was ever presented to the American people.

Why do I say that? All laws ought to be simple and plain, if it is possible to make them so. Every law ought to be such that the people who must live under it can understand it without hiring a constitutional lawyer to interpret it; but if there is any law which goes on the statute books that should have simplicity written on its face it is the law that goes with the hand of taxation into every hamlet of the land.

I think if there is one evil in American legislation it is the tendency of our Congress to pass involved legislation. Compare our statutes with the statutes of the British Parliament. Compare our tax laws with the tax laws enacted by the British Parliament, and you will see the difference on their face. A few lines or a few pages will carry the enactment of a statute by the British Parliament, and when once enacted they are very slow to change, because you can not enact any new law and have it finally for the people of the country to live under until it has been interpreted by the courts, and that is particularly true of tax legislation. You enact your law, it has to be geographically broad enough to cover the expanse of the United States, many angles arise which the legislature has not in mind when the statute is written, and in the end it must go to the courts for interpretation. It costs millions of dollars to the people of the United States to have the courts interpret a tax law.

Then, after you have the interpretation by the courts you have a distinct basis on which the law may rest or the people who have to pay taxes may travel, and then if you come along a year or two afterwards and change the language of that law you have it carried back into the courts for another interpretation at the expense of your constituencies, an enormous expense. There is no telling how many million dollars it may be necessary for the people of the United States to pay to get the courts to interpret our legislation.

You had the administrative features of a law before you. There is one on the statute books now to administer these income taxes. It has been interpreted by the courts. To a large extent that interpretation has become final; yet if you take the pages of the administrative features of this bill, more than a hundred of them, you will find that almost every line is changed by amendments.

There are one or two cases here where I happen to understand what your amendments mean, but if I sat down to study out, with the law books before me, what I thought was the interpretation of the amendments you have put into this bill, it would take me from now until next spring to do the work, and it would take anybody else that long, except a man who has been giving constant and continuous study to it, and who has made it the sole study of his life.

I think I can say without contradiction that what I say of myself is true of you. I have not found a man on the Finance Committee, or a man in the Senate, who can tell me what all the clauses of this bill mean, or what all these changes mean. It has been the story here every day, when amendments to this bill came up and Members of the Senate have inquired as to the meaning of them, that the reply was that they would have to get their information from the experts of the Treasury Department.

Mr. PENROSE. Mr. President——

The VICE PRESIDENT. Does the Senator from Alabama yield to the Senator from Pennsylvania?

Mr. UNDERWOOD. I yield.

Mr. PENROSE. There was not a statement submitted by the Treasury experts for a new provision relating to the administrative phraseology that is not available for the Senator in the stenographer's transcript, printed for the use of the committee, and I never knew a bill to be presented to Congress where greater illumination was thrown on the measure than in the case of this bill, because the slightest change, frequently even in the case of a comma or a semicolon, is noted in the stenographer's notes and printed for the use of the committee.

Mr. UNDERWOOD. I am not charging the Senator with concealing anything. I think the Senator has been most candid all the way through in the presentation of the bill; but this is a bill presented by the Treasury Department of the United States and not by the Committee on Finance.

Mr. PENROSE. On the contrary, Mr. President, it is presented by the House of Representatives, duly representing the American people; and in the case of the Finance Committee, with the minority permitted to attend every session and welcomed, I do not know of a case where the Treasury Department have done more than answer inquiries addressed to them by the committee.

Mr. UNDERWOOD. I do not judge that from the hearings, and I do not judge that from the conversations which have occurred on the floor of the Senate since this bill has been before us. I am not charging the Senator with concealing anything. I am not charging him with doing anything that is improper. I say that the amendments in this bill come from the angle, come from the viewpoint, of the Treasury, who want to use their viewpoint in the collection of taxes, and the Treasury Department does not represent the people of the United States, and does not reflect the view of this body.

Mr. PENROSE. Will the Senator permit one more observation?

Mr. UNDERWOOD. I will, indeed.

Mr. PENROSE. I do not intend to and I have not adopted the policy of interrupting Senators opposed to the bill or endeavoring to prolong this discussion, because I want to see the bill voted on, but I do think I ought to say to the Senator that there was not a Treasury expert employed by the Finance Committee who was not the same expert the Senator had, Mr. KITCHIN had, and every other Democratic financial legislator had at his elbow during the last 8 or 10 years, and if they look with an obscure angle it is extraordinary how the Senator has gotten through as well as he has. Further than that, these experts only answered inquiries. The committee determined these matters entirely on their own judgment and as they saw the facts.

Mr. GERRY. Mr. President, I merely wish to say as a member of the committee that I think we would have had a much better bill if it had not been so much pressed in the committee. The experts had a tremendous task to accomplish, and the result was that they were kept busy every minute of the day. They did not have an opportunity, for example, to revise the record of their testimony which was taken down by the stenographer until the committee was through considering the bill. If the bill had not been so much rushed, there would have been an opportunity to have had that record prepared and the members of the committee could have studied it. They would have been much more enlightened as to what the bill meant if they had had that opportunity than they could possibly be by simply hearing the experts instead of having a chance to go home, read and consider their testimony, while the bill was being framed. That is one of the reasons why the bill is so involved and otherwise unsatisfactory.

Mr. POMERENE. Mr. President, may I make an observation?

Mr. UNDERWOOD. I yield to the Senator from Ohio.

Mr. POMERENE. I have been greatly interested in this little colloquy. The Senator from Alabama, who is, perhaps, the leading exponent of tariff legislation on the Democratic side, excepting, of course and only, the senior Senator from North Carolina [Mr. SIMMONS], has said that the bill is so drawn that it would take him until next spring to understand it. The chairman of the Finance Committee tells us that the explanations are embalmed in the transcript of the stenographic notes taken before the committee. Neither the chairman of the Finance Committee nor any other member of the Finance Committee on the other side of the Chamber has attempted to explain fully and in detail the mysteries of the bill.

Mr. UNDERWOOD. Nor is there a report explaining the bill.

Mr. POMERENE. If the Senator from Alabama is not able to understand the bill, I am at a loss to know why it should be rushed through here and voted upon without being discussed or explained by the majority side in the Chamber.

Mr. UNDERWOOD. I will say to the Senator that I am satisfied the only explanation of the bill and the real understanding of the people in the end will come when the Supreme Court of the United States, after trial and labor by the American people at great cost, explains the meaning of the bill. I do not charge that the tax lawyers of Washington or of the United States are in conspiracy to write a bill out of which they may grow rich. I know that is not a fact, but if I looked through the pages of the bill and thought there was an undue animus behind it, I would say that every lawyer who is engaged in tax litigation in the United States must be interested in the passage of a bill that will provide him clients for the balance of his life.

I wish to say to the Senator from Pennsylvania that I am glad to have him interrupt me, because what I say is not in any bad spirit. I have a very kindly feeling for the Senator from Pennsylvania, and the criticism I am making is of his bill. The criticism I am making as to Senators on the other side of the Chamber is that I say to you here is a great bill levying the greatest amount of taxes that has ever been burdened upon the American people except in time of war, and it is unworthy of the great exponents of tax legislation in your party. Do you think this bill would have been brought here by Dingley or McKinley—a bill that you yourself can not explain? That is true and you know it is true.

I wish to say to the Senator in reply to what he said about the experts that I can not say that all the Treasury experts he has used in writing the bill have been helpful to me in the past, because there may be one or two who have not; but I see before me now two gentlemen who, when I had charge of these responsibilities, had been most helpful. To the left of the Senator now, sitting there to help him, is Mr. J. E. Walker, a gentleman who almost grew up in my office, in whom I have the greatest confidence as an expert in taxation legislation, a gentleman who sat by my side when the present tariff law went through Congress, and as an expert, as a man of character and attainment, no one values him more highly than I do. But when his expert advice came to me I reached the decision, not the Treasury expert. The decision was reached by my committee, not by the Treasury. That is the distinction I am drawing about the pending bill.

Mr. PENROSE. That is where the Senator is entirely wrong.

Mr. UNDERWOOD. If the Senator will allow me, just this morning I found that, with reference to the pending item, two members of the committee, two distinguished and able members now sitting before me, had an entirely different interpretation of the item. When I looked at the RECORD I found the interpretation of the item is the interpretation that the expert of the Treasury Department gave to it. I refer to the RECORD of the last day the bill was before the Senate. It is not the interpretation of the committee, but is the interpretation which the Treasury Department gives to it. I have found that so here every day in the consideration of the bill.

If there was nothing else in the changes which you have made in the pending bill, I would vote against it, because I know that the bill will stay in the courts indefinitely before the American people will find out how you intended to interpret it, how it should be interpreted, and what it means.

I think the difficulties which rest with you, not only in this bill but in the tariff bill that now slumbers in the Finance Committee, are, as I said before, that you do not want to be candid with the American people. On the surface you want to say that you are reducing taxation, but behind the closed doors you want to raise the taxation.

Your tariff bill, which has not yet come before this body, has a clause in it that is contrary to every principle of American taxation or the taxation of any other country, and that is to fix the taxable value of goods on the value after they are imported instead of on the value of the exporting country. It is unworkable. If you put it on the statute books, you can not make it work. But, of course, everybody knows why you put it there. You have not the courage to raise the tariff rates to the extent you want to do. I refer to those who have already acted on the bill. I am not charging the Senate yet, because I think the Senate will have another viewpoint. You had not the courage to raise the tax rates in black and white to the extent you want to raise them, and therefore you changed the valuation so that behind closed doors you make the increase, and the American people will find it out only after they have to pay the taxes. That is clear. I do not know and you do not know how much the change in valuation in the tariff bill to the so-called American valuation will make in increasing taxes, but you know it is going to be very great, perhaps 100 per cent on many items.

Mr. SIMMONS. I will say to the Senator it is 1,000 per cent on some items.

Mr. UNDERWOOD. I have no doubt the Senator is correct. I was trying to be moderate in my statement. You are doing the very same thing in this bill. In my judgment, you are amending, I will not say all the clauses in the bill, because I have been able to analyze only a few, but from those few I am led to believe that you are amending the administrative features of the bill so that through the administrative features you are going to increase taxes that are not represented on the face of the taxing clauses of your bill. You are going to increase taxes through your administrative features and then pretend you are reducing them in your actual taxing features. That is a rather

broad assertion, but coming right down to the proposition that is before the Senate——

Mr. SIMMONS. If the Senator will pardon me, I think it is plain that the very amendment which I have been discussing will probably increase taxes about $100,000,000. May I ask the Senator from Utah [Mr. SMOOT] if I am correct?

Mr. SMOOT. No; it does not increase them.

Mr. SIMMONS. It raises that amount of revenue, does it not?

Mr. UNDERWOOD. I will yield to the Senator from Utah to answer the Senator from North Carolina. I am not trying to make an oration; I am trying to have a plain talk, and if the Senator wishes to interrupt me to answer the Senator from North Carolina he may do so.

Mr. SMOOT. I do not desire to interrupt the Senator.

Mr. UNDERWOOD. Undoubtedly the increase in this bill over the provisions of the House bill is for the purpose of raising more revenue. Nobody can deny that; but I wish to give it on the authority of the real man on the subject, and that is the Treasury expert. I was not here last Wednesday when this item came up, but I find on page 7031 of the RECORD of that day this occurrence. The Senator from Wisconsin [Mr. LA FOLLETTE] in discussing the pending amendment said:

That is the one which the committee is now reporting here as the substitute for the one which the committee reported when it reported this bill to the Senate.

Then the Senator read from the report of the committee hearings as follows:

The proposed amendment does not satisfy me thoroughly, but it will stop 85 per cent of the present leak, I should say.

He is quoting from Dr. Adams's testimony before the committee.

Mr. SIMMONS. Will the Senator pardon me? I think he has it a little confused. The first amendment offered by the committee, I understood Dr. Adams to say, would stop a leak of $100,000,000, and the amendment to be offered will stop only 85 per cent of that leak instead of 100 per cent.

Mr. UNDERWOOD. That is what I am coming to. The figures are not material. I am not concerned about the amount of tax you are to levy. You have got to have the money, and if you have the courage to come out and say that you have to increase the taxes on the American people to raise that amount of money, I have no criticism of your levying them if you find it is necessary. What I am criticizing is that you are carrying us up a blind alley under the pretense that you are going to reduce taxes when in your administrative features of the bill you are laying traps to very largely increase them, and the very testimony of your experts sustains it, as the Senator from North Carolina has just said, and the Senator from Utah agrees with him. Listen to Dr. Adams's testimony:

The proposed amendment—

That is the one they have here now—

does not satisfy me thoroughly, but it will stop 85 per cent of the present leak, I should say.

Not that it satisfies the Congress or the Finance Committee, but it satisfies the experts of the Treasury Department.

Senator LA FOLLETTE. The modified amendment you are now suggesting to meet Senator KELLOGG'S statement?

Dr. ADAMS. The amendment as adopted by the Senate committee in the first instance represented my view—

"My view"—

of what was thoroughly fair to the taxpayer and thoroughly fair to the Government—

Not the committee's view, not the views of Congress, but Dr. Adams's view. He said that himself—

in other words, the right solution. There has been the deepest sort of opposition to it. It began with the chairman of the Ways and Means Committee, at which time a similar amendment was defeated. The opposition has continued in the Senate, with men such as Senator KELLOGG and Senator UNDERWOOD deeply opposed to it. The Secretary of the Treasury, since he presented the original recommendation, has been inclined to change his mind, thinking there was something in the position of Senator KELLOGG and Senator UNDERWOOD.

But the Treasury expert has not changed a particle; he is still of the opinion that through this backdoor method we should levy this tax. Then he goes on to say:

Now then, I have suggested another amendment, which, as I say, will stop—I can not describe it more accurately—85 or 90 per cent of the leak, and rather than lose the whole thing I much prefer to take the 90 per cent—

In other words, the amendment that was not agreed to here, and which the committee reported to strike out, carried 100 per cent of the so-called leak, meant 100 per cent in taxing people and collecting money, whereas Dr. Adams says he has fixed up an amendment that will save 90 per cent of it—

That is the situation, and my judgment is that I will lose it all if I do not take the 90 per cent.

The Senator from Pennsylvania [Mr. PENROSE] says that Dr. Adams did not write this bill, but Dr. Adams says right here that if he does not take this amendment he is going to lose 90 per cent of the leak under his bill—not the committee's bill, but his bill.

What I desired to call to the attention of Senators in connection with this amendment was that the Treasury expert—who undoubtedly is conceded by everybody to be responsible for this amendment, and, I think, for most of the bill—wants to stop a leak. Now, I want to discuss in this particular case what the leak is.

Mr. SMOOT. Will the Senator yield to me?

Mr. UNDERWOOD. I yield.

Mr. SMOOT. I desire to say for the record, and on my own responsibility, that since the statement to which the Senator from Alabama refers was made I have been trying to figure out how it is possible for Dr. Adams to say that that proposition would save $100,000,000. I can not figure it out in any way, shape, or form. In fact, I may say to the Senator from Alabama now that I am as confident as I am that I live that the statement as to the amount to be saved is exaggerated. I can not see how there will be even $50,000,000 saved; but just let it go, so far as that is concerned.

Mr. SIMMONS. But the Senator from Utah understands the Senator from Alabama was quoting what Dr. Adams has said?

Mr. SMOOT. I am not denying that at all. I am only stating my own position.

Mr. POMERENE. If the Senator from Alabama will pardon me, I desire to ask, is not that perfectly clear from a reading of the bill?

Mr. SMOOT. Does the Senator refer to what Dr. Adams meant?

Mr. POMERENE. No; but as to whether the saving is to be $50,000,000 or $100,000,000?

Mr. UNDERWOOD. The Senator from Ohio can not expect the committee to know whether it is going to be $50,000,000 or $100,000,000. That is a small item in taxes to put upon the backs of the American people.

Mr. STANLEY. If we do not know how little it is going to be, we do not know how much it may be.

Mr. UNDERWOOD. As the Senator from Kentucky suggests, if we do not know how little it is going to be, we do not know how much it may be.

Mr. SMOOT. With me it is not a question of $1,000,000 or $100,000,000, but it is a question of principle; it is a question in my mind as to whether we shall since March 1, 1913, treat all organizations alike in the matter of taxation. I believe they ought to be so treated. I believe that all corporations in the United States ought to pay taxes upon the same basis. When I speak on this matter I speak from that standpoint, irrespective of whether $100,000,000 or $50,000,000 or $20,000,000 may be involved. The principle of the thing, I say, is right, and if some corporations have been escaping taxation under existing law, while others have been compelled to pay the taxes, then, I think, we ought to amend the law. That is my position.

Mr. UNDERWOOD. I agree with the Senator from Utah thus far: I am not concerning myself about the amount which is involved. I say that there is a principle involved here, and Dr. Adams is violating the principle. That is the issue that I am making as to this proposition. Whether it is $100,000,000 or $50,000,000, or whatever amount it may be, the American people, the taxpayers, must pay it, and I think we ought to have some intelligent understanding of the situation before we put it on the taxpayers.

However, I am referring to the statement of Dr. Adams that this is a leak. A leak under what? It can not be a leak under anything except the old law. What was the old law—the existing law—which it is now proposed to amend? It was that all accumulations of property before March 1, 1913, represented principal. The accumulation of profits, the growth of timber, the growth of value or anything else on March 1, 1913, under the terms of the present law, the law that has been on the statute books since the beginning, were treated as principal and not as profits. Why? Because before the 28th day of February, 1913, under the decision of the Supreme Court of the United States, there was no right on the part of Congress to levy an income tax on earnings and accumulations of property. That was the date after which the first income tax law applied. The committee reported and Congress provided that all accumulations up to that date represented the principal of the estate and that after that time accumulations were subject to taxation.

When Dr. Adams says there is a leak he means that the leak has been occasioned because we did not go back and tax

accumulations which accrued before the right existed to levy an income tax. Of course, it is only a leak in the sense that if every particle of income since George Washington's day down to the present time belongs to the Government of the United States and not to the taxpayers, then, of course, the failure to obtain it constitutes a leak. A very definite line has been drawn between taxing the principal of an estate and taxing the income of an estate; but Dr. Adams says there is a leak because we do not go back and tax the accumulations and profits prior to March 1, 1913, when we did not have any right under the law to tax them. Of course, if that is a leak, then we might as well say that we allow another leak in this bill when we do not raise the income tax so that we will take 95 per cent of every estate. Dr. Adams calls it a leak, when, in fact, he is trying through the administrative features of this bill to get Congress to levy an additional tax, which he says amounts to a hundred million dollars and which is concealed in the folds of this bill and not carried on its face. More than that, it is not only a concealed tax but it is an effort to confiscate the principal of the estate.

There may be some people who believe in that theory of taxation; that Congress not only has the right to tax a man's income but, if he has a big enough estate, we have a right to tax away from him the principal of his estate and distribute it through Government appropriation bills back to the people. That may be a good theory for a socialist or a communist, but it has never been the theory of a Democratic Party. The Democratic Party has believed in a fair distribution of the burdens of taxation and that wealth should bear its fair share of the burden, but never in its history has the Democratic Party believed in using the power of taxation to tear down the accumulated earnings of the people of America.

Mr. WATSON of Georgia. Mr. President, will the Senator from Alabama allow me to interrupt him for just a moment?

Mr. UNDERWOOD. Certainly.

Mr. WATSON of Georgia. I do not think the Senator from Alabama was in the Chamber when some question arose about the exemption of the profits of corporations when they were declared in the form of stock dividends. My statement as to the decision in that case was questioned by the Senator from North Dakota [Mr. MCCUMBER]. As I understood the Senator—and he is not now in his seat, I regret to say—he declared that the Supreme Court had based its decision upon the ground that stock dividends had not been apportioned—I think apportioned was the word he used. I have sent for the volume containing that decision. It is 252 United States, and the opinion of the court begins on page 199 and occupies about 20 pages. I will say for the information of those interested in the point that the Supreme Court distinctly says in the decision that it sets aside an act of Congress and does exempt stock dividends of the Standard Oil Co., which seems always to gain its cases, after such dividends had been declared and divided and entered on its books.

Mr. UNDERWOOD. I will say to the Senator that I was not present when the discussion arose between him and the Senator from North Dakota, and although I have a general recollection of that decision, I have not read it for so long that my mind is not clear upon it; but that decision is not along the line that I am pursuing now, and is not entirely pertinent to the proposition I am discussing. I am not discussing the court's decision with reference to those matters, but I am referring to the existing law and how far it can go. What I contend here is that through an amendment to the administrative features of this bill the Treasury expert is trying to reverse the machinery of the law that has existed for the last eight years, since we first wrote an income tax law, in order that the Government may go back and tax estates on account of earnings accumulated before March 1, 1913.

I say that I think that would be unconstitutional if they did it. I do not think the court would sustain it; but I do not think it is right. It is not the way to approach the question. But, more than that, if this committee wants to raise money through taxation in that way, it ought to come and present its case clearly to the Senate, and give us an opportunity to know, not that there is a leak—how could there be a leak when there is no statute prescribing the collection of this money? There is no leak. It is simply that we are not extending our system of taxation to another field. You might as well tell me that there is a leak in a tariff bill when you levy taxes on jewels coming in at the customhouse, and you have not levied any taxes on pig iron, which comes in free. I suppose Dr. Adams would say there was a leak on pig iron because if you put a tax on it you might get some more money. That is the kind of leak he is talking about. The only leak in this proposition is that Dr. Adams says that by amending the administrative features of this bill you can wring another $100,000,000 of taxation out of the American people without making it appear in the taxing features of this bill.

I think it is wrong on principle. I think the entire amendments of the Senate ought to be defeated. I will vote for the amendment that will be offered by the Senator from Minnesota [Mr. KELLOGG], because it is going in the right direction; but it still leaves the bill involved. What I think ought to be done is that the entire amendments of the Senate ought to be defeated, and we ought to go back and adopt the language of the House in this provision that is clear and that is in accordance with existing law.

Mr. SIMMONS. Mr. President, I will ask the Senator if he does not think this is about the situation: They practically say in this amendment: "We can not tax this prewar income of earnings," whether you treat it as income earned before that time or treat it as part of the capital; "we can not tax that as income or earnings, but we will tax it as gains."

Mr. UNDERWOOD. Yes. It is the same thing, though. It is merely a change of verbiage to wring out of the American poeple—and, it may be, establish a precedent to wring far more in the end out of the American people through an administrative feature of this bill—taxes that this committee is not willing to write in the face of the bill and admit that it is levying on the American people. Therefore, I think that these amendments ought to be defeated, and we ought to go back to the House bill.

In conclusion let me ask, How can the party in power expect a sustained vote on this side of the Chamber in favor of this tax bill when you have it loaded with administrative changes, when we find that some of them are nothing but a concealed gun for the purpose of imposing additional taxes on the Ameriman people, and you have hundreds of pages with these changes made, coming from the same source, that it is impossible for us to understand or know anything about?

Mr. SMOOT. Mr. President, I think we all agree to the proposition that profits of a corporation made before March 1, 1913, are nontaxable. If a corporation was organized in 1905, the year to which the Senator from North Carolina referred, and a share of its stock was worth $100, and from 1905 up to 1913 no dividends had been declared, but there had been a profit of $100 a share, and on March 1, 1913, the fair market value of that stock was $200 a share, I think everybody will agree to the proposition that no part of that gain made from 1905 to March 1, 1913, is taxable. So we will start with the proposition that on March 1, 1913, the stock was worth $200 a share, just the same as the Senator from North Carolina stated that it was.

Let us confine ourselves to this one proposition for the present and let us take the example that was given by the Senator from North Carolina and see whether any injustice is done to such a company. Let us compare it with a company that was organized on the 2d day of March, 1913, and whose capital stock was worth $200 a share.

The Senator says that the company which was organized before 1913 ran on until 1920, and it had made no profits but it declared a stock dividend of $100, and then after that the stockholder who received it sold that stock for $200 a share. He claims that there should be no tax imposed because of the fact that it was worth $200 before March 1, 1913, and the $100 dividend that was declared was nontaxable, because he thinks that ought to go back before 1913. If that is the case, then the stockholder ought to be taxed, and this amendment provides that he shall be taxed only on the $100 gain.

If you take a corporation that was organized on the 2d day of March, 1913, and has run just as many years as the Senator referred to, and it has declared during that whole time dividends of $200 a share, remember that every dividend that was declared after March 1, 1913, was taxable. There was not a dividend declared by the company but that was taxed under the law existing at the time the dividend was declared. In the other case there was no distribution of dividends. The profit made was held as a reserve. No tax was imposed upon such gains; but when the company declared a $200 dividend, that was the fair market value of the stock on March 1, 1913, and in such a case there would not be a cent of taxation until the stock was finally sold, under this amendment; but after the declaration of the dividend of $200, and the stock was sold for $100, under this amendment it is taxed on the $100 that the share sold for. Why? Because it was the profit gained by the stockholder over and above the value of his stock on March 1, 1913. Every stockholder is given an exemption for every dollar of the value of his stock as of March 1, 1913, before there is a cent of tax imposed upon him.

Is not that the way in which every corporation organized after March 1, 1913, is taxed? If the corporation, organized after

March 1, 1913, stock is worth $200 March 2, we will say, and it runs until 1920, if there is a stock dividend declared and not a cash dividend, there is no taxation upon it; but if there is a cash dividend declared it is taxed under the law. But supposing there had been no stock dividend, and supposing there had been no cash dividend whatever declared upon that stock, and it sold not for $200 but for $400, the seller would have an exemption of $200, the amount he paid for his stock on March 2, 1913, and every dollar above that is taxed; and that is exactly what the pending amendment means, and shall apply to corporations that were organized before March 1, 1913. In other words, it is putting every corporation organized after March 1, 1913, upon exactly the same footing as every corporation that was organized before March 1, 1913, because all the stock was worth on March 1, 1913, $200 a share. That stock may have been only $25 a share if it was organized away back in 1870 or the eighties. Increased from $25 a share up to $200 by March 1, 1913. Nobody is undertaking to tax that increase. The Supreme Court of the United States says that it can not be taxed, and under this amendment we do not propose to tax it; but we do propose to tax all of the gains after March 1, 1913, in the case of companies organized before that date, just the same as we do in the case of companies organized after that date.

It makes no difference to me, Mr. President, how much the Government gains or how much it loses. The question of what the leak may be I am not taking into consideration in any way whatever. The only question that I have to take under consideration is what is right, what is fair, and have no discrimination between corporations of any kind or nature. If we tax corporations that are organized after March 1, 1913, upon one basis, we should tax the same kind of a corporation that was organized before March 1, 1913, upon the same basis. That is what this amendment does, and it does not do any more.

Mr. HITCHCOCK. Mr. President, to which amendment is the Senator referring?

Mr. SMOOT. The pending amendment.

Mr. HITCHCOCK. The amendment printed in the bill?

Mr. SMOOT. Oh, no.

Mr. HITCHCOCK. The amendment printed on this little slip?

Mr. SMOOT. The first amendment on the little slip. That is the amendment that is pending now before the Senate, and that is what the committee is asking the Senate to agree to.

Mr. HITCHCOCK. What would have been the effect of the amendment as printed in the bill, which has been rejected?

Mr. SMOOT. It is even more sweeping than this amendment.

Mr. SIMMONS. That is the amendment which Dr. Adams said would stop a leak of about $85,000,000.

Mr. HITCHCOCK. The other amendment has been disagreed to?

Mr. SMOOT. Yes; the other amendment has been disagreed to, and this is the pending amendment.

Mr. HITCHCOCK. On what theory was the other amendment disagreed to?

Mr. SMOOT. It was simply a compromise; that is all. The Senator from Minnesota knows exactly what took place in the committee, because we asked him to come there, and he will admit that it was a compromise.

Mr. HITCHCOCK. One more question: Under the present law, what is done?

Mr. SMOOT. They are not taxed at all.

Mr. HITCHCOCK. Who is not taxed?

Mr. SMOOT. The stockholder who held stock in a corporation before March 1, 1913. If that stock on March 1, 1913, was worth $200, and for some unaccountable reason it should increase in value, we will say by the development of an oil well, thus immensely increasing the value of the stock, and they declare a dividend—remember, not of $200 but of $300, $100 more than the stock was worth on March 1, 1913, the stockholder is not taxable; we can not tax him at all until he has sold it; and yet he has received in dividends $100 a share more than the value of his stock on March 1, 1913. I say that is unfair; I say it is unjust; and I say it can not be defended. That is what we are trying to correct by this amendment, and I think it ought to be corrected.

Mr. SIMMONS. Mr. President, the only answer I wish to make to the Senator is this: It is clear, if stock costs $200, and that stock is sold for $400, that under the general provisions of the bill the gains which would be taxable would be the difference between the $200, the original cost of the stock, and the $400, the price at which it was sold.

If in the meantime, between the time of the purchase of the stock and the time of the sale of the stock, a dividend of $200 is declared out of the earnings before 1913, that dividend will be applied as a credit upon the $200 original cost, and wipe it out, and leave the stockholder no deduction from the price at which his stock is sold.

If, on the other hand, that dividend is declared out of earnings made since 1913 for the same amount, $200, the original cost of the stock, those earnings will not be deducted from the $200, the original cost, and wipe it out, but those earnings, in determining gains, will not be considered at all, and he will have a $200 exemption from the price at which he sold. That difference will measure his taxable gain.

Is it not clear the benefits of the earnings made before 1913 by this arrangement have been lost to the stockholder, because they are used as a deduction from his base of exemption, while the earnings since then are not used as such a deduction from the base of exemption, namely, the original cost of the stock.

My theory is this, that if you are to say that the earnings made before 1913, when distributed, are to be deducted from the original cost, upon the theory that he has received back as much as he paid out, then if the earnings which have accumulated since 1913 have been drawn out year by year, until they amount to as much as the original cost, following out the same logic, you ought to say that he has also received back in distributed earnings the amount of the original cost of his stock, and therefore has no base of exemption left.

I can not see why earnings which were received before 1913, and were exempt from taxation, should be used to wipe out the entire original cost, why the proposition should be maintained and carried forward in this bill that he has been paid back all he originally paid out, when earnings earned since 1913 are not to be treated as a return to him of the original cost of his stock.

It is true he paid a tax in one case and not in the other case upon the earnings; but that is because the law exempts the one from taxation and the law does not exempt the other from taxation. But if you use that earning which is exempt from taxation to wipe out the $200 deduction, then you leave that man with a net gain of $200, while in the other case, where you refuse to use it as a deduction from the original cost you leave him no tax to pay upon his net gain, because the original cost wipes out his gain.

So that you have the result that in one case you do not tax the man's income, but you tax his gains $200, and in the other case, identically the same as to original cost, as to distributed earnings, and as to final sales price, you do not apply the income received to a liquidation of the original cost, and thereby you leave him no tax to pay upon the $200 at which he sells his stock. So that in one case you have taxed a man who has earned profits before 1913 and who did not get them until after that date on $200 gains, and in the other case you have taxed him on his stock dividends, because the law requires you to tax him, but you relieve him absolutely from any gain tax.

The situation you have presented is that both of these men pay practically the same tax, one on $200 income and the other on $200 gain. One is relieved of the income tax, the other is relieved of the gain tax.

Mr. SMOOT. Mr. President, the Senator makes a mistake in assuming that before 1913 the gains were looked on as gains. On March 1, 1913, the capital and the gains were both by the decision of the Supreme Court held to be capital, and that is they way they have to be treated. In other words, if the stock referred to by the Senator was worth $100 at the organization and the gains had been $100 up to March 1, 1913, after March 1, 1913, that gain of $100 a share is not treated as a gain; it is his capital, and no tax can be imposed. That is exactly what this amendment provides.

Mr. President, after March 1, 1913, when the market price of the stock is determined to be $200 a share, $100 of original capital put in and $100 profit, the market value on March 1, 1913, is $200 a share, and the corporation will claim that value as a basis of exemption in determining their taxes due the Government.

Mr. SIMMONS. Mr. President, that is a play on words.

Mr. SMOOT. Not at all, Mr. President. It is a play on principle.

Mr. SIMMONS. That represented earnings which had not been drawn out of that corporation. Now, you propose to treat those earnings that had not been drawn out of that corporation very differently from the way you treat earnings which have been drawn out since 1913. They are earnings in both cases. You may call it capital if you want to, but really it is earnings, and when you go to pass a law taxing people you want to get down to the substance of things and not indulge in such techni-

calities. They are both earnings. You take the earnings before 1913 and wipe out entirely the base of deduction, but the earnings that he made after 1913 you do not use for that purpose. Then you accomplish the result I have stated.

Mr. SMOOT. The Senator is wrong again. If the earnings had not been taken into consideration, the value of the stock on March 1, 1913, would have been $100, not $200, and when he sells the stock he is given an exemption of $200, not only the original price of the stock but the earnings on the stock up to March 1, 1913. Mr. President, if we did not allow the exemption of $200 a share, no matter when he sold it after March 1, 1913, the Senator's contention would be right; but that is not what the practice is, and that is not what this amendment is aimed at. The practice is that, if the fair market price of the stock on March 1, 1913, including all of the gains made before, on all of the capital stock, is $200 a share, if that stock is sold for no more than $200 a share after March 1, 1913, there is not a cent of taxation upon it; but if it is sold for $100 a share more there is a gain made after March 1, 1913, of $100, and that is what we are undertaking to tax, and nothing else, and that is what this amendment is intended to apply to.

Mr. KELLOGG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURSUM in the chair). The Secretary will call the roll.

The principal legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Harris	Moses	Spencer
Borah	Heflin	Nelson	Sterling
Broussard	Hitchcock	New	Sutherland
Bursum	Johnson	Newberry	Swanson
Calder	Kellogg	Norbeck	Townsend
Cameron	Kendrick	Oddie	Trammell
Capper	Kenyon	Overman	Underwood
Caraway	Keyes	Page	Wadsworth
Curtis	King	Pittman	Walsh, Mass.
Dial	La Follette	Poindexter	Walsh, Mont.
Dillingham	Lenroot	Pomerene	Warren
Elkins	Lodge	Ransdell	Watson, Ga.
Ernst	McCormick	Reed	Watson, Ind.
Fletcher	McCumber	Sheppard	Williams
Glass	McKellar	Shields	Willis
Hale	McKinley	Simmons	
Harreld	McNary	Smoot	

The VICE PRESIDENT. Sixty-six Senators having answered to their names, there is a quorum present.

Mr. KELLOGG. Mr. President, if I may have the attention of the Senate for just a moment, I would like to explain what I think is the effect of the pending amendment. It seems to me the discussion has wandered over a large field.

Now, I admit that the present proposed amendment is very much better than the original amendment. The original amendment, which is found on page 7 as subdivision (c), has been disagreed to. The present amendment is one proposed by the committee. Now, let us see what is the state of the law now and what effect the amendment will have if agreed to. The law as it now exists is stated in subdivision (b) on page 7 of the committee bill, and I will read that portion which provides for the exemption of earnings made prior to March 1, 1913:

> Any earnings or profits accumulated prior to March 1, 1913, may be distributed exempt from the tax after the earnings and profits accumulated since February 28, 1913, have been distributed.

That is the present law. That has been the law since the last tax bill of 1917.

The constitutional amendment which authorized the taxing of incomes went into effect at that time. Of course in the hands of a corporation any income of the corporation made prior to 1913 could not be taxed in the hands of the corporation. Everybody admits that. Why were they excepted? Because the income could not be taxed, and it was thought wise that a date should be fixed prior to which all accumulations of income could be treated as capital or should not be taxed under the constitutional amendment. Nobody knew whether the stockholders had received any dividends or not or whether they had placed their income into the capital of the company. Many mercantile concerns with a few stockholders had the habit of not distributing their earnings but of putting them in capital. Therefore the Congress selected, and I think wisely, that date and provided that any profits made prior to that date, although distributed afterwards, should not be taxed.

Let us see what the present amendment provides. I will read again the provision of the law, together with the proposed amendment:

> Any earnings or profits accumulated prior to March 1, 1913, may, except as provided in subdivision (c), be distributed exempt from the tax, after the earnings and profits accumulated since February 28, 1913, have been distributed, but shall be applied against and reduce the basis provided in section 202 for the purpose of ascertaining the gain derived or the loss sustained from the sale or other disposition of the stock or shares by the distributee.

In other words, if profits made prior to March 1, 1913, were thereafter distributed they would be automatically charged against the value of the stock as of March 1 and automatically reduce the value of the stock that much without any regard to the market value of the stock. If the stockholder sold his stock, he would necessarily pay a tax on the distribution of profits made prior to March 1, 1913. That is all there is of it. It does not make any difference in the market value of the stock as the law now stands, if the stockholder owns stock, whether he buys it or has owned it for many years. They take the market value of his stock on March 1, 1913, and if he thereafter sells that stock at a profit he has to pay the tax on it, and that is perfectly proper.

But the amendment proposed automatically reduces the market value of his stock on March 1, 1913, by the amount of dividends he receives from profits made before that date, so as to automatically increase his taxes to that extent. In other words, as to the stockholder who must sell his stock it taxes his income made prior to March 1, 1913; as to the stockholder who is able to keep his stock, it is not taxed. It seems to me that is all there is of it. I do not think that should be the rule of law.

Mr. KING. Mr. President——

Mr. KELLOGG. If a stockholder's stock on March 1, 1913, was worth in the market exactly the same as the book value of it, and decreased exactly the same as the book value was decreased by the dividends, it would not make any difference; but suppose his stock was not salable in the market at the book value; suppose it was salable at 50 per cent less; they not only deduct from the market value of his stock and he loses the 50 per cent, but all of the dividends that are paid out of the accumulations made prior to March 1, 1917. That seems to be all there is of this, and I do not see why the law should not remain as it was.

I now yield to the Senator from Utah.

Mr. KING. I am asking for information, because I confess my entire ignorance of the matter. Does this amendment proposed automatically reduce the value of the stock to the extent that the dividends distributed would bear a relation to the stock if the dividend had remained in the treasury?

Mr. KELLOGG. Yes.

Mr. KING. Even if the stock should maintain the same level of price, automatically it would be reduced for the purpose of augmenting the taxes to be paid to the Government?

Mr. KELLOGG. Yes.

Mr. KING. On its face it does not seem to me to be fair. I would like to hear the other side of it, if there is another side.

Mr. McCUMBER. Mr. President, I think there is a great deal of misunderstanding or lack of understanding of these provisions and what actuated the committee in offering the amendment. I wish to make it just as clear as I possibly can. I am not asking that any Senator shall vote this way or vote that way on the subject, but I wish to explain just what the amendment means and the reason why it was offered by the committee.

I will take a simple case of a man purchasing $100 of stock in a company on March 1, 1903, paying therefor $100. Until March 1, 1913, a period of 10 years, this stock has earned 10 per cent each year. At the end of the 10 years there is an accumulation of $100. The stock, therefore, is worth on the 1st day of March, 1913, the sum of $200. That $200 to all intents and purposes is capital owned by the stockholder, or to which he would be entitled upon distribution.

Now, suppose that in 1920 there has been a dividend declared of $150 out of this $200.

Mr. KING. Stock or cash?

Mr. McCUMBER. A cash dividend. Out of that he would not be taxed certainly upon the earnings prior to 1913 and there would be no tax upon those earnings. He has received $150. If there had been no further accumulations and there was nothing else in the case, the balance of his stock would be worth, we will say, only $50. Suppose in 1921 he sells for $100 that stock on which he has received $150. He has received, therefore, the $150 plus the $100, which makes $250. He has received $50 from the sale and from what he received as a dividend over and above the value on March 1, 1913. Under the proposed amendment he would have to pay on a $50 gain. That is practically all there is to it. It is treated in that respect as capital. We are dealing here only with the proposition of a sale of the principal and not at all with the subject of taxing returns from that principal. It is a tax on the sale of the principal or the capital, as will be seen by subdivision (a) of section 202, which provides:

> That the basis for ascertaining the gain derived or loss sustained from a sale or other disposition of property, real, personal, or mixed, acquired after February 28, 1913—

To make the matter clear and in order to furnish the reason that actuated the committee, let me give a little further illustration. The Senator from Utah [Mr. KING], we will say, has $100 to invest and he puts it into a little piece of ground for which he pays $100. At the same time I have $100 to invest, and I put it into the stock of some corporation. We will say we both made our investment in 1903. The taxes were then 10 per cent, we will say. The Senator from Utah pays his taxes year after year, amounting to $100 in 10 years, and at the end of 10 years, in 1913, his land is worth $200, while my stock, with the accumulated earnings which were not paid but which lay in the vaults of the company, is worth $200. Under the present law, if the Senator from Utah receives for his land in any kind of a sale $250 he pays a tax on a profit of $50. If I sell my stock, for which I paid $100, and receive $150 cash for it, then I have also made $50, and I should pay a tax upon a profit of $50. That is the real question at issue. Of course, anyone can see at a glance that, as has been explained by the Senator from Minnesota [Mr. KELLOGG], if there were an accumulation only of $100 prior to March 1, 1913, and the owner of the stock received $150, he would have received $50 of his original capital in addition to all of the surplus. The question whether it is desired to impose a tax in that way is a question for the Senate to decide. I can see that there are clearly two sides to the proposition. My only desire is to make as clear as I can the intent and purpose of the committee in reporting this amendment.

The original amendment as proposed by the committee provided for a heavier tax, because we took into consideration nothing but the profits. That was objected to by the Senator from Minnesota, and I think very justly. We had a reconsideration, and it was modified partially to meet the views of the Senator from Minnesota. I think the Senator from Minnesota will say that the modification was better than the first Senate committee amendment, but the committee did not go so far as he thought it ought to go in modifying the amendment.

Mr. KELLOGG. That is true.

Mr. McCUMBER. I am not now discussing whether or not the Senator is correct in that view; but that is the view the Senator from Minnesota has insisted upon right along, that the bill was right and just as it came from the other House and ought not to be changed in any respect. It is, therefore, a question between that view, on the one hand, and the view taken by the majority of the committee. All I am now explaining is what the majority of the committee decided, without even expressing my own views as to which way the Senator ought to vote.

Mr. LENROOT. Mr. President, I am not satisfied that the amendment in the form which it is now proposed will not have exactly the effect contended for by the Senator from North Carolina [Mr. SIMMONS] and the Senator from Minnesota [Mr. KELLOGG]; in other words, in fact impose a tax upon what equitably should be exempt from tax; but there are leaks in the present law that I do not believe any Senator can defend. Those leaks certainly ought to be cured by amendment. I wish to give one or two illustrations that I think will clearly demonstrate that leaks do occur.

We will take a case where a man on February 1, 1913, owned stock in a corporation which is incorporated for $100,000 and which has accumulated earnings or a surplus of $100,000. He paid $200 for his stock on the date indicated. This year he sells it, but before selling it he receives a dividend of 100 per cent in cash. Out of that capital stock and surplus of $200,000 he receives $100 cash, which is a part of the capital of that corporation, so far as the present law is concerned, and is returned to him. Then he sells his stock for a hundred dollars. Is there any loss? Not a dollar; and yet under existing law he is entitled to deduct a loss of $100.

Mr. KELLOGG. So far as I am concerned, I am perfectly willing that the Senator from Wisconsin should submit an amendment which will cure that defect.

Mr. LENROOT. I first want to cover that particular case.

Then, there is another class of cases which are not covered by the existing law, which certainly ought to be included within the loss-and-gain section. I refer to the case of the man who, since March 1, 1913, has bought stock of a corporation that has earnings which were accumulated prior to March 1, 1913. Using the same illustration which I previously gave, that man receives a dividend of $100. He then sells his stock for $150. Is not there a clear gain to that man of $50 and ought not that man to be taxed? But he is not taxed under the present law. Under those circumstances no one can claim for a moment that any portion of that gain should be treated as exempt. It is a distribution of capital, and it is a distribution upon which the taxpayer has made a clear gain of $50, which ought to be taxed.

Mr. KELLOGG. Will the Senator yield to me?

Mr. LENROOT. Yes.

Mr. KELLOGG. If the man's stock is worth in the market $100 on the 1st of March, 1913, and he sells it for $150 thereafter, the $50 is taxed now under the law.

Mr. LENROOT. Yes; but if he receives a dividend of $50 on his stock subsequent to March 1, 1913, and then sells his stock for the same amount he paid for it, there is no tax under the present law.

Mr. KELLOGG. If he sells it for $100 a share——

Mr. LENROOT. Of course, if he sells it for $100 a share, there would be neither gain nor loss; but in that kind of a case where he receives back what is really a part of the capital of the corporation, he ought to account in his loss-and-gain account for the gains that he receives.

Now, in this connection, because it may extend further than I am now aware of, I should like to ask the Senator from Utah whether there is any provision in this bill that where capital itself is distributed in the form of dividends the distribution is considered and must be taken into account in determining gain or loss upon the sale of stock.

Mr. SMOOT. Does the Senator mean a complete distribution?

Mr. LENROOT. No; not a complete liquidation, but merely a partial one.

Mr. SMOOT. That would be taken into consideration when the owner sells his stock. In other words, if he received 50 per cent liquidation and the stock is worth $200, he would receive $100 a share, and then if he sold his share of stock subsequent to that for $150 he would be taxed on the $50.

Mr. LENROOT. I was not sure whether the provision covered partial liquidation as contradistinguished from complete liquidation.

Mr. SMOOT. That is in the law now.

Mr. LENROOT. As to partial liquidation?

Mr. SMOOT. As to partial liquidation; yes.

Mr. LENROOT. This is exactly in principle the same as a partial liquidation.

Mr. SMOOT. Yes; the bill provides for a bona fide liquidation.

Mr. LENROOT. I understand.

Mr. SMOOT. And the same thing applies, no matter what stock may be purchased. Any time after March 1, 1913, whatever gain there may be upon it is taxed.

Mr. LENROOT. Not under the present law as affecting the distribution of earnings prior to March 1, 1913.

Mr. SMOOT. I am speaking now of a transaction after March 1, 1913.

Mr. LENROOT. Certainly. So, Mr. President, it seems so clear that I do not think any Senator will rise in his place and say that those two leaks—because that is what they are in the present law—ought not to be taken care of: First, that a man shall not be permitted to get a deduction for a loss when it is in fact not a loss at all; secondly, that where stock is bought subsequent to March 1, 1913, and he has actually made a gain in his transaction on that stock it ought to be accounted for.

Mr. SIMMONS. Does the Senator mean in determining his net gain?

Mr. LENROOT. Yes.

Mr. SIMMONS. That is exactly the contention that I made.

Mr. LENROOT. I shall vote against the pending amendment; but when the time comes when we have an opportunity to offer individual amendments I shall offer an amendment preventing the deduction for an alleged loss in the case which I first mentioned and also covering the case of stock acquired subsequent to March 1, 1913.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Pennsylvania [Mr. PENROSE].

Mr. KELLOGG. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. REED. Mr. President, I merely wish to say a word upon this amendment. In common with the other members of the committee I heard the argument for and against the amendment as first proposed by the committee and the arguments touching the amendment as now modified; and, after hearing the arguments, I arrived at the conclusion that the text of the bill as it came to us from the House was a fairer tax measure than the one proposed by the expert of the Treasury, either as originally proposed or as modified.

The principle is admitted that it is not proposed to take by taxation the principal of any fortune that has been accumulated prior to March 1, 1913; that was the date fixed; that whatever property a man or a corporation had at that time was capital, and whether that capital existed in the form of the original capital paid in or the accumulations of that capital it, never-

theless, was capital property; and it is admitted that no tax should be levied upon that capital property, but that there should be a tax levied upon the earnings on that capital property. I am now dealing with the question of the earnings.

The courts, as has been many times said here, decided that it was not within the proper object of the law to reach out and take capital that had been accumulated, and so what I am pleased to call a distributive dividend might be declared, which would distribute, if the corporation saw fit, all of its assets, which would be a case of liquidation, or it might distribute a part of its assets, which would be a case of partial liquidation or distribution, and that would go out to the stockholders tax free because it was not a profit of the corporation accrued during the taxable period.

Let me make that as plain as I can. It is a question that is very hard to state.

A corporation was organized with $100,000 of capital many years ago. It allowed its earnings to accumulate, and accordingly on March 1, 1913, it had $200,000 of assets on hand. An individual working along beside it, and starting in with $100,000 of capital at the same time that the corporation was organized, had made $100,000. Now, we come to the period of taxation. Clearly, when we tax the individual upon his income after March, 1913, and tax the corporation upon its income after March, 1913, we have them upon an equality. But if the corporation distributes a part of the assets which it made before 1913, paying it out to its individual stockholders, that is not income of the corporation, although it is declared in the form of a dividend. That is, it is not income that accrued during the taxable period. It is income or profit that accrued prior to that.

It is argued that that allows property to escape taxation. The property itself does not escape taxation. It escapes taxation as income merely because it has been distributed in the form of a dividend; but the minute it gets into the hands of the individual of course it becomes taxable in his hands, the same as though he had earned it in his own name instead of earning it through a corporate agency prior to 1913; and the courts have held that the stockholder in a corporation is the equitable owner of that proportion of the capital assets of the corporation which his stock represents.

When we come to analyze it, I think we will find that there is nothing wrong in the proposition which has been advanced, and which I am discussing, if we bear in mind the fact that it does not allow any property to escape taxation, and merely permits a distribution of property to its equitable owners—property that is not earned during the taxable period, but that had been earned prior to that, and had been made a part of the capital and assets of a corporation.

I am just as much opposed as any man in this Chamber is opposed to corporations getting out of their share of taxation. I think I hardly need make that statement. It is pretty well known.

Let me, if you please, see if I can illustrate that.

A earns during a long period of years a fortune of $100,000, which he has earned through investments in corporations which distributed their dividends each year. B has invested in a single corporation which distributed no dividends, but which accumulated property which, if distributed, would give him a fortune equal to A's. If just prior to March, 1913, that corporation had declared a dividend and turned it over to B, then A and B would be on exactly equal terms. Each of them would have his $100,000. Each of them would have received it from a corporation. Each of them would have to pay taxes upon it in his own hands. Neither of them would have had to pay any taxes upon it as income up to that time. It would be their capital, upon which they would pay taxes on the income thereafter received.

Suppose that the corporation having this large surplus had declared its dividends on March 2, 1913—exactly the same dividend, accumulated in the same way. It would then be charged under one rule as a profit of the corporation, although it was capital stock, and it would be taxed as such. Manifestly, in each case it is a mere distribution of assets to the equitable owners of the property.

It is admitted, I think, by nearly everybody, that that should not be the case; but the rule that is now proposed is that if this capital share of stock should have been sold to somebody, and that somebody should have bought it at such a price that when the distributive dividend was declared it had paid back to that individual all that he had paid for his stock, thereafter he should be taxed if he received other dividends on that stock. In other words, they take the market value and say: "That is what that stock represents"; but let us see.

As a matter of fact, one man owned that stock, held it through, and he got his dividend yesterday, and he gets it tax free because it is a dividend of distributive assets. The other man bought an identical block of stock, and that stock has to pay a tax because he bought it at a bargain; or, let us take a different illustration. One of these stockholders is rich, and he can hold his shares of stock clear through the course of the years until there is a final distribution such as I have been speaking of. Another shareholder, a minority holder, finds it necessary to sell his stock. When he goes to sell that stock, the purchaser of it knows that if he buys it for less value than its proportion of the entire accumulated assets he will thereafter have to pay taxes upon that stock representing the difference. The result of it is that that stock will not sell in the market as well as it would have sold if that rule had not obtained, so that the small stockholder, the man who can not hold his stock, finds that his stock is in a way discredited in the market because a tax may be levied upon it, whereas the man who is wealthy enough to hold his stock through until, being in control of the corporation, he distributes its entire surplus, goes tax free. You put upon all of this stock which may be sold by the small stockholders a burden which takes away from it its marketable capacity.

My judgment about it is that we ought to do one of two things: We ought absolutely to allow the stock to be sold, and if it is a distributive dividend let it all be taxed as a distributive dividend to everybody, or else we ought to let it all be sold tax free, and say that if I go out and buy a share of stock and get it for less than its value the Government has nothing to do with the question of taxing it thereafter upon the basis of some other value.

That statement may not be very clear. It is the most difficult question I ever tried to state, but in a broad way it is as near as I can state it.

Mr. HITCHCOCK. Mr. President——

Mr. REED. Just one second and I shall be through.

If we admit the proposition that accumulations of money in the hands of a corporation prior to March 1, 1913, are a part of the capital, which the courts have declared, and if that, therefore, can be distributed tax free after March 1, 1913, then that right should run with all of the shares of stock, in whosesoever hands they may be, and the Government has no concern with the question of how much any particular individual paid for his stock; and the minute the Government does interfere in that it impairs the marketable value of the stock which is sold, and therefore it injures the sale of that stock on the market, and will injure it chiefly to the detriment of the small stockholder who can not hold it, whereas the large stockholder, who can hold clear through to the end, gets his entire distribution, and there is no burden of taxation on it.

I think the House text was the right text, and this matter was submitted to the House, and I understand almost unanimously rejected. Then it was brought to the Senate, and was first adopted without much understanding, but since that time the committee, after further consideration, modified it. I think the proposition which is now before us is an unsound one and ought to be defeated.

Mr. HITCHCOCK. Mr. President, I would like to ask the Senator several questions. First, does this proposition relate wholly and only to the question whether we shall levy a tax upon the profits which a stockholder makes in the sale of his stock?

Mr. REED. No; not wholly to that. There is also the seller of the stock.

Mr. HITCHCOCK. I mean the seller of the stock. It is a question of how much the seller of the stock shall be taxed upon the profit he makes in selling it?

Mr. REED. No; the seller of the stock may be taxed upon the right to transfer his stock, if you please. This is a distributive dividend.

Let me put it another way. I want the Senator and everybody to understand that I am only attempting to get just what light I can. It has been a matter that has troubled me.

Mr. HITCHCOCK. There is such confusion in my mind that I want to ask the question again.

Mr. REED. I do not think the question as the Senator asks it——

Mr. HITCHCOCK. The Senator from Utah [Mr. SMOOT] assents to it, and so does the Senator from Minnesota [Mr. KELLOGG], and therefore I think we ought to clear it up. Does the proposition now before the Senate involve anything else besides a tax to be levied on a man because of a profit which he makes in the sale of stock?

Mr. SMOOT. That is all.

Mr. REED. That is true; but there is another side to it.

Mr. HITCHCOCK. Let us just follow this side.

Mr. REED. Let me state the other side. The Senator says the tax is imposed upon the man who buys it.

Mr. HITCHCOCK. No; the man who sells it. He makes the profit.

Mr. REED. The man who sells may not make a profit at all. He may be the man who is losing.

Mr. SMOOT. Then he does not pay any tax.

Mr. HITCHCOCK. I am talking about taxes being paid.

Mr. KELLOGG. Will the Senator allow an interruption?

Mr. HITCHCOCK. Certainly; I am not sure that I understand the Senator from Missouri.

Mr. KELLOGG. Of course, there is no tax unless a man sells his stock, and then the question whether he makes a profit depends upon whether he has received a dividend out of profits made before 1913, which is charged as a profit.

Mr. HITCHCOCK. Then I am correct in the assumption that the proposition before the Senate is whether or not and to what extent the tax shall be levied on a person who sells certain stock at a profit?

Mr. KELLOGG. Yes; at a profit.

Mr. HITCHCOCK. Now, I would like to ask this question: If he purchased that stock after March 1, 1913, and made a profit on the sale of it, is there any question about his now being subject to a tax?

Mr. KELLOGG. He is taxed.

Mr. HITCHCOCK. If he purchased the stock prior to March 1, 1913, what effect would this amendment have? Would it levy a tax upon him for the profit which he made over the cost of the stock to him, or would it levy a tax on him only upon the profit made since March 1, 1913?

Mr. KELLOGG. It would levy a tax on him for what was distributed to him from the profits made prior to March 1, 1913.

Mr. SMOOT. Let me answer the question in this way, and I think the Senator will agree that it will be correct. Suppose a man purchased the stock 10 years before March 1, 1913, and there are accumulated earnings or profits——

Mr. KELLOGG. With nothing received in the way of dividends.

Mr. SMOOT. Yes. Suppose there are accumulated dividends or profits from the time he purchased the stock until March 1, 1913, and he has received no dividends at all. Then the question is not what he put in the stock to begin with; it is what the fair market value of the stock was on March 1, 1913.

Mr. KELLOGG. Less what he received in dividends.

Mr. SMOOT. Then if after that he received a dividend, then sold the stock, and the dividend plus the price for which he sold the stock was more than the value of the stock on March 1, 1913, that increase, or profit, is taxed. That is what this amendment applies to. Everyone will admit that on March 1, 1913, the capital stock of any corporation, together with all of its earnings to March 1, 1913, was considered as capital. The Supreme Court of the United States said so. It is not taxable. But if that stock was worth $200 a share on March 1, 1913, and that was the fair market value of it, including all the gains made and all that the man paid for the stock, and subsequently he sold the stock for $250 a share, he is taxed on only $50 a share.

Mr. HITCHCOCK. Is it the effect of the amendment to levy a tax upon the earnings of the stock prior to March 1, 1913, which take the form of a profit on the sale of stock?

Mr. SMOOT. Everything was taken as capital stock on March 1, 1913, whatever the fair market value was, and that included the price the man paid for the stock and all the accumulated earnings up to March 1, 1913. If the price of the stock on March 1, 1913, was $200 a share and he sold it for $200 a share, he would not pay a cent in taxes, but if he sold it for $300 a share he would pay a tax upon $100 a share.

Mr. HITCHCOCK. Would he not under the present law?

Mr. SMOOT. Not under the existing law as it is applied to corporations which declared a dividend before March 1, 1913.

Mr. McKELLAR. It changes a rule which has been uniform for a number of years, and it is virtually a back assessment.

Mr. SMOOT. It changes the law so as to put a corporation which made gains before March 1, 1913, upon the same identical footing as any corporation organized since March 1, 1913.

Mr. KING. I desire to ask a question right there, if I may have the attention of the Senator. Suppose after the purchase of the stock, or a part of it, it immediately goes down in price, would the holder of that stock get any deduction when he came to pay his taxes by reason of the loss which he had sustained?

Mr. SMOOT. If he purchased the stock for $100, and there had been a distribution of $200, and he then sold his stock for $50, he could claim a loss of $50 a share on that stock, and he would get credit for it. But if the distribution had been only $100 and his stock was worth $200, then, of course, he would have to pay a tax on $100, not on the $200 at all.

This is what it means, and nothing else, that if a corporation were organized on the 2d day of March, 1913, and accumulated profits but did not distribute them until its stock was worth $200 a share, if there were then a distribution, and the market value of that stock were $200 a share, and it were sold to the Senator from Utah for $200, and he in turn sold it in a year or two years for only $200 he would not pay a cent of tax. But in the meantime if that stock had increased in value, and it sold for $250 a share, he would pay the tax on only $50, which he gained on that stock. That is the proposition.

Mr. HITCHCOCK. I would like to ask the Senator from Utah to clarify this question: Will he state in a few words what the difference is between the present law and the law as it would be if this amendment were adopted?

Mr. SMOOT. I can explain it in this way: On March 1, 1913, there was a corporation, we will say, which had put in a million dollars, and the shares were $200 each at that time. After March 1, 1913, it being an oil company, they discovered a well, we will say. If it were a timber company, we will say the value of the stumpage had increased greatly. They decided they would make a distribution of stock, and they distributed $200 a share.

Mr. HITCHCOCK. The Senator means as a cash dividend?

Mr. SMOOT. As a cash dividend; the stockholder would actually receive it. That is all he paid for the stock. That was the value of the stock on March 1, 1913, for taxing purposes. Then if he sells the stock afterwards for $200 he does not pay a cent under the existing law, although he had made the $200 a share. What we say by this amendment is that if he gets all the value of the stock as of March 1, 1913, the fair market value, and receives a dividend of $200 a share from the company——

Mr. KING. In addition.

Mr. SMOOT. Two hundred dollars a share after March 1, 1913, and then sells that stock for $200 more; that means that the value of that stock has increased $200 a share from March 1, 1913, and he ought to pay a tax on it.

Mr. HITCHCOCK. Does it require him, then, in selling his stock to include the dividends which he has received as well as the price which he received in the sale?

Mr. SMOOT. If it is a distribution of dividends, certainly; because as of March 1, 1913, not only the capital was taken but all the accumulated earnings, and that was the market value as of March 1, 1913.

Mr. HITCHCOCK. Then suppose, instead of receiving $100, as the Senator stated, he received only $10 a year in dividends, would he have to include those?

Mr. SMOOT. No; because he pays his taxes on those dividends each year as they are declared.

Mr. KING. He pays the income tax on them, too.

Mr. SMOOT. He pays first the corporation tax and then the income tax.

Mr. HITCHCOCK. Does he not also pay the income tax on this $200 a share?

Mr. SMOOT. That has not been distributed, and under the existing law he does not pay a tax on it; but he will when it is sold.

Mr. HITCHCOCK. I thought the Senator was instancing a case in which the seller of the stock had received 100 per cent in dividends.

Mr. SMOOT. He would not there, because that is a partial distribution. Remember, this applies to a bona fide liquidation of corporations, and that is all it applies to. He would not pay any tax on that, because of the fact that that is a partial distribution of the assets of the company, and on March 1, 1913, the shares were worth $200 each. But suppose they had declared a dividend of $300 a share, then he could have taken the fair market value of $200 a share as of March 1, 1913, but he would be compelled, even under that distribution, to pay the tax on the $100 a share.

Mr. HITCHCOCK. It is not a case of stock dividend?

Mr. SMOOT. No; not at all; it is distribution of dividends. That is what it means.

Mr. HITCHCOCK. That dividend must be withheld until the stock is sold?

Mr. SMOOT. Until they can find out the profit; the profit is determined when the stock is sold.

Mr. McKELLAR. Take a lumber corporation, for instance. How can anyone determine just when that increase came? March 1, 1913, is taken as an arbitrary date. How are you going to determine when the gain accrued?

Mr. SMOOT. The law requires you to do that to-day. Every corporation now, under all our tax laws, must find out the market value of its property, and they get an 8 per cent exemption. They have always had it high enough, I will say to the Senator, without a doubt.

Mr. BROUSSARD. May I interrupt the Senator for a moment?

Mr. SMOOT. Certainly.

Mr. BROUSSARD. I understand the Senator from Utah refers to a distribution which would wind up a corporation. As I read the provision, it means, for the purpose of this act, every distribution. So the Senator from Utah is not correct in his answer to the Senator from Nebraska.

Mr. SMOOT. It does apply to every distribution, certainly.

Mr. BROUSSARD. Most of the explanations given by the Senator from Utah involved the transfer of stock where profit had been made within the period in which the law provides that a tax may be imposed.

Mr. SMOOT. Certainly.

Mr. BROUSSARD. But the minute you affect a distribution and reach back and impose a tax, then you are taxing earnings which accrued prior to March 1, 1913.

Mr. SMOOT. No; the Senator is wrong in that statement, because of the fact that the market value of the property as of March 1, 1913, included all that he paid for the stock and all the earnings up to that date.

Mr. BROUSSARD. Let us take up the Senator's illustration now. Suppose for 10 years——

Mr. McCUMBER. Mr. President, will the Senator before he goes on allow me to correct one little statement he made?

Mr. BROUSSARD. I would like to be corrected if I am wrong.

Mr. McCUMBER. The Senator said "for the purposes of this act every distribution," and so forth. It applies to every distribution, and if he will read to the end of the sentence he will find that "every distribution" is made out of earnings and profits from the most recently accumulated earnings. All that that statement is for is to show that when the corporation makes a distribution it must make it first out of its most recent earnings before it goes back to its surplus.

Mr. BROUSSARD. Nevertheless, if the corporation has earned 8 per cent and declares a 20 per cent dividend, 12 per cent of that is distribution of its earnings made prior to March 1, 1913.

Mr. McCUMBER. Certainly; if that is the case.

Mr. BROUSSARD. The illustration which the Senator from Utah [Mr. SMOOT] gives applies entirely to the transaction, as I said a while ago, where A buys stock and sells it the next day. Under the present law it is taxable to-day. It is a transaction which he has made in which he earned profits, the same as if he bought a plantation or some mules or horses, and the next day or the following week or the following month disposed of them. But this is entirely a different proposition. You are seeking now to confuse the mind by taking earnings which occurred since March 1, 1913, and in certain cases imposing a very just law, and because you are doing that you are using that as pretext to reach back of March 1, 1913, and tax earnings which accrued previously.

Mr. SMOOT. The provision of the law specifically states that that is not the case. I will assure the Senator there is no such intention whatever and it never would be construed that way.

Mr. BROUSSARD. Then, to follow the admission made by the Senator from Utah, if out of earnings accrued prior to March 1, 1913, the corporation were to declare, for a period of 10 years 10 per cent dividends, not of its current annual earnings——

Mr. SMOOT. But that is not my proposition at all.

Mr. BROUSSARD. I am assuming a case of this kind, which is very possible and very probable and as a practical proposition it is often met.

Mr. SMOOT. Do not attribute it to me, because that was not the question asked me previously on which my answer was based.

Mr. BROUSSARD. I do not attribute it to the Senator. I am just asking the Senator to follow me and bear me out and see if it is not the fact that you are taxing that capital which you just admitted to be capital on March 1, 1913. I will illustrate it by taking a corporation which is earning 8 per cent. It has accumulated undivided profits prior to March 1, 1913. Instead of dividing this 8 per cent on that basis, it saw proper to divide it so as to make it 18 per cent. If the wording here is correct, there would be distributed each year one-tenth of the undivided accumulated profits accrued prior to March 1, 1913. At the end of 10 years you would claim this man had received 100 per cent. Is not that a fact?

Mr. SMOOT. There is no corporation that would ever make any such return as that to a stockholder. I did belong to one company which declared a dividend and made a partial distribution. They took particular pains to tell every stockholder that that was paid out of accumulations before March 1, 1913, and the Treasury Department allowed an exemption for it in every case.

Mr. BROUSSARD. The case which the Senator cites illustrates very much more simply what I want to show. If the estate for 10 years, instead of being distributed one-tenth each year, is distributed in that way, is not that to be computed as of the time he gets the distribution as being an amount which has been distributed and which is to be deducted in order to ascertain his gain?

Mr. SMOOT. No; whatever is distributed out of earnings was to be deducted from the amount of the value of the stock, and there is no tax upon it at all until the distribution amounts to the value of the stock as of March 1, 1913.

Mr. KING. Mr. President, I would like to inquire of the Senator from Louisiana, so that I may get his point of view, what his position would be in a case of this character. Assume that an individual purchased stock for $200 a share prior to the 1st day of March, 1913, and there had been accumulations which were chargeable to capital, or at least undivided profits and accumulations undistributed, and they helped to enhance the value of the stock, but perhaps the stock had not reached the high value which, with its accumulations and the original capital, it was entitled to reach. Suppose later the owner sold that stock for $300 a share and made $100 a share profit, what tax does the Senator think he ought to pay on it?

Mr. BROUSSARD. My understanding about the principle that should be applied is that everything on March 1, 1913, should be considered capital. I think everybody agrees to that. Since March 1, 1913, the undivided profit which remains and was capital was just as productive as the initial investment. Then if you have the right to tax the undivided profits which are not distributed, but which were capital, you surely have the right to tax the $200 which was the original investment. The reason you do not tax that $200 is because the original $200 has, since March 1, 1913, paid its contribution under this law in the annual reports which the stockholders returned, and the surplus which remained undistributed on March 1, 1913, did its duty in the same way in producing something which was taxed by the Government, and that should be considered as separate.

That is exactly the position I assume. I do not make the distinction between the original $200 invested by the stockholder and the $100 which accrued at a time when the Constitution did not permit Congress to impose that tax. I can not distinguish the one from the other.

Mr. SMOOT. Nor does anyone else.

Mr. KING. Assume two cases of this character. The Senator from Louisiana invests $1,000 in the purchase of land. The Senator from North Carolina invests $1,000 in the purchase of stock in a corporation. That purchase is made on the 1st of March, 1913. Intrinsically the stock of the corporation is worth, say, $2,000, but by reason of ultra conservatism or advantages which the corporation possesses, not known to the stockholders, on the market it has a value which brings the stock which the Senator from North Carolina purchased up to $1,000 only, though intrinsically it is worth more. Later the Senator from North Carolina sells for $2,000 that stock which cost him only $1,000 and there is no change in the status of the corporate assets. The Senator from Louisiana sells the piece of real estate which he purchased for $2,000, so that each makes a profit of $1,000. Does the Senator think there ought to be any difference in the taxation principle or in the amount of taxes which each should pay?

Mr. BROUSSARD. I think the Senator from Utah is worrying about a proposition that is already solved under the present law. Under the present law, if I owned stock on March 1, 1913, which really was worth $2,000, but which on the market was worth only $1,000, the Government reserves the right under the present law to investigate and to question the value of that stock on that date.

So it is with real estate. If you sell property now and the return from that property comes to $2,000 or it is worth $2,000 because you bought it several years previously and you render account saying you sold the property this year for $2,000 and you value it as being worth $2,000 March 1, 1913, the Government in that case also has the right and reserves the right and has the power under the present law to traverse the valuation in both cases, of both the land and the stock.

I do not see any difference between the two so far as that is concerned, because when a party makes his return in every case, whether it is jewelry, land, stock, horned cattle, or

anything else, if he owned it on March 1, 1913, and returned a certain value as of that date, the Government reserves the right to traverse that valuation and under the present law does do it.

Mr. WATSON of Georgia. Mr. President, I would like to ask the Senator in charge of the bill if it is not his understanding that the Government is losing $250,000,000 a year because of the decision of the Supreme Court that stock dividends could not be taxed, although if the dividend had been declared in cash it could be taxed? I beg to call the Senator's attention to this language in the majority opinion of the court:

Appropriate resolutions were adopted—

That is, by the board of directors of the bank or the Standard Oil Co.—

Appropriate resolutions were adopted. An amount equivalent to the par value of the proposed new stock was transferred accordingly and the new stock duly issued against it and divided among the stockholders.

I would like to ask the Senator from North Dakota whether, as a proposition of law, that did not pass the title to the stock as fully as if the dividend had been declared in cash and placed to the credit of the stockholder?

Mr. McCUMBER. Mr. President, there would be no question, of course, that it transferred the entire interest, whatever that inchoate interest might be worth; but the decision of the Supreme Court, since the Senator has asked the question, is based upon the underlying proposition that the holder of the stock receives nothing more than he had at that time in the interest in the concern; that nothing was added to it, nothing taken away; that he had the same interest; that he received nothing in cash; that he received no income; that income, as understood by the constitutional amendment, meant cash received or its equivalent which he could handle. They decided upon that ground that he had no income; that he did not have control of the property which it represented, could not pay taxes out of it, and it was not income under the law.

I will admit there is a heavy loss, but just what it is I of course do not desire to venture to say.

Mr. KELLOGG. Mr. President, will the Senator from Georgia allow me?

Mr. WATSON of Georgia. Certainly.

Mr. KELLOGG. There is no question of stock dividends involved in the pending proposition. Will not the Senator let us have a vote on it?

Mr. WATSON of Georgia. Mr. President, I do not think that is very courteous on the part of the Senator from Minnesota.

Mr. KELLOGG. There is no question of stock dividends involved here now.

Mr. WATSON of Georgia. I think the longer the bill is put off the better it is for the taxpayer. Now you have it! I think if we can kill the bill, we will render a service to the country. I know you have certain millionaires and millionaire corporations and tax dodgers, like the Standard Oil Co., that want you to rapidly pass the bill. But I do not think you are going to pass it very rapidly.

I have always tried to be respectful to my colleagues on the floor of the Senate, but I demand the same measure of respect for myself.

Mr. KELLOGG. I certainly do not at all object to the Senator discussing it.

Mr. WATSON of Georgia. The Senator from Minnesota has no right to object, but the Senator from Georgia asks him no favor in that respect at all. I was calling the attention of the courteous Senator in charge of the bill to the fact that the Supreme Court in its recital of the facts goes on to show what is the market value of this very stock dividend as quoted in the standard Wall Street journals, naming the journals, and that the Supreme Court virtually admits, all the way through, that they are violating an act of Congress which provides that a stock dividend shall be considered income to the amount of its cash value. That cash value may always be ascertained. As a rule the market quotations and the standard works of that sort which carry such quotations afford the information. It is just as easy to ascertain the value of a share of stock as it is to ascertain the value of an acre of land.

What I desired to ask the Senator in charge of the bill was, would he join this side of the Chamber in saving the Government a loss of $250,000,000 a year which the corporations have shirked and for which they are severely condemned in the dissenting opinion of Justice Brandeis, which is much more powerful than is the opinion of Justice Pitney, who voiced the opinion of the four judges against the three. It does not appear how many judges joined in the decision, but three of them dissented, and the opinion of Justice Brandeis appeals to me as being much the stronger of the two. Will Senators on the other side of the Chamber who at one time proposed to put an additional tax on letters and who have proposed to exempt chewing gum, for instance, unite with Senators on this side to adopt an amendment to the pending bill which will, in effect, annul this decision and compel stock dividends to pay taxes?

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER (Mr. FERNALD in the chair). Does the Senator from Georgia yield to the Senator from Utah?

Mr. WATSON of Georgia. With pleasure.

Mr. SMOOT. I wish to say to the Senator from Georgia that the information on which he basis the statement that the Government of the United States would receive $250,000,000 from a tax on stock dividends must come from some one who has not studied the question. If stock dividends were taxable, I will say to the Senator, there would be none issued; there is not any doubt about that. Not only that, but the Treasury of the United States will receive more money under existing conditions than it would if stock dividends were taxed, because then dividends would not be distributed in the form of stock at all, as was formerly the case.

I will further say to the Senator that such a tax would also stop the transfer from one person to another of all the stocks proceeding from stock dividends, and every such transfer is taxed. It would thereby eliminate the revenue which we are to-day receiving from that source. If the Senator will stop to think, I believe he must admit that corporations would not issue stock dividends should they be made taxable; but the funds which might be distributed as stock dividends will be kept in their treasuries, as was formerly the case, in the shape of reserves. I know that that would be the practice which would be followed by the corporations of the country if a stock dividend tax were imposed.

Mr. REED. Will the Senator from Georgia pardon an interruption?

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Missouri?

Mr. WATSON of Georgia. Certainly.

Mr. REED. That brings us to the question of reaching the earnings of corporations which are accumulated at the present time and which are not declared as dividends, and that, it seems to me, is the very crux of this matter. An individual is taxed upon his income which he puts away in the bank to be invested, and in like manner the corporation which withholds its earnings and does not distribute them ought to be taxed upon that which it does not distribute as well as on that which it does distribute. I think that is the solution, and that is the real question; but my remarks, I fear, are somewhat aside from the immediate question which is now being discussed.

Mr. WATSON of Georgia. Mr. President, touching the point of the source of my information, referred to by the Senator from Utah [Mr. SMOOT], I desire to say that I received it from a Senator who has served here perhaps as long as has the Senator from Utah, and who is considered one of the best authorities on this floor on the subject.

I wish further to say that the argument that the Senator from Utah makes to the effect that we could not collect such a tax does not appeal to me at all.

Mr. SMOOT. I did not say that we could not collect such a tax. I said that the stock dividends would not be distributed if they were taxable; and I will say to the Senator from Georgia that I get my authority for that statement not only from the Treasury Department but from actual remarks which I have heard made from one end of this country to the other and from the practice as well. I can not say who made the statement to the Senator from Georgia, but I will say that the Government of the United States would never receive $250,000,000 a year, or a tithe of $250,000,000 a year, in the shape of taxes on stock dividends if they were taxed.

Mr. WATSON of Georgia. Mr. President, having received the information to which I referred in conversation at the table in the café, I do not feel at liberty to state the name of the Senator from whom I received it until I speak to him and get his consent to do so. The Senator from Utah will recognize the propriety of that.

However, I ask what are corporations going to do with their profits if they do not pay cash dividends, and do not issue stock dividends? We had the program of the new administration announced and published in the Literary Digest of August 25, 1921, and the very first item was the repeal of excess-profit taxes, $450,000,000. What we on this side are trying to get at is those excess-profit taxes, upon the idea that a man who makes excessive profits ought to pay his fair share of the burdens of government.

Mr. SMOOT. Mr. President, the Senator from Georgia by the imposition of excess-profit taxes would hit the very people whom he does not desire to hit. The United States Steel Corporation and none of the other large corporations are making excess profits to-day. Their capitalization is so large that the 8 per cent exemption does not touch them at all. The corporations that pay the excess-profit tax are those whose incorporators and stockholders give their whole time and energy and all that is in them to the business. It is not the large corporations, but it is the men who direct and manage the affairs of the small organizations, that are hit by an excess-profits tax.

Mr. WATSON of Georgia. Mr. President, I am deeply gratified to learn that the Finance Committee has such a large and tender heart for the poor man who is not making profits annually upon which he could pay taxes to the extent of $450,000,000.

When the Senator makes the statement that corporations like the Steel Corporation, the Coal Trust, the Sugar Trust, or the Standard Oil Co., which violated and defied the decision of the Supreme Court and is still defying it, do not make excess profits, he must excuse me for saying that the facts are against him, and there is no fact that comes more officially against him than the published program of his own administration.

Now, the question is whether we shall tax these men or not. The Senator says we can not collect such a tax. I say this Government can collect it and ought to collect it.

Mr. SMOOT. I never made any such statement.

Mr. WATSON of Georgia. Then I misunderstood the Senator. I rather understood him to say that they would not pay it.

Mr. SMOOT. No; I did not say that. I said that there would be no distribution of stock dividends if stock dividends were taxable.

Mr. WATSON of Georgia. And what would the corporations do with their profits?

Mr. SMOOT. They would keep them in their reserve accounts, as many of them did before the decision of the Supreme Court.

Mr. WATSON of Georgia. Can we not tax any kind of profits as net income, whether of an individual or otherwise?

Mr. SMOOT. We do tax them now. The pending bill imposes a tax of 15 per cent on the net profits of all corporations.

Mr. WATSON of Georgia. Fifteen per cent?

Mr. SMOOT. Yes.

Mr. WATSON of Georgia. Why do we relieve them of taxes to the amount of $450,000,000?

Mr. SMOOT. I am not going to take the time of the Senator now, if he wants to make a speech, but I think I have already stated my position in regard to that.

Mr. WATSON of Georgia. I do not wish to make a speech at this time. I am going to offer an amendment that will meet the decision of the Supreme Court which results in a loss to the Government, as I am informed, of $250,000,000 a year, and we will see whether or not Senators on the other side of the Chamber are really as big-hearted and tender-hearted toward the poor taxpayer as they announce themselves to be.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Pennsylvania.

Mr. SIMMONS. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have already been ordered.

Mr. SIMMONS. Mr. President, before the vote is taken I think it would be well to explain the question on which we are about to vote. There is some misapprehension on this side of the Chamber, some Senators thinking that we are about to vote on an amendment offered by the Senator from Minnesota.

Mr. KELLOGG. I have offered no amendment.

The PRESIDING OFFICER. The Secretary will state the pending amendment.

Mr. SIMMONS. If the Chair will pardon me until I finish my statement, the question we are about to vote on is the amendment proposed by the Senator from Pennsylvania [Mr. PENROSE], to which the Senator from Minnesota and myself and the other Senators who have spoken on the same side of the question are opposed. The vote will determine whether we will adopt the committee amendment or not.

Mr. LODGE. The original committee amendment has been withdrawn.

Mr. SIMMONS. I understand that, but the Senator from Pennsylvania has proposed an amendment in lieu of it.

The PRESIDING OFFICER. The Secretary will state the pending amendment.

The READING CLERK. The pending amendment is that offered by the senior Senator from Pennsylvania [Mr. PENROSE] on October 12, 1921, on page 7, line 18, after the word "distributed" and before the period, to insert a comma and the following:

but shall be applied against and reduce the basis provided in section 202 for the purpose of ascertaining the gain derived or the loss sustained from the sale or other disposition of the stock or shares by the distributee.

The PRESIDING OFFICER. The yeas and nays having been ordered, the Secretary will call the roll.

The reading clerk proceeded to call the roll.

Mr. DIAL (when his name was called). I have a pair with the Senator from Colorado [Mr. PHIPPS]. I transfer that pair to the Senator from Mississippi [Mr. HARRISON] and vote "nay."

Mr. STERLING (when his name was called). I transfer my pair with the Senator from South Carolina [Mr. SMITH] to the Senator from West Virginia [Mr. ELKINS] and will vote. I vote "nay."

Mr. SUTHERLAND (when his name was called). I transfer my pair with the senior Senator from Arkansas [Mr. ROBINSON] to the senior Senator from Connecticut [Mr. BRANDEGEE] and will vote. I vote "nay."

Mr. SWANSON (when his name was called). I have a pair with the senior Senator from Washington [Mr. JONES]. I transfer that pair to the senior Senator from Texas [Mr. CULBERSON] and will vote. I vote "nay."

The roll call was concluded.

Mr. DIAL. I wish to announce that if the Senator from Mississippi [Mr. HARRISON] were present he would vote "nay."

Mr. CURTIS. I have been requested to announce the following pairs:

The Senator from New Jersey [Mr. EDGE] with the Senator from Oklahoma [Mr. OWEN]; and

The Senator from Pennsylvania [Mr. PENROSE] with the Senator from Mississippi [Mr. WILLIAMS].

The result was announced—yeas 12, nays 56, as follows:

YEAS—12.

Borah	Curtis	La Follette	Nelson
Calder	Dillingham	McCumber	Smoot
Capper	Kenyon	McLean	Watson, Ind.

NAYS—56.

Ashurst	Heflin	New	Stanfield
Broussard	Jones, N. Mex.	Newberry	Stanley
Bursum	Kellogg	Norbeck	Sterling
Cameron	Kendrick	Oddie	Sutherland
Caraway	Keyes	Overman	Swanson
Dial	King	Page	Townsend
Fernald	Lenroot	Poindexter	Trammell
Fletcher	Lodge	Pomerene	Underwood
Frelinghuysen	McCormick	Ransdell	Wadsworth
Gerry	McKellar	Reed	Walsh, Mass.
Glass	McKinley	Sheppard	Walsh, Mont.
Hale	McNary	Shields	Warren
Harreld	Moses	Simmons	Watson, Ga.
Harris	Myers	Spencer	Willis

NOT VOTING—27.

Ball	Elkins	Jones, Wash.	Pittman
Brandegee	Ernst	Ladd	Robinson
Colt	France	Nicholson	Shortridge
Culberson	Gooding	Norris	Smith
Cummins	Harrison	Owen	Weller
du Pont	Hitchcock	Penrose	Williams
Edge	Johnson	Phipps	

So the first amendment offered by Mr. PENROSE was rejected.

The VICE PRESIDENT. The Secretary will state the next amendment passed over.

The READING CLERK. The next amendment passed over is, on page 8, passed over at the request of the junior Senator from Minnesota [Mr. KELLOGG], to strike out lines 14 and 15.

Mr. SMOOT. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state his inquiry.

Mr. SMOOT. Do I understand that the amendment on the bottom of page 7, lines 24 and 25, and lines 1 to 8 on page 8 was rejected the other day?

The VICE PRESIDENT. It was rejected.

Mr. SMOOT. That was my understanding.

The READING CLERK. On page 8 it is proposed to strike out lines 14 and 15, in the following words:

(b) Subdivision (e) of section 201 of the revenue act of 1918 is repealed, to take effect January 1, 1922.

The amendment was agreed to.

Mr. McCUMBER. Mr. President, we have gone over a number of these amendments and they have been passed over and repassed over. I think it would be well to begin at the beginning and take everything that has been passed over; and, if there is no objection to it, I ask that we start at the beginning of the bill and go through it and clean up each section and each amendment as we reach it.

The VICE PRESIDENT. Is there objection?

Mr. LENROOT. Mr. President, I shall object at this time, without any notice. There are some of us who expect to offer individual amendments, but who will not be prepared to do so without some notice, because we supposed the committee amendments would be considered and disposed of first.

Mr. McCUMBER. I referred to the committee amendments.

Mr. LENROOT. Oh, the Senator did not extend it beyond the committee amendments? He did not mean to close up a paragraph to individual amendment?

Mr. McCUMBER. Oh, no. Whenever we take up a committee amendment the amendment then is open to amendment.

Mr. LENROOT. Yes; but so far as the text is concerned the paragraph will still be open to amendment later on?

Mr. McCUMBER. Yes.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. McCUMBER. I believe there is an amendment on page 5.

The VICE PRESIDENT. The amendment will be stated.

The READING CLERK. The first amendment passed over is on page 5, passed over at the request of the senior Senator from Wisconsin [Mr. LA FOLLETTE].

On line 1, page 5, it is proposed to strike out the words "The term 'foreign trader'" and insert "(4) The term 'foreign trader.'"

Mr. LA FOLLETTE. Mr. President, when the provisions of this bill were being read I moved to strike from it the paragraphs numbered 4 and 5 on page 5. After considerable discussion of those paragraphs the matter was passed over and the question now comes before the Senate whether those paragraphs shall be retained in the bill or be stricken from it. These paragraphs respectively define the term "foreign trader" and "foreign-trade corporation." I have examined the related provisions of the bill, and if the Senate decides that foreign traders and foreign-trade corporations are not to be exempted from taxation it will be a comparatively easy matter when the provisions of the bill are reached which grant such exemptions to strike out those provisions without substantially altering the structure of the bill. I assume that the vote upon my amendment to strike out sections 4 and 5 which I have referred to will settle the question so far as the Senate is concerned, whether or not those citizens of the United States and domestic corporations classified as foreign traders and foreign-trade corporations, respectively, are to be exempted from taxation.

When these sections of the bill were previously under consideration by the Senate I pointed out what seemed to me conclusive objections to the principle they involve. Briefly summarized, those objections were:

First. That at the time when we are laying intolerable taxes upon the people it is proposed to exempt great aggregations of wealth from taxes altogether. We are exhausting our ingenuity to wring from the small taxpayer the last penny possible to meet Government expenses, while this proposition is to allow millions and probably billions of dollars to go tax free.

Second. That while we are in the greatest need of capital to develop our resources and start up our stagnant industries, we are inviting capital to go abroad for investment by offering it exemption from taxation if it does so. At this time great wealth with all its cunning and power is devoting itself to the problem of escaping taxation. Wealth has always been a notorious tax dodger. To compel the railroads and other great corporations to pay their fair share of even the trifling prewar taxes was found to be a task beyond the power of the Government in many of the States. As taxes have been increased so the methods of tax dodging by persons and corporations of great wealth have been multiplied. Some of these methods have been coarsely criminal while other and more effective ones have been made strictly legal by special privileges and exemptions in the tax laws. The provisions of this bill now under consideration are of this class.

Third. That while we have millions of our own people unemployed and begging for an opportunity to work, it is proposed to offer a premium to the capitalists of this country who will employ their wealth in other countries and there furnish employment to foreign labor. We are so solicitous for the welfare of labor in this country that we levy prohibitory tariffs and absolute embargoes to keep out foreign products, thereby, of course, greatly enhancing the price to the consumer and increasing the profits of the manufacturer, but by these provisions of the bill we are offering the greatest inducement to capital to desert labor-employing industries here and seek investment abroad.

Fourth. That while ostensibly we are seeking to reduce living costs in this country, the effect of these provisions of the bill, if adopted, must be to enhance prices here by decreasing production. The surest way to increase the price of an article is to limit its output by withdrawing capital engaged in supplying it. That while we pretend to stand for peace and, at least, limitation of armaments, every man knows when he votes for these provisions of this bill that he is launching this Nation upon a course which must lead immediately to an increase in our armament both on land and sea and which can hardly fail to lead us ultimately into foreign wars. In this connection I will quote briefly from an article appearing in the Nation of September 21 last, written by Hsu Chung-Tze, entitled "China, profiteers' paradise, and disarmament." I know nothing of the writer, but he shows an understanding of the sinister forces that are working for imperialism in this country.

The article was written with regard to the China trade act, which, as it passed the House, had a provision in it similar to that in the present bill.

Mr. NELSON. Mr. President, I wish to call the Senator's attention to the fact that the Committee on the Judiciary slightly amended that bill.

Mr. LA FOLLETTE. I am aware of that.

Mr. NELSON. We improved it in every particular.

Mr. LA FOLLETTE. You amended it by striking out the provision exempting capital from taxation, and I have been told by members of the committee that that was done because it was understood it would be taken care of in the pending tax bill, and it is taken care of in this bill even more offensively than it was in the other bill as it passed the House.

I was about to quote from this Chinese publicist, who seems to understand this matter.

Mr. BRANDEGEE. Mr. President, will the Senator permit me to ask him a question?

Mr. LA FOLLETTE. Certainly.

Mr. BRANDEGEE. Does the Chinese gentleman's article show that he has seen the Senate substitute for the House bill?

Mr. LA FOLLETTE. No; I think his article was written as a criticism of the House bill; at least it assumes that capital so invested will escape taxation. However, I do not think that makes any very great difference, I will say to my friend, except as to that provision, and that provision is fully covered by the pending tax bill.

Mr. BRANDEGEE. Yes; I understand that. It was at the request of the Finance Committee that the Committee on the Judiciary took no part in that question.

Mr. LA FOLLETTE. Exactly.

Mr. BRANDEGEE. We prefer to have a general bill covering the whole thing and not to have separate bills covering the matter.

Mr. LA FOLLETTE. And the general bill invites all capital to go abroad instead of staying at home and attending to the needs of this country.

Mr. BRANDEGEE. By "the general bill," the Senator means the revenue bill?

Mr. LA FOLLETTE. I mean the pending tax bill and the provisions of it now under discussion.

The article was written with regard to the China trade act, which as it passed the House had a provision in it similar to the provisions of the pending tax bill. Such provision, however, was stricken out by the Senate committee because it was understood that the substance of the provision could be more easily obtained by making it a part of the revenue bill.

Now, I wish to quote to such Senators as are giving me their attention from the views of this Chinese publicist, whose name is Hsu Chung-Tze. He said:

> Truth is America has only three notable openings in China. One is for your monopoly goods, such as cheap automobiles, sewing machines, tobacco, and the like. One is for your precious raw materials—oil, copper, lead, timber, and some agricultural products, chiefly long-staple cotton. And one is for free capital. Your monopoly goods we have to buy, so their makers need no tax exemption to retain their trade. Your raw materials we must go on buying for many years to come, at least until Siberia is well exploited, for no other land can furnish us with enough of them. Hence your miners, your lumbermen, and your cotton growers do not depend on any tax exemption. But it is different with the owner of free capital in one slight respect.
>
> Free capital moves from regions of low return to those of high return. The world being to-day nine-tenths undeveloped, and the undeveloped regions being politically weak, your owner of free capital is rushing into them because there he finds profits ranging from 100 to 10,000 per cent. Why linger in Europe and America, where a stern tax system and moderately high development hold profits down below 100 per cent almost invariably? Why not rush off to China, where a 100 per cent return is hardly thought worthy of boasts? Ah, but what if the American tax collector pursues you? Then you are not much better off than if you had stayed home; your wonderful melons will all be shipped to Washington and eaten. Here, then, is the difference between your manufacturers and miners and farmers on the one hand and your bankers and their clients on the other. The former, if exempted from home taxes at the selling end in the Far East, would, at the very best, do nothing more than hold their own against the British and Japanese and Germans on a basis of 10 to 30 per cent profit. Exempt your bankers and their clients, though, and they will within five years invest a billion dollars in China which will eventually earn from 100 to 1,000 per cent, provided your Government affords military and diplomatic protection.
>
> You now understand that little clause in the China trade act. And you know why your great war lord, Gen. Wood, is out in the Philippines proving that the islands must be annexed and converted into the world's greatest naval base. You know the Republican Party's intense eagerness to reach a quick working basis with Japan and Great Britain for managing our unhappy China. (No difference between the parties in this matter.) You know why your newspapers have printed nothing about the China trade act. And you need not marvel, if, in another year, the receipts from your excess-profits taxes shrink

strangely. In the kingdom of the blind the one-eyed man is king. From our great distance it seems to us that your one-eyed rulers' program will be carried out. You will soon be supporting a navy in the Far East to aid your giant tax dodgers smuggle their billions out of reach—and that is one reason why the prospects of real disarmament are not so good, not so good. For China is perhaps not the only spot where your capital exports itself and disports itself. The bigger the taxes at home, the more capital must be sent overseas to escape them; and the more is sent, the bigger, naturally, must be the navy to protect it. And the bigger the navies of the several and contending interested powers, the more likelihood of war. And the more war, the more taxes. Of course the blind can not be expected to see it.

Mr. President, if one single valid reason can be given for including these provisions in this bill, I have not heard it; and I listened most attentively to everything that was said by the distinguished Senator who undertook to answer the argument I tried to make when these provisions were under discussion here some days ago. Surely so great a departure from our established national policy should not be made at this particular time, at least without some overpowering reason. We have worried along in this country for about 140 years without any such provision as this in our laws. There is a very heavy burden of proof resting upon those who propose this change in national policy to show exactly why the change is necessary, and to show why it is necessary at this particular time. The distinguished Senator from North Dakota, who assumed the task of replying to my previous remarks upon this subject, offered as one excuse for these provisions in the present bill, if I correctly understood him, that an American corporation doing business in the Philippine Islands was taxed there locally upon its profits and that it could not compete with the nationals of other Governments if it was required to pay a further profits tax to the United States. The situation in the Philippine Islands or in Porto Rico has nothing to do with the case. If the situation there requires special legislation, it can and should be taken care of as a separate matter.

The question here is whether we are to offer tax exemptions to our domestic corporations and individual citizens of great wealth in order to enable them, with great profit and perfect security, to exploit all sections of the globe. It was further said—and it seemed to me a remarkable argument—that if we did not legalize and encourage by tax exemption the expatriation of American capital that it would go abroad anyway and make its fabulous profits, and that we could not reach it by taxation, for the simple reason that we could not lay our hands upon it. In other words, that our captains of industry would desert this country and live abroad and form their corporations there, and do business there, and make their profits there, and that we could not tax them anyway, simply because we could not enforce the tax, and that therefore we had better legalize such action and encourage it. That may be a convincing argument to the mind of the Senator who made it, but I am certain that it is not one that will appeal to the common sense of the people of this country in whose behalf it is said this legislation is framed. That this proposed legislation is here backed by the interests that are supporting it is the best evidence that capital is not doing on a large scale what the Senator says it can do. If it can go abroad and escape taxation anyway, then it would not be insisting upon this legislation.

But there is this important difference between what capital may do under the present law to escape taxation and what it would certainly do under these provisions of the bill. If it goes now into China or Russia or other similar fields for exploitation, it takes its chances with the local authorities. Under these provisions of this bill, if it entered into the same foreign territories to exploit the country and its resources and the people, it would have back of it the power of not only our diplomatic service but the Army and Navy of the United States as well. That is the point, Mr. President. If the capitalists of this country wish to go into the uninhabited or semi-civilized portions of the world in the search for tremendous profits by the methods which always attend the exploitation of weaker people, let them go. Let them cut themselves off from the power of the Government to protect as well as its power to tax. But when they insist upon going as they would under the provisions of this bill as domestic corporations and citizens and residents of the United States with the protection of their Government back of them, they must expect like all other citizens to pay taxes to that Government the protection of which they invoke.

Nor am I able to follow the logic of the apologists of this measure any more than I can accept their reasons for supporting it. We are told in one breath that if we do not pass this legislation our capitalists will incorporate under the laws of foreign countries and make their profits there in defiance of all attempts to tax them. While with the next breath we are told that we will drive them out of business in these foreign countries unless we pass this measure exempting them from taxation. Surely both arguments can not be good.

If it is a reason for passing this measure that without it the wealth of this country will seek investments in foreign countries under the protection of their laws, then it can not be true that our failure to pass this measure will drive such investors out of those countries. In one portion of his address the Senator from North Dakota charges that to follow my advice would "drive them"—American traders—"out of the foreign business." My advice to which the Senator refers was simply not to pass this measure. My proposal simply was to let the law stand as it has been since the foundation of the Government. In another portion of his address the Senator says:

> We can not prevent American capital or any other capital from going where it can earn the greatest amount. * * * So if it is more profitable for the purpose of escaping excessive taxation to incorporate under the laws of a foreign Government, there is nothing on earth to prevent the corporation doing so, and it will do so. We can not prevent that.

Of course we can not prevent it, and no one has ever suggested that we should try to prevent it. But if that is what will happen if we do not pass this proposed legislation, then it can not be true that our failure to pass it drives American capital out of the foreign business. One argument completely answers the other. Both can not be true.

The fact is that neither one nor the other furnishes the least reason for passing this measure. It is not true that a failure to pass it will result in American capitalists deserting foreign investments which they made without any such law, and it is not true that if we do not pass the measure any considerable quantity of capital will divorce itself from the protection of this country to seek the highly dangerous investments in those countries which alone offer chances for fabulous profits. Very adventurous capital will undoubtedly take its chances on dangerous foreign investments in the future as it has in the past, and it will not be a matter of great importance in the future as it has not been in the past. But to put a premium upon our capital for taking this course, to pay it a bonus, or grant it a subsidy for seeking perilous investments in foreign countries, and that is what this measure amounts to, is quite another matter. But when we go further than that and seek to send our citizens and corporations abroad on hazardous enterprises under the protection of American laws, and with the Army and the Navy of the United States to back them up, it becomes a matter of the greatest importance and one fraught with the most serious consequences to the people of this country. It means the abandonment of our traditional policy. It means that without any good or sufficient reason at all we would enter upon a course that can be of no benefit to the great mass of the people but only to their detriment, and is likely to lead to the most disastrous consequences.

The final argument put forward in support of this proposition to exempt our foreign traders and foreign trade corporations from taxation is that other countries already have laws similar to the proposal contained in this bill, and that our citizens and domestic corporations can not compete in foreign territories with the tax-exempt nationals of other countries. Over and over again throughout the argument of the Senator from North Dakota the statement is made that all other countries exempt their citizens from taxation on income derived from a foreign country. He said:

> The citizens of all countries except the United States when actively conducting a business abroad are exempt from the payment of taxes to their home Governments on income derived within the foreign country. Having that advantage, and seeking to expand and develop our foreign trade, and seeking to give American citizens and corporations something like an equal opportunity for foreign business with their rivals, the committee believed that this was a just provision.

Again he says:

> A British subject doing business in the United States pays to the Government of the United States an income tax, or a profits tax, upon every dollar of net earnings from business in the United States, but he does not pay one dollar to the British Government when the net earnings are made in the United States.

I have no doubt that gentlemen making that statement believe it to be true. I ask, however, that the Senate may be furnished with a reference to the authority upon which Senators rely. Such examination as I have been able to make of the subject leads me to believe that the reverse of that statement is the truth. I do not admit for a moment that the existence of such a law in some of the small countries like England, France, Holland, or Belgium would be the least reason why we should adopt a similar law. They have a necessity for foreign development and opportunities for capital which we have not. The economic reasons which might lead them to encourage their capital to go abroad for investment should lead us with our vast undeveloped resources to keep

it at home for investment. But, sir, if the fact is that Great Britain has adopted no such tax policy as that contained in the provisions of the bill we are now considering, then the last semblance of an argument which has been made in support of those provisions vanishes.

Such examination as I have been able to make of the British law convinces me that the statement is wholly incorrect that British corporations and residents are exempt from taxation upon income derived from foreign investments.

The question of taxability turns upon the question of residence and not upon the question whether the source of income is foreign or domestic. I call upon those who advocate the adoption of these provisions of the bill to point to any statute or decision of Great Britain which embodies the same principle. If they can produce no such law, then in all fairness they must admit that their principal argument in both of these provisions fails.

The provisions of this bill under consideration, if adopted, would give to our citizens and to foreign residents of this country and to domestic corporations the right which no British citizen or British corporation has, namely, the right to maintain their residence in the home country, do business abroad, and escape taxation on business so done. Under the provision of this bill the foreign traders and foreign trade corporations there provided for would remain in every sense residents of this country and yet escape their taxes, a thing absolutely unheard of in the British law. The scheme provided for in the provisions of this bill now under consideration has no counterpart in British law, and I do not believe that they have in the laws of any other country.

The effect of these provisions would be to relieve our international bankers and other international corporations from taxation on their foreign business, provided only they complied with the requirement concerning the percentage of business done abroad. To gain this exemption the foreign trader would not have to remove his residence from Fifth Avenue or his office from Wall Street, nor would he have to loosen his grip at all upon the politics and national policies of the Government.

Mr. BRANDEGEE. Mr. President, I did not hear the earlier part of the remarks of the Senator, so I do not know whether he treated the point I am about to suggest or not. The Senator is familiar, I suppose, with the arguments presented by the proponents of the China trade act.

Mr. LA FOLLETTE. I am very familiar with them. I have examined all of them.

Mr. BRANDEGEE. Very well, then.

Mr. LA FOLLETTE. I have examined the Hongkong ordinances upon which they are based, and I say they furnish no warrant for the legislation which is proposed in this bill.

Mr. BRANDEGEE. That may be, but I wished to make sure that the Senator from Wisconsin understood this point: The British corporations there, with which we used to have the advantage of acting but with which we are now prohibited from acting by the British law, as I understand, have been exempted from taxation.

Mr. LA FOLLETTE. Mr. President, they have not been exempted from taxation if the profits of their business go to a resident corporation in the United Kingdom——

Mr. BRANDEGEE. Very well.

Mr. LA FOLLETTE. Or if they go to an individual in the United Kingdom. That is what is proposed in this legislation. A corporation may be a domestic corporation here, but all the profits that it receives from the foreign business will be exempt from taxation if 80 per cent of those profits come from that source. There is not any parallel for that in British law.

Mr. BRANDEGEE. That may be entirely so, and I have no doubt the Senator is correct, for he is a careful student of such matters, and I have not examined the Hongkong acts, but the point I want to make is that the chambers of commerce and the men who appeared before the subcommittee of the Committee on Finance in favor of the China trade act claimed that American capital could not compete in the markets of China with British and other capital unless they were put upon a plane of equality so far as exemption from taxation is concerned. That was their claim.

Mr. LA FOLLETTE. Yes.

Mr. BRANDEGEE. According to the argument of the Chinese gentleman which the Senator has just read to us, I should judge he thinks that does not apply, because the demand in China for our products is such that they have got to be taken anyway. I am not sure he is correct about that, but that is what I understand his argument to be.

Mr. LA FOLLETTE. That is a part of his argument.

Mr. TOWNSEND. Mr. President, does the Senator anywhere state how much revenue would be lost to the Government of the United States if this provision should prevail?

Mr. LA FOLLETTE. No, Mr. President; I do not think it is possible to state that, because we do not know. No one knows how much the investment of foreign bankers is. No one knows what revenue would be lost, and, of course, no one knows how much capital would be induced by these provisions to invest in foreign enterprises. I can conceive that enterprises with very large capital would be tempted at once to organize corporations especially to conduct business under the provisions of this law.

Mr. TOWNSEND. I realize that; but I was wondering if somewhere in the Treasury Department it was not possible to obtain information as to how much tax we are now obtaining from foreign investments of this kind already in existence.

Mr. LA FOLLETTE. I will say to my friend from Michigan that I sought to do that. Mr. McCoy, who is our first and last authority upon all questions of that sort, was unable to furnish me with any definite statement.

Mr. KING. Mr. President, will the Senator yield?

Mr. LA FOLLETTE. Certainly.

Mr. KING. As the Senator from Michigan will recall, our foreign trade last year was over $13,000,000,000. A large part of that, of course, was profits, and the tax derivable upon those profits would be a very considerable sum.

Mr. TOWNSEND. That has nothing to do with this question directly. This question applies to investments made by corporations and individuals in this country in business in other countries. It is proposed to exempt them from taxation if 80 per cent of their profits were made out of business conducted in other countries.

Mr. LA FOLLETTE. Permit me to make this suggestion to the Senator: How easy it would be for those corporations having a large foreign trade to organize a separate corporation for the foreign business, insuring 80 per cent of the profits of that particular corporation being derived from foreign business, and lifting all the income from it at once out of the reach of the taxgatherer of this country!

Mr. KING. If the Senator will pardon me, I should like to call the attention of the Senator from Michigan to the further fact that already and as a part, in my humble opinion, of the propaganda to get through measures of this kind a bill has been introduced and has been reported favorably to the Senate to grant Federal charters to corporations to engage in business in China. Obviously if we grant Federal charters to corporations to engage in business in China, the next step will be to grant a Federal charter or Federal charters, general in character, to engage in business everywhere, and the Senator will see what the purpose will be—not only to escape taxation, but to go into all the world and claim that the power and authority of the Federal Government is behind the corporation, and it has a Federal charter.

The States are to be ignored, and the Federal Government—contrary, in my opinion, to the Constitution—is being asked now to give Federal charters to private corporations to engage in private business.

I beg the Senator's pardon for interrupting him.

Mr. LA FOLLETTE. Mr. President, I repeat, some weeks ago I had occasion to discuss the affairs of the International Mercantile Marine Co., a corporation organized under the laws of the State of New Jersey. It is a holding company for the stock of a large number of British steamship companies, owning something like 95 British ships and 10 American ships. This corporation, I think, would fill exactly the definition of a "foreign trade corporation." The trade or business of its British ships, as well as its so-called American ships, is conducted outside of the United States. Eighty-six per cent of its tonnage is British, and undoubtedly 80 per cent of its gross income was derived from sources without the United States. That corporation in its last report states that since 1915 it has distributed $36,000,000 in dividends to its stockholders and paid off $31,000,000 of its bonds. Yet, sir, if the "foreign trade corporation" provision of this bill is enacted into law I see no reason why this company will not be relieved from taxation upon the greater part of its income.

Every one of the great corporations of this country doing a large volume of business abroad, if they are not so organized and managed now as to bring themselves within the definition of a foreign-trade corporation, can easily reorganize and so conduct their foreign business that 80 per cent of the gross income of the concern will be derived from sources without the United States as a result of business conducted there. The opportunity is given by this provision of the bill for all citizens and corporations of this country doing a large volume of business abroad to escape all taxation upon the profits and income derived from that business by simply seeing to it that 80 per cent of the gross income of the corporation organized or which might be organized was derived from sources outside of the United States. If these provisions in their inception had any

worthy purpose they fail utterly to accomplish such a purpose, but they do open up boundless possibilities of tax evasion to our international bankers and other concerns doing a large volume of international business. These provisions of the bill are wholly unnecessary for the protection of any legitimate American interest. We simply do not need them. No possible harm is done by rejecting them. Their adoption will at once open a new avenue through which a great volume of national wealth will constantly escape taxation.

Mr. President, members of the Committee on Finance discussed the possibility of in some way checking the investment of so much of our capital in tax-free securities. Here is a provision, Mr. President, as I read it, reported by the Finance Committee of the Senate, which would furnish a wider avenue for the wealth, not only of individuals but the accumulated capital of corporations, to escape taxation wholly in this country. Mr. President, we can go too far in the indulgences which we confer upon wealth in legislation.

Mr. WALSH of Montana. Mr. President, the Senator directed our attention to the definition of foreign trade corporations as found on page 5, and I have not been able to find those provisions of the bill under which a foreign trader or a foreign trade corporation would be exempt from the tax. Will the Senator kindly indicate where we will find those?

Mr. LA FOLLETTE. I can indicate some of them, Mr. President. They appear through the bill in a number of cases.

Mr. WALSH of Montana. Very well; if that is the case, I will not ask the Senator to point them out now.

Mr. LA FOLLETTE. I will ask the Senator to turn to page 50, section 217. I had a memorandum here in which I cited all of those places, but I may not have it right at hand. I have gathered them up. Let me ask the Senator from Montana if he has the index which was prepared to accompany this bill?

Mr. WALSH of Montana. I do not believe I have it at hand.

Mr. LA FOLLETTE. There is a very excellent index which goes with this bill, and if the Senator will turn to foreign corporations and foreign traders in that index I think he will find cited there the different provisions of the bill where it is necessary to consider this subject.

Mr. WALSH of Montana. I thank the Senator. My attention was directed to the general subject in connection with a bill pending before the Judiciary Committee for some time for the creation of corporations to transact business in China. A special provision exempting such business from taxation by the United States was a feature of the bill, and in that connection it was asserted that the law of Great Britain exempted corporations of that country doing business in China in like manner. I did not understand that any contention was made that there was any general provision in the laws of Great Britain exempting corporations engaged in foreign trade generally from the usual taxes to which corporations doing domestic business were subject. I did not understand that any such contention was ever made.

Mr. LA FOLLETTE. That contention was made when these provisions were presented to the Committee on Finance of the Senate, and they have been made in the course of the debate. I have been able to find the ordinances adopted by the colonial organization at Hongkong, to which the Senator refers, and I have examined, I think, all of the British statutes upon the subject. I have invited those who made the contention that there are general British statutes making the broad exemptions which it has been contended are made, which has been put forth as the reason why we must adopt this general statute with respect to all corporations engaged in foreign business in all countries, to cite any specific enactments of the British Government which are general in their character.

Mr. WALSH of Montana. I take it, then, that it is the purpose of the Senator to call our attention to specific provisions of the bill later on?

Mr. LA FOLLETTE. Certainly. I suppose, Mr. President, that the whole question could be argued out and disposed of in passing upon these first two sections. If they stay in the bill, then the other provisions will, I suppose, stay in the bill likewise. If they go out, then it is an easy matter, as we come to the other provisions of the bill, to adjust the phraseology in order to eliminate the special privileges sought to be conferred upon capital that is invested abroad.

Mr. WALSH of Montana. Let me inquire of the Senator whether these definitions have any application throughout the bill except in connection with those provisions which exempt the foreign trader in the one case or foreign trade corporation in the other case from taxation?

Mr. LA FOLLETTE. I believe they do not. From such examination as I have made of it, I think no other provisions of the bill necessary to the bill are dependent upon the definitions here in these sections.

Mr. McCUMBER. Mr. President, I do not know what evil influence surrounded the Committee on Ways and Means of the House when they brought forth this bill. I am wholly unacquainted with what evil propaganda followed upon the heels of the report and influenced the House in voting this proposition into the bill. Not being of a suspicious turn of mind, I assume that the House gave it fair consideration and that it was passed by the House because both the committee and the House Members in passing upon it deemed it a wise provision of law. Nothing was brought before the committee when it was before the Committee on Finance to indicate that there was any propaganda back of it or forward of it or which had anything to do with it. In fact, it was passed with very little consideration, other than the consideration given a message from Gen. Wood, which came after we had nearly gotten through with the bill, presenting the dire straits of certain corporations doing business in the Philippine Islands. To what extent that influenced Senators in passing upon this bill I do not know. I can not recall any of the arguments which have just now been made having been made before the committee. They might have been presented when I was not present, as I was not always in the committee. But I think it perfectly fair that we look at it on the supposition that it was not intended as a wicked provision, and unless we find something in it that is improper, and if we in addition find very much that is proper, it ought to pass with the Senate.

I know of no method on earth by which we can compel capital to engage in business in one place or another place. I know of no enforcing power of taxation that can dictate to capital where it shall invest. I can see the influence of taxation in determining that it shall not invest in the United States, but when we get outside of the United States I assume that capital before investing will consider the tax laws and the conditions in foreign countries.

If American capital desires to go to China, it has three methods of doing business in China. It can go in as an individual or a partnership, changing its residence from the United States to China. It can go in as a corporation of the United States, doing business in China; or, third, it can go into China and do business in China as a Chinese corporation, and before capital decides which one of those courses it will pursue it will analyze the tax laws of the United States and the tax laws of China and undoubtedly act in accordance with what would then be to its best interests.

There are corporations doing business in China in which there is American capital and British capital which does not pay one penny of income tax or profits tax to the United States. Of course, being foreign corporations, we have no means of compelling profits derived in foreign trade to be subjected to the United States rule of taxation.

If they are doing business in the United States, even though it is foreign corporations, they will pay taxes to the United States on their income derived from the United States and will do that whether they are foreign corporations or whether, under this bill, they are foreign trade corporations. If a corporation doing 80 per cent of its business in China or in the Philippine Islands makes a profit, it pays its taxes on its business in the Philippine Islands to the Philippine Government. It pays its taxes upon 20 per cent that is earned in the United States to the United States.

Here is the difficulty which arises in doing business in the Philippine Islands: An American corporation, incorporated under the laws of the United States, authorized to do business in this one of our possessions, earns a million dollars' profit in its business. It pays the Government of the Philippine Islands about $75,000. It pays to the Government of the United States under present laws, I will say, about $250,000. That would make a total of $325,000.

A British corporation doing business of the same character, earning a million dollars, pays $75,000 to the Philippine Government. It pays not one penny to the British Government so long as it is doing its business in the Philippine Islands. It is thought by many, and certainly by the corporations doing business in the Philippine Islands, that they would be unable to continue in business and compete with the other foreign corporations which pay no home taxes whatever; and that was the message, in a great many words, sent over to us by Gen. Wood after he had been in the Philippines for some time, and that was the protest that was made.

Of course, those corporations, even though the stockholders reside in the United States, can escape that tax if they will incorporate in the Philippine Islands and become foreign corporations. Then their business done as a foreign corporation in the Philippine Islands will not be subject to the American tax.

Mr. POMERENE. Mr. President——

The PRESIDING OFFICER (Mr. McNARY in the chair). Does the Senator from North Dakota yield to the Senator from Ohio?

Mr. McCUMBER. I yield.

Mr. POMERENE. Let us take another illustration and see how it works out. I desire to be right about it if I can be set aright.

The Senator, I take it from what he has said, is referring to two trading corporations which are selling manufactured goods abroad. Let us assume that there are two corporations in the city of Cleveland each with $1,000,000 of capital, each one of them manufacturing a product which is sold, let us say, in China. Of course, the Senator from North Dakota is one of the most ardent protectionists in this Chamber, and he believes in protection for the benefit of the laboring men as well as for capital. I am not taking issue on that and do not care to discuss that question now.

We have a tariff here for the protection of that industry. We pass this bill and it becomes a law. One of the corporations conceives the idea that it is going to take its entire plant over to China. It can there employ coolie labor and it can by that labor manufacture the same product which it theretofore manufactured in Cleveland, but at a very much lower rate. Now, of course, if the other corporation is continuing to manufacture in Cleveland with the high wage that is paid to American labor, it probably is not going to be able to compete in the Chinese market with the product of coolie labor made by the first designated corporation.

It seems to me this is what you are doing under this bill with the two cases I have in mind. You will be charging the Cleveland corporation that did business in Cleveland and manufactured its products there the income tax and the excess-profits tax, but at the same time you would be relieving the other American manufacturer who went over to China and employed coolie labor from all income and excess-profits tax. Does it not put the Senator in the position that whereas by a protective tariff he is protecting and encouraging the manufacturer to build up his industry in Cleveland with the internal revenue law he is encouraging him to get out of the country? It seems to me that is going to be the effect of it. If I am wrong, I should be glad to be set right.

Mr. McCUMBER. It seems to me it is just exactly the opposite. That is the present law. We are proposing to change that law. That is the condition under the present law which the Senator has explained.

Mr. POMERENE. But the Senator from North Dakota is proposing now to exempt the American who has gone over there with his plant and his investment from paying any revenue tax.

Mr. McCUMBER. Let us take the case the Senator has stated. Here is his Cleveland corporation. The Cleveland corporation can organize another corporation with the same stockholders over in China, can it not?

Mr. POMERENE. Certainly.

Mr. McCUMBER. It can, therefore, escape all the taxes, because that would be a foreign corporation. If it is for their interest to do so, they will do that. We can not prevent their doing it if it is for their interest to do it. You are not driving them one way or the other. You are simply saying that if they are an American corporation they can still retain their American corporation rights and yet pay upon their American business that is done in the United States. On their foreign business they would only pay the foreign tax.

Mr. POMERENE. I agree with the Senator that he can do as he chooses, and he can make his investment in any form he chooses over there, but what I am objecting to is that by the very exemption which the committee seeks to insert in the bill we are encouraging him to go out of the country and we are encouraging him to employ coolie labor abroad, instead of American labor here at home.

Mr. McCUMBER. No; without it we are encouraging him to incorporate in a foreign country and escape all taxation. That is the real proposition. Without it, we say, "Go to China and incorporate there." With this provision we say, "You can retain your American corporate existence and do business, and it is not necessary for you to alienate yourself and become a Chinese corporation."

Mr. WALSH of Montana. Mr. President——

Mr. McCUMBER. I yield to the Senator from Montana.

Mr. WALSH of Montana. The case to which I referred a few moments ago in a colloquy with the Senator from Wisconsin [Mr. LA FOLLETTE] discloses that the American manufacturer does not want to incorporate under the laws of China. He does not feel that he gets any protection there whatever. He does not want to expatriate himself. He wants to go along under the protection of the United States. The same is true of the international corporations. They want to organize under the laws of the United States and do business in South American Republics, for instance. They do not want to go to the South American Republics and incorporate there, and will not do so.

Mr. McCUMBER. I understand that. The position of the Senator from Wisconsin is that there is a certain amount of capital in the United States that he wants to be forced to do business in the United States or not do business at all. That is a good patriotic impulse which says, "If you can not do business in the United States, just sit down and keep your capital idle." I think it is better to keep the capital at work, even though it goes into a foreign country, because in that foreign country and in connection with the home country it is sure, to a certain extent at least, to increase our trade with that country.

I for one want to increase and expand our trade. I do not want to hold it all in the United States. We certainly will not get much better off in the United States by trading simply with each other. It would be like two boys trading 50-cent jackknives with each other; they might do it for 50 years and neither of them would be better off at the end of that period. From a national standpoint our wealth is derived from our foreign trade, by selling more than we buy and giving us the advantage of the excess of sales over the excess of purchases. Therefore, anything that will develop our foreign trade will do more than anything else to put the people of the United States on their feet again.

Mr. HITCHCOCK. Mr. President, I would like to ask the Senator whether I am correct in assuming that if an American corporation does business in a foreign country under the present law and is subjected to the payment of taxes on the profits of its business in that foreign country it can deduct those taxes in reporting its business in the United States so that it is not subjected to any American taxes until it has had credit for the taxation it has paid abroad.

Mr. McCUMBER. The foreign taxation?

Mr. HITCHCOCK. Yes; and then if any profits remain it will pay taxes on those remaining profits in exactly the same proportion that American companies pay.

Mr. McCUMBER. Oh, no; it depends entirely upon the amount of taxation. For instance, we might trade with Sweden where the taxation might be very low. If we traded with Great Britain the taxation would be very heavy.

Mr. HITCHCOCK. No; the Senator misunderstands me.

Mr. McCUMBER. The American taxation compared with the Philippine taxation——

Mr. HITCHCOCK. The Senator misunderstands me. I say after deducting those taxes so paid abroad, whether they are high or whether they are low, is the remainder subjected to the same tax?

Mr. McCUMBER. It is the Senator from Nebraska who does not understand. I have given an example in the Philippine Islands, where the American tax imposed would be $275,000. The Philippine tax would be $75,000. In their business in the United States they can deduct from their profits the Philippine tax of $75,000 but they can not deduct the $275,000 to be paid to the home Government.

Mr. HITCHCOCK. But the amount of tax levied against that company for its business is only upon the profits that it makes, and it has to have profits after it has paid the Philippine tax before it can be levied on for the American tax.

Mr. McCUMBER. Certainly.

Mr. HITCHCOCK. So the corporation is not suffering; it is doing business at a profit after paying the Philippine tax, or we could not levy any tax upon it.

Mr. McCUMBER. Certainly; but suppose there is another corporation that is doing business in the same way and at the same expense; how long can the corporation which pays $275,000 tax on $1,000,000 of income compete with the one which does not pay that $275,000 tax?

Mr. HITCHCOCK. It can compete just as long as it is making profits.

Mr. McCUMBER. Certainly.

Mr. HITCHCOCK. It is not taxed unless it makes profits.

Mr. McCUMBER. But suppose it does that this year and has made a profit this year, next year it has to go out of business because it can not do it.

Mr. HITCHCOCK. Why?

Mr. McCUMBER. Simply because the other can undersell it and still make a profit, and it can not do the business.

Mr. LA FOLLETTE. Mr. President, will the Senator from North Dakota yield to me for a moment?

Mr. McCUMBER. Certainly.

Mr. LA FOLLETTE. Is it the contention of the Senator that the British corporation that is incorporated in Great Britain

and has its residence in Great Britain and its properties there is not taxed by the British Government?

Mr. McCUMBER. We will say, then, organizing a subcorporation or another corporation in the Philippines, because it really would be the stockholders of a British corporation organizing a subsidiary corporation in the Philippine Islands. That corporation does not pay a tax to the British Government. That is my contention. If the home corporation gets money from this corporation, it goes to the home corporation, and to the extent of what does go to the home corporation it would become a part of its profits, of course.

Mr. POMERENE. If an American corporation incorporated especially in the Philippine Islands, it could escape those taxes in this country just the same. There is no shadow of difference between the British statute and our existing law with respect to the amount that is paid under the British statute and the amount that is paid under our statute.

Mr. McCUMBER. I have the British law here.

Mr. LA FOLLETTE. Every dollar of income of a British corporation doing business in the Philippine Islands that is returned to the home country pays its income tax there, and every stockholder has to pay his income upon the business done in the Philippine Islands.

Mr. McCUMBER. Just the same as in the United States on whatever comes to the United States. But I am considering a corporation doing business in the Philippine Islands as a corporation. Before the matter is finally disposed of I shall ask to have incorporated in the RECORD the British law. I understand the matter has not yet been fully discussed, and as the Senator from Massachusetts desires a short executive session I yield to him now.

Mr. POMERENE. I wish the Senator from North Dakota would print in the RECORD the British statute. I would like very much to have an opportunity to examine it.

Mr. LODGE. He said he would do so.

EXECUTIVE SESSION.

Mr. LODGE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 25 minutes spent in executive session the doors were reopened, and (at 5 o'clock and 40 minutes p. m.) the Senate adjourned until to-morrow, Thursday, October 20, 1921, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate October 19 (legislative day of October 14), 1921.

ASSAYER OF THE MINT.

Ambrose E. Moynahan, of Colorado, to be assayer in the mint of the United States at Denver, Colo., in place of Frank E. Wheeler.

UNITED STATES ATTORNEY.

W. A. Maurer, of Oklahoma, to be United States attorney, western district of Oklahoma, vice Herbert M. Peck, resigned, effective November 1, 1921.

PROMOTIONS IN THE REGULAR ARMY.

FIELD ARTILLERY.

To be colonel.

Lieut. Col. Ralph Stuart Granger, Field Artillery, from October 10, 1921.

CAVALRY.

To be colonel.

Lieut. Col. Evan Harris Humphrey, Cavalry, from October 15, 1921.

MEDICAL CORPS.

To be captain.

First Lieut. Thomas Randolph McCarley, Medical Corps, from October 12, 1921.

DENTAL CORPS.

To be captains.

First Lieut. Earl George Gebhardt, Dental Corps, from September 20, 1921.

First Lieut. Alvin David Dannheisser, Dental Corps, from October 4, 1918.

NOTE.—Capt. Dannheisser was nominated June 24, 1919, and confirmed July 15, 1919, under the name Alvin D. Dannheiser. This message is submitted for the purpose of correcting an error in the name of nominee.

APPOINTMENTS, BY TRANSFER, IN THE REGULAR ARMY.

QUARTERMASTER CORPS.

Maj. William Frederick Pearson, Air Service, with rank from July 1, 1920.

ORDNANCE DEPARTMENT.

Capt. Carl C. Terry, Coast Artillery Corps, with rank from February 9, 1918.

Capt. Walter Wilton Warner, Coast Artillery Corps, with rank from December 23, 1919.

First Lieut. Henry Jay Ward, Air Service, with rank from July 1, 1920.

SIGNAL CORPS.

Capt. Hugh Mitchell, Cavalry, with rank from July 27, 1917.

CAVALRY.

First Lieut. Robert Milton Eichelsdoerfer, Field Artillery, with rank from September 16, 1921.

FIELD ARTILLERY.

Maj. William Holt Peek, Quartermaster Corps, with rank from July 1, 1920.

COAST ARTILLERY.

First Lieut. William Henry Webb, Air Service, to be first lieutenant in the Coast Artillery Corps, effective November 9, 1921, with rank from July 1, 1920.

PROMOTIONS IN THE NAVY.

Lieut. Commander Charles H. Bullock to be a commander in the Navy from the 1st day of January, 1921.

Lieut. Commander Nathan W. Post to be a commander in the Navy from the 29th day of May, 1921.

The following-named lieutenant commanders to be commanders in the Navy from the 3d day of June, 1921:

Roscoe F. Dillen.
Albert T. Church.
William S. McClintic.

Lieut. Paul J. Peyton to be a lieutenant commander in the Navy from the 1st day of January, 1921.

Lieut. William W. Smith to be a lieutenant commander in the Navy from the 29th day of May, 1921.

The following-named lieutenants to be lieutenant commanders in the Navy from the 3d day of June, 1921:

David I. Hedrick.
Alan G. Kirk.
Max B. De Mott.
Daniel A. McElduff.
Tracy L. McCauley.
Lee P. Johnson.
George K. Stoddard.

Lieut. (Junior Grade) Louis J. Roth to be a lieutenant in the Navy from the 7th day of June, 1919.

The following-named lieutenants (junior grade) to be lieutenants in the Navy from the 1st day of July, 1920:

Roswell H. Blair.
Webster M. Thompson.
Knefler McGinnis.
Howard F. Councill.
Francis B. Connell.
Ellis H. Geiselman.
Henry M. Mullinnix.
Walter W. Webb.
Vernon F. Grant.
John J. Ballentine.
Alphonsus I. Flynn.
Carlos W. Wieber.

The following-named ensigns to be lieutenants (junior grade) in the Navy from the 30th day of March, 1920.

Vernon F. Grant.
Howard F. Councill.

The following-named ensigns to be lieutenants (junior grade) in the Navy from the 29th day of June, 1920:

John J. Ballentine.
Alphonsus I. Flynn.
Francis B. Connell.
Ellis H. Geiselman.
Carlos W. Wieber.

The following-named ensigns to be lieutenants (junior grade) in the Navy from the 1st day of July, 1920:

Alfred P. Moran, jr.
John H. Cassady.

The following-named assistant surgeons to be passed assistant surgeons in the Navy with the rank of lieutenant from the 1st day of July, 1920:

Arthur S. Judy.
Warwick T. Brown.

Passed Asst. Dental Surg. Eugene H. Tennent to be a dental surgeon in the Navy with the rank of lieutenant commander from the 11th day of May, 1921.

Pay Inspector Arthur F. Huntington to be a pay director in the Navy with the rank of captain from the 7th day of July, 1921.

Paymaster William C. Fite to be a pay inspector in the Navy with the rank of commander from the 7th day of July, 1921.

The following-named assistant paymasters to be passed assistant paymasters in the Navy with the rank of lieutenant from the 1st day of July, 1920:

Homer C. Sowell.
James C. Bequette.
Percy C. Corning.
James R. Frawley.

The following-named passed assistant surgeons of the United States Naval Reserve Force to be passed assistant surgeons in the Navy with the rank of lieutenant from the 3d day of August, 1920, in accordance with a provision contained in the act of Congress approved June 4, 1920:

Hampden A. Burke.
John B. O'Neil.

Passed Asst. Dental Surg. Theodore P. Donahoe, United States Naval Reserve Force, to be a passed assistant dental surgeon in the Navy, with the rank of lieutenant, from the 3d day of August, 1920, in accordance with a provision contained in the act of Congress approved June 4, 1920.

Asst. Paymaster Charles J. Lanier, for temporary service, to be an assistant paymaster in the Navy, with the rank of ensign, from the 6th day of June, 1919, in accordance with a provision contained in the act of Congress approved June 4, 1920.

Chaplain Karl W. Foster, of the United States Naval Reserve Force, to be a chaplain in the Navy, with the rank of lieutenant, from the 3d day of November, 1920, in accordance with a provision contained in the act of Congress approved June 4, 1920.

The following-named officers for temporary service to be lieutenants in the Navy, to rank from August 3, 1920, in accordance with a provision contained in the act of Congress approved June 4, 1920:

Christopher Murray.
Bertram David.
Arthure Langfield.
Meade H. Eldridge.
William R. Buechner.
Arthur B. Dorsey.
Gustav C. Tanske.
Newton R. George.
Joseph W. Bettens.
Frederick G. Keyes.
Horace DeB. Dougherty.
Warner K. Bigger.
Arthur T. Brill.
James L. McKenna.
Philip S. Flint.
Charles King.
William R. Spear.
Anthony Prastka.
Raymond A. Walker.
Frank E. Nelson.
Frank F. Webster.
Quintus R. Thomson, jr.
Melvin C. Kent.
Joseph W. Birk.
Ola D. Butler.
Lee W. Drisco.
Charles A. Armstrong.
Gregoire F. J. Labelle.
Peter J. Gundlach.
William Cox.
Herman C. Schrader.
Herbert R. Mytinger.
Curry E. Eason.
Herbert J. Meneratti.
Abraham De Somer.
William A. Mason.
Clarence R. Rockwell.
William E. Snyder.
Albert E. Freed.
Newcomb L. Damon.
Clyde Lovelace.
William H. Farrel.
George S. Dean.
Aaron Eldrigde.
Edward L. Newell.
Lars O. Peterson.
Edwin Fisher.
Earle V. Hand.
John R. McKean.
Thomas W. Mather.
Thomas M. Leovy.
Benjamin W. Cloud, 2d.
Frederick S. Conner.
Leland D. Webb.
Clyde C. Laws.
Thomas E. Flaherty.
Clyde H. McLellon.
William S. Holloway.
James S. Trayer.
Henry Hartley.
Albert M. Hinman.
Stephen A. Loftus.
William R. Gardner.
Richard O. Williams.
John Ronan.
Ernest R. Peircey.
Edward C. Wurster.
Arthur D. Freshman.
Charles W. A. Campbell.
Jonathan H. Warman.
Henry W. Stratton.
John Meyer.
Joseph A. Rasmussen.
Charles Antrobus.
John C. Heck.
Herbert Wycherley.
Harold A. Turner.
Brice H. Mack.
Niels Drustrup.
Robert C. McClure.
John F. Murphy.
Paul E. Kuter.
Simon L. Shade.
Harry J. Hansen.
John J. Madden.
Martin Dickinson.
John Whalen.
Charles F. Fielding.
Judson E. Scott.
Robert B. England.
Omar B. Earle.
George R. Blauvelt.
Charles Waters.
Harold A. Clough.
Chester L. Nichols.
Harold F. Fultz.
Mallery K. Aiken.
Howard W. Kitchin.
William Knox.
Roy M. Cottrell.
Walter C. Theimer.
Learned L. Dean.
Merwin W. Arps.
Eugene L. Richardson.
Charles P. Porter.
Louis H. Rassler.
Arthur C. Leonard.
Grover A. Miller.
Marion C. Erwin.
Lester M. Harvey.
Frederick A. Ruf.
Leslie K. Orr.
Arthur R. Pontow.
Harry R. Hayes.
Jerome L. Allen.
Albert R. Myers.
Harry M. Dickerson.
William A. Tattersall.
Haden H. Phares.
William B. Anderson.
Harry Le R. Thompson.
John F. Warris.
Walker P. Rodman.

The following-named officers of the United States Naval Reserve Force to be lieutenants in the Navy from the 3d day of August, 1920, in accordance with a provision contained in the act of Congress approved June 4, 1920:

Joseph B. Anderson.
Lyman C. Avery.
Rico Botta.
Charles B. Burke.
Thomas M. Colston, jr.
Byron J. Connell.
Fred C. Dickey.
Frank C. Fake.
Francis E. Fitch.
Arthur Gavin.
Thomas A. Gray.
Arthur R. Houghton.
Albert M. Austin.
John B. Barrett.
Harold J. Brow.
Paul W. Carter.
George L. Compo.
Andrew Crinkley.
Harold A. Elliott.
William M. Fellers.
Robert L. Fuller.
Adolphus W. Gorton.
Lambert Hewitt.
Lester T. Hundt.
Rutledge Irvine.
Theodore C. Lonnquest.
Robert F. McConnell.
Samuel B. McMurrain.
Telford B. Null.
William K. Patterson.
Alfred M. Pride.
Francis W. Reichelderfer.
William H. Rohrbach.
Frank H. Sloman.
Henry T. Stanley.
James H. Stevens.
Hiram L. Irwin.
Rossmore D. Lyon.
Francis R. McDonnell.
Ralph H. Norris.
George T. Owen.
Loverne A. Pope.
Charles H. Ramsdell.
Herbert C. Rodd.
John M. Sheehan.
Allen P. Snody.
John Stanley.
Charles D. Williams, jr.
William L. Wright.

The following-named officers for temporary service to be lieutenants (junior grade) in the Navy, to rank from the 1st day of July, 1920, in accordance with a provision contained in the act of Congress approved June 4, 1920:

Jarrard E. Jones.
John J. Clausey.
Frederick Petry.
Sol Shaw.
Wilmer W. Weber.
Ludwig W. Gumz.
Raymond C. McDuffie.
Alexander B. Holman.
Walter B. Buchanan.
Vernon C. Bixby.
Harold J. Wright.
Alfred J. Byrholdt.
Carl Hupp.
Stonewall B. Stadtler.
Stephen E. Haddon.
Frank A. Brandecker.
Edward H. Smith.
William E. McClendon.
Robert S. Smith, jr.
George R. Veed.
Ralph G. Moody.
William F. Schlegel.
Asa Van Roermud Watson.
John A. Rogers.
Arthur H. Cummings.
Henry A. Stuart.
William J. Graham.
Joseph W. Storm.
Otto H. H. Strack.
Clyde Morrison.
Elijah E. Tompkins.
Arthur L. Karns.
Carl H. Forth.
Marcus L. Kurtz.
Ratcliffe C. Welles.
Edwin Nelson.
Percival W. Buzby.
Arthur E. Bartlett.
Burmain A. Grimball.
Oliver H. Briggs.
Charles A. Goebel.
Homer F. McGee.
Lansford F. Kengle.
Arthur Wrightson.
Harold K. Smoot.
Laurence E. Myers.
Edwin F. Bilson.
Orie H. Small.
Elmer B. Robinson.
Doile Greenwell.
Homer E. Curlee.
Robert N. Lockart.
John F. W. Gray.
Hoïner B. Davis.
James M. Connally.
Perle M. Lund.
Charles M. Johnson.
Charles F. Waters.
Percy A. Decker.
Edward B. Peterson.
DeForest L. Trautman.
Walter E. Andrews.
Frank E. Kennedy.
Raymond E. Farnsworth.
John E. Dingwell.
Leslie E. Gehres.
Louis P. Harris.
Guy R. Bostain.
Lawrence S. Tichenor.
Hermann P. Knickerbocker.
James N. McTwiggan.
Edward G. Nolan.
Charles F. Grisham.
George E. Ernest.
Jesse G. McFarland.
Robert E. Davenport.
James D. Barner.
Palmer M. Gunnell.
Samuel B. Ogden.
Arthur F. Folz.
Lloyd S. Kinnear.
Arthur F. Anderson.
George Paille.
Truman E. Ayres.
Raymond G. Deewall.
Earl B. Brix.
Perry F. Newton.
Henry L. Pitts.
Edward J. Lysaught.
Cornelius J. O'Connor.
Charles R. Jeffs.
Caleb R. Crandall.

Henry C. Flanagan.
William Y. Rorer.
Will F. Roseman.
John P. Dix.
William Wakefield.
Clyde L. Lewis.
Robert F. MacNally.
Joseph C. Newman.
Fred A. Hardesty.
Frank E. Vensel, jr.
Charles S. Seely.
John P. Hildman.
William E. Phillips.
John Q. Chapman.
Wellington S. Morse.
James E. Arnold.
Frank A. Mullen.
Norman E. Miller.
Lewis H. C. Johnson.
Raymond E. Daniels.
Leo L. Waite.
Joseph R. Tobin.
Arthur F. Peterson.
Frederick W. Ickes.
Scott E. Peck.
John H. Thomas.
William Hartenstein.

The following-named officers of the United States Naval Reserve Force to be lieutenants (junior grade) in the Navy from the 1st day of July, 1920, in accordance with a provision contained in the act of Congress approved June 4, 1920:

Elwood H. Barkelwe.
Merritt P. Higgins.
William L. Peterson.
Carl A. Scott.
Troy N. Thweatt.
Paul C. Warner.
Dean Blanchard.
Harry F. Carlson.
Albert E. Dupuy.
Volney C. Finch.
Frederick O. Goldsmith.
Robert H. Harrell.
Malcolm R. Jameson.
Charles A. Kirtley.
Thomas B. Lee.
Donald J. MacCalman.
David A. Musk.
Russell U. Pollard.
Maxwell B. Saben.
William J. Slattery.
Barrett Studley.
Frank R. Whitmore.
Emil Chourre.
George A. Ott.
Thomas E. Renaker.
Thomas D. Southworth.
Raymond F. Tyler.
Herbert A. Anderson.
Steven W. Callaway.
Donald G. Davis.
James E. Dyer.
John J. Fitzgerald.
Thomas D. Ghinn.
James H. Hulse.
Daniel H. Kane.
Harry J. Lang.
William B. Lobaugh.
Donald McA. Mackey.
Emil B. Perry.
Stewart S. Reynolds.
Howard R. Shaw.
Arthur C. Smith.
Grover B. Turner.
Louis T. Young.
John McC. Fitz-Simons.

The following-named officers for temporary service to be ensigns in the Navy, to rank from the 6th day of June, 1919, in accordance with a provision contained in the act of Congress approved June 4, 1920:

Paul R. Fox.
James A. Martin.
Edward S. Tucker.
Bernhard Schumacher.
John B. Hupp.
David P. Henderson.
Herman Kossler.
Franz J. M. Parduhn.
William E. O'Connell.
George J. Lovett.
Louis F. Miller.
Thomas Macklin.
George D. Samonski.
Ernest Heilmann.
Harry E. Stevens.
Harry A. Pinkerton.
John McM. D. Knowles.
Robert G. Greenleaf.
Stephen H. Badgett.
Clyde Keene.
William D. Dadd.
Clarence L. Ribbals.
Frank Schultz.
August Logan.
Arthur Boquett.
Charles C. Stotz.
Paxton Hotchkiss.
William T. Shaw.
James D. Brown.
Alfred Doucet.
James M. MacDonnell.
David McWhorter, jr.
Samuel E. Lee.
Frank Kinne.
Rony Snyder.
Claude B. Arney.
Frederick T. Walling.
Francis P. Brewer.
John F. Piotrowski.
William K. Johnstone.
Emmette F. Gumm.
Orrin R. Hewitt.
Gregory Cullen.
Michael Macdonald.
William P. Turner.
Laurie C. Parfitt.
Alfred R. Boileau.
George A. Gast.
William J. Poland.
Emil H. Petri.
Harlie H. Brown.
Mauritz M. Nelson.
George H. Turner.
Emil Roeller.
Jesse M. Acuff.
John M. Morrison.
Walter E. Holden.
Frederick Strohte.
Stuart L. Johnson.
David R. Knape.
John L. Graham.
John G. Cross.
John J. Gaskin.
Ralph M. Gerth.
William A. Lynch.
Stockard R. Hickey.
Chris Halverson.
Frank I. Hart.
John F. P. Miller.
Albert R. Colwell.
Kenneth F. Horne.
John Sharpe.
Loar Mansbach.
Bruce M. Parmenter.
William J. Russell.
James F. Cooper.
Oliver P. Kilmer.
Clarence A. Hawkins.
Eldred J. Richards.
Arthur P. Spencer.
Thomas Fertner.
Carter E. Parker.
Clarence H. Fogg.
Thomas Southall.
Thomas G. Shanahan.
Abram L. Broughton.
Clarence E. Williams.
Fleet W. Corwin.
Harry F. Gray.
Ernest W. Dobie.
Walter M. Shipley.
Michael J. Conlon.
Burton W. Lambert.
Godfrey P. Schurz.
Daniel F. Mulvihill.
David F. Mead.
George W. Waldo.
Sigvart Thompson.
Norman McL. McDonald.
William S. Evans.
John P. Millon.
James Donaldson.
William A. Eaton.
Everest A. Whited.
Elery A. Zehner.
George T. Campbell.
Frank Kerr.
Elmer J. McCluen.
William Martin.
Warwick M. Tinsley.
George O. Farnsworth.
Ralph A. Scott.
Robert S. Savin.
George B. Evans.
Joseph A. Flynn.
George C. Neilsen.
Frank V. Shepard.
James H. Cain.
Arthur C. Hoyt.
Maurice M. Rodgers.
William Klaus.
John F. Kennedy.
Alvin Henderson.
Harold F. MacHugh.
Jeremiah K. Cronin.
Walter C. Haight.
Raymond S. Kaiser.
Frank Schlapp.
Walter M. Blumenkranz.
Robert Anderson.
Benjamin J. Shinn.
George H. Toepfer.
Howard Haynes.
Claude Farmer.
Harley E. Barrows.
Charles F. Hudson.
Philip D. Butler.
Andrew Simmons.
James H. Woodward.
Ira W. Truitt.
Myron T. Grubham.
Charles W. Van Horn.
Edward J. Spuhler.
Alva Henderson.
Arthur Brown.
Warren R. Hastings.
Eli B. Parsons.
Walter W. Miller.
Lawrence K. Beaver.
John O. Jenkins.
Francis E. Matthews.
Paul L. Hughes.
Ira B. Spoonmore.
Henry L. Burmann.
Charlie S. East.
William C. Betzer.
Charles H. Gordon.
John E. Canoose.
Theron S. Hare.
Robert H. Barnes.
John C. Redman.
Ewell K. Jett.
Rudolph P. Bielka.
Maxemillian B. De Leshe.
James R. Harrison.
John W. Dillinder.
Alfred G. Scott.
Harold Bye.
Joe S. Wierzbowski.
Carl I. Ostrom.
Percy S. Hogarth.
William E. Smith.
Edward G. Evans.
Grover C. Watkins.
Olaf J. Gullickson.
Gilbert R. Whitworth.
Brady J. Dayton.
Arthur D. Murray.
Thomas T. Hassell.
Thomas P. Kane.
Joseph A. Clark.
Charles L. Allen.
Harry A. Mewshaw.
Thom H. Williamson.
Hubert K. Stubbs.
Theodore A. Kelly.
Joseph A. Ouellet.
Wiley B. Jones.
Harry A. Wentworth.
Frederick J. Silvernail.
Leon W. Mills.
Edward Danielson.
Emmett J. Driscoll.
Joseph L. Cassidy.
Franklin E. Cook.
Frank W. Rasch.
Gurney E. Patton.
Donald B. McClary.
Albert J. Wheaton.
Philip L. Emerson.
John B. McGovern.
Elmer J. Tiernan.
Julius C. Kinsky.
Benjamin S. Brown.
Earle C. Peterson.
Joseph W. McColl, jr.
Philip H. Taft.
Charles R. Hoffecker.
John S. Hawkins.
Reuben F. Davis.
Walter E. Stephen.
Thomas J. Eggleston.
Rudolph Oeser.
William M. McDade.
Herbert H. Taylor.
Leedom B. Andrews.
Ralph W. Floody.
Edwin C. Millhouse.
Charles R. Will.
Joseph A. Guard.
Walter F. Hinckley.
Glenn S. Holman.
Ralph L. Lovejoy.
Robert K. Madsen, jr.
Paul G. Haas.
James C. Taylor.
William M. M. Lobrano.
John A. Sedgwick.
Arthur W. Peterson.
Lawrence F. Blodgett.
Clarence H. Pike.
Alan F. Winslow.
George E. Twining.
Charles C. Ferrenz.
Joseph W. Mullally.
James B. Bliss.
Robert W. Boughter.
Otto F. Johanns.
Harry Redfern.
John F. Wegforth.
Benton B. Baker.
James M. Fernald.
Maurice A. O'Connor.
John A. Paulson.
Albert R. Buehler.
Thomas F. Hayes.
Herbert Loewy.
Irving B. Smith.
Haskell C. Todd.
Harold J. Walker.
Arthur H. Small.
Charles D. Hickox.

Howard L. Clark.
Terence W. Greene.
Lannis A. Parker.
John E. Walrath.
Lloyd K. Cleveland.
Raymond St. C. Beckel.
Harold F. Hale.
Andrew M. Harvey.
Martin Nyburg.
Edgar C. Suratt.
George Walker.
Wallace H. Gregg.
James P. McCarthy.
Charles R. Price.
Thomas J. Bay.
Harold B. Herty.
Albert McI. Wright.
Paul L. Mather.
Floyd J. Nuber.
Charles H. Ross.
Charles H. Miller.
George K. G. Reilly.
Leon G. DeBrohun.
Paul G. Wrenn.
Frank R. Wills.
Eugene Bastian.
William R. Dolan.
Thomas O. Brandon.
Jacob E. De Garmo.
Roger K. Hodsdon.
Edgar V. Carrithers.
Rodney H. Dobson.
William N. Thornton.
Ernest V. Abrams.
Burton E. Rokes.
Donald R. Comstock.
Arthur W. Bates.
Andrew M. Parks.
Stanley H. Southwell.
Ove P. O. Hansen.
Ashton B. Smith.
Frederick A. Smith.
Milton P. Wilson.
George L. Bright.
William G. Dow.
John P. Bowling.
Edgar L. Adams.
Samuel S. Fried.
Nelson H. Eisenhardt.
Harold H. Kendrick.
Charles G. Miller.
John L. Albice.
Meinrad A. Schur.
Bernard J. Loughman.
Lewis R. McDowell.
Bernhard H. Wolter.
Raymond A. McClellan.
Leon J. Benwell.
Harold J. Kircher.
Harry D. Goldy.
Anton L. Mare.
Frank Miller.
Le Roy A. Nelson.
Joseph H. Seyfried.
Donald McK. Weld.
Irvin M. Hansen.
Louis C. De Rochemont.
Clarence L. Waters.
Myron T. Richardson.
James S. Warner.
Lynn G. Bricker.
Harold W. Alden.
Harold C. Patterson.
Jackson R. Tate.
Roy A. Ibahh.
David A. Peterson.
Ralph H. Smith.
Howard W. Bradbury.
Russell D. Bell.
James S. Haughey.
Henry L. Naff.
Clyde A. Coggins.
Sidney L. Huff.
George E. Kenyon.
Hugo F. Sasse.
Carl E. Wiencke.
Frederick L. Farrell.
Benjamin S. Henderson.
Clifford B. Schiano.
Merritt A. Bittinger.
William B. Coleman.
Elder P. Johnson.
Benjamin C. Purrington.
Robert F. Stockin.
Joseph P. Tomelty.
Florentin P. Wencker.
Thomas C. Kizer.
Ralph W. Bowers.
James H. Foskett.
Malcolm D. MacGregor.
James J. McGlynn.
John D. Murphy.
Robert E. Purmut.
William L. Travis.
Cyril E. Taylor.
Floyd Gills.
Harold B. Corwin.
John A. Pierson.
Joseph S. Donnell, jr.
William L. Hickey.
Alexander M. McMahon.
Laurence Bennett.
Albert M. Van Eaton.
George C. Weldin.
Edward R. J. Griffin.
Albert L. Prosser.
Hyman L. Heller.
Emanuel Taylor.
Karl Sommerfeld.
Harold J. Bellingham.
John E. Gabrielson.
Walter O. Roenicke.
Sumner C. Cheever.
Albert E. Conlon.
Alfred L. Lind.
Joseph E. Jackson.
Forrest A. Rhoads.
William W. Behrens.
Russell C. Bartman.
Kenneth C. Manning.
George D. Birdsall.
Harold R. Holcomb.
Nullet F. Schneider.
Gordon T. House.

The following-named officers for temporary service to be ensigns in the Navy from the 4th day of June, 1920, in accordance with a provision contained in the act of Congress approved June 4, 1920:

Jesse G. Johnson.
Joseph J. Rochefort.
Andrew Radowicz.
Ralph P. Noisat.
Arthur S. Billings.
Roland E. Krause.
Frank A. Davis.
Turner A. Glascock.
James D. Veatch.
Samuel Gregory.
William J. Medusky.
Cecil E. Godkin.
Herbert C. Behner.
John H. Hykes.
Joseph H. Gowan.
Homer N. Wilkinson.

The following-named officers of the United States Naval Reserve Force to be ensigns in the Navy from the 4th day of June, 1920, in accordance with a provision contained in the act of Congress approved June 4, 1920:

Steadham Acker.
Charles E. Bauch.
Frederick H. Becker.
Lester G. Bock.
George C. Cannon.
Delbert L. Conley.
George W. Dalton.
Benjamin B. Dowell.
Charles C. Earle, jr.
Sheridan B. Fry.
Phil L. Haynes.
Herman B. R. Jorgensen.
Campbell Keene.
Robert F. Lyon.
John L. Murphy.
Carlton D. Palmer.
Edgar W. Sheppard.
Paul E. Shumway.
William J. Walker.
Alford J. Williams, jr.
Ralph R. Auerswald.
John E. Beck.
Winthrop E. Blackwell.
George A. Cahill, jr.
Caleb J. Coatsworth.
Hayden Crocker.
Edward E. Dolecek.
Thomas Durfee.
Ralph P. Evans.
William S. Grooch.
Clarence L. Hayward.
Edward A. Keddie.
Nolan M. Kindell.
Mark A. Mangan.
Oscar L. Ostin.
Joseph E. Shaw.
Charles G. Shone.
Giochino Varini.
Richard F. Whitehead.
Herman P. Althaus.
Adolph H. Bamberger.
Clarence E. Bence.
Walter A. Brooke.
Oscar R. Doerr.
George H. Hasselmann.
Edwin G. Into.
Harold Kaminski.
Francis S. Kosack.
Donald S. Thompson.
Castle J. Voris.
Francis B. Waterman.
Joseph W. Long.
Harold J. McNulty.
Emil Phhli.
Rintoul T. Whitney.
Mathew J. Woessner.
August V. Zaccor.
Gordon M. Boyes.
Paul Carle.
Lloyd A. Dillon.
Dorris D. Gurley.
William A. Hardy.
Wallace B. Hollingsworth.
Samuel E. Kenney.
Daniel N. Logan.
Angus G. Nicolson.
Stanley F. Patten.
Herbert V. Perron.
Robert C. Rasche.
Cyril A. Rumble.
Jack H. Shafer.
Earl B. Bark.
Samuel F. Boyd.
William N. Crofford.
Stephen H. Harrison.
George C. Hern.
Stanley A. Jones.
Leo J. Kelly.
Albert C. Lake.
Lawren H. Lovelace.
Samuel J. Pattison.
Richard A. Whitaker.
Earl B. Wilkins.
William P. Wood.
Dolph C. Allen.
Lawrence W. Brown.
Glenn F. DeGrave.
Vincent W. Grady.
Satolli W. Hanns.
William H. Healey.
Arley S. Johnson.
Roy S. Knox.
Thomas O. McCarthy.
Francis A. Packer.
John A. Pennington.
Joseph G. Pomeroy.
Thomas G. Richards.
Edwin G. Scott.
Roland E. Waller.
John G. Winn.
Gail P. Helgeson.

The following-named assistant naval constructors for temporary service to be assistant naval constructors in the Navy with the rank of lieutenant from the 3d day of August, 1920, in accordance with a provision contained in the act of Congress approved June 4, 1920:

Frederick B. Britt.
Reuben R. Clarke.
Joel A. Davis.
Tony L. Hannah.
Charles N. Liqued.
James G. McPherson.
Robert Morgan.
George T. Paine.
John A. Price.
William A. Sullivan.
Clarence W. Chaddock.
Charles W. Colby.
Herbert Duthie.
John H. Jack, jr.
Irving B. McDaniel.
Albert G. Merrill.
Thomas F. O'Brien.
Robert B. Pick.
James P. Shovlin.
Peter Treutlein.
Benjamin S. Wells.

The following-named assistant naval constructors for temporary service to be assistant naval constructors in the Navy with the rank of lieutenant (junior grade) from the 1st day of July, 1920, in accordance with a provision contained in the act of Congress approved June 4, 1920:

Noah W. Gokey.
George W. Henderson.
Roland G. Mayer.
Gerald W. Thomson.
William W. Hastings.
Joseph M. Kiernan.
William Neidert.
George G. Whittle.

The following-named officers of the United States Naval Reserve Force to be assistant naval constructors in the Navy with the rank of lieutenant from the 3d day of August, 1920, in accordance with a provision contained in the act of Congress approved June 4, 1920:

Ralph S. Barnaby.
Walter S. Diehl.
Clem H. Congdon.
Carl B. Harper.

Harold Larner. John W. Lerew.
Raymond D. MacCart. Charles J. McCarthy.
Theodore P. Wright.

The following-named officers of the United States Naval Reserve Force to be assistant naval constructors in the Navy with the rank of lieutenant (junior grade) from the 1st day of July, 1920, in accordance with a provision contained in the act of Congress approved June 4, 1920:

Charles Hibbard. Cornelius V. S. Knox.
Virgil V. McKenna. Wendell P. Roop.
Karl Schmidt. Walter C. Wilson.

CONFIRMATIONS.

Executive nominations confirmed by the Senate October 19 (legislative day of October 14), 1921.

ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY.

Jesse S. Cottrell to be envoy extraordinary and minister plenipotentiary to Bolivia.

COLLECTOR OF INTERNAL REVENUE.

Charles H. Nauts to be collector of internal revenue, tenth district of Ohio.

COLLECTOR OF CUSTOMS.

George U. Piper to be collector of customs, customs collection district No. 29, with headquarters at Portland, Oreg.

APPRAISER OF MERCHANDISE.

Edward N. Wheeler to be appraiser of merchandise in customs collection district No. 29, with headquarters at Portland, Oreg.

COAST AND GEODETIC SURVEY.

Lowell O. Stewart to be hydrographic and geodetic engineer, with relative rank of lieutenant in the Navy.

POSTMASTERS.

FLORIDA.

Dudley H. Morgan, River Junction.

ILLINOIS.

John Reineke, Cissna Park.
George V. Robinson, Forrest.
Robert B. Ritzman, Orangeville.

NEW JERSEY.

Louis A. Thievon, Stirling.
Delaware D. Marvell, Woodbury Heights.

NEW YORK.

Ennett J. Goodale, East Williston.
George M. McKinney, Ellenburg Depot.
Howard T. Meschutt, Good Ground.

NORTH DAKOTA.

Mary E. Freeman, Verona.

VERMONT.

Corydon W. Cheney, Sharon.
Ernest F. Illingsworth, Springfield.
Charles H. Stone, Windsor.

WASHINGTON.

Harvey C. Freeman, Bridgeport.
Lester I. Walrath, Mineral.
Roy H. Clark, Palouse.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *October 19, 1921.*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty and all-loving Father, we would seek to greet Thee in some little way even as the glory of the day has greeted us. Be with us in our memories, in our hopes, in our joys, and in our sorrows. May each day be a privilege and each privilege a benediction enriched by noble purpose and splendid service. When the shades of night gather about us may our hearts be filled with the deepest gratitude for having lived this day, and lead us ever toward our Father's house. In the name of Jesus. Amen.

The Journal of the proceedings of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. MONDELL. Mr. Speaker, I ask unanimous consent to address the House for two minutes.

The SPEAKER. The gentleman from Wyoming asks unanimous consent to address the House for two minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. MONDELL. Mr. Speaker, the chairman of the Committee on Ways and Means had intended to call up to-morrow the measure providing for a commission for the adjustment of the foreign debt. The chairman of the committee, the gentleman from Michigan [Mr. FORDNEY], now tells me it will be more satisfactory to the members of the committee to have that measure postponed until Friday. I make this announcement because I think Members have generally understood that the measure would be brought up to-morrow. In view of this rearrangement of the program the gentleman from Massachusetts [Mr. LUCE] will call up a contested-election case in the morning, and the House may take up for consideration following that the bill providing for the participation by our Government in the international exposition to be held next year in Rio de Janeiro.

Mr. GARRETT of Tennessee. Will the gentleman yield?

Mr. MONDELL. I will yield.

Mr. GARRETT of Tennessee. The election-contest case in which we are interested is not before the committee of which Mr. LUCE is chairman but is before the committee of which Mr. DALLINGER is chairman.

Mr. MONDELL. We hope to call that up very soon, within a few days.

Mr. STAFFORD. Will the gentleman yield?

Mr. MONDELL. I will.

Mr. STAFFORD. Can the gentleman forecast now whether the House will likely be in session on Saturday of this week?

Mr. MONDELL. Well, when the disposition of the bill which I referred to, providing for the commission to make provision for the foreign debt, is concluded on Friday I see no reason why we should remain in session on Saturday if Members generally desire to have opportunity to catch up with their correspondence and do necessary work in committee.

Mr. BLANTON. Will the gentleman yield?

Mr. MONDELL. I will yield.

Mr. BLANTON. Is the gentleman able to give any indication now as to whether or not the measure to be taken up on Friday will in any way attempt to confer upon this commission any power to cancel any part of the foreign debt?

Mr. MONDELL. I am not familiar with the exact terms of that measure. I presume the gentleman from Texas knows quite as much about it as I do——

Mr. BLANTON. I think they must have conferred with the gentleman.

Mr. MONDELL. But I confidently expect that the measure as agreed upon in committee will be approved by both the majority and the minority.

Mr. WALSH. Will the gentleman yield?

Mr. MONDELL. I will.

Mr. WALSH. How is it expected the House joint resolution 200, relative to the participation in this exposition in Brazil, will come up to-morrow if the other matter is to be taken up? Is there to be a rule?

Mr. MONDELL. I had thought, in view of the interest of the gentleman from Massachusetts, of making a unanimous-consent request touching the matter.

Mr. WALSH. The gentleman from Massachusetts is sufficiently interested in the matter now to state that he will object to its coming up by unanimous consent. [Laughter.]

Mr. MONDELL. May I make this suggestion to the gentleman from Massachusetts: We must determine, and determine within a very few days, whether we shall participate in this exposition. We have been invited to participate and our answer must be given in some form very soon, and it will be for the House to determine, of course, if the measure is brought up, whether or not we should participate. I think we must, in deference to the courtesies due a neighboring republic, give the matter consideration.

Mr. BLANTON. Will the gentleman yield for a further question?

Mr. MONDELL. I will yield.

Mr. BLANTON. We have also been invited, the House and the Senate, to participate in a splendid trip up into Canada. Does not the usual courtesy require us to take some action on that?

Mr. STAFFORD. After the dry season a great many might wish to visit the wet territory.

Mr. MONDELL. I had reference to international courtesies. The gentleman probably has in mind a private invitation.

The SPEAKER. The time of the gentleman has expired.

Mr. GARRETT of Tennessee. I ask unanimous consent that the time of the gentleman be extended one minute.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. GARRETT of Tennessee. May I ask the gentleman, for the benefit of a number of gentlemen who would like to know about the election case, what case is it that the gentleman contemplates the gentleman from Massachusetts will bring up?

Mr. MONDELL. A Pennsylvania case. The Missouri case will probably be taken up early next week.

Mr. GARRETT of Tennessee. Does the gentleman know why we could not take that up to-morrow?

Mr. MONDELL. I think it is rather important that we shall decide one way or another relative to the Rio Janeiro exposition, and as the Missouri case would require a little time I thought perhaps it would not be well to bring it up to-morrow. The case that I have in mind is that of John P. Bracken.

CALENDAR WEDNESDAY.

The SPEAKER. To-day is Calendar Wednesday, and the Clerk will call the roll of committees.

CONSOLIDATION OF OFFICES OF REGISTER AND RECEIVER, UNITED STATES LAND OFFICES.

Mr. SINNOTT (when the Committee on the Public Lands was called). Mr. Speaker, by direction of the Committee on the Public Lands I call up the bill S. 71, a Union Calendar bill.

The SPEAKER. The gentleman from Oregon calls up the bill S. 71, which the Clerk will report by title.

The Clerk read as follows:

An act (S. 71) for the consolidation of the offices of register and receiver in district land offices in certain cases, and for other purposes.

Thereupon the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill S. 71, with Mr. STAFFORD in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the bill S. 71, which the Clerk will report.

The Clerk read as follows:

An act (S. 71) for the consolidation of the offices of register and receiver in district land offices in certain cases, and for other purposes.

Be it enacted, etc., That the President is authorized to consolidate the offices of register and receiver in any district land office, and to appoint, by and with the advice and consent of the Senate, a register for such land office and to abolish the office of receiver of such land office upon 60 days' notice of such abolition mailed to such receiver whenever the receipts of such land office fall below the sum of $4,000 per annum for compensation for both register and receiver, and in his opinion the interests of the service warrant such abolition.

Within 60 days after the mailing of such notice the office of receiver of such land office shall cease to exist, and all the powers, duties, obligations, and penalties imposed by law upon both register and receiver of such office shall be exercised by and imposed upon the register, who shall be paid a salary of $500 per annum, together with the fees and commissions otherwise allowable to both register and receiver: *Provided*, That the salary, fees, and commissions of such register shall not exceed $3,000 per annum.

Also the following committee amendments were read:

Page 1, line 8, after the word "whenever," strike out "the receipts of such land office fall below the sum of $4,000 per annum for compensation for both register and receiver," and insert "the total compensation for both register and receiver of such land office shall fall below the sum of $4,000 per annum."

On page 2, line 7, after the word "register," insert the words "so appointed."

On page 2, after line 11, insert:

"SEC. 2. That during the absence of the register of any such office, by reason of death, resignation, removal, or inability to act, the Secretary of the Interior may designate the chief clerk of such office, or any other qualified employee of the Department of the Interior to act as register, subject to the filing of such bond or bonds as the Secretary of the Interior may prescribe, and the same authority is conferred upon the person so designated which such register lawfully possesses, except that no contest or protest shall be decided or disposed of by such clerk or employee, but all such decisions shall be deferred until the appointment or return of the register."

The CHAIRMAN. The gentleman from Oregon [Mr. SINNOTT] is recognized for one hour.

Mr. SINNOTT. Mr. Chairman and gentlemen of the committee, this bill (S. 71) is designed to authorize the President, where the joint compensation of register and receiver of a land office falls below the sum of $4,000 per annum, to consolidate the two offices in one and to appoint a register who will perform the duties that are now performed by both the register and receiver. It also provides that in case of the absence of the register so appointed by reason of death, resignation, removal, or inability to act, the Secretary of the Interior may appoint a bonded chief clerk or any other qualified employee of the Department of the Interior to act in the interim as a register, possessing the same jurisdiction as the register possesses except that this clerk shall not decide any contest or protest. The bill is very simple. I do not think it needs any more explanation than that embodied in the letters from the department.

Mr. BLANTON. Will the gentleman kindly tell us what is the urgency of this bill? Who started this legislative machinery in motion?

Mr. SINNOTT. I was just on that point when the gentleman interrupted.

Mr. BLANTON. I thought he was concluding his argument.

Mr. SINNOTT. No. I was going to say it needed no more explanation than is embodied in the letters of the department.

Mr. BLANTON. These registers are under the direction of the surveyors general, are they not?

Mr. SINNOTT. They are under the direction of the Secretary of the Interior.

Mr. BLANTON. But they are the subordinate officers, and the main officer is the one whom we designate as surveyor general?

Mr. SINNOTT. The Secretary of the Interior. The surveyor general is a different office.

Mr. BLANTON. They are not under his office at all?

Mr. SINNOTT. He has no jurisdiction over them at all. They are under the Secretary of the Interior.

Mr. BLANTON. They are not connected with these land offices at all that are presided over by the surveyors general?

Mr. SINNOTT. No.

Mr. LAYTON. Will the gentleman give me some information?

Mr. SINNOTT. I will.

Mr. LAYTON. In every district land office do I understand there is a register and receiver?

Mr. SINNOTT. There is a register and receiver in every district land office except certain ones, four or five, where the two offices were consolidated by virtue of separate bills.

Mr. LAYTON. The point I want to get at is, it seems to me from a hurried reading that I have made of the bill, while there is a register and receiver in every district land office, when you consolidate them it will leave only the register.

Mr. SINNOTT. It will leave only the register.

Mr. LAYTON. And he will have the power of a receiver?

Mr. SINNOTT. He will have the functions of both.

Mr. BEGG. Will the gentleman yield for a question?

Mr. SINNOTT. I will.

Mr. BEGG. This bill gives the President the appointment. Would it be policy or wise for the legislative body to consolidate, not authorize the President to do it, but consolidate them by legislation? Would that be wise?

Mr. SINNOTT. Well, that has been done, but there are a number of cases that come up from year to year, and it seems better to give the President the general authority to consolidate. He has a rather limited authority to consolidate offices now in certain cases—not the officers but the offices.

Mr. BEGG. Why not the officers?

Mr. SINNOTT. We are endeavoring to give him that authority by this bill. The gentleman from Texas [Mr. BLANTON] asked regarding the genesis of this legislation. Last March I received a letter from the Secretary of the Interior, dated March 23, in which he states:

DEPARTMENT OF THE INTERIOR,
Washington, March 23, 1921.

Hon. N. J. SINNOTT,
House of Representatives.

MY DEAR MR. SINNOTT: I transmit herewith for your consideration and introduction, if it meet with your approval, a measure designed to authorize the President to consolidate the offices of register and receiver of the United States district land offices, and to appoint, with the advice and consent of the Senate, a register, who shall perform the duties now imposed by law upon both the register and receiver.

There is now legislative authority for the consolidation of district land offices when the area of public lands in any district falls below a certain amount, but in many instances in the West, where the distances are very great, it is advisable, in the interest of those having business to transact with such offices, to maintain the office even though the acreage of undisposed of lands is comparatively small. However, economy would seem to require that the expenses of operation and maintenance of such offices should be reduced, and this could be accomplished in part by the consolidation of the offices of register and receiver, as suggested. Such a consolidation has been carried out by act of Congress in the case of the office at Springfield, Mo., act of May 2, 1914 (38 Stat., 371); Broken Bow, Nebr., act of June 5, 1920 (41 Stat., 907); Alliance, Nebr., and Vancouver and Seattle, Wash., act of March 4, 1921 (Public, No. 389, 41 Stat., 1397).

Respectfully,

ALBERT B. FALL, *Secretary.*

I introduced the bill which the Secretary of the Interior sent to me. And by the way, there is a misprint in the bill as given in the report. It states the salary as $5,000 per annum. It should be $500 per annum.

Mr. BLANTON. Will the gentleman yield in connection with the letter?

Mr. SINNOTT. Yes.

Mr. BLANTON. I think he has given us now very clearly a chronological history of the matter in connection with newspaper excerpts that fill in. For instance, we now have two offices in these land offices, one a receiver and the other a register. By this bill we authorize the President to consolidate the two, make a new office, and appoint a new official to take charge.

For instance, there may be now a Democratic register and a Democratic receiver. Suppose we pass this bill, after the distinguished statesman from West Virginia [Mr. ELKINS] says he wants all positions filled by orthodox Republicans, and we are not complaining much about that. It is now fixed so that the President can do that, is it not?

Mr. SINNOTT. I do not care to have the gentleman make a speech in my time. The President can appoint new land office registers and receivers at the present time, and as rapidly as possible the gentlemen who are referred to by the gentleman from Texas are being put in limbo.

Mr. PARKS of Arkansas. Mr. Chairman, will the gentleman yield for a question?

Mr. SINNOTT. Yes.

Mr. PARKS of Arkansas. I have not had an opportunity to hear all that the gentleman has said. As I understand this bill, it simply provides that where the compensation of the register and receiver at the office is not sufficient to raise it up to $4,000 under the law, instead of consolidating the two land offices they can consolidate the offices of receiver and register and permit the office to remain where it is?

Mr. SINNOTT. Yes; permit the office to remain where it is.

Mr. PARKS of Arkansas. I have a case in my district where they are holding up the office, although everything is ready for the transfer to the other office.

Mr. SINNOTT. In further proceeding upon the genesis of this measure, the Secretary of the Interior wrote the same letter to the chairman of the Committee on Public Lands in the Senate, Senator SMOOT, and he introduced a similar bill; and thereafter, if it is proper to so state, Senator MCCUMBER introduced the bill which we have before us, S. 71, which aims to accomplish the same purpose as that set forth in Secretary Fall's measure, except that in Secretary Fall's measure there was no limitation. The President could consolidate whenever he saw fit, regardless of the compensation that the register and receiver were receiving.

This bill merely permits the consolidation where the joint compensation of the two officers falls below the sum of $4,000. Under the law as it is now the register and receiver are each given a statutory compensation of $500, and in addition to that certain fees and commissions are allowed them out of the amounts paid into the office by the entrymen and applicants, but their compensation under the statute can not exceed, including the statutory salary of $500 and fees and commissions, the sum of $3,000 per annum for each.

Mr. BEGG. Mr. Chairman, will the gentleman yield?

Mr. SINNOTT. I yield.

Mr. BEGG. The thought that came to my mind was that this is a piecemeal attempt at reorganizing that particular thing. We have a joint committee of the Senate and the House now working with the President's representative to bring in a complete and comprehensive plan of reorganization. Does the gentleman know whether the plan that they are going to submit for this particular thing is in harmony with this bill or whether or not we are going to pass a bill to-day that will be undone in a few months?

Mr. SINNOTT. I do not know definitely what they are trying to do.

Mr. BEGG. Is the gentleman doing something now that may be undone later?

Mr. SINNOTT. We want to pass this measure now. We do not know what they are trying to do.

Mr. CLARK of Florida. Mr. Chairman, will the gentleman yield?

Mr. SINNOTT. Yes.

Mr. CLARK of Florida. Of course, this would come in case the President makes a consolidation of these offices in any State. It seems to imply that the President thereupon will appoint a person to act as register?

Mr. SINNOTT. He appoints the register and receiver now.

Mr. CLARK of Florida. Of course he does, with the advice and consent of the Senate.

Mr. SINNOTT. Yes.

Mr. CLARK of Florida. Is it the gentleman's idea that under this bill, unless there is some cogent reason for removal, the present officer would be permitted to fill out the term of his commission?

Mr. SINNOTT. It would if the President should appoint him. But the duties of the new office do not necessarily devolve, after the consolidation, upon the present register.

Mr. CLARK of Florida. Then the gentleman's idea is that it would be the duty of the President to reappoint?

Mr. SINNOTT. It would be the duty of the President under the bill to make a new appointment of a register, if he wanted to consolidate the office of register and receiver.

Mr. CLARK of Florida. Would the gentleman have any objection to an amendment in substance and effect that where a person is properly discharging the duties of register and there is no particular reason for his removal he be allowed to fill out the term expressed in his commission?

Mr. SINNOTT. I do not think that would be wise, because the new officer will have to perform the duties of the register and also of the receiver. Now, if we pass such an amendment as that, it will legislate the register into the new office.

Mr. CLARK of Florida. He would simply fill out his term.

Mr. SINNOTT. And that would give him the advantage over the receiver. The receiver may be the better official.

Mr. CLARK of Florida. The reason I am exercised about this is because a very distinguished former Member of this House, whom I think the gentleman knew, is register in my State and has five or six months in his commission. I would dislike very much to see that gentleman legislated out of his office, and I do not believe any Republican in the State of Florida would ask for it.

Mr. SINNOTT. Well, I think the gentleman's influence with this or any other administration would be strong enough, possibly, to retain the gentleman.

Mr. CLARK of Florida. The gentleman's idea is that this would, ipso facto, upon the passage of the bill, after the consolidation of the offices, work a vacation of the officer who is register?

Mr. SINNOTT. Yes. The President must notify them and at the expiration of 60 days the consolidation would take place.

After I introduced the bill H. R. 2313 I wrote to the Secretary and asked him how he intended to put the bill in operation, and he wrote me a letter on March 30, which I omitted to incorporate in the report. In his letter he says:

DEPARTMENT OF THE INTERIOR,
Washington, March 30, 1921.

Hon. N. J. SINNOTT,
House of Representatives, Washington, D. C.

MY DEAR MR. SINNOTT: Answering your letter of March 26, 1921, relative to proposed bill to authorize the President, in his discretion, to consolidate the offices of register and receiver in United States land offices, I have to advise you that the report of the General Land Office for last year shows that out of 94 local land offices 45 were below the maximum—that is, the receipts were not sufficient to pay the register and receiver each $3,000 per year. The receipts in these 45 offices ranged from $300 to $5,900 during that year. The other offices, with larger land areas and bigger receipts, paid larger amounts, and presumably there was more work done therein.

It is my thought to obtain this discretionary authority for the President to the end that he might first consolidate the offices of register and receiver in those districts where the receipts are so small as to afford an inadequate compensation for its officers and where it follows that the work is not of sufficient volume to require the services of both the register and receiver. As other offices fall below the maximum in receipts and work the offices could be consolidated there. The authority in the bill would, however, be broad enough to give the President power to consolidate the two offices in every land district if he found same to be advisable in the interest of economy and good administration.

Respectfully,

ALBERT B. FALL, *Secretary.*

That last paragraph of Secretary Fall's letter is not applicable to the present bill, because we have in this bill the $4,000 limitation.

Now, if no one desires to ask any further questions——

Mr. CLARK of Florida. I would like to ask the gentleman one question. Would the gentleman have any objection to an amendment providing that whenever these receipts fall below the sum of $4,000 automatically these offices shall be consolidated? Why leave it to the discretion of the President?

Mr. SINNOTT. I should have objection to that because it would be very inconvenient in some States where there is more or less work, more work than the receipts would indicate in a particular office; and I think that matter ought to be left to the discretion of the President, who has at his command the power of ascertaining just the needs of the office.

Mr. ARENTZ. Mr. Chairman, will the gentleman yield?

Mr. SINNOTT. Yes.

Mr. ARENTZ. During one calendar year you may have thousands of applications and filings of entries, and the next year you may have but few; but during that year when there are few applications and filings the people who filed the previous year may come in with numerous requests for extensions and amendments, and one thing and another, which will flood the office, and on that ground it seems to me it should be in the discretion of the Secretary of the Interior.

Mr. WALSH rose.

Mr. SINNOTT. Does the gentleman from Massachusetts desire to ask a question?

Mr. WALSH. Yes. I would like to ask the gentleman why the sum of $4,000 was selected as the point to be reached below which this act should become effective?

Mr. SINNOTT. That is some indication of the amount of business in the office. In addition to that, it was assumed that

this would be a fair compensation, or at least that they might be able to live on that. The receiver would have $2,000 a year, the register would have $2,000 a year, and as long as the receipts were $4,000 the President would let the two officers remain.

Mr. WALSH. Is there any authority to reestablish the office of receiver when once abolished under existing law?

Mr. SINNOTT. No; there is no authority to reestablish it. I think the President could create a new office, although I am not certain about that, for it might take congressional action.

Mr. WALSH. For instance, if this bill should become effective in a State where the receipts are dwindling, and there should come a sudden increase in the business there due to unforeseen conditions, how could that be taken care of?

Mr. SINNOTT. That would be taken care of as such cases are taken care of to-day when the work increases very much in some office where they have a register and receiver. Then they send their clerks there to assist in the press of business.

Mr. SUMMERS of Washington. Will the gentleman yield?

Mr. SINNOTT. I yield to the gentleman from Washington.

Mr. SUMMERS of Washington. Does not the chairman of the Committee on the Public Lands believe that when we consolidate two offices that are receiving less than $4,000 it is going to necessitate the employment of a high-salaried clerk and that the expense to the Government, after all, is going to be greater instead of less?

Mr. SINNOTT. No; I do not think that is so. We went into that pretty fully at the committee hearing, when Judge Finney, the First Assistant Secretary of the Interior, appeared before us. These clerks are transferred from office to office, depending upon the volume of business. A clerk may be needed in an office for a month, and then if the business falls off he is transferred to another office. As a matter of fact, all these offices except three or four have clerks, anyway, at the present time.

Mr. SUMMERS of Washington. I think if that sum were placed at $3,000 there would be a real economy and just as efficient administration. We might just as well have two regular officials, as long as it is amounting to, say, $3,900, as to have a register or receiver, whichever the new officer is called, at $3,000 and then employ a clerk at about $1,800, which would make the total expense $4,800 instead of $3,900.

Mr. SINNOTT. This bill does not obligate the President to make the consolidation when the fees of the register and receiver fall below the sum of $2,000 each. That matter rests in the discretion of the President. In a proper case he might not consolidate, even though the respective fees were $1,500, and Judge Finney so testified before the committee, representing the Secretary. I think the President should have a broad discretionary power in this matter.

Mr. SUMMERS of Washington. If the gentleman will permit, I think the bill does not obligate the President to do that, but it provides the means, and it is the evident intention of the bill that that shall be done.

Mr. SINNOTT. Oh, not necessarily. That matter is discretionary with him.

Mr. DOWELL. Will the gentleman yield?

Mr. SINNOTT. I yield to the gentleman from Iowa.

Mr. DOWELL. Section 2 provides for the appointment of a substitute when the register for any reason is unable to act. Is there any more reason for the appointment of another officer in this case than there is in the case of any other official of the Government?

Mr. SINNOTT. That is a part of the present law. At the present time, in the case of certain disabilities on the part of either the register or receiver, a clerk may be delegated to the office by the Secretary.

Mr. DOWELL. Who is to determine the inability of the officer to act—the Secretary?

Mr. SINNOTT. The Secretary of the Interior would determine that, and then if he found that there was an inability or a disability in the office he would send a bonded clerk there. The law at the present time provides that if the register or receiver is disqualified——

Mr. DOWELL. Is not section 2 offered as an amendment to this bill?

Mr. SINNOTT. Yes. That amendment was approved by the department.

Mr. DOWELL. If that is the law at the present time, why should the bill be so amended?

Mr. SINNOTT. It is the law at the present time in part. The power of the Secretary to designate a clerk to act in case of the disqualification of the register or receiver is somewhat restricted. It merely relates to his disqualification and not to his inability to act. For instance, under the present law where the register or receiver is a party in interest, or has been attorney for one of the parties, or where some of his relatives are involved in the case, he is disqualified.

Mr. DOWELL. Of course, that is a case where he is disqualified to act.

Mr. SINNOTT. That is where he is disqualified.

Mr. DOWELL. But this amendment authorizes the Secretary, when he finds that the officer is unable to act, to appoint another officer.

Mr. SINNOTT. He appoints a temporary officer with limited powers.

Mr. DOWELL. This does not say the appointment is temporary.

Mr. SINNOTT. It is necessarily so, because this officer is interdicted from acting in any contest or protest case.

Mr. DOWELL. But this amendment does not limit this to a temporary appointment. It restricts the appointee so far as authority is concerned, but there is no limitation so far as its being temporary or permanent.

Mr. SINNOTT. Oh, yes; it is only during his inability to act.

Mr. DOWELL. But that is in no wise defined. His inability to act may be a very serious question, and a serious controversy may arise with reference to that. I think this is very broad, and it is almost unlimited so far as giving the Secretary the power.

Mr. SINNOTT. Anyway this temporary officer is really in a clerical position. He has no judicial functions at all. He can not decide any contest cases or protests.

Mr. DOWELL. That is the only point where he is limited.

Mr. SINNOTT. His other functions would be to accept filings and to transmit to the General Land Office the record of proceedings.

Mr. COLTON. Will the gentleman yield?

Mr. SINNOTT. I will yield to my colleague.

Mr. COLTON. I may say further that when the register and receiver are disqualified all public business stops. This is to meet a situation so that the public may be accommodated when no one is authorized to act.

Mr. DOWELL. Is not that true of every officer of the Government. There is no official now, so far as I know, who when he becomes disqualified or resigns does not leave a vacancy.

Mr. SINNOTT. Oh, no; most of these Government officers have assistants to the nth degree—a first assistant, a second assistant, a third assistant, a fourth assistant, and so on.

Mr. DOWELL. It may be in some cases. I am wondering how this differs from any other official and why there should be authority for the appointment of two instead of one.

Mr. COLTON. It is analogous to where a vacancy arises in a post office. Immediately they appoint an acting postmaster, who acts until the regular appointment is made. This provision in effect takes care of the situation almost identical with that.

Mr. DOWELL. In this instance there is this provision as to his inability to act. There may be a thousand reasons why he does not act, and if the Secretary, so far as this law is concerned, believes that he is not able to act he may make the appointment, irrespective of whether he can or not. It seems to me the door is left wide open.

Mr. SINNOTT. Under the present law the Secretary, with the approval of the President, can remove any official summarily and appoint his successor.

Mr. DOWELL. Why is not that sufficient protection without section 2 in the bill?

Mr. SINNOTT. Anyone familiar with the land laws knows as a matter of fact that in the majority of cases the office is conducted by the clerk. You take the present situation, and the officials of the old administration are going out. New men are put in that know nothing about land laws. These clerks are running the office to-day. It is seldom that a man competent to pass upon land cases is appointed. Of course, they soon learn.

Mr. WALSH. Will the gentleman yield?

Mr. SINNOTT. Yes.

Mr. WALSH. I understood the gentleman to say that this bill does not obligate the President to make these consolidations even though the joint receipts fall below $4,000. Of course, the effect of the bill is to put the obligation on Members of Congress within whose district the offices may be located to urge the President not to do it.

Mr. SINNOTT. But in some cases they are urging it.

Mr. WALSH. If this is a wise consolidation, why not provide in the law that it shall be done and not leave it discretionary? If it is in the interest of economy when the total receipts fall below $4,000, if it is going to be an economical thing

for the Government, why not enact a law saying that when they do fall below that sum the office of receiver shall be abolished?

Mr. SINNOTT. Well, in some offices the volume of business is so large, although the fees are small, that they actually need a register and receiver—cases where the volume of business is large but the principal fees of which are not distributed between the register and receiver.

Mr. WALSH. What kind of business is that?

Mr. SINNOTT. Well, take the Portland land office at the present time, which is handling the Oregon land grant. Compensation in that office is about $2,100 for each officer, and I suppose that office has as large a volume of business as any office in the United States. The Secretary did at one time recommend that the law be amended so that they might participate in some of the fees paid in.

Mr. WALSH. How many clerks or deputy assistants have they?

Mr. SINNOTT. I do not know.

Mr. WALSH. That is the Portland, Oreg., office in the gentleman's State.

Mr. SINNOTT. Yes; my district is in that State.

Mr. ARENTZ. Will the gentleman yield?

Mr. SINNOTT. I will.

Mr. ARENTZ. I might say that in one county in Nevada there has been approximately 150,000 acres of land already homesteaded. These filings will not be completed for four years and during the four years they will each year send in papers in regard to whether they have completed the ditches and the fences, and so forth. In other words, they do the same each year. That is going to carry the work along four years, and that may apply to three or four other districts in the State. The fees may cease coming into the office one year and the work will pile into that office for four years, requiring more clerks than was necessary when the fees were coming in.

Mr. SINNOTT. Mr. Chairman, I reserve the balance of my time, and would like to insert in the RECORD the report on this bill.

The report is as follows:

[House Report No. 409, Sixty-seventh Congress, first session.]

CONSOLIDATION OF OFFICES OF REGISTER AND RECEIVER OF UNITED STATES LAND OFFICES IN CERTAIN CASES.

Mr. SINNOTT, from the Committee on the Public Lands, submitted the following report, to accompany S. 71:

The Committee on the Public Lands, to whom was referred the bill (S. 71) for the consolidation of the offices of register and receiver in district land offices in certain cases, and for other purposes, having considered the same, report it to the House with the recommendation that it do pass, with the following amendments:

(1) Page 1, lines 8, 9, and 10, strike out the words "the receipts of such land office fall below the sum of $4,000 per annum for compensation for both register and receiver," and insert in lieu thereof the words "the total compensation for both register and receiver of such land office shall fall below the sum of $4,000 per annum."

(2) Page 2, line 1, after the word "register," insert the words "so appointed."

(3) Page 2, add a new section, as follows:

"SEC. 2 That during the absence of the register of any such office, by reason of death, resignation, removal, or inability to act, the Secretary of the Interior may designate the chief clerk of such office, or any other qualified employee of the Department of the Interior, to act as register, subject to the filing of such bond or bonds as the Secretary of the Interior may prescribe, and the same authority is conferred upon the person so designated which such register lawfully possesses, except that no contest or protest shall be decided or disposed of by such clerk or employee, but all such decisions shall be deferred until the appointment or return of the register."

The first amendment is to remove an ambiguity in the language of the bill, for the original language is subject to the interpretation that the offices of register and receiver may be consolidated when their joint salary falls between the sum of $5,000 and $4,000, as each officer has a minimum statutory salary of $500.

The second amendment is to make it clear that on consolidation the office of register will not necessarily devolve upon the then register, but upon a register to be appointed by the President upon the consolidation of the offices of register and receiver.

The third amendment is self-explanatory, and authorizes the chief clerk or any other qualified employee, in the absence of the register or by reason of death, resignation, or removal, to act in certain cases on filing a bond to be prescribed by the Secretary of the Interior.

The following is the report of E. C. Finney, Acting Secretary of the Interior, to the chairman of the Public Lands Committee of the Senate on S. 71 before said bill was amended by the insertion of the $4,000 limitation:

DEPARTMENT OF THE INTERIOR,
Washington, May 5, 1921.

Hon. REED SMOOT,
Chairman Committee on Public Lands, United States Senate.

MY DEAR SENATOR: I am in receipt of request from your committee, dated April 23, 1921, for report on S. 71, a bill "For the consolidation of the offices of register and receiver in district land offices in certain cases, and for other purposes."

This bill authorizes the President to abolish the office of receiver whenever the receipts of a land office fall materially below the maximum amount provided by law for compensation for both register and receiver. Under existing law registers and receivers are allowed a statutory salary of $500 per annum, and fees and commissions, in all not to exceed $3,000 each. In practically all district land offices the receipts exceed the maximum compensation allowed, but in many offices the actual compensation of registers and receivers is considerably below the maximum.

The bill is somewhat similar to S. 489, upon which a report was recently made to your committee. While the purpose of S. 71 is the same as S. 489, I believe the language of the latter bill to be preferable.

I therefore respectfully refer you to my report on S. 489, and recommend its passage, with the amendments suggested, in preference to S. 71.

Sincerely,

E. C. FINNEY, *Acting Secretary.*

The chairman of the Public Lands Committee of the House at the request of the Secretary of the Interior by letter of March 23, 1921, of which the following is a copy, introduced H. R. 2313, hereinafter set forth, having for its object a similar purpose as S. 71, except that H. R. 2313 did not limit the consolidation to where the compensation of both the register and receiver falls below the sum of $4,000, but authorized the President to consolidate said offices whenever in his opinion economy and the public interest required and permitted the consolidation:

DEPARTMENT OF THE INTERIOR,
Washington, March 23, 1921.

Hon. N. J. SINNOTT,
House of Representatives.

MY DEAR MR. SINNOTT: I transmit herewith for your consideration and introduction, if it meet with your approval, a measure designed to authorize the President to consolidate the offices of register and receiver of United States district land offices, and to appoint, with the advice and consent of the Senate, a register, who shall perform the duties now imposed by law upon both the register and receiver.

There is now legislative authority for the consolidation of district land offices when the area of public lands in any district falls below a certain amount, but in many instances in the West, where the distances are very great, it is advisable, in the interest of those having business to transact with such offices, to maintain the office even though the acreage of undisposed lands is comparatively small. However, economy would seem to require that the expenses of operation and maintenance of such offices should be reduced, and this could be accomplished in part by the consolidation of the offices of register and receiver, as suggested. Such a consolidation has been carried out by act of Congress in the case of the office at Springfield, Mo., act of May 2, 1914 (38 Stat., 371); Broken Bow, Nebr., act of June 5, 1920 (41 Stat., 907); Alliance, Nebr., and Vancouver and Seattle, Wash., act of March 4, 1921 (Public, No. 389; 41 Stat., 1397).

Respectfully,

ALBERT B. FALL, *Secretary.*

H. R. 2313 is identical with S. 489, referred to in the above letter of May 5, 1921, signed by E. C. Finney, Acting Secretary of the Interior.

The measure referred to in the above letter from Secretary Fall of March 23, 1921, was introduced as H. R. 2313, of which the following is a copy:

[H. R. 2313, Sixty-seventh Congress, first session.]

A bill to authorize the President to consolidate the offices of register and receiver in United States district land offices.

Be it enacted, etc., That the President is authorized, when in his opinion economy and the public interest require and permit, to consolidate the offices of register and receiver in United States district land offices, and to appoint, by and with the advice and consent of the Senate, a register for each said office. All the powers, duties, obligations, and penalties imposed by law upon both the register and receiver of such offices shall thereafter be exercised by and imposed upon the register, whose compensation shall be a salary of $500 per annum, together with the fees and commissions otherwise allowable to both the register and receiver, but the salary, fees, and commissions of such register shall not exceed $3,000 per annum: *Provided*, That within 10 days after the issuance of an order by the President hereunder consolidating the offices of register and receiver at any United States land office, the office of receiver of public moneys at such offices shall be abolished and cease to exist.

The following letters of date September 1 and September 17, 1921, from E. C. Finney, Acting Secretary of the Interior, give further data and information regarding said proposed consolidation of the offices of registrar and receiver:

DEPARTMENT OF THE INTERIOR,
Washington, September 1, 1921.

Mr. EDWARD D. BALDWIN,
Committee on the Public Lands, House of Representatives.

DEAR BALDWIN: Answering your letter of August 31, asking for information in connection with the bill for consolidation of district land officers in the United States, I inclose herewith a list of offices where earnings for the fiscal year 1921 fell below maximum.

I am unable to advise you just what offices Secretary Fall may recommend for consolidation should the bill become a law. I do not think that he himself has definitely made up his mind. It seems to me quite obvious that the consolidation should be had in those offices where the amount of business is so small that the fees under the existing plan fail to pay a living wage to either the register or the receiver.

Sincerely,

E. C. FINNEY, *Acting Secretary.*

List of United States land offices where compensation of registers and receivers was below maximum ($3,000) during fiscal year ended June 30, 1921.

	Register.	Receiver.
Alabama: Montgomery	$1,568.81	$1,566.80
Alaska:		
Fairbanks	272.95	272.93
Nome	237.70	237.70
Arkansas:		
Camden	1,295.07	1,289.08
Harrison	1,588.91	1,562.94
Little Rock	2,571.17	2,563.18
California:		
Eureka	1,422.28	1,419.28
Susanville	2,158.33	2,412.10
Colorado:		
Del Norte	1,203.58	1,534.75
Hugo	1,101.88	1,099.88
Florida: Gainesville	2,093.01	2,038.01

List of United States land offices where compensation of registers and receivers was below maximum ($3,000) during fiscal year ended June 30, 1921—Continued.

	Register.	Receiver.
Idaho:		
Coeur d'Alene	$1,516.17	$1,509.18
Lewiston	1,825.53	1,822.48
Kansas: Topeka	1,841.47	1,835.47
Louisiana: Baton Rouge	1,746.23	1,745.23
Michigan: Marquette	1,247.06	1,247.05
Minnesota:		
Cass Lake	1,391.70	1,274.42
Crookston	2,529.33	2,523.32
Duluth	1,164.43	1,157.42
Mississippi: Jackson	1,080.32	1,672.92
Montana:		
Kalispell	1,572.33	1,568.32
Missoula	2,633.46	2,629.46
Nebraska: Lincoln	813.98	810.99
North Dakota:		
Bismarck	1,111.31	1,091.38
Dickinson	2,537.30	2,535.31
Minot	1,818.76	1,806.85
Williston	1,247.19	1,241.19
Oklahoma: Guthrie	2,409.24	2,386.25
Oregon: Portland	2,160.53	2,149.53
South Dakota:		
Gregory	1,677.07	1,672.06
Pierre	2,769.14	2,762.14
Utah: Vernal	2,016.31	2,206.41
Washington:		
Spokane	2,276.59	2,269.67
Walla Walla	1,535.66	1,522.66
Waterville	2,545.04	2,542.05
Yakima	2,788.73	2,778.73
Wisconsin: Wausau	1,019.78	1,016.78

DEPARTMENT OF THE INTERIOR,
Washington, September 17, 1921.

Hon. N. J. SINNOTT,
Chairman Committee on the Public Lands,
House of Representatives.

MY DEAR MR. SINNOTT: Referring to your inquiry of recent date as to the possible amount of savings if the bill for consolidating the offices of register and receiver were enacted, I have to advise you that according to a statement furnished by the General Land Office, based upon last year's receipts, there are 11 offices, the combined income of which is less than $3,000, and in which no financial saving in salaries would be accomplished by the passage of the bill. There are 11 other offices where the receipts pay the register and receiver each a salary of less than $2,000, but which combined aggregate more than $3,000, and if the bill were enacted the saving in salaries in these 11 offices, provided they were consolidated, would be $3,246. There are 13 offices where the officers receive less than $3,000 each, but more than $2,000, and if the House bill passed and the President saw fit to consolidate the offices, a saving of $24,278 could be effected in salaries. Therefore, answering your question, if the Senate bill passes, consolidations could be made that would save $3,246 in salaries; if the House bill passes, consolidations could be made which would save $27,524 in salaries.

In addition, I desire to point out that salaries do not cover the total expense. Each officer has to be furnished with office room, desk, stationery, supplies, etc., so that a reduction in the number of officers on duty would mean a substantial saving of expense along those lines.

Of course, as I stated in a previous letter, I do not know to what extent the President would exercise his discretion if the bill became a law, but there is no doubt in my mind that it would be exercised so as to secure substantial economy. Moreover, in the 11 offices where the individual receipts are now less than $1,500 apiece, it would permit the department to retain one man in the office at a living salary instead of two inadequately paid officials as at present.

Sincerely,

E. C. FINNEY, *Acting Secretary.*

Mr. RAKER. Mr. Chairman and gentlemen of the committee, being a member of the committee I intended to file minority views on this bill, but complications came up and the bill being called up this morning I did not get it ready in time. So I will present my views to the Committee of the Whole in as short and concise a way as I can. I am sorry and disappointed that the committee does not agree with me on this bill. We act a great deal in harmony. We have had many matters pending before the committee for the last 11 years and a great deal of legislation has come out of that committee. The members have tried to give their best judgment and experience to the work and to the House, and to some extent it has been very valuable, and we have succeeded in bringing out some excellent legislation. We brought out and passed the Alaskan coal bill—the coal, oil, and gas leasing bill. The committee originally reported and passed through the House twice the water-power bill, which in substance was the bill finally enacted by the Congress and which became a law. Other important legislation has been enacted by Congress relating to public lands and water power which has come from that committee.

I have given this matter a good deal of thought, and I think I shall be able to present it to the committee in such a way that the committee can see that there is but one point in the bill that is not now already in the law, and that is to increase the expenses of the Government by abandoning the receiver, giving the register a $3,000 salary where he now receives $2,000, and then, in every instance, appointing a clerk or two clerks, whose salaries will range from $1,400 to $2,200 a year. As a matter of economy, the bill will be an expense to the Government instead of a reduction of expenses. I am going to show, if I can, in a few statements that it will be to the disadvantage of the Government to enact the bill, because of the fact that it does away with the receivers of the land office.

In the first instance, I call the committee's attention to the fact that the President already has the power, if he so desires, to consolidate any land office for any reason, and, therefore, there can be no possible contention that the additional authority should be given to the President as provided for in this bill. Section 2252 of the Revised Statutes reads as follows:

Upon the recommendation of the Commissioner of the General Land Office, approved by the Secretary of the Interior, the President may order the discontinuance of any land office or the transfer of any of its business and archives to any other land office within the same State or Territory.

If there is no necessity for the land office, if the business has been completed and the register and the receiver are not receiving compensation upon which they can live, the President now has the power, and many land offices, beginning with the public-land policy in the enactment of the first homestead law down to present time, have been consolidated under that provision and finally the land office in the State wiped out entirely as the business decreased.

Mr. BLANTON. Mr. Chairman, will the gentleman yield?

Mr. RAKER. I trust the gentleman will not interrupt until I have completed my statement.

Mr. BLANTON. It is just on that one point.

Mr. RAKER. Very well.

Mr. BLANTON. The President does not exercise that right or power or authority, because the Secretary of the Interior last year sent in a recommendation to the Congress that the 13 surveyors general be abolished, and that all their retinue of employees be abolished and the work concentrated here in Washington. The committee left that out of the bill, but it was put back in the bill on the floor by amendment.

Mr. SMITH of Idaho. Mr. Chairman——

Mr. RAKER. Oh, I can not yield. I want to make a consecutive statement. I think I have a matter in which the House is interested.

Mr. SMITH of Idaho. I just wish to say that the gentleman from Texas——

Mr. RAKER. Oh, no; no. Let us hold to this case.

Mr. Chairman, answering the first proposition, it is undisputed, if the land in any one district is not convenient to the land office—and I want to impress this on the committee—that the President has the power to divide the district, to take the land from one district and add it to another for the purpose of placing in that district land that will be convenient to the land office, so that business may be done. Let me read from section 2252 of the Revised Statutes:

The President is authorized to change and reestablish the boundaries of land districts whenever in his opinion the public interest will be subserved thereby, without authority to increase the number of land offices or land districts.

Under the law as it now exists the President has the power to discontinue any land office that is not functioning. It has been done and properly done. Second, the President has the power now to consolidate or divide the districts so as to make the land convenient to the land districts, to the end that the people may do their business. Therefore there is no necessity now for adding another provision for the purpose of consolidation or suspension or disposition of the offices.

It has been claimed that there might be delay in the transaction of business if a register is disqualified or if the receiver is disqualified, or if either is interested or has been interested. The statute now provides a complete remedy, and there can be no complaint so far as the conduct and enforcement of business is concerned. Reading from Barnes' Federal Code, page 878, which is the act of June 11, 1894 (28 Stats., 26), which has been in force all of that time and which has worked effectively, we find the following provision:

HEARINGS WHERE REGISTER OR RECEIVER DISQUALIFIED.

No register or receiver shall receive evidence in any hearing or determine any case pending in any district land office in which case he is interested, directly or indirectly, or has been of counsel, or where he is related to any of the parties in interest of consanguinity or affinity within the fourth degree, computed by the rules adopted by the common law.

It shall be the duty of every register or receiver so disqualified to report the fact of his disqualification to the Commissioner of the General Land Office as soon as he shall ascertain it and before the hearing of such case, who thereupon, with the approval of the Secretary of the Interior, shall designate some other register, receiver, or special agent of the Land Department to act in the place of the disqualified officer, and the same authority is conferred on the officer so designated which such register or receiver would otherwise have possessed to act in such case.

Section 3870 of Barnes' Code, page 879, the act of October 1, 1890, Twenty-sixth Statutes, 657, reads as follows:

Vacancy in the office of register or receiver: Hereafter when a vacancy shall occur in any of the land offices in the United States by reason of the death, resignation, or removal of either the register or receiver, and the time set for taking final proof falls within the vacancy thus caused, the remaining officer may proceed to take such final proof in the absence of any contest or protest, reducing the same to writing, and place it on file in the office to be considered and passed upon when the vacancy is filled.

So that you have a provision in regard to the conduct of the office on the death of either of the officers. The amendment to this bill provides as follows, being section 2:

SEC. 2. That during the absence of the register of any such office, by reason of death, resignation, removal, or inability to act, the Secretary of the Interior may designate the chief clerk of such office, or any other qualified employee of the Department of the Interior to act as register, subject to the filing of such bond or bonds as the Secretary of the Interior may prescribe, and the same authority is conferred upon the person so designated which such register lawfully possesses, except that no contest or protest shall be decided or disposed of by such clerk or employee, but all such decisions shall be deferred until the appointment or return of the register.

First, it is contended that upon the death or removal or resignation of the register or receiver there might be delay in the appointment of his successor. If the Senate is not in session, the President the next day upon the death or resignation may appoint the successor. There does not need to be a delay of two days.

If the Senate is in session, then, the first day, upon the advice of the death or resignation or removal from office, the President can send the name of a qualified applicant for register or receiver to the Senate, and that body can approve the next day or the same day, and he gives his bond and is qualified.

Now, under this provision here you provide that the Secretary of the Interior shall make an appointment—or designate some person—and it can not be expedited any more than through the President, because the party has to come, and he has to give a bond and the bond has to be approved and sent back, and there is no question that you can not expedite it any more than under the present law which has worked satisfactorily for over 50 years. Now, let me call attention to this: How is the clerk of the office to take testimony in the case? Contests that involve millions of dollars are to be handled by some young clerk sent down to that office who does not know a thing on earth about the land law or the conditions surrounding the questions involved. The same way with a protest. He shall not decide it, but he takes the testimony in the case and proceeds with all the proceedings up to the mere rendering of a final decision. There are no other instances where a judicial officer is dispensed with and a clerk put in his position except in this bill. Now, coming to the question of expense. We had hearings on this subject on H. R. 2313 on April 26, 1921, under that bill before the House, and it was clearly demonstrated in that hearing, if any Member will take the time to read it, that there will be no saving to the Government whatever. In the first place, the provision of this bill authorizes a change of compensation to be allowed the receiver of $3,000 instead of $2,000, the register and receiver each receiving $2,000 before going up to $4,000. Here you provide $3,000 for the receiver alone, leaving $1,000 for a clerk. There are instances here where they spend for clerk hire over $7,000. Where are you going to save any expense? In all of them there is a clerk, and in some two clerks, and——

Mr. SINNOTT. Will the gentleman yield?

Mr. RAKER. I will.

Mr. SINNOTT. The gentleman does not wish to leave the impression that in all these places there are always clerks?

Mr. RAKER. I understand there is. If the gentleman has facts to the contrary, I wish he would show it.

Mr. SINNOTT. It is in the hearings. I think there is an office in the gentleman's own district where there is no clerk.

Mr. RAKER. Oh, the gentleman is mistaken. There has been one or two clerks in that office for years, receiving all the way from $1,400 to $2,000.

Mr. SINNOTT. Page 23 of the hearings shows that Eureka—is that in the gentleman's district?

Mr. RAKER. It was in my district, but it is not now; I wish it were.

Mr. SINNOTT. I did not know it had been removed. Also in Leadville there is no clerk, Marquette no clerk, Kalispell, Wausau——

Mr. RAKER. I will not say as to Eureka, but my recollection is that they had at the time I was in that office two clerks. I have been in the Susanville office many times; in fact, I go there every time I return home, and up until lately they had a gentleman receiving, my recollection is, $1,800 and more, and at the present time a lady, and a good and efficient one at that.

Mr. SINNOTT. Susanville——

Mr. RAKER. Lassen County, Calif., United States of America—that maintained a clerk there right along all the time, and I have had correspondence with them. I have met them in the office and talked with them, and I know they are there.

Mr. SINNOTT. The letter of the Secretary of the Interior says that in five offices there are no clerks. In another one the salary was——

Mr. RAKER. Where does it say that there is no clerk in the Susanville office?

Mr. SINNOTT. I did not state there was no clerk in the Susanville office. I had not located Susanville.

Mr. RAKER. It is on page 23, where it says $763.91.

Mr. SINNOTT. That was the clerk hire in the Susanville office? Susanville is in the gentleman's district?

Mr. RAKER. It is. Eureka is in the district of the gentleman from California [Mr. LEA]. Now, the Assistant Secretary of the Interior, Mr. Finney, having been before our committee several times, shows from his testimony that there must be a clerk and has been a clerk and is a clerk in all of these districts, practically all, ranging all the way from $1,400 up, and they will continue. He said, in substance, to the committee they would have to have a clerk to take the place of the receiver of the land office if this bill went into effect.

Mr. BLANTON. Will the gentleman yield?

Mr. RAKER. I will for a question.

Mr. BLANTON. The gentleman is making a very good argument, but what as to its efficacy with 30 men here to hear him? How does he expect to beat the bill? Our other friends will not know what they are voting on.

Mr. RAKER. I do not know whether I can defeat the bill. I am simply calling these matters to the attention of the House. I called them to the attention of the committee. The committee did not act on it after getting through with the hearings; but I called it to the attention of the committee the last time; but the Senate had passed the bill, as I believe, without consideration, and it is now before the House because of that fact and because the department recommends it. Now, I want to say to you, gentlemen, in addition to that——

Mr. COLTON. Will the gentleman yield?

Mr. RAKER. I will.

Mr. COLTON. Did I understand the gentleman correctly a few moments ago, in speaking against the bill, to criticize it on account of the fact that it conferred judicial authority upon the temporary appointee?

Mr. RAKER. Oh, yes.

Mr. COLTON. I understand it provides and expressly excludes——

Mr. RAKER. Oh, no.

Mr. COLTON. The judicial function from the duties of the appointee—that is, that he can not exercise them.

Mr. RAKER. Oh, no. Now, let me read it to the gentleman. The gentleman is a lawyer. He has been in the Land Office.

Mr. COLTON. Yes.

Mr. RAKER. And there are many here who understand that. Let me read the provision:

And the same authority is conferred upon the person so designated which such register lawfully possesses, except that no contest or protest shall be decided or disposed of by such clerk or employee.

In other words, he tries the case, he disposes of it from beginning to end; he has all the power of the register, and there is no exception but one, namely, that he can not finally render a decision in the case. But there are hundreds of transactions of a judicial nature that he must pass on as to other matters.

Mr. SINNOTT. The gentleman does not want this committee to understand that anyone in the local land office, even the register or receiver, tries the case from beginning to end. The gentleman knows, as a matter of fact, that the present registers and receivers pass upon no cases except in a perfunctory way, and that they all go up for decision.

Mr. RAKER. For 20 years I have practiced in the Land Office, as I have in other places, on both sides, from the filing of the notice of contest and the time of service to where that was taken before the register and receiver in the Land Office and submitted to writing and argued orally or by brief and decided by the register and receiver. Then, again, we have tried cases where we have filed petition of contest with the register and receiver, where notice has been given and a party desired his testimony to be taken at a distant place outside the county, and we have gone to a place from 100 to 500 miles away and taken the testimony of those witnesses as we take it in other places, before a clerk of record or notary public, and that would be certified back to the register and receiver, and then and not until then, with these depositions and oral testimony supplementing it, did the case go before the register and receiver for

consideration, like any judge goes over any case before him, civil or equitable.

Mr. COLTON. I understand the law as the gentleman has stated it, but my understanding is that there are no other strictly judicial duties that registers and receivers perform except the final rendering of this decision.

Mr. SINNOTT. The gentleman does not wish to convey the idea that their decision is final?

Mr. COLTON. I am glad of the correction. Simply the decision.

Mr. RAKER. Let me read that. It says:

Except that no contest or protest shall be decided.

Now, I say, without fear of successful contradiction by any man in the Land Office, by anyone who ever had any experience with the Land Office, that there are hundreds of cases coming before the register and receiver wherein there are no protests or no contests. It is a regular trial, where the parties submit their testimony or final proof, taken down in writing, and they can take more testimony, where the register and receiver go over the testimony, and then in that event pass upon whether the evidence is sufficient, and they determine judicially, like any judge determines, from the evidence and the law.

Mr. WINGO. Suppose a clerk has to do that? He is required to give bond by the amendment. What difference does it make what his title is? You have your remedy, have you not?

Mr. RAKER. No.

Mr. WINGO. Let me ask you another question: In the capacity in which these registers and receivers act, they are nothing more than a justice of the peace as compared with a district State judge, are they?

Mr. RAKER. Oh, yes.

Mr. WINGO. You have your remedy from any error.

Mr. RAKER. You have your remedy in practically all the courts. We say you have got your remedy, but when there is a conflict in testimony and the judge has seen the witnesses, the higher court never interferes with the conflict in the testimony. One scoundrel comes in and tells a story, and a dozen honest men tell the story in another way, and the judge looks at this scoundrel and says, "I believe you are all right," and he decides on it.

Mr. WINGO. What difference does it make what title the man has? Is there anything in your experience to show you the clerk is not able to exercise these functions?

Mr. RAKER. I am going to get to that. That is the crux of the bill. There is no saving in this bill, and I want to call your attention especially to it. There is the suggestion that there is a saving, but there is none in effect. Here is the proposition: The register and receiver are appointed. How? By the nomination of the President. It is sent to the Senate, and the nominee is confirmed by the Senate as other officers of that character are appointed. Ninety-nine times out of a hundred they are men and must be men from the local community or within the district where the office is situated—men of experience, men of intelligence, men who are familiar with the community, men who are familiar with the land laws, and men who are familiar with the country and all the conditions surrounding. Those men, because of their competency and qualifications, whether Democrat or Republican, have thus been appointed and are the officers, the registers and receivers, of these various districts. They have the power and can not be removed. They are there to do their duty and decide the cases like a judge on the bench, receiving their appointment from the President and the Senate under the law, with possibly a fixed term of office, and knowing what their duty shall be, and they are not responsible to anybody save to God for the enforcement of the law, as it ought to be. What is the truth? In the first place, we do away with the receiver, taking the advice of one man in the local community, and we place in his stead a man from the civil service who knows nothing about the territorial conditions, the history of the country, and the practical land laws and the practical workings of the land laws. He has just a smattering or just a technical view of the land laws. He has no responsibility in the community. He did not receive his appointment by favor of the men in the community of good standing, but he has his status fixed by the civil service. He is sent there by the Commissioner of the General Land Office or Secretary of the Interior, who, in effect, if there is an appeal, finally decides the case. He sends that judge out to hear and try a case. If appeal is taken, it comes to the Commissioner of the General Land Office, and from him it goes to the Secretary of the Interior. This man is sent over 3,000 miles to adjust your matters. Instead of having a good, competent man of 30 to 35 years' experience, who deserves and is entitled to recognition because he has served his country and his people, appointed as register and receiver you are going to substitute for him a clerk who knows nothing about it in any way, shape, or form.

You are going to substitute for him a clerk who knows nothing about it in any way, shape, or form, and you are going to pay more money out of the Treasury than you pay at the present time. It is neither economy nor justice, nor is it right. This present system has worked successfully for over 50 years, and the people have had results. You know and I know we would much prefer to have a man properly qualified to act as judge and receiver in our districts, a man whom we know and whom the people know, and who is responsible, and who must live there after his term of office expires to adjudicate matters, rather than to have sent in there some civil-service employee from a thousand or two thousand miles away.

Mr. SINNOTT. The gentleman is entirely ignoring the provisions of the bill when he talks about a civil-service employee adjudicating the matter. He is not to adjudicate the matter.

Mr. RAKER. I say to the distinguished gentleman from Oregon, for whose judgment I have the highest respect, and who ordinarily agrees with me, but who at this time has gone astray, and I am sorry to see it, and I am satisfied that no Member of the committee will be able to controvert it, that the clerk appointed decides and acts upon all matters except where there is a contest and a protest; and I repeat again that there are hundreds of matters coming up during the month or the year that require judicial determination by the register and receiver in the adjudication of your rights. I can give you one instance now that has just occurred in the last few days. Telegrams have been flying back and forth between Oregon and Washington in regard to an important matter where reliance must be placed entirely upon the competency of the register and the receiver. Would it be the part of wisdom to let that matter be decided by a clerk or mere agent, the department having the final determination of it without having an adjudication by the register and receiver? It is not fair. It is not treating us and the public and the States right.

Let me call your attention to another thing: This thing has so many holes in it that you can drive a six-in-hand through it at any place and justify yourself in twenty instances, and every one would be good. Let me call your attention to this: "During the absence of the register of any such office, by reason of death"—of course, he is absent when he is dead, and if he resigns he is absent, or he is absent on his removal. He is absent in all three of those cases. But here is the milk in the coconut: "Or inability to act."

Now, just stop a moment and think what that means. The register takes his machine and goes out, and somebody comes in and finds he is not there that day. He says, "You are unable to act." Or he might be temporarily confined to his bed for two days. The office can go on.

But word is sent to the department that the register is absent because of inability to act. That does not say why. The statement may be made that his absence is because of inability to act, not from sickness, not from a paralytic stroke, not from the smallpox, or a hundred other reasons. He is just absent; because he is not there to act he is unable to act. All right. The commissioner appoints a temporary clerk and he qualifies.

Mr. SINNOTT. Would not the commissioner and the Secretary of the Interior demand some showing as to inability before he would make a designation?

Mr. RAKER. Just a moment. Word is sent in that the register is unable to act. The commissioner sends out a civil-service man from the office to act. He gives a little bond. He is there on the ground. Now, what have you got? On Monday morning the office opens by the usual and ordinary method. Here is the agent appointed to take the place of the register. Here is the register back, ready to do his business. Who is going to determine where the people are going to get on? What is the status of your business? Who is going to determine that he is unable to act if he is absent? You are simply complicating the matter and muddying the water instead of clarifying it for the people whose business is to be performed.

And why do it? There is no necessity for it. There is no complaint shown here. There can not be any complaint shown that will stand investigation, because in all these instances within two days, or even less time than that, the vacancy could be supplied by an appointment, if the Senate is not in session, by the President, or, if the Senate is in session, by the usual method.

Now, gentlemen, you talk about economizing and saving the Government various expenses. I trust you will not be led astray by the theory that you can economize by making one office where there were two before, the combined salary $4,000, and then, when you abandon one office, raise the salary of the one that holds it to $3,000 and then put in in place a party to do

the work, one or two or three, as many as they desire; always one, and then more, a salaried officer, a clerk from $1,450 to $2,200. Is that economy? Does that supply what you want to do?

There is not any reason shown and none can be shown why they want to do away with the receivers of the land offices. There is no showing made that they have not done good work and are not necessary to run the business and handle the people's affairs in these various land districts. There has nothing been presented to show that the affairs of the various land districts have been retarded by virtue of having a register and a receiver. Nothing has been shown that makes it appear that it is better to have a civil-service employee, a clerk, do this judicial business and perform the work of the register and receiver, done by such a man as our colleague from Colorado [Mr. TIMBERLAKE], presiding there, or our friend from Utah [Mr. COLTON], presiding there, or our deceased friend Morgan, from Oklahoma, who presided in the Land Office for years, and who was one of the ablest men in this House.

Such is the character of the men who have acted as registers and receivers of the various land offices of this country, and they are willing to act now for the people at the salary designated, $500 flat, and fees for the balance of their compensation, the maximum limit of which is $2,000. If they are not willing to act, a clean-cut remedy is presented by virtue of presenting those facts to the Commissioner of the General Land Office and the Secretary of the Interior, who in turn present the matter to the President when the district land office is abolished and the territory is parceled out to the various other land districts where the business can be done.

I trust you will not foist upon these people in the West clerks to do their business. Cases have been tried by the land officers that have amounted to millions of dollars, where hundreds of thousands of acres of land have been involved. The mining claims come before the register and receiver for their investigation and determination. The contests that have been filed and will be filed in regard to timber and stone lands are involved in this.

Mr. LAYTON. Will the gentleman yield?

Mr. RAKER. I yield for a question.

Mr. LAYTON. It seems to me that the gentleman is straining at a gnat and swallowing a camel.

Mr. RAKER. Thank you.

Mr. LAYTON. If you will allow me——

Mr. RAKER. If I am in that terrible shape, I should like to have the doctor advise me, because I am always seeking the advice of doctors when I am sick.

Mr. LAYTON. Exactly; and sometimes it will do you good.

Mr. RAKER. I am doubting it.

Mr. LAYTON. In this matter it seems to me it is very simple to provide that where a thing is likely to happen, namely, that the occupant of an office may for some reason or other be unable to perform the duties of it, then the chief clerk, who is supposed to be a part of that office and knows something about the business of that office, shall be appointed until the return of the register.

Mr. RAKER. I want to answer that remark of my distinguished doctor friend from Delaware. His argument would lead us to this one conclusion: A Congressman dies, and the governor should appoint. When the judge of a Federal court dies, let the Attorney General appoint one of the clerks down there, and when the chief justice or a judge of the circuit court of appeals dies, or one of the associate justices, why not have the chief clerk appoint the chief justice or associate justice? That could be done with just as much propriety and reason. And when the various other judicial officers elected by the people, or appointed by the proper authorities, are incapacitated or die, if we follow the suggestion of the gentleman from Delaware, we are going to abandon that whole theory of appointment. We are gagging at a gnat and swallowing a camel. He wants to change that whole system by leaving clerks to appoint these officers.

Mr. LAYTON. Will the gentleman answer another question?

Mr. RAKER. In just a moment. When the Secretary of the Interior resigns, why not have the chief clerk in the office there appoint the Secretary of the Interior, instead of having the President appoint him. Now, I yield for a question.

Mr. LAYTON. The gentleman said something about having the governor appoint a Congressman to fill a vacancy. The governor does fill vacancies in the Senate. That has been done within the last few days. I am only showing you that this thing is all mixed up, and you can not make a crazy quilt harmonious.

Mr. RAKER. The appointment of a Senator by the governor is only one instance, and that is provided for by the law.

Mr. LAYTON. We are providing for this here by law.

Mr. RAKER. But there is not a place in this country where a judge or any other judicial officer is appointed by the chief clerk of the department.

Mr. LAYTON. Will the gentleman answer a question?

Mr. RAKER. In just a moment. The governor can appoint a Senator, but the gentleman does not want the governor to do it. He wants the chief clerk to do it. The gentleman wants the Secretary of the Senate to appoint a Senator to fill a vacancy. That would be as reasonable as his argument upon this bill. The gentleman from Delaware has simply misunderstood this bill, that is all.

Mr. LAYTON. The gentleman, of course, understands everything that he talks about, I know that; but it seems to me at the same time that if there is a vacancy in a Federal office and the functions of that office cease to be performed, that office ought to be filled temporarily.

Mr. RAKER. Everybody knows that that is readily conceded by all.

Mr. LAYTON. Then who would fill it?

Mr. RAKER. But you are taking away the appointive power fixed by the various legislative bodies and giving it to a clerk to make the appointment, that is all.

Mr. LAYTON. Will the gentleman yield?

Mr. RAKER. I can not yield any further to the gentleman from Delaware. He has taken a good deal of my time.

Mr. BLANTON. Will the gentleman yield?

Mr. RAKER. I yield to the gentleman from Texas.

Mr. BLANTON. In the gentleman's very active experience here for several years, is it not a little unusual for him to find himself out of accord with any measure brought here by the Committee on the Public Lands?

Mr. RAKER. Oh, I make my fights in the committee. I make good strong ones, too, and I keep presenting my case until the committee will listen. Sometimes it takes days and sometimes weeks, but the members of the committee are good fellows, and when people will listen and not just shut their minds to reason you can generally get results. I am afraid it was not done in this instance.

Mr. LAYTON. I want to ask one more question, and then I am through.

Mr. RAKER. I yield to the gentleman from Delaware.

Mr. LAYTON. Suppose there is a vacancy that ought to be filled for the convenience of the public. How would you have it filled? That is what I am trying to get at.

Mr. RAKER. To recapitulate——

Mr. LAYTON. No; that would take too long.

Mr. RAKER. If the gentleman will just retire for a moment. The gentleman was kind enough to ask a question, and I thought he was in earnest.

Mr. LAYTON. I am.

Mr. RAKER. Let me answer it so the gentleman will understand it.

Mr. LAYTON. Exactly.

Mr. RAKER. Under the law now when there is a vacancy in the office by reason of death, resignation, or removal, if the Senate is not in session, the President can make the appointment in five minutes after. If the Senate is in session, five minutes after the man is removed the President can send another nomination to the Senate, and the Senate may approve it, and if a man files his bond and takes the oath of office he is qualified. Now, what is desired by the bill is to do away with this method of appointment of the kind and character of men to be appointed and appoint a civil-service young man, who knows nothing about the territory or the country or the conditions involved, who goes to this particular land office and performs the functions required by that office.

Mr. LAYTON. Who appoints in the first place?

Mr. RAKER. The President.

Mr. LAYTON. Who appoints in the second place?

Mr. RAKER. The President.

Mr. LAYTON. That is what I thought.

Mr. RAKER. This bill provides that the Secretary of the Interior shall appoint. Now, gentlemen, I have taken more time than I intended, and what I have said will be found in the hearings where it is demonstrated that it will not save any expense to the Government. I say that each man should have the credit or the odium attached to the office that he occupies, and he should be amenable to the community in which he lives for the way in which he transacts the business. You do not want a man to come to your community and do this particular business and then move away at the end of the month, a man who may not have any affiliation with the people, and who may displace the common method of doing things and adopt

some extraordinary method in the appointment of a clerk to do the work.

Mr. REED of West Virginia. Will the gentleman yield?

Mr. RAKER. Certainly.

Mr. REED of West Virginia. Does the register and the receiver have concurrent jurisdiction?

Mr. RAKER. They act together.

Mr. REED of West Virginia. Does each have a secretary or clerk?

Mr. RAKER. Generally one and sometimes two for the entire office. The clerk is supposed to be a man who has passed the civil-service examination, familiar with the business of the land office, and who prepares papers, does the typewriting, and assists in correspondence and posts up the plats, and so forth; general clerical work.

Mr. REED of West Virginia. He is a clerk for the receiver and the register?

Mr. RAKER. Yes; and if they do away with the receiver you have to have more assistants for the clerk to do the work. You just appoint another clerk to do the work of the receiver, and at a greater expense to the Government. Mr. Chairman, I reserve the balance of my time.

Mr. VAILE. Mr. Chairman, I yield five minutes to the gentleman from Utah [Mr. COLTON].

Mr. COLTON. Mr. Chairman and gentlemen of the committee, I might say to Judge RAKER that I appreciate very much the personal compliment of being classed with the men whom he mentions. I had nine years' experience in the land office, and I know something of the work of that office. This provision to which the gentleman from California has objected, as I understand it, is simply that when the President has acted under the provisions of this act and the office of receiver has been abolished and the register is absent or has been removed or has died, or for any reason is unable to act, the public shall not be deprived of the privilege of transacting the ordinary business that comes into the land office, but that the Secretary of the Interior is authorized to designate some qualified person to carry on the work temporarily until a new appointment can be made.

I may say that all the work that the temporary clerk will do is reviewed here in Washington in the General Land Office, and no title for land passes from the United States until all the testimony and all papers in the case are thoroughly reviewed and examined in Washington. This bill simply provides that instead of the public being deprived of the privilege of transacting the ordinary land office business, in most instances of a clerical nature, the work shall go on in an orderly way. Surely there can be no harm come from the enactment of a provision of this kind. The bill expressly provides that in cases of contest or protest wherein the register shall perform judicial functions the temporary appointee shall not make final disposition of the case. I feel sure that the provision is a reasonable one and will not cause any serious trouble, as the gentleman from California has predicted.

Mr. VAILE. Will the gentleman yield?

Mr. COLTON. Certainly.

Mr. VAILE. Is the gentleman's opinion based on what he knows and his experience in the land office?

Mr. COLTON. Absolutely. I may say that under the present law whenever by death or by removal of either the register or receiver a vacancy occurs the work in the land office is practically suspended now, because work must be done jointly by the register and the receiver. No decision can be rendered by one. I believe that under this provision men better qualified to perform the duties that are devolving upon the register and the receiver may be secured. Under the present law a decision can not be rendered by a local land office in any way unless the register and receiver agree. By the consolidation of these offices and the consequent paying of better salaries it will be possible to obtain men who are experienced in land matters and matters of law, and I am sure the business will be better expedited in many small offices than at the present time. It seems to me that to oppose this bill simply because the temporary appointee may be called upon to perform certain duties, largely clerical, is going further than the facts in the case will warrant, and I have heard no other logical objection urged. I feel sure that no more trouble will occur under the provisions of this bill than occurs under the present law, and much good will result.

The CHAIRMAN. The time of the gentleman from Utah has expired.

Mr. RAKER. Mr. Chairman, I yield five minutes to the gentleman from Washington [Mr. SUMMERS].

Mr. SUMMERS of Washington. Mr. Chairman, this is a matter of very great importance to the man who lives 100 or 200 or 300 miles away from the land office, who makes this journey and perhaps finds, if this consolidation has been made, that the receiver is temporarily away from his office. He is entitled to be away for a few days during the year. He may be away a few days on account of illness in his family, but here is a poor fellow, a homesteader, who has made the long journey to the land office and he finds the only man who is qualified to attend to his business and to answer his questions is not on duty, but instead a newly appointed civil service clerk who has, perhaps, been brought in from a distance. The inconvenience is very great in instances of that kind. I can understand how it would be much better to have a consolidation in some of the very small offices rather than to abolish those offices and compel these homesteaders to travel still a greater distance. Therefore I believe, as a matter of economy and a matter of efficient service to the man who needs the service, that it would be well to consolidate where the total fees do not exceed $3,000. At the proper time I shall offer an amendment combining offices where the total fees do not exceed $3,000; in other words, where this bill proposes total fees of $4,000 my amendment would cut them to $3,000.

I believe that we can take some partially disabled veterans, for instance, wholly capable of acting as register or receiver, and place them in these positions, that they will gladly accept them, and that they will be thoroughly competent and will be on duty, one or the other of them, all of the time, every day in the year. I think that that will be less expensive to the Government and more satisfactory to the entrymen than it would be to have one high-salaried man at $3,000 a year, with a civil service clerk who is not familiar with the general duties of the office.

Mr. WALSH. Mr. Chairman, will the gentleman from California yield?

Mr. RAKER. I yield to the gentleman.

Mr. WALSH. Is the gentleman opposed to all of the provisions of the bill?

Mr. RAKER. I am opposed to the consolidation in the last section.

Mr. WALSH. The last section?

Mr. RAKER. Section 2.

Mr. WALSH. There are but two sections in the bill.

Mr. RAKER. I am opposed to the consolidation—the doing away with the receiver.

Mr. SANDERS of Indiana. The gentleman has no objection to the enacting clause?

Mr. RAKER. I do not think I would say anything about the enacting clause.

Mr. SINNOTT. Mr. Chairman, I ask that the Clerk read the bill for amendment.

The CHAIRMAN. The Clerk will read the bill for amendment.

The Clerk read as follows:

Be it enacted, etc., That the President is authorized to consolidate the offices of register and receiver in any district land office, and to appoint, by and with the advice and consent of the Senate, a register for such land office and to abolish the office of receiver of such land office upon 60 days' notice of such abolition mailed to such receiver whenever the receipts of such land office fall below the sum of $4,000 per annum for compensation for both register and receiver, and in his opinion the interests of the service warrant such abolition.

Within 60 days after the mailing of such notice the office of receiver of such land office shall cease to exist, and all the powers, duties, obligations, and penalties imposed by law upon both register and receiver of such office shall be exercised by and imposed upon the register, who shall be paid a salary of $500 per annum, together with the fees and commissions otherwise allowable to both register and receiver: *Provided*, That the salary, fees, and commissions of such register shall not exceed $3,000 per annum.

With the following committee amendment:

Page 1, line 8, after the word "whenever," strike out the words "the receipts of such land office fall below the sum of $4,000 per annum for compensation for both register and receiver," and insert in lieu thereof the words "the total compensation for both register and receiver of such land office shall fall below the sum of $4,000 per annum."

The CHAIRMAN. The question is on agreeing to the committee amendment.

Mr. SUMMERS of Washington. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. SUMMERS of Washington: Page 2, line 1, strike out "$4,000" and insert in lieu thereof "$3,000."

Mr. SUMMERS of Washington. Mr. Chairman, I have little to say in addition to what I have already said. I believe as a matter of economy that this is a better proposition. You will have a $3,000 politician in the office with a high-salaried clerk on the one hand, but if my amendment carries, in many of these offices you will have two men acting, each at $1,500 or $1,600 or $1,700 a year, and one of them in the office every month in the year, competent to attend to any business that may come into

the office any day in the year. As a matter of economy and as a matter of service, I advocate my amendment.

Mr. SINNOTT. Mr. Chairman, I oppose the amendment. I think this matter ought to be left to the discretion of the President. It may be that in certain offices when the joint salary falls below $3,000 for register and receiver he may not be willing or he may not think it advisable to consolidate the office, but I think we should leave that discretion with him. The office at Walla Walla, Wash., is just about on the border of $1,500 for each officer, which is about $3,000. Under this bill that could be consolidated, and I am sure that the gentleman from Walla Walla [Mr. SUMMERS] would be able to demonstrate to the Secretary of the Interior that it is not advisable to consolidate that office if such is the fact, and the President would not consolidate the office, although the President would have the power to do so. The sum of $2,000 is the amount that the Assistant Secretary of the Interior, Judge Finney, refered to; it is the amount that the commissioner, Mr. Tallman, referred to, and I think that should be the line to mark the President's discretionary power under the bill.

Mr. SUMMERS of Washington. Mr. Chairman, will the gentleman yield?

Mr. SINNOTT. Yes.

Mr. SUMMERS of Washington. The fees amounting to $2,000 per annum were under consideration when salaries were very high, but as they go a little lower I think that $1,500 would be a more reasonable line of demarcation, and give the President discretionary power in all offices where the fees of the register and receiver amount to $1,500. We will be able to put competent men, partially disabled physically, but wholly capable of attending to the duties of the office, in there and they will be on duty all of the time.

Mr. SINNOTT. Mr. Chairman, I doubt very much if you could get a thoroughly competent man in one of these land offices for less than $2,000. He certainly is entitled to that salary.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington.

The question was taken; and on a division (demanded by Mr. SINNOTT) there were—ayes 14, noes 17.

Mr. BLANTON. Mr. Chairman, I ask for tellers.

The CHAIRMAN. The gentleman from Texas asks for tellers. As many as favor taking the vote by tellers will rise and stand until counted. [After counting.] One Member standing, not a sufficient number, and tellers are refused.

Mr. BLANTON. Mr. Chairman, I desire to submit a matter of justice to the Chairman. After the Chair passed his count on this side, four gentlemen arose whom I think the Chair did not see. I ask the Chair in all justice to take the rising vote over again. That was my only reason for calling for tellers. Four gentlemen arose over on the Republican side that I think the Chair did not see.

The CHAIRMAN. The Chair would state to the gentleman that he was very careful to count all those standing when the ayes were asked for. He looked over the hall very carefully.

Mr. BLANTON. Of course, if the gentleman from Washington [Mr. SUMMERS] is weakening on his own amendment, I have nothing further to say.

The CHAIRMAN. The Chair could have counted three gentlemen in the rear of the Hall who were standing when he asked for the negative vote, had he desired, but he did not know whether they wanted to be counted or not. However, the Chair was privileged to count them, which would have made the count certainly decisive in favor of the negative. The count of the Chair will stand.

So the amendment was rejected.

The CHAIRMAN. The question now is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the second committee amendment.

The Clerk read as follows:

Page 2, line 7, after the word "register" insert the words "so appointed."

The question was taken, and the amendment was agreed to.

Mr. SINNOTT. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. SINNOTT: Page 1, line 8, after the word "such" insert the words "register and."

Mr. SINNOTT. Mr. Chairman, the object of this amendment is to require notice to be given to both the register and receiver. It was an oversight in having it mailed only to the receiver.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

Committee amendment. Page 2, after line 11, insert a new section as follows:

"SEC. 2. That during the absence of the register of any such office, by reason of death, resignation, removal, or inability to act, the Secretary of the Interior may designate the chief clerk of such office, or any other qualified employee of the Department of the Interior, to act as register, subject to the filing of such bond or bonds as the Secretary of the Interior may prescribe, and the same authority is conferred upon the person so designated which such register lawfully possesses, except that no contest or protest shall be decided or disposed of by such clerk or employee, but all such decisions shall be deferred until the appointment or return of the register."

Mr. RAKER. Mr. Chairman, I move to amend by striking out the words "or inability to act" in lines 13 and 14 and inserting the word "or" between "resignation and removal" and strike out the comma.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. RAKER: Page 2, lines 13 and 14, strike out "or inability to act" and in line 13 after the word "resignation" strike out the comma and insert the word "or."

Mr. HAYDEN. Mr. Chairman, I would like to be heard in opposition to the amendment. In the Committee on the Public Lands I offered the amendment to the bill contained in section 2 which the gentleman from California seeks to amend. I deliberately inserted the words "or inability to act" by reason of an experience that occurred in the land office in the State of Arizona. Some years ago the receiver of the Phoenix land office was taken ill with a lingering sickness. He was a very distinguished citizen of our State, and no one asked to have him removed from office. On the contrary, everyone hoped he would recover his health. But as a matter of fact, the business of the Phoenix land office was tied up into a snarl for several months where nothing could be done at all. I received numerous telegrams and letters from Arizona, and in an effort to expedite the business of the office I called at the General Land Office to see what could be done. The commissioner said that under the law no action of any kind could be taken unless the incumbent was removed from office and his successor appointed, which no one wanted to do. The receiver was in such physical condition that he could not act, was utterly unable to act.

Now, there was no desire on anybody's part to have cases decided in his absence that involved a contest or a protest, but as everyone knows, who is at all familiar with the local land offices, there are numerous papers filed in the way of proofs and otherwise where there is no contest or objection and which need only to be forwarded to Washington for final action.

When the difficulty that I have described arose I introduced a bill to accomplish this purpose. Section 2 of this bill carries the thought that I then had in mind. Objection was then made to the bill which I introduced because it might confer judicial authority upon some civil-service clerk, and for that reason in this amendment I have followed the language of section 2 of the act of Congress approved October 1, 1890. I will read it to the committee in order that you may see that there is a precedent for the amendment now under consideration. That section provides:

That hereafter when a vacancy shall occur in any of the land offices of the United States by reason of the death, resignation, or removal of either the register or receiver, and the time set for taking final proofs falls within the vacancy thus caused, the remaining officer may proceed to take said final proofs, in the absence of any contest or protest, reduce the same to writing, and place it on file in the office to be considered and passed upon when the vacancy is filled.

You will note that the pending amendment likewise merely provides that in the absence of a contest or protest the chief clerk of the local land office, or some other qualified person, may perform the ministerial or perfunctory duties in order that the routine business of the office may proceed.

Mr. REED of West Virginia. Will the gentleman yield?

Mr. HAYDEN. With pleasure.

Mr. REED of West Virginia. I want to ask if the prohibitive duties covering the words "contest and protest" will cover all activities of a judicial nature?

Mr. HAYDEN. No; it would not. For instance, there might be a case where it would be necessary to determine the sufficiency of the final proof on an entry.

Mr. REED of West Virginia. Should not the bill be amended so as to cover that?

Mr. HAYDEN. I think not, because if no one had any objection and no protest or contest was filed, there would be no occasion for denying jurisdiction to the clerk designated to act as register. We must not forget that his every act must be reviewed by the General Land Office in Washington, and in the absence of any protest or contest I can not see how anyone would suffer. But if an objection is raised and a protest or contest filed, of course the matter must be deferred and decided later by the regular appointed officer. I therefore op-

pose the amendment offered by the gentleman from California [Mr. RAKER], and hope that it will not prevail.

Mr. RAKER. Mr. Chairman, while I discussed this in the general debate to some extent, I want to call the committee's attention particularly to this fact, that the very case named by the gentleman from Arizona justifies the defeat of his proposition, and my amendment should be adopted. His theory is that the moment a man becomes sick and does not perform his duties, immediately somebody should be appointed to take his place. If he will adopt some system where that applies everywhere, he might get along, but I do not think he will ever be able to carry it out. If a man had a long spell of sickness, there is a remedy and it could be corrected in a very short time. But that case illustrates what they are trying to do, namely, to have the Secretary of the Interior send an employee—now, think of it—of the Bureau of Education or an employee of the Pension Department or an employee of the Indian Office, or the Patent Office, or the Bureau of Mines, or the National Park Service, or the Reclamation Service, or the Geological Survey—this is all possible under the provisions of section 2 as it now stands—to adjust the matters in the public-land States and to perform these judicial functions required of the register and receiver of the land office. The gentleman has answered correctly that there are many other judicial functions to be exercised except the mere fact of deciding the case, but his amendment does not go to the extent of the amendment that is now on the statutes, that the testimony shall be reduced to writing, but they can go right on and hear the trial of a contest or protest, but must not decide it. That is the only instance, the only thing the employee can not do. You know, upon a public notice, for a man to obtain patent to a mineral claim, the parties appear, the hearings are had, and there may be no protest or contest, but there are a number of witnesses, and this clerk would pass upon the question as to whether a man should have a patent to his mineral claim, or he could pass on homestead claims or timber claims or desert-land claims; in fact, all the matters that now appear in the General Land Office, except the rendering of decision in contested cases or where there is a protest.

Mr. COLTON. The gentleman does not wish to convey, does he, the impression that the clerk so designated would finally determine whether or not the entryman was entitled to his patent?

Mr. RAKER. Why not?

Mr. COLTON. Because all that testimony is carefully reviewed and passed upon here in Washington.

Mr. RAKER. I wish to say to my colleague that the register and receiver pass upon all the proof and determine whether the official certificates shall be issued to the applicant in the first instance.

Mr. COLTON. A certificate, yes; but that does not entitle him to a patent if the evidence is not sufficient to the Land Office.

Mr. RAKER. But the lower court passes upon it, does it not?

Mr. COLTON. Yes.

Mr. RAKER. Now, this employee of the Bureau of Education, any such employee appointed, sent out there by the Secretary of the Interior to hear the witnesses and pass upon the sufficiency of this final proof, to determine whether or not the final certificate should issue, would not——

Mr. COLTON. Only partly, if the gentleman will pardon me——

Mr. RAKER. I do.

Mr. COLTON. Even though there were no contest or protest filed, that evidence and proof are carefully reviewed up here in the Land Office as a matter of course, and yet it is not a case where the final proof is accepted, and the land passes to patent where there is no contest or protest on the finding of the register.

Mr. RAKER. In all cases—and certainly the committee did not misunderstand me and the gentleman from Utah did not misunderstand me, I know—that in all final proofs, homestead, timber and stone, desert, timber culture, enlarged homesteads, and all, before the patent is issued by the department, the testimony in the case is gone over by the department here in Washington.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. SINNOTT. Mr. Chairman, I ask unanimous consent to proceed for two minutes.

The CHAIRMAN. The gentleman from Oregon asks unanimous consent to proceed for two minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. SINNOTT. Mr. Chairman, I am heartily in accord with the gentleman from Arizona [Mr. HAYDEN] in opposition to the amendment offered by the gentleman from California [Mr. RAKER]. This amendment has had a good deal of consideration before the committee, especially as to the use of the word "inability." The gentleman from Arizona has cited a case where it was absolutely essential and important to get a temporary officer in there. Now, that temporary officer would not be appointed immediately upon the sickness of the register or receiver, but only when the showing is made to the Secretary of the Interior that the man has been incapacitated for some time. The gentleman from California endeavors to drag out matters to an absurd length or position when he says the Secretary of the Interior would send some one from the Bureau of Education. The Secretary of the Interior under this amendment is required to send a qualified official, and the qualified official that he would send there would be, of course, from the Land Department. Therefore, I oppose the amendment, and I ask for a vote.

Mr. RAKER. Will the gentleman yield for a question?

The CHAIRMAN. The question is on the amendment of the gentleman from California [Mr. RAKER].

The question was taken, and the amendment was rejected.

Mr. WALSH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment by Mr. WALSH to the committee amendment: Page 2, line 12, strike out "during the absence of the register of any such office" and insert "in case of a vacancy in the office of register"; and insert in line 14, after the word "designate," "for the period of such vacancy or inability to act."

Mr. WALSH. Mr. Chairman, the amendment should comprehend striking out the word "such" in line 13, before the word "office." It was an omission in drafting it. I ask unanimous consent that it may be modified.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent to modify his amendment in the manner indicated. Is there objection?

There was no objection.

Mr. WALSH. Mr. Chairman, this amendment, I think, substitutes the language usually employed in legislation in taking care of temporary appointments and designations in cases of vacancies in appointive offices, and instead of saying that "during the absence of the register of any office" we say, "In case of a vacancy in the office of the register by reason of death, resignation, removal, or inability to act the Secretary of the Interior may designate, during the period of the vacancy or inability to act, some other official in that office to perform those duties."

Mr. HAYDEN. Mr. Chairman, will the gentleman yield?

Mr. WALSH. Yes.

Mr. HAYDEN. How would the Secretary of the Interior be able to foretell the duration of the illness of a register so as to designate the period of his inability to act?

Mr. WALSH. It would be a designation that would be worded somewhat in this manner: "That John Smith is hereby designated to carry out the duties of the office of the register, Tom Jones, who is absent because of illness or some other reason, and such designation shall continue until said Tom Jones shall return and resume the duties of his office." It is not an appointment requiring a commission. It is simply a designation.

Mr. COLTON. Mr. Chairman, will the gentleman yield?

Mr. WALSH. Yes.

Mr. COLTON. Would inability to act create a vacancy?

Mr. WALSH. It would not.

Mr. COLTON. The gentleman's amendment provides in case of a vacancy.

Mr. WALSH. He may make a designation in case of a vacancy or during the period of inability to act; but the language of the act is that if there is a vacancy by reason of death, resignation, removal, or inability to act, the Secretary may designate, during the period of the vacancy or during the inability to act, the chief clerk or some one else to carry on the duties of the office.

Mr. COLTON. I am in sympathy with the gentleman's amendment, but would there be a vacancy in the case of sickness? Suppose the register is sick for a month or two. Would there be a vacancy? And under the gentleman's amendment could the Secretary make a temporary appointment in that case?

Mr. WALSH. Yes.

Mr. SANDERS of Indiana. Mr. Chairman, will the gentleman yield?

Mr. WALSH. Yes.

Mr. SANDERS of Indiana. In order to make absolutely clear what the gentleman from Massachusetts has in mind, and to

obviate the possible objection made, I suggest that you insert, after the word "or," the words "in case of the," so that the language would then read as follows:

That in case of vacancy in the office of register by reason of death, resignation, or removal, or in case of inability to act, then the Secretary of the Interior may designate for the period of such vacancy, or during the inability to act—

And so forth.

Mr. COLTON. I think that covers it.

Mr. HAYDEN. Mr. Chairman, will the gentleman yield?

Mr. WALSH. I yield.

Mr. HAYDEN. I can not see any real necessity for changing the amendment as it is. The language clearly conveys the meaning that was intended.

Mr. WALSH. The gentleman knows that we never provide for the filling of vacancies by designation in case of absence. If that were construed by a strict construction, it would mean that if a register took a train to go into the next State he would be absent from his office. It is always in the case of a vacancy that the designation is made. Of course, there would be a vacancy if the register was dead. But that would not be an absence from his office.

Mr. HAYDEN. The only thought I had was that if the register was absent from his office for any one of the various reasons enumerated the designation should be made. I did not mean to declare that there was a vacancy, or intend to create a vacancy or have it filled in any other way than by the regular appointment of a register. The designation of a clerk to act as register should only be made until the appointment of a register or until the register is able to act.

Mr. WALSH. What would be done in case of his death?

Mr. HAYDEN. The vacancy would be filled by an appointment by the President in case of death. But in case the Senate refused to confirm the appointment for some months a designation could be made in the meantime.

Mr. WALSH. Then the man designated to perform the duties of the office would act?

Mr. HAYDEN. Yes; on all matters where no contest or protest had been filed.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. SINNOTT. Mr. Chairman, I ask unanimous consent for one minute, to ask the gentleman from Massachusetts [Mr. WALSH] a question.

The CHAIRMAN. The gentleman from Oregon asks unanimous consent to proceed for one minute. Is there objection?

There was no objection.

Mr. SINNOTT. Would the gentleman from Massachusetts consider that the inability of the register to act on account of sickness, say for a month or so, would be held to constitute a vacancy? I am afraid not. I am afraid that is an absence.

Mr. WALSH. That would be cured by the suggestion of the gentleman from Indiana [Mr. SANDERS], which I am perfectly willing to accept.

Mr. Chairman, I ask permission to modify the amendment in the manner suggested by the gentleman from Indiana, which I think will take care of the case cited by the gentleman from Arizona, to insert after the word "resignation," in line 13, the word "or," and in line 13, after the word "or," insert the words "in case of the," and in line 14, after the word "designate," insert the words "for the period of such vacancy or inability to act."

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent to modify his amendment as designated. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment as modified.

The Clerk read as follows:

Amendment offered by Mr. WALSH as modified: On page 2, line 12, strike out "during the absence of the register of any such office" and insert "in case of a vacancy in the office of the register," and in line 13, after the word "resignation," insert the word "or," and in line 13, after the word "or," insert the words "in case of the," and in line 14, after the word "designate," insert "for the period of such vacancy or inability to act."

Mr. WALSH. The language then will read that in case of a vacancy in the office of register by reason of death, resignation, or removal, or in the case of inability to act, the Secretary of the Interior may designate, for the period of such vacancy or inability to act, the chief clerk, and so forth.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. SMITH of Idaho. Mr. Chairman, I ask that the time of the gentleman be extended for five minutes more.

The CHAIRMAN. The gentleman from Idaho asks unanimous consent that the time of the gentleman from Massachusetts be extended five minutes. Is there objection?

There was no objection.

Mr. SMITH of Idaho. I am very much in favor of the first part of the gentleman's amendment; but the words which he proposes to insert after the word "designate," in line 14, would be very confusing and would complicate matters to an endless degree, for the reason that every time the register was sick or happened to be absent for a few days it would be necessary to get specific authority from the Secretary of the Interior to appoint some one to represent the register and to give a bond.

Mr. WALSH. They have to do that under the language of the bill.

Mr. SMITH of Idaho. Under all the laws authorizing subordinate officers to assume the duties of their superior officers in their absence the authority is continuing. For instance, in the office of the Director of the Reclamation Service, in the event of his absence from the office the assistant director is the acting director, and in the absence of both the director and the assistant director the general counsel acts as director. So it seems to me that the first part of the gentleman's amendment is perfectly proper, but that the words "during such vacancy" would be very confusing in the administration of the law.

Mr. WALSH. What does the gentleman suggest by way of correction?

Mr. SMITH of Idaho. Simply to have this designation permanent, so that in the event of the sickness of the register or his absence for any reason, or in case of a vacancy in the office, the chief clerk would have continuing authority to act during such vacancy in the office or absence of the register, which would terminate immediately when the register returned to the office.

Mr. RAKER. Will the gentleman yield for a question?

Mr. SMITH of Idaho. I yield to the gentleman.

Mr. RAKER. The gentleman has made a suggestion in regard to director and assistant director, and so forth. There is no law authorizing that. They do that themselves. Whether it is legal or not, nobody knows; but here a man is absent from his office and the Secretary appoints some employee to take his place. He returns and they are both there. Who knows with whom to deal? There ought to be a fixed period of time.

Mr. WALSH. The gentleman from California appreciates that in this case we are simply dealing with a designation. It does not involve the question of appointment or the issuing of a commission. As I understand it, we are simply seeking to provide that when a register who has been appointed to the office dies, resigns, or is removed, or in case he is stricken with some illness which renders him unable to perform the duties of his office, the Secretary of the Interior may designate somebody to perform all those duties, with the exceptions specified, until the regular appointment shall have been made.

Mr. RAKER. I want to ask the gentleman this question—it has been overlooked up to this time: The register of the land office is a public officer, whose signature is recognized by all the courts?

Mr. WALSH. Yes.

Mr. RAKER. Now, how are you going to tell whether this chap, this employee from the department, has the authority to act, and when does his authority cease?

Mr. WALSH. He will probably sign himself acting register.

Mr. RAKER. When does his time cease if your amendment does not carry it?

Mr. WALSH. When the register returns to his duties or when a new appointment has been made.

Mr. RAKER. If it is good weather, the register comes back and acts. If it is rainy weather, the appointee acts. How is anybody to know anything about it?

Mr. WALSH. The gentleman from California knows that there would not be any chief clerk or any subordinate official of a land office in any State in the United States, with the possible exception of California, who would attempt to sign documents and papers and issue orders and carry on the duties of that office unless he was duly authorized to do it.

Mr. RAKER. That is true. California also, please.

Mr. WALSH. And if they did it in California and it was a matter in which the gentleman from California [Mr. RAKER] was interested, the howl that would go up would be heard from Susanville to Washington.

Mr. RAKER. That is right, and the parties involved would be entitled to have some one to represent them, because there is a conflict, and you can not tell when this man's authority begins or when it ends.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired. The Clerk calls the attention of the Chair and the Chair calls the attention of the gentleman from Massachusetts to the question whether he does not wish to omit the word "the" in the last suggested amendment, "in case of disability" rather than "in the case of the disability."

Mr. WALSH. I did not know that it included the word "the."

The CHAIRMAN. The gentleman stated it in that way. Without objection, the word "the" will be omitted.

There was no objection.

Mr. RAKER. I move to strike out the last word of this amendment.

Mr. WALSH. The Chair has already ruled that motion out of order once.

The CHAIRMAN. On the former occasion the question was on striking out a certain number of words. You can not move to strike out a word after the designated words have been moved to be stricken out. This is a subsequent amendment, and the Chair recognizes the gentleman from California on the pro forma motion.

Mr. RAKER. Of course, my first object would be to strike out the whole section. Whether I can get that done or not I do not know. The next best thing is to perfect it as well as it can be. The amendment of the gentleman from Massachusetts [Mr. WALSH] clarifies the amendment as it now appears, because it fixes the question of a vacancy; and when the vacancy occurs by one of the four reasons——

Mr. HAYDEN. Three.

Mr. RAKER. Four in this bill—death, resignation, removal, and inability to act—the Secretary can designate some one to act. Now, it should be a fixed period of time—one month, two months, or until the 1st of July, 1922, when the authority ceases.

Mr. SANDERS of Indiana. In case of death it would be practically impossible for the Secretary of the Interior to know when the new appointee would be qualified. If it is left as it is now, the person is designated to serve during the vacancy.

Mr. RAKER. I appreciate that situation. It seems there will be no effort to appoint a duly qualified register. This employee can continue indefinitely, ad libitum, without any restrictions. Certainly, if you are going to give this authority to the clerk, you ought to fix some time so that the public would know something about it. The haphazard way in which it is left now, without requiring judicial action, simply saying that when the man can not be there, when he is absent from any cause, you are going to appoint some one to take his place, it seems to me is not wise.

Mr. WALSH. Will the gentleman yield?

Mr. RAKER. Certainly.

Mr. WALSH. The amendment modified includes the words suggested by the gentleman from Indiana while I was on my feet, which only creates a vacancy under three contingents—death, resignation, or removal. And then it says, "in case of inability to act."

Mr. RAKER. That makes four.

Mr. WALSH. No; one is dealing with death, resignation, or removal, and the other inability to act.

Mr. RAKER. That is the objection—if there is inability to act, the Secretary can appoint.

Mr. WALSH. No; he can designate somebody that has already received an appointment in the office, either as chief clerk or to perform some other duty.

Mr. RAKER. He can designate an employee in the department, and there are 40,000 of them scattered from here to Alaska.

Mr. WALSH. The gentleman would not expect the Secretary of the Interior to send a man from Washington to Idaho because the register there was suffering from a severe illness.

Mr. RAKER. The only way to show the imperfections in a proposed law is to show what can be done and not always what will be done. What is the inability to act—what is it going to consist of?

Mr. WALSH. What does it consist of in the Constitution when it says—

> In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve upon the Vice President.

Mr. RAKER. This does not say "inability to discharge the duties of the office"; it is "inability to act."

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. RAKER. Mr. Chairman, I ask for five minutes more.

Mr. SINNOTT. Oh, Mr. Chairman, I feel that I must object. The gentleman has had over an hour, and we have 8 or 10 bills, some of which belong to the gentleman from California, and if we are going to spend all of the day on this there will be no time for those bills. I was hopeful that we could get through with this bill to-day and then take the other bills down the line.

The CHAIRMAN. The gentleman from Oregon objects. The question is on the amendment of the gentleman from Massachusetts.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. The question now is on the committee amendment as amended.

The question was taken; and on a division (demanded by Mr. RAKER) there were 24 ayes and 2 noes.

So the committee amendment was agreed to.

Mr. SINNOTT. Mr. Chairman, I move that the committee now rise and report the bill back to the House with the recommendation that the amendments be agreed to and the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. STAFFORD, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (S. 71) for the consolidation of the offices of register and receiver in district land offices in certain cases, and for other purposes, and had directed him to report the same back with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. SINNOTT. Mr. Speaker, I move the previous question on the bill and all amendments to final passage.

The previous question was ordered.

The SPEAKER. Is a separate vote demanded on any amendment?

Mr. RAKER. I ask for a separate vote on the last amendment, section 2.

The Clerk again read section 2 of the bill.

The SPEAKER. The Chair will put the other amendments in gross.

The other committee amendments were agreed to.

The SPEAKER. The question is on the committee amendment on which a separate vote was asked for by the gentleman from California.

The question was taken, and the amendment was agreed to.

The bill as amended was ordered to be read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and on a division (demanded by Mr. RAKER) there were 41 ayes and 2 noes.

So the bill was passed.

On motion of Mr. SINNOTT, a motion to reconsider the vote whereby the bill was passed was laid on the table.

RELIEF OF CERTAIN PERSONS WHO HAVE RELINQUISHED LANDS INSIDE NATIONAL FORESTS.

Mr. SINNOTT. Mr. Speaker, I call up the bill H. R. 8119, for the relief of certain persons, their heirs or assigns, who heretofore relinquished lands inside national forests in the United States.

The SPEAKER. The gentleman from Oregon calls up the bill H. R. 8119, which is on the Union Calendar. The House will automatically resolve itself into the Committee of the Whole House on the state of the Union.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union, with Mr. SANDERS of Indiana in the chair.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That where any person or persons in good faith relinquished to the United States lands in a national forest as a basis for a lieu selection under the act of June 4, 1897 (30 Stat. L., pp. 11, 36), and failed to get their lieu selections of record prior to the passage of the act of March 3, 1905 (33 Stat. L., p. 1264), or whose lieu selections, though duly filed, are finally rejected, the Commissioner of the General Land Office is hereby authorized to relinquish and quitclaim to such person or persons, their heirs or assigns, all title to such lands which the respective relinquishments of such person or persons may have vested in the United States: *Provided*, That such person or persons, their heirs or assigns, shall within five years after the date of this act make satisfactory proof of the relinquishment of such lands to the United States by submitting to the Commissioner of the General Land Office an abstract of title to such lands showing relinquishment of the same to the United States, which abstract or abstracts shall be retained in the files of the General Land Office.

SEC. 2. That if it shall appear that any of the lands relinquished to the United States for the purpose stated in the preceding section have been disposed of or appropriated to a public use, other than the general purposes for which the forest reserve within the bounds of which they are situate was created, such lands shall not be relinquished and quitclaimed as provided therein, unless the head of the department having jurisdiction over the lands shall consent to such relinquishment; and if he shall fail to so consent, or if any of the lands so relinquished have been otherwise disposed of by the United States,

other surveyed, nonmineral, unoccupied, unreserved public lands of approximately equal area and value may be selected and patented in lieu of the lands so appropriated or disposed of in the manner and subject to the terms and conditions prescribed by said act of June 4, 1897, and the regulations issued thereunder: *Provided*, That applications to make such lieu selections must be filed in the General Land Office within three years after the date of this act.

With the following committee amendment:

Page 1, line 10, after the word "rejected," insert "the Secretary of the Interior, with the approval of the Secretary of Agriculture, upon application of such person or persons, their heirs or assigns, is authorized to accept title to such of the base lands as are desirable for national-forest purposes, which lands shall thereupon become parts of the nearest national forest, and in exchange therefor may issue patent for not to exceed an equal value of national-forest land, unoccupied, surveyed, and nonmineral in character, or the Secretary of Agriculture may authorize the grantor to cut and remove an equal value of timber within the national forests of the same State. Where an exchange can not be agreed upon."

Mr. SINNOTT. Mr. Chairman, this bill is to remedy a situation brought about by the repeal of the act of June 4, 1897, Thirtieth Statutes at Large, pages 11, 36. That act was repealed on March 3, 1905, Thirty-third Statutes at Large, page 1264. By virtue of the act of 1897 a number of landowners holding patents to land within the exterior boundaries of the national forests, and also some unperfected homestead entrymen, deeded their land to the United States with the expectation that the United States would deed them in return certain other lands. After these deeds were executed to the Government, and before the Government had deeded lands in return to the landowners, the act of 1897 was repealed without providing for the relief of all the persons who had deeded land to the General Government. Then the Interior Department held that there was no provision of law whereby they could deed back to the grantors the lands that had been deeded to the United States. The Secretary of the Interior in some cases signed a disclaimer of title renouncing on the part of the Government any interest in the lands involved, to wit, the lands formerly deeded to the Federal Government; but in a number of States it has been held that this disclaimer on the part of the Secretary of the Interior is an informal disclaimer—is not a disclaimer or a restoration of title that is authorized by law. Therefore it is necessary to get some legislation to authorize the Federal Government or the Secretary of the Interior to quitclaim back to the parties that deeded to the Government the lands for which they never received any consideration, and on which the deed to the United States is a cloud on the title.

Under the rules and regulations of the Interior Department in putting into operation the act of 1897, it was necessary for the landowner to make a deed to the Federal Government, then put that deed upon record in the recording office in the county and the State. Then after the deed was recorded and bore the indorsement of the recording officer of the State it was deposited in the United States Land Office, together with certain other affidavits required by the rules and regulations of the Interior Department. Then it was transmitted to Washington. The man had deeded away his land. Before the Government deeded lands to him the law of 1897 was repealed and he was left out on the end of the limb with no authority on the part of the Government, with no authority in any Government official, to restore to him the land in question.

This bill proposes, first, if the lands that the grantor gave to the Government are desirable for national forest lands, that then the Secretary of the Interior and the Secretary of Agriculture enter into an agreement whereby the Government will retain the title to those national forest lands and deed to the grantor other lands in the national forest or give him timber for his land. It also provides that in case the grantor and the Government can not come to some agreement, that then the Commissioner of the General Land Office is authorized to relinquish and quitclaim back to the grantor the lands that he deeded to the Government for which he received no consideration. Then the last provision—section 2—provides that in case any of the land which was deeded by the grantor to the Government has been disposed of by the Government or appropriated to some public use, the grantor may accept other surveyed nonmineral, unoccupied, unreserved public land of approximately equal area and value. The reason for that is this: Some of these lands are being used by the Federal Government. In the national forests some of the land has been used as ranger stations on which the Government has spent a good deal of money in improvements. A few tracts of this land, I think possibly not more than five, have been deeded away by the Government to homestead entrymen, and in those cases the party is to be allowed lieu lands in place of the lands deeded to the Federal Government.

All told, the bill comprises about 111 cases, involving about 44,000 acres of land. We think that the bill entirely safeguards the rights of the Federal Government. The act of 1897 was the old lieu land act out of which rose a great deal of scandal. The reason the scandal arose out of that act is that an individual owning land within the national forests had a right to deed that land to the Federal Government and accept an equal area of other lands outside of the national forest. The only limitation upon the lieu selection was that it must be of equal area. The land selected might be ten or fifty times as valuable as the land deeded to the Federal Government, yet he had a right to take an equal area in exchange. We avoid that in this bill by placing the exchange on approximately equal area and value. Does anyone desire to ask any questions regarding the bill?

Mr. STAFFORD. I am wondering why the proviso in the act of March 3, 1905, repealing the lieu land certificate law is not broad enough to cover all meritorious cases of these persons who were attempting to surrender nothing of value in forest reserves under the lieu land law and get back lands outside of the forest reserve of value ten and one hundred times those surrendered. The proviso in the act of March 3, 1905, provides:

That selections heretofore made in lieu of lands relinquished to the United States may be perfected and patents issued therefor the same as though this act had not been passed, and if for any reason, not the fault of the party making the same, any pending selection is held invalid another selection for like quantity of land may be made in lieu thereof.

Mr. SINNOTT. The courts held that their selections were not perfected until approved by the Secretary of the Interior. Then, in other cases, their applications were rejected. The Secretary of the Interior did not approve the applications, and yet the man was left with his land deeded to the Federal Government.

Mr. STAFFORD. Yes; but the last clause of the proviso is to the effect that if any pending selections are held to be invalid another selection for a like quantity may be made.

Mr. SINNOTT. Some of them fell down on account of the fault of the applicant. Others, although they had placed their deeds on record in the county records, failed to file the deed with the United States land office before the repeal of the act of 1897, such cases were not considered pending selections. In some cases the grantor did not make the proper showing to the Federal Government of the nonmineral character of the selected land, and his application was not sufficient. That was his fault.

Mr. STAFFORD. It was not necessary under the application of the original lieu land law to make any showing whether the land selected was nonmineral or not. He was giving up generally to the National Government abandoned land in the national forest reserve and going outside and getting land which was of value.

Mr. SINNOTT. The regulations under this law require him to make a certain showing. Particularly if he was a homestead entryman he had to make a showing of residence, improvement, and so forth, on his original entry.

Mr. STAFFORD. The original lieu land law did not make any such limitation. I have that law before me here, and it provides in case of a tract covered by an unperfected bona fide claim or by a patent. Under the lieu land law it was not necessary for a man to have his patent. All that was necessary was for him to have a bona fide claim.

Mr. SINNOTT. I said the homestead entryman was compelled to make a certain showing under the rules and regulations under this act, but in a number of cases they could not make the necessary showing.

Mr. STAFFORD. They are not able to make the necessary showing 16 years after we repealed the act, and we are passing a remedial measure here to come to their relief. Why should we?

Mr. SINNOTT. Here is one case. A man got everything on record in the local land office. He gave an imperfect description of the land he desired to select in lieu of the land he deeded to the Federal Government. He was asked to perfect that showing and did so after some months. Then they said to him, now you will have to get another affidavit or a certificate from the proper local county official showing that the taxes have been paid up to date. Before he could get that the law was repealed, and he was out.

Mr. STAFFORD. But this proviso, that is still operative in the repeal of the lieu land law——

Mr. SINNOTT. In a sense that is the man's fault. He should have made a complete showing to the Government, but the fact remains that he deeded his land to the Federal Government and has not received anything in return, and it is unconscionable for the Government to retain that land.

Mr. STAFFORD. I am rather inclined to believe in the position of the gentleman, but I wish to inquire further, why do

you extend this privilege after the Government has been holding the land and improving it. While it is unconscionable in one way, nearly every one of these persons who took advantage of the lieu land law was a conspirator against the Government in foisting on the Government something of no value and taking valuable mineral land instead, and I have no sympathy with their claim.

Mr. SMITH of Idaho. Is not that an argument against carrying out this proviso, because under the original law they had to exchange an equal quantity instead of land of equal value as provided in this bill.

Mr. STAFFORD. Let it be understood here by all that every one of these crooks who could carry it out under the original proviso availed themselves of that privilege and now others are seeking to get something else. Not being able to come within the provisions of the proviso they want some other relief. I am not in much sympathy with those persons who dumped upon the Government nonvaluable waste land and sought to take valuable land from the National Government in exchange under a law which became a scandal. So I wish to propound some queries to the gentleman in regard to this.

Mr. SINNOTT. Of course, no one gets relief under this bill unless he in good faith originally relinquished his land to the Federal Government.

Mr. STAFFORD. They all relinquished their land, whether valuable or not. Of course they claim they acted in good faith in relinquishing something that was of no value in trying to get something of value.

Mr. SMITH of Idaho. It seems to me the gentleman from Wisconsin is assuming a great deal when he states that this land was worthless and that all of these people were crooks. As a matter of fact——

Mr. STAFFORD. I did not say all of them. But they have indicted themselves in the history of the administration of this law, and the land office is trying to safeguard itself from the further perpetration of this outrage by people living in the West who own these nonvaluable lands in forest reserves. It became a stench in the public nostrils. This lieu land law was originally in the sundry civil bill, never considered by the House, sneaked through by the land interests of the West. I wish to inquire how at this late day they come in for relief——

Mr. SMITH of Idaho. Simply because their land was deeded to the Government in good faith and then the repealing act was passed which left the title in the Government, and the Government can not deed it back except by special act of Congress. That is the object of this law.

Mr. STAFFORD. I wish to inquire of the gentleman what is the purpose of the provision of this law extending the privileges so far in advance——

Mr. SINNOTT. What does the gentleman mean by "in advance"?

Mr. STAFFORD. The bill says:

> That applications to make such lieu selections must be filed in the General Land Office within three years after the date of this act.

What is the necessity?

Mr. SINNOTT. Well——

Mr. STAFFORD. Why would not one year be sufficient?

Mr. SINNOTT. Well, they ought to have a few years to become acquainted with the law and to make their showing. A number of these original grantors are dead, and that would be reasonable time, I think, to permit their heirs to come in and make their showing. The Government surely does not want to retain their land that the Government has not paid them anything for.

Mr. STAFFORD. And which the Government has improved by giving them fire protection all of these years.

Mr. SINNOTT. There is some protection in the national forests, but any land the Government has actually improved the Government will retain if it wants the land.

Mr. STAFFORD. The gentleman says these lands are in 11 States. In what States are they distributed?

Mr. SINNOTT. All through the West, in various national forests.

Mr. Chairman, I reserve the balance of my time, and will insert in the RECORD the report on the bill.

The report is as follows:

[House Report 410, Sixty-seventh Congress, first session.]

RELIEF OF CERTAIN PERSONS, THEIR HEIRS OR ASSIGNS, WHO HERETOFORE RELINQUISHED LANDS INSIDE NATIONAL FORESTS TO THE UNITED STATES.

Mr. SINNOTT, from the Committee on the Public Lands, submitted the following report, to accompany H. R. 8119:

The Committee on the Public Lands, to whom was referred the bill (H. R. 8119), for the relief of certain persons, their heirs or assigns, who heretofore relinquished lands inside national forests to the United States, having considered the same, report it to the House with the recommendation that it do pass, with the following amendment:

Page 1, line 10, after the comma following the word "rejected," insert the following: "the Secretary of the Interior, with the approval of the Secretary of Agriculture, upon application of such person or persons, their heirs or assigns, is authorized to accept title to such of the base lands as are desirable for national-forest purposes, which lands shall thereupon become parts of the nearest national forest, and, in exchange therefor, may issue patent for not to exceed an equal value of national forest land, unoccupied, surveyed, and nonmineral in character, or the Secretary of Agriculture may authorize the grantor to cut and remove an equal value of timber within the national forests of the same State, where an exchange can not be agreed upon."

Said amendment was suggested by E. D. Ball, Acting Secretary of Agriculture, and by E. C. Finney, Acting Secretary of Interior, by letters hereinafter set forth respectively dated September 28 and September 16, 1921:

SEPTEMBER 28, 1921.

Hon. N. J. SINNOTT,
Chairman Committee on the Public Lands,
House of Representatives.

DEAR MR. SINNOTT: Reference is made to your request of September 19 for a report upon the bill H. R. 8119, for the relief of certain persons, their heirs or assigns, who heretofore relinquished lands inside national forests to the United States.

The act would authorize the Commissioner of the General Land Office to quitclaim such lands to the former owners or their successors in interest unless the lands have been otherwise disposed of or used for public purposes other than national-forest purposes. Almost all of the lands which would be affected by this bill are within the boundaries of existing national forests. The bill provides no alternative course of action but obligates the Government to return these lands to their original owners or their successors in interest regardless of whether such return is or is not advantageous to the Government or to the owners of the conveyed land.

While the lands which would be affected have never been regarded or administered as parts of national forests, they have indirectly received all of the benefits of protection from fire and trespass, so that they are now of considerable forest value, created by the Government's protective efforts and virtually lost to the Government if the lands are quitclaimed as provided by law. Provision whereby the Government could retain such lands and grant to the claimant an equal value of other national-forest lands would be distinctly to the public interest as well as that of the claimant. I, therefore, take the liberty to suggest a single amendment to the bill to be inserted on page 1, line 10, after comma following the word "rejected," which amendment is as follows: "the Secretary of the Interior, with the approval of the Secretary of Agriculture, upon application of such person or persons, their heirs or assigns, is authorized to accept title to such of the base lands as are desirable for national-forest purposes, which lands shall thereupon become parts of the nearest national forest, and, in exchange therefor, may issue patent for not to exceed an equal value of national-forest land, unoccupied, surveyed, and nonmineral in character, or the Secretary of Agriculture may authorize the grantor to cut and remove an equal value of timber within the national forests of the same State where an exchange can not be agreed upon."

The subject has been discussed with the Acting Secretary of the Interior, who has expressed his approval of this amendment.

The bill, if amended as herein suggested, would, in effect, permit the Secretary of the Interior and the Secretary of Agriculture to carry out jointly and to the advantage of the Government the primary and most beneficial purpose of the lieu selection act under which these lands were first reconveyed to the Government. On the other hand, it absolutely safeguards the Government against the possibility of any of the abuses which occurred under the lieu selection act, since (1) it prescribes a limitation of equal value, thus guaranteeing the Government against a disadvantageous exchange; (2) an exchange can not be demanded as a matter of right; and (3) there must be an administrative determination whether any proposed exchange is in the interest of the Government. Since the land which would be selected under the provisions of the bill is national forest land and the stumpage which would be cut is national forest stumpage, the practicable application of the law would not materially affect the area or boundaries of the national forests except to the extent of locating the privately owned lands within portions of the forests where their presence would be least disadvantageous to the Government and in all probability most favorable to their owners.

The bill, if amended as recommended herein, would offer no opportunity for fraudulent or vicious practices inimical to the interest of the United States, but, to the contrary, it would afford opportunity to strengthen the integrity of the national forests by effecting the better distribution of lands in private ownership which, because of their present location, often prevent the adoption of the most effective or economical methods of management which would be practicable if all of the lands were in Government ownership. With the amendment proposed the measure meets with the approval of this department and its passage is recommended.

Very truly, yours,

E. D. BALL, *Acting Secretary.*

DEPARTMENT OF THE INTERIOR,
Washington, September 16, 1921.

Hon. N. J. SINNOTT,
Chairman Committee on the Public Lands,
House of Representatives.

MY DEAR MR. SINNOTT: By letter of May 26, 1921, I transmitted for your consideration draft of a proposed bill for the relief of certain persons, their heirs or assigns, who heretofore relinquished lands inside national forests to the United States. This bill was subsequently introduced by you (H. R. 8119), and as I am advised is now pending for the consideration of the Committee on the Public Lands.

In order that this bill might receive the approval of the Department of Agriculture a representative of that department has conferred with a representative of this department, and after due consideration have agreed upon the following amendment:

On page 1, line 10, after comma following the word "rejected" insert the following: "the Secretary of the Interior, with the approval of the Secretary of Agriculture, upon application of such person or persons, their heirs or assigns, is authorized to accept title to such of the base lands as are desirable for national forest purposes, which lands shall thereupon become parts of the nearest national forest, and

in exchange therefor, may issue patent for not to exceed an equal value of national forest land, unoccupied, surveyed, and nonmineral in character, or the Secretary of Agriculture may authorize the grantor to cut and remove an equal value of timber within the national forests of the same State, where an exchange can not be agreed upon."

In view thereof I have the honor to recommend that the bill be thus amended, and considering the long delay in this matter it is earnestly hoped that this remedial legislation may be enacted at an early date.

Respectfully,

E. C. FINNEY, *Acting Secretary.*

The object desired to be accomplished by said bill is fully set forth in said letters and in a letter dated May 26, 1921, signed by E. C. Finney, Acting Secretary of the Interior, hereinafter set forth:

DEPARTMENT OF THE INTERIOR,
Washington, May 26, 1921.

Hon. N. J. SINNOTT,
Chairman Committee on the Public Lands,
House of Representatives.

MY DEAR MR. SINNOTT: I have the honor to invite attention to a matter which it is believed warrants remedial legislation and to that end am submitting for your consideration draft of a proposed bill.

Under the provisions of the act of June 4, 1897 (30 Stat., 11, 36), among others, owners of patented lands within forest reservations were authorized to relinquish them to the Government and to select vacant lands open to settlement in lieu thereof. In the administration of this provision of said act it appears that persons seeking such an exchange were required to present with their applications, properly executed and recorded, deeds relinquishing their lands to the Government. In a number of instances such applications were, for various reasons, rejected, and no exchanges made, while in other cases deeds were duly executed and recorded by persons who failed to secure such an exchange because proper applications therefor were not presented to the Land Department prior to the repeal of the act of June 4, 1897, supra, by the act of March 3, 1905 (33 Stat., 1264), which made no provision for relief in such cases. As a result both classes of persons were embarrassed by the fact that the appearance of such deeds on the local records of the counties in which their lands were located cast an apparent cloud upon their title. In order to relieve the situation as far as it was possible in the absence of statute, the General Land Office has in a number of cases entered upon its records renunciations of title and declarations of pertinent facts and furnished copies thereof under seal in such form as would, in some States, perhaps entitle these copies to be spread upon the deed records; but the effect of such a document, even where so recorded, has been frequently questioned.

In this connection it should be also stated that as held both by the courts and this department, no interest vested in applicants for lieu selections by virtue of their applications, or in the Government under their deeds, until the applications had been examined and approved. This holding was based on the ground that until so examined and approved the deeds had been merely tendered, but there had been no such delivery or acceptance as would pass any title whatever. (See Cosmos Co. *v.* Gray Eagle Co., 190 U. S., 301, 312; 32 Land Decisions, 233; and 33 Land Decisions, 501.) However, as stated, there is no law under which the representatives of the Government are authorized to remove this apparent cloud by the execution of a proper instrument. In this connection attention is also called to the two acts of February 13, 1909 (Private, Nos. 133, 134; 35 Stat., 1442, 1443), for the relief of particular individuals who were laboring under the embarrassment from which this proposed legislation will afford general relief.

This matter has been the subject of attempted legislation of somewhat similar character for a number of years. Such bills were introduced in both the House and Senate in the Sixtieth, Sixty-first, and Sixty-second Congresses. Thereafter, it was the subject of joint consideration by the Agricultural Department and this department, as result of which draft of a proposed bill was submitted jointly to the Sixty-third Congress (S. 2904), which was favorably reported (Rept. No. 170), and, with slight amendment to make clearer the intent, was passed by the Senate on February 12, 1914. It failed, however, of enactment. Bills similar to S. 2904 were thereafter introduced during the Sixty-fourth, Sixty-fifth, and Sixty-sixth Congresses, and were likewise the subject of favorable report by this department, but also failed of enactment.

The necessity for this remedial legislation appears to have been fully presented in the departmental reports on these various bills. It will be observed that this is not a matter of reconveyance, but the conferring of authority to relinquish and quitclaim in order to remove an apparent cloud cast upon their titles by applicants who sought exchange under the provisions of the said act of June 4, 1897, in accordance with the rule adopted for its administration. In view of the long delay in this matter, the early enactment of this remedial legislation is earnestly hoped for.

By letter of even date I have forwarded a similar communication and recommendation to the chairman of the Committee on Public Lands and Surveys, United States Senate.

Sincerely,

E. C. FINNEY, *Acting Secretary.*

Mr. RAKER. Mr. Chairman, I wish to be recognized.

The CHAIRMAN. The gentleman from California is recognized.

Mr. RAKER. Mr. Chairman and gentlemen of the committee, I am not going to take more than a few moments on this bill. I think a little explanation in addition to what the chairman has made should be forthcoming from the other side of the House. A very unjust statement was made by the gentleman from Wisconsin [Mr. STAFFORD]—I know he did not intend to make it—that this was slipped in by the land interests of the West; that is, this amendment, as a rider on the sundry civil bill. Now, if the gentleman will give me his time and attention and will look up the history of that matter, he will find it was the railroads and railroad interests of the East that had western lands to dispose of that got this rider through. That is the situation. And that great scandal was perpetrated under that rider. Everybody knows the facts. We have been trying to get away from it. Both of the departments have recommended this bill. There was before the committee a list—I thought I would be able to get it; I think the gentleman from Idaho [Mr. SMITH] had it, but I have not—showing the claimants that would be affected by this bill. My recollection is that they are practically all large claimants, at least a greater part of them, and I think possibly railroad claimants.

Mr. SMITH of Idaho. I have the list to which the gentleman makes reference, and I am glad to furnish it to him. Some of the tracts are as small as 20 acres.

Mr. RAKER. This has been pending for many years, this same legislation—since December 5, 1906. They have not been able to get it through until this time. Here is one of the Aztec Land & Cattle Co., 2,586 acres, and another tract of 1,000 acres, and another of 4,000, and another of 1,000, and the Northern Pacific Railroad has one of 3,110. But the real truth of the matter is that these people attempted to comply with the law, and deeded to the Government worthless land, most all of it, to get valuable land from the Government—not mineral, as was talked about, but timberland—that to-day is worth from $1,000 to $3,000 a claim. Some of it is worth $1,000 an acre. And they turned over absolutely worthless land. You can ride along the Southern Pacific Railroad in Arizona or New Mexico and you will see that a grasshopper can not live on the land.

Mr. SMITH of Idaho. Assuming the land is worthless, and I do not think the gentleman knows anything about it——

Mr. RAKER. I decline to yield.

Mr. SMITH of Idaho. These people want to get back the "worthless" land in their own name.

Mr. RAKER. I do not consent to the statement going in, because I did not yield. I have gone over a lot of this land that was transferred in Arizona and New Mexico, and I know what I say—that it is absolutely worthless and not worth paying taxes on. Everybody knows that to be a fact, and there is no need to discuss it. There are hundreds of thousands of acres of worthless brush land that would not support a jack rabbit that were turned over to the Government for virgin timberland in the States of Washington, Oregon, and California. Now, these people took a chance. I am going to just show what the situation is. The House wants to know. There is no need to cover it up at all. These people transferred the land to the Government and tried to get this valuable land and failed.

Mr. SMITH of Idaho. Nobody denies that. Everybody who knows about the history of this legislation admits it. What they want to-day is to get back this "worthless" land in their own name.

Mr. RAKER. Now, in addition to what has been said, let me call your attention to this. From 1905 down to the present time all the claims that have been rejected—do not forget that; I want the gentleman to listen to that, too; he has not explained it, and I do not think he will—all the land that has been finally rejected these parties are going to get back—the land that they ought to have, are they not?

Mr. SMITH of Idaho. That is the purpose of the bill, the actual land which they deeded to the Government in the process of exchange, when the lieu land law was repealed.

Mr. RAKER. And it has cost this Government thousands and thousands of dollars. There are some cases pending yet. They have used every method known to human ingenuity, where money could be used and brains and experience could be employed, to get land from the Government for this sage land down in Arizona and New Mexico in exchange for timber land, by this bill. Every time they lose a case they are going to get back their land. Anybody would like to come to Congress and get that. But the departments want it and insist on it, and have been reporting here in the neighborhood of 15 years, and this is the first time that a proposition has been gotten out of the committee to give them back their land. And there will be no doubt in anybody's mind who will investigate it. They will find all these cases were cases where the department decided against them. But they are tainted. These land transactions are practically all tainted. The department says that while they were tainted during the long space of time, this taint has sort of dried up, and they have been appealing to the department so long since to get rid of them they want authority to deed them back this land.

Mr. BOX. The deed also provides that they shall recover their lands, and if that can not be done they receive timber with their lands?

Mr. RAKER. Yes.

Mr. BOX. Now, can not the bill be so amended that they can receive the land they have turned over to the Government without the Government being under obligation?

Mr. RAKER. This is the condition: Some of this land has been approved by the Government for various stations, and so

forth. They have gotten out of paying taxes on it for 15 years. Now, of course, the Government in certain instances——

Mr. SINNOTT. What authority has the gentleman for stating that? A number of these parties had disclaimers from the Federal Government and they have been paying the taxes.

Mr. RAKER. Where there is no disclaimer, where the title is in the Government, it is not assessed to the individual, because he does not have anything. That is the case in my State and in the gentleman's. The gentleman knows that.

Mr. SINNOTT. That was gone into in one of the Land Office decisions, and even though the record title was in the Government, they made the individual make a showing that he had paid the taxes to date, holding that while the legal title, the title of record, was in the Government, the equitable title was in the grantor, and therefore he was compelled to pay the taxes.

Mr. RAKER. Yes. That is dealing with the Government. But they will not have to pay back taxes that have been assessed upon them in getting back the title from the Government in this case.

Mr. SINNOTT. It all depends on the law of the particular State.

Mr. RAKER. I assume that the laws elsewhere are the same as to paying taxes as in the State of California, and you will not assess it on the man whose title appears of record.

I was discussing this matter, gentlemen, not for the purpose of criticism but to show you the situation. It was a bad mess. The people gave away this property, this mineral and timber land, and these sharks, a few of them, got left.

Mr. BOX. Mr. Chairman, will the gentleman yield

Mr. RAKER. I yield to the gentleman from Texas.

Mr. BOX. I want to ask the gentleman what will be done with reference to the exchange of land that has been improved? As I understand it, the bill provides that they may get outside land of equal value. Now, suppose the land has been improved, as stated by the gentleman. Will the former owners now receive outside land or timber of equal value to those lands, since they have been improved?

Mr. RAKER. There is nothing in the bill that designates the time when the value shall be assessed. Is there, Mr. Chairman?

Mr. SINNOTT. No. There have been improvements made by the Forest Service for ranger stations—a barn and a building where a ranger may reside. The matter will be up to the Secretary of the Interior and the Secretary of Agriculture to adjust the value with the alien owner.

Mr. CLARKE of New York. Mr. Chairman, will the gentleman yield?

Mr. RAKER. Yes.

Mr. CLARKE of New York. Who determines the value?

Mr. RAKER. The Secretary of Agriculture and the Secretary of the Interior.

I trust the House will understand my position in this matter. It is a bad mess. These people got into it. Ordinarily, you ought not to relieve them; you did not relieve them. Some people went in good faith under the act as it was provided when this act was repealed, and everybody who should have received protection was protected. Other cases were left over. But the department has selected these cases where this relief ought to be had, and notwithstanding all of the slime and all of the mud that they have had around them, and notwithstanding all the injustice that some of them tried to perpetrate upon the Government, possibly these people can be selected out from among them, and, as the department says, it is better to square up the situation than to let it continue.

Mr. SMITH of Idaho. Mr. Chairman, will the gentleman yield?

Mr. RAKER. Certainly, I do.

Mr. SMITH of Idaho. Then we are to infer that the gentleman from California is, after all, in favor of this legislation?

Mr. RAKER. Under all the circumstances and conditions as presented in the past we can not remedy the whole situation, but this requires good faith, although if you would look into each case you would find that under the law they were forfeited, and possibly justly forfeited. But the Secretary of the Interior believes that the department ought to treat these parties fairly and give them a chance to investigate and, as to the parties who acted in good faith, deed back the land. The way to do business is to clear up a bad mess like that rather than to let it stand. The House wants to know what we are doing. We have nothing to cover up. We want the House to know at all times that we desire to have legislation investigated and that at no time will legislation be reported by the Committee on Public Lands which includes such legislation as was brought in in the year 1895.

Mr. SMITH of Idaho. Does the gentleman want to leave the impression that the Committee on Public Lands has not treated the House fairly and honestly and is not earnestly endeavoring to furnish full and complete information as to the entire history of the operation of the lieu land law?

Mr. RAKER. Not at all; and the gentleman from Idaho is well aware of that fact, and it is quite out of place for him to make any such suggestion. He knows better, surely. That idea could not be conveyed by what I said. I said the members of the present Committee on the Public Lands are trying to do their duty. They have got some old stuff to do over, stuff that almost smells when you are going near it on account of the things around it and associated with it. This was bad stuff when it started, but we want to give the department a chance to clean it up; and we believe that the committee has investigated it enough, although, as I say, it was bad stuff to start with, and we believe the lands ought to be redeeded back to the people instead of being held by the Government. I think that ought to be quite clear.

No one can say the Committee on the Public Lands has not fully and fairly done its duty. The House at all times is fully informed.

The committee and the House is to be congratulated in having as the chairman of this important committee my friend and colleague and near neighbor, Mr. SINNOTT, of Oregon. He is a safe man at the helm, but I find now and then he will differ with me. I admire him none the less for that.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted, etc., That where any person or persons in good faith relinquished to the United States lands in a national forest as a basis for a lieu selection under the act of June 4, 1897 (30 Stat. L., pp. 11, 36), and failed to get their lieu selections of record prior to the passage of the act of March 3, 1905 (33 Stat. L., p. 1264), or whose lieu selections, though duly filed, are finally rejected, the Commissioner of the General Land Office is hereby authorized to relinquish and quitclaim to such person or persons, their heirs or assigns, all title to such lands which the respective relinquishments of such person or persons may have vested in the United States: *Provided*, That such person or persons, their heirs or assigns, shall, within five years after the date of this act, make satisfactory proof of the relinquishment of such lands to the United States by submitting to the Commissioner of the General Land Office an abstract of title to such lands showing relinquishment of the same to the United States, which abstract or abstracts shall be retained in the files of the General Land Office.

With a committee amendment, as follows:

On page 1, line 10, after the word "rejected," insert "the Secretary of the Interior, with the approval of the Secretary of Agriculture, upon application of such person or persons, their heirs or assigns, is authorized to accept title to such of the base lands as are desirable for national-forest purposes, which lands shall thereupon become parts of the nearest national forest, and, in exchange therefor, may issue patent for not to exceed an equal value of national-forest land, unoccupied, surveyed, and nonmineral in character, or the Secretary of Agriculture may authorize the grantor to cut and remove an equal value of timber within the national forest of the same State. Where an exchange can not be agreed upon."

Mr. WALSH. Mr. Chairman, I was unable to hear the chairman's explanation of this measure, with the proposed amendment. What is "base" land, as referred to in the amendment? What is the definition?

Mr. SINNOTT. That is the land upon which you base your selection. For instance, if I have 160 acres of land, I deed that to the Federal Government, and that is the base land. The other land is the selected land.

Mr. WALSH. Is that term used except in these instances, as provided in this bill, or is that a new definition?

Mr. SINNOTT. It is used in the Land Department, and when a State makes a selection of land.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 2. That if it shall appear that any of the lands relinquished to the United States for the purpose stated in the preceding section have been disposed of or appropriated to a public use, other than the general purposes for which the forest reserve within the bounds of which they are situate was created, such lands shall not be relinquished and quitclaimed as provided therein, unless the head of the department having jurisdiction over the lands shall consent to such relinquishment; and if he shall fail to so consent, or if any of the lands so relinquished have been otherwise disposed of by the United States, other surveyed, nonmineral, unoccupied, unreserved public lands of approximately equal area and value may be selected and patented in lieu of the lands so appropriated or disposed of in the manner and subject to the terms and conditions prescribed by said act of June 4, 1897, and the regulations issued thereunder: *Provided*, That applications to make such lieu selections must be filed in the General Land Office within three years after the date of this act.

Mr. WALSH. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Massachusetts moves to strike out the last word.

Mr. WALSH. I notice in lines 4 and 5, of page 3, it says "unless the head of the department having jurisdiction over the land shall consent to such relinquishment." To whom do the words "head of the department" refer?

Mr. SINNOTT. They refer either to the Secretary of Agriculture, who has jurisdiction over the national forests, or to the Secretary of the Interior, who has jurisdiction over the public lands.

In one case the boundaries of the forest were changed and the lands were eliminated from the forest, and were made public lands within the jurisdiction of the Secretary of the Interior.

Mr. WALSH. I think it is customary to refer to the heads of departments by their proper titles. I do not think we simply call the secretary of an executive department the head of that department. I wondered if this language was not capable of being interpreted to include the head of some branch of the Department of Agriculture or some office in the Department of the Interior.

Mr. SINNOTT. I think it would refer only to the Secretary as the head of the department. He is the supreme head of the department.

Mr. WALSH. The President is the supreme head of the department.

Mr. SINNOTT. Mr. Chairman, I move that the committee do now rise and report the bill to the House with the amendments, with the recommendation that the amendments be agreed to and that the bill do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. SANDERS of Indiana, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee having had under consideration the bill (H. R. 8119) for the relief of certain persons, their heirs or assigns, who heretofore relinquished lands inside national forests to the United States, had directed him to report the same back to the House with amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. SINNOTT. Mr. Speaker, I move the previous question on the bill and all amendments to the final passage.

The previous question was ordered.

The SPEAKER. The question is on the amendments.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill as amended was ordered to be engrossed and read a third time, and was accordingly read the third time, and passed.

On motion of Mr. SINNOTT, a motion to reconsider the vote by which the bill was passed was laid on the table.

CERTAIN LANDS IN ARKANSAS.

Mr. SINNOTT. Mr. Speaker, by direction of the Committee on the Public Lands I call up H. R. 6863.

Mr. BLANTON. Mr. Speaker, I make the point of order that there is no quorum present.

Mr. SINNOTT. I hope the gentleman will not make that point at this time.

Mr. BLANTON. How many more of these bills have we?

Mr. SINNOTT. We have enough to run to-day and next Wednesday.

Mr. BLANTON. I withdraw the point.

Mr. SINNOTT. Mr. Speaker, I call up the bill (H. R. 6863) granting to certain claimants the preference right to purchase unappropriated public lands in the State of Arkansas.

The SPEAKER. The gentleman from Oregon by direction of the Committee on the Public Lands calls up H. R. 6863. This bill is on the Union Calendar, and the House automatically resolves itself into the Committee of the Whole House on the state of the Union. The gentleman from Ohio [Mr. FESS] will please take the chair.

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union, with Mr. FESS in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of H. R. 6863, which the Clerk will report.

The bill was read as follows:

Be it enacted, etc., That the Secretary of the Interior, in his judgment and discretion, is hereby authorized to sell, in the manner hereinafter provided, any of those public lands situated in the State of Arkansas which were originally erroneously meandered and shown upon the official plats as water-covered areas, and which are not lawfully appropriated by a qualified settler or entryman claiming under the public land laws.

SEC. 2. That any person who in good faith under color of title or claiming as a riparian owner has, prior to this act, placed valuable improvements upon or reduced to cultivation any of the lands subject to the operation of this act, shall have a preferred right to file in the office of the register and receiver of the United States land office of the district in which the lands are situated, an application to purchase the lands thus improved by them at any time within 90 days from the date of the passage of this act if the lands have been surveyed and plats filed in the United States land office; otherwise within 90 days from the filing of such plats. Every such application must be accompanied with satisfactory proof that the applicant is entitled to such preference right and that the lands which he applies to purchase are not in the legal possession of an adverse claimant.

SEC. 3. That upon the filing of an application to purchase any lands subject to the operation of this act, together with the required proof, the Secretary of the Interior shall cause the lands described in said application to be appraised, said appraisal to be on the basis of the value of such lands at the date of appraisal, exclusive of any increased value resulting from the development or improvement thereof for agricultural purposes by the applicant or his predecessor in interest, but inclusive of the stumpage value of any timber cut or removed by the applicant or his predecessor in interest.

SEC. 4. That an applicant who applies to purchase lands under the provisions of this act, in order to be entitled to receive a patent must within 30 days from receipt of notice of appraisal by the Secretary of the Interior pay to the receiver of the United States land office of the district in which the lands are situated the appraised price of the lands, and thereupon a patent shall issue to said applicant for such lands as the Secretary of the Interior shall determine that such applicant is entitled to purchase under this act. The proceeds derived by the Government from the sale of lands hereinunder shall be covered into the United States Treasury and applied as provided by law for the disposal of the proceeds from the sale of public lands.

SEC. 5. That the Secretary of the Interior is hereby authorized to prescribe all necessary rules and regulations for administering the provisions of this act and determining conflicting claims arising hereunder.

With the following committee amendment:

Page 1, line 10, strike out the word "person" and insert in lieu thereof the words "citizens of the United States."

Mr. SINNOTT. Mr. Chairman, this is a bill to grant relief to a large class of people in the State of Arkansas and to straighten up certain land titles. The author of the bill, the gentleman from Arkansas [Mr. DRIVER], is here and is really more familiar with the matter than I am. Therefore I yield to him whatever time he wishes.

Mr. DRIVER. Mr. Chairman and gentlemen of the committee, the lands involved in this measure are located in the St. Francis Valley of Arkansas along the Mississippi River.

These lands were surveyed between the years 1837 and 1846, certified up and passed to the State of Arkansas according to the construction generally given to the act of September 28, 1850, as passed by the Congress.

The State disposed of these lands. Settlers went into possession, and proceeding on the theory that our State law would obtain, they improved a great many lands that are now known as unsurveyed areas. In the course of the surveys made in the years mentioned certain meanders were established, and the plats disclose unsurveyed areas designated as lakes or sunken lands. All or most of these lakes or sunken lands were evidently the result of the disturbances of the earth known as the New Madrid earthquakes of 1811 and 1812.

As these lands were developed and their value increased—largely through artificial means—the construction of a levee and of drainage canals, questions arose as to the ownership of these unsurveyed areas. This resulted in litigation in our courts, the last case of which is that of Lee Wilson & Co. against the United States, involving the larger of these unsurveyed areas. This litigation resulted in favor of the Government's assertion of title to these lands, and parties occupied the lands with a view to obtaining homestead rights. They have ripened and perfected their rights to homesteads on these larger areas.

At the same time these larger bodies were meandered and designated as lakes, certain small streams in that section were meandered, notably Tyronza River and what is known as Dead Timber Lake, the lands around which were embraced in H. R. 1318, which I introduced in this House on the 11th day of April, 1921, and which was subsequently passed by the House.

When the Public Lands Committee requested the department to make a report on H. R. 1318, the Acting Secretary, Judge Finney, took up this matter of the question of title to the lands along these narrow streams, and suggested that on account of the enormous amount of trouble imposed upon the department by constant petitions and applications to have surveyed and placed upon the books for entry these narrow bodies of land along these water fronts and small watercourses, he would like to see this proposition of title settled. Now, the owners of the lands bordering on these streams, the riparian owners, have also petitioned the department for a survey of these particular lands; but on account of the fact that these areas were narrow, and could not possibly create farms out of the small areas bordering on these little rivers and streams, the department refused to take cognizance of the effort to make a controversy over the title and has refused the petitions that have been presented to it.

It leaves these landowners in an attitude of having the lands in possession, having improved them, cultivated them, but with a cloud upon their titles, and no outsider can go on the

lands and obtain a farm, because the land within the meanders would not embrace more than 12 or 15 acres of land to the farm front on such streams, and yet the owners are unable to procure the assistance of the land department to enable them to purchase and acquire the title to the areas within the meander lines of the stream.

I want to say, furthermore, that some portion of the land is largely due to the artificial means the people have provided for reclamation. We have a stream that I am perfectly familiar with in one of the counties, known as Pemiscot Bayou. A drainage canal was constructed down the bayou, rather shallow but wide, and that confined the waters in the bayou to a very narrow space, with the result that the lands on each side became highland and valuable land for farming purposes but so narrow that no one man could make a farm out of all the unsurveyed land on that particular stream.

So the owners of these riparian lands are entitled to some consideration at the hands of the department. They ought to be permitted to acquire the title to the land. The other man can not afford to obtain it, and yet they are unable to get the benefit of the improvements they have placed on the land.

At the suggestion of the Secretary of the Interior, I have prepared a general bill and presented it to this body, and the Secretary has presented a report approving the purpose of the bill. He recommends one provision, which I have accepted, that makes a departure in the usual rule of these cases, that instead of paying a certain price per acre that the land be appraised, the improvements by riparian owners be eliminated, and there be included the timber, the value of which the riparian owners have availed themselves of. I discussed the matter with the parties interested and they have agreed to accept that provision in the bill.

Mr. BANKHEAD. Will the gentleman yield?

Mr. DRIVER. I will.

Mr. BANKHEAD. What method do you propose to effectuate the decision as to the title of the land; what is the procedure?

Mr. DRIVER. On petition of the riparian owners, a survey is to be made, the value of the land to be ascertained by the appraisal and the riparian owner pay the appraised value, that appraised value to include the value of any timber removed, but excluding the value of the improvement placed on the land by the riparian owner.

Mr. BANKHEAD. That would give the riparian owner the exclusive right to obtain a title to these small pieces of land adjacent to his land?

Mr. DRIVER. Yes. But in order to be doubly sure that no area large enough to provide a farm for a bona fide homestead claimant be included there is a provision in the bill that it will not affect any actual claimant under the homestead law.

Mr. WALSH. Will the gentleman yield?

Mr. DRIVER. Yes.

Mr. WALSH. I noticed in the letter from the Secretary he makes the statement that numerous protests against the enactment of any legislation that will grant a preference right to riparian claimants are being received. Does the gentleman know upon what those protests are based?

Mr. DRIVER. Yes.

Mr. WALSH. Upon what are they based?

Mr. DRIVER. On the theory that possibly some of the area on which homestead claimants have entered and to which title has not been determined are anxious that their rights be guarded.

Mr. WALSH. Does the gentleman feel that under this bill their rights are protected?

Mr. DRIVER. Yes; and if they are not I would be glad to have the gentleman suggest language that would do so. I will read the exact language of the bill in that regard:

> Every such application must be accompanied with satisfactory proof that the applicant is entitled to such preference right and that the lands which he applies to purchase are not in the legal possession of an adverse claimant.

I want to say further in that connection that in some instances in larger areas where parties have entered on the land there are some contests between claimants for homestead rights. Possibly in some instances these contests have not yet been determined. This bill was drawn with the view to fully protect the claimants against any interference with these contests and against any possibility of disturbing an occupant of these lands who is seeking a homestead.

Mr. WALSH. What would be the status of a claimant who might be in an actual possession of the land whose claim might be pending but had not been finally passed upon? Under the language the gentleman has read he could not show that the riparian owner might not be able to show that the land was not in the legal possession of the adverse claimant.

Mr. DRIVER. The language does not interfere with the full protection of the man on the land, the man in actual possession.

Mr. WALSH. Mr. Chairman, does this language meet the objections of the parties filing protests?

Mr. DRIVER. Yes. I will state further to the gentleman and to this body that before I would permit the bill to be called up in the committee I personally obtained the names of the attorneys representing the parties in the litigation over these unsurveyed areas and notified them that the bill had been referred to the committee, and assured them that I would be glad to arrange for any day they cared to be heard upon the bill.

Mr. BANKHEAD. Mr. Chairman, will the gentleman yield?

Mr. DRIVER. Yes.

Mr. BANKHEAD. If the title to these narrow strips is not in the Government, in whom does it lie?

Mr. DRIVER. It is in the riparian owner.

Mr. BANKHEAD. The legal title is either in the Government or in the riparian owner?

Mr. DRIVER. Yes; beyond question; and that was decided by our supreme court in the case of Little against Williams, which case originated in Mississippi County, and in which it was held that under no theory of the law could title be other than in the United States Government or in the riparian owner. Under the construction our State court has given to the law, the landowner fronting on nonnavigable waters has the title extending to the thread of the stream. That gives him title in these cases except against the United States, because none of these waters here are navigable waters either technically or as a matter of fact.

Mr. BANKHEAD. Then, as against the riparian owner the only adverse claimant could be the United States Government.

Mr. DRIVER. That is correct.

Mr. BANKHEAD. And these protests that are being filed by outsiders, I imagine, under that construction have no foundation.

Mr. DRIVER. I will say that the protests filed were upon the theory that in these other areas where the title has been determined by litigation the parties were anxious to preserve the rights to those lands, and in order that we may wipe out any possibility of those lands being involved in this measure we have used the language employed here.

Mr. BANKHEAD. I think that statement clarifies it very much.

Mr. STAFFORD. Mr. Chairman, will the gentleman yield?

Mr. DRIVER. Yes.

Mr. STAFFORD. The only question I have in mind in considering the bill is whether it prescribes sufficient time to allow people interested to avail themselves of its privileges. In section 4 the time is limited when they must pay for the appraised value to 30 days from the receipt of the notice of the appraisal. In section 2 we limit availing the privilege of this act to 90 days after the passage of the act. May it not be that quite a number of such persons interested may not know of the act until several months from now, and should not the time be extended so that they will really have the full opportunity to take advantage of the act?

Mr. DRIVER. I think some additional time there might give guaranty to some very few people, but from the information I have I am convinced that practically all of the owners of those riparian lands have petitioned already for this relief, but on account of the small amount of land involved in each instance they will not be given recognition, and I think from the fact that they appealed to have these surveys made they are all in position where they are ready to avail themselves of whatever benefit may follow from this legislation.

The CHAIRMAN. The Clerk will read the bill for amendment.

The Clerk read as follows:

> SEC. 2. That any person who in good faith under color of title or claiming as a riparian owner has, prior to this act, placed valuable improvements upon or reduced to cultivation any of the lands subject to the operation of this act shall have a preferred right to file in the office of the register and receiver of the United States land office of the district in which the lands are situated an application to purchase the lands thus improved by them at any time within 90 days from the date of the passage of this act if the lands have been surveyed and plats filed in the United States land office; otherwise within 90 days from the filing of such plats. Every such application must be accompanied with satisfactory proof that the applicant is entitled to such preference right and that the lands which he applies to purchase are not in the legal possession of an adverse claimant.

With the following committee amendment:

> Page 1, line 10, strike out the word "person" and insert in lieu thereof the words "citizen of the United States."

The CHAIRMAN. The question is on the amendment.

The amendment was agreed to.

The Clerk concluded the reading of the bill.

Mr. SINNOTT. Mr. Chairman, I move that the committee do now rise and report the bill with the amendment, with the recommendation that the amendment be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly, the committee rose, and the Speaker having resumed the chair, Mr. FESS, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 6863, granting to certain claimants the preference right to purchase unappropriated public lands in the State of Arkansas, and had directed him to report the same back with an amendment, with the recommendation that the amendment be agreed to, and that the bill as amended do pass.

Mr. SINNOTT. Mr. Speaker, I ask unanimous consent that the Clerk have authority to correct the spelling of the word "hereunder," in line 11, page 3.

The SPEAKER. Is there objection?

There was no objection.

Mr. SINNOTT. Mr. Speaker, I move the previous question on the bill and amendment to final passage.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time and passed.

Mr. BLANTON. Mr. Speaker, I make the point of order that there is no quorum present.

Mr. SINNOTT. Mr. Speaker, I hope the gentleman will withhold that.

Mr. BLANTON. I withdraw the point.

LEAVE OF ABSENCE.

By unanimous consent leave of absence was granted to—

Mr. LEE of New York (at the request of Mr. KLINE of New York), on account of serious illness in his family.

RESIGNATION FROM A COMMITTEE.

The SPEAKER laid before the House the following communication:

To the honorable the SPEAKER OF THE HOUSE OF REPRESENTATIVES:

I hereby respectfully resign membership on Committee on Elections No. 2.

H. S. WARD.

The SPEAKER. Without objection the resignation is accepted.

There was no objection.

CONSOLIDATION OF FOREST LANDS, NEW MEXICO.

Mr. SINNOTT. Mr. Speaker, I call up the bill S. 920, for the consolidation of forest lands in or near national forests, New Mexico, and for other purposes.

Mr. WALSH. Mr. Speaker, I make the point of order that there is no quorum present.

Mr. SINNOTT. Will not the gentleman withhold that?

Mr. WALSH. I will not.

ADJOURNMENT.

Mr. SINNOTT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 3 o'clock and 50 minutes p. m.) the House adjourned until to-morrow, Thursday, October 20, 1921, at 12 o'clock noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. FOCHT, from the Committee on the District of Columbia, to which was referred the bill (S. 2108) prohibiting the interment of the body of any person in the cemetery known as the Cemetery of White's Tabernacle, No. 39, of the Ancient United Order of Sons and Daughters, Brethren, and Sisters of Moses, in the District of Columbia, reported the same without amendment, accompanied by a report (No. 415), which said bill and report were referred to the House Calendar.

He also, from the same committee, to which was referred the bill (S. 813) to authorize the Commissioners of the District of Columbia to close upper Water Street, between Twenty-first and Twenty-second Streets NW., reported the same without amendment, accompanied by a report (No. 416), which said bill and report were referred to the House Calendar.

Mr. LAMPERT, from the Committee on the District of Columbia, to which was referred the bill (S. 1066) to authorize the Commissioners of the District of Columbia to close Piney Branch Road, between Seventeenth and Taylor Streets and Sixteenth and Allison Streets NW., rendered useless or unnecessary by reason of the opening and extension of streets called for in the permanent highway plan of the District of Columbia, reported the same without amendment, accompanied by a report (No. 417), which said bill and report were referred to the House Calendar.

Mr. VOLSTEAD, from the Committee on the Judiciary, to which was referred the bill (H. R. 7428) to amend section 1 of an act entitled "An act to incorporate Gonzaga College, in the city of Washington and District of Columbia," reported the same with an amendment, accompanied by a report (No. 418), which said bill and report were referred to the House Calendar.

Mr. HUDDLESTON, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 8477) to authorize the State road department of the State of Florida to construct and maintain a bridge across the Choctawhatchee River near Caryville, Fla., reported the same with amendments, accompanied by a report (No. 419), which said bill and report were referred to the House Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the Committee on Invalid Pensions was discharged from the consideration of the bill (H. R. 8759) granting an increase of pension to William A. Downs, and the same was referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. FORDNEY: A bill (H. R. 8762) to create a commission authorized under certain conditions to refund or convert obligations of foreign Governments owing to the United States of America, and for other purposes; to the Committee on Ways and Means.

By Mr. CLARK of Florida: A bill (H. R. 8763) validating and confirming a certain indemnity school-land selection of the State of Florida; to the Committee on the Public Lands.

By Mr. HUDDLESTON: A bill (H. R. 8764) to further amend the war risk insurance act by adding section 316, a new section, thereto; to the Committee on Interstate and Foreign Commerce.

By Mr. SMITHWICK: A bill (H. R. 8765) to provide for the investment of postal savings in Federal farm-loan bonds; to the Committee on the Post Office and Post Roads.

By Mr. O'BRIEN: Joint resolution (H. J. Res. 208) appropriating $50,000 to maintain order in the District of Columbia during the period covering the international conference for the limitation of armament, to be held in the District of Columbia beginning on the 11th day of November, 1921, and for other purposes; to the Committee on Appropriations.

Also, joint resolution (H. J. Res. 209) authorizing the Secretary of War to grant permits to citizens' committee of the District of Columbia in connection with the reception and ceremonies attending the international conference for the limitation of armament, and for other purposes; to the Committee on the District of Columbia.

By Mr. IRELAND: Resolution (H. Res. 203) providing for offices for the Committee on Foreign Affairs, additional offices for the Committee on Appropriations, the file clerks, and for other purposes; to the Committee on Accounts.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BOIES: A bill (H. R. 8766) granting a pension to Amelia D. Comstock; to the Committee on Invalid Pensions.

By Mr. BULWINKLE: A bill (H. R. 8767) for the relief of F. E. Taylor and B. C. Broom; to the Committee on Claims.

By Mr. CHRISTOPHERSON: A bill (H. R. 8768) for the relief of Fred N. Dunham; to the Committee on Claims.

By Mr. FOSTER: A bill (H. R. 8769) for the relief of William Howe; to the Committee on Military Affairs.

Also, a bill (H. R. 8770) granting a pension to America Soles; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8771) granting an increase of pension to Nancy Holland; to the Committee on Invalid Pensions.

By Mr. GERNERD: A bill (H. R. 8772) granting a pension to Paula E. Nyce; to the Committee on Invalid Pensions.

By Mr. GOULD: A bill (H. R. 8773) granting a pension to Elizabeth Quimby; to the Committee on Invalid Pensions.

By Mr. KENNEDY: A bill (H. R. 8774) granting an increase of pension to Marcel H. Poirier; to the Committee on Pensions.

By Mr. MOORE of Illinois: A bill (H. R. 8775) granting a pension to Mrs. William O. Westbay; to the Committee on Invalid Pensions.

By Mr. REECE: A bill (H. R. 8776) granting a pension to Kittie M. Hagan; to the Committee on Invalid Pensions.

By Mr. ROBSION: A bill (H. R. 8777) granting an increase of pension to Lee B. Farmer; to the Committee on Pensions.

Also, a bill (H. R. 8778) granting a pension to Cassie Belle Davis; to the Committee on Invalid Pensions.

By Mr. SANDERS of Indiana: A bill (H. R. 8779) granting a pension to Abigail M. Laughlin; to the Committee on Invalid Pensions.

By Mr. TOWNER: A bill (H. R. 8780) granting a pension to Rebecca S. Wilson; to the Committee on Invalid Pensions.

By Mr. VESTAL: A bill (H. R. 8781) granting a pension to Jane Faunce; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8782) granting a pension to Florence Burton; to the Committee on Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

2766. By Mr. FULLER: Petition of the Rockford (Ill.) Manufacturers and Shippers' Association, relative to transportation rates and wages of railway employees; to the Committee on Interstate and Foreign Commerce.

2767. By Mr. GERNERD: Papers in support of House bill 8772, granting a pension to Paula E. Nyce; to the Committee on Invalid Pensions.

2768. By Mr. GREEN of Iowa: Resolution adopted by the First Danish Baptist Church of Harlan, Iowa, by Rev. J. A. Jensen, favoring House joint resolution 159, for a constitutional amendment prohibiting sectarian appropriations; to the Committee on the Judiciary.

2769. Also, petition of citizens of Cass County, Iowa, favoring House joint resolution 131, for a constitutional amendment forbidding polygamy and polygamous cohabitation in the United States; to the Committee on the Judiciary.

2770. By Mr. KISSEL: Petition of the Edward Ermold Co., of New York City; to the Committee on Ways and Means.

2771. By Mr. LINTHICUM: Petition of Alfred Mullikin, of Albany, N. Y., favoring the passage of House bill 7541; to the Committee on Interstate and Foreign Commerce.

2772. Also, telegrams from the James R. Armiger Co., A. Horvat, A. G. Schultz, the Stieff Co., Philip Schlarb, McFarland & Son, Wm. Knabe & Co., John R. Kôrb, S. Judson Mealy, Jenkins Son Co., Eska Manufacturing Co., Carl Schon, and John Tshantre, all of Baltimore, Md., favoring repeal of excise and luxury taxes; to the Committee on Ways and Means.

2773. Also, petitions of business firms of Baltimore, Md., as follows: The Varsity Underwear Co., W. H. Maltbie, and Rice & Hutchins, favoring recommendation of the United States Chamber of Commerce in connection with national tax legislation; Connelly & Constance, opposing proposed tax on carpets; William Numsen & Sons, favoring simpler and more equitable taxation; and Coggins & Owens, opposing import tariff of more than 1 cent per pound on sugar; to the Committee on Ways and Means.

2774. Also, petition of S. M. Shoemaker, of Eccleston, Md., favoring emergency appropriation for carrying on work of eradicating bovine tuberculosis; to the Committee on Agriculture.

2775. By Mr. STINESS: Memorial of the Rhode Island State Sunday School Association, indorsing the Sterling-Towner bill; to the Committee on Education.

2776. By Mr. WARD of North Carolina: Memorial of certain citizens of Washington, N. C., in behalf of Armenian relief; to the Committee on Foreign Affairs.

2777. Also, resolutions of the Pitt County (N. C.) Chamber of Commerce, supporting the Bankhead bill for improvement of overflow swamp lands; to the Committee on Irrigation of Arid Lands.

SENATE.

THURSDAY, *October 20, 1921.*

The Senate met at 11 o'clock a. m.

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

Our Father, we thank Thee for the love that will not let us go, for the forbearance, the patience, and the constant regard to our highest welfare. Help us so to respond to that love that with increased devotion to the highest interests of our land, our home, of Thine own worthy kingdom, we may prove ourselves grateful in deed. We ask in Jesus Christ's name. Amen.

The reading clerk proceeded to read the Journal of the proceedings of the legislative day of Friday, October 14, 1921, when, on request of Mr. LODGE and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhue, its enrolling clerk, announced that the House had passed the bill (S. 71) for the consolidation of the offices of register and receiver in district land offices in certain cases, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed bills of the following titles, in which it requested the concurrence of the Senate:

H. R. 6863. An act granting to certain claimants the preference right to purchase unappropriated public lands in the State of Arkansas; and

H. R. 8119. An act for the relief of certain persons, their heirs or assigns, who heretofore relinquished lands inside national forests to the United States.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (S. 2504) providing for the readmission of certain deficient midshipmen to the United States Naval Academy, and it was thereupon signed by the Vice President.

CALL OF THE ROLL.

Mr. LODGE. Mr. President, I make the point of no quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Glass	McKinley	Shortridge
Ball	Gooding	McLean	Simmons
Borah	Hale	McNary	Smoot
Calder	Harreld	Moses	Spencer
Cameron	Harris	Myers	Stanley
Capper	Heflin	Nelson	Sterling
Caraway	Johnson	New	Sutherland
Culberson	Jones, N. Mex.	Newberry	Swanson
Cummins	Kellogg	Norbeck	Townsend
Curtis	Kendrick	Oddie	Trammell
Dial	Kenyon	Overman	Underwood
Dillingham	Keyes	Page	Wadsworth
du Pont	King	Penrose	Walsh, Mass.
Edge	La Follette	Pittman	Watson, Ga.
Ernst	Lenroot	Poindexter	Weller
Fletcher	Lodge	Pomerene	Williams
France	McCormick	Ransdell	Willis
Frelinghuysen	McCumber	Sheppard	
Gerry	McKellar	Shields	

The VICE PRESIDENT. Seventy-four Senators having answered to their names, a quorum is present.

DEATH OF SENATOR KNOX.

The VICE PRESIDENT laid before the Senate a letter from the Acting Secretary of State, transmitting copy of a note from the chargé d'affaires of Italy at this Capital, communicating, on the part of the Royal Italian ambassador, now in Italy, and of the personnel of the Italian Embassy in this city, an expression of their sympathy on the death of Senator KNOX, which was ordered to lie on the table and to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, October 19, 1921.

The Hon. CALVIN COOLIDGE,
Vice President of the United States,
United States Senate.

SIR: At the request of the chargé d'affaires ad interim of Italy at this Capital, I have the honor to inclose a copy of his note, communicating, on the part of the Royal Italian ambassador, now in Italy,

and of the personnel of the Italian Embassy in this city, an expression of their most sincere and heartfelt sympathy in view of the death of Senator PHILANDER C. KNOX.

Due acknowledgment has been made of the Italian chargé's note.

I have the honor to be, sir, your obedient servant,

HENRY P. FLETCHER,
Acting Secretary.

(Inclosure: From Italian chargé, October 14, 1921.)

REGIA AMBASCIATA D'ITALIA,
Washington, D. C., October 14, 1921.

His Excellency the Hon. CHARLES E. HUGHES,
Secretary of State, Washington, D. C.

Mr. SECRETARY OF STATE: Acting under telegraphic instructions of His Excellency Senator Rolandi Ricci, amabassador of Italy, I have the honor to ask you to express in his name and in that of the personnel of the Italian Embassy in Washington to the President of the United States Senate sincere and most heartfelt feelings of sympathy for the unexpected loss of the statesman, the distinguished political leader, and the patriotic and eminent citizen, the late United States Senator PHILANDER C. KNOX.

I am sure to interpret at the same time the feelings of the Italian Government in assuring your excellency that it most deeply shares with your Government in mourning for his premature end.

With assurances of my highest consideration,

I have the honor to remain,

SABETTA,
Chargé d'Affaires of Italy.

REGISTERS AND RECEIVERS OF LAND OFFICES.

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 71) for the consolidation of the offices of register and receiver in district land offices in certain cases, and for other purposes.

The amendments were, on page 1, line 8, after "such," to insert "register and"; on page 1, line 8, to strike out all after "whenever" down to and including "receiver," in line 10, and to insert "the total compensation for both register and receiver of such land office shall fall below the sum of $4,000 per annum"; on page 2, line 1, after "register," to insert "so appointed"; on page 2, after line 5, to insert:

SEC. 2. That in case of a vacancy in the office of register by reason of death, resignation, or removal, or in case of inability to act, the Secretary of the Interior may designate for the period of such vacancy or inability to act the chief clerk of such office, or any other qualified employee of the Department of the Interior to act as register, subject to the filing of such bond or bonds as the Secretary of the Interior may prescribe, and the same authority is conferred upon the person so designated which such register lawfully possesses, except that no contest or protest shall be decided or disposed of by such clerk or employee, but all such decisions shall be deferred until the appointment or return of the register.

Mr. McCUMBER. I move that the Senate concur in the House amendments.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. SHEPPARD. Mr. President, some days ago the Senator from Kentucky [Mr. STANLEY] presented a petition from certain citizens of Dallas, Tex., in favor of the Stanley amendment to the so-called antibeer bill. I send to the desk a petition of over 600 voters of Dallas, Tex., against the Stanley amendment and in favor of the passage of the bill without that amendment. I ask that it may lie on the table.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. SHIELDS. I present sundry memorials signed by citizens of Memphis and Nashville, Tenn., opposing the so-called compulsory Sunday observance bills now pending before Congress, which I ask may be referred to the Committee on the District of Columbia.

The VICE PRESIDENT. The memorials will be so referred.

Mr. CAPPER presented a resolution adopted by sundry druggists of Atchison, Kans., protesting against the imposition of certain proposed taxes on alcohol, toilet articles, soft drinks, etc., which was ordered to lie on the table.

Mr. McCUMBER (for Mr. LADD) presented a resolution of sundry members of the Romness Women's Nonpartisan League Club, No. 82, of North Dakota, favoring the calling of the international disarmament conference and protesting against any further increase of appropriations for future military purposes pending such conference, which was referred to the Committee on Foreign Relations.

Mr. CAMERON presented a resolution adopted by the Third Arizona Department Convention, American Legion, at Prescott, Ariz., August 8 to 10, 1921, favoring the purchase by the United States of about 80,000 acres of land approximately 65 miles southwest of Phoenix, Ariz., along the Gila River, on account of its proximity to natural hot mineral springs located at Agua Caliente, Ariz., for the benefit of disabled ex-service men, which was referred to the Committee on Public Lands and Surveys.

He also presented a resolution adopted by the Third Arizona Department Convention, American Legion, at Prescott, Ariz., August 8 to 10, 1921, favoring confirmation of the payment to ex-service men already made under regulation No. 57 (sec. B-4-C) of war risk regulation, and the enactment of legislation providing insurance benefits to ex-service men holding Government insurance policies during such time as they may be receiving treatment in Government-controlled hospitals for wounds received or disabilities incurred in active service or who are unable to pursue any gainful occupation permanently as a result of wounds received or disabilities incurred while in active service, which was referred to the Committee on Finance.

He also presented a resolution adopted by the Third Arizona Department Convention, American Legion, at Prescott, Ariz., August 8 to 10, 1921, favoring the enactment of legislation granting adjusted compensation to veterans of the World War, which was referred to the Committee on Finance.

He also presented a resolution adopted by the Third Arizona Department Convention, American Legion, at Prescott, Ariz., August 8 to 10, 1921, favoring the early opening of such portions of the San Carlos Indian Reservation, Gila County, Ariz., as are not necessary to support the Indians, for settlement by ex-service men, which was referred to the Committee on Indian Affairs.

He also presented a resolution adopted by the Third Arizona Department Convention, American Legion, at Prescott, Ariz., August 8 to 10, 1921, favoring the enactment of the so-called Kenyon-Fess bill providing vocational training for certain ex-service men, their widows, orphans, etc., which was referred to the Committee on Education and Labor.

OBSERVANCE OF ARMISTICE DAY.

Mr. FLETCHER presented the following communication, with accompanying resolutions, which were read and referred to the Committee on Foreign Relations:

STEPHEN N. GLADWIN POST, No. 40,
Fort Pierce, Fla., October 15, 1921.

Hon. DUNCAN U. FLETCHER,
Washington, D. C.

DEAR SENATOR: Inclosing herewith copy of resolutions unanimously adopted by Stephen N. Gladwin Post, No. 40, American Legion, Wednesday night, and requesting that you have these inserted in the CONGRESSIONAL RECORD or that they be read before the Senate.

Thanking you,

L. J. SULLIVAN, *Adjutant.*

Resolutions adopted by Stephen N. Gladwin Post, No. 40, American Legion, Fort Pierce, Fla., October 12, 1921.

Whereas, according to Associated Press dispatches of October 4, "plans for the solemn ceremonies of armistice day, when the Nation will pay highest honors to its unknown dead of the Great War," are being made by the War Department, providing for the participation in an ostentatious parade of the President, members of his Cabinet, and other Government officials: Therefore be it

Resolved, That Stephen N. Gladwin Post, No. 40, American Legion, of Fort Pierce, Fla., though highly respecting the hallowed memory of those who gave their lives in the service of their country, questions the sincerity and appropriateness of such an affectatious display at a time when the Nation has not kept faith with those whom it seeks thus to honor; when many thousands of disabled are not yet adequately provided for; when 900,000 able-bodied former service men are denied employment by which they may support themselves and those dependent on them, and when all are denied adjusted compensation while other interests are provided for on a profuse scale; be it further

Resolved, That we call on all American Legion posts and all former service men everywhere to convey to the President, to Congress, and to the public at large expressions of sentiment similar to those herein embodied.

PYRAMID LAKE INDIAN RESERVATION LANDS.

Mr. CURTIS, from the Committee on Indian Affairs, to which was referred the bill (S. 225) for the relief of settlers and townsite occupants of certain lands in the Pyramid Lake Indian Reservation, Nev., reported it with an amendment and submitted a report (No. 301) thereon.

ENROLLED JOINT RESOLUTION PRESENTED.

Mr. SUTHERLAND, from the Committee on Enrolled Bills, reported that on the 19th instant they had presented to the President of the United States the enrolled joint resolution (S. J. Res. 123) authorizing the Secretary of War to expend from the appropriation "Disposition of remains of officers, soldiers, and civilian employees, 1922" (act of Mar. 4, 1921, Public No. 389, 66th Cong.), such sum as may be necessary to carry out the provisions of public resolution No. 67, Sixty-sixth Congress.

BRIDGE ACROSS RED RIVER OF THE NORTH.

Mr. SHEPPARD. From the Committee on Commerce I report favorably with amendments the bill (S. 2508) granting the consent of Congress to the counties of Cass, N. Dak., and Clay, Minn., and their successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the Red River of the North at a point suitable to the interests of navigation between the cities of Fargo, N. Dak., and Moorhead, Minn., and I submit a report (No. 300) thereon. I ask unanimous consent for the immediate consideration of the bill.

There being no objection, the Senate as in Committee of the Whole proceeded to consider the bill.

The amendments were in section 1, line 4, after the name "Minnesota," to strike out "and their successors and assigns"; in line 5, after the word "construct," to strike out the comma and "maintain, and operate"; in line 6, after the word "bridge," to strike out "and approaches thereto"; and in line 7, after the word "North," to strike out "at a point suitable to the interests of navigation"; so as to make the bill read:

Be it enacted, etc., That the consent of Congress is hereby granted to the counties of Cass, N. Dak., and Clay, Minn., to construct a bridge across the Red River of the North between the cities of Fargo, N. Dak., and Moorhead, Minn., in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill granting the consent of Congress to the counties of Cass, N. Dak., and Clay, Minn., to construct a bridge across the Red River of the North, between the cities of Fargo, N. Dak., and Moorhead, Minn.

BILLS AND JOINT RESOLUTIONS INTRODUCED.

Bills and joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. McKINLEY:

A bill (S. 2605) granting a pension to Elizabeth Gilmer; to the Committee on Pensions.

By Mr. WALSH of Massachusetts:

A bill (S. 2606) for the relief of George Kluger; to the Committee on Military Affairs.

By Mr. KEYES:

A bill (S. 2607) granting a pension to Mary E. Bassett; to the Committee on Pensions.

By Mr. STERLING:

A bill (S. 2608) granting an increase of pension to William Elliott (with accompanying papers); to the Committee on Pensions.

By Mr. POINDEXTER:

A bill (S. 2609) granting a pension to Mary D. L. Hakes; to the Committee on Pensions.

By Mr. NELSON:

A bill (S. 2610) in reference to writs of error; to the Committee on the Judiciary.

By Mr. ASHURST:

A bill (S. 2611) to relieve unemployment through continuance of construction work on the San Carlos Federal irrigation project in Arizona, and for other purposes; to the Committee on Irrigation and Reclamation.

By Mr. BALL:

A joint resolution (S. J. Res. 128) to provide for the maintenance of public order and the protection of life and property in connection with the ceremonies attending the International Conference for the Limitation of Armament; to the Committee on Appropriations.

A joint resolution (S. J. Res. 129) authorizing the Secretary of War to grant permits to the citizens' committee of the District of Columbia in connection with the ceremonies attending the International Conference for the Limitation of Armament, and for other purposes; to the Committee on Military Affairs.

AMENDMENT OF TAX REVISION BILL.

Mr. SUTHERLAND submitted an amendment intended to be proposed by him to House bill 8245, the tax revision bill, which was ordered to lie on the table and to be printed.

HOUSE BILLS REFERRED.

The following bills were each read twice by title and referred to the Committee on Public Lands and Surveys:

H. R. 6863. An act granting to certain claimants the preference right to purchase unappropriated public lands in the State of Arkansas; and

H. R. 8119. An act for the relief of certain persons, their heirs or assigns, who heretofore relinquished lands inside national forests to the United States.

FEDERAL FARM LOAN SYSTEM.

Mr. KENYON. Mr. President, there has been a great deal of criticism of the present Farm Loan Board. I ask unanimous consent to place in the RECORD a letter from that board explaining its activities, the work it has done, and how it is functioning. I think it is performing a great service.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

TREASURY DEPARTMENT,
FEDERAL FARM LOAN BUREAU,
Washington, October 15, 1921.

DEAR SENATOR KENYON: Conforming to the understanding had at the conclusion of a very pleasant call we received from yourself and your colleagues, Senators HARRIS, of Georgia, and FLETCHER, of Florida, that we submit a memorandum covering the subjects that were generally discussed at the conference, we have the honor to submit:

If we interpreted correctly the purpose of your visit, it was to suggest to us the possibility of placing a greater volume of loans through the farm loan system and to inquire if such a result were not possible.

Allow us first to briefly summarize what the system is doing:

As you are aware, loaning activities were entirely suspended for more than a year because of litigation which cast a cloud upon the validity of farm-loan bonds and rendered their marketing impossible.

Following the favorable decision on February 28 of the present year it was necessary to have new bonds engraved at the Bureau of Engraving and Printing, submitted to the several land banks, and returned to this office before sales could be made. Owing to necessary change in the engraved plates, there was unusual delay in the bureau, and it was May 1 before any of the bonds could be delivered. Within six months from that date we shall have sold and delivered to the public practically $100,000,000 of farm-loan bonds. This is the accomplishment of the system on the side of procuring loanable funds.

On the other side—that is, the making of loans—the Federal land banks, as soon as the successful result of the spring offering was apparent, renewed the taking of applications, beginning the 1st of July the active closing of loans. In July there were closed a total of $9,204,900, in August $12,506,000, and in September $12,407,400. It will therefore be seen that the system is functioning steadily and distributing directly to the farmers at the lowest prevailing rate funds at the rate of $150,000,000 per year, and that it is fortified by the sale of bonds, so that such production can safely be undertaken for the next several months without additional sales.

The question then arises, Is this a reasonable accomplishment, and is it reasonably possible to proceed more rapidly to meet the widespread and insistent demand?

In reply our candid judgment is that the present rate of progress, if steadily maintained, approaches the maximum that can be accomplished without the sacrifices of safety for haste and of continued and permanent upbuilding to immediate expediency. Neither of these sacrifices can, of course, be for a moment contemplated.

Two general factors enter into the reasons for this conclusion. The first is physical capacity. The largest continuous 12 months' transactions by the Federal land banks was $146,000,000. At that time funds were available, applications were in hand, and the banks had been organized nearly three years, and seemed to be working at nearly full capacity; but close observation of their activities at the time convinced the board that they could safely increase their capacity to $150,000,000 a year and that by some readjustment of the system it might be possible to reach an aggregate of $200,000,000 a year with safety.

While it is possible that a given bank may in a single month close $2,000,000 or even $3,000,000 of loans where the applications have been long accumulated, appraisals made, and titles examined in advance—as, to illustrate, in your State applications are now being taken for March 1 closing—we believe the experience of all mortgage concerns will bear out the statement that a single organization which month in and month out throughout the year closes loans of the average size of $3,000 to the extent of $1,000,000 to $1,200,000 a month, at the same time making its collections, looking after taxes, insurance, and all business incidental to its organization, is doing about as much as such an organization could safely undertake.

We are not informed as to the figures at present, but three years ago the Farm Mortgage Bankers' Association of America, which comprised all the leading private mortgage agencies, claimed to have $1,000,000,000 in farm loans on its books. The farm loan system in a little over three years has put one-half as much as the private mortgage agencies had done in their entire existence.

The other question entering in is the supply of funds. From time to time the suggestion has been made, in various forms, of governmental assistance.

Any governmental assistance beyond that now possible under the Curtis-Nelson bill, which contemplated the temporary purchase by the Government of farm-loan bonds, would merely place the system under obligations which would in the near future entirely stop its general operations. Already the Federal Government holds $183,035,000 of farm-loan bonds, which were purchased as a temporary expedient, with the provision that they should be taken up within one year after the ending of the war, upon 30 days' notice from the Secretary of the Treasury.

This means that after March of next year the Secretary of the Treasury may at any time call for the redemption of these bonds. While such action is not anticipated, if such a call were to be made, the effect on the system can readily be seen, and obligations of this nature must not be increased.

If assistance is to come from the Federal Government, there should be no masking of the fact; the Treasury should purchase the bonds and hold them as a permanent investment. This is contrary to the genius of the farm loan act, and is a policy which the board, as anxious as it is to extend service, can not recommend. That, however, is, of course, a question for Congress, and if Congress favors the public policy of using the Federal Treasury to make permanent investments in farm-loan bonds, branch banks could be established to carry on the business as rapidly as the Treasury chose to supply the funds and the public call demanded; but we can not too strongly repeat that such a course is not one which this board believes in or which it can recommend.

Leaving out, then, the question of direct loans from the Treasury, the question arises as to the rapidity with which the investing public will absorb farm-loan bonds. That question has never been fairly tested out, because until the present time we have never been permitted to make two successive sales in a single year, the Treasury heretofore preferring to take the bonds rather than have us make repeated offerings.

Farm loan bonds must not, if the system is to continue, be placed upon the market in such volume as to clog the market and depress the price, for on its narrow margin of operation the Federal farm loan system can not function unless it can sell its bonds at par.

The bonds are offered by public announcement of the Secretary of the Treasury, are for sale by the Federal land banks and the four thousand and odd farm loan associations, in addition to which they are offered by a country-wide group of over 400 bond-distributing houses under the management of six of the best established and most reputable bond houses in the country. We feel that we have behind them a selling organization which in its potentialities has never been excelled. Nearly two months were necessary to dispose of the $40,000,000 offering made May 1. The sale of the present offering of $60,000,000 is progressing very satisfactorily.

We feel warranted in standing by the prediction heretofore made that the public will, for the present at least, absorb these bonds at the rate of $150,000,000 a year, and possibly somewhat in excess of that amount, but we do feel that a single mistake in overloading the market would be a disaster much more far-reaching than any discomfort which can possibly result from the present rate of progress.

Having gone somewhat into detail as to these two essential factors, may we ask you also to consider the following:

The Federal farm loan act, passed in 1916, outlined the general plan, in many respects rather vaguely, leaving much to the discretion of the Farm Loan Board. It did not, contrary to a very general error of belief, put the Government into the farm loan business and provide a fountain from which there should come a continuous and unlimited flow of "Government money" for "Government loans" to farmers.

Instead it provided for a new system—new to this country—of making farm loans and laid upon the Farm Loan Board the mandate to create the organization and introduce to the American farmer the plan of borrowing and to the American investor a security with which he was wholly unfamiliar. That this task has, in a little over three years of loaning activity, been so well accomplished that farm borrowers in every section of the country are anxious to avail themselves of the service, and that the investing public is a willing and apparently steady investor in the bonds at a rate exceeding $150,000,000 a year, should certainly be gratifying to the founders of the system.

Permit us to carry this thought a little further:

In practically three years of active operation the 12 Federal land banks, which because they are mutually underwritten may be treated as a unit, have been built up from $9,000,000 of capital and no assets until on September 30 they had—

Capital of	$26,441,852.50
Reserve of	1,514,500.00
Undivided profits	2,460,766.52
Total assets	419,224,621.08

It has made loans to the amount of $418,506,190 and has collected interest and amortization payments to the amount of $53,067,882.27—and has, to date, taken just one bad-debt loan in the sum of $200.

It is increasing its capital at a rate exceeding $600,000 per month, its surplus at the rate of $200,000 per month, and its gross assets at a rate of more than $13,000,000 per month.

It is now the largest mutual farmers' organization in the world, and if the present rate of progress can be maintained for five years it will be the largest financial institution in the United States.

It is, without meaning to draw any comparison, one Government agency which deals directly with the farmer for his benefit, and it is now loaning directly to farmers in excess of $12,000,000 per month on most liberal terms and at a rate at least 2 per cent per annum cheaper than other agencies.

It has more than 139,000 indirect farmer stockholders, and is paying 3 per cent semiannual dividends on its stock.

We hold our position to be one of sacred trusteeship for these stockholders, for the holders of more than $400,000,000 of Federal farm-loan bonds, who have invested in them largely because we have approved and uttered them in the name of our Government, and for the good faith of Government, which is pledged with every bond issue.

Next to this trusteeship, with its ever-increasing responsibilities, we recognize the duty of so administrating the system as to increase its capacity for service to those who are yet without its benefits, and we feel sure that no genuine friend of the American farmer and no one jealous of our country's honor and the integrity of our institutions would for a moment suggest that we imperil what has been accomplished or dim the seemingly certain prospect of continued and increased service by futuous efforts, under the stress of the moment, to exceed the limits of prudence and safety.

We fully realize that unusual conditions exist, not only agriculturally but in our whole economic organization.

The Federal farm loan system having no source of loanable funds, except as they come from the investing public, must necessarily be affected in its operation by these conditions.

We realize that the difficulty to get money makes the call upon the Federal land banks greater.

We realize that in the apportionment of funds which it now seems necessary that we must make from time to time we are likely to make mistakes. We are cognizant of the fact that some of the banks have made serious mistakes in encouraging and receiving applications beyond their immediate ability to fill. These mistakes when made will be remedied as speedily as possible.

To reiterate, the system is functioning normally; in fact, somewhat in excess of normal, even under depressed conditions, and we trust that you gentlemen from essentially agricultural communities may share our view and assist us in our efforts to the end that the present continuous flow of funds be not impeded and that this newly established system of American farm credits be built to the proportions and to the permanent strength of which it is capable.

Respectfully, yours,

CHAS. E. LOBDELL,
Farm Loan Commissioner.

Hon. WILLIAM S. KENYON,
United States Senate.

ADDRESS BY HON. JOSEPH B. EASTMAN.

Mr. WALSH of Massachusetts. Mr. President, I ask unanimous consent to have printed in the RECORD an address by Joseph B. Eastman, of the Interstate Commerce Commission, which was delivered before the National Association of Railway and Utility Commissioners at Atlanta, Ga., October 12, 1921. The address is a very able one and discusses the present railroad situation in a very illuminating manner. I think it would be very instructive to have it appear in the RECORD and the views of this capable commissioner available to the readers of the RECORD.

Mr. PENROSE. May I inquire who delivered the address?

The VICE PRESIDENT. It is an address by Joseph B. Eastman, of the Interstate Commerce Commission.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS OF JOSEPH B. EASTMAN BEFORE NATIONAL ASSOCIATION OF RAILWAY AND UTILITY COMMISSIONERS AT ATLANTA, GA., OCTOBER 12, 1921.

I am grateful for the invitation to address this convention for at least three reasons: In the first place, I esteem the invitation an honor; in the second place, it gives me an opportunity which I very much appreciate to see something of Atlanta, a city which I have never before had the pleasure of visiting; in the third place, it has made it necessary for me to pause in the drive of commission work and devote a little time to thought of a different kind. The last reason has more substance than you may think. You have probably heard it urged that the members of the Interstate Commerce Commission ought to travel more than they do, so that the people of the remoter sections may have a chance now and then to bring their grievances to the personal attention of a commissioner. No doubt that is a good reason for travel, when it is possible, but I am persuaded that a better reason is the opportunity to escape from the routine of Washington and its office imprisonment to breathe fresh air and gain new thoughts.

For similar reasons an address is often of more value to the speaker than to his audience; and while I hope that in this particular case you will not feel when I am through that you have been sacrificed for my personal benefit, it is a fact that I have valued the necessity in preparing for these remarks of leaving for a moment the rate cases, the security cases, and all the other cases with which we are so continually beset and attempting to collect and express such thoughts as I have on some of the broader phases of the problems by which you and I, as State or Federal commissioners, are in common confronted.

So I come here to-day not as an emissary of the Interstate Commerce Commission but as an individual member of this association, speaking for myself rather than for the commission, and addressing myself to matters of general concern which are not pending before the commission for official determination and of which I may speak, I trust, without embarrassment to my fellow commissioners.

For more than 15 years I have had to do, in one way or another, with the public problems of public utilities. That is not a long period, but those of you who have had equal or greater experience will, I know, agree with me that there has never been a time when these problems were of broader aspect or more vital interest than now or when they have called for more vision and devotion in their solution. Questions deemed paramount 15 years ago have faded from view and in their place have come questions of greater moment which run more deeply below the surface. In part this is due to growth in knowledge and experience and in part it is due to the tremendous upheaval of the war, which created new problems and at the same time brought up from the depths and into the light problems which have hitherto lain dormant.

Upon the general merits of the transportation act, 1920, commonly known as the Esch-Cummins bill, opinions may differ, but it was beyond question an astounding piece of legislation. You have only to recall the controversies which raged in the days of Roosevelt to realize the fact. By this act public powers over supposedly private property were conceded, with hardly a voice of opposition and, indeed, with the approval of the owners, of such far-reaching scope that all prior attempts at regulatory legislation pale into insignificance. Yet, if I read the signs of the times aright, the opinion is growing that the transportation act, 1920, revolutionary as it was, may not be the final word in our national railroad policy, and that changes are possible, from this quarter or from that, whose nature we are not yet able clearly to apprehend.

But whatever those changes may prove to be, of one thing I can speak with confidence. It will always stand to the credit of the transportation act, 1920, that it gave clear recognition to the principle that our railroad companies are not to be regarded or treated as separate entities, but as parts of a national transportation system which must be maintained, root and branch, in health and full vigor, for the good of the country as a whole. And that is the first thought that I want to touch upon to-day, because you are vitally concerned in it and it goes to the heart of the relationship which ought to exist between the Federal and the State regulating bodies. The question is of peculiar interest to me, because I have been both a State and a Federal officer, and so, I may say, have a majority of the Interstate Commerce Commission.

During the past year the commission has decided various cases which I do not need to tell you about, for you know them well, and which have involved the matter of so-called States' rights. I have differed from my colleagues in most of these cases, but the basis of my dissent has been the law, and to-day I am going to speak not of law but of policy. What is the fundamental policy, if there be one, which ought to govern and which will make it possible for us all, so far as human infirmities will permit, to work together with zeal and good will, without cross purposes, and with a reasonable measure of efficiency?

The question is not so simple as it sounds, for it runs foul of one of the great stumbling blocks of democratic government. I mean the difficulty of permitting the various units of society, large and small, to function freely, each in its own sphere, without more than necessary interference from above. Starting with the individual and going on up the scale we have in turn the family, the town, the county, the State, the Nation; and all these are functioning units, each with an individuality and almost a personality of its own. One of the crying needs of modern government is men at the top who are able to see things in the large, to permit the details to merge in their vision into the larger mass, so that they may perceive the outline and individuality of the Nation and reduce to simple terms the problems by which it is troubled. But it is just as vital that the smaller units should be permitted to do the things that they are best fitted to do, for otherwise the central organization becomes a formless and unwieldly thing, gradually developing into a "bureaucracy" dealing in an arbitrary and soulless way with all manner of little matters with which it can not be in touch, and losing in the process all its larger vision.

Captains and colonels are necessary, but no army can fight to advantage without a general; nor can it win success if the general undertakes to do the work of the captains and colonels. I shall not pursue this analogy for present purposes, for you are officers of sover-

eign States; but this difficulty in organization—for that is really what it is—is everywhere encountered. It not only arises between the States and the Nation in railroad affairs, but I have no doubt that most of you have met with precisely the same thing in the relations between a State and its municipalities with respect to the regulation of public utilities.

All this is abstract, but let me bring it closer home. As I have said, the transportation act, 1920, has helped us to realize that there is such a thing as a national transportation system, and it follows that it must be guided in many respects by a national policy, if friction and interference of parts are to be avoided. Take the matter of railroad rates.

I feel confident that you will all agree that a sound national policy calls for harmony between State and interstate rates, and I use the word "harmony" in no rigid sense. We know from experience, and would know even without experience, that the absence of such harmony can only be a source of complaint and confusion.

In some parts of the country the State and the interstate rates are now on a reasonably consistent basis; in other parts they differ. In my judgment, harmony will eventually be established all over the country. I am also convinced that if it is not attained with the aid of the States, it will in due time be brought about by the exercise of national authority. This may seem to you a rash prophecy, and I hope there may never be occasion for proving its truth. I make it merely because harmony in rates is so clearly a matter of vital national interest that I believe its attainment sooner or later to be inevitable. I am just as thoroughly persuaded, however, that it will be most unfortunate if it can not be accomplished with your assistance and cooperation.

Whether or not cooperation is possible does not depend upon the law, it seems to me, for the law already authorizes and definitely contemplates such a getting together. It really depends, like many other things in life, upon the good will and good sense of the individuals who are called upon to do the cooperating. If we in Washington are arbitrary or inconsiderate, for example, or if you are sensitive or short-sighted in your views of what you deem to be local interests, the difficulty will be very great. Now, I assume that you will discuss our own errors and infirmities in this respect and keep us informed as to how we may mend our ways to advantage. At all events, I hope that you will, and I say this in all seriousness. So I am going to give you a few unsought suggestions for what they may be worth.

I realize that you may think this idle talk, in view of our decisions during the past year in the various State cases. But the court has not spoken in those cases as yet, and they dealt with an issue which is not at all the same as the issue which I am now discussing. There it was a question of accomplishing uniformity of increase rather than harmony in rates, and the two, as you know, may be very different things.

Coming back to the suggestions: First of all, I suggest that it would be well to keep in mind continually the fact that you are dealing with a national railroad system whose operations are affected with a national interest, and that national policies, so far as important matters are concerned, are bound in the long run to prevail. This means mutual concessions and a spirit of give and take. No State can fairly expect to mold the national policy in complete accordance with its views or to win 100 per cent of its contentions.

I suggest that you be long-suffering and patient in your dealings with us, because the inconsistency of State and interstate rates is only one of our troubles. Nor ought you to entertain the fear, which I understand exists in some quarters, that where inconsistency is present we always reach the conclusion that it is the State rate which is wrong. To use one of the favorite phrases in our reports, such fear is not justified by the record.

I suggest that it is well not to allow your energies to be wasted by exasperation with the carriers, and I make this suggestion because their attitude toward the State commissions in recent months has in some cases furnished cause for irritation.

I suggest that it may be possible for you to adjust differences among yourselves and take the initiative in bringing about harmony in State and interstate rates instead of waiting until the issue is thrust upon you. In this way you will gain the advantage of being positive rather than negative factors in the controversy. I realize that there may be many obstacles to such procedure of which I am not aware, but let me illustrate what I mean by the situation right here in the South.

Probably there is no part of the country where there is more lack of consistency between the State and the interstate rates, and it seems to be very generally agreed that sooner or later this situation must be adjusted; at least, that is my impression of the general sentiment. Broadly speaking, the desirable thing is that the adjustment should be made with as little change as possible in the average level of rates, and such an adjustment is not easy of accomplishment. I may be wrong, but it occurs to me that if the State commissions of the South could get together and become the active proponents of a plan for bringing about harmony in rates within their territory they would stand on stronger ground than if the issue is brought to the front upon complaint of the carriers or upon our own initiative in Washington. And why should agreement between the States be impracticable? Surely no State wishes advantages at the expense of another. I feel confident also that the shippers of the South are not opposed to harmony in rates, but are only concerned that it shall not be made the excuse for a further increase in the general rate level.

My final suggestion is of a different character, and perhaps I would be wiser not to make it. However, I shall "rush in." In the comparatively short time in which I have been on the Interstate Commerce Commission many State commissioners have been before us in argument. We are always glad to see them, because of their experience and knowledge of local conditions. My observation is that many manifest a keen sense of their responsibility and duty as public officers to consider all sides of a case and present reasonable and unprejudiced views. These carry great weight. At times others convey the impression of extreme and partisan advocacy. These labor under a handicap.

The opportunities for cooperation between the Federal commission and the State commissions are well-nigh unlimited. Many of the matters over which we now have jurisdiction often appear to have more of local than of national interest. It may be that we shall not always retain jurisdiction in all these cases, but so long as we do we need your help. Consider, for example, the jurisdiction over the construction of new lines and the abandonment of old lines. Such cases are difficult to decide from Washington, but the reason for our jurisdiction is not hard to grasp. The intent of the transportation act, 1920, is that rates shall be so adjusted that a fair return will be earned upon the value of all railroad property in the country. Upon this theory every new line which can not pay its way adds to the national burden. We all know that many lines have been built in the past which ought never to have been built, and this should not happen again. On the other hand, if a fair return is to be earned on the value of all railroad property, no really useful line ought to be abandoned if it can by any legitimate means be given its share of the joint earnings.

In many of these cases we have adopted the policy of asking you to conduct the hearing, make up the record, and furnish us with your recommendations. We have not always followed them, and I can not promise that we always shall; but we value them nevertheless. I know that you have a great opportunity to influence our judgment in these cases if you will but keep in mind the national policy which underlies our jurisdiction, approach the evidence from that point of view, and furnish us not only with your recommendations but with an adequate statement of the reasons upon which they are based.

The field of regulation is so huge, in short, that whether our jurisdiction is enlarged, curtailed, or remains as it is, I can not conceive of the time arriving when there will not be plenty of opportunity in railroad affairs for usefulness on the part of State commissions responsible to local authority and thoroughly in touch with local conditions. It is impossible, as I see it, to administer all these matters from Washington with any degree of satisfaction. But I caution you again to bear in mind that you are dealing with a national transportation system which must be guided in many respects by a national policy. And I further suggest that our duties are so numerous and our jurisdiction so wide that we may neglect at times the initiative in cooperation which you may think we ought to take, and that the burden of this initiative may appropriately be borne by you as well as by us.

So much for our mutual relations, and now that I have begun preaching to you I am moved to indulge in more general preaching. During the past year or more the immediate problems of the railroad situation have been so pressing and acute that they have engrossed attention to the exclusion of everything else. But I believe we are beginning to mount the upgrade, and the time is soon approaching when we shall all be justified in devoting some attention to the problems which lie ahead, and shall, indeed, be neglectful of our duty if we do not. The immediate problems for the most part are so intimately involved in matters now before the commission for determination that it would not be fitting for me to discuss them at this time and place. But I feel less hesitation in regard to the more general problems of the future.

I think I can foresee tremendous possibilities in the development of our national transportation system. For example, there are the possibilities in the reconstruction and joint use of the terminal facilities of our great cities, a matter to which far too little constructive thought has been devoted; the possibilities in electrification and the economical production and use of power; the possibilities in the development of waterways and motor transport and their relation to and coordination with the rail systems; and the possibilities which go with the phrase economy and efficiency in management and concentration upon the details of operation which have so much importance in the mass. And, aside from these possibilities, the country is continually growing; and, if the experts are to be believed, our national transportation system has not for some years kept pace with this growth and now falls far short of its proper capacity.

Now, it is not difficult to list the essentials, if growth is to be normal and if the country is to reap the full measure of the possibilities which I have described. Clearly there must, first of all, be adequate inducement for the investment of capital. Billions of dollars will be needed. There must be harmony and cooperation between the managements of the great railroad companies. Manifestly it will deadlock any well-rounded development of our national transportation system if each has thought only for its selfish advantage, however such a course may profit a few industries or a few localities. There must be opportunity for the executives, particularly the operating executives, to manage their properties without the strain of continual financial worry or of too frequent public attack and investigation. Initiative does not show to advantage in fetters. Finally, and above all, there must be cooperation between the managements and the employees, for no railroad can operate efficiently with labor which is either disloyal or disheartened. But to list these essentials and to say how they shall be attained are far different matters.

It will, perhaps, relieve your minds to tell you that I do not propose to solve these problems to-day. The utmost that I have in mind is to say something as to the spirit in which they should be met, and I hark back here to the statement I made a few moments ago that two large factors in the solution of most problems are good will and good sense.

It occurs to me that railroad discussion in recent years has been on a painfully low level. I am not thinking of the ignorance and demagoguery which always enter into any public controversy, but of discussion from sources which are presumptively intelligent. Rather than being an earnest and constructive effort to seek the truth, it has too often, if my impression be correct, been largely an endeavor to shift blame, in other words, to find a "goat," an endeavor productive of nothing but rancor and bad blood. For a long time, in the minds of railroad operators and investors, the Interstate Commerce Commission was apparently the sole obstacle to progress and increases in railroad rates the sole panacea. We have heard less of this since Ex Parte 74, but no doubt our turn will come again and so will yours. More recently the vials of wrath have been emptied upon the Railroad Administration, upon labor, and more recently still upon the Railroad Labor Board.

Now, I am not speaking of honest criticism. We all need it. I have in mind the propaganda which omits everything that is favorable to the object of attack, turns the spotlight upon everything that is unfavorable, and adds a few lies for good measure. Take the Railroad Administration. It was guilty of errors, no doubt; but we ought not to forget that the necessity of Federal control was conceded at the time when it was undertaken, that one of the numerous reasons was the preservation of railroad securities from financial demoralization, and that the roads were operated during Federal control for the most part by substantially the same staff as now, under the leadership of men whom the railroad world still delights to honor. The fact that the roads when under Federal control failed to earn the so-called standard return by many hundreds of millions of dollars is offered as proof positive of the inefficiency of Government operation. But I call your attention to the fact that during the first six months after the return to private control the deficiency was upward of $600,000,000; that in the 12 succeeding months following the most stupendous increase ever made in our railroad rates the deficiency was at least $350,000,000; and that it was kept from reaching a still larger sum only by slashes in expenditures which have left the country with one of the largest percentages of bad-order cars in its history. There were

explanations for these deficiencies, it is true, but so were there explanations for the deficiencies during Federal control.

Take the case of labor. The impression has been spread broadcast that the increases in railroad wages during Federal control were the product of intrigue and political pressure. The facts are that the major increases were made upon the recommendation of a bipartisan board of arbitration headed by Franklin K. Lane, which thoroughly considered both sides. Following Federal control the wages were further judicially considered by the labor board created by the Esch-Cummins Act, and the result was a further increase of about 21 per cent built upon the increases granted during Federal control. In its report the labor board said:

"It has been found by this board generally that the scale of wages paid railroad employees is substantially below that paid for similar work in outside industry, that the increase in living cost since the effective date of general order No. 27 and its supplements has thrown wages below the prewar standard of living of these employees, and that justice as well as the maintenance of an essential industry in an efficient condition require a substantial increase to practically all classes."

Since that time the wages have been reduced 12 per cent. Furthermore, I call your attention to the fact that the national agreements, which have been the subject of so much recent unfavorable comment, were entered into during the director generalship of Walker D. Hines, a man of unblemished integrity and conceded ability, who was for years prior to Federal control perhaps the foremost spokesman of the railroad industry.

Prices have been falling, and I do not undertake to say that a further reduction in wages may not be necessary for the good of the country. I have not heard both sides, and it is not my job. I do suggest, however, that if such a reduction is to be considered, labor is entitled to a seat at the council table when it is discussed, and it is also entitled to the presumption that it has no less interest in its country's welfare and no greater degree of selfishness than shippers or captains of industry. Nothing but ill will and contention is to be gained by a policy of misrepresentation or concealment of the essential facts. I further suggest that it is self-evident at least that no scale of wages can be fairly or profitably built upon the pay which men out of work in a period of unemployment are willing to take as an alternative to starvation.

Not only do we need sincerity and good will in the discussion of railroad questions, but I venture to submit that we also need the ability to curb our prejudices, face facts squarely, and follow them wherever they may lead. I have read articles of late which have for their theme the notion that the source of all our railroad ills is public regulation, and that the road to salvation lies in a return to the halcyon days of Hill and Harriman and the still earlier days, when railroad operators were left to their own devices and muckrakers were unknown. Such a thought is founded, it seems to me, upon a total misapprehension of railroad history.

It assumes that the evils were fanciful which railroad legislation was designed to correct, and it further assumes that those earlier days were a source of unalloyed satisfaction to railroad investors, when as a matter of fact they were strewn with financial railroad wreckage. To-day we have grown used to the thought that the passing of a large railroad company into receivers' hands is a national disaster; 30 years ago such receiverships were commonplace. I believe it can be established beyond question that public regulation has improved the position of the railroad investor and that he is to-day far better protected than in the days, if ever there were such days, when public regulation was a thing unknown.

Any intelligent discussion of the railroad question must start with the premise that transportation is an industry affected with a public interest which can not safely be left to the mercies of unrestrained private initiative. That being the case, the problem becomes one of the same and critical examination of our present system with a view to remedying its defects. And here is where I shall touch upon what you may think is a hobby or eccentricity of my own. Results are the important thing, and no means of attaining them ought to be dismissed lightly without scientific consideration. Take the question of public ownership or operation. On the one hand it is a fetish and on the other anathema. The discussion of the subject is often nothing but an expression of ill-tempered prejudice, and seldom does it rise above heights of which any college sophomore is capable.

I have no interest whatever in public ownership or operation for its own sake, and I think I understand its dangers. On the other hand, it offers certain advantages which probably can not be obtained to the same degree in any other way. I have in mind, among others, its advantages in the procurement of capital, in the protection of investors, in the coordination of facilities, and in the opportunity which it affords for management less hampered by the time and energy-consuming processes of an exacting system of public regulation. My only suggestion for the present is that these advantages ought not to be passed by because of prejudice, and that they offer instead an opportunity for genuinely constructive thought and statesmanship. An inventor having progressed thus far in the creation of a new machine would not rest from his toil until he had found the means of securing the advantages and eliminating the dangers. So long as the Interstate Commerce Commission and the Railroad Labor Board have their present powers the opportunity for private initiative in railroad operation is circumscribed. I am unable to escape the feeling that some day we shall find the answer in a national transportation system which will be based upon a modification and development of the principle underlying public ownership and operation. This may seem to you a mere combination of words, and perhaps it is, but I think I can detect symptoms favorable to my belief in the plan which has already been adopted in my own State in the case of the Boston Elevated Railway Co. and in the plan which has recently been devised and is now under consideration in the case of the transit companies of the city of New York. Both of those plans are well worthy of your careful study.

But these are large topics, around which several addresses might easily be constructed. I am done with my suggestions for to-day and shall not trespass further upon your time. I am grateful for the honor and privilege of appearing before you. I have little fear for our own future relations nor, indeed, for the future of the railroads, so long as it is possible to hold fast to three simple things—good humor, good will, and good sense.

FINANCIAL AFFAIRS OF SHIPPING BOARD.

Mr. POINDEXTER. I offer the resolution which I send to the desk, and I ask unanimous consent for its present consideration.

The VICE PRESIDENT. The resolution will be read.

The resolution (S. Res. 155) was read, as follows:

Resolved, That the United States Shipping Board is hereby directed to report to the Senate a statement of the number of debts now owed by the Shipping Board or its subsidiary agencies, with the amount of each and the total amount of such indebtedness; also to report at the same time what amount of money is available to the Shipping Board at present, or under appropriations already made, or from any other source, for the payment of this indebtedness; also to report to the Senate the number and total amount of claims which have been presented to the Shipping Board and which now remain unpaid; also what amount of such claims have been investigated and allowed by the Shipping Board as valid claims and what amount of such claims now pending have not been investigated by the Shipping Board, the validity of which remains undetermined, and how long the said claims which remain undetermined have been pending before the Shipping Board.

The VICE PRESIDENT. The Senator from Washington asks unanimous consent for the immediate consideration of the resolution.

Mr. McCORMICK. What disposition is proposed of the resolution which has just been read?

Mr. POINDEXTER. The resolution merely calls for certain information.

Mr. BORAH. Does the Senator from Washington desire to have the resolution now considered?

Mr. POINDEXTER. I have asked for the present consideration of the resolution. I repeat the resolution merely calls for certain information from the Shipping Board.

Mr. BORAH. Does the resolution come from a committee?

Mr. POINDEXTER. No; it does not.

Mr. BORAH. I wish to suggest an amendment to the resolution, but I shall not urge it if the Senator from Washington does not desire to accept it. I had in mind introducing a resolution to the same effect, but I suggest that the resolution be amended so as to request the Shipping Board also to report the number of its officers and officials and salaried employees and the amount of salary which each draws.

Mr. OVERMAN. Mr. President, I should also like the Senator from Idaho to include in his suggestion the Emergency Fleet Corporation.

Mr. BORAH. Very well.

Mr. OVERMAN. I understand that the Emergency Fleet Corporation is now a separate concern, and that it fixes the salaries of its employees without regard to Congress. Congress has fixed the salaries to a certain extent of the Shipping Board, but, since the two bodies have been divorced, the Emergency Fleet Corporation insists that Congress has nothing whatever to do with the fixing of its salaries.

Mr. FRELINGHUYSEN. May we have the resolution read, Mr. President?

The VICE PRESIDENT. The resolution has been read, but it may again be read if the Senator from New Jersey so desires.

Mr. FRELINGHUYSEN. There was so much noise on this side of the Chamber that Senators here were unable to hear the resolution when it was read.

The VICE PRESIDENT. The resolution will be again read.

The resolution was again read.

Mr. FRELINGHUYSEN. Mr. President, I think it is very important that the Senate and the public should have the information for which the resolution calls, but I suggest to the Senator from Washington that the resolution lie over until the Senator from Idaho may have an opportunity to prepare the amendment to which he has referred. Such an amendment, I think, might well be added to the resolution.

The VICE PRESIDENT. The Secretary will state the amendment offered by the Senator from Idaho.

The READING CLERK. It is proposed to insert the following words:

and also report the number of officers and officials and salaried employees and the amount which each draws.

Mr. OVERMAN. Including the Emergency Fleet Corporation.

Mr. BORAH. I want to include in that the Emergency Fleet Corporation, which seems to be an offspring of the Shipping Board.

Mr. POINDEXTER. Mr. President, I am entirely in sympathy with the object which the Senator from Idaho has in proposing the amendment, but I ask the Senator from Idaho to withhold it as an amendment to the pending resolution and suggest that he offer a separate resolution. I should like very much to obtain, and I think it would be very helpful to obtain, a statement of the indebtedness of the Shipping Board to citizens of this country separate and apart from anything else, in order that there may be a perfectly clear understanding of the situation in which this board is now carrying on its business, a situation which practically amounts to the rankest kind of fraud on many people in this country, who have given their property to

the Shipping Board under contracts of sale or otherwise for certain considerations, the Shipping Board making no effort whatever and not undertaking to acquire any means by which it can make the payments which it owes. I think that ought to be understood. I know of some cases of importance of that kind involving constituents of mine. I should like to know the entire account of the Shipping Board, and I think it will be much better if we have that separate and apart from other matters.

Mr. McCORMICK. Mr. President, does the Senator mean that the Shipping Board is making no effort to meet the claims against it?

Mr. POINDEXTER. I certainly mean that. I called up the chairman of the Shipping Board the other day and asked him what he was going to do about it, and he said he was not going to do anything about it. He said they were not his debts; they were the Shipping Board's debts, and the Shipping Board did not have any money to pay them, and were not going to do anything about it at all.

Mr. FLETCHER. Mr. President, may I interrupt the Senator to suggest that unless he includes the Emergency Fleet Corporation he will not get very much information, for many of the claims he has in mind undoubtedly are against the Emergency Fleet Corporation.

Mr. POINDEXTER. I would be very glad to accept the suggestion. The resolution includes "agencies" of the Shipping Board, and I think probably the Emergency Fleet Corporation would come under that term.

Mr. FLETCHER. I am not so certain about that. According to the newspaper reports the Shipping Board and the Emergency Fleet Corporation have been divorced, to use the expression of the newspapers. I do not know just exactly what that means or how far it goes or whether it is merely a divorce from bed and board or an absolute divorce of Shipping Board from the Emergency Fleet Corporation. I do not know how that can be done, because the act of Congress required members of the Shipping Board to be trustees of the Emergency Fleet Corporation; and yet I see the statement is made that now they are entirely divorced. In any event, any inquiry of this sort ought to embrace both the Emergency Fleet Corporation and the Shipping Board if we wish to get anything like accurate information.

I was going to suggest that perhaps if the resolution were referred to the Committee on Commerce it might be better to have it considered there and reported back promptly, although I will not insist on that. The chairman of the committee is not present, but I really think that the resolution could be improved and perhaps be made to cover what the Senator wants and what others want if it were referred to the Committee on Commerce and that committee were allowed to report it out. I am not, however, going to insist upon that, but I do suggest that it will not get very far merely to confine the inquiry to the Shipping Board. We should include also the Emergency Fleet Corporation.

Mr. FRELINGHUYSEN. Mr. President, I merely wish to be perfectly fair to the men who are trying to solve the problems of our shipping policy. I desire to point out to the Senator from Washington that the Shipping Board and the Emergency Fleet Corporation practically kept no books, but at the present time those who are in charge of the Shipping Board are making an effort to state their accounts and find where they are. As I have said before, I think it is important that the Senate should have the information called for by the resolution, but I suggest to the Senator that sufficient time be given, so that the effort now being made to establish a uniform system of bookkeeping may be completed and the figure given in proper form to the Senate.

Mr. POINDEXTER. Mr. President, there is no limitation of time fixed, so that there will be reasonable time for them to report. I should like to accept the suggestion of the Senator from Florida, and therefore I modify the resolution by inserting the words "including the United States Emergency Fleet Corporation" after the word "agencies" in the resolution.

The VICE PRESIDENT. The resolution will be so modified.

Mr. UNDERWOOD. Mr. President, before consent is given I should like to say just a word. I am sure the Senator from New Jersey made the statement he has just made that there were no books kept by the Emergency Fleet Corporation from information which he thinks is reliable. I am informed, however, from very reliable sources that last June, just before this board came in, a complete audit of the expenditures of the Shipping Board and Fleet Corporation was made, and it was entirely contrary to most of the information that has appeared in the papers. I am sure that the Senator is entirely mistaken in stating that no books were kept. Such a thing would be unthinkable, and an audit could not have been made if books had not been kept. The manner of keeping the books may not have been in accord with the views of the new board; they may want to adopt another system; but I am sure there can be no question of a doubt about the fact that there was an accurate account kept of the expenditures of the Shipping Board and of the Emergency Fleet Corporation.

Of course, a great deal was said when this question first came up in past months about the losses of the Fleet Corporation in its operation. I think an accurate understanding will show that there were some losses from operation before the new board came in, probably twenty or thirty millions, but that the real losses charged up to the operation of the Emergency Fleet Corporation were in the loss of the value of shipping that was built by the Government, due to many causes, depreciation in value among the foremost, and not to actual operation. I think that a great deal of misinformation has gone out in reference to this matter. I must say that I am not thoroughly posted myself, but I know that a good deal of the information that has appeared in the newspapers is not accurate, and it is misleading here.

Although I have no objection to the resolution which the Senator desires to pass now, because I think the Senate should have all the light on this subject that is available, I think the only way for the Senate to get to the bottom of the matter and get a real, honest understanding of the situation with reference to the Shipping Board and Emergency Fleet Corporation is to pass a resolution authorizing and directing the Committee on Commerce to go into hearings and go to the bottom of the whole situation.

Mr. FRELINGHUYSEN. Mr. President, perhaps the statement I made that no books were kept was rather broad. I should have said that the books that were kept were worthless. That is evidenced by the fact that no statement has ever been made that I have ever seen of the operations of the Shipping Board in the past three years; furthermore, by the information, which has never been challenged or denied, that hundreds of charges for cargoes never have been reported, and that the present Shipping Board had practically to begin all over again and force the charterers of these ships to report their cargo returns. Evidently, if there has been a good system of bookkeeping, and if the accounts during the past four years have been properly kept, the best way to find it out is to pass the resolution.

Mr. LENROOT. Mr. President, with reference to the Senator's statement that no books were kept, I understood, it is true, that ships were allocated for operation, and entries perhaps made of the ships and the contracts, but no accounting ever had, and the books show nothing of the result of the operation of the ships.

Mr. McCORMICK. Mr. President, in view of the scope which this extempore debate has taken, I wonder if the Senator from Washington will not let this resolution go over until to-morrow, in order that if Senators have amendments to suggest they may propose them?

For one I believe that we ought to have the information which the Senator seeks, but that it ought to be sought in such form that a comparison may be instituted between the situation as of to-day and, if you please, of January 1 last, in order that we may know what progress, if any, the present administration of the Emergency Fleet Corporation and the Shipping Board has made toward the settlement of claims and toward the bringing of accounts to date. If the resolution should go over, doubtless it would be found possible to incorporate in it the amendment offered by the Senator from Idaho.

The VICE PRESIDENT. Does the Senator ask that it go over?

Mr. McCORMICK. I think perhaps the Senator from Washington may meet the suggestion.

Mr. POINDEXTER. Mr. President, I hope the Senator from Illinois will not press his request. This resolution is not intended to call for a complete report upon all the affairs of the Shipping Board. I agree with the suggestion made by the Senator from Alabama [Mr. UNDERWOOD] that there should be, and I think the report upon this resolution will be another evidence to show that there should be, a thorough inquiry into all of the affairs of the Shipping Board, including the particulars mentioned by the Senator from Illinois. The only thing that I desired in this resolution was to obtain a simple statement of the debts and the resources available to pay the debts of the Shipping Board. I wanted that as distinct from anything else, in order that it might be impressed upon the Senate and upon the country, not involved in inquiries into other phases of its affairs. It would not require very much

labor on the part of the Shipping Board to furnish it, and I hope we can have the consent of the Senate to adopt the resolution.

Mr. BORAH. Mr. President, after conversation with the Senator from Washington, I will not now urge the amendment, which I propose to put in the form of a resolution later. I only desire to say that while there may be some basis for the suggestion that the information which comes in ought to be had in such a way that we can institute comparisons between the past and the present, I presume that the comparison would be favorable to the present situation, and it certainly could not be unfavorable or disclose a condition worse than that of the past. If I am correctly informed, however, as to the official load which they are carrying, while the comparison might be favorable as to the past the condition is exceedingly unfortunate still. I feel that the Emergency Fleet Corporation, or the Shipping Board, are not carrying out the policy which we have so often promised the country—that of economy. I think if we can have a list of the officers and their salaries and the employees, what they are paying them, and so forth, it will disclose a situation which still calls for drastic action.

Mr. KING. Mr. President, before this matter is passed I should like to call the attention of the Commerce Committee, or any members of it who may be here, to the fact that in June a resolution was offered by myself, and at the request of some members of the committee it was referred to that committee. I did not press for its adoption by the Senate. It asked for very important information, some of which is that asked for by the Senator from Washington. I sincerely hope that the Commerce Committee will consider that resolution and such other resolutions as are now pending before it as will enable us to get full information respecting the activities, or rather the lack of activities in many respects, of the Shipping Board and the Emergency Fleet Corporation.

Mr. LA FOLLETTE. Mr. President, I have pending before the Senate a resolution asking for an investigation of all of the affairs of the Shipping Board, such investigation to be conducted by the Senate Committee on Commerce. I have twice addressed the Senate upon that resolution. I should have called it up and asked for its consideration by the Senate early, at the beginning of this session—I mean the session since the recess—but the absence of the chairman of the Committee on Commerce deterred me from so doing. I desire to address the Senate again upon the resolution and to lay before the Senate some additional facts that I have been able to obtain by such means as I could institute myself. I think that this additional information will interest the Senate, and I hope by the latter part of this week to be able to offer this information for the consideration of Senators.

If we can have a morning hour, and there should be an opportunity for a consideration of the resolution, I will ask for a vote upon it at that time. I invite the attention of Senators to the scope of it. I should be glad to have it studied. Considerable time has been put upon the preparation of the resolution, and I believe that it will secure all the information which is obtainable from the records of the Shipping Board. I do not believe that any resolution of inquiry addressed to the Shipping Board for information will bring us any satisfactory answer. Until their records can be gone into, their correspondence called for, and witnesses summoned, the Senate and the Congress never will find out very much about the proceedings that have been going on there.

I am not making any indictment against members of the board; but there are influences at work in that organization which will interfere with a full response being made to any resolution of inquiry addressed to the board. Unless there is authority to go into books and papers and the Senate makes the investigation itself, the information which will be sent in response to a resolution will not, I predict, be very useful to the Senate.

Mr. CALDER. Mr. President, I shall not object to the consideration of the resolution at this time, but I want to say just a word concerning some of the statements that have been made here.

Mr. President, this Shipping Board inherited the worst wreck known in the history of this country.

The whole department was in chaos, as Senators have said; the accounts were kept in such a condition that no man could tell just what the board owed. It is said that something over $350,000,000 of claims were pending the day they took control. Congress appropriated $50,000,000 for their current expenses, and in the legislation authorizing that appropriation forbade them to pay the claims.

I believe, Mr. President, that no board of this Government are giving more faithful attention to their duties, and doing more to cut out unnecessary expense and waste than this board.

Mr. WILLIS. Mr. President, I shall not object to the consideration of the resolution, but in harmony with what has been said by the Senator from New York, as one member of the Committee on Commerce, I want to suggest one or two ideas.

It has become the most popular indoor sport lately to take a whack at the Shipping Board. I hold no brief for the Shipping Board. I think a vast amount of money has been wasted by that organization; but I think that the present organization is doing its very best to bring order out of chaos, and I think it is to some extent succeeding. If the matter is referred to the Committee on Commerce, of which I happen to be a member, to make an investigation, as far as I am concerned, I shall go into that investigation without any prejudice for or against the Shipping Board. I think they are entitled to fair treatment. It has been suggested that vast sums are now being expended in questionable fashion. I have been told that there were over 3,000 auditors employed by the board, but that that number has been reduced to 1,400. I know there is a vigorous effort being made on the part of the present chairman and his associates to reduce the numbers of employees and to establish a semblance of order in that department. I think that ought to be said in fairness to the board.

Mr. BORAH. Did I understand the Senator to say that they still have 1,400 auditors?

Mr. WILLIS. The last information I got came from the chairman of the board, with whom I was talking about that matter. When he became a member of the board there were 3,000 auditors, and he has succeeded in eliminiating 1,600 of them, and more of them are going every minute.

Mr. BORAH. By this time, then, I suppose, it is pretty nearly normal.

Mr. McCORMICK. Mr. President, probably the problem of repatriation will have to be taken into account. I understand 400 of those dismissed were Democrats from Hudson County, N. J. [Laughter.]

Mr. LODGE and Mr. FRELINGHUYSEN addressed the Chair.

The VICE PRESIDENT. The Senator from Massachusetts.

Mr. LODGE. May I ask a question? The resolution has not been disposed of?

The VICE PRESIDENT. Is there objection to the consideration of the resolution?

Mr. UNDERWOOD. Mr. President, before the resolution is agreed to I want to say just one word more. For a hundred years there have been sinister influences in this country and outside of it opposed to American shipping, opposed to keeping an American ship on the sea. Since the war there have been all kinds of rumors and statements in the newspapers and out of them in reference to this bureau of the Government, which was created and built for the purpose of trying to furnish the American people with ships to carry their goods over the seas. I have no doubt that during the time of the war expenditures were made by the Shipping Board and the Emergency Fleet Corporation which were extravagant, so that when we came to balance accounts with afterwar conditions and prices there were great losses in the expenditures in that board, as there were in all other lines during the war.

I do not say that there may not have been waste, but I think it is unjust to the American people, who want ships on the seas flying the American flag to carry their commerce, to allow the Shipping Board as at present constituted or as constituted in the past to be a battledore and shuttlecock for the people who want to destroy our shipping fleet for their own purposes. I think it is due to the Congress and that the Congress owes it to the American people, if there is any real cause for complaint, to see that it is investigated and not left in a nebulous state. The real facts should be laid before the American people. We should have a concrete basis on which to fix these charges, and then after it is worked out and we know the facts instead of continually taking flings at this instrument of the Government, if there is anything wrong, we should clean it up, clear the decks, and then we should give a helping hand to build up the commerce of America.

The VICE PRESIDENT. Is there objection to the consideration of the resolution? The Chair hears none, and the question is on the adoption of the resolution as modified.

The resolution as modified was agreed to, as follows:

Resolved, That the United States Shipping Board is hereby directed to report to the Senate a statement of the number of debts now owed by the Shipping Board or its subsidiary agencies, including the United States Emergency Fleet Corporation, with the amount of each and the total amount of such indebtedness; also to report at the same

time what amount of money is available to the Shipping Board at present, or under appropriations already made, or from any other source, for the payment of this indebtedness; also to report to the Senate the number and total amount of claims which have been presented to the Shipping Board and which now remain unpaid; also what amount of such claims have been investigated and allowed by the Shipping Board as valid claims, and what amount of such claims now pending have not been investigated by the Shipping Board, the validity of which remains undetermined, and how long the said claims which remain undetermined have been pending before the Shipping Board.

INTERNATIONAL EXPOSITION AT RIO DE JANEIRO.

Mr. LODGE. Mr. President, before the morning business is closed, I desire to ask unanimous consent for the consideration of Senate joint resolution 114, accepting the invitation of the Republic of Brazil to take part in the international exposition to be held in Rio de Janeiro in 1922. That resolution ought to be passed now if we are to take any action upon it at all. It was brought before the Senate once, but owing to pressure of business at that time, I did not go beyond the request for unanimous consent.

The resolution has been read, and I may repeat that it is recommended by the administration. It passed the Foreign Relations Committee unanimously, with one exception. We have until the 30th of October an extension of time to accept the offer of the Brazilian Government. Our relations with Brazil have always been of the most friendly character, particularly so. No country in South America has been more friendly, I think, in all relations with the United States.

Mr. WATSON of Georgia. Will the Senator allow me to ask him a question?

Mr. LODGE. Certainly.

Mr. WATSON of Georgia. Does the joint resolution carry an appropriation?

Mr. LODGE. It does; it carries an appropriation of $1,000,000.

Mr. WATSON of Georgia. Does the Senator think this a time when we ought to appropriate that much money for this purpose?

Mr. LODGE. Mr. President, I regret very much passing a resolution carrying such a large sum, but I am most unwilling that we should put anything resembling an affront upon a very friendly country. When Brazil was called upon to take part in the St. Louis Exposition, she expended on a building there $600,000, which meant more then than it would mean now, and she responded liberally to our request. I am very unwilling, and the committee are very unwilling, although I realize the objection to a large expenditure at this time, not to take this friendly action in regard to Brazil, and I should deeply regret the failure of the resolution. As I said, it would be almost an affront to a very friendly nation.

I may say further that although the sum is large, if we are going to take any part in the exposition, the committee felt that we could not afford to do it in a niggardly way.

Mr. PENROSE. Mr. President, I would like to ask the Senator if the other great nations are taking part in this exposition?

Mr. LODGE. They are.

Mr. PENROSE. And with appropriations similar in amount?

Mr. LODGE. I do not know the exact amounts they have appropriated.

Mr. PENROSE. I do not ask for the exact amounts; I only ask what they are doing in a general way.

Mr. LODGE. In the letter of the Secretary of State to the President in regard to the matter it is said:

> The Governments of Japan and Belgium, either directly or through cooperation with Japanese or Belgian commercial groups, have intimated their intention of taking part in this exposition, and that presumably the British Government and other European Governments will also take an active part therein.
>
> The United States Chamber of Commerce has expressed the hope that some expression should come from the Government of the United States of its intention to participate.

Mr. BORAH. Is the joint resolution now before the Senate?

The VICE PRESIDENT. It is not.

Mr. BORAH. I have no objection to its coming before the Senate. At the proper time I want to offer an amendment to it.

The VICE PRESIDENT. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which was read, as follows:

> Whereas the United States has been invited by the Republic of Brazil to take part in an international exposition, to consist of exhibits relating to farming, cattle industry, fisheries, mining and mechanical industries, transportation, communication, commerce, science and fine arts, special emphasis to be placed upon forestal and manufacturing industries, to be held at Rio de Janeiro, commencing the 7th day of September, 1922: Therefore be it
>
> *Resolved, etc.*, That said invitation is accepted.
>
> SEC. 2. That the President is hereby authorized to appoint a commissioner general and five commissioners to represent the United States in the proposed exposition, the amount of whose compensation shall be determined by the Secretary of State. The said commissioner general shall, under the direction of the Secretary of State, make all needful rules and regulations in reference to the contributions from this country, and to control the expenditure incident to the installation and exhibit thereof, the pay of the commissioner general, commissioners, officials, and employees, and the preparation of the reports of the exposition, and the general results thereof; and he shall make all arrangements necessary for the preparation, transportation, installation, display, and proper care of the exhibits of the Government of the United States, with the cooperation and assistance of the various executive departments, institutions, and branches of the Government that may participate in the exposition, as well as to furnish such information service to private exhibitors and prospective exhibitors as he may deem necessary and feasible.
>
> SEC. 3. That officers and employees of the executive departments and other branches and institutions of the Government in charge of or responsible for the safekeeping of objects, articles, etc., property of the United States, which it is desired to exhibit, may permit such property to pass out of their possession for the purpose of being transported to and from and exhibited at said exposition as may be requested by the commissioner general, such exhibits and articles to be returned to the respective departments and institutions to which they belong at the close of the exposition: *Provided*, That the commissioner general, with the approval of the President, at the close of the exposition, may make such disposition of the buildings and other property of the United States used at the exposition, which it will not be feasible to return to the United States, as he may deem advisable.
>
> SEC. 4. That the Shipping Board is authorized to give the commission such assistance as may be necessary and to make special rates and special sailing schedules for the transportation of governmental and private exhibits and participants to and from the exposition.
>
> SEC. 5. That the Secretary of Agriculture is hereby authorized to collect and prepare suitable specimens of the agricultural and forestal productions of the several States of the Union for exhibition at the exposition, and accompany the same with a report respecting such production, to be printed in the English, Spanish, and Portuguese languages, the expense of the same to be paid out of the appropriation hereinafter provided for.
>
> SEC. 6. That the Secretary of Commerce is hereby authorized to collect and prepare a suitable exhibit of the fisheries industry of the United States for exhibit at the said exposition and accompany the same with a report respecting such industry, to be printed in the English, Spanish, and Portuguese languages, the expense of the same to be paid out of the appropriation hereinafter provided for.
>
> SEC. 7. That the Secretary of the Interior is hereby authorized to collect and prepare a suitable exhibit of the mining industry of the United States for exhibition at the said exposition, and to accompany the same with a report respecting such industry, to be printed in the English, Spanish, and Portuguese languages, the expense of the same to be paid out of the appropriation hereinafter provided for.
>
> SEC. 8. That in order to defray the necessary expenses above authorized, including the salaries of commissioners and employees, the cost of preparing the various Government exhibits, transportation, installation, display, and return of exhibits, construction and equipment of building, and acquisition, preparation, and maintenance of site and grounds, the sum of $1,000,000, or so much thereof as may be necessary, is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to be immediately available for use by the commissioner general for the purposes of this resolution, and to remain available until expended or no longer required, all expenditures out of said appropriation being made subject to approval by the Secretary of State.
>
> SEC. 9. That it shall be the duty of the Secretary of State to transmit to Congress a detailed statement of the expenditures which may have been incurred under the provisions of the resolution, together with all reports called for under sections 5, 6, and 7 of this resolution, which reports shall be prepared and arranged with a view to concise statement and convenient reference.

Mr. BORAH. Mr. President, I agree with the Senator from Massachusetts that we should do whatever is proper and necessary to be done to show our interest in and courtesy toward Brazil. I think we can do that with $500,000. And do it exceedingly well. That, to me, is a very large sum of money to be expended for the mere matter of celebrating a single independence day of a foreign Government. I have tried to gather some information as to the amount which would be necessary, and there is a difference of opinion about it among those who have had to do with such things, but there is very good information from men who have had experience that $500,000 would cover everything, and put us in a position where we could not be considered for a moment as affronting Brazil. I am aware that the Senator from Massachusetts thinks differently, but I want to test it out. Therefore, Mr. President, I offer as an amendment, on page 4, line 13, to strike out the figures "$1,000,000," and to insert in lieu thereof "$500,000." Certainly, under present conditions and circumstances, that ought to be ample. I do not want to affront the great people of Brazil, but I want to have some regard for the taxpayers of this country and the pledges we made touching economy.

Mr. KING. May I ask the Senator from Idaho, before he takes his seat, whether it is a mere celebration of some natal day or some other great day, or whether it is an exposition, as we understand the term, to which will be brought the wares and commodities and products of Brazil, as well as of other countries?

Mr. BORAH. I think it is a combination of those two things. It is really a celebration of the natal day of the nation. I presume they are going to make something of an exposition out of it. That would inevitably follow because of what always follows an exposition.

Mr. KING. Does not the Senator understand we are to send exhibits there of our products which perhaps

securing additional South American trade? If it is the latter, if it is an exposition which calls for an exhibition of the products of various countries, it seems to me a million dollars is not too much. If it is a mere celebration of some birthday, then $500,000 is too much.

Mr. LODGE. It is an exposition, which will last for weeks and months. I read the preamble, which explains it:

> The United States has been invited by the Republic of Brazil to take part in an international exposition, to consist of exhibits relating to farming, cattle industry, fisheries, mining and mechanical industries, transportation, communication, commerce, science, and fine arts, special emphasis to be placed upon forestal and manufacturing industries, to be held at Rio de Janeiro, commencing the 7th day of September, 1922.

It will be an exposition. Mr. President, the United States in 1900 participated in the Paris Exposition, and Congress appropriated $1,472,000 for that purpose. At the Pan American Pacific International Exposition in San Francisco in 1915 the United States Government's participation cost $1,174,000, of which $500,000 was expended for the building. I quote from the statement of the Secretary of State:

> The American Chamber of Commerce in Rio de Janeiro has had an estimate made of the cost of a building suitable for the United States Government's exhibits there, which is $500,000. This, together with the necessary money to cover the expense that would be incurred by the various departments and branches of the Government in the collection, preparation, transportation, installation, and display of articles, would make an appropriation not less than $1,000,000 advisable.

That is the statement of the Secretary of State accompanying the President's message. I am as reluctant, Mr. President, as anybody could be to expend money for any such purpose, and if it were not for the international importance of this matter I should be against it. But it has a great international importance, in my judgment, and is of great importance also to our trade in South America, and I can only repeat, as to the amount, I believe they have kept it down to the lowest point consistent with making it a proper exposition, and if we are going to do it at all, we ought to appropriate a reasonable amount and not do it in a niggardly way.

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Idaho [Mr. BORAH].

Mr. BORAH. On that I ask for the yeas and nays.

Mr. FLETCHER. Mr. President, I quite agree that we ought to participate in a dignified, effective way. Brazil is very friendly to the United States and has taken part in our Government expositions in this country and made splendid exhibitions and spent a great deal of money to be represented in that way. I think we really owe it to Brazil to be present there and to make ours a splendid exhibit. Of course, if we participate at all we ought to do it right in the way of exhibiting the products and industries of this country. In Rio de Janeiro there is a very magnificent building erected by Brazil in commemoration of the Monroe doctrine, a monument to President Monroe, standing there for all time.

I do not know whether we can get along with $500,000 or not. Perhaps a million dollars is a little more than we ought to appropriate at this time. In the items connected with the Paris Exposition the salaries alone amounted to $593,287, and I think that item might be cut down and reduced.

Mr. BORAH. It will not be cut down unless we cut down the appropriation.

Mr. FLETCHER. I am inclined to think that is true. The experts, clerks, general employees, and so forth, connected with that exposition, it seems to me, we do not need in connection with this exposition. While I feel that we ought not to be parsimonious or penurious at all about this thing, that we ought to do it in a splendid way, not only because we owe it to ourselves but we owe it to Brazil, a great country south of us equal in extent to the whole of the United States and more, I still believe, however, as I said, that perhaps a million dollars is more than we ought to appropriate for the purpose at this time. Rather than have any question about our representation there at all, I would support the amendment.

Mr. WILLIS. Mr. President, I desire to ask the Senator from Florida a question. Does he know whether the erection of a building is contemplated or is the appropriation merely to pay the other expenses?

Mr. FLETCHER. I am not advised as to that. I presume that would be left largely to the commissioner. We must have a building there. We shall have either to construct one or rent one.

Mr. LODGE. This includes everything.

Mr. FLETCHER. It includes everything, but the Senator's question was whether it was necessary to construct a building.

Mr. LODGE. That is what the United States has always done when it has taken part in an exhibition.

Mr. FLETCHER. I believe that is true.

[illegible] salaries of commissioners [illegible] Government exhibits, transportation, installation, display, and return of exhibits, construction and equipment of building, and acquisition, preparation, and maintenance of site and grounds.

Mr. WILLIS. May I ask the Senator from Massachusetts a question? I noticed as I read the report that for the Paris Exposition in 1900 we appropriated only $1,400,000, and for our own great exposition at San Francisco in 1915 the cost was only $1,154,000. Does the Senator think we ought to have an appropriation of $1,000,000 in this instance?

Mr. LODGE. The Senator knows that everything costs double now what it did then.

Mr. WILLIS. Yes; that is true.

Mr. HEFLIN. Mr. President, I wish to ask the Senator from Massachusetts a question. Is it intended that this appropriation of $1,000,000 shall cover the construction of a building or provision for a building?

Mr. LODGE. I just read that from the joint resolution.

Mr. HEFLIN. And the gathering of American products?

Mr. LODGE. Everything.

Mr. HEFLIN. And having all those products conveyed there and displayed?

Mr. LODGE. Everything. It is all set out in the joint resolution just as the Senator has inquired.

Mr. HARRELD. Mr. President, it seems to me the amount of money we spend should be in proportion to the amount to be expended by Brazil. I have not heard any figures given here as to what Brazil proposes to expend on this exposition. It seems to me that would be important information and that we should get it into the RECORD.

Mr. LODGE. I do not know that that is stated or that we undertook to ask them what they were going to expend. We made provision before for participation in the Centennial Expositions in Quito, Ecuador, in 1909, and in Buenos Aires, Argentine Republic, in 1910, but I hardly think that they have inquired of Brazil how much they are going to expend on this exposition.

Mr. HARRELD. Does not the Senator think that is very important? If they are not going to expend more than a million dollars, we should not be expected to expend a million dollars.

Mr. LODGE. They are going to spend many millions of dollars. They are laying out immense grounds.

Mr. HARRELD. Is this a governmental undertaking?

Mr. LODGE. It is an undertaking by the Government of the Republic of Brazil, of course.

Mr. SUTHERLAND. Mr. President, I understood the Senator from Massachusetts to say that an estimate of $500,000 had been made by our people there on the ground of the cost of a building appropriate to the scheme of the exposition.

Mr. LODGE. Yes; by our people there on the ground, $500,000 was estimated as the cost of the building.

Mr. SUTHERLAND. Naturally our representatives there took fully into account the intended scope of the exposition at Rio de Janeiro.

Mr. BORAH. There is one thing they have very apparently taken into account, and that is when they provided for one commissioner general and five commissioners to assist. That is the start.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Idaho, on which the yeas and nays have been demanded.

The yeas and nays were ordered, and the reading clerk proceeded to call the roll.

Mr. SUTHERLAND (when his name was called). I transfer my pair with the senior Senator from Arkansas [Mr. ROBINSON] to the senior Senator from Connecticut [Mr. BRANDEGEE] and vote "nay."

Mr. SWANSON (when his name was called). I transfer my pair with the senior Senator from Washington [Mr. JONES] to the senior Senator from Missouri [Mr. REED] and vote "yea."

The roll call was concluded.

Mr. DIAL. I am paired with the Senator from Colorado [Mr. PHIPPS], who is necessarily absent. Therefore I withhold my vote.

Mr. CURTIS. I desire to announce that the Senator from West Virginia [Mr. ELKINS] is paired with the Senator from Mississippi [Mr. HARRISON] and that the Senator from South Dakota [Mr. STERLING] is paired with the Senator from South Carolina [Mr. SMITH].

The result was announced—yeas 22, nays 51, as follows:

YEAS—22.

Ashurst	Harreld	Myers	Trammell
Borah	Harris	Norbeck	Watson, Ga.
Capper	Hitchcock	Overman	Williams
Culberson	Jones, N. Mex.	Poindexter	Willis
Cummins	Kendrick	Simmons	
Fletcher	Kenyon	Swanson	

NAYS—51.

Ball	Glass	McKellar	Shields
Broussard	Gooding	McKinley	Shortridge
Calder	Hale	McLean	Spencer
Cameron	Heflin	McNary	Stanley
Caraway	Johnson	Moses	Sutherland
Curtis	Kellogg	Nelson	Townsend
Dillingham	Keyes	New	Underwood
du Pont	King	Newberry	Wadsworth
Edge	La Follette	Oddie	Walsh, Mass.
Ernst	Lenroot	Page	Walsh, Mont.
Fernald	Lodge	Penrose	Warren
Frelinghuysen	McCormick	Pomerene	Watson, Ind.
Gerry	McCumber	Sheppard	

NOT VOTING—22.

Brandegee	Harrison	Phipps	Smoot
Bursum	Jones, Wash.	Pittman	Stanfield
Colt	Ladd	Ransdell	Sterling
Dial	Nicholson	Reed	Weller
Elkins	Norris	Robinson	
France	Owen	Smith	

So Mr. BORAH's amendment was rejected.

Mr. BORAH. Mr. President, I desire to offer an amendment, on page 1, in line 5, to strike out the word "five" and insert the word "three."

The VICE PRESIDENT. The proposed amendment will be stated.

The ASSISTANT SECRETARY. On page 1, line 5, before the word "commissioners," strike out the word "five" and insert the word "three," so as to read:

That the President is hereby authorized to appoint a commissioner general and three commissioners to represent the United States in the proposed exposition, the amount of whose compensation shall be determined by the Secretary of State.

Mr. BORAH. That would give us a commissioner general and three commissioners, who ought to be enough to keep him company.

Mr. LODGE. I have no objection to that amendment.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Idaho [Mr. BORAH].

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

ADMINISTRATION OF INDIAN AFFAIRS.

Mr. CURTIS. I ask unanimous consent for the present consideration of the bill (H. R. 7848) authorizing appropriations and expenditures for the administration of Indian affairs, and for other purposes.

I may state that this is a bill which has been prepared on the House side and is made necessary because of the change of the rules of the other House. It is to make in order provisions that have heretofore been carried in the Indian appropriation bill, but which, because of the change of the House rules, have been stricken out on the floor of the House upon points of order. The House asks for this legislation so that hereafter certain provisions which have been carried for many years may be in order.

The VICE PRESIDENT. The Senator from Kansas asks unanimous consent for the immediate consideration of the bill the title of which he has stated.

Mr. KING. Let the bill be read, Mr. President.

The VICE PRESIDENT. The Secretary will read the bill.

The Assistant Secretary read the bill, as follows:

Be it enacted, etc., That the Bureau of Indian Affairs, under the supervision of the Secretary of the Interior, shall direct, supervise, and expend such moneys as Congress may from time to time appropriate for the benefit, care, and assistance of the Indians throughout the United States for the following purposes:

General support and civilization, including education.

For relief of distress and conservation of health.

For industrial assistance and advancement and general administration of Indian property.

For extension, improvement, operation, and maintenance of existing Indian irrigation systems and for development of water supplies.

For the enlargement, extension, improvement, and repair of the buildings and grounds of existing plants and projects.

For the employment of inspectors, supervisors, superintendents, clerks, field matrons, farmers, physicians, Indian police, Indian judges, and other employees

For the suppression of traffic in intoxicating liquor, peyote, and other deleterious drugs.

For the purchase of horse-drawn and motor-propelled passenger-carrying vehicles for official use.

And for general and incidental expenses in connection with the administration of Indian Affairs.

Mr. KING. May I inquire of the Senator from Kansas whether this bill proposes to enlarge the authority of the Superintendent of Indian Affairs?

Mr. CURTIS. It does not. The only new matter proposed by the bill is the one item in reference to peyote, which has not heretofore been carried in Indian appropriation bills.

Mr. KING. I am not quite able to see the necessity of this proposed legislation if the Bureau of Indian Affairs has heretofore had the authority which it is now proposed to confer.

Mr. CURTIS. The legislation covered by the pending bill has been carried in the Indian appropriation bills for 30 years, but when the rules of the other House were changed and the Indian appropriation bill was referred to the Committee on Appropriations Members of the House, because of the fact that items being in an appropriation bill does not make them permanent law but only law for the current year, raised points of order and eliminated various provisions which, as I stated a moment ago, have been carried in Indian appropriation bills for over 30 years. So they had to be restored in the Senate and are now the law because we inserted them in the Senate. I repeat this proposed legislation is asked for by the other House.

Mr. KING. Very well.

The VICE PRESIDENT. Without objection, the bill is before the Senate as in Committee of the Whole.

Mr. OWEN. Mr. President, I am in entire accord with the purpose of the pending bill, but there is no existing legislation providing for the suppression of peyote as a deleterious drug. It is used in certain religious ceremonies by the Indians of Oklahoma. They are very much concerned about it, and have sent delegations here asking that peyote be not declared a deleterious drug, because that would forbid them to use it in their religious ceremonies. I understand that peyote could be made a deleterious drug by gross abuse, but that they do not use it in an injurious manner. To insert this language in the pending bill would be equivalent to an act of Congress declaring peyote to be a deleterious drug. The Indians in Oklahoma are very much opposed to that. They called upon me and asked me to bring the matter to the attention of the Senate. On numerous occasions the subject has been brought before Congress and the proposition to declare peyote a deleterious drug has never received a majority vote. For that reason I move that, on page 2, line 11, the word "peyote" be stricken out; and in the same line, before the word "deleterious," that the word "other" also be stricken out, so as to read:

For the suppression of traffic in intoxicating liquor and deleterious drugs.

Mr. CURTIS. Mr. President, the Committee on Indian Affairs very seriously considered this question, and at one time thought it advisable to put in an exception providing that where peyote was used for religious and sacramental purposes it be excepted; but this being a House bill, the passage of which is asked for by the House, and it having been the custom of the Senate for many years not to change House legislation which that body has asked in reference to its own affairs, the committee concluded not to report the amendment.

So far as I am concerned, I have no objection to striking out the word "peyote," but I think I ought frankly to say that if we go into conference on the bill and the conferees on the part of the House ask for the retention of the item for their own body it would be the duty of the conferees on the part of the Senate to yield.

This question, I repeat, has been before the Committee on Indians Affairs many times. When it again comes before the committee the question raised by the Senator from Oklahoma could be raised, and if an appropriation were asked to suppress the use of peyote it could be fought out in committee just the same as it has been in the past. The Senator from Oklahoma will remember that he never has had to raise a point of order on the floor of the Senate against a provision prohibiting the use of peyote, because the matter has always been settled in the Committee on Indian Affairs of the Senate.

Therefore, because this is a House bill, embodying legislation asked for by the other House, which is made necessary by the change in the rules of the House, I think the bill should be passed without amendment.

Mr. OWEN. Mr. President, whenever this matter has come before the Committee on Indian Affairs that committee has always refused to declare peyote a deleterious drug. Now, if I clearly understand the argument of my friend from Kansas, it is that because the House has asked that this provision go in the bill, therefore we should accede to it as a matter of courtesy. I would be willing to accede to anything as a matter of courtesy if I could consistently do so.

Mr. McCUMBER. Mr. President, will the Senator state what the drug is composed of, so that we may understand whether it is deleterious?

Mr. OWEN. Peyote is a small button that grows on a species of the cactus which the Indians use in certain religious ceremonies which they hold. They have had no hearing on this question, and they are very much concerned about it. If it be desirable to declare peyote a deleterious drug it can be done upon a proper hearing, but to say that the question should not be raised in the Senate but might be raised in the committee I hardly think is justified. We are now before the Senate as in Committee of the Whole, and for that reason I am presenting the matter to the Senate.

Mr. McCUMBER. It is merely the nut itself that is used and not an extract from it?

Mr. OWEN. No.

Mr. McCUMBER. Can the Senator say from his own knowledge whether it is in reality deleterious and what its effect is?

Mr. OWEN. I do not believe it is, although, like anything else, I think it might be abused by an individual. I have seen many of the Indians who have taken it in their ceremonies. I have had delegations of Indians call on me to protest against the action now proposed.

Mr. McCUMBER. Is it an intoxicant?

Mr. CURTIS. Mr. President, may I suggest to the Senator that the committee has gone into this question very thoroughly? I made it a point on one or two occasions when visiting Indian reservations carefully to look into the effect of peyote upon the Indians. On some of the reservations the Indians use it entirely for religious purposes, and it has no bad effect upon them, while on other reservations they use it as a dope, and under its influence they are in dreamland all the time. Undoubtedly where the Indian acquires the habit and uses it constantly it has a bad effect. Those who are addicted to the use of it can be recognized by their appearance.

The Committee on Indian Affairs, having considered this question a number of times, has refused to make the appropriation; but I believe that the House ought to have the right to prepare for themselves their own legislation and send it over to us, and let us fight it out in the committee instead of being prevented from putting what they desire in a bill considered by them.

Mr. KING. Mr. President, may I ask the Senator a question?

Mr. CURTIS. Certainly.

Mr. KING. Suppose that we should pass this bill and there should be funds available in the Indian Bureau for the suppression of the use of deleterious drugs or of vice or crime, could the department not use some of those funds for the prevention of the use of peyote?

Mr. CURTIS. There is no appropriation available at this time for the suppression of deleterious drugs. There are appropriations which may be used in suppressing the traffic in intoxicating liquors.

Mr. OWEN. But this bill declares peyote to be a deleterious drug.

Mr. CURTIS. I know it does.

Mr. OWEN. If it is declared by Congress that it is a deleterious drug and the Indian Office should suppress the religious observances of these Indians, I think it would be an unfortunate thing to do. I feel impelled, therefore, to make the motion, because I know how the people in my State feel about it. There are more Indians in Oklahoma than in all of the other States combined, and I know they are very sensitive about this matter.

Mr. CURTIS. I know that, for the committee has heard delegation after delegation of Indians from reservations in Oklahoma and other States. As I said a moment ago, so far as I am personally concerned, I have no objection to such an amendment as has been proposed, but I do think that I owe it to the Senate to state that if the House insists on the item remaining in the bill, under the practice of the bodies ever since I have been in Congress, we would have to recede, because it is a matter they ask for their own body.

Mr. OWEN. In effect they are imposing upon the Senate of the United States a rule declaring peyote to be a deleterious drug. I do not think the House is authorized to do that. I do not think it ought to be insisted on, because if the item be eliminated it will still leave to the House all they have asked for, except that the law with regard to peyote will not be changed. I wish very much that the Senator from Kansas would see his way clear to support my suggestion, because the committee which reported this bill to the Senate did not hear the Indians on the question of peyote. If they had done so, I believe they would have followed the uniform practice of committees heretofore which have refused to make a declaration that peyote is deleterious.

Mr. KING. Mr. President, I confess I am as yet unable to follow the Senator from Kansas. In order that the House may adopt a course of procedure of which they approve they want to pass a penal statute and have the Senate, in connection with the House, declare that the use of peyote is deleterious and therefore may be suppressed. I have no objection to the House having any rule of procedure they please, and if they want a rule of procedure that certain appropriations when offered for the purpose of suppressing deleterious drugs may not be objected to upon the ground that they are not germane to the subject or something of that nature, I have no objection; but for them, upon the theory that they desire a rule of procedure, to declare the use of a certain article to be criminal or deleterious and secure the enactment of a statute affirming that fact, it seems to me is going beyond the mere asking for authority with respect to a matter of procedure.

Mr. CURTIS. Mr. President, the House do not ask for any criminal legislation, or that it be declared criminal. All they ask is that if the Committee on Appropriations of the House determine after a hearing that it is best to make an appropriation to suppress the use of peyote, then that they may report out a bill making the appropriation, and it will not be subject to a point of order upon the floor of the House and be stricken out upon a point of order made by a Member. That is all they ask. As I said a moment ago, I know that the Committee on Indian Affairs of the Senate will in the future do as they have done in the past—give to the people interested a full and complete hearing on this question if an appropriation for that purpose is asked. They always have done it and will do it.

The VICE PRESIDENT. The Senator from Oklahoma offers an amendment, which will be stated.

The READING CLERK. On page 2, line 11, it is proposed to strike out the word "peyote" and the word "other," so that, if amended, it will read "intoxicating liquors and deleterious drugs."

Mr. OWEN. Mr. President, I should like to say that if it were only a rule of action that the House was desiring, I should readily accord that right to the House, but it is going much further. It is declaring peyote a deleterious drug and in effect is making it a criminal offense for these Indans to use peyote for their religious ceremonies. I do not believe that if the Senate well understands it the Senate will agree to that.

The VICE PRESIDENT. The question is on the adoption of the amendment offered by the Senator from Oklahoma.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

JUDGE KENESAW M. LANDIS.

Mr. KENYON. Mr. President, a few days ago, during the weekly bombardment of Judge Landis in this Chamber, I tried to introduce into the RECORD an editorial from the Chicago Tribune showing what the people of the Middle West really thought about Judge Landis and his work. It was objected to, although the action of the American Bar Association had gone into the RECORD. I ask now that this editorial be published in the RECORD.

The VICE PRESIDENT. The Senator from Iowa asks that a certain editorial be published in the RECORD. Is there objection? The Chair hears none, and it is so ordered.

The editorial is as follows:

[From the Chicago Tribune of Saturday, Sept. 3, 1921.]

JUDGE LANDIS.

The greatest public service of the year has been rendered by Judge Landis. He has knocked down a pernicious and destructive system of operation which prevailed in the building trades and which kept the people from getting the homes they needed. He has obtained a settlement which removes an obstruction to industry and housing.

He was able to accomplish this by the weight of his own character, by his vigor, by his reputation for equity and public spirit which has been earned on the Federal bench. He is the one man in the city who could have done it, probably the one man in the country who could have done it.

We do not believe that any commission would have succeeded. It would have left the situation just as it found it, if not worse. Statutes had been unavailing. Threatened prosecutions were not having effect, and Judge Landis did succeed because all the emphasis of his character is on the side of equity.

If he had been merely a distinguished jurist, a profound legalist, he could not have accomplished it. He could and did because back of him, springing from the record of his acts and words, was a body of public opinion which people do not care to offend. If Landis found outrageous, iniquitous, and lawless combinations, agreements, and restrictions in the building trades the people would know that his condemnation of them came from his sense of equity and that men who opposed him or tried to block him did not have a leg to stand on morally.

Therefore he could bring into equitable agreement both contractors and union laborers. They had imposed restrictions on themselves, on each other, and on the public, and these restrictions, most of them clearly detrimental to the community, had virtually stopped building,

causing serious unemployment and producing the worst condition in housing the city ever knew.

It was not the only cause of the condition, but when it was added to others, such as the high cost of materials, its effect was final. Landis has substituted fair agreements for unfair ones, and the way is clear for resumption of building activities. It is estimated that 50,000 workmen will find relief in the release of the building industry. If optimistic forecasts are justified, this stimulus will be given to general industry just as it is coming most to need a stimulus. The bad social consequences of the house shortage will be checked and without the intervention of questionable statutes which might affect property rights but which can not build houses.

Landis has opened the way for natural forces of recovery and correction to operate, and only he could have done it. He acted wholly for the public. It will seem to a great many people that the American Bar Association put an untimely and ungenerous tag upon the activities of the judge just as he was accomplishing one of his most useful works. The day that the announcement could be made of the success of his work as an arbitrator the association adopted a resolution condemning him for accepting private emolument and declaring his conduct derogatory to "the dignity of the bench and undermining public confidence in the independence of the judiciary."

These resolutions were presented by Hampton L. Carson, formerly attorney general of Pennsylvania. Whatever Mr. Carson's ideas of the propriety of the relations of Judge Landis to organized baseball, his conclusions regarding their results are entirely and squarely opposed to the truth. Judge Landis has not undermined public confidence in the judiciary. He is the most disinguished support of that confidence, as the slightest test of sentiment and opinion in his district would prove.

He is more feared by the lawless and more respected by the lawful than any man sitting on the bench. Some honorable lawyers object to his methods, but the general public's confidence in him is full and serene. The crook in his court respects the strength of the law; the honest man respects the equities. He may at times be an extrajudicial judge—and therein may lie the formal objections which lawyers bring against some of his procedure. He may be brusque, and therein lie cause of personal dislike some lawyers bear him. But resolutions which say that he has lowered public confidence and hurt the general standing of the judiciary ignore every truth connected with the administration of justice in his court. They are entirely false and unjustified.

His relations to organized baseball have been explained many times. Baseball wanted his character. He would not have been worth a cent to the men running organized baseball if his character had not been the opposite of that described in the resolutions.

He could get poor on his pay as a judge, and that is all. His connection with baseball is remunerative and his friends are glad it is. Its source is open and known. The services rendered are known. They do not interfere with his judicial duties and would not be allowed to. This community which Judge Landis serves would not resent a discussion of or a judgment on the judicial proprieties in his case, but it does resent a slander and misrepresentation.

ENLARGEMENT OF CAPITOL GROUNDS.

Mr. KEYES. I offer the resolution which I send to the desk and ask unanimous consent for its consideration at the present time.

The VICE PRESIDENT. The resolution will be read.

The resolution (S. Res. 156) was read, as follows:

Resolved, That the Attorney General be, and he is hereby, directed to inform the Senate of the steps which are necessary to be taken in order to complete the carrying out of the intention of Congress to acquire the lands between the Capitol and the Union Station for the enlargement of the Capitol grounds, as expressed in the act approved June 25, 1910.

The VICE PRESIDENT. The Senator from New Hampshire asks unanimous consent for the immediate consideration of the resolution. Is there objection?

Mr. WATSON of Georgia. Mr. President, I have no objection at all to the resolution, but I should like to address myself to the Senate for a moment on this very subject of Capitol Hill. I had drafted a resolution which I intended to offer at the proper time; but the resolution which the Senator from New Hampshire has offered leaves me the opening to say what I think somebody ought to say, and I think now is as good a time to say it as we will ever have.

Mr. President, I think that if we are worth anything to our country, our lives are worth protection. I think if Capitol Hill should be dedicated to anything represented by that flag behind you, sir, it should be dedicated to the sanctity of human life. Everybody knows that Senators and Representatives are compelled to go back and forth across the Avenue to their workrooms. Everybody knows that at a certain hour of the forenoon and a certain hour of the afternoon hundreds of boy clerks and girl clerks are discharged from those buildings. Everybody knows that delegations of school children, of visitors, of tourists from this country and from other countries, are constantly on this hill, admiring the magnificent grounds and admiring the magnificent buildings and admiring the magnificent paintings and statuary which they contain.

Mr. President, it seems to me that we are very careless in the protection of Capitol Hill from motor vehicles of all sorts, and especially that devilish motor vehicle, the motor cycle, which goes speeding through here at 60 miles an hour.

Mr. President, yesterday morning, in walking to my office—because after sitting here for five or six hours listening to debate and trying to qualify myself to discharge the duties of my office, I feel the necessity of open-air exercise, I feel the necessity of walking, as other Senators no doubt do—yesterday morning, when I was walking to my office, I saw Senators jumping out of the way of motor cycles and automobiles. I saw a dog chasing a tame squirrel in our park. I looked around for a policeman. I did not see one anywhere. We are supposed to have 80 policemen protecting these avenues. Where are they? When do they go on duty? When do they go off? Not one of them was on duty this morning.

Only a few days ago a Senator from Tennessee was run down and run over on Pennsylvania Avenue, and only through the providence of the Almighty did he escape being killed. We never take up a morning paper that we do not dread to see some account of a school child or some other child or some girl or some woman or some man that has been run down and killed by these utterly reckless drivers of motor vehicles. I have drafted a resolution asking the Committee on the District of Columbia to afford better protection, not for Senators only, not for Representatives only, but for all the people who come here on Capitol Hill expecting that their lives will be safe here under the very shadow of our national flag, which guarantees security of life. I hope that the District Committee will take action in that direction; and if we have 80 policemen let at least 40 of them get outside of this building. Let them get where they can give protection to those who are on Capitol Hill either for business or for pleasure. That is all I have to say.

The VICE PRESIDENT. Is there objection to the immediate consideration of the resolution? The Chair hears none.

The resolution was agreed to.

FLATHEAD INDIAN RESERVATION, MONT.

Mr. MYERS. Mr. President, before the morning hour expires I ask the indulgence of the Senate for a minute or two.

The calendar is seldom called now; and there is on the calendar a bill, Order of Business 302, which seeks to appropriate from Indian tribal funds a small amount of money to some people who have done some work for the United States Government under contract by authority of the Indian Bureau. The Indian Bureau admits that the work was done, that it is satisfactory, that it is completed, that the contract was performed by the parties, that the money is due and ought to be paid, but simply says that it has not the money until Congress authorizes the payment.

These are poor people who have done some logging for the Indian Bureau; and I think it is a shameful state of affairs for the United States Government to enter into a contract with people to do work, and then let the work be performed and the contract completed and say it is all right and everything is satisfactory, but they must wait a year or two for their money.

The bill has been favorably reported by the Committee on Indian Affairs, and it is urged by the Indian Bureau. If Senators will grant unanimous consent for its immediate consideration—the bill is short, and I will ask that the bill and the report on it may be read, so that Senators will know what they are voting on. It will take only a minute or two to dispose of it, I think. I ask unanimous consent for its immediate consideration.

The VICE PRESIDENT. The Senator from Montana asks unanimous consent for the present consideration of a bill which will be read by the Secretary.

The ASSISTANT SECRETARY. A bill (S. 2474) to appropriate money to Swan Johnson, due him from the United States on account of a completed contract for cutting and delivering logs.

The Committee on Indian Affairs proposes to strike out all after the enacting clause, and to insert the following words:

That the Secretary of the Interior be, and hereby is, authorized to expend $3,632.92 from funds held by the United States in trust for the Flathead Tribe of Indians in the payment of $2,250 due Swan Johnson on a logging contract and $851 and $531.92, respectively, due Agnes and Paul Antoine, Flathead Indians, for stumpage.

The VICE PRESIDENT. Is there objection to the immediate consideration of the bill?

Mr. CURTIS. Mr. President, the Senator from Montana has asked that the report be read. I do not think it will be necessary. The bill is recommended by the department, and the amendments suggested by the department have been put in, taking the money out of Indian funds. I do not think it is necessary to have the report read.

Mr. MYERS. I withdraw the request that the report be read.

The VICE PRESIDENT. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The VICE PRESIDENT. The question is on agreeing to the amendment reported by the committee, which has been read.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to appropriate money for the payment of Swan Johnson and Agnes and Paul Antoine in connection with logging operations on the Flathead Indian Reservation in Montana."

JOHN M. GREEN.

Mr. UNDERWOOD. Mr. President, as the Senator from Montana [Mr. MYERS] has just said, I have waited a good many days for the consideration of the calendar about a little bill, and the calendar has not been called recently.

I have a bill, Senate bill 777, for the relief of John M. Green, which is on the calendar, and which has been favorably reported from the Committee on Military Affairs.

Mr. PENROSE. What is the bill about?

Mr. UNDERWOOD. I will inform the Senate in just a word. John M. Green enlisted in the Union Army during the Civil War, in 1862.

Mr. PENROSE. Will the Senator pardon me? I do not suppose the bill will lead to any discussion, and I will not, therefore, become an obstacle in the way of its consideration.

Mr. UNDERWOOD. If it leads to any discussion, of course, I will withdraw it. I just want to make a short statement of the case.

Mr. PENROSE. I simply wanted to make a request that we take up for consideration a bill of considerably wider general interest, namely, the revenue bill.

Mr. UNDERWOOD. We are in the morning hour, and I presume we took an adjournment last night so that some of these things might be disposed of.

Mr. PENROSE. I understood we had passed the morning hour, and I certainly did not think that bills for pensions or for relief would stand in the way of a bill to secure money to obtain such relief. But I will not stand in the Senator's way.

Mr. UNDERWOOD. The Senator has a different understanding of the parliamentary situation from what I have. Of course, if the Senator desires to have me go back to the calendar with this bill, that is a different proposition.

Mr. PENROSE. I hope the Senator's explanation will not be too long, so that we can vote in favor of his bill without too much delay.

Mr. UNDERWOOD. It will take only a minute or two. John Green was a young fellow who came from Michigan. He enlisted and served three years, and was in many battles in the Civil War. After the war was over, in the fall of 1865, he was in Huntsville, Ala., and with some other fellows got drunk and was sentenced for being drunk. I think he was locked up in jail, and when he got out of jail the war was over, and although the sentence did not carry the proposition of a dishonorable discharge, when he got his discharge, and the war was over, they gave him a dishonorable discharge, because, they said, his term of enlistment had expired by the ending of the war, and he was in jail at that time.

There is nothing in the record affecting his moral character outside of the proposition that he got drunk. He did get drunk, with some other soldiers, and we all know the riotous conditions which prevailed right after the Civil War. They broke up a store, I think, but there was nothing against this man's military record, and now the man is old and decrepit, and if this bill is passed it will put him on a pensionable status. That is all there is to it. It has the unanimous report of the Committee on Military Affairs, and I ask unanimous consent for its immediate consideration.

Mr. SMOOT. I see that Secretary Weeks says, in a letter addressed to Hon. MEDILL MCCORMICK:

> It is deemed proper to add that the assumption indicated in your letter that the soldier was in fact finally discharged honorably does not appear to be supported by the official records. Moreover, the accompanying discharge certificate dated September 8, 1865, indicating that he was discharged on that date to take effect June 9, 1865, can not be accepted by this department as evidence that he was in fact discharged on September 8, 1865, because as indicated in the accompanying letter the purpose to discharge him in September, 1865, was abandoned and he was not actually discharged until January 13, 1866. This department is therefore unable to afford any relief in the matter.

Then there is a letter here from Adjt. Gen. Harris.

Mr. UNDERWOOD. The department was unable to afford relief, and therefore they sent it to me, because Congress could afford relief; but there is no adverse report on the part of the department to the passage of this bill. The department does not report adversely to the passage of the bill. It merely says it could not afford relief; and it could not, because it could not correct this record. Here is what the committee report says:

> He has been held by the War Department and the Pension Bureau to have been dishonorably discharged under a ruling of the department to the effect "that any volunteer soldier who was sentenced by a court-martial to a term of confinement extending to or beyond his term of enlistment must be held to have been dishonorably discharged by operation of the sentence—

not by a finding of the court-martial, but the bureau held that because he was sentenced by a court-martial for getting on this drunk he must be considered dishonorably discharged. That is a mere decision of the bureau many years after the war was over.

Mr. MCCUMBER. So far as the record shows, then, he served honorably from 1862 until the close of the war?

Mr. UNDERWOOD. Until after Lee and Johnson had surrendered. He was in the Army after that time.

Mr. MCCUMBER. He then celebrated the ending of the war by getting drunk and being sent to a calaboose?

Mr. UNDERWOOD. That is it.

Mr. TOWNSEND. Do I understand that if the bill passes it will permit this soldier to obtain a pension from the time of his discharge in 1865?

Mr. UNDERWOOD. No; it will enable him to get a pension from now, and that is the purpose of the bill. He will go on the pension roll right now, but will get no back pension.

The PRESIDING OFFICER (Mr. STERLING in the chair). Is there objection to the consideration of the bill?

There being no objection, the bill was considered as in Committee of the Whole.

The bill had been reported from the Committee on Military Affairs with an amendment, on page 1, after line 7, to insert the following proviso:

Provided, That no pension, bounty, or other allowance shall be held to have accrued prior to the passage of this act.

So as to make the bill read:

Be it enacted, etc., That in the administration of the pension laws John M. Green shall be held and considered to have been honorably discharged from the military service of the United States as a private of Company G, Eighty-eighth Regiment Illinois Volunteer Infantry, on the 8th day of September, 1865: *Provided*, That no pension, bounty, or other allowance shall be held to have accrued prior to the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ADDRESS OF SENATOR PAT HARRISON.

Mr. SWANSON. Mr. President, a few days ago the Senator from Mississippi [Mr. HARRISON] made a very eloquent and able speech at the unveiling of an equestrian statue of Stonewall Jackson at Charlottesville, Va. It is a very interesting, patriotic speech, and I ask unanimous consent that it be printed in the RECORD in the ordinary RECORD type.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

UNVEILING OF STATUE OF STONEWALL JACKSON AT CHARLOTTESVILLE, VA.

Senator HARRISON said:

A nation torn by fratricidal strife, when reunited, is, like welded iron, given increased strength and durability.

From the gulf that separated the sections in sixty-one has come an understanding making for the progress of each and the common welfare of both. This could not have been but for the courage, conviction, and ideals of a whole people.

The sharp battles revealed in its leaders military genius unsurpassed, and in its men and women courage and fortitude that reflected credit on both sections and left a priceless legacy to a great and united country.

The men who filled the ranks of the northern armies were prompted by a conception of duty no greater than those who fought under the Stars and Bars. Glorious victories or crushing defeats dim not the bravery and sacrifice of either. When we view those four years of titanic struggle in the light of the present day, either through northern or southern eyes, there is so much glory reflected from both that each merits the greatest praise and has won imperishable renown. It has been the record of these gallant heroes that has inspired and led our sons to victory in every war in which this country has since engaged.

At San Juan Hill the boys from the South, under Wheeler, charged with those from the North under Roosevelt. On the cactus plains of Mexico the lads in khaki from Virginia marched by the side of those from Vermont. At Belleau Wood, Chateau-Thierry, and Argonne, when civilization trembled in the scales, the brave boys from every part of this land, under the folds of the Stars and Stripes and to the tunes of Dixie and Yankee Doodle Dandy, followed Pershing for humanity and their country. And to-day, it matters not in which war they were en-

gaged, the names of northern and southern heroes illumine the pages of history and are enshrined in the hearts of a common country.

The blue and the gray,
In fierce array,
No local hates dissever,
Strike hands once more
From shore to shore,
The North and South forever.

The stirring sentiment that prompted a few weeks ago those brave marines encamped on the historic fields of the Battle of the Wilderness, who discovered the little graveyard covered with weeds and briars, with inclosure down, in which, among unmarked graves, was buried the arm of that gallant hero to whom we to-day pay tribute, is inspiring. These boys from every part of the country wearing the uniform of the American fighting man, sworn to defend the flag of a common country, and ready to give their lives for its protection, went immediately to work, cleared the graves, resurrected the fence, and clothed the surroundings with an air of attention and care. It was the American spirit, the spirit of the present-day American soldier, whose heart was thrilled, whose soul was touched, and whose patriotism was aroused when he saw that in this modest way he could pay tribute even to the arm of as true a soldier and as daring a leader as ever marched to the tune of martial airs.

This is an occasion that not only interests your city and State but warms the heart of the South and of the whole country. Your cultured city has been the scene of many great occasions. Virginia, the Mother of States, known by the world before the Government of the United States was founded and believed by many as being easily located after the United States would disappear from the map of the world; here, over your fields and among your hills, armies have struggled and the fate of nations hung. In your halls of State and public places orators, whose words electrified the whole country, have spoken, and the wisdom and policies of your statesmen have touched every fiber of the life of the Republic. Heroes from every State of the Nation rest beneath your hallowed soil, everlasting testimonials of the battles with which your hills resounded. Virginia boasts of an unrivaled galaxy of names—statesmen, orators, jurists, and military leaders which any State would like to claim as its own.

It is natural that many great events and occasions should have taken place within the borders of your State. As important and soul-stirring as they were, none held to commemorate the virtues of a man and pay tribute to his memory has surpassed this one in the warmth or unanimity of the people. Among all the distinguished Virginians who has added luster to America none impressed the country more with the greatness of his military genius and no name enthuses Virginians more than that of Stonewall Jackson.

It is exceptional when one so reserved, mild-mannered, and gentle, with a piety that bordered upon fanaticism, is possessed of a military instinct as unquenchable as a desert thirst.

In a masterful work Mrs. Preston tells the story of a trip a few years preceding the war of Maj. Jackson, his wife, and herself. She said:

At Quebec, on the heights of Abraham, as Jackson stood by the monument of Wolfe, and read aloud the inscription giving the dying words of Wolfe, "I die content," he seemed to be transfigured and exclaimed, pointing to the monument with a passionate movement of the arm, "to die as he did, who would not die content."

It was a revelation of the war spirit slumbering within the breast of this calm and awkward professor. Awakened by this monument to a heroic soldier of noble daring, it could not be suppressed. Do not understand me to say he loved war. He did not. He loved peace and all the fruits of peace. He prayed for peace and despised war. Just before the beginning of the struggle that separated this Republic, in speaking to his pastor one day, he said, "It is painful to discover with what unconcern they speak of war and threaten it. They do not know its horrors. I have seen enough of it to make me look upon it as the sum of all evils."

And it was with this sincere feeling upon his part, that with flashing eyes and burning heart, he said: "While I deprecate it, should the step be taken which is now threatened we shall have no alternative; we must fight."

As a boy he dreamed of West Point and set his heart upon going there with that determination that afterwards carried him to success on a hundred battle fields and made his utterance, "You may be whatever you resolve to be," a subject on ten thousand commencement occasions. He obtained an appointment and entered West Point. Without the preparation with which his classmates had been blessed, his career at that institution was one of studious and constant application, but a career that won for him no special distinction though revealing the qualities of fixed determination, rigid honesty, pious inclinations, and strict punctuality that so distinguished him in after life.

As a student there and professor of military science at the Virginia Military Institute his work did not shine with that degree of brilliancy that illumined his path upon the battle fields. It was there that the latent powers of the man shone forth. The silence of the study or classroom, while welcome to him, was welcome only in the way that comes from a sense of duty, without enthusiasm. As a professor the same scholarly seriousness and moral deportment attended his work as was displayed at West Point. By many he was looked upon as a man of mystery, strange and almost eccentric. His walk was awkward and his unvarying habits and methodical movements indicated, it was said, to the inhabitants of Lexington the time of day.

While tender, kind, and sympathetic, among those with whom he lived he was not recognized as a companionable man. In the home, as a father and husband, he was as gentle as a babe, attentive and affectionate. Nothing delighted him more than to feel the clinging touch of little children and to gladden their hearts with some gift. Amidst the smoke of battle and the thundering roar of cannon his heart went out in longing desire to press to his cheek and enfold in his arms his only child, that was born while he was serving his section in the line of duty. And with what fondness did he look into the eyes of his little one when brought to him in camp by its mother just before his death.

He was humane, but those traits of his rugged character lay so deep that they were not discovered by the casual observer. Mr. Whittier does justice to his kindly spirit in "Barbara Frietchie," where he represents Jackson at the head of his army, crying out to his soldiers at the sight of the old woman defiantly waving her Union flag: "Who touches a hair of yon gray head dies like a dog. March on." While those lines are perhaps but fiction, the expressions are descriptive of his noble qualities.

Jackson was a devout Christian. He worshiped his God with an ardor as constant as the everflowing rivers, as true as the stars in their course. Search as you may his private correspondence and his reports of battles, none will be found without an expression of earnest prayer or thanks to the Almighty. His dominating belief was that "God was in all his thoughts," and prayer to him was intimate and continuous. He had strong convictions, which were the guide and rule of his life; yet he respected the religious views of others and was neither bigot nor fanatic. He worshiped with both Catholics and Protestants and believed in the fraternity of man and the fatherhood of God. He believed that all Christians marched under one flag, for one purpose, and to a common goal. He was the soldier saint of the Confederacy. He read his Bible with the same studious attention with which he analyzed the plans of an Alexander or the maneuvers of a Napoleon. He never entered a battle without first offering a prayer to the Heavenly Father, and the old Negro attendant, when asked when the general expected to make another attack, simply said, "I think to-morrow, 'cause he's prayin' to-night."

Nothing except the cause for which he was fighting ever prevented his regular attendance at church or the performance of his duties at Sunday school. Following the Battle of Manassas, when his name was immortalized and the story of his brave deeds traveled like electricity throughout the country and the South was wild over the victory that he and his men had won, he took time that night to write his pastor at Lexington that "he had remembered he had failed to send his contribution for the colored Sunday school and inclosed his check for the object."

Little wonder that there was disappointment felt by those who had gathered the next morning around the post office in Lexington, awaiting the news in detail of Jackson's victory, when this letter was read to the crowd, with no mention of the battle.

This incident revealed the modesty of the man, the piety of his heart.

What a wonderful influence is religion! It melts the heart to human kindness; robs hate of its ignoble purpose; smooths the brow of immoral thoughts; drives degraded instincts to cover. It travels without special favors; recognizes no class or racial distinctions. It is boundless, fathomless, and limitless. It is as powerful in the sweat shop of the laborer as in the stately mansions of the rich. No activity soothes it into submission; no obstruction is too great to repel it, and no place too loathsome for it to enter. It seeks the peaks and dwells in the lowlands; rides with prosperity and walks with poverty. It is omnipotent and omnipresent. It takes nothing that is good and gives nothing that is bad. It clears the heart and animates the soul. It makes people happier and governments stronger. It enables one to see the beauty of the stars, to scent the perfume of the flowers, to hear the music of the birds, and to realize that there is joy in living.

This is the kind of piety that gripped the heart and soul of him, the mightiest strategist of his day, the kind of piety that heightened his every virtue, gave direction and force to every blow he struck, and lent consecration to the sacrifice when he laid down his life on the altar of his country's liberty.

No critic could stoop so low, no slanderer become so debased, no opponent with a heart or mind could ever say that one possessed of such qualities as he could have fought so gallantly and successfully without a settled conviction of the correctness of his position and the justice of the cause. What an influence upon the childhood of to-day is the reply of Jackson to Lee, following the first day's battle at Chancellorsville. Lee was showering his thanks upon him for the great service he had rendered. "You should give the praise to God," he said. And what a consolation to Christian peoples everywhere when this man of action, stricken in the very prime of his life, when his services were needed most, should say, "God's will be done."

The height of fame, to which with longing eyes Hannibal looked, was not attained until he had fought for 15 years. Napoleon did not reach the zenith of his glory until after 20 years of military activity. But Jackson, in the brief period of two years and before he was 40 years old, had immortalized himself.

In the Mexican War, as a young lieutenant fresh from the halls of West Point, he was promoted within nine months from lieutenant to major, winning numerous mentions for distinguished bravery and military service. At Vera Cruz, Cherubusco, Contreras, and Chapultepec he performed heroic services that won from his superiors the greatest praise and stamped his name upon the list of heroes of that bloody struggle. In one battle, when all but himself and one sergeant had been killed or wounded, orders came to him to withdraw. He disobeyed for the first and only time in his military career and sent back word to send him 50 regulars and he would storm and take the fortifications of the enemy. The regulars were sent and in the Stonewall Jackson kind of way the breastworks were taken.

But splendid as were the military services rendered by him on the arid plains of Mexico, they were only fitting him for the greater campaigns to come in which he was to play such a dominant part. In 1861, when anxiety hovered over the land bespeaking the rapid approach of the separation of the States, he spoke to the cadets with whom he had been associated and whom he had instructed so long the words that expressed the sentiments of his heart, for the first time indicating his plan of action should the conflict come. It is little wonder that it enthused those cadets, as their pious and awkward professor spoke as one inspired, and with a voice ringing with clarity thrilled them with the words: "The time may come when your State may need your services, and if that time does come, then draw your swords and throw away the scabbard." The cadets who heard those words never forgot them. Heeding the counsel of this soldier saint, they "drew their swords and threw away their scabbards."

"The French," said an old Hungarian in Bonaparte's time, "have a young general who knows nothing of the rules of war. He is sometimes in our front, sometimes on our flank, and sometimes in our rear." That thought must have been in the mind of the poet when he penned those stirring lines, "That was Stonewall Jackson's way." He flashed like a thunderbolt of war enveloped in the lightning's grip. His armies moved, striking where least expected, carrying terror and destruction to the enemy, victory and inspiration to the South; no obstruction too great, no arm too strong, no circumstance too unwelcome to divert him from his purpose. He dashed from place to place so fast that his camp fires resembled circles of fire.

He was a man of action. He preferred to watch the quick shooting meteors rather than to gaze upon the constant beams of the moon. He preferred to view the river's rushing waters rather than the still pools of the valleys. He preferred to take part in the chase of the fox, with its darting, twisting, circumnavigating habits, rather than to make a stand and await the approach of his expected victim.

Duty to him was the highest purpose of man, and not once, from the time he answered the bugle's call and left the fireside of a contented, happy home and loving wife in order to serve his State, did he ever obtain a furlough or leave his command to return even to his loved ones. With methodical deliberation he laid his plans and with an unvarying constancy he carried them out.

I wish that I had the time and you the patience, but this occasion will not permit it, to trace the military activities of this man who has emblazoned the pages of history with his genius from the time he stood with his faithful 2,400 at Bull Run, withstood the attacks and assaults of the enemy, with troops falling back all around him, causing Gen. Bee to exclaim, "Look at Jackson, standing like a stone wall," to the time of that fateful end when, from the shot of his own soldiers, he fell wounded at Chancellorsville.

If we could ride over the battle fields of the Shenandoah and see where this "wily fox who was master of every gap and gorge in the valley" carried on his campaign that has been studied ever since by military experts throughout the world; if we could follow him to Richmond, where he joined that idol of the Confederacy, that true patriot, that southern gentleman, that military genius whom a grateful section will never forget, and whose name will live in the memory of man throughout time—Robert E. Lee—in his campaign against McClellan in sixty-two; if we could follow him in his detour around Pope and on again to Manassas; if we could follow him to Harpers Ferry, to Winchester, to Sharpsburg, to Cold Harbor, and to Chancellorsville; and if we could study every detail of his march, the intricate working of his tactics, we could not find that in any battle he ever blundered.

With such a knightly leader, with success written upon his brow and victory engraved upon his sword, it was natural that his men desired to follow him. What a disappointment it must have been to those gallant heroes who had electrified the world at Manassas and written their names in blood as the "Stonewall Brigade," when he was ordered to leave them and take command of the armies on the northern front. His heart was filled with suppressed emotion when his loyal army was formed to say good-by to their beloved leader. The glow that brightened their faces and lit up their flashing eyes in the fire of battle was gone. They were like children being separated from their father. Jackson said:

You have already gained a brilliant and deservedly high reputation and I trust that you will gain more victories and add additional luster to the reputation you now enjoy.

Then rising in his stirrups and casting his bridle reins upon the neck of his steed, with an eloquence that thrilled them all, he said:

In the Army of the Shenandoah you were the first brigade. In the Army of the Potomac you were the first brigade. You were the first brigade in the affections of your general, and I hope, by your future deeds and bearing, that you will be handed down to posterity as the first brigade in this our second War of Independence.

Some of you grizzled warriors may have heard those burning words and some of you may have witnessed what then took place, but historians tell us that for a moment there was silence. Then, as the general succumbed with emotion, the air was rent with cheers, and their intrepid leader, unable to stand such evidence of affection, waved his cap and galloped away; and from that day on he remained in the saddle and kept the enemy guessing.

Jackson's campaign in the Shenandoah outrivaled Napoleon's in Italy. Von Moltke declared it without rival in the world's history.

Gen. Ewell, when asked what he thought of him, said:

When he commenced his valley campaign I thought him crazy. Before he ended it I thought he was inspired.

It is a remarkable fact of history that his promotions were so constant and rapid that many doubted at first his capacity, but when he thrilled the Nation with exploit after exploit, victory after victory, they thought him big enough to command the armies of the world.

He was rigid as a disciplinarian, but while his movements were so quick and at times hard he was ever considerate and mindful of the care and welfare of his men. It was these qualities, together with the genius of his military character, that won the love of his army and made of him their idol. No more popular military commander ever lived, and none ever thrilled his army as Jackson did when he appeared before them. Not only was he popular with his own men but he won the respect and admiration of the enemy. More than one instance is told where men wearing the blue, anxious to catch a glimpse of this "man of the hour," ventured too far beyond the lines and were captured. One Federal officer remarked that he feared if Jackson should be captured and carried through their lines his men would cheer him.

As we stand to-day around this imposing equestrian statue, erected through the generous and loving heart of Mr. McIntyre, a patriotic southerner, a benefactor, a philanthropist, zealous of his State's pride and country's glory, we are reminded that soon another statue will be erected in this, your historic city, through his generosity, to the other military idol of the Southland. What a beautiful sentiment it is that links the names of Lee and Jackson! No two military leaders ever worked in more splendid unison than they; both great strategists, each supplied to the other what the other might lack. Their mutual counsel was invaluable. Brothers never loved more sincerely than did Lee and Jackson. Jackson said of his chief, "Lee is a phenomenon. I would follow him blindfolded."

And when at Chancellorsville the star of this mighty genius grew dim and the skies of the Southland were clouded with grief that found expression only in tearful eyes and wet cheeks, Lee said: "Jackson has lost his left arm. I have lost my right." He wrote to him, "Could I have dictated events I should have chosen, for the good of the country, to have been disabled in your stead," and Jackson exclaimed, "Far better for the Confederacy that ten Jacksons should have fallen than one Lee."

As we leave this hallowed spot may the spirit of him who sleeps beneath Virginia's sod and whose statue has here been unveiled look down upon us and realize that his services are not forgotten, that his lessons still live, that his mighty genius is a part of the history of our common country, and that a loving people and a generous Nation will ever pay tribute to his undying memory.

TAX REVISION.

Mr. PENROSE. I ask that the unfinished business, the revenue bill, be laid before the Senate and proceeded with.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 8245) to reduce and equalize taxation, to amend and simplify the revenue act of 1918, and for other purposes.

Mr. PENROSE. Mr. President, I think that a measure of such overwhelming importance certainly ought to have the attention of a greater number of Senators than has hitherto been the case, and with great reluctance I make the suggestion of the absence of a quorum.

If we get a quorum, Mr. President, if I may be permitted by unanimous consent to continue my statement, I sincerely hope that as many Senators as possible will remain in the Chamber to listen to the explanations which the members of the Committee on Finance are ready from time to time to make as to any question concerning which Senators desire enlightenment. The trouble is that we call for a quorum, and the moment the call discloses a quorum the Senate Chamber is again empty, and then after any explanation is made the vote shows an utter ignorance or disregard of the statements made by the committee. With this hope earnestly uppermost in my mind, I now suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Borah	Harreld	Moses	Smoot
Brandegee	Harris	Myers	Spencer
Broussard	Heflin	Nelson	Stanley
Calder	Hitchcock	New	Sterling
Cameron	Jones, N. Mex.	Newberry	Sutherland
Capper	Kellogg	Norbeck	Swanson
Cummins	Kenyon	Overman	Townsend
Curtis	Keyes	Owen	Trammell
Dial	King	Page	Underwood
Dillingham	La Follette	Penrose	Wadsworth
du Pont	Lenroot	Pittman	Walsh, Mass.
Edge	Lodge	Poindexter	Walsh, Mont.
Fletcher	McCormick	Pomerene	Warren
Frelinghuysen	McCumber	Sheppard	Watson, Ga.
Gerry	McKellar	Shields	Watson, Ind.
Glass	McKinley	Shortridge	Willis
Hale	McNary	Simmons	

The PRESIDING OFFICER. Sixty-seven Senators have answered to their names. There is a quorum present.

Mr. EDGE. Mr. President, the Senate has discussed a very wide range of subjects this morning, extending from the spending of a million dollars for an exposition in Brazil to the protection of Indian fire water. It does appeal to me that with the country waiting on the Senate and on Congress, as they undoubtedly are waiting, it may be in order to make a few observations directed to the unfinished business; in other words, consideration of the revenue bill.

No matter how radically Senators may disagree as to the remedy, I am reasonably certain that practically every Member of this body will admit that the present inertia and recognized stagnation in all types of business activity and development is due to three major causes.

First. An unscientific and inequitable taxation system that discourages enterprise and encourages evasion.

Second. Abnormal costs of transporting commodities and supplies.

Third. An unfortunate resistance on the part of some classes of labor to accept lower wages in harmony with the general deflation going on in all other costs.

With the first of these causes—taxation—the Senate is now wrestling, and it is my firm conviction that a wise disposition of this responsibility will have a marked effect on the adjustment of the other two "out-of-joint" conditions and insure a very rapid return to that normalcy so necessary to the continued prosperity of the country.

Mr. President, the first and most necessary essential is to approach the solution of this great problem without class or sectional prejudice, but with a firm determination to adopt a broad policy that will insure the greatest good to the greatest number. This can not be brought about successfully unless Senators fully realize they are first Senators of the United States and not Members of this body mainly for the purpose of representing local situations.

Trade and business conditions are alarming. It is not alone a question of encouraging a revival but rather of insuring a survival.

As the distinguished Senator from Utah [Mr. SMOOT] expressed it recently, the time has arrived when "taxes must be adjusted to business rather than business to taxes." When I use the word "business," may I state that I mean every type of activity in the country?

Is it not reasonable to assume that with five or six million men unemployed the present policy is undeniably wrong?

How can we expect to encourage or provide a remedy if we refuse to materially alter the same?

Certainly Senators can not successfully argue that to tax business still further will put men to work.

No; Mr. President, I am convinced we must adopt the policy of a tax on expenditures and reduce existing confiscatory taxes on active working incomes and going business, or conditions will rapidly go on from bad to worse.

I am convinced that the policy of the sales tax is more logical than any other form of taxation. It is a tax on expenditures and not upon production or thrift. In the final analysis, it would be a more acceptable tax because it is voluntary. No one has to pay it unless they want to by purchasing. The excise taxes on tobacco and liquor were comparatively never so objectionable, because they were voluntary taxes paid only by voluntary purchasers. My objection to special excise taxes is mainly because I do not believe in discrimination. A general sales tax will treat everybody alike.

The present system provides for heavy excess-profits taxes; surtaxes on incomes with the normal 8 per cent to a maximum of 73 per cent, the highest in any country in the world; numerous other corporation, capital stock, and direct business taxes, which necessarily add in many cases to the expense of administering business, and also a number of retroactive tax features. In regard to these latter features, let me say that I consider retroactive legislation as indefensible.

I am firmly convinced that it is a false economic conclusion to contend that the country would be more prosperous if in raising the revenue necessary to administer the affairs of the Government business should be taxed still further. I know not upon what ground this is reached. I am firmly convinced, however, that it is not a sound one.

Is it not a false theory if in making further efforts to tax the rich the direct result is the imposition of even greater hardships on the poor?

In an effort to take money from the rich man we only make it still harder for the poor man. In these days of unemployment we should do everything in our power to encourage private enterprise. We do not do this with the type of legislation contemplated by the pending measure. We only encourage the man with money to seek tax-exempt securities and become a tax evader.

Let me put it another way: I suppose it is safe to assume that there is not a man in Congress who does not assent to the law of supply and demand; and if so, that should settle the matter. Under modern conditions the demand for labor must come from those who have the means to purchase it. Laborer and farmer are alike subject to this all-embracing law, and yet laborer and farmer are, through misleading processes of economic analysis, being led to an attack upon that which alone can give them remunerative markets. A lowering of taxes upon the business men of the country will permit the use of their money in an effort to make a fair profit. This they will do by engaging in industrial enterprise. That will afford work for many of our present unemployed. Those now out of work once again employed will add to the purchasing power of the country, thereby increasing the demand for the necessary articles of life and even the so-called luxuries. Every class will be benefited.

I hesitate to speak of classes at this important period of our existence as a nation. It is no time to try to help one class as against another, but if we can help all by reducing the taxes on the American business men, then, of course, we should do it. But just as surely as we continue to endeavor to help the farmer by placing high taxes upon the well to do, just as surely do we hurt every other class proportionately more than the taxpayer. We lessen the purchasing power of the country, and I do not believe it can be safely contradicted that that does not

adversely affect the farmer, as it most surely cuts the demand for his products.

I am sure no one will say that there would not be a market to-day for American goods both at home and abroad. But that market is no longer being stimulated, and will not be until we give some encouragement to business men of the country.

There is no market mainly because there is a perfectly plain and marked secession of enterprise in the matter of general development. All buyers seem to be influenced or controlled by the policy to purchase simply those things necessary to maintain existing organizations and to wait rather than in any way inspire new development.

Mr. President, they are waiting on a definite decision from Congress, and they are entitled to have it with the least possible delay. Every hour we lose adds that much more material loss to the country. The American producer has undergone so much in the past year or two that he has temporarily lost that indomitable spirit which has characterized the national and business life of the country. He recognizes to-day just as clearly as he did before the war the opportunities of developing our resources and the possibilities for a general business revival if there was real encouragement to take advantage of the possibilities as in former days. Certainly the fact remains, and can not be disputed, that under our present system business is hesitating and halting and new enterprises are practically unheard of, and millions of men are actually out of work.

I repeat, how can we expect to alleviate or remedy that condition if we pass a revenue bill retaining this same type of taxes on business energy and give absolutely no encouragement to the class of men who, whatever our thought may be, we must always depend upon to lead in the march of commercial development and progress and thus radiate happiness and contentment throughout the land? Men can not be happy when they are unemployed. I think it is safe to assume that the entire business world to-day is practically awaiting the final position of Congress as to taxation, and if we pass a revenue bill practically the same as the existing one how in the world can we expect the present unemployment situation to be improved?

I read the other day an article in the Saturday Evening Post, the issue of October 8 last, by Albert W. Atwood, a recognized authority and writer on economic questions. My attention was particularly attracted to the following—Mr. Atwood was quoting a conversation he had with a revenue collector in one of the populous districts in the country. He had just inquired if there were many chances of business improving, to which the collector replied:

> You ask me if I see many chances of business picking up and of men making money in business now. I never saw so many chances in my life, but the men who could start things going are simply sitting still and doing nothing. You asked me a few minutes ago if I thought those taxes were unfair and unjust. The injustice to the few thousand who pay them is nothing. The real injustice is to the millions who are out of work.
>
> You know how it is. Only one man in a hundred will start a cheer in a crowd. Only one business man in 5,000 will say to the others, "Look here, fellows, here's a good chance to make some money and develop a good business. Let's go to it." These men, the ones who start things, are hamstrung, and it makes the depression three times worse than it need be. In 1907 everything was down in the dumps; but men like Harriman, Morgan, Rogers, and the like were crazy to get things going again in order to make some money, and they did. Now their successors sit still and do nothing.

Is it not only reasonable to assume that the present system of taxation, with the heavy toll required by the Government, provides to a great extent the reason why activities have at least for the time being ceased? Is it not reasonable to assume, and we are all human, that as one realizes that for the risk of some new enterprise or development, if successful, he is compelled to pay 60 to 70 per cent to the Government, it becomes so discouraging he simply will not take the risk, but awaits a more favorable opportunity?

We can do away with these shackles on American enterprise without impairing our governmental financial necessities. The production or sales tax is a more equitable way of raising revenue. A very modest sales tax will more than take care of any revenue we may lose by repealing the particularly damaging and discriminatory taxes now being levied.

I fully realize the popular position is to attempt to collect more money from the wealthy, and such a statement on the public platform or in the public press is usually the signal for popular approval by many people who perhaps have not taken the time to analyze the real reasons for existing conditions. I realize that it is difficult to secure general approval for an argument that fearlessly attempts, however, to point out the real fundamental difficulties existing to-day. I want to see the rich pay every single dollar they should pay to the point of its not stifling the business development of the country.

There are certain types of fortunes not interested or invested in general development. As far as I am concerned, you can tax them just as high as you desire. But when it comes to what amounts to direct taxation on capital as well as incomes, taxation on going concerns, whether they be corporations, individuals, or partnerships, taxation on that energy which is necessary to bring America back to real prosperity, then I insist, Mr. President, that it is our duty to consider present conditions and improve them in the only way we can improve them—by encouraging business rather than by blindly continuing a policy which must perpetuate the present depression, continue the present state of unemployment, and deter developing markets for the products of farm and factory.

Anyhow, I think it must be admitted by any student of the result of the present high surtax policy that it does not really hit the wealthy man who is not in active business as much as it does going concerns. In active business a man might make $500,000 one year and lose $300,000 the next. As the existing law provides, he could not deduct the losses of the second year from the profits of the previous year and would be obliged to pay the total tax on his $500,000 profit, which considering his losses of the second year would leave him with less than nothing; while, on the other hand, some man who had been left a fortune, on an average income of $200,000 a year would pay less than that for two years and have a balance of over $200,000 from his income to do with as he desires.

Again, for illustration, consider a business with a capital of a million and a half enjoying a particularly prosperous year and showing profits of approximately $400,000. Under the contemplated surtax, I believe this would class him for 58 per cent payment to the Government. This would mean that the business man would be paying an amount equal to 15 per cent of the capital stock while one of the big fortunes not working would receive an income of approximately $400,000 on $7,000,000 carefully invested total and this would be giving the Government less than 4 per cent of the principal.

I merely cite this illustration to demonstrate conclusively that the principle of high surtaxes does not hit the fortunes that Congress was undoubtedly after and should in a fair way go after, but rather, generally speaking, directly taxes enterprise and business.

Everyone appreciates that any active business has its good and bad years. Right now it is generally admitted that all classes of business are having bad years. The actual revenue to the Government will undoubtedly be reflected accordingly. But the man who paid on a prosperous year last year or the year before a high tax to the Government and now must accept a loss this year is in very bad as compared to those who have big fortunes in conservative securities and simply pay on an income that varies but slightly.

That a continuation of the high bracket surtaxes will insure a state of industrial depression seems to me only a matter of plain and simple calculation or elementary computation. If we continue the high bracket surtaxes above 30 per cent plus 8 per cent normal, we simply invite continued investment in tax-exempt securities. We invite division of fortunes among members of families. We invite an evasion, which, of course, can not be defended, but which we know exists just the same. A tax-exempt security bearing in these days an interest of 5 or 6 per cent looks mighty attractive to a man who would be compelled with a sound business investment to pay the Government over 50 per cent of his profit, as I think I can clearly illustrate.

I have before me a table, furnished by Henry R. Fernald, a certified public accountant with whom I was associated when governor of New Jersey, showing how these proposed surtax rates affect the rate of interest on taxable bonds necessary to yield 5 per cent net to place them on a basis as attractive as would be that from 5 per cent tax-exempt bonds for different rates of annual income:

Rate of interest on taxable bonds necessary to yield 5 per cent net.

Annual income.	Maximum tax rate (normal and surtax).	Rate of interest on taxable bonds necessary to yield 5 per cent net.
	Per cent.	*Per cent.*
$50,000	30	7.14
$60,000	35	7.69
$70,000	40	8.33
$80,000	45	9.09
$90,000	50	10.00
$100,000	55	11.00
$150,000	56	11.37
$200,000	57	11.63
$300,000	58	11.90

This shows that a man with a taxable income of $50,000, who would be paying 30 per cent—normal and surtax—would have to get a taxable interest of 7.14 per cent to have it be equivalent to the interest which he would receive from a 5 per cent tax-exempt bond. This he could probably do at the present market.

The man with an annual income of $60,000 would have to get a rate of 7.69 per cent to have it equivalent to a 5 per cent tax-exempt bond. Perhaps also he could do this at present. Possibly we might stretch the matter far enough to assume that a man could get an 8.33 per cent interest rate on taxable bonds, and so, even though he had $70,000 annual income, he would be able to break practically even.

When we reach the case of an $80,000 income we must recognize that no one can hope to get a taxable investment to yield him 9.09 per cent, which would be equivalent in safety to a 5 per cent tax-exempt bond. For higher incomes the condition steadily becomes worse, until for incomes of $300,000 and above a man would have to get an 11.90—practically 12—per cent investment in taxable securities to be the equivalent to him of tax-exempt securities.

How under any form of reasoning can we criticize the American public, in view of that situation, for investing in tax-exempt securities?

It is not a question of favoring the men with large incomes. Personally I do not know of any man of large wealth who is seriously objecting to the high surtax rates on individual incomes. Those whom I do know are merely accepting it as a decision of Congress that if they invest in taxable securities they are going to be required to pay these high surtax rates; but if they do not desire to pay these high rates their remedy is merely to invest in tax-exempt bonds. It becomes merely a question of plain mathematics to figure out which is going to yield the better return.

Certainly no one can blame them for making investments in tax-exempt securities when all the municipal and State governments advertise the advantage of tax-exempt securities. It seems to me a distinct misfortune for the business of the country that serious consideration should be given to a schedule of surtaxes which can be considered as nothing else than a penalty of from 1 per cent to 4 per cent on these higher incomes if they are applied to business investments instead of being used for investment in tax-exempt securities.

Mr. JONES of New Mexico. Mr. President——

The PRESIDING OFFICER (Mr. WADSWORTH in the chair). Does the Senator from New Jersey yield to the Senator from New Mexico?

Mr. EDGE. I should prefer to finish my remarks, and then I will be glad to answer any question the Senator may desire to propound.

Mr. JONES of New Mexico. Very well.

Mr. EDGE. Even if the matter is looked at merely from the standpoint of Government revenues, it should be recognized that the productivity of the entire income tax is going to depend on the restoration of business prosperity.

I think it is likewise reasonable to assume that the present high income range is naturally responsible for the failure of many men, who do not actually need the money, of selling stocks or other investments where a substantial profit would ensue. In other words, we are all human, and if our judgment was good and we have made an investment upon favorable terms and the value of the investment had advanced and the sale of same, while it would mean a substantial profit, would under the present law require perhaps from 50 to 70 per cent of that profit being paid over to the Government, the natural result is the holding up of these sales, the amount of which could not be estimated, with the result that the Government, of course, receives absolutely no income from this quarter. If the high-bracket taxes were substantially reduced, is it not reasonable to assume, on the other hand, that many of these sales would be made and as a result the Government would receive a very large amount of money it would not otherwise?

In other words, may I repeat, that we can not pass legislation which actually controls either the energy or enterprise of a citizen or the disposition of his uncollected profit. So that it would seem to me to be good business to endeavor to arrive at a situation which would encourage less evasion and consequently more return to the Government.

I think one of the plainest evidences of the mistaken theory that heavy surtax taxation is a proper thing is the present situation with regard to the sale by the Government of its railroad equipment certificates. I assume you are all familiar with the fact that the Treasury has been offering these certificates in order to help relieve the railroad situation. I noted an interview in a newspaper recently, a portion of which I will read:

TAX FIGHT HALTS TREASURY—INTERFERES WITH SALES OF RAILROAD EQUIPMENT TRUST CERTIFICATES.

(Special to the New York Times.)

WASHINGTON, *October 19.*

The efforts made by the progressive group in the Senate to fix the maximum surtax rate on personal incomes at 50 per cent instead of 32 per cent is handicapping the Government in its sale of railroad equipment trust certificates, it was said to-day at the Treasury Department.

Up to this time about $100,000,000 worth of the certificates have been marketed. During last week, however, the sales lagged, and the controversy over the maximum surtax rate is believed to be the cause.

When the first $100,000,000 worth of certificates were disposed of it was the opinion of the administration leaders and financiers that the maximum surtax would be fixed at 32 per cent in the new revenue law. Then the agricultural group got into the fight and demanded 50 per cent.

The point was made to-day that persons to whom the equipment trust certificates, which pay interest at 6 per cent and must be marketed at par or better, would prove attractive if the maximum surtax was put at 32 per cent, would not be willing to buy the certificates if surtax rates went as high as 50 per cent, but would continue to invest in tax-exempt bonds.

Administration leaders contend that an error is being made by Congress in insisting on the higher surtax levels. It is asserted that many important deals which would stimulate industry have been held up because of the uncertainty of the situation, and that some of them will not come to pass if the surtax rate is finally put at 50 per cent or even 40.

It will be plainly seen from this that, in the opinion of our Treasury officials, we need not expect to find a market for these or any other kind of taxable securities. Everyone, I think, will agree that development in the advance upward is marked alone by the increase of capital in a country. When we collect large proportions of incomes we are not increasing existing capital but are absolutely preventing the transferring of income year by year to capital. Thus we practically stand still. No country can expect a contented people by standing still. It must go ahead. When they reach the point where they do not go ahead, they invariably go backward. I consider it an economical crime to tax incomes to such an extent that it is practically impossible in a natural and orderly way to add to principal or capital in order that business, labor, agricultural interests, and everything connected therewith will march onward and upward, side by side, as it did before the war.

It is estimated to-day on the best of authority that the country is working only up to about 30 per cent of its maximum point of productivity. No country can be prosperous under such conditions. Our exports have been decreasing month by month, and yet I know from personal contact and experience that there are markets abroad to-day. I, of course, believe in the development of foreign commerce. But for the present, I am free to admit, what we most need is development of our domestic markets. If we get back to anything like normal conditions—and I most assuredly believe we can, if Congress will do its part—then I want to see the development of foreign markets, because we can not reach maximum prosperity by limiting trading to ourselves. The 15 per cent of our production we at least should export represents profit and prosperity.

But, Mr. President, our business men are neglecting the domestic market not to dwell on the foreign market. And they are doing it for the sole reason that they will not take the risk demanded by present Government taxation policies. They do not consider it worth while. That is the real answer to the lack of activity in this country.

Let us consider just one phase of this lack of activity. Prices of commodities have come down very materially during the last few months. Practically everything necessary to man's comfort has been reduced with one exception, and that is rents. Rents of houses and apartments are still high. From every corner of the land we hear reports that prices charged by the landlords are as high and in some cases higher than during the war. Of course, the primary reason for this is obvious. We all know that there is a shortage of housing accommodations. But why is this shortage not being relieved? Building materials are lower. Why have not builders, contractors, and men who heretofore have built apartments and homes by the hundreds met the crying demand for such accommodations? Why have not rows of houses sprung up, as in other countries? Is it not reasonable to assume that if men heretofore engaged in this business see an opportunity to make a real profit—and they most assuredly can with the high rents in existence—that they would build houses? But they are not taking advantage of this situation, and the answer is plain, that they are not prepared to run the risk when they know under existing revenue laws they would be compelled to pay such a large proportion of their profits to the Government.

The American builder is a loyal and patriotic man. He is willing to pay his just share, but he will not move under present conditions. No other illustration, I believe, is necessary to absolutely prove that the present taxation system is holding back the development of the country to-day.

I am not criticizing the views of others. I respect them; but I submit that something must be wrong with the present system or conditions would not be so discouraging.

It did not require long for Great Britain to realize that it was a mistake to continue to tax its business men to a point where it stifled enterprise. I was in Great Britain a few weeks ago. While she has unemployment, it is in no wise proportionately as high as ours. I was informed on competent authority that their unemployed numbered approximately 1,000,000. As we well know, the population of Great Britain is only slightly less than one-half of the population of the United States. If there are 6,000,000 unemployed here, with our double population, and 1,000,000 in Great Britain, then, of course, it is perfectly obvious that the unemployed in our country number approximately three to one as compared to that war-stricken country across the sea.

Great Britain repealed the so-called excess-profits tax months ago. I am informed the maximum surtax on incomes in Great Britain is forty-odd per cent. Has it occurred to you that the employment situation there as compared to our own may have had something to do with a more favorable British tax system? Certainly the fact remains that under our present system of taxation business is hesitating and halting and new enterprises are conspicuous by their absence. Five to six million men are actually out of work, and the farmers can not find sufficient markets for their products.

High surtaxes and excess profits, while they look well on paper and may give temporary satisfaction to some people, still cease to be a dividend to the Government. As I have pointed out, the tendency to buy tax-exempt bonds and other evasions is clearly evident. I have had accountants tell me the total sum received to-day from surtax incomes over 32 per cent is only approximately $80,000,000. Just think of it. By continuing the high bracket surtaxes we will collect $80,000,000 for the Government, even if business were as good as last year, and it is not. And what a tremendous price we will pay for this. We will encourage a continuation of the policy of refusal to unlock the strong box and restart the wheels of industry. All for $80,000,000 or less. And while we are doing this families of men will be suffering the hardships of winter unemployment, waiting and praying for the day when Congress will adopt a policy that will encourage capital as well as labor.

Mr. LODGE. Mr. President, if the Senator will allow me to interrupt him, I was interested in the Senator's statement in regard to the rate of taxation in England, because the accounts I have from there show a different rate than that suggested by the Senator from New Jersey. Their normal rate is 30 per cent, is it not?

Mr. EDGE. I referred to their surtax; there are various other forms of taxation.

Mr. LODGE. Their normal income tax is about 30 per cent, as I understand?

Mr. LENROOT. Yes.

Mr. McCORMICK. Mr. President——

Mr. LODGE. Just a moment. I know as a matter of fact that the British tax on an income of £5,000, or $25,000, is 50 per cent; in other words, the Government takes half of the income.

Mr. EDGE. They have repealed entirely, however, the excess-profits tax.

Mr. LODGE. Yes; and so we are going to repeal the excess-profits tax.

Mr. EDGE. I am not sure about the normal tax. I referred to the surtax.

Mr. LENROOT. If the Senator will yield, I should like to say that the normal income tax in Great Britain on incomes over $900 is 30 per cent, and the total is very much higher than is proposed here.

Mr. EDGE. There are various other forms of taxation in Great Britain.

Mr. McCORMICK. Mr. President, if the Senator will let me add a word to the remark of the Senator from Wisconsin, on the larger incomes in Great Britain the tax is 30 and 30, or a total of 60 per cent.

Mr. EDGE. We can not compel a man to invest in business enterprises or do things, no matter how much we may criticize; nor can we enact legislation that will compel a man to build houses or trolley lines or engage in any other industrial development. We can encourage such men by offering an opportunity for them to make what they believe to be a fair profit. Unless we are going to take capital and labor and the agricultural interests as well together into partnership and recognize them as a unified part of the development and prosperity of our country, then, I fear, the revenue bill if passed otherwise will discourage instead of stimulate.

In addition to a repeal of the excess-profits tax and the keeping down of the surtaxes to at least 32 per cent, I would do away with every one of the so-called excise taxes and nuisance taxes. I would repeal every type of discriminatory tax imposed on one business while others are permitted to escape. This can be done by the adoption of a sales tax that would hit the rich and poor alike. In other words, if the rich man buys his yacht or motor car, and the poor man buys in proportion, both pay accordingly—a tax that is fair all along the line and, in my judgment, one that will encourage development throughout the land. It will be far better than to continue the system whereby the needy can not find work and have not salaries with which to pay even for the tax-free food they must have in order to subsist. I have yet to come in contact with any considerable number outside of this Chamber opposed to the sales-tax type of taxation.

I attended a dinner of manufacturers in New York a few nights ago and discussed the so-called sales-tax plan. From the enthusiasm with which they received the explanation it was plainly evident to me that they more than approved of this system, and yet the tax is added to the sale price of their own products.

We should recognize the wish of the people we represent. I have heard that opposition existed primarily because of the farmers. I am fairly intimate with the farmers in my State and I have yet to receive one letter or one personal appeal from a farmer in New Jersey in opposition to a fairly distributed general sales tax. Its adoption would permit us to discontinue so many irritating taxes, and, as far as I can ascertain, it is as equitable as any tax can be.

No, Mr. President; do not kill the goose that lays the golden egg. Recognize the necessity for cooperation in this country and eradicate class distinctions and arguments.

I repeat, think carefully over the policy which, in attempting to oxertax the well to do, stifles business, and in the final analysis works untold hardships on the millions of men and women dependent upon nation-wide activity for happiness and prosperity.

Mr. LENROOT. Mr. President, will the Senator yield?

Mr. EDGE. I am very glad to yield.

Mr. LENROOT. I should like to ask the Senator if he is aware that in the proposal that will come before the Senate upon all incomes of $86,000 and less the tax will be less than the tax proposed by the committee, with a 32 per cent maximum?

Mr. EDGE. Mr. President, in considering that possibility—I am not entirely clear as to what the committee may recommend—we must also take into consideration the fact that there are many additional taxes that I have not even attempted to enumerate. The bill proposes to double the corporation tax.

Mr. LENROOT. I am speaking of the surtax now. The Senator made an attack upon the surtax proposition. I want to ask the Senator whether he has considered the fact that the amendment will only affect adversely incomes in excess of $86,000, and is a reduction from the original committee proposition upon all incomes under $86,000?

Mr. EDGE. If the Senator can demonstrate that, it will unquestionably have a marked effect; but I still insist that you must take all business taxes into consideration. My address is directed to the general shackling of business. The increase of the corporation tax from 10 to 15 per cent in itself, a 50 per cent raise, in my judgment, will perhaps be a greater tax on many going concerns than would be the surtax or the excess-profits tax. They all together discourage and dishearten business.

Mr. LENROOT. We are repealing the excess-profits tax.

Mr. EDGE. I hope so, but it is yet to be accomplished.

Mr. LENROOT. Now I want to ask the Senator whether he is aware that the total number of individuals in the United States returning incomes in excess of $100,000 is 3,400?

Mr. EDGE. I knew it was comparatively small.

Mr. LENROOT. Then does the Senator take the position that the prosperity of the United States depends upon 3,400 individuals in the United States?

Mr. EDGE. The Senator takes the position very positively, and without any hesitation whatever, that the prosperity of the United States depends upon the working of the great capital of the United States, whether it is in the hands of 34 men or 3,400 men or 34,000 men.

Mr. LENROOT. We all admit that; but the Senator describes the condition as being due in very large part to the fact that 3,400 individuals in the United States are not putting their capital into industry, and that if they would do so we would have prosperity.

Mr. EDGE. I do not confine my attack entirely to that particular class at all. My view, as I think the Senator knows from other discussions, is that we should reduce the surtaxes all the way down the line. I believe that the large majority of

the men of the class of from $20,000 to $50,000 or $60,000 incomes are the real, active producers of the country.

Mr. McCORMICK. Mr. President, how did they fare under the original bill?

Mr. EDGE. I do not recall.

Mr. McCORMICK. The Senator ought to recall, if he will permit me, that the committee proposed actually to increase the surtaxes on those incomes.

Mr. EDGE. And may I say to the Senator from Illinois that I was entirely in disagreement with the committee?

Mr. FRELINGHUYSEN obtained the floor.

Mr. CURTIS. Mr. President, the Senator from Illinois is mistaken in that.

Mr. McCORMICK. Perhaps the Senator from Kansas will specify the incomes upon which the surtaxes were increased.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. FRELINGHUYSEN. Mr. President, I think the statement made by my colleague is a protest against the increase embodied in the present compromise plan of 50 per cent over the limit of the committee of 32 per cent. Does the Senator from Wisconsin take the position that the 50 per cent compromise plan of the so-called agricultural bloc is less taxation in amount than the 32 per cent of the committee?

Mr. LENROOT. Mr. President, in the first place, I just want to say that the so-called agricultural bloc should not be charged with this compromise, because the agricultural bloc had nothing to do with it. In the second place, of course, there is $50,000,000 more revenue out of income taxes proposed in the so-called compromise than in the original proposition, but on all incomes below $86,000 a year there will be less tax paid by the taxpayer than under the committee proposition.

Mr. FRELINGHUYSEN. The Senator has stated some figures in which he claims that there are 3,400 taxpayers in this country with incomes of between $100,000 and $150,000.

Mr. LENROOT. No; 3,400 taxpayers with incomes of over $100,000.

Mr. FRELINGHUYSEN. There are also 1,700, are there not, with incomes between $150,000 and $250,000?

Mr. LENROOT. That number is included in the 3,400.

Mr. FRELINGHUYSEN. It is not in addition?

Mr. LENROOT. Oh, no.

Mr. FRELINGHUYSEN. The 3,400 are included in the 500,000 taxpayers with incomes between $6,000 and $100,000?

Mr. LENROOT. Certainly.

Mr. EDGE. Mr. President, the Senator from Wisconsin, if I followed him correctly, just made the statement that the so-called compromise which has been suggested would call for less payment for surtaxes than the committee bill. He means, I take it, the Senate committee bill?

Mr. LENROOT. Yes.

Mr. EDGE. He does not mean to say for one moment that the suggestion as made by the compromisers would provide for less total payments than under the House bill as it came over to this Chamber?

Mr. LENROOT. Yes; also the House bill as it came over to this Chamber.

Mr. LODGE. Mr. President, the House bill as it came to this Chamber did practically nothing for the incomes, roughly, between five and seventy-five thousand dollars. It made this tremendous reduction on the large incomes and nothing on the medium incomes.

Mr. EDGE. I was speaking of total returns to the Government; not any particular grade.

Mr. LENROOT. I will give the Senator the figures.

The income tax on an income of $86,000 under the present law would be $26,676. Under the House bill it would be $22,870. Under the Senate bill it would be $22,860. Under the compromise bill it would be $22,860, exactly the same; and upon every dollar of income below that the tax under the compromise proposition is less than under the Senate proposition and also less than under the House proposition.

Mr. EDGE. Mr. President, I congratulate the Senator from Wisconsin and his colleagues on going as far as they have. My contention is that they can wisely go very much further in helping the American business man and the American worker.

Mr. FRELINGHUYSEN. Mr. President, I shall hope to have the opportunity of saying a few words in support of my colleague's position at a later time in the debate, but in view of the statement made by the Senator from Wisconsin regarding the number of taxpayers who are within the various brackets that he has mentioned, I should like to have, for the sake of the record, his authority for the statement.

Mr. LENROOT. Mr. President, this table was handed me by Mr. McCoy, the expert of the Treasury assigned to the committee for this work.

Mr. POMERENE. Mr. President, has that statement been introduced into the record?

Mr. LENROOT. It has not.

Mr. POMERENE. May I ask that it may be introduced, so that we may have the benefit of it?

Mr. FRELINGHUYSEN. I think it is very important, in view of the fact that these figures go in the record, challenging certain statements that are being made on this floor, that they should be made official by going in the record, so that investigation can be made.

Mr. LENROOT. I shall be very glad to offer this for the record. It is entitled:

Number of taxpayers in the several brackets as below stated.

I will have it printed. It gives the number of taxpayers in the brackets from $6,000 to $100,000, and from there on at different brackets, giving the number of taxpayers; but it should be understood that the first bracket, giving the highest number, includes also all the individuals in the lower brackets. Does the Senator follow me?

Mr. POMERENE. I think I understand the Senator.

Mr. LENROOT. For instance, the first bracket—500,600 taxpayers with net incomes of from $6,000 to $100,000—also includes all the individuals with higher incomes.

Mr. POMERENE. May we have the statement read, so that it can be followed in the course of the debate?

Mr. LENROOT. Yes; and I will say, in this connection, that I am informed by Mr. McCoy that this is the statement upon which all the estimates on this bill are made.

Mr. HALE. Mr. President, I should like to ask the Senator from Wisconsin if he can give me the aggregate incomes of those 3,400 taxpayers?

Mr. LENROOT. No; I can not.

Mr. FRELINGHUYSEN. Mr. President, I think this statement is a very important one. I will ask the Senator from Wisconsin if he would be willing to have these figures verified by the Treasury Department officials, and to have the chairman of the committee request the Treasury Department to verify them?

Mr. POMERENE. Mr. President, will not the Senator permit the Secretary to read those figures now? I should like to hear them.

The PRESIDING OFFICER. Without objection, the Secretary will read as requested.

The reading clerk read as follows:

Number of taxpayers in the several brackets as below stated.

Net income:	Number of taxpayers.
$6,000 to $100,000	500,600
$100,000 to $150,000	3,400
$150,000 to $250,000	1,738
$250,000 to $500,000	738
$500,000 to $1,000,000	174
Over $1,000,000	54

Mr. POMERENE. Mr. President, if I may have the attention of the Senator from Wisconsin, would it not be more accurate to have it read like this—"from $6,000 to $100,000 and over"?

Mr. LENROOT. I am informed that technically that would not be correct, because each of these taxpayers pays income in that bracket. So it is technically correct as it stands.

Mr. POMERENE. With that explanation, of course, it is understandable; but it was necessary to have the outside explanation in order to make this clear.

Mr. LODGE. Of course those with the highest incomes pay in all the brackets.

Mr. POMERENE. Certainly.

Mr. FRELINGHUYSEN. Mr. President, I renew my request that these figures be verified by the Treasury Department, including the statement of the Senator from Wisconsin that the taxpayers having the higher incomes are included in the great number of taxpayers in the first bracket.

Mr. SMOOT. There is no question about that, I will say to the Senator, because the 54 in the highest bracket pay in every one of the brackets below. I thought I had a list here showing exactly the number who paid, but I can not see what there is in the argument. It is the amount of money that is involved, not the number of people who pay. It is the amount of money that is taken out of business rather than the number who pay that concerns us, and that is all there is in this question, Mr. President. I would not care if half of the whole income of the Government was paid by 10 men, the result on business would be the same. The question is as to what they are going to do with their gains or incomes, whether they are going to invest it in business or whether they are going to invest it in tax-exempt securities. As I said, it is a question of the amount, not the number.

Mr. McCUMBER. Mr. President, I do not think there is any necessity of asking the Treasury Department to verify

the figures which are given. They are given by the actuary of the Treasury Department, and the Secretary of the Treasury, of course, would have to rely upon information given him by the actuary.

Mr. LODGE. It would be referred to the man who furnished these figures.

Mr. McCUMBER. Therefore there would be no necessity to go into that. But, Mr. President, I understood the Senator from Wisconsin to state that the number of persons who paid taxes on incomes above $85,000 was three thousand four hundred and something.

Mr. LENROOT. Oh, no; from $100,000 up, whatever the table shows.

Mr. McCUMBER. The table shows about 6,000 from $100,000 up.

Mr. LENROOT. What I did say about $86,000 was that as between the compromise table, so called, and the original committee table the taxes were less on all incomes below $86,000 in the compromise than in the original committee table.

Mr. McCUMBER. I think the Senator is right in that.

Mr. FRELINGHUYSEN. Will the Senator permit an interruption?

Mr. McCUMBER. Certainly.

Mr. FRELINGHUYSEN. I simply made the request because I think it is important. We are dealing with taxation involving millions of dollars. A memorandum written in pencil, compiled from a memorandum in a portfolio in pencil, purports to show the authoritative figures of the Treasury Department. I feel it is important that they should be accurate and should be certified to, and I simply made a request, and I think the chairman of the committee, in view of the interest we all have in the bill, ought to grant the request and verify the figures. That is all.

Mr. McCUMBER. I will try to obtain for the information of the Senator from New Jersey just the amount of income above $100,000 that would be affected by taxes above the 32 per cent, and that will be of more importance than the number of individuals paying. I have not that at hand now, but I think the actuary of the department can furnish it very quickly.

Mr. McCORMICK. Mr. President, if the Senator from North Dakota before he goes on with the bill will permit me to have printed in the RECORD the brackets in the committee's bill as contrasted with existing law, ranging from 13 to 16 and 17 per cent, I will be grateful. That will cover the ground which I sought to cover in the colloquy between the Senator from Kansas and myself.

Mr. CURTIS. Mr. President, I had reference to the income taxes paid by the taxpayers under the provisions of the bill as reported by the Senate committee, under which every taxpayer would pay a lower tax than he would under the bill as it passed the House. I admit that in one or two brackets there is an increase over the existing law, but because of reductions made below every taxpayer would get a small reduction of taxes.

Mr. McCORMICK. Mr. President, the Senator from Kansas is accuracy itself as compared with me. We merely misunderstood one another, and I wanted to show that I was not wholly wrong in asserting that certain brackets were higher for middle incomes under the Senate committee plan.

Mr. CURTIS. I should not have answered the Senator as I did had I known he referred to brackets. I understood that he was referring to the income tax paid.

Mr. McCUMBER. Mr. President, in the discussion of the bill yesterday we reached an amendment offered by the Senator from Wisconsin. That is a most important subject, and inasmuch as we shall have to have the vote probably of the entire Senate, I think we ought to have the ear of the entire Senate upon that subject. I therefore suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The reading clerk called the roll and the following Senators answered to their names:

Ball	Glass	McCumber	Simmons
Borah	Hale	McKellar	Smoot
Brandegee	Harreld	McLean	Spencer
Broussard	Harris	McNary	Sutherland
Bursum	Heflin	Moses	Swanson
Calder	Hitchcock	New	Townsend
Cameron	Johnson	Newberry	Underwood
Capper	Kellogg	Norbeck	Wadsworth
Caraway	Kendrick	Oddie	Walsh, Mass.
Cummins	Kenyon	Overman	Walsh, Mont.
Curtis	Keyes	Page	Warren
Dial	La Follette	Poindexter	Watson, Ga.
Dillingham	Lenroot	Pomerene	Watson, Ind.
Edge	Lodge	Sheppard	Willis
Frelinghuysen	McCormick	Shields	

Mr. HEFLIN. Mr. President, Senators FLETCHER and TRAMMELL, of Florida, are absent attending the funeral of a Florida boy whose remains were just returned from France and are at this hour being interred in the national cemetery at Arlington.

The PRESIDING OFFICER (Mr. HARRIS in the chair). Fifty-nine Senators have answered to their names. There is a quorum present.

Mr. McCUMBER. Mr. President, the Senator from Wisconsin [Mr. LA FOLLETTE] has asked that paragraph 4 and paragraph 5, on page 5, be stricken out. That is the amendment now before the Senate. Those two paragraphs relate only to the term "foreign trader" and to the term "foreign trade corporation." The striking out of those two paragraphs, which define foreign traders and foreign trade corporations, of course is to be followed, and must necessarily be followed, by other motions to change or modify or strike out other sections of the bill which relate to foreign traders and to foreign trade corporations. For my own part I do not desire to give any further explanations than those given yesterday. I stated in the argument yesterday, Mr. President, that I would submit the British law which we were discussing at the time we went into executive session.

The British law, as I read it, is found here in the case of Dowell Income Tax Laws, eighth edition, on page 545. Of course, these are but the two paragraphs that relate to traders in foreign countries. Under the head of rules applicable to case 5—

1. The tax in respect of income arising from stocks, shares, or rents in any place out of the United Kingdom shall be computed on the full amount thereof on an average of the three preceding years, as directed in case 1, whether the income has been or will be received in the United Kingdom or not, subject, in the case of income not received in the United Kingdom, to the same deductions and allowances as are provided in rule 1 of the rules applicable to case 4, and the provisions of this act, including those relating to the delivery of statements (a), shall apply accordingly.

"Two" is the one which, I think, applies here directly and reads as follows:

The tax in respect of income arising from possessions out of the United Kingdom, other than stocks, shares, or rents, shall be computed on the full amount of the actual sums annually received in the United Kingdom from remittances payable in the United Kingdom or from property imported or from money or value arising from property not imported or from money or value so received on credit or on account in respect of any such remittances, property, money, or value brought or to be brought into the United Kingdom, on an average of the three preceding years as directed by case 1 (b), without any deduction or abatement other than is herein allowed.

3. Rule 1 of the foregoing rules shall not apply—

(a) To a person who satisfies the commissioner of the inland revenue that he is not domiciled in the United Kingdom, or that, being a British subject, he is not ordinarily resident in the United Kingdom.

There are other "ors" which, I think, do not apply to the case under consideration.

Now, Mr. President, the committee in adopting the House provision did so with the understanding and expectation that it would assist in carrying on American trade in the foreign possessions and for the purpose of giving American corporations or American traders an equal opportunity to compete in those foreign countries with other foreign corporations, and with the idea that wherever we have an American corporation operating in another country it brings trade not only to this country but also brings trade in respect to our own products to the foreign country.

It is for that purpose and that reason that we have encouraged the establishing of banks or associate banks in other countries, throughout South America, and in the Orient, the idea being that with these banking institutions and the facilities which they offer for trade with the United States we may increase our export business. If that is a fallacy, if no such result will follow, of course we should make no law to encourage trade and trading corporations in those foreign countries.

Under existing law an American citizen or resident alien in the United States or a domestic corporation is taxed upon his or its entire income, even though all of the income is derived from business transacted out of the United States. A foreign corporation doing business in the United States is also taxed by the United States only upon its income derived from sources in the United States. If a foreign corporation has an office in the United States, the tax is paid from the office the same as the return from any other corporation. If it has no office in the United States, the tax is withheld by the person or corporation making the payment. The same rule and result follows if the business is conducted by an agent or representative of a foreign corporation or individual doing business in the United States.

A British corporation doing business in China or in the Philippine Islands pays no tax on the profits earned in such foreign country unless such profits are returned to the home company in Great Britain. That is my understanding of the British law. That is the understanding of the committee. It is the understanding of those who have discussed the subject and filed briefs with the committee.

I am further informed that while under the French law a tax is levied against all the profits of a French corporation doing business in China, under the administrative rules of the French laws those taxes are never collected.

In Germany an income tax ranging from 4 to 60 per cent is levied on all German citizens except those who have resided abroad for more than two years, and on all resident foreigners. A capital profits tax of 10 per cent is also levied upon dividends and interest received. Corporations have an income tax of 10 per cent and a surplus tax of from 2 to 10 per cent. Interest on bank deposits is exempt only when paid to persons not engaged in business within the United States and not having an office or place of business therein. I refer to that interest in the United States.

Now, Mr. President, it has been asserted, I think, quite generally that the law will allow all resident corporations having an international business to avoid taxation upon bank deposits made by that corporation in the United States. I do not so read the law. All foreign-trade corporations are domestic corporations. Let us bear that in mind, that they are all domestic corporations. Every domestic corporation must have an office or place of business in the United States. Therefore, no foreign-trade corporation will escape taxes upon interest received on its bank deposits held in the United States. Because it resides in the United States the money is paid in the United States. If the concern is not a corporation, it might escape tax on bank deposits held in the United States, provided it was not engaged in business within the United States and did not have an office in the United States. But inasmuch as I can not conceive how a partnership can do business in the United States without having an office or a place of business in the United States, I do not think that is a material factor.

Applying this to a certain case, if John Smith, a British citizen living in the United States but transacting 99 per cent of his business in Great Britain, pays interest on a personal note to William Jones, living in London and transacting all his business there, such interest paid by a British citizen to a British citizen is nevertheless under the present law subject to our tax simply because John Smith resides in the United States, and meanwhile we also tax John Smith on every dollar of interest which he receives from abroad, even though neither of them is a British subject and the business is practically all done in a foreign country.

The existing law is, I think, indefensibly selfish, and the Senate committee bill modifies it in the direction of greater equity by providing in general that nonresidents and foreign traders who are substantially and economically nonresidents, who receive interest from other nonresidents or other foreign traders, shall be exempt when the resident payers derive less than 20 per cent of their income from sources within the United States. In substance, the only interest involved is the interest paid by persons who must be at least 80 per cent nonresidents to persons who must be at least 80 per cent nonresidents.

Now, take the case of the Canadian railway which has heretofore floated a loan in the United States. Under its agreement it must maintain an office in New York where its business is transacted and where the interest is paid. If a Canadian citizen, resident now in Canada, who has never been in the United States, but who owns Canadian railway bonds which were floated in the United States and the interest upon which is payable in New York, receives interest on those bonds, there is deducted from such interest the amount of Federal income tax, the reason being that the law now provides that a nonresident alien is taxable upon all his income derived from sources within the United States, and the law specifically provides that interest paid by a resident corporation shall be considered income from sources within the United States.

In the illustration just given, the Canadian railway, having an office in New York, is a resident corporation. The result is that although practically all the earnings of the railroad are made outside of the United States, and although the recipient of the interest is a nonresident alien, the tax is still collected in the United States. I think we all agree that there should be a change in that law.

Now, the Senator from Wisconsin [Mr. LA FOLLETTE] said that there was no parallel anywhere for a law of this kind, and I think, taking his entire argument, he intended that to apply particularly to the matter of exemption on money paid out of the United States those who would be called foreign traders. But under the Wisconsin law on incomes we find such a provision. Under the Wisconsin law a Wisconsin corporation deriving part of its income from Wisconsin and part of it from Great Britain would pay no tax at all on the income derived from Great Britain, or, in fact, derived from any other State. The Senate bill proposes to go only 20 per cent of that distance. The State of Wisconsin goes the entire distance, and exempts all incomes from business transacted outside the State.

It takes the same equitable attitude toward dividends and interest received from land contracts, mortgages, stocks, bonds, and securities. It applies but one rule and makes no attempt to play both ends against the middle. Interest received in Wisconsin is taxed. Interest paid from sources in Wisconsin to nonresidents is exempt, at least "from land contracts, mortgages, stocks, bonds, and securities."

I ask unanimous consent to insert here, Mr. President, the Wisconsin law, from which I have quoted, which is the 1913 law, and, so far as I know, has not been amended.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is as follows:

The Wisconsin law (1087m, 2.3, ch. 658, laws of 1911) as amended reads as follows:

"The tax shall be assessed, levied, and collected upon all income not hereinafter exempted, received by every person residing within the State, and by every nonresident of the State, upon such income as is derived from property located or business transacted within the State. In determining taxable income, rentals, royalties, and gains or profit from the operation of any farm, mine, or quarry shall follow the situs of the property from which derived, and income from personal service and from land contracts and mortgages, stocks, bonds, and securities shall follow the residence of the recipient. With respect to other income, persons engaged in business within and without the State shall be taxed only upon such income as is derived from business transacted and property located within the State, which may be determined by an allocation and separate accounting for such income when made in form and manner prescribed by the tax commission, but otherwise shall be determined in the manner specified in subdivision (e) of subsection 7 of section 1770b of the statutes, as far as applicable." (1913, c. 720.)

Mr. McCUMBER. Mr. President, I have before me a brief on this subject which was filed by the National Foreign Trade Council. It is lengthy, and I will only quote portions of it upon certain subjects which I think are pertinent to the discussion. It gives in its outlines certain reasons for the exemption of foreign trade corporations from taxes on incomes derived entirely in a foreign State or country. The first proposition that I will read is the declaration that—

American traders in foreign countries can not compete with foreign rivals if handicapped by burdens not borne by their competitors.

If the burdens are beyond what they can stand, of course we will admit the truth of that statement. If they can stand both the American tax and the foreign tax and still compete with the corporation or business concern which only has to pay the foreign tax, which may not be a quarter or a tenth of the American tax, of course they would probably continue business and continue to pay the American tax, and we would have that much advantage. After all, it is a question whether they can continue to compete with their foreign rivals.

The citizens of all countries, except the United States, when actively conducting a business abroad are exempt from the payment of taxes to their home governments on income derived within the foreign country.

I think that ought to be modified to this extent, that they are exempt if the income is kept in the foreign country and is not brought to the home country.

American citizens resident in foreign countries pay United States income and excess-profits taxes on all income received from all sources.

The revenue obtained by taxing American traders in foreign countries on income derived from a foreign source is relatively, as I understand, rather small, but the amount of business conducted in those foreign countries which may be handicapped by excessive burdens is quite extensive. Some of the arguments that are given in favor of this proposal, I think, rest upon sound principles. The brief further states:

III. *These foreign outlets can best be obtained and can be maintained only through the presence of American traders resident in foreign countries.*

In the development of the foreign trade which is now so essential to the industry and agriculture of the United States, it should be a cardinal principle of our commercial policy to encourage in every way those American citizens and corporations who are actively conducting a business in foreign countries.

It is impossible permanently to develop a worth-while foreign trade of any size without having American traders resident in the various trade centers of the world where business is done.

Americans resident in foreign countries themselves consume considerable quantities of American products. If they are associated with the management of foreign enterprises, it is probable that those enterprises will also consume large quantities of American goods.

Americans resident abroad perform a valuable pioneer work by the introduction of American goods and American methods in foreign markets.

Americans resident in foreign countries and acting as agents for the sale of American goods are essential to secure proper care and intelligent development of the market for such goods in the face of foreign competition.

Americans resident abroad have it in their power to aid materially in the development of an American merchant marine by giving preference to the use of American ships in the transportation of the goods in which they deal.

IV. *American traders in foreign countries can not compete with foreign rivals if handicapped by burdens not borne by their competitors.*

This statement is so obvious as to require no proof. It might be pointed out, however, that this statement is peculiarly true at the present time owing to the world-wide business depression and the consequent necessity for operating at the smallest possible margin of profit.

V. *The citizens of all countries, except the United States, when actively conducting a business abroad are exempt from the payment of taxes to their home governments on income derived within the foreign country.*

The National Foreign Trade Council undertook in 1920 to investigate the taxation levied by the United States and by foreign countries on American traders abroad, and to compare this taxation with that levied by foreign countries on their nationals when doing business abroad.

In this work the council has received the hearty and effective cooperation of the Consular Service of the Department of State, through whose efforts much valuable and authentic information was obtained. The Bureau of Foreign and Domestic Commerce of the Department of Commerce has also been of material assistance.

In no country did the council discover a tax law which levied an income tax on nationals of that country actively engaged in conducting a business abroad with respect to income derived from foreign sources. For summary of foreign tax laws see Appendix A to this report.

VI. *American citizens resident in foreign countries pay United States income and excess-profits taxes on all income received from all sources.*

So far as our own laws are concerned a fair and even chance in competition with foreigners is the least that an American trader in foreign countries has a right to expect.

Yet it is a fact that citizens of the United States living and doing business in a foreign country are placed at a tremendous competitive disadvantage because of the taxes they are forced to pay to the United States on income derived from sources within the foreign country. In this connection certain fundamental conditions must be understood:

1. No country, except the United States, taxes its nationals actively conducting a business abroad on income derived from foreign sources.

Mr. LA FOLLETTE. Mr. President——

Mr. McCUMBER (continuing)—

2. The United States levies income, war-profits, and excess-profits taxes on its citizens wherever located, and on income derived from all sources.

Mr. LA FOLLETTE. Mr. President——

Mr. McCUMBER. I desired merely to finish the sentence and then I intended to yield to the Senator.

Mr. LA FOLLETTE. I wanted to ask the Senator a question just at that point, if he would yield.

Mr. McCUMBER. I have finished the sentence, and I yield to the Senator.

Mr. LA FOLLETTE. From what is the Senator reading?

Mr. McCUMBER. I am reading, as I have stated, from a brief prepared by the National Foreign Trade Council.

Mr. LA FOLLETTE. As I understood, it was stated in the matter which the Senator read that no Government collects a tax upon incomes derived from business conducted in a foreign country.

Mr. McCUMBER. I will read it again.

Mr. LA FOLLETTE. I should like to have the Senator read that portion.

Mr. McCUMBER. The quotation is:

No country, except the United States, taxes its nationals actively conducting a business abroad on income derived from foreign sources.

I think, as I read the British law——

Mr. LA FOLLETTE. Mr. President——

Mr. McCUMBER. Let me finish the statement—as I read the British law, that should be qualified by saying unless the income finds its way back to the home country. I think the statement as made in the brief is not accurate.

Mr. LA FOLLETTE. Stopping where it does, the statement is not accurate at all. It is contradicted by the British statute which the Senator himself has presented to the Senate.

Mr. McCUMBER. I have previously so stated.

Mr. LA FOLLETTE. It shows how prejudicial and misleading a brief prepared by special interests as a special pleading proposition can be when used in this way in debate.

Mr. McCUMBER. It applies, however, possibly to most corporations of the character referred to. For instance, in the case of a French corporation or a British corporation doing business in the Philippines only to the extent that any of its earnings go back to Great Britain or to France would there be a tax. Of course, if the earnings go back to Great Britain a British resident corporation pays a tax upon the income received.

Mr. LA FOLLETTE. Mr. President——

The VICE PRESIDENT. Does the Senator from North Dakota yield to the Senator from Wisconsin?

Mr. McCUMBER. I yield.

Mr. LA FOLLETTE. But that is not the statute which is proposed in this bill. It is proposed here to collect no revenue from the income earned on foreign business when it is returned to this country if a certain percentage of the business transacted by the corporation is foreign business. It goes way beyond anything that can be found in the British statute.

Mr. McCUMBER. The expert tells me that if it is returned here in dividends from a foreign corporation, such dividends are taxed here exactly as they are in Great Britain. I do not understand that that is not the case. I assume that any dividends received by a home corporation from a foreign corporation, whether American or otherwise, would be taxed as part of the income of that corporation.

Mr. TOWNSEND. Mr. President, but how does the Senator explain the situation as to the individual trader who is referred to in the provision?

Mr. LA FOLLETTE. It is quibbling.

Mr. TOWNSEND. In the fourth subdivision the individual trader is refered to, and as an individual he, of course, does not get any dividends; what he gets is in the form of returns from the trading transaction.

Mr. McCUMBER. If he lives abroad, then he is doing business entirely in a foreign country, and, living there, would be taxed there only; but if he is a resident of the United States he would be taxed upon the business done in the United States.

Mr. TOWNSEND. But that hardly fits in with the statement that the Senator has given, as coming from the expert, that if he gets back a dividend as a member of the corporation, that is taxed here; but the fourth subdivision refers to a foreign trader, who is an individual. Now, if 80 per cent of his business, assuming that he is living here, is derived from foreign sources, then he is not taxed.

Mr. McCUMBER. And more than 50 per cent, of course, in the active conduct of the business.

I do not know, Mr. President, to what extent individuals are doing business as individuals in a foreign country. I do not know whether we have any of them that are doing business as individuals in a foreign country or to what extent that would apply.

Mr. LA FOLLETTE. Mr. Morgan is conducting, as an individual, a private banking concern that is doing quite a business abroad, as I understand.

Mr. McCUMBER. Not as an individual, I think. I think there is a partnership abroad, but that is a British partnership and not an American partnership. In other words, there are two methods of doing business. One is by a partnership and the other is by a foreign corporation; and, of course, if it is a foreign corporation, it is not a foreign trading corporation under this law.

Mr. President, yesterday I gave the handicap under which an American corporation was laboring in the Philippine Islands. I notice in this brief another case which I think is practically the same, but the figures are not the same as those which I gave.

To apply these figures even more concretely, take the following example—

And this is given as an example of an actual fact in the Philippine Islands—

There is a French concern in Manila handling American automobiles, tractors, etc. In 1919 it is reported to have earned a net profit of $600,000. Upon this it would pay to the Philippine government an income tax of $77,735. It paid no taxes upon such income to the French Government.

Mr. HITCHCOCK. Mr. President, what year was that?

Mr. McCUMBER. Nineteen hundred and nineteen.

There is also in Manila an American house engaged in handling automobiles, tractors, etc., in competition with the French concern. Upon a like volume of business the American house would be compelled under existing law to pay a United States income tax of $375,190, the difference against the American house amounting to $297,455.

The way the $297,455 is arrived at is by deducting from the net profit the amount of taxes paid in the foreign country, which was $77,735. In other words, if the net income was $600,000, there is deducted $77,735, and then the amount of American tax upon that difference would be $375,190, as against the tax of the French concern of $77,735.

Mr. HITCHCOCK. Mr. President, may I ask what is the capital of that concern?

Mr. McCUMBER. I do not know. It is not stated.

Mr. HITCHCOCK. It is very important.

Mr. McCUMBER. It would make no difference so far as the profit taxed is concerned.

Mr. HITCHCOCK. If its profit was $375,000, that would be a very handsome profit if the capital was only a million dollars or half a million dollars.

Mr. McCUMBER. The point I am making here, and the only discussion I am making, is the difference in the income tax that would be paid upon a given profit by a French concern and an American concern doing business in the same country, no matter what their capital was. The American capital might not have been one-fifth of what the French capital was, or it might have been five times as much.

Mr. HITCHCOCK. Let me ask the Senator a question. Suppose the remaining profit, which the Senator has specified there as about $300,000, I believe, represented a net profit after pay-

ing all taxes of 30 per cent: Does not the Senator think that company could afford to go on and do business?

Mr. McCUMBER. It certainly could. There is not any question about it. If the profits are so enormous that the American concern can still live and have a good profit, while the French concern, if they were able to hold up the prices and were not a real competitor, could make three times the profit, of course the American concern would continue, if it was a profitable business, even though their competitor made several times as much. But suppose in the next year competition becomes strong; then the question of the tax becomes most important, and it becomes important as to whether the American will continue in the business as a competitor and as an American corporation, or whether he will surrender his American status as a corporation and incorporate as a French corporation or as a Philippine corporation. Of course, if he organizes as a Philippine corporation, then that corporation would only pay the $77,735, instead of the nearly $400,000.

Mr. HITCHCOCK. The Senator does not argue that the corporation would abandon its American status as long as it was making a handsome profit, does he?

Mr. McCUMBER. Not as long as it is making a handsome profit.

Mr. HITCHCOCK. It is not taxed unless it does make a profit.

Mr. McCUMBER. It is not taxed unless it is making some profit.

Mr. HITCHCOCK. And the reason why the tax is very high is because its profit was enormous; otherwise it could not have paid $300,000.

Mr. McCUMBER. If the Senator says they would not surrender their American corporate existence if they were making a handsome profit, I answer that that depends on a great many outside circumstances. I regard capital generally as being pretty selfish; and I am rather inclined to think that if it could make twice as much profit by becoming a Philippine corporation or a French corporation, it would very willingly surrender its American status as a corporation.

Mr. HITCHCOCK. I do not doubt that these corporations under an American charter would like to make all the profit they can, and I do not doubt that the French corporation was paying less tax than the American corporation; but the fact is that practically all French corporations in France pay less taxes than American corporations pay in this country. Our taxes are higher, and I do not see any reason why we should relieve a corporation that is doing business abroad as long as it is making a profit; and it can not be taxed unless it does make a profit.

Mr. McCUMBER. The Senator is assuming that the French corporation pays the French tax.

Mr. HITCHCOCK. No; I am not.

Mr. McCUMBER. The question is whether it would pay this corporation to remain an American corporation, or to incorporate as a Philippine corporation. A great many of our Americans to-day—and it is being done yearly—are organizing as foreign corporations. That is, the subcorporations are organizing; not as American corporations doing business in the foreign country but they are organizing under the foreign laws for the very purpose of escaping the heavy taxation.

Mr. HITCHCOCK. Mr. President, I do not believe, because other nations undertax their profitable concerns, that we should do it. As long as we give the corporation credit for the foreign tax it pays, and deduct that foreign tax from the American tax, we have done all that we are called upon to do. Those corporations that organize under a Philippine charter, or under the charter of a foreign country, are compelled to renounce the protection of the American Government, and they should not insist on having the protection of the American Government unless they help support the American Government.

Mr. McCUMBER. I think the Senator ignores the real question. If these corporations will continue to do business, pay the American tax, and still remain American corporations, of course the Senator is right. If they can afford to do it and will do it, then, of course, all the taxes that we can get out of them for the support of the Government will make us that much ahead, because we will get the benefit of the American house doing business in the foreign country and the trade relations that come with it. But can the Senator assure us that these American corporations can continue in business when competition becomes extreme, as it is bound to become under the present conditions? The corporations doing business as American corporations in the Philippine Islands are to-day making very vigorous complaints, and they declare, and Gen. Wood declares, that they can not compete. They have something else to do besides making a mere profit and paying an income tax upon that profit. If the foreign corporation can make twice as much profit this year, they can expand, they can advertise, they have more capital on which to do business, they can compete and increase their business, where the American corporation would be forced to take the laboring oar at all times against a stronger competitor. It is simply a question of fact. The evidence that comes before the committee is that it is essential, if they are to continue in business, that they must continue without being so handicapped as they are at present.

Mr. JONES of New Mexico. Mr. President, may I inquire of the Senator what advantage it would be to the United States to have these corporations doing business under an American charter if we are not to tax their income?

Mr. McCUMBER. The whole point I have been making is that it is a question of the connections and the encouragement of trade with the home country. There is an old saying that "commerce follows the flag." I think it follows banking facilities; I think it follows trade of any kind; and wherever we can plant an American business institution in a foreign country we help to develop the commerce between that country and this.

Mr. JONES of New Mexico. May I inquire what benefit it will be to this country to operate such concerns, if we are not to be permitted even to tax their income?

Mr. McLEAN. Mr. President——

Mr. McCUMBER. If we benefit the country by increasing our exports, the whole United States is better able to pay taxes, and the little tax that you would collect from the individual or the corporation that is responsible for the increase in the business would be a bagatelle compared with the general benefit to the country.

Mr. JONES of New Mexico. The Senator does not contend that our foreign business would stop if we taxed the incomes of these concerns, does he?

Mr. McCUMBER. No; and I do not contend that our foreign business would stop if we did not increase the powers of the War Board to devise means by which we can increase our exports. Everything in that line helps. It does not make a bad condition good, but it helps to palliate the bad condition.

Mr. JONES of New Mexico. I take it, Mr. President, that there are a number of individuals engaged in this foreign trade, too. I suppose the Senator is willing not to tax those individuals on their incomes, is he? He is willing to apply this same rule to all individuals, partnerships, and corporations?

Mr. McCUMBER. I did not quite understand the Senator.

Mr. JONES of New Mexico. I am asking the Senator if it is proposed to apply this principle to all corporations, partnerships, and individuals engaged in foreign trade?

Mr. McCUMBER. Of course, the law itself deals with the individual trader and also with the foreign-trade corporation. The Senator asks me whether I would apply the principle; the law itself governs that.

Mr. JONES of New Mexico. But the individual trader and the partnership could not expatriate themselves, or would they do so?

Mr. McCUMBER. What is to prevent them from doing it?

Mr. JONES of New Mexico. I assume that they would not do it, and if they did not think enough of their citizenship to pay taxes on their incomes here I would welcome their departure.

Mr. McCUMBER. There are a great many thousand Americans located in foreign countries who are doing business in those foreign countries. How many of them do we get hold of under our tax law now?

Mr. JONES of New Mexico. May I ask what benefit we get from their citizenship?

Mr. McCUMBER. I am not discussing whether we get any benefit from their citizenship or not, because that certainly has not the slightest thing to do with the case. The answer to the Senator's proposition is that the individuals are there, and they do practically expatriate themselves. While they are still American citizens, they do not pay the taxes, and we have not any way to go there and collect the taxes from them unless we send a war vessel after them.

Mr. McLEAN. Mr. President——

Mr. McCUMBER. I yield to the Senator from Connecticut.

Mr. McLEAN. I think it makes considerable difference what the business is in which foreign capital is engaged. I sympathize with many things which the Senator from Wisconsin has said with regard to the propriety of taxing American capital that is engaged in doing business in foreign countries, provided the business conducted is not beneficial to the United States; but where the foreign capital is interested in the production of noncompetitive products, like rubber, for instance, I would offer every encouragement to it. We all know, I think, that the capital which is invested in the production of rubber

in the East Indies has cut the price of rubber in two within the last 10 years, and I think that has been of very great benefit to the American people. I think that would apply to other industries, such as the coffee plantations of Brazil. There are a great many noncompetitive articles produced abroad which are of very great benefit to the American people, and I think we should encourage the investment of capital in those enterprises and put them on a competitive basis with the capital from other countries, for evidently in the case of the great staples like rubber and other things the margin of profit may be very small and the question of the duplication of the taxes would be decisive. The American could not compete.

On the other hand, if capital is going to Germany, for instance, for the purpose of manufacturing cotton goods to be sold in this country in competition with similar goods manufactured in this country, and the capital goes there for the purpose of taking advantage of the low cost of labor, it may result in a positive injury to this country.

In reaching my decision with regard to this amendment, I had to weigh the two classes of business, and if I could find any way in which I could differentiate and compel the capital that is engaged in the competitive business to pay a tax, I would be glad to vote for it; but it did not seem to me to be practicable, because American capital can very easily organize under the laws of foreign countries. If there is money to be made, they will do that, and in that way they will escape their taxation here altogether, and, generally speaking, I think the man who is unpatriotic enough to engage in that kind of business, a business that is ruinous to American industry, will find some way to escape the taxes, and he can do it under the law.

I was satisfied, from such information as I could get, that we would secure more revenue by far through adopting the amendment proposed by the committee, because many of these corporations which are engaged in, producing noncompetitive articles would keep a home organization, and, of course, if they do a certain portion of their business here then all their income from abroad is taxable. Or, if we tax only that portion of the income which is received in this country we would be getting something, whereas if we do not give them this privilege they will organize under the laws of the foreign country and we would get no income at all.

I was impressed with the urgent message which we received from the Philippine Islands. We are all anxious that the American capital there shall have a fair opportunity to compete.

Mr. JONES of New Mexico. The present law has been in force for some time. Is there any information as to how many American corporations have disincorporated under the American law and gone abroad and formed corporations there by reason of our present system of taxation?

Mr. McLEAN. I can not give the Senator that information; I do not know. The Senator must realize that if the tax is such as to put them at any considerable disadvantage in the transaction of their business abroad, they will organize abroad and so pay us nothing.

Mr. JONES of New Mexico. The Senator must realize, however, that there are great advantages accruing from the fact that the corporation is an American corporation. It has its credit established in America, it has its charter here, it has the protection of the American Government, and if it goes into foreign countries and incorporates and pays no tax to the United States I would like to know what inducement there can be for the United States Government to give to them these advantages and get no return whatever?

Mr. McLEAN. My position was this, that we would get more money under this provision than we would if we insisted upon a continuation of the tax. That is the advice which I get from those who are informed, and well informed, upon this subject, and the Senator knows, as well as I do, that corporations have no souls, and very little patriotism at times. It is a question of money with them, and they will not hesitate to organize abroad if they can escape a burdensome tax.

Mr. POMERENE. Mr. President——

The VICE PRESIDENT. Does the Senator from North Dakota yield to the Senator from Ohio?

Mr. McCUMBER. I yield.

Mr. POMERENE. If I understand the Senator correctly, the gentlemen who appeared before the committee in substance said to the committee, as interpreted by the Senator from Connecticut, "If you relieve us of our taxes, you will get more money out of us than if you do not relieve us of our taxes."

Mr. McLEAN. I will say to the Senator that no one appeared before the Finance Committee of the Senate that I know of. There were hearings, I think, before the House committee in regard to this matter. So far as I remember, all the evidence we had in regard to this subject was a communication from Gen. Wood.

Mr. POMERENE. Mr. President, when men come before the Senate appealing for favoritism in the taxing laws, and say, "If you do not give us this favor, you will get less from us than you will get if you give us the favor," I do not think we are justified in following their judgment very far.

Mr. McLEAN. Such threats would have no influence with me, I assure the Senator from Ohio.

Mr. POMERENE. I felt that they would not.

Mr. McLEAN. I feel that it will be a great advantage to this country for American capital to go abroad and engage in the production, as I have said, of any noncompetitive articles which we do not produce here, and so reduce the prices of many standard products, and in that way it will be of great benefit to the American people. But where they use their capital abroad for the purpose of conducting ruinous competition with goods which are made in this country, I confess I would be glad to tax them if I could; but I see no practical way in which you can separate the two classes of capital.

Mr. POMERENE. The Senator from North Dakota in his discussion the other day presented the facts with reference to the experience of certain Americans in the Philippines, and he presented them with very great force, and it had an appealing effect. I think I can distinguish between the class of manufacturers who are engaged in a purely commercial or mercantile business, and who are selling perhaps an American product abroad and the class of manufacturers in this country who are manufacturing for the foreign trade; and a bill of this kind is encouraging our manufacturers to make their investments abroad, and employ foreign labor.

Let me give an illustration which occurs to me, and I am not sure but that it was referred to on the floor of the Senate some time ago.

I understand the President has been urging upon the Congress the wisdom of continuing oil on the free list, taking the position that the demands of our commerce and navigation are such, in view of the proposed limited supply of oil in this country, that we must have the oil from foreign countries. A good many of our oil men have gone into Mexico and have large investments there. They have very valuable concessions from the Mexican Government. It has been, and it will be, a source of great expense to this Government to defend those American interests in Mexico, and yet, if the amendment which is proposed by the committee is adopted and we follow that with the suggestion of the President that oil shall be continued on the free list, we will be saying to the oil men in the United States, "You pay an income and excess-profits tax, but those who go into Mexico need not pay any of these taxes."

In other words, we are benefiting them at the expense of our own producers, and notwithstanding the great respect I have for the ability and the energy of my friend from North Dakota, I can not see the justice in that method of taxation. It seems to me that greater harm will result to the American people than good. In any event, I doubt the wisdom of these exemptions to that extent.

Mr. McCUMBER. Mr. President, I think we are getting far afield from the revenue bill when we are discussing tariff measures. I would rather not take that up at the present time.

Mr. POMERENE. I only referred to it incidentally. The other is the main proposition.

Mr. McCUMBER. The incident, however, was much bigger and took considerably more time than the principal.

Mr. WALSH of Montana. Mr. President——

The VICE PRESIDENT. Does the Senator from North Dakota yield to the Senator from Montana?

Mr. McCUMBER. Briefly.

Mr. WALSH of Montana. I sought the floor when the Senator was referring to the French corporation engaged in business in the Philippine Islands to inquire whether it is not a fact that the French Government, as suggested by the Senator from Nebraska, does not tax its citizens anywhere nearly as burdensomely as our Government taxes its citizens. Whereas our Government expects to get along and pay its current expenses, I observe that France will have a deficit of 2,000,000,000 francs in her budget this year.

The Senator seems to think that there is some reason to apprehend that corporations engaged in foreign trade, unless this amendment is agreed to, will, so to speak, expatriate themselves and abandon their American charters and secure charters under the Governments of those countries in which they do business. I wish to inquire of the Senator if he thinks the Standard Oil Co. of New Jersey, which does a large business in China, will be

likely to abandon its American charter and incorporate under the laws of China?

Mr. McCUMBER. I do not know exactly what the laws of China are with reference to corporations. In fact, I do not know that there is any incorporation law, as such, in China; certainly there is no general law.

Mr. WALSH of Montana. I can say to the Senator that an extensive investigation conducted by a subcommittee of the Committee on the Judiciary disclosed that no American will incorporate under the Chinese law.

Mr. McCUMBER. Certain rights, I suppose, could be obtained through the Government to do business there, but there is no incorporation law in China about which I know anything.

Mr. WALSH of Montana. Then let us take the Mexican Petroleum Co., which is an American corporation——

Mr. McCUMBER. I can answer that without the Senator making his argument. I do not think any American corporation on earth will surrender its American charter for a Mexican charter, no matter what the circumstances might be.

Mr. WALSH of Montana. Let me inquire of the Senator if he thinks the International Corporation, which is engaged in business in the South American Republics in a very large way and operates banks in a large number of those countries, would surrender its American charter?

Mr. McCUMBER. Many of them would. The Senator has asked his question. May I go a little further and state my position on the subject and my answer thereto?

Mr. WALSH of Montana. I shall be glad to hear the Senator.

Mr. McCUMBER. The Senator from Ohio [Mr. POMERENE] asked practically the same question, and with a great deal of vigor; also the Senator from New Mexico [Mr. JONES] asked if we thought any of these American corporations would surrender their charters and expatriate themselves. It is a matter of fact that very many Americans with capital organize as foreign corporations. I do not think that a corporation that had very much judgment at least would ever expatriate itself for a Mexican charter. But there are other stable governments in the world under which it could incorporate.

Mr. WALSH of Montana. The British Government, for instance?

Mr. McCUMBER. Very many Americans have interests in British companies and French companies, but especially in British and Canadian companies. Now, those American capitalists having their interests in a British company and that same British company doing business in the Philippines, the British organization paying only British taxes upon what income might possibly seep into the British Union, would very naturally prefer that to an American corporation which would pay four times as much tax in the foreign country. I stated, I think, that there is danger there, and I think it is being done every day.

I wish to put another point to the Senator right there, and it is a very strong reason why we should keep these corporations American corporations, why we should keep the individual trader an American trader trading in his own country even though he has an agent in the foreign country. If they organize as a foreign corporation and do business in the United States, and they nearly all do a certain amount of business in the United States and a certain portion outside of the United States, it is extremely difficult to get their returns, and proper returns, unless they are American corporations. If they are an American corporation, even though the great bulk or nearly all of their business, 99 per cent of it, is conducted in a foreign country, they can get the 1 per cent in this country, and if 20 per cent of their business is done in this country and the profits come to this country they can be compelled to make returns of the profits they derive from the United States. They can not do so if it is a foreign corporation, because the foreign corporation is not compelled to make a return to the American Treasury Department, and we lose, I will not say millions of dollars but immense sums of money because we have no means of enforcing a report.

Mr. WALSH of Montana. Undoubtedly the Senator is correct that if they would expatriate themselves and incorporate under the laws of some other country we would not be able to tax them; but the Senator seems to fear that American capital might be tempted to organize under the laws of Great Britain. The Senator is undoubtedly aware, although, perhaps, he has forgotten about it, that to a very large extent the British law prohibits anyone except a British citizen from acting as a director of a British corporation. Accordingly the American must either expatriate himself or else he must intrust his business to some dummy director who is a British citizen. Does the Senator believe that any prudent American investor will do so?

Mr. McCUMBER. It is done in the United States, and I am rather inclined to think it will be done in the foreign country. It is done every day.

Now, Mr. President, I have discussed this subject considerably longer than I intended to do. After all it is simply a question whether it is best for the commerce of the country, for the interest of the country, that we should keep these corporations American corporations. Is it best for the interest of the country in its foreign trade that we allow all American corporations doing business in a foreign country such immunity as will put them on something near like an equal competitive footing with other foreign corporations?

Mr. WATSON of Georgia. Mr. President, I send to the Secretary's desk, with the request to have read, the cover page of the current issue of the Manufacturers' Record, in reference to the progress of manufactures in the South. I think it will be of interest to every Senator, and possibly a surprise to a great many.

Mr. FRELINGHUYSEN. Mr. President, what is the request?

The VICE PRESIDENT. The Senator from Georgia requests that the cover page of the Manufacturers' Record be read.

Mr. WATSON of Georgia. It shows the progress of manufactures in the Southern States.

The VICE PRESIDENT. The Secretary will read as requested.

The Assistant Secretary read as follows:

SOUTHERN INDUSTRIAL PROGRESS CHALLENGES THE WORLD.

The romance of the development of the South from the poverty of 1880 to the progress and expansion in industry and trade of the present is graphically shown in statistics compiled from the census of 1920 by the Manufacturers' Record and compared with former census reports.

The total amount of capital invested in manufacturing and the total value of the products of the South's factories from 1879 to 1919, inclusive, as given by the census for each decade, is as follows:

South's manufacturing progress.

Census year.	Capital.	Value of products.
1880	$329,752,408	$622,840,982
1900	1,196,302,086	1,564,183,490
1910	2,885,927,698	3,158,388,799
1920	6,885,546,000	9,808,114,000

The amount of capital invested in manufacturing in the South in the census year 1920, which was really for the business year of 1919, was $6,885,500,000, or equal to over 88 per cent of the total amount invested in manufacturing in the rest of the country in 1900, and the products of southern factories for the census year of 1920 was nearly equal to the total value of the manufactured products of the rest of the country in 1900.

The question might be raised that a part of this great increase in the value of products was due to the higher prices prevailing in 1919, but this is answered by the comparison of actual capital invested, which shows that the amount of capital in southern factories jumped from $1,196,302,000 in 1900 to $6,885,500,000 in 1920, compared with $7,782,500,000 as the total capital invested in manufacturing in the United States, not including the South, in 1900.

Between 1910 and 1920 the capital invested in southern manufacturing made the amazing increase from $2,885,900,000 to $6,885,500,000, a gain of about $4,000,000,000.

Between 1910 and 1920 the value of products of southern factories rose from $3,158,300,000 to $9,808,100,000, a gain of $6,649,700,000. The magnitude of this is shown in the fact that the value of southern manufactured products for the census year 1920 is almost exactly the same as the total value of manufactured products of the United States, excluding the South, in 1900. Thus, this section is now producing of manufactured products as much as the entire country outside of the South produced of manufactures only 20 years ago.

What has been achieved in this amazing growth of the South's industrial activities has been against overwhelming odds with which the South faced the future in 1880 and the handicap which it had for many years thereafter.

The progress of the last 10 years in the industrial development of this section challenges the world's attention and gives promise of the boundless future of a section which the foremost scientists and experts now admit has advantages for industrial development surpasing those of any other known equal area in the world.

Mr. HEFLIN. Mr. President, I want to say just a word and will occupy the time of the Senate but a moment. I concur in what the Senator from Tennessee has just said.

I have had a number of requests from people in my State and from other States asking that a resolution be introduced calling upon the Secretary of War to lay before the Congress all the facts pertaining to the bids which have been made for this Muscle Shoals project, but I do not wish to do anything that would in any way embarrass the Secretary of War in his efforts to bring about the completion of the Muscle Shoals Dam.

Yesterday I wrote a letter to the Secretary of War and asked him to give me the status of this matter. I do not desire to offer any resolution. I believe the Secretary of War is anxious to do something with this great Muscle Shoals project, and I understand that he is going down there soon to see for himself just what the Government has there and has done there. I

make the prediction that if he does, this great project will be completed, because I believe that the Secretary of War is a man of fine business judgment, and he will see that the 80-odd million dollars spent at this wonderful site in the Tennessee Valley should be put to good use; and he will see to it, in my judgment, that that project is completed.

I believe that he will see the importance and necessity of insisting that either the Government or private capital should be permitted to finish the work at Muscle Shoals. I am anxious for him to visit Muscle Shoals and anxious to see his report when he returns. The money expended there must be saved and the Government must have its own nitrate plant.

The VICE PRESIDENT. The question is on the committee amendment.

Mr. SIMMONS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hale	McNary	Sutherland
Ball	Harris	Nelson	Swanson
Broussard	Heflin	New	Townsend
Bursum	Hitchcock	Oddie	Trammell
Calder	Jones, N. Mex.	Overman	Underwood
Cameron	Kendrick	Page	Wadsworth
Capper	Kenyon	Penrose	Walsh, Mass.
Caraway	Keyes	Pittman	Warren
Curtis	King	Poindexter	Watson, Ga.
Dial	La Follette	Ransdell	Watson, Ind.
Edge	Lenroot	Sheppard	Weller
Fletcher	Lodge	Shields	Willis
Frelinghuysen	McCumber	Simmons	
Gerry	McKellar	Smoot	
Glass	McLean	Spencer	

The VICE PRESIDENT. Fifty-seven Senators having answered to their names, a quorum is present.

Mr. TOWNSEND. Mr. President, I wish to say just a word on this before the vote is taken. I can see, I think very clearly, what the committee has in mind by this amendment of this provision of the bill. I am not convinced that the possibilities for injury or for wrong are much greater than any possibilities for good. I have been convinced very completely that great encouragement should be given to American investments in the Philippine Islands.

As I understand it, the only demand for this kind of legislation comes from the Philippine Islands. I have talked with men from the Philippine Islands and know that American investments are being handicapped on account of our tax laws. Inasmuch as we are very largely responsible for the Philippines, and as we are greatly interested in those islands, I am exceedingly anxious that we should do all that we ought to do to carry out our obligations and at the same time encourage American investments.

This is a proposition to strike out a definition or definitions. I can see why it is essential that they should be stricken out if we are to change the subsequent provisions of the bill, and I have been told that changes can be made when we reach the subsequent provisions of the bill to meet the situation which I have in mind, namely, the proper protection of American capital invested in business in the Philippines and possibly in other nations too which in reality may put us on a parity with other nations. I think the bill does not do that, because I think it gives advantages to American investments which are not given to the investments of other nations. It so strikes me at least from the arguments which have been adduced to which I have listened with as much care as possible.

Believing, as I said in the beginning, that there are so many doubtful things about this, so many more than possibilities, probabilities of abuse of this provision, and thus dealing unjustly with investments at home in our own country, I am inclined to vote to strike out these provisions with, as I said, the hope that we may subsequently in the bill, probably through the action of the committee itself, make some provisions for the Philippine Islands which are applicable to those islands.

Mr. WATSON of Indiana. Mr. President, I wish to ask the Senator from Michigan a question. He has said he has been informed that some provision may be made in the bill in the future to protect American capital invested in the Philippines. I would like to know what his information is and what the provisions are to be.

Mr. TOWNSEND. I have been told that it might be considered. I have not been told by the Senator from Indiana.

Mr. WATSON of Indiana. No.

Mr. TOWNSEND. And I have not been told by anyone who perhaps would be bound by what was said; but I take it for granted that the supposition is a fair one, that if the committee itself, if the Senator from Indiana and other Senators on the committee desire to follow the advice which was submitted to the committee from the Philippine Islands, which, as I understand it, is the only advice or request the committee has received from any source to write this legislation into the bill, they will consider a proposition to protect capital invested in the Philippine Islands.

Mr. WATSON of Indiana. Of course, the question primarily is one involving American capital in the Philippine Islands, but the only source of information we had was not altogether from the Philippine Islands, I will say to the Senator from Michigan, but from the Treasury Department.

Mr. TOWNSEND. I understood from the Senator from North Dakota——

Mr. WATSON of Indiana. The Treasury Department have been wrestling with this problem for a good while. These matters have all been presented from time to time, and after considering it in all its phases they concluded that this was the best legislation and so recommended. After we wrestled with it in the committee, and we went over it several times as my friend the Senator from Wisconsin [Mr. LA FOLLETTE] knows, we thought this the best way to handle it. If there be a better way, it has not been suggested. If there be a better way, we are not aware of it. I am sure the Senator from North Dakota, who has largely had charge of the bill during these debates, will agree with me when I say that nothing better than this was presented for the protection of American capital in the Philippines.

Mr. McCUMBER. I will say, if the Senator will allow me, that not only Secretary Hoover but the Secretary of State and the Secretary of the Treasury all joined in this recommendation.

Mr. HITCHCOCK. Mr. President, as far as the Philippine Islands are concerned, that undoubtedly is a very easy matter to reach. Moreover, I wish to call the attention of the Senate to the fact that the taxes levied in the Philippine Islands are small. They are probably not over one-fourth, perhaps not over 20 per cent, of what we levy in the United States. So an American corporation going to the Philippine Islands is not assessed heavy taxes in any event. It has the privilege and the right, after it pays those taxes, to charge them in as a part of its exemption against American taxes. So all the American corporation pays on doing its business in the Philippine Islands is the same tax it would pay in the United States on a similar business.

I think it is a very dangerous thing, a very evil thing, to expand this practice of exemption. It must be remembered that every time we exempt a particular line of business from taxation we increase the taxes upon the others that still remain subject to taxation. In exempting a corporation doing business in a foreign country you increase the taxes upon every corporation doing business in the United States, employing labor in the United States, and developing interests in the United States. This matter of exemption is a dangerous practice and should not be employed except in the most extreme cases where the public interest demands it.

I am in favor of extending our foreign trade. I voted for legislation which would have that effect, and I shall vote for any other wise legislation which shall have the effect of expanding our exports, because I know they are necessary to American prosperity, for the reason that we have enormous surpluses which it is necessary for us to market abroad. However, our foreign trade has expanded enormously under the existing law, and I do not believe it is necessary for the protection of legitimate business to make a further exemption.

Mr. President, some days ago I called attention to the fact that this exemption under the term "foreign trader" is a far greater exemption than it seemed upon its face. Upon its face it seems only to apply to commercial enterprises or business concerns as we recognize them in trade, but under every legitimate definition it includes also banking; and the fact is that, in all probability, the most prosperous enterprises in the United States to-day are the foreign banking institutions, which have an enormously favorable opportunity to float foreign loans and to sell foreign bonds. Do we now propose deliberately to exempt from taxation such international banking concerns which are making enormous profits? That will be the effect of this proposed change in the law.

The Senator from Wisconsin [Mr. LA FOLLETTE] has called attention to the injurious effect upon the United States if we shall put a premium on sending American capital into foreign countries; and that is something which is worthy of consideration. We have a great deal of capital here, but we have not arrived at the point where we can afford to make American capital more profitable if invested in foreign countries than if

invested at home; and I think that presents an objection to this proposed change in the law.

The Senator from Connecticut [Mr. McLEAN] inadvertently offered a very strong argument against this amendment, although he indicated that he was going to vote for it. He said he hoped it would not result in sending American capital, American enterprise, and American companies into countries where they could, by using cheaper labor, compete with American concerns; and he instanced the possibility that such legislation might be an inducement to American companies to build up in Germany cotton manufacturing institutions which, by using the cheap German labor, could ship their products over here in competition with American concerns. To my Republican friends, who believe so ardently in the doctrine of protection, I suggest that they may be making a mistake even upon their own theory of doing business.

Mr. PENROSE. American manufacturers may now do that which the Senator from Nebraska has suggested.

Mr. HITCHCOCK. But we are offering them no premiums to do it; we are not exempting them from taxation.

Mr. PENROSE. They would escape taxation entirely if permitted to go on under the present law and practice.

Mr. HITCHCOCK. No; the Senator is mistaken in that statement.

Mr. PENROSE. I do not think I am.

Mr. HITCHCOCK. If an American corporation does business in Germany and the profits of that corporation come to the United States, that American corporation, as long as it is claiming the protection of the United States as a citizen of the United States, is compelled to pay taxes in the United States on its profits; but here in this bill it is proposed to exempt such a concern from taxation. It is made more profitable to manufacture cotton goods, say, in Germany than to manufacture them in the United States, not only because the labor is cheaper there, but because the corporation will there escape American taxation.

My idea of this situation, Mr. President, is that the present law is just. If an American concern goes into a foreign country and does business in that foreign country—say an American paper-manufacturing concern goes into Canada and does business there, as some of them have, or erects some of its factories over there—for all the taxes that it pays in Canada it is allowed a credit upon its taxes in the United States. That is just; that gives it every opportunity to expand in a foreign country without actually putting a premium upon its abandoning the United States.

I therefore sincerely hope that this amendment will not be adopted, because I believe it would be detrimental to the industries of the United States and would certainly increase the taxes that other concerns must bear.

Mr. SIMMONS. Mr. President, I heartily concur with the suggestion of the Senator from Nebraska. I hope that the amendment of the Senator from Wisconsin will be adopted. I think that the committee probably have not fully realized what their proposed amendment means.

The proposition, Mr. President, is that we are to exempt from Federal taxation the profits of domestic corporations which are made in other countries in which they may operate, provided 80 per cent of the income is obtained from outside the United States. It is very difficult for me to see why that should be done. I can easily see why a domestic corporation, earning profits on its operations in a foreign country, should have an exemption upon its taxation in this country to the amount of the taxes imposed in the foreign country upon its income. The law now makes such provision, and that, I think, is the only consideration to which they are entitled. They are investing American money in foreign countries; they are making profits upon that money; and I can not see why they should not be subject to the income tax which we impose upon profits made upon American money on American soil.

Why, Mr. President, does a domestic corporation manufacturing automobiles in this country establish a subsidiary concern across the border in Canada? That is being done now to a considerable extent, and if this exemption shall be accorded it will be done to a greater extent. Why will they do it? Because it will be to their interest to do it, for if they are allowed this proposed exemption they will not only upon the automobiles they may manufacture in Canada for the use of Canadians escape the customs duties that would be imposed upon automobiles manufactured in this country and exported to Canada but they will escape the income tax upon their profits which this country would exact if the automobiles were made within its borders.

That statement does not apply alone to the automobile business, but it applies also to the manufacture of agricultural implements—in fact, to the manufacture of anything that is used in large quantities in Canada and is ordinarily exported from this country into Canada. By simply establishing a factory in Canada they will escape the customs duties under the laws of Canada and at the same time escape the income tax laws of this country. I can not conceive of a more flagrant invitation than this to the manufacturers of this country to produce across the border the commodities which they ordinarily sell to Canada.

I understand, Mr. President, that preparations are now being made by American corporations to invest a large amount of capital in the manufacture of films in Germany. If their plan is carried out, they will not only escape our income taxes and escape the customs taxes which they would have to pay in case they manufactured the films in this country and exported them to Germany but they will take advantage of the cheaper labor in Germany and manufacture those products there at less than they can be manufactured in this country and send them back here and sell them in competition with the American product.

But, Mr. President, there is a more serious objection to this bill than that. We know that at this time a large part of the exporting business in this country is being carried on by corporations organized for the sole purpose of selling American products abroad. If the provisions of the bill which are now under consideration become a law, what is to prevent the whole American export business of this country being controlled by domestic corporations organized for the purpose of controlling the export trade and selling American goods abroad, making enormous profits upon those sales, and escaping absolutely the income taxes imposed in this country? We exported during the war from $11,000,000,000 to $12,000,000,000 worth of commodities annually. A large proportion of that export trade is now controlled by domestic corporations, organized for no other purpose than to control it. If this bill should pass, do Senators doubt that these corporations will practically control the whole American export trade, amounting to $11,000,000,000 annually, make enormous profits, and pay absolutely nothing upon these profits into the American Treasury?

Mr. President, I do not wish to prolong the discussion; I am anxious that we shall vote upon this question this afternoon; but I do want to say that I am afraid this bill is loaded up with administrative amendments which, when we get to the bottom of them, we will find operate either in the direction of affording undue and unjust exemptions from taxation, or of reducing, by the process of exemption and deduction, the taxes that ought to be paid.

Mr. JONES of New Mexico. Mr. President, I want to say just a word regarding this matter, and I wish to call especially to mind the fact that the present law taxes the net income of these corporations. This bill as it came from the House, together with the amendments put upon it by the Senate Finance Committee, proposes to exempt their net income from taxation.

You can say as much as you please about competition abroad, but I do not believe that the provisions of the present law, if enforced, will affect the question of competition at all. This proposal now as it comes before the Senate is to change the law so as to exempt these corporations from a tax upon their net income. If you had put a tax upon the gross income, or something of that sort, a tax upon their property, I can see how you might interfere with competition, how you might handicap these corporations and individuals in that competitive race; but the tax here does not affect any of them unless the income is net income, and for the life of me I can not see why you want to exempt net income from this tax if the corporation is an American corporation. It seems to me that American corporations should all stand upon the same footing. If they are making a profit, if they have a net income, they ought to pay a tax upon that net income.

It was stated here this afternoon by the Senator in charge of the bill that we have some American citizens who live abroad who are transacting foreign business, and we can not collect any tax from them. I want to say, Mr. President, that if we have any such citizens as that they ought never to be permitted to come home until they pay these taxes. There is a way to reach them, and it can be done in that way if in no other. At this time, however, it does seem to me that every American corporation that looks to the flag of this country for its protection ought to stand upon the same footing when it comes to a matter of taxation and bearing the burdens of the Government, and so with the American citizen.

I sincerely hope that this proposal will not be adopted by the Senate. It will be necessary, of course, to act upon more than the amendment proposed here by the Finance Committee of the Senate; but we should strike down the proposition as it came from the House.

The VICE PRESIDENT. The question is on the adoption of the committee amendment, which will be stated by the Secretary.

The ASSISTANT SECRETARY. On page 5, beginning on line 1, in the House text, it is proposed to strike out: "The term 'foreign trader'" and insert:

(4) The term "foreign trader."

Mr. LA FOLLETTE. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state his parliamentry inquiry.

Mr. LA FOLLETTE. After the paragraphs numbered (4) and (5) on page 5 have been perfected by adopting the amendments reported by the Senate Committee on Finance, I inquire if a motion to strike out the two paragraphs will be in order?

The VICE PRESIDENT. Not at this time, because the Senate is acting under a unanimous-consent agreement to consider first all committee amendments.

Mr. LA FOLLETTE. I am inquiring if it will be in order after these committee amendments have been acted upon.

The VICE PRESIDENT. Not until all committee amendments have been acted upon.

Mr. PENROSE. Mr. President, I take it that, strictly speaking, the unanimous-consent agreement would preclude such action; but in order to clean up the paragraph I do not think there will be any objection, at least on the part of those immediately in charge of the bill, to the Senator offering his amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The ASSISTANT SECRETARY. On page 5, line 10, before the word "business," it is proposed to insert the words "trade or."

The amendment was agreed to.

The ASSISTANT SECRETARY. On line 12, strike out the word "another" with a period following it, and insert the same word with a semicolon thereafter.

The amendment was agreed to.

The ASSISTANT SECRETARY. On line 13, strike out the quotation marks and the word "The," and insert the numeral "5" in parentheses, and the word "The," beginning the paragraph.

The amendment was agreed to.

The ASSISTANT SECRETARY. On line 21, before the word "business," insert the words "trade or."

The amendment was agreed to.

The ASSISTANT SECRETARY. On line 22, strike out the word "States," the period, and the quotation marks, and insert the word "States" with a semicolon.

The amendment was agreed to.

Mr. LA FOLLETTE. Now, Mr. President, I move to strike out paragraphs (4) and (5) on page 5, and upon that motion I ask for the yeas and nays.

The VICE PRESIDENT. Without objection, the Chair will put the motion. The question is on the motion of the Senator from Wisconsin, upon which the yeas and nays are requested.

The yeas and nays were ordered.

Mr. LA FOLLETTE. Mr. President, I merely want to say that I had contemplated making answer to the argument submitted by the Senator from North Dakota [Mr. MCCUMBER] this afternoon in reply to what I had said in the course of the discussion yesterday. I take the time of the Senate to say this, and only this:

On yesterday I had challenged the advocates of these provisions to produce here the statutes of any foreign Government providing for the exemption of foreign traders and foreign corporations in such terms and to such an extent as is proposed in this bill. The provision of the British statute submitted by the Senator from North Dakota to-day, and read into the RECORD, sustains the contention that I made on yesterday that there is no such legislation, no such law in existence in any foreign country, as is proposed to be incorporated in this bill.

I have gathered all of the legislation upon that subject, and intended to present it to the Senate this afternoon, and to show that upon every single dollar of income returned by a foreign trader of Great Britain or a foreign corporation of Great Britain upon his investments in foreign business he is taxed in the Kingdom of Great Britain; but I am advised that there are Senators here who desire to be recorded upon this motion, and who are obliged to absent themselves from the Senate shortly. I therefore forbear to enter into a more extended discussion at this time.

Mr. PENROSE. Mr. President, just one word.

I do not want the statement of the Senator from Wisconsin to go unchallenged; neither do I desire to take even the 10 minutes which would be required to go into the details which the Senator from North Dakota [Mr. MCCUMBER] endeavored fully to go into, after consultation with other members of the Finance Committee, in explaining this provision. We will have to vote on it and determine it one way or the other.

The VICE PRESIDENT. The question is on the motion of the Senator from Wisconsin to strike out paragraphs (4) and (5) on page 5, on which the yeas and nays have been requested and ordered. The Secretary will call the roll.

The reading clerk proceeded to call the roll.

Mr. EDGE (when his name was called). I transfer my pair with the senior Senator from Oklahoma [Mr. OWEN] to the junior Senator from Colorado [Mr. NICHOLSON], and will vote. I vote "nay."

Mr. SUTHERLAND (when his name was called). I transfer my pair with the senior Senator from Arkansas [Mr. ROBINSON] to the junior Senator from Michigan [Mr. NEWBERRY], and will vote. I vote "nay."

Mr. SWANSON (when his name was called). I have a pair with the senior Senator from Washington [Mr. JONES] which I transfer to the senior Senator from Texas [Mr. CULBERSON], and will vote. I vote "yea."

The roll call was concluded.

Mr. DIAL. I have a pair with the Senator from Colorado [Mr. PHIPPS]. I transfer that pair to the Senator from Nevada [Mr. PITTMAN], and will vote. I vote "yea."

Mr. CARAWAY (after having voted in the affirmative). I desire to inquire if the junior Senator from Illinois [Mr. MCKINLEY] has voted?

The VICE PRESIDENT. He has not.

Mr. CARAWAY. I have a pair with that Senator. I transfer that pair to the senior Senator from Missouri [Mr. REED], and will let my vote stand.

Mr. FRELINGHUYSEN. I transfer my general pair with the junior Senator from Montana [Mr. WALSH] to the junior Senator from Oregon [Mr. STANFIELD], and will vote. I vote "nay."

Mr. BALL. I have a general pair with the senior Senator from Florida [Mr. FLETCHER]. I understand that he has not voted. I transfer that pair to my colleague the junior Senator from Delaware [Mr. DU PONT], and will vote. I vote "nay."

Mr. WILLIS. I desire to announce that the senior Senator from South Dakota [Mr. STERLING] is detained from the Chamber on account of illness. I will let this announcement stand for the day.

Mr. STANLEY (after having voted in the affirmative). I am paired with my colleague, the junior Senator from Kentucky [Mr. ERNST]. As he has not voted, I am obliged to withdraw my vote.

Mr. HEFLIN. I desire to announce that the senior Senator from Florida [Mr. FLETCHER] and the junior Senator from Florida [Mr. TRAMMELL] are absent on official business.

Mr. CURTIS. I have been requested to announce the following pairs:

The Senator from South Dakota [Mr. STERLING] with the Senator from South Carolina [Mr. SMITH];

The Senator from West Virginia [Mr. ELKINS] with the Senator from Mississippi [Mr. HARRISON];

The Senator from Rhode Island [Mr. COLT] with the Senator from Florida [Mr. TRAMMELL]; and

The Senator from Kentucky [Mr. ERNST] with the Senator from Kentucky [Mr. STANLEY].

The result was announced—yeas 35, nays 30, as follows:

YEAS—35.

Ashurst	Harreld	Lenroot	Simmons
Borah	Harris	McKellar	Swanson
Broussard	Heflin	Moses	Townsend
Capper	Hitchcock	Nelson	Underwood
Caraway	Jones, N. Mex.	Overman	Walsh, Mass.
Cummins	Kendrick	Pomerene	Watson, Ga.
Dial	Kenyon	Ransdell	Williams
Gerry	King	Sheppard	Willis
Glass	La Follette	Shields	

NAYS—30.

Ball	Fernald	McCumber	Poindexter
Brandegee	France	McLean	Spencer
Bursum	Frelinghuysen	McNary	Sutherland
Calder	Gooding	Myers	Wadsworth
Cameron	Hale	New	Warren
Curtis	Kellogg	Oddie	Watson, Ind.
Dillingham	Keyes	Page	
Edge	Lodge	Penrose	

NOT VOTING—30.

Colt	Ernst	Jones, Wash.	Newberry
Culberson	Fletcher	Ladd	Nicholson
du Pont	Harrison	McCormick	Norbeck
Elkins	Johnson	McKinley	Norris

Owen	Robinson	Stanfield	Walsh, Mont.
Phipps	Shortridge	Stanley	Weller
Pittman	Smith	Sterling	
Reed	Smoot	Trammell	

So Mr. LA FOLLETTE'S amendment was agreed to.

The VICE PRESIDENT. The Secretary will state the next amendment passed over.

The ASSISTANT SECRETARY. The next amendment passed over is, on page 8, after line 15, to insert:

(e) Any distribution made during the first 60 days of any taxable year shall be deemed to have been made from earnings or profits accumulated during preceding taxable years; but any distribution made during the remainder of the taxable year shall be deemed to have been made from earnings or profits accumulated between the close of the preceding taxable year and the date of distribution, to the extent of such earnings or profits, and if the books of the corporation do not show the amount of such earnings or profits, the earnings or profits for the accounting period within which the distribution was made shall be deemed to have been accumulated ratably during such period. This subdivision shall not be in effect after December 31, 1921.

Mr. HITCHCOCK. I would like to ask if the acting chairman can tell us why this provision extends only to December 31.

Mr. McCUMBER. Simply because the excess-profits tax is to go out on that date. Therefore the provision is to apply only as long as the excess-profits tax is in existence.

The amendment was agreed to.

The ASSISTANT SECRETARY. The next amendment passed over is, on page 9, after line 5, to strike out:

SEC. 203. Section 202 of the revenue act of 1918 is amended to read as follows:

The amendment was agreed to.

The ASSISTANT SECRETARY. The next amendment passed over is, on page 9, line 8, to insert the following heading: "Basis for determining gain or loss"; and in line 9, before the word "basis," to strike out the quotation marks and "Sec. 202. (a) The" and to insert "Sec. 202. (a) That the," so as to read:

BASIS FOR DETERMINING GAIN OR LOSS.

SEC. 202. (a) That the basis for ascertaining the gain derived or loss sustained from a sale or other disposition of property, real, personal, or mixed, acquired after February 28, 1913, shall be the cost of such property; except that—

The amendment was agreed to.

The ASSISTANT SECRETARY. The next amendment passed over is on page 10, line 7, after the word "disposition," to strike out "thereof, shall be the same as that provided by this act before its amendment by the revenue act of 1921;" and to insert "thereof shall be the fair market price or value of such property at the time of such acquisition"; so as to make the paragraph read:

(2) In the case of such property, acquired by gift after December 31, 1920, the basis shall be the same as that which it would have in the hands of the donor or the last preceding owner by whom it was not acquired by gift. If the facts necessary to determine such basis are unknown to the donee, the commissioner shall, if possible, obtain such facts from such donor or last preceding owner, or any other person cognizant thereof. If the commissioner finds it impossible to obtain such facts, the basis shall be the value of such property as found by the commissioner as of the date or approximate date at which, according to the best information the commissioner is able to obtain, such property was acquired by such donor or last preceding owner. In the case of such property acquired by gift on or before December 31, 1920, the basis for ascertaining gain or loss from a sale or other disposition thereof shall be the fair market price or value of such property at the time of such acquisition.

The amendment was agreed to.

The ASSISTANT SECRETARY. The next amendment passed over is, on page 11, after line 9, to strike out:

"(c) In ascertaining the gain derived or loss sustained from a sale or other disposition of property, real, personal, or mixed, proper adjustment shall be made for (1) any expenditure properly chargeable to capital account, and (2) any item of loss, impairment, exhaustion, wear and tear, obsolescence, amortization, depletion, depreciation, or similar expense properly chargeable with respect to such property.

The amendment was agreed to.

The ASSISTANT SECRETARY. The next amendment passed over is, on page 11, line 20, before the word "readily," to strike out the words "definite and"; and in line 22, before the word "readily," to strike out the words "definite and"; so as to make the paragraph read:

(c) For the purposes of this title, on an exchange of property, real, personal, or mixed, for any other such property, no gain or loss shall be recognized unless the property received in exchange has a readily realizable market value; but even if the property received in exchange has a readily realizable market value, no gain or loss shall be recognized—

Mr. WALSH of Massachusetts. I would like to ask the acting chairman if it would not be better to insert the word "ascertainable" in lieu of the word "realizable," on line 21, page 11?

Mr. McCUMBER. I can see no reason for making the change suggested. It reads, "has a readily realizable market value." If we are to get the money out of the property and out of the sale, there must be a realizable value, and a realizable value is what it can be sold for, what can be realized.

Mr. WALSH of Massachusetts. I do not know that it is particularly important, but it has been suggested to me that "ascertainable" would be more effective in the administration of the law than "realizable."

Mr. McCUMBER. "Ascertainable" would mean nothing more than a mere measurement to ascertain the value. It seems to me what we want to get at is what could be actually realized on the sale. It may be worth a certain amount, and yet it may not be salable for that amount.

Mr. WALSH of Massachusetts. I do not know that it is particularly important.

Mr. McCUMBER. I think it is very important to the taxpayer.

Mr. WALSH of Massachusetts. I do not care to press the suggestion.

The amendment was agreed to.

The ASSISTANT SECRETARY. The next amendment passed over is, on page 11, lines 24 and 25, to strike out the words "investment, or for," so as to read:

(1) When any such property held for productive use in trade or business (not including stock in trade or other property held primarily for sale) is exchanged for property of a like kind or use.

The amendment was agreed to.

The ASSISTANT SECRETARY. The next amendment passed over is, on page 12, line 3, before the word "reorganization," to strike out the words "organization or the"; in line 5, after the words "of any," to strike out "such property," and to insert "stock or securities"; in the same line after the word "him," to strike out the word "new"; in line 6, after the word "securities," to insert "in a corporation a party to or resulting from such reorganization," so as to read:

(2) When in the reorganization of one or more corporations a person receives in place of any stock or securities owned by him, stock or securities in a corporation a party to or resulting from such reorganization.

Mr. McCUMBER. Mr. President, after the language in lines 8 and 9 on page 12, proposed to be stricken out, in lieu of the matter proposed to be inserted by the committee amendment, on lines 9, 10, and 11, it is proposed to amend the amendment by inserting the following:

merger or consolidation (including the acquisition by one corporation of at least a majority of the voting stock and at least a majority of the total number of shares of all other classes of stock of another corporation, or of substantially all the properties of another corporation.

That is amendment numbered 2 on the print which has been circulated, and which are called, I think, by the euphonious name of "bloc amendments."

Mr. JONES of New Mexico. May I ask the chairman of the committee to state why the change was suggested? There must be some specific reason for it, and not having had the advantage of knowing what the reason was I ask the Senator to state the purpose of making the change.

Mr. McCUMBER. Under the present law in order that this reorganization may be effected it is necessary to have all of this stock. This would allow the reorganization that is spoken of by securing substantially all of the stock.

Mr. JONES of New Mexico. "Substantially all" is the language used here, and, as I understand it, the Senator proposes an amendment to what is in the printed text.

Mr. McCUMBER. This is not an amendment I prepared myself, but I am informed that the amendment is proposed because you can not always secure substantially all the stock for the reorganization, and this permits the reorganization when there is at least a majority of the voting stock represented. Whether the Senate wants it voted in or not is another proposition, but that is the purpose of it.

Mr. JONES of New Mexico. I wanted to understand the occasion for it. Has there been any information presented to the Senator regarding the necessity for making this change? The old law required all of the stock. The committee in the first place proposed an amendment so as to have it read "substantially all." Now an amendment is suggested merely requiring a majority. There must have been some reason for that. There was a reason for framing the present law as it is. That law was framed to require all of the stock, and the committee in considering the matter primarily thought they would change it so as to read "substantially all." Without any information given to the Senate or suggested it is proposed to change "substantially all" so as to make a bare majority sufficient, and we should have some information, it seems to me, as to why this change is suggested.

Mr. KING. May I inquire of the Senator from New Mexico, before he takes his seat, whether the object of this provision is to give corporations benefits where losses occur if consolidation is effected? In other words, is it to relieve the taxpayer from the payment of taxes in one corporation by crediting him with

losses sustained in some other corporation, where he owns stock in both, or there is an attempted merger of both?

Mr. JONES of New Mexico. I will state to the Senator that I am trying to seek light on the subject myself. I should like to know some reason for it. Will the Senator in charge of the bill tell us who proposed the amendment?

Mr. McCUMBER. I told the Senator who proposed the amendment when I said I presumed it came as one of the "bloc" amendments which would be offered by the chairman of the committee.

If the Senator from New Mexico will turn to page 11 of the bill and see what it refers to, he will find on line 17 the following:

For the purposes of this title, on an exchange of property, real, personal, or mixed—

Now, remember this is an exchange of property—

for any other such property, no gain or loss shall be recognized unless the property received in exchange has a readily realizable market value; but even if the property received in exchange has a readily realizable market value, no gain or loss shall be recognized—

(1) When any such property held for productive use in trade or business (not including stock in trade or other property held primarily for sale) is exchanged for property of a like kind or use.

That is, where there is a mere exchange of property. Paragraph (2) has reference to where there is a reorganization of corporations:

(2) When in the reorganization of one or more corporations a person receives in place of any stock or securities owned by him stock or securities in a corporation a party to or resulting from such reorganization.

Then there shall be no gain or loss. Now:

The word "reorganization," as used in this paragraph, includes—

Let us now take the amendment—

a merger or consolidation, including the acquisition by one corporation of substantially all the stock or substantially all the properties of another corporation.

Now, it so happens that in many instances, while you might have substantially or nearly all of the stock, years might pass before all of the stock of the absorbed corporation would be brought in, and yet the reorganization can take effect even though every share of the stock may not be accounted for. This is to protect the person who receives the stock from being charged with a profit where he has not made a profit upon the stock which is received, even though there may be some outstanding stock.

That is what the amendment means. I suppose the Senator might well direct his inquiry to those who framed the amendment, the junior Senator from Wisconsin [Mr. LENROOT], or any other Senator constituting the so-called "bloc."

Mr. JONES of New Mexico. I do not know, of course, why the amendment was offered, but it strikes me that this is a very substantial departure from the principle of the law as it exists at the present time.

Mr. PENROSE rose.

Mr. JONES of New Mexico. Does the Senator from Pennsylvania desire to interrupt me?

Mr. PENROSE. I was going to move to stop the proceedings.

Mr. JONES of New Mexico. Very well.

Mr. PENROSE. This phase of the subject is likely to lead to some discussion. I am informed that it is desirable to hold an executive session.

Mr. JONES of New Mexico. I yield for that purpose.

EXECUTIVE SESSION.

Mr. PENROSE. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 15 minutes spent in executive session the doors were reopened.

RECESS.

Mr. PENROSE. I move that the Senate take a recess until to-morrow at 11 o'clock.

The motion was agreed to; and (at 5 o'clock and 20 minutes p. m.) the Senate took a recess until to-morrow, Friday, October 21, 1921, at 11 o'clock a. m.

NOMINATIONS.

Executive nominations received by the Senate October 20, 1921.

ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY.

Franklin E. Morales, of New Jersey, to be envoy extraordinary and minister plenipotentiary of the United States of America to Honduras.

UNITED STATES DISTRICT JUDGE.

George F. Morris, of New Hampshire, to be United States district judge, district of New Hampshire, vice Edgar Aldrich, deceased.

POSTMASTERS.

ALABAMA.

Tracy W. Bass to be postmaster at Butler, Ga. Office became presidential October 1, 1920.

Benjamin R. Allson to be postmaster at Minter, Ala. Office became presidential October 1, 1920.

Henry A. Cross to be postmaster at Falco, Ala. Office became presidential January 1, 1921.

Samuel F. Rickman to be postmaster at Ethelsville, Ala. Office became presidential April 1, 1921.

William F. Barnard to be postmaster at Gordo, Ala., in place of H. G. Williams, resigned.

Augustus B. Kennedy to be postmaster at Castleberry, Ala., in place of R. A. Baird. Incumbent's commission expired March 16, 1921.

ARKANSAS.

Garrett C. Chitwood to be postmaster at Scranton, Ark. Office became presidential January 1, 1921.

CALIFORNIA.

Frank J. Klindera to be postmaster at Tipton, Calif. Office became presidential April 1, 1921.

Albert C. Swall to be postmaster at Newhall, Calif. Office became presidential July 1, 1921.

Albert Norris to be postmaster at Alvarado, Calif. Office became presidential April 1, 1921.

Edwin S. Pickard to be postmaster at Adin, Calif. Office became presidential July 1, 1920.

Susan M. Sigler to be postmaster at Universal City, Calif. Office became presidential October 1, 1920.

Bertha E. Witt to be postmaster at Trona, Calif., in place of J. C. Reilly, removed.

Ernest W. Dort to be postmaster at San Diego, Calif., in place of L. R. Barrow. Incumbent's commission expired January 30, 1921.

William B. Barber to be postmaster at Live Oak, Calif., in place of James Myers. Incumbent's commission expired March 9, 1920.

COLORADO.

Lewis E. Walborn to be postmaster at Fitzsimons (late Bunell), Colo. Office became presidential July 1, 1920.

James S. Grisham to be postmaster at Trinidad, Colo., in place of A. M. Vigil. Incumbent's commission expired January 5, 1920.

M. Gladys Pugh to be postmaster at Stratton, Colo., in place of E. B. Hamilton. Incumbent's commission expired July 21, 1921.

John H. Cunningham to be postmaster at Loveland, Colo., in place of J. A. Cross, resigned.

CONNECTICUT.

John M. Donaldson to be postmaster at Fairfield, Conn., in place of W. O. Burr. Incumbent's commission expired January 30, 1921.

FLORIDA.

James H. Boyd to be postmaster at Clermont, Fla., in place of H. E. Hooks. Incumbent's commission expired March 16, 1921.

ILLINOIS.

Gerald B. Weiss to be postmaster at Shipman, Ill. Office became presidential April 1, 1921.

Bertha I. Askey to be postmaster at Dakota, Ill. Office became presidential April 1, 1921.

Don A. Spurr to be postmaster at Wilmington, Ill., in place of P. E. Hughes. Incumbent's commission expired July 3, 1920.

Harry E. Gemmill to be postmaster at Shannon, Ill., in place of F. E. Woessner. Incumbent's commission expired January 18, 1921.

Forrest E. Mattix to be postmaster at St. Elmo, Ill., in place of V. J. Swarm, deceased.

John J. Faulkner to be postmaster at East St. Louis, Ill., in place of E. H. Little, resigned.

John A. Bateman to be postmaster at Clay City, Ill., in place of R. E. Duff. Incumbent's commission expired August 30, 1920.

Orth B. Sanders to be postmaster at Roberts, Ill., in place of L. L. Boyle. Incumbent's commission expired August 30, 1920.

Orrie Dunbar to be postmaster at Newark, Ill., in place of Orrie Dunbar. Incumbent's commission expired January 31, 1921.

Junius A. Beger to be postmaster at Nauvoo, Ill., in place of G. H. Hart. Incumbent's commission expired January 10, 1920.

John F. Gilman to be postmaster at Farmersville, Ill., in place of J. M. Lollis, resigned.

Harold M. Brown to be postmaster at Brownstown, Ill., in place of W. F. Peterson. Incumbent's commission expired January 8, 1921.

INDIANA.

Jacob F. Ruxer to be postmaster at St. Meinrad, Ind. Office became presidential October 1, 1920.

Clarence H. Magenheimer to be postmaster at Haubstadt, Ind. Office became presidential January 1, 1921.

Carl McKinley to be postmaster at Borden, Ind. Office became presidential January 1, 1921.

John P. Switzer to be postmaster at Bryant, Ind., in place of S. R. Chaney. Incumbent's commission expired December 20, 1920.

IOWA.

William Foerstner to be postmaster at High, Iowa. Office became presidential July 1, 1921.

Omar H. Brooks to be postmaster at Cleghorn, Iowa. Office became presidential April 1, 1921.

Albert H. Dohrmann to be postmaster at Charlotte, Iowa. Office became presidential July 1, 1920.

William H. Jones to be postmaster at Sioux City, Iowa, in place of J. F. Kerberg. Incumbent's commission expired August 21, 1920.

Don A. Preussner to be postmaster at Manchester, Iowa, in place of E. M. Carr, resigned.

KANSAS.

Eunice B. Pontius to be postmaster at Udall, Kans. Office became presidential April 1, 1920.

Jesse Rayl to be postmaster at Copeland, Kans. Office became presidential April 1, 1921.

Harry E. Simpson to be postmaster at Jennings, Kans., in place of M. F. Osburn, resigned.

Gladys N. Dull to be postmaster at Herndon, Kans., in place of A. J. Roberts, resigned.

Mary E. Lee to be postmaster at Buffalo, Kans., in place of O. G. Apt, resigned.

KENTUCKY.

David Goin to be postmaster at Frankfort, Ky., in place of G. R. Hughes. Incumbent's commission expired March 20, 1918.

MAINE.

Anna T. Pratt to be postmaster at Yarmouthville, Me. Office became presidential April 1, 1920.

William F. Putnam to be postmaster at York Harbor, Me., in place of E. H. S. Baker. Incumbent's commission expired December 20, 1920.

MASSACHUSETTS.

Raymond J. Gregory to be postmaster at Princeton, Mass. Office became presidential July 1, 1921.

Harry F. Zahn to be postmaster at Hingham Center, Mass. Office became presidential January 1, 1921.

William M. Knowles to be postmaster at Brewster, Mass., in place of W. M. Knowles. Incumbent's commission expired July 21, 1921.

MICHIGAN.

John H. Nowell to be postmaster at Amasa, Mich. Office became presidential October 1, 1920.

Eugene C. Edgerly to be postmaster at Rudyard, Mich., in place of L. R. Adamson. Incumbent's commission expired December 20, 1920.

Arthur J. Gibson to be postmaster at Central Lake, Mich., in place of V. H. Carpenter. Incumbent's commission expired January 8, 1921.

Asa H. Aldrich to be postmaster at Harrison, Mich., in place of J. E. Ladd. Incumbent's commission expired August 26, 1920.

MINNESOTA.

August F. Truwe to be postmaster at Young America, Minn. Office became presidential July 1, 1921.

Charles Lindsay to be postmaster at Woodstock, Minn. Office became presidential January 1, 1921.

Henry Miller to be postmaster at Waubun, Minn. Office became presidential April 1, 1920.

Iver Tiller to be postmaster at Wanamingo, Minn. Office became presidential October 1, 1920.

Minnie W. Hines to be postmaster at Roosevelt, Minn. Office became presidential July 1, 1921.

James C. Wilson to be postmaster at Grygla, Minn. Office became presidential April 1, 1921.

William H. Kruse to be postmaster at Calumet, Minn. Office became presidential April 1, 1921.

Edward J. Factor to be postmaster at Montgomery, Minn., in place of J. M. Franta. Incumbent's commission expired January 6, 1920.

Charles E. Cater, jr., to be postmaster at Herman, Minn., in place of C. H. Phinney, resigned.

Minnie Taipale to be postmaster at Nashwauk, Minn., in place of W. M. Ohles, resigned.

MISSOURI.

Lea K. Glines to be postmaster at Cainesville, Mo., in place of S. B. Rogers, resigned.

NEBRASKA.

Murry K. Holley to be postmaster at Waverly, Nebr. Office became presidential January 1, 1921.

Lyda E. Borne to be postmaster at Union, Nebr. Office became presidential April 1, 1921.

Catherine M. Coleman to be postmaster at Greenwood, Nebr. Office became presidential October 1, 1920.

Charles Anderson to be postmaster at Ceresco, Nebr. Office became presidential January 1, 1921.

Diedrich H. Kirschner to be postmaster at Bennington, Nebr. Office became presidential July 1, 1921.

William L. McClay to be postmaster at Lincoln, Nebr., in place of S. G. Hudson, deceased.

NEW HAMPSHIRE.

Benjamin H. Dodge to be postmaster at New Boston, N. H. Office became presidential July 1, 1921.

NEW JERSEY.

Frederick W. Borough to be postmaster at Zarephath, N. J., in place of F. W. Borough. Incumbent's commission expired February 15, 1920.

Herman Kuhn to be postmaster at Montvale, N. J., in place of G. H. Rottgardt, resigned.

NEW MEXICO.

Emmet Wirt to be postmaster at Dulce, N. Mex. Office became presidential April 1, 1921.

NEW YORK.

Alfred G. Tucker to be postmaster at Minetto, N. Y. Office became presidential October 1, 1919.

Albert D. Bailey to be postmaster at Kiamesha, N. Y. Office became presidential January 1, 1921.

Josephine G. Loomis to be postmaster at Ashville, N. Y. Office became presidential July 1, 1920.

James A. Latour to be postmaster at Saranac Lake, N. Y., in place of C. J. Carey. Incumbent's commission expired June 2, 1920.

Charles E. Van Orman to be postmaster at Essex, N. Y., in place of P. H. Townsend. Incumbent's commission expired January 8, 1921.

Robert Murray to be postmaster at Warrensburg, N. Y., in place of S. B. Smith. Incumbent's commission expired January 28, 1920.

Chester T. Backus to be postmaster at Morris, N. Y., in place of E. C. Miller. Incumbent's commission expired December 20, 1920.

Hans C. Hansen to be postmaster at Fishers Island, N. Y., in place of H. C. Hansen. Incumbent's commission expired January 28, 1920.

Walter I. Terrell to be postmaster at East Quogue, N. Y., in place of F. L. Terrell. Incumbent's commission expired December 20, 1920.

May C. Force to be postmaster at Chestertown, N. Y., in place of M. C. Force. Incumbent's commission expired December 20, 1920.

Ray S. Barlow to be postmaster at Bombay, N. Y., in place of H. J. Griffin. Incumbent's commission expired January 28, 1920.

Raymond T. Kenyon to be postmaster at Au Sable Forks, N. Y., in place of L. F. Robert, resigned.

NORTH DAKOTA.

Lorena S. McDonald to be postmaster at Medora, N. Dak., in place of L. S. Will, married. Incumbent's commission expired March 16, 1921.

OHIO.

Elvey E. Ely to be postmaster at Mount Orab, Ohio, in place of W. T. Wilson. Incumbent's commission expired March 16, 1921.

Lizzie F. Williamson to be postmaster at Seaman, Ohio, in place of C. E. Plummer. Incumbent's commission expired January 13, 1921.

George H. Meek to be postmaster at Lakeside, Ohio, in place of Daniel McKenzie, resigned.

OKLAHOMA.

Coral B. Waldie to be postmaster at Deer Creek, Okla. Office became presidential July 1, 1921.

PENNSYLVANIA.

Curtis O. Goodling to be postmaster at Seven Valleys, Pa. Office became presidential July 1, 1921.

Louise S. Cortright to be postmaster at Lackawaxen, Pa. Office became presidential April 1, 1921.

Harvey D. Klingensmith to be postmaster at Grapeville, Pa. Office became presidential July 1, 1921.

SOUTH CAROLINA.

Helen L. Cox to be postmaster at Hemingway, S. C., in place of G. B. Ingraham, resigned.

WASHINGTON.

Mark Harris to be postmaster at Brush Prairie, Wash. Office became presidential July 1, 1921.

WEST VIRGINIA.

Joseph C. Kleiman to be postmaster at Tralee, W. Va. Office became presidential July 1, 1921.

William M. Chambers to be postmaster at Maben, W. Va. Office became presidential April 1, 1921.

Joseph C. Le Sage to be postmaster at Huntington, W. Va., in place of J. H. Long, resigned.

CONFIRMATIONS.

Executive nominations confirmed by the Senate October 20, 1921.

COMMISSIONER OF IMMIGRATION.

Robert E. Tod to be commissioner of immigration at the port of New York, N. Y.

COLLECTORS OF INTERNAL REVENUE.

John P. McLaughlin to be collector of internal revenue, first district of California.

J. Walter Jones to be collector of internal revenue, district of Hawaii.

MEMBER EMPLOYEES' COMPENSATION COMMISSION.

Mrs. Bessie Parker Brueggeman to be member of the United States Employees' Compensation Commission.

RECEIVER OF PUBLIC MONEYS.

James Allen Fulwider to be receiver of public moneys at Gregory, S. Dak.

PUBLIC HEALTH SERVICE.

James G. Townsend to be surgeon in the United States Public Health Service.

William H. Slaughter to be surgeon in the United States Public Health Service.

Walter M. Jones to be surgeon in the United States Public Health Service.

POSTMASTERS.

GEORGIA.

Lois A. Roberts, Bowman.

ILLINOIS.

Jay L. Cushing, Assumption.
George W. Doctorman, Buckner.
James E. Vorohees, Bushnell.
John O. Miller, Industry.
Tena S. Ecklund, Lamoille.
Harvie D. Harris, New Boston.
John E. Sheary, New Holland.
Charles G. Brainard, Round Lake.
Fred Harmon Wood, Sidney.
Anna M. Wyatt, Virden.

INDIANA.

Ivan C. Morgan, Austin.
Fred G. Armick, Camden.
Edward W. Krause, Crothersville.
Roscoe N. Shroyer, Daleville.
Homer E. Hostettler, Henryville.
Ira F. Poling, Nashville.
Hollice C. Brown, Silverlake.
Andrew S. Blaine, Walkerton.
Russell C. Wood, West Lebanon.
Charles A. Burgess, Yorktown.

IOWA.

Frederick W. Werner, Amana.
Oltman A. Voogd, Aplington.
Arthur A. Dingman, Aurelia.
Maragret M. Walter, Bennett.
Henry W. Pitstick, Boyden.
Edward W. Teale, Davis City.
William C. Rolls, Dow City.
Edwin T. Davidson, Duncombe.
Harold I. Kelly, Early.
Ama M. Wilhelmi, Garwin.
John P. Fischbach, Granville.
George P. Reeves, Harris.
Jessaline M. Weinberger, Ledyard.
Winfield Cash, Leon.
Harry C. Graves, Madrid.
Roy L. Day, Melrose.
Hugh L. Smith, Montezuma.
William A. Stevenson, McCallsburg.
Charles P. McCord, Nevada.
Bruce C. Mason, New Market.
George W. Graham, Oakville.
Fred H. Seabury, Pisgah.
Oscar M. Green, Prescott.
George A. Bennett, Redfield.
Nettie Lund, St. Ansgar.
William W. Simkin, Salem.
William H. Moore, Shelby.
Walter W. Aitken, Sidney.
Mary J. Morse, Steamboat Rock.
B. Frank Jones, Waukee.
Wallace E. Snyder, Westgate.
Harry E. Frantz, Winthrop.
Elsie Lowe, Woodburn.
Pauline M. Hummel, Yale.

KANSAS.

John A. Radford, Dighton.
Benjamin F. Liebst, Greeley.
Mana M. McKinney, Hoxie.
William S. Lyman, Lewis.
John C. Braden, Meade.
Ralph L. Coburn, Preston.
Ola G. Canfield, Scranton.
Cora L. McMurry, Turon.
Fred W. Arnold, Vermillion.

MICHIGAN.

Edward A. Webb, Casnovia.
Roy A. McDonald, Douglas.
Hazel M. Tripp, Kibbie.
Mathew A. Brami, Ramsay.

MISSOURI.

Asbury L. Williams, Seymour.
Charles F. Boon, Greentop.
Tipton H. Acuff, Salem.

NEBRASKA.

May T. Douglass, Callaway.

NEW HAMPSHIRE.

Waldo C. Varney, Alton.
Reginald C. Stevenson, Exeter.
Arthur W. Sawyer, Franconia.
Anna B. Clyde, Hudson.

NEW MEXICO.

Berthold Spitz, Albuquerque.
Perry E. Coon, Gallup.
Helen M. Lindsey, Portales.

NORTH CAROLINA.

Neill C. McFadyen, Cameron.

OHIO.

Charles N. Sparks, Akron.
Faye W. Helmick, Baltimore.
James A. Barr, Dover.
Frank G. Winterringer, Hilliards.
Walter Fletcher, Lucas.
Roy S. Clark, Middletown.
Frank R. Jackson, Nelsonville.
John P. Lauer, Ottoville.

PENNSYLVANIA.

William H. Heeps, Orbisonia.
Joseph Richards, Slatington.

SOUTH CAROLINA.

John E. Heustess, Hartsville.

VIRGINIA.

Grace S. White, Ballston.
Creighton Angell, Boone Mill.
Alexander L. Martin, Catawba Sanatorium.

Willard B. Alfred, Clarksville.
Lucy E. Claiborne, Forest Depot.
Daisy D. Slaven, Monterey.
Harry M. Giles, Roseland.
Mamie A. Young, Shawsville.
James C. Thomas, South Clinchfield.
Rosa S. Newman, Sterling.
Otye E. Hancock, Trevilians.
Cuthbert Bristow, Urbanna.
Benjamin G. Porter, Virginia Beach.

WEST VIRGINIA.

William W. Beddow, Lundale.
Guy A. Shuttleworth, Nutter Fort.
Leonard H. Jones, Sabraton.

WYOMING.

Oscar W. Stringer, Dubois.

HOUSE OF REPRESENTATIVES.

THURSDAY, *October 20, 1921.*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty God, our Heavenly Father, Thy love is infinitely broader than the measures of man's mind, and how we thank Thee that our homes are still under the shadow of divine goodness. To-day is another blessing for each of us, and may right words and good thoughts be our possessing passion. Enlarge the range of our understanding and give us a deep care for the things that concern others. In Thy light may we see light, and strive for the best possible work by being ourselves the best possible men. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

ENROLLED BILL SIGNED.

The SPEAKER announced his signature to enrolled bill of the following title:

S. 2504. An act providing for the readmission of certain deficient midshipmen to the United States Naval Academy.

ORDER OF BUSINESS.

Mr. MONDELL. Mr. Speaker, I desire to submit a unanimous-consent request. I ask unanimous consent that it may be in order to take up immediately after the reading of the Journal and disposition of matters on the Speaker's table to-morrow the bill (H. R. 8762) to create a commission authorized to negotiate relative to the foreign debt, and I ask also unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock to-morrow.

The SPEAKER. Does the gentleman desire to put the two requests in one?

Mr. MONDELL. It perhaps would be just as well.

The SPEAKER. The gentleman from Wyoming asks unanimous consent that the bill referred to, the refunding bill, be privileged to-morrow, and to be taken up immediately after the reading of the Journal and disposition of business on the Speaker's table, and also that the House meet at 11 o'clock to-morrow. Is there objection?

Mr. GARRETT of Tennessee. Mr. Speaker, reserving the right to object, is it the thought of the gentleman that if this bill be taken up its consideration will be completed to-morrow?

Mr. MONDELL. I understand the members of the committee believe we can dispose of the measure to-morrow.

Mr. STAFFORD. Mr. Speaker, reserving the right to object, I wish to inquire of the gentleman from Wyoming when the bill is purposed to be reported? At the present time it has not been reported.

Mr. MONDELL. To-day.

Mr. STAFFORD. When will copies of the bill and the report be available to Members?

Mr. MONDELL. I believe it is available now. I think practically all of the Members understand the provisions of the bill.

Mr. STAFFORD. May I inquire whether it is to be a unanimous report on the part of the committee?

Mr. MONDELL. I have understood so.

Mr. LONGWORTH. No; the gentleman is in error; it will not be unanimous, but so far as the time was concerned I think it was understood so far as the committee were concerned we could get through with general debate in five hours.

Mr. TREADWAY. It is available now.

Mr. STAFFORD. It has not been reported.

Mr. TREADWAY. It is in print.

Mr. STAFFORD. Where can we get copies of it?

Mr. TREADWAY. It is No. 8762.

Mr. COLLIER. Mr. Speaker, reserving the right to object, simply for the purpose of answering the question of the gentleman from Wisconsin and to correct a wrong impression he might have received when he asked if the report was unanimous——

Mr. STAFFORD. The impression was going around the Chamber yesterday that it was to be a unanimous report, and I did not know whether it was well founded or not.

Mr. COLLIER. It is not unanimous on the side of the minority.

Mr. STAFFORD. I have no desire to interpose an objection, but I would like to get a copy of the bill and report.

Mr. BLANTON. Mr. Speaker, reserving the right to object, the report is not accessible now. Of course, we do not know what the committee is going to report, but we are assured by the chairman [Mr. FORDNEY] that if it is left to him that he is going to see to it that no power whatever is given this commission to waive or cancel any portion of the foreign debt except by payment. Can the gentleman from Wyoming assure us that the assurances of the gentleman from Michigan [Mr. FORDNEY] are going to be carried out, or is that going to be changed somewhat according to the popular clamor now in some districts that part of this debt be canceled?

Mr. MONDELL. I do not know of anyone in the Congress who now or at any other time has been in favor of the cancellation of a portion of the debt.

Mr. BLANTON. The gentleman has read considerable in the newspapers of that propaganda.

Mr. MONDELL. There are folks outside who have suggested it.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. GARRETT of Tennessee. Will the gentleman permit me? Now, I assume this bill will not be reported from the floor as a privileged bill, but simply will be dropped in the basket?

Mr. LONGWORTH. My personal opinion is that the bill is privileged——

Mr. GARRETT of Tennessee. But this is in order——

Mr. LONGWORTH. This is in order to obviate any question. There may be some doubt, but it seems to me it is clearly a revenue bill.

Mr. GARRETT of Tennessee. If it is presented through the basket, we desire to obtain unanimous consent that the minority may have until 12 o'clock to-night to file minority views.

The SPEAKER. The gentleman from Tennessee asks unanimous consent that the minority have until midnight to-day to file minority views. Is there objection? [After a pause.] The Chair hears none.

Mr. WINGO. Mr. Speaker, may I ask the gentleman from Wyoming if it is now the intention to hold the House in session to-morrow until it is completed?

Mr. MONDELL. That is our present purpose.

Mr. WINGO. Some of the gentlemen have to be away Saturday. Is it the intention to make the effort to pass it to-morrow?

Mr. MONDELL. I thought if we could dispose of the bill to-morrow it would give an opportunity to the gentlemen to catch up with their correspondence on Saturday.

Mr. Speaker, I ask unanimous consent to address the House for two minutes.

The SPEAKER. The gentleman from Wyoming asks unanimous consent to address the House for two minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. MONDELL. Mr. Speaker, the gentleman from Massachusetts [Mr. LUCE] proposes to call up the contested-election case of John P. Bracken. It should not take any considerable length of time to dispose of that case, and after it is disposed of the gentleman from Massachusetts [Mr. DALLINGER] proposes, as I understand it, to call up the contested-election case of Bogy against Hawes. I had intended to ask unanimous consent at this time for the consideration of House joint resolution 200, introduced by the gentleman from Indiana [Mr. BLAND], accepting the invitation of the Republic of Brazil to take part in an international exposition to be held in Rio de Janeiro in 1922. I shall not make that request, however, but to-morrow I shall ask unanimous consent to make that bill in order on Tuesday next. I shall also on to-morrow ask unanimous consent to make in order, following the consideration of the measure just referred to, H. R. 7077, introduced by the gentleman from Wisconsin [Mr. LAMPERT], a bill to increase the force and salaries in the Patent Office.

MEMORIAL OF JOHN P. BRACKEN.

Mr. LUCE. Mr. Speaker, I call up a privileged report from the Committee on Elections No. 2, in the case of John P. Bracken.

The SPEAKER. The gentleman from Massachusetts calls up a report, which the Clerk will read.

The Clerk read as follows:

Mr. LUCE, from the Committee on Elections No. 2, submitted the following report:

"The Committee on Elections No. 2, to which was referred the memorial of John P. Bracken, a citizen of Pennsylvania, claiming to have been elected to the House of Representatives of the Sixty-seventh Congress, reports as follows:

"Upon the canvass of votes cast in the State of Pennsylvania November 2, 1920, Hon. Mahlon M. Garland was declared to have been elected as one of the four Representatives at large in Congress from that State. Before the completion of the canvass Mr. Garland died. Mr. Bracken received the highest vote given to any candidate not declared to have been elected. In the judgment of your committee this state of facts does not warrant the conclusion that Mr. Bracken was elected, and therefore the committee recommends the passage of the following resolution:

"*Resolved*, That John P. Bracken was not elected a Representative at large to the Sixty-seventh Congress from the State of Pennsylvania."

Mr. LUCE. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. LUCE. The report of the committee is unanimous in this matter, and I am not aware that any other gentleman desires to address himself to it. Therefore it may be disposed of very quickly. But inasmuch as members of the committee reached conclusions by different roads, and it did not seem necessary to describe those roads in the report, it is desirable to take a few minutes of the time of the House to set forth the reasons that I am confident actuated a majority of the committee, in view of the importance that these things shall be recorded so as to serve future Houses and committees as precedents.

At the election in Pennsylvania last year four Members of Congress were to be elected at large. Between the day when the votes were cast and the completion of the canvass Hon. Mahlon M. Garland, one of the four receiving the most votes, died. The memorialist, John P. Bracken, stood fifth on the list, and presented to your committee the contention that under the circumstances he was entitled to be declared a Member of the House. The first question involved, and that, indeed, upon which, in my mind, the whole case rests, is whether the election in Pennsylvania was determined on the day when the votes were cast. If in fact Mr. Garland had then been elected, his death at a later time made a vacancy, for so far as I am aware it has never been held that death subsequent to election has any other result. Counsel for the memorialist, however, intelligently and skillfully presented argument proving to his mind that the election was not completed until the canvass had been completed, and he brought in support of his argument certain decisions of State courts, the most favorable to his view being in the case of Morris against Bulkeley, a Connecticut case, decided in 1892. The court said (61 Conn., 287, 359):

The election of State officers in this State is a process. It includes the preliminary registration, by which those persons who have the right to vote are determined; the time when, the place where, and the manner in which the votes are to be given in, and also the manner in which the votes are to be counted and the result made known. Each of these steps must be taken in pursuance of the law existing at the time the election is had. That part of the election process which consists of the exercise by the voters of their choice is wholly performed by the electors themselves in the electors' meetings. That part is often spoken of as the election. But it is not the whole of the election. The declaration of the result is an indispensable adjunct to that choice, because the declaration furnishes the only authentic evidence of what the choice is.

He also brought to our attention a Wyoming case, In re Moore, Fourth Wyoming, page 98. The gentleman who is now the senior Senator from that State had resigned the office of governor. His successor undertook to grant a pardon before the time when the court thought he could legally assume the duties of the office. Also, there is a New York case—People against Crissey, Ninety-first New York, page 616—in which an incomplete statement as to an election of a local officer was filed, the court holding that until the provisions of law had been obeyed the election was not complete.

Examination of all these cases will, I think, satisfy any reasonable man that different meanings of the word "election" are what lead to the complications and that the seeming diversity of views can be reconciled if stress is laid on the Connecticut use of the word "adjunct." The completion of the canvass is no more than an adjunct and is not a part of the fact. The canvass merely ascertains what has taken place. Were it otherwise, then choice would not have been made on the day when the votes were cast. In my judgment, at the close of the polls on the voting day the voters of Pennsylvania had made their choice. The fact had come into existence. The child had been born. To be sure, there has for centuries been dispute as to whether a christening is a necessary adjunct in order to save a child from the torments of perdition; yet I take it that it would be granted the child was born on the day of birth, and any adjuncts are not essential to the fact of birth. I understand that this morning when the sun rose it was obscured by clouds. I do not speak from personal knowledge of such things, but so report says. It does not necessarily follow that the fact that the sun had risen depended upon its presenting itself to the view a few minutes or hours later. The fact had been accomplished. The thing had taken place.

Even if these decisions of the courts should receive the construction for which the memorialist contended, there is a precedent of the House itself directly to the contrary, in the case of Blakey against Golladay, which came up in the Fortieth Congress. The committee held that when the polls were closed, the result was unalterably fixed; the only duty of the board of canvassers was to ascertain and declare that result; and the death of the man receiving the majority of the votes, at any time after they were cast, created a vacancy, whether the votes had been canvassed or not. From this precedent we see no reason to deviate.

With much ingenuity counsel for the memorialist proceeded to the consideration of other questions, which fall to the ground if the preliminary question is settled as by this precedent; so that I will not take the time of the House to discuss them.

Mr. STAFFORD. Mr. Speaker, will the gentleman yield?

Mr. LUCE. Certainly.

Mr. STAFFORD. It is an extraneous matter, because I think the House is of one mind that this contestant has no claim whatsoever to even make a contest. I wish to inquire of the gentleman, in view of the fact that the committee has found there is no basis of any claim, whether any action has been taken on his claim for allowances?

Mr. LUCE. No such claim has been presented.

Mr. STAFFORD. I hope if it is presented the committee will certainly not recognize it. Some of these cases have been presented more for the purpose of getting the expenses allowed by statute than from an expectation of having the contestant awarded a seat.

Mr. FESS. Mr. Speaker, will the gentleman yield?

Mr. LUCE. Yes.

Mr. FESS. On that point, as to the opinion of the gentleman, the chairman of the committee, whether the mere filing of a contest can be used as an argument for the allowance of the $2,000 usually allowed to the contestant and contestee, what is the gentleman's opinion?

Mr. LUCE. I presume that every case should be considered on its merits in that regard. I do not understand that the mere filing of a contest would of itself justify the expenditure of the money.

Mr. FESS. I am glad to have the gentleman state that, because there is room for an immense amount of abuse under the privileges of Congress.

Mr. LUCE. In this particular case, as the memorialist laid before us decisions of State courts which at first blush might seem to justify his contention, the committee might or might not have ground for considering whether the contest was reasonable.

Mr. WALSH. Mr. Speaker, will my colleague yield?

Mr. LUCE. Certainly.

Mr. WALSH. Was any decision presented, or is the gentleman familiar with any decision of any State that holds that an election has not been concluded until the canvass has been made and certified?

Mr. LUCE. I know of but these three decisions which I have cited and which I have read, showing that the process of determining what was the fact is not completed until the canvass has ended.

Mr. WALSH. The strongest case is the Connecticut case which the gentleman has read?

Mr. LUCE. So it seems to me.

Mr. WALSH. Now, which other decision of the State courts coming to the gentleman's attention holds the converse—that the election is completed when the polls have been closed?

Mr. LUCE. None was called to our attention, and I have discovered no court decision definitely holding that point. There is this precedent in our own record.

Mr. STAFFORD. Was the attention of the gentleman called to the Wisconsin case, preferred some years ago, when a candidate for attorney general died a few days before the election, and that same candidate received a larger number of votes, and the supreme court held that the people could not vote in a dead

man, and awarded the certificate of election to the live man who received the next highest number of votes?

Mr. LUCE. Counsel for the memorialist proceeded to raise that question. The English rule is that where the circumstances warrant the presumption that the voters knew they were throwing their votes away the candidate getting the next highest number of votes is to be declared elected. This rule has been adopted in Indiana, appears to have prevailed in the Wisconsin case, and had received earlier recognition in a few sporadic instances, as in Maryland and Maine, though they would there probably not now be followed as precedents. The great weight of practice here accords with what, indeed, has come to be known as the American rule, to the effect that the ineligibility of one candidate does not give the election to another.

Gentlemen interested in these matters may find ground for casuistry in the contention of the memorialist that the situation would be different where four men were to be elected at the same time.

In such cases as have come under my observation only one man was to be elected, and the courts appear to have been governed by the view that a vote cast for any one candidate was a vote against all the others. Therefore, if the candidate receiving the highest vote proved to be ineligible, the presumed opposition of a plurality of the voters to the other candidates would be thwarted if the election should fall to one of them. Where more than one were to be chosen, as in this case four, presumption would be unjustifiable. An elector might have voted for one of the highest four and for three others not of the highest four. No inference could logically be drawn as to whom he opposed. It is a pretty question, but not one necessary here to face.

Mr. PARKER of New Jersey. Mr. Speaker, will the gentleman yield?

Mr. LUCE. Certainly.

Mr. PARKER of New Jersey. I do not understand what the point was in the Connecticut case. Had the candidate died after the election in that case or before the canvass? Or was it some other point that came up in that case?

Mr. LUCE. It was another point.

Mr. PARKER of New Jersey. What was the fact that brought the matter up as to whether the canvass was completed? You say somebody had not died. What had occurred after the election and before the canvass? The reason why I ask is because it is not material at all if it deals only with some subsidiary matter and not this question of death or substitution of the name of the candidate.

Mr. LUCE. It is not material at all, except for——

Mr. PARKER of New Jersey. This case is a case of death after the election and before the declaration of the canvass?

Mr. LUCE. Yes. It would not be pertinent except for this explicit declaration of the court that the election is not completed until the canvass has been completed.

Mr. PARKER of New Jersey. That is true for a great many purposes. What I wanted to find out was what were the facts of the case, and I shall be glad if the gentleman will state them.

Mr. LUCE. It was a case of deadlock between house and senate in the matter of canvassing the vote for governor. The court held that until the two branches had agreed in making a declaration of the result there had been no legal election and the governor of the preceding year held over.

Mr. WALSH. Will the gentleman yield?

Mr. LUCE. Certainly.

Mr. WALSH. I did not hear my colleague in the opening part of his statement; but is it not a fact that the gentleman from Pennsylvania [Mr. CRAGO] has been elected to fill this vacancy and has taken his seat?

Mr. LUCE. It is a fact.

Mr. WALSH. And no contest has been filed, so far as the gentleman knows, by this memorialist against Mr. CRAGO?

Mr. LUCE. That is a fact also.

While I have this opportunity, may I be permitted brief comment upon the discussion of the work of the Committee on Elections on Monday, when we had under consideration the bill revising the law relative to testimony in election contests? Certain gentlemen, viewing our problems from the lawyers' point of view, seemed to feel that your Committee on Elections should introduce procedure more strictly in accordance with that of the courts. It may be pointed out that this particular case is a perfect illustration of one of the two kinds of questions that come before a Committee on Elections. There is involved in this case no question of fact. The only questions involved are questions of law. In my own judgment such questions are not most wisely handled either by a legislative body itself or by one of its committees. We are presumed to be qualified to make the law, but the judicial branch of the Government is presumed to be better qualified to apply the law. History shows that of all tribunals legislative assemblies are the worst. Even in respect of the other class of problems that confront election committees, involving the ascertainment of facts, we are less advantageously situated than the courts. Ordinarily we can not hear and see the witnesses, and so we lose the benefit of valuable aids in forming judgment as to credibility. Furthermore, the most conscientious legislator may find his vision clouded by the mists of partisanship.

Progress made elsewhere in meeting the conditions might well have the attention of the Congress. In the House of Commons, after many scandalous election contests, in 1770 the Grenville Act took the work away from the House and put it in the hands of committees. The scandals were but lessened, and in 1868 the whole matter was turned over to the courts. Since then England has been free from the abuses that so long and so often disfigured the annals of Parliament.

In our country, although various State constitutions authorize the legislatures to direct by law how election contests shall be handled, I think the constitution of but one State, that of Pennsylvania, has reached the English point of advance. The Pennsylvania constitutional convention of 1873 appears to have been blessed by the presence of a large number of able men, and the record of their deliberations is well worth the perusal of any student of constitutional history. Many of the changes that they recommended and that were adopted have been copied by constitutional conventions since that time and are now implanted in the constitutions of many of our States.

It would be fortunate, indeed, if all the other States and the Nation itself would copy the provision that "the trial and determination of contested elections shall be by the courts of law or by one or more of the law judges thereof." Without amending the Federal Constitution it would be easy and proper to provide that the district courts shall determine who, prima facie, have been elected Senators and Representatives. This would not deprive us of the right nor interfere with the duty of final determination as to election, but would greatly relieve us of labors we are not best fitted to perform. If in this particular the House would be willing to profit by experience elsewhere, if it would be guided in some measure by the example of Parliament, if it would take these questions out of the uncertain atmosphere of a legislative body, where partisanship is not always avoided and sometimes is most deplorably displayed, out of a body unfitted by its very nature to exercise judicial functions, I feel very sure that not only would contests be more fairly decided but also the good name of the House itself would less seldom be blemished. If this suggestion should meet the approval of any considerable number of my colleagues, I for one would gladly cooperate in an attempt to bring before the House the consideration of the advance, as it seems to me, that has been made in this particular by Pennsylvania, following the example of the British House of Commons.

I move the previous question on the resolution to its adoption.

The SPEAKER. The gentleman from Massachusetts moves the previous question.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

On motion of Mr. LUCE, a motion to reconsider the vote by which the resolution was agreed to was laid on the table.

CONTESTED-ELECTION CASE—BOGY AGAINST HAWES, ELEVENTH MISSOURI DISTRICT.

Mr. DALLINGER. Mr. Speaker, I desire to call up a privileged report from the Committee on Elections No. 1, in the case of Bogy against Hawes, from the eleventh congressional district of the State of Missouri, and to move the adoption of the resolution contained in the report.

The SPEAKER. The gentleman from Massachusetts calls up a report and resolution, which the Clerk will report.

The Clerk read as follows:

House resolution 205.

Resolved, That Bernard P. Bogy was not elected a Representative in this Congress from the eleventh congressional district of the State of Missouri and is not entitled to a seat herein.

Resolved, That Harry B. Hawes was duly elected a Representative in this Congress from the eleventh congressional district of the State of Missouri and is entitled to retain his seat herein.

Mr. DALLINGER. Mr. Speaker, this is a contest from the eleventh congressional district of the State of Missouri. The contestant is Bernard P. Bogy and the contestee is Harry B. Hawes. Mr. Hawes was declared duly elected by the State authorities of Missouri, received the certificate from the governor, and was duly sworn in at the convening of this Congress.

The official returns showed that Mr. Hawes was elected by a plurality of 2,134 votes.

Within the 30 days required by the Federal statute Mr. Bogy filed a notice of contest containing 27 separate grounds of contest, alleging false registration, wrongful and fraudulent counting of ballots, and intimidation of voters at the congressional election.

Summarizing the numerous allegations in his notice of contest, the contestant claims that 31,125 votes were improperly and illegally cast for the contestee—almost as many votes as were returned as cast for the contestee—and that if the votes thus illegally and improperly counted and accredited to the contestee, Harry B. Hawes, were deducted, the contestant, Bernard P. Bogy, would be shown to have been fairly elected.

As I stated on Monday when we were discussing my bill providing for the revision of the laws governing contested elections, at the commencement of the present session, with a view of expediting these contested-election cases, the three committees on elections adopted certain rules, copies of which were sent to every contestant and contestee in the present Congress. Rule III provides:

> Each contestant shall file with his brief an abstract of the record and testimony in the case. Said abstract shall, in every instance, cite the page of the printed testimony on which each piece of evidence referred to in his abstract is contained. If the contestee questions the correctness of the contestant's abstract, he may file with his brief a statement setting forth the particulars in which he takes issue with the contestant's abstract; and may file an amended abstract setting forth the correct record and testimony.

The object of this rule was to put upon the contestant and the contestee the burden of wading through a mass of irrelevant testimony.

The contestant, Mr. Bogy, absolutely failed to comply with this requirement. His brief was of practically no value to the committee, being vague, indefinite, and not containing any abstract of the testimony on which he relied; whereas the contestee, Mr. Hawes, did comply with the rule, and submitted a clear brief of 112 pages containing an abstract of the testimony—not of the testimony on which he relied, because he offered no testimony in his own—but calling attention to the portions of the testimony in the record offered by the contestant which demonstrated that the contestant had failed to maintain his case.

This whole case reduced to its lowest terms amounts to this—that the contestant failed to prove his case. He submitted practically no competent and adequate testimony before the notary and could therefore refer to none before the Committee on Elections at the hearings. Moreover, in this case there was an express stipulation entered into by the contestant and contestee for a recount of the entire vote cast in this congressional district. A copy of it can be found on pages 269 and 270 of the printed record. The stipulation provided that the board of election commissioners of the city of St. Louis, composed of an equal number of Republicans and Democrats, with an equal number of Republican and Democratic assistants and clerks, should open all the ballot boxes used in the eleventh congressional district at the election held on November 2, 1920, and recount the ballots for the office of Representatives in the Sixty-seventh Congress for the eleventh congressional district of Missouri. In this stipulation, which was signed by both the contestant and his attorney, it was agreed that in case the validity of any ballot for either the contestant or the contestee was challenged the question should be decided by the board of election commissioners.

The recount was commenced on January 12 and completed on January 17, 1921. The actual counting was done by 40 assistants appointed by the board of election commissioners, 20 of them being Democrats and 20 of them being Republicans.

The final result showed that Harry B. Hawes, Democrat, had received 35,404 votes, and Bernard P. Bogy, Republican, had received 33,337 votes, making a plurality for Mr. Hawes of 2,067, or a net gain for Mr. Bogy, the Republican contestant, of 67 votes.

At the hearings before the committee the contestant claimed that, in spite of the fact that the recount was made by an equal number of Democratic and Republican officials, and in spite of the fact that the contestant had the privilege of having watchers at each table where the ballots were being counted, nevertheless the recount was not fairly conducted for the reason that in some instances the contestant and his watchers were not given an opportunity to see some of the scratched ballots for the purpose of disputing the same.

At a meeting of the board of election commissioners held on January 25, 1921, after the recount had been completed and the ballot boxes sealed up, the attorney for the contestant requested the board for permission to photograph all of the scratched ballots in ward 19, precinct 12; ward 26, precinct 22; ward 26, precinct 17; ward 20, precinct 14; and ward 22, precincts 8 and 9. This request was denied by the board by a vote of 3 to 1 on the ground that the ballots of which photographs were desired were not returned by the recount clerks as disputed ballots, and because it was contrary to the stipulation. According to the record, these were the only precincts in which any request was made for the reopening of the ballot boxes.

At the hearing before your committee the contestant requested your committee to send for these particular ballot boxes and examine all the ballots.

Now, if the sending for these particular ballot boxes could possibly have made any change in the result of the election, although it was contrary to the stipulation which the parties had entered into, your committee in order to give the contestant the benefit of every possible doubt would have sent for the ballot boxes and examined the ballots. But if every one of the scratched ballots should prove to be in the same handwriting and should be counted for the contestant, it would not materially alter the result. Mr. Hawes would still have been elected by a very substantial plurality. And so the committee after careful consideration refused to delay the consideration and determination of this case by sending for the ballot boxes in question.

The contestant at the hearings seemed to think that he must have been elected because the district was carried by the Republican presidential electors, whereas he failed to be elected by about 2,000 votes. It seemed to the committee, apart from the fact that there was no sufficient evidence of fraud at the election, and apart from the fact that both parties had agreed to the stipulation already referred to under which the recount was made, and the status of all disputed ballots finally determined, the fact that Mr. Bogy ran behind the Republican presidential ticket could be easily accounted for. He admitted that the Republican election officials and most of the members of the Republican organization were hostile to him, so that even if no one else except the Republican election officials and the members of the Republican ward committees and their friends had scratched him, and voted for Mr. Hawes, that alone would account for the result.

It was also brought out in the testimony that Mr. Bogy, who, at one time had run for Congress in Mr. DYER'S district, and another time in Mr. NEWTON'S district, had moved into this eleventh district for the express purpose of running for Congress. I think it is generally known that where a candidate moves into a district for the purpose of running for office many of the people of that district are very apt to look upon him as a carpetbagger and to decline to vote for him, in spite of the fact that he is on the party ticket.

Finally, the testimony shows that the contestant, Bernard P. Bogy, was a candidate for the Republican nomination for Congress in the eleventh Missouri district at the primary election held August 3, 1920, but was defeated by Otto F. Stifel by a vote of 8,296 to 1,944. After the primary and before the election, Otto F. Stifel died and the contestant, Bernard P. Bogy, was given the Republican nomination by the Republican congressional committee. These facts prove that Mr. Bogy was not popular with the rank and file of the Republican voters of the district.

In short, the fact that Mr. Bogy ran behind his ticket consistently in a large proportion of the precincts of the district could easily be accounted for without presupposing any fraud in the election, proof of which is entirely lacking.

Mr. Speaker, this is a unanimous report from the committee, which consists of six Republicans and three Democrats. We have given the matter very careful consideration. Before I close I desire to say that I intended to call up this report in the House during the summer, but several Republican Members came to me and said that it had been represented to them that Mr. Bogy had some additional evidence, which had come to light since the election and since the present contest was started, of fraudulent registration on a large scale in St. Louis and in the eleventh congressional district. They therefore asked me if I would see Mr. Bogy. This I agreed to do and did. I said to Mr. Bogy, "If you will bring me on the reconvening of Congress on September 21 any real evidence—not hearsay or newspaper talk—to the effect that as you say the new election board of St. Louis has found 10,000 fraudulent names on the voting list in the eleventh district, which have since been stricken from the list and which were voted on at the congressional election at which you were defeated, I shall be very glad to submit the matter to the Committee on Elections No. 1 and the committee will then decide whether to reopen the case." From that time I have heard nothing from Mr. Bogy. When Congress reconvened, no evidence was presented, and I have never heard anything from him since. On October 4, 1921, I wrote him as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ELECTIONS NO. 1,
Washington, D. C., October 4, 1921.

BERNARD P. BOGY, Esq.,
5943 Maple Avenue, St. Louis, Mo.

DEAR SIR: The evidence to which you referred and which you were going to present to this committee on the reconvening of Congress has not been received. Unless it comes to the committee by the 10th of October, I shall be obliged to call up the case in the House on October 17.

I sent the above letter by registered mail, and I have Mr. Bogy's signature on the card acknowledging the receipt of the letter. I have not heard from Mr. Bogy from that time to this. As I said before, this committee has given the matter very careful consideration, and I trust the House will unanimously adopt the resolutions recommended by the committee.

Mr. SUMMERS of Washington. Mr. Speaker, will the gentleman yield?

Mr. DALLINGER. Certainly.

Mr. SUMMERS of Washington. Is the contestant in this case and in the other case just disposed of entitled to attorney's fees?

Mr. DALLINGER. Of course, that is entirely a matter for the Committee on Elections, the Committee on Appropriations, and the House to determine.

Mr. SUMMERS of Washington. What is the practice in a case of this kind and in a case such as the one from Pennsylvania, which has just been disposed of.

Mr. DALLINGER. Each case is considered on its merits. Since I have been a member of the Committee on Elections No. 1 we had before us a South Carolina case where we did not allow the contestant any attorney's fee. That was a case where the contestant had brought a frivolous contest in several preceding Congresses.

Mr. SUMMERS of Washington. It would seem to me that neither of these contestants is entitled to attorney's fees.

Mr. WILSON. Mr. Speaker, if the gentleman will permit, we also had a case from New York in which the contention was that the use of the voting machine was unconstitutional. In that case we declined to allow the contestant any attorney's fees.

Mr. DALLINGER. I might say to the gentleman from Washington [Mr. SUMMERS] that I can see how the contestant in this case might have honestly thought he was cheated at the election, but the trouble was that he was not able to prove his contention. I desire to be fair to everybody. I think Mr. Bogy may have thought from what people told him and from what he heard that he had not had a square deal, and the fact that he ran behind his ticket might have influenced him.

Mr. SUMMERS of Washington. The gentleman from Massachusetts has just stated that Mr. Bogy did not prepare a brief of his case, as requested by the committee; that he has not answered correspondence and has not prosecuted his case, and I am wondering whether we are going to allow attorney's fees in a case of that kind. I hope not.

Mr. STEVENSON. Mr. Speaker, will the gentleman yield?

Mr. DALLINGER. Certainly.

Mr. STEVENSON. The adoption of these resolutions settling the title to the seat in Congress does not necessarily involve that, because that is a matter which is to be determined hereafter.

Mr. DALLINGER. The gentleman from South Carolina has stated the matter correctly.

Mr. STEVENSON. The Committee on Elections will determine that.

Mr. DALLINGER. Yes.

The SPEAKER. The question is on agreeing to the resolutions.

The resolutions were agreed to.

On motion of Mr. DALLINGER, a motion to reconsider the vote by which the resolutions were agreed to was laid on the table.

RESIGNATION FROM A COMMITTEE.

The Speaker laid before the House the following communication:

Hon. FREDERICK H. GILLETT,
House of Representatives.

Mr. SPEAKER: I hereby most respectfully tender my resignation as a member of the following committees, to wit:
Committee on Education.
Committee on Accounts.
Committee on Expenditures in the Interior Department.
Respectfully submitted.

TILMAN B. PARKS.

LEAVES OF ABSENCE.

By unanimous consent, leave of absence was granted to—
Mr. MORIN, for two weeks, on account of illness in family.
Mr. HERRICK, indefinitely, on account of important business.

ADJOURNMENT.

Mr. MONDELL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 12 o'clock and 58 minutes p. m.), in accordance with the order heretofore adopted, the House adjourned until to-morrow, Friday, October 21, 1921, at 11 o'clock a. m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. SANDERS of Indiana, from the Committee on Interstate and Foreign Commerce, to which was referred the bill (H. R. 8347) to authorize the New York Central Railroad Co. to construct a bridge across the Grand Calumet River within the corporate limits of the town of Gary, Ind., reported the same with amendments, accompanied by a report (No. 420), which said bill and report were referred to the House Calendar.

Mr. FORDNEY, from the Committee on Ways and Means, to which was referred the bill (H. R. 8762) to create a commission authorized under certain conditions to refund or convert obligations of foreign Governments owing to the United States of America, and for other purposes, reported the same without amendment, accompanied by a report (No. 421), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. ROSENBLOOM: A bill (H. R. 8783) to amend an act entitled "An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes," approved March 3, 1899, by adding a new section thereto forbidding the deposit of noxious acids and acid materials in navigable waters of the United States; to the Committee on Rivers and Harbors.

By Mr. MILLS: A bill (H. R. 8784) to amend section 5219 of the Revised Statutes of the United States; to the Committee on Banking and Currency.

By Mr. JOHNSON of South Dakota: A bill (H. R. 8785) granting the consent of Congress to the Mobridge Bridge Co., of Mobridge, S. Dak., to construct a pontoon bridge across the Missouri River; to the Committee on Interstate and Foreign Commerce.

Also, a bill (H. R. 8786) to amend the act entitled "An act authorizing the Secretary of War to furnish free transportation and subsistence from Europe and Siberia to the United States for certain destitute discharged soldiers and their wives and children," approved June 30, 1921; to the Committee on Military Affairs.

By Mr. HERSEY: Joint resolution (H. J. Res. 210) for the appointment of one member of the Board of Managers of the National Home for Disabled Volunteer Soldiers; to the Committee on Military Affairs.

By Mr. RAMSEYER: Resolution (H. Res. 206) directing the chairman of the United States Shipping Board and the United States Shipping Board Emergency Fleet Corporation to communicate certain information to the House of Representatives; to the Committee on the Merchant Marine and Fisheries.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. TAYLOR of Tennessee: A bill (H. R. 8787) granting a pension to Samuel Inklebarger; to the Committee on Pensions.

Also, a bill (H. R. 8788) granting a pension to Fannie Cross; to the Committee on Invalid Pensions.

By Mr. TINCHER: A bill (H. R. 8789) for the relief of Richard M. Fisher; to the Committee on War Claims.

Also, a bill (H. R. 8790) for the relief of P. C. Trump; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

2778. By the SPEAKER (by request): Resolution adopted by the Board of Trade of Tampa, Fla., relative to the financial condition of Cuba; to the Committee on Ways and Means.

2779. Also (by request), resolutions adopted by the American Patriotic League, of Philadelphia, Pa., relative to investigations of secret organizations; to the Committee on Rules.

2780. Also (by request), petition of the Springfield Art League, of Springfield, Mass., opposing the Langley bill, which proposes to extend and locate permanently the Botanic Garden at the east end of the Mall; to the Committee on the Library.

2781. Also (by request), telegram from Emil P. Albercht, chairman the transportation committee of the Manufacturers' Club of Philadelphia, urging the prevention of the railway strike and the settlement of the railway problem for all time; to the Committee on Interstate and Foreign Commerce.

2782. By Mr. BURTON: Resolution from the Cleveland Heights Methodist Episcopal Church, of Cleveland, Ohio, indorsing House joint resolution 159, the proposed constitutional amendment to prohibit sectarian appropriations; to the Committee on Appropriations.

2783. By Mr. COLE: Resolution of members and friends of the Methodist Episcopal Church of Larue, Ohio, urging the immediate passage of House joint resolution 159; to the Committee on the Judiciary.

2784. By Mr. DALLINGER: Resolution of Union Men's Class of the First Methodist Episcopal Church of Melrose, Mass., favoring the passage of House bill 2882; to the Committee on Invalid Pensions.

2785. By Mr. FULLER: Petition of national committee of American Minute Men and the U. S. Church, of Belvidere, Ill., favoring House joint resolution 159 for a constitutional amendment prohibiting appropriations for sectarian purposes; to the Committee on the Judiciary.

2786. Also, petition of the E Re Nata Club, of Streator, Ill., protesting against a tax on musical instruments; to the Committee on Ways and Means.

2787. By Mr. KISSEL:. Petition of the M. H. Treadwell Co. (Inc.), engineers; to the Committee on Ways and Means.

2788. By Mr. MOORE of Illinois: Petition of G. F. Torbert and other citizens of Clinton, Ill., protesting against lines 22 and 23 of paragraph 1102, of the tariff bill, pertaining to wool, and asking the elimination of such lines; to the Committee on Ways and Means.

2789. By Mr. NEWTON of Missouri: Petition of 252 citizens of St. Louis, Mo., protesting against the passage of House bill 4388, known as the compulsory Sunday observance bill; to the Committee on the District of Columbia.

2790. By Mr. RAMSEYER: Petition of citizens of Newton, Iowa, urging the President and Congress to take immediate steps to collect the $10,000,000,000, both principal and interest, now due the United States from foreign Governments; to the Committee on Ways and Means.